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PROCEEDINGS AND DEBATES OF THE 101st CONGRESS, FIRST SESSION

SENATE—*Wednesday, June 14, 1989*

(Legislative day of Tuesday, January 3, 1989)

The Senate met at 9 a.m., on the expiration of the recess, and was called to order by the Honorable HARRY REID, a Senator from the State of Nevada.

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray:

For God has done what the law, weakened by the flesh, could not do. * * * Romans 8:3 RSV.

Righteous God, perfect in justice and truth, these words from the Apostle Paul, who revered the Ten Commandments, recognize the limitations of law—even the perfect law of God—to produce desirable social order. As practical politicians struggle for the delicate balance between realism and idealism, help them to appreciate the inadequacy of the best that legislation can achieve. Save them from frustration and disappointment when laws they pass fail to produce the results they envision. Grant to all of us the realism which acknowledges that law is impotent against pride and greed and lust and arrogance and avarice and jealousy and selfishness. Infuse us with the consolation and confidence that "man's extremity is God's opportunity." Teach us to trust Thee beyond our own individual and corporate capacity and power.

In His name who is the way, the truth, and the life. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore [Mr. BYRD].

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, June 14, 1989.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable HARRY REID, a Senator from the State of Nevada, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

Mr. REID thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE ACTING MAJORITY LEADER

The ACTING PRESIDENT pro tempore. Under the standing order, the acting majority leader is now recognized.

THE JOURNAL

Mr. PRYOR. Mr. President, I ask unanimous consent that the Journal of the proceedings be approved to date.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

SCHEDULE

Mr. PRYOR. Mr. President, this morning following the time for the two leaders, there will be a period of morning business not to extend beyond 9:30 a.m. with Senators permitted to speak for up to 5 minutes each. At 9:30 a.m., the Senate will then resume consideration of H.R. 1722, and Senator BRADLEY, of New Jersey, will be, at that time, recognized to offer his amendment, which is under a 1-hour time limitation.

Mr. President, as the majority leader indicated on yesterday, the vote on or in relation to the Bradley amendment will occur immediately before a vote on final passage of the bill. These two votes should begin approximately at 12 noon. Senators should therefore be alerted that two rollcall votes will occur back to back at approximately 12 noon today.

STRIKING OF CONGRESSIONAL COMMEMORATIVE COIN

Mr. PRYOR. Mr. President, in behalf of the majority leader, I would like to announce that today, Wednesday, June 14, 1989, Flag Day, from 10:30 a.m. until 12 noon, a "first-strike" ceremony for the Bicentennial of the Congress commemorative coin will take place on the east front plaza of the Capitol in a large tent constructed for this purpose. All Members of Congress are invited and encouraged to attend this very historic event. Also, all members of the staffs of the Senate and the House and committee staffs are cordially invited to attend. Present will be the Secretary of the Treasury, Nicholas F. Brady; Treasurer of the United States, Katherine D. Ortega, and the Director of the U.S. Mint, Donald Pope.

This very important first-strike ceremony, Mr. President, for the congressional coin is taking place at the Capitol, where Congress resides, on Flag Day as part of the Congressional Bicentennial celebrations. This is the first time since 1792 that U.S. coins will be struck outside a mint facility. On a stage set under a large tent on the plaza, actual mint presses transported from Philadelphia will be operated for Treasury officials and Members of Congress to strike the $1 silver "House" coin and the $5 gold "Senate" coin. Surcharges received from the sale of these coins minted on the plaza will be deposited in the Capitol Preservation Fund to be available to the Capitol Preservation Commission for the restoration and the improvement of the U.S. Capitol.

After the official ceremony, Mr. President, and continuing through the following day, June 15, 1989, Members of Congress will continue the "first striking of coins" that will be donated to nonprofit organizations of the Members' choice in their State or in their congressional district.

Again, all Members of Congress are urged to attend this most historic

● This "bullet" symbol identifies statements or insertions which are not spoken by a member of the Senate on the floor.

event on today, June 14, 1989, at 10:30 a.m. to increase public awareness of the Congressional Bicentennial and to assist with the preservation of the U.S. Capitol.

Finally, once again, Mr. President, all staff members are cordially welcome.

Mr. President, I reserve the remainder of the leaders' time on both sides.

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of morning business not to extend beyond the hour of 10:30 a.m., with Senators permitted to speak therein for not to exceed 5 minutes each.

The Senator from Indiana is now recognized.

(The remarks of Mr. COATS pertaining to the introduction of S. 1174 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. PRYOR. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The absence of a quorum having been suggested. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BRADLEY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

TERRY ANDERSON

Mr. MOYNIHAN. Mr. President, I rise to inform my colleagues that today marks the 1,551st day of Terry Anderson's captivity in Beirut.

A July 18, 1988, issue of People magazine provides a profile of Peggy Say, Terry Anderson's sister, and her efforts to secure his freedom. I ask unanimous consent that it be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

FROM A SENSE OF BETRAYAL, A CRUSADE IS BORN

After the debris from an Iranian Airbus carrying 290 people hurtled into the Persian Gulf, Peggy Say found herself hoping desperately that her brother, Terry Anderson, held by terrorists since March 16, 1985, would not be the disaster's next victim. Rumors of his impending execution began circulating almost immediately after the downing, and Say tried to console herself with what his captors, the Islamic Jihad, had once announced: That unless a threat of execution were accompanied by the release of a photograph, the threat should not be taken seriously.

Still, after three years of crusading for Anderson's freedom, Say knew that there were no guarantees: "If Terry were killed, I would have to question our Administration's role, or lack of it, in prolonging the hostages' captivity and putting them in a position to be endangered by outside acts. I would always feel frustration and anger over his death, but the ultimate blame would have to be on the people who actually did it."

Since the capture of her brother, chief Middle East correspondent for the Associated Press, anger and frustration have been Say's constant companions. She has seen hopes for his release dashed at the 11th hour, and has had eagerly awaited meetings with Middle East leaders canceled abruptly. She has experienced apathy and, at times, hostility from the American public, and she believes the U.S. State Department has been guilty of neglect. Yet none of this has deterred Say, 47, from continuing her fight. "The reality is that I have a brother whom I care about very much, and I have to do what I can to get him out," she says. "What is my choice? To say, 'Terry, I'm sorry this happened to you, but I have a life to live?' "

Say has phoned the State Department daily in the hope of receiving fresh news and met once with President and Vice-President Bush. With the help of the Associated Press, which has paid all her related phone bills and traveling expenses, she has spoken to church groups, grade school assemblies and innumerable reporters, despite the State Department's wish that she would simply keep quiet. "The job of the families is to try to get enough people to care enough to keep [the hostages] alive," she insists.

Because she has challenged the government's strategy of quiet diplomacy, her message inflames almost as often as it inspires. A veteran of call-in radio shows and the TV talk circuit, Say is often blamed for prolonging her brother's captivity. "Most of the time people say that Terry shouldn't have been [in Beirut] in the first place, and that if I had just kept my big mouth shut, he would have been out a long time ago," she says. The criticism intensified after the Iran-contra scandal, when members of the White House staff were caught attempting to swap arms for the release of some of the hostages. "The impression was that we [the hostage families] drove Reagan to it," she says. "I got letters saying, 'Your brother should die and you should die.' But every ex-hostage has told me with no uncertainty that it is publicity that kept them alive."

Far from crediting the Administration with exhausting every means to obtain the hostages' freedom, Say feels she and her brother have been betrayed. "The first year, I really waved my flag and kept quite like they wanted," she says. "The State Department told me that they didn't negotiate with terrorists and I believed them." But when talks between the U.S. and Syria led to the release of 39 Americans aboard hijacked TWA Flight 847 in July 1985, and a Soviet spy was swapped for journalist Nicholas Daniloff the following year, Say felt deceived. She has considered the Administration an adversary ever since.

The special bond that Say feels for her brother was formed only within the last 12 years. "When I left home at 17, he was just a 10-year-old, pain-in-the-behind little brother," she says. Brother and sister rediscovered one another in 1976 during one of Terry's leaves from his assignment in Beirut. Say, by then divorced, was enrolled in college in Florida and was the co-founder of a coalition to help migrant workers. "We were surprised to find out that we were both idealists," she says. "We wanted to change the world and make it a better place."

After Terry's abduction, Say dropped out of school and moved back to their hometown, Batavia, N.Y., with her second husband, David, a general contractor. Eventually they were joined in Batavia by Terry's Lebanese girlfriend, Madeleine Basseil. Seven months pregnant at the time of Terry's capture, Madeleine gave birth to their daughter, Sulome, on June 7, 1985. The two now live in Cyprus, while Anderson's older daughter, Gabrielle, 13, lives in Tokyo with her mother, Mihoko. (Mihoko and Terry were being divorced when Anderson was abducted, but the divorce cannot be finalized until his release.)

If and when Anderson is given his freedom, he will be stunned by all that has taken place in his absence. In 1986, both his father, Glenn, and his brother, Glenn Jr., were diagnosed as having cancer; they died within four months of each other. Say dreads the thought of telling her brother. "It's going to be one hell of a shock," she says. "The only letter we got out from him was all about family and a reunion with Dad and the brothers and sisters." Though she is comforted by reports from ex-hostages of Terry's extraordinary emotional and physical stamina, she met recently with the three French hostages who were freed last May 4 and was startled by their appearance. "Jean-Paul Kauffmann looked almost transparent to me, and his hands looked like the hands of a corpse," she says. "Yet it helped prepare me for what I'm going to see with Terry."

Still confident that she will see her brother alive again, Say is already preparing for the reunion. After three years in Batavia, she and her husband have moved to a cabin on a lake in southwest Kentucky, where they hope to escape the pressured existence they have known since Terry's abduction. "I want to be in the best shape we can be in to help Terry," says Say. "I know there will be a happy ending for us. But I just pray something positive comes out of this whole ordeal. If Terry gets out and then someone else gets kidnapped, all the pain and suffering will have been for nothing."

CONCLUSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order of the Senate, morning business is closed.

NATURAL GAS WELLHEAD DECONTROL ACT

The ACTING PRESIDENT pro tempore. The Senate will now resume consideration of H.R. 1722, which the clerk will report.

The legislative clerk read as follows:

A bill (H.R. 1722) to amend the Natural Gas Policy Act of 1978 to eliminate wellhead price and nonprice controls on the first sale of natural gas, and to make technical and conforming amendments to such act.

The Senate resumed consideration of the bill.

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from New Jersey is now recognized to offer an amendment.

AMENDMENT NO. 195

Mr. BRADLEY. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The ACTING PRESIDENT pro tempore. The amendment will be stated.

The legislative clerk read as follows:

The Senator from New Jersey [Mr. BRADLEY] proposes an amendment numbered 195.

Insert the following at the appropriate place:

SECTION .

The Federal Energy Regulatory Commission may require, by rule or order, any interstate pipeline to transport natural gas. Such rules or orders may be issued under both the Natural Gas Policy Act and the Natural Gas Act.

The ACTING PRESIDENT pro tempore. Time for debate on this amendment is limited to 1 hour to be equally divided and controlled by the Senator from New Jersey and the Senator from Louisiana.

The Senator from New Jersey.

Mr. BRADLEY. Mr. President, the reason I allowed the clerk to read the full amendment is so that everyone in the Senate could understand how brief this amendment is. It is a two-sentence amendment. It is straightforward. It very simply provides that the FERC will have the clear authority to require the transportation of natural gas by interstate pipelines. That is it. That is the amendment.

I will repeat it once more.

The Federal Energy Regulatory Commission may require, by rule or order, any interstate pipeline to transport natural gas. Such rules or orders may be issued under both the Natural Gas Policy Act and the Natural Gas Act.

That is the amendment.

Mr. President, the issue of gas decontrol has been discussed a number of times in the past. Invariably the political debate is very divisive and emotional.

Here we have a natural gas decontrol bill on the floor of the Senate and progress has been swift, one might even say sudden, and it has been very quiet. In part, I think this is due to the general understanding that this legislation has largely been overtaken by events. There is very little gas remaining as price controlled gas. And in part I think this unexpected progress has resulted from the nature of the bill, which does not address any of the number of very vexing natural gas issues.

I really think it is doubtful, and I have done my informal poll over the last week during which the Senate has been debating this bill, that many Senators have heard much about the bill or know much about the bill.

Natural gas itself is a very complicated issue, I found when I got to the Senate in 1979, 1 year after the passage of the Natural Gas Policy Act, and I quickly discovered that there were three sacred documents in U.S. Government history. One, the Declaration of Independence; two, the other, the Constitution; and, the third, the Natural Gas Policy Act of 1978. It was one of those things that we just were not going to touch.

So it is understandable that not much has been said about this bill. I, frankly, think that most parties, outside of producing interests, are supportive but are reasonably indifferent about the bill. Nevertheless, I hope that all Members of the Senate will listen closely to the arguments for the amendment that is now pending before the body.

This bill, if it passes, will represent the entire legislative record of significance on gas issues for the last decade—for the last decade.

There is now a consensus that gas prices will soon start to rise, regardless of the passage of the bill. When prices do rise you can be assured that consumers will lose their indifference to our involvement and record, and will become very interested in our actions.

Mr. President, I think it is crucial to add to this bill language that will demonstrate our interest and attention to the needs of the general public—meaning consumers. This amendment is targeted to one area of the market that has provided the greatest consumer benefit, and that is gas transportation.

Not a half dozen years ago, back in 1983, very little gas was sold other than by interstate pipelines. Well, since then, there has been a dramatic change. Today, over 70 pecent of the gas sold is through direct purchases from producers. These sales, frankly, would not be possible without the reform of gas pipelines and the advent of what we call open access transportation. In itself, this shift in purchasing patterns is ample evidence of the opportunity created by increased competition in the gas transportation business.

Today's open access gas system has developed for a very clear set of reasons. It developed primarily due to the drop in oil prices in the mid-1980's. Once oil prices fell, many customers were ready to switch from their traditional reliance on gas to oil. They were ready to switch. And in order to hold on to the fuel-switchable customers, interstate pipelines created something called Special Marketing Programs, or SMP's, to allow competitive prices for these users.

So it is very clear what happened. What happened was interstate pipelines were supplying gas. The price of oil dropped. The customers of interstate pipelines decided that they would have to shift, and they began to shift to oil. Interstate pipelines said, "No, don't shift to oil. Let us give you special discounts, special marketing programs, so we keep you as our customers."

That is what began to happen in the mid-1980's. After that, the courts struck down the SMP's. In other words, people who were discriminated against went to court. The court said, "No, these SMP's can't stand. You can't give this kind of discriminatory treatment to a few customers." After the courts struck down the MSP's as discriminatory, the Federal Energy Commission was able to develop a program of nondiscriminatory gas transportation, premised on voluntary participation in the pipelines.

In other words, what FERC says is, "You cannot offer it to a few. You have to offer it to all." So what FERC was able to force the pipelines to do was to transport gas for all customers on a nondiscriminatory basis provided they wanted to transport for any customers.

Well, in the very price competitive market of recent years, few pipelines have been able to resist the need to transport; otherwise, they would lose customers. Consequently, today, over 90 percent of the gas in this country moves over pipelines that have accepted open access blanket certificates from the FERC.

And I think that is an important point to make. The gas market is now largely moving with open access transportation through pipelines.

Since today's market is already tied, perhaps inextricably, to open access, I would have to say my amendment is far from revolutionary. It is already happening. Over 90 percent of the gas is now moving in exactly the way this amendment would comtemplate the FERC insuring that it move. And since the amendment is discretionary, I argue further it is not revolutionary because FERC may require gas transportation. It does not say it must. It says it may. And so, Mr. President, it is hard to imagine that the adoption of this amendment would result in any adverse near-term market impact.

Notwithstanding this fact, I will reject arguments, as we get into this, that this amendment is therefore trivial. It is not trivial. The amendment would be a clear congressional acknowledgment of the merits and need for an open-access system.

In this bill, Congress is endorsing the concept of complete gas deregultion and it is endorsing, fundamentally, the ideology of free markets. However, a competitive market at the wellhead is irrelevant without a competitive gas transportation system.

Without open-access, it is like saying to the producers: "The good news is decontrol. You can sell gas at any price. The bad news is you can only sell to one buyer."

Mr. President, the second point I would make is this amendment will clearly state the authority of the FERC to mandate gas transportation. While some maintain that the FERC has this authority today, I am con-

vinced that FERC's powers need to be more clearly stated. And that is what this amendment does.

Although the overwhelming majority of pipelines are open access transporters, this in and of itself does not guarantee a competitive environment. Associated with the transportation are a myriad of terms and conditions which are in effect negotiated between the pipeline and the FERC. In today's very price competitive market, the FERC enjoys a greater leverage to protect the public interest. The pipelines need the gas to go through; therefore, they open it up. On the other hand, should gas supplies tighten or should oil prices rise, the bargaining power of the FERC will shift away and it will shift away from consumers generally.

With this amendment, the FERC has the clear authority—authority—to prevent any backsliding into an anticompetitive activity. In other words, the FERC has the capacity, should oil prices skyrocket or gas get tight and pipelines want to negate contracts and petition FERC to do so or go to courts to do so, the FERC under this amendment has the authority to protect the open access transportation system.

Mr. President, I know that there will be a number of arguments made against this. I think maybe we ought to put one thing very clearly on the record at the beginning, and that there are many ancillary issues that are not addressed by this amendment. And, frankly, they are not addressed because they would be, I think, much more controversial than this amendment.

In 1983, when I first pursued the issue of contract carriage, or open access transportation, my open access language was adopted by the Senate Energy Committee. In 1983 the language that was adopted, the bill that was adopted, was vastly more comprehensive than what is presented here. It dealt with a variety of issues: bypass, take and pay, abandonment, rate design. Today the amendment that is before the Senate is much, much more narrowly drawn, and I have purposely sidestepped those issues to avoid complicating the debate.

Mr. President, the distinguished Senator from Louisiana noted in the Energy Committee markup that the gas decontrol bill, in his words, is "not exactly cosmic legislation." Well, this amendment I would say, in the spirit of the chairman, is not cosmic either. In other forms, this concept—the idea of open access transportation—has been embraced by most consumer groups, and frankly by most producer groups. The Reagan energy proposals of the 99th Congress and 100th Congress endorsed open access transportation. There are a number of other groups who support this amendment.

I have a letter here from the AARP which is opposed to the deregulation bill but supports this amendment because they know it will mean lower gas prices to elderly Americans.

I also have the endorsement of this amendment by consumer groups such as a Consumer Federation, Citizens Labor-Energy Coalition, and the AFL-CIO.

So, Mr. President, this is an issue which has been widely embraced, everywhere from the Reagan administration energy proposals to the AARP and the AFL-CIO.

Mr. President, the Senate must give this decontrol legislation the attention it deserves. The House has already passed the bill. The effort to pass gas decontrol legislation will not be sabotaged by the adoption of this amendment. On the contrary, the bill will be strengthened.

As it stands now, there is no substantial reason why American consumers should support this legislation. Adoption of this amendment could very well change that circumstance.

Mr. President, I reserve the remainder of my time.

The ACTING PRESIDENT pro tempore. The Senator from Louisiana.

Mr. JOHNSTON. Mr. President, first of all, I would like to make clear with my friend from New Jersey, what is it that this amendment seeks to do that present law does not do? For the record, 20 or 21 of the 23 major interstate pipelines presently have open access carriage under rules promulgated by the FERC and upheld by the D.C. circuit. The remainder of the pipelines have pending applications to become open access carriers, and it is only a question of time. So that all carriers, all pipelines, will, in very short order, be open access carriers.

So, my question to my friend from New Jersey is: What does he seek to do substantively that is not done under the law right now?

Mr. BRADLEY. Well, I would answer the question of my colleague from Louisiana by a series of questions and answers, and by direct statement.

What I seek to do now is very simply, as the amendment says, give the FERC the authority to require, by rule or order, any interstate pipeline to transport natural gas and to make it clear that FERC has that authority.

In the existing circumstances, where there are contracts negotiated between the pipeline and FERC, there is some potential for discrimination.

The pipelines now offer discounts from FERC-approved rates. Does everyone, for example, get discounts? Or does everyone get the same discount? The answer is "No."

Could these discounts that are now offered in negotiations become a mechanism for discrimination? It could be. For example——

Mr. JOHNSTON. If I may ask——

Mr. BRADLEY. If I may just finish? What if the pipeline offers you a better rate if you buy gas from their marketing affiliate? Yes, that could be done. That is a kind of discrimination.

Could this sort of discrimination occur even in the context of today's open-access program? I would have to say yes, it could occur in the context of today's open-access program.

So, on the one hand, this is an amendment that is to give the FERC some authority, in a negotiated environment, that it does not have now. However, the primary purpose here is to give the FERC the authority to protect an open-access environment, and market, if energy situations dramatically change.

For example, up to now it is a total voluntary arrangement between the FERC and the involved pipelines. If oil prices go back up, or if gas markets become very tight, we could see a number of pipelines seek to, essentially, get out of their open-access agreements. They could do that.

Mr. JOHNSTON. If the Senator would yield, there will be time left for us to argue whether this is a good thing or bad. I want to narrow in on the question of whether there is any difference in the authority which he seeks and the authority which the FERC presently has and is exercising. Is it not a fact that the FERC presently considers itself to have the authority to deal with those things you talked about: discrimination, discounts, all of that? Do they not have the authority? And the amendment of the Senator does not deal with that, does it?

Mr. BRADLEY. Well, if the FERC already has this authority there should be no objection to the amendment because it is just a restatement of what authority they already have.

Mr. JOHNSTON. That is part of the argument that we will make. I am just trying to narrow in: does the Senator concede that FERC thinks they have the authority to do all of those things relative to discrimination and discounts that you say?

Mr. BRADLEY. I would say that the FERC does not have the full authority to do everything that my amendment contemplates. This is an explicit statement.

Mr. JOHNSTON. And what things, would the Senator tell me, would he seek, that his amendment would give them the authority to do?

Mr. BRADLEY. My amendment seeks to give them the authority, if market conditions change, to protect an open access system. That means that they could step in.

Mr. JOHNSTON. What the Senator is saying is he is afraid that if pipelines decide they want to get out of this, they can more easily get out of

the present situation than they could out of his system.

Mr. BRADLEY. That is correct—than they could get out of the system as contemplated by this amendment.

Since they have accepted open access blanket certificates, one argument that my colleague might make would be that, well, they are not going to get out. They have deals and contracts. But, they might very well choose to get out. They might petition FERC. They might go to the courts. They might do a number of things.

Mr. JOHNSTON. Is not the concern of my colleague really that he is afraid that either FERC will change its mind or the court will change its mind and that what the FERC is doing will not be continuing?

Mr. BRADLEY. That is correct.

Mr. JOHNSTON. The Senator is not worried about FERC either not having the authority or not feeling that they have the authority now and not exercising that authority?

Mr. BRADLEY. No. My understanding is that one of the Commissioners, Commissioner Stalon, for example, he has said very clearly that he does not think that FERC has the explicit authority to mandate transportation. This would make it very explicit that FERC does have the explicit authority. It would remove the ambiguity that exists in the minds of some of the Commissioners.

Mr. JOHNSTON. Mr. President, I appreciate my friend from New Jersey for, I think, narrowing these issues.

Mr. President, we very strongly oppose this amendment, first, because the problems which it would present would destroy the unanimity of support for natural gas deregulation. This bill is presently supported by a wide group of people, including consumers represented by the local distribution companies, which do represent the consumers, all the way up through the pipelines and all the rest. They would certainly oppose the bill if this amendment were proposed.

Why would they oppose it? First of all, they would oppose it because of the vast uncertainty which this amendment would present, the litigation which it would surely provoke, all of the difficult questions that would be presented by it.

What difficult questions would be presented by this amendment? I guess the most difficult, Mr. President, is the question of bypass. Bypass is probably the most controversial issue now before the FERC. What bypass means is the right of an industrial load to make a direct contract with a supplier, the producer of natural gas, utilizing a pipeline as an open access carrier and thereby bypassing the local distribution company.

The local distribution companies regard this as scraping the cream off the natural gas glass, leaving them with the more expensive load; that is, consumers.

By the way, why residential consumers would be for promoting bypass I do not know. Indeed, it is clearly against the interest of residential consumers to be promoting bypass because the way it works now, Mr. President, is the big industrial loads being the most lucrative of contracts, those contracts help support the residential consumer. It is relatively cheap to support the industrial load and, consequently, they are very profitable. So to the extent the industrial consumer is able to make his deal directly with the producer utilizing the pipeline as an open access carrier, then they are taking profit away from the local distribution company, requiring, in effect, that residential consumers pay a greater portion of the distributor's cost in the form of higher rates.

What is the present rule? The present rule under FERC is that bypass can be allowed only to the extent that the industrial load is able to make a case before FERC in a contested proceeding where the local distribution company is able to make its case and show that it is in the public interest and necessity to do the bypass. All of those factors about the effect on residential rates would be open to discussion before the FERC, as well as the nondiscriminatory arguments which the industrial load would make.

It is unclear the precise limits as to how far FERC will go in allowing bypass. Suffice it to say that it is presently greatly limited in scope, subject to argument, subject to a contested case on both sides so that the residential people, as represented either by direct intervention or by the local distribution companies, are able to make their case in favor of residential customers in the FERC.

What this amendment would do by granting an unqualified right—I suppose an unqualified right—to a nondiscriminatory carrier could well be construed as changing the burden of proof on bypass. In any event, it puts in question the present way of doing things. That is the principal difference I can think of between this amendment and others. If it is not to change bypass, then what is it to change? Mr. President, I simply do not know. We are told by the FERC, in a letter dated June 12, 1989, to me from Martha Hess, who is Chairman of the Federal Energy Regulatory Commission. She says in part as follows:

> In my view, the Commission already possesses—as the D.C. Court of Appeals in the *AGD* decision acknowledged—sufficient authority concerning gas transportation. This is evidenced by the fact that 20 of the major 23 interstate pipelines are now open access transporters, and the other three have filed to become open access transporters. . . . Simply put, open access is a fact of life in the gas industry.

Mr. President, I ask unanimous consent that this letter be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

FEDERAL ENERGY REGULATORY COMMISSION,
Washington, DC, June 12, 1989.

Hon. J. BENNETT JOHNSTON,
Chairman, Committee on Energy and Natural Resources, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: As legislation to remove the remaining wellhead price controls on natural gas is considered on the Senate floor, I thought it might be useful to reiterate my support for enactment of decontrol legislation.

As you know, I have long been on record as supporting total wellhead decontrol. I believe the nation's energy needs are best served by permitting competitive forces to work through the marketplace in order to maintain the appropriate balance between supply and demand. Passage of a decontrol bill would remove unnecessary and outmoded restraints on natural gas so that the nation's energy future may be guided to the greatest extent possible by the market. The beneficiaries of a competitive natural gas market will be the nation's natural gas consumers.

The general consensus that has emerged in support of a stand-alone decontrol bill—which seemed all but impossible a few short years ago—might evaporate if additional gas issues are addressed in this legislation. And while there may be other issues that could be considered, I believe the benefit to the nation that would result from passage today of a single issue bill far outweighs the highly unlikely possibility that a multi-faceted bill might be enacted.

Nor are additional amendments necessary to enable FERC to ensure a competitive gas market. For example, I understand that the Senate may be asked to consider amendments addressing the FERC's authority over gas transportation. In my view, the Commission already possesses—as the D.C. Court of Appeals in the *AGD* decision acknowledged—sufficient authority concerning gas transportation. This is evidenced by the fact that 20 of the major 23 interstate pipelines are now open access transporters, and the other three have filed to become open access transporters. As a result approximately 90 percent of the nation's interstate natural gas throughout is current on open access pipelines. Simply put, open access is a fact of life in the gas industry.

Acceptance of a blanket certificate obligates the pipeline to transport gas for any shipper, assuming capacity is available. Once a pipeline accepts a blanket certificate, it cannot lawfully cease transportation without applying for abandonment from the FERC. The Commission would then, only after reviewing the position of all interested persons, have to determine whether abandonment of the blanket certificate was in the public interest.

Thus, in light of the number of pipelines currently providing non-discriminatory transportation service, I believe the public will be well served by enactment of a stand-alone decontrol bill—and would be disserved if no bill is passed.

I applaud you and your colleagues for considering this important bill. I urge all interested parties to seize the moment and work together to reach a consensus position so

that we can finally achieve the elimination of unnecessary price controls.

Sincerely,

MARTHA O. HESSE.

(Mr. BRYAN assumed the chair.)

Mr. JOHNSTON. Mr. President, the Chairman of the Federal Energy Regulatory Commission now says they have the authority. That authority is now either being exercised, in the case of over 90 percent of the gas, or will soon be exercised on behalf of all pipelines.

Question, Mr. President: Once a pipeline comes under this system, can they change their mind? The answer, Mr. President, is no, not without getting an abandonment certificate from the Federal Energy Regulatory Commission.

In other words, you do not have to submit yourself to open access as every single pipeline in America has asked to do, but once you are certificated as an open access pipeline, then you may not thereafter change your mind unless the FERC gives you a certificate allowing you to do so.

Why are all 23 major interstate pipelines in America seeking open access? Well, some I guess think it is a good way to do business, but there is a large degree of compulsion, frankly, in the FERC rules requiring them to become open access carriers because what the FERC has said by rule is that their section 7 certificates, which is the basic certificate to transport gas, would have to be renewed every single year unless they are open access carriers.

There is a huge cost associated with a proceeding to renew a section 7 certificate and a large degree of uncertainty. I think the D.C. court said it is like the difference between death by hanging or death by electrocution. In other words, you have a choice as to whether you want to become an open access carrier but, by the way, you have to become an open access carrier. In other words, they put such serious sanctions on not becoming an open access carrier that every major pipeline in America became one and will continue to want to be one, and in case they change their mind, they cannot change their mind because FERC has the final veto power anyway.

Mr. President, to say that there is not authority is to be contrary to the law. The Chairman of FERC says they have authority, full authority; the D.C. Court of Appeals has said they have authority, has in effect upheld that authority, and the constraints of that authority are such that every major pipeline in America has asked to become jurisdictional as an open access carrier.

Evey major pipeline in America as a practical matter must ask to do so because to do otherwise would make them competitively disadvantaged, and they cannot change their minds because in order to change their minds they have to get an abandonment certificate from FERC.

So, Mr. President, there is total and complete authority right now, not only available to be exercised by FERC but which is being exercised by FERC.

So what are we really arguing about? Well, we are arguing principally about uncertainty, and about the coalition behind this bill, because of the uncertainty it would present. You come in with a new law and everyone wonders, what is being changed. They say, "Well, I don't know. It must be open access." And so that takes support away from the bill by the local distribution companies. Local distribution companies representing consumers do not want their consumers to be disadvantaged by allowing or by inference requiring complete bypass jurisdiction. Local distribution companies representing consumers want the pipelines to have to come in before FERC and make an adversary showing subject to their right to be heard, to show that it would raise the rates of consumers, as they do at present, and not simply to be able to scrape the cream off the milk by going straight to open access carriers.

How much of an issue is it? Mr. President, there is a letter from the American Gas Association to Senator BRADLEY, a copy of which I have, dated June 7, which says in part, as follows:

This is not a controversial amendment and may hurt residential and commercial customers by promoting bypass. The issue of pipeline bypass of an LDC to serve that LDC's best end use industrial customers is one of the most controversial issues facing the gas industry. Many States and State public utility commissions firmly believe that bypass raises issues of State, not Federal, jurisdiction. By giving FERC the power to order transportation, at any time and in any situation without consulting the States, your proposed amendment appears to ratify FERC jurisdiction over bypass cases. Such a position is very controversial and, if adopted, would have an extremely detrimental effect on LDC's and their commercial and residential customers.

Mr. President, the letter goes on to talk about other bases on which the American Gas Association opposes this amendment, but what the American Gas Association through Bud Lawrence as president says is that this is a highly controversial and difficult amendment.

Mr. President, I ask unanimous consent that a copy of this letter be printed in the RECORD.

There being on objection, the letter was ordered to be printed in the RECORD, as follows:

AMERICAN GAS ASSOCIATION,
Arlington, VA, June 7, 1989.

Hon. BILL BRADLEY,
U.S. Senate, Washington, DC.

DEAR SENATOR BRADLEY: The American Gas Association (A.G.A.) has long supported voluntary open access transportation of natural gas. We oppose, however, any mandatory transportation amendments to S. 783, including your proposed amendment.

We oppose your proposed amendment for the following reasons:

1. This is a mandatory carriage amendment and raises all the complex and controversial issues that mandatory carriage of natural gas brought to the fore in previous natural gas debates, notably in 1986-84. Indeed, it is 180 degress opposite from the voluntary open access program FERC adopted three years ago in Order 436. That program is working well. Although the proposed amendment does not require FERC to act, the essence of mandatory carriage is, and always has been, whether to increase the burden of federal pipeline regulation by giving FERC outright power to mandate natural gas transportation throughout a million mile transmission network.

2. Pipelines cannot arbitrarily stop transporting gas now that they have FERC blanket certificates. Section 7(b) of the Natural Gas Act of 1938 already prevents pipelines from discontinuing open and nondiscriminatory transportation under their blanket certificates, without prior notice, hearing, and specific FERC approval.

3. This is not a noncontroversial amendment and may hurt residential and commercial customers by promoting bypass. The issue of pipeline bypass of an LDC to serve that LDC's best end use industrial customers is one of the most controversial issues facing the gas industry. Many states and state public utility commissions firmly believe that bypass raises issues of state, not federal, jurisdiction. By giving FERC the power to order transportation, at any time and in any situation without consulting the states, your proposed amendment appears to ratify FERC jurisdiction over bypass cases. Such a position is very controversial and, if adopted, would have an extremely detrimental effect on LDCs and their residential and commercial consumers.

4. Giving FERC the power to order transportation has always raised many difficult issues about pipeline operations and construction, which are not even acknowledged by the proposed amendment. These issues include whether FERC would order transportation: (1) when there is no contract between the pipeline and shipper; (2) when the pipeline is already operating at capacity; (3) when new facilities would have to be constructed; and (4) when other shippers, especially LDCs, have priority access to pipeline sales or transportation.

None of these complex issues are addressed, yet each raises many questions. For example, the Natural Gas Act does not permit FERC to order a pipeline to build new facilities, yet this proposed amendment could conflict with the NGA if FERC were to order transportation in an instance where new construction, such as a tap or interconnection, was required for the service.

Politically each segment of the natural gas industry—pipeline, LDC, producer and end user—agreed to forego special interest amendments to advance the cause of wellhead decontrol.

It is for these reasons, Senator BRADLEY, that we are opposed to mandatory carriage legislation of the type you are proposing.

Sincerely,

GEORGE H. LAWRENCE.

Mr. JOHNSTON. Mr. President, on this question of bypass, I stated a minute ago that the LDC's want to keep that right to appear before

FERC. Frankly, they also want the right to litigate it, to throw out the bypass authority altogether.

I do not know where that litigation would finally settle out, but suffice it to say this amendment would have some uncertain effect and is regarded as having a definitive effect upon that issue of bypass.

This whole issue open access sounds very simple on its face. This amendment is just a couple of sentences. I well recall back a few years ago—it was 1983—we had natural gas deregulation before the committee, and my dear friend from New Jersey [Mr. BRADLEY] proposed an open-access amendment at that time.

We dealt with that issue for 31 markups. What started out as an apple pie amendment we finally realized was a sticky wicket. When you say open access, then just what do you do in a pipeline where there is limited capacity and there are more vying for the right to transport than there is space, how do you decide who transports? How do you decide at what price? How do you decide priority among customers? How do you decide questions about, for example, if something needs to be constructed in order to be able to transport, can you order that construction? How do you decide priority of access among different classes of customers? What is the proper operating capacity of a pipeline and who decides that? Then you get into all these questions of take-or-pay which the Federal Energy Regulatory Commission did not get to in their first order, which was order 436. They were dealing with this question of open access, and they in effect ruled that you could have open access, but it went up on appeal and the court said you cannot deal with open access without dealing with take or pay. They remanded the case and that is when the FERC dealt in order 500 with the question of take-or-pay because the two are very interrelated.

If the Senate thinks it can get into this issue with a simple two-sentence amendment and resolve and make clear that which has been very controversial, very difficult, very complicated, a whole area of natural gas common law in effect which has grown up over the years at FERC and in the courts, if the Senate thinks it can improve that situation by this amendment, it is greatly mistaken.

Mr. President, the amendment comes from a good and proper desire but it would be more mischievious than good. I see my dear friend from Idaho on his feet.

Mr. President, how must time remains?

The PRESIDING OFFICER. Five minutes twenty-three seconds.

Mr. JOHNSTON. I yield 3 minutes to the Senator from Idaho.

Mr. McCLURE. Mr. President, I rise in strong opposition to the amendment offered by the senior Senator from New Jersey which gives the Federal Energy Regulatory Commission the authority to compel interstate pipelines to transport natural gas for others.

While this amendment appears benign, it would create many problems. But before I discuss these problems, Mr. President, let me first point out that the amendment is unnecessary.

It is claimed that his amendment is needed in order to ensure that interstate pipelines become, and continue to serve as, transporters of natural gas for others. However, as the sponsor of the amendment is aware, virtually every major interstate pipeline is today already an open access transporter.

In testimony before the Committee on Energy and Natural Resources, the chief of staff of the Federal Energy Regulatory Commission reported that 20 of the 23 major interstate pipelines are today open access pipelines, and that the other 3 are in the process of becoming open. As a result, over 90 percent of the Nation's interstate natural gas is today carried on open access pipelines. In total there are 84 pipelines participating in the open access program and 51 pipelines providing NGPA section 311 gas transportation.

It is important to note, Mr. President, that these pipelines voluntarily elected to become an open access transporter—they could not be forced to do so as there is no compulsory authority available to the Commission. Obviously, these pipelines, in their best business judgment, have decided that it makes more sense to transport gas for others than to refuse to do so.

Thus, I find less than persuasive the argument that the compulsory authority proposed to be created by this amendment is necessary in order to ensure that pipelines will transport natural gas for others.

It has also been argued that this authority is necessary in order to ensure that pipelines who have voluntarily elected to become an open access transporter will not change their mind at some future date and close their system to transportation. While this is an interesting theoretical agrument, it is one which ignores that way existing law and the regulatory system work.

Under the Natural Gas Act, once a pipeline accepts a certificate to transport natural gas, the only way that it can cease to transport is by obtaining an abandonment for the certificate under section 7(b) of the Natural Gas Act.

While the Commission can grant abandonment, it can do so if, and only if, it concludes through a formal administrative proceeding that such abandonment is in the overall public interest. That action, I might note, would be subject to formal appeal and, ultimately, review by the Federal courts.

In this Senator's opinion, it would take an extraordinary stretch of the imagination to believe that the Commission—to say nothing of the pipeline's customers—would be interested, or willing, to let a pipeline turn back the hands of the clock. Moreover, as each of these pipelines voluntarily elected to become an open access transporter, there is no reason to believe that they would have any interest in ceasing to be an open access transporter. In fact, in the 4 years since the Commission's open access transportation program has been in effect, not one pipeline has sought abandonment of a blanket certificate.

But more significantly, Mr. President, this amendment could have many adverse effect, only some of which we can now foresee. In this connection, I might note that the committee has not held 1 day of hearings on this proposal; it wasn't even mentioned at the committee's May hearing on the pending legislation. And the last time the committee fully considered this issue was back in 1983, and it then took the committee some 20 business meetings to iron out all of the wrinkles—and those wrinkles took 29 pages of statutory text.

Mr. President, with an amendment of this potential significance I, for one, would prefer that it be handled through the normal legislative process instead of by this short circuit approach.

Mr. President, this amendment does not simply give the Commission the authority under existing law to make mandatory that which it is now authorizing on a voluntary basis. It instead creates brand new, free-standing statutory authority—and that creates problems. Let me explain.

There are two different types of gas transportation now being performed by interstate pipelines. The first is that which is occurring pursuant to the blanket certificate program, also known as Order No. 436/500 open access transportation. More technically, it is the transportation of natural gas by interstate pipelines for others pursuant to a certificate of convenience and public necessity granted under section 7 of the Natural Gas Act. The Natural Gas Act, the Commission's regulations implementing the act, case law, and court decisions over the past 50 years have all defined what can and cannot be done pursuant to this authority.

The second type of transportation is that which is occurring pursuant to section 311 of the Natural Gas Policy Act, which is transportation authority entirely separate and apart from the

Natural Gas Act's transportation authority. Under section 311, transportation may be undertaken by interstate pipelines only on behalf of local distribution companies.

While the NGPA section 311 authority has been around only since its enactment in 1978, the terms and conditions for transportation under this section have been made generally comparable to that undertaken under the Natural Gas Act. However, unlike Natural Gas Act transportation, section 311 transportation is available only to local distribution companies and no one else.

Now the amendment offered by the senior Senator from New Jersey does not simply give the Commission the authority to make mandatory the voluntary transportation authority established by the Natural Gas Act and the Natural Gas Policy Act; it instead creates a brandnew, freestanding, and totally undefined transportation authority. The amendment's references to the Natural Gas Act and the Natural Gas Policy Act are only with respect to the procedures for issuing transportation orders, and not with respect to the terms and conditions of transportation to be performed pursuant to the new authority.

Let me emphasize that point: this amendment creates brand new, freestanding authority without limit or definition. Things which could not occur under existing law, could occur under this amendment. For example, the Natural Gas Act requires that transportation be in the public convenience and necessity, be not unduly discriminatory, and have rates that are just and reasonable. This amendment requires none of these.

Similarly, this amendment expands without limit the Natural Gas Policy Act's section 311 transportation authority which, as I previously noted, is currently limited by law to transportation of natural gas only on behalf of local distribution companies.

It would appear that the Commission, using the authority provided by this amendment, could order transportation to occur which is not in the public convenience and necessity; it could order transportation which is unduly discriminatory; and it could order transportation to occur at rates that are unjust and unreasonable. That doesn't seem like a very good idea to me.

Moreover, as I interpret this amendment, it would provide the Commission the authority to order and direct pipelines to construct facilities and to condemn the private property necessary to construct those facilities, and to do so without regard to environmental consequences or the possibility of lower cost or lower impact alternatives. Now that certainly doesn't seem like a very good idea to me.

While I do not believe that the author of the amendment intends these results, it is clear that this could be the outcome if this amendment is adopted.

Mr. President, I am also concerned that this amendment would bring about the problem of unfettered bypass of local distribution companies, which is already an issue of considerable concern and controversy. While I would oppose an amendment which proposes to restrict local distribution company bypass, I similarly would oppose an amendment, such as this, which would expand it without limit or regulatory oversight.

And finally, there are technical deficiencies with this amendment. For example, the Natural Gas Act does not use the term "interstate pipeline," it uses the term "natural gas company." Thus, it is not clear how the Commission and the courts would interpret this amendment with respect to transportation ordered under the Natural Gas Act's procedures.

Mr. President, I understand the author's intent—that of encouraging and continuing open access transportation by interstate pipelines. I believe that open access transportation is in the overall public interest, and I too want to see it continue and expand. However, I do not believe that his amendment in fact promotes that result, but instead could cause serious harm.

The American Gas Association, which represents local distribution companies, agrees. In a letter to me dated June 8, 1989, Mr. Bud Lawrence, the president of the American Gas Association which represents 200 local distribution companies throughout the United States, expressed the AGA's opposition to the Bradley amendment. The letter states that this amendment may "hurt residential and commercial customers."

Mr. President, it is for these reasons that I oppose the amendment and urge my colleagues to vote against it.

Mr. President, the point that I think is worth emphasizing is the complexity of the issue that is attempted to be addressed by what seems to be a very simple and innocuous amendment. As the chairman noted, a few years ago, in 1983 and 1984, when this matter was before the committee, at the time I was chairman, it was the subject of numerous markup sessions as well as the subject of a number of hearings with dozens of pages of testimony with respect to this particular provision. And lest anybody believe it is a simple matter, aside from the length of time it took the committee to deal with this issue in 1983, it resulted in a text of 29 pages to express the committee's conclusions of how to accomplish this. If anybody is interested in history, just look at S. 1715 that was reported by the committee, 29 pages of which are the result of this very subject. It is an extremely complex, difficult, and convoluted subject matter that cannot be dealt with in a two-sentence amendment, no matter how well intentioned, that says to the Federal Energy Regulatory Commission, "go do something good."

That is in essence what the amendment says, that you, FERC, should go do something good about this subject matter with no standards, no processes, no ultimate result defined in the amendment. That is the danger of the amendment. There is no just and reasonable cause. There is no public necessity requirement. There is no standard by which FERC should judge that question. It is a total abdication of congressional responsibility to an administrative agency, in saying to the administrative agency, "OK, we give up; you go do something that you think is right." And that, to me, is the essence of irresponsible legislation.

Let me refer to just one other matter. It has been mentioned by the distinguished Senator from New Jersey that his amendment is supported by the AARP. I am not certain. I am sure he knows more about their position than I do, but let me read their letter. I assume it is the letter of June 9, 1989, addressed to the Honorable HOWARD METZENBAUM, U.S. Senate, in which they identify in the fourth paragraph that they support the amendment to be offered by Senator BRADLEY.

I wonder if they had in mind this amendment or some other amendment because I also read in the third paragraph in their letter their absolute concern about what would happen if large industrial users of natural gas could bypass local distribution net works. That is in the AARP letter. That is not only permitted but is probably the only consequence of the Bradley amendment. Everything else has been done.

Mr. President, I ask unanimous consent that the letter from the AARP be placed in the RECORD at this point.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

AMERICAN ASSOCIATION OF
RETIRED PERSONS,
Washington, DC, June 9, 1989.

Hon. HOWARD METZENBAUM,
U.S. Senate,
Washington, DC.

DEAR SENATOR METZENBAUM: On behalf of the American Association of Retired Persons, I am writing to express the Association's opposition to the Natural Gas Deregulaton Bill (H.R. 1722) in its present form. This legislation would end all remaining federal regulation of gas prices at the wellhead, action which will provide clear benefit to the U.S. gas industry. However, no similar benefit will accrue to consumers, despite the loss of protection against the rising cost of energy.

With any legislation to decontrol "old gas," AARP believes that other natural gas policy issues should be addressed:

The ability of large industrial users of natural gas to "bypass" local distribution networks can result in cost shifts to residential customers, who have no choice but to pay higher prices. Action is needed to correct this inequity.

Nondiscriminatory access to gas transportation is crucial for a competitive marketplace. Today, the Federal Energy Regulatory Commission's (FERC's) open access policy, which has enabled many consumers to obtain cheaper gas, relies on voluntary compliance by pipelines. AARP supports an amendment to be offered by Senator Bradley which will give FERC the option of requiring the transportation of natural gas in order to ensure continued open access, even in the event of tightening gas markets.

Residential customers suffer from obligations incurred by pipeline companies in the past, such as "take-or-pay" clauses and "price escalators," which allow producers to keep charging very high prices and prevent current market forces from bringing prices down. Further deregulation of natural gas prices should include provisions to address this problem.

Energy prices remain one of the most volatile elements in the Consumer Price Index. If even modest increases are to be allowed, then added protections for consumers are essential.

Sincerely,

JOHN ROTHER,
Director, Legislation, Research and Public Policy.

Mr. BRADLEY addressed the Chair.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. BRADLEY. Mr. President, both the distinguished chairman and former chairman of the Energy Committee recall with a certain air of wistfulness as well as a certain air of frustration the very long deliberations that took place in 1983 on natural gas. And it is precisely because of that experience, precisely because we spent endless hours getting into take or pay, getting into abandonment, getting into bypass, getting into rate design, getting into all of these issues, that we did not get a bill in 1983. Therefore, what this amendment does is to say look, those are all issues, that we did not get a bill in 1983. Therefore, what this amendment does is to say look, those are all issues that are not addressed by this amendment.

This amendment, for example, does not allude to nor does it intend to influence or alter in any way the Commission or the courts' activities with regard to the issues of bypass.

It is certainly not the intention of this Senator to legislate one of the most controversial issues in natural gas law, covertly, a little back door tactic. That is not the purpose of this amendment. If we are going to have a debate on bypass, then I think we ought to have a debate on bypass and get out all of the charts that will put everybody to sleep in this body except members of the Energy Committee who have already been through this thing time and time again.

This amendment does not deal with bypass. Again, let me say it does not allude to nor is it intended to influence or alter any proceedings before the FERC or any litigation before the courts. So the arguments that have been made about bypass might be relevant to another amendment, but they are not relevant to this amendment.

It is very skillful for the opponents of this amendment to construe this threat of rates going up for local distribution companies, et cetera. That is not what this does. That is not what this amendment says. This amendment is very clear.

A second point is that it is interesting if you look at the history of bypass that all those people who have for years argued for bypass, all of those people who indeed want to link directly the pipeline to the industrial user circumventing the local distribution company, all of those people who have supported bypass oppose this amendment. They oppose this amendment. They do not support it.

And many, if not all, of those people, consumer groups largely, who oppose bypass for the precise reason that the Senators eloquently stated—if you have bypass it will possibly raise rates on individual consumers—all of those consumer groups who have opposed bypass support this amendment.

So, Mr. President, you are kind of known by the company you keep. And the assertion that this amendment is going to dramatically raise rates for individual consumers is just not a fact. It is not in the language of the amendment. It is not contemplated by the author of the amendment. It is stated explicitly in the debate on the Senate floor that it is not an issue. And then the supporters of the amendment are the people who are the most vigilant in the protection of consumer interests in this country.

Mr. JOHNSTON. Mr. President, will the Senator yield, or would the Senator like to finish?

Mr. BRADLEY. I have one or two other points I would like to make.

Mr. President, an AGA letter was mentioned which I have not seen. I have seen a letter addressed to me. The Senator alluded to a letter sent to Senator METZENBAUM. It was also, I believe, sent to Senator BRADLEY. Maybe they sent two separate letters, I do not know.

There was a very interesting article in the Natural Gas Week just a few days ago where the author of this article calls the argument by the AGA a "canard."

I ask unanimous consent that the article be printed in the RECORD at this time, along with my letter, the letter from the AGA to me, along with the letter from the AARP.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

AMERICAN GAS ASSOCIATION,
Arlington, VA, June 7, 1989.

Hon. BILL BRADLEY,
U.S. Senate,
Washington, DC.

DEAR SENATOR BRADLEY: The American Gas Association (A.G.A.) has long supported voluntary open access transportation of natural gas. We oppose, however, any mandatory transportation amendments to S. 783, including your proposed amendment.

We oppose your opposed amendment for the following reasons:

1. This is a mandatory carriage amendment and raises all the complex and controversial issues that mandatory carriage of natural gas brought to the fore in previous natural gas debates, notably in 1983-84. Indeed, it is 180 degrees opposite from the voluntary open access program FERC adopted three years ago in Order 436. That program is working well. Although the proposed amendment does not require FERC to act, the essence of mandatory carriage is, and always has been, whether to increase the burden of federal pipeline regulation by giving FERC outright power to mandate natural gas transportation throughout a million mile transmission network.

2. Pipelines cannot arbitrarily stop transporting gas now that they have FERC blanket certificates. Section 7(b) of the natural Gas Act of 1938 already prevents pipelines from discontinuing open and nondiscriminatory transportation under their blanket certificates, without prior notice, hearing, and specific FERC approval.

3. This is not a noncontroversial amendment and may hurt residential and commercial customers by promoting bypass. The issue of pipeline bypass of an LDC to serve that LDC's best end use industrial customers is one of the most controversial issues facing the gas industry. Many states and state public utility commissions firmly believe that bypass raises issues of state, not federal, jurisdiction. By giving FERC the power to order transportation, at any time and in any situation without consulting the states, your proposed amendment appears to ratify FERC jurisdiction over bypass cases. Such a position is very controversial and, if adopted, would have an extremely detrimental effect on LDCs and their residential and commercial consumers.

4. Giving FERC the power to order transportation has always raised many difficult issues about pipeline operations and construction, which are not even acknowledged by the proposed amendment. These issues include whether FERC would order transportation: (1) when there is no contract between the pipeline and shipper; (2) when the pipeline is already operating at capacity; (3) when new facilities would have to be constructed; and (4) when other shippers, especially LDC's, have priority access to pipeline sales or transportation.

None of these complex issues are addressed, yet each raises many questions. For example, the Natural Gas Act does not permit FERC to order a pipeline to build new facilities, yet this proposed amendment could conflict with the NGA if FERC were to order transportation in an instance where new construction, such as a tap or interconnection, was required for the service.

Politically, each segment of the natural gas industry—pipeline, LDC, producer and end user—agreed to forego special interest

amendments to advance the cause of wellhead decontrol.

It is for these reasons, Senator Bradley, that we are opposed to mandatory carriage legislation of the type you are proposing.

Sincerely,

GEORGE H. LAWRENCE.

[From Natural Gas Week, June 12, 1989]

MANDATORY CARRIAGE: KILL IT NOW, TRY LATER

In the current Senate debate over natural gas wellhead price decontrol, conventional wisdom suggests that the clean bill that passed the House and a similar bill approved 17-2 by the Senate Energy and Natural Resources Committee eventually will be approved. But conventional wisdom isn't always right, and before the vote is taken, Sens. Howard M. Metzenbaum (D-Ohio) and Bill Bradley (D-N.J.) will have a chance to rewrite the bill.

Metzenbaum has a raft of amendments, including one seeking to recontrol gas prices. The debate on these is continuing. Bradley, on the other hand, appears to have only one—albeit a major one. This is to unequivocally state the power of the Federal Energy Regulatory Commission (FERC) to mandate non-discriminatory gas transportation.

Critics say Bradley's amendment is unnecessary because major pipelines already practice open-access, or the non-discriminatory carriage of gas owned by others. But open-access is not universal, it's not evenly applied and it's not equally open throughout the year. In short, it does not guarantee that a shipper can move gas from point A to point B at any time.

Actually, the only device that would accomplish all of that (with the exceptions of true force majeure conditions, of course) is common carriage. That's the way grain, chickens, small packages, oil and other commodities move in ordinary commerce. Bradley's amendment falls far short of that, as it only states that FERC can require a pipeline to carry gas. But even so, for a brief amendment that supposedly merely requires that which already is occurring, the senator's foray has drawn strong response from the pipelines.

One response, signed by all segments, including the pipelines, is that the decontrol bill was forged as a clean, one-issue bill and nothing should be added. All segments have pet issues, this argument goes, and thus a clean bill is not just a matter of procedure but a substantive decision—at some considerable political cost—to agree to pursue that one goal.

Frankly, that's a good argument. Deals are cut every day, a process that is not helped by post-handshake greed and backsliding. Even in a city up to its collective eyeballs in sleaze from the White House to Capitol Hill, a handshake should stand for something. All parties had an opportunity in creating the decontrol bill; now, all parties should support it.

Another response to the Bradley proposal, however, is intriguing in its construction. The American Gas Association, which is financed by major pipelines as well as the local distribution companies (LDCs) generally associated with AGA, wrote Bradley last week to state its opposition.

AGA dislikes the Bradley amendment on two grounds: first, it calls for mandatory carriage and AGA opposes the regulation that would be required for this; and second, the proposal "may hurt residential and commercial customers by promoting bypass."

Thus, AGA merges the issue of LDC bypass with mandatory carriage to protect both of its constituencies. Interestingly, when last heard from, the AGA was officially neutral on the subject of bypass, which pits its pipeline members against its LDC members (NGW, 5-29-89, p.1).

The AGA raises the canard that some people believe bypass is a state issue and that Bradley's amendment would strengthen FERC's position by ratifying its jurisdiction over bypass cases. This is a classic example of a false issue. The United States clearly has jurisdiction over interstate commerce; it has since the founding of the nation. Natural gas clearly is a commodity traded in interstate commerce and the FERC is the federal agency with oversight responsibility. To say that gas cannot be sold directly by a producer, marketer or pipeline to a steel or auto-making plant is ridiculous. True, the "normal" method is to first sell the gas to an LDC, which in turn sells to the plant. But there's no reason in a commodity market why the sale can't be done directly. Those favoring this option—which, by the way, rarely is executed in the most extreme sense—include producers, pipelines and end-users. Opponents include the LDCs, who obviously want to protect their fiefdoms.

The crux of the AGA argument against mandatory carriage is that the issue is complex, that it would create unknown impacts in other areas and that it is "180 degrees opposite from the voluntary open-access program FERC adopted," which, says AGA, is "working well." The first point is obvious; how well voluntary carriage is working depends on one's perspective.

But in this context, it is well to recall that FERC got into the open-access program over the pipelines' objections and at the insistence of the U.S. Court of Appeals for the District of Columbia Circuit. And, indeed, the court believes that FERC has failed to exercise its full powers to require certain actions.

In Associated Gas Distributors v. FERC, the court ruled on June 23, 1987, that "Several pipelines and others attack these [open-access] conditions as beyond the scope of the commission's authority under the [Natural Gas Act and Natural Gas Policy Act]. The arguments . . . rely on the proposition that the open-access condition is equivalent to a common carriage requirement, as both the condition and common carriage have at their core a duty to accept shipments from all would-be shippers." The court rejected these arguments.

The court added that "The pipelines can point to no language in the [Natural Gas Act] barring the commission from imposing common carrier status on natural gas pipelines, and certainly none barring it from imposing upon the pipelines a specific duty that happens to be a typical or even core component of such status. They seek to overcome the statutory silence by means of legislative history. The task is uphill."

The AGA argument against Bradley is thus a convoluted mixture of self-interests, cleverly worded but a poor basis for public policy. Despite this, at the bottom line the AGA is right. Bradley's simple amendment should be defeated because it has complex impacts (and because it negates the clean bill concept).

While it is not likely in this session of Congress, Bradley's proposal should be fleshed out—and in my view, strengthened even more—and resubmitted for full debate. Prior to that, of course, the clean decontrol bill should be approved.—John H. Jennrich.

AARP,
Washington, DC, June 9, 1989.

Hon. BILL BRADLEY,
U.S. Senate,
Washington, DC.

DEAR SENATOR BRADLEY: On behalf of the American Association of Retired Persons, I am writing to express the Association's opposition to the Natural Gas Deregulation Bill (H.R. 1722) in its present form. This legislation would end all remaining federal regulation of gas prices at the wellhead, action which will provide clear benefit to the U.S. gas industry. However, no similar benefit will accrue to consumers, despite the loss of protections against the rising cost of energy.

With any legislation to decontrol "old gas" AARP believes that other natural gas policy issues should be addressed:

The ability of large industrial users of natural gas to "bypass" local distribution networks can result in cost shifts to residential customers, who have no choice but to pay higher prices. Action is needed to correct this inequity.

Nondiscriminatory access to gas transportation is crucial for a competitive marketplace. Today, the Federal Energy Regulatory Commission's (FERC's) open access policy, which has enabled many consumers to obtain cheaper gas, relies on voluntary compliance by pipelines. AARP supports an amendment to be offered by Senator BRADLEY which will give FERC the option of requiring the transportation of natural gas in order to ensure continued open access, even in the event of tightening gas markets.

Residential customers suffer from obligations incurred by pipeline companies in the past, such as "take-or-pay" clauses and "price escalators," which allow producers to keep charging very high prices and prevent current market forces from bringing prices down. Further deregulation of natural gas prices should include provisions to address this problem.

Energy prices remain one of the most volatile elements in the Consumer Price Index. If even modest increases are to be allowed, then added protections for consumers are essential.

Sincerely,

JOHN ROTHER,
Director, Legislation, Research and Public Policy.

Mr. BRADLEY. Mr. President, as to the arguments raised, AGA has a difficult row to hoe. They have to keep all of their groups together. They have to worry about the pipelines, the producers, the local distribution companies, and this makes life a little difficult because an agreement was made—a deal was cut—that excluded the consumer. That is what this is about.

This attempt to give the consumer some pittance, some crumb, is naturally opposed by the party which was most instrumental in striking the deal.

Mr. President, the argument has also been made that somehow or another this will kill the bill. I find it difficult to believe that the Senate will not in its wisdom and in interest at least give the consumer a crumb. If the Senate passed this bill, it would go to conference, and there would be a clear signal to consumers. I doubt that this bill would be opposed. Certainly it

would not kill the bill because we are already locked into a vote on the bill immediately after this amendment is voted on by unanimous-consent agreement.

So, Mr. President, I think it would only improve the bill, and it would not harm the bill.

Again, what is my concern? The Senator from Louisiana I think correctly characterized part of it. My concern is backsliding. That is my concern. We have a good system out there working now, open-access transportation, over 90 percent of all gas now going through pipeline, and open-access bases.

If you are a producer, you cut a deal with the consumer. If you are a producer in Louisiana, you cut a deal with the consumer in New Jersey that needs the gas. You negotiate the price. The pipeline has to carry it. That is the way an open market should work, Mr. President. What am I afraid of? Well, again, let me restate how we got to open access.

We got to open access because in the mid-1980's, you had the price of oil drop. And you found a lot of customers that were taking the gas from the pipelines and saying, "Why should I pay so much for gas from a pipeline when I can switch to oil?" So they began to switch to oil, and the pipelines began to lose customers. So the pipeline says, "Well, if you are a fuel-switchable customer, you can switch to oil, as opposed to one who could not; those who could switch to oil, we will give you a special discount, but only you; not everybody, only you."

Well, the courts intervened there and said, no, that is discrimination, that is not allowed, and that is void. Then the FERC came in and said, "If you are going to provide special discounts to anybody in the pipelines, you have to provide it to everyone."

Mr. JOHNSTON. Mr. President, will the Seantor yield at that point?

Mr. BRADLEY. I would like to build to this conclusion, because I am sure this will be a winning argument. If you are going to allow a few to have a dicount, you have to allow everyone to have a discount. That is what the FERC said. The pipeline said, we have a decision; do we want to lose a lot of customers? Do we want to lose a lot of customers who are all switching to oil, or do we want to provide discounts to all of them? Do we want to allow them all to transport? The pipelines said, it is better to be in business at a lower price than to be out of business, and so they allowed the gas to move through.

Mr. President, that is why over 90 percent of the gas now moves through pipelines on an open access basis in this country today. What happens if the price of oil goes back up? The pipelines were not transporting open access when the price of oil was high. It was only when it dropped, and they began to lose their customers, did they agree to transport the gas for everyone.

If the price of oil goes back up, if the natural gas market tightens, you can see all number of mischief being made. You can see petitions to the FERC for abandonment, court cases trying to get out of existing contracts. You can see a variety of possible scenarios, the result of which would mean higher prices for the consumer, unless the FERC has the authority to do what this amendment states explicitly it will have the authority to do; and that is, Mr. President, that the Federal Energy Regulatory Commission may require, by rule or order, any interstate pipeline to transport natural gas, something that one of the Commissioners, Commissioner Stalon, says they do not have.

Mr. President, that is the amendment, and that is my attempt to respond to some of the arguments made by the other side, and I hope that the Senate will do at least one thing for the consumer in this bill.

Mr. JOHNSTON addressed the Chair.

The PRESIDING OFFICER. The Senator from Louisiana is recognized.

Mr. JOHNSTON. Mr. President, on this question of special discounts, I have heard it mentioned here a couple of times, and I would like to be clear with the Senator from New Jersey: His amendment does not deal with special discounts, does it?

Mr. BRADLEY. My amendment is very explicitly described by the language of the amendment. The amendment does not mention special discounts in the language of the amendment. It does, however, give the FERC the authority that might be used in such a way to even out some of the potential problems with special discounts.

Mr. JOHNSTON. Now, the FERC already has that authority, do they not?

Mr. BRADLEY. Well, some Commissioners say they do, and some say they do not.

Mr. JOHNSTON. I have heard you state that Commissioner Stalon does not think they have the authority. Now, is it not a fact in the AGD decision of the District of Columbia Court of Appeals, as to which certiorari was denied by the U.S. Supreme Court, giving it the dignity of a Supreme Court decision, they have upheld that authority, the authority to grant open access.

Mr. BRADLEY. Well, if you are referring to Associated Gas Distribution versus FERC, is that the case?

Mr. JOHNSTON. Yes.

Mr. BRADLEY. I can quote from the case. It says that:

> Several pipelines and others attacked these open-access conditions as beyond the scope of the Commission's authority under the [Natural Gas Act and the Natural Gas Policy Act]. The arguments—

Meaning the pipeline arguments—

> rely on the proposition that the open-access conditions, equivalent to a common carriage requirement, is that both the condition and common carriers have as their core a duty to accept shipments from all would-be shippers.

Now, the court rejected that argument, and the court went on to add:

> The pipelines can point to no language in the Natural Gas Act, barring the Commission from imposing common carrier status on the natural gas pipelines, and certainly not barring it from imposing upon pipelines a specific duty that happens to be a typical core component of such status. They seek to overcome the statutory silence by means of legislative history. The task is uphill.

What I take that to mean is there is nothing in the Natural Gas Act that says that the FERC cannot do this. This amendment says that they have explicit authority to do this.

Mr. JOHNSTON. All right. Well, they have done it, and the Court has upheld their right to do it. That is fair, is it not?

Mr. BRADLEY. Yes.

Mr. JOHNSTON. Now, you talk about discriminatory or special discount rates, and you want to be sure they have the authority. Is it not a fact that section 4 of the Natural Gas Act provides explicitly that no rate may be unduly discriminatory, so that the FERC not only has the power, but indeed the duty, under the Natural Gas Act, section 4—and I will read you the language, if you would like, but they may not grant any undue preference or advantage to any person or maintain any unreasonable difference in rates, charges, services, facilities, or in any other respect, either as between local or between classes of service. So is it not true that they have all the authority they need, and indeed, they have the mandate to disapprove rates that are unduly discriminatory, which a special discount would have the potential for doing?

Mr. BRADLEY. They might have——

The PRESIDING OFFICER. I want to remind the Senator from Louisiana that his time on the amendment has expired.

Mr. JOHNSTON. I will yield myself time on the bill.

Mr. BRADLEY. They might have the authority to do so, but they do not always do so. Some would dispute the extent to which that authority flows.

Mr. JOHNSTON. Some would dispute section 4 of the Natural Gas Act.

Mr. BRADLEY. Some would dispute whether they have the authority to regulate the special discounts. But tell me where the Senator is leading so that we can——

Mr. JOHNSTON. Well, the suggestion was that somehow the FERC does not have the power to deal with spe-

cial discounts. Now, we can discuss how they are dealing with it after we discuss the question of whether they have the power to deal with it, but I would suggest to my friend that the question of whether they have the power cannot really be argued in light of section 4.

Mr. BRADLEY. Let me say to the distinguished chairman that the special discount problem, which is a problem that is already existent in a largely open-access system, is not my major concern. That is not my major concern.

Mr. JOHNSTON. It has been mentioned here a couple of times.

Mr. BRADLEY. My major concern is having the price of oil go up and having a series of petitions for abandonment and court decisions and having the problem of the pipelines essentially being able to once again prevent open access transport absent this amendment. That is my concern.

Mr. JOHNSTON. Can we agree therefore——

Mr. BRADLEY. I agree that the special discounts are theoretically a problem, but it is more theory than it is fact and probably the FERC does have the authority to deal with some of those.

This would make it easier for them because it would make it explicit, but I do not know that many people have challenged their authority to deal with special discounts.

Mr. JOHNSTON. Then am I hearing from my friend from New Jersey that FERC does have the authority to deal with special discounts and that this amendment really adds nothing to authority which already exists? Is that fair?

Mr. BRADLEY. I would say that it adds a dimension to the authority. It adds a dimension. It has the authority but it adds a little more emphasis and gives them a little more explicit clout. What could I say to the Senator. That is how I read the amendment.

Mr. JOHNSTON. I think the answer to my question was yes on question of special discounts and I am prepared to argue that sometimes special discounts are in the interest of the consumer because a discount is the correct choice where an industrial customer has the right to switch to oil and get off the pipeline or be granted a special discount within a very narrow band of minimum and maximum discounts which have been approved by FERC.

FERC has also had rules saying you cannot cross-subsidize discounts, and they have a maximum and a minimum band for granting discounts, and I submit to the Senator that it is definitely in the interest of the consumer for them to be able to do so to keep a load from going off the line altogether, because if they go off the line altogether and switch to fuel oil, which about 30 percent or more of the loads are now dual fuel capable, then it is definitely not in the interest of consumers.

Mr. BRADLEY. Mr. President, will the Senator yield for a question just to get his own interpretation?

Mr. JOHNSTON. Yes.

Mr. BRADLEY. Is it possible under the present system that if you were a pipeline you could offer a better rate to a customer if that customer bought the gas from your own market affiliate?

Mr. JOHNSTON. Would the Senator repeat the question, please?

Mr. BRADLEY. If you are a pipeline could you offer a better rate? Could you choose to offer a better rate to a customer if that customer bought the gas from the pipeline's market affiliate?

Mr. JOHNSTON. FERC has promulgated a specific rule on marketing affiliates and very carefully polices that. Without getting into the intricacies of that rule, because it is a very intricate relationship on affiliates and how they are defined and the extent to which you are able to deal with those, suffice it to say that this is not a question of power of FERC.

FERC considers themselves to have power. That power is in fact exercised.

This amendment neither adds nor detracts from that power, and I think the Senator will agree that that is fair.

I think we could move on from the question of special discounts and affiliates, am I correct, to the more central question?

Mr. BRADLEY. The Senator is the chairman. He may move in any direction he chooses.

Mr. JOHNSTON. Very well.

I think the Senator in his fairness would agree with me that those questions were at best subsidiary and frankly I think have been answered by the plain language of the act.

When the Senator says "backsliding," his amendment is an antibacksliding amendment, is that fair?

Mr. BRADLEY. Yes.

Mr. JOHNSTON. All right. The question is, Who would backslide? Who are we concerned about? Are we concerned about the pipelines backsliding and changing their mind, or are we concerned about FERC backsliding and changing its mind?

Mr. BRADLEY. The Senator's argument against the amendment, as I heard a part of the argument, was the uncertainty that might be created by this, the uncertainty.

Mr. JOHNSTON. Yes.

Mr. BRADLEY. To the contrary, this amendment reduces uncertainty.

Mr. JOHNSTON. I know. But about whom are we concerned in backsliding?

Mr. BRADLEY. You cannot devise every possible scenario that might exist in the future for every possible circumstance.

Mr. JOHNSTON. Let me ask you the more specific——

Mr. BRADLEY. I can imagine.

I can certainly imagine circumstances where there could be a petition to FERC, where there could be a court action, where there could be some court in some part of the United States make a ruling.

I could see a variety of possibilities, all of which would negate the progress that we have made in the last several years, and the precipitating event for those would be pipelines essentially wanting to get back to a situation where they did not have to transport gas from a willing producer and a willing consumer.

Mr. JOHNSTON. Let us deal with the question of pipeline backsliding. Would the Senator agree with me that all 23 major pipelines, 100 percent of the major pipelines and close to 100 percent of interstate pipeline capacity have subjected themselves now to FERC jurisdiction, 20 of them have already been granted certificates and the other three certificates are pending and surely will be granted, that will be close to 100 percent of load, that they many not backslide, change their mind without the permission of FERC in the form of an abandonment certificate?

Mr. BRADLEY. Or they might go to court and litigate it. FERC is one route and the court is another route. Yes.

Mr. JOHNSTON. And the power of FERC has been upheld through the D.C. circuit to the Supreme Court by certiorari denied?

Mr. BRADLEY. Yes.

Mr. JOHNSTON. So you say they could go to court, but the issue has already been settled in court. The Supreme Court could change its mind, the Congress can change, anybody can change its mind.

Mr. BRADLEY. But, no——

Mr. JOHNSTON. But right now, it is very clear the authority is upheld all the way to the Supreme Court, is it not?

Mr. BRADLEY. The interesting thing is that in some of these open access agreements, abandonments are already contemplated. Abandonments are already granted as a part of the open access agreement.

In orders 451 and 490, for example, FERC authorized abandonment ahead of time for producers facing an intransigent pipeline.

Mr. JOHNSTON. That is not an abandonment of the certificate of open access. That is an abandonment on a particular sale so that they can go to spot market and have more flexibility. But that is not a change from an open access carrier to a closed carrier. That is simply to grant more flexibility in going to the spot market.

Are we agreed on that?

Mr. BRADLEY. The normal route that pipelines would take would be to FERC seeking abandonment, seeking an abandonment certificate, although they have the court route also and they might choose the court route if they thought they could get abandonment quicker.

Mr. JOHNSTON. I think we have settled, at least I think so, that a pipeline cannot change its mind and go to open access without the authority of FERC. FERC might grant an abandonment, but they cannot do it on their own, so that backsliding by pipelines is not a problem.

Now backsliding by FERC could be a problem. FERC could change its mind, I suppose.

But I want to ask the Senator in his amendment which reads as follows, "The Federal Energy Regulatory Commission may require, by rule or order, open access," the word "may" is surely discretionary and does not prevent the FERC from backsliding, does it?

Mr. BRADLEY. It allows the FERC to make a judgment as to whether it should require interstate pipelines to transport gas. It is a discretion that they have. It is not a mandate. It is not a requirement that they do. It is a discretion, and the Senator has argued, as he has, that this is something they already have. There should be no problem with simply stating it again.

But I think it is precisely because there is an ambiguity and the Senator wants to allow for the possibility in the future that there could be some abandonments and that FERC does not have the full authority. Then he opposes the amendment.

Mr. JOHNSTON. I would be prepared to make the argument—and I would like the Senator's comments on this—that the change from order 436 which allows for open access carriers, that a change from that under present law would not automatically be granted but might be subject to disapproval by the courts on the present law on the ground that it violated AGD which upheld open access carriage.

In other words, under the present law, it would not automatically be true, I think, that the FERC could abandon its open access rule. Under the Senator's amendment, however, it becomes clear the right of FERC to change its mind because by saying that it may require, it is also saying that it may change its mind.

So would the Senator agree that this amendment might even grant the power not to order open access, which power may not exist under the present law?

Mr. BRADLEY. Before I answer that question, may I ask the Senator a question of his own view. Does the Senator view the present regulatory arrangement as being such that under no circumstance can there be backsliding?

Mr. JOHNSTON. Backsliding is a value judgment.

Mr. BRADLEY. Does the Senator believe that, under the present regulatory arrangement, there can be no abandonments?

Mr. JOHNSTON. By abandonment, do you mean abandonment as to sales or abandonment as to open access?

Mr. BRADLEY. Open access.

Mr. JOHNSTON. I think as a practical matter there can be no turning back from open access.

Mr. BRADLEY. But no abandonment? Under the present regulatory rules, the Senator's view is that there can be no abandonment? Is that what he is asserting; no abandonment? I am an open access pipeline. I want to get out. I petition the FERC and the FERC cannot say I can abandon my customer?

Mr. JOHNSTON. There can be no abandonment without a certificate of abandonment. A certificate of abandonment may be granted by FERC only in a contested proceeding in which the rights of all parties are heard and which would be governed by section 7 of the Natural Gas Act and by the principles of order No. 436 which grants open access. So that you would, in order to get that certificate of abandonment, you would have to show that the open access is not needed. I cannot imagine the finding of public convenience and necessity which would be made pursuant to order 436, which is the governing rule here, I cannot imagine how a whole pipeline could abandon its authority. That, in turn, is subject to court review.

They could, I suppose, abandon particular sales. In fact, they have given authority to go to the spot market to give flexibility so that you can have an open market. But that is different from an abandonment of total sales authority.

Really what we have here is the FERC—and I really admire the FERC for the direction in which it has moved. In the mid-1980's, in fact 1985, they went from the whole structure of pipelines as merchants sales—where the pipelines would purchase the gas, in effect, from producers and sell it to the local distribution companies—to a new system of open access. And it was a very complicated procedure.

They came up with order 436, which authorized these open access carriers. But that, in turn, created problems under take-or-pay, because the pipelines were told that they did not have the right, in effect, to require the local distribution companies to buy this contract gas, so rights were taken away from them in order 436, but they did not have any compensating relief of obligations from the take-or-pay obligations.

So, the court of appeals upheld the Federal Energy Regulatory Commission's right to order open access, but remanded, saying that you must also deal with take-or-pay. Then they came up with order 500 to deal with that question of take-or-pay, the two being interrelated.

There is really no turning back, and there should be no turning back from open access.

Let me just say one more thing—and I want to preserve some time on the bill because I see the Senator from Oklahoma here, who has been a leader in deregulation this year and in previous years, and I want to give him time to speak.

But I think there is not only sufficient authority under the law, there is no turning back under the present law. One thing is clear: under the amendment of the Senator from New Jersey, it is discretionary power anyway. There could be abandonments, there could be backsliding, to use his word, under his amendment.

Mr. BRADLEY. This does not say anything about abandonment. It does not say anything about backsliding. It says the authority to mandate transportation is—it says "may." It does not say "must." Would the Senator feel more secure, given his strong support for open access, if it said "must"?

Mr. JOHNSTON. I would simply say that it is the Senator's amendment. And if you want to know does it say anything about backsliding, it does. Backsliding is spelled m-a-y, may. That means the right to backslide because it means discretionary.

Mr. President, how much time is left on my side on the bill?

The PRESIDING OFFICER. Twenty-two minutes and 52 seconds.

Mr. JOHNSTON. Mr. President, I see the Senator from Oklahoma. Does the Senator from Oklahoma wish to speak?

Mr. NICKLES. Yes.

Mr. JOHNSTON. How much time does the Senator wish?

Mr. NICKLES. Maybe 7 or 8 minutes.

Mr. JOHNSTON. Mr. President, I yield 7 minutes to the Senator from Oklahoma.

Mr. NICKLES. Mr. President, I rise today in support of the bill to, at long last, decontrol natural gas prices. I say "at long last," because this has been a battle that has been fought on the Senate floor for 35 years. It goes all the way back to 1954. Ever since that time, the Federal Government has regulated—and I will say misregulated—the price of natural gas.

Mr. President, natural gas is the only major commodity on which the Federal Government still imposes price controls. At various times since 1954, Congress and even a former President have compounded the price

control mistake of 1954. In the early seventies you might remember President Nixon imposed price controls on a variety of goods and services, including oil, beef, and a multitude of other items. Incidentially, he imposed these price controls because inflation was getting too high. It was at 7 or 8 percent.

Price controls did not work then. It was a mistake. Bill Simon, who administered part of that program, readily admits that it was a mistake. Most all economists admit it was a mistake. Most all economists will also tell you that the imposition of price controls on natural gas since 1954 has been a mistake. It has not saved consumers a dime. In fact, over the last decade, price controls on natural gas have cost consumers billions of dollars more than they would have paid had not Congress passed additional price control legislation in 1978. It has distorted the marketplace.

Congress has tried to fix the bad policy of regulating natural gas prices. Actually, Congress did pass a decontrol bill during the Eisenhower administration, but President Eisenhower vetoed it because of some inappropriate ethics by some lobbyists. Other attempts have been made in Congress after Congress to repeal price controls but they were unsuccessful. This is my ninth year in the Senate, and in every Congress I have advocated legislation to decontrol natural gas prices.

We thought we were pretty close a few years ago. We had 31 days of markup in the Energy Committee, probably the most contentious and complex effort that this Senator has been involved with. We tried to pass a bill. We finally passed it through committee. However, we did not get it through the Senate floor or the House floor. So we were unsuccessful.

I believe today will be a historic day, a positive day, because this year we will finally, at long last, be successful in decontrolling natural gas prices. We will be successful in finally correcting the natural gas price control mistake.

The mistake of 1954 was compounded by Congress, when it passed the Natural Gas Policy Act of 1978. At that time, a lot of people said, "Hey, we have done some good things." And the Congress made some improvements in the act. They at least provided for partial decontrol in 1985 and 1987. But they really made some big mistakes in 1978 in the Natural Gas Policy Act. They kept prices in virtually all interstate gas and extended gas price controls on the intrastate market. Those were serious mistakes.

In 1978 we did not have shortages in the intrastate markets. We had shortages on the interstate markets, where we had price controls. Congress made one mistake in 1978 in extending price controls to the intrastate markets. They made another mistake when they came up with 33 different price categories for natural gas.

That, too, was a serious mistake. We had price categories that ranged from 20 cents all the way up to an unlimited amount, confining the uncontrolled price to only one category, and that caused lots of problems as well.

We can eliminate those problems by doing what should have been done in 1978, really what should have been done in 1954, by at long last eliminating price controls on this commodity, natural gas.

Natural gas is natural gas. It does not make any difference if it is deep or if it is in tight sands or if it is shallow or if it is old or if it is new. It is natural gas. We should allow the marketplace to determine the price of natural gas, not Members of the Senate, not Members of Congress, not staff of the bureaucracy, not the Commissioners at FERC.

Mr. President, by repealing price controls on natural gas, by repealing the pricing mistakes that remain in the Natural Gas Policy Act, we will be accomplishing what I would say is the undoing of some of the mistakes of the Carter administration.

The Carter administration wanted to come up with an energy program so they passed the Natural Gas Policy Act, which I mentioned had several shortcomings. They also passed the windfall profit tax, which raised $79 billion from a handful of States. We finally have repealed that in the last Congress.

They also passed the Fuel Use Act, that said we could not burn natural gas in major industrial plants and utilities. We virtually repealed that last year as well.

The Carter administration also proposed the Emergency Standby Allocation Act, which had an elaborate allocation scheme for oil and oil products. It was vetoed by President Reagan and we sustained that veto. The Carter administration also passed the Synfuels Corporation, which spent billions of dollars on Federal projects, almost all of which were uneconomical and really did not make any sense. I happen to be a supporter of Synfuels development, but I want it to be done in the private sector, not with Federal corporations.

So, really, by passage of this natural gas decontrol bill, we will finally, at long last, be undoing most of the damage that the Carter administration imposed on us in the late 1970's and 1980.

I think that is good news. I think it is positive news. I think it is good news for consumers. It is good news for the industry. We are saying we will be allowing the marketplace to function and the marketplace can function much, much better than either Members in this body or Federal bureaucrats.

I think it is good news for all concerned. I think you will see an adequate supply of natural gas at the best possible prices to consumers by passage of this bill. I urge its adoption. I am confident we can swiftly work out the one area of disagreement with the House, the "newly spudded wells" provision, which has been rejected by the Senate and which I believe is a bad provision.

I urge the passage of the bill and I yield the floor.

The PRESIDING OFFICER (Mr. ROBB). The Chair recognizes the Senator from New Jersey.

Mr. BRADLEY. How much time do I have, Mr. President?

The PRESIDING OFFICER. The Senator has 3 minutes.

Mr. BRADLEY. Mr. President, let me just summarize the amendment quickly. In the natural gas market today, over 70 percent of all gas is transported under open access agreements that are struck between willing producers and customers. The pipeline must carry the gas. That will no longer be the case if the oil price goes up or the gas market gets tight.

If the oil price goes up or the gas market gets tight we will then find abandonments and we will find higher prices for the consumer. The most important consumer initiative in natural gas policy in the last decade has been open access transportation. That should be a part of this bill. If it is not a part of this bill we will find pipelines raising prices to consumers in the next 4 to 5 years.

My witness for this is none other than Exxon, before the Canadian Energy Board, who said explicitly that in the next 4 to 5 years the expectation is "that customers will no longer have access to spot market gas. They will again be relying on pipeline suppliers. Meaning us. And when they have to rely on us as opposed to going to the spot market, the prices will go up."

Mr. President, let us do something for the consumer in this bill and let us pass this amendment to preserve open access transportation.

I yield back the remainder of my time.

The PRESIDING OFFICER. All time having expired on the Bradley amendment, the procedure, under the previous order, will be that the Bradley amendment will be delayed until the remaining debate on the bill has been completed.

There will now be 1½ hours of debate equally divided between the Senator from Louisiana and the Senator from Ohio, minus the short period time that has already been taken from the Senator from Louisiana on the bill itself on the Bradley amendment.

Mr. JOHNSTON. Mr. President, I understood the vote would take place

at 12 noon. Debate started at 9:30 and we had an hour on the amendment and 1½ hours on the bill.

Does that still mean the vote will take place at 12 noon?

The PRESIDING OFFICER. The vote will take place when all debate on the bill has expired. The Senator has, I believe, 16 minutes left and the Senator from Ohio has about 45 minutes remaining on the bill.

Mr. JOHNSTON. Sixteen and 45. So if all the time is used, that would be about 12:07 or 12:08; am I correct in that?

The PRESIDING OFFICER. The Senator is correct.

Mr. ADAMS. Mr. President, I would like to address a question to the Senator of New Jersey on the impact of his amendment. Specifically, I am concerned about the problem of the bypass of local utilities by gas pipelines—and the implications of this amendment. I wonder if Senator BRADLEY can clarify how his amendment will affect the issue of bypass?

Mr. BRADLEY. Mr. President, the Senator from Washington has raised a crucial point, and my answer is simple: This amendment is intended in no way to affect the ongoing debate over bypass. The amendment does not allude to bypass and is not intended to influence or alter in any way the Commission's or the courts' actions on the issues surrounding bypass. This amendment is solely intended to help all the buyers of natural gas, both the utilities and industrial customers, who have come to take advantage of opportunities of gas transportation.

The Senator may have seen a letter addressed to me that was circulated by the American Gas Association and which raised this issue. I doubt, however, that my colleagues have seen an editorial in Monday's Natural Gas Week where, even in this proindustry publication, the AGA objection was dismissed as "a canard." Mr. President, it is a fact that my amendment is supported by some of the strongest advocates of antibypass legislation. It is likewise a fact that the AGA has taken no formal position either in favor or against bypass. The issue of bypass is a significant one, but has no relevance to my amendment or this debate.

Mr. ADAMS. I thank the Senator for his very clear statement.

Mr. METZENBAUM. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. METZENBAUM. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. METZENBAUM. Mr. President, there is a matter of great national concern that I believe the Senator from Michigan would like to address himself to. It does not have to do with the gas deregulation bill, but because it is of such national concern and such a source of pride to him, I yield to the Senator for 3 minutes.

The PRESIDING OFFICER. The Senator from Michigan is yielded 3 minutes.

WORLD CHAMPION DETROIT PISTONS

Mr. RIEGLE. Mr. President, I rise just to acknowledge the terrific performance of the Detroit Pistons in the playoffs during this year. We have never had a national basketball championship come to our home State of Michigan and Detroit, and this is the first time. Of course, this is very well earned over a long stretch of time.

I take this minute to say something about it because in watching the development of that team and its character over the years, the owner Bill Davidson, the coach Chuck Daly, all the players, Joe Dumars, Dennis Rodman, and all the rest of them, I think represents—and sometimes sports do this—some important things about what can be accomplished with teamwork and with hard work.

Everybody I guess in professional sports these days who reaches this kind of a pinnacle experience has to play hurt to a certain degree. We saw that in some great players like Earvin Johnson not even able to play in the series. We regret that. He of course also comes from Michigan. But in any case, I think the fortitude, the courage, the achievement that we see by that team not only is a tribute to them but it says something about what teamwork can accomplish when people work together.

I think there is an important lesson in that for America today. We have major trade problems in the global economy, and I think we need a team America approach. If we could learn to do some things in our national economic system with the same kind of cooperation and selflessness that we saw shared as a team among all the players on the Pistons, it would be a very useful lesson for us.

TOMMY HEARNS

Mr. RIEGLE. Mr. President, I also want to take a minute to acknowledge another important Michigan sports figure, Tommy Hearns, who was involved in a major boxing match with Sugar Ray Leonard on Monday last. The heroic job that he did, coming back from a very difficult defeat some 8 years ago, with the mental discipline and the character and strength to come in and prepare himself for that kind of an epic contest, is a great tribute to him. While boxing is seen by many as a very brutal sport, and certainly it is, I think for those who elect to take part in it, the preparation and the discipline it takes to achieve a goal of that kind is extraordinary in the extreme. I am very proud of Tommy Hearns, and I know everybody in Michigan and around the Nation who follows athletics feels the same way.

So my hat is off to the Pistons; it is off to Tommy Hearns. They set examples that are useful for us in other parts of our national life.

I thank the Chair and I thank my colleague from Ohio.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. JOHNSTON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

NATURAL GAS WELLHEAD DECONTROL ACT

The Senate continued with the consideration of the bill.

Mr. JOHNSTON. Mr. President, I yield myself such time as I require, not beyond 10 minutes.

The PRESIDING OFFICER. The Senator has the floor.

Mr. JOHNSTON. Mr. President, at 12 noon, or thereabouts, we will vote first on the Bradley amendment, which we have fully discussed, and to which we have pointed out to our colleagues that the amendment would be very mischievous, would sow uncertainty in gas markets, would produce opposition from local distribution companies, which believe that an amendment would authorize what we call bypass, which, in effect, allow the pipelines and industrial loads to scrape the cream off the gas market by making direct deals with producers of natural gas and transporting gas directly to the industrials, thereby upping the prices for consumers.

Now, Mr. President, if this result is not clear, then it is at least possible and is the basis upon which the American Gas Association, the Natural Gas Supply Association, the pipelines, everybody in the consensus group behind the bill, opposes the Bradley amendment.

The Bradley amendment is not necessary, Mr. President. It fixes a problem which does not exist, because at present, 100 percent of the major pipelines have applied for what we call open access carriage. Twenty of the twenty-three pipelines are presently operating under that authority, and may not get out of that requirement,

without the permission of the FERC. The final three pipelines which have applied, and which have not now been given a certificate of open access, soon will have that certificate of open access, so that open access—that is the requirement of pipelines to carry anyone's gas—is presently the law of the land; and to the extent we pass the Bradley amendment, it would simply sow uncertainty, litigation, and provoke political opposition to this bill, because of what it might do with respect to what we call the bypass issue.

Mr. President, 35 years ago the Supreme Court, in a decision, came up with a scheme of regulation for natural gas. Natural gas regulation for 35 years has produced shortages; it has produced dislocations; it has produced in the cold winter of 1975-76 unemployment by the hundreds of thousands. This country, in the midst of a lot of natural gas supply in the ground, produced shortages by a system of regulation. And in the process the consumer, by regulation, got higher prices rather than low prices, which the system of regulation was meant to produce.

So this regulation continued, Mr. President, until 1978, when the Congress, both liberals and conservatives, both consumers and producers, recognized that the system had to be changed. And we came up with the Naural Gas Policy Act, which deregulated large blocks of gas to have increasing prices and to have increasing prices and to be deregulated in the future, and which kept other species of gas under regulation.

Mr. President, we said at the time that that Natural Gas Policy Act would produce more supply, and it did produce more supply. We said the consumer would be protected by that, and we were correct. On the average, the Natural Gas Policy Act of 1978 has produced lower prices.

The Natural Gas Policy Act also provided that on January 1, 1985, the other large block of gas was to be deregulated. It was a moment in time, Mr. President, which was described by opponents of deregulation as calling for a fly up in natural gas prices. It was predicted that it would be an Armageddon for consumers. We, Mr. President, who had always opposed natural gas regulation, said no such thing, that deregulation on January 1, 1985, of these large blocks of gas, would not cause the consumer increased prices. As a matter of fact, Mr. President, we were correct. The deregulation which took place on January 1, 1985, produced lower prices. The market resulted in a 36-percent decrease in prices between January 1, 1985, and the present time. Deregulation works, Mr. President.

There continues to be regulation of natural gas at the wellhead, however, under the Natural Gas Act and the Natural Gas Policy Act. Those regulations deal with only a small amount of the gas. However, they continue to result in delay and expense. They produce a lot of legal fees. I used to practice law, Mr. President, and my father used to always say, "Son, the safety of the Republic lies in a well-paid bar." He would say that with a smile after collecting a paricularly big fee.

Mr. President, the safety of this republic does not require the continued delay and large legal fees which this regulatory scheme requires. That is all we get out of the remains of regulation which we have right now. What we need to do, Mr. President, is get rid of that regulation. It will not produce higher prices for the consumer. Some prices will go down, some will go up, but, as the Washington Post said today, those prices on the average will not be raised. As they say, "Abolishing controls on production at the wellhead is going to have no effect on the final prices that users pay."

Mr. President, in my State and other producing States, this bill will have a very good effect. There will be more drilling, as the Natural Gas Supply Association and the American Gas Association said. There will be more drilling, more infield drilling, more jobs, more will be produced in the natural gas industry. Mr. President, one of the most important effects in producing States will be that old wells will be reworked.

The Natural Gas Supply Association says that as much as 20 trillion cubic feet of additional gas can be produced under this bill by allowing the reworking of old fields. That is greater than 10 percent of the total Nation's proven reserves of natural gas, if the Natural Gas Supply Association is correct, that can be produced by this bill.

Mr. President, I hope they are right. I believe this bill is going to pass. Ten percent additional incremental supply of natural gas is a goal greatly to be desired by people in this country, and particulary by those of us in States that have been devastated by lack of jobs in the oil and gas industry. This bill offers real hope, not just to the consumer—and it does offer hope to the consumer—not just to the producer, and it offers a lot of hope to him, but particularly to those devastated producing States who have had high unemployment, it will produce employment. It will produce natural gas, and it will do so at a good price for consumers.

Mr. McCLURE. Mr. President, will the Senator yield me 4 minutes?

Mr. JOHNSTON. Mr. President, I yield the Senator from Idaho 4 minutes.

The PRESIDING OFFICER. The Senator from Idaho [Mr. McCLURE] is recognized for 4 minutes.

Mr. McCLURE. Mr. President, this is a day that I have long awaited, the opportunity for us to bring about the decontrol of the last vestige of Federal price controls on an essential energy commodity.

I hope people will recognize that after many years of Federal regulation of natural gas prices, we produced a shortage. This is not simply an academic exercise, although academicians have argued about the effects of price controls for ages. This is a concrete example of what happens under controls, and that is that production is dampened, the consumers benefit in the shortrun and pay a higher price in the longrun, as they produce shortages, lack of supply.

We demonstrated as we went through this process that the partial deregulation that was achieved by NGPA will break that cycle, will bring about greater production, but it also ended up in higher prices than the consumers ought to have to pay.

This is not theory; this is fact. We can demonstrate it by past history: too much regulations brought about, first of all, shortage of supply and, second, prices that were too high.

The consumer will benefit by the deregulation of the remainder of the natural gas supply.

The second point I wish to make is that indeed this does not interfere with State prerogatives to regulate local distribution companies in whatever way the State decides they wish to do. It preserves the State regulatory process. It dismantles the Federal price regulatory process.

And the final point for those who are wondering as they come to the floor to vote what will they be voting on, they will first vote on the Bradley amendment which must be defeated if you hope that this bill will accomplish what we believe it can accomplish. The Bradley amendment is unnecessary, unneeded; it ought to be defeated rather than to allow it to destroy the opportunity to bring about a deregulated market at the Federal level with respect to natural gas.

So I hope on the first vote Members will vote against the Bradley amendment and then join the rest of us in taking the step that has been long awaited by many of us and that is the dismantling of the Federal price regulation of natural gas in this country.

The PRESIDING OFFICER. The Chair recognizes the Senator from Ohio [Mr. METZENBAUM].

Mr. METZENBAUM. Mr. President, we are not in a quorum call, is that correct?

The PRESIDING OFFICER. That is correct.

Mr. METZENBAUM. Mr. President, will the Chair be good enough to advise with respect to the time?

The PRESIDING OFFICER. The Senator from Ohio has 14 minutes and 52 seconds remaining; the proponents of the bill and opponents to the Bradley amendment have 53 seconds remaining.

Mr. METZENBAUM. Mr. President, there is no doubt that the Senate will shortly vote to end 35 years of regulation of natural gas prices. The final margin of victory is the only outstanding question.

For those of my colleagues who are now making up their minds, I urge you to vote "no." I urge you to vote "no" because I am certain as I stand here that passage of this bill will come back to haunt you. Passage of this bill will be an issue in the winter of 1989, it will be an issue in the winter of 1990, because all reliable sources indicate that natural gas prices are going to rise. There is only one question. How much will they go up?

I know of no source, no reliable source, noboby who has said that natural gas prices are going to come down.

Passage of the bill has nothing to do with reducing paperwork. Let us not kid each other. Passage of this bill has to do with dollars, how many millions and maybe billions of dollars are going to be placed in the hands of the producers, the pipelines, and, yes, maybe even the local distribution companies as well, but not to the same extent. The main beneficiaries are going to be the producers and the pipelines.

The argument is made that when the Natural Gas Pricing Act was passed in 1978 it was predicted that prices would go up and they did not, and I am not prepared to dispute that fact, but something happened. Something happened; oil prices were on their way up, and suddenly oil prices went way down. The OPEC oil ministers thought that they could control the production and thereby control the prices of oil. There is no question about it: oil prices relate to gas prices.

The OPEC ministers were unable to do this. The OPEC nations failed in that effort. And so you had plenty of oil coming into the market and prices tumbled very rapidly.

There is a reality in the world in which we live with respect to fuel sources. If you can buy oil cheaper on a per Btu unit than you can buy gas, you are going to buy oil. So when oil prices came down, gas prices also came down. It was not that there was that much new gas, that is a fallacy. That is not correct. It was that the competitive market just was not there to push prices up.

Proponents would argue that this is a minor piece of legislation, that this legislation really has nothing to do with prices, that this just has to do with getting the yoke off the back with respect to regulation. They would claim that it has more to do with K Street lawyer fees than with Main Street heating bills.

The fact is, sure, lawyers make fees, but we are not talking about legal fees here; we are talking about gas prices.

I do not care what State you come from. I put in the RECORD the other day the number of households using natural gas in every State of the Union. There are a couple that do not use much. But across the board you will find that people in State after State after State heat with natural gas. Those are the people who are going to pay the bill, consumers, and, yes, the industry as well because those industries that use natural gas will also be paying the bill and they will pass those costs on to the consumers.

There will not be more jobs as a consequence of this bill. There is nothing in this bill that has to do with jobs, as a matter of fact. I would like to think it would have more jobs. If it would I would probably consider voting for it. But there is nothing in this bill having to do with more jobs.

I will tell you. This bill does not have to do with lawyers and technical provisions. That is not what is up here.

I will tell you what is up here. Gas prices are going up. A vote for this bill means that you will be able to look backward and say "I helped gas prices go up" and you are going to be able to say proudly "I helped the oil companies of this country," because the 10 largest oil companies in this country control 45 percent of the total natural gas reserves of this country.

The oil companies and the gas producers want to ride that rocket as high as it will take them.

Under our current system of controls, we have a supply of old, cheap gas. That old, cheap gas is now selling below a dollar which helps protect consumers from higher heating bills. It sells for below a dollar notwithstanding the fact that the market price of natural gas is somewhere between $1.35 and $1.65 at most.

When the price controls are taken off that old gas is going to cost consumers more.

Under this bill there is no cushion, no protection, no solace for consumers. Under this bill, all of the old gas reserves that the oil companies have been buying up and holding on to will be decontrolled. As a matter of fact, at the present time, almost 40 percent of the flowing gas is still controlled.

It is a fact that only 6 percent of that gas is under the market price. But when prices go up and there are no controls, then, as to that other 34 percent, the controls will be taken off that as well, and this bill will provide a windfall profit of untold and unknown proportions.

I can say to my colleagues that I would not be the least bit surprised to see oil company stock prices in the marketplace go up promptly upon the President's signing of this bill or the Senate passing it.

Mr. President, I made my case on this bill. We have had a long and spirited debate. I know that I am not going to prevail. We have argued long and hard, and I congratulate the managers of the bill on their victory.

But I think it will be a hollow victory, because it is no victory for consumers.

My colleague from Louisiana says this bill offers real hope to the consumers. I say to him, the consumers of this country are going to be hurt and this bill is the one that is going to hurt them. Deregulation is no bargain for average Americans.

My colleague points out that the Washington Post today says that "Passing this bill will return the last corner of the economy to the kind of market pricing that serves the country best." Well, there is one problem with that point of view and that is that that point of view with respect to decontrol and market pricing does not always work so well.

I was here when we all joined in deregulating the airline industry. Ask the American people whether they think deregulation has worked well in that respect. There is little competition out there in the airline industry today and there are higher prices across the board.

Ask the American people about telephone deregulation. Ask them if they think that worked so well. I was for it, but it was a mistake in retrospect.

Ask them about the deregulation of the savings and loan industry. What a wonderful thing that was. Let the free market work. That was the Reagan administration policy. It is going to cost us about $239 billion for that little error and I am now told that it may go up to $300 billion.

The American people will tell you in passing this bill, "Thanks, but no thanks." Frankly, I think the American people are going to wake up and suddenly find what has occurred on the floor of the U.S. Senate and the House of Representatives. They do not know what is going on at this moment about this legislation. It is a low-profile issue. But when the prices go up and heating bills go up and producer profits go up, they are going to look back and say, "How did this all happen to us? Where were the Members of the Congress when they should have been standing up fighting for our concerns?"

I urge my colleagues to resist the shortsighted view. I urge you to look to the long term. Do not cancel consumers last remaining piece of insurance against rising energy prices.

Passage of this bill will be hurtful to the economy. Passage of this bill will

be inflationary. Passage of this bill will be counterproductive.

I think it is going to pass. As I have already said, I congratulate those who are handling the measure, but I cannot congratulate the consumers of this country. They are going to pay the bill. They are going to pay the price. Those Senators who see fit to vote for decontrol are going to be called upon by their constituents who will say, "Why did you do that to us?"

Mrs. KASSEBAUM. Mr. President, in recent years the Senate has addressed a variety of deregulation issues. We have struggled through deregulation of the aviation industry, we have struggled through deregulation of the savings and loan industry, and we have struggled through deregulation of the interstate busing industry. As to whether all this deregulation has been beneficial, I think the verdict is still out.

Kansas is currently facing the prospect of losing important interstate bus service. This would pose a significant hardship on many rural communities. The same can be said of rural air service. These examples indicate the importance of not taking deregulation lightly.

Industries are regulated to protect captive customers from capricious actions by dominant suppliers. Suppliers have every incentive to raise prices for captive customers and to discount prices to noncaptive customers. Such as incentive is always part of a deregulated and competitive market. Captive railroad shippers face this problem, as do captive cable television viewers.

Kansas has a large supply of natural gas. Kansas also has a large number of residential consumers of natural gas. Many are elderly living on fixed incomes. They use the gas to heat their homes in the winter and to cook their daily meals. Natural gas is a basic necessity, and these consumers are truly captive. If natural gas prices go up, they must somehow pay the increase.

Given the fact that the idustry is in the midst of substantial change, I think we should either address deregulation in a comprehensive manner or we should not act at all. Attempting to deregulate an industry undergoing such a transformation will almost assuredly lead to unintended and unforeseeable consequences. Past statistics on which this legislation is based may very well be meaningless in the vastly changed natural gas industry of tomorrow.

If we really want to deregulate the market, we must have the courage to face the take-or-pay issue, and we must have the courage to face the bypass issue. Addressing half the issues only sanctions marketplace distortions. Many natural gas contracts were drafted years ago on the assumption the market would continue to be regulated. As long as those contracts are in effect, we can be assured of continued market distortions. I have no doubt as to the fact that it will be the captive residential consumers who are most affected by such distortions.

Although I am not afraid of change, I see no need to act simply to be acting. I am skeptical that the projected benefits of this bill will ever be achieved, and I think it is quite possible its consequences will be unintended and undesirable. Like the section 89 outcry or the savings and loan fiasco, the ramifications and public awareness of this bill may not be evident until serveral years after it has been passed. By then, the time for an appropriate congressional response will have lapsed. Given the fact that the industry is now in a state of significant change and the future of gas prices is uncertain, I do not believe now is the time to enact this bill. Accordingly, I will not support it.

Mr. DOMENICI. Mr. President, there are many things that happen on the floor of the Senate which could be said to be historic. For those Members who have been here long enough to be involved in the issue of price regulation of natural gas, this is a historic occasion. The first bill I cosponsored in this body was on that subject. Months of the 95th Congress were spent in closed-door negotiations and in battles on the floor over this issue. Months of our time in 1982 and 1983 were spent battling over this issue. Yet, today we are considering a bill which, except for one major difference, passed the House by unanimous consent.

There will be amendments offered to this bill which are controversial. I do not know if any will be accepted. This is a bill which deregulated the prices for natural gas in a way some of us argued was appropriate in 1983. It does little harm to existing contracts. It does not set up huge regulatory schemes to "phase out" or "phase down" prices of different categories of natural gas. It simply will eliminate all remaining Federal controls on wellhead sales of natural gas and would do so effective January 1, 1993. In some cases, wellhead controls would be deregulated even sooner.

Only a small percentage of natural gas remains regulated—about 6 percent of that produced domestically. The ceiling prices of this small amount are constrained at below the market prices. I believe that wellhead decontrol will help to ensure that demand in this country is met by adequate, new supplies of gas that might otherwise not have been drilled while under Federal control.

Let me speak for a moment about the major difference between this bill and the House-passed version that I spoke of earlier. It is commonly referred to as the "newly spudded issue." What the House proposed was that for any well started after March 23, 1989, it would not receive the price under which the well would have normally brought under an existing contract. Clearly, the advocates of this provision hoped that, where producers had managed to negotiate or be entitled to a higher incentive price, they would lose it. They would lose it in spite of the fact that they had a valid contract for it. Now this is the very issue over which this legislation died in 1983. The sanctity of contracts was at stake. The House has said they want to force producers to lower their prices on all wells drilled after March 23, 1989, even though they have a right to a higher price. I am glad the Senate disagrees.

Now, Mr. President, I do not know why this provision passed the House without comment. I do not know how those who opposed the legislation in 1983 could support this provision. My State of New Mexico is bound to be affected adversely by the House provision and I am seeking to quantify this. I hope that my colleagues here in the Senate will be prepared to fight to keep the Senate position in the final legislation.

Mr. METZENBAUM. Mr. President, what is the time situation at the present time?

The PRESIDING OFFICER (Mr. KOHL). The Senator has 3 minutes and 15 seconds.

Mr. METZENBAUM. And I understand the managers of the bill have 53 seconds remaining. It is my understanding the Senator from Louisiana is prepared to yield back the remainder of his time.

Mr. JOHNSTON. Mr. President, I yield back the remainder of my time.

Mr. METZENBAUM. Mr. President, the managers of the bill have yielded back their time. I yield back the remainder of my time.

VOTE ON MOTION TO TABLE AMENDMENT NO. 195

The PRESIDING OFFICER. All time for debate on the bill has expired.

Under the previous order, the question recurs on amendment No. 195, offered by the Senator from New Jersey.

Mr. JOHNSTON. Mr. President, I move to table the amendment. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Louisiana [Mr. JOHNSTON] to table the amendment of the Senator from New Jersey [Mr. BRADLEY]. The yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Tennessee [Mr. GORE] is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 55, nays 44, as follows:

[Rollcall Vote No. 90 Leg.]

YEAS—55

Armstrong	Exon	McClure
Baucus	Ford	McConnell
Bentsen	Fowler	Murkowski
Bingaman	Garn	Nickles
Bond	Gorton	Nunn
Boren	Gramm	Packwood
Boschwitz	Grassley	Pryor
Breaux	Hatch	Robb
Bumpers	Hatfield	Shelby
Burdick	Heflin	Simpson
Burns	Helms	Stevens
Byrd	Hollings	Symms
Cochran	Inouye	Thurmond
Conrad	Johnston	Wallop
DeConcini	Levin	Warner
Dixon	Lott	Wilson
Dole	Mack	Wirth
Domenici	Matsunaga	
Durenberger	McCain	

NAYS—44

Adams	Heinz	Mitchell
Biden	Humphrey	Moynihan
Bradley	Jeffords	Pell
Bryan	Kassebaum	Pressler
Chafee	Kasten	Reid
Coats	Kennedy	Riegle
Cohen	Kerrey	Rockefeller
Cranston	Kerry	Roth
D'Amato	Kohl	Rudman
Danforth	Lautenberg	Sanford
Daschle	Leahy	Sarbanes
Dodd	Lieberman	Sasser
Glenn	Lugar	Simon
Graham	Metzenbaum	Specter
Harkin	Mikulski	

NOT VOTING—1

Gore

So the motion to lay on the table amendment No. 195 was agreed to.

Mr. JOHNSTON. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. McCLURE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. COATS. Mr. President, I rise today to add my support to the Natural Gas Decontrol Act, and I commend the sponsors of the bill, Senators JOHNSTON and NICKLES, for their leadership on this issue.

As a Senator who represents an energy-consuming State, and as a former member of the Energy and Commerce Energy Subcommittee, I am pleased that Congress finally has this opportunity to take the necessary step of decontrolling the natural gas market. It is a market which has stabilized to the point where total decontrol will not hurt consumers in northern industrial States. In fact, I am convinced that decontrol, in the long run, will help those consumers.

In my own State of Indiana, we have long, cold winters, and the gas shortages of the late 1970's are still vivid in the memory of many of my constituents. Hoosiers deserve as many choices as we can provide them, and I believe the best way to guarantee choices and ensure the availability of cheap energy is to let the market do its work.

Current environmental problems also emphasize the desirablility of expanding energy alternatives. Natural gas is a clean-burning fuel. And with the threat of acid rain legislation, which would potentially cause a drastic increase in coal-burning electricity in Indiana, I believe a stable natural gas market and viable energy alternatives are increasingly important.

Mr. President, the natural gas industry has seen surprising and encouraging changes in the past decade. First, and foremost, the expected jump in natural gas prices after partial decontrol in 1985 never materialized. In fact, there has been a drop in prices of about 35 percent, a savings which has been passed on to consumers.

Second, through landmark decisions by the Federal courts and the Federal Energy Regulatory Commission, a more competitive pipeline system exists today, which gives more options to producers, pipelines, and suppliers.

These events have created a situation where, while 40 percent of 1988 production was still under NGPA price controls, the Energy Information Administration estimates that only about 6 percent was below the market price. The other 34 percent has, in effect, already been deregulated.

The time for deregulation has come. Consumers today are entitled to a free energy market that provides choices and savings. And I ask my colleagues to support this bill.

Mr. BOREN. Mr. President, today we take an important step toward the formulation of national energy policy. When the Senate passes H.R. 1722, as amended by the Energy Committee, we will move closer to ending 35 years of unnecessary natural gas price controls.

I would like to commend the chairman of the Energy Committee, Senator JOHNSTON, for his skill in moving this legislation through the Senate.

If anyone has any concerns about whether or not this legislation will increase our domestic energy supplies, they need only look at what happened when Congress decontrolled deep gas in the late seventies and early eighties. At a time when so-call experts were saying the United States had run out of natural gas, Congress turned loose the economic forces of the marketplace and the result was a surge in new natural gas reserves. We are today still working through the "gas bubble" created by that new supply.

There are those who say this legislation will result in higher prices to consumers. These are the same people who said there would be a fly-up in gas prices on January 1, 1985, when natural gas was partially decontrolled. In fact, since that time gas prices have actually declined as market forces have begun to play an increasingly larger role.

Today's legislation will complete that process begun in 1985. By 1993 all natural gas will be priced according to market forces. Consequently our domestic energy producers will be better able to respond to changing market forces. There will be an adequate market reward for the risk of attempting to find new natural gas reserves, something that has been lacking over the last 20 years.

The future of natural gas as a major energy source is bright indeed. It is a clean fuel found in abundance in the United States. By removing the last remaining price controls on natural gas we will be giving our domestic independent energy producers that opportunity to do what they do best—find new sources of natural gas at the lowest possible cost. I urge my colleagues to support this legislation.

Mr. BURNS. Mr. President, I rise today in support of the Natural Gas Wellhead Decontrol Act of 1989. This bill would eliminate all remaining Federal controls on wellhead sales of natural gas effective January 1, 1993. This measure will allocate natural gas in the most effective manner possible—according to the laws of supply and demand. Competition in the marketplace is one of the goals in the bill before us.

Under the Natural Gas Policy Act of 1978, much of the domestic natural gas production in this country has already been decontrolled. But there remains a portion of natural gas production that remains under Federal control. This bill would move to decontrol that portion of production. The bill is a carefully crafted compromise of all concerned parties.

The American natural gas industry needs this bill. And, the American consumer needs this bill. Natural gas decontrol will move the industry ever closer to true marketplace competition. It is from that competition that the consumer will stand to benefit. In addition to the added competition that will result, the bill should enhance exploration for new and additional sources of domestic natural gas.

The industry has been severely depressed in the past several years. Exploration in Montana has fallen off dramatically. We need to do what we can to revitalize the basic industries of this country. Montana will benefit from additional exploration. And consumers will benefit from additional supplies and competitive pricing.

Mr. CHAFEE. Mr. President, we have just seen the Senate's decision on an energy policy that has been hotly debated for many years: natural gas price controls. Academics, politicians, and businesspersons have long argued over the effectiveness of price control

policies. In the Senate, the control and decontrol of the price of natural gas sparked controversy from the very first day of consideration, many years ago.

Why? Part of the reason for such heated debate is the fact that we live in a constantly changing energy environment. To ensure a reliable, inexpensive energy source—an increasingly difficult task—we must adapt our policies to fit the existing global energy situation.

Thirty-five years ago, price controls on natural gas came into effect as a result of a consumer protection and regulation measure approved by the Congress. However, 20 years later during the winters of 1975 and 1976, those same price controls were widely blamed for a severe natural gas shortage. Congress thus voted to partially decontrol the prices by passing the Natural Gas Policy Act of 1978, again to protect the consumer.

Today, we want to continue protecting consumers. But since our energy situation has changed once again, it is worth reevaluating the policy of partial natural gas price control. We need to make sure that the policy still "fits"; in other words, ensure that controlling prices still has a positive impact on the consumer.

As it turns out, we aren't sure that price controls on gas are still good for the consumer, given the difference in our energy situation today. Most of the gas still bound by the old price controls today sells for less than the fixed price ceiling. Only 6 percent of all gas is actually affected by the controls, according to the Energy Information Agency of the Department of Energy. That means that decontrolled gas effectively represents 94 percent of the gas we have in the market today.

In fact, there is a strong case to be made that natural gas price controls are having a negative effect on consumer prices. Many worry that price controls overregulate the market—that the long process of arranging new contracts inhibits the industry's ability to react quickly to consumer needs, and ends up costing everybody more.

But more importantly, we have seen the effects of the partial decontrol of the Natural Gas Policy Act of 1978. The final phase of decontrol was completed on January 1, 1985. Despite dire warnings, and many strong concerns, including my own, about a sudden fly-up in gas prices, it never occurred. In direct contradiction to these fears, the wellhead price per thousand cubic feet of natural gas fell from $2.66 in 1984 to $1.71 in 1988. Consumer prices during that time dropped by $.66 per thousand cubic feet.

I think it is also important to keep in mind that, although we are now experiencing a greater supply of natural gas than demand, our energy needs are likely to increase. Let me take a moment to consider my home State of Rhode Island.

Rhode Island is the smallest State in the country. We are only about 1,200 square miles in size. But we are the second most densely populated State in the country, with over 900 people per square mile. Add to that an active and growing economy, and you get substantial energy needs that continue to grow every year. Mr. President, I am proud of Rhode Island's energy conservation efforts. But these efforts cannot always mitigate the increasing energy need spurred by our economic expansion. Therefore, Rhode Island consumers and businesses need to be assured of a steady and reliable supply of natural gas, uninhibited by artificial constraints.

It is generally agreed that the price of natural gas will rise in the future whether this act passes or not. Given this fact, we need to be sure that no Federal policy actually helps prices increase, and we certainly must be sure that no policy inhibits quick reaction by the market to our needs.

Therefore, Mr. President, after careful consideration of the implications of decontrol for Rhode Islanders, I believe that decontrol of the remaining natural gas is the right step.

Mr. BRADLEY. Mr. President, it is with mixed feelings that I cast my vote against this bill today. As anyone knows who has followed these issues, I have tried to stay at the forefront of those who value and endorse competitive energy markets with a maximum of efficiency and a minimum of bureaucracy.

Although this bill is characterized as the decontrol bill, this is an overstatement. Gas price decontrol, as has been well-documented during this debate, is largely accomplished. The critical legislation was passed in 1978, the Natural Gas Policy Act. The bill that's considered today is much more limited and that, I believe, is its chief failing.

In the amendment I put before the Senate, my chief goal was to protect an essential part of a competitive gas market—open-access transportation. With the adoption of my amendment, I believed there would have been a necessary and symmetry to the bill a competitive wellhead price and a competitive transportation system—without one the other is less. As I have made clear in my statements, price decontrol at the wellhead is absolutely irrelevant without access to transportation. Unfortunately, my amendment was rejected by the Senate.

Clearly, there is a judgment call to be made. The proponents of the legislation acknowledge that it is a very limited bill. But we should not ignore the opportunity to insure a fully competitive and complete marketplace. I do not want to wait another 10 years before we try to broaden our legislative focus. Price decontrol without a competitive transportation system is going only part way and is potentially mischievous in ways that could hurt the consumer and the producer.

Mr. JOHNSTON. Mr. President, I ask for the yeas and nays on final passage.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on the engrossment of the amendments and the third reading of the bill.

The amendments were ordered to be engrossed for a third reading, and the bill to be read the third time.

The bill was read the third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall the bill, as amended, pass? The yeas and nays have been ordered. The clerk will call the roll.

The bill clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Tennessee [Mr. GORE] is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 82, nays 17, as follows:

[Rollcall Vote No. 91 Leg.]

YEAS—82

Adams	Garn	Mitchell
Armstrong	Glenn	Moynihan
Baucus	Gorton	Murkowski
Bentsen	Graham	Nickles
Bingaman	Gramm	Nunn
Bond	Grassley	Packwood
Boren	Harkin	Pell
Boschwitz	Hatch	Pressler
Breaux	Hatfield	Pryor
Bumpers	Heflin	Reid
Burdick	Heinz	Robb
Burns	Helms	Rockefeller
Byrd	Hollings	Roth
Chafee	Humphrey	Rudman
Coats	Inouye	Sanford
Cochran	Jeffords	Sasser
Cohen	Johnston	Shelby
Conrad	Kasten	Simpson
Cranston	Kennedy	Specter
D'Amato	Kerrey	Stevens
Daschle	Kerry	Symms
DeConcini	Lott	Thurmond
Dixon	Lugar	Wallop
Dodd	Mack	Warner
Dole	Matsunaga	Wilson
Domenici	McCain	Wirth
Ford	McClure	
Fowler	McConnell	

NAYS—17

Biden	Kassebaum	Metzenbaum
Bradley	Kohl	Mikulski
Bryan	Lautenberg	Riegle
Danforth	Leahy	Sarbanes
Durenberger	Levin	Simon
Exon	Lieberman	

NOT VOTING—1

Gore

So, the bill (H.R. 1722), as amended, was passed.

Mr. JOHNSTON. Mr. President, I move to reconsider the vote by which the bill, as amended, was passed.

Mr. NICKLES. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. JOHNSTON addressed the Chair.

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. JOHNSTON. Mr. President, I want to thank my colleagues for passing this historic bill by such a large margin. I want to particularly thank Senator MCCLURE who has been such a leader all year—actually, for about a decade-and-a-half now on natural gas.

I want to thank Senator NICKLES from Oklahoma who has also been for all these years in the Senate a strong leader on natural gas. Senator BINGAMAN has been a coauthor, a constant help in this; Senator DOMENICI has been vitally interested and a big help; Senator WIRTH helped lead our floor activity, and was a very strong leader all along on natural gas. In fact, almost all the members of our committee, Mr. President, have been involved with this bill. I thank them all.

Mr. President, I think I mentioned first on the list, at least first on my list was Senator FORD. If I did not mention him, it is because he was first on the list, and too obvious. Actually, Senator FORD was our margin of victory in the Natural Gas Policy Act way back in 1978, and has been a strong leader ever since then.

Mr. President, I want to thank staff on our side of the aisle. This is Don Santa's first bill. He has been with the committee only 3 months, and he has come in magically and led the way on the staff side to get deregulation after 35 years. So that is a pretty good record in 3 months. Daryl Owen, our staff director, has done excellent work.

Mr. President, I must note that the minority staff working as a team has been helpful as well, and I would like to yield to Senator MCCLURE to talk about that.

Mr. MCCLURE. I thank the Senator for yielding. I certainly do want to compliment the chairman on the way in which he has handled that. If indeed we could perceive any difference over the last 20 years, he has a new staff member who in 3 months accomplished what all the rest of these fellows have been working on for 20 years. We should have gotten him sooner. Of course, we all know as a matter of fact that this is a long and sometimes difficult battle.

Through the 1970's and into the 1980's, there are a great many people who have figured in this battle—never anyone more constantly in the battle nor more effectively than the distinguished Senator from Louisiana, the chairman of the committee. My hat is off to him. Under his leadership and with his constant effort, we have been able to achieve what we have not been able to achieve in the past.

I want to particularly compliment Howard Useem with the minority staff, Frank Cushing, staff director, and the other staff members who have worked on this over a long period of time.

You know, I keep getting back to how long it has been, and how many hearings we have had, how many markup sessions we have gone through, and how many bills we have brought to the floor. Hopefully, we have now kind of capped that effort with this legislation. Of course, we have one more hurdle to go, and that is in conference with the other body. That conference does not appear to be difficult, although there is one issue upon which there is strong feelings on both sides of the Capitol, and on both sides of the issue. But that is not the kind of issue that causes this kind of measure to fail.

We will accomplish that conference. We will bring the bill back in agreement, and we will be able to get the conference report passed.

This is a very signal day for those who really do believe that price controls create shortages, and that free markets produce profits and keep prices lower in the long run. That is what the debate has been all about. I am very, very happy that we have achieved this result here today.

I thank the Senator from Louisiana.

SENATOR DOMENICI CALLS FOR WORLD ENERGY SUMMIT TO EXAMINE GLOBAL WARMING

Mr. JOHNSTON. Mr. President, recently, our good friend, the distinguished Senator from New Mexico [Mr. DOMENICI], gave a major speech on clean air issues to a summit meeting of environmental groups in Albuquerque, NM.

During that speech, Senator DOMENICI spoke of a variety of air pollution issues: local, national, and international.

While all of his comments were interesting, I was particularly impressed with his review of the global climatic situation, as it relates to clean air and energy use.

Concern continues to grow over the greenhouse effect. Senator DOMENICI rightly notes that global warming, as a result of pollution, could be "a disaster unlike any this planet has experienced during mankind's tenure."

During the speech, Senator DOMENICI goes on to discuss the huge increases that are forecast in the world's population, particularly in the Third World, and the accompanying increase that will occur in demand in energy, which Senator DOMENICI calls the "fundamental component" of economic growth.

Senator DOMENICI told the Albuquerque meeting that the United States must take the lead in developing a comprehensive international energy policy, beginning with an International Energy Conference designed to lead to the greater use of non-fossil-fuel sources, both here and throughout the developing nations.

Mr. President, Senator DOMENICI's speech was both wise and thoughtful. I ask unanimous consent that the portion of Senator DOMENICI's speech regarding energy issues and global warming be printed in the RECORD.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

EXCERPT OF SPEECH BY SENATOR PETE V. DOMENICI

GLOBAL ENVIRONMENTAL PROBLEMS

Now, let me turn to the international front. The other day, I heard a private talk given by a former leader of one of the great European democracies.

He talked of many things, but during his talk he cited four overriding problems that confront mankind—problems for us, for our children, and for their children. Included in those concerns were:

1. Population growth, and

2. The world environment, in particular global warming.

I want to spend the remainder of my talk discussing those challenges, particularly the second one, the challenge facing a planet on which the median temperature seems likely to be rising, quite possibly at a dangerous rate.

We know that global warming—the Greenhouse Effect—could be a disaster, a disaster unlike any this planet has experienced during mankind's tenure.

Many scientists predict that the accumulation of CO_2 and other gases will raise the planet's mean temperature in the next 50 to 60 years by 3 to 4 degrees centigrade, the same increase that brought us out of the Ice Age 18,000 years ago.

Because this issue is so complex scientifically, it is not clear whether or not these forecasts are accurate.

But we do not have the luxury of waiting until we know for certain what increases might occur.

We must act, recognizing that a "Greenhouse" cataclysm is possible. We must do all that we reasonably can to build a global awareness—and action—while more data is developed.

While global warming—or the extent of warming—may not yet be conclusive, one thing that is absolutely certain is that the number of people on this planet will continue to increase at a startling rate.

In the year I was born, 1932, about 2 billion persons lived on this planet. Today, there are just over 5 billion of us. The United Nations Population Fund now predicts that by the year 2025—36 years from now—there will be between 8½ billion and 10 billion human beings living on the planet.

Human experience tells us that each of those individuals will be seeking material advancement, a better life for themselves, certainly, a better life than their parents experienced in 1989.

Our country's policy is to encourage prosperity. The hallmark of America's world leadership since World War II has been to foster democracy and economic growth.

What that means, of course, is that the world of the early 21st century will not only

be a far more populated world, but it will almost certainly be a world of far greater consumption than exists today.

And of that huge increase in population, about 90 percent will occur in nations of the Third World.

These developing nations will demand—and justly demand—their fair share of the economic growth. They will very possibly experience a growth rate faster than our own.

Those billions of new humans will not sit gladly in mud huts, thankful that they are contributing to a better environment. They will demand a better life, and they will deserve it.

So with that framework, let me pose a question: What is the fundamental component of that economic growth, the growth after which billions of humans are—and will—be clamoring?

The answer is energy.

Without energy, our standard of living will collapse and mankind's survival is threatened.

That doesn't mean we can't be more efficient in our use of energy. But the combination of the twin growth in population and human expectations make it certain that energy demand will expand.

And since the burning of fossil fuels is tied so very closely to what appears to be a warming of the planet, we confront a situation we dare not avoid.

We—as individuals and as government officials—face a challenge that can be called "staggering."

The risk of doing nothing is horrendous. We must act, and we must begin to act promptly to meet this challenge—not just the challenge of protecting our climate, but the challenge of ensuring that energy is available for mankind's progress.

We cannot wait until incontrovertible scientific proof appears to validate or invalidate the estimates on global warming.

With all this in mind, I have concluded that we will not suddenly scale down energy use. Such a change will be politically unsustainable in the United States and Europe. And other countries, the developing nations, simply will not accept the fact that they cannot improve their standard of living.

Because of what America is—the richest and most powerful nation, the nation that is responsible for about 25 percent of the man-produced carbon dioxide—we simply must take the lead in addressing the climatic situation that will affect all human beings.

Recognizing all of that means we must take the lead to develop a comprehensive international energy policy to meet the challenges ahead and to move toward energy sources that will not endanger our atmosphere.

If we don't I can assure you that no one else will.

For millions of years, CO_2 was in balance on this planet. Nature produced—and consumed—about 100 billion tons of CO_2 a year through the natural cycle of photosynthesis and respiration.

Mankind upset that balance when we began to burn wood and later coal and oil in vast quantities. Even though man's activities produce just 6 billion tons of CO_2—about 1 ton per person per year—much of that 6 billion tons has not been consumed in the environment, but accumulated in the atmosphere.

We can't eliminate the build-up, but I would like to suggest several steps that I believe are a pre-requisite to reducing the rate of future CO_2 accumulations. These are not magical solutions, but they will definitely move us forward.

First, President Bush is absolutely correct in calling for the negotiation of an international treaty on global warming. That has been done, and the conference will take place beginning this October in Washington, D.C. Forty or so nations will examine the financial, economic, technical, and legal issues for responding to climate change.

Once those nations develop the framework for an international treaty, they will take that document to meetings of the Intergovernmental Panel on Climate Change next summer for further evaluation.

I can't begin to suggest to you what such a treaty will look like, but I am encouraged that we are moving forward.

More than a decade ago, Senator Dale Bumpers and I initiated the groundbreaking hearings that led to an international treaty reducing the use of CFCs—chlorofluorocarbons—by 50 percent in the industrialized nations by the end of the century. CFC gases are not only "greenhouse" gases, but they are the culprits for depletion of the ozone layer.

We are going back to the table to negotiate a total phase-out of CFCs. While the CFC issue was a far easier challenge than CO_2, we now have a history of global environmental co-coperation.

Second, I recommend that the White House establish an inter-agency group to develop policy options on ways to reduce CO_2 emissions, and submit those proposals to the Congress. It would be appropriate if such a task force were led jointly by EPA Administrator Riley and Energy Secretary Watkins.

I must tell you that last fall I was able to work with Senator Leahy of Vermont to get $13 million so EPA could begin to study policy implications of global warming. That was a good start.

A related concern is research into the basic science of global climatic change. Overall, in the current fiscal year, the Federal Government is spending $134 million for such research. Next year, in the Budget the Congress just approved, we will spend about $190 million.

That sounds great. I support it. But I warn you of one unfortunate fact: There really isn't much co-ordination in this spending, which is spread among half a dozen agencies. We must find ways to focus that effort more effectively, to develop solutions to particular problems.

I certainly intend to work within the Senate's Energy Committee, on which both Senators Bingaman and I serve, to move us toward a coordinated effort.

And certainly, our national laboratories—including Los Alamos and Sandia—have the skills and knowledge to become leaders in this effort.

The list of worldwide science and policy issues regarding the climate is extensive.

What more can we learn about the methane cycle, since methane is believed to be the second most significant contributor to climatic change?

What is the role of clouds in climatic change, and the role of the oceans?

To what degree is the price of energy a factor in emission forecasts?

What do we do about Third World deforestation, which contributes an estimated 20 percent of the CO_2 mankind sends to the atmosphere? How do we reverse a situation where for every tree that is planted in the Third World, 10 are cut down?

My third and primary proposal is this: The United States should call for an International Energy Conference to encourage all nations to begin to address energy use and new sources that are compatible with our world environment. Our nation must take the lead in encouraging the use of sources of energy other than fossil fuels.

That doesn't mean our oil fields will be closed down. What it means is that we absolutely must increase our research into alternative, cleaner sources of energy.

Such a conference is valid, whatever the impact of global warming.

Right now, the Federal government is spending just over $500 billion a year for research into high-temperature fusion.

We need a much stronger effort on solar energy.

And while many of you may disagree with me, I am convinced we must move toward greater use of nuclear energy, starting with a stepped-up effort to design fail-safe nuclear power plants.

We must move toward a long-term worldwide energy policy, particularly one that encourages technology transfer assisting the Third World.

And we certainly need to bring the industries and countries of the world into this dialogue.

Before closing, let me cite the example of China.

China today produces an estimated 10 percent of the man-made CO_2. And China, with its population exceeding 1 billion is in the midst of its own Industrial Revolution.

China also happens to possess vast quantities of coal, the resource that could propel China into the First World. It is a resource that will obviously accelerate worldwide CO_2 emissions. And it is also high-sulfur coal, the kind that produces acid rain.

Do we tell China: Sorry, you can't use your coal?

And even if we did, would they listen?

I think the answer is obvious. It will only be through a coordinated international effort that countries such as China will be able to leap into the future without committing horrendous damage to this planet.

I think the answer is obvious. It will only be through a coordinated international effort that countries such as China will be able to leap into the future without committing horrendous damage to this planet.

Mankind has probably never faced a more difficult challenge. It is one that will require our every skill—both scientifically and politically—even if the problem is only a fraction as bad as some forecast.

I guess there is no one in this room who doesn't know that I am an optimist. I believe we can meet that challenge. But we will only meet it if we recognize it for what it is—possibly the greatest challenge in the history of this beautiful planet.

RECESS

Mr. JOHNSTON. Mr. President, on behalf of the majority leader, if no one else wants to be heard at this time, I ask unanimous consent that the Senate stand in recess until 2 p.m. today.

There being no objection, the Senate, at 12:47 p.m., recessed until 2:01 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer [Mr. ADAMS].

Mr. MITCHELL addressed the Chair.

The PRESIDING OFFICER. The majority leader.

ORDER OF PROCEDURE

Mr. MITCHELL. Mr. President, for the information of Senators, as I announced earlier in the week, it is my hope that we will be able to proceed today to consideration of the nomination of Richard Burt, to be the Chief Negotiator for the United States at the START negotiations with the Soviet Union.

Early in this week I received a telephone call from the Secretary of State, James Baker, who asked that I attempt to move this nomination through the Senate, so that Mr. Burt will be in a position to begin his duties when those negotiations commence in the very near future.

However, there has been objection to Senate consideration of Mr. Burt's nomination, and accordingly, after some discussion, we were able to obtain an agreement that limits the debate on consideration of the nomination to 1 hour, when it is brought up; but we do not yet have agreement on when to bring it up. We are attempting to obtain that agreement now and have been attempting to do that throughout the day.

It remains my hope that we will be able to get to the Burt nomination later this afternoon, have the hour of debate that is permitted under the unanimous-consent agreement now in force with respect to that nomination, and have a vote today, the vote occurring at or around 6 p.m. But that is the reason for the delay in proceeding, as we attempt to work out a process by which we can consider a vote on this nomination, as requested by the President and the Secretary of State.

I might note that what we are trying to do here is to accommodate the President and the Secretary of State. We will continue to do so with respect to this nomination.

RECESS UNTIL 3 P.M.

Mr. MITCHELL. Mr. President, since we do not have that matter resolved yet, I see no useful purpose in merely requesting or suggesting the absence of a quorum. I will therefore ask unanimous consent that the Senate now stand in recess until the hour of 3 p.m., and I hope at that time to have an announcement—I hope to have worked this matter out—and that we will be able to deal with this nomination later this afternoon.

The PRESIDING OFFICER. Therefore, under the unanimous-consent request, it is so ordered that the Senate stand in recess until the hour of 3 p.m.

There being no objection, the Senate, at 2:04 p.m., recessed until 3:02 p.m.; whereupon the Senate reassembled when called to order by the Presiding Officer [Mr. LEVIN].

Mr. MITCHELL addressed the Chair.

The PRESIDING OFFICER. The majority leader is recognized.

ORDER OF PROCEDURE

Mr. MITCHELL. Mr. President, we have been as yet unable to resolve the matter with respect to proceeding on the nomination of Richard Burt to be the Chief START Negotiator, and therefore, I am unable to advise Members of the Senate at this time when we will get to that matter, if at all.

MORNING BUSINESS

Mr. MITCHELL. Accordingly, Mr. President, I ask unanimous consent that there now be a period for morning business not to extend beyond 3:30 p.m. with Senators permitted to speak therein for up to 5 minutes each.

The PRESIDING OFFICER (Mr. CONRAD). Without objection, it is so ordered.

Mr. LEVIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Michigan.

DETROIT PISTONS VICTORY

Mr. LEVIN. Mr. President, as the whole world knows, last night the Detroit Pistons won the NBA Championship by beating the Los Angeles Lakers in four straight games. Last night's win capped several years of hard work by the Pistons, and reminded me of the way I used to play basketball. That is a joke, Mr. President. [Laughter.]

With Isiah Thomas serving as a catalyst, Pistons' guards Joe Dumars and Vinnie Johnson were virtually unstoppable in the finals, scoring 262 of the Pistons' 409 total points against the Lakers. Late-season acquisition Mark Aguirre added to the Pistons' potent offense. This offense was combined with an impenetrable defense provided by Rick Mahorn, Bill Laimbeer, John Salley, Dennis Rodman, and James Edwards. It was Coach Chuck Daly, my personal fashion mentor, who put it all together; and Bill Davis, the owner, whose vision and investment in this team reached fruition last night.

As the Lakers learned, the combined team effort proved overwhelming. Dennis "the Worm" Rodman and John "Spider" Salley came off the bench and crawled all over the boards at both ends. Their play made it easier for Isiah "Zeke" Thomas and Vinnie "the Microwave" Johnson to heat up the Pistons' offense and light up the scoreboard. The blistering performance of Joe Dumars, who shot 57 percent and scored 109 points through the finals, earned him the series' Most Valuable Player Award. The only thing Joe Dumars did not come away from this series with was a nickname.

Bill Laimbeer and James "Bhudda" Edwards kept even the legendary Kareem Abdul Jabbar from being a dominating factor. The Pistons' defense kept the Lakers to under 100 points again last night for the second time in the finals, and that Pistons' defense is probably the best defense in the history of the National Basketball Association.

Mr. President, for the 1989 basketball fan, the State of Michigan is the place to be. First, the University of Michigan Wolverines performed in the clutch to capture the NCAA championship, and now the Pistons have dominated the NBA playoffs. This is only the second time in history that one State has been able to achieve such success. Even the regular season Most Valuable Player, Lakers star Magic Johnson, comes from Michigan.

So, Mr. President, we are proud of our Pistons for delivering this championship. They have shown what sheer hard work and determination can do, and they have made all of us in Michigan very proud indeed.

ORDER OF PROCEDURE

Mr. MITCHELL. Mr. President, I ask unanimous consent that at 5 p.m. today the Senate go into executive session for the purpose of considering the nomination of Richard Burt to be Chief START Negotiator under the time agreement previously entered into.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MITCHELL. Mr. President, I am authorized to state that the Republican leader has no objection to that request.

Therefore, Senators should be aware that at 5 p.m. the Senate will go into executive session to take up Mr. Burt's nomination. Under the previous order, debate on that matter will be limited to 1 hour, so that if all of the allotted time for debate is used, the vote on the Burt nomination will occur at about 6 p.m. If all the time is not used, then the vote will occur prior to 6 p.m.

Senators should be aware then that a rollcall vote may occur on the Burt nomination at or prior to 6 p.m.

RECESS UNTIL 4:30 P.M. AND ORDER FOR MORNING BUSINESS

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate now recess until 4:30 p.m. and that at 4:30 p.m. there be a period for morning business not to extend beyond 5 p.m. with Senators permitted to speak therein for up to 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

There being no objection, the Senate at 3:21 p.m., recessed until 4:30 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer [Mr. FORD].

MORNING BUSINESS

The PRESIDING OFFICER. The Senate is now in morning business. Each Senator is authorized to speak for not more than 5 minutes.

The PRESIDING OFFICER. The Chair, as a Senator from the State of Kentucky, suggests the absence of a quorum.

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MOYNIHAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Chair reminds the Senator we are in a period of morning business and he has 5 minutes.

HOWARD SIMONS

Mr. MOYNIHAN. Mr. President, I rise to report to the Senate what Senators will already know, which is that yesterday, Howard Simons, the ex-managing editor of the Washington Post and most recently the curator of the Nieman Foundation for Journalism at Harvard University, died.

This event, which comes to us all, came sooner than it ought to Howard Simons, who was such a life force in his time that it is hard to realize he has gone.

He knew this was coming. He was diagnosed with pancreatic cancer. A former science writer himself, he had no illusions of the imminence of his failing. He reported it immediately to his charges, if you would like, among the Nieman fellows. He finished his term and then his life itself finished.

He was, Mr. President, a friend and confidant of so many persons in this city, Nation, and world, that one almost feels presumptuous speaking of him in a sense that might suggest a more personal relation than others would have had.

I would only record that he and his lovely, talented wife, Tod, were special friends of my wife, Elizabeth, and myself. They were Albanyans and would frequently stop with us on their way up from Washington, across New York State, to Albany. And we came to know him, the personal man, the Albanyan, the impish and wide-ranging Howard Simons who would perhaps not always make himself known in the city room of the Washington Post.

In an extraordinarily sensitive obituary in this morning's Post, Mr. Noel Epstein records Katharine Graham as saying: "He filled an essential and even a heroic role at The Post." And we will always recall that description in the context of the necessary, dogged and in the end hugely consequential inquiry into the Watergate affair. But much more than that was involved.

Donald E. Graham, now the publisher of the Post, says, "Howard was one of the two basic forces, with Ben Bradlee, that created the paper you are reading today. One hopes that his principles, his news judgment, his flair, his wit and the people he chose and inspired will be part of the Post for decades to come."

I am sure we would all join in that wish and, by extension, hope that his influence will endure in American journalism at large. It was so appropriate for him to leave a specific assignment when his work was surely achieved there, and move on to the general curatorship of promise and great expectations in American journalism, which are the Nieman fellows.

I would like to record, Mr. President, that in his youth in Albany his great ambition was to be not a journalist but a cartoonist. He never lost his fascination with that most revealing and devastating form of commentary. It summed up much of his own life: the economy, the sense of absurdity, the wit and the relevance and, in the end, the geniality and kindness that the great cartoonists bring to their subject, which is often American political life. He brought those same qualities to his subject, which was American journalism reporting on that political life.

We mourn him. We shall not see his like again. But we are privileged to have lived in a time in which we could partake of his work and benefit from that extraordinary career. I am sure the Senate will join me in extending our deepest sense of sorrow to his bereaved widow, Tod, and to his associates, both at the Washington Post and the Nieman Foundation.

Mr. President, I thank the Senate for its kind attendance on this sad occasion.

I ask unanimous consent that the obituaries in the Washington Post and New York Times be printed in the RECORD.

There being no objection, the obituaries were ordered to be printed in the RECORD, as follows:

[From the Washington Post, June 14, 1989]

HOWARD SIMONS, EX-MANAGING EDITOR OF POST AND NIEMAN CURATOR, DIES

(By Noel Epstein)

Howard Simons, the managing editor of The Washington Post from 1971 to 1984 who played an important part in this newspaper's rise to national prominence, died yesterday of pancreatic cancer in Jacksonville Beach, Fla. He was 60 years old.

Since 1984 Mr. Simons had been curator of the Nieman Foundation for Journalism at Harvard University, where he helped to select and educate Nieman fellows—journalists selected for a year's study on any subject that interests them. It was a second career that ideally suited a man whose life was marked by a restless intellect and an urge to teach.

His pancreatic cancer was diagnosed in April. As a former science writer, he knew it was a terminal disease that would act quickly, but he carried on through the end of the academic year, helping to choose the next academic year's Nieman fellows and then hosting the 50th anniversary celebration of the Nieman Foundation in early May. That event, attended by many past fellows, became in part a testimonial to Mr. Simons, who told all who asked not to feel sorry for him. "I have no regrets—none, zero," he said, joking that he was enjoying the opportunity to stop eating bran and using dental floss. He stepped down as curator of the Nieman Foundation at the end of May.

As managing editor of The Post, Mr. Simons was responsible for day-to-day administration of the newsroom, which grew from 400 to 550 people during his tenure. Mr. Simons presided over the daily meetings where editors discuss which stories belong on the front page.

But he was more than a boss and a manager. Mr. Simons was famous at The Post for his sense of humor and for the personal attention he gave to the individuals who put out the paper. David S. Broder, the paper's longtime political writer, remarked: "I think of Howard moving across the newsroom with that sort of Groucho Marx stride of his, stopping probably 20 times between the [managing editor's] office and the men's room—if that's where he was headed—to listen to somebody's tale of woe, congratulate somebody, or whatever. He provided so much of the human touch."

He also provided journalistic guidance on many big stories, including the biggest one in the paper's history, which became known as the Watergate. That story began on Saturday morning, June 17, 1972, when a friend of Mr. Simons's, Joseph A. Califano Jr., a Washington lawyer who was then general counsel of the Democratic National Committee, called Mr. Simons to tell him there had been a break-in at the committee's offices in the Watergate office building.

From that day on, Mr. Simons was actively involved in guiding the coverage that transformed this newspaper's reputation and contributed to the downfall of Richard M. Nixon as president.

Bob Woodward, who with Carl Bernstein unearthed the White House coverup of the burglary and then exposed many of the Nixon administration's secret political operations, described Mr. Simons as "the day-to-day agitator, the one who ran around the newsroom inspiring, shouting, directing, insisting that we not abandon our inquiry, whatever the level of denials or denunciations."

Mr. Simons helped immortalize one key Woodward source, a man who would speak only on "deep background," which meant he could not be quoted even anonymously. Mr. Simons dubbed the source "Deep Throat," after a well-known pornographic film.

When a movie was made of Woodward and Bernstein's first book, "All the President's Men," Martin Balsam played the role of the managing editor. But to Mr. Simons's sometimes-bemused frustration, in the movie the managing editor was a minor character who was an obstacle to Woodward and Bernstein, at one point arguing that the story should be taken away from such junior re-

porters. In fact, Mr. Simons fought to leave the two young reporters on the story when other editors argued that it should be given to more seasoned journalists.

Benjamin C. Bradlee, the paper's executive editor, said: "For 15 years Howard Simons played an absolutely vital role in all the historic events in which the Post was involved. His eclectic, original mind was brought to bear with great originality and humor."

"Howard was a unique individual and editor," said Katharine Graham, chairman of The Washington Post Co. "He filled an essential and even an heroic role at The Post.

"He focused our attention on the sciences. He developed talent and encouraged young people of all kinds and kept in touch with them. He played an important role in the Watergate editing. He made a wonderful team for 13 years with Ben Bradlee."

Donald E. Graham, publisher of The Post, said: "Howard was one of the two basic forces, with Ben Bradlee, that created the paper you are reading today. One hopes that his principles, his news judgment, his flair, his wit and the people he chose and inspired will be part of The Post for decades to come."

Unlike many journalists who concentrate singlemindedly on their work, Mr. Simons maintained a wide range of outside interests and hobbies, from Indian arrowheads to bird-watching. He often teased colleagues who could find nothing to hold their interest outside the newsroom. Mr. Simons loved to travel, read and take pictures.

Mr. Simons's interest in journalism began at an early age. When he was 7 or 8, he and two friends put out a one-page newspaper with a printing kit and tried to sell it for a penny.

Mr. Simons was born on the eve of the Great Depression, on June 3, 1929, an grew up in Albany, N.Y. At the time of his birth, his father, Reuben, an immigrant from Poland, owned a children's clothing store in Albany, but the Depression forced him out of business. His mother, Mae, went to work as a sales clerk in another clothing store; it took his father more than a year to find a job selling insurance.

Howard Simons took a job sweeping the floor of a grocery store when he was a sixth-grade student. It was the first of many jobs he held as a boy and young man to get through high school in Albany, Union College in Schenectady, and Columbia University's graduate school of journalism. During his first year of college he washed dishes, sold ice cream in the dormitories at night, cleaned floors in a beauty salon and worked in the college library.

Mr. Simon's Jewish identity was a source of great pride. In his book of oral history on the American Jewish experience, "Jewish Times," published in 1988, he wrote: "I grew up in a heavily Italian Catholic neighborhood, liberally sprinkled with Irish Catholics . . . . Most but not all of my friends were Jewish. I was a member of a Jewish Boy Scout troop; went to Hebrew school; attended Jewish day and summer camps; belonged to a Jewish high school fraternity; and spent hours at the Jewish Community Center . . . ."

A large part of being Jewish, Mr. Simons said, was telling jokes and laughing. He attributed this largely to the example set by his mother, a natural wit. "I grew up thinking all Jews were funny," Mr. Simons wrote.

His first regular job in journalism was at a Washington news agency called Science Service, which he joined in 1954. His work quickly reflected his eclectic interests. In 1956, for example, he was planning a trip to Moscow, where he would write a 10-part series on Soviet science advances, articles that foreshadowed the Kremlin's stunning launch of Sputnik the next year. To get there he wanted an adventure. He wangled a Saturday Evening Post assignment to hitch a ride across the Atlantic in a little Piper Apache with Max Conrad, an aviator known as "the flying grandfather." It was not a comfortable crossing.

"He could barely move except to cross his legs," recalled his wife, Tod Simons.

Before leaving, she said, he had arranged for a Washington florist to deliver a rose and a note to her every day. They were married five days after he returned.

In 1958, Mr. Simons won a Nieman fellowship and spent a year at Harvard. he came back to Washington and resumed work as a free-lance writer. His jobs included writing speeches for President Dwight Eisenhower's science adviser, George Kistiakowsky, a Harvard professor.

Mr. Simons joined The Washington Post as a reporter in 1961. He wrote on subjects ranging from space satellites and cybernetics to a scientist's mock paper, based on Scripture, that concluded that heaven must be at least 75 degrees Celsius hotter than hell.

The stories of which he was proudest concerned a U.S. hydrogen bomb that was lost when a B-52 bomber collided with a refueling aircraft off the coast of Palomares, Spain. Four unarmed H-bombs fell from the B-52, but only three were found on the ground. The fourth disappeared—a fact official Washington was not eager to advertise.

Mr. Simons tried to persuade The Post's editors to send him to Spain to get the story, but they refused. So he found out from Washington what had happened. The government was forced to admit that one bomb had been lost. After an 80-day search it was found in the Mediterranean. That effort won him the Raymond Clapper award for the year's best reporting from Washington.

In 1966, as he began to remake The Post, Bradlee named Mr. Simons assistant managing editor; in 1970 he was appointed deputy managing editor and in 1971 assumed the post he would hold until he left the paper in 1984.

Realizing that he would not succeed Bradlee, just seven years his senior, Mr. Simons left the paper when the Harvard post offered him an irresistible opportunity. He enthusiastically moved into a new life in Cambridge, shifting his nurturing talents from newsroom to campus.

"He was the quintessential nurturer of talent," said Derek Bok, president of Harvard. "He chastised those who settled for second best, praised those who pursued excellence and inspired virtually every young journalist with whom he came into contact."

Mr. Simons's urge to help others spread beyond his professional work. He devoted his energies for many years to helping Native Americans. According to Suzan Harjo, executive director of the National Congress of American Indians, Mr. Simons helped a Native American publisher in New York start a newspaper, keynoted an annual meeting of her group, hosted an annual Nieman Foundation dinner for Native American leaders and tried to assist aspiring Native American journalists.

At an airport in Spain in 1985 Mr. Simons was struck by the thought that international airlines could raise substantial funds for sick and hungry children if they would just collect the unspendable coins of tourists as they left a country. He suggested this idea in an article he wrote for the Wall Street Journal, then worked with several members of Congress and UNICEF, the United Nations Children's Fund, to establish a program that has attracted the participation of five airlines. Just this week UNICEF decided to give a special medal to Mr. Simons in recognition of his contribution.

In addition to his wife, Tod, Mr. Simons is survived by four daughters, Anna and Rebecca Simons of Cambridge, Mass., Julie Simons of Alexandria, and Isabel Simons of Norfolk, Va.; and by his brother, Sanford. The family asks that contributions in his memory be sent to the National Congress of American Indians, 900 Pennsylvania Ave. SE, Washington, D.C. 20003. The group is planning to establish a fund in Mr. Simons's name to help Native American journalists.

[From the New York Times, June 14, 1989]

HOWARD SIMONS DIES AT AGE 60, AN EX-EDITOR AT WASHINGTON POST

(By Alex S. Jones)

Howard Simons, a former managing editor of The Washington Post, died yesterday of pancreatic cancer in a hospice of Methodist Hospital in Jacksonville, Fla. He was 60 years old and lived in Jacksonville Beach.

Until recently, Mr. Simons had been curator of the Nieman Foundation, which sponsors a prestigious sabbatical program in which mid-career journalists are given a year of study at Harvard University.

Mr. Simons was known as a journalistic traditionalist who prized aggressive reporting and was outspokenly critical of what he considered to be a modern trend toward lighter, less serious newspapers and an undue dependence on anonymous sources.

"He played a vital role in everything that the paper did," Benjamin C. Bradlee, executive editor of The Post, said in an interview yesterday. "He was a powerhouse here, and a mensch."

As managing editor of The Post, Mr. Simons helped direct the paper's investigation of the 1972 Watergate burglary that eventually led to the resignation of President Richard M. Nixon two years later.

"He got short-changed by the movie," Mr. Bradlee said, referring to the film "All the President's Men," noting that Mr. Simons "led the charge" on Watergate.

Mr. Simon's journalistic hallmark was an energetic aggressiveness that he sometimes described as "280 miles per hour going into first." In recent years, he often railed at what he considered to be a dearth of probing investigative reporting. "How could Ollie North have gotten away with it for so long?" he asked rhetorically in an interview a month ago.

BROADENED REACH OF PROGRAM

In 1984, after 13 years as managing editor of The Post, Mr. Simons became curator of the Nieman Foundation. The appointment suited his custom of nurturing those who worked for him with a mixture of affection and hard-boiled hectoring.

Mr. Simons had been a Nieman Fellow in the class of 1959, and as curator broadened the program's reach to include more journalists from parts of Africa and South America. He had also successfully led a fund-raising campaign that increased the foundation's endowment by over $1 million.

In early April, Mr. Simons learned that he was terminally ill with pancreatic cancer and elected not to take any treatment, instead addressing his illness with the frankness and astringent wit that had been one of his signatures. He said he had bet his doctor that he had incurable liver cancer, and was angry at himself as a former science writer for the misdiagnosis. When asked what he was going to do in Florida, he would crack that he planned to sunbathe without sunscreen.

Though clearly in a weakened state, he insisted on fulfilling his duties as host at ceremonies marking the 50th anniversary of the Nieman program.

Late last month, he resigned as curator and went to Jacksonville Beach with Tod, his wife of 32 years, where he was able to indulge his passions for fishing and birdwatching. Mrs. Simons said yesterday that upon arriving in Florida he had plunged into collecting and categorizing seashells.

"We have lost one of the great spirits and souls of American journalism," said Bill Kovach, who was named acting curator of the Nieman Foundation last month.

Mr. Simons was a native of Albany, N.Y., and received a bachelor of arts degree from Union College in Schenectady in 1951 and a master's degree a year later from the Columbia University Graduate School of Journalism.

After service in the Korean War, he became a science reporter in Washington for several news organizations, and joined The Post as a science writer in 1961. He became assistant managing editor in 1966 and managing editor in 1971.

Mr. Simons is the author of "Jewish Times: Voices of the American Jewish Experience," published by Houghton-Mifflin in 1988, and "Simons' List Book," published in 1977. He edited two books with Joseph A. Califano Jr., "The Media and the Law" and "The Media and Business," and in 1986 wrote a spy novel with Haynes Johnson called "The Landing."

Mr. Simons said yesterday that there was as yet no plan to memorialize her husband. "His memorial service was really the last two months," she said of the flood of letters, articles and visitors after Mr. Simon's illness became public.

Mr. Simons is survived by his wife, the former Tod Katz, and four daughters: Anna, who returned from studies in Africa to be with her father; Isabel, who lives in Maryland; Julie, of Washington, and Rebecca, of New York City. He is also survived by a brother, Sanford Simons.

TRIBUTE TO SOUTH CAROLINA STATE REPRESENTATIVE WILLIAM CORK OF BEAUFORT

Mr. THURMOND. Mr. President, I rise today to pay tribute to South Carolina State Representative William Cork, who unexpectedly passed away last Saturday, June 10, 1989. Mr. Cork was a fine man who made many significant contributions to his community and to his State.

Mr. Cork was born on May 18, 1937, in Ware Shoals, SC. He attended the University of South Carolina, where he was a cheerleader and member of Sigma Alpha Epsilon fraternity, and obtained his bachelor's degree in 1959.

Mr. Cork was a civic and business leader for many years, and his business developments were a major boon to the economy in Hilton Head Island, SC. He was vice president of Sea Pines Plantation Co. and Sea Pines Homebuilders from 1964 to 1965. In 1966, he opened the island's first furniture and decorating business, Hilton Head Interiors. He was also the owner and developer responsible for the plantation center on Hilton Head Island. In 1974, Mr. Cork started a company named Cork Sails, Inc., during that time he also served as president and coowner of CBS Travel, Inc. He was a corporate director of the Bank of Beaufort, and in 1982 he was elected vice chairman of the board.

In addition to these many accomplishments in the business world, Mr. Cork was actively involved in the betterment of his community. He was an honorary member and past president and director of the Hilton Head Rotary Club. He was also a past officer and director of the Hilton Head Jaycees, as well as past president and director of the Point Comfort Property Owner's Association. Mr. Cork was a devoted member of St. Luke's Episcopal Church.

Mr. Cork was first elected to the South Carolina House of Representatives in 1982. He later served as minority whip and was chairman of the joint tourism caucus, positions in which he performed ably. He also served as a member of the joint committee on energy, the joint water resources study, the pensions committee and the National Conference of State Legislatures.

Representative Cork's unfortunate passing came without warning to those who loved him. However, I am confident that his memory will flourish in their minds. He was a fine man who was highly respected in the State legislature, and it was my honor to work with him for the good of South Carolina.

I would like to extend my most sincere condolences to his lovely wife Helen and his family: his daughter, Holly Ann Cork; his son, William N. Cork III; his brother, John C. Cork; his sister, Mrs. William C. Collings; and his mother, Mrs. Margarret Massey Cork.

I ask unanimous consent that the following article regarding Mr. Cork be included in the RECORD at the close of my remarks: "Cork Leaves Legacy of Living in Joy."

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Beaufort Gazette, June 12, 1989]

CORK LEAVES LEGACY OF LIVING IN JOY

Gov. Carroll Campbell, on the spur of the moment Saturday morning, may have said it best: "Nobody loved life more than Bill Cork . . . No one loved this island and South Carolina more."

This legislator must have loved the heavenly fragrance of gardenias. Only a few hours before his untimely death, he picked them from his garden for his guests.

With action, he demonstrated his love for the salt marsh. He once said the sounds of "crackin' and poppin'" he heard from the deck of his home on Point Comfort convinced him of the need for SAA classification to protect the Bluffton area's unpolluted waters.

With a love that would not let his feet keep still, William Neville "Bill" Cork loved music. Whether he was playing it on spoons or dancing the shag, his rhythm was infectious.

Bill Cork loved the games of horses and lobbied his colleagues in the S.C. House of Representatives to approve pari-mutuel betting on horse races to make money for the state. It's an idea whose time may yet come.

He loved the tales and artifacts of Lowcountry history and, along with his wife, Helen, wanted to help create the Museum of Hilton Head Island to preserve the traditions. It's an idea moving forward.

A lover of fresh air, he worked against the odds in this tobacco-rich state to ban smoking from the S.C. House of Representatives' chamber.

Many years before many of the present residents moved here, Bill Cork, a young businessman, loved the people of this island enough to help start a fire department to save their lives and property, loved them enough to help start the Lowcountry Auction to raise money for the schools.

In time he came to love the communities of Hilton Head Island, Bluffton, Daufuskie and the Burton area enough to represent District 123 in the Statehouse from 1983 until June 10, 1989, at 4:45 a.m. In that capacity, probably more than any other legislator, Bill Cork came to understand the importance of tourism as the state's second largest industry.

With public service comes conflict, controvery and the public's constant eye, and Mr. Cork seemed to love even the tension of his stressful role.

Leaving a legacy of community spirit and a list of achievements, Bill Cork left the Lowcountry, his friends and family something especially his right up to the end: a profound joy in simply being alive.

SPEECH BY DR. GUY STORY BROWN IN HONOR OF JOHN C. CALHOUN

Mr. THURMOND. Mr. President, Dr. Guy Story Brown of the Office of Educational and Cultural Affairs of the U.S. Information Agency delivered an address before the Maryland Division of Confederate Sons at Fort McNair in Washington, DC, on April 20, 1989. The commander of this organization, Mr. Charles Goolsby, requested that I place an edited version of the address in the CONGRESSIONAL RECORD. I am pleased to do so and ask unanimous consent that it follow these remarks in the RECORD.

There being no objection, the remarks were ordered to be printed in the RECORD, as follows:

REMEMBERING JOHN CALDWELL CALHOUN, 1782–1850: "A REASONING, HIGH, IMMORTAL THING"

John Calhoun was born to Patrick and Martha Caldwell Calhoun on March 18,

1782, in the last year of the War for American Independence. He was named for his maternal uncle, Major John Caldwell, who had been murdered in cold blood by Tories only a few months before. His father, a strong Jeffersonian, even an anti-Federalist, died when he was about 13. Young John was virtually illiterate—he could hardly read or write more than his own name—until he was 13 years old.

The first book that he read was an English translation of the French historian Charles Rollin's "Ancient History" in eight volumes. The second was John Locke's "Essay Concerning Human Understanding," then as now regarded as one of the most celebrated and difficult books ever written in the English language. His attempt, at the age of 13, to master this book, one of the greatest books of all time, and others, broke his health, and his mother removed him from the school in which she had belatedly enrolled him—his brother-in-law's school. From this time until he was 17, he worked in the fields as an overseer of his family farm. When he was 17, he went back to school and applied himself to Latin, Greek, mathematics and philosophy. In 1802, he arrived at Yale University in New Jersey at the age of 20, "straight from the backwoods." He was soon elected to Phi Beta Kappa, the academic honor society, and in 1804, as the outstanding student in the college, he was asked to provide a commencement address. He worked very hard on it. It was entitled, notably enough, "The Qualifications of a Statesman."

After a brief legal career and a term in the South Carolina Legislature, Calhoun was married and elected to the United States House of Representatives in 1810.

Within a few weeks of his arrival in Washington, he was appointed to the chairmanship of the House Foreign Affairs Committee. Calhoun and Henry Clay, later known as the "Great Compromiser," more than any other two figures led the country into "Mr. Madison's war," the great War of 1812. Calhoun himself introduced the bill for declaring war on June 3, 1812.

From this pinnacle, he went on to become Secretary of War at the age of 35 in the Cabinet of President James Monroe. As such, Calhoun is remembered as the Father of West Point, the Father of the Army, and architect of the most intelligent policy toward the Indians that this country has ever seen. And this in the face of his own experience with the Indians, which I have already mentioned.

From this position, he was elected to a term as Vice President in the administration of President John Quincy Adams—the youngest, with Richard Nixon and Dan Quayle, to ever serve as Vice President—and then, to a term as Vice President to General Andrew Jackson. During this period, Calhoun wrote the "South Carolina Exposition and Protest" and his famous letters to the people of South Carolina and to General Hamilton.

In these years he spoke out definitively on the national bank, abolition, on an independent treasury, on foreign policy and the Mexican War; in short, on every issue of significant interest.

Jefferson Davis, among others, said that Calhoun had a capacity for foresight that often seemed to verge on prophecy. And, of course, as almost everyone knows, he said in the spring of 1850 (within a few weeks or even days of his death) that the Union called the United States would not last; it would divide. "I fix its probable occurence with 12 years, or three Presidential terms," he said. "You," he said to Senator Mason of Virginia, "and others of your age will live to see it; I shall not. The mode by which it will be done is not so clear; it may be brought about in a manner that no one now foresees. But the probability is that it will explode in a Presidential election." This is the most famous—and the most grimly accurate—prediction in American history.

Calhoun died on the morning of March 31, 1850 at the age of 68. His funeral was held in the Senate on April 2, and he was laid in a vault in the Congressional Cemetery. On this occasion, Senator Clay's most memorable sentence was: "I was his senior in age, Mr. President; in nothing else." Senator Webster's speech is not comparable to this. I am quoting from Daniel Webster's eulogy to Calhoun in the Senate, April 5, 1850:

"Mr. Calhoun was calculated to be a leader in whatsoever association of political friends he was thrown. He was a man of undoubted genius, and of commanding talent. He is now an historical character. Those of us who have known him here will find that he has left upon our minds and our hearts a strong and lasting impression of his person, his character, and his public performances, which while we live, will never be obliterated. We shall hereafter, I am sure, indulge in it as a greatful recollection that we have lived in his age, heard him, and known him."

John Calhoun was, truly, a southerner without peer, who has a prominent place in our greatest pantheon. It is "the purity of his exalted patriotism, his devotion to the country and, even more, to the Constitution, that most deserves our remembrance unto death."

So spoke Senator Webster in the Senate in 1850. For an understanding of that purity and that exaltation, of his noblest legacy to us, it is to Calhoun's discourse on the Constitution and government, above all, that we must turn.

God bless John Calhoun. God bless the thin grey line.

The Senator from Massachusetts is recognized.

Mr. KENNEDY. I thank the Chair.

(The remarks of Mr. KENNEDY pertaining to the reintroduction of S. 1182 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

THE PRESIDENT'S VETO MESSAGE

Mr. DOLE. Mr. President, I was pleased to hear the distinguished Senator from Massachusetts speak earlier on the minimum wage. Just a few moments ago, the House sustained President Bush's veto of the minimum wage conference agreement.

NO SURPRISES

I was not surprised by the President's veto—nor am I surprised by the House's action today. I know that my Republican colleague from Utah [Mr. HATCH] is not surprised. And I am sure that my distinguished colleague from Massachusetts—the manager of the bill here in the Senate—is not surprised. So, there have been no surprises.

LOST OPPORTUNITIES

But Congress has had plenty of opportunities. That is for sure. We have had opportunities to do something really worthwhile for the working men and working women of this country; opportunities to increase the minimum wage.

And we could have done it easily, with a 90-cent increase over a 3-year period in the minimum wage and a 6-month training wage from, $3.35 to $4.25 an hour, which would put some people out of work but not nearly as many as the Democratic package.

We had an opportunity to save jobs despite a minimum wage increase and all these opportunties have been squandered. As I said, if we want a minimum wage, we could have had a good one. The ink from the President's pen would be drying this very minute. We would now be at the White House at a Rose Garden signing ceremony. Maybe not; it may be raining. Maybe we would be indoors. But we would be down there for the signing ceremony.

STOP PLAYING POLITICS

Last week—on this floor—I urged Congress to stop playing politics with the minimum wage. I said that playing politics might be fun for some of us around here—but it is not fun for those in this country who really want—and need—a minimum wage increase.

So let us stop the political point scoring. Let us leave the point scoring to the football field and basketball court, in this case the Detroit Pistons. We do not have a scoreboard here in the Senate.

COMMITMENT TO A MINIMUM WAGE INCREASE

I know I have said it before. But I must say it once again. I supported—and I continue to support—a minimum wage increase. I voted for it in the past and my record is pretty good. And that is why I—along with my distinguished colleague from Utah—hope that we will be able to reach agreement on a minimum wage bill that will be acceptable to the President.

And let me make it clear: the President and the Secretary of Labor, their proposal was serious. They meant it. Some said, "Why did they do that? Why didn't they come in at $3.85 an hour? Then they could negotiate $4.25 and everybody could say, 'Oh, boy, look what we did.'"

They were honest. The President made a commitment. They were up front. They said, "OK, let's go to $4.25. Let us have a 6-months' training wage."

The President was not going to play games with Congress. He made a promise. He wanted to keep it. Right off the bat, he did what he thought was responsible. And I certainly share his view and share the views of the

Secretary of Labor, most of the time, and in this instance.

Mr. President, I would say that I do not disagree with the distinguished Senator from Massachusetts. Maybe there is some way to work it out. I think the President is willing to try. I do not think he is going to come off the $4.25, but there may be some way to work it out.

This is what the President has done. His proposal is not a paper tiger. It calls for a 27-percent increase over the existing minimum wage of $3.35 an hour. Let me repeat that—that is a 27-percent increase. It goes 75 percent of the way to $4.55 an hour, the Democratic proposal. That is more than a compromise on the part of the President. That is three-fourths of the way. That is a real commitment to a minimum wage.

So it would seem to me that there may be opportunities. I know the President certainly did not veto this bill with any joy in his heart because he feels for those working people. He knows they need an increase. What he wants is action. Let us get together and see if we can do it.

GAO AND OTA GENERALLY EXONERATE VA FROM WASHINGTON POST ALLEGATIONS REGARDING VA'S FISCAL YEAR 1986 PATIENT TREATMENT FILE MORTALITY ANALYSIS

Mr. CRANSTON. Mr. President, on October 13, 1988, I made a statement (RECORD S15649) regarding VA's fiscal year 1986 patient treatment file mortality analysis and, more specifically, a very disturbing October 11, 1988, front page Washington Post article—entitled "VA Researchers Ordered To Report Fewer Problem Hospitals"—which alleged that the Chief Medical Director of the Veterans' Administration, now the Department of Veterans' Affairs [VA], had altered the design of a mortality study so that more favorable results would be obtained.

In order to provide for an objective assessment of this matter, I requested both the Office of Technology Assessment and the General Accounting Office to review several aspects of VA's actions with regard to the VA mortality study. I asked OTA to review the VA methodology to determine its scientific reliabiltity and validity. I asked GAO to determine: First, the point in time at which the decision was made to use a higher confidence level for measuring overall mortality rates between hospitals; second, why the decision was made to use the higher confidence limits for the aggregate data; third, the person or persons responsible for making that decision; and fourth, if the Chief Medical Director or any other VA official inappropriately attempted to give the appearance of fewer quality-assurance problems within VA medical centers than actually exist.

Recently, both OTA and GAO have issued reports in response to my requests. OTA, in its report entitled "Assessment of the Veterans' Administration's Method of Analyzing Its Hospital Mortality Rates," which was released on April 17, 1989, appears to support VA's methodology. When commenting on the confidence limits applied to the statistical test used—the aspect of the study alleged to have been altered—OTA concludes that:

> There is no scientific basis for choosing one level of significance over another or even for restricting the results reported to one level of significance instead of several. Using a different level of significance does not change the ordering of the hospitals; the level of significance influences only the number of hospitals identified for further examination. One may draw no conclusions about the relative quality of care in VA versus Medicare hospitals on the basis of these analyses.

GAO, in its report entitled "Allegations Concerning VA's Patient Mortality Study"—GAO/HRD-89-80—which was released on May 18, 1989, states:

> We cannot conclude that the Chief Medical Director or any VA official inappropriately attempted to give the appearance that VA had fewer hospitals with higher-than-expected mortality rates than actually exist. It is understandable, however, how others could have developed this perception.

GAO also notes that:

> The decision to use the 99-percent confidence level was made by the research health science specialist responsible for the study methodology—not by the Chief Medical Director.

Mr. President, I believe that the analyses of both OTA and GAO were objective and thorough, and I am satisfied with the results of their inquiries. On June 6, 1989, the Washington Post published on page 3 an article entitled "GAO Finds No Evidence VA Medical Official Acted Improperly," and on June 11 the Post Ombudsman, Richard Harwood, published a piece entitled "Unnamed Sources."

Mr. President, I ask unanimous consent that these two articles be printed in the RECORD at the conclusion of my remarks, followed by OTA's April 17, 1989, letter and the text of the May 1989 GAO report.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. CRANSTON. Mr. President, on Tuesday, June 13, the Secretary released the results of VA's in-depth study of the 44 medical centers which its mortality review showed had higher than expected mortality rates. I will be commenting on the findings of the report.

[From the Washington Post, June 6, 1989]

GAO FINDS NO EVIDENCE VA MEDICAL OFFICIAL ACTED IMPROPERLY

(By Barbara Vobejda)

The General Accounting Office has reported it cannot conclude, based on information provided by the Department of Veterans' Affairs, that the department's chief medical director improperly ordered his staff to produce a report lowering the number of veterans' hospitals suspected to have high mortality rates.

But some department staff members interpreted the insistence of the medical director, Dr. John A. Gronvall, that they use a different methodology in studying mortality rates and his concern over the department's public image as instructions to produce a lower number of suspect hospitals in their report, the GAO said.

"We didn't find any evidence that Dr. Gronvall knowingly tried to influence the results of the study or acted inappropriately," said David P. Baine, the GAO's director of federal health care delivery issues.

Donna St. John, a department spokeswoman, said Gronvall was traveling yesterday and could not be reached for comment.

Sen. Alan Cranston (D-Calif.), chairman of the Committee on Veterans' Affairs, requested a GAO investigation after The Washington Post reported last fall that Gronvall directed researchers to produce a report showing fewer problem hospitals. A preliminary survey had found as many as 12 percent of the 172 veterans hospitals appeared to have high mortality rates.

The GAO reported that Gronvall repeatedly had maintained that the agency should use the methodology similar to that employed by the Health Care Financing Administration (HCFA) to study mortality rates, against the advice of his staff. If a similar methodology were used, Gronvall had argued, then the results of the HCFA and veterans studies would be comparable.

"The Chief Medical Director was convinced that the HCFA methodology was the 'gold standard' and, if used by VA, would show results similar to HCFA's study," the GAO reported. ". . . We believe, however, that the Chief Medical Director communicated his wishes regarding the methodology and the protection of VA's public image in a manner that gave the appearance to many VA staff that he was ordering that study results be altered."

Gronvall ultimately approved the recommendation of his staff members that their own methodology be used.

Department staff had told Gronvall in January 1988 that preliminary data showed 22, or 12.8 percent of veterans' hospitals, had higher-than-expected mortality rates, according to the GAO. The GAO could not document the 12.8 percent figure.

At issue between Gronvall and his staff was the "confidence level" to be employed in the study. Using a 99-percent confidence level—meaning in 99 of 100 cases the study could be duplicated with the same results—the agency found that 3.5 percent of its hospitals would show higher-than-expected mortality rates. Using a 95-percent confidence rating, 7 percent, or 12 hospitals, showed high mortality rates.

The department used both levels in its study, relying on a 95-percent level to measure mortality rates in categories based on a patient's diagnosis, and a 99-percent level for calculating summary mortality rates for individual hospitals.

The GAO said the specialist responsible for choosing the study methodology decided to use a 99-percent confidence level "because it increased VA's confidence that the hospitals identified had differences between the observed and expected mortality rates that she considered meaningful."

The department has not released the study or named the problem hospitals.

[From the Washington Post, June 11, 1989]

UNNAMED SOURCES

(By Richard Harwood)

The use of anonymous "sources" is the pandemic of journalism in the United States. The practice produces, most of the time, trivial bits of information: "Yes, it's true that the president will speak at Old Siwash, but for God's sake, don't quote me." On occasion an important revelation comes over the transom about the nature of the society we inhabit, evidence, perhaps, of skulduggery most foul. Just as often it produces garbage and encourages fearful or conniving informants to even scores, embellish stories or blacken the reputation of rivals and enemies.

As an antidote, The Post's policy manual promises that we will "disclose the source of all information" published in the newspaper; but there is a loophole, somewhat wider than the Pacific Ocean: "when at all possible." Problems sail through.

Item One:

On the 12th of October last year, the Des Moines (Iowa) Register published an editorial accusing Dr. John Gronvall, the chief medical officer of the Department of Veterans Affairs, of promoting "disingenuous, untruthful and bad medicine."

Dr. Gronvall, according to the editorial, "ordered researchers to skew the results of a mortality survey out of fear it would make the VA hospitals look bad. . . . There are any number of reasons for a higher mortality rate in the vets' wards. But rather than seek the truth and learn from it, he ordered the examination halted."

The editorial was inspired by a story that had appeared two days earlier on the front page of The Washington Post under the headline, "VA Researchers Ordered to Report Fewer Problem Hospitals." The story touched off an investigation by the General Accounting Office, which last week reported that Dr. Gronvall had not "inappropriately attempted" to "skew the results" of the study in question. His only misstep, the GAO said, was getting involved in a statistical quarrel that led some of his subordinates to believe he was trying to cook the numbers. In any case, GAO concluded that the study was conducted properly and that the medical director was without fault.

The Post's story and Dr. Gronvall's black eye were products of the bureaucratic cannibalism that goes on every day in agencies all over town. A disaffected researcher leveled the original accusations against the doctor, under the cloak of anonymity, which we offer far too freely in this shop.

OFFICE OF TECHNOLOGY ASSESSMENT,
Washington, DC, April 17, 1989.

Hon. ALAN CRANSTON,
Chairman, Committee on Veterans' Affairs, U.S. Senate, Washington, DC.

DEAR ALAN: I am pleased to transmit an OTA Staff Paper entitled "An Assessment of the Veterans Administration's Methods of Analyzing Its Hospital Rates," which you requested. The Staff Paper reviews the approach used by the Veterans Administration (VA) and compares it with that used by the Health Care Financing Administration.

Using mortality rates to indicate the quality of hospitals' care has not yet been shown to produce reliable and valid results, in the sense of identifying hospitals with quality-of-care problems. In fact, the statistical analysis of hospital mortality rates is part of a larger VA effort to assess their usefulness in quality assurance. The VA is now reviewing medical records in 44 hospitals whose mortality rates were significantly higher than expected. A study scheduled to begin later this year will examine deaths in both high- and low-outlier hospitals.

Although the VA based its approach on the methods HCFA used for its 1987 data release, the methods differ in some respects. Some of the differences stem from the particular patient populations, institutional arrangements, and data sets of the two agencies. Other differences concern adjustments for patients' risks of dying and statistical interpretation of the results. Both of these differences are matters on which researchers may, and do, reasonably disagree.

There is no scientific basis for choosing one level of significance over another or even for restricting the results reported to one level of significance instead of several. Changing the level of significance does not change the ordering of hospitals by mortality rate; the level of significance influences only the number of hospitals identified for further examination. Which level of significance to use therefore depends on a benefit-cost calculation regarding the number of problem hospitals likely to be identified for different levels of expenditures, and decisions would be constrained by the funds available for the review.

Additional copies of the Staff Paper may be obtained by calling the Health Program at 8-6590.

We will be happy to answer any questions you may have about our findings, and I invite you to call me or Jane Sisk, Study Director in the Health Program, at 8-6590.

Sincerely,

JOHN H. GIBBONS.

[U.S. General Accounting Office—Report to the Chairman, Committee on Veterans' Affairs, U.S. Senate, May 1989]

VA HEALTH CARE: ALLEGATIONS CONCERNING VA'S PATIENT MORTALITY STUDY

GENERAL ACCOUNTING OFFICE,
Washington, DC, May 18, 1989.

Hon. ALAN CRANSTON,
Chairman, Committee on Veterans' Affairs, U.S. Senate.

DEAR MR. CHAIRMAN: As requested in your October 12, 1988, letter (see app. I), we have reviewed allegations made in an October 11, 1988, Washington Post article that the Veterans' Administration (VA)—now the Department of Veterans' Affairs—altered the design of its patient mortality study to obtain results more favorably to VA. The article alleged that VA's Chief Medical Director ordered that the confidence level used in calculating the number of VA medical centers that had higher-than-expected mortality rates be changed from 95 to 99 percent in order to arrive at lower number of hospitals with potential quality assurance problems. Specifically, you requested that we answer the following questions:

Did the Chief Medical Director or any other VA official inappropriately attempt to give the appearance that VA had fewer quality assurance problems at its medical centers than actually exist?

Why was the decision made to use a 99-percent confidence level to calculate summary hospital mortality data, who made this decision, and at what point in the study was it made?

RESULTS IN BRIEF

Based on information provided by VA, we cannot conclude that the Chief Medical Director or any VA official inappropriately attempted to give the appearance that VA had fewer hospitals with higher-than-expected mortality rates than actually exist. It is understandable, however, how others could have developed this perception.

The Chief Medical Director did not initially take the advice of knowledgeable staff who believed that it was inappropriate for VA to use the same methodology that the Health Care Financing Administration (HCFA) used in conducting a similar study of Medicare patients. He repeatedly maintained that if VA used HCFA's mortality study methodology, the results of the two studies would be comparable. Further, on several occasions, he expressed concern to his staff about what a high number of hospitals with high mortality rates would do to VA's public image. His insistence on using HCFA's methodology and his concern over VA's image were interpreted by some staff as instructions to assure that the studies' results were similar. Ultimately, the Chief Medical Director approved the recommendation of VA staff to use their own methodology.

VA used both the 95-percent and the 99-percent confidence levels on its mortality study. The 95-percent level was used for determining mortality rates in individual group or diagnosis categories, and these rates were used to identify hospitals for quality assurance reviews. The 99-percent level was used for calculating summary mortality data for individual hospitals for presentation to the Chief Medical Director.

The decision to use the 99-percent confidence level was made by the research health science specialist responsible for the study methodology. She made this decision in February 1988. She used a 99-percent level because it increased VA's confidence that the hospitals identified had differences between the observed and expected mortality rates that she considered meaningful.

SCOPE AND METHODOLOGY

In conducting this review, we interviewed VA officials who worked on, or were involved with, VA's patient mortality study, including those in VA's Offices of Quality Assurance and the Chief Medical Director. We reviewed documents and correspondence related to the study and spoke with the Washington Post reporter who wrote the article that precipitated our review. In addition, we discussed the issues with other GAO staff familiar with the VA and HCFA mortality studies, and with Office of Technology Assessment officials whom you asked to review VA's mortality study methodology.

We conducted our review in accordance with generally accepted government standards. Our work was performed between November 1988 and February 1989.

DEVELOPMENT OF VA'S MORTALITY STUDY

In the fall of 1987, before HCFA released its study of hospital mortality data,[1] VA's

[1] In December 1987, HCFA publicized hospital-specific mortality rates for Medicare patients hospitalized during 1986.

Chief Medical Director decided that VA medical center mortality rates should be analyzed to provide data for use in VA's quality assurance activities. A February 16, 1988, VA circular stated that the results of the study were intended to serve as a guide for conducting focused reviews to lead to an assessment of the quality of medical care in VA medical centers. It also cautioned that mortality rate analysis would not measure hospital performance and that no conclusions could be drawn about the quality of care based solely on the results of the mortality data.

The VA study compared the mortality rates in each hospital with VA systemwide patient death rates. These rates had been adjusted for patient characteristics through the use of a statistical technique called a logistic regression model. Discharged patients were divided into groups based on whether a procedure was performed during the hospital admission and, if so, what type. Patients were then placed into 1 of 14 primary diagnostic categories (e.g., cancer, severe heart disease; see app. II for complete list of groups and diagnostic categories).

A report was produced for each medical center for each patient group and primary diagnosis category. For any categories in which 10 or more deaths occurred, it was determined whether the ratio of observed mortality to expected mortality was statistically significant at the 95-percent confidence level.[2] On this basis, VA found there were 43 hospitals—25 percent of the total—that had a higher-than-expected mortality rate in at least one patient group/diagnosis category. Upon completing the comparison of the hospital mortality rates with VA systemwide rates, VA initiated additional reviews to determine whether hospitals with higher-than-expected mortality rates actually had problems in their medical care. To do so, VA's peer review organizations examined charts of patients included in the study.

According to the Chief Medical Director, his objective in initiating a mortality study was to determine whether mortality rate comparisons could be useful for quality assurance purposes. In addition, he wanted to have VA mortality data available for comparison with the HCFA mortality data released in December 1987. He wanted VA to use a study methodology as similar as possible to that used by HCFA, which he said was considered the "gold standard" at that time. He was convinced that VA hospitals provided care comparable to private sector hospitals and was initially insistent that VA hospital mortality rates be reviewed by the same methods that HCFA used for Medicare patients in private sector hospitals. He was concerned that any deviation from the HCFA standard might be criticized as an attempt to make VA hospitals appear better than private sector hospitals.

Early in the planning of the study, the former Director of VA's Office of Quality Assurance and the research health science specialist in charge of developing the methodology explained to the Chief Medical Director that although VA could use the HCFA methodology as a guide, there were differences in the data bases and VA would use a different test of statistical significance. Although both HCFA and VA analyses compared hospital-specific mortality rates with systemwide rates, VA chose to modify the HCFA methodology, in part, because the VA patient population is significantly different from that of the HCFA study. The VA patient population was 98 percent male, of whom 60 percent were under the age of 65, while the HCFA Medicare patient population consisted of more equal numbers of men and women, most of whom were 65 or older. Further, the way in which the VA study defined patient diagnosis differed from the way it was done in the HCFA study. HCFA used the principal diagnosis, which is defined as the main reason for admission to the hospital, while VA's data files record the patient's primary diagnosis, which represents the condition accounting for most of the days spent in the hospital.

In addition to noting these differences in the data bases, VA's research specialist said that the HCFA statistical test was inappropriate because she believed that, to some extent, it predetermined study results by including a factor called interhospital variance.[3] According to the research specialist, adjusting for interhospital variance assured HSFA that only 2.5 percent of its hospitals would fall above and below the range of expected rates.[4]

VA's Office of Quality Assurance officials proposed a different statistical procedure that did not include the interhospital variance factor. They believed it was important to acknowledge differences in hospitals and that, for quality assurance purposes, VA's study should identify a higher proportion of hospitals that the HCFA study. The Office of Quality Assurance staff also explained that because of differences in the data bases and the statistical test used, no direct comparisons could be made between VA and HCFA mortality study results. We did not evaluate VA's rationale for not using HCFA's statistical methodology.[5]

The Chief Medical Director did not accept this position and continued to urge that VA adopt HCFA's methodology. Conversely, his staff continued to insist that use of the HCFA methodology was not appropriate, particularly for VA's quality assurance purposes. Ultimately the Chief Medical Director agreed to use the methodology proposed by his staff.

PRELIMINARY STUDY RESULTS NOT ACCEPTABLE TO CHIEF MEDICAL DIRECTOR

In a January 1988 meeting, the former Director of the Office of Quality Assurance told the Chief Medical Director that VA's preliminary data showed that 12.8 percent (or 22) of VA's hospitals had higher-than-expected hospitalwide mortality rates. (This figure is not to be confused with the 43 hospitals identified as having higher-than-expected mortality rates in one or more of the patient group/diagnosis categories as discussed on p. 3.) We could find no documentation for this 12.8-percent figure, nor could anyone in the VA tell us its origin. (The former Director of the Office of Quality Assurance died in April 1988.) The research specialist told us, however that at that time she had not calculated a percentage of hospitals having overall higher-than-expected mortality rates.

The Chief Medical Director was disturbed with the 12.8-percent figure because he had expected results close to those HCFA had obtained. He could not understand how VA could have such different results if it were using HCFA's methodology as he had directed. He was concerned, he said, about negative public reaction to VA mortality study results that were much higher than HCFA's. He again stressed to the former Director of the Office of Quality Assurance and his staff that VA's methodology be as close to HCFA's as possible, and that he expected results similar to HCFA's results. Many staff at this meeting interpreted these statements as instructions to alter VA's mortality study results. However, the Chief Medical Director also requested that other researchers review the proposed methodology. The research specialist said that three VA researchers and one outside expert reviewed and concurred with the methodology VA was using. The perspectives were shared with the Chief Medical Director, who then agreed to proceed.

In February 1988, the research specialist said that the former Director of the Office of Quality Assurance asked her to prepare an overall observed to expected mortality ratio for each hospital using the VA methodology for a presentation to the Chief Medical Director.

OVERALL MORTALITY DATA CALCULATED USING 99-PERCENT CONFIDENCE LEVEL

According to VA's research specialist, summary mortality data were calculated on individual hospitals because such data would be easier to use in a discussion with the Chief Medical Director than all the individual group or diagnosis category data. She said she had produced no summary data before this time. She used a 99-percent confidence level to determine the statistical significance of the ratio each hospital's overall actual observed mortality rate to an expected rate generated from the results of the analysis. (See footnote 2 on p. 3.)

She said she chose a 99-percent confidence level because the aggregated data for most hospitals represented very large numbers of cases; thus, she thought a statistical test at the 95-percent confidence level would have identified a large number of hospitals that had only very small differences between the observed and expected mortality rates. By contrast, she said, the 95-percent confidence level was appropriate for the analysis of mortality rates for the group/diagnosis categories because those categories encompassed many fewer cases. Moreover, VA wanted to identify as many hospitals as possible for the follow-up quality assurance reviews. For summary data, however, that were not intended for quality assurance purposes, using the 99-percent confidence level increased VA's confidence that the hospitals identified had differences between the observed and expected mortality rates that VA considered meaningful. At that confidence

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[2] If observed and expected mortality are the same, the ratio equals one. The discrepancy between the observed and expected mortality rates indicates how much better or worse the outcomes of patients are at specific hospitals compared to those of patients treated at other hospitals. (*VA Hospital Care: A Comparison of VA and HCFA Methods for Analyzing Patient Outcomes*, GAO/PEMD-88-29, June 30, 1988.)

[3] The interhospital variance factor allows for systematic differences among hospitals, such as quality of care provided, severity of illness, or administrative differences, that could not be accounted for in the statistical analysis. Inclusion of this factor has the effect of reducing the number of hospitals that fall above the range of expected rates, but not by any given percentage.

[4] As reported by HCFA, inclusion of the interhospital variance factor reduced the number of hospitals that would fall above the range of predicted rates, but to a level of 4 percent rather than 2.5 percent. Without the interhospital variance factor, the proportion of hospitals with significantly higher-than-expected overall mortality rises to 11 percent.

[5] For additional information on VA's mortality study methodology, see the Office of Technology Assessment's April 1989 staff paper for the Senate Committee on Veterans' Affairs.

level six hospitals—3.5 percent of the total—had overall mortality rates higher than expected. When these figures were presented to the Chief Medical Director in February 1988, he was satisfied with the results, the methodology, and the statistical test used.

According to the research specialist, she was not requested by the Chief Medical Director or anyone else to produce a study result that would be closer to HCFA's or that showed fewer hospitals with high mortality rates than actually exist. She added that she had never calculated summary data using a 95-percent confidence level before our November 1988 request for such data. (At the 95-percent confidence level, 12 hospitals—7 percent of the total—had overall mortality rates that were higher than expected.[6] She also said she did not know the origin of the 12.8-percent figure presented in the January 1988 meeting by the former Director of the Office of Quality Assurance.

STATUS OF VA'S MORTALITY STUDY

In June 1988, the VA Administrator decided that no study results would be published until follow-up studies could be completed on the hospitals that had higher-than-expected mortality rates in one or more of the group/diagnosis categories using the 95-percent confidence level. According to the Chief Medical Director, the follow-up studies were to identify hospitals where quality of patient care was less than optimal or where practices deviated from commonly accepted standards of medical practice. VA's Medical District Initiated Peer Review Organizations have completed focused reviews in these hospitals. VA plans to present the results to the Congress by the middle of May 1989.

CONCLUSION

We cannot conclude that the Chief Medical Director or any other VA official acted inappropriately. The Chief Medical Director was convinced that the HCFA methodology was the "gold standard" and, if used by VA, would show results similar to HCFA's study. Further, the use of a 99-percent confidence level for determining overall study results was not used to lower a previously determined number of hospitals with higher-than-expected mortality rates as alleged in the Washington Post article. We believe, however, that the Chief Medical Director communicated his wishes regarding the methodology and the protection of VA's public image in a manner that gave the appearance to many VA staff that he was ordering that study results be altered.

We emphasize that the actions discussed in the October 1988 Washington Post article occurred while the mortality study was in progress and that the summary hospital mortality rates discussed within VA were not final results. As of May 1, 1989, no mortality data have been released to the public.

AGENCY COMMENTS

By letter dated May 8, 1989 (see app. III), the Secretary of VA transmitted comments of the Chief Medical Director on a draft of this report. The Chief Medical Director said he initially intended that VA hospital mortality be directly compared with the mortality experience of Medicare patients in community hospitals. He asked VA staff to use a study methodology identical or similar to that used by HCFA and assumed that when this same statistical analysis was applied to the Medicare-certified and VA hospitals, approximately the same proportion of hospitals would be identified as having higher-than-expected mortality rates. Because of differences between VA and Medicare records, the Chief Medical Director acknowledged that no direct comparisons of mortality data could be made. Thus, he said no conclusions can be drawn about the quality of VA care compared to that of community hospitals.

We are sending copies of this report to other congressional committees and subcommittees; the Director, Office of Management and Budget; the Secretary of Veterans Affairs; and other interested parties. Major contributors to this report are listed in appendix IV.

Sincerely yours,

DAVID P. BAINE,
Director of Federal Health Care Delivery Issues.

APPENDIX I.—REQUEST LETTER

U.S. SENATE,
COMMITTEE ON VETERANS' AFFAIRS,
Washington, DC, October 12, 1988.

Hon. CHARLES A. BOWSHER,
Comptroller General of the United States, General Accounting Office, Washington, DC.

Dr. JOHN GIBBONS,
Director, Office of Technology Assessment, Washington, DC.

DEAR CHARLES AND JACK: I am writing to request that both the General Accounting Office and the Office of Technology Assessment look into matters pertaining to the Veterans' Administration (VA) FY 1986 Patient Treatment File Mortality Analysis.

Enclosed is an October 11, 1988, Washington Post article, entitled "VA Researchers Ordered to Report Fewer Problem Hospitals", in which it is alleged that the VA altered the design of its mortality study so that more favorable results would be obtained. According to the article, the confidence limits—the range within which there is a probability of concluding that there is a true or real difference between the observed and predicted—were expanded from 95 percent to 99 percent. It is my understanding that such a change might result in decreasing the number of VA medical centers erroneously identified as having a higher mortality rate than predicted, but would also have the potential for missing some centers with a higher than predicted mortality rate in need of further study. According to the article, over the objection of the VA's then-Director of Health-Care Quality Assurance, the VA's Chief Medical Director (CMD) "ordered the researchers" to come up with a lower number of potential problem hospitals because the CMD reportedly was concerned that the "VA could not withstand the criticism that 'inevitably' would result from comparison between its survey" and the survey of mortality in private hospitals released by the Health Care Financing Administration (HCFA) in December 1987.

I believe that these allegations and the VA's methodology warrant a detailed study and investigation at this time. Thus, as Chairman of the Veterans' Affairs Committee, I am requesting that the Office of Technology Assessment carry out a study designed to address the following issues:

1. Was the methodology utilized by the VA when analyzing its hospital's mortality rates a scientifically valid and reliable methodology? In responding, please specifically address the appropriateness of using either 95-percent or 99-percent confidence limits of changing the confidence limits after the data have been gathered.

2. Is the methodology utilized by the VA comparable to that utilized by HCFA? If not, in what ways do they differ and is one methodology preferable to the other?

I am requesting that the General Accounting Office investigate the following matters:

1. At what point in the development and implementation of this study was the decision made to use higher confidence limits for measuring overall mortality rates between VA medical centers, why was that decision made, and who was responsible for making that decision?

2. Did the Chief Medical Director or any other VA official inappropriately attempt to give the appearance of fewer quality-assurance problems at VA medical centers that actually exist?

Because of the serious nature of the allegations and the need to keep the public informed of the degree to which high quality health care is being provided within all VA medical centers, I am requesting that these studies be expeditiously undertaken.

Thank you for your continuing assistance. I look forward to working with you in proceeding with these reviews. Should you have any questions, please have your staff contact Sandi Isaacson, Professional Staff Member (224-9126).

With warm regards.
Cordially,

ALAN CRANSTON,
Chairman.

APPENDIX II.—PATIENT GROUPS AND DIAGNOSTIC CATEGORIES USED IN VA'S PATIENT MORTALITY STUDY

PATIENT GROUPS

1. Nonsurgical (patient did not have a procedure).

2. Surgical procedure (patient had a surgical procedure).

3. Operative diagnostic/palliative procedure (patient had a surgical procedure for diagnostic purposes alone, e.g., biopsy).

4. Nonoperative procedure (e.g., CAT scan).

DIAGNOSTIC CATEGORY

1. Cancer.
2. Cerebrovascular disease.
3. Severe heart disease.
4. Metabolic and electrolyte disorders.
5. Pulmonary disease.
6. Ophthalmologic disease.
7. Low-risk heart disease.
8. Gastrointestinal disease.
9. Renal and urologic disease.
10. Orthopedic conditions.
11. Infectious and parasitic disease.
12. Symptoms and ill-defined conditions.
13. Aftercare, rehabilitation, follow-up examinations.
14. All other conditions.

[6] The 6 hospitals identified at the 99-percent confidence level and all but 1 of the 12 hospitals identified at the 95-percent confidence level were among the 43 hospitals already being reviewed because they had higher-than-expected mortality rates in the group/diagnosis categories. The one other hospital was added to VA's review.

APPENDIX III.—COMMENTS FROM THE DEPARTMENT OF VETERANS' AFFAIRS

VETERANS' ADMINISTRATION,
OFFICE OF THE ADMINISTRATOR OF VETERANS' AFFAIRS,
Washington, DC.

MR. LAWRENCE H. THOMPSON,
Assistant Comptroller General, Human Resources Division, U.S. General Accounting Office, Washington, DC.

DEAR MR. THOMPSON: This responds to your request that the Department of Veterans Affairs (VA) review and comment on the General Accounting Office (GAO) April 7, 1989, draft report "VA Health Care: Allegations Concerning VA's Patient Mortality Study."

An October 1988 Washington Post article contained allegations that VA altered the design of its patient mortality study to obtain results more favorable to VA. GAO reviewed the allegations and found no evidence that the Chief Medical Director or any VA official acted inappropriately.

Enclosed are the comments of John A. Gronvall, M.D., Chief Medical Director, on the GAO report.

Sincerely yours,
EDWARD J. DERWINSKI,
Secretary.

Enclosure.

COMMENTS OF THE CHIEF MEDICAL DIRECTOR, DEPARTMENT OF VETERANS AFFAIRS, ON THE APRIL 7, 1989, GENERAL ACCOUNTING OFFICE DRAFT REPORT "VA HEALTH CARE: ALLEGATIONS CONCERNING VA'S PATIENT MORTALITY STUDY"

When the VA patient mortality study was initiated, the Chief Medical Director intended that VA hospital mortality be directly compared with the mortality experience of community hospitals. Because of differences between VA and Medicare records (as described in the GAO report), no such direct comparison could be made. Thus, the study does not allow any conclusion about quality of VA care compared to that of communtiy hospitals.

Both the Health Care Financing Administration (HCFA) study and the VA study, therefore, compare individual hospital mortality data to aggregate data for the whole system of Medicare of VA hospitals respectively. The analysis then identifies individual hospitals with higher (or lower) than expected mortality. HCFA pointed out that no direct conclusion about quality of care can be drawn from such analyses. The VA study proceeded to actual case record reviews, as the GAO report describes, to see if there had been problems in the equality of care provided.

The Chief Medical Director has asked VA staff to use a study methodology identical to, or at least similar to, that of HCFA's. He thus assumed that when this statisical analysis was applied to these two large systems (all Medicare hospitals, or all VA hospitals), approximately the same proportion of hospitals would be identified as "high outliers," having higher than expected mortality rates. The GAO report documents that this was the Chief Medical Director's assumption, without giving his rationale for it.

In any event, as the GAO report points out, the Veterans Health Services and Research Administration had decided to do a followup medical record review in all hospitals where higher than expected mortality was found in any of the patient group/primary diagnosis categories (a total of 43 hospitals).

In the interest of technical accuracy, we request that GAO make the following changes in the report as well as the changes shown on the attached annotated extract of the report.

Page 2, Results in Brief: A sentence should be added, stating that both the 95 and 99 percent confidence levels were used in calculating data. There is no mention of the 95 percent confidence level until later in the report. Since one of the allegations in the Washington Post was that the Chief Director ordered a change in the confidence level used, it should be pointed out in the beginning of the report that both levels were in fact used, and that the analysis of the aggregate data at the 99 percent confidence level was conducted only to provide summary data. The analysis of data by patient groups and diagnosis categories, conducted at the 95 percent level, was always to have been the basis for the case review—the purpose of the study. Excluding this information early in the report makes it appear as though an analysis was conducted only at the 99 percent confidence level. Persons who may only read the Results in Brief, not the entire report, would not have an accurate understanding of the calculations.

Page 7, line 1: Delete "only." The VA's data files record more than the patient's primary diagnosis.

Page 7: Footnote 4 should specify that the HCFA mortality rate was for the hospital's overall mortality rate.

Page 8: Last sentence, first, full paragraph: The meaning of the word "they" is unclear.

Page 9: The second-last sentence should read, "Three researchers within the VA * * * using." Delete "The research specialist said that" because this is a factual statement.

Page 12, line 5: The followup studies were preformed for a number of reasons, including identifying VA medical centers "where quality of patient care was less than optimal or where practices deviated from commonly accepted standards of medical practice. * * *" The followup review was limited to an assessment by physicians of the quality of care provided in specific cases. Therefore, it would be inappropriate to state that the purpose of the followup was to "determine whether these hospitals have quality-of-care problems."

APPENDIX IV.—MAJOR CONTRIBUTORS TO THIS REPORT

HUMAN RESOURCES DIVISION, WASHINGTON, DC

David P. Baine, Director of Federal Health Care Delivery Issues, (202) 275-6207; James A. Carlan, Assistant Director; Robert E. Garbark, Assignment Manager; Carolyn L. Cook, Evaluator-in-Charge.

VA MORTALITY STUDY RESULTS

Mr. CRANSTON. Mr. President, I have just discussed GAO and OTA reports which exonerate Dr. Gronvall, VA's Chief Medical Director, from allegations made about VA's fiscal year 1986 mortality analysis. Yesterday, June 13, 1989, VA released its "Review of Mortality in VA Medical Centers," the study which was the subject of these allegations. This report describes the results of an indepth medical record review at the 44 VA medical centers which VA's mortality statistical analysis showed had higher-than-expected mortality rates. Because so few studies have been published in the area of mortality, and no study is available to compare directly with this VA study, the VA report is difficult to interpret. I suspect, however, that there is no cause for major concern on the part of veterans and their families relying on the VA general medical and surgical hospitals.

According to this study, "likely" quality-of-care problems exist in 5.1 percent of a sample of deaths reviewed within all Department of Veterans' Affairs [VA] medical centers during 1986—3.7 percent have "likely" problems if primarily medical and surgical facilities are reviewed, and a staggering 10.4 percent have a "likely" problem if only medical and surgical wards of primarily psychiatric VA medical centers are studied. I ask unanimous consent that the two tables from the VA report, which provide a clear summary of the data in the study, be printed in the RECORD at this point: The first is entitled "Results of Medical Record Review by Facility," and the second is entitled "Percentage of Cases Reviewed in which 'Likely' Quality of Care Problems Identified for 10 Primarily Psychiatric Facilities." These tables provide a clear summary of the data in the study.

There being no objection, the tables were ordered to be printed in the RECORD, as follows:

RESULTS OF MEDICAL RECORD REVIEW BY FACILITY

Facility	Number of cases	Likely quality of care problems	
		Number	Percent
Albany, NY	54	1	2
Alexandria, LA	21	0	0
Asheville, NC	15	2	13
Atlanta, GA	26	3	12
Battle Creek, MI	59	12	20
Biloxi, MS	30	0	0
Birmingham, AL	94	0	0
Buffalo, NY	80	0	0
Chillicothe, OH	12	2	17
Cincinnati, OH	8	0	0
Columbia, SC	36	1	3
Dayton, OH	101	6	6
Denver, CO	69	7	10
Des Moines, IA	13	0	0
Durham, NC	34	2	6
Fayetteville, NC	23	0	0
Houston, TX	106	10	9
Indianapolis, IN	13	0	0
Iowa City, IA	34	1	3
Leavenworth, KS	45	3	7
Lebanon, PA	14	0	0
Lexington, KY	15	0	0
Little Rock, AR	13	0	0
Loma Linda, CA	165	8	5
Marion, IN	72	5	7
Martinsburg, WV	11	0	0
Memphis, TN	19	0	0
Montgomery, AL	9	0	0
Mountain Home, TN	32	0	0
New Orleans, LA	91	1	1
North Chicago, IL	34	0	0
Oklahoma City, OK	15	0	0
Perry Point, MD	21	0	0
Phoenix, AZ	71	1	1
Pittsburgh, UD, PA	28	0	0
Salisbury, NC	79	11	14
St. Louis, MO	48	3	6
Tampa, FL	17	0	0
Tuscaloosa, AL	24	0	0
Tuskegee, AL	12	3	25
Waco, TX	39	5	13
Walla Walla, WA	11	1	9
Washington, DC	58	2	3
Total	1,771	90	

TABLE V.—PERCENTAGE OF CASES REVIEWED IN WHICH "LIKELY" QUALITY OF CARE PROBLEMS IDENTIFIED FOR 10 PRIMARILY PSYCHIATRIC FACILITIES [1]

Facility	Number of cases in review	Number of cases with quality of care problems	Percentage of cases reviewed with quality of care problems
Tuscaloosa	24	0	0
Battle Creek	59	12	20.3
Chillicothe	12	2	16.7
Lebanon	14	0	0
Marion (Ind)	72	5	6.9
Perry Point	21	0	0
Salisbury	79	11	13.9
Waco	39	5	12.8
North Chicago	34	0	0
Tuskegee	12	3	25.0
Total	366	38	10.4

[1] A case is regarded as having a "likely" quality of care problem if two peer reviewers indicated that the care was definitely or probably not consistent with current medical practice.

Mr. CRANSTON. Mr. President, although I am, of course, always concerned about the overall quality of care furnished in VA hospitals, I am particularly troubled in this case by the findings about mortality rates in VA psychiatric facilities and believe this to be indicative generally of an overall lack of attention paid by the VA to the problems of veterans with psychiatric diagnoses. I plan to pursue actively with VA its plans for corrective action at those facilities identified as having deficiencies.

I understand that resolving problems related to treating the medical or surgical illnesses of psychiatric patients is not easy. It is difficult to recruit and retain adequate numbers of high-quality medical and surgical practitioners at primarily psychiatric facilities, and it is frequently difficult to diagnose the medical or surgical illnesses of psychiatric patients because they sometimes describe their symptoms in ways which differ markedly from the descriptions of non-psychiatric patients. However, this does not mean that the 10.4-percent figure—which is almost three times as high as for VA general medical facilities—is not a cause for serious concern. It is indeed.

In its report, VA proposes to institute specific actions to resolve the "likely quality-of-care problems" that were identified. Today, in a committee hearing on related mental health matters, I pressed VA to expedite its followup actions—especially at the six psychiatric facilities identified—and VA's Chief Medical Director agreed to do so. Additionally, I am requesting the General Accounting Office [GAO] to initiate a review in order to determine if the methodology to be used for followup is appropriate, and then to follow VA's action to determine if the followup is completed as described, if the actions taken as a result of the followup are proper, and if GAO would recommend that other actions be taken.

Mr. President, I would also like to comment on a second, related matter. In his letter to me accompanying the mortality study results, Secretary Derwinski stated that "In the narrative summary of this report, the authors issued this warning: 'No general statement about the quality of care within VA can be drawn from these findings'." This statement and other qualifiers led me to a conclusion that this specific effort did not represent a particularly effective use of VA resources." In other words, Mr. Derwinski seems to believe that VA wasted its time and money in conducting this study. I cannot agree with any such suggestion and believe the data developed in this study refute such a suggestion.

How else would VA have identified those facilities with "likely" problems in quality of care if this study had not been done? I am not aware of any other measurement in the current VA quality-assurance program that has produced comparable hospital-by-hospital aggregate data regarding any such deficiencies. Without regard to whether the results can be generalized—that is, extrapolated to apply to all VA facilities—these findings do imply something about the care given to specific patients in specific facilities—and especially so regarding medical and surgical care in VA psychiatric facilities. Additionally, although experts in the quality-assurance field assert that there are recognized limitations in using crude death rates as indicators of the quality of care furnished, they further suggest that these types of studies do assist to define where further investigation and possibly corrective action should be pursued.

Mr. President, that is exactly how VA had planned to use and should now proceed to use the study results.

NATURAL GAS WELLHEAD DECONTROL ACT

Mr. BIDEN. The Senate recently voted its approval for a bill that would have been impossible just a few years ago, the decontrol of natural gas prices. In my 16½ years in the Senate there are few issues that have proven to be as contentious, time after time, as the decontrol of natural gas.

This year we saw a breakthrough. In years past, I strongly opposed decontrol. Market conditions were all wrong and the decontrol proposals, in my view, would have subjected consumers to devastating and unwarranted price increases. While I supported incentives for increased drilling in the aftermath of the 1976-77 natural gas shortages, I was unwilling to go so far as to completely decontrol prices. As natural gas legislation was debated in later years, I tried to keep an open mind as to its merits.

The natural gas market has changed greatly since Congress last bogged down on this issue. Over 60 percent of the natural gas moving interstate is not subject to price controls of any kind, and only 6 percent of interstate gas is restrained by legislatively mandated price caps. The risk of a fly-up in prices is not present in the debate on this bill.

Supporters and opponents of deregulation point to the same event in justifying their position, the expected end of the so-called gas bubble in the early 1990's. We are at a time of excess supply and looking ahead to one of tightened supplies. The decision Congress is making is how to best prepare for the future.

Some gain a certain comfort from price caps on natural gas prices and point to the worst conditions of the past as justification for the continuation of controls. But the limits of price caps become immaterial when the result is shortages as in the winter of 1976-77. So price caps can hurt consumers by discouraging drilling where gas may be most easily removed and encourage drilling in more difficult areas, and by making it harder for some companies to reinvest in additional wells. Consumer interests are not served by a regulatory scheme that hinders the future supply of natural gas, in effect making it more likely that price caps will be reached.

Deregulation is a good idea at this time. There is enough competition in the market to ensure that prices are not being fixed. The argument has been made that the potential exists for monopolistic behavior if production is concentrated in the control of a few big companies. But there was no evidence of that being certain, only that it is possible. It is a risk, but we must view it realistically or we will remain in a perpetual deadlock. There are other ways to address bad behavior of the type feared.

I voted against amendments that would only have reregulated the industry in one form or another or were merely punitive proposals. There are problems from the past that need to be resolved—take-or-pay, for example. But these are best handled on a case-by-case basis, not in the form proposed in amendment to this bill. If the only standard for supporting deregulation is that every problem must be addressed through legislation, we will again be locked to existing policy.

The rejection of Senator BRADLEY'S amendment on open access is more problematic. Failure of that amendment, by a relatively narrow vote, led me to vote against final passage of the Senate bill. The Bradley amendment sought to assure that any outstanding questions about a potential future problem, access to natural gas transportation, is cleared up. This amendment addressed a part of deregulation that has been overshadowed by the at-

tention to wellhead prices, but has an integral role in the lowered consumer prices that made this whole bill possible.

Over a decade ago only a trickle of interstate gas was purchased directly from producers by consumers. Now over 70 percent of interstate gas is transported under open-access regulations. Just as wellhead decontrol seeks to allow individual producers greater freedom to make their own drilling decisions, open access is crucial to allowing purchasers to shop around for the best price. It will take on added importance as supply conditions change.

I opposed Senate passage in the hope of sending a message to the conferees that open access is an issue they should address. It is an important element to assure that the future benefits of deregulation flow through to the consumer, without sticking points such as pipeline retreat to earlier policies in which they refused to transport gas they had not purchased.

With that Mr. President, I hope to be able to support the conference agreement on natural gas deregulation when it comes to the Senate. Our Nation will entering a new era with natural gas in the next few years. With deregulation comes certain risks, but I believe it is the best course to follow. However, I also hope that the bill that emerges from conference with the House will assure consumers that they will not be put at greater risk on the critical question of transportation.

EXECUTIVE SESSION

The PRESIDING OFFICER. The hour of 5 o'clock having arrived, under the previous order, the Senate will now go into executive session to consider the nomination of Richard R. Burt of Arizona, for the rank of Ambassador during his tenure as Head of the Delegation on Nuclear and Space Talks and Chief Negotiator on Strategic Arms. The clerk will report the nomination.

DEPARTMENT OF STATE

The legislative clerk read the nomination of Richard Reeves Burt, of Arizona, for the rank of Ambassador during his tenure of service as Head of Delegation on Nuclear and Space Talks and Chief Negotiator on Strategic Nuclear Arms.

The PRESIDING OFFICER. There will be 1 hour of debate equally divided between the chairman and ranking member of the Foreign Relations Committee.

The Senator from Rhode Island.

Mr. PELL. I thank the Chair. Mr. President, I support the nomination of Richard Reeves Burt to hold the rank of Ambassador during his tenure as Head of the Nuclear and Space Talks and as Chief Negotiator on Strategic Nuclear Arms.

The Committee on Foreign Relations held a hearing on the Burt nomination on May 5. At that hearing, the committee explored thoroughly with him the administration's plans for the START effort, which, is successful, could be the centerpiece of a new era in arms control. In addition, the committee, somewhat concerned by official and unofficial evidence of administrative and security problems in earlier rounds of the START talks, questioned him closely as to how he will personally ensure that the highest standards for administration, cost control, and security are met by the delegation. In addition, the Senator from North Carolina raised a number of questions which were addressed by Ambassador Burt personally and which were covered in a report by the State Department's independent inspector general.

Mr. President, Ambassador Burt will bring to this position a thorough background in arms control issues. He was involved in arms control issues from the outset of the Reagan administration. He served from 1981 to 1983 as Director of the Bureau of Politico-Military Affairs in the Department of State. Mr. Burt was nominated by President Reagan, approved by the committee and confirmed by the Senate in 1983 to serve as Assistant Secretary of State for European and Canadian Affairs.

Two years later, Mr. Burt was nominated by President Reagan, approved by the committee and confirmed by the Senate as Ambassador to the Federal Republic of Germany. During that period, he dealt with a number of complex political, military, and economic issues.

Before entering Government service, Mr. Burt was the national security correspondent for the New York Times. Earlier, he served as research associate and assistant director of the International Institute for Strategic Studies in London. He is a graduate of Cornell University and received his master's degree from the Fletcher School of Law and Diplomacy at Tufts University.

The committee considered this nomination with care. Having done so, the committee overwhelmingly approved the nomination in a 16 to 2 vote.

Mr. President, the committee expressed its judgment on both the importance of the past and the appropriateness of the nomination in the concluding portion of its report, as follows:

Having reviewed the issues raised regarding Mr. Burt and his responses and having had access to the independent report of the State Department Inspector General, prior to reporting to the Senate, the Committee reached the conclusion that Mr. Burt is fully qualified to perform his duties effectively. The START Treaty now in prospect is a critically important undertaking. Indeed, the eventful significance of the INF Treaty will hinge in great measure upon the success of the two sides in bringing about meaningful, stabilizing reductions in strategic offensive arms. Moreover, it will be essential for both sides to achieve an outcome in the Defense and Space Talks which allows the exploration of potentially valuable improvements in strategic defenses without undermining the Anti-Ballistic Missile Treaty, which is the centerpiece of prior efforts to control strategic arms.

Mr. Burt brings to these challenges a thorough background in strategic affairs, 8 years of high-level government service, and an apparent commitment to pursue the President's objectives in the Geneva talks. Accordingly, the Committee reaffirms its judgment that Mr. Burt should be confirmed.

I yield the floor.

Mr. McCAIN. Mr. President I speak in behalf of the nomination of Mr. Richard Burt to be our chief arms negotiator in Geneva. Mr. President, I do not have to tell any Member of this body how important the START process is to U.S. security, nor do I have to describe how crucial a time we are facing as the rapidly changing scenario indicates that there will be a degree of activity in Geneva, perhaps at a level that we have not seen before. At no time than the present do we need a more experienced, responsible professional in charge of the process.

Fortunately, the President has found such a man in Ambassador Richard Burt. Ambassador Burt's extensive experience as a national security expert outside of Government and his distinguished service over the past 8 years combine to make him uniquely qualified by training experience, and temperment as our chief strategic arms negotiators.

On issues of substance, Mr. President, he is sound. He understands that the purpose of arms control is to reduce the risk of war. He will bring back an agreement that will do that, and will not be rushed into unwise concessions. His thinking in this area is fully in accord with the views of this President and, I believe, the overwhelming majority of the Members of this body.

He is firmly committed to rejecting Soviet attempts to hold START hostage to United States concessions on SDI, and he will firmly protect our rights to develop such promising SDI concepts as brilliant pebbles. He fully understands the importance of Soviet compliance and has testified in support of the President's policy that we will conclude no new strategic arms agreement until the Soviets correct their Krasniak radar violations of the ABM Treaty.

Some raise questions over Ambassador Burt's commitment to ensuring proper security for classified material. These were dealt with extensively by both the inspector general of the De-

partment of State and the Foreign Relations Committee. I agree with the conclusions of both the inspector general and the overwhelming majority of that committee. Ambassador Burt is fully qualified and should be confirmed. Indeed, far from demonstrating lack of concern for security, Mr. Burt has shown exactly the opposite. As a reporter he declined to report news leaks for fear they might jeopardize U.S. security. As a senior Government official for 8 years, he was privy to some of the most sensitive secrets in Government. Yet, a searching examination reveals only minor, and I emphasize minor, administrative errors.

To ensure that serious allegations could not be swept under the rug, Congress established the post of State Department inspector general, mandating the independence of that office by statute. A searching investigation by the inspector general revealed no evidence of impropriety or lack of concern for security on the part of Ambassador Burt.

Ambassador Burt has testified in detail on the security procedures he will implement within his delegation if confirmed. The Foreign Relations Committee report, Mr. President, clearly indicates that Mr. Burt has been subject to thorough investigations prior to receiving his earlier Government nominations, as well as the negotiating post for which he has now been nominated. The investigations regarding Presidential appointments are now particularly comprehensive. All have been reviewed. There has been nothing discovered to bring into question Mr. Burt's loyalty or suitability for the high trust and confidence placed in him. From all indications, Mr. Burt was a valued member of the top-level teams to two Secretaries of State under President Reagan. He has received a vote of confidence from a new President and Secretary of State.

In sum, I am confident this is an excellent appointment. The President has made a wise choice. The Senate should act wisely to support that choice.

Mr. President, I have known Mr. Burt for some 12 years. I have known him to be a man of integrity, honor, and decency. Personal attacks sometimes not only harm the reputation of the individual that is being attacked, but also tend to dissuade other qualified men and women from public service. I think we should be very careful about the manner and the substance with which we question the qualifications of any candidate for office, whichever party is in power in the White House and does the nominating.

Mr. President, I happen to know Mr. Burt from personal experience. I believe he is well qualified. I believe he is a fine and decent man who is committed to the security of this Nation. I have every confidence, along with President Bush, Secretary Baker, and all of the other members of this administration who were elected last November, that this choice is a wise one; one that will be of great value to the United States in the very difficult days of hard negotiating with the Soviet Union that lie ahead as we reach the goal which all of us seek: A meaningful, verifiable strategic arms reduction treaty to ensure not only our own future, but that of our children. Mr. President, those tasks and responsibilities are in good hands. I yield the floor.

Mr. HELMS addressed the Chair.

The PRESIDING OFFICER (Mr. KOHL). Senator HELMS.

Mr. HELMS. My understanding is that there is a 1-hour time limitation on this, equally divided; is that correct?

The PRESIDING OFFICER. Yes.

Mr. HELMS. I thank the Chair.

Mr. President, Richard Reeves Burt has been nominated to the position as head of the U.S. Delegation for the Nuclear and Space Talks and chief START negotiator. Needless to say, this position is one of supreme sensitivity dealing as it does with the highest and most sensitive of U.S. strategic defense strategy and capability.

Let me say parenthetically that Mr. Burt is a personable young man. During his career, he had been somewhat of a swinger, and I believe that was his own judgment.

I like him personally, but if my brother had had the record that Mr. Burt has with respect to a number of things which I will now identify, I would not vote to confirm my brother.

Unfortunately, Mr. Burt's career demonstrates that he has little sensitivity to the need to protect the security of highly classified information. He appears to act as though it is immaterial whether top secret and more highly classified information gets into the hands of the press.

It may be that his former career as a journalist has desensitized his concern for security laws, rules, and regulations. On the other hand, as a diplomat he has failed on over 100 occasions to provide classified information to the appropriate committees of Congress on a subject specifically mandated by law. These circumstances validly raise the question whether Mr. Burt ought to serve in any position which requires access to top secret and sensitive compartmented information which we identify by initials around this place as SCI.

Moreover, these circumstances raise a question of whether the personnel security system is functioning at a level adequate to protect our most sensitive secrets. Time after time security officials failed to follow established procedures. They lost files pertinent to Mr. Burt's activities. They neglected to send information of violations to a higher level, or they simply omitted to conduct investigations that should have been required by the circumstances.

Now, a report which I received after requesting it from the State Department Office of Inspector General was inconclusive, but it nonetheless confirmed the failure of the security system in many specific instances.

Although the actions in question were individually serious, the pattern of negligence and repeated violations raises serious doubts that Mr. Burt is fit to hold a security clearance. Moreover, Mr. Burt misinformed and misled the Foreign Relations Committee during questioning. Subsequently, he did correct one misleading statement but he left the others on the record.

Let me be specific about Mr. Burt's attitude toward security clearances as may be inferred from the following:

First, as a reporter for the New York Times, Mr. Burt published details of the CHALET satellite intelligence collecting system back in 1979. Now, although some legal experts believe it does not contravene the espionage laws to publicize classified information generally, the publication of information relating to communications intelligence collection is specifically punishable by law. This is not a question of an "Official Secrets Act" of the type based on pre-publication restraint. We are talking about penalties in the law for publishing information relating to communications intelligence. No question about that. In any case, it is absolutely clear that Mr. Burt condoned such disclosure and condoned the actions of whatever Government official or officials who provided him unlawfully with this highly secret information.

Second, in the period 1981-83, while holding an SCI clearance, Mr. Burt maintained what he described as a social relationship with a female journalist of the New York Times who began to publish classified information, to which Mr. Burt had access at the highest level in at least seven separate articles. Mr. Burt denies that he gave her classified information but his denial is uncorroborated. No investigation was held, and an investigation ought to have been held.

Third, while he was Ambassador to the Federal Republic of Germany, Mr. Burt gave a TV interview which indirectly disclosed our capability to intercept and analyze terrorist communications by Libya. Newspaper reports stated that he was reprimanded by the White House. As a result of the public discussion which followed Mr. Burt's interview, Libya changed its communications methods and the United States lost valuable intelligence access to terrorist communications. Press reports

confirm that Libya changed its communications to a more secure mode.

Fourth, Mr. Burt was intensely questioned about the espionage laws, particularly 18 U.S.C. 798 during his hearings back in 1982. Nevertheless, in 1989 he testified that he had never read section 798. The IG report shows that Mr. Burt has six times signed security nondisclosure agreements stating that section 798 and other such statutes were available to him to be read, and for briefing.

Now, Mr. President, it rather stretches the imagination that a nominee questioned about section 798 at a nomination hearing would not have read or been briefed on the statutes at least after the fact. In any case, he was clearly derelict in his duty if he declined to read them when the opportunity was made available on six occasions. Either he supplied incorrect information to a U.S. Senate committee, the Foreign Relations Committee, or he has zero interest in what his legal obligations are under the security statutes. He cannot have it both ways—one way or the other he has a culpability. Or both.

Fifth, Mr. Burt was cited for three separate security violations. And when questioned by the Foreign Relations Committee and this Senator—and I happen to be the ranking minority member of the Foreign Relations Committee—Mr. Burt could recall at that time only one security violation, and that was for leaving a low-level classified document unsecure, he said. But when asked if he had ever been cited for an incident involving a lost briefcase, Mr. Burt just could not remember. I remember his blank stare as he pondered the question.

Well, in point of fact, the inspector general's report shows that Mr. Burt was cited for losing a briefcase with top secret information; he lost it in Brussels while traveling with the Vice President. And what do you know? That briefcase containing that classified information was found, where? In the hands of a journalist with NBC.

Now, the briefcase was lost early in 1983 and on February 4, 1983, he was charged, in fact with losing the material; and on February 16, what do you know, he was confirmed by the Senate as Assistant Secretary for European Affairs. If the Senate had been aware of this violation, perhaps his confirmation would have had a different outcome. Clearly this major top secret violation, coming as it did, right before confirmation to an important post, made little or no impression on him. And if so, what does that tell us about him? His total lack of memory, even when prompted—and I prompted him several times during my interrogation of him—this lack of memory, if that is what it is, itself demonstrates a lack of concern for security.

Sixth, when Mr. Burt was Ambassador to Germany, according to the IG report, security personnel found a 35-millimeter film cartridge containing marijuana. They found it in Mr. Burt's residence in Bonn. Although no evidence was found that Mr. Burt used marijuana—and I do not accuse him in that regard—what was Mr. Burt's explanation? He said, "Oh well, a guest must have left this marijuana."

He had just forgotten to report it to the authorities. But there was no corroboration of his assertion. The authorities accepted his self-serving statement. In any case, the incident demonstrates his continued lack of concern for security.

With these examples in mind, it is astonishing that the security system failed even to consider them adequately because a number of irregularities appeared.

First, in 1981, Mr. Burt was given SCI clearance while the Attorney General still had an open investigation on the CHALET disclosure;

Second, the FBI never asked Mr. Burt for the name of his source in the CHALET case, nor did Mr. Burt disclose the name voluntarily;

Third, Mr. Burt was never questioned about his relationship with the female New York Times reporter after she began to publish again and again and again classified information to which he has subsequently admitted that he had access. No reference to the relationship with the journalist even appears in his security file;

Fourth, the top secret violation involving the lost briefcase. What do you know, Mr. President? It was totally left out of his security evaluation summary;

Fifth, the IG report states that the regional security officer concluded that the contents had not been compromised even though it had been in the hands of the NBC reporter for an extended time, based once again on Mr. Burt's uncorroborated assertion; and

Sixth, no records were kept on the marijuana incident, and it never became a part of the security file.

One can only imagine what would have happened if these events had occurred to somebody else. I suppose that anybody who has ever been accused by the authorities of having illegal substances in their home have always said, "Oh, somebody left it there. I had nothing to do with it." But the IG report stated that the investigation of the marijuana incident—this is the IG's assessment, not mine—and the inspector general said the investigation was conducted "in a manner inconsistent with professional investigative methodology."

Mr. President, even though I personally enjoyed the company of Mr. Burt on a few occasions when I have seen him, and I hold no personal animosity against him, I cannot vote to confirm a man with this record. I know what the arithmetic on voting in the Senate is, and he has many personal friends in the Senate and has taken care to cultivate them. That is fine. Some may get up today and say he is the greatest thing since sliced bread. But that seems to be somewhat of a derogation of sliced bread.

Mr. HELMS. Mr. President, I ask unanimous consent that certain additional material be printed in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

INTRODUCTION

Newspaper accounts report that, in recent years, the U.S. START Delegation in Geneva has not always observed the highest standards of security and decorum. The reports indicate careless security procedures, the loss of quantities of highly classified data, and imprudent personnel involvement in social activities with foreign nationals, associations which may well have jeopardized the nation's security. Needless to say, penetration of the U.S. START delegation is a high priority of the Soviet KGB.

When Mr. Burt appeared before the Committee on May 5, 1989 he had a prepared statement ready to address this problem, in which he said:

"Many members of the Senate are quite concerned about reports which we have received concerning lax security controls over the delegation in Geneva and a number of possible serious violations and penetrations of our national security.

"As head of our delegation in Geneva, I will work to strengthen our security practices there."

* * * * *

"In cooperation with the ACDA Director and with the State Department Bureau of Diplomatic Security, I plan to take the following additional measures.

"First, every member of the U.S. Negotiating Team in Geneva, regardless of which agency they represent, will be required by me to attend a briefing on security and counter intelligence measures before they will be allowed to travel to Geneva. This briefing will be provided jointly by ACDA and the State Department's Bureau of Diplomatic Security.

"Secondly, all delegation members will be provided with a written delegation security directive, which will outline, in considerable detail, the security responsibilities of each delegation. The guidelines in this directive will cover physical security, document handling, and personal conduct.

"All delegation members will be asked to sign a statement saying that they have read these guidelines and they will be encouraged to keep them for reference.

Thirdly, tighter security controls will be promulgated for all sensitive delegation documents, with strict limits on the number of copies made and the distribution of these documents. . . .

* * * * *

"Fifthly, I, personally, will ensure that all violations of security are addressed with tough disciplinary action, including, if necessary, dismissal of repeat offenders from the delegations.

This is an admirable statement of commonsense security procedures, and I applaud Mr. Burt for going on public record as to his intentions in Geneva, if confirmed. Unfortunately, Mr. Burt's declaration lacks credibility, based upon his own past conduct.

The handling of classified data is governed both by statute and by agency guidelines, principally those of the CIA which processes requests for access to so-called SCI, that is, Sensitive Compartmented Information. The statutes, specifically 18 USC 793, 794, 798, and 952, commonly called the Espionage Laws, were designed to prevent anyone—civilian, government, or military, citizen or alien—from transferring to the enemy information which is essential to the national defense. The SCI guidelines provide the investigative criteria for determining whether a person should have access to sensitive materials. The guidelines are found in DC—Directive 1/14, promulgated by George Bush in 1976 when he served as Director of Central Intelligence.

It is not the business of the Committee or the Senate to determine whether laws have been broken or whether an individual should have access to SCI materials. Nevertheless, in reviewing a nominees fitness to hold an office which requires such access, it is proper to assess the nominees attitude towards the protection of sensitive data when his past activities indicate irresponsible and imprudent behavior that have damaged our national security.

I. MR. BURT'S PARTICIPATION IN DISCLOSURE OF INTELLIGENCE DATA

18 USC 798 applies heavy fines and imprisonment against any person who knowingly and willfully communicates, furnishes, transmits . . . or publishes any classified information concerning the design, construction, use, maintenance, or repair of any device, apparatus, or appliance used by the United States . . . for cryptographic or communication intelligence purposes. [18 USC 798 is attached as Exhibit 1.] Unlike other espionage statutes, Section 798 requires only that the furnishing or publishing be done knowingly and willfully, and does not require an additional intent to harm the United States. It is also distinguished from Sections 793 and 794 in that it specifically prohibits publishing which the others do not. In 1979, Mr. Burt, then a reporter on national security affairs for The New York Times, received from an unknown source and published in his newspaper details of the design, construction, and use of the then secret CHALET intelligence communications satellite. [This article is attached as Exhibit II.] Clearly, the intent of Section 798 was to make such an action a crime, both on the part of the person who furnished the information and on the part of the person who published it.

The Senate Select Committee on Intelligence did an assessment of the damage which Mr. Burt caused by his article and concluded that the information he disclosed fit the literal definition of "top secret"—that is, information the release of which could be expected to do exceptionally grave damage to national security. But according to the State Department Inspector General report of June 6, 1989, "Mr. Burt said that the FBI never asked him for the source of the 1979 article."

It is not the purpose of this Senator to argue that Mr. Burt should have been prosecuted. The point is that this is a well-documented case which shows that Mr. Burt cooperated with, and thereby approved, the disclosure of intelligence information that was prejudicial to the interests of the United States. Some have argued, under an absolutist vision of the First Amendment, that the press can publish any defense secret, no matter how vital; but that surely does not apply to Mr. Burts informant. The information was supplied by an unknown government employee and the argument for First Amendment rights cannot apply to a government employee who has signed a secrecy agreement as a condition of access to SCI material.

In the aftermath of Mr. Burt's publication of information concerning this source of communications intelligence, a number of foreign governments, in order to protect their own sources, took steps to deny U.S. access to such data relevant to U.S. verification of arms control treaties.

Mr. Burt failed to repudiate the action of the government employee who originally disclosed the information which he published. For this reason, it is difficult to understand why he himself was given access to SCI material when he entered government in 1981 if he believed that any government employee had the right to decide to give such information to the press at any time.

II. MR. BURT'S RELATIONSHIP WITH A JOURNALIST DISCLOSING CLASSIFIED DATA

The Minimum Personnel Security Standards and Procedures governing eligibility for access to Sensitive Classified Information are set forth in an unclassified directive known as DCID 1/14. [This document is attached as Exhibit III.] These provisions apply to all persons other than elected officials, federal judges, and individuals for who there is a special exception, without regard to civilian or military status, form of employment, official rank or position, or length of service. Those who do not meet the minimum security criteria are to be denied access to SCI.

The process of deciding whether or not access should be given is determined by reference to eleven criteria for adjudication. These include a) loyalty; b) close relatives and associates; c) sexual considerations; d) cohabitation; e) undersirable character traits; f) financial irresponsibility; g) alcohol abuse; h) illegal dugs and drug abuse; i) emotional and mental disorders; j) record of law violations; and k) security violations.

Annex A to DCID 1/14 states:

"The adjudicative process entails the examination of a sufficient period of a persons' life to make a determination that the person is not now or is not likely to become an acceptable security risk later. SCI access adjudication is the careful weighing of a number of variables known as the 'whole person' concept. The recency of occurrence of any adverse incident, together with circumstances pertaining thereto, is central to a fair and uniform evaluation. Key factors to be considered in adjudication are the maturity and responsibility of the person at the time certain acts or violations were committed as well as any repetition or continuation of such conduct . . . Any doubt concerning personnel having access to SCI shall be resolved in favor of the national security."

Thus, having been involved in a major disclosure of security information in 1979—one that involved wide investigations and reevaluation in the intelligence community—Mr. Burt was on record when he sought SCI access in 1981 as having covered up and condoned such disclosure on the part of his unknown accomplice, not to speak of his own position that he, as a journalist, had the right to determine whether to publish classified information about communications intelligence sources and methods. It is difficult to understand why he would have been granted such access.

Nor is access, once granted, permanent. DCID 1/14 states "reinvestigations shall be conducted . . . on a more frequent basis where the individual has shown some questionable behavioral pattern, his or her activities are otherwise suspect, or where deemed necessary by the [Senior Officer In Charge]."

During the period 1981-83, while Mr. Burt was Director, Military-Political Affairs, and Assistant Secretary for Europe, he conducted an on-going association, which he testified was "a social relationship" with Ms. Judith Miller, a reporter on national security affairs for The New York Times. During this period, Ms. Miller published some 30 articles dealing with topics in the general area of Mr. Burts duties. At least seven of these articles appeared to contain classified material relating to data or deliberations to which Mr. Burt had access. [The seven articles are attached as Exhibit IV.]

While the general prudence of such an ongoing relationship with a news reporter may be questioned, the far more serious question is why it was continued once Ms. Miller began to publish classified information. Once that happened, the relationship became a matter for readjudication of Mr. Burt's access to SCI, according to the established criteria.

The mere coincidence of Mr. Burt's relationship with Ms. Miller during the period during which she published classified information to which he had access does not, of course, establish that Ms. Miller obtained the information directly or indirectly from Mr. Burt. Mr. Burt denied in testimony that he furnished classified information to her. But his unsupported denial lacks credibility in view of the fact that he had previously condoned a government employees transferring highly classified information to The New York Times. And even if he did not furnish her with classified information, the continuing of such a relationship under the circumstances gave the appearance of condoning the breach of the fiduciary duty of other government employees to safeguard national security information.

Mr. Burt testified that he was never questioned about the Miller articles containing classified information to which he had access. Yet DCID 1/14 clearly requires a readjudication of access to SCI when the subject is involved in a situation which might lead to pressure to supply illegally classified information:

"Sharing living quarters with a person or persons, regardless of their citizenship status may be indicative of a close relationship, whether or not it is considered intimate. The potential for adverse influence or duress should be considered in any close or long-term relationship between the subject and another individual.

"The adjudicator must assess carefully the degree of actual and potential influence that such persons may exercise on the individual based on an examination of the frequency and nature of personal contact and correspondence with and the political sophistication and general maturity of the individual.

* * * * *

"DCID 1/14 requires that, to be eligible for SCI access, individuals must be stable, of excellent character and discretion, and not

subject to undue influence or duress through exploitable personal conduct.

"Sexual promiscuity and extramarital relations are of legitimate concern to the SCI adjudicator where such conduct reflects a lack of judgment and discretion, or when the conduct offers the potential for undue influence. . . .

* * * * *

"In all cases, the individual's spouse or cohabitant shall at a minimum be checked through the subversive and criminal files of the Federal Bureau of Investigation and other national agencies as appropriate. When conditions indicate, additional investigation shall be conducted on the spouse of the individual and members of the immediate family (or other persons to whom the individual is bound by affection or obligation) to the extent necessary to permit a determination by the adjudicating agency that the provisions of paragraph 5 [e.g The individual shall be stable; trustworthy; reliable; of excellent character, judgment, and discretion.] above are met."

Some of these guidelines may or may not apply to Mr. Burt. Nevertheless, they illustrate the kinds of considerations of risk that adjudicators must bear in mind as they consider a case. Indeed, the guidelines, in a parallel situation, state that an applicant must file a statement of intent if he or she intends to marry a foreign national—in which case security access is denied until there is a full field investigation of the other party.

According to the Inspector General's report, Mr. Burt denied cohabitation, but interviews conducted by the IG with 18 people in 1989 "also disclosed that Mr. Burt was believed to have cohabited with Ms. Miller after separation from his previous wife and before remarriage in 1985." Despite the circumstantial evidence suggesting that security may have been compromised, no special inquiry was made on the grounds that she was not a foreign national. It is not Mr. Burt's relationship, per se, that is in question, but the issue of compromising security information. It is plain, therefore, that an extensive social relationship with a journalist publishing classified data constitutes a legitimate cause for concern of a security risk. The apparent failure by both Mr. Burt and security officials to consider the security risk involved is an amazing collapse of security policy.

III. MR. BURT'S DENIAL THAT HE LEAKED INFORMATION

Mr. Burt testified on May 5 that he never leaked any classified information. In the course of a lengthy exchange, I asked the following:

"But what you are saying to me is just on occasion you may have escorted her to a dinner party and you never, never discussed any official business with her—never. Is that right?

"Ambassador BURT. That is correct."

Shortly after that exchange, I was visited by a former high official of government who alleged that he was present at a social occasion with Mr. Burt and Ms. Miller when Ms. Miller began discussing some highly classified information. According to this witness, when Mr. Burt realized that he was being compromised by this discussion in the presence of a third party, he became very angry and acted in a irresponsible manner. I have asked the State Department Inspector General to investigate this matter. No response was made on the issue.

IV. MR. BURT'S DISCLOSURE OF THE LIBYAN INTERCEPTS

Mr. Burt was Ambassador to the Federal Republic of Germany, he gave an interview on West German television after the bombing of the U.S. soldiers in the La Belle Disco in Berlin. In the course of this interview, he pointed the finger at Libya, making indirect references to U.S. ability to intercept and analyze Libyan coded communications pertaining to terrorism. This reference, and the consequent publicity did severe damage to U.S. sources and methods, and caused great consternation among members of the U.S. intelligence community. In order to protect the secret of our ability to intercept Libyan messages, even the lives of agents in place had been previously put at risk. Libya, alerted for the first time to the fact that we could decipher her codes, immediately changed equipment and procedures. According to The Philadelphia Inquirer, the government of Libya thereafter purchased and installed sophisticated Swiss cryptographic equipment to protect international communications from foreign interception.

As a result, our ability to obtain foreknowledge of terrorist bombing plans was severely restricted.

The Washington Post reported that Mr. Burt had been "reprimanded." In defense of Mr. Burt, some have held that President Reagan himself confirmed the details of the intercept a few days later. But by that time, the operation had been blown so completely by Mr. Burt that it was no longer a secret matter. Moreover, the President has the power to declassify any information he wishes to use; Mr. Burt did not have that authority.

The seriousness of the breach of security may be evaluated by the previous reference to 18 USC 798. In addition to the criminalization of disclosing classified information about cryptographic and communications devices, it also safeguards classified information.

(3) the communication intelligence activities of the United States or any foreign government; or

(4) obtained by the processes of communication intelligence from the communications of any foreign government, knowing the same to have been obtained by such processes. . . .

Although Mr. Burt's revelation of knowledge obtained from deciphering Libyan intercepts may or may not have been advertent, it was certainly a most serious matter. It must be judged in the light of his continuing pattern of indifference to prudent protection of sources and methods.

The State Department Inspector General and the Director of Central Intelligence and the Director of the National Security Agency were all asked about this episode. The Inspector General stated that he was unable to contact Lt. General Odom, the former Director of NSA. The CIA and NSA did not respond to my letters requesting information on this subject. [The letters are attached as Exhibit V.]

V. MR. BURT'S KNOWLEDGE OF SECURITY PROCEDURES

Although Mr. Burt testified that, if confirmed, he would institute stringent security procedures for the START delegation to Geneva, including mandatory briefings, written directives on security procedures, signed acknowledgments of having read the guidelines, and tough disciplinary action, including firing for repeat offenders, he also testified that he, himself, was unfamiliar with the espionage laws. I stated:

"In retrospect, do you feel that the person who gave you the information [about the top-secret CHALET satellite] was in violation of the espionage laws?

"Ambassador BURT. In retrospect?

"Senator HELMS. Yes.

"Ambassador BURT. Senator, I am not a lawyer. I have not looked at or studied, and you have just read this passage. I am not able to make an informed decision on that.

"Senator HELMS. Well, you have had a long time to think about it, because we sat up there on the third floor of the Capitol [in 1982], and then you gave testimony. You have had a while to think about this.

"But let me ask you this.

"Do you think that the furnishing and publication of classified material is in violation of the espionage laws under 18 USC 798?

"Ambassador BURT. I can't say. I just don't know the legal issues.

"Senator HELMS. All this time and you've never even thought about it. Right, Ambassador Burt: Well, I've never consulted with a lawyer on this issue. It did come up in my Senate confirmation extensively in 1982. I know it was discussed in this Committee. It was discussed in the Intelligence Committee. I was voted out of Committee and confirmed.

"Since that time, I have not followed up to examine the legal issues that you have raised today.

"Ambassador BURT. I am just not an expert on these espionage laws, so I——

"Senator HELMS. I don't ask you to be an expert. Do you have any feeling about it?

"Ambassador BURT. No. I don't know enough about the laws to——

"Senator HELMS. Oh, come on, Mr. Burt. I know this is a ticklish subject for you.

"Ambassador BURT. Senator, I have never read those laws, so I can't—you're asking me to say whether somebody has violated a law that I have never read. I'm not a lawyer."

Of course, everyone who receives a clearance for SCI must go through the exact same procedures as Mr. Burt proposes for the members of his START delegation, including a signed acknowledgment that the subject has been briefed on the espionage laws. Either Mr. Burt was not briefed, has forgotten that he was briefed, is being less than candid, or displays little interest in finding out what his obligations are under the espionage laws.

The fact is that every applicant for SCI must sign the following statement:

"I have read this Agreement carefully and my questions, if any, have been answered to my satisfaction. I acknowledge that the briefing officer has made available Sections 793, 794, 798, and 952 of Title 18, United States Code, and Executive Order 12065, as amended, so that I may read them at this time, if I so choose."

If Mr. Burt did not sign such a statement, why didn't he? If he did sign, did he read Sections 793, 794, 798 and 952 of Title 18, USC as made available to him? If he did not read them, why not? If he did read them, then did he mislead the committee when he testified that did not? Would it not be fair to conclude, then, that he furnished false information to the Congress? If Mr. Burt did not read the statutes, he is derelict in his duty; if he did read them, he is attempting to deceive the Committee. Whatever the answers to these questions, they must form part of Mr. Burt's continuing pattern of indifference to security procedures.

The State Department Inspector General has established that Mr. Burt signed six Se-

curity Nondisclosure Agreements containing the above language. These agreements are dated: January 29, 1981; March 2, 1981; July 21, 1982; April 25, 1985; September 6, 1985; and April 11, 1989.

VI. THE RELEVANCE OF MR. BURT'S LIFESTYLE

This indifference to prudent security procedures appears also to pertain to Mr. Burt's lifestyle. During the May 5 hearing, Mr. Burt was asked about reported instances of security reprimands for carelessness. By themselves, such instances may not be of overwhelming importance; but as part of the general picture, they increase the danger of a security risk. Mr. Burt admitted to one instance of leaving classified papers on a desk. He was asked about another purported case of a lost briefcase, but could not remember.

The Inspector General reported that Mr. Burt received the following three violations:

1. A top secret violation on February 4, 1983, regarding the briefcase incident noted above;

2. A confidential violation, dated May 6, 1986, for improper storage of classified information;

3. A secret violation, dated May 15, 1987, for improper storage of classified information.

Subsequently, on June 8, Assistant Secretary of State Janet G. Mullins wrote stating that Mr. Burt wished to "clarify the record of the hearing." I have already commented on the nature of the violation reported in the clarification. [The letter from Ms. Mullins, with Mr. Burt's statement appears as Exhibit VI.]

The IG report also reveals that marijuana was found by security personnel in Mr. Burt's residence in Bonn in January, 1986. When Mr. Burt was asked about this discovery, he stated that the drug was left behind by a guest. But Mr. Burt stated that he found the drug, but did not initially report it. Although no evidence of the use of illicit substances was found, Mr. Burt's explanation of the origin is uncorroborated. [An unclassified letter from the Inspector General is attached as Exhibit VII.]

VII. MR. BURT'S FAILURE TO REPORT AS REQUIRED BY LAW

Mr. President, while Mr. Burt's career suggest that he cares little for security precautions when dealing with the press, his record with regard to keeping classified information from Congress is untarnished. Although the Federal Republic of Germany was secretly warned over 100 times about lax procedures leading to prohibited arms proliferation—with no response from Germany—Mr. Burt neglected to inform Congress about his failure to get the German government to respond adequately.

During his hearing, Mr. Burt was questioned extensively about a published report that during the time he was Ambassador to the Federal Republic of Germany (FRG), the United States Government presented the FRG Government with over 100 complaints, known as "demarches," regarding FRG-based company exports of nuclear materials and equipment to Pakistan. According to the published report, the demarches ended up in the "wastebaskets" of responsible FRG officials. There seems to be no indication of a positive response to these demarches by the FRG Government nor does it appear that Mr. Burt took notice of the lack of response.

Section 602(c) of the Nuclear Non-Proliferation Act of 1978 requires the Department of State to "keep the Committees on Foreign Relations and Governmental Affairs of the Senate and the Committee on Foreign Affairs of the House of Representatives fully and currently informed with respect to (its) activities to carry out the purposes and policies of this Act and to otherwise prevent proliferation, and with respect to the current activities of foreign nations which are of significance from the proliferation standpoint."

In a written question, Mr. Burt was asked, "With regard to nuclear proliferation, please provide an opinion of counsel explaining why Congress was not notified [about the 100 demarches] as required under Section 602(c) of the Nuclear Non-Proliferation Act of 1978." Mr. Burt replied, "The Department has discharged this responsibility by offering regular briefings to the three committees on topics and developments of current concern in the field of nuclear proliferation." Mr. Burt's answer further states that these briefings covered "U.S. diplomatic efforts to have this [nuclear] procurement stopped."

On May 18, 1989, Senator John Glenn, Chairman of the Senate Governmental Affairs Committee, raised the issue of the 100 demarches with Undersecretary of State Bartholomew. Senator Glenn stated, "I certainly do not recall any number of demarches coming through that we have been informed at this end of the avenue [if] anything approaching 100 demarches just to one country, let alone all the other countries involved. So if we are to be kept fully and currently informed, let me just state here we have not been and we expect to be . . ."

The Minority staff of the Senate Foreign Relations Committee has made an extensive search of its files and records and can likewise find no record of any effort by Mr. Burt or the Department of State to inform the Committee of FRG nuclear exports to Pakistan as required by law.

Extensive Congressional testimony over a number of years has made it abundantly clear that during the 1980's, and probably before, FRG-based firms were the prime source of improper strategic exports to the Warsaw pact, as well as chemical/biological weapons equipment and missile technology to the Middle East, and finally, nuclear exports to India and Pakistan. As noted above, published reports suggest that the United States officially complained over 100 times about improper German exports to Pakistan alone. Counting complaints about all improper exports undoubtedly run into the hundreds. During the majority of this period, Mr. Burt has been one of the prime U.S. officials charged with diplomatic relations with the FRG, first as Assistant Secretary of State for European Affairs and later as Ambassador to the FRG.

The fact that Mr. Burt never took these improper exports seriously nor informed the Congress of the failure of the FRG Government to respond to our complaints raises serious doubts about his fitness for the position to which he has been nominated. Our chief nuclear arms negotiator will not be successful if his negotiating opponent knows that American officials will neither challenge him nor report intransigence to the Congress.

An Ambassador appointed by the President with the advice and consent of the Senate represents the President of the United States, who, in turn, has a duty to execute faithfully the laws of the United States. Does the record of Mr. Burt's conduct indicate a fidelity to the duty to protect communications intelligence of the United States? Does the record of Mr. Burt's denials of disclosure of classified information, and denials of even reading the statutes protecting intelligence information reflect truthfulness before the Foreign Relations Committee?

Until these matters are more satisfactorily explained and resolved, I must advise Members of the Senate to withhold the advice and consent to the appointment of Richard Reeves Burt to serve as Ambassador during his tenure as Head of the U.S. Arms Control delegation in Geneva.

EXHIBIT I—18 U.S.C. 798

§ 798. Disclosure of classified information

(a) Whoever knowingly and willfully communicates, furnished, transmits, or otherwise makes available to an unauthorized person, or publishes, or uses in any manner prejudicial to the safety or interest of the United States or for the benefit of any foreign government to the detriment of the United States any classified information—

(1) concerning the nature, preparation, or use of any code, cipher, or cryptographic system of the United States or any foreign government; or

(2) concerning the design, construction, use, maintenance, or repair of any device, apparatus, or appliance used or prepared or planned for use by the United States or any foreign government for cryptographic or communication intelligence purposes; or

(3) concerning the communication intelligence activities of the United States or any foreign government; or

(4) obtained by the processes of communication intelligence from the communications of any foreign government, knowing the same to have been obtained by such processes—

Shall be fined not more than $10,000 or imprisoned not more than ten years, or both.

(b) As used in subsection (a) of this section—

The term "classified information" means information which, at the time of a violation of this section, is, for reasons of national security, specifically designated by a United States Government Agency for limited or restricted dissemination or distribution;

The terms "code," "cipher," and "cryptographic system" include in their meanings, in addition to their usual meanings, any method of secret writing and any mechanical or electrical device or method used for the purpose of disguising or concealing the contents, significance, or meanings of communications;

The term "foreign government" includes in its meaning any person or persons acting or purporting to act for or on behalf of any faction, party, department, agency, bureau, or military force of or within a foreign country, or for or on behalf of any government or any person or persons purporting to act as a government within a foreign country, whether or not such government is recognized by the United States;

The term "communication intelligence" means all procedures and methods used in the interception of communications and the obtaining of information from such communications by other than the intended recipients;

The term "unauthorized person" means any person who, or agency which, is not authorized to receive information of the categories set forth in subsection (a) of this sec-

tion, by the President, or by the head of a department or agency of the United States Government which is expressly designated by the President to engage in communication intelligence activities for the United States.

(c) Nothing in this section shall prohibit the furnishing, upon lawful demand, of information to any regularly constituted committee of the Senate or House of Representative of the United States of America, or joint committee thereof.

(Added Oct. 31, 1951, ch 665, § 24(a), 65 Stat. 719.)

EXHIBIT II

U.S. PLANS NEW WAY TO CHECK SOVIET MISSILE TESTS

(By Richard Burt)

WASHINGTON, June 24.—The Carter Administration, concerned that Turkey might not allow U-3 reconnaissance planes over its territory, is preparing an alternative plan for verifying the new strategic arms treaty with Moscow, officials here said today.

The plan, they said, calls for several improvements in existing methods for monitoring Soviet missile tests, including the upgrading of an electronic listening post in Norway and the use of a satellite that is now programmed to collect other information.

Although the officials acknowledged that the use of specially designed U-2R planes flying over Turkey offered the best substitute for listening stations lost to Iran early this year, they asserted that the alternative improvements to other intelligence systems would enable the Administration to insure that Moscow did not exceed restrictions on missile modernization contained in the arms treaty.

A NEW SATELLITE BY 1963

They said that as early as 1963, the United States would possess a new satellite that could monitor almost all the missile test data formerly obtained by the monitoring sites in Iran.

State Department officials pointed to a statement yesterday by the Turkish Foreign Ministry indicating the the U-2 might still be permitted to fly over the country. Although a ranking Turkish Army officer said earlier this week that the flights could not be permitted "under present circumstances," a Foreign Ministry spokesman said the Government had not reached a final decision.

Despite this, critics of the arms accord on Capital Hill maintained that, with or without the surveillance flights, the United States could not verify restrictions against increases in size and payload of existing missiles.

BIG SOVIET EXPLOSION DETECTED

The verification controversy heated up this week with reports that the Soviet Union conducted an underground nuclear test last Saturday that might have exceeded limits laid down in an accord Moscow signed in 1974 with Washington.

The accord put a ceiling of 150 kilotons on the size of such nuclear explosions. Some American experts believe that the latest Soviet test might have been twice that size. One kiloton is equivalent to 1,000 tons of TNT.

Although it is unclear whether the Soviet test exceeded the 150 kiloton limit, officials said the Administration has asked Moscow to explain the possible infraction.

Meanwhile, officials said that plans were under way at the Central Intelligence Agency and in the Pentagon to collect missile test data previously obtained by the stations in Iran by using a satellite, codenamed Chalet, and a large radio intercept antenna in Norway.

SIGNALS CAN BE INTERCEPTED

They said both the satellite and the ground station in Norway could be adjusted to pick up some of the radio signals broadcast by Soviet missiles during flight tests. The telemetry signals provide data on missile performance characteristics and are thus considered vital to verifying the treaty provisions concerning modernization of weapons.

Earlier, officials said, the possibility of building a monitoring station in Pakistan similar to those lost in Iran, had been considered by the Administration. The proposal was turned down after informal contacts with Pakistani authorities indicated that it would not be accepted.

A proposal for using high-altitude rockets launched from ships in the Indian Ocean to monitor missile test signals was also dismissed as technically unfeasible, they said.

CRITICS SEE HOLES IN DETECTION

Congressional critics of the proposal to rely on the Norwegian station and satellites for verification contended that these systems would only be able to pick up a small fraction of the missile telemetry obtained previously at the Iranian sites. They said that a major function of the Iran stations had been to collect missile data transmitted during the first 60 seconds of a test launch and that this data could not be collected from Norway or from existing systems in space.

Pentagon officials said that for Moscow to build a new missile undetected, it would have to shield 20 or so test launches from American surveillance systems for more than a year. They contended that modest improvements to existing reconnaissance capabilities ruled out the possibility of a large scale covert program of this sort.

EXHIBIT III

[From the New York Times, July 20, 1982]

U.S. SAID TO DECIDE AGAINST NEW TALKS TO BAN ALL A-TESTS

(By Judith Miller)

WASHINGTON, July 19.—President Reagan decided today not to resume negotiations on a comprehensive ban on nuclear testing, according to Administration and Congressional officials.

The talks with Britain and the Soviet Union that were aimed at ending underground tests on less than 150 kilotons—the only testing now permissible under previously negotiated treaties—have been suspended since 1980.

The decision not to try to make the test ban a total one was reportedly made today at a National Security Council meeting, and, according to the officials, it was made because of the doubts of some members of the Administration about the verifiability of a comprehensive ban and because of the need to keep testing new nuclear weapons.

The White House declined to comment on the meeting today.

THE SPREAD OF NUCLEAR ARMS

The decision not to resume negotiations on a total test ban has no bearing on the talks in Geneva between the Soviet Union and the United States to reduce strategic and intermediate-range nuclear weapons, according to Administration officials. Nor does it reverse the nation's previous commitment to refrain from nuclear testing above ground in accordance with a treaty signed in 1963, they said.

Officials said the Administration was not ruling out the goal of a total nuclear ban at some other time but stressed that, at present, it did not seem to be in the best interests of the United States.

Arms control advocates have long maintained that a comprehensive test ban is central to preventing the spread of nuclear weapons. They argue that, unless the superpowers are at least prepared to ban their nuclear testing programs, there is little incentive for other countries to give up atomic development programs.

CONCERN OVER ADVERSE REACTION

The decision not to resume the test ban talks seems in accord with other Reagan Administration actions of recent months that take a hard line toward the Soviet Union. The Administration apparently wanted to keep its decision secret because it was afraid of adverse reaction in the Soviet Union and among American allies and developing countries.

Every Administration since that of John F. Kennedy has voiced a commitment to negotiating a comprehensive test ban. And few outside of Government even knew that a policy debate was scheduled, although a review of nuclear testing policy had been going on for almost a year and a half. Officials declined to say why the issue was discussed and decided at this time.

At the National Security Council meeting, Mr. Reagan also reportedly discussed whether to continue to observe the underground testing limitations of less than 150 kilotons that are contained in two previously negotiated treaties. Officials said that representatives of the Departments of Energy and Defense had urged Mr. Reagan to press the Soviet Union for negotiations to strengthen verification measures provided for in the two treaties, but there were varying accounts of what course the President chose.

It was not clear whether the United States would continue to participate in the United Nations Committee on Disarmament, a 40-nation group that is also negotiating on a test ban. The tripartite talks are separate, but are related to the United Nations effort.

Nuclear tests above ground, under water and in outer space were barred in 1963 in an agreement signed by the United States, the Soviet Union and Britain and later by 120 other countries.

In 1974, the United States and the Soviet Union agreed on a Threshold Test Ban Treaty, which limited all underground nuclear tests to 150 kilotons or about 10 times the explosive power of the bomb dropped on Hiroshima. A subsequent treaty, the Peaceful Nuclear, was signed in 1976. This accord banned nuclear explosions greater than 150 kilotons for "peaceful purposes," such as mining or excavations. Although both nations claim to have abided by the limitations since then, the Senate has not approved either treaty.

The tripartite negotiations on a comprehensive ban have been under way since 1977, and former Carter Administration officials said that considerable progress was made toward an agreement to ban all testing of nuclear weapons during the 12 negotiating sessions in Geneva. But in November 1980, the negotiations recessed with the United States and the Soviet Union still divided over provisions concerning how compliance with the ban would be verified.

Later that year, President Carter postponed a final effort to negotiate a comprehensive test ban until the second strategic arms limitation agreement being negotiated with the Soviet Union was concluded, partly because of disagreement among his advisers over the merits of a comprehensive treaty. Since then, the talks have been suspended.

A Reagan Administration interagency group has been reviewing the comprehensive test ban proposal and the two test limitation agreements for more than a year.

"VITAL TO SECURITY"

Recently, the group decided unanimously to recommend to President Reagan that he not resume talks on the comprehensive test ban. Representatives from the Arms Control and Disarmament Agency and from the Departments of State, Energy and Defense agreed that underground testing was "vital to the security of the United States" in order to maintain confidence in the nation's nuclear deterrent, according to administration officials.

Specifically, participants were concerned that if the Administration was not able to test weapons from its existing stockpile, confidence in the reliability of those weapons would be eroded, officals said. In addition, the Administration is developing new nuclear weapons, such as the MX land-based and Trident II sea-based missiles, and wants to be able to test new nuclear warheads.

Another concern, the officials said, was insufficient confidence in the nation's ability to verify Soviet compliance with a total test ban. A number of experts believe that it would be difficult to distinguish between natural events, such as earthquakes, and tests at low levels. They fear that the Soviet Union thus might try to get away with such tests.

At today's meeting, White House and Administration officials said there was disagreement over what, if anything, should be said publicly about the nuclear testing policy. One official said the Departments of Defense and Energy initially favored issuing a public statement that some testing would be required as long as the nation was dependent on nuclear forces for its defense.

This was opposed by officials from the Arms Control and Disarmament Agency and the State Department, an official recounted. Both agencies warned that such a statement would foster a perception that the Administration was not seriously committed to arms control initiatives.

[From the New York Times, Nov. 27, 1982]

U.S. DECISION NEAR ON NUCLEAR TESTS

(By Judith Miller)

WASHINGTON, November 27.—The Reagan Administration is close to approving a proposal that would require on site inspection as a condition for ratifying two treaties with the Soviet Union on underground nuclear testing, according to Administration officials.

President Reagan has not made a final decision, the officials said. But there is substantial agreement among officials working on the accords about the changes that the United States should propose to strengthen its ability to verify Soviet compliance with them.

Some supporters of the treaties, including Senator Charles H. Percy, Republican of Illinois, have urged the Administration not to go forward. He has privately warned that insisting on such inspection might prompt the Soviet Union to reject the treaties.

The Threshold Test Ban Treaty, signed in 1974, and the Peaceful Nuclear Explosions Treaty, signed in 1976, limit underground tests—the only kind permitted—to 150 kilotons, or about 10 times the explosive power of the bomb dropped on Hiroshima. Neither accord has been sent to the Senate, which must approve them by two-thirds majority before they take effect.

The Administration has said it would continue to abide by the limits of the threshold treaty, and the Soviet Union has made the same pledge. If one side withdrew from the threshold treaty, it would no longer be bound by the 150-kiloton limitation on its testing.

The effect of either side withdrawing from the peaceful explosions accord, which both nations say they have observed so far would probably be slight. When this accord was signed, few analysts on either side thought that many of these tests, ostensibly for "peaceful" nuclear purposes, would be conducted.

WANT BETTER MONITORING PROVISIONS

Last July the Administration decided to set aside efforts to negotiate a comprehensive ban on nuclear testing until verification measures of these two treaties could be improved. Officials argued at that time that the United States could not adequately verify that the Soviet Union was complying with either agreement, and that the treaties should not be approved until monitoring provisions had been upgraded.

Since then an interagency working group, composed of officials from the State, Defense, and Energy departments, the Arms Control and Disarmament Agency and the National Security Council staff has been weighing two major proposals designed to improve confidence in the nation's ability to determine that Moscow is not exceeding the testing ceiling. The National Security Council reviewed and approved the thrust of one of the proposals several weeks ago, the officials said.

They said that most agencies had now agreed on a proposal that would require the United States and the Soviet Union to provide advance notice of any test larger than 75 kilotons, or half the explosive power permitted by the treaties. Only the Defense Department is said to be insisting that the threshold for on-site inspection be lower. Defense Department officials have been pressing for on-site inspection for any test larger than 50 kilotons, officials said.

This disagreement has delayed final approval, officials noted.

Officials said that under the proposal being weighed, if the Soviet Union or the United States planned a test larger than 75 kilotons—50 kilotons, if the Defense Department prevails—the country planning the test would have to permit the other to collect geological samples from the test site. In addition, officials from the observing country would be permitted before the test to place, or watch the installment of its own monitoring equipment at the site.

LITTLE EFFECT ON TEST BAN

These changes would most substantially effect the Threshold Test Ban Treaty, which does not now permit any on-site inspection. The protocol of the treaty provides instead that once the accord is ratified, both countries shall provide the other with basic data about the geological composition of its testing sites, and provide information about the yield of an actual test from a site. These data are intended to permit the United States to adjust its monitoring equipment outside the Soviet Union and better estimate the yield of Soviet tests.

But Administration officials have said that the Soviet Union could misrepresent the data and the United States would not have independent means of determining their accuracy.

The Peaceful Nuclear Explosions Treaty, by contrast, provides for some advance notice of underground nuclear tests, some limited on-site American inspection and installation of measuring devices prior to such tests.

The draft proposals to upgrade verification provisions of the Threshold Test Ban have prompted criticism from the few legislators who have been told about them.

Senator Percy, chairman of the Foreign Relations Committee, argued in a recent letter to the White House that the proposed changes were overly restrictive and that the Soviet Union would be unlikely to accept them.

Mr. Percy, who could not be reached for comment, said in the letter that the changes, if proposed, might result in the unraveling of the treaties.

After the Administration's announcement in July, 30 senators co-sponsored a resolution urging Mr. Reagan to pursue comprehensive test ban talks with the Soviet Union and urging him to ratify the two treaties.

But Administration officials and some testing analysts insist that the monitoring provisions need improvement. They argue that on at least 11 occasions, the Soviet Union might have violated the 150-kiloton threshold.

[From the New York Times, Feb. 9, 1983]

U.S. PANEL URGES ON-SITE ATOM TEST CHECKS

(By Judith Miller)

WASHINGTON, Feb. 8.—An interagency panel has recommended to President Reagan that two nuclear testing treaties with the Soviet Union be revised to require on-site inspection before the accords are ratified, Administration officials said today.

President Reagan has made no decision on the treaties, signed in 1974 and 1976, but it is expected by early next week, the officials said.

They declined to say whether on-site inspection meant the presence of officials from the other country during large underground tests. But they said that, for large tests, those greater than the equivalent of 75 kilotons of TNT, the panel sought the collection of rock samples and on-site installation of monitoring devices to insure compliance.

According to the officials, the panel said there was no need to renegotiate the texts of the accords—the Threshold Test Ban Treaty of 1974 and the Peaceful Nuclear Explosions Treaty of 1976. The panel said the changes could be made by revising the protocols, or appendices, to the treaties.

Some officials fear that the Soviet Union may reject any changes. Senator Charles H. Percy, Republican of Illinois and chairman of the Senate Foreign Relations Committee, voiced concern to the White House in November that insisting on inspection might result in the unraveling of the treaties.

But the American officials said they believed Moscow would agree to renegotiate the protocols of the treaties, which limit underground tests—the only kind permitted since 1963—to 150 kilotons, or ten times the power of the bomb dropped on Hiroshima.

In July, the Administration decided to set aside efforts to negotiate a comprehensive ban on nuclear testing until the verification provisions of the two previous treaties could be improved. If agreement can be reached, the Administration would then submit the two treaties to the Senate for approval.

The proposed changes would affect mainly the Threshold Test Ban Treaty, which covers military explosions and does not now permit on-site inspection. Its protocol calls for a simple exchange of data about the geology of test sites and about the explosive power of tests. The data are used to adjust monitoring devices outside the testing country to insure more accurate measurements.

Critics of the Administration's decision to strengthen verification contend that such an exchange of data would improve American ability to detect any Soviet violations of the threshold.

But Administration officials said that these data would not be sufficient and that independent checks were needed.

The Peaceful Nuclear Explosions Treaty provides for advance notice of explosions, limited on-site inspection and installation of measuring devices before certain explosions. When the accord was signed, it was not expected that many such explosions, ostensibly for peaceful purposes, would be conducted. But the United States Government panel has also recommended some strengthening of verification provisions in this treaty's protocol.

The panel, made up of representives from the State, Defense and Energy Departments, the Arms Control and Disarmament Agency and the National Security Council staff, first made its recommendations in October. But the Defense Department pressed for a lower threshold requiring one-site inspection. And Energy Department officials responsible for American nuclear tests resisted the recommendations because they were concerned about on-site inspection by Soviet officials.

One official also attributed the delay to "normal bureaucratic inertia."

The White House began to focus on the treaties, officials said, when Senator Percy signaled his frustration with the delays. He said last week that he would not schedule a vote on the nomination of Kenneth L. Adelman as head of the Arms Control and Disarmament Agency until the Administration indicated its intentions on the treaties.

[From the New York Times, Mar. 29, 1981]

U.S. STUDY DISCOUNTS SOVIET TERROR ROLE

(By Judith Miller)

WASHINGTON, March 28.—A draft report produced by the Central Intelligence Agency has concluded that there is insufficient evidence to substantiate administration charges that the Soviet Union is directly helping to foment international terrorism, Congressional and Administration sources said today.

William J. Casey, Director of Central Intelligence has asked his analysts, the sources said, to review their conclusions, given the substantial opposition to the report from other agencies.

The draft estimate, produced by the C.I.A.'s National Foreign Assessments Center, has stirred debate within Administration foreign policy circles, as foreign affairs spokesmen have publicly accused the Soviet Union of training, equipping, and financing international terrorist groups.

The review of the draft estimate has once again raised questions about the relationship between intelligence officials and policy makers, with some C.I.A. officials concerned that the agency is coming under pressure to tailor its analysis to fit the policy views of the Administration.

CHARGES IN LAST ADMINISTRATION

Similar charges were made during the Carter Administration and resulted in frequently bitter exchanges between policy makers and intelligence officials.

Bruce C. Clark, who heads the agency's assessments, or analysis unit, is retiring from the C.I.A. in April, in what officials said was a personal decision unrelated to the dispute over the intelligence estimate on terrorism.

One official said that a successor had not been named, but another indicated that Mr. Clark's successor would be the current director of the agency's operations unit, John McMahon.

The special national intelligence estimate on terrorism was begun soon after the Administration took office, officials said. Secretary of State Alexander M. Haig Jr. said on Jan. 28 in his first news conference that the Soviet Union, as part of a "conscious policy," undertook the "training, funding and equipping" of international terrorists.

The Administration has subsequently said that combatting international terrorism is one of its key foreign policy objectives.

"AMPLE EVIDENCE" ON SOVIET ROLE

In addition, Richard V. Allen, President Reagan's national security adviser, said in an interview with ABC News this week that "ample evidence" had been accumulated to demonstrate the Soviet Union's involvement in international terrorism Mr. Allen also said that the Soviet Union was "probably" supporting the Palestine Liberation Organization, which he said must be identified as a terrorist organization, through financial assistance and through support of its "main aims."

Finally, Mr. Allen concluded that Israeli air raids into southern Lebanon should be generally recognized as a "hot pursuit of a sort and therefore, justified."

Officials said that the draft estimate contained some factual evidence to support charges that the Soviet Union was directly aiding and abetting terrorist groups, but that in many instances that evidence of such involvement was either murky or nonexistent.

The estimate, which was circulated for comment to the State Department, National Security Council, Defense Intelligence Agency, and the National Security Agency, stirred angry debate and response.

DEFINING "TERRORISM" A PROBLEM

Some officials described the dispute as "definitional," that is, that agency officials found it difficult to agree on a common working definition of what constitutes a terrorist group.

Officials from the Defense Intelligence Agency criticized the document because, they said, the facts it contained did not support what one official termed the agency's "weasel-worded" conclusion that evidence was contradictory on the extent to which the Soviet Union could be regarded as a conscious principle agent of terrorism.

Soon after the draft document was circulated and began generating comment, Mr. Casey asked to review the report. After reading the estimate, he asked that the estimate be reviewed.

"That's really the way the process is supposed to work," said one knowledgeable official. "The estimate is supposed to reflect the views of other agencies and it's not unusual that it would be restudied and rewritten after the agencies have commented."

Other Administration and Congressional officials, however, voiced concern that the agency was once again being asked to tailor its views to fit the public pronouncements of senior Administration officials.

"There would not have been a review if the estimate's conclusions had totally supported the Administration's charges," the official said.

[From the New York Times, Jan. 24, 1982]

UNITED STATES SAYS PAKISTAN'S NUCLEAR POTENTIAL IS GROWING

(By Judith Miller)

WASHINGTON, January 23.—An intelligence report has concluded that Pakistan will be able to detonate a nuclear device within the next three years, but is not likely to do so, according to Administration and Congressional officials.

This conclusion is contained in an analysis, known as "Special National Intelligence Estimate 31-81," prepared by the Central Intelligence Agency and completed last month.

Intelligence officials assert that Pakistan's reticence to conduct an atomic test stems partly from President Mohammad Zia ul-Haq's unwillingness to jeopardize the Reagan Administration's six-year, $3.2 billion military and economic aid program.

The study also contends that Pakistan is likely to continue developing and stockpiling fissile material that could be used in a nuclear device. Continued development of Pakistan's nuclear program, analysts argue, is likely to prompt increasing suspicion and hostility from India. As a result, according to the report, Pakistan could face a growing threat of a pre-emptive strike by India against its nuclear installations by the end of this year.

India and Pakistan will hold talks in New Delhi next Friday on a security pact. Foreign Minister Agna Shahi of Pakistan is expected to discuss proposals for a "nuclear-free zone" in Southwest Asia with his Indian counterpart, P. V. Narasimha Rao.

"IRREGULARITIES" REPORTED

The discussions are being closely followed by officials at the International Atomic Energy Agency, based in Vienna, which monitors nuclear plants. The agency has been pressing Pakistan unsuccessfully for several months to permit the installation of additional cameras and measuring devices to improve safeguards at Pakistan's 135-megawatt nuclear reactor, near Karachi.

The agency made its request after it detected "anomalies" and "irregularities" at the reactor, which is capable of producing plutonium for atomic weapons. There is no evidence that Pakistan has been diverting fuel from its civilian reactor for nonpeaceful purposes. But the agency expressed concern at a private meeting last September that the current monitoring arrangements were no longer adequate, given Pakistan's ability to produce its own nuclear fuel.

The India-Pakistan talks and the agency's effort to improve safeguards are of concern to the Reagan Administration, which persuaded Congress last month to approve $100 million in aid for Pakistan, a downpayment on the six-year program. In addition, the United States is selling Pakistan 40 F-16 fighter planes on an accelerated schedule. The Administration says Pakistan needs the

planes to help withstand Soviet pressures from neighboring Afghanistan.

Pakistan had previously been barred from receiving American aid by a law that prohibits assistance to countries that pursue nuclear weapon programs. Congress suspended aid in 1979 on the basis of evidence that Pakistan had established a worldwide network of purchasing agents, including bogus companies intelligence operatives, to obtain components for a uranium centrifuge enrichment plant that could be used to make fuel for weapons.

INDIA DETONATED DEVICE IN 1974

India detonated an atomic device in 1974, but maintained that its test was a "peaceful nuclear explosion," a distinction the United States does not accept.

The Reagan Administration has argued that Pakistan can only be dissuaded from conducting a nuclear test if it would jeopardize a strong security relationship with the United States. The new estimate tends to support this claim.

The estimate's conclusion is privately disputed by some foreign policy analysts, who doubt that Pakistan will be willing to forego a demonstrable nuclear weapons option, in light of the previous test by India.

[From The New York Times, June 21, 1982]

EFFORT TO HALT SPREAD OF A-ARMS SAID TO FALTER

(By Judith Miller)

WASHINGTON, June 20.—United States officials and nuclear policy specialists fear that they may be losing a 35-year-old battle to curb the spread of nuclear weapons.

Critics of the Reagan Administration say the White House has placed insufficient emphasis on stopping nuclear proliferation. A policy put forth in a paper approved last month by President Reagan, they argue, will lead to increased distribution of plutonium, a material used in nuclear weapons, which will undermine efforts to slow the spread of atomic arms.

Administration officials deny that this will be the effect of the policy. But officials and private analysts agree that efforts to discourage the spread of nuclear arms have been severely complicated by growing international and regional tensions that put pressure on nations such as Israel and Argentina to develop and test atomic devices.

Robert H. Kupperman, a nuclear specialist at Georgetown University's Center for Strategic and International Studies, said with reference to the Israeli invasion of Lebanon and the British-Argentine fighting in the Falklands:

"We had better start thinking not just about how to stop nations from getting nuclear weapons, but how to stop them from using the weapons they will inevitably get."

"The emergence of some new nuclear powers is unavoidable," concluded Lewis A. Dunn in a book published soon after he joined the Administration as special assistant to Under Secretary of State Richard T. Kennedy, a central figure in nuclear policy matters.

Many nuclear specialists have increasingly begun to focus on "managing" a world in which many nations have nuclear weapons, rather than on preventing the spread of the weapons.

But the Reagan Administration remains officially committed to preventing the spread. In Senate testimony last month, Mr. Kennedy called this a "fundamental commitment."

Toward that goal, the Administration has emphasized measures to allay political and military security concerns of countries and to enhance regional stability.

U.N. AIDE BACKS U.S. STAND

This approach has been criticized by several Congressional nuclear policy specialists. But it has been warmly endorsed by, among others, Hans Blix, director general of the International Atomic Energy Agency, the United Nations organization in Vienna that promotes atomic energy and monitors nuclear facilities to verify that they are not being used for military purposes.

Mr. Blix has repeatedly voiced concern that India, Israel, Pakistan and South Africa refused to sign the 1970 treaty that became the cornerstone of efforts to halt the spread of nuclear weapons.

"The alarm bells are ringing loud and clear with respect to these four," Mr. Blix said early this year.

Under the treaty, 116 nations have forsworn nuclear weapons; 45 have not.

CAUSES FOR NUCLEAR WORRY

Nuclear policy specialists say these other alarms are sounding, if somewhat more softly:

No country capable of developing atomic weapons has acceded to the treaty in the last five years. Switzerland was the most recent.

The International Atomic Energy Agency has become increasingly polarized and politicized, as have many other United Nations organizations. Some Government analysts fear that growing political confrontations between Western industrialized countries and developing nations could eventually undermine the agency's system of international safeguards, such as inspections.

Israel's attack on an Iraqi research reactor a year ago weakened the International Atomic Energy Agency's ability to safeguard nuclear facilities ostensibly designed for peaceful purposes. The air strike touched off a debate on whether the agency was capable of quickly detecting a diversion of nuclear material from a facility. The dispute has further shaken international confidence in the agency.

A sagging demand for energy has triggered a slump in sales of nuclear reactors and a decline in the growth of nuclear power. This, in turn, has increased strains on the international system of export controls aimed at slowing the spread of sensitive technology to countries that might be trying to develop nuclear weapons.

Growing sophistication of terrorist groups and a spread of "mininukes" has increased the threat of nuclear terrorism, Administration officials say. The Central Intelligence Agency has concluded, for example, that in Europe there is a "moderate likelihood" that there would be an attempt to damage a nuclear weapons storage facility, to attack a weapon in transit, to raid a nuclear power plant or to carry out blackmail by threatening to use a nuclear weapon or by pretending to have one.

Lack of progress on arms control agreements between the United States and the Soviet Union has led to a surge in nuclear weapons arsenals and destructive ability. This, in turn, encourages nonnuclear nations to develop a nuclear ability, Mr. Blix and other specialists contend.

U.S. CONCERNED BY ARGENTINA

The conflict over the Falkland Islands focused Administration concern on Argentina. While there have been no startlingly new developments in Argentina's nuclear program, now in its 31st year, some Administration officials fear that the conflict with Britain may prompt Argentina to build a nuclear bomb, especially since the Falkland surrender caused a loss of face for Buenos Aires.

The Central Intelligence Agency has estimated that Argentina could build an atomic bomb in three to five years if it chose to do so. A new report prepared by the Congressional Research Service concludes that Argentina would be able to test a nuclear explosive by the mid-1980's, "if it is willing to run the risks of getting caught at diverting safeguarded materials or of abrogating its safeguards agreements." But the report also states that Argentina could not produce an arsenal of weapons until the 1990's at the earliest.

Argentina poses a special problem not only because it has declined to sign the nonproliferation treaty or to submit all of its nuclear facilities to inspection, but also because it is building what is known as an "independent fuel cycle"—the ability to produce everything required for nuclear power. This would give Argentina the ability to make nuclear weapons quickly, without violating any safeguards agreements.

BOMB HELPS WEAK FEEL STRONG

"Nuclear tests are political statements, a country's way of showing that it has hair on its chest," said Warren H. Donnelly, a senior specialist at the Library of Congress and author of the report on Argentina. "So naturally there is concern about the growth of pressures that could lead a country like Argentina to prove that it is tough."

Mr. Donnelly and other specialists are also concerned about Argentina's proclaimed intention to export plutonium, which arms control officials assert would immeasurably complicate efforts to stop the spread of atomic weapons and would increase the threat of nuclear terrorism. The atomic weapons material is a man-made substance that is extremely toxic.

The Reagan Administration is also concerned about China's nuclear export policies. Intelligence reports indicate that China—a nuclear power that has not signed the treaty or joined the International Atomic Energy Agency—has attempted to sell through third parties heavy water to Argentina, and even to India despite the two countries' border conflicts.

Officials said that China's unwillingness to demand inspection of its nuclear exports is a major obstacle to concluding a nuclear cooperation agreement with the United States, which has been the subject of low-level diplomatic discussions between the two Governments.

PAKISTAN RESISTS INSPECTION

Another source of Administration concern is Pakistan, which has been resisting for more than six months the International Atomic Energy Agency's requests for improvements in inspection arrangements. The agency has said it can no longer assure that Pakistan is not diverting nuclear material for military purposes until it agrees to the changes.

The C.I.A. concluded recently that while Pakistan would be able to test an atomic device within three years, it was not likely to do so. Intelligence officials concluded in the estimate last December that the Reagan Administration's six-year, $3.2 billion military and economic aid program had made Pakistan reluctant to test an atomic device.

Several Administration officials consider Pakistan a key test of President Reagan's

approach to stemming the spread of nuclear weapons. Other analysts, however, say the Administration's emphasis on thwarting the detonation of nuclear devices is misplaced.

ISRAELI TESTS CALLED UNNEEDED

"Israel, which is only a screwdriver away from a bomb, is so sophisticated and has access to such good information that it doesn't need to test," asserted one Administration official.

India, which tested a device in 1974, has also aroused concern. The Administration has been trying to terminate a 1963 agreement to supply fuel for India's Tarapur nuclear power plant, while persuading the Indians, to adhere to international inspection of the reactor and fuel already shipped.

But Robert F. Goheen, Ambassador to India until 1980, said recently that Indian and American diplomats had told him that India was preparing to transfer the spent, or used fuel to a nearby plant for reprocessing, in apparent violation of its agreement.

SOUTH AFRICA A PROBLEM

South Africa is also viewed as a major problem, but last month the Administration adopted a more flexible policy that would allow the United States to increase sales of nuclear materials to Pretoria.

Senator Charles H. Percy, Republican of Illinois and chairman of the Foreign Relations Committee, said last month that nuclear nonproliferation was "slipping among our foreign policy priorities" and that the world appeared on the verge of returning to "nuclear laissez-faire" by major suppliers.

Some members of Congress have strongly criticized the Administration for issuing a new policy paper that permits advanced countries to have more control over the reprocessing of American-supplied fuel.

They have also chided the Administration for considering the sale of centrifuge enrichment technology to Australia and for a vague offer to Mexico of assistance with research relating to reprocessing—the separation of uranium and plutonium from spent nuclear fuel.

The Carter Administration tried to discourage both those technologies, arguing that they produce materials that can easily be used in weapons, thereby complicating efforts to curb the spread of weapons.

By contrast, the Reagan Administration has said the United States would not inhibit reprocessing, enrichment or development of the breeder reactor which produces more plutonium than it consumes, in countries with advanced nuclear programs that do not pose a weapons risk.

Last month Under Secretary Kennedy said this policy was more selective and a "realistic recognition" that Japan and other European countries believed that these activities were required for energy security. But he stressed that the Administration was not "encouraging" a spread of the sensitive technology.

These explanations have not persuaded the strongest Congressional skeptics. Three Democrats—Senator Gary Hart of Colorado, Representative Jonathan B. Bingham of the Bronx and Representative Richard L. Ottinger of Westchester—have introduced legislation to tighten several major loopholes in nuclear export laws.

QUIET DIPLOMACY STRESSED

Mr. Kennedy predicted last month that the Administration's "quiet, diplomatic steps and measured technical approach" had the best chance of achieving nonproliferation objectives.

In some respects, the debate over nonproliferation reflects a longstanding disagreement about the role of atomic energy.

Some critics maintain that because all nuclear power plants are potential atom-bomb factories, the only effective solution to the spread of such weapons is to phase out all nuclear development, both at home and for export.

Proponents of nuclear power respond that it is the only viable source of power for many countries and that proliferation can be controlled through diplomacy, international safeguards and tight export controls focused on a few nations.

[From the New York Times, Oct. 2, 1982]

U.S. SEEKS TIGHTER CURBS ON EQUIPMENT FOR SOVIET

(By Judith Miller)

WASHINGTON, October 1.—The Reagan Administration, in its broadest effort yet to slow the sale of technology to the Soviet Union, is seeking to toughen the system that the United States and its allies use to control the flow of equipment to Communist countries, according to Defense and Commerce Department officials.

The United States is expected to propose more than 100 changes, including many additions, in the list of controlled exports at a meeting in Paris next week of the Coordinating Committee for Exports to Communist Areas, known as Cocom. It will also press for a substantial increase in Cocom's budget and expansion of its enforcement abilities.

The committee, founded in the late 1940's, includes the United States, its allies in the North Atlantic Treaty Organization except Iceland, and Japan.

Officials said the American effort to update the list of controlled goods was intended to step up previous efforts to deprive the Soviet Union of products that could be bought stated civilian uses but also had military applications. Such items in the current list include computers and electronic equipment with clear military applications.

"There is hardly a major modern Soviet weapons system in which American or European technology has not been used," an American official said.

On Thursday a panel of experts appointed by the National Academy of Sciences concluded that there had been "substantial and serious" leakage of American technology to the Soviet Union, a "significant portion" of which is "damaging to national security." In its report the panel said the "damaging transfers" had occurred through legal sales to the Soviet Union, through illegal sales of proscribed products, through third world countries and through a "highly organized espionage operation."

The proposed strengthening of Cocom also appears to be indirectly related to the sanctions directed against suppliers for the new natural gas pipeline being built from Siberia to Western Europe.

Officials said the tightened export controls were needed for strategic rather than political reasons and had no direct bearing on the United States' pipeline sanctions. But a Defense Department official said, "We would be more relaxed about the pipeline if we had a strict system of export controls in place."

The proposals are expected to meet resistance from the Western allies. They view such restraints as a form of economic warfare, of which they disapprove as a matter of principle.

U.S. SCREENING MORE RIGOROUS

Commerce Department officials deny that this is their intent. They say that the present system is not only inadequate but also discriminates against American companies, whose exports are more scrupulously screened than Western European or Japanese exports.

The United States is expected to press, for example, for greater restrictions on semiconductors, the microelectronic devices used in everything from pocket calculators to computers and advanced military systems. A Defense Department official said the Soviet Union had about six production lines for integrated circuits, all of which use Western technology that was sometimes illicitly obtained.

A West German intelligence report published Tuesday said the Soviet-bloc countries had intensified efforts to breach Western embargoes on the sale of advanced technology with a military potential. The report, by the Office for the Protection of the Constitution, Bonn's domestic intelligence agency, says Soviet success in evading the embargoes resulted in vast savings on research and development.

BOARD APPLICATION IN MILITARY

This conclusion is echoed by American officials, who say that about 90 percent of the technology bought in the West is used by the Soviet military.

The United States is also expected to press for acceptance of a proposal by James L. Buckley, the State Department counselor, who suggested several changes in the monitoring plan.

These changes would include a ban on the sale of floating dry docks for ship repair and construction. Intelligence reports show that the Soviet Union recently used a dry dock purchased from Japan ostensibly for peaceful purposes to build an aircraft carrier, officials said.

Defense Department officials said the United States was also asking that robotics technology and silicon, the basic building blocks material for for semiconductors, be added to the control list.

EXHIBIT IV

DIRECTOR OF CENTRAL INTELLIGENCE DIRECTIVE 1/14 [1]

MINIMUM PERSONNEL SECURITY STANDARDS AND PROCEDURES GOVERNING ELIGIBILITY FOR ACCESS TO SENSITIVE COMPARTMENTED INFORMATION

(Effective 27 November 1984)

Pursuant to the provisions of Section 102 of the National Security Act of 1947, and Executive Order 12333, the following minimum personnel security standards, procedures, and continuing security programs are hereby established for all United States Government civilian and military personnel, consultants, contractors, employees of contractors, and other individuals who require access to Sensitive Compartmented Information (hereinafter referred to as SCI). The standards, procedures, and programs established herein are minimum, and the departments and agencies may establish such additional security steps as may be deemed necessary and appropriate to ensure that effective security is maintained.

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[1] This directive supersedes DCID 1/14, effective 1 September 1983.

1. Definitions

a. *Intelligence Community*—those United States Government organizations and activities identified in Executive Order 12333 or successor orders as making up such Community.

b. *Senstitive Compartmented Information* (SCI)—all information and materials requiring special Community controls indicating restricted handling within present and future Community intelligence collection programs and their end products. These special Community controls are formal systems of restricted access established to protect the sensitive aspects of sources and methods and analytical procedures of foreign intelligence programs. The term does not include Restricted Data as defined in Section II. Public Law 585, Atomic Energy Act of 1954, as amended.

c. *Senior Officials of the Intelligence Community* (SOICs)—for the purposes of this directive, SOICs are defined as the heads of organizations within the Intelligence Community, as defined by Executive Order 12333, or their designated representatives.

2. Purpose

The purpose of this directive is to enhance the security protection of SCI through the application of minimum security standards, procedures, and continuing security programs, and to facilitate the security certification process among Government departments and agencies.

3. Applicability

The provisions of this directive shall apply to all persons (other than elected officials of the United States Government, federal judges, and those individuals for whom the DCI makes a specific exception) without regard to civilian or military status, form of employment, official rank or position, or length of service.

4. General

a. Individuals who do not meet the minimum security criteria contained herein and who are, therefore, denied access to SCI shall not, solely for this reason, be considered ineligible for access to other classified information. Individuals whose access to SCI has been authorized as an exception granted in accordance with paragraph 6 below, shall not, solely for that reason, be considered eligible for access to other classified information.

b. The granting of access to SCI shall be controlled under the strictest application of the "need-to-know" principle, and in accordance with the personnel security standards and procedures set forth in this directive. In accordance with National Security Decision Directive Number 84 and the DCI Security Policy Manual for SCI Control Systems, signature of a DCI-authorized Nondisclosure Agreement which includes a provision for prepublication review is a condition of access to SCI.

5. Personnel Security Standards

Criteria for security approval of an individual on a need-to-know basis for access to SCI are:

a. The individual shall be stable, trustworthy, reliable, of excellent character, judgment, and discretion, and of unquestioned loyalty to the United States.

b. Except where there is a compelling need, and a determination has been made by competent authority as described in paragraph 6 below that every reasonable assurance has been obtained that under the circumstances the security risk is negligible:

(1) Both the individual and the member of his or her immediate family shall be U.S. citizens. For these purposes, "immediate family" includes the individual's spouse, parents, brothers, sisters, and children.[2]

(2) The members of the individual's immediate family and persons to whom he or she is bound by affection or obligation [3] should neither be subject to physical, mental, or other forms of duress by a foreign power, nor advocate the use of force or violence to overthrow the Government of the United States or the alteration of the form of Government of the United States by unconstitutional means.

6. Exceptions to Personnel Security Standards

The exceptions to paragraph 5.b.(1) or (2) above may be granted only by the SOIC of the appropriate organization or his designee unless such authority has been specifically delegated to the head of an office or organization as set forth in interdepartmental agreements. All exceptions granted will be common sense determinations based on all available information, shall be recorded by the organization making the exception. In those cases in which the individual has lived outside of the United States for a substantial period of his or her life, a thorough assessment of the adequacy of the investigation in terms of fulfillment of the minimum investigative requirements, and judicious review of the information therein, must be made before an exception is considered.

7. Investigative Requirements

a. The investigation conducted on an individual under consideration for access to SCI will be thorough and shall be designed to develop information as to whether the individual clearly meets the above Personnel Security Standards.

b. The investigation shall be accomplished through record checks and personal interviews of various sources by trained investigative personnel in order to establish affirmatively to the adjudicating agency complete continuity of identity to include birth, residences, education, employment, and military service. Where the circumstances of a case indicate, the investigation shall exceed the basic requirements set out below to ensure that those responsible for adjudicating access eligibility have in their possession all the relevant facts available.

c. The individual shall furnish a signed personal history statement, fingerprints of a quality acceptable to the Federal Bureau of Investigation and a signed release, as necessary, authorizing custodians of police, credit, education, and medical records, to provide record information to the investigative agency. Photographs of the individual shall also be obtained where additional corroboration of identity is required.

8. Minimum standards for the investigation are as follows:

a. Verification of date and place of birth and citizenship.

b. Check of the subversive and criminal files of the Federal Bureau of Investigation, including submission of fingerprint charts, and such other national agencies as are appropriate to the individual's background. An additional check of immigration and Naturalization Service records shall be conducted on those members of the individual's immediate family who are United States citizens other than by birth or who are resident aliens.

c. A check of appropriate police records covering all areas of the individual's residence, employment, and education in the U.S. throughout the most recent fifteen (15) years or since age eighteen, whichever is the shorter period.

d. Verification of the individual's financial status and credit habits through checks of appropriate credit institutions or, if such checks are not productive, through interviews with knowledgeable sources covering all areas of employment, residence, and education in the most recent seven (7) years.

e. Interviews with neighbors in the vicinity of all the individual's residences in excess of six (6) months throughout the most recent five (5) year period. This coverage shall be expanded where the investigation suggests the existence of some questionable behavioral pattern.

f. Confirmation of all employment during the past fifteen (15) years or since age eighteen, whichever is the shorter period, but in any event the most recent two (2) years. Personal interviews with supervisors and coworkers at places of employment covering the past ten (10) years shall be accomplished.

g. Verification of graduation or attendance at all institutions of higher learning within the past fifteen (15) years. If the individual did not attend an institution of higher learning, verification of graduation or attendance at last secondary school within the past ten (10) years.

h. Review of appropriate military records.

i. Interviews with a sufficient number of knowledgeable sources (a minimum of three developed during the course of the investigation) as necessary to provide a continuity, to the extent practicable, of the individual's activities and behavioral patterns over the past fifteen (15) years.

j. When employment, education, or residence has occurred in foreign countries (except for periods of less than one year for personnel on U.S. Government assignment and less than ninety days for other purposes) during the past fifteen (15) years or since age eighteen, a check of the records will be made at the Department of State and/ or other appropriate agencies. Efforts shall be made to develop sources, generally in the United States, who knew the individual overseas in order to cover significant employment, education or residence and to attempt to determine if any lasting foreign contacts or connections were established during this period. However, in all cases where an individual has worked or lived outside of the U.S. continuously for over one year, the investigation will be expanded to cover fully this period in his or her life through the use of such investigative assets and checks of record sources as may be available to the U.S. Government in the foreign country(ies) in which the individual resided.

k. When the individual has immediate family members or other persons to whom the individual is bound by affection or obligation in any of the situations described in subparagraph 5.b.(2) above, the investigation will include an interview of the individual by trained security, investigative, or counterintelligence personnel to ascertain the facts as they may relate to the individual's access eligibility.

l. In cases, the individual's spouse or cohabitant shall at a minimum be checked through the subversive and criminal files of the Federal Bureau of Investigation and

[2] The requirement for U.S. citizenship in this DCID also applies to a cohabitant.

[3] Including a cohabitant.

other national agencies as appropriate. When conditions indicate, additional investigation shall be conducted on the spouse of the individual and members of the immediate family (or other persons to whom the individual is bound by affection or obligation) to the extent necessary to permit a determination by the adjudicating agency that the provisions of paragraph 5 (Personnel Security Standards) above are met (see Annex A).

m. A personal interview of the individual may be conducted by trained security, investigative, or counterintelligence personnel to ensure full investigative coverage. A personal interview will be conducted when necessary to resolve any significant adverse information and/or inconsistencies developed during the investigation. In departments or agencies with policies sanctioning the use of the polygraph for personnel security purposes, the personal interview may include a polygraph examination, conducted by a qualified polygraph examiner.

9. Exceptions to Investigative Requirements

a. In exceptional cases, the SOIC or his designee may determine that it is necessary or advisable in the national interest to authorize access to SCI prior to completion of the fully prescribed investigation noted in paragraph 8 above. In this situation, such investigative checks as are immediately possible shall be made at once and shall include a personal interview of the individual by trained security, investigative, or counterintelligence personnel. Access in such cases shall be strictly controlled, and the fully prescribed investigation and final evaluation shall be completed at the earliest practicable moment. Certification to other organizations of individuals authorized access in such cases shall include explicit notification of the exception.

b. Where a previous investigation has been conducted within the past five (5) years which substantially meets the above minimum standards, it may serve as a basis for granting access approval provided a review of the personnel and security files does not reveal substantive changes in the individual's security eligibility. If a previous investigation does not substantially meet the minimum standards or if its more than five (5) years old, a current investigation shall be required by may be limited to that necessary to bring the individual's file up to date in accordance with the investigative requirements set forth in paragraph 8 above. Should new information be developed during the current investigation which bears unfavorably upon the individual's activities covered by the previous investigation, the current inquiries shall be expanded as necessary to develop full details of this information.

10. Periodic Reinvestigations

a. Programs shall be instituted requiring the periodic reinvestigation of personnel provided access to SCI. These reinvestigations shall be conducted on a five (5) year recurrent basis, but on a more frequent basis where the individual has shown some questionable behavioral pattern, his or her activities are otherwise suspect, or when deemed necessary by the SOIC concerned.

b. The scope of reinvestigations shall be determined by the SOIC concerned based on such considerations as the potential damage that might result from the individual's defection or willful compromise of SCI and the availability and probable effectiveness of other means to evaluate continually factors related to the individual's suitability for continued access. The individual shall furnish an up-to-date, signed personal history statement and signed releases as necessary. In all cases, the reinvestigation shall include, as a minimum, appropriate national agency checks, local agency checks, overseas checks where appropriate, credit checks, and a personal interview with the individual by trained investigative, security, or counterintelligence personnel when necessary to resolve significant adverse information and/or inconsistencies. When conditions so indicate, additional investigation may be conducted as determined by the SOIC or his designee.

11. Determination of Access Eligibility

The evaluation of the information developed by investigation on an individual's loyalty and suitability shall be accomplished under the cognizance of the SOIC concerned by analysts of broad knowledge, good judgment, and wide experience in personnel security and/or counterintelligence. When all other information developed on an individual is favorable, a minor investigative requirement which has not been met should not preclude favorable adjudication. In all evaluations the protection of the national interest is paramount. Any doubt concerning personnel having access to SCI should be resolved in favor of the national security and the access should be denied or revoked. The ultimate determination of whether the granting of access is clearly consistent with the interest of national security shall be an overall common sense determination based on all available information.

12. Appeals Procedures

Annex B prescribes common appeals procedures to be followed when an individual's SCI access has been denied or revoked.

13. Continuing Security Programs

a. In order to facilitate attainment of the highest standard of personnel security and to augment both the access approval criteria and the investigative requirements established by this directive, member departments and agencies shall institute continuing security programs for all individuals having access to SCI. In addition to security indoctrinations (see Annex C, "Minimum Standards for SCI Security Awareness Programs in the U.S. Intelligence Community"), these programs shall be tailored to create mutually supporting procedures under which no issue will escape notice or be left unresolved which brings into question an individual's loyalty and integrity or suggests the possibility of his or her being subject to undue influence or duress through foreign relationships or exploitable personal conduct. When an individual is assigned to perform sensitive compartmented work requiring access to SCI, the SOIC for the department, agency, or Government program to which the individual is assigned shall assume security supervision of that individual throughout the period of his or her assignment.

b. The continuing security programs shall include:

(1) Individuals are required to inform the department or agency which granted their SCI access about any personal problem or situation which may have a possible bearing on their eligibility for continued access to SCI and to seek appropriate guidance and assistance. Security counseling should be made available. This counseling should be conducted by individuals having extensive background and experience regarding the nature and special vulnerabilities of the particular type of compartmented information involved.

(2) SCI security education programs of the member departments and agencies shall be established and maintained pursuant to the requirements of Annex C.

(3) Security supervisory programs shall be established and maintained to ensure that supervisory personnel recognize and discharge their special responsibility to safeguard SCI, including the need to assess continued eligibility for SCI access. These programs shall provide practical guidance on indicators which may signal matters of security concern. Specific instructions concerning reporting procedures shall be disseminated to enable the appropriate authority to take timely corrective action to safeguard the security of the United States as well as to provide all necessary help to the individual concerned to neutralize his or her vulnerability.

(4) Security review programs to ensure that appropriate security authorities always receive and exchange, in a timely maner, all information bearing on the security posture of persons having access to SCI. Personal history information shall be kept current. Security and related files shall be kept under continuing review.

Whenever adverse or derogatory information is discovered or inconsistencies arise which could impact upon an individual's security status, appropriate investigation shall be conducted on a timely basis. The investigation shall be of sufficient scope necessary to resolve the specific adverse or derogatory information or inconsistency in question so that a determination can be made as to whether the individual's continued utilization in activities requiring SCI is clearly consistent with the interest of the national security.

14. Security Violations

Individuals determined to have disclosed classified information to any person not officially authorized to receive it may be considered ineligible for initial or continued SCI access. Determination will be based on an evaluation of all available information, including whether the disclosure was knowing, willfull, negligent, or inadvertent. A determination of ineligibility for individuals who currently hold SCI access shall result in immediate debriefing and termination of access for cause.

15. Implementation

Existing directives, regulations, agreements, and other guidance governing access to SCI as defined herein shall be revised accordingly.

ANNEX A

ADJUDICATION GUIDELINES

Purpose

This annex is designed to ensure that a common approach is followed by Intelligence Community departments and agencies in applying the standards of DCID 1/14. These guidelines apply to the adjudication of cases involving persons being considered for first-time access to Sensitive Compartmented Information (SCI) as well as those cases of persons being readjudicated for continued SCI access.

Adjudicative process

The adjudicative process entails the examination of a sufficient period of a person's life to make a determination that the person is not now or is likely to become an unacceptable security risk later. SCI access adjudication is the careful weighing of a number of variables known as the "whole person" concept. The recency of occur-

rences of any adverse incident, together with circumstances pertaining thereto, is central to a fair and uniform evaluation. Key factors to be considered in adjudication are the maturity and responsibility of the person at the time certain acts or violations were committed as well as any repetition or continuation of such conduct. Each case must be judged on its own merits and final determination remains the responsibility of the individual SOIC. Any doubt concerning personnel having access to SCI shall be resolved in favor of the national security.

The ultimate determination of whether the granting of SCI access is clearly consistent with the interests of national security shall be an overall common sense determination based on all available information. In arriving at a decision consistent with the foregoing, the adjudicator must give careful scrutiny to the following matters:

a. Loyalty.
b. Close relatives and associates.
c. Sexual considerations.
d. Cohabitation.
e. Undesirable character traits.
f. Financial irresponsibility.
g. Alcohol abuse.
h. Illegal drugs and drug abuse.
i. Emotional and mental disorders.
j. Record of law violations.
k. Security violations.

Adjudicative actions concerning the foregoing items are examined in greater detail below.

Loyalty

DCID 1/14 establishes the categorical requirement that, to be eligible for SCI access, an individual must be unquestioned loyalty to the United States.

Close relatives and associates

DCID ¼ requires close examination by the SCI adjudicator when members of an individual's immediate family and persons to whom he/she is bound by affection or obligation are not citizens of the United States, or their loyalty or affection is to a foreign power, or they are subject to any form of dures by a foreign power, or they advocate the violent overthrow or unconstitutional alteration of the Government of the United States.

Sharing living quarters with a person, regardless of their citizenship status, may be indicative of a close relationship, whether or not it is considered intimate. The potential for adverse influence or for duress should be considered in any close or long-term relationship between the subject and another individual.

The adjudicator must assess carefully the degree of actual and potential influence that such persons may exercise on the individual based on an examination of the frequency and nature of personal contact and correspondence with and the political sophistication and general maturity of the individual.

A recommendation for access disapproval is appropriate if there is an indication that such relatives or associates are connected with any foreign intelligence service.

When there is a "compelling need" for SCI access for an individual whose family member is a non-U.S. citizen and the background investigation indicates that the security risk is negligible, and exception to paragraph 5b(1) or (2) of DCID ¼ may be recommended.

In some circumstances, marriage of an individual holding SCI access approval could present an unacceptable security risk. Such individuals are required to file intent-to-marry statements, It is the responsibility of the SOIC to advise the individuals of the possible security consequences. If the individual marries a non-U.S. citizen, SCI access will be suspended until the case is readjudicated unless an appropriate investigation of the spouse, as required by Paragraph 81 of DCID ¼, was conducted with favorable results. In readjudicating such cases, the same judgments and criteria as are reflected in the section apply.

Sexual considerations

DCID ¼ requires that, to be eligible for SCI access, individuals must be stable, of excellent character and discretion, and not subject to undue influence or duress through exploitable personal conduct.

Sexual promiscuity and extramarital relations are of legitmate concern to the SCI adjudicator where such conduct reflects a lack of judgment and discretion or when the conduct offers the potential for undue influence, duress or exploitation by a foreign intelligence service.

Deviant sexual behavior can be a relevant consideration in circumstances in which it indicates flawed judgment or a personality disorder, or could result in exposing the individual to direct or indirect pressure because of susceptibility to blackmail or coercion as a result of the deviant sexual behavior. Such behavior includes: bestiality, fetishism, exhibitionism, necrophilia, nymphomania or satyriasis, masochism, sadism, pedophilia, transvestism, and voyeurism. Homosexual conduct is also to be considered as a factor in determing an individual's judgment, discretion, stability and susceptibility to undue influence or duress.

In examining cases involving sexual conduct of security significance, such as those described above, it is relevant to consider the age of the person, the voluntariness, and the frequency of such activities, the public nature and the recency of the conduct, as well as any other circumstances which may serve to aggravate the nature or character of the conduct. A recommendation for disapproval is appropriate when, in view of all available evidence concerning the individual's history of sexual behavior, it appears that access to SCI could pose a risk to the national security.

Cohabitation

The identity of a cohabitant and the extent and nature of actual or potential influence upon the subject should be ascertained. Based upon the criteria in the section on Close Relatives and Associates, a determination must be made whether such as association contributes an unacceptable security risk.

Cohabitation, per se, does not preclude SCI access approval. Other factors could affect the access determination. Cohabitation with an alien, for example, requires the same security as marriage to an alien.

Undesirable character traits

It is emphasized that an individual's lifestyle is examined only in an effort to determine whether a pattern of behavior exists which indicates that granting SCI access could pose a risk to national security. In cases where allegations have been reported which reflect unfavorably on the reputation of an individual, it is incumbent upon the SCI adjudicator to distinguish fact from opinion and to determine which negative characteristics are real and pertinent to an evaluation of the individual's character and which are unsubstantiated or irrelevant. Relevant negative characteristics are those which, in the adjudicator's informed opinion, indicate that an individual is not willing, able, or likely to protect SCI information. The adjudicator's personal likes or dislikes must not be permitted to affect the determination.

Examples of specific concerns in determining whether an individual has undesirable character traits are substantive, credible, derogatory comments by associates, employers, neighbors, and other acquaintances; any litigation instituted against the individual by such persons as a result of the individual's actions; or allegations of violations of law. A recommendation for disapproval would be appropriate for an individual who cannot be relied upon to obey rules and regulations.

In examining the circumstances of cases involving incidents of untruthfulness, the adjudicator must weigh all factors with particular emphasis on establishing the intent of the individual. Where an individual has tried to obscure pertinent or significant facts by falsifying data, i.e., on the Personal History Statement by either omission or false entry, such action should be weighed heavily against recommending access. Failure to disclose derogatory personal information, such as a court martial or serious crime, would appear to be intentional and, consequently, would warrant a recommendation for disapproval.

Financial irresponsibility

Financial irresponsibility represents a serious concern to the SCI adjudicator. Persons who have engaged in espionage for monetary gain demonstrate the hazard of granting SCI access to an individual with overly expensive tastes and habits or living under the pressure of serious debt.

A recommendation for disapproval is appropriate when there is a pattern of financial irresponsibility and it appears that an individual has not made a conscientious effort to satisfy creditors. In such cases, the adjudicator should determine whether the individual had been notified about the debts and whether they were legally valid or ultimatley satisfied.

When the financial irresponsibility alone is not of such magnitude to warrant disapproval, it may contribute to recommendation for denial of SCI access when there is other evidence of irresponsibility.

Alcohol abuse

The SCI adjudicator should examine any information developed relative to an individual's use of alcohol beverages to determine the extent to which such use would adversely affect the ability of the individaul to exercise the care, judgment, and discretion necessary to protect SCI information. The adjudicator should determine whether a pattern of impropriety exists, although one incident caused by alcohol abuse may be of such magnitude to warrant a recommendation for disapproval.

In determining the security impact of a person's pattern of alcohol use, the adjudicator should consider the circumstances, amount and rate of consumption, the time and place of consumption, and the physiological and behavioral effect such drinking has on the individual. For example, does the individual's drinking result in absences from work or careless work habits? Does the individual become talkative, abusive, or manifest other undesirable characteristics? Does the individual drink until intoxicated? Has the individual been arrested for any acts resulting from the influence of alcohol?

In the absence of conclusive evidence, additional insight may be available from ap-

propriate medical authorities. If the individual acknowledges having an alcohol abuse problem and is seeking help, it may be appropriate to defer access determination and monitor the individual's progress for a year or so.

If, after considering the nature and sources of information, the adjudicator determines that an individual's drinking is not serious enough to warrant a recommendation for disapproval of SCI access, it may be appropriate to recommend approval with a warning at the time of indoctrination that future incidents of alcohol abuse may result in SCI denial. The adjudicator may also recommend a reinvestigation of the individual's use of alcohol after an appropriate period of time has passed.

Illegal drugs and drug abuse

The SCI adjudicator should examine all allegations of an individual's use, transport, transfer, sale, cultivation, processing and manufacturing of hallucinogens, narcotics, drugs and other materials and chemical compounds identified and listed in the Controlled Substance Act of 1970, as amended. Consequently, an individual's involvement in any of these activities is of direct concern to the SCI adjudicator in order to determine the individual's capability to exercise the care, discretion, and judgment required to protect SCI information. The use of these substances may lead to varying degrees of physical or psychological dependence as well as having a deleterious effect on an individual's mental state and ability to function.

Persons involved in drug trafficking, i.e., the commercial cultivation, processing, manufacturing, purchase, or sale of such substances should normally be recommended for disapproval.

In cases involving the use of drugs, the adjudicator must consider the nature of the substance used and whether the use is experimental or habitual. The frequency, recency, and circumstances surrounding said use are key elements. For example, has the individual used "hard" drugs or hallucinogens such as heroin, cocaine, or LSD? Has the individual used drugs regularly or only on occasion? Does the individual currently use drugs? Does the individual regularly purchase drugs or participate merely when offered drugs by others? Has the individual's behavior been affected by the use of drugs and, if so, to what extent?

Once the judgment is made that an individual is a habitual user of any controlled substance (multiple use beyond the point of mere experimentation), a recommendation for disapproval is appropriate. Moreover, even experimental use of hard drugs or hallucinogens, such as LSD, could warrant a recommendation for disapproval.

Emotional and mental disorders

DCID 1/14 requires that persons considered for access to SCI be stable, trustworthy, reliable, and of excellent character, judgment and discretion. Emotional and mental disorders which interfere with an individual's perception of reality or reliability are of serious concern to the SCI adjudicator in determining whether an individual is able or willing to protect SCI information.

It is essential to obtain as much information as possible when an allegation has been made in this area. If feasible, the individual should be interviewed to obtain additional detail. When appropriate, government psychological and psychiatric personnel should be consulted so that psychiatric or psychological data may be properly evaluated.

If a current emotional instability appears to be a temporary condition (for example, caused by a death, illness, or marital breakup) it may be advisable to recommend postponing final action and rechecking the situation at a later date. This precludes a security disapproval for what may be a temporary condition which, when cured, would have no security implications.

Military and civilian personnel who decline to take medical/psychiatric tests when so directed by competent authority should not be recommended for SCI access.

Record of law violations

In determining whether an individual is stable, trustworthy, and of excellent character, judgment, and discretion as required by DCID 1/14 for access to SCI, the adjudicator must weigh carefully any record of law violations by the individual. Although a pattern of repeated minor traffic violations could be significant, the adjudicator is principally concerned with more serious criminal violations or court actions reflecting adversely upon the individual's reliability or trustworthiness.

Each case involving convictions for criminal offenses must be considered from the standpoint of the nature and seriousness of the offense, the circumstances under which it occurred, how long ago it occurred, whether it was an isolated or a repeated violation of the law, the offender's age at the time, social conditions which may have a bearing on the individual's actions, and any evidence of rehabilitation.

Any conviction for a felony will normally support a recommendation for disapproval. If the offense was committed many years prior, the individual has shown evidence of rehabilitation, and the investigation shows no other derogatory information, an approval many be considered. A large number of minor offenses, however, could indicate irresponsibility and may support an adverse recommendation.

Security violations

Most security violations are caused by carelessness or ignorance with no intention of compromising security. However, the record of an individual responsible for multiple violations should be scrutinized. The individual's current attitude toward security should be confirmed with his/her supervisor. A pattern of violations may be sufficient ground for a recommendation for disapproval. Individuals responsible for unauthorized disclosure of classified information may be denied initial or continued SCI access.

EXHIBIT V

U.S. SENATE,
COMMITTEE ON FOREIGN RELATIONS,
Washington, DC, May 31, 1989.

Hon. WILLIAM WEBSTER,
Director of Central Intelligence, Central Intelligence Agency, Washington, DC.

DEAR MR. DIRECTOR: As you know, your responsibilities under the law as Director of Central Intelligences include the protection of U.S. Intelligence sources and methods.

I urgently request access to the original, complete classified assessments of the damage done to U.S. Intelligence sources and methods by the following four unauthorized public disclosures of U.S. Intelligence data:

1. The June 29, 1979 article in The New York Times, entitled "U.S. Plans New Way to Check Soviet Missile Test."

2. The various press articles revealing U.S. Intelligence data on a June, 1982 Soviet Strategic Missile Firing Exercise.

3. The various press articles about communications intelligence on the Soviet shootdown of Korean Airlines Flight-007 in September and October, 1983.

4. The various April and March, 1986 press articles revealing that U.S. Intelligence had intercepted communications linking Libya to the terrorist bombing of a nightclub in West Berlin killing an American soldier.

I am informed that these four unauthorized disclosures of highly classified information about communications intelligence intercepts and sources and methods are among the most serious security breaches in the history of U.S. Intelligence. Indeed, in a November 19, 1979 article in The New Yorker, Senator Moynihan implied that item number one was one of the four most serious breaches of U.S. Intelligence security in history.

I thank you in advance for your prompt response to this request.

Sincerely,

JESSE HELMS.

U.S. SENATE,
COMMITTEE ON FOREIGN RELATIONS,
Washington, DC, May 31, 1989.

Rear Adm. WILLIAM O. STUDEMAN, USN,
Director, National Security Agency, Fort Meade, MD.

DEAR MR. DIRECTOR: As you know, special responsibilities for the protection of U.S. intelligence sources and methods regarding communications intelligence.

I urgently request access to the original, complete classified assessments of the damage done to U.S. Intelligence sources and methods by the following four unauthorized public disclosures of U.S. Intelligence data, including any conclusions or correspondence about responsible persons:

1. The June 29, 1979 article in The New York Times, entitled "U.S. Plans New Way to Check Soviet Missile Test."

2. The various press articles revealing U.S. Intelligence data on a June, 1982 Soviet Strategic Missile Firing Exercise.

3. The various press articles about communications intelligence on the Soviet shootdown of Korean Airlines Flight-007 in September and October, 1983.

4. The various April and March, 1986 press articles revealing that U.S. Intelligence had intercepted communications linking Libya to the terrorist bombing of a nightclub in West Berlin killing an American soldier.

I am informed that these four unauthorized disclosures of highly classified information about communications intelligence intercepts and sources and methods are among the most serious security breaches in the history of U.S. Intelligence. Indeed, in a November 19, 1979, article in The New Yorker, Senator Moynihan implied that item number one was one of the four most serious breaches of U.S. Intelligence security in history.

I thank you in advance for your prompt response to this request.

Sincerely,

JESSE HELMS.

EXHIBIT VI

U.S. DEPARTMENT OF STATE,
Washington, DC, May 8, 1989.

HON. CLAIBORNE PELL,
Chairman, Committee on Foreign Relations, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: During a hearing before the Committee on Friday morning, May 5, Ambassaador Richard Burt was asked whether he had ever been cited for security violations in any previous governmental posts, including a possible violation involving a briefcase. A copy of the relevant portion of the draft transcript is enclosed.

Ambassador Burt has since had an opportunity to check the records of the Department of State and would like to clarify the record of the Hearing with the enclosed statement.

We would appreciate it if you could ensure that the enclosed clarification is noted in the record of the Hearing.

Sincerely,

JANET G. MULLINS,
Assistant Secretary for Legislative Affairs.

EXCERPT

During a hearing before the Committee on Foreign Relations Friday morning, May 5, I was asked whether I had ever been cited for security violations in any previous governmental posts, including a possible violation involving a briefcase. In response, I said I could only recall receiving a violation concerning a classified document left out on a desk in my office at the U.S. Embassy in Bonn.

To clarify the record, I asked the Department of State's Bureau of Diplomatic Security for a list of security violations received during my more than eight years of government service. During this period, I have received three notices of security violation. On May 15, 1987 and on May 6, 1986 notices were issued for unsecured documents in my office in the U.S. Embassy in Bonn. On February 4, 1983, while staying in a Brussels hotel with then-Vice President Bush, I was issued a violation for improper transmission of material in a briefcase. The briefcase was mistakenly taken and placed with the luggage of another guest. I immediately alerted a State Department security officer and the briefcase was promptly retrieved. It was the judgment of the security officer involved that the episode did not result in the compromise of any classified material. None of the three violations listed above involved sensitive compartmented information (SCI) material.

A security violation is an incident wherein classifed material is not protected in accordance with regulations. The Department of State's policy is that if an individual receives three security violations within a two-year period the Bureau of Diplomatic Security recommends to the Director General of the Foreign Service that a letter of reprimand be issued to the offending individual. I have never received such a letter.

If confirmed by the Senate, I fully intend, as I stated in my testimony on May 5, to implement and enforce a strong and effective security program covering all members of the U.S. delegation in Geneva.

EXHIBIT VII

U.S. DEPARTMENT OF STATE,
THE INSPECTOR GENERAL,
Washington, DC, June 6, 1989.

HON. JESSE HELMS,
Committee on Foreign Relations, U.S. Senate, Washington, DC.

DEAR SENATOR HELMS: In response to your May 11, 1989 request regarding Mr. Richard Burt's security background, my office conducted a special inquiry into both the adequacy of the Department's personnel security procedures in place at the time of Mr. Burt's background investigations, and the actual handling of these investigations in the case of Mr. Burt. We received an allegation subsequent to your letter that the Department improperly investigated an incident involving Mr. Burt. Our special inquiry was expanded to address this issue as well.

With regard to the questions raised in your May 11 letter, we reviewed all applicable laws, Executive Orders, and Department of State directives regarding personnel security investigations, interviewed Department of State officials charged with personnel security responsibilities, and examined Mr. Burt's security and personnel files. His security file included three background investigations conducted by the Department: a full field investigation completed in January 1981, and update investigations completed in May 1985 and March 1989. We also reviewed the results of a 1982 FBI background investigation conducted when Mr. Burt was a candidate for an Assistant Secretary of State position.

Our examination of the Department's application of personnel security policies and procedures was limited to those used in Mr. Burt's case only. My office, as part of a broader initiative by the President's Council on Integrity and Efficiency, is undertaking a review of the Department's overall personnel security clearance program.

The later allegation related to a 35 mm. film cartridge containing marijuana that was found by security personnel in Mr. Burt's Bonn residence in 1986, while he was Ambassador to the Federal Republic of Germany. The security officers were conducting a sweep of Mr. Burt's quarters at his specific request. It was alleged that, in effect, the subsequent investigation by the Department sought to cover up the incident. We interviewed all of the Department officials concerned in this matter and examined all of the relevant files.

We have concluded that:

For the three background investigations performed by the Department of State in 1981, 1985, and 1989, the policies and procedures in effect at the time were followed. Further, with two exceptions, the Department's evaluations of these investigations were consistent with the guidelines contained in the Foreign Affairs Manual (Volume 3, Chapters 160 and 629) and the (then) Office of Security Instructions and Procedures (Volumes 2 and 3). We found that the evaluations in 1985 made no reference either to a 1983 security violation arising from Mr. Burt's loss of a briefcase containing classified information or to Mr. Burt's earlier close social relationship with Ms. Miller. However, these issues—discussed in detail in the enclosed report—are a judgment call. Based on our detailed review, we believe that inclusion of this information in the 1985 evaluation would not have reversed the decision to continue Mr. Burt's security clearance.

With regard to the marijuana found in Mr. Burt's residence:

There is no evidence whatever pointing toward Mr. Burt's use of this or of any other controlled substance while in the employ of the Department of State.

The initial investigation of the matter by the Office of Security was conducted promptly and with diligence, although in a manner inconsistent with professionial investigative methodology. For example, it appears that no records were originated or retained.

The results of the investigation, for reasons unknown but in no way attributable to Mr. Burt, appear not to have been communicated formally to senior management either on an information basis or for decision.

Full details of our review are presented in the enclosed report of our special inquiry.

We are pleased to have assisted the Committee. If you or your staff have any questions about our report, please call me, Mr. Terence Shea, Assistant Inspector General for Security Oversight, or Mr. Randolph West, Assistant Inspector General for Investigations. We can all be reached on 647-9450.

Sincerely,

SHERMAN M. FUNK,
Inspector General.

Several Senators addressed the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. PELL. Mr. President, I yield 10 minutes to the Senator from Utah.

Mr. HATCH. Mr. President, I thank the distinguished chairman of the Foreign Relations Committee. I thank my colleague for yielding.

Mr. President, I rise in continued support of Ambassador Burt's nomination before this distinguished body. I have known Rick for a number of years and although he is officially a resident of the District of Columbia, he remains a Utahn where he grew up as a young man during the 1950's. But this is not my reason for voicing my support today.

While many of my distinguished colleagues will expound on Ambassador Burt's extensive experience as a national security expert, and address the questions over Ambassador Burt's commitment to ensuring proper security for classified material; I rise to give my colleagues some insight into Rick Burt—the man.

You see Rick Burt and I have not always seen eye to eye. While Ambassador Burt and I have had our share of hefty battles through the years over concepts and ideas, we remain friends. There are very few people I respect as much as I do him through the years, even though we have had our differences, because I find him to be honest and forthright. He is a decent man and he has proved time and again his willingness to stand up and fight for this country.

I am here to support Ambassador Burt because I think he is a person of consummate intelligence, ability, and capability. He is a person who has grown through the years, and who is

continually growing with the innate ability and determination to do what is right and proper. Although Ambassador Burt and I have disagreed in the past on various issues, I have watched him closely over the years and I have come to respect his energy and his devotion to serving our country.

I want to especially mention his work in the Federal Republic of Germany over the past 3½ years. As we can tell from today's headlines, the German relationship is becoming increasingly difficult and complex. Nevertheless, Ambassador Burt handled his duties in Germany in a very intelligent and forceful way. He worked hard to preserve NATO unity. He prodded the Germans to increase their military efforts. And he did so at times when it was difficult to do.

He paid close attention to the problems of the American military forces and their families. Indeed, just as one illustration, he took the lead in a record-breaking effort to raise funds for the USO in Germany at a time when the dollar was falling and American service families in Germany were looking for any kind of relief they could get.

That is the kind of person Rick Burt is. I also know that unlike some of our Ambassador's in the past, when he had to be tough he has been tough. He has always acted in the best interests of our country. I have respected his leadership and his ability to take a strong stand against terrorism.

He pushed the Germans to take a tougher stand against Libya at a time when we needed their support. He had them take a tougher stand against Iran and other States that sponsor international terrorism.

Mr. President, I know Rick Burt will be an effective negotiator in Geneva. He has told me he is prepared to walk away from an agreement rather than accept a bad agreement. He believes that airtight verification is essential, and he has assured me of his strong support for a space defense initiative.

Ambassador Burt is articulate. He is diplomatically skilled. He has an ability to work with people of varying persuasions and difficulties. He is a person who will be a strong advocate for our country during a period of great promise and substantial risk.

As we prepare to vote on Ambassador Burt's nomination I ask my colleagues to keep in mind the type of individual this country needs at the negotiating table in Geneva. Rick Burt has the qualifications for the job and the character, determination, and love for his country to succeed.

Let me say one other thing. When Rick Burt in the past came up before us, I voted against Rick Burt, but he has changed. He has grown. He has prospered, and he has proven to be a person of integrity and ability.

I am going to vote for him, and I ask all my colleagues to consider voting for him as well.

I thank my colleagues for giving me this time.

Mr. PELL addressed the Chair.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. PELL. I yield 5 minutes to the Senator from Delaware.

Mr. BIDEN. I thank the chairman for that time.

I wish, as we all do, there were more time, because I would like to respond point by point to the issues raised by my distinguished colleague from North Carolina who stood in opposition to this nomination.

I now ask unanimous consent to be able to submit for the RECORD a more detailed statement regarding the allegations made about Mr. Burt.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

SENATOR BIDEN'S STATEMENT ON THE ALLEGATIONS MADE REGARDING AMBASSADOR BURT

The allegations raised regarding Ambassador Burt are, to be sure, serious. But in my view, they are unsubstantiated, and should not disqualify Ambassador Burt.

If anything, they reveal serious weaknesses in security procedures within the Department of State. They do not, however, have any relevance to the nomination before us.

SERVICE AS A NEW YORK TIMES REPORTER

Allegations have been made that while serving as a reporter for the New York Times, Ambassador Burt revealed highly classified information.

The FBI and the Department of Justice looked into the matter, but they decided not to pursue the investigation. Indeed, Ambassador Burt maintains that the FBI never even asked him for the source of the newspaper article in question. So if there's any blame here, it should go to the FBI.

I do not condone the release of classified information to reporters. Nor do I encourage it. But the fact is that in 1979 Mr. Burt was a newspaperman. He is not a newspaperman any longer. In fact, for the entire decade, Ambassador Burt has been a high Government official. And no one in the Reagan or Bush administrations ever questioned Ambassador Burt's loyalty to the United States.

RELATIONSHIP WITH A NEW YORK TIMES REPORTER

Allegations have been made that Ambassador Burt's personal relationship with a reporter for the New York Times led to the divulgence of classified information. Ambassador Burt's relationship with this reporter, however, was well known at the highest levels of the State Department, including Secretaries Haig and Shultz. And no one in the Department ever questioned whether Ambassador Burt was a source for Ms. Miller's stories.

Indeed, reviews of Mr. Burt's official personnel file and personnel security file did not reveal any evidence of any investigation regarding Mr. Burt's relationship with Ms. Miller, any questioning of him about the articles Ms. Miller published, or any reprimand or notation about the association.

DISCLOSURE OF LIBYAN INTERCEPTS

It has been alleged that Ambassador Burt, in an interview following the bombing of the La Belle Disco in Berlin in April, 1986, made indirect references to U.S. ability to intercept and analyze Libyan coded communications pertaining to terrorism.

Ambassador Burt is quoted as saying on April 8, 1986: "I don't think there's any disagreement . . . in Berlin or, for that matter, in the conversations I had with senior West German officials over the weekend, that there were clear indications the Libyans were involved."

Other quotes from U.S. officials, however, were more explicit. General Bernard Rogers, then Supreme Allied Commander in Europe, said this: ". . . There is indisputable evidence that the April 5 bombing of a West Berlin Discotheque that killed a U.S. Army sergeant can be linked to a worldwide network of terrorists set up by Libyan leader Moammar Kadafi. I can't tell you how we get it, but the evidence is there." (*Los Angeles Times*, April 10, 1986).

And President Reagan himself said this: "The evidence is now conclusive that the terrorist bombing of La Belle Discotheque was planned and executed under the direct orders of the Libyan regime. On March 25th, more than a week before the attack, orders were sent from Tripoli to the Libyan People's Bureau in East Berlin to conduct a terrorist attack against Americans to cause maximum and indiscriminate casualties. Libya's agents then planted the bomb. On April 4, the People's Bureau alerted Tripoli that the attack would be carried out the following morning. The next day they reported back to Tripoli on the great success of their mission. Our evidence is direct; it is precise; it is irrefutable." (United Press International, April 11, 1986).

Moreover, contrary to press reports that Mr. Burt had been "rebuked" for his statement, Mr. Burt's personnel files contain no evidence of a rebuke or reprimand from the White House.

DISCOVERY OF MARIJUANA IN OFFICIAL RESIDENCE IN BONN

Allegations have been made that the discovery of a controlled substance at the Ambassador's residence in Bonn in January, 1986 suggest that Mr. Burt may be a security risk.

The Office of Security in Frankfurt conducted a full investigation—with Ambassador Burt's cooperation—of this incident. The investigating agent reported that there was no evidence of actual possession by Ambassador Burt or any U.S. officials associated with the Embassy.

SECURITY INCIDENTS

The allegation is made that Ambassador Burt may be a security risk because of careless handling of Government documents while serving as a Government official.

Altogether, there have been three security violations by Mr. Burt during his Government service. The most serious is an incident in 1983, when Ambassador Burt was traveling with the Vice President. While in Brussels on this trip, he misplaced a briefcase containing top secret information.

As the Inspector General's report notes, Mr. Burt immediately telephoned the regional security officer in Brussels. The officer located the briefcase, believed the contents were uncompromised, and immediately returned the briefcase to Mr. Burt.

According to the Inspector General's Office, the damage assessment conducted

following this incident concluded that "while the documents would not compromise intelligence sources or have national security implications, they could be embarrassing to the United States."

Mr. BIDEN. Let me make a few necessarily broad statements in the interest of time.

First, none of the allegations that were made have either risen to the level of being serious enough for us to even remotely consider whether or not this man is a security risk, and the vast majority of them are unsubstantiated. The vast majority of the allegations that have been made are in fact little more than innuendo.

Prior to Mr. Burt's marriage, a woman he was dating was a reporter for a newspaper. And that newspaper and that woman had articles published that related to classified material that Mr. Burt and probably 6,000 other people had access to, ergo, Mr. Burt must be the source of that material because he was in the employ of the Government. At the time, Secretary of State Haig, and later Secretary of State Shultz, knew full well the relationship. It did not bother them, should not have bothered them, and should not bother us now. I think it would be odd if we were going to somehow set a new standard here that no one in Government can date a reporter. That might save the reporters a lot of grief, but nonetheless it would be somewhat bizarre.

We have no Official Secrets Act in this country, thank God. And Mr. Burt violated no laws when he was a reporter prior to his employ by the Federal Government.

There was no allegation, specific allegation, made by any agency of the Government, that any action should be taken against reporter Richard Burt. I just came back from the Intelligence Committee, where I refreshed my recollection of this incident from my earlier service on the committee. I read the old files and the new file on Mr. Burt, and my recollection was accurate—no one at the time was focusing on what Richard Burt wrote as a reporter for the New York Times, or suggesting that his stories were the end of the world; but I am not able to go into any more detail on that. How much time do I have left, Mr. President?

The PRESIDING OFFICER. A minute-and-a-half.

Mr. BIDEN. Let me focus, in the last minute-and-a-half, on what is more important, the future. Here we have an incredibly qualified man who is about to take over a negotiation at one of the most historic moments in this Nation's history. The Reagan framework for arms control has proven to be a very, very solid framework within which we have an opportunity maybe to enhance, albeit slightly, the security of all mankind. There has been a hiatus of months and months in this negotiation, while the transition has occurred. They are about to begin, I believe, next Monday. We need a man of Mr. Burt's insight, intelligence, and background on the job to deal with not only the security of this Nation, but enhancing the security of the whole world.

I have no reservation about recommending Mr. Burt to the U.S. Senate. I might add, I am recommending to the U.S. Senate a man who has repeatedly been confirmed, and has been confirmed in the face of these allegations, which are long past, but for the so-called marijuana issue. And the inspector general indicates there is no reason to believe Mr. Burt was in fact guilty of anything in that instance.

My time, I can tell by the look of the distinguished President, is up, so I will reluctantly, but respectfully, yield the floor.

Mr. PELL. I yield 5 minutes to the Senator from Indiana.

The PRESIDING OFFICER. The Senator has 13 minutes remaining.

Mr. LUGAR addressed the Chair.

The PRESIDING OFFICER. The Senator from Indiana.

Mr. LUGAR. I thank the chairman. Mr. President, Richard Burt is a distinguished nominee of the President of the United States for a very important responsibility on behalf of our country.

As my colleagues have already detailed, Rick Burt will be in Geneva at a point of crucial importance to our country and to world peace. I want to submit for the record, Mr. President, and do so at the conclusion of these remarks, extensive statements taken from our committee's deliberation on this nominee. I want to put into the record a very substantial statement about Richard Burt's views on arms control and his specific contributions to that debate to date. Likewise, very specific rebuttals to questions raised principally by the distinguished Senator from North Carolina, during the course of the Foreign Relations Committee, on the security issue the Senator raised again on the floor today. I think these are an important part of the record.

Let me commence these remarks by saying that I have watched Richard Burt in action as a public official. I have noted during the administration of Secretary George Shultz in the Department of State the unique role played by Richard Burt, as he guided our policy with regard to Europe. He came to that position with background as a journalist, as a scholar, as a person who was extraordinarily brilliant in his insights into European character and to the ways in which our relations were to be enhanced. He worked well with the Congress—specifically, with the Foreign Relations Committee of the Senate, the Foreign Affairs Committee in the House.

Richard Burt was a person who was accessible, articulate, imaginative, and he was loyal. He represented the President of the United States with great dignity and skill. He served Secretary Shultz with comparable skills.

It was my privilege to meet with Richard Burt in Germany during his service as our Ambassador of that country. I noted the remarkable relationships he cultivated with German officials of all political stripes, with ordinary citizens, with persons involved in festivals in the country, and with ordinary people in the street. He was an American Ambassador that carried the flag well.

He enhanced our relationship with Germany very substantially. At the same time, he was articulate about the arms control issues. I can recall one visit to Bonn following one of our Senate arms control observer group visits in Geneva, Switzerland, in which it was my privilege to visit with Richard Burt about specific reactions to those negotiations in the Federal Republic of Germany.

He was articulate about how those negotiations were being perceived in ways in which public officials in this country, including U.S. Senators, through their public statements, through their written statements, enhance the position of our country, the position of NATO vis-a-vis the Soviet Union.

He did this specifically in conversations which I enjoyed with Mr. Kohl, on that occasion, and with the distinguished President of the Federal Republic, Mr. Von Weizsacker.

Richard Burt was able always to outline precisely the position of President Reagan and Secretary Shultz and our arms control negotiators. He visited with them frequently to make certain that we were all singing the same tune and that we knew precisely the best interest of our country.

I was impressed by that diligence, that scholarship, and that effectiveness.

Mr. President, I have been impressed again with the testimony of Richard Burt before the Foreign Relations Committee and in visits that he has paid to the offices of members of that committee prior to the public hearings.

He is ready for this big assignment and indeed it is an enormous one.

As our negotiators have pointed out about 400 pages of agreed text now are there in Geneva, agreed by the Soviet Union and by the United States of America. We are on the threshold of an enormously significant treaty involving cuts in the long-range ICBM, the intercontinental ballistic missiles that have long endangered our country.

As you know, Mr. President, there is considerable visitation now about arms reductions, and we pray that those withdrawals that the Soviets have promised, the cuts that they have suggested, will in fact happen and that we can negotiate with them downward to parity and below that. Our President has enunciated a bold policy at the NATO 40th meeting.

But at the same time, Mr. President, we are on the threshold with regard to the START talks of a situation in which we are going to have to come to grips with some very tough decisions.

The PRESIDING OFFICER. The Senator's 5 minutes have expired.

Mr. LUGAR. Will the Senator grant me 3 additional minutes?

Mr. PELL. I yield 3 additional minutes to the Senator from Indiana.

Mr. LUGAR. I thank my distinguished chairman.

It is in this context that this nominee comes before the Senate.

It is our responsibility to examine carefully the ability of Richard Burt or any other nominee to handle the security of this Nation, security in detail, the handling of classified documents, the handling of his public responsibilities with the press, with Senators, with anyone. These are pertinent points.

We are indebted to the distinguished Senator from North Carolina for drawing our attention to them on this occasion and on others, but I am satisfied that Richard Burt has fulfilled the security requirements of the offices in which he has served.

Equally important, perhaps more important, we have to find when we come to these great responsibilities our very best in terms of the talents this country can send forward, people who are our most intelligent, well-informed, persons with great scholarship, with great diplomacy, with quick minds, to meet world class competition. That is what our debate is about today, the sending forth of our best at a time that the best counts not only for us but for world peace.

So I come before this body today to commend my friend, Richard Burt. I have watched him as a devoted public servant of this country perform well with excellence. I am confident that that will be the record that he will have in Geneva and I look forward, as all of us do in this Senate, to helping him in that process.

Mr. President, I am most supportive of the President's nomination of Rick Burt to serve as our Chief START Negotiator and as Head of our delegation to the Nuclear and Space Talks in Geneva. Given his previous service in government, Ambassador Burt will bring considerable corporate memory to the arms control undertaking in Geneva, a process that resumes in earnest next Monday.

Mr. President, I also want to commend the nominee and the administration for the forthright manner in which they addressed during the confirmation process a number of substantive policy issues relative to arms control as well as the policy making process that is attendant to these negotiations.

Ambassador Burt detailed for the committee his responsibilities as Head of the Nuclear and Space Talks Delegation and Chief Negotiator for START as well as his reporting channels and working relationship with the Director of ACDA. While reporting directly to the President and the Secretary of State, Ambassador Burt noted that he will coordinate directly with the ACDA Director, who will have the responsibility for backstopping the NST delegation in Washington.

Ambassador Burt also addressed measures designed to improve the security procedures, the administration, and cost accountability associated with the activities of the U.S. delegation to the Nuclear and Space Talks in Geneva. He outlined some of the actions that have already been taken to diminish any security risks in Geneva as well as actions to be undertaken in the near term:

All ACDA Top Secret information has been brought under strict control, and the Executive Secretary of each Negotiating Group has been designated as the Top Secret Control Officer, responsible for the security of all the delegations' Top Secret documents.

In addition, a new policy on access to ACDA space in the mission has been implemented, under which no individual will be given an access badge to these areas unless he or she has been certified as having the necessary clearances and a mandatory security briefing.

Ambassador Burt also outlined additional measures that will be taken:

First, every member of the U.S. Negotiating Team in Geneva, regardless of which agency they represent, will be required by me to attend a briefing on security and counter intelligence measures before they will be allowed to travel to Geneva. This briefing will be provided jointly by ACDA and the State Department's Bureau of Diplomatic Security.

Secondly, all delegation members will be provided with a written delegation security directive, which will outline, in considerable detail, the security responsibilities of each delegation member. The guidelines in this directive will cover physical security, document handling, and personal conduct.

All delegation members will be asked to sign a statement saying that they have read these guidelines and they will be encouraged to keep them for reference.

Thirdly, tighter security controls will be promulgated for all sensitive delegation documents, with strict limits on the number of copies made and the distribution of those documents.

Fourthly, a rotation system of inspecting the entire delegation area in the mission at the end of each business day will be implemented to insure that the area is secure every evening.

The security duty officer will inspect and certify in writing that that entire area is secure.

Ambassador Burt personally assured the committee that any violations of security will be addressed with tough disciplinary action, including, if necessary, dismissal of offenders from the delegation.

Ambassador Burt discussed the need for tighter controls over delegation expenditures. While the Director of ACDA is responsible for many such matters, some fall under the direct purview of the various heads of the arms control delegations in Geneva. The Ambassador committed himself to ensuring that all moneys spent by the delegation, whether for housing, transportation, representation, procurement, or any other purpose, are spent only for official purposes, that they are spent prudently, in a cost-effective manner, and accounted for promptly.

Ambassador Burt addressed the issue of the U.S. position at the START talks once the negotiations resume. The President has stated that he is committed to pursuing a verifiable and stabilizing agreement to reduce strategic arsenals significantly.

Ambassador Burt noted that when the START talks recessed last year, there were a number of areas of agreement. But he emphasized that the important thing is not so much that reductions be of a certain magnitude but that they be focused so as to enhance stability. The prospective START cuts can do this by emphasizing reductions in the capabilities of ballistic missiles, which are the most destabilizing systems. In these categories, through limits on heavy ICBM's, ballistic missile throw-weight, and ballistic missile reentry vehicles, the agreed START numerical limits could result in 50-percent reductions in Soviet capabilities. The United States has no heavy ICBM's and United States missile throw-weight, which is much lower than the Soviet total, would not be reduced. U.S. ballistic missile reentry vehicles would be reduced by almost 50 percent.

Because of agreed counting rules that properly treat second-strike bomber weapons more permissively, however, reductions in the total number of strategic weapons would be less than 50 percent. Thus, strategic nuclear delivery vehicles would be reduced by more than one-third on the Soviet side and by somewhat less on the United States side.

By requiring the deepest cuts in the more threatening systems, START could decrease the capability to conduct a first strike and thus would enhance deterrence. The limit of 1,600 strategic nuclear delivery vehicles could reduce the ability of the side to break out of the START limits. The 50

percent throw-weight cut reduces Soviet ballistic lifting power, which affects warhead yields, accuracy, and their ability to break out of limits through rapid reload of additional reentry vehicles on existing missiles.

The nominee also touched on the issue of mobile missiles in the START negotiations. While noting that it would be premature to comment on the U.S. position with respect to mobiles pending the outcome of the administration's strategic review, Ambassador Burt noted that the deployment of mobile missiles does pose new and challenging verification problems. He added:

I do believe, however, that if the verification problems associated with mobiles can be resolved, deployment of a mobile ICBM system by the United States could make a significant contribution to strategic stability.

In response to committee questions, Mr. Burt also addressed himself to the issue of Soviet insistence on a linkage between a START Treaty and a treaty flowing from the Defense and Space Talks which constrained the administration's SDI Program. He told the committee:

We will continue to argue that their position on linkage is unwarranted and should be dropped.

More specifically, Ambassador Burt commented that the "Brilliant Pebbles" concept flowing from the SDI Program shows great promise, and that it is U.S. policy to fully protect its rights, options, and obligations for assessing the feasibility of effective strategic defenses. Thus, just as the United States could not accept a Defense and Space agreement that undercut SDI, so the nominee indicated that he would never recommend that "Brilliant Pebbles" be traded away for a START Treaty.

On the related matter of the ABM Treaty, Ambassador Burt noted that the terms of that agreement must be complied with if it is to remain a viable agreement and serve the interests of the United States. He said:

Given the Soviet effort in this area, the ABM Treaty is currently in our security interest, if the Soviets come into compliance with it. Until our SDI program indicates that it would be in our interest to proceed beyond ABM Treaty limits, Administration policy is that we should preserve the Treaty and thereby maintain its limits on Soviet defense efforts. At the same time, we must not ignore the Soviet violation of the ABM Treaty."

Mr. Burt also said:

I support the President's policy that we will conclude no strategic arms control agreements until the Krasnoyarsk violation is corrected.

Mr. President, I have taken the time to outline these substantive policy positions because I believe that Ambassador Burt, in his oral and written responses to committee questions, has done a real service for the Senate in developing one of the most complete pictures of the administration's views on strategic force modernization and arms control issues.

ISSUES RAISED BY SENATOR HELMS

A number of issues regarding the nominations were raised by Senator HELMS in the course of the Foreign Relations Committee hearing and consideration of Burt's nomination. They were addressed by Mr. Burt in testimony and in answers for the record. On May 11, Senator HELMS raised certain questions in a letter to the Honorable Sherman M. Funk, the inspector general of the Department of State. The inspector general responded in a June 6 report and briefed Democratic and Republican committee staff in a classified session the same day.

The issues raised and addressed in the committee and in the inspector general's report included Ambassador Burt's handling of demarches to the West German Government regarding the sales by West German firms of nuclear-related items to Pakistan, his earlier reporting of information which may have been classified while national security correspondent for the New York Times, his possible involvement in the acquisition of classified information by a reporter for the New York Times while Mr. Burt was a State Department official, possible security violations by Mr. Burt as a State Department official, and the propriety of Mr. Burt's disclosure of "clear indications" of Libyan involvement in the bombing of a West Berlin night club. Moreover, on the basis of an allegation by an outside informant, the inspector general looked into the discovery of a controlled substance at Ambassador Burt's official residence in Bonn and the possibility of the attempted suppression of a report on the matter.

DEMARCHES

Senator HELMS raised with Mr. Burt the matter of demarches to the West German Government regarding nuclear-related exports to Pakistan and, subsequently, demarches on chemical-related exports to Libya, Iran, Iraq, and Syria. Mr. Burt made it clear that, as Assistant Secretary, he had pressed for the raising of such issues and that, as Ambassador, he had overseen the delivery of demarches. He told the committee frankly that, "the Germans, early on, were not responsive." He also told the committee, "I think anybody who is aware of my record in Bonn will tell you that I was an extremely active ambassador. And I think that we, while we are very unhappy with the early reaction of the German Government, we now believe that the Germans have taken some remedial steps to solve this problem."

REPORTING PRIOR TO GOVERNMENT SERVICE

Senator HELMS charged, with particular reference to a 1979 news article, that, as a news reporter, Mr. Burt had obtained and revealed highly classified information. Addressing the matter of the 1979 story directly, Mr. Burt told the committee, "I wrote the story not believing at the time that this would be extremely damaging."

Senator BIDEN pointed out that there is no such law as an Official Secrets Act in America. Accordingly, there is no law against publication of information which might be classified, with very few and specific exceptions.

Senator CRANSTON noted that the law against disclosure is limited to very specific forms of information concerning the nature, preparation, or use of codes, ciphers, or cryptographic systems of certain communications intelligence. For a violation to occur, the disclosure must reflect a willful intent to harm the United States.

The inspector general reported that Mr. Burt told the OIG staff with regard to the 1979 article that the FBI never asked him for the source. Moreover Mr. Burt indicated that "prior to publishing the article he had spoken to four or five influential people about it and none had suggested that it not be printed."

The committee certainly does not condone the release of information which the national interest demands be safeguarded. It is important to understand that, in instances in which there has been an unauthorized release of classified information, the culprits are officials obligated to protect the information, not reporters who use the information. The appalling proliferation of the unauthorized releases of classified information in recent years is a reflection upon the standards and integrity of some in office. The free media have a responsibility in our society to report truthfully and accurately upon the government. If they were allowed to report only what the government wished reported, the damage to our free society would be considerable. Accordingly, the only reasonable approach is to avoid overclassification in order to allow the fullest possible public debate, to assiduously protect those secrets which must be kept, and to endure the occasional disclosure of classified materials as an unavoidable price for our liberties.

ALLEGATIONS REGARDING INFORMATION GAINED BY REPORTER

Senator HELMS cited articles allegedly containing classified information which were written in the early 1980's by a reporter for the New York Times. The Senator asked Mr. Burt whether he knew the reporter and whether he had leaked information to her.

Mr. Burt said categorically, "Senator I have not leaked any material."

With regard to his relationship with the New York Times reporter, Mr. Burt described it as "social."

Mr. Burt continued:

I knew that she was a reporter for the New York Times, so I informed both Secretary of State Haig and Secretary of State Shultz that I did have a social relationship with Miss Miller, and asked them if they were concerned about this social relationship.

I told both Al Haig and George Shultz that there would inevitably be gossip and innuendo that I was a source of her stories. I wanted them to be aware of this. Both of them told me that it was none of their business, that they respected me and they respected my discretion.

I might just add to that, as you know, I was a New York Times reporter before entering government. I think by definition, people would suspect that if a leak appeared in the New York Times, I was responsible.

So, as I think reporters in the New York Times will tell you, I tried to be purer than Caesar's wife in dealing with the press in general and the New York Times in particular.

So, I did not hide my relationship, my social relationship, with Miss Miller. It wasn't any kind of covert relationship.

During the period that we knew one another, I appeared in social occasions, I went to dinner parties in Washington, and we had an understanding that I couldn't interfere with her career—she was free to go forward as a reporter—but that under no circumstances was I going to on any occasion discuss the subjects that she was working on.

The nominee was unable to recall precisely at his hearing which of the materials appearing in the New York Times articles in question were materials of which he had knowledge. The access discussed in a May 8, 1989, letter from Janet G. Mullins, Assistant Secretary of State for Legislative Affairs. The response indicates that Mr. Burt probably was aware of some of the materials, but not all.

The inspector general's report makes a very telling point:

Access to knowledge regarding presidential decisions, NSC decisions, and interagency decisions would have been available from multiple sources other than Mr. Burt. DOS and the Justice Department have found it extremely difficult to identify sources of unauthorized disclosure for high-level decisions having multiple sources with access.

It was clear in Mr. Burt's responses that he understands fully the differences in responsibilities and obligations between a reporter and a government official required to protect national security information. Senator CRANSTON asked Mr. Burt:

I assume that you will do your best to uphold the laws and the Constitution and to defend the country, and do nothing in any way to divulge information that would do any harm to the Nation, nor would anybody working under you be permitted, as far as you are able to control their behavior, to commit any such actions.

Mr. Burt affirmed that such would be the case.

It is important to understand that Mr. Burt has been subjected to thorough investigations prior to receiving his earlier Government nomination, as well as the negotiating post for which he has now been nominated. The investigations regarding Presidential appointments are particularly comprehensive. The inspector general has reviewed these investigative efforts. There has been nothing discovered to bring into question Mr. Burt's loyalty, or suitability for the high trust and confidence placed in him. From all indications, Mr. Burt was a valued member of the top-level teams of two Secretaries of State and President Reagan. He has now received yet another vote of confidence from a new President and a new Secretary of State.

SECURITY INCIDENTS

On May 8, Mr. Burt clarified the question of possible security violations during his Government service. Mr. Burt acknowledged, and the Office of the Inspector General affirmed, citations for a top secret violation involving his temporary loss of a briefcase in Brussels in 1983, a violation in 1986 involving improper storage of confidential information in his office, and a violation in 1987 involving improper storage in his office of secret materials.

In the incident involving the briefcase, it was inadvertently taken from a hotel lobby by a driver for a television network together with luggage for other guests. Mr. Burt immediately notified security personnel, and the briefcase was recovered and returned to him at a later stop. The OIG report concluded that there was no reason to conclude that the contents had been compromised.

In his May 8 response to the chairman, Mr. Burt said,

If confirmed by the Senate, I fully intend, as I stated in my testimony on May 5, to implement and enforce a strong and effective security program covering all members of the U.S. delegation in Geneva.

DISCLOSURES OF LIBYAN INTERCEPTS

During the course of his nomination hearing, Ambassador Burt was asked about his public statements regarding Libyan involvement in the bombing of a West Berlin nightclub in April 1986. The question was raised as to whether such public statements might have compromised or otherwise done damage to U.S. intelligence sources and methods. Ambassador Burt noted that he had been interviewed on the NBC "Today" show regarding the bombing incident and that his statement was published in the April 8, 1986, edition of the Washington Post. The statement was quoted in the Post as follows:

I don't think there's any disagreement . . . in Berlin or, for that matter, in the conversations I had with senior West German officials over the weekend, that there were clear indications the Libyans were involved. (Washington Post, April 8, 1986, p. A1.)

Ambassador Burt disputed the notion that his public statements had in any way compromised intelligence sources and methods. He denied as well that he had been officially rebuked by superiors for those statements.

The report of the Office of the Inspector General noted that Ambassador Burt, as reported in the Washington Post article of April 8, 1986, did not reveal or imply that the information came from communications intercepts. However, subsequent quotes from Gen. Bernard Rogers and President Reagan were more explicit:

General Bernard Rogers: . . . there is "indisputable evidence" that the April 5 bombing of a West Berlin discotheque that killed a U.S. Army sergeant can be linked to a "worldwide network" of terrorists set up by Libyan leader Moammar Kadafi. "I can't tell you how we get it, but the evidence is there," he said during a question-and-answer session after a speech at the private Brandon Hall school. (Los Angeles Times, April 10, 1986. p. 2.)

The NATO official said West German officials had intercepted communications from Libya to its embassy in East Berlin, commenting on the attack before and after it took place. "There are always messages passed back and forth between the general People's Congress (parliament) and the Peoples' Bureau (embassy) there." (United Press International, April 11, 1986.)

President Reagan: The evidence is now conclusive that the terrorist bombing of La Belle discotheque was planned and executed under the direct orders of the Libyan regime. On March 25th, more than a week before the attack, orders were sent from Tripoli to the Libyan Peoples' Bureau in East Berlin to conduct a terrorist attack against Americans to cause maximum and indiscriminate casualties. Libya's agents then planted the bomb. On April 4th the Peoples' Bureau alerted Tripoli that the attack would be carried out the following morning. The next day they reported back to Tripoli on the great success of their mission. Our evidence is direct; it is precise; it is irrefutable. (President Reagan's April 4, 1986, Address to the Nation.)

The report of the Office of the Inspector General concludes that there is no evidence of a rebuke or reprimand over the public statement from the White House on any matter, no security violation regarding the Libyan statement incident, and no reappraisal of Mr. Burt's security clearance at that time.

In a private written communication dated June 6, 1989, Lt. Gen. William E. Odom, who was the Director of the National Security Agency at the time of the Berlin nightclub bombing, has indicated that any suspicious at the time that public statements by the United States Ambassador to the Federal Republic might have compromised intelligence sources were not soundly based. Recalling a series of leaks and press reports at the time that did coincide with the loss of sources, General Odom has written:

I made a number of statements at the time as part of a compaign to stem the flood of disclosures. My intent was to limit damage, not to indict individuals per se.

General Odom noted that had he intended to blame Ambassador Burt personally:

I would have forwarded my complaint to the Justice Department, a common practice when news reports provide evidence that 18 U.S. Code 798 has been vilolated. I did not forward such a complaint, nor do I recall my agency doing so at the initiative of some other intelligence official.

General Odom concluded that from the evidence he has seen, it would be wrong to hold Ambassador Burt responsible for any disclosure of intelligence sources that may have emerged in the aftermath of the Berlin discotheque bombing.

SECURITY CHECK OF RESIDENCE

In January 1986, during the course of a security check of the official residence requested by Ambassador Burt, a team of security engineering officers discovered a container of a suspected controlled substance following a holiday open house hosted by the Ambassador. The Office of Security in Frankfurt conducted an immediate investigation with the Ambassador's full cooperation. The investigating agent reported that there was no evidence of actual possession or use by any U.S. officials associated with the American Embassy. For its part, the Office of the Inspector General conducted its own investigation of this incident and its subsequent handling by the Office of Security. The report of the Office of the Inspector General concurred in the judgment of the investigating agent, although it noted that the results of the initial investigation, for reasons unknown but in no way attributable to Ambassador Burt, appear not to have been communicated formally to senior management in the Department of State either on an informational basis or for decision.

CONCLUSION

Having reviewed the issues raised regarding Mr. Burt and his responses and having had access to the independent report of the State Department Inspector General, prior to reporting to the Senate, the committee reached the conclusion that Mr. Burt is fully qualified to perform his duties effectively. The START Treaty now in prospect is a critically important undertaking. Indeed, the eventual significance of the INF Treaty will hinge in great measure upon the success of the two sides in bringing about meaningful, stabilizing reductions in strategic offensive arms. Moreover, it will be essential for both sides to achieve an outcome in the defense and space talks which allows the exploration of potentially valuable improvements in strategic defenses without undermining the Anti-Ballistic Missile Treaty, which is the centerpiece of prior efforts to control strategic arms.

Mr. Burt brings to these challenges a thorough background in strategic affairs, 8 years of high-level Government service, and an apparent commitment to pursue the President's objectives in the Geneva talks.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. PELL. Mr. President, I yield a minute to the Senator from Tennessee [Mr. GORE].

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. GORE. Mr. President, I thank the distinguished chairman of the committee for yielding.

I did want to on this occasion speak out strongly in favor of the confirmation of Mr. Burt as our Ambassador to the START talks. I think that his qualifications are exceptional and, frankly, we have already gone far beyond the time in which this body should have acted to confirm this nomination.

We have an important historic opportunity to change the relationship between the United States and the Soviet Union by hopefully eliminating the fear of a first strike on both sides and moving toward strategic stability. It is important for the legislative branch and the executive branch to be as unified as possible when our country sits down at the negotiating table.

The very minimum we can do is to quickly move forward on the confirmation of this nominee, especially because he is so exceptionally qualified.

I yield back the remainder of my time.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. PELL. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. Four minutes.

Mr. PELL. Mr. President, I yield the remainder of my time, the 4 minutes, to the Republican leader.

The PRESIDING OFFICER. The Republican leader.

Mr. DOLE. Mr. President, I thank the distinguished chairman.

I am pleased to support this nomination. I thank both the chairman, Senator PELL, and the ranking Republican, Senator HELMS, for working out this agreement so that our Ambassador can be there for the start of the talks. I think it is very important. It is an important post.

Today we turn to the nomination of Richard Burt to be our Negotiator to the START talks. This is an important post. As everybody knows as START Negotiator Mr. Burt will have a great deal to say about the future of America's national security.

Mr. Burt is going to have a great deal to say about the future of America's national security.

Therefore, we need someone with intellect and integrity. We want to look at his past record. But sometimes we tend to focus on the nominee's past record as we have done here. So we do need to examine it carefully. We do need the facts. We do not need hearsay.

I have been saying that it is wrong to pursue allegations without evidence to substantiate them. It was wrong to do this to our colleague John Tower, and it is the wrong thing to do to Richard Burt, it is the wrong thing to do to any nominee.

I have heard a lot of issues raised regarding Mr. Burt, but I also think it is fair to add that Mr. Burt has undergone three background investigations and has been confirmed twice by the Senate. These processes yielded no substantive derogatory information on Mr. Burt. Three Secretaries of State and two Presidents have placed their confidence in Richard Burt. And I am sure that all would agree that Mr. Burt's service as ambassador to the Federal Republic of Germany was marked by excellence.

So, as I have said before, if there is no evidence to back allegations, the President has a right to his nominee—this is President Bush's choice. And the nominee has a right to fair treatment.

But that is enough about the past.

The issue here is Ambassador Burt's future role as head of the nuclear and space talks. In that regard, I think there are some issues that I would address.

We heard about security problems in Geneva over and over at John Tower's trial. This is a matter Mr. Burt has given much thought to. In cooperation with ACDA Director Ron Lehman, he developed a plan to improve security procedures. In response to a question by the distinguished ranking member of the Foreign Relations Committee, Mr. Burt submitted a security plan he prepared for the Geneva delegation. In addition, he has given his personal assurances that any security violations will be addressed with tough action.

On matters of policy, I know that most of my colleagues share my concern about moving SDI forward as quickly as possible. I raised this same issue with Rick Burt in a personal meeting and later asked that he respond to a number of policy questions for the record.

I ask unanimous consent that those questions and the answers be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

RESPONSES FROM NST AMBASSADOR-DESIGNATE RICHARD R. BURT TO QUESTIONS OF SENATOR BOB DOLE, COMMITTEE ON FOREIGN RELATIONS, MAY 5, 1989

1. Q: Mr. Burt, if you are confirmed, you will become the focal point for a number of pressures to conclude a START agreement quickly. These pressures will intensify as it appears that major issues have been resolved, leaving only difficult to explain, but often crucial, smaller ones. What steps will

you take to slow the process down and to avoid a last-minute crunch?

A: Last-minute crunches can arise only if we attempt to negotiate a START agreement against a deadline. We have no intention of doing that. Our goal is a good START agreement, not a quick one. We will attempt at all times to achieve progress toward an agreement, but we will take as long as necessary to obtain a good one. I will resist any pressures to reach hasty, ill-considered solutions to negotiating issues.

2. Q: Negotiating against a deadline can disadvantage the United States. What events over the next four years do you foresee could be used by some to establish negotiating deadlines? Will you firmly resist any Soviet attempt to create deadlines? Will you emphatically recommend against any U.S. suggestion, formal or informal, that we must negotiate against a deadline?

A: It is difficult to forecast what events could be used to establish a negotiating deadline. But this Administration has no intention to negotiate against a deadline and I will resist any or all pressures to do so.

3. Q: Elements of the INF Treaty, particularly details of verification implementation, were unfinished when the INF Treaty was signed. Some are still being negotiated with the Soviets. Do you believe that a similar approach to START would be sound? Can you assure us that every detail of START—a treaty which will fundamentally affect America's security—will be agreed in writing when a treaty is presented to the Senate?

A: In order to negotiate an arms control agreement that improves stability and is effectively verifiable, the treaty text must establish obligations that are defined as precisely as possible and procedures for assuring our ability to verify compliance with those obligations. Clearly, all essential obligations and provisions of a treaty must be agreed in detail prior to the treaty being signed. I would insist on no less for a START treaty.

Undoubtedly, a START treaty would provide for a verification body to work out some technical, logistical or administrative details of implementation and deal with compliance problems that might arise. However, such a body will not replace the need for detailed and precise obligations and provisions, including for effective verification, for a START treaty.

4. Q: Is it your understanding that all amendments, reservations and understandings included in the Senate's resolution of ratification must be communicated to the other party to a treaty in the protocol of exchange?

A: It has been and will be the practice of the U.S. Government to communicate all amendments and reservations included in the Senate's resolution of ratification to the other party or parties to a treaty at the time of the exchange of the instruments of ratification. It has also been the practice of the U.S. Government to so communicate to the other party or parties all understandings included in the Senate's resolution of ratification in cases where the Senate wanted such understandings communicated to the other party or parties.

5. Q: From time to time interim agreements, frameworks or agreements in principle have been suggested to lock in apparent progress on major issues while leaving details to be negotiated. The Vladivostok agreement is one example. Some talked of a START framework agreement prior to the May 1988 Moscow summit. Do you believe this is a sound arms control approach?

A: As you know, the START negotiations to date have produced a joint draft text of a treaty. I believe it is important to continue to focus our efforts on a detailed text with precise legal language, rather than a framework or interim agreement. This should not preclude, however, the possibility of separating out certain elements for immediate implementation if they serve our security interests as independent agreements. A case in point is the Ballistic Missile Launch Notification Agreement concluded at the 1988 Moscow Summit.

6. Q: What is your understanding of section 33 of the Arms Control and Disarmament Act and of the Case Act?

A: Section 33 of the Arms Control and Disarmament Act forbids any action that would obligate the U.S. to disarm or to reduce or limit the armed forces or armaments of the U.S. unless such action is pursuant to the treaty-making power of the President or unless such action is as the result of affirmative legislation by both houses of Congress. The Case Act requires the Secretary of State to transmit to the Congress the text of any international agreement other than a treaty no less than 60 days after its entry into force. Failure to transmit the text of the agreement within that period will result in a cut-off of funds for its implementation. Further, the Case Act requires that an international agreement may not be signed or otherwise concluded without prior consultation with the Secretary of State.

7. Q: If you are confirmed, you will be Chief Negotiator for START and the Administrative head of the Nuclear and Space Talks Delegation. Precisely what does this mean? What will be your role as head of delegation? Where would you draw the line between substance and administration?

A: As the Chief START Negotiator, I will be responsible on a day-to-day basis for leading our delegation's efforts to complete a START treaty.

As the Head of Delegation for the overall Nuclear and Space Talks, I will also stay abreast of developments in the Defense and Space Talks, particularly when issues arise in one set of talks which might affect developments in the other set of talks. Consistent with past practice, however, the Chief Negotiator for Defense and Space will get instructions directly from the President and the Secretary of State, just as I will for START. I will not act as a filter for these instructions or for his recommendations to the Washington interagency process.

8. Q: A key Soviet objective is to link the Defense and Space Talks to START. What is your view on this?

A: The US position has always been that offensive reductions are, in and of themselves, important and should proceed on their own merits. The best solution to this issue would be a Soviet decision to drop its linkage position, which is unwarranted and obstructs progress in the negotiations.

9. Q: We must prevent the Soviets from using diplomatic protocol or procedure to press for linkage between START and Defense and Space. The Bush Administration has chosen to name the START negotiator as the administrative head of the NST delegation. If you're confirmed, the Soviets will surely seek to subordinate D & S to START by going through you in your capacity as head of delegation. What steps will you take to insure that they do not succeed?

A: I am sensitive to the need to ensure that the NST delegation operates in a manner that is consistent with our position on linkage. I will make clear to the Soviets that our Chief Negotiator for Defense and Space is indeed the primary person negotiating on defense and space issue.

10. Q: Presumably, a chief negotiator for Defense and Space will be nominated soon. For whom will he or she work? Will he or she have regular access to the Secretary of State on D & S matters? Will he or she choose the D & S deputy negotiator and other delegation members? Will he or she be included in all meetings pertaining to D & S? Will he or she be the final authority in Geneva on D & D matters, including approving reporting cables and travel for members of the D & S delegation?

A: The Chief Negotiator for Defense and Space will get instructions directly from the President and the Secretary of State, just as I will for START. I will not act as a filter for these instructions or for his recommendations to the Washington interagency process. Most delegation members are chosen by the agencies they represent; the D & S deputy will be chosen ultimately by the Secretary of State based on the advice of those he chooses to consult. In Geneva, the Chief Negotiator for Defense and Space will be the primary person negotiating on defense and space issues. Administrative arrangements are still being worked out, but he or she will be able to report back to Washington without restrictions.

11. Q: President Bush is "committed to deployment of SDI, as soon as feasible, and will determine the exact architecture of the system in (his) first term." Do you unequivocally support this policy?

A: I unequivocally support the President's policy on SDI research, development and deployment.

12. Q: Can you foresee any START outcome which could justify American agreement to a Defense and Space agreement which would forbid testing of space-based defenses or their eventual deployment? Can you assure us that you will not recommend that SDI be traded away as a bargaining chip in pursuit of START?

A: It is the policy of the United States that we will fully protect our rights, options, and obligations for assessing the feasibility of effective strategic defenses. It is also the policy of the United States that a START agreement be completed on its own merit. We will not accept a Defense and Space agreement that undercuts SDI. Therefore, I cannot foresee circumstances under which the United States would agree to give up space-based testing or the eventual deployment of defenses consistent with our national security interests. In short, I would not recommend that SDI be traded away for START.

13. Q: Turning to START, what in your view, should be U.S. objectives in START?

A: Our goal in pursuing a START agreement should be to achieve a verifiable agreement that reduces the risk of nuclear war. Such a reduction can be achieved by creating a more stable strategic nuclear balance, in which deterrence is strengthened and the incentives perceived by either side—even in a crisis—to launch a nuclear strike are reduced. Strategic force reductions can enhance stability if they are properly applied. But we will not seek reductions for reductions sake; rather, we will propose reductions that would result in a genuine diminution of the risk of nuclear war.

14. Q: Do you believe that a post-START mixture of strategic offensive and defensive forces could provide more stability than post-START offensive nuclear forces alone?

A: The United States is seeking a START treaty that will improve strategic stability through deep, verifiable reductions in strategic offensive forces. Through the SDI program, we are investigating whether effective defenses are feasible. If the promise of SDI technologies is realized, deterrence could be strengthened significantly and placed on a more stable foundation, one that involved increasing reliance on effective strategic defenses. If we decide to deploy effective defenses, it is US policy that the transition to a mix of offensive and defensive deterrent forces should be conducted in a stable—and preferably jointly managed—manner. I believe that it is possible that a post-START mix of offensive and defensive forces, as part of a well thought out transition to greater reliance on defenses, could further improve stability.

15. Q: The Reagan Administration and the Congress are on record supporting the view that START cannot be concluded until Soviet violations of existing agreements are corrected. Do you agree with this?

A: The Bush Administration position on this question is the same as that of the Reagan Administration—we will not conclude strategic arms control agreements until the ABM Treaty violation at Krasnoyarsk is corrected. I support this position.

16. Q: Some believe that the changes brought about by Soviet President Gorbachev have decreased the Soviet threat to the United States and the need for stringent verification. What is your view on this?

A: An agreement as important as a START Treaty is too important to be based on the trust of one individual's intentions; we must have stringent verification. The question of our approach to verification is being addressed in the Administration's strategic review. While I cannot prejudge the outcome of the review, I believe a Treaty should be judged verifiable if it provides sufficient confidence of monitoring Soviet activities so that a militarily significant violation would be detected in time to take appropriate countermeasures.

17. Q: With regard to verification, detecting violations at suspect sites is one of the most difficult challenges for arms control. If the Soviets were to cheat, they would most likely do it at a site undeclared for treaty purposes, and therefore, not subject to inspection. In your view, does the provision for verification at ballistic missile rocket production facilities approved by the previous administration last fall provide effective verification? If yes, explain how. If not, what ideas do you have to verify compliance with a START agreement at suspect sites?

A: The issue of suspect-site inspection is being reviewed as part of our overall strategic review. I can tell you, however, that a great deal of work was done during the Reagan administration to find the appropriate balance between our need to inspect suspect Soviet facilities and our need to protect sensitive U.S. facilities from exposure to intelligence gathering by Soviet inspectors. While I cannot prejudge the outcome of our current review, it does seem sensible to limit this inspection right to those kinds of locations where cheating would be most likely and most significant militarily, such as ballistic missile rocket production plants.

18. Q: The INF Treaty's resolution of ratification contains a declaration that "because the reductions contemplated under any START agreement would change the character and optimal mix of strategic nuclear forces that the United States will need to maintain stability, the United States Congress and the President should agree on the character of, and funding for, these forces before any START agreement, framework or otherwise, is signed or agreed to.

Section 980 of the FY-89 Defense Authorization Act, (the Dole-Byrd-Wilson amendment) calls for a report on alternative post-START force structures. The previous administration was unable to deliver a required interim report. However, National Security Adviser Scowcroft and Secretary of Defense Cheney have assured us that the report will be delivered by June 15. As a negotiator, do you believe this type of analysis is necessary so that you will know what the range of acceptable force structure outcomes is? Do you believe it is necessary that the Congress and the American people be informed, up front, what strategic offensive and defensive modernization is necessary in order to insure that START truly enhances stability? If you are confirmed, will you do everything, within the limits of your office, to see that the section 908 report is completed and delivered on time?

A: I believe it is important that we maintain a coherent program of force structuring and arms control. This requires a clear understanding of both the arms control provisions that can enhance the deterrent effect of our force structure and the force structuring decisions that can make our arms control efforts more stabilizing. This understanding should be shared by the Administration, Congress and the public. I will support efforts to complete the section 908 report on time.

19. Q: Many believe that START reductions of offensive nuclear forces and strategic defenses are complementary. START would limit the size of offensive forces to be defended against. A strategic defense system could compensate for any shortfall in verification or in the stability provided by the post-agreement offensive force structure. Furthermore, a Phase One stragegic defense system would move us toward a world in which strategic stability is defined more in terms of damage limitation than in terms of damage expectancy. Do you see START and strategic defense as complementary, unrelated or incompatible? Please explain. Do you believe defenses should be part of any post-START force structure?

A: I believe that stabilizing START reductions and effective defenses are fundamentally complementary. Both hold the potential to reduce the risk of war. Thus, the U.S. should keep open an option to deploy defenses in a post-START environment, should effective defenses prove feasible.

20. Q: The Soviets have insisted upon limiting Sea-Launched Cruise Missiles (SLCMs) in START. SLCMs in our post-START force structure would enhance stable deterrence, therefore, they should not be prohibited in START. However, no workable way to verify numerical limits or to distinguish nuclear SLCMs from conventional ones has yet been found. What are your views on this issue?

A: SLCMs pose major verification challenges. This is why the United States has favored a non-binding "declaratory" approach under which each side would periodically announce its nuclear SLCM deployment plans. Our position on SLCMs is being addressed in the Administration's strategic review. It would be premature to discuss US policy on this matter pending the outcome of the review.

21. Q: The INF Treaty's resolution of ratification includes a declaration that in START "it should be the position of the United States that no restrictions should be established on current or future non-nuclear air or sea-launched cruise missiles developed or deployed by the United States or on non-nuclear ground-launched cruise missiles of ranges not prohibited by the INF Treaty." Do you support this policy?

A: The US position has been that all existing long-range air-launched cruise missiles would be considered nuclear-armed, while future conventionally armed long-range ALCMs that are distinguishable from nuclear-armed ALCMs would be considered conventionally armed and not limited. The US has also opposed limits on conventionally armed SLCMs. These positions are being addressed in the Administration's strategic review. Our position on long-range GLCMs is also under review. It would be premature to discuss US policy on this matter pending the outcome of these studies.

22. Q: The so-called "futures" issues arose as a surprise during the INF ratification process, and proved to be a very difficult one. As a condition to its consent to ratification, the Senate insisted that a written clarification agreed by the two parties have the same force and effect as the treaty. Even with this, many Senators still believed that the United States was forced into a disadvantageous and unintended interpretation of the treaty. What steps will you take to prevent a similar occurrence in START?

A: I will make every effort to ensure that all obligations in a START Treaty are clear and unambiguous, and that both sides share a common interpretation of those obligations.

23. Q: Four years ago the Senate established an Arms Control Observer Group which enjoyed a close working relationship with our negotiators. We hope this relationship will be continued and strengthened with this Administration. What are your views on working with this group?

A: The Arms Control Observer Group serves a vitally important function, and I share your hope that its relationship with the Administration will be continued and strengthened. I intend to work closely with this group to help bring that about.

Mr. DOLE. It is fair to say that in his responses, Ambassador Burt stated that he unequivocally supports the President's policy on SDI, and that a defense and space agreement that undercuts SDI is unacceptable. He also said that it is his belief that stabilizing START reductions and effective defenses are fundamentally complementary.

It would also point out that as our Ambassador to Germany, long before he knew he would be considered for the START post, Richard Burt was speaking in favor of SDI development and United States-German cooperation on defenses.

On START itself, it is no secret that I have said many times that we need to slow down and do it right. In response to my questions, Mr. Burt said:

This administration has no intention to negotiate against a deadline and I will resist any or all pressures to do so.

We do not want to set a deadline and then say we have to meet that deadline with a hurried treaty.

Mr. Burt's answers to my questions reveal a good understanding of strategic issues which I do not have time to go into now, but I have placed the full text in the RECORD.

Let us also keep in mind that any treaty Mr. Burt negotiates will ultimately be measured by us against the testimony he has given in this confirmation process. I believe Mr. Burt understands that.

I would also note he is fully committed to continuing the close working relationship between the delegation and the Senate arms control observer group.

There are now 20 members of that group. It is a very important group. It is an idea that Senator ROBERT BYRD, now President pro tempore, had when he was majority leader. We believe it has worked quite well. We saw evidence of it in the INF debate on the Senate floor.

So I am prepared to vote. I would be pleased—and I know President Bush will be pleased—if Mr. Burt can be in Geneva on Monday, and I think that is what we should do.

Mr. President, I ask unanimous consent that Mr. Burt's security plan, in addition to his answers to my questions, and excerpts from his speeches in Germany be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

EXCERPT OF SPEECH GIVEN BY AMBASSADOR RICHARD BURT AT KONRAD ADENAUER FOUNDATION IN ST. AUGUSTIN ON NOVEMBER 12, 1985

The second element of our common strategy must be strength. I do no simply mean military strength. That is not the only kind of strength we require, or even the most basic kind. We must maintain the strength of our values, our institutions, our economies. To do that in an era of rapid change is not easy. But military strength is important. The Reagan Administration has taken major steps to restore America's defenses. The Federal Republic, too, has in recent years exercised an increasing leadership role in efforts to strengthen common Western defense—a role I believe deserves wider recognition.

Under two successive governments, the Federal Republic played a major part in the formulation and implementation of the NATO decision to deploy a new generation of intermediate range nuclear missiles. It was Helmut Schmidt who first called the Carter Administration's attention to the dangers posed by the SS-20. Germany had a large role in formulating the NATO response to that danger. It was Chancellor Kohl's government that took the tough and courageous steps needed to implement that decision. I know from my own experience as Chairman of the NATO Special Consultative Group how important Germany was in the negotiating efforts. The decision of the Dutch Parliament a few days ago to deploy cruise missiles, and the deployments already carried out in Germany, the U.K., Italy and Belgium, would never have happened without this historic exercise of German leadership.

The Federal Republic has also played a major role in strengthening NATO's conventional defenses and modernizing its defense concepts. The Kohl-Reagan communique of November, 1984 may in this regard be the most important document setting out alliance defense objectives since the definition of flexible response in 1967. The Kohl-Reagan declaration led within days to a NATO Defense Ministers' decision endorsing a stronger conventional defense effort, designed to reduce NATO's reliance on the early use of nuclear weapons.

One must also call attention to the German government's recent decision to extend the period of military service. It was a courageous decision, but also an absolutely necessary one. At a time of growing Warsaw Pact capabilities, and while we seek to give new impetus to negotiations in Vienna on conventional force reductions in Europe, nothing is more essential than to maintain our existing troop levels while enhancing their capabilities.

Finally, of course, it was Chancellor Kohl who, in a policy statement to the Bundestag on April 18, 1985, offered the warmest, most unqualified endorsement of President Reagan's Strategic Defense Initiative, calling the American research program "justified, politically necessary and in the interests of overall Western security." Last month, the Federal Security Council reendorsed this statement as an expression of the entire government's policy. And it was Chancellor Kohl and other German leaders who first directed American attention to the issue of allied participation in this research program, and made us realize the potential for cooperation. I am confident that our two governments will soon reach an agreement that will permit us both to benefit to the maximum extent from cooperation on SDI.

EXCERPT FROM SPEECH GIVEN BY AMBASSADOR RICHARD BURT AT THE INAUGURATION OF MESSETURM TOWER IN FRANKFURT ON JULY 13, 1988

In our strategic arms negotiations with the Soviet Union, we must nail down the agreement to reduce each side's strategic arsenal by 50 percent. At the same time, we must ensure that the United States is left with a fully reliable, survivable and effective deterrent. In order to achieve such an agreement, and secure such a deterrent, the United States needs to pursue its strategic modernization program, move forward with the deployment of a survivable mobile land-based missile, and continue to develop a viable system of strategic defense.

AMBASSADOR RICHARD BURT—GENEVA DELEGATION SECURITY: ACTIONS TO BE TAKEN

Senator, I understand that a number of important actions have already been taken by the Arms Control and Disarmament Agency to strengthen security controls in Geneva. For example, all ACDA Top Secret information has been brought under strict control and the Executive Secretary of each Negotiating Group has been designated as the Top Secret Control officer, responsible for the security of all of that delegation's Top Secret documents. In addition, a new policy on access to ACDA space in the Mission has been implemented under which no individual will be given an access badge to these areas unless he or she has been certified as having the necessary clearances and a mandatory security briefing.

If confirmed by the Senate, I can assure this committee that I intend to go much further in enhancing our security posture in Geneva. In cooperation with the ACDA Director and with the State Department's Bureau of Diplomatic Security, I plan to take the following additional measures:

(1) Every member of the U.S. negotiating team in Geneva, regardless of which agency they represent, will be required by me to attend a briefing on security and counter-intelligence measures before they will be allowed to travel to Geneva. This briefing will be provided jointly by ACDA and by the State Department's Bureau of Diplomatic Security.

(2) All delegation members will be provided with a written Delegation Security Directive which will outline in considerable detail the security responsibilities of each delegation member. The guidelines in this directive will cover physical security, document handling and personal conduct. All delegation members will be asked to sign a statement saying that they have read these guidelines and they will be encouraged to keep them handy for reference.

(3) Tighter security controls will be promulgated for all sensitive delegation documents with strict limits on the number of copies made and the distribution of these documents.

(4) A rotation system of inspecting the entire Delegation area in the Mission at the end of each business day will be implemented to ensure that the area is secure each evening. The "Security Duty Officer" will inspect and certify in writing that the entire area is secure.

(5) I personally will ensure that all violations of security are addressed with tough disciplinary action, including, if necessary, dismissal of repeat offenders from the delegation.

Senator, let me conclude by assuring you once more that security will be a high priority item for me in Geneva and that I will ensure that all delegation members understand and share my concern in this area.

Mr. HELMS. Mr. President, first of all, I anticipated some of the remarks that would be made on the floor, such as there is "no evidence" of any lack of responsibility by Mr. Burt in the past. I said at the outset, I think, if you will review my earlier comments, that Mr. Burt has a number of personal friends; that he is good at making personal friends. I would like to be his personal friend.

But that is not the question. The question is whether he has been responsible in the past.

Now, I challenge Senators to do tomorrow, after the fact, what I have done this day. I asked CIA and NSA for damage assessments of these leaks. I consulted the Senate Intelligence Committee and its files. I cannot give you the answers to the questions I asked. Senators can get those themselves. The answers are highly classified at the code-word level. But I suggest that each Senator who has any doubt about anything that I have said about Mr. Burt do as I did: Go to the Intelligence Committee, ask the experts, and get out the files and ask the following questions:

With respect to the 1979 CHALET damage assessment: First, does the material for Senators include a

damage assessment of the CHALET leak in Burt's New York Times article made in 1979?

Second, how severe was the damage assessment made in 1979?

Third, does it show that in 1979 we believed that there was severe damage to U.S. communications, intelligence sources, and methods?

Fourth, was there a reassessment of the damage in 1982?

Fifth, does this reassessment seek to reanalyze the 1979 damage once it has become a political issue?

I cannot say what is in the files today, but committee members did discuss that reassessment in 1982.

Mr. President, allow me to read a summary of the debate on this point during the confirmation of Mr. Burt on February 16, 1983, prepared by the Senate Republican Policy Committee:

> The Senate Select Committee on Intelligence did an assessment of the damage which Mr. Burt did with the article and concluded that the information he released fit the literal definition of "top secret"—that is, information the release of which could be expected to do exceptionally grave damage to national security. The full case of the damage incurred must be made in closed session because the matters revealed by Mr. Burt are part of a top-secret mosaic, parts of which we hope the Soviets do not know.

Now, that was a reassessment.

As to the Libyan intercept case of 1986, ask the questions, I say to Senators. Go to the Intelligence Committee and see what answers you get to the same questions I asked them today.

The first question being: Does the material include a May 30, 1986 letter from the CIA Director to the then chairman of the Senate Intelligence Committee, Mr. DURENBERGER, about the problems caused by the revelation of the Libyan intercepts?

Second, did the Director of the CIA believe the damage to be "severe" as reported at that time in the press?

Third, does the material include a letter dated May 7, 1986 from General Odom, Director at that time of the NSA, a letter to the Attorney General?

Is there such a letter? Ask the question. See what the letter says.

Fourth, does that letter ask for an investigation of sources of the leak?

Fifth, does it include an assessment of severe damage?

Sixth, does the gravity of the request imply that General Odom believed—no matter what he says now—believed at that time that there should be prosecution of the guilty offenders?

Now, I hope Senators will do as I did. They are going to vote to confirm him. I may be the only Senator voting against him. That is all right. I have been alone before.

As I said at the outset, it is nothing personal against Mr. Burt, except I am concerned about my country. If we were voting whether Mr. Burt was a nice guy and a personable guy, I vote aye. But my concern is about the security of this country and if I have done nothing else by prosecuting this thing, maybe I have gotten through to Mr. Burt that he ought to be an awful lot more careful in the future than he has been in the past.

Mr. Burt is a darling of the major news media. He has been a part of it.

Mr. President, I have several things that I want to have printed in the RECORD.

The first is a letter written by the distinguished Senator from Iowa to the distinguished minority leader of the U.S. Senate. I ask that Senator GRASSLEY's letter be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. HELMS. Mr. President, on June 6, 1989, Lt. Gen. William Odom wrote a letter to Mr. Burt at Mr. Burt's request. In other words, he went to him and said: "General, help me out." Help me out. Senator HELMS knows about what you thought way back then.

Obviously the purpose of the letter was to clear Mr. Burt of Lieutenant General Odom's previous charges that Mr. Burt had severely damaged communications intelligence sources and methods by disclosing United States intercept of Libyan terrorists' communications.

In this letter, General Odom refers to what he terms "my suspicions" and "my earlier suspicions" that Mr. Burt's television appearance just after the bombing of the Labelle Disco in West Berlin caused the disclosure of intelligence sources that allowed us to implicate the Libyans.

In his June 6, 1989 letter, General Odom says "From the evidence I have seen, it would be wrong to hold you, Mr. Burt, responsible."

That answer seems more attuned to today's political situation than to General Odom's assessment when all the facts and information were fresh in his mind. Perhaps now that he has retired, the immediacy of the problem has receded from the forefront of his mind. Indeed, General Odom admitted to a Republican senior professional staff member of the Senate Foreign Relations Committee on June 8, 1989, that in April 1986, he, General Odom, had been "angry at Mr. Burt" for the leak of the Libyan intercepts. A former high Defense Department security official has corroborated that General Odom was angry in 1986 at Mr. Burt for the Libya intercept leak.

Is there not a contradiction between General Odom's 1986 suspicions and anger regarding Mr. Burt and his June 6, 1989 pious absolution of Mr. Burt's responsibility?

That contradiction is even clearer when we read General Odom's classified letter of 1986 to the Justice Department. I think General Odom realizes just how damaging his 1986 classified letter is, and that is why he is trying to explain it away after the fact. And I do not think he has succeeded in explaining it away.

According to a letter to me of 14 June, 1989 from the Deputy Director of the National Security Agency, General Odom wrote a classified letter to the Justice Department in 1986 in which General Odom requested that the Justice Department investigate who the source of the Libya leak was. The letter to the Justice Department also contains a classified assessment of the damage of the Libya leak. The clear implication of such a letter is to prosecute those found responsible for the Libya leak.

The General Odom classified letter to the Justice Department contradicts General Odom's June 6, 1989, unclassified claim that,

> If I had intended to blame you personally, I would have forwarded my complaint to the Justice Department. * * * I did not forward such a complaint, nor do I recall my agency doing so at the initiative of some other intelligence official.

Mr. President, the facts are as follows. It was well known to many security officials that General Odom blamed Mr. Burt for the Libya leak and was angry at him. He did initiate a complaint to the Justice Department in 1986. While Mr. Burt may not have been named in the complaint, it was widely known in the intelligence community that Mr. Burt was the chief target of General Odom's complaint.

Mr. President, I ask unanimous consent that the Odom letter be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

June 6, 1989.

Ambassador RICHARD BURT,
Department of State,
Washington, DC.

DEAR AMBASSADOR BURT: You asked me to reconsider my suspicions that your television appearance the Monday after the bombing of the Labelle Disco in Berlin caused the disclosure of intelligence sources that allowed us to implicate the Libyans.

Having looked them over, I do not believe my earlier suspicions are soundly based. At the time I was facing a series of leaks and press reports that did indeed coincide with the loss of sources. Several high level officials were speaking out on the matter, and backgrounders were being given. I made a number of statements at the time as part of a campaign to stem the flood of disclosures. My intent was to limit damage, not to indict individuals per se.

If I had intended to blame you personally, I would have forwarded my complaint to the Justice Department, a common practice when news reports provide evidence that 18 US code 798 has been violated. I did not forward such a complaint, nor do I recall my agency doing so at the initiative of some other intelligence official.

From the evidence I have seen, it would be wrong to hold you responsible.

Sincerely,

WILLIAM E. ODOM,
Lieutenant General, USA, Retired.

Mr. HELMS. Mr. President, in summary, it gives me no pleasure to stand virtually alone if not entirely alone in any matter. But I have these doubts about Mr. Burt and, as I said at the outset of my remarks a while ago, if my brother, whom I love dearly, had been nominated for this post and if he had had the record that is so clear to any Senator who will go to the Senate Intelligence Committee, I would not vote for my brother.

We can get up here and say: no evidence. We can say he is distinguished. He has integrity. He is responsible and he has done a good job. But the proof of the pudding is not only in the eating, it is in the files. And I challenge Senators again to do precisely as I have suggested. Go to the Senate Intelligence Committee and ask the questions as I did earlier today of the staff in terms of what is in the files. Then they will find out whether there is "no evidence." Then they will find out about the missing briefcase.

Perhaps they will even wonder how that marijuana got there. Not that that is any big thing in the overall picture. But the pattern of Mr. Burt's responses to questions bordered on being arrogant. He knew he had friends in this Senate and he was not worried about being confirmed by the U.S. Senate. All he had to worry about was one Senator who would stand up and say wait a minute. I have said wait a minute. I am prepared to vote. I know how the vote will go. There is nothing unusual about that.

EXHIBIT 1

U.S. SENATE,
Washington, DC, June 14, 1989.

Hon. ROBERT J. DOLE,
Senate Republican Leader,
Washington, DC.

DEAR BOB: Over the past several months, I have spent considerable time looking into what are clearly major security problems within our arms control delegation in Geneva. I have been absolutely appalled at the lack of professionalism and disregard by some ACDA employees and detailees for the control and safekeeping of information that is among the most sensitive produced by our government. In addition to my own inquiry, the GAO also has conducted three investigations into ACDA security deficiencies, the most recent dated November 1988. These reports suggest security violations may be ongoing.

Given the sensitive nature of the delegation's mission in Geneva, and given the serious nature of past and perhaps ongoing security violations within ACDA, it is of paramount importance that the new Head of Delegation and Chief START Negotiator demonstrate the highest degree of integrity and credibility so that he can effectively implement an agency-wide clean-up.

On May 5, 1989, the Senate Foreign Relations Committee held a confirmation hearing on the nomination of Richard Reeves Burt as Head of Delegation on Nuclear and Space Talks and Chief Negotiator on START. Discrepancies between Mr. Burt's May 5 testimony and his own security record have recently been brought to my attention, and they have raised questions that I believe must be addressed before the Senate can proceed with consideration of the Burt nomination.

On May 5, Mr. Burt was asked about the number of security violations he has been cited for while serving in the State Department. Mr. Burt recalled only one violation. He was asked if he were ever cited for a violation involving Top Secret information contained in a briefcase. Mr. Burt recalled no such violation.

Since the May 5 nearing, a secret report by the State Department's Inspector General regarding Mr. Burt has been made available to the Senate. That report reveals discrepancies with respect to Mr. Burt's statements before the Committee about his violations. Mr. Burt issued his own clarification to his May 5 response in a letter to the Commitee dated May 8.

According to the IG report, Mr. Burt received and signed an acknowledgement for three violations between 1983 and 1987. Furthermore, one of the three violations involved the loss of a briefcase in Brussels in which he was carrying Top Secret information. It appears that that information may have been compromised.

Based on the State Department's IG report and the June 8 report by the Foreign Relations Committee on the Burt nomination, the matter of Mr. Burt's security record remains unresolved, in my view. It appears that the Brussels Regional Security Officer, the Foreign Relations Committee, and the DOS IG all drew their respective conclusions based upon the responses of Mr. Burt, and without the benefit of an independent and professional investigation. Referring to the briefcase matter in his report on Mr. Burt, Sherman M. Funk, the DOS IG, states that "it's a judgment call" whether or not this information would have reversed a 1985 decision to continue Mr. Burt's security clearance. I am sure you will agree that any sound judgment requires a full review of the circumstances surrounding the matter in question. In this context, it seems appropriate that the circumstances surrounding the other two violations Burt was cited for should also be reviewed.

My concerns about this nomination are not directed toward Mr. Burt personally, as I have found him to be a friendly and engaging acquaintance. My concerns are twofold. First, our Geneva delegation is suffering from an image of lax control with respect to security, including instances in which very sensitive information almost certainly was compromised. In addition, there are numerous reports of unprofessional behavior on the part of ACDA employees and detailees, and their actions may have jeopardized our national security.

Second, I believe it is in the interest of both Mr. Burt and the President of the United States to have these discrepancies resolved now rather than upon subsequent investigation. While it is not possible to send Caesar's wife to head our Geneva delegation, it is nonetheless desirable that no question remain as to the integrity of our ambassador there.

I hope that you can assist me in resolving these concerns either prior to the Burt nomination or upon subsequent investigation. Thank you for your cooperation.

Sincerely,

CHARLES E. GRASSLEY.

Mr. HELMS. Mr. President, have the yeas and nays been requested on this nomination?

The PRESIDING OFFICER (Mr. LIEBERMAN). They have not, Senator.

Mr. HELMS. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. HELMS. I yield back the remainder of my time and I suggest we vote.

The PRESIDING OFFICER. There being no further debate, the question is: Shall the Senate give its advice and consent to the nomination of Richard Reeves Burt, of Arizona, to the rank of Ambassador during his tenure of service as Head of Delegation on Nuclear and Space Talks and Chief Negotiator on Strategic Nuclear Arms [START]. The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. SIMPSON. I announce that the Senator from Texas [Mr. GRAMM] is necessarily absent.

I further announce that, if present and voting, the Senator from Texas [Mr. GRAMM] would vote "yea."

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 89, nays 10, as follows:

[Rollcall Vote No. 92 Leg.]

YEAS—89

Adams	Fowler	Metzenbaum
Baucus	Garn	Mikulski
Bentsen	Glenn	Mitchell
Biden	Gore	Moynihan
Bingaman	Gorton	Murkowski
Bond	Graham	Nickles
Boschwitz	Harkin	Nunn
Bradley	Hatch	Packwood
Breaux	Hatfield	Pell
Bryan	Heflin	Pressler
Bumpers	Heinz	Pryor
Burdick	Hollings	Reid
Byrd	Humphrey	Riegle
Chafee	Inouye	Robb
Coats	Jeffords	Rockefeller
Cochran	Johnston	Roth
Cohen	Kassebaum	Rudman
Conrad	Kasten	Sanford
Cranston	Kennedy	Sarbanes
D'Amato	Kerrey	Sasser
Danforth	Kerry	Shelby
Daschle	Kohl	Simon
DeConcini	Lautenberg	Simpson
Dixon	Leahy	Specter
Dodd	Levin	Stevens
Dole	Lieberman	Thurmond
Domenici	Lugar	Warner
Durenberger	Matsunaga	Wilson
Exon	McCain	Wirth
Ford	McConnell	

NAYS—10

Armstrong	Helms	Symms
Boren	Lott	Wallop
Burns	Mack	
Grassley	McClure	

NOT VOTING—1

Gramm

So the nomination was confirmed.

Mr. MITCHELL. Mr. President, I move to reconsider the vote by which the nomination was confirmed.

Mr. SARBANES. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Under the previous order, the President will be immediately notified of the Senate's action on this nomination.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will now return to legislative session.

Mr. MITCHELL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

FUNERAL OF IMRE NAGY, FORMER PRIME MINISTER OF HUNGARY—SENATE CONCURRENT RESOLUTION 44

Mr. DODD. Mr. President, I ask unanimous consent that the Senate now proceed to the immediate consideration of Senate Concurrent Resolution 44, a concurrent resolution that I submitted earlier today concerning the former Prime Minister of Hungary, Imre Nagy and other heroes of the 1956 Hungarian revolution.

The PRESIDING OFFICER. The concurrent resolution will be stated by title.

The assistant legislative clerk read as follows:

A concurrent resolution (S. Con. Res. 44) to express the sense of the Congress concerning the funeral of Imre Nagy, the former Prime Minister of Hungary, and other heroes of the 1956 revolution in Hungary.

The PRESIDING OFFICER. Is there objection to the present consideration of the concurrent resolution?

There being no objection, the Senate proceeded to consider the concurrent resolution.

Mr. DODD. Mr. President, very briefly, the day after tomorrow an extraordinary event will take place at Budapest, Hungary. The remains of the former Prime Minister of Hungary's revolutionary government of 1956, Imre Nagy, and those of his close associates, will be laid to rest in Budapest at a dignified public funeral. This is a fitting occasion for the United States Congress to once again express its respect to the memory of those executed for their roles in the 1956 Hungarian Revolution.

The funeral is under the control of the families of the victims, among them the daughter of Imre Nagy, assisted by the Independent Committee for Historical Justice led by a close associate of Prime Minister Nagy. They have published a request on the desirable style and spirit of Friday's events. They called for a day of national reconcilation, grief and reverence, free of political rancor or sloganeering.

This resolution, Mr. President, has been written with respect for that request.

My staff has also contacted a very good friend of mine, Gen. Bela Kiraly, a retired professor of history of the City University of New York. General Kiraly was commander in chief of the Revolutionary Militia in 1956, and a close associate of Prime Minister Nagy, and for a few days acting Minister of Defense of the Nagy government. He was the highest ranking official of that government who managed to escape to the West. He is now back in Budapest for the first time since 1956, invited by the victims' families, and he will be the keynote speaker at the rally preceding the funeral.

General Kiraly will be accompanied, I might add, by a distinguished resident of I might say the presiding officer's and my home State of Connecticut, Janos Decsy, who is a professor at the University of Hartford in Connecticut, who was one of the young lieutenants in 1956.

It is a remarkable event. These are two people—Janos Decsy was severely wounded by the Soviet firearms, spent a number of years in prison and Soviet prison camps, escaped, and came to this country. The fact that the Hungarian Government is allowing Janos Decsy and Bulcsu Veress to return to participate in the formal burial of Prime Minister Nagy is really a remarkable event. On Friday that event will occur.

I would be remiss if I did not point out that while I was a very young man at the time I remember those events in the fall of 1956 very clearly. My father had been a Member of the House of Representatives, and spoke out very eloquently about the events surrounding that revolution. I am very fortunate indeed to have, coincidentally, as a member of my staff a man by the name of Bulcsu Veress, who was also a young man and participated in that revolution in 1956 as an adolescent who has come to this country. I have had the good fortune of having him as a member of my staff for over 10 years.

So to our friends in Hungary, to Bela Kiraly, Janos Decsy, to the families of the victims who were buried in unmarked graves after being hung without any identification of their remains, the fact they will receive a formal, dignified funeral is really a remarkable event. The fact that we in the Senate in this body will take note of that event and recognize that event this coming Friday is something that I think is very worthwhile, and I am very proud to offer the resolution.

We hope this will receive the unanimous support of our colleagues.

Mr. DOMENICI. Mr. President, I compliment the distinguished Senator from Connecticut [Mr. DODD] for his statement here today regarding the Hungarian heroes of the past, and I look forward to being able to support this institution going on record, with reference to the occasion he described.

The PRESIDING OFFICER. The question is on agreeing to the concurrent resolution.

The concurrent resolution was agreed to.

The preamble was agreed to.

The concurrent resolution, with its preamble, reads as follows:

S. CON. RES. 44

Whereas on October 23, 1956, students, workers, and other citizens of Budapest, Hungary, united in a peaceful demonstration to express the desire of the Hungarian people for independence and freedom;

Whereas after security forces fired on the crowd, the demonstration turned into an uprising and freedom fight;

Whereas days of heroic fighting by the people of Hungary led to a temporary ceasefire and the formation of an interim government based on the consent of the people and led by Prime Minister Imre Nagy;

Whereas the short-lived government of Imre Nagy started the first steps toward a free and independent Hungary with a multiparty system based on the idea of popular sovereignty;

Whereas on November 4, 1956, an overwhelming Soviet force entered Hungary and in fierce, bloody fighting suppressed the revolution and restored Soviet domination over Hungary;

Whereas in the course of such fighting thousands of freedom-loving Hungarians lost their lives;

Whereas Prime Minister Imre Nagy and his close associates were taken into Soviet custody, and later tried and executed under false charges;

Whereas brutal and bloody retribution following the extinction of the Hungarian revolution, and hundreds of ordinary freedom fighters were executed in addition to the top leaders of such revolution;

Whereas the present Government of Hungary has announced a radical reform of the entire political and economic system of the country;

Whereas the stated aim of such reforms is the establishment of a free and independent Hungary, with a pluralistic, multiparty political system where human rights will be respected;

Whereas the Hungarian Government has identified the secret burial sites of the executed revolutionaries of 1956, and allows their exhumation and proper public interment;

Whereas on June 16, 1989, in a public, televised funeral, the remains of Prime Minister Imre Nagy and four of his closest associates, as well as a casket representing all of the other executed victims, will be buried in Budapest with full dignity;

Whereas the Government of Hungary has announced its intention to declare the innocence of Imre Nagy and his associates;

Whereas the current Prime Minister of Hungary, the Speaker of the Parliament, and other officials of the Hungarian Government expressed an intent to attend the funeral;

Whereas hundreds of American citizens, who are former Hungarian freedom fighters, are traveling to Budapest to attend the funeral ceremonies and pay respect to the heroes of 1956;

Whereas the Hungarian revolution of 1956 was a watershed event in modern history and represented the first major sign of the inevitability of the destruction of Stalinism; and

Whereas it is the view of the people and the Government of the United States that the cause of human freedom is universal and that the Hungarian freedom fighters fought and died for the liberty of mankind: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That—

(1) it is the sense of the Congress that the funeral of Imre Nagy and other heroes of the Hungarian revolution of 1956 is a significant symbol of reconciliation and reform in Hungary; and should give further strength to the forces of democracy and pluralism in Hungary;

(2) Congress expresses sincere respect for the memory of Imre Nagy and all of the martyrs of the Hungarian revolution of 1956; and

(3) the Secretary of the Senate is authorized and requested to send a copy of this concurrent resolution to the Government of Hungary.

Mr. DODD. Mr. President, I move to reconsider the vote by which the concurrent resolution was agreed to.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from New Mexico is recognized.

Mr. DOMENICI. Mr. President, parliamentary inquiry: Is this an appropriate time for a Senator to ask for 5 minutes as if in morning business?

The PRESIDING OFFICER. Yes. That request is entirely in order.

Mr. DOMENICI. I so request, Mr. President.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOMENICI. I thank the Chair.

(The remarks of Mr. DOMENICI pertaining to the introduction of S. 1187 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

PREDICTING INFLATION IN THE FUTURE

Mr. DOMENICI. Mr. President, I do not know if it has been noted in the Senate that recently the Federal Reserve Board has made a rather significant finding. The Chairman of the Federal Reserve Board, for years, has been wondering if some formula could be arrived at from action in the marketplace, action principally related to the flow or velocity of money in the American marketplace, to see if you could predict inflation in the future. That has been something bothering people forever. We have guesstimates on it, and maybe their announcement recently that they may have found a formula, based upon records that have been compiled for 30 years of activity, may indeed in the future permit us to predict, with a reasonable amount of accuracy, whether inflation is active, alive and not in the American economy.

I am hopeful that that release by the Federal Reserve Board and their ideas of an actual mathematical formula measuring the velocity of money in the marketplace as a precursor to inflation, I am hopeful that it will work. I look forward to learning more about it, and I hope that the Senate and the committees of the Senate will take cognizance of this rather historic event. Hopefully, it will work.

BILL HELD AT DESK—S. 1183

Mr. DODD. Mr. President, I ask unanimous consent that S. 1183, a bill introduced earlier today by Senator KENNEDY, for himself, Mr. MURKOWSKI, Ms. MIKULSKI, Mr. MOYNIHAN, Mr. DURENBERGER, Mr. SIMON, Mr. LEVIN, and Mr. DIXON, to provide for certain assistance to Poland and Hungary, be held at the desk.

The PRESIDING OFFICER. Without objection, it is so ordered.

U.S.S. "EDSON" (DD946) TO BE TRANSFERRED TO SEA-AIR-SPACE MUSEUM IN NEW YORK—S. 1184

Mr. DOLE. Mr. President, I send a bill to the desk on behalf of Senators D'AMATO and MOYNIHAN and ask for its immediate consideration.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (S. 1184) to allow the obsolete destroyer U.S.S. *Edson* (DD946) to be transferred to the Intrepid Sea-Air-Space Museum in New York before the expiration of the otherwise applicable 60-day congressional review period.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

The PRESIDING OFFICER. The bill is before the Senate and open to amendment. If there be no amendment to be proposed, the question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

S. 1184

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That clauses (2) and (3) of section 7308(c) of title 10, United States Code, shall not apply with respect to the transfer by the Secretary of the Navy under section 7308(a) of such title of the obsolete destroyer U.S.S. *Edson* (DD 946) to the Intrepid Sea-Air-Space Museum, a nonprofit corporation organized under the laws of the State of New York.

Mr. DOLE. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. DODD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

APPOINTMENT OF CONFEREES—H.R. 1722

Mr. DODD. Mr. President, I move that the Senate insist on its amendments to H.R. 1722, the natural gas deregulation bill, and request a conference with the House on the disagreeing votes of the two Houses and the Chair be authorized to appoint conferees.

The motion was agreed to, and the Presiding Officer [Mr. LIEBERMAN] appointed Mr. JOHNSTON, Mr. BUMPERS, Mr. FORD, Mr. MCCLURE, and Mr. DOMENICI conferees on the part of the Senate.

ORDER FOR STAR PRINT—S. 1132

Mr. DODD. Mr. President, I ask unanimous consent that S. 1132 be star printed to reflect the changes I now send to the desk.

The PRESIDING OFFICER. Without objection, it is so ordered.

COQUILLE TRIBE OF INDIANS TRUST RELATIONSHIP ACT

Mr. DODD. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 122, H.R. 881, a bill to restore Federal recognition to the Coquille Tribe of Washington.

The PRESIDING OFFICER. The bill will be stated by title.

The legislative clerk read as follows:

A bill (H.R. 881) to provide for restoration of the Federal trust relationship with, and assistance to, the Coquille Tribe of Indians and the individual members consisting of the Coquille Tribe of Indians, and for other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. HATFIELD. Mr. President, today is an important day for Oregon's Coquille Indians: the Senate has passed H.R. 881, the Coquille Restoration Act, into law. When the President signs this legislation, 35 years of injustice will be brought to a close.

All western Oregon tribes had their tribal status revoked by the Termination Act of 1954. This misguided approach was intended to incorporate the western Oregon tribes into the mainstream American society. The results, however, were disastrous. Oregon Indians were unable to inte-

grate themselves into the dominant white culture, and they lost almost everything. The Coquilles were no exception. Despite this adversity they have managed to remain a cohesive group and preserve their cultural heritage through the customs, traditions, and language of their ancestors. Their unity in the face of tremendous obstacles is nothing short of inspirational.

Beginning in 1977, Congress began restoring recognition to the terminated tribes, and I am proud to have been a part of this effort. The Coquille restoration follows restoration of the Confederated Tribe of Siletz Indians (1977), the Cow Creek Band of Umpqua Indians (1982), the Confederated Tribes of the Grand Ronde Community (1983), the Confederated Tribes of Coos, Lower Umpqua, and Siuslaw Indians (1984), and the Klamath Tribe (1986). Restoration of recognition for these other tribes has improved medical and social services, and increased economic opportunities. Most importantly, restoration has reaffirmed tribal sovereignty in their relationship with the U.S. Government. The Coquille Tribe will now join this list.

Mr. President, the Coquille Restoration Act's passage today is very timely. The chairman of the Coquille Tribe, Wilfred Wasson, has been very sick with cancer. Will has been an inspiration not only to me, but to all who come in contact with him. He has worked for 35 years to see this bill come to reality, and I salute his efforts and his commitment.

Let me also thank Senators INOUYE and MCCAIN for their leadership on this issue.

Mr. PACKWOOD. Mr. President, I am pleased that the Senate is taking this important step today to recognize the Coquille Indian Tribe. Passage of this bill will be a long overdue act of justice. The bill has moved quickly through the House, and I am encouraged that we will see it become law in this Congress.

The Coquille Tribe is the last to seek restoration of the numerous Oregon tribes terminated by the U.S. Government by two acts of Congress in 1954. Oregon Indians suffered disproportionately under the Termination Acts of 1954. Sixty percent of all the tribes terminated nationwide were Oregon tribes. Sixty-three percent of the Indian land base affected was in Oregon. The consequences of termination were disastrous. The Western Oregon Termination Act ended Federal services to tribal members and led to the removal from trust and eventual sale of all Coquille land.

We now have an opportunity to right this wrong by once again federally recognizing the Coquille Tribe, thereby reinstating Indian health and education services denied the Coquilles as terminated Indians. Economic development opportunities available to federally recognized Indians will now be opened to the Coquilles and will pave the way for development of tribal enterprises. These tribal enterprises will provide employment to tribal members and non-Indians and contribute to the over-all economy of the region.

The Coquille restoration effort enjoys broad support. All members of the Oregon congressional delegation support the restoration, as does the Governor of the State. The effort is supported by national Indian groups as well local government, tribes, and businesses.

Mr. President, I hope we can move quickly now to federally recognize the Coquille Tribe so that we can provide its members the opportunity to overcome the adverse effects of 34 years of termination and enjoy the fruits of a government-to-government relationship with the United States, a strengthened tribal identity and economic self-sufficiency.

The PRESIDING OFFICER. The bill is before the Senate and open to amendment. If there be no amendment to be offered, the question is on the third reading and passage of the bill.

The bill (H.R. 881) was ordered to a third reading, was read the third time, and passed.

Mr. DODD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

NATIONAL SCLERODERMA AWARENESS WEEK

Mr. DODD. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of House Joint Resolution 274, a joint resolution to designate the week beginning June 11, 1989, as "National Scleroderma Awareness Week" just received from the House of Representatives.

The PRESIDING OFFICER. The joint resolution will be stated by title.

The legislative clerk read as follows:

A joint resolution (H.J. Res. 274) to designate the week beginning June 11, 1989, as "National Scleroderma Awareness Week."

The PRESIDING OFFICER. Is there objection to the present consideration of the joint resolution?

There being no objection, the Senate proceeded to consider the joint resolution.

The PRESIDING OFFICER. The joint resolution is before the Senate and open to amendment. If there be no amendment to be offered, the question is on the third reading and passage of the joint resolution.

The joint resolution (H.J. Res. 274) was ordered to a third reading, was read the third time, and passed.

The preamble was agreed to.

Mr. DODD. Mr. President, I move to reconsider the vote by which the joint resolution was passed.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

MEASURE PLACED ON THE CALENDAR

Mr. DODD. Mr. President, I ask unanimous consent that H.R. 2281, relating to school dropouts, be placed on the calendar.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. DODD. Mr. President, I ask unanimous consent that the Senate proceed to executive session to consider the following nominations:

Calendar 170, John D. Negroponte to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Mexico;

Calendar 172, Bernard W. Aronson to be Assistant Secretary of State;

Calendar 173, John H. Kelly to be an Assistant Secretary of State;

Dale T. Tate to be an Assistant Secretary of Labor reported today by the Committee on Labor and Human Resources;

Kathleen M. Harrington to be an Assistant Secretary of Labor reported today by the Committee on Labor and Human Resources;

Jennifer L. Dorn to be an Assistant Secretary of Labor reported today by the Committee on Labor and Human Resources; and

Robert P. Davis to be Solicitor for the Department of Labor reported today by the Committee on Labor and Human Resources.

I further ask unanimous consent that the nominees be confirmed, en bloc, that any statements appear in the RECORD as if read, that the motions to reconsider be laid upon the table, en bloc, that the President be immediately notified of the Senate's action, and that the Senate return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nominations considered and confirmed en bloc are as follows:

DEPARTMENT OF STATE

John D. Negroponte, of New York, a career member of the Senior Foreign Service, class of Career Minister, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Mexico.

Bernard William Aronson, of Maryland, to be an Assistant Secretary of State.

John Hubert Kelly, of Georgia, a career member of the Senior Foreign Service, class of Minister-Counselor, to be an Assistant Secretary of State.

DEPARTMENT OF LABOR

Dale Triber Tate, of the District of Columbia, to be an Assistant Secretary of Labor.

Kathleen M. Harrington, of the District of Columbia, to be an Assistant Secretary of Labor.

Jennifer Lynn Dorn, of Maryland, to be an Assistant Secretary of Labor.

Robert P. Davis, of Virginia, to be Solicitor for the Department of Labor.

JOINT REFERRAL

Mr. DODD. Mr. President, as in executive sessions, I ask unanimous consent that the nomination of Constance Bastine Harriman, of Maryland, to be Assistant Secretary for Fish and Wildlife, Department of the Interior, sent to the Senate by the President on June 6, 1989, be referred jointly to the Committees on Energy and Natural Resources and Environment and Public Works.

The PRESIDING OFFICER. Without objection, it is so ordered.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will now resume legislative session.

GOVERNING INTERNATIONAL FISHERY AGREEMENT BETWEEN THE UNITED STATES AND THE HOME GOVERNMENT OF THE FAROE ISLANDS AND THE GOVERNMENT OF DENMARK—MESSAGE FROM THE PRESIDENT—PM 50

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with accompanying papers; which, pursuant to 16 U.S.C. 1823(b), was referred jointly to the Committee on Commerce, Science, and Transportation and the Committee on Foreign Relations:

To the Congress of the United States:

In accordance with the Magnuson Fishery Conservation and Management Act of 1976 (Public Law 94-265; 16 U.S.C. 1801 et seq.), I transmit herewith an agreement effected by exchange of notes at Washington on March 28, 1989, extending for the period of 2 years from July 1, 1989, until July 1, 1991, and amending to conform with current U.S. law, the Governing International Fishery Agreement between the Government of the United States of America of the one part and the Home Government of the Faroe Islands and the Government of Denmark of the other part concerning Faroese Fishing in Fisheries off the Coasts of the United States, signed at Washington on June 11, 1984. The exchange of notes, together with the present agreement, constitute a governing international fishery agreement within the meaning of section 201(c) of the act.

U.S. fishing industry interests have urged prompt consideration of this agreement and, similarly, I request the Congress give favorable consideration to this agreement at an early date to avoid disruption of cooperative ventures.

Since 60 calendar days of continuous session, as required by the legislation, will not be available before the current agreement is scheduled to expire, I recommend the Congress consider passage of a joint resolution.

GEORGE BUSH.

THE WHITE HOUSE, *June 14, 1989.*

MESSAGES FROM THE HOUSE

At 10:14 a.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following joint resolution, in which it requests the concurrence of the Senate:

H.J. Res. 274. Joint resolution to designate the week beginning June 11, 1989, as "National Scleroderma Awareness Week".

At 5:37 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House of Representatives having proceeded to reconsider the bill (H.R. 2) to amend the Fair Labor Standards Act of 1938 to restore the minimum wage to a fair and equitable rate, and for other purposes, returned by the President of the United States with his objections, to the House of Representatives, in which it originated, and that the said bill do not pass, two-thirds of the House of Representatives not agreeing to pass the same.

The message also announced that the House agrees to the amendments of the Senate numbered 6 and 7 to the bill (H.R. 1426) to amend the Public Health Service Act to make technical corrections relating to subtitles A and G of title II of the Anti-Drug Abuse Act of 1988, and for other purposes; and that the House disagrees to the amendments of the Senate numbered 1, 2, 3, 4, 5, and 8 to the said bill.

The message further announced that the House disagrees to the amendments of the Senate to the bill (H.R. 2072) making dire emergency supplemental appropriations and transfers, urgent supplementals, and correcting enrollment errors for the fiscal year ending September 30, 1989, and for other purposes; it agrees to the conference asked by the Senate on the disagreeing votes of the two Houses thereon, and appoints Mr. WHITTEN, Mr. NATCHER, Mr. SMITH of Iowa, Mr. YATES, Mr. OBEY, Mr. ROYBAL, Mr. BEVILL, Mr. MURTHA, Mr. TRAXLER, Mr. LEHMAN of Florida, Mr. DIXON, Mr. FAZIO, Mr. HEFNER, Mr. CONTE, Mr. MCDADE, Mr. COUGHLIN, Mr. REGULA, Mrs. SMITH of Nebraska, Mr. EDWARDS of Oklahoma, Mr. GREEN, and Mr. ROGERS as managers of the conference on the part of the House.

At 6:23 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House has agreed to the concurrent resolution (S. Con. Res. 19) to authorize printing of a collection of the inaugural addresses of the Presidents of the United States, with amendments, in which it requests the concurrence of the Senate.

The message also announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 1502. An act to authorize the appropriation of funds to the District of Columbia for additional officers and members of the Metropolitan Police Department of the District of Columbia, and to provide for the implementation in the District of Columbia of a community-oriented policing system;

H.R. 2042. An act to amend title V of the Agricultural Act of 1949 to allow producers to provide the appropriate county committees with actual yields for the 1989 and subsequent crop years, and for other purposes;

H.R. 2281. An act to amend the Elementary and Secondary Education Act of 1965 to extend the authorization for certain school dropout demonstration programs; and

H.R. 2469. An act to limit a previous owner's right of first refusal in the case of fraud or resale for sales of farm property by the Farmers Home Administration, and the Farm Credit System.

The message further announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 150. Concurrent resolution authorizing the printing of a collection of statements in tribute to the late Representative Claude Denson Pepper.

MEASURES REFERRED

The following bills were read the first and second times by unanimous consent, and referred as indicated:

H.R. 1502. An act to authorize the appropriation of funds to the District of Columbia for additional officers and members of the Metropolitan Police Department of the District of Columbia, and to provide for the implementation in the District of Columbia of a community-oriented policing system; to the Committee on Governmental Affairs.

H.R. 2042. An act to amend title V of the Agricultural Act of 1949 to allow producers to provide the appropriate county committees with actual yields for the 1989 and subsequent crop years, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

H.R. 2469. An act to limit a previous owner's right of first refusal in the case of

fraud or resale for sales of farm property by the Farmers Home Administration, and the Farm Credit System; to the Committee on Agriculture, Nutrition, and Forestry.

MEASURES PLACED ON THE CALENDAR

The following bill was read the first and second times by unanimous consent, and placed on the calendar:

H.R. 2281. An act to amend the Elementary and Secondary Education Act of 1965 to extend the authorization for certain school dropout demonstration programs.

ENROLLED JOINT RESOLUTION SIGNED

The ACTING PRESIDENT pro tempore (Mr. REID) reported that on today, June 14, 1989, he had signed the following enrolled joint resolution; which had previously been signed by the Speaker of the House:

S.J. Res. 63. Joint resolution designating June 14, 1989, as "Baltic Freedom Day", and for other purposes.

ENROLLED JOINT RESOLUTION PRESENTED

The Secretary of the Senate reported that on today, June 14, 1989, he had presented to the President of the United States the following enrolled joint resolution:

S.J. Res. 63. Joint resolution designating June 14, 1989, as "Baltic Freedom Day", and for other purposes.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. BENTSEN, from the Committee on Finance without amendment:

S. 1185. An original bill to amend the Internal Revenue Code of 1986 to allow a credit for health insurance premium costs, to make the credit for dependent care refundable, to simplify the antidiscrimination rules applicable to certain employee benefits (Rept. No. 101-51).

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. KENNEDY, from the Committee on Labor and Human Resources:

Dale Triber Tate, of the District of Columbia, to be an Assistant Secretary of Labor;

Kathleen M. Harrington, of the District of Columbia, to be an Assistant Secretary of Labor;

Jennifer Lynn Dorn, of Maryland, to be an Assistant Secretary of Labor; and

Robert P. Davis, of Virginia, to be Solicitor for the Department of Labor.

Mr. KENNEDY. Mr. President, for the Committee on Labor and Human Resources, I report favorably three nomination lists in the Public Health Service which were printed in full in the CONGRESSIONAL RECORDS of March 9 and April 17, 1989, and ask unanimous consent, to save the expense of reprinting on the Executive Calendar, that these nominations lie at the Secretary's desk for the information of Senators.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The above nominations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. COATS:

S. 1174. A bill to amend title XVIII of the Social Security Act and the Internal Revenue Code of 1986 to repeal the Medicare supplemental premium and certain Medicare part B benefits added by the Medicare Catastrophic Coverage Act of 1988, and for other purposes; to the Committee on Finance.

By Mr. JOHNSTON:

S. 1175. A bill to provide for the conveyance of certain mineral interests of the United States in property in Louisiana to the record owners of the surface of that property; to the Committee on Energy and Natural Resources.

By Ms. MIKULSKI (for herself and Mr. SARBANES):

S. 1176. A bill to require the Nuclear Regulatory Commission to establish consistent procedures for permitting the restarting of nuclear power plants that have been shut down for safety reasons; to the Committee on Environment and Public Works.

By Mr. THURMOND:

S. 1177. A bill to amend title 36 of the United States Code, relating to the United States flag, to clarify and more clearly define the methods and restrictions for display of the United States flag; to the Committee on the Judiciary.

By Mr. MITCHELL (for himself, Mr. LAUTENBERG, Mr. CHAFEE, Mr. MOYNIHAN, Mr. COHEN, Mr. LIEBERMAN, Mr. D'AMATO, Mr. SARBANES, Mr. BRADLEY, Mr. FOWLER, Mr. DODD, Mr. GRAHAM, and Mr. PELL):

S. 1178. A bill to improve and expand programs for the protection of marine and coastal waters; to the Committee on Environment and Public Works.

By Mr. LAUTENBERG (for himself, Mr. MITCHELL, Mr. CHAFEE, Mr. MOYNIHAN, Mr. LIEBERMAN, Mr. GRAHAM, Mr. BRADLEY, Mr. D'AMATO, Mr. PELL, Mr. FOWLER, Mr. DODD, Mr. SARBANES, and Mr. COHEN):

S. 1179. A bill to establish a comprehensive marine pollution restoration program, to amend the Federal Water Pollution Control Act and the Marine Protection Research, and Sanctuaries Act, and for other purposes; to the Committee on Environment and Public Works.

By Mr. HOLLINGS (for himself, Mr. GORE, Mr. DANFORTH, Mr. PRESSLER, and Mr. COCHRAN):

S. 1180. A bill to authorize the President to appoint Rear Admiral Richard Harrison Truly to the Office of Administrator of the National Aeronautics and Space Administration; to the Committee on Commerce, Science, and Transportation.

By Mr. HEINZ (for himself and Mr. WIRTH):

S. 1181. A bill to amend the Solid Waste Disposal Act to require producers and importers of lubricating oil to recycle a certain percentage of used oil each year, to require the Administrator of the Environmental Protection Agency to establish a recycling credit system for carrying out such recycling requirement, to establish a management and tracking system for such oil, and for other purposes; to the Committee on Environment and Public Works.

By Mr. KENNEDY:

S. 1182. A bill to amend the Fair Labor Standards Act of 1938 to restore the minimum wage to a fair and equitable rate, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. KENNEDY (for himself, Mr. MURKOWSKI, Ms. MIKULSKI, Mr. MOYNIHAN, Mr. DURENBERGER, Mr. SIMON, Mr. LEVIN, and Mr. DIXON):

S. 1183. A bill to provide for certain forms of assistance to Poland and Hungary to encourage the process of democratic reforms in those countries; ordered held at the desk.

By Mr. DOLE (for Mr. D'AMATO (for himself and Mr. MOYNIHAN)):

S. 1184. A bill to allow the obsolete destroyer U.S.S. *Edson* (DD 946) to be transferred to the Intrepid Sea Air Space Museum in New York before the expiration of the otherwise applicable 60-day congressional review period; considered and passed.

By Mr. BENTSEN, from the Committee on Finance:

S. 1185. An original bill to amend the Internal Revenue Code of 1986 to allow a credit for health insurance premium costs, to make the credit for dependent care refundable, to simplify the antidiscrimination rules applicable to certain employee benefits; placed on the calendar.

By Mr. MURKOWSKI:

S. 1186. A bill to amend the Immigration and Nationality Act to revise certain health requirements regarding the admission of certain disabled veterans and to revise the period of active military service required for a veteran to qualify for naturalization; to the Committee on the Judiciary.

By Mr. DOMENICI:

S. 1187. A bill to repeal the supplemental Medicare premium, to modify certain benefits added by the Medicare Catastrophic Coverage Act of 1988 and improve the financing of such benefits and for other purposes; to the Committee on Finance.

By Mr. MURKOWSKI:

S. 1188. A bill to amend title 38, United States Code, and the Internal Revenue Code of 1986 regarding the use of Internal Revenue Service and Social Security Administration data for income verification for purposes of laws administered by the Department of Veterans' Affairs; to the Committee on Finance.

By Mr. KERRY:

S. 1189. A bill to amend the Coastal Zone Management Act of 1972 to require State coastal zone management agencies to prepare and submit for the approval of the Secretary of Commerce plans for the improvement of coastal zone water quality, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. PELL:

S. 1190. A bill to establish in the Department of Education an Office of Correctional

Education, and for other purposes; to the Committee on Labor and Human Resources.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. DODD (for himself, Mr. DOLE, and Mr. KENNEDY):

S. Con. Res. 44. Concurrent resolution to express the sense of the Congress concerning the funeral of Imre Nagy, the former Prime Minister of Hungary, and other heroes of the 1956 revolution in Hungary; considered and agreed to.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. COATS:

S. 1174. A bill to amend title XVIII of the Social Security Act and the Internal Revenue Code of 1986 to repeal the Medicare supplemental premium and certain Medicare part B benefits added by the Medicare Catastrophic Coverage Act of 1988, and for other purposes; to the Committee on Finance.

MEDICARE CATASTROPHIC COVERAGE IMPROVEMENT ACT

Mr. COATS. Mr. President, I rise today to introduce legislation that will revise the Medicare Catastrophic Coverage Act [MCCA] so that it provides true acute care protection at a price that seniors can afford.

The MCCA, in its present form, expands Medicare to provide many more services than the originally intended purpose of this legislation, which was to shield the elderly from the financial devastation of a serious and prolonged illness or accident. While these additional Medicare and Medicaid benefits wil help some individuals, they are expensive; and we are requiring seniors to pay for them right along with the basic catastrophic benefits.

I believe that the elderly should have peace-of-mind protection against the possibility of an acute health crisis, and I believe Congress started out on the right track on this question. Now that we have had time to evaluate the long-term impact of this law, I believe we need to change it and go back to a package of benefits that more closely resembles the original idea that many Members of the 100th Congress shared with former HSS Secretary Otis Bowen. The MCCA as it stands today is not true to that original idea, and it is not fair to our senior citizens to impose a heavy tax burden to cover benefits never intended or sought by most seniors.

Back in January 1987 when I discussed with Secretary Bowen my interest in giving the elderly peace-of-mind protection against catastrophic illness, I had in mind a group of benefits that would expand hospitalization to full year coverage and put a cap on out-of-pocket expenses for Medicare covered hospital and physician services. I fashioned a bill in conjunction with HHS and was proud that key Members of the Republican leadership of the House and the health legislative committees joined me in that effort.

Right from the start, there were others who were not satisfied with this modest but cost-efficient approach. They saw this as an opportunity to greatly expand Medicare without budget consequences, passing on the extra costs to seniors in the form of an income-based surtax. In July 1987, when the House voted on this issue, the deluxe model with all the expensive extras passed. I voted against that bill and voted for the no-frills version that developed from the bill I had introduced in February 1987. Although the so-called Michel substitute garnered 190 votes, it did not prevail.

Mr. President, the Michel substitute was an honest, effective piece of legislation when it almost passed in 1987, and it looks even better now. It is the basis of the Medicare Catastrophic Coverage Improvement Act of 1989 that I am introducing today.

My bill retains the positive features of the MCCA for part A hospital benefits, limits out-of-pocket expenses for Medicare covered part B services and modifies the part B catastrophic premium. These changes make it possible to eliminate the onerous surcharge that is required by the MCCA. It returns us to the original concept of the MCCA: namely, peace-of-mind catastrophic coverage at a price that seniors can afford.

The second major feature of this bill is a Medicaid prescription drug benefit that will cover those 65 and over with incomes below 125 percent of the Federal poverty level. This is a substantial improvement over existing law because the benefits cover the poorest elderly. The drug benefit in the present law not only will give millionaires the same coverage as the disadvantaged, it also will cover people under 65 who are eligible for disability payments. Of course, the disabled should be treated with compassion, and perhaps it is wise public policy to cover their medication. However, I do not believe it is fair for seniors to pay exclusively for such a benefit.

Finally, this bill addresses the urgent need for action to make long-term care more affordable. It is widely recognized that the elderly and their families fear the huge cost of long-term care more than any other old age crisis. The escalating cost of nursing home care and the need for more and better home care are challenges that cannot be ignored.

The second title of this bill makes changes in the tax laws that will encourage insurance companies to offer more attractive long-term care policies. A wider variety of more affordable policies have become available in the last several years, and this is a trend that needs to be encouraged. This bill also makes it possible to transfer assets form traditional savings vehicles, such as IRA's and whole life policies, to pay for long-term care insurance.

I believe that a competitive, innovative marketplace should be the cornerstone of our long-term care policy. The Federal Government can play a constructive supporting role, but it would be a mistake to try to concoct a centrally controlled Federal program. In order to be successful, our long-term care strategy needs to take advantage of the flexibility and resources of the private sector. The changes that I am proposing are a first step in this direction.

In summary, Mr. President, the Medicare Catastrophic Coverage Improvement Act that I am introducing today makes the present law simpler and less expensive while it preserves the basic peace-of-mind protection that senior citizens deserve, and it points the way to more affordable and innovative long-term care.

By Ms. MIKULSKI (for herself and Mr. SARBANES):

S. 1176. A bill to require the Nuclear Regulatory Commission to establish consistent procedures for permitting the restarting of nuclear powerplants that have been shut down for safety reasons; to the Committee on Environment and Public Works.

NUCLEAR POWERPLANT SAFETY ACT

● Ms. MIKULSKI. Mr. President, today I am introducing with Senator SARBANES a bill requiring the Nuclear Regulatory Commission to establish criteria for the restart of nuclear powerplants that have been shut down for safety reasons. I strongly believe the NRC ought to have clear and concrete steps for determining whether or not a nuclear powerplant is safe to be restarted. Establishing criteria based on sound safety and management principles will instill confidence in the process and ensure that consistent and appropriate procedures are followed.

This issue was first brought to my attention after the shutdown of the Peachbottom Nuclear Powerplant in Pennsylvania by the NRC. I asked the NRC what criteria would be used to decide when the powerplant was safe and ready to being operations again and discovered that the NRC did not have specific criteria for making such a determination.

Last year Senator SARBANES and I asked GAO to take a look at NRC restart procedures. GAO found that NRC had issued staff guidelines which are the equivalent of recommendations and do not include provisions for public participation, independent review, or review of utility corrective

actions. I strongly believe these are important elements that should be well established in NRC policy.

My legislation simply requires the NRC to establish a standing set of criteria that must be satisfied before a nuclear powerplant is permitted to restart. It also requires that provisions for public participation, independent review, and inspection and review of the utilities corrective action plan be included in the criteria.

Establishing restart criteria will make clear to the public and to the utility companies that specific procedures are being followed to insure the safety and soundness of the restart process.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD at this time.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1176

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Nuclear Power Plant Safety Act of 1989".

SEC. 2. NRC TO ESTABLISH CONSISTENT PROCEDURES.

(a) IN GENERAL.—Not later than 180 days after the date of enactment of this act, the Nuclear Regulatory Commission (referred to as the "Commission") shall publish in the Federal Register regulations setting out procedures for permitting the restarting of a nuclear power plant (or part thereof) that has been shut down (whether or not by order of the Commission) for safety reasons.

(b) DEFINITION.—For the purposes of subsection (a) a facility shall be considered to be shut down for safety reasons when it has been shut down upon the detection of a defect or suspected defect in equipment, operating procedures, maintenance, personnel practices, management, or other aspect of the facility that poses such a risk to safe operation of the facility that action on the defect cannot prudently be delayed until the next scheduled shutdown for routine inspection, maintenance, and repair.

(b) MINIMUM CRITERIA.—The regulations issued pursuant to subsection (a) shall include provision for—

(1) identification of the defects in the equipment, operating procedures, maintenance, personnel practices, management, and other aspects of a nuclear power plant that must be corrected;

(2) preparation by the utility and review and approval by the Commission of a plan to correct the defects;

(3) inspection by the Commission of corrections made by the utility prior to restarting the facility and, when appropriate, periodically thereafter;

(4) public meetings and consideration of written comments from the public at significant stages of the proceeding; and

(5) independent evaluation and comment on Commission actions relating to applications for permission to restart a facility.●

By Mr. THURMOND:

S. 1177. A bill to amend title 36 of the United States Code, relating to the U.S. flag, to clarify and more clearly define the methods and restrictions for display of the U.S. flag; to the Committee on the Judiciary.

DISPLAY OF THE U.S. FLAG

Mr. THURMOND. Mr. President, today, our Nation is celebrating Flag Day. Flag Day was established in 1949 as an observance of the date, June 14, 1777, when the Continental Congress adopted the Stars and Stripes as this Nation's official flag. On this special occasion, I am pleased to introduce legislation concerning the proper use and display of the flag of the United States.

It is appropriate that we continuously remind ourselves about the proper uses and manners of display for our flag. The American Legion recognized the need for revising Federal law as it relates to flag use and display. Today, I am pleased to introduce this bill which will make those changes recommended by the American Legion.

Mr. President, this legislation makes revisions to chapter 10 of title 36 which addresses flag usage. This chapter of the code is not intended to proscribe conduct, but is merely advisory.

The measure amends the code by listing additional days on which the flag should be displayed. The new days include Thomas Jefferson's birthday, Flag Week, and other days of national observance. In addition, the public holiday of the birthday of Martin Luther King, Jr., is listed.

The bill also amends existing law with respect to the position and manner of display of our flag. It pays special attention to how the flag should be flown when flown with flags of other nations and to the proper times and durations for flying the flag at half-staff.

Finally, this measure clarifies the wording of the present law. It makes the guidelines for using the flag understandable to all the people who may fly the flag or want to incorporate its design into some other usage. For example, the bill addresses the care which should be taken by people who wear clothing upon which the flag is embroidered or attached.

The U.S. flag represents our great Nation in a visable manner. Its proper and respectful display and usage should be known and observed by all Americans. The legislation I have proposed will help to accomplish this goal. It will make clearer the rules of displaying our flag.

In closing, our flag embodies many courageous acts by brave men and women throughout the history of our Nation. It was designed to commemorate the great honor that patriotic Americans have exemplified in life and death, in war and peace. The Stars and Stripes certainly deserves great respect and should always be treated with dignity. In a time when the flag is placed on the ground and trampled in the name of art, proper use and display of the flag must now be emphasized so that we, as Americans, do not lose sight of the respect due our flag.

For these reasons, I urge my colleagues to support this measure.

Mr. President, I ask unanimous consent that the text of this legislation be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1177

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. TIME AND OCCASIONS FOR DISPLAY.

Section 174(d) of title 36, United States Code, is amended by—

(1) inserting "Birthday of Martin Luther King, Jr., third Monday in January;" after "January 1;";

(2) inserting "Thomas Jefferson's Birthday, April 13; Loyalty Day-Law Day United States of America, May 1;" after "Easter Sunday (variable);";

(3) inserting "National Maritime Day, May 22;" after "second Sunday in May;";

(4) inserting "Flag Week, week of June 14; Father's Day, third Sunday in June;" after "June 14;";

(5) inserting "Aviation Day, August 19;" after "July 4;"; and

(6) inserting "Citizenship Day, September 17; American Gold Star Mothers Day, last Sunday in September;" after "September 17;".

SEC. 2. POSITION AND MANNER OF DISPLAY.

(a) FLAGS AND PENNANTS OF STATES, CITIES, LOCALITIES, AND CORPORATIONS.—Subsection (f) of section 175 of title 36, United States Code, is amended by—

(1) inserting "or pennants" after "flags";

(2) striking "or localities, or pennants of societies" and inserting "localities, societies, or corporations"; and

(3) inserting ", that is the observor's left, when the flags are flown in a straight line formation" after "flag's right".

(b) FLAGS OF OTHER NATIONS.—Subsection (g) of section 175 of title 36, United States Code, is amended by—

(1) inserting "(1)" after "(g)"; and

(2) adding at the end thereof the following:

"(2) When the flag of the United States is flown in a straight line formation with flags of other nations—

"(A) the flag of the United States should be on its own right; and

"(B) the flags of other nations are displayed on the observer's right and in alphabetical order from left to right.

In any other situation when the flag of the United States is flown with the flags of other nations the flag of the United States should be placed in a position of most prominence.".

(c) DISPLAY OF FLAG AT HALF-STAFF.—Subsection (m) of section 175 of title 36, United States Code, is amended by—

(1) designating the text of such subsection as paragraph (3); and

(2) inserting after "(m)" the following: "(1) The flag displayed at half-staff is a sign of national mourning ands a mark of respect to the memory of principal figures of the United States or State government.

"(2) The flag should not be displayed at half-staff—

"(A) except as provided in this subsection or unless such display is pursuant to a special proclamation by the President or the Governor of any State, territory, or possession; and

"(B) for longer than 30 days unless so ordered by the President or the Governor of any State.".

(d) USE OF FLAG DESIGN.—Subsection (i) of section 176 of title 36, United States Code, is amended to read as follows:

"(i)(1) The flag should never be used for advertising purposes in any manner whatsoever. Advertising signs should not be fastened to a staff or halyard from which the flag is flown.

"(2) The flag should not be embroidered, printed, or used in a design, on such articles as cushions, handkerchiefs, and the like, and the flag should not be embroidered, printed, or used in a design in a manner intended to cast contempt upon or demean it.

"(3) The flag should not be printed or otherwise impressed on paper napkins or boxes or anything that is designed for temporary use and discard.".

(e) FLAGS ON CLOTHING.—Subsection (j) of section 176 of title 36, United States Code, is amended by—

(1) inserting "(1)" after "(j)";

(2) inserting "postal workers," after "policemen,"; and

(3) adding at the end thereof the following:

"(2) Anyone wearing clothing upon which the flag is embroidered, printed, or used in a design should take measures to—

"(A) ensure that the clothing does not touch the ground; and

"(B) ensure that the flag is not embroidered, printed, or used in a design in a manner intended to cast contempt upon or demean it.".

By Mr. MITCHELL (for himself, Mr. LAUTENBERG, Mr. CHAFEE, Mr. MOYNIHAN, Mr. COHEN, Mr. LIEBERMAN, Mr. D'AMATO, Mr. SARBANES, Mr. BRADLEY, Mr. FOWLER, Mr. DODD, Mr. GRAHAM, and Mr. PELL):

S. 1178. A bill to improve and expand programs for the protection of marine and coastal waters; to the Committee on Environment and Public Works.

MARINE PROTECTION ACT

Mr. MITCHELL. Mr. President, today I am introducing legislation to strengthen existing statutes designed to protect the quality of our marine and coastal waters.

The marine and coastal waters of this country are a natural resource of tremendous value and importance. Coastal and estuarine waters are ecological gold mines providing habitat for commercial and endangered species, food chain support, ground water recharge, and flood-peak reduction.

Marine resources are also an important part of the economy. The combined value of commercial and recreational fisheries is about $12 billion. In addition, tourism is a major source of income in many coastal communities and recreational activities are often dependent on the quality of the marine enrvironment.

Today, our coastal and ocean waters face an unprecedented range of environmental threats and the health of these waters is in sharp decline.

Last summer, beaches were closed throughout the Northeast after discovery of medical waste and other pollution problems. Lobsters taken off the mid-Atlantic coast have large burn holes as a result of pollution. Shellfish in Chesapeake Bay and coastal North Carolina have been decimated by pollution and disease. There is a large dead zone in the Gulf of Mexico. We face huge clean up problems in many east coast harbors, such as Boston Harbor. And, on the west coast, toxic chemicals, including PCB's, mercury, and other heavy metals, are in the sediments of Puget Sound, San Francisco Bay, and Santa Monica Bay.

Concern for a growing trend of marine pollution is confirmed by recent scientific studies. In April 1987, the Congressional Office of Technology Assessment [OTA] issued a report which concluded that the overall health of many of our estuaries and coastal waters "is declining or threatened."

The OTA report indicated that even full implementation and enforcement of existing regulations would not be sufficient to maintain or improve the health of these waters. The report states:

. . . even if total compliance with today's regulations is achieved, existing programs will not be sufficient to maintain or improve the health of all estuaries and coastal waters. In the absence of additional measures to protect our marine waters, the next few decades will witness new or continued degradation in many estuaries and coastal waters around the country.

In addition, the National Oceanic and Atmospheric Administration [NOAA] has published the results of the first year of a national program to monitor toxic chemcials at 50 coastal sites. The report provides an early indication of the magnitude of coastal contamination problems and found that "a number of sites revealed relatively high levels of toxic contaminants * * *".

During the last Congress, as chairman of the Subcommittee on Environmental Protection, I chaired a series of five hearings on coastal pollution problems.

I chaired the first of these hearings in my home State of Maine to learn about the environmental conditions in the Gulf of Maine. The general conclusion of the hearing was that the Gulf of Maine is still very clean and does not now face the serious pollution problems present in other parts of the country. There also was agreement, however, that prevention of problems will require building a first-rate marine research and protection program.

Witnesses at that hearing included research scientists and representatives of the fishing industry and the environmental community. Former Governor Ken Curtis summed up many concerns when he said:

What is needed most of all is a planned, well-coordinated approach to the research effort * * * which is * * * committed to studying and preserving the Gulf of Maine in a whole ecosystem approach.

Following our hearing in Maine, the subcommittee held further hearings on implementation of the Ocean Dumping Act, on the overall environmental condition of marine waters throughout the country, on the status of programs for the protection of Chesapeake Bay, and on legislation to improve marine research. Through these hearings, we were able to document the seriousness and extent of the pollution problems being reported throughout the country.

The major legislative accomplishment of the past Congress related to the marine environment was the enactment of Senator LAUTENBERG's legislation to amend the Ocean Dumping Act to ban the dumping of large volumes of sewage sludge off the New Jersey coast. This sewage sludge has been associated with damage to the environment and fisheries over a wide area of the North Atlantic. We were also able to enact tougher controls over the dumping of medical wastes in coastal waters.

It is essential that we build on the accomplishments of the last Congress and develop legislation which provides a comprehensive response to the growing evidence of declines in marine environmental quality. We cannot afford to let the quality of our coastal and marine waters continue to slip away as a result of neglect or carelessness. If future generations of Americans are to enjoy the wonders and the bounty of the sea, we must develop and implement the best possible, program to protect the marine environment.

The legislation I am introducing today amend the Clean Water Act and the Marine Protection, Research and Sanctuaries Act to expand and improve programs for the protection of marine and coastal waters.

The authorities and programs provided by our existing statutes have made a substantial contribution to controlling pollution in coastal waters. But the growing evidence of serious marine pollution problems from every coastal region of the country and the extensive beach closings last summer have convinced me that it is time to consider substantial expansion of these existing programs and authorities.

Title I of today's bill includes a number of amendments to the marine and coastal provisions of the Clean Water Act.

The National Estuary Program—section 320 of the Clean Water Act—pro-

vides authority for the Environmental Protection Agency to work with States to organize management conferences to assess coastal water quality problems and develop response plans.

My legislation would expand the current program by requiring the EPA to prepare a comprehensive list of coastal waters experiencing a general degradation of environmental conditions and designate those waters.

The Administrator is to monitor the conditions of designated waters and work with States to develop management conferences for these waters as under current law. In addition, the Administrator would exercise special authorities for the protection of designated waters including more stringent requirements for discharge permits, wetlands assessments, pretreatment, stormwater discharges, and nonpoint pollution control.

For these designated waters with serious water quality problems, we should make every effort to hold the line on pollution and, at a minimum, keep these waters from getting any worse. To accomplish this, new authority is provided for a "coastal discharge standard," to apply to point source discharges in designated waters, which would require a showing of the need to discharge and no net increase in pollutant loading.

The National Estuaries Program authorization is increased from $12 to $25 million. In addition, new authority is provided for use of penalties paid by dischargers to designated waters for support of the program.

Recently, there has been growing concern for the environmental quality of Casco Bay in my home State of Maine. Threats to the quality of Casco Bay were documented in a recent report, and the State announced a special "Agenda of Action" in Casco Bay. The legislation I am introducing today includes a provision which would add Casco Bay to the list of estuaries considered as part of the National Estuaries Program of the Clean Water Act.

Another key provision of the bill would amend the Clean Water Act to establish a process for eliminating the overflows to marine waters of combined sanitary and storm sewers. The bill would require State agencies to inventory combined storm sewer and sanitary sewer discharges to coastal waters and to assess the potential for eliminating the discharges.

EPA is to work with States and municipalities to develop specific programs for eliminating overflows with emphasis on water conservation and storm water management, rather than the more expensive alternatives of discharge treatment or total system separation.

An existing marine combined sewer overflow authorization of $200 million per year is redirected toward development of discharge elimination programs. Implementation of the programs is made eligible for funding under the State revolving loan funds under title VI of the Clean Water Act.

A major cause of delays in reducing the levels of pollutants discharged to marine waters is the lack of numerical water quality standards for toxic and other pollutants. The bill would shift authority to promulgate marine water quality standards from States to the EPA in an effort to assure the most expeditious application of appropriate standards. States, of course, would have the option of adopting more stringent standards than the EPA and could request modification of EPA standards based on specified criteria.

In a related effort, EPA is also directed to develop numerical standards for contaminants in marine sediments. These standards would apply to sediment regulated under section 404 of the Clean Water Act or dumped at sea under the authority of the Ocean Dumping Act.

Title II of this legislation provides a series of amendments to improve the management of sediment in the marine environment.

EPA is given new authority to establish criteria and information for pollutants in marine sediment, similar to criteria and information already required to be developed for water quality.

The Marine Protection, Research and Sanctuaries Act is amended to require that the Corps of Engineers determine if material to be dredged under the act contains pollutants in excess of levels established in sediment standards under the Clean Water Act. Such contaminated material may be dumped in the ocean, but a permit for such dumping must be issued by the EPA and new authority is provided for EPA to require special management of such materials.

Another provision of the bill clarifies the Marine Protection, Research and Sanctuaries Act to assure that States may issue more stringent requirements for ocean dumping and that EPA and the Corps of Engineers will comply with such requirements.

The bill also provides new requirements for designation of dumping sites under the Marine Protection, Research and Sanctuaries Act. EPA is to develop a site management plan for each site providing for baseline monitoring, special conditions for site management, and long-term management and termination of the site. Each site must be approved for dumping of materials determined to be contaminated.

Finally, section 404 of the Clean Water Act is amended to require an assessment of material to be dredged or filled to determine if it contains pollutants in excess of sediment standards. If contaminant standards are exceeded, additional factors are to be considered in granting a permit including disposal at an ocean site designated for dumping of contaminated materials and measures to mitigate migration of contaminants.

Title III of the bill provides for studies of airborne deposition of contaminants in marine waters, a report identifying unregulated contaminants in coastal waters, and a report on the potential of microorganisms to degrade pollutants prior to discharge to marine waters.

This legislation is intended to complement legislation I introduced in March to expand and strengthen research and monitoring of marine and coastal waters. The Marine Research Act of 1989—S. 587—provides general authority to establish 10 regional marine research programs and encourage development of regional marine research plans. This research will help identify and prevent threats to the marine environment before they grow to be unmanageable and costly problems.

In conclusion, there is growing evidence of threats to the quality of the marine environment. While we have made some progress in developing legislation to respond to the coastal pollution problem, we must continue this effort by both expanding marine research and improving existing programs for protection of the marine environment.

This effort is essential if we are to keep pace with the growing threats to the marine environment and assure that this resource is protected for future generations.

Finally, Mr. President, I want to express my appreciation to Senators LAUTENBERG and CHAFEE for their support in the development of this legislation. I look forward to working with them on this important problem in the coming months.

I ask unanimous consent that the bill and copies of a section-by-section analysis of the bill be included at an appropriate place in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 1178

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE AND TABLE OF CONTENTS

SECTION 1. (a) TITLE.—This Act may be cited as the "Marine Protection Act of 1989".

(b) TABLE OF CONTENTS.—

Sec. 1. Short title and table of contents.
Sec. 2. Findings.

TITLE I—WATER QUALITY PROTECTION PROGRAMS

Sec. 101. National Estuary Program.
Sec. 102. Point source discharges to coastal waters.
Sec. 103. Nonpoint source pollution control.
Sec. 104. Marine sanitation devices.
Sec. 105. Marine combined sewer overflow.
Sec. 106. Marine water quality standards.

Sec. 107. Ocean discharge criteria.
Sec. 108. Definitions.
TITLE II—MARINE SEDIMENT CONTAMINATION
Sec. 201. Marine sediment criteria and information.
Sec. 202. Marine sediment contamination.
Sec. 203. State ocean dumping requirements.
Sec. 204. Site designation.
Sec. 205. Dredge and fill program.
TITLE III—OTHER PROVISIONS
Sec. 301. Study of air deposition.
Sec. 302. Identification of unregulated contaminants.
Sec. 303. Research of microorganisms.

FINDINGS

SEC. 2. The Congress finds that—

(A) the Nation's marine and coastal waters are a resource of tremendous value;

(B) marine and coastal waters, including estuaries, are vital and productive natural ecosystems;

(C) marine and near coastal waters support commercial and recreational fisheries with an annual value estimated at over $12 billion per year;

(D) marine and coastal waters support extensive recreational activities and related support services;

(E) maintenance and protection of the environmental quality of the Nation's marine and coastal waters is essential to the commercial and recreational activities they support;

(F) recent studies and reports provide evidence of growing threats to the environmental quality and ecological integrity of marine and coastal waters;

(G) a report by the Congressional Office of Technology Assessment found that the overall health of estuaries and coastal waters is declining or threatened;

(H) studies by the National Oceanic and Atmospheric Administration and the Environmental Protection Agency have identified unexpectedly high levels of contaminants in a number of coastal areas;

(I) expanded and improved research and monitoring of marine and estuarine ecosystems is needed to gain a more complete understanding of these ecosystems and how man's activities may be effecting them;

(J) there is a need to expand and improve pollution control requirements programs for the control of point and nonpoint sources of pollution to marine and coastal waters;

(K) there is a need to develop plans and programs for the elimination of discharges of combined stormwater and sanitary sewer overflows to coastal waters;

(L) there is a need to expand and expedite the process of setting enforceable water quality standards for coastal waters and to develop standards for coastal sediments; and

(M) there is a need to improve the management of contaminated sediments and dredge materials.

TITLE I—WATER QUALITY PROTECTION PROGRAMS

NATIONAL ESTUARY PROGRAM

SEC. 101. Section 320 of the Federal Water Pollution Control Act is amended as follows:

"SEC. 320. NATIONAL ESTUARY PROGRAM.

"(a) DESIGNATION OF PRIORITY ESTUARIES AND COASTAL WATERS.—

"(1) The Administrator shall, within eighteen months of the date of enactment of this Act and biennially thereafter, identify and designate, pursuant to this section, all estuaries and coastal waters experiencing a general degradation of environmental conditions and which do not support a balanced, indigenous population of shellfish, fish, and wildlife and allow for recreational activities in and on the water.

"(2) In selection of estuaries or coastal waters pursuant to paragraph (1), the Administrator shall consider—

"(A) the extent and seriousness of water quality contamination;

"(B) the presence of toxic or other contaminants in sediment and the potential for migration of such contamination to water or aquatic organisms;

"(C) the condition of aquatic life and related habitat;

"(D) the presence of threatened or endangered species; and

"(E) anticipated total increases in pollution loadings.

"(3) In support of designation of estuaries and coastal waters pursuant to paragraph (1), the Administrator shall conduct such studies, research, and assessments as are necessary and shall, at a minimum, consider—

"(A) research, assessments, or related studies of the National Oceanic and Atmospheric Administration, including the Status and Trends Program, the National Sediment Contamination Assessment, and other studies;

"(B) estuaries and coastal waterbodies listed in paragraph (4) of this subsection; and

"(C) the views and comments of interested groups and the public.

"(4) In selection of estuaries and coastal waterbodies for designation under paragraph (1) of this section, the Administrator shall consider designation of Long Island Sound, New York and Connecticut; Narragansett Bay, Rhode Island; Buzzards Bay, Massachusetts; Casco Bay, Maine; Massachusetts Bay, Massachusetts (including Cape Cod Bay and Boston Harbor); Puget Sound, Washington; New York-New Jersey Harbor, New York and New Jersey; Delaware Bay, Delaware and New Jersey; Delaware Inland Bays, Delaware; Albemarle Sound, North Carolina; Sarasota Bay, Florida; San Francisco Bay, California; Galveston Bay, Texas; Santa Monica Bay, California; Barataria-Terrebonne Bay estuary complex, Louisiana; Indian River Lagoon, Florida; and Peconic Bay, New York.

"(5) The Governor of any State may nominate to the Administrator an estuary or coastal waterbody lying in whole or in part within that State for designation pursuant to paragraph (1) of this subsection. Following receipt of such a petition the Administrator shall evaluate the identified estuary pursuant to paragraphs (2) and (3) of this subsection and shall, within one hundred and eighty days of receipt of such petition, issue a notice in the Federal Register announcing the designation of such waterbody or the decision not to designate the waterbody, including an explanation of such action.

"(6) The Chesapeake Bay shall be treated as a coastal waterbody designated pursuant to this subsection for the purposes of subsection (b) of this section.

"(7) For the purposes of this subsection, the term "estuaries or coastal waters" refers to estuaries, bays, sounds or other distinct marine waterbodies which are associated with more than one political subdivision and which receive pollution loadings from a range of point and nonpoint sources.

"(b) SPECIAL AUTHORITIES OF THE ADMINISTRATOR.—

"(1) In the case of any estuary or coastal waterbody designated after January 1, 1989, the Administrator; or with respect to subparagraphs (A) and (B) in the case of a State authorized to issue permits under section 402 of this Act, the State, shall—

"(A) exercise authorities concerning discharges to coastal waters pursuant to section 301(q) of this Act;

"(B) notwithstanding the schedules established pursuant to section 402(p)(4) or any other provision of law, within one hundred and eighty days of designation, issue permits for any industrial and municipal discharges of stormwater to such waters, consistent with the requirements of section 402(p)(3) of this Act;

"(C) within one hundred and eighty days of designation, consider pursuant to section 404(c) of this Act, prohibiting the specification of an area designated pursuant to this section as a disposal site and denying or restricting the use of any area designated pursuant to this section as a disposal site;

"(D) exercise authorities concerning prohibition of discharges of sewage from vessels pursuant to section 312 of this Act;

"(E) require that each publicly owned treatment work discharging to such waters, regardless of the volume of such discharge of population served by the treatment works, shall develop and enforce facility specific programs for the pretreatment of industrial wastes; and

"(F) in the case of a State that does not have an approved assessment and/or management program for the affected waterbody that complies with section 319(b) of this Act, conduct an assessment and prepare a management program for the watershed of such waters within eighteen months of the date of designation.

"(c) RESEARCH AND ASSESSMENT.—(1) Upon the designation of an estuary or coastal waterbody pursuant to subsection (a), the Administrator, in cooperation with the Under Secretary and with affected States shall develop and implement—

"(A) a long-term program of monitoring to determine variations in pollutant concentrations, marine ecology, and other physical or biological environmental parameters which may affect the designated waterbody to provide the Administrator the capacity to determine the potential and actual effects of alternative management strategies and measures;

"(B) a program of ecosystem assessment assisting in the development of (i) baseline studies which determine the biological conditions in the designated waterbody and the effects of natural and anthropogenic changes, and (ii) predictive models capable of translating information on specific discharges or general pollutant loadings within the waterbody into a set of probable effects on biological conditions in such water bodies;

"(C) a comprehensive water quality and sediment sampling program for the periodic monitoring of the chemical conditions in the designated waterbody (including nutrients, chlorine, acid precipitation, dissolved oxygen, organic chemicals, metals and other toxic pollutants); after consultation with interested State, local, interstate, or international agencies;

"(D) review and analysis of all environmental sampling data presently collected from such waters; and

"(E) a program of research to identify the movements of nutrients, sediments and pollutants through designated waterbodies and the impact of nutrients, sediments, and pollutants on water quality, the ecosystem, and designated or potential uses of such waters.

(2) The Administrator may make grants to State, interstate, and regional water pollution control agencies and entities to support research monitoring, and related activities pursuant to this subsection. The amount of grants to any person under this subsection for a fiscal year shall not exceed 75 per centum of the costs of such activity and shall be made on the condition that the non-Federal share of such costs are provided from non-Federal sources.

(3) The Administrator shall provide a report of the status of research and the findings of such research to the Governor of each State in which a waterbody designated pursuant to this section is located.

"(d) MANAGEMENT CONFERENCES.—

"(1) Upon the designation of an estuary or coastal waterbody pursuant to subsection (a), or as soon thereafter as practicable, the Administrator shall convene a management conference. In any case in which the Administrator has initiated a management conference prior to January 1, 1989, the Administrator may maintain and support such management conference consistent with the requirements of this subsection.

"(2) The purposes of any management conference convened pursuant to this subsection shall be to—

"(A) assess trends in water quality, natural resources, and uses of the designated waterbody;

"(B) collect, characterize, and assess data on toxics, nutrients, and natural resources within the designated waterbody to identify the causes of environmental problems;

"(C) develop the relationship between the inplace loads and point and nonpoint loadings of pollutants to the waterbody and the potential uses of the waterbody, water quality, and natural resources;

"(D) develop a comprehensive environmental protection plan that recommends priority corrective actions and compliance schedules addressing point and nonpoint sources of pollution to restore and maintain the chemical, physical, and biological integrity of the designated waterbody, including restoration and maintenance of water quality, a balanced indigenous population of shellfish, fish and wildlife, and recreational activities in and on the waterbody and assure that the designated uses of the waterbody are protected;

"(E) develop plans for the coordinated implementation of the plan by the States as well as Federal and local agencies participating in the conference;

"(F) monitor the effectiveness of actions taken pursuant to the plan; and

"(G) review all Federal financial assistance program and Federal development project in accordance with the requirements of Executive Order 12372, as in effect on September 17, 1983, to determine whether such assistance program or project would be consistent with and further the purposes and objectives of the plan prepared under this section.

For purposes of paragraph G, such programs and projects shall not be limited to the assistance programs and development projects subject to Executive Order 12372, but may include any programs listed in the most recent Catalog of Federal Domestic Assistance which may have an effect on the purposes and objectives of the plan developed under this section.

"(3) The members of a management conference convened under this section shall include, at a minimum, the Administrator and representatives of—

"(A) each State and foreign nation located in whole or in part in the waterbody for which the conference is convened;

"(B) international, interstate, or regional agencies or entities having jurisdiction over all or a significant part of the waterbody;

"(C) each interested Federal agency, as determined appropriate by the Administrator;

"(D) local governments having jurisdiction over any land or water within the waterbody, as determined appropriate by the Administrator; and

"(E) affected industries, public and private educational institutions, and the general public, as determined appropriate by the Administrator.

"(4) In developing an environmental protection plan under this section, the management conference shall survey and utilize existing reports, data, and studies relating to the waterbody that have been developed by or made available to Federal, interstate, State, and local agencies.

"(5) The Administrator at the request of a management conference convened pursuant to this subsection is authorized to require any person whose alleged activities cause or contribute to pollution to file with it in such form as the Administrator shall require, a report based on existing data, furnishing such information as may reasonably be required as to the character, kind, and quantity of such activities and the use of facilities, management practices, or other means to prevent or reduce pollution resulting from such activities by the person filing such a report. Such report shall be made under oath and shall be filed with the Administrator within such reasonable period as the Administrator requires. Upon a showing satisfactory to the conference by the person filing such report that such report or portion thereof (other than effluent data), to which the Administrator has access under this section, if made public would divulge trade secrets or secret processes of such person, the Administrator shall consider such report or portion thereof confidential for the purposes of section 1905 of title 18 of the United States Code. If any person required to file any report under this paragraph shall fail to do so within the time fixed by the Administrator for filing the same, and such failure shall continue for thirty days after notice of such default, such person shall forfeit to the United States the sum of $1,000 for each and every day of the continuance of such failure, which forfeiture shall be payable into the Treasury of the United States, and shall be recoverable in a civil suit in the name of the United States in the district court of the United States where such person has his principal office or in any district in which he does business. The Administrator may upon application therefor remit or mitigate any forfeiture provided for under this subsection.

"(6) A management conference convened under this section shall be convened for a period not to exceed five years. Such conference may be extended by the Administrator, and if terminated after the initial period, may be reconvened by the Administrator at any time thereafter, as may be necessary to meet the requirements of this section.

"(7) Not later than one hundred and twenty days after the completion of an environmental protection plan and after providing for public review and comment, the Administrator shall approve such plan, or portions thereof, if the plan meets the requirements of this section and the affected Governor or Governors concur.

"(8) Upon approval of an environmental protection plan under this section, such plan shall be implemented. Funds authorized to be appropriated under sections 207, 319, and 607 of this Act may be used in accordance with the applicable requirements of this Act to assist States with the implementation of such plan.

"(9) The Administrator is authorized to make grants to State, interstate, and regional water pollution control agencies and entities, State coastal zone management agencies, interstate agencies, other public or nonprofit private agencies, institutions, organizations, and individuals. Grants under this subsection shall be made to pay for assisting the development of a conservation and management plan under this subsection. The amount of grants to any person (including a State, interstate, or regional agency or entity) under this subsection for a fiscal year shall not exceed 75 per centum of the total annual costs of such research and activities and shall be made on condition that the non-Federal share of such costs are provided from non-Federal sources. Any person (including a State, interstate, or regional agency or entity) that receives a grant under this paragraph shall report to the Administrator not later than eighteen months after receipt of such grant and biennially thereafter on the progress being made under this section.

"(10) The Administrator shall monitor the implementation of environmental protection plans developed pursuant to subparagraph (D) of paragraph (2) of this subsection following the termination of the management conference.

"(e) REPORT TO CONGRESS.—

"(1) The Administrator, in cooperation with the Under Secretary, shall submit to the Congress, within eighteen months of the date of enactment of this Act and biennially thereafter, a comprehensive report on the activities authorized by this section including—

"(A) a listing of priority monitoring and research needs in coastal waters;

"(B) an assessment of the state of health of the Nation's coastal waters;

"(C) a list of the estuaries and coastal waterbodies designated pursuant to subsection (a) of this section;

"(D) an evaluation of the pollution abatement measures implemented pursuant to this section;

"(E) an assessment and description of the management conferences in progress and a report on the implementation of adopted environmental protection plans;

"(F) an assessment of major obstacles to the restoration of environmental quality in designated coastal waterbodies and in coastal waters generally; and

"(G) recommendations for actions to assure the prompt and successful implementation of programs and measures to assure the quality of coastal waters.

"(2) The Administrator shall provide for public review and comment on the report provided for in this subsection.

"(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Administrator not to exceed $25,000,000 per fiscal year for each of fiscal years 1990, 1991, 1992, and 1993 for—

"(A) expenses related to the administration of this section, not to exceed 10 per centum of the amount appropriated under this subsection;

"(B) expenses related to the implementation of research and assessment activities pursuant to subsection (c) of this section, in-

cluding grants pursuant to paragraph (2) of subsection (c); and

"(C) making grants under paragraph (9) of subsection (d) of this section.

"(g) USE OF PENALTIES.—(1) Subsequent to the designation of a waterbody pursuant to this section, any penalties paid as a result of enforcement actions under section 309 or 404(s) of this Act by the Federal Government or a State for illegal activities in the designated waterbody shall be deposited into a special fund of the Treasury entitled the 'Estuaries Protection Fund'.

"(2) The amounts in such fund shall be available for appropriation to supplement funds authorized or appropriated pursuant to subsection (f) of this section and shall be used in accordance with the requirements of subsection (f) of this subsection.

"(3) To the extent practicable, the Administrator shall assure that the amounts contributed to the Estuaries Protection Fund from discharges within a given waterbody are used to support activities within that waterbody.".

POINT SOURCE DISCHARGES TO COASTAL WATERS

SEC. 102. COASTAL DISCHARGE STANDARD.—At the end of section 301 of the Federal Water Pollution Control Act add the following new subsection—

"(q) COASTAL DISCHARGE STANDARD.—

"(1) In the case of any waterbody designated pursuant to section 320 of this Act on or after January 1, 1989, the Administrator shall issue or renew a permit pursuant to section 402 of this Act only if the applicant demonstrates—

"(A) a need to discharge to the designated waterbody based on a showing of the full utilization of available waste minimization practices and technologies and the lack of alternative production processes or disposal options; and

"(B) that a proposed new discharge, or any increase in volume or toxicity of an existing discharge, will be offset by a decrease in other discharges or loadings to the waterbody resulting in no net increase in pollutant loading to the waterbody.

"(2) This subsection shall apply to all proposed, new discharges to a waterbody designated pursuant to section 320 of this Act one hundred and eighty days after the date of enactment of this section or at the date of designation of the waterbody pursuant to section 320 of this Act, whichever is later.

"(3) Notwithstanding the terms of any permit issued pursuant to section 402, this subsection shall apply to any existing discharge, except for discharges composed entirely of storm water, to a waterbody designated pursuant to section 320 of this Act which has a permit pursuant to section 402 three years after date of designation of a waterbody.

"(4) The Administrator may modify the requirements of paragraph (1) of this subsection, with respect only to an existing discharger, upon a showing by the owner or operator of such point source satisfactory to the Administrator that such modified requirements will—

"(A) represent the maximum use of technology within the economic capability of the owner or operator; and

"(B) result in reasonable further progress toward the elimination of the discharge of pollutants.

"(5) Nothing in this subsection relieves or reduces the obligation of a permittee to comply with the enforceable requirements of this Act.".

NONPOINT SOURCE POLLUTION CONTROL

SEC. 103. (a) COASTAL PROJECT CERTIFICATION.—Amend section 401 of the Federal Water Pollution Control Act by—

(1) adding to the first sentence of paragraph (a)(1) following the first occurrence of the phrase "navigable waters," the following "or any applicant for Federal flood insurance for any activity which may result in any discharge to the navigable waters or any pollution of such waters,";

(2) replacing the phrase "licensing or permitting agency" with the phrase "licensing, permitting, or insuring agency" in each place that it occurs;

(3) replacing the term "discharge" with the phrase "discharge or pollution" in each place that it occurs, except for the first use of such term in the first sentence of paragraph (a)(1);

(4) replacing the phrase "license or permit" with the phrase "Federal license, permit, or flood insurance" in each place that it occurs, except in paragraph (a)(3);

(5) replacing the phrase "licensed or permitted" with the phrase "licensed, permitted, or insured" in each place that it occurs;

(6) adding to subsection (d), after the phrase "section 307 of this Act," the phrase "best management practices and measures under section 319 of this Act,"; and

(7) adding to the end thereof the following new subsection:

"(e) For the purposes of this section the term "Federal flood insurance" refers to insurance provided pursuant to the National Flood Insurance Act for any new structure located in a flood plain associated with any coastal waters as defined in section 502 of this Act.".

(b) NATIONAL COASTAL REGISTERY.—Amend title V of the Federal Water Pollution Control Act by adding at the end thereof the following new section:

"NATIONAL COASTAL REGISTERY

"SEC. 520. (a) LISTING.—The Administrator shall establish a national registery of coastal land. The Administrator shall list land in the national registery based on submission of a completed application, in such form as the Administrator may prescribe, by the property owner providing basic information concerning the property including but not limited to—

"(1) the location and size of the property;

"(2) the physical characteristics of the property;

"(3) known wildlife habitat or other significant natural features or characteristics; and

"(4) proof of ownership of the land.

Inclusion of land in the National Coastal Registery shall be at the sole discretion of the land owner.

"(b) INFORMATION AND EDUCATION.—The Administrator shall operate a program to provide registrants of coastal land with informational and educational materials concerning—

"(1) land management and related practices to prevent water pollution and protect habitat;

"(2) activities and practices to protect and foster the development of aquatic life and wildlife;

"(3) measures to preserve and protect significant natural features of land or significant natural resources;

"(4) the activities of Federal, State, and local agencies to protect coastal waters including activities pursuant to sections 201, 309, 319, 320, 402, and 404 of this Act; and

"(5) the various requirements of Federal and State laws concerning land management, discharges to water, and other related activities.

Information provided pursuant to this paragraph may be adjusted to apply specifically to land within a given region of the country or a given State.

"(c) STATE PARTICIPATION.—At the request of a Governor of a State, the Administrator may delegate operation of the informational and educational program established by subsection (b) within such State to a State agency. Costs associated with activities pursuant to this section are eligible for funding under section 106 of this Act.

"(d) REGISTERY DOCUMENT.—The Administrator shall publish on a periodic basis a National Coastal Registery document identifying and summarizing land listed pursuant to this subsection and shall provide a copy to any person submitting a completed application pursuant to paragraph (1) of this subsection at no cost.

"(e) DEFINITION.—For the purposes of this subsection, the term "coastal land" means any property, including wetlands, which is located within two thousand five hundred feet of any coastal waters.".

(c) FAILURE TO SUBMIT MANAGEMENT PROGRAM FOR COASTAL WATERS.—Section 319(e) of the Federal Water Pollution Control Act as amended is amended by adding at the end thereof the following: "Beginning on August 4, 1989, in the case where a State has failed to submit a management program under subsection (b) or the Administrator does not approve such a management program for a watershed of coastal waters, a local public agency or organization may act pursuant to this subsection regardless of the views of the applicable State.".

(d) PRIORITY FOR GRANT ASSISTANCE.—Section 319(h)(5) of the Federal Water Pollution Control Act (33 U.S.C. 466 et seq.) is amended by striking "and" at the end of paragraph (C), inserting "and" at the end of paragraph (D), and adding the following—

"(E) control nonpoint source pollution of waters designated pursuant to section 320 of this Act.".

MARINE SANITATION DEVICES

SEC. 104. (a) PROHIBITION OF DISCHARGE TO DESIGNATED WATERS.—Section 312(f)(4) of the Federal Water Pollution Control Act (33 U.S.C. 466 et seq.) is amended by adding at the end thereof the following new paragraph:

"(C) In the case of any waterbodies designated pursuant to section 320 of this Act, the Administrator shall, within one hundred and eighty days of such designation, by regulation completely prohibit the discharge from a vessel of sewage (whether treated or not) into such waters.".

(b) PENALTIES FOR PROHIBITED DISCHARGES.—Section 312(j) of the Federal Water Pollution Control Act is amended by adding to the first sentence following "subsection (h) of this section" the following: "or any prohibition established pursuant to paragraph (f) (3) or (4) of this section".

(c) STUDY OF PROGRAM IMPLEMENTATION.—Section 312 of the Federal Water Pollution Control Act, as amended, is amended by adding at the end thereof the following new subsection—

"(o) The Administrator, after consultation with the Secretary of the Department in which the Coast Guard is operating, shall conduct a study to determine the availability of adequate facilities for the safe and sanitary removal and treatment of sewage from vessels operating on coastal waters. Within twelve months of the date of enact-

ment of this Act, the Administrator shall report to the Congress the results of such study and shall make recommendations concerning specific actions, including amendments to the Federal Water Pollution Control Act as amended, as are necessary to assure that adequate facilities for the safe and sanitary removal and treatment of sewage from vessels operating on coastal waters are reasonably available.".

MARINE COMBINED SEWER OVERFLOWS

SEC. 105. (a) MARINE COMBINED SEWER OVERFLOWS.—Amend title IV of the Federal Water Pollution Control Act by adding at the end thereof the following new section:

"SEC. 406. MARINE COMBINED SEWER OVERFLOW.

"(a) MARINE COMBINED SEWER OVERFLOW INVENTORY.—

"(1) Each State in which a municipality discharges overflows from combined storm-water sewers and sanitary sewers into coastal waters shall, within one year of the date of enactment of this section and biennially thereafter prepare and submit to the Administrator an inventory of all such discharges in the State which shall include—

"(A) identification of the location of each such discharge, and the waterbody affected;

"(B) identification of the municipal entity responsible for the discharge;

"(C) identification of the estimated volume of discharge over a one-year period and the estimated pollutant loading of the discharge over such period, including any pollutant introduced by an industrial discharger;

"(D) assessment of the proportion of the volume of the combined discharge to the volume capacity of the appropriate treatment works over the maximum measured or estimated storm event that would occur during a seven-day, ten-year storm event, or a one-day, two-year storm event, whichever is greater;

"(E) preliminary assessment of the potential to eliminate the discharge through flow reduction methods, including water conservation; and

"(F) the nature and status of any existing programs to eliminate such discharges.

"(b) MARINE COMBINED SEWER OVERFLOW ELIMINATION PROGRAMS.—

"(1) Any municipality listed pursuant to paragraph (B) of subsection (a)(1) shall develop and submit to the Administrator a program for the elimination of all discharges listed pursuant to paragraph (A) of subsection (a)(1).

"(2) The program required pursuant to this section shall be submitted to the Administrator not later than twenty-four months after the date of enactment of this section and shall—

"(A) identify best management practices, regulatory and nonregulatory programs, and other measures to be taken by the municipality to eliminate the discharge of overflows from combined storm-water sewers and sanitary sewers;

"(B) establish a schedule for development of plans and implementation of best management practices programs, and other measures providing for implementation of such practices, programs, and measures at the earliest practicable date but in no case more than three years from the date of submission of the program; and

"(C) estimate the costs of design and implementation of best management practices, programs, and other measures including the estimated financial contributions from local, State, and Federal sources.

"(3) The municipality shall provide for public review and comment on the program developed pursuant to this subsection and shall coordinate development of the program with the State agency developing the management program required pursuant to section 319(b) of this Act, with any management conference convened pursuant to section 320 of this Act, and with other interested local, regional, county, or other governments.

"(4) Not later than three months after the submission of a program pursuant to this section, the Administrator shall approve or disapprove the program. The Administrator shall approve the program only if—

"(A) the program meets the requirements of subsection (b)(2) of this section;

"(B) adequate authority exists or adequate financial resources are available to implement the program;

"(C) the schedule for implementation of the program as expeditious as practicable, but in no case later than five years from the date of program approval; and

"(D) the practices, programs, and measures proposed in the program are adequate to assure the elimination of discharges of overflows from combined storm-water sewers and sanitary sewers or the municipality has applied for a permit pursuant to section 402 of this Act for any discharge of overflows not to be eliminated.

"(5) If the Administrator disapproves the program pursuant to this subsection, the Administrator shall notify the municipality of any revisions or modifications necessary to obtain approval. The municipality shall have three months to submit its revised plan and the Administrator shall approve or disapprove the program in three months.

"(6) Any municipality required to develop a program pursuant to this section which does not have an approved program by the date thirty-six months after the date of enactment of this section or which fails to implement the program shall be subject to penalties pursuant to subsections (d) and (g) of section 309 of this Act.

"(7) Within thirty-six months from the date of enactment of this section, the Administrator shall modify or issue permits pursuant to section 402 of this Act for any discharge of combined storm-water sewers and sanitary sewers pursuant to subparagraph (D) of paragraph (4) of this subsection. Such permit shall provide a schedule which will assure implementation of treatment as defined by section 304(d)(1) of this Act and such additional treatment as will assure that the discharge will not contribute to the violation of a water quality or sediment quality standard pursuant to this Act as expeditiously as possible but not less than five years from the date of permit issuance.

"(8) Nothing in this section shall either relieve any municipality from liability for any existing violation of this Act, or eliminate any existing duty to obtain a permit pursuant to section 402 of this Act.

"(c) COMBINED SEWER OVERFLOW ELIMINATION GUIDANCE.—

"(1) Within one year from the date of enactment of this section, the Administrator shall publish guidance describing best management practices, regulatory, and nonregulatory programs, and other measures for the elimination of combined storm-water and sanitary sewer overflows including, but not limited to—

"(A) implementation of domestic water conservation programs to reduce sewage influent;

"(B) implementation of inflow and infiltration reduction measures to reduce volumes of sewage and storm-water influent;

"(C) implementation of requirements for volume reduction or elimination and detention during and following storm events by industrial users;

"(D) implementation of storm-water management controls, including decentralized storm-water detention basins, buffer strips, and related controls;

"(E) construction of detention facilities for storage of combined influent prior to treatment at the publicly owned treatment works or increases in capacity of publicly owned treatment works;

"(F) estimated, average design and construction schedules and costs for best management practices, programs, and other measures; and

"(G) model local ordinances or regulations, including model amendments to local pretreatment programs.

"(2) Any delay by the Administrator in issuing guidance under this provision shall not excuse the obligation of any municipality to comply with the requirements of this section.

"(3) The Administrator shall consult with public interest groups and other interested parties in development of guidance pursuant to paragraph (1).

"(d) DEFINITION.—For the purposes of this subsection, the term 'treatment works' shall be as defined in section 212(2) of this Act.".

(b) ELIGIBILITY FOR STATE REVOLVING LOAN FUNDS.—

(1) Amend section 601(a) of the Federal Water Pollution Control Act by striking "and (3)" and inserting in lieu thereof:

"(3) for developing and implementing a conservation and management plan under section 320, and (4) implementing a combined storm-water and sanitary sewer elimination program under section 406(b).".

(2) Amend section 603(c) of the Federal Water Pollution Control Act by striking "and (3)" and inserting in lieu thereof:

"(3) for developing and implementing a conservation and management plan under section 320, and (4) implementing a combined storm-water sewer and sanitary sewer elimination program pursuant to section 406(b).".

(c) GRANT ASSISTANCE.—Amend section 201(n)(2) of the Federal Water Pollution Control Act by striking the last sentence and inserting in lieu the following: "Such assistance shall be provided only for development of combined storm-water and sanitary sewer elimination programs pursuant to section 406(b) of this Act. The Administrator shall allocate available funds to address the most significant water pollution problems and shall give priority to municipalities discharging to waters designated pursuant to section 320 of this Act. The amount of grants to any municipality under this subsection for a fiscal year shall not exceed 75 per centum of the costs of a project and shall be made on the condition that the non-Federal share of such costs are provided from non-Federal sources.".

(e) REPORTING.—Amend section 516(b)(1) of the Federal Water Pollution Control Act by adding at the end thereof the following new sentence: "For the purposes of this subsection, the term 'treatment works' shall include any discharges from combined storm sewers and sanitary sewers and shall reflect the data provided by States pursuant to section 406(a) this Act.".

COASTAL WATER QUALITY AND SEDIMENT QUALITY STANDARDS

SEC. 106. (a) Section 303 of the Federal Water Pollution Control Act is amended by

adding at the end thereof the following new subsection—

"(i) COASTAL WATER QUALITY AND SEDIMENT QUALITY STANDARDS.—

"(1) The Administrator shall promulgate numerical standards for coastal water quality, and coastal sediment quality. Such standards shall assure the protection and propagation of a balanced, indigenous population of fish, shellfish, and wildlife and provide for recreation in and on the water.

"(2) The Administrator shall, within twenty-four months of the date of enactment of this subsection and biennially thereafter, promulgate standards pursuant to this section for those pollutants for which criteria and information have been established pursuant to section 304(a) and 304(n) of this Act which are adequate to assure the uses identified in paragraph (1) of this section.

"(3) In the case of a pollutant for which criteria and information under section 304(a) and 304(n) have not been developed, any person may petition the Administrator to develop such criteria. Any petitioner shall provide evidence of the negative effect of the pollutant on the marine environment. The Administrator shall approve the petition if he determines that the pollutant is impairing or preventing the attainment of the uses identified in paragraph (1) in the coastal waters of three or more States. Within six months of the receipt of a petition, the Administrator shall publish a notice in the Federal Register approving or denying the petition. If the Administrator fails to announce a decision pursuant to this paragraph, such petition shall be deemed approved.

"(4) In the case of approval of a petition pursuant to paragraph (3) of this subsection, the Administrator shall, within twenty-four months of the date of such decision, publish criteria and information for such pollutant pursuant to sections 304(a) and 304(n).

"(5) Any standard adopted by a State pursuant to the authorities of this Act shall have precedence in application to all activities and authorities pursuant to this Act, unless the standard adopted pursuant to this subsection is more stringent or protective of human health and the environment than the standard adopted by the State, in which case the standard adopted pursuant to this subsection shall apply.

"(6) The Governor of any State may petition the Administrator to establish a lower numerical standard than the numerical standard adopted for a pollutant pursuant to this subsection for the coastal waters of that State. A Governor's petition shall provide evidence that the application of the lower numerical standard will assure a degree of protection to human health and the environment equal to that provided by the standard adopted pursuant to this section and that the lower numerical standard is appropriate because of significant differences in the biological, physical, and chemical characteristics of the waters in question and the coastal waters of the United States. Within six months of the date of the petition, and after holding a hearing in the area of the State identified in the petition, the Administrator shall publish in the Federal Register a notice approving or disapproving the petition and providing an explanation of such action.

"(7) The Administrator may comply with the requirements to establish sediment quality standards under this subsection by establishing a scientific method for converting numerical water quality standards to numerical sediment quality standards. Any such method shall be reviewed and approved by the Science Advisory Board of the Environmental Protection Agency.".

OCEAN DISCHARGE CRITERIA

SEC. 107. AMENDMENTS TO OCEAN DISCHARGE CRITERIA.—

(a) CLARIFICATION OF SCOPE.—Strike section 403(a) of the Federal Water Pollution Control Act and insert in lieu thereof the following—

"(a) OCEAN DISCHARGE CRITERIA.—In addition to any other requirements of this Act, no permit shall be issued under section 402 of this Act for a discharge into the territorial sea, the waters of the contiguous zone, the oceans, or, beginning one hundred and eighty days after the date of enactment of this subsection, the coastal waters, if the Administrator finds, based on an assessment of the criteria provided in subsection (c), that the discharge will prevent the protection and propagation of a balanced, indigenous population of fish, shellfish, and wildlife and will not provide for recreation in and on the water or that the discharge will prevent the attainment of standards established pursuant to section 303(i) of this Act.".

(b) REVISION.—Strike the first five lines of paragraph (c)(1) of section 403 and insert in lieu thereof the following:

"(c)(1) In assessing the effects of a proposed discharge on the coastal and marine environment, the Administrator shall consider—".

(c) LIMITATION OF REGULATIONS.—Amend paragraph (c)(2) of section 403 by adding at the end thereof the following: "Any existing or proposed regulations creating exemptions to the limitations of this section are herewith deemed invalid.".

SEC. 108. DEFINITIONS.—Section 502 of the Federal Water Pollution Control Act is amended by adding at the end thereof the following new subsections:

"(21) The term 'Administrator' means the Administrator of the Environmental Protection Agency.

"(22) The term 'Under Secretary' means the Under Secretary of Commerce for Oceans and Atmosphere, who serves as the Administrator of the National Oceanic and Atmospheric Administration.

"(23) The term 'Federal agency' means any department, agency, or other instrumentality of the Federal Government, any independent agency or establishment of the Federal Government including any Government Corporation.

"(24) The terms 'estuary' and 'estuarine zone' have the meanings such terms have in section 104(n)(4) of the Federal Water Pollution Control Act, except that the terms shall also include associated aquatic ecosystems and those tributaries draining into the estuary up to the historic head of tidal influence.

"(25) The terms 'coastal waters' or 'coastal waterbody' refer to estuaries, waters of the estuarine zone, and any other waters seaward of the historic height of tidal influence to the outer boundary of the territorial sea.

"(26) The term 'coastal sediment' refers to sediments underlying coastal waters.".

TITLE II—MARINE SEDIMENT CONTAMINATION

MARINE SEDIMENT CRITERIA AND INFORMATION

SEC. 201. COASTAL SEDIMENT CRITERIA AND INFORMATION.—Amend section 304 of the Federal Water Pollution Control Act by adding at the end thereof the following new subsection—

"(n) COASTAL SEDIMENT CRITERIA AND INFORMATION.—

"(1) In the case of any pollutant for which criteria and information are published pursuant to subsection (a) of this section, the Administrator shall, within twenty-four months of the date of enactment of this Act, revise and republish such criteria and information as necessary to assure that such criteria and information address coastal sediment to an extent adequate for development of sediment standards pursuant to section 303(i) of this Act. Criteria and information concerning coastal sediment shall be comprehensive and comparable to criteria and information concerning water quality.

"(2) Beginning one hundred and eighty days from the date of enactment, the Administrator shall provide that any criteria and information published pursuant to subsection (a) of this section shall address the quality of coastal sediment to an extent adequate for development of sediment standards pursuant to section 303(i) of this Act, and that such criteria and information is comprehensive and in all ways comparable to criteria and information concerning water quality.".

MARINE SEDIMENT CONTAMINATION

SEC. 202. (a) CONTAMINATION OF DREDGE MATERIAL.—

(1) Amend section 1413(a) of the Marine Protection, Research and Sanctuaries Act by striking "and (d)" in the first sentence and adding in lieu thereof the following: "(d) and (f)".

(2) Amend section 1413(c) of the Marine Protection, Research and Sanctuaries Act by adding to the second sentence following "critical areas," the following: "or an assessment of contamination pursuant to subsection (f) of this section,".

(3) Amend section 1413 of the Marine Protection, Research and Sanctuaries Act by adding at the end thereof the following new subsection:

"(f) CONTAMINATION OF DREDGE MATERIAL.—

"(1) Prior to making a determination to issue a permit pursuant to subsection (a) of this section, or initiating a Federal project pursuant to subsection (e), the Secretary shall assess the material to be dredged and determine whether the material contains pollutants in concentrations in excess of the concentrations, established in sediment standards established pursuant to section 303(i)(1) of the Federal Water Pollution Control Act.

"(2) If the Secretary finds that material to be dredged contains pollutants in concentrations in excess of sediment standards established pursuant to section 303(i)(1) of the Federal Water Pollution Control Act, dumping of such material shall not require a permit pursuant to this section but shall, notwithstanding any other provision of law, require a permit pursuant to section 1412 of this Act.".

(b) SPECIAL MANAGEMENT OF CONTAMINATED DREDGE MATERIAL.—Amend section 1412 of the Marine Protection, Research and Sanctuaries Act by adding a new subsection at the end thereof:

"(f) SPECIAL MANAGEMENT OF CONTAMINATED DREDGE MATERIAL.—

"(1) In a case where the Administrator approves a permit for the dumping of dredge material which has been found to be contaminated pursuant to subsection 1413(f) of this Act, the Administrator shall, in addi-

tion to such other limitations as appropriate pursuant to this section or section 1414, provide that the permit for such dumping will—

"(A) require that dumping occur at a time of year that will result in minimual adverse impact on aquatic resources and on potential migration of material from the designated site;

"(B) be for a period of not to exceed one year;

"(C) beginning eighteen months after the date of enactment of this Act, require the implementation or best management practices established by the Administrator pursuant to paragraph (2) of this subsection; and

"(D) beginning three years from the date of enactment of this Act, require that dumping occur at a dumpsite designated pursuant to section 1412(c) of this Act as suitable for the dumping of contaminated dredge material.

"(2) Within eighteen months of the date of enactment of this Act, the Administrator, after consultation with the Secretary, shall publish in the Federal Register a description of best management practices to be used in the dredging, transport, and disposal of dredge material found to be contaminated pursuant to section 1413(f) of this Act. Best management practices shall be designed to minimize, to the fullest extent practicable, the migration of pollutants to the water column, dispersion of pollutants, and impact of dredging, transport, or disposal on the marine environment.

(c) GENERAL PERMITS.—Section 1414(c) is amended by adding at the end thereof the following: "No general permit may be issued pursuant to this subsection for material determined to be contaminated pursuant to section 1413(f) of this title.".

STATE OCEAN DUMPING REQUIREMENTS

SEC. 203. STATE OCEAN DUMPING REQUIREMENTS.—Strike section 1416(d) of the Marine Protection, Research and Sanctuaries Act and insert in lieu thereof the following new section:

"(d)(1) Any State may adopt criteria, rules, or regulations relating to dumping of materials into ocean waters within its jurisdiction, only if such criteria, rules or regulations are more stringent and protective of such waters than the criteria, rules, or regulations of this Act.

"(2) Any criteria, rules, or regulations adopted pursuant to paragraph (1) of this subsection shall be transmitted to the Administrator and to the Secretary within thirty days of the date of adoption by the State and, upon receipt, the Administrator and the Secretary shall assure compliance with such criteria, rules, and regulations.".

SITE DESIGNATION

SEC. 204. (a) SITE DESIGNATION AMENDMENTS.— Strike section 1412(c) of the Marine Protection, Research and Sanctuaries Act (33 U.S.C. 1412 et seq.) and insert in lieu thereof the following:

"(c)(1) The Administrator may, consistent with the criteria established pursuant to subsection (a) of this section, designate sites or times for dumping, including dumping pursuant to subsection (e) of section 1413.

"(2) The Administrator shall, when he finds it necessary to protect critical areas, designate sites or times within which certain materials may not be dumped, including dumping pursuant to subsection (e) of section 1413.

"(3) The Administrator, in cooperation with the Undersecretary, shall develop and implement a site management plan for each site designated pursuant to this section. Such plan shall include—

"(A) a baseline assessment of environmental conditions at the site;

"(B) special management conditions to be implemented at each site to minimize to the fullest extent practicable adverse impacts on aquatic life and to prevent the migration of contaminants from the site;

"(C) a program of monitoring for each site including:

"(i) water quality at the site and in the area of the site;

"(ii) sediment quality at the site and in the area of the site;

"(iii) the diversity, productivity, and stability of aquatic organisms at the site and in the area of the site; and

"(iv) such other conditions as the Administrator deems appropriate.

"(D) the anticipated use and management of the site over the following twenty-year period including the expected termination of dumping at the site, the anticipated need for site management, including pollution control, following the termination of the use of the site.

"(4) Not less than five years after the date of designation of a site pursuant to this section, and every five years thereafter, the Administrator shall review the designation of each site designated pursuant to this section and shall redesignate such site if such redesignation is consistent with the criteria established pursuant to paragraph (1) of this subsection and subsection (a) of this section.

"(5) In designation or redesignation of sites pursuant to this section, the Administrator shall determine whether the dumping of materials determined to be contaminated pursuant to section 1413(f) of this Act or section 404(u) of the Federal Water Pollution Control Act at the site would be consistent with the criteria established pursuant to subsection (a). If the Administrator determines that the dumping of contaminated materials is not consistent with such criteria, the Administrator shall prohibit the dumping of such materials at the site.

"(6) The Administrator shall provide for public review and comment of designation actions including the management plan pursuant to paragraph (3) of this subsection and shall hold a hearing on the proposed designation or redesignation in the region of the country in which the site is located.".

(b) PERMIT CONDITIONS.—(1) Amend section 1414(a) of this Act by inserting in lieu of paragraph (4) the following:

"(4) such requirement, limitations, or conditions as are necessary to assure consistency with any site management plan approved pursuant to section 1412(c) of this title.".

(2) Amend section 1414(a) by adding at the end thereof the following: "Permits issued under this title shall be for a period not to exceed two years.".

(c) WAIVER AMENDMENT.—Amend section 1413(d) by striking all of the first sentence after "in the disposition of dredged material," and inserting in lieu thereof the following: "disposal at a site designated pursuant to section 1412(c)(1) in a manner which is not consistent with the requirements of a site management plan adopted pursuant to paragraph (3) of section 1412 of this title is necessary for the national defense he shall so certify and request a waiver from the Administrator for the specific requirements involved.".

DREDGE AND FILL PROGRAM

SEC. 205. SPECIAL MANAGEMENT OF CONTAMINATED MATERIAL.—

(1) Add to the end of section 404 of the Federal Water Pollution Control Act the following new section:

"(u)(1) Within three hundred and sixty days of the date of enactment of this subsection, the Administrator shall revise guidelines established pursuant to subsection (b) of this section to require that an applicant for a permit pursuant to this section proposing to dispose of dredge or fill material in coastal waters shall establish whether concentrations of the material contains pollutants in excess of the concentrations established in sediment standards pursuant to section 303(i)(1) of this Act.

"(2) If the Secretary finds that an applicant for a permit pursuant to this section proposes to dispose of contaminated material pursuant to paragraph (1) of this subsection, the Secretary, in consultation with the Administrator, shall consider, in addition to any guidelines established by the Administrator pursuant to subsection (b) of this section—

"(A) alternative locations for the disposal of such material, including sites designated pursuant to section 1412(c) of the Marine Protection, Research and Sanctuaries Act, which will minimize adverse impacts on the environment;

"(B) the potential for the disposal of the material to result in violations of water quality standards;

"(C) limitations on the schedule of operations which will mitigate and minimize adverse impacts on the environment;

"(D) limitations or management practices, including management practices identified pursuant to section 1412(f)(2) of the Marine Protection, Research and Sanctuaries Act, which will minimize the migration of contaminants from the disposal area or to water including isolation or capping of the contaminated material by uncontaminated material or disposal in upland areas;

"(E) requirements for long-term monitoring of contaminant concentrations at the disposal site, including maintenance of any management practices for preventing migration of contaminants; and

"(F) demonstration of financial capacity to assure the effective compliance with permit requirements in the short term and the long term.

"(3) In any case where the Secretary finds that material proposed for disposal is contaminated pursuant to paragraph (1) and the proposed disposal site is located within an area designated by the Administrator pursuant to section 320 of this Act, the Secretary shall deny such permit application.".

TITLE III—OTHER PROVISIONS

STUDY OF AIR DEPOSITION

SEC. 301. REPORT.—The Administrator shall, within twenty-four months of the date of enactment of this Act, submit to the Congress a report which provides an assessment of the extent and seriousness of airborne deposition of contaminants in coastal waters.

IDENTIFICATION OF UNREGULATED CONTAMINANTS

SEC. 302. AMENDMENT TO MARINE RESEARCH AUTHORITY.—(1) Add to section 104(n) of the Federal Water Pollution Control Act the following new paragraphs—

"(5) The Administrator shall conduct such research and monitoring as needed to identify currently unregulated pollutants in the estuarine zone and coastal waters not currently addressed in a guideline developed pursuant to section 301 of this Act or a

standard developed pursuant to section 303 of this Act.

"(6) Within one year of the date of enactment of this paragraph, the Administrator shall submit to the Congress a report identifying unregulated pollutants in the estuarine zone and coastal waters and providing a plan (including specific actions and recommendations for legislation, schedules, and necessary budget commitments) for implementation of such controls as are necessary to protect a balanced, indigenous population of shellfish, fish, and wildlife and allow for recreational activities in and on the water.".

(2) Insert in section 104(n) of the Federal Water Pollution Control Act the term "and coastal waters" following the term "estuarine zones" in each place that it appears.

RESEARCH OF MICROORGANISMS

SEC. 303. REPORT.—The Administrator shall, within twenty-four months of the date of enactment, submit to the Congress a report on the potential use of microorganisms to degrade pollutants such as organic material or chemical pollutants in municipal or industrial wastes both before and after disposal in the marine environment.

SECTION-BY-SECTION ANALYSIS OF MARINE PROTECTION ACT OF 1989

Section 1. Title and Table of Contents.

Section 2. Findings.—There is growing evidence of serious environmental problems in marine and coastal waters and there is a need to expand and strengthen programs for the protection of these waters.

Section 3: Definitions.—Key terms are defined.

TITLE I—WATER QUALITY PROTECTION PROGRAMS

Section 101: National Estuary Program—Amends the National Estuary Program (Sec. 320 of the Clean Water Act) to provide for an overall assessment of coastal waters and designation of those waters experiencing a general degradation of environmental conditions.

The Administrator is to monitor the conditions of designated waters and work with States to develop management conferences for these waters as under current law. In addition, the Administrator would exercise special authorities for the protection of designated waters including more stringent requirements for discharge permits, wetlands assessments, pretreatment, stormwater discharges, and nonpoint pollution control. A report to Congress on the status of the program is required on an annual basis.

The program authorization is increased from $12 to $25 million. In addition, new authority is provided for use of penalties paid by dischargers to designated waters for support of a National Estuaries Program Trust Fund.

Section 102: Point Source Discharges to Coastal Waters—Amends the Clean Water Act to specify a coastal discharge standards to apply to point source discharges in designated waters, including a showing of the "need to discharge" and "no net increase in pollutant loading". The new discharge standard would apply to all proposed, new discharges and to any increase in the toxicity or volume of existing discharges. A variance provision is provided.

Section 103: Nonpoint Source Pollution Control—Establishes a National Coastal Registery to provide information on land management practices for pollution prevention to owners of coastal land. This section also gives States new authority to review the impacts of proposed coastal projects to assess water quality impacts prior to issuance of Federal flood insurance. In addition, the existing nonpoint control program (Sec. 319 of the Clean Water Act) is amended to give priority in grant funding to water designated under section 320 of the Act.

Section 104: Marine Sanitation Devices—Expands existing authority of section 312 of the Clean Water Act to establish a strict no discharge standard to vessels in waters designated under the new section 320 of the Act and provides for penalties for violations. EPA and the Coast Guard are to prepare a study assessing the availability of facilities for the removal of sewage from vessels.

Section 105: Marine Combined Sewer Overflows—Amends the Clean Water Act to require State agencies to inventory combined stormwater and sanitary sewer discharges to coastal waters and to assess the potential for eliminating the discharges.

EPA is to work with States and municipalities to develop specific programs for eliminating overflows with emphasis on water conservation and stormwater management, rather than discharge treatment. Discharges not eliminated under the management program are to have discharge permits and comply with secondary treatment or such additional treatment requirements as are necessary.

An existing marine combined sewer overflow authorization of $200 million per year is directed toward development of discharge elimination programs. Implementation of the programs is eligible for funding under the State Revolving Loan funds under title VI of the Act.

Section 106: Marine Water Quality and Sediment Quality Standards—Requires EPA to develop and promulgate numerical standards for toxic and other pollutants in coastal waters and sediments.

Standards are to assure the protection and propagation of a balanced, indigenous population of fish, shellfish and wildlife and provide for recreation in and on the water. Standards would not have to be adopted by States, as under current law, but a more stringent State standard would apply over a Federal standard.

Section 107: Ocean Discharge Criteria—Expands the scope of ocean discharge standards under section 403 of the Clean Water Act to include coastal waters and clarifies that such discharges are to assure a balanced, indigenous population of fish, shellfish and wildlife.

TITLE II—MARINE SEDIMENT CONTAMINATION

Section 201: Marine Sediment Criteria and Information—Amends the Clean Water Act to require EPA to establish criteria and information for pollutants in marine sediment, similar to criteria and information already required to be developed for water quality.

Section 202: Marine Sediment Contamination—Amends the Marine Protection, Research and Sanctuaries Act to require that the Corps of Engineers determine if material to be dredged under the Act contains pollutants in excess of levels established in sediment standards under the Clean Water Act. Such contaminated material may be dumped in the ocean, but a permit for such dumping must be issued by the EPA and new authority is provided for EPA to require special management of such materials.

Section 203: State Ocean Dumping Requirements—Clarifies the Marine Protection, Research and Sanctuaries Act to assure that States may issue more stringent requirements for ocean dumping and that EPA and the Corps of Engineers will comply with such requirements.

Section 204: Site Designation—Expands requirements for designation of dumping sites under the Marine Protection, Research and Sanctuaries Act.

EPA is to develop a site management plan for each site providing for baseline monitoring, special conditions for site management, and long-term management and termination of the site. Each site must be approved for dumping of materials determined to be contaminated.

Section 205: Dredge and Fill Program—Amends section 404 of the Clean Water Act to require an assessment of material to be dredged or filled to determine if it contains pollutants in excess of sediment standards. If contaminant standards are exceeded, additional factors are to be considered in granting a permit including disposal at an ocean site designated for dumping of contaminated material and measures to mitigate migration of contaminants.

TITLE III—OTHER PROVISIONS

Section 301: Study of Air Deposition—The Administrator is to submit to Congress within 24 months a report on the extent and seriousness of airborne deposition of contaminants in marine and coastal waters.

Section 302: Identification of Unregulated Contaminants—Within one year, the Administrator is to submit a report identifying unregulated contaminants in coastal waters and specifying a schedule for assessment of contaminants.

Section 303: Research of Microorganisms—The Administrator is to submit to Congress a report on the potential of microrganisms to degrade pollutants prior to discharge to marine waters.

By Mr. LAUTENBERG (for himself, Mr. MITCHELL, Mr. CHAFEE, Mr. MOYNIHAN, Mr. LIEBERMAN, Mr. GRAHAM, Mr. BRADLEY, Mr. D'AMATO, Mr. PELL, Mr. FOWLER, Mr. DODD, Mr. SARBANES, and Mr. COHEN):

S. 1179. A bill to establish a comprehensive marine pollution restoration program, to amend the Federal Water Pollution Control Act and the Marine Protection, Research, and Sanctuaries Act, and for other purposes; to the Committee on Environment and Public Works.

COMPREHENSIVE OCEAN ASSESSMENT AND STRATEGY (COAST) ACT

● Mr. LAUTENBERG. Mr. President, today I am introducing the Comprehensive Ocean Assessment and Strategy Act of 1989, otherwise known as COAST, and I am joining Senator MITCHELL in introducing the Marine Protection Act of 1989. These bills are designed to enhance our efforts for restoring the health of our marine waters.

I want to extend my appreciation to our majority leader for the leadership role he has taken to protect our coasts and for joining me in introducing COAST. As ranking minority member and then as chairman of the Environmental Protection Subcommittee, Senator MITCHELL was a prime advocate on behalf of the Clean Water Act

Amendments of 1987. During the last Congress under his leadership of the subcommittee, we passed the Plastic Pollution Research and Control Act, the Ocean Dumping Ban Act and the Shore Protection Act, all of which were enacted, and the Marine Research Act. GEORGE MITCHELL'S commitment to our coasts is strong and determined.

Our marine waters, from the landward limits of our estuaries to our oceans, have a substantial and direct importance to the American people. The resources in these waters support commercial and recreational fishing, tourism, recreation, and related opportunities. They result in annual expenditures of tens of billions of dollars and unquantifiable enjoyment for our citizens. New Jersey's coastal tourist industry alone generates $8 billion per year. The marine environment also performs important ecological functions by providing important habitat, nursery grounds, and food sources for a great diversity of plants, fish, birds, and other animal species.

Yet, it is clear that these resources are at risk. The events of the past few years have made clear that these waters are overburdened and fatigued. We see it in hundreds of dolphins dying mysteriously in the Atlantic and harbor seals in the Gulf of Maine with the highest pesticide levels of any U.S. mammal on land or in water. We see it in sea turtles and seabirds who have died from entanglement with or eating plastic debris in the ocean. We see it in diseased fish, fish which are too toxic to eat, massive fish kills, and closed shellfish beds. And we see it in garbage and medical waste invading our shores, closing our beaches, ruining vacations, injuring our tourist economy, and threatening our health.

The Office of Technology Assessment, in a 1987 report, concluded that the overall health of our coastal waters is "declining or threatened," and that "in the absence of additional measures, new or continued degradation will occur in many estuaries and some coastal waters around the country." OTA also determined that contamination of the marine environment has a wide range of adverse effects on birds and mammals, finfish and shellfish, aquatic vegetation, and benthic organizations. Finally, OTA concluded existing programs, even if fully implemented, are not adequate to maintain and improve our coastal waters.

The Congress has taken a number of important actions to deal with this problem:

We stopped all dumping of industrial waste and closed the old 12-mile sludge dumpsite, and we're on the road to ending all ocean dumping of sewage sludge.

We overrode a veto of the Clean Water Act which provides funding for sewage treatment facilities, establishes a nonpoint source pollution program, strengthens the act's enforcement mechanisms, requires EPA and the States to address toxic hotspots, and requires EPA to establish a permit system to regulate stormwater discharges.

We rejected attempts to sharply cut sewage treatment funds and we're providing the funding for these facilities, and to correct combined sewer overflows.

We prohibited the dumping of plastics and other garbage in the water, required garbage barge operations to take actions to keep garbage out of the water, and forced the Corps of Engineers to collect floating debris in New York Harbor to keep garbage off east coast beaches.

And we established a demonstration program to track medical wastes and instituted tough penalties to prevent our beaches from being invaded by this disgusting material.

But additional programs are necessary to repond to the suggestions made by the OTA and by others including a national coalition of environmental groups which issued a report, "Saving Our Bays, Sounds, and the Great Lakes: A National Agenda." My legislation, COAST, includes a number of these recommendations:

EPA would establish marine areas in need of protection, areas where pollution or floatables are impeding water uses. States would develop and implement management strategies for these areas so that the area no longer needed additional protection.

EPA would use the section 313, Toxics Release Inventory, to prepare an assessment of sources and geographical areas of marine toxic pollution and a strategy to use this information to improve its existing water programs.

EPA would accelerate its establishment of marine water quality criteria and begin to prepare sediment and living marine resource biological quality criteria which the States will use to establish State standards. These standards are used to establish limits on discharges into coastal waters.

The existing provisions in the Clean Water Act pertaining to preventing degradation of ocean waters from ocean discharges would be extended inland into estuaries and harbors and the provisions would be expanded to emphasize source reduction.

EPA would be requsdired to identify for the Secretary of the Agriculture lands the Secretary should retire from production under the existing Conservation Reserve Program because they are a source of nonpoint source pollution. The Secretary would have to respond in writing to the Administrator's recommendations.

Discharges from marine combined sewer overflows [CSO's] would have to be eliminated. Marine CSO's are discharges from combined stormwater sewers and sanitary sewers into the marine environment. After a heavy enough rain, a sewage treatment plant cannot handle all of the water in the combined sewer system and some of the water is discharged directly into our waterways without any treatment. CSO's are a significant source of floatables in the marine environment.

EPA and the States would be required to strengthen pretreatment programs in areas where they determine that sewage facility discharges are contributing to the degradation of the marine environment.

Stormwater discharges not being regulated under the existing stormwater program and which are contributing to the degradation of marine waters would be regulated. Stormwater discharges are an important source of floatables and nonpoint source pollutants in the marine environment.

EPA and NOAA would establish programs to monitor atmospheric sources of pollution to marine waters, and floatables, and to conduct a study of the economic impact caused by marine degradation.

NOAA would establish a marine pollution information transfer program.

EPA and NOAA would conduct a study of Federal agency programs which may affect the marine environment. Federal agencies would be required to consider alternatives to avoid adverse affects to the marine environment.

Criminal penalties for violations of the Ocean Dumping Act would be increased.

The bill authorizes $85 million per year. State revolving loan funding provided under the Clean Water Act would be available to States for implementation of management strategies for marine areas in need of protection and marine combined sewer overflow programs.

Senator MITCHELL'S Marine Protection Act contains a number of similar provisions.

Mr. President, we must respond positively to the problems identified by OTA and others if we want to preserve the economic, recreational aesthetic, and ecological values of our marine environment. As chairman of the subcommittee which has jurisdiction over coastal pollution issues, I intend to work closely with Senator MITCHELL and other members of the Senate Environment Committee to meld the best aspects of both my bill and Senator MITCHELL'S bill and to move this legislation.

I urge my colleagues who share our concern about our coastal environment to join us in this effort.

I ask unanimous consent that the Comprehensive Ocean Assessment and Strategy Act of 1989 as well as a sec-

tion-by-section analysis of the bill be included in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 1179

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE AND TABLE OF CONTENTS

SECTION 1. (a) TITLE.—This Act may be cited as the "Comprehensive Ocean Assessment and Strategy (Coast) Act of 1989".

(b) TABLE OF CONTENTS.—

Sec. 1. Short title and table of contents.
Sec. 2. Findings.
Sec. 3. Policy.
Sec. 4. Definitions.
Sec. 5. National marine environment assessment.
Sec. 6. Marine toxics release inventory assessment and strategy.
Sec. 7. Marine quality criteria and standards.
Sec. 8. Marine pollutant discharge criteria.
Sec. 9. Nonpoint source pollution.
Sec. 10. Marine combined sewer overflows.
Sec. 11. Pretreatment requirements.
Sec. 12. Marine stormwater discharges.
Sec. 13. Marine monitoring, research and studies.
Sec. 14. Information transfer.
Sec. 15. Federal agency responsibilities.
Sec. 16. Ocean dumping penalties.
Sec. 17. Authorization.

FINDINGS

SEC. 2. The Congress finds that—

(1) the marine environment has substantial and direct importance to a large segment of the American population;

(2) the resources in the marine environment support commercial and recreational fishing, tourism, recreation, and related opportunities, and generate annual expenditures of tens of billions of dollars;

(3) the marine environment performs important ecological functions and living marine resources have significant ecological value;

(4) many areas in the marine environment have been degraded by numerous sources of waste disposal activities, agricultural practices, freshwater diversions, inadequately controlled development, habitat destruction and other actions adversely affecting their commercial, recreational, and ecological values; and

(5) according to the Office of Technology Assessment, in the absence of additional actions, the marine environment will become increasingly degraded.

POLICY

SEC. 3. It is the policy of the United States to restore, maintain, and protect the integrity of the marine environment so that full use of the ecological, commercial, and recreational values of its resources is not impaired by pollution.

DEFINITIONS

SEC. 4. For purposes of the Act—

(1) the term "Administrator" means the Administrator of the Environmental Protection Agency;

(2) the terms "degraded" and "degradation" means conditions in the waters, sediments, and living marine resources of an area of the marine environment which do not—

(A) assure protection of public health, public water supplies, and agricultural and industrial uses;

(B) assure the protection and propagation of a balanced indigenous population of fish, shellfish and wildlife; and

(C) allow recreational activities in and on the water;

(3) the term "floatable" means marine debris that float or remain suspended in the water column;

(4) the term "Federal agency" means any department, agency, or other instrumentality of the Federal Government;

(5) the term "living marine resource" means fish, shellfish, marine mammals, birds, wildlife, and plants which are located in or use the marine environment for all or part of their lives;

(6) the term "marine areas in need of protection" means an area of the marine environment designated by the Administrator pursuant to section 5(a) of this Act which requires additional measures to manage or control sources of pollutants because the area is or is likely to become degraded;

(7) the term "marine combined sewer overflow" means a discharge from combined stormwater sewers and sanitary sewers into the marine environment;

(8) the term "marine environment" means the waters, sediments, and living marine resources found in the estuarine zone as that term is defined in section 320(k) of the Federal Water Pollution Control Act, the territorial sea and the United States Exclusive Economic Zone;

(9) the term "pollutant" shall have the same definition as in section 502(6) of the Federal Water Pollution Control Act; and

(10) the term "Under Secretary" means the Under Secretary of Commerce for Oceans and Atmosphere who serves as the Administrator of the National Oceanic and Atmospheric Administration.

NATIONAL MARINE ENVIRONMENT ASSESSMENT

SEC. 5. (a) IDENTIFICATION.—The Administrator, in close cooperation with the Under Secretary, shall, within twelve months of the enactment of this Act, and thereafter as part of each report submitted to Congress pursuant to section 305(b) of the Federal Water Pollution Control Act, designate marine areas which are in need of protection.

(b) DESIGNATION CRITERIA.—(1) In designating such marine areas, the Administrator and the Under Secretary shall consider—

(A) the status and trends of the amount, type, and extent of pollutants found in the water, sediments, and living marine resources including information provided in the national toxics release inventory established pursuant to section 313 of the Superfund Amendments and Reauthorization Act of 1986;

(B) the likely effect of these pollutants on human health, living marine resources, and commercial and recreational opportunities, and marine ecological values;

(C) loss of coastal habitat;

(D) changes in living marine resources in the area;

(E) whether the presence of floatable in the area is adversely affecting commercial and recreational opportunities; and

(F) anticipated increases in pollutants and floatables in the area.

(2) The Administrator shall designate as a marine area in need of protection:

(A) any area of the marine environment for which the State's most recent Water Quality Inventory, prepared pursuant to section 305(b) of the Federal Water Pollution Control Act reported that the waters did not achieve water quality, sediment quality and living marine resource biological quality standards, and

(B) any estuary for which a management conference has been convened pursuant to the National Estuary Program established by section 320 of the Federal Water Pollution Control Act.

(3) The Administrator and the Under Secretary shall seek the views of Governors and the public prior to completing each assessment of marine areas in need of protection.

(4) In designating any such area, the Administrator shall specify the reason for, and to the extent known, the sources of pollution resulting in the designation.

(c) NATIONAL ASSESSMENT.—The Administrator shall submit to the Congress together with the report required by section 305(b) of the Federal Water Pollution Control Act, an analysis which lists each area designated pursuant to this section, assesses trends in degradation, identifies research and monitoring needs, describes actions taken pursuant to the Comprehensive Ocean Assessment and Strategy Act and other laws, and State efforts to develop and implement strategies for marine areas in need of protection, identifies additional actions which need to be taken to end marine degradation including problems associated with floatables, sets out a plan for future actions, and recommends legislative changes and budgetary needs.

(b) Section 304 of the Federal Water Pollution Control Act is amended by adding at the end thereof the following new subsection:

"(n) MANAGEMENT STRATEGIES FOR MARINE AREAS IN NEED OF PROTECTION.—

"(1)(A) Not later than eighteen months after the date of a designation of an area as a marine area in need of protection, each State shall, after notice and an opportunity for public comment, submit to the Administrator for review and approval an individual management strategy that the State will implement for each area under its jurisdiction designated under section 5 of the Comprehensive Ocean Assessment and Strategy Act. The strategy shall establish priorities and schedules for addressing pollution sources.

"(B) The strategy shall include establishment of technology-based and water quality effluent limitations, implementation of nonpoint source management programs, monitoring requirements for permittees and such other measures provided for under this Act as may be necessary so that the area no longer needs additional protection as soon as possible, but not later than three years after the date of establishment of such strategy.

"(C) The strategy must demonstrate that adequate authority exists and adequate resources are available to implement the strategy.

"(D) In developing the strategy under this section, the State shall utilize existing reports, data and studies and may utilize appropriate elements of any other plan approved under this Act to the extent such elements are consistent with and fulfill the requirements of this section and are related to the designated marine area in need of protection.

"(2) Not later than one hundred and twenty days after the last day of the period referred to in paragraph (1), the Administrator shall approve the management strategies submitted under paragraph (1) by any State if the strategy meets the requirements of this section.

"(3) If a State fails to submit a management strategy in accordance with paragraph (1) or the Administrator does not approve

the management strategy submitted by such State, then, not later than one year after the last day of the period referred to in paragraph (2), the Administrator, in cooperation with such State and after notice and opportunity for public comment, shall develop and implement a management strategy pursuant to the requirements of paragraph (1) in such State.

"(4) The Administrator shall prepare and implement a management strategy pursuant to this subsection for any marine area in need of protection not under the jurisdiction of any State.".

(c) Section 320 of the Federal Water Pollution Control Act is amended—

(1) by adding at the end of subparagraph (2)(B) the following new subparagraph:

"(C) MARINE AREA IN NEED OF PROTECTION.—The Administrator shall select an estuary and convene a management conference for an estuary which is located in the waters of more than one State and which is designated as a marine area in need of protection pursuant to section 5 of the Comprehensive Ocean Assessment Strategy Act.".

(2) by inserting in paragraph (b)(4) before the comma the following: "and demonstrate that each State participating in a management conference has adequate authority and resources to implement the plan.".

MARINE ENVIRONMENT TOXICS RELEASE INVENTORY ASSESSMENT AND STRATEGY

SEC. 6. (a) Within six months of the enactment of this bill, the Administrator shall prepare and submit to the Congress a Marine Environment Toxics Release Inventory Assessment and Strategy.

(b) The Assessment shall contain an analysis of the industrial categories of sources and receiving waters of discharges of toxics emissions into the marine environment and into publicly owned treatment works which discharge into the marine environment. The Assessment shall identify those categories of sources which discharge the greatest amount of toxic chemicals on the Toxics Release Inventory and the greatest amount of the most toxic of the chemicals on the Inventory. It also shall identify geographical areas receiving the greatest amount of discharges from chemicals on the Inventory.

(c) The Strategy shall contain the Administrator's detailed plan for using the information in the Assessment to improve the Environmental Protection Agency's pollution programs affecting the marine environment. The Strategy shall include plans to:

(1) verify information in permits issued by the Administrator or the State, as the case may be, pursuant to section 402 of the Federal Water Pollution Control Act;

(2) improve the program of individual control strategies for toxic pollutants established pursuant to section 304(1) of the Federal Water Pollution Control Act;

(3) identify other regulatory programs needing improvement including programs for toxic and pretreatment affluent standards established pursuant to section 307 of the Federal Water Pollution Control Act and to adopt measures to improve those programs;

(4) establish marine water quality criteria for toxic chemicals from the Inventory discharged in the greatest amounts;

(5) use the information in the Inventory to target compliance and enforcement actions; and

(6) establish programs to reduce the amount of toxic chemicals generated by industries identified in the Assessment.

MARINE QUALITY CRITERIA AND STANDARDS

SEC. 7. (a) Section 304(a) of the Federal Water Pollution Control Act is amended by:

(1) in paragraph (1) adding after the word "quality" the following: ", including criteria for marine water quality, marine sediment quality, and living marine resource biological quality, which will protect the marine environment from degradation.".

(2) adding at the end thereof the following:

"(9)(A) Within six months of enactment of the Comprehensive Ocean Assessment and Strategy Act, the Administrator shall submit a plan to the Senate Committee on Environment and Public Works, the House Committee on Public Works and Transportation, and the House Committee on Merchant Marine and Fisheries a detailed five-year schedule for the development of the criteria called for in paragraph (1).

"(B) In developing this schedule, the Administrator shall consult with the Under Secretary and the Governors of coastal States.

"(C)(1) The Administrator shall give priority to develop criteria for those pollutants in water, sediments, and living marine resources which pose the greatest threat of degradation to the marine environment.

"(2) The Administrator shall also consider the Marine Environment Toxics Release Inventory Assessment and Strategy prepared pursuant to section 6 of the Comprehensive Ocean Assessment and Strategy Act.

"(D) The Administrator shall review and revise existing criteria or develop new criteria for water, sediments, and living marine resources, as appropriate, within three years of the date of enactment of the Comprehensive Ocean Assessment and Strategy Act for the following pollutants:

(1) Halogenated compounds (excluding pesticides)—

(i) Brominated dioxins.

(ii) Dioxins.

(iii) Hexachlorobenzene.

(iv) PCBs.

(v) Trichlorobenzene.

(vi) Trichlorophenol.

(2) Polycyclic compounds—

(i) Nitrogen-containing heterocyclic compounds.

(ii) PAHs (including benzofurans, benzopyrenes, phenanthrene).

(3) Metals—

(i) Alkylated lead.

(ii) Antimony.

(iii) Arsenic.

(iv) Cadmium.

(v) Copper.

(vi) Mercury.

(vii) Selenium.

(viii) Tributyltin (and other organotins).

(4) Pesticides—

(i) DDT and metabolites.

(ii) Dieldrin.

(iii) Diflubenzuron (Dimilin).

(iv) Methoxychlor.

(v) Mirex.

(vi) Oxygen analogs of organophosphates.

(vii) Toxaphene.

(viii) Molting hormones.

(5) Others—

(i) Azo compounds.

(ii) DEHP.

(iii) Diphenyl ethers.

(iv) Terphenyls.

(v) Nutrients including nitrogen and phosphorous.

(b) Section 303 of the Federal Water Pollution Control Act is amended by adding the following new section:

"(i) MARINE WATER, SEDIMENT AND LIVING MARINE RESOURCE QUALITY STANDARDS.—(1) Within two years of the establishment of marine water, sediment, or living marine resource biological criteria pursuant to section 304(a), each coastal State shall establish a numerical standard for such pollutant to prevent degradation of the marine environment.

"(2) If a coastal State fails within two years of establishment of any criteria to adopt a numerical standard pursuant to paragraph (1), the Administrator shall designate the standard for such State within one year of the State's failure to act in the prescribed period.

"(3) The Administrator shall promulgate standards in areas of the marine environment not under the control of any State.".

(c) Section 302(a) of the Federal Water Pollution Control Act is amended by adding after "section 304(l)" the following: "or section 303(i) or section 304(n)".

MARINE POLLUTANT DISCHARGE CRITERIA

SEC. 8. (a) Section 301(a) of the Federal Water Pollution Control Act (33 U.S.C. 1311(a)) is amended by inserting "403" before "404."

(b) Section 403 of the Federal Water Pollution Control Act (33 U.S.C. 1343) is amended by—

(1) adding "(1)" after "(a)";

(2) adding a new paragraph "(2)" as follows:

"(2) In addition to any other requirements of this Act, beginning one year after the date of enactment of this paragraph, no permit shall be issued under section 402 of this Act for a discharge into the marine environment, if the Administrator finds, based on an assessment of the criteria provided in subsection (c), that the discharge can reasonably be expected to result in the degradation of the marine environment or that the discharge is reasonably likely to prevent the attainment of any standards established pursuant to section 303 of this Act.".

(3) deleting "territorial sea" and inserting in lieu thereof "marine environment" in subsection (b);

(4) deleting "waters of the territorial seas, the contiguous zone, and the oceans" and inserting in lieu thereof "the marine environment" in subsection (c);

(5) striking out "and" at the end of subparagraph (F) in subsection (c)(1), by striking out the period at the end of subparagraph (G) and inserting in lieu thereof "; and" and by inserting at the end thereof the following new subparagraph:

"(H) the potential application of measures, processes, methods, systems, or techniques including, but not limited to, measures which—

"(i) eliminate the discharge altogether or reduce the volume and amounts of such pollutants through process changes, substitution of materials or other modifications,

"(ii) enclose systems or processes to eliminate discharges, and

"(iii) collect, capture or treat such pollutants when discharged.";

(6) adding at the end of paragraph (c)(2) the following: "Any monitoring required as a condition of the permit shall not discharge the requirement of the preceding paragraph."; and

(7) inserting at the end of the section the following:

"(3) The Administrator shall, within one year after enactment of the Comprehensive Ocean Assessment and Strategy Act, and after notice and opportunity for public com-

ment, revise the guidelines under this section.".

NONPOINT SOURCE POLLUTION

SEC. 9. (a) Section 319(g)(1) of the Federal Water Pollution Control Act is amended by—

(1) inserting after "standards" the following: ", marine sediment standards, or living marine resource biological quality standards,"; and

(2) inserting after the word "Act" the following: "or is degraded due to the presence of floatables.".

(b) Section 319(h)(5) of the Federal Water Pollution Control Act is amended by—

(1) striking "or" in subparagraph (C),

(2) striking the period at the end of subparagraph (D) and inserting in lieu thereof "; or "; and

(3) by inserting the following new subparagraph—

"(E) control nonpoint source pollution of waters determined to be in need of protection pursuant to section 5 of the Comprehensive Ocean Assessment and Strategy Act.".

(d) Section 319(k) of the Federal Water Pollution Control Act is amended by—

(1) inserting "(1)" after subsection (k); and

(2) adding the following new paragraph:

"(2)(A) The Administrator shall provide technical assisstance to the Secretary of Agriculture in utilizing the Secretary's authorities to reduce cropland sources of nonpoint source pollution of the marine environment, consistent with subtitle D of title 12 of the Food Security Act (16 U.S.C. 3831-3836).

"(B) The Administrator shall identify, based on the assessment reports submitted by the States and approved by the Administrator or developed by the Administrator for the States pursuant to subsections (a), (d) and (e) of this section, and such other information as is available to the Administrator, those lands which, if enrolled in the Conservation Reserve Program, would contribute to the protection of water quality and the marine environment by reducing nonpoint source pollution. Where appropriate, the lands identified may include lands that are not erodible but that pose an off-farm environmental threat, pursuant to section 1231 (c)(2) of the Food Security Act (16 U.S.C. 3831(c)(2)).

"(C)(1) The Administrator shall furnish the list of such identified lands to the Secretary of Agriculture for purposes of assisting the Secretary in establishing priorities for expenditures under the Conservation Reserve Program and shall make such lists available to the States and the public.

(2) The Secretary shall provide the Administrator within six months of receiving the Administrator's list with the actions the Secretary will take to respond to the list. The Secretary shall provide a detailed explanation of any recommendation made by the Administrator which the Secretary will not implement.

MARINE COMBINED SEWER OVERFLOWS

SEC. 10. (a) Section 304 of the Federal Water Pollution Control Act is amended by adding the following new subsection.

"(o) MARINE COMBINED SEWER OVERFLOWS.—(1) For the purpose of adopting or revising effluent limitations for marine combined sewer overflows under this Act, the Administrator shall, after consultation with appropriate Federal and State agencies and other interested persons, publish within one year of enactment of this subsection regulations to eliminate such overflows. Such regulations shall require—

"(A) proper operation and regular maintenance programs for the sewer system and the marine combined sewer overflow discharge points;

"(B) maximum use of the collection system for storage;

"(C) maximation of flow to the publicly owned treatment work for treatment;

"(D) prohibition of dry weather overflows; and

"(E) screening or other interim measures to control floatables in marine combined sewer overflow discharges.

"(2) Within one year of enactment of this section, the Administrator shall, after consultation with appropriate Federal and State agencies and other interested persons, publish guidance on additional marine combined sewer overflow control measures that should be considered to bring marine combined sewer overflow discharges into compliance with all of the requirements of this Act. The guidance shall include, but not be limited to—

"(A) sewer separation;

"(B) improved operation and maintenance;

"(C) system-wide storm water management programs; including decentralized stormwaters detention basins, buffer strips and related controls;

"(D) pretreatment program modifications;

"(E) sewer ordinances;

"(F) flow minimization and hydraulic improvements, including domestic wastes conservation programs;

"(G) direct treatment of overflows;

"(H) sewer rehabilitation including inflow and infiltration reduction measures;

"(I) reduction of tidewater intrusion;

"(J) construction of combined sewer overflow controls within the sewer system or at the combined sewer overflow discharge point; and

"(K) construction of detention basins.

"(3) Guidance issued pursuant to paragraph (2) shall identify monitoring standards for marine combined sewer overflow discharges. Monitoring standards should be designed to—

"(A) characterize discharges, including this frequency, duration and pollutant loadings;

"(B) evaluate water quality impacts of these discharges; and

"(C) determine compliance with permit requirements.".

(b) The Federal Water Pollution Control Act is amended by adding the following new section after section 320:

"SEC. 321. MARINE COMBINED SEWER OVERFLOWS.

"(a) MARINE COMBINED SEWER OVERFLOW INVENTORY.—Each State with a marine combined sewer overflow shall, within six months of the date of enactment of this section and not later than every two years thereafter, submit to the Administrator an inventory of all such discharges in the State which shall include—

"(1) identification of the location of each such discharge and the receiving waterbody;

"(2) identification of the entity or entities which own and operate the marine combined sewer overflow system;

"(3) a determination whether each discharge point is—

"(A) not permitted;

"(B) permitted in conjunction with a publicly owned treatment work; or

"(C) permitted separately from a publicly owned treatment work; and

"(4) a determination whether each discharge point is in compliance with sections 301, 302, and 403.

"(b) PRIORITIES.—Each permitting authority shall establish a schedule to bring each marine combined sewer overflow discharge point into compliance with this Act. The permitting authority shall establish priorities for issuing permits and controlling discharges, based on an evaluation of known or suspected impacts from marine combined sewer overflow systems using estimates of flows, frequencies, durations and pollutant loadings.".

(c) Section 402 of the Federal Water Pollution Control Act is amended by adding the following new subsection:

"(o) MARINE COMBINED SEWER OVERFLOW DISCHARGES.—(1) Each municipality or publicly owned treatment works (in any case where a marine combined sewer system is owned or operated by more than one municipality) identifed pursuant to section 321, shall develop and submit to the Administrator or the State (in the case of a permit program approved under section 402 of this Act) a permit application within two years after the date of enactment of this section consistent with section 304(o) containing a program for the elimination of all discharges from the marine combined sewer overflow.

"(2) Where a marine combined sewer overflow system is owned and/or operated by more than one authority, each owner and operator shall assist in the preparation of an application pursuant to this section. The application shall specifically define the responsibilities and duties of each owner and operator and each individual owner and operator is responsible for the discharge coming from its marine combined sewer overflow system.

"(3) Each applicant shall submit a schedule for developing and implementing monitoring requirements and measures, and practices consistent with section 304(o) and any applicable water, sediment or living marine resource biological quality standards at the earliest practicable date but in no case more than five years from the date of submission of the application. The application shall include cost estimates for each control measure.

"(4) The Administrator or the State (in the case of any permit program approved under section 402 of this Act) shall issue a permit only if the application—

"(A) meets the requirements of section 304(o);

"(B) meets the requirements of any water, sediment or living marine resource biological quality standards including any requirements established pursuant to section 304(l);

"(C) demonstrates through an appropriate compliance schedule that the requirements of the Act will be achieved as expeditiously as possible but in no event later than seven years after enactment of this section;

"(D) includes any appropriate interim control measures including screening to control floatables and disinfectant;

"(E) includes adequate monitoring requirements and a reopener clause to adjust permit limits as a result of monitoring; and

"(F) demonstrates that adequate authority and financial resources are available to implement the control measures.

"(5) Any owner or operator of a marine combined sewer overflow who does not have a permit within thirty six months after the date of enactment of this section or who fails to meet the requirements of a compli-

ance schedule shall be subject to penalties pursuant to section 309 of this Act.".

"(6) Nothing in this subsection relieves or reduces the obligation of any person to comply with any requirements of this Act.".

PRETREATMENT REQUIREMENTS

SEC. 11. Section 307 of the Federal Water Pollution Control Act is amended by adding at the end thereof, the following new subsection:

"(f)(1) When the Administrator or the State, as the case may be, determines that any publicly owned treatment work discharges toxic pollutants contributing to the degradation of the marine environment or the violation of a marine water, sediment, or living marine resource biological standard, the Administrator or the State shall require the publicly owned treatment works to establish or revise its pretreatment program within one year to eliminate the pollutants contributing to the degradation or the violation of the standard.

"(2) A pretreatment program required by paragraph (1) shall include the following requirements as appropriate:

"(A) individual discharge permits to discharges into the publicly owned treatment works;

"(B) additional or revised local limits to control the discharge of toxic pollutants into publicly owned treatment works;

"(C) random sampling and/or inspection of industrial users;

"(D) development of enforcement response plans;

"(E) additional reporting requirements by industrial users;

"(F) notification by industrial users of any discharge into the publicly owned treatment works of a substance which is a listed or characteristic waste under section 3001 of the Resource Conservation and Recovery Act; and

"(G) notification by industrial users in advance of any substantial change in the volume or character of pollutants in their discharge.

"(3) Nothing in this subsection shall affect any obligations established under this Act.

"(g)(1) The Administrator shall develop and test guidelines for publicly owned treatment works to identify the sources of toxics found in waste waters.

"(2) The Administrator shall establish a data base of sources of toxics in waste water which have been identified by publicly owned treatment works.".

MARINE STORMWATER DISCHARGES

SEC. 12. Section 402(p) of the Federal Water Pollution Control Act is amended by—

(1) adding at the end of paragraph (2) the following:

"(E) A discharge from a municipal separate storm sewer system into waters of a marine area in need of protection, as defined in section 5 of the Comprehensive Ocean Assessment and Strategy Act, and for which the Administrator or the State, as the case may be, determines is reasonably likely to be contributing to the violation of marine water, sediment, or living marine resource quality biological standards or the degradation of the marine environment."; and

(2) adding at the end of paragraph (4) the following:

"(C) MARINE AREAS IN NEED OF PROTECTION.—Not later than two years after the date of enactment of this subsection, the Administrator shall establish regulations setting forth the permit application requirements for stormwater discharges described in paragraph (2)(F). After the promulgation of these regulations, applications for permits for such discharges shall be filed no later than sixty days after the designation of the stormwater discharge.".

MARINE MONITORING, RESEARCH AND STUDIES

SEC. 13. (a)(1) ATMOSPHERIC POLLUTANTS.—The Administrator and the Under Secretary shall establish and implement a joint program of research and monitoring to determine the effects of atmospheric pollutants, including atmospheric nutrient and toxicant deposition, on degradation of the marine environment.

(2) The program shall include—

(A) development of an atmospheric pollutant deposition measurement methodology;

(B) development and implementation of a coastal atmospheric dry and wet deposition monitoring network; and

(C) research on—

(i) sources and deposition rates (including seasonal and temporal variations) of atmospheric pollutants;

(ii) the fate and transport of atmospheric pollutants including the modeling of transport and deposition at a scale compatable with water quality modeling;

(iii) the relative contribution of atmospheric pollutants to the total pollution loadings; and

(iv) the biological and ecological effects of atmospheric pollutants.

(3) The Administrator and the Under Secretary shall submit a report to the Senate Committee on Environment and Public Works, the House Committee on Public Works and Transportation, and the House Committee on Merchant Marine and Fisheries describing their monitoring and research program within two years of enactment of this Act and every two years thereafter.

(b) FLOATABLES MONITORING.—(1) The Administrator, in cooperation with the Under Secretary, State and local governments, and the public, shall establish a systematic nationwide system for monitoring and quantifying the accumulation of floatables along coastal shorelines and waterways and the costs of cleanup of floatables. The program shall include the development of standard protocols to conduct surveys to allow quantitative geographic and temporal comparisons and a public education program.

(2) The Administrator shall submit a report to the Congress within two years of the enactment of this section describing the monitoring program and the results of monitoring undertaken after enactment of this section. The Administrator shall report annually describing changes in the monitoring program and trends of floatables accumulation.

(c) MONITORING PROTOCOLS.—(1) The Administrator, in consultation with the Under Secretary, shall promulgate protocols for monitoring water, sediments and living marine resources in the marine environment within two years of the enactment of this section.

(2) Protocols promulgated under the subsection shall require use of whole effluent biological toxicity testing.

(3) Protocols promulgated under this subsection may establish different requirements based on the size, location and amount and source of the discharge.

(4) Within six months after the promulgation of such protocols, monitoring of the marine environment by Federal, State and local agencies and by any person required to conduct monitoring under this Act, the Federal Water Pollution Control Act or the Marine Protection, Research and Sanctuaries Act, shall be conducted consistent with the protocols.

(d) HEALTH IMPACTS STUDY.—The Under Secretary, in collaboration with the Administrator and the Secretary of Health and Human Services, shall undertake a study to determine the nature of any relationship between contact with pollutants in the marine environment and shellfish consumption with the incidence of human illnesses. The Administrator shall submit a report to the Senate Committee on Environment and Public Works, the House Committee on Public Works and Transportation, and the House Committee on Merchant Marine and Fisheries within two years of enactment of this section.

(e) ECONOMIC IMPACT STUDY.—The Under Secretary, in consultation with the Administrator, State and local governments, commercial and recreational fisherman and other interested persons, shall submit to the Congress within one year of enactment of this section a study which quantifies the economic impacts caused by marine degradation including floatables.

(f) ALGAL BLOOM STUDY.—The Under Secretary shall conduct a study of the impact that enhanced nitrogen levels in the marine environment may have on stimulating toxic algal blooms. The Under Secretary shall submit a report to Congress on the study's conclusions within two years of the enactment of this Act.

INFORMATION TRANSFER

SEC. 14. The Under Secretary shall establish a Marine Environment Information Center to compile, analyze, and disseminate information on assessing marine degradation, on methods, practices and techniques effective in restoring and protecting the marine environment and on other issues related to marine environment degradation. The Under Secretary shall use the Center to—

(1) transfer marine degradation analyses, assessments and technology and practices,

(2) mount active outreach and education programs to the state and local governments and other appropriate agencies and organizations to improve progress to address marine environmental degradation, and

(3) make available to the public such information on marine environmental degradation as may be available.

FEDERAL AGENCY RESPONSIBILITIES

SEC. 15. (a) STUDY OF FEDERAL AGENCY PROGRAMS.—(1) The Administrator and the Under Secretary shall conduct a comprehensive study of the policies, programs and activities of each Federal agency that may result in degradation of the marine environment. The study shall specifically examine the mechanisms, policies, programs and activities that contribute to degradation of the marine environment.

(2) Within eighteen months of the enactment of this Act, the Administrator and the Under Secretary shall submit to Congress a report describing the conclusions of the comprehensive study and recommendations they have to reduce degradation of the marine environment from Federal agencies' policies, programs and activities. The report shall include—

(A) a comprehensive listing of each Federal agency's policies, programs and activities that were considered during the study to affect degradation in the marine environment;

(B) a detailed analysis of the impacts of each Federal agency's policies, programs,

and activities on degradation of the marine environment;

(C) proposed changes in each Federal agency's policies, programs and activities to minimize these impacts;

(D) suggested actions to be taken by other Federal or State agencies in order to better coordinate all policies, programs, and activities that affect degradation of the marine environment; and

(E) specific recommendations for further legislative actions necessary to bring each Federal agency's policies, programs and activities into conformance with the policy of this Act.

(3) In conducting their reviews, the Administrator and the Under Secretary shall seek the views of States and the public on ways in which each Federal agencies' policies, programs and activities can be implemented to reduce degradation in the marine environment.

(b) FEDERAL AGENCY LEADERSHIP.—Each Federal agency shall provide leadership and take action to the extent provided by law to minimize degradation of the marine environment and to restore and preserve the natural and beneficial values served by the marine environment in carrying out its responsibilities for—

(1) acquiring, managing, and disposing of Federal lands and facilities;

(2) providing federally undertaken, financed, or assisted construction and improvements; and

(3) conducting Federal activities and programs affecting the marine environment.

(c) FEDERAL AGENCY RESPONSIBILITY.—In carrying out the activities described in subsection (b), each agency has a responsibility to evaluate the potential effects of any action it may take in or which may affect the marine environment, to ensure that its planning programs and budget requests reflect of the policy of this Act.

(d) ALTERNATIVES AND MITIGATION.—If a Federal agency has determined to or proposed to, conduct, support or allow an action which may affect the marine environment, the Federal agency shall consider alternatives to avoid adverse effects on the marine environment. If the agency finds that there is no practicable alternative consistent with the law, the Federal agency shall modify its actions to the extent consistent with law to minimize the potential adverse effects in the marine environment.

OCEAN DUMPING PENALTIES

SEC. 16. Section 105(b) of the Marine Protection, Research, and Sanctuaries Act of 1972 (33 U.S.C. 1415(b)) is amended to read as follows:

"(b) In addition to any action which may be brought under subsection (a), any person—

"(1) who knowingly violates this title, regulations promulgated under this title, or a permit issued under this title shall be fined under title 18, United States Code, or imprisoned for not more than 5 years, or both; and

"(2) convicted of such a violation shall forfeit to the United States any property constituting or derived from any proceeds the person obtained, directly or indirectly, as a result of such violation, and any of the property of the person which was used, or intended to be used in any manner or part, to commit or to facilitate the commission of the violation.".

AUTHORIZATION

SEC. 17. (a) AUTHORIZATION.—There are authorized to be appropriated the following sums to carry out this Act:

(1) $30 million to the Environmental Protection Agency for fiscal years 1990, 1991, 1992, 1993, and 1994;

(2) $15 million to the Undersecretary for fiscal years 1990, 1991, 1992, 1993 and 1994;

(3) $40 million to the Administrator to issue grants to states for fiscal years 1990, 1991, 1992, 1993, and 1994 to develop and implement management strategies for marine areas in need of protection pursuant to section 304(n) of the Federal Waters Pollution Control Act. The amount of grants to any state shall not exceed 50 per centum of the costs of the program and the non-Federal share of such costs may not be provided from any Federal source.

(b) ELIGIBILITY FOR STATE REVOLVING LOAN FUNDS.—(1) Section 601(a) of the Federal Water Pollution Control Act is amended by striking "and (3)" and inserting in lieu thereof:

"(3) for developing and implementing a conservation and management plan under section 320, (4) for developing and implementing a management strategy under section 304(n), and (5) implementing a marine combined sewer overflow correction program.".

(2) Section 603(c) of the Federal Water Pollution Control Act is amended by striking "and (3)" and inserting in lieu thereof:

"(3) for developing and implementing a conservation and management plan under section 320, (4) for developing and implementing a management strategy under section 304(n), and (5) implementing a marine combined sewer overflow correction program.".

(c) GRANT ASSISTANCE.—Section 201(n)(2) of the Federal Water Pollution Control Act is amended—

(1) by inserting "sediment quality, fishery quality and floatable" after the first time the word "quality" is used;

(2) by deleting "subject to lower levels of water quality"; and

(3) by striking the last sentence and inserting in lieu the following: "Such assistance shall be provided only for implementation of marine combined sewer overflow elimination permit approved pursuant to section 402(o) of this Act. The Administrator shall allocate available funds to address the most significant water pollution problems and shall give priority to municipalities discharging into marine areas in need of protection designated pursuant to section 5 of the Comprehensive Ocean Assessment and Strategy Act. The amount of grants to any municipality under this subsection for a fiscal year shall not exceed 50 per centum of the costs of a project and shall be made on the condition that the non-Federal share of such costs are provided from non-Federal sources.".

SECTION-BY-SECTION ANALYSIS OF THE COMPREHENSIVE OCEAN ASSESSMENT AND STRATEGY (COAST) ACT

Section 1.—Provides that the Title of the bill is the Comprehensive Ocean Assessment And Strategy (COAST) Act of 1989.

Section 2.—Findings.

Section 3.—Establishes a policy of the United States to restore and maintain the integrity of the marine environment so that full uses of its resources are not impaired by pollution.

Section 4.—Defines the terms "Administrator", "degraded" and "degradation", "floatable", "federal agency", "living marine resource", "marine areas in need of protection", "marine combined sewer overflow", "marine environment", "pollutant" and "Under Secretary".

Section 5.—Requires EPA and NOAA to designate marine areas in need of protection and conduct a continuing assessment of such areas and requires states to develop and implement management strategies so that the area no longer needs additional protection.

Section 6.—Requires EPA to use the national Toxic Release Information to assess the major sources of toxics discharged into the marine environment and areas of primary impact and a strategy for using this information to improve EPA water programs.

Section 7.—Requires EPA to designate pollutant quality criteria for marine waters, sediments and living marine resources and requires states to develop numerical standards to prevent degradation. Violations of numerical standards require EPA and states to establish additional point source controls and revise nonpoint source management programs.

Section 8.—Amends Section 403 of the Clean Water Act to apply the marine discharge criteria to discharges in all marine waters, not just those outside the Territorial Sea. Also requires EPA to revise its criteria to require EPA and the states to consider source reduction opportunities.

Section 9.—Makes nonpoint source control in marine areas in need of protection a priority for nonpoint source grants and requires the Administrator and the Secretary of Agriculture to work together to identify use of the Conservation Reserve Program to protect marine waters from agricultural nonpoint pollution.

Section 10.—Requires the Administrator to eliminate discharges from marine combined sewer overflows (CSOs), requires states to conduct an inventory of marine CSOs, requires marine CSOs to obtain permits and makes failure to obtain a permit or comply with a compliance schedule a violation of the Clean Water Act.

Section 11.—Requires revision of pretreatment programs for any publicly owned treatment plant whose discharge of toxic pollutants contributes to marine degradation.

Section 12.—Requires permits for marine stormwater discharges which contribute to the degradation of the marine environment.

Section 13.—Requires initiation of programs to determine the effect of atmospheric deposition on the marine environment and to monitor floatables, requires the establishment of marine environment monitoring protocols including the use of biological monitoring, and requires the preparation of studies on the impacts on human health and the economy from degraded waters and on the relationship between nutrient over-enrichment and algal blooms.

Section 14.—Establishes a marine pollution clearinghouse.

Section 15.—Requires EPA to report to Congress on Federal agency programs which may contribute to degradation of the marine environment and make recommendations on measures Federal agencies can take to reduce marine degradation. Authorizes each Federal agency, within its existing authority, to take action to reduce marine degradation.

Section 16.—Amends the Ocean Dumping Act to increase criminal penalties for violations of the Act.

Section 17.—Authorizes $30 million to EPA to carry out the Act, $40 million to EPA to issue 50 percent matching grants to

states to develop and implement management strategies for marine areas in need of protection, and $15 million to NOAA. Also makes development and implementation of management strategies for marine areas in need of protection and correction of marine CSOs available for state revolving loan funds under the Clean Water Act and extends the existing marine CSO grant authority.●

By Mr. HOLLINGS (for himself, Mr. GORE, Mr. DANFORTH, Mr. PRESSLER, and Mr. COCHRAN):

S. 1180. A bill to authorize the President to appoint Rear Adm. Richard Harrison Truly to the Office of Administrator of the National Aeronautics and Space Administration; to the Committee on Commerce, Science, and Transportation.

APPOINTMENT OF ADMINISTRATOR OF THE NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

● Mr. HOLLINGS. Mr. President, on June 7, 1989, the President formally submitted the nomination of Richard H. Truly to be the next Administrator of the National Aeronautics and Space Administration. To assume that post, Admiral Truly requires a waiver of the National Aeronautics and Space Act because of his military status. I am pleased today to introduce legislation that would exempt Adm. Richard H. Truly from the provisions of section 202(a) of the National Aeronautics and Space Act of 1958 and allow him to become the next NASA Administrator. I also am pleased to be joined in this initiative by Senators GORE, DANFORTH, PRESSLER and COCHRAN.

Mr. President, when the Space Act was written, there was a conscious effort to maintain the civilian character of NASA. That effort is highlighted by section 202(a) of the Space Act that requires the Administrator and Deputy Administrator of NASA to be appointed from civilian life.

Mr. President, I endorse that goal and the general philosophy of the original Space Act. NASA should be a civilian agency, and it should be responsible for civil space policy.

However, much has changed since the Space Act was written, and in dealing with change, it is sometimes necessary to make exceptions to the rule.

In the case of Adm. Richard H. Truly, I feel strongly that there is sufficient justification for the Congress to waive section 202(a) of the Space Act. Admiral Truly has served the U.S. Navy with pride and distinction, and he also has served NASA with the same pride and distinction. A review of Admiral Truly's career will indicate that he has given NASA nearly 17 years of service in his 30-year career. Most recently, Admiral Truly served as the Associate Administrator of NASA for the Office of Space Flight, and in that position he was responsible, along with the men and women of NASA and the aerospace/contractor teams, for returning the space shuttle to flight status. Admiral Truly is an "admiral," but he also is a well qualified member of the NASA team, and section 202(a) should be waived to permit the appointment of Admiral Truly as the Administrator of NASA.

I am pleased to say that I have explored this issue with the distinguished chairmen and ranking members of the House Science, Space, and Technology Committee and the Subcommittee on Space Science and Applications and that there does not appear to be any opposition to this legislative initiative. I am optimistic, therefore, that this measure can be dealt with in a timely manner by both Houses of Congress.

Mr. President, I am sure that most of the Members are aware that since May 15, 1989, Admiral Truly has been serving as the Acting Administrator of NASA. But few are probably aware of the fact that Admiral Truly has initiated his retirement from the Navy because he does not feel it is appropriate for an active duty officer to head up NASA. As of July 1, 1989, Admiral Truly will no longer be an active duty officer.

Mr. President, the legislation I am introducing today is the first exemption of section 202(a) of the Space Act ever considered by the Congress, and it should be seriously considered by the Members. I am hopeful that after the Members have reviewed the proposed language and Admiral Truly's record they will agree with me that section 202(a) of the Space Act should be waived and Admiral Truly should be appointed the next Administrator of NASA.

Mr. President, pursuant to an agreement with the House of Representatives, the bill that I am introducing today will be considered in parallel with Admiral Truly's nomination by the Senate Commerce Committee. Upon passage of the proposed legislation by the Senate, it will be sent to the House for its immediate consideration. The Senate will not act upon the Truly nomination until the proposed legislative exemption is signed into law by the President. At the same time, the committee has personal assurances from Admiral Truly that he will not be sworn in as Administrator of NASA until he has retired form active military duty.

Mr. President, I support this legislation, and I support the nomination of Richard H. Truly to be the next NASA Administrator. I am optimistic the Congress will act upon this measure in an expedited manner and that Admiral Truly and the NASA team can get on with the business at hand—maintaining a safe, reliable space transportation system, implementing a visionary space science program and a mission to planet Earth, and developing a permanently manned space station.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1180

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That notwithstanding the provisions of section 202(a) of the National Aeronautics and Space Act of 1958 (42 U.S.C. 2472(a)), or any other provision of law, the President, acting by and with the advice and consent of the Senate, is authorized to appoint Rear Admiral Richard Harrison Truly to the Office of Administrator of the National Aeronautics and Space Administration. Admiral Truly's appointment to, acceptance of, and service in that Office shall in no way affect the status, rank, and grade which he holds as an officer on the retired list of the United States Navy, or an emolument, perquisite, right, privilege, or benefit incident to or arising out of any such status, office, rank, or grade, except to the extent that subchapter IV of chapter 55 of title 5, United States Code, affects the amount of retired pay to which he is entitled by law during his service as Administrator. So long as he serves as Administrator, Admiral Truly shall receive the compensation of that Office at the rate which would be applicable if he were not an officer on the retired list of the United States Navy, shall retain the status, rank, and grade which he now holds as an officer on the retired list of the United States Navy, shall retain all emoluments, perquisites, rights, privileges, and benefits incident to or arising out of such status, office, rank, or grade, and shall in addition continue to receive the retired pay to which he is entitled by law, subject to the provisions of subchapter IV of chapter 55 of title 5, United States Code.

SEC. 2. In the performance of his duties as Administrator of the National Aeronautics and Space Administration, Admiral Truly shall be subject to no supervision, control, restriction, or prohibition (military or otherwise) other than would be operative with respect to him if he were not an officer on the retired list of the United States Navy.

SEC. 3. Nothing in this Act shall be construed as approval by the Congress of any future appointments of military persons to the Offices of Administrator and Deputy Administrator of the National Aeronautics and Space Administration.●

● Mr. GORE. Mr. President, I rise in support of the legislation being introduced by the distinguished chairman of the Senate Commerce Committee and am pleased to be an original cosponsor of this waiver for Adm. Richard H. Truly.

During the course of the last few years, NASA and the space shuttle program have had to survive some stormy seas, and Adm. Richard Truly played a major role in helping the agency weather these storms. Now, Admiral Truly has been nominated to be the next Administrator of NASA, and I intend to support that nomination.

Mr. President, this Nation needs a strong civil space program, a program that is dedicated to peaceful purposes

for the benefit of all mankind. I support such a program, and I see NASA as the linchpin of such a program. Since the Space Act was passed in 1958, we have tried to protect the character of NASA and the civil space program by requiring that the Administrator and the Deputy Administrator of NASA be appointed from civilian life. Over the course of the years, several other agencies that had similar requirements have modified those requirements or have come to waive these requirements on a regular basis. NASA has been different. Until the nomination of Admiral Richard H. Truly, there has never been an effort to waive section 202(a) of the Space Act, as amended, to permit an active duty or retired military officer to assume the posts of Administrator or Deputy Administrator of NASA. Such an action, therefore, requires careful consideration.

Mr. President, I have given considerable thought to this matter and to the nature of NASA and the civil space program for quite some time. Actually, this issue first came to my attention in the aftermath of the *Challenger* accident when NASA went out to Admiral Truly and General McCartney to help return the space shuttle to flight status. One has but to look at the role of these individuals and other military personnel in NASA and the aerospace community to understand the benefits that NASA has accrued from dedicated military personnel. The history of NASA and the civil space program is replete with dedicated military personnel and civil servants working together on space activities devoted to peaceful purposes for the benefit of all mankind. So is the history of America. From Washington, to Marshall, to Eisenhower, the Nation's military personnel have served in civilian capacities with distinction. And I believe Admiral Truly will do the same.

Mr. President, having reviewed this issue very closely, I am convinced that the approval of Richard H. Truly as Administrator of NASA will not change the character of NASA or of the civil space program—NASA will still be a civil agency dedicated to space activities that benefit all mankind. More importantly, I believe that the approval of the nomination of Richard H. Truly will give NASA an Administrator who has invaluable experience and who has learned lessons this Nation and its space program can never afford to forget.

Mr. President, this waiver would be an exception to the rule, but it also would ensure that NASA is placed in the hands of a well-qualified and able Administrator. Based on what the space program and NASA have gone through, I think we owe them such an Administrator, and I intend to get this legislation approved in as timely a manner as possible.●

By Mr. HEINZ (for himself and Mr. WIRTH):

S. 1181. A bill to amend the Solid Waste Disposal Act to require producers and importers of lubricating oil to recycle a percentage of used oil each year, to require the Administrator of the Environmental Protection Agency to establish a recycling credit system for carrying out such recycling requirements, to establish a management and tracking system for such oil, and for other purposes; to the Committee on Environment and Public Works.

CONSUMER PRODUCTS RECOVERY ACT

● Mr. HEINZ. Mr. President, Senator WIRTH, Congressman TORRES, Congresswoman SCHNEIDER, and I—among others—are introducing legislation to encourage recycling of motor oil as a test case for recycling hazardous waste in general. Every year 400 million gallons of used motor oil—the equivalent of 35 times the catastrophic amount of oil spilled in Prince William Sound—is poured down storm drains or discarded in landfills. Most of that ends up in our surface or ground water. The great tragedy is that motor oil is completely recyclable. Yet only 30 percent is every recycled.

Recyclers often charge gasoline stations just to remove the oil. No wonder they don't want to recycle it. Our legislation provides a market for recycled oil. Manufacturers will be required to recycle a minimum amount of oil as a percentage of their overall production. The minimum will be set by EPA beginning at current recycling levels and increasing by 2 percentage points a year thereafter.

Most manufacturers do not recycle their own oil. They do, however, buy recycled oil from firms that specialize in that business. Our legislation grants recyclers credits for the amount of oil they recycle, which is then marketed and sold to manufacturers. Manufacturers can purchase credits from the recyclers in order to meet the requirements of our bill if they choose not to recycle, or they can contract for recycling themselves. We believe this will create a vigorous and competitive market for recycling. Without such a market for recycling, I see no realistic prospect that we will ever see recycling compete with landfilling and dumping. Without the kind of action we propose, we will continue to create—and leave to our children to clean up—the equivalent of 40 Valdez oilspills each and every year. This bill will get motor oil out of our water and back into our cars.

The amount of solid and hazardous wastes generated by every man, women, and child in the United States has increased by 80 percent since 1969. Each us of throws away 3.6 pounds of garbage every day—enough annually to fill a convoy of 10-ton trucks 145,000 miles long, more than 7 times the circumference of the planet. Our legislation takes a first step toward reducing this tremendous waste stream. If successful, EPA is authorized to proceed with a similar recycling program for used tires, lead acid batteries, newsprint, volatile organic compounds, and used pesticide containers.

The legislation is based on Senator WIRTH's and my report, Project 88, which recommends market incentives for environmental clean up. President Bush has credited Project 88 with bringing creative solutions to longstanding problems in the Clean Air Act. Today, we move ahead to solid and hazardous waste as we move ahead on Project 88.

Mr. President, I ask unanimous consent that the text of the bill appear in the RECORD at this point, along with chapter 7 of Project 88.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 1181

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE

This Act may be cited as the "Consumer Products Recovery Act of 1989".

SEC. 2. FINDINGS.

The Congress find the following:

(1) The generation of solid and hazardous waste has grown to alarming proportions in the United States, with per capita disposal having increased by 80 percent from 1960 to 1989.

(2) Market-based incentives targeted at waste reduction and recycling together with Federal regulation can significantly reduce both the amount and the toxicity of hazardous and solid wastes entering the environment.

(3) Each year Americans improperly dispose of 400 million gallons of used motor oil, an amount greater than 35 Exxon Valdez oil spills. In order to protect the environment and reduce dependence on imported fuels, there is a great need to recycle used oils.

(4) The Administrator of the Environmental Protection Agency requires additional statutory authority to address waste reduction and, in particular, to apply market-based incentives to recycling and reduction of hazardous and solid wastes.

SEC. 3. REQUIREMENTS FOR RECYCLE USED OIL AND OTHER COMMODITIES.

(a) IN GENERAL.—Subtitle C of the Solid Waste Disposal Act (42 U.S.C. 6921 et seq.) is amended by redesignating sections 3015 through 3020 as sections 3017 through 3022, respectively, and by inserting after section 3014 the following new sections:

"SEC. 3015. USED OIL: RECYCLING REQUIREMENTS.

"(a) GENERAL REQUIREMENT.—(1) Beginning not later than 18 months after the date of the enactment of the Consumer Products Recovery Act of 1989, a producer or importer of lubricating oil each year shall recycle, using a method described in paragraph (2), an amount of used oil equal to at least that amount of oil determined by—

"(A) multiplying the lubricating oil produced or imported that year by such person, by

"(B) the recycling percentage established by the Administrator under subsection (b).

"(2) A producer or importer of lubricating oil may comply with this subsection—

"(A) by recycling (through re-refining) used oil (in compliance with the requirements of section 3014 and regulations promulgated pursuant to such section), for purposes of producing lubricating oil;

"(B) by purchasing re-refined oil for purposes of producing lubricating oil; or

"(C) by purchasing recycling credits under the recycling credit system established pursuant to subsection (c).

"(b) RECYCLING PERCENTAGE.—The Administrator each year shall establish a recycling percentage for use under subsection (a). The percentage applicable during the first year that the requirement established by subsection (a) is in effect shall be a percentage that is 2 percentage points higher than the recycling rate for lubricating oil that exists on the date of the enactment of this section. Such recycling rate shall be determined by using data for 1988 or the most recent year for which data are available. Each year thereafter, until 1999, the recycling percentage shall be an additional 2 percentage points higher than the percentage of the previous year.

"(c) CREDIT SYSTEM FOR RECYCLING USED OIL.—(1) Not later than 18 months after the date of the enactment of the Consumer Products Recovery Act of 1989, the Administrator shall promulgate regulations to establish a system under which (A) recyclers may create credits for used oil recycling, and (B) producers or importers of lubricating oil may purchase such recycling credits from such recyclers, for purpose of complying with subsection (a). No person may create such credits, and no producer or importer of lubricating oil may purchase such credits, except in accordance with this subsection and the regulations promulgated under this subsection.

"(2) At the minimum, the regulations under paragraph (1) shall include the following requirements:

"(A) The owner or operator of any place of collection of used oil, such as a service station or commercial entity that collects used oil from individuals or others, shall keep receipts issued by any transporters who take delivery of the used oil. The receipts shall be kept for at least two years and shall show the date, the amount of used oil taken, and the transporter's identification number. The owner or operator shall show such receipts to the Administrator or to any State enforcing this Act upon demand. In the case of any used oil taken by a transporter for the purpose of delivery to a recycling facility, the owner or operator shall keep on file a copy of a contract or written agreement between the owner or operator and the transporter to the effect that the transporter agrees to take the used oil to a recycling facility. The Administrator also may require such owners and operators to obtain identification numbers issued by the Administrator for purposes of implementing this section and section 3014.

"(B) The owner or operator of any place of collection of used oil also shall certify to the Administrator that any used oil taken by a transporter is not contaminated or adulterated with hazardous wastes or substances above de minimus levels (as determined by the Administrator under the regulations promulgated to implement the section). For purposes of such certification, an owner or operator may presume that a small quantity of used oil is not contaminated or adulterated if it—

"(i) has been removed from the engine of a light duty motor vehicle or household appliances by the owner or such vehicle or appliances, and

"(ii) is presented, by such owner, to the owner or operator for collection, accumulation, and delivery to an oil recycling facility.

"(C) Any person who transports used oil to a recycler, by truck or other means, shall obtain an identification number from the Administrator. Such transporters shall issue receipts (as described in subparagraph (A)) to the owners or operators of used oil collection places and shall keep records showing each collection place from which used oil was taken, the amount of used oil taken from each such place, and the date. Upon delivery of used oil by the transporter to a recycling facility, the transporter shall give the recycler a copy of the records covering the delivered oil.

"(D) The owner or operator of a used oil recycling facility with a permit under section 3005(c) or under section 3014 of this Act (in this section referred to as a 'recycler') shall be the only person who may create a recycling credit for the recycling credit system.

"(E) The recycler shall certify to the Administrator that the substance being recycled for purposes of creating recycling credits is used oil and that the used oil has not been contaminated or adulterated with hazardous wastes or substances above de minimus levels (as determined by the Administrator under the regulations promulgated to implement this section). To support such certification, the recycler shall test the used oil, upon receipt from transporters, for such wastes and substances as the Administrator determines appropriate under the regulations.

"(F) Any used oil proposed to be recycled for the purpose of creating recycling credits shall come from an owner or operator of a used oil collection place, or a transporter with an identification number, with whom the recycler has entered into a contract or agreement for such purpose.

"(G) The records that a recycler must keep are at least the following:

"(i) The oil delivery records given by transporters of used oil (as described in subparagraph (B)). Such records shall be kept for at least one year.

"(ii) The results of the oil tests conducted by the recycler when the oil is received (as described in subparagraph (E)).

"(iii) A record of the quantities of used oil received for recycling.

"(iv) A record of the quantities of recycled oil sold or otherwise distributed in commerce, and the destinations of such recycled oil. Part of such record shall be a record of the quantities of refined oil sold to producers or importers of lubricating oil for the purpose of complying with subsection (a).

"(v) A record of the sale of recycling credits, including the name and address of the producers and importers the credits were sold to and the amount of credits sold.

"(H) The recycler shall sell or otherwise distribute in commerce the recycled oil as specification used oil, off-specification used oil, hazardous waste fuel, or refined oil (as defined by the Administrator).

"(I) Each year a producer or importer of lubricating oil shall keep records of the quantity of lubricating oil produced or imported, the amount of recycling credits purchased (including the names of recyclers from whom the credits were purchased and the dates of the purchases), and the amount (if any) of recycling credits sold or carried over from previous years.

"(3) The Administrator may include such other requirements in the regulations under paragraph (1) with respect to qualifications for recyclers, importers, and producers; methods for auditing compliance with the system; and enforcement of the system; as the Administrator considers necessary or appropriate for administering the recycling credit system established under this subsection.

"(4) The regulations under paragraph (1) shall take into account the relative competitive positions of used oil reprocessors and used oil re-refiners under the system and shall include provisions to ensure, to the extent practicable, that neither would be at a competitive advantage under the system. Any such provisions shall, at a minimum, allow for used oil re-refiners to exclude between 15 and 25 percent of their production of re-refined oil from the recycling requirement under subsection (a).

"(5) For purposes of this section, the term 'recycling credit' means a legal record of a recycling activity undertaken in accordance with this subsection that represents an amount of used oil recycled for purposes of complying with subsection (a).

"(d) REPORTS.—(1) Not later than six years after the date of the enactment of the Consumer Products Recovery Act of 1989, the Administrator shall submit to Congress an interim report on the implementation of this section. The report shall include, at a minimum—

"(A) a discussion of the effects of the requirements of this section on the oil industry and on the environment; and

"(B) an evaluation of the level of the recycling percentage under subsection (b) and recommendations on whether, and at what rate, the percentage should be increased in future years.

"(2) Not later than 10 years after such date, the Administrator shall submit to Congress a final report on the implementation of this section. The report shall include an updated version of the discussion and evaluation required in the interim report, as well as such other findings and recommendations with respect to the implementation of this section as the Administrator considers appropriate.

"(e) APPLICABILITY.—This section applies to any person who produces or imports more than 100,000 gallons of lubricating oil a year.

"(f) REGULATIONS.—The Administrator shall promulgate regulations to implement this section not later than 18 months after the date of the enactment of the Consumer Products Recovery Act of 1989. If the Administrator fails to promulgate such regulations by that date, the recycling percentage under subsection (b) shall be 40 percent until such time as the regulations are promulgated.

"SEC. 3016. RECYCLING REQUIREMENTS FOR CERTAIN COMMODITIES.

"(a) PLAN.—Not later than two years after the date of the enactment of the Consumer Products Recovery Act of 1989, the Administrator shall submit to Congress a plan, based on the experience with the implementation of section 3015, for the recycling of the commodities listed in subsection (b) and such other commodities as the Administrator considers appropriate. With respect to each commodity, the plan shall discuss the desirability and feasibility, in terms of environmental impacts resulting from reducing volume, reduced toxicity, and economic impacts, of requiring the recycling of the com-

modity, and the specific manner in which such recycling could be accomplished if the Administrator concludes that such recycling is feasible. The plan also shall include an incentive-based method or methods for accomplishing the recycling, such as a credit system (as established under section 3015(c)) or a system under which deposits on the commodity are made and refunds given upon return of the commodity for recycling (known as a deposit-refund system).

"(b) COMMODITIES COVERED.—The commodities that shall be included in the plan are the following:

"(1) Newspapers with daily circulation.

"(2) Used tires.

"(3) Used lead acid batteries.

"(4) Used pesticide containers.

"(5) Antifreeze.

"(6) The volatile organic compounds known as perchlorethylene, methylene chloride, trichlorethylene, and methyl chloride, and such other volatile organic compounds (including certain chlorofluorocarbons) as the Administrator determines should be included.

"(c) IMPLEMENTATION.—Not later than one year after the plan is submitted under subsection (a), the Administrator shall begin to implement the plan with respect to one commodity included in the plan. Each year thereafter, the Administrator shall begin to implement the plan with respect to an additional commodity. The Administrator shall select the commodities in the order of priority determined by the Administrator under the plan. For purposes of implementing a plan for a commodity under this section, the Administrator is authorized—

"(1) to carry out any of the methods for accomplishing the recycling of the commodity that are included in the plan (including a deposit-refund system); and

"(2) to administrator the plan under this subtitle or under subtitle D of this Act, as the Administrator determines appropriate.".

(b) TECHNICAL AMENDMENT.—The table of contents for subtitle C of such Act (contained in section 1001 of such Act) is amended—

(1) by redesignating the items relating to sections 3015 through 3020 as sections 3017 through 3022; and

(2) by inserting after the item relating to section 3014 the following new items:

"Sec. 3015. Used oil: recycling requirements.
"Sec. 3016. Recycling requirements for certain commodities.".

SEC. 4. OTHER REQUIREMENTS FOR USED OIL MANAGEMENT.

(a) IN GENERAL.—Section 3014 of the Solid Waste Disposal Act (42 U.S.C. 6921) is amended to read as follows:

"SEC. 3014. USED OIL: PERFORMANCE STANDARDS AND OTHER REQUIREMENTS.

"(a) IN GENERAL.—Not later than 18 months after the date of the enactment of the Consumer Products Recovery Act of 1989, the Administrator shall promulgate regulations establishing such performance standards and other requirements for used oil, including (but not limited to) generators, transporters, and recyclers of used oil, as may be necessary to protect public health and the environment from hazards associated with used oil. In developing such regulations, the Administrator shall conduct an analysis of the economic impact of any such regulations on the oil recycling industry. The Administrator shall ensure that such regulations (such as regulations on the burning of used oil) are protective but do not discourage the environmentally acceptable recovery or recycling of used oil.

"(b) TREATMENT OF OFF-SPECIFICATION AND SPECIFICATION FUEL.—If used oil is listed or identified as a hazardous waste under section 3001, any off-specification fuel and any specification fuel (as defined by the Administrator) derived from used oil shall not be considered to be listed or identified as, or derived from, a hazardous waste under that section after being reprocessed or re-refined at a facility which has a permit under section 3005(c) or for which a valid permit is deemed to be in effect under subsection (c).

"(c) PERMITS.—The owner or operator of a facility which recycles used lubricating oil shall be deemed to have a permit under this subsection for all treatment or recycling (and any associated tank or container storage) if such owner or operator complies with standards promulgated by the Administrator under this section. The Administrator may require any such owner or operator to obtain an individual permit under section 3005(c) if he determines that an individual permit is necessary to achieve the purposes of this section.

"(d) LABELING REQUIREMENTS.—(1) Any person who packages lubricating oil for sale or other distribution in commerce, including producers and importers of lubricating oil, shall label each package (such as a can) with the following statements, or with words to the same effect: 'Used oil is a hazardous substance. Do not dispose of used oil in garbage, sewers, or on the ground. To find out how to properly recycle used oil in your area, call 800- .'.

"(2) The Administrator shall promulgate regulations requiring States to develop and submit a plan for making information available to the public about used oil recycling. The Administrator shall establish a nationwide toll-free telephone line through which the Environmental Protection Agency shall give out information to callers about State used oil recycling programs.".

(b) TECHNICAL AMENDMENT.—The table of contents of such Act (contained in section 1001 of such Act) is amended by striking out the item relating to section 3014 and inserting in lieu thereof the following:

"Sec. 3014. Used oil: performance standards and other requirements.".

SEC. 5. REGULATION REQUIREMENT IF EPA FAILS TO MEET DEADLINE.

If the Administrator fails to promulgate regulations under section 3014 of the Solid Waste Disposal Act (as amended by section 4) and under section 3015 of such Act (as added by section 3) within 18 months after the date of the enactment of this Act, then the regulations on used oil management standards proposed in the Federal Register on November 29, 1985, as part of the entry titled "Hazardous Waste Management System: Final and Proposed Rules" shall become interim final regulations. Such interim final regulations shall remain in effect for purposes of implementing this section until such time as the Administrator promulgates the regulations under such sections 3014 and 3015.

SEC. 6. AUTHORIZATION.

There is authorized to be appropriated to the Administrator of the Environmental Protection Agency $1,200,000 to carry out sections 3014, 3015, and 3016 of the Solid Waste Disposal Act (as added or amended by sections 3 and 4). Such funds shall be used to hire the equivalent of at least six additional full-time employees to carry out such sections. Such funds shall remain available until expended.

CHAPTER 7—SOLID AND HAZARDOUS WASTE MANAGEMENT

It is becoming increasingly clear that we must begin to face up to the serious problems caused by the massive quantities of solid and hazarous waste which our society generates. The New York City Health Commissioner, Dr. Stephen C. Joseph, recently commented: "I do believe this period of the 1980s will be remembered at the time the planet struck back. The planet is telling us we can't treat it this way anymore." [1]

Waste management is not a single policy problem, but a convenience label for a broad range of environmental threats. Included are conventional dilemmas such as how municipalities should deal with the tremendous quantities of solid waste which they generate, and a newer set of problems associated with the management of hazardous wastes, a topic which has gained increasing attention from all levels of government during the past ten to fifteen years.

We begin this chapter with a look at the conventional problem of solid waste management, and we endorse recycling, a somewhat unconventional approach, as one part of a community's portfolio of solutions. We recommend various means of ensuring that individual communities choose lease-cost approaches to solid waste management. In the second part of the chapter, we begin our examination of hazardous waste problems, with proposals for reducing sources of toxic chemicals in the environment. We recommend methods for providing market-type signals to producers and consumers of products and services which are associated with toxic waste generation. We also recommend consideration of limited product and process labelling, which if properly done can have the effect of reducing both the supply and the demand for products and services which expose persons to hazardous substances. Finally, turning to the more specific problem of containerizable hazardous wastes, we recommend the development of a deposit-refund system to provide incentives both for the safe disposal of toxic substances and for the substitution in production of safer chemical agents.

SOLID WASTE MANAGEMENT

Until only recently, most of us gave little, if any, thought to what happened to our household refuse once it was picked up and hauled away. But in many parts of the country, garbage has been cropping up in the news: old landfills are filling up and contaminating water supplies; it is increasingly difficult to find sites for new landfills; giant garbage incinerators are bringing with them equally giant bond issues representing burdensome investments for many communities; and now it is becoming clear that incinerators produce their own set of significant environmental hazards.

The Problem and Current Policies

It is not an overstatement to say that a garbage crisis faces many municipalities. Los Angeles County landfills are expected to be full by 1994; New York City's landfill space will be totally exhausted by the 2002; and Connecticut will run out of currently available landfill space within two or three years. At the same time, the environmental hazards of landfills are receiving increased recognition, and standards for new and existing landfills are being tightened. This crisis affects almost every part of the country.[2]

[1] Footnote at end of article.

One relatively new approach previously seemed to offer a quick solution. Garbage incineration, its proponents proclaimed, could use updated technology to burn garbage without unsafe air emissions, profitably producing useful electric energy, and leaving only an "inert" ash which would greatly reduce landfill requirements. The initial projects of this so-called "resource recovery" industry were seen to be attractive for a number of reasons: electricity prices were high and projected to go higher; Federal tax "preferences" encouraged incineration (with both Federally subsidized tax-exempt public financing and investment tax credits to private-industry proponents); and "turnkey operations" were promised in which industry sponsors would do all the work, obtaining the necessary permits and financing, while municipalities would just deliver their garbage.

Success in such turnkey operations has been elusive. Operators have not been able to offer performance guarantees in the face of falling electricity prices; tax reform legislation has restricted Federal subsidies; and significant environmental risks associated with incinerator air emissions and hazardous ash residues have required expensive "fixes." Although air pollution caused by dioxin has been the most widely publicized environmental hazard of incineration, the existence of toxic heavy metals in incinerator ash as well as in air emissions may be of even greater long-run concern. Because of the presence of toxic metals in ash, the residue from incinerators routinely tests as a "hazardous waste" according to EPA standards. Nevertheless, the vast majority of ash is disposed of in ordinary municipal landfills; and large quantities of incinerator ash are managed by even less safe means, including open disposal, use as landfill cover, and use as de-icing grit on winter roads.

Due to increasing environmental and economic risks, more than $3 billion in projects have been canceled since the beginning of 1987.[3] Thus, while the traditional approach to disposing of garbage—landfilling—has reached its limits, a promised wholesale solution—incineration—has turned out to be problematic, at best.[4] As a result, communities across the country have pushed forward an alternative supplementary approach, one that much of the solid waste management industry previously did not take very seriously.[5]

Recommendation 34: Policies Which Allow Recycling to Compete in the Market

Recycling, as one element in managing solid waste, is being discovered (rather independently) by numerous communities which have found conventional waste management methods insufficient. In choosing to participate in recycling programs, people respond to publicity, convenience, and economic incentives just as they do for other activities. Thus, successful recycling is not so much a question of individual initiative as it is a matter of providing adequate recycling institutions. The vast majority of our garbage is recyclable. The largest components of municipal solid waste consist of various forms of paper and yard wastes. Newspaper, cardboard, and office paper are all recyclable; several communities have even recycled mixed papers (including magazines, cereal boxes, junk mail, and so forth). Yard wastes (grass clippings and tree trimmings) can be composited to enrich soil, and various forms of plastics can now be recycled. Moreover, a variety of methods, in addition to curbside collection, are available. Apartment house collection programs, buyback centers, office paper recycling, yard waste collection, and others can deal effectively with significant portions of the waste stream.[6] Studies show that in Seattle and New York City combinations of such recycling efforts would foster even higher levels of participation.[7]

The critical question which communities face is whether recycling makes sense economically. The answer is frequently that recycling's most important economic benefits are from reducing the quantity of garbage which must otherwise be collected and disposed, not from revenues due to sales of recycled materials. When all economic benefits are counted together, recycling can indeed pay for itself. Furthermore, in many situations recycling may be the least-cost waste management alternative. A survey of California curbside recycling programs found that "in terms of cost per ton of waste recycled or landfilled, curbside recycling compares favorably with refuse collection and disposal."[8] Seattle's study of alternatives found large-scale recycling to be cheaper than incineration or greater reliance on landfilling; and an analysis of a first-phase recycling program in New York City estimated average costs of recycling to be $18 per ton, compared with $37 per ton for an incinerator with equivalent capacity.[9]

Can markets be expected to absorb recycled materials? If not, there are many steps which the Federal, state, and local governments can take to help develop such markets. For particular products, waste-end taxes or deposit-refund systems may be highly effective and economically efficient.[10] More generally, it would be desirable to stop financing garbage collection through property taxes and user fees which do not reflect quantities of trash picked up daily. While the administrative problems of alternative financing mechanisms will not be trivial, economically rational alternatives merit consideration. Among these are: "product-disposal charges" levied on bulk producers or importers of packaging materials; and "recycling-incentive taxes" to create price differentials which reflect differences among containers in the disposal problems they cause.[11]

To take full advantage of the efficiency and flexibility of markets, recycling efforts may be better off in the hands of private business than local governments. In fact, recycling is attracting the attention of the waste management industry. Resource Recovery Systems of Groton, Connecticut has designed recycling processing facilities in New Jersey and Massachusetts. The disposal firm which serves the city of San Francisco will soon handle both curbside collection of recyclables and processing of collected materials Chemical Waste Management, Inc., the industry's largest company, runs the curbside recycling program in San Jose and is involved with Seattle, Washington in its highly successful program.[12]

If communities are to adopt truly least-cost solutions to their solid waste management needs, it is absolutely essential that recycling be considered on an equal basis with other alternatives. We therefore recommend that the bidding process for municipal waste management be opened to all techniques, and that recycling options be provided with guarantees of minimum supplies similar to those already offered to incineration and landfill operators. Instead of attempting to force technology by requesting bids for a "2,000 ton-per-day incineration facility" (or a "2,000 ton/day recycling program," for that matter), municipal requests for bids should state overall needs without specifying processing techniques. In order to get to the point where municipal decision makers routinely evaluate recycling as a waste management option, a great deal more information about recycling than is currently available will need to be systematically disseminated. Data on existing recycling programs should be collected, and cost analyses of these programs performed and disseminated, presumably through research and education by EPA and relevant state agencies.

Finally, institutional barriers must be addressed. Much attention and effort by municipalities will be required for successful recycling, just as for other waste management alternatives. Municipalities certainly know the efforts required to obtain permits for landfills or incinerators. Analogous efforts should be expected for recycling alternatives. In fact, the work needed to prepare and promote a successful large-scale recycling program may be less, yet more rewarding than efforts currently required for less attractive options.

REDUCING SOURCES OF TOXIC SUBSTANCES IN THE ENVIRONMENT

Before examining alternative approaches to managing hazardous wastes, it is imperative to ask whether and how the generation of such hazardous wastes can be reduced. As public concern regarding hazardous waste problems has increased and regulations have been tightened, the costs of managing existing stocks of hazardous wastes have increased dramatically. In this context, the notion of reducing the flow of toxic wastes from production processes is becoming more attractive. Policies which reduce toxic wastes will lessen the seemingly intractable problems of managing hazardous waste.

What, then, are the sources of toxic substances regularly released into the environment? They are both numerous and diverse: every day each of us uses a variety of products and services which generate hazardous wastes. The good news is that alternative means exist of providing many products and services, with resultant decreases in releases of toxic residuals to the environment. Source reduction includes: (1) product or service substitution which results in lower toxic residual levels; (2) recycling; (3) changes in process technology and equipment; (4) better plant operations; (5) changes in process inputs; and (6) modifications of end products, such as redesigned packaging.

The Problem and Current Federal Policy

Total toxic waste discharges may range from one to three billion metric tons annually.[13] Because of the volume and diversity involved, essentially all Americans are exposed every day to toxic residuals, to some degree. Consequently, any policies which affect toxic releases could substantially reduce human exposure to toxic substances.

The present approach is dominated by "command and control" regulations, which typically tell businesses what they need to do to obtain permits or to make regulated discharges. Although the Clean Air Act, the Clean Water Act, and the Resource Conservation and Recovery Act (RCRA) encourage source reduction, the actual focus of regulatory activity has been on controlling pollution at the "end of the pipe," with no attention to reducing the flow through it. Toxic wastes are released into the environment as gases, liquids, sludges, and solids, but not necessarily along pathways which individual statures or regulations address. Environmental regulations with single media foci,

such as the Clean Air and Clean Water Acts, often do no more than transfer toxics among media, rather than reduce their volume: wastewater treatment facilities and some air pollution control devices produce sludges which may be considered hazardous under RCRA. Likewise, surface impoundments of toxic substances regulated under RCRA may produce air emissions—volatile organic compounds—a target of the Clean Air Act. Therefore, Federal toxics policy should shift from concentrating on the carriers of pollution to cutting the output.

Although source reduction has historically not been a high priority for environmental and plant managers, many industrial firms are beginning to develop source reduction programs. Increased treatment and disposal costs, recognition of long-term liability costs for disposal, and the necessity of maintaining corporate goodwill are encouraging heightened waste minimization efforts by these firms. Two important questions arise. First, how can these incentives be harnessed more effectively, giving plant managers, the techniques to measure secondary benefits from waste management projects and practices, such as disposal costs and Superfund liability avoided? Second, why are some firms not following their fellows' lead and establishing serious source reduction efforts?

The following factors affect firms' decisions regarding toxic substance releases: (1) availability and relative costs of land disposal; (2) capital and other costs of implementing source reduction; (3) attitudes toward changes in production processes; (4) availability of information about source reduction technologies; (5) regulatory issues related to modifying waste generation operations, and (6) need for further research and development of applicable techniques. The approaches we propose in the following section seek to address these factors and thus to open more room for business decisions which are likely to result in source reduction.

Recommendations 35: Incentives for Source Reduction

The current approach to managing hazardous wastes in the environment may not give sufficient attention to reducing the generation of toxic substances. To finance the cleanup of hazardous waste sites, for example, the Superfund program imposes a "front-end" tax on the chemical and petroleum industries, unrelated to the toxicity of products or services. This tax provides no incentive to firms to switch to less toxic substances or to recycle wastes. A "waste-end" tax could induce industries to reduce the toxicity of their products and processes and could also provide an incentive to consumers to substitute safer, lower-cost products. But, waste-end taxes are at present difficult, if not impossible to enforce, because of the incentive they provide for illegal dumping.[14] A deposit-refund system is a more appropriate solution, as we discuss later in the context of containerizable hazardous wastes.

Another approach to providing incentives for toxic source reduction is through labelling requirements, which compel producers to inform consumers regarding the presence in products of known toxic substances which may present significant risks. Such an approach was recently initiated in California for carcinogens and reproductive toxins as one element of its so-called Proposition 65, the Safe Drinking Water and Toxic Enforcement Act.[15] Appropriate labelling has the potential to: (1) reduce unknowing, involuntary exposures to hazardous substances; (2) raise public awareness of the presence of toxics and thereby reduce consumer demand for especially toxic products; and (3) encourage producers to substitute safer substances for more toxic ones in their products and services. The California law is one of the first and most comprehensive attempts at labelling consumer products with a warning that production, consumption, or use results in exposure to toxic substances. After we have been able to evaluate California's experience, a similar approach at the national level may merit consideration. It is important, however, that this approach be used only in limited cases, because excessive labelling may simply cause people to ignore signs or labels which warn of genuine risks.

There is an immediate role for the Federal government to play in terms of providing information to industries and firms regarding alternative methods of toxic waste source reduction. Additionally, the government can lead the way in source reduction through its own example of what businesses can do to achieve toxic emission reductions.

MANAGEMENT OF CONTAINERIZED WASTE

Hazardous waste management is a convenient label for a range of problems, some of which resemble more familiar stationary-source air and water pollution control or solid-waste management problems, and others which are of quite special character. Among the most difficult of these "special problems" is that posed by wastes generated in small enough quantities that they can be containerized, stored, shipped away from the place of generation, and dumped more or less anywhere in the environment.

The Problem and Current Policy

According to the Congressional Budget Office, about 30% or 80 million metric tons of 1983 industrial hazardous wastes were found in waste types which may be generated in small enough quantities per unit to be containerized.[16] Of that amount, almost half are in waste types such as solvents and oils which are potentially recyclable after a reclamation or re-refining process.[17] Containerizable wastes are hard to manage because it is particularly difficult to keep track of them. If an industrial plant uses a metal degreasing solvent in its production process, for example, checking for "emissions" to the environment of the spent solvent requires checking all shipments out of the plant gates. For even one plant, there may be tens of thousands of "sources," many of them very small but collectively important.

What this means for management policy is that when regulations make identifiable and measurable emissions more costly, illegal (often dispersed) emissions become more attractive. To some degree, our current policies do indeed consist of raising the cost of approved disposal, relative to illegal disposal. We lack an effective mechanism to monitor actual disposal activities and enforce approved ones. We approve methods of and sites for waste disposal (narrowing the choices toward reliance on high-temperature incineration), and we try to enforce requirements via a manifest system designed to track hazardous wastes once they leave their place of generation. But high temperature incineration is more expensive than dumping waste in the woods, and the manifest system does not seem to perform as intended.[18] A waste-end tax would only exacerbate the incentive problem which already exists.

Recommendation 36: A Deposit-Refund System for Containerizable Hazardous Wastes

The policy problem for containerizable hazardous wastes may be summarized by the following questions: Can we reduce the quantity of such wastes by enough that disposal of the remainder will hardly matter? Or can we make approved waste disposal as or more attractive than illegal disposal?

Since an emissions or waste-end tax unfortunately provides an incentive for illegal dumping, one answer might come from a special front-end tax on waste precursors such as fresh solvent. Such a tax should amount to a percentage of the price paid rather than a dollar-per-unit figure so that it would work as a general incentive to reduce use and hence waste generation, and would give users an incentive to find safer substitute chemicals. This tax would have the further advantage of creating an incentive to recover and recycle taxed compounds rather than allow them to evaporate or otherwise be dissipated. Once waste is generated, however, incentives that affect the choice of disposal methods would look as they do now.

To resolve this apparent policy dilemma, we propose a front-end tax—a deposit, in effect, with a refund payable when quantities of the substance in question are turned in to the desired facility (for recycling or disposal).[19] This refund provides an incentive to recapture would-be evaporative losses and to follow rules for proper disposal. To the extent that some losses cannot be avoided, there will be an incentive to reduce overall use as well. A deposit-refund system so tailored that proper disposal is made more attractive than illegal disposal changes the monitoring and enforcement problem that responsible agencies now face. It would be their problem to make sure that what is turned in for the refund is, in fact, the substance in question and not a counterfeit. The evidence that the returned material is genuine, however, can be required of the source, a shift in the burden of proof which also acts to lower the agency's cost of achieving the same level of compliance.

Thus, the appeal of a properly scaled deposits-refund system for certain containerizable hazardous wastes is threefold. First, the agency's monitoring problem is no longer the nearly impossible one of preventing illegal dumping of small quantities at dispersed sites in the environment. Rather, the agency simply has to assure itself that what is being returned for refund is what it purports to be; generators will have the incentive to seek the refund rather than following a "midnight-dumping" strategy. Second, there will also exist an incentive to recapture would-be losses from the production process. In the case of solvents, this generalized incentive will spur work to recapture a major part of the ozone precursors now entering the atmosphere. Third and finally, because of some inevitable net losses in processes and because of the costs associated with having to think hard about how the substances involved are used, there will be some incentive to look for nonhazardous substitutes—that is, substances to which the tax-refund system does not apply.[20]

FOOTNOTES

[1] Quoted in: Shabecoff, Philip. "Why N.Y and N.J. Are Still Dumping Sludge Into the Sea." *New York Times*, July 17, 1988, p. 8.

[2] California Assembly Office of Research. *Integrated Waste Management: Putting a Lid on Garbage Overload.* Sacramento, April 1988.

[3] "Energy From Garbage Loses Some of Promise As Wave of the Future." *Wall Street Journal,* June 16, 1988, p. 1.

[4] We do not suggest that there should be no role whatsoever for incineration. But, at the very least, further research is needed to resolve technical problems, and adequate standards for air emissions and ash disposal must be met.

[5] Anderson, David C. "For Lack of Options, New York Gets Serious About Recycling." *New York Times,* May 15, 1988. p. 6.

[6] Environmental Defense Fund. *Coming Full Circle: Successful Recycling Today.* New York, New York, 1988.

[7] Seattle Engineering Department Solid Waste Utility. *Waste Reduction, Recycling and Disposal Alternatives.* Draft Environmental Impact Statement, May 1988. Environmental Defense Fund. *To Burn or Not to Burn.* New York, New York, 1985.

[8] California Waste Management Board. *Curbside Recycling in California.* Draft, December 4, 1987.

[9] John Ruston. *Testimony on the Economics of Recycling and Incineration.* New York State Department of Environmental Conservation, Application for Permits for the Brooklyn Navy Yard Resource Recovery Facility, 1985.

[10] These alternatives are discussed later in the chapter.

[11] Anderson, Frederick P. et al. Environmental Improvement Through Economic Incentives. Washington, D.C.: Resources for the Future, 1977.

[12] See: Egan, Timothy. "Curbside Pickup and Sludge Forests: Some Cities Make Recycling Work." *New York Times,* October 24, 1988, page A10.

[13] Office of Technology Assessment. *Pollution to Prevention: A Progress Report on Waste Reduction.* Washington, D.C.: U.S. Government Printing Office, 1987.

[14] Hammitt, James K. and Peter Reuter. *Measuring and Deterring Illegal Disposal of Hazardous Waste.* R-3657-EPA/JMO. Santa Monica: The RAND Corporation, 1988.

[15] See: (1) Roe, David. "Barking Up the Right Tree: Recent Progress in Focusing the Toxics Issue." *Columbia Journal of Environmental Law* 13(1988):275-283. (2) Haag, Melinda. "Proposition 65's Right-To-Know Provision: Can It Keep Its Promise to California Voters?" *Ecology Law Quarterly* 14(1987):685-712.

[16] U.S. Congressional Budget Office. *Hazardous Waste Management: Recent Changes and Policy Alternatives.* Washington, D.C.: U.S. Government Printing Office, 1985.

[17] Since the CBO data cover only industrial generation of hazardous waste, the quantities and shares do not reflect the importance of particular commercial hazardous wastes such as spent dry cleaning solvent and waste automobile lubricating oil, both of which are containerizable and recyclable in general.

[18] U.S. General Accounting Office. *Illegal Disposal of Hazardous Waste: Difficult to Detect or Deter, RCED-85-2.* Washington, D.C.: U.S. Government Printing Office, 1985.

[19] The same approach recommended here for containerizable hazardous wastes was recently endorsed by Waste Management, Inc. for deposit-refund systems for lead-acid batteries and motorized vehicle tires.

[20] For more discussion of these proposals, see: Russell, Clifford S. "Economic Incentives in the Management of Hazardous Wastes." *Columbia Journal of Environmental Law* 13(1988):257-274.●

By Mr. KENNEDY:

S. 1182. A bill to amend the Fair Labor Standards Act of 1938 to restore the minimum wage to a fair and equitable rate, and for other purposes; to the Committee on Labor and Human Resources.

FAIR LABOR STANDARDS AMENDMENTS OF 1989

Mr. KENNEDY. Mr. President, yesterday, the President vetoed the minimum wage legislation. The House of Representatives has now failed to override the veto, although a solid majority of the House voted to do so.

The real losers on this veto are not Democrats in Congress, but the millions of hard-working Americans who are forced to live in poverty because their employers won't pay them a living wage.

The President should understand that this is an issue where Congress has only just begun to fight. The issue is fairness and America's working poor deserve a fair increase in the minimum wage.

Today, therefore, I am reintroducing the identical bill—Fair Labor Standards Act Amendments of 1989—as adopted by the House and the Senate, and vetoed by the President.

I do so, not to say take it or leave it, as the President did with his proposal.

I reintroduce this bill today to begin what I hope is a dialog with the administration, in which we can work out the differences between our positions and achieve a fair compromise that honors the promise of the minimum wage to the working poor.

I hope we can work with this administration and resolve our differences. To begin that process, I intend to invite Secretary of Labor Dole to testify in the Senate Labor Committee next week to explain the administration's position.

If the administration continues to refuse to work with the Congress on this issue, I intend to ask the Labor Committee to mark up and report a new minimum wage bill shortly after we return from the 4th of July recess.

Sixty-three Members of the Senate voted for the minimum wage measure just vetoed. I would prefer to work out an acceptable compromise with the administration. But if that is not possible, we will try to enact a measure that has the support of a veto-proof majority in the Senate.

The President stated in his veto message that it is regrettable that this debate must end with a veto. I agree with the President. For 14 million hard working American men and women, it is more than regrettable. It is the difference between a living wage and a subpoverty wage. It is time to stop debating the issue and begin a dialog to resolve our differences. If the President believes that his veto puts an end to this issue, he is mistaken.

Over 50 years ago, we made a promise to the American people that no full-time worker should be condemned to a lifetime of poverty.

We have broken that promise for the past 8 years. The President's proposal was soundly rejected because it was a false promise, by which almost half of those entitled to an increase would have received no increase at all, because of the so-called training wage in the administration's proposal.

The training wage is a Trojan Horse. Congress should not go along with any scheme that denies an increase in the minimum wage to half the working poor. A 6-month training wage is unacceptable. And it is certainly not what the American people understood President Bush to be saying last fall when he committed himself as a candidate to an increase in the minimum wage.

So today I renew our request to the administration to work out a good faith compromise. Six times in the past, Congress and different administrations have worked together to renew this pact with American workers, and we ought to be able to do it again.

I hope that we can have a constructive meeting with the Secretary of Labor next week. If not, we will attempt to fashion a bill with the votes necessary to override another veto.

By Mr. KENNEDY (for himself, Mr. MURKOWSKI, Ms. MIKULSKI, Mr. MOYNIHAN, Mr. DURENBERGER, Mr. SIMON, Mr. LEVIN, and Mr. DIXON):

S. 1183. A bill to provide for certain forms of assistance to Poland and Hungary to encourage the process of democratic reforms in those countries; ordered held at the desk by unanimous consent.

DEMOCRACY IN EASTERN EUROPE ACT

Mr. KENNEDY. Mr. President, I rise to introduce, along with my colleagues Senators MURKOWSKI, MIKULSKI, DURENBERGER, MOYNIHAN, SIMON, LEVIN, and DIXON, the Democracy in Eastern Europe Act of 1989. Over the past 2 years, we have stood witness to the most extraordinary changes not only in the Soviet Union, but also in many parts of Eastern Europe.

Nowhere in Eastern Europe is this change more evident than in the proud nation of Poland. Throughout history, the people of Poland have always stood at the forefront of the struggle for individual rights and liberties and the preservation of their national heritage. From Pulaski, to Popieluszko, to Lech Walesa, the Polish people have enlightened the path to freedom. They have stood firm against the scourge of tyranny, resisted their oppressors' determined efforts to erase their heritage, and rejected efforts to incorporate them into an economy and culture not their own.

Today, once again, it is the determined and independent people of Poland who have broken the yoke of oppression and who are forging the path to freedom in Eastern Europe. It is the people of Poland who are testing the limits of Secretary Gorbachev's "new thinking" and exploring just how far glasnost will reach in Eastern Europe.

Similarly, the spirit of freedom is blossoming in Hungary and the people of that nation are demanding their turn at freedom and democracy. The government has responded quickly to the swelling demand of its people with

impressive steps. In an important effort to recognize the wrongs of the past, the government has recognized the 1956 uprising as a just, popular uprising and taken steps to offer one of its greatest patriots, Imre Nagy, an honored place in its nation's history. And in perhaps the most significant and lasting reform, the government has scheduled free elections for 1990. The United States must respond with positive measures to those impressive steps.

Since the reforms in Poland began over 2 years ago, we have witnessed a gradual evolution towards a freer Poland, and the United States has reacted with a step by step reengagement with Poland. We have restored full diplomatic relations between our two nations, including the exchange of ambassadors, lifted economic sanctions imposed after the 1981 declaration of martial law, and extended agricultural and technical assistance through the American Aid to Poland Act of 1987.

The Polish Government's reforms have continued with the provision of formal legal status to the Catholic Church of Poland and with the recognition for the first time that the atrocities in the Katyn forest were committed by Stalin and not by the Nazis, as the government had maintained since World War II.

On April 5, the dramatic and historic roundtable accords were signed between the Government of Poland and representatives of Solidarity and the opposition in Poland. In strong contrast to events in another Communist country, China, the Polish Government negotiated the concerns of the people with the people. It understood that the demands for democracy of the people must be met—and met peacefully. The roundtable accords set the terms for national reconciliation among the Polish people, for the legalization of Solidarity, for economic reforms and for step-by-step democratization of Poland.

In the first free elections in Eastern Europe in four decades, the people of Poland went to the polls on June 4 to vote for a new Senate and 35 percent of the existing legislative body, the Sejm. These historic, peaceful, free, and fair elections will long be remembered as the turning point in Poland's quest for freedom. The elections verified what the people of Poland have always known—that Solidarity represents the people and their unwaivering quest for liberty.

While these elections failed to hold all legislative seats up to the people's judgment, they were an impressive and critical step in the road to democracy. And they paved the way for full, free elections in 1992.

The United States ought to respond quickly and positively to applaud these impressive steps and show we stand with the people of Poland in their struggle to be free. We also need to demonstrate our approval of the courageous steps taken by the Polish Government to bring democracy to Poland.

The bill before us puts the United States strongly behind the dramatic reforms taking place in Poland and Hungary. It extends to them the trade benefits of the Generalized System of Preferences [GSP] and the investment support and guarantees of the Overseas Private Investment Corporation [OPIC]. To continue receiving these benefits, Poland must ensure respect for the labor and human rights of its people. Current U.S. law makes respect for those rights a condition of receiving OPIC and GSP, and Congress will ensure that continued extension of these benefits will be linked to respect for these basic rights.

The bill also extends the current Science and Technology Exchange, Medical Programs and Educational and Cultural Exchanges to Poland and urges the establishment of cultural exchanges with Hungary. It also provides $1 million to democratic institutions and activities in Hungary and Poland. These programs shall continue to be available to Solidarity and other democratic institutions in Poland. They will enable us to provide tangible support to the progress in Poland—and provide a way for us to keep the pressure for reform and democratic progress—particularly through the 1992 elections.

Finally, the bill urges the President to work with our allies and Japan to establish multiyear debt relief and programs to increase investment in each country. Poland, for example, continues to face severe crises and an oppressive foreign debt of $39 million and is in urgent need of international credit and debt relief. The nations of Eastern Europe must continue to make meaningful social and economic reforms, but the United States and other nations also must respond with meaningful debt relief. The IMF, Paris Club, and the World Bank, in particular, must provide significant and long-term relief.

President Bush will travel to Eastern Europe in early July. I think all Members of the Senate will agree with me that he ought to be able to take with him this resolution as a tangible demonstration of United States support for the impressive democratic reforms made by Poland and Hungary. It is my hope that the Senate will pass this legislation overwhelmingly and quickly. The people of Eastern Europe are taking dramatic steps toward democracy and freedom. We should let no more time pass in supporting those efforts.

I ask unanimous consent that the full text of the bill may be printed in the RECORD following my remarks.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1183

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Democracy in Eastern Europe Act of 1989".

SEC. 2. ELIGIBILITY OF POLAND FOR GENERALIZED SYSTEM OF PREFERENCES.

Subsection (b) of section 502 of the Trade Act of 1974 (19 U.S.C. 2462(b)) is amended by striking out "Poland" in the table within such subsection.

SEC. 3. OVERSEAS PRIVATE INVESTMENT CORPORATION.

(a) ELIGIBILITY OF POLAND AND HUNGARY FOR OPIC PROGRAMS.—Section 239(f) of the Foreign Assistance Act of 1961 (22 U.S.C. 2199(f)) is amended by inserting ", Poland, Hungary," after "Yugoslavia".

(b) PARTICIPATION BY NONGOVERNMENTAL SECTOR.—

(1) IN GENERAL.—In accordance with its mandate to foster private initiative and competition and enhance the ability of private enterprise to make its full contribution to the development process, the Overseas Private Investment Corporation shall support projects in Poland and Hungary which will result in enhancement of the nongovernmental sector and reduction of state involvement in the economy.

(2) DEFINITION.—For purposes of this subsection, the term "nongovernmental sector" in Poland or Hungary includes private enterprises, cooperatives (insofar as they are not administered by the Government of Poland or Hungary), joint ventures (including partners which are not the Government of Poland or Hungary or instrumentalities thereof), businesses in Poland or Hungary that are wholly or partly owned by United States citizens, including those of Polish or Hungarian descent, religious and ethnic groups (including the Catholic Church), and other independent social organizations.

SEC. 4. SCIENCE AND TECHNOLOGY EXCHANGE.

(a) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of State for purposes of continuing to implement the 1987 United States-Polish science and technology agreement—

(1) $1,500,000 for fiscal year 1990, and

(2) $1,560,000 for fiscal year 1991.

(b) DEFINITION.—for purposes of this section, the term "1987 United States-Polish science and technology agreement" refers to the draft agreement concluded in 1987 by the United States and Poland, entitled "Agreement Between the Government of the United States of America and the Polish People's Republic on Cooperation in Science and Technology and Its Funding", together with annexes relating thereto.

SEC. 5. MEDICAL SUPPLIES AND HOSPITAL EQUIPMENT AND TRAINING OF MEDICAL PERSONNEL FOR POLAND.

Notwithstanding any other provision of law, in addition to amounts authorized to be appropriated to carry out chapter 4 of part II Of the Foreign Assistance Act of 1961 (relating to the economic support fund) for fiscal years 1990 and 1991, there are authorized to be appropriated to carry out that chapter for each such fiscal year $2,000,000, which shall be available only—

(1) for providing medical supplies and hospital equipment to Poland through private

and voluntary organizations, including for the expenses of purchasing, transporting, and distributing such supplies and equipment, and

(2) for training of Polish medical personnel.

SEC. 6. ASSISTANCE IN SUPPORT OF DEMOCRACY IN POLAND AND HUNGARY.

Notwithstanding any other provision of law, in addition to amounts authorized to be appropriated to carry out chapter 4 of part II of the Foreign Assistance Act of 1961 (relating to the economic support fund) for fiscal years 1990 and 1991, there are authorized to be appropriated to carry out that chapter for each such fiscal year $2,000,000, of which—

(1) $1,000,000 shall be available in each such fiscal year only for the unconditional support of democratic institutions and activities in Poland; and

(2) $1,000,000 shall be available in each such fiscal year only for the unconditional support of democratic institutions and activities in Hungary.

SEC. 7. EDUCATIONAL AND CULTURAL EXCHANGE.

It is the sense of the Congress that the President should—

(1) encourage privately administered educational and cultural exchanges between the United States and Poland and between the United States and Hungary, through the International Research and Exchanges Board (IREX), the National Academy of Sciences, the Fulbright Educational Exchange Program, and the United States Information Agency; and

(2) consider the establishment of reciprocal cultural centers in Poland and the United States and in Hungary and the United States to facilitate government and privately funded educational exchanges.

SEC. 8. FUTURE ECONOMIC PROGRAM.

It is the sense of the Congress that the President should consult with our western allies and Japan on the establishment of a multiyear comprehensive program for Poland and Hungary, including debt rescheduling and increased investment, designed to facilitate an enduring economic recovery in each country in the context of a clear and binding commitment by the government of that country to establish genuine democracy and a free economy in that country.

By Mr. MURKOWSKI:

S. 1186. A bill to amend the Immigration and Nationality Act to revise certain health requirements regarding the admission of certain disabled veterans and to rise the period of active military service required for a veteran to qualify for naturalization; to the Committee on the Judiciary.

REVISING CERTAIN HEALTH REQUIREMENTS WITH REGARD TO THE IMMIGRATION AND NATIONALITY ACT

● Mr. MURKOWSKI. Mr. President, today I am introducing legislation which will prevent the injuries and disabilities of non-U.S.-citizen veterans of the Armed Forces of the United States which were incurred or aggravated while they were on active duty from being held against them if they subsequently seek naturalization or admission to the United States.

Since the earliest days of the Republic, our Nation has been a beacon to those who cherish liberty. When we have been forced to take up arms in liberty's defense, that beacon has attracted to our colors the peoples of many nations. Lafayette was not the first to make our cause his own, and the Canadian citizens who fought in the Vietnam war will not be the last.

The Congress has recognized that, through service in our Armed Forces, these noncitizen soldiers have forged a bond with our country. Among other things, we have made it easier for these individuals to qualify for future citizenship by allowing them to apply for naturalization upon completion of 3 years active duty. However, it has come to my attention that there are circumstances that may defeat the purpose of congressional intent and erect an unnecessary barrier between these veterans and our country.

For example, a servicemember who is injured or disabled while on active duty may be given a medical discharge prior to the scheduled completion of his or her tour of duty. If such a medical discharge were given prior to completion of 3 years' active duty a noncitizen veteran would be denied qualification for naturalization because of a disability or injury that has incurred while in our Nation's service.

Similarly, the Immigration and Naturalization Service has the authority to deny entry to our country on the basis of health or disability. This authority is based on the sound principle that entry into the United States is solely at our discretion and that, as a nation, we should not place ourselves in a position of having to care for or support the world's ill or disabled. However, applied on a blanket basis, this principle would also apply to noncitizen veterans of the U.S. Armed Forces with service-connected disabilities which were incurred while in our service. I believe that barring entry into the United States in such circumstances is not consistent with the principles which guide this great Nation. I also note that admitting men and women with service-connected disabilities into the United States does not increase the taxpayer's obligations one cent since all U.S. veterans, without regard to their citizenship or residence, are currently entitled to both disability compensation and medical care from the Department of Veterans Affairs. I also note that the legislation would not bar INS consideration of other factors or disabilities—other than the service-connected disability—in determining suitability for entrance into the United States.

I note that 14,000 veterans residing outside of the United States receive compensation for service-connected disabilities. A substantial, but unknown, percentage of these veterans are already U.S. citizens. Thus, the number of individuals who could make use of this authority is not large.

Mr. President, the legislation I introduce today would address these issues by allowing the INS to disregard the service-connected disabilities of noncitizen veterans of the U.S. Armed Forces when assessing their health status for purposes of determining their suitability for entry into the United States. The bill would also allow a veteran to qualify for naturalization with less than 3 years' service if the veteran was discharged early because of a service-connected disability.

I believe these provisions will keep faith with those who served in our Armed Forces and were injured or disabled while in our service without adding to the burden of the U.S. taxpayer. I urge my colleagues to join with me in support of this bill.●

By Mr. DOMENICI:

S. 1187. A bill to repeal the supplemental Medicare premium, to modify certain benefits added by the Medicare Catastrophic Coverage Act of 1988 and improve the financing of such benefits, and for other purposes; to the Committee on Finance.

MEDICARE CATASTROPHIC COVERAGE IMPROVEMENT ACT OF 1989

Mr. DOMENICI. Mr. President, everyone knows that catastrophic health insurance came about here in the U.S. Congress because President Ronald Reagan asked that catastrophic chronic illness in the hospitals of this country postmedical care coverage, be covered in some way, and that we call it catastrophic health insurance. It was just about that simple. It grew a little bit; it came to the Senate and grew a little more in terms of benefits, and it seemed that all the citizen groups supporting seniors were for the concept, even as you added benefits and, inevitably, added costs and put some kind of a surtax on to pay for it. It left the Senate, went to the House, with that kind of atmosphere, and then in a mild topsy-like approach, not a big topsy, but a mild topsy, the House had done one a little differently.

Then we go to conference and add them together and add some more. That is sort of the evolution of what was then called catastrophic health insurance. It ends up, because of that, with a surtax that can be as high as $1,200 in 2 or 3 years on a number of senior citizens, and it is a surtax on income tax to pay for this catastrophic, which is no longer voluntary.

I think everyone thought the seniors wanted all the coverage and that they would be glad to pay for it, or that they wanted all the coverage and would not like to pay for it—wanted it for free.

I asked my senior citizens, and I got a rather incredible response. Huge numbers answered, and said that, "We do not need it all, and we do not want it free. We would like you to scale it

down to the things we need and want most, and we will pay for them. We do not think we need a surtax for that."

I tailored a bill which is much like one I introduced in 1987, to what I think are the fundamental catastrophic health needs. There will need be no surtax. It will start with a flat fee, and when all the benefits are in, there will still be no surtax, but it might be as much as $8, $9, $10 a month in 2 or 3 years, but we will not have all of the benefits that were in the final package that evolved with a lot more finesse than I described it here today, from a very small package to a little bigger one, and to a compilation of the two, with even more added, because there seemed to be enough money.

I am very hopeful that the Finance Committee in good faith—because the U.S. Senate voted for them to take another look—will do just that, look at bills such as mine, which I think take care of the basic concepts of catastrophic health insurance, and are affordable by all; and in that context, need not be made mandatory. Most will indeed sign up for it, but they really would like the flexibility to look at their own plans. I believe they ought to have that. These concepts are built into this bill.

I send the statement, bill, and recapitulation of what my senior citizens told me in large numbers, and the questionnaire that I sent them, which was quite detailed, and which they answered diligently, far beyond what many people around here think. They would think they want it all and want it free, and I found that was not the case. I send the measures to the desk for appropriate referral and installation in the RECORD and I ask unanimous consent that the statement be admitted, as it read.

There being no objection, the bill and statement were ordered to be printed in the RECORD, as follows:

S. 1187

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Medicare Catastrophic Coverage Improvement Act of 1989".

SEC. 2. REPEAL OF CERTAIN MEDICARE CATASTROPHIC COVERAGE PROVISIONS AND SUPPLEMENTAL MEDICARE PREMIUM.

(a) GENERAL REPEAL.—The following provisions of the Medicare Catastrophic Coverage Act of 1988, as amended by the Technical and Miscellaneous Revenue Act of 1988, are hereby repealed, and the Social Security Act shall be applied and administered as if such provisions (and the amendments made by such provisions) had not been enacted:

(1) Section 112.
(2) Section 202.
(3) Section 203.
(4) Section 204.
(5) Section 205.
(6) Section 211 (c), (c)(1), (c)(2), and (c)(3)(A).
(7) Section 212.
(8) Section 301.
(9) Section 302.

(b) SUPPLEMENTAL MEDICARE PREMIUM REPEAL.—Section 111 of the Medicare Catastrophic Coverage Act of 1988, is hereby repealed, and the Internal Revenue Code of 1986 shall be applied and administered as if such section (and the amendments made by such section) had not been enacted.

(c) STUDY BY HHS TO RESTORE REPEALED MEDICARE BENEFITS.—No later than January 1, 1990, the Secretary of Health and Human Services or the Secretary's delegate shall conduct a study and submit a report to the Congress regarding the medicare benefits repealed by subsection (a) (including possible modifications of such benefits) and methods of financing such benefits if such benefits were reinstated.

(d) SENSE OF THE CONGRESS REGARDING REPEALED MEDICAID PROVISIONS.—It is the sense of the Congress that the provisions relating to the medicaid program in the repealed sections 301 and 302 of the Medicare Catastrophic Coverage Act of 1988 should be restored within the framework of the budget resolution for fiscal year 1990.

(e) EFFECTIVE DATE.—The repeals made by subsections (a) and (b) of this section shall take effect as if included in the Medicare Catastrophic Coverage Act of 1988.

SEC. 3. MODIFICATION OF PART A BENEFITS.

(a) DEDUCTIBLE HOLD-HARMLESS ELIMINATED.—Paragraph (1) of section 1813(a) of such Act (42 U.S.C. 1395e(a)) is amended—

(1) by striking subparagraph (C) and redesignating subparagraph (D) as subparagraph (C), and

(2) by striking "Subject to subparagraph (C), the" in subparagraph (A) and inserting "The".

(b) SPELL-OF-ILLNESS HOLD-HARMLESS ELIMINATED FOR 1990.—Subsection (b) of section 102 of the Medicare Catastrophic Coverage Act of 1988 is amended by striking "or 1990" in paragraphs (1) and (2).

(c) EFFECTIVE DATES.—The amendments made by this section shall take effect on January 1, 1990, and shall apply—

(1) to the inpatient hospital deductible for 1990 and succeeding years, and

(2) to care and services furnished on or after January 1, 1990.

SEC. 4. OVERALL MEDICARE CATASTROPHIC LIMIT.

(a) IN GENERAL.—Paragraph (3) of section 1833(c) of the Social Security Act (42 U.S.C. 1395l(c)) is amended to read as follows:

"(3)(A) The catastrophic limit for 1990 is $2,500. The catastrophic limit for succeeding years is an amount (rounded to the nearest multiple of $10) as the Secretary estimates will result, in that succeeding year, in the same percent of the average number of individuals enrolled under this part (other than individuals enrolled with an eligible organization under section 1876 or an organization described in subsection (a)(1)(A)) during the year becoming entitled to benefits under this subsection as became entitled to benefits under this subsection in 1990.

"(b) Not later than September 1 of each year (beginning with 1990), the Secretary shall promulgate the catastrophic limit under this paragraph for the succeeding year.".

(b) PART A DEDUCTIBLES AND COINSURANCE INCLUDED IN LIMIT.—Subparagraph (A) of section 1833(c)(2) of such Act (42 U.S.C. 1395l(c)(2)) is amended to read as follows:

"(A) the deductions and coinsurance amounts established under subsection (b) and section 1813, and".

(c) CONFORMING AMENDMENTS.—

(1) Section 1833(c) (42 U.S.C. 1395l(c)) and section 1842(b)(3)(I) (42 U.S.C. 1395u(b)(3)) of such Act are each amended by striking "part B" or "under part B" each place it appears.

(2) Section 1833(c)(5)(B)(ii) of such Act (42 U.S.C. 1395l(c)(5)(B)(ii)) is amended by striking ", other than with respect to covered outpatient drugs".

(3) Section 1833(c)(5)(D)(i) of such Act (42 U.S.C. 1395l(c)(5)(D)(i)) is amended by striking "(other than covered outpatient drugs)".

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 1990.

SEC. 5. EXTENSION OF HOME HEALTH SERVICES DELAYED.

Subsection (b) of section 206 of the Medicare Catastrophic Coverage Act of 1988 is amended by striking "January 1, 1990" and inserting "October 1, 1990".

SEC. 6. INCREASE IN PART B PREMIUM.

(a) IN GENERAL.—Section 1839(a) of the Social Security Act (42 U.S.C. 1395r(a)) is amended—

(1) in paragraph (1) by striking all after "(a)(1)" and inserting in lieu thereof the following:

"(A) The Secretary shall, during September of 1989 and of each year thereafter, determine the monthly actuarial basic rate and the monthly actuarial catastrophic illness rate for enrollees age 65 and over which shall be applicable for the succeeding calendar year.

"(B) The monthly actuarial basic rate determined under this paragraph for a calendar year shall be the amount the Secretary estimates to be necessary so that the aggregate amount for the calendar year with respect to those enrollees age 65 and over will equal one-half of the total of the benefits and administrative costs which he estimates will be payable from the Federal Supplementary Medical Insurance Trust Fund for services performed and related administrative costs incurred in such calendar year with respect to such enrollees (excluding benefits payable under section 1833(c)).

"(C) The monthly actuarial catastrophic illness rate determined under this paragraph for a calendar year shall be equal to the sum of—

"(i) the amount the Secretary estimates to be necessary so that the aggregate amount for the calendar year with respect to those enrollees age 65 and over will equal the total of the benefits and administrative costs which he estimates will be payable from—

"(I) the Federal Supplementary Medical Insurance Trust Fund for services performed and related administrative services costs incurred in such calendar year with respect to such enrollees under section 1833(c), and

"(II) the Federal Hospital Insurance Trust Fund, which are attributable to the Medicare Catastrophic Coverage Act of 1988, as amended by the Medicare Catastrophic Coverage Improvement Act of 1989, and

"(ii) the amount (if any) that the Secretary estimates to be necessary to offset any amounts—

"(I) by which the monthly premiums otherwise payable under this section with respect to such enrollees for such calendar year (disregarding subsections (b) and (f)) are reduced by reason of the limitation imposed by subsection (f), and

"(II) that are attributable (as determined by the Secretary) to the portion of such monthly premiums that is determined under paragraph (3)(A).

"(D) In calculating the monthly actuarial rates under this paragraph, the Secretary shall include appropriate amounts for a contingency margin."

(2) in paragraph (2) by striking "1983" and inserting in lieu thereof "1989",

(3) in paragraph (3)—

(A) by striking "1983" in the first sentence and inserting in lieu thereof "1989", and

(B) by striking the second sentence and inserting in lieu thereof the following: "The monthly premium shall (except as otherwise provided in subsection (e)) be equal to the sum of—

"(A) a weighted average of the monthly actuarial catastrophic illness rate for enrollees age 65 and over, determined under paragraph (1) of this subsection, and that rate for disabled enrollees under age 65, determined under paragraph (4) of this subsection, for that calendar year, and

"(B) the smaller of—

"(i) the monthly actuarial basic rate for enrollees age 65 and over, determined according to paragraph (1) of this subsection, for that calendar year, or

"(ii) the monthly payment rate most recently promulgated by the Secretary under this paragraph, increased by a percentage determined as follows: The Secretary shall ascertain the primary insurance amount computed under section 215(a)(1), based upon average indexed monthly earnings of $900, that applied to individuals who became eligible for and entitled to old-age insurance benefits on November 1 of the year before the year of the promulgation. He shall increase the monthly premium rate by the same percentage by which that primary insurance amount is increased when, by reason of the law in effect at the time the promulgation is made, it is so computed to apply to those individuals for the following November 1.", and

(C) by striking "amount of an adequate actuarial rate for enrollees age 65 and over as provided in paragraph (1)" in the third sentence and inserting in lieu thereof "amounts of adequate actuarial rates for enrollees as provided in paragraphs (1) and (4)", and

(4) by striking paragraph (4) and inserting in lieu thereof the following:

"(4)(A) The Secretary shall also, during September of 1989 and of each year thereafter, determine the monthly actuarial basic rate and the monthly actuarial catastrophic illness rate for disabled enrollees under age 65 which shall be applicable for the succeeding calendar year.

"(B) The monthly actuarial basic rate determined under this paragraph for a calendar year for shall be the amount the Secretary estimates to be necessary so that the aggregate amount for the calendar year with respect to disabled enrollees under age 65 will equal one-half of the total of the benefits and administrative costs which he estimates will be payable from the Federal Supplementary Medical Insurance Trust Fund for services performed and related administrative costs incurred in such calendar year with respect to such enrollees (excluding benefits payable under section 1833(c)).

"(C) The monthly actuarial catastrophic illness rate determined under this paragraph for a calendar year shall be equal to the sum of—

"(i) the amount the Secretary estimates to be necessary so that the aggregate amount for the calendar year with respect to disabled enrollees under age 65 will equal the total of the benefits and administrative costs which he estimates will be payable from—

"(I) the Federal Supplementary Medical Insurance Trust Fund for services performed and related administrative services costs incurred in such calendar year with respect to such enrollees under section 1833(c), and

"(II) the Federal Hospital Insurance Trust Fund, which are attributable to the Medicare Catastrophic Coverage Act of 1988, as amended by the Medicare Catastrophic Coverage Improvement Act of 1989, and

"(ii) the amount (if any) that the Secretary estimates to be necessary to offset any amounts—

"(I) by which the monthly premiums otherwise payable under this section with respect to such enrollees for such calendar year (disregarding subsections (b) and (f)) are reduced by reason of the limitation imposed by subsection (f), and

"(II) that are attributable to the portion of such monthly premiums that is determined under paragraph (3)(A) (as determined by the Secretary).

"(D) In calculating the monthly actuarial rates under this paragraph, the Secretary shall include appropriate amounts for a contingency margin.".

(b) CONFORMING AMENDMENTS.—

(1) Section 1839(e)(1) of the Social Security Act (42 U.S.C. 1395r(e)(1)) is amended—

(A) by striking "monthly premium" and inserting in lieu thereof "portion of the monthly premium otherwise determined under subsection (a)(3)(B)", and

(B) by inserting "basic" after "actuarial".

(2) Section 1840 of such Act (42 U.S.C. 1395s) is amended by adding at the end thereof the following new subsection:

"(i) Notwithstanding the previous provisions of this subsection, premiums collected under this part which are attributable to the monthly actuarial catastrophic illness rate established under subsections (a)(1)(C)(i)(II) and (a)(4)(C)(i)(II) of section 1839 shall, instead of being transferred to (or being deposited to the credit of) the Federal Supplemental Medical Insurance Trust Fund, be transferred to (or deposited to the credit of) the Federal Hospital Insurance Trust Fund.".

(3) Section 1841B of such Act (42 U.S.C. 1395t-2) is amended—

(A) by striking "and section 59B of the Internal Revenue Code of 1986," in subsection (a),

(B) by striking "and for purposes of section 59B of the Internal Revenue Code of 1986" in subsection (a),

(C) by striking subparagraphs (A), (B), and (C) of subsection (b)(1) and inserting the following new subparagraphs:

"(A) credited for receipts of the Federal Supplementary Medical Insurance Trust Fund attributable to the premiums under section 1839(a), attributable to the monthly actuarial catastrophic illness rate (determined without regard to section 1840(i)), and

"(B) debited for outlays made under this title that are attributable to the amendments made by the Medicare Catastrophic Coverage Act of 1988, as amended by the Medicare Catastrophic Coverage Improvement Act of 1989.",

(D) by striking "those receipts which are also receipts of the Federal Hospital Insurance Catastrophic Coverage Reserve Fund," in subsection (b)(4), and

(E) by striking subsection (c) and inserting the following new subsection:

"(c)(1) The Secretary of the Treasury shall publish in the Federal Register not later than July 1 of each year (beginning with 1990), information on—

"(A) the outlays made from the Account in the preceding year, and

"(B) the balance in the Account as of the close of the preceding year.

"(2) The Secretary shall report to Congress, not later than July 1 of each year (beginning with 1990), respecting the distribution of outlays from the Account in the previous year among major spending categories. The Comptroller General shall report, not later than September 1 of each year, to Congress concerning the completeness and accuracy of the Secretary's report under the previous sentence.".

(4) Subsections (a)(1)(A)(i) and (a)(1)(B)(i) of section 1844 of such Act (42 U.S.C. 1395w) are each amended by striking "twice the dollar amount of the actuarially adequate rate" and inserting in lieu thereof "the sum of the dollar amount of the actuarially adequate catastrophic illness rate and twice the dollar amount of the actuarially adequate basic rate".

(5) Section 1876(a)(5) of such Act (42 U.S.C. 1395mm(a)(5)) is amended—

(A) in the matter preceding subparagraph (A), by striking "200 percent of", and

(B) in subparagraphs (A)(ii) and (B)(ii), by striking "monthly actuarial rate" and inserting in lieu thereof "the sum of the monthly actuarial catastrophic illness rate and twice the monthly actuarial basic rate".

(c) EFFECTIVE DATES.—

(1) The amendments made by subsection (a) of this section shall apply to monthly premiums for months beginning with January 1990.

(2) The amendments made by subsection (b) of this section shall take effect on January 1, 1990.

SEC. 7. STUDY AND REPORTS BY OPM DELAYED.

Section 423 of the Medicare Catastrophic Coverage Act of 1988 is amended by striking "April 1, 1989" each place it appears and inserting "April 1, 1990".

Mr. DOMENICI. Mr. President, today I am introducing a bill to improve the controversial catastrophic illness law, conforming it more closely to the wishes of those who are supposed to benefit from it. I urge the Senate Finance Committee to consider this option as it reviews the catastrophic illness law.

Most of the Finance Committee members oppose a delay in some of the benefits and the surtax. Last week, they won a very close vote on the Senate floor, but they agreed to review the financing of the law, consider delaying the surtax and some benefits, and consider making the program voluntary.

There are many reasons to review the law. Most important, of course, many, many older Americans question whether all these benefits are really worth the costs—costs which Medicare beneficiaries alone pay. There is uncertainty over how much revenue the surtax will bring in. Likewise, there's a lot of uncertainty about how much some of the benefits—particularly the prescription drug benefit—will cost.

Let's step back for a second to think about the evolution of catastrophic illness law.

The President's original plan was basic—long-term hospitalization cover-

age and a stop-loss to limit the amount Medicare enrollees could pay for deductibles and coinsurance. A flat premium covered all the costs.

In 1987, I introduced a proposal with Senators DOLE, CHAFEE, DANFORTH, and DURENBURGER to protect older Americans from the devastating costs of catastrophic illness. Many older Americans had written to me about the terrible costs of an extended hospital stay. Without going into detail, our proposal was voluntary and financed without any surtax—bare bones compared to what finally passed Congress.

The Senate Finance Committee passed a bill with even slightly more benefits. An income-related premium had been added, but the program remained voluntary and the income-related premium was modest. On the Senate floor, prescription drug coverage was added. Premiums had to be increased.

Then, in conference with the House, added benefits included in the House bill were added, new benefits that were not in either the House or the Senate bill were added, costs were increased, and the surtax was made mandatory. In short, the catastrophic illness law that finally emerged from Congress in 1988 was far more expansive, it was mandatory, and it was far more expensive than the one I had proposed.

That is what we finally voted on. We had only two choices—no catastrophic coverage at all, or this expensive bill. I thought the protection this bill offered was important, so I voted in favor of the costly version. Even so, I expressed my reservations on the Senate floor about this costly, expanded law:

I must say I am amazed at the extent to which new benefits have been added—benefits that are not necessarily related to catastrophic health expenses. * * * These benefits have clearly increased the cost of the program.

Catastrophic care is not the only health care need of the elderly or the American people generally. Indeed, by most estimates it represents a rather modest extension.

I am quite concerned that there will be a backlash from older Americans when they find out exactly how costly these new benefits are. In the end, my concern is that the underlying financing structure—particularly the income-related premium that will be administered through the tax system—will prove unsustainable. * * * The huge tax increase is going to surprise many older Americans.

Finally, I must caution my fellow Senators and my constituents: As we credit ourselves with reducing the individual's financial expenses related to catastrophic illness, we must not obscure the fact that we have also imposed significant new premiums and taxes on Medicare beneficiaries.

I doubt anyone meant to mislead the Nation's Medicare beneficiaries, but the fact is, many, many older Americans believed this bill was something it wasn't. Some older Americans thought we were providing long-term health care. Others thought they were getting full protection from all costs. Very few understood what beneficiary financing meant.

When I voted for this bill, I voted for it because I thought it was something older Americans wanted. Though I'll admit their understanding is certainly not perfect, older Americans now have a better understanding of this law. By and large, they do not like it.

I heard of so much opposition that in March I sent many older New Mexicans a description of the catastrophic illness law and a ballot asking for their opinions on the law.

The ballot described the catastrophic law. It included several questions and answers to clear up some negative misconceptions about the catastrophic health law. I sent this ballot to older Americans who had not written on the topic, as well as those who had. In other words, this ballot was objective. I ask unanimous consent that the ballot be included in the RECORD.

There being no objection, the ballot was ordered to be printed in the RECORD, as follows:

CATASTROPHIC ILLNESS BALLOT

Dear SENATOR PETE: Below are my answers to your questions on the new catastrophic illness law.

Question No. 1: The Most Important Benefits. Where I have placed a (1) shows the most important benefit to me, a (2) is the second most important, and so on until (6), which is the least important of the benefits you have listed.

—— Covers all hospital costs, except for the $560 deductible.

—— Limits what I pay for non-hospital services, such as physician care, to about $1,400 per year.

—— Coverage for most prescription drug costs, once I have paid $600 yearly.

—— Help for my spouse is provided if I became a patient in a Medicaid nursing home. That protects our income and assets, rather than spending everything on care.

—— Limited respite care for up to 80 hours for persons who are chronically ill and homebound and who have other heavy health expenses.

—— Expanded home health care and skilled nursing home benefits.

Questions No. 2: Options. Here are some of the options, Senator Pete, Congress will consider. I have indicated with an "X" the one or two that I support to pay for the program.

—— Repeal all of the benefits and all of the premiums. Medicare beneficiaries, of course, would again face the threat of a financial catastrophe from a long hospital stay or high doctor bills, but they could get coverage on their own from private insurers.

—— Make the benefits more limited, possibly covering costs above $2,500 a year. Cut out benefits such as respite care, more home-health coverage, and prescription drug coverage. New costs could be covered by a flat premium to the Part B program. And those who did not want the coverage could drop Part B entirely. This would make the law close to the one you, Senator Pete, proposed originally.

—— Keep the current benefits and current financing, but allow people to drop out of the program if they do not want Part B coverage in Medicare. Those with lower incomes, as well as those who did not choose Part B coverage, would not pay the premium or the surtax.

—— Keep the law as it is.

—— Delay the new benefits and new premiums until Congress can review the program.

Mr. DOMENICI. The response was overwhelming. If there's a silent majority—or even silent minority—out there that supports the catastrophic law as it is now, I did not find it.

Almost every new Mexican who responded to the ballot supported major changes in the law. To date, about 20 percent supported complete repeal of the entire law. About 60 percent supported a delay in the program, giving Congress time to review it. About 40 percent urged that we return to a simpler, less costly program, similar to the one I sponsored in 1987.

Many respondents also opposed the mandatory nature of the law, although most wanted more significant changes than just making the program voluntary by tying it to part B of Medicare.

Perhaps the most startling aspect of the response to my ballot was the number of older Americans who made additional comments. Usually, about 5 percent of the new Mexicans I question in ballots include additional comments. So far, on this ballot, 49 percent have included added comments. This tells me how strongly my constituents feel about this issue.

I think the point Senator GRAMM made last week during the floor debate on the McCain amendment is worth restating. The Catastrophic Illness Act was historic, an entitlement financed by the beneficiaries. In fact, many older Americans oppose the bill on that point in particular—that no one else has had to self-finance their benefits.

But many older Americans are not against the concept of paying for the added benefits, they are just against paying for this package of benefits—many whom already had such coverage—in this particular way. What we are finding is that the beneficiaries are not so sure that they want the entitlement if they have to pay for it.

The older citizens of New Mexico want the surtax repealed; they are willing to do without some or all of the benefits. That indicates to me, at a minimum, Congress should limit the catastrophic law so it is similar to the bill I introduced in 1987, and similar to the one I am reintroducing today.

This proposal is inexpensive relative to what passed last summer. Most important, it is financed without a mandatory surtax on Medicare beneficiaries.

I have made modifications to my 1987 proposal to limit costs and include features some older Americans

believe are most important and worth the cost. I refer to some limited expansions of home health and skilled nursing facility costs, and financial protection for a spouse at home when someone enters a nursing home, the so-called spousal impoverishment law. Briefly, my proposal would:

Repeal the Medicare supplementary premium (or surtax), as if it had never been enacted. Adjustments would have to be made for those who have already started making tax payments for the catastrophic illness law.

Repeal several new and noncatastrophic Medicare benefits that were included in last year's catastrophic law, but which have yet to go into effect. These include the prescription drug benefit, intravenous drug therapy services, the screening mammography benefit, and the so-called respite care benefit. I understand the importance of these benefits, but they are outside the original and basic intent of the catastrophic illness protection. They should not be financed by the premiums for catastrophic coverage.

Provide unlimited hospital coverage without coinsurance after one hospital deductible per year, consistent with my 1987 bill and last year's catastrophic law. Most older Americans support this protection.

Retain two other important Medicare benefits in last year's catastrophic illness law—the expanded home health and expanded skilled nursing benefits without a prior hospitalization requirement. Medicare would cover home health benefits for 38 days of continuous care. These important benefits may serve as an alternative to extended hospital stays.

Include a catastrophic "stop-loss," returning its structure to that in my 1987 proposal. The annual ceiling on beneficiary liability applies to both part A and part B Medicare coinsurance and deductibles. It covers only those voluntarily enrolled in Medicare part B. The out-of-pocket cap of $2,500 in 1990 would be indexed to program growth. Unlike last year's law, in which only part B expenses count toward the cap, beneficiary expenses for all Medicare deductibles and coinsurance would count toward the cap.

Return to the flat premium financing I proposed in 1987. Starting in 1990, the costs of the expanded Medicare part A benefits and the catastrophic cap would be financed through an actuarially sound premium added to the basic part B premium. If beneficiaries did not want this coverage, they could drop part B of Medicare. I doubt few would drop part B of Medicare because it remains a good deal. Nonetheless, beneficiaries would have that option.

Based on preliminary CBO estimates, though this flat premium may be a little higher in 1990 and 1991, it would be about the same as the flat premium established in last year's catastrophic law by 1992 and after. And, most important, there would be no added surtax. None.

Since the premium would be based on the actual costs of the program, beneficiaries would not pay more in premiums than the total benefit payout, as may not be occurring under the program signed into law last summer.

An older American, who might have been paying as much as $1,200 per year by 1993 under last summer's law, would now pay only about $150 per year by 1993 under this proposal.

Retain the new spousal impoverishment protection under the medicaid program. This is a benefit directly related to the catastrophic expenses of an extended nursing home stay.

In summary, my proposal is an attractive alternative to last summer's law. It meets the general requirement that premiums cover benefit costs and that the new coverage not increase the deficit relative to the Medicare program without catastrophic illness coverage. It is similar to the legislation I sponsored in 1987, but includes a few changes to accommodate benefits that my constituents told me they support most strongly.

Much less expensive than last year's legislation, my proposal allows Congress to repeal surtax financing. At the same time, it retains the key hospitalization and catastophic provisions. This proposal is voluntary, although anyone who opts out would lose other important benefits. The flat premiums are manageable for older Americans.

I know this is a complicated and sensitive area, so I have introduced this bill as one possible alternative for Congress and the Finance Committee to consider. I'll also note that many older Americans are so angry over the new law that we may consider complete repeal, including provisions already in effect. If Congress and the Finance Committee heed the views of older Americans, this proposal I offer today will receive serious consideration.

In addition, I also am co-sponsoring S. 335, introduced by Senator MCCAIN. I'm sure we are going to consider that alternative again here on the Senate floor. There is no reason that seniors should pay this burdensome tax while Congress is reviewing the law, and considering options, such as the bill I offer today.

S. 335 is an appropriate place to start. It doesn't commit Congress to anything. It just gives us more time to assess all the complaints we are hearing about this law, consider alternatives such as the one I offer and assess the revenue stream flowing into catastrophic coverage.

I express my appreciation to the Finance Committee for reviewing the catastrophic law. I hope they seriously consider proposals such as the one I have offered today.

By Mr. MURKOWSKI:

S. 1188. A bill to amend title 38, United States Code, and the Internal Revenue Code of 1986 regarding the use of Internal Revenue Service and Social Security Administration data for income verification for purposes of laws administered by the Department of Veterans Affairs; to the Committee on Finance.

USE OF INTERNAL REVENUE SERVICE AND SOCIAL SECURITY ADMINISTRATION DATA BY DEPARTMENT OF VETERANS AFFAIRS

● Mr. MURKOWSKI. Mr. President, today I am reintroducing legislation which would: First, protect the integrity of needs based veterans programs; second, provide significant reduction in unnecessary Federal outlays and, therefore, make a significant contribution to deficit reduction; and third, accomplish these goals without reducing benefits to the intended beneficiaries.

This legislation would accomplish these goals by allowing the VA to compare the income amounts now self-reported to VA by benefit recipients to the amounts reported for tax and social security purposes by third parties. If VA benefits are being paid or provided based on erroneous income reporting by the beneficiary, the VA would determine the correct income amount and adjust the level of service or benefits to the level to which the beneficiary is actually entitled.

I emphasize that this legislation would not set a precedent for the nontax use of these data. On the contrary, other federally funded needs based programs such as Food Stamps and Supplemental Security Income have had access to these data for almost half a decade. Nor would this legislation provide the VA with access to the income tax returns filed by individual veterans or survivors. The data concerned are contained in the information returns filed by employers and other third parties.

The legislation contains specific provisions intended to protect the confidentiality of the information obtained and used by the VA. It would also require the VA provide any beneficiaries affected with notice, and a chance to rebut the data, before VA takes any adverse action.

The need for this legislation is clear, In 1985 I asked the GAO to determine the amount of misreporting in the major needs based income maintenance program administered by VA, nonservice-connected disability pension. The GAO's report—Veterans' Pensions: Verifying Income with Tax Data Can Identify Significant Payment Problems, GAO/HRD-88-24

dated March 1988—provides dramatic evidence that a significant amount of pension payments are being made to individuals who do not meet the eligibility requirements established by the Congress.

The GAO, after obtaining specific and limited authorization from the Joint Committee on Taxation, compared the income data reported to VA by 1.4 million pension recipients against the tax data provided to the Government by third party sources. The GAO used the same data now available under current law to other Federal needs based program administrators.

The GAO found that 549,000 beneficiaris—over one-third—had $947 million more income on tax records than was recorded on VA records. After adjusting for cases where the VA should have been able to independently identify the discrepancy, and disregarding discrepancies of less than $100, the GAO concluded that the VA was unable to identify $157.2 million in potential pension overpayments because it lacks the access to tax data now available to other agencies administering needs based programs.

Mr. President, there are too few dollars available to meet the needs of America's veterans to allow over $150 million to be paid to veterans who do not meet the eligibility requirements established by the Congress. That is why, in the 100th Congress, the Committee on Veterans' Affairs included provisions to address this situation in S. 2011. That is why the Senate agreed to those provisions last year.

I recognize that the Committee on Finance is looking at the general question of using tax data for nontax purposes such as enforcement of eligibility criteria for Federal programs. I am introducing this bill to emphasize the importance of protecting the integrity of veterans' programs and the benefits available to the Nation through enactment of legislation such as this bill.

Mr. President, this legislation has three primary features.

The first gives the VA access to wage and income information already collected from third parties by the Treasury Department and Social Security Administration and already available to other Federal agencies administering income based benefits and programs. VA would use this information to verify eligibility for nonservice-connected veterans' disability and survivors' pensions, dependency and indemnity compensation paid to parents of individuals who die on active duty or due to a service-connected cause, veterans with service-connected disabilities evaluated less than 100 percent disabling but who are paid at the 100-percent rate because they are unemployable due to their disability, and veterans who are eligible for VA health care without payment because of their low income.

The second feature explicitly protects the confidentiality of the data which would be obtained and used by VA.

The third feature requires the VA to provide veterans with notice that income information they provide to VA will be verified. It would also require VA to protect the rights of beneficiaries in the event of an apparent discrepancy by notifying the beneficiary of the nature of the discrepancy and providing the beneficiary with an opportunity to reply before VA could take any adverse action.

Mr. President, this bill is nearly identical to one which was approved by the Committee on Veterans' Affairs and passed by the Senate during the last session of Congress. This bill, however, has been modified to include specific language which would add notification and agreement requirements in the case of veterans' health care.

Under current law, eligibility for hospital, nursing home, and outpatient care are based, in part, on the veteran's income. VA is prohibited from treating those veterans determined—as the result of self-reported income data—to be so-called category C veterans unless the veteran agrees to pay a modest copayment. Category C veterans are those with non-service-connected disabilities who have annual incomes over $21,995—for a single veteran.

It is important to note that over 50 percent of all health care provided by VA is for veterans who are not required—as a result of income—to pay a deductible but are eligible for VA health care as a result of limited income.

The provision in this bill would also prohibit the VA from furnishing medical-care services to veterans eligible for such care based on income—the 50 percent mentioned above—unless: First, the VA has notified the veteran that the income information furnished by the veteran will be compared with information obtained by the Social Security Administration or the Department of the Treasury, and second, the veteran has agreed to pay the United States the applicable amount if a determination is made that the veteran is required by law to do so.

The purpose of this provision is to protect the veteran by making explicit the VA's requirement to notify that income data will be verified. Additionally, the veteran would know prior to receiving care of the possible cost associated with receiving VA health-care services if such validation determines that the veteran underreported his/her income. In fact, the veteran would have to agree to make such copayments, if necessary, prior to receiving VA care.

Mr. President, if enacted, this legislation would reduce the deficit or increase the amount of funds available for veterans' benefits without reducing or terminating the benefits of veterans or survivors who meet the eligibility requirements established by the Congress. This is a "win-win" situation that we in the Congress rarely encounter. I urge my colleagues to join me in support of this legislation.●

By Mr. KERRY:

S. 1189. A bill to amend the Coastal Zone Management Act of 1972 to require State coastal zone management agencies to prepare and submit for the approval of the Secretary of Commerce plans for the improvement of coastal zone water quality, and for other purposes; to the Committee on Commerce, Science, and Transportation.

COASTAL ZONE IMPROVEMENT ACT

Mr. KERRY. Mr. President, as the summer begins and beach season opens the memory of last summer's closed beaches, medical waste on the shores and contaminated shellfish beds, underscores the necessity that now is the time for Congress to focus its attention on an environmental threat of historical unprecedented proportions—the destruction of our coastline and the fouling of our oceans and coastal waters. This environmental crisis is as serious as any we have had to come to grips with before; and it is getting worse.

Our oceans, coastal waters, estuaries, and wetlands have come under extreme stress from a combination of human activities such as population growth, waste disposal practices, the dumping of toxics, and global warming.

For that reason, today I and a number of my colleagues who represent different committees with oversight of ocean and coastal issues in both the House and Senate are introducing a variety of legislative initiatives which strengthen the two laws that govern our coasts—the Clean Water Act and the Coastal Zone Management Act. The legislation I am introducing today improves and bolsters the Coastal Zone Management Act, and requires State coastal zone management agencies to implement an overall plan that preserves, protects, and restores coastal waters.

Mr. President, the fact of the matter is, that 75 percent of the Nation's population will live within 50 miles of the U.S. coast by the year 2000—9 out of 10 of the largest urban areas sit on America's coastline.

In addition, wetlands, the nursery and spawning grounds to our fisheries, contribute an estimated $5 billion annually to the production of fish and shellfish in the United States, yet 50 percent of the Nation's wetlands have

already been destroyed. In fact, experts estimate that 25,000 acres of wetlands are lost each year in coastal Louisiana alone.

Furthermore, nonpoint source pollution such as agricultural runoff and acid rain is increasingly degrading our water quality and choking our marine life. While pollutants which directly discharge into the coastal waters are poisoning our fish. In fact, according to the Coast Alliance, in New England, sewage treatment plants and industries discharge an estimated 575 billion gallons of contaminated wastewater into the ocean each year, while another 700 billion gallons of polluted stormwater pours into the sea annually. Consequently last year alone over half of the Massachusetts shellfish beds were closed due to contamination at a $71 million economic loss to the State's industry.

What all this spells out to me, is there is a clear link between coastal water quality and land use. And it highlights the fact that coastal planning and development control measures are essential to our coastal protection.

Mr. President, while we can estimate the dollars lost to our industries, no one can put a price tag on the incalculable treasure of a single seashore refuge, or a coastal barrier. How does one measure the loss of wildlife and fish that for millennia have inhabited our coastal areas?

One issue of particular concern to me that my legislation addresses is global warming and the dire need to plan for unprecedented sea level rise. It is estimated that global warming caused by an overwhelming increase of man-made gases pouring into our atmosphere from such activities as the burning of fossil fuels, deforestation, and the production of chlorofluorocarbons, will result in a sea level rise of 1 meter or more by the year 2050.

This expected sea level rise will result in a loss of beaches, dunes, estuaries and wetlands, and the life that they sustain, as well as destroy drinking water supplies, buildings and coastal infrastructures. Some experts have even calculated that a 1½-foot sea level rise in Massachusetts could wipe out over 10,000 acres of ocean front property worth at least $10 billion.

In Charleston, SC, it is anticipated that if the sea level rises 1½ feet, the negative economic impact to the city on damages to just the Charleston Peninsula alone are estimated at almost $1 billion.

And, a recent United Nations study predicts that by the year 2100 at least 50 percent and as much as 80 percent of America's total wetlands will be lost to sea level rise.

Mr. President, the picture is grim. It is calamity if we sit idly by and fail to act. However, experts suggest that there may be as much as a 20 year lag time until the actual effects of sea level rise are upon us. Nature has offered us 20 years to prepare for what could be the difference between the life and death of our coastal ecosystem. But the grains of sand are slipping through the 20 year ecological time glass.

While we work to eliminate the causes of global warming, we must simultaneously study, develop, and implement strict plans that prepare for such sea level rise. The legislation I am introducing today requires such planning. Furthermore to change the course of the existing overall coastal degradation it provides a stronger link between existing State water quality agencies and State coastal zone management agencies.

It addresses coastal pollution and requires State coastal zone management agencies to establish and implement an overall plan that preserves, protects and restores coastal waters. The plan will, deal with land and water uses that affect coastal water quality; reduce coastal pollution; and preserve wetlands and marine habitats—fish, shell fish, wildlife and so forth.

The plan designates certain coastal waters of outstanding national significance. These are waters that are not yet polluted but should be preserved, that is, national parks, wildlife refuges, recreational areas and waters of particular ecological significance.

It also identifies areas that are already polluted and makes them a priority for action. The bill provides greater coordination between, State, local, and the Federal Government on implementing the required plan and offers funding and technical assistance to carry it out. It further establishes model ordinances for State and local governments. The bill authorizes $35 million each year for 4 years for States to implement their plan.

As I stated earlier the legislation includes a section on sea level rise planning which requires the State coastal zone management agencies to study, develop, and implement management plans for addressing the adverse effects that sea level rise caused by global warming will have on coastal areas, that is, drinking water supplies, coastal infrastructures, ports, harbors, wetlands, residential areas and so forth.

Furthermore, the act strengthens the Federal consistency provisions of the CZMA by reversing the 1984 Supreme Court decision, Secretary of the Interior versus California. This section makes it clear that Congress, in passing the CZMA fully intended to create a partnership between the States and the Federal Government. Moreover, Congress intends for coastal States to once again play a major role in decisions which affect those States' coastal zone, such as offshore oil and gas leasing and drilling.

The legislation further sets up a regional coastal and ocean monitoring plan that will build upon and complement the existing National Status and Trends Program. The new monitoring program will assess the quality of the ocean and estuarine environments. In particular it will focus on pristine waters and degraded waters in order to assess if the clean waters are staying clean and determine if the polluted waters are improving or getting worse.

Finally the bill provides for increased public participation in the Federal review process by which States coastal zone management agencies are evaluated.

Mr. President, the extent of our coastal degradation goes far beyond the reaches of the current Clean Water Act and Coastal Zone Management Act, and to that end it is imperative that Congress develop resolutions and new approaches to combating this menacing problem. Old solutions will not do. The consequences of neglect and apathy toward this problem goes far beyond man's wildest imaginings of just a few years ago. We have learned so much about the havoc we are creating in our ocean. New approaches, education, enlightened lifestyles, and a willingness by all sectors to get involved will offer us some of the answers in what will be a pitched battle to prevent the horror stories that the signs of our coastal ecosystem are beginning to display.

If Congress does not enact new laws and strengthen existing ones, we will be responsible for perpetrating on of the most serious crimes ever carried out by one generation on those that follow—the destruction of our coastal environment.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD, as well as the attached summary.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 1189

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Coastal Zone Improvement Act of 1989".

FINDINGS AND PURPOSE

SEC. 2. (a) Congress finds and declares the following:

(1) Our oceans, coastal waters, and estuaries constitute a unique resource. The condition of the water quality in and around the coastal areas is significantly declining. Growing human pressures on the coastal ecosystem will continue to degrade this resource until adequate actions and policies are implemented.

(2) 75 percent of the Nation's population will live within fifty miles of the United States coast by the year 2000, including the Great Lakes and nine out of ten of the largest urban areas are located along the coast-

line, thus placing greater demands on coastal resources.

(3) Marine resources contribute to the Nation's economic stability. Commercial and recreational fishery activities support an industry with an estimated value of $12 billion a year.

(4) Wetlands play a vital role in sustaining the coastal economy and environment. Wetlands support and nourish fishery and marine resources. They also protect the Nation's shores from storm and wave damage. Coastal wetlands contribute an estimated $5 billion to the production of fish and shellfish in the United States coastal waters. Yet, 50 percent of the Nation's coastal wetlands have been destroyed, and more are likely to decline in the near future.

(5) Non-point source pollution is increasingly recognized as a significant factor in coastal water degradation. In urban areas, storm water and combined sewer overflow are linked to major coastal problems, and in rural areas, run-off from agricultural activities may add to coastal pollution.

(6) Coastal planning and development control measures are essential to protect coastal water quality, which is subject to continued ongoing stresses. Currently, not enough is being done to manage and protect our coastal resources.

(7) Global warming results from the accumulation of man-made gases, released into the atmosphere from such activities as the burning of fossil fuels, leveling of forests, and the production of chlorofluorocarbons, which trap solar heat in the atmosphere and raise temperatures worldwide. Global warming could result in a one meter or more global sea level rise by 2050 resulting from ocean expansion, the melting of snow and ice, and the gradual melting of the polar ice cap. Sea level rise will result in the loss of natural resources such as beaches, dunes, estuaries, and wetlands, and will contribute to the salinization of drinking water supplies. Sea level rise will also result in damage to properties, infrastructures, and public works. There is a growing need to plan for sea level rise.

(8) There is a clear link between coastal water quality and land use activities along the shore. State management programs under the Coastal Zone Management Act of 1972 (16 U.S.C. 1451 et seq.) are among the best tools for protecting coastal resources and must play a larger role, particularly in improving coastal zone water quality.

(b) It is the purpose of Congress in this Act to enhance the effectiveness of the Coastal Zone Management Act of 1972 by increasing our understanding of the coastal environment and expanding the ability of State coastal zone management programs to address coastal environmental problems.

OFFICE OF COASTAL ZONE MANAGEMENT

SEC. 3. (a)(1) There is established in the National Oceanic and Atmospheric Administration of the Department of Commerce an Office of Ocean and Coastal Zone Management (hereinafter referred to as the "Office"), which shall succeed the Office of Ocean and Coastal Resource Management within the National Oceanic and Atmospheric Administration.

(2) The head of the Office shall be the Assistant Administrator for Ocean and Coastal Zone Management, who shall be appointed by the Secretary of Commerce, subject to the approval of the President, and compensated at the rate prescribed for level V of the Executive Schedule pay rates.

(3) The Office shall have responsibility for—

(A) all functions exercised under the Coastal Zone Management Act of 1972 (16 U.S.C. 1451 et seq.), as well as related laws dealing directly with coastal zone management, to the extent those functions are vested by law in the National Oceanic and Atmospheric Administration or its Administrator, or vested by law in the Department of Commerce or its Secretary and administered through the National Oceanic and Atmospheric Administration;

(B) all other functions under the responsibility of the Office of Ocean and Coastal Resource Management within the National Oceanic and Atmospheric Administration as of the date of enactment of this Act; and

(C) such functions as may be assigned by legislation.

(b) Section 5316 of title 5, United States Code, is amended by inserting "Ocean and" immediately before "Coastal Zone Management".

COASTAL ZONE WATER QUALITY IMPROVEMENT

SEC. 4. (a) Section 302 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1451) is amended by adding at the end the following new subsection:

"(k) Land uses in the coastal zone, and the uses of adjacent lands which drain into the coastal zone, have direct and significant effects on the quality of coastal waters and habitats, and efforts to control coastal water pollution from land use activities must be improved.".

(b) Section 303(2) of the Coastal Zone Management Act of 1972 (16 U.S.C. 1452(2)) is amended—

(1) by redesignating subparagraph (C) through (I) as subparagraphs (D) through (J); and

(2) by inserting immediately after subparagraph (B) the following new subparagraph:

"(C) the management of coastal development to improve, protect, and restore the quality of coastal waters, and to prevent the impairment of natural resources and existing uses of those waters;".

(c) The Coastal Zone Management Act of 1972 (16 U.S.C. 1451 et seq.) is amended by inserting immediately after section 306A the following new section:

"COASTAL ZONE WATER QUALITY IMPROVEMENT

SEC. 306B. (a) Within three years after the date of enactment of this section, the management agency designated under section 306(c)(5) for each coastal state for which the Secretary has approved a program pursuant to section 306, in consultation with the state water quality control agency, shall prepare an approvable Coastal Zone Water Quality Improvement Plan (hereafter in this section referred to as the 'Plan') and the state shall submit the Plan to the Secretary.

"(b) The Plan shall—

"(1) identify all land and water uses and activities within coastal and estuarine waters and land areas, including coastal drainage areas, that individually or cumulatively may cause or contribute significantly to a violation of water quality standards or an impairment of resources or existing uses of coastal waters;

"(2) establish, renew, and revise on a continuing basis model ordinances, for adoption by state and local agencies and governments, which shall outline legal authority and best management practices to prevent or reduce pollution of coastal waters by land and water uses and shall include, at a minimum, (A) buffer strips, (B) setbacks, (C) density restrictions, (D) techniques and procedures for identifying, improving, and protecting critical coastal areas and habitats, (E) stormwater management practices, (F) sewage disposal practices, (G) soil erosion and sedimentation controls, and (H) siting and design criteria for water uses, including marinas;

"(3) encourage and assist local governments in implementing the ordinances established under paragraph (2) by—

"(A) providing specific goals and schedules for implementation by state and local agencies and governments;

"(B) providing technical assistance, financial incentives, and supporting demonstration projects to encourage implementation of model ordinances by state and local agencies and governments and innovative land management practices by landowners;

"(C) requiring the periodic review and evaluation of implementation activities and schedules; and

"(D) identifying staffing needs and educational programs to support implementation activities;

"(4) contain enforceable policies that will ensure the protection of the coastal waters of outstanding national significance designated in accordance with subsection (c) and the protection of the water quality, existing water uses, habitats, and living resources in those waters;

"(5) contain enforceable policies to reduce pollution in coastal waters in order to achieve applicable water quality standards, or to achieve a balanced, indigenous population of fish, shellfish, and wildlife and to provide for recreation on or in such waters;

"(6) specify the legal authority, regulations, best management practices, strategies or techniques, and other mechanisms to implement and enforce the policies referred to in paragraphs (4) and (5);

"(7) institute mechanisms to improve coordination between state agencies, and between state and local officials, responsible for land use planning and permitting, water quality permitting and enforcement, habitat protection, and public health and safety through the use of joint project reviews, interagency certifications, memoranda of agreements, executive orders, and other appropriate mechanisms;

"(8) modify the boundary of the state coastal zone in order to manage more effectively the uses and activities identified under subsection (b)(1), if, pursuant to subsection (g), it is determined that the boundary should be modified; and

"(9) institute mechanisms to coordinate the activities and decisions of state coastal management agencies under the Plan and state water quality control agencies with respect to land and water uses in areas outside the coastal zone but which may have significant impacts upon coastal water quality.

"(c) The Plan shall provide for the designation as coastal waters of outstanding national significance those coastal waters within a state with important ecological, recreational, or esthetic values, taking into account their fisheries, shellfish resources, their habitats, and their recreational uses. Such areas shall include, at a minimum, and the Plan shall initially designate, those coastal waters in or adjacent to—

"(1) national parks, wildlife refuges, estuarine reserves, recreational areas, and marine sanctuaries;

"(2) state parks, wildlife refuges, sanctuaries, and recreational areas; and

"(3) other coastal waters of ecological significance.

"(d)(1) The Plan shall provide for the identification of those coastal waters that cannot reasonably be expected to achieve or maintain any applicable water quality standards established under the Federal Water Pollution Control Act and that may be improved with respect to water quality through the adoption of policies governing coastal land and water uses and activities identified under subsection (b)(1). The Plan shall provide a priority ranking among such waters, shall initially identify those waters determined to be of the highest priority, and shall set forth a schedule to complete the identification of all coastal waters that may merit inclusion under this paragraph. In identifying such waters, the state agency designated under section 306(c)(5) shall consult with the state water quality control agency and other appropriate state agencies. A determination by the state water quality control agency regarding the status of a body of coastal waters with respect to the water quality standards established under the Federal Water Pollution Control Act shall be accepted by such designated state agency.

"(2) In the absence of water quality standards established under the Federal Water Pollution Control Act applicable to coastal waters, the Plan shall provide for the identification of those coastal waters that the Governor of each coastal state, or the state agency designated under section 306(c)(5), in consultation with the state water quality control agency and other appropriate state agencies, determines (A) cannot reasonably be expected to support a balanced, indigenous population of fish, shellfish, and wildlife and to provide for recreation in or on its waters, and (B) may be improved with respect to water quality through the adoption of policies governing coastal land and water uses and activities identified under subsection (b)(1). The Plan shall provide a priority ranking among such waters, shall initially identify those waters determined to be of the highest priority, and shall set forth a schedule to complete the identification of all coastal waters that may merit inclusion under this subparagraph.

"(e) The Plan shall provide for the preservation and protection of coastal waters that are not covered by subsections (c) or (d) by allowing the application of any of the policies developed pursuant to subsections (c) or (d) to such waters if the state agency designated under section 306(c)(5), in consultation with other appropriate state agencies, determines that such action is necessary to preserve or protect coastal waters.

"(f)(1) The Secretary shall review and approve or return each Plan submitted under this section within 180 days after the date of its submission by the state. The Secretary shall approve the Plan if the Secretary finds that the Plan meets the requirements of subsection (b) and does not violate other law and that the state provided notice and an opportunity for public comment in the course of Plan preparation. If the Secretary finds that a Plan does not meet the requirements of subsection (b), that it violates other law, or that such notice and opportunity for comment was not provided, the Secretary shall return it to the state with specific recommendations for modifying the Plan or for such notice and opportunity for comment. The state shall submit the modified Plan to the Secretary within 180 days after such return. The Secretary may not return or disapprove a Plan on the grounds that the Plan contains provisions that are more stringent than provided under Federal law.

"(2) Once the Secretary has approved a Plan under this subsection, the Plan shall be considered part of the state's approved management program for all purposes and no subsequent approval shall be required for its implementation, including the designation of coastal waters of outstanding national significance under subsection (c) and the identification of coastal waters under subsections (d) and (e). Any amendments to the Plan submitted after the Plan's approval under this section shall be deemed to be an amendment to the state program subject to the requirements of section 306(g).

"(3) Except as provided in paragraph (4), and in the event that adequate funds are appropriated to implement this section, the Secretary—

"(A) shall withdraw any financial assistance under this section, and

"(B) may reduce any financial assistance extended to such state under section 306 but not below 80 per centum of the amount that would otherwise be available to the state under such section for any year,

if the Secretary finds that the state has failed to submit an approvable Plan as required by subsection (a) or, as part of the Secretary's continuing review of the state program, that the state has failed to implement the Plan as approved.

"(4) If the Secretary finds that a state has made satisfactory progress in developing a Plan under subsection (a) and that additional time is required to complete necessary statutory or regulatory actions, the Secretary may authorize one additional year for the state or comply with this section.

"(5) Any funds withheld under paragraph (3) shall be reallocated by the Secretary among those states that are in compliance with this section.

"(g) In considering whether to modify the inland boundary of the coastal zone pursuant to subsection (b)(8), each state management program shall consult with appropriate state agencies and the Environmental Protection Agency to determine the need to extend the inland boundary of its coastal zone in order to manage more effectively the lands whose uses significantly affect coastal waters. The Plan shall contain a report examining inland boundary issues and justifying the decision to modify or to maintain the existing inland boundary. Approval of the Plan by the Secretary shall constitute approval of any inland boundary changes provided by the Plan.

"(h) The Secretary shall provide technical assistance to states and local governments in developing and implementing the Plans required by subsection (a), including—

"(1) provision of methods for assessing the water quality impacts associated with coastal land uses and activities;

"(2) provision of methods for assessing the cumulative water quality impacts of coastal development; and

"(3) assistance in the development and implementation of model ordinances in accordance with subsection (b)(3).

"(i) Each state agency designated under section 306(c)(5) shall conduct a continuing review of the uses and activities identified under the Plan for its state and certify those uses and activities that meet the requirements of the Plan. State and Federal agencies shall not permit such an identified use or activity unless it has been certified under this subsection.

"(j)(1) The Secretary shall promulgate, within 12 months after the date of enactment of this section, regulations governing the incorporation of conservation and management plans developed under section 320 of the Federal Water Pollution Control Act into state management programs approved under this Act. If a state agency designated under section 306(c)(5) certifies that such a conservation and management plan complies with the regulations promulgated under this subsection, it shall be deemed approved as part of the state's management program under section 306.

"(2) The state agency designated under section 306(c)(5) shall appoint a representative to participate in each management conference convened under section 320 of the Federal Water Pollution Control Act that includes coastal lands and waters of its state.

"(k) The Secretary shall make grants to each coastal state with an approved program to cover at least 80 per centum of the costs incurred by the coastal state in fulfilling the requirements of this section.".

(d) Section 318 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1464) is amended—

(1) by redesignating subsection (d) as subsection (e); and

(2) by inserting immediately after subsection (c) the following new subsection:

"(d) There are authorized to be appropriated to the Secretary such sums, not to exceed $35,000,000 for each of the fiscal years occurring during the period beginning October 1, 1989, and ending September 30, 1994, as may be necessary for grants and other requirements under section 306B, to remain available until expended.".

SEA LEVEL RISE AND LAND SUBSIDENCE

SEC. 5. (a) Section 302 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1451), as amended by section 4, is further amended by adding at the end the following new subsection:

"(l) Global warming could result in a substantial sea level rise with serious adverse effects in the coastal zone and the states must anticipate and plan for such an occurrence.".

(b) Section 303(2) of the Coastal Zone Management Act of 1972 (16 U.S.C. 1452(2)), as amended by section 4, is further amended by inserting "present and future" immediately after "full consideration to".

(c) Section 303(2)(B) of the Coastal Zone Management Act of 1972 (16 U.S.C. 1452(2)(B)) is amended by striking "of subsidence" and inserting in lieu thereof the following: "likely to be affected by or vulnerable to sea level rise from global warming, land subsidence,".

(d) Section 303(2) of the Coastal Zone Management Act of 1972 (16 U.S.C. 1452(2)), as amended by section 4 and this section, is further amended—

(1) by striking "and" at the end of subparagraph (I), as so redesignated by section 4;

(2) by striking the semicolon in subparagraph (J), as so redesignated by section 4, and inserting in lieu thereof a comma; and

(3) by adding at the end the following new subparagraph:

"(K) the study, development, and implementation of management plans for addressing the adverse effects upon the coastal zone, of land subsidence and sea level rise caused by global warming, including adverse effects on coastal drinking water supplies, coastal infrastructures, ports and harbors, energy facilities, habitat and coastal wetlands, residential housing, storm surge protection, and the environment and economic

activity generally in the affected coastal areas; and".

(e) Section 303(3) of the Coastal Zone Management Act of 1972 (16 U.S.C. 1452(3)) is amended by inserting "including those areas likely to be affected by land subsidence or sea level rise caused by global warming," immediately after "hazardous areas,".

(f)(1) Section 304(1) of the Coastal Zone Management Act of 1972 (16 U.S.C. 1453(1)) is amended by striking "coastal waters." and inserting in lieu thereof "coastal waters, and to control those geographical areas which are likely to be affected by or vulnerable to a one-meter sea level rise from global warming.".

(2) Not later than 12 months after the date of enactment of this Act, coastal States with federally approved coastal zone management programs shall submit to the Secretary of Commerce amendments to their programs that take into account the provisions of paragraph (1) of this subsection.

COASTAL ZONE MANAGEMENT CONSISTENCY

SEC. 6. Section 307(c)(1) of the Coastal Zone Management Act of 1972 (16 U.S.C. 1456(c)(1)) is amended to read as follows:

"(c)(1) Each Federal agency activity within or outside the coastal zone that directly affects any land or water use or natural resource of the coastal zone or that may lead to such effects shall be carried out in a manner which is consistent to the maximum extent practicable with the approved state management programs. A Federal agency activity shall be subject to this paragraph unless it is subject to paragraph (2) or (3) of this subsection.".

COASTAL ZONE MANAGEMENT REVIEW

SEC. 7. Subsection (b) of section 312 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1458) is amended to read as follows:

"(b) For the purpose of making the evaluation of a coastal state's performance, the Secretary shall provide full opportunity for public participation including holding public meetings and at least one public hearing in the state being evaluated, as well as providing opportunity for the submission of written and oral comments by the public. Each such evaluation shall be prepared in report form and shall include written responses to the comments recieved during the evaluation process. Copies of the evaluation shall be promptly provided to the state being evaluated and to all those who participated in the evaluation process.".

REGIONAL COASTAL OCEAN MONITORING AND ASSESSMENT PROGRAM

SEC. 8. The National Ocean Pollution Planning Act of 1978 (33 U.S.C. 1701 et seq.) is amended by adding at the end the following new section:

"SEC. 11. REGIONAL COASTAL OCEAN MONITORING AND ASSESSMENT PROGRAM.

"(a) REGIONAL COASTAL STRATEGY.—The Administrator, in consultation with the Director and other appropriate Federal officials having authority over ocean pollution, research, and monitoring programs, shall develop, as part of the Plan, a Regional Coastal Ocean Monitoring and Assessment Strategy. The Strategy shall be developed and submitted, along with appropriate recommendations for legislation or other Federal action in support of the Strategy, to the Committee on Commerce, Science, and Transportation of the Senate and the Merchant Marine and Fisheries Committee of the House of Representatives within 6 months after the date of enactment of this section.

"(b) REGIONAL COASTAL PROGRAM.—The Strategy shall define, and develop recommendations for implementing, a Regional Coastal Ocean Monitoring and Assessment Program which complements the existing National Status and Trends Program of the Administration. The Program shall provide for comprehensive monitoring and assessment of the quality of the coastal ocean and estuarine environment and resources.

"(c) FACTORS IN DEVELOPMENT OF STRATEGY.—In developing the Strategy, the Administrator shall—

"(1) identify the informational requirements necessary to protect and manage regional coastal and estuarine resources;

"(2) evaluate the information available through existing Federal, State, and local monitoring efforts;

"(3) determine what additional information is required and establish priorities for completing a comprehensive monitoring network;

"(4) define the data management requirements necessary to ensure that the data collected is readily accessible for protecting and managing regional coastal and estuarine resources;

"(5) describe an effective process that can be established for coordinating and administering the regional programs;

"(6) provide for national standardization of procedures and formats to be used in making measurements by regional programs; and

"(7) specify ways to ensure that regional measurements are compiled and integrated into the information system of the National Status and Trends Program of the Administration.

"(d) AUTHORIZATION.—There are authorized to be appropriated to the Administration for the purposes of carrying out this section not to exceed $300,000.".

SUMMARY OF THE COASTAL ZONE IMPROVEMENT ACT OF 1989

Section 1 gives the short title of the Act, and Section 2 lists the Congressional findings and purpose of the legislation.

Section 3 elevates the Office of Coastal Zone Management in the National Oceanic and Atmospheric Administration (NOAA) to full line office status, comparable to NOAA's fisheries, weather, research, and satellite programs. This elevation recognizes the increased importance Congress places on the coastal zone management program and raises the program to a level equal to that of NOAA's other major missions.

Section 4 amends the Coastal Zone Management Act to provide a stronger link between existing state water quality agencies and state coastal zone management agencies. Strengthening the relationship between these agencies will improve our ability to address land-based activities which degrade coastal waters.

The section calls for state coastal zone management agencies to implement an overall plan that preserves, restores, and protects coastal waters. By implementing the plan, coastal states will improve the management of land and water uses that affect coastal water quality and thereby reduce coastal pollution and preserve wetland and marine habitats. The plan will focus primarily on pristine and degraded waters, but will provide model ordinances for the management of all coastal waters. The section authorizes $35 million annually for the development and implementation of state plans.

Section 5 will enable and encourage state coastal zone management programs to address the problems and impacts associated with sea level rise caused by global warming.

Section 6 strengthens the Federal consistency provisions of the Coastal Zone Management Act by reversing the 1984 Supreme Court decision, *Secretary of the Interior v. California*. This section makes it clear that Congress, in passing the CZMA, fully intended to create a partnership between the states and the Federal government. Furthermore, Congress intends for coastal states to once again play a major role in decisions which affect those states' coastal zone.

Section 7 provides for increased public paritipation in the Federal review process by which state coastal zone management agencies are evaluated.

Section 8 calls for the NOAA Administrator and the President's Science Advisor to develop a regional coastal water quality monitoring program to complement the ongoing National Status and Trends Program. The new effort will be designed to focus on regional problems in order to assist environmental decision-makers. The program will provide nationwide monitoring standards and will ensure that regional information is integrated into the national monitoring system.

By Mr. PELL:

S. 1190. A bill to establish in the Department of Education and Office of Correctional Education, and for other purposes; to the Committee on Labor and Human Resources.

OFFICE OF CORRECTIONAL EDUCATION ACT

● Mr. PELL. Mr. President, I am pleased to introduce today a bill which would create within the Department of Education an office of correctional education.

The need for this legislation is long overdue. Of the approximately 700,000 people in correctional facilities today, at least one-third have serious drug problems; 80 percent of the adults have no high school diploma; and 75 percent are functionally illiterate. The number of people in prison has increased by more than three-quarters since 1980, and, sadly, this growth will most certainly accelerate in the years ahead. Clearly, we can no longer ignore the issue of educating the incarcerated as a route toward rehabilitation.

Ninety percent of the adults in prison will return to the community within the next 5 to 10 years, and nearly two-thirds of them will return to prison. The reason for this, in my mind, is the lack of focus on education and rehabilitation while an individual is incarcerated. They leave as they enter—without a marketable skill, or the ability to read or write—and they remain in the revolving door to prison.

As I have said many times before, it costs more to send a kid to jail than to Yale. This fact would not be so staggering if this money were used for rehabilitation, but regrettably, it is not.

My bill simply emphasizes that greater attention and organization must be given to the area of correctional education. Until we are commit-

ted to assisting prisoners by providing the tools which are necessary to survive in our world without the need to resort to crime, we as a society will continue to pay dearly. I view this legislation as an initial step toward that goal.

I ask unanimous consent that the text of the legislation be printed in the RECORD at this point.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 7190

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Office of Correctional Education Act of 1989".

SEC. 2. CORRECTIONAL EDUCATION.

Title II of the Department of Education Organization Act is amended by—

(1) redesignating sections 213 and 214 as sections 214 and 215, respectively; and

(2) inserting the following new section 213 after section 212:

"OFFICE OF CORRECTIONAL EDUCATION

"SEC. 213. (a) FINDINGS.—The Congress finds and declares that—

"(1) education is important to, and makes a significant contribution to, the adjustment of individuals in society; and

"(2) there is a growing need for immediate action by the Federal Government to assist State and local educational programs for criminal offenders in correctional institutions.

"(b) STATEMENT OF PURPOSE.—It is the purpose of this Act to encourage and support educational programs for criminal offenders in correctional institutions.

"(c) ESTABLISHMENT OF OFFICE.—The Secretary of Education shall establish within the Department of Education an Office of Correctional Education.

"(d) FUNCTIONS OF OFFICE.—The Secretary, through the Office of Correctional Education established under subsection (a) of this section, shall—

"(1) coordinate all correctional education programs within the Department of Education;

"(2) provide technical support to State and local educational agencies on correctional education and programs and curricula;

"(3) provide an annual report to the Congress on the progress of the Office of Correctional Education and the status of correctional education in the United States;

"(4) cooperate with other Federal agencies carrying out correctional education programs to ensure coordination of such program; and

"(5) advise the Secretary on correctional education policy.

"(e) DEFINITIONS.—As used in this section—

"(1) the term 'criminal offender' means any individual who is charged with or convicted of any criminal offense, including a youth offender or a juvenile offender;

"(2) the term 'correctional institution' means any—

"(A) prison,

"(B) jail,

"(C) reformatory,

"(D) work farm,

"(E) detention center, or

"(F) halfway house, community-based rehabilitation center, or any other similar institution designed for the confinement or rehabilitation of criminal offenders;

"(3) the term 'Secretary' means the Secretary of Education;

"(4) the term 'State' means any State of the United States, the District of Columbia, and the Commonwealth of Puerto Rico; and

"(5) the term 'State educational agency' means the State board of education or other agency or officer primarily responsible for the State supervision of public elementary and secondary schools, or, if there is no such officer or agency, an officer or agency designated by the Governor or by State law.".●

ADDITIONAL COSPONSORS

S. 82

At the request of Mr. THURMOND, the names of the Senator from Virginia [Mr. WARNER] and the Senator from Kansas [Mrs. KASSEBAUM] were added as cosponsors of S. 82, a bill to recognize the organization known as the 82nd Airborne Division Association, Incorporated.

S. 232

At the request of Mr. MOYNIHAN, the name of the Senator from Vermont [Mr. JEFFORDS] was added as a cosponsor of S. 232, a bill to establish the American Conservation Corps, and for other purposes.

S. 335

At the request of Mr. MCCAIN, the name of the Senator from Delaware [Mr. BIDEN] was added as a cosponsor of S. 335, a bill to amend title XVIII of the Social Security Act and other provisions of law to delay for 1 year the effective dates of the supplemental Medicare premium and additional benefits under Part B of the Medicare Program, with the exception of the spousal impoverishment benefit.

S. 341

At the request of Mr. HOLLINGS, the names of the Senator from Michigan [Mr. RIEGLE] and the Senator from Oregon [Mr. HATFIELD] were added as cosponsors of S. 341, a bill to amend the Federal Aviation Act of 1958 to prohibit discrimination against blind individuals in air travel.

S. 454

At the request of Mr. ROCKEFELLER, the name of the Senator from Mississippi [Mr. LOTT] was added as a cosponsor of S. 454, a bill to provide additional funding for the Appalachian development highway system.

S. 455

At the request of Mr. ROCKEFELLER, the name of the Senator from Mississippi [Mr. LOTT] was added as a cosponsor of S. 455, a bill to extend the Appalachian Regional Development Act of 1965 and to provide authorizations for the Appalachian Highway and Appalachian Area Development Programs.

S. 464

At the request of Mr. SANFORD, the name of the Senator from Nevada [Mr. REID] was added as a cosponsor of S. 464, a bill to promote safety and health in workplaces owned, operated or under contract with the United States by clarifying the United States' obligation to observe occupational safety and health standards and clarifying the United States' responsibility for harm caused by its negligence at any workplace owned by, operated by, or under contract with the United States.

S. 488

At the request of Mr. FOWLER, the name of the Senator from New Mexico [Mr. DOMENICI] was added as a cosponsor of S. 488, a bill to provide Federal assistance and leadership to a program of research, development, and demonstration of renewable energy and energy efficiency technologies, and for other purposes.

S. 513

At the request of Ms. MIKULSKI, the names of the Senator from New York [Mr. MOYNIHAN], the Senator from New York [Mr. D'AMATO], the Senator from Washington [Mr. ADAMS], the Senator from Virginia [Mr. WARNER], the Senator from South Carolina [Mr. HOLLINGS], the Senator from Indiana [Mr. COATS], the Senator from Oklahoma [Mr. BOREN], the Senator from Hawaii [Mr. INOUYE], the Senator from Hawaii [Mr. MATSUNAGA], and the Senator from New Mexico [Mr. DOMENICI] were added as cosponsors of S. 513, a bill to amend chapters 83 and 84 of title 5, United States Code, to extend certain retirement provisions of such chapters which are applicable to law enforcement officers to inspectors of the Immigration and Naturalization Service, inspectors and canine enforcement officers of the U.S. Customs Service, and revenue officers of the Internal Revenue Service.

S. 620

At the request of Mr. STEVENS, the name of the Senator from Alaska [Mr. MURKOWSKI] was added as a cosponsor of S. 620, a bill for the relief of Leroy W. Shebal of North Pole, AK.

S. 640

At the request of Mrs. KASSEBAUM, the name of the Senator from Idaho [Mr. MCCLURE] was added as a cosponsor of S. 640, a bill to regulate interstate commerce by providing for uniform standards of liability for harm arising out of general aviation accidents.

S. 659

At the request of Mr. SYMMS, the name of the Senator from Mississippi [Mr. COCHRAN] was added as a cosponsor of S. 659, a bill to repeal the estate tax inclusion related to valuation freezes.

S. 691

At the request of Mr. LAUTENBERG, the name of the Senator from Kentucky [Mr. MCCONNELL] was added as a cosponsor of S. 691, a bill to require certain information in the National Driver Register to be made available in connection with an application for a license to be in control and direction of a commercial vessel.

S. 771

At the request of Mr. REID, the name of the Senator from Connecticut [Mr. DODD] was added as a cosponsor of S. 771, a bill to amend the Internal Revenue Code of 1986 to disallow deductions for costs in connection with oil and hazardous substances cleanup unless the requirements of all applicable Federal laws concerning such cleanup are met, and for other purposes.

S. 804

At the request of Mr. MITCHELL, the name of the Senator from Delaware [Mr. ROTH] was added as a cosponsor of S. 804, a bill to conserve North American wetland ecosystems and waterfowl and the other migratory birds and fish and wildlife that depend upon such habitats.

S. 828

At the request of Mr. DOMENICI, the names of the Senator from Mississippi [Mr. LOTT] and the Senator from Utah [Mr. HATCH] were added as cosponsors of S. 828, a bill to amend the Internal Revenue Code of 1986 to provide incentives for the removal of crude oil and natural gas through enhanced oil recovery techniques so as to add as much as 10 billion barrels to the U.S. reserve base, to extend the production of certain stripper oil and gas wells, and for other purposes.

S. 1115

At the request of Mr. EXON, the names of the Senator from Iowa [Mr. HARKIN], the Senator from Kentucky [Mr. FORD], the Senator from South Dakota [Mr. PRESSLER], and the Senator from Arizona [Mr. DECONCINI] were added as cosponsors of S. 1115, a bill to amend the Rural Electrification Act of 1936 to permit the prepayment and refinancing of Federal Financing Bank loans made to rural electrification and telephone systems, and for other purposes.

S. 1162

At the request of Mr. KOHL, the name of the Senator from Virginia [Mr. ROBB] was added as a cosponsor of S. 1162, a bill to amend the Congressional Budget Act of 1974 to require the Committees on the Budget to adopt the economic and technical assumptions of the Congressional Budget Office in preparing the concurrent resolution on the budget for a fiscal year.

Mr. KOHL. Mr. President, yesterday I introduced S. 1162, a bill requiring Congress to use CBO economic assumptions during its budget debate. As I noted in my statement, Senators CONRAD and ROBB joined me as original cosponsors of the bill. Senator ROBB, as my colleagues are aware, has been a leader on the Budget Committee and here on the floor for this kind of legislation.

Through some oversight, Senator ROBB's name was not included as a cosponsor. I would like to apologize for that mistake. He has been involved with this proposal from the ground floor and should have been recognized as an original cosponsor.

Mr. President, I ask unanimous consent that Senator ROBB be added as a cosponsor of S. 1162.

SENATE JOINT RESOLUTION 10

At the request of Mr. THURMOND, the name of the Senator from Vermont [Mr. JEFFORDS] was added as a cosponsor of Senate Joint Resolution 10, a joint resolution to designate the month of May 1989 as "National Foster Care Month."

SENATE JOINT RESOLUTION 15

At the request of Mr. PRESSLER, the name of the Senator from Missouri [Mr. BOND] was added as a cosponsor of Senate Joint Resolution 15, a joint resolution to designate the second Sunday in October of 1989 as "National Children's Day."

SENATE JOINT RESOLUTION 19

At the request of Mr. BURNS, the names of the Senator from Delaware [Mr. ROTH], the Senator from Utah [Mr. GARN], the Senator from Minnesota [Mr. DURENBERGER], the Senator from Idaho [Mr. SYMMS], the Senator from Kentucky [Mr. MCCONNELL], the Senator from Alaska [Mr. MURKOWSKI], the Senator from Alaska [Mr. STEVENS], the Senator from Mississippi [Mr. COCHRAN], the Senator from Mississippi [Mr. LOTT], the Senator from New Mexico [Mr. DOMENICI], the Senator from Florida [Mr. MACK], the Senator from New Hampshire [Mr. RUDMAN], the Senator from Pennsylvania [Mr. HEINZ], the Senator from Indiana [Mr. COATS], the Senator from Missouri [Mr. BOND], the Senator from South Dakota [Mr. PRESSLER], the Senator from Wisconsin [Mr. KASTEN], the Senator from Idaho [Mr. MCCLURE], the Senator from Texas [Mr. GRAMM], the Senator from Kansas [Mr. DOLE], the Senator from Oklahoma [Mr. NICKLES], the Senator from Missouri [Mr. DANFORTH], the Senator from Colorado [Mr. ARMSTRONG], the Senator from Maine [Mr. COHEN], the Senator from Pennsylvania [Mr. SPECTER], the Senator from Colorado [Mr. WIRTH], the Senator from Tennessee [Mr. SASSER], the Senator from Delaware [Mr. BIDEN], the Senator from Louisiana [Mr. JOHNSTON], the Senator from North Dakota [Mr. CONRAD], the Senator from Oklahoma [Mr. BOREN], the Senator from South Dakota [Mr. DASCHLE], the Senator from Michigan [Mr. RIEGLE], the Senator from Arkansas [Mr. BUMPERS], the Senator from North Dakota [Mr. BURDICK], the Senator from Louisiana [Mr. BREAUX], the Senator from Hawaii [Mr. INOUYE], the Senator from Alabama [Mr. HEFLIN], the Senator from Nebraska [Mr. KERREY], the Senator from Connecticut [Mr. DODD], the Senator from Nevada [Mr. REID], the Senator from Connecticut [Mr. LIEBERMAN], the Senator from West Virginia [Mr. ROCKEFELLER], the Senator from Illinois [Mr. DIXON], the Senator from Illinois [Mr. SIMON], the Senator from North Carolina [Mr. SANFORD], the Senator from Alabama [Mr. SHELBY], the Senator from Georgia [Mr. FOWLER], the Senator from Nevada [Mr. BRYAN], the Senator from Georgia [Mr. NUNN], the Senator from Massachusetts [Mr. KENNEDY], and the Senator from New Mexico [Mr. BINGAMAN] were added as cosponsors of Senate Joint Resolution 19, a joint resolution to designate November 8, 1989, as "Montana Centennial Day."

SENATE JOINT RESOLUTION 55

At the request of Mr. SIMON, the name of the Senator from Mississippi [Mr. LOTT] was added as a cosponsor of Senate Joint Resolution 55, a joint resolution to designate the week of October 1, 1989, through October 7, 1989, as "Mental Illness Awareness Week."

SENATE JOINT RESOLUTION 86

At the request of Mr. RIEGLE, the names of the Senator from Florida [Mr. GRAHAM], the Senator from New Mexico [Mr. DOMENICI], the Senator from Oregon [Mr. HATFIELD], and the Senator from Idaho [Mr. MCCLURE] were added as cosponsors of Senate Joint Resolution 86, a joint resolution designating November 17, 1989, as "National Philanthropy Day."

SENATE JOINT RESOLUTION 127

At the request of Mr. SIMON, the names of the Senator from New Hampshire [Mr. HUMPHREY], the Senator from Nevada [Mr. REID], the Senator from Colorado [Mr. WIRTH], the Senator from Delaware [Mr. ROTH], the Senator from Wyoming [Mr. SIMPSON], the Senator from Texas [Mr. GRAMM], and the Senator from Georgia [Mr. NUNN] were added as cosponsors of Senate Joint Resolution 127, a joint resolution designating Labor Day weekend, September 2-4, 1989, as "National Drive for Life Weekend."

SENATE JOINT RESOLUTION 137

At the request of Mr. KASTEN, the names of the Senator from Nevada [Mr. BRYAN] and the Senator from Wyoming [Mr. SIMPSON] were added as cosponsors of Senate Joint Resolution 137, a joint resolution designating January 7, 1990, through January 13, 1990, as "National Law Enforcement Training Week."

SENATE CONCURRENT RESOLUTION 44—REGARDING THE FUNERAL OF IMRE NAGY, FORMER PRIME MINISTER OF HUNGARY

Mr. DODD (for himself, Mr. DOLE, and Mr. KENNEDY) submitted the following concurrent resolution; which was considered and agreed to:

S. CON. RES. 44

Whereas on October 23, 1956, students, workers, and other citizens of Budapest, Hungary, united in a peaceful demonstration to express the desire of the Hungarian people for independence and freedom;

Whereas after security forces fired on the crowd, the demonstration turned into an uprising and freedom fight;

Whereas days of herioc fighting by the people of Hungary led to a temporary ceasefire and the formation of an interim government based on the consent of the people and led by Prime Minister Imre Nagy;

Whereas the short-lived government of Imre Nagy started the first steps toward a free and independent Hungary with a multiparty system based on the idea of popular sovereignty;

Whereas on November 4, 1956, an overwhelming Soviet force entered Hungary and in fierce, bloody fighting suppressed the revolution and restored Soviet domination over Hungary;

Whereas in the course of such fighting thousands of freedom-loving Hungarians lost their lives;

Whereas Prime Minister Imre Nagy and his close associates were taken into Soviet custody, and later tried and executed under false charges;

Whereas brutal and bloody retribution followed the extinction of the Hungarian revolution, and hundreds of ordinary freedom fighters were executed in addition to the top leaders of such revolution;

Whereas the present Government of Hungary has announced a radical reform of the entire political and economic system of the country;

Whereas the stated aim of such reforms is the establishment of a free and independent Hungary, with a pluralistic, multiparty political system where human rights will be respected;

Whereas the Hungarian Government has identified the secret burial sites of the executed revolutionaries of 1956, and allows their exhumation and proper public interment;

Whereas on June 16, 1989, in a public, televised funeral, the remains of Prime Minister Imre Nagy and four of his closest associates, as well as a casket representing all of the other executed victims, will be buried in Budapest with full dignity;

Whereas the Government of Hungary has announced its intention to declare the innocence of Imre Nagy and his associates;

Whereas the current Prime Minister of Hungary, the Speaker of the Parliament, and other officials of the Hungarian Government expressed an intent to attend the funeral;

Whereas hundreds of American citizens, who are former Hungarian freedom fighters, are traveling to Budapest to attend the funeral ceremonies and pay respect to the heroes of 1956;

Whereas the Hungarian revolution of 1956 was a watershed event in modern history and represented the first major sign of the inevitability of the destruction of Stalinism; and

Whereas it is the view of the people and the Government of the United States that the cause of human freedom is universal and that the Hungarian freedom fighters fought and died for the liberty of mankind: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That—

(1) it is the sense of the Congress that the funeral of Imre Nagy and other heroes of the Hungarian revolution of 1956 is a significant symbol of reconciliation and reform in Hungary; and should give further strength to the forces of democracy and pluralism in Hungary;

(2) Congress expresses sincere respect for the memory of Imre Nagy and all of the martyrs of the Hungarian revolution of 1956; and

(3) the Secretary of the Senate is authorized and requested to send a copy of this concurrent resolution to the Government of Hungary.

AMENDMENTS SUBMITTED

NATURAL GAS DECONTROL ACT OF 1989

BRADLEY AMENDMENT NO. 195

Mr. BRADLEY proposed an amendment to the bill (H.R. 1722) to amend the Natural Gas Policy Act of 1978 to eliminate wellhead price and nonprice controls on the first sale of natural gas, and make technical and conforming amendments to such Act, as follows:

Insert the following at the appropriate place:

Section .

The Federal Energy Regulatory Commission may require, by rule or order, any interstate pipeline to transport natural gas. Such rules or orders may be issued under both the Natural Gas Policy Act and the Natural Gas Act.

NOTICES OF HEARINGS

SUBCOMMITTEE ON FEDERAL SERVICES, POST OFFICE, AND CIVIL SERVICE

Mr. PRYOR. Mr. President, I would like to announce that the Subcommittee on Federal Services, Post Office, and Civil Service, of the Committee on Governmental Affairs, will hold a hearing on Friday, June 16, 1989. The focus of the hearing will be to examine policy issues regarding operational testing, as well as contracting practices. The subcommittee will hear witnesses from the Office of Test and Evaluation, the General Accounting Office, and the Office of the Inspector General, Department of Defense.

The hearing is scheduled for 9:30 a.m., in room 628 of the Senate Dirksen Office Building. For further information please contact Ed Gleiman, subcommittee staff director, on 224-2254.

Mr. President, I would like to announce that the Subcommittee on Federal Services, Post Office, and Civil Service, of the Committee on Governmental Affairs, will hold a hearing on Monday, June 19, 1989. The focus of the hearing will be to examine Federal recruitment policies and practices. The subcommittee will hear witnesses from the Office of Personnel Management, the General Accounting Office, the National Commission on the Public Service, the General Services Administration, the Department of the Air Force, and various employee groups.

The hearing is scheduled for 10 a.m. in room 342 of the Senate Dirksen Office Building. For further information please contact Ed Gleiman, subcommittee staff director, on 224-2254.

SELECT COMMITTEE ON INDIAN AFFAIRS

Mr. INOUYE. Mr. President, I would like to announce that the Select Committee on Indian Affairs will be holding a Confirmation Hearing on Tuesday, June 20, 1989, beginning at 11 a.m., in 485 Russell Senate Office Building to confirm Dr. Eddie Brown as the Assistant Secretary for Indian Affairs, Department of the Interior.

Those wishing additional information should contact the Select Committee on Indian Affairs at 224-2251.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON FINANCE

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on Finance be authorized to meet during the session of the Senate on June 14, 1989, at 11 a.m. to hold a hearing on Super 301 and Special 301, the fourth in a series of hearings on oversight of the Omnibus Trade and Competitiveness Act of 1988.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON ENERGY RESEARCH AND DEVELOPMENT

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Subcommittee on Energy Research and Development of the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate June 14, 1989, 2 p.m. for a hearing to receive testimony on the Department of Energy's role in the area of magnetic fusion and inertial confinement fusion research and development and demonstration; the Department of Energy's fiscal year 1990 budget request for the Office of Fusion Energy; and on the relevant provisions of S. 964, a bill to authorize appropriations to the Department of Energy for civilian energy programs for fiscal years 1990 and 1991.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation, be authorized to meet

during the session of the Senate on June 14, 1989, at 2:30 p.m. to hold a hearing on the nomination of James B. Busey, of Illinois, to be Administrator of the Federal Aviation Administration and on S. 1077, legislation to allow Mr. Busey to retain his military commission while serving in this position.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON COMMUNICATIONS

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Communications Subcommittee, of the Committee on Commerce, Science, and Transportation, be authorized to meet during the session of the Senate on June 14, 1989, at 9 a.m. to hold a hearing on media ownership: Diversity and concentration which will focus on the media and its ownership patterns.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON STRATEGIC FORCES AND NUCLEAR DETERRENCE

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Subcommittee on Strategic Forces and Nuclear Deterrence of the Committee on Armed Services be authorized to meet on Wednesday, June 14, 1989, at 9:30 a.m. in closed/open session to receive testimony on NATO nuclear deterrence in review of S. 1095, the Department of Defense authorization bill for fiscal years 1990-91.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ARMED SERVICES

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet on Wednesday, June 14, 1989, at 2 p.m. in open session to receive testimony on the balanced technology initiative and international armaments cooperation in review of S. 1085, the Department of Defense authorization bill for fiscal years 1990-91.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON SECURITIES

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Subcommittee on Securities of the Committee on Banking, Housing, and Urban Affairs be allowed to meet during the session of the Senate Wednesday, June 14, 1989, at 9:30 a.m., to conduct hearings on the globalization of securities markets, and S. 646, the International Securities Enforcement Cooperation Act of 1989.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON RULES AND ADMINISTRATION

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on Rules and Administration be authorized to meet during the session of the Senate on Wednesday, June 14, 1989, at 10:30 a.m., to hold a hearing to receive testimony from individuals and organizations on their views on Congressional campaign finance legislation—Senate bills 7, 56, 137, 242, 330, 332, 359, and 597.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON VETERANS' AFFAIRS

Mr. MITCHELL. Mr. President, the Committee on Veterans' Affairs would like to request unanimous consent to hold a hearing on mental health and health-facility-security legislation an oversight (part A of title II and section 221 of S. 13, S. 86, S. 192, S. 405, S. 846, and amendment No. 124 (to S. 13) on Wednesday, June 14, 1989, at 9 a.m. in SR-418.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON NUTRITION AND INVESTIGATIONS

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Subcommittee on Nutrition and Investigations of the Committee on Agriculture, Nutrition, and Forestry, be authorized to meet during the session of the Senate on Wednesday, June 14, 1989, at 2 p.m. to hold a hearing on the reauthorization of the Child Nutrition Programs and the Special Supplemental Food Program on WIC.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on Agriculture, Nutrition, and Forestry be authorized to meet during the session of the Senate on Wednesday, June 14, 1989, at 9 a.m. in S.R. 332 to mark up S. 1036, the Rural Partnerships Act of 1989.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Wednesday, June 14, at 2 p.m. to hold a business meeting to mark up foreign assistance legislation for fiscal year 1990 and to vote on pending nominations and legislation.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS—AGENDA

(Revised Markup and Vote, Foreign Assistance Authorization Legislation for Fiscal Year 1990, Wednesday, June 14, 1989, 2 p.m.)

When a voting quorum is present during this markup, the Committee will consider and vote on the following business items:

I. LEGISLATION

S. Con. Res. 42, expressing the sense of the Congress concerning the funeral of Imre Nagy, the former Prime Minister of Hungary, and other heroes of the 1956 revolution in Hungary.

II. NOMINATIONS

(1) Mr. Thomas Michael Tolliver Niles, of the District of Columbia, to be the U.S. Representative to the European Communities, with the rank and status of Ambassador.

(2) Mr. Joseph Zappala,* of Florida, to be Ambassador to Spain.

(3) Mr. Morton I. Abramowitz, of the District of Columbia, to be Ambassador to Turkey.

(4) Mr. Edward N. Ney, of New York, to be Ambassador to Canada.

(5) Mr. C. Howard Wilkins, Jr., of Kansas, to be Ambassador to the Kingdom of the Netherlands.

(6) Mr. Richard H. Solomon, of the District of Columbia, to be an Assistant Secretary of State for East Asia and Pacific Affairs.

(7) Ms. Della M. Newman,* of Washington, to be Ambassador to New Zealand and to serve concurrently as Ambassador to Western Samoa.

(8) Mr. Robert D. Orr, of Indiana, to be Ambassador to the Republic of Singapore.

(9) Mr. Melvin F. Sembler, of Florida, to be Ambassador to Australia and to serve concurrently as Ambassador to the Republic of Nauru.

(10) Mr. Melvyn Levitsky, of Maryland, to be Assistant Secretary of State for International Narcotics Matters.

(11) Ms. Jewel S. Lafontant, of Illinois, to be U.S. Coordinator for Refugee Affairs and Ambassador-at-Large while serving in this position.

(12) Mr. E. Patrick Coady, of Virginia, to be U.S. Executive Director of the International Bank for Reconstruction and Development for a term of two years.

*These nominees are provisionally included on the agenda assuming that inconsistencies between the OGE report and the Committee questionnaire relative to political contributions are clarified prior to June 14.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

FLAG DAY

● Mr. BOREN. Mr. President, June 14 marks a historical day for our country. Today, we celebrate Flag Day 1989. We should let this day stand as a reminder which exemplifies what our flag symbolizes: red and white stripes, 13 in number, representing the Original 13 Colonies, and 50 stars on a field of blue to represent the 50 States that comprise our great Nation.

The colors of our flag bring to mind over 200 years of sacrifice and heroism that American service men and women have accounted for to ensure that we maintain the most prominent system of government our world has ever seen, democracy. The flag is a symbol of national unity and quiet patriotism representing the many factions of our society: teachers, doctors, farmers, lawyers, factory workers, and businessmen; all bound by the common thread of our proud citizenship.

As Maj. Gen. Arthur MacArthur once stated, "The flag of the American

Union is a visible symbol of the ideal aspirations of the American people. It is the one focus in which all unite in reverential devotion."

Being an executive committee member for the U.S. Capitol Historical Society, I stand here today in recognition not only of the flag, but also in recognition of the Historical Society. Founded in 1962, the society has undertaken research and committed itself to indepth studies of our Capitol and of Congress. The major drive of the society is to stimulate an increased sense of patriotism across the land. An example of their work is a 40-page booklet containing eight full pages of color illustrations on the U.S. flag and State flags, seals, and mottoes. It was recently published for Flag Day and inspired by the National Flag Day Foundation in Baltimore. The book is a valuable educational tool to help children learn about State symbols and their traditions. It will also serve as a resource of information to many patriotic Americans. I encourage my colleagues, interest in the society and wish to express my appreciation for their hard work and dedication shown to our Nation.

In classrooms today, future leaders study the tragedies endured by millions that enabled us to enjoy the system of government we presently see others so desperately striving to obtain. The broad stripes and bright stars of Old Glory help enable us to realize the blessings of democracy.●

CLOSED CAPTIONED BROADCASTING OF FLOOR PROCEEDINGS

● Mr. D'AMATO. Mr. President, I rise today as a cosponsor of Senate Resolution 13 which would amend Senate rules to require the closed captioned broadcasting of floor proceedings for the hearing impaired. I commend my colleagues, Senators DOLE, MITCHELL, MCCAIN, and HARKIN, for introducing this important resolution. It is essential that we take the necessary steps to offer hearing impaired persons full access to live coverage of Senate floor proceedings.

There are over 20 million hearing impaired individuals in America who, despite the availability of real-time—instantaneous—captioning since 1982, are still denied access to the daily proceedings of the U.S. Senate. Given the current level of captioning technology, there is absolutely no reason for this situation to continue.

Virtually every major organization representing the hearing impaired has recognized that the provision of captioned service would make for a more informed and active citizenry. Supporting this view, the Commission on Education of the Deaf has strongly recommended that congressional proceedings be captioned. Clearly, individuals with hearing impairments are entitled, as citizens and as taxpayers, to witness the floor actions of their elected representatives.

Currently, the three major networks use real-time captioning for news broadcasts, Presidential speeches, press conferences, and various public affairs programs. The application of this service to Senate floor proceedings would give us an invaluable opportunity to serve our hearing impaired constituents in a practical and feasible manner. I therefore encourage my colleagues to join me in support of Senate Resolution 13, and I urge its immediate passage.●

TONY SPINA

● Mr. LEVIN. Mr. President, long after most words of journalism fade from our memories, the photographs that illuminate the prose remain. Often the best of these images stand alone to evoke the events of our time in a language that is unique to each of us.

For more than 40 years Tony Spina has displayed this eloquence on the pages of the Detroit Free Press and in newspapers across the country. He leaves his post as chief photographer of the Free Press this month to concentrate on his widely respected photography column and special photo projects.

Tony's dedication to the craft—what he has called the challenge of taking pictures that communicate—has earned him more than 450 national and international awards, including the highest honor of the National Press Photographers' Association. From the Detroit Institute of Arts to the Vatican, Tony's eye and technique have been celebrated in more than 80 one-man shows.

Words cannot do justice to pictures, but this man who has brought us so close over the years to Popes and Presidents and peasant children wrote once that his pictures should be measured in how clearly and how well they tell the story. And thousands of people whom you will never see or never meet will decide that.

Fortunately, thousands more each year will get a chance to decide for themselves, because the photographs of Tony Spina will always be with us.●

COASTAL PROTECTION ACT AND THE COMPREHENSIVE OCEAN ASSESSMENT AND STRATEGY ACT

● Mr. D'AMATO. Mr. President, I rise as an original cosponsor of the two coastal protection bills being introduced today by the distinguished majority leader and the Senator from New Jersey. I would like to commend them both for their leadership in protecting our precious marine resources.

As millions of Americans flock to the seashore this summer they are expecting to find that their beaches are no longer under seige from syringes, sewage, and garbage as they were last year. Memories of numerous beach closings last summer cling freshly in their minds.

The impacts of beach closings were quite significant in New York, especially on Long Island. New York State officials reported that attendance at Jones Beach State Park was off 50 percent from 1987 and off 45 percent at Robert Moses State Park. Many businesses on the island's south shore reported that their profits were off 60 percent over 1987. Many on the island continue to fear that real estate values in seaside communities will drop and that the positive economic development that has taken place in these areas will decline.

One thing is certain as the 1989 beach season begins, the events of last summer must be avoided.

The Coastal Protection Act and the Comprehensive Ocean Assessment and Strategy [COAST] Act are multifaceted approaches to preventing further degradation of our coastal waters and for cleaning up existing pollution.

First and foremost, both bills require the EPA to conduct an overall assessment of coastal waters and to designate those areas experiencing severe degradation. The EPA must then work with the States to develop management conferences to deal with the polluted areas. The EPA Administrator would be given special authority to require more stringent requirements for discharge permits, wetlands assessments, stormwater discharges, and nonpoint pollution control.

In response to washups last summer, the New York State Department of Environmental Conservation conducted an investigation into the causes. The report, which was released in December, identified five significant sources of washups: the fresh kills landfill in New York City, Marine garbage transfer stations, raw sewage discharges, stormwater runoff, and combined sewer overflow [CSO].

The legislation that is being introduced today addresses many of these sources of pollution. Both will restrict point source discharges into coastal waters, establish a national coastal registry to provide information to eliminate nonpoint source pollution, and require States to complete an inventory of combined sewers and assess the potential for eliminating the discharges.

Combined sewers are regarded by many to be a major source of pollution in coastal areas. Senator MOYNIHAN and I recently wrote to the Acting Administrator in EPA's region 2 office requesting that he report back to us on what the EPA was doing in conjunc-

tion with New York City to combat the CSO problem. The EPA reported that, among other efforts, the city is engaged in a long-term strategy to construct various treatment facilities which are not combined sewers. This particular program is expected to cost $1.5 billion over the next 10 years.

The 1988 Needs Survey, issued by the EPA, states that $16.4 billion is needed to correct the CSO problem nationwide. The need for New York City alone is $5 billion. The survey further states that complete implementation of long-term programs is expected to take 20 years.

The legislation being introduced today takes a tough approach to a very serious problem. The quality of life in our coastal areas is so dependent upon our marine resources. We must act now to protect them from further degradation before we lose this most precious and valuable resource.●

VERY SPECIAL ARTS JOINS FORCES WITH VARIETY CLUBS INTERNATIONAL

● Mr. HARKIN. Mr. President, I rise today to inform my colleagues about a unique collaboration between two service organizations which benefit children with disabilities in all 50 States and around the world. Very Special Arts, an international organization established to provide educational programs for mentally and physically challenged individuals of all ages, and Variety Clubs International, a charitable organization which supports programs for sick and disabled children in every corner of the globe, have structured a joint program aimed at achieving their mutual objectives. It is the kind of public-private sector partnership which will encourage volunteerism and supplement limited Federal dollars to expand vital services.

It is particularly fitting that this agreement be announced today, during Very Special Arts very first International Festival. Throughout this week in the Nation's Capital, delegates representing 50 States and 58 foreign nations are arriving in Washington, DC, to take part in a celebration of their artistic accomplishments. They will be joined by educators, Government officials, master artists, celebrity performers, and the Washington community in performances, exhibits, symposia, and workshops in venues throughout the city. The John F. Kennedy Center for the Performing Arts will be the focal point for many of these activities. An invitation from the White House will bring these 1,000 participants to the South Lawn to share their talents with the President and Mrs. Bush. This week of festivities will culminate with a televised performance in the Kennedy Center Concert Hall, where very special artists will share the stage with well-known entertainers from the realm of dance, drama, music, and the visual arts.

My interest in and support for this collaborative effort is twofold. First, as chairman of the Subcommittee on the Handicapped I know the importance of coordinated efforts between organizations serving the general community and those serving individuals with special needs. Variety Clubs of Iowa have lent financial support to charities in every county in the State, charities ranging from public and private hospitals, to youth emergency service centers, and comprehensive treatment centers for abused children. Similarly, Very Special Arts-Iowa has brought art education opportunities to preschool centers, elementary schools, nursing homes, and residential care facilities in major cities such as Des Moines as well as small, rural communities. Cooperative programming, volunteering, and fund-raising efforts between these two organizations in Iowa and elsewhere can only result in enhanced opportunities for children and young people with disabilities. Because both Variety Clubs International and Very Special Arts are already well-established in the United States and throughout the world, the benefits of this joint venture will touch the lives of millions of children of all ages.

For over 60 years, Variety Clubs, a charitable organization of volunteers, has been aiding handicapped and underprivileged children regardless of race, creed, or color. Fifty-two clubs consisting of 15,000 members exist worldwide. Since its beginnings in 1927, the Variety Clubs have raised over $500 million.

The Variety Clubs build and provide hospitals, clinics, medical treatment, intensive care and pre-natal rehabilitation centers, schools, day care centers, parks, playgrounds, pools, and boys and girls clubs for underprivileged and handicapped children. By providing food, clothing, shelter, medical treatment, education, and child care, the Variety Clubs help disadvantaged children in the Third World through their "Life Patron Program."

Another program, "The Variety Children's Lifeline," cares for needy children by treating life-threatening medical problems. All treatment is performed without charge. Neither the child nor the parents have to pay.

"The Sunshine Coach Program" helps children who are normally confined to hospital beds to go outdoors and participate in recreational activity. Specially trained coaches are assigned to the children, and along with specially equipped vehicles allow these children to experience outdoor recreation and to enjoy more fully what life has to offer them.

Boys and girls clubs for needy and disadvantaged youngsters help channel the children's youthful energy in a fun and productive way.

As a result of great technological advances and the miracles of modern medicine, "Variety Limb Banks" provide electric elbows, powered hands, braces, and many other devices to help otherwise incapacitated children become mobile, independent, and able to care for themselves.

I am particularly proud to say that the Variety Clubs from my home State of Iowa consistently ranks as one of the top local clubs in the world. The Iowa Variety Clubs is annually nominated for Variety International's Heart Award. In 1979, they won it. Last year, Iowa Variety Clubs distributed $1.4 million, and as a result, 80,000 Iowa children benefited. Iowa Variety Clubs is composed entirely of volunteers, and all the money raised in Iowa stays in Iowa.

Similarly, Very Special Arts programs serve over a million students, educators, parents and volunteers through workshops, performances and in-service training programs. Located in 50 States and in nations on every continent, Very Special Arts has enabled people of all ages with disabilities to experience the joy and beauty that dance, theater, music and painting bring to the human spirit. Most importantly, the arts provide a noncompetitive opportunity for people of all ages and abilities to enter the mainstream of society.

The agreement announced by Variety Clubs International and Very Special Arts at its International Festival deliniates the State and local partnerships which will be developed in the areas of programming, awareness and fundraising across the Nation and worldwide. For example, Variety Clubs well-established network of volunteers will work with Very Special Arts to enhance and expand their signature arts festival programs. Similarly, Very Special Arts will assist Variety Clubs in developing Artists Unlimited projects at the countless hospitals that benefit from their generous donations.

Very Special Art's mission is to assure that individuals with disabilities have the opportunity to add value to their lives through the arts, and to provide avenues for people with disabilities to be mainstreamed into the cultural life of their communities. Variety Clubs International see their mission as helping children around the world have a better chance at life. This newly announced partnership will take both organizations closer to the realization of these goals.

For the past 8 years Very Special Arts has received funding through chapter 2 of the Education Consolidation and Improvement Act. The success of Very Special Arts Iowa has convinced this Senator of the importance of that Federal contribution to arts

programming for individuals with mental and physical challenges.

Once again, I heartily commend the fine work that Variety Clubs and Very Special Arts are doing in Iowa and throughout the world, and I strongly encourage people to participate in such a worthwhile effort. It gives you a great feeling of pride and joy to see the happiness in the children's eyes that you helped put there.●

ENHANCED RESCISSION AUTHORITY

● Mr. HUMPHREY. Mr. President, on January 25, 1989, I introduced legislation which would provide for expedited consideration of Presidential rescission requests. It simply requires Congress to go on record as either approving or disapproving—by a simple majority vote—rescissions when they are requested.

Numerous Senators have expressed interest in the "enhanced rescission" concept. Senators ARMSTRONG, ROTH, MCCAIN, and DIXON have introduced enhanced rescission proposals. Senator ARMSTRONG's proposal has been around for about a decade. I am convinced that the time is ripe for enactment of some form of enhanced rescission legislation.

Mr. President, I would like to share with my colleagues some expression of support for enhanced rescission which I have received. I ask that following these remarks copies of letters in support of enhanced rescission from the U.S. Chamber of Commerce and citizens for a sound economy be inserted in the RECORD.

I also ask that a copy of a letter from former CBO Director Rudy Penner be printed in the RECORD along with an excerpt from his book, "Broken Purse Strings, Congressional Budgeting 1974-88."

Dr. Penner concurs that some form of enhanced rescission is necessary. He states:

Congress should at least be required to vote on rescission requests so that the approval or disapproval of the President's judgment is recorded for individual legislators. This reform would clearly represent only a tiny increase in a President's impoundment power, and it could not be expected to affect total spending significantly. But it is a small move in the right direction.

I urge my colleagues to support enhanced rescission legislation.

The material referred to follows:

CITIZENS FOR A SOUND ECONOMY,
Washington, DC, March 23, 1989.

Hon. GORDON J. HUMPHREY,
U.S. Senate, Washington, DC.

DEAR SENATOR HUMPHREY: Massive continuing resolutions laden with unwise spending proposals have made a great deal of news in the past several years. Even in years when there is no continuing resolution, it's difficult to believe that every item in a trillion-dollar-plus federal budget has received the careful scrutiny it should have.

That's why Citizens for a Sound Economy is so glad to hear that you've introduced Con. Res. 9, enhancing the president's rescission authority. If this bill passes, I'm sure that Citizens for a Sound Economy's 250,000 members, as well as millions of other American taxpayers, will sleep a little easier knowing that they have a second chance to make Congress and the president reconsider questionable spending proposals.

CSE stands ready to do our part in the battle to promote fiscal responsibility.

Sincerely,

WAYNE E. GABLE,
President.

CHAMBER OF COMMERCE
OF THE UNITED STATES OF AMERICA,
Washington, DC, April 26, 1989.

Hon. GORDON J. HUMPHREY,
U.S. Senate, Washington, DC.

DEAR GORDON: I appreciate your letter explaining S. Con. Res. 9 and H. Con. Res. 45 which you and Representative Martin have introduced, respectively, to provide for enhanced rescission through expedited Congressional procedures. As you pointed out, the Chamber has supported similar measures in the past, and we support your measures now.

We believe that the continuing large federal deficits are a result of excessive federal spending. We enthusiastically support budget reforms such as a balanced budget amendment and enhanced rescission in order to bring spending under control.

Thank you for bringing your proposals to my attention. We look forward to working with you and your staff to ensure passage of this vitally important legislation.

Sincerely,

RICHARD L. LESHER,
President.

THE URBAN INSTITUTE,
Washington, DC, June 12, 1989.

GORDON J. HUMPHREY,
U.S. Senate, Hart Senate Office Building, Washington, DC.

DEAR SENATOR HUMPHREY: Thank you for your letter of June 6.

I am strongly in favor of enhanced rescission and, therefore, enjoyed your article with Rep. Martin. I am enclosing a recent book in which enhanced rescission is discussed on pp. 120-122.

Yours sincerely,

RUDOLPH G. PENNER.

THE IMPOUNDMENT POWERS OF THE PRESIDENT

The proposal made above that the president sign the budget resolution would significantly increase presidential power in budgeting and would usually gain the support of the president in enforcing the resolution's targets. It is desirable to enhance presidential power a bit more by somewhat enhancing the power to impound funds voted by Congress.

Currently the president can request a rescission, that is to say, a permanent cancellation of budget authority. For the rescission to go into effect, it has to be approved by both houses of Congress within 45 days of continuous session. They can completely ignore the request, never having to go on record with regard to the desirability of the spending questioned by the president. Although President Reagan was, nevertheless, reasonably successful in using this device in fiscal years 1981 and 1982, obtaining congressional approval for almost 70 percent of the dollar value of his requested rescissions, the tool was essentially useless to the president in fiscal years 1983-87, when Congress approved less than 2 percent of the value of his rescission requests. Congress should at least be required to vote on rescission requests so that the approval or disapproval of the president's judgment is recorded for individual legislators. This reform would clearly represent only a tiny increase in a president's impoundment power, and it could not be expected to affect total spending significantly. But it is a small move in the right direction.

The slight increase in the president's impoundment power could be used to help enforce a budget resolution after a reconciliation bill had failed, and a rescission bill could be presented as an alternative to all or part of a surtax. But we do not confine the use of enhanced rescission power to these circumstances. A president should obviously retain the right to request rescissions that would bring spending below the joint resolution's target, but having signed that resolution, they would be expected to occur only in unusual circumstances.

It may be desirable to enhance the president's rescission power one notch more than is implied by the foregoing proposal, if it can be done in a constitutionally acceptable fashion. A president could be allowed to cancel budget authority, and that cancellation would become permanent unless the budget authority was explicitly restored by an act of Congress. In other words, in contrast to the current situation in which a rescission fails if Congress does not act, a limited rescission would take effect if Congress did not act. We do not, however, believe it realistic to think that Congress would agree to go quite this far at the present time. It is, nevertheless, important to enhance the president's rescission power somewhat by at least forcing a vote on his or her request.

Many, including President Reagan, have suggested that presidential power be enhanced further by giving the president an item veto—a power now possessed in different forms by forty-three governors. There is little doubt that an item veto would enhance the power of the president, but it is more doubtful that it would be used to control total spending. One particularly careful study of the item veto at the state level concludes that "long run budgetary behavior is not significantly affected by the power of an item veto," although there are particular political circumstances in which the item veto has some impact, for example, when the governor and legislature are of different parties. The item veto is likely to be even less potent at the federal level because it could be used directly to influence under 40 percent of spending; over 60 percent of federal spending is comprised of entitlements and interest on the debt. A president might in some circumstances be able to use the power conveyed by an item veto to bargain for some change in entitlements, but in the normal course of events, entitlements simply go on unchanged unless Congress explicitly votes to change them, and inaction cannot be vetoed.

Another problem arises at the federal level because the typical appropriations bill contains precious few items. Spending, for the most part, is allocated among specific programs by reports that are attached to appropriations bills. Congress would have to change radically its method of operations for the item veto to be effective, and of course, members would always have the opportunity to make it ineffective by changing the ways that items are defined. Indeed, dis-

putes over the definition of an item have often brought the courts into budgeting at the state level. The great advantage of enhancing a president's rescission power over the item veto is that the president has the opportunity to define an "item" when the rescission request is formulated.

Last, but certainly not least, it should be noted that proposals for an item veto have little relevance to the problems posed by the high deficits faced currently. Congress is generally hostile to the notion of an item veto, and it would be several years before the necessary constitutional amendment could possibly be passed. Several more years would pass before it could be ratified by the states. Therefore, whatever its merits, it could not possibly be relevant to the current budget problem.

Our opposition to an item veto assumes that in the new budget process, Congress would abandon the practice of passing huge omnibus bills. Certainly appropriations bills should be enrolled by title, so that the president does not effectively lose the veto power that he now possesses. If for some reason omnibus bills were to become common, the case for an item veto would be much stronger.●

SALUTING SMOKEJUMPERS 50TH ANNIVERSARY

● Mr. DECONCINI. Mr. President, Arizona, and most of the Western States, are again facing a critical forest fire season. This summer, just as in 1987 and 1988, the Nation will depend heavily on Federal firefighters to protect our citizens and property from the ravages of wildfire. The first firefighters, to reach many of the more remote fires will be smokejumpers—airborne firefighters with the U.S. Forest Service and the Bureau of Land Management.

On June 16, 17, and 18, many of the smokejumpers who are not responding to fire calls will gather with their retired predecessors in Boise, ID, to celebrate their 50th year of service to the Nation. I would like to take this opportunity to recognize the historic occasion and thank this unique corps for its remarkable record of accomplishment over the last half-century.

By the mid-1930's, the use of parachutes to drop equipment to firefighters had become a well-established practice. At that time there was talk of using parachutes to actually drop firefighters near remote fires to reduce response time and help control the spread of forest fires. The response of some was skeptical. One of the West's regional foresters, Evan W. Kelley, noted that,

All parachute jumpers are more or less crazy—just a little bit unbalanced, otherwise they wouldn't be engaged in such a hazardous undertaking.

He discounted the practicability of the idea and indicated to his superiors that he would have no part of any such scheme.

Nevertheless, in 1939 an experiment was conducted in the North Cascades of Washington State. For over a month a small group of men sought to demonstrate the feasibility of parachuting firefighters to remote fires in rugged terrain. The experiment was successful, and smokejumping was born. In 1940, the Forest Service for the first time began using smokejumpers in its efforts to suppress wild fires, and continued to do so without interruption since that time.

Over the years, more than 200,000 jumps have been made, including not only fire jumps, but also rescue jumps to assist injured individuals far from any trained medical assistance. Many smokejumpers have lost their lives in action, and far more have sustained serious injuries. Nevertheless, despite the risks and relatively low pay, the smokejumper program has attracted an extremely diverse and talented group ranging from students to doctors, from conscientious objectors to ex-marines, from family men to sworn bachelors. The smokejumpers have established a reputation for being hard-working, skilled, dependable, fiercely independent, and remarkably self-sufficient. Some also would agree with Evan Kelley's observation that they indeed are "more or less crazy," an impression which in at least some cases was well deserved.

Throughout its history, the jumpers have maintained a vibrant and vital organization. They preceded the formation of the U.S. Army's airborne units, and served as a model for the establishment of the Army's first paratroop training facility in Fort Benning, GA. They constantly have improved and refined their equipment and techniques in order to do a better job. Much of the jump gear is designed and assembled by the jumpers themselves; some of the jumpers are as handy with a sewing machine as they are with a shovel.

As wilderness policies have changed over the years, the jumpers have been at the cutting edge by helping to implement methods which seek to balance the need to manage fires with the desire to minimize human impact on the land. This highly motivated and spirited group of people serves as an example of enlightened public service in the best American tradition. I thank the smokejumpers for a job well done, and salute them on their 50th birthday.●

CHILD CARE AND CHILD HEALTH

Mr. BOREN. Mr. President, I want to thank the chairman of the Finance Committee, Senator BENTSEN, for holding yesterday's markup to act on the issues of child care and child health. I believe that this shows his commitment to developing legislation that will offer much needed assistance to many families, most often low-income families, where the children are often the victims of the consequences of their environment. I am pleased that this proposal passed out of the committee and I hope we will consider it soon on the floor of the Senate.

Unfortunately, children are at risk by their parents being unemployed, as they often cannot afford to pay for adequate medical insurance coverage. The cost of health coverage has increased so much over the last decade, and families that are at the breaking point any way just do not have the funds to pay for it. Coincidentally, children are also at risk by their parents being employed, either in families where both parents work, or in single parent families where there is great reliance on child care. Mr. President, I think this is a unique opportunity to tie these two issues together to pass legislation that is truly needed by all of these children most at risk.

I will not review the proposal in detail, but I do appreciate the fact that it targets the children of low-income families and addresses the issues of child care and health protection. It is very hard for Congress to keep pace with the changing needs of society, but these two issues are obviously a priority in the Finance Committee, in the full Senate, in the House of Representatives, and in the White House. The President repeatedly said all through the campaign that child care and related issues were of utmost importance to him. He has followed up with a proposal of his own for a child care tax credit that Senator DOLE has offered in the Senate.

I am also committed to acting on legislation to address these needs. I am pleased that this proposal included the refundable child care tax credit. For the first time, families whose income is so low that they have no tax liability would benefit from this credit by receiving a refund, payable monthly so that the cash would actually be available to them. For middle-class families, child-care costs are a real burden to their budget; for poor families, the average cost of over $3,000 per child is prohibitive. This would be one way to infuse cash into a family's budget to offset the costs of their child's care.

Just in Oklahoma, 22 percent of the children under 5 years old live in poverty. This amounts to 62,000 kids. In 1988, only 15,500 of them received any child-care assistance funds. They are prime candidates for being in child-care homes, day-care centers, church-based or other facilities, because their parents are forced to work, if they can find a job in our depressed market. And while the number of children in day care has gone up—as more and more women enter the labor force—6 percent fewer children in Oklahoma received assistance last year than they

did 8 years ago. We cannot ignore the needs of these families.

I also cannot say enough about the need for adequate health coverage. I have made numerous statements before the Finance Committee and before the full Senate about the crisis of health care in our country. The costs are escalating rapidly, and driving more and more people out of the insurance market because they simply cannot afford the premiums to cover the entire family. This proposal brings to light the fact that the greatest proportion of uninsured children come from low-income families, and I believe that we must act responsibly with limited Federal dollars to identify and target the funding to these families. I think this is a sound approach to encourage parents to insure their children and in turn, be able to take advantage of this expanded dependent care credit to cover these expenses.

Again, I thank the chairman for his hard work in developing this children's initiative. I am pleased to support this effort to address these pressing needs of the children in Oklahoma and across the Nation.●

THE 75TH ANNIVERSARY OF LOCAL 11, IAHFIAW

● Mr. SARBANES. Mr. President, this year marks the 75th anniversary of local 11 of the International Association of Heat and Frost Insulators and Asbestos Workers [IAHFIAW] based in Baltimore.

For three-quarters of a century, the members of this distinguished organization have made significant contributions to the growth and strength of our Nation and the State of Maryland. I would like to take this opportunity to congratulate the members of local 11 and to reflect briefly upon its proud history.

Representing workers engaged in the "practical mechanical application, installation, or erection of heat and frost insulation," the IAHFIAW has earned a reputation for unwavering dedication to the health, safety, and financial security of its members. Its efforts have also played a significant role in maintaining a high level of quality and integrity in their craft. The skilled members of local 11 can be found working throughout the State of Maryland—in factories, hospitals, defense plants and the U.S. Naval Academy. Indeed, their work ensures the safety and comfort of millions of Marylanders every day.

Local 11 has championed the cause of working men and women everywhere. The IAHFIAW has made its voice heard on a variety of issues related to health, working conditions, senior citizens, and other matters so important to our progress. Its members are devoted to the principle of a fair day's wages for a fair day's work and their efforts toward that goal are worthy of recognition.

The people of Maryland are greatly indebted to the skill and hard work of local 11's dedicated members, and I congratulate them on their 75 years of achievement.●

AT LEAST OPEC HAS A POLICY

● Mr. BREAUX. Mr. President, I have lost count of the number of times I have taken the floor of the House and Senate over the years to talk about peril this country faces from its lack of an energy policy which recognizes that oil is a strategic resources vital to our Nation's security.

Someday, maybe not too far in the future, the next generation may ask our generation why we allowed our domestic oil industry to die at the hands of foreign imports. I hope that day never comes. But I am afraid that it might if we do not reverse our growing addiction to foreign oil.

Mr. President, one of the most insightful commentaries on our domestic energy situation and our lack of an energy policy appeared on June 13, just this past Tuesday, on the editorial page of the New Orleans Times-Picayune.

I ask that this editorial be printed in the RECORD and I commend it to all my colleagues.

The editorial follows:

AT LEAST OPEC HAS A POLICY

Say what you will about the strength or fragility of the Organization of Petroleum Exporting Countries, at least the cartel has an energy policy. That is more than can be said of the United States.

On a day when OPEC was announcing significant alterations in its policy in Vienna, American governors were calling on Congress to develop a national energy policy that will reduce the nation's growing dependence on OPEC oil.

Addressing members of the House Banking subcommittee on economic stabilization, Alaskan Gov. Steve Cowper conceded that "energy issues are not a central concern to most people today." But, he said, "I come before you . . . to say that complacency is both unwarranted and dangerous."

The governor, representing the national Governors' Association, presented the association's recommendations after an 18-month study of the energy issue. These include tax and price incentives to encourage the development of domestic oil, gas and coal.

The governor noted that the United States imported more than 43 percent of its oil last year, and the bill accounted for more than one-fourth of the U.S. trade deficit.

The trends are "in the wrong direction," he said. "Domestic oil production is down, oil production in other stable and friendly nations is down as a percentage of world oil production, the concentration of oil productive capacity in the Persian Gulf is up and domestic oil consumption is up."

In Vienna, the 13-nation OPEC agreed to increase overall production from 18.5 million barrels a day to 19.5 million and leave it to world market forces to set the price.

On what had been a potentially divisive issue, the $18-a-barrel benchmark price for OPEC oil, the cartel representatives reached a compromise.

Rather than calling the price a benchmark, it is to be called the OPEC "reference" price and will be allowed to float according to market demand.

One minister explained that although OPEC would like oil prices to stabilize around current levels indicated by the $18-a-barrel reference price, OPEC would not intervene unilaterally to raise or lower prices if they moved away from the reference price.

The change in policy appears to be more of a triumph for cartel leader Saudi Arabia than a true compromise. The Saudis had recommended dropping a benchmark or ceiling price entirely and letting the market determine prices. But other OPEC members apparently needed the security blanket of at least a "reference" price.

Of course, OPEC members will continue to cheat on their production quotas. But that is not the issue. The issue is how much they cheat.

If they cheat too much, prices will move significantly below the reference price. If they stick fairly close to their quotas and demand continues to rise in the United States and elsewhere, prices should rise.

Thus the reference price could prove to be a useful barometer of OPEC cheating or compliance.

Meanwhile, non-OPEC nations, including Mexico, have agreed to reduce their oil exports voluntarily.

The outlook, therefore, seems to be for higher prices with more and more U.S. oil imports coming from OPEC. The need for a U.S. energy policy thus becomes more urgent with each passing day.

The governors have recognized that. Maybe they can get Congress and the Bush administration to do so as well.●

ORDER FOR RECESS UNTIL 1:30 P.M., THURSDAY, JUNE 15, 1989, AND ORDER FOR MORNING BUSINESS

Mr. DODD. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in recess until 2 p.m., Thursday, June 15, and that following the time for the two leaders there be a period for morning business not to extend beyond 2:30 p.m., with Senators permitted to speak therein for up to 5 minutes each.

The PRESIDING OFFICER. The Chair recognizes the Republican leader.

Mr. DOLE. Mr. President, I intended to raise this earlier with the majority leader. I had a number of requests on this side that we might come in at 1:30 and use 30 minutes to speak on the President's crime package, if there is no objection to that from the majority leader, or we could do it after, but I think he wants to start on the child care bill as soon as possible.

Mr. DODD. I will change it to 1:30. I gather there is no problem over here with that at all.

Mr. President, I would amend my unanimous-consent request that the Senate stand in recess until 1:30 p.m., and that following the time for the two leaders there be a period for morning business not to extend beyond 2:30 p.m., with Senators permitted to speak therein for up to 5 minutes each.

Mr. DOLE. Mr. President, reserving the right to object, and I have no objection. I think during that time we will be able to provide opportunities for Senators THURMOND, SPECTER, myself, and others to speak on the President's crime package.

I thank the distinguished acting majority leader.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS UNTIL 1:30 P.M. TOMORROW

Mr. DODD. Mr. President, if the distinguished Republican leader has no further business, and if no Senator is seeking recognition, I now ask unanimous consent that the Senate stand in recess, under the previous order, until 1:30 p.m., Thursday, June 15, 1989.

There being no objection, the Senate, at 6:57 p.m., recessed until Thursday, June 15, 1989, at 1:30 p.m.

CONFIRMATIONS

Executive nominations confirmed by the Senate June 14, 1989:

AMBASSADOR

Richard Reeves Burt, of Arizona, for the rank of Ambassador during his tenure of service as Head of Delegation on Nuclear and Space Talks and Chief Negotiator on Strategic Nuclear Arms (START).

DEPARTMENT OF STATE

John D. Negroponte, of New York, a Career Member of the Senior Foreign Service, Class of Career Minister, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Mexico.

Bernard William Aronson, of Maryland, to be an Assistant Secretary of State.

John Hubert Kelly, of Georgia, a Career Member of the Senior Foreign Service, Class of Minster-Counselor, to be an Assistant Secretary of State.

DEPARTMENT OF LABOR

Dale Triber Tate, of the District of Columbia, to be an Assistant Secretary of Labor.

Kathleen M. Harrington, of the District of Columbia, to be an Assistant Secretary of Labor.

Jennifer Lynn Dorn, of Maryland, to be an Assistant Secretary of Labor.

Robert P. Davis, of Virginia, to be Solicitor for the Department of Labor.

The above nominations were approved subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

HOUSE OF REPRESENTATIVES—*Wednesday, June 14, 1989*

The House met at 1 p.m.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

Learn to do good, search for justice, help the oppressed, be just to the orphans, plead for the widow.—Isaiah 1:17.

O God, from whom all blessings flow, may we come to know Your Word not only with our lips, but in our hearts and learn the works of justice in our communities and in our world. Remind us that justice is not a good word spoken with good feelings and lost amid all the other good words that we speak, but it is translating those words into deeds of action with gifts of our time, our talent, and our treasure. May we learn to do good as our faith becomes active in love. This we pray. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

Mr. SOLOMON. Mr. Speaker, pursuant to clause 1, rule I, I demand a vote on agreeing to the Speaker's approval of the Journal.

The SPEAKER. The question is on the Chair's approval of the Journal.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. SOLOMON. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 303, nays 104, not voting 26, as follows:

[Roll No. 84]

YEAS—303

Ackerman	Bereuter	Bruce
Akaka	Berman	Bryant
Alexander	Bevill	Bustamante
Anderson	Bilbray	Byron
Andrews	Boggs	Callahan
Annunzio	Bonior	Campbell (CA)
Anthony	Borski	Campbell (CO)
Applegate	Bosco	Cardin
Archer	Boucher	Carper
Atkins	Boxer	Chapman
Barnard	Brennan	Clarke
Bartlett	Brooks	Clement
Bates	Broomfield	Clinger
Beilenson	Browder	Coelho
Bennett	Brown (CA)	Coleman (MO)
Coleman (TX)	Jones (NC)	Poshard
Combest	Jontz	Price
Conte	Kanjorski	Pursell
Conyers	Kaptur	Quillen
Cooper	Kasich	Rahall
Costello	Kastenmeier	Ravenel
Cox	Kennedy	Ray
Coyne	Kennelly	Regula
Crockett	Kildee	Richardson
Darden	Kleczka	Rinaldo
Davis	Kolter	Ritter
de la Garza	Kostmayer	Robinson
DeFazio	LaFalce	Roe
Dellums	Lancaster	Rohrabacher
Derrick	Lantos	Rose
Dicks	Laughlin	Rostenkowski
Dixon	Leath (TX)	Rowland (CT)
Donnelly	Lehman (CA)	Rowland (GA)
Dorgan (ND)	Lehman (FL)	Roybal
Dreier	Leland	Russo
Durbin	Lent	Sabo
Dwyer	Levin (MI)	Saiki
Dymally	Levine (CA)	Sangmeister
Dyson	Lewis (GA)	Sarpalius
Early	Lipinski	Savage
Eckart	Livingston	Sawyer
Edwards (CA)	Lloyd	Saxton
Engel	Long	Schiff
English	Lowey (NY)	Schneider
Erdreich	Luken, Thomas	Schumer
Espy	Manton	Sharp
Evans	Markey	Shaw
Fascell	Martinez	Shumway
Fawell	Matsui	Shuster
Fazio	Mavroules	Sisisky
Feighan	Mazzoli	Skaggs
Fish	McCloskey	Skeen
Flake	McCollum	Skelton
Flippo	McCurdy	Slattery
Florio	McDade	Slaughter (NY)
Foglietta	McDermott	Smith (FL)
Ford (MI)	McEwen	Smith (IA)
Ford (TN)	McHugh	Smith (NE)
Frank	McMillen (MD)	Smith (NJ)
Frost	McNulty	Smith (VT)
Gallo	Meyers	Snowe
Garcia	Mfume	Solarz
Gaydos	Miller (CA)	Spence
Gejdenson	Miller (WA)	Spratt
Gephardt	Mineta	Staggers
Gibbons	Moakley	Stallings
Gillmor	Mollohan	Stark
Gilman	Montgomery	Stearns
Glickman	Moody	Stenholm
Gonzalez	Morella	Stokes
Gordon	Morrison (CT)	Studds
Gradison	Morrison (WA)	Swift
Grant	Mrazek	Synar
Gray	Murtha	Tallon
Green	Myers	Tanner
Guarini	Natcher	Tauzin
Gunderson	Neal (MA)	Thomas (GA)
Hall (OH)	Nelson	Thomas (WY)
Hall (TX)	Nowak	Torricelli
Hamilton	Oakar	Towns
Hammerschmidt	Oberstar	Traficant
Harris	Obey	Traxler
Hatcher	Olin	Unsoeld
Hawkins	Ortiz	Valentine
Hayes (IL)	Owens (NY)	Vento
Hayes (LA)	Owens (UT)	Visclosky
Hefner	Packard	Volkmer
Hertel	Pallone	Walgren
Hoagland	Panetta	Watkins
Hochbrueckner	Parker	Weiss
Horton	Patterson	Weldon
Houghton	Payne (NJ)	Whitten
Hoyer	Payne (VA)	Wilson
Huckaby	Pease	Wise
Hughes	Pelosi	Wolpe
Hutto	Penny	Wright
Jenkins	Perkins	Wyden
Johnson (CT)	Petri	Wylie
Johnson (SD)	Pickett	Yates
Johnston	Pickle	Yatron
Jones (GA)	Porter	Young (FL)

NAYS—104

Armey	Hefley	Paxon
AuCoin	Henry	Rhodes
Baker	Herger	Ridge
Ballenger	Hiler	Roberts
Barton	Holloway	Roth
Bilirakis	Hopkins	Roukema
Bliley	Hyde	Schaefer
Boehlert	Inhofe	Schroeder
Brown (CO)	Ireland	Schuette
Bunning	Jacobs	Sensenbrenner
Burton	James	Shays
Carr	Kolbe	Sikorski
Chandler	Kyl	Slaughter (VA)
Clay	Lagomarsino	Smith (MS)
Coble	Leach (IA)	Smith (TX)
Coughlin	Lewis (CA)	Smith, Denny (OR)
Craig	Lewis (FL)	Smith, Robert (NH)
Crane	Lightfoot	Smith, Robert (OR)
Dannemeyer	Lowery (CA)	Solomon
DeLay	Lukens, Donald	Stangeland
DeWine	Machtley	Stump
Dickinson	Madigan	Sundquist
Douglas	Marlenee	Tauke
Duncan	Martin (IL)	Thomas (CA)
Edwards (OK)	Martin (NY)	Upton
Emerson	McCandless	Vucanovich
Fields	McCrery	Walker
Frenzel	McGrath	Weber
Gallegly	McMillan (NC)	Wheat
Gekas	Michel	Whittaker
Goodling	Miller (OH)	Wolf
Goss	Molinari	Young (AK)
Grandy	Moorhead	
Hancock	Nielson	
Hansen	Oxley	
Hastert	Pashayan	

NOT VOTING—26

Aspin	Gingrich	Scheuer
Bateman	Hubbard	Schulze
Bentley	Hunter	Torres
Buechner	Murphy	Udall
Collins	Nagle	Vander Jagt
Courter	Neal (NC)	Walsh
Dingell	Parris	Waxman
Dornan (CA)	Rangel	Williams
Downey	Rogers	

□ 1322

Ms. SNOWE changed her vote from "present" to "yea."

So the Journal was approved.

The result of the vote was announced as above recorded.

PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore (Mr. DEFAZIO). The gentleman from North Carolina [Mr. BALLENGER] will lead us in the Pledge of Allegiance.

Mr. BALLENGER led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

ANNOUNCEMENT OF SELECTION OF MAJORITY LEADER

Mr. HOYER. Mr. Speaker, as vice chairman of the Democratic Caucus, I have been directed to report to the House that the Democratic Members

have selected as majority leader the gentleman from Missouri, the Honorable DICK GEPHARDT.

ANNOUNCEMENT OF SELECTION OF MAJORITY WHIP

Mr. HOYER. Mr. Speaker, as vice chairman of the Democratic Caucus, I have been directed to report to the House that the Democratic Members have selected as majority whip the gentleman from Pennsylvania, the Honorable BILL GRAY.

CONGRATULATIONS TO DEMOCRATIC LEADERSHIP

(Mr. MICHEL asked and was given permission to address the House for 1 minute.)

Mr. MICHEL. Mr. Speaker, I simply want to salute the Democratic leadership, all three gentlemen, the distinguished Speaker, the gentleman from Washington [Mr. FOLEY] and the gentleman from Missouri [Mr. GEPHARDT] and the gentleman from Pennsylvania [Mr. GRAY]. They are gentlemen with whom I have served for many years in this House, men of high honor and integrity. We simply want to join in the accolades that I am sure the gentlemen will be receiving for the balance of this day in their having been elected to their respective officers by the Democratic Caucus. We salute the gentlemen.

ELECTION AS MEMBER TO COMMITTEE ON RULES

Mr. HOYER. Mr. Speaker, I offer a privileged resolution (H. Res. 174) and I ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 174

Resolved, That Louise M. Slaughter, of New York, be, and is hereby, elected to the Committee on Rules.

The resolution was agreed to.

A motion to reconsider was laid on the table.

PROVIDING FUNDS FOR THE OFFICE OF THE SPEAKER

Mr. FAZIO. Mr. Speaker, I offer a resolution (H. Res. 175) providing funds for the Office of the Speaker, and I ask unanimous consent for its immediate consideration.

The SPEAKER pro tempore (Mr. DEFAZIO). The Clerk will report the resolution.

The Clerk read the resolution, as follows:

H. RES. 175

Resolved, That, effective June 14, 1989, there shall be authorized the additional sum of $60,000 for the compensation of personnel and other expenses of the Office of the Speaker.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

Mr. LEWIS of California. Mr. Speaker, reserving the right to object, if the gentleman will respond to a couple of questions, I do reserve the right to object. I do not expect that I will be objecting, nonetheless.

As I understand it, this resolution would increase the authorization for personnel and other items in the Speaker's office up to an additional $60,000, is that correct?

Mr. FAZIO. Mr. Speaker, would the gentleman yield?

Mr. LEWIS of California. I yield to the gentleman from California.

Mr. FAZIO. That is correct.

The resolution is necessary to provide for the humanitarian transition of staff who are involved in the change in the Office of the Speaker.

It provides that $60,000 be added to the authorization of the Office of the Speaker for office personnel and expenses.

No new funds are appropriated here. The $60,000 will have to come from any excess funds that may be available out of funds already appropriated. If such excess funds are found, and if they are needed by the Office of the Speaker, the Committee on Appropriations will take action to transfer those funds under existing transfer authority.

This is necessary because the budget of that office cannot absorb the entire cost, however temporary, of two staff groups. These funds are needed to defray those expenses for a short time while the outgoing staff find new positions.

Mr. LEWIS of California. Mr. Speaker, recently on the Republican side of the aisle, we had a vacancy in our leadership as a result of Mr. Cheney going down to the Department of Defense. I presume, but it has not been made clear for the RECORD that the whip staff or office would be handled in a very similar fashion on this side of the aisle, is that correct?

Mr. FAZIO. That is correct. Mr. Cheney was very successful in having many of his staff join him at the Pentagon, and that may have obviated a need for this sort of temporary allocation of funds, but certainly it would have been our policy and the policy of the majority, I am sure, to accommodate Mr. Cheney, and the minority on this kind of a problem.

Mr. LEWIS of California. Further reserving the right to object for one further question, as I understand this authorization increase, then, would allow for a transfer of appropriated funds from one category to another, should it be necessary, to meet the needs of those personnel?

Mr. FAZIO. That is correct. It would only be done if necessary. The desire, of course, is that the individuals directly affected would be able to handle their transitions without the need for these funds, but in case that did not occur, we did want the flexibility to exist.

Mr. LEWIS of California. Mr. Speaker, the minority was informed regarding this matter in as timely a fashion as possible.

Mr. Speaker, therefore, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The SPEAKER pro tempore. The question is on the resolution.

The resolution was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. FAZIO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include therein extraneous material on the resolution just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

MINIMUM WAGE VETO OVERRIDE

(Mr. HAYES of Illinois asked and was given permission to address the House for 1 minute.)

Mr. HAYES of Illinois. Mr. Speaker, I rise today to participate in these 1-minute speeches to express my support for the increase in the minimum wage and to express my dismay in yesterday's veto of the bill by President Bush.

However, let me first take a moment to commend my colleague from Maryland, STENY HOYER, for again taking a leadership position on this matter, in keeping the issue of a minimum wage increase in the forefront of our Nation's agenda.

We in the Congress clearly expected the President's veto of our minimum wage bill, but I am still perturbed by this action, especially given such a great need for an increase in the minimum wage. I think that we should provide even more of an increase in the minimum wage than is provided in H.R. 2, the Fair Labor Standards Act amendments, but to think that the President has vetoed the bill because it goes beyond his minimum wage ceiling of $4.25 an hour is outrageous. He now says the 30 cents is not the issue, and I agree. The issue is providing a decent wage to enable Americans to live a decent quality of life.

By merely raising the wage to $4.55 an hour we still leave our Nation's working poor with a purchasing power

that does not bring their families out of poverty and continues to make it impossible for parents to properly feed and clothe their familes. It is plain and simply impossible for them to give their children a decent quality of life.

I would just like to encourage that my colleagues take the opportunity today to vote to override the President's veto because we must stand up for an equitable minimum wage increase for this Nation.

As a member of the minimum wage conference committee, I fully support the congressional minimum wage proposal and I cannot in good conscience further compromise my beliefs and agree to a lower wage increase—a wage which would keep hard working Americans in poverty.

There is absolutely no question as to whether or not there is a need to increase the minimum wage and today we need to vote to override this veto and stand on the side of our Nation's workers.

I thank the Chair for allowing my participation today.

REVISIONS IN THE CLEAN AIR ACT

(Mr. REGULA asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. REGULA. Mr. Speaker, on Monday President Bush announced sweeping revisions to the Clean Air Act. The President deserves high marks for providing the leadership for the first revision since 1977.

We all join him in supporting the goal of cleaner air and an improved environment. However, a quality environment means more than just cleaner air. We also measure our quality of life in terms of jobs and economic opportunity.

Sound national policy must include considerations of economics, energy security, and the environment.

While I have challenged some prior acid rain proposals, I am cautiously optimistic that what President Bush has recommended offers a reasonable starting point for debate on this controversial issue.

It is critical, however, that we protect the viability of the Clean Coal Technology Program.

It would be a travesty to waste the more than $1.5 billion in Federal funds already committed to this program.

The deadlines called for in the President's package could still preclude the use of new technologies currently being developed under the Clean Coal Program.

The most critical element in crafting an acid rain bill is timing. Even if the ongoing Clean Coal Technology Demonstration Program is successful, emission reduction compliance deadlines in the mid-1990's and the year 2000, as proposed by the President, could potentially force the use of costly and inefficient scrubbers or fuel switching, and could prohibit the use of new technologies in helping to achieve emission reductions.

I look forward to working with the President to craft a Clean Air Act that offers the promise of cleaner environment and more secure energy future, while at the same time maintaining the pace of economic growth so necessary to our Nation's future.

Clean coal technologies will contribute to all three of these vital national goals.

CLEAN AIR AND COAL MINING CAN PEACEFULLY COEXIST

(Mr. POSHARD asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. POSHARD. Mr. Speaker, I am not here to argue against clean air. It is the kind of thing that is easy to support—the kind of thing we should support.

But I am here on behalf of thousands of coal miners who face at best uncertain futures and at worst economic disaster in the wake of acid rain control programs proposed by the administration.

Without significant changes, the United Mine Workers of America predict the administration's plan could cost 30,000 jobs in high sulphur coal areas like mine in southern Illinois.

Instead of ignoring the promise of clean coal technology, we should push it forward, and make reduction through technology part of any solution.

I represent third and fourth generation coal miners who want to continue to serve this country's energy needs. I represent cities and towns that depend on those mines.

We can provide the quality of air and environment we all seek without creating huge new pockets of unemployment and poverty. We must not abandon promising technology, and we must not abandon the working men and women of this country.

RATIONING HEALTH CARE FOR THE ELDERLY IS NO WAY TO BALANCE THE BUDGET

(Mr. SOLOMON asked and was given permission to address the House for 1 minute.)

Mr. SOLOMON. Mr. Speaker, there are some Congressmen and administration officials who want to ration physician services to the elderly through so-called expenditure targets as a way to reduce the Federal deficit. I absolutely refuse to balance the budget on the backs of the elderly by restricting health care.

The Canadian system of expenditure targets has worked well for the healthy, but has resulted in rationing and long delays in obtaining medical services for the ill. There are growing waits for necessary surgery, degrading conditions for elderly hospital patients and in some cases, unnecessary and premature deaths waiting in line for treatment by surgeons constrained by the target from operating in time.

And yet there are some here who say that "it can't happen in this country." Proponents of "ET's" claim that the U.S. version would be relatively simple to comply with—just eliminate unnecessary services, physician by physician. This is nothing short of forcing physicians to limit, restrict, or postpone access to services. I will not stand by and allow Congress to betray the promise we made to our senior citizens in 1965—we guaranteed them to the best medicine could offer.

I do not endorse rationing in any form—targets, caps, whatever you want to call them—it all translates into the same thing—balancing the budget on the backs of the elderly.

THE RIGHT CHOICE—OVERRIDE THE VETO ON MINIMUM WAGE

(Mr. BRENNAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BRENNAN. Mr. Speaker, this is our message: "Vote your conscience and help the working men and women."

Mr. Speaker, today this House has an opportunity to take decisive action on behalf of those who lack a strong political voice but have a strong will to succeed by doing some of the toughest and least desirable jobs in America—those who work for the minimum wage.

We stand today in confrontation with our President over an issue which has been neglected for over 8 years, since the last increase in the minimum wage.

Throughout my years of public life I have consistently maintained that government is about choices—often competing and difficult choices. But today, the right choice is easy. Today, this body has a choice to make regarding the men and women who work for the minimum wage. How can this House be serious about moving people off welfare into a real job if we will not help them to move toward a livable wage. Yes, there is dignity in going to work each day and earning a real income. However, we must be realistic in seeing that the minimum wage allows a worker to meet life's basic needs.

In a body where our salary of nearly $90,000 cause many to struggle, think how hard workers struggle who earn

only one-tenth of that amount. I urge my colleagues to search in their hearts to find the compassion to grant this modest increase in the minimum wage to restore some dignity to working men and women.

I urge an overrride of the President's veto.

A TRIBUTE TO MICHAEL CHANG—WINNER OF THE FRENCH OPEN

(Mr. DANNEMEYER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DANNEMEYER. Mr. Speaker, as the United States continues its search for the next great male tennis star, the word "potential" is often spoken. To be labeled as an individual with potential can often be a double-edged sword. While the notoriety and publicity is very gratifying, most times the pressure of living up to your press clippings can be overwhelming.

However, in the case of teen sensation Michael Chang, pressure is something the other guy must contend with.

A constituent of mine from Placentia, CA, Michael Chang has just won the French Open—the first American to do so since 1955. What makes this accomplishment even more spectacular is that Michael is just 17 years old.

Michael Chang's achievements cover many pages of text. At 15 years old he was the youngest player to ever win a match at the U.S. Open as well as at Wimbledon. And now, after being seeded 15th, Michael worked his way through veterans such as Ivan Lendl, Andrei Chesnokov, and Stephan Edberg to capture the French Open.

My congratulations are warmly extended to Michael and his family, especially his father Joe, for this great work.

EXPRESSING SUPPORT FOR SAVINGS AND LOAN LEGISLATION

(Mr. McMILLEN of Maryland asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. McMILLEN of Maryland. Mr. Speaker, today I rise to talk about H.R. 1278, the savings and loan bill. In particular, I would like to address two aspects of this bill. First, I would like to commend the Ways and Means Committee and the Government Operations Committee for keeping the amount for REFCORP bonds on budget. This saves the taxpayers of this country $4.5 billion. That is very important, given the fact that the administration has grossly underestimated the real cost of this crisis in the future. This is an important savings for the taxpayers of this country.

Second, I would like to state my continued support for the tangible capital requirements currently incorporated in this legislation. Strong capital standards are the only way to insure that we avert another savings and loan disaster and taxpayer bailout. The Banking Committee recognized this and improved H.R. 1278 by adopting explicit tangible capital standards, unlike the administration's legislation which was ambiguous and would have permitted good will to count toward the capital requirement of a savings and loan association amortized over 10 years. This point should not be overlooked, since this crisis is due in great part to the lack of any real capital standards in the industry.

Mr. Speaker, I hope that my colleagues will support this legislation and avoid changing the capital standards and the on-budget treatment.

THE MINIMUM WAGE: IT IS LARGELY SYMBOLIC

(Mr. BALLENGER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BALLENGER. Mr. Speaker, yesterday President Bush vetoed H.R. 2, legislation raising the Federal minimum wage to $4.55 by 1991. I support this veto.

The continued debate on increasing the Federal minimum wage is an exercise in political symbolism. By raising the wage rate, some Members of this esteemed body can pretend they are helping the working poor. This way, everyone will be viewed as "doing good" even though the results will not match the intentions.

Those who really care about the working poor know that the issue is not raising the minimum wage, but minimizing poverty. That's why the earned income tax credit is the right way to go. Coupling this well-thought-out proposal with a small increase in the minimum wage will allow the working poor to take home more money after taxes and face little risk of losing their jobs.

Vote to sustain the President's veto, so that we can focus debate on a real solution to helping low-income workers.

□ 1340

THE AMERICAN FLAG FIDELITY ACT

(Mr. STAGGERS, asked and was given permission to address the House for 1 minute.)

Mr. STAGGERS. Mr. Speaker, today is Flag Day, a day when all Americans honor our national banner of freedom and independence. The American flag is the national emblem to which American citizens pledge their allegiance and for which American soldiers have died. It is our duty to protect and defend it against attack. My bill, the American Flag Fidelity Act, would do just that.

H.R. 1036 would halt the importation of foreign-made American flags, thereby ensuring the sacred position which our national symbol so justifiably deserves. I ask my colleagues: Why should foreign manufacturers and workers take special care to produce this country's most revered emblem? They won't, to them it is just another export product.

To those who would claim that this is a protectionist measure, I say absolutely. Protecting the American flag is a time-honored tradition. Throughout American history, there has been a practice of keeping the flag raised high, even while soldiers are falling around it in battle. As a proud American, I do not want to salute nor pledge my allegiance to a flag made on foreign shores. Our Nation's most venerated symbol of freedom and democracy deserves sacred treatment and this Congress should provide it.

Mr. Speaker, I ask the Members to support H.R. 1036.

TURTLE PROTECTION PARITY ACT OF 1989

(Mr. SMITH of Mississippi asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SMITH of Mississippi. Mr. Speaker, I represent a district in south Mississippi where generation of hard-working American and immigrant families have invested their lives in the ups and downs of the shrimping industry. They spend many days and nights working and sleeping in the salty air on the waters of the Mississippi Sound and Gulf of Mexico, in hopes of a bountiful harvest of what once was the cash crop on the gulf coast. When weather and sea conditions bring them poor yields, they tighten their belts, and of course when the yields are high, they live better.

Conditions, economic and otherwise, have brought only lean years in recent years. And now, as of May 1, our shrimpers face the added burden of a Federal regulation requiring them to use turtle exclusion devices. Teds are a noble idea but one which, if applied only to Americans, ignores the identical threat to sea turtles posed by foreign shrimpers. This omission is particularly significant because 80 percent of the shrimp consumed in the United States is imported, and foreign governments do not require their shrimpers to use turtle exclusion devices. Moreover, because teds reduce the catch of shrimp, resulting in additional work and expense to catch the same amount of shrimp caught previously, American shrimpers incur significant costs that are not imposed on their foreign competitors.

In order to protect sea turtles and level the playing field between domestic and foreign shrimpers, I am introducing the Turtle Protection Parity Act. This bill would have the twofold effect of protecting sea turtles from foreign shrimpers while preventing unfair competition to American shrimpers. Only shrimpers from countries that also require the use of turtle exclusion devices would be allowed to enter the U.S. market.

I urge Members of the House to join me in cosponsoring the Turtle Protection Parity Act. It is important to American business competition, and it is important to our environment.

A KIND AND GENTLE VOTE TO OVERRIDE THE VETO

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TRAFICANT. Mr. Speaker, President Bush is determined to have a more kind and gentle America. Believe me, he is going to do it. He is kind to give our fighter jet technology to Japan, he is kind to give millions of dollars to the Contras, he is kind to give more foreign aid to everybody all over the world. He is also very kind by wanting to give the rich a very big tax break.

Mr. Speaker, the problem is President Bush is kind to everyone except the American workers. Yesterday he vetoed the minimum wage bill over 30 copper pennies, 30 cents.

Those 8 million American workers at the bottom of the ladder are asking Congress and the President to be a little kind and a little gentle to Americans, and I think today we should culminate this affair on the minimum wage bill by having a kind and gentle vote to override the veto to help American workers. That would be something refreshing.

TWO ACTS TO IMPROVE THE DEPARTMENT OF DEFENSE

(Mr. LANCASTER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LANCASTER. Mr. Speaker, the time has come to put an end to wasteful Pentagon spending and procurement fraud. I have introduced H.R. 2361 and H.R. 2362 to strengthen the hands of Defense auditors and investigators. H.R. 2361 transfers over 6,000 Government auditors of defense contractors to the direct control of the inspector general's office and gives the inspector general a 10-year term, similar to the FBI Director.

It is no longer practical to have auditors of contractors in one organization and the internal auditors and investigators in another. We need a unified and independent approach to attacking the procurement abuses and wasteful spending from both within and outside the Government. The Pentagon procurement scandal has involved bribes of Government employees by defense contractor employees. Government contract auditors, who are primarily in the Defense Contract Audit Agency, have no authority to audit Government operations. The audits of Government operations are handled by the inspector general's office which also has the authority to conduct criminal investigations.

Currently, the inspector general is appointed for an indefinite term by the President with Senate confirmation, but can be fired by the President at any time. I believe that a 10-year term of office will make the inspector general more independent by not fearing removal for criticizing top officials.

The other bill that I have introduced, H.R. 2362, combines audit, investigation, and inspection units in the Army, Navy, and Air Force under a civilian auditor general in each service who will be appointed by the President and confirmed by the Senate for renewable 6-year terms of office. The services need the same kind of independent and unified auditors and investigators that the Government has in every other major department and agency. We cannot afford the turf battles and unclear responsibilities inherent in the current organizations. H.R. 2362 ends these problems by, first, making the auditor general an accountable focal point for disclosing and eliminating fraud and abuse in each service and second, providing the necessary staffing of 3,000 to 5,000 auditors, investigators, and inspectors needed in each department.

TRIBUTE TO TONY COELHO

(Mr. GUNDERSON asked and was given permission to address the House for 1 minute.)

Mr. GUNDERSON. Mr. Speaker and Members, none of us knows whether we are going to have the opportunity tomorrow to give 1 minutes because of the consideration of the legislation at hand, and so I just want to take the time today to really say a personal statement to one of my friends on the Democratic side of the aisle who, as I think we all know, will be resigning from the Congress effective tomorrow.

Mr. Speaker, I came here 9 years ago, and during those 9 years the gentleman from California [Mr. COEHLO] has become a good professional and a personal friend of mine. We have had the chance during those 9 years to serve in the House Committee on Agriculture. I think both of us take great pride in particularly our efforts jointly in working on the dairy section of that 1985 act. We have had a chance through these years to discuss the professional realities of the Congress, to discuss the partisan realities of good, honest bipartisan infighting between Republicans and Democrats.

However, Mr. Speaker, above and beyond all that there is a time to set professional bipartisanship aside and care for each other as people. Here is one Republican who cares deeply about TONY as a friend and wants him to know he has the best wishes of many of us as he goes forward.

SAVINGS AND LOAN BILL CRITICAL TO ECONOMIC SYSTEM, HOME OWNERSHIP

(Mr. PICKETT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PICKETT. Mr. Speaker, the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 to rescue the savings and loan industry of this Nation is one of the most important issues we will consider all year.

At the heart of this debate is the strength and vitality of a large segment of our country's financial system, a system that is essential to a healthy economy. In spite of the many problems that have resulted from the lax regulation, fraud, mismanagement, and greed about which we have heard so much, we know that millions of Americans still depend upon these savings institutions to meet a large part of their financial needs, and we cannot ignore that fact now.

These institutions still finance more than half of this Nation's home mortgages and are the place where millions of Americans have deposited their funds in insured savings accounts. We must protect the savings of these Americans and justify the confidence of our people in the thrift industry. Savings are essential to the growth of our economy. This legislation costs money, and it is not easy to spend public money to correct mistakes of this kind. But the integrity of our deposit insurance program must be maintained and the regulatory and structural problems in the savings and loan industry must be corrected. I urge my colleagues to support this bill.

WHY CITIZENS IN CHINA ARE FIGHTING TANKS AND GUNS WITH ROCKS AND FISTS

(Mr. MARLENEE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MARLENEE. Mr. Speaker, "June Third, 1989: Bloody Sunday in Beijing." A full-page ad in this morning's USA Today newspaper makes the point best. If the Chinese had the right to keep and bear arms, they would be free today. The administra-

tion and gun-control advocates propose that we turn over—to a government agency—the authority to decide what firearms are legitimate for "sporting purposes."

The Chinese did that a long time ago. And they died in Beijing Sunday, June 8.

And, Mr. Speaker, why will the publisher of Newsweek not run this ad by the National Rifle Association of America which outlines why citizens in China are fighting tanks and guns with rocks and fists.

Why won't Newsweek run this ad, just as "the nation's newspaper" USA Today did?

□ 1350

THE IMPORTANCE OF ADEQUATE CAPITAL IN OUR LENDING INSTITUTIONS

(Mr. OLIN asked and was given permission to address the House for 1 minute.)

Mr. OLIN. Mr. Speaker, today and for the next 2 days we are going to hear a lot about the savings and loan disaster. The committees have done a very fine and responsible job in coming forth with a bill to resolve this critical problem. Of course, the first priority is to keep our commitment to the millions of depositors and to do that at the lowest possible cost; but beyond that, we owe it to the people of this Nation to enact the changes that will prevent this from ever happening again.

There are many important changes in the bill of the committee, but probably the most important is the requirement that there be adequate capital in these institutions, that their owners have their own money up front. There is no place in that capital requirement for good will, no place in that upfront money.

So Mr. Speaker, I urge my colleagues to vote down any effort to make good will into hard cash, because too much good will will lead to bad management. In a few years we will be right back in the soup and this mess that we are trying to clean up today.

MAINTAIN TOUGH CAPITAL STANDARDS RECOMMENDED BY BANKING COMMITTEE

(Mr. STEARNS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. STEARNS. Mr. Speaker, today the House will begin consideration of the savings and loan bill. I am asking you today to maintain the tough capital standards that the Banking Committee has recommended in this bill.

As I said in a dear colleague letter with 13 other members of the Banking Committee, including the chairman and ranking member, strong capital standards are the heart of the bill. We cannot possibly presume to put this crisis on the road to repair if we're not tough on operators who risk taxpayers' money instead of their own. The use of intangibles such as good will as hard cash just does not make any sense, and I ask my colleagues to consider this carefully. What incentive for prudent management is there when all that is at risk is the thin air value of goodwill? Thrifts that want to engage in risky business ought to have more of their own money at stake.

I implore all of you to be part of the solution to this problem and not to perpetuate it by weakening the core capital requirements in the bill.

PRESERVING THE RIGHTS OF SAVERS, BORROWERS, AND TAXPAYERS DURING THE S&L CRISIS

(Mr. FAUNTROY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FAUNTROY. Mr. Speaker, as the previous two speakers have indicated, the House this week will have an opportunity to preserve the rights of savers, borrowers, and taxpayers, as we attempt to resolve the Nation's most expensive financial debacle: the S&L crisis. Until recently the public's awareness of the S&L fiasco was limited due to the news media's perception that the thrift industry's problems and its affect on Joe Q. Public were too complicated and too boring to be understood by the public at large. But as public awareness grows, so does the public's concern over the Congress protecting their rights as savers, home finance borrowers, and taxpayers.

In drafting legislation to solve this crisis, our House Banking Committee has put forth a comprehensive framework for resolving the problems confronting the thrift industry by reforming the regulatory structure of the thrift industry, providing a funding plan for liquidating insolvent S&L's and establishing the financial structure for a viable and ongoing insurance fund. However, it should not be forgotten that Congress has a significant role to exercise in not only resolving the S&L crisis but also to assure that the legislation encompasses a public policy philosophy that protects the rights of savers, borrowers, taxpayers, and homeowners of this country. Therefore Congress should maintain its traditional Democratic commitment to savers and homeowners in that this legislation:

Assures that the home lending finance system continues to provide the benefits of home ownership that Americans have enjoyed for the past 50 years.

Assures that consumers are not unduly burdened with the cost of the bailout.

Assures that the legislation contains enough private sector initiatives to attract additional investment capital to the thrift industry as a means of reducing the amount of taxpayers funds that must be devoted to the FSLIC bailout.

Preserving the role that thrifts have played since their inception is the key to protecting our citizen's savings and ability to purchase homes.

FREEDOM NOW FOR ELIZABETH MORGAN

(Mr. McEWEN asked and was given permission to address the House for 1 minute.)

Mr. McEWEN. Mr. Speaker, as we have seen reported in recent days, the People's Army of Beijing continues to knock on the doors of the citizens of that city to take captive those who had the temerity to demonstrate in behalf of democracy and freedom. Yesterday it was reported that one young man was turned in to the police by his sister.

Mr. Speaker, yesterday a very serious travesty took place here in the D.C. Court for the District of Colombia when Judge Dixon sought to convince the brother of Dr. Elizabeth Morgan, a Harvard medical doctor who refuses to turn over her 6-year-old daughter to her divorced husband, who has been accused previously of having sexually violated his two daughters. She refuses to turn over her daughter to him for unsupervised visits. Judge Dixon has locked her up now for the longest period in the history of the United States of America, locked her in jail without any trial or charge. Yesterday he cited her brother an assistant district attorney for the District of Columbia, for refusing to squeal on her, by revealing the location of the protected daughter.

Mr. Speaker, this is an alltime record low in the history of American jurisprudence.

NEW NATIONAL MUSEUM OF THE AMERICAN INDIAN AT SMITHSONIAN

(Mr. CAMPBELL of Colorado asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CAMPBELL of Colorado. Mr. Speaker, I am pleased to come to the well today to announce, that after many months of negotiations, an agreement was recently reached to transfer the exquisite and immense Heye collection of American Indian artifacts and objects to the Smithsonian Institution and to create a National

Museum of the American Indian on the Mall here in Washington.

I would like to invite all Members of this body to join me and our esteemed colleague, the gentleman from Arizona [Mr. UDALL], as original cosponsors of legislation to authorize the creation of the National Museum of the American Indian that not only will be a living memorial to the historic significance of this Nation's first citizens, but also will provide a rich and unique opportunity for all Americans and the many visitors to Washington to experience and share in this splendid legacy.

We are all aware of the tremendous contributions the Smithsonian has made and continues to make, not only to the richness of our Capital, but to the entire Nation, and indeed, the world. This new museum will be an additional treasure to an already fine array of museums, and I am very pleased to be working with the Smithsonian to create this new facility. I would like to take this opportunity to commend our colleagues in the other House Senator DANIEL INOUYE, and Senator JOHN MCCAIN, and also the Secretary of the Smithsonian, Secretary Robert Adams, for their dedication, perseverance, and hard work to seeing the National Museum of the American Indian become a reality.

This legislation is receiving bipartisan support and, again, I would like you to join as an original cosponsor to this legislation.

PRESIDENT BUSH HAS CORRECTLY VETOED MINIMUM WAGE BILL

(Mr. BARTLETT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BARTLETT. Mr. Speaker, yesterday within an hour of receiving the minimum wage package, President Bush correctly vetoed the minimum wage and sent it back by telecopy to the House. His veto will save jobs and will allow new entrants into the work force to get their first jobs and to hold them.

I caution my colleagues when we vote today on the override, before you vote to read and listen to what your constituents have to say about the minimum wage. I have had prepared a two-volume set which I will have at the desk today, a collection of 12 months' work of editorials and news articles from every State in this Union against the minimum wage increase, for the training wage and for an earned income tax credit.

Listen to your constituents. Read the examples. They range from the New York Times to Newsweek to the Birmingham Daily News. Every State in the Nation has editorial writer after editorial writer recounting how the minimum wage hike will cost jobs, will drive people out of work and is in the wrong direction for new entrants into the work force.

Mr. Speaker, I urge a vote to sustain the President's veto and come and read these editorials.

FREEDOM OF SPEECH WITHOUT THREATS

(Mr. APPLEGATE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. APPLEGATE. Mr. Speaker, the first article of the Bill of Rights says that Congress shall make no law abridging the freedom of speech or of the press. The other day the minority whip stood on the floor to chastise and threaten the Democrats, when somebody rose and talked about the savings and loan situation.

He said, "If there is going to be any bashing of George Bush and any bashing of the Republican Party, I just want the Democrats to understand that we are fully prepared to talk about how the mess got so big and who was responsible."

We talk about threats to freedom of speech. In China millions and millions of Chinese rose and spoke to be free, to be able to express themselves, and they were threatened by the Chinese Communist government. And what happened? There were thousands of them who were cut down, and those are the tactics of a totalitarian government, not a democracy.

"Come on, Mr. Whip. You don't really mean that, do you?"

The road goes both ways, and if the gentleman has something to say, say it freely and without threats.

□ 1400

MINIMUM WAGE

(Mr. WALKER asked and was given permission to address the House for 1 minute.)

Mr. WALKER. Mr. Speaker, we know a couple of things about what happens when we raise the minimum wage. We know that it costs jobs and we know that it raises inflation.

Some have framed the minimum wage fight as a class fight, it is rich versus poor. Let me suggest that those who are going to vote in a few minutes to sustain the President's veto are going to vote on the side of low-income people, they are going to vote to keep jobs for low-income people. Work is what low-income people really need, and what they deserve from our society. We ought not force them off the work rolls and on the welfare rolls as a result of raising the minimum wage.

The last thing poor people need in this country is to have inflation rising up so that their minimum incomes are cut for the basic necessities of life as a result of inflation, and minimum wage laws raise inflation rates substantially. So what it does is cut the income of the poor noticeably.

I would suggest if we really want to have this battle on behalf of the low-income people of the country we should sustain the President's veto.

OVERRIDE THE PRESIDENT'S VETO ON FAIR LABOR STANDARDS AMENDMENTS OF 1989

(Mr. LEWIS of Georgia asked and was given permission to address the House for 1 minute.)

Mr. LEWIS of Georgia. Mr. Speaker, I call on my colleagues to override the President's veto on H.R. 2, the Fair Labor Standards Amendments of 1989.

H.R. 2 provides a modest increase in the minimum wage. We have a moral obligation and a mission to override the President's veto of this measure.

The President's veto of the minimum wage bill sends the wrong message. It is not in keeping with his promise of a kind and gentle nation. It hurts the people who he has promised to help, the working poor.

Mr. Speaker, the President's veto will only prolong the economic misery for the working poor. We must not disappoint those Americans at the bottom of the economic ladder. The needs of those who are left out and left behind must be on our agenda. We have to be fair.

Again, I call upon my colleagues to have a conscience, to be fair. Raise the minimum wage, override the President's veto, and do it now.

CONGRATULATING PRESIDENT BUSH ON HIS CLEAR AIR INITIATIVE

(Mr. DREIER of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DREIER of California. Mr. Speaker, comprehensive legislative packages to deal with the savings and loan crisis, the budget deficit, Soviet expansion in Central America, crime, education, Third World debt, the issue of troop reduction in NATO are among the proposals which have been put forth by President Bush in the first few months of his Presidency.

I would simply like, Mr. Speaker, to extend congratulations to President Bush for providing his latest legislative package which addresses one of the major concerns which all Americans, and specifically my southern California constituents face, and that is the problem of cleaning up our very, very polluted air. I hope very much that we will be able to move as expeditiously as possible with legislation which can rectify that horrible situation.

OVERRIDE THE PRESIDENT'S VETO ON THE MINIMUM WAGE BILL

(Mr. OWENS of New York asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. OWENS of New York. Mr. Speaker, I urge all of my colleagues to vote to override the veto of the minimum wage bill and vote also to put the S&L's on budget. These two are related.

The increase in the minimum wage does not cost taxpayers 1 cent. The bill out on the savings and loan associations will cost a minimum of $295 billion.

Our first concern with the S&L's, of course, is with the depositors. We are in favor of guaranteeing that depositors receive the money that the Federal Government has guaranteed. But of equal concern is the cost to the taxpayer. What are we going to take out of the taxpayers' pocket, and can we not operate to at least put on the table in sight of all this operation by voting to put it on budget where the taxpayers, the Congressmen and everybody else can see what is happening.

The truth is, the savings and loan swindle is really what is threatening the American economy. That is the inflation factor we ought to be concerned about. It will drive up inflation.

A minimum wage increase puts a little more money in the pockets of working people and helps the economy. Vote to override the minimum wage veto and to help boost the American economy by putting money in the pocket of working people, and help to strengthen that economy.

RISING MEDICAL COSTS

(Mr. DUNCAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DUNCAN. Mr. Speaker, the doctors of America are getting a bum rap. Many people think the doctors are the main ones responsible for skyrocketing medical costs. Actually 98 percent of our doctors have a very close relationship with their patients and are doing all they possibly can to hold down medical costs.

Our doctors are being caught in a squeeze between big insurance companies and big government. The bulk of the medical dollar today is going for administrative and bureaucratic costs, not to the doctors.

If we really want to bring medical costs down, and it may be heresy to say so, we need less Government involvement instead of more. Now we are being asked to adopt something called expenditure targets. These so-called expenditure targets, or ET's, simply add to our bureaucratic costs and would ultimately lead to rationing of medical care, especially for the elderly.

I call on all of my colleagues to oppose these expenditure targets and try to hold down medical care costs for the care of our citizens.

TIME TO OVERRIDE THE PRESIDENT'S MINIMUM WAGE VETO

(Mr. MFUME asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MFUME. Mr. Speaker, yesterday President George Bush made a grave mistake by vetoing the minimum wage bill. By signing this veto message, President Bush has reneged on his promise for a "kinder and gentler America."

In his statement, the President stated that the bill "would increase the minimum wage by an excessive amount and thus stifle new job opportunities." I find it very difficult to return to my district of Baltimore to inform my constituents that President Bush just vetoed a measure that could have rescued hundreds of families from the brink of poverty. Then, in the same breath, turn around and tell them that President Bush would prefer to give a $30,000 capital gains tax break to Americans who earn $200,000 or more per year.

This is not a very easy pill for me to swallow, so I can understand how our constituents will feel. The minimum wage has not been increased in 8 years. Had the minimum wage kept pace with inflation, it would be set at $4.68.

This means that the thousands of hard-working Americans who earn the minimum wage have no real alternative to public assistance, nor confidence in any relief from their national Government to assist them in caring adequately for their families. Thus, their determination to escape further economic deprivation is further undermined by the administration's stubbornness and refusal to listen to the outcry from those people who are struggling to survive on a subminimum wage.

When the dust clears on this issue, I am more than confident that the American people will realize that an error has been made. Unfortunately, many innocent people will have already fallen between the seams of our Nation's economic safety net.

Therefore, I urge each and every Member of this House to cast their vote where it really counts, on the side of our Nation's work force.

VISIT BY PRESIDENT OF THE GAMBIA

(Mr. DOUGLAS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DOUGLAS. Mr. Speaker, I was pleased to recently host an informal luncheon for President Jawara of the Gambia and members of his cabinet during their visit to Washington. I was joined by eight other Members in welcoming the President to our country and in discussing issues of importance to both nations.

As a representative from New Hampshire, a State that resembles the Gambia in population and size, I felt an affinity with President Jawara and his delegation. Gambia has one of the best human rights records in all of Africa, and Gambians have been successful in building a functioning democratic government in their country.

I was particularly impressed with Gambia's support for the United States initiative at the meeting in Geneva of the United Nation's Human Rights Commission to highlight Cuban human rights abuses. The Gambian representatives exhibited firm resolve in resisting the pressure of the Cuban delegation and lent their full support to the human rights report.

The initiative on Cuba is just one example of the basic values and principles shared by the United States and Gambia, and I am sure that our two countries will continue to build on this foundation in the future.

MINIMUM WAGE VETO OVERRIDE: RAISE THE MINIMUM RAISE, MR. PRESIDENT

(Mrs. BOXER asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. BOXER. Mr. Speaker, President Bush moved imperceptibly in Alaska while beaches were fouled with oil, thousands of fish and animals killed, and the livelihood of fishermen destroyed. No harshness toward Exxon from our President.

But when America's poorest workers knocked on the White House door, George Bush opened fire with both barrels. He is aiming his first veto at those Americans. I guess it is a matter of finding an easy target. After all, he has not complained that the chairman of Exxon got paid $1.4 million in wages last year, but people who earn the minimum wage do not lobby, they do not fly on corporate jets, and they do not play golf or even horseshoes.

I would like to remind George Bush of what his predecessor said: "Facts are simple things."

Fact: Since 1981, the purchasing power of the minimum wage has decreased by more than 30 percent.

Fact: While the minimum wage has decreased 30 percent, the cost of living has increased 40 percent.

Fact: In 1988, total compensation for CEO's in the Business Week survey topped $2 million for the first time, an increase of 300 percent since 1980; 300 percent versus 30 cents.

Come on Mr. President, get real.

MINIMUM WAGE: WOMEN AND MINORITIES

(Ms. OAKAR asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. OAKAR. Mr. Speaker, I certainly hope that we can override the President's veto relative to the minimum wage. We have seen the Supreme Court in the last two decisions deal a cruel blow to many citizens in this country, particularly women and minorities. And I think we ought to ask because when we talk about these terms, such as minimum wage: What does that really mean? Who are these people who are the recipients of the lowest standard that we can match in this country? They are primarily women. Two-thirds are women.

Mr. Speaker, they are primarily women who receive the proposed $4.55 an hour. The other third primarily are displaced workers who had higher-paying jobs. They are minorities.

People on minimum wage have no access, very often and probably usually is the case, to any other form of benefit. They have no health insurance, they have no pension plan, yet they pay their taxes out of that.

How can we expect people to survive? Override this veto.

TRIBUTE TO CHIEN-JEN CHEN, VICE MINISTER OF FOREIGN AFFAIRS, REPUBLIC OF CHINA ON TAIWAN

(Mr. AKAKA asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. AKAKA, Mr. Speaker I would like to extend my heartiest congratulations and warmest aloha to Mr. Chien-Jan Chen on his appointment as Vice Minister of Foreign Affairs for the Republic of China on Taiwan.

Mr. Chen's exceptional educational background and vast experience in international relations distinguish him among the international diplomatic community. His meritorious service as Deputy Representative for the Coordination Council for North American Affairs in indicative of the talent he brings to his new position.

In his many years of work for his country in Washington, DC, Mr. Chen has contributed greatly to mutual understanding between both of our nations. He has brought a creative and insightful mind to the tasks of addressing complex issues which arise between nations who are friends and trading partners.

I am certain that in his new position, Mr. Chen will continue to strengthen the postive forces that bind our two countries together. It has been a pleasure knowing Mr. Chen, and I look forward to working with him in the future for the mutual benefit of our two nations.

DO NOT POLITICIZE THE S&L ISSUE

(Mr. CARPER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CARPER. Mr. Speaker, in recent weeks I have noticed an effort to politicize the S&L issue. I have just one word of advice for all of us. That word is "don't." There is plenty of blame to go around for the executive branch. There is plenty of blame to go around for the legislative branch—plenty of blame for the Democrats and Republicans on this issue.

We permitted, before many of us came to the Congress, the deregulation of the thrift industry without providing adequate supervision at either the State or the Federal level. We have this week an opportunity to correct that mistake. We permitted many S&L's to be operated under capitalized without really much money at all of the owners being at stake. We have an opportunity to correct that mistake this week, too.

Rather than spend this week shifting the blame, seeking political gain or pointing fingers, I hope that what we will do instead is join hands and pass a bill that will, one, raise the money that we need to shut down truly sick thrifts and pay off-depositors; that will, two, insure that the thrift industry is adequately supervised in the future; and three, to insure that the owners of these thrifts have to put up their own money, real money to meet the capital standards proposed in this bill.

WE NEED TOUGH CAPITAL STANDARDS

(Mr. SCHUMER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SCHUMER, Mr. Speaker, we are about to approve the largest bailout in history, and if we do not do it right, we will be here again again in a few years spending another $100 billion.

The S&L bailout will cost more than the Chrysler, Lockheed, and New York City bailouts combined, yet some among us refuse to call for the tough regulations needed to clean up this industry.

For the last 10 years the S&L industry has been playing a giant game of roulette. And they have been gambling with taxpayers' money.

Without tough capital rules, we will be telling these high flying speculators, "OK", go back into the casinos and here are our chips, we'll bail you out again when you need us."

What will the American people think when they hear that this problem, this giant weed, was allowed to grow to $100 billion in the first place, and then Congress planted the seeds for a second disaster?

If we spend billions to bail out the thrifts, and do not pass tough regulations on them, then we will be letting the thrifts have their $50 billion cake and letting then eat it, too.

Mr. Speaker, imagine our country's budget as a bucket, the savings and loan industry is a huge hole in that bucket, and $100 billion has poured out, before we put another $100 billions into the bucket, shouldn't we patch it first?

WHERE IS PRESIDENT "GEORGE" ON THE S&L CRISIS?

(Mr. KLECZKA asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KLECZKA. Mr. Speaker, last year, the question, "where was George," was heard over and over.

This year, as the House begins consideration of the savings and loan bailout bill, the question has become: "Where is President George"?

When President Bush submitted his FSLIC bailout bill earlier this year, Democrats on the House Banking Committee, in a spirit of bipartisanship, supported him. Indeed, we made the capital provisions tougher.

Now we are at a critical stage. We have got a tough savings and loan bill before the House, but Republicans—the President's own party—are leading a full-court press to weaken the capital standards in the bill.

Where is the President? Democrats moved the bill. We took the heat when we toughened the standards. We took the President at his word when he pledged that "never again" should taxpayers be forced to bail out the FSLIC. For us, that meant strong capital standards.

Now it appears that a majority of the President's own party, dancing to the tune called by a vocal portion of the thrift industry, will vote to gut the capital provisions in the bill.

Where is the President?

According to press reports, he will meet with House Members today on the matter.

I hope he is not a day late and $157 billion short. If this bill is to survive, he will need to bring members of his own party on board, and do it soon.

A lot of parties can share the blame for the current FSLIC mess.

If the President's proposal to resolve that mess is gutted, however, the blame will fall on one party and one party only—the Republican Party.

If Republicans gut the capital provisions in this bill, Mr. President, do not count on Democrats to do any more heavy lifting on this bill. We're on board for an FSLIC bill with tough standards, not a special-interest Christmas tree.

CONSUMER PRODUCTS RECOVERY ACT

(Mr. TORRES asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TORRES. Mr. Speaker, we have heard today on one occasion that the oilspill that we have been experiencing in this country has taken a toll on our environment, and our ecology.

For example, it should be important for people to note that the Valdez oil spill, the one that took place not too long ago, represented 11½ million gallons of oil spilled, spilled taking a huge toll on the environment.

But do you know that Americans spill over 400 million gallons a year of oil into our grounds, into our landfill systems, into our storm drains.

Today, Mr. Speaker, I am introducing legislation, the Consumer Products Recovery Act, which will stimulate environmentally sound recycling of used motor oil, batteries and tires.

□ 1420

The act will achieve this goal by making it economically viable for those products to be recycled. This bill would, for the first time, establish a system of market incentive to channel the flow of waste products.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. TORRICELLI). The Chair will recognize the gentleman from Massachusetts [Mr. MOAKLEY], the new chairman of the Rules Committee, to call up a privileged resolution from the Committee on Rules, prior to going to unfinished business of the veto override. In doing so, the Chair is not establishing anything to be considered as a precedent.

PROVIDING FOR CONSIDERATION OF H.R. 1278, FINANCIAL INSTITUTIONS REFORM, RECOVERY AND ENFORCEMENT ACT OF 1989

Mr. MOAKLEY. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 173 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 173

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 1(b) of rule XXIII, declare the House resolved into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 1278) to reform, recapitalize, and consolidate the Federal deposit insurance system, to enhance the regulatory and enforcement powers of Federal financial institutions regulatory agencies, and for other purposes, and the first reading of the bill shall be dispensed with. All points of order against consideration of the bill are hereby waived. After general debate, which shall be confined to the bill and the amendments made in order by this resolution and which shall not exceed two hours, with sixty minutes to be equally divided and controlled by the chairman and ranking minority member of the Committee on Banking, Finance and Urban Affairs, with twenty minutes to be equally divided and controlled by the chairman and ranking minority member of the Committee on Ways and Means, with twenty minutes to be equally divided and controlled by the chairman and ranking minority member of the Committee on the Judiciary, with ten minutes to be equally divided and controlled by the chairman and ranking minority member of the Committee on Government Operations, and with ten minutes to be equally divided and controlled by the chairman and ranking minority member of the Committee on Rules, the bill shall be considered for amendment under the five-minute rule. In lieu of the amendment now printed in the bill, it shall be in order to consider an amendment in the nature of a substitute consisting of the text entitled "Committee Print, Committee on Rules, June 13, 1989" as an original bill for the purpose of amendment under the five-minute rule, said substitute shall be considered as having been read, and all points of order against said substitute are hereby waived. The amendment printed in part one of the report of the Committee on Rules accompanying this resolution shall be considered as having been adopted in the House and in the Committee of the Whole. No other amendment to said substitute shall be in order except the amendments printed in part two of the report of the Committee on Rules accompanying this resolution. Said amendments shall be considered only in the order and manner specified in the report and may be offered only by the Member specified, or his designee. Said amendments shall be considered as having been read and shall each be debatable for the time specified in the report of the Committee on Rules, to be equally divided and controlled by the proponent and a Member opposed thereto. Said amendments shall not be subject to amendment except as specified in the report. Said amendments shall not be subject to a demand for a division of the question in the House or in the Committee of the Whole, except for amendment number 1 in part II of the report accompanying this resolution. All points of order against said amendments are hereby waived. If more than one of the amendments on the subject of supervisory goodwill is adopted, only the last such amendment which is adopted shall be considered as finally adopted and reported back to the House. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the amendment in the nature of a substitute made in order as original text by this resolution. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

The SPEAKER pro tempore. The gentleman from Massachusetts [Mr. MOAKLEY] is recognized for 1 hour.

Mr. MOAKLEY. Mr. Speaker, for purposes of debate only, I yield the customary 30 minutes to the gentleman from Tennessee [Mr. QUILLEN], pending which I yield myself such time as I may consume.

Mr. MOAKLEY. Mr. Speaker, House Resolution 173 is a modified open rule that provides for 2 hours of general debate to be allocated between five committees as follows:

One hour equally divided and controlled by the chairman and ranking minority member of the Committee on Banking, Finance, and Urban Affairs;

Twenty minutes equally divided and controlled by the chairman and ranking minority member of the Ways and Means;

Twenty minutes equally divided between the chairman and ranking minority member of the Committee on Judiciary;

Ten minutes equally divided between the chairman and ranking minority member of the Committee on Government Operations; and

Ten minutes equally divided between the chairman and ranking minority member of the Committee on Rules;

Mr. Speaker, House Resolution 173 waives all points of order against the consideration of the bill and makes in order the text titled, Committee Print, Committee on Rules, June 13, 1989 as an amendment in the nature of a substitute.

The print is only an administrative convenience, for drafting purposes, and consists of the Banking Committee substitute, as modified by Ways and Means Committee amendment No. 1 and the Judiciary Committee amendments.

All points of order are waived against the substitute, and the substitute shall be considered as original text for the purpose of amendment and shall be considered as having been read.

Mr. Speaker, the rule also provides that the amendment printed in part one of the Rule Committee report is to be considered as having been adopted.

This amendment modifies section 717, relating to affordable housing contributions by the Federal Home Loan Bank System, to read—comma by comma—exactly in the form it was before members of the Banking Committee when they adopted the amendment and reported the bill.

Mr. Speaker, I desire to establish a clear history with respect to this provision, although I believe members understand the nature of the political accommodation it implements.

The gentleman from Texas presided over a difficult markup of a long and complicated bill, and won high marks from everyone for the patience and fairness with which he presided.

Subsequently to the committee's reporting action, the chairman of the committee provided technical aspects of the provision, and there has been some controversy over the change.

The distinguished chairman does not concede that anything improper was done. Nor, to the extent that the Committee on Rules acts as his agent in the pending matter, does our committee.

The chairman's modification is neither more nor less substantive than dozens of changes requested by the minority, indeed, the file report incorporates 600 administration requested modifications.

The Gonzalez modification did not produce any additional revenue for the affordable housing program. It was only a good faith effort to negotiate cross committee concerns.

Nevertheless, in the spirit of comity and accommodation that has characterized the gentleman's handling of the bill, the chairman agreed to dispose of the matter in the rule. The intent is only to assure that a side-issue of little importance does not impede the bipartisan goal of moving this vital legislation forward.

Mr. Speaker, the rule further provides that no amendments shall be in order to the substitute except the amendments printed in part two of Rules Committee report. The amendments are to be offered in the order and the manner specified in the report from the Rules Committee and may be offered only by the member specified or his designee. Time is equally divided between the member offering the amendment and a member opposed.

All points of order are waived against the consideration of the amendments, and the amendments are not subject to amendment, except when specified in the report. The amendments will not be subject to a demand for a division of the question in the House or the Committee of the Whole.

As a convenience, to save time, the rule packages a set of cross-committee agreements as a single amendment, but the rule protects the right of any member to demand that any of the five be divided for a separate vote.

Mr. Speaker, that amendment consists of a set a technical amendments that will be offered by the chairman of the Banking Committee [Mr. GONZALEZ] as an en bloc amendment, subject to the demand I have described.

Mr. Speaker, the rule then provides for the consideration of four amendments relating to capital standards. The rule provides that the amendments will be considered in the order printed in the report from the Rules Committee.

If more than one of these amendments are adopted, only the last amendment adopted in the Committee of the Whole will be considered as having been finally adopted and reported back to the House.

I stress that the rule controls, and the fact that the Hyde amendment is drafted to a different title than the others does not affect the operation of the rule.

Mr. Speaker, the goodwill issue is a troubling one for many members. Supervisory goodwill is a concept created by the regulators for their own purposes, and thrifts are the innocent victims of changing standards. Indeed, it is clear that much of the burden of change falls on the least culpable institutions.

Nevertheless, the standards have changed and the intervention of vast taxpayer subsidies create legitimate demands for reform.

It is not my job, as Rules Committee chairman, however, to impose my judgments on my colleagues and our committee has proposed a fair and bipartisan procedure by which the House has a fair opportunity to work its will.

Mr. Speaker, the rule provides for appropriate consideration of 10 other amendments on a number of subjects. I will not take the time to describe them in detail, but I will insert a more detailed summary of the rule under the leave I have obtained.

Finally, Mr. Speaker, the rule provides for one motion to recommit with or without instructions.

Mr. Speaker, H.R. 1278 is a comprehensive bill that would restructure and reform the Nation's savings and loans industry, by authorizing the financing to pay for the merger or liquidation of the savings and loan institutions that are presently insolvent or will become insolvent over the next few years.

The bill provides for the expansion of enforcement powers of the regulatory agencies that will be in charge of overseeing the industry and imposing stiff civil and criminal penalties that will be enforced by the banking agencies and Justice Department.

Mr. Speaker, the bill requires that by the year 1995 all thrifts would have to have tangible capital equaling at least 3 percent of their total assets, and that the counting of supervisory goodwill toward capital would be phased out by the year 1995.

The bill would also establish a new government corporation called the Resolution Trust Corporation. The Corporation would manage and dispose of any assets acquired from thrifts that have been taken over by the Government since January 1, 1989.

Mr. Speaker, the bill further provides housing opportunities for low- and moderate-income families, by establishing an affordable housing program that would provide below market rate loans to thrifts that would be used toward low-cost mortgages.

Mr. Speaker, the Rules Committee met for 3 days last week to consider over 100 amendments that were submitted to this bill. Because this bill is such a complex piece of legislation and in the interest of getting this bill passed and sent to conference in a timely fashion, the Rules Committee made in order only those amendments that dealt with the major issues that are imperative to getting this bill passed out of the House and into conference.

Mr. Speaker, we have all heard the stories from around the country about this failing industry and the hardships that occur when a trusted savings institution fails as a result of mismanagement and neglect. The people most affected by these failures are young families trying to save for that first home, and retirees, who have put their life savings and their personal security in thrift institutions.

The bill we have before us today will begin the long and overdue process of restructuring and strengthening the savings and loan industry, and put an end to the mismanagement and neglect that has plagued this industry for too long. The time to act on this matter is now, any further delay on this bill will only increase the ultimate cost of the cleanup which is presently costing the American taxpayers over $1 billion a month.

I urge my colleagues to adopt this rule and allow the House to proceed to this important bill.

SUMMARY OF PROPOSED RULE, H.R. 1278

GENERAL DEBATE

The rule provides for two hours of general debate as follows:

Committee on Banking, Finance and Urban Affairs, 1 hour.

Committee on the Judiciary, 20 minutes.

Committee on Ways and Means, 20 minutes.

Committee on Government Operations, 10 minutes.

Committee on Rules 10 minutes.

Each allotment is divided equally between the committee's majority and minority floor managers.

BASE TEXT

In lieu of the matter now printed in the bill, the rule makes in order as original text an amendment in the nature of a substitute (Rules Committee print, dated June 13, 1989). The committee print consists of the original amendment in the nature of a substitute recommended by the Committee on Banking, Finance and Urban Affairs with the following modifications:

Ways and Means Committee Amendment No. 1. The amendment inserts a new title

XIV, consisting of amendments to the Internal Revenue Code related to tax aspects of matters otherwise addressed by the bill. The matter is entirely within the jurisdiction of the Committee on Ways and Means, and the Rules Committee received no requests for amendments to the proposed title.

Amendments recommended by the Committee on the Judiciary. The committee amendments modify provisions of titles II and IX of the Banking Committee substitute within the jurisdiction of the Committee on the Judiciary. The Rules Committee received four requests for amendments to the matter, and all are provided for in the rule.

The rule makes one further modification in the base text. Section 717, relating to the Affordable Housing Program, is modified so that it reads in the same form in which it was before the Banking Committee when the committee voted to report.

AMENDMENTS

The rule provides for the consideration of designated floor amendments. Except for the LaFalce amendment, no provision is made for the consideration of any amendments thereto, nor for division of any amendment. In each case amendments will be offered by the Member named or his designee, and time provided is divided equally between the Member offering the amendment, and a Member opposed to the amendment.

Technical "cross-committee" amendments

Chairman Gonzalez will offer a set of technical amendments en bloc. A separate vote can be obtained on any of the amendments, by demand for a division. The *set* of amendments are subject to 1 hour of debate. Since the amendments are agreed text, there may be no opponent, so time is divided between the chairman and ranking minority member of the Committee on Banking, Finance and Urban Affairs. The amendments represent agreed texts resolving concerns of committee" issues, as follow:

Oakar Amendment No. 51 relating to personnel matters within the jurisdiction of the Committee on Post Office and Civil Service.

De la Garza Amendment No. 61 relating to personnel matters within the jurisdiction of the Committee on Agriculture.

Frank Amendment No. 40 making a technical modification in a Judiciary Committee amendment related to FDIC hearing procedures.

Hawkins Amendment No. 57 (revised), retaining current treatment of "pass through" insurance protection of certain deposits and providing for a study of the issue (No "moratorium" is imposed during the study). Adds Ed/Labor to recipients of study.

Ways and Means Amendment No. 2 (revised), relating to assessment on the Home Loan Bank System to partly fund the RTC activities. $300 million annually, indexed to lower of inflation or bank earnings, with a $600 million cap.

Capital Standards

The rule provides for the consideration of four amendments relating to capital standards. The amendments will be debated and voted or in the following order, and last amendment adopted will prevail:

Quillen Amendment No. 67a, relating to "grandfathering" of accounting treatment of certain supervisory goodwill. [60 minutes]

Schumer Amendment No. 77c, reducing transition period for treatment of goodwill. [60 minutes]

Hyde Amendment No. 47 providing certain administrative review of treatment of supervisory goodwill. [60 minutes]

Gonzalez Amendment, restating the treatment of supervisory goodwill provided in the Banking Committee substitute. [60 minutes]

All amendments are to section 314, except that the Hyde amendment is drafted to section 926, but all address related issues.

Judiciary

The Judiciary Committee amendments modify provisions of titles II and IX and the amendments are treated as original text under the rule. Two amendments to that text are provided for under the rule:

Barnard Amendment No. 2 reinstating Banking Committee language providing for two Justice Department field investigation offices. [40 minutes]

Annunzio Amendment No. 84 reinstating Banking Committee language relating to penalties. [40 minutes]

Financing Amendments

Three amendments relating to financing issues are made in order:

Ways and Means Committee Amendment No. 3 providing for funding under the bill to be treated as "on budget' and exempt from Gramm-Rudman. [60 minutes]

LaFalce Amendment No. 13d to Ways and Means No. 3, eliminating the Gramm Rudman exemption contained in the Ways and Means provision. [30 minutes]

Gonzalez Amendment No. 55b, relating to limitation of RTC borrowing authority. [40 minutes]

Miscellaneous Matters

Other amendments provided for under the rule are:

Kennedy Amendment No. 78a, relating to community reinvestment disclosure. [40 minutes]

Dorgan Amendment No. 12 (revised) limited authority of thrifts to invest in "junk bonds." [40 minutes]

Bartlett Amendment No. 15b to strike the Affordable Housing Program. [60 minutes]

Gonzalez Amendment No. 72, striking a provision of section 206 relating to an institution in San Antonio, Texas. [10 minutes]

Hoagland Amendment No. 20 (revised) providing certain authorities relating to credit unions comparable to treatment of thrifts under the bill. [10 minutes]

□ 1430

Mr. Speaker, under my prior announcement, I yield to my friend the gentleman from Tennessee [Mr. QUILLEN], who has effectively and energetically participated in developing a fair and bipartisan rule. I yield to the gentleman for the purposes of debate only.

Mr. QUILLEN. Mr. Speaker, I yield myself such time as I may use.

Mr. Speaker, the able gentleman from Massachusetts [Mr. MOAKLEY] has explained the provisions of the rule, and let me take this opportunity to congratulate him on assuming the chairmanship of the Rules Committee. He and I have served as ranking members of the Rules Committee for many, many years. He is always a dedicated gentleman, and he is very knowledgeable about the rules of the House.

Mr. Speaker, let me say this to the gentleman: JOE MOAKLEY, it is an honor for me to serve on the committee with you. I extend my congratulations to you again.

Mr. Speaker, I also commend the gentleman from Massachusetts for his dedication in presiding over 3 long days of testimony and for his skill in conducting lengthy and difficult negotiations on this rule. The Rules Committee started with more than 100 amendments and has reduced that to the more manageable number of 15.

Mr. Speaker, it is impossible to please everybody in such a situation. However, this rule will enable us to complete action in 2 or 3 days on a bill that otherwise could have taken weeks. The new chairman of the Rules Committee, the gentleman from Massachusetts [Mr. MOAKLEY], is off to a good start.

Mr. Speaker, one of the amendments made in order by this rule is an amendment I will offer dealing with supervisory goodwill. There will be a full debate of the issue when we get into the amending process. For now, I would just like to note that the amendment was offered in an attempt to deal with a problem faced by a number of savings and loan institutions across the country. Many stronger savings and loans were encouraged by the Government to acquire weaker savings and loans in recent years. Because the Federal regulator did not have the resources to shut down or recapitalize these weak institutions, the healthy institutions were given written agreements allowing them to treat supervisory goodwill as capital for periods of time ranging up to 40 years in some cases. The healthy savings and loans relied on this commitment for business planning purposes. In many cases they would not have agreed to take over the weaker thrifts but for this inducement.

Now in this bill, it is proposed that the Government should renege on its commitments by requiring that savings associations would be required to write off all existing supervisory goodwill on their books within 5 years, for core capital purposes.

Mr. Speaker, a deal is a deal. If Americans cannot trust their own Government, who can they trust? In this case a number of healthy savings and loans trusted their Government. And they should not have the rug pulled out from under them now.

Mr. Speaker, my amendment would simply permit savings associations carrying supervisory goodwill as of April 1, 1989 to continue to do so in accordance with generally accepted accounting principles, or in accordance with an amortization schedule specifically permitted by regulatory agreement. My amendment is a fair and reasonable solution to a difficult problem. It grandfathers in those institutions which worked out agreements with

the Government to carry supervisory goodwill on their books.

Mr. Speaker, when we get to the amending process, I will ask the House to support my amendment, because really a deal is a deal.

At this time I ask the House to support this rule. It provides an acceptable procedure for dealing with a long and complex piece of legislation.

We know that the crisis existing in the savings and loan institutions is a very real crisis, and the problem should be solved. We should get down to the business now of discussing the measure.

Mr. Speaker, I yield 4 minutes to the gentleman from New York [Mr. SOLOMON].

Mr. SOLOMON. Mr. Speaker, I thank the gentleman from Tennessee for yielding me the time.

Mr. Speaker, let me, first of all, commend Chairman MOAKLEY and the ranking member, the gentleman from Tennessee [Mr. QUILLEN], as well as all the members of the Rules Committee, for their diligence and their patience in writing a rule that brings this bill to the floor.

Last week, the committee held 3 days of hearings—marathon sessions—in which dozens of members offered at least 100 separate amendments. Certainly, any Member who wanted to be heard on this bill had ample opportunity.

Let me also say that the House is compelled to act on this bill this week. There is no time to be lost—the savings and loan industry in America is hemorrhaging at a rate of at least $10 million a day. And that is an optimistic estimate—the daily loss may be as high as $40 million. Tens of millions of dollars are being drained from failing S&L's that cannot be shut down because there is no money to pay off depositors. Every day that we delay taking action, the problem just gets that much worse.

Mr. Speaker, the rule for H.R. 1278 makes in order ample time to debate the capital standards issue, particularly as it relates to supervisory goodwill. This is, probably, the single most contentious issue in the entire bill. The rule also makes in order the opportunity to debate whether the costs of the S&L bailout should be on budget or off budget, and, most importantly, the issue of whether or not the costs of this bill should be subject to applicability under Gramm-Rudman-Hollings.

Mr. Speaker, given the magnitude of the crisis in America's thrift industry, as well as the need to take immediate action, there is no way the Rules Committee could have made in order every amendment that was presented. We would be here for weeks. I must say, however, that this modified rule is not above criticism.

Mr. Speaker, let me quote something, and I will ask the gentleman from Massachusetts [Mr. MOAKLEY] to listen to this.

> I will do what I can, everyday that I serve in this office, to insure that the rights and privileges of each Member of the House are respected and to insure that the procedure is fair to all.
>
> * * * I understand the responsibility of the Speaker of the House to be a responsibility to the whole House and to each and every individual Member, undivided by that center aisle.

Who said that? Our great new Speaker whom we all respect, TOM FOLEY.

Now, having said all that, let me say to my colleagues that I regret that the committee saw fit to make in order an amendment by Mr. KENNEDY a Democrat, concerning disclosure requirements under the Community Reinvestment Act, but they did not make in order an amendment by Mr. BARTLETT, a Republican, covering the same subject and providing a safeguard to those financial institutions that are acting responsibly.

Mr. Speaker, the committee also saw fit to make in order an amendment by Democrat Chairman GONZALEZ of the Banking Committee, but gave short shrift to Mr. WYLIE, the ranking Republican on the Banking Committee, when he sought to offer an amendment on the same subject.

Mr. Speaker, let us remember the remarks of our Speaker, Mr. FOLEY.

In the same way, the committee saw fit to go with a Quillen-Hyde-Annunzio-LaFalce weakening approach to capital standards, but did not provide opponents of this strategy led by Mr. LEACH of Iowa with an opportunity to offer a strengthening amendment of their own.

□ 1440

Finally, Mr. Speaker, the committee did not allow in order an amendment which would strike at the narrow and parochial provisions in the bill that are mostly designed for hometown political advantage rather than at solving a problem that will affect the entire Nation.

So, Mr. Speaker and my colleagues, I rise in reluctant opposition to this rule because I know all of the hard work that our chairman went through, the members of the committee, and I will conclude right now, Mr. Speaker.

I will vote against this rule, but I shall not fight to defeat it this time, I urge every Member to vote their own conscience.

Mr. MOAKLEY. Mr. Speaker, for purposes of debate only, I yield 5 minutes to the gentleman from Illinois [Mr. ANNUNZIO].

Mr. ANNUNZIO. Mr. Speaker, I support the rule on H.R. 1278 and I want to commend the new chairman of the Rules Committee, the gentleman from Massachusetts [Mr. MOAKLEY] for the fair and impartial manner in which he handled the hearing on this rule. I know this is typical of the outstanding efforts that we will see from the gentleman from Massachusetts in the future.

Everyone in this Chamber is familiar with the school prayer controversy. Today, we will be dealing with the savings and loan prayer controversy. I say that because we can only pray that this legislation will solve the crisis that has seen the savings and loan insurance fund fall into bankruptcy. I sincerely hope that this legislation will solve the crisis and keep the good institutions in operation and put the crooks in jail.

But I must, at the same time, be totally honest when I tell you that I have grave concerns that this legislation will not meet the expectations set for it. Nevertheless, despite the concerns that I and others have, I feel that we should support the legislation in hopes that it will work.

There are a number of factors that weigh heavily against this legislation being successful. And, I would like to take a few minutes to discuss them. First, this legislation calls for $50 billion to clean up the current savings and loan crisis. That may be enough money to solve the savings and loan crisis in its present condition. There is money in this legislation to liquidate and pay off some 500 institutions.

These are institutions that are either currently insolvent, or are so close to insolvency that there is little likelihood that they can recover.

But what the legislation does not deal with, are the hundreds of institutions that are open, operating, making home loans, are not in trouble, and most importantly, are making money. Because of a change in accounting standards, which is included in this legislation, many of these institutions will be forced to close their doors in the coming months.

Now, I want to repeat, because this is important. These are well-run institutions, that have no criminal activity, that are not mismanaged, that are making home loans and are making money. Unfortunately, many of them will be put out of business because of this legislation.

During the amendment process on this legislation an amendment will be offered to correct this problem so that these profitable institutions can continue to operate. But, if that amendment is not successful, then we must understand that we will have to come up with more money to resolve the problems of those well-run institutions that will be liquidated.

It is estimated that between 1,000 and 2,200 of the current 2,900 savings and loans in this country will be put out of business because of these new

accounting standards. According to officials at the Federal Home Loan Bank Board, some 85 percent of all of the assets in the industry may well be lost because of the new accounting terms. I am not going to argue the merits of this issue at this time. I do, however, want Members to realize that Americans across this country are asking, Why should taxpayers' money be used to bail out the crooks in the savings and loan business?

The American taxpayers resent having their money spent in this fashion, and I can't blame them. But, I want to sound this warning today, that if the American taxpayers are not happy spending $50 billion to solve the problem, how are they going to feel when we have to spend another $150 billion to solve the next savings and loan crisis, which is only a matter of months away.

This legislation, in its present form, will not end the problems of the savings and loan industry. And, what the American public should expect is that we will see a smaller savings and loan industry. And because of that, there will be fewer home mortgages available, and interest rates on those loans will increase dramatically.

Let me also point out that there is another area that has caused the collapse of the savings and loan industry that is not being addressed in this legislation. In 1980, Congress began to deregulate the financial institution industry. Congress granted more powers to various financial institutions, particularly savings and loans, which until that time, had been limited primarily to making home loans. It should be noted, that prior to the beginning of the deregulation frenzy in 1980, the savings and loan industry was sound, well-run, and failures were very rare. In fact, during those periods, the industry used the motto that "no one has ever lost a penny in a Federally insured savings and loan."

I voted against the deregulation of the savings and loan industry, and it is one of the best votes that I have ever cast in my 25 years in the House.

I predicted in 1980, that we would see a crisis in the savings and loan industry. I predicted that we would see institutions fail as they moved away from housing loans into more speculative ventures. Unfortunately, I was right and that is the reason that we are here today.

In this legislation there is an amendment which I offered, which will require savings and loans to begin to return to their role as an exclusive housing lender. I had hoped to go further with this push, but there are still those out there who believe that we should not limit the type of loans and investments that savings and loans can make. They hold this belief even though we have seen the total collapse of the savings and loan industry because of deregulation. I hope, in the coming months, that this Congress will realize that deregulation was the wrong way to go to try and help solve the savings and loan problem, and potential problems in other financial institutions.

In closing, let me once again point out that when the savings and loan industry was involved in housing lending almost exclusively, there were no problems. But, when we opened the investment doors to other areas, we did not bring in help for the industry, but rather we brought in chaos. Today, we are paying for that chaos and I hope that we have learned our lesson.

Mr. QUILLEN. Mr. Speaker, I yield 4 minutes to the gentleman from Ohio [Mr. WYLIE].

Mr. WYLIE. Mr. Speaker, I rise in support of the rule on H.R. 1278. As a matter of principle, I generally oppose any rule which limits debate and the offering of amendments on the House floor. In this case, however, we are faced with what is probably the most important financial institutions legislation since the bank collapse in the early 1930's. The need is great. With each passing day the ultimate cost of resolving this problem grows by at least $20 million as the losses of brain dead institutions, which the Government does not have the money to close, continue to mount. On February 6, the President asked the Congress to act within 45 days. The Senate passed a bill on April 19. We must move the bill now.

Let me say that I generally believe the Rules Committee has done a good job in crafting a rule which permits the major issues to be fully considered on the House floor. But I am concerned about several omissions—first, the amendment that I filed regarding the right of first refusal was not made in order. H.R. 1278 includes a provision which mandates the Resolution Trust Corporation to give qualified nonprofit organizations and others a 3-month—or longer—right of first refusal to purchase residential properties. My amendment would have made the right of first refusal discretionary.

I believe that Members on both sides of the aisle share a goal of utilizing certain RTC real estate wherever possible as housing resources for low-to-moderate income persons, the procedure should not be mandatory. The primary responsibility of the RTC cannot be the disposition of real estate. We cannot afford to tie the hands of the RTC with unwieldy, mandatory procedures. No one, including the sponsor of the provision, has determined the amount of assets that would be subject to the program and no one has come up with any definitive estimate of the costs. Those estimates that have been provided range from $300 million to $1 billion in lost reserves. This is a substantial additional cost that could ultimately fall on the taxpayer.

Second, I had filed with Rules an amendment placing a cap on the amount of notes and obligations that may be issued by the RTC. Unfortunately, only the cap offered by the distinguished chairman of the Banking Committee was made in order. I say unfortunately because that cap is too restrictive and could unnecessarily tie the hands of the RTC, particularly in the first year of operation when the need for action may be greatest.

Finally, I am disappointed that the amendment filed by my friend Mr. LEACH striking various special interest provisions from the bill was not made in order. Such provisions have no place in critical emergency legislation.

I am hopeful that these concerns can and will be addressed in conference. In the meanwhile, I urge my colleagues to support this rule. We must move this legislation through the House as quickly as possible and defeating the rule would only serve to delay the proceedings further.

□ 1450

Mr. MOAKLEY. Mr. Speaker, for purposes of debate only, I yield 4 minutes to the gentleman from Michigan [Mr. WOLPE].

Mr. WOLPE. Mr. Speaker, it is with great reluctance that I rise in opposition to the rule that has been offered. I have the greatest respect for the gentleman from Massachusetts, the chairman of the Committee on Rules, and for the membership of that committee, as I do for the chairman of the Banking Committee. I recognize the extraordinary complexity of the bill that is before us and the difficulty of sorting through the number of amendments that have been proposed.

There is one issue that the committee bill does not address that I believe deserves serious debate and consideration by this body, and that is how to fairly allocate the costs of the savings and loan bailout.

Mr. Speaker, the bill we are about to consider is the result of the most costly disaster in American history. This is not a natural disaster caused by droughts, flood, or tornado. It is a mandate disaster, the result of fraud, of mismanagement, of the absence of effective regulation and oversight.

Yes, there is plenty of blame to go around. The Federal Government clearly deserves a majority of that blame; but let us not beat around the bush. A couple of States, particularly the State of Texas, caused billions and billions of dollars worth of damage that taxpayers around the country will be paying to clean up for years to come.

Contrary to the assertions of the State's defenders, this disaster in Texas was not caused by regional eco-

nomic distress nor to a dramatic drop in oil prices.

What happened, very simply, is that the absence of effective State regulation of State-chartered thrifts allowed high flying entrepreneurs to make extraordinarily speculative investments, and when the energy bubble burst, so did those investments, and insolvency quickly followed.

The dramatic events in the 1986 drop in oil prices was simply the last nail in the coffin. The Texas thrift industry was in serious trouble long before that.

This disaster, in short, was not caused by bad times. It was caused by inexcusable irresponsibility in the good times that preceeded the bad times, and the costs of that irresponsibility are staggering.

In 1988, FSLIC took actions to close or merge State-chartered thrifts across the country at an estimated eventual cost of over $23 billion in 1988 dollars. Texas alone is responsible for over $16 billion, or 72 percent of those costs. There are 34 States across our Nation, however, that did not cause a single dollar in damage, but now will pay billions of dollars in bailout costs.

That is why I was joined by Representatives HORTON, KANJORSKI, KAPTUR, LAFALCE, and ROTH in asking the Rules Committee to make in order an amendment to address this inequity. Our amendment was both fair and reasonable. It would have required States found to be responsible for "excessive costs" to pay a portion of such costs if State-chartered thrifts in that State were to be eligible for Federal deposit insurance in the future.

The objectives of our amendment are fairness and accountability. Our amendment would reduce the burden of the bailout on taxpayers in States which were not responsible for excessive costs. At the same time, it would send a clear message to State governments that the Federal Government will not tolerate future abuses without seeking accountability.

Mr. Speaker, the American people are outraged by this bailout, as they should be. Our amendment would have allowed the Members of this body to indicate their support for introducing a small measure of fairness and accountability into this bill. It is unfortunate that the Rules Committee did not see fit to provide Members with that opportunity. That is why I feel I must oppose this rule.

Mr. QUILLEN. Mr. Speaker, I yield 6 minutes to the gentleman from Texas [Mr. BARTLETT].

Mr. BARTLETT. Mr. Speaker, it is my intention to yield 2 of these minutes to the gentleman from Georgia [Mr. BARNARD] in a moment to discuss the affordable housing issue.

Mr. Speaker, I rise in support of the rule. I believe it is a fair rule. It is not an open rule and I think we all advocate open rules in this place, but given the constraints of time, I think this is generally a fair rule. It provides for an adequate discussion of capital standards, an adequate discussion of several amendments such as the credit union amendment and the on-budget, off-budget amendment, which need to be discussed.

I wish the committee had not made in order the community reinvestment amendment, because it is not related to the subject of this bill, and I wish the Rules Committee had made in order the amendment by the gentleman from Iowa [Mr. LEACH] to delete the special exemptions in the Wylie amendment to discuss the right of first refusal.

In addition to that, it does not make in order the Midwest-Northeast coalition amendment which was regionalism and Texas bashing at its worst; so I will support the amendment.

We have a crisis. The FSLIC and the FDIC are being expensed at the rate of $20 million to $40 million a day so long as Congress delays enacting this legislation, so we need to act on it.

The rule also makes in order a deletion of the so-called affordable housing section of the bill. I will be offering an amendment, together with the gentleman from Georgia [Mr. BARNARD], to delete that so-called affordable housing section of the bill. It is neither related to housing nor is it related to affordability and it must be deleted.

Mr. Speaker, I yield to the gentleman from Georgia [Mr. BARNARD].

Mr. BARNARD. Mr. Speaker, I thank the gentleman for yielding to me.

I want to likewise join my colleagues and others on the floor in supporting this very fine rule and certainly endorse what the chairman of the Rules Committee has done and the senior minority member.

This is a fine rule. This particular bill also had referral to three committees other than Banking, the Judiciary, Government Operations, and Ways and Means.

This rule has been structured so that the decisions made by those committees, contrary to what was done in the Banking Committee, can be considered on the House floor so that the entire membership can vote one way or the other on those particular amendments.

I do want to join my colleague in bringing to the attention of the Members the amendment that has been made in order on striking the provision which was in the Banking Committee on affordable housing, subsidizing low-cost housing from the fees of an independent agency. I think this is a decision that the entire membership needs to address, because it is a very significant and far-reaching amendment, inasmuch as we are assessing the income of independent agencies to provide for a Federal program that ought to be funded through our appropriation process.

Likewise, I want to commend the committee because they have not permitted a lot of extraneous amendments coming before the House on this bill. In the Banking Committee, we took up over 200 amendments, considered them very carefully. I think it was wise that they honored the decision of the Banking Committee in that.

So I just want to join my colleague on the affordable housing amendment, as well as the others, and I thank the gentleman for the time.

Mr. BARTLETT. Mr. Speaker, the gentleman from Georgia [Mr. BARNARD] and I will be introducing an amendment and seeking your votes to pass it to delete the so-called affordable housing section of this bill. This section of the bill proposes a new off-budget tax on to private institutions in the private sector that is related only to a new housing proposal. It is unrelated to the savings and loan crisis. It is unrelated to the FSLIC or the FDIC and it is unrelated to this bill. It is a new housing program which has been given no thought, had no introduction as a bill, had no hearing, had no markup, has never been discussed. It is unrelated. It might as well be an SDI amendment onto the transportation bill.

In addition to that, it is bad housing. It provides for a new deep discount multifamily housing program that is only valid if there are 30 year certificates attached to 40 percent of the units. No. 30-year certificates are available in this country today.

Last, this rule is self-executing in a way that taxes the advances of the Federal Home Loan Banks. I want to call the attention of the House that this in fact creates a regional system that robs from the rich and gives to the rich. I want to call to the attention of the House that by dispersing these funds on a district bank by district bank basis, the result of that is for this new housing program, a San Francisco bank gets $22 million; Chicago gets $19 million; Pittsburgh gets $2.6 million; Dallas gets $16 million, and New York gets $8 million.

The fact of the matter is that what this rule does is that it skews the distribution from a rob from the rich to give to the rich system by sending the funds back to those areas of the country that need it the least, because it is being put into this bill. The fact is that it is not good housing. It is a new tax.

□ 1500

It provides for a new type of housing program that no one has ever seen

before, that is, a deep-discount subsidy on multifamily projects only. The single greatest need of housing affordability in this country is in single-family homeownership, and not one dollar of this money will go to single-family homeownership, not one dollar will go to home mortgages, not one dollar.

There are some 29 housing bills that have been introduced in Congress so far in 1989, the Cranston-D'Amato bill, the Roukema bill, the Vento-Saiki bill, the Rouse-Maxwell proposal. HUD is preparing housing proposals today.

Pass this housing affordability section, and we will see the end of consideration of any good housing for the rest of the session.

Mr. MOAKLEY. Mr. Speaker, for purposes of debate only, I yield 4 minutes to the gentleman from Ohio [Mr. TRAFICANT].

Mr. TRAFICANT. Mr. Speaker, I want to commend the new chairman of the Committee on Rules. No one is more deserving for such an important position than the gentleman from Massachusetts [Mr. MOAKLEY], and I wish him the very best. I thank him for the time.

Washington is a most unusual place, and maybe I still have not come to terms with it. What bothers me today is that while 8 million American workers at the bottom of the ladder have a small pay raise vetoed over 30 copper pennies, Congress will go forward and bail out a bunch of bankers who ripped off Uncle Sam for $200 billion, and we will conduct it as an exercise today like as if it is business as usual in Washington.

Let us solve the problems. I think there is a statement that has never been truer, and that is a poor man's felony is a rich man's misjudgment, and today the debate will memorialize that for all time, because that is exactly what we are dealing with.

I have heard people come to the floor and talk about blame, and I think it is appropriate today to discuss blame; Congress, the Democrats and Republicans, are to blame for what is happening here today. They took the recommendations of Ronald Reagan, and that said, and I quote "Government should get out of the banking business," and, man, the savings and loan people loved that. They said, "Let us free. Take the regulations off us. Take the shackles off us. Let us to out there and make a buck." Because financing individual family-owned homes for the American dream was just not enough, and Congress went along. They allowed it.

What we have today is we have the beginning of maybe a chapter 11 filing for the biggest corporation in the country, maybe Uncle Sam. It is the beginning, because we do not only cut the taxes for the rich, we throw out a lot of education programs, housing programs, UDAG's, revenue-sharing programs, assistance programs for workers.

People like myself talk about the needs of their district: "We do not have the money," but $200 billion, and I think the standards have to be strong.

I do not know yet what I am going to do on this bill. I do not like the fact that every body said that it is only the American taxpayer back there who is going to get screwed, so let us go forward with the deregulations plans. No one stopped to think that the buck stops somewhere, and if we are not careful, it is not the buck that is going to stop; it is time that Congress starts worrying about stopping the yen and the mark.

Mr. Speaker, I hope we are not here today sort of like arranging deck chairs on the next Titanic, bailing out a group of bankers who probably should be put in jail.

The sad truth is that a poor man who steals a loaf of bread because he has no income ends up in jail, but a group of bankers will get sympathy and a bailout today, and that is the message I do not like coming out of here. I will vote for the rule, and I will listen to this great debate in sympathy for the American banking industry.

I would wish in closing though that those powerful leaders in our body would make sure that the savings and loans and the banks of this country start financing the American home again so people could own a piece of the rock and would not have to import it from Mount Fuji.

Mr. QUILLEN. Mr. Speaker, I yield 4 minutes to the gentleman from Iowa [Mr. LEACH].

Mr. LEACH of Iowa. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, the battle for tough capital standards—for responsible regulation of the thrift industry—is lost before it has been engaged. The reason is simple: Under this rule, weakening amendments are allowed; strengthening amendments have been made incontestible.

For the sake of the record, I'd like to list a series of amendments this Member asked to be made in order:

First, an amendment to increase capital standards to more credible levels.

Second, an amendment that requires savings banks to come under the same provisions of regulation as savings and loans and commercial banks.

Third, an amendment to eliminate special interest exceptions for certain thrifts.

Fourth, an amendment that eliminates double bookkeeping of some thrift institutions that are grandfathered in this bill.

Fifth, an amendment that ends the forbearances that regulators mischieviously granted to certain thrifts.

Sixth, an amendment that requires Fannie Mae and Freddie Mac to meet adequate capital standards.

Seventh, an amendment that gives regulators authority to stop owners of multicontrolled thrifts from bleeding one institution to benefit others.

Instead of these amendments, the committee made in order a series of amendments to weaken the capital standards of this bill, and only one amendment to eliminate a special interest exception—the elimination of which, I might note, is meaningless because that particular institution's concerns are covered by a more general provision of the bill.

Speaking personally, all of us understand that there's been a degree of acrimony that has come to hallmark House proceedings in recent months. I'm chagrined as much as anyone about the individual dimension of the politics of innuendo. But the majority has to understand that on this side of the aisle, there is an enormous degree of frustration, if not rebellion, about some of the procedures under which this House has operated.

As a seven-term member of this body, one who rarely appears before the Rules Committee to ask to be heard on any subject, I must tell you I feel I have paid my dues to this body to the extent that at least one of the amendments I asked to be offered relating to the work of the committee of jurisdiction in which I am the second ranking member would be allowed the privilege of being heard.

I don't presume to know the outcome of any votes on these issues, but I do presume that the views underlying this group of amendments are held by many in this body and by a larger number in the body politic.

At issue in this rule is the question of what can be debated, who can be heard. At issue is also whether the party of reform of the 1970's has not become the party of the status quo in the 1980's.

For the sake of reform, for the sake of comity rather than comedy in this House, for the sake of the taxpayer, I would ask my colleagues to turn down this rule. When confronted with the largest lapse of legislative judgment in this century, over a $100 billion taxpayer debacle, "business as usual" is not good enough.

Let's make the tough decisions now, and not put them off for 18 months or 24 months. As surely as the dawn breaks, these issues are going to be revisited.

Turn down this rule, allow the reform sentiment of this House to be unshackled and openly debated.

Mr. MOAKLEY. Mr. Speaker, for purposes of debate only, I yield 2 min-

utes to the gentleman from California [Mr. LEHMAN].

Mr. LEHMAN of California. Mr. Speaker, I want to congratulate the gentleman from Massachusetts [Mr. MOAKLEY] in his first major undertaking as chairman of the committee. I think he has fashioned an excellent rule, and the committee is to be congratulated. They have put the most important, essential, and contentious elements of the legislation before us on the floor.

The most important debate permitted by this rule is one that we will have tomorrow over capital standards. The capital standards are the center, the linchpin, the guts of this bill. The new capital standards are what the American people get in exchange for their $50 billion-plus. The new capital standards are the public's part of the deal.

For the first time, by passing new capital standards, we will be telling the S&L's that they must put up some, indeed still a very small amount, of their own money into their businesses.

The Quillen and Hyde amendments made in order under this rule to facilitate discussion will allow S&L operators to continue to operate with no money of their own. Flush with a generous infusion from the taxpayers, they will be free to gamble with taxpayer dollars.

In all of the deliberations of the Committee on Banking, Finance and Urban Affairs for 2 years on this issue, the one common factor plaguing all failed thrifts was a lack of capital. This is remedied by the committee print.

The Quillen and Hyde amendments contain no reform at all. They would continue business as usual. I heard all of this talk earlier in the discussion today about a deal being a deal.

My friends, it is not the Government that is altering the deal. It is the S&L industry that has now come to us asking for $100 billion in taxpayer revenue. That is a new deal.

Members of the Committee on Banking, Finance and Urban Affairs insisted that, in exchange for this money, we require them, the S&L's, to raise their capital level to 3 percent over 5 years, still about half of what banks are required to do.

□ 1510

This rule will give us a chance to take a stand on whether or not we want S&L's to participate in the bailout in a fashion that will make it less likely that future bailouts occur, or we can do nothing at all. Let us give the taxpayers a fair deal.

Mr. QUILLEN. Mr. Speaker, I yield 2 minutes to the gentleman from Pennsylvania [Mr. WALKER].

Mr. WALKER. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, there is good news and bad news in this rule. The good news is that the Rules Committee has prevented the chairman of the Committee on Banking, Finance and Urban Affairs from modifying the bill unilaterally, thereby making it different from the language which left the committee, and I appreciate that the Rules Committee has guarded the privileges of the House in that way.

However, the bad news is the Rules Committee did deny a requested amendment to pull out of this bill a series of special interest items that have been included in the bill. Let me just give a few examples of what is down in this bill.

There is pork in this bill for Sears, Roebuck and for Chemical Bank of New York, First Interstate Bank of Los Angeles, Merrill Lynch & Co., Columbia Savings & Loan of Beverly Hills, Frost National Bank of San Antonio, Citizens Federal Savings Bank of Miami, American Savings & Loan of Stockton, CA, to name a few, and there are a couple here that are real dandies. In Beverly Hills, for example, that particular bank is getting an exemption to enable it to keep putting its money into junk bonds rather than putting it into housing. That is not exactly what we ought to be trying to accomplish here in the House of Representatives.

In another case we have the Federal Home Loan Bank of San Francisco which is forced to loan the American Savings and Loan of Stockton, CA, $2 billion, which is being forced upon them over the objections of the San Francisco bank. This is ridiculous that we cannot have an amendment to deal with this.

This rule makes in order the largest single taxpayer bailout in history. This rule refuses to make in order an amendment to pull out some of the pork that was put down in this bill for all of the special interests that came into the various committees.

A rule that protects pork should not be adopted. I urge a no vote.

Mr. QUILLEN. Mr. Speaker, I yield 2 minutes to the gentleman from North Carolina [Mr. VALENTINE].

Mr. VALENTINE. Mr. Speaker, first I want to thank the gentleman for yielding time to me.

I rise to oppose the rule on this bill because I do not believe we should give special consideration to specific institutions.

As my colleague from Iowa points out, this bill is filled with special interest amendments. H.R. 1278 should not be designed to give special privileges to those financial institutions who happen to have influential contacts in Washington. I cannot support a rule which would allow, among other provisions:

First. Banks, such as Chemical Bank and First Citicorp, which happen to own a number of thrifts, to avoid the financial responsibility for their thrifts' financial problems. Why should the American taxpayer be expected to foot the bill for this special exemption? I think the owners of these banks, who approved the acquisition of the failing thrifts, should be held accountable for their purchases, not the taxpayers. I cannot support an exemption of this sort.

Second. Likewise, I oppose affiliate exemptions currently outlined in the bill. I don't understand why we must provide for a competitive advantage for certain businesses. As it stands now, the Sears Financial Network would be exempt from a general provision in this legislation that limits transactions between savings institutions and their affiliates. This is wrong.

In summary, there are a handful of special exemptions in this bill that benefit specific institutions. I support Mr. LEACH's amendment which would disallow such special treatment. Since his amendment was not allowed by the Rules Committee, I am today opposing the rule, and I encourage you all to join me in opposing the rule on H.R. 1278. I cannot in good conscience support legislation which grants exemptions at the taxpayers expense.

If we are ever going to straighten out this mess, we must begin by applying equal and fair rules to all institutions affected by this legislation. Vote against the rule. Vote against special exemptions. Let us get to the heart of this problem without creating any new ones.

Mr. QUILLEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would like to point out to the Members of this House that it is important that we pass this rule. We are at a critical point in the history of these institutions, the savings and loans of this Nation.

In addition, I would call attention to the Kenndy amendment. Let me read to Members a few things the amendment does.

It amends the Home Mortgage Disclosure Act to require mortgage lenders to report the number of applications they receive by categories of race, income, and gender, and to report the number of applications they reject by the same categories.

It amends the Community Reinvestment Act of 1977 to require Federal regulatory agencies to publicly disclose the ratings and evaluations that they give to banks and thrifts.

It is a very dangerous amendment, and when it is debated on the floor I urge Members to vote against it.

Mr. Speaker, I urge the adoption of the rule.

Mr. Speaker, I yield 2 minutes to the gentleman from Georgia, [Mr. GINGRICH].

Mr. GINGRICH. Mr. Speaker, I simply wanted to rise for a minute to commend the Rules Committee. This is not a perfect rule. I think there are several things I would like to see in order that are not in this rule.

But on the other hand, it has been a very bipartisan process in the various committees. There has been a very serious effort on the part of the Democrats to accommodate the President of the United States. There has been a serious effort to work through some very divisive and very difficult issues and two or three of the most contentious issues are going to come to the floor in the next 2 days, and they are going to be dealt with in a very fair way on very difficult issues.

It seems to me on the Republican side it would be totally appropriate for Republicans to vote for this rule. This is a rule which brings to the floor a bill which the President of the United States has said is the most important centerpiece of saving the financial systems of the United States. It is a rule which brings to the floor a bill which is vital to the economic health of this country. It is not everything we would like. We frankly have inherited a large mess which we are trying to sort out. But I think that the rule creates a relatively fair playing ground for sorting our a number of issues that involve many committees.

I commend the committee for doing what it did, and I wish, as the gentleman from New York said earlier, it had done slightly more. But I think on balance this is not a bad rule and that it is worthy of Republicans voting yes. So I urge my colleagues to vote yes on the rule.

Mr. QUILLEN. Mr. Speaker, I yield back the balance of my time.

Mr. MOAKLEY. Mr. Speaker, for purposes of debate only, I yield 3 minutes to the gentleman from New York [Mr. SCHUMER].

Mr. SCHUMER. Mr. Speaker, perhaps a new era has arrived in the House, because I agree with the remarks of the gentleman from Georgia. It is a good rule, it is a fair rule, and it represents the path we have taken on this bill, which is a bipartisan bill.

I would say to my colleagues and to the American people, we read about a Congress in disarray. This bill is one of the most difficult bills that could pass under any time in any Congress, and yet here, with all of the "disarray" and troubles and everything else, we have a bill that is very difficult to pass, that is very complicated and that has lots of different conflicting interests which is moving along through this body, as it has moved through the other, and it looks like a fine product will emerge.

This, my colleagues, is Congress at its best, debating issues, trying to figure out complicated issues, trying to do what is in the national interest.

I would like to salute the gentleman from Massachusetts [Mr. MOAKLEY] the chairman of the Rules Committee, on his first major rule. It is an excellent rule, and one that should serve us well.

□ 1520

I would urge my colleagues as we go through the general debate to remember two points: No. 1, yes, we are spending a lot of money but that money is not going to those rogues who plundered their thrifts and plundered the deposit insurance fund. The money is going to depositors, the ma's and pa's who put their money in these institutions, $30,000, $15,000, $5,000 and the money is gone. Our only choice is to tell those people we are not going to honor Uncle Sam's commitment to them or we are, because not a nickel of this money is going to those rogues who threw us into this situation to begin with.

In fact, in another provision of the bill there are very tough criminal penalties including an extension of the statute of limitations, including more money to prosecute and including much stronger penalties, 20 years, $1 million fines, so that those who created the mess could pay for it in both fines and jail time.

The one other argument I would make to my colleagues is on capital. That is probably the most crucial issue we will face as we debate this bill in the next few days.

Just remember it was low capital standards or no capital standards that helped to bring us to this problem to begin with.

We have an obligation to those taxpayers who are footing the bill for this and to ourselves to make sure we say to every thrift institution that has deposit insurance, "Fellows, put your own money up front, not some kind of squishy accounting paper standard but real hard dollars."

I urge my colleagues to support the strong capital standards of the bill. I thank the chairman for his generous yielding of time.

Mr. MOAKLEY. Mr. Speaker, may I inquire how much time remains on my side?

The SPEAKER pro tempore. (Mr. TORRICELLI). The distinguished gentleman from Massachusetts, chairman of the committee, has 5 minutes remaining.

Mr. MOAKLEY. Mr. Speaker, for purposes of debate only, I yield 2 minutes to the gentleman from Delaware [Mr. CARPER].

Mr. CARPER. Mr. Speaker, I think the most contentious and perhaps the most complex issue that we are going to face this week on this legislation is the issue referred to by Mr. SCHUMER, and that is the issue of capital standards.

One of the questions we will be asked to decide is: Is it fair to somehow go back now and modify the agreement under which certain institutions agreed to acquire other failing S&L's?

Let me make just a couple of points if I may: First, some S&L's would have us believe that the principal reason why they entered into those agreements, those acquisitions or mergers, was out of a matter of altruism, doing something good for the country, doing something good for the FSLIC. In return for which the acquiring institution only received an intangible called goodwill to count as capital.

Let me point out that there were a couple of other advantages they gained, not just goodwill on their books.

One of the things they gained, one of the advantages they gained, is new customers. A second advantage that they gained is new deposits. A third advantage that they gained is new markets, markets to which they were denied access in the past in many instances. Finally, they gained new branches, as well.

We are going to be asked to consider whether or not it is fair now to somehow modify some of the earlier agreements and to deny them the full use of this goodwill to meet minimum core capital, or tangible net worth requirements. I guess you could argue in one sense that maybe it is not altogether fair, although under the Banking Committee's bill, acquiring institutions can use that goodwill to meet capital requirements in excess of the minimum 3-percent requirement.

Let me just say I do not think it is fair to the taxpayers either who are going to be asked to ante up over half of the more than $100 billion needed to close insolvent thrifts. It is not fair to them either.

Nor is it fair that the healthy thrifts and the healthy banks in this country are going to be asked to come in and in some cases double or almost triple the deposit insurance that they are paying to atone for the sins and mistakes of some in the thrift industry.

I would urge my colleagues to support this rule. I further urge my colleagues to support the fair, tough and reasonable capital standards that are a part of this bill, too.

Mr. MOAKLEY. Mr. Speaker, I urge my colleagues to adopt this rule and to allow the House to proceed on this very important bill.

Mr. Speaker, I have no further requests for time, and I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. WALKER. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 330, nays 95, not voting 8, as follows:

[Roll No. 85]

YEAS—330

Ackerman	Early	LaFalce
Akaka	Eckart	Lancaster
Alexander	Edwards (CA)	Lantos
Anderson	Engel	Leath (TX)
Andrews	English	Lehman (CA)
Annunzio	Erdreich	Lehman (FL)
Anthony	Espy	Leland
Applegate	Evans	Lent
Archer	Fascell	Levin (MI)
Armey	Fazio	Levine (CA)
Aspin	Feighan	Lewis (GA)
Atkins	Fields	Lipinski
AuCoin	Fish	Lloyd
Barnard	Flake	Long
Bartlett	Flippo	Lowery (CA)
Barton	Florio	Lowey (NY)
Bateman	Foglietta	Luken, Thomas
Bates	Ford (MI)	Machtley
Beilenson	Ford (TN)	Madigan
Bentley	Frank	Manton
Berman	Frenzel	Markey
Bevill	Frost	Martin (NY)
Bilbray	Gallo	Martinez
Bliley	Garcia	Matsui
Boehlert	Gaydos	Mavroules
Boggs	Gejdenson	Mazzoli
Bonior	Gephardt	McCandless
Borski	Gibbons	McCloskey
Bosco	Gillmor	McCurdy
Boucher	Gilman	McDade
Boxer	Gingrich	McDermott
Brennan	Glickman	McEwen
Brooks	Gonzalez	McGrath
Browder	Gordon	McHugh
Brown (CA)	Gradison	McMillan (NC)
Bruce	Grant	McMillen (MD)
Bryant	Gray	McNulty
Bustamante	Green	Mfume
Byron	Guarini	Michel
Callahan	Gunderson	Miller (CA)
Campbell (CA)	Hall (OH)	Miller (OH)
Campbell (CO)	Hall (TX)	Miller (WA)
Cardin	Hamilton	Mineta
Carper	Hammerschmidt	Moakley
Carr	Hansen	Mollohan
Chandler	Harris	Montgomery
Chapman	Hatcher	Moody
Clarke	Hawkins	Moorhead
Clay	Hayes (IL)	Morella
Clement	Hayes (LA)	Morrison (CT)
Clinger	Hefner	Morrison (WA)
Coble	Herger	Mrazek
Coelho	Hiler	Murphy
Coleman (MO)	Hoagland	Murtha
Coleman (TX)	Hochbrueckner	Myers
Conte	Houghton	Nagle
Costello	Hoyer	Natcher
Coughlin	Huckaby	Neal (MA)
Coyne	Hughes	Neal (NC)
Crockett	Hutto	Nelson
Darden	Hyde	Oakar
de la Garza	Jacobs	Oberstar
DeFazio	Jenkins	Obey
DeLay	Johnson (CT)	Olin
Dellums	Johnson (SD)	Ortiz
Derrick	Johnston	Owens (UT)
DeWine	Jones (GA)	Pallone
Dickinson	Jones (NC)	Panetta
Dicks	Jontz	Parker
Dingell	Kasich	Pashayan
Dixon	Kastenmeier	Payne (NJ)
Dorgan (ND)	Kennedy	Payne (VA)
Downey	Kennelly	Pelosi
Durbin	Kleczka	Penny
Dwyer	Kolbe	Perkins
Dymally	Kolter	Pickett
Dyson	Kostmayer	Pickle
Poshard	Schumer	Tanner
Price	Shaw	Tauzin
Pursell	Shays	Thomas (CA)
Quillen	Shumway	Thomas (GA)
Rahall	Sikorski	Thomas (WY)
Rangel	Sisisky	Torres
Ravenel	Skaggs	Torricelli
Ray	Skeen	Towns
Regula	Skelton	Traficant
Rhodes	Slattery	Traxler
Richardson	Slaughter (NY)	Udall
Ridge	Slaughter (VA)	Unsoeld
Rinaldo	Smith (FL)	Vander Jagt
Ritter	Smith (IA)	Vento
Robinson	Smith (MS)	Visclosky
Roe	Smith (NE)	Walgren
Rose	Smith (NJ)	Walsh
Rostenkowski	Smith (TX)	Watkins
Roth	Smith, Denny (OR)	Waxman
Rowland (CT)	Snowe	Weber
Rowland (GA)	Solarz	Weiss
Roybal	Spence	Weldon
Russo	Spratt	Wheat
Sabo	Staggers	Whitten
Saiki	Stallings	Williams
Sangmeister	Stangeland	Wilson
Sarpalius	Stark	Wise
Savage	Stenholm	Wolf
Sawyer	Stokes	Wyden
Saxton	Studds	Wylie
Scheuer	Sundquist	Yates
Schiff	Swift	Yatron
Schneider	Synar	
Schroeder		

NAYS—95

Baker	Hertel	Petri
Ballenger	Holloway	Porter
Bennett	Hopkins	Roberts
Bereuter	Horton	Rogers
Bilirakis	Hunter	Rohrabacher
Broomfield	Inhofe	Roukema
Brown (CO)	Ireland	Schaefer
Bunning	James	Schuette
Burton	Kanjorski	Schulze
Combest	Kaptur	Sensenbrenner
Conyers	Kildee	Sharp
Cooper	Kyl	Shuster
Cox	Lagomarsino	Smith (VT)
Craig	Leach (IA)	Smith, Robert (NH)
Crane	Lewis (CA)	Smith, Robert (OR)
Dannemeyer	Lewis (FL)	Solomon
Davis	Lightfoot	Stearns
Donnelly	Livingston	Stump
Douglas	Lukens, Donald	Tallon
Dreier	Marlenee	Tauke
Duncan	Martin (IL)	Upton
Edwards (OK)	McCollum	Valentine
Emerson	McCrery	Volkmer
Fawell	Meyers	Vucanovich
Gallegly	Molinari	Walker
Gekas	Nielson	Whittaker
Goodling	Nowak	Wolpe
Goss	Owens (NY)	Young (AK)
Grandy	Oxley	Young (FL)
Hancock	Packard	
Hastert	Patterson	
Hefley	Paxon	
Henry	Pease	

NOT VOTING—8

Buechner	Dornan (CA)	Parris
Collins	Hubbard	Wright
Courter	Laughlin	

□ 1545

Messrs. HEFLEY, HENRY, SMITH of Vermont, VOLKMER, and LAGOMARSINO changed their vote from "yea" to "nay."

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. Kalbaugh, one of his secretaries.

APPOINTMENT AS MEMBERS OF THE HOUSE COMMISSION ON CONGRESSIONAL MAILING STANDARDS

The SPEAKER. Pursuant to the provisions of section 5(b) of Public Law 93-191, the Chair appoints as members of the House Commission on Congressional Mailing Standards the following Members of the House:

Mr. UDALL of Arizona, chairman;
Mr. SOLARZ of New York;
Mr. FORD of Michigan;
Mr. FRENZEL of Minnesota;
Mr. LEWIS of California; and
Mr. YOUNG of Alaska.

FAIR LABOR STANDARDS AMENDMENTS OF 1989—VETO MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER. The unfinished business is the further consideration of the veto message of the President of the United States on the bill (H.R. 2) to amend the Fair Labor Standards Act of 1938 to restore the minimum wage to a fair and equitable rate, and for other purposes.

The question is, Will the House, on reconsideration, pass the bill, the objections of the President to the contrary notwithstanding?

The gentleman from California [Mr. HAWKINS] is recognized for 1 hour.

Mr. HAWKINS. Mr. Speaker, I ask unanimous consent that the time available for debate on the bill, H.R. 2, be divided so as to provide 30 minutes under my control and 30 minutes under the control of the gentleman from Pennsylvania [Mr. GOODLING].

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. HAWKINS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise to urge my colleagues to join with me and vote to override the President's misguided veto of H.R. 2, the Fair Labor Standards Act Amendments of 1989.

How ironic it is, to be on the floor of this House, on June 14, Flag Day, trying to force the President of the United States to sign a modest, reasonable bill that would provide simple economic justice to millions of America's working poor.

A symbol, such as our great flag, is only as strong as the actions behind it, and surely an increase in the minimum wage of $1.20 over a 3-year period, represents the best and most fundamental of all American values, a decent day's wages for a decent day's work.

The real reason the President has vetoed this legislation has nothing to do with the substance of the matter at hand. He vetoed the minimum wage bill to show his supporters his muscles; that he's a strong guy who's willing to stand up to the Congress.

Well, Mr. President, if you want to be so tough, why don't you pick on someone your own size, not the weakest, lowest paid workers in our society.

The President's veto message is full of the same misinformation and inaccuracies that have characterized his opposition to a meaningful increase in the minimum wage from the beginning. Let's set the record straight, point by point.

First, increasing the minimum wage will not result in massive unemployment, nor will the employment prospects of young people and the disadvantaged be adversely affected. The minimum wage has been raised 15 times, and the historical experience offers no evidence of dislocations. In fact, after each increase, employment has actually risen, with the sole exceptions being two recession years. The economies in the 13 States which have already gone above the Federal level are doing quite well.

Second, Mr. Bush states unequivocally in his veto message that economists universally agree that H.R. 2 would result in the loss of job opportunities. This is totally inaccurate. I have right here in my hand a list of 53 well-known, respected economists, including two Nobel laureates, who strongly support enactment of our bill.

Third, The Bush so-called training wage is totally unacceptable. It contains no real training provisions; it's 6 months duration is outrageous, and gives employers carte blanche to have a revolving door policy where they can fire all their training wage employees every 6 months to exploit a whole new batch of workers.

Fourth, people working at and near the minimum wage are not primarily high school kids, living at home, seeking pin money for movies and designer blue jeans. A full 70 percent of minimum wage workers and adults; 5½ million workers make $3.35 per hour or less; and over 10 million others earn between $3.35 and $4.50.

We are talking about over 15½ million Americans, working, but unable to escape poverty. Between one-fourth and one-third are heads of households, and over 90 percent need another wage earner and/or rely on public assistance to merely survive. Mr. Bush expresses concern for the disadvantaged, yet wants to continue to depress the wages of low-income workers.

It has been estimated that in some areas of our country, up to 80 percent of the homeless are working people and members of their families. After losing so much of its purchasing power, the minimum wage has become nothing more than a poverty wage.

Fifth, the final point I wish to make, regards the President's veto message comments about how much he is doing in the field of education and training for young people and the disadvantaged. I must say, that of all the falsehoods contained in his veto message, these comments represent the straw that breaks the camel's back for me.

While the President rhetorically may see himself as the education President, it is insulting to portray his minimal, education proposals as the answer to the problems of our schools. While he goes about ballyhooing parential choice and programs targeted to students already achieving, he underfunds and gives little support to current, effective programs which target at risk, disadvantaged youngsters. Why, he even opposed our vocational education bill, which just passed the House with only three negative votes.

Let us face it. The President is opposed to a meaningful increase in the minimum wage. It is up to us to take the action necessary to make sure that over 15 million Americans receive a decent day's pay for a decent day's labor. I urge my colleagues to stand up for what is morally, economically, and indeed, politically the right thing to do. Vote to override this mean-spirited veto.

□ 1550

Mr. GOODLING. Mr. Speaker, I yield 2 minutes to the gentleman from Pennsylvania [Mr. WELDON].

Mr. WELDON. Mr. Speaker, I rise in opposition to the attempt to override the President's veto of H.R. 2. I do so while in agreement that there must be an increase in the minimum wage.

As an active member and leader in the Republican Labor Council, I have supported and voted for numerous labor-backed bills and initiatives such as Hatch Act reform, the Eastern Airlines dispute, plant closing legislation and the antidouble breasting.

As a Republican, along with several of my colleagues, I urged President Bush to support an increase in the minimum wage, as well as an earned income tax credit. But this debate on the minimum wage has less to do with fair labor, decent wages and inflation than it does with partisan political battles between Members of this body and the resident of the large house 16 blocks from here. It is another example of political symbolism triumphing over substantive action.

Mr. Speaker, the President has supported an increase in the minimum wage. He did so during his campaign for that office and renewed the pledge for this compromise proposal, one that would have increased the wage to $4.25 an hour over 3 years. His proposal is an earnest and acceptable offer. It is a proposal that seeks to insulate small businesses from the impact of a sudden jump in the minimum wage by the initiation of a realistic training wage. It is a proposal that never had a chance.

Mr. Speaker, the debate on this bill has made several things very clear. It is clear that the Democrats do not have enough votes to override the veto. It is also clear that the President does not have enough votes in Congress to pass his own minimum wage law.

Why then are we continuing with this charade? Politics, Mr. Speaker, politics.

If my colleagues think winning a power struggle puts food on the table, then vote to override the President's veto. However, if they want to help the American family, then I urge them to uphold the veto and work for a real solution to the problem of low-income workers.

Mr. Speaker, later today I will join with my distinguished colleague, the gentleman from Pennsylvania [Mr. GOODLING], in introducing the Living Wage Act. In combining President Bush's minimum wage package with the earned income tax credit of the gentleman from Wisconsin [Mr. PETRI] the bill will assist those in real need, the family headed by a minimum wage earner. The Living Wage Act will raise the net income of such families far higher than the $4.55 figure in H.R. 2.

Let us stop treating the debate over the minimum wage as a vehicle for political posturing. It is a game that is of no benefit to the American worker, and we should not be playing it.

□ 1600

Mr. HAWKINS. Mr. Speaker, I yield 3 minutes to the gentleman from Pennsylvania [Mr. MURPHY].

Mr. MURPHY. Mr. Speaker, I rise to encourage the Members to support our efforts to override the President's veto on the minimum wage law.

Contrary to what the preceding speaker just stated, we are reluctant to take on the President for a veto override. There has been cooperation between the White House and the Congress during the first 5 months of his administration. We wish that he had signed this bill.

Now, the President has drawn a line and stated that we must accept a measure that will provide a 6-month training wage at 80 percent of his proposed maximum minimum wage that would never put the workers over $3.35 until the third year of the bill and then only raise it to $3.40.

What the President is saying with his adamancy is that, "I favor a 5-cent raise in the minimum wage over the course of 3 years," after 9 years of failing to raise the minimum wage.

I ask you, my friends on the other side and my friends on this side, if we are serious about raising the minimum wage, then we cannot accept a 5-cent raise per hour over a 12-year period of time. We must vote to override. That is why we are here today, not because we want to posture politically with the President, but because we want to tell the President, "Unless you come to the negotiating table with us," which he has failed to do, then we must insist that we bring up the veto for an override.

I can only say that if the President is sincere about saying he has compassion for America's neediest people, then he should reach out and be joining us in an effort to compromise this issue, not saying, "I have drawn a line. My feet are in concrete and I will not move. I am for either 5-cents an hour or I am for nothing."

We need to give America's working force some hope, and the only hope we can give them is to override this veto.

Please join us in this effort.

Mr. GOODLING. Mr. Speaker, I yield myself 3 minutes.

Mr. Speaker, I would first like to thank the House leadership for finally sending this bill to the White House, thereby allowing us the opportunity to vote on the President's veto. For whatever reason it was held up, I am not sure, but nevertheless it is the poor, the working poor who suffered while it was being held hostage to whatever.

Second, I would like to remind my colleagues how we got to this point. We never saw the bill that came to the floor, the Ridge-Robinson whatever proposal, until 24 hours before we actually were asked to vote on it. So it was not anything that was worked out together, neither was the conference, as a matter of fact.

I think what we must understand is that the President of the United States came nine fat dimes to meet the majority's proposal, nine fat dimes the President came to meet the majority proposal.

The majority, on the other hand, refused to even come one thin dime to meet the President's proposal.

Now, a questionable dime, in that they said we will deduct a dime, but then we will start it at October 1 each year, rather than January 1, which took away that dime in the first place. So let us not kid ourselves. It was the President who did the compromising. It was the President who did the compromising. It was the President who came the nine fat dimes to meet the majority proposal.

Now let us get on with the business of helping the working poor. I said for a long time that I am not sure what the purpose was for the exercise we just went through. It could not have been to help the working poor. Raising the minimum wage has never done that. We have to get to the point where we get to an EITC where we can help the working poor work, instead of saying that we are going to give something with the only purpose in mind to ratchet up all other salaries of everyone else.

Mr. Speaker, let us get on with what the Secretary of Labor wants to do. She wants to make sure that training and education is such that these people can move ahead, can climb up in the job market so that they are trained and prepared to do that.

Second, let us not keep playing games. Let us help the working poor. The way to do that is to go with the President and also go with an EITC which you will hear more about during the day.

Mr. HAWKINS. Mr. Speaker, I yield 3 minutes to the gentleman from Iowa [Mr. NAGLE].

Mr. NAGLE. Mr. Speaker, yesterday when I heard the President's message communicating his veto of the minimum wage bill read in this Chamber, I could not help but recall something President Harry Truman had to say when he was fighting the Republican majority in Congress back in his day to increase the minimum wage.

"The Republicans say they are for the minimum wage," Harry Truman said. "And they are. In fact, the more minimer the better."

The President's veto makes it painfully clear, my friends that today we now have a President who says he is "for the minimum wage."

And he is. In fact, the more minimer the better.

The President's veto of this legislation over three thin dimes is a stunning rebuke to the 5.4 million Americans—according to the Department of Labor—who work at the minimum wage. They have not had a pay raise since 1981.

More than a million of those working men and women are heads of households. Not only have they been denied any pay raise at all over the past 8 years, they have been asked to absorb a pay cut of fully one-third in the purchasing power of the minimum wage.

As the President vetoes this increase in the minimum wage over 30 cents—the cost of a phone call—I think there are a few facts the American people need to know.

You know, George Bush has not opposed every pay raise.

When he was Vice President, we did not hear a peep of protest from George Bush over pay raises which increased his own pay as Vice President by $11.49 an hour between 1981 and 1988. And that is assuming a 60-hour workweek as Vice President.

No, George Bush did not oppose that. Apparently that pay raise for himself was one pay raise George Bush could live with.

And earlier this year, remember all the broo-ha-ha over the proposed congressional pay raise? Well, tucked away in that recommendation was another recommendation that the Vice President ought to have another pay raise—this time, a pay raise of another $28.24 an hour.

George Bush did not oppose that. No, when it came to a fat pay raise for DAN QUAYLE who had just taken the job, that was another pay raise George Bush could live with.

That proposal—combined with the earlier raises since 1981—would have increased the hourly pay for the Vice President by a combined total of $40.33—an hour—over the 1981 level.

And George Bush supported them all the way.

George Bush even supported the Federal Pay Commission's proposal to increase his own retirement pay—Presidential retirement pay—by $41.04 an hour over its 1981 level. President Reagan would have received that increase, as well, even as he packed his bag to go to Japan and deliver a few speeches and attend a few cocktail parties for $2 million.

Now, after 8 long years with no pay raise at all, we come to the question of a pay raise for those who earn the minimum wage: the men and women who fry our hamburgers; who clean our hospitals; who bus our tables and pick up our garbage.

And President Bush says "No."

He is for the minimum wage, you know. The more minimer the better.

I am astounded that a President of the United States with that past record of generosity when it comes to himself and his own Vice President, could veto this bill over three thin dimes.

Mr. Speaker, the American people have every right to expect better than this from their President; and if he will not stand with them, the Congress must.

I urge my colleagues to stand with the American people and vote to over ride this veto.

Mr. GOODLING. Mr. Speaker, I yield 2 minutes to the gentleman from Wisconsin [Mr. GUNDERSON].

Mr. GUNDERSON. Mr. Speaker, there is a time for politics and there is a time for policy. Today, hopefully, will be the time that we focus on good public policy, not partisan politics, of the highest order.

I ask each and every one of my colleagues, Democrat and Republican alike, to go along with the President on this because, frankly, this idea before us today is not the best idea in the world. The reality is that 65 percent of the people in the minimum wage today are single, work part time; most of them are teenagers and most of them are going to school. We are not dealing with helping the low-

income heads of households with the minimum wage any more. The way to help the low-income head of a household is with training, education, those types of programs that the Education and Labor Committee is all about.

□ 1610

The reality is that as soon as we conclude this debate, the gentleman from Pennsylvania [Mr. GOODLING] and others will be introducing a piece of legislation that really deals with the issue of helping the low-income family. It deals with helping the low-income family because, on the one hand, for the low-income head of household it gives them real take-home pay, not mandates on a business that results in elimination of jobs, but, rather, an earned-income tax credit. A family of six, four children, mom and dad, low income, low skills, under this legislation has an increase in their deductions that results in a $2.08 increase per hour. Compare that, contrast that, with the $0.50 increase that is in the bill before us.

If we want to really help low-income people, this is the legislation to do that now, if we want to help the young people from that family, if we want to help the young inner-city people, the young kids who are trying to get off the streets get a job, get an opportunity for skilled training rather than becoming a part of a gang and all of the problems that surround that, then we look at this proposal again, because this was the President's program on minimum wage and the training wage to give the young people a real entry into the work force, give them that first opportunity to get some skills.

The reality is that this is the bill that saves 600,000 jobs. This is the bill that helps the low-income families.

Mr. HAWKINS. Mr. Speaker, I yield 2 minutes to the gentleman from California [Mr. MARTINEZ].

Mr. MARTINEZ. Mr. Speaker, I rise in support of the veto override.

Mr. Speaker, the opponents of a veto override have continued to portray any increase as inflationary or job busting, indicating a growing economy will fuel wage increases that create a better standard of living for the poor.

They argue that the minimum wage earner does not need a wage increase but a tax credit that will increase their net spendable income. At $8,000 per year, how much spending beyond the bare necessities do Members think the minimum wage earner can do. Mr. Speaker, the question is not to raise or not to raise for fear of job loss. The question is how much can those few businesses who are not fair to their employees bear. Our President said in his veto message that $4.55 was excessive but $4.25 was all right and evidently that will not cost jobs or inflation. He is right. People earning $8,800 per year are no threat to inflation.

The only thing excessive here is the excessive number of working poor who will continue to live in poverty as a result of the President's veto. Equally undefendable is the claim that a new minimum wage will result in the loss of jobs.

In California where the rate is 90 cents higher than the current national minimum wage there has been no mass job loss. Mr. Speaker, H.R. 2 offered a compromise to the President on the minimum wage issue. Instead, the President chose to believe that $4.25 was more than enough for teenagers, seniors, and the working poor.

Mr. President, I do not believe 30 cents more would hurt anyone but it sure would help the working poor. I urge my colleagues to vote to override the President's veto of H.R. 2.

Mr. GOODLING. Mr. Speaker, I yield 4 minutes to the gentleman from Wisconsin [Mr. PETRI].

Mr. PETRI. Mr. Speaker, I urge all my colleagues to vote to sustain the President's veto of H.R. 2. The President made a generous offer for a minimum wage increase. He came 70 percent of the way toward what the proponents of an increase originally sought. Despite his addition of a meaningful training wage to cut down the inevitable job losses, his offer went further than many people thought wise. Nevertheless, that generous offer was spurned, bringing us to today's exercise.

Make no mistake about it. Today's exercise is not about helping the working poor. It's about politics, pure and simple. If we really want to help the working poor, we can do a much better job than either H.R. 2 or the President's offer. The truth, which bears repeating, is that any minimum wage is a crude tool for helping the working poor.

It actually hurts the poor through job losses and inflation. Most of the people it helps are not poor. And it fails to help most of those who are working poor family heads because they are already capable of earning at least $4.55 per hour.

The problem, as I keep saying, is that poverty is not a fixed target. Economic need and poverty lines vary by family size. But wages, including any fixed minimum wage, do not. What poor family heads need is not a minimum wage but a living wage. And the best way to create a living wage is to supplement wages directly, according to need as determined by family size, through reform of the earned income tax credit.

Almost everyone now agrees that is desirable, regardless of what happens on the minimum wage. It is the most direct, most targeted, and most efficient way to help working poor families with children.

In his veto message on H.R. 2, the President said, quote, "If the Congress remains unwilling to support this job-saving approach, I am prepared to examine with the Congress, within the confines of our fiscal limitations, changes in the earned income tax credit, which could better help the heads of low-income households." Some weeks ago our colleague from Illinois, the distinguished chairman of the Ways and Means Committee, wrote in a letter to Newsweek, quote: "From my perspective, the decision to raise the minimum wage rather than the EITC resulted from an unwillingness to raise the revenues needed to pay for it. That may be the cheap way out, but it is not the best way to help those in need."

Mr. Speaker, the President is willing to consider EITC reform. The chairman of the Ways and Means Committee thinks it is a better way to help those in need. Various Members from both parties have advanced related EITC reform bills, including the gentleman from New York [Mr. DOWNEY]. Surely there is room here for a bipartisan compromise, a compromise that avoids excessive economic damage, while helping those in need far more than H.R. 2, which goes to its final resting place today. That is the spirit of the bill our colleague BILL GOODLING is introducing today. It is time to stop the politics and start working to provide some real help to working poor families. We can do much better than H.R. 2.

Mr. HAWKINS. Mr. Speaker, I yield such time as he may consume to the gentleman from Missouri [Mr. CLAY].

Mr. CLAY. Mr. Speaker, I rise in support of the override and request that my colleagues support the override.

Mr. Speaker, minimum wage workers, no less than anyone else, have certain basic needs that must be met. To the extent that workers, through their wages, are unable to provide for these needs, they must be accounted for in another manner. If one's wages do not provide sufficient income to feed one's family then either that family will be malnourished or someone else must pay the cost of providing the food. If a worker is unable to earn wages sufficient to provide for the education of his or her children then either those children must go uneducated or someone else must assume those costs.

The importance of being able to maintain oneself and one's family through gainful employment cannot be overemphasized, especially for black Americans, for whom the American dream has been an irrelevant myth for too long. One works to provide a livelihood for one's family. Employment that does not convey to workers a degree of independence and self-reliance diminishes the dignity and worth of the individual, increases the divergence between rich and poor, and bears a closer resemblance to servitude than any American can or should be willing to tolerate. The President's veto deserves to be overrid-

den and I urge my colleagues to join me in doing so.

Mr. HAWKINS. Mr. Speaker, I yield 2 minutes to the gentleman from Kentucky [Mr. PERKINS].

Mr. PERKINS. Mr. Speaker, and distinguished colleagues, I come before the Members today to talk about an issue that affects America across its width and its breadth, and that is the issue of what we are going to pay people who are willing to go out and work for a living. That is what we are talking about when we are talking about the override issue on the minimum wage today.

We are seeing millions of people across this great country who are being denied the right to have a living, working wage, and that is what we are talking about when we are talking about overriding this bill today.

We are talking about giving people some dignity. We are talking about letting them have a standard of living that is better than they can get if they were on welfare.

I will tell the Members frankly, as my dear friend, the gentleman fom Kentucky [Mr. NATCHER], would say, if we do not override this particular piece of legislation today and this harsh Presidential veto, then what we are doing is taking the heads of the poor working people in this country, putting them down in a pond and letting the air go out of their lungs, because we are not giving them any air to breathe, we are not giving them any room for tomorrow, we are not giving them any hope, we are not giving them any future.

Mr. Speaker, I know what the outcome of this vote is likely to be today, but I want to tell the Members that we are going to be back. We are not going to quit, because the working people of this country deserve better than what they are getting out of this legislative process. We shall not quit until we get a decent standard of living for them.

□ 1620

Mr. GOODLING. Mr. Speaker, I yield 3 minutes to the gentleman from Texas [Mr. BARTLETT].

Mr. BARTLETT. Mr. Speaker, I rise to ask the House to vote to sustain the veto today because it is morally right, and because it is economically right, because by sustaining the veto we would save jobs, not just a few jobs, but hundreds of thousands of jobs for people who need them the most. They are entry-level jobs for young people finding that first job, or displaced homemakers who are trying to reenter the work force, or recovering alcoholics and drug addicts who are trying to get their lives back in order and get that job. If we pass the minimum wage in the form before the House today, we will deny those individuals those jobs.

The gentleman from Pennsylvania [Mr. GOODLING] will be introducing a minimum wage bill later today that is a better idea. It is an idea that will save jobs, that will provide people with the opportunity to increase their standard of living while increasing their take-home pay by providing for a training wage that works, and an expansion of the earned income tax credit.

If what we want to do, which is what we ought to want to do, is to assist low-income families who are heads of households trying to support their children, then what we ought to be debating is how to increase the earned income tax credit so that young working mothers with two children can have their take-home pay increased, increased so that they can keep their jobs and support their children.

I would ask my colleague to listen to their constituents. Constituents all over the country, individually and collectively through their newspaper editorials and opinion leaders are saying do not increase the minimum wage in a way that costs jobs.

I have listened to the speaker here today and noted those who are in favor of the mimimum wage bill, and noted from their own States editorials which have come from those States. We had a speaker from California. The Oakland Tribune says:

> But suppressing the message doesn't change the truth: higher minimum wages cost jobs for people who need them most, especially teenagers * * *.
>
> Petri's tax credit costs less and tastes far better than the minimum wage alternative. Legislators with a serious interest in helping the working poor would do well to put it on their menu.

We heard from the gentleman from Pennsylvania. From the Lancaster Pennsylvania New Era:

> Don't hike minimum wage.
>
> Raising the minimum wage to just $4.65 an hour would lead to a loss of 880,000 jobs * * *.

We heard from the gentleman from Missouri. From the St. Joseph, MO, Gazette:

> It's almost certain that many of the unskilled, minorities, inexperienced youths and others who need the kinds of jobs that pay a minimum wage will be priced out of the market by the pay increase.

Or from the Cedar Rapids, IA, Gazette, for the gentleman from Iowa, "It's an outlandish idea," says the Gazette.

> How outlandish is shown * * *.
>
> The social engineers just don't seem to get it. As if you could prevent poverty simply by jacking up the minimum wage.

Or from the New York Times, at the conclusion of their editorial:

> For those who really care about the working poor, the issue is not the minimum wage but minimizing poverty. The tax credit is the right way.

Or for the gentleman from Kentucky, this headline: "Study: State Would Lose 14,000 Jobs to Higher Minimum Wage."

Do not vote politics today. Vote jobs. Vote to sustain the minimum wage veto.

Mr. HAWKINS. Mr. Speaker, I yield 2 minutes to the gentleman from Wisconsin [Mr. KLECZKA].

Mr. KLECZKA. Mr. Speaker, first of all I thank the gentleman from California [Mr. HAWKINS], chairman of the committee, for yielding me some time on this most important issue.

It is really amazing, my colleagues, that under the Bush proposal to increase the minimum wage we are not going to lose any jobs, but once the Democrats introduce a proposal, now we are going to lose 400,000-plus jobs, and I think that is just amazing. It is really interesting that when the President introduced his bill to increase the minimum wage, basically there were some long faces on the Republican side of the aisle because their supporters do not want this increase at all. In fact, when the minimum wage was first raised some 50 years ago when we started out with a 50-cent-per-hour minimum wage, they were probably the same people who were opposing it then, people with the same type of political philosophy.

The gentleman from Texas indicates that we should at least listen to people on this issue. In poll after poll and survey after survey, we are looking at 80 percent to 84 percent of the American public supporting an increase in the minimum wage, and are they supporting the $4.25? No. If Members read the USA Today editorial, the average person interviewed there supported a wage of about $5 per hour.

The Democrat proposal before my colleagues today falls short of that. Clearly the President's proposal is way, way short of that.

As we go on into this session and debate some of the major issues affecting the country, I am first of all saddened today that we are not going to override the veto, which I think is clear to some Members; however, we are not going to give up, we are going to see the bill again and again this session until we do get the Presidential signature.

But we are also going to see another bill debated on the floor, and that is an issue regarding our Tax Code that deals with the capital gains tax. It seems that even though the average capital gains to be paid in this country is at a rate of about 28 percent, that is not good enough for some. We have to lower that to the rate paid by the low-income earners of this country. These wages, capital gains wages are wages earned from investments, more or less by the wealthiest of this country, but they cannot pay a 28-percent on average rate. We are going to see these same Members arguing against a

decent increase in the minimum wage come to the floor and argue that we must for the wealthy of this country reduce the income tax for capital gains down to 15 percent. That is absurd.

Mr. Speaker, today we will hear a lot of rhetoric about the minimum wage. Everyone will say that they want to help working Americans. But strangely enough many Members will not vote to override the veto to raising the minimum wage. What's going on here? Although many individuals and groups pay lipservice to helping the working poor, their real interests lie elsewhere.

Let's take a look at a key group opposing H.R. 2. They call themselves the minimum wage coalition to save jobs. A noble sounding name. But is this group primarily interested in protecting the jobs of low-wage workers?

No. This coalition is made up of groups like the National Association of Chain Drug Stores, the National Grocers Association, and the United Fruit and Vegetable Growers Association. And of course a leading member of this coalition is the U.S. Chamber of Commerce, a group not known for its aggressive support for American workers.

Of course groups can call themselves whatever they want and we Members can use whatever rhetoric we wish. But let's not fool ourselves. What counts is how we vote.

A vote against raising the minimum wage is a vote that will hurt millions of the working poor. A vote against the bill will mean retaining a low standard of living for workers. It will mean an increase in the number of working Americans who are homeless. However, a vote to override the veto is a vote for working Americans on the low scale.

I urge my colleagues to support working Americans and to vote to override the President's veto.

Mr. GOODLING. Mr. Speaker, I yield 2 minutes to the gentleman from Michigan [Mr. HENRY].

Mr. HENRY. Mr. Speaker, there has been a lot of talk about ethics in this institution lately. Most of the talk deals with questions of personal matters—betrayals of personal trust, putting ourselves in conflict-of-interest situations, or formally violating the rules of the House.

But perhaps an even more important issue is the ethics of public policy—having the courage to take a stand on matters of principle—refusing to propagandize the American public with cliches—playing the populist rather than the true legislator. One Member of this body was quoted in a national magazine a few weeks ago, saying: "Members check their spines at the door when they come to vote."

For far too long, the minimum wage issue has been surrounded by cheap rhetoric which frustrates, rather than facilitates, addressing the problems of our working poor. And I suggest that it is good example of an ethics issue. Do we play to the crowd, or do we develop innovative public policy which truly addresses the problems of this population?

We have more people working in America than at any other time in our Nation's history. We enjoy the longest and greatest economic expansion in the history of the Nation. The purpose of minimum wage legislation is to protect workers from falling wages—not to drive them up by legislative fiat. And our present economy is such that the smallest proportion of the American work force in history is presently at the minimum wage.

Less than four-tenths of 1 percent of the American work force consists of heads-of-households working full time at the minimum wage who are the sole source of income for family units. Why not target those households with earned income tax credits if our purpose is truly to assist the working poor? The reason, of course, is an ethical lapse by the majority—an ethical lapse which deliberately misstates the true intent of this legislation. And if truth-telling is an ethical standard, then those who speak otherwise had better examine themselves.

Our urban areas face unemployment rates of upwards to 40 percent—even 50 percent—among minority youth. The Conference of Black Mayors has called for innovative solutions to this problem such as establishing training wages to help these young people enter the work force, rather than merely further pricing them out of the job market. If truthfulness is an issue in this debate, we will all acknowledge that increasing the costs of employing marginally employable individuals is counterproductive public policy.

Yes, Mr. Speaker, we have an ethics crisis in the House. A crisis of truthfulness. A crisis of substituting rhetorical prevarications for sound public policy. And shortly we'll see which Members "check their spines" when they enter the doors to this Chamber.

Mr. HAWKINS. Mr. Speaker, may I inquire as to the time remaining on both sides?

The SPEAKER. The gentleman from California [Mr. HAWKINS] has 9 minutes remaining and the gentleman from Pennsylvania [Mr. GOODLING] has 14 minutes remaining.

Mr. HAWKINS. Mr. Speaker, I yield 1 minute to the gentleman from New York [Mr. GARCIA].

Mr. GARCIA. Mr. Speaker, I have heard a great deal of talk here today about the minimum wage, but I would suggest to my colleagues that any Member opposing the raise in the minimum wage should first try to live on it.

I would also like to say that I believe these facts truly speak for themselves. A person who works full time today, 40 hours per week at $3.35 an hour makes $6,970 a year, which is about $4,630 below the poverty level for a family of four.

Mr. Speaker, the sad fact is that in communities such as mine, the minimum wage is the maximum wage. If I thought for 1 second my colleagues on the other side of the aisle were right in opposing this and that we would be losing jobs, I am not here to lose jobs, I am here to gain jobs.

I would ask my colleagues in this particular instance to override the veto. It is extremely important because the mimimum wage is the maximum wage.

□ 1630

Mr. GOODLING. Mr. Speaker, I yield 2 minutes to the distinguished minority leader, the gentleman from Illinois [Mr. MICHEL].

Mr. MICHEL. Mr. Speaker, in one sense it is gratifying that we have the President's veto message on the floor. If he had waited as long to veto the bill as the Congress waited to send it to him—just to take advantage of the political climate—we'd be doing this in August.

It is another example of the lack of respect for process we have in this institution.

I am not going to surprise anyone by declaring myself in support of the veto, I, of course, will vote to sustain.

In years past, I suspect I would not have been so comfortable in this position. In years past, I suspect another President would have said no to any increase in the minimum, with good solid economic arguments to back him up.

Inevitably, that would leave us with an argument between the still, small voice of economic reality and the loud, shrill voice of populist appeals.

Guess which voice was heard—and heeded—in the House?

But President Bush did not reject a raise in the minimum. Nor did he sidestep the issue. He took a position—a very credible and honest position—and he stuck to it, while the Congress played politics.

The President's position on increasing the minimum wage to $4.25 per hour over 3 years with a permanent training wage made good sense, it made good policy, but it apparently didn't make good enough political sense to satisfy the climate around here.

The President's plan is good. It is responsible. It is humane, not only because it provides an increase, but because it rejects the kind of excessive increase which will take job opportunities away from those who need them the most.

Our economic formula has worked wonders now for 6 straight years. The number of workers earning the minimum has been cut practically in half. We have created 20 million new jobs.

This is not the time to bid up benefits for no other reason than to prove one faction is kinder and gentler than the other. I would urge members to

support the President and sustain his veto.

Mr. HAWKINS. Mr. Speaker, I yield 2 minutes to the gentleman from Michigan [Mr. FORD], a member of the committee.

Mr. FORD of Michigan. Mr. Speaker, as Yogi Berra used to say, it looks like deja vu all over again.

In my 25 years in the House I have heard all the arguments that we are hearing today each time that the Fair Labor Standards Act has been on the floor for revision. But it goes back even further than that.

I came to this Chamber for the first time in my life as the president of my eighth-grade class in 1940. We were right in that corner of the gallery up there with the class, and when the guards left with the class I stayed.

I broke the rules and stayed behind because the debate that was on the floor in 1940 was an attempt, the first attempt, to raise the 5-cents minimum wage 2 years after it was passed in 1938.

I want to invite anybody to look at the record of that debate in 1940 and then look at the record of today's debate and see if you can see here one original thought coming from our friends on the Republican side.

When they get in an uncomfortable position, it is now the custom, as the minority leader just demonstrated, to begin screaming about the process, "Let's don't talk about the merits of the issue, let's talk about that process."

Now what my Republican friends are uncomfortable with is that through the entire history from the first minimum wage bill through every adjustment a majority of the Members of the party on that side, the Republicans, have voted against the minimum wage in the first instance and against any increase; and a majority of Members on this side, the Democratic Party, have voted for it.

It is the most clearly identifiable issue upon which a majority of the two parties have disagreed over and over, over the years. It does not matter who the President is, it does not matter which party he is from; you look at the rollcall votes for every time that this legislation has been on the floor, from the very first time in 1938, and you will see a very clear pattern.

If I were sitting in a party with that kind of a sorry record when it comes to paying for a simple minimum to the people at the bottom on the economic ladder, I would be worrying about something other than the issues too.

I guess the new refuge of scoundrels is procedure.

Mr. Speaker, I was shocked by President Bush's veto of the minimum wage bill. I believed that the President cared about the working poor. I believed his pledge to work for a kinder and gentler America. I believed that he would respond to our compromise in a similar spirit of compromise.

But I was wrong.

Mr. Bush's veto was not the act of a President who cares, of a President who represents all of the people. It was the callous act of a millionaire who is completely out of touch with the working people of America, and especially the working poor.

The bill the President vetoed was nothing radical. It was not inflationary. Frankly, it was a compromise so watered-down that it would still have left the working poor in a losing struggle to make ends meet.

But the President says it goes too far. An additional 30 cent raise 2 years from now that would leave a minimum wage earner 25 percent below the poverty line is too much for the President. For 30 cents he would condemn them to grinding poverty and despair.

Minimum wage workers have not had a raise in almost 9 years. They pay 1989 prices with 1981 wages, which were barely enough 9 years ago. They raise their families on a total income of $6,900 a year. President Bush makes 30 times that much on his salary alone. Is it any wonder he doesn't understand their needs?

President Bush condemns the minimum wage bill because it does not allow employers to pay a subminimum wage to all new hires for 6 months—regardless of their age, skill, or experience. He claims that thousands of jobs will be lost if we don't enact such a subpoverty subminimum. The President has gotten unbelievably bad advice.

We have had a minimum wage for more than 50 years without a subminimum like this. And yet our economy has created more jobs than any other in the world. Why now, after 50 years, do we need a special subpoverty wage? The answer is simple: We don't need it.

President Bush says raising the minimum wage to $4.55 over 3 years would be inflationary. What an insult to the American people. A raise to $4.55 today would still leave minimum wage earners behind the last 8½ years' inflation.

My voters have heard that kind of baloney before, and they don't buy it. When the Republicans tried to eliminate Social Security cost-of-living increases because they were inflationary, my voters and people like them around the Nation rose up in protest. I predict they will rise up again against this outrageous veto.

I surveyed the people I represent recently, and 80 percent of them support a $4.65 an hour minimum wage. Many of those who oppose that level do so because it is too low. National polls show the same thing: The people of our Nation believe in the dignity and value of work. They know that no one's work is worth less than $4.55 an hour and that no one can support a family on less than that.

They want the minimum wage to be a decent wage, a living wage.

Finally, Mr. Speaker, let me respond to the fiction that a $4.55 minimum wage will burden small business. It simply isn't true. Mom and Pop stores aren't covered by the bill. If you aren't in business in interstate commerce or don't have sales in excess of $500,000 a year, the Federal law simply doesn't apply.

We should override this veto.

Mr. GOODLING. Mr. Speaker, I yield 2 minutes to the gentleman from Iowa [Mr. TAUKE].

Mr. TAUKE. Mr. Speaker and Members of the House, during most of the time that I have served in Congress I have had the privilege of serving on the Committee on Education and Labor. This issue keeps coming up and vexing the members of our committee.

Why is it? Because this issue presents us with the Hobson's choice.

We know, for example, under the proposal that is before us today we have the option of raising the minimum wage in order to help individuals theoretically. But at the same time we know that puts 600,000 out of work. On the other hand, if we keep those 600,000 working then we do not raise the wages, the take-home pay for those who need assistance.

I believe as a result we need some thinking, some new thinking, and I believe that the veto the President has sent this way gives us an opportunity for some new thought.

I wish the gentleman from Michigan [Mr. FORD] who was just here would listen to what we have to say because he suggested we did not have new thoughts today. I think many of us are trying to offer some new thoughts to prevent us from again having to go through this battle which does not really offer any really good choices for anybody.

We are attempting to come up with a measure that does offer a better choice.

Under the leadership of my friend, the gentleman from Pennsylvania [Mr. GOODLING], many of us today are offering legislation which provides a living wage for the working people of our country. Instead of having to choose between higher wages, higher take-home pay and lost jobs, instead we say, "Let us keep the jobs but increase the take-home pay by using the earned income tax credit as a device." This means over $1 an hour in take-home pay of an individual who has two children and up to $2 an hour more for an individual with four children.

That is real money in their pockets without risking their jobs.

When we risk those 600,000 jobs, understand it is the most fragile of our workers who are pushed out of the job market. Those are the ones we should be trying to help. The living wage does that.

Mr. HAWKINS. Mr. Speaker, I yield such time as she may consume to the gentlewoman from California [Ms. PELOSI].

Ms. PELOSI. Mr. Speaker, I thank the gentleman for yielding time to me.

I rise in support of the veto override.

Mr. Speaker, for small change, the President is shortchanging the American worker.

President Bush has chosen to veto the minimum wage over 30 cents—roughly the cost of a phone call.

A worker who earns a salary at the minimum wage will make roughly $7,000, 30 percent below the recognized poverty level for a family of three. Two-thirds of all hourly workers paid the minimum or slightly higher are women. Today, women head more than 10 million American families. We must recognize the significance of this situation. Working women must be given legitimate opportunities to fully support their families.

The U.S. Conference of Mayors estimated that last year 22 percent of homeless people in the United States held jobs. In some cities more than half of the homeless population hold paying jobs. The largest increase in homelessness has been among the working poor. These are people who are striving to earn a living which would enable them to house themselves.

It has been 8 long years since the minimum wage was last increased, since that time the actual purchasing power of the wage has fallen over 27 percent. How can we ignore the needs of the working poor in this country?

I urge my colleagues to support the motion to override the President's veto of this important legislation. We cannot allow the President to play political games with the welfare of the American worker.

Mr. HAWKINS. Mr. Speaker, I yield 2 minutes to the gentleman from Ohio [Mr. APPLEGATE].

Mr. APPLEGATE. Mr. Speaker, today I am extremely disappointed that President Bush has yielded to the business community to the extent that he had, forgetting the millions and millions of people in this country who are living on low incomes.

Thirty cents an hour, 10 cents an hour for 3 years, how can anybody be so callous as to vote against that meager income?

My friends, there are 38 million Americans in this country who do not have any health insurance whatsoever. We are not talking about people who are not working, that are down at the bottom; they have Medicaid; we are not talking about senior citizens; they have Medicare; we are not talking about the great corporate executives; also high-income earners.

They all have the buck and they can buy their health insurance.

We are talking about 25 million Americans who are working in low-income jobs that cannot afford health insurance. We are talking about 13 million children, children, mind you, who do not have health insurance.

□ 1640

I have heard it said that it is going to raise inflation. That is ridiculous. There has not been an increase in the minimum wage since 1981, and the inflation has increased since that time over 30 percent. So the minimum wage today, based on the 1981 dollar, is only worth about $2.50.

I heard it would increase crime. Crime, let me say something about that. Today, when a child comes home, who does he come home to? There are two parents working in a family, with one job each or maybe two jobs. They do not get home to see their kids. They leave them to someone or they go home by themselves, and sit in front of a television and watch all the sex and crime and shooting that is going on. They go to the streets. There is plenty of crime out there. There are drugs on the streets. Members will tell me that this is going to increase crime. I think it is a disgrace. These people have very little to look forward to. I say that those Members who vote against this can go home to their $150,000 or $200,000 or $300,000 homes and enjoy the finer things in life, but think of the downtrodden. Let Members give them a break, and let Members give them a raise.

Mr. GOODLING. Mr. Speaker, I yield 1 minute to the gentleman from Ohio [Mr. MCEWEN].

Mr. MCEWEN. I think it is vitally important we give the poor and the minority and unskilled a break. As you know, during the end of the last decade we were losing jobs at the rate of 50,000 a week. People who wanted to hire folks had to build plants in Mexico and Brazil, but in the last months we have created 300,000 jobs a month for all this time, and now we want to say we want to put a stop to that.

This bill does not increase the pay for anyone. This bill says if a person is unskilled, or a minority, or poor, and they want to look for a job, and the company does not have the wherewithal, they only have three or four employees and want to hire a person, the Federal Government comes in and says they cannot hire that person. That is a mean and vicious thing to do.

In my district, two miles from my home, they have a factory where these mentally handicapped people fix the pumps used by Procter & Gamble. They used to do that in Mexico, because they could not afford to do it in the United States in the 1970's, but because we were able to encourage them to hire these handicapped, unskilled workers, now they have a factory, and they have employment. Under this bill, they would close that factory tomorrow.

That is far too mean and vicious a thing for this country to be doing. I urge the support of the President's veto.

Mr. GOODLING. Mr. Speaker, I yield 2 minutes to the gentleman from Illinois [Mr. FAWELL].

Mr. FAWELL. Mr. Speaker, I thank the gentleman for yielding time to me.

I do not know if I can add anything to the arguments here. I am not sure that many Members are listening. As I understand the argument from the opposition, they are talking about trying to help the poor who support families, as though the minimum wage increase is an antipoverty weapon in that regard. That I would say is the No. 1 fiction that I would like to just briefly talk about.

There are about 3 million, I think, people on minimum wage now. As of this year, most are young, part time, not poor; 93, 94 percent have no families that they are supporting whatsoever. In fact, in going to the restaurant industry, 1 million of the 3 million are in the restaurant industry. A great proportion of them are operating on tips. I have a friend in Washington, DC, I mentioned this before, who makes $25,000 per year as a waiter, for instance. Not all, of course, are making that kind of money, but the point is that throughout this country we are really supporting a fiction when we say there are 3 million people on minimum wage. We go into the commissions, for instance, earned by people in sales, and there, again, they are listed as part of the minimum wage group, but they are not making minimum wage.

However, there is a nonfiction that is very, very true. It has been mentioned here. I will mention it again. All economists agree, and there are hardly any two economists that agree on much of anything else, they all agree that there are going to be two effects, for sure; one, there is going to be lost jobs, and by the way, the CBO, Mr. Greenspan from the Federal Reserve, DOL, editors of our major newspapers agree with this, there will be lost jobs, anywhere from 125,000 to 600,000. Who is the first to go? Of course, the most disadvantaged, the handicapped, the people who are on the bottom rung of the totem pole which was referred to. The other guarantee, nonfiction that Members can count on, is the fact that we are going to have more inflation. Collective bargaining agreements are tied either literally or in effect to what the minimum wage is. I think we should look to what the gentleman from Wisconsin [Mr. PETRI] is talking about, we should target the kind of aid we will give to the people who are working and supporting families. We do that, we are accomplishing something, we are doing something new for a change.

The SPEAKER pro tempore. (Mr. PERKINS). The Chair will announce that the gentleman from California [Mr. HAWKINS] has 4 minutes remaining, as well as the right to close debate, and the gentleman from Pennsylvania [Mr. GOODLING] has 7 minutes remaining.

Mr. HAWKINS. Mr. Speaker, I yield such time as he may consume to the gentleman from Florida [Mr. BENNETT].

Mr. BENNETT. Mr. Speaker, I rise in support of overriding the veto. I congratulate the committee.

Mr. Speaker, I rise in support of this proposed minimum wage. In opposition by others, it has been urged that there are better ways to help the poor. I see that as a tactic to defeat this meritorious legislation. If there are other things that can be done to help those of low income those things should also be done, and not used as an excuse not to pass this legislation. I believe we should override the veto and then do whatever else also needs to be done. This is a modest proposal and we ought to pass it.

Mr. HAWKINS. Mr. Speaker, I yield 1 minute to the gentleman from Maryland [Mr. HOYER].

Mr. HOYER. Mr. Speaker, I thank the chairman for yielding time to me. My friend, the gentleman from Michigan [Mr. FORD], who has been here much longer than I, perhaps said it better. The arguments have not changed. In 1938 when we adopted the minimum wage, 60 percent of the President's party opposed that. Although I have not read the RECORD, I am sure that all the arguments that are now being used were used then. Eighty-six percent of my party support the minimum wage. Of course, if we depress wages, perhaps we could be more competitive with the Mexicans, on the backs of workers in this country. However, I do not think that is what this country believes in, and in fact, the overwhelming majority of Americans believe that 8 years is enough to not raise the pay of those at the very lowest rung on the economic ladder who are doing exactly what we want them to do, and that is work. We ought to ensure, as we did in 1988, that when they do so, they receive a minimum level, a fair but certainly not generous wage. Let Members override the President's veto.

Mr. GOODLING. Mr. Speaker, I yield 2 minutes to the gentleman from Vermont [Mr. SMITH].

Mr. SMITH of Vermont. Mr. Speaker, I rise to address myself to the value of the so-called living wage concept that we have been presenting. I would say with due respect to the gentleman from Florida who just addressed this Chamber, that the arguments have changed. They have changed powerfully, in favor of a new idea. It is an idea that was put forward by our side of the aisle, and now is taking hold with other people on the other side of the aisle.

The real question before this body and before this Chamber today is whether we will wipe the film from our eyes and whether we will show courage and the confidence, straightout guts, to look at some new ideas and say to people in ways that have not been said before, "You do not have to stay on welfare, we will not stack the deck against you. We will encourage you to be productive and we will be with you as you walk those steps from dependency to independence. We will be with you every step of the way in the best tradition of this country."

I had someone say to me the other day when I was back in Vermont and we were talking about the question of how this country, the national policy, supports people at the low wage end of the scale, and there was no disagreement that we had to do things differently. We had to do things better. We had to do more. What this man said to me was, "Is this the best we can do?" I said, "No, it is not the best we can do. What we have to understand is that one size fits all is no longer a policy that will work in a country whose very strength is its diversity." Nor can we allow diversity and discussion in the name of diversity allow Members to back away from the commitments to the poor, the commitments to the working poor, the commitments to those families that this society rightfully and must retain. I would say the living wage concept put forward by the gentleman from Wisconsin [Mr. PETRI] and others, as we will put forward later on with the leadership of the gentleman from Pennsylvania [Mr. GOODLING], has changed playing fields, has changed the arguments, and changed them in favor, powerfully, of the working poor of this country.

□ 1650

Mr. GOODLING. Mr. Speaker, I yield our remaining time to the gentleman from Iowa [Mr. GRANDY].

The SPEAKER pro tempore (Mr. PERKINS). The gentleman from Iowa [Mr. GRANDY] is recognized for 5 minutes.

Mr. GRANDY. Mr. Speaker, I thank the gentleman for yielding this time to me, and let me say that I hope that at least for our side I am not closing the debate today as much as opening negotiations, because by sustaining the President's veto today we can either begin a comprehensive battle plan against a war on poverty or we can slug it out in a series of little individual skirmishes about 6-month training wages versus 2-month training wages, 30-cents increases, and relative job losses.

We can read the President's veto a couple of ways, Mr. Speaker, we can say, as some maintain, that this is a defiant manifesto against the working men and women of America, a flat refusal to raise their wages, or we can say that it is a modest approach, a proposal to enhance their income while protecting their jobs. What we are trying to do is to ensure that the underprivileged do not become the underskilled and an automatic underclass in this society. That is the interpretation I like. I perfer the latter view, Mr. Speaker.

But a month ago, Congress rejected the President's offer, and a day ago he rejected our offer to him. So we are even. Today we can break the tie. We can sustain the President's veto, and the minimum wage will still be $3.35.

So the question that I have to ask my colleagues on both sides of the aisle is this: What are we going to do tomorrow? What is the next step? Again, if we read the President's veto message and get beyond the veto statement, there is more reconciliation in his remarks than there is repudiation. He asks us to move forward with a new strategy which combines wage increases for the poor with new initiatives for job training, for education, and for child care credits.

He says this on page 3 after he talks about the veto:

If the Congress remains unwilling to support this job-saving approach, I am prepared to examine with the Congress, within the confines of our fiscal limitations, changes in the Earned Income Tax Credit, which could better help the heads of low-income households.

Does this sound like somebody who does not want to negotiate, somebody who is more concerned with raising his own pay than the wages of working men and women?

I hope that after we sustain the President's veto, Mr. Speaker, we can work together on a living wage. The gentleman from Pennsylvania [Mr. GOODLING] and the gentleman from Wisconsin [Mr. PETRI] have forged a new approach, combining what works in the President's proposal with what works in the earned income tax credit, and it contains a compromise. We offer a 4-month training wage, going half the distance from what the Democrats have offered and half the distance from what the President has offered. This proposal effectively raises the minimum wage to $6, higher than any bid on the table, by extending the maximum credit of $3,850 to the working poor family with four preschool children.

And it does more. It says to college students who depend on minimum wage jobs that they will have a chance to continue employment under the Living Wage Act because employers will be able to continue the part-time arrangements with the training wage. And the training wage, under the Living Wage Act, offers an opportunity for welfare recipients to get that first job, giving them the skills they need to get off welfare and earn valuable work skills.

Mr. Speaker, like any good compromise, this proposal has something to offend everyone. Conservatives will not like it because they will say it is too much. They will say we are offering a minimum wage increase and an earned income tax proposal, and that that is too much. And liberals will not like it because we still have a 4-month

training wage. And I am not sure the administration is going to be crazy about it because it is going to cost some money, and we are indexing it to inflation.

But surely, Mr. Speaker, after we get through the political business of today and we talk about what we are going to with the policy of tomorrow, there is something in these proposals that Republicans and Democrats can come together on. Surely there is something in here that the American working man and woman can live with, and that is supposedly what we are concerned about with this legislation.

So, Mr. Speaker, I ask my colleagues today to sustain the minimum wage, to sustain the President's veto, and get beyond the old minimum wage of yesterday and embrace the new living wage of tomorrow. That is the new policy. That is how this differs from every argument since 1938.

Mr. Speaker, I hope that the Members are listening because I know their constituents are.

The SPEAKER pro tempore. The time of the gentleman from Iowa [Mr. GRANDY] has expired.

Mr. HAWKINS. Mr. Speaker, I yield such time as he may consume to the gentleman from Michigan [Mr. CONYERS].

Mr. CONYERS. Mr. Speaker, I rise in strong support of the motion to override the President's veto of H.R. 2, the Fair Labor Standards Amendments Act.

There is a saying that "justice delayed is justice denied." How true that is. It has been 8 long years since the last increase in the minimum wage was put into effect. Since that time the cost of living has risen more than 30 percent. As a consequence, in today's dollars, the current minimum wage is worth only $2.56. This is the lowest level relative to other wages in the private economy since 1949.

The case for increasing the minimum wage is urgent and compelling. Opponents of this legislation would have us believe that the minimum wage should not be raised because most people who earn it are teenagers. However, the facts are that only about one-fourth of minimum wage workers are teenagers. Two-thirds of them are women, nearly 7 million are full-time workers and nearly 4 million are heads of households.

Plant layoffs and closings have driven millions of Americans throughout this country into low-paying service jobs. The depressed minimum wage drags down the income of these workers and their families, as well as the wages of all other workers.

It has been implied here that the National Conference of Black Mayors opposes increasing the minimum wage.

This is not true.

At their June 1988 convention, the National Conference of Black Mayors actually endorsed increasing the minimum wage to a higher level than this bill contains.

Increasing the minimum wage to a liveable wage is one of the most important legislative issues facing this country. The fundamental premise of raising the minimum wage is that it should be a living wage. No one who works for a living should be condemned to a life in poverty.

Today, over 6.5 million workers earn the minimum wage or less. Another 5 million workers, whose wages move in-step with the minimum wage earn no more than $0.50 above the minimum wage rates. This means that about 11.5 million workers or 10.5 percent of the labor force.

A decent minimun wage would go a long way in helping the 7 million full-time minimum wage workers, including the more than 2 million families in poverty families to climb out of poverty.

Mr. Speaker, minimum wage workers represent a broad spectrum of American society and include many Americans who are supporting families and trying to achieve economic self-sufficiency. Adults account for 70 percent of the 6.5 million minimum wage workers with heads of households or married women who work out of economic necessity accounts for over 45 percent of the minimum wage workers. One in four minimum wage workers lives in poverty compared to just 8 percent of all workers.

More importantly, simple justice and equity require us to raise the minimum wage to a fair level. H.R. 2 is a carefully drafted bill, guided by the principals of fairness, simple justice, and equity. Today, let us begin to raise millions of Americans out of poverty into economic opportunity and dignity. Basic human rights and economic survival are at stake. Economic justice must no longer be delayed or denied.

NATIONAL CONFERENCE OF BLACK MAYORS, INC.

RESOLUTION 18—INCREASE IN MINIMUM WAGE

Whereas, according to the Bureau of Labor Statistics, 6.7 percent of the United States work force or an estimated 7.4 million people were paid at or below minimum wage in 1986; and

Whereas, the federal government estimates that from nine to fifteen percent of all minimum wage earners are heads of households; and

Whereas, the 1986 povery threshold for a family of three was $8,741 annually while a year's income on minimum wage is only $6,968; and

Whereas, inflation has eroded the buying power of the $3.35-an-hour wage by 28 percent since 1981; and

Whereas, ten states already have passed legislation to raise their minimum wage; and

Whereas, the current minimum wage presents little incentive as an alternative to welfare and public aid; and

Whereas, Congress is considering an increase in the minimum wage to either $4.65 an hour (S. 837) or to $5.05 an hour (H.R. 1834) over the next four years.

Now, therefore be it resolved, that the National Conference of Black Mayors, Inc. supports an increase in the minimum wage to at least $4.65 an hour by 1992.

Mr. HAWKINS. Mr. Speaker, I yield such time as he may consume to the gentleman from New York [Mr. FLAKE].

Mr. FLAKE. Mr. Speaker, I rise in support of the override of the Presidential veto.

Mr. HAWKINS. Mr. Speaker, I yield our remaining time to the gentleman from Montana [Mr. WILLIAMS], a member of the committee.

The SPEAKER pro tempore. The gentleman from Montana [Mr. WILLIAMS] is recognized for 3 minutes to close debate.

Mr. WILLIAMS. Mr. Speaker, let me say to my colleagues that like many of us, I read the President's veto message. I read it three times. One thing stood out each time I read it, and that was that the President in that message said that the increase asked for in this bill is excessive. He said that the three dimes, the 30 cents, is excessive.

He said that while he was flying at 30,000 feet in Air Force One above America's low-income workers. He said it is excessive. He did not say that to us in the Congress; he said it to the 15 million working Americans who earn less than this bill would give them. He says it is excessive to give them what this bill provides, a measly $4.55 an hour, three dimes more than he wants. He says that from Air Force One.

There are 5 million Americans who now work at the minimum wage. To give them the modest increase envisioned in this bill, this kind and gentle President, riding 30,000 feet above the working crowds of America, he says, is excessive.

This summer there will be 1,500,000 teenagers working at the minimum wage. Now, their employers tell them that that is all they are worth, and maybe their employers are correct. But I know some of these teenagers, as we all do. They turn the key in the lock on the door in the morning and open up the place. Some of them keep the books for the little store. They let them lock up at night. Some of them are there alone, and we have found that they have been endangered in these thrifty supermarket stores.

The President says that to give them what is provided in this bill would be excessive. I guess America's teenagers are not worth it, in the mind of this fellow who is flying 30,000 feet above the crowd in Air Force One and writing that such a rate would be excessive.

There are 650,000 people right now who are heads of households working at the minimum wage. Let us look at it this way. A head of a household with a family at home to support, a family of three, working every day, never missing a shift, never taking a day off, at the end of the year makes a third less than what they need to get out of poverty.

Is that excessive? Well, maybe for someone who made millions in the oil business and now flies in Air Force One, it is excessive, but to the vast bulk of Americans, a decent wage for a good day's work is not excessive.

Mr. Speaker, I urge the Members of this House on both sides to reject this mean and angry talk about how

paying America's workers an extra 30 cents would be excessive. I urge the Members to vote to override the President's veto.

Mr. FAZIO. Mr. Speaker, I rise today in strong support of the veto override of the minimum wage bill. This legislation demands our support to ensure economic equity for low-wage workers.

The 1938 Fair Labor Standards Act established the minimum wage as a commitment to the American belief that hard work deserves adequate compensation. It was intended to ensure that every worker would be paid enough to achieve a decent standard of living.

Unfortunately, we have failed to live up to that commitment. The last time Congress approved an increase in the minimum wage was in 1977 with the final step increase going into effect in 1981. Today the minimum wage remains at the 1981 level of $3.35 per hour. Yet since that time, the purchasing power of the minimum wage has decreased by more than 30 percent. In 1981 dollars, its purchasing power is worth only $2.46. Had it kept pace with inflation, the minimum wage would now stand at $4.57 per hour.

Further, during the 1960's and 1970's, a person who worked full-time at a minimum wage job could earn slightly more than the amount required to keep a family of three out of poverty. Today, however, the same worker makes only $6,968 per year which is significantly below the 1988 poverty line of $10,060 per year for a family of three.

We must maintain our commitment to economic justice for America's workers by supporting the veto override. We must send a strong signal to the administration and the American public that we value these workers and their role in American society. I urge my colleagues to support the veto override.

Mr. HOUGHTON. Mr. Speaker, in the great debate over the minimum wage currently consuming this city, one fact is quite well camouflaged. Raising the minimum wage does not help the working poor the way we think it will.

Minimum wage earners make up less than 4 percent of our national workforce. Many are young, they are single, or come from double income households. Of the 20 million Americans of working age who live in poverty, only about 335,000 households earn the minimum wage. So by beating the drums and concentrating our efforts on two words—minimum wage—we avoid the real problem. We leave the bulk of deprived Americans still looking for help.

What I'd like to do is to try to untangle ourselves from the presently tightly focused minimum wage picture and look at another approach—one championed by my colleague and friend TOM PETRI, of Wisconsin. This approach is called EITC—or—the Earned Income Tax Credit. What this would do is allow disadvantaged families earning approximately the minimum wage level to receive a tax credit. What do I mean by this? With someone earning up to $8,000 annually, he or she would be eligible for a base tax credit of $1,050. In addition, they would be allowed a credit of $700 per preschool child and $350 per school-age child for as many as four children, to make child care just a little bit easier.

There are many approaches to this problem of poverty—and help for those who need help. Personally, I think going the EITC route is a fair way to look at the condition we somehow seem to avoid in all our talk on minimum wage. Should the minimum wage be raised—yes, but not to the point of jeopardizing the job producers. If we are serious about helping the working poor there is another way. This is what Congress must concentrate on, this is what the Petri approach does.

By concentrating solely on the pure minimum wage approach—even the highest estimates—we ignore the fact that it is still far out of line with welfare payments. What EITC does is push aid to the less fortunate in a way that frankly provides support for those who choose to work rather than those who don't. The line between welfare and work is often harsh, particularly for those who suddenly find themselves only a few dollars over the assistance level. What happens? Once over that income limit, they lose many valuable benefits. For most, it is too high a price to pay. This is where the EITC comes in. EITC will provide those who wish to work, but who hover near poverty, with an incentive to keep trying. The tax credit will provide them with enough extra so that there will be an incentive to jump from Federal assistance to employment.

There will be a cost. Some estimate that an earned income tax credit could cost the Government in the neighborhood of $7 billion. I question this, and I'll tell you why. If Congress were to repeal the dependent care tax credit, substituting the child care tax credit included in the earned income tax credit proposal, we would immediately save several billion dollars. Those dollars could be funneled toward the lower income families. The result would be a tax credit costing the Government far less—maybe nothing at all. In the long run a boost such as this has to have its positive side effects on all sorts of Federal programs. I've got to believe that a reduction in the number of welfare recipients, combined with the taxes generated by those who use the EITC to move up and out of poverty, would make the program self-sufficient.

The Congress needs to consider this idea, and there is no time like the present. This is why I've decided to cosponsor the Family Living Wage Act with BILL GOODLING and TOM PETRI. It is innovative, straightforward, uncomplicated and, best of all, it gets to the heart of the real problem.

Mr. FLORIO. Mr. Speaker, yesterday the President vetoed legislation approving a modest increase in the minimum wage. Today, I rise to urge all my colleagues to join me in voting to override that veto.

During his campaign, President Bush promised to make America a kinder, gentler nation. But his action yesterday was neither kind or gentle to millions of hardworking men and women for whom earning a living is a daily struggle.

It has been 8 long years since the last increase in the minimum wage. Since that time, inflation has eaten away at the value of that wage, so that the current minimum wage of $3.35 an hour is only 35 percent of the average wage in this Nation, not nearly enough to raise a family out of poverty.

Mr. Speaker, the majority of minimum wage workers are adults; most are women and minorities. Many are single heads of household, struggling to raise families. These are the people we call the working poor, men and women who, in the richest nation in the world, are condemned to living a life of poverty.

We in Congress have the power to change that. We have the power to ensure that every single working person earns a decent wage, a wage that will allow them to live with dignity and financial security. And we can do this simply by casting our votes to override the President's veto.

Too much time has passed; the workers of this Nation cannot wait any longer. Congress must act today. I hope that my colleagues will vote with me to override the President's veto, and bring fairness back to the lives of our Nation's workers.

Mr. MINETA. Mr. Speaker, when the President vetoed the minimum wage bill yesterday, he disappointed the vast majority of the American people.

Most Americans believe that the increase in the minimum wage approved by Congress is long overdue. For too long, the minimum wage has remained stagnant while inflation has eroded its value and undercut the buying power of millions of hard working people.

In years past, a working man or woman earning the minimum wage could support a family. But today, that same working man or woman cannot even support themselves on a minimum wage income.

The minimum wage has not been raised since 1981, when it was set at $3.35. If the minimum wage had just kept pace with inflation since then, the wage today would be $4.68. That means that the real incomes of minimum wage workers have been slashed by nearly 30 percent in the last 8 years.

Unfortunately, the President's advisors seem to believe that scoring political points is more important than underscoring our commitment to America's working poor.

Mr. Speaker, I urge my colleagues to act out of fairness and decency and override the President's veto. Let us restore a measure of economic dignity to millions of American workers.

Mr. WEISS. Mr. Speaker, I rise today in strong favor of overriding President Bush's veto of legislation to increase the minimum wage.

It is confusing, to say the least, to try to follow the President's position on the minimum wage. Candidate George Bush claimed, with great fanfare during his campaign, that he indeed supported raising the minimum wage. This, we all remember, was part of candidate Bush's "Kinder, gentler" pitch to the American people. Clearly, George Bush understood that the overwhelming majority of Americans supported an increase in the minimum wage as it had not been raised since 1981 and its real value over that period had declined by one-third.

The bill being voted on today is a modest, compromise approach to the problems facing low-income workers. In fact, the House and Senate leadership accepted President Bush's idea of a subminimum training wage as part of their effort to mold a bipartisan package. In

addition, the House dropped a provision, which I supported, which would have indexed the minimum wage to 50 percent of the average wage. Further, the original House version of H.R. 2 would have raised the minimum wage to $4.65. This rate was reduced as part of the attempt to accommodate the President.

Now the President has decided that despite the honest and good faith attempts by Congress of fashion a bill which is moderate and incorporates major components of the administration's minimum wage plan, that he will not support any bill which raises the minimum wage over $4.25. The President says that any increase over this level will cost jobs.

This is peculiar logic. If the President believes that increasing the minimum wage will cost jobs, then he should not support any increase. There is no law of economics which says that the minimum wage can increase to $4.25 but after that, it will have a negative impact on the economy. The President is advocating an increase of $0.90 in the minimum wage. What effect will this have on the economy?

Mr. Speaker, the President cannot have it both ways. Either he believe that raising the minimum wage will cost jobs or he doesn't. He can't argue that increasing it to $4.25 won't cost jobs but increasing it to $4.55 will.

The President has decided to play tough with Congress over this issue. This is politics, pure and simple. It is a tragedy that the long-overdue increase for America's lowest paid workers is being held hostage by this kind of political gamesmanship. Congress should end this game. We should override President Bush's veto and restore a decent and fair standard for the minimum wage.

Mr. FAWELL. Mr. Speaker, I do not know if I can add anything to the arguments here. As I understand the arguments put forth by the opposition, they are trying to help the poor who support families, as though the minimum wage increase is a viable antipoverty weapon. That is the number 1 fiction that I would like to talk about.

There are about 3 million people earning minimum wage now. Most of these are young, part-time, not poor, and 93 or 94 percent have no families that they are supporting whatsoever. In fact, about 1 million of the 3 million are employed in the restaurant industry, a great proportion of whom are operating on tips. I have a friend in Washington, DC, who makes $25,000 a year as a waiter, for instance. Of course, not all waiters and waitresses are making that kind of money, but the point is that throughout this country it is really a fiction when we say there are 3 million people on minimum wage. Another example is people in sales who earn commissions. There again, are workers listed as part of the minimum wage group who are making considerably more than the minimum wage.

However, there is a nonfiction that is very, very true. It has been mentioned today and I will mention it again. Although any two economists hardly ever agree on much of anything, all economists agree that there will be two effects from an increase in the minimum wage, for sure: One, there will be lost jobs. The Congressional Budget Office, Mr. Greenspan from the Federal Reserve, the Department of Labor, and editors of our major newspapers agree with this, there will be lost jobs, anywhere from 125,000 to 600,000. Who is the first to go? Of course, the most disadvantaged, the handicapped, the people who are on the bottom rung of the economic ladder.

The other guaranteed nonfiction that we can count on, confirmed by Mr. Greenspan and the others, is that we will cause an increase in inflation. Collective bargaining agreements are tied to what the minimum wage is, either literally or in effect. I think we should look to what the gentleman from Wisconsin, Mr. PETRI, is talking about. We should target the aid we will give to the people who are working and supporting families. If we do that, we are helping the working poor who are supporting families. We are doing something new for a change.

□ 1700

The SPEAKER pro tempore (Mr. PERKINS). All time has expired.

Mr. HAWKINS. Mr. Speaker, I move the previous question.

The previous question was ordered.

The SPEAKER pro tempore. The question is, Will the House, on reconsideration, pass the bill, the objections of the President to the contrary notwithstanding?

Under the Constitution, this vote must be determined by the yeas and nays.

The vote was taken by electronic device, and there were—yeas 247, nays 178, not voting 8, as follows:

[Roll No. 86]

YEAS—247

Ackerman	de la Garza	Hawkins
Akaka	DeFazio	Hayes (IL)
Alexander	Dellums	Hayes (LA)
Anderson	Dicks	Hefner
Andrews	Dingell	Hertel
Annunzio	Dixon	Hoagland
Anthony	Donnelly	Hochbrueckner
Applegate	Dorgan (ND)	Horton
Aspin	Downey	Hoyer
Atkins	Durbin	Hughes
AuCoin	Dwyer	Jacobs
Bates	Dymally	Jenkins
Beilenson	Dyson	Johnson (CT)
Bennett	Early	Johnson (SD)
Berman	Eckart	Johnston
Bevill	Edwards (CA)	Jones (GA)
Bilbray	Engel	Jones (NC)
Boehlert	Erdreich	Jontz
Boggs	Espy	Kanjorski
Bonior	Evans	Kaptur
Borski	Fascell	Kastenmeier
Bosco	Fazio	Kennedy
Boucher	Feighan	Kennelly
Boxer	Flake	Kildee
Brennan	Flippo	Kleczka
Brooks	Florio	Kolter
Browder	Foglietta	Kostmayer
Brown (CA)	Ford (MI)	LaFalce
Bruce	Ford (TN)	Lantos
Bryant	Frank	Leach (IA)
Bustamante	Frost	Lehman (CA)
Cardin	Garcia	Lehman (FL)
Carper	Gaydos	Leland
Carr	Gejdenson	Levin (MI)
Clarke	Gephardt	Levine (CA)
Clay	Gibbons	Lewis (GA)
Clement	Gilman	Lipinski
Coelho	Glickman	Lloyd
Coleman (TX)	Gonzalez	Long
Conte	Gordon	Lowey (NY)
Conyers	Gray	Luken, Thomas
Costello	Guarini	Machtley
Coyne	Hall (OH)	Manton
Crockett	Hamilton	Markey
Darden	Harris	Martin (IL)
Davis	Hatcher	Martinez
Matsui	Perkins	Solarz
Mavroules	Pickett	Solomon
McCloskey	Pickle	Staggers
McDade	Poshard	Stallings
McDermott	Price	Stark
McHugh	Rahall	Stokes
McMillen (MD)	Rangel	Studds
McNulty	Richardson	Swift
Mfume	Ridge	Synar
Miller (CA)	Rinaldo	Tallon
Mineta	Robinson	Tanner
Moakley	Roe	Torres
Mollohan	Rose	Torricelli
Moody	Rostenkowski	Towns
Morella	Rowland (CT)	Traficant
Morrison (CT)	Roybal	Traxler
Mrazek	Russo	Udall
Murphy	Sabo	Unsoeld
Murtha	Sangmeister	Vento
Nagle	Savage	Visclosky
Natcher	Sawyer	Volkmer
Neal (MA)	Scheuer	Walgren
Neal (NC)	Schneider	Walsh
Nelson	Schroeder	Watkins
Nowak	Schumer	Waxman
Oakar	Sharp	Weiss
Oberstar	Shays	Wheat
Obey	Sikorski	Williams
Olin	Sisisky	Wilson
Ortiz	Skaggs	Wise
Owens (NY)	Skelton	Wolpe
Owens (UT)	Slattery	Wright
Pallone	Slaughter (NY)	Wyden
Panetta	Smith (FL)	Yates
Payne (NJ)	Smith (IA)	Yatron
Pease	Smith (NJ)	
Pelosi	Smith (VT)	

NAYS—178

Archer	Green	Packard
Armey	Gunderson	Parker
Baker	Hall (TX)	Pashayan
Ballenger	Hammerschmidt	Patterson
Barnard	Hancock	Paxon
Bartlett	Hansen	Payne (VA)
Barton	Hastert	Penny
Bateman	Hefley	Petri
Bentley	Henry	Porter
Bereuter	Herger	Pursell
Bilirakis	Hiler	Quillen
Bliley	Holloway	Ravenel
Broomfield	Hopkins	Ray
Brown (CO)	Houghton	Regula
Bunning	Huckaby	Rhodes
Burton	Hunter	Ritter
Byron	Hutto	Roberts
Callahan	Hyde	Rogers
Campbell (CA)	Inhofe	Rohrabacher
Campbell (CO)	Ireland	Roth
Chandler	James	Roukema
Chapman	Kasich	Rowland (GA)
Clinger	Kolbe	Saiki
Coble	Kyl	Sarpalius
Coleman (MO)	Lagomarsino	Saxton
Combest	Lancaster	Schaefer
Cooper	Leath (TX)	Schiff
Coughlin	Lent	Schuette
Cox	Lewis (CA)	Schulze
Craig	Lewis (FL)	Sensenbrenner
Crane	Lightfoot	Shaw
Dannemeyer	Livingston	Shumway
DeLay	Lowery (CA)	Shuster
Derrick	Lukens, Donald	Skeen
DeWine	Madigan	Slaughter (VA)
Dickinson	Marlenee	Smith (MS)
Douglas	Martin (NY)	Smith (NE)
Dreier	Mazzoli	Smith (TX)
Duncan	McCandless	Smith, Denny (OR)
Edwards (OK)	McCollum	Smith, Robert (NH)
Emerson	McCrery	Smith, Robert (OR)
English	McCurdy	Snowe
Fawell	McEwen	Spence
Fields	McGrath	Spratt
Fish	McMillan (NC)	Stangeland
Frenzel	Meyers	Stearns
Gallegly	Michel	Stenholm
Gallo	Miller (OH)	Stump
Gekas	Miller (WA)	Sundquist
Gillmor	Molinari	Tauke
Gingrich	Montgomery	Tauzin
Goodling	Moorhead	Thomas (CA)
Goss	Morrison (WA)	Thomas (GA)
Gradison	Myers	
Grandy	Nielson	
Grant	Oxley	

Thomas (WY)	Walker	Wylie
Upton	Weber	Young (AK)
Valentine	Whittaker	Young (FL)
Vander Jagt	Whitten	
Vucanovich	Wolf	

NOT VOTING—8

Buechner	Dornan (CA)	Parris
Collins	Hubbard	Weldon
Courter	Laughlin	

□ 1720

So, two-thirds not having voted in favor thereof, the veto of the President was sustained and the bill was rejected.

The result of the vote was announced as above recorded.

The message and the bill are referred to the Committee on Education and Labor.

The SPEAKER. The Clerk will notify the Senate of the action of the House.

□ 1720

GENERAL LEAVE

Mr. HAWKINS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks, and include extraneous material, the veto of H.R. 2, the bill just considered.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

FINANCIAL INSTITUTIONS REFORM, RECOVERY AND ENFORCEMENT ACT OF 1989

The SPEAKER. Pursuant to House Resolution 173 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for consideration of the bill, H.R. 1278.

□ 1722

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for consideration of the bill (H.R. 1278) to reform, recapitalize, and consolidate the Federal deposit insurance system, to enhance the regulatory and enforcement powers of Federal financial institutions regulatory agencies, and for other purposes, with Mr. KILDEE in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the bill is considered as having been read the first time.

Under the rule, the gentleman from Texas [Mr. GONZALEZ] will be recognized for 30 minutes; the gentleman from Ohio [Mr. WYLIE] will be recognized for 30 minutes; the gentleman from Illinois [Mr. ROSTENKOWSKI] will be recognized for 10 minutes; the gentleman from Texas [Mr. ARCHER] will be recognized for 10 minutes; the gentleman from Texas [Mr. BROOKS] will be recognized for 10 minutes; the gentleman from Florida [Mr. MCCOLLUM] will be recognized for 10 minutes; the gentleman from Michigan [Mr. CONYERS] will be recognized for 5 minutes; the gentleman from New York [Mr. HORTON] will be recognized for 5 minutes; the gentleman from Massachusetts [Mr. MOAKLEY] will be recognized for 5 minutes; and the gentleman from Tennessee [Mr. QUILLEN] will be recognized for 5 minutes.

The Chair recognizes the gentleman from Texas [Mr. GONZALEZ].

Mr. GONZALEZ. Mr. Chairman, I yield such time as he may consume to the gentleman from Texas [Mr. PICKLE].

FLAG DAY 1989 SEES NEW BOOK, "THE FLAG OF THE UNITED STATES AND STATE FLAGS, SEALS, AND MOTTOES" UNVEILED BY THE U.S. CAPITOL HISTORICAL SOCIETY

(By unanimous consent, Mr. PICKLE was allowed to speak out of order.)

Mr. PICKLE. Mr. Chairman, a new book on the U.S. flag and State flags, seals, and mottoes, published by the U.S. Capitol Historical Society, was previewed for the first time yesterday in Baltimore, MD.

This is probably the most unique and complete book on the United States flag, since it presents in one concise and inexpensive source information on the National flag, seal, and motto, and the State flags, seals, and mottoes.

This book also has a two-page centerspread of the U.S. flag which assigns the names of the States to the 50 stars in the chronological order in which they were admitted to the Union.

One of the most valuable features is an extensive bibliography on the U.S. flag located in the back of the book.

I encourage you to contact the U.S. Capitol Historical Society for more information about this unique, new book.

Mr. GONZALEZ. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I realize that we are following a very important vote, and the Members are wishing to visit, but I am going to implore my colleagues to pay attention, because the legislation we are about to begin discussion on is the most comprehensive banking legislation that the Congress has had before it, or our Committee on Banking, Finance and Urban Affairs, in 55 years.

Mr. Chairman, the legislation before us is urgent. It is clearly "must" legislation.

None of us are anxious to vote for a bill that carries a price tag that may be measured ultimately in the hundreds of billions of dollars. But, H.R. 1278 offers an opportunity for this Congress and for the Nation—an opportunity to place the financial community on solid footing with a regulatory system that can assure that never again will federally insured institutions be allowed to dig so deeply into the National Treasury.

We have more than the savings and loan industry at stake. Confidence in the entire financial system—and the regulatory machinery—will be at risk if we fail to deal firmly with the crisis before us.

H.R. 1278 is designed to:

First, restore the public's confidence in Federal deposit insurance;

Second, assure that financial institutions, not the insurance funds and the taxpayers, bear the risks;

Third, assure that the Federal Government maintains a no nonsense, tough regulatory system that will stop the high flyers before they get off the ground;

Fourth, assure that the criminals, the incompetents, and the quick-buck artists be removed and kept out of insured financial institutions and that the law violators, responsible for the demise of institutions and losses to the insurance funds, be prosecuted and punished to the full extent of the law; and

Fifth, assure that the savings and loan industry, and the Government instrumentalities which support that industry, return to their primary purposes of providing housing finance, rather than funding for speculative, high-risk ventures.

Mr. Chairman, the pledge that this will not happen again—that we will not revisit the pockets of the taxpayers—depends on this House making hard decisions on who bears the risks. Is it the taxpayers? Or is it the owners and operators of the institutions?

If we vote weak capital standards—with lots of ifs, ands, and buts—we are socking it to the taxpayers one more time. If we vote solid requirements for tangible capital—real money—we will shift the burden from the taxpayers and the insurance fund to the institutions—to the people who own and operate the businesses.

I come from the State of Texas where we know the savings and loan problems firsthand. I know the difficulties. I know the problems of institutions—good institutions—that will have to struggle to meet new capital standards. I do not come here today to make a sanctimonious plea for some tough standard produced in an ivory tower.

I ask my colleagues, rather, to put these institutions on solid ground and to put an end to the hocus-pocus of savings and loans operating on nothing but frothy, air-like capital which cannot be converted to cash.

Two-thirds of the industry can and do meet the 3 percent core capital requirements of the Banking Committee's bill. Others will meet the standards by next year and still others will

be allowed to come up with solid business plans that will be sufficient to gain temporary regulatory forbearance. Hopelessly insolvent institutions—currently draining the insurance funds of $20 to $40 million daily—will not meet the standards. They will be closed and the massive hemorrhaging that is destroying the insurance fund will be halted.

But, for the others there is no automatic closing, the wild propaganda of the industry trade associations notwithstanding. In cases where institutions are viable and have a future, the regulators are given broad discretion in approving exemptions from the capital requirement—except in those cases where the institutions are being operated unlawfully or unsafely.

If we do not vote adequate capital standards, upwards of $1 trillion of assets will be at risk—risks that would be borne by the insurance fund and the taxpayers.

We cannot ask the American taxpayers to pay for the sins of the past and then place all the future risks on their backs as well. My colleagues, the taxpayers will not remain silent if the Congress engages in this shell game.

Much will be said on this floor in the coming hours about goodwill—supervisory goodwill in particular. The committee is aware of the dilemma of those institutions that currently carry goodwill as part of their core capital. The committee also recognizes that goodwill is an intangible that cannot be converted to cash and, thus, provides no cushion against losses. In an effort to deal fairly with those institutions—and to deal fairly with the taxpayers—the committee adopted provisions to phase out supervisory goodwill over 5 years.

It is a fair compromise of a difficult problem. Yet, we still have proposals circulating to allow goodwill to remain on the books forevermore.

The industry is hanging its arguments on the contention that the goodwill provided under so-called supervisory agreements represents ironclad, never to be changed contracts with the Government.

Such an argument suggests that the Congress cannot adjust regulatory standards of any kind in any area—an argument that is not supported by law or common sense. As the Justice Department states in a June 12 letter, it is well settled that it is a valid exercise of Government power to readjust economic burdens and benefits "in a manner rationally related to a legitimate public purpose."

Clearly, the requirement for basic capital standards as contained in H.R. 1278 meets the test of a legitimate public purpose.

Many who argue the case for supervisory goodwill suggest that goodwill was the only benefit that flowed to the institutions from the agreements with the regulators. Most often, the agreements contained lavish tax benefits, regulatory forbearance, branching rights, and other goodies that made the deals very sweet, indeed. The supervisory goodwill often paled beside the other benefits that flowed from the agreements.

The bottom-line fact is that supervisory goodwill is not tangible capital. It protects neither the insurance fund nor the taxpayers. I urge the House to stick with the compromise crafted in the Banking Committee, phasing out supervisory goodwill and replacing it with hard cash-like items.

It would be the height of folly for this House to struggle with these issues and to expend billions of dollars of public moneys without assuring that the resurrected savings and loans serve a public purpose.

The purpose of the Home Loan Bank Act of 1932 was to promote home ownership by assuring the availability of affordable loan financing through the 12 Home Loan Banks.

This public purpose was recognized in the administration's bill. The first purpose listed in the bill submitted by President Bush is "to promote a safe and stable source of affordable housing finance."

The Banking Committee took this stated purpose seriously and included provisons that would require that a small portion of the advances of the Home Loan Banks be set aside for affordable housing.

The committee also included provisions that would give nonprofit organizations and local housing authorities a chance to bid on residential property acquired from failed institutions. The property, rather than being allowed to deteriorate or fall into the hands of speculators, could be used to house low and moderate income families.

These provisions add badly needed public purposes to the legislation. The affordable housing provisions return the Home Loan Banks and the savings and loans to their basic purposes in the housing markets.

The affordable housing provisions not only will help build needed housing but will play a role in dampening the use of Home Loan Bank funds for speculative purposes. In recent years, many of the savings and loans have used advances to engage in high-risk ventures. The Home Loan Bank title assures that housing takes priority over speculative operations. The title serves both housing and the safe operation of thrifts.

In summary, my colleagues, the Banking Committee has reported a solid bill that combines tough regulatory standards, adequate capital, and specific public purposes. I want to commend my colleague, FRANK ANNUNZIO, the chairman of the Financial Institutions Subcommittee, who moved this bill so expeditiously through his subcommittee. While we do not agree on all points with the minority, H.R. 1278 emerged from the committee as a truly bipartisan effort. Much credit must go to our ranking minority member, CHALMERS WYLIE, who worked long and hard to perfect the product. I deeply appreciate the cooperative and responsible manner in which Mr. WYLIE approached the task.

But, it is not just the leadership on the committee. The entire committee, from the senior row down to the newest Members on both sides of the aisle, participated fully in the effort. I am very proud of the manner in which all members of the committee pitched in and spent the long hours on some of the most difficult and complex issues to face the committee in decades.

□ 1740

I also wish to thank the staffs on the respective majority and minority sides. The staffs have worked. There have been periods of time in which they worked over weekends, past midnight, all day on Saturday, half the night on Saturday, and all day on Sunday.

These are efforts we should recognize because it is so little, the opportunity that we have to proclaim the essential effectiveness, the goodness, the efficiency of the members of the committee and the staffs who have been employed and who have been willing to work in behalf of this legislation.

I just end by saying that this was my prepared text, but ultimately no matter which way we weave or wind, every one of us, when we have taken our action, even if it is just offering and registering a vote, ultimately when passion has died down, the captains have departed, and we look back the only question we can answer is: Were we for the people or were we against the people?

It is with this, I think, clearly in mind that I saw a 49-2 vote in a 51-member committee after very hard and arduous debate and markup of the committee. So it is not I, and I say this with no sense of false modesty, but really the membership. I have been a member of this committee the 28 years I have been in the Congress and I have always had nothing but the highest respect and esteem even with those who may be poles apart from the way I think and feel.

So this is a net residue product.

Mr. Chairman, I urge my colleagues to back the committee when we get to the vote on the key issues.

Mr. Chairman, I yield 5 minutes to the gentleman from Illinois [Mr. ANNUNZIO] who is not only the ranking member of the full committee but, as I said before, is the chairman of the Subcommittee on Financial Institutions Supervision, Regulation and Insurance.

Mr. ANNUNZIO. Mr. Chairman, I want to express my deep appreciation and gratitude for the accolades Chairman GONZALEZ has paid me today. I enjoyed working on this legislation. I enjoyed my relationship with my old friend, the gentleman from Ohio, Mr. CHALMERS WYLIE. We worked hard. I think we have a good product.

I want to remind the Members of the House that today the House has before it the biggest and most significant piece of banking legislation in quite a number of years. This is not a great bill or a good bill, but it is a necessary bill. It is necessary because of the crisis in the savings and loan industry.

More than 3 months ago, the Financial Institutions Subcommittee, which I chair, held its first hearing on this legislation. We went on to have 6 days of hearings. We heard from 22 witnesses. We had 4 days of subcommittee markup. We considered almost 200 amendments in subcommittee. The full committee then had 4 days of markup. Then the bill was considered by the Ways and Means Committee, the Judiciary Committee, and the Government Operations Committee. More amendments were considered by those committees.

Quite frankly, Mr. Chairman, I do not know if the bill got better or worse the more we worked on it.

The extraordinary activity in the Rules Committee last week, showed just how mixed the reviews of this bill are. Almost 50 Members had over 100 amendments which they wished to be allowed to offer on the floor. How many other bills go to the Rules Committee with so many Members clamoring to amend them? I doubt there are very many.

The stampede to the Rules Committee is strong evidence that this bill leaves much to be desired. It is also evidence that we have been too slow to act on it. It would have been better if we had taken it up on the floor as it came from the subcommittee.

I am not suggesting that the subcommittee version of the bill was perfect. Far from it, but to have brought it to the floor would have saved 2 months of the time.

In the context of the savings and loan bill, time is money, a lot of money. Every day that goes by without a resolution to this crisis costs the American taxpayer $30 million. The 2-month delay since the subcommittee reported the bill has now cost the taxpayers an additional $1.8 billion.

The delay has not resolved any of the issues that we are going to deal with here on the floor. We are still going to vote on whether the funds should be on- or off-budget. We are still going to vote on the appropriate treatment for supervisory goodwill. We are still going to vote on low-income housing provisions.

When the President stood in this Chamber to deliver his State of the Union Address, he asked that we move this bill quickly. The other body acted on April 19. Only one committee in the other body considered the legislation, and that committee disposed of it in a single day.

Had we taken up the subcommittee bill immediately after it was reported to the full committee on April 13, we could have brought the bill to the floor, gone to conference and had a bill on the President's desk by the end of April.

The House is the greatest democratic body in the world. But there comes a point in which democracy begins to border on anarchy. After half a dozen committees and some 500 amendments, I cannot say that we have a better bill. I hope my colleagues on the other side of the aisle keep this bill in mind before complaining about actions to limit debate taken by the House leadership. Oh, we have made changes here and made changes there, but have we made the bill $1.8 billion better? I cannot honestly say that we have.

I want to take just a moment to discuss some of the provisions of this bill.

The bill provides the Federal Deposit Insurance Corporation [FDIC] with much greater powers and responsibilities. I am extremely concerned about this. Quite frankly, I think the FDIC has its hands full with its current responsibilities. Can we really expect an agency which is barely able to keep up with its current workload to be able to handle more work?

The FDIC is not meeting its self-imposed examinations schedules for banks. There are large numbers of banks under the FDIC's supervision that have not been examined in 5 years or more. Last year, the FDIC suffered a loss of $4.2 billion on 200 bank failures. It was the first time in the 55-year history of the FDIC that it has suffered a loss. Already this year, over 90 banks have failed. The FDIC has responsibility for disposing of these failed institutions, as well as examining over 8,000 State-chartered banks.

Even so, we are giving the FDIC more responsibility by shifting the administration of the SAIF savings and loan insurance fund to the FDIC. On top of that, the Resolution Trust Corporation [RTC] is encouraged, under the bill, to contract with the FDIC for liquidation services relating to failing savings and loans.

In the bill we have strengthened capital standards. Savings and loans need to have an adequate amount of capital as a cushion between the insured deposits and the insurance fund. Capital provides the owners with a genuine stake in the institution so that their money is at risk for risky investments they make. Inadequate capital is not a luxury we can afford, and I strongly support high capital standards.

I want to correct, however, some misleading statements that have been made in the media concerning this body and capital standards for savings and loans. This body has been repeatedly portrayed as being in favor of weak capital standards. Some Members of the House have been the target of vicious and unwarranted attacks by being portrayed as stooges and puppets for irresponsible and crooked savings and loan operators. Those charges are most vile smears, and the publishers should be ashamed of themselves for printing them.

The Financial Institutions Subcommittee adopted an amendment which required tougher capital standards a year earlier than the Bush proposal and was promptly criticized for it. The next week, the other body adopted a capital standards amendment similar to the subcommittee's standards. It was praised for it.

There will be one capital amendment offered today that I will support, and that is the Hyde amendment on supervisory goodwill. The amendment is needed because supervisory goodwill is treated unfairly and unjustly by the bill as it has come to the floor. Supervisory goodwill was created at the request of the regulators. It was approved in specific transactions by the regulators. It is recognized as a legitimate item under generally accepted accounting principles.

Let me give an example to show why the bill's treatment of goodwill is so inequitable.

For each of the last 3 years Talman Home Federal, the largest savings and loan in Chicago, has had profits in excess of $20 million. It has made those profits by making very conservative home loans. Its portfolio of nonperforming loans is one-half of 1 percent. In other words, Talman is everything a savings and loan should be—conservative, dedicated to home lending, and profitable.

Yet, under this bill, Talman will be branded a problem savings and loan. The reason is that it has goodwill on its books. This is supervisory goodwill that it acquired when it bought four failing savings and loans at the request of the Federal Government. Every year for the next 30 years, Talman must take $20 million in cash, from its earnings, to write off this supervisory goodwill.

The Hyde amendment will alleviate some of the damage that the Banking Committee capital proposals will cause. I urge Members to support it when it is offered.

Three hundred to five hundred insolvent institutions are going to be closed as a result of this legislation. This is going to drive up the Govern-

ment's legal fees. By the end of this year, the FDIC expects to be involved in 70,000 lawsuits. The FDIC could easily spend over $100 million in legal fees next year. H.R. 1278 may be the biggest lawyers' full employment bill since the 1986 tax reform bill.

H.R. 1278 has a provisions that I hope will be used to reduce those costs. The bill requires the FDIC to set up alternative dispute resolution [ADR] processes. These processes are designed to be an alternative to long and costly legal proceedings. I certainly encourage the FDIC and claimants against the FDIC to use these ADR's. Everyone benefits from fair, impartial, and inexpensive dispute resolution. Everyone, that is, except attorneys. Since this bill is intended to relieve the savings and loan crisis, not enrich lawyers, I hope this provision is put to good use.

The bill attempts to limit troubled institutions from increasing the amount of brokered deposits that they use. This is a good provision. I hope the FDIC reads it since, incredibly, the FDIC has been increasing the amount of brokered deposits in troubled institutions for which it is the conservator.

Brokered deposits distort market interest rates and the flow of funds at the local, regional, and national levels. In addition, the high rates paid for brokered deposits encourage institutions to take greater risks to try to cover the increased costs.

The enforcement provisions of the bill are good provisions which I was proud to work on with the gentleman from Georgia [Mr. BARNARD] and the gentleman from Ohio [Mr. WYLIE]. These provisions will help put the crooked operators in jail and take the profit out of financial institution crime. Unfortunately, the Judiciary Committee weakened the criminal penalties. I will offer an amendment to restore the tougher penalties that the Banking Committee had adopted, and I urge my colleagues to support it when it is offered. We need tougher, not more lenient, penalties for thieves.

This bill is the beginning of the resolution of the savings and loan crisis, not the total resolution. It has plenty of serious flaws that are apparent, and probably some that are not apparent. As chairman of the Financial Institutions Subcommittee, I can assure Members that the subcommittee will constantly monitor how the act is carried out, and will promptly act to correct the deficiencies as they become apparent.

Even with the great flaws in this bill, we need to begin to resolve the savings and loan crisis. I urge the Members to focus not on this bill's many deficiencies, but on its benefit, which is to begin the resolution process. We need to start somewhere, and I urge the Members to vote for the bill.

□ 1750

Mr. WYLIE. Mr. Chairman, I yield such time as he may consume to the gentleman from North Carolina [Mr. MCMILLAN].

Mr. McMILLAN of North Carolina. Mr. Chairman, I want to congratulate the chairman of the committee on which I served last term and the ranking member for the extraordinary leadership that they have exercised in drafting this legislation and to express my strong support for the provisions as contained in the bill.

I rise in favor of the capital requirements in the bill. We have heard pleas for watering down the capital requirements these past few months. In general, these arguments are shortsighted and will lead us back down that same path to insolvency that the industry has traveled with the underregulated and abused umbrella of Federal deposit insurance.

Maintaining reasonable capital requirements is so critical that I offered an amendment which would have provided market incentive for thrifts to meet the 3-percent capital-to-asset ratio by 1995. My amendment would have tied the amount of deposit insurance coverage to the level of core capital. I planned to offer it if any measure passed that reduced capital requirements. Unfortunately, my amendment was not ruled in order, but I stand by its principal. Federal deposit insurance should be available only to adequately financed institutions.

In some instances, special consideration of supervisory goodwill, which regulators recognize in the context of a business plan, may be in the public interest. But in granting that, regulators should have tight control and take into account the liquidity of the institution, risk exposure on the asset side, and the stability of deposits. That power exists in the committee bill, but I am concerned that some amendments may weaken that essential protection to the taxpayer.

Regardless of any allowances we pass for supervisory goodwill, it is imperative that thrifts meet at least the 3-percent core capital requirement in 1995 or have an accepted plan to do so. It is not excessive; in fact, it is only half that required for national banks whose risks in many cases are far less than certain thrifts. Anything less than that, except for certain regulated exceptions, is dangerous to the thrift industry and dangerous to the taxpayer.

We should place the burden of meeting capital requirements squarely where it belongs. Deposit insurance will be for the foreseeable future underwritten by the taxpayers. But the taxpayers are entitled to insist, with reason, that deposit institutions provide an adequate capital cushion of 3 percent.

Any adequately managed thrift recognizes that in order to maintain confidence, it must either increase its capital to support its assets or shrink its assets to match its capital base. If a thrift cannot do it in the 5-year phase-in period, then I question whether it is a viable institution—and so should the law.

I urge my colleagues to consider the plight of the industry beyond the boundaries of their districts. North Carolina has been relatively fortunate and has not suffered the losses that other States have. Nonetheless, the State has not been exempt from problems. In considering what is good for our home districts, we must not simply focus on what is good for the home town S&L. We must broaden our view to what is good for the Nation as a whole and what our responsibility is to the taxpayer. If we fail to insist on adequate capitalization across the board, no amount of goodwill or due process is going to protect the healthy part of the industry from the disease of insolvency.

Mr. WYLIE. Mr. Chairman, I yield such time as he may consume to the gentleman from Michigan [Mr. WOLPE].

Mr. WOLPE. Mr. Chairman, I thank the gentleman for yielding time to me, and I rise to express my reservations about the allocation of the proposed taxpayer cost of this legislation.

Mr. Chairman, the bill before us is one of the most costly measures we will consider during our tenure in Congress. The necessity of bailing-out the Federal Savings and Loan Insurance Corporation [FSLIC]—regardless of cost—is universally accepted as an unquestionable obligation of the U.S. Government. The sanctity of this obligation, however, should not dissuade us from pursuing a small measure of accountability from those who bear responsibility.

The Federal Government is clearly responsible for bailing-out insolvent thrifts which are federally chartered. However, a sizable portion of the Nation's thrift industry is comprised of State-chartered institutions which are regulated by the States but receive deposit insurance from the Federal Government. In some States the traditional Federal-State partnership which has characterized this dual banking system has been seriously abused by State regulators who have allowed institutions under their supervision to engage in highly risky investment practices—and even outright fraud—with funds backed by Federal deposit insurance.

Therefore, I was recently joined by Representatives HORTON, KANJORSKI, KAPTUR, LAFALCE, and ROTH in asking the Rules Committee to make in order an amendment to the bail-out bill to shift a small portion of the burden to States which bear substantial responsibility for excessive costs due to inadequate regulation of State-chartered thrifts.

In 1988, FSLIC took action to close or merge 205 insolvent thrifts at an eventual cost of $30.9 billion in 1988 dollars. Of this, $23.3 billion—or 75 percent of the cost—can be attributed to closing or merging state-chartered, but federally insured thrift institutions.

As cochair of the Northeast-Midwest Congressional Coalition, I am particularly concerned about the impact of this bailout on our region. The 18 States in our region caused only $561 million—or 2.4 percent—of the $23 billion in costs that I just mentioned. But because we pay 47 percent of the Nation's taxes, we will be socked with a bill for $7.6 billion. Texas, on the other hand, caused $16.7 billion—or 72 percent—of these costs. But because Texas only pays 6.6 percent of the Nation's taxes, the committee's bill only asks Texas' taxpayers to pay $1.1 billion toward the bailout.

Mr. Chairman, is it really fair to ask those who have caused 2.4 percent of the problem

to pay for 47 percent of the solution, while those who have caused 72 percent of the problem only pay 6.6 percent of the solution?

The issue of State responsibility for State-chartered thrifts is clearly central to the debate before us. Unfortunately, the Rules Committee did not see fit to allow the full House to consider this admittedly controversial, but crucial, issue.

For the last 50 years, the United States has enjoyed the benefits of a dual banking system which has been based upon a partnership between the Federal and State governments. The States have regulated State-chartered thrifts, which have played a key role in the industry by introducing innovations which have benefited consumers. The Federal Government has supplied deposit insurance for these institutions, which has provided confidence and stability.

Unfortunately, in recent years this Federal-State partnership has been badly abused in some cases. State regulators have granted thrifts under their supervision broad powers which allow them to stray far from the industry's traditional role of providing mortgages to homeowners. Such thrifts have offered high rates of return to depositors to attract capital to finance wildly speculative commercial real estate ventures. When these speculative investments in office buildings and shopping centers soured, loan obligations could not be met, State-chartered S&L's which engaged in this high risk lending plunged into insolvency, and now the American taxpayer is left holding the bag.

Available data indicate that by far the highest concentration of costs due to such activities is found in the State of Texas. As indicated earlier, of the $23.3 billion in eventual costs due to FSLIC's 1988 actions to close or merge State-chartered institutions, $16.7 billion—or 72 percent—can be attributed to Texas S&L's. Defenders of Texas will no doubt argue that the huge costs resulting from the collapse of the State's S&L industry are the result of macroeconomic forces beyond their control. They will blame either: First, troubles plaguing the thrift industry across the Nation in the 1980's; or second, the economic distress caused by the dramatic drop of oil prices in 1986. Neither of these arguments hold much water.

First, a comparison of the health of the thrift industry in Texas with the rest of the Nation demonstrates that the decline of Texas S&L's far exceeds that of the industry as a whole. Second, if economic distress were the primary factor, a similar rash of S&L failures would have spread across the Nation following the 1982 recession. However, a comparison of unemployment rates and net worth as a percentage of assets in thrifts in Texas and Michigan in the 1980's disproves this argument. Due to its role in providing home mortgages, the S&L industry has traditionally been sensitive to increases in the unemployment rate. While Michigan's S&L industry faltered when the State led the Nation with an unemployment rate of 15.5 percent in 1982, it was never in danger of insolvency. In Texas, where the unemployment rate never exceeded 8.6 percent, the crash of the S&L industry came so fast that it clearly had little to do with a cyclical downturn of the State's economy.

In short, this disaster was not caused by bad times; it was caused by irresponsibility during the good times that preceded the bad times.

The boom in America's oil-producing States began with the jump in world oil prices that followed the OPEC embargo of 1973. The boom was further fueled when the second oil shock hit in 1979 when the price of oil soared from $16 per barrel to $30 per barrel following the fall of the Shah of Iran. While these high oil prices crippled the economies of oil consuming States, they fueled rapid economic growth in Texas. From 1972 to 1986, the gross State product [GSP] of Texas grew by 362 percent in unadjusted dollars—one of the highest rates of growth in the Nation.

This robust economic growth—coupled with an unshakable faith in every-increasing oil prices—led to a very relaxed attitude toward commercial lending by both Texas' thrift industry and its State regulators. The following excerpt from a column by Robert J. Samuelson captures this attitude:

> Some years ago I interviewed a Dallas businessman named Ira Corn Jr. This was back when Texas was booming, and I asked: "What made the Texas economy grow?" After listing some of the obvious reasons—oil and gas, low taxes—Corn got to the point. Credit, he said. People were more relaxed than in the East. Banks loved to lend, businesses loved to borrow. Easy credit was great. "You go where you can borrow—where people (banks) lend on people, not on assets," he said.
>
> The story comes to mind now . . . because the Texas passion for easy credit has reached its logical, if destructive conclusion. A sizable part of the federally insured savings and loan industry is bankrupt, and the largest concentration is in Texas.—Robert J. Samuelson, "Easy Credit, Hard Lessons," the Washington Post, April 27, 1988.

To meet the high demand for easy credit, Texas thrifts offered interest rates to depositors that were among the highest in the Nation. As a result, between 1980 and 1985 deposits in State-chartered S&L's in Texas grew by a staggering 186 percent, while such deposits in the rest of the Nation grew by only 26 percent. By 1985, 85 percent of deposits in FSLIC-insured institutions in Texas resided in State-chartered institutions; the comparable figure for the rest of the Nation was only 32 percent.

This massive influx of federally-insured deposits was treated in a remarkably cavalier and irresponsible manner by the S&L industry and State regulators in Texas. Tens of billions of dollars were invested in highly speculative real estate ventures which depended upon optimistic forecasts of ever-increasing oil prices for economic viability. In addition, there is growing evidence that billions of dollars were channeled into schemes that were nothing less than outright fraud.

Federal statute specifically limits the types of investments that federally chartered institutions can make, and it places limits on such investments in terms of percentage of assets. The regulation of State-chartered S&L's in Texas appears to be among the most lenient in the Nation. A recent Congressional Research Service report entitled "Powers of Federally Chartered Thrifts Compared with Those of Thrifts Chartered by the Various States" found that:

> Texas statutes provide little elaboration on the powers of thrifts chartered by the state. The investment and loan powers of Texas state-chartered thrifts, unlike those of other states that we have mentioned, are not delineated in statutory law except for a general provision pertaining to investment in securities. . . . Delineation of lending and investment powers of Texas thrifts is within the authority of the Texas Savings and Loan Commissioner.

The powers of State-chartered thrifts in Texas are not spelled out in law. In Texas, the authority to determine limits upon loans and investments made with funds backed with the full faith of the U.S. Government resides in a State official who may or may not believe that Government has a legitimate role in restraining the excesses of the private sector. In looking at the record for the 1980's, it is difficult not to conclude that the State regulators in Texas were—at best—"asleep at the switch" and that taxpayers across the country will pay tens of billions of dollars in the years ahead as a result.

It is certainly reasonable to require any States which have flagrantly abused the Federal-State partnership that has been the basis of our dual banking system to accept an additional portion of the cost of the bailout. Doing so would somewhat ease the burden on States which have not contributed to such costs through irresponsible regulation.

Our amendment was straightforward and reasonable. A State which is responsible for egregiously excessive costs to bailout State-chartered S&L's would be required to pay 25 percent of such costs if its State-chartered S&L's were to continue to receive Federal deposit insurance in the future.

Our amendment contained four elements to ensure fairness to States which might bear responsibility. First, a State is found to have excessive costs only when its percentage share of the total bailout costs of State-chartered institutions is more than double its percentage share of national deposits in State-chartered institutions in 1980. The year 1980 was chosen as the base year because it predates the explosion of deposits in State-chartered thrifts in the 1980's. Second, a State will only be held accountable for 25 percent of excessive costs, with the Federal Government paying the balance. Third, States will be permitted to meet 50 percent of any potential obligation through the purchase of federally repossessed property within the State. This will give the State the ability to control the release of this property into the marketplace and thereby reduce the possibility of a fire sale of repossessed assets which could threaten real estate values in the State. And fourth, the amendment is voluntary; States only have to pay for excessive costs if they want there State-chartered institutions to continue to receive Federal deposit insurance.

The primary objective of our amendment was fairness. We sought to reduce the cost of Federal taxpayers in States which have not inordinately contributed to the cost of the bailout through irresponsible regulation at the State level. In addition, we have made every

effort to be fair to any State with potential liability.

A secondary objective of our amendment was accountability. We should be sending a clear message to State government that the Federal Government will not allow future abuse of the Federal-State partnership without seeking accountability.

Our effort was attacked by some as an exercise in Texas bashing. We assure you that was not our intent. Nothing in our amendment was structured so as to treat Texas differently than any other State. The fact that the burden of our amendment may have fallen heavily on Texas is simply a result of that State's contribution to the problem.

National polls indicate that the American people are cynical about Government in general and outraged by this bailout in particular. A successful effort to introduce a small measure of accountability and fairness into the savings and loan bailout bill would have been a positive step toward dispelling such feelings. Unfortunately, the rule adopted for the consideration of this bill didn't even allow us the opportunity to try.

Mr. WYLIE. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I am truly pleased that we are here on the House floor today on an issue which has become the most serious problem facing the depository institutions industry since the major banking reforms during the Depression, over 55 years ago.

There is a healthy industry out there that must be preserved. The thrift industry continues to provide almost one-half of all the money for home mortgages. This mechanism has served Americans well. The problems with the savings and loan industry started back in the 1980's with interest rate increases, lending long and low for housing, and borrowing short and high to get cash for thrifts. Thrifts and banks could not compete with money market funds. So we deregulated interest rates so they could compete. Then we expanded the thrift charters to include commercial loans. At the same time supervision of the industry was totally inadequate. For example, from the period 1982 to 1986 when the assets of the California thrifts more than doubled, we found their examining force increased by one, from 84 to 85. In 1987 there were 3,100 thrifts in the United States. Seventy percent made $6.8 billion that year. The other 30 percent lost $13.4 billion. In 1988, the industry as a whole lost over $12 billion and these losses were primarily centered in the sickest institutions and have remained open because the FSLIC fund does not have the money to shut them down. Their losses continue to mount. Three billion, four hundred thousand dollars' worth in the first quarter of 1989, alone. They are losing money at the rate of $20 million a day. Eighty percent of the losses are for four States: Texas, California, Louisiana, and Oklahoma. State chartered thrifts in two States, Texas and California, accounted for 54 percent of all FSLIC expenditures in 1987. Much of the loss was tied to the oil economy in the speculation on real estate, direct investments and overvalued real estate. I would note that in Texas, of the 290 federally insured thrifts, 278 were State chartered. There were factors of fraud, abuse, and in some cases outright criminal activity, but high interest rates, deregulation with lack of supervision, lax State chartering laws, and the bottom dropping out of the oil economy were principal causes.

I would suppose everyone admits the problem must now be solved, and time is of the essense. In all fairness, it has only been about 6 or 7 months that anyone even suggested the magnitude of the problem. Three years ago, GAO supported the Treasury proposal to provide $15 billion over a 5-year period, and new capital. Both Houses passed that bill. But it was held up in the late hours of the session over the issue of direct investments. With the help of the intervention of the then-Secretary of the Treasury, Jim Baker, we passed the bill to provide $10.6 billion to recapitalize FSLIC over 2 years. That was too little and too late. However, the news media and the American public never picked up on the issue until GAO said, "We have a $50-billion problem on our hands," and that did not come until late in 1988.

When we talked about the problem to the news media, eyes would glaze over and we would go to a discussion about a $600 toilet seat or the Iran-Contra affair. Let us face it, recapitalization of the Federal Savings and Loan Insurance Corporation Fund was not a front burner issue. The problem was just too hard to explain. I guess that was partly our fault, but as I said, I do not think anyone knew the magnitude of the problem until only recently.

Now, in the news media we see stories that the legislation that we are about to pass is a bailout for crooked operators, which is not only insulting, but it does little to stabilize confidence in an essential industry. The money from this bill will go to pay off depositors when sick thrifts or brain-dead thrifts are closed down. Right now, FSLIC does not have the money to close down thrifts that are losing money. However, there is a financial awareness now, and people ask who is to blame? Well, there is enough blame to go around, and we do not do the country a service. In fact, we do the country a disservice if we resort to name calling and dwell on it, unless it is to learn a lesson for the future.

It is to the President's credit that he came up with a plan only 18 days after he was sworn in, and he received high marks for his initiative from the news media and the American public. Treasury Secretary Nicholas Brady had been developing proposed legislation back in December because we discussed the urgency of legislation earlier in December. It is to the credit of Senator RIEGLE and Senator GARN that the Senate has passed a bill on April 19. It is to the credit of the gentleman from Texas, Chairman GONZALEZ, and the gentleman from Illinois, Chairman ANNUNZIO, that we worked, and with persistence, to report a bill out of the Committee on Banking, Finance and Urban Affairs on May 2. May I acknowledge the compliment of the distinguished chairman of the Committee on Banking, Finance and Urban Affairs, and say that he has been extremely fair with the minority at all times, and he has, indeed, approached the issue in a bipartisan and statesmanlike way, which I sincererly appreciate. It was indeed a pleasure to work with both of these gentlemen to develop this legislation. The administration came up with a $50-billion funding proposal over a 3-year period. I would again emphasize that this $50 billion is needed to pay off depositors whose deposits are insured up to $100,000. The President and Congress have said no depositor need fear for the loss of 1 penny of their deposit. We must honor this commitment. However, not 1 penny will go to pay off stockholders or management under this bill, either.

There are basically two essential elements to this bill. There is the funding mechanism and there is the "fixit" mechanism. The President's principal concern, and he stated this is the kind of a problem which must never happen again. I agree, the sin of sins would be to fund this problem and not fix it, while we have the chance. I like the funding plan that the President has suggested because it is off budget. It keeps in place the discipline of Gramm-Rudman and an amendment will be offered to place it on budget, which will be debated an hour. So I will save my statement in opposition to that time on that issue. I would just say that if we go on budget, it looks like we are banning Gramm-Rudman. I think that would be a very serious mistake, indeed.

The "fixit" part involves requiring savings and loan operators to put up some of their own money in the form of tangible or real capital. I cannot stress enough the need for strong capital standards. The experience of the last few years has clearly demonstrated the enormous cost of allowing savings and loans to use only depositors' money for at-risk investments with none of their own money at risk. Capital forebearance came into vague in the early 1980's as a result of regulatory accounting practices, RAP accounting, and if we go back to that, we will be back here in the next Congress and the taxpayers will take the rap.

Amendments will be offered for good will to be counted. I hope that we are able to defeat those amendments. The second part of this "fixit" package involves better supervision and reform procedures. I will not dwell on those now, either, except to say to the public, we put $75 million in this bill to give to the Justice Department so it can pursue the crooks who stole from the FSLIC fund to line their own pockets. The Justice Department must be encouraged to be vigilant in pursuit of the criminals and work to gain restitution of some of the property fraudulently invested in with depositors' money. We owe it to the taxpayers to pass this legislation which fights financial fraud, improves our regulatory system, and makes strides to return thrifts to their original role as providers of home mortgages so we can sustain the American dream of home ownership for millions of Americans. I know, Mr. Chairman, that is what all Members of this Congress want to do.

Mr. Chairman, I reserve the balance of my time.

□ 1800

Mr. GONZALEZ. Mr. Chairman, I yield 3 minutes to the gentleman from the District of Columbia [Mr. FAUNTROY].

Mr. FAUNTROY. Mr. Chairman, I rise today to speak on the urgency of the S&L crisis which faces this country. Let me begin by commending President Bush and Secretary Brady for providing the long-overdue national leadership which a financial crisis of this magnitude requires. Despite Republican resistance, their leadership has been met with a true spirit of Democratic cooperation by the House and Senate.

I would be remiss if I did not single out for special recognition the critical role which the distinguished chairman of the Banking Committee, HENRY GONZALEZ, has played in ensuring that this legislation has been accorded the highest priority. Our colleague from Illinois, FRANK ANNUNZIO, the distinguished chairman of the Subcommittee on Financial Institutions, Supervision, and Regulations has performed admirably in scheduling hearings, consulting with Members and otherwise laying the ground work for prompt action on this legislation. My compliments to both of them and their staffs.

In completing the legislative process on the bill there are several major provisions which must be retained in this bill to justify the cost burden we are imposing on each taxpayer in this country. It is imperative that Congress—

Preserve the strong S&L capital adequacy standards which requires S&L owners to put more of their money at risk;

Preserve the housing provisions in order to provide affordable housing credit opportunities for Americans;

Preserve the on-budget funding of the bailout in order to hold this program to the same budgetary standard as programs for the poor, the elderly, and the homeless;

Support Chairman GONZALEZ's amendment limiting RTC's ability to issue debt; and

Support the House Labor and Education amendment re: Pass through deposit insurance coverage on BIC deposits.

RETAIN STRICT CAPITAL REQUIREMENT

At the heart of H.R. 1278 is the new capital standards that thrifts will have to meet. The committee, the administration, and industry experts all agree that sufficient private capital is central to the safety and soundness of a thrift and that the lack of that capital was a major cause of the crisis we now face. Capital is important because it acts as a guardian for the taxpayers. To the extent that institutions have capital not "funny money" such as goodwill, losses are borne by investors rather than the insurance fund and the taxpayers.

The compromise capital requirements, which phase out goodwill over 5 years, are both tough and fair. However, out of concern for well managed but undercapitalized S&Ls, the compromise was carefully drafted to enable those thrifts to continue to operate even while not in compliance with the standards. Qualifying S&L's would not be closed automatically, but permitted limited and prudent growth if they can demonstrate they are not operating in an unsafe and unsound manner and can develop a business plan outlining the steps to be taken to improve their capital position.

Remember these compromise capital standards are no tougher than those already required of banks. I appeal to you to support Chairman GONZALEZ and to ward off any weakening amendments to the capital standards.

AFFORDABLE HOUSING PROVISIONS

Chairman GONZALEZ has offered two specific housing measures: Cash advance windows to support mortgages for low-and-moderate income housing and a provision to require the right of first refusal for a limited time period to nonprofits and low-income persons for properties owned by insolvent S&Ls.

I am asking for your support of these provisions of the legislation because households which are at extreme risk of becoming homeless will benefit greatly from the disposition of S&L foreclosed properties and the provision for reduced interest rates through the FHL Banks cash advance windows. The sale of these foreclosed residential properties for low income housing purposes will help preserve the existing housing stock while providing needed funds through the asset disposition process. The interest rate subsidies provided through the FHL Banks cash advance windows will reinvigorate the special role that thrifts have played since their inception: To provide credit for affordable housing opportunities.

We urge your support in keeping these afforable housing provisions intact.

ON-BUDGET FUNDING

As we all know, a central element of the administrations' plan calls for funding the bailout through the sale of bonds and there by keeping the cost of this debacle off budget. The House Ways and Means Committee voted to add $50 billion in spending to the Federal budget for the thrift overhaul bill and to exempt the spending from counting toward the budget deficit. This vote reflects a growing sentiment in Congress that the bailout should be fully accounted for in the Federal budget. On-budget treatment of the assistance outlays makes it clear that the bailout is a taxpayer obligation.

As a supporter of the Kennedy-Morrison self-financing bailout proposal and the kind of income generating proposals put forward by the congressional Black Caucus, I believe that the financing of this rescue program should be held to the same budgetary standard as programs for the poor, the elderly, and the homeless. From programs for drug prevention to catastrophic health care, the President has insisted that every new expenditure be balanced by an offsetting revenue source. My fellow colleagues you should cast aside the administration's warnings of the financial market gloom which would result from a Gramm-Rudman exemption and give our approval to the Ways and Means Committee's actions. Raising revenues is the solution for finding enough money to finance the S&L bailout and to addressing the growing backlog of unmet needs in education, child care, and environment and other areas of social need.

LIMITATION RTC DEBT

I also urge you to support Chairman GONZALEZ's provision limiting RTC's [Resolution Trust Corporation] ability to issue debt and limiting the total debt at any one time, to the $50 billion requested by the administration. Given the history of such Federal entities to obligate themselves or the Federal Government through the issuance of notes or by undertaking other debt, effective congressional oversight is a prerequisite to granting additional borrowing authority.

PASS THROUGH DEPOSIT INSURANCE OF BIC CONTRACTS

Finally, I am concerned about the provision in H.R. 1278 that eliminates the ability of banks to pass through deposit insurance coverage to BIC

[bank investment contracts] deposits. It is quite clear that such a provision would have an adverse effect on the investment returns of millions of ERISA plan participants in IRS qualified defined contribution programs. It is also quite clear that failure to modify section 1003 of the bill by striking the moratorium on deposit insurance coverage for such pension and profit sharing plans handicaps banks in their competition with insurance companies.

If Congress is concerned about abuses in the area of deposit insurance, it should not go after a segment of the banking business dominated by the soundest banks which willingly pay claim free premiums for insurance that has a marketing advantage to these institutions.

ELIMINATING INCONGRUITY BETWEEN DISTRICT OF COLUMBIA AND FEDERAL BANKING LAW

In addition, I am asking your support of a noncontroversial amendment to eliminate an incongruity which presently exists between provisions of Federal law and the laws of the District of Columbia concerning the appropriate regulator for District banks. Essentially, District law makes the Office of Banking and Financial Institutions [OBFI] the regulator of District banks, with authority comparable to that held by other State banking regulators. However, Federal law, most notably the Federal Deposit Insurance Act, states that the Comptroller of the Currency is the appropriate regulator of District banks.

This amendment attempts to resolve this jurisdictional issue. If such a clarifying amendment is not passed, the function of OBFI could potentially be usurped. It is my hope that you will support this amendment to allow the District to regulate banking activities within its borders on the same terms as any other State.

CONCLUSION

Mr. Chairman, I close by asking each of my colleagues to search your souls and your hearts and vote to meet Secretary of Treasury Brady's stated requirement of "never again."

Never again should we allow a Federal insurance fund that protects depositors to become insolvent.

Never again should we allow insolvent federally insured deposit institutions to remain open and to operate without sufficient private capital at risk;

Never again should we allow risky activities permitted by the States to put the Federal deposit insurance fund in jeopardy.

Never again should we allow fraud committed by financial institutions or depositors to be anything but a serious white collar crime.

Mr. CHAIRMAN. The gentleman from Texas [Mr. GONZALEZ] has 4 minutes remaining, and the gentleman from Ohio [Mr. WYLIE] has 19 minutes remaining.

Mr. WYLIE. Mr. Chairman, I yield 2 minutes to the gentleman from California [Mr. SHUMWAY].

Mr. DREIER of California. Mr. Chairman, will the gentleman yield.

Mr. SHUMWAY. I yield to the gentleman from California.

Mr. DREIER of California. Mr. Chairman, I thank my fellow Californian for yielding.

Mr. Chairman, I would simply like to rise and congratulate the chairman and the ranking member of the committee, as well as all the members of the committee who worked on behalf of this bill. I think it is also very important for us to underscore the fact that on February 8 of this year President Bush stood here and asked us to provide this legislation and get it to him within 45 days. I am happy that we are finally doing it.

Mr. Chairman, H.R. 1278, the Financial Institutions Reform, Recovery, and Enforcement Act is probably the most complex and comprehensive piece of financial services legislation since the Banking Act of 1933. While Chairman GONZALEZ and Chairman ANNUNZIO deserve a great deal of credit for moving this legislation forward, I offer special praise for President Bush.

In the face of a mounting financial disaster and daunting political odds, our President constructed a sound and realistic plan to address the savings and loan crisis. H.R. 1278 contains virtually all of the President's recommendations, and I applaud him for the firm and strong leadership he has provided thus far in moving this legislation through Congress.

H.R. 1278 is certainly a difficult pill to swallow, given the $40 billion price tag over the next 10 years. But the legislation is necessary to protect the savings of Americans, restore public confidence in depository institutions, and enhance the stability of the U.S. financial system.

The legislation will discourage excessive risk-taking with taxpayer guaranteed funds, and promote important incentives to attract outside private capital for the thrift industry from banks and other financial firms. Fraud and mismanagement will no longer be tolerated. Penalties will be commensurate with the crimes. Finally, Federal regulators will be given the necessary and long-overdue authority and resources to manage the thrift industry back to good health.

Mr. Chairman, the industry's troubles can be attributed to many factors, including bad management, depressed energy and agriculture markets, lax supervision by industry regulators, negligent and criminal management, and, yes, political negligence on the part of Congress. But the fact remains that as much as $200 billion has simply evaporated from our economy, and the Federal Government has incurred a financial liability that it cannot avoid.

Over the next couple days, we will be considering a number of substantive amendments that could drastically alter the composition of the bill. Some of the amendments are justified, others are not. On February 8, President Bush asked that we pass legislation to his desk for signature within 45 days. As we debate these complex issues, I urge my colleagues to keep in mind that every day we delay adds another $30 million to the cost of resolving the thrift crisis. We need to move quickly to enact this legislation.

Mr. SHUMWAY. Mr. Chairman, I thank the gentleman from Ohio [Mr. WYLIE] for yielding this time to me.

This is a much awaited bill, and many of us are very happy to see it finally reach the floor of the House of Representatives. As the chairman of the committee said in his opening remarks, many of us hope that the Members of this body will give careful attention to this debate because indeed it is a complex bill and it is going to be difficult to understand its thrust, as well as the thrust of some of the amendments that will be offered.

I would like to say at the outset that I particularly appreciate the work of the chairman of the committee as well as that of the chairman of the subcommittee, the gentleman from Illinois [Mr. ANNUNZIO]. Both of them have been very fair and very impartial. They have guided the committee in a very leadership-like way, and many of us appreciate that very, very much.

This bill is not a cure-all, but it does, I think, move us in two very major directions that need to be taken at this time. First is perhaps coming belatedly, but nevertheless it does close the barn door. I think the bill does contain devices and remedies that will heal some of the wrongs of the past and insure that we will not go back and repeat those mistakes.

But second, and maybe even more importantly, this sets the stage to resolve some of those problems in the future, and in that regard I think the funding mechanism in the bill is of great importance. But whatever we do in this legislation, I think all of us, and for that matter the entire industry and the American public, should realize that the success of this bill will depend upon an honest effort by those in the industry and upon responsible action by those in the industry, by those who are regulators, by those who are in a position to oversee, and by those of us in Congress who have some degree of oversight responsibility.

There are many here who do not like the bill, and they have used it as a very convenient vehicle perhaps to kick at the administration or those regulators or representatives of the industry or others that they think may be wrong or perhaps accountable for the problems of the industry today.

I wish that this legislation were not necessary. It really is not a very happy piece of legislation, but I think all of us must realize that we must take this action. The Federal Government is in the role of a guarantor, and to keep

public confidence intact we have to move as we are.

Mr. Chairman, I hope the House as a whole will approve this legislation and do so in a responsive and timely fashion.

Mr. WYLIE. Mr. Chairman, I yield 3 minutes to the gentlewoman from New Jersey [Mrs. ROUKEMA].

Mrs. ROUKEMA. Mr. Chairman, I rise today in support of H.R. 1278, the Financial Institutions Reform, Recovery, and Enforcement Act of 1989.

This bill lays a solid foundation for prompt, responsible action to resolve the savings and loan crisis. Most importantly, this legislation will insure that a strong viable thrift industry emerges for the future.

This measure represents a significant improvement over the administration's original proposal while remaining faithful to the goals of reform and merits the strong and overwhelming support of the full House of Representatives.

The Chairman, Mr. GONZALEZ, and the ranking Republican member, Mr. WILEY, of the House Banking Committee, are to be congratulated for the comprehensive nature in which this issue was reviewed beginning in January and continuing through numerous hearings and two markups.

During these markups, the Financial Institutions Subcommittee and the full committee considered over 200 amendments offered by Members who felt they had a better idea. The issues were wide-ranging and the debate was spirited. There were winners and there were losers. In the end, the committee reported a commendable bill and one deserving of support.

For those Members who have not had the time to study this issue in its entirety, let me quickly summarize the problem.

The root causes of the thrift industry crisis were systemic and the consequence of a combination of regional economics, deregulation, lax oversight, and outright fraud on the part of S&L owners. Blame for the crisis can be equally spread around among the industry, the administration in power at the time, the regulatory apparatus and the Congress.

Beginning in the late 1970's and early 1980's, the sharp increase in interest rates raised the cost of funds for thrift industry from roughly 6 percent in 1978 to over 12 percent in the first half of 1981. The laws and regulations on the books at that time limited a traditional thrift portfolio to mostly long-term, fixed-rate residential mortgages. As a result, our S&L's began to see the spread between the average rate of return and the cost of funds turn negative. This in turn began to produce widespread losses and an increase in insolvencies.

Between 1982 and 1984, the number of insolvent thrifts continued to grow as the industry's interest-rate risk problem became an asset quality problem. Then, as we are all aware, we experienced a downturn in U.S. agriculture and energy. This in turn depressed real estate values, particularly, but not exclusively, in the South and Southwest. As loan values plummeted, the crisis worsened. By the mid-1980's, over 120 thrifts were insolvent in Texas alone.

However, let me stress that during this time other events conspired to exacerbate the growing problem.

In 1980, the Congress deregulated interest-rate ceilings on thrift deposits. In 1981, the Federal Home Loan Bank Board permitted thrifts to make, purchase, and participate in adjustable-rate mortgages. In 1982, the Garn-St Germain Act permitted thrifts to offer transaction accounts.

In addition, the industry's regulatory apparatus literally "shot itself in the foot" by failing to increase deposit insurance premiums and thrifts entered riskier business. In addition, the Bank Board reduced capital requirements from 5 percent of liabilities in st1980 to 3 percent by 1982. Regulatory changes allowed thrifts to use less stringent RAP accounting principles rather than the stronger GAAP principles. Finally, supervisory resources during the early 1980's failed to keep pace with thrift growth and risk and the need to actually close insolvent thrifts. While thrifts assets grew by 50 percent, examining and supervision resources grew only 30 percent.

With little or no capital to lose, lax State and Federal regulation and an administration and Congress enamoured with deregulation, risky, "the sky's the limit" attitudes, reigned supreme in many institutions.

But of course, we know all too well the results of these excesses. A large part of the industry went flat and the FSLIC insurance fund went broke and depositors savings are at risk.

That, in essence, sets the stage for us today.

This comprehensive plan consists of much needed regulatory reform. The FDIC will be given the responsibility and the power to try and resolve this crisis. These new responsibilities will include the mandate to close or consolidate some 500 insolvent institutions and to dispose of their assets.

The bill requires higher premiums to help recapitalize the insurance fund and, as a result of an amendment I sponsored, future premiums based on riskiness of investment.

This legislation provides for a revamped home loan bank system which separates the regulatory process from the banking operations of the S&L industry.

The bill requires increased supervision and examination, including annual audits for all institutions over a certain size.

This bill also expands policing and enforcement authority and mandates tougher criminal and civil penalties for those former S&L owners and operators who are apprehended and convicted of fraud and abuse.

Finally, and most importantly, H.R. 1278 requires that all thrifts meet stringent capital standards, including an increasing percentage of tangible capital.

This capital standard is the heart of this thrift rescue effort. We have seen all too well that a large segment of the thrift industry has not been adequately capitalized and as a result has relied exclusively on the Federal insurance fund, and now the American taxpayer, to bail them out when investments go sour.

Secretary Brady testified before our Banking Committee that lower capital standards, loosely enforced, were a major cause of the disaster we now face. He also reiterated the fact that deposit insurance simply will not work without sufficient private capital at risk and up front.

H.R. 1278 provides that over a 5-year period beginning in 1990, thrifts must build their tangible capital base from 1.5 percent of assets to 3 percent. The legislation requires a corresponding decrease in certain intangibles, such as goodwill, over that same period. These capital requirements are the very minimum we should demand from the industry. Additionally, banks must meet a more stringent 6-percent capital standard within the same period.

These capital standards are tough, yet fair and will be effective. Already, two-thirds of the thrifts meet these standards. The remainder will need to work hard to build capital. Those who do will contribute to a safer and sounder industry. Those who fail, will be merged or put out of business. This, too, will contribute to a sounder industry.

Admitting that some profitable, well-managed thrifts will be hard pressed to meet the standards, the committee improved upon the original bill specifying the treatment of any thrift which fails to comply with the standards. I worked cooperatively with Mr. VENTO of Minnesota to assure that thrifts not in compliance would be permitted to continue to operate under a waiver granted by the regulator. Under the Vento-Roukema amendment thrifts will be restricted to the types of growth they can engage in and they will be required to submit a business plan which will outline the ways in which the thrift will attempt to meet the standards.

This approach will allow the regulatory agencies to concentrate on the weakest thrifts which present a threat to the insurance fund while providing the flexibility for stronger thrifts to remain in operation.

This was a concession to those institutions which cannot meet the literal standards. It is fair without being permissive.

H.R. 1278 provides for certainty by setting known standards and establishing deadlines which must be met. This certainly will give all thrifts the time and flexibility to develop rational business plans and to raise needed capital.

The price for all of this will be high. There is no way around this. The Government will issue 50 billion dollars' worth of bonds over the next 10 years to finance the rescue plan. Premiums will be paid by the industry but the bond interest will be shouldered by the Government and eventually by the American taxpayer. The estimate cost to the taxpayer over the next 10 years, and I want to emphasize that this is a soft estimate will be $40 billion.

As we all have seen, this is a tough issue. We have been besieged, lobbied, and pleaded with by the S&L industry and our own thrifts to ease the provisions of this bill. But the time for decision has arrived. I was heartened at the speed at which the President addressed this crisis and I am confident that the Banking Committee reported a fair and workable plan consistent with the President's objective and his pledge of "never again."

□ 1810

Mr. WYLIE. Mr. Chairman, I yield 2½ minutes to the gentleman from Indiana [Mr. HILER].

Mr. HILER. Mr. Chairman, I rise in support of this bill. It is long overdue, not from the standpoint that it is from the time period that the President introduced it this year, but long overdue from the standpoint that we have needed to have a fundamental look at the industry and the FSLIC insuring problem for some time.

However, Mr. Chairman, my support for the bill should not cloud the fact that I think that there are some aspects of the bill in which there will continue to be some difficulties, and I speak to just one of those, and that is the area of capital which will occupy a great deal of debate probably yet this evening and tomorrow.

I support strong capital. I am in favor of strong capital. I think that financial institutions ought to be well capitalized. Those who believe that there needs to be additional flexibility in meeting the capital standards do not believe in loose capital standards. But I think that maybe we take a little bit different view of reality.

There are approximately 450 institutions that are solvent today that do not meet the capital standards in the bill. Those 450 institutions represent almost 45 percent of the assets of solvent thrifts. Under this bill we have the potential of declaring those institutions as unsafe and unsound and putting them under supervisory agreement.

Mr. Chairman, if an institution is declared unsafe and unsound and is put under supervisory agreement, how are they going to raise the needed capital? Capital can only come from three places. It can come from profits, it can come from investment, or one can downsize to make existing capital go further.

On the profit side cost will be going up because of increased premiums, and the dividends from the Federal Home Loan Bank Board system will be going down, so the profits will be more tenuous as opposed to more ample.

In the area of investment, who is going to invest in a thrift that is declared unsafe and unsound or is under supervisory agreement that has its profit picture go down?

The third place is to downsize. Mr. Chairman, if one downsizes, all they can do is sell good assets or bad assets. If one sells bad assets, their capital will be depleted further. If they sell good assets, they are destroying the ability to generate more earnings in the future.

Mr. Chairman, I believe we need to have some increased flexibility for those institutions who were granted supervisory goodwill by the regulators in return for their taking over insolvent thrifts. I am hopeful we can do this in this bill, or yet in conference, but, whether or not we do this in this bill or in conference, I intend to support this bill because to do nothing is worse than having the existing capital standards in the bill.

The bill we take up today is one of the most important items facing the current Congress. Finding solutions to the problems in our savings and loan industry and reforming the deposit insurance system must be one of our top priorities. The FSLIC is losing close to $1 billion per month. This is now money ultimately lost by the American taxpayer and it must be stopped. President Bush has shown great leadership in presenting Congress with a plan to solve the problems of the FSLIC and institute meaningful deposit insurance reform. It is now the duty of Congress to pass this proposal as quickly as possible.

I am an original cosponsor of H.R. 1278 and am highly supportive of the concepts of the President's plan. However, I do have reservations about certain details of the bill we are considering today. While I am fully supportive of the administration's goal to increase capital standards for thrifts and to establish tangible capital requirements, I am concerned that certain inequities may occur in the bill as presently drafted.

Specifically, I refer to the impact of the current plan on those healthy institutions that were urged by the Federal Home Loan Bank Board [FHLBB] in the early 1980's to acquire unhealthy thrifts. These institutions did not receive cash or FSLIC notes from the Government, but rather assistance in the form of "supervisory goodwill," which could be counted on the books as capital. These transactions were accompanied by a plan for the acquiror to gradually phaseout or "write down" the goodwill and to replace it with other forms of capital in order to return the consolidated institution to health. The length of the phaseout varies anywhere from 20 to 40 years. The bill, however, would interrupt the phaseout in midstream, leaving the institutions with only a 4-year period in which to attract other forms of capital.

As a result, many of these institutions will be labeled unsafe and unsound, be placed under a supervisory arrangement and have their growth controlled. Once growth is restricted, it will be extremely difficult for institutions saddled with supervisory goodwill to raise capital in the public markets especially when they will have to comply with the bill's other provisions, such as: increased deposit insurance premiums and reductions in dividends from the 12 district banks of the Federal Home Loan Bank system.

For the institutions with substantial supervisory goodwill, the bill radically changes the terms of previously negotiated transactions, leaving no transition period for worthy institutions. The bill provides no flexibility for the regulator to consider progress by these institutions in attracting capital, the rapid write-down of intangible assets, including goodwill, and other improvements in the financial position and management of the institution. While adequate capital is fundamental to the health of the deposit insurance system, other measures of an institution's viability should also be considered such an adequate management and profit ability.

Treasury officials make the argument that the effect of deducting goodwill from capital will be to merely make an institution shrink. However, I would like to point out that the FDIC has in the past followed a policy of discouraging shrinkage at troubled financial institutions. The FDIC Manual of Examination Policies, the "bible" of FDIC field examiners, states:

In some instances, bank management will respond to supervisory authorities' concern over the level of the bank's capitalization by attempting to reduce the institution's total resources. Sometimes this intentional shrinkage of assets will be accomplished by disposing of short-term marketable assets and allowing volatile liabilities to run off. This reduction obviously does result in a relatively higher capital-to-assets ratio, but it may also leave the bank in a much more strained liquidity posture. It is, therefore, a strategy that can have adverse consequences from a safety and soundness perspective, and examiners should be alert to this possibility in banks which are experiencing capital adequacy problems.

Thus, the FDIC has indicated that shrinkage to meet capital standards may be an unsafe and unsound practice. This raises questions as to the mandatory nature of the bill's growth restrictions that would force such shrinkage. I believe that the regulators should be given flexibility to deal with individual institutions on a case-by-case basis. We give broad discretionary authority to the regulator under title IX of this bill to impose growth restrictions on institutions where appropriate and with adequate due process. I prefer utilizing this discretionary authority rather than the mandatory

sanctions for capital deficiencies currently contained in the bill.

I would note that during committee debate the FDIC provided proposals for the capital standards that excluded these mandatory growth restrictions. Although I support strong capital standards, I do not believe it necessary to create sanctions harsher than those suggested by the regulators for a failure to meet these standards.

Because the Banking Committee has chosen to impose the draconian sanctions for capital deficiencies contained in section 314 of the bill, I believe it is even more important that individual institutions be given adequate due process before having such sanctions imposed. Institutions with supervisory goodwill on their books relied upon the word of the Government through its agent the Federal Home Loan Bank Board that supervisory goodwill would be counted as regulatory capital. I believe that it is grossly inequitable, if not unconstitutional, to change the deal on these institutions without so much as a hearing. I will strongly support an amendment offered by Congressman HYDE that provides an administrative hearing to savings institutions who will be losing the value of supervisory goodwill granted to them by the Government. This amendment does nothing to the actual capital standards under section 314, but merely provides a forum for affected institutions to make their case. This seems to be the least that fundamental fairness would dictate.

Additionally, I believe significant problems exist in two other areas of the bill as it is being considered. First, I oppose the Ways and Means Committee amendment to place the plan "on budget." The administration has devised a creative and well thought out financing plan. It preserves the discipline of the Gramm-Rudman-Hollings budget process. I fear that placing the program "on budget" with a Gramm-Rudman exemption will cause a series of other issues to be treated as cases for such a Gramm-Rudman exemption. This will destroy any fiscal restraint that has occured over Congress through the Gramm-Rudman legislation and work to significantly increase budget deficits. I believe that the Treasury has formulated an innovative approach to preserve fiscal discipline and I encourage Members to support it.

Lastly, I am concerned with the provisions of the bill advanced by Chairman GONZALEZ that establish an expensive housing program funded by the Federal home loan banks. I am a strong supporter of new and creative mechanisms to provide affordable housing. In fact, I look forward to working on a housing bill with Chairman GONZALEZ later in this Congress. However, I believe that using the S&L bill as a vehicle to fund a housing program is highly inappropriate. The Gonzalez program would further cut Federal home loan bank dividends at a time when the industry needs these moneys to meet the stiff capital requirements of title III. Through this housing program, Congress will be taking money away from a capital starved industry and drive up the expense of this legislation to the American taxpayer. The Gonzalez housing program is inappropriate to this legislation and I strongly support the amendment to be offered by Congressmen BARTLETT and BARNARD to delete the provision.

Again, I strongly support the concepts of the Bush administration contained in this bill. I urge my colleagues to move expeditiously on this matter so that we can stem the losses to the FSLIC and protect depositors as well as the taxpayer. I am distressed that it has taken this long to get H.R. 1278 to the House floor and I am hopeful that we can send this legislation to the President shortly.

Thank you.

Mr. WYLIE. Mr. Chairman, I yield 2½ minutes to the gentleman from Pennsylvania [Mr. RIDGE].

Mr. RIDGE. Mr. Chairman, today this Chamber is considering the most important legislation concerning our financial system since Congress created this Nation's financial safety net with the Federal Reserve Act of 1913 and the Banking Act of 1933. It is a good, solid piece of legislation that deals not only with the current crisis, but will do much to prevent a recurrence of this nightmare.

Heaps of praise are due, first of all, to President Bush. On his seventh day in office, he stepped foward with a bold and comprehensive proposal that is largely intact within the bill before the House today. Congratulations are also due to Chairman GONZALEZ, Subcommittee Chairman ANNUNZIO, and Mr. WYLIE, the ranking member and their staffs. As a member of the subcommittee and the committee that produced this bill, I can attest not only to their dedication but to the fair and open nature in which debate over this measure took place.

The most lasting and most important parts of this legislation deal with the "never again" provisions that are designed to ensure that the American taxpayer will never again have to pay to restore the integrity of the Federal Deposit Insurance System. Most notably, I am pleased that we have: First, separated the thrift insurer from the thrift chartering agency; second, given the insurer, now the FDIC, adequate authority to quickly terminate insurance for unsafe and unsound practices; third, required the phase-in of tough, tangible risk-based capital standards as will be applied to national banks; fourth, provide enhanced regulatory and insurer authority such as restrictions on direct investment and risky activities by State-chartered institutions; fifth, enhanced powers for the Justice Department to seek civil penalties, up to $1,000,000 for willful violations, expanded criminal penalties plus an additional $65 million for the Attorney General to prosecute crimes by thrift and bank executives.

In terms of resolving the current crisis, the bill is little changed from the original Bush proposal. It rightfully calls for the pain or cost to be shared by all who benefit from deposit insurance—the thrifts, the banks, and the taxpayer. Unfortunately, the taxpayer will pay most of the bill. If it could be any other way, many of my colleagues would join me in making a proposal. However, a balance had to be reached. A balance that ensures that the industry paid all that is possible while not exacerbating the cost by pushing more institutions into insolvency. Before taxpayer funds are used, the industry will pay. The FHLBS district banks will contribute $3 billion in retained earnings, and $300 million in annual earnings. Under this bill, the district banks will be essentially taxed for an additional $650 million to finance an affordable housing program. In my view, this kind of social engineering should be avoided on this urgent financial services restructuring legislation and will only further burden a system that has done the most to make affordable mortgages available to millions of Americans. We expect to consider housing legislation later in the year and housing proposals should be considered in that context. The industry will also contribute. Insurance premiums will reach a record 23 basis points for thrifts and will nearly double to 15 basis points for banks. It should be pointed out that the banks did not create this crisis but will pay to restore confidence in our deposit insurance system. With the passage of this bill, the treatment of thrifts and banks will become very similar and with that, we should consider the eventual, not immediate, need to have parity in premiums.

With the funds provided by the industry and the taxpayers, the President's proposal calls for the creation of a Resolution Trust Corporation [RTC] to: First, resolve current and expected insolvent savings and loan problems; and second, dispose of assets, quickly and prudently. The bill we are considering does meet those objectives. The Banking Committee did, however, add a much-needed amendment to provide adequate guidance to the RTC to dispose of property on an orderly basis. It will require the RTC to take into consideration local economies and to use private resources to determine how best to dispose of property. Congress should resist any further efforts, in my view, to micromanage this massive undertaking. Flexibility is vital and, in that regard, I believe that the RTC oversight board should defer to guidelines already issued by bank and thrift regulators on the disposition of assets.

There are several other actions taken by the Banking Committee which I feel compelled to defend:

First, the Banking Committee resisted efforts to burden this bill with unnecessary consumer legislation. All of the consumer amendments were directed at real problems but, without

adequate hearings and investigation, were precipitous.

Second, the committee expanded the scope of the Federal deposit insurance study so that credit unions would be studied, assessments on foreign deposits would be studied and so that alternative means of deposit insurance would be considered.

Third, Freddie Mac would be restructured into a corporation much like Fannie Mae with an 18-member board, HUD supervision and limitations on the aggregate amount of unsecured obligations outstanding.

Fourth, the committee added a new title establishing a system requiring the use of certified or licensed real estate appraisers.

Fifth, the committee adopted an amendment permitting bank holding companies to purchase healthy, as well as unhealthy, thrifts upon enactment of this legislation.

I remain concerned that this legislation contains very few incentives for acquiring thrifts. If recent acquisitions at the behest of Federal regulators are any lesson, there is little attraction to these acquisitions without considerable cash or relief from the Federal Government. Because I prefer incentives to attract new capital rather than taxpayer cash, I did not support an amendment that would subject the limitations of the Bank Holding Company Act, including cross marketing restrictions, on thrifts acquired by bank holding companies. While I have opposed tying services and products and I am very displeased that certain diversified financial services companies are not affected by the Bank Holding Company Act restrictions, I am more inclined to support a strategy that would lift cross marketing restrictions on banks than a strategy designed to restrict cross marketing by all others. In my view, tying should be restricted but the consumer should reap the benefit of cross marketing.

Finally, the most controversial decision that will be made by the House concerns capital requirements and the treatment of goodwill acquired in supervisory transactions. I support tough, tangible capital requirements. It is the only economic cushion that will enable the Federal insurer to takeover an institution before insolvency. Because substantial amounts of their own investment is on the line, institutions will be less inclined to gamble with depositor funds. The capital requirements for thrifts should, in a reasonable span of time, be the same as those applied to national banks. I was very pleased that the Financial Institutions Subcommittee adopted virtually the same risk-based standards as proposed for national banks by the Office of the Comptroller of the Currency. We also adopted a tough core capital requirement that will phase out the use of intangibles in 5 years. However, my colleagues should be aware that there is a great deal of inequity in the manner in which this goal will be reached.

As approved by the committee, this bill would punish the institutions and the regions who stepped up to take care of their own problems in the early 1980's while rewarding recent acquirors and regions that were bailed out by the Federal Government in the past 2 years. The early deals, many in the Northeast and Midwest and most resulting from interest rate problems, were the product of Federal regulators seducing healthy institutions into acquiring unhealthy, negative net worth, institutions with the promise that they could continue to meet their capital requirements with goodwill.

With this arrangement, the institutions agreed to amortize the goodwill over a period of time ranging from 10 to 40 years. In this debate, there has been considerable confusion over what amortizations means. Amortization means liquidation. The goodwill must be replaced by net income from business operations or some form of capital for the company to maintain its net worth. Many of these institutions which have been amortizing their goodwill, continue to raise capital and are profitable.

In my view, the Government cannot and should not simply abrogate its contract with these institutions. They deserve to be given a hearing for the regulator to review the merits on a case-by-case basis. No general grandfather of goodwill is necessary or even desirable. A general grandfather may allow some institutions that are not viable to continue and for specific problems to worsen. Just as the Congress should not use a broad stroke to punish all institutions, not all institutions should be free to continue regardless of viability. The Congress cannot do the sorting out and the Congress can not approve business plans for the viable institutions. The job of sorting out the merits of each case and the remedy should be left to the regulator. That is why I offered an amendment that would enable the regulator flexibility with regard to supervisory goodwill on a case-by-case basis in committee. That is why I will support the amendment offered by my distinguished colleague, Mr. HYDE and oppose all other amendments concerning the capital requirements and the treatment of intangibles expected later in debate.

Whatever the House decides, it is important that the process moves forward. The cost escalates by $25 million or more with each day of delay and Congress is months behind the deadline proposed for the bill to be presented to President Bush. The Banking Committee reported this bill by a 49-to-2 vote. The House should give a similar boost to H.R. 1278 by the end of this week.

Mr. WYLIE. Mr. Chairman, I yield 2½ minutes to the gentleman from New Jersey [Mr. SAXTON].

Mr. SAXTON. Mr. Chairman, I rise today with many of my colleagues on the Banking Committee, including the distinguished chairman, Mr. GONZALEZ and ranking minority member, Mr. WYLIE, to urge this House to make up for its mistakes of the past by resisting efforts to reduce the responsibility individual thrifts have to the depositors of America.

It is of the utmost importance that we keep this emergency legislation—to bail out the depositors of failed S&L's and to reform the industry—intact.

Two years ago this Congress and the administration missed an opportunity to deal adequately with the troubles which were already on the horizon for the thrift industry. Now, the Bush administration and the Banking Committee have come to grips with this crisis by drafting a bill which adopts sweeping reforms in a manner that is both tough and fair.

I cannot stress enough the importance of supporting the well thought out requirements in this bill to protect the depositors from any recurrence of this heinous mess. The President has taken a tough, swift, and responsible step to place this episode behind us.

There can be no doubt that in the aftermath of this crisis, the landscape of the thrift industry will—and should be—different. This bill will cause many thrift operators to go into their board rooms and make decisions. They are decisions which must be made—indeed that should have been made long ago.

We are going to make changes in the thrift industry. Changes to promote more prudent behavior for those who would act inprudently with depositors money. H.R. 1278 will also guide well managed, honest thrifts—the vast majority of the industry—to shore-up their capital position to ensure they remain healthy, valuable members of the community and ensure the Federal Deposit Insurance Fund stays intact.

Just as the cost to right this problem grew 2 years ago from $30 billion to now somewhere in the neighborhood of $150 billion—a failure a second time to take this opportunity to responsibly address the structural deficiencies existing in the industry will surely cause the cost to be astronomical and confidence in our entire financial system to be further endangered.

We have already seen record silent runs, as some call them, on the S&L industry deposit base to the tune of $3.4 billion in the first quarter of this year. These are not silent runs—but the loud sound of a lack in public confidence in the thrift industry. We

must adopt the standards in this bill to resore public faith.

If not, we will fall short of our duty to protect the taxpayers from further cost of the resolution of this mess. As we all know by now, asking the depositors to pay the lion's share of this $150 billion bail-out is regrettably unavoidable at this point. But make no mistake, asking them to do it again will be unforgivable.

I know that many members have been contacted by scores of their local thrift leaders with predictions that the capital standards in this bill will result in destruction of their institutions. You have been told that deal made between relatively healthy thrifts and Federal regulators to take over sick thrifts in return for an accounting allotment of fabricated capital known as "goodwill" should be allowed to stand or be considered in an institution's capital makeup. That the capital provisions in this bill are unfair as they do not allow the deal to stand and institutions to count this accounting fiction as real money.

I do not subscribe to these arguments and neither should my colleagues. These deals were a misguided effort to solve a large problem without committing the resources or money to do it. It was a way to avoid a problem instead of making the tough choices. In short goodwill agreements were a mistake and as the saying goes; "Two wrongs don't make a right."

If we are serious about preventing this crisis from reoccurring we cannot allow a bill to clear this Congress that permits goodwill to count as capital for 10, 15, or 20 years.

The deals a real argument forwarded by the thrift industry does get my sympathy but I cannot in good faith give it my support. The Banking Committee, after 4 full days of exhaustive, in-depth consideration, approved compromise capital standards that are both tough and fair. As has been stated already, these capital standards are the heart of this bill and will be the best insurance policy that thrifts all across the country will be well managed.

As has also been mentioned, the bill was drafted with transition language to enable those undercapitalized but well managed thrifts to operate and build capital even though they do not meet the new capital standards for the industry. Under these provisions, thrifts must develop a business plan which outlines how they intend to come into compliance with the bill's requirements.

There has been criticism that these transition rules are too stringent. That there needs to be a better way to distinguish between a true dog S&L and one that is well managed but does not come into compliance after discounting goodwill as capital. While I can appreciate reputable institutions desire to avoid the stigma of being out of compliance, I must stress that it was the Banking Committee's responsibility to draft—and this Congress' responsibility to pass—a law that balances an orderly transition for these thrifts while not exposing the taxpayer to further risk.

As many of my colleagues have said, what it all comes down to is whether this Congress legislates for the depositor and the taxpayer, or whether it again shirks this duty and puts off the tough choices for another day.

I urge my colleagues to sustain the Banking Committee's bill, and particularly the capital provisions.

□ 1820

Mr. WYLIE. Mr. Chairman, I yield 2 minutes to the gentleman from Wisconsin [Mr. ROTH].

Mr. ROTH. Mr. Chairman, I thank my friend, the gentleman from Ohio, for yielding this time.

I want to congratulate the chairman of our committee, the gentleman from Texas [Mr. GONZALEZ], and our ranking member, the gentleman from Ohio [Mr. WYLIE] and all the members of the Banking Committee for the job they did on this legislation.

This, in my opinion, is going to be the most important bill that we address in the 101st Congress. We have to make sure that the legislation, when it leaves this House, is going to address the problems that have to be addressed.

We all know that a short while ago it was a $10 billion problem, then a $50 billion problem and then $100 billion. Now it is a $157 billion problem and growing.

On February 6, the President asked that we address this legislation and send it to him within 45 days. Now, 127 days later, we are still working on this legislation. Time is of the essence. We must address it now.

I would ask all the Members of the House when you look at this legislation to keep three things in mind:

First, we must raise enough money to solve this problem. We must not come back again and try to fix what we are doing here today.

Second, we must make sure that this does not happen again. That means that we have to have capital standards that are sufficient, because if we do not, this bill will be only an expensive bailout and we cannot allow that.

We have to provide these savings and loans with an incentive to clean up their own house and keep it clean. That means they have to meet capital standards, even though in this legislation it is only 3 percent by 1994. That is 5 years. That is pretty weak. So to ask for that is not asking a great deal.

In my home State, the thrifts average 6.7 percent capital. That is why we have not had these problems.

I know our chairman, coming from where he does, is in a tough position, but I want him to know that we all appreciate him and every Member of this body who makes a tough decision, because a tough decision today means we do not have to face worse decisions later on.

We are confronted with a mounting crisis in our thrift industry which threatens our financial system, the Federal budget, and our economy.

Not only is this the most critical domestic issue facing our country, but the impact of this massive and complex bill will be felt for decades.

In every great debate such as this, a single key issue emerges which brings into sharp focus the arguments on both sides and crystallizes the many questions at hand.

The key issue before this House is not how much this rescue will cost, or how it will be framed. These are important decisions, but not the central question.

The key issue is whether we make the reforms necessary to prevent this from happening again.

In this bill, we are committing the American taxpayer and those financial institutions which have been well run to paying at least $157 billion toward protecting the deposits of millions of American families, whose trust in a minority of savings institutions was betrayed.

But this massive expenditure will be nothing more than the most expensive bandaid in history, unless we insist that all federally-insured institutions maintain a minimum level of capital as a first line of defense against loss. In each institution, this capital must be real assets which are readily available to protect depositors and the American taxpayers who are the real insurers of our financial system.

The 3-percent capital standard—which we in the House Banking Committee won after a hard-fought battle—is a minimum requirement, that is already exceeded by thrifts in 19 States. In Wisconsin, our 72 thrifts have an average 6-percent capital reserve. This is why we have not experienced the problems of other regions, and this is why our Wisconsin thrifts have endorsed a higher capital standard for the rest of the country.

The course we choose in this legislation also will have a telling impact on how we handle the financial crises just emerging over the horizon. How many of my colleagues realize that the Farmers Home Administration faces a $36 billion loss? Or that the Federal Housing Administration is suffering record defaults in its $283 billion portfolio? Or that losses are mounting in the VA, REA, student loan, SBA, and Eximbank guarantee programs. Each of these funds is guaranteed by the American taxpayer, and each will require congressional action over the next several years. The course we take in this bill today will set the precedent for future action.

Yet, in the face of this evidence, there are some in this House who are supporting cleverly worded and outwardly innocuous amendments to the capital standard. The real impact of these amendments is to pull apart the most crucial reform in the bill.

The votes on these amendments will test the character of this House, and will present a clear choice between the American taxpayer and the minority of fast-buck financial gunslingers who infiltrated some of our savings and loans and are running them into the ground under the benevolent protection of the deposit insurance system.

These financial pirates and their well-financed lobbyists are trying to pull off the perfect legislative crime: loot our savings and loans, stick the taxpayer with the bill and continue to gamble with the depositors' money, all with a Federal guarantee.

In making this choice, it is clear where our responsibility—our duty—lies. We must choose the taxpayer over those who have caused this problem.

We must make this bill a reform, not a sellout.

Mr. WYLIE. Mr. Chairman, I yield 4 minutes to the gentleman from Iowa [Mr. LEACH].

Mr. LEACH of Iowa. Mr. Chairman, the time has come for Congress to cease mincing words about thrift problems. The dilemma we are confronted with is of our own making. Too loose laws have led to too loose regulation which in turn has led to too loose banking practices. The overleveraging of other people's money by high-flying thrifts has put taxpayers on the line for billions of dollars of liabilities developed outside the normal budgetary process.

Let there be no doubt: The enemy is us. Multibillion dollar obligations have been precipitated by politics as usual in this body and made larger by regulators preferring to buy time rather than spread ill winds through an industry strewn with ill will.

The statistics speak for themselves. A $1.3 trillion industry has a negligible capital base, negligible insurance fund, and negligible disincentive to take risks with taxpayer dollars. If 1988 and the first quarter of 1989 are a guide, the industry is losing money at a $12 to $15 billion annual clip. The weak are getting weaker, with Congress facing the prospect of the largest private sector bailout in the history of the Republic.

Commentators like to suggest that regional problems—that is, a weak economy in the oil patch and on the farm—precipitated the savings and loan problem. Actually, there are more human culprits than abstract rationales. The root cause of the thrift problem is the regulator-sanctioned capacity of high flyers to attract and overleverage other people's money because of receipt of Federal or State charters to take deposits backed by Federal insurance.

The quid pro quo—prudential investment and lending practices—has been ignored by a significant element of the industry because regulators followed the pandering exhortations of legislators at both the State and Federal level who have given too much power to too few to exercise too wantonly.

Compounding the problem of weak regulation and a weak capital base in the industry is the epidemic of greed that seems to exist within a number of overextended institutions in growth States. Thrift managers who are in a negative net worth situation understand that they have nothing to lose as they pay premiums to attract deposits insured by others. Hence, there is every incentive—through dividends, salaries, and perks—to live high on the hog today and make risk investments in the hope of striking gold tomorrow. Without stern regulatory oversight of the barely solvent, imprudent circumstances are likely to breed more imprudent decisions.

The quandary regulators confront is the problem of how to rein in overextended institutions when their primary resources is an overextended insurance fund. Ingeniously, the short-term answer provided last year was a government-backed Ponzi scheme: the issuance of long-term capital notes on a fund backed, in theory, by the Treasury. The undeniable effect of such note issuances is taxpayer accountability for the printing press of an independent regulatory agency.

Mr. Chairman, the Bank Board's yearend rush to allow acquirors of troubled thrifts to take multibillion-dollar tax writeoffs represented a backdoor raid on the U.S. Treasury of unprecedented proportions. Bank Board deals which privatized profit, while socializing risk, amounted to nothing less than a societal decision to allow those with potentially large tax liabilities—that is, the rich—to get richer.

The Bank Board gave new meaning to risk-free capitalism and a new twist to the constitutional framework of our government. Not only did the Board usurp the spending powers of Congress by making the taxpayer liable for its issuance of notes and guarantees far in excess of the industry's capacity to pay; it usurped as well Congress' taxing authority by rushing deals which called for relatively small infusions of capital while allowing massive tax avoidance.

A system designed to help the little guy buy a family home has turned into an investment piranha where the big get bigger while prudently run savings institutions and commercial banks, as well as the taxpayer, are asked to foot the bill. The case for prudent regulation and systemic reform of the Federal Home Loan Bank System has never been more compelling.

Regulators and this Congress must learn just to say "no." Otherwise, a $100 billion headache today could become a $300 billion migraine tomorrow.

Mr. GONZALEZ. Mr. Chairman, I yield such time as she may consume to the gentlewoman from Ohio [Ms. OAKAR].

Ms. OAKAR. Mr. Chairman, today, the House of Representatives will deliberate and vote on the largest private sector financial aid package in the history of this country. It has been estimated that each person per each household will be asked to pay upward of $1,000 to pay for this insolvency.

Mr. Chairman, before I dwell on the savings and loan fiscal crisis and its origins, I would like to give the full House an interesting fact and to set the tone regarding this legislation. In 1983, an institution, which shall remain nameless, had been a mere $11 million in size. In the next 18 months, the institution had grown to $800 million. During liquidation proceedings last year, the Bank Board was stunned. Its $1.3 billion in assets were less than 40 cents on the dollar with the total cost to the FSLIC at $800 million. Therefore, a company worth $11 million in assets lost $800 million which is a kill ratio of 1,600 to 1.

Mr. Chairman, in 1983, the entire budget for examination and supervision at the Bank Board and the district banks combined was just $37 million, or roughly $40,000 in salary and support costs for each of the 1,380 full-time personnel engaged in supervision. This loss at this one institution was 14 times the national budget for supervision and enforcement.

SAVINGS AND LOAN INDUSTRY: WHAT HAPPENED

Mr. Chairman, the origins of the thrift crisis can be traced in large part to the inflationary era of the late 1970's and early 1980's, coupled with loosely held Government regulations. During this period, interest rates rose dramatically. At the same time, the Government lifted the rates that thrifts could pay, causing depositors to shift their money market funds and other investment vehicles in search of higher returns. In addition, the higher rates led to a sharp depreciation in the value of assets in thrifts.

During these inflationary times, the regulatory foothold on the S&L industry was loosened. Thrifts were given more leeway and flexibility in determining the interest rates they could pay and the type of investments they could make. Unfortunately, as thrifts took advantage of its increased operating flexibility, severe economic hardship was inflicted on the Southwest by a collapse of petroleum prices. Land and shopping center projects that appeared lucrative all but crumbled due to the fall of oil prices.

ESTIMATING THE GOVERNMENT'S CURRENT LIABILITY

Mr. Chairman, currently there are a number of existing estimates of the true cost of the thrift crisis. Estimates of the costs of resolving this fiscal crisis are just that—estimates, based on differing methodologies and assumptions about future financial conditions as well as the length of time of which actions are taken. For the period 1989 through 1999, the administration estimates that a total of $198 billion will be needed to pay FSLIC's bills and restore the thrift deposit insurance system to financial health. Contrary to that estimate, the Congressional Budget Office estimates that the total cost over 10 years will total $203 bil-

lion. One thing is for sure however, the longer Congress delays in enacting this legislation, the more costly to our constituents and all the taxpayers across America. In a fundamental sense Mr. Chairman, the entire thrift crisis is a cost of delay. Some estimates have the thrift crisis costing this country $40 million per day and approximately $1 billion per month. Whatever the final estimates, they are "shamelessly" high.

Mr. Chairman, the legislation before us involved many hours of deliberation and hundreds of amendments. I must state for the record that there is much confusion over the funding issue and who actually receives this money. This legislation does not and will not bail out the thrifts, their stockholders, or management. This massive expenditure will be used to pay off those depositors, some of whom had their life savings in these institutions.

Mr. Chairman, I believe that the proposal initiated by the Banking Committee will go a long way in making certain this financial catastrophe never occurs again. I commend the distinguished gentlemen, Chairman ANNUNZIO and Chairman GONZALEZ for all their hard work and more importantly their leadership.

IMPORTANCE OF THE S&L INDUSTRY

Mr. Chairman, despite the massive injection of Federal funds to resolve this fiscal crisis, I believe these reforms save an important industry. Despite the negative publicity surrounding the thrift industry, a majority of thrifts are operating profitably and are run well.

I remind my colleagues, savings and loans are the only federally insured depository institutions created to take deposits for the primary purpose of making home mortgage loans. For those who believe strongly in a national housing policy, a separate industry that holds deposits specifically for home lending is imperative. The problems in the industry were a long time in developing. It is now time to act comprehensively to resolve them by stabilizing the insurance fund and implementing these tough reforms. With these tough reforms, we will ensure that strong financial institutions exist to encourage savings and promote home ownership. In addition, the qualified thrift lender test introduced by Chairman ANNUNZIO within the Banking Committee markup, will further strengthen the savings and loan industry's commitment to housing.

Mr. Chairman, the Congress has deliberated long enough on this omnibus legislation. There is not one member on the Banking Committee who did not face a difficult vote. However, with this legislation we can assure the American public that regulation of the savings and loan industry has been strengthened from top to bottom.

Mr. GONZALEZ. Mr. Chairman, I yield 1 minute to the gentleman from North Carolina [Mr. NEAL].

Mr. NEAL of North Carolina. Mr. Chairman, in the very limited time, let me say that for 50 years, for more than 50 years, we have told the American people that their deposits at banks, savings and loans and credit unions, are safe. We must honor that commitment. On a practical level, if we were not to honor that commitment, we would see a run on the banks like we had not seen since the 1930's.

Mr. Chairman, most often when we hear people talk about this bill, we hear it discussed as a bailout for savings and loans; but Mr. Chairman, this is not a bailout for owners or managers, stockholders, bondholders of savings and loans. This is the fulfillment of a commitment made to depositors, your neighbors, my neighbors.

Let me just make two points. No matter what else you say about the problem, the high inflation of the late seventies, the downturn in the economy, high fliers, bad managers or crooks, two things are clear. If we had had adequate private capital in this industry and adequate regulation, this problem would not have happened.

Our bill recognizes that and makes sure that there is adequate private capital and adequate regulation. They are at the heart of our bill and I commend our bill to our colleagues.

□ 1830

Mr. GONZALEZ. Mr. Chairman, I yield 1 minute to the gentleman from North Carolina [Mr. PRICE].

Mr. PRICE. Mr. Chairman, I rise today in support of H.R. 1278, the Financial Institutions Reform, Recovery and Enforcement Act of 1989, urgently needed legislation to fulfill our Federal commitment to protect depositors at our Nation's financial institutions.

Originally introduced at the request of President Bush, H.R. 1278 is an important first step toward restoring the fiscal integrity of the savings and loan insurance fund. I commend him for his efforts and his willingness to face up to a problem his predecessor was unwilling to face and whose attitude toward lax regulation of the thrift industry could best be described as "Don't Worry, Be Happy."

The President's bill would create a Resolution Trust Corporation [RTC] and provide it with funds to merge or liquidate insolvent savings and loan associations and thus to guarantee the safety of insured deposits. To capitalize the RTC, $50 billion in bonds would be issued, with the principal on these bonds being paid with funds raised from the savings and loan industry. The current interest on these bonds would be paid by funds from both industry and Treasury. The S&L's would be charged considerably higher assessments, but the magnitude of the problem, unfortunately, necessitates Treasury outlays also. Banks would also see increased assessments, but these funds would be used only to capitalize the FDIC fund.

None of this money will go to bail out the managers, owners, and investors of failed savings and loan associations. If these people have engaged in criminal behavior, they should be prosecuted and put into jail and the bill provides increased penalties and more money for the Justice Department to pursue and investigate financial institution crime. In this regard, I will support Chairman ANNUNZIO's amendment to restore a stiff $1 million civil money penalty for violations of certain criminal statutes. It is critical that we take a tough stand against those criminals who have hurt every law-abiding, tax-paying citizen in this country.

H.R. 1278 would also make several regulatory changes. It would give the Federal Deposit Insurance Corporation [FDIC] administrative jurisdiction over the savings and loan insurance fund, though the bank and S&L insurance funds would be kept financially separate. The bill would also increase the administrative enforcement authority of the Federal regulators. I was an early cosponsor in the House of these enhanced enforcement provisions and it is a critical step for giving the regulators the tools necessary to discover and combat savings and loan fraud and abuse.

With these increased responsibilities for the FDIC, I felt it was critical to ensure the political independence of the FDIC Board. Therefore, PETER HOAGLAND and I offered an amendment to the proposed structure of the FDIC Board. Under the Bush proposal, the President was authorized from time to time to designate the Chairman and Vice Chairman of the Board from among the three appointed members. This provision, along with the fact that two of the other Board members would be under Treasury, the Comptroller and the Bank Board Chairman, meant that the FDIC could be subject to undue control from the administration.

Under the amendment, the Chairman and Vice Chairman would be appointed by the President, with the advice and consent of the Senate, for a fixed 4-year term. This would give critical independence to the insurer, but at the same time, maintain executive and legislative oversight over the positions of the Chairman and Vice Chairman. This amendment was adopted by the Financial Institutions Subcommittee and should serve to maintain the political independence of the FDIC Board.

The bill will also move the savings and loan industry over time to capital standards materially equivalent to national banks. The S&L regulators during the 1980's permitted a number of questionable transactions, mainly by allowing the inclusion of supervisory goodwill and deferred loan losses to be counted as capital for savings and loan institutions.

The Bush proposal resolved this problem by phasing goodwill out as a component of capital over a period of 10 years and not allowing deferred loan losses to be counted as capital at

all. Members of the House Banking Committee became concerned that the Bush proposal could allow institutions with large amounts of goodwill to continue to operate without any tangible capital for a number of years. This was clearly something most people, including the administration, did not want, and the administration worked with members of the committee to require a minimum tangible capital standard regardless of the amount of goodwill an institution had on its books.

Therefore, as part of meeting a risk-based capital standard, institutions by 1990 will have to meet a 3-percent core capital standard which is at least 50 percent tangible capital. This was further refined by the full committee to require that by the end of 1994, the 3-percent core must be all tangible. This was 5 years ahead of the administration's proposal timetable, which would have allowed goodwill to be counted for 10 years, and the administration endorsed this change.

I believe these changes are important ones. As we all know, tangible capital provides a buffer for both the insurance fund and the taxpayer. To not have a tough requirement would have been an abrogation of the committee's responsibility to the taxpayers of this country. We simply cannot allow these problems to recur. If these standards are substantially weakened during floor consideration of H.R. 1278, I will vote against the bill on final passage.

The proposed structure of the RTC was also of great concern to me. The RTC is taking on an unprecedented task of resolving insolvent thrifts and disposing of the property held by thrifts. The Bush proposal was practically devoid of the safeguards necessary to protect taxpayers from poor management and fraud by people involved with the RTC. I worked with FRANK ANNUNZIO and CHALMERS WYLIE to ensure that the RTC adequately disclose the terms and conditions of the RTC deals to merge or liquidate insolvent thrifts. We need this type of information if we are to avoid the RTC repeating the December 1988 deals of the Federal Home Loan Bank Board, which FDIC Chairman Bill Seidman has referred to as "Buy a Toaster, Get a Thrift."

I will also support the amendment offered by Chairman GONZALEZ to limit the obligations of the RTC. PETER HOAGLAND and I offered an amendment in the House Banking Committee to place a similiar limit on the FDIC. This amendment will stop the FDIC from implicitly obligating taxpayer funds like the Bank Board did in 1988. If we do not place such a limit on the RTC, we will have failed to ensure that the problems of the S&L industry never occur again. The administration has promised us that this bill will give them the resources necessary to resolve the current problems and we should hold them to that promise.

The RTC is still of great concern to me and it is critical that the administration do all they can to maintain tight control over this entity. The administration's proposal will have failed if the RTC even begins to resemble the Federal Asset Disposition Agency [FADA], whose history was marked by inflated salaries, charges of conflict of interest, and basic ineffectiveness in dealing with asset liquidation.

The Banking Committee also took a few, modest steps in addressing the housing affordability crisis facing our country and reaffirming the thrift industry's commitment to housing. Our committees accepted an amendment to require the thrift industry to finance reduced-rate mortgages for low- and moderate-income people. It does this by requiring the Federal Home Loan Bank System to set aside funds for this purpose. The committee also accepted an amendment to ensure that a percentage of the property held by the Federal Government, because of the liquidation of failing thrifts, be made available, on a right of first refusal, to public and nonprofit housing agencies and corporations providing low- and moderate-income housing. I urge my colleagues to vote against any amendment to strike these provisions.

In general, I believe the President developed a very credible proposal which was improved by the House Banking Committee's consideration of this legislation. It is imperative that the full House maintain tough capital standards, place further restrictions on the RTC's ability to obligate taxpayer funds, and reaffirm the thrift industry's commitment to housing for low- and moderate-income people. If we do this, I believe we will have taken a very important step in restoring the solvency of the savings and loan insurance fund and the confidence of the American people in it, and ensuring that these problems never occur again.

Mr. GONZALEZ. Mr. Chairman, I yield 1 minute to a distinguished member of the committee, the gentleman from Minnesota [Mr. VENTO].

Mr. VENTO. Mr. Chairman, I rise in support of H.R. 1278, the Financial Institutions Reform, Recovery, and Enforcement Act of 1989. This legislation is needed to restore the health of our savings and loan industry and the confidence of the American people in that important segment of our financial community.

The S&L industry has played an important role in our society by making the dream of home ownership a reality for millions of Americans. I believe that industry can and should continue to be a productive part of our economy. That role can only be fulfilled with major reforms and substantive changes in the law and regulator policies. Mr. Chairman, the American people are justifiably angry. I share that anger and frustration that taxpayers today must bail out this industry. For the past 4 or 5 years we have pleaded for a clear picture of the status of the S&L industry in vain. The regulators' response was give us more money and shut up, we the regulators, FSLIC, know what we are doing. Well, Congress backed that attitude. Congress does not have x-ray vision. We are not regulators but no doubt all 535 Members have given advice to these regulators both good and poor advice at times. Congress authorized $10.8 billion of spending in 1987 and the FSLIC found authorization all on their own to issue $40 billion more in notes and many more billions in tax dollars and that isn't enough yet, they are all too eager to blame Congress for not giving more money without answers.

The House Banking Committee conducted lengthy hearings on the S&L crisis. We looked at the issues in depth and used the information that we gained to craft the legislation before the House today. I want to commend the chairman of the full committee and the chairman of the Financial Institutions Subcommittee as well as the ranking minority members for their hard work and leadership on this issue. Their efforts have led to a product of which this body can be proud.

The bill before us has two principal goals. The first is to bail out the Federal S&L insurance fund and the second goal is to prevent savings and loans from getting into the same type of financial mess in the future. The second goal is most critical because without meaningful reforms, we could well continue to pour billions of tax dollars into the blackhole of S&L debts. The American taxpayer and the House cannot tolerate business as usual attitude that prevaded the S&L performance the past decade.

Key to the bill's reforms are the capital standards which we establish in law. These standards have been the focus of much public debate and certainly will be discussed by myself and others more thoroughly during the amendment process. For now, I would like to share with my colleagues some background on the committee's decision.

During banking committee deliberations, a majority of the Members recognized the failure of leaving excessive discretion to the regulators as a significant part of the problem. While the President submitted a bill that espoused strong capital standards, the actual language left too much of the reform in doubt. This proposal has been substantively strengthened and improved as the legislative process has moved forward.

However, it should be clear to the Members that the capital standards in the bill are a compromise. Many members of the committee supported the imposition of higher capital standards in a shorter timeframe with less regulatory flexibility. Others believed that the most effective policy would phase in the tougher standards and allow the regulator more discretion. The compromise before us is a blending of the best of both positions.

The capital standards in the bill do require institutions to have more private capital on hand. This capital is important because it acts as a cushion for the insurance fund and the taxpayer from S&L losses and bad investments. But while the bill establishes strong capital standards, we also include an exemption process for well-managed, noncomplying institutions to meet the standards over time.

The result of this bill and the capital standards will be a stronger, healthier savings and loan industry; increased consumer confidence and an effective buffer to protect the insurance fund and the taxpayer from losses.

Mr. Chairman, capital standards are the armor suit with which we can stop the steady assault on taxpayer dollars to bolster mismanaged, failing S&L's. If we adopt the Hyde or Quillen amendments we will replace the armor suit with a fig leaf and no amount of dodging will be enough to save the S&L industry and the taxpayer, from disaster.

We may not be able to predict the future, but surely we must learn from the history of the 1980's, when the regulators failed to regulate; accountants failed to count; thrift directors failed to direct; and the laws and policies were abused and misused at a great expense to the Federal savings deposit system and the American taxpayer. We cannot let those mistakes be repeated.

Mr. WYLIE. Mr. Chairman, I yield myself 1 minute, the remainder of my time.

Mr. Chairman, the Committee on Banking, Finance and Urban Affairs has produced a good bill and one that will go on the offensive in fighting financial institution fraud and ensuring adequate regulation in the future so that the costly mistakes of the past will not be repeated.

We are about to spend billions of dollars to correct the problems of the past, and at this point it cannot be business as usual. We have a higher responsibility, a responsibility to the taxpayers. We owe it to the taxpayers to remain resolute on the capital provisions, for instance, so that we will never again have to step in and rescue a deposit insurance system with billions of dollars.

I urge adoption of this bill without weakening amendments.

Mr. GONZALEZ. Mr. Chairman, I yield such time as she may consume to the gentlewoman from South Carolina [Mrs. PATTERSON].

Mrs. PATTERSON. Mr. Chairman, I rise at this time to urge support of the bill.

Mr. Chairman, it is generally conceded that the creation of deposit insurance by Congress 55 years ago was one of the most important innovations in this Nation's financial history. More than any other factor, it has prevented the financial panics that characterized the first century of this country.

Those panics and runs on banks caused untold Americans to lose their savings because there was no recourse if the institution where they had their account got into difficulty—or even was rumored to be having difficulty. It was the Federal Government's guarantee of protection that made financial institutions more attractive than putting money under a mattress.

But, even in the beginning, there were those who warned about the shortcomings of deposit insurance. At his first press conference, President Franklin Roosevelt said, and I quote, "As to guaranteeing bank deposits * * * the minute the Government starts to do that, the Government runs into a probable loss * * *. We do not wish to make the U.S. Government liable for the mistakes and errors of individual banks, and put a premium on unsound banking in the future."

Today, President Roosevelt's words have come true and it is the responsibility of this Congress and this administration to resolve the problem. More importantly, it is our duty to make sure that this does not happen again. The bill crafted by the House Banking Committee is a strong step in the right direction. It preserves the essence of President Bush's plan and includes a number of safeguards to punish wrongdoing in the past and prevent it in the future.

This bill is the result of long hours of hearings and debate in the House Banking Committee and the Subcommittee on Financial Institutions. We considered hundreds of amendments, and I commend Chairman GONZALEZ and Chairman ANNUNZIO, as well as the ranking minority member, Mr. WYLIE, for their prompt handling of this legislation. I also commend members of the committee from both sides of the aisle. While there were heated debates and many close votes, the committee handled the bill with a minimum of partisanship and with a maximum of careful thought.

This bill is not a transfer of money to the high-flyers or the criminals. We are keeping the Government's guarantee to the depositors of this Nation. If we do not pass this kind of legislation, our promise to the depositors of this Nation will be meaningless. Millions of Americans who rely on that promise will be left hanging and the damage to our financial system will be beyond calculation.

H.R. 1278 contains strong enforcement provisions. We are here today, at least in part, because of fraud and mismanagement among individuals in the savings and loan industry. This bill beefs up our ability to find this activity and to fight it. We give the regulators and the Justice Department the tools they need. I encourage them to use those tools without mercy.

Mr. Chairman, I do not want to say, however, that this legislation will not meet all the expectations many of us had for it. I am particularly concerned about the provisions of the bill creating the new Resolution Trust Corporation. We are creating a new bureaucracy that will become one of America's largest institutions on the day the President signs this bill into law. It will control hundreds of billions of dollars in assets.

Yet the RTC is an institution that has the potential for severe problems in the future. It will be managed by an oversight board composed of the Secretaries of Treasury and HUD, the Chairman of the Federal Reserve Board, the Attorney General and an individual from the private sector who will be nominated by the President. With all due respect to the abilities of these individuals, they are busy men with enormous responsibilities already. The burden of running this agency inevitably will fall to the person appointed as the chief executive officer.

In addition to a lack of strong control and accountability, the RTC's mission and responsibility are poorly defined. While the committee did not want to micromanage this new agency, I am concerned that we have left some serious gaps. It does not appear that we learned the lessons from FADA.

An advertisement in a trade publication 2 days ago only adds to my concern about the RTC. Let me read the ad to you. It says, "Who's Going to Cash in When the Resolution Trust Corp. Opens Its Doors? How about You?" Ladies and gentlemen, there are people out there waiting to pick the RTC's pockets before it even gets its pants on. I wish we had a tougher RTC, but we will have to rely on the administration to make it work.

I will support this bill despite my concerns. The problem grows every day and we cannot afford delay. This is a good bill, and I urge my colleagues to support it.

Mr. GONZALEZ. Mr. Chairman, I yield such time as he may consume to the gentleman from Georgia [Mr. BARNARD].

Mr. BARNARD. Mr. Chairman, in the short time that I have here, I want to say, No. 1, that the chairman of the committee and the ranking minority member deserve a lot of credit for where we are today in this legislation. It deserves the support of our entire membership of the House.

Mr. Chairman, this is a good bill, a good bill that went through the fire. It was tried and tested, and now we bring it before the Members as a product that we can be proud of. No, it is not a perfect bill, and the Committee on Rules has accommodated us to the degree that we are going to be able to go back and readdress some of the issues, but by and large, this is a good bill, and it deserves the support of this House.

Some have said we do not want to bail out the thrifts. My friends, let me say this: This is not a thrift bailout. What we are trying to do is save the

thrift industry, but this is to guarantee that the depositors are going to get their money, and that is why this bill deserves the attention and the support of every Member of this House. If we can pass it out of the Committee on Banking, Finance and Urban Affairs at 49 to 2, we need that same relationship, that same vote, when we come to final passage tomorrow night.

I do not believe I need to address the great urgency and importance of this legislation. I also do not think I need to recap the basic content of this bill. All that has been done adequately by others.

While I cover some matters of detail at the conclusion of my remarks, I initially want to speak to three of its most contentious features: The capital provisions; the housing programs, and the absence of content directed toward the Home Mortgage Disclosure Act and the Community Reinvestment Act.

First, there is the matter of capital. The Banking Committee and the Judiciary Committee have been round and round on this subject in markup. The Banking Committee, especially, has had hours of hearings and been presented with thousands of pages of documents. To me, an initial mistake was made when both Houses of Congress got caught up in trying to legislate the details of the capital needs of the savings and loan industry. Yet, we were led into this when the administration proposed in the original bill that we equate savings and loan standards with national bank standards. These two worlds were just too different—even when you are talking about savings and loans with very high capital standards.

We should have immediately turned to a committee of regulators composed of those with longstanding reputations for being very tough on capital standards—such as the Federal Reserve—so that they could work out the incredible detail with which we have been burdened. Indeed, although I am going to support the Banking Committee product without change, I have to point out that it is very deficient as far as clarity which, of course, is of utmost importance when one is dealing with accounting measures. For just one instance, it fails to square with accounting terminology, which leaves one with the impression that we do not know what we are talking about.

Yet, even with this criticism, I support what the Banking Committee did. I cannot support the amendment by Mr. QUILLEN since it would not move in the right direction, which is to get goodwill off the books as fast as possible. I cannot support the amendment by Mr. SCHUMER since his measure would ask the clearly impossible. I cannot support the amendment by Mr. HYDE since he tries to correct the improbable.

I do not agree with Mr. HYDE's underlying premise that some sort of goodwill property right was vested by any of the past deals struck between the Federal Savings and Loan Insurance Corp. and acquirers of defunct or troubled institutions.

I have been persuaded in my opinion on the Hyde proposal by the excellent letter of the Justice Department to Mr. WYLIE, dated June 12, 1989, that impeaches the notions that the Banking Committee's provisions involve a breach of the fifth amendment as an unconstitutional taking of property or a violation of contractual rights.

Second, the bill has two major provisions respecting housing. The first relates to the program, established by title V, inside the Resolution Trust Corporation, which is to receive billions in assets from savings and loans which became defunct starting at the beginning of this year and which become defunct for 3 years after the enactment date.

A sizeable portion of these assets are subject to a condition they be offered for sale for 3 months to qualified nonprofit organizations, public agency, or lower income families. These sales are to be subsidized both as to property price and interest rate.

I will not go into the great detail of the title V program for the simple reason that it is protected by the rule and not open even to a striking amendment. My point is that there is going to be at least one housing program of considerable significance in this bill. The main question is whether there are going to be two housing programs—the second one being that in title VII.

The title VII program, which is open to a striking amendment, draws large sums of money from the Federal Home Loan Banks on a perpetual basis into a subsidized housing plan. That is designated as the "Affordable Housing Program." I must say that I do not delight in arguing against it since I know it is motivated by the worthiest purposes and is dear to my banking chairman's heart. Nevertheless, I have to point out the following:

First, the bill already is going to cost these privately funded, but federally chartered entities, so crucial to our whole housing policy, an initial $2.1 billion to fund REFCO—the Resolution Funding Corporation—plus an annual $300 million contribution to REFCO to help pay the interest on REFCO obligations. This could well be upwardly indexed if the eligible amendment to be offered by Mr. GONZALES is adopted. On top of this, the Affordable Housing Program will add $150 million per annum to their expenses.

All this sets in motion a whole chain of events that goes exactly in the opposite direction from where we are aiming. It means the Home Loan Banks will pay the S&L industry, their owners, less in dividends which comprised a full 25 percent of the income of the entire industry last year. That means the S&L's will force redemption of their voluntary shares in the Home Loan Banks—the shares over and above what they must own to be members of the Home Loan Banks. Already, there are signs this redemption is underway, reducing the capital base of the banks.

Moreover, H.R. 1278 attempts to attract new, housing-committed commercial banks and credit unions as investors in the Home Loan Banks. The prospect of unattractive dividends chills that effort and, thus also, the whole idea of expanding banks' and credit unions' interest in making more housing loans.

Second, this is a forced financing by private entities of a public, social program that will be wholly off-budget and outside Gramm-Rudman. I am not going to insist on calling these assessments a tax, but they are very close to taxes—certainly to a franchise tax since it is essentially a tax on the charters of the Home Loan Banks which are federally let. When we yield to the temptation of levying on these kinds of institutions to meet social ends—without going through the budget, authorization, and appropriation processes, I become very concerned about other similar institutions, such as the Federal Reserve. Might we start tapping its 12 banks' income streams for social programs?

Please note that, as the bill pends now, the REFCO part of this bill is on budget due to the action of Ways and Means and Government Operations, including the contributions by the Home Loan Banks to REFCO, which are counted as receipts to the Treasury by the CBO. This is not true of the Affordable Housing Program in title VII.

For these reasons, I will join Mr. Bartlett should he offer the floor eligible amendment to strike these provisions.

My last major concern relates to the absence of revisions to the Home Mortgage Disclosure Act and the Community Reinvestment Act, an absence which Mr. KENNEDY intends to fill with a floor eligible amendment. I will strongly oppose his additions, which, incidenally cover more than just the subject matter of these two acts. Indeed, he would impose an incredibly complex "deposit source" tracking system to the bill.

First, all these provisions, including that related to "deposit tracking", in one form or another were considered during the markup process. They were all rejected.

My sense of the Banking Committee was that we are very interested in doing something legislatively, but only after hearings on a specific statutory text. For years changes in CRA and HMDA and deposit tracking systems have been generally discussed in the Banking Committee, but we have not had hearings on specific proposals on either CRA or "deposit tracking." This is a necessity if we are going to pass meaningful proposals.

Even now the other Chamber has begun intense hearings on these subjects. The details of the problems are getting laid on the table over there every day. I will urge us to follow this course instead of adopting a floor amendment so that we can respond to that Chamber's initiatives in a meaningful manner sometime during this session.

Mr. Chairman, in addition to my comments on coming amendments, I want to highlight the new deposit insurance premium provisions found in section 208 which are a part of H.R. 1278 as a result of an amendment offered by Mr. WYLIE and myself. The new premium provisions will strengthen the deposit insurance funds, BIF and SAIF, in two major ways—first, by dramatically increasing deposit insurance premium assessment rates to bring the insuring funds back up to a level deemed clearly adequate; and second, by authorizing the FDIC to further increase premium rates within certain limits if more permium income is needed to keep the fund at the desired level.

The key indicator of insurance fund adequacy is the reserve ratio. This ratio is equal to the net worth of the insuring fund divided by the volume of insured deposits. Section 208 establishes the desired reserve ratio level, termed the "designated reserve ratio," for both insuring funds to be 1.25 percent. A re-

serve ratio of 1.25 percent will be more than adequate to assure that the insuring funds can meet all obligations to depositors, and to assure that the expenses of the funds will be met by fund income and industry assessments, not by taxpayer dollars.

However, section 208 provides that the FDIC has authority to increase the premium assessment rate above 15 cents if this is needed to assure that the BIF does not fall below 1.25 percent. This FDIC authority, however, is constrained in several ways.

First, the FDIC must determine that a premium increase is needed after fully considering the operating expenses, case resolution expenditures, investment income, and premium income of the fund. The FDIC must also take into consideration the impact of a premium increase on institution capital and earnings. Here, it is Mr. WYLIE's and my intent that the FDIC weigh carefully and balance the financial needs of the insuring fund and the impact of a premium increase on institution earnings and capital. It is preferable that loss absorbing capital be maintained in depository institutions rather than transferred and maintained in the insuring funds.

Second, the premium increase should be appropriate to restore the fund in a reasonable period of time. By "reasonable period of time" Mr. WYLIE and I mean a 5- to 7-year period—roughly the amount of time the administration and the Banking Committee expect it will take to raise the BIF fund from its present level to the 1.25 percent level as a result of increasing the statutory premium rate on banks from 8.3 cents to 15 cents.

Though the 1.25 percent reserve ratio, in combination with the FDIC's authority to increase premiums if necessary, appears to be fully adequate to assure BIF and SAIF fund soundness, section 208 also provides the FDIC with extraordinary authority to increase the designated reserve ratio from 1.25 to a higher level not exceeding 1.50 percent.

Increasing the designated reserve ratio involves a massive shift of resources from lending institutions to the insuring funds and would significantly reduce institution lending capacity. For example, using year-end 1988 bank data, each $1.00 of equity capital in commercial banks supports approximately $9.50 in loans. If the BIF reserve ratio were increased from 1.25 to 1.50, a transfer of $4.39 billion from banks to the BIF would take place, and bank lending capacity would be reduced by $41.7 billion. In addition, with bank income reduced, Federal tax revenues would be reduced also. Similar consequences would result from an increase in the SAIF reserve ratio. These potential adverse economic effects of increasing the designated reserve ratio make it imperative that the FDIC's authority be exercised only in the most serious circumstances.

As the committee report states, the authority should not be exercised unless the losses are expected to reduce the fund level so far below 1.25 percent that investment and assessment income will not be sufficient to restore the fund in a reasonable period of time. Again, the term "reasonable period of time" refers to the amount of time we expect the BIF to take in returning to the 1.25 percent level. The authority also should not be exercised if the fund is below 1.25 percent—authority to increase the assessment rate is provided to address this situation.

In adopting the Barnard-Wylie amendment, the Banking Committee provided for reserve ratio increase authority as a precaution and intended that it be used only in the most serious situations. We intend depository institution regulators to closely supervise and regulate banks and thrifts to protect the resources of the BIF and SAIF and to maintain them at the designated reserve level. This constraint on the growth of the insuring funds is intended to be an incentive to the FDIC to regulate prudently and rigorously.

Next, I would like to highlight two sections of the bill of operations significance to bank holding companies which own thrifts. These two provisions were included, in part, to encourage bank holding companies to inject capital into the thrift industry.

The first provision is section 601. Section 601 has been drafted to provide that whenever the Federal Reserve Board approves an application by a bank holding company to acquire a savings and loan association, the Board cannot impose any restrictions on the operations of a savings association and its holding company affiliates other than those imposed by section 23A and 23B of the Federal Reserve Act or to other applicable law. Similarly, section 601 would direct the Board to remove any restrictions on the operations of a savings association and its holding company affiliates that were imposed on a bank holding company which acquired a thrift prior to the enactment of this bill. This section is directed at removing, inter alia, the so called tandem restrictions which the Federal Reserve Board has imposed on several bank holding companies which have acquired thrifts.

The second, and somewhat related provision, appears as section 313. That section would permit any Federal savings association to change its designation from a Federal savings and loan to a Federal savings bank or from a Federal savings bank to a Federal savings and loan. Read in concert, these provisions are significant for bank holding companies which own and operate savings and loan associations. These provisions would permit a bank holding company to use a common name and common logo for its bank and thrift subsidiaries. Authorizing such activity, the bank and its thrift would be able to obtain a synergistic benefit without creating undue confusion or misunderstanding for their customers.

One has to recognize that a significant number of Federal savings and loan associations have already availed themselves of this conversion opportunity. However, with respect to a bank holding company, an example is Citicorp, which has already helped out in this mess by acquiring four failed savings and loan associations but has been unable to designate its thrifts after its lead bank subsidiary, Citibank. These sections 601 and 313, would permit Citicorp to redesignate the name of its four thrifts as "Citibank, FSB."

Mr. KLECZKA. Mr. Chairman, I rise in support of the Financial Institutions Reform, Recovery, and Enforcement Act.

As a member of the Banking Committee, during the course of hundreds of hours of hearings and markup I have watched the FSLIC bailout move from the business page of the newspaper to the front page.

Reading about FSLIC catastrophe on the front page is one thing.

I do not look forward to reading about it on the funny pages.

If we substitute funny money accounting for the capital standards now in Banking Committee bill, that's exactly where the FSLIC stories will be.

What will put this bill on the funny pages? Allowing goodwill, rather than tangible assets, to be counted as capital is a good example.

Goodwill is not cash. It is a concept, and a shadowy one at that. When the Federal Government liquidates a failed thrift, goodwill is simply no good. It is valueless. That means, quite simply, that the taxpayer picks up the tab for the shortfall.

The Banking Committee version of H.R. 1278 makes a very simple proposition: if you are going to operate a federally insured thrift, you have to put up some of your own money. Goodwill is just not good enough.

The committee's tough capital standards lay the groundwork for a deposit insurance system for the next century. The pending goodwill amendments would revive the anything goes atmosphere which prevaded thrift regulation in the early 1980's.

Make no mistake. The Quillen and Hyde amendments on goodwill would seriously weaken the bill. From the point of view of the taxpayer's interest, the choice should be an easy one.

While President Bush is to be commended for submitting the original draft of this legislation, and for his support of the strong capital standards developed by the House Banking Committee, he is mistaken in his insistence that the financing for the bailout be done off budget.

Again, the choice is a fairly simple one. If we put the financing on budget, as recommended by the Ways and Means Committee, the Congressional Budget Office argues that we can reduce costs to the taxpayers by roughly $5 billion over 30 years. That's a good enough reason for me.

Finally, I strongly support two housing related provisions included in the bill.

First, the legislation requires the Federal home loan bank cash advance window to provide a small subsidy for low and moderate income housing.

Second, nonprofits and low and moderate income persons would have the right of first refusal in the purchase of certain of the properties held by the Resolution Trust Corporation.

I know there are those who consider these meager housing provisions to be outside the scope of this legislation.

I would urge that they read the bill. The very first line in the very first paragraph of this legislation states that a purpose of the bill is "to promote a safe and stable system of affordable housing finance through regulatory reform."

29-059 O-90-6 (Pt. 9)

Let us not make a mockery of that stated commitment by stripping the bill of one of the few crumbs that consumers will be allowed.

As we commit billions upon billions of tax dollars to subsidize the thrift industry, we should remember well that the Federal budget for housing was reduced by 70 percent over the last 8 years.

This bill does not make up that shortfall, but it does provide a very modest commitment to housing for persons of modest means. It carries out one of the stated purposes of the bill. The housing provisions should be retained.

I urge support for the legislation.

The CHAIRMAN. The time of the gentleman from Texas [Mr. GONZALEZ] has expired.

The Chair recognizes the chairman of the Committee on Ways and Means, the gentleman from Illinois [Mr. ROSTENKOWSKI], for 10 minutes.

Mr. ROSTENKOWSKI. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in support of H.R. 1278, the Financial Institutions Reform, Recovery and Enforcement Act of 1989. This legislation provides essential assistance to financially troubled savings and loan institutions in order to protect the financial security of millions of Americans.

I want to commend President Bush for coming forward quickly in this financial crisis and recommending a proposal which is the basis for this legislation. I further commend the Committee on Banking, Finance and Urban Affairs, and Chairman GONZALEZ, for the expedient action taken on the measure.

Mr. Chairman, although the costs to the taxpayer are significant in this legislation, the need to safeguard the savings of all Americans makes this legislation essential. Further, adoption of the Ways and Means Committee amendments to this legislation will significantly reduce the costs of the legislation to American taxpayers and increase the efficiency of the program.

Mr. Chairman, the Committee on Ways and Means approved three separate amendments to H.R. 1278. The first committee amendment would repeal the special tax benefits for financially troubled savings and loan institutions and banks that are scheduled to expire on January 1, 1990. The committee took this action, which the administration supports, because these special tax rules have been subject to abuse in the recent past.

In anticipation of restrictions to these rules which became effective January 1, 1989, a rush to market occurred at the end of 1988. During this period, the Federal Home Loan Bank Board transferred tax benefits through these special rules in amounts which have been estimated by the General Accounting Office at between $7 to $8 billion. This rush to market represented a wasteful, misdirected use of scarce government resources.

The Direct Outlay Program for assisting these institutions in H.R. 1278 represents a far more efficient means of assistance than the use of special tax benefits. In addition, by repealing these special rules, the American taxpayer will save over $1.4 billion during the 6-year period 1989-94.

A second Ways and Means Committee amendment would also minimize the financial burden on American taxpayers by increasing the financial contribution borne by the savings and loan industry. This committee amendment would delete a provision which would allow annual industry contributions to the program through the Federal home loan banks to be the lesser of $300 million or 20 percent of net earnings.

Rather, the modified committee amendment would require the industry to make an annual contribution of $300 million. This $300 million annual amount would be indexed beginning in 1993 by an amount equal to the lesser of inflation or the increase in earnings of the Federal home loan banks. Further, the annual contribution amount would not be increased above $600 million.

Mr. Chairman, this bill, including the Ways and Means Committee amendment relating to on budget financing which will be debated later, is an opportunity for the Federal Government to provide necessary assistance to institutions which hold the financial security of millions of Americans.

As Members of Congress, however, it is our responsibility to provide the necessary assistance in the most efficient manner possible—in a manner that minimizes the cost and financial burden of the American taxpayer. Our constituents are mad enough about this savings and loan problem without adding insult to injury by increasing their financial burden under the assistance plan. The three Ways and Means Committee amendments are specifically designed to protect the financial interests of both current taxpayers and equally important, future generations.

Mr. Chairman, on behalf of hard-working Americans across the country, I urge my colleagues' support for the Ways and Means Committee amendments which, in the interest of fundamental fairness, minimize the costs of this assistance plan to the American people.

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The CHAIRMAN. The gentleman from Texas [Mr. ARCHER], ranking Republican member of the Committee on Ways and Means, is recognized for 10 minutes.

Mr. ARCHER. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, when President Bush presented the Congress with his savings and loan legislation in February, he asked us to complete work on it within 45 days. Unfortunately for the taxpayers and failing financial institutions themselves, we have not acted quickly enough to stem the losses which are still occurring in the thrift industry. I am pleased to see the House finally moving toward a resolution of this truly critical issue. My comments tonight will be directed only to the parts of this legislation which are under the jurisdiction of the Ways and Means Committee.

During the legislative process, our committee held comprehensive hearings and made several significant changes in H.R. 1278. While there were significant differences of opinion on the basic funding of the program, bipartisan cooperation allowed us to complete our work rapidly.

The committee added to H.R. 1278 important conforming tax changes that affect the thrift industry—established the industry contribution for interest payments at $300 million per year plus inflation—and, most importantly, put the financing package on budget with a waiver from Gramm-Rudman. While the Ways and Means Committee can be proud of the expeditious manner in which our contribution to the package was developed, I must voice my objections to the on budget financing method reported by the committee.

The committee's rejection of the administration's financing mechanism in favor of the on budget approach deals a tremendous blow to the fragile, but single most important, fiscal restraint left in Congress—the Gramm-Rudman Act.

There were many debatable reasons for putting the financing on budget, but I believe none of these warrants creating a major breach in the Gramm-Rudman law by exempting the $46 billion in resolution funding corporation outlays from the deficit calculations.

I agree with our Treasury Department's fears that passage of this plan by the Congress will be taken by financial markets as a blow to fiscal discipline.

If interest rates rise in reaction, the possibility of $125 million in yearly interest savings from the on budget mechanism will be quickly lost to the increase in debt service costs that could easily rise by $280 million per year.

Equally disturbing is the precedent the committee's amendment sets for keeping multiple sets of Federal budget books. Already, the social security trust funds are off budget but are counted on budget so that their surpluses may be used to lower the apparent deficit. Now, with the committee's REFCORP scheme, we are doing just the opposite. This plan will bring the

corporation and its outlays on budget—but not count it toward the deficit because it is convenient to pretend the outlays aren't there.

As a number of us said in our additional views on the Ways and Means Committee's provisions, we wonder where this bookkeeping of convenience approach to Federal budgeting will end—and at what cost to the taxpayer.

I personally fear that the Ways and Means action provides the blueprint for every new spending program seeking an exemption or waiver of the budgetary restraints which are now in place. The practical result will be to make the Gramm-Rudman targets meaningless.

Importantly—if the House adopts the on budget approach, it will have created another issue for the conference committee that inevitably will result in holding up final passage. If the on budget financing plan should survive the conference, the Senate's requirement of a 60-vote majority to waive the Budget Act will be a virtually insurmountable hurdle which will further delay enactment. With the thrift industry losing over $1 billion a month, the taxpayers deserve rapid resolution of the issue—not further delays.

I regret that I must take exception with the on budget financing which was reported out of my committee, but I feel strongly that the discipline of Gramm-Rudman must prevail. I would urge my colleagues to vote "no" on the committee's on budget financing amendment.

Mr. Chairman, I yield the balance of my time to the gentleman from Washington [Mr. CHANDLER], a respected member of our committee.

The CHAIRMAN. Without objection, the gentleman from Washington [Mr. CHANDLER] may yield time to other members.

There was no objection.

Mr. CHANDLER. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, today I rise in support of this bill and especially the strong capital standards it would establish.

Proponents of amendments to weaken the capital requirements speak about fairness. I think that's an appropriate starting point, but we shouldn't be asking what is fair to undercapitalized thrifts. Rather, we should be asking what's fair to the American taxpayer who is being asked to pay tens of billions of dollars to bail out insolvent thrifts.

By this time I am sure you all know that goodwill is an accounting concept. There are those who propose to allow an institution to count goodwill toward its capital requirement, something that is not backed by anything. Strong capital requirements will add a sense of discipline to the operations of many of the riverboat gambler thrifts by insuring that some of the owners' money is at risk. They will also make certain that there is some protection against losses so that fewer Federal insurance dollars will be needed. Tougher capital standards will not force healthy thrifts out of business. Failure to meet the 3 percent tangible capital requirements will simply lead to heightened supervision by the FDIC. Thrifts will no longer be allowed to try to recklessly grow out of their problem. Instead they will have to submit a business plan describing what they will do to raise tangible capital. The claim that depositors will lose confidence in institutions operating under a business plan or similar oversight is needlessly alarmist. The Bank of America, for example, is under such an agreement and there has been no run on deposits here.

At the heart of this debate is whether we will accept the word of our President and the Banking Committee or instead accept the word of the S&L industry. Need I remind you that just 2 years ago this industry argued that only $10 billion was needed to clean up the problem? Today that same industry is trying to argue that somehow goodwill adds to the strength of a thrift—that it somehow protects depositor assets. I think the time has come to stand up to the lobbyists and say the American people take precedence over special interests.

I appeal to my Republican and Democratic colleagues to support the President and the American taxpayer and vote to reserve the strong capital requirements in this bill.

Mr. Chairman, I yield the balance of my time to the gentleman from Ohio, [Mr. WYLIE], the ranking member of the Committee on Banking, Finance and Urban Affairs.

The CHAIRMAN. The gentleman from Ohio [Mr. WYLIE] is recognized for 2 minutes, and without objection, the gentleman from Ohio may yield time to other members.

There was no objection.

Mr. WYLIE. Mr. Chairman, I reserve my time.

Mr. MOODY. Mr. Chairman, I yield such time as he may consume to the gentleman from New York [Mr. LAFALCE].

Mr. LAFALCE. Mr. Chairman, In my view, there are several major problems with the President's S&L proposal as modified by the committees of jurisdiction. The bill is inequitable—to future generations, to the American taxpayer, to many of our healthy thrift institutions, and to the Northeast and Midwest regions of this country. First, the bonding mechanism, and indeed, in my opinion, borrowing itself, is fiscally and morally irresponsible and will pass unnecessarily higher costs for this bailout on to future generations; second, the cost estimates for resolving problem thrift cases are deceptively low, the level of funding provided is undoubtedly inadequate, and the potential exists for agency action that could inflate the taxpayer obligation beyond that explicitly permitted by the Congress; third, the application of the capital standards will turn healthy institutions into troubled ones and may ultimately increase the costs to the taxpayer; and fourth, the alleged burden sharing is inequitable—the taxpayer contribution is significantly understated, the industry contribution is overstated, and other legitimate sources of income such as the States are not tapped.

We have an opportunity to address some of these serious problems during floor consideration of this bill. I hope we will do so.

I. GENERATIONAL INEQUITY: THE BONDING MECHANISM

The administration has managed to put the financing of the bailout off budget by creating a separate corporation to issue long-term bonds. The administration touts this approach as evidence of fiscal discipline. But the approach is both dishonest and unfair—dishonest because it relies on financial gimmickry to hide real costs; unfair because it will unnecessarily increase the financial burden on the American taxpayer.

In the Banking Committee, I offered an amendment that would have put the costs of the bailout on budget and stated it to be the "sense of Congress" that the bailout should be funded by taxes, user fees, or other forms of revenue enhancement. This is an approach that this administration and the last have typically used to fund new programs. It would be the correct approach here.

Bonding is appropriate to fund future capital expenditures, where the item produced will be of some tangible benefit to future generations who will be required to help bear the costs. Bonding is not appropriate to fund present consumption and even less appropriate to fund the past consumption that we are paying for in this S&L bailout.

Unfortunately, the amendments I offered were ruled out of order and the Banking Committee had little choice but to approve the administration's bonding plan. The Ways and Means Committee chose a different approach. The committee would put the financing of the bailout on budget but exempt the costs from the Gramm-Rudman targets. The Ways and Means approach is more honest, and it is substantially cheaper for the American taxpayer, saving at least $5 billion, and possibly as much as $42–$50 billion, over the next 30 years. In that sense, it is a significant improvement over the President's bill.

But in my view we should go even further. The Gramm-Rudman waiver still allows us to avoid the hard choices.

The only truly honest approach is to put the costs on budget and not exempt them from Gramm-Rudman. It is also by far the cheapest approach and, in that sense, the fairest to the American taxpayer. Paying for this bailout now rather than borrowing to pay will save the American taxpayer from $150 billion to $200 billion over the next 30 years.

The Rules Committee has made in order an amendment that I will offer as an amendment to the Ways and Means Committee amendment which would put the costs of the bailout on budget and on Gramm-Rudman. If the amendment is approved, we would then have

to make the hard choices we should make—either find an appropriate form of revenue enhancement or agree to spending cuts that will allow us to pay for our past mistakes. In my view, some form of revenue enhancement is the only reasonable approach, and I believe the correct choice would be a special time-limited surtax to pay for the bailout.

It is only right that we make these hard choices. There is no question that we will be spending enormous sums of money. The question is whether we will borrow and spend or tax and spend. If we choose to borrow and spend rather than pay for this bailout ourselves we are simply passing the costs on to our children and grandchildren. We are then forcing them to make a future choice between far more draconian tax increases or spending cuts. That is simply unjust.

The only reasonable and fair approach is one that minimizes as far as possible the cost to the American taxpayer. By that standard, the President's off-budget bonding approach must be abandoned.

II. TAXPAYER INEQUITY: RTC NOTE AUTHORITY

There is another way that we can reduce potential taxpayer costs. Chairman Gonzalez is offering an amendment which would put a clear cap on the amount of money available to the Resolution Trust Corporation for case resolutions.

The status of the FSLIC notes was a major issue left unresolved in the course of last year's S&L debate. By the end of 1988, an insolvent FSLIC had issued approximately $20 billion of FSLIC notes in assisted transactions. Inevitably, as the ability of FSLIC to back the notes it issued became more and more in doubt, the question of whether the notes were backed by the full faith and credit of the U.S. Government became more and more important. In fact, Congress had never placed the full faith and credit of the U.S. Government behind FSLIC notes. What was clear was that a Government agency without congressional authorization was creating financial obligations it was incapable of meeting and that the Government would ultimately be forced to honor, placing a potential burden on the American taxpayer that the Congress had never approved.

At the end of the last session, I made an effort to control that problem by introducing legislation that would have placed a cap of $20 billion on the level of notes that FSLIC could issue. Unfortunately, although that legislation was favorably reported by the Banking Committee, it never reached the House floor.

We are now in precisely the position that I feared. It is the American taxpayer that will now provide the backing for the FSLIC notes through the funds he is being forced to contribute to the S&L bailout. And now we are creating the potential for the same situation to occur yet again.

Under the S&L bill, the RTC retains the authority to issue notes in excess of the amount of money the Congress is actually approving in this legislation to fund the bailout. The administration argues that this authority is irrelevant because the $50 billion in bonding authority it has requested is sufficient. That is a highly dubious claim. If the 40-percent loss rate experienced in the institutions that the FDIC already has under conservatorship continues as the FDIC moves into other institutions, it will take $46 billion of the budgeted $50 billion just to cover the associations scheduled to be taken over in the next few weeks. That will total little more than half the approximately 500 insolvent S&L's already identified. And there are expected to be still more.

A limitation on RTC note insurance authority is critical. Under no condition should we create a situation where the taxpayer could be obligated for any costs beyond those specifically imposed on him under the bailout legislation.

III. INDUSTRY INEQUITY: THE TREATMENT OF SUPERVISORY GOODWILL

In the early 1980's, many healthy thrift institutions acquired weakened thrifts, at the request of, and under negotiated agreements with, the Bank Board. Then, as now, FSLIC had no cash to infuse in the assisted transactions. Instead, the Bank Board asked the acquiring institutions to accept the counting of supervisory goodwill toward meeting their capital requirements in exchange for the tangible assets they would otherwise have had the right to receive. The cooperation of these healthy institutions saved the FSLIC enormous sums of money. But, as a result, many healthy thrifts now carry supervisory goodwill on their books.

At the very least, we owe these institutions the simple opportunity to have a administrative hearing before the regulator regarding the specific agreements they negotiated and the special problems they face. the Hyde amendment would give them that right.

If we do not give these institutions and the contracts under which they are operating this minimal consideration, we could be turning numerous healthy institutions which negotiated with the Government in good faith and assisted the Bank Board in past transactions into problem institutions that we will eventually have to bail out. Such an approach totally disregards past contractual agreements and will increase the costs to the American taxpayer by adding exponentially to the list of troubled institutions and creating the possibility of endless litigation. Providing the institutions with their due process rights and providing the regulator with the opportunity to, in effect, renegotiate the agreements under which these institutions are operating, can save the taxpayer large sums of money the Government will otherwise be forced to spend defending its position in the litigation that will otherwise certainly ensure.

I firmly believe that private capital is the appropriate buffer for the insurance fund. But, we must strike a reasonable balance between the legitimate demand for tough capital standards and the need for fundamental fairness and reasonable transition rules.

The Hyde amendment strikes a reasonable balance. It would simply require that institutions which acquired supervisory goodwill through past supervisory transactions have an opportunity for a hearing through which they can present their case. The amendment does not change the capital requirement in any way. It would simply create a mechanism through which the regulator could avoid unnecessarily designating a well-managed profitable institution that is operating reasonably under an existing contract with the Government a supervisory case. This is simply common sense and fundamental fairness.

IV. REGIONAL INEQUITY: A STATE CONTRIBUTION

The Northeast-Midwest Coalition presented an amendment to the Rules Committee which I cosponsored that would have required some reasonable contribution from the States for any excessive costs associated with bailing out State-chartered institutions. I am very disappointed that the committee did not make that amendment in order. The issue is an important one and cuts to the very vital question of whether this bill meets the most rudimentary standards of fairness. On the regional equity issue, I do not believe that it does.

It was primarily State-chartered, but federally insured, institutions with a very broad array of powers, operating, in some cases, under lax State supervision, that broke the Federal insurance fund. State-chartered institutions were responsible for three-quarters of the $30.9 billion cost of FSLIC case resolutions in 1988, and the vast majority of those institutions were located in the Southwest. This bailout, therefore, involves a massive transfer of resources from the Northeast-Midwest to the Southwest.

We have a dual banking system and it is that system we are bailing out. The States have obligations as well as rights under that system; and those obligations should be reflected in some sharing of the cost. We must remember that we are largely engaged not in a depositor payoff, but in as massive restructuring effort designed to preserve institutions and the stability of communities. The States and the Federal Government should share responsibility for that effort. The coalition amendment would simply have provided a mechanism through which States can make some modest contribution toward any excessive costs associated with bailing out State-chartered institutions within their borders.

V. CONCLUSION

The bill as it stands is inequitable. The House has before it a number of amendments whose acceptance will result in a fairer proposal—fairer to our children, to the American taxpayer, and to some of our healthy institutions. I would urge my colleagues to seriously consider these important changes.

Mr. GARCIA. Mr. Chairman, I rise in support of the bill reported by the full committee on banking, finance, and urban affairs under the capable leadership of Chairman HENRY GONZALEZ.

I urge my colleagues to support the spirit of the bill, including the financing mechanism and the low-income housing provisions.

I also urge my colleagues to support the strong capital requirements of the bill. We cannot risk facing a similar crisis.

Mr. Chairman, I want to emphasize my support for the chairman's housing provisions in the bill.

After almost a decade of neglecting low-income families, this provision is very important. With this savings and loan bill, we are asking the American taxpayer to bail out an industry that is responsible for providing loans for homeownership.

It would be unthinkable to expect the working families of this country to come to the

rescue without guaranteeing that the thrift industry will in turn provide affordable loans for low- and moderate-income families.

Mr. Speaker, some of my colleagues argue that this is not the time or place for this provision. I say that there is no better time.

It does not matter if we consider other housing legislation later this session. Providing funds for homeownership goes hand in hand with the thrift industry.

If some of the troubled thrifts had invested in working families and working neighborhoods, we might not be faced with this crisis today.

Mr. Chairman, I believe in homeownership for all Americans. This is the best investment we could ever make, and I urge my colleagues to vote for this provision and for the committee bill.

Mr. MFUME. Mr. Speaker, I implore Members of this body to take time to realize today the magnitude of the expenditures that the S&L bailout will in fact result in. This nationwide bailout plan is expected, as we know, to cost more than $150 billion.

In considering what else this money could have been used for, or what it may have bought, the Washington Post wrote today and said that—

It could have financed the U.S. Food for Peace Program at its current level for 136 years, or the Drug Enforcement Administration for 262 years, or Federal Prenatal Care Programs for 717 years.

Mr. Speaker, the American taxpayer has a stake in this emergency assistance legislation. Not only must we move to pass it, but we must also move to ensure adequate capital standards, and we must give the taxpayer something in return.

So I urge my colleagues to support provisions in that bill that simply call for fair lending practices and require S&L's to meet the Nation's housing and community and reinvestment needs. To consider such matters irrelevant is defenseless and ceases I think to take the opportunity and the imperative of this day.

Mr. MOODY. Mr. Chairman, I yield such time as he may consume to the gentleman from New York [Mr. GARCIA].

Mr. GARCIA. Mr. Chairman, I commend the chairman of the full Committee on Banking, Finance and Urban Affairs. I rise in strong support of the legislation. I think it is necessary, I think it is needed, and I think tomorrow we are going to have some hard choices to make, and I hope we can make them for the American people.

CRUCIAL TO KEEP FSLIC BAILOUT ON BUDGET

Mr. MOODY. Mr. Chairman, the issue before us is enormous, in fact, momentous. No new spending program created by Congress since World War II except Medicare comes close to the cost of the operations we are about to authorize.

The cost of this measure will be between $200 billion and $350 billion before all is said and done. That cost, of course, will depend crucially on the way we finance it, because by far and away the lion's share of those large numbers are borrowing costs, the financing costs, the cost of getting money now in order to pay for it later. It is this massive resort to borrowing which is the heart of the administration's plan.

The Committee on Ways and Means, on which I serve, adopted a very crucial amendment that will have great implications on the ultimate cost of the bill and to contain those costs: The amendment to keep the entire bailout on budget.

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Why should we keep it on budget? Why don't we adopt the Bush administration plan and simply take the whole $200 to $350 billion obligation off budget? You have heard the arguments from the administration that we need to retain what fiscal discipline is still left under Gramm-Rudman. Unfortunately, taking it off budget would not do that. By taking it off budget, it takes it off Gramm-Rudman, and therefore provides no real discipline at all. It would provide the symbol of discipline by not formally breaking Gramm-Rudman without providing the actual discipline of Gramm-Rudman.

After all, what was the purpose of Gramm-Rudman? The purpose was to cut down borrowing for public purposes. Why? Because all borrowing now—whether by Treasury or some creation like REFCOR—is, at the margin, is entirely borrowing from abroad. Every extra dollar we borrow we borrow from the Japanese, the Germans, or other foreigners. Virtually every dollar we borrow from foreigners is a dollar increase in our foreign trade deficit. And every $40,000 increase in our trade deficit eliminates one American job.

The other, related, reason to contain borrowing for public purposes is that is the only way to make more loanable funds available for private investment.

So the real reason for Gramm-Rudman, my friends, was not to set up a shell that we could run around; it was to reduce public purpose borrowing. The Committee on Ways and Means amendment to put this bill on budget, even though it does grant a waiver of Gramm-Rudman, brings us much more nearly to the point of facing up to the real cost of this bill and doing something about it.

It will instill more, not less fiscal discipline. If not in fiscal year 1990, then in fiscal year 1991 or 1992.

So I strongly support the on-budget amendment of the Committee on Ways and Means.

Then, there is the important issue of honesty. Plain honesty with the taxpayers if a nation is going to support a program of this huge dimension, a program this expensive, it is going to have to understand it. We know what happens when the public does not understand very expensive decisions made in this body; they eventually rebel against them. Rightfully so in a democracy. If we are going to get the support of the public, they have to understand the operation.

The first way to honestly cope with the problem is to describe it honestly. Putting it on budget is the first step in describing it honestly. If there is anything that Congress needs and, I might say, the administration, given its track record of the last 8 years, it is credibility on fiscal management issues. Taking this off budget as the administration proposes, and as some members of my committee propose, would be a step in the opposite direction to reestablishing credibility.

But perhaps the strongest reason for having the S&L bailout on budget, regardless of whether it is under Gramm-Rudman or not, is the cost.

There are three main points under that issue of cost. No. 1, there is a premium on interest charges if the money is borrowed through REFCOR or any other off-budget entity. A good example of this is the off-budget entity FICO. The interest cost premium for FICO borrowing over direct Treasury borrowing is about 50 basis points, or one-half of 1 percentage point.

The administration assumed about 20 basis points differential from having the S&L off budget, or an extra cost of about $4.5 billion. But if FICO is a good guide, the difference is really going to be about 50 basis points. That alone is going to cause about $7.5 billion in extra cost for the entire package.

I do not know which of you could stand up and tell your constituency we are going to spend $7.5 billion more and charge it to the taxpayers just for the window dressing to make Gramm-Rudman look a little better.

The second extra real interest cost for having the package off budget is the cost of borrowing the $4.5 to $7.5 billion extra cost just described. Since the United States is in a deficit position, the $4.5 billion to $7.5 billion is going to have to be borrowed and therefore cost still more money. Over a 30-year period, that extra cost adds up to between $17 billion and $20 billion, depending on what interest rates you use.

And the third, and most significant and most overlooked, element of increased borrowing cost for taking it off budget is the fact that under the administration plan the entire operation would be borrowed only on a 30-year basis. The administration insists it all be borrowed at 30-year maturity, whereas it would be on budget, then the Treasury could issue notes and bonds of whatever maturity was the cheapest in interest costs. It is a fact that today 30-year notes carry higher costs, higher interest rates, than short-term notes. If we adopt the

President's plan putting it off budget, we would be borrowing money in the most expensive way possible. That adds another $20 billion or so to the cost.

So, Mr. Chairman, we are talking about a total of some $47 billion extra by taking it off budget. I hope that those who are tempted to adopt the administration plan will consider this $40 to $50 billion in extra cost by taking it off budget. You cannot justify that, I think, under any basis.

Finally, my final overall point for having the S&L package on budget goes beyond cost. It concerns congressional oversight. All of us know that we in Congress watch over something more closely if it is on budget. If there is anything that has been missing in the sad S&L picture, it has been lack of oversight. Putting the program on budget will give us more incentive to provide careful congressional oversight.

So for oversight reasons, for cost containment reasons, and for plain old honesty in budgeting reasons, it is important that we adopt the Ways and Means amendment, and put the entire package on budget.

The CHAIRMAN. The Chair now recognizes the gentleman from Ohio [Mr. WYLIE], who has 2 minutes assigned to him by the Ways and Means Committee.

Mr. WYLIE. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Maryland [Mr. MCMILLEN].

Mr. MCMILLEN of Maryland. Mr. Chairman, I thank the gentleman for yielding the time. I rise in support of H.R. 1278, but because of the shortness of time, I want to commend the chairman for his good work and ranking minority member as well as the other committees for crafting this sound bipartisan bill.

Let me just focus for a moment on the capital standards in this bill. There has been a lot of partisan sparring on this issue. In the subcommittee with Mr. ANNUNZIO they produced a bill the administration criticized for not being strong enough. The same holds true for the committee bill.

In fact, I think that the legislative process has worked well. In the committee we were able to strengthen Mr. Bush's bill. Mr. Bush's bill, if you read the language, was somewhat ambiguous on the issue of goodwill. I think we have taken this issue a step forward. As I said, these gentlemen and the committee should be commended for that measure.

Now that we have taken these steps, I think we have to be very careful not to go backward on the goodwill issue. I hope that we can get this partisan sparring behind us and move forward expeditiously on this legislation.

We can never allow this issue, this crisis to happen again. But the reality is it very may well. We had some testimony recently that indicated that the administration may be underestimating the cost of this crisis by $20 billion to $30 billion. We may in fact have to go back to the taxpayers in 2 to 3 years and ask them for further proceeds.

I think we have to make sure that when we deliberate on this bill at this point in time that we pass the kind of tough standards that are necessary so that we can insure that this does not happen in the future.

Mr. Chairman and the ranking minority member, again I want to thank them for the chance to make these brief comments and look forward to debating the bill.

The CHAIRMAN. The time controlled by the Committee on Ways and Means has expired.

The Chair now recognizes the gentleman from Texas [Mr. BROOKS], the chairman of the Committee on the Judiciary, for 10 minutes.

Mr. BROOKS. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, H.R. 1278, the Financial Institutions Reform, Recovery and Enforcement Act of 1989, is an extensive revision of this Nation's system for insuring and supervising the financial institutions which make up our thrift industry.

The Committee on the Judiciary was granted sequential referral on the bill for the purpose of reviewing those provisions of the bill which are within the committee's rule X jurisdiction. Principally those matters related to law enforcement and to the due process requirements of the Administrative Procedure Act.

With regard to civil penalties, the Judiciary Committee modified the provisions in order to ensure that the penalties were actually civil penalties in fact as well as in name. The committee amendment ties the civil penalty to the actual loss to the Government. The maximum penalty which may be imposed is twice the actual loss to the Government. This was done to ensure that the penalties meet the constitutional test of being civil or remedial and not actually criminal.

The committee also made two other changes to the remedial civil penalties. First, the $1 million cap was removed. Second, the burden of proof which the Government must meet before the civil penalties can be imposed was changed from the stricter "clear and convincing evidence" standard to the lesser standard of "preponderance of the evidence."

With regard to the civil forfeiture sections of the bill, the committee modified the bill to allow the use of civil forfeiture in banking related offenses and brought the treatment of forfeited assets under the standard procedures which already make Federal regulatory agencies eligible for forfeited property on a discretionary basis after expenses are paid. The amendment allows the regulatory agencies to recoup their investigative costs and allows the funds to be paid to them for claimants, creditors and the agencies insurance fund if the financial institution is in receivership, or to the financial institution itself on order of the appropriate Federal regulatory authority.

The committee made certain technical corrections to the criminal forfeiture sections of the bill.

The Judiciary Committee added a $10 million authorization for the judicial branch to carry out its duties as proposed in the bill. This is to assist the courts in meeting the additional workload that will be occasioned by litigation under the provisions of the bill.

The committee deleted the provision in the bill which sought to establish criminal division fraud section regional offices in Los Angeles and Dallas. The Judiciary Committee felt that it was inappropriate for the Congress to micromanage the Justice Department in this manner and that such management decisions should be made by the Department.

The committee clarified the language which would establish a new felony for an officer or employee of a bank who obstructs a criminal investigation by notifying bank customers or targets of grand jury investigations of the existence or contents of grand jury subpoenas. The Committee took the position that felony penalties should not be imposed upon individuals who disclose the existence or contents of such subpoenas, but do so without criminal intent to obstruct the administration of justice. The committee amended section 962 to require a showing of criminal intent to obstruct an investigation before a felony prosecution can take place. The committee established a penalty of no more than 1 year in prison and a fine for disclosures made with a "knowing" state of mind, but without criminal intent to obstruct an investigation.

The committee amended several sections of the bill to bring the procedures into line with the due process requirements of the Administrative Procedure Act.

Mr. Chairman, I yield 5 minutes to the gentleman from New Jersey [Mr. HUGHES].

Mr. HUGHES. Mr. Chairman, I thank the distinguished chairman of the full Committee on the Judiciary for yielding time to me.

Mr. Chairman, I rise in support of H.R. 1278, and in particular in support of the amendments approved by the Committee on the Judiciary, which have been made a part of the original text for purposes of consideration of the bill in the House.

Unscrupulous persons in the savings and loan industry have, through their fraudulent practices, brought an industry to its knees, and caused countless billions of dollars of loss to depositors. Taxpayers are now being asked to pick up the tab for their avarice and their crimes.

I know that there is a disposition in this body to accompany that bailout with severe sanctions for the wrongdoers who brought us to this point.

I share that disposition. For that reason, in the Judiciary Committee markup, I supported an amendment to provide additional funding to help bring to justice, both civilly and criminally, these wrongdoers.

I also offered an amendment to provide tougher civil penalties for those who engage in fraudulent activities in connection with banking transactions. I want to call my colleague's attention to this amendment, which was adopted and is a part of the bill before us, because an amendment will be offered later to return to the language of the bill as it existed before my amendment.

One of the ways H.R. 1278 proposes to get tough on bank fraud and related crimes is by permitting both criminal punishment and severe civil penalties for the same fraudulent conduct. I support this approach, and my amendment supports it and advances it.

The bill as reported by the Banking Committee called for civil penalties up to $1 million—$5 million for continuing violations—for violations of a number of Federal criminal laws involving fraud relating to financial institutions. No standards were provided for courts in determining the appropriate penalty, and the penalty could be imposed in addition to criminal penalties. The cap on the penalty could be exceeded if there is actual loss or gain in excess of the cap. The Government had to prove its case by clear and convincing evidence rather than the normal civil standard of preponderance of the evidence, meaning that fewer cases could be successfully brought.

A bipartisan majority in the Judiciary Committee voted to strengthen this penalty in a number of ways.

First, we eliminated the fixed dollar amount cap. It is our feeling that a person who causes losses of several million should not have his liability capped at $1 million.

Second, we pegged the penalty to the actual loss to others—or gain to himself—caused by the defendant. In the case of loss to the Government, the penalty can be up to double the actual loss. We define loss to the Government in an all inclusive way to include all costs of regulating, investigating, and prosecuting the wrongdoer. Money paid by any Federal Deposit Insurance Fund is included.

If loss to a private party, or gain to the defendant, exceeds twice the loss of the Government, a penalty in this larger amount can be assessed.

Third, we make it easier for the Justice Department to impose these penalties by lowering the burden of proof.

Tomorrow, when we debate the amendment to roll back this penalty to the level provided for in the Banking Committee bill, I will provide more detail spelling out the advantages of our version of this penalty. After you hear that debate, I hope you will vote to retain the tougher penalty provisions which the Judiciary Committee put into the bill.

□ 1900

Mr. BROOKS. Mr. Chairman, I yield back the balance of my time.

Mr. McCOLLUM. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I, too support this legislation. I think it is an extremely important bill that we are about to proceed upon.

I happen to wear two hats, being a member not only of the Judiciary Committee but the Banking Committee, and I have been through quite a few markups on this piece of legislation. The gentleman from New Jersey has worked very hard, and it has been a pleasure to work with him as my chairman of the Subcommittee on Crime, and my colleagues on the full Committee on the Judiciary on this particular piece of legislation. We have concurred in most of the changes that were made by the Committee on the Judiciary in this bill, and they were small but significant.

I think, first of all, it should be pointed out what was not changed. Lots of people wonder why the Committee on the Judiciary sees a banking bill. The reason we see this bill is because there are significant changes, particularly in criminal penalties, civil penalty areas of the law in dealing with the procedures that would cause harm and penalty to come to an individual who violates the banking provisions. In the area of criminal law, the criminal penalties were not changed by the Committee on the Judiciary. They are very tough penalties we agreed upon, after our floor markup, with the Committee on Banking, Finance and Urban Affairs. If an individual goes out and violates a criminal law that is set forth in this bill, they will get socked, too. We also are going to see that we do not change the funding mechanism, to give the Attorney General some $65 million of additional resources to go out and prosecute people who may have been responsible in bank fraud situations and the like, for causing a lot of the problem. Those two fundamental, basic principles of tough, hard criminal law were in no way touched by the Committee on the Judiciary.

However, we did get at a problem which the gentlemen from New Jersey raised a moment ago, which we thought was important, in the area of civil penalties. There is a concept in law that says that a person cannot have double jeopardy. There is also a concept in law that says that a civil penalty, indeed, is really, truly, a criminal penalty, and only called a civil penalty by name. It will be treated like a criminal penalty. The way the Committee on Banking, Finance and Urban Affairs' bill has been structured when it came to our committee, it appeared and still appears to me, it would have run afoul of this problem; that, indeed, we would have had accumulative effect, accumulative provision, so-called criminal penalty and so-called civil penalty for the same offense. We would have tacked one on to the other, and in that process there would have been no distinguishing reason for the civil penalty, other than the criminal activity itself. No tie-ins to the underlying cause, the cost to the Government, or separate remedial reason to have a civil penalty. Consequently, we addressed this problem in a way that is really necessary to provide for a constitutional civil penalty and still have it accumulatively, so the Government can prosecute and get a criminal penalty, but also get a civil penalty where appropriate, and that is a civil penalty the way we now have our provisions coming before the floor today where Members have up to twice the cost to the Government, twice the loss to the Government, whether that is in attorneys' fees or overhead, or insurance funds, that are paid out to those depositors who have to be paid off when we are closing an institution because of some fraud or whatever, that occurred by those being tacked on to these penalties.

So we have a stiff criminal penalty provision which is accumulative with the criminal, but it is constitutionally valid, separate, and remedial in nature, and what I call proportionate to the offense in the civil area.

Another thing to note on the Judiciary side, we also did address the problem that existed in the bill that came out of the Committee on Banking, Finance and Urban Affairs, in that the law that we would have put into effect has changed slightly in dealing with bank officers and employees who notify customers who are targets of criminal investigations, that their bank records have been subpoenaed by a grand jury. That is made a crime, and made a crime in both bodies, both committees, but what we have done is said it is a misdemeanor, 1-year penalty for knowingly violating this; and a felony, 5-year penalty, for a violation

of this, committed with intent to obstruct investigation. I think that was a significant change.

One other amendment to be offered in this area, to restore something we changed. We took out the two fraud divisions that the Attorney General did not particularly want to see here established by the Committee on Banking, Finance and Urban Affairs. It seems to me that the Attorney General, we ought to give him the money, he ought to have the power to run the fraud section of his department the way he wants to. We should not dictate that he have a fraud division in Dallas, Los Angeles, New York, or anywhere else. Let him establish that. It seems to Members that is wrong, and took those provisions out, and some Members, I think, will try to put them back in. I hope the Members will look at that.

One last point I would like to make on my time, since I wear both hats, an amendment that my colleague from Illinois from the Committee on the Judiciary related to standards, relating to a role I played in both. I supported him in the committee on that effort, because I thought he had a point about fairness, and there is a problem when we talk about supervisory goodwill, the amount that has been given or allowed by the Home Loan Bank Board to a number of institutions that took over failing thrifts.

□ 1910

They are allowed to have this on their books and write it down or amortize it over a number of years, and that counts as capital now.

The bill that came out of the Banking Committee, the one we will have before us tomorrow, is one that says they are going to have to write that down in a very short time, not over anything like a 30- or 40-year period of time, and under certain guidelines they would have to get rid of that and find real capital and put it on their books. That is harsh on those institutions that make these arrangements.

The gentleman from Illinois is going to offer an amendment tomorrow on the subject, as he did in full committee, that will try to mitigate that. His effort is noble. As I say, I supported it previously because of the question of fairness and whether or not we could keep and live up to it. My problem, though, is that upon reflection I can no longer support that amendment, and I will not when it is offered tomorrow, because it seems to me the public interest in tough capital standards is in making sure these so-called goodwill amounts, which are nothing more truly than deferred losses, not goodwill in the traditional business sense, simply cannot be allowed to stand.

So unfortunately and reluctantly, I will be opposed to the efforts of the gentleman from Illinois to put that provision in. I will also oppose other efforts that weaken the capital standards provisions in the bill. We have to have tough capital standard provisions.

We must have a tough bill. We have a good product that is coming out here. There are changes that this Member would like to have had such as keeping and continuing the cross-marketing prohibitions that are currently in the law for savings and loans and banks so that we do not have special deals working among subsidiaries that the holding companies have. Unfortunately, the Rules Committee did not allow me to offer the amendment I had requested that would have kept that in.

So there are things where I have differences in this bill. But overall it is a tough, hard-fought bill that has been worked out through several major committees, including the Banking Committee and the Judiciary Committee. I think the product is sound. I do not think we need major amendments to this bill, with perhaps the exception of eliminating the consumer provisions that I think have no relevance to the legislation at hand. But other than that, there is no reason why we should be tampering with the fundamental provisions of the bill.

Mr. Chairman, I urge my colleagues to maintain the provisions we changed, particularly those in the Judiciary Committee, because they actually make the whole penalty section much tougher and tighter. I would urge my colleagues to sustain those provisions.

The CHAIRMAN. The time controlled by the Committee on the Judiciary has expired.

The Chair now recognizes the gentleman from Michigan [Mr. CONYERS], chairman of the Committee on Government Operations, for 5 minutes.

Mr. CONYERS. Mr. Chairman, on June 1, 1989, the Committee on Government Operations ordered the Committee on Ways and Means amendment No. 3 to H.R. 1278 favorably reported. That amendment would move the financing plan in the bill from an off-budget entity to an on-budget governmental entity, with an exemption from the triggering of automatic budget cuts under the Balanced Budget and Emergency Control Reaffirmation Act of 1987, commonly known as Gramm-Rudman-Hollings.

The committee rejected the off-budget approach to financing the bailout because it would cost the taxpayers significantly more money. According to the General Accounting Office having the outlays of the Resolution Funding Corporation off-budget will cost the taxpayers approximately $4.5 billion over a 30-year period because under the administration's plan, REFCORP would have to borrow money at a higher interest rate than would the Treasury.

The committee considered and rejected the administration's argument that since having the REFCORP debt on-budget would cause a paper increase in the deficit, national and international markets would react negatively and interest rates would rise. The committee believes that the administration has not provided convincing evidence that the markets would be adversely effected by placing the REFCORP on budget. Moreover, the General Accounting Office and other economists have convincingly argued that the financial markets obviously recognize the fiscal realities of financing this bailout, and would not react negatively to an on-budget approach.

During our committee consideration of this issue it was also argued that putting the financing on-budget would mean that the savings and loan industry would be required to pay less money to help finance this bailout. However, as the Ways and Means Committee report noted the Federal Home Loan Banks would actually pay a larger amount of the cost of this bailout because the aggregate annual limitation on Federal Home Loan Bank payments was deleted.

The committee also considered and rejected the administration's argument that an exemption for the Gramm-Rudman-Hollings Act would set a precedent for other exemptions, and weaken the process for an orderly reduction of the deficit. The committee rejected this argument since this exemption sets no worse a precedent than putting the outlays off-budget, yet saves the taxpayers approximately $4.5 billion. In addition, since the massive cost of this bailout could not reasonably have been foreseen by Congress at the time the Gramm-Rudman-Hollings targets were established, it makes sense to make an exemption for a bailout of this unprecedented magnitude. Moreover, the Congressional Budget Office has argued that since the $50 billion borrowed by REFCORP would be given right back to the private sector, there is no macroeconomic effect, and thus Gramm-Rudman-Hollings targets would not be effected.

Unfortunately, this amendment does not come close to solving the basic problems of this bill. A climate of fear and panic has been created in the halls of Congress by the escalating costs of this bill, and the political pressure being placed on this body by an administration seeking to avoid its responsibility to craft a bill which realistically balances the interests of the taxpayers, with the need to save the savings and loan industry. The result is a bill which puts an unfair burden on the taxpayers to fund this bailout, and turns its back on racial minorities

by failing to include even the most modest improvements to Federal legislation designed to end racial redlining practices by banks.

While I recognize the need to work as quickly as possible on this bill, I am coming to the conclusion that unless we make substantial improvements to it, we should scrap this whole thing and start over again.

The Congressional Budget Office estimates that at a minimum the taxpayers will have to pay for more than 70 percent of the funds necessary to resolve this crisis over the life of the bailout plan. This is like Robin Hood in reverse, forcing the poor taxpayers to give to the rich bankers, and is unfair by any standard. We should not become silent partners in the administration's fleecing of the American taxpayer.

Let us be clear, the savings and loan crisis had three fundamental causes, criminal fraud, deregulation and lack of effective oversight. The American taxpayers had nothing to do with this crisis, yet they are being asked to foot the bill. As the Reverend Jesse Jackson has stated "Let those who had the party pay for the party."

We are told that the taxpayers must pay for the bailout because the savings and loan industry is broke, and cannot be expected to pay more if we intend to save the industry. Why then do we not find the least expensive way to fund this bailout for the taxpayers? Most of the cost of this bailout is due to interest payments spread out over 30 years. The simple solution is to not spread out those payments over that period of time, but pay as we go. The reason that is not being done is that the President lacks the political will to honestly face the American people and tell them that the least expensive way to fund this bailout is to generate new revenues, that is taxes.

Now this body is poised to go along with this charade because we lack the political will to stand up to the President and force the tax issue. I think this is a serious miscalculation which will backfire as the taxpayers begin to realize how much money they will have to pay to bail out the savings and loan industry.

Finally, comes the whole issue of the failure of this bill to include even modest provisions to assist in preventing discriminatory redlining practices. I have done a survey of the recent literature on the issue of redlining. Studies in Atlanta, New York, Detroit and Chicago have dramatically documented how these redlining practices are crippling the inner city black communities. The Atlanta study found that qualified black mortgage applicants were as much as five times as likely as white applicants to be rejected for home mortgage loans by S&L's and banks.

This is an issue of critical importance to the civil rights community and for America. Because with redlining comes segregated housing patterns. With segregated housing comes inferior schools, which leads to inferior jobs and leads us back to the prediction of the Kerner Commission Report on civil disorders 20 years ago, of two societies, one white and one black, separate and unequal.

During the past 2 weeks we have witnessed in dramatic fashion how the Supreme Court in two major civil rights cases, Price Waterhouse versus Hopkins, and Wards Cove versus Antonio, has turned its back on racial minorities by creating almost insurmountable barriers to proving a case of employment discrimination, and defending challenges to court approved affirmative action programs. Now Congress is set to approve what the General Accounting Office now estimates to be a $285 billion bailout of the savings and loan industry with not one amendment on one of the leading civil rights issues of our time.

Only one of several antiredlining amendments was made in order by the Rules Committee. That amendment will be offered by Representatives JOSEPH KENNEDY, and would require that financial regulatory agencies publicly disclose their ratings of compliance with the Community Reinvestment Act, an antiredlining statute. The amendment does not come close to adequately dealing with the problem of discriminatory redlining. It does not answer the question of how we get effective enforcement by the regulatory agencies of the Community Reinvestment Act, and other antiredlining statutes. It does not answer the question of how we require the banks and S&L's to keep more detailed records on the race and sex of mortgage applicants.

However, without this amendment I believe I have a moral obligation to oppose this bill.

The CHAIRMAN. The general debate time controlled by the Committee on Government Operations, in light of the fact that the minority Members now present are considered as having yielded back their time, has expired.

The Chair recognizes the gentleman from Tennessee [Mr. GORDON], a member of the Committee on Rules, for 5 minutes.

Mr. GORDON. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, as is the custom of the House, the Rules Committee receives referral of all bills and resolutions that change or affect the rules of the House.

H.R. 1278 as originally introduced contained no matters that touched on any rules of the House. However, because of subsequent action by the Committee on Banking, Finance, and Urban Affairs and the Committee on Ways and Means, the Rules Committee received a referral on this bill relating to two provisions that fell within the jurisdiction of the committee.

The first provision, section 501 of the banking committee substitute provides for a new section 21A(u) of the Federal Home Bank Act, which provides for certain procedures for congressional review of personnel structures of the newly created Resolution Trust Corporation.

The Committee on Banking, Finance, and Urban Affairs provision would prohibit the Resolution Trust Corporation from implementing any employee compensation and benefit package until that plan is submitted to Congress, and Congress has had an opportunity to disapprove the plan by enactment of a joint resolution. Because this provision could be construed as a rule within both Houses of Congress, the matter would fall within the jurisdiction of the Rules Committee.

The second provisions are the amendments that were proposed by Committee on Ways and Means, that would affect the budgetary treatment of the proposed Resolution Funding Corporation.

The Ways and Means Committee amendment proposes a section 502(c) of the bill that affects both the format of the concurrent resolution on the budget and the calculation under the Gramm-Rudman-Hollings law.

Mr. Chairman, because these provisions have to do with the enforcement of the maximum deficits amounts specified by the statutes that operate within Congress, they would be considered an exercise of the rulemaking of both Houses of Congress and are within the jurisdiction of the Committee on Rules.

Mr. Chairman, although recognizing that these two provisions were purely within the jurisdiction of the Rules Committee, and to ensure that this bill would not be delayed any further. The Rules Committee filed its report on H.R. 1278 without amendment and without recommendation.

Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The Chair recognizes the gentleman from Tennessee [Mr. QUILLEN] a member of the Committee on Rules, for 5 minutes.

Mr. QUILLEN. Mr. Chairman, the gentleman from Tennessee [Mr. GORDON] has ably explained the provisions of this bill that fall within the original jurisdiction of the Committee on Rules. The provisions in the bill that fall within the committee's jurisdiction deal with only two items.

Mr. Chairman, the first is a legislative veto of the personnel structures of

the Resolution Trust Corporation. The second is the revision of the Gramm-Rudman-Hollings law.

The Committee on Rules reported these provisions without amendment and without recommendation. As a result, the Committee on Rules' action on the parts of the bill falling within its jurisdiction was brief and without controversy.

Mr. Chairman, with regard to the rule on this bill, the Rules Committee spent 3 days hearing the various witnesses and reported a rule which provides for the consideration of various amendments.

Mr. Chairman, one is my amendment to grandfather in the agreements reached by the Federal Home Loan Bank Board with healthy savings and loan associations who took over failing savings and loan associations. My amendment was made in order, and I shall discuss that tomorrow.

There is another amendment with which I do not agree, but the Committee on Rules in fairness made in order. That is the amendment by the gentleman from Massachusetts [Mr. KENNEDY] which makes reporting measures for the banking industry so complicated that they cannot live with it, and I hope that is defeated.

The CHAIRMAN. The gentleman from Tennessee [Mr. GORDON] is recognized for 3 minutes.

Mr. GORDON. Mr. Chairman, I yield my time to the gentleman from Wisconsin [Mr. MOODY].

Mr. MOODY. Mr. Chairman, I wanted to address the point that has been raised obliquely, but not directly, so far in this debate about the bill, namely the question of whether or not to exempt it from Gramm-Rudman.

I think a consensus is building here in the House to not exempt it from the budget; that is, put it on budget. But the question remains open as to whether or not we should put it under Gramm-Rudman. The administration proposes the worst of all worlds, I think, by not only having it both off Gramm-Rudman and off budget.

The real purpose of Gramm-Rudman, we have to remind ourselves, is to force us as a Nation to borrow less money for public purposes. If we put the huge S&L package on budget but leave it off Gramm-Rudman, my colleagues, you know and I know that we will end up borrowing virtually the entire amount rather than asking ourselves to bite any tough fiscal bullets. We'll avoid taxes on spending cuts. We will end up borrowing it. At the margin every additional dollar we borrow is borrowed from overseas. Every dollar we borrow from overseas causes approximately one more dollar on the international trade deficit. Every $40,000 on the trade deficit eliminates one American job.

Borrowing, opposed to other ways of financing, also directly raises interest rates and thus crowds our private investment, lowers the productivity of our society and reduces our future standard of living. Whether we borrow the FSLIC bailout cost is borrowed "off budget" or "on budget," it is still additional borrowing in the financial markets, and has an identical effect on interest rates.

Mr. Chairman, we are playing games if we think that moving borrowing off or on budget has any real effect on interest rates. The real effect on the interest rates depends on the total demand for loanable funds versus the total supply, and that is what is going to drive interest rates. If we want to reduce interest rates, move capital into private purposes, increase productivity of our Nation, reduce dependency on foreign money, and stop indenturing future generations of our country to foreign lending, then we have to bite some real fiscal bullets. That means either spending cuts—and I would hope that we would get some support on that side of the aisle—and/or some tax increases. Those, I think, are a much more honorable and much more effective and efficient way of financing this entire package than borrowing.

That is why we should not exempt the FSLIC bailout from Gramm-Rudman. Only if we put ourselves under the discipline of Gramm-Rudman will we force ourselves to make a choice between borrowing, taxes, and program cuts. Only then will we require ourselves to choose that optimal mix between those three forms of financing. If we keep it out from Gramm-Rudman—and worst of all if we take it off the budget—we will never make those choices. We will never optimize those three ways of financing. We will put it all on borrowing, as my colleagues well know, and we will do a great disservice to our Nation.

So, I would hope that as Members consider the bill they will face up to the issue of the Gramm-Rudman discipline.

After all, we want to pay support to the purpose of Gramm-Rudman, which is to reduce borrowing, not pay support to simply the formal symbolism of Gramm-Rudman.

The CHAIRMAN. All time for general debate has expired.

Mr. GORDON. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker pro tempore [Mr. POSHARD] having assumed the chair, Mr. KILDEE, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 1278) to reform, recapitalize, and consolidate the Federal deposit insurance system, to enhance the regulatory and enforcement powers of Federal financial institutions regulatory agencies, and for other purposes, had come to no resolution thereon.

AMENDING AND EXTENDING GOVERNING INTERNATIONAL FISHERY AGREEMENT BETWEEN THE UNITED STATES AND THE FAROE ISLANDS AND DENMARK CONCERNING FISHING—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 101-72)

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on Merchant Marine and Fisheries and ordered to be printed:

(For message, see proceedings of the Senate of today, Wednesday, June 14, 1989.)

PERMISSION FOR SUBCOMMITTEE ON ECONOMIC AND COMMERCIAL LAW OF COMMITTEE ON THE JUDICIARY TO SIT TOMORROW DURING 5-MINUTE RULE

Mr. GONZALEZ. Mr. Speaker, I ask unanimous consent that the Subcommittee on Economic and Commercial Law of the Committee on the Judiciary be permitted to sit on Thursday, June 15, 1989, while the House is proceding under the 5-minute rule.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

LET US BE AN ENVIRONMENTAL CONGRESS FOR AN ENVIRONMENTAL PRESIDENT

(Mr. BOEHLERT asked and was given permission to address the House for 1 minute and to revise and extend his remarks and to include extraneous material.)

Mr. BOEHLERT. Mr. Speaker, on Monday the President of the United States earned the eternal gratitude of all Americans concerned about the quality of our environment.

Now this is not just my opinion. This is the opinion of some of the leading journalists from across America.

I quote from an editorial in the Washington Post entitled "The President's Clean Air Plan."

"The question seems no longer to be whether there will be the new law that circumstances require, but how soon and what kind?" Particularly does the Washington Post give praise to the President for his acid rain initiative?

In this morning's New York Times under an editorial entitled "Mr. Bush Clears the Air," the Times observes,

"For years the fight against dirty air has missed a crucial element: a President who thinks the Nation deserves clean air."

In addition to the editorial in today's Times this concludes what poll after poll has shown that Americans are willing to pay for cleaner air.

Mr. Speaker, Mr. Bush is now asking for cleaner air. The question is whether Congress is prepared to legislate cleaner air.

Let us prove to this environmental President that we will be an environmental Congress.

[From the Washington Post, June 13, 1989]

THE PRESIDENT'S CLEAN AIR PLAN

For now the most important thing about the clean air proposal that President Bush made yesterday is not how strong it is but simply that, against the grim backdrop of the last eight years, he made it. The answer as to strength seems to be that some provisions—on acid rain, for example—are stronger than the others, with a lot depending on details to come. Overall about medium, as you might expect. The individual provisions will be much debated in the coming months as either too permissive, too restrictive, unworkable, unable to produce the promised results or, if the president has gauged the politics correctly, just about right. But Mr. Bush, simply by joining the debate in a serious way, has moved the middle ground. The question seems no longer to be whether there will be the new law that circumstances require, but how soon and what kind.

The Reagan administration (of which Mr. Bush was an uncomplaining part) tried to roll back the major environmental statutes as part of its (selective) deregulation campaign. In certain other areas this campaign succeeded; on environmental issues it largely failed, as a resisting Congress fought the White House to a messy and uncertain draw. The established laws weren't killed, but neither were they updated. The government marked time, which on some issues meant that it lost ground.

Mr. Bush now proposes three initiatives—to reduce acid rain, city smog and so-called toxic air pollutants, special health threats half of which are said to come from motor vehicles and half from both routine and accidental industrial emissions.

On acid rain the president is pretty clear about both his goal—cutting the emissions responsible for it nearly in half by the year 2000—and how he wants to get there. He would set emissions standards for offending utilities but allow the utilities "freedom of choice" in how to meet them. He would also create a market in pollution rights so that, in theory, those companies that could cut pollution most cheaply would be the ones to act. Not a bad proposal.

On smog it is less clear that the steps he is proposing would produce the results he says they will. More than 80 urban areas with more than 100 million people are now out of compliance with the federal standards, though not all in major ways. The goal is to have all but the worst three—Los Angeles, Houston and New York—in compliance by the year 2000 and those three by 2010. At least part of the plan for achieving this is speculative; it would require a selective shift in motor vehicles from gasoline to alternative fuels.

As to toxics, the president proposes a three-fourths reduction within 10 years, in large part by having the Environmental Protection Agency promulgate control standards for the most heavily polluting industries. The problem is that there are many, many chemicals involved; EPA has been supposed to publish similar standards ever since the early 1970s, and so far has managed to publish only seven of them. It is not clear what will change.

But the president has opened the door to change on all these issues, and on Day One that may be accomplishment enough. He said in the campaign that he would take this useful step of breaking the impasse on clean air, and now it seems he has.

[From the Washington Post, June 14, 1989]

MR. BUSH CLEARS THE AIR

For years, the fight against dirty air has missed a crucial element: a President who thinks the nation deserves clean air. George Bush's proposals to overhaul the antiquated Clean Air Act of 1970 aren't perfect. But they represent a major departure from years of official indifference. They will force industry to think creatively about new technologies. And they challenge Congress to end more than a decade of legislative paralysis.

Mr. Bush's plan would tackle three major kinds of air pollution:

ACID RAIN

Acid rain is caused mainly by oxides of sulfur and nitrogen that change chemically as they move through the air and then fall to earth in rain, snow or fog—damaging lakes, streams and forests. For eight years the Reagan Administration engaged in endless studies and took no action. As environmentalists had hoped all along, the Bush plan would require that coal-burning power plants, most of which are concentrated in the Middle West, cut sulfur dioxide emissions in half by the end of the century. Companies would be free to decide how to meet that goal. They could invest in scrubbers to clean the emissions, switch to low-sulfur coal or use various market incentives.

SMOG STANDARDS

Eighty-one metropolitan areas exceed Federal health standards for ozone, the main component of urban smog. The President's plan would require all but three to meet the standards by the year 2000. The exceptions—Los Angeles, New York and Houston—would be given until 2010, but would have to show annual progress.

The plan focuses heavily on motor vehicles, which are responsible for more than half of ozone's harmful ingredients. New and stricter tailpipe standards, for example, would require a 40 percent cutback in hydrocarbon emissions by 1993 and a 30 percent reduction in nitrogen dioxides. These targets fall well short of cutbacks proposed by aggressive environmentalists like Representative Henry Waxman, a California Democrat. But even Mr. Waxman has said the Bush proposal is something to build on.

Mr. Bush's most dramatic idea would require the gradual phasing in of cars built to run on so-called "clean fuels" like methanol, natural gas or ethanol, which do not emit hydrocarbons. Detroit would be required to make 500,000 alternate-fuel cars by 1995, and one million a year by 1997.

The alternative fuels plan brought howls from the oil companies; even environmentalists warn that some "clean fuels" may pose new hazards. Methanol, for example, is rich in carbon dioxide, a major contributor to the feared greenhouse effect. Yet there can be little harm in forcing the automobile and oil industries to think seriously about new technologies. And the gains could be immense.

INDUSTRIAL TOXICS

The Environmental Protection Agency estimates that each year industry emits 2.7 billion pounds of toxic chemicals into the air. Mr. Bush's plan would require polluters to install the best available technology and cut these emissions by 75 percent in 10 years.

These proposals are estimated to cost $14 billion to $18 billion a year. Industries, and inevitably consumers, will pay most of the cost. But poll after poll has shown that Americans are willing to pay for cleaner air. Mr. Bush is now asking for cleaner air. The question is whether Congress is prepared to legislate cleaner air.

U.S. ALTERNATIVE FUELS COUNCIL MEMO NO. 61489: TAKING NATURAL GAS FOR A TEST DRIVE

(Mr. ALEXANDER asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. ALEXANDER. Mr. Speaker, speaking today as a member of the U.S. Alternative Fuels Council, I wish to commend the leadership of President Bush in providing us with initiatives in the Congress to improve the quality of air that Americans breathe.

Nearly all of the carbon monoxide and more than half of the smog is caused from auto emissions. This can be corrected with present technology. We have many options available to us; among them are ethanol, methanol, and compressed natural gas.

I was impressed recently by an article that was published in the New York Times about the initiatives that are being taken by the natural gas industry to demonstrate that natural gas is an economical, convenient, and safe alternative to conventional automotive fuels.

Mr. Speaker, I include that article in the RECORD for the benefit of my colleagues:

[From the New York Times, May 31, 1989]

TAKING NATURAL GAS FOR TEST DRIVE

(By John Holusha)

BURNABY, BRITISH COLUMBIA.—Doug Williams pulled into a Shell station in this Vancouver suburb on a recent Friday evening to fill his 1973 Ford LTD for the weekend. But instead of using a gasoline pump, he opened the hood and attached what looked like an air hose to a fitting in the engine compartment.

Like thousands of other residents of the area, Mr. Williams powers his car with compressed natural gas, a fuel normally associated with home heating and cooking. Attracted by a price half that of gasoline, he is participating in a project intended to demonstrate that natural gas is an economical, convenient and safe alternative to conventional automotive fuels.

The experiment, the largest of its kind in North America, is taking place at a time when rising concerns about air pollution,

the greenhouse effect and increased dependence on oil imports in the United States are renewing interest in alternative fuels like natural gas, ethanol and methanol. While the United States Government has limited its support to small demonstration projects, Canada's Government has provided financial incentives for relatively large efforts like this one.

The experiment here, which has been growing in scope since it began in the early 1980's, demonstrates that any alternative fuel will need time, financial incentives and imaginative marketing to win acceptance. But it also indicates that some drivers will indeed alter their habits. About half the 8,000 natural gas-powered vehicles here are privately owned cars. The rest are fleet vehicles, taxis and delivery trucks.

Soon, drivers will even be able to refuel at home.

Mr. Williams said he was generally pleased with the conversion of his car, which can now use natural gas or gasoline. "I was only getting 12 or 13 miles a gallon in the city on gasoline, so I liked the savings from the half price," he said. The car starts easily in the cold because the fuel is already gasified, he added, and needs less maintenance because the fuel is clean.

But the capacity of the two natural gas tanks in the trunk has not been adequate for his large car. "I have to fill it up every three or four days," he said. "I wish they had put in a third tank."

A shorter driving range is the most common complaint about natural gas conversions, according to the United States Energy Department.

Like Canada, the United States has vast reserves of natural gas that could be substituted for fuels made from imported oil. "We have 163 trillion cubic feet of proven reserves; that is a 10-year supply," said Michael Waters, a spokesman for the Natural Gas Supply Association, a group of producers. "And there are estimates that there are another 900 to 1,000 trillion cubic feet unproven in the ground. We can go a long way on natural gas."

Because the infrastructure for distributing gasoline and diesel fuel is so well established, even advocates of alternative fuels doubt that they will gain adherents on a lower price alone. But a national energy policy to limit oil imports and exhaust emissions could increase pressure on motorists to switch.

Because natural gas is composed mostly of methane, a simple hydrocarbon, vehicles powered by natural gas emit less of certain pollutants than those burning gasoline or diesel fuel. Industry officials say natural gas vehicles can meet emission standards without the catalytic converters needed on gasoline-powered vehicles.

But natural gas needs a lift. "Government support is critcial in establishing any alternative fuel," said Jeffrey Seisler, executive director of the Natural Gas Vehicle Coalition, a group of companies interested in promoting the use of natural gas-powered vehicles. "It is always more expensive to launch something new. But government can make a difference in the economic pull toward clean fuels and the environmental push."

THE USE OF SUBSIDIES

Federal and provincial subsidies have been heavily used to promote natural gas as a motor fuel here, along with aggressive marketing by the local utility, BC Gas Inc. "The Government wanted to promote energy independence and we wanted to sell gas," said J.R. Higginson, manager of the company's motor fuel program. "We saw vehicles as a new market."

The big obstacle to the introduction of any alternative fuel is what is inevitably referred to as the chicken-and-egg problem. Without wide spread availability of a fuel, motorists are reluctant to convert from gasoline. But without a mass market, fuel suppliers hesitate to make the investment in distribution operations.

BC Gas worked on both sides of the problem. With gasoline selling at about 52 cents a liter in British Columbia (about $1.71 a gallon in United States dollars), the amount of natural gas needed to drive the same distance was priced at 25 cents. Accounting for part of the difference is that the provincial government does not tax natural gas fuel; there is a tax equivalent to 2 United States cents a gallon on gasoline.

Government grants are used to help cut the cost of converting a car or truck to $1,175 in United States dollars from about $2,100, and the province charges no sales tax on the conversion kits. In addition, the utility provides low-cost financing. And it leases the storage cylinders, the most expensive part of the conversion, for $9 a month.

SIMPLIFYING THE CHANGE

At the same time, BC Gas persuaded several oil companies, including Shell, Chevron and Petro-Canada, to add natural gas pumps at some of their high-volume stations. The pumps were designed to look like those for gasoline or diesel fuel, and quick-release couplers were used to simplify refueling. "You can self-serve the fuel and pay with a credit card," Mr. Higginson said.

Because of the cost of installing a compressor at each filling station, only those with heavy traffic are likely to be equipped to dispense natural gas, BC Gas officials said. As a result, the gasoline apparatus is left on cars so drivers can run on gasoline in areas where compressed gas is not available.

The result is a compromise that does not take full advantage of natural gas's attributes, advocates said. Because gas has an octane rating of 130, compared with about 90 for gasoline, higher-compression engines could be used if it were the sole fuel, improving performance and mileage. BC Gas officials said the converted cars now lose about 10 percent of their power when operating on gas.

U.S. CAR MAKERS CAUTIOUS

American auto manufacturers have built a few prototype vehicles powered by alternative fuels, but have been reluctant to go into higher-volume production without more evidence of public demand. So conversions from conventionally fueled models are the most likely to be available in the near future.

Driving a car powered by natural gas is not much different from driving a conventional model. A small dial switch on the dashboard controls which fuel is to be used. The car is slightly less responsive than when gasoline is used.

The gas is stored in one or more cylinders, usually mounted in the trunk, at 3,000 pounds per square inch of pressure when full. Despite the high pressure, gas officials said, the system is at least as safe as the exising gasoline system in a car. The natural gas tanks are much stronger than sheet-metal gasoline tanks, they said, and natural gas has a much higher ignition point, which means it is less likely to be touched off by a spark if it leaks.

BEST CANDIDATES FOR GAS

Even with the conversion subsidy and lower price for natural gas, BC Gas officials acknowledge, natural gas is not for everyone. "Most of our users are commercial vehicles and commuters who do a lot of driving near the city," Mr. Higginson said. "Anyone spending $150 or more a month for gasoline is a good candidate."

At that rate of usage, he said, a car owner would pay for the conversion in about two years. Taxis, delivery vehicles and big, old cars with thirsty engines like Mr. Williams's fit this profile, while fuel-efficient subcompacts could neither accommodate the tanks and other equipment nor justify the investment.

NEXT: REFUELING AT HOME

BC Gas's fueling network now amounts to 54 stations in the Vancouver area, but company officials concede that finding the right station when the tank is running low can be bothersome. So later this year the company is planning to offer home refueling stations. They will be tapped into the line feeding a home's heating unit and cooking appliances.

The $2,000 station is basically a compressor that can increase the gas pressure from a few pounds per square inch as it comes into the house to the needed 3,000 pounds. The home stations are planned for slow overnight fills, in contrast with the one- or two-minute fills at gas stations.

Barry Cavens, an engineering manager at the utility, said the station, designed by the Sulzer Group of Switzerland, had been carefully engineered for safety.

□ 1930

NEW DEMOCRATIC LEADERSHIP REPRESENTS SWEEPING CHANGE IN THE HOUSE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Wisconsin [Mr. OBEY] is recognized for 5 minutes.

Mr. OBEY. Mr. Speaker, the new Democratic leadership team in the House represents a dramatic transfer of power to a new generation of Americans. The election as Speaker of the gentleman from Washington [Mr. FOLEY] brings to that position the first of a generation which totally democratized and reformed House rules and procedures more than a decade ago.

In the midseventies, a group of young Turks led the rebellion against the unaccountable power of some of the committee czars and reformed House rules, including people like Dick Bolling of Missouri, Phil Burton of California, TOM FOLEY and myself. TOM FOLEY is the first member of that reform group to become Speaker of the House and will represent a substantial break with the past.

The election of the gentleman from Missouri [Mr. GEPHARDT] as majority leader is an even more dramatic illustration of the change which has swept the House as the post-World War II generation takes over for the first time.

We have heard a lot of recent years about the high reelection rate of

House incumbents, but that has masked the crucial fact that we have had an almost total turnover of membership during the last decade and a half. In a research paper for his high school social studies class, my son, Douglas, found that fewer than 30 House Members who serve today were in the House in 1964 when the watershed Gulf of Tonkin resolution was enacted. In the Senate, there are only 6. Only about 80 Members, or 20 percent of the current House, were here in 1973. Almost two-thirds of those in the House have come since 1978 and 45 percent, almost half of those who served in the House in Ronald Reagan's first year, are now gone.

David Broder, the Pulitzer Prize winning columnist for the Washington Post, observed several years ago in his book, Changing of the Guard, that power would soon be passed to a new generation. Last week's election of TOM FOLEY and today's election of DICK GEPHARDT will mean that change has in fact occurred.

DICK GEPHARDT, who was first elected to the House in 1976, personifies the dramatic turnover in Membership since the 1970's.

It is in committee that crucial legislation is developed and crucial policy decisions are made. The Gulf of Tonkin resolution took this Nation into the Vietnam War, yet only three members of the Foreign Affairs Committee in the House today were in the House when Congress passed that watershed legislation in 1964.

In 1973 we also had a critical year because that was the year the United States was hit by the first energy crisis. That same year, Congress also passed the War Powers Act to prevent a repetition of the kind of excessive use of Presidential power which brought us into Vietnam. At the same time, the Watergate scandal was unraveling which resulted in the first resignation of an American President under the threat of impeachment. Only 6 of the 35 Members serving on the Judiciary Committee today were here for those tumultuous events. The Energy and Commerce Committee dealt with the oil embargo crunch twice during the 1970's but of the 43 committee members now, only 4 were there in 1973, and only 12 in 1977.

In this day of tremendous opportunity for changing our relationships with the Soviet Union, TOM FOLEY is superbly qualified for leadership as a former Soviet scholar, and DICK GEPHARDT has demonstrated his ability by taking the lead on such fundamental issues as tax reform and trade legislation.

BILL GRAY, who was elected as whip today, has already demonstrated his tremendous leadership abilities in the years he led the Budget Committee. In fact, BILL GRAY'S election represents the election to a leadership position in this House of one of the most effective black politicians in this country, a man who just a generation ago would have in many cities in this country been denied a seat at the front of the bus, not even to mention a seat at the front of the House of Representatives. Both TOM FOLEY and DICK GEPHARDT represent not simply the transfer of power from one person to another, but a much more basic transfer of power to a new generation of Americans. That means new leadership. It means a new generation. It means new approaches and the country is going to be stronger for it.

NEW PUBLICATION OF U.S. HISTORICAL SOCIETY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Minnesota [Mr. FRENZEL] is recognized for 5 minutes.

Mr. FRENZEL. Mr. Speaker, today as our nation observes Flag Day I would like to call attention to a new publication of the United States Capitol Historical Society, "The Flag of the United States and State Flags, Seals & Mottoes."

As most of us are aware, the Society has provided scholarly and informational publications over the years. Although this latest addition is modest in size—and in price—it nonetheless contributes a wealth of information about our national and State flags. As a member of the Board of the Society, I encourage each of you to remember the availability of this concise reference work. It is on sale at the gift counter in the East Front of the Capitol. The Society will also be pleased to provide bulk sale information upon your request.

BALTIC STATES FREEDOM DAY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois [Mr. ANNUNZIO] is recognized for 5 minutes.

Mr. ANNUNZIO. Mr. Speaker, today, June 14, marks another sad anniversary of the illegal occupation of Estonia, Lithuania, and Latvia by the Soviet Union.

On this date in 1940, 49 years ago, the Soviet Union began its intense effort to systematically destroy the Baltic States. The year before, the Russians entered into the notorious Molotov-Ribbentrop Pact with Nazi Germany, which enabled the Communists to illegally seize and occupy the Baltic nations.

In order to insure the success of their intentions to completely wipe out the langauge, literature, culture, and heritage of the peoples of Estonia, Lithuania, and Latvia, the Soviets ordered the executions of intellectuals and other patriots of these countries. Also, efforts were made through deportations to scatter the populations of these three nations to remote parts of the Soviet Union.

The United States has never recognized the illegal incorporation of these nations into the Soviet Union, and I was privileged to add my name as a cosponsor of House Joint Resolution 184, a bill to designate June 14, 1989, as "Baltic Freedom Day," to urge that the Soviet Union renounce its occupation of the Baltic States. A copy of that resolution follows:

H.J. RES. 184

Whereas the people of the republics of Lithuania, Latvia, and Estonia (hereinafter referred to as the "Baltic Republics") have cherished the principles of religious and political freedom and independence;

Whereas the Baltic Republics existed as independent, sovereign nations and as fully recognized members of the League of Nations;

Whereas 1989 marks the 50th annivesary of the infamous Molotov-Ribbentrop Pact in which the Soviet Union colluded with Nazi Germany, thus allowing the Soviet Union in 1940 to illegally seize and occupy the Baltic Republics and to incorporate such republics by force into the Soviet Union against the national will and the desire for independence and freedom of the people of such republics;

Whereas due to Soviet and Nazi tyranny, by the end of World War II, 20 percent of the total population of the Baltic Republics had been lost;

Whereas the people of the Baltic Republics have individual and separate cultures and national traditions and languages which are distinctively foreign to those of Russia;

Whereas since 1940, the Soviet Union has systematically implemented Baltic genocide by deporting native Baltic peoples from Baltic homelands to forced labor and concentration camps in Siberia and elsewhere;

Whereas by relocating masses of Russians to the Baltic Republics, the Soviet Union has threatened the Baltic cultures with extinction through russification;

Whereas through a program of russificiation, the Soviet Union has introduced ecologically unsound industries without proper safeguards into the Baltic Republics, and the presence of such industries has resulted in deleterious effects on the environment and well-being of the Baltic people;

Whereas the Soviet Union, despite recent pronouncements of openness and restructuring, has imposed upon the captive people of the Baltic Republics an oppressive political system which has destroyed every vestige of democracy, civil liberty, and religious freedom;

Whereas the people of the Baltic Republics are subjugated by the Soviet Union, are locked into a union such people deplore, are denied basic human rights, and are persecuted for daring to protest;

Whereas the Soviet Union refuses to abide by the Helsinki accords which the Soviet Union voluntarily signed;

Whereas the United States stands as a champion of liberty, is dedicated to the principle of national self-determination, human rights, and religious freedom, and is opposed to oppression and imperialism;

Whereas the United States, as a member of the United Nations, had repeatedly voted with a majority of that international body to uphold the right of other countries of the world to self-determination and freedom from foreign domination;

Whereas the Soviet Union has steadfastly refused to return to the people of the Baltic Republics the right to exist as independent republics, separate and apart from the Soviet Union, or to permit a return of personal, political, and religious freedoms; and

Whereas 1989 marks the 49th anniversary of the continued policy of the United States of not recognizing the illegal forcible occupation of the Baltic Republics by the Soviet Union: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That—

(1) the Congress recognizes the continuing desire and right of the people of the Baltic Republics for freedom and independence from the domination of the Soviet Union;

(2) the Congress deplores the refusal of the Soviet Union to recognize the sovereignty of the Baltic Republics and to yield to the rightful demands for independence from foreign domination and oppression by the people of the Baltic Republics;

(3) June 14, 1989, the anniversary of the mass deportation of Baltic peoples from their homelands in 1941, is designated as "Baltic Freedom Day", as a symbol of the solidarity of the people of the United States with the aspirations of the enslaved Baltic people; and

(4) the President is authorized and requested—

(A) to issue a proclamation calling upon the people of the United States to observe Baltic Freedom Day with appropriate ceremonies and activities; and

(B) to call upon the Soviet Union, the Federal Republic of Germany, and the Democratic Republic of Germany to renounce the acquisition or absorption of the Baltic Republics by the Soviet Union as a result of the Molotov-Ribbentrop Pact.

During the last year, we have witnessed many courageous actions by the people of the Baltic States to institute democratic reforms. In the face of Soviet authority and suppression, Estonia, Lithuania, and Latvia have attempted to establish their individual national identities. The native languages of their countries have been designated as the official language. In this era of glasnost, a democratic movement has swept across the satellites of the Soviet Union, and the governments which had for so long been under the tyranny of Communist oppression, are now demanding that they have the right to control their own destiny without interference and domination from the Kremlin.

I was glad to add my name as cosponsor of a congressional letter sent to President Bush, urging that the United States reaffirm its commitment to the independence of the Baltic States, and a copy of that letter follows:

President GEORGE BUSH,
The White House, Washington, DC.

DEAR PRESIDENT BUSH: For forty-nine years the United States has maintained the morally and legally correct position of not recognizing the forcible Soviet occupation and annexation of the Baltic States. This policy is one of which we can be proud. It is consistent with our basic belief in democracy, individual rights and respect for international law. Dramatic events in the Baltic States over the past year have proved America right in defending Estonia's, Latvia's, and Lithuania's right to self-determination. Therefore, we, the undersigned Members of Congress, believe that it is time for our government's Baltic policy to become more visible and active.

The people of Estonia, Latvia, and Lithuania have courageously taken the first steps to reestablish their nations among the family of democratic nation-states. Millions of Balts have joined in the activities of grassroots, democratic movements which have pushed the Communist authorities to respond to local needs. For instance, the native languages have been restored as official languages in the Baltic republics, the national flags and anthems are now legal, and Estonia and Lithuania have claimed the right to manage all of their own natural and economic resources without central control from Moscow.

As the people of the Baltic States struggle to build new institutions which will reflect their true concerns, it is vitally important that U.S. government policies not hinder these efforts for democratization in Baltic. In an era of glasnost, the U.S. should not find itself supporting factions in the Soviet Union which continue to lay claim to the Baltic States. In fact, our government should actively support initiatives to strengthen the efforts of the Baltic peoples.

While your Administration is reviewing East-West relations, we urge you to direct the Secretary of State to review United States policy towards the Baltic States and raise the status to one of a regional issue. This would reaffirm our government's commitment to the independence of the Baltic States. For forty-nine years the United States and the Soviet Union have disagreed over the status of the Baltic States. The Baltic peoples are now engaged in a historic effort to build democratic movements and regain their independence through a peaceful and orderly process.

We believe that you will agree with us that the cause of world peace is served by the spread of democracy in the Baltic region, and look forward to you action on behalf of these freedom-loving peoples.

Sincerely,

Mr. Speaker, I am privileged to join with Americans of Estonian, Lithuanian, and Latvian descent in the 11th Congressional District of Illinois which I am honored to represent, and throughout this Nation, in commemorating the 49th anniversary of Baltic States Freedom Day. The sad fate and memory of the victims of Communist persecution shall never be forgotten, as we hope and pray that recent developments in these countries will lead to a democratic triumph over this Communist tyranny, so that these three countries may once again join the community of free nations.

INTRODUCTION OF THE COASTAL DEFENSE INITIATIVE OF 1989

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Massachusetts [Mr. STUDDS] is recognized for 5 minutes.

Mr. STUDDS. Mr. Speaker, I am today introducing the coastal defense initiative of 1989, a bill that I consider to be the most important environmental legislation for our coasts since enactment of the Federal Water Pollution Control Act nearly two decades ago.

Joining me in this effort are Representatives WILLIAM HUGHES, CHARLES BENNETT, CLAUDINE SCHNEIDER, JOLENE UNSOELD, FRANK PALLONE, and JIM SAXTON.

The purpose of the coastal defense initiative is simple: To win the war against pollution in bays, sounds, inlets, estuaries, and harbors from Maine to California, and from the Gulf of Mexico to Puget Sound.

It reflects our determination to see that our children and grandchildren will know the same joys that we knew as children: The pleasures of a day at the beach; the security of oceans and lakes teeming with fish and shellfish; the beauty of coastlines unscarred by toxic wastes, petroleum, chemicals, and trash.

The oceans are nature's greatest gift to humankind, but they are not inexhaustible. If we treat them as a dump; they will, in time, become a dump. If we continue polluting the estuaries that are the nursery grounds of marine life; we endanger not just the future quality of life; we endanger the very survival of life.

The time has come to stop turning our eyes away; to stop pretending that somehow, someway, sometime, we will be spared the price that comes from dumping, discharging, pouring, leaking, and pumping poison into our coastal waters. The time has come to reverse course; to defend our coasts with the determination that we defend our country from the threat of foreign invasion and protect our families from avoidable accidents or disease.

The continued degradation of our coastal waters is not inevitable. It is a question of choice. We can continue with business as usual; or we can act now to impose a higher price on pollution; to establish stronger standards for protecting the quality of coastal waters; to give State and local governments the help they need to win the battle against pollution; and to enlist the support of citizens and communities across America in a campaign to save our coasts.

Coastal waters are vital because they provide the nursery grounds for all marine life. They are vulnerable because they receive pollutants not just directly, but from lakes and rivers and streams throughout America. They are special, and they deserve special protection.

The coastal defense initiative authorizes a comprehensive attack on coastal pollution. It would supplement, not replace, current pollution control efforts. It is bipartisan. And it is largely self-financing.

The CDI would, for the first time, enlist State coastal zone management programs in the battle to improve coastal water quality.

It would, for the first time, impose serious penalties for failure to comply with Federal water pollution control laws.

It would, for the first time, establish the principle that no one has the right to discharge pollutants into coastal waters. That privilege comes with a price and discharges must not, under any circumstances, exceed safe levels.

The CDI would raise $200 million a year primarily through a tax on pollution; and it would send most of that money directly to the State and city governments that are on the front lines in the effort to improve coastal water quality.

The CDI is based on several important studies of coastal pollution that have been conducted in recent years including the Office of Technology Assessment's report, "Wastes in Marine Environments"—April 1987—and a report prepared by two subcommittees of the House Committee on Merchant Marine and Fisheries, "Coastal Waters in Jeopardy: Reversing the Decline and Protecting America's Coastal Waters"—December 1988.

The CDI recognizes that the used hypodermic needles, vials of blood, bandages, and other medical wastes that washed up on the Atlantic coast last summer are but the most

visible manifestations of coastal pollution. The deadly assault on our coasts comes from all directions; from toxic wastes spewing out of pipes from industrial facilities and municipal treatment plants; from agricultural and urban runoff of pesticides and heavy metals; from nitrogen and sulfur deposits carried through polluted air; from contaminated sediments resting on the bottom of bays, lakes, and harbors; and from oil pollution incidents such as the recent tragedy in Prince William Sound.

Underlying the CDI is the knowledge that the problems we face are not limited to one coast or one region. From the contaminated waters of Boston Harbor to the pollution of San Francisco Bay; from the closed shellfish beds of the Chesapeake to the growing "dead zone" in the Gulf of Mexico; from the Puget Sound Superfund sites to the PCB-ridden striped bass of New York; coastal pollution is pervasive and growing more deadly with each passing year.

Members of Congress—and citizens—from all parts of our Nation have a stake in the outcome of the CDI. In my own congressional district, we are struggling to clean up and restore New Bedford Harbor; we are losing millions of dollars every year from closed shellfish beds throughout southeastern Massachusetts; and we are confronted with predictions that the population of Cape Cod may nearly double in the next 20 years.

This explosion of coastal development, the continued loss of wetlands, inadequate law enforcement, a lack of coordination in Government policy, and the lack of funds for pollution control have all contributed to the degradation of our coastal waters. If present trends continue and corrective actions are not taken, irreparable damage may be done to the economic and environmental health of coastal communities.

The purpose of the CDI is to permit continued growth in economic opportunity along our coasts, but to guarantee that this growth is accompanied by the kind of careful planning and controls that will enhance the quality of life for coastal residents.

I recognize that enacting CDI will not be easy. It is a far-reaching bill that spans the jurisdiction of several congressional committees and that affects the interest of virtually everyone who lives on or near the coasts.

Moreover, CDI is but one of many legislative efforts underway to protect our coasts. Others include our longstanding effort to enact comprehensive oil pollution liability legislation; and legislation I will soon introduce to expand the coastal barriers resources system.

But despite the difficulties, I believe that Congress is ready to act, because I believe the American people are ready to act. We are a maritime nation. And after a decade of neglect, I believe that we are ready to reclaim our beaches; to reclaim our coasts; and to reclaim our heritage as a people that respects and loves the sea.

COASTAL DEFENSE INITIATIVE OF 1989
EXECUTIVE SUMMARY, JUNE 14, 1989

PURPOSE

The purpose of the Initiative is to strengthen Federal and Federally-authorized state programs to reduce coastal pollution, restore degraded coastal areas and improve state and local land-use planning from a water quality perspective. In essence, the legislation addresses the coastal pollution problem from both the water side and the land side, strengthening Federal programs in both areas.

MAIN ELEMENTS

Coastal Water Quality. The bill strengthens marine water quality protections in three ways. First, it would require EPA to issue marine water quality standards which would serve as minimum Federal standards. (EPA traditionally defers to states to issue these standards based on EPA technical guidance, and states haven't done much at all, concentrating on fresh water standards instead.) States would then be required to restore and maintain coastal water quality by identifying and controlling the sources of the problem pollutants, working through their state water quality agencies and their state coastal zone agencies.

Second, it would impose more stringent requirements for those who discharge into coastal waters that are pristine by requiring that states not allow the areas to degrade and by ensuring that any new permits be based on a demonstrated need to discharge.

Third, it would authorize EPA to suspend all major Federal assistance programs for those coastal areas that EPA finds are in substantial and continuing noncompliance with minimum Federal water quality standards. This authority is patterned after the Clean Air Act, which authorizes EPA to do the same for "nonattainment areas", and is to be used only in those rare circumstances where the continuing failure of a state to achieve adequate coastal water quality justifies a sharp Federal response. Federal assistance programs for public health and safety are exempted.

Coastal Land-Use. The bill would reorient state coastal zone management programs to concentrate more on the water quality implications of coastal land-use. It would provide incentives to states to do two things. First, states would be encouraged to develop a series of model local and land-use ordinances for those coastal activities that have major implications for coastal water quality, and to provide technical assistance to local governments for implementing them.

Second, state coastal planners—or their local counterparts—would be asked to develop specific plans governing land use activities that affect water quality in areas where water quality is degraded or, conversely, pristine.

Coastal Monitoring. The bill would establish a national coastal monitoring program that would rely heavily on regional monitoring plans designed for those heavily pressured coastal areas most in need of detailed monitoring efforts. EPA and NOAA would select the coastal areas to be covered by a plan, and then assemble a regional monitoring team to draw up the plan. After approval by EPA and NOAA, the plan would be implemented locally by private dischargers (who would assume monitoring responsibilities as a part of their permit requirements), and by Federal and state agencies operating in the area.

Technical Assistance. The bill responds to the need for EPA, NOAA and state CZM officials to provide practical, technical assistance to local officials. It would require NOAA to establish a national coastal data computer system that would contain all of the information generated by the monitoring program and a series of computer-assisted tools available to local town officials to help them judge the water quality implications of their planning and permitting activities.

Funding. The bill establishes a "Coastal Defense Fund" through which it would channel money to state and local coastal programs. The bill would raise money from several sources, including:

Transfers from the Offshore Oil Pollution Compensation Fund (about $50 million);

Paybacks to the U.S. Treasury from the Coastal Energy Impact Program (about $5 million yearly);

Transfers of a portion of the receipts from offshore oil and gas leasing programs (about $84 million annually);

Receipts from a coastal effluent charge system applicable to all non-municipal dischargers into coastal waters ($100 million).

CELEBRATING 150 YEARS OF PUBLISHING THE MOUNT CARMEL DAILY REPUBLICAN REGISTER

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois [Mr. BRUCE] is recognized for 5 minutes.

Mr. BRUCE. Mr. Speaker, on Friday, June 16, we celebrate the 150th anniversary of the oldest continuing business in Wabash County and one of the oldest publishing ventures in the Midwest. The Mount Carmel Daily Republican Register began keeping its readers informed long before the Civil War and I hope will continue their service to the community for many centuries to come.

My nearly two decades of working with the Daily Republican Register are half a lifetime to me, but only a small percentage of the existence of this fine newspaper.

On June 11, 1839, the Mount Carmel Register was founded by publisher W.B. Meaney and editor J.S. Power. From W.B. Meaney to Brehm Communications, the financial backers of the newspaper have always worked to ensure that Wabash County had a publishing voice. And from J.S. Power to Phil Gower, the editors have always done their best to put out a top-quality newspaper for the people of Wabash County.

Everyone who works at the DRR—including publisher Jack Rodgers, Editor Phil Gower, Larry Reynolds, Bob Livingston, and the countless others who work behind the scenes—deserve the highest praise for their work.

Although it might be disturbing for some Democrats to encounter a newspaper with a name like the Daily Republican Register, I have been impressed with the fair-minded treatment you have given to people of all political persuasions. The paper's support for the Whig Party dating back 150 years has been replaced by a focus on Wabash County. I applaud your attention to the economy of the Mount Carmel area.

Throughout a career, it can be possible for a public official to be jaded by relationships with the media. But I have been blessed with your integrity and the integrity of the rest of the media in and around the 19th Congressional District.

Thank you for 150 years of hard work and best of luck for the next 150.

THE SUPPRESSION OF CHINESE FREEDOM MUST END

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois [Mr. LIPINSKI] is recognized for 60 minutes.

Mr. LIPINSKI. Mr. Speaker, tonight we have taken a special order on the situation in China. I am being joined by two of my colleagues, the gentleman from Illinois [Mr. POSHARD] and also the gentleman from Illinois [Mr. SANGMEISTER].

I am first going to yield to the gentleman from Illinois [Mr. SANGMEISTER].

Mr. SANGMEISTER. Mr. Speaker, it is good to be here with my colleagues from Illinois. I do not know how many of us were watching, certainly those who are tennis players were watching this past weekend.

For the first time in 34 years a United States citizen won the French Open in tennis and perhaps it is more than fitting that he is only 17 years old and of Chinese heritage. Despite being the youngest player ever to win the French Open, his thoughts, at least in part, were with other students on China's mainland in their time of agony when he said, "I can only pray for them and hope everything works out."

Michael Chang will pray, and I suspect that one of his prayers will be that the U.S. Government do something whether it be the President, Congress, or both acting in concert.

To say we find ourselves in a dilemma is an understatement. There is no way we can, or would want to, back down on our commitment to human rights. However, what do we do with a regime that occupies a strategic position and has been a real offset to the Soviet Union? It is interesting to note the low profile that Mikhail Gorbachev has taken. Where does he stand on the China situation? I frankly do not see how we can turn our backs on these students even though we risk a setback to both our strategic and commercial interests. We now see an all-out effort by the MSS to find the student leaders and place them under arrest. We are told that this elite intelligence agency is at work in this country seeking out Chinese students who are studying at our universities and who were sympathetic to their homeland brethren. I applaud the President's decision to extend those visas—to do otherwise would mean certain punishment by imprisonment or possibly death upon their return. They are now expressing concern that their families back home may be subjected to incarceration because of their actions over here.

It is said we learn from history. It is important to note that when Deng Xiaoping took power he decommunalized the economy that former leader Mao tse-Tung had enforced with strict Marxist communism.

In decommunalizing it, Deng gave people a taste of capitalism and democracy. He still, however, tried to maintain a Communist Government. Perhaps that combination is impossible. The downgrading of the role of the Communist Party, and the simultaneous modernizing of the economy led to Deng's inadvertent discrediting of the Communist ideology. The ideology is based in the economy. The purpose of the party is to preserve and enforce its own power. The improvements in the economy, and the new flair of communism created a situation where the people have grown to want more. The improvements have supplied the people with more food and money, but as one student said, "We love rice, but we love democracy more."

The peaceful demonstrations stress once again, China's development from the once agrarian nation that it was to the modern nation it is becoming. This new attitude is being led by students who will not accept the past and are inspired by new ideas. They have come to a political consciousness. It is truly a revolution of rising expectations. I do not believe these new ideas and this cry for democracy can be suppressed forever. A similar thing happened during the cultural revolution under Mao. Mao's red guards burned the books of the students and took the intellectuals and marched them into the square with dunce caps on their heads. Again the students are in the square, only this time its with signs for democracy in the replica of the Statue of Liberty.

So what do we do? We have adopted a resolution that commends the Chinese students for their courage in striving for democratic political reforms and condemning the Government of the People's Republic of China for using force against its own citizens. We have expressed sympathy for the victims. We urge an open dialog between the government and the students. So far the net result has been that the students are in hiding and are being vigorously pursued by the government, our suggestions of an open dialog are being totally ignored.

It has been suggested, and I agree, that we should offer to accept as refugees those students whose unforgivable crime is to cry out for freedom and democracy. This would only be an extension of the history of our country.

In addition to extending visa's the President has suspended all military aid to China and is getting United States citizens out of the country. All commendable acts, but what further action should we take? Do we suspend all investment and trade? Do we recall our Ambassador and encourage other democratic countries to do the same? Do we try to persuade others to cut their loans and/or grants to China?

There are no easy answers, but surely as we serve here, we will eventually have to decide. To do otherwise means we only pay lip service to freedom and that is not what we are all about.

□ 1940

Mr. LIPINSKI. Mr. Speaker, I thank the gentleman from Illinois [Mr. SANGMEISTER]. I think his comments were very insightful, and I think they will go a long way to helping the American people and our colleagues here understand some of the ramifications of potential actions by the United States Government in regard to China.

Mr. POSHARD. Mr. Speaker, will the gentleman yield?

Mr. LIPINSKI. I am happy to yield to the gentleman from Illinois.

Mr. POSHARD. Mr. Speaker, where do you begin to discuss a situation like the prodemocracy movement in China?

I suppose you start with sadness over the loss of life, a sadness that is driven home graphically by the pictures and news accounts of what happened in those horrifying hours after the military moved to take control of Tiananmen Square.

But you have to continue by vowing to support the surge toward democracy that exists all around the world, but is being played out most dramatically by the people of China.

What has happened recently in Beijing and other parts of China will be chronicled in some detail, and I am sure we will continue to analyze just what happened and why it happened for some time to come.

But we can be sure of a few things at the very beginning.

The students and workers in China do not have an absolute idea of what kind of "democracy" they desire. Their experience with it, understandably, is limited at best, but their desire for it is more than admirable.

Here we have people laying their lives on the line, first through hunger strikes and open protests, later taking on armed troops with little if anything to defend themselves except their raw courage and resolve. We should try to understand that this army which opened fire was completely trusted by the people. That they would fall to the bullets and machines of the "People's" army I am sure places a further emotional hardship on a population already struggling to come to grips with what's happening in their country.

What we can probably conclude at the very least is that these protests were designed to bring an end to communism, and to bring about some kind of self-determination. I think that direction deserves, actually commands, our support and recognition.

We have, to this point, acted prudently. The President has moved to limit military relationships and has provided refuge for those whose lives might be in danger should they return to their homeland at this time.

Those steps are adequate at this point, and we are probably well served by not rushing into further action until the situation is completely played out. I trust, we in the Congress, along with the administration, will keep a close watch on further shifts in the political and social scene there, and we should stand ready to further defend the rights of those who seek democracy.

I represent Southern Illinois University, which includes a number of international students among its student body, a number of those who come from mainland China.

Shortly after the bloody massacre that claimed so many young lives, about a hundred students gathered on campus to openly grieve, grieve what has happened to people they may have never met, but feel like they know only too well, and grieve for what is happening to their country. It surely must be a terrible thing to watch your country from afar, a country which you love so very much, be torn apart, especially by what started as a noble, peaceful request for a renewed way of life.

I would like to relate a little of what happened on the Carbondale campus of Southern Illinois University, thanks to the reporting of Brian Matmiller of the Southern Illinois newspaper.

"Black armbands, white carnations, and a simple sign reading 'stop bloodshed' accented the strong emotions of local Chinese students Monday at a memorial for those killed in the military crackdown in China's capital.

"Student Jun He wept openly while reciting a poem written in response to the attack * * * then she gently unpinned the flower from her armband and placed it before the memorial wreaths set up on the steps of Southern Illinois University-Carbondale's Shryock Auditorium."

Jun He talked with her family in Beijing by phone, saying "My father told me that the son of one of his friends died * * * whoever I call, they all know someone close to them or someone in their family who died. It feels so sad."

The students then observed a moment of silence, punctuated by a vow of solidarity with those who lost their lives, and vowed to carry on the struggle for freedom.

A student named Scott Song delivered an emotional speech in his native Chinese, translated into English by his friend Lingling Han. Both students are from Beijing, and are studying at Southern Illinois University-Carbondale.

"You're so young, you didn't have time to grow up and enjoy an occupation," Han read. "Now you close your eyes forever for dreams of freedom." Those are the kinds of words that come only from people who are deeply committed, and who feel a great sense of pain from what's transpiring back home.

One student was finally quoted as saying "I hope there is something all of the people of the world can do to stop the killing."

Let me first thank again Brian Matmiller and the Southern Illinoisan newspaper of Carbondale for the information on the student's actions.

What can we do to stop the killing?

First and foremost, we must make a stand that cannot be misinterpreted, miconstrued or misunderstood, that America stands ready to defend the desire for freedom of thought, speech, and action, wherever it occurs around the world.

Surely there is no more clear example of that yearning than the one that exists, and has now apparently been crushed, in China.

Not long ago, a group of international students from the same Southern Illinois University campus visited me in my office here in Washington. It's is interesting how these kind of movements almost always seem to involve students, for we depend so much on their idealism, exuberance, and devotion.

The students came from countries around the world, and asked questions that reflected their various interests in the American system. But underneath all of their inquires, I felt they had a certain fascination with the American system, and the freedoms which we enjoy. I could not help but be encouraged about the future of our country and the world after this visit, having met and talked with so many bright, thoughtful and intellectually curious young people. In the same vein, I could not help but be terribly saddened by seeing those same qualities in the Chinese students being so brutally violated by the military of their own country.

But sadness enough is not going to get it done, and as we mourn those who have been lost, we should be resolved as those students at SIU-Carbondale are, to stand shoulder to shoulder with the people in China who seek freedom and reform.

They truly embody the spirit of our Nation, they mirror out own hopes and desires, and we can do nothing less than condemn the atrocities committed against them and resolve to support them in the near and distant future.

□ 1950

Mr. LIPINSKI. Mr. Speaker, I thank the gentleman from Illinois [Mr. POSHARD] and compliment him on a superb statement, particularly the compassion, the understanding and the sensitivity that he demonstrated in the words he expressed tonight.

In 1932, Mao Tse-tung the great helmsman and hatchet man of the Chinese Communist Party, proclaimed that "power grows out of the barrel of a gun".

Clearly, this founding paramount principle of the Chinese Communist Party is as true today as it was 57 years ago.

In early morning hours of June 4, the Chinese Communist Party showed the world by their barbaric, brutal bludgeoning of peaceful, unarmed, democratic demonstrators for democracy, that they have no right to be considered civilized citizens of a world rapidly approaching the 21st century.

By their inconceivable and incomprehensible actions in Tiananman Square, I believe that the Chinese Communist rulers have become outlaws and warlords.

I can not recall a comparable act of brutality in recent history. In China, we saw citizens of the same country, members of the same ethnic group, individuals of the same historical and cultural background, murdering the peaceful, unarmed youth of their country. In effect, the Chinese Communist Party gunned down China's greatest hope for the future.

And why did all this occur?

Because a group of old men refused to permit any degree of popular dissent. They chose to maintain the Communist dictatorship at all costs. The Chinese Communist Party truly favored the power of the gun over the will of the people.

As shocking and reprehensible as the 27th Army's attack on the students was, even more troubling is the system of suppression which has terrorized Beijing in the days since June 4.

The suppression which has developed in China is reminiscent of George Orwell's 1984. At least 820 people have been arrested and interrogated by Deng Xiaoping's version of the Thought Police, mostly for having friends or acquiantances from the West. The Communist-run television announced a hotline number for citizens to report "counterrevolutionaries" and "rumor-mongers". Just yesterday, Chinese television broadcast photographs of 21 students, and urged the public to turn them in. Many predict the students will face execution.

Most notably, the Chinese have demanded the return of Fang Lizhi, the dissident astrophysicist, who has legally sought asylum in the United States embassy. Under no circumstances should Fang Lizhi and his wife ever be returned to the Communists, for I am confident that he and her would disappear forever.

The network of propaganda, intimidation, and terror makes it clear that the aged Chinese warlords will go to any extent to guarantee their regime. One Western official said the Army shooting sprees into foreign compounds were designed to drive out the foreign eye, so the outlaws could proceed with their executions.

The attack of tanks and soliders on the peaceful demonstrators, as well as the suppression of the people over the last 10 days, has been greeted by strong condemnation from every civilized country in the world. Throughout the world, writers, politicians, and experts have expressed disbelief, and otherwise attempted to explain the murderous madness in Beijing. The United States and the West have verbally condemned the Chinese outlaws, and sympathized with the fighters for freedom. But considering the unbelievable nature of the actions of the Chinese warlord government. American and global reaction has been overly timid and cautious.

Universally, world leaders have qualified their caution with one statement: "China is too important" for the United States or any one else to take drastic action against. I realize the potential of this huge nation of 1.1 billion people, but I am not convinced that America should not enact punishments and pressures which fit the heinous crimes of the Chinese Communists.

But, now I can hear the cries of military and economic strategists:

China has 1 billion consumers, we can not turn our backs on such a potentially important market. True, America's foot is in the door, with $13 billion in yearly trade and $3.5 billion of direct investment. But if American withdrawal can hasten the arrival of democracy, the opportunities under a liberal, democratic China would be much greater than the current level of American economic interest. Besides, the Chinese have made it clear that it is our technology they want, not our products. In fact, we currently enjoy a $3.5 billion trade deficit with China (United States imports $8.5 billion from China, exports $5 billion to China). Obviously, a few Cokes and some Big Macs does not make a boom market.

Conventional wisdom also says that China is valuable as a third card in the United States-Soviet equation. But when conventional wisdom has no substance, it should be abandoned. If we believe that the expansionist threat of the Soviet Union is obsolete, we can address China independently. In fact, I believe China's barbarianism offers the perfect opportunity for the United States and the Soviet Union to work together, on a unified front, to pressure China toward democratization and freedom.

Some point to the electronic surveillance and military sight stations the United States has in China as a reason for caution. But in a world of satellite intelligence, and at a time when President Bush is proposing open skies policy with the Soviet Union, this reasoning is obsolete.

Military strategists may proclaim the important role China plays in Asia as provider of military stability. But in today's most crucial area of military instability, Cambodia, China actively supports the murderous Khmer Rouge, who killed over 1 million Cambodians when it was last in power. That seems a strange way of promoting stability. Additionally, we should not forget that the Beijing government sold Silkworm missiles to Iran, which were fired at ships in the Persian Gulf.

Geopolitical thinkers proclaim China as a necessary power to balance Japan in the Pacific theater. For all the problems I have with Japan's trading policy, I believe we should recognize Japan for what it is: a highly valuable and loyal ally which will work on our side for stability in the Pacific and elsewhere. We need not worry about Japanese military adventurism.

For too long, the United States has had to ignore gross human rights violations in order to maintain friendly relations with the Chinese. The reality of the brutal, oppressive Communist regime has been secondary to the importance of China. China massacred Tibetans, and destroyed the nation, religion and culture of Tibet. The wellbeing of the Chinese people has taken a back seat to maintaining the Communist regime. When peaceful protestors are gunned down on an international stage, enough is enough.

Perhaps a drastic economic, military, and political withdrawal from a major power is inconceivable in the modern strategic world. But I believe the brutal actions of the Chinese Communist Party were inconceivable, and demand extraordinary action.

A Washington Post headline yesterday read, "China Steps Up Criticism of the U.S." Well, I think it's time the United States steps up its criticism of China.

Deng Xiaoping entered as China's dictator claiming he wanted to take China into the modern era. But he failed to realize that economic reform and free enterprise must be accompanied by political liberalization. This fact is recognized by Mikhail Gorbachev, and easily seen in the Soviet Union and Poland. China's economic openness and restructuring did not include new freedom and participation for the Chinese people, and this led to the student demands.

The United States and all modern nations must make it clear that China will have no place in the modern world order until it meets modern standards of decency, conscience, and personal liberty. China must ban suppression of the people, not ban expression of the people.

Halting 500 million dollar's worth of arms sales to the Communists was an appropriate first step. Likewise, the extension of visas to Chinese nationals in America was important. Now, the United States should end technology exchanges with the Chinese; the current government does not deserve our helping hand in entering the modern era. Until the instability and suppression ends, the United States should halt all investment and trade with China, and work to suspend international loans. (The United States has already put a $200 million World Bank loan on hold.)

I hear the capitalists objections again. But there is nothing to be gained by American companies in a China that is as unstable as during the Cultural Revolution. The withdrawal from China would hopefully be temporary, pending democratization and political stability. Some fear the Japanese will fill in the gaps left by America. But Japan has already halted a $120 million loan for an oil project, and 100 Japanese firms suspended a major project for investment in China. The key for economic withdrawal from China is for the United States to lead all civilized countries in reprimanding China multilaterally, and creating international pressure from all sides.

One element holds America back from diplomatic withdrawal, namely the presence of Fang Lizhi in the U.S. embassy. However, I feel no obligation to maintaining diplomatic ties with any brutally suppressive regime.

America has long been, and deserves to be, the champion of freedom, democracy, and free enterprise throughout the globe. It is time to back up that role with stern words and strong actions, with determination comparable to the Communist leaders. We must use all our means to condemn the Chinese Government, fight against Communist suppression, and support the hopeful movement for democracy and freedom. We must do so before intimidation and suppression puts out the light of hope that the Chinese students created this spring, a hope for which thousands have already died.

□ 2000

H.R. 1278, FINANCIAL INSTITUTIONS REFORM, RECOVERY AND ENFORCEMENT ACT OF 1989

The SPEAKER pro tempore (Mr. OWENS of New York). Under previous order of the House the gentleman from Tennessee [Mr. COOPER] is recognized for 60 minutes.

Mr. COOPER. Mr. Speaker, I rise to share my views on H.R. 1278, the Financial Institutions, Reform, Recovery and Enforcement Act of 1989, otherwise known as the Savings and Loan bailout bill.

To put it mildly, this is a complex piece of legislation. It restructures the regulatory system that oversees one of our most important industries, the savings and loan industry. It calls on the S&L industry to raise substantial sums of new capital. Simultaneously, the bill confers wide discretion on the regulators to make exceptions to those capital requirements. It broadens the conservatorship, liquidation, and enforcement powers of the regulators.

I intend to support the overall package without weakening amendments, but I feel compelled to spell out my concerns with various aspects of this proposed legislation. The public has a right to know the details of the Bush administration's $150 billion proposal.

I. RECENT FEDERAL LAW ON THE THRIFT INDUSTRY

For most of its history, the savings and loan industry was a highly regulated and highly subsidized industry whose primary purpose was the promotion of home ownership. An extensive system of government-sponsored aid was set up to assist the industry in the fulfillment of its mission. The industry's primary Federal regulator was given the statutory mandate of being a booster for the industry.

For most of its more than 55-year history, this arrangement served the industry well. However, the high interest rate environment of the 1970's exacerbated the mismatch between the industry's liabilities and assets. Congress responded by providing interest rate and limited asset-side relief in 1980 and 1982. But unfortunately, the Congress did not stop there.

We went on to fashion two policies that, in hindsight, were serious mistakes. First, the Congress in two steps in 1980 and 1982 raised the level of Federal deposit insurance from $40,000 to $100,000 per person per account. This substantial 150 percent increase greatly extended the scope of Federal deposit insurance without increasing the insurance premiums to pay for the increased risk.

The second dubious policy of the 1980's was the creation of lax regulatory capital and accounting standards. Allowing the use of phony capital to finance newly granted State investment activities meant the risk of failure from those investments was effectively shifted to the Federal deposit insurance fund and to U.S. taxpayers. Unfortunately, the cost of this arrangement has proven larger than the direst of projections.

II. RECAP BILL OF 1987

In spite of these flawed policy changes of the early 1980's, Congress had a rare opportunity to set matters straight in 1987. My colleagues may recall that during 1987, the Congress groped for a way to solve the savings and loan crisis by providing its insurance fund with adequate resources to close or provide assistance to troubled institutions. My colleagues may also recall that instead of providing FSLIC with $15 billion as the agency requested we ended up authorizing less than $11 billion total, and that only after this House actually voted overwhelmingly to provide only $7.5 billion. As if that weren't bad enough, the Congress also placed annual limits on the amount of money that FSLIC could obligate and imposed numerous other restrictions on FSLIC's ability to respond to the mounting crisis.

That record from 1987 was bad enough, but the Congress didn't stop there. Included in that 1987 recap bill were explicit provisions ratifying and continuing regulatory capital. In fact, for those S&L's most at risk, we actually fashioned a program of "capital forebearance." In plain terms, that meant that Congress by statute actually precluded the regulators from requiring additional capital from those S&L's most likely to fail.

I do not recall the 1987 bill in order to remind my colleagues of unpleasantness. I do so only to point out how we only recently greatly underestimated and misconceived the problem. I believe that 1987 experience ought to lead us to think carefully about what we think we know. As the 1987 bill demonstrated, the savings and loan crisis is extremely complex.

III. THE CONTEXT OF THE CURRENT DEBATE

It is from this background that I approach the debate on the current bill. At a minimum, I do not want to see us repeat the mistakes of the recent past. As a result, I can not and will not support any bill that actually precludes the regulators from requiring additional capital. On the contrary, I believe that any workable solution must actually require the greatest amount of capital, real capital, that is economically possible.

Similarly, I cannot support a bill that relies on phony accounting principles. The oxymoron of "regulatory accounting principles" must be displaced by the usually reliable GAAP rules.

I would also be skeptical of any measures that unduly restricted the ability of the regulators to respond flexibly to changing conditions in the industry. We simply cannot tie the hands of the very people on whose expertise we must rely.

Most important of all, I will find it hard to support solutions that knowingly understates the scope of the problem. We must now level with the American people and tell them how much it will cost to set matters right. As a corollary, I believe that we have a duty to opt for the least costly solution to the taxpayers. Thus, I feel compelled to support the on-budget alternative and I will have more to say about that later in my remarks.

In addition, I believe that we must weigh carefully the impact of any new restrictions on the overwhelmingly healthy segment of the industry. It would be rough justice indeed, if we brought the healthy thrifts down in order to get at the weak ones. Any workable plan must make careful distinctions between well capitalized thrifts and weakly capitalized ones.

In examining the bill now before the House these have been my chief, but by no means exclusive, concerns. I believe that H.R. 1278 as now crafted is a close call. I have several reservations about the bill and I would like to share some of them with my colleagues.

IV. SCOPE OF THE CURRENT PROBLEM AND BUDGETARY TREATMENT

As I alluded to earlier, one of the biggest problems in 1987 was estimating the scope of the problem. There has been any number of estimates ranging from $50 billion to $250 billion over a 10-year period.

I do not know whose estimate to rely on. However, I think that it is reasonable to accord greater weight to a credible independent agency like GAO. The Government Accounting Office has just recently raised its estimate of the total cost of cleaning up the industry to more than $250 billion.

Nonetheless, H.R. 1278 calls for raising only $50 billion. As the Banking Committee indicates in its report it is relying on the administration's estimate of the problem. I would rather rely on the GAO. I am concerned that we may be guilty once again of understating the problem.

As for the budgetary treatment of $50 billion in notes authorized under the bill, I support on-budget status for the Funding Corp. Both the GAO and the CBO are satisfied that a substantial savings results if the Funding Corp. is placed on budget. Given the total cost of this bill, we need to save taxpayers whatever amount we can.

The GAO and CBO estimate that placing the plan on budget will save $4.5 billion over the life of the plan. That's a good enough reason for me.

The administration argues that placing the plan on budget will increase the deficit and disturb financial markets. But this argument assumes that financial markets haven't already reacted to the Bush plan. Counting this plan off-budget will not fool anyone as to the ultimate responsibility of the Federal Government for its success.

After all the plan as submitted by the administration sets up a funding entity REFCORP whose sole purpose is to raise money for the rescue of S&L's. REFCORP, a non-governmental entity, would sell $50 billion of bonds in the private sector and turn

the money over to a governmental entity the Resolution Trust Corp. [RTC]. Why shouldn't both entities be Government agencies and on-budget?

In fact, as the CBO has already stated that given the nature of REFCORP—its sole purpose is to raise money for the RTC, a governmental entity—that it should properly be counted on-budget even in the administration's version. Thus, CBO has stated that even explicitly making REFCORP a non-governmental entity, cannot, in its view, obscure the true nature of the Federal Government's role.

The other argument used by the administration against on-budget funding is that it would establish a bad precedent for making exemptions from Gramm-Rudman. I believe this is an exaggerated concern. The political consensus that produced Gramm-Rudman will survive this one exemption.

V. CAPITAL REQUIREMENTS

As I alluded to earlier, capital really is the key to any reform package. The bill reported by the House Banking Committee recognizes this point.

The bill requires the regulators to put in place within 180 days after enactment rules mandating a 3-percent tangible capital requirement for all federally insured institutions with an exception for those institutions who were previously allowed so-called goodwill by the regulators. For these institutions with goodwill, the bill contains a schedule for phasing it out through December 31, 1994. After that, all federally insured savings associations must meet the 3-percent tangible capital requirement.

These capital requirements are noticeably tougher than those in the original plan submitted by the President. Not only would tangible capital be enforced at an earlier date under this bill, but regulatory goodwill would be phased out in half the time.

I commend the House Banking Committee for its tough stance on capital. However, I do have a couple of areas of concern that I wish to mention briefly.

First, the bill includes a general requirement that loans to or investments in S&L service companies be deducted from the core capital requirement. However, the bill grandfathers those service subsidiaries of savings associations that meet the minimum core capital requirements. These institutions would not have to deduct investments or loans to their service subs.

While I acknowledge the limited nature of this exception, it nonetheless sets a worrisome precedent. I would prefer a clear standard that all subsidiaries be separately capitalized. If that is a sound principle, then it is not clear to me why any grandfathering is appropriate.

Another area of concern to me is the language in the explanation section of the committee report. In discussing regulatory discretion on page 434 the committee says that institutions that do not meet the core capital requirements should not be treated more severely than those who meet the standards due to allowance of goodwill.

If taken literally, the committee's view would seem an equivocation from its otherwise laudable stance on capital. If the committee is urging the regulators not to enforce the standards in the bill, then I would have grave concerns. If this language is merely further indication of the discretion allowed regulators, then I suppose its relatively harmless.

I would point out, however, that if the committee intends that the regulators, in fact, not sanction institutions without goodwill for not meeting the capital standards, this could have far reaching consequences. Since the language uses goodwill as the basis for comparison, the implication would be that the prohibited disparate treatment extends until the end of 1994, the committee, in essence, would be encouraging the regulators not to strictly enforce the capital requirements on the overwhelming majority of the industry without goodwill for a 5-year period.

Such an outcome could be disastrous. Not only would it undermine much of the intent of the bill, but it would practically, speaking, amount to reincarnation of the discredited policy of capital forbearance. I am certain that this cannot be the committee's intent. I would hope that the committee could clarify its intent as the bill moves through conference.

VI. GOODWILL

Much has been made of the use of goodwill. The committee report defines goodwill (p. 432) as an allowance granted by the regulators at the time of an acquisition or merger when the market value of liabilities exceeds that of the assets. Goodwill is, in fact, a tool deployed by the regulators to aid in the acquisition of S&L's with negative net worth. Without the recognition of goodwill, many of these insolvent institutions would still be in the hands of the regulators.

I believe that given the number of problem cases that the regulators had to deal with in the last 2 years, their allowance of goodwill made sense. This is especially true if goodwill facilitated the purchase of insolvent thrifts by well capitalized acquirors. Presumably a well-capitalized acquiror would only need to carry goodwill for a few years to enable it to turn matters around.

The problem with goodwill is when its carried by either poorly capitalized acquirors, or acquirors who are unable to make the acquired S&L profitable. In these situations, goodwill may actually be used to increase the potential loses to the deposit insurance fund by allowing excessive risk taking with little money down. All to often poorly run institutions with only goodwill as capital have literally nothing to lose.

There are those who say that this regulatory goodwill was offered by the Federal Government as a condition for the acquisition of dying institutions and that to revoke it now is equivalent to breaking an agreement. But there was no contract signed or implied in connection with the allowance of goodwill. More importantly, even if the regulator did enter into an agreement, they did not agree to have institutions with little or no capital grow by leaps and bounds.

H.R. 1278 takes a constructive stance on goodwill. The 5-year phaseout schedule is not overly burdensome. Well run institutions should be able to gradually increase their real capital.

It should be pointed out that the penalty for failing to phaseout goodwill according to the schedule is a freeze on growth not liquidation. This sanction will afford these institutions ample time to seek additional sources of capital while remaining in business.

I wonder if the bill isn't in fact too lenient on the imposition of sanctions. As I read the bill, S&L's with no capital other than goodwill even at the end of the 5-year period, may be permitted to remain in business. While it is true that the regulators can liquidate them, they are not required to do so. I would prefer a clear requirement that institutions with only goodwill as capital after 5 years be declared insolvent and either merged or liquidated.

Because I feel so strongly about this issue, its ultimate treatment will weigh heavily in determining my vote. I will not vote for any bill that substantially weakens the capital requirements now contained in H.R. 1278.

VII. REGULATORY DISCRETION VERSUS BRIGHT LINE RULES

Perhaps as important as the capital standards, is the wide discretion accorded the regulators in the bill. In fact, the capital standards depend on the wise use of regulatory discretion. While I acknowledge the inherent difficulty of writing clear rules in statute, there are, nonetheless, at least a couple of areas where the committee might have been better advised to have used clear and unambiguous rules.

One area is the use of brokered deposits. While the bill restricts the use of such deposits for undercapitalized institutions, it gives the regulators discretion to allow their continued use by troubled institutions on a case-by-case basis. Morever, undercapitalized institutions are granted a statutory right to continue using brokers to maintain their current level of deposits, even if that level has proven unwise.

I would prefer a bright-line prohibition against the use of brokers for all undercapitalized institutions. I would also prefer some percentage limitation on the amount of deposits that could be raised through brokers for all insured institutions. I would hope that the committee will reconsider this issue in conference.

Likewise, the bill contains no specific limitations or prohibition on S&L investments in so-called junk bonds. Again, while I acknowledge that the bill confers adequate authority on the regulators to curb any investment activities they deem excessively risky, I think that a clear rule would be preferable. At the very least, I would want a clear rule limiting these investments for under-capitalized institutions.

Even apart from these areas, I have an uneasy feeling over the scope of discretion given to the regulators. They can, among other things, restrict the investment activities of State chartered S&L's, limit the payment of excessive interest, as well as, decide whether to impose or suspend certain sanctions. This is considerable discretion to say the least. Not only are the regulators given broad discretion on any number of areas, but they are also given wide latitude on how to impose that discretion.

Thus, the regulators can choose to write broad rules that apply across the board or to take action on a case-by-case basis. They can hypothetically at least, impose restrictions on well-run, well-capitalized institutions that might be more appropriately applied to under-capitalized institutions. Perhaps even more worrisome, the ability to write across-the-board rules may serve as a substitute for tougher action directed at individual weak institutions.

This does not seem like an idle worry to me when one reflects on the enormity of the undertaking confronting the regulators. Lack of trained personnel may force the agencies to opt for broad rulemaking in lieu of action on a case-by-case basis. Broad rulemaking by its nature is generally characterized by compromise calculated to accommodate divergent situations, and is therefore usually not very tough. It would be ironic indeed if the availability of across the board discretion became an incentive for the regulators to refrain from targeting weak institutions.

As a result, I would prefer more explicit direction to the regulators to write rules aimed primarily at weak institutions. I would particularly prefer more precise direction to the regulators mandating particular sanctions for particular transgressions.

VIII. REGULATORY RESTRUCTURING

The bill also calls for a realignment of the regulatory structure governing the savings and loan industry. It abolishes Federal Savings and Loan Insurance Corp. [FSLIC] and sets up a separate insurance fund for thrifts under the direction of the FDIC. It abolishes the Federal Home Loan Bank Board within the U.S. Treasury Department. The credit functions of the Bank Board are placed with a new independent agency—Federal Housing Finance Board. Taken together, these changes amount to a thorough revamping of the regulatory structure governing the S&L industry.

The single most important change is the wider involvement of the FDIC in the S&L industry. The FDIC is made the insuror of all savings associations whether Federal or State chartered. In addition, the FDIC is also designated as primary regulator of State chartered S&L's.

One of the rationales for the larger role given the FDIC was the need to separate the insurance from regulatory functions. This, it was argued, played a major role in the insolvency of FSLIC. However, in bringing the FDIC to the rescue, the bill may have raised new concerns.

The most obvious concern is that one multipurpose agency is replaced by another. In place of the FSLIC, the FDIC is made both insuror and regulator at least for state chartered S&L's. One wonders why the FDIC is better suited for this dual role than the old Bank Board? Moreover, whatever problems accompany the exercise of the dual function of insuror and regulator, may have been worsened by some other changes in the bill.

For example, the bill makes some changes in the so called cost test under section 13 of the FDI Act. That test governs whether the FDIC can provide financial aid to a troubled institution or must close it down. As a general rule, the FDIC cannot provide aid if it exceeds the cost of liquidation. The bill directs the FDIC in deciding whether to provide aid, to also factor in both the short- and long-term liabilities of the insurance fund. This change could be more significant than meets the eye.

The FDIC, and by extension the RTC, is apparently directed by this new requirement to minimize its liabilities. This could, in turn, lead the FDIC in its role as regulator, to take actions, or refrain from taking actions, in order to hold down its costs both short term and long term.

This could be especially crucial, if, as seems likely, the cost of cleaning up insolvent savings associations has been substantially underestimated by the administration. It would appear pretty clear that the FDIC will acquire a vested interest in the success of this rescue package. If the agency, or the RTC, becomes strapped for funds, it may take actions as regulator in order to help its position as insuror. Indeed, it now has a statutory mandate of sorts to do so.

Thus the vast discretion accorded the FDIC could be used to minimize its insurance costs. This would be an undesirable and unfortunate development. The likelihood of the FDIC taking this approach cannot be predicted, but it could have been mitigated by inserting a couple of items.

One thing the committee could have done would have been explicit acknowledgement of the conflict and inclusion of protective measures. The committee could have required formal procedures to delineate when the FDIC acts as regulator versus insuror. A specific ban against the sharing of certain information, at least at the staff level, could have been included.

Another omission in the bill that may have the effect of worsening this conflict, is the absence of any schedule for liquidating insolvent thrifts. Presumably, the cost test will determine whether an S&L is to be liquidated. However, once it is required to be liquidated, there is little guidance as to when or how it should be done. While the bulk of this work rests with the RTC, the FDIC presumably determines when the RTC gets an insolvent thrift. The conflict may provide an incentive for the FDIC to hold insolvent thrifts, so as to have the most beneficial short run impact on the insurance fund.

I realize that there are extensive reporting requirements in the bill that may hold the FDIC's feet to the fire. I am not convinced that these requirements can alleviate the potential problems. I am therefore hopeful that the committee will take the opportunity to re-assess during conference the dual function assigned the FDIC.

I am also worried about the personnel available to the FDIC. The case for a larger FDIC role in rescuing the S&L industry centered initially on its extensive expertise in bank liquidations. But the FDIC is being called on to perform more than just liquidations. In fact, given the role of the RTC, it is not clear how involved the FDIC will actually be in liquidations. Far more important to the success of the FDIC will be its role as regulator and critical to that will be its role as risk assessor for the thrift industry. In fact, the committee report exhorts the FDIC to develop the expertise and to establish what it refers to as, "risk assessment analysts."

The one area of expertise critical to the FDIC's enlarged role is the very area in which it has had the least experience. How can the agency prudently exercise its enormous discretion if it has had little experience in making the kinds of judgements that this bill calls for? The result is likely to be, as I state above, the FDIC will likely be too sweeping in crafting rules, because its easier than case by case fighting. These broad rules will either be too lenient or too tough. Either runs the

risk of doing enormous harm to an already troubled industry.

If the FDIC is to make the kinds of tough rules directed at the problem institutions it will need trained personnel at an early date. I would require at a minimum that the FDIC and the Office of Thrift Supervisor report back to Congress in a matter of weeks after enactment on their progress in acquiring and/or training in risk analysts.

IX. THE RESOLUTION TRUST CORPORATION [RTC]

The bill creates a new governmental entity designed to hold, manage or liquidate the assets of failed thrifts to be known as the Resolution Trust Corporation [RTC]. The RTC has a 3-year lifespan. It is responsible for thrifts and the assets thereof acquired after January 1, 1989. That means that the RTC will have responsibility for the roughly 200 S&L's that the FDIC has assumed stewardship since the administration's announcement on February 6, and the hundreds more that will surely follow. This makes the RTC one of the most significant government agencies around. There are some aspects of its powers that are somewhat worrisome.

One of the most important duties of the RTC is to hold and manage properties, including real estate, of failed S&L's. In this rule, the RTC could exercise enormous power over local real estate markets. I share the concern of others that the RTC exercise this vast power in a way that will not disrupt local real estate markets. I am generally satisfied with the various advisory boards called for in the bill.

The relationship between the RTC and FDIC seem somewhat unclear to me. Presumably, the RTC will take charge of institutions only after the FDIC has either declared them insolvent or placed them under supervisory agreements. The decision on whether to do either rests properly with the FDIC. What may be in need of clarification is which agency sets the rules that govern an institution under a supervisory agreement?

If, for example, the FDIC has entered into a supervisory agreement with certain restrictions therein but decides to turn the institution over to the RTC. Could the RTC permit that same institution to operate albeit under tight supervision, but under less restrictive rules? Even if the answer to the above hypothetical is "no," the RTC could still allow institutions under its jurisdiction to operate under different rules than those permitted by the FDIC. This is especially troublesome since the RTC is given the authority, under certain circumstances, to obligate the FDIC.

The RTC also has authority to contract with the FDIC. Presumably the RTC could contract with the FDIC for the latter to serve as conservator. This could be done across the board or on a more limited basis. There could be inconsistent rules applied to institutions under Federal conservatorship facing identical local economic conditions.

Since the FDIC presumably has more expertise on setting restrictions, including assessing risk, the RTC should be required to follow any restrictions imposed by the FDIC. Some clear language should be included to make sure that two agencies do not impose conflicting rules.

More worrisome, the bill (sec. 501) permits the RTC to take warrants—including voting and nonvoting shares—in institutions. Presumably, this authority is intended to be used in limited situations, yet the bill offers no guidance on the use of this authority. How much equity can the RTC acquire and for how long? Can the RTC pass any equity position assumed along to the FDIC? Since the RTC is a government entity, does any such stake expire upon the termination of the RTC or does it survive?

I am concerned that this open ended authority may be a continuation of the questionable policies of the 1980's when the FHLBB was permitted to assume such positions in hundreds of thrifts. I recognize that equity positions may sometimes be necessary, but they should be a last resort.

The RTC is also given broad authority to provide financial assistance (sec. 215) before appointment of a conservator or receiver. The bill lays out two broad categories for application for such assistance. The second category appears to confer a right on institutions falling within the specified criteria to receive such aid unless the RTC makes a specific finding that liquidation will be less costly. The criteria appear to be aimed at institutions with supervisory goodwill from economically depressed regions which have no record of fraud.

The committee report states that the RTC "must" approve the aid unless it makes a specific finding that liquidation would be less costly. The burden of proof appears to rest with the RTC.

This program could well become a last gasp for institutions with supervisory goodwill. It is not clear why these institutions are entitled to stand at the front of the line in receiving Federal financial assistance. I worry that this language could force the RTC to continue to underwrite undercapitalized institutions. I would prefer that all applications for assistance stand on an equal footing.

X. DEPOSIT INSURANCE REFORM

Finally, and perhaps most important of all, H.R. 1278 does not address the issue of Federal deposit insurance reform. As I mentioned above, raising the $100,000-per-account ceiling in the early 1980's was probably a mistake. The decision doubtless expanded the reach of the Federal safety net to include large depositors.

I think it's time to rethink the whole issue of Federal deposit insurance. There are numerous reform proposals including lowering the ceiling, limiting any ceiling to a single account per individual all the way to total privitization. Each of these proposals has merit and deserves careful study.

H.R. 1278 calls for an extensive study of deposit insurance reform and a report to Congress within 18 months of enactment. I support the study. We have, however, had similar studies in the past. I hope this will be the last one, and that we can get on with the difficult chore of reforming Federal deposit insurance.

Thank you, Mr. Speaker, for your patience in allowing this special order to be conducted so that some of the details of tomorrow's S&L bill be examined.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. HUBBARD (at the request of Mr. BROOKS), for today, due to death in the family.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. QUILLEN) to revise and extend their remarks and include extraneous material:)

Mr. BURTON of Indiana, for 60 minutes, today.

Mr. DANNEMEYER, for 60 minutes, on June 21.

Mr. DANNEMEYER, for 60 minutes, on June 22.

Mr. DANNEMEYER, for 60 minutes, on June 23.

Mr. FRENZEL, for 5 minutes, today.

(The following Members (at the request of Mr. GONZALEZ) to revise and extend their remarks and include extraneous material:)

Mr. ANNUNZIO, for 5 minutes, today.

Mr. STUDDS, for 5 minutes, today.

Mr. BRUCE, for 5 minutes, today.

Mr. COOPER, for 60 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. QUILLEN) and to include extraneous matter:)

Mr. GINGRICH.

Mr. GOODLING.

Mr. GREEN.

Mr. HYDE.

Mr. ROHRABACHER.

Mr. BURTON of Indiana.
Mr. RITTER.
Mr. CONTE.
Mr. BROOMFIELD in two instances.
Mr. SOLOMON.
Mr. HERGER.
Mrs. MORELLA.
Mr. BUNNING.
Mr. GILLMOR in two instances.
Mr. OXLEY.
Mr. CLINGER.
Mr. GALLO.
Mr. MCEWEN.
Mr. REGULA.
Mr. STUMP.
Mr. YOUNG of Florida.
Mrs. JOHNSON of Connecticut.

(The following Members (at the request of Mr. GONZALEZ) and to include extraneous matter:)

Mr. APPLEGATE.
Mr. DINGELL.
Mr. STARK.
Mr. AUCOIN.
Mr. SIKORSKI.
Mr. YATRON.
Mr. COLEMAN of Texas.
Mr. HAMILTON in two instances.
Mr. DWYER of New Jersey.
Mr. TORRES.
Mr. MANTON in two instances.
Mr. MATSUI.
Mr. DIXON.
Mr. KENNEDY.
Mr. FOGLIETTA.
Mr. EVANS.
Mr. TRAFICANT.
Mr. LIPINSKI.
Mr. DARDEN.
Mr. PEASE.
Mr. WEISS.
Mr. SCHUMER.
Mr. FLORIO.
Mr. MFUME.

ADJOURNMENT

Mr. COOPER. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 8 o'clock and 46 minutes p.m.), the House adjourned until tomorrow, Thursday, June 15, 1989, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

1349. A letter from the Acting Assistant Secretary of the Army (Manpower and Reserve Affairs), transmitting a copy of proposed legislation to provide the Superintendent of the U.S. Military Academy authority to confer the degree of master of arts in leader development; to the Committee on Armed Services.

1350. A letter from the Assistant Secretary for Legislation, Department of Education, transmitting a copy of the final regulations for the guaranteed student loan default reduction initiative; to the Committee on Education and Labor.

1351. A letter from the Administrator, Small Business Administration, transmitting the semiannual report of the agency's Inspector General for the period October 1, 1988, to March 31, 1989, pursuant to Public Law 95-452, section 5(b) (102 Stat. 2526); to the Committee on Government Operations.

1352. A letter from the Deputy Associate Director for Collection and Disbursements, Department of the Interior, transmitting notice of proposed refunds of excess royalty payments in OCS areas, pursuant to 43 U.S.C. 1339(b); to the Committee on Interior and Insular Affairs.

1353. A letter from the Deputy Associate Director for Collection and Disbursements, Department of the Interior, transmitting notice of proposed refunds of excess royalty payments in OCS areas, pursuant to 43 U.S.C. 1339(b); to the Committee on Interior and Insular Affairs.

1354. A letter from the Deputy Associate Director for Collection and Disbursements, Department of the Interior, transmitting notice of proposed refunds of excess royalty payments in OCS areas, pursuant to 43 U.S.C. 1339(b); to the Committee on Interior and Insular Affairs.

1355. A letter from the Administrator, Agency for International Development and the Acting President and Chairman, Eximbank of the United States, transmitting the Agency's semiannual report on the amount and extension of credits under the Trade Credit Insurance Program to Costa Rica, Guatemala, Honduras, and El Salvador as of March 31, 1989, pursuant to 22 U.S.C. 2184(g); jointly, to the Committees on Banking, Finance and Urban Affairs and Foreign Affairs.

SUBSEQUENT ACTION ON A REPORTED BILL SEQUENTIALLY REFERRED

Under clause 5 of rule X the following action was taken by the Speaker:

The Committee on Merchant Marine and Fisheries discharged from further consideration of H.R. 1485; H.R. 1485 referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. GIBBONS (for himself and Mr. FRENZEL):

H.R. 2628. A bill relating to customs user fees; to the Committee on Ways and Means.

By Mr. WAXMAN:

H.R. 2629. A bill to amend part B of title XVIII of the Social Security Act to provide for payment for physicians' services under the Medicare Program with reference to a resource-based relative value scale; jointly, to the Committees on Ways and Means and Energy and Commerce.

By Mr. MCCURDY:

H.R. 2630. A bill to amend the Fair Labor Standards Act of 1938 to increase the minimum wage and to amend the Internal Revenue Code of 1986 to increase the amount of the earned income tax credit; jointly, to the Committees on Ways and Means and Education and Labor.

By Mr. AUCOIN:

H.R. 2631. A bill to amend title 18, United States Code, to provide a mandatory minimum 7-year prison sentence for the unlawful possession of a firearm by a convicted felon, a fugitive from justice, a person who is addicted to, or an unlawful user of, a controlled substance, or a transferor or receiver of a stolen firearm, to substantially increase the general penalty for violation of Federal firearms laws, and to substantially increase the enhanced penalties provided for the possession of a firearm in connection with a crime of violence or drug trafficking crime; to the Committee on the Judiciary.

By Mrs. BOXER (for herself, Mr. EVANS, Mr. FOGLIETTA, Mr. AUCOIN, Mrs. LOWEY of New York, Mr. LEVINE of California, and Mr. DEFAZIO):

H.R. 2632. A bill to amend title 10, United States Code, to improve the management of major weapons systems in the Department of Defense; to the Committee on Armed Services.

By Mr. BROOMFIELD:

H.R. 2633. A bill to amend title 10, United States Code, and the Act entitled "An Act to authorize appropriations for the fiscal year 1973 for certain maritime programs of the Department of Commerce, and for related purposes", to require that certain vessels of the Department of the Navy and the Department of Transportation shall be partially scrapped before being used, respectively, for experimental purposes and as offshore artificial reefs, and for other purposes; jointly, to the Committees on Armed Services and Merchant Marine and Fisheries.

By Mr. CROCKETT:

H.R. 2634. A bill to amend the Immigration and Nationality Act to exempt travelers from Belize from the user fee for immigration inspection; to the Committee on the Judiciary.

H.R. 2635. A bill to prohibit assistance to influence the 1990 elections in Nicaragua; jointly, to the Committees on Foreign Affairs and the Permanent Select Committee on Intelligence.

By Mr. GIBBONS:

H.R. 2636. A bill to make the Superfund petroleum tax consistent with the General Agreement on Tariffs and Trade; to the Committee on Ways and Means.

By Mr. GOODLING (for himself, Mr. COLEMAN of Missouri, Mr. PETRI, Mr. GUNDERSON, Mr. BARTLETT, Mr. TAUKE, Mr. FAWELL, Mr. HENRY, Mr. GRANDY, Mr. BALLENGER, Mr. SMITH of Vermont, Mr. EDWARDS of Oklahoma, Mr. GINGRICH, Mr. HUNTER, Mr. WEBER, Mr. JAMES, Mr. KYL, Mr. HILER, Mr. UPTON, Mr. NIELSON of Utah, Mr. KOLBE, Mrs. JOHNSON of Connecticut, Mr. CLINGER, Mrs. VUCANOVICH, Mr. WELDON, Mr. GREEN, Mr. DUNCAN, Mr. CHANDLER, Mr. COBLE, Mr. INHOFE, Mr. HOUGHTON, Mr. THOMAS of California, Mr. ROHRABACHER, Mr. CRAIG, Mr. ROTH, Mr. DOUGLAS, Mr. HYDE, Mr. SMITH of Mississippi, Mr. IRELAND, Mr. WALKER, Mr. HANCOCK, Mr. LIGHTFOOT, and Mr. DEWINE):

H.R. 2637. A bill to amend the Internal Revenue Code of 1986 to increase the amount of the earned income tax credit for taxpayer with school age or preschool age children, to amend the Fair Labor Standards Act of 1938 to increase the minimum wage, and for other purposes; jointly, to the Committees on Ways and Means and Education and Labor.

By Mr. HERGER:

H.R. 2638. A bill concerning assistance to the People's Republic of China and Tibet under the Foreign Assistance Act of 1961; to the Committee on Foreign Affairs.

By Mr. JENKINS:

H.R. 2639. A bill to amend the United States-Canada Free-Trade Agreement Implementation Act of 1988 in regard to cultural industries; jointly, to the Committees on Ways and Means and Energy and Commerce.

By Mrs. JOHNSON of Connecticut:

H.R. 2640. A bill to extend the Steel Import Stabilization Act for an additional 3 years and to improve the availability of steel during conditions of short supply; to the Committee on Ways and Means.

By Mr. JONTZ (for himself, Mr. GLICKMAN, Mr. EVANS, and Mr. SCHUETTE):

H.R. 2641. A bill to remove aflatoxin contaminated corn in the 1988 or 1989 corn crop from the food chain, to provide indemnification to producers of such corn, and to assure foreign and domestic markets of U.S. corn a safe, high quality product; to the Committee on Agriculture.

By Mr. McMILLAN of North Carolina (for himself, Mr. JONES of North Carolina, Mr. VALENTINE, Mr. LANCASTER, Mr. PRICE, Mr. NEAL of North Carolina, Mr. COBLE, Mr. ROSE, Mr. HEFNER, Mr. BALLENGER, Mr. CLARKE, Mr. RAVENEL, Mr. SPENCE, Mr. DERRICK, Mrs. PATTERSON, Mr. SPRATT, Mr. TALLON, Mr. HATCHER, Mr. BARNARD, Mr. RAY, Mr. HARRIS, Mr. CALLAHAN, Mr. FLIPPO, Mr. JONES of Georgia, Mr. CLEMENT, Mrs. LLOYD, Mr. GRANT, Mr. SMITH of Mississippi, Mr. MONTGOMERY, Mr. ESPY, Mr. IRELAND, Mr. OLIN, Mr. ERDREICH, Mr. TANNER, Mr. DARDEN, Mr. FASCELL, Mr. GORDON, Mr. LEHMAN of Florida, Mr. SISISKY, Mr. LEWIS of Georgia, Mr. GOSS, Mr. JOHNSTON of Florida, Mr. LEWIS of Florida, Mr. WHITTEN, Mr. NELSON of Florida, Mr. BROWDER, Mr. MCCOLLUM, Mr. JAMES, Mr. SHAW, Mr. THOMAS of Georgia, Mr. COOPER, Mr. FORD of Tennessee, Mr. BLILEY, Mr. PARRIS, Mr. SMITH of Florida, and Mr. HUTTO):

H.R. 2642. A bill granting the consent of the Congress to amendments to the Southeast Interstate Low-Level Radioactive Waste Management Compact; jointly, to the Committees on Energy and Commerce and Interior and Insular Affairs.

By Mr. MARKEY (for himself, Mr. SWIFT, Mrs. COLLINS, Mr. ECKART, Mr. RICHARDSON, Mr. SLATTERY, Mr. BRYANT, Mr. BOUCHER, Mr. MANTON, Mrs. BENTLEY, Mr. WALGREN, Mr. DEFAZIO, Mr. TRAFICANT, Mr. SMITH of Florida, Mr. EVANS, Mr. LIPINSKI, Mr. GONZALEZ, Mr. JOHNSON of South Dakota, Ms. KAPTUR, Mrs. BOXER, Mr. MCDERMOTT, Mr. JONTZ, Mr. SIKORSKI, and Mr. ROBINSON):

H.R. 2643. A bill to amend the Communications Act of 1934 to prohibit foreign ownership of cable television systems, and for other purposes; to the Committee on Energy and Commerce.

By Mr. MONTGOMERY (by request):

H.R. 2644. A bill to amend title 38, United States Code, to authorize the Department of Veterans' Affairs to require mandatory disclosure of Social Security numbers in claims for disability and death benefits; to the Committee on Veterans' Affairs.

By Mrs. SAIKI:

H.R. 2645. A bill to amend the Internal Revenue Code of 1986 to exclude from gross income the gain on certain sales of lands subject to ground leases; to the Committee on Ways and Means.

By Mr. SMITH of Texas (for himself, Mr. FISH, and Mr. MCCOLLUM):

H.R. 2646. A bill to amend the Immigration and Nationality Act to provide for special immigrant status for certain aliens designated by the President; to the Committee on the Judiciary.

By Mr. STUDDS (for himself, Mr. HUGHES, Mr. PALLONE, Mr. BENNETT, Mrs. UNSOELD, Mr. SAXTON, and Ms. SCHNEIDER):

H.R. 2647. A bill to provide for the protection and preservation of coastal and Great Lakes environmental quality for present and future generations; jointly, to the Committees on Merchant Marine and Fisheries and Public Works and Transportation.

By Mr. TORRES (for himself, Mr. BATES, Mr. BEILENSON, Mr. BERMAN, Mr. BROWN of California, Mr. BOSCO, Mr. DE LUGO, Mr. CARPER, Mr. DWYER of New Jersey, Mr. DYMALLY, Mr. EDWARDS of California, Mr. FAZIO, Mr. GARCIA, Mr. LEVINE of California, Mr. MARTINEZ, Mr. MINETA, Mr. OBERSTAR, Mr. ORTIZ, Ms. PELOSI, Mr. ROYBAL, Ms. SCHNEIDER, Mr. SKELTON, Mr. RICHARDSON, Mr. WAXMAN, Mr. WOLPE, AND Mrs. UNSOELD):

H.R. 2648. A bill to amend the Solid Waste Disposal Act to require producers and importers of lubricating oil to recycle a certain percentage of used oil each year, to require the Administrator of the Environmental Protection Agency to establish a recycling credit system for carrying out such recycling requirement, to establish a management and tracking system for such oil, and for other purposes; to the Committee on Energy and Commerce.

By Mr. WALGREN:

H.R. 2649. A bill to direct the Secretary of Health and Human Services to promulgate national standards regarding the provision of health insurance to individuals with preexisting conditions, to require States to adopt such standards or equally effective laws, rules, or regulations, and for other purposes; to the Committee on Energy and Commerce.

By Mr. WATKINS (for himself, Mr. SYNAR, Mr. MCCURDY, and Mr. INHOFE):

H.R. 2650. A bill to provide for the use and distribution of funds awarded the Seminole Indians in dockets 73, 151, and 73-A of the Indian Claims Commission; to the Committee on Interior and Insular Affairs.

By Mr. WAXMAN (for himself, Mr. MADIGAN, Mr. ROWLAND of Georgia, Mr. TAUKE, Mr. SYNAR, Mr. LELAND, and Mr. MILLER of California):

H.R. 2651. A bill to amend title V of the Social Security Act to revise and improve the Maternal and Child Health Block Grant Program; to the Committee on Energy and Commerce.

By Mr. MCCOLLUM:

H.J. Res. 295. Joint resolution designating December 1, 1989, as "Day of the Child"; to the Committee on Post Office and Civil Service.

By Mr. HOYER:

H. Res. 174. Resolution electing Representative Slaughter of New York to the Committee on Rules; considered and agreed to.

By Mr. FAZIO:

H. Res. 175. Resolution providing funds for the Office of the Speaker; considered and agreed to.

By Mr. BAKER:

H. Res. 176. Resolution expressing the sense of the House with respect to illegal drugs and narcotics control; jointly, to the Committees on the Judiciary; Energy and Commerce; Armed Services; Foreign Affairs; Public Works and Transportation; Merchant Marine and Fisheries; and Ways and Means.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

147. By the Speaker: Memorial of the Legislature of the State of Illinois, relative to the appropriation of funds for research into mental illness; to the Committee on Appropriations, June 14, 1989.

148. Also, memorial of the State Assembly of the State of California, relative to Lake Norconian; to the Committee on Armed Services.

149. Also, memorial of the House of Representatives of the State of Illinois, relative to amendments to Regulation Y proposed by the Federal Reserve Board; to the Committee on Banking, Finance and Urban Affairs.

150. Also, memorial of the House of Representatives of the State of Illinois, relative to S. 448; to the Committee on the Judiciary.

151. Also, memorial of the Legislature of the State of Texas, relative to the ratification of a proposed amendment to the Constitution of the United States relative to the compensation of Members of the United States Congress and when any variations therein shall take effect; to the Committee on the Judiciary.

152. Also, memorial of the Legislature of the State of Texas, relative to excluding the coastal mainland of Brazoria County from the Coastal Barrier Resource System; to the Committee on Merchant Marine and Fisheries.

153. Also, memorial of the House of Representatives of the State of Illinois, relative to the 1990 census; to the Committee on Post Office and Civil Service.

154. Also, memorial of the House of Representatives of the State of Illinois, relative to giving preference to persons receiving public assistance for work on the 1990 census; to the Committee on Post Office and Civil Service.

155. Also, memorial of the Legislature of the State of Texas, relative to funds to launch the space station Freedom; to the Committee on Science, Space, and Technology.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII,

Ms. OAKAR introduced a bill (H.R. 2652) to authorize issuance of a certificate of documentation for employment in the coastwise trade of the United States for the vessel M/V *South Bass*; which was referred to the Committee on Merchant Marine and Fisheries.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 5: Mr. OBERSTAR and Mr. SIKORSKI.

H.R. 8: Mr. GALLEGLY, Mr. WOLF, and Mrs. PATTERSON.

H.R. 45: Mr. BOSCO.

H.R. 101: Mr. JONTZ.

H.R. 109: Mr. PENNY and Mr. SIKORSKI.

H.R. 110: Mr. WHITTAKER and Mr. LIPINSKI.

H.R. 239: Mr. COLEMAN of Missouri, Mr. BILBRAY, Mr. FORD of Tennessee, Ms. OAKAR, Mr. FORD of Michigan, and Mr. POSHARD.

H.R. 293: Mr. SIKORSKI, Mr. MCDERMOTT, and Mr. WOLPE.

H.R. 343: Mr. SAXTON.

H.R. 411: Mr. DEFAZIO.

H.R. 425: Mr. YOUNG of Florida, Mr. CAMPBELL of California, Mr. GALLEGLY, Mr. SOLARZ, and Mr. SHAW.

H.R. 537: Mrs. PATTERSON, Mr. WEBER, Mr. LIVINGSTON, Mr. GOSS, Mr. NIELSON of Utah, and Mrs. UNSOELD.

H.R. 628: Mr. EDWARDS of Oklahoma.

H.R. 660: Mr. BRENNAN.

H.R. 775: Mr. UPTON, Mr. FORD of Michigan, and Mr. RINALDO.

H.R. 777: Mr. NIELSON of Utah, Mr. BORSKI, Mr. BUSTAMANTE, Mr. CLAY, Mr. COUGHLIN, Mr. FEIGHAN, Mr. HERTEL, Mr. KOSTMAYER, Mr. MARTIN of New York, Mrs. MARTIN of Illinois, Mr. MOODY, and Mr. WELDON.

H.R. 830: Mr. HERTEL, Mr. FLORIO, Mr. NEAL of Massachusetts, Ms. OAKAR, Mr. DELLUMS, Mr. LEWIS of Georgia, Mr. MARTINEZ, Mr. MRAZEK, Mr. HUBBARD, Mr. SCHEUER, Mr. HUGHES, Ms. KAPTUR, Mr. JACOBS, Mr. CHAPMAN, Mrs. COLLINS, Mr. EVANS, Mr. SHAYS, Mr. ECKART, and Mr. BOSCO.

H.R. 929: Mr. FRANK.

H.R. 962: Mr. ERDREICH.

H.R. 993: Mr. LELAND.

H.R. 995: Mr. JONTZ.

H.R. 1025: Mr. ATKINS, Mrs. BENTLEY, and Mr. GUARINI.

H.R. 1047: Mr. WEISS, Mrs. LOWEY of New York, Mr. TAUKE, Mr. SAVAGE, Mr. HATCHER, Mr. STARK, Mr. KASTENMEIER, Mr. SKELTON, Mr. COOPER, Mr. THOMAS of Georgia, Mr. TALLON, Mr. GRANT, Mr. EVANS, Mr. GEJDENSON, Mr. COMBEST, and Mr. SKAGGS.

H.R. 1068: Mr. CAMPBELL of Colorado, Mr. COSTELLO, Mr. MINETA, and Mr. HASTERT.

H.R. 1095: Mr. CLINGER, Mr. HORTON, and Mr. INHOFE.

H.R. 1130: Mr. CONYERS, Mr. GEJDENSON, Mr. POSHARD, Mr. RICHARDSON, Mr. SAVAGE, and Mr. TRAXLER.

H.R. 1153: Mr. EDWARDS of Oklahoma.

H.R. 1166: Mrs. PATTERSON.

H.R. 1167: Mrs. PATTERSON.

H.R. 1181: Mr. MCMILLAN of North Carolina, Mr. MURPHY, Mr. BILIRAKIS, and Mr. WILSON.

H.R. 1182: Mrs. COLLINS, Mr. GUARINI, Mr. FOGLIETTA, Mr. PETRI, and Mr. UPTON.

H.R. 1183: Mr. GUARINI, Mrs. COLLINS, Mr. FOGLIETTA, Mr. DE LUGO, Mr. PETRI, and Mr. UPTON.

H.R. 1194: Mr. GUARINI.

H.R. 1200: Mr. SCHIFF, Mr. CONYERS, Mr. ROWLAND of Georgia, Mr. STOKES, Mr. HUBBARD, Mr. BRYANT, Mr. SISISKY, Mr. LAGOMARSINO, Mr. BATEMAN, Mr. WHITTAKER, Mr. FORD of Tennessee, Mr. HUGHES, Mrs. LLOYD, Mr. JAMES, Ms. OAKAR, Mr. THOMAS A. LUKEN, Mr. DONALD E. LUKENS, Ms. KAPTUR, Mr. BROWN of Colorado, Mr. KASICH, and Mr. ESPY.

H.R. 1243: Mr. YATRON.

H.R. 1292: Mr. RINALDO.

H.R. 1307: Mr. YOUNG of Florida and Mr. MAVROULES.

H.R. 1356: Mr. MARTINEZ.

H.R. 1358: Mr. SPENCE.

H.R. 1383: Mrs. COLLINS, Mr. DAVIS, and Mr. OBERSTAR.

H.R. 1391: Mr. SMITH of New Jersey, Mrs. MARTIN of Illinois, and Mrs. MEYERS of Kansas.

H.R. 1439: Mr. ROSE.

H.R. 1525: Mr. MARKEY.

H.R. 1532: Mr. MURPHY, Mr. OWENS of New York, and Mr. FAZIO.

H.R. 1645: Mr. LEWIS of California and Mr. ROHRABACHER.

H.R. 1649: Mr. KOLTER, Ms. KAPTUR, Mrs. COLLINS, Mr. DEFAZIO, Mr. OWENS of New York, Mr. FAZIO, Mr. BRYANT, Mr. ANTHONY, Mr. BATES, Mr. SOLOMON, and Mr. SIKORSKI.

H.R. 1661: Mr. STOKES, Mr. WHEAT, Mr. POSHARD, Mr. MURPHY, Mr. JONTZ, Mr. WOLPE, Mr. ATKINS, Mr. KLECZKA, Mr. WALGREN, Mrs. SAIKI, Mr. BORSKI, Mr. KASTENMEIER, Ms. PELOSI, Mr. DEFAZIO, Mr. SAVAGE, Mr. BOEHLERT, Mr. CONYERS, Mr. BRYANT, Mr. VENTO, Mr. EVANS, Mr. HOYER, Mr. STUDDS, Mrs. MORELLA, Mr. DINGELL, Mr. ENGEL, Mr. OBEY, Mr. TRAXLER, Mr. DYSON, Mr. SABO, Mr. JOHNSON of South Dakota, Mr. MFUME, Mr. SHAYS, Mr. GEJDENSON, and Mr. HOCHBRUECKNER.

H.R. 1676: Mr. VENTO.

H.R. 1710: Mr. HYDE, Mr. BATES, Mr. JONTZ, Mr. HAWKINS, Mr. DE LA GARZA, Mr. PAYNE of New Jersey, Mr. SISISKY, Mr. PRICE, Mr. PICKETT, Mr. MORRISON of Washington, Mr. FAZIO, Mr. GRANT, Mr. JOHNSTON of Florida, Mr. WALSH, Mr. JONES of North Carolina, Mr. SCHUETTE, and Mr. BALLENGER.

H.R. 1720: Mr. PRICE, Mr. ROE, and Mr. ENGEL.

H.R. 1994: Mr. BUSTAMANTE, Mr. FOGLIETTA, and Mrs. UNSOELD.

H.R. 2002: Mr. SMITH of New Hampshire and Mr. PORTER.

H.R. 2022: Mr. PARKER, Mr. DOUGLAS, Mr. INHOFE, Mr. MADIGAN, Mr. ATKINS, Mr. VOLKMER, and Ms. PELOSI.

H.R. 2025: Mr. WEISS.

H.R. 2076: Mr. DE LUGO and Mr. STARK.

H.R. 2083: Mr. GINGRICH and Mr. WALSH.

H.R. 2086: Mr. COSTELLO, Mr. SOLOMON, Mr. PACKARD, Mr. EMERSON, Mr. MICHEL, Mrs. PATTERSON, Mr. FAWELL, Mr. MADIGAN, Mr. JONTZ, Mrs. BOXER, and Mr. NIELSON of Utah.

H.R. 2110: Mr. MOORHEAD, Mr. LAGOMARSINO, and Mr. BARTON of Texas.

H.R. 2132: Mr. HASTERT, Mrs. SAIKI, Mr. ARMEY, Mr. SMITH of New Hampshire, Mr. ROE, Mr. SHUMWAY, Mr. SCHUETTE, Mr. RIDGE, Mr. BALLENGER, Mr. BLILEY, and Mr. PACKARD.

H.R. 2133: Mr. HASTERT, Mrs. SAIKI, Mr. ARMEY, Mr. SMITH of New Hampshire, Mr. ROE, Mr. SHUMWAY, Mr. SCHUETTE, Mr. RIDGE, Mr. BALLENGER, Mr. BLILEY, and Mr. PACKARD.

H.R. 2136: Mr. MCEWEN, Mr. HENRY, Mr. IRELAND, Mr. PENNY, Mr. GINGRICH, Mr. JONTZ, Mr. DEFAZIO, Ms. SNOWE, Mr. LAGOMARSINO, Mr. SUNDQUIST, Mr. SMITH of Mississippi, Mr. DANNEMEYER, Mr. BURTON of Indiana, Mr. HASTERT, Mr. KILDEE, Mr. WEBER, Mrs. COLLINS, Mr. INHOFE, Mrs. JOHNSON of Connecticut, Mr. FRENZEL, and Mr. MORRISON of Washington.

H.R. 2168: Mr. SMITH of Florida, Mr. FAZIO, Ms. LONG, Mr. VENTO, Mr. LEWIS of Georgia, Mrs. JOHNSON of Connecticut, Mr. DYMALLY, Mrs. PATTERSON, Mr. ATKINS, Mr. KOLTER, Mr. FEIGHAN, Mr. ROYBAL, and Mr. KILDEE.

H.R. 2209: Mr. DINGELL, Mr. JACOBS, Mr. OBEY, and Mr. SIKORSKI.

H.R. 2228: Mr. MANTON.

H.R. 2259: Mr. BAKER, Mr. DOUGLAS, Mr. HANCOCK, Mr. MACHTLEY, Mr. MCCOLLUM, Mr. PARRIS, Mr. DENNY SMITH, and Mr. YOUNG of Florida.

H.R. 2273: Mr. TORRICELLI, Mr. JONES of North Carolina, Mr. PANETTA, Mr. RAVENEL, Mr. TRAFICANT, Ms. OAKAR, Mr. DEFAZIO, Mr. WATKINS, Mr. FASCELL, Mr. PAYNE of New Jersey, Mr. RIDGE, Mr. SIKORSKI, Mr. STARK, Mr. TORRES, Mr. HUGHES, Mrs. BYRON, Mr. SMITH of Florida, Mr. HOCHBRUECKNER, Mr. WILSON, Mr. LELAND, Ms. SLAUGHTER of New York, Mr. COSTELLO, Mr. EVANS, and Mr. DARDEN.

H.R. 2274: Mr. BAKER, Mr. BUSTAMANTE, and Mr. BILIRAKIS.

H.R. 2312: Mr. CROCKETT, Mr. DYMALLY, Mr. MRAZEK, Mr. SOLOMON, Mrs. UNSOELD, and Mr. WALSH.

H.R. 2351: Mr. BAKER, Mr. BILBRAY, Mrs. SAIKI, Ms. SCHNEIDER, Mr. BILIRAKIS, and Mrs. PATTERSON.

H.R. 2360: Mr. PALLONE, Mr. MCGRATH, Mr. INHOFE, and Mr. NIELSON of Utah.

H.R. 2361: Mr. PARKER, Mr. BUSTAMANTE, and Mrs. BENTLEY.

H.R. 2362: Mr. PARKER and Mr. BUSTAMANTE.

H.R. 2373: Mr. HERTEL and Mr. STENHOLM.

H.R. 2388: Mr. ESPY, Mr. EMERSON, Mr. GUNDERSON, Mr. HORTON, Mr. HATCHER, Mr. MCEWEN, Mr. POSHARD, and Mr. LAGOMARSINO.

H.R. 2395: Mr. WALSH, Mr. VANDER JAGT, Mr. GORDON, Mr. HENRY, and Mr. PACKARD.

H.R. 2406: Mr. RINALDO and Mr. LIPINSKI.

H.R. 2460: Mr. SANGMEISTER.

H.R. 2487: Mr. FASCELL.

H.R. 2493: Mr. BERMAN, Mr. MARTINEZ, Ms. KAPTUR, and Mr. TRAFICANT.

H.R. 2503: Mr. FAZIO.

H.R. 2521: Mr. DEFAZIO.

H.R. 2561: Mr. ATKINS, Mr. LAGOMARSINO, Mr. FORD of Michigan, Mr. PAXON, and Mr. RINALDO.

H.J. Res. 46: Mr. EVANS.

H.J. Res. 111: Mr. BORSKI, Mr. HAYES of Illinois, Mr. HYDE, Mr. GRANT, Mr. PANETTA, Mr. HOYER, Mr. AUCOIN, Mr. WALSH, Mr. ECKART, Mr. LEVIN of Michigan, Mr. IRELAND, Mr. LANTOS, Mr. LENT, Mr. HATCHER, Mr. GARCIA, Mr. MINETA, Mr. HENRY, Mr. BILBRAY, Mr. LEWIS of Florida, Mr. MCMILLEN of Maryland, Mr. LEHMAN of Florida, Mr. MURPHY, Mr. FASCELL, Mr. HANCOCK, Mr. OLIN, Mr. ORTIZ, Mr. PALLONE, Mr. PORTER, Mr. NATCHER, Mr. CONTE, Mr. RAVENEL, Mrs. SAIKI, Mr. PICKETT, Mr. SAVAGE, Mr. LIPINSKI, Mr. FAWELL, Mr. DIXON, Ms. PELOSI, Mr. ASPIN, Mr. SPRATT, Mr. GINGRICH, Mr. UPTON, and Mr. TRAFICANT.

H.J. Res. 126: Mr. TANNER, Mr. NOWAK, Mr. FORD of Michigan, Mr. CHANDLER, Mr. FOGLIETTA, Mr. GOODLING, Mr. ANNUNZIO, Mr. HEFNER, Mr. MCHUGH, Mr. CONTE, Mr. MFUME, Mr. PRICE, Mr. MONTGOMERY, Mr. BARNARD, Mr. HUTTO, Ms. PELOSI, Mr. MOORHEAD, Mr. BUNNING, Mr. FORD of Tennessee, Mr. MADIGAN, Mr. MILLER of Washington, Mr. WHITTEN, Mr. CALLAHAN, Mr. KASICH, Mr. YATRON, Mr. RICHARDSON, Mr. CRANE, Mr. KILDEE, Mr. GONZALEZ, Mr. HALL of Ohio, Mr. COLEMAN of Missouri, Mr. SCHUETTE, Mr. PICKLE, Mr. STARK, Mr. QUILLEN, Mr. BORSKI, Mr. SPENCE, Mr. EARLY, Mr. COUGHLIN, Mr. BALLENGER, Mr. HASTERT, Mr. WELDON, Mr. HYDE, Mr. MARKEY, Mr. LIPINSKI, Mr. DUNCAN, Mr. LEVIN of Michigan, Mr. SMITH of Vermont, Mrs. BENTLEY, and Mr. LANTOS.

H.J. Res. 199: Mr. EDWARDS of Oklahoma.

H.J. Res. 208: Mr. LEACH of Iowa.

H.J. Res. 221: Mr. BLILEY, Mr. CLARKE, Mr. DE LUGO, Mr. ERDREICH, Mr. HAWKINS, Mr. HENRY, Mr. LAFALCE, Mr. LELAND, Mr. MCCOLLUM, Mrs. MEYERS of Kansas, Mr. NIELSON of Utah, Mr. SAVAGE, and Mr. YATRON.

H.J. Res. 223: Mr. STENHOLM, Mr. FEIGHAN, Mr. SHAYS, Mr. MCHUGH, and Mr. JONTZ.

H. Con. Res. 23: Mr. KENNEDY.

H. Con. Res. 39: Mr. SHUSTER, Mr. RHODES, and Mr. ROBINSON.

H. Con. Res. 79: Mr. HYDE.

H. Con. Res. 87: Mr. SOLOMON, Mrs. COLLINS, Mr. MCNULTY, Mr. ATKINS, Mr. SMITH of New Jersey, Mr. MADIGAN, Mr. ESPY, Mr. STUDDS, Mr. BERMAN, Mr. FRANK, Mr. VANDER JAGT, Mr. KOLTER, Mr. YATES, Mr. LANTOS, Mr. SPRATT, Mr. HAWKINS, Mr. PANETTA, Mr. NEAL of North Carolina, Mr. HAMILTON, Mr. BROOMFIELD, Mr. CONTE, and Mr. FASCELL.

H. Con. Res. 88: Mr. DELLUMS and Mr. CARPER.

H. Con. Res. 92: Mr. SCHUETTE, Mr. DE LUGO, Mr. VANDER JAGT, Mr. WATKINS, Mr. ROHRABACHER, Mr. BORSKI, Mr. DYMALLY, Mr. JENKINS, Mr. GRANT, Mr. TAUKE, Mr. MANTON, Mr. RHODES, Mr. PALLONE, Mr. BATEMAN, Mr. LENT, Mr. WALSH, Mr. MCEWEN, Mr. FLIPPO, Mr. PURSELL, Mr. EMERSON, Mr. FAWELL, Mr. FAUNTROY, and Mr. LOWERY of California.

H. Con. Res. 131: Mr. MCEWEN.

H. Res. 157: Mr. FAZIO, Mr. SKAGGS, Mrs. PATTERSON, Mr. DWYER of New Jersey, Mr. DANNEMEYER, and Mr. PANETTA.

PETITIONS, ETC.

Under clause 1 of rule XXII,

51. The SPEAKER presented a petition of the City Council, Fort Worth, TX, relative to tax-exempt bonds; which was referred to the Committee on Ways and Means.

EXTENSIONS OF REMARKS

NORTH AMERICAN WETLANDS CONSERVATION ACT

HON. SILVIO O. CONTE

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 14, 1989

Mr. CONTE. Mr. Speaker, on June 8, 1989, I introduced, along with Congressmen DINGELL, JONES, DAVIS, and WELDON, the North American Wetlands Conservation Act (H.R. 2587).

This legislation was developed in response to a growing environmental crisis in our country: disappearing wetlands and a severe decline in our waterfowl population. Since the European settlement of North America, over half of the wetlands on the continent have been destroyed. Agricultural conversions, economic development, urban encroachment, and water source development have taken a tremendous toll on this fragile natural resource. In fact, between the mid-1950's and the mid-1970's, about 11 million acres of marshes and swamps were destroyed, for an alarming annual loss averaging 458,000 acres.

The effect of such a dramatic loss on waterfowl can be plainly observed, but the destruction of wetlands has a much wider impact on the environment. For example, the "Final Report of the National Wetlands Policy Forum" found that:

Wetlands have great value in their natural state. Their biological productivity can exceed that of the best agricultural lands. A broad array of wildlife, fisheries and other aquatic resources depend on them. Wetlands sustain nearly one third of the nation's endangered and threatened species. They provide breeding and wintering grounds for millions of waterfowl and shore birds every year. Coastal wetlands provide nursery and spawning grounds for 60 to 90 percent of U.S. commercial fish catches. Wetlands also play key roles in regional hydrological cycles—lessening flood damage, reducing erosion, recharging ground water, filtering sediment, and abating pollution."

As this report indicates, wetlands are vital to the survival of many different fish and wildlife species and of man as well. And as a result, the benefits of preserving and conserving these environmentally important areas are far reaching.

The most extensive and recent wetland losses have occurred in California, Louisiana, Mississippi, Texas, Iowa, North Dakota, South Dakota, and Florida. Dramatic losses in these areas can be directly linked to the recent decline in many species of migratory birds who depend on these delicate systems. For example, national populations of several duck species are down almost 50 percent from the 1970's, and along the Atlantic coast, black ducks have declined steadily over the last 30 years.

This trend in our waterfowl population is important for two reasons. First, waterfowl are readily visible indicators of environmental crisis. They rely heavily on the wetland ecosystems, and act as barometers, indicating environmental decay. Second, waterfowl are the most prominent and economically important group of migratory birds in North America, generating a direct expenditure of several billion dollars annually.

To deal with this international environmental problem, the United States and Canada signed in May 1986 the North American Waterfowl Management Plan, a comprehensive approach to the problem of declining waterfowl populations and the destruction of wetlands. The plan stresses international cooperation and a unique public-private sector partnership. Broadly stated, the goal of the plan is to restore the North American breeding waterfowl populations to historic levels by protecting and restoring about 5.5 million acres of wetland and upland habitat in the United States and Canada. The plan outlines an ambitious program of habitat acquisition, restoration, and development to achieve the population goals. Since the plan focuses on wetlands habitat, it is basically a continental wetland management plan as much as it is a waterfowl plan.

The principles of the plan are outlined in "North American Waterfowl Management Plan: A Strategy for Cooperation" as follows:

PRINCIPLES

1. Protection of waterfowl and their habitats requires long-term planning and the close cooperation and coordination of management activities by Canada, Mexico and the United States, within the framework of the 1916 and 1936 Migratory Bird Conventions.

2. In waterfowl management decisions and actions, first priority should be to perpetuate waterfowl populations and their supporting habitats. Management actions should be at intensities required to prevent the individual waterfowl populations from decreasing to low levels and to encourage optimum use of all available habitat.

3. The maintenance of abundant waterfowl populations is dependent on the protection, restoration and management of habitat. The persistent loss of important waterfowl habitat should be reversed.

4. Waterfowl populations should be managed by identifiable subpopulations where these can be biologically justified and for which management regimes are feasible.

5. Joint ventures of private and governmental organizations should be considered as an approach to financing high-priority research and management projects of international concern that can only be addressed through a pooling of resources.

6. The managed subsistence and recreational harvests of the renewable waterfowl resource are desirable and consistent with its conservation.

7. Recreational hunting will continue to be managed under existing regulatory processes in Canada and the United States. These processes will be subject to continuous review to ensure they are compatible and consistent with waterfowl population needs on a continental basis, and to evaluate their environmental impacts and to ensure public participation.

8. The concept of stabilizing hunting regulations—with review at five-year intervals and provisions for predetermined responses to substantive waterfowl population fluctuations—is desirable to encourage long-term waterfowl management efforts.

To implement these principles and the goals of the plan, I introduced H.R. 2587, the North American Wetlands Conservation Act. The development of this legislation was guided by three broad principles which form the foundation and justification for the bill.

First, the bill provides the resources necessary to implement the plan. Investment proceeds from the Pittman-Robinson fund and general funds authorized to be appropriated are made available by this legislation.

Second, the bill provides a coherent and efficient framework for implementing projects under the plan. In this process, an advisory committee screens and evaluates each project slated for funding, and those recommendations are then submitted to the Migratory Bird Conservation Commission for approval. This two step process ensures that each project is closely examined and that this effort is coordinated with the activities now underway by the Migratory Bird Commission. For several years now, the Commission has been working on projects to implement the plan, and this process of funneling all North American waterfowl projects through one panel will increase coordination and reduce overlap and duplication. Moreover, the Migratory Bird Commission has over 50 years of experience in the business of preserving and restoring wetlands for the conservation of waterfowl populations.

And third, this bill provides for State, private, and international input into the process of implementing the plan. The North American waterfowl plan is not just another Federal program. It's an international cooperative effort that relies heavily on the financial and professional assistance of private organizations. The plan assumes that private groups will contribute sizable sums to the implementing of the plan, and their active participation in the process is essential to a successful program. For this reason, the advisory committee which reviews all projects funded under this bill is composed of three representatives from nonprofit groups involved with implementing the plan. The Secretary of the National Fish and Wildlife Foundation Board is also a member of the advisory committee.

This direct and active participation in the decisionmaking process by these nonprofit groups will invigorate this program and separate it from other Federal conservation programs. In addition, the States are represented

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

on the advisory committee by agency heads from the four different flyways, and the Secreary is encouraged to include, as ex officio, nonvoting members, representatives of Canada and Mexico. This well balanced and diverse group should enhance the implementation of the plan.

The details of H.R. 2587 are outlined in a section-by-section summary that I will include for the RECORD.

Mr. Speaker, this legislation is not a final solution to the problem of disappearing wetlands and declining waterfowl populations, but it does take a significant and positive step forward. We must act now, before millions of wetland acres are converted and destroyed forever. Wetlands are an important natural resource that need protection. H.R. 2587 is designed to provide some of the tools to get the job done. I invite all of my colleagues to join me, Congressmen DINGELL, DAVIS, and JONES in cosponsoring this bill.

NORTH AMERICAN WETLANDS AND CONSERVATION ACT—SECTION-BY-SECTION SUMMARY

Section 1. Short Title: North American Wetlands Conservation Act.

Section 2. Findings and Statement of Purpose.

Section 3. Definitions: The terms defined in this section include advisory committee; Agreement; appropriate Committees; flyway; Migratory Bird Conservation Commission; migratory birds; Plan; Secretary; State, and wetlands conservation project.

Section 4. Establishment of North American Wetlands Conservation Advisory Committee: An advisory committee to the Migratory Bird Conservation Commission is established consisting of the Director of the U.S. Fish and Wildlife Service, the Secretary of the National Fish and Wildlife Foundation Board, and seven Secretarial appointees, four of whom shall be state fish and wildlife agency heads representing the flyways, and three of whom shall represent non-profit groups involved in implementing the North American Waterfowl Plan. In addition, the Secretary will appoint an alternative committee member who is knowledgeable in fish, wildlife and wetlands conservation, who will perform the duties of any other committee member who is absent from a meeting or whose seat was vacant. Members are appointed for six year terms.

The Secretary is also encouraged to include, as ex officio, non-voting members, representatives of the Federal, provincial, State or territorial governments of Canada and Mexico, of other Federal agencies, and of Native American interests who are involved in wetlands conservation projects under the Act or the Plan.

This section also provides for the appointment of a coordinator who shall be appropriately qualified and an employee of the U.S. fish and Wildlife Service. The Chairman of the Advisory Committee shall be elected by the membership and serve a two year term.

Section 5. Approval of Wetlands Conservation Projects: The Advisory Committee is charged with recommending wetlands conservation projects to the Migratory Bird Conservation Commission for approval based on consideration of availability of funds under the Act, extent of joint public-private sector participation in the project, consistency with the National Wetlands Priority Conservation Plan provided in section 302 of the Emergency Wetlands Resources Act and the purposes of this Act and the Plan, the extent to which it would aid in conservation of migratory non-game birds and species which are listed or candidates for listing under the Endangered Species Act, the substantiality of the project, and the recommendations from existing partnerships between public and private agencies carrying out wetlands conservation projects under the Act or the Plan.

The Advisory Committee will make recommendations to the Migratory Bird Conservation Commission by March 30 of each year for projects to be funded under the act, in priority order. The Chairman of the Advisory Committee shall serve as an ex officio member of the Commission for the purposes of considering and voting upon wetland conservation projects recommended by the Advisory Committee.

Section 6. Conditions Relating to Wetlands Conservation Projects: All lands in the United States acquired in whole or in part by the Migratory Bird Conservation Commission with funds made available by this Act must be included in the National Wildlife Refuge System, except that within one year after the date of acquisition, the Secretary may convey without cost any lands so acquired to a state, or any private entity approved by a state if the Migratory Bird Commission concurs and if the Secretary makes a finding that the real property interests can be better managed if they are not retained in the refuge system.

For projects outside of the United States, funds will be provided to public agencies and private entities for wetlands conservation projects recommended by the Advisory Committee and approved by the Commission. The Secretary must ensure that any real property interests acquired by Federal funds be administered for long term conservation and management of fish and wildlife resources and provide for appropriate public access and use.

Section 7. Amounts Available to Carry Out This Act: Funding is provided by requiring the Secretary of the Treasury to invest the portion of the Pittman-Robinson Fund not required for current withdrawals in interest-bearing obligations of the United States. The interest would become available for funding projects approved under the Act, without appropriation, until the year 2001, at which time it would be added to the amounts available for allocation to the states under the Pittman-Robinson Act. In addition, the Act authorizes the appropriation of an additional amount not to exceed $15,000,000.

Section 8. Allocation of Amounts Available to Carry Out This Act: At least 50 percent, and not more than 70 percent of the available funds shall be expended on projects in Canada and Mexico and the remainder in the United States. Such funds may not exceed 70 percent of the project costs in Canada and Mexico, and 50 percent of the cost in the United States, except that projects on Federal land may be fully funded. The Secretary is authorized to make partial payments and to make agreements for future payments, subject to funding availability.

Section 9. Deposit of Law Enforcement Proceeds Into Fund: All proceeds from U.S. Fish and Wildlife Service law enforcement activities not otherwise earmarked shall be deposited for distribution in the refuge revenue sharing fund.

Section 10. Restoration, Management, and Protection of Wetlands and Habitat for Migratory Birds on Federal Land: Every Federal agency is required to cooperate with the U.S. Fish and Wildlife Service in restoring, protecting and enhancing wetland ecosystems and other wildlife habitat within their jurisdiction. Agency heads are required to give priority in any land disposal to the transfer of real property interests for conservation purposes.

Section 11. Reports to Congress: Every two years, reports are required assessing overall wetlands protection and restoration activities and migratory bird population trends. Annual reports on project status and costs are required.

Section 12. Revisions to the Plan: Every five years, the Secretary is required to undertake a revision of the North American Waterfowl Plan in cooperation with Canada, and Mexico is invited to participate.

Section 13. Relationship to Other Authorities: Nothing in this Act is intended to alter the Secretary's authority to acquire lands under any other statute, and Federal funds made available under this Act shall not be used for mitigation projects under the Fish and Wildlife Coordination Act or the Water Resources Development Act.

Section 14. Addition of EPA Administrator to Migratory Bird Conservation Commission: The EPA Administrator would replace the Secretary of Transportation as a member of the Commission.

Section 15. Limitation on Assessments Against Migratory Bird Conservation Fund: No administrative service assessments are allowed against the Migratory Bird Conservation Account.

Section 16. Technical and Conforming Amendments to the Migratory Bird Treaty Act.

FOR THE DEAD AND THE LIVING WE MUST BEAR WITNESS

HON. BILL GREEN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 14, 1989

Mr. GREEN. Mr. Speaker, over the years I have had the great honor of attending the annual events of Mr. Benjamin Meed and have wholeheartedly supported his tireless efforts on behalf of Holocaust survivors. As many know, Benjamin Meed is a survivor of the Warsaw ghetto uprising who came to this country in 1946 with his wife Vladka and less than $10 between them. Since that time, Benjamin Meed has worked night and day to make sure that the world never forgets the 6 millions Jews and 5 million non-Jews who senselessly lost their lives during the Holocaust. "Although the Holocaust is mostly a Jewish tragedy, the lesson is universal," Meed has said. "We all must prevent this from happening again any place in the world to any people."

It is my honor to share with my colleagues today two speeches which Mr. Meed has recently made. His insight and commitment are a source of inspiration to us all.

REMARKS BY BENJAMIN MEED, CHAIRMAN, 46TH ANNUAL COMMEMORATION OF THE WARSAW GHETTO, FELT FORUM, NEW YORK CITY, APRIL 30, 1989

We are together again to say kaddish betzibur, to remember our past and our desti-

ny, to reaffirm the Jewish future and to assert our solidarity with the people of Israel.

We are here to remember the victims. We recall with love their lives, their menschlichkeit in the face of the inhuman conditions of the ghettos and the forests and the Nazi death camps. We have gathered to let the world know that we remember. How betrayed and abandoned we were. And we shall never forget Auschwitz, Treblinka, Majdanek, and other death camps soaked with Jewish blood.

The German Nazis with their collaborators tried and almost succeeded in brutally murdering an entire people—men, women and children, only because they were born Jewish—as the world closed its eyes and shut it ears.

Forty-six years ago, from the doorway of a church, as a carousel turned, I watched the Warsaw ghetto go up in flames. Through the dense clouds of smoke, I can still hear the sound of Jews defending themselves.

History will record the Warsaw and other ghetto uprisings as the symbol of Jewish resistance during the German Nazi occupation. For us it is an integral part of our very being.

It is a legacy that we carry with sorrow—but also with pride for it is a legacy of a fight against impossible odds—to proclaim for history that the spirit of the Jewish people shall never be extinguished.

As I look out at you, I see before me—Holocaust survivors and their children, American Jews, young and old, religious and secular who understand that all Jews must bear witness.

There were many bitter lessons that should be learned from the dark years dominated by German Nazis. We shall never forget that in those years nobody wanted to save us. There was no place for Jews to go. All gates of the free world were closed to us.

Fifty years ago, the SS *St. Louis* sailed from Germany with 936 Jews bound for Havana, Cuba. They hoped that this voyage was a lifeline thrown to them just in time. We know they were denied entry into Cuba. For 14 days the *St. Louis* waited just off the coast of the United States. But in those days Jews were unwanted. So the *St. Louis* had to set sail again in a journey back to Europe, back to the lands of their destruction.

One cannot but think what a different outcome the *St. Louis* story might have had, had there been a Jewish homeland, had there been a state of Israel in 1939. Or had the American Jewish community and its leaders been more effective.

Do not misunderstand. We have made our home in America. We have rebuilt our lives here. The United States has been good to many of us, but America has not changed us. By our remembrance and by our collective testimony, we have helped change America and especially American Jewry.

We have served as messengers who have told horrible but necessary stories that have changed the very definition of what is possible for humankind to do. And we have warned our countrymen to be on guard that the unthinkable is again possible.

Now, each passing year brings the enormity of our loss back to us, as a second and third generation of Jews grow up, who never knew the world of their parents and their grandparents, never experienced the culture of 1,000 years of European yiddishkeit.

We sense how Jewish life is made poorer, as a whole generation of Jewish culture is missing. We are missing the authors, the scientists, the rabbis, the teachers, the playwrights, the composers and the political leaders. They have not been and cannot be replaced.

Above all, we are missing over 1 million Jewish children, a loss of more than a generation; a loss of generations unborn.

Yes, we are consoled and grateful to the people that help us build memorials that will rise in our lifetimes and that will preserve the memory of our martyrs and recall the events which scarred our lives.

Once the responsibility of remembrance was ours alone—today not only has the Jewish community joined us, but the American people. There will be a national memorial to the Holocaust in Washington on the mall and New York will have a memorial overlooking the Statue of Liberty.

Yet we are concerned—more deeply concerned than ever—with the themes and ways of remembrance. For years, we fought against the idea that Jews went like sheep to the slaughter.

We told of the uprising in Warsaw, the revolt in Treblinka, the escape from Sobibor, the dynamiting of the crematoria in Auschwitz, the struggle of the partisans and underground couriers, the inner life of the ghettos. We taught the world of our spiritual dignity and resistance of our kedoshim.

Without our testimony no one would have known what it was like to be a Jew posing as a Christian, and sometimes even wearing a German uniform. Without our acts of witness, no one would have learned of the quality of defiance, of the thousands of acts large and small that characterized the spiritual resistance of our people in so many ways.

Future generations must know the ugly truth of what happened and how it happened. They must know who were the Holocaust victims. We must make certain that the memorials and museums that we help build today will be permanent and enduring so that they cannot be changed to suit any political whim or any change of mood.

We have all seen the skeletal remains of a once vital people. But we must give flesh to the bones and see the people as they once lived. Survivors have an obligation to tell that story, but it is the memorial museum's creators' and designers' responsibility to listen to our testimony.

Together we must be on guard against commercialization and vulgarization. Not only by our enemies but sometimes by our friends, people who mean well, but people without our experience who cannot understand what took place in the daily struggle for life in the ghetto, the forest and the death camps. Yes, we know is it not an easy task, but we shall never look for easy answers.

My fellow survivors, time is short but there is still much work to be done. We are being challenged by our kedoshim to pay our debt to those in whose name we and others speak. Our concern is with the past, our commitment must be to the future. As Elie Wiesel has taught us—for the dead and the living we must bear witness.

Let us remember.

By Benjamin Meed, survivor of the Warsaw Ghetto; chairman, the United Commemoration Committee of Metropolitan New York, president, the American Gathering of Jewish Holocaust Survivors and Warsaw Ghetto Resistance Organization [WAGRO]; member, the United States Holocaust Memorial Council, chairman, the Museum Content Committee and Days of Remembrance; executive member, a Living Memorial to the Holocaust—Museum of Jewish Heritage in New York.

AN ADDRESS BY BENJAMIN MEED, CHAIRMAN, DAYS OF REMEMBRANCE COMMITTEE, THE U.S. HOLOCAUST MEMORIAL COUNCIL, DAYS OF REMEMBRANCE 1989, THE CAPITOL ROTUNDA, MAY 2, 1989

Distinguished guests, Chairman Meyerhoff, Ladies and Gentlemen:

From Warsaw, Budapest and Amsterdam to the Rotunda in Washington is a long way—the distance can be measured in miles or in time. Six thousand miles, but 50 years is only a half century.

The distance that separates Warsaw of my youth from this historic Rotunda in this great capital is more than space and time. We are separated by suffering and anguish. We are separated by a new definition of immorality in which boundaries were crossed, human behavior was violated and the world was changed forever.

This year we mark the 50th anniversary of the outbreak of World War II—but for those of us who measure time by moral standards this year commemorates the year that the world stood on the eve of destruction.

In the city of my youth there were a half a million Jews, thousands of synagogues, hundreds of schools and youth groups. Warsaw was full of culture, full of life.

Suddenly, the German Nazis entered—we were isolated, abandoned and alone, soon we were pushed into a few ghetto streets and deprived of everything—and within 3 years, starvation, death and deportation. Our people were taken away in cattle cars to the gas chambers of Treblinka, Auschwitz, and Majdanek. Over 90 percent of our people perished in the gas chambers—as the world remained mute.

Today 50 years later we still asked the question, how was this possible?

Many of you have been to Yad Vashem in Jerusalem, many of you have visited Auschwitz and know the graphic pictures of those who became the victims of the Nazis. Today, let us not only remember their deaths, which were awful, violent and undescribable.

Let us remember their lives as well. The dignity of a culture that was centered on the family and community life, that gave rise to idealistic youth devoted to moral causes, that dreamed of justice and of Zion, of freedom and of piety.

Personally, I never dreamed 43 years ago when I came to this country with my wife Vladka with $8 and still mourning lost friends and family that I would one day be addressing such a gathering in such a place as the sacred shrine of American democracy, the Capitol Rotunda.

Let us also record with pride what the survivors and their children who came here have accomplished. We are a grateful people and will remain grateful to the United States for giving us the opportunity to rebuild our lives.

America has been good to us and we have been good for America. We have served as messengers from man's darkest hours, the early warnings against present day evils. We have been filled not with hatred but with life, love and memory.

We have told horrible but necessary stories that have changed the very definition of what is possible for humankind to do and we have warned our countrymen to be on guard that the unthinkable is again possible.

And perhaps most importantly, the survivors have given this country our offspring, the next generation who will carry on the message, who will be our extended witnesses. It is a blessed generation, filled with all the education, with all the hopes and the talent of a lost generation of 1 million children. Our children are builders, doctors, lawyers, educators, artists, and Congressmen and they will carry on our work after our generation is gone.

Distinguished Senators and Congressmen, in 1980 you mandated the Council to lead the Nation in an annual Commemoration of the Days of Remembrance, to transform the events of history into tales that could reach the entire American people so as to remind them of the preciousness of life, of the value of freedom

I am pleased to tell you here today in the Capitol Rotunda we are fulfilling your mandate. Through the task you have assigned to us, American have been made aware of the great significance of the lessons of the Holocaust to our democratic principles and beyond that to the lives of all humankind. Let us remember.

AN AMERICAN IMMIGRANT'S SPECIAL TRIBUTE TO THE AMERICAN FLAG

HON. THOMAS J. MANTON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 14, 1989

Mr. MANTON. Mr. Speaker, today we honor our Nation's flag with its own day—flag day. The history of our flag is a long and interesting one. For the benefit of all Members today, I am placing in the RECORD an article written several years ago concerning an Irish-born New York City policeman, Matt McGrath. Officer McGrath was the individual responsible for creating the precedent that the American flag on review is never dipped no matter what the event is. This is a remarkable story about an American immigrant and also informs us about some of the significant history regarding our flag.

A COP FOR ALL SEASONS

(By Dr. Roger D. McGrath)

A snowy November night in 1906 found a big, Irish-born New York City cop walking his beat along the Harlem River. As he came to a bridge that spanned the river, he heard voices cry out for help. He sprinted to a point on the bridge where a little knot of people had gathered and learned that a man had just jumped, evidently in a suicide attempt. The cop quickly peeled off his long-tailed winter coat, threw his helmet aside, and dove from the bridge. He hit the icy water with a crash; high diving techniques had not been part of his police training. Nearly knocked senseless himself, he nonetheless caught hold of the jumper, towed him to shore, and forced the water the jumper had swallowed from the man's lungs. Spent by the effort and nearly frozen, the big cop collapsed. Minutes later, though, an ambulance arrived and rushed both the jumper and the cop to Harlem Hospital where they soon recovered.

For his heroic efforts the cop was awarded the medal of honor, the police department's highest decoration; it was the first of two he would receive for courageous acts in the line of duty. The cop was Matthew J. McGrath.

Matt McGrath was born on a farm near Nenagh, County Tipperary, in 1876. He was one of eleven children. His tenant-farmer father worked long, hard hours but an absentee, English landlord insured that the McGraths would never rise above a subsistence level. The landlord's proudest boast was that he had never had to catch a bullet from a tenant.

Surprisingly, though, the landlord was no effete Englishman. He was a practiced athlete and could throw the hammer nearly 150 feet. When he came to collect his rents during the summer he would join in the village games and impress the local youths with his prowess. Matt made up his mind that he would beat him.

Matt was then just 17 years old, but he was already six feet tall and 170 pounds and was still growing. He didn't have a hammer to work with and his father kept him busy in the fields from dawn to dusk. Nonetheless, Matt improvised his own training regimen: at night he sneaked out and wrestled with the family bull! After months of this the bull had finally had enough and one foggy night galloped away, never to be seen again. By then Matt had gained twenty pounds and his muscles were bulging.

Now that the bull was gone, Matt persuaded a local blacksmith to fashion a crude hammer for him to throw. Day by day Matt's throws went farther and farther. Soon his prowess was the talk of County Tipperary. He threw the hammer 20 feet farther than his landlord's best and beat the best thrower in the British army by 10 feet.

The British thought Big Matt, now standing more than 6'2" and weighing over 200 pounds, would make a fine addition to their army. "Me boy," said an officer, "come with me to the barracks at Ardagh. You'll make a grand soldier." "I'm going to be no soldier," replied Matt. He had heard of the conflict with the Boers in South Africa and wanted to take no part in the fighting unless it was on the side of the Boers. "I mean," said the officer, "come to the barracks and have your sport. There's hammers for you to throw."

Matt decided instead that the time was now propitious for him to immigate to Amerikay, the land of the free. His parents tried to dissuade him but, when seeing that his mind was made up, gave him the family's only carpetbag and the stoutest pair of boots his father owned.

Matt landed in New York in 1897 with six pennies in his pocket. The very day he arrived he found employment as a blacksmith. A few days later he discovered Central Park. Thinking that it was the country, he kicked off his shoes, sprinted on the grass, heaved heavy boulders, and swam in a pond. A mounted policeman happened by and told Matt he had broken a dozen ordinances and ought to be arrested. But upon hearing Matt's brogue and learning that he had just arrived in America, the policeman, an Irish immigrant himself, softened. They parted good friends and Matt made up his mind to become a police officer.

For several years Matt worked as a blacksmith by day and attended school at night. In whatever spare time he had he trained with the hammer. In 1902 his alderman got him an appointment for the police department's examination. Passing the test with ease Matt became one of New York's finest. He also began to compete regularly in the hammer throw. In 1907 he won the United States junior championship and the next year qualified for the Olympic team.

The 1908 Olympics were held in London, England. Since the American team was largely composed of Irish Americans—Matt McGrath, J.P. Sullivan, Tom Morrissey, Mike Murphy, John J. Hayes, Mike Ryan, D.J. Kelly, Martin Sheridan, and John J. Flanagan, to name a few—sparks were bound to fly. During the opening ceremonies the athletes of one nation after another passed by the reviewing stand and dipped their flags to the King of England. When the Americans approached the royal box Matt McGrath stepped beside the American flag-bearer and said, "Dip that banner and you're in a hospital tonight." Old Glory went unbowed past the King of England.

The English were left in shock. The next day London newspapers lashed the Americans with the severest criticism they could muster and called for an apology. Veteran Olympian and world record discus thrower Martin Sheridan spoke for McGrath and the other Americans when he answered the English by pointing to the flag and saying, "This flag dips to no earthly king." The precedent had been set. To this day the United States does not dip its flag in the Olympic ceremonies.

Despite a torn ligament, Matt took the silver medal in the hammer throw. John J. Flanagan, another New York City cop who was the reigning Olympic champion and world record holder, beat Matt by a mere two feet. Both men broke the old Olympic record. When Matt received his medal from the King of England he was said to have responded to the king's compliments in "a brogue two sizes wider" than normal. American Irish dominated other events as well, winning the 800, 1500, marathon, intermediate hurdles, high jump, and discuss.

Following the Olympics, Dublin hosted the Irish members of the American team before their return to the states. Matt stayed on to visit his native Nenagh. He was hailed as a conquering hero and greeted by pipe and drum bands. The celebration continued for two weeks. As if to repay the Irish for their hospitality, Matt set a new world record in the hammer throw before he left for New York.

For the next half-dozen years Matt dominated the hammer throw and the 56-pound weight throw, more than once breaking the world records that he himself had established in the events. In 1911 he threw the hammer 187'4" and the 56-pound weight 40'6", the second record remained unsurpassed during his lifetime. In the 1912 Olympic Games at Stockholm Matt took the gold medal and set a new Olympic record with a hammer throw of 179'7". The record would last until the 1936 games.

Ever since the 1908 games journalists had been referring to Matt McGrath and his fellow weightmen on the American team as the "Irish whales." Almost all of the American shotputters, discus throwers, and hammer throwers were Irish and they were all huge. They also all happened to be New York cops; Martin J. Sheridan, John J. Flanagan, Patrick J. Ryan, and Patrick J. McDonald were the most prominent of Matthew J. McGrath's comrades. They must have been a sight walking the streets of New York. In a day when Americans were considerably smaller than they are today, McGrath stood 6'2" and weighed 245 pounds and McDonald, who won the shotput in the 1912 Olympics, stood 6'5" and weighed something over 300 pounds. The others were similarly large.

World War I forced the cancellation of the 1916 games but Matt made the Olympic team in 1920, although by then he was 43 years old. Somewhat off form at Antwerp he placed fifth in the hammer throw which was won by Pat Ryan. But Big Matt was not through yet. He again made the Olympic team in 1924 and not only carried the Stars and Stripes for America but he also won the silver medal in the hammer. He was 47 years old!

Meanwhile, Matt McGrath the police officer was also making his mark. He was decorated with his second medal for valor when he captured a murderer in a most unusual manner. The murderer had taken refuge on a river barge and opened fire when McGrath approached on a nearby pier. Big Matt found cover behind a pile of bricks and then flung the bricks with such speed and accuracy at the man that he threw his gun into the river and surrendered.

Patrolman McGrath became a sergeant in 1917. The next year he was made a lieutenant; in 1927, a captain; and in 1930, a deputy inspector. In 1936 he became a police inspector, the third highest rank in the department. High rank, desk work, and age did not seem to diminish Big Matt's formidable appearance though. In 1932 a journalist looked in on McGrath as he sat behind his desk in a mid-Manhattan precinct and wrote: "His eye is blue-gray, his jaw like reinforced concrete, and his build of two-forty-five pounds as solid as a steel bridge pier."

RECEIVES DISTINGUISHED CITIZEN AWARD

HON. PAUL E. GILLMOR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 14, 1989

Mr. GILLMOR. Mr. Speaker, I want to take this opportunity to honor a great Ohioan, Mr. J.J. Cafaro. This week, J.J. Cafaro is receiving a great honor from the Youngstown State University, where he will receive the 1989 Distinguished Citizen Award and an honorary doctorate degree at the YSU spring commencement.

Mr. Speaker, let me say that these honors conferred upon Mr. Cafaro are well deserved. He has proven time and again that he is a valuable citizen who contributes must to the community around him. As an entrepreneur in northeast Ohio, J.J. Cafaro's efforts have breathed life into the Youngstown area economy, and for that I commend him.

It is worthwhile to mention some of Mr. Cafaro's outstanding business accomplishments was a demonstration of this man's talents and ability. He serves as executive vice president of the Cafaro Co., the Nation's seventh largest shopping center developer. In addition, he has been instrumental in developing part of the business curriculum at Youngstown State, showing his concern for education and for our future.

J.J. Cafaro repeatedly demonstrates his unbreakable dedication to his hometown through his activities. For example, he is president and chief executive officer of the Avanti Automobile Corp., a company that he brought to Youngstown. He takes great pride in his work to create jobs and opportunity for the community he loves.

Even with his efforts in the business community, J.J. Cafaro also finds time for other important community activities. He has served on a variety of local organizations, including the Youngstown Symphony, the Muscular Dystrophy Association, Easter Seals, and March of Dimes.

And so, Mr. Speaker, it is with great pleasure that I salute a great Ohioan, Mr. J.J. Cafaro, and I applaud the Youngstown State University for bestowing upon him the honors he will receive during the spring commencement.

MANUFACTURERS FLYING SOUTH

HON. LANE EVANS

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 14, 1989

Mr. EVANS. Mr. Speaker, I rise today to call my colleagues' attention to an article forwarded to me by E.J. "Zeke" Giorgi, assistant majority leader for the Illinois General Assembly. The author, Kathy Orr, addresses a current problem that has wiped out thousands of American jobs and increased labor pressure on many American workers who are fearful of having their jobs exported south of the border. Over 400,000 American jobs have been lost to Mexico, where American manufacturers exploit cheap labor and favorable trade treatment. In Illinois alone, these plants have ties with 174 companies and support 83,662 jobs. I urge all who are concerned for the plight of the American worker to read Ms. Orr's article.

U.S. COMPANIES ARE HEADING SOUTH OF THE BORDER

(By Kathy Orr)

There's a group of United Auto Workers in Dowagianc, Mich., who are pretty scared.

Sundstrand Corp, has moved almost 100 jobs at its Dowagiac copper mill to Nueve Laredo, Mexico. And the union workers are in a quagmire.

It's not that the Michigan union people can't work as fast or as skillfully or as cheerfully as the Mexicans. They just can't work as cheaply.

The Mexicans' pay averages 60 to 80 cents and hour, while the Michigan workers make about $14 an hour.

"I don't think any job should be lost to slave labor," says Les Hodge, president of UAW Local 1218.

His members, he said, can't match dollars against pennies.

It is a similar inability to compete in global market that has led American manufacturers to the Mexican maquiladoras.

Maquiladoras, derived from the Spanish verb meaning to mill, are manufacturing and assembly plants owned by American companies and set up in Mexico. There are 1,400 maquiladoras in Mexico employing 400,000 Mexican workers.

Almost every Fortune 500 manufacturing company has at least one Mexican plant. Some have several: General Electric—14 with 15,000 workers; General Motors—23 plants with plans for 50 by 1990.

Fortune 500 companies that own Rockford plants alone operate 56 maquiladoras south of the border with more than 41,000 employees. Among those are Siebe PLC, parent of Barber-Colman Co.; Honeywell Inc., owner of Microswitch in Freeport; Gates Rubber Co. and about 14 others:

The industry is growing at a startling annual pace of 15 to 20 percent: in some areas, such as Tijuana, maquiladoras are multiplying 25 percent a year.

"It's staggering," said Dick Bolin, "the father of the maquiladoras" and director of the Flagstaff Institute, a non-profit group promoting the development of trade and business in Flagstaff, Ariz. "None of us conceived it would ever get this big worldwide."

That fact has the Mexican government titilated, American unions ticked off and U.S. companies scrambling like thirsty nomads to the maquiladora oasis in the desert.

In 1964, Bolin undertook the original study for the Mexican government examining possible production sharing. Thus, his paternal nickname.

Exorbitant Mexican wages, however, kept the maquiladora industry at a standstill until the 1980s. Then, the oil crisis hit the peso dropped through the floor and Mexican wages dove to the lowest in the world.

Sundstrand, like companies worldwide, took advantage of the situation when it opened its heat exchanger plant Nov. 1 to cut costs.

"Sundstrand did not cause the production-cost pressures. The world economy did." said Claude Vernam, company spokesman. "Several alternative sites were examined both in the United States and in Mexico, and Nuevo Laredo offered the most advantages."

Like Sundstrand, companies looking for inexpensive utilities, low overhead, an abundant work force and a myriad of favorable trade treatments are doing the Mexican hat dance all the way to the bank.

"It's so wildly attractive it's amazing more people aren't there," said Richard Sinkin, director of Inter American Holdings Corp., a San Diego-based company the touts the virtues of maquiladoras to American companies and helps them set up their own.

Some of the advantages Sinkin cites:

All U.S. components, raw materials, parts, and machinery are exported to Mexico in-bond or duty free.

After assembly or finishing, any product using U.S. raw materials and components can be brought back into the United States free of duty, except for the value added in Mexico. So, American firms pay import fees only on Mexican wages, utilty costs and other overhead.

The plants set up under the program are cost centers, generating no profits on the Mexican side. As a result, the American owner pays virtually no income taxes.

Right now, Mexican wages are running about $1.35 to $1.40 an hour fully burdened. That figure includes base salary and company payments to the government for workmen's compensation and social security programs.

The projected growth of the maquiladoras has American labor unions edgy to the point of warning U.S. workers whose parent companies have plants in Mexico, to be wary of their jobs.

"They start off moving a relatively small piece of their business abroad," said Steve Beckman, a UAW international economist in Washington, D.C. "We definitely do see it as a cumulative process this is disadvantageous for the American worker and in the long run suicidal for American companies."

Beckman said American manufacturers are using maquiladoras as an easy way out of a very complicated problem. And in their

wake, they are leaving Americans without jobs.

Still, there are no figures available concerning how many jobs have been lost here.

But certainly during the process jobs disappear.

San Diego businessman Sinkin cut a deal just last week with an American furniture manufacturer.

The plan: The manufacturer, which Sinkin wouldn't identify, will shut down its entire American headquarters, leaving 170 people jobless.

Then, the company will move its plant to Mexico, hire 200 Mexicans workers, and get a couple of million dollars to pay off debts.

The payback: With cheap Mexican labor and utilities, the furniture maker will pump profits by 15 percent in its first year south of the border.

Sinkin, in turn, will get a 15-percent interest in the new Mexican operation.

Sinkin calls the maquiladoras the "goose that's laying the golden eggs in Mexico right now."

Indeed, the maquiladoras are Mexico's second-biggest source of foreign exchange—dollars coming into the country. Oil is first; tourism is third.

Those dollars are invaluable to pay off Mexico's foreign debts because the peso is virtually worthless, said Flagstaff Institute's Bolin.

Despite the lack of hard numbers on job losses, three studies have been conducted on how the maquiladoras have or will affect the U.S. manufacturing base.

Those were done by the University of Texas at El Paso, the International Trade Commission and the U.S. Department of Labor.

"The industry causes job relocation," said Don Michie, director of the Institute of Manufacturing and Materials Management at the university in El Paso. "The net benefit of the industry is to retain and create jobs in the U.S."

His Maquiladora Impact Survey showed the industry in Mexico supports and creates tens of thousands of supplier jobs here, he said.

And Illinois ranks third of the 50 states with the largest impact. Maquiladoras have ties with 174 companies in the state and supports 83,662 jobs.

In Rockford, five companies and 77 jobs are affected by the Mexican industry, Michie said. The confidential survey was conducted before Sundstrand moved to Nuevo Laredo.

Michie and others say for every maquiladora job brought to Mexico, two supplier jobs are created here.

Said Sundstrand's Vernam, "We expect that the long-range impact will be an expanded presence in Dowagiac, Mich., through the increased use of our copper mill."

Sundstrand figures that with lower costs it can cut the price on its heat exchangers used in air conditioners and refrigerators. It will sell more exchangers and need more copper from its Dowagiac plant. The U.S. plant then will need more workers.

Some politicians, however, doubt the job-creation equation. Last year, legislation was introduced in Congress to eliminate the tariff laws that allow American companies to bring the maquiladora imports into the country with little duty.

But the measures fizzled shortly after an International Trade Commission report showed that even if the laws were changed, American companies wouldn't move their plants back to United States, said Laura Rodriguez-Archila, the commission's international trade analyst.

"None of the companies would return to the U.S.," she said of the January 1988 survey.

A study by the U.S. Department of Labor similarly showed under four different scenarios that the affect on U.S. jobs would be negligible, said Greg Schoeptle, the department's director of foreign economic research.

The study showed American jobs would be affected little if:

Mexico abolished the maquiladora program.

Mexican wages increased 50 percent.

Tariffs laws didn't allow reduced duties on Mexican imports.

Tariff laws allowing duty reductions were eliminated for imports from all countries where American industry operates plants.

Supporters of the maquiladoras say these studies should erase any indictment against the Mexican government, which pushes the industry strongly, and the American companies who set up shop there.

"What people fail to understand is the maquiladora program is a Mexican program, not a U.S. program," said Michie. "It's been phenomenally successful for many companies."

Acustar, Chrysler Corp.'s auto-parts subsidiary, has four plants in Mexico. Tony Malta, Acustar spokesman, says more than cheap wages brought and kept Acustar in Mexico.

"The quality levels at some of these plants are exceptional," he said. "Being competitive is what it's all about in the automotive supplies industry."

With all its lures, the program has become truly international in scope. Even the Japanese are using their American plants to open maquiladoras. In Tiajuana, says Sinking, 10 percent of the workforce is employed by the Japanese.

"In 1986 there were only six Japanese maquiladoras," said Sinkin. "Today there are 24, and 50 more are in the planning stages."

Sony makes in Mexico most Trinitron television sets sold in America. Sanyo USA makes refrigerators there: Matshusita produces Panasonic TVs, as does Hitachi.

As the maquiladoras and the products they assemble grow, pressure will probably center on Congress once more to take a look at the situation, says Pam Huey, spokeswoman for Sen. Paul Simon, D-Ill.

"There's a possibility it will come up, but no one has any legislation yet," she said.

The UAW's Beckman, however, said labor will continue to fight what the union perceives as exploitation of Mexican workers and the flight of American jobs to Mexico.

"American workers are losing jobs and Mexican workers are living very poorly," he said. "The workers can barely scrape a life together. They can't even buy the things they produce."

A TRIBUTE TO STEPHEN B. HODGES

HON. WILLIAM F. CLINGER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 14, 1989

Mr. CLINGER. Mr. Speaker, I am pleased to rise today to pay tribute to Stephen B. Hodges, an outstanding citizen of Bradford, PA, and one of my constituents. I wish to take this opportunity to salute him for his remarkable achievements and contributions to the Bradford area.

Mr. Hodges is well known in Bradford for his community involvement, but he is known best for his involvement with American Field Service [AFS] program. AFS is an exchange program that sponsors trips for students to foreign countries and brings students to the United States. Mr. Hodges first became involved with AFS in 1965, and since that time his wife and five children have shared their home with a constant flow of exchange students.

In addition to his work with AFS, Mr. Hodges has donated his time and service to such organizations as the Kiwanis, the Salvation Army, and the Campus Life Committee at the University of Pittsburgh at Bradford.

On May 31, at the Pennhills Club, Stephen Hodges was presented with the Golden Deeds Award by the Bradford Exchange Club. This award recognizes his extraordinary community service. Mr. Hodges has been one of our country's unsung behind-the-scenes workers. He has contributed much to the community and has sought nothing in return.

Mr. Speaker, on behalf of the city of Bradford and the 23d District of Pennsylvania, I want to congratulate Stephen Hodges for his impressive accomplishments.

REMOVING OBSTACLES TO HEALTH CARE COVERAGE: PREEXISTING CONDITIONS

HON. DOUG WALGREN

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 14, 1989

Mr. WALGREN. Mr. Speaker, today I am introducing a bill which would prevent private providers of health insurance from denying health insurance coverage to persons with preexisting medical conditions.

Although there is little specific information on the number of people who are denied health insurance because of preexisting conditions, there is every reason to believe this is an important problem. The Office of Technology Assessment estimates that 20 percent of those who apply for commercial health insurance face preexisting conditions resulting in either increased premiums for health insurance or exclusion from coverage altogether. The National Commission on Orphan Diseases estimated that 16 percent of those with rare diseases were unable to acquire adequate insurance.

These denials take several forms: Individuals may not be able to purchase any health insurance of any kind; they may be able to purchase health insurance coverage for everything except the preexisting condition; they may be offered coverage at rates much higher than "normal" people; or they may be offered coverage only after a lengthy waiting period.

By excluding or in some way limiting coverage for people with preexisting conditions, commercial insurers cover only the "healthy," leaving those who are ill without the ability to

use insurance to spread their risks or medical costs beyond themselves.

It seems to me that access to health care is so important, and the cost so clearly beyond each of us alone, that everyone should at least have the opportunity to secure health insurance. And, if insurance is to be meaningful, every individual should be able to join a large enough group that they are put on an equal footing with regard to costs that any other insured person enjoys.

In short, all must have access to insurance spread across a large number of policy holders which represent a fair cross-section of the health needs of the public at large. Although we may not be able to provide universal health care in our country at this time we ought to provide universal opportunity to purchase health insurance in the private sector regardless of the risk present because of medical circumstances beyond our control.

Most Americans are insured by private health insurance, not Medicare and Medicaid, the two major public programs. Private insurance is provided by a wide assortment of entities including commercial insurance companies, Blue Cross and Blue Shield plans, prepaid arrangements, and self-insurers—companies that directly assume the risk of health care costs for their employees. Traditionally, private health insurance has been based on principles of actuarial experience, balancing the cost of premiums against anticipated risks.

Insurance companies base coverage and costs on the probablility of certain occurrences, classifying individuals as "standard risks," "substandard risks," or "uninsurable." The higher the risk, the costlier the insurance to the insured.

Denying access to insurance because of preexisting conditions creates several problems. First, persons with preexisting conditions often must pay extremely high premiums, costs that are out of reach of most families. A family in Tennessee saw the cost of their health insurance grow from $170 per month to $600 per month after the birth of a daughter with a severe genetic defect.

Second, people with preexisting conditions may be denied employment. It is commonly asserted that individuals who become seriously ill are often not willingly brought back to work by their employer because a company health plan would be adversely affected. In other instances, insurers have pressured employers to drop persons from a benefits plan because the employee or a member of their family has a serious illness.

Third, oftentimes individuals who have full insurance through their work are trapped in one job because they may be unable to get similar coverage if they change jobs.

Fourth, denying insurance to people means they end up in hospital emergency rooms, where we all pay for their care through higher premiums or government programs after they prejudice their health by failing to get care when they first need it, and only after they impoverish themselves, their families, and the hospitals we all must turn to. That's no way to organize health care.

Finally, many people with a preexisting condition—something as common as high blood pressure—are afraid to use what coverage they have for fear that the condition will be discovered and used to deny their coverage. The fear of being denied health insurance because of the jeopardy to one's insurability is a disincentive to getting health care, which only exacerbates the illness. Health insurance, public or private, should be designed to help people prevent illness and cure illness, not contribute to continued illness.

THE BILL

The Federal Health Insurance Equity Act of 1989 has three prohibitions: First, it would prohibit insurers from excluding, terminating, or otherwise limiting any individual from coverage based on a preexisting condition; second, it would prohibit the sponsor of a health benefit plan from determining coverage rates for an individual or group on the basis of claims, a practice known as experience rating; third, it would establish standards for the provision of basic health benefit plan services at a reasonable cost.

The bill would require the States to enact standards comparable to minimum Federal standards established by the Secretary of Health and Human Services. States and plans would be given 42 months to comply. Health benefit plans found not to be in compliance would be subject to civil penalties. The bill would also require the establishment of State offices to investigate allegations of abuse.

Opponents of this bill will say that forcing industry to assume coverage of persons known to require significant amounts of care will increase premiums or threaten long-established principles of health insurance financing. The bill seeks to address this by requiring the Secretary to determine the fair costs for coverage for those with preexisting conditions and by recognizing waiting periods and minimum enrollment periods to prevent subscribers from "hopping in and out" of plans or buying coverage only when illness strikes. Waiting periods and minimum enrollment periods would, however, have to be uniformly applied to all applicants and could not discriminate against persons with preexisting conditions.

Others will say that high-risk individuals should be insured by State-run risk pools with the excess costs covered by general revenues. This would, of course, shift the burden directly to the taxpayers who, if history is our guide, have been unwilling to properly fund medical programs to date. By relying on private insurance to provide the bulk of coverage in this country, we can secure a greater contribution from a risk pool based on the true risks for the entire population.

Illness and disability can strike any of us at any time. Our Nation's health is vital to our security, our productivity, and our children's future. The United States remains the only industrialized nation without a system of comprehensive health insurance. By bringing in those now excluded by preexisting conditons, this bill could provide coverage for a significant unprotected segment of our society.

I urge my colleagues to join with me in supporting this legislation and I look forward to a vigorous discussion.

FATHER PATRICK MURPHY TO LEAVE ST. RITA HIGH SCHOOL

HON. WILLIAM O. LIPINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 14, 1989

Mr. LIPINSKI. Mr. Speaker, I rise today to pay tribute to a man who has committed his life to the education of young people in my community. Mr. Speaker, I am speaking of Father Patrick Murphy, OSA, who on June 30, 1989, will be retiring as principal of St. Rita High School after 6 years of selfless service.

There are many tireless educators who, without much fanfare, teach and guide the young people who will be tomorrow's leaders. As he moves on to a new challenge in the service of his religious order, however, Father Murphy deserves special recognition today for all he has accomplished at St. Rita. It is not often, after all, that a man returns to lead the high school from which he graduated. Such is the case with Father Murphy, though, who has made his connection with and commitment to St. Rita a lifelong affair. Father Murphy graduated from St. Rita in the late 1960's, went on to become a member of the Augustinian Order that runs St. Rita, came back to the school as a vice principal in 1979, and in 1983 was aptly chosen as its leader. During his 6 years of service, Father Murphy has proven why he will be long remembered by the students, parents, and faculty whose lives he touched.

Father Murphy led with a firm yet gentle hand. During his 6-year tenure, he was not only the school's chief administrator but the symbol of its religious, moral and educational commitment to students of my community. Perhaps what was most important to the students of St. Rita, however, was the fact that he never lost touch with them. His door was open, and as many St. Rita students can attest, he was ready to listen. He managed to earn their respect and yet maintain their friendship. Father Murphy never seemed to forget that he was once one of them—a student in the classrooms of St. Rita—and for that the school's students, parents and teachers will always be thankful. His warm spirit and his tremendous laugh will long be missed in the halls of St. Rita.

Under Father Murphy's leadership, St. Rita has maintained and rededicated itself to the educational values that have characterized its existence for over 80 years. The culmination of this commitment came in 1987 when St. Rita was named one of the Nation's exemplary schools by the U.S. Department of Education. The school has continued its impressive record on advanced placement tests, while at the same time never forgetting those who need help with their basic reading and writing skills. St. Rita has indeed been a place open for all those who share its goals, and in the past 6 years its enrollment of approximately 1,400 males has remained steady. Meanwhile, under Father Murphy's leadership, the school has never forgotten the important role that extracurricular activities—from sports to clubs to the school newspaper—must play in the education and shaping of the whole person.

Father Murphy believed that the graduate of St. Rita need be a complete man, mentally, physically, and spiritually. For his lifelong commitment toward these ends, he deserves our highest regards.

The motto at St. Rita has for many years been "Accepting Boys, Graduating Men." Through a combination of firmness and sensitivity, "Father Murphy," as he was often called, helped make that goal a reality. For his years of work as principal and teacher, we can all thank him and extend to him our warmest wishes as he moves on to accept his next challenge.

THE WORKING FAMILY PROTECTION ACT OF 1989

HON. BILL GREEN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 14, 1989

Mr. GREEN. Mr. Speaker, I should like to thank my colleagues, Mr. GOODLING and Mr. PETRI, for their leadership on this important issue and announce my support for the Working Family Protection Act of 1989. In light of the President's veto and the inability of the Congress to override, this initiative represents a fair and comprehensive approach to dealing with the plight of the working poor. Further expansion of the earned income tax credit [EITC], complimenting a modest increase in the minimum wage to $4.25, will enable the Nation to move closer to the goal of ensuring that if a parent works full time, year round, a family would not have to live in poverty. I have always supported an expanded EITC, and I am proud to be an original cosponsor of the Family Living Wage Act introduced earlier this year by my colleague from Wisconsin, Mr. PETRI.

There is no doubt in my mind that by coupling an expanded EITC with a modest increase in the minimum wage we shall raise the work incentives for welfare families and low income wage earners. This proposal will also assist families with the cost of child care, allowing parents to decide what kind of care their children will receive. The EITC gives back to low income families some of the taxes that are automatically taken out in payroll deductions, so that a larger percentage of salary ends up as take-home pay. Expanding the EITC will allow low-wage workers to keep more of what they earn. Under this proposal, the maximum credit for a family with four preschool children would be $3,850 per year, which is equivalent to an extra hourly wage of $2.08. All amounts are fully indexed to inflation. By expanding the EITC we are providing a cost effective approach to addressing a series of problems confronting low- and moderate-income families. Clearly, this approach is targeted. It provides low-income workers with help in proportion to need.

I recognize that a $3.35-an-hour wage does not represent a living wage for a family. However, I shall vote to sustain the President's veto, because I believe that the $4.55 minimum wage increase with the limited 30-day training wage would only be counterproductive, pricing many low-skilled workers out of the job market and contributing to the loss of job opportunities. I do so not because of a lack of compassion but because of a strong conviction that an exorbitant increase will hurt, more than help, the working poor. Study after study has revealed that for every 10 percent increase in the minimum wage 100,000 to 200,000 jobs will be lost. Unfortunately, the brunt of job opportunity losses would be felt by young people and those that are in need of skills and training. Furthermore, a $4.55 increase in the minimum wage will only contribute to the elimination of low-wage jobs, doing little to reduce the poverty rate and resulting in the devastating effect of higher unemployment. We can not and must not ignore the realities of a $4.55 increase in the minimum wage. CBO estimates that $4.55 would increase inflation between 0.1 and 0.3 percent. Consumers would loose between $3 and $10 billion of purchasing power, and then there is the additional threat of higher inflation and higher interest rates.

The Working Family Protection Act is an effective alternative that provides for a modest increase in the minimum wage as well as targeted assistance that will put more money into the pockets of low-wage workers. The inclusion of a 4-month universal training wage is a key component of this proposal, because it will effectively minimize job losses. Job opportunities for the young and least skilled will be preserved.

Let's put an end to the political stalemate and start expanding economic opportunity for the working poor. This legislation reflects a sound compromise and takes a pronounced step in the right direction because it provides a long-term solution to the problems confronting our working poor. It is my sincere hope that the leadership will schedule a vote on this proposal. America's working poor have waited long enough.

BRITISH SECRETARY OF STATE FOR NORTHERN IRELAND PROVIDES IMPORTANT VIEWS TO IRISH ECHO

HON. THOMAS J. MANTON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 14, 1989

Mr. MANTON. Mr. Speaker, as one of the cochairmen of the bipartisan Ad Hoc Congressional Committee for Irish Affairs, I want to call my colleagues' attention to a recent interview with Tom King, Secretary of State for Northern Ireland, in the Irish Echo newspaper. This article is noteworthy, because it provides the British Government's current views on a number of issues regarding Northern Ireland.

The Secretary's discussion of the case of Irish political prisoner Joseph Doherty was especially interesting. Although he has never been convicted of a crime in the United States, this Sunday, June 18, 1989, will mark the beginning of Mr. Doherty's 7th year in jail here. Since 1983, Mr. Doherty has sought political asylum in the United States but has repeatedly been challenged by efforts to deport him to the United Kingdom. Shortly after Mr. Doherty was arrested and imprisoned in the United States, the British Government lodged a request for his extradition. It was thus encouraging to read Secretary King's statement that the Doherty case is, "a matter for the United States" and learn the British Government, "is not involved because we are not applying for extradition." These statements if true, represent an important reversal of the United Kingdom's policy toward Mr. Doherty. I am hopeful this change in British policy will alter the position of the Justice Department on this matter.

I have introduced a bill House Concurrent Resolution 62, which calls upon the Attorney General to allow Joseph Doherty to apply for political asylum in the United States instead of continuing efforts to extradite Mr. Doherty. I urge my colleagues to join me and 43 of our colleagues as cosponsors of this important resolution.

The Secretary also discusses the International Fund for Ireland which provides economic aid to Northern Ireland and the MacBride Principles of Fair Employment and Non-Discrimination. This is a most revealing article and one which provides good insights into current British policy directions in Northern Ireland, policies which are in urgent need of reform if we are to ever reach the day when a real political solution is achieved in this troubled land. I commend my colleagues attention to the following article:

[From the Irish Echo, May 13, 1989]

TOM KING ANSWERS THE ECHO

(Since his appointment as Northern Ireland Secretary in September 1985, Tom King has made a forceful impact in troubled Northern Ireland. With the abolition of Stormont and the failure of successive power sharing attempts, his office has administered London's control over a divided community and has been the key link between Dublin and London in the sometimes turbulent working of the Anglo-Irish Agreement. Tom King was last week in the U.S. where he briefed both politicians and journalists on the British view of the North's future. In his only on the record interview with a newspaper he spoke with Ray O'Hanlon and answered the Irish Echo's questions on a wide range of crucial issues. Some of Mr. King's replies have been edited for space reasons.)

Irish Echo: Under the revised provisions of the Anglo-Irish Agreement it is expected that the Irish Government will support devolved Government in Northern Ireland. What, in your view is the prospect for a power sharing agreement between the main constitutional parties before the end of this year?

King: We are in the very earliest stages of seeing whether it is possible to have some political progress. There has been almost no serious dialog between the parties for 14 years and we are now seeing if there might be opportunities for a lasting settlement.

People in Northern Ireland, of both communities, want politicians to talk and work together in the administration of the province. The question is if the politicians can break out of the barricades they have built around themselves and have sensible discussions. That is what we are trying to encourage. Before the end of the year? I wouldn't make any forecast and if it was possible to make progress it would be modest.

Echo: What powers would such a body wield and what powers would be reserved by the Northern Ireland Office?

King: I've set no preconditions. The Secretary of State's office did not exist before 1972. Any fair observer would say we have made progress in housing and that progress is impressive. We now have a number of councils that are nationalist controlled where previously they were unionist controlled. One thing I am determined to tackle is jobs.

Under direct rule I have all these powers and I would much prefer to see the involvement of local people in both communities who would have a real say directly in the administration of government in the province. That's what we are trying to encourage. Of course the majority have their rights but there is no way we will tolerate a situation in which the minority are treated as second class citizens or be disadvantaged in a way they were in fifty to sixty years of the Stormont Parliament.

Echo: The recent talks under the Anglo-Irish Agreement took note of progress in cross-border security cooperation. Is there a need to improve the current level of cooperation and, if so, in what specific areas?

King: It's a continuous business. There is now the closest relationship between the RUC, the Garda Siochana and the security forces. They are trying to protect citizens on both sides of the border from violence and terrorism which comes, most substantially, from the provos but can also come from extremist loyalists and we stand together against that.

I can't talk in detail because a lot of it is confidential but there is the best relationship now there probably ever has been and we are working very closely together.

Echo: Fair employment measures of recent years has been widely criticised. There is a considerable lack of confidence on this side of the Atlantic in the British Government's proposed new legislation. Are these fears justified and how would you allay them?

King: I don't know how up to date the views are on this side of the Atlantic. We have a bill in parliament that has been significantly amended and we are amending it further. Some of the things already done cover affirmative action, the setting of goals and timetables and the toughening of sanctions and penalties.

This has been done in close cooperation with the Irish Government and we have taken their views and ideas and indeed American suggestions. I think you will find that when people see the final product, it will be pretty tough and indeed we have been getting a bit of a kickback from some employers in Northern Ireland complaining that the bill is too tough.

Echo: Twelve States have so far passed MacBride legislation. The British Government has reportedly spent millions of dollars in a lobbying campaign against the principles. Are you losing the battle?

King: I've seen suggestions about the amount of money. I wish we had that kind of money and I wouldn't spend it on MacBride in that way. What we have tried to do is tell people here about the reality and most of the people coming to do that are catholics and nationalists. Why are we doing this? Because I spend a tremendous amount of my time attacking what is the single most important part of the problem in Northern Ireland and that is getting more jobs. I am determined to see a better future for the people of Northern Ireland.

There are too many people, principally in the nationalist community, who have never worked, whose fathers never worked and never thought there was ever a chance of a job. I am determined to do what I can to change this.

The trouble about MacBride is not the principles. But my whole complaint is the style and manner of the MacBride campaign which introduces hassle for companies. If I could meet one MacBride campaigner who has produced one job for a Catholic in Northern Ireland I'd greet him with respect.

There are now much more constructive American voices around; Boston, Derry, Galway Ventures is one which does not build obstacles for companies but brings jobs. That's why I oppose MacBride. If Northern Ireland is the place you have to fill out all sorts of extra forms it discourages companies and leads to disinvestment. I'm worried about catholic employment in Northern Ireland but they, MacBride campaigners, want to use any stick they can to beat the Brits. They keep up old hatreds and bitterness.

Echo: The National President of the Ancient Order of Hibernians, Mike Coogan, has described the International Fund for Ireland as "a fund looking for a purpose" and one which is being used "to reward the bigotry of local councils". Do you accept that the working of the fund has not been entirely equitable and what is being done to improve both its image and substance?

King: Those comments are totally unjustified and are part of the sort of campaign that is stirring up old hatreds again. That is what I am trying to fight against. People are trying to stir up enmity and distrust. We have enough of them in Northern Ireland. The position of the fund is that it did take time to get underway. What the fund is trying to do is get funds where they can genuinely help. It's early days, there was a slow start and yes some mistakes were made. But there are 1,000 projects involved. People attacking the fund are opposed to the Anglo-Irish Agreement. They want to smash the whole thing.

Echo: If Joe Doherty is granted political asylum in the United States, what repercussions would such a development have on Anglo-American relations?

King: It is a matter for the United States. We are not involved because we are not applying for extradition. It is a matter of whether he should be deported for being in breach of U.S. immigration (law). He is a convicted murderer of an army officer, I don't think anybody disputes that. But this is a matter entirely for the U.S. and I wouldn't comment.

Echo: There has been a British military presence in Northern Ireland for the past twenty years. Does the British Government today consider a military victory over the IRA and other paramilitaries still attainable?

King: I don't believe in military victories. The British Army went there originally at the request of the nationalist community and politicians who were terrified of violent attacks by protestant extremists. They are there to protect people against terrorism which comes not entirely but substantially from the Republican side, the marxist provos, and also loyalist extremists. The security forces will hold the line and do their best to protect the community. Only today you read in The Irish Times that the IRA are saying there is no military solution. So what the hell is all the violence about.

Echo: Do you accept the evidence that British public opinion is becoming increasingly ambivalent towards the union of Great Britain and Northern Ireland?

King: No. The reality is British public opinion will always support democratic rights and the position as stated in article one of the Anglo-Irish Agreement is that there isn't going to be a change in the situation in Northern Ireland unless the majority wants change. There is no way you are going to overwhelm by force a million protestant unionists. There is not going to be any armed invasion. No nationalist in the North wants to see that sort of conflict.

British public opinion gets irritated from time to time with what goes on in Northern Ireland and Ireland. People in Ireland get irritated with some of the things that go on in Great Britain. The reality is that nobody would support a change unless on a democratic basis.

Echo: What is your opinion of the "Time to Go" Movement?

King: Who is going to go? A million unionists? That is the total fallacy of that question. To anyone who says Brits out the simple question is who are the Brits. The reality is there are a million British, Scotch-Irish. They have been there longer than almost anybody in the U.S.

Then you say Time to Go, that is simplistic and ludicrous because it implies that if the British Army and Government does go, somehow there will be sweetness and light. The unionists would seek to maintain their Britishness independent of the mainland. Nobody wants to see that situation.

Echo: There has been profound concern expressed in the Irish American community over allegations of a shoot to kill policy on the part of the security forces, the Stalker Affair and the contradictory evidence surrounding the Gibraltar shootings. Is this concern legitimate?

King: There is no such thing as a shoot to kill policy. Mr. Stalker, in his investigation, found no evidence of an official shoot to kill policy. We would not tolerate it. Many have forgotten that three policemen were charged as a result of his investigations. They were subsequently acquitted.

I look at the ways some people seem to develop concern and complaints about the procedures in Gibraltar. A lot of people seem quite oblivious about what an horrendous outrage was actually planned. If the bomb had detonated, there would have been hundreds of thousands, of tourists, kids and families around. I shudder to think what might have happened. And despite what some predicted the soldiers did appear to give evidence at the inquest.

Echo: The recent arrests of three loyalists in Paris and their alleged attempt to sell missile parts to South Africa has focused renewed attention on the activities of the UDA. Should the UDA (Ulster Defence Association) now join the list of proscribed organizations, as the SDLP has urged, and if not, why not?

King: I keep the question of proscription of a number of organizations under review and we have already banned some extreme republican terrorist groups and some extreme loyalist groups. The question of other organizations is kept under review.

Echo: You have been Northern Ireland Secretary for over three and a half years. What do you believe has been your most notable achievement. Do you anticipate leaving Belfast in the near future?

King: The answer to the second part is in the hands of the Prime Minister. In reply to the first part I would say the development of the Anglo-Irish Agreement and relations

between our two countries. The relations I've had with Peter Barry and Brian Lenihan are probably the closest and best ever between a British and Irish minister. We don't always agree but we have learned to discuss and get over the inevitable difficulties.

Echo: Over the past twenty years an entire generation in the North has grown up surrounded by violence. Have we any reason to hope that the children of the next two decades will grow in a more peaceful community?

King; I hope I shall be able to improve the Northern Ireland economy, give people work and a real feeling that there is a real future, a chance of a job and a fair society.

Echo: Irish American opinion has often been subjected to British Government criticism and often it has been implied that criticism of British policy in the North is tantamount to supporting the IRA. Do you accept that some of this criticism has been inappropriate and that Irish Americans have a right to criticize without being discredited as supporters of IRA violence.

King: Nobody can reject informed criticism and if people are taking an interest I welcome it. There is properly informed and constructive criticism coming from the U.S. There is other totally uninformed criticism based on old emotional hatreds, the past and the sad milestones in British-Irish history.

Some people are not in the least interested in relations now between the British and Irish Governments. But we would be mad not to pay attention to informed criticism, and some of it is, but criticism also comes from supporters of the IRA and they do it through NORAID and the U.S. Department of Justice has independently requested the registration of NORAID as the agent of the IRA.

THE "JET EXPRESS"

HON. PAUL E. GILLMOR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 14, 1989

Mr. GILLMOR. Mr. Speaker, I would like to take this opportunity to mention an exciting event that is happening in my district this week. The *Jet Express,* a brand new jet powered catamaran ferry, will arrive in Port Clinton, OH, my hometown, on June 15. The boat will then travel on to its home port, the beautiful Put-in-Bay, an island in Ohio's Fifth Congressional District. I would like to join the celebration and say to the *Jet Express,* welcome home.

The *Jet Express* was built by the Put-in-Bay Boat Line Co., and is scheduled to go into full service between Port Clinton and Put-in-Bay on June 16. Mr. Speaker, I am proud of my area's reputation as one of our Nation's great tourist attractions. Attractions like the *Jet Express* help Ohioans and all Americans enjoy the beauty of Lake Erie that I know so well.

So, it is with great pleasure, Mr. Speaker, that I salute the Put-in-Bay Boat Co. for bringing the *Jet Express* to Ohio's Fifth Congressional District, helping thousands of people enjoy Lake Erie.

PERSONAL EXPLANATION

HON. MIKE PARKER

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 14, 1989

Mr. PARKER. Mr. Speaker, due to important business in my district in Mississippi, I was unable to attend the House floor proceedings on June 13, 1989. If I had been able to attend the proceedings, my vote on the legislative business of June 13 would have been as follows:

H.R. 1502. To authorize the appropriation of funds to the District of Columbia for additional officers and members of the Metropolitan Police Department of the District of Columbia, and to provide for the implementation in the District of Columbia of a community-oriented policing system.

On motion to suspend the rules and pass the bill, as amended: "Nay."

H.R. 2072. Making dire emergency supplemental appropriations and transfers, urgent supplementals, and correcting enrollment errors for the fiscal year ending September 30, 1989, and for other purposes.

On motion that the House instruct conferees: "Yea."

$20 BILLION IS WORTH SOME EFFORT

HON. DONALD J. PEASE

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 14, 1989

Mr. PEASE. Mr. Speaker, the passage of the 1988 Trade Act marked the beginning of a more aggressive U.S. policy towards opening foreign markets. This policy, including the recent announcement of Japan, Brazil, and India as priority countries under Super 301, has been criticized both here and abroad. Critics here claim that market opening measures will hardly put a dent in the trade deficit. Abroad, they characterize our trade policy as an exercise in unilateralism. In a recent Cleveland Plain Dealer editorial, I respond to these criticisms.

$20 BILLION IS WORTH SOME EFFORT

(By Don J. Pease)

Few people I know, including other congressmen, would call $20 billion a minor-league sum. Nevertheless, American critics of an aggressive trade policy seem to be doing just that. They point out that even widespread elimination of foreign trade barriers would reduce the U.S. trade by "only 15%" or $20 billion, based on 1988 trade figures. Given this "small dollar amount, they claim that the market-prying approach advocated by Trade Ambassador Carla Hills and many Democratic congressmen amounts to a waste of scarce resources.

These trade critics are correct in saying that market opening alone will not cure our trade deficit. Much of our trade imbalance is a self-inflicted wound, requiring a reduced fiscal deficit, an improved educational system, and upgraded manufacturing techniques to heal it. Both government and business must do their part to bring about these changes.

Most of my Democratic colleagues would even agree that a 15% reduction in the trade deficit is about what we could expect from more open foreign markets. Where we would disagree, however, is in characterizing this amount as unworthy of serious attention. Surely, $20 billion is hardly peanuts and merits our best efforts.

To achieve a 15% reduction in our trade deficit, we need other countries to make their markets fully open to American products and services. Realizing this, a number of our trading partners have acted, including Taiwan, South Korea and Mexico.

Taiwan, for instance, has announced a Trade Action plan designed to eliminate most of its trade barriers by 1992. The plan includes timetables for tariff reductions, removal of specific non-tariff barriers, improved market access for service industries and enhanced intellectual property protection. Under this plan, the average nominal tariff rate is scheduled to drop from 13% in 1988 to 7% in 1992.

In South Korea, trade officials have cut the average tariff on manufactured goods in half, to 11.2%, and recently agreed to begin dismantling their "localization" regulations, which required foreign firms to transfer technology and expertise to Korea as a quid pro quo for doing business there.

The story is even rosier in Mexico, largely because Mexico realized independently that its economic future lay in exposing domestic firms to international competition. Mexican tariffs, once as high as 100%, now top out at 20% and average only 5.4% overall. Import licenses, previously required for most products imported into Mexico, remain only 2.5% of all tariff categories.

By contrast, Japan, which accounts for about 40% of our overall trade deficit, has yet to respond in a significant way. Bilateral negotiations, most notably the MOSS (Market-Oriented Sector Specific) talks, have produced some Japanese concessions but few in areas where they would really count, such as in the Japanese distribution system, which foreign sellers find almost impossible to crack, and in macroeconomic policies that discourage domestic consumption.

Based on its annual report on foreign trade barriers, the U.S. trade representative (USTR) named Japan, Brazil and India as priority countries under "Super 301," a new trade law which requires USTR to identify countries and trade practices that block U.S. exports, making them targets for intensive negotiations designed to remove these barriers.

In naming these countries under Super 301, the Bush administration signaled its seriousness about improving U.S. access to foreign markets currently closed to us.

Having taken this sensible step, the administration has not escaped criticism. Super 301 opponents both here and abroad criticize the law's unilateral nature, claiming that it undercuts U.S. efforts to negotiate new international trade rules in the GATT's Uruguay Round. Others contend that Super 301 will irreparably harm our foreign relations with the countries named. I believe that these criticisms are wrong.

Most congressmen and Bush administration officials recognize that the GATT Uruguay Round is still the best hope for the international trading system. According to USTR Carla Hills, "The administration's 'top liberalization priority' is to conclude successfully the Uruguay Round of multilateral trade negotiations by December 1990."

Notwithstanding this commitment to GATT talks, the United States needs at its disposal multiple trade levers for prying open markets, ranging from free trade agreements to bilateral negotiations. Super 301, our newest strategy, is crafted to identify and eliminate the most egregious trade barriers. By successfully employing Super 301, the United States demonstrates its commitment to an open international trading system, one anchored by the GATT.

Moreover, our market opening activities should not prevent us from maintaining good relations with our trading partners. As long as the United States articulates clearly what it wants and continues to act fairly, we should be on solid ground with our commercial allies. In the case of Super 301, we envision negotiations leading to successful outcomes, not trade wars. We plan to be tough but fair.

If we successfully pry open foreign markets, we can chop about $20 billion from our trade deficit—hardly an achievement to scoff at. More importantly, however, we will have paved the way for future export opportunities, which U.S. businesses and workers—not to mention the American economy—will profit from well into the next century.

MARIETTA DEFEATS CHERAW IN CHINABERRY CUP COMPETITION

HON. GEORGE (BUDDY) DARDEN

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 14, 1989

Mr. DARDEN. Mr. Speaker, the last weekend in April is becoming as significant to tennis competition as the first weekend in May is to horse racing. Just as racing fans converge from all over the world for the Kentucky Derby at Churchhill Downs in May, knowledgeable and serious tennis fans are beginning to learn about the Chinaberry Cup competition held in April at prestigious Litchfield Country Club near Pawley's Island, SC.

This year's hard-fought competition once again affirmed the superiority and consistency of the Marietta teams. The winners also displayed exemplary sportsmanship in permitting two teams from the losers' group to barely win, so that the final score was a respectable one: Marietta 3, Cheraw 2.

The five teams from Cheraw can best be characterized as good, but perennial losers. They displayed some ability, but their apparent lack of competent coaching and organization ensured their defeat.

The winners from Marietta deserve our commendations for a well deserved victory. They are as follows:

Dr. Clem Doxey, coach; A.D. Little; Wallace M. Montgomery, Jr.; Terry H. Segers; Jon R. Burke; Ronald H. Francis; Paul T. McCabe; Donald R. Shamblin; Michael G. Wilson; and BUDDY DARDEN.

To our friends from Cheraw: Better luck next year.

The following are the certified losers from Cheraw:

Glenn (Bud) Anderson, coach; Ricky Baker; Fred Craft; Malloy Evans; M.B. Godbold; Ted Thompson; Frank Andrews; Dr. Teddy Coggeshall; Dr. Walter Crosby; Jackie Furr; and Jimmy Spruill.

FEDERAL ELECTIONS CAMPAIGN ACT OF 1971

HON. BILL GREEN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 14, 1989

Mr. GREEN. Mr. Speaker, the soaring costs of congressional campaigns are of great concern to both the public and Congress. In light of the escalating costs and continued moves to restrict fundraising capabilities, I believe that it is time Congress consider voluntary and limited public financing.

Earlier this month I introduced legislation which seeks to amend the Federal Elections Campaign Act of 1971 by providing for voluntary and limited public financing of congressional general election campaigns. I do this at a time when public distrust and skepticism with regard to the electoral process is at an all time high. I believe that public financing can be instrumental in increasing competition and reducing public cynicism by creating a competitive electoral system that will give little known challengers some of the advantages of incumbents.

Under my proposal, a candidate, upon raising a specified amount of money in small contributions of $170 or less from individuals within his or her own State, would be eligible for a matching Federal contribution. Under this approach, the primacy of the individual contributor is stressed and PAC money is rendered less attractive. All Federal matching funds would be raised through the voluntary income tax checkoff.

The legislation would restrict candidates who accept public financing to the use of no more than $48,000 of personal funds as well as limit overall campaign spending for the general election to $287,000—half of which could come from public financing. According to Common Cause, the average general election for a House seat cost close to $260,000 in 1988, up slightly since 1986. The $287,000 spending cap is higher than the 1988 average. In addition, the bill waives spending limits for eligible candidates whose opponents have spent sums exceeding the spending limit. This will protect a candidate from having the election "bought" by a free-spending opponent. All figures were originally adopted from legislation introduced by the Honorable Abner Mikva in 1979 and have been revised to reflect inflation. This proposal also provides for continual indexation of spending limits and other relevant dollar figures.

The legislation would establish eligibility criteria entitling candidates to receive campaign funds on a matching basis. Similar to current law, the criteria require submission of campaign records, including all contributions and expenditures, to the Federal Elections Commission. My proposal would also require the FEC to certify the eligibility of candidates to the Secretary of the Treasury, who would disburse the funds.

And so today I encourage my colleagues to give serious consideration to voluntary and limited public financing. Public financing is an important concept. It opens up the opportunity to seek office to people of all economic backgrounds and political ideologies. It protects Americans from having their ballots filled with the names of only the wealthy and those who would owe tremendous legislative debts to the special-interest groups that helped finance their campaigns. Public financing is insurance for the political well-being of our system of representative government. Let us join together to remedy public skepticism and reinvigorate electoral competition. Please support H.R. 2556.

OFFICER STEVEN McDONALD, A STORY OF TRAGEDY, COURAGE, AND HOPE

HON. THOMAS J. MANTON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 14, 1989

Mr. MANTON. Mr. Speaker, I want to call to the attention of my colleagues an article that appeared in Monday's Newsday regarding Steven McDonald, a former New York City police officer who was brutally gunned down in Central Park 3 years ago. As my colleagues know, I have spoken out often about Steven's plight. Steven remains paralyzed from the neck down. He has a wife and a small child.

In the last Congress, I introduced legislation to provide a one-time Federal payment to public safety officers, such as Steven, who have suffered catastrophic injury in the line of duty. I intend to reintroduce this important and much needed legislation in the coming weeks. In the meantime, I urge my colleagues to read the following Newsday article, which is the first of a series Newsday will run on Steven during the next few days.

I am confident that any Member who reads this article will join me in cosponsoring this worthwhile legislative initiative.

I DIDN'T THINK IT'D HAPPEN IN CENTRAL PARK

(By Steven McDonald and Patti Ann McDonald with E.J. Kahn III)

On July 12, 1986, Police Officer Steven McDonald was on patrol in the park. He pulled out his shield as he approached three youths. "Fellas, I'm a police officer," he said. "I'd like to talk to you."

MALVERNE, NOON

A few more years on the force, I probably would have called in, asking for the day.

I felt lousy that morning, and when I called Patti Ann in Pennsylvania to tell her, she said, "Steven just don't go in."

"Nah," I said, grumpily. "I'm going in. I'm going in."

The anti-crime unit—Sergeant Peter King, who was our boss, Bob Lally, Tom Culhane and myself—had gone to Shea the night before to see the Mets. One of the guys got a hold of some friend's season tickets, and we'd done a day shift, then driven out to Flushing. Maybe it was the beers we drank, maybe because the Mets lost . . . I just know I felt like staying in bed. But I had an attitude about the job, that I'd make my mark by being on time, and not take sick days. Being in anti-crime after less than two years meant my career was moving along pretty good, and I did not want to do anything to slow it down. July 12 was a day to work, not to rest.

The drizzly rain that'd been predicted had already started to fall, and I decided to drive the Firenza into the city. Usually I'd take the train, then grab a subway ride from Penn Station uptown. Police officers are permitted to ride the subways free off-duty. Not that the city's losing anything in that deal. On a train we are expected to take police action as passengers. I always expected that that'd be where I got shot, even killed, by one of the skells, the lowlife riding those cars.

I didn't think it'd happen in Central Park.

I met King inside the ancient brick-and-stone barn that serves as [Central Park] precinct headquarters.

At 4 p.m., we started up the green unmarked Plymouth Grand Fury, and began our patrol. I was driving, the sergeant recording. We headed for the bandshell where 72nd Street crosses through the park, then turned onto a paved footpath that wound its way up a small hill, passing the site of Mayor "Gentleman" Jimmy Walker's old casino. We tried to stay off the main roads as much as possible on patrol, because, frankly, that was where the action was. But not this afternoon. Even the drug dealers hanging out next to the Sheep Meadow, a stretch of lawn seven city blocks long and three blocks wide, seemed to be staying indoors.

King and I talked a bit about the game, the day's news, Patti Ann being out of town, and how quiet Central Park appeared to be that evening. Its 843 acres would be closed to car traffic, as the park was every weekend between May and October, and the overcast, soggy skies were going to cut down on the number of joggers, bikers and hikers. With luck, the bike thieves and purse snatchers—our two biggest problems—weren't going to have much to prey upon, and maybe they'd decide to stay away too.

"Sarge, let's go uptown," I suggested.

"Fine with me, Stevie," said Sergeant King. The other guys called me Mac, or Mic-Dee, but the sergeant, he always called me Stevie.

I turned off the footpath onto Central Park's East Drive.

CENTRAL PARK, 4:15 P.M.

In anti-crime, you wear your own clothes—"out of the bag," we'd call it—and each cop tended to dress for a role. Mine was the upwardly mobile yuppie, the West Sider who used the park for recreation and relaxation, expecially on weekends and summer evenings. Reeboks or Topsiders, chinos or Levis, and a Polo or Izod shirt, that's what I'd put on, with the shirt untucked to hide my handcuffs and .38-caliber snubnosed Special. My shield—badge number 15231, which had been my father's number before he was promoted to sergeant—would hang on a chain, around my neck. If I was making a collar, I'd pull it out to identify myself.

Which is not too likely to happen today, I thought, looking around.

The East Drive was as empty as the footpath had been. I cruised slowly, no more than seven miles per hour. The few parkgoers we saw—an occasional jogger or bike rider—would give us a glare. I had to laugh. Even in uniform, when I was riding in a marked patrol car or one of the small three-wheeled scooters the precinct had, I'd get that look. The park's closed to vehicles, it would say, even yours.

The glarers would never think that you were there to protect them. Then, when they were robbed, they'd demand to know where you were.

The Metropolitan Museum of Art was on our right. Across the drive, in a small grove of trees, Jennifer Levin would be killed the next month by Robert Chambers. The case would be big news in the city, partly because it had happened here in the park, and partly because both the girl and the killer came from private-school, white, middle- to upper-middle class backgrounds. But because it would happen in the park, I'd think later, it became more celebrated than it would have in just about any other location.

At 88th Street, we reached the reservoir. As we passed the 102nd Street fork, where the drive curves steeply downhill, towards the Lasker Swimming Pool and the Conservatory Garden, both King and I quickly came alert.

On our left, standing at the inside edge of the roadway, were three boys. They looked like young teenagers. They fit the profile, I thought, the one I'd picked up from the crime reports back at the station house, the one that strongly suggested these were bike thieves.

"DTs," one of the three mouthed to the others. Street slang, for detectives. Our plainclothes and car hadn't fooled them, any more than their affected nonchalance fooled us. You boys might as well wear bandanas over your noses and mouths, I thought. You outlaws aren't going to find any stagecoaches today.

"Go down to the bottom of the hill," King said quietly. I pressed the accelerator.

Since April, we'd seen an increase in bike thefts, and the thieves, typically, had been small groups of black or Hispanic boys, around five-and-a-half feet tall, who'd surround a single rider—often midway up a steep incline and usually on a blind curve—force him or her off the bike, and ride it out of the park at the nearest exit.

Usually, the kids didn't need to use a weapon.

Less than 100 feet from the spot where the three boys were loitering was a short driveway leading to the staff parking lot for the Lasker Swimming Pool. The rain had kept the swimmers away and closed the pool, and there was plenty of space in the lot. I pulled in, and shut off the engine.

Sarge and I would split up, we decided. He'd return along the drive, and I'd follow a footpath leading from the pool. The path ran roughly parallel to the road, but 20 feet below it. It curved through the oak and maple underbrush.

I've got the long way back, I thought. I broke into a slow jog.

The path curved by the pool, and into the woods. As I came around a bend, I saw three figures peering up towards the roadway. The boys had moved. They were on the other side of the drive now, and below it, next to the path I was on. They were watching the road, their backs to me. They're waiting to see if we come back, I thought. I pulled out my shield so they could see it, and stepped into view.

"Fellas," I said, "I'm a police officer. I'd like to talk to you."

Then I yelled up towards the drive. "Sarge," I shouted, "I've got them down here." I couldn't see him, but Sergeant King was slightly shorter than me. If he was on the other side of the drive, looking for them, he'd miss us completely.

The three boys said nothing, just stared defiantly at me.

"What are you doing around here?" I asked. "Where do you live?"

Again, nothing.

All three, even the oldest, were at least a foot shorter than me. Intimidating to a bike rider, maybe. But I didn't feel threatened. Nor by the fact they were black. I'd had black friends all my life—in Queens growing up, in the Navy, in the department. Black skin didn't worry me. I wasn't their enemy.

I kept my .38 in its holster. Then I noticed a bulge under the pant cuff of one of the younger boys, next to his ankle. Suspicious, I thought. I bent to pat it.

Head down, my peripheral vision picked up the older boy turning, reaching, then turning again. I started to rise. Then . . .

Boom! Boom! Boom!

A cannon was exploding in my ear, smoke and gunpowder filling my nose. Bullets cut into me. One went into my neck, shattering, its fragments in my spine. Another nicked my eye, smashing into my sinus. A third hit my arm, destroying an artery.

I could feel them inside. But . . . no pain.

Where was the pain?

I felt detached, my body numb with pins and needles, my mind outside, away, watching. Sergeant King had gotten to me, I could see that. He was crying, leaning over me, screaming into his portable radio, "Member of service shot! MOS shot!" The boys had run.

I was losing consciousness. Patti Ann appeared. I could see her, see what I was losing. "God don't let me die," I prayed.

Then I fell off.

COMPUTER VIRUSES DEMAND ACTION

HON. WALLY HERGER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 14, 1989

Mr. HERGER. Mr. Speaker, computer fraud and abuse have become a significant threat to the data processing operations of our citizens and government. As you may know, I have introduced legislation, H.R. 55, which would address the serious problem posed by computer viruses.

This year, we are making considerable headway in educating individuals about computer viruses. Almost 70 House Members have signed on as cosponsors of H.R. 55, and support by the computer industry is widespread. Much of the credit for this success goes to the officials within the computer industry who have worked closely with me to bring greater attention to the serious threat posed by computer viruses.

One of these groups, the Electronic Data Processing Auditors Association, has been extremely helpful to me in this effort. As they approach their 20th anniversary, I would like to take this opportunity to applaud the EDPAA and their members across the Nation for their work, and congratulate their incoming president, John Kuyers. Having spent 23 years auditing important data, and having worked extensively with the computer industry, John Kuyers is well suited to lead his organization forward in their struggle against computer crime. As businessmen who daily confront the damage caused by computer viruses, members of the EDPAA understand the need to take more action at the Federal level against this high-technology sabotage. They are proving to be invaluable allies to those of us in the

Congress seeking to address this important problem.

The EDPAA is only one of the many national computer organizations that support H.R. 55. I have attached a recent letter that I circulated to my House colleagues, and ask that the text of the letter and the list of supporters be included with my remarks. This demonstrates the need for H.R. 55, and I hope will encourage more of my House colleagues to cosponsor this legislation.

HOUSE OF REPRESENTATIVES,
Washington, DC.

STOP COMPUTER VIRUSES! COSPONSOR H.R. 55

"Existing criminal statutes are not specific on the question of whether unauthorized access is a crime where no theft or damage occurs, and there is no statute specifically addressing viruses."—FBI Director William Sessions, May 15, 1989.

DEAR COLLEAGUE: During the past several years, computer viruses have become a major problem for U.S. businesses. Designed either to damage files or simply inconvenience the user of a computer, viruses are now the number one topic of discussion within the computer security industry. This is certainly not surprising. The National Center for Computer Crime Data has estimated that American businesses lost $555.5 million from unauthorized access to computers last year. The Computer Virus Industry Association estimates that more than 15,000 computers were infected by viruses in December alone. Already, several House Members have suffered from virus attacks as well.

Last November's widespread computer virus outbreak convinced many of the need to toughen existing computer laws to cover this kind of malicious activity. More than 6,000 computers were infected, and some industry analysts have suggested that the outbreak may have cost as much as $100 million to clean up.

One would think that because of the seriousness of the incident it would have been relatively simple to prosecute the suspected perpetrator of the virus. Unfortunately, the suspect has *still* not been indicted for any wrongdoing. This is sending absolutely the wrong message to thousands of adventurous computer whizzes and hackers who believe that the case demonstrates the government's lack of resolve in prosecuting this type of activity.

Last July we introduced legislation which would close the loopholes in the 1986 "Computer fraud and Abuse Act." Although the '86 statute covers most forms of computer crime, viruses which are designed by individuals with "authorized" access to computer systems, or viruses that are not designed to delete files may not fall within the limits of the Act. Our bill addresses these problems. It would close these loopholes, and as a result, is supported by a number of major computer lobbying groups (see partial list on reverse). H.R. 55 establishes tough penalties (up to 20 years in prison) for "knowingly" planting a virus that causes "loss, expense, or risk to the health or welfare" of an individual or company. If you would like to join the 65 current co-sponsors of this bill, please call Doug Riggs (Herger, ext. 53076), Paul Frick (Carr, ext. 54872, or John Edgell (Stark, ext. 55065).

Sincerely,

WALLY HERGER,
BOB CARR,
PETE STARK,
Members of Congress.

SUPPORTERS OF H.R. 55

Electronic Data Processing Auditors Association.
National Center For Computer Crime Data.
Data Processing Management Association.
Software Publishers Association.
Computer Virus Industry Association.
International Security Technology.
ADAPSO-Computer Software & Services Industry Association.
Communications Fraud Control Association.
Computer Integrity Corporation.
Ohio State Bar Computer Law Association.
ABC Rail Corporation.
Information Security Engineering.
Stephen Patton Consulting.
Data Assurance, Inc.
Association of Information Managers.
Food Marketing Institute.
Information Systems Security Association National Capitol Chapter.

COSPONSORS OF COMPUTER VIRUS ACT OF 1989—H.R. 55

Wally Herger, Bob Carr, Pete Stark, Barney Frank, Dave McCurdy, Henry Hyde, Floyd Spence, Donald "Buz" Lukens, John Lewis, Bill Emerson, Robert Lagomarsino, William Dannemeyer, and Matthew Rinaldo.

Jan Meyers, Thomas Sawyer, Matthew Martinez, Clyde Holloway, Jim Hansen, Jim Inhofe, Amo Houghton, Martin Frost, Gerry Sikorski, Thomas Foglietta, Barbara Boxer, Bob Whittaker, and Major Owens.

Peter DeFazio, Sherwood Boehlert, Carlos Moorhead, Kweisi Mfume, Clay Shaw, Steve Neal, Steve Gunderson, Chester Atkins, Howard Coble, John Hiler, Robert Dornan, and Constance Morella.

Richard Armey, Howard Berman, Glenn Anderson, Elton Gallegly, John Bryant, Norman Shumway, Julian Dixon, Vic Fazio, Charles Wilson, Ronald Machtley, Tommy Robinson, David Bonior, Carl Levin, Martin Lancaster, Barbara Boxer, Denny Smith, Bob Lagomarsino, James Walsh, Clarence Miller, and Ron De Lugo.

Bill Richardson, Gerald Solomon, Bob Livingston, Jaime Fuster, Al Bustamante, and Mickey Edwards.

DR. HERBERT RATNER ON CONDOMS AND AIDS

HON. HENRY J. HYDE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 14, 1989

Mr. HYDE. Mr. Speaker, we have seen a proliferation of advice on the problem of AIDS and teenage pregnancy—some of it good advice and some not so good. Herbert Ratner, M.D., has written an excellent article in the Child and Family magazine which deserves the widest readership, and I am pleased to commend it to my colleagues:

CONDOMS AND AIDS

(By Herbert Ratner, M.D.)

Acquired Immunodeficiency Syndrome (AIDS) is expected to be with us for a long time. Treatment has not controlled infections or stopped deaths, and vaccines are not in sight. The highly publicized prophylactic, the condom, which has been with us throughout the twentieth century, has marked limitations. The continuous parade of new contraceptives attests to the condom's notably poor record in preventing pregnancy. If the much larger sperm can get through, so can the AIDS virus. It has a worse record in preventing sexually transmitted diseases, the incidence of which today has never been higher.

Epidemiologically, the AIDS virus' primary spread is through multiple sex partners. Each new partner sharply increases the risk of becoming infected with the AIDS virus, particularly if the partner has ever used intravenous (IV) drugs, engaged in homosexual practices or has had relations with someone who has. With the continuing spread of the virus into the public at large, the risk of a new partner having the virus becomes greater.

ABSTINENCE AND MONOGAMY

There is now general agreement, even among homosexuals, that abstinence or exclusive contact with an uninfected partner are the only sure protections against the AIDS virus. Today abstinence and monogamy are no longer disdainfully dismissed as religious impositions. Rather they are seen as the pragmatic answer to a pressing problem, since the condom is admittedly inadequate. It may delay but does not prevent eventual infection.

At another level, there is even a growing appreciation that nature is trying to tell us something: that abstinence before marriage and monogamy thereafter are sexual norms which serve the survival needs of the human animal. Accordingly, the effective public health approach is not a nationwide push for a condomized society, starting with the very young, but a nationwide effort to curb the generation of multiple sex partners, whose primary source comes from the sexually active young.

For the fact is that year after year, generation after generation, millions of preteens and teenagers enter into the stormy sea of precocious and premature genital sex. And the consequences, as Kinsey researchers point out, are clear: "Once persons begin premarital coitus, they seldom recant and remain abstinent until marriage. It is a crossing of the Rubicon in life history." When the young gives up abstinence, monogramy is rarely the outcome. Sex education which explicitly or implicitly condones genital sex by featuring condoms as the answer for our young people, simply accelerates the process.

PANACEA OR PLACEBO?

Actually, the major accomplishment of the condom campaign to prevent AIDS is to impress the promoters, politicians and the public at large that something is being done; and although well-intentioned, it offers more of a placebo than a panacea.

Publicizing the condom to the four winds is, for the most part, the bravura of a puritan who is trying to prove to the world that he is not a puritan. To concentrate on the mechanical aspects of the sex act to the exclusion of the emotional and psychological aspects (which the condom campaign ignores) is the essence of Puritanism. The only difference between the new and the old is that whereas the traditional puritans were alleged to believe that sex was something to be isolated and repressed, neo-puritans accept sex as something to be isolated and exercised. Rollo May states that the new puritanism has "the same old puritan form: alienation from the body and feeling, and exploitation of the body as though it were a machine."

Furthermore, what the Greeks knew, and what today's sex educators seem to have forgotten, is that the young "have strong passions, and tend to gratify them indiscriminately. Of the bodily desires, it is the sexual by which they are most swayed and in which they show absence of self-control." (Aristotle, *Rhetoric*, 1389a 2- 1389b 11) Since this is so, it should be obvious that the message on condoms included in the federal government's "Understanding AIDS" brochure, which was mailed to each household in the United States, is a waste of effort and money.

THE SOLUTION: FORMATION, NOT INFORMATION

Condom information is a simplistic answer to the guidance of youth. It will not convert immaturity into maturity. Formation, not information, is needed. Rather than the facts of the condom, it would have been more to the point to equip parents with the appropriate knowledge needed to educate their sons and daughters on the value of abstinence, and to supply through the parents the understanding that boys and girls need to place their energies in other directions, and that girls need to fend off opportunistic boys. Perhaps the next great advance will be made when chasity, as with abstinence and monogamy, will no longer be viewed as a religious imposition.

The basic, though long range, answer, then, to the control of AIDS, is primary prevention. It is to get at the young before they get started on precocious and premature sex—the inexorable path to multiple sex partners, and AIDS. Public health strategists in the United States Public Health Service have no difficulty with primary prevention in the case of smoking and drug misuse by getting to youth before they get started. What prevents them from doing the same in the case of AIDS? To assume that all preteens and teenagers are automatically going to become prematurely sexually active is a defeatist attitude.

Seen from another angle, our problem is that in today's culture fidelity is not characteristic of young love. And love without commitment is counterfeit love. Without real love, abandonment is common, and sex partners come and go with the attendant heartbreaks. This becomes part of the breakdown of young people's self esteem and the loss of self-identity.

Having multiple sex partners not only places them on the road to AIDS, but sooner or later brings in its wake a whole series of destructive social ills: not only disruption of personal growth and development, but unwanted pregnancies, abortion with its physical and psychological sequelae, sexually transmitted diseases, drugs, alcohol, suicide, and the weakening and breakdown of present and future family life.

Perhaps worst of all is the loss of the gift of fertility. To discover in later life, when the urge to have a child is so great, that one's earlier promiscuous life style has rendered one sterile is a great tragedy. Those who flock to birth-control clinics early in life often find themselves at sterility clinics later in life. The younger generation needs to have impressed on it that nature gives them only one body; that it is not a rehearsal body to be turned in when the fun is over; that it has to last a lifetime.

The problem, then, is to rescue the young from the clutches of a freedom run rampant. The condom fosters neither abstinence nor monogamy; rather it does the opposite. Those who stress condom usage only put the seal of approval on active genital sex. The message it communicates is that the condom is a good which converts irresponsible sex into responsible sex, giving it the appearance of acceptability and respectability. It is the old refrain of birth controllers which has only resulted in more and more adolescent pregnancies.

SORCERERS' APPRENTICES

The advocates of the condom seduce our young people into deep waters from which they seldom emerge. Its intensive promotion does more to arouse and stimulate the imagination and encourage genital sex among the young than to curb unprotected sex among the promiscuous. Such promoters are in effect sorcerers' apprentices, unable to stop the flow which they have fostered. One cannot bail out the ship when the water keeps rushing in.

Concerned adults need to reexamine certain contemporary shibboleths which underlie the promotion of the condom: that genital sex is a good at any age and in any manner; that the promotion of abstinence in sex, unlike abstinence from tobacco, alcohol and drugs, is a religious imposition that has no place in a secular society; that the poor and the underprivileged are uncontrollable in their passions, uneducable and beyond improvement. Such is an elitist position and has no place in a country that purports to be a democracy. There is a saying that the longest way around is often the shortest way home. Perhaps if we put our energies to educating and persuading young people, boys and girls, men and women, to think "no," to say "no," and to act "no," we would get much further in curbing AIDS than by urging them to carry condoms in their purses and wallets.

FEDERAL AND STATE PROGRAMS FOR ABUSED AND NEGLECTED CHILDREN NEED TO BE IMPROVED

HON. MICHAEL A. ANDREWS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 14, 1989

Mr. ANDREWS. Mr. Speaker, child welfare programs in each State have been operating under Public Law 96-272 since 1980. This law, which requires States to make reasonable efforts to prevent the removal of children from their homes, has had a measurable effect. The number of children in foster care was reduced by nearly one-half from 1977 to 1984. But since then this number has been on the upswing, reflecting an increase in the use of child abuse hotlines, and an increase in family violence.

In Texas, the number of children in foster care fell from 7,500 in 1978 and leveled off at about 5,000 since 1983—an overall decrease of 33 percent. While we have made progress in this respect, many Texans have questioned whether we are using the foster care system appropriately to protect abused and neglected children.

In Houston, El Paso, and other cities throughout the country, we have seen in recent years some serious cases of abused children dying after being reunified with their families by the children's protective services. These cases raise important questions about the causes of such tragedies.

Senator Chet Brooks, chairman of the Texas Senate committee on health and human services has held several hearings throughout the State to examine this question. The report of the committee staff makes several recommendations for improvements. I believe that the increased attention to children's protective services in Texas will yield important lessons for the entire Nation.

One of the staff recommendations is a simple one, increased data collection. We often do not know how these programs are operating. For example, we do not know with any accuracy how often reports of abuse and neglect reoccur within a given family. This is true in Texas and throughout the country. I believe that increased data collection requirements should be made law.

An acute problem facing children's protective services is the availability of foster parents. To help solve this problem, I chaired the Foster Care Recruitment and Retention project for Harris County and 13 surrounding counties last year. This pilot project demonstrated how foster parent recruitment programs can be successful with community involvement.

This project increased the number of foster parents in the region by 62 percent. It also decreased the number of closed foster homes by 29 percent.

This project is one example of the problems that can be solved without additional spending. But adequate funding is clearly necessary to protect abused and neglected children.

The State of Texas is currently owed $66 million by the Federal Government for unpaid foster care and adoption assistance administrative costs. Given the severe budget constraints that the Texas Legislature faced this year, these funds could be well used.

Congressman TOM DOWNEY, acting chairman of the Human Resources Subcommittee of the Committee on Ways and Means, and I have both written the Committee on Appropriations to request the funds necessary to resolve this issue. I hope that these appropriations will be made soon so that they will be available to Texas.

On May 22, 1989, the Human Resources Subcommittee held a field hearing in Austin, TX, on programs and services to prevent unnecessary foster care placements. Several child welfare experts testified about programs that provide reunification services to the more difficult cases involving abused and neglected children and about providing in-the-home counseling to prevent the need for foster care placement and assisting families to help them stay together through a crisis.

The subcommittee also had the opportunity to visit a model program at the Texas Baptist Children's Home. We had a first hand look at many different programs at once: foster care cottages, an emergency shelter, an independent living program, and a parent-child cottage program.

I believe this and subsequent hearings on foster care and child welfare programs will tell us a great deal about additional ways to offer better protection of abused and neglected children.

CONGRESSIONAL CALL TO CONSCIENCE VIGIL FOR SOVIET JEWS

HON. BERNARD J. DWYER

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 14, 1989

Mr. DWYER of New Jersey. Mr. Speaker, it has been my privilege to participate with many of my colleagues over the years in the congressional call to conscience vigil for those refuseniks who have been unable to secure permission to leave the Soviet Union and who have come to depend on us to make their stories known to the West.

I would like to share with you the personal tragedy of Boris Rifkin, who has been in refusal since 1976. Boris and his wife Dina initially applied in 1976 for permission to leave. Dina had relatives in the United States and the Rifkins wanted to provide an atmosphere for their two children which would allow them to grow up free from religious discrimination.

Their emigration request was refused on the basis that Boris—because of his profession as an engineer—allegedly had access to important state secrets. Of course, as is the practice in the Soviet Union, Boris was fired from his position once he applied for an exit visa. Since losing his job, he has worked as an elevator repair technician. His wife also paid the price for seeking permission to leave. She was terminated from her job as a surgical nurse and sought employment as an elevator operator for several years. Because of illness, she subsequently lost that position as well.

In a desperate bid for approval to emigrate, the Rifkins reached the painful decision to seek a divorce, hoping that their chances for approval would improve for Dina and the children if she were no longer married to Boris.

The divorce was granted; and, in 1981, Dina and their children were finally authorized to leave. They are now residing in the United States. Boris, however, has still been denied permission to go. His repeated requests for visas have been denied because of his access to state secrets, even though he has not worked in his profession for many, many years. He has been told by Soviet authorities that they could keep him for another 10 or 20 years. He continues to live alone, now separated from his wife and children for almost 8 years. He has not given up the hope of being reunited with them and he needs the support of those of us who can keep his plight in front of the Soviets so that they will relent and approve his exit visa.

THE IDEAL CONGRESSMAN

HON. BOB STUMP

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 14, 1989

Mr. STUMP. Mr. Speaker, last Friday's edition of the New York Post contained an article written by Senator William Proxmire about one of the most extraordinary Members the House has ever known, the distinguished gentleman from Kentucky, WILLIAM H. NATCHER. The article highlights our colleague's incredible voting record, his incorruptible campaign style, and his incomparable management skills. BILL NATCHER is one of this institution's great leaders, and a man who I am proud to call a friend. His impeccable record is one for which we should all strive.

FOUND: THE IDEAL CONGRESSMAN (ALAS, HE'S NOT FROM NEW YORK)

(By William Proxmire)

In my 31 years in the Senate I have worked closely with hundreds of members of Congress. Who was the most conscientious? The most incorruptible? Who gave the taxpayers the most for their money?

The answer is a man whose name most Americans have never heard. He is William Natcher of Kentucky.

Rep. Natcher broke all congressional records long ago for answering consecutive roll calls. During his 36-year career, the House of Representatives has held more than 11,700 roll calls. Natcher has answered every single one of them, without exception. He also answered more than 4,000 quorum calls without missing one.

Some cynics demean this kind of perfect attendance record as trivia. Are they right? Of course not. The most vital decisions of Congress are made by votes on the floors of the House and Senate. It is the one opportunity for a member of Congress to determine our country's national and international policy.

Doesn't Congress also make crucial decisions in committee? Yes, indeed. And it's in committee where this remarkable congressman has really shined.

For the past 10 years Natcher, a Democrat, has been chairman of the House Appropriations subcommittee on health, education and l During the first two years of his chairmanship, I was chairman of the corresponding Senate Appropriations subcommittee, and for several years thereafter I was the ranking minority member of the subcommittee.

Natcher and I met often to reconcile differences between the House and Senate on massive, multi-billion-dollar legislation critical to the nation's health and education.

Natcher was a joy to work with. He always knew the bill in detail. He knew precisely where he and his House colleagues were willing to make concessions and where they would stand fast. Because he had mastered the details, we were able to work out compromises while keeping expenditures to a minimum. Natcher is a thoroughly professional legislator, in the best sense, a real national treasure.

Professional polls report that most Americans prize honesty as the most important characteristic for a member of Congress. Is Natcher honest? Consider this: In his 19 elections to the House, not once did Natcher accept a political contribution. The cost of his last campaign was about $8,000, all out of his own pocket.

As a leading congressional expert on health and education, Natcher could easily have earned thousands as a national speaker. He has yet to accept his first dollar of honoraria.

From the standpoint of the tax-paying public, Natcher enjoys still another distinction. In an age when members of Congress have notoriously large and costly staffs with high-priced administrative assistants, legislative assistants and press secretaries, William Natcher has operated with a small, super-efficient and low-cost staff. He has no chief of staff running his office, no legislative assistant, no press secretary.

Here's a congressman who produces the highest quality product in legislative service at the lowest price and with uncompromising honesty. Who wouldn't buy that?

Rep. Natcher, who is 79, hasn't served all those years as Congress' top expert on health, however, without securing the best benefit of all for himself.

I asked him years ago about the reason for his vigorous health. He told me that one of the country's most eminent heart specialists had told him that the secret for a long, healthy life is to "keep moving."

For 36 years, Congressman Natcher has shown exactly how to keep moving and always in the right direction.

DRUG TESTING

HON. ARTHUR RAVENEL, JR.

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 14, 1989

Mr. RAVENEL. Mr. Speaker, I place in the RECORD a letter from a worker at the Savannah River Plant in Barnwell, SC. His comments should be read and taken seriously by all workers who are employed in places that produce, use or handle any harmful substances, or who have jobs that place the lives of others in their hands.

The letter follows:

BARNWELL, SC.

The very idea of not initiating drug testing in needed areas of concern because the "drug test" presumes guilt is patently ridiculous. If drug testing is unconstitutional, then so is any required blood test for a marriage license. Does a blood test assume that a person has VD as a result of promiscuity? The answer to that question in 3 words is no, no, no! Many industrial plants require a physical examination for employment. Does the physicial exam requirement presume that a person is not physically fit? Again, the answer is no! Does drug testing an individual in a needed area of concern presume guilt of drug abuse? Of course not! The idea that drug testing presumes guilt is ridiculous!

JACK E. COOPER.

CONGRESSIONAL SALUTE TO MILLARD TONKIN

HON. ROBERT T. MATSUI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 14, 1989

Mr. MATSUI. Mr. Speaker, I rise today to pay tribute to a good friend and distinguished citizen of Sacramento, Mr. Millard Tonkin. The Golden Empire Council of the Boy Scouts of America share my admiration of Millard and on Tuesday, June 13, will host a gala dinner to honor him as the BSA Distinguished Citizen of the Year. I take great pride in sharing with my colleagues the stellar career of this outstanding individual.

Millard Tonkin has dedicated his entire life to serving his community. For over 50 years, Millard has provided his leadership, skills, and talent to a variety of service organizations,

from the Boy Scouts of America to the Sacramento Zoological Society. I would question whether there is an organization in Sacramento that serves the community that has not been touched in some manner by Millard's generosity, either personally or financially.

Coupled with Millard's devotion to his community, is his commitment to professional excellence. As president and general manager of the Seven-Up Bottling Co. of Sacramento, Millard has been recognized for his leadership. His colleagues elected him president of the California-Nevada Soft Drink Association and the business community of Sacramento named him the chamber of commerce Sacramentan of the Year in 1988. Clearly, Millard Tonkin is a man of extraordinary talent.

Mr. Speaker, I commend Millard Tonkin for his dedication to enriching the quality of life of Sacramentans and ask that my colleagues join me in saluting this outstanding individual. I offer my congratulations to Millard and his wife Lillie, on his being named the BSA Distinguished Citizen of the Year and extend my best wishes for his continued success in all future endeavors.

FREEDOM FOR SOVIET JEWS

HON. GERRY SIKORSKI

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 14, 1989

Mr. SIKORSKI. Mr. Speaker, I rise today to participate a second time in the Congressional Call to Conscience Vigil sponsored by the Union of Councils for Soviet Jews [UCSJ]. With all the discussion about the wonders of glasnost and the improvement of the Soviet human rights record, it is unfortunate that we still need this vigil for freedom for Soviet Jews. Today, I call out for the release of the Gumnitzky family who have been denied for reasons of secrecy since 1979.

So-called State secrets continue to be used as the most common excuse for denying Soviet Jews internationally recognized human rights. The right to free emigration is included in the Helsinki agreements of which the Soviet Union is a signator. Although I am pleased that many more Jews are being released, true compliance with these agreements would mandate legalization or institutionalization of these reforms in Soviet law. However, they have not—and many families like the Gumnitzkys are being denied their basic rights.

Last month, a Soviet air force pilot defected in Turkey because "he feared President Mikhail Gorbachev's reforms would bring on civil war." Antisemitism is flourishing in the Soviet Union under glasnost and the need of these refugees to emigrate has become even more pronounced. In addition to Pamyat, other national antisemitic organizations have been established including the Committee of the Soviet Public Against Diplomatic Relations with Israel.

Despite all this, the administration feels that Soviet Jews are no longer being denied their basic rights and no longer have a well-founded fear of persecution. For the last 6 months, I have been writing to the administration on behalf of many individual families who have been fairly denied refugee status by Immigration and Naturalization [INS] officials in Rome. I personally have received affidavits written by friends and relatives of these refugees in the United States documenting political persecution suffered by these people.

Recently, some famous Soviet individuals were granted political asylum in the United States. They didn't have to wait and jump through a host of INS hoops to get approval. What difference exists, that would explain why a famous chess player or hockey player suffers a greater fear of political persecution than a persecuted, discriminated religious minority? In fact, I would imagine that a famous national hero would be less likely to fear political persecution. If the Soviet Union no longer employees systematic repression of its people, as the new INS policy would imply, then on what grounds are we allowing the famous in but not the persecuted.

Since I became involved in this issue, the phone has been ringing off the hook with people pleading for help. Many people from my home State have been separated from their relatives in Ladispoli, Italy. Their situation remains unresolved, creating hardship and anxiety for them and their families in Minnesota. Once again, I am imploring this administration to reverse this policy and to review the following cases: Mikhail Galbmillion, Saloman Fridland, Leonid Livshitz, Irina Levenson, Frida Roshal, Lena Tolchinskaya, Igor Goldstein, Valery Rifkind, Lev Bronshtein, Efim Greenberg, and Arkady Gitlin.

I realize that the unexpected influx of refugees created a strain on the INS resources in Rome. However, I'm sure that we all share a deep concern that justice will be properly served, even if we must make an extra effort.

UNITED STATES-MEXICO INTERPARLIAMENTARY CONFERENCE

HON. GUS YATRON

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 14, 1989

Mr. YATRON. Mr. Speaker, As vice chairman of the United States-Mexico Interparliamentary Conference, I want to commend my good friend and colleague from California, Congressman DAVID DREIER, for his outstanding statesmanship and leadership at this year's meeting in April. He played a key role in this year's conference, contributing significantly to its success. He deserves the utmost admiration, respect, and recognition for his achievement.

The U.S. Interparliamentary Conference is attended by a delegation of Members of the U.S. House and Senate, and from the Mexican Congress, interested in fostering cooperative and closer relations between our two countries. The conference is held annually, alternating its meeting place between the two countries. I have regularly participated in this annual conference, but was unable to attend the 1989 session in Mexico. I addressed several of the previous conferences on the growing importance of the international environment, particularly in cooperation between Mexico and the United States on these issues. As chairman of the Subcommittee on Human Rights and International Organizations, which has jurisdiction over the global environment, I have a deep interest in this area.

This year, Congressman DREIER addressed the conferees on the environment. I found his comments most perceptive and informative. I understand they were well received. I believe all the Members of the House would benefit from Congressman DREIER's keen insights and observations, and I want to submit a copy of his statement to the RECORD.

CONGRESSMAN DREIER'S STATEMENT: UNITED STATES-MEXICAN INTERPARLIAMENTARY CONFERENCE

I want to discuss an area where United States-Mexican interest are converging, leading to increased cooperation between our two countries.

Environmental issues have indeed been placed at the top of the global agenda. Environmental problems can undermine economic growth, jeopardize public health, and threaten national security. They do not respect national boundaries. They can be a source of international friction or cooperation.

I believe that the United States and Mexico have acted with great foresight to prevent environmental issues from becoming major disruptions in our relations. In fact, both of our countries have established sophisticated laws, regulations and institutions to deal with domestic environmental concerns. We have also developed structures, mechanisms and procedures to address environmental problems which we share in common. The International Boundary and Water Commission is but one and perhaps the best, of many manifestations of U.S.-Mexican cooperation on the environment.

Your country's concern for the environment is second to none. The fact that Mexico was the first country to ratify the Montreal protocol to control the production and consumption of ozone depleting chemicals testifies to your country's deep concern for preservation of the environment.

We, in the United States, share your concern. We too have ratified the Montreal protocol. I hope that our two governments will continue to seize the opportunities for closer cooperation presented by the environmental challenge. There is too much to lose if we do not join hands on these increasingly complex problems.

I believe that the way your country and my country has dealt with the environment could serve as a model for other bordering countries. Clearly, we have differences between us in many areas, including the environment. However, we have developed a system which seeks to harmonize discordant approaches for the good of both people.

The menu of environmental problems facing us today is unprecedented in terms of scope, volume and potential danger. Ozone depletion, global warming, acid rain, tropical deforestation, the proliferation of hazardous substances, loss of plant and animal life, the pollution of our land, sea, and air, are confronting world leaders with a set of challenges where acting cooperatively may be the only path towards protecting mankind. The U.S. and Mexico have made a good start and I will continue to extend my hand in a sincere, honest and good faith effort to ensure we remain partners in the

search for solutions to environmental problems.

IN HONOR OF REDLAND MIDDLE SCHOOL

HON. CONSTANCE A. MORELLA

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 14, 1989

Mrs. MORELLA. Mr. Speaker, I take great pleasure in commending Redland Middle School in Rockville, MD, for being honored as an outstanding school in the U.S. Department of Education National School Recognition Program. The program each year honors outstanding schools on the basis of their instructional programs, school improvement efforts, quality of teaching, school climate, and parent and community involvement. This year's emphasis was also placed on schools with especially high academic standards and strong programs in geography.

I congratulate Dr. Lucinda Sullivan, principal of Redland, and the students and staff, on this public recognition of their fine school. A school can win this award for school excellence only once in 5 years, and Redland has won it twice in 10 years. The success of this Montgomery County public school can be attributed to: the strong leadership of Dr. Sullivan, the outstanding commitment of the staff and teachers, and enthusiastic support from the community. Maryland State Superintendent of Schools Joseph Shilling called Redland an example "of the excellence that is possible when a principal with strong instructional leadership skills, teachers committed to reaching each student, and a caring community join together in building a learning environment for young people."

Let me take this opportunity to thank Redland Middle School for its outstanding service to the community of Montgomery County, MD, and to wish them all the best in the years to come.

TOUGH PENALTIES FOR SERIOUS CRIMES

HON. LES AuCOIN

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 14, 1989

Mr. AuCOIN. Mr. Speaker, a few days ago, our colleague, the Honorable BEN NIGHTHORSE CAMPBELL, noted here that while we continue to agonize over gun control, our constituents want tough laws to protect them against those who use weapons in the commission of crimes.

I am delighted to join our colleague as a cosponsor of his excellent legislation, H.R. 2529. And to give us a range of options for consideration, I am today introducing companion legislation which I commend to the attention of the House.

In Oregon, the criminal use of weapons is soaring, at the same time we are experiencing a staggering increase in drug abuse. The violence, the destruction, the anguish of drugs and drug-related crime touches every phase of life in Oregon.

Even though Oregon represents less than 2 percent of the U.S. population, nationally it ranks fifth in the number of reported serious crimes per capita; third in burglaries; fourth in bank robberies; second in commercial methamphetamine lab seizures; third in weapons confiscated during raids; third in production of both marijuana and methamphetamines; the number of schoolchildren in Oregon who use illicit drugs is higher than the national average; and more than 20 drug-addicted babies were born to addicted mothers each month in Portland in 1988.

In its 1987 study of drug use among male arrestees, the National Institute of Justice documented that 70 percent of the Portland suspects tested positive for drugs—the fifth highest level in the Nation. This astonishing discovery serves to introduce yet another incredible fact: The number of narcotics defendants in the district of Oregon increased 541 percent between 1955 and 1988.

I urge serious consideration this session of legislation which increases the penalties against criminals and others who wrongfully use or possess firearms.

VOTE-FOGGING 101

HON. NEWT GINGRICH

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 14, 1989

Mr. GINGRICH. Mr. Speaker, if there is one provision of the tax code with which all Members of this House are familiar, it is section 89. The dubious honor is awarded this provision because of its severe negative impact on both employers and employees, and the outcry it has generated.

Section 89 assumes employers are discriminating until they prove to the IRS that they are not. Even providing equal access to benefits is not enough; employers must prove that highly compensated and non-highly compensated employees are both participating in the plans. The costs for employers to comply with section 89 and stay in compliance can total thousands of dollars a year.

On May 24, our colleague GEORGE GEKAS (R-PA) brought to the House floor a procedural motion which, if successful, would have given Members an opportunity to vote on repeal of this onerous tax provision. Despite the fact that 310 Members of the House have now cosponsored legislation to repeal section 89, only 217 Members voted to make in order the repeal amendment. What happened to the overwhelming support for repeal?

The Wall Street Journal seized on this peculiar situation in an editorial titled, "Vote-Fogging 101," printed on June 6, 1989. I commend this editorial to the attention of my colleagues.

VOTE-FOGGING 101

The saying goes that the only way to really understand what Congress is up to is to "Watch what they do, not what they say." That advice goes double in the current debate over an unpopular new law called Section 89, now the top small-business issue on Capitol Hill. A lot of Members want Brownie points with local firms by backing repeal, while at the same time they quietly can vote to keep the status quo intact.

Though it is only now being enforced, Section 89 was one of the Christmas-tree ornaments that were the price of passing the 1986 Tax Reform Act. It forces companies to prove that they don't discriminate between executives and lower-paid workers in awarding non-wage benefits such as health insurance. Workers with "discriminatory" or excessive perks must pay income tax on them.

But to enforce this form of social engineering, Section 89 creates so much new paper work and red tape that many employers are likely to simply stop providing some or any fringe benefits. Even the smallest firms may have to pay consultants $3,000 to $5,000 a year just to submit compliance reports.

Section 89's perversities are such that small-business owners were quickly able to persuade 309 out of the 435 House Members to cosponsor a bill repealing Section 89, and many thought victory was theirs. But on May 24, by a vote of 219 to 201, the House rejected an amendment by GOP Rep. George Gekas that would have repealed Section 89 entirely. When House Members actually had a chance to put their votes where their rhetoric was, more than 100 supporters of repeal melted away and ended up voting against repeal.

The Members, who are listed below, felt they could get away with such blatant hypocrisy because while Rep. Gekas made clear what the effect of his amendment would be, he was able to force a vote only by using a procedural amendment that didn't mention Section 89. Protected by House Rules, the 106 vote-switchers still can claim they favor repeal of Section 89 while at the same time they avoid offending Dan Rostenkowski, the powerful Chairman of the Ways and Means Committee. It was Mr. Rostenkowski's staffers, few of whom ever have managed a work force, who dreamed up Section 89.

The methods used by the current House leadership to obscure the real public-policy issues are an example of how carefully crafted House Rules can subvert the legislative process. As seen in the recent pay-raise debacle, the modern Congress will go to any lengths to avoid being held accountable to the voters.

Today, Senator Bob Kasten of Wisconsin will see if the Senate is any more honest than the House when he offers his own procedural amendment to repeal Section 89. But just as in the House, if his amendment falls below the required 60 votes, closet supporters of Section 89 will be able to have their political cake and eat it too. When political chicanery such as this is possible, it is small wonder that 98% of House incumbents and more than 90% of Senate incumbents have been winning re-election lately.

The following lists those House Members who are co-sponsors of a bill repealing Section 89, a law restricting employer-provided benefits, but who voted against a procedural amendment offered by Section 89 opponents:

Jim Bates, Joseph Brennan, George Brown Jr., John Bryant, Beverly Byron, Thomas Carper, Tony Coelho, Ronald Coleman, Jim Cooper, Jerry Costello, Buddy Darden, Peter DeFazio, Butler Derrick, Richard Durbin, Mervyn Dymally, Mike Espy, Thomas Foglietta, Barney Frank, Martin Frost, Joseph Gaydos, Sam Gejdenson, Dan Glickman, Bart Gordon, Charles

Hatcher, Charles Hayes, Jimmy Hayes, W.G. Hefner, Peter Hoagland, George Hochbrueckner, Steny Hoyer, William Hughes, Harry Johnston, Ben Jones, Walter Jones, Patrick Kanjorski, Marcy Kaptur, Gerald Kleczka, Peter Kostmayer, John LaFalce, Martin Lancaster, Tom Lantos, Greg Laughlin, Marvin Leath, Mickey Leland, William Lipinski, Nita Lowey, Matthew Martinez, Nicholas Mavroules, Romano Mazzoli, Frank McCloskey, Dave McCurdy, Jim McDermott, Matthew McHugh, Thomas McMillen, Michael McNulty, Kweisi Mfume, Norman Mineta, Joe Moakley, Alan Mollohan, Robert Mrazek, Dave Nagle, William Natcher, Richard Neal, Stephen Neal, Henry Nowak, Mary Rose Oakar, Jim Olin, Solomon Ortiz, Wayne Owens, Frank Pallone, Donald Payne, Lewis Payne, Timothy Penny, Carl Perkins, Owen Pickett, Glenn Poshard, David Price, Richard Ray, Bill Richardson, Robert Roe, Charlie Rose, George Sangmeister, Bill Sarpalius, Gus Savage, Ike Skelton, Jim Slattery, Louis Slaughter, Lawrence Smith, Neal Smith, John Spratt, John Stenholm, Gerry Studds, Al Swift, Mike Synar, John Tanner, Esteban Torres, Robert Torricelli, James Traficant, Jolene Unsoeld, Tim Valentine, Harold Volkmer, Wes Watkins, Ted Weiss, Jamie Whitten, Pat Williams, Robert Wise.

Mr. Speaker, over the next few months, I'm sure Members will again have the opportunity to vote for repeal of section 89. I would welcome the support of my colleagues in this effort, especially those who already have cosponsored legislation to effect repeal.

CONGRATULATIONS TO NEAL SHELDON FEDERMAN ON TWENTY YEARS OF DISTINGUISHED COMMUNITY SERVICE

HON. JULIAN C. DIXON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 14, 1989

Mr. DIXON. Mr. Speaker, it is with great pleasure that I rise today to congratulate Mr. Neal Sheldon Federman on his 20th anniversary as the director of education and principal of the Religious School at Temple Akiba. The members of Temple Akiba, which is located in Culver City—in my congressional district will be honoring Mr. Federman in a special ceremony and dinner. During his tenure at Temple Akiba, Mr. Federman has developed hundreds of innovative and exciting programs. His energy, enthusiasm and commitment to quality education stands as a true inspiration to us all. The congregation at Temple Akiba is privileged to have such a leader serving as teacher, administrator and role model for its students.

Mr. Federman is highly respected within the Jewish educational community in Los Angeles. He was a popular and innovative teacher at Temple Judea in Encino before joining Temple Akiba. Along with his good friend Rabbi Allen Maller, Mr. Federman has taught 20 confirmation classes, countless sessions of religious school and Hebrew school, and presided over hundreds of holiday celebrations and family Shabbat services. Temple Akiba also enjoys the programs he created such as the 24-hour dance marathon and the weekend conclave retreats for students.

In addition to his work as a religious educator, Mr. Federman has spent more than 20 years devoting his energy and creativity to the public school system. For most of his professional career he has taught at Birmingham High School in Van Nuys, where he currently teaches honors classes in economics and sociology. His teaching career first began at James Madison Junior High School in North Hollywood.

A native of Chicago, IL, Mr. Federman moved to Los Angeles in 1956 and soon after served in the U.S. Army at Fort Ord. He and his wife, Shirley, were married on August 21, 1960, and now reside in Westlake Village, CA. They have two grown children, a daughter, Marla, and a son, Jeff.

Mr. Federman truly has made young people his life's calling. Besides his work in the classroom, he directs Camp Summertime, a successful children's summer camp in Augora Hills.

Mr. Federman is also known for his beautiful singing voice and talented guitar playing. He is famous in the congregation for his notable vocal performances as a member of the camp, rock band "The What."

I join the members of Temple Akiba, the Federman family and a host of friends in honoring Mr. Federman on 20 years of exemplary service. I hope that this celebration is merely a milestone in a long, prosperous and gratifying teaching career. Temple Akiba is truly lucky to have such a dedicated man as a member of its congregation. I wish him continued success.

HOORAY FOR SAMUEL SKINNER

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 14, 1989

Mr. STARK. Mr. Speaker, I'd like to include in the RECORD an excellent editorial which appeared in the Los Angeles Times on Tuesday, May 30, 1989.

In a time which, energy wise, looks suspiciously like the early seventies and there is increasing concern about the environment, Ford and GM are once again whining about the difficulty of meeting the CAFE standards. They are suggesting that at a time of relatively cheap gas, CAFE standards are outdated because Americans want bigger and more powerful cars. Yet, at the same time, they are lobbying to restrict the influx of fuel-efficient Japanese and European imports.

The editorial points out that higher automobile mileage standards are good for everybody and, more importantly, that the 27.5-mpg standard for model year 1990 should only serve as a beginning.

[From the Los Angeles Times, May 30, 1989]

HOORAY FOR SAMUEL SKINNER!

There are a lot of good reasons for squeezing more miles of travel out of every gallon of gasoline burned in automobile engines. On the most mundane level, boosting mileage will save people money. On a near-cosmic level, reducing the amount of carbon dioxide that goes into the atmosphere as a byproduct of gasoline combustion helps lessen or postpone the unhappy consequences that are threatened by a global warming trend. In between are various other economic and political benefits, among them that the less foreign oil Americans buy the less the trade deficit will grow. For all these reasons the proposal from Transportation Secretary Samuel Skinner to restore the new car fuel-economy standard is more than welcome.

It's welcome not least because there's a lot of lost time to make up for, thanks to the waivers the Reagan Administration granted on the fuel standard. The Reagan White House embraced the dogma that the marketplace alone should tell auto companies what kind of mileage their cars ought to get. The market can be a highly efficient mechanism for satisfying public wants, but where public health and welfare are at issue—where such things as the safety of food and medicines or the protection of the environment are concerned—regulation plays a vital role. Under Reagan, fuel economy standards were allowed to slip from the 27.5 miles per gallon called for in 1985 back to 26 m.p.g. Now they're up to 26.5 but Skinner wants 27.5 m.p.g. on 1990 models. The thing to watch is whether President Bush, who as a loyal member of the Reagan Administration once favored abolishing the 1975 fuel standards law, will back him up.

Chrysler Corp. wouldn't have any trouble meeting such a requirement, but General Motors and Ford are already singing the blues. The lyrics are familiar; the Big Two say the big, less fuel-efficient cars they make are what the public wants. It's true that, since oil prices began falling early in this decade, demand for most American-built smaller cars has declined. It's also true that demand for fuel-efficient Japanese cars, either imported or built in U.S. factories, has steadily increased, to the point where nearly one out of every four cars bought by Americans carries a Japanese marque. There are various reasons for the success of the Japanese models; it's absured to pretend that an interest in good mileage isn't one of them.

A 27.5 m.p.g. standard, though, should be seen as only a beginning. Federal technical studies project that just by using such technologies as multivalve engines and what are called continuously variable transmissions, cars can get 33-35 m.p.g. by the mid-1990s. The important point is that those technolgies exist. They are already used on a lot of Japanese cars. There's no reason why American car makers can't adopt them as well.

There's something ridiculous as well as insulting about auto compaines defending their profitable interest in making bigger and less fuel-efficient cars on the ground that they are only giving the public what it demands, when for the last eight years those same companies lobbied to restrict imports of Japanese cars and so deny consumers what they wanted. Choice, in any event, threatens to become an increasingly unaffordable luxury in a world confronted by global warming. That trend, the "greenhouse effect," stems from a concentration of carbon gasses in the atmosphere that trap the Earth's radiated heat. In the face of the risk this phenomenon presents to weather parttens, crops and—if melting ice caps raise ocean levels—to coastal communities, the prudent course is to cut carbon dioxide discharges as much as possible wherever possible. Tougher mileage standards for automobile engines are one place to start.

FSX: A BAD DEAL IS A BAD DEAL

HON. CASS BALLENGER

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 14, 1989

Mr. BALLENGER. Mr. Speaker, I have serious reservations about the negotiated joint development of the FSX fighter jet with Japan. I do not believe the agreement would serve the interests of the United States, therefore, I voted "aye" on the Solomon amendment—rollcall No. 78—disapproving the United States-Japan FSX agreement.

In addition, I voted "no" on the Bruce amendment—rollcall No. 79. The Bruce amendment approved the joint agreement while placing restrictions on the President in negotiating treaties and future policymaking decisions. I opposed this amendment on two counts: First, this vote reaffirmed my strong opposition to the FSX agreement—it is a bad deal under any circumstances. Second, the amendment micromanages the executive branch decisionmaking process and infringes on Presidential prerogative.

On the Broomfield motion to recommit—rollcall No. 80—I voted "aye." This measure would have replaced the Bruce amendment language with the Solomon amendment language to "flat out" disapprove the FSX agreement.

Because this effort failed, the Bruce amendment language prevailed. Therefore, I voted "no" on final passage—rollcall No. 81—of the resolution approving the FSX agreement.

I respect the Office of the Presidency, and although I may not agree with the administration in this instance, I will not support efforts to undermine Presidential authority.

THE CASE OF SALVADORAN LABOR LEADER JOSE MAZARIEGO

HON. THOMAS M. FOGLIETTA

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 14, 1989

Mr. FOGLIETTA. Mr. Speaker, I rise today to bring to my colleagues' attention the case of Salvadoran labor leader Jose Mazariego.

Mr. Mazariego was scheduled to attend a luncheon meeting with Philadelphia labor leaders tomorrow. He was also to meet with me and with some of my colleagues during his month-long stay in the United States. My office and other offices had been involved in an effort to win Mr. Mazariego a visa, which we heard Monday had been successful.

However, just hours after obtaining his visa at the United States Embassy in San Salvador, Mr. Mazariego was arrested and charged with involvement in terrorist activity by the Salvadoran Treasury Police, a group which has been accused of having links to the notorious death squads. This looks like a deliberate attempt to prevent him from coming to the United States to tell his story—the story of what is going on in El Salvador.

Yesterday, I spoke with William Kristol, Vice President Quayle's chief of staff, who informed me that Mr. Mazariego had been visited by Embassy staff and does not seem to have been mistreated by the police. However, I believe that there is still reason for Mr. Mazariego to fear for his life and his well-being. He was kidnapped by a death squad in April. According to news reports, he was told that he would not survive the next kidnapping.

My concern now is to see that the Salvadoran Government continues to respect Mr. Mazariego's human rights, and that he is released promptly if no concrete evidence is found against him. I know that many of my colleagues join me in hoping that Mr. Mazariego will be able to quickly reschedule his trip to the United States, so that we will be able to meet with him and hear his interpretation of the political situation in El Salvador.

Mr. Speaker, I thank you for your time.

BURTON COMMENDS DISABLED AMERICAN VETERANS CHAPTER 52

HON. DAN BURTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 14, 1989

Mr. BURTON of Indiana. Mr. Speaker, I rise today to commend the members of chapter 52 of the Disabled American Veterans in Marion County. IN. During the DAV's State convention this week in Indianapolis, the members of chapter 52 will present a generous gift to the Roudebush VA Medical Center—a new van for driving veterans to and from the hospital for medical care.

Unfortunately, Mr. Speaker, there are a variety of obstacles that prevent some veterans from getting to VA hospitals. Some are too old to drive anymore. Some can't afford a bus ticket to get from their hometown to the hospital. Some are wheelchair bound and can't use public transportation. Whatever the reason, these veterans are usually the most vulnerable and are most in need of attention.

Congress has for years authorized the VA to pay travel allowances to poor and elderly veterans so they could continue to get to their VA hospitals for treatment. When the allowances were briefly discontinued 2 years ago, the Disabled American Veterans started a program to encourage their local chapters to donate vans to their local hospitals. Half of the purchase price of the van is paid by the national DAV, and half by the local chapter. Congress has since restored the travel benefits, but the DAV's program goes on.

Chapter 52's generous gift comes at a good time. VA hospitals have been forced to tighten their belts and cut back many important programs due to congressional inaction on an emergency supplemental appropriationis bill. Fortunately, the DAV's timely donation will help ensure that poor and infirm veterans can get to their VA hospital when they need to.

In my 7 years in Congress, I have witnessed countless acts of generosity by Indiana's veterans organizations. Their commitment to service is truly heartwarming. I applaud the members of DAV chapter 52 for their generosity and I commend their commander, Donald Peek, for his leadership. I would also like to pay tribute to all of Indiana's disabled American veterans meeting in Indianapolis this week.

TRIBUTE TO SCOTT L. THIBODEAU ON ACHIEVING THE RANK OF EAGLE SCOUT

HON. JOSEPH E. BRENNAN

OF MAINE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 14, 1989

Mr. BRENNAN. Mr. Speaker, I ask my colleagues to join me today in honoring a young man from North Berwick in the First District of Maine, which it is my privilege to represent. On July 15, this young man, Scott L. Thibodeau, will attain the rank of Eagle Scout in the Boy Scouts of America.

In order to be awarded this honor, the highest award in Scouting, a Scout must demonstrate unusual leadership ability. He must earn at least 21 merit badges and organize, finance, and carry out a service project for the community. The qualifications for becoming an Eagle Scout are so rigorous that only 2 percent of all Scouts are able to attain that rank. These young people are worthy of our highest praise and respect.

Scott L. Thibodeau, the son of Louis and Rose Ann Thibodeau, is an 18-year-old senior at Noble High School. He is interested in commercial art and is a member of the Vocational Clubs of America. He has been elected to the Boy Scouts of America Order of the Arrow, and has served as senior patrol leader and junior assistant scoutmaster for B.S.A Troop No. 312 of North Berwick. Scott's service project involved assisting in the construction of a building which will be used to instruct youth in his surrounding communities in gun safety.

Mr. Speaker, I join Scott's parents, friends, and fellow Scouts in congratulating him on his achievements, and in wishing him continued success in his future endeavors.

OPPOSITION TO THE VETO OVERRIDE ATTEMPT

HON. JIM BUNNING

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 14, 1989

Mr. BUNNING. Mr. Speaker, I rise in support of the President's veto of this bill and in opposition to the veto override attempt.

This is a charade and we all know it. The President made his position very clear and very early. And this override attempt is just a piece of political strategy to test our new President's will and resolve.

Well, our President has proven that he means what he says.

Let's quit playing games. The passage of H.R. 2 in its present form was a challenge to the President and we know it. If the folks who supported this bill were really concerned about the people who are making the minimum wage, they would have made the changes requested by the President. His pro-

posal was carefully weighed to help boost the wages of the working poor while limiting the job loss that always accompanies an arbitrary increase in the minimum wage.

The President offered to meet them half way. They are the ones who took that spirit of bipartisan compromise and threw it back in his face.

Let there be no mistake about it. Anyone who votes for override today is not voting to help low income Americans one bit. They are voting to play politics with the working poor—for their own political gain. And they ought to be ashamed of themselves.

TRIBUTE TO WASHINGTON SENATORS OF THE HOCKEY AMERICA LEAGUE

HON. JOSEPH P. KENNEDY II

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 14, 1989

Mr. KENNEDY. Mr. Speaker, I would like to congratulate the Washington Senators of the Hockey America League. After winning the Hockey America Washington League, the third seeded Senators battled Eastern powerhouse Philadelphia and the number one seeded Chicago club to capture in dramatic fashion its first ever Eastern Regional title. On June 16, the Senators will face-off against the defending national champion Orange County Phantoms for the 1989 Hockey America National title.

After a strong 1988 campaign, the Senators entered the new season with some early disappointments. The departure of some key players coupled with injuries left many unanswered questions. As is true with many championship teams, the Senators regrouped and behind the strong leadership of coach/captain Steve Fischel finished with an impressive 15–5 record. Through their hard work and dedication and strong desire to win, the Senators established themselves as a force to be reckoned with this season. Winger Scotty McLaughlin's overtime goal in the Eastern Regional Championship game typified the Senators' never say die attitude. After finding themselves down by two goals, the Senators fought back to score the next three goals to take the crown.

Congratulations, Washington Senators—Peter Anas, Jay Bellissimo, Steve Collins, Tom Cronin, Greg Dunn, Bill Dodge, Steve Fischel, David Fritz, Chris Garrison, Jeff Knight, Al Krattley, Brian Land, Scott McLaughlin, Brad Meyer, Charlie Sampson, Mike Tiernan and Glenn Turner—and best of luck in Phoenix, AZ.

TAXPAYERS BAILOUT OF THE SAVINGS AND LOAN INDUSTRY

HON. RONALD D. COLEMAN

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 14, 1989

Mr. COLEMAN of Texas. Mr. Speaker, the taxpayers are looking at $150 billion in payments over the next 30 or so years to undo the damage of a few incompetent, greedy or just plain simple men. The S&L industry for years provided firm support to the ordinary citizens of this country, playing an important role in fulfilling the American dream of home ownership. A few years of undisciplined deregulation have not only destroyed the base of this vital industry but have created a crisis that will financially hurt the very people the S&L industry exists to help.

The industry's downward spiral is a result of a continual comedy of errors by the Reagan/Bush administration. The more trouble the industry got into the more the administration loosened its regulatory controls. The administration's intention was that by abandoning the S&L industry to the free market, it would be able to develop defensive strategies that would return it to a profitmaking situation. Fine. The problem, however, was that at the same time that regulatory controls were being dismantled, deposit insurance protection was more than doubled, creating a situation that encouraged some S&L's to take unhealthy risks. It was from this point that the industry overexposed itself in commercial and real estate loans, development loans and subsidiary enterprises. The Reagan administration further compounded the problem with inadequate oversight and supervision of the industry.

Somewhere along the line the administration forgot the original purpose of the S&L industry. It is special case—dedicated to promoting home ownership through home mortgage lending. The combination of deregulation and increasing insurance protection created a situation that encouraged S&L's to move away from their primary purpose. For a few poorly managed thrifts this meant justifying unsound risks by gambling on the continuation of favorable economic conditions.

Home ownership is part of the American dream, so much so that a special corner of the financial industry evolved to support it. It was naive to believe that savings and loans could or should compete with the intensely competitive financial industry as a whole, either in terms of general expertise or market share. The timing of deregulation in itself was horrible. But by failing to quickly crack down on overextended, poorly run and insolvent thrifts the Reagan/Bush administration allowed failing S&L's to make even more bad loans leaving the situation to worsen exponentially.

The cost of these free market experiments will be borne by the very people who need the support of a sound savings and loan industry dedicated to making housing affordable. Even now, after all the evidence is in, there is still a move by the administration to compromise on the tough capital standards it should be clear that the system requires. We cannot in good faith permit this. Given the fact that every day of inaction costs the taxpayers millions of dollars more, we must act quickly to enact this admittedly imperfect legislation. Let's not compromise its ability to do the job it was written for.

A SPACE PROGRAM ON TRACK

HON. DANA ROHRABACHER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 14, 1989

Mr. ROHRABACHER. Mr. Speaker, Saturday June 10 marked another successful launch of a global positioning system [GPS] satellite on a Delta II rocket. The U.S. Air Force and its contractors are to be congratulated for a job well done. I am proud to point out that the Navstar GPS satellite is largely a product of the 42d Congressional District of California, which I represent. The Navstar satellite was manufactured by the working men and women at the Rockwell plant in Seal Beach, launched by a Delta II rocket manufactured by other aerospace workers at the McDonnell Douglas facility in Huntington Beach, and the launch overseen by Air Force personnel who are part of the Space Command team housed at Fort McArthur in San Pedro.

The global positioning system is a total revolution in global navigation, promising instant, highly accurate position information in three dimensions when the full satellite constellation is complete. This capability will enhance almost all military systems and operations. The military will save millions through the use of GPS, since the Navstar system's signals will replace myriad ground-based navigation signal transmitters of the past.

GPS will also benefit the private sector of our economy since the signals will be available to civilians as well as to the military. GPS is already beginning to generate an entirely new commercial electronics industry to provide miniaturized navigation equipment. The same accurate position information will soon be used by everything from shipping to commercial aircraft to individuals hiking in the woods.

Mr. Speaker, the Navstar GPS Satellite Program is one Government project that will help keep America a technological leader in both the military and private sectors. It is an example of how our military programs contribute to keeping our Nation strong. So three cheers for our technological pioneers in aerospace and in the U.S. military. I'm proud to represent them.

THE CONSUMER PRODUCTS RECOVERY ACT

HON. ESTEBAN EDWARD TORRES

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 14, 1989

Mr. TORRES. Mr. Speaker, today I am introducing the Consumer Products Recovery Act.

The Consumer Products Recovery Act initially establishes a recycling credit system for used automobile luricating oil. Producers of virgin oil will be required to demonstrate that a certain percentage of their product is recycled. The manufacturers could satisfy this requirement either of two ways: they could directly purchase the re-refined oil or, they could pur-

chase recycling credits which would guarantee that the product had been recycled.

A recycling credit will work like this: The producers of used oil will purchase, from the recyclers, either re-refiners or reprocessors, a credit or guarantee that a certain percentage of their product has been recycled. EPA will check the records of the companies involved to make certain that the quantities of credits sold equals the quantity of oil recycled.

The advantage of this system, over the current market for used automobile lubricating oil, is that the producers will be required to guarantee that the product will be recycled, but it will allow free market forces to accomplish this goal in the most efficient way. Recycling will not depend on the price of oil in the Middle East as it does today.

This idea is an outgrowth of project 88, under the direction of Senator TIM WIRTH and Senator JOHN HEINZ. I am very pleased that they have decided to join with me in introducing this bill. As we confront the environmental problems of the 1990's, it is critical that we explore additional techniques to encourage environmentally sound behavior.

In my district, which includes the San Gabriel Valley in southern California, we have four ground water Superfund sites. In the course of studying the problem of ground water contamination, I have come to the realization that, in the long run, this problem can only be resolved if we make every possible effort to reduce the amount of waste that we release into the environment.

As our colleagues in the medical community discovered a long time ago, an ounce of prevention is truly worth a pound of cure. As we are increasingly aware, the amount of substances we release into the environment is truly mind-boggling. What is perhaps even more distressing is the fact that we can and should recycle more of these materials we are now wasting and which are ruining our environment. We also have to realize that by wasting these precious natural resources, we will need to generate even more pollution in order to replace products needlessly discarded. This creates an endless cycle of pollution and waste.

One particular product that is needlessly and foolishly wasted is used automobile lubricating oil. Every year Americans throw away more than 400 million gallons of oil—the equivalent of 35 *Exxon Valdez* oilspills. And when it is thrown away it winds up in storm drains or in landfills. Much of it finds its way into our surface and ground water supply. Is it any wonder that in the EPA report released today that 20 percent of the water supply in America is polluted.

We throw away our used oil for two reasons. First of all, the artificially depressed price of virgin oil makes recycled oil, with its fixed costs, economically unable to compete in the marketplace. And, second, many Americans simply do not know what to do with the used oil once the oil comes out of their car.

In West Germany they recycle 85 percent of the oil of the citizens who choose to change their oil themselves. In the United States we only recapture 5 percent of this do-it-yourselfer oil. I know that we can do better. The Consumer Products Recovery Act restructures the market to make substantial increases in the amount of used oil that is recycled.

Not only will the act stimulate environmentally sound recycling of used motor oil, but it will direct EPA to establish similar incentive-based systems for other commodities like lead-acid batteries, newspapers, antifreeze, volatile organic compounds, and tires. The act will achieve this goal by making it economically viable for these products to be recycled. This bill would, for the first time, establish a system of market incentives to channel the flow of waste products.

A TRIBUTE TO JUDGE WALTER J. BONE

HON. TIM VALENTINE

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 14, 1989

Mr. VALENTINE. Mr. Speaker, I rise to pay tribute to one of the most distinguished jurists in North Carolina history, Superior Court Judge Walter J. Bone, who died at his home in Nashville, NC, on May 30 at the age of 90.

Judge Bone was one of those extremely rare individuals who earned the admiration and respect of all who knew him personally or came in contact with him, whether in his court, in business, in civic affairs, or in his church. The word "great" has been so overworked and overused that it is often meaningless. In this case it is not—Judge Walter J. Bone was a great man.

In his professional life, Judge Bone personified what is meant by the term "judicial temperament." A man of learning, character, integrity, scrupulous fairness, and compassion, he was wholly dedicated to the intelligent, equitable, and energetic administration of justice.

No citizen involved in a legal proceeding before Judge Bone ever had reason to believe that his or her rights had not been fully exercised and protected. No attorney who argued a case in Judge Bone's courtroom ever came away without gaining in knowledge about the law and how it should be administered.

Judge Bone's personal passion for excellence raised the standards of everyone who entered his court. Attorneys, law enforcement officials, and officers of the court all performed their duties with greater diligence and care because of the example set by Walter J. Bone. Like many young attorneys, I received some of my most valuable training from Judge Bone.

A former pastor of Judge Bone's church, G. Durham Ipock, summed up Judge Bone's professional reputation at his funeral:

He was one who dealt fairly, counseled wisely, and conducted himself manfully in all matters * * * a just judge, honorable in more than title.

As a citizen of his community, Judge Bone was without peer. He was a leader in civic and church affairs who gave of himself totally and set an example for all to emulate.

Another minister who spoke at Judge Bone's funeral, Dr. Gaylord Lehman of the Lakeside Baptist Church in Rocky Mount, said:

His private life matched his public declarations. It would have been difficult to think of Judge Bone having an impure thought or an unrighteous motive.

I knew Judge Bone throughout most of my life, and I feel a deep personal loss at his death. We are all diminished by his passing, but our lives were greatly enriched by his presence among us. If we endeavor to live by his precepts and standards, our world and that of our children and grandchildren will be a far better place.

TRIBUTE TO CHARLES W. KAHL

HON. DOUGLAS APPLEGATE

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 14, 1989

Mr. APPLEGATE. Mr. Speaker, today I rise before you to ask you and my fellow colleagues to join me in honoring Charles W. Kahl, recipient of the 1989 National Community Transportation Award.

Sixty-seven year-old Charles Kahl, of St. Clairsville, OH, has been employed by the Belmont Action Commission of Belmont County for 10 years. In his capacity, Charles Kahl drives 225 to 300 miles daily, 5 days a week, transporting medical patients to and from examinations, surgeries, and appointments. Doctors' offices and patients specifically request to be transported by Mr. Kahl, whose comforting manner brings ease and relief to many of the distressed clients. He often rearranges his personal schedule so as to best serve area patients. His vast experience provides clients with a potpourri of tales that not only assuage them, but that have earned Charles Kahl a revered reputation in all county social service agencies.

During a period of several months when the Community Action Commission reduced staff and services because of funding deficiencies, Charles Kahl volunteered his personal time to drive an elderly dialysis patient to treatments. Mr. Kahl is employed from 8:00 a.m. to 4:30 p.m.; nevertheless, he often works 6:30 a.m. to 6:00 p.m. without overtime compensation.

Mr. Speaker, I urge my colleagues to join me in congratulating Charles Kahl for his extraordinary community service and dedication. His unique temperament and devotion is reminiscent of the pioneering spirit and enhances our community for all citizens.

A FOND FAREWELL TO CHIEN-JEN "C.J." CHEN

HON. GERALD B.H. SOLOMON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 14, 1989

Mr. SOLOMON. Mr. Speaker, a little later today, following legislative business, many Members will be gathering at the Capitol Hill Club to say a fond farewell to Dr. Chien-Jen Chen. Known to his many friends as "C.J.," Dr. Chen has been a popular and admired spokesman for the Republic of China. He is returning to Taiwan later this week to assume his new responsibilities as Vice Minister of Foreign Affairs in the R.O.C. Government.

"C.J." Chen has been a close friend and a valued counselor to many Members of Congress. During the many years he has lived in Washington, "C.J." has worked tirelessly to improve the relations between our two countries and peoples. His efforts have contributed in many ways to reducing the trade problems between our two countries. Moreover, he is a strong advocate of freedom and democracy who has provided much encouragement to the important political advances being made in Taiwan.

But for one brief period in the early 1980's, "C.J." has lived in Washington since 1971. He served in several different capacities in the R.O.C. Embassy before being recalled to Taipei in 1980 to serve as director of the Department of North American Affairs in the R.O.C. Foreign Ministry. He returned to Washington in 1983, this time to serve as his country's number-two man in America.

"C.J. Chen was born in Chungking on the Chinese mainland, and he pursued his undergraduate studies at the National Chengchi University in Taiwan. "C.J." earned his doctorate at the University of Cambridge in England in 1966. He has also studied politics and economics at the University of Madrid in Spain.

While we are sorry to see "C.J.," his lovely wife Yolanda, and their children leave Washington, we know that "C.J." and his family are going home with the satisfaction of having made many lasting friendships in America. He is, moreover, going home to assume important new responsibilities which will enable him to make even greater contributions to the political and economic development of his own country and to the continued cooperation between Taiwan and the United States.

To "C.J." and his family we bid Godspeed. And his many friends look forward to seeing them again in the years to come.

PRIME MINISTER BHUTTO VISITS UNITED STATES

HON. ELIZABETH J. PATTERSON

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 14, 1989

Mrs. PATTERSON. Mr. Speaker, today, I would like to welcome Prime Minister Bhutto to our country and to the Congress. As part of a congressional delegation, which included my colleagues, BEVERLY BYRON, BARBARA KENNELLY, and LYNN MARTIN, I recently visited Pakistan and met with the Prime Minister. I am grateful for the cordiality and graciousness which was extended to us by the Prime Minister and the people of Pakistan throughout our stay.

Since her election as Prime Minister last November, Mrs. Bhutto has demonstrated tolerance and a keen ability for compromise with opposing entities in the Pakistani political process. Her commitment to establishing free and open democratic processes and instituting necessary reforms to improve the lives of the people of Pakistan is to be commended.

I congratulate Prime Minister Bhutto for her dedication and leadership in her efforts to ensure a stable and democratic republic in Pakistan and look forward to continued cooperation between Pakistan and the United States.

UNITED STATES-ISRAELI FREE TRADE AGREEMENT

HON. JOHN D. DINGELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 14, 1989

Mr. DINGELL. Mr. Speaker, I would like to submit for the RECORD letters I received from the United States Trade Representative [USTR] and the United States Department of State in response to my concerns over the failure of our Government to ensure the United States-Israeli Free Trade Agreement is properly implemented and complied with. It is clear that Israel has yet to abide by the United States-Israeli Free Trade Agreement [FTA], which became effective in September 1985. My colleague, Mr. HAMILTON, previously contacted the USTR and the State Department in December 1988 regarding Israel's unfair trade practices. I sent my own inquiries on May 5, 1989. On both occasions, the State Department and the USTR reported that Israel is violating the Free Trade Agreement.

I am troubled and puzzled by the failure of the USTR and the State Department to press our Israeli allies and to resolve the problems associated with the FTA. Given the enormous trade deficit this Nation is currently suffering, the United States must persevere and negotiate a swift and appropriate compromise so that all Americans have equal access to their markets as we permit Israel to have in the United States.

HOUSE OF REPRESENTATIVES,
Washington, DC, May 5, 1989.

Hon. CARLA HILLS,
U.S. Trade Representative, Washington, DC.

DEAR MADAM AMBASSADOR: I write regarding the 1985 Free Trade Agreement (FTA) between the United States and Israel.

I refer to Chairman Lee Hamilton's letter dated November 29, 1989 in regard to the U.S.-Israeli FTA. I would appreciate a full report addressing the following concerns and allegations.

I am concerned that Israel continues to issue import licenses in an untimely and random manner as well as to discriminate against certain groups of individuals through the misapplication of standard trade regulations.

I am also troubled over the decline of U.S. products in Israeli markets from 20 percent in 1985 to 16 percent in 1987.

Finally, I am concerned that Israeli non-tariff trade barriers have not been sufficiently eliminated. These non-tariff trade barriers are severely disruptive to free trade between the United States and Israel.

I would appreciate a prompt response to all of my concerns and allegations. Thank you for your attention to these important matters.

With every good wish,

Sincerely yours,

JOHN D. DINGELL,
Member of Congress.

HOUSE OF REPRESENTATIVES,
Washington, DC, May 5, 1989.

Hon. JAMES A. BAKER III
Secretary of State, Washington, DC.

DEAR MR. SECRETARY: I write regarding the 1985 Free Trade Agreement (FTA) between the United States and Israel.

I refer to Chairman Lee Hamilton's letter dated November 29, 1989 in regard to the U.S.-Israeli FTA. I would appreciate a full report addressing the following concerns and allegations.

I am concerned that Israel continues to issue import licenses in an untimely and random manner as well as to discriminate against certain groups of individuals through the misapplication of standard trade regulations.

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Finally, I am concerned that Israeli non-tariff trade barriers have not been sufficiently eliminated. These non-tariff trade barriers are severely disruptive to free trade between the United States and Israel.

I would appreciate a prompt response to all of my concerns and allegations. Thank you for your attention to these important matters.

With every good wish,

Sincerely yours,

JOHN D. DINGELL,
Member of Congress.

U.S. TRADE REPRESENTATIVE,
EXECUTIVE OFFICE OF THE PRESIDENT,
Washington, DC, June 1, 1989.

Hon. JOHN D. DINGELL,
U.S. House of Representatives,
Washington, DC.

DEAR CONGRESSMAN DINGELL: Thank you for your letter of May 5 regarding certain Israeli trade practices and the U.S.-Israel Free Trade Area (FTA) Agreement.

The Israeli trade practices identified in your letter have been the subject of a series of intensive consultations and negotiations between our two Governments over the past year. Before addressing the status of these negotiations, however, it may be helpful to briefly review the nature of the FTA and our trade performance under it.

The U.S.-Israel FTA, which became effective in September 1985, provides for the gradual elimination of all customs duties by January 1, 1995. Some duties were eliminated immediately, others will be phased-out over a longer period of time. All duties, however, will be eliminated by 1995. Certain other trade barriers in both countries were not eliminated by the Agreement and the FTA envisages further negotiations. Agriculture restrictions, government procurement and services are examples. Such issues have been under negotiation since the Agreement's entry into force.

As a result of the gradual approach adopted for implementing the agreement, it was expected that trade would increase only slowly at first, as exporters and importers became aware and took advantage of the benefits of the FTA. All the same, from the implementation of the FTA in 1985 through 1988, imports from Israel increased by 40 percent, while U.S. exports to Israel increased 35 percent.

As your letter notes, it is nevertheless troubling that the U.S. share of the Israeli market fell from 20 percent in 1985 to 16 percent in 1987. Our performance may be improving given an 18 percent jump in U.S. exports last year, but data on the U.S.

market share in Israel for 1988 are not yet available.

Another factor to bear in mind is that the EC and Israel also have a free trade agreement that went into effect in 1975 and will reach full implementation in 1989. The "head start" in the phase-out of customs duties has given the EC advantages in the Israeli market that can only be overcome with time as duties facing U.S. products are phased out.

One way to maximize U.S. exports to Israel is to be constantly vigilant for and attack any non-tariff barriers Israel may attempt to introduce or maintain in violation of the agreement.

In early 1988, we discovered that the Israelis were utilizing certain discriminatory tax practices to provide advantages to their domestic manufacturers. We also learned that the import licensing provisions of the FTA with respect to American products were not being followed by the Israelis and that they were using product standards to discriminate in favor of the domestic producers. We demanded consultations with the Israeli Government and warned that we would take appropriate counter-measures if satisfactory results were not achieved.

Through a series of negotiations, the Israelis agreed in the fall of 1988 to make significant modifications in these practices. Careful monitoring of the implementation of these agreements (summary enclosed) is required to ensure full compliance with their terms.

Our monitoring indicates that the Israelis have yet to implement the licensing and standards provisions of the agreements concluded last fall. They have also been slow to move legislation through their Government to begin the phase out of the "TAMA" procedure described in the enclosure. These issues will be at the top of the agenda in our June consultations with the Israelis.

Sincerely,

CARLA A. HILLS.

SUMMARY OF RECENT TRADE AGREEMENTS WITH ISRAEL

PURCHASE TAX EXEMPTIONS

The Israelis had been discriminating between domestic producers and importers in the application of their purchase tax (a form of luxury tax) by exempting domestic Israeli producers from the tax if it was paid by these producers on any raw material input. Since the same opportunity for an exemption did not exist for importers, this gave domestic producers a significant cost advantage. The Israelis have now agreed to eliminate the exemption by either eliminating the purchase tax on products where such discrimination exists or by imposing a purchase tax on domestic products at a rate equal to that applied to like imported products.

TAMA

Agreement has also been achieved on a customs' process known as the TAMA, which is an estimated uplift used by the Israelis to equate import values, for purposes of collecting the purchase tax, with goods sold in Israel at the wholesale level. Israel calculates the purchase tax at the wholesale level, yet collects the tax on imports as they pass through customs and on domestically manufactured goods as they leave the plant. Domestic Israeli producers are permitted to declare the mark-up that applies to the goods from the factory to the point of the wholesale transaction, while imports are subjected to the arbitrary uplift in valuation known as the TAMA. We had been concerned that steadily increasing TAMA rates, which are calculated non-transparently, may have been offsetting duty reductions achieved under the FTA.

The Israelis have agreed to progressive phase out the TAMA by 1995 and in the interim to allow registered importers, starting January 1, 1989, the option of either 1) declaring the actual mark-up between importation and sale at the wholesale level (in the same manner as followed by Israeli domestic producers) or 2) using the TAMA rate. Thus full national treatment will be achieved immediately for goods imported by registered importers. After 1995, the TAMA will not be utilized in any way on goods entered by registered importers. Legislation to achieve this must be enacted by the Israeli Knesset.

LICENSING

Rather than according the U.S. the special liberalized licensing benefits agreed upon under the FTA, the Israelis in certain instances have been requiring American goods to meet the more stringent licensing requirements imposed on goods from third countries. The Israeli Government agreed to conform to their earlier commitments under the FTA wherever this was not occurring. They also agreed to issue a special directive to all Israeli Ministry of Industry and Trade licensing officers listing all U.S. products to be accorded special licensing status and the procedures to be used in handling applications for their importation. This has yet to occur.

STANDARDS

The U.S. and Israel agreed that all prevailing standards in Israel will be imposed equally on U.S. and Israeli goods. There will thus be national treatment for U.S. goods. Furthermore, we had discovered that certain voluntary Israeli standards were being applied in a mandatory fashion on imports. To remove the possibility of this occurring in the future, Israel agreed to convert, over the next 24 months, all voluntary standards imposed on imports to mandatory standards.

U.S. DEPARTMENT OF STATE,
Washington, DC.

Hon. JOHN D. DINGELL,
House of Representatives.

DEAR MR. DINGELL: I am responding to your letter of May 5 regarding the Free Trade Area Agreement (FTA) between the United States and Israel.

I shall respond to each of your concerns in turn. First, the Department of State and other concerned U.S. exporters regarding the seemingly random and often untimely issuance of import licenses by Israeli authorities. The U.S. Government routinely monitors Israeli compliance with the terms of the FTA. An interagency group of U.S. Government representatives met formally with their Israeli counterparts twice last year to discuss this and related matters, and another formal meeting is scheduled for June of this year. In our next meeting in June, we will ask the Government of Israel why it has not yet implemented the understanding on licensing described in the protocol of our meeting of October-November 1988. Regarding licensing complaints, in addition to these formal meetings, there are frequent contacts between our governments aimed at resolving specific complaints of Israeli noncompliance with the terms of the FTA.

Second, you are correct in noting that between 1985-1987, the U.S. share of the Israeli market declined from 20.1% to 16.2%, trends now improving as I explain below. Much of the decline from 1985-1987 can be explained by the fact that the United States is not the only party to have entered into a free trade arrangement with Israel. The European Community has had a free trade arrangement with Israel since 1975. Duty reductions on industrial goods (the only goods covered by the agreement) were totally phased in effective January 1, 1989. Under the terms of the U.S.-Israel FTA, duties on all products will not be eliminated until January 1, 1995.

You will be pleased to know that according to the latest figures, U.S. exports to Israel grew 17% in 1988 over 1987, while Israeli exports to the United States grew by 13% over the same period. From 1985 to 1988 therefore, U.S. exports to Israel grew by 38% while Israeli exports to the United States grew by 39%.

For a short list of articles the FTA specifies that the tariff rates that apply between January 1, 1990 and January 1, 1995 shall be determined after consultation between the Governments of our two countries. Elimination of these duties, which must occur on January 1, 1995, may, however, occur through their gradual phase-out over the period, but such actions requires Congressional approval. A discussion of these duties is scheduled for our June meeting in Israel.

Finally, as has been the case with licensing, we have regularly pursued U.S. firms' complaints about Israel's discriminatory application of certain standards regulations. This item is also on our agenda for the June meeting as we seek a report on Israel's conversion from voluntary standards on imports to mandatory standards required on all products sold in Israel.

I hope this answers your questions. If you wish additional information on this matter I would be happy to provide it.

Sincerely,

JANET G. MULLINS,
Assistant Secretary, Legislative Affairs.

CONGRATULATIONS WORLD CHAMPION DETROIT PISTONS

HON. WILLIAM S. BROOMFIELD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 14, 1989

Mr. BROOMFIELD. Mr. Speaker, congratulations to our 1989 Detroit Pistons who brought Detroit its first ever NBA championship title and whose home is in the Palace, in Auburn Hills, MI, in my congressional district. It has been a long hard climb up the championship ladder, but the Pistons have finally reached the top and can proudly call themselves world champions.

After the heart-breaking loss to the Los Angeles Lakers in 1988, the Pistons were determined to reach the finals and claim their title with whatever it took.

This attitude, along with excellent coaching, team effort, and a defense unparalleled in NBA history, were the motivating factors of their championshp title. Coach Chuck Daly and his staff should be commended for molding such a unified team with varying talents and egos.

The 1989 Pistons are a textbook definition of team effort. This is illustrated by the prolific

scoring threats of Joe Dumars, Isiah Thomas, Mark Aguire, and Vinnie Johnson. Also, not one player averaged more than 19 points a game for the entire season. This unselfish team of stars always passed off to the "hot hand" time after time.

The Detroit Pistons are one of, if not, the best defensive ball club in NBA history. They used an outstanding bench to overwhelm the opposition. Opposing players would often find themselves guarded by Dennis Rodman, John Salley, and Rick Mahorn in the same half. Bill Laimbeer and Dennis Rodman controlled the boards all season contributing to the winning defense effort.

The Pistons brought the NBA championship title to Detroit, and all of Michigan is proud of Owner Bill Davidson, General Manager Jack McClosky, Coach Chuck Daly, championship series MVP Joe Dumars, Bill Laimbeer, Mark Aguire, Isiah Thomas, Rick Mahorn, Dennis Rodman, John Long, Vinnie Johnson, James Edwards, John Salley, Fennis Dembo, and Michael Williams.

SOLUTIONS TO GOVERNMENT GRIDLOCK

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 14, 1989

Mr. HAMILTON. Mr. Speaker, I would like to insert my Washington Report for Wednesday, June 14, 1989, into the CONGRESSIONAL RECORD.

SOLUTIONS TO GOVERNMENT GRIDLOCK

As the U.S. government enters its third century, many Americans are convinced that their national government does not work as well as it should. They say that our democratic system has because so mired down that we suffer from "government gridlock". When confronted with tough problems, the Congress and the White House spin their wheels but do not get very far.

Consider some of our problems of recent years that are perceived to be the result of government failure: the federal budget deficits, hovering around $150-200 billion each year; our $120 billion trade deficit; homelessness and hunger in America; our increasing reliance on oil imports; the decline of U.S. competitiveness. Government is perceived as no longer working: it cannot make decisions, form consensus resit political pressures, or think beyond the next election.

To some extent, government's difficulty in finding solutions to national problems can be traced to our roots. Our founding fathers rebelled against arbitrary government—in the form of the long reach of the British Crown. In response to the fear of a strong central authority, the U.S. government was deliberately designed with roadblocks to efficiency—for example, requiring legislation to be approved by both the House and the Senate, and allowing the Congress to override a presidential veto. But a structure designed to keep power in check can also prevent government from responding quickly. It can sometimes result in situations where complicated problems simply overwhelm the government.

Some of the solutions to this gridlock of democracy lie in the political system. The basic structure of our government imbedded in the Constitution is sound. Yet the institutional structure that was created by the Constitution can be made to work better:

Although I am a legislator, I believe that presidential leadership must be strengthened. Whenever this nation has had clear purposes, it was because the president articulated them and was willing to exercise leadership. Our system does not work very well unless the country is given strong direction by the president.

We must improve the method of selecting presidents. Our current nominating system knocks too many good prospects out of contention. The system of primaries needs to be rationalized and compressed into a shorter time period.

The political parties need to be strengthened. Throughout the 20th century the power of political parties has been declining. The parties can help achieve the unity of purpose, the consensus, and the degree of harmony among the branches of government necessary to make the government act decisively and effectively.

Stronger parties will produce benefits in the Congress as well. By its very nature, the legislative process is slow, complicated, and cumbersome. The parties can help give direction and develop consensus. But we also need institutional reform to improve the capacity of the Congress to govern. The Congress needs to develop mechanisms to better mobilize itself and develop policies in response to the issues of the day.

We must improve voter turnout. The United States has the lowest voter participation of any industralized democracy. Low voter participation threatens the accountability of elected officials to the majority of the people. Even today, state and local officials owe their victories to 5-15% of the eligible voters. Most Members of Congress are chosen by 15-20% of the eligible voters, and fewer than 27% of all eligible voters elect presidents of the United States. Procedural reforms to boost voter registration are needed, but our schools also need to give more attention to the vital political traditions and values of a democratic society. We need to demonstrate how and why voting participation can make a difference.

We need to raise the status of our civil servants and stop denigrating bureaucrats. Other countries rely on professional managers to execute the policies of the government. We need to do the same. Political appointees who head up departments and agencies should be complemented by deputies selected from a corps of professional managers.

We must improve the appeal of public service. Too many of our most talented public servants are discouraged and ready to leave; too few of our brightest young people are willing to join. We must restore public service to a proud and lively career. We need to instill a sense of the moral challenge and personal excitement that is inherent in the great enterprise of democratic government. There is work of enormous importance to be done. Someone has to defend the country, explore space, clean the air and the water, negotiate the arms control treaties, and keep the cars, the trains and the planes from running into one another. Each of us has an interest in preventing government by the mediocre.

Finally, improving our capacity to govern in this country requires more than institutional changes. It requires that we understand and meet the demands that a democracy makes on each one of us. Our founding fathers agreed upon a set of principles and a plan of government to preserve order and liberty. But they also knew that in order to make that system work, people had to understand what democracy was all about and what it required of them. They knew that if most of us failed to meet those demands, then this noble experiment would fail.

Our democracy can endure as long as we as individuals understand the demands that our democratic society makes upon us: to be informed, active participants and not merely passive observers; to press our own views while being concerned about other individuals and tolerant of their views; to recognize the need for compromise; and to be concerned about the common good. The most precious gift this nation has is the talent and virtue of its people. We want a system of government that permits the ascendancy of that virtue and talent.

A CONGRESSIONAL SALUTE TO BOB VERDERBER

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 14, 1989

Mr. ANDERSON. Mr. Speaker, I rise today to pay tribute to an outstanding individual who has devoted nearly three decades of his life to the Downey, CA, community. Bob Verderber will be honored June 16, 1989, by the Downey Chamber of Commerce. This occasion gives me the opportunity to express my sincere appreciation for his many years of hard work and unending commitment.

Bob was born in Cleveland, OH, and grew up in the Cleveland suburb of Euclid, OH, before moving to Downey 27 years ago. He received his bachelor's degree in mechanical engineering from Cleveland State University in 1957 and a master's in industrial engineering from the university in 1964. Bob has spent the past 30 years working as an engineer, consultant, and manager. His service to the professional engineering society has also endured for 30 years. He has held more than 40 chapter officer and committee chairman positions for the Institute of Industrial Engineers. He has been employed by General Motors Corp., North American Aviation, and the Northrop Corp. Bob has owned an industrial management consulting firm for more than 15 years.

Mr. Verderber has been involved with numerous civic and educational organizations in the Downey area. He has been an adjunct faculty member at Loyola-Marymount University, West Coast University, Northrop University, and the University of Southern California. He also served as acting dean of the College of Business and Management while at Northrop University.

In the area of civic involvement, Bob has devoted a great deal of time to the Downey Chamber of Commerce, where he is currently serving as Chamber president. He has served on the Chamber board of directors for the past 5 years and held office as vice president and president-elect. Other civic organizations he has worked with include the Downey Planning Commission, the Project Area Committee for Downey's redevelopment program, the Downey Historical Society, Downey Sister

Cities Association, Downey Rose Float Association, Downey Civic Light Opera, Downey Symphonic Society, Friends of the Downey Library, the Langlaufer Ski Club, and the Downey Space Toastmasters.

Perhaps the greatest joy of Bob's life occurred last December when he married Councilwoman Diane Boggs. He not only gained a wife, but also a son, Garth, three daughters, Veronica, Libby, and Nanette. In addition to the immediate family, he also gained a daughter-in-law, three sons-in-law, two granddaughters, four grandsons, and is expecting another in July.

My wife, Lee, joins me in extending our congratulations to this caring and giving individual. Bob Verderber is truly a remarkable individual who has devoted his talents and energies to enriching the lives of so many other people. We wish this fine Downey citizen all the best in the years to come.

THE 20TH ANNIVERSARY OF THE STONEWALL REBELLION

HON. TED WEISS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 14, 1989

Mr. WEISS. Mr. Speaker, I want to draw the attention of my colleagues to the many events taking place this June as part of Gay and Lesbian Pride and History Month in New York City. An annual event, the celebration will this year also honor the 20th Anniversary of the Stonewall Rebellion, widely recognized as the beginning of the movement to ensure civil rights for lesbians and gay men.

Events at the Stonewall Inn in New York City in June, 1969, created a new commitment in the lesbian and gay community to work for equal rights. Organizations were formed to promote education about gay and lesbian rights and to fight for the passage of laws to ensure nondiscrimination on the basis of sexual orientation.

In 1971, I was an original cosponsor of the first New York City gay rights bill introduced into the city council. It was not until 1986 that a local law was finally passed and signed into law protecting lesbians and gay men against discrimination for sexual orientation. In addition, there are several executive orders in place in New York City that seek to protect lesbians and gay men from discrimination. Executive order No. 4 (1978) prohibits discrimination against city employees because of sexual orientation; executive order No. 94 (1986, formerly No. 50–1980) prohibits the city from entering into contracts with companies that discriminate on the basis of sexual orientation and executive order No. 69 (1983) prohibits city employees from doing business in private clubs that engage in discriminatory membership practices.

Several other States and localities have passed laws, or issued executive orders, protecting lesbians and gay men from discrimination, but until a Federal gay rights bill is enacted, most gay men and lesbians will have no recourse if they become the target of this type of discrimination.

Legislation now pending in the Congress would amend the Civil Rights Act of 1964 by adding affectional or sexual orientation to the list of forms of discrimination now prohibited in housing, employment, education, and public facilities. I am proud to be a prime sponsor of this important piece of civil rights legislation and prouder still that with each new Congress the list of cosponsors grows. In the 101st Congress, H.R. 655, the Civil Rights Act Amendments of 1989, is being cosponsored by 70 Members of this House who share the belief that a person's sexual orientation cannot be legitimate grounds for bias, any more than skin color or religious expression.

During this year's Gay and Lesbian Pride and History Month, events are scheduled honoring the many contributions to society made by lesbians and gay men throughout history. The new National Museum of Lesbian and Gay History located at the Lesbian and Gay Community Services Center will preserve for future generations the triumphs celebrated and struggles endured during the gay rights movement. In addition, the renaming of a portion of Christopher Street to Stonewall Place serves as an important reminder of the events that sparked a crucial civil rights movement.

Finally, at the end of June, Heritage of Pride will once again host the largest lesbian and gay pride march in the country. The first march in July 1969 drew 500 participants. Last year, over 100,000 individuals marched down Fifth Avenue to the cheers of thousands of New Yorkers lining the street in support of their gay and lesbian friends. The theme of this year's march, "Stonewall 20: A Generation of Pride," indicates that this community's spirit will not be broken until they can live their lives with dignity and in peace.

During a time when the gay and lesbian community has seen a disturbing increase in bias-related violence and continues to lead our Nation in responding to one of this country's most devastating health crises, it is crucial for all of us to show our support for gay and lesbian concerns. Only when all of the citizens of this country have obtained equal rights will ours be a truly just society. Mr. Speaker, I ask my colleagues to join me in supporting the Civil Rights Act Amendments of 1989 and in saluting New York City's Gay and Lesbian Pride and History Month.

NEW JERSEY UKRAINIANS CELEBRATE

HON. JAMES J. FLORIO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 14, 1989

Mr. FLORIO. Mr. Speaker, I would like to bring to the attention of my colleagues a very important event that is taking place in New Jersey on Saturday, June 17, 1989. On this day, over 20,000 New Jerseyans of Ukrainian descent will be hosting an ethnic festival at the Garden State Arts Center.

The Ukrainian Festival is the culmination of year-long activities by a group of unselfish and dedicated volunteers who will be demonstrating the rich cultural heritage of New Jersey's Ukrainian community.

Every year, the Garden State Arts Center hosts a number of festivals that are sponsored by the diverse ethnic communities that are represented in the State of New Jersey. The money that is raised by these festivals goes directly to the cultural fund which, in turn sponsors free cultural activities at the Garden States Arts Center. Groups that benefit from these activities include senior citizens and school children, the handicapped and the disabled, the veterans, and the disadvantaged. These activities represent a commendable effort to shine a bright light in the lives of these people.

This year's Ukrainian festival will commemorate two significant events in the history of the Ukrainian people. The community will commemorate the 10th anniversary of the death of the popular Ukrainian folk singer, Volodymyr Ivasiuk, who died in 1979. His music inflamed the hearts of Ukrainian youth everywhere and his efforts were an inspiration to both his countrymen and to Ukrainians around the world.

In addition, the festival will also commemorate the 175th anniversary of the birth of Taras Shevchenko, the poet laureate of Ukraine. Shevchenko's inspiring words helped the Ukrainian people survive their darkest hours of oppression.

I extend my best wishes to the chairman of this year's festival, Luba Siryj. In addition, I commend the New Jersey Ukrainian Congress Committees of America who, together with the Garden State Arts Festival Committee, are sponsoring this festival.

As one who has fought for recognition of the rights of the Ukrainian people, and as the author of the law that set up the Congressional Commission of the Ukraine Famine, I urge my colleagues to join me in congratulating New Jersey's Ukrainian Americans and wishing them success in their efforts.

TRIBUTE TO THE COAST GUARD AUXILIARY

HON. CHARLES E. SCHUMER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 14, 1989

Mr. SCHUMER. Mr. Speaker, my colleagues, today I call your attention to this month's 50th anniversary of the Coast Guard Auxiliary. We should never underestimate the valuable service this voluntary organization provides.

In my region—an area that spans from eastern New York up to Vermont—alone, the Coast Guard Auxiliary has a membership of 4,500. Many of these people will give over 40 hours a week of their time to the Coast Guard for free. Not only do these volunteers give their time to provide all mariners more safety but they also put at the Coast Guard's disposal almost 900 boats and over 20 air vehicles. The benefits society reaps from the generosity of these men and women is unquestionable.

In 1988 alone, some of the feats the Coast Guard Auxiliary was able to accomplish are staggering. During over 13,000 hours of Coast Guard patrol and 11,000 hours of radio support—much of this monitoring took place on private radios—the Auxiliary was responsible for saving 10 lives, assisting 950 vessels and

2,000 people, and rescuing and salvaging property worth over $18 million. Yet the Coast Guard Auxiliary provides more than a search and rescue service, it also serves as a preventative body by educating mariners and maintaining their vessels.

Last year, the Coast Guard Auxiliary offered over 10,000 hours of public classes, from which some 8,000 people graduated. Ten thousand people attended classes which span from charts and compasses to sailing to locks and dams. The auxiliary also examined over 25,000 boats, of which almost 8,000 were found to be unsafe.

The average age of an Auxiliary member nationwide is 55 and the body is composed of about 25 percent retirees. It is a proud and invaluable service the Coast Guard Auxiliary provides all of us who enjoy any form of recreation in America's waterway.

Mr. Speaker, my colleagues, please join me in saluting the members of the Coast Guard Auxiliary around this Nation on the occasion of their 50th anniversary. Let us hope that their next 50 years of service are as invaluable as their past 50. I am especially proud to honor the members of the Auxiliary from Brooklyn, NY.

VOICE OF AMERICA REPORTS CHINA TURMOIL

HON. RALPH REGULA

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 14, 1989

Mr. REGULA. Mr. Speaker, all Americans watched the tragic events in China with a mixture of shock, sadness, and anger. However, in China, the official media has yet to accurately report on the massacre in Tiananmen Square and the subsequent turmoil. That is why as many as 300 million Chinese are listening to the Voice of America's broadcasts in Mandarin, Cantonese, and English.

Since the crisis began, VOA's reputation for accurate, balanced news has drawn a huge audience. Some estimate that VOA has as many as 400 million listeners on a daily basis, despite deliberate jamming of the Chinese programs.

VOA has added broadcast hours, opened telephone hotlines, and switched to all-news programming in order to keep the Chinese people informed of events that will determine their future.

I hope my colleagues will join me in commending the staff and leadership of VOA for their tireless efforts. Their ability to make some sense of the chaos has earned them the respect and admiration of listeners around the world.

I would also like to share the following article, "Signals of China's Hope and Turmoil" from the Washington Post.

SIGNALS OF CHINA'S HOPE AND TURMOIL AT VOICE OF AMERICA, BROADCASTING TO BEIJING BECOMES A PERSONAL MISSION

(By Jacqueline Trescott)

Inside the blue studio Anita K. Tong and Dah H. Lin read over the news script written in bold black Mandarin characters, eyeballed the wall clock and waited for the signal to start. Then, after a few bars of "Yankee Doodle Dandy," they spiritedly read news summaries slugged "China Unrest," "China/U.S. Evacuation" and "Hong Kong/China" to an audience estimated at 200 million people and growing by the hour.

Part of the Voice of America team now acknowledged as the main source of information for the Chinese about the ongoing crisis in China, Lin and Tong are radio veterans, sharing 42 years as American government broadcasters. On the air they are smooth, unruffled and focused. But inside their office cubbyholes, where the teapot is plugged in, the fan mail stacked up and scenes of family and geography give China a fond immediacy, the conversations illustrate their individual distress and sadness, and the tangled threads between their professional duties and their personal lives.

"It's been terrible," says Tong, a native of Beijing. "It is really inhumane to kill innocent students. They are only asking for freedom. . . . We are all angry, sad and hopeless because we don't know how to help. Now the news is so black. We don't know what is going on." She says she worried about her sisters and brothers in China all weekend.

"I have a younger brother who is a professor of engineering and I thought he was involved. I tried for hours before I got through [on the phone] to my sister," she recalls. A small woman comfortably into her grandmother years but refusing to pinpoint her age, Tong laughed at how relieved she was to learn her brother was out of Beijing last weekend.

Lin, who admits to 57, says he, too, tries to keep his emotions in check on the air. But he says it's not easy. "I watched television when the tanks crushed the people. I just feared the worst. And I cried and shook," he said. His emotions, he says, are still churning. Over the weekend he talked to one of his three children, Judy Lin, 23, a financial analyst and graduate of the University of California at Berkeley, who had demonstrated with other Chinese Americans over the weekend. "I encouraged her and I wanted to be with her," says Lin. "For the last several days when the students gathered at the Chinese Embassy I wanted to go, but because of my job I can't demonstrate."

The deep well of emotions and ideas the events in Tiananmen square have touched in the bureaucratic recesses of the VOA have surfaced many times since the Beijing government declared martial law May 20. On Monday, Richard Carlson, the director of VOA, was walking through the China branch offices and saw one of the broadcasters weeping as he worked at his typewriter. "They report to places where there are ties intellectually, culturally . . . mind and heart kinds of ties that you don't have in a normal news operation," says Carlson. Yesterday he came to work around 5 a.m., brought several boxes of doughnuts and saluted the staff for its exhilarating work under pressure.

"Everybody here has a warm attachment and hope for the best for China," says David Hess, chief of the Chinese language service, who lived in China for 17 years. "As the shouting started, people would have a piece of news that they just couldn't believe and they would have tears streaming down their faces while they were translating that piece. It was disbelief. It was frustration, it was anger, it was sorrow and all of these mixed together.

Since Saturday the Chinese branch of VOA has been broadcasting 11 hours of news in Mandarin each day, up from 8½. It also has a daily 30-minute broadcast in Cantonese. Most of the staff has been working 10- to 12-hour shifts. The turmoil in China caught the Chinese section with no staff to spare. In recent years it has lost highly trained specialists to better paying jobs and because of budget tightening hasn't filled many slots. The branch has 41 full-time employees, most of whom are Chinese Americans and speak fluent Chinese. In the last few days they have assigned four student volunteers to the bureau's three shifts; they plan to hire six contract employees immediately and are trying to hire 15 permanent staff people.

For years the VOA, the worldwide radio network of the U.S. Information Agency, has had a loyal following in China and, according to Carlson, "during the darkest months of the Cultural Revolution there was a saying: 'The only school that is opened is the VOA.'" Its three correspondents in Beijing since October 1981 have become household names. The British Broadcasting System is also heard in China, using a powerful signal from Hong Kong, but it airs only two hours a day.

Chinese media people tell us that there are Chinese government studies that give us a daily audience of 60 to 100 million. We have telephone calls that tell us that now with the agitation . . . we have between 300 and 400 million a day. We have reports from every city that all shortwave radios are sold out of all stores. We have reports that they are playing our reports over loudspeakers at the universities," says Hess. "The only other media more pervasive is rumor. It is inaccurate, it's wild and it's emotionally agitated."

In their resolution condemning the "brutal use of force" by the Chinese government, Sens. George Mitchell of Maine and Robert Dole of Kansas directed the VOA late Tuesday to increase its Chinese language programming. Carlson, the chief of an already stretched staff, says quickly the senators are right but may be overlooking the recent cutbacks in the agency's budget.

Over the weekend the branch also established a telephone line, promoted in its Mandarin broadcasts, and began soliciting news tips and feedback about the strength of the VOA signal. For the first time since 1978, the Chinese government started jamming the broadcasts May 21. It caught the agency off guard, says Carlson. In recent days the agency has started using a 1-million-watt AM transmitter in the Philippines and has included anti-jamming instructions in some of its broadcasts.

The telephone line, which originates in China and has been receiving an average of 100 calls a day, has brought some authentic news stories. On Sunday the Washington office received a call from Wuhan saying masses of citizens had blocked all traffic on the Change River bridge for 12 hours. The VOA, says Hess, waited six hours to get two independent sources of confirmation. When that happened, they inserted the call's description into the news report. "So we took the report from six hours early in Chinese and said, 'and this report from Wuhan.' So we had it . . . a little later but it had the immediacy of being a report by a Chinese in Wuhan."

Yesterday C.H. Hsieh, a writer and editor at VOA for 17 years, was demonstrating the ease of translating the English scripts into Mandarin. He types English on the ordinary computer keyboard and the screen produces the Mandarin translation. Called SNAP, it provides its own sensation of orderliness in

the bureau. The last two weeks, Hsieh said, have been hard. "We have been touched, proud, but ashamed of the government's actions. We know the students are the hope of China."

BALTIC FREEDOM DAY

HON. WM. S. BROOMFIELD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 14, 1989

Mr. BROOMFIELD. Mr. Speaker, I wish to join my colleagues in supporting House Joint Resolution 184, to proclaim this day as "Baltic Freedom Day". As a cosponsor of this resolution, I wish to congratulate my friend from Michigan, Mr. HERTEL, and Mr. RITTER of Pennsylvania for their leadership and hard work on this important issue.

This resolution sends a clear message to the Soviet Union that the United States Government and the American people continue to oppose the illegal occupation of Estonia, Latvia, and Lithuania. While President Gorbachev continues to talk about openness and restructuring in his country, and proclaims himself to be a man of peace, the Soviet Union continues to oppress the people of the Baltic nations.

It has now been 50 years since the signing of the infamous Nazi-Soviet Pact. That treaty not only provided for the ruthless division of Poland by the Soviet Union and Nazi Germany, but it also gave the Soviet Government a free hand in the Baltic nations. The nations of Estonia, Latvia, and Lithuania, enjoying their independence after centuries of Russian rule, were forcibly annexed into the Soviet Union.

But the winds of change are blowing across the world. More and more the oppressed people of the world are demanding freedom and the right to self-determination. The spirit burns brightly in the Baltic nations, as the people have repeatedly expressed their desire for liberty. This desire has been expressed in public demonstrations, and an insistence that their own native culture be preserved against Soviet attempts at "russification". Even the Communist legislature of Estonia has now asserted its right to "veto" directives from Moscow if they conflicted with Estonian interests.

It is clear that after 50 years, the Soviet Government has been unable to destroy the character and spirit of the Baltic peoples. Furthermore, this desire for freedom has spread to other areas of the Soviet Union as well, and those in Armenia, Georgia, and Uzbekistan are also demonstrating for freedom. President Gorbachev may control armies and weapons, but he cannot stop the spread of an idea.

Mr. Speaker, through such resolutions as House Joint Resolution 184, the United States continues to express its support for freedom and self-determination in the Baltic nations. While we might applaud President Gorbachev for many of his reforms and conciliatory statements, we also stand with those who struggle for liberty.

I look forward to the day when Estonia, Latvia, and Lithuania resume their rightful place among the free nations of the world.

I urge my colleagues to support House Joint Resolution 184.

TRIBUTE TO JACK GREEN

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 14, 1989

Mr. HAMILTON. Mr. Speaker, I want to pay tribute to a great American athlete. The late Jack Green, a football standout at the U.S. Military Academy, has been selected to the College Football Hall of Fame. Mr. Green will join a distinguished list of athletes when he is officially inducted into the Hall of Fame in December of this year.

Mr. Green starred at West Point where he lettered 3 years, earning All-America honors in 1944 and 1945. In both of these years, the Cadets were Associated Press national champions. Mr. Green captained the 1945 team during his senior year.

Jack Green spent 6 years on the coaching staff at Army before entering active duty. After reaching the rank of captain, he returned to coaching, joining the staffs at Tulane and Florida before becoming head coach at Vanderbilt in 1963. Mr. Green coached for 4 years at Vanderbilt, leaving to become an assistant at Kansas for 1 year and for 2 years at Baylor. After leaving Baylor, Mr. Green retired from football and moved back to Nashville, IN. In 1981 Jack Green died at the age of 57. His wife, Jeanne, remains a Nashville resident.

Mr. Speaker, I invite my colleagues to join me in honoring the memory of Jack Green, as he is inducted to the College Football Hall of Fame. Just as his accomplishments are a source of pride and inspiration for those who knew him personally, so should they serve as an inspiration to all who aspire to excellence in any field.

A CONGRESSIONAL SALUTE TO DOMINIC AND LUCILLE COMPARSI

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 14, 1989

Mr. ANDERSON. Mr. Speaker, I rise to pay tribute today to a couple of dear friends of mine, Dominic and Lucille Comparsi, for reaching a wonderful milestone, their golden wedding anniversary, this Saturday, June 17, 1989. Their achievement is testimony to 50 years of steadfast devotion to each other, and should serve as an inspiration to all Americans.

Dom and Lucille were both born in my part of southern California. As a matter of fact, Lucille was born right in my district, and I am happy to say that Dom moved into it while he was still a young boy. They both came up through the San Pedro public schools, and Dom went on through Compton College.

Although they both lived in San Pedro and went to the same high school, Dom and Lucille did not meet until they were both in their 20's. But after they met, it was only a couple of years until they got married in Long Beach, 50 years ago this Saturday.

After a few years, these two dear people started a family, with their son, Vincent, arriving in 1945, and their daughter, Carolanne, following in 1948. Family life, however, was not the only life for the Comparsi's, as they both have been actively involved in their community as well. Some of Dom's civic involvements have included service as an officer with the San Pedro Junior Chamber, officer with the San Pedro Kiwanis Club, president of the San Pedro Western Boys Baseball League, chairman of the San Pedro American Legion Baseball League, chairman of the San Pedro March of Dimes, and past president of the San Pedro Toastmasters, past president of the San Pedro Boys Club, and past president of the San Pedro Lions Club.

Lucille, not to be outdone by her husband, is also very active in the community. She is currently a member of the Lady Lions Club, the Women's Auxiliary of the Jaycees, and is also extremely active in supporting Dominic's many civic duties.

In spite of the numerous benefits derived from their involvement with the community, I am sure their greatest joy comes from their 50 years of dedication to one another and to their family. My wife, Lee, joins me in extending our congratulations to this caring and giving couple. Dom and Lucille Comparsi are truly remarkable individuals who have devoted their talents and energies to enriching the lives of so many other people. We wish Dom, Lucille, Vincent, and Carolanne all the best in the years to come.

THE STEEL IMPORT STABILIZATION IMPROVEMENT ACT

HON. NANCY L. JOHNSON

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 14, 1989

Mrs. JOHNSON of Connecticut. Mr. Speaker, 5 years of the voluntary restraint [VRA] program has helped the domestic steel industry regain profitability and market share and make great strides toward becoming internationally competitive. But, if the VRA's are to be extended, we need to ensure that the program does not impede economic growth by limiting availability of steel.

Today I am introducing legislation to extend for 3 years the President's authority to negotiate steel import limits and to improve the process for allowing steel customers to gain access to steel when domestic sources cannot supply it. The short supply mechanism as it currently operates has at times created great difficulties for many small- and medium-sized steel users who have lost order while the Government deliberated on whether to approve a particular supply request. The current short supply procedure has threatened jobs and discouraged the expansion that brings new job opportunities.

I support the VRA Program because it has helped the domestic steel industry achieve a miraculous turnaround without forcing steelmakers to litigate endless and expensive unfair trade cases. However, the domestic in-

dustry's success and the economy's rapid growth has meant that steel has become more scarce. When we passed the Steel Stabilization Act in 1984, the industry was reeling, operating at 68 percent of capacity. However, since the beginning of 1988, domestic mills have been humming at 90 percent-plus of capacity and many steel customers have felt the pinch of longer delivery times and even being put on allocation by steel suppliers.

While we pursue a strong VRA program, we must ensure the availability of an adequate supply of steel for American industry when legitimate shortages exist. In recognition of that, my bill would require the Department of Commerce to act on any short supply request within 30 days. Failure to act within that time would bring automatic approval of the request. Also, Commerce would be required to: First, act within 15 days if a particular type of steel had been in short supply for 2 consecutive years; second, monitor the domestic industry's output to determine whether it was at full capacity, and approve within 15 days a short supply request if the industry were at full capacity; and third, consider price and delivery time of domestic steelmakers in reviewing a short supply request.

The last provision is critical. Today, the government deliberately does not consider the reasonableness of domestic supplier delivery lead times and prices even though there is perhaps no better barometer of scarcity. My bill would provide a real incentive for domestic steelmakers to deliver on-time at competitive prices.

Mr. Speaker, we still need a VRA Program to keep the domestic steel industry on pace. But, with American steel makers near full capacity, we also need to ensure that steel customers can get steel from other sources when Americans can't deliver it. We cannot jeopardize American jobs in one industry to protect jobs in another and we must not compromise expansion in other industries now competitive in international markets.

The Nation cannot prosper without a healthy domestic steel industry and a stable supply of steel to meet the economy's growing needs. The VRA program has brought the American steel industry back from the brink of disaster. Extending it for 3 more years with needed changes to cut the program's unnecessary redtape will ensure a first-class domestic industry and continued growth among small- and medium sized steel users.

THE CABLE FOREIGN OWNERSHIP ACT OF 1989

HON. EDWARD J. MARKEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 14, 1989

Mr. MARKEY. Mr. Speaker, I am introducing, today, for myself and 23 other original cosponsors, the Cable Foreign Ownership Act of 1989, legislation to extend current foreign ownership restrictions on broadcast and common carrier properties to new technologies, such as cable, direct broadcast satellite [DBS] and multipoint multidistribution service (MMDS], presently not covered by foreign ownership restrictions.

This essential legislation addresses the twin challenges of technology and international competition in a manner consistent with our national commitment to the public interest embodied in the Communications Act of 1934. Section 310 of the Communications Act currently limits foreign ownership of broadcast stations and common carriers. This restriction applies to direct as well as indirect foreign ownership of communications properties. Individual aliens are barred from holding licenses. Corporate licenses are limited to 20 percent alien ownership of capital stock and are prohibited from having a foreign citizen as either an officer or a director. Holding companies are allowed as much as 25 percent foreign ownership and 25 percent foreign participation on the board of directors. Further, the Federal Communications Commission [FCC] is granted discretion to approve more foreign stock ownership, board of directors' representation and officers in the case of holding companies.

This restriction dates back to 1912 and is grounded in the importance of our telecommunications network to our national security. The 1934 Senate report, accompanying the Communications Act reaffirmed the national security underpinnings of foreign ownership restrictions by noting that the Radio Act of 1927 incorporated the lessons that the United States had learned before and during World War I from the "foreign dominance of the cables" and "the dangers from espionage and propaganda disseminated through foreign-owned radio stations." The 1934 Senate report went on to state:

> Due to the lessons of the World War, the armed forces recommended government ownership of all radio. Congress did not approve this, but in lieu thereof enacted legislation requiring private ownership and operation, with positive assurance that radio would be owned by United States citizens, that directors and officers of radio companies would be United States citizens, and that four fifths of the stock would be in the hands of United States Citizens.

Current law does not apply to new technologies, such as cable, satellite and wireless cable properties, leaving a giant loophole in our Nation's communications policy. In filings before the FCC in 1975, one major cable company stated that the arguments made in 1934 with respect to the radio communications media were equally applicable to the cable industry: "Obviously, the Communications Act which was enacted in 1934 did not anticipate the emergence of cable television. However * * * it is clearly not in our national interest to have foreign governments or their representatives acquire control of a medium with the potential of developing into one of the major sources of information and communications upon which this country's citizenry will depend."

Cable has evolved into just such a medium. Currently, 80 percent of our Nation's households are passed by cable and approximately 55 percent of American households subscribe to cable service. In many areas, cable is the sole means of television reception. More than 2 million Americans own satellite dishes and receive DBS signals. MMDS licensees serve many areas not yet wired for cable, or in competition with cable. These new technologies have become increasingly important as providers of news information and entertainment programming.

To my mind, if one accepts the rationale that restrictions are important policy for our Nation's security, it makes little or no sense to preclude foreign ownership of broadcast properties but allow foreign ownership of the conduit through which the majority of Americans receive broadcast television signals. The Cable Foreign Ownership Act will adapt the Communications Act to the realities of today's technology and today's marketplace. At the same time, it will close a giant loophole through which foreign competitors could leap to control a critical segment of our telecommunications network.

Mr. Speaker, I hope that the Cable Foreign Ownership Act will move through the Congress expeditiously and favorably. The Subcommittee on Telecommunications and Finance intends to begin that process tomorrow, June 15, 1989, by holding a hearing on this essential legislation. Finally, I urge my colleagues to join as cosponsors of this important legislation.

BALTIC FREEDOM DAY

HON. WILLIAM O. LIPINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 14, 1989

Mr. LIPINSKI. Mr. Speaker, I rise today to add to the chorus of voices being heard worldwide on the subject of freedom for the Baltic States of Lithuania, Latvia, and Estonia. Mr. Speaker, it is a chorus of voices that has been gaining strength throughout the past year, and the resulting sound has been so impressive that even the Soviet Union has been unable to ignore it. On the occasion of 1989 Baltic Freedom Day, it is important to remember the recent triumphs toward democracy and self-determination in the Baltic States, and also remember the tremendous challenges that lie ahead.

Since last summer, dramatic changes have swept across the states of Estonia, Latvia, and Lithuania because of the incredible resiliency and vision of their people. Members of the Baltic States reclaimed their national flags, anthems, monuments, and languages. The Government of Estonia shocked leaders in Moscow by declaring their sovereignty from the Soviet Union. The Lithuanian popular movement for reform, "Sajudis," announced its goal—complete national independence and neutrality. Latvian Communists, acknowledging the large numbers of non-Latvians located in their republic, announced that all immigration into the country would stop. Organizations in all three states, expressing the deep resentment of decades of Soviet occupation, openly called for the removal of Soviet troops and the reestablishment of independent states.

It has indeed been a bold and remarkable year, yet we must take this opportunity to recall why such a movement toward freedom is necessary in the Baltics and to remember that the ultimate goal has not been reached. Latvia, Estonia, and Lithuania did not enter the Union of Soviet Socialist Republics under

their own consent. Rather, following two decades of independence following World War I, a notorious agreement between Hitler and Stalin condemned them to that intolerable status. The 1939 Molotov-Ribbentrop Pact allowed the Soviet Union to unjustly occupy these previously free states, and Stalin took advantage of the opportunity. The tanks soon rolled in. For 40 years the Baltic States have been engaged in a struggle against a systematic russification process that has denied them the freedom and economic independence they had enjoyed after World War I and have relentlessly yearned to enjoy again. To be sure, the struggle has not been easy, but as the events of the past year have shown, progress is being made. Soviet leader Mikhail Gorbachev has instituted a system of concessions to the overwhelming nationalist sentiment. He has been forced to hear the sweet sound of self-determination, and he has responded.

But while such advances are encouraging, they are far from satisfactory. The people of Lithuania, Estonia, and Latvia will not and cannot accept any solution short of complete autonomy and self-determination. They do not enjoy a system "by the people," but suffer under a regime imposed upon them. If Gorbachev is serious about his policy of openness, he should open the door to freedom across the Iron Curtain and let the Baltic people choose the road they wish to follow. On this Baltic Freedom Day, we can celebrate the tremendous triumphs of the past year, and we can commemorate the spirit of the Baltic people that made those triumphs possible. Yet we must also take this opportunity to rededicate ourselves to the people whose final goal—true Baltic freedom—is still unmet. Mr. Speaker, only when this goal is reached can the chorus of cries for freedom stop and the music of liberty finally begin.

A TRIBUTE TO JOHN JOSEPH CAFARO

HON. BOB McEWEN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 14, 1989

Mr. McEWEN. Mr. Speaker, I am proud to take this opportunity to honor John Joseph Cafaro who will receive the coveted Youngstown State University Distinguished Citizen Award on Friday, June 16, 1989.

John Joseph Cafaro has been a leading figure in business in Youngstown, OH, and throughout the United States. He is the executive vice president of the Cafaro Co., America's fourth largest shopping center and mall developer.

His successful business career has benefited the State of Ohio. In 1987, nearly 200 new jobs were created in the Mahoning Valley when the Cafaro Co., under the leadership of John J. Cafaro, acquired an ownership position in the Avanti Automotive Corp. and relocated the corporation to the Youngstown area. Mr. Cafaro currently serves as president chief executive officer of Avanti.

Throughout his career, John Joseph Cafaro has been a true community leader. Over the years, he has given his time and resources to several local organizations including the Youngstown Symphony Society, the Butler Institute of American Art, the Heart Association, Muscular Dystrophy Association, Easter Seal Society, Big Brothers and Big Sisters, March of Dimes, and Mothers Against Drunk Driving.

Furthermore, John J. Cafaro's commitment to education is known and appreciated by all in Youngstown. Under his guidance, Youngstown State University has developed a bachelor's degree curriculum in shopping center management.

Mr. Cafaro's many accomplishments have been recognized by local and national organizations. He received the City of Hope "Spirit of Life" Award in 1983 and was honored as one of the Outstanding Young Men of America the following year. He has been appointed to key advisory positions by both the Democratic and Republican Parties.

I know my colleagues in Congress will join me in recognizing John Joseph Cafaro, not only upon receiving the Distinguished Citizen Award from Youngstown State University, but also for the many contributions he has made to his family, community, State, and Nation.

THE B-2 FLY-BEFORE-YOU-BUY ACT

HON. MIKE SYNAR

OF OKLAHOMA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 14, 1989

Mr. SYNAR. Mr. Speaker, on June 13, 1989, I introduced H.R. 2625, the B-2 Fly-Before-You-Buy Act. The bill would prohibit further obligation of funds for procurement of production aircraft under the B-2 Advanced Technology Bomber program until the Secretary of Defense certifies to Congress that flight testing of the B-2 has been successfully accomplished. The bill also requires the Comptroller General of the United States to review the Secretary's certification and submit his findings in a report to Congress. I plan to offer this bill as an amendment when the Armed Services Committee takes up the defense authorization bill next week.

I have long been concerned about the limiting effect which the cloak of secrecy surrounding the B-2 has on congressional oversight of the program. While information about the B-2 is limited, the program clearly has been characterized by two disturbing trends: Continually soaring costs and delays in its maiden flight and subsequent testing program. The cost of the B-2 has increased several times since the plane was unveiled in 1981. Pentagon sources recently estimated that the program cost has increased from $68 billion to $72 billion. There have also been reports in the press that unclassified computations indicate the cost of the program may have climbed some $17 billion in just 2 years to $75 billion. The B-2's maiden flight has slipped by more than a year, and is now scheduled for later this month.

It is a generally accepted principle that any aeronautical system should be tested thoroughly before a commitment to procurement is made. Deviations from this fly-before-you-buy principle have usually resulted in serious problems and excessive cost overruns. Unfortunately, the B-2 has fallen victim to an increasing tendency at the Defense Department toward concurrency, where a commitment is made to procurement and production actually begins before engineering development and prototype testing are completed. While concurrency is undertaken in the hope of saving money, recent experiences show that this practice is more harmful than helpful. In both the B-1B and C-5B programs, concurrency led to serious problems despite the accrued benefits of several years of experience with the B-1A and C-5A predecessor aircraft.

Obviously, the more revolutionary a proposed aircraft design is from a technological standpoint, the more necessary extensive testing is before committing to procurement and production. The B-2 is a radically different aircraft, and is therefore a high-risk program for concurrency from the standpoint of aerodynamics, stability, and control. In light of the increasing delay in the B-2's scheduled first flight test and the many questions concerning the program's status, I believe that we need to ensure that concurrency and its attendant risks are taken out of the B-2 before it is too late.

I insert at this point in the RECORD the full text of my bill for review by my colleagues.

H.R. 2625

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "B-2 Fly-Before-You-Buy Act of 1989".

SEC. 2. LIMITATION ON PROCUREMENT OF ADVANCED TECHNOLOGY BOMBER.

(a) REQUIREMENT FOR SUCCESSFUL TESTING.—After the date of the enactment of this Act, the Secretary of Defense may not obligate funds for procurement of production aircraft under the B-2 Advanced Technology Bomber program until the Secretary submits to Congress a certification of the following:

(1) That developmental test and evaluation and operational test and evaluation of the B-2 Advanced Technology Bomber aircraft has been successfully accomplished in accordance with the full performance matrix created pursuant to section 232(a) of Public Law 100-456 and section 121 of Public Law 100-180.

(2) That the B-2 aircraft has a high probability of being able to perform its intended missions.

Any such certification shall be in writing and in unclassified form.

(b) GAO EVALUATION.—The Comptroller General of the United States shall review all test reports and evaluation documents of the Department of Defense concerning the B-2 program. Within 30 days of a certification by the Secretary of Defense under subsection (a), the Comptroller General shall submit to Congress a report setting forth the Comptroller General's findings resulting from such review. The report shall include the Comptroller General's evaluation of the following:

(1) The rigor, realism, and adequacy of such developmental and operational test and evaluation.

(2) Whether such test and evaluation complies with the full performance matrix described in subsection (a)(1).

The report shall include an unclassified statement summarizing the Comptroller General's findings with respect to each principal matter discussed in the report.

PERSONAL EXPLANATION

HON. MICHAEL G. OXLEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 14, 1989

Mr. OXLEY. Mr. Speaker, yesterday I was unavoidably absent, missing two rollcall votes. Had I been present, I would have voted "nay" on rollcall 82, the passage of H.R. 1502; and "yea" on rollcall 83, a motion to instruct conferees on H.R. 2072.

IN MEMORY OF LANCE CPL. RONALD NORTH—A SYMBOL OF THE U.S. MARINE CORPS SPIRIT

HON. C.W. BILL YOUNG

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 14, 1989

Mr. YOUNG of Florida. Mr. Speaker, tragedy struck the day after Memorial Day when a Marine Corps helicopter crashed during a training mission off the coast of Okinawa leaving 14 marines missing at sea and presumed dead.

One of the missing marines is Lance Cpl. Ronald D. North of St. Petersburg, FL. Last week I attended memorial services in St. Petersburg for this 20-year-old American who was such a symbol of the Marine Corps spirit.

During Memorial Day services just hours prior to the accident which took Corporal North's life, we honored the valor and courage of those Americans who gave their lives in the defense of our Nation and our ideals. Our grief is great, though, whether we lose a brave American in battle or in preparation for battle and when there is a loss of life we are reminded that freedom does not come without a price.

Corporal North was a hero in every sense of the word. He was one of those special Americans who volunteered to serve in our Armed Forces and to be prepared to go to any part of the world on a moments notice to preserve our freedom or the freedom of our allies. As the accident off the coast of Japan well illustrates, our men and women who serve in uniform put their lives in jeopardy everyday, whether in time of war or peace, and we owe a great debt of gratitude to those who are willing to take these great risks.

We all know the closing words of our national anthem:

Oh say does that star-spangled banner yet wave

O'er the land of the free and the home of the brave?

But Mr. Speaker, let us never forget that to be the land of the free America must always be the home of the brave and America was the home of a brave marine—Lance Cpl. Ronald North.

Mr. Speaker, we all mourn the loss of the young American who died in the noble defense of our great country, but the toll of this accident falls the hardest on the families of the 14 men involved, including Corporal North's parents, David and Joyce North. The greatest tribute paid to Corporal North during his memorial service were the loving words of his father who talked of his son's dedication to his family and his country. Following my own remarks, I would like to read the words of his father's tribute simply entitled "Ron" because it symbolizes the spirit with which Lance Cpl. Ronald North willingly volunteered to serve his country.

RON

He was a happy quiet baby who rarely cried. He smiled constantly.

In his preteen years he always tried to keep up with his older brother on the soccer field.

He struggled in school, even though his parents knew he was capable, he didn't want to apply himself. He was eager to get on with his life.

In his earlier years he was very withdrawn and didn't have many close friends (just his real brother and a boy he was raised with, a neighbor turned life friend and brother John Moyse—now at West Point).

In high school he seemed to blossom and developed a new circle of friends, that he loved and wanted to be with constantly. In high school, he decided to preenlist in the service. After careful scrutiny the Marines were his only choice.

From that moment in his junior year when he decided to be a Marine you could sense that he was a Marine in spirit, before he joined and would be one long after he separated from the Marines.

He never complained about joining.

He knew the risks.

He hated communism.

He loved his country.

He loved his family and friends.

He was strong and manly.

He was a person who could be counted on to honor a commitment.

As his father I realize now that he wanted to be recognized by his father and family.

TRIBUTE TO DAISY LINDSEY SHIPMON

HON. JAMES A. TRAFICANT, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 14, 1989

Mr. TRAFICANT. Mr. Speaker, I rise today to pay tribute to Daisy Shipmon, a woman who has dedicated over half her life to teaching and to the betterment of today's youth, upon her retirement.

Daisy received her bachelor of science degree from Fayetteville State University in North Carolina and completed her master's degree in education at Youngstown State University in Ohio. Her 32 years of teaching, 25 of which was in the Youngstown school system, have enhanced the lives of many. Daisy's deeply-rooted involvement with youth does not only reside in the classroom, but also can be seen in her active participation in the Urban League Guild, as an advisor on a committee for reading, a youth seminar teacher, and member of Youngstown Education Association, O.E.A., and N.E.A.

Daisy is married to Dr. Luther J. Shipmon. Their daughter, Krishmu, has followed in her mother's footsteps and is presently a teacher and counselor in Youngstown, OH. Daisy Shipmon is the founder of the Youngstown chapter of Zeta Phi Beta and was a Jenning Scholar in 1971.

Mr. Speaker, we cannot expect this Nation to move ahead into the future as a leader by forgetting about our youth. Daisy Shipmon has realized this and is an excellent example of an American who truly cares about the future. Her retirement will be a great loss to my 17th Congressional District of Ohio as well as this Nation. I wish her the best of luck in the future and consider it an honor to represent her.

INTRODUCTION OF H.R. 2629—THE MEDICARE PHYSICIAN PAYMENT REFORM AMENDMENTS OF 1989

HON. HENRY A. WAXMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 14, 1989

Mr. WAXMAN. Mr. Speaker, today I am introducing the bill H.R. 2629, the Medicare Physician Payment Reform Amendments of 1989. It is a great pleasure for me to do so, because this represents the product of several years of effort and progress.

This bill would completely reform the method by which Medicare payments for physician services are derived. It would replace the current charge-based method, with all of its well-documented deficiencies, with a fee schedule that reflected the relative resources that go into providing each service, as well as the relative costs of furnishing such services in various areas of the country.

The full implementation of this "resource based, relative value scale fee schedule" would be phased in over 7 years, beginning next year.

There are several premises undergirding this bill. The first is that this is payment reform, not cost containment and, therefore, should expressly be done on a budget neutral basis. The bill states that aggregate payments during the transition should be the same as they would have been in the absence of reform. Actions to meet budget reconciliation instructions will be done separately from this reform.

The second premise is that we will retain paying for physician services predominantly on a fee-for-service basis for the foreseeable future, but that we need to improve the current, badly flawed system.

The third premise is that we have learned a great deal about physician payment reform over the last 4 years and we know enough to set our ultimate objective and begin promptly to make substantial progress toward that objective. Since the first adoption of the fee freeze in 1984, we have mandated studies by the Secretary of Health and Human Services and we have created the Physician Payment Review Commission to evaluate alternative reforms and make recommendations to us. The Commission recently delivered its third annual report, with a comprehensive and thoughtful

set of specific recommendations. In my view, which is supported by a number of important physician and beneficiary groups, the course for reform is clear and the initial steps can begin.

The fourth premise is that we have time to resolve those questions for which we do not have complete answers, and we will be better able to answer them based on real experience gained during the initial implementation stages. Undoubtedly, there will be new issues raised during implementation that we have not anticipated. Over the next 2 years, there will also be generated better data and information, and more thorough analysis, to answer both currently identified issues and new issues that arise. We should be prepared to learn by doing.

The fifth premise is that this implementation, and this learning process, should be done in a way that minimizes any risk of a serious mistake or an overcorrection of current deficiencies. Physicians, patients, and policymakers all need time to understand the changes, to adjust to them, and to monitor the consequences carefully. It will be particularly important to monitor closely the potential effects on access to care, on quality of care, and on patient out-of-pocket expenditures.

These premises have led me to structure this bill in an unusual fashion. The reform would be phased in over 4 years. To help readers' understanding of how this transition would work, and to facilitate the Congress in making further changes and refinements during each stage of the transition, I have set out the rules for each year separately.

During the first 2 years, the Secretary of HHS would construct a "reference fee schedule," based on a resource-based relative value scale. This RBRVS would be developed from the work done by Prof. William Hsiao at Harvard, and the analysis and refinements made by the Physician Payment Review Commission. Payments would not be made directly under this reference fee schedule. Rather, it would be used to adjust the current prevailing charge screens for individual services up or down, depending on the relationship of those prevailing charges to the reference fee schedule.

The bill seeks to balance the desire for substantial progress toward reform with a concern for minimizing the risks of either an erroneous result or a sudden and unanticipated impact on physicians or patients. Therefore, the adjustment in the first year would be one-fifth of the diffence between the fee schedule and the prevailing charge. In the second year, the adjustment would be one-fourth of the remaining difference.

By the third year, our confidence in the fee schedule should be sufficient, when combined with any refinements made by the Congress in the interim, to permit us to begin paying under a fee schedule. However, since the amount of increases and decreases in payments may still be substantial, the bill would have payments during the third year of transition made under an adjusted fee schedule. The dollar amounts under the adjusted fee schedule would be derived by splitting the difference between the reference fee schedule and what the prevailing charges would have been.

Another important aspect of how this bill is structured is that it sets forth the first year adjustments in great detail, but over the remaining 4 years leaves increasing discretion to the Secretary, as well as further opportunities for refinements by the Congress. Because I am interested in getting an early start on the transition, I wish to have the first adjustments made by April 1, 1990. To meet that deadline, the Congress will have to specify virtually all of the important policies. Otherwise, the Department might get involved in extended internal debates, extended discussions with interested parties outside the Department, and delays in the rulemaking process. The specifications by the Congress would, however, be grounded on expert advice from the PPRC, technical advice from the Department, and a full discussion among the members. In that regard, I should note that in several very important areas, such as the initial 300 to 500 procedures that would be covered by the RVRVS, the bill refers to the committee report for the specifics. Obviously that report does not now exist and will not exist until the committee acts. What this approach is intended to do, however, is provide detailed instructions where necessary without burdening the bill with excessive detail. The report would simply include the decisions of the committee based on the advice received from the PPRC after consulting with the Department.

Finally, I should note the provisions designed to protect beneficiaries against excessive balanced billing. Whenever we affect Medicare payments to physicians, we must be sensitive to the potential for the cost simply to be shifted to the patient. As we move forward in consideration of this legislation we will continue to search for effective means of protection.

There are a host of important issues and details in this bill. I do not wish to cover them all in this statement. However, I will be making additional explanatory information available and will be discussing it with the members of the Subcommittee on Health and the Environment. I and the staff of the subcommittee are available, and more than happy, to discuss it with any member who wishes to do so.

Mr. Speaker, this reform is by no means the panacea for solving all the problems in Medicare or in the delivery of health care. We need a coordinated approach that entails improved policies on graduate medical education and health manpower, along with enhanced research on technology assessment, quality assurance and the effectiveness and appropriateness of health care services. We also need improvements in peer review and utilization review. We will continue to pursue those areas vigorously. It is quite clear, however, that this reform is an important element in our overall strategy. Payment reform belongs in this year's reconciliation bill and I urge my colleagues to support that effort.

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Any changes in committee scheduling will be indicated by placement of an asterisk to the left of the name of the unit conducting such meetings.

Meetings scheduled for Thursday, June 15, 1989, may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

JUNE 16

9:30 a.m.

Commerce, Science, and Transportation

To hold hearings on the nominations of Richard Harrison Truly, of Texas, to be Administrator of the National Aeronautics and Space Administration and James R. Thompson, Jr., of Alabama, to be Deputy Administrator of the National Aeronautics and Space Administration.

SR-253

Finance

Medicare and Long-Term Care Subcommittee

To resume hearings on physician payment reform under the Medicare program.

SD-215

Governmental Affairs

Government Information and Regulation Subcommittee

To resume hearings on proposed legislation authorizing funds for programs of the Paperwork Reduction Act.

SD-342

Governmental Affairs

Federal Services, Post Office, and Civil Service Subcommittee

To hold hearings to examine policy issues regarding operational testing, as well as contracting practices.

SD-628

10:00 a.m.

Banking, Housing, and Urban Affairs

Housing and Urban Affairs Subcommittee

To resume hearings on S. 566, the National Affordable Housing Act, focusing on rental assistance and public housing.

SD-538

Environment and Public Works

Environmental Protection Subcommittee

To hold oversight hearings on the implementation of the Federal Water Pollution Control Act Amendments (P.L. 100-4).

SD-406

Foreign Relations

To resume markup on proposed legislation authorizing funds for fiscal year 1990 for foreign assistance programs.

SD-419

10:30 a.m.
Judiciary
Constitution Subcommittee
To hold oversight hearings on the implementation of the Bail Reform Act of 1984 (P.L. 98-473).
SD-226

JUNE 19

10:00 a.m.
Commerce, Science, and Transportation
To hold hearings in conjunction with the National Ocean Policy Study on proposed legislation authorizing funds for fiscal year 1990 for the U.S. Coast Guard.
SR-253
Finance
Health for Families and the Uninsured Subcommittee
To hold hearings on proposals to provide universal access to health care.
SD-215
Governmental Affairs
Federal Services, Post Office, and Civil Service Subcommittee to hold hearings to examine Federal recruitment policies and practices.
SD-342

1:00 p.m.
Agriculture, Nutrition, and Forestry
Agricultural Credit Subcommittee
To resume oversight hearings on the Farmers Home Administration implementation of the Agriculture Credit Act of 1987 (P.L. 100-233), as it relates to borrowers.
SR-332

JUNE 20

9:30 a.m.
Agriculture, Nutrition, and Forestry
Agricultural Research and General Legislation Subcommittee
To hold hearings to review mechanisms for establishing priorities in agricultural research programs.
SR-332
Commerce, Science, and Transportation
Business meeting, to consider pending calendar business.
SR-253
Energy and Natural Resources
Public Lands, National Parks and Forests Subcommittee
To hold hearings on S. 724, to modify the boundaries of the Everglades National Park and to provide for the protection of lands, waters, and natural resources within the park.
SD-366

10:00 a.m.
Banking, Housing, and Urban Affairs
Housing and Urban Affairs Subcommittee
To resume hearings on S. 566, the National Affordable Housing Act, focusing on low-income housing preservation.
SD-538
Finance
To hold hearings on proposals to improve health care coverage for children under the Medicaid and Maternal Child Health Services Block Grant programs.
SD-215
Judiciary
Patents, Copyrights and Trademarks Subcommittee
To hold hearings on the proposed Copyright Moral Rights; Visual Artists Rights Act.
SD-226

11:00 a.m.
Select on Indian Affairs
To hold hearings on the nomination of Eddie F. Brown, of Arizona, to be Assistant Secretary of the Interior for Indian Affairs.
SR-485

2:00 p.m.
Judiciary
Courts and Administrative Practice Subcommittee
To hold hearings on S. 396, to provide protection for the operation of interest rate and currency swap agreements when one party files for bankruptcy relief, and S. 84, to provide Federal debt collection procedures.
SD-226

2:30 p.m.
Appropriations
Foreign Operations Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1990 for foreign assistance programs, focusing on Central America.
SD-138
Environment and Public Works
Business meeting, to consider recommendations which it will make to the Committee on the Budget with respect to spending reductions and revenue increases to meet reconciliation expenditures as imposed by H. Con. Res. 106, setting forth the congressional budget for the U.S. Government for the fiscal years 1990, 1991, and 1992.
SD-406
Foreign Relations
Business meeting, to consider the nomination of Donald Phinney Gregg, of Maryland, to be Ambassador to the Republic of Korea.
SD-419

JUNE 21

9:00 a.m.
Commerce, Science, and Transportation
Communications Subcommittee
To resume hearings on the diversity and concentration of media ownership.
SR-253

9:30 a.m.
Commerce, Science, and Transportation
Aviation Subcommittee
To hold hearings on S. 640, to establish guidelines for Federal standards of liability for general aviation accidents.
SR-301
Energy and Natural Resources
Business meeting, to consider pending calendar business.
SD-366
Governmental Affairs
To resume hearings to examine the recently released proceedings of the Surgeon General's Workshop on Drunk Driving.
SD-342
Small Business
To hold hearings to examine the impact of enterprise zones on small business growth and development.
SR-428A

10:00 a.m.
Banking, Housing, and Urban Affairs
Housing and Urban Affairs Subcommittee
To resume hearings on S. 566, the National Affordable Housing Act, focusing on rural and Indian housing.
SD-538
Environment and Public Works
Environmental Protection Subcommittee
To hold hearings on S. 1112, authorizing funds through fiscal year 1993 for solid waste disposal programs and S. 1113, to provide States with the policy direction, technical support, and financial assistance to effectively manage the municipal solid waste within their borders.
SD-406

1:30 p.m.
Agriculture, Nutrition, and Forestry
Conservation and Forestry Subcommittee
To hold hearings to review the sustainability of forest resources.
SR-332

2:00 p.m.
Commerce, Science, and Transportation
Science, Technology, and Space Subcommittee
To hold hearings on S. 1067, to provide for a coordinated Federal research program to ensure continued United States leadership in high-performance computing.
SR-253
Energy and Natural Resources
Public Lands, National Parks and Forests Subcommittee
To hold hearings on miscellaneous public lands measures, including S. 558, S. 560, S. 818, S. 855, S. 940, and S. 963.
SD-366
Judiciary
Constitution Subcommittee
To hold hearings on proposed legislation authorizing funds for the Civil Rights Commission.
SD-226

JUNE 22

8:00 a.m.
Veterans' Affairs
To hold hearings on S. 404, H.R. 1415, and S. 989, to extend certain Department of Veterans Affairs home loan guaranty provisions, and related measures.
SR-418

9:00 a.m.
Agriculture, Nutrition, and Forestry
Conservation and Forestry Subcommittee
To hold hearings to review conservation and agricultural practices.
SR-332
Commerce, Science, and Transportation
Communications Subcommittee
To continue hearings on the diversity and concentration of media ownership.
SR-253

9:30 a.m.
Small Business
To hold hearings to assess the problems faced by small businesses in complying with the paperwork requirements of the Occupational Safety and Health Administration's hazard communications standard.
SR-428A

10:00 a.m.
Environment and Public Works
Environmental Protection Subcommittee
Business meeting, to mark up S. 804, to conserve North American wetland ecosystems and waterfowl and other migratory birds and fish and wildlife that depend on such habitat.
SD-406
Judiciary
Business meeting, to consider pending calendar business.
SD-226

2:00 p.m.
Appropriations
Foreign Operations Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1990 for foreign assistance programs.
SD-138

Commerce, Science, and Transportation
Surface Transportation Subcommittee
To hold hearings on S. 1005, relating to the sale, purchase, or other acquisition of certain railroads.
SR-253

Energy and Natural Resources
To hold hearings to review trends in domestic CO_2 emissions as they contribute to the phenomenon of global warming.
SD-366

Judiciary
Constitution Subcommittee
To continue hearings on proposed legislation authorizing funds for the Civil Rights Commission.
SD-226

JUNE 23

9:30 a.m.
Governmental Affairs
To hold hearings on S. 253, to establish a coordinated National Nutrition Monitoring and Related Research Program.
SD-342

2:00 p.m.
Select on Indian Affairs
To hold oversight hearings on administration of Indian programs by the Environmental Protection Agency.
SR-485

JULY 11

9:30 a.m.
Energy and Natural Resources
To resume hearings on S. 710, S. 711, and S. 712, bills to provide for a referendum on the political status of Puerto Rico.
SD-366

2:30 p.m.
Energy and Natural Resources
Energy Research and Development Subcommittee
To resume hearings on S. 964, authorizing funds for fiscal years 1990 and 1991 for civilian energy programs of the Department of Energy, and on fossil energy research and development and the clean coal technology program.
SD-366

JULY 12

9:00 a.m.
Commerce, Science, and Transportation
To hold hearings on the nomination of Janice Obuchowski, of Virginia, to be Assistant Secretary of Commerce for Communications and Information.
SR-253

10:00 a.m.
Commerce, Science, and Transportation
Communications Subcommittee
To hold hearings on S. 707, to require the Federal Communications Commission to reinstate restrictions on advertising during children's television, to enforce the obligation of broadcasters to meet the educational and informational needs of the child audience.
SR-253

JULY 13

9:30 a.m.
Commerce, Science, and Transportation
Merchant Marine Subcommittee
To hold hearings on capabilities and concerns of the national sealift policy.
SR-253

Veterans' Affairs
Business meeting, to consider pending calendar business.
SR-418

10:00 a.m.
Energy and Natural Resources
To resume hearings on S. 710, S. 711, and S. 712, bills to provide for a referendum on the political status of Puerto Rico.
SD-366

Judiciary
Business meeting, to consider pending calendar business.
SD-226

JULY 14

10:00 a.m.
Energy and Natural Resources
To continue hearings on S. 710, S. 711, and S. 712, bills to provide for a referendum on the political status of Puerto Rico.
SD-366

JULY 18

9:00 a.m.
Commerce, Science, and Transportation
To hold hearings in conjunction with the National Ocean Policy Study on tuna management.
SR-253

9:30 a.m.
Energy and Natural Resources
Energy Research and Development Subcommittee
To resume hearings on S. 964, authorizing funds for fiscal years 1990 and 1991 for civilian energy programs of the Department of Energy, focusing on reactor research and development, and on commerical efforts to develop advanced nuclear reactor technologies.
SD-366

JULY 19

9:30 a.m.
Commerce, Science, and Transportation
Communications Subcommittee
To hold hearings on S. 999, relating to the broadcasting of certain material regarding candidates for Federal elective office.
SR-253

JULY 20

9:30 a.m.
Energy and Natural Resources
Energy Research and Development Subcommittee
To resume hearings on S. 964, authorizing funds for fiscal years 1990 and 1991 for civilian energy programs of the Department of Energy, focusing on reactor research and development, and on commercial efforts to develop advanced nuclear reactor technologies.
SD-366

Veterans' Affairs
Business meeting, to mark up proposed legislation to revise certain provisions of VA health care programs, including S. 13, S. 86, S. 165, S. 192, S. 263, S. 405, S. 564, S. 574, S. 748, and S. 846.
SR-418

JULY 21

9:30 a.m.
Select on Indian Affairs
To hold hearings to establish a Tribal Judicial Resource Center.
SR-485

JULY 26

9:30 a.m.
Commerce, Science, and Transportation
Communications Subcommittee
To hold hearings on S. 1009, relating to the purchase of broadcasting time by candidates for public office.
SR-253

JULY 27

10:00 a.m.
Judiciary
Business meeting, to consider pending calendar business.
SD-226

SENATE *Thursday, June 15, 1989*

(Legislative day of Tuesday, January 3, 1989)

The Senate met at 1:30 p.m., on the expiration of the recess, and was called to order by the Honorable J. ROBERT KERREY, a Senator from the State of Nebraska.

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray:

*Love suffereth long, and is kind; love envieth not; love vaunteth not itself, is not puffed up. Doth not behave itself unseemly, seeketh not her own, is not easily provoked, thinketh no evil. Rejoiceth not in iniquity, but rejoiceth in the truth. Beareth all things, believeth all things, hopeth all things, endureth all things. Love never faileth * * *.*—1 Corinthians 13:4-8.

Father in Heaven, in this place and in the democratic process, where controversy, conflict, and compromise are endemic, it seems almost futile to think love which we so easily equate with sentimentalism. Help us to understand tough love, the kind of love that causes a man to lay down his life for a friend, the kind of love that embraces an enemy, the kind of love Jesus Christ demonstrated on the cross. Help us to give love a chance so that controversy, conflict, and compromise may be infused with this most powerful, this mother of virtues, this practice which comprehends all law. Help us to think of love as volitional rather than emotional and give us the grace to will to love. Forgive us for our fear of love as though it is weak and irrelevant. Mighty God who is love, help us to love as Thou doest love us. In His name His love incarnate. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore [Mr. BYRD].

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, June 15, 1989.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable J. ROBERT KERREY, a Senator from the State of Nebraska, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

Mr. KERREY thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The majority leader is recognized.

THE JOURNAL

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Journal of the proceedings be approved to date.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ORDER FOR MORNING BUSINESS

Mr. MITCHELL. Mr. President, following the time for the two leaders this afternoon there will be a period for morning business not to extend beyond 2:30 p.m. with Senators permitted to speak therein for up to 5 minutes each.

RESERVATION OF THE MAJORITY LEADER'S TIME

Mr. MITCHELL. Mr. President, I reserve the remainder of my leader time.

RECOGNITION OF REPUBLICAN LEADER

The ACTING PRESIDENT pro tempore. The Republican leader.

Mr. DOLE. Mr. President, last evening I requested that we might have 30 minutes of morning business time to discuss the President's crime package. I thought it might be introduced today. Now it may not be introduced until next Monday or Tuesday, so I hope I have not caused anybody any inconvenience by coming in 30 minutes before the leader planned.

Second, I am prepared at this point, if the leader wanted to get consent, to move to the child care bill, to grant that consent following morning business of whenever, or after consultation between the two leaders.

Mr. MITCHELL. Yes. Mr. President, I am grateful to the distinguished Republican leader for his cooperation in that regard. I would like to discuss that briefly with him for a moment, and, therefore, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ORDER TO PROCEED TO CONSIDERATION OF S. 5

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of calendar item No. 43, S. 5, the child care bill, at 3 p.m. today.

I further ask unanimous consent that when the Senate begins consideration of S. 5, I be recognized to withdraw the committee-reported substitute and offer a new substitute amendment.

Mr. DOLE. Reserving the right to object, and I just want to make a couple of points. I do not believe I will object, but I would hope the new substitute would not include section 89 and be limited to the child care provisions. I know that the Finance Committee reported a child care provision and modification of section 89 as a package.

That was certainly not the understanding of anyone I can find on our side of the aisle, and we would hope we could limit the debate on child care to child care.

What I am fearful of, to be very frank with the majority leader and others, if we are going to get off into section 89, there are other areas some may feel constrained to raise—catastrophic, repeal of section 89, Social Security earnings limitations and other amendments. I hope we can deal with section 89 freestanding and not a part of the child care package.

Second, I would hope if we cannot get the agreement right now, that we can quickly dispose of two or three nominations.

The ACTING PRESIDENT pro tempore. Is there objection to the request?

Mr. DOLE. Maybe the majority leader can respond to that.

The ACTING PRESIDENT pro tempore. The majority leader.

Mr. MITCHELL. With respect to the nominations, the latter point made by the distinguished Republican leader, we are at this time working on that. It is my hope we will be able to schedule

the three pending matters prior to the recess period, which begins at the end of next week. That is my present intention.

Mr. DOLE. That would be Reed, Secchia, and Hecht?

Mr. MITCHELL. That is right.

As the distinguished Republican leader recognizes, there may be some debate on those, but I understand all he is asking is they be brought forward for debate and disposition in the Senate during that time period.

Mr. DOLE. Further reserving the right to object, on this side of the aisle, they have all been cleared, but they are sort of tied together, as a group. Some of them have been held for some time, I think back to May 10, as in the case of Mr. Reed, and his nomination is an important one; as is Mr. Secchia, the Ambassador designate to Italy; and Mr. Hecht to the Bahamas.

So I would hope that we could dispose of those next week, notwithstanding what may happen to child care; we might still be debating that, because there is a recess period and we would like to have these three nominees in position in the countries they will be representing.

Mr. MITCHELL. That is my intention. I believe, and I am sure the distinguished Republican leader would agree, it is important that the record be clear in this regard.

Mr. Reed was reported by the Committee on Foreign Relations and placed on the calendar on May 10. That has been held up at the request of a Republican Senator. Mr. Secchia was reported by the Foreign Relations Committee and placed on the calendar on May 17. That has been held up at the request of a Republican Senator. Mr. Hecht was reported by the committee and placed on the calendar on June 8. That has been held up at the request of a Democratic Senator.

So the ones who have been held up for a long time have been at the request of Republican Senators, which I attempted to accommodate. However, I can say to the distinguished Republican leader, it is my intention at this time to go to these prior to the recess. We are trying to get that cleared at this moment, so I do not have authority to make the request. But I hope to make that request before the end of today, and perhaps very shortly.

With respect to the first point made by the distinguished Republican leader, as he knows from our previous discussions, I am aware of his concern. I am not able at this time to give the Senator assurance that section 89 will not be in it, but I will discuss it further with the chairman of the Finance Committee and other Members here.

Mr. DOLE. Mr. President, further reserving the right to object, I know that both Senator BENTSEN and Senator PACKWOOD tried to reach each other. They missed each other. They may have had a visit by now.

I know one reason section 89 may be a package is because of revenue flow, but we think that could be taken care of by taking some of the revenue out and putting it in the 1989 package, whatever may be needed. It does seem to us it is going to be a very spirited debate in any event on child care, whether it is ABC or some other proposal, or a proposal from this side, and we prefer not to mix it up with other issues.

If that is not the desire of the majority, then we just want to make it clear they understand we will be offering amendments that may also go beyond child care and beyond section 89, and we hope we would have that right, too.

I have no objection.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. MITCHELL. I thank the distinguished Republican leader.

Mr. President, I understand that under the previous order the Senate will now go into morning business until 3 p.m.

The ACTING PRESIDENT pro tempore. That is correct.

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of morning business not to extend beyond the hour of 2:30, with Senators permitted to speak therein for not to exceed 5 minutes.

EXTENSION OF MORNING BUSINESS

Mr. MITCHELL. Mr. President, I ask unanimous consent that the period for morning business be extended to 3 p.m.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

THE PRESIDENT'S CRIME PACKAGE

Mr. BIDEN. Mr. President, I rise in this period of morning business this afternoon to briefly discuss the President's crime package that he announced at Glynnco, GA, today. We do not have the details of that proposal at this moment, so there will be no bill introduced today.

As chairman of the Judiciary Committee, I am willing to, as the bill as I understand it is to be on request, participate in that being introduced to the Senate before my committee. But I would like to make a few comments, while our colleagues are contemplating what the President said today, not on the detail of his crime package but the significance of what he is suggesting we do. I think he made some very good suggestions.

The President's plan contains some things that I support and support very strongly. He is asking for more prosecutors, for more court resources, for more prison beds to guarantee that violent criminals receive swift and sure punishment rather than being put back on the street for lack of facilities. I, and almost everyone in here, have supported every single administration request for more antidrug funds, and I strongly support beefing up the number of prosecutors, court facilities, and prison facilities.

But, Mr. President, it is important to be reminded of one thing, and that is whatever promises the President makes, he has to say how he is going to pay for those promises. How is he going to pay for more prosecutors? How is he going to pay for more prison beds? How does he propose that we pay to up the ante on this war on crime and drugs?

The irony, if I can give you an example, Mr. President, is that I was struck, as I watched the President speak at Glynnco, with a number of law enforcement officers arrayed behind him today, and some of our distinguished colleagues in the Congress with him, and the Attorney General, as he praised the Federal Law Enforcement Training Center and raised it on a pedestal—that it should be, it is a first class operation, it is in Georgia, it provides state-of-the-art training for Federal, State, and local law enforcement officers.

Keep in mind, he is at this facility, talking about what a phenomenal facility it is, how much more we have to provide in the way of law enforcement capability, and yet in the President's 1990 budget that he proposed to us, already he calls for cutting—cutting—the funds for Glynnco. I was somewhat struck by that irony. He is making his case about how we must be tougher; he is offering as an example of the excellence that we, the United States, have at our command through law enforcement the men and women who graduate from Glynnco, and his present budget calls for cutting Glynnco.

I say, Mr. President, that much of what the President has proposed we already passed last year in the drug bill, which we, Democrats and Republicans, House and Senate, and President of the United States, refused to fully fund. We told the American people how important this fight is. The President made the case again today, and he is right. It is the single-most important domestic concern facing the United States of America.

Yet much of what he proposed we already passed. It makes no sense, for example, to hire hundreds of new FBI

agents if we do not fund the 225 new FBI agents we authorized last year and the President refused to fund. He is suggesting we beef up the war on crime, and there is this new crime bill in which he says he wants more FBI agents. Well, Mr. President, we already asked for 225 last year, and he said there was not enough money to do it this year. So where are we going to get the money for these additional FBI agents?

I will not take the Senate's time right now, but it goes all the way down the line. There are a number of things he proposes. For example, he wants to add $14 million for new immigration services and border patrol agents to arrest aliens who are violent criminals. I think that makes great sense, but why does it not make sense to pay the $26 million that we already promised for the exact purpose in last year's bill? Is this 14 above the 26, or is this 14 in place of the 26 that we did not spend?

What is of even greater concern to me are programs that President Bush is not proposing to pay for that we authorized last year and is not suggesting we add this year.

For example, $46 million for more than 700 new Drug Enforcement Agency positions. We said last year we thought that was necessary. We did not come up with the money for it. We are not funding it at all. It is not like the border patrol folks where he is saying 14 this year instead of 26 last year. At least he is saying something. Last year we said $46 million for new DEA agents, and I wonder whether his failure to mention those means he is going to go back and fund $46 million or he does not think we need the $46 million.

Again, I could go into much more detail, but I will not because it might not be fair because we do not have all the detail of his bill. One other example: Almost $500 million to provide 176,000 new outpatient and almost 50,000 new inpatient drug treatment beds that we passed last year. We did not come up with the money for it last year. The President hailed the bill as a breakthrough when he was a candidate. We hailed the bill as necessary. We all went home and said what progress we are making, and then we did not pay for it. There is no mention of it in the new bill. Again, I may be wrong. Maybe he plans on coming up with a supplemental to pay for this. It is a fancy jargon we use to say come up with the money we did not come up with before now. Well, maybe he does.

Firearms he mentions. I will not go into that detail now. Let me conclude to stay within the 5 minutes if I can.

If not, I will ask unanimous consent for a few more. Is my time up, Mr. President?

The ACTING PRESIDENT pro tempore. It is.

Mr. BIDEN. I ask unanimous consent for 2 more minutes.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. BIDEN. The reason I rise, Mr. President, is not for the purpose of criticizing the President. The reason I rise is that I believe with every fiber in my being that the issue of crime and drug abuse must be a nonpartisan issue. Second, it must be an issue about which we level with the American people, that we tell them the truth. We spend a lot of time telling them about how bad the problem is. That is the one thing we do not need to tell them about. They know the truth of those assertions. They need no Senator nor Congressman nor President to tell them. But we must tell them the truth about whether or not we mean what we say. Do we mean to fund the effort that we say is necessary?

Mr. President, I serve now as chairman, and as the ranking member of the Judiciary Committee—it is hard for me even to say this—for almost a decade. God, it has been a long time, longer than I want to admit. And Senator THURMOND and I have made a commitment during these years to not play politics with the issue of crime and drugs. These issues are simply too important for partisan politics. That is literally true. We have not played that way, Senator THURMOND and I—when he was chairman and now as ranking member.

That is why we have passed so much. That is why we have done so much. That is why I called Senator THURMOND yesterday to offer to introduce the President's bill with the ranking member of the committee by request, and I will commit to hold hearings. But what I do not want to sign on to is another piece of legislation that contains hollow promises about so-called wars on crime or wars on drugs. The American people will in my view, although it is presumptuous for me to suggest what the American people will think—but I believe the American people are tired of us telling them we are going to do something knowing full well we are not going to provide the resources to do what we said we were going to do.

So, Mr. President, it seems to me one of my obligations as chairman of the committee that has jurisdiction over these issues is to cooperate with the President, to see to it that his legislative initiatives, even some portions of which I disagree with like the exclusionary rule, notwithstanding that, to make sure he gets his day in court if you will and try to help pass these measures.

But I also think—and I say this respectfully—part of my responsibility as chairman of the Judiciary Committee is to hold the President's feet to the fire on this issue. If we are going to do something, we must pay for what we said we need.

I look forward to working with the President on this issue, and also providing the money to pay for these programs.

I thank my colleagues.

The PRESIDING OFFICER (Mr. ROBB). The Chair recognizes the Senator from Connecticut [Mr. LIEBERMAN].

Mr. LIEBERMAN. Thank you, Mr. President.

Mr. President, I am particularly honored to rise at this moment and follow the distinguished Senator from Delaware, who has served so ably as chairman of the Judiciary Committee, and he has been such a steadfast leader, and a truthful leader in the war against crime and drugs.

Mr. President, I rise today to commend President Bush on his crime proposals. He outlined them a few weeks ago on the steps of the Capitol and then he essentially repeated them today at the Federal law enforcement training facility in Georgia.

This, as Senator BIDEN has said, is an issue above all others which demands bipartisan support. The upsurge in crime in this country, particularly drug-related crime, has struck fear into the hearts of our citizens. Personal security is perhaps the most basic and crucial right in society. It is the one without which all the others do not matter. And people have a right to expect that their Government will protect their personal security.

The President's crime initiative recognizes that responsibility, and heads us in the right direction toward upholding it. I support President Bush's call for tougher penalties for those who commit crimes with guns, including imposition of the death penalty for certain crimes with guns that result in a death.

I also believe that the problem of crime today cannot be divorced from the problem of drugs. Eighty percent of all property crimes and 60 percent of violent crimes in my State of Connecticut are drug or alcohol related. And that is typical of the problem nationwide. Yet the 1988 Drug Act has not been fully funded, and I am sorry to say that the President's budget leaves it underfunded. The time has come for the President and for all of us in Congress to put our money where our mouths are, and give our troops the resources to really fight the war on crime and drugs.

I commend President Bush for proposing major funding for additional Federal prison space. I can tell you, Mr. President, that prison overcrowding at the State level is an overwhelming problem because of the huge increase in drug-related arrests, and it is a problem that today makes a mockery

of our system of justice. In my own State of Connecticut most convicted drug dealers are serving only 10 percent of their sentences, and the reason is prison overcrowding. Spending 2 or 3 months in a prison is obviously not much of a deterrent to crime, particulary not to the lucrative crime of dealing in drugs.

This problem has placed the criminal justice system in virtual turmoil throughout our country nullifying successful law enforcement efforts because the punishment is not really there to fit the crime even if it is imposed. It is not carried out in the jails.

Connecticut's Governor, William O'Neill, has called upon the President and those of us in Congress to turn abandoned or underused Federal military facilities into regional drug prisons. The aim of that, of course, would be to relieve the immediate prison crisis that exists at the State level. I think the Governor's idea is a good idea. I hope it is one that we will pursue in this Congress.

Finally, there is a critical oversight role for Congress and the executive branch to play in the war on drugs. Money alone is important, but it will not solve the problem, unless it is spent effectively. Let me just offer one example. There are drug treatment programs in Connecticut with the funds in hand to establish new facilities, but they simply have been unable to find an acceptable location.

As we provide funds for treatment, do we know what types of programs are the most effective? As we provide funds for prison expansion, do we know what types of alternatives to full security incarceration are the most likely to deter or, hopefully, rehabilitate? I hope that we, in this session of Congress, can provide some guidance and oversight as we devote more of our resources to fighting the war on drugs and crime.

Mr. President, in short, I welcome President Bush's crime initiative, with the hope that we in Congress can build upon it to help State and local governments combat the related problems of drugs and crime in our communities and restore to our people some sense of confidence in their personal safety and personal security. Thank you, Mr. President.

The PRESIDING OFFICER. The Chair recognizes the Senator from Louisiana [Mr. BREAUX].

ACTIONS OF CHINESE CONSULAR OFFICIALS AGAINST CHINESE STUDENTS IN THE UNITED STATES

Mr. BREAUX. Mr. President, for over 2 months the eyes of the world have been riveted on China. The student-led democracy movement has captured the imagination of the American people. The brutal massacre of the protesters in Tienanmen Square 11 days ago and the subsequent roundup of students and their sympathizers have drawn cries of condemnation from around the world, and rightfully so.

However, the Chinese Government has not confined its wave of terror to the People's Republic. Press reports in the New York Times and the Washington Post, among others, have detailed a campaign of deliberate harassment of Chinese students in the United States. Officials from Chinese consulates in Houston, New York and San Francisco are reported to have videotaped and photographed students demonstrating in front of their buildings. In addition, employees of the Chinese Embassy here in Washington and consular officers in other cities are alleged to have been visiting Chinese students in order to intimidate them into ceasing their activities in support of freedom in the People's Republic. Other students have been badgered by anonymous callers. In at least one case, the lives of a student's family back in China were threatened. Students favoring the crackdown are reported to have warned others not to protest, or organize demonstrations. Implicit in all of these encounters was a warning to the students that Beijing's reach extends to our shores and that they and their families would ultimately suffer. One student quoted in yesterday's Washington Post said, "I would be shot if I go back. I won't even go to prison. I will go straight to the execution ground." He also feared for his family, saying "they may be held hostage." In addition to the two consular officials who requested asylum last weekend in San Francisco, a husband and wife from the education section of the consulate there are reportedly considering seeking political asylum because they do not want to provide a "blacklist" of Chinese students involved in demonstrations at the consulate.

Mr. President, if these allegations are true, this is an outrageous breach of American law, and international law; and it is an insult to the sovereignty of the United States. I find this pattern of behavior offensive, and I know my colleagues in this Chamber would, as well.

Foreign nationals in the United States are protected by American laws. The Chinese students in this country have exactly the same rights as American citizens. Unlike in their home country, they are free to speak and write as they please and are free to gather to air their grievances in public. Although the Chinese authorities may be within their legal rights to photograph the student demonstrators, their behavior is politically and diplomatically improper.

Other forms of harassment, including telephone calls and visits to individual students are violations of numerous Federal statutes. The use of intimidation and threats, overt or implied is a violation of American law. Monitoring, or conducting surveillance of individuals by agents of a foreign power is a violation of American law. Perhaps the most serious alleged violation of our law is the use of third parties to convey warnings from Chinese Government officials, or to monitor the activities of other individuals. According to legal experts at the Department of State, this activity would constitute a violation of U.S. espionage laws.

If the Chinese have violated American law, they would also be in violation of international law, which mandates adherence by diplomatic personnel to the laws of the host country. In addition, at this time of crisis in China, and tension between the People's Republic and our country, the Chinese have violated the precepts and norms of international behavior through their actions.

Mr. President, I am shocked and outraged by these actions and I hope that my distinguished colleagues share these feelings. It is imperative that any actions by Chinese officials to harass their nationals now in the United States cease immediately.

Mr. President, I have drafted two letters that I hope my colleagues will join me in sending to the Ambassador of the People's Republic, Han Xu, and to Secretary of State James Baker. The letter to the Ambassador will express our opposition to all activities by Chinese officials against Chinese nationals while they are in the United States. The letter to the Secretary of State will ask him to thoroughly investigate these allegations and to take whatever steps are necessary in order to insure that they do not continue.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. KENNEDY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

A SETBACK TO CIVIL RIGHTS

Mr. KENNEDY. The end of the term decisions by the Supreme Court on civil rights were a growing cause of concern to Congress and all Americans who care about equal opportunity in our society and equal justice under law.

Today, in the fourth straight decision in 11 days, the Court has once again dealt a significant setback of civil rights. In this atmosphere, the whole is worse than the sum of its

parts. Taken separately, each of these retreats would be a source of genuine concern. Together, they are a serious threat to the 35 years of progress that we have achieved toward a better and fairer society. Congress must not let these decisions stand.

As in the case of the Grove City ruling in 1984, the Senate and the House of Representatives must act to repair the damages. I intend to introduce legislation to achieve this goal. In the Grove City debate, we did not have President Reagan on our side, but this time we hope to have President Bush with us. I look forward to working with the administration to achieve our common goals on civil rights.

Mr. President, I suggest the absence of a quorum

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

JAMES B. HOLDERMAN: LEADING THE UNIVERSITY OF SOUTH CAROLINA INTO THE FIRST RANK

Mr. HOLLINGS. Mr. President, for the last 12 years the University of South Carolina has been led by a hard-charging former political science professor named James B. Holderman. Jim is not only an acute student of politics, he is a superb politican himself—in the best sense of the term. And like the best politicians in this body, Jim approaches his job with 16-hours-a-day, 7-days-a-week zest, a commitment of energy and intellect that has been a boon to the university.

A lengthy profile of Dr. Holderman appears in the May 31 issue of the Chronicle of Higher Education. The article characterizes Jim Holderman as "flamboyant" and "controversial," a president with ambitions of turning USC into the "Michigan of the South" by its 200th birthday in the year 2001. I do not dispute the characterizations, but I do think Jim is too modest about his school's accomplishments. It strikes me that the University of Michigan should be more flattered at being compared to the University of South Carolina than vice versa. Be that as it may, I salute Jim Holderman for the stand-up, stand-out job he has done at the university. What is more, Mr. President, I request unanimous consent that article from the Chronicle of Higher Education be reprinted in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

FLAMBOYANT PRESIDENT PURSUES HIS FAVORITE HOBBY: PUTTING THE UNIVERSITY OF SOUTH CAROLINA "ON THE MAP"

(By Carolyn J. Mooney)

COLUMBIA, SC.—Some college presidents dream of sabbaticals, of time off from fund raising and budget battles to write books or examine fossils or catch up on their reading.

Not James B. Holderman, the tireless, aggressive, and, yes, flashy president of the University of South Carolina. "I wouldn't want to miss anything," Mr. Holderman says.

He rarely does.

For the past 12 years, Mr. Holderman, whose flamboyance has won him critics and admirers alike, has been pursuing his favorite—and many say only—hobby, running the university's main campus here and its eight regional campuses as if he were the chief executive of a major corporation or a head of state.

In many ways, that's what he is:

He jets around South Carolina in a Beechcraft King Air turboprop airplane owned by the university's foundation, keeping up with campus heads, legislators, donors, and students.

He plays host to a vast array of friends, celebrities, and genuine heads of state who range from the actress Helen Hayes to Ronald Reagan to Pope John Paul II.

A SERIES OF BENCHMARKS

And he delicately brokers deals that, among other things, have allowed the university to build a new $15-million arts center and establish a partnership between its theater program and Washington's Shakespeare Theater at the Folger.

Along the way has come a series of benchmarks—an endowment that has grown from $3-million to $40-million, an honors college that has attracted many of the state's brightest students, a slew of endowed chairs for professors, an international business program that is considered among the best in the country, and, perhaps most important, a place on the map for the University of South Carolina.

"He is one who thinks big," says Richard G. Silvernail, a geography professor who remembers when the university was considered "the gentleman's school" and its land-grant rival, Clemson University, was where you went to get an agricultural or engineering job. The rivalry remains, but the condescending "gentleman's school" image has faded.

Mr. Holderman, however, has sometimes had to pay a price for thinking big. He has been criticized by some faculty members, students, and legislators for giving extravagant gifts to donors and others, for paying high salaries to big-name lecturers such as Jihan Sadat, widow of the slain Egyptian leader, for running a controversial program in which he took students on foreign trips, and for building the university's global image at the expense, some say, of faculty salaries and low tuition.

The president has learned lessons from those controversies, some of which, he says, are part of running a $350-million public-university system with 40,000 students and 2,200 faculty members.

"I'm trying to put the university in a competitive place," says Mr. Holderman, 53 years old, an energetic man with a cheeky grin, a sharp wit, and—many agree on this—a mind that doesn't rest. "I don't believe this is a showy place. I believe this university is worth its salt, and I think more and more people are seeing that."

He adds: "I suppose there are people who say, 'That's flashy showmanship on his part.' So? "

"What's wrong with flash?"

REPRESENTS A NEW SPECIES

To many, Mr. Holderman represents a new species of college president—a species that is as comfortable with corporate leaders, donors, and government officials as it is with academic constituents. Like other presidents seeking new ways to respond to heightened competition and to public pressure to improve quality and value, he is more an entrepreneurial manager than a chief academic, more an orchestrator than a consensus builder.

While he holds a Ph.D. in political science, his career has focused on academic administration, with a few stints at teaching. Before coming to South Carolina in 1977, he served as vice-president of the Lilly Endowment, executive director of the Illinois Board of Higher Education, vice-chancellor of the University of Illinois at Chicago Circle, assistant superintendent of public instruction in Illinois, and assistant professor of government at the University of Illinois at Urbana-Champaign.

"Nobody could accuse him of being a scholar," says Rufus Fellers, an engineering professor here who heads the Faculty Senate.

As it has turned out, many faculty members, including Mr. Fellers, think the university is generally better served by Mr. Holderman's management style than it would be by a scholar's. While some complain he emphasizes image over substance, many of the same critics credit him for making major strides.

"He believes in a high style of living," says Mr. Fellers. "But you have to look at the overall result. The place is much better off."

Margit Resch, a professor of German here, harshly criticizes Mr. Holderman for not making faculty salaries a priority. "He has done a wonderful job putting this university on the map," she says, but adds that he has done so with "flashy programs that are being supported at the expense of faculty and the humanities."

BUILDING INTERNATIONAL IMAGE

The move to put the university on the map began almost immediately after Mr. Holderman arrived: He began recruiting talented faculty members and guest lecturers, and making the university more visible to alumni. He concentrated on increasing private donations, and within three years the university had embarked on its first capital campaign—a three-year effort that raised $38-million. He also worked on making the system more cohesive and sharpening the main campus's role as the state's flagship graduate institution.

All along, the university was building up its international image by establishing academic-exchange programs and sponsoring conferences such as a 1984 summit that attracted leaders of Caribbean nations—and headlines around the world.

Perhaps Mr. Holderman's biggest coup, though, was the Pope's visit in 1987. It was part of an ecumenical year sponsored by the university. Years of planning reaped a huge payoff: On September 11, 1987, the Pope won over a campus audience (not to mention the university's fund-raising and public-relations staff) with three sentences that now adorn a plaque on the grassy, horseshoe-shaped area where he spoke.

Said the Pope: "It is wonderful to be young. It is wonderful to be young and to be

a student. It is wonderful to be young and to be a student of the University of South Carolina."

Mr. Holderman himself couldn't have done a better promotion job.

Recently, Mr. Holderman completed a long-term plan, "Target 2001," in which he outlined a series of steps aimed at making the university system one of the top 10 in the country by the year 2001, when it marks its 200th anniversary. It hardly seemed an accident that the slick "President's Report" detailing the plan resembled an annual corporate report. And it definitely isn't an accident that his office phone number ends with the digits 2001.

Observers of Southern culture say Mr. Holderman's achievements are all the more impressive coming from a new-style president in a state where good-old-boy culture is, as some put it, healthy.

Says John MacNicholas, an English professor and playwright-in-residence at South Carolina: "The state's history and culture have profound strains of xenophobia, and then he comes in and rattles things around. He is willing to set some goals that are beyond the vision of the everyday leader."

Mr. Holderman's days begin early and end late. Because the president's offiical residence is located on the campus's tree-lined horseshoe along with several dormitories, Mr. Holderman is right where he likes to be—watching over the store.

He is notorious for his energy. Even as a child, recalls H. James Baum, who grew up with Mr. Holderman in rural Illinois, Mr. Holderman was an organizer who directed plays and produced a neighborhood newspaper. "It was called—what else?—the *Holderman Herald.*"

A reporter spending a day with Mr. Holderman is asked to meet him at 7:30 a.m. at the university's new Ira and Nancy Koger Center for the Arts, where he will make a brief speech. The center seems an appropriate place to start: It is a symbol of the bureaucracy Mr. Holderman often feels he must battle, of the image he wants for the university, and of a risk he thinks was worth taking. Only after holding lengthy negotiations and securing a large private gift was the center built, with city, county, state, and private money.

Thus did the Koger Center open in January with a gala performance by the London Philharmonic, ushering in what some residents predict will be nothing less than a new cultural age in a city more accustomed to lesser-known orchestras and wrestling matches. (Before the center opened, a local newspaper columnist warned inexperienced arts patrons that the difference between a Mahler concert and a wrestling match is that, at the concert, the musicians—not the fans—make the noise.)

The center's battles aren't over yet. The university is still raising private money to finish paying for the center, which the university's foundation owns and leases back to the university. University officials said that approach would allow the foundation, which is independent and therefore not subject to state regulations, to build it more efficiently. Whether the foundation should open its financial records is a subject of debate here, and has led two newspapers to sue for access to them.

The foundation also supplements Mr. Holderman's $109,167 salary with $75,000 in private money.

After his speech at the center, Mr. Holderman has a strategy session with top administrators. He mainly wants to know how the university's request for state money to help buy a $14-million supercomputer is faring over in the State House nearby.

AN END RUN CHARGED

The supercomputer debate is yet another symbol of the clashes that sometimes occur when Mr. Holderman's ambitions for the university exceed what the state wants to spend. South Carolina's statewide coordinating board, which has budget authority over public higher education, refused to approve the request, saying it wasn't clear the university needed a supercomputer. So the university teamed up with Clemson, which is seeking state money for its own supercomputer, and the two institutions went directly to legislators for the money. The issue was pending last week.

Fred R. Sheheen, the state's higher-education commissioner, whose brother happens to be Speaker of South Carolina's House of Representatives, calls the tactic an "an end run." Says Mr. Sheheen: "There's a clear difference between institutional ambition and the public interest."

The rest of the morning Mr. Holderman spends in more meetings, including one with the university's vice-president for personnel. The state bureaucracy is especially frustrating, in Mr. Holderman's opinion, when it comes to personnel matters. He says he wishes the university weren't treated as just another state agency. Upon hearing that a federal agency has requested extensive statistics, he rolls his eyes. "It's amazing we can operate with all these regulatory agencies," he says.

Next he trots over the library, where he attends a ceremony to mark the completion of a new computerized card-catalog system. He praises the staff, then notes that the system is "long overdue." He wants to know how the university compares with others in terms of technology.

"Moving up," someone calls out.

That's what gives him the most satisfaction, Mr. Holderman tells a visitor during an afternoon interview in his office. The blue-and-white office is tastefully cluttered-with a cartoon of the president and religious leaders, photos of other prominent visitors, and a football from the 1987 South Carolina-Clemson game (South Carolina won, 20 to 7).

"The Michigan of the South" is what he wants to see the university become, he says, in a voice that often drops into low, dramatic cadences. He puts his feet up on his cornflower-blue leather couch and relaxes. He loves discussing the university: He gets excited about a trade meeting where university professors made their presentations in Japanese ("The Japanese were blown away!"), and a planned campaign to raise $200 million.

"We've taken risks, and some have blown up in our face," he says. "But I think you have to take risks to be at the top."

One risk that blew up was the expenditure of more than $300,000—including airfare and other expenses—so Mrs. Sadat could teach a course during each of three semesters. Professors unhappy about their salaries complained that Mrs. Sadat's compensation was way out of line.

His spending practices also prompted sharp criticism from legislators and professors after they learned he had used money from a discretionary fund—some of it public—to buy lavish gifts (including Steuben glass) for friends of the university whose names the university refused to disclose. One amused administrator uses the head-of-state analogy: "There are state visits, so there are state gifts."

And students were upset last year after the Charlotte *Observer* published a detailed account of an elite intern program operated by Mr. Holderman. Some complain that the program wasn't well publicized, and that Mr. Holderman selected "pets" and children of prominent people as interns, who sometimes represented the university on foreign trips.

Mr. Holderman says he now realizes some of the expenditures were excessive for a public-university environment. "Okay, so I have to work in that environment."

He insists he wants to do so until 2001, when the university turns 200 and he turns 65.

Although there is often speculation about whether Mr. Holderman, a Republican, has political ambitions—his name once surfaced as a potential candidate for Education Secretary—he says he's not really interested. Nor would he particularly want to head a bigger and better university.

"The bases you've got to build, the credibility you've to build . . . You make an investment in your life."

Mr. Holderman leaves for the spring faculty meeting, where he presides as usual, bantering with faculty members. He knows most by names.

THE CREATIVE DIMENSION

Professors and administrators describe Mr. Holderman's faculty support as mixed, but generally solid.

"What some faculty would really like," says Carol McGinniss Kay, dean of the College of Humanities and Social Sciences here, "is a Derek Bok, a president who would make profound academic statements. That's not his style. His style is to move the institution forward in financial gain and reputation in order for the faculty to make those statements."

Mr. Holderman does not consider himself an "outside" president who leaves the academic mission to others. "I'm not interested in just managing the business," he says. "I'm interested in the creative dimension."

By now it is late afternoon, and Mr. Holderman is late for a meeting with student leaders who are holding a retreat in Charleston. He is whisked to a nearby airfield, where the foundation's plane is waiting. The foundation owns it because, again, there are fewer regulations to deal with that way. Mr. Holderman uses the plane to visit other campuses, and is quick to point out that it also shuttles professors to Washington to work on grant business.

In Charleston, Mr. Holderman quickly shifts gears. Now it's students; that means questions about why tuition keeps going up. He takes his jacket off, pushes up his sleeves, even manages to drawl a "y'all."

He apologizes for being late, quipping, "I don't like to leave the faculty alone while I'm not there. Again, he knows almost everyone. And he shows an uncanny knack for getting to the gut issues.

He assures students that the university's now-notorious supercomputer proposal won't be financed through higher tuition, as some fear. The university, he says, needs the supercomputer if it is going to become a major research institution—even if the coordinating board doesn't think so.

Soon Mr. Holderman is on the plane again, rushing to make a dinner with legislators back in Columbia. It's a long day, but he's not finished with his work.

Actually, he may never be finished.

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He has big plans for the university, but he also has the students after him about tuition, the faculty after him about raises, and the legislators after him about the money he wants to spend.

It just could be that Mr. Holderman truly enjoys his job as head of state of the University of South Carolina.

It's true that he likes to see the university grab attention. He likes to have important people visit the campus. He likes new buildings.

So?

As Mr. Holderman would say, "What's wrong with flash?"

TERRY ANDERSON

Mr. MOYNIHAN. Mr. President, today is the 1,552d day that Terry Anderson has been held hostage in Beirut.

John Needham, a colleague and friend of Terry Anderson, wrote a revealing essay in the Los Angeles Times on March 20, 1989. I ask unanimous consent that this essay be printed in the RECORD.

There being no objection, the essay was ordered to be printed in the RECORD, as follows:

[From the Los Angeles Times, Mar. 20, 1989]

STILL PRAYING FOR FREEDOM FOR A FRIEND HELD HOSTAGE

(By John Needham)

Every few months, as I'm half-listening to the radio, I'll hear the words "Lebanon . . . hostages," and my heart will start pounding. Maybe this will be it. I'll think, maybe now Terry Anderson will be freed, after 4 years of the bleakest captivity.

Sometimes the captors will release a picture of Anderson. It's clearly him, but it's not the Anderson I remember. My wife looks at the picture and invariably says, "Whenever I think of Terry, I think of him smiling."

Last Thursday marked the fourth anniversary of Anderson's life in Beirut as a hostage of a Shiite Muslim fundamentalist group known as Hezbollah. Next Thursday will be the 10th anniversary of my first meeting with Anderson.

We met in the Foreign Correspondents Club of Japan. He worked for the Associated Press news agency. I worked for the rival news agency United Press International. The agencies battled each other fiercely, and some AP bureau chiefs were said to chastise their reporters for fraternizing with the opposition after hours.

But Anderson wasn't like that.

Days after my wife and I arrived in Japan after 3½ years in India, Anderson invited us to see what I still think of as "Terry's Japan."

He and his wife lived in Kamakura, an ancient capital of Japan about half an hour south of Tokyo by train. It is a graceful old city, dotted with Buddhist temples and shady glades that are oases of calm in bustling Japan.

Anderson escorted us from temple to temple, then brought us to his home to meet his wife, Miki, his daughter, Gabriela, and the family's two Siamese cats. He had met Miki, who is Japanese, while in Japan as a U.S. Marine; her family wasn't too happy about her marrying the *gaijin*, or foreigner, but he felt that they eventually made their peace with the match.

I still remember the kindness of Terry and Miki to my wife and myself. Despite those years in India, Japan seemed so incredibly foreign to us. It was more difficult for us to meet anyone who spoke English than it had been in India. To two people suffering a stiff dose of culture shock, the Andersons offered a refuge and a glimpse of Japan's pleasures.

Terry and I became friends quickly. We were both directors of the correspondents' club and often got together for lunch or a few beers after work. We spent a lot of time in South Korea too, reporting on coups and a civil uprising there, trying to beat each other's brains out during the day and then huddling over dinner to compare how we'd done.

More than once Anderson spoke of his loathing for guns, yet like all of us he followed the gunfire because all too often that's where the story was.

He used to talk about switching from the infantry to the public information unit while a Marine in Vietnam, figuring that although the switch would force him to stay in the country longer it would likely increase his chances of living. And he talked of a cousin who was a New York City policeman, whom Terry wouldn't let enter his apartment with a pistol.

Yet sometimes Anderson did things that weren't quite bright.

In May 1980, opponents of the then-ruler of South Korea, Chun Doo Hwan, took over the South Korean city of Kwangju for nearly a week. Anderson and I entered Kwangju separately to await the inevitable army counterattack.,

It came not long before dawn one morning. I had managed to get a hotel room overlooking the provincial headquarters, where the dissidents had their command post. As the troops massed, I invited Anderson and a few others up to watch the takeover.

When we saw soldiers scaling roofs and moving into position, I left the room to see if any other reporters wanted ringside seats for the action. As I climbed back up the stairs to my room, I heard round after round of automatic weapon fire blasting into the hotel and windows shattering. I turned a corner and saw Anderson and two other reporters crawling on their hands and knees out of the room and down the corridor as fast as they could go.

It turned out that Anderson had inched up the wall to the window of the room to snap off a picture. A soldier on a roof maybe 20 feet away saw him and waved to him to get down. Anderson did, but then edged up again and tried to snap off another picture. This time the soldier started spraying gunfire into the room—first at head level and then at the level of a man's chest if he was kneeling. The bullets ripped through both walls and shattered the furniture in the room. Fortunately, Anderson and the others hadn't just knelt down; they had dropped to their bellies on the floor, so the bullets went over their heads.

But though the picture of Anderson on his belly sticks in the mind, it is overshadowed by remembrances of Terry organizing a wine-tasting party, Terry hosting a beach picnic in Kamakura, Terry donning the helmet that gave him the look of Darth Vader, hopping on his motorcycle and roaring down to the train station for the commute to Tokyo.

Terry left Tokyo more than a year before I did, going first to South Africa and then to Beirut, still with the Associated Press. His marriage broke up. He has a Lebanese wife now and a daughter he hasn't seen. His father—whom I remember coming to Japan to see a delighted Terry—died while Terry was a hostage. So did his brother.

A bit more than 2 years ago, David P. Jacobsen of Huntington Beach appeared before the Orange County Board of Supervisors in Santa Ana to pick up a commendation. Jacobsen had been administrator of American University Hospital in Beirut when he was taken hostage in May 1985, and held for 17 months. At the time of Jacobsen's appearance, the arms-for-hostages dealings between the Reagan administration and Iran were just starting to come to light.

I spoke to Jacobsen after the ceremony to tell him I was a friend of Anderson and wanted to know if he was all right. Jacobsen said he was indeed OK and some day would be free.

I don't think Jacobsen thought it would take this long. I know I certainly didn't think so. Last week I sent a card to Anderson's sister, Peggy Say, who has worked tirelessly to remind politicians and ordinary Americans that her brother and others are still hostage.

I send these cards several times a year, though I've never met Say. I write just about the same message each time: We're praying for Terry and hoping he'll be freed soon.

EXTENSION OF MORNING BUSINESS

Mr. MITCHELL. Mr. President, I ask unanimous consent that the time for morning business be extended until 3:10 p.m., and that at 3:10 p.m., the Senate go to S. 5 under the previous order.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MITCHELL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. CONRAD. Mr. President, I ask unanimous consent that further proceedings under the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

NORTH DAKOTA TOPS BUSINESS CLIMATE POLL

Mr. CONRAD. Mr. President, yesterday North Dakota was named the State with the most fertile business climate in the country among light-manufacturing States for the second straight year by Grant Thornton, a Chicago-based accounting firm.

Grant Thornton represents manufacturers throughout the country. The annual study assesses States on 21 factors manufacturers believe are crucial to business success. These categories include State and local government fiscal policies; labor and other employment costs; productivity of resources, such as energy costs; and quality of life measures, such as education and health care. In these and other catego-

ries, Mr. President, manufacturers themselves rated North Dakota a State where they can find success.

A key factor was the responsiveness of State government to the needs of business. Mr. President, North Dakota has launched a campaign to attract and retain businesses. We work hard to assist new and existing businesses.

North Dakota is known for its natural landscape—from the Badlands in the west to the expanse of the bountiful Red River Valley in the east. But my State is known mostly for another resource—its people.

Grant Thornton and others have found North Dakotans to be some of the most productive and valuable in the Nation. Our workers are hard working, loyal, and well educated. Ninety-five percent of North Dakota's high school seniors graduate, and 72 percent of these graduates pursue further education.

Employers find that they have a near-zero absenteeism rate, and an extremely high productivity rate. They and their employees also have access to quality education at all levels—elementary, secondary, and higher education—as well as excellent health care services. Medical centers in the major cities provide the latest in medical technology and smaller communities have satellite clinics and community hospitals which cater to the health care needs of the surrounding communities.

North Dakotans also have little crime to contend with and few of the problems of the big city—we have clean, breathable air, clean water, no congestion, and strong communities. Mr. President, the strength of those communities is what makes the quality of life so high. People have a commitment to the community in which they live—to see that it survives and is a pleasant place to live.

I am not surprised to see North Dakota ranked first on the list, Mr. President. The efforts we have made to attract businesses have succeeded by showcasing our best-kept secret: the extremely high quality of life and the favorable business climate enjoyed by our residents. I hope that such assessments will encourage companies to consider locating in North Dakota. If corporate America and rural America could join forces, we could begin to change the enormous trade imbalance that now exists. North Dakota's productive work force could be put to work to keep the United States the leading economic power in the world.

Mr. MITCHELL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. FOWLER). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. FOWLER). Without objection, it is so ordered.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. The hour for morning business has arrived, and morning business is now closed.

CHILD CARE IMPROVEMENT ACT

The PRESIDING OFFICER. Under the previous order, the Senate will proceed to the consideration of Calendar Order No. 43, S. 5, which the clerk will report.

The legislative clerk read as follows:

A bill (S. 5) to provide for a Federal program for the improvement of child care, and for other purposes.

The Senate proceeded to consider the bill which had been reported from the Committee on Labor and Human Resources, with an amendment to strike all after the enacting clause and insert in lieu thereof the following:

SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Act for Better Child Care Services of 1989".

(b) TABLE OF CONTENTS.—

Sec. 1. Short title and table of contents.
Sec. 2. Findings and purposes.
Sec. 3. Definitions.
Sec. 4. Authorization of appropriations.
Sec. 5. Amounts reserved; allotments.
Sec. 6. Lead agency.
Sec. 7. Application and plan.
Sec. 8. Special rules for use of State allotments.
Sec. 9. Planning grants.
Sec. 10. Continuing eligibility of States.
Sec. 11. State advisory committee on child care.
Sec. 12. Resource and referral programs.
Sec. 13. Training and technical assistance.
Sec. 14. Child care public-private partnership.
Sec. 15. Federal administration of child care.
Sec. 16. Federal enforcement.
Sec. 17. Payments.
Sec. 18. National Advisory Committee on Minimum Child Care Standards.
Sec. 19. Limitations on use of financial assistance for certain purposes.
Sec. 20. Nondiscrimination.
Sec. 21. Preservation of parental rights and responsibilities.
Sec. 22. Child care liability risk retention group.
Sec. 23. Head Start Act authorization of appropriations.

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds that—

(1) the number of children living in homes where both parents work, or living in homes with a single parent who works, has increased dramatically over the last decade;

(2) the availability of quality child care is critical to the self-sufficiency and independence of millions of American families, including the growing number of mothers with young children who work out of economic necessity;

(3) high quality child care programs can strengthen our society by providing young children with the foundation on which to learn the basic skills necessary to be productive workers;

(4) the years from birth to age 6 are a critical period in the development of a young child;

(5) a significant number of parents do not have a real choice as they seek adequate child care for their young children because of limited incomes, insufficient State child care standards, and the inadequate supply of child care services in their community;

(6) high quality early childhood development programs provided during such period are cost effective because such programs can reduce the chances of juvenile delinquency and adolescent pregnancy and can improve the likelihood that children will finish high school and become employed;

(7) the number of quality child care arrangements falls far short of the number required for children in need of child care services;

(8) the rapid growth of participation in the labor force by mothers of children under the age of 1 has resulted in a critical shortage of quality child care arrangements for infants and toddlers;

(9) the lack of available child care services results in many preschool and school-age children being left without adequate supervision for significant parts of the day;

(10) many working parents who are unable to afford adequate child care services do not receive adequate financial assistance for such services from employers or public sources;

(11) because of the lack of affordable child care, a large number of parents are not able to work or to seek the training or education they need to become self sufficient;

(12) making adequate child care services available for parents who are employed, seeking employment, or seeking to develop employment skills promotes and strengthens the well-being of families and the national economy;

(13) the payment of the exceptionally low salaries to child care workers adversely affects the quality of child care services by making it difficult to retain qualified staff;

(14) several factors result in the shortage of quality child care options for children and parents, including—

(A) the inability of parents to pay for child care services;

(B) the lack of up-to-date information on child care services;

(C) the lack of training opportunities for staff in child care programs;

(D) the high rate of staff turnover in child care facilities; and

(E) the wide differences among the States in child care licensing and enforcement policies; and

(15) improved coordination of child care services will help to promote the most efficient use of child care resources.

(b) PURPOSES.—The purposes of this Act are—

(1) to build on and to strengthen the role of the family by seeking to ensure that parents are not forced by lack of available programs or financial resources to place a child in an unsafe or unhealthy child care facility or arrangement;

(2) to promote the availability and diversity of quality child care services to expand child care options available to all families who need such services;

(3) to provide assistance to families whose financial resources are not sufficient to

enable such families to pay the full cost of necessary child care services;

(4) to lessen the chances that children will be left to fend for themselves for significant parts of the day;

(5) to improve the productivity of parents in the labor force by lessening the stresses related to the absence of adequate child care services;

(6) to provide assistance to States to improve the quality of, and coordination among, child care programs;

(7) to increase the opportunities for attracting and retaining qualified staff in the field of child care to provide high quality child care services to children; and

(8) to strengthen the competitiveness of the United States by providing young children with a sound early childhood development experience.

SEC. 3. DEFINITIONS.

As used in this Act:

(1) ADMINISTRATOR.—The term "Administrator" means the Administrator of Child Care appointed under section 15(a).

(2) CAREGIVER.—The term "caregiver" means an individual who provides a service directly to an eligible child on a person-to-person basis.

(3) CENTER-BASED CHILD CARE PROVIDER.—The term "center-based child care provider" means a child care provider that provides child care services in a nonresidential facility.

(4) CHILD CARE CERTIFICATE.—The term "child care certificate" means a certificate that is issued, pursuant to a written agreement between the State and an eligible child care provider, by the State to parents who may use such certificate only as payment for child care services for an eligible child and that provides to an eligible child care provider a right to reimbursement for such services at the same rate charged by that provider for comparable services to children whose parents are not eligible for certificates under this Act or for child care assistance under any other Federal or State program.

(5) COMMUNITY-BASED ORGANIZATION.—The term "community-based organization" has the meaning given such term by section 4(5) of the Job Training and Partnership Act (29 U.S.C. 1503(5)).

(6) ELEMENTARY SCHOOL.—The term "elementary school" means a day or residential school that provides elementary education, as determined under State law.

(7) ELIGIBLE CHILD.—The term "eligible child" means an individual—

(A) who is less than 16 years of age;

(B) whose family income does not exceed 100 percent of the State median income for a family of the same size; and

(C) who—

(i) resides with a parent or parents who are working, seeking employment, or enrolled in a job training or educational program; or

(ii) is receiving, or needs to receive, protective services and resides with a parent or parents not described in clause (i).

(8) ELIGIBLE CHILD CARE PROVIDER.—The term "eligible child care provider" means—

(A) a center-based child care provider, a group home child care provider, a family child care provider, or other provider of child care services for compensation that—

(i) is licensed or regulated under State law;

(ii) satisfies—

(I) the Federal requirements, except as provided in clause (iii); and

(II) the State and local requirements; applicable to the child care services it provides; and

(iii) after the expiration of the 4-year period beginning on the date the Secretary establishes minimum child care standards under section 18(e)(2), complies with such standards that are applicable to the child care services it provides; or

(B) a child care provider that is 18 years of age or older who provides child care services only to an eligible child who is, by affinity or consanguinity, the grandchild, niece, or nephew of such provider, if such provider complies with any State requirements that govern child care provided by relatives.

(9) FAMILY CHILD CARE PROVIDER.—The term "family child care provider" means 1 individual who provides child care services for fewer than 24 hours per day, as the sole caregiver, and in the private residence of such individual.

(10) FAMILY SUPPORT SERVICES.—The term "family support services" means services that assist parents by providing support in parenting and by linking parents with community resources and with other parents.

(11) FULL-WORKING-DAY.—The term "full-working-day" means at least 10 hours per day.

(12) GROUP HOME CHILD CARE PROVIDER.—The term "group home child care provider" means 2 or more individuals who jointly provide child care services for fewer than 24 hours per day and in a private residence.

(13) HANDICAPPING CONDITION.—The term "handicapping condition" means any condition set forth in section 602(a)(1) of the Education of the Handicapped Act (20 U.S.C. 1401(a)(1)) or section 672(1) of the Education of the Handicapped Act (20 U.S.C. 1471(a)).

(14) INDIAN TRIBE.—The term "Indian tribe" has the meaning given it in section 4(b) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(b)).

(15) INSTITUTION OF HIGHER EDUCATION.—The term "institution of higher education" has the meaning given such term in section 481(a)(1) of the Higher Education Act of 1965 (20 U.S.C. 1088(a)(1)), except that with respect to a tribally controlled community college such term has the meaning given it in section 2(a)(5) of the Tribally Controlled Community College Assistance Act of 1978 (25 U.S.C. 1801(a)(5)).

(16) LEAD AGENCY.—The term "lead agency" means the agency designated under section 6(a).

(17) LOCAL EDUCATIONAL AGENCY.—The term "local educational agency" has the meaning given that term in section 198(a)(10) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 2854(a)(10)).

(18) PARENT.—The term "parent" includes a legal guardian or other person standing in loco parentis.

(19) SCHOOL-AGE CHILD CARE SERVICES.—The term "school-age child care services" means child care services that are—

(A) provided during such times of the school day when regular instructional services are not in session; and

(B) not intended as an extension of or replacement for the regular academic program, but are intended to provide an environment which enhances the social, emotional, and recreational development of children of school age;

(20) SECONDARY SCHOOL.—The term "secondary school" means a day or residential school which provides secondary education, as determined under State law.

(21) SECRETARY.—The term "Secretary" means the Secretary of Health and Human Services unless the context specifies otherwise.

(22) SCHOOL FACILITIES.—The term "school facilities" means classrooms and related facilities used to provide education.

(23) SLIDING FEE SCALE.—The term "sliding fee scale" means a system of cost sharing between the State and a family based on income and size of the family with the very low income families having to pay no cost.

(24) STATE.—The term "State" means any of the several States, the District of Columbia, the Virgin Islands of the United States, the Commonwealth of Puerto Rico, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, the Marshall Islands, the Federated States of Micronesia, or Palau.

(25) UNIT OF GENERAL PURPOSE LOCAL GOVERNMENT.—The term "unit of general purpose local government" means any city, county, town, township, parish, village, a combination of such general purpose political subdivisions including those in two or more States, or other general purpose political subdivisions of a State.

(26) TRIBAL ORGANIZATION.—The term "tribal organization" has the meaning given it in section 4(c) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(c)).

(27) TRIBALLY CONTROLLED COMMUNITY COLLEGE.—The term "tribally controlled community college" has the meaning given it in section 2(a)(4) of the Tribally Controlled Community College Assistance Act of 1978 (25 U.S.C. 1801(a)(4)).

SEC. 4. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—To carry out this Act, other than section 22, there are authorized to be appropriated $2,500,000,000 for the fiscal year 1990 and such sums as may be necessary in each of the fiscal years 1991 through 1994.

(b) CHILD CARE LIABILITY RISK RETENTION GROUP.—

(1) IN GENERAL.—To carry out section 22, there are authorized to be appropriated $100,000,000 for fiscal year 1990.

(2) AMOUNTS TO REMAIN AVAILABLE.—The amounts appropriated pursuant to paragraph (1) shall remain available for assistance to States for fiscal years 1990, 1991, and 1992 without limitation.

SEC. 5. AMOUNTS RESERVED; ALLOTMENTS.

(a) AMOUNTS RESERVED.—

(1) TERRITORIES AND POSSESSIONS.—The Secretary shall reserve not to exceed one half of 1 percent of the amount appropriated under section 4(a) in each fiscal year for payments to Guam, American Samoa, the Virgin Islands of the United States, the Commonwealth of the Northern Mariana Islands, the Marshall Islands, the Federated States of Micronesia, and Palau, to be allotted in accordance with their respective needs.

(2) INDIANS.—The Secretary shall reserve an amount, not less than 1.5 percent and not more than 3 percent of the amount appropriated under section 4(a) in each fiscal year, to carry out subsection (c) regarding Indian children.

(b) STATE ALLOTMENT.—

(1) GENERAL RULE.—From the remainder of the sums appropriated under section 4(a) for each fiscal year, the Secretary shall allot to each State (excluding jurisdictions referred to in subsection (a)(1)) an amount equal to the sum of—

(A) an amount that bears the same ratio to 50 percent of such remainder as the product of the young child factor of the State and the allotment percentage bears to the sum of the corresponding products for all States; and

(B) an amount that bears the same ratio to 50 percent of such remainder as the product of the school lunch factor of the State and the allotment percentage bears to the sum of the corresponding products for all the States.

(2) YOUNG CHILD FACTOR.—The term "young child factor" means the ratio of the number of children in the State who are less than 5 years of age to the number of children in all the States who are less than 5 years of age.

(3) SCHOOL LUNCH FACTOR.—The term "school lunch factor" means the ratio of the number of children in the State who are receiving free or reduced price lunches under the school lunch program established under the National School Lunch Act (42 U.S.C. 1751 et seq.) to the number of children in all the States who are receiving free or reduced price lunches under such program.

(4) ALLOTMENT PERCENTAGE.—

(A) IN GENERAL.—The allotment percentage for a State is determined by dividing—

(i) the per capita income of all individuals in the United States; by

(ii) the per capita income of all individuals in the State.

(B) LIMITATIONS.—If a sum determined under subparagraph (A)—

(i) exceeds 1.2, then the allotment percentage of that State shall be considered to be 1.2; and

(ii) is less than 0.8, then the allotment percentage of the State shall be considered to be 0.8.

(C) PER CAPITA INCOME.—For purposes of subparagraph (A), per capita income shall be—

(i) determined at 2-year intervals;

(ii) applied for the 2-year period beginning on October 1 of the first fiscal year beginning on the date such determination is made; and

(iii) equal to the average of the annual per capita incomes for the most recent period of 3 consecutive years for which satisfactory data are available from the Department of Commerce at the time such determination is made.

(c) PAYMENTS FOR THE BENEFIT OF INDIAN CHILDREN.—

(1) TRIBAL ORGANIZATIONS.—From the funds reserved under subsection (a)(2), the Secretary may, upon the application of a Indian tribe or tribal organization enter into a contract with, or make a grant to such Indian tribe or tribal organization for a period of 3 years, subject to satisfactory performance, to plan and carry out programs and activities that are consistent with this Act. Such contract or grant shall be subject to the terms and conditions of section 102 of the Indian Self-Determination Act (25 U.S.C. 450f) and shall be conducted in accordance with sections 4, 5, and 6 of the Act of April 16, 1934 (48 Stat. 596; 25 U.S.C. 655-657), that are relevant to such programs and activities.

(2) INDIAN RESERVATIONS.—In the case of an Indian tribe in a State other than the States of Oklahoma, Alaska, and California, such programs and activities shall be carried out on the Indian reservation for the benefit of Indian children.

(3) STANDARDS.—

(A) IN GENERAL.—Subject to subparagraph (B), the Secretary shall establish, through the application process, standards applicable to child care services provided under such programs and activities. For purposes of establishing such standards, the Secretary shall take into consideration—

(i) the codes, regulations, and cultural factors of the Indian tribe involved, as expressed by such tribe or the tribal organization that represents such tribe; and

(ii) the State licensing and regulatory requirements applicable to child care services provided in the State in which such program and activities are carried out.

(B) APPLICATION.—

(i) RULE.—Except as provided in clause (ii), after the Secretary establishes minimum child care standards under section 18(e)(2), such minimum standards shall apply with respect to child care services provided under such programs and activities.

(ii) WAIVERS AND MODIFICATIONS.—The Secretary may waive or modify, for a period not to exceed 4 years beginning on the date such minimum standards are established, any of such minimum standards that would limit the capacity of an Indian tribe or tribal organization to receive funds under this Act if the Secretary determines that there is a reasonable expectation that each of such standards requested to be waived will be met by the applicant by the end of the period for which the waiver is requested.

(4) AVAILABILITY OF STATE CHILD CARE SERVICES.—For the purpose of determining whether to approve an application for a contract or grant under this subsection, the Secretary shall take into consideration the availability of child care services provided in accordance with this Act by the State in which the applicant proposes to carry out a program to provide child care services.

(5) RULE OF CONSTRUCTION.—This subsection shall not be construed—

(A) to limit the eligibility of any individual to participate in any program carried out with assistance received under this Act by a State; or

(B) to modify any requirement imposed on a State by any provision of this Act.

(6) COORDINATION.—To the maximum extent practicable, the applicant for a grant or contract under this subsection and the State in which the applicant is located shall coordinate with each other their respective child care programs and activities, including child care programs and activities carried out with assistance received under this Act.

(d) DATA AND INFORMATION.—The Secretary shall obtain from each appropriate Federal agency, the most recent data and information necessary to determine the allotments provided for in subsection (b).

(e) REALLOTMENTS.—

(1) IN GENERAL.—Any portion of the allotment under subsection (b) to a State that the Secretary determines is not required to carry out a State plan approved under section 7(d), in the period for which the allotment is made available, shall be reallotted by the Secretary to other States in proportion to the original allotments to the other States.

(2) LIMITATIONS.—

(A) REDUCTION.—The amount of any reallotment to which a State is entitled to under paragraph (1) shall be reduced to the extent that it exceeds the amount that the Secretary estimates will be used in the State to carry out a State plan approved under section 7(d).

(B) REALLOTMENTS.—The amount of such reduction shall be similarly reallotted among States for which no reduction in an allotment or reallotment is required by this subsection.

(3) AMOUNTS REALLOTTED.—For purposes of any other section of this Act, any amount reallotted to a State under this subsection shall be considered to be part of the allotment made under subsection (b) to the State.

(f) DEFINITION.—For the purposes of this section, the term "State" means any of the several 50 States, the District of Columbia, or the Commonwealth of Puerto Rico.

SEC. 6. LEAD AGENCY.

(a) DESIGNATION.—The chief executive officer of a State desiring to participate in the program authorized by this Act shall designate, in an application submitted to the Secretary under section 7(a), an appropriate State agency that meets the requirements of subsection (b) to act as the lead agency.

(b) REQUIREMENTS.—

(1) ADMINISTRATION OF FUNDS.—The lead agency shall have the capacity to administer the funds provided under this Act to support programs and services authorized under this Act and to oversee the plan submitted under section 7(b).

(2) COORDINATION.—The lead agency shall have the capacity to coordinate the services for which assistance is provided under this Act with the services of other State and local agencies involved in providing services to children.

(3) ESTABLISHMENT OF POLICIES.—The lead agency shall have the authority to establish policies and procedures for developing and implementing interagency agreements with other agencies of the State to carry out the purposes of this Act.

(c) DUTIES.—The lead agency shall—

(1) assess child care needs and resources in the State, and assess the effectiveness of existing child care services and services for which assistance is provided under this Act or under other laws, in meeting such needs;

(2) develop a plan designed to meet the need for child care services in the State for eligible children, including infants, preschool children, and school-age children, giving special attention to meeting the needs for services for low-income children, migrant children, children with a handicapping condition, foster children, children in need of protective services, children of adolescent parents who need child care to remain in school, and children with limited English-language proficiency;

(3) develop, in consultation with the State advisory committee on child care established under section 11, the State plan submitted to the Secretary under section 7(b);

(4) hold hearings, in cooperation with such State advisory committee on child care, annually in each region of the State in order to provide to the public an opportunity to comment on the provision of child care services in the State under the proposed State plan;

(5) assist the chief executive officer in making such periodic reports to the Secretary as the Secretary may by rule require;

(6) coordinate the provision of services under this Act with—

(A) other child care programs and services, and with educational programs, for which assistance is provided under any State, local, or other Federal law, including the State Dependent Care Development Grants Act (42 U.S.C. 9871 et seq.); and

(B) other appropriate services, including social, health, mental health, protective, and nutrition services, available to eligible children under other Federal, State, and local programs;

(7) identify resource and referral programs for particular geographical areas in the State that meet the requirements of section 12; and

(8) establish in accordance with subsection (d)(1) several local advisory councils that collectively represent the entire geographical area in the State.

(d) LOCAL ADVISORY COUNCILS.—

(1) APPOINTMENT.—Each local advisory council established under subsection (c)(8) shall be composed of individuals who are

collectively representative of the local geographical area for which they are appointed and of the ethnic characteristics of the population of such area. Such council shall be composed of individuals appointed from among the following:

(A) Parents of preschool children.

(B) Parents of school-age children.

(C) Individuals who are child care providers.

(D) The heads of Head Start agencies.

(E) The heads of local public agencies that provide social services or human resources.

(F) The heads of local education agencies.

(G) The heads of local public health agencies.

(H) The heads of resource and referral agencies.

(I) Individuals engaged locally in business.

(J) Local representatives of nonprofit private organizations that provide funds for social services or human resources.

(K) Representatives of groups that engage in private activities relating to providing child care services.

(2) DUTIES.—Each local advisory council shall—

(A) assess the extent to which there is an unsatisfied need for child care services in the geographical area for which such council is appointed;

(B) submit to the lead agency, not less frequently than biennially, a report identifying the results of the implementation in such area of the State plan included in the application submitted under section 7;

(C) recommend to the lead agency the uses for which assistance received under this subchapter by the State should be expended in such area, and with respect to each such use, the amount of such funds that should be so expended;

(D) advise local child care providers regarding the means to collectively obtain training, supplies, and insurance relating to providing child care services; and

(E) otherwise assist the lead agency, and the State advisory committee on child care established under section 11 to carry out their respective duties.

(3) ADMINISTRATIVE SUPPORT.—The lead agency shall provide to such council such funds, and administrative support services (including personnel) directly or by contract, as may be necessary to enable such council to carry out its duties.

(4) CONFLICTS OF INTEREST.—A member of such council may not cast a vote on any matter that—

(A) may result in a financial benefit to such member; or

(B) under Federal, State, or local law would create or appear to create a conflict of interest if such vote were cast by such member.

(5) PUBLIC AWARENESS OF COUNCIL PARTICIPATION.—The Secretary shall require by rule that residents of each geographical area for which a local advisory council is appointed are informed of the opportunity to be appointed to such council.

SEC. 7. APPLICATION AND PLAN.

(a) APPLICATION.—To be eligible to receive assistance under this Act, a State shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require by rule.

(b) PLAN.—The application of a State submitted under subsection (a) shall include an assurance that the State will comply with the requirements of this Act and a State plan that is designed to be implemented during a 4-year period and that meets the requirements of subsection (c).

(c) REQUIREMENTS OF A PLAN.—

(1) LEAD AGENCY.—The plan shall identify the lead agency designated in accordance with section 6(a).

(2) ADVISORY BODIES.—The plan shall demonstrate that the State will establish in accordance with section 11 a State advisory committee on child care.

(3) POLICIES AND PROCEDURES.—The plan shall set forth policies and procedures designed to ensure all of the following:

(A) That, to the maximum extent practicable—

(i) the parents of each eligible child who will receive child care services for which assistance is provided under paragraph (4) are permitted to select the eligible child care provider that will provide such services to such child;

(ii) the State will attempt to place such child with the eligible child care provider selected by such parents; and

(iii) procedures shall be established by the State to ensure that the parents of children eligible for a child care certificate under this Act and the eligible child care provider sign a written agreement with the lead State agency concerning the provision of child care services to such child.

(B) That—

(i) all providers of child care services for which assistance is provided under this Act comply with all licensing and regulatory requirements (including registration requirements) applicable under State and local law; and

(ii) such requirements are imposed and enforced by the State uniformly on all child care providers that provide child care services under similar child care arrangements.

This subparagraph shall not be construed to prohibit a State from imposing more stringent standards or requirements on child care providers who provide services for which assistance is provided under this Act and who also receive State funds under any other law to provide child care services under a contract or other arrangement with the State.

(C) That procedures will be established to ensure that child care providers receiving assistance under this Act or under other publicly-assisted child care programs comply with the minimum child care standards established under section 18(e)(2) after the expiration of the 4-year period beginning on the date the Secretary establishes such standards, and comply with all applicable State and local licensing and regulatory requirements (including registration requirements).

(D) That the State will not—

(i) reduce the categories of child care providers licensed or regulated by the State on the date of enactment of this Act; or

(ii) reduce the level of standards applicable to child care services provided in the State and to the matters specified in sections 13(a) and 18(d), even if such standards exceed the minimum standards established under section 18(e)(2) by the Secretary unless the State, with the concurrence of the State advisory committee established under section 11, requests a waiver of this subparagraph and demonstrates, to the satisfaction of the Secretary, that the proposed reduction is necessary to increase access to and availability of eligible child care providers and will not jeopardize the health and safety of children.

(E) That funds received under this Act by the State will be used only to supplement, not to supplant, the amount of Federal, State, and local funds expended for the support of child care services and related programs in the State, except that States may use existing expenditures in support of child care services to satisfy the State matching requirement under section 17(b) and may not use such expenditures to satisfy the matching requirements of any other Federal program.

(F) That for each fiscal year the State will use an amount not to exceed 8 percent of the amount of funds received under section 5 by the State for such fiscal year to administer the State plan.

(G) That the State will pay funds under this Act to eligible child care providers in a timely fashion to ensure the continuity of child care services to eligible children.

(H) That resource and referral agencies will be made available to families in all regions of the State.

(I) That each eligible child care provider who provides services for which assistance is provided under paragraph (4)—

(i) gives priority for provider services to children of families with very low income, taking into account family size;

(ii) after the expiration of the 4-year period beginning on the date the Secretary establishes minimum child care standards under section 18(e)(2), complies with such standards except as provided in clause (iii);

(iii) if such eligible child care provider is regulated by a State educational agency that—

(I) administers any State law applicable to child care services;

(II) develops child care standards that meet or exceed the minimum standards established under section 18(e)(2) and the State licensing or regulatory requirements (including registration requirements); and

(III) enforces the standards described in subclause (II) that are developed by such agency, using policies and practices that meet or exceed the requirements specified in subparagraphs (A) through (K) of paragraph (11);

complies with the standards described in subclause (II) that are developed by such agency; and

(iv) complies with the State plan and the requirements of this Act.

(J) That child care services for which assistance is provided under paragraph (4) are available to children with a handicapping condition.

(K) That appropriate State regulations will be issued governing the provision of school-age child care services if the State does not already have such regulations.

(L) That child care providers in the State are encouraged to develop personnel policies that include compensated time for staff undergoing training required under this Act.

(M) Encourage the payment of adequate salaries and other compensation—

(i) to full and part-time staff of child care providers who provide child care services for which assistance is provided under paragraph (4);

(ii) to the extent practicable, to such staff in other major Federal and State child care programs; and

(iii) to other child care personnel, at the option of the State.

(N) That child care services for which assistance is provided under paragraph (4) are available for an adequate number of hours and days to serve the needs of parents of eligible children, including parents who work nontraditional hours.

(4) CHILD CARE SERVICES.—The plan shall provide that—

(A) subject to subparagraph (B), the State will use at least 70 percent of the amount allotted to the State in any fiscal year to provide child care services that meet the requirements of this Act to eligible children in the State on a sliding fee scale basis and using funding methods provided for in section 8(a)(1), with priority being given for services to children of families with very low family incomes, taking into consideration the size of the family; and

(B) the State will use at least 10 percent of the funds reserved for the purposes specified in subparagraph (A) in any fiscal year to provide for the extension of part-day programs as described in section 8(b).

(5) ACTIVITIES TO IMPROVE THE QUALITY OF CHILD CARE.—The plan shall provide that the State will use not more than 10 percent of the amount allotted to it in any fiscal year to do each of the following:

(A) Provide financial assistance, pursuant to procedures established under the State Dependent Care Development Grants Act (42 U.S.C. 9801 note), to private nonprofit organizations or public organizations (including units of general purpose local government) that meet the requirements of section 12 for the development, establishment, expansion, operation, and coordination of resource and referral programs specifically related to child care.

(B) Improve the monitoring of compliance with, and enforcement of, the licensing and regulatory requirements (including registration requirements) of the State.

(C) Provide training, technical assistance, and scholarship assistance in accordance with the requirements of subsections (b), (c), and (d) of section 13.

(D) Ensure that adequate salaries and other compensation are paid to full- and part-time staff who provide child care services for which assistance is provided under paragraph (4).

(6) ACTIVITIES TO INCREASE THE AVAILABILITY OF CHILD CARE.—The plan shall provide that the State will use not more than 12 percent of the amount allotted to it in any fiscal year for any of the following activities:

(A) Making grants or low interest loans to existing and potential family child care providers and nonprofit child care providers to help such providers pay the cost of—

(i) establishing child care programs; and

(ii) making renovations and improvements in existing facilities to be used to carry out such programs.

(B) Making grants or low-interest loans to child care providers to assist such providers in meeting Federal, State, and local child care standards, giving priority to providers receiving assistance under this Act or under other publicly assisted child care programs and which serve children of families that have very low incomes.

(C) Providing funds for the child care public-private partnership activities described in section 14.

(D) Providing assistance for the establishment and operation of after school child care programs.

(E) Providing assistance for the temporary care of children who are sick and unable to attend child care programs in which such children are enrolled.

(F) Providing assistance for the establishment and operation of child care programs for homeless children.

(G) Providing assistance to link child care programs with programs designed to assist the elderly.

(H)(i) Establishing and administering a revolving loan fund from which any person desiring to make capital improvements to the principal residence of such person (within the meaning of section 1034 of the Internal Revenue Code of 1986) may obtain a loan in order to become a licensed family child care provider, pursuant to State and local law, and to comply with the minimum standards applicable to such providers as established under section 18(e)(2).

(ii) To permit the use of funds provided under this Act for the activity described in clause (i), the State shall set forth procedures and guidelines to carry out the purposes of such clause, including procedures—

(I) that provide assurances that only applicants who obtain a license for the operation of a child care facility in accordance with the provisions of State and local law and who will meet the minimum standards applicable to family child care services established under section 18(e)(2), benefit from loans made available pursuant to the provisions of clause (i);

(II) to assure that the revolving fund will be administered by the State and will provide loans to qualified applicants, pursuant to the terms and conditions established by such State, in an amount, determined by such State, that is not in excess of $1,500;

(III) to assure that funds used to carry out the purpose of clause (i) are transferred to such fund to provide capital for making loans;

(IV) to assure that interest and principal payments on loans and any other moneys, property, or assets derived from any action concerning such funds are deposited into such fund;

(V) to assure that all loans, expenses, and payments pursuant to the operation of the revolving loan fund are paid from such fund;

(VI) to assure that loans made from such fund are made to qualified applicants to enable such applicants to make capital improvements so that such applicant may obtain a State or local family child care provider license and so that such applicant may meet the minimum standards applicable to such providers established under section 18(e)(2); and

(VII) that specify how such revolving loan fund will continue to be financed in subsequent years, such as through contributions by the State or by some other entity.

(I) Providing assistance for any other activity deemed by the State to be in accordance with the purposes of this paragraph.

(7) DISTRIBUTION OF FUNDS.—The plan shall provide that funds will be distributed—

(A) to a variety of types of child care providers, including center-based child care providers, group home child care providers, and family child care providers; and

(B) equitably among child care providers to provide child care services in rural and urban areas.

(8) REIMBURSEMENTS.—The plan shall provide that for child care services for which assistance is provided under this Act, an eligible child care provider shall have a right to reimbursement at the same rate charged by that provider for comparable services to children of comparable ages and special needs whose parents are not eligible for certificates under this Act or for child care assistance under any other Federal or State program.

(9) PRIORITY.—The plan shall provide that priority will be given, in distributing funds in the State, to child care providers that—

(A) in providing child care services assisted by such funds, will give priority to eligible children of families with very low income;

(B) to the maximum extent feasible, provide child care services to a reasonable mix of children, including children from different socioeconomic backgrounds and children with a handicapping condition;

(C) provide opportunities for parent involvement in all aspects of providing such services; and

(D) to the maximum extent feasible, offer family support services.

(10) SLIDING FEE SCALE.—The plan shall provide for the establishment of a sliding fee scale that requires cost sharing based on the services provided to and the income of the families (adjusted for family size) of eligible children who receive services for which assistance is provided under this Act.

(11) PARENTAL INVOLVEMENT.—The plan shall establish procedures for parental involvement in State and local planning, monitoring, and evaluation of child care programs and services in the State.

(12) ENFORCEMENT OF LICENSING AND OTHER REGULATORY REQUIREMENTS (INCLUDING REGISTRATION REQUIREMENTS).—The plan shall provide that the State, not later than 4 years after the date of enactment of this Act, shall have in effect enforcement policies and practices that will be applicable to all licensed or regulated child care providers (including child care providers required to register) in the State, including policies and practices that—

(A) require personnel who perform inspection functions with respect to licensed or regulated child care services to have or receive training in health and safety, child abuse prevention and detection, program management, and relevant law enforcement;

(B) to the maximum extent feasible, have personnel requirements to ensure that individuals who are hired as licensing inspectors are qualified to inspect and have inspection responsibility exclusively for children's services;

(C) require—

(i) personnel who perform inspection functions with respect to licensed or regulated child care services to make not less than 1 unannounced inspection of each center-based child care provider and each group home child care provider in the State annually; and

(ii) personnel who perform inspection functions with respect to licensed or regulated child care services to make unannounced inspections annually of not less than 20 percent of licensed and regulated family child care providers in the State;

(D) require licensed or regulated child care providers (including registered child care providers) in the State—

(i) to have written policies and program goals and to make a copy of such policies and goals available to parents; and

(ii) to provide parents with unlimited access to their children and to providers caring for their children, during normal hours of operation of such providers and whenever children of such parents are in the care of such providers;

(E) implement a procedure to address complaints that will provide a reasonable opportunity for a parent, or child care provider, that is adversely affected or aggrieved by a decision of the lead agency or any program assisted under this Act, to be heard by the State;

(F) prohibit the operator of a child care facility to take any action against an employee of such operator that would adversely affect the employment, or terms or condi-

tions of employment, of such employee because such employee communicates a failure of such operator to comply with any applicable licensing or regulatory requirement;

(G) implement a consumer education program designed to inform parents and the general public about licensing requirements, complaint procedures, and policies and practices required by this paragraph;

(H) require a child care provider to post, on the premises where child care services are provided, the telephone number of the appropriate licensing or regulatory agency that parents may call regarding a failure of such provider to comply with any applicable licensing or regulatory requirement; and

(I) require the State to maintain a record of parental complaints and to make information regarding substantiated parental complaints available to the public on request.

(13) DATA COLLECTION.—The plan shall provide for the establishment of procedures for data collection by the State designed to show—

(A) by race, sex, ethnic origin, handicapping condition, and family income, how the child care needs of families in the State are being fulfilled, including information on—

(i) the number of children being assisted with funds provided under this Act, and under other State and Federal child care and preschool programs;

(ii) the type and number of child care programs, child care providers, caregivers, and support personnel located in the State;

(iii) the regional cost of child care; and

(iv) such other information as the Secretary considers necessary to establish how funds provided under this Act are being used;

(B) the extent to which the availability of child care has been increased; and

(C) how the purposes of this Act and the objectives of the State set forth in the State plan are being met, including efforts to improve the quality, availability, and accessibility of child care;

and shall provide that data collected by the State under this paragraph shall be submitted to the Secretary.

(d) APPROVAL OF APPLICATION.—The Secretary shall approve an application that satisfies the requirements of this section.

(e) SPECIAL RULE.—In carrying out the provisions of this section, the Secretary shall approve any application with respect to the activities described in the plan submitted under paragraph (5) of subsection (c), if the Secretary determines that the State is making reasonable progress in carrying out the activities which are described in subparagraphs (A) and (D) of paragraph (5).

SEC. 8. SPECIAL RULES FOR USE OF STATE ALLOTMENTS.

(a) FUNDING OF CHILD CARE SERVICES.—

(1) IN GENERAL.—The child care services referred to in section 7(c)(4) that are to be provided out of the allotment to a State, shall be provided—

(A) by contracts with or grants to eligible child care providers who agree to provide such services directly to eligible children;

(B) by grants to units of general purpose local government that agree to enter into contracts with eligible child care providers who agree to provide such services directly to eligible children; or

(C) by distributing child care certificates to parents of eligible children under such terms as the Secretary shall prescribe to enable the recipients of such certificates to purchase child care services from eligible child care providers.

(2) LIMITATION ON CERTIFICATES.—Child care certificates authorized by paragraph (1)(C) may be issued by a State only if a resource and referral program carried out by an organization that meets the requirements of section 12 is available to help parents locate child care services made available by eligible child care providers.

(3) NO ENTITLEMENT TO CONTRACT OR GRANT.—Nothing in this Act shall be construed to entitle any child care provider or recipient of a child care certificate to any contract, grant or benefit, or to limit the right of any State to impose additional limitations or conditions on contracts or grants funded under this Act.

(b) PART-DAY PROGRAMS.—

(1) IN GENERAL.—At least 10 percent of the funds available for activities under section 7(c)(4)(A) shall be used by the State to enable child care providers to extend the hours of operation of the part-day programs described in paragraph (2) to provide full-working-day child care services throughout the year, in order to meet the needs of parents of eligible children.

(2) ELIGIBLE PROGRAMS.—As used in paragraph (1), the term "part-day programs" means—

(A) programs of schools and nonprofit child care providers (including community-based organizations) receiving State or local funds designated for preschool;

(B) programs established under the Head Start Act (42 U.S.C. 9831 et seq.);

(C) preschool programs for which assistance is provided under chapter 1 of the Education Consolidation and Improvement Act of 1981 (20 U.S.C. 3801 et seq.); and

(D) preschool programs for children with a handicapping condition.

(c) FACILITIES.—

(1) NEW FACILITIES.—No financial assistance provided under this Act shall be expended for the construction of a new facility.

(2) EXISTING FACILITIES.—No financial assistance provided under this Act shall be expended to renovate or repair any facility unless—

(A) the child care provider that receives such financial assistance agrees—

(i) in the case of a grant, to repay to the Secretary or the State, as the case may be, the amount that bears the same ratio to the amount of such grant as the value of the renovation or repair, as of the date such provider ceases to provide child care services in such facility in accordance with this Act, bears to the original value of the renovation or repair; and

(ii) in the case of a loan, to repay immediately to the Secretary or the State, as the case may be, the principal amount of such loan outstanding and any interest accrued, as of the date such provider ceases to provide child care services in such facility in accordance with this Act;

if such provider does not provide child care services in such facility in accordance with this Act throughout the useful life of the renovation or repair; and

(B) if such provider is a sectarian agency or organization, the renovation or repair is necessary to bring such facility into compliance with health and safety requirements imposed by this Act.

SEC. 9. PLANNING GRANTS.

(a) IN GENERAL.—A State desiring to participate in the programs authorized by this Act that cannot fully satisfy the requirements of the State plan under section 7(b) without financial assistance may, in the first year that the State participates in the programs, apply to the Secretary for a planning grant.

(b) AUTHORIZATION.—The Secretary is authorized to make a planning grant to a State described in subsection (a) if the Secretary determines that—

(1) the grant would enable the State to fully satisfy the requirements of a State plan under section 7(b); and

(2) the State will apply, for the remainder of the allotment that the State is entitled to receive for such fiscal year.

(c) AMOUNT OF GRANT.—A grant made to a State under this section shall not exceed 1 percent of the total allotment that the State would qualify to receive in the fiscal year involved if the State fully satisfied the requirements of section 7.

(d) LIMITATION ON ADMINISTRATIVE COSTS.—A grant made under this section shall be considered to be expended for administrative costs by the State for purposes of determining the compliance by the State with the limitation on administrative costs imposed by section 7(c)(3)(F).

SEC. 10. CONTINUING ELIGIBILITY OF STATES.

A State shall be ineligible for assistance under this Act after the expiration of the 4-year period beginning on the date the Secretary establishes minimum child care standards under section 18(e)(2) unless the State demonstrates to the satisfaction of the Secretary that—

(1) all child care providers required to be licensed and regulated in the State—

(A) are so licensed and regulated; and

(B) are subject to the enforcement provisions referred to in the State plan; and

(2) all such providers who are receiving assistance under this Act or under other publicly-assisted child care programs—

(A) satisfy the requirements of subparagraphs (A) and (B) of paragraph (1); and

(B) except as provided in section 18(f), satisfy the minimum child care standards established by the Secretary under section 18(e)(2) of this Act.

SEC. 11. STATE ADVISORY COMMITTEE ON CHILD CARE.

(a) ESTABLISHMENT.—The chief executive officer of a State participating in the program authorized by this Act shall—

(1) establish a State advisory committee on child care (hereinafter in this section referred to as the "committee") to assist the lead agency in carrying out the responsibilities of the lead agency under this Act; and

(2) appoint the members of the committee.

(b) COMPOSITION.—The State committee shall be composed of not fewer than 21 and not more than 30 members who shall include—

(1) at least 1 representative of the lead agency designated under section 6(a);

(2) 1 representative of each of—

(A) the State departments of—

(i) human resources or social services;

(ii) education;

(iii) economic development; and

(iv) health; and

(B) other State agencies having responsibility for the regulation, funding, or provision of child care services in the State;

(3) at least 1 representative of providers of different types of child care services, including caregivers and directors;

(4) at least 1 representative of early childhood development experts;

(5) at least 1 representative of school districts and teachers involved in the provision of child care services and preschool programs;

(6) at least 1 representative of resource and referral programs;

(7) 1 pediatrician;

(8) 1 representative of a citizen group concerned with child care;

(9) at least 1 representative of an organization representing child care employees;

(10) at least 1 representative of the Head Start agencies in the State;

(11) parents of children receiving, or in need of, child care services, including at least 2 parents whose children are receiving or are in need of subsidized child care services;

(12) 1 representative of specialists concerned with children who have a handicapping condition;

(13) 1 representative of individuals engaged in business;

(14) 1 representative of fire marshals and building inspectors;

(15) 1 representative of child protective services; and

(16) 1 representative of units of general purpose local government.

(c) FUNCTIONS.—The committee shall—

(1) advise the lead agency on child care policies;

(2) provide the lead agency with information necessary to coordinate the provision of child care services in the State;

(3) otherwise assist the lead agency in carrying out the functions assigned to the lead agency under section 6(c);

(4) review and evaluate child services for which assistance is provided under this Act or under State law, in meeting the objectives of the State plan and the purposes of this Act;

(5) make recommendations on the development of State child care standards and policies;

(6) participate in the regional public hearings required under section 6(c)(5); and

(7) perform other functions to improve the quantity and quality of child care services in the State.

(d) MEETINGS AND HEARINGS.—

(1) IN GENERAL.—Not later than 30 days after the beginning of each fiscal year, the committee shall meet and establish the time, place, and manner of future meetings of the committee.

(2) MINIMUM NUMBER OF HEARINGS.—The committee shall have at least 2 public hearings each year at which the public shall be given an opportunity to express views concerning the administration and operation of the State plan.

(e) USE OF EXISTING COMMITTEES.—To the extent that a State has established a broadly representative State advisory group, prior to the date of enactment of this Act, that is comparable to the advisory committee described in this section and focused exclusively on child care and early childhood development programs, such State shall be considered to be in compliance with subsections (a) through (c).

(f) SUBCOMMITTEE ON LICENSING.—

(1) COMPOSITION.—The committee shall have a subcommittee on licensing (hereinafter in this section referred to as the "subcommittee") that shall be composed of the members appointed under paragraphs (2)(A)(iv), (3), (6), (7), (11), (14), and (15) of subsection (b).

(2) FUNCTIONS.—The subcommittee shall review the law applicable to, and the licensing requirements and the policies of, each licensing agency that regulates child care services and programs in the State unless the State has reviewed such law, requirements, and policies in the 4-year period ending on the date of the establishment of the committee under subsection (a).

(g) REPORT.—

(1) IN GENERAL.—Not later than 1 year after establishment of the committee under subsection (a), the committee shall prepare and submit to the chief executive officer of the State involved a report.

(2) CONTENTS OF REPORT.—A report prepared under paragraph (1) shall contain—

(A) an analysis of information on child care services provided by center-based child care providers, group home child care providers, and family child care providers;

(B) a detailed statement of the findings and recommendations that result from the subcommittee review under subsection (f)(2), including a description of the current status of child care licensing, regulating, monitoring, and enforcement in the State;

(C) a detailed statement identifying and describing the deficiencies in the existing licensing, regulating, and monitoring programs of the State involved, including an assessment of the adequacy of staff to carry out such programs effectively, and recommendations to correct such deficiencies or to improve such programs; and

(D) comments on the minimum child care standards established by the Secretary under section 18(e)(2).

(3) RECEIPT OF REPORT BY THE CHIEF EXECUTIVE OFFICER OF THE STATE.—Not later than 60 days after receiving the report from the committee, the chief executive officer of the State shall transmit such report to the Secretary with—

(A) the comments of the chief executive officer of the State; and

(B) a plan for correcting deficiencies in, or improving the licensing, regulating, and monitoring, of the child care services and programs referred to in subsection (f)(2).

(h) SERVICES AND PERSONNEL.—

(1) AUTHORITY.—The lead agency is authorized to provide the services of such personnel, and to contract for such other services as may be necessary, to enable the committee and the subcommittee to carry out their functions under this Act.

(2) REIMBURSEMENT.—Members of the committee shall be reimbursed, in accordance with standards established by the Secretary, for necessary expenses incurred by such members in carrying out the functions of the committee and the subcommittee.

(3) SUFFICIENCY OF FUNDS.—The Secretary shall ensure that sufficient funds are made available, from funds available for the administration of the State plan, to the committee and the subcommittee to carry out the requirements of this section.

SEC. 12. RESOURCE AND REFERRAL PROGRAMS.

(a) ELIGIBILITY FOR ASSISTANCE.—Each State receiving funds under this Act shall, pursuant to section 7(c)(5)(A), make grants to or enter into contracts with private nonprofit organizations or public organizations (including units of general purpose local government), as resource and referral agencies to ensure that resource and referral services are available to families in all geographical areas in the State.

(b) FUNDING.—Organizations that receive assistance under subsection (a) shall carry out resource and referral programs—

(1) to identify all types of existing child care services, including services provided by individual family child care providers and by child care providers who provide child care services to children with a handicapping condition;

(2) to provide to interested parents information and referral regarding such services, including the availability of public funds to obtain such services;

(3) to provide or arrange for the provision of information, training, and technical assistance to existing and potential child care providers and to others (including businesses) concerned with the availability of child care services; and

(4) to provide information on the demand for and supply of child care services located in a community.

(c) REQUIREMENTS.—To be eligible for assistance as a resource and referral agency under subsection (a), an organization shall—

(1) have or acquire a database of information on child care services in the State or in a particular geographical area that the organization continually updates, including child care services provided in centers, group home child care settings, nursery schools, and family child care settings;

(2) have the capability to provide resource and referral services in a particular geographical area;

(3) be able to provide parents with information to assist them in identifying quality child care services;

(4) to the maximum extent practicable, notify all eligible child care providers in such area of the functions it performs and solicit such providers to request to be listed to receive referrals made by such organization; and

(5) otherwise comply with regulations promulgated by the State in accordance with subsection (d).

(d) LIMITATION ON INFORMATION.—In carrying out this section, an organization receiving assistance under subsection (a) as a resource and referral agency shall not provide information concerning any child care program or services which are not in compliance with the laws of the State and localities in which such services are provided.

SEC. 13. TRAINING AND TECHNICAL ASSISTANCE.

(a) MINIMUM REQUIREMENT.—A State receiving funds under this Act shall require, not later than 2 years after the date of the enactment of this Act, that all employed or self-employed individuals who provide licensed or regulated child care services (including registered child care services) in a State complete at least 40 hours of training over a 2-year period in areas appropriate to the provision of child care services, including training in health and safety, nutrition, first aid, the recognition of communicable diseases, child abuse detection and prevention, and the needs of special populations of children.

(b) GRANTS AND CONTRACTS FOR TRAINING AND TECHNICAL ASSISTANCE.—

(1) GRANTS AND CONTRACTS.—The State shall make grants to, and enter into contracts with State agencies, units of general purpose local government, institutions of higher education, and nonprofit organizations (including resource and referral organizations, child care food program sponsors, and family child care associations, as appropriate) to develop and carry out child care training and technical assistance programs under which preservice and continuing inservice training is provided to eligible child care providers, including family child care providers, and the staff of such providers including teachers, administrative personnel, and staff of resource and referral programs involved in providing child care services in the State.

(2) ELIGIBILITY REQUIREMENTS FOR GRANTS AND CONTRACTS RELATING TO TRAINING FOR

FAMILY CHILD CARE PROVIDERS.—To be eligible to receive a grant or enter into a contract for a training and technical assistance program for family child care providers under paragraph (1), a nonprofit organization shall—

(A) recruit and train family child care providers, including providers with the capacity to provide night-time and emergency child care services;

(B) operate resource centers to make developmentally appropriate curriculum materials available to family child care providers;

(C) provide grants to family child care providers for the purchase of moderate cost equipment to be used to provide child care services; and

(D) operate a system of substitute caregivers.

(3) ELIGIBILITY REQUIREMENTS FOR GRANTS AND CONTRACTS RELATING TO TECHNICAL ASSISTANCE.—To be eligible to receive a grant, or enter into a contract under subsection (b) to provide technical assistance, an agency, organization, or institution shall agree to furnish technical assistance to child care providers to assist such providers—

(A) in understanding and complying with local regulations and relevant tax and other policies;

(B) in meeting State licensing, regulatory, and other requirements (including registration) pertaining to family child care providers.

(c) SCHOLARSHIP ASSISTANCE.—The State shall provide scholarship assistance to—

(1) individuals who seek a nationally recognized child development associate credential for center-based or family child care and whose income does not exceed the poverty line (as defined in section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2))) by more than 100 percent, in amounts sufficient to cover the costs involved in securing such credential; and

(2) caregivers who seek to obtain the training referred to in subsection (a) and whose income does not exceed such poverty line.

(d) CLEARINGHOUSE.—The State shall establish in the lead agency a clearinghouse to collect and disseminate training materials to resource and referral agencies and child care providers throughout the State.

SEC. 14. CHILD CARE PUBLIC-PRIVATE PARTNERSHIP.

(a) ACTIVITIES AUTHORIZED.—Each State using funds as described in section 7(c)(6)(C) shall design activities conducted with such funds to encourage businesses in the State to support or provide child care services to a reasonable mix of children, including children from different socioeconomic backgrounds, and children of employees and nonemployees. Such activities may include—

(1) disseminating information relating to—

(A) model child care programs appropriate for implementation by such businesses;

(B) flexible employee work schedules; and

(C) other technical assistance that would enable employers to establish and operate child care programs;

(2) making grants or loans on a competitive basis to assist employers in establishing innovative child care programs;

(3) establishing a demonstration program under which grants are made to local nonprofit private organizations to improve and expand child care services in cooperation with employees who contribute to the cost of such improvement or expansion;

(4) making grants to non-profit business organizations to provide technical information and assistance to enable employers to develop and operate child care services; and

(5) encouraging such businesses to participate in resource and referral activities carried out by organizations recognized under section 12.

(b) DUTIES OF STATE.—In carrying out the activities described in subsection (a), the State shall—

(1) consult with the State advisory committee on child care established under section 11;

(2) provide outreach to businesses participating in such activities; and

(3) encourage such businesses to contribute to the cost of carrying out such activities.

(c) BUSINESS PARTNERSHIP TASK FORCE.—The State may carry out subsection (a) in consultation with—

(1) a business task force appointed by the State from among representatives of businesses of various sizes in the State; and

(2) a state entity that administers laws relating to productive economic development.

(d) PRESIDENT'S AWARD FOR PROGRESSIVE MANAGEMENT POLICY.—

(1) ESTABLISHMENT AND AWARD.—

(A) IN GENERAL.—There is established the President's Award for Responsive Management Policy to honor public and private sector employers who have—

(i) successfully implemented in their businesses family-oriented personnel programs and policies responsive to the child care needs of working parents; or

(ii) made significant contributions to child care projects in their communities.

(B) CITATION.—The President's Award for Responsive Management Policy shall consist of a certificate, plaque, or other appropriate citation.

(2) NOMINATION AND SELECTION.—

(A) NOMINATIONS.—Each year the President, acting through the Secretary of Labor, shall solicit nominations for the President's Award for Responsive Management Policy from State and local elected officials, educational institutions, State-based employee or business associations, or other State or local entities.

(B) RECIPIENTS.—The President, in conclusion with the Secretary of Labor, shall select not less than 3 such nominees from each State to receive the President's Award for that year.

(C) REPRESENTATION.—Of the nominees selected from each State to receive such awards, at least 1 shall represent—

(i) a small business;

(ii) an intermediate-size business; and

(iii) a large business.

(3) PRESENTATION.—The President shall present the President's Award each year with such ceremonies as the President may consider proper.

(4) REGULATIONS.—The Secretary of Labor shall promulgate such regulations as are necessary to carry out the provisions of this section.

(5) DEFINITIONS.—As used in this section:

(A) INTERMEDIATE-SIZE BUSINESS.—The term "intermediate-size business" means a business with at least 101 but not more than 500 employees.

(B) LARGE BUSINESS.—The term "large business" means a business with 501 or more employees.

(C) SMALL BUSINESS.—The term "small business" means a business with not more than 100 employees.

(D) STATE.—The term "State" means any State, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, the Canal Zone, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, the Trust Territory of the Pacific Islands, and any other territory or possession of the United States.

SEC. 15. FEDERAL ADMINISTRATION OF CHILD CARE.

(a) ADMINISTRATOR OF CHILD CARE.—There is hereby established in the Department of Health and Human Services the position of Administrator of Child Care (hereinafter in this section referred to as the "Administrator"). The Secretary shall appoint an individual to serve as the Administrator at the pleasure of the Secretary.

(b) DUTIES.—The Administrator shall—

(1) coordinate all activities of the Department of Health and Human Services relating to child care, and coordinate such activities with similar activities of other Federal entities;

(2) annually collect and publish State child care standards, including periodic modifications to such standards;

(3) evaluate activities carried out with funds provided under this Act;

(4) act as a clearinghouse to collect and disseminate materials that relate to—

(A) the child care training and technical assistance programs described in section 13(b)(1); and

(B) studies that relate to the salaries paid to individuals employed to provide child care services; and

(5) provide technical assistance to assist States to carry out this Act.

SEC. 16. FEDERAL ENFORCEMENT.

(a) REVIEW OF COMPLIANCE WITH STATE PLAN.—The Secretary shall review and monitor State compliance with this Act and the plan approved under section 7(d) for the State.

(b) NONCOMPLIANCE.—

(1) IN GENERAL.—If the Secretary, after reasonable notice and opportunity for a hearing to a State, finds that—

(A) there has been a failure by the State to comply substantially with any provision or any requirements set forth in the plan approved under section 7(d) for the State; or

(B) in the operation of any program or project for which assistance is provided under this Act there is a failure by the State to comply substantially with any provision of this Act;

the Secretary shall notify the State of the finding and that no further payments may be made to such State under this Act (or, in the case of noncompliance in the operation of a program or activity, that no further payments to the State will be made with respect to such program or activity) until the Secretary is satisfied that there is no longer any such failure to comply or that the noncompliance will be promptly corrected.

(2) ADDITIONAL SANCTIONS.—In the case of a finding of noncompliance made pursuant to this paragraph (1), the Secretary may, in addition to imposing the sanctions described in such paragraph, impose other appropriate sanctions, including recoupment of money improperly expended for purposes prohibited or not authorized by this Act, and disqualification from the receipt of financial assistance under this Act.

(3) NOTICE.—The notice required under paragraph (1) shall include a specific identification of any additional sanction being imposed under paragraph (2).

(c) ISSUANCE OF RULES.—The Secretary shall establish by rule procedures for—

(1) receiving, processing, and determining the validity of complaints concerning any

failure of a State to comply with the State plan or any requirement of this Act; and

(2) imposing sanctions under this section.

SEC. 17. PAYMENTS.

(a) IN GENERAL.—

(1) AMOUNT OF PAYMENT.—Each State that—

(A) has an application approved by the Secretary under section 7(d); and

(B) demonstrates to the satisfaction of the Secretary that it will provide from non-Federal sources the State share of the aggregate amount to be expended by the State under the State plan for the fiscal year for which it requests a grant;

shall receive a payment under this section for such fiscal year in an amount (not to exceed its allotment under section 5 for such fiscal year) equal to the Federal share of the aggregate amount to be expended by the State under the State plan for such fiscal year.

(2) FEDERAL SHARE.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the Federal share for each fiscal year shall be 80 percent.

(B) EXCEPTION.—If a State makes the demonstration specified in section 10 throughout a fiscal year for which it requests a grant, then the Federal share shall be 85 percent.

(3) STATE SHARE.—The State share equals 100 percent minus the Federal share.

(4) LIMITATION.—A State may not require any private provider of child care services that receives or seeks funds made available under this Act to contribute in cash or in kind to the State contribution required by this subsection.

(b) METHOD OF PAYMENT.—

(1) IN GENERAL.—Subject to paragraph (2), the Secretary may make payments to a State in installments, and in advance or by way of reimbursement, with necessary adjustments on account of overpayments or underpayments, as the Secretary may determine.

(2) LIMITATION.—The Secretary may not make such payments in a manner that prevents the State from complying with the requirement specified in section 7(c)(3)(F).

(c) SPENDING OF FUNDS BY STATE.—Payments to a State from the allotment under section 5 for any fiscal year may be expended by the State in that fiscal year or in the succeeding fiscal year.

SEC. 18. NATIONAL ADVISORY COMMITTEE ON MINIMUM CHILD CARE STANDARDS.

(a) ESTABLISHMENT.—

(1) IN GENERAL.—In order to improve the quality of child care services, the Secretary shall establish, not later than 60 days after the date of the enactment of this Act, a National Advisory Committee on Minimum Child Care Standards (hereinafter in this section referred to as the "Committee"), the members of which shall be appointed from among representatives of—

(A) the chief executive officers of the several States;

(B) State legislatures;

(C) units of general purpose local governments;

(D) businesses;

(E) individuals responsible for regulating the insurance industry within the States;

(F) religious institutions;

(G) different types of child care providers;

(H) persons who carry out resource and referral programs;

(I) child care, early childhood development, or early childhood education specialists;

(J) individuals who have expertise in pediatric health care, handicapping conditions, and related fields;

(K) organizations representing child care employees;

(L) individuals who have experience in the regulation of child care services; and

(M) parents who have been actively involved in community child care programs.

(2) APPOINTMENT OF MEMBERS.—The Committee shall be composed of 20 members of which—

(A) 4 members shall be appointed by the President;

(B) 4 members shall be appointed by the majority leader of the Senate;

(C) 4 members shall be appointed by the minority leader of the Senate;

(D) 4 members shall be appointed by the Speaker of the House of Representatives; and

(E) 4 members shall be appointed by the minority leader of the House of Representatives.

(3) CHAIRMAN.—The President shall appoint a chairman from among the members of the Committee.

(4) VACANCIES.—A vacancy occurring on the Committee shall be filled in the same manner as that in which the original appointment was made.

(b) PERSONNEL, REIMBURSEMENT, AND OVERSIGHT.—

(1) PERSONNEL.—The Secretary shall make available to the Committee office facilities, personnel who are familiar with child development and with developing and implementing regulatory requirements, technical assistance, and funds as are necessary to enable the Committee to carry out effectively its functions.

(2) REIMBURSEMENT.—

(A) COMPENSATION.—Members of the Committee who are not regular full-time employees of the United States Government shall, while attending meetings and conferences of the Committee or otherwise engaged in the business of the Committee (including traveltime), be entitled to receive compensation at a rate fixed by the Secretary, but not exceeding the rate specified at the time of such service under GS-18 of the General Schedule established under section 5332 of title 5, United States Code.

(B) EXPENSES.—While away from their homes or regular places of business on the business of the Committee, such members may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons employed intermittently in the Government service.

(3) OVERSIGHT.—The Secretary shall ensure that the Committee is established and operated in accordance with the Federal Advisory Committee Act (5 U.S.C. App.).

(c) FUNCTIONS.—The Committee shall—

(1) review Federal policies with respect to child care services and such other data as the Committee may deem appropriate;

(2) not later than 180 days after the date on which a majority of the members of the Committee are first appointed, submit to the Secretary proposed minimum standards described in subsection (d) for child care services, taking into account the different needs of infants, toddlers, preschool and schoolage children; and

(3) develop and make available to lead agencies, for distribution to resource and referral agencies in the State, model requirements for resource and referral agencies.

(d) MINIMUM CHILD CARE STANDARDS.—The proposed child care standards submitted pursuant to subsection (c)(2) shall be minimum standards and shall consist of only the following:

(1) CENTER-BASED CHILD CARE SERVICES.—Such standards submitted with respect to child care services provided by center-based child care providers shall be limited to—

(A) group size limits in terms of the number of caregivers and the number and ages of children;

(B) the maximum appropriate child-staff ratios;

(C) qualifications and background of child care personnel;

(D) health and safety requirements for children and caregivers; and

(E) parental involvement in licensed and regulated child care services.

The standards described in subparagraphs (A) and (B) shall reflect the median standards for all States (using for States which apply separate standards to publicly-assisted programs the most comprehensive or stringent of such standards) as of the date of enactment of this Act.

(2) FAMILY CHILD CARE SERVICES.—Such standards submitted with respect to child care services provided by family child care providers shall be limited to—

(A) the maximum number of children for which child care services may be provided and the total number of infants for which child care services may be provided;

(B) the minimum age for caregivers; and

(C) health and safety requirements for children and caregivers.

(3) GROUP HOME CHILD CARE SERVICES.—Such standards submitted with respect to child care services provided by group home child care providers shall be limited to the matters specified in paragraphs (1)(B) and (2).

(4) LIMITATION.—The Committee shall not submit any standard under subsection (c)(2) that is less or more rigorous than the least or most rigorous standard that exists in any of the States at the time of the submission of such recommendation.

(e) CONSIDERATION AND ESTABLISHMENT OF STANDARDS.—

(1) NOTICE OF PROPOSED RULEMAKING.—Not later than 90 days after receiving the recommendations of the Committee, the Secretary shall—

(A) publish in the Federal Register—

(i) a notice of proposed rulemaking concerning the minimum standards proposed under subsection (d) to the Secretary; and

(ii) such proposed minimum standards for public comment for a period of at least 60 days; and

(B) distribute such proposed minimum standards to each lead agency and each State subcommittee on licensing for comment.

(2) ESTABLISHMENT OF MINIMUM CHILD CARE STANDARDS.—

(A) ISSUANCE OF RULES.—The Secretary shall, in consultation with the committee—

(i) take into consideration any comments received by the Secretary with respect to the standards proposed under subsection (d); and

(ii) not later than 180 days after publication of such standards, shall issue rules establishing minimum child care standards for purposes of this Act. Such standards shall include the nutrition requirements issued, and revised from time to time, under section 17(g)(1) of the National School Lunch Act (42 U.S.C. 1766(g)(1)).

(B) AMENDING STANDARDS.—The Secretary may amend any standard first established under subparagraph (A), except that such standard may not be modified, by amendment or otherwise, to make such standard

less comprehensive or less stringent than it is when first established.

(C) EXTENDED PERIOD FOR COMMENT.—If the Committee recommends a standard under subsection (c)(2) that no State has a requirement concerning, as of the time that such standard is recommended, the Secretary shall provide an additional 30 days during which States may submit comments concerning such standard.

(3) ADDITIONAL COMMENTS.—The National Committee may submit to the Secretary and to the Congress such additional comments on the minimum child care standards established under paragraph (2) as the National Committee considers appropriate.

(f) VARIANCES.—

(1) TIME FOR COMPLIANCE WITH STANDARDS.—Not later than the end of the 4-year period referred to in section 10, States shall comply with the standards established under this section.

(2) EXCEPTION.—At the expiration of the 4-year period referred to in paragraph (1) the chief executive officer, in consultation with the State advisory committee, may submit a request to the Secretary for a 1 year variance from the requirements of one or more particular standards for one or more particular geographic areas of the State.

(3) REQUIREMENTS.—A request for a variance under this subsection shall include—

(A) a statement by the chief executive officer of the State of the steps taken to implement the relevant standards in the relevant geographic areas in the State within the 4-year period;

(B) the specific reasons for the submission of the variance request; and

(C) a detailed plan that outlines the additional procedures and resources to be used to come into compliance with the standards at the end of the variance period.

(4) PERIOD OF VARIANCE.—A variance granted by the Secretary shall be for a 1-year period and may be renewed at the discretion of the Secretary for an additional 1-year period if requested by the State.

(g) TERMINATION OF COMMITTEE.—The National Committee shall cease to exist 90 days after the date the Secretary establishes minimum child care standards under subsection (e)(3).

SEC. 19. LIMITATIONS ON USE OF FINANCIAL ASSISTANCE FOR CERTAIN PURPOSES.

(a) SECTARIAN PURPOSES AND ACTIVITIES.—No financial assistance provided under this Act shall be expended for any sectarian purpose or activity, including sectarian worship and instruction.

(b) TUITION.—With regard to services provided to students enrolled in grades 1 through 12, no financial assistance provided under this Act shall be expended for—

(1) any services provided to such students during the regular school day;

(2) any services for which such students receive academic credit toward graduation; or

(3) any instructional services which supplant or duplicate the academic program of any public or private school.

SEC. 20. NONDISCRIMINATION.

(a) FEDERAL FINANCIAL ASSISTANCE.—Any financial assistance provided under this Act, including a loan, grant, or child care certificate, shall constitute Federal financial assistance for purposes of title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.), title IX of the Education Amendments of 1972 (20 U.S.C. 1681, et seq.), the Rehabilitation Act of 1973 (29 U.S.C. 794 et seq.), the Age Discrimination Act of 1975 (42 U.S.C. 6101 et seq.), and the regulations issued thereunder.

(b) RELIGIOUS DISCRIMINATION.—

(1) IN GENERAL.—Nothing in this section shall be construed to modify or affect the provisions of any other Federal law or regulation that relates to discrimination in employment on the basis of religion, except as provided herein.

(2) DISCRIMINATION AGAINST CHILD.—

(A) IN GENERAL.—A child care provider that receives assistance under this Act shall not discriminate against any child on the basis of religion in providing child care services.

(B) NON-FUNDED CHILD CARE SLOTS.—Nothing in this section shall prohibit a child care provider from selecting children for child care slots that are not funded directly with assistance provided under this Act because such children or their family members participate on a regular basis in other activities of the organization that owns or operates such provider.

(3) EMPLOYMENT IN GENERAL.—

(A) PROHIBITION.—A child care provider that receives assistance under this Act shall not discriminate in employment on the basis of the religion of the prospective employee if such employee's primary responsibility is or will be working directly with children in the provision of child care services.

(B) QUALIFIED APPLICANTS.—If two or more prospective employees are qualified for any position with a child care provider receiving assistance under this Act, nothing in this section shall prohibit such child care provider from employing a prospective employee who is already participating on a regular basis in other activities of the organization that owns or operates such provider.

(C) PRESENT EMPLOYEES.—This paragraph shall not apply to employees of child care providers receiving assistance under this Act if such employees are employed with the provider on the date of enactment of this Act.

(4) EMPLOYMENT AND ADMISSION PRACTICES.—Notwithstanding paragraphs (2) and (3), if assistance provided under this Act, and any other Federal or State program, amounts to 80 percent or more of the operating budget of a child care provider that receives such assistance, the Secretary shall not permit such provider to receive any further assistance under this Act unless the grant or contract relating to the financial assistance, or the employment and admissions policies of the provider, specifically provides that no person with responsibilities in the operation of the child care program, project, or activity of the provider will discriminate against any individual in employment, if such employee's primary responsibility is or will be working directly with children in the provision of child care, or admissions because of the religion of such individual.

(5) SEVERABILITY.—If any provision of this subsection or the application thereof to any individual or circumstance is held invalid, the invalidity shall not affect other provisions or applications of this Act which can be given effect without regard to the invalid provision or application, and to this end the provisions of this subsection shall be severable.

SEC. 21. PRESERVATION OF PARENTAL RIGHTS AND RESPONSIBILITIES.

Nothing in this Act shall be construed or applied in any manner to infringe upon or usurp the moral and legal rights and responsibilities of parents or legal guardians.

SEC. 22. CHILD CARE LIABILITY RISK RETENTION GROUP.

(a) PURPOSE.—It is the purpose of this section—

(1) to increase the availability of child care by alleviating the serious difficulty faced by child care providers in obtaining affordable liability insurance; and

(2) to provide States with a sufficient capital base for liability insurance purposes that may be increased or maintained through mechanisms developed by the State.

(b) FORMATION OF CHILD CARE LIABILITY RISK RETENTION GROUP.—

(1) ASSISTANCE IN FORMATION AND OPERATION OF GROUP.—Any State may assist in the establishment and operation of a child care liability risk retention group in the manner provided under this section.

(2) CHILD CARE LIABILITY RISK RETENTION GROUP DEFINED.—As used in this section, the term "child care liability risk retention group" means any corporation (or other limited liability association)—

(A) whose members are licensed child care providers pursuant to State and local law and who, after the expiration of the 4-year period beginning on the date the Secretary establishes minimum child care standards under section 17(e)(2), complies with such minimum child care standards that are applicable to the child care services provided by such members; and

(B) which otherwise satisfies the criteria for a risk retention group under section 2(4) of the Liability Risk Retention Act of 1986 (15 U.S.C. 3901(4)).

(c) STATE APPLICATIONS.—

(1) APPLICATIONS.—To qualify for assistance under this section, a State shall submit an application to the Secretary, at such time, in such manner, and containing or accompanied by such information as the Secretary may reasonably require, including information that meets the requirements of subsection (b) of this section.

(2) CONTENT OF STATE APPLICATION.—

(A) LEAD AGENCY.—The application shall identify the lead agency that has been designated and that is to be responsible for the administration of funds provided under this section.

(B) PARTICIPANTS IN RISK RETENTION GROUP.—The application shall assure that all participants in the child care liability risk retention group are licensed child care providers pursuant to State and local law who, after the expiration of the 4-year period beginning on the date the Secretary establishes minimum child care standards under section 18(e)(2), comply with such standards that are applicable to the child care services they provide. In addition, the applicant shall provide for maximum membership of family-based child care providers in the group.

(C) USE OF FUNDS.—The application shall provide that the State shall use at least the amount allotted to the State in any fiscal year to establish or operate a child care liability risk retention group.

(D) CONTINUATION OF RISK RETENTION GROUP.—The application shall contain provisions that specify how the child care liability risk retention group will continue to be financed after fiscal year 1992, including financing through contributions by the State or by members of such group.

(d) FEDERAL ENFORCEMENT.—

(1) REVIEW OF APPLICATIONS.—The Secretary shall review and approve State applications submitted in accordance with this section and shall monitor State compliance with the provisions of this section.

(2) FINDING OF NONCOMPLIANCE.—If the Secretary, after reasonable notice to a State and opportunity for a hearing, finds—

(A) that there has been a failure to comply substantially with any provision or any requirements set forth in the State application of that State; or

(B) that there is a failure to comply substantially with any applicable provision of this section,

the Secretary shall notify such State of the findings and of the fact that no further payments may be made to such State under this section until the Secretary is satisfied that there is no longer any such failure to comply, or that the noncompliance will be promptly corrected.

(e) ALLOTMENT TO STATES.—

(1) IN GENERAL.—The Secretary shall make an allotment to each State from the sums appropriated to carry out the provisions of this section using the same allotment formula established under section 5.

(2) STATE ADMINISTRATIVE COSTS.—Of the amount allotted to a State pursuant to paragraph (1), an amount not to exceed 10 percent shall be used by such State to provide for the administrative costs of carrying out such program.

(f) PAYMENTS.—

(1) ENTITLEMENT.—Each State for which an application has been approved by the Secretary under this section shall be entitled to payments under this subsection for each fiscal year in an amount not to exceed its allotment under subsection (e) to be expended by the State in accordance with the terms of the application for the fiscal year for which the grant is to be made.

(2) METHOD OF PAYMENTS.—The Secretary may make payments to a State in installments, and in advance or, by way of reimbursement, with necessary adjustments on account of overpayments or underpayments, as the Secretary may determine.

(3) STATE SPENDING OF PAYMENTS.—Payments to a State from the allotment under subsection (e) for any fiscal year must be expended by the State in that fiscal year or in the succeeding fiscal year.

SEC. 23. HEAD START ACT AUTHORIZATION OF APPROPRIATIONS.

Section 639 of the Head Start Act (42 U.S.C. 9834) is amended by striking "$1,405,000,000" and inserting "$1,552,000,000".

The PRESIDING OFFICER. Under the previous order, the majority leader is recognized.

AMENDMENT NO. 196

Mr. MITCHELL. Mr. President, I withdraw the pending committee reported substituted amendment, and I send an amendment to the desk.

The PRESIDING OFFICER. The leader has that right.

The clerk will report.

The Senator from Maine [Mr. MITCHELL], on behalf of the committee, proposes an amendment numbered 196.

Mr. MITCHELL. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The text of the amendment is printed in today's RECORD under "Amendments Submitted."

Mr. MITCHELL. Mr. President, the amendment that I have offered incorporates the following principal measures:

First, the Act for Better Child Care Services legislation, sponsored by Senators DODD, HATCH, KENNEDY, and others, as amended by the agreement reached with the National Governors Association;

Second, the child care, child health tax credit, and section 89 package, sponsored by Senator BENTSEN and adopted by the Senate Finance Committee on Tuesday; and

Third, a compromise amendment by Senators FORD and DURENBERGER on the use of certificates for sectarian child care.

These provisions represent a comprehensive package that will effectively respond to our Nation's child care needs.

The Governor's agreement is a carefully crafted balance between providing States with the flexibility they desire and ensuring that the child care available to families provides for a safe and healthy environment.

The agreement would allow States complete discretion to design their own standards within several categories.

After 3 years, States desiring extra assistance can apply for our incentive trust program to help raise the quality of child care.

The agreement also encompasses training and inspections.

And, of interest to many Members, child care by relatives would only be subject to regulation if required by State and local law. Since there is no category in the agreement pertaining to relative care, this issue is left to the complete discretion of the States.

The child care and child health tax credit package is designed to increase child care options and health insurance options to the poorest of American families.

These families, living on the margin, from paycheck to paycheck, would receive a refundable credit based on expenses for child care and expenses for health insurance premiums. Families would not have to choose between the two credits, but could receive them both.

As modified, the dependent care credit would increase the maximum percentage of allowable expenses for child care from 30 percent under current law, to 32 percent for families with income between $8,000 and $10,000 and to 34 percent for families with income below $8,000.

The health care credit is targeted toward working families with income below $21,000. The credit is worth 50 percent of the cost of health insurance up to a maximum of $500.

Like the earned income tax credit, both credits would be refundable on an advance payment basis.

The section 89 provisions incorporate S. 1129, as introduced by the chairman of the Senate Finance Committee last week. Over half the Senate and 18 of the 20 members of the Finance Committee are cosponsors of this legislation to delay section 89 for 1 year and rewrite the nondiscrimination tests under law.

The agreement we have reached on the church-state issue is a sound compromise. It is both fair and constitutional.

The agreement includes the exemption sought by Senators FORD and DURENBERGER from the restrictions under section 19(a), and adding only the proviso that financial assistance under this act shall not be expended in a manner inconsistent with the Constitution.

This is a good package. It provides a great degree of flexibility for States and families. It provides parents and States with real choices for child care.

In a comprehensive manner, the package addresses the quality, availability, and affordability of child care.

This is an issue of great importance to the American family—the care of young children.

Many parents have difficulty finding child care for their children. Other parents can find child care, but can't afford it. Still others find child care, but the care that is available is part time, and they need to work full time to make ends meet.

And others who can find it and afford it express concern about the quality of care that their children receive.

The number of women working today is greater than ever before. More and more women who have very young children are among those who are working.

The latest figures from the Bureau of Labor Statistics indicate that 65 percent of all women with children under 18, 73 percent of mothers with school age children, 56 percent of women with preschool age children, and 51 percent of mothers with infants under 1 were in the labor force during 1988.

Yet, parents report that they cannot find child care services in their community. Other parents have found child care services, but are put on long waiting lists. And, many parents report that they must rely on informal child care arrangements, which can vary daily and sometimes involves two different child care providers and two different settings each day.

For an increasing number of families, child care is almost as expensive as housing. In fact, for many families, the amount of money spent on child care actually exceeds the amount of money spent on housing.

Last summer President Bush told the National Federation of Business and Professional Women's Clubs in New Mexico that "child care is the single most important issue arising from changes in our work force"; and "today, child care is nothing short of a family necessity."

The President was right. This is a family necessity.

We hope to work with the President to develop a package to respond to this necessity.

That program must address the quality of child care in our States. It must also address the availability of that care and the affordability of that care.

That is why the Act for Better Child Care, the ABC bill, is the glue that holds this comprehensive package together.

Since the first ABC bill was introduced in 1987, its sponsors have worked tirelessly to develop a consensus on how best to respond to this country's growing need to meet the demands of families who want reliable, quality child care at a reasonable rate.

Under this bill, 10 percent of the funds are allocated to the States. The States will decide how the funds are to be spent.

There are some general guidelines, but within those guidelines are many choices. Seventy percent of the funds must be spent on direct assistance for families. But States have a wide variety of options from which to choose to deliver that assistance.

Over 20 percent of the funds are to be spent on quality and supply, such as grants and loans to child care providers, and grants and loans of those organizations and individuals who want to establish and improve facilities. Funds could also be used to meet State and local standards, to fund resource and referral centers, and to start employer sponsored child care programs.

There have been several controversial aspects of this bill. I believe they have been effectively addressed.

I congratulate the sponsors of the legislation on their success in reaching an agreement with the Nation's Governors.

The bill, as modified, presents a carefully crafted agreement that balances the need for States to have flexibility while still ensuring that what is provided is of high quality.

The agreement identifies categories within which the States will have complete discretion to set their own laws. The categories were agreed to because the Governors want to ensure that all States address issues such as health and safety, training of providers, and prevention of child abuse.

There have been reports of children injured or placed in life threatening situations because too many children were under the care of the adult in charge; or of infants drugged so that they stop crying. The national wire services have run stories during the past year which focused on the unnecessary deaths of children.

The agreement with the Governors will help prevent these tragedies from happening in the future.

Another issue of concern has been the treatment of relatives and the standards with which relatives would be asked to comply. Several Senators raised valid questions about how the Federal Government could seek to regulate grandmothers.

The bill before us today leaves to the States the authority to decide how to treat child care offered by relatives. The bill does not preclude this type of care nor try to regulate it.

According to the latest census study on child care arrangements, about 7 percent of all child care and 16 percent of child care for children under 5 is provided by grandmothers.

Grandmothers and other relatives would be exempt from training and other categories under the legislation, unless required by State or local law.

Under this bill, the States have a wide array of choices. The discretion is with the States. For example, there is no requirement that States enter into the child care voucher business.

A state can choose to use vouchers, if it wishes to do so. If it does, those vouchers can only be used for constitutional purposes for care that meets State and local laws.

This is a reasonable approach. We will have a chance to review how the certificates are working when the Governors provide data on their programs.

Another issue of importance to families is affordability.

The cost of child care is simply too high for many families.

Two-thirds of the respondents to a 1986 survey of welfare recipients by the National Social Science and Law Center cited difficulties with child care arrangements as the primary problem in seeking and keeping jobs.

I'm not surprised. In 1987 when I first started working on welfare reform, I sent my own survey to 220 child care providers in Maine.

Based on the responses to that survey, the average cost of child care in Maine was $289 per month per child—$3,469 per year. In the Portland area, the average cost of child care was $372 per month per child—$4,473 per year.

While nearly all the facilities that had some subsidy available—either Federal, State, local, or some other source—were operating at capacity, only 56 percent of those facilities not offering any subsidy were at capacity.

Of the half day only facilities responding to the survey, 83 percent were not operating at capacity.

And, yet, throughout the State there were long waiting lists of families who wanted full-time child care.

The evidence is clear. In Maine and throughout the country, there is a real need for substantially more child care options, with affordable rates, offering full-time care.

The measure before us also includes provisions expanding the current dependent care tax credit. As approved by the Finance Committee, the child care credit would be made available to families who do not have any Federal income tax liability. In addition, the value of the dependent care credit would also be increased for families with income under $10,000 a year.

The child care credit in current law is designed to provide a tax benefit that declines as income rises. But because the credit is based on the amount of expenses incurred, and lower income families simply do not have the income to spend, the distribution of benefits of the credit is actually regressing. The average tax subsidy rises with income, the opposite of what is intended under the law.

The legislation as approved by the Finance Committee would reduce the regressivity of current law by making the credit available to families who owe no tax liability and by increasing the amount of the credit for lower income families. But that still does not help families who simply do not have the income to spend in the first place.

That is where the ABC Program will fill in the gap so that we can help the poorest families who cannot afford to spend much for child care.

Two basic facts are generally recognized about the importance of child care.

First, child care assistance is critical if low- and moderate-income mothers are to participate in the work force. And second, quality child care can help provide children with the foundation needed to do well in school and become productive adults.

Both are important national objectives. They can be achieved if we want this historic bill.

Mr. President, I want to make clear that my amendment is not an amendment on behalf of the Labor Committee. Rather, it is an amendment on behalf of myself and the other individual Senators.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The minority leader.

Mr. DOLE. Did the majority leader complete his statement?

Mr. MITCHELL. Yes.

The PRESIDING OFFICER. The minority leader is recognized.

Mr. DOLE. Mr. President, we are going to have an extensive debate on this issue, not that anyone disagrees about the importance of child care. It is important. It is an important problem for millions of American families. But there is a different way to approach it.

It is the view of many on this side, in fact I would say a great majority on this side, nearly every one on this side, that we should use the tax credit approach so that parents could make the decision about the care of their children, not somebody else, not some in-

stitutional day care center, not some mandate from the Government, but the parents would make the decision. We believe that we will have a substitute which I will outline briefly that will demonstrate to the majority of Members on both sides of the aisle that our approach deserves bipartisan support.

I know that the distinguished Senator from Connecticut, the Senator from Massachusetts, the Senators from Utah, and others, have worked long and hard on their approach. I know that the Finance Committee met and basically rubber stamped a child care proposal. Included in that package is a $1.5-billion package on health care credits about which we question the effectiveness. In fact, there are no data to show that these new credits actually increase coverage. It may just be a throwaway, and what you will be doing is subsidizing those who already have health care coverage for their children. Rather than helping more poor families.

So in the package reported by the Finance Committee there was nothing in it for President Bush except the refundability of the existing dependent care tax.

The majority leader has quoted President Bush, and the quote is accurate. This is a necessity. It is a high priority with the President. It is a high priority with the administration. But we believe there is a better way to go than has been proposed by the Senator from Connecticut and we believe that the President articulated his position in the election, the American people knew precisely what it was, and he carried 40 States.

If you want any further indication of how the American people feel, they had a little election on child care out in Fremont, CA, on a proposal where all of the taxpayers were going to put money in a pot for child care. They got 23 or 26 percent of the vote. The parents ought to make the decisions. The parents ought to have the responsibility.

That is what President Bush feels. And where they cannot afford it that is why he has the credit.

So I would say very quickly before turning it over on this side to Senator HATCH, who waffled a bit on this issue, and then he will pass it off to our stalwart, Senator PACKWOOD.

Our package relies principally on tax credits.

First, we have a young child supplement to the earned income tax credit. A young child supplement would provide families with children 4 years old and under an additional credit, in the amount of 8 percent for the first child and an additional 4 percent for two or more children.

This would provide an additional credit up to $500 for the first child and up to $250 for the second.

Like the current earned income tax credit this credit would be refundable. It would be subject to advance payment. In other words, a family would not have to wait until the end of the year but would receive a benefit on a monthly basis or paycheck basis. This benefit would be available to one-earner and two-earner families.

This young child supplement would be in addition to an existing 14-percent earned income tax credit which is available to all working poor families with children.

This is similar to the administration child tax credit in that it allows parents to make the choice as to how to best spend their dollars.

I know some will say, oh, you cannot trust the parents to spend their own money; we have to let the Government determine that; maybe they will not spend it on child care; maybe they will spend it on something else; maybe they might buy health care coverage with it; maybe do something else.

In addition to this new child care supplement, we make the dependent care tax credit [DCTC] refundable and subject to advance payment to give more low-income parents access to this credit.

The DCTC provides poor families with a tax credit based on their documented child care costs, and there is a problem in this. As I understand, more than half of the families with incomes below $15,000 do not benefit from the DCTC because they do not document their child care costs.

Then we have a third provision. Ours is very simple. It is not complicated.

The third part of our three-part package would amend the dependent care block grant to an active 5-year authorization to permit States to undertake child care-related programs in the following areas: Resource and referral, consumer education, training, technical assistance, liability of providers, inspection, enforcement of State standards, and modification of existing structures, to meet State and local health and safety standards, tax credits for families—they could have additional tax credits for families—incentives to employers to provide child care services, and latch key children programs.

These funds could not be used for direct subsidies for child care, construction of facilities, or operating expenses of providers. They are going to be distributed on a basis of per capita income and number of children under the age of 13. There is a match required of 85 percent Federal, 15 percent State.

Mr. President, I ask unanimous consent that a brief summary of this proposal be printed in the RECORD at this point.

There being no objection, the summary was ordered to be printed in the RECORD, as follows:

DOLE CHILD CARE ALTERNATIVE

1. TAX CREDITS

The package relies principally on tax credits to deliver resources directly to needy families with children enabling parents to make their own child care choices.

a. Young Child Supplement to the Earned Income Credit Tax Credit:

Would provide families with children 4 years old and under an additional credit amount of 8% for one child and an additional 4% for two or more children.

This would provide an additional credit of up to $500 for the first child and up to $250 for the second child.

Like the current Earned Income Tax Credit, this credit would be refundable, would be subject to advanced payment and would be available to one earner families.

This Young Child Supplement would be in addition to an existing 14% Earned Income Tax Credit, which is available to all working poor families with children.

This is similar to the Administration's Child Tax Credit in that it allows parents to make the choice as to how to best spend their dollars.

b. Dependent Care Tax Credit Refundability:

The Dependent Care Tax Credit (DCTC) would be made refundable and subject to advance payment to give low-income parents access to this credit. The DCTC provides two earner families with a tax credit based on their documented child care costs.

Refundability of the Dependent Care Tax Credit was a major component of both the Administration's bill and the Packwood Child Care Bill.

2. BLOCK GRANT FOR STATE CHILD CARE SERVICES

a. This title would expand upon the current State Dependent Care Block Grant Program to help states address a wide array of child needs, while allowing States the flexibility to concentrate on the particular child care needs they face:

Amends State Dependent Care Development Grant program to create new, part B, block grant for child care services. Authorizes $400 million for each of 5 years.

Allotments to States based upon number of children under 13, and weighted by per-capita income.

Funds can be used for a wide array of services, including: resource and referral; consumer education; enhanced enforcement of standards; tranining and technical assistance of providers; recruitment and training to increase the number of providers; developing "latch-key" programs; loans or grants for renovations and modifications to meet State and local health and safety standards; liability risk pools; encouraging employer-assistance care; providing tax credits to low-income parents; developing programs for children when they are sick; developing programs for children of parents who work "nontraditional hours"; developing programs for children who are homeless, migrant, disabled, abused, neglected, or children of minors.

But not including: cash payments to recipients, or the direct subsidy for services; payments for cost of construction or land acquisition; use of funds to satisfy state matching requirements of any other Federal grant.

b. State match required; 85% Federal, 15% State and state administration limited to 7% of funds.

c. States would submit to HHS a state plan describing how they are going to use funds, and after each year report to HHS on what they did.

d. 6 months after State reports come to HHS, HHS would report to Congress to summarize what states are doing.

Mr. DOLE. Mr. President, I think we have to be very honest right up front or very candid right up front, and I have no quarrel with the Senator from Connecticut. He has worked long and hard and, as he has indicated to me, he is willing to compromise. He has tried to compromise with the administration. He has met with the administration officials. He has worked with Senator HATCH and they have both been in good faith. I do not quarrel with any of that.

But at this point the administration does not find many redeeming features in the ABC bill.

The administration's view is that the ABC bill, regardless of how you try to coat over it, and we have not had a chance to examine the substitute, which we will do very carefully, what it does it encourages institutionalized day care and takes away the choice for parents.

I do not care how long you talk about it and how much you say you change it, and say, "Oh, we don't have any standards, this is what the bill does," it encourages institutional care and takes away the parents' choice. It subsidizes slots in specific types of day care centers. It does not address the major issue of affordability for all low-income families with children. It says it does, but it does not. Ours does. The earned income tax credit is geared to poor families.

I might add in our case families can qualify for both credits. There is no limit. Some say that is double dipping. Well, these are very low-income families and I guess we have concluded that maybe in some cases they might even get a credit or refund larger than the President anticipated. His is $1,000. This could go maybe as high as $1,300, maybe a bit higher. And that does not please everyone, but it seems to me if we are going to address the needs of poor families and if they can benefit from each of the programs they should benefit.

So it seems to me that if we want to look at who we want to help, my view is we ought to be helping those working mothers, those low-income families, and others. Upper-income ought to take care of themselves.

The Federal Government does not have enough money to take care of day care for everyone in America. We do not have enough money to build facilities everywhere in America. We do not have enough bureaucrats to set standards for every child in America. So we are going to make an effort to defeat that approach.

Because the ABC bill does contain "model" Federal standards, the bill would have the Government telling parents how to care for their children. This is not an acceptable solution to President Bush or the Secretary of Labor. The ABC bill would also discriminate against families in which one parent chooses to stay at home to take care of the children. Anything wrong with staying at home and taking care of the children?

Some would say, "Well, we want to encourage more and more women to work." Sixty-five percent of women with children under age 18 do now. Some women prefer to stay home and take care of the children. Should they be denied some assistance? President Bush does not think so. I do not think most Members of this body think so. And that is a basic difference between our approach and that of Senator DODD.

I think the other point that should be made is funding is heavily weighted in favor of urban areas. Once again, rural America is going to lose out. We have children, too, in our States—Kansas, Georgia, Utah, Oregon, Connecticut.

But I would just say finally, and then I will turn it over to the experts, because Senator HATCH and Senator DODD obviously have spent months on this issue, as has Senator PACKWOOD, Senator KENNEDY, and others. But I would just make the case that this is not a Republican issue or a Democratic issue. In fact, one problem we have had on our side of the aisle is everybody has a child care bill and everybody would like to think that their bill would address all the issues.

But many of us have been able to come together, for the most part, on the package that I have earlier described. There are only three parts to it. It is not very complicated. It does not take long to understand it, because we give the money to the parents. We do not have to worry about pleasing all the Governors or the bureaucracies everywhere. We give it to the parents. We have confidence in the parents that they can make the right choices for their children.

Maybe in some cases that may not happen. But should we apply standards to everyone because in a few cases the parents may not spend the money as we believe they should?

So this is a bipartisan issue. This is the first day of debate. We are going to be on this issue, I would assume, for several days. And what may appear today to be a deadlock may tomorrow disappear. There may be some way to work around the problems that Senators have on each side of the aisle and work with the administration. I certainly do not want to foreclose anything at this point.

But we do differ in our approach. I think everybody agrees on the issues of affordability, quality, and availability. But it is the approach that is different.

I think most of the proposals cost between $2 and $3 billion. There is not much disagreement on the amount.

I know that almost every Senator wants to participate in this debate because it is very important.

The House has a different approach to child care—So whatever passes the Senate ends up in conference with the House. So there is still a lot of negotiating to be done. But I would urge my colleagues, right from the start, to keep an eye on the fundamental differences in the two approaches.

Again I must say that I think President Bush has extended the hand of bipartisanship in his inaugural address and he has done it on several other cases, whether it is the S&L's, whether it is Contra aid, whatever. I think he would like to have a bipartisan solution of this problem, this opportunity.

But there was little in the package that came out of the Finance Committee, that you could say was part of President Bush's proposal.

But we will have more time now on the Senate floor. We will be able to point out that if you want to throw away a billion-and-a-half dollars you go for the health care credit. If you want to just spend money that provides very little help, you go for the health care credit. Let us take that money and put it in the earned income tax credit. Let us really help poor working people.

So there are flaws and maybe they will find flaws in our approach. But that is what the debate is all about.

I commend my colleagues on both sides of the aisle for getting this issue to the floor. It is a matter of priority across the board. I can assure my colleagues that the President is ready, willing, and able to sit down and try to hammer out some of the differences when we get to that point.

I thank my colleagues.

Mr. DODD addressed the Chair.

Mr. KENNEDY. Mr. President, I do not want to interrupt the Senator from Connecticut, but would the leader respond to some questions on this particular proposal, just so we may have a better understanding of where we are going? I know the Senator from Connecticut, the Senator from Utah, as well as myself, would like to make a statement on it. But is he prepared to respond to any questions?

Mr. DOLE. I would be happy to return and do that. I have people in my office who have been there for some time. But Senator PACKWOOD is prepared to respond to questions on it and he will be here, too.

Mr. KENNEDY. Well, I thank the Republican leader for that, because I do think, as we begin the debate and discussion, we ought to have at least some understanding about how many families would actually benefit under the particular proposal of the minority leader and what assurances we could have about the dependent care block grant. When the money goes back to the States, how are we going to know that it is really going to be for day care? As someone who is always glad to see an increase in the earned income credit, how does the Republican leader think that money is actually going to be used for day care, which is really the purpose.

So I just heard the Senator speak and I hope that we might have had some discussion on that particular proposal, but maybe we can do that later in the afternoon.

Mr. DOLE. If the Senator will yield, obviously we need to answer any question the Senator has or anyone else has. We have a number of questions on the substitute, but first we want to read it and find out what is in it. We do not know. It has been changed some. So we have questions, those of us who have not been as close to it as the Senator from Massachusetts, the Senator from Connecticut, the Senator from Utah, the Senator from Oregon, and the Senator from Texas.

So we will be prepared to respond, as we should, and we will need responses, too, from the other side of the aisle on the health care credit and on the ABC bill itself.

As I pointed out, there will probably be some cases where the money, if it is earned income tax credit, the child supplement, maybe it will be improperly spent. But at least we will not have a bureaucrat in each household telling the other parents how to spend theirs.

Mr. KENNEDY. As I say, I look forward to that because I think on the earned income credit, if their proposal goes forward, it does provide funding, expands funds for families with children. I am certainly sympathetic with that, but there is no indication of how that really relates to child care, nor how the dependent care program, which is a block grant to the States, will help families. Again, I just wanted to hear how he believes that this is going to really address the issue. And the refundability of the dependent care tax credit is, of course, already in the bill. But I guess we will have a chance later on to address those issues.

The PRESIDING OFFICER The Senator from Connecticut.

Mr. DODD. Mr. President, I understand my colleague from Tennessee is about to assume the duties of the Chair and would like to make a very quick statement. I am happy to yield to him for that purpose.

The PRESIDING OFFICER The Senator from Tennessee.

Mr. GORE. Mr. President, I appreciate my colleague yielding to me.

Mr. President, I rise in support specifically of the amendment offered by the distinguished majority leader. I am extremely pleased that we are, hopefully, about to take steps to encourage better health care coverage for children and to address concerns regarding section 89. I am particularly delighted that we are about, hopefully, to improve the dependent care tax credit.

I have tried to be at the forefront of efforts to make changes to the dependent care tax credit, which is the largest Federal program providing child care benefits for working parents. In fact, earlier this year I introduced a bill, S. 364, with a companion measure introduced in the other body by Congressman TOM DOWNEY, titled the Employment Incentives Act, which has as one of its key components a provision to modify the dependent care tax credit.

The dependent care tax credit is presently a nonrefundable credit against income tax liability available for up to 30 percent of a limited amount of child care expenses. The tax credit, however, has a major deficiency. It will not provide any relief to a family with income so low that it has no tax liability. Mr. President, low-income families are the ones who frequently need assistance with child care the most, so that they can have an easier time getting into the work force. If they have no money and if they have no child care this program on the books today which is supposed to help with child care does not give them any assistance in getting back on the work roll.

Work pays less for these low-income families than it would were they able, as are wealthier families, to offset employment-related child care expenses. A work subsidy that discriminates against the poor certainly seems counterproductive, to say nothing of ethically troubling. Therefore, making the credit refundable is a step that obviously needs to be made. It is an idea whose time has come. In fact, it came a long time ago. And I am very hopeful that the Senate will endorse this amendment and will make this change. Making the credit refundable will make 1.7 million low-income families eligible for this benefit and bolster their efforts to work and earn a better life for themselves and their children.

I believe that the amendment offered by the majority leader addresses several pressing issues of concern to the Nation. And I urge my colleagues in the strongest possible terms to support this amendment from the majority leader.

I appreciate my colleague yielding and I yield the floor.

Mr. DODD. Mr. President, first I want to thank our colleague from Tennessee for supporting the substitute amendment offered by the majority leader. And, at the very outset, before a word is said about the substance of this legislation, Mr. President, I want to thank my colleague from Massachusetts, the chairman of the Labor Committee, without whose support and backing and tireless efforts we would not be here at this point today. He has been as supportive as any full committee chairman could be of a subcommittee chairman for almost 2½ years on this legislation. Not a moment has passed when he has not offered assistance, provided assistance and good judgment on this legislation.

So, I would like my colleagues in this Chamber and others to be aware that much of what we have accomplished here, in no small measure, is due to his efforts.

I will go into greater length on this particular point, Mr. President, as the debate unfolds. With respect to the ranking minority member of the Labor Committee, the floor manager for the Republican side, Senator ORRIN HATCH of Utah, let it be known in all circles, in all corners of this country, that children have never had a better friend. Children have never had a better friend when it comes to providing some decent child care for them. And this legislation is a reflection of his efforts.

Much of what was in this bill, much of what is in this substitute which has been offered by the majority leader, is as a result of the efforts of the Senator from Utah.

I have developed a lot of good, close friendships in my 9 years in the Senate. I am proud of those friendships. I have developed a great deal of respect for my colleagues, many of them, over the last 9 years. But one of the glorious benefits of serving in this Chamber is the opportunity, from time to time, to work with colleagues, and I have developed both a great friendship and a deep respect for my distinguished friend from Utah. Without his support we would not be on the floor here today. We would not have been able to come out of the committee.

He does not agree with everything in this bill. It is very important that my colleagues understand that. But much of what is in here he does support and I am grateful for that and grateful for his backing, his counsel, his advice almost on a daily basis, Mr. President. Without that advice and counsel, again, we would not have been as successful as we have been and I am confident we will be.

I must say, the majority leader has left the floor but as I listened to the majority leader I must say to the President and others, I am struck with

the note of support for much of what we have included in our ABC package. While there are some significant differences, I am not sure we would have had an alternative had it not been for the fact that we are here debating child care.

I found it somewhat interesting that the President announced his support for a child care package about an hour after the Labor Committee sent out from the committee its child care proposal. I do not argue about when a person comes to confession. But the fact that the person has, is something that I think is worthwhile and I, again, would say at the outset that we are always interested in trying to work with the administration.

Mr. President, every so often we in Washington and in this Chamber have an opportunity to do something that is right for the American family; something which fulfills both our national goals and individual needs; something which is both a prudent expense today and, more importantly, a sound investment for America's future.

Every so often, Mr. President, we turn political rhetoric into bipartisan action. This day, Mr. President, the U.S. Senate has one of those rare opportunities—to pass meaningful child care legislation which will make a difference, a significant difference in the lives of millions of low-income families in this country.

This package, Mr. President, which the majority leader has just placed before the Senate, embodies a truly bipartisan and comprehensive approach to this Nation's child care crisis. It includes the Act for Better Child Care, legislation which was adopted by the Labor Committee in March by a more than 2-to-1 margin; legislation for which funds have been secured in the fiscal year 1990 budget resolution within our deficit targets.

The leader's amendment also includes a package of expanded tax benefits for low-income families with children, which was adopted 17 to 3 by the Finance Committee on Tuesday.

I should say as an aside here, Mr. President, I also want to express my deep thanks to the Senator from Texas, the chairman of the Finance Committee. He has been a leader on these issues. He has spoken about them eloquently. He has included, as part of this package, a very important tax credit package which I think will substantially enhance the child care services of this country. I support strongly what he has included in that package.

The original authorization level for the ABC bill has been reduced, by this substitute, to $1.75 billion, exactly equal to the cost of the tax package in the first full year the tax changes are put into place. So the ABC bill and the tax package are at the same funding levels, not $2.5 billion, as it was initially. Part of the modification brings it down so we are now dealing with a package of equal amounts committed to them in budget authority. There are two equal provisions but one comprehensive approach, Mr. President, to the child care needs of the American family.

I would like to focus briefly, if I could, on the Act for Better Child Care, the first part of this bipartisan package. It has been almost 2 years in the making with a dozen congressional hearings and hundreds of hours of discussions and negotiations.

We have almost one-half of the U.S. Senate as cosponsors of this bill and I am pleased to announce the latest cosponsor, Senator CHUCK ROBB, of Virginia, as a sponsor of the substitute offered by the majority leader. And we have over 130 endorsing organizations, groups representing parents and children, churches, and community organizations, pediatricians and child care providers. After months of hard work, Mr. President, we have the support of the National Governors Association, the National Conference of State Legislatures, the National League of Cities and many others—bipartisan groups, Democrats, Republicans, which represent virtually every State and every city and every county in America.

Why do we have that support? Why have we and all these organizations worked so hard on this piece of legislation for so long?

It is because we are united behind a single goal, a common thesis, that Government can be a positive and active force in helping parents balance their work and family responsibilities. Competing demands, families and careers, love and work—that is the reality, Mr. President, of today's family.

The Department of Labor tells us that only 1 in 10 American families now has dad at home or dad at work while mom stays at home with the children. Fifty-six percent of American women and more than half of all mothers of infants under the age of 1 now work outside the home. We have 29 million two-earner families with 25 million children; almost 8 million single parent families with an equal number of children; 7 million latch key children come home everyday to an empty house, and by 1995, two-thirds of all preschool age children will have mothers working full time in this country.

The statistics, Mr. President, go on and on. We can run, but we certainly cannot hide from them. We can do what is right this week, or we can go into a political stall. But the American family, the children of this Nation, simply will not go away.

Mr. President, let me add right here as well, having just recited these statistics, I do not even like reading them. I regret that we have reached the situation where only 1 in 10 American families have a parent at home. I did not grow up that way. I never remember a single day that I ever came home from school and my mother was not there. I never remember a day, and I wish every American child could have that blessing, could have a parent at home.

I say that with as deep a belief as I can on any issue, but on this one particularly. I think it is regrettable. I wish I could somehow change this. I wish there was some bill someone might be able to offer, a piece of legislation, something that might make it possible that does not force people out of their homes.

I really do not like to see that but, Mr. President, that is not the issue. The question is not what we might like or wish or hope for or regret. What we have to deal with are facts and trends. And the facts are the people are working, single mothers or both spouses, because they have to.

I know there are some in the upper-income categories who do not have to, but we do not do anything for them. There is no relief for that family. The only relief we provide in this legislation is for people who have to work, as regrettable as that is. So when those who stand up and say we do not care about the mother at home, nothing could be further from the truth. The fact is, we have people who do not have the choice of being at home.

What my colleague from Utah and I have tried to do is to do something about that situation. We do not take care of everybody. It is not perfect. But for the first time in 46 years, we have an opportunity to put in place a proposal that will deal effectively, we believe, with the child care needs of the American family. Real families and real problems, Mr. President, that is the story behind these numbers.

They are the divorced mother of three in New York City who makes $375 a week and pays $220 of that for child care. After buying groceries and gas for her car, she has $10 a week left for her family.

There is the mother of two on Florida's waiting list for subsidized care with more than 10,000 other families. One day in 1986 she had to go to work and could not find anyone to watch her children. They climb into a clothes dryer and are burned to death.

There are the mothers and fathers who testified, Mr. President, before my subcommitee over the past 2 years. We had a mother who quit her job and went on welfare because subsidized child care was not available.

By the way, we spend $16 billion of taxpayer money to welfare recipients, and the overwhelming data indicates if you provide decent child care, you can reduce that cost considerably, if you virtually eliminate it.

We are talking about the parent from Springfield, VA, whose infant daughter died from a drug overdose given by an unlicensed family care provider with an unchecked criminal record. We are talking about the mother from Temecula, CA, whose son was blinded by a family provider with no safety training.

Mr. President, I could spend the rest of this day and tomorrow reciting cases like these. They are illustrative; they are not exceptions; they are not rarities, regrettably.

What makes the ABC bill different then? Why this legislation, and not one of the hundreds of proposals now before the Congress? Because, Mr. President, this is truly the first national partnership plan that deals comprehensively with the three pillars of child care: quality, availability, and affordability.

It is a bill which incorporates the best ideas and the best thinking about child care from both sides of the aisle in this Chamber, from parents and experts across the country. It creates not a Federal child care system at all but a national partnership built on existing programs and fueled by the power of parental choice.

The Act for Better Child Care is not a Federal solution but a set of national guidelines and incentives. It is not a complete answer. Mr. President, it is a very sound beginning. The ABC component of the package now before the Senate incorporates the bipartisan agreement which Senators HATCH, KENNEDY, MIKULSKI, CHAFEE, and I have reached with the National Governor Association on standards and other key areas. This agreement retains the Act of Better Child Care's basic principles while enhancing the flexibility of States and communities to respond to their unique needs and financial circumstances.

As with the original ABC bill, at least 70 percent of the funds will go directly to the families through certificates or other State funding streams. Parents will have complete discretion to choose from a wide range of child care services, including care by relatives, churches, family providers, centers, schools, and employers. This is direct service money which, unlike a tax credit, goes right to poor families each month when they need to pay their bills. The remainder of the ABC fund will be used to increase the supply and quality of care in local communities.

These funds may be used for the improvement of State standards, for training, for resource referral programs to enhance parental choice. The funds may also be used for grants and loans, for new providers, for revolving loan funds for family providers or public-private partnerships involving business and local communities. There is also special authorization in the bill for State liability risk retention pools to help increase access to liability insurance, especially for family providers, which is one of the major costs of child care.

Mr. President, I should point out that almost every one of those ideas emanated from the office of my colleague from Utah, Senator ORRIN HATCH.

Under this revised language, the Act for Better Child Care simply requires States to have State standards in place in key areas of health and safety 3 years after this legislation becomes law. They are voluntary standards. These are not standards mandated by the Federal Government. They are standards which each State will decide for themselves—whether it is Tennessee or Connecticut, Utah, Oregon, Massachusetts—each State will decide what those standards are.

A national committee of experts will set recommended standards in the interim which the States may use at their own discretion in developing their own standards. As a special incentive grant program, we would make available additional funds to those States that voluntarily seek to improve their standards toward the national recommended levels. No State loses ABC funds provided their own standards are in place within 3 years. Each State will set its own training requirements for providers and each State will decide which providers to license and how.

Mr. President, one of the arguments is that this bill sets up a Federal bureaucracy. There is not a single penny in this legislation, not a single dime, to establish a Federal bureaucracy. There is a Federal administrator, but that person could be appointed among those presently serving the Department of Health and Human Services.

That is the only issue. So there is no Federal bureaucracy. There is no new Federal agency. There is no permanent commission. There is no established group of people who will sit around this town and decide what will happen in each State. Every State decides for itself what it wants in these areas. There is absolutely no Federal bureaucracy and no mandated standards.

Mr. President, the ABC and tax components of the majority leader's package fit together much like a hand in a glove. Under the ABC approach, low-income families receive funds directly from all forms of care right when the money is needed to pay the bills. And these funds can be used to pay up to the full cost of care for very poor families. The Act for Better Child Care also provides critical help to States and local communities to help implement their own plans to improve the quality and availability of care. None of this is possible through any tax credit approach.

What the Finance Committee tax package does do, however, is critically important. It builds upon the Act for Better Child Care's direct service approach to ensure that child care is made even more affordable for low-income families. We need to help improve the quality and supply of care right away. We need to ensure that poor families have funds when the child care bills come due. But we also need to provide families with additional help in the Tax Code to ensure that no poor family faces the choice of work or family, when we can help to save them have both.

Mr. President, let us be very honest with ourselves. Until now, the politics of child care have generated far more heat than light. But today we have an agreement on a comprehensive child care package. We have the full support of State and local political leaders who, frankly, opposed this legislation just a few short months ago. This agreement is fair. It is balanced. We have legislation which embodies goals that we all share: Fund targeted low-income families, parental choice involvement in the care of their children, and State and local control over standards and licensing decisions.

Let us make a fresh start as well. Let us shed our political baggage and do something truly meaningful for the families of our Nation. Let us help put in place a national child care plan which will help prepare America for the demographic changes we face as we move toward the 21st century.

Mr. President, again I will have much to say, obviously, on various aspects of this legislation as it moves forward. But the substitute offered does in fact take care of many of the concerns that have been raised, and again I want to express publicly what I said at the outset, both about my colleague from Massachusetts as well as my colleague from Utah. We would not be here without either of them.

As I said before, the American children have never had a better friend than they have in ORRIN HATCH, and I am delighted that he is my principal cosponsor of this legislation. It is what we are supposed to do here. It is Republicans and Democrats in the committee sitting down working for 2 years to hammer out a bill. That is what we have done. We have worked with our States. We have worked with our local communities. We have worked with our colleagues. I do not know what else to do, Mr. President. I was told that is the way you legislate. That is what we have tried to do. I have dealt with as many Members as I could possibly corner. In fact, I suspect as colleagues see me they sort of duck, because they know I am going to talk to them about child care when I approach them. But I feel that strongly about this and am confident that we

can do something really worthwhile for the American family by adopting this comprehensive piece of legislation that is now before us.

Mr. President, I yield the floor.

Mr. HATCH. Mr. President, I have been highly honored by my colleague in some of the comments he has made, and I want to tell him how deeply I appreciate it and how much I respect him for the leadership he is providing and has provided on this particular very important issue.

My dear colleague from Connecticut [Mr. DODD] has just made a very eloquent opening statement on the child care issue. He has described this legislation in a comprehensive way. He has said what this bill does and what it does not do. He has explained the provisions of the bill and the reasons for them. I see no particular reason to try to duplicate the information that he has conveyed to the Senate in his remarks.

Instead, I would like to speak to my colleagues on both sides of the aisle about my decision to work with Senator DODD on this issue. I have to confess that I understood him when he said some of his colleagues have avoided him because every time they see him he is talking about child care. He has been indefatigable in his efforts.

In the last Congress, under the original ABC bill, I was one of his most ardent opponents because I felt the original bill was not a good bill. Frankly, he was the first to try to work out the difficulties and the differences. He has been open to everybody. He has been open to the White House. He has been open to all in the administration. He has been open to colleagues on this side. He has tried to accommodate everybody. I do not know anybody who has worked harder on this issue.

I wish to pay my respects to a person I consider to be a super legislator on a super issue of great importance to the American families in this country. After all, our future depends upon our children. I might add that if we allow 5 to 15 million latchkey children to wander around every day without any adult supervision and 20,000—get this, 20,000—children less than 4 years of age with no adult supervision during daylight hours and we are throwing away an awful lot of the future of this country. How does a 1-year-old take care of himself or herself or, for that matter, a 4-year-old? That is a serious crisis.

I also think it is important to understand that women in this country have been in anguish over this issue. It is a family issue, but I am going to emphasize this to a degree. Forty-five percent of all workers in this country today are women. That is up from 30 percent in 1950. More than 70 percent of all women between the ages of 25 and 34 are in the labor force, the chief childbearing years. I might add that by the year 2000, 61.5 percent of all women in this country will be employed. Whether we like it or not, that is going to happen.

I start from the basic premise that it is the most important thing we can do to have a parent in the home with those children. That is the ideal. That is what we want to do. That is what provides for the maximum success for families in the raising of children, but that is not reality in America today. One reason it is not is because of the difficulties of raising families and providing for them in America today, and because of many, many millions of people who did not make adequate incomes to be able to take care of their families where we have to go to two-parent earners.

I might say that three-fifths of all new entrants to the labor force between now and the year 2000 will be women—three-fifths. And two-thirds of all women working outside the home in America today are either single heads of household, meaning they are divorced, widowed, or otherwise unmarried, or they are married to husbands who earn less than $15,000 to $20,000 a year. They have to work.

If the average cost of child care is $3,000, then can you imagine how difficult it must be for those families with just one child, let alone two, three, four, five, and six children? As a father of six children, now having seven grandchildren and two grandchildren on the way, naturally I can see these problems.

There are a lot of other statistics I would like to bring out today, but I think we can take time throughout this debate, because I suspect this will be a lengthy debate and I suspect we will have many amendments. I suspect that the tax components of this bill, whether they are the components as presently constituted in the bill, established by the distinguished Senator from Texas, the chairman of the Finance Committee, or whether they will be the administration's components, which will be argued for by the equally eminent and powerful Senator from Oregon, Senator PACKWOOD, there will be lots of questions about those tax aspects. Both Senator DODD and I are on record in the so-called Hatch-Dodd family earned-income tax credit bill for tax credits which are refundable for families. We think it is a good idea, but we do not think it is the only idea, nor is it the last word in how you solve child care problems. But it is a good idea and we will probably support one or the other of those positions, because we believe it is an idea that we want to be open to as well as the ideas that we have in the current ABC bill.

Now, for those who wonder about the differences between the prior ABC bill and the current ABC bill, Senator DODD did a good job of bringing us up to date. I just want to say at the outset of my remarks that there is a lot of disinformation about the current ABC bill out there. There is a lot of misinformation. There is a lot of false information, and unfortunately most of it comes from my side. Most of it comes from people who in the past have supported me, some of whom have indicated they will never support me again because I have cosponsored the act for Better Child Care.

If that is the case, so be it. I think this is important. I think it is important that we face the responsibilities that we have to help families who really cannot help themselves. I think it is important to help these single heads of households who are just in anguish over what to do with their children rather than walking up and saying there is only one way of doing it. I think it is important for us to get together, Republicans, liberals, conservatives. Let me tell you the refundable tax credit side of this is just as liberal as the direct assistance to the grants that the ABC bill calls for. Both are liberal ideas. I have to say both have unique aspects and unique advantages.

So the distinguished Senator from Connecticut and I are certainly willing to have both. Frankly, do not tell me the direct subsidization is worse than indirect subsidization, or that indirect subsidization is better than direct subsidization. If you think about it, once the tax credit is locked in place, it is almost an entitlement. We have carefully written this bill on the direct help grant side to not be an entitlement program. I think that is important.

When I first introduced my own child care bill in September 1987, the so-called Hatch-Johnston bill, it was the first one introduced. I told the Senate about a Utah mother called Robin Brown. Some of my colleagues may recall Robin Brown's story. She was struggling to raise her four daughters by herself without resorting to welfare. She was working overtime to make ends meet but there was no money for child care. Her oldest daughter, Amy, who was 10 years old at the time, cared for her younger sisters aged 8, 7, and 4.

The Utah Department of Child Protective Services had twice hauled Robin into court to defend herself against neglect charges. She was a good mother. I do not blame the Utah Child Protective Services for investigating. That is its job. But I also do not blame Robin for being frustrated by a social services system that expects her to work and be at home at the very same time. I do not blame her for being angry that the same system which has questioned her fitness as a mother offers no child care assistance. I do not blame her for feeling some de-

spair over her lack of choices. She told the social worker that she had a choice between groceries or child care, and that, Mr. President, in my opinion is no choice at all.

I have supported several child care initiatives, and I will support the ABC bill because Robin is not the only Utahn in this situation nor is she the only parent in this situation in this country.

I would venture that a substantial percentage of the 6 million single-parent families in America today face the very same catch-22 situation. Two-thirds of the women who do so, as I have said, because they are single heads of households or their husbands earn less than $15,000 to $20,000 per year.

Some have argued that parents who cannot afford to care for their own children should not have them. Is that not a cynical viewpoint? Someone should have told that to Robin Brown before her husband ran out on her, or a Mary Smith before her husband died. We do not always control the circumstances which lead families to need child care. Moreover, I find this argument rather elitist.

Under this reasoning millions of children should not have been born because their parents needed two incomes in order to make ends meet. Families of all socioeconomic groups should be able to have children, and I agree completely that Government should not throw up barriers to having families.

Some have also argued the Federal child care program will somehow entice mothers out of the home and into the work force. Frankly, I have trouble believing that this is even a serious argument. Today, in the absence of any Federal child care program, 57 percent of mothers with children under the age of 14 work—57 percent. Half of all children under age 6 have working mothers. There are already 5 to 15 million latchkey children who have no adult supervision during critical daylight hours.

I want to assure the opponents of child care legislation that we are not creating an incentive to leave children in day care to make money. We are responding to an existing condition in our society that is crying out for leadership toward a solution. For those who need child care we are trying to make it more affordable, more available, and of acceptable quality.

Many have advocated, as I have said, a tax credit approach to help people like Robin. I agree. I believe a meaningful tax credit is really an excellent idea. I have sponsored such a bill with Senator DODD called the Family Earned Income Tax Credit Act. Senators MIKULSKI, KASTEN, and D'AMATO are also cosponsors of the Family EITC. I am very proud to be a principal cosponsor with Senator DOLE of the proposal submitted by President Bush.

But I also believe parents need choices among an expanded array of child care options. They want assurances that child care is safe. The private sector needs incentives to get involved in child care and family-based providers need some assistance.

So although I enthusiastically support a refundable tax credit for low-income families with young children, I do not consider that the only idea of value. But we cannot enact such a tax credit and then sit back and say that we have solved the child care dilemma for these families.

If an additional $1,000 to $2,000 in the pockets of families will inspire more people to get into the child care market, that is great. But realistically, unless we also do something about the tax treatment providers and address the risks of liability which this bill does, the ABC bill does, I seriously doubt that an unearmarked tax credit will by itself create substantial numbers of new child care slots. It is a good thing to put some extra cash in the pockets of American families, and I do not think we should require proof that they spent the cash on child care. In some cases the family may opt to have a full-time parent at home instead of an extra income, and will use the tax credit to make rent payments, put gas in the car, or pay off medical bills. The tax credit could just as easily provide economic incentives for grocers or landlords to increase goods and services. So it is not the last answer to anything.

I think we are getting from this that maybe the ABC bill has some very, very good alternatives and some very, very good complements to any tax credit approach, and although I commend the President for coming up with this approach, and I commend him for being the driving force behind it, I still think he ought to leave the ABC bill as currently amended because of what it does for affordability, availability, and quality—the three most important matters with regard to child care.

But it has been said that only a tax credit approach will provide choice for parents regarding child care. Of course, this is only partially true. I agree that low- and low-middle-income families should have the choice of having a parent in the home and a tax credit does provide that option. I like that option. That is one reason I support a tax credit. But for parents who need to work for whatever reason, a tax credit will not expand their choice regarding child care.

A tax credit will not necessarily increase the number of child care providers who will care for special-needs children. It will not necessarily expand the number of organized activities for children after school. It will not by itself encourage family-based providers, churches, nonprofit organizations, or businesses to offer child care services. There are other factors that discourage choice in child care which cannot be addressed by simply giving more money to the consumers.

I firmly believe that a tax credit and a discretionary grant program should go together. That is why the ABC bill is so important. As a matter of fact, the Child Care Services Improvement Act, which I have introduced with Congresswoman NANCY JOHNSON, does both.

I am disappointed that the House—by the way, much of that bill was adopted by the ABC. We have taken the good ideas out there and put them in the ABC bill. So there has been a magnificent effort by the distinguished Senator from Connecticut to accommodate almost everyone. When you consider there were over 100 child care bills filed in the last Congress alone, 19 filed by Republicans alone in this Congress in the Senate, you can imagine what a difficult job it is.

Well, I am disappointed that the House Ways and Means Committee continues or seems to be dragging its feet on this score.

It has been suggested that members of the tax writing committee do not want to amend their 1986 handiwork. But, since when, Mr. President, has any revision of the Tax Code been considered holy writ? Why should we blandly accept this reticence to amend the 1986 Tax Code and pass up a golden opportunity to target real assistance to hard-working American families? We need to go forward with a tax credit component so that any child care bill will be comprehensive.

Mr. President, I want to commend the Senate Finance Committee for moving out on this issue. Senator PACKWOOD, the distinguished ranking member of the Finance Committee has suggested his own child care legislation which clearly demonstrates his sincere interest in addressing the child care problems faced by working parents. Senator BENTSEN has acted to report a committee amendment to S. 5, now part of the underlying amendment that we are debating at the present time.

I would like to see this tax component broadened so that families with young children who sacrifice a second income—at a time in their lives when they may need the money the most—get a tax break as well. I also have reservations about the wisdom of the health insurance provisions. But, I do, nonetheless, commend our Senate Finance Committee for recognizing the need to take action on this issue. A year, 2 years ago, nobody was willing to take action on this issue except a few of us. Today almost everybody is. So regardless of what happens, I think

the distinguished Senator from Connecticut deserves a great deal of credit for driving this issue, forcing it and causing people to wake up and realize how important it is in making people sit down and come up with some of these components that probably will wind up as part of this bill.

The bill we are debating today is the second half of the comprehensive child care package I believe we ought to enact. It is the part the Senate has the authority to act on right now. It is the part that has already been the subject of hearings, newspaper editorials, and op-eds, discussion shows on TV, and hundreds of public debates—I think the Senator from Connecticut and I have been participants in most of them—and we were not always on the same side, but we are today.

We have linked arms and we are going to walk this bill through as much as we can together. I hope we will have the support of many of our colleagues, because it is not easy to do.

To say that the bill has been controversial is probably the understatement of the year. Since I made the decision a year ago to try to work out a compromise with Senator DODD on this bill, I have been personally likened to Karl Marx, Benedict Arnold, and even Brutus, in public print.

We have worked hard on this proposal. We have made many significant changes. We have, for example, included provisions giving greater flexibility to States to develop locally based child care programs, removing relative care from Federal standards, and streamlining other requirements in the bill. We have also resolved the matter of standards. In an agreement worked out with the National Governors Association, we have given States the authority to set their own standards. But, it is a compromise, And it is something that we have to continue to work on.

Let me tell you about that aspect of the bill. This bill does not require any State to meet Federal standards, so the disinformation out on that is absolutely incorrect. This bill requires that States set their own standards in only six categories. The category for health and safety is broken down into six subcategories. Most States already have standards in these categories, which would not have to be changed. The recommendations made by the National Committee on Standards are model standards only and do not have to be adopted by the States. But I think most States will want to adopt them, and since they do not have to be adopted by the States, I think they will make the standards reasonable. So no particular region in this country will be imposing its standards on anybody else.

If a State wants to upgrade its child care system by working toward the model standards, they may apply for funds under the incentive programs. These funds will be used for a variety of quality building activities. A State is not obligated to meet these standards, and will not suffer any sanction at all if it refuses to do so. We do have a push in the bill to get them to look at these standards and examine them and, hopefully, take them. It will not make a hill of beans worth of difference if they decide not to. They would be stupid not to, once the standards are suggested. It is up to them.

But, Mr. President, I do not see that this legislation—with or without a tax component—represents the Sovietization or Swedenization of children that many of the bill's organized detractors have asserted that it is. Nowhere in this bill is it required that children be in child care. Nowhere is it required that they be assigned to a specific type of child care. And, nowhere does it say that government will operate child care programs. So all of that disinformation is wrong. I bitterly resent those who are distorting what this bill says. What exactly, is meant by the Sovietization of children?

Is this invective based on the fact that the bill provides direct subsidies for low-income families? If that is so, we crossed the threshold of Sovietization a long time ago when the food stamp, WIC, or school lunch programs were enacted, of which most have solid support.

Is it because it requires States to provide assurances to parents receiving public child care assistance that their children will be in registered family-based or center-based programs that have accepted certain standards of accountability?

Is it philosophically repugnant to require an expansion of resource and referral systems that provide valuable consumer information to parents seeking out child care options?

Is it so reprehensible to require that those individuals who care for children and are paid in full or in part with public funds have some basic training?

How does it follow that encouraging the community, the private sector, and family based providers to initiate child care programs leads to the warehousing of children in cold, impersonal environments?

Mr. President, I consider myself a conservative, but I am going to support this bill. I will support it not in spite of my political philosophy but rather because of it. Conservatives are no less devoted to nurturing the next generations than are our liberal colleagues. We believe children should be raised in wholesome environments; they should be taught honesty, unselfishness, perseverance, and respect. They should be taught to develop their own abilities and interests. And, they need loving discipline.

With all my heart, I wish that more families had the option of having a full-time parent so that this instruction is always consistent with the family's own values. But, wishing will not make it so; and, in fact, the two-parent, one-income family has not existed as the majority since 1979, and it is time we recognize that.

Conservatives also face facts. If a parent cannot be at home for the children on a full-time basis, then quality substitute care must be found. The aim of the ABC bill is to help ease the burden for parents in this position. Its purpose is to prevent children from being left alone, vulnerable to a myriad of dangers and temptations. When it comes to children, we are allowed to be paternalistic in the framing of policy. It is the most constitutional thing we can do.

I urge every Member of this body to look at the revised ABC bill objectively—to look at it as if they had not heard any of the debate which has been raging for the last year—a debate full of emotion and rancor on both sides of the issue. When viewed in this way, the bill's flaws are obvious—but so are its merits. I hope that its attributes will come to the fore during our discussion here in the Senate and that its remaining imperfections will be remedied.

This is our opportunity to act positively in this area. It is our chance to enact a comprehensive package of legislation that will inure to the benefit of millions of American families. It is the right thing to do.

So, Mr. President, again, I want to compliment my dear friend from Connecticut. I have gained a great deal of respect for him throughout this whole process, and that respect is a lasting respect. I am going to support him with regard to this bill with every fiber of my being.

I think it is the right thing to do. It is the right thing for families in America, and it is the right thing for our country. In the end, hopefully, we can alleviate some of these pains and concerns and anguish and problems that face our families in America in observing—if we have any compassion at all or any heart at all—the everyday things like the story of Robin Brown, or the other illustrations of my distinguished friend, which he illustrated so well in his opening remarks kicking off this bill.

I thank all those who have been willing to work, and there have been many who have. I do not want to ignore them in mentioning my affection for my colleague from Connecticut in this issue. Nevertheless, I think we have plenty of time to talk about the bill and everything, every aspect about it.

I yield the floor.

Mr. KENNEDY. Mr. President, at the outset of the debate on the ABC bill, I, too, want to join my colleagues in commending the Senator from Connecticut [Mr. DODD] whose extraordinary effort that has culminated in the Senate debating this issue this afternoon.

This legislation, as has been pointed out during the course of the afternoon, has been evolving and developing over a period of some 2 years, and it bears the imprint of the Senator from Connecticut in just about every paragraph and every line of the legislation.

He deserves very special credit for assuring that this Nation is going to be serious about a matter of such importance to working families in our country.

So, I join in what I consider to be a very well-deserved commendation of his efforts.

I, too, join with him in commending my colleague from Utah [Mr. HATCH]. He has reviewed in his opening comments his serious reservations about certain approaches that were developed in earlier legislation, but he really has taken the time to develop an understanding of these issues with all of their implications. He has been a strong partner to the Senator from Connecticut, and he, too, deserves a great deal of credit in assuring that this legislation would reach the floor of the U.S. Senate. I have had the chance to work with him on other legislation. I think it is a better piece of legislation for all of his efforts, and I join in commending him and for the strength of his support for this program. I think it has been a very important contribution.

I thank the majority leader for being willing to weave the web of different legislative initiatives that included the Finance Committee proposals. Also as a former district judge, he helped to fashion a way for the concerns of individual Members of the Senate on some of the constitutional issues I think, to be constructively resolved. He has brought those measures together in the development of this package, in a very important and commendable act of leadership.

Those of us who have been in strong support of developing a day care program, realize that we are where we are today because of his willingness to work with the different committees and the different interests of this body and to present this package which he did earlier this afternoon and which has the support of those of us who have been supporting the ABC bill.

Mr. President, the legislation now before us provides an excellent opportunity to improve the lives of millions of American families. We are here to help the working parents who wonder each day if their children are safe at an unlicensed child care center or with an untrained babysitter. We are here to help the parents who cannot work outside the home because they have no one to watch their children. Most important, we are here to help the children who spend each day in unsafe, unreliable day care arrangements, or who are left alone to fend for themselves while their parents work to put food on the table. Today, for all these families, we begin consideration of a landmark children's package, assembled by our distinguished majority leader.

The centerpiece of this legislation is the Act for Better Child Care, sponsored by my colleague, Senator DODD. As chairman of our Children's Subcommittee, Senator DODD has worked tirelessly on behalf of young children, on this and many other issues. I commend him for his excellent work in bringing this bill before the Senate, as I do commend Senator HATCH, the ranking member of the Labor Committee, and his leadership and willingness to compromise is greatly appreciated.

Almost two decades have passed since Congress first considered comprehensive child care legislation. In 1971, one-third of mothers of children under 6 worked outside the home. Today, 56 percent of such mothers are in the labor force, including over half of all mothers with infants younger than 2.

All of these families now must rely on a patchwork of child care arrangements—sometimes three or four in a single day. More than 10 million children under 6 require child care for some portion of the work day—yet there are only 2.5 million licensed child care slots in all of our 50 States.

The lack of adequate and affordable child care harms children, harms parents, harms our economy, and harms our country. Absenteeism and turnover related to inadequate child care cost the Nation up to $3 billion a year in economic terms. But we will never know the true price that we pay for sending 30 million Americans to work each day wondering whether their children will be safe and healthy, and whether someone will be there to care for them tomorrow.

Our child care system fails in three critical areas: affordability, supply, and quality. The Act for Better Child Care addresses each of the issues in an effective and efficient manner.

The average cost of a year of child care in this country is $3,000. In Boston, that figure is closer to $5,000. For low-income working families, child care is likely to consume one-third to one-half of the family budget. All of these parents face a Hobson's choice between work and welfare—between taking a job and leaving children unsupervised, or passing up a job and caring for their family on public assistance.

The ABC bill gives real options to parents earning up to the State median income level to choose the kind of child care they prefer. Seventy percent of the $1.75 billion authorized by the bill will be used to subsidize child care, with priority for families with the lowest incomes. ABC will pay the full cost of care for children from low-income families, so that they too will have the option of high quality care.

States may use grants, contracts, or certificates to deliver the services, with fees charged on a sliding scale. Families may select from among a wide array of child care options—including care in the home by relatives, care in other homes in the neighborhood, and care in community-based, employment-based, or church-based centers.

Our bill will also increase the supply of quality child care. According to a recent poll, close to half of those able to pay virtually unlimited amounts for child care are not satisfied with their child care arrangement. The supply of child care simply has failed to meet the demand—at any price.

The ABC bill increases the child care supply by breaking down barriers to entry and offering incentives to bring more providers into the market. Twelve percent of ABC funds may be used for grants and loans to expand child care programs, to recruit new providers, to help communities establish afterschool services and programs for sick or homeless children, and to assist businesses through public-private child care partnerships. In addition, the ABC bill authorizes a one-time appropriation of $100 million to help States establish liability pools, so that child care providers can obtain affordable insurance.

Finally, if we are serious about child care, we must ensure its basic quality. We must do all we can to see that the safety of children does not depend on where they live or how much their families earn. The ABC bill provides incentives to States to improve their standards. In addition, 10 percent of ABC funds may be used to improve licensing enforcement, train existing child care providers, and expand resource and referral networks to that parents can locate the best arrangement for their child.

Last year, the ABC bill came before the Senate as part of a package to help working families. But our opponents argued that Americans did not want comprehensive child care legislation. They argued that we should not even put the bill to a vote.

But today, under the guidance of our majority leader, we have put together a strong children's package that enjoys broad support. Importantly, this package includes agreements

on two key issues: Child care standards and church-state provisions.

I continue to be a strong supporter of Federal minimum standards for child care. Federal regulations protect children in Head Start programs, senior citizens in nursing homes, and workers on the job. But for some reason, it is argued that children in day care centers should not be protected by Federal standards.

The legislation that we put forward today incorporates a compromise on standards worked out between Senator DODD and the National Governors' Association. Under the agreement, States will be required to set their own standards in certain key areas, like health and safety and staff qualifications. States that do not meet Federal recommended standards can compete for quality improvement grants. Through this combination of incentives and Federal guidance, ABC will result in improved child care quality in the States. I hope that finally, we can put this controversy over standards to rest by adopting the ABC bill with this fair and workable agreement

I am also pleased to report that with the assistance of the majority leader, we have worked out a compromise on the use of certificates under the ABC bill for sectarian child care.

Serious questions were raised about the constitutionality of using ABC certificates to support programs that involve religious worship and instruction. Some believe that Federal aid can go to sectarian programs so long as the aid is paid through such certificates, which leave the choice of the child care provider to the individual parent. Others believe that any such Federal payment to sectarian providers is unconstitutional, regardless of the form of the aid.

The compromise provides that parents receiving ABC certificates may choose sectarian programs for their children, as long as funds are spent in a manner consistent with the Constitution. This modification will permit the courts to resolve the issue in an appropriate fashion, consistent with the first amendment.

Each of these agreements has strengthened the bill, paving the way for increased bipartisan support. I commend my colleague Senator DODD for all the work he has done to bring together opponents on these key issues. Because of his leadership, we are very close to enacting this historic legislation.

I am pleased that the majority leader's package also includes Senator BENTSEN's proposal to expand the existing dependent care tax credit to enable us to reach our goals on child care as quickly and effectively as possible.

When I testified before the Finance Committee this spring, I recommended the following principles.

First, any child care tax credit should be tied to actual child care expenses and should not create an incentive for low-cost, substandard care.

Second, the tax credit should be targeted on families earning below the median income, and should benefit as many families as possible within our budget constraints.

Third, I urged that the tax credit be refundable, so that families who do not earn enough to pay taxes will also be able to benefit from the tax incentive.

I commend Senator BENTSEN for the putting together this bipartisan tax package. It is consistent with the principles I have outlined, and will provide an important supplement to ABC.

I am also pleased to support Senator BENTSEN's proposal to provide a refundable tax credit for the purchase of health insurance coverage. This tax credit will provide valuable financial assistance to low-income families that are already stretched to the limit in purchasing the health insurance coverage their families need. The credit may also stimulate some additional coverage—particularly in those cases where an employer pays the health insurance premium for an employee but makes little or no contribution to coverage for the employee. This tax package is an important recognition that poor families need both child care and health care.

Last year, our opponents succeeded in their filibuster of the ABC legislation. That delay has been at great cost to American families. Every day, over 5,000 mothers turn down paid jobs because of lack of child care. Every day, more than 2 million children spend another day alone and unsupervised. Every day, more than 3 million children risk injury or even death in unlicensed day care homes. We have already paid too high a price for our inaction, and there is no justification for additional delay.

The children's package is essential legislation for millions of families struggling to be self-sufficient and for millions of children who have no access to safe care. It is a far-reaching step toward a more enlightened children's policy for the Nation, and I urge the Senate to approve it.

Finally, Mr. President, earlier this afternoon the Republican leader outlined in general terms what was going to be at the heart of the proposal that will be offered as a substitute for this ABC bill. I just want to express a few concerns. I expect that these issues will be, hopefully, resolved prior to the time of the debate.

But it would appear that the Dole substitute includes three parts: an expansion of the earned income tax credit, refundability of the current dependent care tax credit, and the amendments to the dependent care block grant.

There may be very important reasons to support any one of those particular measures, but the legislation, at least as preliminarily outlined by the leader, has very little to do with child care.

The earned income tax credit is an important supplement to the income of families with children. But it is not targeted for child care. It could be used for anything from food to luxury goods. Any family that earns little enough to be eligible for EITC is unlikely to use an income supplement for child care.

While the child care costs an average of $3,000 a year, the EITC will not come close to making that an option.

ABC, on the other hand, will pay the full cost of safe, licensed child care for low-income families. It gives them real choices about the type of care and does not create an incentive for low-cost, unsafe conditions.

The second part of the package is a refundability of the dependent care tax credit. I am fully supportive of this measure as a piece of comprehensive child care legislation, such as the ABC. In fact, that is why the ABC package includes that provision.

If my colleagues support refundability of the dependent care credit, I urge them to support the ABC package which also will improve the supply and quality of child care.

Finally, the Dole package includes a block grant to States for dependent care. But this package will not allow one penny to go to families for child care. If I heard Senator DOLE correctly, this program does not allow States to subsidize child care with these dollars, even for the lowest-income families. In fact, this program will in no way hold States accountable for spending the money in a manner that will improve the child care in the State or increase its supply.

ABC bill will help parents pay for the child care and ABC will increase the supply of child care through grants and loans to child care providers, incentives to employers, and by establishing liability insurance pools. Unlike the package, ABC will improve the quality of child care. It does this without mandating Federal standards. Instead, it uses a carrot approach: States receive dollar incentives to improve their standards.

The National Governors Association, the National Conference of State Legislators, and a host of other State and local organizations think that the incentives in ABC will indeed result in improved child care quality. They are the ones, really, who have the greatest responsibility in the development for that kind of quality and they are all on record believing that the approach that has been used in the ABC Program offers an excellent opportunity for strengthening quality.

So we have to ask ourselves what this package can do for quality. How can they be sure that it will increase the supply, which the ABC bill will do? How do they know that the EITC tax dollars will be spent on child care?

I do not expect that we will have answers to those questions because there really are none.

Mr. President, I yield the floor.

Ms. MIKULSKI addressed the Chair.

The PRESIDING OFFICER. The Senator from Maryland is recognized.

Ms. MIKULSKI. Mr. President, I rise today in support of the Act for Better Child Care. Child care is one of the greatest needs that many working people just face every day.

As I travel around my own State of Maryland and also around this country discussing family issues, whether you go to work carrying a wine-colored briefcase and you make $120,000 a year or whether you work as a checkout girl making $12,000 a year, one of the things that you continually ask is: "Where can my children be who are preschool, who are infants? Where are my kids going after school? Where are my kids going to go during the summer?"

It is very clear that child care is a compelling national question. One of the things that continually arises is that parents ask us please to pass a national framework that will make child care affordable. Accessible, competent, and safe. I think that is what the ABC bill will do. It will do this by providing States with the resources they need to directly help familes and increase the availability of safe, affordable child care.

Mr. President, we have heard a lot about detail and statistics. Our minds are awash in those kinds of numbers.

Essentially, in town hall meetings and forums, my constituents say: "Senator MIKULSKI, what is this bill going to mean for me?" Well, what it means is the ABC bill will help 1 million kids by providing vouchers to people of modest income to actually pay for child care. In addition to that, it is going to provide basic health and safety protections so moms and dads will not have to worry about the quality of child care their kids are facing.

The whole Nation's attention was gripped when little Jessica McClure fell down that well. At the same time, what we want to make sure is that we cap those wells and we also cap any of the other kinds of safety concerns that parents might have. That is why we want health and safety protections, which is one of the reasons we adocate these mild standards.

The ABC bill will also help countless moms and dads find child care. It is not easy to find child care. I went to visit a Federal agency involved in the national defense of our country. They know what is going on around the world in every missile system. They can tell you about every microchip in a Soviet sub. But they asked me to help them find child care in Maryland. They just did not know how to begin.

One of the things that is absolutely crucial is information and referral services, one-stop shops for both parents and employers to find child care. And that is what this bill does.

The ABC bill helps parents locate and choose. They get to choose safe child care in their communities, by establishing resource referral hotlines and a variety of other programs.

There are many statistics that I could go through, how that would affect my own State of Maryland, and I am not going to go over that. Essentially, with this legislation what we find is it is profamily and it is probusiness because it is a smart investment for employers in the country. Fifty-six percent of all mothers with preschool-age children work outside the home. For the most part these mothers are working out of economic necessity, not because of some passion for self-fulfillment. Not only do they need their jobs, but America needs them in the work force. The very least we can do is help assure them that their children will be safe and that there will be available child care for them.

There is a lot of questions about the standards. Well, standards will not be too tough for providers to meet. First, the States, not the Federal Government, will set their own child care standards based on their own particular needs and concerns. The bill allows us to help out those States that are struggling to get their providers to meet the most minimal standards.

It is not the intention of this bill to establish a kiddie-care OSHA, Mr. President. We do not want to have all kinds of complicated regs that nobody can comply with, because we want to increase the supply of child care. We think the standards that we will be recommending are reasonable and achievable. The main goal of these standards is to protect our children.

I would like to make a comment about tax credits. I support tax credits because I think we need a pluralistic approach, but tax credits will not deal with the availability or quality of child care. Therefore this legislation, coupled with the tax credit, will do it.

You know, Mr. President, when I started talking about this legislation, child care legislation, when I was a Member of the House, this was considered a woman's issue. Then it became a family issue. Now it is a business issue.

I hope we will look at it as an American issue. Mr. President, no employer would build a new facility, be it an office building, a technopark, an industrial-manufacturing center, without providing parking lot slots for their employees. Mr. President, I would like to see us provide day care slots for our kids. I hope we would have the same love for our children as we have passion for our automobiles. Then maybe we can get something done.

I think this bill goes a long way. I would like to compliment Senator DODD for the work that he did on this bill and also Senator ORRIN HATCH for the very collegial way that he worked with us on this legislation and for many of the improvements we have incorporated in the bill. I would like to thank the very fine staffs that they have for their help in fashioning this bill. I think we have come to the point where we have good legislation.

But it is not whether it is good legislation. Is it good for families? Is it good for kids? Is it something States and communities can afford? Do we keep the church-based child care in providing it? The answer is yes to all of this.

Mr. President, I think we have a very fine bill. I am happy to support it and I yield back my time.

The PRESIDING OFFICER (Mr. LAUTENBERG). The Senator from Rhode Island.

Mr. PELL. Mr. President, I rise today in support of S. 5, the Act for Better Child Care Services of 1989. As an original cosponsor of S. 5, and as a member of the Senate Labor and Human Resources Committee and its Subcommittee on Children, Family, Drugs and Alcoholism, I have had the opportunity to participate in the evolution of this comprehensive and innovative child care legislation. I would be remiss if I did not speak of the tremendous dedication, hard work, and leadership of our subcommittee chairman and the sponsor of S. 5, the senior Senator from Connecticut [Mr. DODD], whose understanding of the needs of the families across this Nation, and whose cooperation in addressing the concerns of his colleagues, have resulted in the quality legislation that we have before us today.

Mr. President, the Senate has debated once before legislation designed to address the Nation's need for affordable, quality child care services, and many differing views have been expressed and considered. But we must remember as we discuss this new compromise version of last year's bill that each day we delay, argue, and put off constructive compromise on child care legislation is a day that our children may have inadequate care in an unsafe environment. Those children born when the ABC bill was first introduced in November of 1987 are now about 19 months old. If we delay any longer, another generation of parents will be faced with the terrible choice of sacrificing a badly needed second income to ensure that their children

receive basic, quality child care, or placing their children in care situations which are not the quality environments that all children deserve.

I urge my colleagues to look carefully at S. 5 and the compromise measure that it is today, as well as any amendments which may be offered to address further some Senators' concerns, and to put aside our differences in a spirit of compromise for the children of our Nation. We should take this opportunity to work hard for consensus, and create a child care policy for this Nation that will address the needs of both today's working mothers and fathers, and the needs of generations to come.

ACT FOR BETTER CHILD CARE SERVICES OF 1989

Mr. DASCHLE. Mr. President, I rise today to voice my strong support for the Act for Better Child Care Services of 1989. I commend the distinguished Senator from Connecticut and the Senator from Massachusetts for their leadership in developing a comprehensive child care bill that has earned the endorsement of over 100 national and thousands of State and local advocacy groups.

The United States has experienced a massive demographic shift that has made child care a necessity for every income group. Women are entering the work force in record numbers. Over half of all mothers with infants younger than age 1 are in the work force; almost 60 percent of mothers with preschool children work outside the home. About a quarter of today's working mothers provide the sole support for their children.

The need for child care services in South Dakota is greater than ever. In town after town, I hear families say that they cannot find acceptable child care arrangements. There are approximately 450 licensed family day care homes and 80 licensed day care centers that, together, have the capacity to serve 9,000 children. The number of available licensed day care facilities is clearly insufficient to meet the needs of over 30,000 South Dakota children under the age of 6 with working mothers.

In addition, I have received numerous letters about the lack of financial assistance to help with the burden of child care costs. In South Dakota, 17,000 children under age 5 live in poverty, yet only 64 received child care assistance last year. Spending for child care assistance decreased by 99 percent between 1981 and 1988, and the number of children assisted dropped 97 percent in the same time period.

Of equal concern is the number of children placed in substandard child care settings. We need to help ensure a minimum level of quality provided by day care facilities to protect our youngest Americans. People need a license to cut your hair, but not to care for your child. While States require that your care be inspected each year, there is no such requirement for the facility that takes care of your child. Our children deserve better protection.

Throughout South Dakota and across the Nation, working parents are faced with this triple quandary: child care is hard to find, difficult to afford, and often of distressingly poor quality. I have joined as an original cosponsor of the Act for Better Child Care Services of 1989 in the 100th and 101st Congresses because it addresses these three critical issues and creates a comprehensive child care program.

The Act for Better Child Care Services of 1989 [ABC] addresses the availability problem by authorizing the use of funds to increase the supply of child care. States may use ABC funds to provide grants and low-interest loans to child care providers to establish and expand existing child care programs; to help communities establish after-school services and programs for sick or homeless children; and to assist businesses with child care programs through a new public-private partnership.

The Act provides direct financial assistance to low-income and working families to help them find and afford quality child care services for their children. States must use at least 70 percent of the funds they receive each year for this purpose, with a priority given to families with very low incomes. Parents are given complete discretion to choose from a wide range of licensed or regulated child care services, including nonprofit and for-profit child care centers, family day care homes, school-based care, and church-based care.

In order to ensure quality, the Act requires States to spend at least 10 percent of ABC funds for a variety of activities, including resource and referral programs, State monitoring, licensing and inspection efforts, health and safety training for child care workers, and improvements in child care salaries. The Act no longer mandates compliance with national standards: rather, it requires that States develop within 3 years a set of standards governing child care centers, family day care homes and group care homes. States must enact standards that are essential for children's health and safety, but each State will have discretion over the content of its standards.

I strongly believe that Federal assistance is necessary if South Dakota is to be able to meet the large and growing need for child care. The Act for Better Child Care Services of 1989 will provide $9.7 million to South Dakota, enough to provide 4,365 more children with decent day care. By building an infrastructure from which all parents and children benefit, while targeting financial assistance to those most in need, this legislation comprehensively addresses the Nation's child care needs.

Mr. President, I think this bill will go a long way toward ensuring the availability, affordability, and quality of child care services across the Nation, and I urge the support of my colleagues.

Mr. PACKWOOD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. PACKWOOD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PACKWOOD. Mr. President, I am going to address myself to this bill, but before I do, I want to make some definitions, if I might. These are my definitions. Others can quarrel with them and with how this bill got to where it is now, why it was originally written as it was, why it has been changed, why there is strong opposition from some people on the Republican side, and I think some smaller number on the Democratic side, and what the issues are that this bill portrays. It is much bigger than just this issue.

I am going to speak, in some cases, in generalities and I want to again emphasize they are my generalities. Nobody else has to accept them.

I am going to use words like liberal, conservative, and what I think, on average, an average liberal would think and what on average an average conservative thinks, and how that thinking went into the original crafting of the bill and how that thinking has gone into some very intense opposition to it.

I would say as follows: One, liberals, by my definition, are more inclined to think that government can make things much better by regulation, and they like Federal regulation best because it is uniform throughout the Nation. Sometimes they cannot get Federal regulations, and so they will try to mandate State regulation. They know it will be different from State to State, but at least it will be some regulation. That is just a generalization.

Conservatives are more inclined to distrust Government regulation and especially Federal regulation. There are exceptions among liberals, and exceptions among conservatives. You will find conservatives advocating bills that have an absolute plethora of Federal regulations in them. You will find liberals advocating bills that get rid of Federal regulations. I am talking on average, generally.

Those who are more liberal like the idea of regulation—Federal regulation. They have a certain belief in the perfectability of mankind and that per-

fection can be accomplished by rules and regulations. We can make people conform to what we know—speaking now as if I were a liberal—is good for them. They may not know it, but we know it, and we are going to fit them into what we know is good for them by regulation.

Conservatives are inclined to say we are not sure the Government knows what is good for us. We do not want the Government passing these regulations.

But I am now going to give a couple of exceptions to that. They are often in the social area.

Take school prayer, for instance. You go into class and the teacher says, "Children, stand up. Today we are going to recite something from the Bible." All the little children are going to recite the same thing. This is uniformity. This is regulation. Conservatives normally like that. They are not offended by the teacher saying we are going to read from the Bible and the children can either do it or leave the room. That is a form of regulation. Liberals do not like that. In that case they do not want a teacher or a school board issuing regulations that say we will have school prayer. It is a reverse of the normal liberal position.

Abortion would be another exception to the usual liberal and conservative positions. Conservatives, if they had their real desire, would like the Federal Government to outlaw abortion, make it murder nationwide. Or short of that, conservatives would certainly overturn the Supreme Court's decision of 15 years ago which said that a woman has a constitutional right to have an abortion. They would like a regulation to say women cannot have them. Liberals, on the other hand, say, no, that is the woman's choice. Government should not regulate it. Those examples are exceptions to the usual liberal and conservative positions.

Based upon almost 30 years of elective office, 20 years in the U.S. Senate, this is my observation: Liberals like economic and educational uniformity and social diversity. Conservatives like economic and educational diversity and they like social uniformity. Usually when you find dissidents in society, people who do not conform to the norm, people who want to upset the establishment and who are avant-garde, they are more likely to be liberal than conservative. A conservative is more comfortable with what he or she knows is the norm, but wants to have a great deal of economic freedom, and wants a great deal of educational freedom. That is my definition of liberals and conservatives.

Let me now talk about the child care issue. This is not the first time we have dealt with it. The Government now spends about $7 billion a year on child care. The figures range between $7 and $7.5 billion depending upon whether you use the estimates of the Congressional Research Service, the Department of Labor, or the American Enterprise Institutes. $7 to $7.5 billion per year. The two biggest portions of it are the present child care tax credit—which I will later explain—and the Head Start Program, and everyone knows what that is.

The Federal Government appropriated money and enacted a fair number of regulations for the Head Start Program. Liberals and conservatives support it. Money is given out to local governments, and we try to give poor children a head start. The program has worked out wonderfully. It is certainly a child care education program for preschool children.

We are now spending $7.5 billion, roughly, on child care. The present bills we are talking about—whether it be the ABC bill that Senator DODD is the principal sponsor of, or the bill that will be offered on this side—probably spend another $3 billion. This is not an amount to be sneezed at, but it is not nearly as much as we are spending now.

As we look at the ABC bill, I find four issues that separate individuals, separate the parties. The first one is standards; basically, should we have national standards or no national standards? Originally, the ABC bill proposed national standards. The conservatives did not want national standards.

The second issue involves how we should fund child care; tax credits versus appropriations. What should be the method of funding child care?

The third issue is religion; whether or not money should go to religious day-care centers.

The fourth issue is homemakers. A homemaker usually refers to a woman who stays home. She works at home for nothing. Anybody who says a housewife does not work has never met a housewife. She works at home, takes care of the children, is there when her spouse comes home and she does not receive any pay.

Those are the four issues: standards; how child care should be financed, tax credits or appropriations; religious day care; homemakers.

Let us take standards first. The first ABC bill was the genesis of the substitute bill we are debating today. The principal proposed of the original ABC bill was the children's defense fund and Marian Wright Edelman. They wanted national standards, mandated standards, which the States had to comply with or lose a fair portion of the money that the Federal Government would give them for child care.

Based upon my experience in the State legislature I make the following observation: Whenever the Federal Government sets down standards and says if you meet the standards, you will get the money; or if you do not meet the standards, you will not get the money or you will not get as much, the State governments will turn handsprings to meet the Federal standards to get the money.

The original ABC bill had mandated standards that the States had to meet.

The second ABC bill had what I would call model standards, not mandated but model standards; Federal model standards. If the State met those Federal model standards, they put up 15 percent of the money for the State ABC Program and the Federal Government put up 85 percent. If the State did not meet those model standards, the State had to put up 20 percent of the money and the Federal Government put up 80 percent. So there was a 5-percent difference, depending upon whether you met the standards. And States would turn handsprings to get the 5 percent. Whether you call it mandated standards or not, that 5 percent is an immensely large carrot which every State would try to get. So we call them model standards but, in essence, the States would meet them. That was the second ABC bill. As you can see, it has gone through many permutations.

The ABC bill that we have on the floor today no longer has the "carrot" of a reduced State match for meeting the standards. The States are no longer punished if they do not meet the model standards.

However, the model standards are still in the bill. When this bill is passed, a commission at the Federal level is to be created and model standards are to be enunciated. You might say why? If the standards are not binding on anybody, why are there going to be model standards? If the State gets the money whether or not they meet the model standards, why have them?

Here is the reason: The organizations which are proponents of this bill—in their heart of hearts—wish they were mandated standards. If they are not mandated, they wish that there were at least model standards that you must meet or lose money. But they know that if that is in the bill, they will probably lose the bill. They did not know that at the start.

As this bill moved through the congressional process and letters and objections built up, they could sense that national standards were a losing issue. So they backed off for the moment to come back and fight that issue another day. They will go with the model standards, and then every time the State legislature meets, every hearing you have on child care in the State legislature, proponents of standards will say, well, the Federal model standards are this, and why not have the State government meet the model standards? And 2, 3, 4, 5 years from

now when Senator DODD and I and maybe others may be gone from this Senate, the same people who are lobbying for this bill from the outside will one day try to get mandatory Federal standards again. They will retreat on the standards for now. I understand that we all do that. It is half a loaf. They would rather get part of the bill than none, so they retreat on what you cannot get.

The bill in addition to establishing a commission to get Federal model standards, says the States must set standards—must. One of the types of standards we are talking about is child staff ratios. In a day-care center, how many adult care givers must you have for every "X" number of children—1 adult to 5 children; 1 adult to 10 children; 1 adult to 15 children? The bill does not say what the State must conclude. But the State must conclude something in that area, and there will be model Federal standards with which the States will compare themselves.

Group size is another type of standard the States must set under the ABC bill. By group size we mean how many children can be cared for. Most of the child care in this country today is not in an organized day care center. It is in a neighbor's house. The ABC bill says the State must have a standard of how many children can be cared for in one center, whether it is an organized day care center or a neighbor's house.

Qualifications of personnel are another type of standard States must set. How much education must child care workers have? Must it have been in child psychology or education, or do you need a master's degree in something? Those kinds of requirements are qualifications.

States must also set ongoing training requirements. The requirements might mean child care workers have to go back to school every year for 20 hours or 30 hours. The bill originally had 40 hours mandated, 40 hours a year.

Well, you are Susie. You are age 28. You have one child. You want to stay home with your child and pick up some extra money. You are willing to take in three or four of the neighborhood children in your house. You become neighborhood day care center, but it is in your house. And that is the overwhelming bulk of child care in this country today.

But now if the States start to say to Susie, "you have to have one adult for five children, and you can only have seven children and you have to go back to school 40 hours a year to learn how to take care of children," after a while Susie begins to think, "I am not sure it is worthwhile."

And those on the outside who initially pushed the ABC bill do not like having children taken care of in the neighbors' homes. They want them in institutionalized centers run by professionals who have been trained to take care of children, not Susie who lives next door, who in their judgment is utterly incompetent to care for children. But they cannot get that in this bill. They back off but make the States set standards on group size, training, ongoing training, child-staff ratios, and what not.

Now, an argument will be made by the current professionals that they know, because they are professionals and they know better than amateurs, how many children you should have for each adult, and they would give you the impression that all of the studies would conclude that. But let me read some excerpts from some perfectly credible studies. The first one is an audit report on group day care services, done by the New York City Human Resources Administration.

The number of teachers were not as important in delivery of quality care as the kind of people the teachers were. Individuals who had the best qualities of resourcefulness and patience did the best.

This was a study to determine do you need advanced education, and what kind of education? It concluded that the kind of a person you are is more important.

The same report. This is fancier language, but it is the same group. "The lack of success in the group programs studied where high staff qualifications and low staff-child ratios were used"—let me read that again—"The lack of success in the group programs studied where high staff qualifications and low staff-child ratios were used indicated that there were other variables outside of the programs which were responsible for their success or failure."

Take away the fancy language and this is what this means: some programs that had very low adult-child ratios and very highly qualified adults were failures. So the study says it certainly could not have been because of their educational qualifications and the low ratio. It had to be outside variables or, put the other way around, it was not a given that the day care center would be a good center because of the high educational qualifications and the low child-staff ratio.

Another quote, same study.

High teacher qualifications and low staff-child ratios used by administrators to implement the objectives of the program studied had little impact in raising the cognitive ability of children.

Translated into lay English that means this: No matter how highly qualified the teacher and how low the ratio of teachers to children, that did not seem to be the key factor in the childrens' learning. The study goes on and on. There were other factors more relevant.

The ABT study—done out of Cambridge—is an interesting study because the people conducting the study did not select themselves the centers they would study. They asked the Department of Health and Human Services—they asked the best child care professionals they knew—to give them a list of the best day care centers. They were not family neighborhood centers but the best ones in the United States, and out of all the selections they ranked them. They took the top 20 that were recommended as the best in the Nation. Here is what they discovered in looking at them.

Formal education and high pay for staff did not guarantee a high-quality program.

Quality centers studied had anywhere from three to 16 children per staff member.

Two very common ideas about recruiting staff are: First, people with formal education, particularly in teaching or child care fields, make the best staff; and second, the way to get a good staff is to pay a lot; quality care will follow automatically from high salaries. Based upon our observations, we have good reaon to believe that neither of these guidelines is a reliable way to get a good staff.

The last quote, same study.

Our findings lead us to believe that a high proportion of people with formal education is not a prerequisite for building a quality staff.

I talked with the person who was partially responsible for this study. And I was intrigued with what the majority leader said in his opening statement. I may have his percentages wrong, but I think he said 7 percent of care in centers and 23 percent in homes was given by grandmothers. I may be wrong on his figures, but something like that. This person in this study, when I said to her, "If you had to pick one qualification, just one, for the kind of person that should give day care, what qualification would you pick?" She thought for a moment and she said, "grandmothers."

Not Ph.D.'s in education. Grandmothers. To anybody who has lived through life, it makes perfect common sense.

So that is the issue on standards. Should we mandate standards at the Federal level? The bill originally said yes. The bill would have died with that in it. Should we back down from the mandate and say we will have model standards and the States have to meet them or be penalized if they do not? That would have killed the bill. We backed down from that.

We are now going to have model Federal standards and we are going to require the States to have some standards. Those on the outside who want this bill hope someday they get the mandatory standards, and this is why this has become a touchstone philosophical issue between liberals and conservatives, and it is a bigger battle than just the issue we are debating today. That was the first issue.

The second issue is how do we finance day care. For any of the bills we

are going to pass for day care, child care, we are going to spend about $3 billion a year when the bill is in full effect. So what is the best way to spend the money? Well, there are only two ways the Federal Government spends money. One is appropriations and the other is what we call tax credits.

An appropriation works this way. We levy a tax on citizens. We collect the money. We bring it to Washington, DC. We decide in Congress, in conjunction with the President, how the money should be spent. We appropriate it. It goes out to a Federal agency and the Federal agency spends it, or we can give it out to the States and the States spend it.

But the process is tax, bring it here, pass a bill, establish whatever standards you want in the bill, spend the money, federally managed or otherwise.

A good example would be defense. We tax everybody in the country. We bring in the money. We have a defense appropriation bill. We put the money over in the Department of Defense and tell them how to spend it, with an extraordinary amount of fraud and corruption, as the public is well aware. We have inspector generals in every department to try to make sure we spend the money correctly. We are discovering this abuse is not just in the Department of Defense. The Department of Housing and Urban Development absolutely smells to high heaven with corruption and fraud within its low-income housing programs—money we have brought in, collected, apparently given out—I am not making allegations yet but apparently given out fraudulently and corruptly. It is not limited to defense programs.

But by habit and nature in an appropriated program where we tax the citizens, bring the money here, create a program and send it out, we are more inclined to put in more strings and more regulations than in what we call a tax credit program.

A tax credit program works this way. The citizen spends his own money. And then by law he is allowed to deduct part of that from what he owes in taxes. Now, let us use child care as a good example because, as I said earlier, the biggest single expense the Federal Government has today—forget whether this bill passes or not today—in child care is child care tax credits.

Here is the way it works. Take an example. You make $15,000 a year. You owe $2,000 in taxes. Let us say during the year you paid $1,000 in day care expenses. Let us say the law said you get a 50-percent credit. If you paid a thousand dollars for child care during the year, you get a $500 credit, and you get to deduct the $500 from the $2,000 of income taxes you owe. It is a relatively simple system. Again, by habit and nature we put fewer strings and fewer regulations on programs that we finance by tax credits than on programs we finance by appropriations.

So it is understandable, if you go back to my definition of liberals and conservatives, why liberals would prefer appropriated programs and conservatives prefer tax credit programs. The appropriated programs have more strings. Tax credits have fewer. The ABC bill, absent for a moment an amendment that was added to it that came out of the Finance Committee by Senator BENTSEN, was all appropriations; all of it. All the money went to the States. But, remember the original bill—you were going to have these mandated standards. Seventy percent of the money went to the States, and they were to use it for day care—day care with standards that the Federal Government saw fit to establish. If they met the standards, they got the money. Eight percent of the money was for administration, 10 percent was to upgrade standards, and 12 percent to expand facilities. There was no guarantee that the 70 percent got into the hands of the parents because the 70 percent went to the State, and the State spent it. They had to spend it for day care but the State spent it.

The alternative tax credit approach allows the parent to send his kid to the day care center of his choice, and he can subtract a certain percentage of the expense from his income tax. So in the alternative bill that will be offered on this side of the aisle, about 90 percent of the money is in the form of credits, either straight out what we call these day care credits or the earned income tax credit. I will explain that in a bit. Conservatives like the approach. Again it is understandable.

I found the statement of the Senator from Massachusetts which he made earlier after the Senator from Kansas [Mr. DOLE] spoke intriguing. Senator DOLE talked about tax credits. The Senator from Massachusetts said, "how do we know they will spend it on day care?" This statement demonstrates a wonderful liberal philosophy. "How do we know they will spend it on day care, if we allow them to spend it themselves?"

First, unless they want to violate the law, they cannot take the credit unless they do spend it on day care. As I indicated, today the biggest single expenditure we have in the Federal Government for day care is the present day care credit, and people can only get it if they pay the money for day care. Can they violate it, and say "I paid it for day care?" Can some fraudulent person give them a receipt, and say, "They paid me for day care," and the person cheats and takes it on their income tax? Of course that can happen. But in my judgment you are less likely to waste money, lose money, by criminality in that system than you will in appropriated programs where organizations apply to the Government for Government moneys and will fight tooth and nail to get the Government to give it to them.

So, how do we know parents will spend it for day care? You can go back and look at, almost every program that the Federal Government has ever come up with. You always have this battle of liberal versus conservative—can the poor, and most of these programs are scaled downward to disproportionately favor poor people—be trusted to spend food stamps, for example, on the right kind of food? The assumption is they are poor and therefore they are ignorant. What they need is a nutritionist, and the Government to give them the food. That battle was fought. You get your food stamps, you go to the store. Apart from liquor and cigarettes, you can spend the food stamps on what you want. You give the store your food stamp voucher, the store turns it in to the Government and gets its money.

But at the time we debated the bill that created the Food Stamp Program, there was a serious question as to whether or not the poor would spend their food stamps intelligently. So this is not a new battle. The question of the Senator from Massachusetts [Mr. KENNEDY] is how do we know parents will spend the money on day care, or spend it wisely on day care? Would it not be better for the Government to spend it on day care for them? Liberals like that and conservatives do not.

On the issue of credits, fortunately, all of the parties are agreed on two things: refundability and advance payment in the parent's paycheck. Refundability means this simply: you get some money even if you do not owe any taxes. That is important because under the present law, remember, I talked about credits, you pay $1,000, you get a 50 percent credit, $500, and you get to offset it against your $2,000 taxes. It does not do you any good if you do not owe any taxes against which to offset it. And on average, speaking about averages, a man, wife, and couple of kids making $15,000—and believe me there are a great many of those in this country today—because of the tax reform bill we passed in 1986 pay no Federal income taxes today. For anybody single with children under about $12,000, or married with children under about $15,000, as you pay no income taxes, the present Federal child care credit does you no good because you have no taxes against which to offset the credit.

All of the bills that deal with the credit make it refundable. They say even if you owe no taxes but you are entitled to a $500 credit, the Government will give you $500. When you file your tax return, you indicate you paid

it. It is not a refund of what you paid. It is a payment you get even if you owe no taxes.

Second, we have put into the bill a provision allowing the parents to get the tax credit right in their paycheck. It does not do you much good if you are a single woman and working at Woolworth's in a small store, lucky if you are making $1,000 a month and you have a child and are paying $150, $200 a month day care, and you do not have that money. You normally cannot wait until the end of the year when you file your income tax to get $500 in refundable child-care credits when you had to pay out every month or every week your day-care expenses.

So all of the bills that deal with credits say not only will it be refundable, but you will get money if you do not owe it. And we will direct your employer to put it in your paycheck each week. It is no problem for the employer, and the poor person who has to pay $50 a week for day care gets the money back each week. It is a good provision. I do not know anybody who supports credit who opposes it. The administration supports it, and everybody supports it. That is not an issue. The real issue is, should we have credits at all versus appropriated funds.

The third major child care issue, as I indicated, is religion. Here is the problem on religion. About 7 to 8 percent of the child care in this country today is genuinely religious child care centers, and by genuinely religious, I mean it is the purpose of the child care center to teach the child a particular religion. I differentiate this from the roughly 30 to 40 percent of the institutionalized care—that is a secular organization that is right in the church basement. That is not religious day care. But 7 to 8 percent of day care is run by a church or religious organization for the purpose of inculcating in the child that particular religion.

The Federal Government, by direct appropriations, cannot give money to religious organizations. We cannot give it to the Catholic Church, synagogue, or to a Catholic school. It violates the first amendment.

One of the big problems that the original proponents of the ABC bill had, as the money was all appropriations, was what to do about the religious centers, the 7 to 8 percent where they are teaching the child the Torah or the New Testament. They could not get around the first amendment issue because the money was appropriated.

Here is the way the bill originally read: "No financial assistance provided under this Act shall be expended for any sectarian purpose or activity, including sectarian worship or activity."

Now, you think to yourself, why would somebody put that in the bill and go out of their way to thumb their nose at religion by putting that kind of provision in the bill? Here is where you have to consider the groups that are involved. In this case it is not so much the Children's Defense Fund as it is the National Education Association and the American Federation of State, County, and Municipal Employees. They hate the idea of what is called the "tuition tax credit." That does not relate to day care, but it was kicked around this Congress for 10 years, whether or not we should allow somebody to get a credit on their income tax for sending their child to a parochial school.

Any of the public employee unions hate that, because they are more likely to have organized the public schools than the private schools or the parochial schools. They hate anything about a tuition tax credit. They did not want anything in this bill that would allow any kind of payment to a religious day-care center, because it was the nose in the tent of tuition tax credits 5 or 10 years down the road. They fought it tooth and nail. If the ABC bill had a provision allowing payments to religious day care it would have killed the bill.

You had on the other side of this provision, the Catholic Conference, principal lobbying group for the Catholic Church. Obviously, they do not want a prohibition that says you cannot give money to a religious organization. So the poor devils, the sponsors of the ABC bill are in this bind, if they tilt toward helping and say maybe we can give some money to religious organizations, and that angers the National Education Association and the American Federation of State, County, and Municipal Employees. And if they keep the provision in that says none of the money is going to go to any religious organization, then there goes the Catholic Conference and most of the fundamental Protestants who run day-care centers. The sponsors are caught betwixt and between, as to what to do on it.

Direct appropriations to a religious organization are clearly unconstitutional. The next step from direct appropriations is what we call the voucher or the certificate. The way it works is that you give a certificate or a voucher to a parent. They take their child to the day-care center, and they pay for it with the voucher. It is like you pay for food with a food stamp. The provider, the day-care center, now takes the voucher, it turns it over to the Federal Government or State government, who gives you the money for the voucher, like the grocer gets paid for the food stamp. It is arguable whether or not that is constitutional. It may be or may not. We are not sure. There is another problem. In redeeming this voucher that they have given to the parent, the State may have to look into the affairs of the religious day-care center sufficiently to become what the Supreme Court calls "entangled," in which case it violates the first amendment and separation of church and state, just like the direct appropriation.

Today the majority leader said, "I am putting into this bill the Ford-Durenberger amendment," which says that certificates will be exempt from this religious proscription. The religious proscription is still there, but the certificates are exempt.

Whether it is constitutional or not, that they are exempt, we are not sure. But they will be exempt, so you can get a certificate—until the court says otherwise—take it and give it to the day-care center, and they will turn it into the Government and get the money.

Now, direct appropriation is unconstitutional. Vouchers or certificates, used for a religious organization, may be unconstitutional also. The court really has never irrevocably said. But tax credits are different. You are the parent, you take your child down to the B'nai B'rith day-care center, and on your income tax you are entitled to a 50-percent credit on your payment, the B'nai B'rith day-care center. Without question, this is constitutional. The Supreme Court has said so.

So here, again, you have this bind for those who want appropriated funds which may be unconstitutional. Liberals like the appropriations and the regulatory process; but if they insist upon it here, they will lose the bill. The conservatives like the tax credit approach, and they like the religious diversity.

So, religion is a difficult issue for the proponents of the bill. At the start it was really quite humorous. There is no question about the appropriated funds to the 7 or 8 percent that are run by churches for the purpose of inculcating the child. That is unconstitutional. But what do you do about the 30 to 40 percent of day care in a church basement, but run by a nonchurch organization.

The ABC bill, as originally drafted, in attempting to deal with that, said that you would have to put a shroud over the crucifix and hide any Star of David, so that the religious house, the church, did not look like a church. Well, they have gotten rid of all that now. I do not know if it is constitutional or not, but you can now go in, and if you happen to see a cross or a Star of David, at least the bill says you can do it. I do not know if the court will say it is constitutional. Those are the problems, none of which you have if you use the tax credit approach.

If you move in any direction where the Government, by credits or vouchers or appropriations, does anything that would encourage private schools, especially religious schools, you run absolutely into a stone wall with the

unions that organize public employment—mainly, the American Federation of State, County, and Municipal Employees, and the National Education Association. If you want them to support your bill, you better not tilt too much toward religion. If you want religious organizations to support your bill, you better not tilt too much toward the National Education Association. You are between a rock and a hard place. Tax credits resolve the constitutionality but irritate the NEA.

Remember, there are four issues: Standards; credits versus appropriations; what do you do about religion; and the fourth is homemakers.

Here again there is a liberal-conservative connotation to homemakers. I realize there can be men homemakers, but most people use the word "woman," and for purposes of illustration, I will say that. Should the woman be eligible for a credit only if she works; in other words, is this a workplace-related credit, or should she be able to get it even if she stayed home?

The dependency exemption that all of us take for our children on our income taxes is in essence a homemaker credit. You get it whether you work for money or not. If you stay home you still work but you just do not work for any money. That is a homemaker credit for lack of a better term. You get it. But the present law on the child-care tax credit is that it is a workplace credit. You only get it if you work for money in the marketplace and pay child-care expenses to enable you to work.

Now, conservatives are convinced that the country would be better off—again I am generalizing—if women stayed home and did not work in the marketplace and were there when their kids came home and had soup for them and cookies and milk, and were ready at the door when dad came home. We would have less crime problems, better education, no drugs. That is an honest philosophy. I do not mean to make fun of it.

Real conservatives do not even like the present existing child-care credit in the present law. They would like to get rid of it and the money we spend on it and instead spread it over what they would call a homemaker credit so that you could get it whether you stayed home or not.

The ABC bill makes no provision for homemakers. The tax credit approach that will be offered next week by the Republicans does.

So now think back to your definition of liberal and conservative and you can understand the forces that shape this bill.

If you are a conservative, you do not like Government regulation usually, and this bill as originally introduced was Government appropriations and regulation; whereas, liberals like regulation and especially Federal regulation, conservatives by and large, if they have to pay for something, would rather pay for it with tax credit. They pay the money where they want, take something off their income tax, rather than the appropriation process where you are taxed and the money comes to Washington and goes back through appropriations. Liberals by and large prefer the tax approach and bring the money here because then we can regulate the spending of it better.

On religion, the third issue as I said, if you are conservative you are more likely to be quite religious and you like the church idea and you like your child being in the church day-care center and the church school and you would like to do everything you can to tilt toward that direction.

But the outside liberal forces, the NEA, the American Federation of State, County and Municipal Employees, the Children's Defense Fund, do not in any way, shape, or form want to start down the road toward the Government, even if constitutional, starting to help private and especially private religious day-care centers in education.

So it is no wonder we have a liberal-conservative split on this issue also.

The issue comes down really at the end how best to spend the $3 billion? We will vote on this next week. I do not know where it is going to come out. The differences are honest and they are not held with malice, but they are genuine liberal-conservative issues, as to what is the proper method for the Government to encourage or do something, not should we have $3 billion spent on child care or not have $3 billion. We are going to spend it. But should we spend it in the least obtrusive way possible with the fewest regulations tilting toward parental choice and encouraging or at least being neutral toward religion and favoring homemakers and nonhomemakers equally, or should the bill be regulatory, Federal, antireligious, in my judgment, and aimed solely toward the workplace?

Those are the issues. I do not know any other way to lay them out.

I am regarded ironically as a liberal Republican. I am prochoice on abortion. I have grave misgivings about what I call compulsory school prayer where the teacher comes in and says, "Stand up, we are going to read the fourth psalm."

But I come down on the side that we are better off to spend this money with as much parental choice as possible, with as much diversity in the providers of day care as possible, with as much tilt toward the use of the tax credit rather than appropriations as possible.

By the end of next week I think we will know which way this Senate feels.

Thank you, Mr. President.

Mr. DODD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. JEFFORDS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. BRYAN). Without objection, it is so ordered.

Mr. JEFFORDS. Mr. President, S. 5, the Act for Better Child Care or ABC bill is the product of intense negotiations and sincere bipartisan efforts to fashion a bill to address the critical issue of providing sound child care. This has been going on for several years. While I support passage of the ABC bill, I have serious reservations regarding the religious discrimination language. I also reserve judgment on the tax provisions added by the Finance Committee.

The lack of good quality, affordable child care in this country has been well documented. We have all heard testimony about the common problems faced by working parents who need child care; the difficulty of locating an acceptable child-care provider, the even greater difficulty of finding a good quality child-care provider, and of course the huge bite that child-care expenses take out of a working family's income. This bill contains several initiatives aimed at addressing each of these problems.

Under the bill, low- and middle-income families would be eligible for direct financial assistance in paying for their child-care costs. The amount of assistance would be calculated on a sliding fee scale based on family income. This provision allows eligible families to have complete discretion to choose from a wide range of child-care services.

A significant factor in the overall cost of child-care services has been the high cost of liability insurance. To help limit provider costs, the bill would foster the establishment of child-care liability risk retention groups. These insurance pools provide access to affordable liability insurance through a shared risk pool system thus limiting the effect of liability premiums on overall cost.

Quality would be improved by encouraging States to adopt "recommended model standards." Currently, States have their own standards for child care to fit the unique nature of that State, its constituency, and its child-care needs. The revised ABC bill acknowledges these differences among States, while at the same time, provides incentives for States to meet and exceed the Federal model standards.

The revised bill further includes language to assure adequate training for child-care providers without cumber-

some and excessive requirements for family-care givers. In addition, the bill establishes the creation of resource and referral centers that help parents identify child-care providers in their area.

Given the demographic changes that have taken place and are continuing to take place in our workplace, it is likely that private employers will increasingly realize the advantages of assisting employees in meeting their child-care needs. To encourage this trend, S. 5 includes a new child-care public-private partnership section that would promote greater employer involvement in the provision of child-care services. By providing incentives to private employers, we are able to supplement public efforts in a very cost-effective way.

All in all, this ABC bill represents landmark legislation. It puts the Federal Government firmly on the record in support of child-care services. It recognizes that many parents have no choice but to work. It also recognizes that these families cannot always afford decent child-care services and it recognizes that families that use home child-care services also need assistance. I am pleased that the bill was expanded to include a number of provisions to address some of my initial concerns with the bill. Among them include the provision to enhance business involvement as well as the establishment of the child-care liability risk retention groups. Both provisions provide better child-care services as well as making child care more affordable to families. I am pleased to be a sponsor of this bill.

Having said that, though, I cannot conclude without voicing my disappointment in the nondiscrimination language.

With respect to church-state issues, since the introduction of the ABC bill, many of us have struggled with the constitutional hurdles that must be overcome in a government program that envisions participation by religious organizations.

The issue is not an easy one, it is rife with emotion and replete with complexity and confusion. However, let us not forget that we recently completed a 4-year struggle for the passage of the Civil Rights Restoration Act. With that act, we reaffirmed our support for the broadest possible civil rights coverage in programs funded with Federal money. We said it did not matter where you discriminate; we rejected the notion that you have to trace Federal money to the point of discrimination. We said, "If you take Federal money, you can not discriminate. Period."

With that as a precedent, we crafted a child-care bill that would uphold these principles. Since its inception a number of revisions were made to the original church-state language. The Committee on Labor and Human Resources passed compromise language in an attempt to balance the delicate relationship between the church and state. At the same time it tried to recognize the important role that religious institutions have played in providing child-care services. It should be noted, for the record, that this was a compromise, and a difficult one. A thoughtful compromise yet a compromise all the same. The language prohibits use of ABC funds for sectarian purposes, but still allows the 80-percent test. That test states that if a program receives less than 80 percent of funds from State or Federal sources, it is not prohibited from, "hiring persons already associated with the organization sponsoring the child-care program, nor from admitting children to slots not funded by the ABC on the basis of their affiliation with the sponsoring organization."

I supported this agreement with great reluctance because it included a severability component that ensured that if "any provision regarding religious discrimination is held invalid, it shall not be construed to affect the validity of the other provisions of the title." In other words, this provision assures that those programs unaffected by constitutional questions will continue to be funded and not jeopardized. To me, that was critical. It is an important caveat so that the bill, which we have labored on so diligently, will not be abandoned.

With that provision, I accepted the compromise. Yet, as I mentioned earlier, it does compromise on the principles set forth in the Civil Rights Restoration Act. To accept yet another compromise, added to this version, will weaken the standards that we fought so diligently to establish in the Grove City bill.

Without strong language we would be taking a step backward and retreat to pre-Restoration Act theory of discrimination. Thus far, no one has been able to give me a good policy reason to weaken the nondiscrimination provisions in the original bill that was reported out of committee. Nondiscrimination provisions make sense both as a matter of law and of policy.

Unfortunately, I think we have strayed from this fundamental concept. Instead, we are creating a precedent in favor of overlooking the problem every time it arises. Besides, in other programs involving participation by churches and synagogues, we do impose nondiscrimination requirements. Head Start and CETA had nondiscrimination provisions. So do revenue sharing. Religious nondiscrimination requirements appear in VISTA, the Foster Grandparents Program, Hill-Burton hospital construction grants, and the National Older American Volunteer Program.

As I stated earlier, we had compromised already. We now allow discrimination against both children and employees. We simply cannot justify chipping away at the principles that have made this Nation strong: the principles of civil liberties to all citizens regardless of race, creed, color, national origin, sex, political, or religious affiliation.

Mr. LIEBERMAN. Mr. President, the question before us today is no longer whether the Federal Government should pay a role in the provision of quality child care for our children. The question is what kind of role should the Federal Government play?

I am very proud to be a cosponsor of the Act for Better Child Care introduced by my friend, the senior Senator from Connecticut, CHRIS DODD, because I believe it is critical that we ensure that sufficient quality child care is available for our Nation's children.

Mr. President, CHRIS DODD deserves our admiration for his dedication to designing legislation which will be truly helpful to America's families. As I talk to so many families across the State of Connecticut, and I am sure it is true, Mr. President, in your State of Nevada and throughout this country, the provision of quality child care, the question of who takes care of the child when mom and dad are at work, is right at the top of the concern of people.

I am very proud, as the junior Senator from Connecticut, that my senior colleague, CHRIS DODD, has taken the lead most constructively in this issue, and I hope the Senate will ratify his efforts by enacting this legislation and enabling American families to find safe and affordable care for their children.

This country desperately needs to improve the provision of child care. The fact is that 50 percent of all mothers return to work before their babies are a year old. They need work to put food on their table—it is as simple as that—and a roof over their children's heads. They need to know that their children are safe while they are at work. There are today 10 million children under the age of 6 in need of child care for some part of the day. That is why we have to act now to aid in the provision of quality child care for those children and their parents.

We suffer as a nation when our children are not receiving quality care. Forty-eight percent of women and 24 percent of men have indicated in surveys that they take time away from work to attend to their children's needs, making phone calls to assure that the child is safe, driving their children from one caretaker to another, and staying home when a child is ill.

Studies have shown that concerns about child care arrangements have a

very decidedly negative effect on worker productivity. At a time when this Nation is fighting to remain competitive in the world market, it is interesting to note that our economic competitors throughout the world all do more than we do to ensure that working fathers and mothers can find decent child care for their children. This country will therefore be more productive and our youth better cared for if we enact this ABC bill.

A recent survey found that 75 percent of women and 57 percent of men report difficulty in finding child care with which are satisfied. I can tell you that in my own State of Connecticut there are 90,000 slots in State-approved day-care centers and day-care homes, but there are more than 280,000 children in need of child care. Many parents express dissatisfaction with their child care arrangements and find that they must often make alternative arrangements, as the patchwork quilt of child care that they have painstakingly pieced together rips apart. The time has come to increase the availability and quality of child care in America.

I believe that this leadership package will ease the concerns of many in this Chamber and outside about parts of the original legislation. It ensures both that we will increase the availability and quality of child care and that we will provide real financial assistance to families through the dependent care tax credit. I strongly and sincerely commend the majority leader and the other Senators who have worked so hard with Senator DODD and Senator HATCH to put this package together.

I am proud to support the legislation. The Act for Better Child Care will provide funds to improve the quality and availability of child care, it will encourage the development of different types of child care to satisfy the needs and preferences of families, and it will ensure that low-income working families are able to afford safe and decent child care for their children. The lack of affordable care harms children, parents, and our country. It is time, Mr. President, for this body, for the Congress and the President, to take steps to ensure that these harms do not continue. This bill will do just that.

I thank the Chair.

Mr. MITCHELL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MITCHELL. Mr. President, there will be no rollcall votes today.

MORNING BUSINESS

Mr. MITCHELL. Mr. President, I ask unanimous consent that there now be a period for morning business not to extend beyond the hour of 6:20 p.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Kalbaugh, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations and a withdrawal which were referred to the appropriate committees.

(The nominations and withdrawal received today are printed at the end of the Senate proceedings.)

COMPREHENSIVE VIOLENT CRIME CONTROL ACT—MESSAGE FROM THE PRESIDENT—PM 51

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with accompanying papers; which was referred to the Committee on the Judiciary:

To the Congress of the United States:

Today I am pleased to transmit proposed legislation entitled the "Comprehensive Violent Crime Control Act of 1989." As the American people are aware, our Nation is experiencing a surge of violent criminal behavior, linked in no small degree to the scourge of illegal drugs currently prevalent in our border areas, our cities, and our neighborhoods.

On May 15, 1989, I outlined a comprehensive program, consisting of both legislative and non-legislative items, to combat violent crime. This program is a logical approach to the violent crime problem that focuses on four major objectives: strengthening current laws; augmenting enforcement; enhancing prosecution; and expanding prison capacity. The seven-title proposal that I am sending you today represents the actions that we believe the Congress should take in each of these areas. Its enactment would help reduce the incidence of violent crime in our society.

Dealing with crime is not a novel problem, nor is it one with which we can ever expect fully to succeed. Nevertheless, assuring the physical safety of our citizens and inhabitants is among the very highest responsibilities of government, and it is a top priority of my Administration.

Traditionally, dealing with violent crime has been, and should properly remain, primarily the function of State and local law enforcement authorities. Yet it is clear that the Federal Government also has an important leadership role to play.

The Federal Government cannot properly discharge its duties in this regard, however, unless the Nation's criminal laws, the essential backbone of the Federal justice system, are modernized and strengthened. A substantial strengthening of our laws would help all elements of the Federal criminal justice system—law enforcement officials, prosecutors, judges, and correctional authorities—to execute their responsibilities with maximum effectiveness.

In recent years, substantial progress has been made toward this goal. Each of the last three Congresses, with the participation of the previous Administration, passed a major, bipartisan piece of anti-crime legislation. Together, these enactments have served greatly to assist in the struggle against violent and drug-related crime.

But much remains to be done to create the statutory framework necessary to cope with the still rising incidence of drug-related violent crime. *Now* is the time for this Congress to act—before the end of this year—on the proposed legislation I am transmitting today. Long-range solutions also lie in other directions, such as better education and job opportunities for our citizens. Our immediate task, however, and the one with which the present set of proposals is concerned, is to improve the Federal criminal justice system to render it able to dispense swift, sure, and fair justice. Persons who endanger society through the commission of violent offenses must know that their behavior will not be tolerated.

The present bill would improve the criminal justice system in several important ways.

First, the laws relating to firearms possession and use need to be carefully scrutinized to insure that, while the legitimate rights of firearm owners are protected, illegitimate use and possession of firearms are subject to proper punishment. In this regard, the Congress passed a major firearms statute in 1986, which generally struck a proper balance in this area. But our examination has revealed a number of instances in which the provisions of that law should be strengthened.

For example, I do not think it was the intention of the Congress to permit convicted felons, imprisoned for dangerous crimes, to be able to purchase firearms immediately upon their release from prison, merely because State law generally restores

29-059 O-90-9 (Pt. 9)

rights of citizenship to persons who have served their sentences. Yet that result may be required under the Federal statute as it is written today. Similarly, persons who use a semiautomatic weapon to commit a violent or drug felony are punished no more severely under present law than if an ordinary handgun had been employed. Existing Federal law also contains no penalty for stealing a firearm and lacks a clear definition of the offense of burglary. These defects and others would be remedied under a package of proposed firearms amendments that is included in the proposed legislation.

Second, building on the work of the 100th Congress, which, for the first time in recent memory, created a limited Federal death penalty for certain drug-related killings, this proposal would establish procedures necessary to institute a capital sanction for murders committed in violation of other Federal statutes, such as those involving murder-for-hire and the murder of a kidnap victim or a Federal prison guard. The proposed provisions are in compliance with all relevant Supreme Court decisions, and their enactment is long overdue. I believe it is absolutely essential to bring Federal law into conformity with the law in the more than three-quarters of the States that have passed statutes to reinstate the death penalty for a limited number of heinous crimes.

Third, the proposal includes provisions designed to impose several restrictions on ammunition clips and other ammunition feeding devices frequently used to enable so-called "assault weapons" to fire a large number of rounds rapidly and without reloading. Under my Administration's proposal, a magazine or other ammunition feeding device with a capacity of greater than 15 rounds would be subject to strict regulation and generally could no longer be imported, manufactured, received, or possessed. Persons already in possession of such devices would be allowed to retain and use them lawfully. No transfer to another owner would be permitted unless a record was made of that transfer, which would permit tracing in the event of a criminal misuse.

Limited manufacture or importation for purposes of export or for sale to Government agencies would be authorized, but such large-capacity devices, like a firearm today, would be subject to identification by requiring serial numbers. While an ammunition feeding device, like a firearm itself, is not inherently evil, the enhanced potential for danger to law-abiding citizens posed by the unlawful use of weapons equipped with such devices in criminal hands makes it necessary to impose these restrictions in the interest of public safety.

Fourth, my proposal would establish a nationwide program of mandatory drug testing for defendants on post-conviction release, including probation, parole, or supervised release. It is estimated that upward of 81,000 individuals will be on some form of Federal supervised release in 1990. The known association between criminal behavior and drug abuse is such that drug testing as a condition of release for convicted persons is an essential precaution to help enhance the public safety, while also promoting rehabilitative goals. I have proposed that $10.7 million be appropriated for this activity in fiscal year 1990.

Fifth, the proposal contains provisions to reform the so-called "exclusionary rule." Under this rule, Federal courts today exclude or suppress probative evidence obtained by searches and seizures conducted in good faith by law enforcement officials. The result is that factually guilty individuals avoid conviction and punishment. Under my proposal, any evidence that is obtained as a result of a search or seizure undertaken in objectively reasonable good faith, as determined by a court, would be admissible at trial, notwithstanding that a magistrate or judge later found that the search did not satisfy constitutional requirements.

Suppression of evidence in criminal trials—which are supposed to represent a search for truth on the issue of a defendant's guilt or innocence—is not an appropriate remedy to redress innocent mistakes. Law enforcement officers must frequently make split-second decisions on matters involving difficult constitutional issues on which even judges may disagree. Enactment of this proposal is necessary in order to make the justice system work effectively.

The exclusionary rule would remain, under my proposal, as a permissible sanction for intentional violations, but no longer would a criminal escape punishment because of a technical mistake in conducting a search or seizure. The House of Representatives last year passed a similar proposal, which unfortunately was deleted in the conference agreement on the Anti-Drug Abuse Act of 1988. The proposal should be enacted this year.

Sixth, the proposed bill would restore an appropriate degree of finality to State and Federal criminal convictions by curtailing abuses of the writ of *habeas corpus*. Under current interpretations of Federal statutes, defendants whose convictions have been affirmed by courts of appeals may nonetheless later seek to relitigate in Federal courts the claims previously raised or waived on direct appeal. Not infrequently, defendants with nothing to lose exercise this novel opportunity, which is afforded by no other civilized society in the world, through several rounds of litigation lasting many years and tying up our already overburdened Federal courts.

With the massive delays in many Federal districts occasioned by an overwhelming caseload, we can no longer afford the luxury of this system of excessive opportunity for review of "final" criminal judgments. An effective justice system requires that final adjudications not be subject to continuous review. No innocent individual should be denied an avenue through which to petition the Federal courts to review his or her conviction. But at the same time, those persons who have been tried and found guilty, and whose legal claims have been rejected after full and fair consideration, should not be allowed to relitigate endlessly in the Federal courts.

Under the proposed amendments, the opportunity for certain kinds of collateral attacks upon a conviction would be limited by a time period of 1 or 2 years, with due exceptions for the assertion of rights newly created or facts newly discovered. Similarly, Federal courts would be admonished to give presumptive validity to any full and fair determination of a factual issue by a State court.

A nearly identical proposal was overwhelmingly passed by the Senate in 1984. Its enactment this year would improve the justice system and relieve the Federal courts, thereby freeing them to hear other cases and to dispense justice to others more promptly.

Seventh, and finally, the proposed bill would authorize appropriations for several activities of the Department of Justice to augment Federal law enforcement personnel, increase prosecutorial efforts, and expand prison capacity. These appropriation authorizations, along with the increased funding I have requested for the Judiciary and the Bureau of Alcohol, Tobacco and Firearms in the Department of the Treasury—a total government-wide increase of about $1.2 billion in 1990—will make possible a tougher, more vigorous, and more effective fight against violent crime.

When I stood before the United States Capitol on May 15 and addressed the families of the brave and valiant peace officers who gave lives in the battle to rid America of drugs and crime, I promised them—as I did the American people on the day I assumed this office—that "this scourge will stop." Enactment of the set of proposals that I present to you today, as well as implementation of the other initiatives that I announced last month, will be a major step in keeping that promise. I urge that these important proposals promptly be considered and enacted. We owe the people of our great Nation no less.

GEORGE BUSH.

THE WHITE HOUSE, June 15, 1989.

MESSAGES FROM THE HOUSE

ENROLLED JOINT RESOLUTION SIGNED

At 1:33 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the Speaker has signed the following enrolled joint resolution:

H.J. Res. 274. Joint resolution to designate the week beginning June 1, 1989, as "National Scleroderma Awareness Week."

The enrolled joint resolution was subsequently signed by the Acting President pro tempore [Mr. KERREY].

At 4:30 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House disagrees to the amendments of the Senate to the bill (H.R. 1722) to amend the Natural Gas Policy Act of 1978 to eliminate wellhead price and nonprice controls on the first sale of natural gas, and to make technical and conforming amendments to such act; it agrees to the conference asked by the Senate on the disagreeing votes of the two Houses thereon, and appoints Mr. DINGELL, Mr. SHARP, Mr. TAUZIN, Mr. LENT, and Mr. MOORHEAD as managers of the conference on the part of the House.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-1258. A communication from the Chief of the U.S. Forest Service, Department of Agriculture, transmitting, pursuant to law, the 1988 annual report of the Forest Service; to the Committee on Agriculture, Nutrition and Forestry.

EC-1259. A communication from the Assistant Secretary of the Army (Installations and Logistics), transmitting a draft of proposed legislation to authorize, when in the interest of the government or under unusual circumstances, exempting certain categories of individuals from paying the full meal rate for a meal consumed in a dining facility of the armed forces; to the Committee on Armed Services.

EC-1260. A communication from the General Counsel of the Department of the Treasury, transmitting a draft of proposed legislation to authorize the Secretary of the Treasury to engrave and print the currency, bonds, and other security obligations of a foreign country or engage in research and development for printing the currency, bonds, and other security documents on behalf of a foreign country on a reimbursable basis; to the Committee on Banking, Housing, and Urban Affairs.

EC-1261. A communication from the Acting General Counsel of the Federal Emergency Management Agency, transmitting a draft of proposed legislation to amend the Defense Production Act of 1950 to support mobilization of the defense industrial base of the United States; to the Committee on Banking, Housing, and Urban Affairs.

EC-1262. A communication from the President of the United States, transmitting, pursuant to law, a report on the direct loan authority available to the Export-Import Bank for fiscal year 1989; to the Committee on Banking, Housing, and Urban Affairs.

EC-1263. A communication from the Secretary of Transportation, transmitting a draft of proposed legislation to amend the National Driver Register Act of 1982 to assist in the identification of merchant mariners who have an adverse driving record by permitting access to the National Driver Register, and for other purposes; to the Committee on Commerce, Science, and Transportation.

EC-1264. A communication from the Surgeon General, transmitting, for the information of the Senate, the proceedings of his workshop on drunk driving; to the Committee on Commerce, Science, and Transportation.

EC-1265. A communication from the Secretary of the Interior, transmitting, pursuant to law, a report on options for the potential redistribution of royalty receipts in the State of Louisiana; to the Committee on Energy and Natural Resources.

EC-1266. A communication from the Coordinator of Governmental and Public Affairs of the Tennessee Valley Authority, transmitting, pursuant to law, statistical summaries of the annual report for fiscal year 1988; to the Committee on Environment and Public Works.

EC-1267. A communication from the U.S. Trade Representative, transmitting a draft of proposed legislation amending the Superfund petroleum tax to conform to the GATT; to the Committee on Finance.

EC-1268. A communication from the General Counsel of the Department of the Treasury, transmitting a draft of proposed legislation to provide for the recovery by the U.S. Customs Service of the cost of processing of imported articles, and for other purposes; to the Committee on Finance.

EC-1269. A communication from the Assistant Legal Advisor for Treaty Affairs of the State Department, transmitting, pursuant to law, international agreements other than treaties entered into by the United States and a list of the agreements; to the Committee on Foreign Relations.

EC-1270. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report on the Agency for International Development's expenditure of $17.7 million in humanitarian assistance to the Nicaraguan Democratic Resistance from April 1 through September 30, 1988; to the Committee on Foreign Relations.

EC-1271. A communication from the Secretary of Transportation, transmitting, pursuant to law, the semiannual report of the Inspector General of the Department of Transportation for the period ending March 31, 1989; to the Committee on Governmental Affairs.

EC-1272. A communication from the Administrator of the U.S. Small Business Administration, transmitting, pursuant to law, the semiannual report of the Inspector General of the Small Business Administration for the period ending March 31, 1989; to the Committee on Governmental Affairs.

EC-1273. A communication from the Secretary of Veterans Affairs, transmitting, pursuant to law, the semiannual report of the Inspector General, Department of Veterans' Affairs, for the period ending March 31, 1989; to the Committee on Governmental Affairs.

EC-1274. A communication from the Acting Assistant Secretary of the Army (Manpower and Reserve Affairs), transmitting a draft of proposed legislation to amend title 5, United States Code, to provide a remote maintenance allowance to certain officers and employees of the United States assigned to Johnston Island; to the Committee on Governmental Affairs.

EC-1275. A communication from the Secretary of Transportation, transmitting, pursuant to law, the semiannual report of the Inspector General of the Department of Transportation for the period ending March 31, 1989; to the Committee on Governmental Affairs.

EC-1276. A communication from the Executive Secretary of the Federal Deposit Insurance Corporation, transmitting, pursuant to law, the report on the establishment of a new Privacy Act system of records; to the Committee on Governmental Affairs.

EC-1277. A communication from the Administrator of the U.S. Environmental Protection Agency, transmitting, pursuant to law, the semiannual report on the Inspector General of the Environmental Protection Agency; to the Committee on Governmental Affairs.

EC-1278. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled The Public Service: Issues Affecting Its Quality, Effectiveness, Integrity, and Stewardship; to the Committee on Governmental Affairs.

EC-1279. A communication from the Attorney General, transmitting, pursuant to law, the annual competition advocacy report for the period ending September 30, 1988; to the Committee on Governmental Affairs.

EC-1280. A communication from the Secretary of Housing and Urban Development, transmitting, pursuant to law, the report of the Office of Inspector General of the Department of Housing and Urban Development for the period ending March 31, 1989; to the Committee on Governmental Affairs.

EC-1281. A communication from the Executive Secretary of the Federal Deposit Insurance Corporation, transmitting, pursuant to law, a report on proposed changes to its Privacy Act system of records; to the Committee on Governmental Affairs.

EC-1282. A communication from the Director of the Central Intelligence Agency, transmitting a draft proposed legislation entitled The Intelligence Authorization Act for Fiscal Years 1990 and 1991; to the Select Committee on Intelligence.

EC-1283. A communication from the Secretary of Labor, transmitting, pursuant to law, the annual report of the Department under the Freedom of Information Act for calendar year 1988; to the Committee on the Judiciary.

EC-1284. A communication from the Secretary of Education, transmitting, pursuant to law, a document entitled Notice of Final Priorities for Fiscal Years 1989 and 1990—Rehabilitation Training Program; to the Committee on Labor and Human Resources.

EC-1285. A communication from the Secretary of Education, transmitting, pursuant to law, the 11th annual report on progress being made in special education; to the Committee on Labor and Human Resources.

EC-1286. A communication from the Secretary of Education, transmitting, pursuant to law, a document entitled Final Regulations for the Student Assistance General Provisions and Guaranteed Student Loan

and PLUS Programs; to the Committee on Labor and Human Resources.

EC-1287. A communication from the Secretary of Health and Human Services, transmitting the ninth annual report on implementation of the Age Discrimination Act of 1975; to the Committee on Labor and Human Resources.

EC-1288. A communication from the Secretary of Education, transmitting a draft of proposed legislation entitled The Howard University Endowment Amendments of 1989; to the Committee on Labor and Human Resources.

EC-1289. A communication from the Secretary of Health and Human Services, transmitting a draft of proposed legislation to amend the Public Health Service Act to facilitate the revitalization of the Commissioned Corps of the Public Health Service; to the Committee on Labor and Human Resources.

EC-1290. A communication from the Secretary of Education, transmitting, pursuant to law, a document entitled Final Regulations—National Diffusion Network; to the Committee on Labor and Human Resources.

EC-1291. A communication from the General Counsel of the Department of the Treasury, transmitting a draft of proposed legislation to amend section 516 of title 44, United States Code, with respect to the prosecution of defaulting contractors by the General Counsel for the Department of the Treasury; to the Committee on Rules and Administration.

EC-1292. A communication from the Chairman of the Federal Election Commission, transmitting pursuant to law, the 14th annual report of the Federal Election Commission; to the Committee on Rules and Administration.

EC-1293. A communication from the Secretary of Veterans Affairs, transmitting a draft of proposed legislation to amend title 38, section 203(b) United States Code, to delete the requirement that settlements of claims in excess of $1,000,000 on a construction contract be provided for specifically in an appropriate law, and to provide instead that the Secretary notify the House and Senate Committees on Appropriations of construction contract claims settlements of more than $1,000,000; to the Committee on Veterans Affairs.

EC-1294. A communication from the Secretary of Veterans' Affairs, transmitting a draft of proposed legislation to authorize a headstone allowance for prepurchased grave markers; to the Committee on Veterans Affairs.

EC-1295. A communication from the Director of the Defense Security Assistance Agency, transmitting pursuant to law, required information concerning the Department of the Air Force's proposed letter(s) of offer and acceptance [LOA] to Saudi Arabia for Defense articles estimated to cost $50 million or more; to the Committee on Armed Services.

PETITIONS AND MEMORIALS

The following petitions and memorials were laid before the Senate and were referred or ordered to lie on the table as indicated:

POM-135. A joint resolution adopted by the Legislature of the State of California; to the Committee on Appropriations:

"ASSEMBLY JOINT RESOLUTION No. 3

"Whereas, The west dam of Lake Norconian in the City of Norco, which is owned and maintained by the United States Navy, has been determined to be unstable and subject to liquefaction in an earthquake; and

"Whereas, The present condition of the dam was documented in a dam safety report rendered in November 1983, under contract with the United States Navy; and

"Whereas, The report determined that the approximately 50-year old dam should be repaired to eliminate the liquefaction potential since the area immediately downstream is residential and does not contain flood control features adequate to protect against dam failure; and

"Whereas, The City of Norco was assured by the Navy in 1985 that the repair project would be designed and constructed in 1987 but was recently informed that funding for the repair project will be delayed until 1991; and

"Whereas, Plans and specifications for the projects are nearing completion, and the Navy is now requesting that funding for construction of the project be moved up to the spring of 1989; and

"Whereas, In addition to the danger to existing downstream residential development, the construction of additional residential projects and a New Riverside Community College Campus in Norco will be delayed if the dam repair is not completed by the summer of 1989, now, therefore, be it

"Resolved by the Assembly and the Senate of the State of California, jointly, That the Legislature of the State of California respectfully memorializes the President and the Congress of the United States to fund construction by the United States Navy of the repair of the west dam of Lake Norconian during the 1989 fiscal year in order to provide urgently needed protection for the people of the City of Norco and to ensure that a number of vitally needed developments within the city are not delayed; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice-President of the United States, the Speaker of the House of Representatives, the Secretary of the Navy, and to each Senator and Representative from California in the Congress of the United States."

POM-136. A resolution adopted by the House of Representatives of the State of Illinois; to the Committee on Appropriations:

"HOUSE RESOLUTION No. 202

"Whereas, Mental illness strikes millions of people with tragic consequences for them and their families; and

"Whereas, The designation, mental illness, includes: brain disease, schizophrenia, affective disorders, clinical depression, psychotic and obsessive compulsive disorders, among others; and

"Whereas, The causes of many of these illnesses are unknown; and

"Whereas, In addition to the human costs resulting from these diseases, the economic cost to our nation is 73 billion dollars annually; and

"Whereas, The total amount spent by all states is $7 billion per year and growing; and

"Whereas, 100,000 psychiatric hospital beds are occupied each year by persons with schizophrenia and thousands more by persons with affective disorders; and

"Whereas, Homeless persons with mental illness are most poignantly in need of community services; and

"Whereas, Thousands of persons with mental illness are in our jails throughout the country for crimes occasioned by their illness and are in need of appropriate mental health care, not incarceration; and

"Whereas, Thousands more persons with mental illness are inappropriately placed in the nation's nursing homes; and

"Whereas, Research will underscore that these are medical diseases, not character defects, thereby reducing the stigma attached to them today: therefore, be it

"Resolved, by the House of Representatives of the Eighty-Sixth General Assembly of the State of Illinois, that we urge the United States Congress to appropriate funds so that the National Institute of Mental Health may pursue research into the causes and care of these diseases; that funds be appropriated at a level consistent with the best professional estimate, which is $500 Million for Fiscal Year 1990, of what is required to investigate the causes, cures, prevention, and improved treatment of these diseases; and be it further

"Resolved, That suitable copies of this preamble and resolution be presented to the President of the United States Senate, the Speaker of the United States House of Representatives, and the members of the Illinois Congressional Delegation."

POM-137. A concurrent resolution adopted by the Legislature of the State of Texas; to the Committee on Appropriations:

"HOUSE CONCURRENT RESOLUTION

"Whereas, The greatness of a nation is measured by its willingness to explore the unknown, pursue knowledge for its own sake, and invest in the future without expectation of immediate reward;

"Whereas, The soaring achievements of the United States space program have won the respect and admiration of the world and have contributed immeasurably to our nation's prestige as the scientific and technological leader of the free world; and

"Whereas, It has been proven that for every one dollar the federal government invests in space exploration, our society receives back over nine dollars in benefits from thousands of related discoveries in transportation, medicine, manufacturing, and the environment, which improve our quality of life and ability to compete scientifically, technologically, and economically with other nations in the international marketplace; and

"Whereas, United States students continue to perform poorly in math and science compared to students of other nations, placing our nation's future scientific and economic competitiveness in jeopardy; and

"Whereas, It has been proven that an active and successful space program excites the imagination of our youth, inspires them to excel in math and science, and motivates them to pursue careers in science and engineering that help ensure our nation's future competitiveness; and

"Whereas, United States spending on space programs as a percent of federal outlays has dropped by almost two-thirds since 1966, while other nations' spending on space has increased dramatically, with the result that other nations are challenging United Stats leadership in space; and

"Whereas, A permanently manned space station is the next logical step for the United States space program and is needed to serve as a launch pad and staging center for future space exploration programs; and

"Whereas, The NASA space station Freedom will serve the nation in many diferent ways including as a permanently manned national space center capable of providing

scientific data about outer space impossible to obtain from unmanned satellites or occasional, short-term missions in space; a research laboratory for new discoveries in physics, materials science, biology, and other sciences; a manufacturing facility to create life-saving drugs and advanced industrial products impossible to manufacture on earth; an astronomical observatory to advance knowledge about the universe beyond earth's atmosphere and to study earth ecology and solve environmental problems; and an industrial park for the creation of commercial space industries; and

"Whereas, NASA, working in cooperation with private industry, other governmental agencies, and international science committees, has developed a sound and fiscally responsible design for a cost-efficient and productive space station which has been reviewed and approved by the National Science Foundation and which is designed to grow to meet future needs and evolve with future technological advancements; and

"Whereas, NASA's space station program is currently in a critical stage in its development in which an adequate and dependable flow of funding is necessary to keep the program moving steadily toward its goal of regaining United States space leadership before the end of the 20th century; and

"Whereas, The proposed space station budget is reasonable considering that today the United States spends less than one percent of all federal outlays on NASA programs, compared to more than four percent in 1966, when the United States was preparing to land the first man on the moon; now, therefore, be it

"*Resolved,* That the 71st Legislature of the State of Texas hereby request the Congress of the United States to grant the National Aeronautics and Space Administration all the funds it requests to launch the space station Freedom before the year 1996; and, be it further

"*Resolved,* That the Texas secretary of state forward official copies of this resolution to the president of the senate, the speaker of the house, the members of the appropriations budget, and commerce committees, and the members of the Texas congressional delegation, with the request that this resolution be officially entered in the Congressional Record as a memorial to the Congress of the United States."

POM-138. A concurrent resolution adopted by the legislature of the State of Alaska; to the Committee on Armed Services:

"CONCURRENT RESOLUTION

"Whereas, schools located on Fort Richardson, Fort Wainwright, Fort Greeley, Elmendorf Air Force Base, Eielson Air Force Base, Adak Naval Station, and the Kodiak Coast Guard Support Center are operated by the local school district or rural educational attendance area; and

"Whereas, the federal government owns these schools; and

"Whereas, most of these school buildings are significantly below building standards when compared to other schools within these areas; and

"Whereas, the local school districts are expressly prohibited from conducting major maintenance or selling general obligation bonds to raise money for these schools; and

"Whereas, the state has appropriated funds to provide for the maintenance of these schools at a time when state revenue is in severe decline; and

"Whereas, the U.S. Department of Education, Office of Impact Aid has made a commitment to provide major assistance for school maintenance; and

"Whereas, schools on military bases in the state are the second highest national priority of the U.S. Department of Education; and

"Whereas, repairs by the federal government may not begin for another two to three years due to a federal program of resurveying maintenance needs at these schools, known as the Dole Study; and

"Whereas, parents of children attending these schools believe their children could receive better treatment and that federal officials have not been responsive to their concerns; and be it

"*Resolved by the Alaska State Legislature,* That the federal government is requested to carry out its responsibility for necessary replacement, repair, or upgrade work on schools located on Fort Richardson, Fort Wainwright, Fort Greely, Elmendorf Air Force Base, Eielson Air Force Base, Adak Naval Station, and the Kodiak Coast Guard Support Center; and be it further

"*Resolved,* That after necessary replacement, repair, or upgrade work is completed consideration should be given to transferring ownership of the schools to those local school districts that desire to assume ownership or to the state."

POM-139. A resolution adopted by the house of representatives of the State of Illinois; to the Committee on Banking, Housing, and Urban Affairs:

"HOUSE RESOLUTION No. 275

"Whereas, The State of Illinois supports the dual banking arrangement that has provided our nation with an innovative and responsive banking system that serves the financial needs of individual states, their economies, and citizens; and

"Whereas, The Federal Reserve Board's responsibilities under the Bank Holding Company Act are limited to the important and complementary role of regulating bank holding companies and their nonbanking subsidiaries; and

"Whereas, The State's authority over the activities of State banks and their subsidiaries is clearly defined in the Bank Holding Company Act; and

"Whereas, The Legislature and Governor and State banking regulators have always exercised that authority in order to promote the safety and soundness of the State's financial institutions while simultaneously recognizing the need for such institutions to evolve in order to compete in the changing financial marketplace; and

"Whereas, The State's ability to respond to unique and changing economic and financial variables is a fundamental right necessary to insure the State's ability to provide an environment conducive to its economic development goals; and

"Whereas, The amendments to Regulation Y proposed by the Federal Reserve Board would directly interfere with and usurp the historic authority of states to determine the range of activities in which state chartered financial institutions may engage; and

"Whereas, The citizens of a state are entitled to the benefits of a competitive financial services industry and the ability to establish such a system by working through their elected state officials and designated regulatory agencies; and

"Whereas, The Amendments to Regulation Y proposed by the Federal Reserve Board threaten the continued viability of the dual banking system; Therefore, be it

"Resolved, by the House of Representatives of the Eighty-Sixth General Assembly of the State of Illinois, That we strongly oppose the efforts on the part of the Federal Reserve Board to amend Regulation Y (specifically 12 CFR 225.22(d)(2)), thus undermining the nation's dual banking system by abrogating the authority of states to determine which activities a state chartered bank owned by a bank holding company should be allowed to offer; and be it further

"Resolved, That a suitable copy of this preamble and resolution be presented to the Federal Reserve Board and each member of the Illinois Congressional Delegation."

POM-140. A joint resolution adopted by the legislature of the State of Alaska; to the Committee on Banking, Housing, and Urban Affairs:

"JOINT RESOLUTION

"Whereas, the state fully supports the prudent and orderly development of the state's outer continental shelf oil and gas resources in an environmentally acceptable manner; and

"Whereas, the state has been very responsive to the nation's need to decrease its dependence on foreign oil; and

"Whereas, there are presently 10 Alaskan planning areas on the Federal Outer Continental Shelf leasing schedule, encompassing approximately 480,000,000 acres; and

"Whereas, with the exception of the North Aleutian Basin, the state has not requested a ban or moratorium on oil and gas leasing and drilling on any of Alaska's outer continental shelf planning areas; and

"Whereas, the North Aleutian Basin lease sale area has relatively low hydrocarbon potential; and

"Whereas, over 1,300,000 marine mammals inhabit or migrate through the North Aleutian Basin area; and

"Whereas, virtually the entire world's population of black brant and emperor geese stage in nearby coastal areas during the fall migration; and

"Whereas, an annual average of 45,000,000 to 60,000,000 adult salmon have migrated through the North Aleutian Basin each year since 1978; and

"Whereas, domestic Bristol Bay fisheries have an average export of crude oil to the United States at more competitive prices than North Slope crude oil because of the transportation savings; and

"Whereas, the additional cost of shipping Alaskan North Slope crude oil to the Gulf Coast and eastern states imposes an unnecessary burden on those states, reduces federal and state tax revenue, reduces state royalties, and discourages exploration and development of North Slope reserves; and be it

"Resolved, That the Alaska State Legislature respectfully requests the United States Congress to enact laws providing for the export of Alaska crude oil, regardless of the oil's point of production in the state, on a barrel-for-barrel basis for oil imported from other countries in this hemisphere, under terms that afford enhanced economic benefits for the nation without diminishing domestic security or reducing crude oil available for domestic purposes; and be it further

"Resolved, That the Alaska Congressional delegation and the Governor are urged to continue using their best efforts to obtain passage of legislation permitting the export of Alaska crude oil, regardless of the oil's point of production within the state."

POM-141. A resolution adopted by the senate of the State of Alaska; to the Committee on Banking, Housing, and Urban Affairs:

"SENATE RESOLUTION No. 13

"Whereas, in addition to the transit system found in Alaska's largest city, Anchorage, most of the medium size cities and many rural communities have bus and van lines supported only by state and local resources; and

"Whereas, there is a substantial imbalance in the funding authorized by the Congress for transportation services in urban and rural areas; and

"Whereas, under present law, communities with populations under 50,000 receive less than three percent of the transit funding through the U.S. Department of Transportation; and

"Whereas, the Congress should be concerned about public transportation generally and not only urban transportation; and

"Whereas, in 1989 the Congress offered only $66,200,000 in mass transit funds to rural America while making more than $168,000,000 available to Washington, D.C.; and

"Whereas, legislation has been introduced in the Congress that would double the share of Urban Mass Transit Administration (UMTA) Section 18 grants for the construction and operation of public transit systems in communities of fewer than 50,000 people; and

"Whereas, the legislation would also establish a state-administered block grant program for rural areas and small cities and seek federal subsidies for 'essential bus service' on otherwise unprofitable bus routes; and

"Whereas, a doubling of the funds available would still not represent equity to the rural areas because that doubling would involve only six percent of amounts available under UMTA's formula budget; and

"Whereas, the Administration has proposed a 50-percent reduction in UMTA's 1990 budget proposal: Now, therefore be it

"Resolved, That the Senate supports the Rural Transportation Equity Act of 1989 and the concept that equity requires the rural areas of the Nation to receive a proportionate amount of the funds made available by the Congress for public transportation; and be it further

"Resolved, That the Senate opposes the Administration's proposal to decrease the amounts available for public transportation."

POM-142. A joint resolution adopted by the Legislature of the State of Washington; to the Committee on the Budget:

"HOUSE JOINT MEMORIAL No. 4001

"Whereas, The Washington Legislature believes it is inappropriate that the dedicated trust funds for highways and airports are subject to the Unified Federal Budget process; and

"Whereas, The highway and airport trust funds are funded by user fees collected in advance of expenditure and are dedicated to highway and airport improvement programs; and

"Whereas, Inclusion in the Unified Federal Budget has limited appropriations from the Highway Trust Fund and from the Airport and Airway Trust Fund; and

"Whereas, The inclusion of appropriations from the highway and airport trust funds in the Unified Federal Budget prevents Washington from receiving all of the highway funds and airport funds to which the state is entitled; and

"Whereas, Reductions in highway and airport transportation trust fund appropriations hamper Washington's, as well as the other states' ability to address identified, critical transportation needs; and

"Whereas, The money in the highway and airport trust funds cannot be transferred to other programs included in the Unified Federal Budget; and

"Whereas, Limitations on highway and airport trust fund expenditures reduce only the total federal budget but do not result in a real reduction in the federal deficit;

"Now, Therefore, Your Memorialists respectfully pray that Congress remove the Highway Trust Fund and the Airport and Airway Trust Fund from the Unified Federal Budget; and be it

"Resolved, That copies of this Memorial be immediately transmitted to the Honorable George Bush, President of the United States, the President of the United States Senate, the Speaker of the House of Representatives, and each member of Congress from the State of Washington."

POM-143. A concurrent resolution adopted by the Legislature of the State of Hawaii; to the Committee on the Budget:

"HOUSE CONCURRENT RESOLUTION No. 110

"Whereas, the federal budget has not been balanced since 1969; and

"Whereas, the federal deficit has grown larger as the years have passed; and

"Whereas, the continuation of runaway deficits is harmful to the economic and fiscal stability of the nation; and

"Whereas, every family has to struggle with balancing its resources and its desires to maintain its financial stability and not leave an intolerable debt burden for its descendants; and

"Whereas, it is the concern of every family in America that the government exercise the same level of fiscal responsibility so that the next generation is not buried under the debt run up for current consumption; and

"Whereas, it is important that the federal government take action to correct this situation and reinstitute the practice of regularly balancing the federal budget; and

"Whereas, the attempt to balance the federal budget through the Gramm-Rudman-Hollings deficit reduction law, which was to achieve a balanced budget by 1991, does not appear likely to meet its goal; now, therefore, be it

"Resolved, by the House of Representatives of the Fifteenth Legislature of the State of Hawaii, Regular Session of 1989, the Senate concurring, that the Legislature requests that Congress and the Bush administration work diligently together to reduce the federal deficit; and be it further

"Resolved, That certified copies of this Concurrent Resolution be transmitted to the Clerk and the Speaker of the United States House of Representatives, the Secretary and the President of the United States Senate, and to each member of Hawaii's Congressional delegation."

POM-144. A resolution adopted by the Legislature of the State of Hawaii; to the Committee on the Budget:

HOUSE RESOLUTION No. 133

"Whereas, the federal budget has not been balanced since 1969; and

"Whereas, the federal budget deficit has grown larger over the business cycle as the years have passed; and

"Whereas, the continuation of runway deficits is harmful to the economic and fiscal stability of the nation; and

"Whereas, every family has to struggle with balancing its resources and its desires to maintain its financial stability and not leave an intolerable debt burden for its descendants; and

"Whereas, it is the concern of every family in America that the government exercise the same level of fiscal responsibility so that the next generation not be buried under the debt run up for temporary advantages; and

"Whereas, it is important that the government take action to correct this situation and reinstitute the practice of regularly balancing the federal budget on the part of the executive and legislative branches; and

"Whereas, the legislative attempt to correct the situation through the Gramm-Rudman-Hollings deficit reduction law, which was to achieve a balanced budget by 1991, does not appear likely to meet its goal; now therefore, be it

Resolved by the House of Representatives of the Fifteenth Legislature of the State of Hawaii, Regular Session of 1989, that the Legislature requests that Congress work toward reducing the federal deficit; and be it further.

Resolved, That certified copies of this Resolution be transmitted to the Clerk and the Speaker of the United States House of Representatives, the Secretary and the President of the United States Senate, and to each member of Hawaii's Congressional delegation."

POM-145. A joint resolution adopted by the Legislature of the State of Washington; to the Committee on Commerce, Science, and Transportation:

"Whereas, The state of Washington is a coastal state presently affected by sea level rise and land subsidence; and

"Whereas, An acceleration of sea level rise due to global warming caused by the green house effect will aggravate existing as well as cause additional problems including:

"(1) An increased frequency and intensity of coastal storm surges and flooding, coastal erosion, and landsliding threatening life and property;

"(2) Loss of wetlands and shallow water habitat essential to the economic health of this state's fish and shellfish industry;

"(3) An eventual inundation of low-lying coastal lands causing an adverse financial and fiscal impact upon private and public coastal property and facilities owners; and

"Whereas, The Department of Ecology has initiated a sea level rise response program involving a cross-section of state agencies, local governments, business, industry, and environmental interests which is dependent upon certain federal activities such as:

"(1) Basic research into sea level rise scenarios and impacts by the United States Environmental Protection Agency and the National Oceanic and Atmospheric Administration;

"(2) Funding for coastal zone management programs by the National Oceanic and Atmospheric Administration, Office of Ocean and Coastal Zone Management; and

"Whereas, Sea level rise response must be a partnership of federal, state, and local government efforts;

"Now, Therefore, Your Memorialists respectfully pray that Congress continue to support federal and international greenhouse effect and sea level rise research and

management programs including technical assistance and funding support for state and loal governments through the United States Environmental Protection Agency and the Coastal Zone Management Program, and be it

"Resolved, That copies of this Memorial be immediately transmitted to the Honorable George Bush, President of the United States, the President of the United States Senate, the Speaker of the House of Representatives, and each member of Congress from the State of Washington."

POM-146. A joint resolution adopted by the Legislature of the State of Alaska; to the Committee on Commerce, Science, and Transportation;

"SENATE JOINT RESOLUTION No. 44

"Whereas salmon and steelhead are a vital part of the commercial and sport fishing industries of the western coast of the United States and contribute billions of dollars to the national economy each year; and

"Whereas Alaska salmon and steelhead are among the state's most important natural resources; and

"Whereas Alaska salmon and steelhead are fully utilized by domestic fisheries, constitute the primary economic base of many coastal and river communities in the state, and are important to the state's developing tourist industry; and

"Whereas high seas harvests of Alaska salmon defeat the state's careful fisheries management and enhancement programs for salmon and deprive the state of an economic return on its investment in salmon hatcheries; and

"Whereas poor salmon runs in Alaska in 1988, the increased incidence of net marked salmon and steelhead, and recent reports of large quantities of illegally harvested salmon being sold in Europe and Asia have heightened public concern over high seas interception of salmon and steelhead; and

"Whereas the agencies and organizations monitoring the high seas interception of salmon believe that about 10,000 metric tons of salmon were caught in 1988, primarily by Taiwanese fishermen who market the salmon through Singapore, Thailand, and other countries; and

"Whereas the Taiwanese squid fleet now contains more than 100 vessels, most of which fish with gill net gear that is just the right size to capture immature salmon on the high seas, and is virtually unregulated and unmonitored; and

"Whereas tens of thousands of marine mammals and hundreds of thousands of sea birds may die in Taiwanese gill nets each year; and

"Whereas Taiwan is not a member of the International North Pacific Fisheries Commission or any other treaty organization for North Pacific fisheries; and

"Whereas the United States Secretary of Commerce has yet to reach agreements with Taiwan for monitoring of fishing activities of the Taiwanese drift net fishing fleet and enforcement of fishing laws and agreements as directed by the Driftnet Impact Monitoring, Assessment, and Control Act of 1987 (P.L. 100-220); and

"Whereas the prospects for reaching monitoring and enforcement agreements with Taiwan by June 30, 1989, are very poor; and

"Whereas the failure of Taiwan to enter into monitoring and enforcement agreements with the United States by June 30, 1989, will result in a certification to the President under section 8(a) of the Fishermen's Protective Act of 1967, known as the Pelly Amendment, that Taiwanese fishermen are conducting fishing operations in a manner that diminishes the effectiveness of international fishery conservation programs; and

"Whereas the President may, under the Pelly Amendment, prohibit the importation into the United States of fish and aquatic products from an offending nation; and

"Whereas the value of products that may be subject to a sanction under the Pelly Amendment against Taiwan was $445,000,000 in 1987; and be it

"Resolved, That the Alaska State Legislature respectfully requests the President to invoke immediately the full extent of Pelly Amendment sanctions that are possible against Taiwan if Taiwan fails to enter into monitoring and enforcement agreements by June 30, 1989, as required by the Driftnet Impact Monitoring, Assessment, and Control Act."

POM-147. A resolution adopted by the House of Representatives of the State of Hawaii; to the Committee on Commerce, Science, and Transportation:

"HOUSE RESOLUTION No. 235

"Whereas, in countries throughout the world controversy over foreign investment rises and falls with the exchange rate of the local currency and the availability of capital; and

"Whereas, foreign investment becomes an issue in a community when it is perceived that negative impacts outweigh community benefits; and

"Whereas, it is unlikely that the issue of foreign investment will go away as the countries of the world continue to move towards an interdependent global economy with constantly shifting international flows of capital; and

"Whereas, the free flow of capital can be a productive force in a community, creating jobs, building and improving physical plants, and providing additional tax revenues, thereby allowing expanded government services and projects

"Whereas, the free flow of capital, left purely to regional or international market forces, can also be a destructive force in a community, rapidly overturning the economic structure on which the community is based; and

"Whereas, in order for a community to achieve maximum benefits and minimize negative effects of foreign investment, the flow of capital should be directed by policy makers toward explicit economic goals of the community, as well as its cultural and social objectives; and

"Whereas, nowhere is the issue of foreign investment and the free flow of capital more visible than in Hawaii, where total cumulative foreign investment has been estimated at $4.7 billion between 1959 and 1987; and

"Whereas, accurate figures and information on the scope and composition of foreign investment in Hawaii are difficult to obtain, providing opportunities for misconceptions, provocative pronouncements, and manipulation of the issue by both public officials and the general public; and

"Whereas, the Legislature believes that proper dislcosure and reporting of investments are essential for the State and decision-makers to form appropriate policies directing the flow of capital into Hawaii's economy; and

"Whereas, the most effective way to achieve significant disclosure is through federal legislation, as the federal government has more leverage to enforce disclosure on foreign firms than does a single state; and

"Whereas, the federal government already collects economic and demographic information that can be cross-tabulated with foreign investment disclosure information to provide perspective on the foreign investment information; and

"Whereas, disclosure measures are currently under extensive and serious discussion in Congress, with intense lobbying efforts and major hearings planned on foreign direct investment measures in at least 13 different committees in Congress; and

"Whereas, during the 100th Session of Congress the Bryant Amendment was introduced by Congressman Bryant of Texas and passed the House of Representatives; and

"Whereas, this measure has been reintroduced as H.R. 5 in the United States House of Representatives this session, and a similar bill, S. 289, has been introduced in the United States Senate; and

"Whereas, under H.R. 5, disclosure would be required of foreign investors and such information would be collected by the Department of Commerce and be made available to a central state agency in each state; now, therefore, be it

"Resolved by the House of Representatives of the Fifteenth Legislature of the State of Hawaii, Regular Session of 1989, that the State of Hawaii supports disclosure at the federal level; and be it further

"Resolved, That the State of Hawaii strongly supports the Bryant Bill, H.R. 5, and similar legislation which will allow each state the opportunity to obtain the disclosed information so that appropriate polices may be developed at the state level to minimize the negative effects of foreign investment; and be it further

"Resolved, That certified copies of this Resolution be transmitted to the President of the United States, the President of the United States Senate, the Speaker of the United States House of Representatives, the Chairman of the Senate Committee on Commerce, Science, and Transportation, the Chairman of the House Committee on Energy and Commerce, Congressman John Bryant of Texas, Hawaii's Congressional delegation, and the Governor of the State of Hawaii."

POM-148. A joint resolution adopted by the legislature of the State of Washington; to the Committee on Energy and Natural Resources:

"HOUSE JOINT RESOLUTION

"Whereas, the Greenhouse effect and possibly other biospheric phenomena may require fundamental change in energy production and consumption methods to maintain human well-being; and

"Whereas, the increasing reliance on foreign oil supplies poses a growing risk to national security and the economy; and

"Whereas, energy conservation, or increase in energy use efficiency, is the most economical and productive approach in the near term to mitigate these effects and therefore should be regarded as a prime, but not the only, energy resource; and

"Whereas, additional research and development can lead to further energy efficiency improvements; and

"Whereas, the Hanford Reservation is well-suited geographically and climatologically for research and development of renewable energy resources, especially geothermal, hydroelectric, solar, and wind; and

"Whereas, nuclear energy, one potential mitigative approach, needs improvements in the areas of public acceptance, waste disposal techniques, and cost-effectiveness of new reactors, and these problems require research and development for resolution; and

"Whereas, the Hanford heritage is such that there is abundant experience in nuclear and other energy resources research, development, and construction; and

"Whereas, the wealth of information and experience in energy conservation and renewable energy resources accumulated by the Pacific Northwest Electric Power and Conservation Planning Council and the Bonneville Power Administration would be available to an energy research and development program at Hanford; and

"Whereas, extensive laboratory and other facilities have been constructed at Hanford to support past programs and are available to support future programs; and

"Whereas, numerous highly trained management, scientific, engineering, and construction tradespeople with commanding knowledge of the energy field reside in the area; and

"Whereas, land has been reserved immediately adjacent to Washington public power supply system nuclear plant number 2, and warm water availability from that plant is a condition of certification by the state, and, consequently, a unique opportunity exists at Hanford for research and development of a variety of warm water uses, including farming, food processing, and space heating; and

"Whereas, recent and prospective termination of significant facilities at Hanford will make many highly trained and skilled persons of relevant disciplines available for new work in nuclear and other energy areas;

"Now therefore, your memorialists respectfully pray that the federal government establish the Hanford National Energy Center on the Hanford Reservation; and be it

"Resolved, That this center be given first consideration as a possible site for the location of energy research, development, and production facilities of all types, as may be anticipated or planned by the United States and its states; and be it further

"Resolved, That copies of this Memorial be immediately transmitted to the Honorable George Bush, President of the United States, the President of the United States Senate, the Speaker of the House of Representatives, and each member of Congress from the State of Washington."

POM-149. A joint resolution adopted by the legislature of the State of Nevada; to the Committee on Energy and Natural Resources:

"ASSEMBLY JOINT RESOLUTION No. 11

"Whereas, the State of Nevada has approximately 90,000 to 100,000 families of low income who are in need of affordable housing; and

"Whereas, these families include a large number of senior citizens, a segment of the population that has increased by approximately 112 percent since 1977; and

"Whereas, the current shortage of afforadable housing is directly related to the high cost of available land; and

"Whereas, Mobile home parks provide a major source of affordable housing, especially for senior citizens of low income; and

"Whereas, Congress controls a considerable amount of federal land in this state that could be used to provide affordable mobile home parks for senior citizens and other persons of low income; now, therefore, be it

"Resolved by the Assembly and Senate of the State of Nevada, jointly, That Congress is hereby urged to enact legislation allocating federal land for affordable mobile home parks in the State of Nevada; and be it further.

Resolved, That a copy of this resolution be transmitted by the Chief Clerk of the Assembly to the Vice President of the United States as the presiding officer of the Senate, the Speaker of the House of Representatives and each member of the Nevada Congressional Delegation."

POM-150. A joint resolution adopted by the legislature of the State of Alaska; to the Committee on Energy and Natural Resources:

"HOUSE JOINT RESOLUTION 8

"Whereas, the higher transportation cost associated with shipping Alaska North Slope crude oil through the Panama Canal to the Gulf Coast states reduces the wellhead price of the oil; and

"Whereas, lower wellhead prices raise the economic threshold for exploring for and producing all North Slope oil and, as a result, production for certain existing and newly discovered oil fields is currently uneconomic; and

"Whereas, domestic exploration and development of newly discovered oil reserves will enhance the nation's energy and economic security; and

"Whereas, the foreign export of Alaska North Slope crude oil will provide an incentive for further domestic oil exploration and development; and

"Whereas, new discoveries and production resulting from increased domestic exploration will facilitate the development of infrastructure and production facilities needed to produce currently uneconomic North Slope reserves and, thus, lower the average development costs of all North Slope production; and

"Whereas, exporting oil to Pacific Rim nations will decrease the substantial trade deficit with nations that have expressed a strong interest in purchasing Alaskan-produced oil, as evidenced by the sale under a United States Department of Commerce export license of Alaska Cook Inlet oil to a Taiwanese company; and

"Whereas, Canada, Mexico, and Venezuela, among other neighboring countries in this hemisphere, may provide stable, secure wholesale value of $250,000,000 and employ over 10,000 people annually; and

"Whereas, the Bristol Bay area coastal habitats and fish and wildlife resources are highly vulnerable to oil spill damage and disturbance; and

"Whereas, the Alaska rural population depends heavily on commercial and subsistence use of these fish and wildlife resources; and

"Whereas, significant gaps exist in understanding the distribution, abundance, and population dynamics associated with many of these renewable resources; and

"Whereas, industry has failed in its efforts to contain or control the catastrophic oil spill in Prince William Sound even under favorable meterological and oceanographic conditions; and

"Whereas, industry has not demonstrated the ability to adequately contain and clean up oil spills under the extreme meteorological and oceanographic conditions common in Bristol Bay; and

"Whereas, the people of the state, acting through their duly elected representatives, have delayed oil and gas leasing in adjacent state waters; and

"Whereas, by delaying leasing in state waters and delaying drilling in federal waters in the Bristol Bay area, the opportunity exists to gain additional knowledge and develop additional technologies that will protect fish and wildlife resources in the presence of oil and gas activities, and further assess potential impacts to these resources from the presence of oil and gas activities; and

"Whereas, given the facts stated above, it is not in the nation's or the state's best interest to prmit drilling in the North Aleutian Basin at this time; and be it

"Resolved, That the Alaska State Legislature respectfully requests the Secretary of the United States Department of the Interior to suspend and reevaluate the approval or permitting of any drilling, exploration activity, or other development on the North Aleutian Basin Outer Continental Shelf; and be it further

"Resolved, That the legislature respectfully requests the President to suspend Lease Sale 92 and to include oil and gas leasing in Bristol Bay and the North Aleutian Basin to the work assigned to the President's Special Task Force set up to measure the potential for environmental damage in the offshore areas of California and Florida, including the potential for a buy-back of those leases; and be it further

"Resolved, That the legislature respectfully requests the Congress of the United States to prohibit the expenditure by the Department of the Interior of any money for the conduct of leasing or the approval of permitting of any drilling or other exploration activity on the North Aleutian Basin Outer Continental Shelf at this time."

POM-151. A resolution adopted by the House of Representatives of the State of Hawaii, to the Committee on Environment and Public Works:

"HOUSE RESOLUTION No. 196

"Whereas, the Earth's biological diversity is being rapidly reduced at an alarming rate without precedent in human history, and this trend is expected to increase greatly in the near future; and

"Whereas, although the most rapid losses of biological diversity are occurring outside of the United States, biological impoverishment remains a serious problem within this country; and

"Whereas, biological diversity is not only valuable as a source of intellectual and scientific knowledge, recreation, and aesthetic pleasure, but its reduction may have serious consequences for human welfare as untapped resources for research and agricultural, medicinal, and industrial development are irretrievably lost; and

"Whereas, reduced biological diversity will diminish the raw materials available for scientific and technical advancement, including the development of improved varieties of cultivated plants and domesticated animals; and

"Whereas, nowhere in this nation is biological diversity so evident than in Hawaii where 90 per cent of all the different plant and animal species are not found elsewhere in the world, thereby ranking Hawaii as number one in the world for its tally of endemic species; and

"Whereas, however, the problem is that many of these endemic species are also en-

dangers; just in terms of Hawaii's endemic plant species alone, approximately 800 species are considered endangered today; and

"Whereas, although scientific and academic expertise are available to study this unique environment, fewer than 10 percent of Hawaii's plants and animals have been studied for useful pharmaceutical or other properties; and

"Whereas, to begin the process of addressing this problem, the United States Congress is currently reviewing legislation that would establish a national policy for the conservation of biological diversity and mechanisms for carrying out the national policy and for coordinating related activities; and

"Whereas, this proposed legislation could set an example for the rest of the world and begin to reverse the trend of wholesale, destruction of unique organisms on this planet; now, therefore, be it

"Resolved by the House of Representatives of the Fifteenth Legislature, State of Hawaii, Regular Session of 1989, That this body urges the United States Congress to support HR 4335 ("National Biological Diversity Conservation and Environmental Research Act") that proposes to establish a national policy for the conservation of biological diversity; and be it further

"Resolved, That given Hawaii's unique role as caretaker for such an inordinately large and fragile population of endemic plants and animals, the United States Congress is further urged to give serious consideration for the establishment of the National Center for Biological Diversity in this State or at least a Regional Center for Tropical Biology that could take advantage of Hawaii's unique climate; and be it further

"Resolved, That certified copies of this Resolution be transmitted to the President of the United States Senate, the Speaker of the United States House of Representatives, and to each member of Hawaii's Congressional delegation."

POM-152. A concurrent resolution adopted by the Legislature of the State of Texas; to the Committee on Environment and Public Works:

"HOUSE CONCURRENT RESOLUTION No. 77

"Whereas, the dredging of a channel between the city of Freeport, in Brazoria County, Texas, and the Gulf of Mexico has created an artificial island opposite the port city; and

"Whereas, volume 19 of the Coastal Barrier Resource System Report to Congress on Recommendations for Additions and Deletions includes the environs of Freeport as an area to be added under this system because of the artificial island created by dredging activities; and

"Whereas, only natural barrier islands should be included in the Coastal Barrier Resource System and not artificial or manmade deposits as in the case of Freeport; and

"Whereas, the inclusion of Freeport in the Coastal Barrier Resource System would prohibit the construction of facilities that are necessary for the operation of a deepwater port and work to the great detriment of the citizens of Freeport and the surrounding area; now, therefore, be it

"Resolved, That the 71st Legislature of the State of Texas hereby memorialize the Congress of the United States to exclude the coastal mainland of Brazoria County from the Coastal Barrier Resource System; and, be it further

"Resolved, That the Texas secretary of state forward official copies of this resolution to the president of the United States, to the speaker of the United States House of Representatives, to the president of the United States Senate, and to all members of the Texas delegation to the congress, with the request that this resolution be officially entered in the Congressional Record as a memorial to the Congress of the United States of America."

POM-153. A concurrent resolution adopted by the Legislature of the State of Hawaii; to the Committee on Finance:

"HOUSE CONCURRENT RESOLUTION No. 248

"Whereas, under the present federal law, Section 1612(a) of the Social Security Act, elderly parents living with their children, in Hawaii, for example, must court their rooming privileges as "in-kind" income and lose some or all of their Social Security supplemental income; and

"Whereas, caring for elderly parents at home is a tradition and customary practice in Hawaii and may be considered a socially beneficial practice for all Americans, and such practice should be encouraged rather than penalized by our Social Security laws; and

"Whereas, a bill has been introduced in Congress to amend our present Social Security Act to provide that support and maintenance furnished in kind in the form of room or rent to any individual by an immediate family member shall be disregarded in determining the amount of the individual's Social Security benefits; and

"Whereas, if such measure were to be enacted it would in effect eliminate the penalty against our senior citizens who find living quarters amongst their family members and children; now, therefore be it

"Resolved by the House of Representatives of the Fifteenth legislature of the State of Hawaii Regular Session of 1989, the Senate concurring, that this honorable body hereby expresses support for the pending measure in Congress which would have the effect of Social Security penalty against our elderly recipients who live with their families."

POM-154. A joint resolution adopted by the Legislature of the State of Nevada; to the Committee on Finance:

"SENATE JOINT RESOLUTION No. 15

"Whereas, Nevada is one of the fastest growing states in the union; and

"Whereas, the continuous influx of people into this state promotes a growing, healthy and diversified economy; and

"Whereas, many of the people who migrate to this state are retired and live on limited and fixed incomes; and

"Whereas, many of these people retire to Nevada with the exception of being exempt from any state income tax and have planned their finances accordingly; and

"Whereas, for many of these people their pension income and the income earned from savings and other investments are barely enough to pay their expenses and offset inflation; and

"Whereas, other states have enacted legislation that authorizes the imposition of an income tax on pension income that originates in those states, even if the person who earns the income resides in another state; and

"Whereas, as a result, many of the people who have retired to Nevada are required to pay income tax on their pension income; and

"Whereas, these laws have placed an unexpected and oftentimes insurmountable financial burden on many of these people; and

"Whereas, S. 434 and H.R. 1227 of the 101st Congress, 1st Session (1989), would prohibit each state from imposing an income tax on the pension income of any person who is not a resident of that state; now, therefore, be it

"Resolved by the Senate and Assembly of the State of Nevada, jointly, That the Nevada Legislature urges the Congress of the United States to pass S. 434 and H.R. 1227 of the 101st Congress, 1st Session (1989); and be it further

"Resolved, That copies of this resolution be prepared and transmitted by the Secretary of the Senate to the Vice President of the United States as presiding officer of the Senate, the Speaker of the House of Representatives and to each member of the Nevada Congressional Delegation; and be it further

"Resolved, That this resolution becomes effective upon passage and approval."

POM-155. A joint resolution adopted by the Legislature of the State of Washington; to the Committee on Foreign Relations:

Substitute Senate Joint Memorial No. 8001

"Whereas, the salmon and steelhead resource of the state of Washington is important to the commercial fishing industry and to the recreational fishing public; and

"Whereas, Juvenile and adult salmon and steelhead feed in the open areas of the Pacific Ocean before returning to their home rivers to spawn; and

"Whereas, foreign high seas fisheries which ostensibly fish for squid with gill nets are actually targeting on juvenile and adult salmon and steelhead which originate in North American streams; and

"Whereas, the foreign high seas fisheries are causing a significant depletion of salmon and steelhead runs and are having a serious economic and conservational impact on Washington state salmon and steelhead resource; and

"Whereas, the United States Coast Guard and the National Marine Fisheries Service are empowered to enforce fishery regulations within the fisheries conservation zone;

"Now, Therefore, Your Memorialists respectfully pray that:

"(1) The Senate and House of Representatives of the United States, in Congress assembled, instruct the secretary of state to pursue vigorous sanctions upon foreign fishing nations who are harvesting Washington state salmon and steelhead on the high seas and to take any other diplomatic measures which will cause a reduction in their interceptions; and

"(2) The Congress instruct the Secretary of State to pursue treaties establishing no-fishing-zones in each ocean's international waters so that juvenile fish can return to their native waters without being subjected to mixed stock fisheries in international waters; and

"(3) The Congress instruct the National Marine Fisheries Service and the United States Coast Guard to fully enforce all fisheries regulations within their respective authorities; and

"(4) The Congress be encouraged to fully fund the United States Coast Guard enforcement operations and consider the increased manpower needs for such enforcement; and be it

"Resolved, That copies of this Memorial be immediately transmitted to the Honorable George Bush, President of the United States, the United States Secretary of State, the United States Secretary of Commerce, the United States Secretary of Defense, the President of the United States Senate, the Speaker of the House of Reperesentatives, and each member of Congress from the State of Washington."

POM-156. A resolution adopted by the House of Representatives of the State of Illinois; to the Committee on Governmental Affairs:

"HOUSE RESOLUTION No. 142

"Whereas, a representative form of government was the foundation upon which this country was founded; and

"Whereas, a means to insure fair representation in government, and equitable distribution of programs and services from that government, is an accurate accounting of a nation's peoples as provided every ten years through those acts performed by the United States Census Bureau; and

"Whereas, the Illinois House of Representatives is concerned over recent attempts by Congress and the National Conference of State Legislators to enact legislation which would mandate a different approach to the 1990 Census and establish a fundamental change upon which all reapportionment would be based; and

"Whereas, of greatest concern to this legislative body are those changes which would eliminate from the 1990 Census all aliens, both legal permanent residents and undocumented aliens; and

"Whereas, legislation introduced in the United States House of Representatives, which mandates that the Census Bureau include only U.S. Citizens in its 1990 enumeration to Congress, would disenfranchise countless members of the Hispanic community who are presently legalizing their resident status and will not become U.S. citizens until 1993 at the earliest; and

"Whereas, this significantly different approach by the Census Bureau would have a detrimental impact upon Hispanic communities as states with large Hispanic populations would suffer a loss of representation in Congress and a concomitant reduction in federal grants and assistance; therefore, be it

"Resolved, by the House of Representatives of the Eighty-Sixth General Assembly of the State of Illinois, That we urge the Congress to insure that the United States Census Bureau will conduct the 1990 Census in a manner which will accurately and fairly reflect those populations which actually exist within Hispanic communities, and that Congress exert every effort to devise an equitable means to obtain those vital statistics, including the active recruitment of Spanish-speaking census takers, in order to obtain that information which will substantiate the true composition of Hispanic communities; and be it further

"Resolved, That we urge the Congress to resist those efforts by restrictionist movements to exclude various segments of the Hispanic community from the 1990 Census, a proposal that would only serve to thwart the recognition and involvement of a nation's people and fail to recognize a basic premise that social concerns can never be addressed by denying their existence; and be it further

"Resolved, That copies of this preamble and resolution be presented to the Speaker of the United States House of Representatives, the President of the United States Senate and each and every member of the Illinois Congressional Delegation."

POM-157. A resolution adopted by the House of Representatives of the State of Illinois; to the Committee on Governmental Affairs.

HOUSE RESOLUTION No. 327

"Whereas, the Bureau of the Census of the U.S. Department of Commerce will hire many temporary employees as it conducts the 1990 census; and

"Whereas, many residents of Illinois who are receiving public assistance would welcome an opportunity to obtain gainful employment and work experience; and

"Whereas, employment of persons receiving public assistance as census employees could help to reduce dependence on welfare and increase self-sufficiency; therefore, be it

"Resolved, by the House of Representatives of the Eighty-sixth General Assembly of the State of Illinois, That we urge the United States Congress to favorably consider legislation to give preference to persons receiving public assistance when openings occur for work on the 1990 census; and be it further

"Resolved, That a suitable copy of this preamble and resolution be presented to the President of the United States Senate, the Speaker of the United States House of Representatives, and to each member of the Illinois Congressional Delegation."

POM-158. A joint resolution adopted by the Legislature of the State of Colorado; to the Committee on the Judiciary.

HOUSE JOINT RESOLUTION No. 1029

"Whereas, the Tenth Amendment to the United States Constitution, which is part of the original Bill of Rights, provides: "The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people."; and

"Whereas, the limits of Congress's authority to regulate state activity prescribed by the Tenth Amendment have been considered by the United States Supreme Court in the cases of *Garcia* v. *San Antonio Metropolitan Transit Authority,* 469 U.S. 1005 (1985) and *South Carolina* v. *Baker,* 108 S. Ct. 1355 (1988); and

"Whereas, the Supreme Court held in such cases that the limits of the Tenth Amendment are structural not substantive, leaving states to seek protection from congressional overreaching through the national political process rather than through judicially defined spheres of unregulable state activity; and

"Whereas, such Supreme Court decisions invite further federal preemption of state authority; now, therefore be it

"Resolved, by the House of Representatives of the Fifty-seventh General Assembly of the State of Colorado, the Senate concurring herein: That it is the consensus of this body that the Tenth Amendment to the Constitution of the United States is and always has been of operational force governing and balancing the respective powers of the States and the Federal Government. It is the further sense of this body to affirm that the Tenth Amendment is a substantive limit on national power and should so be applied as a test by the Courts of the United States and of the several states in the cases coming before them where a question of the exercise of the federal authority is raised; and be it further

"Resolved, That this resolution be forwarded to the President and to the U.S. Congress urging them in the carrying out of their responsibilities to protect and strengthen the position of the states in the federal union, avoid intrusion upon state prerogatives and afford protection to the proper governing authorities of the states."

POM-159. A resolution adopted by the House of Representatives of the State of Illinois; to the Committee on the Judiciary:

"HOUSE RESOLUTION No. 449

"Whereas, Representatives from a coalition of over 40 Chicago based immigrant and refugee organizations as well as leaders of major religious communities, including the Church Federation of Greater Chicago and the Archdiocese of Chicago, are united in their support of S. 448, a bill introduced by Senator Simon that marks the first serious attempts to strengthen pro-family provisions of United States immigration law and increase visa numbers since Congressional passage of the Immigration Reform and Control Act of 1986; and

"Whereas, there has been great concern in the immigrant community over the splitting of families caused by the 1986 law, and under its provisionis over 130,000 immigrants in Illinois applied for legalization and are currently working towards permanent residency and citizenship; and

"Whereas, many immigrants who applied have family members living with them who did not quality and who are forced to remain in undocumented status living in constant fear of deportation; and

"Whereas, Cardinal Joseph Bernardin stated at the end of the legalization program that he had 'great concern for the ongoing effect of the 1986 law on families, especially those faced with the issue of the family separation which has not been adequately resolved'; and

"Whereas, S. 448 would grant a 'stay of deportation and work authorization' to spouses and children of legal immigrants, reduce delays in certain visa categories that now have family members waiting for up to twelve years, and reduce the waiting period for legal immigrants wishing to apply for naturalization; therefore, be it

"Resolved, by the House of Representatives of the Eighty-sixth General Assembly of the State of Illinois, That this body encourages the adoption of S. 448, amending the U.S. Immigration and Control Act of 1986, and encourages the members of the Illinois Congressional delegation to support the provisions addressed by S. 448; and be it further

"Resolved, That a suitable copy of this preamble and resolution be presented to the chair of the Senate Committee on the Judiciary, the President of the Senate and Speaker of the House of Representatives of the United States Congress, and to each member of the Illinois Congressional delegation."

POM-160. A joint resolution adopted by the Legislature of the State of Texas; to the Committee on the Judiciary:

"HOUSE JOINT RESOLUTION No. 6

"SECTION 1. The Legislature of the State of Texas, pursuant to Article V of the United States Constitution, does hereby ratify an amendment to the Constitution of the United States proposed by resolution of the First Congress of the United States in New York, New York, on September 25, 1789, which reads as follows, to wit:

"'Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, two thirds of both Houses concurring, that the following [Article] be proposed to the Legislatures of the several States, . . . which [Article], when ratified by three fourths of the said Legislatures, to be valid to all intents and purposes, as part of the said Constitution, viz.:

"'[An article] in addition to, and Amendment of the Constitution of the United States of America, proposed by Congress, and ratified by the Legislatures of the several States, pursuant to the fifth Article of the original Constitution.

"'Article the second . . . No law, varying the compensation for the services of the Senators and Representatives, shall take effect, until an election of Representatives shall have intervened.'"

"Sec. 2. The Legislature of the State of Texas acknowledges that the above-quoted article of amendment to the United States Constitution has already been ratified by the legislatures of the following states on the dates indicated, to wit:

"Maryland on December 19, 1789;

"North Carolina on December 22, 1789;

"South Carolina on January 19, 1790;

"Delaware on January 28, 1790;

"Vermont on November 3, 1791;

"Virginia on December 15, 1791;

"Ohio on May 6, 1873 [70 Ohio Laws 409-10];

"Wyoming on March 3, 1978 [124 Cong. Rec. 7910; 133 Cong. Rec. S12949];

"Maine on April 27, 1983 [130 Cong. Rec. H9097, S11017];

"Colorado on April 18, 1984 [131 Cong. Rec. S17687; 132 Cong. Rec. H6446];

"South Dakota on February 21, 1985 [131 Cong. Rec. H971, S3306];

"New Hampshire on March 7, 1985 [131 Cong. Rec. H1378, S3597];

"Arizona on April 3, 1985 [131 Cong. Rec. H2060, S4750];

"Tennessee on May 23, 1985 [131 Cong. Rec. H6672, S10797, S13504];

"Oklahoma on July 10, 1985 [131 Cong. Rec. H7263, S13504];

"New Mexico on February 13, 1986 [132 Cong. Rec. H827, S2207-8, S2300];

"Indiana on February 19, 1986 [132 Cong. Rec. H1634, S4663];

"Utah on February 25, 1986 [132 Cong. Rec. S6750, S7578; 133 Cong. Rec. H9866];

"Arkansas on March 5, 1987 [134 Cong. Rec. H3721, S7518];

"Montana on March 11, 1987 [133 Cong. Rec. H1715, S6155];

"Connecticut on May 13, 1987 [133 Cong. Rec. H7406, S11891];

"Wisconsin on June 30, 1987 [133 Cong. Rec. H7406, S12948, S13359];

"Georgia on February 2, 1988 [134 Cong. Rec. H2638, S5239];

"West Virginia on March 10, 1988 [134 Cong. Rec. H2492, S4784];

"Louisiana on July 6, 1988 [134 Cong. Rec. H5783, S9939];

"Iowa on February 7, 1989 [135 Cong. Rec. H836, S3509-10];

"Idaho on March 23, 1989;

"Nevada on April 26, 1989;

"Alaska on May 5, 1989;

"Oregon on May 19, 1989; and

"Minnesota on May 22, 1989.

"Sec. 3. The Legislature of the State of Texas further acknowledges that measures to ratify the proposed amendment to the Constitution of the United States have recently been adopted by the House of Representatives of the State of North Dakota on January 26, 1987, and again on February 3, 1989; the House of Representatives of the State of Illinois on June 22, 1988; and the Senate of the State of Michigan on March 15, 1989.

"Sec. 4. The Legislature of the State of Texas further acknowledges that the above-quoted article of amendment to the United States Constitution may still be ratified by the state legislatures as a result of the ruling by the United States Supreme Court in the landmark case of *Coleman* v. *Miller* [307 U.S. 433 (1939)] in which it was opined that Congress is the final arbiter on the question of whether too much time has elapsed between the original submission of a particular amendment proposed by the Congress and the most recent state legislature's ratification of same if the Congress, in proposing the amendment, did not specify a deadline on the amendment's consideration.

"Sec. 5. The secretary of state of the State of Texas shall notify the archivist of the United States (pursuant to 1 U.S.C. 106b and 112; as amended by Public Law No. 98-497 [98 Stat. 2291]) of the action of the 71st Legislature of the State of Texas, Regular Session, 1989, by sending to him a copy of this resolution.

"Sec. 6. The secretary of state of the State of Texas shall also send copies of this resolution to both United States senators from Texas, to all United States representatives from Texas, to the vice-president of the United States, and to the speaker of the United States House of Representatives with the request that it be printed in full in the CONGRESSIONAL RECORD.

"Sec. 7. The secretary of state of the State of Texas shall also send copies of this resolution to the presiding officers of the legislatures of those states that have not as yet ratified the proposed amendment to the United States Constitution."

POM-161. A joint resolution adopted by the Legislature of the State of Washington; to the Committee on Labor and Human Resources:

"HOUSE JOINT MEMORIAL NO. 4015

"Whereas the State of Washington is concerned that too many students are acquiring excessive loan burdens; and

"Whereas the State of Washington shares the concern of Congress regarding the problem of defaulted student loans; and

"Whereas institutions do not have the authority to deny access to federal student loans to those students, who in the opinion of the institution will be unable to repay their loans, given starting salaries in their major fields of study; and

"Whereas the Department of Education has proposed restricting institutional eligibility, to participate in federal student aid programs, at those campuses which have high rates of default; and

"Whereas loss of any institutional eligibility to participate in federal student aid programs would deprive the neediest of students from access to higher education; Now, therefore

Your Memorialists respectfully pray that the United States Congress reconsider the issue and grant authority to institutions of higher education to deny the certification of federal student loan applications for those students, who in the opinion of the institution, have acquired an excessive loan burden; and that the Congress provide other self-help programs, such as work-study programs, to assist these needy students; and be it

"*Resolved*, That copies of this Memorial be immediately transmitted to the Honorable George Bush, President of the United States, the President of the United States Senate, the Speaker of the House of Representatives, and each member of Congress from the State of Washington."

POM-162. A concurrent resolution adopted by the Legislature of the State of Hawaii; to the Committee on Rules and Administration:

"HOUSE CONCURRENT RESOLUTION NO. 390

"Whereas the State of Hawaii is celebrating its thirtieth anniversary of statehood on August 18, 1989; and

"Whereas the year 1989 also marks the bicentennial celebration of both the convening of our great nation's law making body, the United States Congress, and the institution of the United States Constitution in 1789; and

"Whereas as citizens of the Fiftieth State in the Union, Hawaii residents enjoy the privilege and opportunity to pursue peace, happiness and freedom as provided for in the laws, rights and amendments embodied in the United States Constitution; and

"Whereas the United States Congress convenes in the United States Capitol building located in Washington, D.C. to legislate public policy that impacts the rights and privileges of freedom that all Americans enjoy; and

"Whereas the dome of the United States Capitol building is surmounted by a bronze statue which stands nineteen and one-half feet tall and weights seven and one-half tons; and

"Whereas this statute symbolizes "freedom in peace and war" and is officially known as the Statue of Freedom, hence forth referred to as "Freedom"; and

"Whereas Freedom was created and scupited by American sculptor Thomas Crawford who also designed the bronze doors of the House and Senate wings (United States Capitol Building), the statuary of the Senate tympanum, and the statues of Justice and History above the Senate bronze doors; and

"Whereas Freedom is depicted as a woman clad in flowing draperies held in place by a brooch bearing the letters "U S"; and

"Whereas Freedom's right hand rests upon a sheathed sword while her left holds a wreath and shield; and

"Whereas her head is covered by a helmet encircled with stars and surmounted by a crest composed of an eagle's head and an arrangement of feathers; and

"Whereas Freedom stands on an iron globe encircled by the words "E Pluribus Unum"; and

"Whereas when Freedom was erected on December 2, 1863, it was determined that her location of the Capitol dome made it impossible for the American public to experience the statue, and all it stands for, prompting a decision to place the plaster model from which the bronze statue was cast on public display in a more accessible location; and

"Whereas after twenty-two years of storage in the Capitol building, the plaster model of Freedom was placed on public display in the Smithsonian Institute's Arts and Industries building in 1890 where it was enjoyed by American and foreign visitors alike until March 2, 1967 when it was dismantled, removed, and placed in storage to accommodate building renovations; and

"Whereas the plaster model of Freedom has been in storage in the Smithsonian's Silver Hill storage facility for over twenty-two years; and

"Whereas the 100th Congress passed legislation, H.R. 4587, which in Section 105, authorizes the Architect of the Capitol building to accept donations to restore and relocate the plaster model for public display; and

"Whereas, upon completion, the restored plaster statue of Freedom will once again be placed on public display for Americans and foreign visitors to enjoy in the rotunda of the Russell Senate building in Washington, D.C.; and

"Whereas once the model of Freedom is restored, it will be possible to replicate the statue so that Americans and people of other nations may experience Freedom and all she symbolizes without having to travel to our nation's capitol; and

"Whereas replicas of Freedom may serve as a symbol of America's continued commitment to the promotion of world peace and freedom that may be given or exchanged as gifts from the people of the United States to people of other nations; Now, therefore, be it

"*Resolved* by the House of Representatives of the Fifteenth legislature of the State of Hawaii, Regular Session of 1989, the Senate concurring, that in celebration of the thirtieth anniversary of statehood, the bicentennial celebration of the Constitution and the United States Congress, and in appreciation of the rights and privileges of freedom which we enjoy as the Fiftieth State of the United States of America, the Hawaii State Legislature hereby recognizes the importance and significance of the Statue of Freedom and its plaster model as symbols of peace and freedom; and be it further

"*Resolved*, That the Hawaii State Legislature, in continued support of this nation's commitment and effort to promote world peace and freedom, also recognizes the importance of restoring the plaster model of Freedom which would provide for its relocation and replication so that American and foreign citizens alike might once again enjoy and experience Freedom and all she represents and symbolizes; and be it further

"*Resolved*, That certified copies of this Concurrent Resolution be transmitted to the President of the United States, the President of the United States Senate, the Speaker of the United States House of Represenatives, and Hawaii's congressional delegation."

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. JOHNSTON, from the Committee on Energy and Natural Resources, without amendment:

S. 633. A bill to promote the development of technologies which will enable fuel cells to use alternative fuel sources (Rept. No. 101-52).

S. 634. A bill to develop a national policy for the utilization of fuel cell technology (Rept. No. 101-53).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. HOLLINGS (for himself, Mr. BENTSEN, Mr. BRYAN, Mr. ROCKEFELLER, and Mr. BINGAMAN):

S. 1191. A bill to authorize appropiations for the Department of Commerce's Technology Administration, to speed the development and application of economically strategic technologies, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. BENTSEN (for himself and Mr. MOYNIHAN):

S. 1192. A bill to amend title II of the Social Security Act to increase the retirement test exempt amount to $10,620 in 1990, to lower the reduction factor for certain earnings to 25 percent, to extend eligibility to certain adopted children, to provide for the issuance of earnings and benefit statements and for other purposes; to the Committee on Finance.

By Mr. MOYNIHAN (for himself, Mr. D'AMATO, Mr. NUNN, Mr. DECONCINI and Mr. CRANSTON):

S. 1193. A bill to establish a comprehensive program for the rehabilitation of drug dependent Federal offenders; to the Committee on the Judiciary.

By Mr. GRAHAM (for himself and Mr. MACK):

S. 1194. A bill to provide for a nationally coordinated program of research, promotion, and consumer information regarding limes that is designed to expand domestic and foreign markets for limes, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. CRANSTON (by request):

S. 1195. A bill to amend title 38, section 203(b), United States Code, to delete the requirement that settlements of claims in excess of $1,000,000 on a construction contract be provided for especially in an appropriation law, and to provide instead that the Secretary notify the House and Senate Committees on Appropriations of construction contract claims settlements of more than $1,000,000; to the Committee on Veterans Affairs.

By Mr. LEVIN (for himself, Mrs. KASSEBAUM, Mr. SIMON, Mr. KENNEDY, Mr. ADAMS, Mr. BOREN, Mr. BOSCHWITZ, Mr. BURDICK, Mr. LAUTENBERG, Mr. CHAFEE, Mr. COHEN, Mr. CRANSTON, Mr. D'AMATO, Mr. DECONCINI, Mr. DIXON, Mr. DODD, Mr. DURENBERGER, Mr. GORE, Mr. GRAHAM, Mr. HEINZ, Mr. KERRY, Mr. LIEBERMAN, Mr. METZENBAUM, Ms. MIKULSKI, Mr. MITCHELL, Mr. MOYNIHAN, Mr. RIEGLE, Mr. ROCKEFELLER, Mr. SARBANES, Mr. SPECTER, Mr. WIRTH, Mr. BRADLEY, and Mr. BENTSEN):

S.J. Res. 157. Joint resolution designating June 16, 1989, as "Soweto Remembrance Day"; to the Committee on the Judiciary.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. DOLE (for himself and Mrs. KASSEBAUM):

S. Res. 145. Resolution to congratulate Wichita State University on winning the 1989 NCAA Baseball Championship; considered and agreed to.

By Mr. ADAMS:

S. Res. 146. Resolution authorizing the printing of additional copies of a compilation containing the eulogies of the late Senator Warren G. Magnuson; considered and agreed to.

By Mr. MOYNIHAN (for himself, Mr. MITCHELL, Mr. PACKWOOD, Mr. PELL, Mr. METZENBAUM, Mr. KENNEDY, Mr. BOSCHWITZ, Mr. KERRY, Mr. SIMPSON, Mr. DANFORTH, Mr. CRANSTON and Mr. LEVIN):

S. Con. Res. 45. Concurrent resolution relating to congressional support of a Presidential waiver of the provisions of the Jackson-Vanik amendment with respect to the Soviet Union; to the Committee on Finance.

By Mr. DECONCINI:

S. Con. Res. 46. Concurrent resolution condemning the brutal treatment of, and blatant discrimination against, the Turkish minority by the Government of the People's Republic of Bulgaria; to the Committee on Foreign Relations.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. HOLLINGS (for himself, Mr. BENTSEN, Mr. BRYAN, Mr. ROCKEFELLER, and Mr. BINGAMAN):

S. 1191. A bill to authorize appropriations for the Department of Commerce's Technology Administration, to speed the development and application of economically strategic technologies, and for other purposes; to the Committee on Commerce, Science, and Transportation.

TECHNOLOGY ADMINISTRATION AUTHORIZATION ACT

Mr. HOLLINGS. Mr. President, today I am introducing the Technology Administration Authorization Act of 1989, a bill to help speed the commercialization of new American technologies and to help restore the Nation's sagging leadership in industrial technology. The bill addresses needs in such areas as advanced electronics and television, superconductivity, and manufacturing, and aims to make government a reliable partner in industry's efforts to restore U.S. economic competitiveness. I am pleased that several of our colleagues have joined me in sponsoring this important legislation.

The bill would provide fiscal year 1990 authorizations for most activities of the Commerce Department's new Technology Administration, a unit that includes the National Institute of Standards and Technology [NIST] and several smaller agencies. This bill does not include fiscal year 1990 authorizations for either the National Telecommunications and Information Administration [NTIA], which is the subject of separate legislation, or several specific programs which already have been authorized for the next fiscal year.

The new bill builds upon two solid technology acts that I sponsored during the last Congress. First, the

Trade Act upgraded the earlier National Bureau of Standards into the new NIST and gave the agency expanded authority and responsibilities. Then a subsequent authorization statute created the Technology Administration itself and created the new position of Under Secretary of Commerce for Technology.

Together, these new acts direct the Commerce Department to provide industry with the foundation of fundamental technologies—with the civilian technology base—that American companies need to maintain their long-term economic survival. The new bill that I am introducing today builds on the last Congress' solid accomplishments. It also responds to some very real needs.

AMERICA'S ERODING LEAD IN TECHNOLOGY

Mr. President, the United States is no longer the world's clear leader in industrial technology. We continue to lead the world in basic science, in new ideas, and in Nobel Prizes. But we are losing the lead in key commercial technologies, and our share of important world markets continues to drop at an alarming rate. We are rapidly becoming a second-rate industrial power, with all that implies for both national defense and economic prosperity.

A table produced recently by the Council on Competitiveness dramatically illustrates how far the market shares held by American firms have fallen, even in technologies that Americans developed and even here in our own U.S. market. The table lists our decline in 13 industries. In color television, for example, American companies had 90 percent of the U.S. market in 1970; in 1987, they had 10 percent. In phonographs, our companies went from 90 percent to 1 percent. Americans invented the VCR but now hold less than 1 percent of the domestic market. In machining centers, a key type of machine tool, we went from 100 percent to 35 percent over this period. In semiconductors, we dropped from 89 percent to 64. Mr. President, I ask unanimous consent that a copy of this table be printed in the RECORD at the conclusion of my statement.

I could list other studies. For example, as early as 1986 the National Research Council, the operating arm of the National Academies of Sciences and Engineering, found that the Japanese were ahead in 7 out of 11 emerging technologies critical for future electronic and optoelectronic devices.

Other countries continue to target key industries and key technologies. They continue, for example, to make huge investments in commercially oriented research and development [R&D]. Americans—government and industry together—invest 1.8 percent of our gross national product in nondefense R&D. West Germany invests 2.6 percent, and Japan invests 2.8 percent. Japanese industry now funds 80 percent of that nation's nondefense R&D, but the Government provides many indirect incentives to encourage private R&D and still uses its 20 percent for research and seed money in areas of great economic importance.

The amounts that Japan and Europe now invest in advanced technology are staggering. In high-definition television [HDTV], Japan has invested over $700 million, and Europe's Eureka-95 project has committed $232 million, half from governments. In the semiconductor field, we now have our Sematech consoritum, designed to help deal with some of the problems described in the 1986 report I mentioned. Sematech has $100 million of Federal support per year, matched by industry. But the "JESSI" semiconductor project in Europe will receive $4 billion in funds from government and industry.

Japan also has invested heavily in the semiconductor manufacturing technology that will be used after 1995—a technology that uses x rays to etch circuit lines on ultraminiature chips. According to recent testimony before the Commerce Committee, Japanese agencies and companies are now building or plan to build 19 of these very expensive x-ray facilities. Only one U.S. group, IBM, is building such a facility here. In addition, Japan and Europe are making large investments in superconductivity, advanced ceramics, biotechnology, and other fields.

We certainly do not have to match our competitors dollar for dollar. But to pretend that these government-sponsored projects do not exist or pretend that they will not affect our economic future is sheer blindness.

Of course, technology problems are not the only cause of our competitiveness problems. In 1985, the President's Commission on Industrial Competitiveness identified four key areas: Technology, the cost of capital, trade policy, and human resources.

At other times, I have presented proposals to deal with our huge problems in the other three areas—high U.S. interest rates, fed by gaping Federal budget deficits; a so-called trade policy that tolerates massive dumping and closed foreign markets; and an American education system that often fails our children and our Nation. I will continue to work on all four areas.

For example, the American Electronics Association [AEA] has proposed that the Federal Government provide loans and loan guarantees to cut the cost of the capital needed to build a new generation of television factories. Predictably, some critics have called this idea "industrial policy," without, of course, offering any viable proposal of their own for reducing capital costs to the point where American companies can afford long-term investments similar to Japan's. Neither the Reagan administration nor President Bush has done anything substantive to lower the Federal budget deficit and high U.S. interest rates. As a result, interest rates in this country remain about three times as high as Japan's. Some Republicans suggest tax cuts to stimulate greater investment, but tax breaks only work when one has profits to tax, not in an area, such as HDTV, where it will take years to make substantial profits. If Congress continues to ignore the issue of capital costs, we in effect abandon not only HDTV but also other sectors which require large amounts of long-term investment. For that reason, I will consider AEA's request carefully and urge my colleagues to do the same.

Meanwhile, today's legislation will address the research and technology side of the equation.

GUIDING PRINCIPLES FOR AMERICAN TECHNOLOGY POLICY

Mr. President, last year's Trade Act and the new bill that I present today both reflect a new technology policy that industry and government are forging together. That new policy rests on several fundamental principles, and to avoid misunderstanding about what this bill does and does not do, I want briefly to list those principles here.

First, in today's world, technological leadership is absolutely vital to our economic strength and national defense. The President's Commission on Industrial Competitiveness stated this reality well in its 1985 report: "Technology propels our economy forward. Without doubt, it has been our strongest competitive advantage. Innovation has created whole new industries and the renewal of existing ones. * * * America owes much of its standard of living to U.S. preeminence in technology."

Second, maintaining U.S. technological leadership requires that the Federal Government help support the Nation's civilian technology base. The need here has best been summarized by Dr. Robert White, president of the National Academy of Engineering:

> The United States lack a national technology policy. Although the political consensus has long been that it is the obligation of the federal government to support the science base of this nation, this consensus has not extended to the support of the technology base.
>
> Some might argue that this is as it should be, that securing our national technology bases is the mainstay of the private sector. But the view that the strength of civil technology in our country will be sustained by the private sector under all circumstances, with the give and take of the free market inevitably determining the allocation of resources for technological development in the national interest, is simply incorrect. In field after field—electronics, machine tools, construction, automobiles, and photonics, among others—declines have occurred willy-nilly. U.S. corporations struggling to main-

tain profitability in a global economy, and government agencies repeatedly torqued by political fashion, have frequently been unable to compete against the concerted efforts of government and the private sector in other nations.

In no case should the Government develop products. However, just as the Government has long supported scientific research that no one company can afford but which is vital to progress, the Government should help support the basic technological research needed to keep our country competitive.

Third, maintaining a sound national civilian technology base requires both the creation and deployment of new basic technologies. It requires, first, the creation of fundamental support technologies, such as measurement techniques, that all companies need. It requires the encouragement of industry's own efforts, including research consortia, to develop the long-term generic technologies needed to turn laboratory products into successful commercial products and to build technological competence throughout our industries. And in those cases where the marketplace is not getting new technology to companies that need it, such as small manufacturing firms, it requires that the Federal Government work with the States to create technology extension programs.

Fourth, building a strong, sensible technology base does not get the Government into the business of picking winners and losers. American companies will decide for themselves which products to invest in. Government's role is to help ensure that the Nation has a broad base of basic technologies that will enable our companies to participate in new industries if they so choose. Moreover, joint industry-government projects, such as consortia in areas like semiconductors and HDTV, will be industry-led efforts in which companies propose the research and provide most of the funding.

Fifth, the Commerce Department, not the Defense Department, should be the lead Federal agency for promoting the civilian technology base. DOD and particularly its Defense Advanced Research Projects Agency [DARPA] have superb technical experts but must always focus on their vital military mission. Defense and Commerce should continue to work together, but DOC is the agency which understands international trade and can best take the lead on working with industry.

Sixth, while both science and technology are increasingly international activities, the Federal Government has a responsibility to ensure that taxpayer funds are used to advance U.S. interests. As a result, American technology should not be just given away, nor should foreign companies be allowed to participate in taxpayer-assisted research consortia until foreign governments open up their projects to Americans.

THE BILL

The bill I am introducing today first would provide fiscal year 1990 authorizations for three general offices at the new Technology Administration—the Office of the Under Secretary, Technology Policy, and Commercial Policy. The bill also would provide authorizations for all three of NIST's main programs—its core laboratory program, which conducts research and provides technical services; its technology extension activities; and its Advanced Technology Program. These NIST activities would become the centerpiece of Federal efforts to strengthen the U.S. civilian technology base.

NIST

NIST remains the one Federal laboratory with an explicit mission to assist U.S. industry. For nearly a century, NIST's in-house laboratory programs have provided technical services and new supporting or infrastructure technologies that are absolutely vital to American industry. NIST researchers provide the precise measurements, measurement techniques, engineering data, and quality assurance methods necessary to ensure precise, high-quality production in every technical field from manufacturing to superconductivity to bioprocess engineering. These are the technical services American industry needs if it is to speed the commercialization of new discoveries and inventions, to turn them from laboratory curiosities into finished, competitive products. Increasingly, NIST also provides basic new equipment and techniques in the vital fields of automated manufacturing and materials processing.

In addition, NIST provides vital services to protect public health and safety. For example, it develops reliable methods to test the fire-resistance of upholstry and carpets, the ability of construction materials to withstand earthquakes, the accuracy of medical laboratory tests, and methods to protect the security of computer files. NIST helped develop the home smoke detector and now will help develop alternative refrigerating chemicals that will not destroy the Earth's protective layer of ozone.

NIST's in-house laboratory programs suffered in the fiscal year 1989 Appropriations Act, falling from $144,783,000 in fiscal year 1988 to $143,850,000 in fiscal year 1989. To strengthen essential areas, and to provide American industry with the services and basic technologies needed to speed commercialization and improve manufacturing, this bill authorizes targeted increases.

These increases, with only minor variations, are based on four sources: The Commerce Department's own fiscal year 1990 request to OMB, OMB's recommendation to increase support for bioprocess engineering, the need to continue support for fire and building safety programs that OMB wants to cut, and my interest in adding $7,500,000 for research and precise measurement techniques in advanced imaging electronics, the area underlying HDTV and related technologies. The DOC-requested increases include additional funds to develop support technologies for advanced chemical processes, high-performance composites, superconductivity, advanced semiconductors, fiber optics, and computer security. The total authorization proposed in my bill for in-house laboratory programs, both research and technical services, is $196,360,000.

A table listing my proposed increases is attached to this statement, and I ask unanimous consent, Mr. President, that it be printed immediately following my remarks.

NIST TECHNOLOGY EXTENSION ACTIVITIES

The most important of NIST's new extension and outreach activities—the new Manufacturing Technology Center program—already has been authorized for fiscal year 1990. The attached budget table lists what I would like to see spent for these centers in fiscal year 1990. An amount of $12,000,000 in fiscal year 1990 funds, in addition to the anticipated fiscal year 1989 carryover of $6,000,000, would allow NIST to continue the three existing centers and start three new ones.

These centers transfer NIST's expertise in automated manufacturing to a group of American companies particularly hard-hit by foreign competition—our small- medium-sized manufacturers. Often these firms lack information on how to take advantage of new equipment that can increase productivity and profits. The centers will combine NIST technical expertise with outreach networks in the States to reach and assist these firms. The Commerce Department made the three initial center awards, all competitively determined, last December.

The Trade Act also provided fiscal year 1990 authorizations for two related programs—one sponsored by Senators ROCKEFELLER and MCCAIN to assist State technology extension activities and a new Clearinghouse on State and Local Initiatives in Productivity, Technology, and Innovation, which Senator BUMPERS authored. The attached budget table lists what I believe should be spent for these programs during fiscal year 1990.

My new bill also would authorize $2,000,000 for an expanded Technology Evaluation Program, a proven NIST activity which evaluates inventions from individuals and small firms and helps promising proposals get private venture capital. Finally, it would authorize an additional $2,000,000 for

general NIST management and outreach activities in the technology extension area.

ADVANCED TECHNOLOGY PROGRAM

The next part of the bill, and the largest new step taken in it, is to begin activities under the NIST Advanced Technology Program [ATP] created by last year's Trade Act. The ATP's mission is to encourage and, in selected cases, financially assist private sector efforts to expand long-term R&D and, in the process, to create the new generic—precompetitive—technologies necessary to speed the commercialization of new products and improve manufacturing. ATP's authority includes, but is not limited to, encouraging both multicompany research consortia—joint research and development ventures—and additional research by small businesses.

The ATP's main purpose is to serve as a forum and catalyst for encouraging private companies to increase R&D in economically important areas. This is not a new idea. For example, since the National Cooperative Research Act of 1984 made multicompany research consortia a legal way to pool resources in order to conduct generic research that will benefit an entire industry, the Commerce Department has encouraged the formation of over 100 of these consortia.

The new bill would strengthen DOC's existing authority to provide seed money to encourage expanded efforts in those fields which industry leaders and technical experts say are particularly important to the Nation's future. So far, Federal funding for such efforts has come primarily from the Defense Department, including support for the semiconductor industry's Sematech project and a manufacturing technology consortium, the National Center for Manufacturing Sciences.

These steps by the Defense Department and enactment of the 1988 Trade Act show clearly that the Federal Government has a role and a responsibility to help speed the development of new basic technology. Federal assistance to a joint venture is particularly necessary when the economic stakes are high and companies by themselves have trouble moving quickly. These conditions can happen under two circumstances—when the cost of research or facilities is very high, or when the technology is so new and undeveloped that companies are slow to make major long-term investments. The question before us now is whether the Government is going to back up this broadly acknowledged responsibility with real resources and a clear focus on civilian technology needs.

My bill would back this new Federal role with real funding, not just rhetoric. It would authorize Federal seed money for one or more industry consortia in each of four critical areas of technology—advanced electronics, including advanced television; superconductivity; advanced manufacturing; and x-ray lithography, the technique of using x rays to make semiconductor chips. Modest direct appropriations would be offered in all four cases. In the case of advanced electronics and television, where actual products may be developed relatively soon and royalties collected on consortium patents, the bill also would authorize limited amounts of Federal loan guarantees to aid R&D efforts.

In addition, the bill also would authorize modest assistance to small businesses which have competed successfully in the Government's existing Small Business Innovation Research Program [SBIR]. Small firms have a great deal of economically promising technology which should be nurtured.

Advanced electronics, including advanced television, is an example of where the cost of new research and facilities is very high. HDTV is the part of this issue that has received the most attention, but the problem and the stakes are much broader than simply a new form of TV. Whoever controls the HDTV market will be in a position to control much of the world's production of semiconductors and personal computers, as well as related fields such as medical imaging. The American Electronics Association has documented the need and shown industry's deep interest in this field.

Given that industry leadership, my bill would authorize both direct funds and loan guarantees to assist company efforts to develop basic technologies in such areas as displays, display processing, and advanced video cassette recorders. The objective is to support work on a range of promising technologies, often small projects in specific companies, with the patents then shared among consortium members. The effort would not favor one television delivery system over another but rather would address common technical barriers. I propose that this ATP effort be closely coordinated with the research support now provided by DARPA.

In the other three areas covered in the bill—superconductivity, automated manufacturing, and x-ray lithography—major companies are expressing interest in working with the Government to conduct fundamental technological research. Superconductivity is an example of where profits are distant and the economic stakes huge. Manufacturing and x-ray lithography, like advanced television, require expensive research projects. The justification for Government assistance is there. Moreover, NIST has considerable in-house expertise in all three areas.

In superconductivity, a special committee of the White House Science Council has recommended the creation of four to six research consortia, each consisting of companies, a research university, and a Federal laboratory. These consortia would have the explicit purpose of helping to build technological competence within American companies. The first such consortium has now formed, consisting of IBM, AT&T, MIT, and possibly DARPA. I would like to see at least one more consortium, perhaps built around NIST's own excellent superconductivity group.

In the area of advanced manufacturing technology, one major research consortium already exists, the National Center for Manufacturing Sciences. This group has identified 13 areas where new American technology research efforts are needed. These include new computer control devices for machine tools, precision machining and assembly technology, and the use and perfection of new materials. This group is certainly not the only consortium that would be eligible to apply for any ATP funds, but it is a leader that has shown the depth of the challenge we face in the manufacturing area. Japan and West Germany have become the leaders in many types of machine tools and manufacturing equipment. We must take steps to keep our industry competitive or risk its elimination.

X-ray lithography is a highly technical area but a vital one. As mentioned earlier, Japan now plans 19 large, expensive x-ray lithography machines; the United States has only one, at IBM. X-ray technology is a generation beyond what Sematech can develop, and the United States runs the risk of having little capability in this field once x-ray lithography becomes the major semiconductor production technology of the late 1990's. In recent testimony before the Commerce Committee, Jack Kuehler, then IBM's Vice Chairman and now its President, pointed out that IBM has offered to open its facility for use by the Federal Government and U.S. semiconductor companies. He added that his company is interested in participating in a Sematech-type cooperative effort for x-ray lithography. I take this offer seriously, as I take seriously the need to keep the United States competitive in chip technology.

The ATP is neither industrial policy nor a technology pork-barrel. Industry takes the lead, and no Federal moneys are awarded unless companies provide the bulk of the funding. Businessmen, not politicians, will decide which projects are undertaken. This is industry-led technology policy, the only appropriate way to proceed.

ATP TERMS AND CONDITIONS

My bill also states additional conditions which would apply to any consortium applying for Commerce Department support. In addition to the

matching fund requirement, already part of the Trade Act language, the new bill would require each group applying for ATP assistance to submit a credible business plan acceptable to the Secretary of Commerce.

The bill also would prohibit foreign companies from belonging to a DOC-assisted consortium, although given the new economic ties between the United States and Canada, I do recommend allowing Canadian-owned firms to participate. The prohibition on foreign participation already applies to the Sematech project.

I am aware that the United States subsidiaries of some foreign companies have large research and production facilities in this country and contribute to our economy. I also note, however, that apparently neither Japan or Europe has gone out of their way to invite American companies into their research projects in any meaningful way. In Japan, for example, the state-owned NHK broadcasting company has funded much of the work on HDTV. Yet at a recent Commerce Committee hearing, a representative of Sony could not identify a single instance of foreign firms being eligible to apply for NHK research funds. I may revisit this eligibility issue later, but until we see the possibility of genuine reciprocity in Government-assisted research projects, I will propose a ban on foreign participation in taxpayer-supported research efforts.

The bill, however, does provide for ways in which a DOC-assisted consortium may license its technology to non-members, including foreign companies. Following a recommendation made by the American Electronics Association, my bill proposes to tie licensing fees for consortia-developed technology to how much a company—foreign or domestic—agrees to develop and manufacture related products here in the United States and to use American-made components, such as U.S. semiconductor chips. In my view, this approach strikes a good balance between making technology available and ensuring that taxpayer-supported work creates U.S. jobs and benefits our economy.

These provisions undoubtedly will be controversial with those foreign companies and governments that are used to getting American technology at little or no cost to themselves. However, when our colleagues study this issue in depth, I believe that they will agree with me that the United States should not simply give its technology away, particularly in an era when technology is our Nation's great competitive strength.

ADDITIONAL PROVISIONS

The final portion of my bill, Mr. President, contains two amendments to the Trade Act's technology section and requires several reports.

The two amendments pertain to NIST's ATP. One would allow the ATP to provide loan guarantees for research projects, including prototype equipment and facilities, as well as direct funds. The existing law does not provide for the kind of R&D loan guarantees that I propose for advanced electronics. The second amendment would allow the Secretary of Commerce to hire temporary personnel from industry, universities, and the States to help run the ATP. At any given time, the Department will need certain kinds of experts to help it review industry's proposals. Yet none of us wants a large, permanent ATP bureaucracy. I want a small, flexible group drawing on both NIST's own experts and selected outside people. Fortunately, a good model exists. For years, the National Science Foundation [NSF] has had authority to hire university and industry experts for a year or two. My ATP amendment follows this NSF language.

The first of three reporting requirements amends the Stevenson-Wydler Technology Innovation Act to require the Secretary of Commerce to submit an annual technology report, a document that will analyze economically-critical technologies, identify areas targeted by our competitors, compare America's position in these fields with our main competitors, and evaluate whether current Federal and private investments in R&D sufficiently address any shortcomings.

Such a report is badly needed. Nowhere today can policymakers or industry leaders find a concise analysis of where the United States is ahead in technology, where we lag, and what must be done to catch up. We need good information that will help us develop a game plan, a vision of what will be important in 10 years, a vision of where we want to be in 10 years. The Secretary of Commerce, who can draw upon the Department's technical experts and a broad range of economic and trade specialists, is the logical official to prepare such a survey.

The next two reports are one-time analyses of two manufacturing issues. First, a leader of the Young Presidents Organization, an association of younger corporate presidents, has proposed creating a NIST-affiliated quality institute that would identify U.S. companies that have improved manufacturing quality and productivity dramatically, and arrange for executives from other companies to tour these leading firms and learn from them. Model courses also might be established and shared with technical colleges around the country. New forms of team-oriented organizations would receive particular attention. The bill would mandate that in one report, the Secretary would evaluate the advisability of such a quality institute and the possibility of creating a totally privately-funded foundation to pay its operating expenses. A similar private foundation already supports NIST's Malcolm Baldrige National Quality Award Program.

A second report would examine the idea of shared-manufacturing systems—a valuable new way to link small manufacturers to central facilities that have the most advanced manufacturing equipment. The Navy, NIST, and 18 companies already are developing this technology for military applications under a program that I sponsored called RAMP, the Rapid Acquisition of Manufactured Parts. Under it, companies can share a central facility, each sending product specifications electronically to advanced computer-controlled manufacturing equipment. By sharing a highly flexible central facility, and by sharing product information instantaneously, companies and the Navy can cut costs and speed production.

It is clear to me that this new technology can also greatly help civilian industry. Shared-manufacturing systems would particularly help small manufacturing companies, giving them access to highly productive automated equipment that few small firms can afford on their own. Others are also excited about this approach, including William Norris, the chairman emeritus of Control Data Corp. and a leading expert on applying computers to manufacturing. I want the Commerce Department to report back to Congress on the advantages of shared manufacturing and on what barriers exist to the widespread adoption of this approach by the civilian economy.

COSTS AND FUNDING

Mr. President, this bill and existing fiscal year 1990 authorizations in the Trade Act envision the Technology Administration—excluding NTIA—spending a total of $314,360,000 during fiscal year 1990, nearly double the fiscal year 1989 level. This number includes my proposed spending levels for those programs for which the Trade Act already provides fiscal year 1990 authorizations. The new bill also would authorize loan guarantees to raise, over 3 years, $225,000,000 of private money to help support research in advanced electronics. The previously mentioned budget sheet, attached to this statement, provides details.

These are all well-conceived and needed increases, but in the present budget climate any growth is difficult. These increases cannot be funded through cuts in existing DOC programs, since the Commerce Department is already very hard-pressed after years of budget austerity. I will continue to pursue this matter with my colleagues. At a time when Congress is considering literally hundreds of billions of dollars to subsidize failed parts of the savings and loan industry,

we should be able to find some funds to invest in this country's economic future.

CONCLUSION

Mr. President, in concluding I want to restate a basic fact. As a nation we face a stark choice: we can continue to go out of business as a producing nation, in which case Japan and Europe will continue to take the lead in one industry after another, or we can return to the American tradition of investing in the future and working together to ensure that American technology and products once again lead the world.

In debating these issues, we face a supreme irony. At one time most American leaders, especially conservatives, knew well that to remain a major world power the United States needs a strong economy, a healthy and well-educated population, and world-class technology. Alexander Hamilton knew that when he wrote his famous Report on Manufactures and laid the foundation for American industrialization. Henry Clay knew it when he created the American system of investments in public works and national infrastructure and when he and many others supported investments in public education.

Today, however, many American leaders seem unconcerned about our lagging performance in technology and industry. Many of them actually oppose steps to keep this country strong. I particularly disagree with three emerging groups.

Members of one group say that they favor a strong America, but apparently they have forgotten that national power rests on economic and social strength as well as a large military. Yale historian Paul Kennedy recently noted the great difference between these Americans and British conservatives at the turn of the century. Faced with Britain's relative decline as an economic and political power, British conservatives worked hard but ultimately unsuccessfully to strengthen their nation. Says Kennedy:

. . . it was the British political right, not the left, that worried about industrial decay, the loss of skill trades, the erosion of strategically important manufacturing, the inadequate number of engineers.

Kennedy then makes a point I very much agree with:

With that British example in mind, it is the more mysterious to this reviewer . . . why today's American right pays so little attention to the technological, educational and social health of the country they passionately desire to remain as number one.

A second group goes even further: It thinks that U.S. economic and political strength is now irrelevant. Walter Mossberg, an astute critic of this viewpoint, recently summarized it in the Wall Street Journal:

They are the economists and academics who believe that in a global economy, with goods and especially capital surging across political borders, the economic fortunes of individual countries aren't important anymore. The U.S. trade deficit and other statistics, they argue, are only artificial figures in what has become a multinational corporate economy in which political distinctions matter little. It's all one big market, they contend, so why worry about it?

Needless to say, Mr. President, I do worry about it. The world may become one large market, but which nations prosper and which decline depends on their relative strengths and competitiveness. I do not want the United States to become a second-rate industrial power, with poor jobs and a low standard of living, yet that is exactly what a do-nothing policy will produce.

Finally, there are those who claim that strong United States policies in technology and trade will lead to a horrible trade war. The reply, of course, is that we are already in a trade war, or perhaps more accurately a market war—a serious competition among nations to see who will dominate the world markets of the future. Japan, for example, is not going to give up its quest for market domination. The Japanese have never advocated free trade and probably never will. Their policies have worked well for them, and they will continue to pursue them. To compete successfully in the real world, and to make real progress in opening up foreign markets, the United States needs a much more realistic strategy.

I'm not angry with the Japanese. They are simply pursuing their own national interests. I'm angry with our own Government. We need American Government on industry's side, not sitting on the sidelines.

Current U.S. policy will simply assure the destruction of more American industries. To pretend that somehow the rest of the world suddenly will adopt America's old vision of free trade and no government role is to declare economic surrender. To avoid that fate, we must maintain technological leadership, we must take serious actions to negotiate open markets, we must take serious steps to reduce the Federal deficit and bring down interest rates, and we must provide for the health and education of all our citizens.

Mr. President, today's new legislation is one important step toward assuring long-term American economic success. It is part of my continuing efforts to reorient Federal research policy, to provide U.S. industry with the basic technologies they need, and generally to promote U.S. economic security.

Several fundamental principles guide this technology legislation—the fact that technology is this Nation's strongest competitive advantage; the need for Federal research efforts to promote U.S. commercial strength; and the principle that the Department of Commerce and not the Defense Department should be the lead Federal agency for promoting U.S. commercial technology.

I am pleased that several of my colleagues have cosponsored this bill, and I hope that other Members will join us in this important effort. I look forward to working with our House colleagues and the new administration to enact this vital legislation.

Mr. President, I ask unanimous consent that the bill and a sheet summarizing its provisions be printed in the RECORD immediately following this statement and the two tables that I mentioned earlier.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 1191

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Technology Administration Authorization Act of 1989".

STATEMENT OF POLICY

SEC. 2. Congress finds that in order to help United States industries to speed the development of new products and processes and in order to maintain the economic competitiveness of the Nation, targeted increases are required in the programs and activities of the Department of Commerce's Technology Administration (hereafter in this Act referred to as the "Administration") and its National Institute of Standards and Technology (hereinafter in this Act referred to as the "Institute").

TECHNOLOGY ADMINISTRATION

SEC. 3. There is authorized to be appropriated to the Secretary of Commerce (hereafter in this Act referred to as the "Secretary "), to carry out executive and analytical activities performed by the Administration, $4,675,000 for fiscal year 1990, which shall be available for the following line items:

(1) Executive Direction, $1,013,000.

(2) Technology Policy and Commercial Affairs, $2,662,000.

(3) Japanese Technical Literature, $1,000,000.

NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY

SEC. 4. (a) FINDING.—Congress finds that the Institute can assist United States industry in three ways to speed the commercialization of new products and processes: through the Institute's internal research and services programs, which provide industry with precise measurement and quality assurance techniques and with new generic manufacturing and process technologies; through its technology extension activities, which disseminate technical information and advanced manufacturing techniques to a wide range of companies; and through its Advanced Technology Program, which can promote and assist industry's own efforts to develop new generic technologies.

(b) INTERNAL RESEARCH AND SERVICES.—There is authorized to be appropriated to the Secretary, to carry out the internal science and technology research and services activities of the Institute, $193,360,000 for fiscal year 1990, which shall be available for the following line items:

(1) Measurement Research and Standards, $50,185,000, of which $3,200,000 shall be available for chemical measurements and quality assurance and $2,500,000 for research on the atomic-level performance of electrical and optical systems.

(2) Materials Science and Engineering, $27,084,000, of which $3,600,000 shall be available to develop improved processing procedures for high-performance composites, and $2,000,000 for steel technology.

(3) Engineering Measurements and Standards, $69,428,000, of which $7,500,000 shall be available to develop measurement and quality assurance techniques for applications in advanced imaging electronics, including advanced television, $7,800,000 for research in superconductivity, $7,500,000 for lightwave and optoelectronic technology, $2,500,000 for a new initiative in advanced semiconductors, $2,500,000 for a new initiative in automation research, $3,650,000 for the development of measurement and quality assurance techniques for bioprocess engineering, and $9,912,000 for fire and building research.

(4) Computer Science and Technology, $15,088,000, of which $7,500,000 shall be available for computer security activities pursuant to the Computer Security Act of 1987 (Public Law 100-235; 100 Stat. 1724).

(5) Research Support Activities, $34,575,000, of which $6,000,000 shall be available for improvements in computer support and $6,500,000 shall be available for the Cold Neutron Research Facility.

(c) INDUSTRIAL TECHNOLOGY EXTENSION ACTIVITIES.—In addition to the sums already authorized by statute to be appropriated for fiscal year 1990 for Regional Centers for the Transfer of Manufacturing Technology and for assistance to State technology extension services, there is authorized to be appropriated to the Secretary to carry out the industrial technology extension activities of the Institute for fiscal year 1990, $4,000,000, of which $2,000,000 shall be available for the Technology Evaluation Program and $2,000,000 shall be available for the Institute's management of its industrial technology extension activities.

(d) TRANSFERS.—(1) Funds may be transferred among the line items listed in subsection (b), so long as—

(A) the net funds transferred to or from any line item do not exceed 10 percent of the amount authorized for that line item in such subsection; and

(B) the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science, Space, and Technology of the House of Representatives are notified in advance of any such transfer.

(2) The Secretary may propose transfers to or from any line item exceeding 10 percent of the amount authorized for the line item in subsection (b), but such proposed transfer may not be made—

(A) unless a full explanation of any such proposed transfer and the reasons therefor are transmitted in writing to the Speaker of the House of Representatives, the President of the Senate, and the appropriate authorizing committees of the House of Representatives and the Senate; and

(B) until the expiration of the 30-day period following the transmission of such written explanation.

(e) OFFICE OF INDUSTRIAL TECHNOLOGY SERVICES.—Section 26 of the Act of March 3, 1901 (15 U.S.C. 278l), is amended by adding at the end the following new subsection:

"(c) There is established within the Institute an Office of Industrial Technology Services, which shall supervise the Centers program, the Institute's assistance to State technology programs, and such other activities or programs as the Secretary or Director may specify.".

ADVANCED TECHNOLOGY PROGRAM

SEC. 5. (a) FINDINGS AND STATEMENT OF POLICY.—Congress finds and declares the following:

(1) It is in the national interest for the Federal Government to encourage and, in selected cases, provide limited financial assistance to industry-led private sector efforts to increase research and development in economically critical areas of technology. Further, both joint research and development ventures (hereafter in this section referred to as "joint ventures") and selected research assistance to small firms are established and effective ways to create economically-valuable new technology. Joint ventures are a particularly effective and appropriate way to pool resources to conduct research that no one company is likely to undertake but which will create new generic technologies that will benefit an entire industry and the welfare of the Nation.

(2) In accordance with existing national policy, both the technology developed by any joint venture supported by the Department of Commerce as well as the resulting products should be made available, on a license and royalty basis and subject to the terms and conditions listed in this section, to nonparticipants.

(3) When a joint venture receives financial assistance from the Department of Commerce, the technology resulting from the joint venture should be licensed in such a way that the technology promotes the domestic manufacture of resulting products and components.

(b) ADVANCED ELECTRONICS, INCLUDING ADVANCED TELEVISION.—In addition to any sums otherwise authorized by this Act, appropriations to the Secretary and loan guarantees by the Secretary, pursuant to section 28 of the Act of March 3, 1901 (15 U.S.C. 278n), as amended by section 6 of this Act, and subject to the terms specified in subsections (d) and (e) of this section, are authorized at the following levels to assist one or more industry-led joint ventures in advanced electronics, including advanced television, to create and test the genetic enabling technologies necessary to develop a United States industry to produce advanced electronic products, including advanced televisions:

(1) for fiscal year 1990, appropriations of $30,000,000 and, in addition, commitments to guarantee 90 percent of the payment of the outstanding principal and interest on $50,000,000 in private loans;

(2) for fiscal year 1991, commitments to guarantee 90 percent of the payment of the outstanding principal and interest on an additional $75,000,000 in private loans; and

(3) for fiscal year 1992, commitments to guarantee 90 percent of the payment of the outstanding principal and interest on an additional $100,000,000 in private loans.

(c) OTHER INDUSTRY-LED RESEARCH PROJECTS.—In addition to the sums authorized under subsection (b) of this section and any other sums otherwise authorized by this Act, there is authorized to be appropriated to the Secretary, to carry out through the Director of the Institute further activities under section 28 of the Act of March 3, 1901 (15 U.S.C. 278n), $70,000,000 for fiscal year 1990, which shall be available for the following line items:

(1) Assistance to additional industry-led joint ventures, $58,000,000, which shall be available for the following categories:

(A) Applications of high-temperature superconducting materials, $15,000,000.

(B) Advanced manufacturing, $18,000,000.

(C) Semiconductor production equipment, specifically a synchrotron radiation project to assist the United States semiconductor industry to develop x-ray lithography as a method of producing semiconductor chips, $25,000,000.

(2) Assistance to United States small businesses which have held Small Business Innovation Research Program Phase I awards from other Federal agencies and which the Institute judges to have promising technologies in economically important technical fields, $10,000,000.

(3) Program management, analyses, and workshops, $2,000,000.

(d) GENERAL TERMS AND CONDITIONS FOR AID TO JOINT VENTURES.—Subsequent to any appropriation made pursuant to the authorizations in subsection (b) and subsection (c)(1) of this section, the Secretary shall invite requests for financial assistance from existing or proposed joint ventures in the designated technical areas. If requests are made, the Secretary, after an appropriate review of the technical and economic merits of each request, shall judge which individual requests or combination thereof, if any, merit assistance and shall decide what type and level of assistance each such meritorious proposal shall receive, except that in addition to the terms and conditions set forth in section 28 of the Act of March 3, 1901, as amended by section 6 of this Act, the Secretary shall make no award of any funds appropriated, or any loan guarantee, pursuant to an authorization contained in subsection (b) or subsection (c)(1) of this section unless and until—

(1) the joint venture is led by at least one North American company which operates in more than one State or region of the Nation;

(2) the joint venture demonstrates that it has raised, or has firm commitments for, private funds which exceed the level of Federal funds that the joint venture has requested from the Secretary and the fair market value of any loan guarantee commitments so requested;

(3) the joint venture has developed and submitted to the Secretary a business plan which, in the judgment of the Secretary, adequately—

(A) states a clear and focused research and development agenda, including the prototype products and production processes to be created and how that agenda complements a related research project or projects already being funded by Federal departments or agencies;

(B) provides assurance that the joint venture will have a sound management team;

(C) demonstrates that a party to the joint venture, acting on the joint venture's behalf, has filed a written notification with the Attorney General and the Federal Trade Commission, as required under section 6 of the National Cooperative Research Act of 1984 (15 U.S.C. 4305);

(D) provides, as appropriate, for participation in the joint venture by small businesses owned by United States citizens;

(E) considers metrology needs, and as appropriate, draws upon the technology, expertise, and facilities in the Institute's laboratories;

(F) sets forth provisions regarding the disposition of intellectual property resulting

from the joint venture, including the rapid transfer of that intellectual property to members of the joint venture; the licensing, as appropriate, of the intellectual property to other North American companies and to foreign companies, in accordance with the provisions set forth in subsection (e) of this section; and, as appropriate, requirements for royalties which will return funds to the investors in the joint venture, including the United States Government; and

(G) sets forth reporting and auditing procedures; and

(4) the Secretary, after an appropriate review of the business plan, judges that the proposed research and development agenda and the proposed management team have high technical merit.

(e) PARTICIPATION AND LICENSING BY FOREIGN COMPANIES AND NON-MEMBERS OF A JOINT VENTURE.—(1) In addition to the terms and conditions set forth in section 28 of the Act of March 3, 1901 (15 U.S.C. 278n), and subsection (d) of this section, the terms and conditions set forth in paragraphs (2) and (3) of this subsection also shall apply to any joint venture which receives any financial assistance from the Secretary pursuant to the authorizations provided in subsections (b) and (c)(1) of this section.

(2) No joint venture which contains a foreign company or a subsidiary thereof shall be eligible to receive financial assistance from the Secretary, and no foreign company shall participate in any joint venture which has receive financial assistance from the Secretary.

(3) A joint venture which receives financial assistance from the Secretary may grant licenses to companies, including foreign companies, that are not members of the joint venture, for the use of intellectual property which the joint venture has developed, only if—

(A) licensing fees for the intellectual property are based on—

(i) the amount of research and development, product design, and manufacturing of products using the intellectual property that the company performs within the United States and Canada;

(ii) the percentage of domestically-manufactured components, including electronic components, used in products which incorporate the intellectual property; and

(iii) in the case of a foreign company, the amount of reciprocal access North American companies have to that company's home market, as determined by the Secretary; and

(B) in the case of a foreign company, that company, in the judgment of the Secretary, has not within the past five years engaged in dumping practices within the United States or engaged in practices, either in the United States or abroad, which have the effect of infringing on or otherwise damaging the intellectual property rights of North American companies.

(4) The Secretary shall prescribe such rules and collect such information as may be necessary to monitor and enforce any requirements set forth in paragraphs (2) and (3) of this subsection.

(f) DEFINITIONS.—As used in this section, the term—

(1) "foreign company" means a company or other business entity in which majority ownership or control is held by individuals who are not citizens of the Untied States or Canada.

(2) "North American company" means a company or other business entity in which majority ownership or control is held by individuals who are citizens of the United States, or citizens of Canada, or a combination of United States and Canadian citizens, except that such term includes a company owned or controlled by Canadian citizens only if, in the judgment of the Secretary, the company is not acting, with respect to the joint venture concerned, as an agent or intermediary for a third-country company or foreign government.

(g) COORDINATION.—(1) When reviewing private sector requests for Department of Commerce assistance to proposed joint ventures, and when monitoring the progress of assisted joint ventures, the Secretary shall, as appropriate, coordinate with the Secretary of Defense and other senior Federal officials to ensure cooperation and coordination in Federal technology programs and to avoid unnecessary duplication of effort. The Secretary is authorized to work with the Secretary of Defense and other appropriate Federal officials to form interagency working groups or special project offices to coordinate Federal technology activities.

(2) As appropriate, the Secretary shall coordinate Advanced Technology Program policies and activities with the economic, trade, and security policies of the Department of Commerce so as to promote the economic competitiveness of United States industries and shall, when so instructed by the President, coordinate these policies with the science, technology, economic, trade, and security policies of other Federal departments and agencies.

(h) ADVICE AND REVIEW.—In order to analyze the need for and value of joint ventures in specific technical fields, to evaluate any joint ventures for which North American companies request the Secretary's assistance, or to monitor the progress of any joint venture which receives Federal funds or loan guarantees pursuant to the authorizations contained in this section, the Secretary, the Under Secretary of Commerce for Technology, and the Director of the Institute may—

(1) organize and seek advice from such industry advisory committees as they consider useful and appropriate;

(2) organize an Advanced Electronics Advisory Board for the purpose of developing a plan for research and development in advanced electronics, including advanced television; and

(3) commission studies or reviews by the National Research Council.

AMENDMENTS TO ADVANCED TECHNOLOGY PROGRAM PROVISIONS

SEC. 6. (a) Subparagraph (B) of section 28(b)(1) of the Act of March 3, 1901 (15 U.S.C. 278n(b)(1)), is amended to read as follows:

"(B) participation in such joint ventures, if the Secrtetary, acting through the Director, determines participation to be appropriate, which may include (i) partial start-up funding, (ii) provision of a minority share of the cost of such joint ventures for up to 5 years, (iii) guarantees, and commitments to guarantee, for up to 90 percent of the interest and unpaid principal of private loans to fund a minority share of such joint ventures for up to 5 years, and (iv) making available equipment, facilities, and personnel,".

(b) Section 28 of the Act of March 3, 1901 (15 U.S.C. 278n), is further amended—

(1) by redesignating subsection (e) as subsection (h); and

(2) by inserting immediately after subsection (d) the following new subsections:

"(e) The Secretary may provide no financial assistance, including loan guarantees, under subsection (b)(1) of this section except to the extent authorized by law and provided for in advance in appropriations Acts.

"(f) Any loan guarantees made by the Secretary pursuant to subsection (b)(1)(B) of this section shall, in addition to the requirements set forth in subsection (e) of this section, be subject to the following conditions:

"(1) Each loan guarantee shall be on such terms and conditions as the Secretary determines, except that a guarantee shall be made only if—

"(A) the loan bears interest at a rate not to exceed such annual percentage on the principal obligation outstanding as the head of the designated agency determines to be reasonable, taking into account the range of interest rates prevailing in the private sector for similar loans and risks by the United States;

"(B) the terms of the loan require full repayment over a period not to exceed 30 years, or the useful life of any physical asset to be financed by such loan, whichever is less (as determined by the Secretary);

"(C) in the judgment of the Secretary, the amount of the loan (when combined with amounts available to the qualified borrower from other sources) will be sufficient to carry out the joint venture; and

"(D) in the judgment of the Secretary, there is reasonable assurance of repayment of the loan by the qualified borrower of the guaranteed indebtedness.

"(2) A loan guarantee shall not be terminated, cancelled, or otherwise revoked, except in accordance with the terms thereof, and shall be conclusive evidence—

"(A) of the full compliance of that guarantee with the provisions of this Act; and

"(B) of the approval and legality of the principal amount, interest rate, and all other terms of the securities, obligations, or loans and of the guarantee.

"(3) The terms and conditions of a loan guarantee shall provide that, if the Secretary makes a payment of principal or interest upon default by a borrower, the Secretary shall be subrogated to the rights of the recipient of such payment (and such subrogation shall be expressly set forth in the loan guarantee or related agreements).

"(g)(1) The Secretary may, for the purposes of managing the Program, employ at the Institute such technical and professional personnel and fix their compensation without regard to the provisions of title 5, United States Code, as the Secretary may deem necessary for the discharge of responsibilities under this section.

"(2) The Secretary may, under the authority provided by paragraph (1) of this subsection, appoint for a limited term or on a temporary basis, scientists, engineers, and other technical and professional personnel on leave of absence from industrial, academic, research, or State institutions to work for the Program.

"(3) The Secretary may pay, to the extent authorized for certain other Federal employees by section 5723 of title 5, United States Code, travel expenses for any individual appointed for a limited term or on a temporary basis and transportation expenses of his or her immediate family and his or her household goods and personal effects from that individual's residence at the time of selection or assignment to his or her duty station. The Secretary may pay such travel expenses and transportation expenses to the same extent for such an individual's return to the former place of residence from his or her duty station, upon separation from the Federal service following an

agreed period of service. The Secretary may also pay a per diem allowance at a rate not to exceed the daily amounts prescribed under section 5702 of title 5, United States Code, to such an individual, in lieu of and when less than transportation expenses of the immediate family and household goods and personal effects, for the period of his or her employment with the Program. Notwithstanding any other provision of law, the employer's contribution to any retirement, life insurance, or health benefit plan for an individual appointed for a term of one year or less, which could be extended for no more than one additional year, may be made or reimbursed from appropriations available to the Secretary.".

SALARY ADJUSTMENTS

SEC. 7. In addition to any sums otherwise authorized by this Act, there are authorized to be appropriated to the Secretary for fiscal year 1990 such additional sums as may be necessary to make any adjustments in salary, pay, retirement, and other employee benefits which may be provided for by law.

AVAILABILITY OF APPROPRIATIONS

SEC. 8. Appropriations made under the authority provided in this Act shall remain available for obligation, for expenditure, or for obligation and expenditure for periods specified in the Acts making such appropriations.

ANNUAL INDUSTRIAL TECHNOLOGY REPORT

SEC. 9. Section 5 of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3704) is amended by adding at the end the following new subsection:

"(f) ANNUAL INDUSTRIAL TECHNOLOGY REPORT.—(1) By February 15 of each year following the date of enactment of this subsection, the Secretary, through the Under Secretary, shall submit to Congress a report on the state of United States industrial technology. Each such report shall include, but not be limited to—

"(A) a list of what the Secretary and Department of Commerce technical experts consider to be the most economically-important technologies and the estimated current and future size of domestic and international markets for products derived from these technologies;

"(B) a list of the technologies and markets targeted by major trading partners for development or capture;

"(C) an assessment of the current state of United States product technology, process technology, and manufacturing capability in the fields of technology and the markets identified under subparagraph (A), as compared with the current levels of such technologies and manufacturing capability achieved, or future levels likely to be achieved, by major trading partners;

"(D) an identification of the types of research and development needed to close any significant gaps or deficiencies in the technology base of the United States, as compared with the technology bases of major trading partners;

"(E) an analysis of private and public investments in the United States in research and development, including Federal research and development investments, by department and agency, in the specific fields of technology and the markets identified under subparagraph (A); a summary of Federal policies, including research policies, to promote United States industrial competitiveness in those fields of technology and markets; and an analysis of what additional private and Federal actions are needed to close gaps between the civilian technology base of the United States and the technology bases of major trading partners, including what steps are necessary to ensure that the Institute can provide North American companies with the support technologies needed to remain competitive in those fields of technology and markets;

"(F) an evaluation of flows of industrial technology between the United States and major trading partners, including flows of technology through licenses and patent-sharing or cross-licensing, corporate investments and acquisitions, investments in universities and government laboratories, technical literature, and personnel exchanges, and a summary and analysis of annual foreign investments in, and acquisitions of, high-technology firms or organizations within the United States; and

"(G) a statement concerning any policies, regulatory obstacles, or other institutional problems which, in the judgment of the Secretary adversely affect the creation and use of industrial technology in the United States or limit the contribution that Federal research and development makes to United States leadership in industrial technology.

"(2) The Secretary may, to the extent permitted by other Acts, to collect such information as may be necessary to prepare the annual report required by this subsection.

"(3) The Directors of the Office of Science and Technology Policy, the Office of Management and Budget, and the National Science Foundation, as well as the heads of other Federal departments and agencies, shall provide such information and assistance in the preparation of the annual report as the Secretary may request.".

REPORTS ON MANUFACTURING

SEC. 10. By December 1, 1989, the Secretary shall submit to Congress the following two reports:

(1) A report on the feasibility and advisability of establishing, in affiliation with the Institute, a Quality Institute and a privately-funded foundation to support that Quality Institute, the purpose of which would be—

(A) to conduct workshops and company tours to share with managers, engineers, and production employees in the United States advanced techniques for improving manufacturing organization, quality, and productivity, including team-oriented organizational approaches to managing production technology and corporate research and development;

(B) to help develop and disseminate model curricula in advanced manufacturing which might be used by technical colleges and other educational institutions to provide training to students and manufacturing company employees.

(2) A report analyzing the advantages and disadvantages of small manufacturing firms in the United States participating in new multi-company manufacturing centers, either on a local or regional scale, and what steps, if any, in the judgment of the Secretary, the Federal Government can and should take to encourage the development of such new organizations for manufacturing.

THE EROSION OF THE U.S. SHARE OF TECHNOLOGY MARKETS

Technology	Pioneered by	U.S. companies' share of domestic American market (percent)				Estimated 1987 value of U.S. market (millions)
		1970	1975	1980	1987	
Phonographs	United States	90	40	30	1	$630
Televisions:						
Black and white	do	65	30	15	2	175
Color	do	90	80	60	10	5,150
Audio tape recorders	do	40	10	10	1	500
Video cassette recorders	do	10	10	1	1	2,895
Ballbearings	Germany	88	83	71	71	1,657
Machine tools:						
Horizontal numerically controlled lathes	United States	[1] 100	[1] 92	70	40	401
Machining centers	do	[1] 100	[1] 97	79	35	485
Telephone sets	do	99	95	88	25	2,000
Semiconductors [2]	do	89	71	65	64	[1] 19,100
Semiconductor manufacturing equipment [1]	do	100	90	75	75	1,856
Cellular telephones	Scandinavia-United States	([4])	([4])	([4])	40	740
Facsimile machines	United States-Japan	([4])	([4])	([4])	.....	750

[1] Estimates.
[2] Data is for semiconductor merchant companies only. U.S. company share includes production of foreign subsidiaries operating in the United States.
[3] Estimates only. No official data exists.
[4] Not introduced into the U.S. market.

Source: Council on Competitiveness, "Picking Up the Pace: The Commercial Challenge to American Innovation," September 1988, p. 15, using data from the U.S. Department of Commerce.

BUDGET TABLE FOR COMMERCE DEPARTMENT TECHNOLOGY PROGRAMS: AUTHORIZATION LEVELS PROPOSED BY THE TECHNOLOGY ADMINISTRATION AUTHORIZATION ACT

[In thousands of dollars]

	Fiscal year—				Bill's increase over fiscal year 1989
	1989 base	1990 DOC request to OMB	1990 OMB request	1990 (bill)	
General tech. administration:					
Exec. direction (Under Sec.)	0		1,013	1,013	1,013
Tech policy/commercial affairs	2,054		2,662	2,662	608
Japanese technical literature	425		425	1,000	575
Clearinghouse [1]	250			1,500	1,250
Total	2,729		4,100	6,175	3,446
NIST laboratory programs:					
Measurement research	41,775	50,185	44,435	50,185	[2] 8,410
Chemical process control	(400)	(3,200)	(2,500)	(3,200)	(2,800)
Perform elec. systems	(0)	(2,500)	(0)	(2,500)	(2,500)
Materials	23,544	27,084	24,418	27,084	[2] 3,540
High-perform composites	(1,600)	(3,600)	(2,600)	(3,600)	(2,000)
Engineering	41,490	55,606	43,102	69,428	[2] 27,938
Imaging electronics/TV	(0)	(0)	(0)	(7,500)	(7,500)
Superconductivity	(2,800)	(7,800)	(3,500)	(7,800)	(5,000)
Advanced semiconductors	(0)	(5,000)	(0)	(2,500)	(2,500)
Lightwave (fiber optics)	(1,950)	(7,500)	(4,550)	(7,500)	(5,550)
New automation research	(0)	(0)	(0)	(2,500)	(2,500)
Bioprocess engr	(1,350)	(1,350)	(3,650)	(3,650)	(2,300)
Fire/building safety [3] [4]	(9,372)	(5,288)	(5,000)	(9,912)	(540)
Computer sciences	9,488	11,203	13,043	15,088	5,600
Computer security	(2,500)	(5,500)	(6,000)	(7,500)	(5,000)
Research support	27,533	34,575	30,611	34,575	[2] 7,022
Computer upgrade	(0)	(6,000)	(3,122)	(6,000)	(6,000)
Subtotal	142,850	180,653	155,609	196,360	52,510
NIST tech. extension: [4]					
Manufacturing centers [1]	7,500	0	0	12,000	4,500
Special center	7,500	0	0	0	(−7,500)
Assistance to States [1]	0	0	0	2,000	2,000
Inventions evaluation	150	0	0	2,000	1,850
Program management	0	0	0	2,000	2,000
Subtotal	15,150	0	0	18,000	2,850
Advanced tech. program: [4]					
Electronics/television	0	0	0	30,000	30,000
Superconductivity	0	0	0	15,000	15,000
Manufacturing	0	0	0	18,000	18,000
X-ray lithography	0	0	0	25,000	25,000
Small business	0	0	0	10,000	10,000
Program mgmt/analyses	0	0	0	2,000	2,000
Subtotal	0	0	0	100,000	100,000
Total authorization	159,000	180,652	155,609	14,360	155,360
Loan guarantees: Electronics televison	0	0	0	50,000	50,000

[1] Fiscal year 1990 authorizations for these programs were included in the Omnibus Trade And Competitiveness Act of 1988. Table's fiscal year 1990 amount for manufacturing centers is in addition to fiscal year 1989 carryover.
[2] Increases over fiscal year 1989 include laboratory adjustments to base (inflation increases) plus program increases.
[3] Includes research on ignition and toxicity of upholstery and research on alternative refrigerants.
[4] In its request to DOC, NIST proposed to retore fire and building cuts and to receive $41,800,000 to implement Trade Act provisions such as manufacturing centers and the Advanced Technology Program. However, the DOC budget office opposed any funding to implement new responsibilities under the Trade Act, despite Reagan administration support of the act's technology provisions.

SUMMARY OF PROVISIONS: TECHNOLOGY ADMINISTRATION AUTHORIZATION ACT OF 1989

Section 2. Statement of Policy. To help industries speed the commercialization of new products and in order to maintain the economic competitiveness of the Nation, targeted increases are required in the programs of the Commerce Department's Technology Administration and its National Institute of Standards and Technology (NIST).

Section 3. Technology Administration. Authorizes Technology Administration executive and analytical activities for FY90 at the level requested by OMB.

Section 4. National Institute of Standards and Technology. Provides FY90 authorization for NIST's internal laboratory program. The authorization level reflects DOC's own request to OMB, plus funds for advanced imaging electronics/television and the restoration of proposed cuts in NIST's fire and building safety activities. The total authorization for in-hourse programs is $196,360,000 (see attached budget sheet). Provides a small authorization for two NIST industrial technology extension activities; other extension activities, including the Manufacturing Technology Centers, already have received FY90 authorizations in the 1988 Trade Act. The attached budget sheet assumes the continuation of the current three centers, plus the creation of three additional centers.

Section 5. Advanced Technology Program. This program, created in the 1988 Trade Act, authorizes the Secretary of Commerce to encourage and, in selected cases, financially assist new private sector technology research efforts, including multicompany joint research and development ventures (research consortia). The bill authorizes appropriations to provide seed funds (which must be matched by at least equal amounts of private money) for joint ventures in four key areas: advanced electronics, including advanced television; superconductivity; advanced manufacturing; and semiconductor production equipment. Also authorizes limited assistance to small business. The total FY90 authorization level is $100,000,000, plus loan guarantees for research in the advanced electronics area. Also sets certain terms and conditions for financial assistance to joint ventures. Prohibits participation of foreign firms in DOC-assisted consortia but allows for technology to be licensed to nonmember firms, including foreign-owned. Directs the Secretary of Commerce to coordinate with the Secretary of Defense.

Section 6. Amendments to Advanced Technology Program Provisions. Amends 1988 Program legislation to allow the Secretary of Commerce, subject to the authorization and appropriations processes, to offer loan guarantees as well as direct funding to joint research ventures. Also amends 1988 language to allow the Secretary to hire temporary personnel; this amendment is based on language from the National Science Foundation Act.

Section 7. Salary Adjustments. Authorizes funds to pay for increases in salary and benefits.

Section 8. Availability of Appropriations. Appropriations made under this authority shall remain available for the periods specified in appropriations Acts.

Section 9. Annual Industrial Technology Report. Amends the Stevenson-Wydler Technology Innovation Act to require the Secretary of Commerce to submit an annual report listing key technologies, which technologies have been targeted for development by major trading partners, how the U.S. compares with other nations in these areas, and what steps are needed to close gaps.

Section 10. Reports on manufacturing. Requires two one-time reports, one on the feasibility of establishing a privately-funded Manufacturing Institute in affiliation with NIST; this group would prepare workshops, company tours, and model curricula to help U.S. companies organize themselves to take advantage of advanced manufacturing tech-

nology. The second would examine the concept of shared manufacturing facilities.

Mr. BINGAMAN. Mr. President, I am pleased to cosponsor the Technology Administration Authorization Act of 1989. I commend the distinguished chairman of the Commerce Committee, Senator HOLLINGS, for developing this important legislation.

This bill goes beyond a simple reauthorization of the Commerce Department's Technology Administration and National Institute of Standards and Technology. This bill continues the work started last year in the Omnibus Trade and Competitiveness Act. For example, the bill continues funding for the three manufacturing technology centers created last year and authorizes three additional centers.

The bill includes essential programs for the support of important developing technologies, such as advanced television technology, advanced manufacturing, semiconductor production, and superconductivity. I firmly believe that these joint public-private sector research projects are important steps toward improving America's technological capabilities.

I am especially pleased that this bill parallels much of my own work in the Defense Industry and Technology Subcommittee of the Armed Services Committee. It is extremely crucial that we have coordinated civilian and miltiary research in critical technological areas. This bill requires such coordination and makes the Secretary of Commerce a key player in the process.

In addition, the legislation requires a report on critical technologies, including an assessment of the current state of American technology relative to our major trading partners. This is something we required last year that the Defense Department do on an annual basis with respect to critical military technologies. I would hope we would be able to create a means of coordinating these two reports.

Mr. President, I believe that this is a very important piece of legislation. Over the past 8 years this Nation has suffered from a neglect of our civilian technological base. This bill will reverse that trend. I am pleased to be a cosponsor and urge its swift consideration and passsage.

By Mr. BENTSEN (for himself and Mr. MOYNIHAN):

S. 1192. A bill to amend title II of the Social Security Act to increase the retirement test exempt amount to $10,620 in 1990, to lower the reduction factor for certain earnings to 25 percent, to extend eligibility to certain adopted children, to provide for the issuance of earnings and benefit statements, and for other purposes; to the Committee on Finance.

SOCIAL SECURITY EARNINGS TEST MODIFICATIONS

● Mr. BENTSEN. Mr. President, I am pleased today to introduce S. 1192, together with my esteemed colleague from New York, Senator MOYNIHAN.

It is a bill designed to help older Americans. There are those who scoff at this idea. It has been pointed out that America's senior citizens are the wealthiest, best fed, best housed, healthiest, most self-reliant older population in our history.

All that's true and thank God for it.

But it's not the whole story. It doesn't describe the millions of older people living in one-room apartments with only a few framed photos to remind them of better days; or the ones who can't write a check the last week of the month because there's nothing in the account until Social Security comes in; or the ones who have to calculate to the penny before they can say yes to going to a restaurant once a month. For most older people life is not a bed of roses.

It's only in this centruy that we've begun to care about retirement issues, and with good reason. In 1900, the average American retirement was only about a year long. Now it's 14 years—almost 20 percent of life.

This means older Americans have to plan carefully for retirement. It also means there are more and more Americans who want and need to work during those years.

And why not? They know a lot. They're experienced. They'd be an asset whether they were making cheeseburgers in MacDonald's, keeping books—or even being a United States Senator from Texas. In fact, last month we paid tribute to this country's leading example of the abilities of older Americans, Claude Pepper, who once said: "Some people dodder at 30, others at 80, and some pass through life without doddering at all." Claude Pepper didn't dodder at 30. Or at 80. Or for a moment during his long, productive life. And there are millions like him.

The problem is the barrier we put in the way of older people who want to work. Say a man my age wants to work—and has a job paying him $15,000 a year. Once he hits that Social Security earnings threshold, he feels like he's been hit. Over the head. After he gets through paying Federal income tax, the Social Security tax, the catastrophic premium—too high, in my book—and his reduction in Social Security benefits, he only gets to keep 41 cents out of every additional dollar he earns.

That's not right. We want older people to be able to work for a living. Their paychecks should go to them—not to Washington.

So, today, Senator MOYNIHAN and I am proposing legislation permitting older Americans to earn more money while keeping more of their Americans benefits.

My amendment would raise the threshold of earnings under present law, when you begin to lose Social Security benefits. And once you cross that threshold it would allow you to keep more benefits than you can now.

It isn't exactly a new idea. In fact, since the early 1970's Congress has voted to raise that threshold about a dozen times. Recently Senator ARMSTRONG tried to add such an amendment to the minimum wage bill.

It was a good idea. I just thought it didn't go far enough. It also took benefits away from about 100,000 older Americans. And it cost the Federal Government money—something which in the era of $200 billion deficits, we can't afford.

Now we have a proposal that overcomes those objections. It increases the amount of earnings exempt from reduction under the retirement test by $1,260—from $9,360 to $10,620. People making between that amount and $15,620 now lose a dollar in benefits for every three they earn—A 33 percent reduction. Under S. 1192, the ratio would be 1 to 4—25 percent.

How is this financed? In a way that doesn't add a cent to the deficit.

The purpose of the Social Security Program is to provide an ongoing monthly cash income to beneficiaries. Sometimes, through, we'll pay several months benefits in a lump sum—for example, when a beneficiary discovers belatedly he is entitled to benefits for several months before he actually applied.

Also, there are times when an individual already getting benefits has his benefits recomputed to see whether some recent earnings will result in a higher benefit rate. It takes about 14 months to process these adjustments; if the rate is actually increased, Social Security will send a retroactive payment, also as a lump sum.

Under S. 1192, the Social Security Program will continue to make these payments but in the form of a higher permanent benefit rate. The result? What the Social Security Program pays out in higher benefits is almost exactly matched by what it saves by stretching out the lump sum payments.

Not a revolutionary concept. Just one that makes life easier for hundreds of thousands of older Americans, and does so in a practical and equitable way. A typical retiree earning $15,000 in additional income would be able to keep almost $800 more of Social Security benefits in 1990, instead of paying those benefits to the Government in form of taxes.

The Gray Panthers' Maggie Kuhn once wrote this, in an article she called "to rest is to rust:"

The junkyard haunts me, because I don't want to be dumped on the scrap heap. I don't want to be isolated from mainstream living, or from the companionship of people of all ages. And there are millions more like me.

Mr. President, we can't afford to keep healthy, vigorous, hardworking older Americans out of the American work force. It's like keeping your best hitters on the bench.

I'd rather have them in the lineup. It's unlikely they'll make rookie of the year. But they've got a few hits left, and they're playing for our team.

The bill I am introducing today also includes two other important improvements in the Social Security Program. It corrects a longstanding inequity in the treatment of adopted children. Under the Social Security Program, benefits are provided not only for retired and disabled workers but also for their dependent children. If the beneficiary has a child, that child immediately becomes eligible. But if a beneficiary adopts a child, that child often will not be eligible. My bill will provide equal treatment for natural and adopted children.

A third element of the bill I am introducing provides for earnings and benefit statements to be sent to those who pay into the program. This is a concept which has been strongly advanced by my cosponsor, Senator MOYNIHAN, and I am happy to join with him in including it in this package. Workers know from looking at their paystubs and their W-2 forms that they are paying significant amounts into the Social Security Program. But we do not now have in place a system for assuring them that these contributions are being properly credited and for letting them know what they are getting for their money. The bill I am introducing today will require the Social Security Administration to phase in such a system so that ultimately all participants in the program will get an annual report on what Social Security records show them to have paid into the program along with an estimate of the benefits that they and their family can expect to qualify for.

Mr. President, I encourage our colleagues to join us as cosponsors of this important piece of legislative relief that will improve the quality of life for hundreds of thousands of elderly Americans and for those who can benefit from their wisdom and experience. I ask unanimous consent that the text of S. 1192 be printed in the RECORD immediately following my remarks, along with a factsheet describing the bill in more detail.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 1192

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. RETIREMENT TEST EXEMPT AMOUNT INCREASED TO $10,620 IN 1990.

(a) IN GENERAL.—Subparagraph (D) of section 203(f)(8) of the Social Security Act (42 U.S.C. 403(f)(8)) is amended to read as follows:

"(D) Notwithstanding any other provision of this subsection, the exempt amount which is applicable to an individual who has attained retirement age (as defined in section 216(l)) before the close of the taxable year involved shall be $885 for each month of any taxable year ending after 1989 and before 1991.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1989.

SEC. 2. REDUCTION FACTOR WITH RESPECT TO CERTAIN EARNINGS LOWERED TO 25 PERCENT.

(a) IN GENERAL.—Paragraph (3) of section 203(f) of the Social Security Act (42 U.S.C. 403(f)) is amended by striking "33⅓ percent" and all that follows through "paragraph (8)" and inserting "equal to the sum of (A) 25 percent of so much of his earnings for such year in excess of the product of the applicable exempt amount as determined under paragraph (8) as does not exceed $5,000, and (B) 33⅓ percent of so much of such earnings in excess of such product as exceeds $5,000,".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1989.

SEC. 3. PAYMENT OF RECOMPUTED BENEFITS.

(a) IN GENERAL.—Subparagraph (D) of section 215(f)(2) of the Social Security Act (42 U.S.C. 415(f)(2)) is amended by striking subparagraph (D) and inserting the following new subparagraphs:

"(D) A recomputation under this paragraph with respect to any year shall be effective—

"(i) in the case of an individual who did not die in that year, for the earlier of—

"(I) monthly benefits beginning with benefits for the fifteenth month following the end of such year, or

"(II) monthly benefits beginning with benefits for the month in which the individual submits a written request for such recomputation; or

"(ii) in the case of an individual who died in that year, for monthly benefits beginning with benefits for the month in which he died.

"(E) Under regulations of the Secretary, monthly benefits increased as a result of a recomputation under this paragraph which became effective pursuant to subparagraph (D)(i) shall be further increased on an actuarial basis (taking into account the age of the individual) to include the value of benefits which would have otherwise been paid if the recomputation were effective beginning with benefits for January of the year following the year with respect to which the recomputation is made.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to recomputations made after the date of enactment of this Act.

SEC. 4. PAYMENT OF CERTAIN RETROACTIVE BENEFITS.

(a) IN GENERAL.—Subparagraph (B) of section 202(j)(4) of the Social Security Act (42 U.S.C. 402(j)(4)) is amended—

(1) by redesignating clause (v) as clause (vi), and

(2) by inserting after clause (iv) the following new clause:

"(v) Any retroactive benefits for which an individual is eligible because of clause (i) or (iv) shall be paid to the individual as an increase in the individual's monthly benefit amounts, determined on an actuarial basis pursuant to regulations prescribed by the Secretary.".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply with respect to applications for benefits made after the date of enactment of this Act.

SEC. 5. ELIMINATION OF THE DEPENDENCY TEST APPLICABLE TO CERTAIN ADOPTED CHILDREN.

(a) IN GENERAL.—Section 202(d)(8)(D) of the Social Security Act (42 U.S.C. 402(d)(8)(D)) is amended—

(1) by adding "and" after the comma at the end of clause (i); and

(2) by striking clauses (ii) and (iii) and inserting in lieu thereof the following:

"(ii) in the case of a child who attained the age of 18 prior to the commencement of proceedings for his adoption, the child was living with or receiving at least one-half of his support from such individual for the year immediately preceding the month in which his adoption is decreed.".

(b) CONFORMING AMENDMENT.—Paragraph (8) of section 202(d) of such Act (42 U.S.C. 402(d)) is amended by striking the last sentence.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to benefits payable for months after the month in which this Act is enacted, but only on the basis of applications filed on or after the date of the enactment of this Act.

SEC. 6. MANDATORY PROVISION OF SOCIAL SECURITY ACCOUNT STATEMENT.

(a) IN GENERAL.—Part A of title XI of the Social Security Act (42 U.S.C. 1301-1320b-10) is amended by adding at the end thereof the following new section:

"SOCIAL SECURITY ACCOUNT STATEMENTS

"Provision Upon Request

"SEC. 1141. (a)(1) Beginning not later than October 1, 1990, the Secretary shall provide upon the request of an eligible individual a social security account statement (hereinafter referred to as the 'statement').

"(2) Each statement shall contain—

"(A) the amount of wages paid to and self-employment income derived by the eligible individual as shown by the records of the Secretary at the date of the request;

"(B) an estimate of the employee and self-employment, old age, survivors, and disability insurance contributions of the eligible individual as shown by the records of the Secretary at the date of the request;

"(C) a separate estimate of the employee and self-employment hospital insurance contributions of the eligible individual; and

"(D) an estimate of the potential monthly retirement, disability, survivor, and auxiliary benefits payable on the eligible individual's account together with a description of the benefits payable under the medicare program of title XVIII.

"(3) For purposes of this section, the term 'eligible individual' means an individual who—

"(A) has a social security number,

"(B) has attained age 25 or over, and

"(C) has wages or net earnings from self-employment.

"Notice to Eligible Individuals

"(b) The Secretary shall to the maximum extent practicable take such steps as are necessary to assure that eligible individuals are informed of the availability of the statement described in subsection (a).

"Mandatory Provision of Statements

"(c)(1) By not later than September 30, 1994, the Secretary shall provide a statement to each eligible individual who has attained age 60 by October 1, 1993, and who is not receiving benefits under title II and for whom a current mailing address can be determined through such methods as the Secretary deems appropriate. In fiscal years 1994 through 1999 the Secretary shall provide a statement to each eligible individual who attains age 60 in such fiscal years and who is not receiving benefits under title II and for whom a current mailing address can be determined through such methods as the Secretary deems appropriate. The Secretary shall provide with each statement to an eligible individual notice that such statement is updated annually and is available upon request.

"(2) Beginning not later than October 1, 1999, the Secretary shall provide a statement on a biennial basis to each eligible individual who is not receiving benefits under title II and for whom a mailing address can be determined through such methods as the Secretary deems appropriate. With respect to statements provided to eligible individuals who have not attained age 50 such statements need not include estimates of monthly retirement benefits. However, if such statements provided to eligible individuals who have not attained age 50 do not include estimates of retirement benefit amounts, such statements shall include a description of the benefits (including auxiliary benefits) that are available upon retirement.".

(b) REPORT TO CONGRESS AND STUDY.—

Not later than October 1, 1996, the Secretary shall submit to Congress a report on the implementation of the requirements of this Act and on his specific plans for implementing the final requirements contained in such Act, particularly with regard to estimating retirement benefit amounts for individuals who have not attained the age of 60.

(c) DISCLOSURE OF ADDRESS INFORMATION BY INTERNAL REVENUE SERVICE TO SOCIAL SECURITY ADMINISTRATION.—

(1) IN GENERAL.—Section 6103(m) of the Internal Revenue Code of 1986 (relating to disclosure of taxpayer identity information) is amended by adding at the end thereof the following new paragraph:

"(6) SOCIAL SECURITY ACCOUNT STATEMENTS FURNISHED BY SOCIAL SECURITY ADMINISTRATION.—Upon written request by the Commissioner of Social Security, the Secretary may disclose the mailing address of any taxpayer who is entitled to receive a social security account statement pursuant to section 1141(c) of the Social Security Act, for use only by officers, employees, or agents of the Social Security Administration for purposes of mailing such statement to such taxpayer.".

(2) SAFEGUARDS.—The last sentence of section 6103(p)(4) of such Code (relating to safeguards) is amended by striking out "subsection (m)(2) or (4)" and inserting in lieu thereof "paragraphs (2), (4), or (6) of subsection (m)".

(3) UNAUTHORIZED DISCLOSURE PENALTIES.—Paragraph (2) of section 7213(a) of such Code (relating to unauthorized disclosure of returns and return information) is amended by striking out "(m)(2) or (4)" and inserting in lieu thereof "(m) (2), (4), or (6)".

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of enactment of this Act.

FACTSHEET ON BENTSEN-MOYNIHAN BILL

RETIREMENT TEST IMPROVEMENTS

How the retirement test works.—The primary purpose of the social security program is to provide an income for older individuals who are retired. As a way of determining whether an individual is retired, the program looks at the individual's age and earnings. Those age 70 or above are automatically considered retired and get full benefits without regard to earnings. Those under age 70 are considered retired and eligible for full benefits only if their earnings are lower than a specified exemption level. In 1990, the exemption level for retirees aged 65 to 69 is estimated by CBO to be $9,360. Above that level, individuals have their social security benefits phased out of the basis of a $1 reduction in benefits for every $3 of earnings above $9,360.

Earnings level	Benefit reduction [1]	Remaining benefits [2]	Total income
$9,360	([3])	$8,000	$17,360
15,000	$1,880	6,120	21,120
25,000	5,213	2,787	27,787
34,000	7,880	120	34,120

[1] One-third of earnings above $9,360.
[2] Age 65 retiree with approximately average lifetime earnings.
[3] None.

Changes made by the Bentsen bill. —The proposal would increase the amount of earnings totally exempt from reduction under the retirement test by $1,260 per year. This would bring the exemption level up to $10,620. In addition, the bill would lower the rate of reduction on earnings for an additional $5,000 above that exempt amount. For earnings between $10,620 and $15,620, the reduction rate under the retirement test would be 25 percent in place of the current law rate of 33⅓ percent. (Under current law, the reduction rate goes down from 50 percent to 33⅓ percent starting in 1990.)

Earnings level	Benefit reduction		Reduction rate for each additional dollar earned (percent)		Added benefits under proposal
	Present law	Proposal	Present law	Proposal	
$9,360	([1])	([1])	33⅓	0	([1])
10,620	$420	([1])	33⅓	25	$420
15,000	1,880	$1,095	33⅓	25	785

[1] None.

How is the bill financed?—The purpose of the social security program is to provide an ongoing monthly cash income to beneficiaries. In some instances, however, several months benefits are paid out in a lump-sum because of retroactive entitlement. This happens, for example, when an individual who files for benefits in a given month discovers that he or she could have claimed benefits for one or more of the 6 preceding months. The law allows them to backdate their application up to 6 months in order to get those benefits. The proposal would continue to allow applicants to claim up to 6 months' back benefits. However, that entitlement would be paid out in the form of a higher permanent monthly benefit rather than as a one-time lump sum. (This change would apply only to retroactive benefits for months prior to age 65.)

The bill would also make a similar change in the case of automatic benefit adjustments based on recent earnings. When an individual who has applied for benefits continues to work, his or her benefits are automatically recomputed each year to see if the new earnings will result in a higher benefit rate. It takes about 14 months to process these readjustments so that the first check now includes a lump-sum retroactive payment. This bill would continue to make that payment, but would do so in the form of a higher permanent benefit rate instead of a one-time lump sum.

SOCIAL SECURITY FOR ADOPTIVE CHILDREN

Minor and disabled children of individuals who had paid social security taxes can qualify for benefits when those individuals die, become disabled, or retire in old age. In the case of natural children, these benefits are paid without regard to whether the child was born before or after the individual retired or became disabled. In the case of adoptive children, however, the law requires that the child must have been adopted before the individual became eligible for disability or retirement benefits (or, at least, must have been dependent on the individual at that time.)

The present law distinction between adoptive and natural children was apparently based on a concern over possible abuse. However, there does not appear to be any evidence to support that concern. The adoption of a child is a fairly complex and often expensive process which requires the adopting parent to assume serious legal responsibilities. In view of the substantial policy interest in encouraging adoptions, this bill would permit children adopted by retired and disabled social security beneficiaries to receive benefits on the same basis as natural children.

EARNINGS STATEMENTS

When fully effective in the year 1999, the Bentsen-Moynihan bill would require that annual earnings and benefit statements be sent to those who have paid social security taxes. These statements would show what they have contributed to the social security program, estimate their future benefits at retirement (or at least describe those benefits in the case of persons under age 50), and describe the benefits that will be provided by Medicare. In the short run, the bill would require that such statements be provided when requested and, starting in 1994, that they be provided to all individuals age 60 and above.

There are two basic reasons for this proposal. One very practical reason is that social security individual earnings' records

are sometimes not properly credited. Such a situation can cause a loss of benefits and is very difficult to correct if it is not caught until several years after the fact. Providing annual earnings statements would increase the probability that individuals would learn about such errors on a timely basis. The second reason for the proposal is to provide individuals with better information about the benefit entitlement that their social security tax payments are earning for them.●

By Mr. MOYNIHAN (for himself, Mr. D'AMATO, Mr. NUNN, Mr. DECONCINI, and Mr. CRANSTON):

S. 1193. A bill to establish a comprehensive program for the rehabilitation of drug dependent Federal offenders; to the Committee on the Judiciary.

DRUG DEPENDENT OFFENDER REHABILITATION ACT

● Mr. MOYNIHAN. Mr. President, I rise to introduce a bill that will increase our commitment to drug abuse treatment in the Federal prison system and create a special program of supervised release for nonviolent inmates who complete treatment. I do so in the belief that drug dependent offenders are at once the most dangerous criminals in our system and the inmates in whom we can invest the greatest hope. They are dangerous because they are the most likely to commit crimes after release. But we can invest hope in them because their criminality stems from what may be a treatable condition.

We have heard much alarming news on this floor about overcrowding in the Federal prison system. Our prisons are, indeed, filled beyond capacity. On January 1 of 1988, Federal prisons housed 43,946 inmates, 62 percent above their capacity of 26,473. We have acceded to a wholly unacceptable state of affairs. Make no mistake about it, more prison construction is necessary. There can be no waiting list for a prison cell.

But I would say to my colleagues that our prisons face a problem greater than overcrowding. To wit: recidivism. According to the Bureau of Prisons, 43 percent of all Federal prisoners are rearrested within 3 years of release. It is safe to assume that even more than 43 percent commit crimes for which they are not arrested or imprisoned. Recidivism is even greater in State prisons. According to the Bureau of Justice Statistics, 63 percent of State prisoners are rearrested within 3 years. Put bluntly, Mr. President, recidivism rates are failure rates. Our prison system has done precious little good for society when criminals arrested for selling heroin in 1982 return to the streets in 1988 only to start selling crack. Instead of rehabilitation, what we are left with is an endless cycle of arrest, prosecution, jail, and rearrest.

I hold that there is a simple explanation for much of this tragic state of affairs. Forty-three percent of incoming Federal inmates are self-described substance abusers. The numbers for local prisons are, once again more startling. Eighty percent of male arrestees in New York and 67 percent of male arrestees in Washington test positive for drugs. Few of them are arrested for using illegal drugs; most are arrested for activities associated with drug use. Drug dealing. Drug smuggling. Robbery. Burglary. Prison, indeed, punishment of any kind, is not likely to deter such crimes when they are committed to support addiction—a drug habit which is in fact a disease of the brain. A March 1988 report from the National Institute of Justice, "A Criminal Justice System Strategy for Treating Cocaine-Heroin Abusing Offenders in Custody," came to the same conclusion:

> To the extent that criminal sanctions are applied, their ability to interrupt the life style of the vast majority of cocaine-heroin abusers is minimal.

This bill will authorize an additional $15 million for drug treatment in Federal prisons, and for postrelease followup programs. Effective drug treatment in prison has been demonstrated to reduce recidivism. A May 1989 study on correctional treatment programs in Oregon revealed that 74 percent of inmates who completed an inpatient drug treatment program in prison had not returned to prison 3 years after release. Only 15 percent of those who left the treatment program after 60 days had avoided prison 3 years after release. The inmates who went through the program were hardened criminals. On average, they had been arrested 14 times and spent 7 years in prison. On average, they first used drugs when they were 12½ years old.

Regrettably, existing drug treatment efforts in Federal prisons are inadequate. Only four separate unit treatment facilities, in which drug-dependent inmates live separately from the general prison population, exist in the Federal system. Twenty-one existed in 1978. Separation is crucial. Successful treatment depends on isolating drug-dependent inmates from criminal inmate subcultures that value lying to authority, embrace drugs and crime, and glamorize fighting the system. Thus, the bill requires the Bureau of Prisons to separate prisoners undergoing treatment from the general prison population to the greatest extent possible.

In addition, the bill gives nonviolent inmates who successfully complete treatment the opportunity for supervised release 1 year ahead of schedule. Early supervised release would only be possible if the sentencing judge approves. It would not be offered to murderers, rapists, kingpins, and inmates sentenced to life in prison. The National Institute of Justice study I mentioned on correctional drug treatment recommends that "prisoners in therapeutic communities who make good treatment progress should be paroled prior to completion of their sentence." Ideally, inpatient treatment should be timed so its completion coincides with release.

Inmates on early supervised release would have to spend the first 6 months of release in a half-way house facility. For the first year of supervised release they would have to submit to drug testing at least once every 60 days. If the tests indicate they are still using drugs, they would be sent back to jail. They would also be required to attend addiction support groups and participate in outpatient treatment. They would be intensely supervised. Rewarded for progress. And punished for relapse.

Mr. President, this is a good, tough bill. It is aimed at reducing crime and reducing recidivism. I grant that our greatest problems are at the State and local levels, rather than in the Federal prison system. But reform at the Federal level will represent a beginning. And, one hopes, an example.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1193

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Drug Dependent Offender Rehabilitation Act of 1989".

SEC. 2. FINDINGS.

The Congress finds that—

(1) the Federal Bureau of Prisons estimates that 42 percent of all incoming Federal prisoners abuse drugs or alcohol;

(2) the number of separate unit inpatient drug treatment programs in Federal prisons has declined from 21 in 1978 to 4 today;

(3) 43 percent of Federal prisoners are rearrested within 3 years of release;

(4) offenders who continue to use drugs after release from prison are more likely to resume criminal activities than those who do not; and

(5) overcrowding in Federal prisons has reached such crisis proportions that on January 1, 1988, Federal prisons housed 42,946 inmates, 62 percent above their capacity of 26,473.

SEC. 3. AUTHORIZATION OF APPROPRIATIONS FOR TREATMENT SERVICES.

(a) IN GENERAL.—There are authorized to be appropriated to the Federal Prison System $15,000,000 for fiscal year 1990, and such sums as may be necessary for each of the fiscal years 1991 and 1992. Such appropriation shall be in addition to any appropriations provided in regular appropriations Acts or continuing resolutions for the fiscal year ending September 30, 1990.

(b) USES OF APPROPRIATION.—The additional appropriation authorized by subsection (a) shall be used as follows:

(1) to provide high intensity inpatient substance abuse treatment services to drug dependent offenders;

(2) to train appropriate prison employees in the diagnosis and treatment of drug and alcohol addiction;

(3) to hire psychologists and substance abuse counselors to serve drug dependent offenders;

(4) to enter into contracts with qualified community substance abuse treatment providers to offer inmates treatment services; and

(5) to ensure intensive supervision of drug dependent offenders while they are on parole or supervised release, including urine drug testing, as provided for by section 3583(h) of title 18, United States Code, as added by section 4 of this Act.

(c) SEPARATION OF INMATES.—The Bureau of Prisons shall, to the greatest extent possible, separate drug dependent offenders undergoing treatment from the general prison population and avoid returning such offenders to the general prison population after the completion of the treatment program.

SEC. 4. SPECIAL SUPERVISED RELEASE FOR DRUG DEPENDENT OFFENDERS.

(a) IN GENERAL.—Section 3583 of title 18, United States Code, is amended by adding at the end thereof the following:

"(h) EARLY SUPERVISED RELEASE FOR QUALIFIED DRUG DEPENDENT OFFENDERS.—(1) In the case of a qualified drug dependent offender, the sentencing court may modify the term of imprisonment pursuant to section 3582(c) by reducing the period of incarceration by not more than one year. If the court reduces the period of incarceration pursuant to this subsection, the court shall also impose a period of supervised release of one year, or in the event that a period of supervised release was previously ordered, it shall extend the period of supervised release by one year, notwithstanding the maximum term of supervised release otherwise provided in this title. Such periods of supervised release, or extended periods of supervised release, shall be subject to all of the conditions and procedures set forth in this section.

"(2) To qualify for early supervised release under this subsection, a drug dependent offender—

"(A) shall have been continuously incarcerated in a Federal correctional institution for no less than three-fourths of the time the offender was originally sentenced to serve prior to becoming eligible for supervised release;

"(B) shall not have been convicted of homicide, attempted homicide, kidnapping, assault with a deadly weapon, espionage, rape, or attempted rape;

"(C) shall not have been sentenced to life in prison;

"(D) shall have successfully completed, while incarcerated, a program of substance abuse treatment approved for these purposes by the Director of the Federal Prison System; and

"(E) after successfully completing treatment, shall have received approval for early supervised release from the sentencing judge acting upon the recommendation of the individual responsible for administering substance abuse treatment programs in the facility in which the offender has been incarcerated.

"(3) Upon release, and for a period of 6 months after release, the drug dependent offender shall reside in a half-way house in which intensive counseling and supervision is available.

"(4) Upon release, and for a period of 1 year after release, the drug dependent offender shall, in addition to fulfilling the other requirements of supervised release ordered by the court under this section—

"(A) submit to periodic urine drug testing at least once every 60 days;

"(B) regularly attend meetings of support groups such as Narcotics Anonymous, Alcoholics Anonymous, and Cocaine Anonymous; and

"(C) participate in an outpatient substance abuse counseling program.

"(5) Notwithstanding any other provisions of this section, if the drug dependent offender tests positive for illegal use of controlled substances on 2 separate urine drug tests taken at least 3 weeks apart, the court shall revoke the term of supervised release and require the offender to serve all or part of the term of supervised release in prison, without credit for time previously served on post-release supervision.

"(6)(A) No action may be taken against an offender pursuant to this section on the basis of a urine drug test unless the test was conducted in accordance with the requirements and procedures prescribed by the Director of the Administrative Office of the United States Courts which shall be substantially consistent with the Mandatory Guidelines on Federal Employee Drug Testing Programs issued by the Secretary of Health and Human Services on April 11, 1988.

"(B) The Director shall include in the regulations prescribed pursuant to subparagraph (A) the following requirements:

"(i) The laboratory which conducts drug testing shall follow laboratory analysis procedures, including the chain of custody procedures, required by the guidelines referred to in subparagraph (A), except that an initially positive test may be confirmed using Gas Chromatography (GC) techniques or such test as the Secretary of Health and Human Services may determine to be of equivalent accuracy.

"(ii) The laboratory shall perform Gas Chromatography-Mass Spectrometry (GC-MS) reconfirmation, or such reconfirmation as the Secretary of Health and Human Services may determine to be of equivalent accuracy, in any case in which—

"(I) an offender's urine specimen is tested using GC techniques for confirmation; and

"(II) within 10 days after receiving notice of positive test results, the offender notifies the Director that he disputes such results.

"(iii) The laboratory shall retain all records pertaining to each urine specimen for at least 2 years after the date on which the results of the test are transmitted to the court and limit access to any such records to protect the confidentiality of the subject.".

(b) ORDER OF SUPERVISED RELEASE.—Section 3582(c) of title 18 of the United States Code is amended by—

(1) striking "and" after the semicolon in paragraph (1);

(2) striking the period at the end of paragraph (2) and inserting "; and"; and

(3) adding at the end thereof the following:

"(3) in the case of a qualified drug dependent offender, the court may order supervised release up to 1 year prior to the previously scheduled date of release as provided by section 3583(h).".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect January 1, 1990.●

By Mr. GRAHAM (for himself and Mr. MACK):

S. 1194. A bill to provide for a nationally coordinated program of research, promotion, and consumer information regarding limes that is designed to expand domestic and foreign markets for limes, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

FRESH LIME RESEARCH, PROMOTION, AND CONSUMER INFORMATION ACT

● Mr. GRAHAM. Mr. President, today I am introducing, along with the junior Senator from Florida [Mr. MACK] legislation designed to expand the marketing and promotion program for lime producers.

Florida currently supplies about half of all the limes consumed in the United States, and it is important for us to recognize and support this valuable commodity. The bill, which is identical to legislation in the House sponsored by my good friends in the House of Representatives, DANTE FASCELL and TOM LEWIS, will enable lime producers and handlers to expand the market for limes through production and marketing research and development projects. I ask the support of my colleagues in the Senate in sponsoring and passing this important bill.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1194

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Fresh Lime Research, Promotion, and Consumer Information Act".

SEC. 2. FINDINGS, PURPOSES, AND LIMITATIONS.

(a) FINDINGS.—Congress finds that—

(1) domestically produced limes are grown by many individual producers;

(2) virtually all domestically produced limes are grown in the State of Florida;

(3) limes move in large part in channels of interstate and foreign commerce;

(4) in recent years, large quantities of limes have been imported into the United States;

(5) the maintenance and expansion of existing domestic and foreign markets for limes and the development of additional and improved markets for limes are vital to the welfare of lime producers and other persons concerned with producing, marketing, or processing limes;

(6) a coordinated program of research, promotion, and consumer information regarding limes is necessary for the maintenance and development of such markets; and

(7) lime producers, lime producer-handlers, lime handlers, and lime importers are unable to implement and finance such a program without cooperative action.

(b) PURPOSES.—The purposes of this Act are—

(1) to authorize the establishment of an orderly procedure for the development and financing (through an adequate assessment) of an effective and coordinated program of research, promotion, and consumer information regarding limes designed—

(A) to strengthen the position of the lime industry in domestic and foreign markets; and

(B) to maintain, develop, and expand markets for limes; and

(2) to treat domestic and foreign producers of limes equitably.

(c) LIMITATIONS.—

(1) QUALITY STANDARDS AND PRODUCTION.—Nothing in this Act shall be construed to require quality standards for limes, control the production of limes, or otherwise limit the right of the individual producers to produce limes.

(2) IMPORTED LIMES.—Nothing in this Act shall be construed as a trade barrier to limes produced in foreign countries.

SEC. 3. DEFINITIONS.

For purposes of this Act:

(1) BOARD.—The term "Board" means the Lime Board provided for under section 5(b).

(2) CONSUMER INFORMATION.—The term "consumer information" means any action taken to provide information to, and broaden the understanding of, the general public regarding the use, nutritional attributes, and care of limes.

(3) HANDLE.—The term "handle" means to sell, purchase, or package fresh limes.

(4) HANDLER.—The term "handler" means any person in the business of handling fresh limes.

(5) IMPORTER.—The term "importer" means any person who—

(A) imports limes into the United States; or

(B) acts as an agent, broker, or consignee for any person or nation that produces limes outside of the United States for sale in the United States.

(6) LIME.—The term "lime" means the fruit of a citrus aurantifolia tree.

(7) MARKETING.—The term "marketing" means the sale or other disposition of limes in commerce.

(8) ORDER.—The term "order" means a lime research, promotion, and consumer information order issued by the Secretary under section 4(a).

(9) PERSON.—The term "person" means any individual, group of individuals, partnership, corporation, association, cooperative, or other entity.

(10) PRODUCER.—The term "producer" means any person who produces limes in the United States for sale in commerce.

(11) PRODUCER-HANDLER.—The term "producer-handler" means any person who is both a producer and handler of limes.

(12) PROMOTION.—The term "promotion" means any action taken under this Act (including paid advertising) to present a favorable image for limes to the general public with the express intent of improving the competitive position and stimulating the sale of limes.

(13) RESEARCH.—The term "research" means any type of research relating to the use and nutritional value of limes and designed to advance the image, desirability, marketability, or quality of limes.

(14) SECRETARY.—The term "Secretary" means the Secretary of Agriculture.

(15) STATE.—The term "State" means each of the several States, the District of Columbia, and the Commonwealth of Puerto Rico.

SEC. 4. LIME RESEARCH PROMOTION AND CONSUMER INFORMATION ORDER.

(a) AUTHORITY OF THE SECRETARY.—Subject to this Act, and to effectuate the declared purposes of this Act, the Secretary shall issue and, from time to time, amend lime research, promotion, and consumer information orders applicable to handlers, producers, producer-handlers, and importers of limes.

(b) NOTICE AND PUBLIC COMMENT.—The Secretary shall publish each order proposed to be issued under subsection (a) and give due notice and opportunity for public comment on such order. For purposes of this subsection, an amendment to an order shall be considered as an order.

(c) SUBMISSION OF A PROPOSED ORDER OR AMENDMENT.—A proposal for an order or amendment under subsection (a) may be submitted by, and an opportunity for public comment may be requested by, any person affected by this Act.

(d) INITIAL PROPOSAL.—In the case of the first proposal for an order the Secretary receives under subsection (c), the Secretary shall comply with subsection (b) not later than the end of the 30-day period beginning on the date the Secretary receives such proposal.

(e) FINDINGS AND ISSUANCE OF AN ORDER.—After notice of and an opportunity for public comments have been provided under subsection (b), the order or amendment that is the subject of such notice and public comment shall be issued if the Secretary finds that, on the evidence introduced by such public comment, the issuance of the order or amendment and all the terms and conditions in the order or amendment will further the purposes of this Act. The Secretary shall include such findings in the order or amendment.

(f) EFFECTIVE DATE.—An order issued under subsection (a) shall take effect on the date such order is issued.

SEC. 5. REQUIRED TERMS OF AN ORDER.

(a) IN GENERAL.—An order issued by the Secretary under section 4(a) shall contain the terms and conditions described in this section and, except as provided in section 6, no other terms or conditions.

(b) LIME BOARD.—Such order shall provide for the establishment of a Lime Board as follows:

(1) MEMBERSHIP.—The Board shall be composed of—

(A) seven members who are producers and who are not exempt from an assessment under subsection (d)(5)(A);

(B) three members who are importers and who are not exempt from an assessment under subsection (d)(5)(A); and

(C) one member appointed from the general public.

(2) APPOINTMENT AND NOMINATION.—The Secretary shall appoint the members of the Board. The seven members who are producers shall be appointed from individuals nominated by lime producers. The three members who are importers shall be appointed from individuals nominated by lime importers. The public representative shall be appointed from nominations of the Board. If producers and importers fail to nominate individuals for appointment, the Secretary may appoint members on a basis provided for in the order. If the Board fails to nominate a public representative, such member may be appointed without a nomination.

(3) ALTERNATES.—The Secretary shall appoint an alternate for each member of the Board. An alternate shall—

(A) be appointed in the same manner as the member for whom such individual is an alternate; and

(B) serve on the Board if such member is absent from a meeting or is disqualified under paragraph (5).

(4) TERMS.—Members of the Board shall be appointed for a term of 3 years. Of the members first appointed—

(A) three members shall be appointed for a term of 1 year;

(B) four members shall be appointed for a term of 2 years; and

(C) four members shall be appointed for a term of 3 years;

as designated by the Secretary at the time of appointment.

(5) REPLACEMENT.—If a member or alternate of the Board who was appointed as a producer, importer, or public representative ceases to belong to the group for which such member was appointed, such member or alternate shall be disqualified from serving on the Board.

(6) COMPENSATION.—Members and alternates of the Board shall serve without pay.

(7) REIMBURSEMENT OF EXPENSES.—While away from their homes or regular places of business in the performance of duties for the Board, members and alternates shall be allowed travel expenses, including a per diem allowance in lieu of subsistence, in the same manner as persons employed intermittently in Government service are allowed travel expenses under section 5703 of title 5, United States Code.

(8) POWERS AND DUTIES.—The Board shall—

(A) administer orders issued by the Secretary under section 4(a), and amendments to such orders, in accordance with their terms and provisions and consistent with this Act;

(B) prescribe rules and regulations to effectuate the terms and provisions of such orders;

(C) receive, investigate, and report to the Secretary accounts of violations of such orders;

(D) make recommendations to the Secretary with respect to amendments that should be made to such orders; and

(E) employ a manager and staff.

(c) BUDGETS AND PLANS.—Such order shall provide for periodic budgets and plans as follows:

(1) BUDGETS.—The Board shall prepare and submit to the Secretary a budget (on a fiscal period basis determined by the Secretary) of the anticipated expenses and disbursements of the Board in the administration of the order, including probable costs of research, promotion, and consumer information. A budget shall take effect on the approval of the Secretary.

(2) PLANS.—Each budget shall include a plan for research, promotion, and consumer information regarding limes. A plan under this paragraph shall take effect on the approval of the Secretary. The Board may enter into contracts and agreements, with the approval of the Secretary, for—

(A) the development and carrying out of such plan; and

(B) the payment of the cost of such plan with funds collected pursuant to this Act.

(d) ASSESSMENTS.—Such order shall provide for the imposition and collection of assessments with regard to the production and importation of fresh limes as follows:

(1) RATE.—The assessment rate shall not exceed $.01 per pound of fresh limes.

(2) COLLECTION BY FIRST HANDLERS.—Except as provided in paragraph (4), the first handler of limes shall—

(A) be responsible for the collection from the producer, and payment to the Board, of assessments under this subsection; and

(B) maintain a separate record of the limes of each producer so handled, including the limes owned by the handler.

(3) PRODUCER-HANDLERS.—For purposes of paragraph (2), a producer-handler shall be

considered the first handler of limes produced by such producer-handler.

(4) IMPORTERS.—The assessment on imported limes shall be paid by the importer at the time of entry into the United States and shall be remitted to the Board.

(5) EXCEPTIONS.—

(A) CERTAIN PERSONS.—The following persons are exempt from an assessment under this subsection—

(i) a producer who produces less than 35,000 pounds of limes per year;

(ii) a producer-handler who produces and handles less than 35,000 pounds of limes per year; and

(iii) an importer who imports less than 35,000 pounds of limes per year

(B) INTRASTATE SHIPMENTS.—Intrastate shipments of limes shall—

(i) be exempt from assessment under this subsection; and

(ii) not be included in the calculation of limes produced or handled for purposes of subparagraph (A).

(6) CLAIMING AN EXEMPTION.—To claim an exemption under paragraph (5) for a particular year, a person shall submit an application to the Board—

(A) stating the basis for such exemption; and

(B) certifying that such person will not exceed the limitation required for such exemption in such year.

(e) USE OF ASSESSMENTS.—

(1) IN GENERAL.—Such order shall provide that funds paid to the Board as assessments under subsection (d) may be used by the Board to—

(A) pay for research, promotion, and consumer information described in the then current budget of the Board under subsection (c) and for other expenses incurred by the Board in the administration of an order;

(B) pay such other expenses for the administration, maintenance, and functioning of the Board as may be authorized by the Secretary;

(C) fund a reserve established under section 6(5); and

(D) pay the administrative costs incurred by the Secretary under this Act after the initial order has been issued.

(2) REFERENDA.—Such order shall provide that the Board shall reimburse the Secretary, from assessments collected under subsection (d), for any expenses incurred by the Secretary in conducting referenda under this Act.

(f) FALSE CLAIMS.—Such order shall provide that any promotion funded with assessments collected under subsection (d) may not make—

(1) any false or unwarranted claims on behalf of limes; and

(2) any false or unwarranted statements with respect to the attributes or use of any product that competes with limes for sale in commerce.

(g) GOVERNMENT INFLUENCE.—Such order shall provide that funds collected through assessments authorized by this Act may not, in any manner, be used for the purpose of influencing governmental policy or action, except for making recommendations to the Secretary as provided for in this Act.

(h) BOOKS, RECORDS, AND REPORTS.—

(1) BY THE BOARD.—Such order shall require the Board—

(A) to maintain books and records with respect to the receipt and disbursement of funds received by the Board;

(B) to submit to the Secretary from time to time such reports as the Secretary may require for appropriate accounting; and

(C) to submit to the Secretary at the end of each fiscal year a complete audit report regarding the activities of the Board during such fiscal year.

(2) BY OTHERS.—So that information and data will be available to the Board and the Secretary that is appropriate or necessary for the effectuation, administration, or enforcement of this Act (or any order or regulation issued under to this Act), such order shall require handlers, producer-handlers, and importers who are responsible for the collection of assessments under subsection (d)—

(A) to maintain and make available for inspection by the Secretary such books and records as may be required by the order; and

(B) to file, at the times, in the manner, and having the content prescribed by the order, reports regarding the collection of such assessments.

(i) CONFIDENTIALITY.—

(1) IN GENERAL.—Such order shall require that all information obtained pursuant to subsection (h)(2) shall be kept confidential by all officers and employees of the Department of Agriculture and of the Board. Only such information as the Secretary considers relevant shall be disclosed and only in a suit or administrative hearing brought at the request of the Secretary or to which the Secretary or any officer of the United States is a party involving the order with respect to which the information was furnished or acquired.

(2) LIMITATIONS.—Nothing in this subsection prohibits—

(A) issuance of general statements based on the reports of a number of handlers, producer-handlers, importers subject to an order, if the statements do not identify the information furnished by any person; or

(B) the publication by direction of the Secretary, of the name of any person violating an order issued under section 4(a), together with a statement of the particular provisions of the order violated by such person.

SEC. 6. PERMISSIVE TERMS AND PROVISIONS.

On the recommendation of the Board and with the approval of the Secretary, an order issued under section 4(a) may—

(1) provide authority to the Board to exempt from such order limes exported from the United States, subject to such safeguards as the Board may establish to ensure proper use of the exemption;

(2) provide that, with respect to any marketing order regulating limes issued under section 8c of the Agricultural Adjustment Act (7 U.S.C. 608c), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937, that—

(A) is in effect before the date of the enactment of this Act; and

(B) the Secretary determines is comparable to the program established under this Act;

there shall be paid to the Board as provided in section 5(d) that portion of the assessment under such section that is greater than the assessment, if any, actually paid on the limes pursuant to such other marketing order;

(3) provide authority to the Board to designate different handler payment and reporting schedules to recognize differences in marketing practices and procedures;

(4) provide that the Board may convene from time to time working groups drawn from producers, handlers, producer-handlers, importers, exporters, or the general public to assist in the development of research and marketing programs for limes;

(5) provide authority to the Board to accumulate reserve funds from assessments collected pursuant to section 5(d) to permit an effective and continuous coordinated program of research, promotion, and consumer information, in years in which production and assessment income may be reduced, except that any reserve fund so established may not exceed the amount budgeted for operation for 1 year;

(6) provide authority to the Board to use, with the approval of the Secretary, funds collected under section 5(d) for the development and expansion of lime sales in foreign markets; and

(7) provide for terms and conditions—

(A) incidental to, and not inconsistent with, the terms and conditions specified in this Act; and

(B) necessary to effectuate the other provisions of such order.

SEC. 7. PETITION AND REVIEW.

(a) PETITION.—

(1) IN GENERAL.—A person subject to an order may submit, within a period prescribed by the Secretary, to the Secretary a written petition—

(A) stating that such order, a provision of such order, or an obligation imposed in connection with such order is not in accordance with law; and

(B) requesting a modification of the order or an exemption from the order.

(2) HEARINGS.—A person submitting a petition under paragraph (1) shall be given an opportunity for a hearing on the petition, in accordance with regulations issued by the Secretary.

(3) RULING.—After the hearing, the Secretary shall make a ruling on the petition that shall be subject to review under subsection (b).

(b) REVIEW.—

(1) COMMENCEMENT OF ACTION.—A person aggrieved by a ruling under subsection (a)(3) may obtain a review of such ruling by commencing, within the 20-day period beginning on the date such ruling is made, a civil action in the district court of the United States for the district in which—

(A) such person resides; or

(B) carries on business related to the subject matter of such action.

(2) PROCESS.—Service of process in such civil action may be made on the Secretary by delivering to the Secretary a copy of the complaint.

(3) REMANDS.—If the court determines that the ruling is not in accordance with law, the court shall remand the proceedings to the Secretary with directions—

(A) to make the ruling as the court shall determine to be in accordance with law; or

(B) to take such further proceedings as, in the opinion of the court, the law requires.

(4) ENFORCEMENT.—The pendency of proceedings instituted pursuant to this subsection shall not impede, hinder, or delay the United States or the Secretary from obtaining relief pursuant to section 8.

SEC. 8. ENFORCEMENT.

(a) JURISDICTION.—The district courts of the United States shall have jurisdiction specifically to enforce, and to prevent and restrain any person from violating, an order or regulation issued under this Act.

(b) REFERRAL TO ATTORNEY GENERAL.—The facts relating to any civil action authorized to be brought under this section shall be referred to the Attorney General for appropriate action, except that the Secretary

shall not be required to refer to the Attorney General a violation of this Act if the Secretary believes that the administration and enforcement of the order would be adequately served by administrative action under subsection (c) or suitable written notice or warning to any person committing the violation.

(c) CIVIL PENALTIES AND ORDERS.—

(1) CIVIL PENALTIES.—Any person who violates any provision of any order issued by the Secretary under section 4(a), or who fails or refuses to pay, collect, or remit any assessment or fee duly required of the person under the order, shall be liable to the United States for a civil penalty assessed under subsection (d) in an amount not less than $500 nor more than $5,000 for each violation. Each violation shall be considered as a separate offense.

(2) CEASE AND DESIST ORDERS.—In addition to, or in lieu of, a civil penalty, the Secretary may issue an order under subsection (d) requiring the person to cease and desist from continuing the violations.

(d) ASSESSMENT OR ISSUANCE BY SECRETARY AFTER NOTICE AND HEARING.—A civil penalty payable under subsection (c)(1) may be assessed, and a cease and desist order authorized under subsection (c)(2) may be issued, only by the Secretary on the record after notice and an opportunity for a hearing.

(e) REVIEW BY COURT OF APPEALS.—

(1) COMMENCEMENT OF ACTION.—A person aggrieved by a civil penalty assessed or cease and desist order issued under subsection (d) may obtain review of the penalty or order by—

(A) filing, within the 20-day period beginning on the date such penalty is assessed or order issued, a notice of appeal in—

(i) the court of appeals of the United States for the circuit in which the person resides or carries on business; or

(ii) the United States Court of Appeals for the District of Columbia Circuit; and

(B) simultaneously sending a copy of the notice by certified mail to the Secretary.

(2) RECORD.—As part of the response of the Secretary to a notice under paragraph (1), the Secretary shall file in the court the record on which the civil penalty or cease and desist order is based.

(3) STANDARD OF REVIEW.—The findings of fact made by the Secretary shall be conclusive if supported by substantial evidence in the record taken as a whole.

(f) FAILURE TO OBEY ORDERS.—Any person who fails to obey a cease and desist order after the order has become final and unappealable, or after the appropriate court of appeals has entered a final judgment in favor of the Secretary, shall be subject to a civil penalty assessed by the Secretary, after opportunity for a hearing and for judicial review under the procedures specified in subsections (d) and (e) of not more than $500 for each offense. Each day during which the failure continues shall be considered as a separate offense.

(g) FAILURE TO PAY ASSESSMENTS.—If any person fails to pay an assessment of a civil penalty after the assessment has become a final and unappealable assessment, or after the appropriate court of appeals has entered final judgment in favor of the Secretary, the Secretary shall refer the matter to the Attorney General for recovery of the amount assessed in an appropriate district court of the United States. In the action, the validity and appropriateness of the final order imposing the civil penalty shall not be subject to review.

SEC. 9. INITIAL REFERENDUM.

(a) REQUIREMENT.—Not later than 2 years after the date on which the Secretary first issues an order under section 4(a), the Secretary shall conduct a referendum among producers, producer-handlers, and importers who—

(1) are not exempt from assessment under section 5(d)(5); and

(2) produced or imported limes during a representative period as determined by the Secretary.

(b) PURPOSE OF REFERENDUM.—The referendum referred to in subsection (a) is for the purpose of determining whether the issuance of the order is approved or favored by not less than a majority of the producers, producer-handlers, and importers voting in the referendum. The order shall continue in effect only with such a majority.

(c) CONFIDENTIALITY.—The ballots and other information or reports that reveal, or tend to reveal, the vote of any person under this section, or section 10, shall be held strictly confidential and shall not be disclosed.

SEC. 10. SUSPENSION AND TERMINATION.

(a) FINDING OF SECRETARY.—If the Secretary finds that an order issued under section 4(a), or a provision of such order, obstructs or does not tend to effectuate the purposes of this Act, the Secretary shall terminate or suspend the operation of such order or provision.

(b) PERIODIC REFERENDA.—The Secretary may periodically conduct a referendum to determine if lime producers, producer-handlers, and importers favor the continuation, termination, or suspension of any order issued under section 4(a) and in effect at the time of such referendum.

(c) REQUIRED REFERENDA.—The Secretary shall hold a referendum under subsection (b)—

(1) at the request of the Board;

(2) if not less than 25 percent of the lime producers, producer-handlers, and importers subject to assessment under this Act submit a petition requesting such a referendum; and

(3) whenever the Secretary conducts a referendum regarding limes pursuant to a marketing order issued under section 8c of the Agricultural Adjustment Act (7 U.S.C. 608c), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937.

(d) VOTE.—The Secretary shall suspend or terminate the order at the end of the marketing year if the Secretary determines that—

(1) the suspension or termination of the order is favored by not less than a majority of those persons voting in a referendum under subsection (b); and

(2) the producers, producer-handlers, and importers comprising this majority produce and import more than 50 percent of the volume of limes produced and imported by those voting in the referendum.●

● Mr. MACK. Mr. President, I am introducing legislation today that will expand the U.S. market for limes.

This legislation will authorize a marketing order to be wholly supported by the lime growers. The objective of the marketing order is to create a self-help program for lime producers to promote and advertise their product. Such a program is permitted by the Agriculutural Marketing Agreement Act of 1937 and similar programs are used by many commodity producing groups in the United States. It is an effective way for producers to expand their markets without Federal supports or subsidies.

Mr. President, it is my hope that this legislation will benefit both lime growers and lime consumers in the United States, and I hope that my colleagues will support this bill.●

By Mr. CRANSTON (by request):

S. 1195. A bill to amend title 38, section 203(b), United States Code, to delete the requirement that settlements of claims in excess of $1 million on a construction contract be provided for specifically in an appropriation law, and to provide instead that the Secretary notify the House and Senate Committees on Appropriations of construction contract claims settlements of more than $1 million; to the Committee on Veterans' Affairs.

DELETING A REQUIREMENT OF APPROVAL FOR CERTAIN VETERANS' AFFAIRS CONSTRUCTION SETTLEMENTS

Mr. CRANSTON. Mr. President, as chairman of the Veterans' Affairs Committee, I have today introduced, by request, S. 1195, to delete a requirement of specific congressional approval for the settlement for certain claims of Department of Veterans' Affairs construction contractors. The Secretary of Veterans' Affairs submitted this legislation by letter dated June 2, 1989, to the President of the Senate.

My introduction of this measure is in keeping with the policy which I have adopted of generally introducing—so that there will be specific bills to which my colleagues and others may direct their attention and comments—all administration-proposed draft legislation referred to the Veterans' Affairs Committee. Thus, I reserve the right to support or oppose the provisions of, as well as any amendment to, this legislation.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD at this point, together with the June 2, 1989, transmittal letter and the analysis of the proposed bill.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 1195

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 203(b) of title 38, United States Code, is amended—

SEC. 2. By striking "and the settlement is provided for specifically in an appropriation law" after "Any funds appropriated to the Department of Veterans Affairs for the purposes of construction may be used for a settlement of more than $1,000,000 on a construction contract only if settlement is audited independently for reasonableness and appropriateness of expenditures" in subsection (b).

SEC. 3. By inserting "The Secretary shall promptly notify the House and Senate Committees on Appropriations, in writing, of such settlements.", after the first sentence of subsection (b).

VETERANS' ADMINISTRATION,
Washington, DC, June 2, 1989.

Hon. DAN QUAYLE,
President of the Senate,
Washington, DC.

DEAR MR. PRESIDENT: There is transmitted herewith a draft bill, "To amend title 38, section 203(b), United States Code, to delete the requirements that settlement of claims in excess of $1,000,000 on a construction contract be provided for specifically in an appropriation law, and to provide instead that the Secretary notify the House and Senate Committees on Appropriations of construction contract claims settlements of more than $1,000,000." It is requested that the bill be referred to the appropriate committee and that it be favorably considered for enactment.

This draft bill would allow the Department of Veterans Affairs (VA) to settle construction contract claims of more than $1,000,000 without obtaining a specific appropriation law by using any funds appropriated to the Department for purposes of construction. The Secretary would, however, notify each committee of the settlement action.

Under the current procedures it has taken up to 1 year or more for construction contract claims to be paid after the date of settlement. Substantial interest charges on the settlement amount accrue during the time it now takes to secure passage of the specific appropriation law. If the requirement for a specific appropriation law were deleted, the delay between settlement and payment of claims would be lessened. In instances where there were sufficient funds in the contract account, the payment would be expeditiously processed within the VA with notification of the settlement to Congress. If the contract does not contain sufficient funds, a reprogramming or request for new budget authority would be necessary. It has been the VA's experience that reprogrammings are acted upon by Congress within 30-45 days. If sufficient funds are not available in the working reserve for reprogramming, new budget authority would be requested to pay the settled claim. Under either process, Congress would continue to participate substantially in the payment of construction contract claims in excess of $1,000,000. However, unlike the current procedures, interest would not necessarily have to accure for an extended period of time if the notification and reprogramming option could be used.

The provision of title 38, section 203(b), United States Code, which requires that settlement cannot be made until the settlement is audited independently for reasonableness and appropriateness of expenditures would remain in effect. Therefore, all settlements would continue to be thoroughly analyzed and evaluated prior to payment.

This proposal would not produce any additional costs if enacted. Although substantial savings are expected to accrue, the amount cannot be determined with specificity because it will depend on unforeseeable factors. These include the number of claims filed, their amounts, the interest rate charged, and the period of time saved between settlement of such claims and their payment.

The Office of Management and Budget has advised that there is no objection to the submission of this draft bill to the Congress from the standpoint of the Administration's program.

Sincerely yours,
EDWARD J. DERWINSKI,
Secretary.

ANALYSIS OF PROPOSED BILL

Section 1 of the draft bill provides that section 203(b) of title 38 shall be amended.

Section 2 of the draft bill would delete the requirement that a settlement of a contract claim in excess of $1,000,000 on a construction contract be provided for specifically in an appropriation law and allow the claim to be paid from any funds appropriated to the Department for purposes of construction. Enactment of this requirement would shorten the time between settlement and payment of such claims, and is expected to result in substantial cost savings through reduced interest charges which accrue on such claims.

Section 3 of the draft bill would add the requirement that the Secretary will promptly notify the House and Senate Committees on Appropriations, in writing, of construction contract claims settlements for more than $1,000,000. This would allow Congress to remain informed of the Department of Veterans Affairs' disposition of such settlements.

By Mr. LEVIN (for himself, Mrs. KASSEBAUM, Mr. SIMON, Mr. KENNEDY, Mr. ADAMS, Mr. BOREN, Mr. BOSCHWITZ, Mr. BURDICK, Mr. LAUTENBERG, Mr. CHAFEE, Mr. COHEN, Mr. CRANSTON, Mr. D'AMATO, Mr. DECONCINI, Mr. DIXON, Mr. DODD, Mr. DURENBERGER, Mr. GORE, Mr. GRAHAM, Mr. HEINZ, Mr. KERRY, Mr. LIEBERMAN, Mr. METZENBAUM, Ms. MIKULSKI, Mr. MITCHELL, Mr. MOYNIHAN, Mr. RIEGLE, Mr. ROCKEFELLER, Mr. SARBANES, Mr. SPECTER, Mr. WIRTH, Mr. BRADLEY, Mr. BENTSEN, and Mr. ROBB):

S.J. Res. 157. Joint resolution designating June 16, 1989, as "Soweto Remembrance Day"; to the Committee on the Judiciary.

SOWETO REMEMBRANCE DAY

● Mr. LEVIN. Mr. President, June 16 marks the 13th anniversary of the tragic Soweto uprising. On that day, thousands of black high school students engaged in a peaceful demonstration against a government decree that required Afrikaans, the language of apartheid, to be used in black schools. The demonstration turned ugly when South African police suddenly opened fire, fatally shooting in the back 13-year-old Hector Peterson. The police action touched off further demonstrations by the people of Soweto. But the Government's response was even more police brutality, resulting in the vicious murder of hundreds of people, many of them children. The Government of South Africa reported a death toll of 600. More reliable sources reported over 1,000 killed and thousands more wounded and arrested.

Mr. President, to remind us of this tragedy and in an effort to keep public focus on the deteriorating situation in South Africa, I am today introducing with Senator KASSEBAUM and 32 of our colleagues, a joint resolution designating June 16, 1988, as "Soweto Remembrance Day." The resolution calls on the American people to participate in local activities designed to commemorate the victims of Soweto and to show solidarity with the courageous people of all races in South Africa and throughout the world who are fighting to end the evil of apartheid.

Mr. President, since the declaration of the 1985 state of emergency imposed by the Government of South Africa, more than 40,000 black South Africans, including over 12,000 children, have been detained indefinitely without charge or trial. The Government has also placed approximately 1,000 ex-detainees under virtually banning orders without charge or trial, and has sentenced almost 100 political activists to death.

On Friday, June 16, I hope that we remember Hector Peterson and the countless other South Africans who have died in the hope of creating a better society in South Africa.

I ask unanimous consent that the text of the resolution be printed in the RECORD.●

There being no objection, the resolution was ordered to be printed in the RECORD, as follows:

S.J. RES. 157

Whereas on June 16, 1976, the Soweto demonstrations and massacre took place in South Africa;

Whereas on that occasion, more than 1,000 children were brutally murdered, and an additional 5,000 wounded by South African police in one of the worst displays of state-sponsored terrorism of modern times;

Whereas these children were demanding that they be allowed to complete their education in English, and were protesting the government's decision to require that certain subjects be taught in Afrikaans;

Whereas these children were protesting the fact that they were not allowed to be educated in their native language in their land where their families have lived for generations;

Whereas the Republic of South Africa has become even more repressive, causing the deaths of more than 4,000 men, women, and children;

Whereas since the declaration of the 1985 State of Emergency, more then 40,000 black South Africans, including more than 12,000 children, have been detailed indefinitely without charge or trial by the Botha regime;

Whereas the Government of South Africa has placed approximately 1,000 ex-detainees under virtually banning orders without charge or trial, and has sentenced almost 100 political activists to death;

Whereas South Africa's State of Emergency is now in its fourth year, and the government has stated that it has no intention of relinquishing the virtually unlimited powers the State of Emergency confers; and

Whereas the apartheid system and its continued denial of basic human rights and freedoms to the black majority population of the Republic of South Africa offends the sensibilities of freedom-loving people and its repugnant to the ideals which our Nation's founders embraced in the Declaration of Independence, Constitution, and Bill of Rights: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) June 16, 1989, is hereby designated as "Soweto Remembrance Day".

(b) The citizens of the United States are encouraged to participate in local activities designed to commemorate the victims of Soweto and to show solidarity with the courageous people of all races in South Africa and throughout the world who are fighting to end the peril of apartheid.

ADDITIONAL COSPONSORS

S. 135

At the request of Mr. GLENN, the name of the Senator from New Jersey [Mr. LAUTENBERG] was added as a cosponsor of S. 135, a bill to amend title 5, United States Code, to restore to Federal civilian employees their right to participate voluntarily, as private citizens, in the political processes of the Nation, to protect such employees from improper political solicitations, and for other purposes.

S. 169

At the request of Mr. HOLLINGS, the name of the Senator from Hawaii [Mr. MATSUNAGA] was added as a cosponsor of S. 169, a bill to amend the National Science and Technology Policy, Organization, and Priorities Act of 1976 in order to provide for improved coordination of national scientific research efforts and to provide for a national plan to improve scientific understanding of the Earth system and the effect of changes in that system on climate and human well-being.

S. 247

At the request of Mr. METZENBAUM, the names of the Senator from Georgia [Mr. FOWLER] and the Senator from Tennessee [Mr. SASSER] were added as cosponsors of S. 247, a bill to amend the Energy Policy and Conservation Act to increase the efficiency and effectiveness of State energy conservation programs carried out pursuant to such Act, and for other purposes.

S. 355

At the request of Mr. RIEGLE, the names of the Senator from Pennsylvania [Mr. HEINZ], the Senator from Wyoming [Mr. WALLOP], and the Senator from Florida [Mr. MACK] were added as cosponsors of S. 355, a bill to amend the Internal Revenue Code of 1986 to extend through 1992 the period during which qualified mortgage bonds and mortgage credit certificates may be issued.

S. 454

At the request of Mr. ROCKEFELLER, the name of the Senator from Ohio [Mr. METZENBAUM] was added as a cosponsor of S. 454, a bill to provide additional funding for the Appalachian development highway system.

S. 455

At the request of Mr. ROCKEFELLER, the name of the Senator from Ohio [Mr. METZENBAUM] was added as a cosponsor of S. 455, a bill to extend the Appalachian Regional Development Act of 1965 and to provide authorizations for the Appalachian Highway and Appalachian Area Development Programs.

S. 488

At the request of Mr. FOWLER, the names of the Senator from Nevada [Mr. REID] and the Senator from North Dakota [Mr. BURDICK] were added as cosponsors of S. 488, a bill to provide federal assistance and leadership to a program of research, development and demonstration of renewable energy and energy efficiency technologies, and for other purposes.

S. 511

At the request of Mr. INOUYE, the name of the Senator from New Jersey [Mr. LAUTENBERG] was added as a cosponsor of S. 511, a bill to recognize the organization known as the National Academies of Practice.

S. 565

At the request of Mr. CRANSTON, the name of the Senator from Connecticut [Mr. LIEBERMAN] was added as a cosponsor of S. 565, a bill to authorize a new corporation to support State and local strategies for achieving more affordable housing; to increase homeownership; and for other purposes.

S. 566

At the request of Mr. CRANSTON, the name of the Senator from Connecticut [Mr. LIEBERMAN] was added as a cosponsor of S. 566, a bill to authorize a new corporation to support State and local strategies for achieving more affordable housing, to increase homeownership, and for other purposes.

S. 579

At the request of Mr. GLENN, the name of the Senator from California [Mr. WILSON] was added as a cosponsor of S. 579, a bill to amend the National Traffic and Motor Vehicle Safety Act of 1966 to direct the Secretary of Transportation to establish Federal motor vehicle safety standards to require that a schoolbus is equipped with a system of mirrors that provide the driver when seated with an unobstructed view of certain areas under and alongside of the schoolbus, and for other purposes.

S. 771

At the request of Mr. REID, the name of the Senator from Kentucky [Mr. MCCONNELL] was added as a cosponsor of S. 771, a bill to amend the Internal Revenue Code of 1986 to disallow deductions for costs in connection with oil and hazardous substances cleanup unless the requirements of all applicable Federal laws concerning such cleanup are met, and for other purposes.

S. 805

At the request of Mr. MCCLURE, the name of the Senator from South Carolina [Mr. HOLLINGS] was added as a cosponsor of S. 805, a bill to amend the Food Security Act of 1985 to permit certain school districts to receive assistance to carry out the school lunch program in the form of all cash assistance or all commodity letters of credit assistance.

S. 849

At the request of Mr. DASCHLE, the names of the Senator from North Dakota [Mr. BURDICK] and the Senator from Wisconsin [Mr. KASTEN] were added as cosponsors of S. 849, a bill to repeal section 2036(c) of the Internal Revenue Code of 1986, relating to valuation freezes.

S. 918

At the request of Mr. BOREN, the name of the Senator from Delaware [Mr. ROTH] was added as a cosponsor of S. 918, a bill to enable producers of fresh mushrooms to develop, finance, and carry out a nationally coordinated program for fresh mushroom promotion, research, and consumer information, and for other purposes.

S. 1041

At the request of Mr. CONRAD, the name of the Senator from Alabama [Mr. HEFLIN] was added as a cosponsor of S. 1041, a bill to amend the Internal Revenue Code of 1986 to provide tax relief for farmers who realize capital gain on the transfer of farm property to satisfy an indebtedness, and for other purposes.

S. 1067

At the request of Mr. GORE, the names of the Senator from Wisconsin [Mr. KASTEN] and the Senator from North Dakota [Mr. CONRAD] were added as a cosponsor of S. 1067, a bill to provide for a coordinated Federal research program to ensure continued United States leadership in high-performance computing.

S. 1183

At the request of Mr. KENNEDY, the name of the Senator from Wisconsin [Mr. KASTEN] was added as a cosponsor of S. 1183, a bill to provide for certain forms of assistance to Poland and Hungary to encourage the process of democratic reforms in those countries.

SENATE JOINT RESOLUTION 81

At the request of Mr. DIXON, the names of the Senator from West Virginia [Mr. BYRD], the Senator from Tennessee [Mr. SASSER], the Senator from Tennessee [Mr. GORE], the Senator from Colorado [Mr. WIRTH], the Senator from Indiana [Mr. COATS], the Senator from Florida [Mr. GRAHAM], the Senator from Oregon [Mr. PACKWOOD], the Senator from Idaho [Mr. SYMMS], the Senator from Idaho [Mr.

McCLURE], the Senator from Kansas [Mrs. KASSEBAUM], the Senator from Florida [Mr. MACK], and the Senator from California [Mr. WILSON] were added as cosponsors of Senate Joint Resolution 81, a joint resolution to designate the week of October 1 through October 7, 1989, as "National Health Care Food Service Week."

SENATE JOINT RESOLUTION 111

At the request of Mr. CRANSTON, the names of the Senator from Connecticut [Mr. DODD], the Senator from Illinois [Mr. DIXON], the Senator from Washington [Mr. ADAMS], the Senator from Texas [Mr. BENTSEN], the Senator from North Dakota [Mr. BURDICK], the Senator from North Dakota [Mr. CONRAD], the Senator from Tennessee [Mr. GORE], the Senator from South Carolina [Mr. HOLLINGS], the Senator from Connecticut [Mr. LIEBERMAN], the Senator from Ohio [Mr. METZENBAUM], the Senator from Maine [Mr. MITCHELL], the Senator from New York [Mr. MOYNIHAN], the Senator from Virginia [Mr. ROBB], the Senator from New York [Mr. D'AMATO], the Senator from Rhode Island [Mr. CHAFEE], the Senator from Indiana [Mr. LUGAR], the Senator from Wyoming [Mr. SIMPSON], and the Senator from Alaska [Mr. STEVENS] were added as cosponsors of Senate Joint Resolution 111, a joint resolution to designate the week of October 8 through October 14, 1989, as "National Week of Commitment to Helping the Homeless."

SENATE JOINT RESOLUTION 132

At the request of Mr. SASSER, the names of the Senator from Rhode Island [Mr. CHAFEE], the Senator from Delaware [Mr. ROTH], the Senator from Arizona [Mr. DECONCINI], the Senator from California [Mr. CRANSTON], and the Senator from Mississippi [Mr. COCHRAN] were added as cosponsors of Senate Joint Resolution 132, a joint resolution designating September 1 through September 30, 1989, as "National Alcohol and Drug Treatment Month."

SENATE JOINT RESOLUTION 143

At the request of Mr. HUMPHREY, the names of the Senator from Florida [Mr. MACK] and the Senator from Maryland [Mr. SARBANES] were added as cosponsors of Senate Joint Resolution 143, a joint resolution to designate the week of December 10, 1989 through December 16, 1989, as "National Drunk and Drugged Driving Awareness Week."

SENATE RESOLUTION 13

At the request of Mr. DOLE, the names of the Senator from Maine [Mr. COHEN], the Senator from Connecticut [Mr. LIEBERMAN], the Senator from New York [Mr. D'AMATO], and the Senator from Virginia [Mr. ROBB] were added as cosponsors of Senate Resolution 13, a resolution to amend Senate Resolution 28 to implement closed caption broadcasting for hearing-impaired individuals of floor proceedings of the Senate.

SENATE CONCURRENT RESOLUTION 45—RELATING TO A WAIVER OF THE JACKSON-VANIK AMENDMENT WITH RESPECT TO THE SOVIET UNION

Mr. MOYNIHAN (for himself, Mr. MITCHELL, Mr. PACKWOOD, Mr. PELL, Mr. METZENBAUM, Mr. KENNEDY, Mr. BOSCHWITZ, Mr. KERRY, Mr. SIMPSON, Mr. DANFORTH, Mr. CRANSTON, and Mr. LEVIN) submitted the following concurrent resolution; which was referred to the Committee on Finance:

S. CON. RES. 45

Whereas a sustained improvement in the number of citizens allowed to emigrate from the Union of Soviet Socialist Republics is clearly evident in recent months;

Whereas total emigration from the Soviet Union in 1988 exceeded that in any previous year, and the total emigration for the first 4 months of 1989 shows further improvement at an annualized rate of 134,000 persons and an annualized rate of 44,000 for Soviet Jews in particular;

Whereas it is clearly in the interest of all people of the United States to see these positive developments continued;

Whereas it is essential to the continued improvements of these circumstances in the Soviet Union that the United States positively acknowledge the liberalizing reforms that have taken place thus far;

Whereas the trade and financial sanctions (including the denial of nondiscriminatory treatment (MFN treatment)) imposed on the Soviet Union under section 402 of the Trade Act of 1974 (commonly known as the Jackson-Vanik amendment) may be waived if the President—

(1) determines that the waiver will substantially promote freedom of emigration in that country, and

(2) has received assurances that the emigration practices of the country will henceforth lead substantially to such freedom; and

Whereas the Congress anticipates significant Soviet progress on the cases of long-term refuseniks, resolution of the "poor relatives" problem, and strict limits on the "state secrets" restriction on emigration;

Whereas there are adequate safeguards for thereafter revoking such a waiver if the basis on which it is granted no longer obtains; and

Whereas the President has indicated his willingness to grant such a waiver if the Soviet Union codifies its emigration laws in compliance with international standards and implements those laws faithfully: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring) That the Congress—

(1) is prepared to support a Presidential waiver of the Jackson-Vanik amendment with respect to the Soviet Union at such time as the President has received appropriate assurances that the Soviet government is firmly on a course toward sustained high levels of emigration and the removal of all unreasonable impediments to or against persons wishing to emigrate; and

(2) will continue to monitor with great interest Soviet efforts to institutionalize its liberalized emigration policy through law and practice.

● Mr. MOYNIHAN. Mr. President, I rise today to offer a concurrent resolution concerning the Jackson-Vanik amendment, and to help reaffirm the vision of Senator Henry M. Jackson of Washington.

Seventeen years have passed since Senator Jackson first proposed "an unprecedented measure to bring the blessings of liberty to these brave men and women who have asked only for the chance to find freedom in a new land."

It took Scoop Jackson 2 long years of painstaking effort to convince the Congress of the United States and eventually the administration to accept his proposition that our national defense should not be divided from the traditional American concern for human rights.

Scoop Jackson was my closest friend in the U.S. Senate. He often said that this legislation would only be deemed a success when the President could exercise the waiver provision.

Today, we will submit a concurrent resolution declaring that the Congress will support such a waiver "at such a time as the President has received the appropriate assurances that the Soviet Government is firmly on a course toward sustained high levels of emigration and removed all unreasonable impediments to or against persons wishing to emigrate."

At the same time, this concurrent resolution states that the Congress will "continue to monitor with great interest the Soviet efforts to institutionalize its liberalized emigration policy through law and practice."

The Soviet Government is well aware of our steadfastness on this issue. In August 1987, I headed a delegation of U.S. Senators who visited the Soviet Union as guests of the Supreme Soviet. We were granted the unusual honor of holding a live-press conference in Moscow at which a Soviet reporter asked when the Jackson-Vanik amendment might be waived. I replied that "anything less than the established and agreed fact by the community involved that those who wish to leave, have left or have serious prospects of leaving, would not warrant any change in our policy."

The increase in Soviet emigration since that time has been dramatic. When we visited Moscow, less than 500 Jews a month were leaving the Soviet Union. During the first 5 months of this year, some 55,000 Soviet citizens, including over 18,000 Jews, were permitted to leave the Soviet Union. Scoop Jackson spoke of an annual rate of 60,000 emigrants a year when he introduced his legislation. At the current rate of emigration the Soviets will be allowing over twice that number of individuals to emigrate during 1989.

The decision to submit today's concurrent resolution was not taken lightly. Members of Congress have consulted with the leadership of the National Conference on Soviet Jewry. We in New York have listened carefully to the sage counsel of our Coalition to Free Soviet Jews whose executive director, Zeesy Schnur, is with us this afternoon. I have spoken to those who worked with Scoop Jackson in formulating his original legislation and yesterday I called our dear friend Helen Jackson in Seattle to discuss this question with her.

Of course, the worldwide struggle for human rights is far from over. We remain deeply concerned about religious freedom within the Soviet Union. We will continue to press these concerns as we enter the long-awaited second phase of the Jackson-Vanik process—a phase that will hopefully lead to the speedy institutionalization of free emigration that we referred to during our Moscow press conference.●

SENATE CONCURRENT RESOLUTION 46—RELATING TO THE TREATMENT OF THE TURKISH MINORITY BY THE GOVERNMENT OF BULGARIA

Mr. DECONCINI submitted the following concurrent resolution; which was referred to the Committee on Foreign Relations:

S. CON. RES. 46

Whereas the Government of the People's Republic of Bulgaria is a signatory to the 1947 Paris Peace Treaty, the Universal Declaration on Human Rights by the United Nations, and the Helsinki Declaration of the Conference on Security and Cooperation in Europe;

Whereas the Helsinki Accords express the commitment of the participating states to respect the fundamental freedoms of conscience, religion, expression, and emigration, and to guarantee the rights of minorities;

Whereas the 1971 constitution of the People's Republic of Bulgaria declares that fundamental rights will not be restricted because of distinction of national origin, race, or religion, and guarantees monorities the right to study in their mother tongue and freely practice their religion;

Whereas despite its international obligations and constitutional guarantees, the Government of the People's Republic of Bulgaria has taken numerous steps to repress Turkish language and culture, including prohibiting the study of the Turkish language in schools, banning the use of the Turkish language in public, making the receipt and reading of Turkish publications a punishable act, and jamming the reception of Turkish radio and television programs in Bulgaria;

Whereas the right of the ethnic Turkish community to freedom of religion has been severely circumscribed by the Government of the People's Republic of Bulgaria, which has closed a number of mosques and barred the importation of copies of the Koran;

Whereas emigration by ethnic Turks and others has been banned with only a few exceptions;

Whereas beginning in December 1984, the Bulgarian authorities forced the Turkish minority of change their Turkish names to Bulgarian ones, and hundreds of ethnic Turks were killed, injured, or arrested by Bulgarian forces in 1984 and 1985 when they protested this new policy;

Whereas the Bulgarian authorities have used both force and Coercion to resettle ethnic Turks from their local villages to areas in Bulgaria with small Turkish populations;

Whereas in May, 1989, Bulgarian troops and police attacked ethnic Turks and others who were peacefully demonstrating against their discriminatory treatment in Bulgaria;

Whereas hundreds of demonstrators were killed or wounded in these attacks, and hundreds more were arrested; and

Whereas since these demonstrations, the Government of the People's Republic of Bulgaria has forcibly expelled or coerced into emigrating to Turkey thousands of ethnic Turks without either their money or their possessions, often resulting in the separation of families: Now, therefore, be it

Resolved by the Senate (House of Representatives, concurring), the Congress—

(1) strongly condemns the brutal treatment of, and blatant discrimination against, the Turkish minority by the Government of the People's Republic of Bulgaria;

(2) calls upon the Bulgarian authorities to immediately cease all discriminatory practices against this community and to release all ethnic Turks and others currently imprisoned because of their participation in nonviolent political acts;

(3) calls upon the Bulgarian Government to honor its obligations and public statements concerning the right of all Bulgarian citizens to emigrate freely; and

(4) urges the President and Secretary of State to make strong diplomatic representations to Bulgaria protesting its discriminatory treatment of its Turkish minority and to raise this issue in all appropriate international fora, including the Conference on Security and Cooperation in Europe meeting on the environment in Sofia, Bulgaria, this year.

● Mr. DECONCINI. Mr. President, as chairman of the Commission on Security and Cooperation in Europe, I am introducing today a resolution condemning Bulgaria's treatment of its ethnic Turkish minority. The resolution calls upon the Bulgarian Government to honor its obligations and public statements concerning the right of all Bulgarian citizens to emigrate freely. It also urges the administration to make strong diplomatic representations to Bulgaria protesting its discriminatory treatment of its Turkish minority and to raise this issue in all international fora, including the Conference on Security and Cooperation in Europe meeting on the environment, which will take place this fall in Sofia, Bulgaria. A similar resolution is being introduced in the House by my distinguished colleagues and friends STEVEN SOLARZ of New York and STENY HOYER, Cochairman of the Commission.

As demands for pluralism and liberalization spread throughout the Soviet Union, the nationalities question is becoming increasingly salient. The world is watching to see how the Soviets will reconcile nationalist aspirations that may threaten the Communist Party's control with the need to decentralize the economy. The world, however, is paying far less attention to the desperate struggle going on in Bulgaria between the Government and the ethnic Turkish community. While the national minorities in the Soviet Union are working to expand their political and civil rights, approximately 1 million ethnic Turks of Bulgaria are fighting to keep the Government from encroaching any further upon their basic human rights.

Since the 1950's, Butgaria has been waging a campaign to assimilate forcibly its ethnic Turkish minority. In the early 1950's, there were more than 1,000 Turkish schools in Bulgaria; there are none today. Similarly, the number of imams, Muslim religious leaders, in Bulgaria exceeded 1,800 in the 1950's; now the number has been whittled down to about 500.

In 1984, the regime accelerated its assimilation campaign, compelling the Turkish-speaking minority, sometimes at gunpoint, to adopt Bulgarian names. Those who refused were imprisoned. In 1985, the Government stated that the restoration of Bulgarian names had been "safely completed."

Despite the implementation of the name change campaign, the Turkish minority has not submitted to Bulgarization. Consequently, the Government continues to institute repressive measures that seek to destroy the community's cultural and religious identity. The use of Turkish language is prohibited and punishable by fine. Most of Bulgaria's mosques have been closed, and Muslim rites such as circumcisions, weddings, and burials are severely restricted or forbidden. Religious education of children is also prohibited and the Koran is not published in Bulgaria nor can it be imported. Restrictions on travel outside of Bulgaria make it virtually impossible for the ethnic Turks to participate in the Hadj, the annual pilgrimage to Mecca which all Muslims are supposed to make at least once in their lifetime.

Those who protest assimilation or attempt to practice Islam beyond very narrow limitations are punished. In reaction to this harsh policy, ethnic Turks participated in demonstrations in Bulgaria last month. These protests were violently dispersed by security forces. Estimates of the casualties go as high as 30 ethnic Turks killed and hundreds wounded.

Since May 25, several thousand members of the Turkish minority have been separated from their families and forcibly deported from Bulgaria, with no warning and no compensation for the property and valuables left behind.

Mr. President, incredibly, the assimilation campaign in Bulgaria has been

going on since the 1950's without attracting a good deal of attention from the outside world. That was partly because it was difficult to get information from Bulgaria, due to the Government's rigid control of who and what enters and leaves the country. It was also because human rights were not accepted as a legitimate area of international concern, with many countries viewing the issue as a strictly internal affair.

Both of those factors have changed. While information is still sometimes hard to come by in Bulgaria, there are enough reports from Western diplomats and Bulgarian emigres to give us a reliable picture. As for human rights, most of the world community now insists that they are a proper and fitting issue for international scrutiny, comment, and action.

The international community has not been vocal enough in expressing its outrage against Bulgaria's violations of the human rights of its ethnic Turkish citizens. We must do more: the urgency of the Turkish minority's plight demands it; our own sense of humanity requires it.

Mr. President, I ask unanimous consent that the text of my resolution and the June 15, 1989, Washington Post article, entitled "Thousands of Ethnic Turks Deported in Bulgarian Assimilation Campaign," be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Washington Post, June 15, 1989]

THOUSANDS OF ETHNIC TURKS DEPORTED IN BULGARIAN ASSIMILATION CAMPAIGN

(By Thomas Golz)

EDIRNE, TURKEY.—Thousands of ethnic Turks uprooted and expelled by Bulgarian authorities are streaming across the border into Turkey as the Sofia government presses its five-year-old draconian campaign to assimilate its large Turkish minority into the Bulgarian cultural mainstream.

The mass deportations are apparently the latest response from Bulgarian authorities to demonstrations by ethnic Turks in recent weeks in protest of assimilation decrees forcing the 900,000-member Turkish minority to accept new identities as "Bulgarian Moslems" and outlawing the use of Turkish names, language and dress.

Deportees and diplomatic sources said that a number of protest demonstrations and other displays of civil disobedience were broken up violently by Bulgarian police and troops, leaving an undetermined number of civilians fatally injured. While Bulgarian officials acknowledge that about a half-dozen civilians had been killed in the bloody crackdown, the London-based human-rights monitoring group Amnesty International put the figure at about 100.

The U.S. State Department has estimated the number of ethnic Turks expelled from Bulgaria since the protest began at more than 3,000 but Turkish border officials say they have accepted at least six or seven times that many, with no end in sight.

The Bulgarian ambassador in Washington has been summoned to the State Department three times recently to hear official protests of his government's actions, and U.S. officials this week canceled a scheduled visit to Washington by a Bulgarian deputy trade minister.

U.S. Embassy officials in Sofia, meanwhile, have requested formal discussions with the Bulgarian government on the issue under human-rights provisions of the multinational Conference on Security and Cooperation, and ambassadors to both the European Community and NATO have been meeting to discuss a possible joint response.

On Tuesday, the State Department issued a new statement condemning "Bulgaria's violent actions against its ethnic Turkish minority." The statement noted that there have been "numerous deaths and injuries." that "tanks have entered villages, and government forces have fired on peaceful demonstrators." It called upon Bulgaria to "cease [such actions] at once."

Bulgaria, which began the assimilation campaign in late 1984 and declared it complete two months later, has long rejected such criticism, maintaining that its so-called ethnic Turkish minority—about 10 percent of the total population—are not Turks at all but Bulgars whose forebears were forced to embrace Islam during the 500 years the region was part of the Ottoman Empire. In March of 1985, Bulgarian officials announced that there was "not one Turk" left in the country, but resistance to the cultural incorporation has persisted, chiefly in large ethnic Turkish communities in the east and south.

Many of the ethnic Turks crossing the border here said they were allowed no more than 24 hours to pack their possessions and leave after being given passports valid only for Turkey. A number said they were obliged to leave property, bank accounts and family members behind in a headlong rush to the border.

"It is theft by the state," said Mehmet Yusufoglu, 47, an electrician who crossed with his medical-student son and a group of other students. "They told me that if I didn't take part in the demonstrations they would let me go, and so I started packing my bags and keeping my head low. I went to the bank and drew out all my savings. Then at the frontier they forced me to leave 3,500 leva ($1,700) at customs and told me I could claim it when I came back, although they knew perfectly well that I never want to see this place again."

Yusufoglu's son, Sefket, said that neither he nor any of his medical-student friends participated in any of the anti-assimilation demonstrations, but that they, too, were being forced out of the country. "If they are kicking out people like myself, it means they intend to kick out all the Turks," he said.

Another deportee, Celattin Kader, said: "I didn't march, I didn't fast. I didn't do anything. My only crime was that I wanted to keep my Turkish name. Well, now I have it."

Under the crush of refugees the area around the border gate at Kapikule looks like it was hit by a tornado. Scattered over three acres lie the detritus of uprooted lives—metal bed frames piled at crazy angles atop dressers and portable clothes cabinets. Here and there exhausted mothers huddle under tents made of carpets and blankets feeding their children, while husbands and brothers roam through the ruins searching for friends and family.

Their stories are monotonous in their Kafkaesque quality. Knocks on the door in the middle of the night, anonymous security men handing out passports to Turks made out to their new Slavic names along with threats that if they weren't used, worse would come.

"There's no one left in our village," said one man from Varna Province near the Black Sea. "We were 500 families on Friday, and they said we all had to go. We left, leaving everything behind.●

SENATE RESOLUTION 145—CONGRATULATING WICHITA STATE UNIVERSITY ON WINNING THE 1989 NCAA BASEBALL CHAMPIONSHIP

Mr. DOLE (for himself and Mrs. KASSEBAUM) submitted the following resolution; which was considered and agreed to:

S. RES. 145

Whereas the Wichita State University baseball team once again battled its way to the College World Series;

Whereas the Shockers from Wichita fought off elimination six times during the tournament despite injuries and having to win their way through the toughest brackets;

Whereas Coach Gene Stephenson and his talented Wichita State Baseball players showed America that "Field of Dreams" isn't only a movie. It's a baseball diamond in Omaha, Nebraska where the indomitable shockers won the College World Series; now, therefore, be it

Resolved, That the United States Senate recognizes and congratulates the Wichita State University baseball team for its thrilling achievement in winning the 1989 NCAA baseball crown.

SENATE RESOLUTION 146—AUTHORIZING THE PRINTING OF ADDITIONAL COPIES OF A COMPILATION OF EULOGIES OF THE LATE SENATOR WARREN G. MAGNUSON

Mr. ADAMS submitted the following resolution; which was considered and agreed to:

S. RES. 146

Resolved, That there shall be printed as a Senate document a collection of statements made in tribute to the late Senator Warren G. Magnuson and published in the Congressional Record, together with appropriate illustrations and other materials relating to his death. In addition to the usual number, there shall be printed, for the use of the Senate, the lesser of 300 copies or such number as does not exceed a cost of $1,200.

AMENDMENTS SUBMITTED

ACT FOR BETTER CHILD CARE SERVICES

MITCHELL (AND OTHERS) AMENDMENT NO. 196

Mr. MITCHELL (for himself, Mr. DODD, Mr. HATCH, Mr. KENNEDY, Mr. CHAFEE, Ms. MIKULSKI, Mr. BYRD, Mr. ROBB, Mr. JEFFORDS, Mr. GORE, Mr.

PELL, Mr. KERREY, Mr. KOHL, Mr. DECONCINI, Mr. DASCHLE, Mr. LIEBERMAN, Mr. KERRY, Mr. MOYNIHAN, Mr. BRYAN, Mr. BIDEN, Mr. INOUYE, Mr. LEVIN, Mr. WIRTH, Mr. SIMON, and Mr. EXON) proposed an amendment to the bill (S. 5) to provide for a Federal program for the improvement of child care, and for other purposes, as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Act for Better Child Care Services of 1989".

(b) TABLE OF CONTENTS.—

TITLE I—CHILD CARE SERVICES

Sec. 101. Short title.
Sec. 102. Findings and purposes.
Sec. 103. Definitions.
Sec. 104. Authorization of appropriations.
Sec. 105. Amounts reserved; allotments.
Sec. 106. Lead agency.
Sec. 107. Application and plan.
Sec. 108. Special rules for use of State allotments.
Sec. 109. Planning grants.
Sec. 110. Continuing eligibility of States.
Sec. 111. State advisory committee on child care.
Sec. 112. Resource and referral programs.
Sec. 113. Training and technical assistance.
Sec. 114. Child care public-private partnership.
Sec. 115. Federal administration of child care.
Sec. 116. Federal enforcement.
Sec. 117. Payments.
Sec. 118. National Advisory Committee on Recommended Child Care Standards.
Sec. 119. Child care standards improvement incentive grant program.
Sec. 120. National study on child care standards.
Sec. 121. Limitations on use of financial assistance for certain purposes.
Sec. 122. Nondiscrimination.
Sec. 123. Preservation of parental rights and responsibilities.
Sec. 124. Child care liability risk retention group.
Sec. 125. Head Start Act authorization of appropriations.

TITLE II—INTERNAL REVENUE CODE PROVISIONS

Sec. 201. Short title.

SUBTITLE A—TAX CREDIT FOR CERTAIN HEALTH INSURANCE PREMIUMS AND CHILD CARE

Sec. 211. Credit for health insurance premium costs.
Sec. 212. Dependent care and health insurance premium credit made refundable.
Sec. 213. Modifications of dependent care credit.
Sec. 214. Study of advance payments.
Sec. 215. Program to increase public awareness.
Sec. 216. Demonstration projects to extend health insurance to children not covered by public or private health programs.

SUBTITLE B—EMPLOYEE BENEFIT NONDISCRIMINATION RULES

Sec. 221. 1-year delay in application of section 89 rules.
Sec. 222. Revision of antidiscrimination rules for certain employee benefit plans for years beginning after 1989.
Sec. 223. Other provisions relating to nontaxable benefits.
Sec. 224. Study of section 89.

SUBTITLE C—OTHER REVENUE PROVISIONS

Sec. 231. Permanent extension of telephone excise tax.
Sec. 232. Estimated tax payments required for S corporations.

TITLE I—CHILD CARE SERVICES

SEC. 101. SHORT TITLE.

This title may be cited as the "Act for Better Child Care".

SEC. 102. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds that—

(1) the number of children living in homes where both parents work, or living in homes with a single parent who works, has increased dramatically over the last decade;

(2) the availability of quality child care is critical to the self-sufficiency and independence of millions of American families, including the growing number of mothers with young children who work out of economic necessity;

(3) high quality child care programs can strengthen our society by providing young children with the foundation on which to learn the basic skills necessary to be productive workers;

(4) the years from birth to age 6 are a critical period in the development of a young child;

(5) a significant number of parents do not have a real choice as they seek adequate child care for their young children because of limited incomes, insufficient State child care standards, and the inadequate supply of child care services in their community;

(6) high quality early childhood development programs provided during such period are cost effective because such programs can reduce the chances of juvenile delinquency and adolescent pregnancy and can improve the likelihood that children will finish high school and become employed;

(7) the number of quality child care arrangements falls far short of the number required for children in need of child care services;

(8) the rapid growth of participation in the labor force by mothers of children under the age of 1 has resulted in a critical shortage of quality child care arrangements for infants and toddlers;

(9) the lack of available child care services results in many preschool and school-age children being left without adequate supervision for significant parts of the day;

(10) many working parents who are unable to afford adequate child care services do not receive adequate financial assistance for such services from employers or public sources;

(11) because of the lack of affordable child care, a large number of parents are not able to work or to seek the training or education they need to become self sufficient;

(12) making adequate child care services available for parents who are employed, seeking employment, or seeking to develop employment skills promotes and strengthens the well-being of families and the national economy;

(13) the payment of the exceptionally low salaries to child care workers adversely affects the quality of child care services by making it difficult to retain qualified staff;

(14) several factors result in the shortage of quality child care options for children and parents, including—

(A) the inability of parents to pay for child care services;

(B) the lack of up-to-date information on child care services;

(C) the lack of training opportunities for staff in child care programs;

(D) the high rate of staff turnover in child care facilities; and

(E) the wide differences among the States in child care licensing and enforcement policies; and

(15) improved coordination of child care services will help to promote the most efficient use of child care resources.

(b) PURPOSES.—The purposes of this title are—

(1) to build on and to strengthen the role of the family by seeking to ensure that parents are not forced by lack of available programs or financial resources to place a child in an unsafe or unhealthy child care facility or arrangement;

(2) to promote the availability and diversity of quality child care services to expand child care options available to all families who need such services;

(3) to provide assistance to families whose financial resources are not sufficient to enable such families to pay the full cost of necessary child care services;

(4) to lessen the chances that children will be left to fend for themselves for significant parts of the day;

(5) to improve the productivity of parents in the labor force by lessening the stresses related to the absence of adequate child care services;

(6) to provide assistance to States to improve the quality of, and coordination among, child care programs;

(7) to increase the opportunities for attracting and retaining qualified staff in the field of child care to provide high quality child care services to children; and

(8) to strengthen the competitiveness of the United States by providing young children with a sound early childhood development experience.

SEC. 103. DEFINITIONS.

As used in this title:

(1) ADMINISTRATOR.—The term "Administrator" means the Administrator of Child Care appointed under section 115(a).

(2) CAREGIVER.—The term "caregiver" means an individual who provides a service directly to an eligible child on a person-to-person basis.

(3) CENTER-BASED CHILD CARE PROVIDER.—The term "center-based child care provider" means a child care provider that provides child care services in a nonresidential facility.

(4) CHILD CARE CERTIFICATE.—The term "child care certificate" means a certificate that is issued by the State to parents who may use such certificate only as payment for child care services for an eligible child and that provides to an eligible child care provider a right to payment for such services at the same rate charged by that provider for comparable services to children whose parents are not eligible for certificates under this title or for child care assistance under any other Federal or State program.

(5) COMMUNITY-BASED ORGANIZATION.—The term "community-based organization" has the meaning given such term by section 4(5) of the Job Training and Partnership Act (29 U.S.C. 1503(5)).

(6) ELEMENTARY SCHOOL.—The term "elementary school" means a day or residential school that provides elementary education, as determined under State law.

(7) ELIGIBLE CHILD.—The term "eligible child" means an individual—

(A) who is less than 16 years of age;

(B) whose family income does not exceed 100 percent of the State median income for a family of the same size; and

(C) who—

(i) resides with a parent or parents who are working, seeking employment, or enrolled in a job training or educational program; or

(ii) is receiving, or needs to receive, protective services and resides with a parent or parents not described in clause (i).

(8) ELIGIBLE CHILD CARE PROVIDER.—The term "eligible child care provider" means—

(A) a center-based child care provider, a group home child care provider, a family child care provider, or other provider of child care services for compensation that—

(i) is licensed or regulated under State law;

(ii) satisfies—

(I) the Federal requirements; and

(II) the State and local requirements;

applicable to the child care services it provides; and

(iii) not later than 3 years after the date of enactment of this title, complies with State standards in each of the categories described in section 118(d) that are applicable to the child care services provided by such provider; or

(B) a child care provider that is 18 years of age or older who provides child care services only to an eligible child who is, by affinity or consanguinity, the grandchild, niece, or nephew of such provider, if such provider complies with any State requirements that govern child care provided by relatives.

(9) FAMILY CHILD CARE PROVIDER.—The term "family child care provider" means 1 individual who provides child care services for fewer than 24 hours per day, as the sole caregiver, and in the private residence of such individual.

(10) FAMILY SUPPORT SERVICES.—The term "family support services" means services that assist parents by providing support in parenting and by linking parents with community resources and with other parents.

(11) FULL-WORKING-DAY.—The term "full-working-day" means at least 10 hours per day.

(12) GROUP HOME CHILD CARE PROVIDER.—The term "group home child care provider" means 2 or more individuals who jointly provide child care services for fewer than 24 hours per day and in a private residence.

(13) HANDICAPPING CONDITION.—The term "handicapping condition" means any condition set forth in section 602(a)(1) of the Education of the Handicapped Act (20 U.S.C. 1401(a)(1)) or section 672(1) of the Education of the Handicapped Act (20 U.S.C. 1471(a)).

(14) INDIAN TRIBE.—The term "Indian tribe" has the meaning given it in section 4(b) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(b)).

(15) INSTITUTION OF HIGHER EDUCATION.—The term "institution of higher education" has the meaning given such term in section 481(a)(1) of the Higher Education Act of 1965 (20 U.S.C. 1088(a)(1)), except that with respect to a tribally controlled community college such term has the meaning given it in section 2(a)(5) of the Tribally Controlled Community College Assistance Act of 1978 (25 U.S.C. 1801(a)(5)).

(16) LEAD AGENCY.—The term "lead agency" means the agency designated under section 106(a).

(17) LOCAL EDUCATIONAL AGENCY.—The term "local educational agency" has the meaning given that term in section 198(a)(10) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 2854(a)(10)).

(18) PARENT.—The term "parent" includes a legal guardian or other person standing in loco parentis.

(19) SCHOOL-AGE CHILD CARE SERVICES.—The term "school-age child care services" means child care services that are—

(A) provided during such times of the school day when regular instructional services are not in session; and

(B) not intended as an extension of or replacement for the regular academic program, but are intended to provide an environment which enhances the social, emotional, and recreational development of children of school age;

(20) SECONDARY SCHOOL.—The term "secondary school" means a day or residential school which provides secondary education, as determined under State law.

(21) SECRETARY.—The term "Secretary" means the Secretary of Health and Human Services unless the context specifies otherwise.

(22) SCHOOL FACILITIES.—The term "school facilities" means classrooms and related facilities used to provide education.

(23) SLIDING FEE SCALE.—The term "sliding fee scale" means a system of cost sharing between the State and a family based on income and size of the family.

(24) STATE.—The term "State" means any of the several States, the District of Columbia, the Virgin Islands of the United States, the Commonwealth of Puerto Rico, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, the Marshall Islands, the Federated States of Micronesia, or Palau.

(25) UNIT OF GENERAL PURPOSE LOCAL GOVERNMENT.—The term "unit of general purpose local government" means any city, county, town, township, parish, village, a combination of such general purpose political subdivisions including those in two or more States, or other general purpose political subdivisions of a State.

(26) TRIBAL ORGANIZATION.—The term "tribal organization" has the meaning given it in section 4(c) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(c)).

(27) TRIBALLY CONTROLLED COMMUNITY COLLEGE.—The term "tribally controlled community college" has the meaning given it in section 2(a)(4) of the Tribally Controlled Community College Assistance Act of 1978 (25 U.S.C. 1801(a)(4)).

SEC. 104. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—To carry out this title, other than section 122, there are authorized to be appropriated $1,750,000,000 for the fiscal year 1990 and such sums as may be necessary in each of the fiscal years 1991 through 1994.

(b) STANDARDS IMPROVEMENT INCENTIVE GRANT PROGRAM.—Of the amounts appropriated in each of the fiscal years 1993 and 1994 under subsection (a), the Secretary shall make available 10 percent of such amounts in each such fiscal year to make grants under section 119. In no event shall amounts made available under this subsection be less than $35,000,000 nor more than $75,000,000 in each such fiscal year.

(c) CHILD CARE LIABILITY RISK RETENTION GROUP.—

(1) IN GENERAL.—To carry out section 122, there are authorized to be appropriated $100,000,000 for fiscal year 1990.

(2) AMOUNTS TO REMAIN AVAILABLE.—The amounts appropriated pursuant to paragraph (1) shall remain available for assistance to States for fiscal years 1990, 1991, and 1992 without limitation.

SEC. 105. AMOUNTS RESERVED; ALLOTMENTS.

(a) AMOUNTS RESERVED.—

(1) TERRITORIES AND POSSESSIONS.—The Secretary shall reserve not to exceed one half of 1 percent of the amount appropriated under section 104(a) in each fiscal year for payments to Guam, American Samoa, the Virgin Islands of the United States, the Commonwealth of the Northern Mariana Islands, the Marshall Islands, the Federated States of Micronesia, and Palau, to be allotted in accordance with their respective needs.

(2) INDIANS.—The Secretary shall reserve an amount, not less than 1.5 percent and not more than 3 percent of the amount appropriated under section 104(a) in each fiscal year, to carry out subsection (c) regarding Indian children.

(b) STATE ALLOTMENT.—

(1) GENERAL RULE.—From the remainder of the sums appropriated under section 104(a) for each fiscal year, the Secretary shall allot to each State (excluding jurisdictions referred to in subsection (a)(1)) an amount equal to the sum of—

(A) an amount that bears the same ratio to 50 percent of such remainder as the product of the young child factor of the State and the allotment percentage bears to the sum of the corresponding products for all States; and

(B) an amount that bears the same ratio to 50 percent of such remainder as the product of the school lunch factor of the State and the allotment percentage bears to the sum of the corresponding products for all the States.

(2) YOUNG CHILD FACTOR.—The term "young child factor" means the ratio of the number of children in the State who are less than 5 years of age to the number of children in all the States who are less than 5 years of age.

(3) SCHOOL LUNCH FACTOR.—The term "school lunch factor" means the ratio of the number of children in the State who are receiving free or reduced price lunches under the school lunch program established under the National School Lunch Act (42 U.S.C. 1751 et seq.) to the number of children in all the States who are receiving free or reduced price lunches under such program.

(4) ALLOTMENT PERCENTAGE.—

(A) IN GENERAL.—The allotment percentage for a State is determined by dividing—

(i) the per capita income of all individuals in the United States; by

(ii) the per capita income of all individuals in the State.

(B) LIMITATIONS.—If a sum determined under subparagraph (A)—

(i) exceeds 1.2, then the allotment percentage of that State shall be considered to be 1.2; and

(ii) is less than 0.8, then the allotment percentage of the State shall be considered to be 0.8.

(C) PER CAPITA INCOME.—For purposes of subparagraph (A), per capita income shall be—

(i) determined at 2-year intervals;

(ii) applied for the 2-year period beginning on October 1 of the first fiscal year beginning on the date such determination is made; and

(iii) equal to the average of the annual per capita incomes for the most recent period of 3 consecutive years for which satisfactory data are available from the Department of Commerce at the time such determination is made.

(c) PAYMENTS FOR THE BENEFIT OF INDIAN CHILDREN.—

(1) TRIBAL ORGANIZATIONS.—From the funds reserved under subsection (a)(2), the Secretary may, upon the application of a Indian tribe or tribal organization enter into a contract with, or make a grant to such Indian tribe or tribal organization for a period of 3 years, subject to satisfactory performance, to plan and carry out programs and activities that are consistent with this title. Such contract or grant shall be subject to the terms and conditions of section 102 of the Indian Self-Determination Act (25 U.S.C. 450f) and shall be conducted in accordance with sections 4, 5, and 6 of the Act of April 16, 1934 (48 Stat. 596; 25 U.S.C. 655-657), that are relevant to such programs and activities.

(2) INDIAN RESERVATIONS.—In the case of an Indian tribe in a State other than the States of Oklahoma, Alaska, and California, such programs and activities shall be carried out on the Indian reservation for the benefit of Indian children.

(3) STANDARDS.—The Secretary shall establish, through the application process, standards applicable to child care services provided under such programs and activities. For purposes of establishing such standards, the Secretary shall take into consideration—

(A) the codes, regulations, and cultural factors of the Indian tribe involved, as expressed by such tribe or the tribal organization that represents such tribe; and

(B) the State standards, and licensing and regulatory requirements applicable to child care services provided in the State in which such program and activities are carried out.

(4) AVAILABILITY OF STATE CHILD CARE SERVICES.—For the purpose of determining whether to approve an application for a contract or grant under this subsection, the Secretary shall take into consideration the availability of child care services provided in accordance with this title by the State in which the applicant proposes to carry out a program to provide child care services.

(5) RULE OF CONSTRUCTION.—This subsection shall not be construed—

(A) to limit the eligibility of any individual to participate in any program carried out with assistance received under this title by a State; or

(B) to modify any requirement imposed on a State by any provision of this title.

(6) COORDINATION.—To the maximum extent practicable, the applicant for a grant or contract under this subsection and the State in which the applicant is located shall coordinate with each other their respective child care programs and activities, including child care programs and activities carried out with assistance received under this title.

(d) DATA AND INFORMATION.—The Secretary shall obtain from each appropriate Federal agency, the most recent data and information necessary to determine the allotments provided for in subsection (b).

(e) REALLOTMENTS.—

(1) IN GENERAL.—Any portion of the allotment under subsection (b) to a State that the Secretary determines is not required to carry out a State plan approved under section 107(d), in the period for which the allotment is made available, shall be reallotted by the Secretary to other States in proportion to the original allotments to the other States.

(2) LIMITATIONS.—

(A) REDUCTION.—The amount of any reallotment to which a State is entitled to under paragraph (1) shall be reduced to the extent that it exceeds the amount that the Secretary estimates will be used in the State to carry out a State plan approved under section 107(d).

(B) REALLOTMENTS.—The amount of such reduction shall be similarly reallotted among States for which no reduction in an allotment or reallotment is required by this subsection.

(3) AMOUNTS REALLOTTED.—For purposes of any other section of this title, any amount reallotted to a State under this subsection shall be considered to be part of the allotment made under subsection (b) to the State.

(f) DEFINITION.—For the purposes of this section, the term "State" means any of the several 50 States, the District of Columbia, or the Commonwealth of Puerto Rico.

SEC. 106. LEAD AGENCY.

(a) DESIGNATION.—The chief executive officer of a State desiring to participate in the program authorized by this title shall designate, in an application submitted to the Secretary under section 107(a), an appropriate State agency that meets the requirements of subsection (b) to act as the lead agency.

(b) REQUIREMENTS.—

(1) ADMINISTRATION OF FUNDS.—The lead agency shall have the capacity to administer the funds provided under this title to support programs and services authorized under this title and to oversee the plan submitted under section 107(b).

(2) COORDINATION.—The lead agency shall have the capacity to coordinate the services for which assistance is provided under this title with the services of other State and local agencies involved in providing services to children.

(3) ESTABLISHMENT OF POLICIES.—The lead agency shall have the authority to establish policies and procedures for developing and implementing interagency agreements with other agencies of the State to carry out the purposes of this title.

(c) DUTIES.—The lead agency shall—

(1) assess child care needs and resources in the State, and assess the effectiveness of existing child care services and services for which assistance is provided under this title or under other laws, in meeting such needs;

(2) develop a plan designed to meet the need for child care services in the State for eligible children, including infants, preschool children, and school-age children, giving special attention to meeting the needs for services for low-income children, migrant children, children with a handicapping condition, foster children, children in need of protective services, children of adolescent parents who need child care to remain in school, and children with limited English-language proficiency;

(3) develop, in consultation with the State advisory committee on child care established under section 111, the State plan submitted to the Secretary under section 107(b);

(4) hold hearings, in cooperation with such State advisory committee on child care, annually in the State in order to provide to the public an opportunity to comment on the provision of child care services in the State under the proposed State plan;

(5) assist the chief executive officer in making such periodic reports to the Secretary as the Secretary may by rule require;

(6) coordinate the provision of services under this title with—

(A) other child care programs and services, and with educational programs, for which assistance is provided under any State, local, or other Federal law, including the State Dependent Care Development Grants Act (42 U.S.C. 9871 et seq.); and

(B) other appropriate services, including social, health, mental health, protective, and nutrition services, available to eligible children under other Federal, State, and local programs;

(7) as appropriate, identify resource and referral programs for particular geographical areas in the State that meet the requirements of section 112; and

(8) establish in accordance with subsection (d)(1) several local advisory councils that collectively represent the entire geographical area in the State.

(d) LOCAL ADVISORY COUNCILS.—

(1) APPOINTMENT.—Each local advisory council established under subsection (c)(8) shall be composed of individuals who are collectively representative of the local geographical area for which they are appointed and of the ethnic characteristics of the population of such area. Such council shall be composed of individuals appointed from among the following:

(A) Parents of preschool children.

(B) Parents of school-age children.

(C) Individuals who are child care providers.

(D) The heads of Head Start agencies.

(E) The heads of local public agencies that provide social services or human resources.

(F) The heads of local education agencies.

(G) The heads of local public health agencies.

(H) The heads of resource and referral agencies.

(I) Individuals engaged locally in business.

(J) Representatives of units of local purpose government.

(K) Local representatives of nonprofit private organizations that provide funds for social services or human resources.

(L) Representatives of groups that engage in private activities relating to providing child care services.

(2) DUTIES.—Each local advisory council shall—

(A) assess the extent to which there is an unsatisfied need for child care services in the geographical area for which such council is appointed;

(B) submit to the lead agency, not less frequently than biennially, a report identifying the results of the implementation in such area of the State plan included in the application submitted under section 107;

(C) recommend to the lead agency the uses for which assistance received under this subchapter by the State should be expended in such area, and with respect to each such use, the amount of such funds that should be so expended;

(D) advise local child care providers regarding the means to collectively obtain training, supplies, and insurance relating to providing child care services; and

(E) otherwise assist the lead agency, and the State advisory committee on child care established under section 111 to carry out their respective duties.

(3) ADMINISTRATIVE SUPPORT.—The lead agency shall provide to such council such funds, and administrative support services

(including personnel) directly or by contract, as the State determines necessary to enable such council to carry out its duties.

(4) CONFLICTS OF INTEREST.—A member of such council may not cast a vote on any matter that—

(A) may result in a financial benefit to such member; or

(B) under Federal, State, or local law would create or appear to create a conflict of interest if such vote were cast by such member.

(5) PUBLIC AWARENESS OF COUNCIL PARTICIPATION.—The Secretary shall require by rule that residents of each geographical area for which a local advisory council is appointed are informed of the opportunity to be appointed to such council.

SEC. 107. APPLICATION AND PLAN.

(a) APPLICATION.—To be eligible to receive assistance under this title, a State shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary shall require by rule.

(b) PLAN.—The application of a State submitted under subsection (a) shall include an assurance that the State will comply with the requirements of this title and a State plan that is designed to be implemented during a 3-year period and that meets the requirements of subsection (c).

(c) REQUIREMENTS OF A PLAN.—

(1) LEAD AGENCY.—The State plan contained in the application submitted under subsection (a), shall identify the lead agency designated in accordance with section 106(a).

(2) ADVISORY BODIES.—The plan shall demonstrate that the State will establish in accordance with section 111 a State advisory committee on child care.

(3) POLICIES AND PROCEDURES.—The plan shall set forth policies and procedures designed to ensure all of the following:

(A) That, to the maximum extent practicable—

(i) the parents of each eligible child who will receive child care services for which assistance is provided under paragraph (4) are permitted to select the eligible child care provider that will provide such services to such child; and

(ii) if the State places such child under the methods provided in section 108(a)(1)(A) or (B), the State will attempt to place such child with the eligible child care provider selected by such parents.

(B) That—

(i) all providers of child care services for which assistance is provided under this title comply with all licensing or regulatory requirements (including registration requirements) applicable under State and local law; and

(ii) such requirements are imposed and enforced by the State uniformly on all licensed and regulated child care providers within the same category of care.

This subparagraph shall not be construed to prohibit a State from imposing more stringent standards or requirements on child care providers who provide services for which assistance is provided under this title and who also receive State funds under any other law to provide child care services under a contract or other arrangement with the State.

(C) That procedures will be established to ensure that child care providers receiving assistance under this title or under other publicly-assisted child care programs comply, not later than 3 years after the date of enactment of this title, with State child care standards in each of the categories described in section 118(d) that are applicable to the child care services provided by such providers, and comply with all applicable State and local licensing or regulatory requirements (including registration requirements).

(D) That the State will not—

(i) reduce the categories of child care providers licensed or regulated by the State on the date of enactment of this title; or

(ii) reduce the level of standards applicable to child care services provided in the State and to the matters specified in sections 113(a) and 118(d) unless the State, with the concurrence of the State advisory committee established under section 111, requests a waiver of this subparagraph and demonstrates, to the satisfaction of the Secretary, that the proposed reduction is necessary to increase access to and availability of eligible child care providers and will not jeopardize the health and safety of children.

(E) That funds received under this title by the State will be used only to supplement, not to supplant, the amount of Federal, State, and local funds expended for the support of child care services and related programs in the State, except that States may use existing expenditures in support of child care services to satisfy the State matching requirement under section 117(b), but in no event shall such expenditures be used to satisfy the matching requirements of any other Federal program.

(F) That for each fiscal year the State will use an amount not to exceed 8 percent of the amount of funds received under section 105 by the State for such fiscal year to administer the State plan.

(G) That the State will pay funds under this title to eligible child care providers in a timely fashion to ensure the continuity of child care services to eligible children.

(H) That resource and referral services will be made available to families in the State.

(I) That each eligible child care provider described in section 103(8)(A) who provides services for which assistance is provided under paragraph (4)—

(i) gives priority for provider services to children of families with very low income, taking into account family size, or children with special needs;

(ii) not later than 3 years after the date of enactment of this title, complies with State child care standards in each of the categories described in section 118(d) that are applicable to the child care services provided by such providers;

(iii) if such eligible child care provider is regulated by a State educational agency that—

(I) administers any State law applicable to child care services;

(II) develops child care standards that meet or exceed the State child care standards in each of the categories described in section 118(d) that are applicable to the child care services provided by such providers, and the State licensing or regulatory requirements (including registration requirements); and

(III) enforces the standards described in subclause (II) that are developed by such agency, using policies and practices that meet or exceed the requirements specified in subparagraphs (A) through (K) of paragraph (11);

complies with the standards described in subclause (II) that are developed by such agency; and

(iv) complies with the State plan and the requirements of this title.

(J) That child care services for which assistance is provided under paragraph (4) are available to children with a handicapping condition.

(K) That the State will review existing State regulations to determine if such regulations are appropriate for school-age child care services.

(L) That child care providers in the State are encouraged to develop personnel policies that include compensated time for staff undergoing training required under this title.

(M) Encourage the payment of adequate salaries and other compensation—

(i) to full- and part-time staff of child care providers who provide child care services for which assistance is provided under paragraph (4);

(ii) to the extent practicable, to such staff in other major Federal and State child care programs; and

(iii) to other child care personnel, at the option of the State.

(N) That child care services for which assistance is provided under paragraph (4) are available for an adequate number of hours and days to serve the needs of parents of eligible children, including parents who work nontraditional hours.

(4) CHILD CARE SERVICES.—The plan shall provide that—

(A) subject to subparagraph (B), the State will use at least 70 percent of the amount allotted to the State in any fiscal year to provide child care services that meet the requirements of this title to eligible children in the State on a sliding fee scale basis and using funding methods provided for in section 108(a)(1), with priority being given for services to children of families with very low family incomes, taking into consideration the size of the family, or children with special needs; and

(B) the State will use at least 10 percent of the funds reserved for the purposes specified in subparagraph (A) in any fiscal year to provide for the extension of part-day programs as described in section 108(b).

(5) ACTIVITIES TO IMPROVE THE QUALITY OF CHILD CARE.—The plan shall provide that the State will use not less than 10 percent of the amount allotted to it in any fiscal year to do the following:

(A) Provide financial assistance, pursuant to procedures established under the State Dependent Care Development Grants Act (42 U.S.C. 9801 note), to private nonprofit organizations or public organizations (including units of general purpose local government) that meet the requirements of section 112 for the development, establishment, expansion, operation, and coordination of resource and referral programs specifically related to child care.

(B) Improve the monitoring of compliance with, and enforcement of, the licensing and regulatory requirements (including registration requirements) of the State.

(C) Provide training, technical assistance, and scholarship assistance in accordance with the provisions of subsections (b), (c), and (d) of section 113.

(D) Ensure that adequate salaries and other compensation are paid to full- and part-time staff who provide child care services for which assistance is provided under paragraph (4).

(6) ACTIVITIES TO INCREASE THE AVAILABILITY OF CHILD CARE.—The plan shall provide that the State will use not more than 12 percent of the amount allotted to it in any

fiscal year for any of the following activities:

(A) Making grants or low interest loans to existing and potential family child care providers and nonprofit child care providers to help such providers pay the cost of—

(i) establishing child care programs; and

(ii) making renovations and improvements in existing facilities to be used to carry out such programs.

(B) Making grants or low-interest loans to child care providers to assist such providers in meeting recommended Federal child care standards, or State and local child care standards, giving priority to providers receiving assistance under this title or under other publicly assisted child care programs and which serve children of families that have very low incomes.

(C) Providing funds for the child care public-private partnership activities described in section 114.

(D) Providing assistance for the establishment and operation of after school child care programs.

(E) Providing assistance for the temporary care of children who are sick and unable to attend child care programs in which such children are enrolled.

(F) Providing assistance for the establishment and operation of child care programs for homeless children.

(G) Providing assistance to link child care programs with programs designed to assist the elderly.

(H)(i) Establishing and administering a revolving loan fund from which any person desiring to make capital improvements to the principal residence of such person (within the meaning of section 1034 of the Internal Revenue Code of 1986) may obtain a loan in order to become a licensed or regulated family child care provider, pursuant to State and local law, and to comply with the standards applicable to such providers as established by the State in each of the categories described in section 118(d)(2).

(ii) To permit the use of funds provided under this title for the activity described in clause (i), the State shall set forth procedures and guidelines to carry out the purposes of such clause, including procedures—

(I) that provide assurances that only applicants who with licensed or regulated to operate a child care facility in accordance with the provisions of State and local law and who will meet the State standards applicable to family child care services in each of the categories described in section 118(d)(2), benefit from loans made available pursuant to the provisions of clause (i);

(II) to assure that the revolving fund will be administered by the State and will provide loans to qualified applicants, pursuant to the terms and conditions established by such State, in an amount, determined by such State, that is not in excess of $1,500;

(III) to assure that funds used to carry out the purpose of clause (i) are transferred to such fund to provide capital for making loans;

(IV) to assure that interest and principal payments on loans and any other moneys, property, or assets derived from any action concerning such funds are deposited into such fund;

(V) to assure that all loans, expenses, and payments pursuant to the operation of the revolving loan fund are paid from such fund;

(VI) to assure that loans made from such fund are made to qualified applicants to enable such applicants to make capital improvements so that such applicants are able to become a licensed or regulated family child provider, pursuant to state and local tax and so that such applicants are able to meet the State standards applicable to such providers in each of the categories described in section 118(d)(2); and

(VII) that specify how such revolving loan fund will continue to be financed in subsequent years, such as through contributions by the State or by some other entity.

(I) Providing assistance for any other activity deemed by the State to be in accordance with the purposes of this paragraph.

(7) DISTRIBUTION OF FUNDS.—The plan shall provide that funds will be distributed—

(A) to a variety of types of child care providers, including center-based child care providers, group home child care providers, and family child care providers; and

(B) equitably among child care providers to provide child care services in rural and urban areas.

(8) PAYMENTS.—The plan shall provide that for child care services for which assistance is provided under this title, an eligible child care provider shall have a right to payment at the same rate charged by providers in the State or substate area for comparable services to children of comparable ages and special needs whose parents are not eligible for certificates under this title or for child care assistance under any other Federal or State program.

(9) PRIORITY.—The plan shall provide that priority will be given, in distributing funds in the State, to child care providers that—

(A) in providing child care services assisted by such funds, will give priority to eligible children of families with very low income, or children with special needs;

(B) to the maximum extent feasible, provide child care services to a reasonable mix of children, including children from different socioeconomic backgrounds and children with a handicapping condition;

(C) provide opportunities for parent involvement in all aspects of providing such services; and

(D) to the maximum extent feasible, offer family support services.

(10) SLIDING FEE SCALE.—The plan shall provide for the establishment of a sliding fee scale that requires cost sharing based on the services provided to and the income of the families (adjusted for family size) of eligible children who receive services for which assistance is provided under this title.

(11) PARENTAL INVOLVEMENT.—The plan shall establish procedures for parental involvement in State and local planning, monitoring, and evaluation of child care programs and services in the State.

(12) ENFORCEMENT OF LICENSING AND OTHER REGULATORY REQUIREMENTS (INCLUDING REGISTRATION REQUIREMENTS).—The plan shall provide that the State, not later than 3 years after the date of enactment of this title, shall have in effect enforcement policies and practices that will be applicable to all licensed or regulated child care providers (including child care providers required to register) in the State, including policies and practices that—

(A) require personnel who perform inspection functions with respect to licensed or regulated child care services to have knowledge concerning health and safety, child abuse prevention and detection, program management, and relevant law enforcement practices and policies;

(B) to the maximum extent feasible, have personnel requirements to ensure that individuals who are hired as licensing or regulatory inspectors are qualified to inspect and have inspection responsibility exclusively for children's services;

(C) require—

(i) personnel who perform inspection functions with respect to licensed or regulated child care services to make not less than 1 unannounced inspection of each center-based child care provider in the State annually; and

(ii) personnel who perform inspection functions with respect to licensed or regulated child care services to make periodic, unannounced inspections of all licensed or regulated family child care providers and group home child care providers in the State;

(D) require licensed or regulated child care providers (including registered child care providers) in the State—

(i) to have written program policies and to make a copy of such policies available to parents; and

(ii) to provide parents with unlimited access to their children and to providers caring for their children, during normal hours of operation of such providers and whenever children of such parents are in the care of such providers;

(E) implement a procedure to address complaints that will provide a reasonable opportunity for a parent, or child care provider, that is adversely affected or aggrieved by a decision of the lead agency or any program assisted under this title, to be heard by the State;

(F) prohibit the operator of a child care facility to take any action against an employee of such operator that would adversely affect the employment, or terms or conditions of employment, of such employee because such employee communicates a failure of such operator to comply with any applicable licensing or regulatory requirement;

(G) make consumer education information available to parents and the general public about licensing and regulatory requirements, complaint procedures, and policies and practices required by this paragraph;

(H) make readily available to parents the telephone number of the appropriate licensing or regulatory agency that parents may call regarding a failure of such provider to comply with any applicable licensing or regulatory requirement; and

(I) require the State to maintain a record of parental complaints and to make information regarding substantiated parental complaints available to the public on request.

(13) DATA COLLECTION.—The plan shall provide for the establishment of procedures for data collection by the State designed to show—

(A) by race, sex, ethnic origin, handicapping condition, and family income, how the child care needs of families in the State are being fulfilled, including information on—

(i) the number of children being assisted with funds provided under this title, and under other Federal child care and preschool programs;

(ii) the type and number of child care programs, child care providers, caregivers, and support personnel located in the State;

(iii) the average cost of child care in the State; and

(iv) such other information as the Secretary considers necessary to establish how funds provided under this title are being used;

(B) the extent to which the availability of child care has been increased; and

(C) how the purposes of this title and the objectives of the State set forth in the State plan are being met, including efforts to improve the quality, availability, and accessibility of child care;

and shall provide that data collected by the State under this paragraph shall be submitted to the Secretary.

(d) APPROVAL OF APPLICATION.—The Secretary shall approve an application that satisfies the requirements of this section.

(e) SPECIAL RULE.—Subject to compliance with the standards, licensing, and enforcement requirements of sections 107 and 110, the Secretary shall strongly encourage States to undertake the activities described in subparagraphs (A) and (D) of subsection (c)(5).

SEC. 108. SPECIAL RULES FOR USE OF STATE ALLOTMENTS.

(a) FUNDING OF CHILD CARE SERVICES.—

(1) IN GENERAL.—The child care services referred to in section 107(c)(4) that are to be provided out of the allotment to a State, shall be provided—

(A) by contracts with or grants to eligible child care providers who agree to provide such services directly to eligible children;

(B) by grants to units of general purpose local government, or by contracts to nonprofit private organizations designated by the State, that agree to enter into contracts with eligible child care providers who agree to provide such services directly to eligible children; or

(C) by distributing child care certificates to parents of eligible children under such terms as the Secretary shall prescribe to enable the recipients of such certificates to purchase child care services from eligible child care providers.

(2) LIMITATION ON CERTIFICATES.—Child care certificates authorized by paragraph (1)(C) may be issued by a State only if a resource and referral program carried out by an organization that meets the requirements of section 112 is available to help parents locate child care services made available by eligible child care providers.

(3) NO ENTITLEMENT TO CONTRACT OR GRANT.—Nothing in this title shall be construed to entitle any child care provider or recipient of a child care certificate to any contract, grant or benefit, or to limit the right of any State to impose additional limitations or conditions on contracts or grants funded under this title.

(b) PART-DAY PROGRAMS.—

(1) IN GENERAL.—At least 10 percent of the funds available for activities under section 107(c)(4)(A) shall be used by the State to enable child care providers to extend the hours of operation of the part-day programs described in paragraph (2) to provide full-working-day child care services throughout the year, in order to meet the needs of parents of eligible children.

(2) ELIGIBLE PROGRAMS.—As used in paragraph (1), the term "part-day programs" means—

(A) programs of schools and nonprofit child care providers (including community-based organizations) receiving State or local funds designated for preschool;

(B) programs established under the Head Start Act (42 U.S.C. 9831 et seq.);

(C) preschool programs for which assistance is provided under chapter 1 of the Education Consolidation and Improvement Act of 1981 (20 U.S.C. 3801 et seq.); and

(D) preschool programs for children with a handicapping condition.

(c) FACILITIES.—

(1) NEW FACILITIES.—No financial assistance provided under this title shall be expended for the construction of a new facility.

(2) EXISTING FACILITIES.—No financial assistance provided under this title shall be expended to renovate or repair any facility unless—

(A) the child care provider that receives such financial assistance agrees—

(i) in the case of a grant, to repay to the Secretary or the State, as the case may be, the amount that bears the same ratio to the amount of such grant as the value of the renovation or repair, as of the date such provider ceases to provide child care services in such facility in accordance with this title, bears to the original value of the renovation or repair; and

(ii) in the case of a loan, to repay immediately to the Secretary or the State, as the case may be, the principal amount of such loan outstanding and any interest accrued, as of the date such provider ceases to provide child care services in such facility in accordance with this title;

if such provider does not provide child care services in such facility in accordance with this title throughout the useful life of the renovation or repair; and

(B) if such provider is a sectarian agency or organization, the renovation or repair is necessary to bring such facility into compliance with health and safety requirements imposed by this title.

SEC. 109. PLANNING GRANTS.

(a) IN GENERAL.—A State desiring to participate in the programs authorized by this title that cannot fully satisfy the requirements of the State plan under section 107(b) without financial assistance may, in the first year that the State participates in the programs, apply to the Secretary for a planning grant.

(b) AUTHORIZATION.—The Secretary is authorized to make a planning grant to a State described in subsection (a) if the Secretary determines that—

(1) the grant would enable the State to fully satisfy the requirements of a State plan under section 107(b); and

(2) the State will apply, for the remainder of the allotment that the State is entitled to receive for such fiscal year.

(c) AMOUNT OF GRANT.—A grant made to a State under this section shall not exceed 1 percent of the total allotment that the State would qualify to receive in the fiscal year involved if the State fully satisfied the requirements of section 107.

(d) LIMITATION ON ADMINISTRATIVE COSTS.—A grant made under this section shall be considered to be expended for administrative costs by the State for purposes of determining the compliance by the State with the limitation on administrative costs imposed by section 107(c)(3)(F).

SEC. 110. CONTINUING ELIGIBILITY OF STATES.

A State shall be ineligible for assistance under this title after the expiration of the 3-year period beginning on the date of enactment of this title unless the State demonstrates to the satisfaction of the Secretary that—

(1) the State has established State child care standards in each of the categories described in paragraphs (1), (2), and (3) of section 118(d);

(2) all child care providers required to be licensed or regulated by the State—

(A) are so licensed or regulated; and

(B) are subject to the enforcement provisions referred to in the State plan; and

(3) all such providers who are receiving assistance under this title or under other publicly-assisted child care programs—

(A) satisfy the requirements of subparagraphs (A) and (B) of paragraph (2); and

(B) satisfy the State child care standards in each of the categories described in section 118(d) that are applicable to the child care services provided by such providers.

SEC. 111. STATE ADVISORY COMMITTEE ON CHILD CARE.

(a) ESTABLISHMENT.—The chief executive officer of a State participating in the program authorized by this title shall—

(1) establish a State advisory committee on child care (hereinafter in this section referred to as the "committee") to assist the lead agency in carrying out the responsibilities of the lead agency under this title; and

(2) appoint the members of the committee.

(b) COMPOSITION.—The State committee shall be composed of not fewer than 21 and not more than 30 members who shall include—

(1) at least 1 representative of the lead agency designated under section 106(a);

(2) 1 representative of each of—

(A) the State departments of—

(i) human resources or social services;

(ii) education;

(iii) economic development; and

(iv) health; and

(B) other State agencies having responsibility for the regulation, funding, or provision of child care services in the State;

(3) at least 1 representative of providers of different types of child care services, including caregivers and directors;

(4) at least 1 representative of early childhood development experts;

(5) at least 1 representative of school districts and teachers involved in the provision of child care services and preschool programs;

(6) at least 1 representative of resource and referral programs;

(7) 1 pediatrician;

(8) 1 representative of a citizen group concerned with child care;

(9) at least 1 representative of an organization representing child care employees;

(10) at least 1 representative of the Head Start agencies in the State;

(11) parents of children receiving, or in need of, child care services, including at least 2 parents whose children are receiving or are in need of subsidized child care services;

(12) 1 representative of specialists concerned with children who have a handicapping condition;

(13) 1 representative of individuals engaged in business;

(14) 1 representative of fire marshals and building inspectors;

(15) 1 representative of child protective services; and

(16) 1 representative of units of general purpose local government.

(c) FUNCTIONS.—The committee shall—

(1) advise the lead agency on child care policies;

(2) provide the lead agency with information necessary to coordinate the provision of child care services in the State;

(3) otherwise assist the lead agency in carrying out the functions assigned to the lead agency under section 106(c);

(4) in conjunction with the lead State agency, review and evaluate child services for which assistance is provided under this title or under State law, in meeting the ob-

jectives of the State plan and the purposes of this title;

(5) make recommendations on the development of State child care standards and policies;

(6) participate in the public hearings required under section 106(c)(4); and

(7) perform other functions to improve the quantity and quality of child care services in the State.

(d) MEETINGS AND HEARINGS.—

(1) IN GENERAL.—Not later than 30 days after the beginning of each fiscal year, the committee shall meet and establish the time, place, and manner of future meetings of the committee.

(2) MINIMUM NUMBER OF HEARINGS.—The committee shall have at least 1 public hearing each year at which the public shall be given an opportunity to express views concerning the administration and operation of the State plan.

(e) SUBCOMMITTEE ON LICENSING.—

(1) COMPOSITION.—The committee shall have a subcommittee on licensing (hereinafter in this section referred to as the "subcommittee") that shall be composed of the members appointed under paragraphs (2)(A)(iv), (3), (6), (7), (11), (14), (15), and (16) of subsection (b).

(2) FUNCTIONS.—The subcommittee shall review the law applicable to, and the licensing and regulatory requirements and the policies of, each licensing agency that regulates child care services and programs in the State unless the State has reviewed such law, requirements, and policies in the 3-year period ending on the date of the establishment of the committee under subsection (a).

(f) USE OF EXISTING COMMITTEES OR SUBCOMMITTEES.—To the extent that a State has established broadly representative State advisory groups, prior to the date of enactment of this title, that are comparable to the advisory committee or the subcommittee on licensing described in this section and focused exclusively on child care and early childhood development programs, such State shall be considered to be in compliance with subsections (a) through (c), or (e), as appropriate.

(g) REPORT.—

(1) IN GENERAL.—Not later than 3 years after the date of enactment of this title, the committee shall prepare and submit to the chief executive officer of the State involved a report that meets the requirements of paragraph (2).

(2) CONTENTS OF REPORT.—A report prepared under paragraph (1) shall contain information on child care services provided by center-based child care providers, group home child care providers, and family child care providers, including—

(A) a detailed statement of the findings and recommendations that result from the subcommittee review under subsection (e)(2), including a description of the current status of child care licensing, regulating, monitoring, and enforcement in the State;

(B) a detailed statement identifying and describing the deficiencies in the existing licensing, regulating, and monitoring programs of the State involved, including an assessment of the adequacy of staff to carry out such programs effectively, and recommendations to correct such deficiencies or to improve such programs; and

(C) comments on the relationship between the child care standards of the State and the national recommended child care standards established by the Secretary under section 118(e)(2).

(3) RECEIPT OF REPORT BY THE CHIEF EXECUTIVE OFFICER OF THE STATE.—Not later than 60 days after receiving the report from the committee, the chief executive officer of the State shall transmit such report to the Secretary with—

(A) the comments of the chief executive officer of the State; and

(B) a plan for addressing deficiencies in, or improving the licensing, regulating, and monitoring, of the child care services and programs referred to in subsection (f)(2).

(h) SERVICES AND PERSONNEL.—

(1) AUTHORITY.—The lead agency is authorized to provide the services of such personnel, and to contract for such other services as may be necessary, to enable the committee and the subcommittee to carry out their functions under this title.

(2) REIMBURSEMENT.—Members of the committee shall be reimbursed, in accordance with standards established by the Secretary, for necessary expenses incurred by such members in carrying out the functions of the committee and the subcommittee.

(3) SUFFICIENCY OF FUNDS.—The Secretary shall ensure that sufficient funds are made available, from funds available for the administration of the State plan, to the committee and the subcommittee to carry out the requirements of this section.

SEC. 112. RESOURCE AND REFERRAL PROGRAMS.

(a) ELIGIBILITY FOR ASSISTANCE.—Grants or contracts made or entered into by the State, pursuant to section 107(c)(5)(A), shall be made to, or entered into with, private nonprofit organizations or public organizations (including units of general purpose local government) who shall provide resource and referral services to families in the State.

(b) FUNDING.—Organizations that receive assistance under subsection (a) shall carry out resource and referral programs—

(1) to identify all types of existing child care services, including services provided by individual family child care providers and by child care providers who provide child care services to children with a handicapping condition;

(2) to provide to interested parents information and referral regarding such services, including the availability of public funds to obtain such services;

(3) to provide or arrange for, at the discretion of the State, the provision of information, training, and technical assistance to existing and potential child care providers and to others (including businesses) concerned with the availability of child care services; and

(4) to provide information on the demand for and supply of child care services located in a community.

(c) REQUIREMENTS.—To be eligible for assistance as a resource and referral agency under subsection (a), an organization shall—

(1) have or acquire a database of information on child care services in the State or in a particular geographical area that the organization continually updates, including child care services provided in centers, group home child care settings, nursery schools, and family child care settings;

(2) have the capability to provide resource and referral services in a particular geographical area;

(3) be able to provide parents with information to assist them in identifying quality child care services;

(4) to the maximum extent practicable, notify all eligible child care providers in such area of the functions it performs and solicit such providers to request to be listed to receive referrals made by such organization; and

(5) otherwise comply with regulations promulgated by the State in accordance with subsection (d).

(d) LIMITATION ON INFORMATION.—In carrying out this section, an organization receiving assistance under subsection (a) as a resource and referral agency shall not provide information concerning any child care program or services which are not in compliance with the laws of the State and localities in which such services are provided.

SEC. 113. TRAINING AND TECHNICAL ASSISTANCE.

(a) MINIMUM REQUIREMENT.—A State receiving funds under this title shall require, not later than 3 years after the date of the enactment of this title, that all employed or self-employed individuals who provide licensed or regulated center-based, family and group home child care services (including registered child care services) in a State complete a minimum number of hours of inservice training each year in areas appropriate to the provision of child care services, such as training in health and safety, nutrition, first aid, the recognition of communicable diseases, child abuse detection and prevention, and the needs of special populations of children.

(b) GRANTS AND CONTRACTS FOR TRAINING AND TECHNICAL ASSISTANCE.—

(1) GRANTS AND CONTRACTS.—The State may make grants to, and enter into contracts with State agencies, units of general purpose local government, institutions of higher education, and nonprofit organizations (including resource and referral organizations, child care food program sponsors, and family child care associations, as appropriate) to develop and carry out child care training and technical assistance programs under which preservice and continuing inservice training is provided to eligible child care providers, including family child care providers, and the staff of such providers including teachers, administrative personnel, and staff of resource and referral programs involved in providing child care services in the State.

(2) ELIGIBILITY REQUIREMENTS FOR GRANTS AND CONTRACTS RELATING TO TRAINING FOR FAMILY CHILD CARE PROVIDERS.—To be eligible to receive a grant or enter into a contract for a training and technical assistance program for family child care providers under paragraph (1), a nonprofit organization shall—

(A) recruit and train family child care providers, including providers with the capacity to provide night-time and emergency child care services;

(B) operate resource centers to make developmentally appropriate curriculum materials available to family child care providers;

(C) provide grants to family child care providers for the purchase of moderate cost equipment to be used to provide child care services; and

(D) if appropriate, operate a system of substitute caregivers.

(3) ELIGIBILITY REQUIREMENTS FOR GRANTS AND CONTRACTS RELATING TO TECHNICAL ASSISTANCE.—To be eligible to receive a grant, or enter into a contract under subsection (b) to provide technical assistance, an agency, organization, or institution shall agree to furnish technical assistance to child care providers to assist such providers—

(A) in understanding and complying with local regulations and relevant tax and other policies;

(B) in meeting State licensing, regulatory, and other requirements (including registra-

tion) pertaining to family child care providers.

(c) SCHOLARSHIP ASSISTANCE.—The State may provide scholarship assistance to—

(1) individuals who seek a nationally recognized child development associate credential for center-based or family child care in amounts sufficient to cover the costs involved in securing such credential; and

(2) caregivers who seek to obtain the training referred to in subsection (a) and whose income does not exceed such poverty line.

(d) CLEARINGHOUSE FUNCTION.—The State shall establish in the lead agency a clearinghouse function to collect and disseminate training materials to resource and referral agencies and child care providers throughout the State.

SEC. 114. CHILD CARE PUBLIC-PRIVATE PARTNERSHIP.

(a) ACTIVITIES AUTHORIZED.—Each State using funds as described in section 107(c)(6)(C) shall design activities conducted with such funds to encourage businesses in the State to support or provide child care services to a reasonable mix of children, including children from different socioeconomic backgrounds, and children of employees and nonemployees. Such activities may include—

(1) disseminating information relating to—

(A) model child care programs appropriate for implementation by such businesses;

(B) flexible employee work schedules; and

(C) other technical assistance that would enable employers to establish and operate child care programs;

(2) making grants or loans on a competitive basis to assist employers in establishing innovative child care programs;

(3) establishing a demonstration program under which grants are made to local nonprofit private organizations to improve and expand child care services in cooperation with employees who contribute to the cost of such improvement or expansion;

(4) making grants to non-profit business organizations to provide technical information and assistance to enable employers to develop and operate child care services; and

(5) encouraging such businesses to participate in resource and referral activities carried out by organizations recognized under section 112.

(b) DUTIES OF STATE.—In carrying out the activities described in subsection (a), the State shall—

(1) consult with the State advisory committee on child care established under section 111;

(2) provide outreach to businesses participating in such activities; and

(3) encourage such businesses to contribute to the cost of carrying out such activities.

(c) BUSINESS PARTNERSHIP TASK FORCE.—The State may carry out subsection (a) in consultation with—

(1) a business task force appointed by the State from among representatives of businesses of various sizes in the State; and

(2) a state entity that administers laws relating to productive economic development.

(d) PRESIDENT'S AWARD FOR PROGRESSIVE MANAGEMENT POLICY.—

(1) ESTABLISHMENT AND AWARD.—

(A) IN GENERAL.—There is established the President's Award for Progressive Management Policy to honor public and private sector employers who have—

(i) successfully implemented in their businesses family-oriented personnel programs and policies responsive to the child care needs of working parents; or

(ii) made significant contributions to child care projects in their communities.

(B) CITATION.—The President's Award for Responsive Management Policy shall consist of a certificate, plaque, or other appropriate citation.

(2) NOMINATION AND SELECTION.—

(A) NOMINATIONS.—Each year the President, acting through the Secretary of Labor, shall solicit nominations for the President's Award for Responsive Management Policy from State and local elected officials, educational institutions, State-based employee or business associations, or other State or local entities.

(B) RECIPIENTS.—The President, in conclusion with the Secretary of Labor, shall select not less than 3 such nominees from each State to receive the President's Award for that year.

(C) REPRESENTATION.—Of the nominees selected from each State to receive such awards, at least 1 shall represent—

(i) a small business;

(ii) an intermediate-size business; and

(iii) a large business.

(3) PRESENTATION.—The President shall present the President's Award each year with such ceremonies as the President may consider proper.

(4) REGULATIONS.—The Secretary of Labor shall promulgate such regulations as are necessary to carry out the provisions of this section.

SEC. 115. FEDERAL ADMINISTRATION OF CHILD CARE.

(a) ADMINISTRATOR OF CHILD CARE.—There is hereby established in the Department of Health and Human Services the position of Administrator of Child Care (hereinafter in this section referred to as the "Administrator"). The Secretary shall appoint an individual to serve as the Administrator at the pleasure of the Secretary.

(b) DUTIES.—The Administrator shall—

(1) coordinate all activities of the Department of Health and Human Services relating to child care, and coordinate such activities with similar activities of other Federal entities;

(2) annually collect and publish State child care standards, including periodic modifications to such standards;

(3) evaluate activities carried out with funds provided under this title;

(4) act as a clearinghouse to collect and disseminate materials that relate to—

(A) the child care training and technical assistance programs described in section 113(b)(1); and

(B) studies that relate to the salaries paid to individuals employed to provide child care services; and

(5) provide technical assistance to assist States to carry out this title.

SEC. 116. FEDERAL ENFORCEMENT.

(a) REVIEW OF COMPLIANCE WITH STATE PLAN.—The Secretary shall review and monitor State compliance with this title and the plan approved under section 107(d) for the State.

(b) NONCOMPLIANCE.—

(1) IN GENERAL.—If the Secretary, after reasonable notice and opportunity for a hearing to a State, finds that—

(A) there has been a failure by the State to comply substantially with any provision or any requirements set forth in the plan approved under section 107(d) for the State; or

(B) in the operation of any program or project for which assistance is provided under this title there is a failure by the State to comply substantially with any provision of this title;

the Secretary shall notify the State of the finding and that no further payments may be made to such State under this title (or, in the case of noncompliance in the operation of a program or activity, that no further payments to the State will be made with respect to such program or activity) until the Secretary is satisfied that there is no longer any such failure to comply or that the noncompliance will be promptly corrected.

(2) ADDITIONAL SANCTIONS.—In the case of a finding of noncompliance made pursuant to this paragraph (1), the Secretary may, in addition to imposing the sanctions described in such paragraph, impose other appropriate sanctions, including recoupment of money improperly expended for purposes prohibited or not authorized by this title, and disqualification from the receipt of financial assistance under this title.

(3) NOTICE.—The notice required under paragraph (1) shall include a specific identification of any additional sanction being imposed under paragraph (2).

(c) ISSUANCE OF RULES.—The Secretary shall establish by rule procedures for—

(1) receiving, processing, and determining the validity of complaints concerning any failure of a State to comply with the State plan or any requirement of this title; and

(2) imposing sanctions under this section.

SEC. 117. PAYMENTS.

(a) IN GENERAL.—

(1) AMOUNT OF PAYMENT.—Each State that—

(A) has an application approved by the Secretary under section 107(d); and

(B) demonstrates to the satisfaction of the Secretary that it will provide from non-Federal sources the State share of the aggregate amount to be expended by the State under the State plan for the fiscal year for which it requests a grant;

shall receive a payment under this section for such fiscal year in an amount (not to exceed its allotment under section 105 for such fiscal year) equal to the Federal share of the aggregate amount to be expended by the State under the State plan for such fiscal year.

(2) FEDERAL SHARE.—

The Federal share for each fiscal year shall be 80 percent.

(3) STATE SHARE.—The State share equals 100 percent minus the Federal share.

(4) LIMITATION.—A State may not require any private provider of child care services that receives or seeks funds made available under this title to contribute in cash or in kind to the State contribution required by this subsection.

(b) METHOD OF PAYMENT.—

(1) IN GENERAL.—Subject to paragraph (2), the Secretary may make payments to a State in installments, and in advance or by way of reimbursement, with necessary adjustments on account of overpayments or underpayments, as the Secretary may determine.

(2) LIMITATION.—The Secretary may not make such payments in a manner that prevents the State from complying with the requirement specified in section 107(c)(3)(F).

(c) SPENDING OF FUNDS BY STATE.—Payments to a State from the allotment under section 105 for any fiscal year may be expended by the State in that fiscal year or in the succeeding fiscal year.

SEC. 118. NATIONAL ADVISORY COMMITTEE ON RECOMMENDED CHILD CARE STANDARDS.

(a) ESTABLISHMENT.—

(1) IN GENERAL.—In order to improve the quality of child care services, the Secretary shall establish, not later than 60 days after the date of the enactment of this title, a National Advisory Committee on Recommended Child Care Standards (hereinafter in this section referred to as the "Committee"), the members of which shall be appointed from among representatives of—

(A) the chief executive officers of the several States;

(B) State legislatures;

(C) units of general purpose local governments;

(D) businesses;

(E) individuals responsible for regulating the insurance industry within the States;

(F) religious institutions;

(G) different types of child care providers;

(H) persons who carry out resource and referral programs;

(I) child care, early childhood development, or early childhood education specialists;

(J) individuals who have expertise in pediatric health care, handicapping conditions, and related fields;

(K) organizations representing child care employees;

(L) individuals who have experience in the regulation of child care services; and

(M) parents who have been actively involved in community child care programs.

(2) APPOINTMENT OF MEMBERS.—The Committee shall be composed of 20 members of which—

(A) 4 members shall be appointed by the President;

(B) 4 members shall be appointed by the majority leader of the Senate;

(C) 4 members shall be appointed by the minority leader of the Senate;

(D) 4 members shall be appointed by the Speaker of the House of Representatives; and

(E) 4 members shall be appointed by the minority leader of the House of Representatives.

(3) CHAIRMAN.—The President shall appoint a chairman from among the members of the Committee.

(4) VACANCIES.—A vacancy occurring on the Committee shall be filled in the same manner as that in which the original appointment was made.

(b) PERSONNEL, REIMBURSEMENT, AND OVERSIGHT.—

(1) PERSONNEL.—The Secretary shall make available to the Committee office facilities, personnel who are familiar with child development and with developing and implementing regulatory requirements, technical assistance, and funds as are necessary to enable the Committee to carry out effectively its functions.

(2) REIMBURSEMENT.—

(A) COMPENSATION.—Members of the Committee who are not regular full-time employees of the United States Government shall, while attending meetings and conferences of the Committee or otherwise engaged in the business of the Committee (including traveltime), be entitled to receive compensation at a rate fixed by the Secretary, but not exceeding the rate specified at the time of such service under GS-18 of the General Schedule established under section 5332 of title 5, United States Code.

(B) EXPENSES.—While away from their homes or regular places of business on the business of the Committee, such members may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons employed intermittently in the Government service.

(3) OVERSIGHT.—The Secretary shall ensure that the Committee is established and operated in accordance with the Federal Advisory Committee Act (5 U.S.C. App.).

(c) FUNCTIONS.—The Committee shall—

(1) review Federal policies with respect to child care services and such other data as the Committee may determine appropriate;

(2) not later than 180 days after the date on which a majority of the members of the Committee are first appointed, submit to the Secretary proposed recommended standards, as described in subsection (d), for child care services, taking into account the different needs of infants, toddlers, preschool and school-age children; and

(3) develop and make available to lead agencies, for distribution to resource and referral agencies in the State, model requirements for resource and referral agencies.

(d) RECOMMENDED CHILD CARE STANDARDS.—The proposed child care standards submitted by the Committee pursuant to subsection (c)(2) and the child care standards issued by the Secretary pursuant to subsection (e) shall be recommended standards and shall consist of only the following:

(1) CENTER-BASED CHILD CARE SERVICES.—Such standards submitted with respect to child care services provided by center-based child care providers shall be limited to—

(A) group size limits in terms of the number of caregivers and the number and ages of children;

(B) the maximum appropriate child-staff ratios;

(C) preservice qualifications and background of child care personnel;

(D) requirements for inservice training in areas appropriate to the provision of such child care services, including a minimum number of training hours requirement;

(E) health and safety requirements for children and caregivers, including requirements for—

(i) the prevention and control of infectious diseases (including immunization and handwashing procedures);

(ii) injury prevention, control and treatment;

(iii) building and physical premises safety;

(iv) general health and nutrition;

(v) children with special needs; and

(vi) prevention of child abuse; and

(F) requirements for parental involvement in licensed and regulated child care services.

(2) FAMILY CHILD CARE SERVICES.—Such standards submitted with respect to child care services provided by family child care providers shall be limited to—

(A) the maximum number of children for which child care services should be provided and the maximum number of infants for which child care services should be provided;

(B) the minimum age for caregivers;

(C) requirements for inservice training in areas appropriate to the provision of such child care services, including a minimum number of training hours requirement; and

(D) health and safety requirements for children and caregivers, including those described in paragraph (1)(E), as appropriate for family child care services.

(3) GROUP HOME CHILD CARE SERVICES.—Such standards submitted with respect to child care services provided by group home child care providers shall be limited to the matters specified in paragraphs (1)(B) and (2).

(4) LIMITATION.—The Committee shall not submit any standard under subsection (c)(2) and the Secretary shall not establish any standard under subsection (e) that is less or more rigorous than the least or most rigorous standard that exists in any of the States at the time of the submission or establishment of such recommendation.

(e) CONSIDERATION AND ESTABLISHMENT OF RECOMMENDED STANDARDS.—

(1) NOTICE OF PROPOSED RULEMAKING.—Not later than 90 days after receiving the recommendations of the Committee, the Secretary shall—

(A) publish in the Federal Register for public comment for a period of at least 60 days—

(i) the proposed recommended standards of the Committee submitted under subsection (c)(2); and

(ii) the proposed recommended standards of the Secretary; and

(B) distribute the proposed recommended standards of the Committee and the proposed recommended standards of the Secretary to each lead agency and each State subcommittee on licensing for comment.

(2) ESTABLISHMENT OF RECOMMENDED CHILD CARE STANDARDS.—

(A) ISSUANCE OF RULES.—The Secretary shall—

(i) take into consideration any comments received by the Secretary with respect to the standards published under paragraph (1); and

(ii) not later than 180 days after publication of such standards, issue rules establishing recommended child care standards for purposes of this title. Such standards shall include the nutrition requirements issued, and revised from time to time, under section 117(g)(1) of the National School Lunch Act (42 U.S.C. 1766(g)(1)).

(B) AMENDING STANDARDS.—The Secretary may amend any standard first established under subparagraph (A), except that such standard may not be modified, by amendment or otherwise, to make such standard less comprehensive or less stringent than it is when first established.

(C) EXTENDED PERIOD FOR COMMENT.—If the Secretary proposes a recommended standard under paragraph (2) that no State has a requirement concerning, as of the time that such standard is recommended, the Secretary shall provide an additional 30 days during which States may submit comments concerning such standard.

(3) ADDITIONAL COMMENTS.—The National Committee may submit to the Secretary and to the Congress such additional comments on the recommended child care standards established under paragraph (2) as the National Committee considers appropriate.

(f) TERMINATION OF COMMITTEE.—The National Committee shall cease to exist 90 days after the date the Secretary establishes recommended child care standards under subsection (e)(2).

SEC. 119. CHILD CARE STANDARDS IMPROVEMENT INCENTIVE GRANT PROGRAM.

(a) ESTABLISHMENT.—Not later than 3 years after the date of enactment of this title, the Secretary shall establish a child care standards improvement incentive grant program to make grants to eligible States to assist such States in improving State child care standards in the categories described in section 118(d).

(b) ELIGIBLE STATES.—To be eligible to receive a grant under this section a State shall prepare and submit to the Secretary an application in accordance with subsection (c).

(c) APPLICATION.—To be eligible to receive a grant under this section, a State shall prepare, and submit to the Secretary, an application at such time, in such form, and containing such information as the Secretary shall require, including—

(1) a certification that the State has consulted with the licensing subcommittee of the State in preparing the application and has provided an opportunity for public comment on such;

(2) an assurance that the State will meet the matching requirements of subsection (g);

(3) information that shall—

(A) describe the present level of child care standards that are in effect in such State;

(B) describe the prospective use of such grant; and

(C) describe the expected improvement in the child care standards of the State;

(4) an assurance that the State will use any amounts received under a grant under this section to specifically improve its child care standards; and

(5) any other information that the Secretary determines appropriate.

(d) CONSIDERATION AND AWARDING OF GRANTS BY SECRETARY.—

(1) INITIAL GRANTS.—The Secretary shall consider applications submitted by the States under subsection (c), and shall award the initial grants under this section to States on a competitive basis after considering the following criteria—

(A) the relative quality of the existing child care standards of the State as described in the application in comparison to such standards of other States that submit applications;

(B) the level of child care standards that the State desires to adopt and the State plans for achieving this improved level of standards; and

(C) the relative fiscal capacity of the State in comparison to that of other States that submit applications.

(2) SUBSEQUENT GRANTS.—In determining whether a State that submits an application under subsection (c) for subsequent grant under this section after the expiration of the previous grant, the Secretary shall award such grant based on the compliance of the State with the application for the previous grant. The Secretary may award a subsequent grant to a State that has not complied with such application of the State if the Secretary determines that factors beyond the control of the State significantly contributed to such non-compliance.

(e) USE OF GRANTS.—

(1) IN GENERAL.—States that receive grants under this section shall use amounts provided under such grants to specifically carry out the State application for improving its child care standards, as submitted by the State under subsection (c).

(2) SPECIFIC USES.—In meeting the requirement of paragraph (1), a State may use such amounts for any of the activities described in section 107(c)(5) if such activities are directly related to the State application for improving its child care standards.

(f) ADMINISTRATIVE PROVISIONS.—

(1) TERM OF GRANTS.—Grants made under this section shall be for a 2-year period with no State receiving more than three consecutive grants.

(2) TRANSFER OF FUNDS.—The Secretary may transfer funds made available for grants under this section to the amounts made available for allotments under section 105(b) if the Secretary determines that there is an insufficient number of qualified applications for grants under this section to utilize the entire amount of funds made available for such grants.

(3) TERMINATION.—The grant program established under this section shall terminate 8 years after the date of enactment of this title, or on the date on which funds are no longer appropriated under section 104(a), whichever occurs first.

(g) MATCHING REQUIREMENT.—

(1) IN GENERAL.—Each State that receives a grant under this section shall provide from non-Federal sources the State share of the aggregate amount of the grant.

(2) FEDERAL SHARE.—The Federal share for each fiscal year shall be 80 percent.

(3) STATE SHARE.—The State share equals 100 percent minus the Federal share.

(4) LIMITATION.—A State may not require any private provider of child care services that receives or seeks funds made available under this title to contribute in cash or in kind to the State contribution required by this subsection.

SEC. 120. NATIONAL STUDY ON CHILD CARE STANDARDS.

(a) IN GENERAL.—Not later than 4 years after the date of enactment of this title, the Secretary, in consultation with the Office of Technology Assessment, shall conduct a national study on child care standards that is based on the data collected by the States under section 107(c)(13) and the State reports submitted under section 111, and shall prepare and submit, to the appropriate Committees of Congress a report concerning such study.

(b) CONTENTS.—The report submitted under subsection (a) shall contain—

(1) an assessment of the compliance of the States with the requirement described in section 110 that the States have in place, not later than 3 years after the date of enactment of this title, State standards in each of the categories described in section 118(d);

(2) an assessment of the propriety of the recommendations of the National Advisory Committee on Recommended Child Care Standards and a summary of the level of standards in each State in relation to such recommendations;

(3) an assessment of the progress of the States and the activities undertaken by the States since the date of enactment of this title to meet the recommended child care standards; and

(4) recommendations for Congress concerning efforts that should be undertaken to further improve the access of the public to quality and affordable child care in the United States.

SEC. 121. LIMITATIONS ON USE OF FINANCIAL ASSISTANCE FOR CERTAIN PURPOSES.

(a) SECTARIAN PURPOSES AND ACTIVITIES.—No financial assistance provided under this title shall be expended for any sectarian purpose or activity, including sectarian worship and instruction, except that this subsection shall not apply to funds received by any eligible provider resulting from the distribution of a child care certificate to a parent under section 108(a)(1)(C). Financial assistance provided under this title shall not be expended in a manner inconsistent with the Constitution.

(b) TUITION.—With regard to services provided to students enrolled in grades 1 through 12, no financial assistance provided under this title shall be expended for—

(1) any services provided to such students during the regular school day;

(2) any services for which such students receive academic credit toward graduation; or

(3) any instructional services which supplant or duplicate the academic program of any public or private school.

SEC. 122. NONDISCRIMINATION.

(a) FEDERAL FINANCIAL ASSISTANCE.—Any financial assistance provided under this title, including a loan, grant, or child care certificate, shall constitute Federal financial assistance for purposes of title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.), title IX of the Education Amendments of 1972 (20 U.S.C. 1681, et seq.), the Rehabilitation Act of 1973 (29 U.S.C. 794 et seq.), the Age Discrimination Act of 1975 (42 U.S.C. 6101 et seq.), and the regulations issued thereunder.

(b) RELIGIOUS DISCRIMINATION.—

(1) IN GENERAL.—Nothing in this section shall be construed to modify or affect the provisions of any other Federal law or regulation that relates to discrimination in employment on the basis of religion, except as provided herein.

(2) DISCRIMINATION AGAINST CHILD.—

(A) IN GENERAL.—A child care provider that receives assistance under this title shall not discriminate against any child on the basis of religion in providing child care services.

(B) NON-FUNDED CHILD CARE SLOTS.—Nothing in this section shall prohibit a child care provider from selecting children for child care slots that are not funded directly with assistance provided under this title because such children or their family members participate on a regular basis in other activities of the organization that owns or operates such provider.

(3) EMPLOYMENT IN GENERAL.—

(A) PROHIBITION.—A child care provider that receives assistance under this title shall not discriminate in employment on the basis of the religion of the prospective employee if such employee's primary responsibility is or will be working directly with children in the provision of child care services.

(B) QUALIFIED APPLICANTS.—If two or more prospective employees are qualified for any position with a child care provider receiving assistance under this title, nothing in this section shall prohibit such child care provider from employing a prospective employee who is already participating on a regular basis in other activities of the organization that owns or operates such provider.

(C) PRESENT EMPLOYEES.—This paragraph shall not apply to employees of child care providers receiving assistance under this title if such employees are employed with the provider on the date of enactment of this title.

(4) EMPLOYMENT AND ADMISSION PRACTICES.—Notwithstanding paragraphs (2) and (3), if assistance provided under this title, and any other Federal or State program, amounts to 80 percent or more of the operating budget of a child care provider that receives such assistance, the Secretary shall not permit such provider to receive any further assistance under this title unless the grant or contract relating to the financial assistance, or the employment and admissions policies of the provider, specifically provides that no person with responsibilities in the operation of the child care program, project, or activity of the provider will discriminate against any individual in employment, if such employee's primary responsibility is or will be working directly with children in the provision of child care, or admis-

sions because of the religion of such individual.

(5) SEVERABILITY.—If any provision of this section or the application thereof to any individual or circumstance is held invalid, the invalidity shall not affect other provisions or applications of this title which can be given effect without regard to the invalid provision or application, and to this end the provisions of this section shall be severable.

SEC. 123. PRESERVATION OF PARENTAL RIGHTS AND RESPONSIBILITIES.

Nothing in this title shall be construed or applied in any manner to infringe upon or usurp the moral and legal rights and responsibilities of parents or legal guardians.

SEC. 124. CHILD CARE LIABILITY RISK RETENTION GROUP.

(a) PURPOSE.—It is the purpose of this section—

(1) to increase the availability of child care by alleviating the serious difficulty faced by child care providers in obtaining affordable liability insurance; and

(2) to provide States with a sufficient capital base for liability insurance purposes that may be increased or maintained through mechanisms developed by the State.

(b) FORMATION OF CHILD CARE LIABILITY RISK RETENTION GROUP.—

(1) ASSISTANCE IN FORMATION AND OPERATION OF GROUP.—Any State may assist in the establishment and operation of a child care liability risk retention group in the manner provided under this section.

(2) CHILD CARE LIABILITY RISK RETENTION GROUP DEFINED.—As used in this section, the term "child care liability risk retention group" means any corporation (or other limited liability association)—

(A) whose members are licensed or regulated child care providers pursuant to State and local law and who, not later than 3 years after the date of enactment of this title, comply with State child care standards in each of the categories described in section 118(d) that are applicable to the child care services provided by such members; and

(B) which otherwise satisfies the criteria for a risk retention group under section 2(4) of the Liability Risk Retention Act of 1986 (15 U.S.C. 3901(4)).

(c) STATE APPLICATIONS.—

(1) APPLICATIONS.—To qualify for assistance under this section, a State shall submit an application to the Secretary, at such time, in such manner, and containing or accompanied by such information as the Secretary may reasonably require, including information that meets the requirements of subsection (b) of this section.

(2) CONTENT OF STATE APPLICATION.—

(A) LEAD AGENCY.—The application shall identify the lead agency that has been designated and that is to be responsible for the administration of funds provided under this section.

(B) PARTICIPANTS IN RISK RETENTION GROUP.—The application shall assure that all participants in the child care liability risk retention group are licensed or regulated child care providers pursuant to State and local law who, not later than 3 years after the date of enactment of this title, comply with State child care standards in each of the categories described in section 118(d) that are applicable to the child care services they provide. In addition, the applicant shall provide for maximum membership of family-based child care providers in the group.

(C) USE OF FUNDS.—The application shall provide that the State shall use at least the amount allotted to the State in any fiscal year to establish or operate a child care liability risk retention group.

(D) CONTINUATION OF RISK RETENTION GROUP.—The application shall contain provisions that specify how the child care liability risk retention group will continue to be financed after fiscal year 1992, including financing through contributions by the State or by members of such group.

(d) FEDERAL ENFORCEMENT.—

(1) REVIEW OF APPLICATIONS.—The Secretary shall review and approve State applications submitted in accordance with this section and shall monitor State compliance with the provisions of this section.

(2) FINDING OF NONCOMPLIANCE.—If the Secretary, after reasonable notice to a State and opportunity for a hearing, finds—

(A) that there has been a failure to comply substantially with any provision or any requirements set forth in the State application of that State; or

(B) that there is a failure to comply substantially with any applicable provision of this section,

the Secretary shall notify such State of the findings and of the fact that no further payments may be made to such State under this section until the Secretary is satisfied that there is no longer any such failure to comply, or that the noncompliance will be promptly corrected.

(e) ALLOTMENT TO STATES.—

(1) IN GENERAL.—The Secretary shall make an allotment to each State from the sums appropriated to carry out the provisions of this section using the same allotment formula established under section 105.

(2) STATE ADMINISTRATIVE COSTS.—Of the amount allotted to a State pursuant to paragraph (1), an amount not to exceed 10 percent shall be used by such State to provide for the administrative costs of carrying out such program.

(f) PAYMENTS.—

(1) ENTITLEMENT.—Each State for which an application has been approved by the Secretary under this section shall be entitled to payments under this subsection for each fiscal year in an amount not to exceed its allotment under subsection (e) to be expended by the State in accordance with the terms of the application for the fiscal year for which the grant is to be made.

(2) METHOD OF PAYMENTS.—The Secretary may make payments to a State in installments, and in advance or, by way of reimbursement, with necessary adjustments on account of overpayments or underpayments, as the Secretary may determine.

(3) STATE SPENDING OF PAYMENTS.—Payments to a State from the allotment under subsection (e) for any fiscal year must be expended by the State in that fiscal year or in the succeeding fiscal year.

SEC. 125. HEAD START ACT AUTHORIZATION OF APPROPRIATIONS.

Section 639 of the Head Start Act (42 U.S.C. 9834) is amended by striking "$1,405,000,000" and inserting "$1,552,000,000".

SEC. 126. SEVERABILITY.

The provisions of this title are declared to be separable. If any one or more provisions of this title is held to be unconstitutional, the same shall not affect the validity of other provisions of this title.

TITLE II—INTERNAL REVENUE CODE PROVISIONS

SEC. 201. SHORT TITLE.

This title may be cited as the "Child Care and Health Insurance Act of 1989".

Subtitle A—Tax Credit for Certain Health Insurance Premiums and Child Care

SEC. 211. CREDIT FOR HEALTH INSURANCE PREMIUM COSTS.

(a) ALLOWANCE OF CREDIT.—Paragraph (1) of section 21(a) of the Internal Revenue Code of 1986 is amended to read as follows:

"(1) IN GENERAL.—In the case of an individual who maintains a household which includes as a member 1 or more qualifying individuals, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to the sum of—

"(A) the applicable percentage of the employment-related expenses paid by such individual during the taxable year, plus

"(B) the credit percentage of the qualified health insurance expenses paid by such individual during the taxable year."

(b) CREDIT PERCENTAGE.—Section 21(a) of the Internal Revenue Code of 1986 is amended by adding at the end thereof the following new paragraph:

"(3) CREDIT PERCENTAGE.—For purposes of paragraph (1), the term 'credit percentage' means 50 percent reduced (but not below zero) by 5 percentage points for each $1,000 (or fraction thereof) by which the taxpayer's adjusted gross income for the taxable year exceeds $12,000."

(c) LIMITATIONS.—

(1) DOLLAR LIMITATION.—Section 21(c) of the Internal Revenue Code of 1986 is amended to read as follows:

"(c) LIMITATIONS.—

"(1) DOLLAR LIMIT ON EMPLOYMENT-RELATED EXPENSES.—The amount of the employment-related expenses paid during any taxable year which may be taken into account under subsection (a)(1)(A) shall not exceed—

"(A) $2,400 if there is 1 qualifying individual with respect to the taxpayer for such taxable year, or

"(B) $4,800 if there are 2 or more such qualifying individuals.

The amount determined under subparagraph (A) or (B) (whichever is applicable) shall be reduced by the aggregate amount excludable from gross income under section 129 for the taxable year.

"(2) QUALIFIED HEALTH INSURANCE EXPENSES.—The amount of the qualified health insurance expenses paid during any taxable year which may be taken into account under subsection (a)(1)(B) shall not exceed $1,000."

(2) EARNED INCOME LIMITATION.—

(A) IN GENERAL.—Section 21(d) of such Code is amended by adding at the end thereof the following new paragraph:

"(3) SPECIAL RULE FOR QUALIFIED HEALTH INSURANCE EXPENSES.—The amount of the qualified health insurance expenses paid during any taxable year which may be taken into account under subsection (a)(1)(B) shall not exceed the excess (if any) of—

"(A) the earned income of the taxpayer for the taxable year, over

"(B) the amount of employment-related expenses taken into account under subsection (a)(1)(A)."

(B) CONFORMING AMENDMENT.—Paragraph (1) of section 21(d) of such Code is amended by striking "subsection (a)" and inserting "subsection (a)(1)(A)".

(d) DEFINITIONS AND RULES.—

(1) QUALIFIED HEALTH INSURANCE EXPENSES.—Section 21(b) of the Internal Revenue Code of 1986 is amended by adding at

the end thereof the following new paragraph:

"(3) QUALIFIED HEALTH INSURANCE EXPENSES.—

"(A) IN GENERAL.—The term 'qualified health insurance expenses' means amounts paid during the taxable year for insurance—

"(i) which constitutes medical care (within the meaning of section 213(d)(1)(C)), and

"(ii) under which coverage includes at least 1 qualifying individual.

For purposes of this paragraph, the rules of section 213(d)(6) shall apply.

"(B) QUALIFYING INDIVIDUAL.—For purposes of this paragraph and subsection (a)(1)(B), the term 'qualifying individual' means an individual described in paragraph (1)(A), except that such paragraph shall be applied by substituting 'age of 19' for 'age of 13'.

"(C) ELECTION NOT TO TAKE CREDIT.—A taxpayer may elect for any taxable year to have amounts described in subparagraph (A) not treated as qualified health insurance expenses."

(2) IDENTIFYING INFORMATION REQUIRED.—Section 21(e)(9) of such Code is amended by adding at the end thereof the following new sentence: "In the case of the credit allowable under subsection (a)(1)(B) for qualified health insurance expenses, the Secretary may require an insurance policy number in addition to (or in lieu of) the taxpayer identification number."

(e) COORDINATION WITH DEDUCTION FOR SELF-EMPLOYED INDIVIDUALS.—Section 162(l) of the Internal Revenue Code of 1986 is amended by redesignating paragraph (5) as paragraph (6) and by inserting after paragraph (4) the following new paragraph:

"(5) COORDINATION WITH HEALTH INSURANCE PREMIUM CREDIT.—Paragraph (1) shall not apply to any amount taken into account in computing the amount of the credit allowed under section 21."

(f) CONFORMING AMENDMENTS.—

(1) The heading for section 21 of the Internal Revenue Code of 1986 is amended by inserting "; HEALTH INSURANCE EXPENSES" after "EMPLOYMENT".

(2) The item relating to section 21 in the table of sections for subpart A of part IV of subchapter A of chapter 1 of such Code is amended by inserting "; health insurance expenses" after "employment".

(g) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1990.

SEC. 212. DEPENDENT CARE AND HEALTH INSURANCE PREMIUM CREDIT MADE REFUNDABLE.

(a) CREDIT MADE REFUNDABLE.—Section 21 of the Internal Revenue Code of 1986 (relating to credit for household and dependent care services) is amended by redesignating subsection (f) as subsection (g) and by inserting after subsection (e) the following new subsection:

"(f) CREDIT REFUNDABLE FOR LOW AND MODERATE INCOME TAXPAYERS.—

"(1) IN GENERAL.—For purposes of this subtitle, in the case of an applicable taxpayer, the credit allowable under subsection (a) for any taxable year shall be treated as a credit allowable under subpart C of this part.

"(2) APPLICABLE TAXPAYER.—For purposes of this subsection, the term 'applicable taxpayer' means a taxpayer whose adjusted gross income for the taxable year does not exceed $28,000 ($14,000 in the case of a married individual filing a separate return).

"(3) COORDINATION WITH ADVANCE PAYMENTS AND MINIMUM TAX.—Rules similar to the rules of subsections (g) and (h) of section 32 shall apply with respect to the portion of any credit to which this subsection applies."

(b) ADVANCE PAYMENT OF CREDIT.—

(1) IN GENERAL.—Chapter 25 of the Internal Revenue Code of 1986 is amended by inserting after section 3507 the following new section:

"SEC. 3507A. ADVANCE PAYMENT OF DEPENDENT CARE CREDIT.

"(a) GENERAL RULE.—Except as otherwise provided in this section, every employer making payment of wages with respect to whom a dependent care eligibility certificate is in effect shall, at the time of paying such wages, make an additional payment equal to such employee's dependent care advance amount.

"(b) DEPENDENT CARE ELIGIBILITY CERTIFICATE.—For purposes of this title, a dependent care eligibility certificate is a statement furnished by an employee to the employer which—

"(1) certifies that the employee will be eligible to receive the credit provided by section 21 for the taxable year,

"(2) certifies that the employee reasonably expects to be an applicable taxpayer (within the meaning of section 21(f)) for the taxable year,

"(3) certifies that the employee does not have a dependent care eligibility certificate in effect for the calendar year with respect to the payment of wages by another employer,

"(4) states whether or not the employee's spouse has a dependent care eligibility certificate in effect,

"(5) states the number of qualifying individuals in the household maintained by the employee, and

"(6) estimates the amount of employment-related expenses and qualified health insurance expenses for the calendar year.

"(c) DEPENDENT CARE ADVANCE AMOUNT.—

"(1) IN GENERAL.—For purposes of this title, the term 'dependent care advance amount' means, with respect to any payroll period, the amount determined—

"(A) on the basis of the employee's wages from the employer for such period,

"(B) on the basis of the employee's estimated employment-related expenses and qualified health insurance expenses included in the dependent care eligibility certificate, and

"(C) in accordance with tables provided by the Secretary.

"(2) ADVANCE AMOUNT TABLES.—The tables referred to in paragraph (1)(C) shall be similar in form to the tables prescribed under section 3402 and, to the maximum extent feasible, shall be coordinated with such tables and the tables prescribed under section 3507(c).

"(d) OTHER RULES.—For purposes of this section, rules similar to the rules of subsections (d) and (e) of section 3507 shall apply."

(2) CONFORMING AMENDMENT.—The table of sections for chapter 25 of such Code is amended by adding after the item relating to section 3507 the following new item:

"Sec. 3507A. Advance payment of dependent care credit."

(c) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in this subsection, the amendments made by this section shall apply to taxable years beginning after December 31, 1989.

(2) ADVANCE PAYMENT OF CREDIT.—The amendments made by subsection (b) shall apply to taxable years beginning after December 31, 1991.

(3) ONLY PORTION OF CREDIT REFUNDABLE IN 1990.—In the case of any taxpayer to whom section 21(f) of the Internal Revenue Code of 1986 (as added by subsection (a)) applies for any taxable year beginning in 1990—

(A) one-third of the amount of the credit allowable under section 21(a) of such Code for such taxable year shall be treated as a credit allowable under subpart C of part IV of subchapter A of chapter 1 of such Code, and

(B) the remaining two-thirds of the amount of such credit shall be treated as a credit allowable under section 21 of such Code.

SEC. 213. MODIFICATIONS OF DEPENDENT CARE CREDIT.

(a) INCREASE IN CREDIT FOR EXPENSES RELATING TO DEPENDENT CARE.—Paragraph (2) of section 21(a) of the Internal Revenue Code of 1986 is amended to read as follows:

"(2) APPLICABLE PERCENTAGE DEFINED.—For purposes of paragraph (1)—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the term 'applicable percentage' means 30 percent reduced (but not below 20 percent) by 1 percentage point for each $2,000 (or fraction thereof) by which the taxpayer's adjusted gross income for the taxable year exceeds $10,000.

"(B) HIGHER PERCENTAGES FOR LOW-INCOME TAXPAYERS.—The term 'applicable percentage' means in the case of any taxpayer with an adjusted gross income for the taxable year of—

"(i) $8,000 or less, 34 percent, and

"(ii) more than $8,000 but less than $10,000, 32 percent."

(b) CERTAIN SUBSIDIZED EXPENSES NOT ELIGIBLE FOR CREDIT.—Section 21(e) of the Internal Revenue Code of 1986 is amended by adding at the end there the following new paragraph:

"(10) SUBSIDIZED EXPENSES.—No expense shall be treated as an employment-related expense or qualifying health insurance expense to the extent such expense is paid, reimbursed, or subsidized (whether by being disregarded for purposes of another program or otherwise) by the Federal Government, a State or local government, or any agency or instrumentality thereof."

(c) EFFECTIVE DATES.—The amendments made by this section shall apply to taxable years beginning after December 31, 1989.

SEC. 214. STUDY OF ADVANCE PAYMENTS.

(a) IN GENERAL.—The Comptroller General of the United States shall, in consultation with the Secretary of the Treasury, conduct a study of advance payments required by section 3507A of the Internal Revenue Code of 1986 (as added by section 212(b)(1)) to determine—

(1) the effectiveness of the advance payment system, and

(2) the manner in which such system can be implemented to alleviate administrative complexity, if any, for small business.

(c) REPORT.—Not later than 1 year after the date of the enactment of this title, the Comptroller shall report the results of the study conducted under subsection (a), together with any recommendations, to the Committee on Finance of the United States Senate and the Committee on Ways and Means of the House of Representatives.

SEC. 215. PROGRAM TO INCREASE PUBLIC AWARENESS.

Not later than the first day of the first calendar year following the date of the enactment of this title, the Secretary of the Treasury, or the Secretary's delegate, shall establish a taxpayer awareness program to

inform the taxpaying public of the availability of the credit for dependent care and health insurance premiums allowed under section 21 of the Internal Revenue Code of 1986 (as amended by this subtitle). Such public awareness program shall be designed to assure that individuals who may be eligible are informed of the availability of such credit and filing procedures. The Secretary shall use public service and paid commercial advertising, direct-mail contact, and any other appropriate means of communication to carry out the provisions of this section.

SEC. 216. DEMONSTRATION PROJECTS TO EXTEND HEALTH INSURANCE TO CHILDREN NOT COVERED BY PUBLIC OR PRIVATE HEALTH PROGRAMS.

Section 1115 of the Social Security Act (42 U.S.C. 1315) is amended by adding at the end thereof the following new subsection:

"(d)(1)(A) The Secretary shall conduct demonstration projects to evaluate and extend the provision of health insurance to—

"(i) children under the age of 19 who are not covered by other public or private health programs, and

"(ii) at the option of the organization described in subparagraph (B), the parents of such children who are not so covered.

"(B) Subject to the provisions of paragraph (2), the Secretary may enter into agreements to provide coverage described in subparagraph (A) through public and private cooperative arrangements sponsored by organizations, including (but not limited to)—

"(i) school based programs;

"(ii) programs operated under the auspices of nonprofit entities offering health insurance; and

"(iii) programs operated by nonprofit hospitals.

"(2) Any agreement entered into between the Secretary and any organization under paragraph (1)(B)(ii) shall provide—

"(A) that such agreement will be in effect for a period of 5 years, except that such agreement shall be terminated for failure to meet the requirements of this paragraph;

"(B) that the portion of the costs of any coverage program under the agreement to be funded from amounts provided by non-Federal sources shall not be less than the greater of—

"(i) the percentage (not less than 50 percent) specified by the Secretary, or

"(ii) if, at the time the agreement is entered into, such organization is conducting a program similar to the program covered by the agreement, the portion of such similar program funded by such non-Federal sources; and

"(C) that the coverage program provided by such organization shall not—

"(i) restrict enrollment in such program on the basis of a child's medical condition, or

"(ii) impose waiting periods or exclusions for preexisting conditions.

"(3) The Secretary in conducting demonstration projects under this subsection shall provide in any agreement that any organization described in paragraph (1)(B) may charge a premium to individuals enrolling in the coverage program provided by such organization.

"(4) The demonstration projects conducted under this subsection shall evaluate the effects of program coverage under any agreement on—

"(A) access to health services,

"(B) availability of insurance coverage to participating children and their families,

"(C) characteristics of participating children and their families, and

"(D) health care costs.

"(5) The Secretary shall publish no later than January 1, 1990, criteria governing the eligibility and participation of organizations in the demonstration projects conducted under this subsection.

"(6) For purposes of carrying out the demonstration projects described in this subsection there are authorized to be appropriated $25,000,000 for each of the fiscal years 1990, 1991, 1992, 1993, and 1994."

Subtitle B—Employee Benefit Nondiscrimination Rules

SEC. 221. 1-YEAR DELAY IN APPLICATION OF SECTION 89 RULES.

(a) 1-YEAR DELAY.—Paragraph (1) of section 1151(k) of the Tax Reform Act of 1986 is amended to read as follows:

"(1) IN GENERAL.—The amendments made by this section shall apply to years beginning after December 31, 1989."

(b) CONFORMING AMENDMENT.—Subparagraph (F) of section 1011B(a)(22) of the Technical and Miscellaneous Revenue Act of 1988 is amended by striking "January 1, 1989" and inserting "January 1, 1990".

SEC. 222. REVISION OF ANTIDISCRIMINATION RULES FOR CERTAIN EMPLOYEE BENEFIT PLANS FOR YEARS BEGINNING AFTER 1989.

(a) GENERAL RULE.—Section 89 of the Internal Revenue Code of 1986 is amended to read as follows:

"SEC. 89. HEALTH BENEFITS PROVIDED TO HIGHLY COMPENSATED EMPLOYEES.

"(a) INCLUSION IN INCOME.—

"(1) IN GENERAL.—Notwithstanding any provision of part III of this subchapter, gross income of a highly compensated employee who is a participant in a health plan during any testing year shall include an amount equal to such employee's taxable benefit under such plan for such testing year.

"(2) YEAR OF INCLUSION.—

"(A) IN GENERAL.—Except as provided in subparagraph (B)—

"(i) any amount included in gross income under paragraph (1) shall be taken into account for the taxable year of the employee with or within which the testing year ends, and

"(ii) any deduction of the employer attributable to such amount shall be allowable for the taxable year of the employer with or within which the testing year ends.

"(B) ELECTION TO DELAY INCLUSION FOR 1 YEAR.—If an employer maintains a plan with a testing year ending after September 30 and on or before December 31 and elects the application of this subparagraph—

"(i) amounts included in gross income under paragraph (1) with respect to employees of such employer shall be taken into account for the taxable year of the employee following the taxable year determined under subparagraph (A), but

"(ii) any deduction of the employer which is attributable to such amounts shall be allowable for the taxable year with or within which the testing year following the testing year in which the taxable benefits were provided ends.

"(b) TAXABLE BENEFIT.—For purposes of this section—

"(1) TAXABLE BENEFIT UNDER PLANS NOT MEETING ELIGIBILITY REQUIREMENTS.—The taxable benefit of any highly compensated employee under any health plan not meeting the requirements of subsection (c) is the amount of such employee's employer-provided benefit under such plan.

"(2) TAXABLE BENEFIT UNDER PLANS MEETING ELIGIBILITY REQUIREMENTS.—

"(A) IN GENERAL.—The taxable benefit of any highly compensated employee under health plans meeting the requirements of subsection (c) is the excess (if any) of—

"(i) such employee's aggregate employer-provided benefit under such plans, over

"(ii) 133 percent of the base benefit with respect to such employee.

"(B) BASE BENEFIT.—For purposes of this paragraph—

"(i) IN GENERAL.—The term 'base benefit' means, with respect to any employee, the smallest employer-provided benefit for participants with the same number of covered individuals as such employee under any plan which was taken into account in determining whether the requirements of subsection (c)(1)(B) are met with respect to such participants.

"(ii) BASE BENEFIT WHERE MULTIPLE FAMILY OPTIONS AVAILABLE.—If there is no plan meeting the requirements of subsection (c)(1)(B) with respect to participants with the same number of covered individuals as an employee, the base benefit for such employee shall be the smallest employer-provided benefit under the plan which meets such requirements for participants with the next lowest number of covered individuals.

"(iii) BASE BENEFIT ZERO IN CERTAIN CASES.—If—

"(I) no plan of an employer meets the requirements of subsection (c)(1)(B) for participants with self-only coverage, or

"(II) an employer elects the application of this clause for any testing year,

the base benefit for all employees of such employer shall be zero.

"(C) AGGREGATION OF PLANS.—For purposes of subparagraph (A)(ii), an employer may elect to treat any group of 2 or more health plans as 1 plan if—

"(i) each of such plans is available to the same group of employees with the same eligibility requirements, and

"(ii) such plans when so aggregated qualify as a qualified core health plan.

"(c) REQUIREMENTS.—

"(1) IN GENERAL.—For purposes of this section, a health plan meets the requirements of this subsection if—

"(A) such plan does not contain any provision relating to eligibility to participate which (by its terms or otherwise) discriminates in favor of highly compensated employees, and

"(B) the employer maintains 1 or more qualified core health plans and at least 90 percent of all employees are eligible to participate in any of such plans.

"(2) QUALIFIED CORE HEALTH PLAN.—For purposes of this section, the term 'qualified core health plan' means any health plan if—

"(A) the employer-provided benefit under such plan primarily consists of core benefits, and

"(B) such health plan does not require contributions by an employee in excess of the reasonably expected allowable cost of the coverage provided to the employee.

Such term does not include any plan which includes a flexible spending arrangement.

"(3) ALLOWABLE COST.—For purposes of paragraph (2)(B)—

"(A) SELF-ONLY COVERAGE.—In the case of self-only coverage, the allowable cost is 40 percent of the cost of such coverage.

"(B) OTHER COVERAGE.—In the case of coverage other than self-only coverage, the allowable cost is an amount equal to the sum of—

"(i) 40 percent of the cost of such coverage, plus

"(ii) the amount (if any) by which the amount determined under subparagraph (A) exceeds the amount an employee is required to contribute for self-only coverage.

"(C) COST.—For purposes of this paragraph, cost shall be determined under subsection (f)(3)(B)(i) or (f)(3)(C), whichever applies.

"(4) CORE BENEFITS.—For purposes of this section, the term 'core benefits' means—

"(A) comprehensive major medical benefits,

"(B) comprehensive hospitalization benefits, and

"(C) at the election of the employer, other benefits specified by the Secretary.

"(5) SPECIAL RULE FOR SMALL EMPLOYERS.—

"(A) IN GENERAL.—In the case of a plan maintained by a small employer, if the number of employees determined under paragraph (1)(B) is not a whole number, such number shall be rounded to the next lowest whole number (or to 1 if such number is less than 1).

"(B) SMALL EMPLOYER.—For purposes of this paragraph, the term 'small employer' means an employer which normally employs 20 or fewer employees per day during the plan year. All employers treated as 1 employer for purposes of subsection (b), (c), (m), (n), or (o) of section 414 shall be so treated for purposes of the preceding sentence.

"(d) EXCLUDED EMPLOYEES.—

"(1) IN GENERAL.—The following employees shall be excluded from consideration under this section:

"(A) Employees who have not completed 6 months of service. An employee shall be excluded from consideration until the 1st day of the 1st month (or 1st day of a period of less than 31 days specified by the plan) beginning after completion of the period of service required under the preceding sentence.

"(B) Employees who normally work less than 30 hours per week.

"(C) Employees who normally work during not more than 6 months during any year.

"(D) Employees who have not attained age 21.

"(E) Employees who are nonresident aliens and who receive no earned income (within the meaning of section 911(d)(2)) from the employer which constitutes income from sources within the United States (within the meaning of section 861(a)(3)).

"(F) Employees who are students if—

"(i) such students are performing services described in section 3121(b)(10), and

"(ii) core benefits are made available to such students by such employer.

"(G) Any of the following:

"(i) Individuals who have attained the age of 55 and—

"(I) who are enrolled in a federally subsidized program under title V of the Older Americans Act, or

"(II) whose employment is funded under a grant or cooperative agreement made pursuant to the Environmental Programs Assistance Act of 1984.

"(ii) Individuals who are students employed under a cooperative education program which is qualified, or would be qualified, under title VIII of the Higher Education Act of 1965.

"(iii) Individuals who perform services at a rehabilitation facility and—

"(I) who are holding a certificate issued pursuant to section 14(c) of the Fair Labor Standards Act of 1938, or

"(II) who are receiving benefits under section 223 or title XVI of the Social Security Act.

"(iv) Individuals who are imprisoned in a correctional facility operated by or for the United States or a State (or political subdivision thereof) and who are performing services under a program operated by or for such facility.

"(v) Individuals who are performing services under any other similar Federal or State subsidized program specified by the Secretary.

"(2) SPECIAL RULES FOR EMPLOYEES EXCLUDED ON BASIS OF PERIOD OF SERVICE.—

"(A) SHORTER PERIOD.—If a plan specifies a shorter period of service than the period specified in paragraph (1)(A), paragraph (1)(A) shall be applied by using such shorter period.

"(B) SEPARATE APPLICATION.—If employees not meeting the service requirements of paragraph (1)(A) (after application of subparagraph (A)) are covered under a health plan of the employer, the requirements of this section shall be applied separately with respect to such employees.

"(3) EXCLUSION OF MEDICALLY UNINSURABLE EMPLOYEES OF SMALL EMPLOYERS.—In the case of a small employer (within the meaning of subsection (c)(5)(B)), there shall be excluded from consideration under this section employees of the employer who are determined to be medically uninsurable by a third party insurer providing coverage under the health plan.

"(e) SPECIAL RULES RELATING TO OTHER CLASSES OF EMPLOYEES.—For purposes of this section—

"(1) TREATMENT OF UNION EMPLOYEES.—

"(A) IN GENERAL.—If an employer has employees included in any qualified bargaining unit, this section shall be applied separately with respect to employees included in each such unit.

"(B) QUALIFIED BARGAINING UNIT.—For purposes of subparagraph (A), the term 'qualified bargaining unit' means any unit of employees covered by an agreement which the Secretary finds to be a collective bargaining agreement between employee representatives and 1 or more employers if—

"(i) there is evidence that health benefits were the subject of good faith bargaining between the employee representatives and such employer or employers, and

"(ii) not more than a de minimis number of such employees are professional employees.

"(2) EXCEPTIONS FOR EMPLOYEES OF MULTIEMPLOYER PLANS AND SIMILAR EMPLOYEES.—

"(A) IN GENERAL.—There shall be excluded from consideration under this section—

"(i) employees covered by a collective bargaining agreement pursuant to which a health plan which is a multiemployer plan is maintained, and

"(ii) employees with respect to which employer contributions to a health plan are required under—

"(I) the Act of March 3, 1931, commonly referred to as the Davis-Bacon Act (40 U.S.C. 276a, et seq.), or

"(II) any similar Federal law specified by the Secretary.

"(B) SPECIAL RULES FOR PROFESSIONALS AND NONUNION EMPLOYEES.—

"(i) PROFESSIONAL EMPLOYEES.—Subparagraph (A)(i) shall not apply to any employees covered by a multiemployer plan who are professional employees unless there is no more than a de minimis number of such employees covered by such plan.

"(ii) NONUNION EMPLOYEES.—Notwithstanding subparagraph (A)(i), if a multiemployer plan covers a de minimis number of individuals—

"(I) who are employees of the plan, and

"(II) who are not covered by any collective bargaining agreement pursuant to which the plan is maintained,

such individuals shall be excluded from consideration under this section.

"(3) TREATMENT OF FORMER EMPLOYEES.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), this section shall be applied separately to former employees under requirements similar to the requirements that apply to employees.

"(B) MODIFICATIONS OF REQUIREMENTS.—Except as provided in regulations, in applying this section to former employees—

"(i) subsection (c)(2)(B) shall not apply, and

"(ii) in determining whether the requirements of subsection (c)(1)(B) are met, the employer may take into account reasonable differences in eligibility to participate based on the age or service of the former employee.

"(C) FORMER EMPLOYEES SEPARATING BEFORE 1990.—This section shall not apply to any former employee who was separated from service before January 1, 1990 (and who was not reemployed on or after such date).

"(f) OTHER DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) HEALTH PLAN.—The term 'health plan' means an accident or health plan within the meaning of section 105(e). Such term shall not include a plan maintained by a church for church employees. For purposes of the preceding sentence, the term 'church' means any church (as defined in section 3121(w)(3)(A)) or qualified church-controlled organization (as defined in section 3121(w)(3)(B)).

"(2) HIGHLY COMPENSATED EMPLOYEE.—The term 'highly compensated employee' has the meaning given such term by section 414(q); except that paragraph (5)(B) of such section shall not apply.

"(3) EMPLOYER-PROVIDED BENEFIT.—

"(A) IN GENERAL.—An employee's employer-provided benefit under any health plan is the value of the coverage provided during the testing year to or on behalf of such employee to the extent attributable to contributions made by the employer.

"(B) VALUE OF COVERAGE.—

"(i) IN GENERAL.—Except as provided in clause (ii), the value of the coverage provided under any health plan shall be determined in substantially the same manner as costs under a health plan are determined under section 4980B(f)(4).

"(ii) ELECTION BY EMPLOYER.—At the election of the employer, and except as provided in regulations, the value of the coverage shall be determined under any other reasonable method selected by the employer. This clause shall not apply for purposes of subsection (b) or (c)(2)(B).

"(C) SPECIAL RULE FOR SMALL EMPLOYERS.—Except as provided by the Secretary, in the case of a qualified core health plan with respect to which costs are individually rated, such employer may elect to determine the value of the coverage under the plan for all employees on the basis of the average cost for employees with the same coverage.

"(4) SEPARATE LINE OF BUSINESS EXCEPTION.—

"(A) IN GENERAL.—If, under section 414(r), an employer is treated as operating separate lines of business for a year, the employer may apply the provisions of this section separately with respect to employees in each such separate line of business. The preceding sentence shall not apply to any plan unless such plan is available to a group of employees as qualify under a classification set up by the employer and found by the Secretary not to be discriminatory in favor of highly compensated employees.

"(B) OPERATING UNITS.—In applying section 414(r)(7) for purposes of this section, an operating unit shall be treated as in a separate geographic area from another unit if such units are at least 35 miles apart.

"(5) TREATMENT OF SALARY REDUCTION ARRANGEMENTS.—

"(A) IN GENERAL.—Any contribution by reason of a salary reduction arrangement shall be treated as an employer contribution for purposes of determining the employer-provided benefit of a highly compensated employee.

"(B) ALLOWABLE COST TEST.—For purposes of subsection (c)(2)(B)—

"(i) IN GENERAL.—Any contribution by reason of a salary reduction arrangement (other than a qualified cash payment) shall be treated as an employee contribution.

"(ii) TREATMENT OF QUALIFIED CASH PAYMENTS.—Qualified cash payments shall be treated as employer contributions.

"(C) BASE BENEFIT.—For purposes of subsection (b)(2)(A)(ii), the base benefit under a plan shall be determined—

"(i) by treating any qualified cash payment as an employer-provided benefit, and

"(ii) by treating any other contribution by reason of a salary reduction arrangement as an employer-provided benefit only to the extent such contribution is matched dollar for dollar by an employer contribution which is not made by reason of a salary reduction arrangement.

"(D) QUALIFIED CASH PAYMENT.—For purposes of this paragraph, the term 'qualified cash payment' means an amount which is payable in cash to an employee and which is made solely because—

"(i) such employee elects not to be covered by any plan of the employer providing core benefits, and

"(ii) the employee indicates that he is covered by a health plan providing core benefits maintained by another employer.

"(6) TESTING YEAR.—The term 'testing year' means—

"(A) any 12-month period beginning with the calendar month designated in the plan for purposes of this section, or

"(B) if there is no such designation, the calendar year.

No period may be designated under subparagraph (A) unless the same period is designated with respect to all other health plans of the employer. Any designation under subparagraph (A) may be changed only with the consent of the Secretary.

"(7) TIME FOR TESTING.—

"(A) IN GENERAL.—Except as provided in regulations prescribed by the Secretary, determinations under this section (other than the determination of a highly compensated employee's actual employer-provided benefit) shall be made on the basis of the facts as of the testing day.

"(B) TESTING DAY.—For purposes of this paragraph, the term 'testing day' means—

"(i) the day designated for the plan as the testing day for purposes of this paragraph, or

"(ii) if there is no day so designated, the last day of the testing year.

"(C) LIMITATIONS.—

"(i) DESIGNATION MUST BE CONSISTENT FOR ALL HEALTH PLANS.—No day may be designated under subparagraph (B)(i) with respect to any plan unless the same day is so designated with respect to all other health plans of the employer.

"(ii) DESIGNATION BINDING.—Any designation under subparagraph (B)(i) shall apply to the testing year for which made and all subsequent years unless revoked with the consent of the Secretary.

"(D) SPECIAL RULE FOR MULTIPLE EMPLOYER PLAN.—In the case of a plan maintained by more than 1 employer (other than a multiemployer plan), each employer may, subject to such rules as the Secretary may prescribe, elect its own testing year under paragraph (6) and its own testing date under this paragraph.

"(8) SPECIAL RULES FOR CERTAIN DISPOSITIONS OR ACQUISITIONS.—

"(A) IN GENERAL.—If a person becomes, or ceases to be, a member of a group described in subsection (b), (c), (m), or (o) of section 414, then the requirements of subsection (c) shall be treated as having been met during the transition period with respect to any plan covering employees of such person or any other member of such group if—

"(i) such requirements were met immediately before such change, and

"(ii) either—

"(I) the coverage under such plan is not significantly changed during the transition period (other than by reason of the change in members of such group), or

"(II) such plan meets such other requirements as the Secretary may prescribe by regulation.

"(B) TRANSITION PERIOD.—For purposes of subparagraph (A), the term 'transition period' means the period—

"(i) beginning on the date of the change in members of a group, and

"(ii) ending on the last day of the 1st plan year beginning after such date of change.

"(9) COORDINATION WITH MEDICARE, ETC.—

"(A) IN GENERAL.—If a plan is coordinated with health or disability benefits provided under any Federal, State, or foreign law or under any other health plan covering the employee or family member of the employee, such plan shall not fail to meet the requirements of subsection (c) merely because the amount of benefits provided to an employee or family member are coordinated in a manner which does not discriminate in favor of highly compensated employees.

"(B) CERTAIN DISABILITY PLANS EXEMPT FROM NONDISCRIMINATION RULES.—This section shall not apply to any disability coverage other than disability coverage the benefits of which are excludable from gross income under section 105 (b) or (c).

"(C) ACCIDENTAL DEATH AND DISMEMBERMENT.—In the case of accidental death and dismemberment benefits—

"(i) this section shall not apply, and

"(ii) rules similar to the rules of section 79(d) shall apply to such benefits.

"(10) EMPLOYERS WITH ONLY HIGHLY COMPENSATED EMPLOYEES.—This section shall not apply to any health plan for any year if the only employees of the employer maintaining such plan are highly compensated employees.

"(g) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section."

(b) EXCISE TAX ON PLANS NOT MEETING CERTAIN REQUIREMENTS.—

(1) IN GENERAL.—Chapter 43 of such Code is amended by adding at the end thereof the following new section:

"SEC. 4980C. FAILURE TO SATISFY CERTAIN REQUIREMENTS WITH RESPECT TO EMPLOYEE BENEFITS PLANS.

"(a) IMPOSITION OF TAX.—

"(1) GENERAL RULE.—There is hereby imposed a tax equal to 34 percent of the amounts paid or incurred during any taxable year under a specified employee benefit plan which at any time during the taxable year does not meet the requirements of subsection (c).

"(2) LIABILITY FOR TAX.—The following shall be liable for the tax imposed by paragraph (1):

"(A) In the case of a plan other than a multiemployer plan, the employer.

"(B) In the case of a multiemployer plan, the plan.

"(b) LIMITATIONS ON AMOUNT OF TAX.—

"(1) TAX NOT TO APPLY WHERE FAILURE NOT DISCOVERED EXERCISING REASONABLE DILIGENCE.—No tax shall be imposed by subsection (a) on any failure during any period for which it is established to the satisfaction of the Secretary that none of the persons referred to in subsection (a)(2) knew, or exercising reasonable diligence would have known, that such failure existed.

"(2) TAX NOT TO APPLY TO FAILURES CORRECTED WITHIN 180 DAYS.—No tax shall be imposed by subsection (a) on any failure if—

"(A) such failure was due to reasonable cause and not to willful neglect, and

"(B) such failure is corrected during the 180-day period beginning on the 1st date any of the persons referred to in subsection (a)(2) knew, or exercising reasonable diligence would have known, that such failure existed.

"(3) WAIVER BY THE SECRETARY.—In the case of a failure which is due to reasonable cause and not to willful neglect, the Secretary may waive part or all of the tax imposed by subsection (a) to the extent that the payment of such tax would be excessive relative to the failure involved.

"(c) REQUIREMENTS.—A specified employee benefit plan does not meet the requirements of this subsection unless, except to the extent provided in regulations—

"(1) such plan is in writing,

"(2) the employee's rights under such plan are legally enforceable,

"(3) employees are provided reasonable notification of benefits available in the plan,

"(4) such plan is maintained for the exclusive benefit of employees, and

"(5) such plan was established with the intention of being maintained for an indefinite period of time.

In the case of a plan described in subsection (d)(1) maintained by a small employer (within the meaning of section 89(c)(5)(B)), the requirements of paragraph (1) shall be treated as met if the plan consists of an insurance policy issued by a third party insurer.

"(d) SPECIFIED EMPLOYEE BENEFIT PLAN.—For purposes of this section, the term 'specified employee benefit plan' means—

"(1) an accident or health plan (within the meaning of section 105(e)),

"(2) any plan of an employer for providing group-term life insurance (within the meaning of section 79),

"(3) a qualified tuition reduction program (within the meaning of section 117(d)),

"(4) a cafeteria plan (within the meaning of section 125), and

"(5) a plan to which section 505 applies.

Such term shall not include a plan maintained by a church (within the meaning of section 89(f)(1)) for church employees.

"(e) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section."

(2) CLERICAL AMENDMENT.—The table of sections for chapter 43 of such Code is amended by adding at the end thereof the following new item:

"Sec. 4980C. Failure to satisfy certain requirements with respect to employee benefits plans."

(c) NONDISCRIMINATION REQUIREMENTS FOR GROUP-TERM LIFE INSURANCE.—

(1) RESTORATION OF PRIOR LAW.—The amendment made by section 1151(c)(1) of the Tax Reform Act of 1986 is hereby repealed and section 79(d) of the Internal Revenue Code of 1986 shall be applied and administered as if the amendment made by such section 1151(c)(1) had not been enacted.

(2) EXCLUSION OF CERTAIN EMPLOYEES.—Subparagraph (B) of section 79(d)(3) of such Code (as in effect on the day before the date of the enactment of the Tax Reform Act of 1986) is amended to read as follows:

"(B) EXCLUDED EMPLOYEES.—For purposes of subparagraph (A), there shall be excluded from consideration employees—

"(i) who are excluded from consideration under rules similar to the rules under section 89(d), determined—

"(I) by substituting '1 year' for '6 months' in paragraph (1)(A) thereof, and

"(II) without regard to paragraph (3) thereof, and

"(ii) employees not included in the plan who are included in a unit of employees covered by an agreement which the Secretary finds to be a collective bargaining agreement between employee representatives and 1 or more employees, if the benefits provided under the plan were the subject of good faith bargaining between such representatives and employers."

(d) CONFORMING AMENDMENTS.—

(1)(A) Sections 117(d)(4), 125(b)(3), and 127(b)(2) of such Code are each amended by striking "section 89(h)" and inserting "rules similar to the rules of subsection (d) of section 89 (determined by substituting '1 year' for '6 months' in paragraph (1)(A) and without regard to paragraph (3))".

(B) Paragraph (2) of section 120(c) of such Code is amended to read as follows:

"(2) ELIGIBILITY.—

"(A) IN GENERAL.—The plan shall benefit employees who qualify under a classification set up by the employer and found by the Secretary not to be discriminatory in favor of employees who are described in paragraph (1).

"(B) EXCLUDED EMPLOYEES.—For purposes of subparagraph (A), there shall be excluded from consideration employees—

"(i) who are excluded from consideration under rules similar to the rules of section 89(d), determined—

"(I) by substituting '1 year' for '6 months' in paragraph (1)(A), and

"(II) without regard to paragraph (3), and

"(ii) employees not included in a plan who are included in a unit of employees covered by an agreement which the Secretary finds to be a collective bargaining agreement between employee representatives and 1 or more employers, if there is evidence that group legal services plan benefits were the subject of good faith bargaining between such representatives and employees."

(C) Paragraph (8) of section 129(d) of such Code is amended to read as follows:

"(8) EXCLUDED EMPLOYEES.—For purposes of paragraphs (2), (3), and (7), there shall be excluded from consideration employees—

"(A) who are excluded from consideration under rules similar to the rules of section 89(d), determined—

"(i) by substituting '1 year' for '6 months' in paragraph (1)(A), and

"(ii) without regard to paragraph (3), and

"(B) employees not included in a program who are included in a unit of employees covered by an agreement which the Secretary finds to be a collective bargaining agreement between employee representatives and 1 or more employers, if there is evidence that dependent care benefits were the subject of good faith bargaining between such representatives and employees."

(D) Paragraph (2) of section 505(b) of such Code is amended to read as follows:

"(2) EXCLUDED EMPLOYEES.—For purposes of paragraph (1), there shall be excluded from consideration employees—

"(A) who are excluded from consideration under rules similar to the rules of section 89(d), determined—

"(i) by substituting '1 year' for '6 months' in paragraph (1)(A), and

"(ii) without regard to paragraph (3), and

"(B) employees not included in a program who are included in a unit of employees covered by an agreement which the Secretary finds to be a collective bargaining agreement between employee representatives and 1 or more employers, if there is evidence that the class of benefits involved were the subject of good faith bargaining between such representatives and employers."

(2) Sections 120(b)(2), 125(c)(1), 127(b)(1)(B), and 129(d)(1)(B) of such Code are each amended by striking "89(k)" and inserting "4980C".

(3) Subparagraph (C) of section 125(c)(2) of such Code is amended by striking the last sentence thereof.

(4) Paragraph (1) of section 125(e) of such Code is amended by striking "section 89(a)" and inserting "sections 79(d) and 89(a)".

(5) Subparagraph (B) of section 162(l)(2) of such Code is amended by inserting "and treating individuals who are employees within the meaning of section 401(c)(1) as employees" before the period at the end thereof.

(6)(A) Subsection (b) of section 4976 of such Code is amended by striking paragraph (5).

(B) Subparagraph (B) of section 4976(c)(1) of such Code is amended to read as follows:

"(B) a health or group-term life insurance plan is part of such fund and benefits under such plan are taxable under chapter 1 by reason of section 79(d) or 89,".

(C) Clause (i) of section 4976(c)(2)(A) of such Code is amended to read as follows:

"(i) the aggregate taxable benefits referred to in paragraph (1)(B), or".

(D) Clause (ii) of section 4976(c)(2)(A) of such Code is amended by striking "such testing year" and inserting "the plan year".

(E) Section 4976(c) is amended by adding at the end thereof the following new paragraph:

"(3) TAX NOT TO APPLY IF AMOUNTS REPORTED ON W-2 FORMS.—No tax shall be imposed under paragraph (1) for any plan year if the employer meets the requirements of section 6051(g) for such year."

(7) Section 6051 of such Code is amended by adding at the end thereof the following new subsection:

"(g) REPORTING REQUIREMENTS FOR CERTAIN TAXABLE FRINGE BENEFITS.—

"(1) IN GENERAL.—If an employee of an employer maintaining any plan is required to include any amount in gross income under section 79(d) or 89 for any year ending with or within a calendar year, the employer shall separately include such amount on the statement which the employer is required to provide the employee under subsection (a) (and any statement required to be furnished under subsection (d)).

"(2) PENALTY.—

"For penalty for failure to report, see section 6652(k)."

(8)(A) Paragraph (1) of section 6652(k) of such Code is amended by striking "89(l)" and inserting "6051(g)".

(B) Paragraph (2) of section 6652(k) of such Code is amended by striking subparagraph (B) and inserting the following:

"(B) an amount which bears the same ratio to the employer-provided benefit with respect to the individual to whom such failure relates as the amount required to be but not shown on timely statements under sections 6051(a) and 6051(d) bears to the amount required to be shown.

For purposes of subparagraph (B), the term 'employer-provided benefit' means the employer-provided benefit determined under section 89 in the case of a health benefit and the cost of insurance determined under section 79(c) in case of a plan providing group-term life insurance."

(9) The table of sections for part II of subchapter B of chapter 1 of such Code is amended by striking the item relating to section 89 and inserting the following:

"Sec. 89. Health benefits provided to highly compensated employees."

(10) Paragraphs (1), (2), and (3) of section 3021(c) of the Technical and Miscellaneous Revenue Act of 1988 are hereby repealed.

(11) Section 6070 of the Technical and Miscellaneous Revenue Act of 1988 is hereby repealed.

(e) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by this section shall apply as if included in the amendments made by section 1151 of the Tax Reform Act of 1986.

(2) SPECIAL RULE FOR COLLECTIVELY BARGAINED PLANS.—In the case of a plan maintained pursuant to 1 or more collective bargaining agreements between employee representatives and 1 or more employers ratified before the date of the enactment of the Child Care and Health Insurance Act of 1989, the amendments made by subsection (a) shall not apply to any employee covered by such an agreement in years beginning before the earlier of—

(A) the date on which the agreement covering such employee expires (without regard to any extension thereof after such date of enactment), or

(B) January 1, 1993.

(3) ELECTION NOT TO HAVE AMENDMENTS APPLY.—

(A) IN GENERAL.—An employer may elect not to have the amendments made by subsection (a) apply to health plans maintained by the employer for years beginning in 1990 or 1991. Such election shall be made each year and shall apply to all health plans of the employer maintained during such year.

(B) EFFECT OF AN ELECTION.—If an election is made under subparagraph (A), section 89 of the Internal Revenue Code of 1986 (as in effect before the amendments made by subsection (a)) shall apply; except that—

(i) such section shall be treated as if it only applied to health plans,

(ii) section 89(d) of such Code (as in effect after such amendments) shall apply in lieu of section 89(h) of such Code (as in effect before such amendments), and

(iii) paragraphs (2) and (3) of section 89(e) of such Code (as in effect after such amendments) shall apply.

(4) ELECTION NOT TO HAVE AMENDMENTS APPLY TO DEPENDENT CARE ASSISTANCE PROGRAMS.—

(A) IN GENERAL.—An employer maintaining a dependent care assistance program to which section 129 of the Internal Revenue Code of 1986 applies may elect (in the same manner as under paragraph (2)) not to have the amendments made by this section (to the extent such amendments apply to such program) apply for years beginning in 1990 or 1991.

(B) EFFECT.—If an election is made under this paragraph, paragraph (2)(B) shall apply to the program, except that "dependent care assistance programs" shall be substituted for "health plans".

SEC. 223. OTHER PROVISIONS RELATING TO NONTAXABLE BENEFITS.

(a) TREATMENT OF LEASED EMPLOYEES.—

(1) REPLACEMENT OF HISTORICAL TEST WITH CONTROL TEST.—Subparagraph (C) of section 414(n)(2) of the Internal Revenue Code of 1986 is amended to read as follows:

"(C) such services are performed by such person under the control of the recipient."

(2) SERVICES INCIDENTAL TO SALES OR CONSTRUCTION DISREGARDED.—Paragraph (2) of section 414(n) of such Code is amended by adding at the end thereof the following new flush sentence.

"The term 'leased employee' shall not include an individual solely because such individual is performing services incidental to the sale of goods or equipment or incidental to the construction of a facility. Such term shall include the support staff of professional employees."

(b) DEPENDENT CARE ASSISTANCE.—

(1) INCLUSION IN INCOME OF EXCESS BENEFITS.—Paragraph (7) of section 129(d) of such Code is amended by adding at the end thereof the following new paragraph:

"(C) FAILURE TO MEET REQUIREMENTS.—

"(i) IN GENERAL.—If a plan fails to meet the requirements of this paragraph for any plan year—

"(I) such plan shall be treated as a plan which is a dependent care assistance program to which subsection (a) applies, but

"(II) there shall be included in the gross income of each highly compensated employee for the taxable year of such employee with or within which the plan year ends an amount equal to such employee's excess benefit.

"(ii) EXCESS BENEFIT.—For purposes of this subparagraph, the excess benefit of any employee is the excess of the employee's employer-provided benefit under the plan over the highest permitted benefit.

"(iii) HIGHEST PERMITTED BENEFIT.—For purposes of clause (ii), the highest permitted benefit under any plan shall be determined by reducing the nontaxable benefits of highly compensated employees (beginning with employees with the greatest nontaxable benefits) until such plan would be treated as meeting the requirements of subparagraph (A) if such reduced benefits were taken into account."

(2) INFORMATION REPORTING.—Paragraph (9) of section 6051(a) of such Code is amended by inserting "and the amount of such assistance required to be included in gross income by reason of section 129(d)(7)(C)" after "section 129(d)".

(c) GROUP-TERM LIFE INSURANCE.—

(1) HIGHLY COMPENSATED EMPLOYEES.—

(A) Section 79(d) of such Code is amended by striking "key" each place it appears (other than paragraph (6)) and inserting "highly compensated".

(B) Paragraph (6) of section 79(d) of such Code is amended to read as follows:

"(6) HIGHLY COMPENSATED EMPLOYEE.—For purposes of this subsection, the term 'highly compensated employee' has the meaning given such term by section 414(q)."

(2) COMPENSATION LIMIT.—Paragraph (5) of section 79(d) of such Code is amended by adding at the end thereof the following new sentence: "For purposes of the preceding sentence, compensation for any year shall not be taken into account for such year to the extent it exceeds the amount in effect under section 401(a)(17) for such year."

(d) HIGHLY COMPENSATED EMPLOYEES.—

(1) COMPENSATION THRESHOLDS.—Subparagraph (D) of section 414(q)(1) of such Code is amended to read as follows:

"(D) was at any time an officer and received compensation in excess of the amount in effect under subparagraph (C) for such year."

(2) ROUNDING.—Paragraph (1) of section 414(q) of such Code is amended by adding at the end thereof the following new sentence: "If the amount determined under the preceding sentence is not a multiple of $1,000, such amount shall be rounded to the nearest $1,000 (other than for purposes of applying the preceding sentence)."

(e) LINE OF BUSINESS TEST.—

(1) APPLICATION FOR PERIOD BEFORE GUIDELINES ISSUED.—In the case of any plan year beginning on or before the date the Secretary of the Treasury or his delegate issues guidelines under section 414(r)(2)(C) of the Internal Revenue Code of 1986 (and begins issuing determination letters with respect to such section), an employer meeting the requirements of section 414(r)(2) (A) and (B) of such Code with respect to a line of business may treat it as a separate line of business if the employer reasonably determines it to be separate.

(2) APPLICATION TO DEPENDENT CARE PROGRAMS.—Paragraph (1) of section 414(r) of such Code is amended by inserting ", 129(d)(7)," after "section 89".

(f) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in this subsection, the amendments made by this section shall take effect as if included in the amendments made by section 1151 of the Tax Reform Act of 1986.

(2) SUBSECTION (a).—The amendments made by subsection (a) shall apply to taxable years beginning after December 31, 1983.

(3) SUBSECTION (b).—The amendments made by subsection (b) shall apply to years beginning after December 31, 1988.

(4) LINE OF BUSINESS.—The provisions of subsection (e)(1) shall apply to years beginning after December 31, 1986.

SEC. 224. STUDY OF SECTION 89.

The United States Bipartisan Commission on Comprehensive Health Care established under section 401 of the Medicare Catastrophic Coverage Act of 1988 (42 U.S.C. 1395b note) shall study the implementation and effectiveness of section 89 of the Internal Revenue Code of 1986. The Commission shall include in its report under section 406(b) of such Act the results of the study, including recommendations with respect to—

(1) improving the effectiveness of section 89 in making employer-provided health insurance more accessible and affordable to low- and middle-income employees, and

(2) alternative methods for improving accessibility and affordability of health insurance available in the work place.

Subtitle C—Other Revenue Provisions

SEC. 331. PERMANENT EXTENSION OF TELEPHONE EXCISE TAX.

(a) IN GENERAL.—Paragraph (2) of section 4251(b) of the Internal Revenue Code of 1986 is amended by striking "percent;" and all that follows through the period and inserting "percent.".

(b) TIME FOR DEPOSIT OF TELEPHONE EXCISE TAXES.—Section 4251 of the Internal Revenue Code of 1986 is amended by adding at the end thereof the following new subsection:

"(d) TIME FOR DEPOSIT OF TAXES.—If, under regulations prescribed by the Secretary, a person is required to make deposits of any tax imposed by this section with respect to amounts considered collected by such person during any semi-monthly period, such deposits shall be made not later than the third day (not including Saturdays, Sundays, or legal holidays) after the close of the first week of the second semi-monthly period following the period to which such amounts relate."

(c) ONE-TIME FILING OF TELEPHONE EXCISE TAX EXEMPTION CERTIFICATES.—Section 4253 of the Internal Revenue Code of 1986 is amended by adding at the end thereof the following new subsection:

"(k) FILING OF EXEMPTION CERTIFICATES.—

"(1) IN GENERAL.—In order to claim an exemption under subsection (c), (h), (i), or (j), a person shall provide to the provider of communications services a statement (in such form and manner as the Secretary may provide) certifying that such person is entitled to such exemption.

"(2) DURATION OF CERTIFICATE.—Any statement provided under paragraph (1) shall remain in effect until—

"(A) the provider of communications services has actual knowledge that the information provided in such statement is false, or

"(B) such provider is notified by the Secretary that the provider of the statement is no longer entitled to an exemption described in paragraph (1).

If any information provided in such statement is no longer accurate, the person providing such statement shall inform the provider of communications services within 30 days of any change of information."

(d) EFFECTIVE DATES.—

(1) SUBSECTION (a).—The amendment made by subsection (a) shall take effect on the date of the enactment of this title.

(2) SUBSECTION (b).—The amendment made by subsection (b) shall apply to the payment of taxes considered collected for semi-monthly periods beginning after June 30, 1990.

(3) SUBSECTION (c).—

(A) IN GENERAL.—The amendment made by subsection (c) shall apply to any claim for exemption made after the date of the enactment of this title.

(B) DURATION OF EXISTING CERTIFICATES.—Any annual certificate of exemption effective on the date of the enactment of this title shall remain effective until the end of the annual period.

SEC. 332. ESTIMATED TAX PAYMENTS REQUIRED FOR S CORPORATIONS.

(a) IN GENERAL.—Section 6655(g) of the Internal Revenue Code of 1986 is amended by

adding at the end thereof the following new paragraph:

"(4) APPLICATION OF SECTION TO CERTAIN TAXES IMPOSED ON S CORPORATIONS.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), this section shall apply to any of the following taxes imposed on an S corporation:

"(i) The tax imposed by section 1374(a) (or corresponding prior provision of law).

"(ii) The tax imposed by section 1375(a).

"(iii) Any tax imposed by reason of section 1371(d)(2).

"(B) SPECIAL RULES.—In applying this section to an S corporation—

"(i) clause (ii) of subsection (d)(1)(B) shall not apply to the taxes described in clauses (i) and (iii) of subparagraph (A), and

"(ii) paragraph (2) of subsection (d) shall not apply."

(b) EFFECTIVE DATE.—

(1) GENERAL RULE.—Except as provided in paragraph (2), the amendments made by this section shall apply to installments required to be made after the date of the enactment of this title with respect to taxable years ending after such date.

(2) SPECIAL RULES.—

(A) PAYMENTS SPREAD OVER REMAINING INSTALLMENTS.—Notwithstanding section 6655(d)(1)(A) of the Internal Revenue Code of 1986, any estimated payment of any tax relating to an item arising before the date of enactment of this title for any taxable year beginning on or before and ending after such date shall be taken into account ratably among the installments required to be made after such date for such taxable year.

(B) ANNUALIZED INSTALLMENT PAYMENTS.—If subsection (e) of section 6655 of such Code applies with respect to payments described in subparagraph (A), subclauses (II), (III), and (IV) of paragraph (2)(A)(i) of such subsection shall be applied by using the longer time periods prescribed under such subclauses.

(C) NUMBER OF REQUIRED INSTALLMENT.—For purposes of this paragraph, paragraph (1) shall be disregarded in determining the number of any required installment.

SHELBY AMENDMENT NO. 197

Mr. SHELBY submitted an amendment intended to be proposed by him to the bill S. 5, supra, as follows:

At the appropriate place add the following:

SEC. . USE OF CAMPAIGN CONTRIBUTIONS.—Section 313 of the Federal Election Campaign Act of 1971 (2 U.S.C. 439a) is amended by striking out "except that, with respect to any individual who is not a Senator or Representative in, or Delegate or Resident Commissioner to, the Congress of January 8, 1980," and inserting in lieu thereof "except that".

NOTICES OF HEARINGS

COMMITTEE ON SMALL BUSINESS

Mr. BUMPERS. Mr. President, I would like to announce that the Small Business Committee will hold a field hearing on Tuesday, June 27, 1989, to assess the impact of takeovers on small business opportunities. The hearing will be held in the Moot Court Room of the Hamline University School of Law, located at 1536 Hewitt Avenue, St. Paul, MN. For further information, please call Pete Coyle, minority staff director for the committee at 224-8494.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. DODD. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation, be authorized to meet during the session of the Senate on June 15, 1989, at 2 p.m. to hold a hearing on the nomination of Jeffrey Neil Shane, of the District of Columbia, to be Assistant Secretary of Transportation for Policy and International Affairs and on the nomination of Kate Leader Moore, of the District of Columbia, to be Assistant Secretary of Transportation for Budget and Programs.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON LABOR AND HUMAN RESOURCES

Mr. DODD. Mr. President, I ask unanimous consent that the Committee on Labor and Human Resources be authorized to meet during the session of the Senate on Thursday, June 15, 1989, at 10 a.m. to conduct a hearing on "The Condition of Academic Research Facilities."

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ARMED SERVICES

Mr. DODD. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet on Thursday, June 15, 1989, at 9 a.m., in open session to receive testimony in review of the programs recommended for termination in the amended budget submission for the Department of Defense for fiscal years 1990 and 1991, S. 1085, and to review the budget authority and outlay estimates of DOD and CBO for fiscal year 1990.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON STRATEGIC FORCES AND NUCLEAR DETERRENCE

Mr. DODD. Mr. President, I ask unanimous consent that the Subcommittee on Strategic Forces and Nuclear Deterrence of the Committee on Armed Services be authorized to meet on Thursday, June 15, 1989, at 1 p.m. in closed session to receive testimony on the requirements for and budget request for the strategic defense initiative in review of S. 1085, the Department of Defense authorization bill for fiscal years 1990 and 1991.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON NUTRITION AND INVESTIGATIONS

Mr. DODD. Mr. President, I ask unanimous consent that the Subcommittee on Nutrition and Investigations of the Committee on Agriculture, Nutrition, and Forestry, be authorized to meet during the session of the Senate on Thursday, June 15, 1989, at 2 p.m. to hold a hearing on the reauthorization of the child nutrition programs and the Special Supplemental Food Program on WIC.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. DODD. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation, be authorized to meet during the session of the Senate on June 15, 1989, at 9:30 a.m. to hold a hearing on S. 561, legislation which would require drug and alcohol testing of safety-sensitive workers in the rail, aviation and motor carrier industries.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON SUPERFUND, OCEANS AND WATER PROTECTION

Mr. DODD. Mr. President, I ask unanimous consent that the Subcommittee on Superfund, Ocean and Water Protection, Committee on Environment and Public Works, be authorized to meet during the session of the Senate on Thursday, June 15, beginning at 9:30 a.m., to conduct an oversight hearing to examine EPA's report on the Agency's 90-day review of the Superfund Program and related issues.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. DODD. Mr. President, I ask unanimous consent that the Committee on Governmental Affairs be authorized to meet on Thursday, June 15, at 9:30 a.m., on the subject of "averting alcohol abuse," new directions in prevention policy.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON ENERGY RESEARCH AND DEVELOPMENT

Mr. DODD. Mr. President, I ask unanimous consent that the Subcommittee on Energy Research and Development of the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate on June 15, 1989, 9:30 a.m. for a hearing to receive testimony on S. 488, a bill to provide Federal assistance and leadership to a program of research, development and demonstration of renewable energy and energy efficiency technologies; relevant provisions in S. 964, a bill to authorize appropriations to the Department of Energy for civilian energy programs for fiscal years 1990 and 1991; and the Department of Energy's fiscal year 1990 budget request for conservation and renewable energy programs.

The PRESIDING OFFICER. Without objection, it is so ordered.

SELECT COMMITTEE ON INTELLIGENCE

Mr. DODD. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Thursday, June 15, 1989 at 10 a.m. to hold a closed hearing on intelligence matters.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON SECURITIES

Mr. DODD. Mr. President, I ask unanimous consent that the Subcommittee on Securities of the Committee on Banking, Housing, and Urban Affairs be allowed to meet during the session of the Senate on Thursday, June 15, 1989, at 9:30 a.m., to conduct hearings on the globalization of securities markets, and S. 646, the International Securities Enforcement Cooperation Act of 1989.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON IMMIGRATION AND REFUGEE AFFAIRS

Mr. DODD. Mr. President, I ask unanimous consent that the Subcommittee on Immigration and Refugee Affairs of the Committee on the Judiciary, be authorized to meet during the session of the Senate on Thursday, June 15, 1989 at 2:30 p.m., to hold a hearing on immigration naturalization procedures.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. DODD. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Thursday, June 15, at 9:45 a.m. to hold a nomination hearing on Donald Gregg, to be Ambassador to South Korea.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

HEE HAW

● Mr. SASSER. Mr. President, I rise today to recognize one of the truly remarkable television series—"Hee Haw," which is produced in my hometown of Nashville, TN.

"Hee Haw" is now taping new hours for its 22d season on national television. It is one of the most successful television shows ever and is currently seen on 200 television stations nationwide.

The series was created in 1969 and was an instant hit on CBS-TV. Although the series was dropped by the network, the producers knew they had a successful series. "Hee Haw" was always high in the Nielsen ratings.

Fortunately, the Federal Communications Commission had just established the prime time access rule and this allowed "Hee Haw" to become one of the instant successes of the new prime time access hour in the fall of 1971. In fact, "Hee Haw" was one of the pioneers of the booming syndicated first-run television industry of today.

I would like to commend Gaylord Program Services, Gaylord Syndicom, and Gaylord Broadcasting for their support of this series. And the dedicated work of producer Sam Lovullo and director Bob Boatman have made "Hee Haw" the great show it is.

I also want to mention the great work that Roy Clark has done as host of "Hee Haw" since its beginning in 1969. Roy has recently returned from a tour of the Soviet Union—proving once again the universal appeal of country music.

This series has been successful because it provides the audience with good family entertainment, including music and comedy. We in Tennessee are proud of what "Hee Haw" has done to popularize country music and quality television for more than two decades.●

DR. THOMAS McPHERSON BROWN: FIRST TO ISOLATE MYCOPLASMA ORGANISM FROM EXUDATE OF RHEUMATOID ARTHRITIS PATIENT AND FIRST TO USE ORAL AND INTRAVENOUS ANTIBIOTICS IN TREATMENT OF RHEUMATOID ARTHRITIS

● Mr. DECONCINI. Mr. President, for 50 years, Dr. Thomas McPherson Brown vigorously pursued the theory that rheumatoid arthritis was a tissue hypersensitivity reaction to certain agents in the bloodstream of rheumatoid arthritics. Dr. Brown believed that the source of these agents was the mycoplasma organism—formerly known as a pleuropneumonia-like organism—and was the first to isolate that organism from the exudate of a rheumatoid arthritis patient. He was also the first to recognize the link between infectious agents and rheumatic diseases. He developed a treatment program aimed directly at the mycoplasma organism which consists of oral and intravenous antibiotics administered over an extended period of time, usually at least 5 years. Dr. Brown was ahead of his time both as to the theory of the cause of rheumatoid arthritis and the development of his successful treatment program. Dr. Brown died on April 17, 1989.

I would like to share with my colleagues the testimony of Barbara A. Matia regarding Dr. Brown's work, articles published in the New York Times and Science magazine, Dr. Brown's curriculum vitae and his publications. I ask that the testimony and attached documents be printed in the RECORD.

The curriculum vitae follows:

Mr. Chairman, Senators and Staff: I am Barbara Matia of Scottsdale, Arizona. I appreciate the opportunity to testify before you for the third time. For those of you who have not heard me testify in the past, I believe that it is important for you to know that I was completely bedridden 11 years ago with rheumatoid arthritis. I was treated by Dr. Thomas McPherson Brown with Oral and intravenous antibiotics over a long period of time. After getting through the period during which this treatment causes you to feel worse, I improved each year, watching my blood tests go from an initial rheumatoid factor of 10,000 to a zero reading after 5 years. As you can tell by looking at me today, I am totally functional and am living a normal healthy life.

Dr. Brown and Dr. Homer Swift, who has been referred to as the father of modern rheumatology, first reported the isolation of a mycoplasma organism (then referred to as a pleuropneumonia-like organism or PPLO) in the March 24, 1939 issue of Science Magazine. Both the New York Times and the New York Post carried articles on this achievement with headlines which read as follows: "Rheumatism Germ Found, Say Rockefeller Doctors;" "Rheumatic Fever Cause Clues Are Found by Science." That discovery occurred 50 years ago last month. Dr. Brown persisted in the direction of the infectious theory of arthritis for 50 years. Last Monday, April 17, 1989, . . . he died. The gift he left to the world is that there is real hope for the arthritics today. He was way ahead of his time with his theory, that rheumatoid arthritis is a long-term acute illness rather than a chronic illness, and that if treated properly with antibiotics over a long period of time it is potentially curable.

Because of my experience with this disease and that of thousands of other patients which Dr. Brown has successfully treated, I know that when a clinical trial is completed on the antibiotic treatment program and when the research is finally completed on the cause of the disease, it will be established that Dr. Brown was right both as to the cause and the treatment of rheumatoid arthritis.

According to the National Institutes of Health, there are over 100 different forms of arthritis, all needing specific research in the various scientific disciplines such as genetics and immunology, and all needing separate clinical trials to test proper dosages of medicines found to be effective against one or more of those forms. This is going to be an endless task when you consider that the NIAMSD is the third lowest Institute at the NIH in funding and has the lowest grant payline of all of the Institutes and that the award rate for 1989 appropriations for the NIAMSD is only 27 percent where the other Institutes have award rates of 29 percent.

When you say you have arthritis, people do not associate with it the tragedy which they associate with cancer or heart disease. Arthritis is not generally a killer. But there is a tragedy in the immeasurable suffering which arthritics endure. And arthritis has an additional, almost ironic, tragedy associated with it. Because arthritis is not a killer, the economic loss to America from the reduced productivity and lost earnings, which has been estimated in the tens of billions of dollars annually, and the economic burden of long-term medical and custodial care which often becomes necessary, is a real American tragedy.

If we would devote substantial additional dollars to solving the arthritis mystery, this staggering annual economic loss would

begin to diminish and the economic gain from such a result would more than pay the investment.

I urge you to seriously consider increasing the NIAMS appropriation to $200 million for fiscal year 1990. This money will have a significant positive impact on balancing future budgets.

RHEUMATISM GERM FOUND, SAY ROCKEFELLER DOCTORS: MAY SOLVE PROBLEM OF ONE OF MOST SERIOUS DISEASES OF MANKIND

Two doctors of the Hospital of the Rockefeller Institute for Medical Research today announced the discovery of a germ which may solve the problem of rheumatic fever and rheumatic heart disease.

One of the most serious diseases of mankind because it is so often followed by progressive heart impairment, particularly in children, rheumatic fever has baffled medical scientists seeking both its true cause and an effective cure.

Dr. Homer F. Swift, considered the world's leading research scientist on rheumatic fever, and Dr. Thomas McPherson Brown, announce their discovery in the current issue of Science.

There is a possibility that the rheumatic fever germ they have found is the same one announced two weeks ago by Dr. A. B. Sabin, also of the Rockefeller Institute, as a probable cause of arthritis.

The two diseases, rheumatic fever and arthritis, together constitute one of the major cause of chronic illness and disability.

For years medical scientists have pursued the belief that the two diseases have been caused by some type or types of the common streptococcus, the most frequent cause of infections.

Serums, vaccines and antitoxins have been produced with only slight success to fight both diseases.

The new germ or germs, both called "pleuropneuomonia-like microorganisms" by the three doctors, may be the missing element in the cause of rheumatic fever and arthritis, with the streptococcus also playing a causative role.

The germ isolated by Drs. Swift and Brown was found after using highly ingenious techniques to cultivate a bacteriological response from secretions developed by a child with rheumatic fever.

The germ cultivation was done by implantation of the secretion in one of the special membranes of chicken eggs. It was only after taking the fluid from one planting and placing it into a new one for five successive times that a recognizable response was observed. This compares with ordinary bacteriological germ cultivation in which suspected material is planted in a medium and germ growth begins immediately.

Drs. Swift and Brown were able to produce a lung inflammation in mice with their germ, a response which Dr. Sabin was unable to do with his almost identical arthritis germ.

The two doctors believe that the difference may be only one of selectivity of site by a different type of the same germ. Dr. Sabin's germ produced lesions in the joints of rabbits but not pneumonia.

All three doctors are now concentrating on better methods to cultivate the germ and to further establish its connection with human arthritis and rheumatic fever.

Once this is done, research will be started to find ways to fight the germ, just as ways have been found to fight other diseases once the true cause was established.

RHEUMATIC FEVER CAUSE CLUES ARE FOUND BY SCIENCE—VICIOUS DISEASE OF SCHOOL AGE CHILDREN IN NORTHEAST FREQUENTLY KILLS

NEW YORK, March 23.—Clues to the unknown cause of rheumatic fever, a disease that attacks 1 of every 100 Americans, were announced today in science.

Rheumatic fever is a particularly vicious disease of school age children in the northeastern United States. It frequently results in damaged hearts, and often in death a few years after the rheumatic attack.

An unidentified streptococcus has been suspected. But at the Rockefeller Institute a new microorganism, said to resemble the pneumonia germ, has been found in rheumatic fever sufferers.

The evidence on this new cause of disease is unusual, all being "backhanded." Two Rockefeller scientists, Homer F. Swift and Thomas McPherson Brown, announce that this new organism causes pneumonia in mice and even other ills in animals deliberately infected with it.

Two weeks ago A.B. Sabin of the institute reported discovery that this same new organism caused chronic arthritis in mice.

In all cases the new germ or virus, was obtained from human beings with rheumatic fever. This cumulative evidence puts the new germ on the spot as the possible cause of the rheumatism.

[From Science magazine, Mar. 24, 1939]

PATHOGENIC PLEUROPNEUMONIA-LIKE MICROORGANISMS FROM ACUTE RHEUMATIC EXUDATES AND TISSUES

(By Homer F. Swift and Thomas McPherson Brown)

The inoculation of chorioallantoic members of chicken eggs with exudates obtained from a number of patients with acute rheumatic fever has resulted in the development of characteristic lesions which have not appeared when similar membranes were inoculated with non-rheumatic exudates. These lesions have had the same general appearance in a number of different series where the inocula have been derived from arthritic exudates, pleural exudates or an excised erythema nondosum nodule. The characteristic lesions have usually not become definite until the third to fifth serial passage; but once having appeared they have been easily induced in as many as twenty-four passages at two- to four-day intervals. The use of a 10 per cent human serum-saline mixture as a medium in which the ground membranes are suspended has proven an important part of the technique. Macroscopically the characteristic lesions consist of granules or pearl-like bodies, often best seen when viewed from the entodermal surface. Microscopically these areas eventually appear like globular structures surrounded with flattened epithelium, but containing in their center condensed eosinophilic material, apparently derived from the mesoderm, and varying amounts of mesodermal inflammatory reaction. The bodies appear to originate in the ectoderm; as they enlarge, they press downward into the mesoderm, and often push the entoderm ahead of themselves, so that they are most easily seen from the under surface of the membrane.

Occasionally membranes have become contaminated with ordinary bacteria. Under these circumstances they have presented quite a different appearance from that described above. When bacterial contamination has occurred, the ground membrane suspension has been subjected to Berkefeld N or V filtration, which has allowed the infectious agent to pass through.

Etherized mice inoculated intranasally with rheumatic arthritic or pleural exudates and with suspensions of chorioallantoic membranes, showing the characteristic lesions described above, have sickened and developed pneumonia in which the inciting agent has been transmissible from series to series by using as inocula, ground pneumonic lungs suspended in broth. Filtrates of these suspensions, passed through Berkefeld V candles, have induced the same type of pneumonia; and from these lungs ordinary bacteria have been absent, both from films and cultures. The equivocal nature of the evidence obtained from mouse pneumonia was recognized, because of the findings of Dochez [1] and Gordon,[2] respectively, and their collaborators, and of similar results in the Laboratories of the International Health Division.[3] In all those experiments, however, the induced pneumonia did not appear until after two or more mouse lung passages, while in our experience the characteristic pneumonia appeared after the primary intranasal inoculation. Suspensions of these pneumonic lungs which had been ground have induced the same characteristic lesions on the chorioallantoic membranes as those previoulsy mentioned.

As Dr. Albert Sabin has consulted with us frequently during his work in recovering pleuropneumonia-like microorganisms from normal mice [4] and inducing with these cultures chronic arthritis in mice,[5] we applied the cultural techniques he was using and also some of the methods employed by Kleineberger.[6] After a few sub-cultures in beef-serum-dextrose-broth or on solid media rich in serum, it was possible to grown pleuropneumonia-like microorganisms from the pneumonic mouse lungs and also from the abnormal chorioallantoic membranes. This was highly suggestive evidence that this agent has arisen from a common source—*viz.*, the exudates or lesions of patients with rheumatic fever—although the possibility was recognized that these pleuropneumonia-like microorganisms might have come from carriers among the sick mice, even though that possibility seemed improbable.

It, therefore, became important to cultivate, if possible, these microorganisms directly from rheumatic exudates; and by using the same culture media and applying the same repeated passage techniques that were used in culturing the chorioallantoic membranes and pneumonic mouse lungs, similar appearing cultures and microorganisms have been obtained from the arthritic exudate of a child early in the course of her second attack of rheumatic fever, and also from an erythema nodosum nodule excised from a patient with typical rheumatic polyarthritis. This furnished evidence that the pleuropneumonia-like microorganisms obtained from both the choriollantoic membranes and from the mouse pneumonic lungs were probably derived originally from the rheumatic exudates.

The pathogenicity of the cultures from the three different sources is being investi-

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[1] A. R. Dochez, K. C. Mills and B. Mulliken, *Proc. Soc. Exp. Biol. and Med.*, 36: 683, 1937.

[2] F. B. Gordon, G. Freeman and J. M. Clampit, *Proc. Soc. Exp. Biol. and Med.*, 39: 450-453, 1938.

[3] F. L. Horsfall, personal communication.

[4] A. B. Sabin, Science, 88: 575-576, 1938.

[4] A. B. Sabin, Science, 89: 228-229, 1939.

[6] E. Kleineberger, *Jour. Hygiene*, 38: 458-475, 1938.

gated. A culture, free from ordinary bacteria, was obtained from the nineteenth chorioallantoic membrane passage where the original inoculum was a rheumatic pleural exudate. One tenth of a cubic centimeter of this culture, after four days' incubation, was injected into the vitreous of the eyes of three rabbits. Two of them developed marked iritis and also a systemic reaction indicated by diarrhea of several days' duration; the third had a panophthalmitis with some form of cocci as contaminating agents. Another set of three rabbits was inoculated with the seventh and eighth subcultures from an arthritic exudate (this culture had never undergone animal passage); one rabbit developed marked iritis and diarrhea, the second mild iritis; while the eye of the third has so far remained free from macroscopic lesions. Two out of three other rabbits inoculated with a 24-hour-old culture of the same strain developed definite iritis after 9 or 10 days; while the iritis in the first two groups appeared between the second and fifth days after inoculation and persisted from the seventh to tenth.

Four series of Swiss mice, of a stock known to be free from mouse typhoid infection, were inoculated intranasally with the same cultures that had been injected into rabbits' eyes. During the following six days, animals in each set were obviously sick and had dyspnea. When autopsied on the sixth or seventh days, 3 out of 5 mice inoculated with the 4-day-old culture showed only macroscopically equivocal pulmonary lesions. On the other hand, marked pneumonia was present in 2 out of 5 mice in each of the three sets inoculated with either 1- or 2-day-old cultures. Another macroscopically normal appearing mouse lung was found upon microscopic examination to have foci of interstitial pneumonia, perivascular hyperplasia and bronchi distended with polymorphonuclear cells, a picture that has been peculiar to all the pneumonic lungs examined.

It thus appears that pleuropneumonia-like microorganisms cultured directly from rheumatic exudates can induce the same type of pneumonia in mice that is obtained by inoculating these animals with rheumatic exudates, or with suspensions of chorioallantoic membranes in which characteristic lesions have been induced by these exudates. These pulmonic lesions have appeared in the first mice inoculated with these various materials, as well as in those where serial transfers have been carried out; hence we feel that the organotropism of these microorganisms is different from those of the pleuropneumonia-like microorganisms recovered from mice by Dr. Sabin, for he has been unable to induce pneumonia in mice with his cultures.[7] A few mice inoculated either intracerebrally, intravenously or intraperitoneally with cultures have, so far, shown no characteristic lesions, even though some of them have been obviously sick. The series has been too small, however, and the time since inoculation too short for final judgment concerning the pathogenicity of these cultures.

SUMMARY

In suitable cell-free media it has been possible to cultivate pleuropneumonia-like microorganisms from the following materials, first, from chorioallantoic membranes in which lesions were apparently induced by exudates from patients with rheumatic fever; second, from pneumonic lungs of mice inoculated with similar exudates or with suspensions of the above-mentioned abnormal membranes; and third, directly from the arthritic exudate of a patient with rheumatic fever, and also from an erythema nodosum nodule excised from a patient with this same disease. With three different subcultures from joint fluid, iritis has been induced in rabbits; and following intranasal inoculation with the same cultures there has developed in mice a pneumonia similar to that found in mice inoculated with rheumatic exudates and with suspensions of chorioallantoic membranes infected with rheumatic exudates. Therefore it seems probable that in all instances the pathogenic agent was derived from similar sources, *viz.*, patients with rheumatic fever. Further work will be required to demonstrate the etiologic significance of these pathogenic agents in rheumatic fever.

HOMER F. SWIFT,
THOMAS MCPHERSON BROWN.
Hospital of the Rockefeller Institute for Medical Research, New York, NY.

[7] A.B. Sabin, personal communication.

CURRICULUM VITAE

Thomas McPherson Brown, M.D.: Director/Chairman, Arthritis Institute of National Hospital; President, Arthritis Clinic of Northern Virginia, 2455 Army Navy Drive, Arlington, VA 22206, (703) 533-2431 & 920-0767.

Born: June 20, 1906, Washington, D.C.

Married: July 6, 1937 to Olive Young.

Children: Gael.

Home Address: 814 26th Place, S., Arlington, VA 22202.

Social Security: [redacted].

Education: Swarthmore College, Swarthmore, PA; A.B.—1929 (Joshua Lippincott Fellowship); Johns Hopkins Medical School, Baltimore, MD. M.D.—1933 (Henry Dennison Strong Fellowship) (May 1932-October 1932, University of Gottingen, Germany and Rotunda Hospital, Dublin).

Professional Career:

Internship, Johns Hopkins Hospital, Baltimore, MD (12 months). 1933-1934.

Residency at Johns Hopkins University Hospital, Baltimore, MD. Total of 36 months as an Assistant Resident, 1934-1937.

Instructor in Medicine at Johns Hopkins University.

Resident on Rheumatic Fever Division, Rockefeller Institute Hospital, New York, NY. 1937-1939.

Chief Resident, Medical Service, Johns Hopkins Hospital, Baltimore, MD. Associate in Medicine, Johns Hopkins Hospital. 1939-1940.

Co-director of Biological Division, Johns Hopkins Hospital, Baltimore, MD. Associate in Medicine, full-time, 1940-1942.

Assistant Professor of medicine, leave of absence, Johns Hopkins Hospital, Baltimore, MD, 1943-1946.

Service in Army: April 1942-May 1945: Major, 118th General Hospital, Medical Officer; May 1945-September 1945: Major, 118th General Hospital, Chief of Medical Staff; September 1945-November 1945: Lt. Col. 118th General Hospital Commanding Officer.

Assistant Professor of Medicine, full-time, Johns Hopkins Hospital, Baltimore, MD. (January-July) 1946.

Chief of Medicine and Director of Arthritis Research, Veterans Administration Hospital, Washington, D.C. Adjunct Clinical Professor, George Washington University School of Medicine, 1946-1948.

Professor of Medicine, Executive Officer, Department of Medicine, George Washington University School of Medicine, Washington, D.C., 1948-1955.

Chairman, Department of Medicine, George Washington University School of Medicine, Washington, D.C. Chief of Medicine, George Washington University Hospital, 1948-1969.

Director, Arthritis Research Unit, George Washington University, 1948-1970.

Eugene Meyer Professor of Medicine, Department of Medicine, George Washington University School of Medicine, 1955-1970.

Consultant in Arthritis and Infectious Diseases, Veterans Administration Hospital, Washington, D.C., 1948-1962.

Co-Director, Rehabilitation Research and Training Center (RT-9), 1965-1967.

Director, Rehabilitation Research and Training Center (RT-9) 1967-1970.

Director, Section of Rheumatology, Department of Medicine, George Washington University, 1969-1970.

Professor Emeritus, George Washington University, 1970 to present.

Director, Arthritis Institute of the National Hospital, Arlington, VA, 1970 to present.

Professional Memberships: Society for Clinical Investigation, American Clinical and Climatological Association, Southern Society for Clinical Research, American Rheumatism Association, American Medical Association, Washington Academy of Sciences, American College of Physicians, D.C. Society of Internal Medicine, American Board of Internal Medicine (Diplomate), Arthritis and Rheumatism Association of Metropolitan Washington, D.C. Rheumatism Society, Arlington County Medical Society, Medical Society of Virginia, and Medical Society of D.C.

Professional Positions Held: Director, Arthritis Institute of the National Hospital, Arlington, VA; Chairman of the Board, Arthritis Institute of the National Hospital, Arlington, VA; President, Arthritis Clinic of Northern Virginia, Arlington, VA; Member of the Board of Trustees, National Hospital, Arlington, VA; Member of the Board of Directors, Sidwell Friends School; Member of the Board, Lupus Foundation, Washington, D.C.; and Member of the National Arthritis Advisory Board, Food & Drug Administration.

Honors: Phi Beta Kappa, Sigma Xi, Ivy Medal (Swarthmore), Cum Laude Society, Alpha Omega Alpha, American Men of Science, Who's Who, Encyclopedia Brittanica, Outstanding Service Citation—President's Committee for Handicapped—1956, and Physician of the Year—District of Columbia.

Past Positions Held: Vice-Chairman, Subcommittee on Medicine, National Research Council; Member, Council American Medical Association; Member, Research Study Section, Vocational Rehabilitation Service; Department of Health, Education & Welfare; George Washington University Committee of Eighteen; George Washington University Senate, Executive Committee; Chairman, Faculty Committee to Advice and Consult with the Board of Trustees on the Selection of a President, George Washington University; Member of Board of Managers, Swarthmore College; Director, George Washington Medical Division, D.C. General Hospital; President, D.C. Rheumatism Society; Vice-President Eugene and Agnes Meyer Foundation, VA; Section on Medicine, National Research Council; Consultant, National Institute of Arthritis and Metabolic Diseases, National Institutes of Health; National Committee Member, American Rheumatism Association; Con-

sultant to the White House; Member, Council on Drugs, American Medical Association; and Co-founder, Arthritis Foundation Metropolitan Washington Chapter.

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SEX EDUCATION AND SELF-ESTEEM

● Mr. BREAUX. Mr. President, I rise today to call to the attention of my colleagues an article by Ms. Betsy Gambel recently published in the Times-Picayune newspaper in New Orleans, LA, on the subject of sex education and the self-esteem of our Nation's youth.

At a time when teenage pregnancy runs rampant in areas of my home State, as well as many other places across the Nation including here in our Nation's Capital, I find Mr. Michael Carrera's proposal extremely illuminating as to how we might best combat this problem.

I believe that his formula for building self-esteem among your youth could not only help us fight the epidemic of teen pregnancy, but also the scourge of drugs plaguing the youth of our cities.

Mr. President, I ask that the article be included in the RECORD so that all my colleagues might have the benefit of Mr. Carrera's insights.

The article follows:

[From the Times-Picayune, Apr. 14, 1989]

SEX EDUCATION AND SELF-ESTEEM URGED BY EXPERT

(By Betsie Gambel)

Sex education expert Michael Carrera's formula for prevention of teen pregnancies is rooted in helping kids build their self-esteem.

"If we want to help our kids handle themselves responsibly when the opportunity for intercourse presents itself, we have to start from the moment they're born—building self-esteem and respect for other people," he says. "I maintain that this is the best form of birth-control education.

"A kid who feels good about himself and has been taught not to use other people will be a lot less likely to make an irresponsible decision when the time comes."

So how can parents build a child's self-esteem? Carrera suggests that affection and appreciation are the key. Kids who live with praise will grow up feeling good about themselves while kids who grow up with criticism will grow up being critical of others.

It's also important for parents to offset media messages about sex, Carrera says, adding that television often portrays relationships between men and women as tempestuous.

"You rarely see examples of real tenderness, affection, honesty, self-control—those qualities that form the bedrock of a healthy sexuality," he says.

And Carrera says that parents shouldn't be afraid to let their children see them in non-erotic relations; it's OK for members of the opposite sex to be just friends.

"Sex doesn't always have to be an issue in male-female relationships," he says.

Carrera, whose book, "Sex, the Facts, the Acts and Your Feelings," has been translated into 17 languages, will speak here at 7:30 p.m. Tuesday, April 18, and will conduct a workshop at Junior League of New Orleans headquarters, 4319 Carondelet St., from 9:30 to 1:30 a.m. April 19. The programs, sponsored by the Junior League, are free and open to the adult community.

Carrera has put his philosophy to work in New York City centers operated by the Children's Air Society and other organizations in areas with high school dropout and teen-pregnancy rates.

Although the centers are in predominantly black and Hispanic communities, Carrera says his program cuts across racial and socio-economic lines. He says that in three years, only two teens who have participate have become pregnant.

Program participants include males and females, teen-agers and parents. Carrera says, "You don't want to be caught in the trap of other programs that say you should teach young women to say no. On sexuality issues, if you don't couple that with teach-

ing men not to ask, then you're guilty of a sexist double standard."

The nuts and bolts of Carrera's approach is providing programs for teens that build their self-esteem. The major components of the program include:

A "job club." Teens get their Social Security cards, and fill out job applications and work papers. They're coached by counselors in interview skills and in how to dress appropriately for a particular job. The participants then are given a full- or part-time job. Their on-the-job performance determines their salary, anywhere from nothing to $50. They then are required to open a bank account.

Academic assessment. The young people go through a skills checklist for proficiency in math, reading and writing. Tutoring is available by community volunteers.

Sports programs. The kids are introduced to sports such as squash, golf, tennis and swimming. Self-discipline is the key ingredient. Carrera says, "If you want to have fun and win, you have to have control. You can transfer that into real-life situations when discipline is needed."

Creativity through the performing arts. Local theater groups involve the teens in role-playing, acting, improvisation and music.

Sex education. This course in human sexuality is for the parents and the children. Not only is the human reproductive system a subject to be taught, but also family planning and importance of the family unit.

Medical and health services. Physicals and gynecological examinations are offered, and contraception is available. Program staffers do talk to those teenagers who are sexually active about their responsibilities and rights.

Carrera has served as president of the board of directors of the Sex Information and Education Council of the United States (SIECUS), and as president of the American Association of Sex Educators, Counselors and Therapists (AASPECT). ●

THE NATION'S SPACE FUTURE: COLORADO LEADS THE WAY

● Mr. ARMSTRONG. Mr. President, yesterday, with the first launch of the Nation's largest, most powerful space launch vehicle, the United States took another bold step into the future and Colorado led the way. Colorado is known for its frontier spirit, hard work, and creative citizenry. From gold rush to space launch, these combined attributes have kept Colorado on the cutting edge for more than 100 years.

But today, Coloradans everywhere have three reasons to be especially proud of Martin Marietta's successful Titan 4 launch. First, and foremost, yesterday's launch, on a space booster manufactured in Denver, puts the United States' space launch capability back on the road to recovery. Second, it comes during the 30th anniversary of successful launches of Colorado-built Titans, and third, it again demonstrates Colorado's leadership in extremely reliable high technology products.

The launch of the Titan 4 marks an important point in U.S. history: The U.S. Space Program is well on its way to recovery. The Titan 4 space launch vehicle was manufactured by Martin Marietta in Denver, CO, and it is the biggest, most powerful unmanned launch vehicle in the U.S. inventory.

After the 1986 *Challenger* accident, we became painfully aware of the lack of launch capability necessary to ensure that satellites necessary for everyday life in America were able to be launched. Key decisionmakers termed it a "lack of assured access to space," and at that's what it was. To combat the problem, the Air Force began what we now can see was a very farsighted investment in unmanned or expendable launch vehicle technology. Two components of this new fleet of expendable launch vehicles are now made in Colorado: the Delta II, a medium-powered launch vehicle, manufactured in Pueblo and the most powerful, the Titan 4.

Today, the United States faces an enormous backlog of key satellite payloads already manufactured and ready to go, yet without any available booster to get them into orbit. For a nation that depends as heavily as the United States does on space—for everything from cross-country telephone calls to Home Box Office movies to warning of impending ballistic missile attack—the recovery of the U.S. space launch capability cannot be overstated. And Colorado's role in support of both the successful Delta II Program and yesterday's successful Titan 4 is pivotal.

Not only does the successful Titan 4 launch signal clearly that the U.S. Space Program is on the road to recovery, however. It also comes at an important—and joyful—juncture in the history of Titan rockets built in Denver—1989 marks the 30th anniversary of the successful launch of the first Denver-built Titan, the Titan I. It was in 1959—at the same launch site as yesterday's launch—that the first test flight of a Titan I intercontinental ballistic missile [ICBM] occurred.

Colorado's dedication to the U.S. Space Program—both millitary and civilian—is long lasting. Nothing is better evidence than yesterday's launch.

So far, report are that it came off "without a hitch"—great news in light of our recent years of other space launch difficulties. But high reliability is not new for the Titan rocket family. It's their hallmark.

Since their earliest days, Titans have been known as tried and true launch vehicles. In fact, it was just such trustworthiness that resulted in the selection in 1965 of the Titan II as the powerplant for the Gemini Manned Space Flight Program. During the course of that NASA program, these highly dependable Denver-built Titan II's powered 10 manned and 2 unmanned missions into space.

More recent events highlight the high standards of the Martin Marietta in Denver. The model immediately preceding the new Titan 4, the Titan 34D, has performed successfully in 96 percent of its flights.

High reliability for the Titan rocket system of this size and complexity doesn't come easily, however.

Martin Marietta builds the first and second stages of the rocket at its plant that sits on the outskirts of Denver. Each stage is huge by itself—together, they are enormous. For instance, the first stage stands 86.5 feet high—more than eight stories tall. Its diameter is 10 feet wide, and it produces a phenomenal one-half million pounds of thrust—that is the same as more than 10 Boeing 747 engines all firing at once. The second stage is more than three stories tall and produces over 100,000 pounds of thrust.

Once the first and second stage have been completed, the entire propulsion system must be integrated with other components manufactured at other facilities throughout the United States. In addition to the liquid first and second stages, the rocket is powered by 2 solid rocket motors, each more than 100 feet tall and producing 1.7 million pounds of thrust—that is equivalent to more than 33 747 engines firing at once. These must be integrated with the other portions of the system, the payload added, and a plethora of other functions performed to ready the spacecraft for launch.

The excellence demonstated by the Titan family's high reliability rate is something that we in Colorado are very proud of. Martin Marietta in Denver has taken an extremely difficult challenge, and brought it to fruition. Yesterday's successful launch is another example of what the hard-working, no-nonsense people of Colorado can do.

More specifically though, Martin Marietta's Astronautics Group in Denver should be highly commended for yesterday's successful launch. Leading the charge there is Mr. Peter B. Teets, assisted by Gary Flora, the space launch systems group manager. The manager responsible for Titan 4 program itself is Mr. Al Schaefle.

All of these men, and all the hard-working Coloradans who contributed in many varied ways to yesterday's successful launch should be highly commended for their efforts on behalf of our Nation's future.●

ECONOMIC BENEFITS TO THE UNITED STATES FROM THE ACTIVITIES OF THE INTERNATIONAL BANKING COMMUNITY

● Mr. GARN. Mr. President, I would like to share with you the results of a research study I recently received from Larry Uhlick of the Institute of International Bankers entitled "Economic Benefits to the United States

From the Activities of the International Banking Community." This study, prepared by the institute, highlights the economic and financial benefits that foreign banks have been able to bring to the United States as a result of the open banking markets we enjoy here under the policy of national treatment. It strengthens my conviction that the elimination of the remaining regulatory barriers between the securities and the banking industries, by opening up new markets for competition, can only be to the benefit of U.S. financial markets and U.S. consumers of banking and securities services.

The institute surveyed its members to obtain information on the direct economic benefits provided by the U.S. operations of foreign banks in terms of employment, use of real estate, and total payroll, operating and capital expenditures. The key findings of the paper are as follows: Total employment by foreign banks in the United States was more than 100,000 persons during 1988, of which the vast majority were U.S. citizens. Total payroll, operating and capital expenditures by U.S. operations of foreign banks were nearly $8 billion and utilization of office space by foreign banks in the United States was at least 34 million square feet during 1988. Using multipliers developed by the Bureau of Economic Analysis of the U.S. Department of Commerce to measure the ripple effect of expenditures in the economy, the institute's study estimates that the $8 billion in expenditures by U.S. operations of foreign banks created at least 127,000 additional jobs and $10.9 billion in additional expenditures for goods and services.

In addition to quantifying the direct economic benefits provided by foreign banks, the study also describes the financial benefits to the United States. These include contributing to product innovations—such as new money market rates like the London Interbank Offered Rate [LIBOR]—and providing competitive pricing on loans and credit enhancement for corporate, municipal, and other borrowers. The study also highlights the role of foreign banks in facilitating trade and investment between the United States and other countries, including export finance, and in contributing to the development and continued prominence of international banking centers in New York, Los Angeles, San Francisco, Chicago, Miami, and Atlanta. The importance of U.S. financial markets would be diminished if foreign banks were discouraged from maintaining a presence in this country.

In an overview of international banking, the study points out that the cross-border presence of foreign banks in the United States, as well as the presence of U.S. and nondomestic banks in other countries, is a natural consequence of the internationalization of the world's financial and economic markets. Indeed, the cross-border presence of international banks has become an essential element in the global system of trade and finance. The study notes that nondomestic banks have a significant presence in other major national economies and typically provide economic benefits in those countries similar to those provided by foreign banks in the United States. In this regard, international operations of U.S. banks continue to be very important. As of the end of 1987, U.S. banks had at least 900 foreign branches and, as recently reported in the May 30 issue of American Banker, international profits of U.S. money center banks as a percentage of total earnings have increased in recent years.

Finally, the institute's study discusses the U.S. policy of national treatment and concludes that the policy has worked well. The policy of national treatment for foreign banks not only provides benefits to our economy but also encourages other countries to provide national treatment to U.S. and other nondomestic banks.

An underlying theme of the institute's paper is that competition promotes the public welfare by encouraging innovation and reducing costs. Just as the U.S. policy of national treatment has fostered such competition in the U.S. banking industry, I continue to believe that further deregulation of the U.S. financial markets will result in greater competition to the benefit of the public and the economy. Accordingly, I urge my colleagues to pass legislation, as soon as possible after we finish our review of the thrift issues, that will eliminate the Glass-Steagall restrictions on the securities activities of banks. The greater competition that such deregulation will provide will accrue to the benefit of U.S. corporations, State and local governments, consumers, and U.S. financial markets in general.●

GLOBAL POPULATION GROWTH

● Mr. BRADLEY. Mr. President, the signals are all around us, and they are becoming more numerous and harder to overlook: the future of our global environment and of the human family itself is in jeopardy. The pressures of population growth in the Third World and of pollution throughout the world are mounting, harming human health, damaging the environment, crippling economic development in countries that need it most, and threatening the stability of fragile democracies.

I would like to share with my colleagues an editorial that appeared in the Camden, NJ, Courier-Post on April 3, 1989, which highlights some of the problems posed by rapid global population growth. I believe it is time for more of us to think about these matters, and to work together with the Bush administration to come up with workable solutions to them.

I ask that the attached article be printed in the RECORD at this point.

The article follows:

[From the Camden (NJ) Courier-Post, Apr. 3, 1989]

CURB POPULATION TO SAVE PLANET

Experts who have been warning for years that the planet is adding too many people too quickly are now stepping up those warnings in terms that ought to strike home. Just look at the smog-choked cities, the fouled oceans, the "greenhouse" effect that is heating up the Earth at an alarming rate. Environmental problems are fueled by an ever-growing number of people putting demands on an already overburdened Earth.

The Population Institute, a non-profit organization that has long been in the forefront of lobbying for population control, notes that 92 percent of the world's population growth is in Third World countries. The West, which has its population under control and has developed a respect for the environment that it lacked even a few years ago, is now trying to convince the underdeveloped countries not only to control their populations, but to refrain from polluting the environment or exploiting their natural resources. Brazil, for example, is under pressure to stop cutting and burning its vast rain forests, vital to the world as a source of oxygen.

These less developed countries, which have long been plundered by the industrial giants, naturally resent the Johnny-come-lately environmental "purity" of the West. Fortunately, however, their basic objective of feeding, clothing and sheltering their people coincides with the world's need to control population. Governments in many lands are trying, through family planning education and birth control, to curb growth. Often they face stiff opposition, in terms of cultural and religious traditions that favor large families or prohibit contraception. In many countries, furthermore, a large portion of the population is just reaching childbearing age, which makes population control even more difficult. In Mexico, for example, 60 percent of the population is 16 years of age and under.

The Population Institute reports several success stories. About 30 countries, including Mexico, Brazil, Nigeria, Zimbabwe, Jordan, Indonesia and China—home to 1 billion of Earth's 5 billion inhabitants—have made strides in reducing the rate of population growth. With more help, they and the 90 or so other countries still facing runaway growth could do better.

With the global population projected to double in 40 years, the specter rises of people pitted against each other in a struggle for what clean air, clean water, arable land and fossil fuels remain. Such a struggle for resources is an open invitation to war if not strangulation from pollution. Which makes it all the more important to get behind efforts now to curb population growth.

U.S. Sen. Timothy Wirth, D-Colo., is chief sponsor of a bill called the National Energy Policy Act, which is aimed at reducing the buildup of carbon dioxide and air pollutants that have been linked to the warming of the Earth. Among the bill's proposals is a call to make global population part of a national

energy imperative. The Wirth bill would provide some $1.6 billion (up from $200 million) to support international family planning programs for three years.

This is not just a good investment. It's an imperative one. Isn't it better that the United States unite now with the rest of the world to curb population than fight it later in the midst of shortages and pollution?●

CONFIRMATION OF AMBASSADOR JOHN NEGROPONTE

● Mr. DECONCINI. Mr. President, I want to extend my congratulations to John Negroponte who was confirmed yesterday by the Senate as the United States Ambassador to Mexico. I am pleased the Senate acted in a timely manner and am especially pleased that John Negroponte was confirmed without opposition.

I have met with Ambassador Negroponte on a number of occasions and I must say that I am impressed. He has a strong diplomatic record from his time in Honduras and is well versed with events and the players in the region. He also impresses me as one who will be able to deal firmly and fairly with the Mexican Government and who will be able to represent well United States interests in Mexico.

Our top diplomatic post in Mexico City is an extremely sensitive and important one. Mexico, our friend and neighbor to the south, has many social and cultural ties with the United States, in general, and the Southwest in particular. In recent years, our ties have become even more intertwined as our business relations have expanded. These ties must be carefully nurtured.

Unfortunately, the otherwise strong ties between the United States and Mexico have not extended into the area of cooperation on the drug front. Only within recent months has the Salinas government begun cooperating with U.S. Customs Service and Drug Enforcement Agency officials in stemming the flow the drugs into this country and in bringing drug lords to justice.

This spotty record of enforcement and cooperation must be strengthened and I feel that Ambassador Negroponte has the experience and tools available to do the job. If we are serious about the war on drugs—and this Senator remains strongly committed to that effort—then we must ensure that the Mexican Government knows that cooperation on the drug front remains a top priority of the United States. I am certain that John Negroponte will be the man who will carry the United States message on drugs to the Government of Mexico and I wish him well as he assumes his new duties.●

ORDERS FOR FRIDAY, JUNE 16, 1989

Mr. MITCHELL. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until 10 a.m. tomorrow, Friday, June 16; and that following the time of the two leaders, there be a period for morning business not to extend beyond 10:30 a.m.; with Senators permitted to speak therein for up to 5 minutes each; and that at the close of morning business, the Senate resume consideration of S. 5.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDERS FOR MONDAY, JUNE 19, 1989

Mr. MITCHELL. Mr. President, I further ask unanimous consent that when the Senate recesses on Friday, June 16, it stand in recess until 11:30 a.m. on Monday, June 19; and that following the time for the two leaders, there be a period for morning business not to extend beyond 12 noon, with Senators permitted to speak for up to 5 minutes each; and at the close of morning business, the Senate then resume consideration of S. 5.

The PRESIDING OFFICER. Without objection, it is so ordered.

ROLLCALL VOTES

Mr. MITCHELL. Mr. President, I ask unanimous consent that any rollcall votes ordered during the Senate session on Friday or Monday not occur prior to 5:30 p.m. on Monday, June 19.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE SCHEDULE

Mr. MITCHELL. Mr. President, Senators should be aware of the following schedule: The Senate will be in session tomorrow and Monday considering S. 5. Senators who wish to speak or offer amendments to that legislation are encouraged to do so. Any rollcall votes which may be ordered during the session tomorrow and on Monday will occur not prior to 5:30 p.m. on Monday. Therefore, there will be no rollcall votes tomorrow. Any rollcall votes that may be ordered tomorrow or Monday will not occur prior to 5:30 p.m. on Monday.

Senators should also be aware that next week, the week immediately prior to the Fourth of July recess, is likely to involve lengthy sessions. This is an important bill in which all Senators have a keen interest. There is considerable disagreement on, if not the objectives of the bill, then at least the best way to achieve it. Therefore, Senators should be prepared next week, in accordance with the notice I provided in writing some weeks ago as to the upcoming schedule, that there could be late evenings and lengthy sessions with respect to this legislation next week.

It is my hope and intention, as I have expressed previously to the distinguished Republican leader, that we will complete action on this legislation next week.

I now yield to the distinguished Republican leader for any comments he may have on the subject.

Mr. DOLE. Mr. President, I have no comments. I share the views of the majority leader. I hope we can conclude action on this bill next week. I do know there is a bicentennial dinner on Tuesday evening. It starts at 7 p.m. But I know of nothing on Wednesday or Thursday or even Friday that will prevent us from completing action on the bill.

Mr. MITCHELL. The Senator is correct about the bicentennial dinner. He and I have attended numerous functions celebrating the 200th anniversary of the Congress, and by my count, next Tuesday's event will be the 200th such event we have attended and, in all probability, the last. It is likely that we will attempt to make some accommodation on that.

As the distinguished Republican leader has noted, Senators should be aware of this so everyone understands with respect to the schedule, it may be necessary to remain in session on Friday for some period of time if we have not reached that point. I hope that we will, and I believe that we will. So that Senators can be prepared in making up their schedules, it is possible, if not likely, that we are going to have several lengthy sessions next week on this subject.

I thank the distinguished Republican leader for his cooperation in this regard.

CONGRATULATIONS TO WICHITA STATE UNIVERSITY—1989 NCAA BASEBALL CHAMPIONS

Mr. DOLE. Mr. President, I send a resolution to the desk on behalf of myself and Senator KASSEBAUM and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 145) to congratulate Wichita State University on winning the 1989 NCAA Baseball Championship.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The resolution (S. Res. 145) was agreed to.

The preamble was agreed to.

The resolution, and its preamble, are as follows:

S. RES. 145

Whereas the Wichita State University baseball team once again battled its way to the College World Series;

Whereas the Shockers from Wichita fought off elimination six times during the tournament despite injuries and having to win their way through the toughest brackets;

Whereas Coach Gene Stephenson and his talented Wichita State baseball players showed America that "Field of Dreams" isn't only a movie. It's a baseball diamond in Omaha, Nebraska, where the indomitable Shockers won the College World Series: Now, therefore, be it

Resolved, That the United States Senate recognizes and congratulates the Wichita State University baseball team for its thrilling achievement in winning the 1989 NCAA baseball crown.

Mr. DOLE. Mr. President, I ask unanimous consent that the Secretary be instructed to transmit a copy of that resolution to the president of the university. I also move to reconsider the vote by which the resolution was agreed to.

Mr. JEFFORDS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

PRINTING OF THE EULOGIES OF THE LATE SENATOR WARREN G. MAGNUSON

Mr. LIEBERMAN. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Senate Resolution 146, submitted earlier by Senator ADAMS, authorizing the printing of a compilation of the eulogies of the late Senator Warren Magnuson.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 146) authorizing the printing of copies of a compilation containing the eulogies of the late Senator Warren Magnuson.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The resolution (S. Res. 146) was agreed to, as follows:

S. RES. 146

Resolved, That there shall be printed as a Senate document a collection of statements made in tribute to the late Senator Warren G. Magnuson and published in the CONGRESSIONAL RECORD, together with appropriate illustrations and other materials relating to his death. In addition to the usual number, there shall be printed, for the use of the Senate, the lesser of 300 copies or such number as does not exceed a cost of $1,200.

Mr. LIEBERMAN. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. JEFFORDS. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

TRANSFER TO THE REPUBLIC OF THE PHILIPPINES

Mr. LIEBERMAN. Mr. President, I ask unanimous consent that the Committee on Armed Services be discharged from further consideration of H.R. 3244, a bill to authorize the transfer of two excess naval vessels to the Republic of the Philippines, and that the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report the bill by title.

The assistant legislative clerk read as follows:

A bill (H.R. 2344) to authorize the transfer to the Republic of the Philippines of two excess naval vessels.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

The PRESIDING OFFICER. The bill is before the Senate and open to amendment. If there be no amendment to be offered, the question is on the third reading and passage of the bill.

The bill was ordered to a third reading, was read the third time, and passed.

Mr. LIEBERMAN. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. JEFFORDS. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

STAR PRINT OF SENATE REPORT 101-28

Mr. LIEBERMAN. Mr. President, I ask unanimous consent that a star print be made of Senate Report No. 101-28 to reflect the changes that I will now send to the desk.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS UNTIL 10 A.M. TOMORROW

Mr. LIEBERMAN. Mr. President, if the distinguished acting Republican leader, my colleague from the State of Vermont, has no further business, and if no Senator is seeking recognition, I now ask unanimous consent that the Senate stand in recess under the previous order until 10 a.m., Friday, June 16.

There being no objection, the Senate, at 6:29 p.m., recessed until Friday, June 16, 1989, at 10 a.m.

NOMINATIONS

Executive nominations received by the Senate June 15, 1989:

DEPARTMENT OF STATE

FREDERICK MORRIS BUSH, OF MARYLAND, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO LUXEMBOURG.

CHAS. W. FREEMAN, JR., OF RHODE ISLAND, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE KINGDOM OF SAUDI ARABIA.

DEPARTMENT OF THE INTERIOR

STELLA GARCIA GUERRA, OF TEXAS, TO BE AN ASSISTANT SECRETARY OF THE INTERIOR, VICE JANET J. MCCOY, RESIGNED.

DEPARTMENT OF VETERANS' AFFAIRS

EDWARD T. TIMPERLAKE, OF VIRGINIA, TO BE AN ASSISTANT SECRETARY OF VETERANS' AFFAIRS (CONGRESSIONAL AND PUBLIC AFFAIRS) (NEW POSITION).

RAOUL LORD CARROLL, OF THE DISTRICT OF COLUMBIA, TO BE GENERAL COUNSEL, DEPARTMENT OF VETERANS' AFFAIRS (NEW POSITION).

IN THE MARINE CORPS

THE FOLLOWING-NAMED OFFICER TO BE PLACED ON THE RETIRED LIST IN THE GRADE OF LIEUTENANT GENERAL UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 1370:

To be lieutenant general

EDWIN J. GODFREY, xxx-xx-xxxx/9903 U.S. MARINE CORPS.

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT TO THE GRADE OF LIEUTENANT GENERAL WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601:

To be lieutenant general

MAJ. GEN. ROBERT F. MILLIGAN xxx-xx-xxxx/9903 USMC.

WITHDRAWAL

Executive nomination withdrawn by the President from further Senate consideration, June 15, 1989:

DEPARTMENT OF THE INTERIOR

JANET J. MCCOY, OF OREGON, TO BE AN ASSISTANT SECRETARY OF THE INTERIOR, VICE RICHARD THOMAS MONTOYA, RESIGNED, WHICH WAS SENT TO THE SENATE ON JANUARY 3, 1989..

HOUSE OF REPRESENTATIVES—*Thursday, June 15, 1989*

The House met at 10 a.m.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

We are grateful, O God, for the sense of community—the community of common ideals, the community of family, the community of friends. May the fellowship we enjoy and the support and affection we receive from others, bind us together as the people You have created us to be. May our shared responsibility and our shared values cause us to grow in knowledge and respect one with another. For the blessings of love from those closest to us, for the encouragement from people who surround us, we offer this word of prayer and thanksgiving. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER. The gentlewoman from California [Ms. PELOSI] will please lead the House in the Pledge of Allegiance.

Ms. PELOSI led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate had passed without amendment a bill and a joint resolution of the House of the following titles:

H.R. 881. An act to provide for restoration of the Federal trust relationship with, and assistance to, the Coquille Tribe of Indians and the individual members consisting of the Coquille Tribe of Indians, and for other purposes; and

H.J. Res. 274. Joint resolution to designate the week beginning June 11, 1989, as "National Scleroderma Awareness Week."

The message also announced that the Senate had passed with amendments in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 1722. An act to amend the Natural Gas Policy Act of 1978 to eliminate wellhead price and nonprice controls on the first sale of natural gas, and to make technical and conforming amendments to such act.

The message also announced that the Senate insists upon its amendments to the bill (H.R. 1722) an act to amend the Natural Gas Policy Act of 1978 to eliminate wellhead price and nonprice controls on the first sale of natural gas, and to make technical and conforming amendments to such act, and requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. JOHNSTON, Mr. BUMPERS, Mr. FORD, Mr. MCCLURE, and Mr. DOMENICI to be the conferees on the part of the Senate.

The message also announced that the Senate had passed a bill and a concurrent resolution of the following titles, in which the concurrence of the House is requested:

S. 1184. An act to allow the obsolete destroyer United States ship Edson (DD 946) to be transferred to the Intrepid Sea-Air-Space Museum in New York before the expiration of the otherwise applicable sixty-day congressional review period; and

S. Con. Res. 44. Concurrent Resolution to express the sense of the Congress concerning the funeral of Imre Nagy, the former Prime Minister of Hungary, and other heroes of the 1956 revolution in Hungary.

COELHO SAYS FAREWELL TO THE HOUSE OF REPRESENTATIVES

(Mr. COELHO asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. COELHO. Mr. Speaker, to my friends and colleagues, let me say that today a wonderful chapter in the lives of the Coelho family is closing.

And tomorrow, a new adventure for Phyllis, Kristen, Nicole, and myself will begin.

The joy we find in leaving is the opportunity our new lives promise for being together.

The sadness is in departing this House of Representatives; a place I truly love.

The generosity of my constituents, and the good will of my colleagues, have enabled me to serve for 25 years: as a staffer, as a Member, as campaign chair, and as majority whip.

Over that time, we made some changes and we made a difference. But now the winds of change blow anew.

Yesterday, two magnificent young leaders took their places as helmsmen for the Democratic Party.

Soon, the good people of the central San Joaquin Valley will choose a new Member to represent their interests in Washington.

Like a strong and steady stream, this House is constantly refreshed by new ideas and new leadership.

And that is what's so great about our system.

On behalf of all the Coelhos, I thank my colleagues for their friendship, hard work, and dedication to this great country.

God bless you. And may God bless our wonderful country. [Applause.]

LEGISLATION TO INCREASE IMMIGRATION QUOTA FOR HONG KONG

(Mr. PORTER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PORTER. Mr. Speaker, when Li Peng and Deng Xiaoping used tanks to crush the democratic aspirations of the Chinese people, the message was heard loudest in Hong Kong. Beijing is scheduled to take control of the British colony in 1997.

Optimists in Britain say that China won't ruin the Hong Kong miracle for the sake of ideology. The massacre in Beijing should lay that theory to rest, forever.

China may receive Hong Kong in 1997, but by then it will be an empty purse. Hong Kong's talented and able people will all be gone. They will have left because they understand the difference between totalitarianism and freedom. They will have voted with their feet.

We understand that Great Britain is unable to allow most Hong Kong citizens the right to live in Britain. But the United States has no such difficulty and should welcome them.

Today I am introducing legislation to dramatically increase our current Hong Kong immigration quota from 5,000 to 50,000 a year. Easier United States immigration will help provide Hong Kong the insurance policy that Britain is unable to provide and the Chinese fear so much. The new immigrants, coming from the world's most vibrant and dynamic economy, will add immeasurably to America and strengthen our foundations of freedom and opportunity.

□ This symbol represents the time of day during the House proceedings, e.g., □ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

COMMENDING VOICE OF AMERICA

(Mr. JONES of Georgia asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. JONES of Georgia. Mr. Speaker, at a recent memorial service in Atlanta for the victims of the Beijing massacre, a number of Chinese students stressed to me the vital importance of the Voice of America in the Chinese struggle for greater freedom.

Civilized people around the world have watched the tragic events in China with sadness and outrage. Now the Chinese Government is engaged in an all-out propaganda offensive to rewrite history.

But, "The truth will set you free." That is why perhaps as many as 300 million Chinese are listening to the Voice of America's broadcasts in Mandarin, Cantonese, and English. With all other sources of information deliberately distorted, VOA has become the premiere source of news in China. The Chinese people respect VOA. They trust VOA to bring them an honest account of events in their own country. VOA has now extended broadcast hours, added a medium wave signal, opened telephone hotlines, and switched to all-news programming in order to keep the Chinese people informed of events that will determine their future. In response, the Chinese Government is jamming VOA, has issued bitter denunciations of VOA coverage, and yesterday expelled VOA Beijing Bureau Chief Alan Pessin. But the spirit of freedom cannot be silenced.

This crisis demonstrates the importance of international broadcasting. I hope my colleagues will join me in commending the staff of VOA for their tireless efforts, which have earned the respect and admiration of listeners around the world.

IN SUPPORT OF A BILL TO ELIMINATE GOVERNMENT WASTE

(Mr. BROOMFIELD asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BROOMFIELD. Mr. Speaker, late yesterday I introduced a bill that I believe will eliminate some of the most incredibly needless Government waste I've ever heard of.

Millions of dollars worth of expensive equipment is being sent to the ocean floor on U.S. Navy ships because the Navy is either unable or unwilling to do anything about it.

America's do-it-yourselfer who spends his Saturday mornings at the hardware store would not believe what the Navy is throwing away: band saws, grinders, motors, lathes and vises, milling machines, rotary pumps, and electric amplifiers are just some of the items.

My bill would help save the taxpayer those wasted dollars by requiring that old Navy vessels used in target practice or sunk as artificial reefs be partially scrapped before being used.

America may be the most wealthy Nation in the world, but we are not so wealthy that we can afford to dump millions of dollars worth of sophisticated equipment to the bottom of the ocean floor.

□ 1010

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. The Chair will interrupt the 1-minute speeches to receive a request from the gentleman from Indiana [Mr. SHARP].

APPOINTMENT OF CONFEREES ON H.R. 1722, NATURAL GAS WELLHEAD DECONTROL ACT OF 1989

Mr. SHARP. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 1722) to amend the Natural Gas Policy Act of 1978 to eliminate wellhead price and nonprice controls on the first sale of natural gas, and to make technical and conforming amendments to such act with Senate amendments thereto, disagree to the Senate amendment and agree to the conference asked by the Senate.

The SPEAKER. Is there objection to the request of the gentleman from Indiana? The Chair hears none, and appoints the following conferees: Messrs. DINGELL, SHARP, TAUZIN, LENT, and MOORHEAD.

DOE NUCLEAR WEAPONS CONTRACTORS MUST BE HELD ACCOUNTABLE FOR ENVIRONMENT AND SAFETY VIOLATIONS

(Mr. SKAGGS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SKAGGS. Mr. Speaker, today I am introducing a bill that I believe will make a significant contribution toward improving safety and accountability at our Nation's nuclear weapons plants.

It is astonishing but true that when a nuclear weapons plant contractor is fined for breaking the law, the chances are good that the U.S. Department of Energy [DOE] will pay the fine. This is a terrible policy, and a slap in the face to every American taxpayer. My bill would stop the DOE in all but the most exceptional cases from reimbursing contractors who are penalized for breaking the law. The bill also directs DOE to reform its contractor award fee system to emphasize safe operations and environmental soundness at its facilities.

When an ordinary American citizen breaks the law, he knows he may be punished for the violation. The same goes for U.S. companies. Our system is not foolproof, but the fact that people know they may be held accountable for their actions means they are less likely to break the law in the first place.

It is precisely this accountability that is still lacking at the Department of Energy's nuclear weapons plants.

When a DOE nuclear weapons contractor violates the law, they often simply pay the fine knowing they'll be promptly reimbursed. This is particularly the case where DOE contractors break important environmental or safety laws, despite the danger to public health and safety that might be involved. This DOE policy undermines basic and very important incentives for contractors to follow the law. It has encouraged a scofflaw attitude on the part of some of our contractors, because they know they will get off scot-free even if they are caught redhanded.

You would think that after the shocking events and disclosures at these nuclear facilities over the last several years—after years of woeful mismanagement and callous indifference toward the public health—after the DOE has sent the taxpayer a bill for $150 billion to fix up and clean up its act—after 75 FBI agents raided the Rocky Flats plant in my district to look into criminal allegations of illegal dumping and burning of toxic chemicals and wastes—you would think that the Department would end this insane and incredible policy.

You would think that the DOE would want to do something to rebuild its public credibility, that the Department would want the public to see it punish wrongdoing, not reward it. Especially when that wrongdoing has potentially profound implications on the lives and health of people living in communities surrounding these plants.

But they have not. After all this, it is stunning to me that it is still DOE policy that, when a nuclear weapons plant contractor is fined for breaking the law, DOE pays the fine.

One of the more glaring examples of this happened late last year at Rocky Flats when the contractor, Rockwell International, was fined $47,500 for violating the law by haphazardly storing equipment that was leaking deadly, cancer-causing PCB's. After fighting the fine for months, using DOE lawyers, Rockwell finally agreed to pay the fine. In this case, Rockwell didn't even have to wait to be reimbursed—they apparently paid the fine right out of a U.S. Department of

Energy advance funds account from which Rockwell could write checks.

Frankly, if I were a contractor, I would be embarrassed to admit my company refused to take responsibility for its actions. And please note that my bill would not hold contractors responsible for events or conditions that are out of their hands. If the contractor warns the Department that certain actions must be taken to prevent breaking the law, but either DOE or Congress does not fund or authorize that action, the contractor would be held harmless. Nor would contractors be held responsible for anyone else's actions—say, by a previous contractor at a site.

The latter part of my bill directs DOE to revise its system of paying contractors bonuses or award fees, so that these bonuses will give greater emphasis to finding and remedying problems, rather than hiding them. This is particularly important with respect to potential environmental and safety concerns. At one point last year, three key defense nuclear facilities were shut down because safety violations were covered up or ignored rather than brought to light early. We need to reward workers and managers who will point out problems before they become crises, and I believe this part of my bill will make a contribution toward encouraging that kind of work ethic.

PRESIDENT BUSH'S CLEAN AIR INITIATIVE A VITAL STEP IN ADDRESSING ENVIRONMENTAL CONCERNS

(Mr. SAXTON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SAXTON. Mr. Speaker, I want to briefly express my excitement and encouragement that we may all be able to breath a little easier when the issues of clean air and acid rain are discussed.

I want to acknowledge President Bush's clean air initiative as a vital step in addressing environmental concerns and in promoting clean air.

Speaking as a New Jerseyan, the complex network of environmental problems is of continuing concern.

Recently, studies showed that nitrogen oxide, a primary element of the acid rain problem, not only affects the health of fresh water resources such as lakes and streams, but is also a major contributor to the degradation of ocean bays and estuaries.

For example, the Chesapeake Bay Foundation recently noted that despite efforts to reduce the amount of contaminants from storm and farm runoff entering the bay, excess nitrogen in the form of acid rain will continue without strong clean air standards.

In estuarine environments, excess nitrogen oxides create conditions which result in depleted oxygen and the growth of algal blooms. According to testimony by Dr. Ted Smayda from the University of Rhode Island, the size, intensity and frequency of these blooms have increased globally, causing millions of dollars in lost revenues and devastation to shellfish industries.

I am pleased with the President's proposal and the offer of cooperation he has extended. Although I believe various details within the President's proposal need strengthening, particularly the tonnage reduction of nitrogen oxides, I am anxious to begin moving in unison on these most important issues.

EXPENDITURE TARGETS THREATEN ACCESS TO HEALTH CARE

(Ms. SLAUGHTER of New York asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. SLAUGHTER of New York. Mr. Speaker, the Nation's elderly and disabled are already greatly distressed by recent changes in Medicare. Faced with the enormous debt accumulated in the massive budget deficits of the last 8 years, it is understandable that efforts to cut Medicare costs continue. But new cost-saving measures cannot come at the expense of rationing basic health care services to our Nation's elderly.

The recently proposed expenditure target concept threatens to restrict and delay the elderly's access to medical care. By limiting the level of reimbursement physicians would receive under Medicare in a given year, expenditure targets could provide a perverse incentive to withhold medical services. Under a Canadian experiment, mounting evidence indicates that expenditure targets have caused the ill to be subjected to waits as long as 18 months for needed treatment.

Mr. Speaker, it is my belief that while we must acknowledge the need to contain medical costs, we cannot do so at the exclusion of those who need care the most. Expenditure targets have potential of encouraging a system whereby doctors perform fewer services for Medicare patients. As the Federal Government struggles with the issue of access and financing of health care services, we must find alternatives which do not put at risk the most vulnerable members of our society.

LEGISLATION ADDRESSING THE ISSUE OF CHILD CARE

(Mrs. ROUKEMA asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. ROUKEMA. Mr. Speaker, last March, I introduced legislation to address the issue of child care. It takes a starkly different approach from the Democrats' initiative—the so-called ABC bill—and the President's refundable tax credit for low-income workers. Those proposals, while sharply different in design and delivery of services, have a whopping price-tag—approaching $3 billion just for starters!

My bill proposes grants to the States as seed money to develop programs at the State and local level cooperatively with community groups, local school systems and business. The cost of this approach would be approximately $300 million over 2 years.

There are numerous successful programs throughout the country which were started locally—Independence, MO, for one. My hometown of Ridgewood, NJ, for another.

The Education and Labor Committee will markup child care legislation in the coming weeks. I urge my colleagues to cosponsor my bill for several compelling reasons:

First, keep direction and choice as close to home as possible—with the State, community, school, or business—rather than a federally directed bureaucracy.

THE FREE TRADE PROGRAM IS NOT FREE

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TRAFICANT. Mr. Speaker, the new trade figures are not so rosy. In fact, the American workers are still getting the thorns. Think about it: The savings and loan industry is basically falling apart; America's senior citizens are worried every day, they are losing their pensions, they are losing their medical benefits; housing markets are closing.

If it were not for the efforts of Chairman GONZALEZ, we may not even have a housing program for poor people.

What is next? Newlyweds will not be able to buy a home; all the banks would be owned by the foreigners. They will be forced to go in their back yards and pitch tents. Is that what America is coming out to?

The bottom line is this free trade program is not that. No one else is practicing it. It is a giveaway trade program that is killing America. And anybody that buys more than they sell goes bankrupt, and, man, we are going belly up.

Let us take care of America first and let us straighten this trade mess up. That is what Congress has to do, in addition to helping Chairman GONZALEZ today.

MEDICARE EXPENDITURE TARGET

(Mr. VALENTINE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. VALENTINE. Mr. Speaker, I rise to express my concern for the plight of our health care system.

Mr. Speaker, Medicare is under attack from a variety of fronts. The proposed budget calls for a $2.3 billion reduction in Medicare expenditures. Medicare cost increases are projected to run well ahead of general inflation. Increasing numbers of eligible beneficiaries and rapidly escalating health care costs are adding further strain to the system.

Just recently I have been made aware of a potential new blow to our health care system. The Physician Payment Review Commission has recommended national expenditure targets for physicians' services under Medicare part B to determine the level of physician fees each year. If actual expenditures during a year are greater than the target, then the physician fee scale for the following year would be decreased.

Opponents say that expenditure targets would force physicians to decide on a case-by-case basis to withhold necessary services to patients. They express concern that Medicare patients would not have adequate access to health care they need.

The Medicare Program has borne a disproportionate share of the deficit burden as it has been cut year after year by the Reagan administration and now the Bush administration.

We must honor the contract we made with senior citizens when we created the Social Security System. I recognize the need for cuts and believe we should consider all reasonable options for reducing costs. But our first priority must be to meet the health care needs of those who depend on Medicare.

SCHEDULING FAMILY TIME

(Mr. McEWEN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. McEWEN. Mr. Speaker, I wish to take the opportunity to express my congratulations to the gentleman upon his election as Speaker of the House.

I understand that one of the most difficult tasks as Speaker is assigning the calendar. On this Friday, Father's Day weekend, we will be in deliberations on a vitally important piece of legislation to our Nation. We have here on the whip's desk a notice that also, during the month of July, it is expected the House will be in session on Mondays and Fridays, as well. If I could humbly make a contribution to this effort and bring to the attention of the leadership that a small window between July and the third week of August is a period in which most of our children are most accessible and available. If we are going to be in session on Mondays and Fridays, I would like to encourage the leadership to schedule those during January, February, March and April, because for those who have our families in our districts, the opportunity to perhaps spend a Friday evening or a weekend, or to go to a county fair with them, or to be able to spend time is something that if that is at all available during the 52 weeks of the year, I would like to encourage that perhaps during July would be a time in which our children are home and we could spend time with them on a weekend. However, I understand the difficulty, and I only offer it as a suggestion.

MEDICAL SERVICE RATIONED UNDER MEDICARE

(Mr. KOLTER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KOLTER. Mr. Speaker, I rise today to express concern and dismay regarding the proposed rationing of medical services under Medicare in the form of expenditure targets. This is just another attempt by the administration to balance the budget through restrictive measures limiting the access of vital health care to so many individuals who rely on this program.

In the past, we have seen these so-called balancing mechanisms at work—unfortunately oftentimes at the expense of the elderly. Again, we see an attempt to correct the national deficit by a proposed measure to ration physician services to this same vulnerable group by the use of expenditure targets. This concept represents a radical change from the Federal Government's initial agreement with the elderly.

Congress made a promise to our seniors when the Medicare system was set in place. This commitment was to assure quality and accessible care to those who depend on the system.

I urge my colleagues to strongly oppose such a devastating measure that would again force the elderly to carry the burden of balancing the budget and also restrict greatly needed health care.

CONGRATULATIONS TO MIKHAIL GORBACHEV

(Mr. DREIER of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DREIER of California. Mr. Speaker, I take the well to extend congratulations to Mikhail Gorbachev. This morning we got the news that he has demonstrated solidarity with the students of Red China who marched and died in behalf of democracy. I simply want to say, Mr. Speaker, that I hope very much that when we see young Russians stand in Red Square, quoting Thomas Jefferson and carrying the goddess of democracy, that Mikhail Gorbachev will be equally as supportive.

DISAPPOINTING ACID RAIN LEGISLATION

(Mr. APPLEGATE asked and was given permission to address the House for 1 minute.)

Mr. APPLEGATE. Mr. Speaker, I am very disappointed in the acid rain legislation sent to Members by President Bush. There is no consideration in here for the economy or the jobs in eastern Ohio or the Appalachian regional chain where the best coal is produced, the high Btu coal.

Mr. Bush says we must meet his standards; if not by scrubbers or clean coal technology, we can switch. If they spend billions of dollars, they will switch over to a low-sulfur coal and go someplace else.

He does not know what this means and what it will cause. The job loss; we are only working 25 percent of what we were 10 years ago. We are going to have to pay higher rates for electricity, if that is what Members want. If we do not have, then we are going to allow Canada to come in and send their electricity, and then we will lose more jobs in the power industry. He refused to come down and take a look at the best clean coal technology in the United States, and in Brilliant, OH. He should have done it. He looked at an ethanol plant somewhere in the western part of the country. He ought to take a look and see what is really going on and how we try to do it.

What I am saying, Mr. President, do not turn your back on Ohio, work with us. We will be glad to work with you. Save America, save the utility rates, keep the rates down, keep the jobs. That is what is important.

COLUMNIST PRAISES THE PRESIDENT

(Mr. BOEHLERT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BOEHLERT. Mr. Speaker, wonders never cease. Members do not have to be in this town very long to learn the truth of that old adage. At the risk of shocking my colleagues in this body, I would like to point out that this morning in her syndicated column in the Washington Post, Mary McGrory actually had something nice to say about President George Bush.

She, of course, was referring to the President's innovative, bold, dynamic, clean air requirements package presented to the American people on Monday.

Mary McGrory actually said, "George Bush's dream to become an environmental President could well come true." However, she could not resist, and we all know Mary McGrory, she could not resist a slight jab, referring to a conversation she had with a leader of the Democrats in the Senate, GEORGE MITCHELL. She said, "After 8 years of what MITCHELL calls 'worse than nothing,' Bush's proposals, which some people consider piddling in light of the problem are receiving kudos." What McGrory did not say is those kudos are coming from the Sierra Club, National Audubon Society, the National Wildlife Federation, the Clean Air Coalition, everyone in this country who is concerned about a quality environment. Welcome aboard, Mary McGrory.

TENSIONS MOUNTING IN THE COALFIELDS

Mr. RAHALL asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. RAHALL. Mr. Speaker, in the coalfields of southern West Virginia and southwestern Virginia, tensions are mounting due to the breakdown in negotiations between the United Mine Workers of America and Pittston Coal Co. Aggravating this situation are the arrests for nonviolent acts of civil disobedience of over 2,200 miners, retirees and their wives since the strike began in early April.

Pittston, due to its continued reluctance to recognize the grievances being expressed by its employees, is perpetuating this labor action to the point where the company cannot possibly expect any positive gain. In a similar fashion, is New Beckley Mining.

Moreover, these companies are doing a grave disservice to those coal operators who negotiated in good faith and signed agreements with the UMWA.

By refusing to come to terms with their workers, these companies are creating an atmosphere in the coalfields which is not conducive to the type of stability and security of supply the purchasers of our coal have come to expect. While I hardly think that is the type of result these companies expected, it is what is fast becoming reality, and is not to anybody's benefit.

On behalf of the public interest in this matter, the welfare of the people who live in the coalfields and the economy of our region, today I am calling upon these companies to move in a forthwith manner and reach a settlement of those differences which exist between them and the union.

For my part, I stand ready to work in any capacity as may be deemed appropriate by the parties involved to achieve this end.

And to those who have been jailed for no act of violence, but for exercising your constitutional rights, I say do not despair.

As that famous union activist, Mary Mother Jones, said so long ago to coal miners faced with a similar situation: "God bless and protect my boys. The one last message I would send is to be true always to what you think is right. No matter the punishment, stick to your principles."

□ 1030

THREE STRIKES AND YOU'RE OUT

(Mr. UPTON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. UPTON. Mr. Speaker, in baseball, the rules of the game say "three strikes and you're out." Unfortunately, in Congress this is not always the case. The rule adopted yesterday on H.R. 1278 provides a good example.

Strike One: The 18 States in the Northeast-Midwest region are responsible for only $561 million—or 2.4 percent—of the $23.3 billion in bailout costs which will result from closing or merging unhealthy State-chartered thrifts.

Strike two: The Northeast-Midwest States constitute 42 percent of our Nation's population and pay 47 percent of the Nation's taxes. Our constituents, who are already biting the tax bullet, will now end up paying over $7.6 billion to close unhealthy thrifts. In other words, we will be paying 33 percent of the tab, when we were only responsible for 2.4 percent of the problem.

Strike three: The House approved the rule on H.R. 1278 without the Northeast-Midwest Coalition amendment to remedy this inequitable situation. The Northeast-Midwest provision would have forced those States most responsible for this crisis to pay their fair share.

Congress, you've struck out. However, since we are not playing baseball, the batter was not called out. Instead, the people of the Northeast-Midwest region will end up paying for the batter's multibillion-dollar salary over the next 30 years—a salary that they had nothing to do with.

PERSONAL EXPLANATION

(Mr. HUBBARD asked and was given permission to address the House for 1 minute, and to revise and extend his remarks.)

Mr. HUBBARD. Mr. Speaker, yesterday I was in my district in western Kentucky and not in Washington.

It was indeed painful to miss the important caucus of House Democrats yesterday morning when we elected a new majority leader and majority whip.

Yes, it was painful to miss three votes on the House floor yesterday afternoon, including the rule on H.R. 1278—the important bill regarding the savings and loan crisis—and the override attempt of President Bush's veto of a raise in the minimum wage to $4.55 over a 3-year period.

It was even more painful yesterday to attend the funeral of a wonderful 76-year-old man named Floyd Benjamin Hall, who died last Monday at Western Baptist Hospital in Paducah, KY. For 17 years, Floyd Hall, the father of Joyce Lynn Hall Hubbard, was my father-in-law and was the grandfather of our two daughters, Kelly and Krista Hubbard.

Mr. Speaker, had I been present yesterday there would have been 248 votes to override President Bush's first veto. The vote was 247 to 178, 23 votes short of the two-thirds necessary to override the veto.

We have had a minimum wage of $3.35 an hour since 1981. I hope and urge that we in Congess and President Bush work toward a compromise as soon as possible toward a decent and adequate wage increase for millions of Americans who are currently paid now only $3.35 an hour.

INTRODUCTION OF LEGISLATION TO CHANGE IRA PROVISIONS

(Mr. TALLON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TALLON. Mr. Speaker, it is no secret that for decades now, America has been on a consumption binge.

But, sooner or later we have got to answer some big questions about our future. How are we going to pay for it? Do we start paying now, and put time and compounding to work multiplying what we set aside? Or do we wait until we no longer have any time or earnings to save, and then count on somebody else to cough up the money for us? Do we take control of our own destiny, or do we continue to depend on the kindness of the strangers who are buying up our land and assets?

A lack of savings is a formula for economic mediocrity and right now, with the lowest personal savings rate in the industrial world, Americans are not making the grade. We need to make it desirable and lucrative for Americans to start saving again.

That's why I have introduced legislation to open up the IRA. My bill will

allow people to make tax-free withdrawals for education expenses, for long-term health care, and for a downpayment on a house—without having to split the interest earned on it with the IRS.

Money put into private savings vehicles does not just sit there. It keeps America competitive. And it multiplies. It is the ultimate economic and social "two-fer." It provides both the economic benefit of adding to the savings pool, and the social benefit of giving the saver more control over the condition and quality of his life.

My bill will cost the Treasury very little now and it will make the IRA a sweet deal for the saver, without making it a sour one for the Treasury.

ENUNCIATION OF MAJOR ISSUES IN THE S&L BAILOUT BILL

(Mr. CONYERS asked and was given permission to address the House for 1 minute, and to revise and extend his remarks.)

Mr. CONYERS. Mr. Speaker, I would like to bring to the attention of the Members two points. The first, of course, is that in the S&L bailout bill the practice of denying loans to minorities, which has been discovered in such major cities across the country as Atlanta, New York, Detroit, and Chicago, has not been dealt with, denying equal opportunity to our citizens, and preventing the cities from revitalizing their neighborhoods, particularly in inner-city communities.

I also would like to make the Members aware of the fact that the budget outlay for OMB is $157.6 billion, but the total cost of this measure that we are determining here has now been estimated over a 33-year period at $305.9 billion. That figure is based on Government statistics and I would like that to be considered during the course of the debate.

FINANCIAL INSTITUTIONS REFORM, RECOVERY AND ENFORCEMENT ACT OF 1989

The SPEAKER. Pursuant to House Resolution 173 and rule XXIII, the Chair declares the House in the Committee of the Whole on the State of the Union for the further consideration of the bill, H.R. 1278.

□ 1038

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 1278) to reform, recapitalize, and consolidate the Federal deposit insurance system, to enhance the regulatory and enforcement powers of Federal financial institutions regulatory agencies, and for other purposes, with Mr. KILDEE in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee of the Whole rose on Wednesday, June 14, 1989, all time for general debate had expired.

Pursuant to the rule, the amendment in the nature of a substitute consisting of the text entitled "Committee Print, Committee on Rules, June 13, 1989" shall be considered as an original bill for the purpose of amendment and shall be considered as having been read.

The text of the amendment in the nature of a substitute, as amended by the amendment printed in part 1 of House Report 101-85 accompanying House Resolution 173, is as follows:

H.R. 1278

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Financial Institutions Reform, Recovery and Enforcement Act of 1989".

(b) TABLE OF CONTENTS.—

Sec. 1. Short title and table of contents.

TITLE I—PURPOSE

Sec. 101. Purposes.

TITLE II—FEDERAL DEPOSIT INSURANCE CORPORATION AUTHORITIES AND RESPONSIBILITIES

Sec. 201. Financial institutions.
Sec. 202. Duties of Federal Deposit Insurance Corporation.
Sec. 203. FDIC board members.
Sec. 204. Definitions.
Sec. 205. Insured savings associations.
Sec. 206. Application process; insurance fees.
Sec. 207. Insurability factors.
Sec. 208. Assessments.
Sec. 209. Termination of insurance.
Sec. 210. FDIC corporate powers.
Sec. 211. Administration of corporation.
Sec. 212. Insurance funds; corporation powers as receiver.
Sec. 213. FSLIC Resolution Fund.
Sec. 214. Amendments to section 12.
Sec. 215. Amendments to section 13.
Sec. 216. Borrowing authority.
Sec. 217. Exemption from taxation; limitation on borrowing.
Sec. 218. Reports.
Sec. 219. Regulations governing insured financial institutions.
Sec. 220. Nondiscrimination.
Sec. 221. Risk management training.
Sec. 222. Brokered deposits.

TITLE III—SAVINGS ASSOCIATION SUPERVISION IMPROVEMENTS

Sec. 301. Definitions.
Sec. 302. Office of Thrift Supervision Director.
Sec. 303. Supervision of savings associations.
Sec. 304. Applicability.
Sec. 305. Conforming amendments.
Sec. 306. Safety and soundness.
Sec. 307. Amendments to section 5(c) of the Home Owners' Loan Act of 1933.
Sec. 308. Supervisory revisions.
Sec. 309. Receiverships.
Sec. 310. Technical amendment.
Sec. 311. Amendment to section 5.
Sec. 312. Provisions for low-to-moderate income housing lenders.
Sec. 313. Conversions.
Sec. 314. Capital standards.
Sec. 315. Limitation on investments by savings associations.
Sec. 316. Technical amendment.
Sec. 317. Cost of examination and reports.
Sec. 318. Recovery regulations repealed.
Sec. 319. Continued effectiveness of approved capital recovery plans.
Sec. 320. Savings and loan holding companies.
Sec. 321. Transactions with affiliates; loans to insiders.
Sec. 322. Advertising.
Sec. 323. Transfer of sections of the Federal Home Loan Bank Act to the Home Owners' Loan Act of 1933.
Sec. 324. Powers of examiners.
Sec. 325. Amendment of additional powers of Director.
Sec. 326. Amendments of title 5, United States Code.
Sec. 327. Amendments of title 31, United States Code.
Sec. 328. Preserving minority ownership of minority financial institutions.

TITLE IV—DISSOLUTION AND TRANSFER OF FUNCTIONS, PERSONNEL, AND PROPERTY OF FEDERAL SAVINGS AND LOAN INSURANCE CORPORATION

Sec. 401. Dissolution.
Sec. 402. Continuation and coordination of regulations.
Sec. 403. FDIC and RTC personnel.
Sec. 404. Division of property.
Sec. 405. Repeals.
Sec. 406. Report.
Sec. 407. OTS personnel.

TITLE V—FINANCING FOR THRIFT RESOLUTIONS

Subtitle A—Resolution Trust Corporation

Sec. 501. Resolution Trust Corporation established.

Subtitle B—Resolution Funding Corporation

Sec. 502. Resolution Funding Corporation established.
Sec. 503. Financing Corporation.
Sec. 504. Mixed ownership Government corporation.
Sec. 505. Wholly owned Government corporation.
Sec. 506. Comptroller General audit and access to records.
Sec. 507. GAO examination of Federal Savings and Loan Insurance Corporation resolutions.
Sec. 508. Establishment of Presidentially appointed Inspector General.

TITLE VI—THRIFT ACQUISITION ENHANCEMENT PROVISIONS

Sec. 601. Acquisition of thrifts by banks and bank holding companies.
Sec. 602. Investments by savings and loan holding companies in unaffiliated thrift institutions.
Sec. 603. Technical amendments to the Bank Holding Company Act.
Sec. 604. Purchase of minority interest in undercapitalized savings associations by other savings and loan holding companies allowed.
Sec. 605. Power of Director of the Office of Thrift Supervision to regulate savings and loan holding companies.

TITLE VII—FEDERAL HOME LOAN BANK SYSTEM REFORMS

Subtitle A—Federal Home Loan Bank Act Amendments

Sec. 701. Definitions.
Sec. 702. Federal Housing Finance Board established.
Sec. 703. Termination of the Federal Home Loan Bank Board and the position of Chairman.
Sec. 704. Repeal of provision relating to lawful contract rate.
Sec. 705. Repeal of provision relating to rate on interest on deposits.
Sec. 706. Capital stock.
Sec. 707. Election of bank directors.
Sec. 708. Repeal of provision relating to certain powers of the Federal Home Loan Bank Board.
Sec. 709. Powers and duties of banks.
Sec. 710. Reserves and dividends.
Sec. 711. Administrative expenses.
Sec. 712. Nonadministrative expenses; apportionment.
Sec. 713. Federal Savings and Loan Insurance Corporation industry advisory committee.
Sec. 714. Eligibility for membership.
Sec. 715. Study of bank board transfer of jurisdiction.
Sec. 716. Conforming amendment.
Sec. 717. Advances.
Sec. 718. Amendments relating to withdrawals from Federal Home Loan Bank membership.
Sec. 719. Technical and conforming amendments.

Subtitle B—Conforming Amendments

Sec. 721. Federal Home Loan Mortgage Corporation.
Sec. 722. Repeal of limitation of obligation for administrative expenses.
Sec. 723. Amendment of title 5, United States Code.
Sec. 724. Amendment of Balanced Budget and Emergency Deficit Control Act provisions.
Sec. 725. Study regarding capital requirements for Government-sponsored enterprises.

TITLE VIII—BANK CONSERVATION ACT AMENDMENTS

Sec. 801. Definitions.
Sec. 802. Appointment of conservator.
Sec. 803. Examinations.
Sec. 804. Termination of conservatorship.
Sec. 805. Conservator; powers and duties.
Sec. 806. Liability protection.
Sec. 807. Rules and regulations.
Sec. 808. Repeals.
Sec. 809. Conforming amendment.

TITLE IX—REGULATORY ENFORCEMENT AUTHORITY AND CRIMINAL ENHANCEMENTS

Sec. 900. Short title.

Subtitle A—Expanded Enforcement Powers, Increased Penalties, and Improved Accountability

Sec. 901. Employees, agents, and shareholders of a financial institution subject to administrative enforcement orders; substitution of "financial institution" for "bank" in enforcement provisions.
Sec. 902. Amendments to cease and desist authority with respect to restitution, restrictions on specific activities, grounds for issuance of a temporary order, and incomplete or inaccurate records.
Sec. 903. Merger of removal and prohibition authority.
Sec. 904. Industrywide application of removal, suspension, and prohibition orders.
Sec. 905. Enforcement proceedings allowed after separation from service.
Sec. 906. Expansion of removal powers for State criminal proceedings.
Sec. 907. Amendments to expand and increase civil money penalties.
Sec. 908. Clarification of criminal penalty provisions for violation of certain orders.
Sec. 909. Supervisory records.
Sec. 910. Increased penalty for participation by convicted individuals.
Sec. 911. Amendments to various provisions of law relating to reports.
Sec. 912. Authority of the FDIC to take enforcement action against savings associations.
Sec. 913. Public disclosure of enforcement actions required.
Sec. 914. Agency disapproval of directors and senior executive officers of certain financial institutions.
Sec. 915. Clarification of NCUA's authority to conduct compliance investigations.
Sec. 916. Continuity of authority for ongoing litigation.
Sec. 917. Extension of authority.
Sec. 918. Improved administrative hearings and procedures.
Sec. 919. Task force study of delegation of enforcement actions.
Sec. 920. Immunity of agency employees for furnishing information to other agencies.
Sec. 921. Annual report to Congress.
Sec. 922. Credit union audit requirements.

Subtitle B—Termination of Deposit Insurance

Sec. 926. Revision of procedures for termination of FDIC deposit insurance.

Subtitle C—Improving Early Detection of Misconduct and Encouraging Informants

Sec. 931. Information required to be made available to outside auditors.
Sec. 932. Financial institution employee protection remedy.
Sec. 933. Reward for information leading to recoveries or civil penalties.

Subtitle D—Right to Financial Privacy Act Amendments

Sec. 941. Definitions.
Sec. 942. Additional exceptions.
Sec. 943. Prohibitions.
Sec. 944. Miscellaneous provisions.

Subtitle E—Civil Penalties for Violations Involving Financial Institutions

Sec. 951. Civil penalties.

Subtitle F—Criminal Law and Procedure

Sec. 961. Increased criminal penalties for certain financial institution offenses.
Sec. 962. Miscellaneous revisions to title 18.
Sec. 963. Civil and criminal forfeiture.
Sec. 964. Grand jury secrecy.
Sec. 965. Criminal division fraud section regional offices.
Sec. 966. Department of Justice appropriation authorization.

TITLE X—STUDY OF FEDERAL DEPOSIT INSURANCE AND BANKING REGULATION

Sec. 1001. Study of Federal deposit insurance system.
Sec. 1002. Survey of bank fees and services.
Sec. 1003. Limitation on expanding deposit insurance coverage during study period.
Sec. 1004. General Accounting Office study.
Sec. 1005. Annual report on the condition of the Federal Deposit Insurance Fund.

TITLE XI—REAL ESTATE APPRAISAL REFORM AMENDMENTS

Sec. 1101. Establishment of Appraisal Subcommittee of the Federal Financial Institutions Examination Council.
Sec. 1102. Functions of appraisal subcommittee.
Sec. 1103. Chairperson of appraisal subcommittee; term of chairperson; meetings.
Sec. 1104. Officers and staff.
Sec. 1105. Powers of appraisal subcommittee.
Sec. 1106. Procedures for establishing appraisal standards and requiring the use of certified and licensed appraisers.
Sec. 1107. Authorization of appropriations.
Sec. 1108. Roster of State certified or licensed appraisers; authority to collect and transmit fees.
Sec. 1109. Functions of the Federal financial institutions regulatory agencies relating to appraisal standards.
Sec. 1110. Time for proposal and adoption of standards.
Sec. 1111. Functions of the Federal financial institutions regulatory agencies relating to appraiser qualifications.
Sec. 1112. Transactions requiring the services of a State certified appraiser.
Sec. 1113. Transactions requiring the services of a State licensed appraiser.
Sec. 1114. Time for proposal and adoption of rules.
Sec. 1115. Certification and licensing requirements,
Sec. 1116. Establishment of State appraiser certifying and licensing agencies.
Sec. 1117. Monitoring of State appraiser certifying and licensing agencies.
Sec. 1118. Recognition of State certified and licensed appraisers for purposes of this title.
Sec. 1119. Violations in obtaining and performing appraisals in federally related transactions.
Sec. 1120. Definitions.
Sec. 1121. Miscellaneous provisions.

TITLE XII—MISCELLANEOUS PROVISIONS

Sec. 1201. Amendments to the Federal Deposit Insurance Act.
Sec. 1202. Study of structure and condition of credit union system.
Sec. 1203. OCC employment provision.
Sec. 1204. NCUA employment provision.
Sec. 1205. Expansion of use of underutilized minority banks, women's banks, and low-income credit unions.
Sec. 1206. Credit Standards Advisory Committee.
Sec. 1207. Minimum requirements for accreditation of State depository institution supervisory agencies and for State examinations of federally regulated or insured institutions.
Sec. 1208. Comparability in compensation schedules.

Sec. 1209. Study by Secretary of the Treasury.
Sec. 1210. Expenditure of taxpayer money only for deposit insurance purposes.
Sec. 1211. Separability of provisions.
TITLE XIII—PARTICIPATION BY STATE HOUSING FINANCE AUTHORITIES
Sec. 1301. Definitions.
Sec. 1302. State Housing Finance Authority authorization.
TITLE XIV—TAX PROVISIONS
Sec. 1401. Early termination of special reorganization rules for financial institutions.
Sec. 1402. Tax exemption for Resolution Trust Corporation and Resolution Funding Corporation.
Sec. 1403. Annual reports on transactions in which Federal financial assistance provided.
Sec. 1404. Annual study of relationship between public debt and activities of Government-sponsored enterprises.

TITLE I—PURPOSES

SEC. 101. PURPOSES.

The purposes of this Act are as follows:

(1) To promote a safe and stable system of affordable housing finance through regulatory reform.

(2) To improve supervision by strengthening capital, accounting, and other supervisory standards.

(3) To establish a relationship of general oversight by the Secretary of the Treasury over the office charged with regulatory responsibility for savings associations similar to that of the Comptroller of the Currency.

(4) To establish an independent insurance agency to provide deposit insurance for savers.

(5) To put the Federal Deposit Insurance System on a sound financial basis for the future.

(6) To create a new corporation to contain, manage, and resolve failed thrift institutions.

(7) To provide the necessary private and public financing to resolve failed institutions in an expeditious manner.

(8) To provide for improved supervision and enhanced enforcement powers and increase criminal and civil money penalties for fraud against financial institutions and depositors.

TITLE II—FEDERAL DEPOSIT INSURANCE CORPORATION AUTHORITIES AND RESPONSIBILITIES

SEC. 201. FINANCIAL INSTITUTIONS.

(a) AMENDMENTS TO REFERENCES TO INSURED BANK.—

(1) IN GENERAL.—Except as provided in paragraph (2), the Federal Deposit Insurance Act (12 U.S.C. 1811 et seq.) is amended by striking out "insured bank", "insured banks", and "insured bank's" each place each term appears in such Act (except where any such term is preceded by "member" or "nonmember") and inserting in lieu thereof "insured financial institution", "insured financial institutions", and "insured financial institution's", respectively.

(2) EXCEPTIONS.—The terms "insured bank" and "insured banks" shall not be amended pursuant to paragraph (1) in sections 3(h), 11(h), 11(i), 13(c)(1)(B), 13(f), and 18(d) of the Federal Deposit Insurance Act.

(b) AMENDMENTS TO REFERENCES TO FEDERAL HOME LOAN BANK BOARD.—The Federal Deposit Insurance Act (12 U.S.C. 1811 et seq.) is amended by striking out "Federal Home Loan Bank Board" each place such term appears and inserting in lieu thereof "Director of the Office of Thrift Supervision".

(c) AMENDMENTS TO REFERENCES TO NONMEMBER INSURED BANKS.—The Federal Deposit Insurance Act (12 U.S.C. 1811 et seq.) is amended by inserting "or State savings association" after "nonmember insured bank" each place such term appears.

SEC. 202. DUTIES OF FEDERAL DEPOSIT INSURANCE CORPORATION.

Section 1 of the Federal Deposit Insurance Act (12 U.S.C. 1811) is amended by inserting "and savings associations" after "banks".

SEC. 203. FDIC BOARD MEMBERS.

Section 2 of the Federal Deposit Insurance Act (12 U.S.C. 1812) is amended—

(1) in the first sentence—

(A) by striking out "The management" and inserting in lieu thereof the following:

"(a) IN GENERAL.—The management"; and

(B) by striking out "three" and inserting in lieu thereof "5";

(C) by inserting "1 of whom shall be the Director of the Office of Thrift Supervision" after the 2nd comma; and

(D) by striking out "two" and inserting in lieu thereof "3";

(2) by striking out the 2d and 3d sentences and inserting in lieu thereof the following: "1 of the appointive members shall be designated by the President, by and with the advice and consent of the Senate, to serve as Chairperson of the Board of Directors for a term of 4 years, and 1 of such members shall be designated by the President, by and with the advice and consent of the Senate, to serve as Vice Chairperson of the Board of Directors for a term of 4 years. Not more than 3 members of the Board of Directors may be members of the same political party.";

(3) by amending the 5th sentence to read as follows:

"In the event of a vacancy in the office of the Comptroller of the Currecy or the office of the Director of the Office of Thrift Supervision, or during the absence or disability of any such member, the Acting Comptroller of the Currency, or the Acting Director of the Office of Thrift Supervision, as the case may be, shall serve as a member of the Board of Directors in lieu of the Comptroller of the Currency or the Director of the Office of Thrift Supervision, respectively.";

(4) in the 6th sentence, by striking out "Comptroller of the Currency" and inserting in lieu thereof "Vice Chairperson of the Board";

(5) in the last sentence—

(A) by inserting "or Federal home loan bank" after "Federal Reserve bank"; and

(B) by inserting "or financial institution holding company" before the semicolon; and

(6) by adding at the end thereof the following new subsection:

"(b) CONTINUATION OF MEMBERSHIP.—

"(1) MEMBERS.—The members of the Board of Directors on the date of enactment of the Financial Institutions Reform, Recovery and Enforcement Act of 1989 shall continue to serve in office until the fulfillment of their existing terms.

"(2) CHAIRPERSON.—The Chairperson of the Board of Directors shall continue to serve until a successor has been appointed and qualified.".

SEC. 204. DEFINITIONS.

(a) DEFINITIONS OF BANK AND RELATED TERMS.—Section 3(a) of the Federal Deposit Insurance Act (12 U.S.C. 1813(a)) is amended to read as follows:

"(a) DEFINITIONS OF BANK AND RELATED TERMS.—

"(1) BANK.—The term 'bank' means any national bank, State bank, and District bank, and any Federal or State insured branch.

"(2) STATE BANK.—The term 'State bank' means any bank, banking association, trust company, savings bank, industrial bank (or similar financial institution which the Board of Directors finds to be operating substantially in the same manner as an industrial bank), or other banking institution which—

"(A) is engaged in the business of receiving deposits, other than trust funds (as defined in this section); and

"(B) is incorporated under the laws of any State or which is operating under the Code of Law for the District of Columbia (except a national bank),

including any unincorporated bank the deposits of which are insured by the Corporation on the date of the enactment of the Financial Institutions Reform, Recovery and Enforcement Act of 1989.

"(3) STATE.—The term 'State' means any State of the United States, the District of Columbia, any territory of the United States, Puerto Rico, Guam, American Samoa, the Trust Territory of the Pacific Islands, or the Virgin Islands.

"(4) DISTRICT BANK.—The term 'District bank' means any State bank operating under the Code of Law of the District of Columbia.

"(5) CERTAIN COOPERATIVE BANKS INCLUDED.—The term 'bank' includes any cooperative bank that was insured pursuant to the Federal Deposit Insurance Act immediately prior to the date of the enactment of the Financial Institutions Reform, Recovery and Enforcement Act of 1989.".

(b) DEFINITION OF SAVINGS ASSOCIATIONS AND RELATED TERMS.—Section 3(b) of the Federal Deposit Insurance Act (12 U.S.C. 1813(b)) is amended to read as follows:

"(b) DEFINITION OF SAVINGS ASSOCIATIONS AND RELATED TERMS.—

"(1) SAVINGS ASSOCIATION.—The term 'savings association' means—

"(A) any Federal savings association;

"(B) any State savings association;

"(C) any corporation that the Board of Directors determines to be operating substantially in the same manner as a savings and loan association; and

"(D) any institution the accounts of which were insured by the Federal Savings and Loan Insurance Corporation on the day before the date of the enactment of the Financial Institutions Reform, Recovery and Enforcement Act of 1989.

"(2) FEDERAL SAVINGS ASSOCIATION.—The term 'Federal savings association' means any Federal savings and loan association or Federal savings bank which is chartered under section 5 of the Home Owners' Loan Act of 1933.

"(3) STATE SAVINGS ASSOCIATION.—The term 'State savings association' means any building and loan, savings and loan, homestead association, or cooperative bank (other than a bank described in subsection (a)(5)) which is organized and operating according to the laws of the State (as defined in subsection (a) of this section) in which it is chartered or organized.".

(c) DEFINITIONS RELATING TO FINANCIAL INSTITUTIONS.—Section 3(c) of the Federal Deposit Insurance Act (12 U.S.C. 1813(c)) is amended to read as follows:

"(c) DEFINITIONS RELATING TO FINANCIAL INSTITUTIONS.—

"(1) FINANCIAL INSTITUTION.—The term 'financial institution' means any bank or savings association.

"(2) INSURED FINANCIAL INSTITUTION.—The term 'insured financial institution' means any bank or savings association the deposits of which are insured by the Corporation pursuant to this Act.

"(3) CERTAIN INSTITUTIONS INCLUDED FOR CERTAIN PURPOSES.—The term 'insured financial institution' includes any uninsured branch or agency of a foreign bank or a commercial lending company owned or controlled by a foreign bank for purposes of subsections (b) through (n) of section 8 of this Act.".

(d) DEFINITIONS RELATING TO MEMBER BANKS.—Section 3(d) of the Federal Deposit Insurance (12 U.S.C. 1813(d)) is amended to read as follows:

"(d) DEFINITIONS RELATING TO MEMBER BANKS.—

"(1) NATIONAL MEMBER BANK.—The term 'national member bank' means any national bank which—

"(A) is located in any State (other than the Trust Territory of the Pacific Islands); and

"(B) is a member of the Federal Reserve System.

"(2) STATE MEMBER BANK.—The term 'State member bank' means any State bank which is a member of the Federal Reserve System.".

(e) DEFINITIONS RELATING TO NONMEMBER BANKS.—Section 3(e) of the Federal Deposit Insurance Act (12 U.S.C. 1813(e)) is amended to read as follows:

"(e) DEFINITIONS RELATING TO NONMEMBER BANKS.—

"(1) NATIONAL NONMEMBER BANK.—The term 'national nonmember bank' means any national bank which—

"(A) is located in any territory of the United States, Puerto Rico, Guam, American Samoa, or the Virgin Islands; and

"(B) is not a member of the Federal Reserve System.

"(2) STATE NONMEMBER BANK.—The term 'State nonmember bank' means any State bank which is not a member of the Federal Reserve System.".

(f) ADDITIONAL AMENDMENTS TO DEFINITIONS.—Section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813) is amended—

(1) in subsection (j)—

(A) by inserting "conserving assets or" before "winding up"; and

(B) by inserting ", or of a savings association" before the period;

(2) in subsection (l)—

(A) by inserting "or savings association" after "a bank", "the bank", "another bank", "receiving bank", and "such bank" each place such terms appear;

(B) by inserting "or savings association's" after "bank's" each place such term appears;

(C) by striking out "and" at the end of subparagraph (5)(A);

(D) by striking out the period at the end of paragraph (5)(B) and inserting in lieu thereof "; or"; and

(E) by inserting after paragraph (5)(B) the following new subparagraph:

"(C) any money denominated in any currency other than that of the United States, and any obligation otherwise equivalent to money but which is not expressed in terms of the currency of the United States."; and

(F) in paragraph (5), by inserting ", Director of the Office of Thrift Supervision" after "Comptroller of the Currency";

(3) in subsection (m)—

(A) in paragraph (1), by striking out "the bank" and inserting in lieu thereof "the financial institution"; and

(B) by adding at the end thereof the following paragraph:

"(3) TERM INCLUDES CERTAIN FORMER FSLIC INSURED ACCOUNTS.—Subject to section 402(d) of the Financial Institutions Reform, Recovery and Enforcement Act of 1989, in the case of a savings association that becomes an insured financial institution as a result of the operation of section 4(a) of this Act, the term 'insured deposit' shall include any liability of such financial institution which constituted an insured account (within the meaning given to such term by section 401(c) of the National Housing Act, as in effect on the day before the date of the enactment of the Financial Institutions Reform, Recovery and Enforcement Act of 1989).";

(4) by amending subsection (q) to read as follows:

"(q) APPROPRIATE FEDERAL BANKING AGENCY.—The term 'appropriate Federal banking agency' means the following agencies:

"(1) The Comptroller of the Currency in the case of a national banking association, a District bank, or a Federal branch or agency of a foreign bank.

"(2) The Board of Governors of the Federal Reserve System in the case of—

"(A) any State member insured bank (except a District bank);

"(B) any branch or agency of a foreign bank with respect to any provision of the Federal Reserve Act which is made applicable under the International Banking Act of 1978;

"(C) any foreign bank which does not operate an insured branch;

"(D) any agency or commercial lending company other than a Federal agency;

"(E) supervisory or regulatory proceedings arising from the authority given to the Board of Governors under section 7(c)(1) of the International Banking Act of 1978, including such proceedings under the Financial Institutions Supervisory Act; or

"(F) any bank holding company.

"(3) The Federal Deposit Insurance Corporation, in the case of any State nonmember insured bank (except a District bank), any foreign bank having an insured branch, or any State savings association.

"(4) The Director of the Office of Thrift Supervision, in the case of any Federal savings association or savings and loan holding company.

Under the rule set forth in this subsection, more than 1 agency may be an appropriate Federal banking agency with respect to any given institution.";

(5) by striking out subsection (t); and

(6) by adding at the end thereof the following new subsections:

"(u) STATE HOUSING FINANCE AUTHORITY.—The term 'State Housing Finance Authority' means any public agency, authority, or corporation which—

"(1) serves as an instrumentality of any State or any political subdivision of any State; and

"(2) functions as a source of residential mortgage loan financing in such State.

"(v) MORTGAGE-RELATED ASSETS.—The term 'mortgage-related assets' means—

"(1) residential mortgage loans secured by 1- to 4-family or multifamily dwellings; and

"(2) real property improved with 1- to 4-family or multifamily residential dwellings,

which are located within the jurisdiction of the applicable State Housing Finance Authority.

"(w) DEFINITIONS RELATING TO HOLDING COMPANIES.—

"(1) FINANCIAL INSTITUTION HOLDING COMPANY.—The term 'financial institution holding company' means a bank holding company or a savings and loan holding company.

"(2) BANK HOLDING COMPANY.—The term 'bank holding company' has the meaning given to such term in section 2 of the Bank Holding Company Act of 1956.

"(3) SAVINGS AND LOAN HOLDING COMPANY.—The term 'savings and loan holding company' has the meaning given to such term in section (10)(a)(1)(D) of the Home Owners' Loan Act of 1933.

"(x) DEFINITIONS RELATING TO DEFAULT.—

"(1) DEFAULT.—The term 'default' means, with respect to an insured financial institution, any adjudication or other official determination of a court of competent jurisdiction, the appropriate Federal banking agency, or other public authority pursuant to which a conservator, receiver, or other legal custodian is appointed for an insured financial institution or, in the case of a foreign bank having an insured branch, for such branch.

"(2) INSURED FINANCIAL INSTITUTION IN DANGER OF DEFAULT.—The term 'in danger of default' means an insured financial institution with respect to which (or in the case of a foreign bank having an insured branch, with respect to such insured branch) the appropriate Federal banking agency or State chartering authority has advised the Corporation that—

"(A) in the opinion of such agency or authority—

"(i) the financial institution or insured branch is not likely to be able to meet the demands of the institution's or branch's depositors or pay the institution's or branch's obligations in the normal course of business; and

"(ii) there is no reasonable prospect that the financial institution or insured branch will be able to meet such demands or pay such obligations without Federal assistance; or

"(B) in the opinion of such agency or authority—

"(i) the financial institution or insured branch has incurred or is likely to incur losses that will deplete all or substantially all of its capital; and

"(ii) there is no reasonable prospect for the replenishment of the capital of the financial institution or insured branch without Federal assistance.".

SEC. 205. INSURED SAVINGS ASSOCIATIONS.

Section 4 of the Federal Deposit Insurance Act (12 U.S.C. 1814) is amended—

(1) in subsection (a)—

(A) by striking out "(a) Every bank" and inserting in lieu thereof the following:

"(a) CONTINUATION OF INSURANCE.—

"(1) BANKS.—Each bank"; and

(B) by adding at the end thereof the following new paragraph:

"(2) SAVINGS ASSOCIATIONS.—Each savings association the accounts of which were insured by the Federal Savings and Loan Insurance Corporation on the day before the date of the enactment of the Financial Institutions Reform, Recovery and Enforcement Act of 1989, shall be, without applica-

tion or approval, an insured financial institution as of the date of the enactment of such Act, and shall be subject to the provisions of this Act.";

(2) in subsection (b)—

(A) by inserting ", except that application or notice for membership or to commence or resume business must be promptly provided by the appropriate Federal banking agency to the Corporation and the Corporation shall have a reasonable period to provide comments with respect thereto which must be considered by the appropriate Federal banking agency in making the agency's findings thereon and with respect to the statutory factors in section 6 of this Act" before the period at the end of the 1st sentence; and

(B) by striking out the penultimate and the last sentences; and

(3) by striking out subsection (c) and inserting in lieu thereof the following new subsections:

"(c) CONTINUATION OF INSURANCE AFTER CONVERSION.—Except as provided in section 5(d)—

"(1) a State financial institution which results from the conversion of an insured Federal financial institution; and

"(2) a Federal financial institution which results from the conversion of an insured State financial institution,

shall continue as an insured financial institution.

"(d) CONTINUATION OF INSURANCE AFTER MERGER OR CONSOLIDATION.—Except as provided in section 5(d), a State financial institution or a Federal financial institution which results from the merger or consolidation of insured financial institutions, or from the merger or consolidation of a noninsured financial institution with an insured financial institution, shall continue as an insured financial institution.".

SEC. 206. APPLICATION PROCESS; INSURANCE FEES.

Section 5 of the Federal Deposit Insurance Act (12 U.S.C. 1815) is amended—

(1) in subsection (a)—

(A) by striking out "(a) Subject to" and inserting in lieu thereof the following:

"(a) APPLICATION FOR INSURANCE.—

"(1) NATIONAL AND STATE NONMEMBER BANKS; STATE SAVINGS ASSOCIATIONS.—Subject to"; and

(B) by adding at the end thereof the following new paragraphs:

"(2) FEDERAL SAVINGS ASSOCIATIONS.—Subject to the provisions of this Act, any Federal savings association that is authorized by the Director of the Office of Thrift Supervision to engage in the business of receiving deposits, other than trust funds (as defined in this Act), may, upon application by the association to the Director, become an insured financial institution, after submission of such application to the Corporation with a certificate issued to the Corporation by the Director unless insurance is denied by the Board of Directors.

"(3) Any interim Federal savings association which is chartered by the Director of the Office of Thrift Supervision and will not open for business shall be an insured financial institution upon the issuance of such association's charter by the Director.

"(4) Any certificate issued to the Corporation under paragraph (2) shall state that the Federal savings association is authorized to transact business as a savings association and that consideration has been given to the factors enumerated in section 6.

"(5) Upon review by the Corporation of any certificate and application referred to in paragraph (2) with respect to any Federal savings association, and any appropriate examination by the Corporation, the Board of Directors shall give consideration to the factors described in paragraphs (1), (2), (3), (4), and (5) of section 6 in determining whether to deny insurance.

"(6) If the Board of Directors, after giving due deference to the determination of the Director of the Office of Thrift Supervision with respect to such factors, does not concur with the determination of the Director, the Board of Directors shall promptly notify the Director that insurance has been denied, giving specific reasons in writing for the Corporation's determination with reference to the factors described in paragraphs (1), (2), (3), (4), and (5) of section 6, and no charter or insurance shall be granted.

"(7) The Board of Directors may not delegate the authority of the Board of Directors to deny insurance under this subsection.";

(2) in the first sentence of subsection (a), by striking out the comma after "State nonmember bank" and inserting in lieu thereof "and State savings association,";

(3) in the 2nd sentence of subsection (a)—

(A) by striking out the comma after "State nonmember bank" and inserting in lieu thereof "and State savings association,";

(B) by striking out the comma after "such bank" and inserting in lieu thereof "or savings association,"; and

(C) by inserting "or savings association" before the period at the end;

(4) in subsection (b)—

(A) by redesignating paragraphs (5), (6), and (7) as paragraphs (6), (7), and (8) respectively; and

(B) and by inserting after paragraph (4) the following new paragraph:

"(5) the risk presented to the Bank Insurance Fund or the Savings Association Insurance Fund,"; and

(5) by adding at the end thereof the following new subsections:

"(d) INSURANCE FEES.—

"(1) UNINSURED INSTITUTIONS.—

"(A) Every uninsured financial institution that becomes insured by the Corporation, and every noninsured branch that becomes insured by the Corporation, shall pay the Corporation any such fees as the Corporation may by regulation prescribe, except that any financial institution that becomes an insured financial institution as a result of the operation of section 4(a) shall not pay any fee.

"(B) The fee paid by the financial institution shall be credited to the Bank Insurance Fund if the financial institution becomes a Bank Insurance Fund member, and to the Savings Association Insurance Fund if the financial institution becomes a Savings Association Insurance Fund member.

"(2) CONVERSIONS.—

"(A) IN GENERAL.—

"(i) PRIOR APPROVAL REQUIRED.—No insured financial institution may participate in a conversion transaction without the prior approval of the Corporation.

"(ii) 5-YEAR MORATORIUM ON CONVERSIONS.—Except as provided in subparagraph (C), the Corporation may not approve any conversion transaction before the end of the 5-year period beginning on the date of the enactment of the Financial Institutions Reform, Recovery and Enforcement Act of 1989.

"(B) CONVERSION DEFINED.—For purposes of this paragraph, the term 'conversion transaction' means—

"(i) the change of status of an insured financial institution, whether as a result of a charter conversion or otherwise, from a Bank Insurance Fund member to a Savings Association Insurance Fund member or from a Savings Association Insurance Fund member to a Bank Insurance Fund member;

"(ii) the merger or consolidation of a Bank Insurance Fund member with a Savings Association Insurance Fund member;

"(iii) the transfer of deposits of—

"(I) any Bank Insurance Fund member to any Savings Association Insurance Fund member, if the sum of such deposits and the total amount of all deposits transferred by such Bank Insurance Fund member to Savings Association Insurance Fund members during the 12-month period ending on the date of such transfer, constitutes more than 10 percent of the total deposits of such Bank Insurance Fund member on the date of such transfer; or

"(II) any Savings Association Insurance Fund member to any Bank Insurance Fund member, if the sum of the amount of such deposits and the total amount of all deposits transferred by such Savings Association Insurance Fund member to Bank Insurance Fund members during the 12-month period ending on the date of such transfer, constitutes more than 10 percent of the total deposits of such Savings Association Insurance Fund member on the date of such transfer;

"(iv) the transfer of assets of—

"(I) any Bank Insurance Fund member to any Savings Association Insurance Fund member in consideration of the assumption of liabilities for any portion of the deposits in such Bank Insurance Fund member, if the sum of the portion of deposits for which liability is assumed and the total amount of all deposits transferred by such Bank Insurance Fund member to Savings Association Insurance Fund members during the 12-month period ending on the date of such transfer, constitutes more than 10 percent of the total deposits of such Bank Insurance Fund member on the date of such transfer; or

"(II) any Savings Association Insurance Fund member to any Bank Insurance Fund member in consideration of the assumption of liabilities for any portion of the deposits in such Savings Association Insurance Fund member, if the sum of the portion of deposits for which liability is assumed and the total amount of all deposits transferred by such Savings Association Insurance Fund member to Bank Insurance Fund members during the 12-month period ending on the date of such transfer, constitutes more than 10 percent of the total deposits of such Savings Association Insurance Fund member on the date of such transfer.

"(C) APPROVAL DURING MORATORIUM.—The Corporation may approve a conversion transaction at any time if—

"(i) the Corporation and, during the existence of the Resolution Trust Corporation, the Resolution Trust Corporation Oversight Board each determine that the conversion transaction is in the best interests of the Bank Insurance Fund and the Savings Association Insurance Fund; or

"(ii) the conversion transaction (involving the transfer of any branches constituting in number no greater than ½ of the total number of branches of the financial institution and representing assets no greater than ½ of the total assets of the financial institution) assists such financial institution to meet a capital standard imposed by the appropriate Federal banking agency before August 10, 1987, for such institution.

"(D) Every financial institution participating in a conversion transaction shall pay—

"(i) in the case of a conversion transaction in which the resulting or acquiring financial institution is a Bank Insurance Fund member, an exit fee in an amount to be determined and assessed by the Corporation which—

"(I) shall be deposited in the Savings Association Insurance Fund; or

"(II) shall be paid to the Financing Corporation, if the Secretary of the Treasury determines that the Financing Corporation has exhausted all other sources of funding for interest payments on the obligations of the Financing Corporation and orders that such fees be paid to the Financing Corporation;

"(ii) in the case of a conversion transaction in which the resulting or acquiring depository institution is a Savings Association Insurance Fund member, an exit fee in an amount to be determined and assessed by the Corporation which shall be deposited in the Bank Insurance Fund; and

"(iii) an entrance fee to be determined and assessed by the Corporation, except—

"(I) that in the case of a conversion transaction in which the resulting or acquiring financial institution is a Bank Insurance Fund member, the fee shall be in an amount necessary to prevent dilution of the Bank Insurance Fund, and shall be paid to the Bank Insurance Fund; and

"(II) that in the case of a conversion transaction in which the resulting or acquiring financial institution is a Savings Association Insurance Fund member, the fee shall be in an amount necessary to prevent dilution of the Savings Association Insurance Fund, and shall be paid to the Savings Association Insurance Fund.

"(e) LIABILITY OF COMMONLY CONTROLLED FINANCIAL INSTITUTIONS.—

"(1) IN GENERAL.—

"(A) LIABILITY ESTABLISHED.—Effective on the date of the enactment of the Financial Institutions Reform, Recovery and Enforcement Act of 1989 and notwithstanding any other provision of Federal law, the law or constitution of any State, or any contract, security, or other instrument, an insured financial institution shall be liable for any loss incurred by the Corporation in connection with—

"(i) the default of a commonly controlled insured financial institution; or

"(ii) any assistance provided by the Corporation to any commonly controlled insured financial institution in danger of default.

"(B) PAYMENT UPON NOTICE.—Any insured financial institution shall pay the amount of any liability to the Corporation under subparagraph (A) upon receipt of written notice by the Corporation in accordance with this subsection.

"(C) NOTICE REQUIRED TO BE PROVIDED WITHIN 2 YEARS OF LOSS.—No insured financial institution shall be liable to the Corporation under subparagraph (A) for any loss described in such subparagraph if written notice under subparagraph (B) with respect to such liability is not received by such institution before the end of the 2-year period beginning on the date the Corporation incurred the loss.

"(2) AMOUNT OF COMPENSATION; PROCEDURES.—

"(A) USE OF ESTIMATES.—When an insured financial institution is in default or requires assistance to prevent default, the Corporation shall—

"(i) in good faith, estimate the amount of the loss the Corporation will incur from such default or assistance;

"(ii) if, with respect to such insured financial institution, there is more than 1 commonly controlled insured financial institution, estimate the amount of such commonly controlled financial institution's share of such liability; and

"(iii) advise each commonly controlled financial institution of the Corporation's estimate of the amount of such institution's liability for such losses.

"(B) PROCEDURES; IMMEDIATE PAYMENT.—The Corporation, after consultation with the appropriate Federal banking agency and the appropriate State chartering agency (if any), may—

"(i) on a case-by-case basis, establish the procedures and schedule under which any insured financial institution shall reimburse the Corporation for such institution's liability under paragraph (1) in connection with any commonly controlled insured financial institution; and

"(ii) subject to subparagraph (E), require any insured financial institution to make immediate payment of the amount of such institution's liability under paragraph (1) in connection with any commonly controlled insured financial institution.

"(C) PRIORITY.—The liability of any insured financial institution under this subsection shall have priority with respect to other obligations and liabilities as follows:

"(i) SUPERIORITY.—The liability shall be superior to the following obligations and liabilities of the financial institution:

"(I) Any obligation subordinated to depositors or other general creditors.

"(II) Any obligation to shareholders arising as a result of their status as shareholders (including a bank holding company or savings and loan holding company or any shareholder or creditor of such company).

"(III) Any obligation or liability owed to any other commonly controlled company or commonly controlled insured financial institution.

"(IV) Any liability which is a contingent liability on the date the liability of the financial institutions to the Corporation is determined.

"(ii) SUBORDINATION.—The liability shall be subordinate in right and payment to the following obligations and liabilities of the financial institution:

"(I) Deposit liabilities other than those to commonly controlled financial institutions.

"(II) Secured obligations.

"(III) Other general or senior liabilities, except to the extent specified in clause (i).

"(iii) EQUAL PRIORITY.—The liability shall receive equal priority with other liabilities and obligations of the financial institution.

"(D) ADJUSTMENT OF ESTIMATED PAYMENT.—

"(i) OVERPAYMENT.—If the amount of compensation estimated by and paid to the Corporation by 1 or more such commonly controlled financial institutions is greater than the actual loss incurred by the Corporation, the Corporation shall reimburse each such commonly controlled financial institution its pro rata share of any overpayment.

"(ii) UNDERPAYMENT.—If the amount of compensation estimated by and paid to the Corporation by 1 or more such commonly controlled financial institutions is less than the actual loss incurred by the Corporation, the Corporation shall redetermine in its discretion the liability of each such commonly controlled financial institution to the Corporation and shall require each such commonly controlled financial institution to make payment of any additional liability to the Corporation.

"(E) EXCEPTION.—If a majority of the voting stock of a commonly controlled financial institution has been pledged to secure a debt that was contracted before February 22, 1989, and that would not be voidable under title 11, United States Code, the liability of the commonly controlled financial institution to the Corporation shall be limited to the excess (if any) of the net worth of the commonly controlled financial institution (calculated without regard to its obligations to the Corporation under this subsection) over the outstanding principal and interest on such debt.

"(3) REVIEW.—

"(A) JUDICIAL.—Any final action of the Board shall be reviewable as provided in chapter 7 of title 5, United States Code.

"(B) ADMINISTRATIVE.—The Corporation may prescribe regulations and establish administrative procedures in the manner provided in section 11(1) of this Act for the review of—

"(i) the amount of any loss incurred by the Corporation in connection with any insured financial institution;

"(ii) the liability of individual commonly controlled financial institutions for the amount of such loss; and

"(iii) the schedule of payments to be made by such commonly controlled financial institutions.

"(4) LIMITATION ON RIGHTS OF PRIVATE PARTIES.—

"(A) IN GENERAL.—To the extent the exercise of any right or power of any person would impair the ability of any insured financial institution to perform such institution's obligations under this subsection—

"(i) the obligations of such insured financial institution shall supersede such right or power; and

"(ii) no court may give effect to such right or power with respect to such insured financial institution.

"(B) SCOPE OF APPLICATION.—Subparagraph (A) shall apply with respect to any right or power of any person without regard to whether such right or power is conferred by or arises under—

"(i) the constitution or law of any State;

"(ii) any provision of Federal law;

"(iii) the articles or bylaws of any insured financial institution, any financial institution holding company, or any subsidiary of any insured financial institution, or financial institution holding company;

"(iv) any debt or equity security issued by any insured financial institution, any financial institution holding company, or any subsidiary of any insured financial institution, or financial institution holding company; or

"(v) any other contract, obligation, or instrument.

"(5) LIMITATIONS.—

"(A) LIMITED PARTNERSHIPS.—This subsection shall not apply to any limited partnership or its affiliates (other than insured financial institutions which are majority-owned subsidiaries of such partnership) if a registration statement indicating that such partnership intends or intended to acquire 1 or more insured financial institutions was filed with the Securities and Exchange Commission with respect to such partnership on or before April 10, 1989.

"(B) SAVINGS ASSOCIATION AND BANK INSURANCE FUND MEMBERS.—During the 5-year period beginning on the date of the enactment of the Financial Institutions Reform, Recovery and Enforcement Act of 1989—

"(i) no Savings Association Insurance Fund member shall have any liability to the Corporation under this subsection arising out of assistance provided to or loss incurred

by the Corporation as a result of the default of a Bank Insurance Fund member; and

"(ii) no Bank Insurance Fund member shall have such liability with respect to assistance provided to or loss incurred by the Corporation as a result of the default of a Savings Association Insurance Fund member.

"(6) COMMONLY CONTROLLED DEFINED.—

"(A) GENERAL RULE.—For the purpose of this subsection, financial institutions are commonly controlled if—

"(i) such institutions are controlled by the same financial institution holding company (including any company required to file reports pursuant to section 4(f)(6) of the Bank Holding Company Act of 1956); or

"(ii) 1 financial institution is controlled by another financial institution.

"(B) EXCLUSIONS.—Financial institutions shall not be treated as commonly controlled, for purposes of this section, for a period of 5 years after the date of acquisition or such longer period determined by the Corporation after written application by the acquirer, if—

"(i) 1 financial institution controls another by virtue of ownership of voting shares acquired in securing or collecting a debt previously contracted in good faith; and

"(ii) notwithstanding section 23A(d)(1) of the Federal Reserve Act, from the date of the enactment of the Financial Institutions Reform, Recovery and Enforcement Act of 1989 to the expiration of the exclusion, the controlling bank and all of its other insured financial institution affiliates comply fully with the restrictions of sections 23A and 23B of the Federal Reserve Act in their transactions with the acquired insured financial institution.

"(7) EXCEPTION.—No financial institution shall have any liability to the Corporation under this subsection as the result of the default of, or assistance provided with respect to, an insured financial institution which is an affiliate of such financial institution if—

"(A) such affiliate was receiving cash payments from the Federal Savings and Loan Insurance Corporation under an assistance agreement or note entered into before the date of the enactment of the Financial Institutions Reform, Recovery and Enforcement Act of 1989;

"(B) the Federal Savings and Loan Insurance Corporation, or such other entity which has succeeded to the payment obligations of such Corporation with respect to such assistance agreement or note, is unable to continue such payments; and

"(C) such affiliate—

"(i) is in default or in need of assistance solely as a result of the failure to meet the payment obligations referred to in subparagraph (B); and

"(ii) is not otherwise in breach of the terms of any assistance agreement or note which would authorize the Federal Savings and Loan Insurance Corporation or such other successor entity, pursuant to the terms of such assistance agreement or note, to refuse to make such payments.

"(8) EXCEPTION FOR CERTAIN INTERSTATE ACQUISITIONS.—

"(A) IN GENERAL.—Notwithstanding any other provision of this subsection, no insured financial institution shall be liable to the Corporation for any such loss incurred in connection with the default of or provision of assistance to any other commonly controlled insured financial institution, the principal office of which is located in another State, if that other State was economically distressed at the time of acquisition of the commonly controlled insured financial institution in that other State and 1 or more commonly controlled insured financial institutions in that other State had assets in excess of $4,000,000,000 in the aggregate and was a member of the Federal Reserve System.

"(B) SCOPE OF APPLICATION.—This paragraph shall apply only—

"(i) during the five year period beginning on the date of acquisition or such longer period determined by the Corporation after written application by the acquirer; and

"(ii) only to acquisitions consummated on May 1, 1987, or January 29, 1988.".

SEC. 207. INSURABILITY FACTORS.

Section 6 of the Federal Deposit Insurance Act (12 U.S.C. 1816) is amended to read as follows:

"SEC. 6. INSURABILITY FACTORS.

"Except as otherwise provided in this Act, the factors which are required, under section 4, to be considered in connection with, and enumerated in, any certificate issued with respect to any financial institution under such section and are required, under section 5, to be considered by the Board of Directors in connection with any determination by such Board with respect to any financial institution under such section are the following:

"(1) The financial history and condition of the financial institution.

"(2) The adequacy of the financial institution's capital structure.

"(3) The future earnings prospects of the financial institution.

"(4) The general character and fitness of the management of the financial institution.

"(5) The risk presented by such financial institution to the Bank Insurance Fund or the Savings Association Insurance Fund.

"(6) The convenience and needs of the community to be served by such financial institution.

"(7) Whether the financial institution's corporate powers are consistent with the purposes of this Act.".

SEC. 208. ASSESSMENTS.

Section 7 of the Federal Deposit Insurance Act (12 U.S.C. 1817) is amended—

(1) in subsection (a)(2)—

(A) by inserting ", the Director of the Office of Thrift Supervision, the Federal Housing Finance Board, any Federal home loan bank," after "Comptroller of the Currency" each place such term appears (except after "Comptroller of the Currency,");

(B) by inserting "the Director of the Office of Thrift Supervision, the Federal Housing Finance Board, any Federal home loan bank," after "Comptroller of the Currency,";

(C) by striking out "either" and inserting in lieu thereof "any";

(D) in the last sentence, by inserting "or savings associations" after "banks";

(E) by striking out "State nonmember bank (except a District bank)" and inserting in lieu thereof "financial institution"; and

(F) by amending subparagraph (B) to read as follows:

"(B) The Board of Directors may from time to time require any insured financial institution to file such additional reports as the Corporation, after agreement with the Comptroller of the Currency, the Board of Governors of the Federal Reserve System, and the Director of the Office of Thrift Supervision, as appropriate, may deem advisable for insurance purposes.";

(2) in subsection (a)(3)—

(A) by striking out "Each insured State nonmember bank" and all that follows through "four reports" and inserting in lieu thereof the following: "Each insurance financial institution shall make to the appropriate Federal banking agency 4 reports";

(B) by striking out "bank" each place such term appears in the 2nd, 5th, and 6th sentences and inserting in lieu thereof "financial institution"; and

(C) by striking out "insured national, District" and all that follows through "member bank" in the 7th sentence and inserting in lieu thereof "insured financial institution";

(3) in subsection (a)(4), by striking out "bank", "bank's", and "banks" each place such terms appear (except where the term "bank" is preceded by "foreign") and inserting in lieu thereof "financial institution", "financial institution's", and "financial institutions", respectively;

(4) in subsection (b), by amending paragraphs (1) and (2) to read as follows:

"(1) ASSESSMENT RATES.—

"(A) ANNUAL ASSESSMENT RATES PRESCRIBED.—

"(i) The Corporation shall set assessment rates for insured financial institutions annually.

"(ii) The Corporation shall fix the annual assessment rate of Bank Insurance Fund members independently from the annual assessment rate for Savings Association Insurance Fund members.

"(iii) The Corporation shall, by June 30, of each year announce the assessment rates for the succeeding calendar year.

"(B) DESIGNATED RESERVE RATIO DEFINED.—

"(i) The designated reserve ratio of the Bank Insurance Fund shall be—

"(I) 1.25 percent of insured accounts; or

"(II) such higher ratio, not exceeding 1.50 percent, that the Board of Directors by a majority vote determines to be justified by circumstances that raise a probable risk of substantial future losses to the Bank Insurance Fund, for a period of 1 year and for further periods not exceeding 1 year each and by a majority vote of the Board of Directors in each instance.

"(ii) The designated reserve ratio of the Savings Association Insurance Fund shall be—

"(I) 1.25 percent of insured accounts; or

"(II) such higher ratio, not exceeding 1.50 percent, that the Board of Directors by a majority vote determines to be justified by circumstances that raise a probable risk of substantial future losses to the Savings Association Insurance Fund, for a period of 1 year and for further periods not exceeding 1 year each and by a majority vote of the Board of Directors in each instance.

"(iii) The Board of Directors shall—

"(I) maintain reserves in the Bank Insurance Fund received pursuant to clause (i)(II) as Supplemental Reserves in the Bank Insurance Fund;

"(II) allocate each calendar quarter to an Earnings Participation Account in the Bank Insurance Fund the investment income earned by the Bank Insurance Fund on such Supplemental Reserves in the preceding calendar quarter;

"(III) distribute such Earnings Participation Account at the conclusion of each calendar year to Bank Insurance Fund members; and

"(IV) distribute such Supplemental Reserves to Bank Insurance Fund members if and to the extent such Supplemental Re-

serves are not needed to satisfy the designated reserve ratio.

"(iv) The Board of Directors shall—

"(I) maintain reserves in the Savings Association Insurance Fund received pursuant to clause (ii)(II) as Supplemental Reserves in the Savings Association Insurance Fund;

"(II) allocate each calendar quarter to an Earnings Participation Account in the Savings Association Insurance Fund the investment income earned by the Savings Association Insurance Fund on such Supplemental Reserves in the preceding calendar quarter;

"(III) distribute such Earnings Participation Account at the conclusion of each calendar year to Savings Association Insurance Fund members; and

"(IV) distribute such Supplemental Reserves to Savings Association Insurance Fund members if and to the extent such Supplemental Reserves are not needed to satisfy the designated reserve ratio.

"(C) ASSESSMENT RATE FOR BANK INSURANCE FUND MEMBERS.—The annual assessment rate for Bank Insurance Fund members shall be—

"(i) until December 31, 1989, 1/12 of 1 percent;

"(ii) from January 1, 1990, through December 31, 1990, 0.12 percent;

"(iii) on and after January 1, 1991, 0.15 percent;

"(iv) on January 1 of a calendar year in which the reserve ratio of the Bank Insurance Fund is expected to be less than the designated reserve ratio by determination of the Board of Directors, such rate determined by the Board of Directors to be appropriate to restore the reserve ratio to the designated reserve ratio within a reasonable period of time, after taking into consideration the expected operating expenses, case resolution expenditures, and investment income of the Bank Insurance Fund, and the impact on insured bank earnings and capitalization, provided that—

"(I) from the date of enactment of this provision and through the earlier of 1994 or the calendar year preceding the year in which the Bank Insurance Fund reserve ratio is expected to first reattain the designated reserve ratio, so long as the Bank Insurance Fund reserve ratio is rising on a calendar year basis, the rate shall be as specified in clauses (i), (ii), and (iii) above;

"(II) the rate shall not exceed 0.35 percent; and

"(III) the increase in the rate shall not exceed the greater of 0.1 percent, or 50 percent of the net premium rate of the prior year; and

"(v) at all times not less than $1,000 per annum.

"(D) ASSESSMENT RATE FOR SAVINGS ASSOCIATION INSURANCE FUND MEMBERS.—The annual assessment rate for Savings Association Insurance Fund members shall be—

"(i) until December 31, 1990, 0.2 percent;

"(ii) from January 1, 1991, through December 31, 1993, 0.23 percent;

"(iii) on and after January 1, 1994, 0.18 percent;

"(iv) on January 1 of a calendar year in which the reserve ratio of the Savings Association Insurance Fund is expected to be less than the designated reserve ratio by determination of the Board of Directors, such rate determined by the Board of Directors to be appropriate to restore the reserve ratio to the designated reserve ratio within a reasonable period of time, after taking into consideration the expected operating expenses, case resolution expenditures, and investment income of the Savings Association Insurance Fund, and the impact on insured savings association earnings and capitalization, provided that—

"(I) from the date of enactment of this provision and through the earlier of 1994 or the calendar year preceding the year in which the Savings Association Insurance Fund reserve ratio is expected to first reattain the designated reserve ratio, so long as the Savings Association Insurance Fund reserve ratio is increasing on a calendar year basis, the rate shall be as specified in clauses (i), (ii), and (iii) above;

"(II) the rate shall not exceed 0.35 percent; and

"(III) the increase in the rate shall not exceed the greater of 0.1 percent, or 50 percent of the net premium rate of the prior year; and

"(v) at all times not less than $1,000 per annum.

"(E) FINANCING CORPORATION AND FUNDING CORPORATION ASSESSMENTS.—Notwithstanding any other provision of this paragraph, amounts assessed by the Financing Corporation and the Funding Corporation under sections 21 and 21B respectively, of the Federal Home Loan Bank Act against Savings Association Insurance Fund members, shall be subtracted from the amounts authorized to be assessed by the Corporation under this paragraph.

"(F) SPECIAL RULE TO ALLOW CONTINUING ASSESSMENTS BY FICO DURING PREMIUM YEAR ADJUSTMENTS.—In order to ensure that the Financing Corporation obtains sufficient funds for interest payments on obligations of such corporation, the Corporation may prescribe such regulations as may be necessary to allow the Financing Corporation to continue to impose assessments against Savings Association Insurance Fund members pursuant to section 21(f) of the Federal Home Loan Bank Act during the period required to change such members' premium year from the 1-year period applicable under section 404(b) of the National Housing Act (as in effect before the date of the enactment of the Financial Institutions Reform, Recovery and Enforcement Act of 1989) to a calendar year basis.

"(2) ASSESSMENT PROCEDURES.—

"(A) SEMIANNUAL ASSESSMENTS.—Except as provided in subsection (c)(2)—

"(i) the semiannual assessment due from any Bank Insurance Fund member for any semiannual period shall be equal to the product of—

"(I) ½ the annual assessment rate applicable to such Bank Insurance Fund member; and

"(II) such Bank Insurance Fund member's average assessment base for the immediately preceding semiannual period; and

"(ii) the semiannual assessment due from any Savings Association Insurance Fund member for any semiannual period shall be equal to the product of—

"(I) ½ the annual assessment rate applicable to such Savings Association Insurance Fund member; and

"(II) such Savings Association Insurance Fund member's average assessment base for the immediately preceding semiannual period.

"(B) For the purpose of this section the term 'semiannual period' means a period beginning on January 1 of any calendar year and ending on June 30 of the same year, or a period beginning on July 1 of any calendar year and ending on December 31 of the same year.";

(5) in subsection (b), by redesignating paragraph (9) as paragraph (10) and by inserting after paragraph (8) the following new paragraph:

"(9) RISK-BASED PREMIUMS.—

"(A) RISK-BASED CATEGORIES AUTHORIZED.—After December 31, 1991, for Bank Insurance Fund members, and after December 31, 1994, for Savings Association Insurance Fund members, the Board of Directors may establish, by regulation, assessment categories for Bank Insurance Fund members and for Savings Association Insurance Fund members. The Board of Directors may establish such assessment categories independently for Bank Insurance Fund members and for Savings Association Insurance Fund members, using independent criteria. Any criteria the Board of Directors may use in establishing such assessment categories shall be related to the risk presented to the Bank Insurance Fund or the Savings Association Insurance Fund, respectively, by the assets or liabilities of or activities conducted by the financial institutions within the assessment categories.

"(B) CATEGORICAL ASSESSMENT RATES.—The Board of Directors shall have authority and discretion to establish separate rates for each such assessment category, except that—

"(i) no such categorical assessment rates shall exceed the maximum assessment rates; or

"(ii) fall below the minimum assessment rates specified in paragraph (1).";

(6) by amending subsection (d) to read as follows:

"(d) ASSESSMENT CREDITS.—

"(1) IN GENERAL.—

"(A) On June 30 of each calendar year, the Corporation shall prescribe and publish the aggregate amount to be credited to insured financial institutions in the succeeding calendar year.

"(B) Each insured financial institution shall be invoiced by the Corporation in such succeeding calendar year for the net premium which shall be equal to the assessment less such prescribed assessment credit.

"(C) The Corporation shall deduct any outstanding obligations owed to the Corporation by an individual insured financial institution from any assessment credit to be credited to such financial institution.

"(2) ASSESSMENT CREDIT FOR INSURED BANKS.—

"(A) CREDIT BARRED.—The Board of Directors shall not prescribe an assessment credit to Bank Insurance Fund members, when the Board of Directors determines that the Bank Insurance Fund reserve ratio is expected to be equal to or less than the designated reserve ratio after taking into consideration such Fund's expected operating expenses, case resolution expenditures, investment income, and assessment income.

"(B) CREDIT AUTHORIZED.—When the Board of Directors determines, after taking into consideration such Fund's expected operating expenses, case resolution expenditures, investment income, and assessment income, that the Bank Insurance Fund reserve ratio is expected to exceed the designated reserve ratio in the succeeding year, the Board of Directors shall prescribe an assessment credit to Bank Insurance Fund members in such succeeding calendar year equal to the lesser of—

"(i) the amount necessary to reduce the Bank Insurance Fund reserve ratio to the designated reserve ratio; or

"(ii) 100 percent of the net assessment income to be received from Bank Insurance Fund members in such succeeding year.

"(3) ASSESSMENT CREDIT FOR INSURED SAVINGS ASSOCIATIONS.—

"(A) CREDIT BARRED.—The Board of Directors shall not prescribe an assessment credit to Savings Association Insurance Fund members—

"(i) when the Board of Directors determines that the Savings Association Insurance Fund reserve ratio is expected to be equal to or less than the designated reserve ratio after taking into consideration such Fund's expected operating expenses, case resolution expenditures, investment income, and assessment income; and

"(ii) as long as the Financing Corporation is authorized to assess on Savings Association Insurance Fund members an assessment to cover Financing Corporation interest obligations pursuant to section 21 of the Federal Home Loan Bank Act.

"(B) CREDIT AUTHORIZED.—If the Board of Directors determines after taking into consideration such Fund's expected operating expenses, case resolution expenditures, investment income, and assessment income, that the Savings Association Insurance Fund reserve ratio is expected to exceed the designated reserve ratio in the succeeding year, the Board of Directors shall prescribe an assessment credit to Savings Association Insurance Fund members in such succeeding calendar year equal to the lesser of—

"(i) the amount necessary to reduce the Savings Association Insurance Fund reserve ratio to the designated reserve ratio; or

"(ii) 100 percent of the net assessment income to be received from Savings Association Insurance Fund members in such succeeding year.

"(4) NET ASSESSMENT INCOME DEFINED.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'net assessment income' means—

"(i) with respect to the Bank Insurance Fund, the Bank Insurance Fund net assessment income (as defined in subparagraph (B)); and

"(ii) with respect to the Savings Association Insurance Fund, the Savings Association Insurance Fund net assessment income (as defined in subparagraph (C)).

"(B) BANK INSURANCE FUND NET ASSESSMENT INCOME.—

"(i) IN GENERAL.—The term 'Bank Insurance Fund net assessment income' means—

"(I) the total assessments which become due during the calendar year with respect to members of such fund, minus

"(II) the sum of the amount of the operating costs and expenses described in clause (ii) and the amount by which the Bank Insurance Fund's insurance costs described in clause (iii) exceed its investment income for the calendar year.

"(ii) OPERATING COST AND EXPENSES.—For the purposes of this subparagraph, the operating costs and expenses to be deducted from assessments include the operating costs and expenses of—

"(I) the Corporation for the calendar year directly attributable to the Bank Insurance Fund; and

"(II) the Bank Insurance Fund.

"(iii) INSURANCE COSTS.—For the purposes of this subparagraph, the insurance costs include—

"(I) additions to the Bank Insurance Fund's reserve to provide for insurance losses during the calendar year, except that any adjustments to such reserve which result in a reduction of such reserve shall be added; and

"(II) the insurance losses sustained in such calendar year.

"(C) SAVINGS ASSOCIATION INSURANCE FUND NET ASSESSMENT INCOME.—

"(i) IN GENERAL.—The term 'Savings Association Insurance Fund net assessment income' means—

"(I) the total assessments which become due during the calendar year with respect to members of such fund, minus

"(II) the sum of the amount of the operating costs and expenses described in clause (ii) and the amount by which the Savings Association Insurance Fund's insurance costs described in clause (iii) exceed its investment income for the calendar year.

"(ii) OPERATING COST AND EXPENSES.—For the purposes of this subparagraph, the operating costs and expenses to be deducted from assessments include the operating costs and expenses of—

"(I) the Corporation for the calendar year directly attributable to the Savings Association Insurance Fund; and

"(II) the Savings Association Insurance Fund.

"(iii) INSURANCE COSTS.—For the purposes of this subparagraph, the insurance costs include—

"(I) additions to the Savings Association Insurance Fund's reserve to provide for insurance losses during the calendar year, except that any adjustments to such reserve which result in a reduction of such reserve shall be added; and

"(II) the insurance losses sustained in such calendar year.

"(5) INVESTMENT INCOME DEFINED.—The term 'investment income' as used in this subsection means—

"(A) for the Bank Insurance Fund, interest, dividends, and net market gains earned on investments of the Bank Insurance Fund; and

"(B) for the Savings Association Insurance Fund, interest, dividends, and net market gains earned on investments of the Savings Association Insurance Fund.

"(6) RISK-BASED CREDIT ASSESSMENTS.—

"(A) IN GENERAL.—If the Corporation elects to impose risk-based assessments pursuant to subsection (b)(9), the Corporation shall, by regulation, provide for a reasonable allocation of any aggregate assessment credit among the assessment categories established under subsection (b)(9)(B) to which the insured financial institutions belong.

"(B) PRO RATA DISTRIBUTION.—Any amount to be credited to the financial institutions within any assessment category to which an assessment credit has been allocated under subparagraph (A) shall be distributed among such financial institutions within such category on a pro rata basis according to the amount of the assessments paid by each such financial institution during the applicable period.";

(7) in paragraphs (3), (4), (5), (6), (7), and (8) of subsection (b), by striking out "bank", "bank's", and "banks" each place such term appears (except where "foreign" precedes any of such terms) and inserting in lieu thereof "financial institution", "financial institution's", and financial institutions", respectively;

(8) in subsections (e), (f), (g), and (i), by striking out "bank" each place such term appears and inserting in lieu thereof "financial institution";

(9) in subsection (j)(1), by striking out the last sentence;

(10) in subsection (j)(2)(A)—

(A) by striking out "failure" and inserting in lieu thereof "default"; and

(B) by striking out "bank" each place such term appears and inserting in lieu thereof "financial institution";

(11) in subsection (j)(2)(D), by inserting "unless such agency determines that an emergency exists," after "shall,";

(12) in subsection (j)(7)—

(A) by striking out "or" at the end of subparagraph (D);

(B) by striking out the period at the end of subparagraph (E) and inserting in lieu thereof "; or"; and

(C) by adding at the end thereof the following new subparagraph:

"(F) the appropriate Federal banking agency determines that the proposed transaction would result in an adverse effect on the Bank Insurance Fund or the Savings Association Insurance Fund.";

(13) by amending subsection (j)(17) to read as follows:

"(17) EXCEPTIONS.—This subsection shall not apply with respect to a transaction which is subject to—

"(A) section 3 of the Bank Holding Company Act of 1956;

"(B) section 18 of this Act; or

"(C) section 10 of the Home Owners' Loan Act of 1933.";

(14) by adding at the end of subsection (j) the following new paragraph:

"(18) APPLICABILITY OF CHANGE IN CONTROL PROVISIONS TO OTHER INSTITUTIONS.—For purposes of this subsection, the term 'financial institution' includes—

"(A) any bank holding company;

"(B) any savings and loan holding company; and

"(C) any other company which controls an insured financial institution and is not a financial institution holding company.";

(15) by adding at the end thereof the following new subsection:

"(l) FUND ELIGIBILITY AND DEFINITIONS.—For purposes of this section:

"(1) BANK INSURANCE FUND ELIGIBILITY.—Any financial institution which—

"(A) becomes an insured financial institution; and

"(B) is not a Savings Association Insurance Fund member pursuant to paragraph (2),

shall be a Bank Insurance Fund member.

"(2) SAVINGS ASSOCIATION INSURANCE FUND ELIGIBILITY.—Any savings association, other than any Federal savings bank chartered pursuant to section 5(o) of the Home Owners' Loan Act of 1933, which becomes an insured financial institution shall be a Savings Association Insurance Fund member.

"(3) TRANSITION PROVISION.—

"(A) BANK INSURANCE FUND.—Any financial institution the deposits of which were insured by the Federal Deposit Insurance Corporation on the day before the date of the enactment of the Financial Institution Reform, Recovery and Enforcement Act of 1989, including—

"(i) any Federal savings bank chartered pursuant to section 5(o) of the Home Owners' Loan Act of 1933; and

"(ii) any cooperative bank,

shall be a Bank Insurance Fund member as of such date of enactment.

"(B) SAVINGS ASSOCIATION INSURANCE FUND.—Any savings association which is an insured financial institution by operation of section 4(a)(2) shall be a Savings Association Insurance Fund member as of the date of the enactment of the Financial Institution Reform, Recovery and Enforcement Act of 1989.

"(4) CONVERSION OF CERTAIN CHARTERS WITHOUT CHANGE OF FUND STATUS ALLOWED.—Notwithstanding any provision of subsection (d)(2), any financial institution which is a Savings Association Insurance Fund member may become a State savings bank during the 5-year period referred to in subsection (d)(2)(A)(ii) through the conversion of such institution's charter if such institution agrees to remain a Savings Association Insurance Fund member during such period.

"(5) BANK INSURANCE FUND MEMBER.—The term 'Bank Insurance Fund member' means any financial institution the deposits of which are insured by the Bank Insurance Fund.

"(6) SAVINGS ASSOCIATION INSURANCE FUND MEMBER.—The term 'Savings Association Insurance Fund member' means any financial institution the deposits of which are insured by the Savings Association Insurance Fund.

"(7) BANK INSURANCE FUND RESERVE RATIO.—The term 'Bank Insurance Fund reserve ratio' means the ratio of the net worth the Bank Insurance Fund to the value of the aggregate insured deposits held in all Bank Insurance Fund members.

"(8) SAVINGS ASSOCIATION INSURANCE FUND RESERVE RATIO.—The term 'Savings Association Insurance Fund reserve ratio' means the ratio of the value of the net worth of the Savings Association Insurance Fund to the value of the aggregate insured deposits held in all Savings Association Insurance Fund members."; and

(16) by adding after the subsection added by paragraph (15) of this section) the following new subsection:

"(m) SECONDARY RESERVE OFFSETS AGAINST PREMIUMS.—

"(1) OFFSETS IN CALENDAR YEARS BEGINNING BEFORE 1993.—Subject to the maximum amount limitation contained in paragraph (2) and notwithstanding any other provision of law, any insured savings association may offset such association's pro rata share of the statutorily prescribed amount against any premium assessed against such association under subsection (b) of this section for any calendar year beginning before 1993.

"(2) ANNUAL MAXIMUM AMOUNT LIMITATION.—The amount of any offset allowed for any savings association under paragraph (1) for any calendar year beginning before 1993 shall not exceed an amount which is equal to 20 percent of such association's pro rata share of the statutorily prescribed amount (as computed for such calendar year).

"(3) OFFSETS IN CALENDAR YEARS BEGINNING AFTER 1992.—Notwithstanding any other provision of law, a savings association may offset such association's pro rata share of the statutorily prescribed amount against any premium assessed against such association under subsection (b) for any calendar year beginning after 1992.

"(4) STATUTORILY PRESCRIBED AMOUNT DEFINED.—For purposes of this subsection, the term 'statutorily prescribed amount' means, with respect to any calendar year which ends after the date of the enactment of the Financial Institutions Reform, Recovery and Enforcement Act of 1989—

"(A) $823,705,000, minus

"(B) the sum of—

"(i) the aggregate amount of offsets made before such date of enactment by all insured institutions under section 404(e)(2) of the National Housing Act (as in effect before such date of enactment); and

"(ii) the aggregate amount of offsets made by all savings associations under this subsection before the beginning of such calendar year.

"(5) SAVINGS ASSOCIATION'S PRO RATA AMOUNT.—For purposes of this subsection, any savings association's pro rata share of the statutorily prescribed amount is the percentage which is equal to such association's share of the secondary reserve as determined under section 404(e) of the National Housing Act on the day before the date on which Federal Savings and Loan Insurance Corporation ceased to recognize the secondary reserve (as such Act was in effect on the day before such date).

"(6) YEAR OF ENACTMENT RULE.—With respect to the calendar year in which the Financial Institutions Reform, Recovery and Enforcement Act of 1989 is enacted, the Corporation shall make such adjustments as may be necessary—

"(A) in the computation of the statutorily prescribed amount which shall be applicable for the remainder of such calendar year after taking into account the aggregate amount of offsets by all insured institutions under section 404(e)(2) of the National Housing Act (as in effect before the date of the enactment of such Act) after the beginning of such calendar year and before such date of enactment; and

"(B) in the computation of the maximum amount of any savings association's offset for such calendar year under paragraph (1) after taking into account—

"(i) the amount of any offset by such savings association under section 404(e)(2) of the National Housing Act (as in effect before such date of enactment) after the beginning of such calendar year and before the date of such enactment; and

"(ii) the change of such association's premium year from the 1-year period applicable under section 404(b) of the National Housing Act (as in effect before such date of enactment) to a calendar year basis.".

SEC. 209. TERMINATION OF INSURANCE.

Section 8 of the Federal Deposit Insurance Act (12 U.S.C. 1818) is amended by adding at the end thereof the following new subsection:

"(t) LOW- TO MODERATE-INCOME HOUSING LENDER.—

"(1) IN GENERAL.—In making any determination regarding the termination of insurance of a solvent savings association, the Corporation shall take into account and consider the extent of the association's low- to moderate-income housing loans.

"(2) LOW-TO-MODERATE INCOME HOUSING LOANS DEFINED.—For purposes of paragraph (1) the term 'low- to moderate-income housing loans' has the same meaning given such term in section 5(d)(6)(G)(ii) of the Home Owners' Loan Act of 1933.".

SEC. 210. FDIC CORPORATE POWERS.

Section 9 of the Federal Deposit Insurance Act (12 U.S.C. 1819) is amended—

(1) by striking out "bank" and "banks" each place such terms appear and inserting in lieu thereof "financial institution" and "financial institutions", respectively; and

(2) by striking out "Upon the date" and inserting in lieu thereof the following:

"(a) IN GENERAL.—Upon the date";

(3) by amending the paragraph designated the "Fourth" to read as follows:

"Fourth. To sue and be sued, and complain and defend, in any court of law or equity, State or Federal."; and

(4) by adding at the end thereof the following new subsection:

"(b) LITIGATION AUTHORITY.—

"(1) STATUS.—The Corporation, in any capacity, shall be an agency of the United States for purposes of sections 451 and 1345 of title 28, United States Code, without regard to whether the Corporation commenced the action.

"(2) FEDERAL COURT JURISDICTION.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), all suits of a civil nature at common law or in equity to which the Corporation, in any capacity, is a party shall be deemed to arise under the laws of the United States.

"(B) REMOVAL.—Except as provided in subparagraph (C), the Corporation may, without bond or security, remove any action, suit, or proceeding from a State court to the appropriate United States district court.

"(C) STATE ACTIONS.—Except as provided in subparagraph (D), any action—

"(i) to which the Corporation, in the Corporation's capacity as receiver of a State insured financial institution by the exclusive appointment by State authorities, is a party other than as a plaintiff;

"(ii) which involves only the preclosing rights against, or obligations owing to, depositors, creditors, or stockholders by the State insured financial institution; and

"(iii) in which only the interpretation of the law of such State is necessary,

shall not be deemed to arise under the laws of the United States.

"(D) RULE OF CONSTRUCTION.—Subparagraph (C) shall not be construed as limiting the right of the Corporation to invoke the jurisdiction of any United States district court in any action described in such subparagraph if the institution of which the Corporation has been appointed receiver could have invoked the jurisdiction of such court.

"(3) SERVICE OF PROCESS.—The Board of Directors shall designate agents upon whom service of process may be made in any State, territory, or jurisdiction in which any insured financial institution is located.

"(4) BONDS OR FEES.—The Corporation shall not be required to post any bond to pursue any appeal and shall not be subject to payments of any filing fees in United States district courts or courts of appeal.".

SEC. 211. ADMINISTRATION OF CORPORATION.

Section 10(b) of the Federal Deposit Insurance Act (12 U.S.C. 1820) is amended—

(1) in the 1st sentence, by inserting "or State savings association," after "State nonmember bank"; and

(2) in the 2nd sentence, by striking out "insured Federal savings bank" and inserting in lieu thereof "insured savings association".

SEC. 212. INSURANCE FUNDS; CORPORATION POWERS AS RECEIVER.

Section 11 of the Federal Deposit Insurance Act (12 U.S.C. 1821) is amended—

(1) by amending subsection (a)(1) to read as follows:

"(1) As of the date of the enactment of the Financial Institutions Reform, Recovery and Enforcement Act of 1989, the Corporation shall insure the deposits of all insured financial institutions as provided in this Act. Except as provided in paragraph (2), the maximum amount of the insured deposit of any depositor shall be $100,000.";

(2) in subsection (a)(2)(B), by striking out "time and savings";

(3) in the 1st sentence of subsection (a)(3), by inserting ", and, with respect to amounts held in custodial accounts for the payment of principal, interest, tax, and insurance payments for mortgage borrowers, such amounts shall be insured in the amount of $100,000 per mortgage borrower" before the period at the end;

(4) by adding at the end of subsection (a) the following new paragraphs:

"(4) GENERAL PROVISION RELATING TO FUNDS.—The Bank Insurance Fund established under paragraph (5) and the Savings Association Insurance Fund established under paragraph (6) shall be—

"(A) maintained and administered by the Corporation;

"(B) maintained separately and not commingled; and

"(C) used by the Corporation for the purposes of carrying out the insurance purposes in the manner provided in this subsection.

"(5) BANK INSURANCE FUND.—

"(A) ESTABLISHMENT.—There is hereby established a fund to be known as the Bank Insurance Fund.

"(B) TRANSFER OF ASSETS TO FUND.—On the date of the enactment of the Financial Institutions Reform, Recovery and Enforcement Act of 1989, the Permanent Insurance Fund shall be dissolved and all the assets, debts, obligations, contracts, and other liabilities of the Permanent Insurance Fund, matured or unmatured, accrued, absolute, contingent, or otherwise shall hereby be transferred in their entirety to the Bank Insurance Fund.

"(C) USES.—Money in the Bank Insurance Fund shall be available to the Corporation for the uses and purposes provided in this Act with respect to the Bank Insurance Fund members.

"(D) DEPOSITS.—All amounts assessed against Bank Insurance Fund members by the Corporation shall be deposited into the Bank Insurance Fund.

"(6) SAVINGS ASSOCIATION INSURANCE FUND.—

"(A) ESTABLISHMENT.—There is hereby established a fund to be known as the Savings Associations Insurance Fund.

"(B) USES.—Money in the Savings Association Insurance Fund shall be available to the Corporation for the uses and purposes provided in this Act with respect to Savings Association Insurance Fund members.

"(C) DEPOSITS.—All amounts assessed against Savings Association Insurance Fund members after the date of enactment of the Financial Institutions Reform, Recovery and Enforcement Act of 1989, which are not required for the Financing Corporation, the Resolution Funding Corporation, or the FSLIC Resolution Fund shall be deposited in the Savings Association Insurance Fund.

"(D) AVAILABILITY OF FUNDS FOR ADMINISTRATIVE EXPENSES.—

"(i) INCOME FROM CERTAIN FSLIC ASSETS.—Income from assets transferred to the FSLIC Resolution Fund pursuant to section 11A(b)(1) shall be transferred to and deposited in the Savings Association Insurance Fund to the extent such income is needed to pay the administrative expenses of such Fund.

"(ii) CERTAIN RECEIVERSHIP PROCEEDS.—If, during the 5-year period beginning on the date of the enactment of the Financial Institutions Reform, Recovery and Enforcement Act of 1989, amounts deposited in the Savings Association Insurance Fund under clause (i) (and income earned on such amounts) are insufficient to pay the administrative expenses of such Fund—

"(I) such amount of the receivership proceeds of the FSLIC Resolution Fund as may be necessary to pay the administrative expenses of such Fund in excess of the amounts available under clause (i) shall be transferred to and deposited in the Savings Association Insurance Fund; and

"(II) the Savings Association Insurance Fund shall have priority over other obligations of the FSLIC Resolution Fund with respect to such amount.

"(iii) DISCRETIONARY RTC PAYMENTS.—If amounts available to the Savings Association Insurance Fund for purposes other than the payment of administrative expenses is insufficient for the Savings Association Insurance Fund to carry out the purposes of this Act, the Corporation may request the Resolution Trust Corporation to provide, and the Resolution Trust Corporation (in the discretion of the Resolution Trust Corporation) may pay, such amount as may be needed for such purposes.

"(E) TREASURY PAYMENTS TO FUND.—For the purpose of providing sufficient funding for the Savings Association Insurance Fund to carry out the purposes of this Act, the Secretary of the Treasury shall, subject to the availability of appropriations for such purpose, pay to such Fund, for each fiscal year described in the following table, the amount determined under such table for such fiscal year minus the amount deposited in such Fund (during such fiscal year) pursuant to subparagraph (C):

"For the fiscal year beginning October 1 of:	The amount of (in billions):
1991	$2.0
1992	3.4
1993	4.6
1994	3.0
1995	4.0
1996	4.0
1997	4.0
1998	4.0
1999	3.0

"(F) TREASURY PAYMENTS TO MAINTAIN NET WORTH OF FUND.—The Secretary of the Treasury shall pay, subject to the availability of appropriations, to the Savings Association Insurance Fund, for each fiscal year described in the following table, such additional funds which may be necessary, as determined by the Corporation and the Secretary of the Treasury, (if any) to ensure that such Fund has the minimum net worth referred to in such table for each such fiscal year:

"For the fiscal year beginning October 1 of:	The amount of minimum net worth (in billions):
1991	0.0
1992	1.0
1993	2.1
1994	3.2
1995	4.3
1996	5.4
1997	6.5
1998	7.6
1999	8.8

"(G) EXCEPTION TO SUBPARAGRAPHS (E) AND (F).—Notwithstanding subparagraphs (E) and (F), no payment may be made pursuant to such subparagraphs after the Savings Association Insurance Fund achieves a designated reserve ratio of 1.25 percent.

"(H) BORROWING AUTHORITY.—

"(i) IN GENERAL.—The Corporation may borrow from the Federal home loan banks, with the concurrence of the Federal Housing Finance Board, such funds as the Corporation deems necessary for the use of the Savings Association Insurance Fund.

"(ii) TERMS AND CONDITIONS.—Any loan from any Federal home loan bank under clause (i) to the Savings Association Insurance Fund shall—

"(I) bear a rate of interest of not less than such bank's current marginal cost of funds, taking into account the maturities involved;

"(II) be adequately secured, as determined by the Federal Housing Finance Board;

"(III) be a direct liability of such Fund; and

"(IV) be subject to the limitations of section 15(b).

"(I) AUTHORIZATION OF APPROPRIATIONS.—There are hereby authorized to be appropriated to the Secretary of the Treasury, without fiscal year limitation, such sums as may be necessary for payments authorized by this Act to the Funds established by this Act.

"(7) PROVISIONS APPLICABLE TO MAINTENANCE OF ACCOUNTS.—

"(A) CORPORATION'S AUTHORITY.—No provision of this Act forbidding the commingling of the Bank Insurance Fund with the Savings Association Insurance Fund, and the provisions of this Act requiring the separate maintenance of the Bank Insurance Fund and the Savings Association Insurance Fund, are not intended—

"(i) to limit or impair the authority of the Corporation to use the same facilities and resources in the course of conducting supervisory, regulatory, conservatorship, receivership, or liquidation functions with respect to banks and savings associations, or to integrate such functions; or

"(ii) to limit or impair the Corporation's power to combine assets belonging to the estates of banks and savings associations for managerial purposes, or to limit or impair the Corporation's power to dispose of such assets on an aggregate basis.

"(B) ACCOUNTING REQUIREMENTS.—

"(i) The Corporation shall keep a full and complete accounting of all costs and expenses associated with the use of any facilities and resources used in the course of functions specified in subparagraph (A)(i). The Corporation shall allocate as provided in subparagraph (C) any such costs and expenses incurred by the Corporation with respect to Bank Insurance Fund members to the Bank Insurance Fund, and shall allocate as provided in subparagraph (C) any such costs and expenses incurred by the Corporation with respect to Savings Association Insurance Fund members to the Savings Association Insurance Fund.

"(ii) The Corporation shall keep a full and complete accounting of all costs and expenses associated with the management of any assets specified in subparagraph (A)(ii), and a full and complete accounting of all costs, expenses, and receipts associated with the disposition of such assets. The Corporation shall allocate any such costs, expenses, and receipts associated with assets belonging to Bank Insurance Fund members or to the estates of such members to the Bank Insurance Fund, and shall allocate any such costs, expenses, and receipts associated with assets belonging to Savings Association Insurance Fund members or to the estates of such members to the Savings Association Insurance Fund.

"(C) ALLOCATION OF EXPENSES.—Any personnel, administrative, or other overhead expense of the Corporation shall be allocated—

"(i) fully to the Bank Insurance Fund, if the expense was incurred directly as a result of the Corporation's responsibilities solely with respect to insured banks;

"(ii) fully to the Savings Association Insurance Fund, if—

"(I) the expense was incurred directly as a result of the Corporation's responsibilities solely with respect to insured savings associations; or

"(II) the expense is associated with a new Federal savings association or a de novo mutual savings association established to assume liabilities and receive assets of an institution under the jurisdiction of the Resolution Trust Corporation or insured by the Savings Association Insurance Fund;

"(iii) between the Bank Insurance Fund and the Savings Association Insurance Fund, in amounts reflecting the relative degree to which the expense was incurred as a result of the activities of insured banks and insured savings associations; or

"(iv) between the Bank Insurance Fund and the Savings Association Insurance Fund, in amounts reflecting the relative total assets as of the end of the preceding calendar year of insured banks and insured savings associations, to the extent that the Board of Directors is unable to make a determination under clause (i), (ii), or (iii).";

(5) by amending subsections (c) through (j) to read as follows:

"(c) CORPORATION AS CONSERVATOR OR RECEIVER.—

"(1) IN GENERAL.—Notwithstanding any other provision of Federal law, any provision of the law of any State, or the constitution of any State, the Corporation may accept appointment and act as conservator or receiver for any financial institution in default upon appointment in the manner provided in subsection (d) or (e).

"(2) POWERS AND DUTIES.—

"(A) SUCCESSOR TO INSTITUTION.—The Corporation shall, as conservator or receiver, and by operation of law, succeed to—

"(i) all rights, titles, powers and privileges of the financial institution, and of any stockholder, member, accountholder, depositor, officer or director of such institution with respect to the financial institution and the assets of the institution; and

"(ii) title to the books, records, and assets of any previous conservator or other legal custodian of such financial institution.

"(B) OPERATE THE INSTITUTION.—The Corporation may, as conservator or receiver—

"(i) take over the assets of and operate the financial institution with all the powers of the members or shareholders, the directors, and the officers of the financial institution and shall be authorized to conduct all business of the financial institution;

"(ii) collect all obligations and money due the financial institution;

"(iii) perform all functions of the financial institution in the name of the institution which is consistent with the appointment as conservator or receiver; and

"(iv) preserve and conserve the assets and property of such financial institution.

"(C) POWERS AS CONSERVATOR.—The Corporation may, as conservator, take such action as may be—

"(i) necessary to put the financial institution in a sound and solvent condition; and

"(ii) appropriate to carry on the business of the financial institution and preserve and conserve the assets and property of the financial institution.

"(D) LITIGATION AUTHORITY.—The Corporation may, as conservator or receiver and subject to the direction of the General Counsel of the Corporation, institute, prosecute, maintain, defend, intervene, and otherwise participate in any action, suit, or other legal proceeding by or against the conservator or receiver, the financial institution, or any creditor or member with respect to the institution.

"(E) ORGANIZATION OF NEW INSTITUTIONS.—The Corporation may, as receiver—

"(i) with respect to savings associations and by application to the Director of the Office of Thrift Supervision, organize a new Federal savings association to take over such assets or such liabilities as the Corporation may determine to be appropriate; or

"(ii) with respect to any insured bank, organize a bridge bank under subsection (i) or a new national bank under subsection (h).

"(F) TRANSFER OF ASSETS AND LIABILITIES.—The Corporation may, as receiver, transfer any asset or liability of the financial institution in default (including assets and liabilities associated with any trust business) without any approval, assignment, or consent with respect to such transfer, except, that if the transferee is another financial institution, the transfer must be approved by the appropriate Federal banking agency for such institution.

"(G) DETERMINE CLAIMS.—The Corporation may, as receiver, determine claims under the provisions set forth under subsection (l).

"(H) PAYMENT OF VALID OBLIGATIONS.—The conservator or receiver, shall pay all valid obligations of the financial institution in accordance with the prescriptions and limitations set forth in this Act.

"(I) INCIDENTAL POWERS.—The Corporation may, as conservator or receiver, exercise all powers specifically granted to conservators or receivers, respectively, by the provisions of this Act and such incidental powers as shall be necessary to carry out the powers so granted, and to take any actions authorized by this Act whichever shall appear to be in the best interests of the financial institution in default, of its depositors, or the Corporation.

"(3) NOTICE OF REQUIREMENTS.—

"(A) PUBLICATION REQUIRED.—In cases of liquidation, or other closing or winding up of the affairs of a closed financial institution, the receiver shall—

"(i) promptly publish a notice to the financial institution's creditors to present their claims, together with proof, to the receiver by a date specified in the notice which shall be not less than 90 days after the publication of such notice; and

"(ii) republish such notice at the end of each 30-day period beginning after the date of the publication under clause (i) until the end of the period established in the first notice for submitting claims.

"(B) MAILING REQUIRED.—The receiver shall mail a notice similar to the notice published under subparagraph (A)(i) at the time of such publication to any creditor shown on the financial institution's books—

"(i) at the creditor's last address appearing in such books; or

"(ii) upon discovery of the name and address of a claimant not appearing on the financial institution's books within 30 days of discovery.

"(C) CLAIMS DISALLOWED AFTER END OF PERIOD.—Claims filed after the date specified in subparagraph (A) shall be disallowed (and such disallowance shall be final) except that any claim later filed may be considered if the claimant that holds such a claim did not have notice of the conservatorship or receivership in time for filing of such claim and such claim is filed in time to permit payment of such claim.

"(D) The receiver shall allow any claim received before or on the date specified in subparagraph (A) and proved to its satisfaction. The receiver may wholly or partly disallow any creditor claim or claim of security, preference, or priority not so proved, and shall within 180 days notify the claimant of the disallowance and the reason therefor. Mailing notice of the disallowance of the claimant's last address appearing on the financial institution's books or on the proof of claim shall be sufficient notice. Unless, within 30 days after notice is mailed, the claimant files a written objection to the disallowance, disallowance shall be final. Those claims to which an objection is properly and timely filed shall be decided in accordance with provisions of subsection (l).

"(E) The receiver may pay creditor claims which are allowed by the receiver or approved by a final determination in accordance with subsection (l), from time to time, in the receiver's discretion, to the extent funds are available, in such manner and amounts as are authorized under this Act.

"(4) The receiver shall—

"(A) retain for the account of the Corporation such portion of the amounts realized from any liquidation as the Corporation may be entitled to receive in connection with the subrogation of the claims of depositors; and

"(B) pay to depositors and other creditors the net amounts available for distribution to them.

"(5) The receiver may, in its discretion, pay dividends on proved claims at any time, and no liability shall attach to the Corporation itself or as such receiver, by reason of any such payment, for failure to pay dividends to a claimant whose claim is not proved at the time of any such payment.

"(6) The conservator or receiver may request a stay for a period of up to 90 days after the appointment of the receiver as to any legal action or proceeding to which the financial institution in default is or may become a party. Upon petition, the court shall grant such stay as to all parties.

"(7) CONTRACTS.—

"(A) AUTHORITY TO REPUDIATE CONTRACTS.—The conservator or receiver may disaffirm or repudiate any contract or lease the performance of which the conservator or receiver in its discretion considers to be burdensome, and in its discretion considers the disaffirmance or repudiation of which will promote the orderly administration of the financial institution's affairs.

"(i) If the conservator or receiver disaffirms or repudiates any contract other than as provided in clauses (ii), (iii), and (iv), the claim for damages resulting from such disaffirmance or repudiation shall be limited to actual direct compensatory damages and shall be measured as of the date of the appointment of the conservator or receiver, except that, in the case of contracts and agreements referred to in clause (v) of this paragraph, such damages shall be measured as of the date of disaffirmance or repudiation. There shall be no liability on the part of the conservator or receiver for any other damages, including punitive, exemplary, or damages for lost profits or opportunity or damages for pain and suffering. With respect to contracts and agreements under clause (v) of this paragraph, lost profits and opportunity shall be deemed to include normal and reasonable costs of cover or other reasonable measures of damages utilized in the industries for such contract and agreement claims, and, except as otherwise specifically provided, shall be paid in accordance with this subsection and subsections (k) and (l) of this section.

"(ii) If the conservator or receiver disaffirms or repudiates a lease under which the financial institution was the lessee within 90 days from the date the conservator or receiver is appointed or discovers the existence of the lease, the conservator or receiver shall not be liable with respect to such lease, except that the lessor shall be enti-

tled to the contractual rent for the period from the appointment to the date the notice of disaffirmance or repudiation is mailed or effective, unless the lessor is in default or breach of the terms of the lease, and the lessor shall have a claim to be paid in accordance with subsections (k) and (l) of section 11 for any unpaid rent, subject to all appropriate offsets and defenses (but shall have no claim for damages under acceleration or other penalty provisions), due as of the date of the appointment.

"(iii) If the conservator or receiver repudiates an unexpired written lease of real property of the financial institution under which the institution is the lessor and the lessee is not in default, the lessee under such lease may treat the lease as terminated by such repudiation; or, in the alternative, the lessee may remain in possession of the leasehold interest for the balance of the term of the lease unless the lessee defaults under the terms of the lease. If such lessee remains in possession under the provisions of this paragraph, the lessee shall continue to pay the contractual rent, and may offset against the rent unpaid for the balance of the term after the date of the repudiation of the lease, any damages occurring after such date caused by the nonperformance of any obligation of the financial institution under the lease after such date, but the lessee does not have any rights against the conservator or receiver on account of any damages arising after such date from the repudiation, other than such offset.

"(iv) If the conservator or receiver repudiates a written contract of the financial institution for the sale of real property, which satisfies the provisions of section 13(e), under which the purchaser is in possession and not in default, such purchaser may treat the contract as terminated, or in the alternative, may remain in possession of such real property. If the purchaser remains in possession, the purchaser shall continue to make all payments due under the contract, but may offset against such payments any damages occurring after the date of the repudiation of the contract caused by the nonperformance of any obligation of the financial institution contained in the contract after such date, but the purchaser does not have any rights against the conservator or receiver on account of any damages arising after such date from the repudiation, other than such offset; and the conservator or receiver shall deliver title to the purchaser in accordance with the provisions of the contract, but is relieved of all other obligations to perform under the contract. Nothing herein is intended to limit the conservator or receiver's right to assign such contract and sell the property subject to the contract and the provisions of this paragraph. If such an assignment and sale is consummated, the conservator or receiver shall have no further liability.

"(v) CERTAIN FINANCIAL CONTRACTS.—

"(I) Subject to subclause (III) of this clause and clause (ix) of this subparagraph, but notwithstanding any other provision of this Act (other than sections 11(i)(8), 11(n), and 13(e) of this Act) or any other provision of Federal or State law, no person shall be stayed or prohibited from exercising any rights such person has to cause the termination or liquidation of a securities contract, commodity contract, forward contract, repurchase agreement, or swap agreement (as defined in subclause (III) of this clause) with a financial institution based upon the appointment of the Corporation as conservator for the purpose of liquidation or receiver or any rights under any security arrangement relating to the foregoing, or any rights to set off or net out any termination values, payment amounts or other transfer obligations arising under or in connection with one or more such contracts and agreements, including any master agreement for such contracts or agreements: *Provided, however*, That if any party to such a contract or agreement shall bring any judicial action or proceeding against such conservator or receiver or financial institution in default, the provisions of section 11(c)(2)(F) of this Act shall be applicable.

"(II) Notwithstanding clause (vi) of this paragraph, the Corporation, in its corporate, receivership, and conservatorship capacities, shall have no authority to avoid any transfer of money or other property made in connection with a contract or agreement defined in subclause (III) below except upon a showing of actual intent by such party to hinder, delay, or defraud such financial institution, the creditors of such financial institution, or the conservator or receiver.

"(III) For purposes of subclauses (I) and (II), the following terms shall have the following meanings:

"(aa) 'securities contract' has the meaning ascribed to such term in section 741(7) of title 11, United States Code, for purposes of section 555 of title 11, United States Code: *Provided, however*, That the term 'security' as used in such section 741(7) shall have the meaning given to such term in section 101(43) of title 11, United States Code, and shall include mortgage loans and interests herein: *Provided further*, That a participation in a commercial mortgage loan does not itself constitute a 'securities contract', unless the Corporation determines by regulation, rule, resolution, or order to include a participation in a commercial mortgage loan itself within such term;

"(bb) 'commodity contract' and 'forward contract' have the meanings ascribed to such terms for purposes of section 556 of title 11, United States Code;

"(cc) 'repurchase agreement' has the meaning given to such term in section 101(41) of title 11, the United States Code, for purposes of section 559 of title 11, United States Code: *Provided, however*, That the phrase ", mortgage-related securities (as such term is defined in section 3(a)(41) of the Securities Exchange Act of 1934, mortgage loans, and interests therein' is inserted after the word 'States' the second time the word 'States' appears in such definition, inserted before the word 'with' in such definition, and inserted before the word 'as' the second time the word 'as' appears in such definition: *Provided further however*, That a participation in a commercial mortgage loan does not itself constitute a 'repurchase agreement', unless the Corporation determines by regulation, rules, resolution, or order to include a participation in a commercial mortgage loan itself within such term;

"(dd) 'swap agreement', means an agreement, including terms and conditions incorporated by reference therein, which is a rate swap agreement, basis swap, commodity swap, forward rate agreement, interest rate future, interest rate option purchased, forward foreign exchange agreement, rate cap agreement, rate floor agreement, rate collar agreement, currency swap agreement, cross-currency rate swap agreement, currency future, currency option purchased or any other similar agreement or combination thereof (including any option to enter into any of the foregoing), and a master agreement for any of the foregoing together with all supplements shall be considered one swap agreement; and

"(ee) 'transfer' has the meaning given to such term in section 101(50) of title 11, United States Code.

"(IV) PREEXISTING POLICIES FOR SAVINGS ASSOCIATIONS.—Notwithstanding any other provision of this Act (except as provided in clauses (v) and (xi)) or any other provision of Federal or State law, certain orders, directives, commitments, and opinion letters of the Federal Home Loan Bank Board and the Federal Savings and Loan Insurance Corporation, general counsels thereto and authorized representatives thereof, regarding the powers and duties of the Federal Savings and Loan Insurance Corporation as conservator or receiver of a savings association under prior law and the powers and duties of the Federal Savings and Loan Insurance Corporation in its corporate capacity under prior law that are in effect as of the date of enactment of the Financial Institution Reform, Recovery and Enforcement Act of 1989, or, in the case of 'special accounts' established pursuant to resolutions of the Federal Home Loan Bank Board, the 60th day following such date of enactment, shall remain in effect and be binding on the FSLIC Resolution Fund, the Corporation, or the Resolution Trust Corporation (as the case may be), in its corporate, conservatorship, and receivership capacities, to the same extent they were in effect or binding on the Federal Home Loan Bank Board and the Federal Savings and Loan Insurance Corporation, in its corporate, conservatorship, and receivership capacities and may be rescinded or otherwise amended in accordance with the terms thereof and applicable administrative procedures, if appropriate, and any such rescission or amendment shall take effect only prospectively, except that, other than in the case of any secondary market transactions in connection with such 'special accounts' outstanding at the time of such transaction, no such letter shall be binding on the Corporation in respect of any such transaction entered into, or in respect of, any obligations incurred or purchased or credit extended, in connection therewith, after the date of enactment of the Financial Institution Reform, Recovery and Enforcement Act of 1989.

"(V) Notwithstanding any other provision of this Act or any other provision of Federal or State law, the provisions of subsections (i)(4)(I) and (l)(4) of this section and section 13(e) of this Act shall not apply with respect to any contract or agreement referred to in clause (v) of this subparagraph or clause (xi) of this subparagraph, so long as the person claiming under such contract or agreement has relied in good faith on a written representation and undertaking made by the financial institution that the financial institution has complied with and will continue to comply with the requirements of subsection (i)(4)(I) of this section and section 13(e) of this Act.

"(VI) The Corporation shall, within 180 days of the date of the enactment of the Financial Institution Reform, Recovery and Enforcement Act of 1989, prescribe regulations regarding the applicability of subsections (i)(4)(I) and (l)(8) of this section and section 13(e) of this Act to financial contracts and such agreements and transactions that the Corporation deems appropriate, with due regard for market and trade practices followed by the industries for such

financial contracts and other agreements and transactions.

"(vi) Nothing herein is intended to allow the avoidance of any legally perfected security interest in any of the assets of the institution except where such an interest is taken in contemplation of the institution's insolvency or with the intent to hinder, delay, or defraud the institution or its creditors.

"(vii) The conservator or receiver shall determine whether or not to exercise the rights of repudiation under this section within a reasonable period following its appointment.

"(viii) If, pending its determination whether or not to exercise the right of repudiation under this section, a conservator or receiver accepts performance by the other party to a contract for services, the other party shall be paid under the terms of the contract for the services performed as an administrative expense of such conservatorship or receivership. Any claim of such other party for services performed prior to the appointment of the conservator or the receiver shall be a claim to be paid in accordance with subsections (k) and (l) and shall be deemed to have arisen as of the date such conservator or receiver was appointed. Such acceptance of services shall not be a waiver of the conservator's or receiver's right to later repudiate.

"(ix) In effecting any transfer of assets or liabilities of a financial institution in default, the conservator or receiver shall either—

"(I) transfer to a single financial institution, as appropriate (other than a financial institution in default), all financial contracts (as defined in clause (v)) of a party and its affiliates with such financial institution in default, all claims of a party and its affiliates under financial contracts against such financial institution in default (other than claims subordinated by any such financial contracts to the claims of general unsecured creditors), all claims of such financial institution in default against such party and its affiliates under all such financial contracts, and all property securing claims under all such financial contracts; or

"(II) transfer no financial contracts of a financial institution in default with the particular party or its affiliates, no claims of a party and its affiliates under financial contracts against such financial institution in default, no claims of such financial institution in default against such party and its affiliates under such financial contracts, and no property securing claims under such financial contracts.

"(x) The conservator or receiver shall use its best efforts to notify a party whether it has effected a transfer of assets and liabilities of a financial institution in default in accordance with clause (iv)(I) above prior to 12:00 local time on the business day following its first appointment. If a party to a contract or agreement specified in clause (v) of this paragraph is notified by the conservator or receiver by the close of business on the business day following its first appointment as such that it has transferred to a single financial institution (other than a financial institution in default) all financial contracts with the financial institution for which it has been appointed as conservator or receiver, all claims of a party and its affiliates under financial contracts against such financial institution in default (other than claims subordinated by any such financial contracts to the claims of general unsecured creditors), all claims of such financial institution in default against such party and its affiliates under all financial contracts, and all property securing claims under all financial contracts, then the provisions of clause (v)(I) shall not apply. For purposes of clause (x), the conservator or receiver shall be deemed to have notified a party if it has taken steps reasonably calculated to provide notice to such party. As used in clause (x), 'business day' means a day other than a Saturday, Sunday, or day on which either the New York Stock Exchange or the Federal Reserve Bank of New York is closed. As used in this clause (x), in clause (ix) above and in clause (xi) below 'financial contract' means a contract or agreement referred to in clause (v) of this subsection.

"(xi) Notwithstanding any other provision of this Act (other than sections 11(c)(9), 11(i)(8), 11(n), and 13(e) of this Act) or any other provision of Federal or State law, no person shall be stayed or prohibited from exercising any rights such person has to cause the termination, liquidation, or acceleration of financial contracts with a financial institution in a conservatorship based upon a default under such financial contracts enforceable under applicable noninsolvency law, or any rights under any security arrangement relating to such financial contracts, or any rights to set off or net out any termination values, payment amounts or other transfer obligations arising under or in connection with such financial contracts.

"(8) The conservator or receiver may enforce any contract, other than a directors or officers liability insurance contract or a financial institution bond, entered into by the financial institution notwithstanding any provision of the contract providing for termination, default, acceleration, exercise of rights upon or solely by reason of insolvency or the appointment of a conservator or receiver or following such appointment. Nothing in this paragraph shall impair or affect any right, if any, of the conservator or receiver that may have existed immediately prior to the enactment of the Financial Institutions Reform, Recovery and Enforcement Act of 1989 to enforce or recover under a directors or officers liability insurance contract or financial institution bond with regard to institutions for which a conservator or receiver has already been appointed before the date of such enactment or those institutions for which such appointment is made after such date. No extension of credit from a Federal home loan bank or Federal reserve bank shall be subject to this subsection.

"(9) The Corporation as conservator or receiver shall, consistent with its established accounting and reporting practices and procedures, keep a full accounting of each conservatorship and receivership or other disposition of institutions in default and shall make an annual accounting or reports, as appropriate, regarding each such conservatorship or receivership available to the Secretary of the Treasury, the Comptroller General, and the authority appointing the conservator or receiver, if appropriate, which report shall be available upon request to any shareholder or any other member of the public.

"(10) In any case in which funds remain after all depositors, creditors, other claimants, and administrative expenses are paid, the receiver shall distribute such funds to the financial institution's shareholders or members along with the accounting specified in paragraph (9).

"(11) The Corporation may, any time 6 years after its appointment as receiver of a financial institution, destroy any records of such institution which the Corporation in its discretion deems to be unnecessary unless otherwise prohibited by statute or applicable regulation.

"(12) Notwithstanding any contractual provisions to the contrary, the applicable statute of limitations with regard to any action brought by the Corporation as conservator or receiver shall be 6 years for contract claims and three years for tort actions, or in either case the applicable State statute of limitations period. The statute of limitations on such actions shall not begin to run until the date of the appointment of the Corporation as such conservator or receiver or the accrual of the cause of action, whichever is later.

"(13) CONTRACTS WITH STATE HOUSING FINANCE AUTHORITIES.—

"(A) IN GENERAL.—The Corporation is authorized to enter into contracts with State Housing Finance Authorities for the sale of mortgage related assets of the financial institutions in default (including assets and liabilities associated with any trust business), such contracts to be effective in accordance with their terms without any further approval, assignment, or consent with respect thereto.

"(B) FACTORS TO CONSIDER.—In evaluating the disposition of such assets, the Corporation shall consider—

"(i) the State Housing Finance Authority's ability to acquire and service current, delinquent, and defaulted mortgage related assets;

"(ii) the State Housing Finance Authority's ability to further national housing policies;

"(iii) the State Housing Finance Authority's sensitivity to the impact of the sale of mortgage related assets upon State local communities;

"(iv) the costs to the Federal Government associated with alternative ownership or dispositions of the mortgage related assets;

"(v) the minimization of future guaranties which may be required of the Federal Government;

"(vi) the maximization of mortgage related asset values; and

"(vii) the utilization of institutions currently established in mortgage related asset market activities.

"(d) CORPORATION AS CONSERVATOR OR RECEIVER OF FEDERAL FINANCIAL INSTITUTIONS.—

"(1) APPOINTMENT.—

"(A) Except as provided in section 21A of the Federal Home Loan Bank Act, notwithstanding any other provision of law, State or Federal, or the constitution of any State, whenever a receiver is appointed for an insured Federal or District financial institution by the authority having supervision of such financial institution, the Corporation shall be appointed, and shall accept appointment, as such receiver.

"(B) The Corporation may, at the discretion of the supervisory authority, be appointed conservator, not for the purpose of liquidation or winding up the financial institution's affairs, and the Corporation may accept such appointment.

"(2) As such conservator or receiver, the Corporation shall have all powers and duties set forth in this Act for conservators or receivers respectively, and such other powers and duties possessed by conservators or receivers for Federal financial institutions under any other provisions of law, in addition to and not in derogation of the powers conferred in this Act.

"(3) As such conservator or receiver, the Corporation shall not be subject to the direction or supervision of any other agency or Department in the exercise of its rights, powers, and privileges as receiver or conservator, except that, in cases in which the financial institution continues to operate in conservatorship, the institution shall remain subject to the supervision of its appropriate Federal banking agency.

"(e) CORPORATION AS CONSERVATOR OR RECEIVER OF STATE FINANCIAL INSTITUTIONS—

"(1)(A) Whenever the authority having supervision of any insured State financial institution (except a District financial institution) appoints a conservator or receiver for such State financial institution and tenders appointment to the Corporation, the Corporation may accept such appointment.

"(B) The Corporation as such conservator or receiver shall possess all the rights, powers, and privileges granted by State law to a conservator or receiver of a State financial institution of any kind, in addition to and not in derogation of the powers conferred upon the Corporation under subsection (c).

"(C) As such conservator or receiver, the Corporation shall not be subject to the direction or supervision of any other agency or department, State or Federal, in the exercise of its rights, powers, and privileges.

"(2) Whenever the Director of the Office of Thrift Supervision appoints a conservator or receiver under the provisions of section 5(d)(6)(C) of the Home Owners' Loan Act of 1933, the Corporation shall be appointed.

"(3) The Corporation shall have the power and jurisdiction to appoint itself as sole conservator or receiver of an insured State financial institution in the event the Corporation determines—

"(A) that—

"(i) a conservator, receiver, or other legal custodian has been or is hereafter appointed for an insured State financial institution other than by the Director of the Office of Thrift Supervision or by the Comptroller of the Currency and that the appointment of such conservator, receiver, or custodian, or any combination thereof, has been outstanding for a period of at least 15 consecutive days, and that one or more of the depositors in such institution is unable to obtain a withdrawal of a deposit, in whole or in part; or

"(ii) an insured State financial institution has been closed by or under the laws of any State; and

"(B) that 1 or more of the grounds specified in paragraph (6)(A) of section 5(d) of the Home Owners' Loan Act of 1933, existed with respect to such financial institution at the time the conservator, receiver, or other legal custodian was appointed, or at the time such financial institution was closed, or exists thereafter during the appointment of the conservator, receiver, or other legal custodian or while the institution is closed.

"(4) If the Corporation is appointed conservator or receiver of an insured State financial institution—

"(A) the provision of this Act shall be applicable in the same manner and to the same extent as if such institution were a Federal financial institution with respect to which the Corporation had been appointed conservator or receiver; and

"(B) the Corporation as receiver shall have authority to liquidate such financial institution in an orderly manner or to make such other disposition of a matter as it deems to be in the best interests of the institution, its savers, and the Corporation.

"(5) The authority conferred by paragraphs (2) and (3) shall be in addition to, and not a limitation upon, appointment under paragraph (1).

"(f) PAYMENT OF INSURED DEPOSITS.—

"(1) In case of the liquidation, or other closing or winding up of the affairs of a closed insured financial institution or insured branch of a foreign bank, payment of the insured deposits in such financial institution or branch shall be made by the Corporation as soon as possible, subject to the provisions of subsection (g) of this section either by cash or by making available to each depositor a transferred deposit in a new financial institution in the same community or in another insured financial institution in an amount equal to the insured deposit of such depositor, except that—

"(A) all payments made pursuant to this section on account of a closed Bank Insurance Fund member shall be made only from the Bank Insurance Fund, and

"(B) all payments made pursuant to this section on account of a closed Savings Association Insurance Fund member shall be made only from the Savings Association Insurance Fund.

"(2) The Corporation, in its discretion, may require proof of claims to be filed and may approve or reject such claims.

"(3) In the case of a disputed claim, the Corporation shall have the power to resolve such disputed claims according to rules and regulations established by the Corporation for that purpose with full regard for the due process rights of all parties.

"(4) Final determination made by the Corporation shall be reviewable by the United States Court of Appeals for the District of Columbia or the court of appeals for the Federal judicial circuit where the principal place of business of the financial institution is located.

"(5) Any request for review of a final determination by the Corporation shall be filed with the appropriate circuit court of appeals not later than 60 days after such determination is ordered.

"(6) In the absence of rules and regulations, the Corporation may require the final determination of a court of competent jurisdiction before paying such claim.

"(g) SUBROGATION.—

"(1) Notwithstanding any other provision of law, State or Federal, or the constitution of any State, the Corporation, upon the payment to any depositor as provided in subsection (f) or the assumption of any deposit by another insured financial institution pursuant to section 11 or section 13, shall be subrogated to all rights of the depositor against the financial institution or branch to the extent of such payment.

"(2) Such subrogation shall include the right on the part of the Corporation to receive the same dividends from the proceeds of the assets of such financial institution or branch and recoveries on account of stockholders' liability as would have been payable to the depositor on a claim for the insured deposit, but such depositor shall retain such claim for any uninsured or unassumed portion of the deposit.

"(3) With respect to any bank which closes after May 25, 1938, the Corporation shall waive, in favor only of any person against whom stockholders' individual liability may be asserted, any claim on account of such liability in excess of the liability, if any, to the bank or its creditors, for the amount unpaid upon such stock in such bank; but any such waiver shall be effected in such manner and on such terms and conditions as will not increase recoveries or dividends on account of claims to which the Corporation is not subrogated.

"(4) If the Corporation is not appointed pursuant to subsection (e)(2), or determines not to invoke the authority conferred in subsection (e)(3), the rights of depositors and other creditors of any State financial institution shall be determined in accordance with the applicable provisions of State law.

"(h) NEW BANKS.—

"(1) As soon as possible after the default of an insured bank, the Corporation, if it finds that it is advisable and in the interest of the depositors of the insured bank in default or the public shall organize a new national bank in the same community as the bank in default to assume the insured deposits of such bank in default and otherwise to perform temporarily the functions hereinafter provided for.

"(2) The articles of association and the organization certificate of the new bank shall be executed by representatives designated by the Corporation.

"(3) No capital stock need be paid in by the Corporation.

"(4) The new bank shall not have a board of directors, but shall be managed by an executive officer appointed by the Board of Directors of the Corporation who shall be subject to its directions.

"(5) In all other respects the new bank shall be organized in accordance with the then existing provisions of law relating to the organization of national banking associations.

"(6) The new bank may, with the approval of the Corporation, accept new deposits which shall be subject to withdrawal on demand and which, except where the new bank is the only bank in the community, shall not exceed $100,000 from any depositor.

"(7) The new bank, without application to or approval by the Corporation, shall be an insured financial institution and shall maintain on deposit with the Federal Reserve bank of its district reserves in the amount required by law for member banks, but it shall not be required to subscribe for stock of the Federal Reserve bank.

"(8) Funds of the new bank shall be kept on hand in cash, invested in obligations of the United States, or in obligations guaranteed as to principal and interest by the United States, or deposited with the Corporation, with a Federal Reserve bank, or, to the extent of the insurance coverage thereon, with an insured financial institution.

"(9) The new bank, unless otherwise authorized by the Comptroller of the Currency, shall transact business only as authorized by this Act and as may be incidental to its organization.

"(10) Notwithstanding any other provision of Federal law, or the law or constitution of any State, the new bank, its franchise, property, and income shall be exempt from all taxation now or hereafter imposed by the United States, by any territory, dependency, or possession thereof, or by any State, county, municipality, or local taxing authority.

"(11)(A) Upon the organization of a new bank, the Corporation shall promptly make available to it an amount equal to the estimated insured deposits of such bank in default plus the estimated amount of the expenses of operating the new bank, and shall determine as soon as possible the amount due each depositor for the depositor's in-

sured deposit in the bank in default, and the total expenses of operation of the new bank.

"(B) Upon such determination, the amounts so estimated and made available shall be adjusted to conform to the amounts so determined.

"(12) Earnings of the new bank shall be paid over or credited to the Corporation in such adjustment.

"(13) If any new bank, during the period it continues its status as such, sustains any losses with respect to which it is not effectively protected except by reason of being an insured bank, the Corporation shall furnish to it additional funds in the amount of such losses.

"(14)(A) The new bank shall assume as transferred deposits the payment of the insured deposits of such bank in default to each of its depositors.

"(B) Of the amounts so made available, the Corporation shall transfer to the new bank, in cash, such sums as may be necessary to enable it to meet its expenses of operation and immediate cash demands on such transferred deposits, and the remainder of such amounts shall be subject to withdrawal by the new bank on demand.

"(15)(A) Whenever in the judgment of the Board of Directors it is desirable to do so, the Corporation shall cause capital stock of the new bank to be offered for sale on such terms and conditions as the Board of Directors shall deem advisable in an amount sufficient, in the opinion of the Board of Directors, to make possible the conduct of the business of the new bank on a sound basis, but in no event less than that required by section 5138 of the Revised Statutes for the organization of a national bank in the place where such new bank is located.

"(B) The stockholders of the insured financial institution in default shall be given the first opportunity to purchase any shares of common stock so offered.

"(16) Upon proof that an adequate amount of capital stock in the new bank has been subscribed and paid for in cash, the Comptroller of the Currency shall require the articles of association and the organization certificate to be amended to conform to the requirements for the organization of a national bank, and thereafter, when the requirements of law with respect to the organization of a national bank have been complied with, the Comptroller of the Currency shall issue to the bank a certificate of authority to commence business, and thereupon the bank shall cease to have the status of a new bank, shall be managed by directors elected by its own shareholders and may exercise all the powers granted by law, and shall be subject to all provisions of law relating to national banks.

"(17) Such bank shall thereafter be an insured national bank, without certification to or approval by the Corporation.

"(18) If the capital stock of the new bank is not offered for sale, or if an adequate amount of capital for such new bank is not subscribed and paid for, the Board of Directors may offer to transfer its business to any insured financial institution in the same community which will take over its assets, assume its liabilities, and pay to the Corporation for such business such amount as the Board of Directors may deem adequate; or the Board of Directors in its discretion may change the location of the new bank to the office of the Corporation or to some other place or may at any time wind up its affairs as herein provided.

"(19)(A) Unless the capital stock of the new bank is sold or its assets are taken over and its liabilities are assumed by an insured financial institution as above provided within two years from the date of its organization, the Corporation shall wind up the affairs of such bank, after giving such notice, if any, as the Comptroller of the Currency may require, and shall certify to the Comptroller of the Currency the termination of the new bank.

"(B) Thereafter the Corporation shall be liable for the obligations of such bank and shall be the owner of its assets.

"(20) The provisions of sections 5220 and 5221 of the Revised Statutes shall not apply to such new banks.

"(i) BRIDGE BANKS.—

"(1) ORGANIZATIONS.—

"(A) PURPOSE.—When 1 or more insured banks are in default or in anticipation of its or their becoming in default, the Corporation may in its discretion, organize a bridge bank or banks with respect thereto and upon the granting of a charter to such bridge bank, the bridge bank may—

"(i) assume such deposits of such insured bank or banks that is or are in default or in danger of default as the Corporation may, in its discretion, determine to be appropriate;

"(ii) assume such other liabilities (including liabilities associated with any trust business) of such insured bank or banks that is or are in default or in danger of default as the Corporation may, in its discretion, determine to be appropriate;

"(iii) purchase such assets (including assets associated with any trust business) of such insured bank or banks that is or are in default or in danger of default as the Corporation may, in its discretion, determine to be appropriate; and

"(iv) perform any other temporary function which the Corporation may, in its discretion, prescribe in accordance with this Act.

"(B) ARTICLES OF ASSOCIATION.—The articles of association and organization certificate of a bridge bank as approved by the Corporation shall be executed by 3 representatives designated by the Corporation.

"(C) NATIONAL BANK.—A bridge bank shall be organized as a national bank.

"(D) INTERIM DIRECTORS.—A bridge bank shall have an interim board of directors consisting of not fewer than 5 nor more than 10 members appointed by the Corporation.

"(2) CHARTERING.—

"(A) CONDITIONS.—A bridge bank shall be chartered by the Comptroller of the Currency as a national bank only if the Board of Directors determines that—

"(i) the amount which is reasonably necessary to operate such bridge bank will not exceed the amount which is reasonably necessary to save the cost of liquidating, including paying the insured accounts of, 1 or more insured banks in default with respect to which the bridge bank is chartered; and

"(ii) the continued operation of such insured bank or banks in default with respect to which the bridge bank is chartered is essential to provide adequate banking services in the community where each such bank in default is located; or

"(iii) the continued operation of such insured bank or banks in default with respect to which the bridge bank is chartered is in the best interest of the depositors of such bank or banks in default or the public.

"(B) INSURED NATIONAL BANK.—A bridge bank shall be an insured bank from the time it is chartered as a national bank.

"(C) BRIDGE BANK TREATED AS BEING IN DEFAULT FOR CERTAIN PURPOSES.—Notwithstanding any other provision of law, State or Federal, or the constitution of any State, any bridge bank shall be treated as an insured bank in default at such times and for such purposes as the Corporation may, in its discretion, determine.

"(D) MANAGEMENT.—A bridge bank, upon the granting of its charter, shall be under the management of a board of directors consisting of no fewer than 5 or more than 10 members appointed by the Corporation.

"(E) BYLAWS.—The board of directors of a bridge bank shall adopt such bylaws as may be approved by the Corporation.

"(3) TRANSFER OF ASSETS AND LIABILITIES.—

"(A) IN GENERAL.—

"(i) Upon the granting of a charter to a bridge bank pursuant to this subsection, the Corporation, as receiver, or any other receiver appointed with respect to any insured bank in default with respect to which the bridge bank is chartered may transfer any assets and liabilities of such bank in default to the bridge bank in accordance with paragraph (1).

"(ii) At any time after a bridge bank is established pursuant to this subsection, the Corporation, as receiver, or any other receiver appointed with respect to an insured bank in default may transfer any assets and liabilities of such bank in default as the Corporation may, in its discretion, determine to be appropriate in accordance with paragraph (1).

"(iii) For purposes of this paragraph of this subsection, the trust business, including fiduciary appointments, of any insured bank in default is included among its assets and liabilities.

"(iv) The transfer of any assets or liabilities including those associated with any trust business of any insured bank in default transferred to a bridge bank shall be effective without any further approval, assignment, or consent with respect thereto, notwithstanding any other provision of law, State or Federal, or the constitution of any State, except, when the transferee is another financial institution, the transfer must be approved by the appropriate Federal banking agency for the transferee.

"(B) INTENT OF CONGRESS REGARDING CONTINUING OPERATIONS.—It is the intent of the Congress that, in order to prevent unnecessary hardship or losses to the customers of any insured financial institution in default, including an insured bank with respect to which a bridge bank is chartered, especially creditworthy farmers, small businesses, and households, the Corporation should—

"(i) continue to honor commitments made by the financial institution in default to creditworthy customers, and

"(ii) not interrupt or terminate adequately secured loans which are being repaid by the debtor in accordance with the terms of the loan instrument.

"(4) POWERS OF BRIDGE BANKS.—Each bridge bank chartered under this subsection shall have all corporate powers of, and be subject to the same provisions of law as, a national bank, except as otherwise provided in this subsection and except that—

"(A) the Corporation may—

"(i) remove the interim directors and the directors of a bridge bank;

"(ii) fix the compensation of members of the interim board of directors and the board of directors and senior management, as determined by the Corporation in its discretion, or a bridge bank; and

"(iii) waive any requirement established under section 5145, 5146, 5147, 5148, or 5149 of the Revised Statutes (relating to direc-

tors of national banks) or section 31 of the Banking Act of 1933 which would otherwise be applicable with respect to directors of a bridge bank by operation of paragraph (2)(B).

"(B) The Corporation may indemnify the representatives for purposes of paragraph (1)(B) and the interim directors, directors, officers, employees, and agents of a bridge bank on such terms as the Corporation determines to be appropriate.

"(C) No requirement under section 5138 of the Revised Statutes or any other provision of law relating to the capital of a national bank shall apply with respect to a bridge bank.

"(D) The Comptroller of the Currency may establish a limitation on the extent to which any person may become indebted to a bridge bank without regard to the amount of the bridge bank's capital or surplus.

"(E)(i) The board of directors of a bridge bank shall elect a chairperson who may also serve in the position of chief executive officer: Provided, That such person shall not serve either as chairperson or as chief executive officer without the prior approval of the Corporation.

"(ii) The board of directors of a bridge bank may appoint a chief executive officer who is not also the chairperson: Provided, That such person shall not serve as chief executive officer without the prior approval of the Corporation.

"(F) A bridge bank shall not be required to purchase stock of any Federal Reserve bank.

"(G) The Comptroller of the Currency shall waive any requirement for a fidelity bond with respect to a bridge bank at the request of the Corporation.

"(H) Any action to which a bridge bank becomes a party by virtue of its acquisition of any assets or assumption of any liabilities of a bank in default shall be stayed from further proceedings for a period of up to 90 days at the request of the bridge bank.

"(I) No agreement which tends to diminish or defeat the right, title, or interest of a new bank or a bridge bank in any asset of a bank in default acquired by it shall be valid against the new bank or the bridge bank unless such agreement—

"(i) shall be in writing,

"(ii) shall have been executed by such institution and the person or persons claiming an adverse interest thereunder, including the obligor, contemporaneously with the acquisition of the asset by such institution,

"(iii) shall have been approved by disinterested members of the board of directors of such institution or its loan committee, which approval shall be reflected in the minutes of said board or committee, and

"(iv) shall have been, continuously from the time of its execution, an official record of such institution.

"(J) Except with the prior approval of the Corporation, a bridge bank may not, in any transaction or series of transactions, issue capital stock or be a party to any merger, consolidation, disposition of assets or liabilities, sale or exchange of capital stock, or similar transaction, or change its charter.

"(5) CAPITAL.—

"(A) NO CAPITAL REQUIRED.—The Corporation shall not be required to—

"(i) issue any capital stock on behalf of a bridge bank chartered under this subsection; or

"(ii) purchase any capital stock of a bridge bank, except that notwithstanding any other provision of law, State or Federal, or the constitution of any State, the Corporation may purchase and retain capital stock of a bridge bank in such amounts and on such terms as the Corporation, in its discretion, determines to be appropriate.

"(B) OPERATING FUNDS IN LIEU OF CAPITAL.—Upon the organization of a bridge bank, and thereafter, as the Board of Directors may, in its discretion, determine to be necessary or advisable, the Corporation may make available to the bridge bank, upon such terms and conditions and in such form and amounts as the Corporation may in its discretion determine, funds for the operation of the bridge bank.

"(C) AUTHORITY TO ISSUE CAPITAL STOCK.—Whenever the Board of Directors determines it is advisable to do so, the Corporation shall cause capital stock of a bridge bank to be issued and offered for sale in such amounts and on such terms and conditions as the Corporation may, in its discretion, determine.

"(6) NO FEDERAL STATUS.—

"(A) AGENCY STATUS.—A bridge bank is not an agency, establishment, or instrumentality of the United States.

"(B) EMPLOYEE STATUS.—Representatives for purposes of paragraph (1)(B), interim directors, directors, officers, employees, or agents of a bridge bank are not, solely by virtue of service in any such capacity, officers or employees of the United States for purposes of title 5, United States Code, or any other provision of law. Any employee of the Corporation or of any Federal instrumentality who serves at the request of the Corporation as a representative for purposes of paragraph (1)(B), interim director, director, officer, employee, or agent of a bridge bank shall not—

"(i) solely by virtue of service in any such capacity lose any existing status as an officer or employee of the United States for purposes of title 5, United States Code, or any other provision of law, or

"(ii) receive any salary or benefits for service in any such capacity with respect to a bridge bank in addition to such salary or benefits as are obtained through employment with the Corporation or such Federal instrumentality.

"(7) ASSISTANCE AUTHORIZED.—The Corporation may, in its discretion, provide assistance under section 13(c) to facilitate any transaction contemplated in clause (i), (ii), or (iii) of paragraph (10)(A) with respect to a bridge bank in the same manner and to the same extent as such assistance may be provided under such section with respect to an insured bank in default, or to facilitate a bridge bank's acquisition of any assets or the assumption of any liabilities of an insured bank in default.

"(8) ACQUISITION.—

"(A) IN GENERAL.—

"(i) Any transaction with respect to the merger or sale of a bridge bank requiring approval under section 18(c) shall be deemed to be an emergency requiring expeditious action, unless immediate action is necessary to prevent the probable failure of another insured bank.

"(ii) If the responsible agency has found that it must act immediately to prevent the probable failure of 1 of the institutions involved, the transaction may be consummated immediately upon approval by the agency.

"(iii) If a report on competitive factors is requested within 10 days, such transactions may not be consummated before the fifth calendar day after the date of approval by the responsible agency with respect thereto.

"(B) BY OUT-OF-STATE HOLDING COMPANY.—Any out-of-State financial institution, or any out-of-State financial institution holding company may acquire and retain the capital stock or assets of, or otherwise acquire and retain a bridge bank if the bridge bank at any time had assets aggregating $500,000,000 or more, as determined by the Corporation on the basis of the bridge bank's reports of condition or on the basis of the last available reports of condition of any insured financial institution in default, which institution has been acquired, or whose assets have been acquired, by the bridge bank, except that the acquiring entity may acquire the bridge bank only in the same manner and to the same extent as such entity may acquire an insured bank in default under section 13(f)(2).

"(9) CORPORATE EXISTENCE OF BRIDGE BANK.—Subject to paragraphs (10) and (11) of this subsection, the corporate existence of a bridge bank shall not exceed the period of 2 years from the date it is granted a charter, except that the Board of Directors may, in its discretion, extend the corporate existence of the bridge bank for 3 additional 1-year periods.

"(10) TERMINATION OF BRIDGE BANK STATUS.—

"(A) A bridge bank shall terminate its status as such upon the earliest to occur of the following:

"(i) The merger or consolidation of the bridge bank with a financial institution that is not a bridge bank, except that in connection with such a transaction, the bridge bank may request conversion of its charter to that of a financial institution that is not a bridge bank.

"(ii) The sale of all or substantially all of the capital stock of the bridge bank to an entity other than the Corporation and other than another bridge bank.

"(iii) The assumption of all or substantially all of the deposits and other liabilities of the bridge bank by a financial institution holding company or a financial institution that is not a bridge bank, or the acquisition of all or substantially all of the assets of the bridge bank by a financial institution holding company, a financial institution that is not a bridge bank, or other entity as permitted under applicable law.

"(iv) The dissolution of the bridge bank by the Corporation in accordance with paragraph (11) of this subsection prior to the initial 2-year period of corporate existence of the bridge bank and any extension thereof in accordance with paragraph (9) of this subsection.

"(v) The expiration of the initial 2-year period of corporate existence of the bridge bank and any extension thereof in accordance with paragraph (9) of this subsection.

"(11) DISSOLUTION OF BRIDGE BANK.—

"(A) IN GENERAL.—Notwithstanding any other provision of law, State or Federal, or the constitution of any State—

"(i) the Board of Directors may, in its discretion, dissolve a bridge bank in accordance with this paragraph at any time during the corporate existence of a bridge bank if the Board of Directors determines that the amount which is reasonably necessary to dissolve the bridge bank will not exceed the amount which is reasonably necessary to either continue operation of the bridge bank or effect a transaction with respect to the bridge bank as contemplated in clause (i), (ii), or (iii) of paragraph (10)(A) of this subsection;

"(ii) the Board of Directors may, in its discretion, commence such dissolution proceedings in accordance with this paragraph with respect to a bridge bank as the Board of Di-

rectors determines to be necessary following the consummation of a transaction contemplated in clause (ii) or (iii) of paragraph (10)(A); and

"(iii) the Board of Directors shall commence dissolution proceedings in accordance with this paragraph upon the expiration of the period of corporate existence of a bridge bank as provided in paragraph (9) of this subsection.

"(B) PROCEDURES.—The Comptroller of the Currency shall appoint the Corporation receiver for a bridge bank upon certification by the Board of Directors to the Comptroller of the Currency of its determination to dissolve the bridge bank. The Corporation as such receiver shall wind up the affairs of the bridge bank in conformity with the provisions of law relating to the liquidation of closed national banks. With respect to any such bridge bank, the Corporation as such receiver shall have all the rights, powers, and privileges now possessed or hereafter granted by law to a receiver of any insured financial institution and notwithstanding any other provision of law in the exercise of such rights, powers, and privileges the Corporation shall not be subject to the direction or supervision of any agency or department, State or Federal.

"(12) Each bridge bank established under this subsection may operate branches in only one State.

"(13) The Corporation may, in the Corporation's discretion, organize two or more bridge banks under this subsection to assume any deposits of, assume any other liabilities of, and purchase any assets of a single financial institution in default.

"(j) CONDITIONS APPLICABLE TO LIQUIDATION PROCEEDINGS.—

"(1) CONSIDERATION OF LOCAL ECONOMIC IMPACT REQUIRED.—The Corporation shall fully consider the adverse economic impact on local communities, including businesses and farms, of actions to be taken by it during the administration and liquidation of loans of a financial institution in default.

"(2) ACTIONS TO ALLEVIATE ADVERSE ECONOMIC IMPACT TO BE CONSIDERED.—The actions which the Corporation shall consider include the release of proceeds from the sale of products and services for family living and business expenses and shortening the undue length of the decisionmaking process for the acceptance of offers of settlement contingent upon third party financing.

"(3) GUIDELINES REQUIRED.—The Corporation shall adopt and publish procedures and guidelines to minimize adverse economic effects caused by its actions on individual debtors in the community."; and

(6) by inserting after subsection (j) (as added by paragraph (5) of this section) the following new subsections:

"(k) VALUATION OF CLAIMS AGAINST FINANCIAL INSTITUTIONS IN DEFAULT.—Notwithstanding any other law, State or Federal, or the constitution of any State, and regardless of the method which the Corporation determines to utilize with respect to an insured financial institution in default or in danger of default, including but not limited to transactions authorized under subsection (i) and under section 13(c)(2)(A), the following provisions shall govern the rights of the creditors (other than insured depositors) of such financial institution:

"(1) MAXIMUM LIABILITY.—The maximum liability of the Corporation to any person having a claim against the receiver of an insured financial institution shall be equal to the amount such claimant would have received from the receiver upon liquidation of such institution.

"(2) ADDITIONAL PAYMENTS AUTHORIZED.—The Corporation may, in its discretion, pursuant to section 13(c), use its own resources to make additional payments or credit additional amounts to or with respect to or for the account of any claimant or category of claimants: *Provided*, That the Corporation shall not be obligated as a result of having made any such payment or credited any such amount to or with respect to or for the account of any claimant or category of claimants, to make payments to any other claimant or category of claimants: *And provided further:*

"(A) That if the financial institution in default is a Bank Insurance Fund member, the Corporation may only make such payments out of funds held in the Bank Insurance Fund; and

"(B) That if the financial institution in default is a Savings Association Insurance Fund member, the Corporation may only make such payments out of funds held in the Savings Association Insurance Fund.

"(3) The Corporation may make the payments or credit the amounts specified in paragraphs (1) and (2) directly to the claimants or may make such payments or credit such amounts to an open insured financial institution to induce the open insured financial institution to accept liability for such claims.

"(l) RULEMAKING AND CLAIMS DETERMINATION AUTHORIZED.—

"(1)(A) The Corporation shall have the power to make rules and regulations for the conduct of conservatorships and of receiverships where it is so appointed and the Corporation may, by regulation or order, provide for the exercise of functions by members or stockholders, directors, or officers of a financial institution during conservatorship or receivership.

"(B) The Corporation shall also have the power to make rules and regulations regarding the allowance of claims and the administrative adjudication of claims.

"(C) No court shall have jurisdiction over any claim or action seeking payment from, or a determination of rights with respect to, the assets of any financial institution for which the Corporation has been appointed conservator or receiver, including assets which the Corporation may acquire from itself as such conservator or receiver, or with respect to any act or omission of the institution or the Corporation as conservator or receiver, except as set out in this subsection.

"(2) ALLOWANCE OF CLAIMS.—The Corporation shall have 180 days after the date a claim is timely filed under subsection (c)(2)(C) to determine whether or not to allow the claim. The amount of time for such a determination may be extended in writing by the claimant and the Corporation.

"(3) Within 60 days after the end of the period provided in paragraph (2), or within 60 days after the Corporation denies the claim, whichever is sooner, a claimant may either seek review within the Corporation under paragraph (6) or file a suit in the district or territorial court of the United States held within the district in which the financial institution's principal place of business is located or in the district court for the District of Columbia, or to continue a suit filed before the appointment of a receiver.

"(4) The Corporation shall establish a procedure for expedited relief outside of the routine claims process for claimants with legally valid and perfected security interests who allege irreparable injury if the routine claims procedure is followed. 60 days after the filing of a request for expedited relief, or as soon as the Corporation denies the claim, whichever is sooner, the claimant shall be permitted to file or continue a suit filed before the appointment of the receiver with respect to such security interest but only as to the claimant's rights as to such security interest. If suit is not filed, or motion to renew a previously filed suit is not made, within such 60-day period, the claim shall be deemed disallowed, such disallowance shall be final, and the claimant shall have no further rights or remedies.

"(5) There shall be no judicial review of the Corporation's decision not to allow a claim under paragraph (2). A claimant's only remedy shall be to file or continue a suit as provided in paragraphs (3) and (4).

"(6) ADMINISTRATIVE DETERMINATION OF CLAIMS.—If a claimant elects to seek review under this paragraph in lieu of filing suit under paragraph (3), the Corporation shall consider the claim de novo after opportunity for a hearing on the record. The final determination of the Corporation with respect to such claim shall be subject to judicial review under chapter 7 of title 5, United States Code.

"(7) The Corporation shall establish such alternative dispute resolution processes as may be appropriate for the resolution of claims under this section. In creating such processes, the Corporation shall strive for procedures which are expeditious, fair, independent, and low cost. The Corporation may establish both binding and nonbinding processes, which may be conducted by any government or private party, but all parties, including the claimant and the Corporation, must agree to the use of the process in a particular case. The Corporation shall seek to develop incentives for claimants to participate in the alternative dispute resolution process. The Corporation shall report to the Congress, within 180 days after the date the enactment of the Financial Institutions Reform, Recovery and Enforcement Act of 1989, on such systems and incentives.

"(8) Any agreement which does not meet the requirements set forth in section 13(e) shall form the basis of, or substantially comprise, a claim against the receiver or the Corporation.

"(9) The Corporation may not by regulation or rule disturb the final nonappealable adjudication of a court rendered prior to the appointment of the Corporation as conservator or receiver. In the event of such a judgment, the receiver shall have all the rights and remedies available to the institution prior to failure and the Corporation in general, including removal to Federal court and all appellate rights, but shall not be required to post any bond in order to pursue such remedies.

"(10) No attachment or execution may issue by any court upon assets in the possession of the receiver.

"(m) JUDICIAL REVIEW.—Except as provided in this section, no court may take any action, except at the request of the Board of Directors by regulation or order, to restrain or affect the exercise of powers or functions of the Corporation as a conservator or a receiver.".

SEC. 213. FSLIC RESOLUTION FUND.

The Federal Deposit Insurance Act (12 U.S.C. 1821) is amended by inserting after section 11 the following new section:

"SEC. 11A. FSLIC RESOLUTION FUND.

"(a) ESTABLISHMENT.—There is hereby established a fund to be known as the FSLIC Resolution Fund which shall be managed by the Corporation and separately maintained and not commingled.

"(b) CAPITALIZATION OF FUND.—

"(1) TRANSFER FROM FSLIC.—On the date of the dissolution of the Federal Savings and Loan Insurance Corporation in accordance with section 401 of the Financial Institutions Reform, Recovery and Enforcement Act of 1989, all reserves and all other assets of any kind, and debts, obligations, contracts and other liabilities of the Federal Savings and Loan Insurance Corporation, matured or unmatured, accrued, absolute, contingent, or otherwise shall be transferred to the FSLIC Resolution Fund.

"(2) EXCEPTION WITH RESPECT TO CERTAIN ASSETS AND LIABILITIES.—Paragraph (1) shall not apply with respect to liabilities specifically transferred pursuant to section 21A of the Federal Home Loan Bank Act.

"(3) INDEPENDENT ACCOUNTING.—Any reserves assets, debts, obligations, contracts, or other liabilities transferred to the FSLIC Resolution Fund under this subsection shall, except as provided in section 11(a)(6)(D) of this Act, be the exclusive assets and liabilities of the FSLIC Resolution Fund (and not of the Corporation) and shall not be consolidated with the assets and liabilities of the Bank Insurance Fund or Savings Association Insurance Fund or the Corporation for accounting or reporting or any other purpose.

"(c) SOURCE OF FUNDS.—The FSLIC Resolution Fund shall be funded from the sources described in the following subparagraphs (in the order in which such subparagraphs appear) to the extent funds are needed:

"(1) Subject to the requirement of section 11(a)(6)(D)(i), income earned on assets of the FSLIC Resolution Fund.

"(2) The proceeds of the resolution of insolvent savings associations which became insolvent prior to December 31, 1988, to the extent such funds are not required by the Resolution Funding Corporation pursuant to section 21B of the Federal Home Loan Bank Act.

"(3) Any proceeds from borrowings by the Financing Corporation pursuant to section 21 of the Federal Home Loan Bank Act.

"(4) All amounts assessed against Savings Association Insurance Fund members by the Corporation pursuant to section 7 after the enactment of the Financial Institutions Reform, Recovery and Enforcement Act of 1989 which are not required by the Financing Corporation pursuant to section 21 of the Federal Home Loan Bank Act, or the Resolution Funding Corporation pursuant to section 21B of the Federal Home Loan Bank Act, which shall be covered into the FSLIC Resolution Fund until December 31, 1991.

"(d) NO ASSESSMENTS FOR FUND AFTER 1991.—No amount assessed against Savings Association Insurance Fund members may be transferred to the FSLIC Resolution Fund after December 31, 1991.

"(e) TREASURY BACKUP.—

"(1) IN GENERAL.—If the total amount of the funds described in subsection (c) are insufficient for the purposes of the FSLIC Resolution Fund, the Secretary of the Treasury shall, to such extent and in such amount as are provided in advance in appropriations Acts, provide such excess funds determined by the Corporation and the Secretary to be necessary for FSLIC Resolution Fund purposes.

"(2) AUTHORIZATION OF APPROPRIATIONS.—There are hereby authorized to be appropriated to the Secretary of the Treasury, without fiscal year limitation, such sums as may be necessary to carry out this paragraph.

"(f) LEGAL PROCEEDINGS.—Notwithstanding any other provision of law, any judgment resulting from any civil action, suit, or proceeding—

"(1) to which the Federal Savings and Loan Insurance Corporation was a party prior to the dissolution of such corporation pursuant to section 401(a) of the Financial Institutions Reform, Recovery and Enforcement Act of 1989 (and with respect to which the Corporation or the FSLIC Resolution Fund was substituted as a party pursuant to section 401(d) of such Act); or

"(2) which is initiated against the Corporation (or the assets of the Corporation) with respect to Federal Savings and Loan Insurance Corporation actions or FSLIC Resolution Fund activities,

shall be limited to the assets of the FSLIC Resolution Fund.

"(g) TERMINATION.—

"(1) IN GENERAL.—The FSLIC Resolution Fund shall terminate upon satisfaction of all debts and liabilities and sale of all assets acquired in connection with case resolutions and from any other source.

"(2) TRANSFER OF ASSETS.—Upon the termination of the Fund—

"(A) any remaining funds shall be covered into the Treasury; and

"(B) any other tangible assets, including offices and office supplies, shall be transferred to the Corporation for use by and to be held as assets of the Savings Association Insurance Fund.".

SEC. 214. AMENDMENTS TO SECTION 12.

Section 12 of the Federal Deposit Insurance Act (12 U.S.C. 1822) is amended—

(1) by striking out "closed bank" each place such term appears (except in "as a stockholder of the closed bank, or of any liability of such depositor") and inserting in lieu thereof "financial institution in default";

(2) by amending subsection (a) to read as follows:

"(a) BOND NOT REQUIRED; AGENTS; FEE.—Notwithstanding any other provision of Federal law, the law of any State, or the constitution of any State, the Corporation as receiver of an insured financial institution or branch of a foreign bank shall not be required to furnish bond and shall have the right to appoint an agent or agents to assist it in its duties as such receiver, and all fees, compensation, and expenses of liquidation and administration thereof shall be fixed by the Corporation, and may be paid by it out of funds coming into its possession as such receiver."; and

(3) in subsection (d)—

(A) by striking out "as a stockholder of the closed bank, or of any liability of such depositor"; and

(B) by striking out "such bank" and inserting in lieu thereof "such financial institution".

SEC. 215. AMENDMENTS TO SECTION 13.

Section 13 of the Federal Deposit Insurance Act (12 U.S.C. 1823) is amended—

(1) by amending subsection (a) to read as follows:

"(a) INVESTMENT OF CORPORATION FUNDS.—

"(1) AUTHORITY.—Funds belonging to the Corporation and held in the Bank Insurance Fund, the Savings Association Insurance Fund, or the FSLIC Resolution Fund that are not otherwise employed shall be invested in obligations of the United States or in obligations guaranteed as to principal and interest by the United States, except that funds held in the Bank Insurance Fund and the Savings Association Insurance Fund shall be invested separately and not commingled.

"(2) LIMITATION.—The Corporation shall not sell or purchase any such obligations for its own account and in its own right and interest, at any one time aggregating in excess of $100,000, without the approval of the Secretary of the Treasury. The Secretary of the Treasury may waive the requirement of such approval with respect to any transaction or classes of transactions subject to the provisions of this subsection for such period of time and under such conditions as the Secretary may determine.";

(2) in subsection (b)—

(A) by striking out "banking and checking" and "banking or checking" each place such terms appear and inserting in lieu thereof "deposit";

(B) by striking out "bank" each place such term appears (except in "Federal Reserve bank") and inserting in lieu thereof "financial institution";

(3) in subsection (c)—

(A) by striking out "closing" and "closed" each place such terms appear (except in "closed insured bank") and inserting in lieu thereof "default" and "in default", respectively;

(B) in paragraph (1)(B), by striking out "closed insured bank" each place such term appears and inserting in lieu thereof "insured financial institution in default";

(C) in paragraph (2)(A) by striking out "an insured institution" and "such insured institution" each place such terms appear and inserting in lieu thereof "another insured financial institution" and "such other financial institution", respectively.

(D) in paragraph (2), by inserting after subparagraph (B) the following new subparagraph:

"(C) Any action to which the Corporation is or becomes a party by virtue of the Corporation's acquisition of any asset or the exercise of any other authority under this section shall be stayed for a period of 90 days at the request of the Corporation.";

(E) in paragraph (3), by striking out "section 13(f) of this Act" and inserting in lieu thereof "subsections (f) and (g) of this section";

(F) in paragraph (4)—

(i) by striking out "banking" and inserting in lieu thereof "financial"; and

(ii) by inserting after subparagraph (B) the following new subparagraph:

"(C) DIRECT AND INDIRECT COSTS TO THE FDIC AND THE GOVERNMENT.—

"(i) DIRECT AND INDIRECT COSTS TO CORPORATION.—In determining the cost of assistance provided under this subsection for purposes of applying the limitation contained in subparagraph (A) of this paragraph, the Corporation shall take into account the immediate and long-term obligations of the Corporation with respect to such assistance, including contingent liabilities.

"(ii) LOSS OF REVENUE.—The Corporation shall also consider the loss of revenue by the Government, to the extent reasonably ascertainable, as a result of the provisions of the Technical and Miscellaneous Revenue Act of 1988 which provided specific tax benefits to acquirers of financial institutions in default or in danger of default or to such institutions as a result of assistance provided by the Corporation, or any similar statutory provision."; and

(G) by striking out paragraph (8), redesignating paragraphs (6) and (7) as paragraphs (7) and (8), and inserting after paragraph (5) the following new paragraph:

"(6) Notwithstanding any other provision of Federal law, the law of any State, or the constitution of any State, the transfer of any assets or liabilities associated with any trust business of an insured financial institution in default under paragraph (2)(A) shall be effective without any further approval, assignment, or consent with respect to such transfer.";

(4) by amending subsections (d) and (e) to read as follows:

"(d) SALE OF ASSETS TO CORPORATION.—

"(1) IN GENERAL.—Any conservator, receiver, or liquidator of an insured financial institutions in default may offer the assets of such financial institutions for sale to the Corporation or as security for loans from the Corporation.

"(2) PROCEEDS OF LIQUIDATED ASSETS.—The proceeds of any sale or loan pursuant to paragraph (1) shall be used for the same purposes and in the same manner as other funds realized from the liquidation of the assets of such financial institution.

The Corporation, in its discretion, may make loans on the security of or may purchase and liquidate or sell any part of the assets of an insured financial institution which is now or may hereafter be in default.

"(e) AGREEMENTS AGAINST INTERESTS OF CORPORATION.—No agreement which tends to diminish or defeat the right, title or interest of the Corporation in any asset acquired by it under this section or section 11, either as security for a loan or by purchase or as receiver of any insured financial institution, shall be valid against the Corporation, unless such agreement—

"(1) is in writing;

"(2) contemporaneously with the acquisition of the asset by the financial institution, has been executed by the financial institution and the person or persons claiming an adverse interest thereunder, including the obligor;

"(3) has been approved by the board of directors of the financial institution or its loan committee, which approval shall be reflected in the minutes of such board or committee; and

"(4) has been, continuously, from the time of its execution, an official record of the financial institution.";

(5) in subsection (f)—

(A) by striking out "closed bank" each place such term appears and inserting in lieu thereof "bank in default";

(B) by striking out "closed" and "closing" each place such terms appear (other than in "closed bank") and inserting in lieu thereof "in default" and "default", respectively;

(C) in paragraph (2)(B)(iii), by striking "a unanimous vote" and inserting in lieu thereof "a vote of 75 percent of";

(D) by striking out "depository" each place such term appears and inserting in lieu thereof "financial";

(E) in paragraph (6)(A), by inserting after "the Corporation shall permit" the following: "the offeror which made the initial lowest acceptable offer and";

(F) in paragraph (7), by adding at the end thereof the following new subparagraph:

"(C) if, in the opinion of the Corporation, the acquisition threatens the safety and soundness of the acquirer or does not result in the future viability of the resulting financial institution.";

(G) in paragraph (8), by striking out subparagraphs (A), (B), (C), (D), (F), and (G) and by redesignating subparagraph (E) as paragraph (8);

(H) in paragraph (9)—

(i) in the paragraph heading, by striking "NONBANK" and inserting in lieu thereof "CERTAIN";

(ii) in subparagraph (A)—

(I) by inserting after "subsidiary" the following: ", other than a subsidiary that is an insured financial institution,"; and

(II) by striking out "which is not an insured bank"; and

(iii) in subparagraph (B), by inserting after "intermediate holding company" the following: "or an affiliate of an insured financial institution"; and

(I) by adding at the end thereof the following new paragraph:

"(12) ACQUISITION OF MINORITY BANK BY MINORITY BANK HOLDING COMPANY WITHOUT REGARD TO ASSET SIZE.—For the purpose of ensuring continued minority control of a minority-controlled bank, paragraphs (2) and (3) shall apply with respect to the acquisition of a minority-controlled bank by an out-of-State minority-controlled depository institution or holding company without regard to the fact that the total assets of such minority-controlled bank is less than $500,000,000.";

(6) in subsection (h), by striking out "a closed insured bank", "closing", and "insurance fund", and inserting in lieu thereof "an insured financial institution in default,", "default", and "Bank Insurance Fund", respectively;

(7) in subsection (i)—

(A) by inserting "financial" before "institution" each place such term appears;

(B) in paragraph (1)(C)—

(i) by striking out "corporation" and inserting in lieu thereof "Corporation";

(ii) by striking out "chartered bank" and inserting in lieu thereof "chartered financial institution";

(iii) by inserting ", Federal savings association," after "State member bank"; and

(iv) by inserting ", Director of the Office of Thrift Supervision," after "Federal Reserve System"; and

(C) in paragraph (5)(C), by striking out "greater than zero and"; and

(8) by transferring subsection (m) of section 408 of the National Housing Act (12 U.S.C. 1730a(m)) to section 13 of the Federal Deposit Insurance Act, inserting such subsection after subsection (j), and amending such subsection—

(A) by redesignating such subsection as subsection (k);

(B) by striking out "insured institution", "an insured institution", and "insured institutions" each place such terms appear (other than in paragraph (1)(A)(iii)) and inserting in lieu thereof "savings association", "a savings association", and "savings associations", respectively;

(C) by striking out "depository institution" and "depository institutions" each place such terms appear and inserting in lieu thereof "financial institution" and "financial institutions", respectively;

(D) in paragraph (1)(A)(i)—

(i) by striking out "or constitution of any State or any provision of Federal law, except as provided in subsections (c), (e)(2), and (l) of this section and in clause (iii) of this subparagraph," and inserting in lieu thereof "of any State,"; and

(ii) by striking out "section 406(f) of this Act" and inserting in lieu thereof "subsection (c) of this section";

(E) in paragraph (1)(A)(iii), by striking out "the party thereto that is not an insured institution" and inserting in lieu thereof "each party to any such transaction";

(F) by amending paragraph (1)(A)(iv) to read as follows:

"(iv) In authorizing any transaction under this subsection which involves a Federal savings association, the Corporation shall obtain the prior concurrence of the Director of the Office of Thrift Supervision in connection with the override of any provisions of the laws of any State.";

(G) by inserting after paragraph (1)(A)(iv), the following new clauses:

"(v) The Corporation may not authorize any transaction under this subsection unless the Corporation determines that the transaction will not present a substantial risk to the safety or soundness of any savings association or company involved in the transaction.

"(vi) The Director of the Office of Thrift Supervision may waive the application of the percentage limitations on investments contained in section 5(c)(4)(B) of the Home Owners' Loan Act of 1933 with respect to the acquisition of control by a Federal savings association of another savings association under this paragraph.

"(vii) The Corporation may waive the application of the Depository Institution Management Interlocks Act with respect to the participation of a management official of a depository institution which acquires a savings association under this paragraph in the conduct of the affairs of such association for such period as the Corporation may determine to be appropriate, not to exceed 10 years.";

(H) in paragraph (1)(B)(iii)—

(i) in the first sentence, by striking "only by" and all that follows and inserting in lieu thereof "a vote of 75 percent or more of the voting members of the Board of Directors."; and

(ii) in the 2d sentence, by striking out "Federal Home Loan Bank Board" and inserting in lieu thereof "the Corporation";

(I) by amending paragraph (3) to read as follows:

"(3)(A) In considering authorizations under this subsection, the Corporation shall give consideration to the need to minimize the cost of financial assistance.

"(B) In the case of a minority controlled institution, the Corporation shall seek an offer from other minority-controlled institutions.

"(C) In determining the cost of offers and reoffers under this subsection, the Corporation's calculations and estimations shall be determinative. The Corporation may set reasonable time limits on offers and reoffers.";

(J) by striking out paragraph (4) and by redesignating paragraph (5) as paragraph (4); and

(K) by adding at the end thereof the following new paragraph:

"(5) ASSISTANCE BEFORE APPOINTMENT OF CONSERVATOR OR RECEIVER.—

"(A) ASSISTANCE PROPOSALS.—The Resolution Trust Corporation shall consider proposals by Savings Association Insurance Fund members for assistance pursuant to section 21A of the Federal Home Loan Bank Act before grounds exist for appointment of a conservator or receiver for such member under the following circumstances:

"(i) TROUBLED CONDITION CRITERIA.—The Resolution Trust Corporation determines—

"(I) that grounds for appointment of a conservator or receiver exist or likely will

exist in the future unless the member's tangible capital is increased;

"(II) that it is unlikely that the member can achieve positive tangible capital without assistance; and

"(III) that providing assistance pursuant to the member's proposal would be likely to lessen the risk to the Corporation.

"(ii) OTHER CRITERIA.—The member meets the following criteria:

"(I) Before enactment of the Financial Institutions Reform, Recovery and Enforcement Act of 1989, the member was solvent under applicable regulatory accounting principles but had negative tangible capital.

"(II) The member's negative tangible capital position is substantially attributable to its participation in acquisition and merger transactions that were instituted by the Federal Home Loan Bank Board or the Federal Savings and Loan Insurance Corporation for supervisory reasons.

"(III) The member's qualified thrift investments are at least 80 percent of its total tangible assets (excluding commercial real estate owned and nonperforming commercial loans acquired in acquisition and merger transactions that were instituted by the Federal Home Loan Bank Board or the Federal Savings and Loan Insurance Corporation for supervisory reasons).

"(IV) The appropriate Federal banking agency has determined that the member's management is competent and has complied with applicable laws, rules, and supervisory directives and orders.

"(V) The member's management did not engage in insider dealing or speculative practices or other activities that jeopardized the member's safety and soundness or contributed to its impaired capital position.

"(VI) The member's offices are located in an economically depressed region.

"(B) CORPORATION CONSIDERATION OF ASSISTANCE PROPOSAL.—If a member meets the requirements of clauses (i) and (ii) of subparagraph (A), then—

"(i) the Resolution Trust Corporation shall consider providing direct monetary assistance; and

"(ii) the Resolution Trust Corporation shall approve the proposal unless it makes a specific finding that a merger or liquidation of the member is feasible and would be a less costly solution.

"(C) ECONOMICALLY DEPRESSED REGION DEFINED.—For purposes of this paragraph, the term 'economically depressed region' means any geographical region which the appropriate Federal banking agency determines by regulation to be a region within which real estate values have suffered serious decline due to severe economic conditions, such as a decline in energy or agricultural values or prices.".

SEC. 216. BORROWING AUTHORITY.

Section 14 of the Federal Deposit Insurance Act (12 U.S.C. 1824) is amended—

(1) by striking out "$3,000,000,000" and inserting in lieu thereof "$5,000,000,000, subject to the approval of the Secretary of the Treasury"; and

(2) by adding at the end the following new sentence:

"The Corporation may employ such funds for purposes of the Bank Insurance Fund or the Savings Association Insurance Fund and the borrowing shall become a liability of each such fund to the extent funds are employed therefore.".

SEC. 217. EXEMPTION FROM TAXATION; LIMITATION ON BORROWING.

Section 15 of the Federal Deposit Insurance Act (12 U.S.C. 1825) is amended—

(1) by inserting "(a) GENERAL RULE.—" before "All"; and

(2) by adding at the end the following new subsections:

"(b) OTHER EXEMPTIONS.—When acting as a receiver for a national bank, a branch of a foreign bank, or a savings association (but not as a receiver of a State bank under State law), the following provisions shall apply with respect to the Corporation:

"(1) The Corporation including its franchise, its capital, reserves, and surplus, and its income, shall be exempt from all taxation now or hereafter imposed by any State, county, municipality, or local taxing authority, except that any real property of the Corporation shall be subject to State, territorial, county, municipal, or local taxation to the same extent according to its value as other real property is taxed, except that, notwithstanding the failure of any person to challenge an assessment under State law of such property's value, such value, and the tax thereon, shall be determined as of the period for which such tax is imposed.

"(2) No property of the Corporation shall be subject to levy, attachment, garnishment, foreclosure, or sale without the consent of the Corporation, nor shall any involuntary lien attach to the property of the Corporation.

"(3) The Corporation shall not be liable for any amounts in the nature of penalties or fines, including those arising from the failure of any person to pay any real property, personal property, probate, or recording tax or any recording or filing fees when due. This subsection shall not apply with respect to any tax imposed (or other amount arising) under the Internal Revenue Code of 1986.

"(c) LIMITATION ON BORROWING.—

"(1) COST ESTIMATE REQUIRED.—Before—

"(A) issuing any note, debenture, bond, or similar obligation; or

"(B) issuing any guarantee or otherwise incurring any liability for any obligation of any other person,

the Corporation shall estimate the cost to the Corporation for such obligation, guarantee, or other liability.

"(2) COST ESTIMATE FOR OBLIGATIONS ISSUED AND LIABILITIES INCURRED BEFORE FIRREA.—As soon as practicable after the date of the enactment of the Financial Institutions Reform, Recovery and Enforcement Act of 1989, the Corporation shall estimate the aggregate cost to the Corporation for all outstanding obligations or guarantees which were issued by the Corporation before such date and all outstanding liabilities which were incurred by the Corporation before such date.

"(3) ESTIMATES OF LIABILITIES REQUIRED TO BE INCLUDED IN FINANCIAL STATEMENTS.—The financial statements of the Corporation shall reflect the estimate made by the Corporation under paragraphs (1) and (2) of the aggregate amount of the costs to the Corporation for outstanding obligations or other liabilities and the Corporation shall make such adjustments as the Corporation may determine to be appropriate in the estimate of such aggregate amount no less frequently than once each fiscal quarter.

"(4) LIMITATION IMPOSED.—Except as provided in paragraph (5), the Corporation may not—

"(A) issue any note, debenture, bond, or similar obligation; or

"(B) issue any guarantee or otherwise incur any liability for any obligation of any other person, with respect to the Bank Insurance Fund or the Savings Association Insurance Fund, to the extent the issuance or incurrence of such obligation or liability would reduce the net worth of the appropriate insurance fund to less than zero.

"(5) EXCEPTION FOR CERTAIN LIABILITIES IN EXCESS FUND ASSETS.—With the prior approval of the Secretary of the Treasury, the Corporation may issue obligations or guarantees, or incur liabilities, in an aggregate amount not to exceed $5,000,000,000 in excess of the limitations contained in paragraph (4), except that the maximum dollar amount which the Corporation is authorized to borrow from such Secretary under section 14 shall be reduced by an amount equal to the aggregate amount of the obligations or guarantees issued and liabilities incurred in excess of the limitations contained in paragraph (4).

"(6) NET WORTH OF INSURANCE FUND.—For purposes of this subsection, the net worth of the Bank Insurance Fund or the Savings Association Insurance Fund shall be calculated on the basis of the most recent audit of such Fund by the Comptroller General of the United States and adjusted in accordance with the adjustments required under paragraph (3).".

SEC. 218. REPORTS.

(a) ANNUAL REPORT.—Section 17(a) of the Federal Deposit Insurance Act (12 U.S.C. 1827(a)) is amended to read as follows:

"(a) The Corporation shall annually submit a full report of its operations, activities, budget, receipts and expenditures for the preceding 12-month period. Such report shall be submitted to the President of the Senate and the Speaker of the House of Representatives, who shall cause the same to be printed for the information of Congress, and the President as soon as practicable after the first day of January each year.".

(b) OTHER REPORTS.—Section 17 of the Federal Deposit Insurance Act (12 U.S.C. 1827(a)) is amended by redesignating subsections (b), (c), and (d) as subsections (c), (d), and (e) respectively, and by inserting after subsection (a) (as amended by subsection (a) of this section) the following new subsection:

"(b) QUARTERLY REPORTS.—

"(1) FINANCIAL OPERATING PLANS AND FORECASTS.—Before the beginning of each fiscal quarter, the Corporation shall provide to the Secretary of the Treasury a copy of the Corporation's financial operating plans and forecasts.

"(2) FINANCIAL CONDITION AND REPORTS OF OPERATIONS.—As soon as practicable after the end of each fiscal quarter, the Corporation shall submit to the Secretary of the Treasury a copy of the report of the Corporation's financial condition as of the end of such fiscal quarter and the results of the Corporation's operations during such fiscal quarter.

"(3) ITEMS TO BE INCLUDED.—The plans, forecasts, and reports required under this subsection shall reflect the estimates required to be made under section 15(b) of the liabilities and obligations of the Corporation described in such section.

"(4) RULE OF CONSTRUCTION.—The requirement to provide plans, forecasts, and reports to the Secretary of the Treasury under this subsection may not be construed as implying any obligation on the part of the Corporation to obtain the consent or approval of such Secretary with respect to such plans, forecasts, and reports.".

SEC. 219. REGULATIONS GOVERNING INSURED FINANCIAL INSTITUTIONS.

Section 18 of the Federal Deposit Insurance Act (12 U.S.C. 1828) is amended—

(1) by amending subsection (a) to read as follows:

"(a) INSURANCE LOGO; ADVERTISING.—

"(1) INSURED SAVINGS ASSOCIATIONS.—Each insured savings association shall display at each place of business maintained by such association a sign containing only the following items:

"(A) A statement that insured deposits are backed by the full faith and credit of the United States Government.

"(B) A statement that each account is federally insured to $100,000.

"(C) The symbol of the American eagle.

The sign shall not contain any reference to a Government agency and shall accord each item substantially equal prominence.

"(2) INSURED BANKS.—Each insured bank shall display at each place of business maintained by such bank a sign that conforms to 1 or other of the following:

"(A) the sign required to be displayed by insured banks under regulation prescribed by the Corporation in effect on January 1, 1989; or

"(B) the sign prescribed under paragraph (1).

"(3) REGULATIONS.—

"(A) DISPLAY OF SIGNS AND LOGO.—The Corporation shall have authority to prescribe regulations to carry out the purposes of this subsection, including regulations governing the manner of display or use of such signs, except that the size of the sign prescribed under paragraph (1) shall be the same as that prescribed under paragraph (2)(A).

"(B) DISPARAGING ADVERTISING.—The Corporation shall, within 60 days after the date of the enactment of the Financial Institutions Reform, Recovery and Enforcement Act of 1989, adopt rules designed to provide that advertising of Bank or Savings Association Insurance Fund members shall not disparage the condition of either fund, refer to the length of time that another institution has been a member of a fund or that it was formerly a member of another fund.";

(2) in subsection (c)—

(A) in paragraph (2), by striking out subparagraph (C) and inserting in lieu thereof the following:

"(C) the Corporation, if the acquiring, assuming, or resulting bank is to be a State nonmember insured bank (except a District bank or a savings bank supervised by the Director of the Office of Thrift Supervision); and

"(D) the Director of the Office of Thrift Supervision, if the acquiring, assuming, or resulting institution is to be a savings association.";

(B) by striking out paragraph (12);

(C) in paragraphs (3), (4), (6), (7), and (9), by inserting after "bank" and "banks" each place such terms appear, "or savings association" and "or savings associations", respectively; and

(D) in paragraph (3), by striking out "failure" and inserting in lieu thereof "default";

(3) in subsection (i)—

(A) in paragraph (1), by striking out "nonmember bank (except a District bank)" and inserting in lieu thereof "financial institution (except a member bank, a District bank, or a Federal savings association)"; and

(B) in paragraph (2)—

(i) in subparagraph (C)—

(I) by inserting after "resulting bank" the following: "or savings association"; and

(II) by striking "bank)." and inserting in lieu thereof "bank or a Federal savings bank); or"; and

(ii) by adding at the end the following new subparagraph:

"(D) the Director of the Office of Thrift Supervision, if the resulting institution is to be a Federal savings association.";

(4) in subsection (j)(5), by striking out "not"; and

(5) by adding at the end the following new subsection:

"(m) ACTIVITIES OF SAVINGS ASSOCIATIONS SUBSIDIARIES.—

"(1) PROCEDURES.—If an insured savings association establishes or acquires control of a company or elects to conduct any new activity through a company that the insured savings association controls, the insured savings association shall—

"(A) notify the Corporation and the Director of the Office of Thrift Supervision not less than 30 days before the establishment or acquisition of any such new company, and not less than 30 days before the commencement of any such activity, and in either case shall provide at that time such information as each such agency may, by regulation, require;

"(B) except as provided in section 5(t) of the Home Owners' Loan Act, deduct its entire investment in, and loans and other financial accommodations to, the company from its own capital for the purposes of determining capital adequacy if the company is engaged in activities not permissible for a national bank; and

"(C) conduct the activities of the company in accordance with such rules, regulations and orders as may be established by the Director of the Office of Thrift Supervision.

"(2) ENFORCEMENT POWERS.—With respect to any company controlled by an insured savings association—

"(A) the Corporation and the Director of the Office of Thrift Supervision shall each have, with respect to such company, the respective powers and authorities that each may possess with respect to the insured savings association under this section or section 8; and

"(B) the Director of the Office of Thrift Supervision or the Corporation, as appropriate, may—

"(i) determine, after notice and opportunity for hearing on the record, after opportunity for a hearing, that the continuation by the insured savings association of its ownership or control of, or its relationship to, the company—

"(I) constitutes a serious risk to the financial safety, soundness or stability of the insured savings association; or

"(II) is inconsistent with sound banking principles or the purposes of this Act;

"(ii) upon making any such determination, order the insured savings association to divest itself of control of the company; and

"(iii) take any other corrective measures with respect to the company, including requiring the company to terminate the activities or operations posing such risks, as the Director may determine to be appropriate.

"(3) ACTIVITIES INCOMPATIBLE WITH DEPOSIT INSURANCE.—

"(A) REGULATIONS.—

"(i) IN GENERAL.—The Board of Directors may determine, by regulation of general applicability to all State savings associations, that any specific activity poses a serious threat to the Savings Association Insurance Fund. Any such regulation shall be issued in accordance with section 553 of title 5, United States Code.

"(ii) CONSULTATION.—Before any proposed regulation under clause (i) becomes final, the Corporation shall—

"(I) consult with the Director of the Office of Thrift Supervision;

"(II) provide appropriate State supervisors with opportunity for comment on the proposed regulation; and

"(III) shall specifically take such comments into consideration.

"(B) RESTRICTION ON ACTIVITY.—Upon issuing any regulation under subparagraph (A) with respect to any activity for which a determination was made under such subparagraph, the Corporation may prohibit any Savings Association Insurance Fund member from directly engaging in such activity to a greater extent than is permissible for a Federal savings association under the Home Owners' Loan Act of 1933.

"(C) LIABILITY OF MEMBERS.—No Savings Association Insurance Fund member shall be or become liable for the liabilities or obligations arising out of any activity referred to in subparagraph (B) conducted indirectly, except to the extent such liability or obligation—

"(i) is in writing;

"(ii) has been executed by the member and person or entity to whom the liability or obligation is owed—

"(I) if the liability or obligation was created before the date of the enactment of the Financial Institutions Reform, Recovery and Enforcement Act of 1989, before the end of the 120-day period beginning on such date; or

"(II) otherwise, contemporaneously with the creation of the liability or obligation;

"(iii) has been approved by the Board of Directors or an official committee of the member; and

"(iv) has been, continuously, from the time of its creation, an official record of the member.

"(D) AUTHORITY OF DIRECTOR.—This section shall not be construed as limiting the authority of the Director of the Office of Thrift Supervision to issue regulations to promote safety and soundness or to enforce compliance with other applicable laws.

"(4) COMPANY DEFINED.—For purposes of this subsection, the term 'company' does not include any insured financial institution.

"(5) RESTATEMENT OF EXISTING LAW.—This subsection shall not derogate from the rights and authorities of the Corporation under any other provision of law.

"(6) ACTIVITIES CONDUCTED IN SUBSIDIARIES.—

"(A) Except as provided in paragraphs (2) and (3), an insured savings association which—

"(i) is lawfully engaged, through a subsidiary (as defined in section 13(f)(8)(G)), in any type of activity which are not permitted for national banks on the date of enactment of the Financial Institution Regulatory Reform, Recovery and Enforcement Act of 1989;

"(ii) was in compliance with its capital requirements on December 31, 1988; and

"(iii) continues to remain in compliance with its capital requirements or adopts and maintains a capital plan acceptable to the Director of the Office of Thrift Supervision or the Corporation, as appropriate,

shall be allowed to maintain the same level of financial commitments and shall not be required to deduct its investments in or loans to such subsidiary from capital under this section or section 5(t) of the Home Owners' Loan Act of 1933 solely because

such subsidiary is engaging in an activity which is not permitted for national banks.

"(B) The Corporation or the Director of the Office of Thrift Supervision may order any insured savings association to terminate or modify any such investment or activity pursuant to paragraph (2)(B).

"(7) ACTIVITIES OF CERTAIN SAVINGS BANKS.—Subparagraphs (A) and (B) of paragraph (1) shall not apply to—

"(A) any Federal savings bank that was chartered before October 15, 1982, as a savings bank under State law; or

"(B) any savings association that acquired its principal assets from an institution that was chartered before October 15, 1982, as a savings bank under State law.".

SEC. 220. NONDISCRIMINATION.

Section 22 of the Federal Deposit Insurance Act (12 U.S.C. 1830) is amended to read as follows:

"SEC. 22. NONDISCRIMINATION.

"It is not the purpose of this Act to discriminate in any manner against State nonmember banks or State savings associations and in favor of national or member banks or Federal savings associations, respectively. It is the purpose of this Act to provide all banks and savings associations with the same opportunity to obtain and enjoy the benefits of this Act.".

SEC. 221. RISK MANAGEMENT TRAINING.

The Federal Deposit Insurance Act (12 U.S.C. 1181 et seq.) is amended by inserting after the section added by section 914 of this Act the following new section:

"SEC. 29. RISK MANAGEMENT TRAINING.

"(a) SEMINARS.—The Corporation shall develop and administer training seminars in risk management for its employees and the employees of insured financial institutions.

"(b) STUDY OF RISK MANAGEMENT TRAINING PROGRAM.—Within 1 year after the date of the enactment of this section, the Corporation shall—

"(1) conduct a study on the feasibility and appropriateness of establishing a formalized risk management training program designed to lead to the certification of Risk Management Analysts; and

"(2) report to the Congress the results of such study.".

SEC. 222. BROKERED DEPOSITS.

(a) DEFINITIONS.—Section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813) is amended by inserting after subsection added by section 204 of this Act the following new subsections:

"(y) DEFINITIONS RELATING TO DEPOSIT BROKER.—

"(1) DEPOSIT BROKER.—The term 'deposit broker' means—

"(A) any person engaged in the business of placing funds, or facilitating the placement of funds, of third parties with insured financial institutions or the business of placing funds with insured financial institutions for the purpose of selling interests in those deposits to third parties; and

"(B) an agent or trustee who establishes a deposit account to facilitate a business arrangement with an insured financial institutions to use the proceeds of the account to fund a prearranged loan.

"(2) EXCLUSIONS.—The term 'deposit broker' does not include—

"(A) an insured financial institution, with respect to funds placed with that financial institution;

"(B) an employee of an insured financial institution, with respect to funds placed with the employing financial institution;

"(C) a trust department of an insured financial institution or of an institution insured by the Federal Savings and Loan Insurance Corporation, if the trust in question has not been established for the primary purpose of placing funds with insured financial institutions;

"(D) the trustee of a pension or other employee benefit plan, with respect to funds of the plan;

"(E) a person acting as a plan administrator or an investment adviser in connection with a pension plan or other employee benefit plan provided that that person is performing managerial functions with respect to the plan;

"(F) the trustee of a testamentary account;

"(G) the trustee of an irrevocable trust (other than one described in paragraph (1)(B)), as long as the trust in question has not been established for the primary purpose of placing funds with insured depository institutions;

"(H) a trustee or custodian of a pension or profitsharing plan qualified under section 401(d) or 403(a) of the Internal Revenue Code of 1986; or

"(I) an agent or nominee whose primary purpose is not the placement of funds with depository institutions.

"(3) EMPLOYEE.—For purposes of this subsection, the term 'employee' includes only an employee—

"(A) who is employed exclusively by the insured financial institution for which such employee is soliciting deposits;

"(B) whose compensation is primarily in the form of a salary;

"(C) who does not share such employee's compensation with a deposit broker; and

"(D) whose office space or place of business is used exclusively for the benefit of the insured financial institution which employs such individual.

"(z) TROUBLED INSTITUTION.—The term 'troubled institution' means an insured financial institution which is entitled to the benefits of insurance under this Act and which the Corporation has determined, for the purpose of section 30, does not meet the minimum capital requirements applicable with respect to such institution.".

(b) APPLICABILITY OF LIMITATION.—The Federal Deposit Insurance Act (12 U.S.C. 1181 et seq.) is amended by inserting after section 29 added by section 221 of this Act the following new section:

"SEC. 30. BROKERED DEPOSITS.

"(a) PROHIBITION.—A troubled institution may not increase the amount of funds deposited into one or more deposit accounts by or through a deposit broker.

"(b) SCOPE OF APPLICATION.—The prohibition contained in subsection (a) shall not apply if the Corporation, following receipt of an application from an institution, determines that the acceptance or use of such deposits does not constitute an unsafe or unsound practice.".

TITLE III—SAVINGS ASSOCIATION SUPERVISION IMPROVEMENTS

SEC. 301. DEFINITIONS.

Section 2 of the Home Owners' Loan Act of 1933 (12 U.S.C. 1462) is amended to read as follows:

"SEC. 2. DEFINITIONS.

"For purposes of this Act—

"(1) DIRECTOR—The term "Director" means the Director of the Office of Thrift Supervision.

"(2) CORPORATION.—The term 'Corporation' means the Federal Deposit Insurance Corporation.

"(3) OFFICE.—The term 'Office' means the Office of Thrift Supervision.

"(4) SAVINGS ASSOCIATION.—The term 'savings association'—

"(A) means—

"(i) any Federal savings and loan association or Federal savings bank;

"(ii) any building and loan, savings and loan, or homestead association or any cooperative bank which is organized pursuant to and operated in accordance with the laws of the State (as defined in section 3(a) of the Federal Deposit Insurance Act) in which such association or bank is chartered or organized; and

"(iii) any other corporation which the Director determines is operating in substantially the same manner as a savings and loan association; and

"(B) includes any institution the accounts of which were insured by the Federal Savings and Loan Insurance Corporation on the day before the date of the enactment of the Financial Institutions Reform, Recovery and Enforcement Act of 1989.

"(5) FEDERAL SAVINGS ASSOCIATION.—The term 'Federal savings association' means a Federal savings and loan association or a Federal savings bank which is chartered under section 5 of this Act.

"(6) STATE SAVINGS ASSOCIATION.—The term 'State savings association' means any savings association which is not—

"(A) a Federal savings association; or

"(B) a State bank (as defined in section 3(a) of the Federal Deposit Insurance Act) which is a Bank Insurance Fund member.

"(7) INSURED SAVINGS ASSOCIATION.—The term 'insured savings association' means a savings association which is a Savings Association Insurance Fund member.

"(8) INSURED STATE SAVINGS ASSOCIATION.—The term 'insured State savings association' means a State savings association which is a Savings Association Insurance Fund member.

"(9) FEDERAL BANKING AGENCIES.—The term 'Federal banking agencies' means the Comptroller of the Currency, the Board of Governors of the Federal Reserve System, and the Federal Deposit Insurance Corporation.".

SEC. 302. OFFICE OF THRIFT SUPERVISION DIRECTOR.

The Home Owners' Loan Act of 1933 (12 U.S.C. 1461 et seq.) is amended by inserting after section 2 the following new section:

"SEC. 2A. DIRECTOR OF THE OFFICE OF THRIFT SUPERVISION.

"(a) ESTABLISHMENT OF OFFICE.—There is hereby established the Office of Thrift Supervision.

"(b) ESTABLISHMENT OF POSITION OF DIRECTOR.—

"(1) IN GENERAL.—There is hereby established the position of the Director of the Office of Thrift Supervision who shall be the head of the Office of Thrift Supervision and subject to the general oversight of the Secretary of the Treasury.

"(2) AUTHORITY TO PRESCRIBE REGULATIONS.—The Director may prescribe such regulations and issue such orders as the Director may determine to be necessary for carrying out this Act and all other laws within the jurisdiction of the Director.

"(3) AUTONOMY OF DIRECTOR.—The Director shall perform the duties of the office, and exercise the powers of the office, with the degree of autonomy from the Secretary of the Treasury equal to that of the Comptroller of the Currency.

"(c) APPOINTMENT; TERM.—

"(1) APPOINTMENT.—The Director shall be appointed by the President, by and with the advice and consent of the Senate, from among individuals who are citizens of the United States.

"(2) TERM.—The Director shall be appointed for a term of 5 years.

"(3) VACANCY.—A vacancy in the position of Director which occurs before the expiration of the term for which a Director was appointed shall be filled in the manner established in paragraph (1) and the Director appointed to fill such vacancy shall be appointed only for the remainder of such term.

"(4) SERVICE AFTER END OF TERM.—An individual may serve as Director after the expiration of the term for which appointed until a successor Director has been appointed.

"(d) PROHIBITION ON FINANCIAL INTERESTS.—It shall not be lawful for the Director of the Office of Thrift Supervision to have a financial interest, either directly or indirectly, in any member of a Federal home loan bank.

"(e) POWERS OF THE DIRECTOR.—

"(1) IN GENERAL.—Notwithstanding any other provision of law, there is hereby vested in the Director all power and authority which—

"(A) were vested in the Federal Home Loan Bank Board (in such Board's capacity as such or as the board of trustees of the Federal Savings and Loan Insurance Corporation) or the Chairman of such Board on the day before the date of the enactment of the Financial Institution Reform, Recovery and Enforcement Act of 1989; and

"(B) were not—

"(i) expressly transferred to the Federal Deposit Insurance Corporation, the Federal Housing Finance Board, the Resolution Trust Corporation, or the Federal Home Loan Mortgage Corporation pursuant to any amendment made by such Act; or

"(ii) established under any provision of law repealed by such Act.

"(2) CERTAIN FUNCTIONS SPECIFICALLY INCLUDED.—The power and authority vested in the Director under paragraph (1) include the functions which the Chairman of the Federal Home Loan Bank Board, the Federal Home Loan Bank Board, the Home Loan Bank Board, and the Federal Savings and Loan Insurance Corporation had or could exercise immediately before August 24, 1954, or immediately before June 24, 1954 (other than any authority with respect to the Federal home loan banks).

"(f) ANNUAL REPORT REQUIRED.—The Director shall make an annual report to the Congress.

"(g) CONGRESSIONAL DECLARATION OF PURPOSE.—The Congress hereby declares that the establishment of the position of Director of the Office of Thrift Supervision is the establishment by law of a new officer of the United States under the authority provided by the second paragraph of section 2 of Article II of the Constitution of the United States of America.

"(h) LIMITATION ON AUTHORITY OF CERTAIN INDIVIDUALS TO SERVE IN ACTING CAPACITY.—No individual who was Chairman or a member of the Federal Home Loan Bank Board on May 3, 1989, may—

"(1) serve as the Director of the Office of Thrift Supervision unless nominated to such position by the President and confirmed in such position by the Senate; or

"(2) serve in an acting capacity as the Director of the Office of Thrift Supervision or in any other capacity with respect to such position after the end of the 120-day period beginning on such date of enactment.

"(i) STAFF.—

"(1) IN GENERAL.—Notwithstanding section 301(f)(1) of title 31, United States Code, and after consulting with the Secretary of the Treasury, the Director may employ, direct, and fix the compensation and number of such employees, attorneys, and agents as the Director may determine to be necessary to carry out the duties of the Office.

"(2) CERTAIN FEDERAL EMPLOYEE PROVISIONS NOT APPLICABLE.—The compensation of employees, attorneys, and agents of the Office shall be determined without regard to the provisions of any law or regulation (including title 5, United States Code) relating to Federal employee and officer compensation.

"(3) COMPENSATION LEVELS.—In directing and fixing such compensation, the Director shall seek to maintain comparability with the compensation at other Federal banking agencies and the National Credit Union Administration.

"(4) DELEGATION AUTHORITY.—The Director may—

"(A) designate who shall serve in the absence of the Director; and

"(B) notwithstanding any other provisions of law, may delegate to any duly authorized employee, representative, or agent any power vested in the Director by law.

"(j) LIMITATION ON OVERSIGHT AUTHORITY OF SECRETARY OF THE TREASURY.—The Secretary's oversight and direction of the Director under subsection (a) of this section or section 309 of title 31, United States Code, shall not extend, directly or indirectly, to any office or joint office of a Federal home loan bank with respect to any in credit-related or correspondent banking activity.

"(k) PRINCIPAL SUPERVISORY AGENT.—The principal supervisory agent of the Director of the Office of Thrift Supervision in each Federal home loan bank district—

"(1) may not be the president of such Federal home loan bank;

"(2) shall report to the chief supervisory official of the Office of Thrift Supervision; and

"(3) may be removed for cause by such Director.

"(l) GAO AUDIT.—The General Accounting Office shall have authority to audit all of the activities of the Office of Thrift Supervision.".

SEC. 303. SUPERVISION OF SAVINGS ASSOCIATIONS.

(a) IN GENERAL.—The Home Owners' Loan Act of 1933 (12 U.S.C. 1461 et seq.) is amended by inserting after the section added by section 302 of this title the following new section:

"SEC. 3. SUPERVISION OF SAVINGS ASSOCIATIONS.

"(a) FEDERAL SAVINGS ASSOCIATIONS.—

"(1) IN GENERAL.—The Director may provide for the examination, safe and sound operation, and regulation of Federal savings associations.

"(2) REGULATIONS.—The Director may issue such regulations as the Director determines to be appropriate to carry out the responsibilities of the Director or the Office.

"(3) HOUSING CREDIT ROLE TO BE ENCOURAGED.—The Director shall exercise all powers granted to the Director under this Act in a manner which encourages savings associations to maintain such associations' role of providing credit for housing in a manner consistent with principles of safe and sound operation.

"(b) STATE SAVINGS ASSOCIATIONS.—

"(1) IN GENERAL.—The Corporation may provide for the examination, safe and sound operation, and regulation of insured State savings associations in accordance with the provisions of this Act and the Federal Deposit Insurance Act.

"(2) SCOPE OF AUTHORITY.—In administering the provisions of this Act which apply to insured State savings association (or which are made applicable to State savings associations by section 4), the Corporation shall apply the regulations prescribed by the Director pursuant to any such provision.

"(3) REGULATIONS.—Subject to paragraph (2), the Corporation may issue such regulations as the Corporation determines to be appropriate to carry out the responsibilities of the Corporation under this Act.

"(4) ENFORCEMENT AUTHORITY UNDER OTHER ACTS.—For purposes of enforcing compliance with any requirement imposed under this Act or any regulation prescribed by the Director under this Act, the Corporation may exercise any other authority conferred on the Corporation by the Federal Deposit Insurance Act and any other law.

"(c) ACCOUNTING AND DISCLOSURE.—

"(1) IN GENERAL.—The Director shall, by regulation, prescribe uniform accounting and disclosure standards for savings associations to be used in determining compliance by such associations with all applicable regulations.

"(2) SPECIFIC REQUIREMENTS FOR ACCOUNTING STANDARDS.—The uniform accounting standards prescribed under paragraph (1) shall—

"(A) incorporate generally accepted accounting principles to the same degree that generally accepted accounting principles are used to determine compliance with regulations prescribed by the Federal banking agencies;

"(B) be coordinated with capital standards established by the Director pursuant to section 5(t) of this Act; and

"(C) except as provided in section 5(t), allow for no deviation from full compliance with such standards as are in effect after December 31, 1994;

"(D) with respect to compliance by savings association before January 1, 1995, require full compliance by savings associations with accounting standards in effect at any time before such date in accordance with the schedule provided in section 563.23-3 of title 12, Code of Federal Regulations (as in effect on the date of the enactment of the Financial Institutions Reform, Recovery and Enforcement Act of 1989).

"(d) REGULATIONS CONSISTENT WITH BANKING REGULATIONS.—The regulations and policies of the Director and the Corporation governing the safe and sound operation of savings associations, including policies governing asset classification and appraisals, shall be no less stringent than those established by the Comptroller of the Currency for national banks.".

(b) TRANSFER OF EXISTING PROVISION OF LAW RELATING TO SAVINGS ASSOCIATIONS.—Section 409 of the National Housing Act (12 U.S.C. 1730b) (relating to investment of certain funds in accounts of savings associations) is—

(1) transferred to section 3 of the Home Owners' Loan Act of 1933 (as added by subsection (a) of this section) and inserted in such section after subsection (d) of such section; and

(2) amended—

(A) by striking out "SEC. 409. The" and inserting in lieu thereof the following:

"(e) INVESTMENTS OF CERTAIN FUNDS IN ACCOUNTS OF SAVINGS ASSOCIATION.—The";

(B) by striking out "institutions insured by the Corporation," and inserting in lieu thereof "insured savings associations"; and

(C) by striking the section heading for such section.

(c) TRANSFER OF EXISTING PROVISION OF LAW RELATING TO SAVINGS ASSOCIATIONS.—Section 3 of the Home Owners' Loan Act of 1933 (as added by subsection (a) of this section) is amended by inserting after subsection (e) of such section (3) (as added by subsection (b) of this section) the following new subsection:

"(f) PARTICIPATION BY SAVINGS ASSOCIATIONS IN LOTTERIES AND RELATED ACTIVITIES.—

"(1) PARTICIPATION PROHIBITED.—No savings association may—

"(A) deal in lottery tickets;

"(B) deal in bets used as a means or substitute for participation in a lottery;

"(C) announce, advertise, or publicize the existence of any lottery; or

"(D) announce, advertise, or publicize the existence or identity of any participant or winner, as such, in a lottery.

"(2) USE OF FACILITIES PROHIBITED.—No savings association may permit—

"(A) the use of any part of any of its own offices by any person for any purpose forbidden to the institution under paragraph (1); or

"(B) direct access by the public from any of its own offices to any premises used by any person for any purpose forbidden to the institution under paragraph (1).

"(3) DEFINITIONS.—For purposes of this subsection—

"(A) DEAL IN.—The term 'deal in' includes making, taking, buying, selling, redeeming, or collecting.

"(B) LOTTERY.—The term 'lottery' includes any arrangement under which—

"(i) 3 or more persons (hereinafter in this subparagraph referred to as the 'participants') advance money or credit to another in exchange for the possibility or expectation that 1 or more but not all of the participants (hereinafter in this paragraph referred to as the 'winners') will receive by reason of the advances of such participants more than the amounts such participants have advanced; and

"(ii) the identity of the winners is determined by any means which includes—

"(I) a random selection;

"(II) a game, race, or contest; or

"(III) any record or tabulation of the result of 1 or more events in which any participant has no interest except for the bearing such event has on the possibility that such participant may become a winner.

"(C) LOTTERY TICKET.—The term 'lottery ticket' includes any right, privilege, or possibility (and any ticket, receipt, record, or other evidence of any such right, privilege, or possibility) of becoming a winner in a lottery.

"(4) EXCEPTION FOR STATE LOTTERIES.—Paragraphs (1) and (2) shall not apply with respect to any savings association accepting funds from, or performing any lawful services for, any State operating a lottery, or any officer or employee of such State who is charged with the administration of the lottery.

"(5) REGULATIONS.—The Director and the Corporation shall prescribe such regulations as may be necessary to provide for strict enforcement of this subsection and to prevent any evasion of any provision of this subsection.".

(d) TRANSFER OF EXISTING PROVISION OF LAW RELATING TO SAVINGS ASSOCIATIONS.—Section 413 of the National Housing Act (12 U.S.C. 1730f) (relating to disclosures with respect to certain federally related mortgage loans) is—

(1) transferred to section 3 of the Home Owners' Loan Act of 1933 (as added by subsection (a) of this section) and inserted in such section after subsection (f) of such section (as added by subsection (c) of this section); and

(2) is amended—

(A) by striking out "SEC. 413." and inserting in lieu thereof the following:

"(g) FEDERALLY RELATED MORTGAGE LOAN DISCLOSURES.—"; and

(B) by striking out "insured institution" and "institution" each place such terms appear and inserting in lieu thereof "savings association".

(e) TRANSFER OF EXISTING PROVISION OF LAW RELATING TO SAVINGS ASSOCIATIONS.—Section 414 of the National Housing Act (12 U.S.C. 1730g) (relating to State usury override for certain loans) is—

(1) transferred to section 3 of the Home Owners' Loan Act of 1933 (as added by subsection (a) of this section) and inserted in such section after subsection (g) of such section (3) (as added by subsection (d) of this section); and

(2) amended—

(A) by striking out "SEC. 414." and inserting in lieu thereof the following:

"(h) PREEMPTION OF STATE USURY LAWS.—";

(B) by striking out "insured institution" and "institution" each place such terms appear and inserting in lieu thereof "savings association"; and

(C) by striking out "(which, for the purpose of this section, shall include a Federal association the deposits of which are insured by the Federal Deposit Insurance Corporation)".

(f) TRANSFER OF EXISTING PROVISION OF LAW RELATING TO SAVINGS ASSOCIATIONS.—Section 3 of the Home Owners' Loan Act of 1933 (as added by subsection (a) of this section) is amended by inserting after subsection (h) of such section 3 (as added by subsection (e) of this section) the following new subsection:

"(i) LIMITATION ON FORM OF SECURITIES.—No savings association may—

"(1) issue securities which guarantee a definite maturity except with the specific approval of the Director or the Corporation, as appropriate; or

"(2) issue any securities the form of which has not been approved by the Director or the Corporation, as appropriate.".

SEC. 304. APPLICABILITY.

The Home Owners' Loan Act of 1933 is amended by inserting after the section added by section 303(a) of this title the following new section:

"SEC. 4. APPLICABILITY.

"(a) PROVISIONS APPLICABLE TO ALL SAVINGS ASSOCIATIONS.—The following provisions of this Act shall apply to all savings associations: section 3, subsections (d), (f), (i), (k), (o), (p), (q), (s), (t), (u), and (v) of section 5, and sections 6, 7, 9, 10, 11, 12, 13, 14, 15, and 16.

"(b) PROVISIONS APPLICABLE TO FEDERAL SAVINGS ASSOCIATIONS.—Subsections (a), (b), (c), (e), (g), (h), (j), (l), (m), (n), and (r) of section 5 and section 8 shall apply to Federal savings associations.".

SEC. 305. CONFORMING AMENDMENTS.

Section 5 of the Home Owners' Loan Act of 1933 (12 U.S.C. 1464) is amended—

(1) by striking out "association", "Federal association", and "Federal savings and loan association" each place such terms appear in subsections (b), (c) (other than in subparagraphs (D) and (F) of paragraph (1) of subsection (c)), (g), (h), and (i) (other than in clauses (iv) and (v) of paragraph (3)(A) and clause (ii) of paragraph (3)(B) of subsection (i)), (j), (l), (n), (p), and (r) (other than where such term is preceded by "domestic building and loan" in subsection (r)) and inserting in lieu thereof "Federal savings associations";

(2) by striking out "association" and "Federal association" each place such terms appear in subsections (d), (f), (k), (o), (q), and (s) and inserting in lieu thereof "savings association";

(3) in subsection (c)(1)(R), by striking out "and loan" each place such term appears after "savings";

(4) in subparagraphs (A)(iv), (A)(v), and (B)(ii) of subsection (i)(3), by striking out "association" each place such term appears and inserting in lieu thereof "savings association";

(5) in subsection (m), by striking out "building and loan" and inserting in lieu thereof "savings"; and

(6) in subsection (p)(1), by striking out "mutual savings and loan association" and inserting in lieu thereof "mutual savings association".

SEC. 306. SAFETY AND SOUNDNESS.

Section 5(a) of the Home Owners' Loan Act of 1933 (12 U.S.C. 1464(a)) is amended by inserting "consistent with the safe and sound operation of Federal savings associations" after "credit for housing".

SEC. 307. AMENDMENTS TO SECTION 5(c) OF THE HOME OWNERS' LOAN ACT OF 1933.

(a) LOAN LIMITATIONS.—Section 5(c) of the Home Owners' Loan Act of 1933 (12 U.S.C. 1464(c)) is amended by adding at the end thereof the following new paragraph:

"(6) ENFORCEMENT ACTION.—The Director and, in the case of a State savings association, the Corporation, may take any action authorized by law against any savings association that violates any provision of this section, including requiring such savings association to divest specific assets.".

(b) LIMITATIONS ON COMMERCIAL LENDING.—

(1) Section 5(c)(1)(B) of the Home Owners' Loan Act of 1933 (12 U.S.C. 1464(c)(1)(B)) is amended to read as follows:

"(B) REAL PROPERTY LOANS.—

"(i) RESIDENTIAL REAL PROPERTY LOANS.—Loans on the security of liens upon residential real property located in the United States.

"(ii) NONRESIDENTIAL REAL PROPERTY LOANS.—Loans on the security of liens upon nonresidential real property, except that the aggregate amount of loans under this clause may not exceed 20 percent of the association's assets.".

(2) Section 5(c)(1)(R) of the Home Owners' Loan Act of 1933 (12 U.S.C. 1464(c)(1)(R)) is amended to read as follows:

"(R) COMMERCIAL AND OTHER LOANS.—Secured or unsecured loans for commercial, corporate, business, or agricultural purposes, except that the aggregate amount of investments and loans under this subparagraph may not exceed 10 percent of the assets of the association.".

(3) Section 5(c)(3)(D) of the Home Owners' Loan Act of 1933 (12 U.S.C. 1464(c)(3)(D)) is amended to read as follows:

"(D) CONSTRUCTION LOANS WITHOUT SECURITY.—Loans—

"(i) the principal purpose of which is to provide financing with the respect to what is or is expected to become primarily residential real estate; and

"(ii) with respect to which the association—

"(I) relies substantially on the borrower's general credit standing and projected future income for repayment, without other security; or

"(II) relies on other assurances for repayment, including a guarantee or similar obligation of a third party,

except that the aggregate amount of such investments shall not exceed the greater of the sum of the association's surplus, undivided profits, and reserves, or 5 percent of the assets of the association.".

(c) DEPOSITS.—

(1) Section 5(b)(1) of the Home Owners' Loan Act of 1933 (12 U.S.C. 1464(b)(1)) is amended—

(A) by amending subparagraph (A) to read as follows:

"(A) CAPITAL.—Subject to the terms of the association's charter and such regulations as the Director may prescribe, an association may—

"(i) raise capital in the form of such deposit, share, or other accounts, including demand deposit accounts, (hereinafter in this section referred to as 'accounts'); and

"(ii) issue passbooks, certificates, or other evidence of accounts."; and

(B) in subparagraph (B), by striking out the 1st sentence.

(2) Section 5(c)(1)(G) of the Home Owners' Loan Act of 1933 (12 U.S.C. 1464(c)(1)(G)) is amended to read as follows:

"(G) DEPOSITS.—Investments in time deposits, savings accounts certificates, or accounts (including accounts described in subparagraph (A)) of any insured financial institution (as defined in section 3(v)(2) of the Federal Deposit Insurance Act).".

SEC. 308. SUPERVISORY REVISIONS.

(a) REPEAL OF REDUNDANT ADMINISTRATIVE ENFORCEMENT PROVISIONS.—Section 5(d) of the Home Owners' Loan Act of 1933 (12 U.S.C. 1464(d)) is amended by striking out paragraphs (2) through (5), paragraphs (7) through (10), subparagraphs (A) and (B) of paragraph (12), and paragraphs (13) and (15).

(b) TRANSFER OF EXISTING PROVISIONS OF LAW RELATING TO SAVINGS ASSOCIATIONS.—Paragraphs (1), (2), (3), and (4) of section 407(m) of the National Housing Act (12 U.S.C. 1730(m)) are—

(1) transferred to section 5(d) of the Home Owners' Loan Act of 1933 and inserted in such subsection after paragraph (1) of such subsection; and

(2) amended—

(A) by redesignating such paragraphs as paragraphs (2), (3), (4), and (5), respectively;

(B) by striking out "institution" and "insured institution" each place such terms appear and inserting in lieu thereof "savings association";

(C) by striking out "Federal Home Loan Bank Board" where such term appears in paragraph (2) (as so redesignated by subparagraph (A) of this paragraph) and inserting in lieu thereof "Director or the Corporation, as the case may be,";

(D) by striking out "on behalf of the Corporation" where such term appears in paragraph (2) (as so redesignated by subparagraph (A) of this paragraph);

(E) by striking out "Corporation" each place such term appears (other than in paragraph (5) (as so redesignated by subparagraph (A) of this paragraph) or in connection with the term amended in subparagraph (D) of this paragraph) and inserting in lieu thereof "Director or Corporation, as the case may be,"; and

(F) in paragraph (5) (as so redesignated by subparagraph (A) of this paragraph)—

(i) by striking out "Federal Home Loan Bank Board" and inserting in lieu thereof "Corporation";

(ii) by striking out "Federal association" and inserting in lieu thereof "State savings association"; and

(iii) by striking out "Federal Deposit Insurance Corporation as it or the Corporation has under paragraphs (1) and (2)" and inserting in lieu thereof "Corporation as the Director has under paragraphs (2) and (3)".

SEC. 309. RECEIVERSHIPS.

Section 5(d)(6) of the Home Owners' Loan Act of 1933 (12 U.S.C. 1464(d)(6)) is amended—

(1) by amending subparagraph (A)(iii) to read as follows: "(iii) an unsafe or unsound condition to transact business, including substantially insufficient capital, an inability to pay the debts or obligations of the savings association as they come due, or otherwise;";

(2) in subparagraph (B), by striking out "the Federal Savings and Loan Insurance Corporation or";

(3) by redesignating subparagraphs (C), (D), and (E) as subparagraphs (F), (G), and (H), respectively;

(4) by inserting after subparagraph (B) the following new subparagraphs:

"(C) APPOINTMENT OF CONSERVATOR OR RECEIVER OF STATE ASSOCIATIONS UNDER CERTAIN CIRCUMSTANCES.—Notwithstanding any other provision of Federal law, the law of any State, the constitution of any State, or any other provision of this section, the Corporation, during the 3-year period beginning on the date of the enactment of the Financial Institutions Reform, Recovery and Enforcement Act of 1989, may appoint the Resolution Trust Corporation, and after the end of such period, may appoint the Corporation, as sole conservator or receiver of an insured State savings association, if the Corporation determines that any of the following grounds for the appointment of a conservator or receiver exists with respect to such savings association:

"(i) The assets of the savings association are less than the liabilities of the association.

"(ii) Substantial dissipation of the assets or earnings of the savings association due to any violation or violations of any law or regulation, or to any unsafe or unsound practice of the savings association.

"(iii) An unsafe or unsound condition of the savings association to transact business, including substantially insufficient capital or an inability to pay the debts or obligations of such association as such debts or obligations come due.

"(D) CONSERVATORSHIP AND RECEIVERSHIP POWERS.—The Corporation and the Resolution Trust Corporation shall have the same powers and duties with respect to cases described in subparagraph (C) as the Corporation has under section 11(c) of the Federal Deposit Insurance Act.

"(E) COORDINATION WITH STATE OFFICIALS.—

"(i) WRITTEN APPROVAL OF EXISTENCE OF GROUNDS FOR APPOINTMENT.—The authority conferred under subparagraph (C) shall not be exercised without the written approval of the State official having jurisdiction over the insured State savings association that the grounds specified for such exercise exist.

"(ii) APPOINTMENT WITHOUT APPROVAL.—If—

"(I) the approval of the State official referred to in clause (i) has not been received within 30 days after receipt of notice to the State that the Corporation has determined that grounds exist for the appointment of the Corporation as conservator or receiver under subparagraph (C); and

"(ii) the Corporation has responded in writing to the State's written reasons (if any) for withholding such approval,

the Corporation may proceed without State approval."; and

(5) in subparagraph (G) (as so redesignated by paragraph (3) of this section)—

(A) by striking out "Federal Savings and Loan Insurance" and inserting in lieu thereof "Corporation and the Resolution Trust Corporation"; and

(B) by striking out the last sentence.

SEC. 310. TECHNICAL AMENDMENT.

Section 5(d) of the Home Owners' Loan Act of 1933 (12 U.S.C. 1464(d)) is amended—

(1) by redesignating paragraph (11) as paragraph (7);

(2) by redesignating paragraph (12) as paragraph (8);

(3) by redesignating subparagraphs (B) and (C) of paragraph (8) (as so redesignated by paragraph (2) of this section) as subparagraphs (A) and (B), respectively;

(4) by redesignating paragraph (14) as paragraph (9); and

(5) by redesignating paragraph (16) as paragraph (10).

SEC. 311. AMENDMENT TO SECTION 5.

(a) Section 5(d)(9) of the Home Owners' Loan Act of 1933 (12 U.S.C. 1464(d)(9)) (as so redesignated by section 310(4) of this title) is amended to read as follows:

"(9) TREATMENT OF CERTAIN DEFINITIONS.—

"(A) IN GENERAL.—Any reference in this subsection to—

"(i) savings account holders or members of savings associations shall be deemed to be references to holders of withdrawable accounts in savings associations over which the Director or the Corporation, as the case may be, has any statutory power of examination or supervision under this Act; and

"(ii) boards of directors of savings associations shall be deemed to be references to boards of directors or other governing boards of such associations.

"(B) AUTHORITY TO CLARIFY USE OF CERTAIN TERMS.—The Director may, by regulation, clarify the meaning of the terms used or referred to in subparagraph (A) for purposes of this paragraph.".

(b) Section 5(s) of the Home Owner's Loan Act of 1933 (12 U.S.C. 1464(s)) is hereby repealed.

SEC. 312. PROVISIONS FOR LOW-TO-MODERATE INCOME HOUSING LENDERS.

Section 5(d)(6) of the Home Owners' Loan Act of 1933 (12 U.S.C. 1464(d)(6)) is amended by adding at the end thereof the following new subparagraph:

"(F) LOW- TO MODERATE-INCOME HOUSING LENDER.—

"(i) IN GENERAL.—In making any determination to appoint a conservator or receiver for a solvent savings association, the Director shall take into account and consider the extent of the association's low- to moderate-income housing loans.

"(ii) LOW- TO MODERATE-INCOME HOUSING LOANS.—The term 'low- to moderate-income housing loans' means loans secured by residential property (including manufactured housing) whose purchase price is 60 percent or less of the median purchase price at the time the loan is originated of single family homes located in the same standard metropolitan statistical area or, for property not located in such an area, the same State.".

SEC. 313. CONVERSIONS.

(a) STOCK-MUTUAL CONVERSIONS.—Section 5(i)(2) of the Home Owners' Loan Act of 1933 (12 U.S.C. 1464(i)(2)) is amended to read as follows:

"(2) CONVERSIONS.—

"(A) STOCK AND MUTUAL CONVERSIONS.—Subject to such regulations as the Director or the Corporation may prescribe, any savings association may convert from the mutual form to the stock form, or from the stock form to the mutual form, upon the approval by the Director or the Corporation, as the case may be, of a plan of conversion submitted by such savings association.

"(B) PUBLICATION OF NOTICE.—The Director or the Corporation, as the case may be, shall publish notice of any final action of the Director or Corporation with respect to any plan of conversion submitted by any savings association pursuant to subparagraph (A)—

"(i) in the Federal Register; or

"(ii) in such other manner as the Director or Corporation may determine, by regulation, to be appropriate to inform the public of such final action.

"(C) REVIEW OF FINAL ACTION ON PLAN.—

"(i) IN GENERAL.—Except as provided in clause (ii), any aggrieved person may obtain judicial review of any final action of the Director or the Corporation, as the case may be, with respect to a plan of conversion submitted pursuant to subparagraph (A) in the manner provided in section 10(j) of this Act for orders subject to review under such section.

"(ii) TIME WHEN STATUTE OF LIMITATION COMMENCES RUNNING.—The 30-day period provided in section 10(j) of this Act for filing a petition for review of any final order under such section shall, for purposes of obtaining judicial review of any final action of the Director or Corporation under this subparagraph, begin on the later of—

"(I) the date notice of such final action is published in the Federal Register in accordance with subparagraph (B)(i); or

"(II) the date notice of such final action is published in accordance with regulations prescribed pursuant to subparagraph (B)(ii).

"(D) CHANGE IN DESIGNATION OF FEDERAL ASSOCIATION.—Any Federal savings association may change its designation from a Federal savings and loan association to a Federal savings bank or from a Federal savings bank to a Federal savings and loan association.".

(b) TECHNICAL AND CONFORMING AMENDMENTS.—Section 5(i) of the Home Owners' Loan Act of 1933 (12 U.S.C. 1464(i)) is amended—

(1) in paragraph (3)(B), by striking out "Federal Savings and Loan Insurance Corporation" each place such term appears and inserting in lieu thereof "Director or the Corporation";

(2) in paragraph (3)(B)(i), by striking out "under section 403 of the the National Housing Act" and inserting in lieu thereof "on savings associations under this Act"; and

(3) by striking out paragraph (4) and redesignating paragraph (5) as paragraph (4).

SEC. 314. CAPITAL STANDARDS.

Section 5 of the Home Owners' Loan Act of 1933 (12 U.S.C. 1464) is amended by adding at the end thereof the following new subsection:

"(t) MINIMUM CAPITAL STANDARDS.—

"(1) ESTABLISHMENT REQUIRED.—

"(A) IN GENERAL.—Before the end of the 180-day period beginning on the date of the enactment of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, the Director shall, by regulation, establish and maintain uniformly applicable capital standards for savings associations.

"(B) FACTORS.—The standards prescribed under subparagraph (A) may take into account any relevant risks, including credit risk and interest-rate risk.

"(C) EQUIVALENCE WITH NATIONAL BANK CAPITAL STANDARDS.—Except as provided in paragraph (2), the standards prescribed under subparagraph (A) shall be materially equivalent to and no less stringent than the capital standards applicable to national banks, including risk-based capital standards.

"(D) PROHIBITION ON LESS STRINGENT STANDARD.—Except as otherwise provided in this subsection, if the capital standards established under subparagraph (A) are not the same as capital standards applicable to national banks, where such deviations exist, the standards may not be less stringent than those applicable to national banks.

"(E) CORE CAPITAL REQUIREMENT.—Notwithstanding any other provision of this paragraph and subject to the provisions of paragraph (2), the Director shall adopt minimum capital standards which require savings associations to maintain a ratio of core capital to assets of 3 percent, as core capital is defined for national banks.

"(F) MORTGAGE SERVICING RIGHTS.—

"(i) IN GENERAL.—Notwithstanding any other provision of this paragraph, any capital standard in effect at any time under this paragraph shall treat purchased mortgage servicing rights in the same manner as purchased mortgage servicing rights are treated at such time under regulations prescribed by the Corporation with respect to insured State nonmember banks.

"(ii) SIMILAR TREATMENT.—For purposes of clause (i) of this subparagraph, the Corporation shall treat retained mortgage servicing rights in the same manner as the Corporation treats purchased mortgage servicing rights.

"(2) RULES RELATING TO TREATMENT OF CERTAIN ASSETS.—

"(A) INCLUSION OF QUALIFYING INTANGIBLE ASSETS IN CORE CAPITAL ALLOWED DURING TRANSITION PERIOD.—Notwithstanding the definition of core capital contained in paragraph (1)(E), a savings association may include qualifying intangible assets described in any clause of subparagraph (B) of this paragraph in core capital (for purposes of the minimum core capital requirement contained in paragraph (1)(E)) during the periods described in the following table to the extent the percentage of core capital (of such savings association) which consists of capital other than such assets is equal to or greater than the percentage applicable with respect to such period:

"For the period:	The applicable percentage is:
Beginning June 1, 1990	50.00 percent
Beginning January 1, 1992	66.66 percent
Beginning January 1, 1993	75.00 percent
Beginning January 1, 1994	87.50 percent
Beginning January 1, 1995	100.00 percent

"(B) QUALIFYING INTANGIBLE ASSETS DESCRIBED.—Notwithstanding any provision of paragraph (1), during the period ending on December 31, 1994, the following items shall be treated as qualifying intangible assets and included in capital for the purpose of satisfying the risk-based capital standards established pursuant to such paragraph:

"(i) Supervisory goodwill existing on April 1, 1989.

"(ii) Contributed mortgage servicing rights permitted before April 1, 1989, pursuant to a written action of the Federal Home Loan Bank Board.

"(C) MINIMUM SOUNDNESS REQUIREMENT.—Notwithstanding subparagraph (A) or (B) of this paragraph, no savings association may include any item described in any clause of subparagraph (B) in capital unless the Director determines that—

"(i) the savings association's management is competent and in compliance with all applicable laws, regulations, orders, and supervisory directives; and

"(ii) the savings association's management has not engaged in insider dealing, speculative practices, or any other activities that jeopardized the association's safety and soundness or contributed to the association's impaired capital position.

"(D) RISK WEIGHT.—

"(i) CAPITAL DESCRIBED IN SUBPARAGRAPH (B).—Qualifying intangible assets described in any clause of subparagraph (B) shall have a risk weight of 100 percent for purposes of risk-based capital standards established pursuant to paragraph (1).

"(ii) ASSETS SUBJECT TO CERTAIN FSLIC AGREEMENTS.—Any assets which are subject to any loss sharing arrangement or yield maintenance agreement which was entered into with the Federal Savings and Loan Insurance Corporation before the date of the enactment of this subsection shall have the same risk weight as mortgage-backed securities for purposes of risk-based capital standards established pursuant to paragraph (1).

"(E) SPECIAL AMORTIZATION RULE.—Supervisory goodwill existing on April 1, 1989, with respect to any savings association shall be amortized over any period of amortization, not to exceed 20 years, the use of which, by such savings association for regulatory accounting purposes, was not disapproved before such date by the Federal Home Loan Bank Board, the Federal Savings and Loan Insurance Corporation, or any agent of such Board or Corporation.

"(3) ACCOUNTING FOR INVESTMENT IN SUBSIDIARIES.—

"(A) IN GENERAL.—For purposes of determining compliance with capital standards established pursuant to paragraph (1), the savings association's entire investment in, and loans to, any subsidiary company engaged in activities not permissible for a national bank shall be deducted from the capital of the savings association.

"(B) EXCEPTION FOR MORTGAGE BANKING UNITS.—Notwithstanding subparagraph (A), any investment by a savings association in any subsidiary of such association which is engaged solely in mortgage banking activities, and any loan by such association to such subsidiary shall not be deducted from the capital of the association.

"(C) CONSOLIDATION.—For purposes of determining compliance with capital standards in effect under this subsection, the assets and liabilities of any subsidiary (of any savings association) which is exempt from the requirements of subparagraph (A) by reason of the application of section 18(m)(6) of the Federal Deposit Insurance Act to such savings association shall be consolidated with the assets and liabilities of such savings association.

"(D) EXCEPTION FOR CERTAIN FEDERAL SAVINGS BANKS.—This paragraph shall not apply with respect to any Federal savings bank

that was chartered prior to October 15, 1982, as a savings bank under State law, or to a savings association that acquired its principal assets from an institution that was chartered prior to October 15, 1982, as a savings bank under State law.

"(4) REGULATIONS TO INCLUDE DEFINITIONS.—The standards established under this subsection shall include all relevant substantive definitions established by the Comptroller of the Currency for national banks.

"(5) LIMITATIONS ON ASSET GROWTH.—

"(A) DISCRETIONARY LIMITATION ON OR BEFORE JUNE 1, 1990.—Until June 1, 1990, the Director or the Corporation, as the case may be, may restrict the asset growth of any savings association not in compliance with capital standards established pursuant to this subsection.

"(B) MANDATORY LIMITATION AFTER JUNE 1, 1990.—After June 1, 1990, the Director or the Corporation, as the case may be, shall prohibit the asset growth of any savings association or class of savings associations not in compliance with capital standards established pursuant to this subsection.

"(C) DIRECTOR AND FDIC AUTHORIZED TO PROVIDE LIMITED GROWTH EXCEPTION.—Notwithstanding subparagraphs (A) and (B), the Director or the Corporation, as the case may be, may permit any savings association which is subject to the provisions of any such subparagraph to increase the assets (as defined in regulations issued pursuant to this subsection) of such savings association in an amount not to exceed the growth of net interest credited to the savings association's deposit liabilities if—

"(i) the association obtains prior supervisory approval;

"(ii) such growth is fully supported by risk-adjusted and core capital (in addition to any such capital which is held by the savings association sufficient to support the level of assets at the time such growth is occurring) to satisfy the regulations issued pursuant to this subsection with respect to such asset growth;

"(iii) all such growth is invested in low-risk assets, which may include, for purposes of this subparagraph, first mortgage loans secured by 1- to 4-family residential real property and fully secured consumer loans; and

"(iv) such savings association thereafter maintains a core capital-to-assets ratio no lower than the ratio the savings association had on June 1, 1990.

"(D) ADDITIONAL LIMITATION IN CASE OF EXCESSIVE RISKS OR RATES.—The Director or the Corporation, as the case may be, may restrict the asset growth of any savings association that the Director or the Corporation determines is taking excessive risks or is paying excessive rates for deposits.

"(6) OTHER ACTION REQUIRED FOR FAILURE TO MEET APPLICABLE CAPITAL STANDARDS.—

"(A) BUSINESS PLAN.—Until June 1, 1990, the Director or the Corporation, as the case may be, shall require any savings association not in compliance with capital standards established pursuant to this subsection to submit a business plan acceptable to the Director or the Corporation which—

"(i) addresses the need for increased capital;

"(ii) describes the manner in which the savings association will increase capital sufficiently to achieve compliance with all applicable capital standards; and

"(iii) provides that any increase in assets will be fully supported by increases in tangible capital.

"(B) SUPERVISORY AGREEMENTS.—After June 1, 1990, the Director or the Corporation, as the case may be, shall place any savings association not in compliance with capital standards established pursuant to this subsection under a supervisory agreement (which may include such restrictions on the payment of dividends and compensation as the Director or the Corporation determine to be appropriate).

"(C) LIMITED EXCEPTION FOR CERTAIN SAVINGS ASSOCIATIONS.—Subparagraphs (A) and (B) shall not apply with respect to any savings association which is not in compliance with the applicable capital standards if the Director or the Corporation, as the case may be, determines that such association will be in compliance with such standards as of the end of the subsequent quarterly reporting period.

"(D) FAILURE TO COMPLY WITH PLAN OR AGREEMENT.—Any failure on the part of any savings association to comply with the provisions of any business plan submitted by such association under subparagraph (A) or any supervisory agreement under subparagraph (B) shall be treated as an unsafe or unsound practice.

"(7) EXEMPTION FROM SUPERVISORY AGREEMENT REQUIREMENT AND OTHER SANCTIONS.—

"(A) APPLICATION FOR EXEMPTION.—Any savings association not in compliance with the capital standards established pursuant to this subsection may apply to the Director or the Corporation, as the case may be, for an exemption from any applicable sanction or penalty for noncompliance (including the requirement of paragraph (6)(B)) which the Director or the Corporation may impose.

"(B) EFFECT OF GRANT OF EXEMPTION.—Notwithstanding any other provision of this Act or the Federal Deposit Insurance Act (except as provided in subparagraph (F) of this paragraph), if the application of any savings association under subparagraph (A) is approved, the only sanction or penalty which shall be imposed for the failure of such savings association to comply with the capital standards established pursuant to this subsection is the limitation contained in paragraph (5)(B) on the growth of the assets of such savings association or, to the extent provided in the approval of such application, the limitations contained in paragraph (5)(C) with respect to such growth.

"(C) DENIAL OR REVOCATION OF APPROVAL.—The Director or the Corporation, as the case may be, shall deny any application submitted under subparagraph (A) and revoke any prior approval granted with respect to any such application if the Director or Corporation finds that the association's failure to meet any minimum capital standards established pursuant to this subsection is accompanied by—

"(i) a pattern of consistent losses;

"(ii) substantial dissipation of assets;

"(iii) evidence of imprudent management or business behavior;

"(iv) a willful violation of any Federal law, any law of any State to which such association is subject, or any applicable regulation; or

"(v) any other unsafe or unsound condition or activity, other than the failure to meet such capital standard.

"(D) SUBMISSION OF BUSINESS PLAN REQUIRED.—Any application submitted under subparagraph (A) shall be accompanied by a business plan which—

"(i) meets the requirements of paragraph (6)(A); and

"(ii) is acceptable to the Director or the Corporation, as the case may be.

"(E) FAILURE TO COMPLY WITH BUSINESS PLAN.—Any failure on the part of any savings association which has been granted an exemption subject to this paragraph to comply with the provisions of any business plan submitted by such association under subparagraph (D) shall be treated as an unsafe and unsound practice.

"(F) EXEMPTION NOT AVAILABLE WITH RESPECT TO UNSAFE OR UNSOUND PRACTICES.—This paragraph shall not be construed as limiting any authority of the Director or the Corporation, as the case may be, under any provision of this Act or any other provision of law, including section 8 of the Federal Deposit Insurance Act, to take any appropriate action with respect to any unsafe or unsound practice or condition of any savings association, other than the failure of such savings association to comply with the capital standards established pursuant to this subsection.

"(8) DEFINITIONS.—For purposes of this subsection—

"(A) NATIONAL BANK.—The term 'national bank' has the meaning given to such term in section 3(d) of the Federal Deposit Insurance Act.

"(B) COMPANY.—The term 'company' does not include an insured financial institution.".

SEC. 315. LIMITATION ON INVESTMENTS BY SAVINGS ASSOCIATIONS.

Section 5 of the Home Owners' Loan Act of 1933 (12 U.S.C. 1464) is amended by inserting after the subsection added by section 314 of this title the following new subsection:

"(u) LIMITATION ON EQUITY INVESTMENTS.—

"(1) IN GENERAL.—A savings association chartered under State law shall not directly acquire or retain any equity investment of a type or in an amount that is not permissible for a Federal savings association.

"(2) SERVICE CORPORATION EXCEPTION.—Paragraph (1) shall not apply with respect to the acquisition or retention of shares of 1 or more service corporations (other than service corporations which are subsidiaries to which paragraph (3) applies) if—

"(A) the Corporation has determined that the amount the association has invested in such shares and the activities engaged in by the service corporation pose no significant risk to the affected deposit insurance fund; and

"(B) the savings association is and remains in compliance with the fully phased-in capital standards prescribed pursuant to subsection (t).

"(3) COORDINATION WITH SECTION 18(m)(6) OF THE FEDERAL DEPOSIT INSURANCE ACT.—Paragraph (1) shall not apply with respect to the retention by any savings association of shares of any subsidiary described in section 18(m)(6) to the extent the amount of the savings association's financial commitment to such subsidiary is subject to the requirements and limitations which—

"(A) are contained in such section; or

"(B) are imposed by the Director or Corporation pursuant to such section.

"(4) TRANSITIONAL RULE.—

"(A) MAY 1, 1989, HOLDINGS.—Notwithstanding paragraph (1), if a savings association held an equity investment on May 1, 1989, the savings association may retain the equity investment for such a period and on such terms as the Corporation may determine by regulation or order pursuant to subparagraph (B).

"(B) DIVESTMENT.—The Corporation shall require savings associations to divest any equity investment that is not permissible under paragraph (1) or (2), as quickly as can be prudently done, and in any event not later than June 1, 1994.".

SEC. 316. TECHNICAL AMENDMENT.

Section 8 of the Home Owners' Loan Act of 1933 (12 U.S.C. 1466a) is amended—

(1) by striking out "Federal savings and loan associations" each place such term appears and inserting in lieu thereof "Federal savings associations";

(2) by striking out "District of Columbia associations" each place such term appears and inserting in lieu thereof "District of Columbia savings associations"; and

(3) by striking out "Federal Home Loan Bank Board" and "Board" each place such terms appear and inserting in lieu thereof "Director".

SEC. 317. COST OF EXAMINATION AND REPORTS.

Section 9 of the Home Owners' Loan Act of 1933 (12 U.S.C. 1467) is amended to read as follows:

"SEC. 9. EXPENSES OF EXAMINATIONS OF SAVINGS ASSOCIATIONS OR AFFILIATES.

"(a) EXAMINATION OF SAVINGS ASSOCIATIONS.—The cost of conducting examinations of savings associations pursuant to section 5(d) of this Act shall be assessed by the Director or the Corporation, as the case may be, against each such savings association in proportion to the assets or resources of any such savings association.

"(b) EXAMINATION OF AFFILIATES.—The cost of conducting examinations of affiliates of savings associations pursuant to this Act may be assessed by the Director or the Corporation, as the case may be, against each such affiliate which is examined in proportion to the assets or resources held by such affiliate on the date of any such examination.

"(c) ASSESSMENT AGAINST ASSOCIATION IN CASE OF AFFILIATE'S REFUSAL TO PAY.—

"(1) IN GENERAL.—Subject to paragraph (2), if any affiliate of any savings association—

"(A) refuses to pay any assessment under subsection (b); or

"(B) fails to pay any such assessment before the end of the 60-day period beginning on the date of the assessment,

the Director or the Corporation, as the case may be, may assess such cost against, and collect such cost from, such savings association.

"(2) AFFILIATE OF MORE THAN 1 SAVINGS ASSOCIATION.—If any affiliate referred to in paragraph (1) is an affiliate of more than 1 savings association, or if there is more than 1 affiliate (which is not a savings association) of any savings association, the assessment under such paragraph with respect to such affiliate may be assessed against, and collected from, any such savings association in such proportions as the Director or Corporation may prescribe.

"(d) CIVIL MONEY PENALTY FOR AFFILIATE'S REFUSAL TO COOPERATE.—

"(1) PENALTY IMPOSED.—If any affiliate of any savings association—

"(A) refuses to permit any examiner appointed by the Director or the Corporation to make an examination of such affiliate; or

"(B) refuses to provide any information required to be disclosed in the course of any such examination,

such savings association shall forfeit and pay a civil penalty of not more than $15,000 for each day that any such refusal continues.

"(2) ASSESSMENT, ETC.—Any penalty imposed under paragraph (1) shall be assessed and collected by the Director or the Corporation, as the case may be, in the manner provided in section 8(i)(2) of the Federal Deposit Insurance Act (for penalties imposed under such section) and any such assessment (including the determination of the amount of the penalty) shall be subject to the provisions of such section.

"(e) REGULATIONS.—The Director or Corporation, as the case may be, may prescribe regulations with respect to—

"(1) the computation of, and the assessment for, the cost of conducting examinations pursuant to this section; and

"(2) the collection of such assessments.

"(f) COSTS OF OTHER EXAMINATIONS.—

"(1) EXAMINATION OF FIDUCIARY ACTIVITIES.—In addition to any assessment imposed pursuant to subsection (a), the cost of conducting examinations of fiduciary activities of savings associations which exercise fiduciary powers (including savings associations or similar institutions in the District of Columbia) shall be assessed by the Director or the Corporation, as the case may be, against such savings associations (or similar institutions).

"(2) EXAMINATIONS IN EXCESS OF 2 PER CALENDAR YEAR.—If any savings association or affiliate of a savings association is examined by the Director, or the Corporation, as the case may be, more than 2 times in any calendar year, the cost of conducting such additional examinations shall be assessed, in addition to any assessment imposed pursuant to subsection (a), by the Director or the Corporation, as the case may be, against such savings association or affiliate.

"(g) ADDITIONAL INFORMATION.—Any savings association and any affiliate of any savings association shall provide the Director or Corporation, as the case may be, with access to any information or report with respect to any examination made by any public regulatory authority and furnish any additional information with respect thereto as the Director may require.

"(h) TREATMENT OF EXAMINATION ASSESSMENTS.—

"(1) DEPOSITS.—Amounts received by the Director or the Corporation from assessments under this section (other than an assessment under subsection (d)(2)) may be deposited in the manner provided in section 5234 of the Revised Statutes with respect to assessments by the Comptroller of the Currency.

"(2) ASSESSMENTS ARE NOT GOVERNMENT FUNDS.—The amounts received by the Director or the Corporation from any assessment under this section shall not be construed to be Government or public funds or appropriated money.

"(3) ASSESSMENTS ARE NOT SUBJECT TO APPORTIONMENT OF FUNDS.—Notwithstanding any other provision of law, the amounts received by the Director or the Corporation from any assessment under this section shall not be subject to apportionment for the purpose of chapter 15, of title 31, United States Code, or under any other authority.".

SEC. 318. RECOVERY REGULATIONS REPEALED.

(a) Section 10 of the Home Owners' Loan Act of 1933 (12 U.S.C. 1467a) is hereby repealed.

(b) Section 416 of the National Housing Act (12 U.S.C. 1730i) is hereby repealed.

SEC. 319. CONTINUED EFFECTIVENESS OF APPROVED CAPITAL RECOVERY PLANS.

Notwithstanding the repeal by section 318 of this title of section 10 of the Home Owners' Loan Act of 1933 and section 416 of the National Housing Act—

(1) any plan approved by the Federal Home Loan Bank Board under such section 10 for any Federal savings association shall continue in effect as long as such association adheres to the plan and continues to submit to the Director of the Office of Thrift Supervision regular and complete reports on the association's progress in meeting the association's goals under the plan; and

(2) any plan approved by the Federal Savings and Loan Insurance Corporation under such section 416 for any State savings association shall continue in effect as long as such association adheres to the plan and continues to submit to the Federal Deposit Insurance Corporation regular and complete reports on the association's progress in meeting the savings association's goals under the plan.

SEC. 320. SAVINGS AND LOAN HOLDING COMPANIES.

(a) TRANSFER OF SAVINGS AND LOAN HOLDING COMPANY REGULATION TO DIRECTOR.—Section 408 (except subsection (m) of such section) of the National Housing Act (12 U.S.C. 1730a) is transferred to the Home Owners' Loan Act of 1933, inserted in such Act after section 9 of such Act, and redesignated as section 10.

(b) AMENDMENTS TO SAVINGS AND LOAN HOLDING COMPANY PROVISIONS.—Section 10 of the Home Owners' Loan Act of 1933 (as so redesignated, transferred, and inserted into such Act by subsection (a) of this section) is amended—

(1) by striking out "insured institution", "insured institutions", and "institution" each place such terms appear and inserting in lieu thereof "savings association", "savings associations" and "association", respectively;

(2) by striking out "Corporation" each place such term appears and inserting in lieu thereof "Director";

(3) by striking out "subsection (m) of this section" and "section 406(f)" each place such terms appear and inserting in lieu thereof "section 13(k) of the Federal Deposit Insurance Act" and "section 13(c) of the Federal Deposit Insurance Act", respectively;

(4) in subsection (a)(1)—

(A) by amending subparagraph (A) to read as follows:

"(A) SAVINGS ASSOCIATION.—The term 'savings association'—

"(i) means—

"(I) any Federal savings and loan association or Federal savings bank; and

"(II) any building and loan, savings and loan, or homestead association, cooperative bank, or State savings bank which is a member of the Savings Association Insurance Fund; and

"(ii) includes any savings bank or cooperative bank which is deemed by the Director to be a savings association under subsection (l).";

(B) by amending subparagraph (B) to read as follows:

"(B) UNINSURED INSTITUTION.—The term 'uninsured institution'—

"(i) means any association or bank referred to in subparagraph (A) the deposits of which are not insured by the Federal Deposit Insurance Corporation; and

"(ii) does not include any Federal savings bank which is a member of the Bank Insurance Fund.";

(C) by striking out "and" at the end of subparagraph (K);

(D) by striking out the period at the end of subparagraph (L) and inserting in lieu thereof "; and"; and

(E) by inserting after subparagraph (L) the following new subparagraph:

"(M) the term 'Director' means the Director of the Office of Thrift Supervision.";

(5) by striking out subsections (g), (m), (p), and (t) and redesignating subsections (h), (i), (j), (k), (l), (n), (o), (q), (r), and (s) as subsections (g), (h), (i), (j), (k), (l), (m), (n), (o), and (p), respectively;

(6) in subsection (c)—

(A) by striking out paragraph (3)(B)(i) and inserting in lieu thereof the following:

"(i) all or all but 1 of the savings association subsidiaries of such company were initially acquired by the company, or an individual who would be deemed to control such company if such individual were a company, in connection with an acquisition—

"(I) under subsection (c) or (k) of section 13 of the Federal Deposit Insurance Act (or section 408(m) of the National Housing Act as in effect before the date of the enactment of the Financial Institutions Reform, Recovery and Enforcement Act of (1989); or

"(II) with respect to which assistance was continued to a savings association under the provisions of section 13(i) of the Federal Deposit Insurance Act."; and

(B) by inserting at the end thereof the following new paragraph:

"(8) SUBSECTION NOT APPLICABLE TO BANK HOLDING COMPANIES.—For purposes of this subsection other than paragraph (1)(A), the term 'savings and loan holding company' shall not include any bank holding company (as defined in section 2(a) of the Bank Holding Company Act of 1956).";

(7) by amending subsection (d) to read as follows:

"(d) TRANSACTIONS WITH AFFILIATES.—Transactions between any savings association subsidiary of a savings and loan holding company and any affiliate (of such savings association subsidiary) shall be subject to the limitations and prohibitions contained in section 11(a) of this Act.";

(8) in subsection (e)—

(A) in paragraph (2), by inserting "any acquisition under paragraph (5)(A) of this subsection," before "or any transaction under";

(B) by striking out paragraph (4) and redesignating paragraph (5) as paragraph (4); and

(C) by inserting after paragraph (4) (as so redesignated by subparagraph (B) of this paragraph) the following new paragraph:

"(5) ACQUISITIONS BY CERTAIN INDIVIDUALS.—

"(A) IN GENERAL.—Notwithstanding subsection (h)(2), any director or officer of a savings and loan holding company, or any individual who owns, controls, or holds with power to vote (or holds proxies representing) more than 25 percent of the voting shares of such holding company, may acquire control of any savings association not a subsidiary of such savings and loan holding company with the prior written approval of the Director.

"(B) TREATMENT OF CERTAIN HOLDING COMPANIES.—If any individual referred to in subparagraph (A) controls more than 1 savings and loan holding company or more than 1 savings association, any savings and loan holding company controlled by such individual shall be subject to the activities limitations contained in subsection (c) to the same extent such limitations apply to multiple savings and loan holding companies, unless all or all but 1 of the savings associations (including any institution deemed to be a savings association under subsection (1) of this section) controlled directly or indirectly by such individual was acquired pursuant to an acquisition described in subclause (I) or (II) of subsection (c)(3)(B)(i).";

(9) by amending paragraph (2) of subsection (h) (as so redesignated by paragraph (5) of this subsection) to read as follows:

"(2) any director or officer of a savings and loan holding company, or any individual who owns, controls, or holds with power to vote (or holds proxies representing) more than 25 percent of the voting shares of such holding company, to acquire control of any savings association not a subsidiary of such savings and loan holding company, unless such acquisition is approved by the Director pursuant to subsection (e)(5); or";

(10) in paragraph (5) of subsection (m) (as so redesignated by paragraph (5) of this subsection), by adding at the end thereof the following:

"(C) QUALIFIED NEW THRIFT INVESTMENTS.—The term 'qualified new thrift investments' means, with respect to any insured institution, the sum of—

"(i) the aggregate amount of loans, equity positions, or securities held by the insured institution which are related to domestic residential real estate or manufactured housing made or acquired after February 28, 1989;

"(ii) the value of property used by such institution or subsidiary in the conduct of the business of such institution or subsidiary acquired after February 28, 1989;

"(iii) subject to paragraph (6), liquid assets which—

"(I) are of the type required to be maintained under section 14 of this Act; and

"(II) are acquired after February 28, 1989;

"(iv) subject to paragraph (6), 50 percent of the dollar amount of the residential mortgage loans originated after February 28, 1989, by such insured institution or subsidiary and sold within 90 days of origination;

"(v) subject to paragraph (6), loans for personal, family, or household purposes, including loans reasonably incident to the provisions of any such credit made or acquired after February 28, 1989;

"(vi) the aggregate amount of loans and equity positions made or acquired after February 28, 1989, related to the acquisition, development, and construction of 1- to 4-family residential real estate the value of which (at the time of acquisition or upon completion of the development and construction) is not greater than 60 percent of the median value of comparable newly constructed 1- to 4-family residences within the local community in which such real estate is located, provided that 25 percent of the value of the development may consist of commercial properties related to the development;

"(vii) loans made or acquired after February 28, 1989, for the acquisition or improvement of residential real property, churches, schools, and nursing homes located within, and loans for any other purpose to any small business located within, any area which has been identified by the Director, in connection with any review or examination of community reinvestment practices, as a geographic area or neighborhood in which the credit needs of the low- and moderate-income residents of such area or neighborhood are not being adequately met;

"(viii) investments made or acquired after February 28, 1989, in the capital stock or obligations of, and any other security issued by, any corporation which is incorporated under the laws of the State in which the home office of the association is located, if the entire capital stock of such corporation is available for purchase only by—

"(I) associations chartered by such State; and

"(II) associations which have their home offices in such State,

except that such service corporation derives at least 80 percent of its annual gross revenues from activities related to domestic residential real estate;

"(ix) loans for educational expenses made or acquired after February 28, 1989; and

"(x) loans for the purchase or construction of churches, schools, nursing homes, and hospitals, other than those qualifying under clause (vii), and loans for the improvement and upkeep of such properties made or acquired after February 28, 1989.";

(11) by amending paragraph (8) of subsection (m) (as so redesignated by paragraph (5) of this subsection) to read as follows:

"(8) COMPUTATION OF QUALIFIED NEW THRIFT INVESTMENT PERCENTAGE.—

"(A) LIMITATION ON TREATMENT OF CERTAIN ASSETS AS THRIFT INVESTMENTS.—The aggregate amount of the assets described in clauses (iii), (iv), and (v) of paragraph (5)(C) which may be taken into account in determining the amount of the qualified new thrift investments of any savings association shall not exceed the amount which is equal to 20 percent of 80 percent of a savings association's tangible assets acquired after February 28, 1989.

"(B) ADDITIONAL CREDIT FOR CERTAIN ASSETS.—The aggregate amount of the assets described in clauses (vi) and (vii) of paragraph (5)(C) which may be taken into account in determining the amount of the qualified thrift investments of any savings association shall be doubled, but the resulting sum shall not exceed the amount which is equal to 20 percent of 80 percent of a savings association's tangible assets made or acquired after February 28, 1989.";

(12) in paragraph (1) of subsection (m) (as so redesignated by paragraph (5) of this subsection), by redesignating subparagraphs (A) and (B) as subparagraphs (B) and (C) respectively, and inserting before subparagraph (B) (as so redesignated) the following new subparagraph:

"(A) the qualified new thrift investments of such insured institution equal 80 percent of the sum of the total tangible assets of such institution acquired after February 28, 1989."; and

(13) in subsection (m) (as so redesignated by paragraph (5) of this subsection), by adding at the end thereof the following new paragraph:

"(9) PROVISIONS FOR PUERTO RICO SAVINGS ASSOCIATIONS.—With respect to any savings association headquartered and operating primarily in Puerto Rico—

"(A) the terms 'qualified thrift investments' and (with respect to loans made or acquired by such savings association after February 28, 1989) 'qualified new thrift investments' include, in addition to the items specified in subparagraphs (B) and (C) of paragraph (5)—

"(i) the aggregate amount of loans for personal, family, educational, or household purposes made to persons residing or domiciled in the Commonwealth of Puerto Rico; and

"(ii) the aggregate amount of loans for the acquisition or improvement of churches, schools, or nursing homes, and of loans to

small businesses, located within the Commonwealth of Puerto Rico; and

"(B) the aggregate amount of loans related to the purchase, acquisition, development and construction of 1- to 4-family residential real estate—

"(i) which is located within the Commonwealth of Puerto Rico; and

"(ii) the value of which (at the time of acquisition or upon completion of the development and construction) is below the median value of newly constructed 1- to 4-family residences in the Commonwealth of Puerto Rico,

which may be taken into account in determining the amount of the qualified thrift investments and (if originated or acquired by such savings association after February 28, 1989) qualified new thrift investments of such savings association shall be doubled.".

(c) AMENDMENTS RELATING TO MUTUAL HOLDING COMPANIES.—Subsection (p) (as so redesignated by subsection (b)(5) of this section) of section 10 of the Home Owners' Loan Act of 1933 (as redesignated, transferred, and inserted into such Act by subsection (a) of this section) is amended—

(1) in paragraph (1)(A), by inserting ", except as otherwise provided in this section," after "wholly owned";

(2) in paragraph (4)—

(A) by striking out "OWNERSHIP.—Persons" and inserting in lieu thereof:

"(4) OWNERSHIP.—

"(A) IN GENERAL.—Persons"; and

(B) by adding at the end thereof the following new subparagraph:

"(B) HOLDERS OF CERTAIN ACCOUNTS.—Holders of savings, demand or other accounts of—

"(i) a savings association chartered as part of a transaction described in paragraph (1); or

"(ii) a mutual savings association acquired pursuant to paragraph (5)(B),

shall have the same ownership rights with respect to the mutual holding company as persons described in subparagraph (A) of this paragraph.";

(3) in paragraph (7), by inserting after "REGULATION.—" the following new sentence: "A mutual holding company shall be chartered by the Director and shall be subject to such regulations as the Director may prescribe.";

(4) by redesignating paragraph (8) as paragraph (10) and by inserting after paragraph (7) the following new paragraphs:

"(8) CAPITAL ENHANCEMENT.—

"(A) PLEDGE OF STOCK OF SAVINGS ASSOCIATION SUBSIDIARY.—This section shall not prohibit a mutual holding company from pledging all or a portion of the stock of a savings association chartered as part of a transaction described in paragraph (1) to raise capital for such savings association.

"(B) ISSUANCE OF NONVOTING SHARES.—This section shall not prohibit a savings association chartered as part of a transaction described in paragraph (1) from issuing any nonvoting shares or less than 50 percent of the voting shares of such association to any person other than the mutual holding company.

"(9) INSOLVENCY AND LIQUIDATION.—

"(A) IN GENERAL.—Notwithstanding any provision of the law or constitution of any State, or any provision of Federal law, upon—

"(i) the default of any savings association—

"(I) the stock of which is owned by any mutual holding company; and

"(II) which was chartered in a transaction described in paragraph (1);

"(ii) the default of a mutual holding company; or

"(iii) a foreclosure on a pledge by a mutual holding company described in paragraph (8)(A),

a trustee shall be appointed receiver of such mutual holding company and such trustee shall have the authority to liquidate the assets of, and satisfy the liabilities of, such mutual holding company pursuant to chapter 7 of title 11, United States Code.

"(B) DISTRIBUTION OF NET PROCEEDS.—Except as provided in subparagraph (C), the net proceeds of any liquidation of any mutual holding company pursuant to subparagraph (A) shall be transferred to persons who hold ownership interests in such mutual holding company.

"(C) RECOVERY BY CORPORATION.—If the Corporation incurs a loss as a result of the default of any savings association subsidiary of a mutual holding company which is liquidated pursuant to subparagraph (A), the Corporation shall succeed to the ownership interests of the depositors of such savings association in the mutual holding company, to the extent of the Corporation's loss."; and

(5) in paragraph (10) (as so redesignated by paragraph (4) of this subsection), by adding at the end the following new subparagraph:

"(C) DEFAULT.—The term 'default' means an adjudication or other official determination of a court of competent jurisdiction or other public authority pursuant to which a conservator, receiver, or other legal custodian is appointed.".

SEC. 321. TRANSACTIONS WITH AFFILIATES; LOANS TO INSIDERS.

The Home Owners' Loan Act of 1933 (12 U.S.C. 1461 et seq.) is amended by redesignating section 11 as section 13 and by inserting after section added by section 320(a) of this title the following new section:

"SEC. 11. TRANSACTIONS WITH AFFILIATES; LOANS AND EXTENSIONS OF CREDIT TO EXECUTIVE OFFICERS, DIRECTORS AND CONTROLLING PERSONS.

"(a) AFFILIATE TRANSACTIONS.—

"(1) IN GENERAL.—Subject to paragraph (3), the provisions of sections 23A and 23B of the Federal Reserve Act shall apply to every savings association in the same manner and to the same extent as if such savings association were a member bank and a bank (as such terms are defined in such Act).

"(2) AFFILIATES DESCRIBED.—Any company which would be an affiliate (as defined in sections 23A and 23B of the Federal Reserve Act) of any savings association if such savings association were a member bank and a bank (as such terms are defined in such Act) shall be deemed to be an affiliate of such savings association for purposes of paragraph (1).

"(3) ADDITIONAL RESTRICTIONS AUTHORIZED.—The Director may impose such additional restrictions on any transaction between any savings association and any affiliate of such association which the Director determines to be necessary for reasons of the safety and soundness of any savings association.

"(b) LOANS TO EXECUTIVE OFFICERS, DIRECTORS AND CONTROLLING PERSONS.—

"(1) IN GENERAL.—Subject to paragraph (2), the provisions of section 22(h) of the Federal Reserve Act (relating to limits on loans and extensions of credit by a member bank to its executive officers or directors or to any person who directly or indirectly owns, controls, or has the power to vote more than 10 percent of any class of voting securities of such member bank) shall apply to every savings association in the same manner and to the same extent as if such savings association were a member bank (as defined in such Act).

"(2) ADDITIONAL RESTRICTIONS AUTHORIZED.—The Director may impose such additional restrictions on loans or extensions of credit to any director or executive officer of any savings association, or any person who directly or indirectly owns, controls, or has the power to vote more than 10 percent of any class of voting securities of such association, which the Director determines to be necessary for reasons of the safety and soundness of any savings association.

"(c) LIMITATIONS ON COMMERCIAL LOANS.—No savings association may make any commercial loans or extensions of credit to any borrower in excess of the amount a national bank may lend to such borrower under section 5200 of the Revised Statutes, and, for purposes of applying this paragraph, any reference in such section to the Comptroller of the Currency shall be deemed to be a reference to the Director or the Corporation, as the case may be.

"(d) EXCEPTION FOR CERTAIN TRANSACTIONS.—

"(1) IN GENERAL.—Notwithstanding any other provision of this Act other than paragraph (2) of this subsection—

"(A) any approval granted under section 408(d)(6) of the National Housing Act (as in effect before the date of the enactment of the Financial Institutions Reform, Recovery and Enforcement Act of 1989), relating to transactions, agreements, understandings, or payments involving the purchase or sale of residential mortgage, personal, family, or household loans, any interest in any such loan, or any servicing right with respect to any such loan, shall remain in effect in accordance with the terms of such approval;

"(B) any savings association may purchase loans secured by first liens on residential real property (including individual units of condominiums and cooperatives) designed principally for the occupancy of 1 to 4 families from any affiliate of such association which engages in no activities other than the origination and sale of such loans, the management and control of the savings association, and activities incidental to such activities if—

"(i) each such loan satisfies standards of creditworthiness that were furnished to the affiliate by the savings association before the affiliate committed itself to make the loan;

"(ii) the savings association committed itself to purchase each such loan, subject to the savings association's determination that the loan satisfied such standards of creditworthiness, before the affiliate committed itself to make the loan;

"(iii) the savings association—

"(I) on January 1, 1989, maintained, and continuously thereafter maintains, only 1 office that accepts deposits;

"(II) does not directly originate any loans secured by liens on residential real property; and

"(III) satisfies the capital standards established by the Director under section 5(t), without giving effect to any delay in the implementation of such standards under such section 5(t) and without including goodwill in capital;

"(iv) before January 1, 1981, a company controlling the savings association fur-

nished a stipulation satisfactory to the Federal Home Loan Bank Board that such company would maintain the net worth of the savings association as required by the regulations of the Federal Savings and Loan Insurance Corporation as then or thereafter in effect; and

"(v) the company described in clause (iv) furnishes a stipulation satisfactory to the Director that it will maintain the capital of the savings association in accordance with clause (iii)(III); and

"(C) any savings association described in subparagraph (B)(iii) which is controlled by a company described in clauses (iv) and (v) of subparagraph (B) may purchase from any affiliate of such association, mortgage related securities (as defined in section 3(a)(41) of the Securities Exchange Act of 1934) representing ownership of, or secured by, promissory notes or certificates of interest or participation in such notes, all of which notes evidence loans or extensions of credit which—

"(i) are secured by first liens on residential real property (including individual units of condominiums and cooperatives) designed principally for the occupancy of from 1 to 4 families; and

"(ii) were sold to such affiliate subject to the agreement of the member bank to purchase such mortgage related securities.

"(2) APPLICABILITY OF ARMS LENGTH TRANSACTION RULES.—Section 23B of the Federal Reserve Act shall apply to any purchase referred to in subparagraph (B) or (C) of paragraph (1) by any savings association described in any such subparagraph in the same manner and to the same extent as if the savings association were a member bank (as defined in that Act).

"(e) ADMINISTRATIVE ENFORCEMENT.—Violations of this section shall be enforced by the Director or the Corporation, as the case may be, in accordance with section 8 or 18(j) of the Federal Deposit Insurance Act, as appropriate.".

SEC. 322. ADVERTISING.

The Home Owners' Loan Act of 1933 is amended by inserting after the section added by section 321 of this title the following new section:

"SEC. 12. ADVERTISING.

"No savings association shall carry on any sale, plan, or practices, or any advertising, in violation of regulations promulgated by the Director.".

SEC. 323. TRANSFER OF SECTIONS OF THE FEDERAL HOME LOAN BANK ACT TO THE HOME OWNERS' LOAN ACT OF 1933.

(a) TRANSFER OF SECTION 5A.—Section 5A of the Federal Home Loan Bank Act (12 U.S.C. 1425a) is—

(1) transferred to the Home Owners' Loan Act of 1933 and inserted in such Act after section 13 (as so redesignated by section 321 of this title); and

(2) amended—

(A) by striking out "SEC. 5A. (a) The purpose" and inserting in lieu thereof the following:

"SEC. 14. LIQUID ASSET REQUIREMENTS.

"(a) PURPOSES.—The purpose";

(B) by striking out "Board" each place such term appears and inserting in lieu thereof "Director";

(C) in the 1st sentence of subsection (b)(1), by striking out "an insured institution as defined in section 401(a) of the National Housing Act" and inserting in lieu thereof "a savings association";

(D) in subsection (b)(1)—

(i) by striking out "and" at the end of subparagraph (F);

(ii) by striking out the period at the end of subparagraph (G) and inserting in lieu thereof "; and"; and

(iii) by adding at the end thereof the following new subparagraph:

"(H) OTHER ASSETS MAY BE INCLUDED.—To such extent as the Director may provide by regulation, other assets which the Director determines are assets which are appropriate for the purpose of this section.";

(E) in the 1st sentence of subsection (d), by striking out "its" and inserting in lieu thereof "the Director or the Corporation, as the case may be";

(F) in the 2nd sentence of subsection (d), by striking out "Federal Savings and Loan Insurance"; and

(G) in subsection (f), by striking out the last sentence and inserting in lieu thereof the following: "Section 5(d)(1) of this Act shall apply with respect to any such examination or investigation.".

(b) TRANSFER OF SECTION 8a.—Section 8a of the Federal Home Loan Bank Act (12 U.S.C. 1428a) is—

(1) transferred to the Home Owners' Loan Act of 1933 and inserted in such Act after section 14 (as redesignated, transferred to, and inserted in such Act by subsection (a) of this section); and

(2) amended—

(A) by striking out the heading for such section;

(B) by striking out "SEC. 8a. There is" and inserting in lieu thereof the following:

"SEC. 15. THRIFT ADVISORY COUNCIL.

"(a) ESTABLISHMENT.—There is";

(C) by striking out "Board" each place such term appears and inserting in lieu thereof "Director";

(D) in the 1st sentence, by striking out "Federal Savings and Loan" and inserting in lieu thereof "Thrift";

(E) in paragraph (1)—

(i) by striking out "and board of trustees of the Federal Savings and Loan Insurance Corporation"; and

(ii) by striking out "and such Corporation"; and

(F) in paragraph (2), by striking out "and the board of trustees of such Corporation".

(c) REPEAL OF SECTION 22A.—Section 22A of the Federal Home Loan Bank Act (12 U.S.C. 1442a) is hereby repealed.

SEC. 324. POWERS OF EXAMINERS.

The Home Owners' Loan Act of 1933 (12 U.S.C. 1461 et seq.) is amended by inserting after section 15 (as redesignated, transferred to, and inserted in such Act by section 323(b) of this title) the following new section:

"SEC. 16. POWERS OF EXAMINERS.

"For the purposes of this Act, examiners appointed by the Director shall—

"(1) be subject to the same requirements, responsibilities, and penalties as are applicable to examiners under title LXII of the Revised Statutes and the Federal Reserve Act; and

"(2) have, in the exercise of functions under this chapter, the same powers and privileges as are vested in such examiners by law.".

SEC. 325. AMENDMENT OF ADDITIONAL POWERS OF DIRECTOR.

(a) Section 502(c) of the Housing Act of 1948 (12 U.S.C. 1701c(c)) is amended by striking out "Federal Home Loan Bank Board (which term as used in this section shall also include and refer to the Federal Savings and Loan Insurance Corporation, the Home Owners Loan Corporation, and the Chairman of the Federal Home Loan Bank Board)," and inserting in lieu thereof the following: "Director of the Office of Thrift Supervision,".

(b) Section 502(c)(1) of the Housing Act of 1948 (12 U.S.C. 1701c(b)(1)) is amended by striking out "of any State" and inserting in lieu thereof "of any Federal, State,".

SEC. 326. AMENDMENTS TO TITLE 5, UNITED STATES CODE.

(a) COMPENSATION OF DIRECTOR.—Section 5314 of title 5, United States Code, is amended by striking out "Chairman of the Federal Home Loan Bank Board" and inserting in lieu thereof "Director, Office of Thrift Supervision".

(b) COORDINATION WITH OTHER LAWS.—Section 5373(2) of title 5, United States Code, is amended by inserting ", section 2A(i) of the Home Owners' Loan Act of 1933, or section 2B(b) of the Federal Home Loan Bank Act" before the semicolon.

SEC. 327. AMENDMENTS TO TITLE 31, UNITED STATES CODE.

(a) OFFICE ESTABLISHED AS AN OFFICE WITHIN THE DEPARTMENT.—

(1) IN GENERAL.—Subchapter I of chapter 3 of title 31, United States Code, is amended by redesignating section 309 as section 310 and by inserting after section 308 the following new section:

"§ 309. Office of Thrift Supervision

"The Office of Thrift Supervision established under section 2A(a) of the Home Owners' Loan Act of 1933 shall be an office in the Department of the Treasury.".

(2) CLERICAL AMENDMENT.—The table of chapters for subchapter I of chapter 3 of title 31, United States Code, is amended by redesignating the item relating to section 309 as section 310 and by inserting after the item relating to section 308 the following new item:

"309. Office of Thrift Supervision.".

(b) CONFORMING AMENDMENT.—Section 321(c) of title 31, United States Code, is amended—

(1) by adding at the end thereof the following new paragraph:

"(3) of the Director of the Office of Thrift Supervision;";

(2) by striking out "and" at the end of paragraph (1); and

(3) by striking out the period at the end of paragraph (2) and inserting in lieu thereof "; and".

(c) GAO AUDIT AUTHORITY.—Section 714(a) of title 31, United States Code, is amended—

(1) by inserting ", and the Office of Thrift Supervision" before the period; and

(2) by striking out "and" after "Corporation,".

(d) CERTAIN REORGANIZATION PROHIBITED.—Section 321 of title 31, United States Code, is amended by adding at the end thereof the following new subsection:

"(e) CERTAIN REORGANIZATION PROHIBITED.—The Secretary of the Treasury may not merge or consolidate the Office of Thrift Supervision, or any of the functions or responsibilities of the Office or the Director of such office, with the Office of the Comptroller of the Currency or the Comptroller of the Currency.".

(e) TECHNICAL AND CONFORMING AMENDMENT TO GOVERNMENT CONTROL ACT.—Section 9101(3) of title 31, United States Code is amended by striking out subparagraph (E).

SEC. 328. PRESERVING MINORITY OWNERSHIP OF MINORITY FINANCIAL INSTITUTIONS.

(a) CONSULTATION ON METHODS.—The Secretary of the Treasury shall consult with

the Director of the Office of Thrift Supervision and the Chairman of the Board of Directors of the Federal Deposit Insurance Corporation on methods for best achieving the following goals:

(1) Preserving the present number of minority depository institutions.

(2) Preserving their minority character in cases involving mergers or acquisition of a minority depository institution by using general preference guidelines in the following order:

(A) Same type of minority depository institution in the same city.

(B) Same type of minority depository institution in the same State.

(C) Same type of minority depository institution nationwide.

(D) Any type of minority depository institution in the same city.

(E) Any type of minority depository institution in the same State.

(F) Any type of minority depository institution nationwide.

(G) Any other bidders.

(3) Providing technical assistance to prevent insolvency of institutions not now insolvent.

(4) Promoting and encouraging creation of new minority depository institutions.

(5) Providing for training, technical assistance, and educational programs.

(b) REPORT TO CONGRESS.—Before the end of the 6-month period beginning on the date of enactment of this Act, and every 6 months thereafter, the Secretary of the Treasury, the Direcor of the Office of Thrift Supervision and the Chairman of the Board of Directors of the Federal Deposit Insurance Corporation shall submit a report to the Congress on the actions taken by such Secretary, Director, or Chairman pursuant to this section.

(c) DEFINITIONS.—For purposes of this section—

(1) MINORITY FINANCIAL INSTITUTION.—The term "minority depository institution" means any depository institution that—

(A) if a privately owned institution, 51 percent is owned by one or more socially and economically disadvantaged individuals;

(B) if publicly owned, 51 percent of the stock is owned by one or more socially and economically disadvantaged individuals; and

(C) in the case of a mutual institution where the majority of the Board of Directors, account holders, and the community which it services is predominately minority.

(2) MINORITY.—The term "minority" means any black American, Native American, Hispanic American, or Asian American.

TITLE IV—DISSOLUTION AND TRANSFER OF FUNCTIONS, PERSONNEL, AND PROPERTY OF FEDERAL SAVINGS AND LOAN INSURANCE CORPORATION

SEC. 401. DISSOLUTION.

(a) IN GENERAL.—Effective at the end of the 60-day period beginning on the date of the enactment of this Act—

(1) the Federal Savings and Loan Insurance Corporation established under section 402 of the National Housing Act is dissolved; and

(2) except as otherwise provided in this Act or any amendment made by this Act to any other provision of law, any function vested in the Corporation under any section of title IV of the National Housing Act is terminated.

(b) TRANSFER OF INSURANCE AND RECEIVERSHIP FUNCTIONS.—Except as otherwise provided in this Act or any amendment made by this Act to any other provision of law, all insurance and receivership functions performed by the Federal Savings and Loan Insurance Corporation before the dissolution of such Corporation shall be performed by the Federal Deposit Insurance Corporation or the Resolution Trust Corporation, as appropriate.

(c) DISPOSITION OF AFFAIRS.—The Federal Deposit Insurance Corporation shall take any action necessary on behalf of the Federal Savings and Loan Insurance Corporation in connection with the dissolution of such Corporation in accordance with this title.

(d) SAVINGS PROVISIONS.—

(1) EXISTING RIGHTS, DUTIES, AND OBLIGATIONS NOT AFFECTED.—Subsection (a) shall not be construed as affecting the validity of any right, duty, or obligation of the United States, the Federal Savings and Loan Insurance Corporation, or any other person, which—

(A) arises under or pursuant to any section of title IV of the National Housing Act; and

(B) existed on the day before the date of the enactment of this Act.

(2) CONTINUATION OF SUITS.—No action or other proceeding commenced by or against the Federal Savings and Loan Insurance Corporation shall abate by reason of the enactment of this Act, except that the appropriate successor to the interests of such Corporation shall be substituted for such Corporation as a party to any such action or proceeding.

SEC. 402. CONTINUATION AND COORDINATION OF REGULATIONS.

(a) REGULATIONS RELATING TO INSURANCE, CONSERVATORSHIP, AND RECEIVERSHIP FUNCTIONS.—All regulations and orders of the Federal Savings and Loan Insurance Corporation, or the Federal Home Loan Bank Board (in such Board's capacity as the board of trustees of such Corporation), which are in effect on the date of the enactment of this Act and relate to—

(1) the provision, rates, or cancellation of insurance of accounts;

(2) the administration of the insurance fund of the Federal Savings and Loan Insurance Corporation; or

(3) the conduct of conservatorships or receiverships,

shall remain in effect and shall be enforceable by the Federal Deposit Insurance Corporation or the Resolution Trust Corporation, as the case may be, unless determined otherwise by the Federal Deposit Insurance Corporation after consultation with the Director of the Office of Thrift Supervision.

(b) OTHER REGULATIONS.—All regulations and orders of the Federal Savings and Loan Insurance Corporation other than the regulations and orders described in subsection (a) shall remain in effect and shall be enforceable by the Director of the Office of Thrift Supervision or, in the case of regulations and orders applicable with respect to State savings associations (as defined in section 2(4) of the Home Owners' Loan Act of 1933), the Federal Deposit Insurance Corporation.

(c) IDENTIFICATION OF REGULATIONS WHICH REMAIN IN EFFECT PURSUANT TO THIS SECTION.—Before the end of the 60-day period beginning on the date of the enactment of this Act, the Director of the Office of Thrift Supervision and the Chairperson of the Federal Deposit Insurance Corporation shall—

(1) identify the regulations and orders referred to in subsections (a) and (b) of this section in accordance with the allocation of authority between them under this Act and the amendments made by this Act; and

(2) promptly publish notice of such identification in the Federal Register.

(d) PROCEDURE FOR DIFFERENCES IN DEPOSIT INSURANCE COVERAGE BETWEEN FSLIC AND FDIC.—

(1) TRANSITION RULE.—Until the effective date of regulations prescribed under paragraph (3)(B), any determination of the amount of any insured deposit in any financial institution which becomes an insured financial institution as a result of the amendment made to section 4(a) of the Federal Deposit Insurance Act by section 205(1) of this Act shall be made in accordance with the regulations and interpretations of the Federal Savings and Loan Insurance Corporation for determining the amount of an insured account which were in effect on January 1, 1989.

(2) LIMITATION ON EXTENT OF COVERAGE.—Before the effective date of regulations prescribed under paragraph (3)(B), the amount of any insured account which is required to be treated as an insured deposit pursuant to paragraph (1) shall not exceed the amount of insurance to which such insured account would otherwise have been entitled pursuant to the regulations and interpretations of the Federal Savings and Loan Insurance Corporation which were in effect on January 1, 1989.

(3) UNIFORM TREATMENT OF INSURED DEPOSITS.—The Federal Deposit Insurance Corporation shall—

(A) review its regulations, principles, and interpretations for deposit insurance coverage and those established by the Federal Savings and Loan Insurance Corporation; and

(B) before the end of the 180-day period beginning on the date of the enactment of this Act, prescribe a uniform set of regulations which shall be applicable to all insured deposits in insured financial institutions (except to the extent any provision of this Act, any amendment made by this Act to the Federal Deposit Insurance Act, or any other provision of law requires or explicitly permits the Federal Deposit Insurance Corporation to treat insured deposits of Savings Association Insurance Fund members differently than insured deposits of Bank Insurance Fund members).

(4) FACTORS REQUIRED TO BE CONSIDERED.—In prescribing regulations providing for the uniform treatment of deposit insurance coverage, the Federal Deposit Insurance Corporation shall consider all relevant factors necessary to promote safety and soundness, depositor confidence, and the stability of deposits in insured financial institutions.

(5) NOTICE; EFFECTIVE DATE.—Regulations prescribed under this subsection shall—

(A) provide for effective notice to depositors in insured financial institutions of any change in deposit insurance coverage which would result under such regulations; and

(B) take effect before the end of the 180-day period beginning on the date such regulations become final.

(6) DEFINITIONS.—For purposes of this subsection—

(A) INSURED ACCOUNT.—The term "insured account" has the meaning given to such term in section 401(c) of the National Housing Act (as in effect before the date of the enactment of this Act).

(B) INSURED FINANCIAL INSTITUTION.—The term "insured financial institution" has the meaning given to such term in section 3(v)(2) of the Federal Deposit Insurance Act.

(e) REGULATORY AUTHORITY OF FDIC TO PREVENT SERIOUS RISKS TO INSURANCE

FUNDS.—The Federal Deposit Insurance Corporation may prescribe such regulations and issue such orders as the Corporation determines to be necessary to prevent actions or practices of savings associations that pose a serious threat to the Savings Association Insurance Fund or the Bank Insurance Fund.

(f) CONTINUATION OF FSLIC INSURANCE TREATMENT FOR CERTAIN DEPOSITS.—In the case of any financial institution which becomes an insured financial institution (as defined in section 3(v)(2) of the Federal Deposit Insurance Act) as a result of the amendment made to section 4(a) of the Federal Deposit Insurance Act by section 205(1) of this Act, the trust estate of each participant in deferred compensation plans on deposit in, or held in trust by, such institution shall be evaluated for deposit insurance coverage purposes as if the participant were the beneficiary of an irrevocable trust and the interest of the participant had fully vested as of the date such financial institution became an insured financial institution.

(g) TREATMENT OF OBSOLETE REFERENCES IN ADJUSTABLE RATE MORTGAGE INSTRUMENTS.—

(1) IN GENERAL.—For purposes of adjustable rate mortgage instruments that are in effect as of the date of enactment of this Act, any reference in the instrument to the Federal Savings and Loan Insurance Corporation, the Federal Home Loan Bank Board, or institutions insured by the Federal Savings and Loan Insurance Corporation before such date shall be treated as a reference to the Federal Deposit Insurance Corporation, the Federal Housing Finance Board, the Office of Thrift Supervision, or institutions which are members of the Savings Association Insurance Fund, as appropriate, unless the context of the reference requires otherwise.

(2) SUBSTITUTION FOR OBSOLETE INDEXES.—If any index used to calculate the applicable interest rate on any adjustable rate mortgage instrument is no longer calculated and made available as a direct or indirect result of the enactment of this Act, a new index may be substituted by the holder of any such adjustable rate mortgage instrument if—

(A) the new index has an historical movement substantially similar to that of the original index; and

(B) the substitution of the new index will result in an interest rate substantially similar to the rate in effect at the time the original index became unavailable.

(3) AGENCY ACTION TO PROVIDE SUBSTITUTE INDEXES REQUIRED.—Promptly after the enactment of this subsection, the Director of the Office of Thrift Supervision, the Chairperson of the Federal Deposit Insurance Corporation, and the Chairperson of the Federal Housing Finance Board shall take such action as may be necessary to assure that—

(A) the indexes prepared by the Federal Savings and Loan Insurance Corporation, the Federal Home Loan Bank Board, and the Federal home loan banks immediately prior to the enactment of this subsection and used to calculate the interest rate on adjustable rate mortgage instruments continue to be available; or

(B) indexes which are substantially similar to the indexes described in subparagraph (A) are made available for purposes of calculating the interest rate on adjustable rate mortgage instruments.

SEC. 403. FDIC AND RTC PERSONNEL.

(a) DETERMINATION OF FUNCTIONS AND EMPLOYEES TRANSFERRED TO FDIC OR RTC.—

(1) IN GENERAL.—The Director of the Office of Thrift Supervision and the Chairperson of the Federal Deposit Insurance Corporation shall jointly determine the functions or activities, and the number of employees, of the Federal Home Loan Bank Board and the Federal Savings and Loan Insurance Corporation necessary, on the day before the date of the enactment of this Act, to perform or support such functions or activities which are transferred from the Federal Home Loan Bank Board and the Federal Savings and Loan Insurance Corporation to the Federal Deposit Insurance Corporation or the Resolution Trust Corporation, as the case may be.

(2) SUPERVISORY AND EXAMINATION PERSONNEL.—Employees of the Federal home loan banks or the joint offices of such banks who, on the day before the date of the enactment of this Act, are performing supervisory and examination functions on behalf of the Federal Home Loan Bank Board shall be treated as employees of the Federal Home Loan Bank Board for purposes of paragraph (1) to the extent such supervisory and examination functions are transferred to the Federal Deposit Insurance Corporation or the Office of Thrift Supervision.

(b) ALLOCATION OF EMPLOYEES TO FDIC AND RTC.—The Director of the Office of Thrift Supervision and the Chairperson of the Federal Deposit Insurance Corporation shall allocate the employees of the Federal Home Loan Bank Board and the Federal Savings and Loan Insurance Corporation consistent with the number determined pursuant to subsection (a) in a manner which the Director and the Chairperson, in their sole discretion, deem equitable, except that, within work units, the agency preferences of individual employees shall be accommodated as far as possible.

(c) RIGHTS OF TRANSFERRED EMPLOYEES.—The employees identified for transfer under subsection (b) shall be entitled to the following rights:

(1) Each employee so identified shall be transferred to the appropriate agency for employment no later than 60 days after the date of the enactment of this Act and such transfer shall be deemed a transfer of function for the purpose of section 3503 of title 5, United States Code.

(2) Each transferred employee shall be guaranteed a position with the same status, tenure, and pay as that held on the day immediately preceding the transfer. Each such employee holding a permanent position shall not be involuntarily separated or reduced in grade or compensation for 1 year after the date of transfer, except for cause.

(3) In the case of employees occupying positions in the excepted service, the excepted appointing authority established pursuant to law or regulations of the Office of Personnel Management for filling such positions shall be transferred.

(4) If the Federal Deposit Insurance Corporation determines, after the end of the 1-year period beginning on the date the transfer of functions to the Federal Deposit Insurance Corporation is completed, that a reorganization of the combined workforce is required, that reorganization shall be deemed a "major reorganization" for purposes of affording affected employees retirement under section 8336(d)(2) or 8414(b)(1)(B) of title 5, United States Code.

(5) Any employee accepting employment with the Federal Deposit Insurance Corporation or the Resolution Trust Corporation, as the case may be, as a result of this transfer may retain any benefit of, or continue membership in, any employee benefit program of the Federal Home Loan Bank Board, including insurance, to which such employee belongs on the date of the enactment of this Act if—

(A) the employee does not elect to give up the benefit or membership in the program; and

(B) the benefit or program is continued by the Director of the Office of Thrift Supervision.

The difference in the costs between the benefits which would have been provided by the Federal Deposit Insurance Corporation or the Resolution Trust Corporation and those provided by this section shall be paid by the Director of the Office of Thrift Supervision. If the employee elects to give up membership in a health insurance program or the health insurance program is not continued by the agency or entity to which the employee transferred, the employee shall be permitted to select an alternate Federal health insurance program within 30 days of such election or notice, without regard to any other regularly scheduled open season.

(6) A transferring employee in the Senior Executive Service shall be placed in a comparable position at the Federal Deposit Insurance Corporation or the Resolution Trust Corporation.

(7) Transferring employees shall receive notice of their position assignments not later than 120 days after the effective date of their transfer.

(8) Upon the termination of the Resolution Trust Corporation pursuant to section 21A(o) of the Bank Holding Company Act, the employees of such Corporation shall be transferred to the Federal Deposit Insurance Corporation in accordance with the provisions of paragraphs (2) through (7) of this subsection.

(d) ALL EMPLOYEES ENTITLED TO BENEFIT OF AT LEAST 1 PERSONNEL TRANSFER PROVISION.—All employees of the Federal Home Loan Bank Board and the Federal Savings and Loan Insurance Corporation shall be entitled to the benefit of at least 1 of the following sections: this section or section 407 or 703 of this Act.

(e) USE OF FHLBB EMPLOYEES AND FACILITIES BY FDIC IN SUPERVISING STATE-CHARTERED ASSOCIATIONS.—In transferring responsibilities from the Federal Home Loan Bank Board and the Federal Savings and Loan Insurance Corporation to the Federal Deposit Insurance Corporation, and especially in making the Federal Deposit Insurance Corporation the appropriate Federal regulator of State-chartered savings associations, the Federal Deposit Insurance Corporation shall, to the maximum extent possible, use current employees and the regional facilities of the Federal Home Loan Bank Board and the Federal home loan banks (with respect to employees and facilities of such banks which were involved in the activities which are transferred to the Federal Deposit Insurance Corporation.

SEC. 404. DIVISION OF PROPERTY.

Before the end of the 60-day period beginning on the date of the enactment of this Act, the Director of the Office of Thrift Supervision, the Chairperson of the Federal Deposit Insurance Corporation, and the Chairperson of the Federal Housing Finance Board shall jointly divide all property of the Federal Savings and Loan Insurance Corporation and the Federal Home Loan Bank Board used to perform functions and activities of the Federal Home Loan Bank

Board among the Office of Thrift Supervision, the Federal Housing Finance Board, the Federal Deposit Insurance Corporation, and the Resolution Trust Corporation, in accordance with the division of responsibilities, functions, and activities effected by this Act. Any disagreement between them in so doing shall be resolved by the Director of the Office of Management and Budget.

SEC. 405. REPEALS.

Except as otherwise provided in this Act, sections 401, 402, and 403, subsections (a), (b), (c), (d), (i), (g), and (k) of section 404, and sections 405, 406, 407, 410, 411, 415, and 416 of the National Housing Act are hereby repealed.

SEC. 406. REPORT.

Immediately before the termination of the Federal Savings and Loan Insurance Corporation under section 401, the Corporation shall provide by written report to the Secretary of the Treasury, the Director of the Office of Management and Budget and to the Congress, a final accounting of its finances and operations, and shall thereafter cease operations.

SEC. 407. OTS PERSONNEL.

(a) DETERMINATION OF FUNCTIONS AND EMPLOYEES TRANSFERRED TO OTS.—The Director of the Office of Thrift Supervision shall determine the functions or activities, and the number of employees, of the Federal Home Loan Bank Board and the Federal Savings and Loan Insurance Corporation necessary, on the day before the date of the enactment of this Act, to perform or support functions or activities which are transferred from the Federal Home Loan Bank Board and the Federal Savings and Loan Insurance Corporation to the Office of Thrift Supervision.

(b) ALLOCATION OF EMPLOYEES TO OTS.—The Director of the Office of Thrift Supervision shall allocate the employees of the Federal Home Loan Bank Board and the Federal Savings and Loan Insurance Corporation consistent with the number so determined in a manner which the Director, in the Director's sole discretion, deems equitable, except that, within work units, the agency preferences of individual employees shall be accommodated as far as possible.

(c) RIGHTS OF TRANSFERRED EMPLOYEES.—The employees identified for transfer under subsection (b) shall be entitled to the following rights:

(1) Each employee identified in a transferred function shall be transferred to the Office of Thrift Supervision for employment and such transfer shall be deemed a transfer of function for the purpose of section 3503 of title 5, United States Code.

(2) All Federal Home Loan Bank Board and Federal Savings and Loan Insurance Corporation employees transferring with their function shall be transferred to the Office of Thrift Supervision not later than 60 days after the date of the enactment of this Act, and shall be placed in positions for which they are qualified before the Office of Thrift Supervision may make an appointment from any other source to that position.

(3) A transferring employee in the Senior Executive Service shall be placed in a comparable position at the Office of Thrift Supervision.

(4) Transferring employees shall receive notice of their position assignments not later than 120 days after the effective date of their transfer.

(5) If the Director of the Office of Thrift Supervision determines, after the end of the 1-year period beginning on the date the transfer of functions is complete, that a reorganization of the Office's workforce is required, such reorganization shall be deemed a "major reorganization" for purposes of affording transferred employees early optional retirement under section 8336(d)(2) or section 8414(b)(1)(B) of title 5, United States Code.

(6) Any employee employed by the Office of Thrift Supervision as a result of the transfer may retain through the end of the calendar year during which such transfer occurs membership in any employee benefit program of the Federal Home Loan Bank Board, including insurance, which such employee has on the date of enactment of this Act, if such employee does not elect to give up such membership and the benefit or program is continued by, and paid by, the Director of the Office of Thrift Supervision. In the event such employee elects to give up membership in a health insurance program or the health insurance program is not continued by the Director of the Office of Thrift Supervision, such employee shall be permitted to select an alternate Federal health insurance program within 30 days of such election or discontinuance, without regard to any other regularly scheduled open season.

TITLE V—FINANCING FOR THRIFT RESOLUTIONS

Subtitle A—Resolution Trust Corporation

SEC. 501. RESOLUTION TRUST CORPORATION ESTABLISHED.

(a) IN GENERAL.—The Federal Home Loan Bank Act (12 U.S.C. 1421 et seq.) is amended by inserting after section 21 the following new section:

"SEC. 21A. RESOLUTION TRUST CORPORATION ESTABLISHED.

"(a) ESTABLISHMENT.—

"(1) IN GENERAL.—There is hereby established a corporation to be known as the Resolution Trust Corporation (hereinafter in this section referred to as the 'Corporation') which shall be an instrumentality of the United States.

"(2) STATUS.—The Corporation, when acting as a corporation and not as conservator or receiver of an insured financial institution, shall be deemed to be an agency of the United States for purposes of subchapter II of chapter 5 and chapter 7 of title 5, United States Code.

"(b) DUTIES.—

(1) IN GENERAL.—The duties of the Corporation are as follows:

"(A) To carry out a program, under the direction of the Oversight Board, to manage and resolve all cases involving financial institutions—

"(i) the accounts of which were insured by the Federal Savings and Loan Insurance Corporation before the enactment of the Financial Institutions Reform, Recovery and Enforcement Act of 1989; and

"(ii) for which a conservator or receiver—

"(I) had been appointed at any time during the period beginning on January 1, 1989, and ending on the date of the enactment of such Act (including any institution described in paragraph (5)(A)); or

"(II) is appointed within the 3-year period beginning on the date of the enactment of such Act.

"(B) To manage the assets of the Federal Asset Disposition Association, subject to subsection (k)(1).

"(C) To perform any other function authorized under this section.

"(2) AUTHORITY TO HOLD INTERESTS IN INSTITUTIONS.—In connection with activities under this section, the Corporation may take warrants, voting and nonvoting equity, or other participation interests in institutions or assets or properties of institutions described in paragraph (1)(A).

"(3) CONSERVATORSHIP, RECEIVERSHIP, AND ASSISTANCE POWERS.—Except as provided in paragraph (4) and in addition to any other provision of this section, the Corporation shall have the same powers and rights to carry out the duties of the Corporation with respect to financial institutions described in paragraph (1)(A) that the Federal Deposit Insurance Corporation has under sections 11, 12, and 13 of the Federal Deposit Insurance Act with respect to insured financial institutions (as defined in section 3(c)(2) of the Federal Deposit Insurance Act) other than the financial institutions described in paragraph (1)(A).

"(4) LIMITATION ON PARAGRAPH (3) POWERS.—The Corporation—

"(A) may not obligate the Federal Deposit Insurance Corporation or, except to the extent specifically provided in any other provision of law, any funds of the Federal Deposit Insurance Corporation; and

"(B) in connection with providing assistance to an institution under this subsection, shall be subject to the limitations contained in section 13(c)(4) of the Federal Deposit Insurance Act.

"(5) SUCCESSOR TO FSLIC AS CONSERVATOR OR RECEIVER.—As of the date of enactment of the Financial Institutions Reform, Recovery and Enforcement Act of 1989—

"(A) the Corporation shall succeed the Federal Savings and Loan Insurance Corporation as conservator or receiver with respect to any institution for which the Federal Savings and Loan Insurance Corporation was appointed conservator or receiver during the period beginning on January 1, 1989 and ending on such date of enactment;

"(B) the Corporation shall assume the position and the responsibilities of the Federal Savings and Loan Insurance Corporation under the management agreement dated February 7, 1989, among the Federal Savings and Loan Insurance Corporation, the Federal Home Loan Bank Board, and the Federal Deposit Insurance Corporation notwithstanding any provision of such agreement, and such agreement shall remain in full force and effect until the earlier of—

"(i) such time as the Oversight Board and the Federal Deposit Insurance Corporation may enter into a new contract under this section; or

"(ii) the end of the 180-day period beginning on such date of enactment; and

"(C) the Federal Deposit Insurance Corporation shall act for and on behalf of the Corporation in performing the Corporation's functions and duties under this section until the earlier of—

"(i) the date on which the Oversight Board or the Federal Deposit Insurance Corporation certifies to Congress that the Corporation has sufficient resources and personnel to perform such functions and duties; or

"(ii) the end of the 180-day period beginning on such date of enactment.

"(c) OVERSIGHT BOARD.—

"(1) MEMBERSHIP.—The Corporation shall be under the management of an Oversight Board consisting of 5 voting members and 1 nonvoting member as follows:

"(A) VOTING MEMBERS.—The following are members of the Oversight Board and are entitled to vote on all matters before the Oversight Board:

"(i) The Secretary of the Treasury or the designee of the Secretary.

"(ii) The Chairman of the Board of Governors of the Federal Reserve System or the designee of the Chairman.

"(iii) The Attorney General of the United States or the designee of the Attorney General.

"(iv) The Secretary of the Department of Housing and Urban Development or the designee of the Secretary.

"(v) 1 member of the private sector.

"(B) NONVOTING MEMBER.—The Chairperson of the Federal Deposit Insurance Corporation, or the designee of the Chairperson, shall be a nonvoting member of the Oversight Board.

"(2) CHAIRPERSON.—The Chairperson of the Oversight Board shall be the Secretary of the Treasury.

"(3) PRIVATE SECTOR MEMBER.—

"(A) APPOINTMENT.—The private sector member shall be appointed by the President, by and with the advice and consent of the Senate, and shall have substantial experience in the management of large business organizations engaged in real estate, finance, or development activities.

"(B) TERM.—The private sector member shall serve at the pleasure of the President.

"(4) TERMS OF OFFICE, SUCCESSION, DELEGATION, AND VACANCIES.—

"(A) TERMINATION OF MEMBERSHIP.—If any member of the Oversight Board who was appointed to such board as an officer or employee of the United States leaves such position, such member's service on the Board shall terminate on the date such member leaves such position.

"(B) VACANCY OF PRIVATE SECTOR MEMBER.—Any vacancy on the Oversight Board shall be filled in the manner in which the original appointment was made.

"(C) EXPIRATION OF TERMS.—Except as provided in paragraph (3)(B), the term of each member of the Oversight Board shall expire when the Corporation is terminated.

"(5) COMPENSATION AND EXPENSES.—

"(A) EXPENSES.—Members of the Oversight Board shall receive allowances in accordance with subchapter I of chapter 57 of title 5, United States Code, for necessary expenses of travel, lodging, and subsistence incurred in attending meetings and other activities of the Oversight Board, as set forth in the bylaws issued by the Oversight Board.

"(B) NO ADDITIONAL COMPENSATION FOR UNITED STATES OFFICERS OR EMPLOYEES.—Members of the Oversight Board who are full-time officers or employees of the United States shall receive no additional pay by reason of service on such Board.

"(C) NO COMPENSATION FOR PRIVATE SECTOR MEMBER.—The private sector member of the Oversight Board shall not receive compensation by reason of service on the Oversight Board.

"(6) DUTIES OF THE OVERSIGHT BOARD.—The Oversight Board—

"(A) shall prescribe bylaws, consistent with law, which provide for the manner in which—

"(i) officers, employees, and agents of the Corporation shall be selected;

"(ii) the property of the Corporation shall be acquired, held, or transferred;

"(iii) the general operations of the Corporation shall be conducted; and

"(iv) the rights and duties of the Corporation shall be exercised and carried out;

"(B) shall have overall responsibility for, and shall review and oversee, the work, progress, management, and activities of the Corporation;

"(C) may, in the discretion of the board, disapprove any regulation, policy, procedure, guideline, statement, contract, or other action of the Corporation; and

"(D) shall approve or disapprove (and establish procedures for review of) any agreement for the acquisition (in any manner described in section 13(f)(8)(E) of the Federal Deposit Insurance Act) by any person of any financial institution described in subsection (b)(1)(A).

"(7) QUORUM.—

"(A) REQUIRED.—A quorum shall be required to transact the business of the Oversight Board.

"(B) DEFINED.—3 voting members of the Oversight Board shall constitute a quorum.

"(8) MAJORITY VOTE REQUIRED.—All decisions of the Board shall require an affirmative vote of at least a majority of the members voting.

"(9) STAFF.—

"(A) IN GENERAL.—Except as provided in subparagraph (C), the Oversight Board may employ such staff as such board determines to be necessary or appropriate to fulfill the obligations of such board under this section.

"(B) TERMS AND CONDITIONS.—Staff employed by the Oversight Board under this paragraph shall be subject to the terms and conditions of employment which are applicable to employees of the Corporation under subsections (e)(5) and (u).

"(C) UTILIZATION OF PERSONNEL OF OTHER AGENCIES.—At the request of the Oversight Board, the head of any Federal agency who is a voting member of such board (or whose designee is a voting member of such board) shall detail, on a reimbursable basis, any of the personnel of such agency to the Oversight Board to assist such board in carrying out the duties of such board under this section.

"(10) REGULATIONS AND RECORDS.—The Oversight Board shall—

"(A) prescribe such regulations as such board may determine to be appropriate to carry out such board's duties under this section; and

"(B) keep permanent and accurate records of the acts and proceedings of the Oversight Board.

"(11) MINORITY OUTREACH PROGRAM.—

"(A) ESTABLISHMENT REQUIRED.—The Oversight Board shall prescribe such regulations as such board determines to be appropriate to establish and oversee a minority outreach program to ensure inclusion, to the maximum extent possible, of minorities and women, and entities owned by minorities and women, including financial institutions, investment banking firms, underwriters, accountants, and providers of legal services, in all contracts entered into by the Corporation with such persons or entities, public and private, in order to manage the institutions and their assets for which the Corporation is responsible or to perform such other functions as authorized under this Act.

"(B) REPORT TO CONGRESS.—Before the end of the 180-day period beginning on the date of the enactment of the Financial Institutions Reform, Recovery and Enforcement Act of 1989, the Oversight Board shall submit to the Congress a report containing a complete description of the actions taken by the Oversight Board pursuant to subparagraph (A) and such recommendations for administrative and legislative action the Oversight Board may determine to be appropriate to carry out the purposes of such paragraph.

"(d) CHIEF EXECUTIVE OFFICER.—

"(1) IN GENERAL.—The Corporation shall have a chief executive officer who shall be appointed by the Oversight Board and shall serve at the pleasure of the Board.

"(2) LIMITATION ON POST-EMPLOYMENT ACTIVITIES.—During the 2-year period beginning on the date any individual appointed as chief executive officer ceases to serve in such position, such individual may not—

"(A) hold any office, position, or employment with any institution which, during such individual's term of office, was a participant in any case resolution activity of the Corporation in which such individual was personally and substantially involved;

"(B) engage in any business transaction concerning any such institution; or

"(C) represent, aid, or advise anyone (other than the United States) concerning such business transactions with respect to assets involved in case resolution activities.

"(e) CORPORATE POWERS.—The Corporation shall have the following powers:

"(1) To adopt, alter, and use a corporate seal, which shall be judicially noted.

"(2) To issue capital certificates as provided in subsection (l) of this section.

"(3) To provide for 1 or more vice presidents, a secretary, a general counsel, a treasurer, and such other officers, employees, attorneys, and agents as the Corporation may determine to be necessary, to define the duties of such officers or employees, and to require surety bonds or make other provisions against losses occasioned by acts of such individuals;

"(4) Subject to subsection (u) and the approval of the Oversight Board, to employ and compensate any individual for any position established by the Corporation pursuant to paragraph (3) without regard to title 5, United States Code, except that the compensation and benefits provided by the Corporation with respect to any such position shall be consistent with and shall not exceed the compensation and benefits provided by the Federal Deposit Insurance Corporation with respect to any comparable position.

"(5) With the consent of any executive agency or department—

"(A) to obtain and use any information from such agency or department;

"(B) to obtain the services of any officer or employee of such agency or department; and

"(C) to obtain the use of any facility of such agency or department,

for purposes of carrying out the duties of the Corporation under this section.

"(6) To enter into contracts and modify, or consent to the modification of, any contract or agreement to which the Corporation is or has become a party under this section or in which the Corporation has an interest under this section.

"(7) To make advance, progress, or other payments.

"(8) To acquire, hold, lease, mortgage, or dispose of, at public or private sale, real and personal property, and otherwise exercise all the usual incidents of ownership of property necessary and convenient to the operations of the Corporation.

"(9) To sue and be sued in its corporate capacity in any court of competent jurisdiction.

"(10) To deposit any securities or funds held by the Corporation in any facility or depositary described in section 13(b) of the Federal Deposit Insurance Act under the terms and conditions applicable to the Federal Deposit Insurance Corporation under section 13(b) of the Federal Deposit Insurance Act.

"(11) To make loans pursuant to subsection (s)(3)(A).

"(12) To use the United States mails in the same manner and under the same conditions as other departments and agencies of the United States.

"(13) To exercise any other power established under this section and such incidental powers as are necessary to carry out the powers, duties, and functions of the Corporation under this section.

"(f) SPECIAL POWERS.—In addition to the powers of the Corporation described in subsections (b) or (e), the Corporation shall have the following powers:

"(1) CONTRACT AUTHORITY.—The Corporation may enter into contracts with the Federal Deposit Insurance Corporation, and such other persons or public entities, including State Housing Finance Authorities (as such term is defined in section 3(u) of the Federal Deposit Insurance Act) and insured financial institutions, as the Corporation determines to be necessary or appropriate, to provide for the management of the institutions over which the Corporation has jurisdiction or the assets of such institutions, except that—

"(A) any contract with any person or public entity other than the Federal Deposit Insurance Corporation shall be subject to the competitive bidding procedures established pursuant to subsection (i)(2)(A); and

"(B) in the case of any contract or agreement with the Federal Deposit Insurance Corporation, the compensation or reimbursement paid to the Federal Deposit Insurance Corporation by the Corporation for any such services may not exceed the actual and reasonable cost incurred by the Federal Deposit Insurance Corporation in performing such services.

"(2) CREDIT STANDARDS.—The Corporation may set the policy on credit standards to be used by any institution over which the Corporation has jurisdiction.

"(3) MERGERS AND CONSOLIDATIONS.—The Corporation may require a merger or consolidation of an institution over which the Corporation has jurisdiction.

"(4) ORGANIZATION OF MUTUAL SAVINGS ASSOCIATIONS.—The Corporation may organize 1 or more Federal mutual savings associations—

"(A) which shall be chartered by the Director of the Office of Thrift Supervision; and

"(B) the deposits of which shall be insured by the Federal Deposit Insurance Corporation through the Savings Association Insurance Fund;

"(5) REVIEW OF PRIOR CASES.—

"(A) IN GENERAL.—The Corporation—

"(i) may review and analyze all assisted insolvent financial institution cases resolved by the Federal Savings and Loan Insurance Corporation during the period beginning on January 1, 1988, and ending on the date of the enactment of this section; and

"(ii) shall actively review all means by which the Corporation can reduce costs under Federal Savings and Loan Insurance Corporation or Federal Home Loan Bank Board agreements entered into in connection with any case referred to in clause (i), including the reduction of costs through the exercise of any right of the Corporation (under this section or as successor in interest to the Federal Savings and Loan Insurance Corporation) to restructure such agreements, subject only to the review and approval of the Oversight Board.

"(B) REPORT.—The Corporation shall submit a report to the Oversight Board and the Congress containing the results and conclusions of the review conducted under subparagraph (A) and such recommendations for administrative or legislative action as the Corporation may determine to be appropriate.

"(C) RESTRUCTURING.—After the Corporation submits the report required under subparagraph (B) and upon the express concurrence of the Oversight Board—

"(i) the Corporation shall restructure any agreement entered into by the Federal Savings and Loan Insurance Corporation or the Federal Home Loan Bank Board in connection with any case referred to in subparagraph (A)(i) (to the extent permitted by the terms of such agreement) if the Corporation determines that savings would be realized from such restructuring; and

"(ii) the costs of any such restructuring shall be a liability of the Corporation.

"(6) The Corporation may exercise all resolution powers and activities which may be exercised by the Federal Deposit Insurance Corporation under the Federal Deposit Insurance Act or which the Federal Savings and Loan Insurance Corporation could have exercised on the day before the date of the enactment of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 including the powers and authorities with respect to conservatorships or receiverships, to engage in assistance transactions, to collect indebtedness, to enforce liabilities and obligations, and to exercise the incidental powers and authorities provided the Federal Deposit Insurance Corporation all of which may be performed and exercised by the Corporation under this section as may be necessary to fulfill its obligations and duties under this Act.

"(g) REAL ESTATE ASSET DIVISION.—

"(1) ESTABLISHMENT REQUIRED.—The Corporation shall establish a Real Estate Asset Division to develop such policies and programs as may be necessary to provide for the management, sale, or other disposition of the real property assets of institutions subject to the jurisdiction of the Corporation (including the real property assets under contract with the Federal Asset Disposition Association) as specified in this section.

"(2) PURPOSE.—The Real Estate Asset Division shall have primary responsibility for the oversight of any action taken by the conservator, receiver, or manager of any institution which is subject to the jurisdiction of the Corporation to the extent any such action is related to the management, sale, or other disposition of any real property assets held by such institutions.

"(3) REAL PROPERTY ASSET INVENTORY.—

"(A) PERIODIC PUBLICATION AND NOTICE.—Before the end of the 60-day period beginning on the date of the enactment of the Financial Institutions Reform, Recovery and Enforcement Act of 1989, and on a periodic and timely basis after such date, the Real Estate Asset Division shall publish an inventory of the real property assets of institutions which are subject to the jurisdiction of the Corporation (including the real property assets under contract with the Federal Asset Disposition Association) and provide notice concerning the availability of such assets for sale.

"(B) IDENTIFICATION AND DESCRIPTION OF ASSETS.—The inventory shall identify such assets by group or class and provide a brief description of other relevant factors pertaining to each asset.

"(4) ROLE OF PRIVATE SECTOR.—In carrying out the Corporation's duties under this section, the Corporation, the Oversight Board, and the Federal Deposit Insurance Corporation shall utilize the services of private persons, including real estate and loan portfolio asset management, property management, auction marketing, and brokerage services, unless such services are unavailable in the private sector or the utilization of any such services is impracticable or inefficient.

"(5) REVIEW AND APPROVAL BY OVERSIGHT BOARD.—All policies and programs established or implemented by the Real Estate Asset Division for the management, sale, or other disposition of assets shall be subject to final review and approval by the Oversight Board prior to implementation.

"(h) NATIONAL AND REGIONAL ADVISORY BOARDS.—

"(1) NATIONAL ADVISORY BOARD.—

"(A) ESTABLISHMENT.—The Corporation shall establish a national advisory board to assist and advise the Corporation and the Real Estate Asset Division in the development and implementation of policies and programs for the sale or other disposition of the real property assets of institutions which are subject to the jurisdiction of the Corporation (including the real property assets under contract with the Federal Asset Disposition Association) and the policies and procedures described in subsection (i).

"(B) MEMBERSHIP.—The national advisory board shall consist of—

"(i) the chairpersons of any regional advisory boards established pursuant to paragraph (2); and

"(ii) 3 individuals appointed as follows:

"(I) 1 individual appointed by the Director of the Office of Thrift Supervision.

"(II) 1 individual appointed by the Chairperson of the Federal Deposit Insurance Corporation.

"(III) 1 individual appointed by the Comptroller of the Currency.

"(2) REGIONAL ADVISORY BOARDS.—

"(A) ESTABLISHMENT.—Whenever the Oversight Board of the Corporation determines that, within any region corresponding to the regions represented by the Federal home loan banks, there exists a significant portfolio of real property assets (as determined in such manner as the Board may determine to be appropriate pursuant to subsection (i)) of institutions which are subject to the jurisdiction of the Corporation (including the real property assets under contract with the Federal Asset Disposition Association), the Corporation shall establish an advisory board for such region to assist and advise the Real Estate Asset Division in the development and implementation of policies and programs for the sale or other disposition of such assets.

"(B) APPOINTMENT OF MEMBERS OF REGIONAL ADVISORY BOARDS.—Each regional advisory board established pursuant to paragraph (2) shall be composed of 5 members appointed by the chief executive officer of the Corporation from among—

"(i) individuals who will represent the views of low- and moderate-income consumers and small businesses; and

"(ii) individuals who are specially qualified to advise the Corporation by virtue of their education, training, or experience with respect to real property or financial services.

"(3) TERMS OF MEMBERS OF REGIONAL ADVISORY BOARDS.—Each member of any regional advisory board established pursuant to this subsection shall serve a term not to exceed 2 years, except that the bylaws of the Corporation shall provide for classes of members so that the terms of not more than 3 mem-

bers of any such board shall expire in any 1 year.

"(4) PROHIBITION ON COMPENSATION FOR MEMBERS OF REGIONAL ADVISORY BOARDS.—Members of the national and regional advisory boards shall serve without compensation, except that such members shall be entitled to receive allowances for necessary expenses of travel, lodging, and subsistence incurred in attending meetings and other activities of the boards, in accordance with subchapter I of chapter 57 of title 5, United States Code.

"(5) TERMINATION OF ADVISORY BOARDS.—Any advisory board established under or pursuant to this subsection which is in existence on the date on which the Corporation ceases to exist under this section shall also cease to exist on such date.

"(i) POLICIES AND PROCEDURES FOR MANAGEMENT AND DISPOSITION OF REAL PROPERTY ASSETS.—

"(1) IN GENERAL.—Before the end of the 90-day period beginning on the date of the enactment of the Financial Institutions Reform, Recovery and Enforcement Act of 1989, the Corporation shall prescribe (by regulation) policies, procedures, and guidelines for the management and disposition of the real property assets of institutions which are subject to the jurisdiction of the Corporation (including the real property assets under contract with the Federal Asset Disposition Association) in a manner that will—

"(A) maximize the net present value return from the sale or other disposition of such assets;

"(B) minimize the impact of such transactions on local real estate and financial markets; and

"(C) maximize the preservation of the availability and affordability of residential real property for low- and moderate-income individuals to the extent consistent with a reasonable economic return to the Corporation and subparagraphs (A) and (B).

"(2) SPECIFIC PROVISIONS.—The policies, procedures, and guidelines established pursuant to paragraph (1), shall include—

"(A) procedures for the solicitation and selection of offers for assisted acquisitions and disposition of assets of institutions subject to the jurisdiction of the Corporation, subject to approval by the Oversight Board, which shall—

"(i) provide for adequate competition and fair and consistent treatment of offerors, consistent with the objectives of assisted acquisitions and asset dispositions and the need to minimize the costs of the Corporation and the Government;

"(ii) prohibit discrimination on the basis of race, sex, or ethnic group in the solicitation and consideration of offers;

"(iii) provide for the active solicitation of offers from minorities and women; and

"(iv) require that—

"(I) unsuccessful offerors be notified in writing within 30 days that the offers of such offerors have not been accepted; and

"(II) any unsuccessful offeror, upon the request of the offeror, be debriefed and provided with the reasons for the nonacceptance of their offers;

"(B) guidelines for establishing the market value of assets based upon standard market analysis, valuation, and appraisal practices;

"(C) procedures requiring the timely evaluation of any purchase offer for any such asset and guidelines specifying the limited circumstances under which the Corporation, or any conservator, receiver, or manager may sell or otherwise dispose of such assets at a price which is less than the amount which is equal to 90 percent of the value of such assets (as determined in accordance with the method established pursuant to subparagraph (B));

"(D) guidelines for the development of a business plan for the orderly sale or other disposition of such assets in any geographic area within the Federal Home Loan Bank System that may be adversely affected by such transactions as a consequence of conditions in local real estate or financial markets;

"(E) procedures for bulk sales and auction marketing of such assets; and

"(F) guidelines for the conveyance of such assets to units of general local government, States, and public agencies designated by a unit of general local government or a State, for use in connection with urban homesteading programs approved by the Secretary of Housing and Urban Development under section 810 of the Housing and Community Development Act of 1974.

"(3) PREPARATION AND MAINTENANCE OF RECORDS RELATING TO SOLICITATION AND ACCEPTANCE OF OFFERS.—The Corporation shall—

"(A) document decisions made in the solicitation and selection process and the reasons for the decisions; and

"(B) maintain such documentation, as well as any other documentation relating to the solicitation and selection process, in the offices of the Corporation.

"(j) INSTITUTIONS ORGANIZED BY THE CORPORATION.—

"(1) LIMITATIONS ON CERTAIN ACTIVITIES.—All insured savings associations organized by the Corporation under this section shall be subject to such limitations, restrictions, and conditions as determined by the Corporation with respect to the following activities:

"(A) Growth of assets.

"(B) Lending activities.

"(C) Asset acquisitions (except as necessary to serve its existing customer base with residential mortgages or consumer loans).

"(D) Use of brokered deposits.

"(E) Payment of deposit rates.

"(2) APPLICABILITY OF OTHER PROVISIONS OF LAW.—All insured savings associations organized by the Corporation under this section shall be subject to all laws, rules, and regulations otherwise applicable to them as insured savings associations.

"(3) JURISDICTION OF BANKING AGENCIES.—Any insured savings association organized by the Corporation under this section that holds deposits insured by the Federal Deposit Insurance Corporation shall continue to be subject to supervision by the Director of the Office of Thrift Supervision and the Federal Deposit Insurance Corporation, as the case may be, under any other provision of law.

"(k) FADA.—

"(1) IN GENERAL.—Before the end of the 180-day period beginning on the date of the enactment of the Financial Institutions Reform, Recovery and Enforcement Act of 1989, the Corporation shall—

"(A) convert the Federal Asset Disposition Association into a corporation or other business entity and sell such corporation or other business entity, using competitive bidding procedures; or

"(B) wind down or dissolve such Association.

"(2) NO TRANSFER OF CONTRACT RIGHTS.—No contractual right of the Federal Asset Disposition Association or any contractor with such Association with respect to the management of disposition of the assets of any institution or of the Federal Savings and Loan Insurance Corporation may be transferred by the Corporation in connection with the disposition of the resulting entity under paragraph (1)(A).

"(3) RESTRICTION ON USE OF NAME.—Any resulting entity under paragraph (1)(A) may not use the name 'Federal Asset Disposition Association'.

"(l) CAPITAL CERTIFICATES.—

"(1) AUTHORIZATION TO ISSUE.—Notwithstanding any other provision of law and consistent with the provisions of section 21B of this Act, the Resolution Trust Corporation may issue nonvoting nontransferable capital certificates to the Resolution Funding Corporation.

"(2) REQUIREMENT RELATING TO THE AMOUNT OF CERTIFICATES.—The aggregate amount of the capital certificates issued by the Resolution Trust Corporation under paragraph (1) shall be equal to the aggregate amount of funds provided by the Resolution Funding Corporation to the Resolution Trust Corporation pursuant to section 21B of this Act.

"(3) CERTIFICATES MAY BE ISSUED ONLY TO THE RESOLUTION FUNDING CORPORATION.—The nonvoting nontransferable capital certificates issued under paragraph (1) may be issued only to the Resolution Funding Corporation in the manner and to the extent provided in section 21B of the Federal Home Loan Bank Act and this subsection.

"(4) NO DIVIDENDS.—The Resolution Trust Corporation shall pay no dividends on any capital certificates issued under this paragraph.

"(m) EXEMPTION FROM STATE AND LOCAL TAXATION.—The Corporation, the capital, reserves, surplus, and assets of the Corporation, and the income derived from such capital, reserves, surplus, or assets, shall be exempt from State, municipal, and local taxation except taxes on real estate held by the Resolution Trust Corporation, according to its value as other similar property held by other persons is taxed.

"(n) TERMINATION.—

"(1) RESOLUTION TRUST CORPORATION.—The Resolution Trust Corporation shall terminate 10 years after the date of the enactment of the Financial Institutions Reform, Recovery and Enforcement Act of 1989.

"(2) TRANSFERS.—Simultaneously with the termination of the Resolution Trust Corporation under paragraph (1)—

"(A) all assets and liabilities of the Corporation shall be transferred to the FSLIC Resolution Fund; and

"(B) the net proceeds of the assets shall be transferred to the Resolution Funding Corporation.

"(o) POWER TO REMOVE; JURISDICTION.—

"(1) JURISDICTION OF FEDERAL COURTS.—Notwithstanding any other provision of law, any civil action, suit, or proceeding to which the Corporation is a party shall be deemed to arise under the laws of the United States.

"(2) REMOVAL.—The Resolution Trust Corporation may, without bond or security, remove any such action, suit, or proceeding from a State court to the United States District Court for the District of Columbia, or if the action, suit or proceeding arises out of the actions of the Corporation with respect to an institution for which a conservator or receiver has been appointed, the United States district court for the district in which the institution's principal business is located.

"(p) GUARANTEES OF FSLIC.—

"(1) ASSUMPTION BY CORPORATION.—On the date of the enactment of this section, the Corporation shall, by operation of law (and without further action by the Corporation, the Oversight Board, the Chairperson of the Federal Housing Finance Board, the Federal Savings and Loan Insurance Corporation, or any court), assume all rights and obligations of the Federal Savings and Loan Insurance Corporation with respect to any guarantee issued by the Federal Savings and Loan Insurance Corporation during the period beginning on January 1, 1989, and ending on such date of enactment, in connection with any loan to any savings association by any Federal Reserve bank or Federal home loan bank (hereinafter in this subsection referred to as a 'lender').

"(2) PAYMENT BY CORPORATION.—Any obligation assumed by the Corporation under paragraph (1) for any guarantee described in such paragraph to any lender shall be paid by the Corporation before the end of the 1-year beginning on the date of the enactment of this section from the proceeds of capital certificates issued to the Resolution Funding Corporation or any other funds or assets available to the Corporation.

"(3) PRIORITY OF CLAIMS OF LENDERS.—Any claim by any lender with respect to any obligation assumed by the Corporation under paragraph (1) for any guarantee described in such paragraph shall have priority over all other secured or unsecured obligations of the Corporation.

"(4) TREASURY BACKUP.—If the resources of the Corporation are insufficient to pay all the obligations assumed by the Corporation under paragraph (1) within the 1-year period described in paragraph (2), the Secretary of the Treasury shall pay, from funds appropriated for such purpose, the amount of any such deficiency.

"(q) REGULATIONS.—The Corporation may prescribe such regulations and issue such policies, procedures, guidelines, or statements as the Corporation determines to be necessary or appropriate to carry out this section.

"(r) BORROWING.—

"(1) IN GENERAL.—The Corporation shall borrow, to such extent and in such amounts as are provided for in advance in appropriations Acts, from the Secretary of the Treasury, and the Secretary of the Treasury shall lend to the Corporation, on such terms as may be fixed by the Secretary of the Treasury, not to exceed $5,000,000,000 outstanding at any time.

"(2) INTEREST RATE.—Any loan to the Corporation under paragraph (1) shall bear interest at a rate determined by the Secretary of the Treasury, taking into consideration current market yields on outstanding marketable obligations of the United States of comparable periods to maturity.

"(s) DISPOSITION OF RESIDENTIAL PROPERTIES.—

"(1) IN GENERAL.—

"(A) PURPOSE.—It is the purpose of this subsection to provide homeownership and rental housing opportunities for lower income families.

"(B) OFFERS TO SELL RESIDENTIAL PROPERTIES TO NONPROFIT ORGANIZATIONS, PUBLIC AGENCIES, AND LOWER INCOME FAMILIES.—Upon a determination by the Corporation (or the Real Estate Asset Division) to dispose of any eligible residential property, the Corporation—

"(i) shall consult with the appropriate regional advisory board regarding local market conditions, as reflected by—

"(I) homeownership opportunities for families not traditionally served in the market area;

"(II) the need to assist the homeless through permanent housing options;

"(III) the availability and long-term affordability of housing for lower income families; and

"(IV) the vacancy rate in decent housing with rents affordable to a family whose income is not more than 50 percent of the area median income; and

"(ii) shall offer to sell the property to any qualified nonprofit organization, public agency, or lower income family for a 3-month period (or any longer period determined by the Corporation to be reasonable) prior to offering to sell the property to any other qualified purchaser.

"(C) OFFERS TO SELL RESIDENTIAL PROPERTIES TO OTHER QUALIFIED PURCHASERS.—If, upon the expiration of the period referred to in subparagraph (B)(ii), no qualified nonprofit organization, public agency, or lower income family has made a bona fide offer to purchase the property, the Corporation may offer to sell the property to any qualified purchaser.

"(2) LOWER INCOME OCCUPANCY REQUIREMENTS.—

"(A) REQUIREMENT FOR SALES TO NONPROFIT ORGANIZATIONS AND PUBLIC AGENCIES.—Of the residential dwelling units purchased by any single qualified nonprofit organization or public agency under paragraph (1)(B)—

"(i) not less than 20 percent shall be reserved for occupancy or purchase by, and maintained as affordable for, very low-income families during the remaining useful life of the properties in which the units are located; and

"(ii) not less than an additional 15 percent shall be reserved for occupancy or purchase by, and maintained as affordable for, lower income families during the remaining useful life of the properties in which the units are located.

"(B) PREFERENCE FOR ALL SALES.—In selling any property under paragraph (1), the Corporation shall give preference among substantially similar offers to the offer involving the highest percentage of dwelling units to be reserved for occupancy or purchase by, and maintained as affordable for, very low-income families and lower income families during the remaining useful life of the property.

"(C) EXEMPTIONS.—

"(i) CONTINUED OCCUPANCY OF CURRENT RESIDENTS.—No purchaser of a property under paragraph (1) may terminate the occupancy of any person residing in the property on the date of purchase for purposes of meeting the lower income occupancy requirement applicable to the property under this paragraph. The purchaser shall be considered to be in compliance with this paragraph if each newly vacant dwelling unit is reserved for lower income occupancy until the lower income occupancy requirement is met.

"(ii) REDUCED NEED FOR LOWER INCOME HOUSING.—The Corporation may waive or reduce the lower income occupancy requirement applicable to any property under this paragraph if the Corporation determines that there is no longer a need for housing for lower income families in the area involved.

"(3) FINANCING OF SALE.—

"(A) ASSISTANCE BY CORPORATION.—

"(i) SALE PRICE.—The Corporation shall agree to sell a property under paragraph (1) at a price below the net realizable market value to the extent necessary to permit the purchaser to comply with the lower income occupancy requirements applicable to the property under paragraph (2).

"(ii) PURCHASE LOAN.—The Corporation may provide a loan to the purchaser of a property under paragraph (1) for all or a portion of the purchase price, which loan shall be secured by a first or second mortgage on the property. The Corporation shall agree to a reduced rate of interest on the loan to the extent necessary to permit the purchaser to comply with the lower income occupancy requirements applicable to the property under paragraph (2).

"(B) ASSISTANCE BY HUD.—

"(i) SECTION 8 ASSISTANCE.—The Secretary of Housing and Urban Development may (to the extent of amounts approved in appropriation Acts under clause (ii)) make project-based assistance available under subsections (b)(1) and (e)(2) of section 8 of the United States Housing Act of 1937 with respect to properties purchased under paragraph (1). The Secretary shall take such actions as may be necessary to expedite the allocation of assistance pursuant to this clause.

"(ii) AUTHORIZATION OF FUNDS.—For purposes of clause (i), the budget authority available under section 5(c) of the United States Housing Act of 1937 is authorized to be increased—

"(I) for assistance under section 8(b)(1) of such Act pursuant to 10-year contracts, by $284,550,000 for fiscal year 1990 and by such sums as may be necessary for fiscal year 1991; and

"(II) for moderate rehabilitation assistance under section 8(e)(2) of such Act pursuant to 10-year contracts, by $230,430,000 for fiscal year 1990 and by such sums as may be necessary for fiscal year 1991.

"(C) ASSISTANCE BY FMHA.—

"(i) LOAN GUARANTEES.—The Secretary of Agriculture may, in accordance with section 517(d) of the Housing Act of 1949 and to the extent of amounts approved in appropriation Acts, guarantee loans made for the purchase of properties under paragraph (1) that are located in rural areas.

"(ii) RENTAL ASSISTANCE PAYMENTS.—

"(I) IN GENERAL.—The Secretary of Agriculture may (to the extent of amounts approved in appropriation Acts under subclause (II)) enter into rental assistance payment contracts under section 521(a)(2)(A) of the Housing Act of 1949 with respect to properties purchased under paragraph (1) that are located in rural areas. The Secretary shall take such actions as may be necessary to expedite the allocation of assistance pursuant to this subclause.

"(II) AUTHORIZATION OF FUNDS.—For purposes of subclause (I), the budget authority available under section 513(c) of the Housing Act of 1949 is authorized to be increased for 5-year rental assistance payment contracts under section 521(a)(2)(A) of such Act by $60,000,000 for fiscal year 1990 and such sums as may be necessary for fiscal year 1991.

"(iii) LOAN SERVICING.—The Secretary of Agriculture may service (directly or through contract) any loan assisted by the Secretary pursuant to clause (i) or (ii).

"(4) QUARTERLY INVENTORY.—The Corporation shall, for each 3-month period, publish a listing of eligible residential properties. Each listing shall be made available to any person upon request and shall also be made available for public inspection in the central and regional offices of the Federal home loan banks.

"(5) CONTRACTING RULES.—Contracts entered into under this subsection shall not be subject to the requirements of subsection (f)(1)(A).

"(6) USE OF SECONDARY MARKET AGENCIES.—

"(A) IN GENERAL.—In the disposition of residential properties, the Corporation shall, in consultation with the Secretary of Housing and Urban Development, explore opportunities to work with secondary market entities to provide housing for low- and moderate-income families.

"(B) CREDIT ENHANCEMENT.—With respect to such Corporation properties, the Secretary may, consistent with their statutory authorities, work through the Federal Housing Administration, the Government National Mortgage Association, and with the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, and other secondary market entities to develop risk sharing structures, mortgage insurance, and other credit enhancements to assist in the provision of home ownership, rental, and cooperative housing opportunities for low-income families.

"(C) REPORT.—In the annual report submitted by the Secretary to the Congress, the Secretary of Housing and Urban Development shall include a detailed description of the activities of the Secretary under this paragraph, including recommendations for such additional authorization the Secretary may determine to be necessary to implement the provisions of this subsection.

"(7) DEFINITIONS.—For purposes of this subsection—

"(A) ELIGIBLE RESIDENTIAL PROPERTY.—The term 'eligible residential property' means a residential property that—

"(i) is owned by the Corporation, or is controlled by the Corporation in its responsibilities under this section as a conservator or receiver; and

"(ii) has an appraised value that does not exceed—

"(I) in the case of a 1- to 4-family residence (including a manufactured home), the applicable dollar amount set forth in the first sentence of section 203(b)(2) of the National Housing Act (without regard to any increase of such amount for high-cost areas); or

"(II) in the case of a property consisting of more than 4 dwelling units, the applicable dollar amount set forth in section 221(d)(3)(ii) of the National Housing Act for elevator-type structures (without regard to any increase of such amount for high-cost areas).

"(B) LOWER INCOME FAMILIES.—The term 'lower income families' means families and individuals whose incomes do not exceed 80 percent of the median income of the area involved, as determined by the Corporation with adjustments for smaller and larger families.

"(C) NONPROFIT ORGANIZATION.—The term 'nonprofit organization' means a private organization—

"(i) no part of the net earnings of which inures to the benefit of any member, founder, contributor, or individual; and

"(ii) that is approved by the Corporation as to financial responsibility.

"(D) PUBLIC AGENCY.—The term 'public agency'—

"(i) means any Federal, State, local, or other governmental entity; and

"(ii) includes any public housing agency or State housing finance agency.

"(E) PURCHASER.—The term 'purchaser' includes—

"(i) any successor in interest of the original purchaser under paragraph (1); and

"(ii) any lower income family who purchases an eligible residential property under paragraph (1).

"(F) RURAL AREA.—The term 'rural area' has the meaning given the term in section 520 of the Housing Act of 1949.

"(G) VERY-LOW INCOME FAMILIES.—The term 'very-low income families' means families and individuals whose incomes do not exceed 50 percent of the median income of the area involved, as determined by the Corporation with adjustments for smaller and larger families.

"(t) PUBLIC DISCLOSURE OF ASSISTED TRANSACTIONS.—

"(1) DISCLOSURE REQUIRED.—Except as otherwise provided in this subsection, the Corporation shall make available to the public—

"(A) any agreement entered into by the Corporation relating to an assisted transaction not later than 30 days after the first meeting of the Oversight Board after such agreement is entered into; and

"(B) all agreements relating to assisted transactions which arose from cases resolved by the Federal Savings and Loan Insurance Corporation on or after January 1, 1988.

"(2) EXCEPTION FOR DISCLOSURES AGAINST THE PUBLIC INTEREST.—

"(A) IN GENERAL.—The Oversight Board may withhold from public disclosure any document or part of a document if the Oversight Board determines, by a unanimous affirmative vote of the members of the Board, that disclosure would be contrary to the public interest.

"(B) REPORT OF DETERMINATION.—A written report shall be made of any determination by the Oversight Board to withhold any part of any document from public disclosure pursuant to subparagraph (A) which shall contain a full explanation of the specific reasons for such determination.

"(C) PUBLICATION AND SUBMISSION OF REPORT.—The report prepared pursuant to subparagraph (B) shall be—

"(i) published in the Federal Register; and

"(ii) transmitted to the Committee on Banking, Finance and Urban Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate.

"(3) AGREEMENT DEFINED.—For purposes of this subsection, the term 'agreement' includes—

"(A) all documents which set forth the terms and conditions of the assisted transaction;

"(B) a comparison which the Corporation shall prepare of—

"(i) the estimated cost to the Corporation in connection with the transaction, with

"(ii) the estimated cost to the Corporation of liquidating the insured institution; and

"(C) a description which the Corporation shall prepare of any economic or statistical assumptions on which such estimates are based.

"(u) CONGRESSIONAL REVIEW OF EMPLOYMENT, COMPENSATION, AND BENEFIT PRACTICES.—

"(1) CONDITIONS.—The Corporation may not employ any individual or implement any employee compensation and benefit plan unless the Oversight Board submits to the Congress a report containing a detailed description of—

"(A) the employment and retention procedures established by the Oversight Board for the Corporation; and

"(B) the classification standards for employment positions established by the Oversight Board for the Corporation and the compensation rates and benefits established for each such class of positions.

"(2) JOINT RESOLUTION.—The Corporation may not employ any individual or implement any employee compensation and benefit plan if, within the 60-day period beginning on the date the report required under paragraph (1) is submitted to the Congress, a joint resolution is enacted disapproving the employment and retention procedures, the classification standards for employment positions, or the compensation rates and benefits established for each such class of positions.

"(3) COMPUTATION OF PERIOD.—The days on which either House of Congress is not in session because of an adjournment of more than 3 days to a date certain shall be excluded in the computation of the 60-day period referred to in paragraph (2).

"(4) PROVISIONS APPLICABLE TO TREATMENT OF JOINT RESOLUTION.—

"(A) IN GENERAL.—If a joint resolution disapproving the employment and retention procedures, the classification standards for employment positions, or the compensation rates and benefits established for each such class of positions is introduced in the House of Representatives or in the Senate during the 45-day period beginning on the first day of the 60-day period referred to in paragraph (2), the provisions of subsections (c), (d), (e), and (f) of section 208 of the Defense Authorization Amendments and Base Closure and Realignment Act shall apply (except as provided in subparagraph (B)) to such joint resolution in the same manner and to the same extent as such subsections apply to a joint resolution described in subsection (a) of such section.

"(B) DATE SUBSTITUTION.—For purposes of this paragraph, subsection (c) of section 208 of the Defense Authorization Amendments and Base Closure and Realignment Act shall be applied by substituting—

"(i) 'before the end of the 45-day period referred to section 21A(u)(4) of the Federal Home Loan Bank Act' for 'before March 15, 1989'; and

"(ii) 'as of the end of the 45-day period referred to section 21A(u)(4) of the Federal Home Loan Bank Act' for 'as of March 15, 1989'.

"(v) REPORTS.—

"(1) ANNUAL REPORT.—The Corporation shall annually submit a full report of the Oversight Board's operations, activities, budget, receipts, and expenditures for the preceding 12-month period.

"(2) CONTENTS.—The report required under paragraph (1) shall include—

"(A) audited statements and such information as is necessary to make known the financial condition and operations of the Corporation in accordance with generally accepted accounting principles;

"(B) the Corporation's financial operating plans and forecasts (including estimates of actual and future spending, and estimates of actual and future cash obligations) taking into account the Corporation's financial commitments, guarantees and other contingent liabilities;

"(C) the number of minority and women investors participating in the bidding process for assisted acquisitions and the disposition of assets and the number of successful bids by such investors; and

"(D) the results of the annual audit of the Corporation's financial transactions conducted by the Comptroller General pursuant to section 9105(a) of title 31, United States Code.

"(3) SUBMISSION TO CONGRESS AND THE PRESIDENT.—The Corporation shall submit each annual report required under this subsection to the Congress and the President as soon as practicable after the end of the calendar year for which such report is made but not later than June 30 of the year following such calendar year.

"(w) ADMINISTRATIVE EXPENSES.—The administrative expenses approved by the Oversight Board shall be paid from proceeds received from the Funding Corporation from the issuance of its obligations.

"(x) ADDITIONAL REPORTS.—

"(1) REPORTS REQUIRED.—In addition to the annual report required under subsection (v), the Corporation shall submit to Congress by April 30 and October 31 of each calendar year, a semiannual report on the activities and efforts of the Corporation, the Federal Deposit Insurance Corporation, and the Oversight Board for the 6-month period ended on the last day of the month prior to the month in which such report is required to be submitted.

"(2) CONTENTS OF REPORT.—Each semiannual report required under paragraph (1) shall include the following information with respect to any activities relating to the assets of savings associations:

"(A) A statement of the total book value of assets held or managed by the Corporation, the Federal Deposit Insurance Corporation, or the Oversight Board or other governmental entity, at the beginning and end of the period.

"(B) A statement of the total book value of assets which are under contract to be managed by private persons and entities at the beginning and end of the reporting period.

"(C) The number of employees of the Corporation, the Federal Deposit Insurance Corporation, and the Oversight Board at the beginning and end of the reporting period, and the total amounts expended on employee wages, salaries, and overhead, during such period, which is attributable to employees involved in or overhead incurred in connection with—

"(i) contracting with, supervising, or reviewing the performance of private contractors, or

"(ii) managing or disposing of assets.

"(D) A statement of the total amount expended on private contractors for the management of assets.

"(E) A statement of the efforts of the Corporation to maximize the efficient utilization of the resources of the private sector during the reporting period and in future reporting periods and a description of the policies and procedures adopted to ensure adequate competition and fair and consistent treatment of qualified third parties seeking to provide services to the Corporation, the Federal Deposit Insurance Corporation, or the Oversight Board.".

(b) INSPECTOR GENERAL OF THE CORPORATION.—

(1) ESTABLISHMENT.—

(A) APPOINTMENT AND REMOVAL.—Section 8E(a)(2) of the Inspector General Act of 1978 (5 U.S.C. App.) is amended by inserting "the Resolution Trust Corporation," after "the Pension Benefit Guarantee Corporation,".

(B) DEFINITIONS.—Section 11 of such Act (5 U.S.C. App.) is amended—

(i) in paragraph (1), by inserting "the Oversight Board of the Resolution Trust Corporation" before "; as the case may be;"; and

(ii) in paragraph (2), by inserting "the Resolution Trust Corporation," after "the Railroad Retirement Board,".

(2) POSITION AT LEVEL IV OF THE EXECUTIVE SCHEDULE.—

(A) IN GENERAL.—Section 5315 of title 5, United States Code, is amended by adding at the end thereof, "Inspector General, Resolution Trust Corporation".

(B) APPROPRIATION.—There is hereby authorized to be appropriated such sums as may be necessary for the operation of the Office of Inspector General established by the amendment made by paragraph (1) of this subsection.

(c) ANNUAL GAO AUDIT REQUIRED.—Section 9105(a)(2) of title 31, United States Code, is amended by striking out "Federal Savings and Loan Insurance Corporation" and inserting in lieu thereof "Resolution Trust Corporation".

(d) CONFORMING AMENDMENTS TO URBAN HOMESTEADING PROGRAM.—

(1) LISTING OF PROPERTIES.—Section 810(f) of the Housing and Community Development Act of 1974 (12 U.S.C. 1706e(f)) is amended—

(A) by inserting "the Resolution Trust Corporation," after "Agriculture," the first place it appears; and

(B) by inserting "the Corporation," after "Agriculture," the second place it appears.

(2) REIMBURSEMENT BY HUD.—Section 810(g) of the Housing and Community Development Act of 1974 (12 U.S.C. 1706e(g)) is amended by adding at the end the following new paragraph:

"(3) The Secretary is authorized to reimburse the Resolution Trust Corporation, in an amount to be agreed upon by the Secretary and the Corporation, for property that the Corporation conveys to a unit of general local government, State, or agency for use in connection with an urban homesteading program approved by the Secretary.".

Subtitle B—Resolution Funding Corporation

SEC. 502. RESOLUTION FUNDING CORPORATION ESTABLISHED.

(a) IN GENERAL.—The Federal Home Loan Bank Act (12 U.S.C. 1421 et seq.) is amended by inserting after section 21A (as added by section 501 of this title) the following new section:

"SEC. 21B. RESOLUTION FUNDING CORPORATION ESTABLISHED.

"(a) PURPOSE.—The purpose of the Resolution Funding Corporation is to provide funds to the Resolution Trust Corporation in order for such corporation to carry out its purposes under this Act.

"(b) ESTABLISHMENT.—Notwithstanding any other provision of law and not later than 5 days after the enactment of this title, the Federal Housing Finance Board shall charter a corporation to be known as the Resolution Funding Corporation (hereinafter referred to in this Act as the 'Funding Corporation').

"(c) MANAGEMENT OF THE FUNDING CORPORATION.—

"(1) DIRECTORATE.—The Funding Corporation shall be under the management of a directorate composed of 3 members as follows:

"(A) The director of the Office of Finance of the Federal home loan banks (or the head of any successor office to such office); and

"(B) 2 members selected by the Oversight Board from among the presidents of the Federal home loan banks.

"(2) TERMS.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the 2 members appointed under paragraph (1)(B) shall be appointed for a term of 3 years.

"(B) STAGGERED TERMS.—Of the 2 members first appointed under paragraph (1)(B), 1 shall be appointed for a term of 2 years and 1 shall be appointed for a term of 3 years, as designated by the Oversight Board at the time of appointment.

"(3) VACANCY.—If any member leaves the office in which such member was serving when appointed to the Directorate—

"(A) such member's service on the Directorate shall terminate on the date such member leaves such office; and

"(B) the successor to the office of such member shall serve the remainder of such member's term.

"(4) EQUAL REPRESENTATION OF BANKS.—No president of a Federal Home Loan Bank may be appointed to serve an additional term on the Directorate until such time as the presidents of each of the other Federal home loan banks have served as many terms on the Directorate as the president of such bank (before the appointment of such president to such additional term).

"(5) CHAIRPERSON.—The Oversight Board shall select the chairperson of the Directorate from among the three members of the Directorate.

"(6) STAFF.—

"(A) NO PAID EMPLOYEES.—The Funding Corporation shall have no paid employees.

"(B) POWERS.—The Directorate may, with the approval of the Chairperson of the Federal Housing Finance Board, authorize the officers, employees, or agents of the Federal home loan banks to act for and on behalf of the Funding Corporation in such manner as may be necessary to carry out the functions of the Funding Corporation.

"(7) ADMINISTRATIVE EXPENSES, ISSUANCE COSTS, AND CUSTODIAN FEES.—

"(A) IN GENERAL.—All administrative expenses, issuance costs (as defined in subsection (k)(4)), and custodian fees (as defined in subsection (k)(5)) of the Funding Corporation shall be paid by the Federal home loan banks.

"(B) PRO RATA DISTRIBUTION.—The amount each Federal home loan bank shall pay shall be determined by the Oversight Board by multiplying the total administrative expenses, issuance costs and custodian fees for any period by the percentage arrived at by dividing—

"(i) the aggregate amount the Oversight Board required such bank to invest in the Funding Corporation (as of the time of such determination) under paragraphs (4) and (5) of subsection (e) (as computed without regard to paragraphs (3) or (6) of such subsection); by

"(ii) the aggregate amount the Oversight Board required all Federal home loan banks to invest (as of the time of such determination) under such paragraphs.

"(C) ADMINISTRATIVE EXPENSES DEFINED.—For purposes of this paragraph, the term 'administrative expenses' does not include any interest on (and any redemption premium with respect to) any obligation of the Funding Corporation.

"(8) REGULATION BY OVERSIGHT BOARD.—The Directorate of the Funding Corporation shall be subject to such regulations, orders, and directions as the Oversight Board may prescribe.

"(9) NO COMPENSATION FROM FUNDING CORPORATION.—Members of the Directorate of the Funding Corporation shall receive no pay, allowances, or benefits from the Funding Corporation by reason of their service on the Directorate.

"(d) POWERS OF THE FUNDING CORPORATION.—The Funding Corporation shall have only the following powers, subject to the other provisions of this section and such regulations, orders, and directions as the Oversight Board may prescribe—

"(1) to issue nonvoting capital stock to the Federal home loan banks;

"(2) to purchase nonvoting nontransferable capital certificates issued by the Resolution Trust Corporation under section 21A of this Act;

"(3) to issue debentures, bonds, or other obligations and to borrow, to give security for any amount borrowed, and to pay interest on (and any redemption premium with respect to) any such obligation or amount;

"(4) to impose assessments in accordance with subsection (e)(7);

"(5) to adopt, alter, and use a corporate seal;

"(6) to have succession until dissolved;

"(7) to enter into contracts;

"(8) to sue and be sued in its corporate capacity, and to complain and defend in any action brought by or against the Funding Corporation in any State or Federal court of competent jurisdiction; and

"(9) to exercise such incidental powers not inconsistent with the provisions of this section or section 21A(l) of this Act as may be necessary or appropriate to carry out the provisions of this section.

"(e) CAPITALIZATION OF THE FUNDING CORPORATION.—

"(1) IN GENERAL.—Each Federal home loan bank shall invest in nonvoting capital stock of the Funding Corporation at such times and in such amounts as the Oversight Board may prescribe under this subsection.

"(2) PAR VALUE; TRANSFERABILITY.—Each share of stock issued by the Funding Corporation to a Federal home loan bank shall have a par value in an amount determined by the Oversight Board and shall be transferable only among the Federal home loan banks in the manner and to the extent prescribed by the Oversight Board at not less than par value.

"(3) MAXIMUM INVESTMENT AMOUNT LIMITATION FOR EACH FEDERAL HOME LOAN BANK.—The cumulative amount of funds invested in nonvoting capital stock of the Funding Corporation by each Federal home loan bank shall not exceed the aggregate amount of—

"(A) the sum of—

"(i) the reserves maintained by such bank on December 31, 1988, pursuant to the requirement contained in the first 2 sentences of section 16 of this Act (as in effect on such date); and

"(ii) the undivided profits (as defined in paragraph (8) hereof) of such bank on such date; minus

"(iii) the amounts used as of such date to invest in the capital stock of the Financing Corporation pursuant to the requirement contained in section 21 of this Act; and

"(B) for the period beginning on January 1, 1989, and ending on the later of December 31, 1991, or such date as may be necessary to fund the Funding Corporation Principal Fund pursuant to subsection (g), an aggregate amount equal to—

"(i) the sum of—

"(I) the amounts added to reserves after December 31, 1988, pursuant to the reserve requirements contained in section 16; and

"(II) the undivided profits of such bank accruing after December 31, 1988; minus

"(ii) the amounts used to invest in the capital stock of the Financing Corporation after December 31, 1988, pursuant to the requirement contained in section 21 of this Act.

"(4) PRO RATA DISTRIBUTION OF FIRST $1,000,000,000 INVESTED IN THE FUNDING CORPORATION BY THE FEDERAL HOME LOAN BANKS.—With respect to the first $1,000,000,000 in the aggregate which the Chairperson of the directorate of the Financing Corporation pursuant to section 21 or the Oversight Board under this section, as the case may be, may require the Federal home loan banks to invest in the capital stock of the Financing Corporation and the Funding Corporation under section 21(d) and this subsection, respectively, the amount which each Federal home loan bank (or any successor to such bank) shall invest shall be determined by the Chairperson or the Oversight Board, as the case may be, by applying to the aggregate amount of such investment by all banks the percentage appearing in the following table for each such bank:

"Bank	Percentage
Federal Home Loan Bank of Boston	1.8629
Federal Home Loan Bank of New York	9.1006
Federal Home Loan Bank of Pittsburgh	4.2702
Federal Home Loan Bank of Atlanta	14.4007
Federal Home Loan Bank of Cincinnati	8.2653
Federal Home Loan Bank of Indianapolis	5.2863
Federal Home Loan Bank of Chicago	9.6886
Federal Home Loan Bank of Des Moines	6.9301
Federal Home Loan Bank of Dallas	8.8181
Federal Home Loan Bank of Topeka	5.2706
Federal Home Loan Bank of San Francisco.	19.9644
Federal Home Loan Bank of Seattle	6.1422

"(5) PRO RATA DISTRIBUTION OF AMOUNTS REQUIRED TO BE INVESTED IN EXCESS OF $1,000,000,000.—With respect to any amount in excess of the $1,000,000,000 amount referred to in paragraph (4) which the Oversight Board may require the Federal home loan banks to invest in capital stock of the Funding Corporation under this subsection, the amount which each Federal home loan bank (or any successor to such bank) shall invest shall be determined by the Oversight Board by multiplying such excess amount by the percentage arrived at by dividing—

"(A) the sum of the total assets (as of the most recent December 31) held by all Savings Association Insurance Fund members (as defined in section 7(l)(5) of the Federal Deposit Insurance Act) which are members of such bank; by

"(B) the sum of the total assets (as of such date) held by all Savings Association Insurance Fund members (as defined in section 7(l)(5) of the Federal Deposit Insurance Act) which are members of any Federal home loan bank.

"(6) SPECIAL PROVISIONS RELATING TO MAXIMUM AMOUNT LIMITATIONS.—

"(A) IN GENERAL.—If the amount any Federal home loan bank is required to invest in capital stock of the Funding Corporation pursuant to a determination by the Oversight Board under paragraph (5) (or under subparagraph (B) of this paragraph) exceeds the maximum investment amount applicable with respect to such bank under paragraph (3) at the time of such determination (hereinafter in this paragraph referred to as the 'excess amount')—

"(i) the Oversight Board shall require each remaining Federal home loan bank to invest (in addition to the amount determined under paragraph (5) for such remaining bank and subject to the maximum investment amount applicable with respect to such remaining bank under paragraph (3) at the time of such determination) in such capital stock on behalf of the bank in the amount determined under subparagraph (B);

"(ii) the Oversight Board shall require the bank to subsequently purchase the excess amount of capital stock from the remaining banks in the manner described in subparagraph (C); and

"(iii) the requirements contained in subparagraphs (D) and (E) relating to the use of net earnings available for dividends shall apply to such bank until the bank has purchased all of the excess amount of capital stock.

"(B) ALLOCATION OF EXCESS AMOUNT AMONG REMAINING HOME LOAN BANKS.—The amount each remaining Federal home loan bank shall be required to invest under subparagraph (A)(i) is the amount determined by the Oversight Board by multiplying the excess amount by the percentage arrived at by dividing—

"(i) the amount of capital stock of the Funding Corporation held by such remaining bank at the time of such determination; by

"(ii) the aggregate amount of such stock held by all remaining banks at such time.

"(C) PURCHASE PROCEDURE.—The bank on whose behalf an investment in capital stock is made under subparagraph (A)(i) shall purchase, annually and at such issuance price, from each remaining bank an amount of such stock determined by the Oversight Board by multiplying the amount available for such purchases (at the time of such determination) by the percentage determined under subparagraph (B) with respect to such remaining bank until the aggregate amount of such capital stock has been purchased by the bank.

"(D) LIMITATION ON DIVIDENDS.—The amount of dividends which may be paid for any year by a bank on whose behalf an investment is made under subparagraph (A)(i) shall not exceed an amount equal to ¼ of the net earnings available for dividends of the bank for the year.

"(E) TRANSFER TO ACCOUNT FOR THE PURCHASE OF STOCK REQUIRED.—Of the net earnings available for dividends for any year of a bank on whose behalf an investment is made under subparagraph (A)(i), such amount as is necessary to make the purchases of stock required under subparagraph (A)(ii) shall be placed in a reserve account (established in such manner as the Oversight Board shall prescribe by regulations) the balance in which shall be available only for such purchases.

"(F) NET EARNINGS AVAILABLE FOR DIVIDENDS DEFINED.—For purposes of this paragraph, the term 'net earnings available for dividends' means the net earnings of a bank for any period as computed after reducing the amount of earnings for such period by the amount required to be carried (for such period) to reserves maintained by such bank pursuant to the reserve requirements contained in section 16.

"(7) ADDITIONAL SOURCES.—If each Federal home loan bank has exhausted the investment amount applicable with respect to such bank under paragraphs (3) and (9), as calculated under paragraphs (4), (5), and (6), the amounts necessary to provide addi-

tional funding for the Funding Corporation Principal Fund shall be obtained in the manner provided in the following subparagraphs (in the order in which such subparagraphs appear):

"(A) The Funding Corporation, with the approval of the Board of Directors of the Federal Deposit Insurance Corporation, shall assess against each Savings Association Insurance Fund member an assessment (in the same manner as assessments are assessed against such members by the Federal Deposit Insurance Corporation pursuant to section 7 of the Federal Deposit Insurance Act) except that—

"(i) the maximum amount of the aggregate amount assessed shall be the amount of additional funds necessary to fund the Funding Corporation Principal Fund;

"(ii) the sum of—

"(I) the amount assessed under this paragraph; and

"(II) the amount assessed by the Financing Corporation under section 21 of this Act,

shall not exceed the amount authorized to be assessed against Savings Association Insurance Fund members pursuant to section 7 of the Federal Deposit Insurance Act;

"(iii) the Financing Corporation shall have first priority to make such assessment; and

"(iv) the amount of the applicable assessment rate determined under such section 7 shall be reduced by the sum described in clause (ii) of this subparagraph.

"(B) To the extent funds available pursuant to subparagraph (A) are insufficient to provide sufficient capital to fund the Funding Corporation Principal Fund, the Federal Deposit Insurance Corporation shall transfer to the Funding Corporation from the receivership proceeds of the FSLIC Resolution Fund the remaining amount of funds necessary for such purpose.

"(8) UNDIVIDED PROFITS DEFINED.—For purposes of paragraph (3), the term 'undivided profits' means retained earnings minus the sum of—

"(A) that portion required to be added to reserves maintained pursuant to the reserve requirements contained in section 16;

"(B) the dollar amounts held by the respective Federal home loan banks in special dividend stabilization reserves on December 31, 1985, as determined by the table set forth in section 21(d)(7) of this Act.

"(9) AGGREGATE ANNUAL FEDERAL HOME LOAN BANKS CONTRIBUTION.—

"(A) IN GENERAL.—Notwithstanding any other provision of this section or section 21 or 21A of this Act, the sum of the supplementary capital and supplementary interest payments by the Federal home loan banks in any year shall not exceed the amount which is equal to the lesser of—

"(i) $300,000,000; or

"(ii) 20 percent of the aggregate net earnings of the Federal home loan banks for such year.

"(B) SUPPLEMENTARY CAPITAL AND SUPPLEMENTARY INTEREST PAYMENTS DEFINED.—For purposes of subparagraph (A):

"(i) SUPPLEMENTARY CAPITAL PAYMENT.—The term 'supplementary capital payment' means the sum of the amounts required (in accordance with paragraph (3)(B) of this subsection) to be invested in nonvoting capital stock of the Funding Corporation by each Federal home loan bank under this subsection in excess of the maximum amount limitation established for each such bank under paragraph (3)(A) of this subsection.

"(ii) SUPPLEMENTARY INTEREST PAYMENT.—The term 'supplementary interest payment' means the sum of the amounts required to be contributed by each Federal home loan bank under subsection (f)(3)(C) to the Funding Corporation for interest payments by the Funding Corporation.

"(10) RESERVE REQUIREMENTS CONTAINED IN SECTION 16 DEFINED.—For purposes of this subsection, the term 'reserve requirements contained in section 16' means—

"(A) with respect to the period ending on the day before the date of the enactment of the Financial Institutions Reform, Recovery and Enforcement Act of 1989, the first 2 sentences of section 16; and

"(B) with respect to the period beginning on such date of enactment, the reserve requirements contained in section 16(a).

"(f) OBLIGATIONS OF THE FUNDING CORPORATION.—

"(1) ISSUANCE.—The Funding Corporation, subject to the direction of the Resolution Trust Corporation, may issue bonds, notes, debentures, and similar obligations, in an aggregate amount not to exceed $50,000,000,000.

"(2) INTEREST PAYMENTS.—The Funding Corporation shall pay the interest due on (and any redemption premium with respect to) such obligations from funds obtained for such interest payments in the manner provided in the following subparagraphs (in the order in which such subparagraphs appear):

"(A) EARNINGS ON CERTAIN ASSETS.—All earnings on assets (of the Funding Corporation) which—

"(i) are described in subsection (g)(1) of this section; and

"(ii) are not invested pursuant to subsection (g)(2),

shall be used to make interest payments on Funding Corporation obligations when interest is due.

"(B) PROCEEDS OF RTC.—The Resolution Trust Corporation shall pay to the Funding Corporation—

"(i) the net proceeds received by the Resolution Trust Corporation from the liquidation of institutions under the management of the Corporation pursuant to section 21A of this Act to the extent the amount of such proceeds are determined by the Oversight Board to be in excess of the amount of funds necessary for resolution costs in the short-term period following the date of such determination; and

"(ii) any proceeds from warrants and participations of the Resolution Trust Corporation.

"(C) SUPPLEMENTARY PAYMENTS BY HOME LOAN BANKS.—To the extent the funds available pursuant to subparagraph (A) and (B) are insufficient to cover the amount of interest payments, the Federal home loan banks shall pay to the Funding Corporation—

"(i) the aggregate annual amount of $300,000,000; minus

"(ii) the sum of—

"(I) the aggregate amount paid by such banks to the Financing Corporation pursuant to section 21 of this Act during such year; and

"(II) the aggregate amount of capital certificates of the Funding Corporation which were purchased by such banks during such year,

with each bank's individual share to be determined pursuant the formulation and limitations of paragraphs (3) through (6) of subsection (e).

"(D) ASSETS OF RTC.—Upon the dissolution of the Resolution Trust Corporation, the net proceeds from all assets of such corporation shall be transferred to the Funding Corporation for payment of interest under this paragraph.

"(E) TREASURY BACKUP.—

"(i) IN GENERAL.—Notwithstanding any other provision of this Act, if the Directorate determines, after consultation with and subject to the approval of the Secretary of the Treasury, that the Funding Corporation is unable to pay the interest on any obligation issued under this subsection from the sources of funds under the preceding subparagraphs of this paragraph, the Secretary of the Treasury shall pay, out of any funds appropriated for such purpose, to the Funding Corporation the additional amount due which shall be used by the Funding Corporation to pay such interest.

"(ii) LIABILITY OF FUNDING CORPORATION.—In each such instance where the Secretary of the Treasury is required to make a payment under this paragraph to the Funding Corporation, the amount of the payment shall become a liability of the Funding Corporation to be repaid to the Secretary of the Treasury upon dissolution of the Funding Corporation (to the extent the Funding Corporation may have any remaining assets).

"(iii) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary of the Treasury, for fiscal year 1989 and each fiscal year thereafter, such sums as may be necessary to carry out clause (i) of this subparagraph.

"(3) PRINCIPAL PAYMENTS.—On maturity of an obligation issued under this subsection, the obligation shall be repaid by the Funding Corporation from the liquidation of noninterest bearing instruments held in the Funding Corporation Principal Fund established by subsection (g)(2).

"(4) PROCEEDS TO BE INVESTED IN CAPITAL CERTIFICATES OF THE RESOLUTION TRUST CORPORATION.—Subject to such terms and conditions as may be approved by the Oversight Board, the proceeds of any obligation issued by the Funding Corporation shall be used to—

"(A) purchase the capital certificates issued by the Resolution Trust Corporation under section 21A of this Act; or

"(B) refund any previously issued obligation the proceeds of which were invested in the manner described in subparagraph (A).

"(5) INVESTMENT OF UNITED STATES FUNDS IN OBLIGATIONS.—Obligations issued under this section by the Funding Corporation, at the direction of the Oversight Board shall be lawful investments, and may be accepted as security, for all fiduciary, trust, and public funds the investment or deposit of which shall be under the authority or control of the United States or any officer of the United States.

"(6) MARKET FOR OBLIGATIONS.—All persons having the power to invest in, sell, underwrite, purchase for their own accounts, accept as security, or otherwise deal in obligations of the Federal home loan banks shall also have the power to do so with respect to obligations of the Funding Corporation.

"(7) TAX EXEMPT STATUS.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), obligations of the Funding Corporation shall be exempt from tax both as to principal and interest to the same extent as any obligation of any Federal home loan bank is exempt from tax under section 13 of this Act.

"(B) EXCEPTION.—The Funding Corporation, like the Federal home loan banks,

shall be treated as an agency of the United States for purposes of the first sentence of section 3124(b) of title 31, United States Code (relating to determination of tax status of interest on obligations).

"(8) OBLIGATIONS ARE EXEMPT SECURITIES.—Notwithstanding paragraph (11) of this subsection, obligations of the Funding Corporation shall be deemed to be exempt securities (within the meaning of the laws administered by the Securities and Exchange Commission) to the same extent as securities which are direct obligations of the United States or are guaranteed as to principal or interest by the United States.

"(9) MINORITY PARTICIPATION IN PUBLIC OFFERINGS.—The Oversight Board and the Directorate shall ensure that minority owned or controlled commercial banks, investment banking firms, underwriters, and bond counsels throughout the United States have an opportunity to participate to a significant degree in any public or negotiated offering of obligations issued under this section.

"(10) SMALL INVESTOR PARTICIPATION IN PUBLIC OFFERINGS.—

"(A) IN GENERAL.—In order to provide small investors the opportunity to participate in public offerings of obligations of the Funding Corporation, such portion of any public auction of such obligations as the Oversight Board may determine to be appropriate shall be—

"(i) offered in a minimum denomination not to exceed $1,000; and

"(ii) available for purchase on original issue through Federal Reserve banks and branches.

"(B) BROAD DISTRIBUTION.—The Funding Corporation shall attempt to make obligations issued in small denominations pursuant to subparagraph (A) broadly available to the general public.

"(C) TREASURY STUDY.—The Secretary of the Treasury shall—

"(i) examine additional methods for encouraging small investors to participate in public offerings of obligations of the Funding Corporation; and

"(ii) on the basis of any experience gained in public offerings pursuant to subparagraph (A), consider the feasibility of any such methods as a means of encouraging further small investor participation in offerings of Treasury obligations.

"(11) NO FULL FAITH AND CREDIT OF THE UNITED STATES FOR PRINCIPAL.—Except as provided in subsection (f)(2)(E)(i) with respect to interest on obligations of the Funding Corporation, such obligations shall not be obligations of, or guaranteed as to principal by, the Federal Housing Finance Board, the Federal home loan banks, the Resolution Trust Corporation, or the United States and the obligations shall so plainly state.

"(g) USE AND DISPOSITION OF ASSETS OF THE FUNDING CORPORATION NOT INVESTED IN RESOLUTION TRUST CORPORATION.—

"(1) IN GENERAL.—Subject to such regulations, restrictions, and limitations as may be prescribed by the Oversight Board, any assets of the Funding Corporation which are not invested in capital certificates issued by the Resolution Trust Corporation under section 21A of this Act and which are not needed for current interest payments, shall be invested in—

"(A) direct obligations of the United States;

"(B) obligations, participations, or other instruments of, or issued by, the Federal National Mortgage Association or the Government National Mortgage Association;

"(C) mortgages, obligations, or other securities for sale by, or which have been disposed of by, the Federal Home Loan Mortgage Corporation under section 305 or 306 of the Federal Home Loan Mortgage Corporation Act; or

"(D) any other security in which it is lawful for fiduciary and trust funds to be invested under the laws of any State.

"(2) SEGREGATED ACCOUNT FOR ZERO COUPON INSTRUMENTS HELD TO ASSURE PAYMENT OF PRINCIPAL.—The Funding Corporation shall invest amounts received pursuant to subsection (e) in, and hold in a segregated account (hereinafter in this section referred to as the the 'Funding Corporation Principal Fund'), noninterest bearing instruments—

"(A) which are securities described in paragraph (1); and

"(B) the total of the face amounts (the amount of principal payable at maturity) of which is approximately equal to the aggregate amount of principal on the obligations of the Funding Corporation.

"(h) MISCELLANEOUS PROVISIONS RELATING TO THE FUNDING CORPORATION.—

"(1) TREATMENT FOR CERTAIN PURPOSES.—Except as provided in subsection (f)(7)(B), the Funding Corporation shall be treated as a Federal home loan bank for purposes of section 13 (to the extent such section relates to State, municipal, and local taxation) and section 23 of this Act.

"(2) FEDERAL RESERVE BANKS AS DEPOSITARIES AND FISCAL AGENTS.—The Federal Reserve banks are authorized to act as depositaries for or fiscal agents or custodians of the Funding Corporation.

"(3) APPLICABILITY OF CERTAIN PROVISIONS RELATING TO GOVERNMENT CORPORATIONS.—Notwithstanding the fact that no Government funds may be invested in the Funding Corporation, the Funding Corporation shall be treated, for purposes of sections 9105, 9107, and 9108 of title 31, United States Code, as a mixed-ownership Government corporation which has capital of the Government.

"(4) POWER TO REMOVE AND JURISDICTION.—

"(A) FEDERAL COURT JURISDICTION.—Notwithstanding any other provision of law, any civil action, suit, or proceeding to which the Resolution Funding Corporation is a party shall be deemed to arise under the laws of the United States.

"(B) REMOVAL.—The Resolution Funding Corporation may, without bond or security, remove any such action, suit, or proceeding from a State court to the United States District Court for the District of Columbia.

"(i) TERMINATION OF THE FUNDING CORPORATION.—

"(1) IN GENERAL.—The Funding Corporation shall be dissolved, as soon as practicable, after the maturity and full payment of all obligations issued by the Funding Corporation under this section.

"(2) OVERSIGHT BOARD AUTHORITY TO CONCLUDE THE AFFAIRS OF THE FUNDING CORPORATION.—Effective on the date of the dissolution of the Funding Corporation under paragraph (1), the Oversight Board may exercise on behalf of the Funding Corporation, any power of the Funding Corporation which the Oversight Board determines to be necessary to settle and conclude the affairs of the Funding Corporation.

"(j) REGULATIONS.—The Oversight Board may prescribe such regulations as may be necessary to carry out the provisions of this section, including regulations defining terms used in this section.

"(k) DEFINITIONS.—For purposes of this section—

"(1) INSURED SAVINGS ASSOCIATION.—The term 'insured savings association' means a savings association (as defined by section 3(u) of the Federal Deposit Insurance Act) which was insured by the Federal Savings and Loan Insurance Corporation on the day before the date of the enactment of the Financial Institutions Reform, Recovery and Enforcement Act of 1989.

"(2) OVERSIGHT BOARD.—The term 'Oversight Board' means—

"(A) the Oversight Board of the Resolution Trust Corporation; and

"(B) after the termination of the Resolution Trust Corporation, the Secretary of the Treasury, the Board of Governors of the Federal Reserve System, the Attorney General, the Secretary of Housing and Urban Development, and the Chairperson of the Federal Deposit Insurance Corporation.

"(3) DIRECTORATE.—The term 'Directorate' means the directorate established in the manner provided in subsection (c)(1) to manage the Funding Corporation.

"(4) ISSUANCE COSTS.—The term 'issuance costs'—

"(A) means issuance fees and commissions incurred by the Funding Corporation in connection with the issuance or servicing of any obligation of the Funding Corporation; and

"(B) includes legal and accounting expenses, trustee and fiscal paying agent charges, costs incurred in connection with preparing and printing offering materials, and advertising expenses, to the extent that any such cost or expense is incurred by the Funding Corporation in connection with issuing any obligation.

"(5) CUSTODIAN FEES.—The term 'custodian fee' means—

"(A) any fee incurred by the Funding Corporation in connection with the transfer of any security to, or the maintenance of any security in, the segregated account established under subsection (g); and

"(B) any other expense incurred by the Funding Corporation in connection with the establishment or maintenance of such account.

"(l) REPORTS.—

"(1) ANNUAL REPORT.—The Corporation shall annually submit a full report of the Oversight Board's operations, activities, budget, receipts, and expenditures for the preceding 12-month period.

"(2) CONTENTS.—The report required under paragraph (1) shall include—

"(A) audited statements and such information as is necessary to make known the financial condition and operations of the Corporation in accordance with generally accepted accounting principles;

"(B) the Corporation's financial operating plans and forecasts (including estimates of actual and future spending, and estimates of actual and future cash obligations) taking into account the Corporation's financial commitments, guarantees and other contingent liabilities; and

"(C) the results of the annual audit of the Corporation's financial transactions conducted by the Comptroller General pursuant to section 9105(a) of title 31, United States Code.

"(3) SUBMISSION TO CONGRESS AND THE PRESIDENT.—The Corporation shall submit each annual report required under this subsection to the Congress and the President as soon as practicable after the end of the calendar year for which such report is made but not later than June 30 of the year following such calendar year.".

(b) ANNUAL GAO AUDIT REQUIRED.—Section 9105(a)(2) of title 31, United States Code, as amended by section 501(c) of this

title, is amended by inserting ", Funding Corporation," after "Corporation".

SEC. 503. FINANCING CORPORATION.

Section 21 of the Federal Home Loan Bank Act (12 U.S.C. 1441) is amended—

(1) by striking out "insured institution" "insured institutions" each place such terms appear and inserting in lieu thereof "insured savings association" and "insured savings associations", respectively;

(2) by striking out "institution" each place such term appears (other than in connection with any term amended under paragraph (1) of this subsection) and inserting in lieu thereof "association";

(3) by striking out "Federal Home Loan Bank Board" each place such term appears and inserting in lieu thereof "Federal Housing Finance Board";

(4) in subsection (c)(2), by inserting "before the date of the enactment of the Financial Institutions Reform, Recovery and Enforcement Act of 1989, and on and after such date the FSLIC Resolution Fund" before the period;

(5) in subsection (c)(9), by striking out "or section 402(b) of the National Housing Act";

(6) in subsection (d)(3)(A)(i), by inserting "(as in effect on such date)" before the semicolon;

(7) in subsection (d)(3)(B)(i), by striking "pursuant to the requirement contained in the first 2 sentences of section 16" and inserting in lieu thereof "pursuant to the reserve requirements contained in section 16";

(8) in subsection (d)(4), by striking out "With respect to the first $1,000,000,000" and all that follows through the colon (preceding the table) and inserting in lieu thereof "With respect to the first $1,000,000,000 in the aggregate which the Chairperson of the directorate pursuant to this section or the Oversight Board under section 21A, as the case may be, may require the Federal home loan banks to invest in the capital stock of the Financing Corporation and the Funding Corporation under this subsection and section 21B(e), respectively, the amount which each Federal home loan bank (or any successor to such bank) shall invest shall be determined by the Chairperson or the Oversight Board, as the case may be, by applying to the aggregate amount of such investment by all banks the percentage appearing in the following table for each such bank:";

(9) in subsection (d)(5), by inserting "amount referred to in paragraph (4)" after "$1,000,000,000";

(10) in subsection (d)(6), by striking "pursuant to the first two sentences of section 16 of this Act" and inserting in lieu thereof "pursuant to the reserve requirements contained in section 16";

(11) in subsection (d)(7)(A), by striking "pursuant to the first two sentences of section 16 of this Act" and inserting in lieu thereof "pursuant to the reserve requirements contained in section 16";

(12) by adding at the end of subsection (d) the following new paragraph:

"(8) RESERVE REQUIREMENTS CONTAINED IN SECTION 16 DEFINED.—For purposes of this subsection, the term 'reserve requirements contained in section 16' means—

"(A) with respect to the period ending on the day before the date of the enactment of the Financial Institutions Reform, Recovery and Enforcement Act of 1989, the first 2 sentences of section 16; and

"(B) with respect to the period beginning on such date of enactment, the reserve requirements contained in section 16(a).";

(13) by striking out paragraph (2) of subsection (e);

(14) in subsection (e)(3)(A), by inserting "before the date of the enactment of the Financial Institutions Reform, Recovery and Enforcement Act of 1989, and on and after such date, purchase capital certificates or capital stock issued by the FSLIC Resolution Fund" before the semicolon;

(15) in subsection (e)(7) by striking out "the Federal Savings and Loan Insurance Corporation" and inserting in lieu thereof "the FSLIC Resolution Fund";

(16) by amending subsection (f) to read as follows:

"(f) SOURCES OF FUNDS FOR INTEREST PAYMENTS; FINANCING CORPORATION ASSESSMENT AUTHORITY.—The Financing Corporation shall obtain funds for interest payments on obligations in the manner provided in the following paragraphs (in the order in which such paragraphs appear):

"(1) PREENACTMENT ASSESSMENTS.—The Financing Corporation assessments which were assessed on insured institutions pursuant to this subsection (as in effect before the date of the enactment of the Financial Institutions Reform, Recovery and Enforcement Act of 1989).

"(2) NEW ASSESSMENT AUTHORITY.—The Financing Corporation, with the approval of the Board of Directors of the Federal Deposit Insurance Corporation, shall assess against each insured Savings Association Insurance Fund member an assessment in the same manner as assessments are assessed against such members by the Federal Deposit Insurance Corporation pursuant to section 7 of the Federal Deposit Insurance Act, except that—

"(A) the sum of—

"(i) the amount assessed under this subsection; and

"(ii) the amount assessed by the Funding Corporation under section 21B of this Act,

shall not exceed the applicable annual assessment rate under section 7 of the Federal Deposit Insurance Act;

"(B) the Financing Corporation shall have first priority to make such assessments; and

"(C) the amount of the applicable annual assessment rate under such section 7 shall be reduced by the sum described in subparagraph (A) of this paragraph.

"(3) RECEIVERSHIP PROCEEDS.—Subject to the requirements of section 21B(e)(7)(B) of this Act, to the extent the funds available pursuant to paragraphs (1) and (2) are insufficient to cover the amount of interest payments, the Federal Deposit Insurance Corporation shall transfer to the Financing Corporation from the receivership proceeds of the FSLIC Resolution Fund the remaining amount of funds necessary for the Financing Corporation to make interest payments.";

(17) in subsection (g)(1), by striking out "National Housing Act," and inserting in lieu thereof "National Housing Act (as in effect before the date of the enactment of the Financial Institutions Reform, Recovery and Enforcement Act of 1989) or capital certificates or capital stock issued by the FSLIC Resolution Fund,";

(18) by amending subsection (j)(1)(A) to read as follows:

"(A) the maturity and full payment of all obligations issued by the Financing Corporation pursuant to this section; or"; and

(19) by amending subsection (l)(1) to read as follows:

"(1) INSURED SAVINGS ASSOCIATION.—The term 'insured savings association' means any savings association (as defined by section 3(b)(1) of the Federal Deposit Insurance Act) which was insured by the Federal Savings and Loan Insurance Corporation before the date of enactment of the Financial Institutions Reform, Recovery and Enforcement Act of 1989.".

SEC. 504. MIXED OWNERSHIP GOVERNMENT CORPORATION.

Section 9101(2) of title 31, United States Code, is amended by adding at the end thereof the following new subparagraph:

"(L) The Resolution Funding Corporation.".

SEC. 505. WHOLLY OWNED GOVERNMENT CORPORATION.

Section 9101(3) of title 31, United States Code, is amended by adding at the end thereof the following new subparagraph:

"(N) The Resolution Trust Corporation.".

SEC. 506. COMPTROLLER GENERAL AUDIT AND ACCESS TO RECORDS.

(a) AUDIT OF AGENCIES OR OTHER PERSONS PERFORMING FUNCTIONS UNDER BANKING LAWS.—All agencies, corporations, organizations and other persons of any description which perform any function or activity under this Act, or any other Act which is amended by this Act, shall be subject to audit by the Comptroller General of the United States with respect to such functions or activities (other than any function of the Board of Governors of the Federal Reserve System or the Federal Reserve Banks that is otherwise exempt by law from audit by the Comptroller General pursuant to section 911(a)(3) of the International Lending Supervision Act of 1983 or is exempt from audit pursuant to paragraphs (1) through (4) of section 714(b) of title 31, United States Code).

(b) AUDIT OF PERSONS PROVIDING CERTAIN GOODS OR SERVICES.—All persons and organizations which, by contract, grant or otherwise, provide goods or services to, or receive financial assistance from, any agency or other person performing functions or activities under this Act shall be subject to audit by the Comptroller General with respect to such provision of goods or services or receipt of financial assistance.

(c) PROVISIONS APPLICABLE TO AUDITS UNDER THIS SECTION.—

(1) NATURE AND SCOPE OF AUDIT.—The Comptroller General shall determine the nature, scope, and terms and conditions of audits conducted under this section.

(2) COORDINATION WITH OTHER PROVISIONS OF LAW.—The authority of the Comptroller General under this section shall be in addition to any audit authority available to the Comptroller General under other provisions of this Act or any other law.

(3) RIGHTS OF ACCESS, EXAMINATION, AND COPYING.—The Comptroller General, and any duly authorized representative of the Comptroller General, shall have access to, and the right to examine and copy, all records and other recorded information in any form, and to examine any property, within the possession or control of any agency or person which is subject to audit under this section which the Comptroller General deems relevant to an audit conducted under this section.

(4) ENFORCEMENT OF RIGHT OF ACCESS.—The Comptroller General's right of access to information under this section shall be enforceable pursuant to 31 U.S.C. 716.

(5) MAINTENANCE OF CONFIDENTIAL RECORDS.—The provisions of section 716(e) of title 31, United States Code, shall apply to information obtained by the Comptroller General under this section.

SEC. 507. GAO EXAMINATION OF FEDERAL SAVINGS AND LOAN INSURANCE CORPORATION RESOLUTIONS.

The Comptroller General of the United States shall examine and monitor all insolvent institution cases resolved by the Federal Savings and Loan Insurance Corporation from January 1, 1988, through the date of the enactment of this Act, and shall provide Congress with an estimate of the costs of the agreements entered into by the Corporation pursuant to such resolutions. Not less than annually, the Comptroller General shall provide Congress with revisions to such estimates, to take into account any new information that he obtains with regard to such agreements.

SEC. 508. ESTABLISHMENT OF PRESIDENTIALLY APPOINTED INSPECTOR GENERAL.

(a) ESTABLISHMENT OF OFFICE.—Section 11 of the Inspector General Act of 1978 (5 U.S.C. App.) is amended—

(1) in paragraph (1), by striking "Nuclear Regulatory Commission" and inserting "Federal Deposit Insurance Corporation, the Nuclear Regulatory Commission,"; and

(2) in paragraph (2), by inserting "the Federal Deposit Insurance Corporation," after "the Environmental Protection Agency,".

(b) CONFORMING AMENDMENTS.—

(1) INSPECTOR GENERAL ACT AMENDMENT.—Section 8E(a)(2) of the Inspector General Act of 1978 is amended by striking "the Federal Deposit Insurance Corporation,".

(2) EXECUTIVE SCHEDULE.—Section 5315 of title 5, United States Code, is amended by adding at the end thereof the following:

"Inspector General, Federal Deposit Insurance Corporation.".

TITLE VI—THRIFT ACQUISITION ENHANCEMENT PROVISIONS

SEC. 601. ACQUISITION OF THRIFTS BY BANKS AND BANK HOLDING COMPANIES.

Section 4 of the Bank Holding Company Act of 1956 (12 U.S.C. 1843) is amended by adding at the end thereof the following new subsection:

"(i) ACQUISITION OF SAVINGS ASSOCIATIONS.—

"(1) IN GENERAL.—Beginning on the date of the enactment of the Financial Institutions Reform, Recovery and Enforcement Act of 1989, the Board may approve an application by any bank holding company under subsection (c)(8) to acquire any savings association in accordance with the requirements and limitations of this section.

"(2) PROHIBITION ON TANDEM RESTRICTIONS.—In approving an application by any bank holding company to acquire a savings association, the Board shall not impose any restriction on transactions between the savings association and its holding company affiliates, except as required under the provisions of sections 23A and 23B of the Federal Reserve Act or any other applicable law.

"(3) MODIFICATION OF PRIOR APPROVALS.—If, before the date of the enactment of this subsection, the Board imposed any restriction which is prohibited under paragraph (2) with respect to an application by a bank holding company to acquire a savings association, the Board shall modify such approval in a manner which is consistent with the requirements of paragraph (2).

"(4) ADDITIONAL PROVISION APPLICABLE TO CERTAIN INSTITUTION.—

"(A) IN GENERAL.—Notwithstanding any other provision of this Act, if, on or before December 31, 1988, a bank holding company entered into a letter of intent or a written memorandum of understanding which provided for the acquisition of the savings association described in subparagraph (B) by such bank holding company or any of its subsidiaries (through merger, consolidation, reorganization, acquisition, or combination of any means) from the holding company, person, or entity which controls such savings association, such bank holding company shall—

"(i) be permitted to consummate such transaction at any time after the date of the enactment of this paragraph;

"(ii) upon consummation of the acquisition, be allowed to terminate any status that such savings association may have with the Federal Savings and Loan Insurance Corporation (or the Savings Association Insurance Fund) in connection with such savings association's conversion into, merger with, acquisition by, consolidation with, reorganization into, or combination by any means with such bank holding company or any of its subsidiaries; and

"(iii) be allowed to convert such savings association into a commercial bank, including a national bank, the deposits of which shall be insured by the Bank Insurance Fund.

"(B) SAVINGS ASSOCIATION DESCRIBED.—The savings association referred to in subparagraph (A) is a State savings association which—

"(i) has never accepted deposits;

"(ii) was not insured by the Federal Savings and Loan Insurance Corporation on the day before the date of the enactment of the Financial Institutions Reform, Recovery and Enforcement Act of 1989;

"(iii) is not insured by the Federal Deposit Insurance Corporation; and

"(iv) has been owned by an entity which is required by Federal statute to divest itself of such savings association.".

SEC. 602. INVESTMENTS BY SAVINGS AND LOAN HOLDING COMPANIES IN UNAFFILIATED THRIFT INSTITUTIONS.

Section 10(e)(1)(A)(iii) of the Home Owners' Loan Act of 1933 (as redesignated, transferred, and inserted into such Act by section 320 of this Act) is amended to read as follows:

"(iii) to acquire, by purchase or otherwise, or to retain more than 5 percent of the voting shares of a savings association not a subsidiary, or of a savings and loan holding company not a subsidiary, or in the case of a multiple savings and loan holding company, to so acquire or retain more than 5 percent of the voting shares of any company not a subsidiary which is engaged in any business activity other than the activities described in subsection (c)(2) of this section, except—

"(I) this clause shall not apply to the purchase and retention of shares by any savings and loan holding company in connection with a qualified stock issuance if such purchase is approved by the Director under subsection (q)(1)(D);

"(II) this clause and section 4(f)(2)(A)(ii) of the Bank Holding Company Act of 1956 (if otherwise applicable) shall not apply to the acquisition or retention by an insurance company (as defined in section 2(a)(17) of the Investment Company Act of 1940) of voting shares of a savings and loan holding company described in subsection (c)(3) of this section if such acquisition is not made, and such shares are not retained, with a view to acquiring, exercising, or transferring control of such savings and loan holding company;

"(III) this clause shall not apply with respect to the acquisition and retention of voting shares of a savings association which is not a subsidiary if such shares are acquired in connection with an underwriting in the normal course of an underwriting business or are held in an account solely for trading purposes;

"(IV) this clause shall not apply to shares held as a bona fide fiduciary (whether with or without sole discretion to vote such shares);

"(V) this clause shall not apply to shares acquired in securing or collecting a debt previously contracted in good faith until the end of the 2-year period beginning on the date of such acquisition or for such additional time (not exceeding 3 years) as the Director may permit, if the Director determines that such additional time will not be detrimental to the public interest; and

"(VI) this clause shall not apply to shares over which no control is held other than control of voting rights acquired in the normal course of a proxy solicitation; or".

SEC. 603. TECHNICAL AMENDMENTS TO THE BANK HOLDING COMPANY ACT.

(a) DEFINITION.—Section (2)(j) of the Bank Holding Company Act of 1956 (12 U.S.C. 1841(j)) is amended to read as follows:

"(j) INSURED INSTITUTION; SAVINGS ASSOCIATION.—For purposes of this Act, the terms 'insured institution' and 'savings association'—

"(1) mean—

"(A) any Federal savings and loan association or Federal savings bank; and

"(B) any building and loan, savings and loan, or homestead association, or cooperative bank; and

"(2) include any savings bank or cooperative bank which is deemed by the Director to be a savings association under section 10(l) of the Home Owners' Loan Act of 1933.".

(b) PASSIVE INVESTMENTS BY COMPANIES CONTROLLING GRANDFATHERED BANKS.—Section 4(f)(2)(A)(ii) of the Bank Holding Company Act of 1956 (12 U.S.C. 1843(f)(2)(A)(ii)) is amended—

(1) in subclause (I), by inserting "(whether with or without the sole discretion to vote such shares)" before the semicolon;

(2) by striking out "and" at the end of subclause (IV);

(3) by striking out "or" at the end of subclause (V); and

(4) by adding at the end the following new subclauses:

"(VI) shares acquired solely for the benefit of employees of such company or any subsidiary of such company and the beneficiaries of such employees;

"(VII) shares over which no control is held other than control of voting rights acquired in the normal course of a proxy solicitation; and

"(VIII) shares or assets acquired in securing or collecting a debt previously contracted in good faith, during, in the case of shares, the 2-year period beginning on the date of such acquisition or for such additional time (not exceeding 3 years) as the Board may permit, if the Board determines that such additional time will not be detrimental to the public interest; or".

SEC. 604. PURCHASE OF MINORITY INTEREST IN UNDERCAPITALIZED SAVINGS ASSOCIATIONS BY OTHER SAVINGS AND LOAN HOLDING COMPANIES ALLOWED.

(a) INTEREST ACQUIRED IN CONNECTION WITH QUALIFIED STOCK ISSUANCE NOT TREATED AS CONTROLLING INTEREST.—Section 10(a) of the Home Owners' Loan Act of 1933 (as redesignated, transferred, and inserted into such Act by section 320 of this Act) is

amended by adding at the end thereof the following new paragraph:

"(4) SPECIAL RULE RELATING TO QUALIFIED STOCK ISSUANCE.—Notwithstanding any other provision of this subsection, no savings and loan holding company shall be deemed to control a savings association solely by reason of the purchase by such savings and loan holding company of shares issued by such savings association, or by any savings and loan holding company which controls such savings association, in connection with a qualified stock issuance if such purchase is approved by the Director under subsection (q)(1)(D), unless the savings and loan holding company (which acquires shares issued by the savings association or holding company) directly or indirectly, or acting in concert with 1 or more other persons, or through 1 or more subsidiaries, owns, controls, or holds with power to vote, or holds proxies representing, more than 25 percent of the voting shares of such savings association or holding company.".

(b) QUALIFIED STOCK ISSUANCE.—

(1) IN GENERAL.—Section 10 of the Home Owners' Loan Act of 1933 (as redesignated, transferred, and inserted into such Act by section 320 of this Act) is amended by adding at the end thereof the following new subsection:

"(q) QUALIFIED STOCK ISSUANCE BY UNDERCAPITALIZED SAVINGS ASSOCIATIONS OR HOLDING COMPANIES.—

"(1) IN GENERAL.—For purposes of this section, any issue of shares of stock shall be treated as a qualified stock issuance if the following conditions are met:

"(A) The shares of stock are issued by—

"(i) an undercapitalized savings association; or

"(ii) a savings and loan holding company which controls an undercapitalized savings association if, at the time of issuance, the savings and loan holding company is legally obligated to contribute the net proceeds from the issuance of such stock to the capital of an undercapitalized savings association subsidiary of such holding company.

"(B) All shares of stock issued consist of previously unissued stock or treasury shares.

"(C) All shares of stock issued are purchased by a savings and loan holding company that is registered, as of the date of purchase, with the Director in accordance with the provisions of subsection (b)(1) of this section.

"(D) Subject to paragraph (2), the Director approved the purchase of the shares of stock by the acquiring savings and loan holding company.

"(E) The entire consideration for the stock issued is paid in cash by the acquiring savings and loan holding company.

"(F) At the time of the stock issuance, each savings association subsidiary of the acquiring savings and loan holding company (other than an association acquired in a transaction pursuant to section 13 of the Federal Deposit Insurance Act (or any predecessor provision) has regulatory capital (after deducting any subordinated debt, intangible assets, and deferred, unamortized gains or losses) of not less than 6½ percent of the total assets of such savings association.

"(G) Immediately after the stock issuance, the acquiring savings and loan holding company holds less than 25 percent of the outstanding voting stock of the issuing undercapitalized savings association or savings and loan holding company.

"(2) APPROVAL OF ACQUISITIONS.—

"(A) ADDITIONAL CAPITAL COMMITMENTS NOT REQUIRED.—The Director shall not disapprove any application for the purchase of stock in connection with a qualified stock issuance on the grounds that the acquiring savings and loan holding company has failed to undertake to make subsequent additional capital contributions to maintain the regulatory capital of the undercapitalized savings association at or above the minimum level required by the Director or any other Federal agency having jurisdiction.

"(B) OTHER CONDITIONS.—Notwithstanding the provisions of subsection (a)(4), the Director may impose such conditions on any approval of an application for the purchase of stock in connection with a qualified stock issuance as the Director determines to be appropriate, including—

"(i) a requirement that transactions between the savings association receiving the proceeds of the qualified stock issuance and the savings and loan holding company acquiring such stock (and any affiliate of such holding company) shall be subject to the restrictions of subsection (d) of this section if such savings association is, pursuant to an order issued or regulation prescribed by the Director, deemed to be an affiliate of the savings and loan holding company acquiring such stock;

"(ii) a requirement that any savings association subsidiary of the acquiring savings and loan holding company limit dividends paid to such holding company for such period of time as the Director may require; and

"(iii) such other conditions as the Director deems necessary or appropriate to prevent evasions of this section.

"(C) APPLICATION DEEMED APPROVED IF NOT DISAPPROVED WITHIN 90 DAYS.—Except as otherwise required under guidelines prescribed pursuant to section 410 of the Competitive Equality Banking Act of 1987, an application for approval of a purchase of stock in connection with a qualified stock issuance shall be deemed to have been approved by the Director if such application has not been disapproved by the Director before the end of the 90-day period beginning on the date such application has been deemed sufficient under regulations issued by the Director.

"(3) NO LIMITATION ON CLASS, ETC., OF STOCK ISSUED.—The shares of stock issued in connection with a qualified stock issuance may be shares of any class, whether common or preferred, whether voting or nonvoting, and whether there are outstanding at the time of issuance of such shares any other shares of the same class.

"(4) UNDERCAPITALIZED SAVINGS ASSOCIATION DEFINED.—For purposes of this subsection, the term 'undercapitalized savings association' means any savings association—

"(A) the assets of which exceed the liabilities of such association; and

"(B) the regulatory capital of which (as determined after deducting any subordinated debt, intangible assets, and any deferred, unamortized gains or losses) is less than 5 percent of the total assets of such savings association.".

(2) FINANCIAL AND MANAGERIAL RESOURCES; ANTICOMPETITIVE EFFECTS REQUIRED TO BE CONSIDERED.—Section 10(e)(2) of the Home Owners' Loan Act of 1933 (as redesignated, transferred, and inserted into such Act, and as amended, by section 320 of this Act) is amended by inserting "any acquisition of stock in connection with a qualified stock issuance," before the matter inserted therein by section 320(b)(8)(A) of this Act.

(c) AMENDMENT TO DEFINITION OF EXEMPT ACTIVITY.—Section 10(c)(2) of the Home Owners' Loan Act of 1933 (as transferred to and inserted in such Act and redesignated by section 320 of this Act) is amended by adding at the end thereof the following new subparagraph:

"(G) In the case of a savings and loan holding company, purchasing, holding, or disposing of stock acquired in connection with a qualified stock issuance if the purchase of such stock by such savings and loan holding company is approved by the Director pursuant to subsection (q)(1)(D).".

(d) AMENDMENT TO DEPOSITORY INSTITUTION MANAGEMENT INTERLOCKS ACT.—Section 205 of the Depository Institution Management Interlocks Act (12 U.S.C. 3204) is amended by adding at the end thereof the following new paragraph:

"(9) Any savings association (as defined in section 10(a)(1)(A) of the Home Owners' Loan Act of 1933 or any savings and loan holding company (as defined in section 10(a)(1)(D) of such Act) which has issued stock in connection with a qualified stock issuance pursuant to section 10(q) of such Act, except that this paragraph shall apply only with respect to service as a management official of such savings association or holding company, or any subsidiary of such savings association or holding company, by a management official of the savings and loan holding company which purchased the stock issued in connection with such qualified stock issuance, and shall apply only when the Director of the Office of Thrift Supervision has determined that such service is consistent with the purposes of this Act and the Home Owners' Loan Act.".

(e) AMENDMENTS TO BANK HOLDING COMPANY ACT.—Section 4(f) of the Bank Holding Company Act of 1956 (12 U.S.C. 1843(f)) is amended—

(1) in paragraph (10)(A), by inserting "or section 13(k) of the Federal Deposit Insurance Act, or in a qualified stock issuance pursuant to section 10(q) of the Home Owners' Loan Act of 1933" after "National Housing Act";

(2) in paragraph (10)(B), by striking out "either—" and inserting in lieu thereof "in the case of an acquisition under section 408(m) of the National Housing Act or section 13(k) of the Federal Deposit Insurance Act, either—";

(3) by adding at the end thereof the following new paragraph:

"(11) EXEMPTION UNAFFECTED BY CERTAIN OTHER ACQUISITIONS.—For purposes of clauses (i) and (ii)(V) of paragraph (2)(A), an insured institution is described in this paragraph if the insured institution was acquired (or any shares or assets of such institution were acquired) by a company described in paragraph (1)—

"(A) from the Resolution Trust Corporation, the Federal Deposit Insurance Corporation, or the Director of the Office of Thrift Supervision, whether in such any such Corporation's corporate capacity, or as receiver or conservator for the insured institution or in any other capacity; or

"(B) in an acquisition in which the insured institution has been found to be in danger of default (as defined in section 3(x)(2) of the Federal Deposit Insurance Act) by the appropriate Federal or State authority."; and

(4) in clauses (i) and (ii)(V) of paragraph (2)(A), by striking out "paragraph (10)" and inserting in lieu thereof "paragraph (10) or (11)".

SEC. 605. POWER OF DIRECTOR OF THE OFFICE OF THRIFT SUPERVISION TO REGULATE SAVINGS AND LOAN HOLDING COMPANIES.

Section 10(b) of the Home Owner's Loan Act of 1933 (as redesignated, transferred, and inserted in such Act by section 320(a) of this Act) is amended—

(1) by adding at the end of paragraph (1) the following: "Insofar as State law is concerned, the Director is solely authorized, under such rules and regulations as the Director may prescribe, to provide for the organization, examination, operation, and regulation of each savings and loan holding company and each subsidiary of, other than a State savings association. The preceding sentence shall not be construed as depriving any Federal agency of any jurisdiction over any savings and loan holding company or any subsidiary of a savings and loan holding company."; and

(2) by amending paragraph (4) to read as follows:

"(4) EXAMINATIONS.—Each savings and loan holding company and each subsidiary of any savings and loan holding company, other than a bank, shall be subject to such examinations as the Director may prescribe. The cost of such examinations shall be assessed against and paid by such holding company. The Director shall use, for purposes of this subsection, reports filed with, or examinations made by, other Federal agencies to the extent the Director determines to be feasible.".

TITLE VII—FEDERAL HOME LOAN BANK SYSTEM REFORMS

Subtitle A—Federal Home Loan Bank Act Amendments

SEC. 701. DEFINITIONS.

(a) BOARD DEFINED.—Section 2(1) of the Federal Home Loan Bank Act (12 U.S.C. 1422(1)) is amended to read as follows:

"(1) BOARD.—The term 'Board' means the Federal Housing Finance Board.".

(b) ADDITIONAL DEFINITIONS.—Section 2 of the Federal Home Loan Bank Act (12 U.S.C. 1422) is amended by adding at the end thereof the following new paragraphs:

"(10) SAVINGS ASSOCIATION.—The term 'savings association' has the meaning given to such term in section 2(4) of the Home Owners' Loan Act of 1933.

"(11) CHAIRPERSON.—The term 'Chairperson' means the Chairperson of the Board.

"(12) SECRETARY.—The term 'Secretary' means the Secretary of Housing and Urban Development.".

(c) CONFORMING AMENDMENTS.—Except as otherwise specifically provided in this title, the Federal Home Loan Bank Act is amended by striking out "board" and "Federal Home Loan Bank Board" each place such terms appear (other than in section 18(c) and inserting in lieu thereof "Board".

SEC. 702. FEDERAL HOUSING FINANCE BOARD ESTABLISHED.

(a) IN GENERAL.—The Federal Home Loan Bank Act (12 U.S.C. 1421 et seq.) is amended by inserting after section 2 the following new sections:

"SEC. 2A. FEDERAL HOUSING FINANCE BOARD ESTABLISHED.

"(a) ESTABLISHMENT.—

"(1) IN GENERAL.—There is hereby established the Federal Housing Finance Board.

"(2) STATUS.—The Board is an independent agency in the executive branch of the Government.

"(3) PRIMARY DUTY.—The primary duty of the Board is to oversee and supervise the Federal home loan banks established pursuant to this Act.

"(b) MANAGEMENT.—

"(1) IN GENERAL.—The management of the Board shall be vested in a Board of Directors consisting of 7 members as follows:

"(A) The Secretary.

"(B) 2 presidents of Federal home loan banks selected pursuant to an election by the presidents of all the Federal home loan banks in accordance with such procedures as such presidents may determine to be appropriate.

"(C) Subject to paragraph (2), 4 citizens of the United States to be appointed by the President, by and with the advice and consent of the Senate.

"(2) PROVISIONS RELATING TO APPOINTED MEMBERS.—

"(A) CONSUMER REPRESENTATIVES.—At least 2 of the members appointed pursuant to paragraph (1)(C) shall be representatives chosen from organizations with more than a 2-year history of representing consumer or community interests on banking services, credit needs, or housing and financial consumer protections.

"(B) POLITICAL AFFILIATION.—Not more than 2 of the members appointed pursuant to paragraph (1)(C) may be members of the same political party.

"(C) BANK DISTRICT REPRESENTATION.—No individual may be appointed as a member pursuant to paragraph (1)(C) while such individual resides in a Federal home loan bank district in which any other member of the Board appointed pursuant to such paragraph resides.

"(D) LIMITATIONS ON CONFLICTS OF INTEREST.—No member appointed pursuant to paragraph (1)(C) may, while such person is a member—

"(i) serve as a director or officer of any Federal home loan bank or any member of any such bank; or

"(ii) hold shares of, or any other financial interest in, any member of any Federal home loan bank.

"(c) CHAIRPERSON.—

"(1) DESIGNATION.—The President shall designate 1 of the members of the Board appointed pursuant to subsection (b)(1)(C) to be the Chairperson of the Board.

"(2) DUTY.—The Chairperson shall be the chief executive officer of the Board.

"(3) ACTING CHAIRPERSON.—The Chairperson shall designate another member of the Board to serve as acting chairperson during the absence or disability of the Chairperson.

"(d) TERMS.—

"(1) IN GENERAL.—

"(A) APPOINTED MEMBERS.—Each member appointed pursuant to subsection (b)(1)(C) shall be appointed to a term of 7 years.

"(B) BANK PRESIDENTS.—Each president of a Federal home loan bank selected as a member of the Board pursuant to subsection (b)(1)(B) shall be appointed to a term of 2 years.

"(C) INTERIM APPOINTMENTS.—Any member appointed to fill a vacancy occurring before the expiration of the term for which such member's predecessor was appointed shall be appointed only for the remainder of such term.

"(2) CONTINUATION OF SERVICE.—Except as provided in paragraph (3), any member appointed pursuant to subparagraph (B) or (C) of subsection (b)(1) may continue to serve on the Board after the expiration of the term of such member until a successor has taken office.

"(3) CESSATION OF SERVICE.—If any member who was appointed pursuant to subparagraph (A) or (B) of subsection (b)(1) ceases to serve in the position described in any such subparagraph, such member's service on the Board shall terminate on the date such member ceases to serve in such position.

"(4) VACANCY.—

"(A) IN GENERAL.—Any vacancy on the Board shall be filled in the manner in which the original appointment was made.

"(B) ACTING SECRETARY MAY SERVE.—In the event of a vacancy in the office of the Secretary or during the absence or disability of the Secretary, the Acting Secretary shall act as a member of the Board in place of the Secretary.

"SEC. 2B. POWERS AND DUTIES; REPORTS TO CONGRESS.

"(a) GENERAL POWERS.—The Board shall have the following powers:

"(1) To prescribe such regulations and issue such orders as the Board may determine to be necessary or appropriate to carry out the purposes of this Act, particularly with their mission to support housing finance, and to enforce any such regulation or order.

"(2) Notwithstanding any other provision of law, to delegate any function of the Board to any officer, employee, agent, or administrative unit of the Board as the Board may determine to be appropriate (other than the authority to prescribe regulations under section 553 of title 5, United States Code, or to conduct adjudications which are subject to section 554 of such title).

"(3) To suspend or remove any director, officer, employee, attorney, or agent of any Federal home loan bank upon notification of such director, officer, employee, attorney, or agent, and such Federal home loan bank in writing of the cause for such suspension or removal.

"(4) To determine necessary expenditures under this Act and the manner in which such expenditures shall be incurred, allowed, and paid.

"(5) To use the United States mails in the same manner and under the same conditions as other departments and agencies of the United States.

"(b) STAFF.—The Board may select, employ, and fix the compensation of such officers, employees, attorneys, and agents as the Board may determine to be necessary for the performance of the Board's duties under this Act.

"(c) ESTABLISHMENT OF ADMINISTRATIVE UNITS AUTHORIZED.—

"(1) IN GENERAL.—The Board may establish collective offices or administrative units of the Federal home loan banks which, except as provided in paragraphs (2) and (3), shall have the same status for purposes of any provision of law, as the Federal home loan banks.

"(2) APPOINTMENT OF HEADS OF UNITS.—The Board may, after consultation with the presidents of the Federal home loan banks, appoint the heads of any collective office or administrative unit established pursuant to paragraph (1).

"(3) STAFF.—The Board may provide for the appointment and fix the compensation of such employees, attorneys, and agents of any collective office or administrative unit established pursuant to paragraph (1) as the Board may determine to be necessary without regard to any provision of law applicable to officers or employees of the United States, including title 5, United States Code.

"(d) RECEIPTS OF THE BOARD.—The receipts of the Board derived from assessments upon the Federal home loan banks and from

other sources (other than receipts from the sale of consolidated Federal home loan bank bonds and debentures issued under section 11 of this Act) shall be deposited in the Treasury of the United States, and may be withdrawn to defray the expenses of the Board and pay the salaries of the employees of the Board.

"(e) AUDITS AND REPORT.—

"(1) AUDITS.—The Comptroller General of the United States—

"(A) may audit the activities of the Board and the Federal home loan banks; and

"(B) shall perform an annual financial audit of the Board.

"(2) REPORTS.—The Comptroller General shall submit a report to Congress on the findings and conclusions of the Comptroller General with respect to the annual financial audit conducted under paragraph (1)(B).".

(b) APPOINTMENT OF INSPECTOR GENERAL.—Section 8E(a)(2) of the Inspector General Act of 1978 (5 U.S.C. App.) is amended by striking out "Federal Home Loan Bank Board," and inserting in lieu thereof "Federal Housing Finance Board,".

SEC. 703. TERMINATION OF THE FEDERAL HOME LOAN BANK BOARD AND THE POSITION OF CHAIRMAN.

(a) IN GENERAL.—Section 17 of the Federal Home Loan Bank Act (12 U.S.C. 1437) is hereby repealed.

(b) TERMINATION OF BOARD.—The Federal Home Loan Bank Board and the position of Chairman of the Federal Home Loan Bank Board are hereby abolished.

(c) DETERMINATION OF FUNCTIONS AND EMPLOYEES ENGAGED IN FUNCTIONS TRANSFERRED TO BOARD.—The Chairperson of the Federal Housing Finance Board and the Director of the Office of Thrift Supervision shall jointly determine the functions and activities, and number of employees (if any), of the Federal Home Loan Bank Board and the Federal Savings and Loan Insurance Corporation necessary, on the day before the date of the enactment of this Act, to perform or support such functions or activities which are transferred from the Federal Home Loan Bank Board and the Federal Savings and Loan Insurance Corporation to the Federal Housing Finance Board.

(d) ALLOCATION OF EMPLOYEES TO BOARD.—The Chairperson of the Federal Housing Finance Board and the Director of the Office of Thrift Supervision shall jointly allocate the employees of the Federal Home Loan Bank Board and the Federal Savings and Loan Insurance Corporation consistent with the number determined pursuant to subsection (c) in a manner which the Chairperson and the Director, in their sole discretion, deem equitable, except that, within work units, the agency preferences of individual employees shall be accommodated as far as possible.

(e) RIGHTS OF TRANSFERRED EMPLOYEES.—The employees identified for transfer to the Federal Housing Finance Board under subsection (d) shall be entitled to the following rights:

(1) Each employee identified in a transferred function shall be transferred to the Federal Housing Finance Board for employment and shall be guaranteed a position with the same status, tenure, and pay such employee had on the day immediately preceding the transfer. Each such employee holding a permanent position shall not be involuntarily separated or reduced in grade or compensation for 1 year after the date of transfer, except for cause.

(2) All Federal Home Loan Bank Board and Federal Savings and Loan Insurance Corporation employees transferring with their function shall be transferred to the Federal Housing Finance Board not later than 60 days after the date of the enactment of this Act, and shall be placed in positions for which they are qualified before the Federal Housing Finance Board may make an appointment from any other source to that position.

(3) A transferring employee in the Senior Executive Service shall be placed in a comparable level position at the Federal Housing Finance Board.

(4) Transferring employees shall receive notice of their position assignments not later than 120 days after the effective date of their transfer.

(5) If the Federal Housing Finance Board determines, after the end of the 1-year period beginning on the date the transfer of functions to the Board is completed, that a reorganization of its workforce is required, such reorganization shall be deemed a "major reorganization" for purposes of affording transferred employees early optional retirement under section 8336(d)(2) or section 8414(b)(1)(B) of title 5, United States Code.

(6) Any employee employed by the Federal Housing Finance Board as a result of the transfer may retain through the end of the calendar year during which such transfer occurs membership in any employee benefit program of the Federal Home Loan Bank Board, including insurance, which the employee has on the date of enactment of this Act, if the employee does not elect to give up such membership and the benefit or program is continued by, and paid by, the Chairperson of the Federal Housing Finance Board. If the employee elects to give up membership in a health insurance program or the health insurance program is not continued by the Federal Housing Finance Board, the employee shall be permitted to select an alternate Federal health insurance program within 30 days after such election or discontinuance, without regard to any other regularly scheduled open season.

(f) SAVINGS PROVISIONS.—

(1) EXISTING RIGHTS, DUTIES, AND OBLIGATIONS NOT AFFECTED.—Subsection (b) shall not be construed as affecting the validity of any right, duty, or obligation of the United States, the Federal Home Loan Bank Board or any other person which—

(A) arises under or pursuant to any section of title IV of the National Housing Act or under the Federal Home Loan Bank Act; and

(B) existed on the day before the date of the enactment of the Financial Institutions Reform, Recovery and Enforcement Act of 1989.

(2) CONTINUATION OF SUITS.—No action or other proceeding commenced by or against the Federal Home Loan Bank Board (or any Federal home loan bank with respect to any function of the Board which was delegated to the bank) shall abate by reason of the enactment of this Act, except that the appropriate successor to the interests of such Board or bank shall be substituted for such Board or bank as a party to any such action or proceeding.

SEC. 704. REPEAL OF PROVISION RELATING TO LAWFUL CONTRACT RATE.

Section 5 of the Federal Home Loan Bank Act (12 U.S.C. 1425) is hereby repealed.

SEC. 705. REPEAL OF PROVISION RELATING TO RATE OF INTEREST ON DEPOSITS.

Section 5B of the Federal Home Loan Bank Act (12 U.S.C. 1425b) is hereby repealed.

SEC. 706. CAPITAL STOCK.

Section 6 of the Federal Home Loan Bank Act (12 U.S.C. 1426) is amended—

(1) by striking out subsections (a), (f), and (g) and by redesignating subsections (b), (c), (d), (e), (h), (i), (j), (k), and (m) as subsections (a), (b), (c), (d), (e), (f), (g), (h), and (i), respectively;

(2) by striking out the second sentence of subsection (f) (as redesignated by paragraph (1) of this section) and inserting in lieu thereof the following: "If any member's membership in a Federal Home Loan Bank is terminated (or the borrowing privileges of any nonmember borrower are terminated), the indebtedness of such member or nonmember borrower to the Federal home loan bank shall be liquidated in an orderly manner (as determined by the Federal home loan bank), and upon completion of such liquidation, the capital stock in the Federal home loan bank owned by such member shall be surrendered and canceled. Any such liquidation shall be deemed a prepayment of any such indebtedness, and shall be subject to any penalties or other fees applicable to such member."; and

(3) in subsection (i) (as redesignated by paragraph (1) of this section), by striking out "charter" and all that follows through the period at the end and inserting in lieu thereof "charter as a Federal savings association (as defined in section 2(5) of the Home Owners' Loan Act of 1933).".

SEC. 707. ELECTION OF BANK DIRECTORS.

Section 7(a) of the Federal Home Loan Bank Act (12 U.S.C. 1427(a)) is amended by inserting after the period at the end thereof the following new sentences: "At least 2 of the directors of each Federal home loan bank who are appointed by the Board shall be representatives chosen from organizations with more than a 2-year history of representing consumer or community interests on banking services, credit needs or housing and financial consumer protections. No member of the board of directors of any Federal home loan bank who is appointed pursuant to this subsection may, during such member's term of office, serve as an officer of any Federal home loan bank or a director or officer of any such bank or hold shares of, or any other interest in, any member of a Federal home loan bank.".

SEC. 708. REPEAL OF PROVISION RELATING TO CERTAIN POWERS OF THE FEDERAL HOME LOAN BANK BOARD.

Section 19 of the Federal Home Loan Bank Act (12 U.S.C. 1439) is repealed.

SEC. 709. POWERS AND DUTIES OF BANKS.

Section 11 of the Federal Home Loan Bank Act (12 U.S.C. 1431) is amended—

(1) in subsection (e)(1), by inserting "incidental to activities authorized" after "not";

(2) in subsection (f), by striking out "or whenever in the judgment of at least four members of the board an emergency exists requiring such action";

(3) by amending subsection (k) to read as follows:

"(k) BANK LOANS TO FDIC.—

"(1) LOANS AUTHORIZED.—Subject to paragraph (3), the Federal home loan banks may, upon the request of the Federal Deposit Insurance Corporation and with the approval of the Board, make loans to such Corporation for the use of the Savings Association Insurance Fund.

"(2) LIABILITY OF THE FUND.—Any loan by a Federal home loan bank pursuant to paragraph (1) for the benefit of the Savings Association Insurance Fund shall be a direct liability of such Fund.

"(3) INTEREST ON AND SECURITY FOR LOANS.—Any loan by a Federal home loan bank pursuant to paragraph (1) shall—

"(A) bear a rate of interest not less than such bank's current marginal cost of funds, taking into account the maturities involved; and

"(B) be adequately secured, as determined by the Board."; and

(4) by adding at the end thereof the following new subsection:

"(l) COMMUNITY DEVELOPMENT LENDING TRAINING PROGRAMS.—

"(1) IN GENERAL.—Each Federal home loan bank shall establish a program to train officers and employees of savings associations which are members of or nonmember borrowers from such bank to underwrite loans which primarily benefit low- and moderate-income households or low- and moderate-income communities.

"(2) RULE OF CONSTRUCTION.—Paragraph (1) shall not be construed as requiring the Federal home loan banks to establish a different set of underwriting standards for loans which primarily benefit low- and moderate-income households.".

SEC. 710. RESERVES AND DIVIDENDS.

Section 16 of the Federal Home Loan Bank Act (12 U.S.C. 1436) is amended to read as follows:

"SEC. 16. RESERVES AND DIVIDENDS.

"(a) RESERVES.—Each Federal home loan bank may carry to a reserve account from time to time such portion of its net earnings as may be determined by its board of directors. The bank may charge against such reserves any part or all of such losses as may be suffered by the bank at any time or from time to time. Except as provided in subsection (b), no dividends shall be paid except out of earnings remaining after all reserves and chargeoffs required under this Act have been provided for, and then only with the approval of the Chairperson.

"(b) DIVIDENDS.—Notwithstanding subsection (a) or any other provision of this Act, a Federal home loan bank may declare and pay dividends to members of such bank and may charge the same against 1 or more of—

"(1) net earnings;

"(2) undivided profits (as defined in section 21(d)(7) of this Act);

"(3) dividend stabilization reserves; and

"(4) reserves established by such bank before the date of the enactment of the Financial Institutions Reform, Recovery and Enforcement Act of 1989 pursuant to the first 2 sentences of subsection (a) as in effect on the day before such date.

"(c) LIMITATION ON PAYMENT OF DIVIDENDS.—Notwithstanding any provision of subsection (b), no dividends may be paid by any Federal home loan bank under such subsection to the extent the amount of such payment would reduce the aggregate capital of such bank remaining after the payment below the sum of—

"(1) the paid-in capital of such bank; and

"(2) the amount of any reserves established pursuant to subsection (a) after the date of the enactment of the Financial Institutions Reform, Recovery and Enforcement Act of 1989.

"(d) NO EFFECT ON RESOLUTION FUNDING OBLIGATIONS.—This section shall not reduce or diminish the obligation of any Federal home loan bank to invest in the Financing Corporation or the Resolution Funding Corporation pursuant to the provisions of sections 21 and 21B of this Act, respectively, to the extent provided in such sections.".

SEC. 711. ADMINISTRATIVE EXPENSES.

(a) IN GENERAL.—Section 18(b) of the Federal Home Loan Bank Act (12 U.S.C. 1437(b)) is amended to read as follows:

"(b) ASSESSMENTS FOR ADMINISTRATIVE EXPENSES.—

"(1) IN GENERAL.—The Board may impose, on such equitable basis as the Board may determine to be appropriate, a semiannual assessment on the Federal home loan banks the aggregate amount of which is sufficient in the Board's determination to provide for the payment of the Board's estimated expenses for the period for which such assessment is made.

"(2) EXPENSES TO BE PAID FROM ASSESSMENTS.—All expenses which the Board incurs in carrying out the provisions of this Act shall be paid from the proceeds of the assessments imposed under paragraph (1).

"(3) DEFICIENCIES.—If, at any time, amounts available from any assessment for any semiannual period are insufficient to cover the expenses of the Board during such period, the Board may make an immediate assessment against the banks to cover the amount of the deficiency for that semiannual period on the same basis as the original assessment was made.

"(4) SURPLUSES.—If, at the end of any semiannual period for which an assessment was made, any amount remains from such assessment, such amount shall be deducted from the assessment by the Board for the following semiannual period.".

(b) TECHNICAL AND CONFORMING AMENDMENTS.—Section 18(c) of the Federal Home Loan Bank Act (12 U.S.C. 1438(c)) is amended—

(1) by striking out "Chairman of the Federal Home Loan Bank Board" and "Board" each place such terms appear and inserting in lieu thereof "Director of the Office of Thrift Supervision" and "Director", respectively;

(2) in the 1st sentence of paragraph (5), by striking out "under this subsection" and all that follows through the period and inserting in lieu thereof a period;

(3) in the 1st sentence of paragraph (6), by striking out "(A) annually prepare" and all that follows through "and (B)"; and

(4) by striking out the 2d sentence of paragraph (6).

SEC. 712. NONADMINISTRATIVE EXPENSES; APPORTIONMENT.

Subsection (a) of section 18 of the Federal Home Loan Bank Act (12 U.S.C. 1438(a)) and section 19A of such Act (12 U.S.C. 1439-1) are hereby repealed.

SEC. 713. FEDERAL SAVINGS AND LOAN INSURANCE CORPORATION INDUSTRY ADVISORY COMMITTEE.

Subsection (i) of section 21 of the Federal Home Loan Bank Act is repealed.

SEC. 714. ELIGIBILITY FOR MEMBERSHIP.

(a) INSURED BANKS AND CREDIT UNIONS.—The first sentence of section 4(a) of the Federal Home Loan Bank Act (12 U.S.C. 1424(a)) is amended by striking out "or savings bank," and inserting in lieu thereof "savings bank, any insured bank (as defined in section 3(h) of the Federal Deposit Insurance Act), or any insured credit union (as defined in section 101(7) of the Federal Credit Union Act),".

(b) AMENDMENT OF SECTION 27.—Section 27 of the Federal Home Loan Bank Act (12 U.S.C. 1447) is amended by striking out "Any institution, except a national bank, trust company, or other banking organization organized under any law of the United States, including the laws relating to the District of Columbia," and inserting in lieu thereof "Any insured depository institution which is eligible to become a member of a Federal home loan bank under section 4(a) of this Act,".

SEC. 715. STUDY OF BANK BOARD TRANSFER OF JURISDICTION.

(a) IN GENERAL.—The Secretary of the Treasury (or any designee of the Secretary other than any officer or employee of the Office of Thrift Supervision) shall conduct a study of the anticipated benefits of transferring institutions that are members of a Federal home loan bank from 1 district to another, with particular emphasis on transferring the institutions that have their principal offices in the State of Maryland from the jurisdiction of the Federal Home Loan Bank of Atlanta (district 3) to the Federal Home Loan Bank of Pittsburgh (district 4).

(b) FACTORS TO BE CONSIDERED.—Taking into account the importance of apportioning districts with due regard for the convenience and customary course of business of the eligible institutions in each district, the Secretary shall consider, at a minimum, the following factors in conducting the study required under subsection (a):

(1) The anticipated benefits of more evenly distributing the workload, number of institutions, and total assets of the institutions in each district.

(2) The anticipated benefits of more evenly distributing the total population of potential depositors supported by each district, the geographic location of the States in each district, and anticipated demographic changes in each district.

(3) The anticipated benefits of reducing the substantial supervisory and financial burdens of a district while improving the examination, supervision, and credit of the members of a Federal home loan bank in another district.

(c) CONSULTATION.—

(1) IN GENERAL.—In carrying out this study, the Secretary shall consult with, in particular, the Federal Home Loan Bank of Atlanta, the Federal Home Loan Bank of Pittsburgh, institutions that are members of a Federal home loan bank with their principal offices in the State of Maryland, and other interested members of the public.

(2) CONFIDENTIALITY OF SOURCES.—The Secretary shall establish procedures to ensure the complete confidentiality of any information provided to the Secretary, including the names of individuals and institutions providing the information.

(3) OTHER INFORMATION AND REPORTS.—The Secretary shall request—

(A) peer review reports;

(B) investigative reports prepared by the Comptroller General of the United States;

(C) any other reports or information that may show bias or preferential treatment for institutions within a district on the basis of regional dissimilarity or any other factor; and

(D) such other documents and information as the Secretary may determine to be appropriate.

(d) REPORT.—

(1) REQUIRED.—Before the end of the 6-month period beginning on the date of the enactment of this Act, the Secretary shall submit a report on the study conducted under subsection (a) to the Committee on Banking, Finance and Urban Affairs of the House of Representatives and the Commit-

tee on Banking, Housing, and Urban Affairs of the United States Senate.

(2) CONTENTS OF REPORT.—The report shall include any recommendation of the Secretary with respect to the anticipated benefits of transferring supervision of the savings and loan institutions in Maryland from the Federal Home Loan Bank of Atlanta to the Federal Home Loan Bank of Pittsburgh, as well as any recommendation with respect to transferring supervision of any other members of any Federal home loan bank to a bank in another district.

SEC. 716. CONFORMING AMENDMENTS.

(a) Section 3 of title I of Public Law 93-495 (12 U.S.C. 250) is amended by striking out "Federal Home Loan Bank Board" and inserting in lieu thereof "Director of the Office of Thrift Supervision".

(b) Section 22(a) of the Federal Home Loan Bank Act (12 U.S.C. 1442(a)) is amended by inserting "the Director of the Office of Thrift Supervision," after "Reserve Board,".

SEC. 717. ADVANCES.

(a) ADVANCES.—Section 10(e) of the Federal Home Loan Bank Act (12 U.S.C. 1430(e)) is amended—

(1) by striking out "insured institution" each place such term appears and inserting in lieu thereof "savings association";

(2) by striking out paragraph (3)(A);

(3) by redesignating subparagraph (3)(B) as (3)(A);

(4) in paragraph (3)(A) (as so redesignated by paragraph (3) of this subsection), by striking out "section 408(o) of the National Housing Act" and inserting in lieu thereof "section 10(m) of the Home Owners' Loan Act of 1933"; and

(5) by amending paragraph (3)(C) to read as follows:

"(B) ACTUAL THRIFT INVESTMENT PERCENTAGE.—The term 'actual thrift investment percentage' has the same meaning as in section 10(m)(5)(A) of the Home Owners' Loan Act of 1933 and, in the case of a member that is not a savings association (as defined in section 10(a)(1)(A) of such Act), shall be computed for such member as if such member is a savings association.".

(b) COMMUNITY SUPPORT.—Section 10 of the Federal Home Loan Bank Act (12 U.S.C. 1430) is amended by adding at the end thereof the following new subsection:

"(g) COMMUNITY SUPPORT REQUIREMENTS FOR ELIGIBILITY FOR ADVANCES.—

"(1) IN GENERAL.—

"(A) REGULATIONS REQUIRED.—Before the end of the 2-year period beginning on the date of the enactment of the Financial Institutions Reform, Recovery and Enforcement Act of 1989, the Board shall adopt regulations establishing minimum standards of community investment or service for financial institution members to maintain continued access to advances (other than advances provided to enable members to maintain liquidity necessary for safe and sound operations).

"(B) FACTORS TO BE CONSIDERED.—The regulations shall take into account a member's—

"(i) performance under the Community Reinvestment Act of 1977 and the member's commitment to lending in low- and moderate-income neighborhoods,

"(ii) lending for acquisition, development or rehabilitation of low- or moderate-income residential properties,

"(iii) community and economic development activities with identifiable benefits for low- and moderate-income families, and

"(iv) record of lending to first-time home buyers.

"(C) ELIGIBILITY.—Notwithstanding any failure to achieve or maintain the eligibility standards hereunder or under the qualified thrift lender standard, a member may still be eligible for access to advances in connection with the Community Investment Program and the Affordable Housing Program established by the Federal home loan bank making such advances. Each bank shall be responsible for determining the creditworthiness and other qualifications for projects, and advances related to such projects, proposed for its district.

"(2) COMMUNITY INVESTMENT PROGRAM.—Each bank shall designate a community investment officer who shall have operational responsibility for implementation of community lending and affordable housing advance programs of the banks under this subsection and who shall provide technical assistance and outreach to promote such programs. Each bank shall establish a program designed to provide funding for members to undertake community-oriented lending for mortgages as to which an established secondary market has not developed. Advances under this program shall be priced at the cost of consolidated Federal home loan bank obligations of comparable maturities, taking into account reasonable administrative costs exclusive of profit or return on capital for the bank.

"(3) AFFORDABLE HOUSING PROGRAM.—

"(A) Each bank shall establish an Affordable Housing Program for the purpose of subsidizing the interest rate on advances to members engaged in lending for long-term affordable low- and moderate-income housing at subsidized interest rates. Each institution receiving advances under this program shall report annually to the bank concerning the utilization advances received under the program. Each bank shall annually contribute the percentage of its annual net earnings prescribed in the following clauses to support such loans through the Affordable Housing Program:

"(i) 5 percent of net income in 1990, 1991, 1992, and 1993, or such prorated sums as may be required to assure that the aggregate contribution of all the banks shall not be less than $75,000,000 for each such year.

"(ii) 6 percent of its net income for 1994, or such prorated sum as may be required to assure that the aggregate contribution of the banks shall not be less than $90,000,000 for such year.

"(iii) 10 percent of its net income for 1995 and subsequent years, or such prorated sums as may be required to assure that the aggregate contribution of the banks shall not be less than $150,000,000 for each such year.

Any prorations required under this paragraph shall be undertaken based on the proportion of the total assets of all members of each bank to the total assets of all members of all banks.

"(B) In providing advances to members authorized under subparagraph (A) of this paragraph, each bank shall give priority to qualified projects such as the following:

"(i) The purchase, rehabilitation, or construction, of multifamily rental housing, at least 40 percent of the units of which will be occupied by low- or moderate-income households for not less than 30 years.

"(ii) The purchase or rehabilitation of housing held by the United States Government or any agency or instrumentality of the United States.

"(iii) Housing sponsored by any nonprofit organization, any State or political subdivision of any State, any local housing authority or State housing finance agency.

"(C) If any bank fails to utilize or commit the full amount provided in this paragraph to the Affordable Housing Program in any year, the excess above 10 percent of the full amount that should have been utilized or committed in that year shall be placed in an Affordable Housing Reserve Fund administered by the Board. Any unutilized or uncommitted amount retained by a bank hereunder must be fully utilized or committed by that bank during the following year and any remaining portion thereof must be placed in the Affordable Housing Reserve Fund. Under regulations established by the Board, funds from the Affordable Housing Reserve Fund, may be made available to any bank to meet additional affordable housing needs in such bank's district pursuant to the provisions of subparagraph (A) of this paragraph.

"(D) The net earnings of any Federal home loan bank shall be determined, for purposes of this paragraph—

"(i) after carrying the required amount to reserves pursuant to section 16(a) and making any payment required under section 21 or 21B of this Act; and

"(ii) before declaring any dividend under section 16(b).

"(4) OTHER PROGRAMS.—No provision of this subsection shall preclude any bank from establishing other community investment cash advance programs or contributing additional sums to the Affordable Housing Reserve Fund.

"(5) ADVISORY COUNCIL.—Each bank shall appoint an Advisory Council of from 7 to 15 persons drawn from community and nonprofit organizations actively involved in providing or promoting low and moderate income housing in its district. The Advisory Council shall meet with representatives of the board of directors of the bank quarterly to advise the bank on low- and moderate-income housing programs and needs in the district and on the utilization of the advances for these purposes. Each Advisory Council established under this paragraph shall submit to the Board at least annually its analysis of the low-income housing activity of the bank by which it is appointed.

"(6) REPORTS TO CONGRESS.—

"(A) The Board shall monitor and report to the Congress and the Advisory Council for each bank annually on the support of low-income housing and community development by the banks and the utilization of advances for these purposes.

"(B) The reports submitted by the Advisory Councils to the Board under paragraph (5) shall be included as part of the report to the Congress.

"(7) DEFINITIONS.—For the purpose of this subsection—

"(A) LOW- OR MODERATE-INCOME HOUSEHOLD.—The term 'low- or moderate-income household' means any household which has an income of 80 percent of the area median or less.

"(B) LOW- OR MODERATE-INCOME NEIGHBORHOOD.—The term 'low- or moderate-income neighborhood' means any neighborhood in which 51 percent or more of the households are low- or moderate-income households.

"(C) AFFORDABLE RENTAL HOUSING.—The term 'affordable rental housing' means any housing in which low- or moderate-income households may not be required to pay more than 30 percent of the monthly adjusted income of the household as rent.".

(c) BANKS ARE SOURCE OF NEEDED LIQUIDITY FOR MEMBERS.—Section 10 of the Federal Home Loan Bank Act (12 U.S.C. 1430) is amended by inserting after subsection (g) (as added by subsection (b) of this section) the following new subsection:

"(h) BANKS ARE SOURCE OF NEEDED LIQUIDITY FOR MEMBERS.—

"(1) GENERAL RULE.—The Federal home loan banks have a duty to provide needed short-term liquidity to solvent savings associations which are members of the banks.

"(2) LIQUIDITY ADVANCES TO PARTICULAR SAVINGS ASSOCIATIONS.—Each Federal home loan bank shall, upon the certification of the Director of the Office of Thrift Supervision that—

"(A) a particular solvent savings association presents a supervisory concern due to the poor financial condition of such association; and

"(B) such association has reasonable and demonstrable prospects of returning to a satisfactory financial condition,

make short-term liquidity advances to that savings association on terms and conditions (including requirements for adequate collateral security and interest rates) no less favorable than those regularly made available for similar liquidity advances to savings associations that do not present such supervisory concern.

"(3) LIQUIDITY ADVANCES TO INSTITUTIONS ON A COMMUNITY OR REGIONAL BASIS.—The Board shall, upon the certification of the Director of the Office of Thrift Supervision that severe financial conditions exist in any community or region that threaten the stability of a significant number of savings associations in that community or region, or that severe financial conditions exist which threaten the stability of savings associations possessing significant financial resources, consult with the Director and establish credit policies, procedures, and standards that shall maximize the availability of advances to such savings associations consistent with principles of prudent lending, including collateral requirements and interest rates, and the public interest.".

SEC. 718. AMENDMENTS RELATING TO WITHDRAWALS FROM FEDERAL HOME LOAN BANK MEMBERSHIP.

Section 6(i) of the Federal Home Loan Bank Act (12 U.S.C. 1426(m)) (as redesignated by section 706(1) of this title) by striking out "five" and inserting in lieu thereof "10".

SEC. 719. TECHNICAL AND CONFORMING AMENDMENTS.

(a) Section 10a of the Federal Home Loan Bank Act (12 U.S.C. 1430a) is repealed.

(b) Section 23 of the Federal Home Loan Bank Act (12 U.S.C. 1443) is amended to read as follows:

"SEC. 1443. FORMS OF BANK STOCK AND OBLIGATIONS.

"Any stock, debentures, bonds, notes, or other such obligations issued under the authority of this chapter may be issued in uncertificated form, utilizing a book entry method, or in certificated form under such rules, regulations, or guidelines as the Board of Directors of the Federal Housing Finance Board may provide.".

(c) Section 1003 of the Federal Financial Institutions Examination Council Act of 1978 (12 U.S.C. 3302) is amended—

(1) in paragraph (1), by striking out "Federal Home Loan Bank Board" and inserting in lieu thereof "Office of Thrift Supervision"; and

(2) in paragraph (3), by striking out "savings and loan association" and inserting in lieu thereof "savings association".

(d) Section 1004(a)(4) of the Federal Financial Institutions Examination Council Act of 1978 (12 U.S.C. 3303(a)(4)) is amended by striking out "Chairman of the Federal Home Loan Bank Board" and inserting in lieu thereof "Director, Office of Thrift Supervision".

(e) Section 1006(d) of the Federal Financial Institutions Examination Council Act of 1978 (12 U.S.C. 3305(d)) is amended in the 2d sentence by inserting "and employees of the Federal Housing Finance Board" after "supervisory agencies".

(f) Section 1101 of the Right to Financial Privacy Act of 1978 (12 U.S.C. 3401) is amended—

(1) in paragraph (1), by striking out "savings and loan" and inserting in lieu thereof "savings association";

(2) in paragraph (6), by striking out subparagraph (B) and redesignating the remaining subparagraphs as subparagraphs (B) through (H), respectively; and

(3) in paragraph (6)(B) (as so redesignated), by striking out "the Federal Home Loan Bank Board" and inserting in lieu thereof "Director, Office of Thrift Supervision".

(g) Section 207(4) of the Depository Institutions Management Interlocks Act (12 U.S.C. 3206(4)) is amended to read as follows:

"(4) the Office of Thrift Supervision with respect to federally chartered savings associations which are members of a Federal Home Loan Bank and savings and loan holding companies,".

(h) The Alternative Mortgage Transactions Parity Act of 1982 (12 U.S.C. 3801-06) is amended by striking out "Federal Home Loan Bank Board" each place such term occurs and inserting in lieu thereof "Director of the Office of Thrift Supervision".

(i) Section 610(a)(2) of the Expedited Funds Availability Act (12 U.S.C. 4009(a)(2)) is amended to read as follows:

"(2) section 5(d) of the Home Owners' Loan Act of 1933 in the case of federally chartered savings associations, by the Director of the Office of Thrift Supervision.".

(j) Section 302(b)(2) of the Federal National Mortgage Association Charter Act (12 U.S.C. 1717(b)(2)) is amended—

(1) in the 4th sentence, by striking out "Federal Savings and Loan Insurance Corporation" and inserting in lieu thereof "Resolution Trust Corporation"; and

(2) in the 8th sentence, by striking out "Federal Home Loan Bank Board" and inserting in lieu thereof "Director of the Office of Thrift Supervision".

(k) Section 2(a)(10) of the Paperwork Reduction Act of 1980 (44 U.S.C. 3502(a)(10)) is amended by striking out "Federal Home Loan Bank Board" and inserting in lieu thereof "the Federal Housing Finance Board".

(l) Section 602(d)(11) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 474(d)(11)) is amended—

(1) by inserting "the Resolution Trust Corporation" after "Department of Housing and Urban Development";

(2) by striking out "savings and loan accounts" and inserting in lieu thereof "savings association accounts"; and

(3) by inserting "under the Federal Deposit Insurance Act or any other law." after "National Housing Act".

(m) Section 13(4) of the Public Buildings Act of 1959 (40 U.S.C. 612) is amended by striking out subparagraph (D).

(n) Section 2 of the Bank Protection Act of 1968 (12 U.S.C. 1881) is amended—

(1) in paragraph (4), by—

(A) striking out "Federal Home Loan Bank Board" and inserting in lieu thereof "Director, Office of Thrift Supervision";

(B) striking out "and loan"; and

(C) striking out everything after "associations"; and

(2) in paragraph (3), by inserting "state-chartered savings associations, and" after "with respect".

(o) Section 19(b)(1)(A)(vi) of the Federal Reserve Act (12 U.S.C. 461(b)(1)(A)(vi)) is amended to read as follows:

"(vi) any savings association (as defined in section 3(b)(1) of the Federal Deposit Insurance Act) which is an insured financial institution (as defined in section (c)(2) of such Act) or is eligible to apply to become an insured financial institution under section 5 of the Federal Deposit Insurance Act.".

(p) Section 19(b)(4)(B) of the Federal Reserve Act (12 U.S.C. 461(b)(4)(B)) is amended by striking out "the Federal Home Loan Bank Board," and inserting in lieu thereof "the Director of the Office of Thrift Supervision, the Federal Housing Finance Board,".

Subtitle B—Conforming Amendments

SEC. 721. FEDERAL HOME LOAN MORTGAGE CORPORATION.

(a) STATEMENT OF PURPOSE.—

(1) IN GENERAL.—Section 301 of the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1451 note) is amended—

(A) by inserting "(a)" after the section designation; and

(B) by adding at the end the following new subsection:

"(b) It is the purpose of the Federal Home Loan Mortgage Corporation—

"(1) to provide stability in the secondary market for home mortgages;

"(2) to respond appropriately to the private capital market; and

"(3) to provide ongoing assistance to the secondary market for home mortgages (including mortgages securing housing for low- and moderate-income families involving a reasonable economic return to the Corporation) by increasing the liquidity of mortgage investments and improving the distribution of investment capital available for home mortgage financing.".

(2) CONFORMING AMENDMENT.—The section heading for section 301 of the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1451 note) is amended to read as follows:

"SHORT TITLE AND STATEMENT OF PURPOSE".

(b) BOARD OF DIRECTORS.—

(1) NEW BOARD.—Section 303(a) of the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1452(a)) is amended to read as follows:

"(a)(1) There is hereby created the Federal Home Loan Mortgage Corporation, which shall be a body corporate under the direction of a Board of Directors. Within the limitations of law and regulation, the Board of Directors shall determine the general policies that govern the operations of the Corporation. The principal office of the Corporation shall be in the District of Columbia or at any other place determined by the Corporation.

"(2)(A) The Board of Directors of the Corporation shall consist of 18 persons, 5 of whom shall be appointed annually by the President of the United States and the remainder of whom shall be elected annually by the voting common stockholders. The Board of Directors shall at all times have as members appointed by the President of the United States at least 1 person from the homebuilding industry, at least 1 person

from the mortgage lending industry, and at least 1 person from the real estate industry.

"(B) Each member of the Board of Directors shall be such or elected for a term ending on the date of the next annual meeting of the voting common stockholders.

"(C) Any appointive seat on the Board of Directors that becomes vacant shall be filled by appointment by the President of the United States, but only for the unexpired portion of the term. Any elective seat on the Board of Directors that becomes vacant after the annual election of the directors shall be filled by the Board of Directors, but only for the unexpired portion of the term.

"(D) Any member of the Board of Directors who is a full-time officer or employee of the Federal Government shall not, as such member, receive compensation for services as such a member.".

(2) TRANSITIONAL PROVISIONS.—

(A) INTERIM BOARD.—

(i) ESTABLISHMENT.—There shall be an interim Board of Directors of the Federal Home Loan Mortgage Corporation, which shall serve from the date of the enactment of this Act until the date of the 1st meeting of the voting common shareholders of the Corporation at which the first election of the directors elected by the shareholders occurs.

(ii) MEMBERS.—The interim Board of Directors of the Federal Home Loan Mortgage Corporation shall consist of—

(I) the President of the Corporation; and

(II) the persons who were (on the day before the date of the enactment of this Act) the Chairman of the Federal Home Loan Bank Board and the Secretary of Housing and Urban Development (or their designees).

(iii) QUORUM.—A quorum of the interim Board of Directors of the Federal Home Loan Mortgage Corporation shall consist of a majority of the directors duly serving from time to time.

(B) ELECTION OF PERMANENT DIRECTORS.—The first meeting of the voting common shareholders of the Federal Home Loan Mortgage Corporation for election of directors shall occur, under procedures established by the Corporation, within 6 months after the date of the enactment of this Act.

(c) REGULATORY POWER.—Section 303 of the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1452) is amended—

(1) by redesignating subsections (b) through (f) as subsections (c) through (g), respectively; and

(2) by inserting after subsection (a) the following new subsection:

"(b)(1) The Secretary of Housing and Urban Development shall have general regulatory power over the Corporation and shall make such rules and regulations as shall be necessary and proper to ensure that the purposes of this title are accomplished.

"(2) The Secretary of Housing and Urban Development may require that a reasonable portion of the mortgage purchases of the Corporation be related to the national goal of providing adequate housing for low- and moderate-income families, but with reasonable economic return to the Corporation.

"(3) The aggregate amount of cash dividends paid by the Corporation in any fiscal year on account of any share of its common stock shall not exceed any rate that may be determined from time to time by the Secretary of Housing and Urban Development to be a fair rate of return after consideration of the current earnings and capital condition of the Corporation.

"(4) The Secretary of Housing and Urban Development may examine and audit the books and financial transactions of the Corporation and may require the Corporation to issue any reports on its activities that the Secretary determines to be advisable. The Secretary shall, not later than June 30 of each year, submit to the Congress a report describing the activities of the Corporation under this Act.

"(5) The aggregate amount of notes, debentures, or substantially identical types of unsecured obligations outstanding at any time shall not exceed the amount which is 15 times the sum of the Corporation's capital, capital surplus, general surplus, reserves, and undistributed earnings unless a greater ratio shall be fixed at any time or from time to time by the Secretary of Housing and Urban Development. The outstanding total principal amount of any obligations of the Corporation which are entirely subordinated to the general debt obligations of the Corporation shall be deemed to be capital of the Corporation for the purpose of determining the aggregate amount of notes, debentures, or substantially identical types of unsecured obligations outstanding at any time.

"(6) All issuances of stock, and debt obligations convertible into stock, by the Corporation shall be made only with the approval of the Secretary of Housing and Urban Development.

"(7)(A) The exercise of the authority of the Corporation pursuant to commitments or otherwise to purchase, service, sell, lend on the security of, or otherwise deal in conventional residential mortgages under section 305(a) shall be subject to the approval of the Secretary of Housing and Urban Development.

"(B) Any conventional mortgage programs or activities with respect to purchasing, servicing, selling, lending on the security of, or otherwise dealing in mortgages in which the Corporation has engaged or is engaging as of the date of the enactment of the Financial Institutions Reform, Recovery and Enforcement Act of 1989 shall be deemed to have been approved by the Secretary of Housing and Urban Development as required by this paragraph.

"(8) If the Corporation submits to the Secretary of Housing and Urban Development a request for approval or other action under this title, the Secretary shall, not later than the expiration of the 45-day period following the submission of the request, approve the request or transmit to the Congress a report explaining why the request has not been approved. The period may be extended for an additional 15-day period if the Secretary requests additional information from the Corporation, but the 45-day period may not be extended for any other reason or for any period in addition to or other than the 15-day period. If the Secretary fails to transmit the report to the Congress within the 45-day period or 60-day period, as the case may be, the Corporation may proceed as if the request had been approved.".

(d) COMMON STOCK.—

(1) IN GENERAL.—Section 304(a) of the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1453(a)) is amended to read as follows:

"(a)(1) The common stock of the Corporation shall consist of—

"(A) nonvoting common stock, which shall be issued only to Federal home loan banks; and

"(B) voting common stock, which shall be issued to such holders in the manner and amount, and subject to any limitations on concentration of ownership, as may be established by the Corporation.

"(2) The nonvoting common stock and the voting common stock shall have such par value and other characteristics as the Corporation provides. The voting common stock shall be vested with all voting rights, each share being entitled to 1 vote. The free transferability of the voting common stock at all times to any person, firm, corporation or other entity shall not be restricted except that, as to the Corporation, it shall be transferable only on the books of the Corporation. Nonvoting common stock of the Corporation shall be evidenced in the manner and shall be transferable only to the extent, to the transferees, and in the manner, provided by the Corporation.".

(2) CONVERSION OF STOCK.—On the date of the enactment of this Act, each share of outstanding senior participating preferred stock of the Federal Home Loan Mortgage Corporation, with a par value of $2.50 per share, shall be changed into and shall become 1 share of voting common stock of the Corporation. Such voting common stock shall, with respect to the nonvoting common stock of the Corporation, retain all of the rights, priorities and privileges of the senior participating preferred stock. The transformation of the senior participating preferred stock into voting common stock under this paragraph shall be deemed to satisfy the obligation of the Corporation to redeem senior participating preferred stock for non-callable common stock.

(3) CONFORMING AMENDMENTS.—

(A) SUBSCRIPTIONS OF FEDERAL HOME LOAN BANKS.—Section 304(b) of the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1453(b)) is amended by inserting "nonvoting" before "common".

(B) ALLOCATION OF SUBSCRIPTIONS.—Section 304(c) of the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1453(c)) is amended by striking "such" and by inserting "nonvoting common" before "stock".

(C) RETIREMENT OF STOCK.—Section 304(d) of the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1453(d)) is amended by inserting "nonvoting common" before "stock" each place it appears.

(e) LENDING ACTIVITIES.—Section 305(a) of the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1454(a)) is amended by adding at the end the following new paragraph:

"(5) The Corporation is authorized to lend on the security of, and to make commitments to lend on the security of, any mortgage that the Corporation is authorized to purchase under this section. The volume of the Corporation's lending activities and the establishment of its loan ratios, interest rates, maturities, and charges or fees in its secondary market operations under this paragraph, shall be determined by the Corporation from time to time; and such determinations shall be consistent with the objectives that the lending activities shall be conducted on such terms as will reasonably prevent excessive use of the Corporation's facilities, and that the operations of the Corporation under this paragraph shall be within its income derived from such operations and that such operations shall be fully self-supporting. The Corporation shall not be permitted to use its lending authority under this paragraph (A) to advance funds to a mortgage seller on an interim basis, using mortgage loans as collateral, pending the sale of the mortgages in the secondary market; or (B) to originate mort-

gage loans. Notwithstanding any Federal, State, or other law to the contrary, the Corporation is hereby empowered, in connection with any loan under this paragraph, whether before or after any default, to provide by contract with the borrower for the settlement or extinguishment, upon default, of any redemption, equitable, legal, or other right, title, or interest of the borrower in any mortgage or mortgages that constitute the security for the loan; and with respect to any such loan, in the event of default and pursuant otherwise to the terms of the contract, the mortgages that constitute such security shall become the absolute property of the Corporation.".

(f) REFERENCES TO FSLIC AND FHLBB.—Section 305 of the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1454) is amended—

(1) by striking "Federal Savings and Loan Insurance Corporation" each place it appears and inserting "Resolution Trust Corporation"; and

(2) in subsection (a)(2), by striking "Federal Home Loan Bank Board" and inserting "Federal Housing Finance Board".

(g) STANDBY CREDIT.—Section 306(c) of the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1455(c)) is amended to read as follows:

"(c)(1) The Secretary of the Treasury may purchase any obligations issued under subsection (a). For such purpose, the Secretary may use as a public debt transaction the proceeds of the sale of any securities issued under chapter 31 of title 31, United States Code, and the purposes for which securities may be issued under such chapter are extended to include such purpose.

"(2) The Secretary of Treasury shall not at any time purchase any obligations under this subsection if the purchase would increase the aggregate principal amount of the outstanding holdings of obligations under this subsection by the Secretary to an amount greater than $2,250,000,000, and such purchases may be made only to such extent or in such amounts as are approved in appropriation Acts.

"(3) Each purchase of obligations by the Secretary of the Treasury under this subsection shall be upon terms and conditions established to yield a rate of return determined by the Secretary to be appropriate, taking into consideration the current average rate on outstanding marketable obligations of the United States as of the last day of the month preceding the making of the purchase.

"(4) The Secretary of the Treasury may at any time sell, upon terms and conditions and at prices determined by the Secretary, any of the obligations acquired by the Secretary under this subsection.

"(5) All redemptions, purchases and sales by the Secretary of the Treasury of obligations under this subsection shall be treated as public debt transactions of the United States.".

(h) TERMS OF OBLIGATIONS.—Section 306 of the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1455) is amended by adding at the end the following new subsections:

"(j)(1) Any notes, debentures, or substantially identical types of unsecured obligations of the Corporation evidencing money borrowed, whether general or subordinated, shall be issued upon the approval of the Secretary of the Treasury and shall have such maturities and bear such rate or rates of interest as may be determined by the Corporation with the approval of the Secretary of the Treasury.

"(2) Any notes, debentures, of substantially identical types of unsecured obligations of the Corporation having maturities of 1 year or less that the Corporation has issued or is issuing as of the date of the enactment of the Financial Institutions Reform, Recovery and Enforcement Act of 1989 shall be deemed to have been approved by the Secretary of the Treasury as required by this subsection. Such deemed approval shall expire 365 days after such date of enactment.

"(3) Any notes, debentures, or substantially identical types of unsecured obligations of the Corporation having maturities of more than 1 year that the Corporation has issued or is issuing as of the date of the enactment of the Financial Institutions Reform, Recovery and Enforcement Act of 1989 shall be deemed to have been approved by the Secretary of the Treasury as required by this subsection. Such deemed approval shall expire 60 days after such date of enactment.

"(k)(1) Any securities in the form of debt obligations or trust certificates of beneficial interest, or both, and based upon mortgages held and set aside by the Corporation, shall be issued upon the approval of the Secretary of the Treasury and shall have such maturities and shall bear such rate or rates of interest as may be determined by the Corporation with the approval of the Secretary of the Treasury.

"(2) Any securities in the form of debt obligations or trust certificates of beneficial interest, or both, and based upon mortgages held and set aside by the Corporation, that the Corporation has issued or is issuing as of the date of the enactment of the Financial Institutions Reform, Recovery and Enforcement Act of 1989 shall be deemed to have been approved by the Secretary of the Treasury as required by this subsection.".

(i) CONFORMING AMENDMENTS TO FEDERAL NATIONAL MORTGAGE ASSOCIATION CHARTER ACT.—

(1) STATEMENT OF PURPOSE.—Section 301 of the Federal National Mortgage Association Charter Act (12 U.S.C. 1716) is amended—

(A) by striking paragraphs (a) and (b) and inserting the following new paragraphs:

"(1) provide stability in the secondary market for home mortgages;

"(2) respond appropriately to the private capital market;

"(3) provide ongoing assistance to the secondary market for home mortgages (including mortgages securing housing for low- and moderate-income families involving a reasonable economic return) by increasing the liquidity of mortgage investments and improving the distribution of investment capital available for home mortgage financing; and"; and

(B) by redesignating paragraph (c) as paragraph (4).

(2) LENDING ACTIVITIES.—Section 304(a)(2) of the Federal National Mortgage Association Charter Act (12 U.S.C. 1719(a)(2)) is amended—

(A) by inserting after the 3d sentence the following new sentence: "The corporation shall not be permitted to use its lending authority (A) to advance funds to a mortgage seller on an interim basis, using mortgage loans as collateral, pending the sale of the mortgages in the secondary market; or (B) to originate mortgage loans."; and

(B) by striking the 1st and 2d sentences.

(3) AUDITS BY GAO.—Section 309 of the Federal National Mortgage Association Charter Act (12 U.S.C. 1723a) is amended by adding at the end the following new subsection:

"(j) The financial transactions of the corporation shall be subject to audit by the Comptroller General of the United States in accordance with the principles and procedures applicable to commercial corporation transactions under such rules and regulations as may be prescribed by the Comptroller General. The representatives of the General Accounting Office shall have access to all books, accounts, financial records, reports, files, and all other papers, things, or property belonging to or in use by the corporation and necessary to facilitate the audit, and they shall be afforded full facilities for verifying transactions with the balances or securities held by depositories, fiscal agents, and custodians. A report on each such audit shall be made by the Comptroller General to the Congress. The corporation shall reimburse the General Accounting Office for the full cost of any such audit as billed therefor by the Comptroller General.".

SEC. 722. REPEAL OF LIMITATION OF OBLIGATION FOR ADMINISTRATIVE EXPENSES.

Section 7(b) of the First Deficiency Appropriation Act of 1936 (15 U.S.C. 712a(b)) is amended by striking out "1. Federal Home Loan Bank Board;", "2. Home Owners' Loan Corporation;", and "11. Federal Savings and Loan Insurance Corporation;".

SEC. 723. AMENDMENT OF TITLE 5, UNITED STATES CODE.

(a) Section 5314 of title 5, United States Code (5 U.S.C. 5315) is amended by adding at the end thereof "Chairperson, Federal Housing Finance Board".

(b) Section 5315 of title 5, United States Code (5 U.S.C. 5315) is amended by striking out "Members, Federal Home Loan Bank Board" and inserting in lieu thereof "Members, Federal Housing Finance Board".

SEC. 724. AMENDMENT OF BALANCED BUDGET AND EMERGENCY DEFICIT CONTROL ACT PROVISIONS.

(a) Section 255(g)(1)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 905(g)(1)(A)) is amended—

(1) by inserting after the item relating to the Comptroller of the Currency the following new item:

"Director of the Office of Thrift Supervision;";

(2) by striking out "Federal Home Loan Bank Board;" and inserting in lieu thereof the following new items:

"Federal Deposit Insurance Corporation, Bank Insurance Fund;

"Federal Deposit Insurance Corporation, FSLIC Resolution Fund;

"Federal Deposit Insurance Corporation, Savings Association Insurance Fund;";

(3) by striking out "Federal Home Loan Bank Board, Federal Savings and Loan Insurance Corporation"and inserting in lieu thereof "Federal Housing Finance Board"; and

(4) by inserting after the item relating to the Postal service fund the following new items:

"Resolution Funding Corporation;

"Resolution Trust Corporation;".

(b) Section 256(b)(4) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 256(b)(4)) is amended—

(1) by striking out subparagraphs (C) and (D), by redesignating subparagraph (B) as subparagraph (C), and by inserting after subparagraph (A) the following new subparagraph:

"(B) Director of the Office of Thrift Supervision.";

(2) by inserting after subparagraph (C) (as redesignated by paragraph (1) of this subsection) the following new subparagraph:

"(D) Federal Housing Finance Board."; and

(3) by adding at the end thereof the following new subparagraphs:

"(H) Resolution Funding Corporation.

"(I) Resolution Trust Corporation.".

SEC. 725. STUDY REGARDING CAPITAL REQUIREMENTS FOR GOVERNMENT-SPONSORED ENTERPRISES.

(a) IN GENERAL.—The Comptroller General of the United States, in consultation with and with the cooperation of the government-sponsored enterprises, shall conduct a study of the risks undertaken by and the appropriate level of capital consistent with—

(1) the financial soundness and stability of the government-sponsored enterprises; and

(2) minimizing any potential financial exposure of the Federal Government.

(b) SPECIFIC REQUIREMENTS.—The study shall examine and evaluate—

(1) the types of risks that are undertaken by the government-sponsored enterprises in the course of their operations;

(2) the appropriateness of applying a risk-based capital standard, which includes at a minimum both an interest rate risk component and a credit risk component, to each of the government-sponsored enterprises, taking into account the nature of the business each government-sponsored enterprise conducts;

(3) the costs and benefits to the public from application of a risk-based capital standard to the government-sponsored enterprises and the impact of such a standard on the capability of each government-sponsored enterprise to carry out its statutory mission; and

(4) the categories of risks and the overall level of capital appropriate for the government-sponsored enterprises.

(c) REPORT TO CONGRESS.—The Comptroller General of the United States shall, not later than May 1, 1990, submit to the Congress a report setting forth—

(1) the results of the study conducted under this section; and

(2) any recommendations of the Comptroller General with respect to appropriate capital standards for each government-sponsored enterprise.

(d) DEFINITION.—For purposes of this section, the term "government-sponsored enterprises" means the Federal Home Loan Mortgage Corporation, the Federal National Mortgage Association, the Federal Farm Credit System, the Federal Agricultural Mortgage Corporation, the College Construction Loan Insurance Corporation, the Student Loan Marketing Association, the Resolution Trust Corporation, and the Resolution Funding Corporation.

TITLE VIII—BANK CONSERVATION ACT AMENDMENTS

SEC. 801. DEFINITIONS.

Section 202 of the Bank Conservation Act (12 U.S.C. 202) is amended by inserting "or any other financial institution chartered under Federal law and subject to the supervision of the Comptroller of the Currency" after "national banking association".

SEC. 802. APPOINTMENT OF CONSERVATOR.

Section 203 of the Bank Conservation Act (12 U.S.C. 203) is amended to read as follows:

"SEC. 203. APPOINTMENT OF CONSERVATOR.

"(a) APPOINTMENT.—The Comptroller of the Currency may, without notice, appoint a conservator which may be the Federal Deposit Insurance Corporation, to take possession and control of a bank whenever the Comptroller determines that one or more of the following circumstances exists—

"(1) the conditions for appointment of a receiver for the bank are present;

"(2) the bank is in danger of closing, such that the bank is not likely to be able to meet the demands of its depositors, or pay its obligations in the normal course of business, or the bank has incurred or is likely to incur losses that will deplete all or substantially all of its capital;

"(3) a violation or violations of laws, rules or regulations or any unsafe or unsound practice or condition which is likely to cause insolvency or substantial dissipation of assets or earnings, or is likely to weaken the condition of the bank or otherwise seriously prejudice the interests of its depositors;

"(4) the bank is in an unsafe and unsound condition to transact business;

"(5) the bank's board of directors consists of less than 5 members;

"(6) a willful or continuing violation of an order enforceable under subsections (i) and (j) of section 8 of the Federal Deposit Insurance Act;

"(7) concealment of books, papers, records, or assets of the bank or refusal to submit books, papers, records, or affairs of the bank for inspection to any examiner or to any lawful agent of the Comptroller; or

"(8) such other circumstances which, in the Comptroller's opinion, warrant appointment of a conservator for the benefit of depositors and other creditors.

"(b) JUDICIAL REVIEW.—

"(1) Not later than 10 days after the initial appointment of a conservator pursuant to this section, the bank may bring an action in the United States District Court for the judicial district in which the home office of such bank is located, or in the United States District Court for the District of Columbia, for an order requiring the Comptroller to terminate the appointment of a conservator, and the court, upon the merits, shall dismiss such action or shall direct the Comptroller to terminate the appointment of such conservator. The Comptroller's decision to appoint a conservator pursuant to this provision shall be set aside only if the court shall find that such decision was arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law.

"(2) Upon the commencement of such an action, the court having jurisdiction of any other action or proceeding to which the bank, or the conservator thereof, is a party shall stay such action or proceeding during the pendency of the action for removal of the conservator.

"(3) Except as provided in this subsection, no court shall have jurisdiction to affect by injunction or otherwise the appointment of a conservator, or to review, modify, suspend, terminate or set aside any order or action taken pursuant to such conservatorship, except that a court, upon application by the Comptroller, shall enforce an order of the Comptroller relating to the conservatorship and the bank in conservatorship or restraining or affecting the exercise of powers of functions of a conservator.

"(c) ADDITIONAL GROUNDS FOR APPOINTMENT.—In addition to the foregoing provisions, the Comptroller may appoint a conservator for a bank in the event that—

"(1) the bank, by an affirmative vote of a majority of its board of directors or by an affirmative vote of a majority of its shareholders, consents to such appointment; or

"(2) in lieu of the provisions of section 8(o) of the Federal Deposit Insurance Act, the bank's status as an insured bank is terminated by the Federal Deposit Insurance Corporation.

The appointment of a conservator pursuant to this subsection shall not be subject to review.

"(d) EXCLUSIVE AUTHORITY.—The Comptroller shall have exclusive power and jurisdiction to appoint a conservator for a bank. Whenever the Comptroller appoints a conservator for any bank, the Comptroller may appoint the Federal Deposit Insurance Corporation conservator for such bank. The Federal Deposit Insurance Corporation, as such conservator, shall have all the powers granted under the Federal Deposit Insurance Act, and (when not inconsistent therewith) any other rights, powers, and privileges possessed by conservators or receivers of banks under this Act and any other provisions of law. The Comptroller may also appoint another person as conservator, who shall be subject to the provisions of this Act.

"(e) The Comptroller may, without notice or hearing, replace a conservator with another conservator. Such replacement shall not affect the bank's right under subsection (b) to obtain judicial review of the Comptroller's original decision to appoint a conservator.".

SEC. 803. EXAMINATIONS.

Section 204 of the Bank Conservation Act (12 U.S.C. 204) is amended to read as follows:

"SEC. 204. EXAMINATIONS.

"The Comptroller of the Currency, in consultation with the Board of Directors of the Federal Deposit Insurance Corporation when the Corporation is appointed conservator, is authorized to examine and supervise the bank in conservatorship as long as the bank continues operations as an ongoing national bank. The Comptroller may use reports and other information provided by the Federal Deposit Insurance Corporation for this purpose.".

SEC. 804. TERMINATION OF CONSERVATORSHIP.

Section 205 of the Bank Conservation Act (12 U.S.C. 205) is amended to read as follows:

"SEC. 205. TERMINATION OF CONSERVATORSHIP.

"(a) Any time the Comptroller becomes satisfied that it may safely be done and that it would be in the public interest, the Comptroller, with the agreement of the Board of Directors of the Federal Deposit Insurance Corporation when the Corporation is appointed conservator, may—

"(1) terminate the conservatorship and permit the involved bank to resume the transaction of its business subject to such terms, conditions and limitations as the Comptroller may prescribe; or

"(2) terminate the conservatorship upon a sale, merger, consolidation, purchase and assumption, change in control, or voluntary liquidation of the involved bank.

"(b) The Comptroller also may terminate the conservatorship upon a declaration that the bank is insolvent and upon the appointment of a receiver pursuant to section 1 of the Act entitled 'An Act authorizing the appointment of receivers of national banks, and for other purposes.' and approved June 30, 1876.

"(c) Such terms, conditions and limitations as prescribed by subsection (a)(1) of this section shall be enforceable under the provisions of subsections (i) and (j) of sec-

tion 8 of the Federal Deposit Insurance Act to the same extent as an effective and outstanding order issued pursuant to section 8(b) of such Act that has become final, except that the bank may bring an action in the United States district court for the judicial district in which the home office of such bank is located or in the United States District Court for the District of Columbia for an order requiring the Comptroller to terminate the order. An action for judicial review of the terms, conditions and limitations may not be commenced later than 30 days after the date of the termination of the conservatorship or the imposition of the order, whichever is later.

"(d) Upon termination of the conservatorship under subsection (a)(2)—

"(1) when the Federal Deposit Insurance Corporation is appointed conservator, the Federal Deposit Insurance Corporation, as conservator, shall proceed to wind up the affairs of the conservatorship; or

"(2) when another person is appointed conservator, the conservator shall proceed to wind up the affairs of the conservatorship as follows:

"(A) Within 180 days after the sale, merger, consolidation, purchase and assumption, or voluntary liquidation, the conservator shall deposit all net proceeds received from the transaction, less any expenses of the conservatorship that are outstanding, with the United States district court for the judicial district in which the home office of such bank is located and shall cause notice to be published for 3 consecutive months and notify by mail all known creditors and shareholders. Within 60 days thereafter, any depositor, creditor, or other claimant of the bank, or any shareholder of the bank may bring an action in interpleader in that court for distribution of the proceeds. The district court shall disseminate such funds in an equitable manner. If no such action is instituted within 1 year after the date the funds were deposited with the district court, title to such net proceeds shall revert to the United States and the district court shall remit the funds to the Treasury of the United States.

"(B) The conservator shall be deemed to have discharged all responsibility of the conservatorship upon the deposit of the proceeds with the District Court and fulfillment of the required notifications.".

SEC. 805. CONSERVATOR; POWERS AND DUTIES.

Section 206 of the Bank Conservation Act (12 U.S.C. 206) is amended to read as follows:

"SEC. 206. CONSERVATOR; POWERS AND DUTIES.

"(a) A conservator shall have all the powers of the shareholders, directors, and officers of the bank and shall be authorized to operate the bank in its own name unless the Comptroller in the order of appointment limits the authority of the conservator.

"(b) The conservator shall be subject to such rules, regulations, and orders as the Comptroller from time to time deems appropriate; and, except as otherwise specifically provided in such rules, regulations, or orders, shall be vested with or subject to the same rights, privileges, duties, restrictions, penalties, conditions, and limitations that apply to directors, officers, or employees of a national bank, except as otherwise provided in section 209.

"(c) The Comptroller may require the conservator to set aside and make available for withdrawal by depositors and payment to other creditors such amounts as in the opinion of the Comptroller may safely be used for this purpose, except that all depositors and creditors who are similarly situated shall be treated in the same manner.

"(d) The conservator and professional employees appointed to represent or assist the conservator shall be paid amounts no greater than are payable for employees of the Federal Government for similar services, except that the Comptroller of the Currency may authorize payment at higher rates, not to exceed rates prevalent in the private sector, if the Comptroller determines that payment of such higher rates is necessary in order to recruit and retain competent personnel.

"(e) All expenses of any such conservatorship shall be paid by the bank and shall be a lien upon the bank which shall be prior to any other lien.".

SEC. 806. LIABILITY PROTECTION.

Section 209 of the Bank Conservation Act (12 U.S.C. 209) is amended to read as follows:

"SEC. 209. LIABILITY PROTECTION.

"(a) The conservator shall not be held liable for damages in tort or otherwise for acts or omissions of acts performed pursuant to and in the course of the duties and responsibilities of the conservatorship unless such acts or omissions of acts are grossly negligent, as determined by a court.

"(b) The Comptroller shall have authority to indemnify the conservator on such terms as the Comptroller deems proper.".

SEC. 807. RULES AND REGULATIONS.

Section 211 of the Bank Conservation Act (12 U.S.C. 211) is amended to read as follows:

"SEC. 211. RULES AND REGULATIONS.

"The Comptroller of the Currency may prescribe such regulations as the Comptroller may deem necessary to carry out the provisions of this Act.".

SEC. 808. REPEALS.

Sections 207 and 208 of the Bank Conservation Act (12 U.S.C. 207 and 208) are hereby repealed.

SEC. 809. CONFORMING AMENDMENT.

Section 5373(2) of title 5, United States Code (as amended by section 326(b) of this Act) is amended by inserting ", section 203 of the Bank Conservation Act" after "title 12,".

TITLE IX—REGULATORY ENFORCEMENT AUTHORITY AND CRIMINAL ENHANCEMENTS

SEC. 900. SHORT TITLE.

This title may be cited as the "Enhanced Enforcement Powers Act of 1989".

Subtitle A—Expanded Enforcement Powers, Increased Penalties, and Improved Accountability

SEC. 901. EMPLOYEES, AGENTS, AND SHAREHOLDERS OF A FINANCIAL INSTITUTION SUBJECT TO ADMINISTRATIVE ENFORCEMENT ORDERS; SUBSTITUTION OF "FINANCIAL INSTITUTION" FOR "BANK" IN ENFORCEMENT PROVISIONS.

(a) PERSON PARTICIPATING IN THE CONDUCT OF THE AFFAIRS OF AN INSURED FINANCIAL INSTITUTION DEFINED.—Section 8 of the Federal Deposit Insurance Act (12 U.S.C. 1818) is amended by adding after the subsection added by section 209 of this Act the following new subsection:

"(u) PERSON PARTICIPATING IN THE CONDUCT OF THE AFFAIRS OF AN INSURED FINANCIAL INSTITUTION DEFINED.—For purposes of this Act, the term 'person participating in the conduct of the affairs of an insured financial institution' may include—

"(1) any employee, agent, consultant, or stockholder of or for an insured financial institution (or any company treated as an insured financial institution under paragraph (3) or (8) of subsection (b) for purposes of this section),

"(2) any person who has filed or is required to file a change-in-control notice with the appropriate Federal banking agency, and

"(3) any accountant, appraiser, attorney, or joint venture partner, who is not an officer, director, employee, agent, consultant, or stockholder of such institution, or such other persons as the appropriate Federal banking agency may prescribe by regulation, of or for an insured financial institution (or any company treated as an insured financial institution under paragraph (3) or (8) of subsection (b) for purposes of this section) who knowingly or with reckless disregard participates in—

"(A) any violation of any law or regulation;

"(B) any breach of fiduciary duty; or

"(C) any unsafe or unsound practice,

which caused or is likely to cause a loss or other adverse effect.".

(b) PERSON PARTICIPATING IN THE CONDUCT OF THE AFFAIRS OF AN INSURED CREDIT UNION DEFINED.—Section 206 of the Federal Credit Union Act (12 U.S.C. 1786) is amended by adding at the end thereof the following new subsection:

"(r) PERSON PARTICIPATING IN THE CONDUCT OF THE AFFAIRS OF AN INSURED CREDIT UNION DEFINED.—For purposes of this Act, the term 'person participating in the conduct of the affairs of an insured credit union' may include—

"(1) any committee member, employee, consultant, or agent, of or for an insured credit union; and

"(2) any accountant, appraiser, attorney, or joint venture partner, who is not an officer, director, employee, agent, consultant, or committee member of such credit union, or such other persons as the Board may prescribe by regulations, of or for an insured credit union who knowingly or with reckless disregard participates in—

"(A) any violation of any law or regulation;

"(B) any breach of fiduciary duty; or

"(C) any unsafe or unsound practice,

which caused or is likely to cause a loss or other adverse effect.".

(c) SUBSTITUTION OF "FINANCIAL INSTITUTION" FOR "BANK".—Section 8 of the Federal Deposit Insurance Act (12 U.S.C. 1818) is amended by striking out "bank" and "banks" each place such terms appear and inserting in lieu thereof "financial institution" and "financial institutions", respectively, except in subsections (b)(3), (m), (o), (q), and (r).

SEC. 902. AMENDMENTS TO CEASE AND DESIST AUTHORITY WITH RESPECT TO RESTITUTION, RESTRICTIONS ON SPECIFIC ACTIVITIES, GROUNDS FOR ISSUANCE OF A TEMPORARY ORDER, AND INCOMPLETE OR INACCURATE RECORDS.

(a) FINANCIAL INSTITUTIONS INSURED BY THE FDIC.—

(1) CEASE AND DESIST AUTHORITY.—Section 8(b) of the Federal Deposit Insurance Act (12 U.S.C. 1818(b)) is amended—

(A) in paragraph (3), by striking out "subsections (c) through (f) and (h) through (n)" and inserting in lieu thereof "subsections (c) through (n)"; and

(B) by adding at the end thereof the following new paragraphs:

"(6) AFFIRMATIVE ACTION TO CORRECT CONDITIONS RESULTING FROM VIOLATIONS OR PRAC-

TICES.—The authority to issue an order under this subsection and subsection (c) which requires an insured financial institution, or any director, officer, or other person participating in the conduct of the affairs of an insured financial institution, to take affirmative action to correct any conditions resulting from any violation or practice with respect to which such order is issued includes the authority to require such financial institution, director, officer, or other person to—

"(A) make restitution or provide reimbursement, indemnification, or guarantee against loss if—

"(i) such financial institution, director, officer, or other person was unjustly enriched in connection with such violation or practice; or

"(ii) the violation or practice involved a reckless disregard for the law or any applicable regulations or prior order of the appropriate Federal banking agency;

"(B) restrict the growth of the institution;

"(C) dispose of any loan or asset involved;

"(D) rescind agreements or contracts; and

"(E) employ qualified officers or employees (who may be subject to approval by the appropriate Federal banking agency at the direction of such agency); and

"(F) take such other action as the banking agency determines to be appropriate.

"(7) AUTHORITY TO LIMIT ACTIVITIES.—The authority to issue an order under this subsection or subsection (c) includes the authority to place limitations on the activities or functions of an insured financial institution, or any director, officer, or other person participating in the conduct of the affairs of an insured financial institution.

"(8) EXPANSION OF AUTHORITY TO SAVINGS AND LOAN AFFILIATES AND ENTITIES.—This subsection and subsections (c) through (n) shall apply to any savings and loan holding company and to any subsidiary (other than a bank or subsidiary of that bank) of a savings and loan holding company, to any service corporation of a savings association and to any subsidiary of such service corporation, whether wholly or partly owned, in the same manner as they apply to a savings association.".

(2) INCOMPLETE OR INACCURATE RECORDS.—Section 8(c) of the Federal Deposit Insurance Act (12 U.S.C. 1818(c)) is amended—

(A) in paragraph (1), by striking out "substantial" and inserting in lieu thereof "significant"; and

(B) by adding at the end thereof the following new paragraph:

"(3) INCOMPLETE OR INACCURATE RECORDS.—

"(A) TEMPORARY ORDER.—If a notice of charges served under subsection (b)(1) specifies, on the basis of particular facts and circumstances, that an insured financial institution's books and records are so incomplete or inaccurate that the appropriate Federal banking agency is unable, through the normal supervisory process, to determine the financial condition of that financial institution or the details or purpose of any transaction or transactions that may have a material effect on the financial condition of that financial institution, the agency may issue a temporary order requiring—

"(i) the cessation of any activity or practice which gave rise, whether in whole or in part, to the incomplete or inaccurate state of the books or record; or

"(ii) affirmative action to restore such books or records to a complete and accurate state, until the completion of the proceedings under subsection (b)(1).

"(B) EFFECTIVE PERIOD.—Any temporary order issued under subparagraph (A)—

"(i) shall become effective upon service; and

"(ii) unless set aside, limited, or suspended by a court in proceedings under paragraph (2), shall remain in effect and enforceable until the earlier of—

"(I) the completion of the proceeding initiated under subsection (b)(1) in connection with the notice of charges; or

"(II) the date the appropriate Federal banking agency determines, by examination or otherwise, that the insured financial institution's books and records are accurate and capable of reflecting the financial condition of the financial institution.".

(b) CREDIT UNIONS INSURED BY THE NCUA.—

(1) CEASE AND DESIST AUTHORITY.—Section 206(e) of the Federal Credit Union Act (12 U.S.C. 1786(e)) is amended by adding at the end thereof the following new paragraphs:

"(3) AFFIRMATIVE ACTION TO CORRECT CONDITIONS RESULTING FROM VIOLATIONS OR PRACTICES.—The authority to issue an order under this subsection and subsection (f) which requires an insured credit union, or any director, officer, or other person participating in the conduct of the affairs of an insured credit union, to take affirmative action to correct any conditions resulting from any violation or practice with respect to which such order is issued includes the authority to require such insured credit union, director, officer, or other person to—

"(A) make restitution or provide reimbursement, indemnification, or guarantee against loss if—

"(i) such credit union, director, officer, or other person was unjustly enriched in connection with such violation or practice; or

"(ii) the violation or practice involved a reckless disregard for the law or any applicable regulations or prior order of the Board;

"(B) restrict the growth of the institution;

"(C) rescind agreements or contracts;

"(D) dispose of any loan or asset involved; and

"(E) employ qualified officers or employees (who may be subject to approval by the Board at the direction of such Board); and

"(F) take such other action as the Board determines to be appropriate.

"(4) AUTHORITY TO LIMIT ACTIVITIES.—The authority to issue an order under this subsection or subsection (f) includes the authority to place limitations on the activities or functions of an insured credit union, or any director, officer, or other person participating in the conduct of the affairs of an insured credit union.".

(2) INCOMPLETE OR INACCURATE RECORDS.—Section 206(f) of the Federal Credit Union Act (12 U.S.C. 1786(f)) is amended—

(A) by redesignating paragraph (3) as paragraph (4);

(B) in paragraph (1), by striking out "substantial" and inserting in lieu thereof "significant"; and

(C) by inserting after paragraph (2) the following new paragraph:

"(3) INCOMPLETE OR INACCURATE RECORDS.—

"(A) TEMPORARY ORDER.—If a notice of charges served under subsection (e)(1) specifies, on the basis of particular facts and circumstances, that an insured credit union's books and records are so incomplete or inaccurate that the Board is unable, through the normal supervisory process, to determine the financial condition of that insured credit union or the details or purpose of any transaction or transactions that may have a material effect on the financial condition of that insured credit union, the Board may issue a temporary order requiring—

"(i) the cessation of any activity or practice which gave rise, whether in whole or in part, to the incomplete or inaccurate state of the books or record; or

"(ii) affirmative action to restore such books or records to a complete and accurate state, until the completion of the proceedings under subsection (e)(1).

"(B) EFFECTIVE PERIOD.—Any temporary order issued under subparagraph (A)—

"(i) shall become effective upon service; and

"(ii) unless set aside, limited, or suspended by a court in proceedings under paragraph (2), shall remain in effect and enforceable until the earlier of—

"(I) the completion of the proceeding initiated under subsection (e)(1) in connection with the notice of charges; or

"(II) the date the Board determines, by examination or otherwise, that the insured credit union's books and records are accurate and capable of reflecting the financial condition of the credit union.".

SEC. 903. MERGER OF REMOVAL AND PROHIBITION AUTHORITY.

(a) FINANCIAL INSTITUTIONS INSURED BY THE FDIC.—

(1) IN GENERAL.—Section 8(e)(1) of the Federal Deposit Insurance Act (12 U.S.C. 1818(e)(1)) is amended to read as follows:

"(1) AUTHORITY TO ISSUE ORDER.—Whenever the appropriate Federal banking agency determines that—

"(A) any director, officer, or other person participating in the conduct of the affairs of an insured financial institution has, directly or indirectly—

"(i) violated—

"(I) any law or regulation;

"(II) any cease-and-desist order which has become final;

"(III) any condition imposed in writing by the appropriate Federal banking agency in connection with the grant of any application or other request by such financial institution; or

"(IV) any written agreement between such financial institution and such agency;

"(ii) engaged or participated in any unsafe or unsound practice in connection with any insured financial institution or business institution; or

"(iii) committed or engaged in any act, omission, or practice which constitutes a breach of such person's fiduciary duty;

"(B) by reason of the violation, practice, or breach described in any clause of subparagraph (A)—

"(i) such insured financial institution or business institution has suffered or will probably suffer financial loss or other damage;

"(ii) the interests of the insured financial institution's depositors have been or could be prejudiced; or

"(iii) such director, officer, or other person has received financial gain or other benefit by reason of such violation, practice, or breach; and

"(C) such violation, practice, or breach—

"(i) involves personal dishonesty on the part of such director, officer, or other person; or

"(ii) demonstrates willful or continuing disregard by such director, officer, or other person for the safety or soundness of such insured financial institution or business institution,

the agency may serve upon such director, officer, or other person a written notice of the agency's intention to remove such person from office or to prohibit any fur-

ther participation, by such person, in any manner in the conduct of the affairs of any insured financial institution.".

(2) TEMPORARY SUSPENSION OR PROHIBITION.—Section 8(e) of the Federal Deposit Insurance Act (12 U.S.C. 1818(e)) is amended by striking out paragraphs (2) and (4), by redesignating paragraphs (3), (5), and (6) as paragraphs (2), (4), and (5), respectively, and by inserting after paragraph (2) (as so redesignated) the following new paragraph:

"(3) TEMPORARY ORDER.—

"(A) SUSPENSION OR PROHIBITION AUTHORIZED.—If the appropriate Federal banking agency serves written notice under paragraph (1) or (2) to any director, officer, or other person participating in the conduct of the affairs of an insured financial institution of such agency's intention to issue a temporary order under such paragraph, the appropriate Federal banking agency may suspend such director, officer, or other person from office or prohibit such person from further participation in any manner in the conduct of the affairs of the financial institution, if the agency—

"(i) determines that such action is necessary for the protection of the financial institution or the interests of the financial institution's depositors; and

"(ii) serves such person with written notice of the order.

"(B) EFFECTIVE PERIOD.—Any temporary order issued under subparagraph (A)—

"(i) shall become effective upon service; and

"(ii) unless a court issues a stay of such order under subsection (f), shall remain in effect and enforceable until—

"(I) the date the appropriate Federal banking agency dismisses the charges contained in the notice served under paragraph (1) or (2) with respect to such person; or

"(II) the effective date of an order issued by the agency to such person under paragraph (1) or (2).

"(C) COPY OF ORDER.—If an appropriate Federal banking agency issues a temporary order under subparagraph (A) to any director, officer, or other person participating in the conduct of the affairs of an insured financial institution, the agency shall serve a copy of such order on any insured financial institution with which such director, officer, or other person is associated at the time such order is issued.".

(3) PROHIBITION OF CERTAIN SPECIFIC ACTIVITIES REQUIRED.—Section 8(e) of the Federal Deposit Insurance Act (12 U.S.C. 1818(e)) is amended by adding after paragraph (5) (as so redesignated by paragraph (2) of this subsection) the following new paragraph:

"(6) PROHIBITION OF CERTAIN SPECIFIC ACTIVITIES REQUIRED.—Any order issued under this subsection shall specifically prohibit the person to whom such order is issued from engaging in an activity described in any paragraph of subsection (j).".

(4) CONFORMING AMENDMENTS.—

(A) Section 8(f) of the Federal Deposit Insurance Act (12 U.S.C. 1818(f)) is amended—

(i) by striking out "(e)(4)" and inserting in lieu thereof "(e)(3)"; and

(ii) by striking out "(e)(1), (e)(2), or (e)(3)" and inserting in lieu thereof "(e)(1) or (e)(2)".

(B) Section 8(g)(1) of the Federal Deposit Insurance Act (12 U.S.C. 1818(g)(1)) is amended by striking out "(1), (2), (3), or (4)" and inserting in lieu thereof "(1), (2), or (3)".

(b) CREDIT UNIONS INSURED BY THE NCUA.—

(1) IN GENERAL.—Section 206(g)(1) of the Federal Credit Union Act (12 U.S.C. 1786(g)(1)) is amended to read as follows:

"(1) AUTHORITY TO ISSUE ORDER.—Whenever the Board determines that—

"(A) any director, officer, or other person participating in the conduct of the affairs of an insured credit union has, directly or indirectly—

"(i) violated—

"(I) any law or regulation;

"(II) any cease-and-desist order which has become final;

"(III) any condition imposed in writing by the Board in connection with the grant of any application or other request by such credit union; or

"(IV) any written agreement between such credit union and the Board;

"(ii) engaged or participated in any unsafe or unsound practice in connection with any insured credit union or business institution; or

"(iii) committed or engaged in any act, omission, or practice which constitutes a breach of such person's fiduciary duty;

"(B) by reason of the violation, practice, or breach described in any clause of subparagraph (A)—

"(i) such insured credit union or business institution has suffered or will probably suffer financial loss or other damage;

"(ii) the interests of the insured credit union's members have been or could be prejudiced; or

"(iii) such director, officer, or other person has received financial gain or others benefit by reason of such violation, practice or breach; and

"(C) such violation, practice, or breach—

"(i) involves personal dishonesty on the part of such director, officer, or other person; or

"(ii) demonstrates such individual's unfitness to serve as a director or officer of, or to otherwise participate in the conduct of the affairs of, an insured credit union, the Board may serve upon such director, officer, or other person a written notice of the Board's intention to remove such person from office or to prohibit any further participation, by such person, in any manner in the conduct of the affairs of any insured credit union.".

(2) TEMPORARY SUSPENSION OR PROHIBITION.—Section 206(g) of the Federal Credit Union Act (12 U.S.C. 1786(g)) is amended by striking out paragraphs (2) and (4), by redesignating paragraphs (3) and (5) as paragraphs (2) and (4), respectively, and by inserting after paragraph (2) (as so redesignated) the following new paragraph:

"(3) TEMPORARY ORDER.—

"(A) SUSPENSION OR PROHIBITION AUTHORIZED.—If the Board serves written notice under paragraph (1) or (2) to any director, officer, or other person participating in the conduct of the affairs of an insured credit union of the Board's intention to issue a temporary order under such paragraph, the Board may suspend such director, officer, or other person from office or prohibit such person from further participation in any manner in the conduct of the affairs of the institution, if the Board—

"(i) determines that such action is necessary for the protection of the credit union or the interests of the credit union's members; and

"(ii) serves such person with written notice of the order.

"(B) EFFECTIVE PERIOD.—Any temporary order issued under subparagraph (A)—

"(i) shall become effective upon service; and

"(ii) unless a court issues a stay of such order under paragraph (6), shall remain in effect and enforceable until—

"(I) the date the Board dismisses the charges contained in the notice served under paragraph (1) or (2) with respect to such person; or

"(II) the effective date of an order issued by the Board to such person under paragraph (1) or (2).

"(C) COPY OF ORDER.—If the Board issues a temporary order under subparagraph (A) to any director, officer, or other person participating in the conduct of the affairs of an insured credit union, the Board shall serve a copy of such order on any insured credit union with which such director, officer, or other person is associated at the time such order is issued.".

(3) PROHIBITION OF CERTAIN SPECIFIC ACTIVITIES REQUIRED.—Section 206(g) of the Federal Credit Union Act (12 U.S.C. 1786(g)) is amended by adding after paragraph (4) (as so redesignated by paragraph (2) of this subsection) the following new paragraph:

"(5) PROHIBITION OF CERTAIN SPECIFIC ACTIVITIES REQUIRED.—Any order issued under this subsection shall specifically prohibit the person to whom such order is issued from engaging in an activity described in any paragraph of subsection (l).".

(4) CONFORMING AMENDMENTS.—Section 206(g)(6) of the Federal Credit Union Act (12 U.S.C. 1786(g)(6)) is amended—

(A) by striking out "paragraph (4)" and inserting in lieu thereof "paragraph (3)"; and

(B) by striking out "(1), (2), or (3)" and inserting in lieu thereof "(1) or (2)".

(e) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to violations committed and activities engaged in after the date of the enactment of this Act.

SEC. 904. INDUSTRYWIDE APPLICATION OF REMOVAL, SUSPENSION, AND PROHIBITION ORDERS.

(a) FINANCIAL INSTITUTIONS INSURED BY THE FDIC.—Section 8(e) of the Federal Deposit Insurance Act (12 U.S.C. 1818(e)) is amended by inserting after the paragraph added by section 103(a)(3) of this Act the following new paragraph:

"(7) INDUSTRYWIDE PROHIBITION.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), no person who, pursuant to an order issued under this subsection or subsection (g), has been removed or suspended from office in an insured financial institution or prohibited from participating in the conduct of the affairs of an insured financial institution may, while such order is in effect, continue or commence to hold any office in, or participate in the conduct of the affairs of—

"(i) any insured financial institution;

"(ii) any institution treated as an insured bank under subsection (b)(3) or as a savings association under subsection (b)(8);

"(iii) any insured credit union under the Federal Credit Union Act;

"(iv) any institution chartered under the Farm Credit Act of 1971;

"(v) any appropriate Federal depository institution regulatory agency; and

"(vi) the Federal Housing Finance Board and any Federal home loan bank.

"(B) EXCEPTION IF AGENCY PROVIDES WRITTEN CONSENT.—If, on or after the date an order is issued under this subsection which removes or suspends from office any director, officer, or other person participating in the conduct of the affairs of an insured financial institution or prohibits such direc-

tor, officer, or other person from participating in the conduct of the affairs of an insured financial institution, such director, officer, or other person receives the written consent of the appropriate Federal depository institution regulatory agency of any institution described in any clause of subparagraph (A) to continue or commence to hold any office in, or participate in the conduct of the affairs of, such institution, subparagraph (A) shall cease to apply to such director, officer, or other person with respect to the institution described in the written consent as of the date such consent is received by the director, officer, or other person. When such consent has been granted, each agency (other than the Corporation) shall report such action to the Corporation and publicly disclose it.

"(C) VIOLATION OF PARAGRAPH TREATED AS VIOLATION OF ORDER.—Any violation of subparagraph (A) by any person who is subject to an order described in such subparagraph shall be treated as a violation of the order.

"(D) APPROPRIATE FEDERAL DEPOSITORY INSTITUTION REGULATORY AGENCY DEFINED.—For purposes of this paragraph and subsection (j), the term "appropriate Federal depository institution regulatory agency" means—

"(i) the appropriate Federal banking agency, in the case of an insured financial institution;

"(ii) the Farm Credit Administration, in the case of an institution chartered under the Farm Credit Act of 1971; and

"(iii) the National Credit Union Administration Board, in the case of an insured credit union (as defined in section 101(7) of the Federal Credit Union Act).

"(E) CONSULTATION WITH ISSUING AGENCY.—Before providing written consent under subparagraph (B) to any person with respect to whom an order described in such subparagraph was issued, the appropriate Federal banking agency shall consult with the appropriate Federal depository institution regulatory agency which issued the order (if other than such banking agency).".

(b) CREDIT UNIONS INSURED BY THE NCUA.—Section 206(g)(7) of the Federal Credit Union Act (12 U.S.C. 1786(g)(7)) is amended to read as follows:

"(7) INDUSTRYWIDE PROHIBITION.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), no person who, pursuant to an order issued under this subsection or subsection (i), has been removed or suspended from office in an insured credit union or prohibited from participating in the conduct of the affairs of an insured credit union may, while such order is in effect, continue or commence to hold any office in, or participate in the conduct of the affairs of—

"(i) any insured financial institution;

"(ii) any institution treated as an insured bank under subsection (b)(3) of the Federal Deposit Insurance Act or as a savings association under subsection (b)(8) of such Act;

"(iii) any insured credit union;

"(iv) any institution chartered under the Farm Credit Act of 1971;

"(v) any appropriate Federal depository institution regulatory agency; and

"(vi) the Federal Housing Finance Board and any Federal Home Loan bank.

"(B) EXCEPTION IF AGENCY PROVIDES WRITTEN CONSENT.—If, on or after the date an order is issued under paragraph (1), (2), or (3) which removes or suspends from office any director, officer, or other person participating in the conduct of the affairs of an insured credit union or prohibits such director, officer, or other person from participating in the conduct of the affairs of an insured credit union, such director, officer, or other person receives the written consent of the appropriate Federal depository institution regulatory agency of any institution described in any clause of subparagraph (A) to continue or commence to hold any office in, or participate in the conduct of the affairs of, such institution, subparagraph (A) shall cease to apply to such director, officer, or other person with respect to the institution described in the written consent as of the date such consent is received by the director, officer, or other person. When such consent has been granted, the agency shall report such action to the Board and publicly disclose it.

"(C) VIOLATION OF PARAGRAPH TREATED AS VIOLATION OF ORDER.—Any violation of subparagraph (A) by any person who is subject to an order described in such subparagraph shall be treated as a violation of the order.

"(D) APPROPRIATE FEDERAL DEPOSITORY INSTITUTION REGULATORY AGENCY DEFINED.—For purposes of this paragraph and subsection (l), the term "appropriate Federal depository institution regulatory agency" means—

"(i) the appropriate Federal banking agency, as provided in subsection (q) of section 3 (12 U.S.C. 1813);

"(ii) the Farm Credit Administration, in the case of an institution chartered under the Farm Credit Act of 1971; and

"(iii) the National Credit Union Administration Board, in the case of an insured credit union (as defined in section 101(7) of the Federal Credit Union Act).

"(E) CONSULTATION WITH ISSUING AGENCY.—Before providing written consent under subparagraph (B) to any person with respect to whom an order described in subparagraph (D)(i)(I) was issued, the Board shall consult with the appropriate Federal depository institution regulatory agency (if other than the Board).".

SEC. 905. ENFORCEMENT PROCEEDINGS ALLOWED AFTER SEPARATION FROM SERVICE.

(a) FINANCIAL INSTITUTIONS INSURED BY THE FDIC.—Section 8(i) of the Federal Deposit Insurance Act (12 U.S.C. 1818(i)) is amended by adding at the end thereof the following new paragraph:

"(3) NOTICE UNDER THIS SECTION AFTER SEPARATION FROM SERVICE.—The resignation, termination of employment or participation, or separation of an officer, director, or other person participating in the conduct of the affairs of an insured financial institution (including a separation caused by the closing of such institution) shall not affect the jurisdiction and authority of the appropriate Federal banking agency to issue any notice and proceed under this section or section 18(j) against any such person, if such notice is served before the end of the 5-year period beginning on the date such person ceased to hold such position or to participate in the conduct of the affairs of such financial institution.".

(b) CREDIT UNIONS INSURED BY THE NCUA.—Section 206(k) of the Federal Credit Union Act (12 U.S.C. 1786(k)) is amended by adding at the end thereof the following new paragraph:

"(3) NOTICE UNDER THIS SECTION AFTER SEPARATION FROM SERVICE.—The resignation, termination of employment or participation, or separation of an officer, director, committee member, or other person participating in the conduct of the affairs of an insured credit union (including a separation caused by the closing of such credit union) shall not affect the jurisdiction and authority of the Board to issue any notice and proceed under this section against any such person, if such notice is served before the end of the 5-year period beginning on the date such person ceased to hold such position or to participate in the conduct of the affairs of such credit union.".

(c) CHANGE IN CONTROL OF FINANCIAL INSTITUTION.—Section 7(j)(15) of the Federal Deposit Insurance Act (12 U.S.C. 1817(j)(15)) is amended by adding at the end thereof the following new sentence: "The resignation, termination of employment or participation, divestiture of control, or separation of or by an officer, director, employee, agent, shareholder, or other person participating in the conduct of the affairs of a financial institution (including a separation caused by the closing of such institution) shall not affect the jurisdiction and authority of the appropriate Federal banking agency to issue any notice and proceed under this section against any such person, if such notice is served before the end of the 5-year period beginning on the date such person ceased to hold such position or to participate in the conduct of the affairs of such bank.".

(d) NONMEMBER INSURED BANKS.—Section 18(j) of the Federal Deposit Insurance Act (12 U.S.C.1828(j)) is amended by adding at the end the following new paragraph:

"(6) NOTICE UNDER THIS SECTION AFTER SEPARATION FROM SERVICE.—The resignation, termination of employment or participation, or separation of an officer, director, employee, agent, or other person participating in the conduct of the affairs of a nonmember bank (including a separation caused by the closing of a nonmember bank) shall not affect the jurisdiction and authority of the Corporation to issue any notice and proceed under this section against any such person, if such notice is served before the end of the 5-year period beginning on the date such person ceased to hold such position or to participate in the conduct of the affairs of such bank.".

(e) NATIONAL BANKS.—Section 5239 of the Revised Statutes (12 U.S.C. 93) is amended by adding at the end thereof the following new subsection:

"(c) NOTICE UNDER THIS SECTION AFTER SEPARATION FROM SERVICE.—The resignation, termination of employment or participation, or separation of an officer, director, employee, agent, or other person participating in the conduct of the affairs of such an association (including a separation caused by the closing of an association) shall not affect the jurisdiction and authority of the Comptroller of the Currency to issue any notice and proceed under this section against any such person, if such notice is served before the end of the 5-year period beginning on the date such person ceased to hold such position or to participate in the conduct of the affairs of such association.".

(f) MEMBER BANKS.—Section 29 of the Federal Reserve Act (12 U.S.C. 504(a)), as amended by section 907(g) of this Act, is amended by adding at the end the following new subsection:

"(m) NOTICE UNDER THIS SECTION AFTER SEPARATION FROM SERVICE.—The resignation, termination of employment or participation, or separation of an officer, director, or other person participating in the conduct of the affairs of a member bank (including a separation caused by the closing of a member bank) shall not affect the jurisdiction and authority of the appropriate Federal banking agency to issue any notice and proceed under this section against any such person, if such notice is served before the

end of the 5-year period beginning on the date such person ceased to hold such position or to participate in the conduct of the affairs of such bank.".

(g) MEMBER BANKS.—Section 19 of the Federal Reserve Act (12 U.S.C. 505) is amended by adding at the end thereof the following new subsection:

"(m) NOTICE UNDER THIS SECTION AFTER SEPARATION FROM SERVICE.—The resignation, termination of employment or participation, or separation of an officer, director, employee, agent, or other person participating in the conduct of the affairs of a member bank shall not affect the jurisdiction and authority of the Board to issue any notice and proceed under this section against any such person, if such notice is served before the end of the 5-year period beginning on the date such person ceased to hold such position or to participate in the conduct of the affairs of such bank.".

(h) BANKS.—Section 106(b)(2) of the Bank Holding Company Act Amendments of 1970 (12 U.S.C. 1972(2)) is amended by adding at the end the following new subparagraph:

"(I) NOTICE UNDER THIS SECTION AFTER SEPARATION FROM SERVICE.—The resignation, termination of employment or participation, or separation of an officer, director, employee, agent, or other person participating in the conduct of the affairs of such a bank (including a separation caused by the closing of the bank) shall not affect the jurisdiction and authority of the appropriate Federal banking agency to issue any notice and proceed under this section against any such person, if such notice is served before the end of the 5-year period beginning on the date such person ceased to hold such position or to participate in the conduct of the affairs of such bank.".

(i) BANK HOLDING COMPANIES.—Section 8 of the Bank Holding Company Act of 1956 (12 U.S.C. 1847) is amended by adding at the end the following new subsection:

"(c) NOTICE UNDER THIS SECTION AFTER SEPARATION FROM SERVICE.—The resignation, termination of employment or participation, or separation of an officer, director, employee, agent, or other person participating in the conduct of the affairs of a bank holding company (including a separation caused by the closing of a bank holding company) shall not affect the jurisdiction and authority of the Board to issue any notice and proceed under this section against any such person, if such notice is served before the end of the 5-year period beginning on the date such person ceased to hold such position or to participate in the conduct of the affairs of such a holding company.".

(j) SAVINGS AND LOAN HOLDING COMPANIES.—Section 10(i) of the Home Owners' Loan Act of 1933 (as redesignated, transferred, and inserted in such Act by section 319 of this Act and subsequently redesignated by section 319(7) of this Act) (12 U.S.C. 1730a(j)) is amended by adding at the end thereof the following new paragraph:

"(5) NOTICE UNDER THIS SECTION AFTER SEPARATION FROM SERVICE.—The resignation, termination of employment or participation, or separation of an officer, director, employee, agent, or other person participating in the conduct of the affairs of a savings and loan holding company or subsidiary thereof (including a separation caused by the closing of such holding company or a subsidiary thereof) shall not affect the jurisdiction and authority of the Director to issue any notice and proceed under this section against any such person, if such notice is served before the end of the 5-year period beginning on the date such person ceased to hold such position or to participate in the conduct of the affairs of such a holding company or its subsidiary.".

SEC. 906. EXPANSION OF REMOVAL POWERS FOR STATE CRIMINAL PROCEEDINGS.

(a) FINANCIAL INSTITUTIONS INSURED BY THE FDIC.—Section 8(g)(1) of the Federal Deposit Insurance Act (12 U.S.C. 1818(g)(1)) is amended—

(1) in the 1st sentence, by striking "authorized by a United States attorney"; and

(2) in the 4th sentence, by striking "with respect to such crime" and inserting in lieu thereof ", a plea of nolo contendere, or an agreement to enter a pre-trial diversion or other similar program".

(b) CREDIT UNIONS INSURED BY THE NCUA.—Section 206(i)(1) of the Federal Credit Union Act (12 U.S.C. 1786(i)) is amended—

(1) in the 1st sentence, by striking "authorized by a United States Attorney"; and

(2) in the 4th sentence, by striking "with respect to such crime" and inserting in lieu thereof ", a plea of nolo contendere, or an agreement to enter a pre-trial diversion or other similar program".

SEC. 907. AMENDMENTS TO EXPAND AND INCREASE CIVIL MONEY PENALTIES.

(a) GENERAL PROVISIONS FOR FINANCIAL INSTITUTIONS INSURED BY THE FDIC.—Section 8(i)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1818(i)(2)) is amended to read as follows:

"(2) CIVIL MONEY PENALTY.—

"(A) PENALTY IMPOSED FOR CERTAIN VIOLATIONS.—Any insured financial institution which, and any director or officer of such financial institution or other person participating in the conduct of the affairs of such financial institution who, violates—

"(i) any law or regulation (the violation of which by such insured financial institution, director, officer, or other person is not otherwise subject to a civil money penalty);

"(ii) any final order issued pursuant to subsection (b), (c), (e), (g), or (s);

"(iii) any condition imposed in writing by the appropriate Federal banking agency in connection with the grant of any application or other request by such financial institution; or

"(iv) any written agreement between such financial institution and such agency,

shall forfeit and pay a civil penalty of not more than $15,000 for each day during which such violation continues.

"(B) PENALTY IMPOSED FOR CERTAIN VIOLATIONS WITH SERIOUS CONSEQUENCES.—Notwithstanding subparagraph (A), any insured financial institution which, and any director or officer of any financial institution or any other person participating in the conduct of the affairs of any financial institution who—

"(i) knowingly or with reckless disregard for the possibility of the result described in clause (iii);

"(ii)(I) commits any violation described in any clause of subparagraph (A);

"(II) breaches any fiduciary duty; or

"(III) engages in any unsafe or unsound practice in conducting the affairs of such institution;

"(iii) resulting in a substantial loss to the financial institution or significant pecuniary gain or other benefit to such person,

shall forfeit and pay a civil penalty in an amount not to exceed the applicable maximum amount determined under subparagraph (C) for each day during which such violation, breach, or practice continues.

"(C) MAXIMUM AMOUNTS OF PENALTIES FOR ANY VIOLATION DESCRIBED IN SUBPARAGRAPH (B).—The maximum daily amount of any civil penalty which may be assessed pursuant to subparagraph (B) for any violation, breach, or practice described in any clause of such subparagraph is—

"(i) in the case of any person other than an insured financial institution, an amount to not exceed $1,000,000; and

"(ii) in the case of any insured financial institution, an amount not to exceed the lesser of—

"(I) $1,000,000; or

"(II) 1 percent of the total assets of such institution.

"(D) ASSESSMENT.—

"(i) WRITTEN NOTICE.—Any civil penalty imposed under subparagraph (A) or (B) may be assessed and collected by the appropriate Federal banking agency by written notice.

"(ii) FINALITY OF ASSESSMENT.—If, with respect to any assessment under clause (i), a hearing is not requested pursuant to subparagraph (G)(i) within the period of time allowed under such subparagraph, the assessment shall constitute a final and unappealable order.

"(E) AUTHORITY TO MODIFY OR REMIT PENALTY.—Any appropriate Federal banking agency may, in its discretion compromise, modify, or remit any civil penalty which such agency may assess or had already assessed under subparagraph (A) or (B).

"(F) MITIGATING FACTORS.—In determining the amount of any penalty imposed under subparagraph (A) or (B), the appropriate agency shall take into account the appropriateness of the penalty with respect to—

"(i) the size of financial resources and good faith of the insured financial institution or other person charged;

"(ii) the gravity of the violation;

"(iii) the history of previous violations; and

"(iv) such other matters as justice may require.

"(G) HEARING.—

"(i) OPPORTUNITY REQUIRED.—The insured financial institution or other person against whom any civil penalty is assessed under this paragraph shall be afforded an opportunity for agency hearing if such institution or person submits a request for such hearing within 20 days after the issuance of the notice of assessment.

"(ii) ADMINISTRATIVE ADJUDICATION.—In any hearing under this subparagraph, all issues shall be determined on the record pursuant to section 554 of title 5, United States Code.

"(iii) FINAL ORDER.—The agency's assessment of any civil penalty under this paragraph shall be made by final order which may be reviewed only as provided in subparagraph (H).

"(iv) FINALITY OF PENALTY IMPOSED BY ORDER.—If, judicial review of any final order under clause (iii) is not requested pursuant to subparagraph (H)(i) within the period of time allowed, the order shall constitute a final and unappealable assessment of such penalty.

"(H) JUDICIAL REVIEW OF ADMINISTRATIVE ORDER.—

"(i) IN GENERAL.—Any insured financial institution or other person against whom an order imposing a civil money penalty has been entered after agency hearing under this paragraph may obtain review of such order by—

"(I) the United States Court of Appeals for the circuit in which the home office of the insured financial institution is located

or in which such other person resides or is located; or

"(II) the United States Court of Appeals for the District of Columbia Circuit,

by filing a notice of appeal in such court within 20 days after the date of service of such order and sending a copy of such notice by registered or certified mail to the appropriate Federal banking agency.

"(ii) FILING OF RECORD.—Upon receipt of any notice under clause (i), the agency shall promptly certify and file in such court the record upon which the penalty was imposed, as provided in section 2112 of title 28, United States Code.

"(iii) SCOPE OF REVIEW.—Section 706 of title 5, United States Code, shall apply with respect to any proceeding under this subparagraph.

"(I) COLLECTION.—

"(i) REFERRAL.—If any insured financial institution or other person fails to pay an assessment after—

"(I) any penalty assessed under this paragraph has become final and unappealable under subparagraph (D)(ii) or (G)(iv); or

"(II) the appropriate court of appeals has entered final judgment in favor of the agency pursuant to any review under subparagraph (H),

the agency shall recover the amount assessed by action in the appropriate United States district court.

"(ii) APPROPRIATENESS OF PENALTY NOT REVIEWABLE.—In any civil action under clause (i), the validity and appropriateness of the civil penalty shall not be subject to review.

"(J) DISBURSEMENT.—All penalties collected under authority of this paragraph shall be paid to the appropriate Federal banking agency.

"(K) VIOLATE DEFINED.—For purposes of this section, the term 'violate' includes any action (alone or with another or others) for or toward causing, bringing about, participating in, counseling, or aiding or abetting a violation.

"(L) REGULATIONS.—Each appropriate Federal banking agency shall prescribe regulations establishing such procedures as may be necessary to carry out this paragraph.".

(b) GENERAL PROVISIONS FOR CREDIT UNIONS INSURED BY THE NCUA.—Section 206(k)(2) of the Federal Credit Union Act (12 U.S.C. 1786(k)(2)) is amended to read as follows:

"(2) CIVIL MONEY PENALTY.—

"(A) PENALTY IMPOSED FOR CERTAIN VIOLATIONS.—Any insured credit union which, and any director or officer of such credit union or other person participating in the conduct of the affairs of such credit union who, violates—

"(i) any law or regulation (the violation of which by such insured credit union, director, officer, or other person is not otherwise subject to a civil money penalty);

"(ii) any final order issued pursuant to subsection (e), (f), (g), (i), or (q);

"(iii) any condition imposed in writing by the Board in connection with the grant of any application or other request by such credit union; or

"(iv) any written agreement between such credit union and such agency,

shall forfeit and pay a civil penalty of not more than $15,000 for each day during which such violation continues.

"(B) PENALTY IMPOSED FOR CERTAIN VIOLATIONS WITH SERIOUS CONSEQUENCES.—Notwithstanding subparagraph (A), any insured credit union which, and any director or officer of any financial institution or other person participating in the conduct of the affairs of such credit union who—

"(i) knowingly or with reckless disregard for the possibility of the result described in clause (iii);

"(ii)(I) commits any violation described in any clause of subparagraph (A);

"(II) breaches any fiduciary duty; or

"(III) engages in any unsafe or unsound practice in conducting the affairs of such credit union; or

"(iii) resulting in a substantial loss to the credit union or significant pecuniary gain or other benefit to such person,

shall forfeit and pay a civil penalty in an amount not to exceed the applicable maximum amount determined under subparagraph (C) for each day during which such violation, breach, or practice continues.

"(C) MAXIMUM AMOUNTS OF PENALTIES FOR ANY VIOLATION DESCRIBED IN SUBPARAGRAPH (B).—The maximum daily amount of any civil penalty which may be assessed pursuant to subparagraph (B) for any violation, breach, or practice described in any clause of such subparagraph is—

"(i) in the case of any person other than an insured credit union, an amount to not exceed $1,000,000; and

"(ii) in the case of any insured credit union, an amount not to exceed the lesser of—

"(I) $1,000,000; or

"(II) 1 percent of the total assets of such credit union.

"(D) ASSESSMENT.—

"(i) WRITTEN NOTICE.—Any civil penalty imposed under subparagraph (A) or (B) may be assessed and collected by the Board by written notice.

"(ii) FINALITY OF ASSESSMENT.—If, with respect to any assessment under clause (i), a hearing is not requested pursuant to subparagraph (G)(i) within the period of time allowed under such subparagraph, the assessment shall constitute a final and unappealable order.

"(E) AUTHORITY TO MODIFY OR REMIT PENALTY.—The Board may, in its discretion compromise, modify, or remit any civil penalty which such agency may assess or had already assessed under subparagraph (A) or (B).

"(F) MITIGATING FACTORS.—In determining the amount of any penalty imposed under subparagraph (A) or (B), the Board shall take into account the appropriateness of the penalty with respect to—

"(i) the size of financial resources and good faith of the insured credit union or the person charged;

"(ii) the gravity of the violation;

"(iii) the history of previous violations; and

"(iv) such other matters as justice may require.

"(G) HEARING.—

"(i) OPPORTUNITY REQUIRED.—The insured credit union or other person against whom any civil penalty is assessed under this paragraph shall be afforded an opportunity for agency hearing if such institution or person submits a request for such hearing within 10 days after the issuance of the notice of assessment.

"(ii) ADMINISTRATIVE ADJUDICATION.—In any hearing under this subparagraph, all issues shall be determined on the record pursuant to section 554 of title 5, United States Code.

"(iii) FINAL ORDER.—The Board's assessment of any civil penalty under this paragraph shall be made by final order which may be reviewed only as provided in subparagraph (H).

"(iv) FINALITY OF PENALTY IMPOSED BY ORDER.—If, judicial review of any final order under clause (iii) is not requested pursuant to subparagraph (H)(i) within the period of time allowed, the order shall constitute a final and unappealable assessment of such penalty.

"(H) JUDICIAL REVIEW OF ADMINISTRATIVE ORDER.—

"(i) IN GENERAL.—Any insured credit union or other person against whom an order imposing a civil money penalty has been entered after agency hearing under this paragraph may obtain review of such order by—

"(I) the United States court of appeals for the circuit in which the home office of the insured credit union is located or in which such other person resides or is located; or

"(II) the United States Court of Appeals for the District of Columbia Circuit,

by filing a notice of appeal in such court within 20 days after the date of service of such order and sending a copy of such notice by registered or certified mail to the Board.

"(ii) FILING OF RECORD.—Upon receipt of any notice under clause (i), the Board shall promptly certify and file in such court the record upon which the penalty was imposed, as provided in section 2112 of title 28, United States Code.

"(iii) SCOPE OF REVIEW.—Section 706 of title 5, United States Code, shall apply with respect to any proceeding under this subparagraph.

"(I) COLLECTION.—

"(i) REFERRAL.—If any insured credit union or other person fails to pay an assessment after—

"(I) any penalty assessed under this paragraph has become final and unappealable under subparagraph (D)(ii) or ((G)(iv); or

"(II) the appropriate court of appeals has entered final judgment in favor of the Board pursuant to any review under subparagraph (H),

the agency shall recover the amount assessed by action in the appropriate United States district court.

"(ii) APPROPRIATENESS OF PENALTY NOT REVIEWABLE.—In any civil action under clause (i), the validity and appropriateness of the civil penalty shall not be subject to review.

"(J) DISBURSEMENT.—All penalties collected under authority of this paragraph shall be paid to the Board.

"(K) VIOLATE DEFINED.—For purposes of this section, the term 'violate' includes any action (alone or with another or others) for or toward causing, bringing about, participating in, counseling, or aiding or abetting a violation.

"(L) REGULATIONS.—The Board shall prescribe regulations establishing such procedures as may be necessary to carry out this paragraph.".

(c) NONMEMBER INSURED BANKS.—Section 18(j)(4) of the Federal Deposit Insurance Act (12 U.S.C. 1828(j)(4)) is amended to read as follows:

"(4) CIVIL MONEY PENALTY.—

"(A) PENALTY IMPOSED FOR CERTAIN VIOLATIONS.—Any nonmember insured bank which, and any director, officer, employee, or agent of such nonmember insured bank or other person participating in the conduct of the affairs of such nonmember insured bank who, violates any provision of section 22(h), 23A, or 23B of the Federal Reserve Act or any lawful regulation issued pursuant thereto, or any provision of section 20 of

the Banking Act of 1933, shall forfeit and pay a civil penalty of not more than $15,000 for each day during which such violation continues.

"(B) PENALTY IMPOSED FOR CERTAIN VIOLATIONS WITH SERIOUS CONSEQUENCES.—Notwithstanding subparagraph (A), any nonmember insured bank which, and any director, officer, employee, or agent of such noninsured member bank or other person participating in the conduct of the affairs of such nonmember insured bank who, knowingly or with reckless disregard for the requirements of the provisions described in subparagraph (A), commits any violation described in subparagraph (A) resulting in a substantial loss to the nonmember insured bank or significant pecuniary gain or other benefit to such person shall forfeit and pay a civil penalty in an amount not to exceed the applicable maximum amount determined under subparagraph (C) for each day during which such violation continues.

"(C) MAXIMUM AMOUNTS OF PENALTIES FOR ANY VIOLATION DESCRIBED IN SUBPARAGRAPH (B).—The maximum daily amount of any civil penalty which may be assessed pursuant to subparagraph (B) for any violation described in such subparagraph is—

"(i) in the case of any person other than a nonmember insured bank, an amount to not exceed $1,000,000; and

"(ii) in the case of any nonmember insured bank, an amount not to exceed the lesser of—

"(I) $1,000,000; or

"(II) 1 percent of the total assets of such nonmember insured bank.

"(D) ASSESSMENT.—

"(i) WRITTEN NOTICE.—Any civil penalty imposed under subparagraph (A) or (B) may be assessed and collected by the Corporation by written notice.

"(ii) FINALITY OF ASSESSMENT.—If, with respect to any assessment under clause (i), hearing is not requested pursuant to subparagraph (G)(i) within the period of time allowed under such subparagraph, the assessment shall constitute a final and unappealable order.

"(E) AUTHORITY TO MODIFY OR REMIT PENALTY.—The Corporation may, in its discretion compromise, modify, or remit any civil penalty which the Corporation may assess or had already assessed under subparagraph (A) or (B).

"(F) MITIGATING FACTORS.—In determining the amount of any penalty imposed under subparagraph (A) or (B), the Corporation shall take into account the appropriateness of the penalty with respect to—

"(i) the size of financial resources and good faith of the nonmember insured bank or other person charged;

"(ii) the gravity of the violation;

"(iii) the history of previous violations; and

"(iv) such other matters as justice may require.

"(G) HEARING.—

"(i) OPPORTUNITY REQUIRED.—The nonmember insured bank or other person against whom any civil penalty is assessed under this paragraph shall be afforded an opportunity for agency hearing if such nonmember insured bank or person submits a request for such hearing within 10 days after the issuance of the notice of assessment.

"(ii) ADMINISTRATIVE ADJUDICATION.—In any hearing under this subparagraph, all issues shall be determined on the record pursuant to section 554 of title 5, United States Code.

"(iii) FINAL ORDER.—The Corporation's assessment of any civil penalty under this paragraph shall be made by final order which may be reviewed only as provided in subparagraph (H).

"(iv) FINALITY OF PENALTY IMPOSED BY ORDER.—If, judicial review of any final order under clause (iii) is not requested pursuant to subparagraph (H)(i) within the period of time allowed, the order shall constitute a final and unappealable assessment of such penalty.

"(H) JUDICIAL REVIEW OF ADMINISTRATIVE ORDER.—

"(i) IN GENERAL.—Any nonmember insured bank or other person against whom an order imposing a civil money penalty has been entered after agency hearing under this paragraph may obtain review of such order by—

"(I) the United States court of appeals for the circuit in which the home office of the nonmember insured bank is located or in which such other person resides or is located; or

"(II) the United States Court of Appeals for the District of Columbia Circuit,

by filing a notice of appeal in such court within 20 days after the date of service of such order and sending a copy of such notice by registered or certified mail to the Corporation.

"(ii) AGENCY FILING.—Upon receipt of any notice under clause (i), the Corporation shall promptly certify and file in such court the record upon which the penalty was imposed, as provided in section 2112 of title 28, United States Code.

"(iii) SCOPE OF REVIEW.—Section 706 of title 5, United States Code, shall apply with respect to any proceeding under this subparagraph.

"(I) COLLECTION.—

"(i) REFERRAL.—If any nonmember insured bank or other person fails to pay an assessment after—

"(I) any penalty assessed under this paragraph has become final and unappealable under subparagraph (D)(ii) or (G)(iv); or

"(II) the appropriate court of appeals has entered final judgment in favor of the Corporation pursuant to any review under subparagraph (H),

the Corporation shall recover the amount assessed by action in the appropriate United States district court.

"(ii) APPROPRIATENESS OF PENALTY NOT REVIEWABLE.—In any civil action under clause (i), the validity and appropriateness of the civil penalty shall not be subject to review.

"(J) DISBURSEMENT.—All penalties collected under authority of this paragraph shall be paid to the Corporation.

"(K) VIOLATE DEFINED.—For purposes of this section, the term 'violate' includes any action (alone or with another or others) for or toward causing, bringing about, participating in, counseling, or aiding or abetting a violation.

"(L) REGULATIONS.—The Corporation shall prescribe regulations establishing such procedures as may be necessary to carry out this paragraph.".

(d) CHANGE IN CONTROL OF FINANCIAL INSTITUTION.—Section 7(j)(16) of the Federal Deposit Insurance Act (12 U.S.C. 1817(j)(16)) is amended to read as follows:

"(16) CIVIL MONEY PENALTY.—

"(A) PENALTY IMPOSED FOR CERTAIN VIOLATIONS.—Any person who violates any provision of this subsection, or any regulation or order issued by the appropriate Federal banking agency under this subsection, shall forfeit and pay a civil penalty of not more than $15,000 for each day during which such violation continues.

"(B) PENALTY IMPOSED FOR CERTAIN VIOLATIONS WITH SERIOUS CONSEQUENCES.—Notwithstanding subparagraph (A), any person who knowingly or with reckless disregard for the requirements of this subsection commits any violation described in subparagraph (A) which results in a substantial loss to the financial institution or substantial pecuniary gain or other benefit to such person shall forfeit and pay a civil penalty in an amount not to exceed the applicable maximum amount determined under subparagraph (C) for each day during which such violation continues.

"(C) MAXIMUM AMOUNTS OF PENALTIES FOR ANY VIOLATION DESCRIBED IN SUBPARAGRAPH (B).—The maximum daily amount of any civil penalty which may be assessed pursuant to subparagraph (B) for any violation described in such subparagraph is—

"(i) in the case of any person other than a financial institution, an amount to not exceed $1,000,000; and

"(ii) in the case of a financial institution, an amount not to exceed the lesser of—

"(I) $1,000,000; or

"(II) 1 percent of the total assets of such institution.

"(D) ASSESSMENT; ETC.—Any penalty imposed under subparagraph (A) or (B) shall be assessed and collected by the appropriate Federal banking agency in the manner provided in section 8(i)(2) for penalties imposed (under such section) and any such assessment shall be subject to the provisions of such section.

"(E) DISBURSEMENT.—All penalties collected under authority of this paragraph shall be paid to the appropriate Federal banking agency.".

(e) NATIONAL BANKS.—Section 5239(b) of the Revised Statutes (12 U.S.C. 93(b)) is amended to read as follows:

"(b) CIVIL MONEY PENALTY.—

"(1) PENALTY IMPOSED FOR CERTAIN VIOLATIONS.—Any national banking association which, and any director, officer, employee, or agent of such association or other person participating in the conduct of the affairs of such association who, violates any provision of this title or any of the provisions of the first section of the Act of September 28, 1962, (76 Stat. 668; 12 U.S.C. 92a) or any regulation issued pursuant thereto, shall forfeit and pay a civil penalty of not more than $15,000 for each day during which such violation continues.

"(2) PENALTY IMPOSED FOR CERTAIN VIOLATIONS WITH SERIOUS CONSEQUENCES.—Notwithstanding paragraph (1), any national banking association which, and any director, officer, employee, or agent of such association or other person participating in the conduct of the affairs of such association who, knowingly or with reckless disregard for the requirements of the provisions described in paragraph (1), commits any violation described in paragraph (1) resulting in a substantial loss to the association or significant pecuniary gain or other benefit to such person shall forfeit and pay a civil penalty in an amount not to exceed the applicable maximum amount determined under paragraph (3) for each day during which such violation continues.

"(3) MAXIMUM AMOUNTS OF PENALTIES FOR ANY VIOLATION DESCRIBED IN PARAGRAPH (2).—The maximum daily amount of any civil penalty which may be assessed pursuant to paragraph (2) for any violation described in such paragraph is—

"(A) in the case of any person other than a national banking association, an amount to not exceed $1,000,000; and

"(B) in the case of a national banking association, an amount not to exceed the lesser of—

"(i) $1,000,000; or

"(ii) 1 percent of the total assets of such association.

"(4) ASSESSMENT.—

"(A) WRITTEN NOTICE.—Any civil penalty imposed under paragraph (1) or (2) may be assessed and collected by the Comptroller of the Currency by written notice.

"(B) FINALITY OF ASSESSMENT.—If, with respect to any assessment under subparagraph (A), a hearing is not requested pursuant to paragraph (7)(A) within the period of time allowed under such subparagraph, the assessment shall constitute a final and unappealable order.

"(5) AUTHORITY TO MODIFY OR REMIT PENALTY.—The Comptroller may, in the discretion of the Comptroller, compromise, modify, or remit any civil penalty which the Comptroller may assess or had already assessed under paragraph (1) or (2).

"(6) MITIGATING FACTORS.—In determining the amount of any penalty imposed under paragraph (1) or (2), the Comptroller shall take into account the appropriateness of the penalty with respect to—

"(A) the size of financial resources and good faith of the association or other person charged;

"(B) the gravity of the violation;

"(C) the history of previous violations; and

"(D) such other matters as justice may require.

"(7) HEARING.—

"(A) OPPORTUNITY REQUIRED.—The association or other person against whom any civil penalty is assessed under this subsection shall be afforded an opportunity for agency hearing if such association or person submits a request for such hearing within 10 days after the issuance of the notice of assessment.

"(B) ADMINISTRATIVE ADJUDICATION.—In any hearing under this paragraph, all issues shall be determined on the record pursuant to section 554 of title 5, United States Code.

"(C) FINAL ORDER.—The Comptroller's assessment of any civil penalty under this subsection shall be made by final order which may be reviewed only as provided in paragraph (8).

"(D) FINALITY OF PENALTY IMPOSED BY ORDER.—If judicial review of any final order under subparagraph (C) is not requested pursuant to paragraph (8)(A) within the period of time allowed, the order shall constitute a final and unappealable assessment of such penalty.

"(8) JUDICIAL REVIEW OF ADMINISTRATIVE ORDER.—

"(A) IN GENERAL.—Any association or other person against whom an order imposing a civil money penalty has been entered after agency hearing under this subsection may obtain review of such order by—

"(i) the United States court of appeals for the circuit in which the home office of the association is located or in which such other person resides or is located; or

"(ii) the United States Court of Appeals for the District of Columbia Circuit,

by filing a notice of appeal in such court within 30 days after the date of service of such order and sending a copy of such notice by registered or certified mail to the Comptroller.

"(B) FILING OF RECORD.—Upon receipt of any notice under subparagraph (A), the Comptroller shall promptly certify and file in such court the record upon which the penalty was imposed, as provided in section 2112 of title 28, United States Code.

"(C) SCOPE OF REVIEW.—Section 706 of title 5, United States Code, shall apply with respect to any proceeding under this paragraph.

"(9) COLLECTION.—

"(A) REFERRAL.—If any association or other person fails to pay an assessment after—

"(i) any penalty assessed under this paragraph has become final and unappealable under paragraph (4)(B) or (7)(D); or

"(ii) the appropriate court of appeals has entered final judgment in favor of the Comptroller pursuant to any review under paragraph (8),

the Comptroller shall recover the amount assessed by action in the appropriate United States district court.

"(B) APPROPRIATENESS OF PENALTY NOT REVIEWABLE.—In any civil action under subparagraph (A), the validity and appropriateness of the civil penalty shall not be subject to review.

"(10) DISBURSEMENT.—All penalties collected under authority of this subsection shall be paid to the Comptroller.

"(11) VIOLATE DEFINED.—For purposes of this section, the term 'violate' includes any action (alone or with another or others) for or toward causing, bringing about, participating in, counseling, or aiding or abetting a violation.

"(12) REGULATIONS.—The Comptroller shall prescribe regulations establishing such procedures as may be necessary to carry out this subsection.".

(f) NATIONAL BANKS.—The second paragraph of section 5240 of the Revised Statutes (12 U.S.C. 481) is amended by striking "$100" and inserting "$15,000".

(g) MEMBER BANKS.—Section 29 of the Federal Reserve Act (12 U.S.C. 504) is amended to read as follows:

"SEC. 29. CIVIL MONEY PENALTY.

"(a) PENALTY IMPOSED FOR CERTAIN VIOLATIONS.—Any member bank which, and any director, officer, employee, or agent of such member bank or other person participating in the conduct of the affairs of such member bank who, violates any provision of section 22 or 23A, or any regulation issued pursuant thereto, shall forfeit and pay a civil penalty of not more than $15,000 for each day during which such violation continues.

"(b) PENALTY IMPOSED FOR CERTAIN VIOLATIONS WITH SERIOUS CONSEQUENCES.—Notwithstanding subsection (a), any member bank which, and any director, officer, employee, or agent of such member bank or other person participating in the conduct of the affairs of such member bank who, knowingly or with reckless disregard for the requirements of the provisions described in subsection (a), commits any violation described in subsection (a) resulting in a substantial loss to the member bank or significant pecuniary gain or other benefit to such person shall forfeit and pay a civil penalty in an amount not to exceed the applicable maximum amount determined under subsection (c) for each day during which such violation continues.

"(c) MAXIMUM AMOUNTS OF PENALTIES FOR ANY VIOLATION DESCRIBED IN SUBSECTION (b).—The maximum daily amount of any civil penalty which may be assessed pursuant to subsection (b) for any violation described in such subsection is—

"(1) in the case of any person other than a member bank, an amount to not exceed $1,000,000; and

"(2) in the case of a member bank, an amount not to exceed the lesser of—

"(A) $1,000,000; or

"(B) 1 percent of the total assets of such member bank.

"(d) ASSESSMENT.—

"(1) WRITTEN NOTICE.—Any civil penalty imposed under subsection (a) or (b) may be assessed and collected by written notice—

"(A) in the case of a national bank, by the Comptroller of the Currency; and

"(B) in the case of a State member bank, by the Board.

"(2) FINALITY OF ASSESSMENT.—If, with respect to any assessment under paragraph (1), a hearing is not requested pursuant to subsection (g)(1) within the period of time allowed under such subsection, the assessment shall constitute a final and unappealable order.

"(e) AUTHORITY TO MODIFY OR REMIT PENALTY.—The Comptroller or the Board, as the case may be, may, in its discretion compromise, modify, or remit any civil penalty which the Comptroller or the Board, as the case may be, may assess or had already assessed under subsection (a) or (b).

"(f) MITIGATING FACTORS.—In determining the amount of any penalty imposed under subsection (a) or (b), the Comptroller or the Board, as the case may be, shall take into account the appropriateness of the penalty with respect to—

"(1) the size of financial resources and good faith of the member bank or other person charged;

"(2) the gravity of the violation;

"(3) the history of previous violations; and

"(4) such other matters as justice may require.

"(g) HEARING.—

"(1) OPPORTUNITY REQUIRED.—The member bank or other person against whom any civil penalty is assessed under this section shall be afforded an opportunity for agency hearing if such member bank or person submits a request for such hearing within 10 days after the issuance of the notice of assessment.

"(2) ADMINISTRATIVE ADJUDICATION.—In any hearing under this subsection, all issues shall be determined on the record pursuant to section 554 of title 5, United States Code.

"(3) FINAL ORDER.—The assessment of any civil penalty under this section by the Comptroller or the Board, as the case may be, shall be made by final order which may be reviewed only as provided in subsection (h).

"(4) FINALITY OF PENALTY IMPOSED BY ORDER.—If, judicial review of any final order under paragraph (3) is not requested pursuant to subsection (h)(1) within the period of time allowed, the order shall constitute a final and unappealable assessment of such penalty.

"(h) JUDICIAL REVIEW OF ADMINISTRATIVE ORDER.—

"(1) IN GENERAL.—Any member bank or other person against whom an order imposing a civil money penalty has been entered after agency hearing under this section may obtain review of such order by—

"(A) the United States court of appeals for the circuit in which the home office of the member bank is located or in which such other person resides or is located; or

"(B) the United States Court of Appeals for the District of Columbia Circuit,

by filing a notice of appeal in such court within 20 days after the date of service of such order and sending a copy of such notice by registered or certified mail to the Comptroller or the Board, as the case may be.

"(2) FILING OF RECORD.—Upon receipt of any notice under paragraph (1), the Comptroller or the Board, as the case may be, shall promptly certify and file in such court the record upon which the penalty was imposed, as provided in section 2112 of title 28, United States Code.

"(3) SCOPE OF REVIEW.—Section 706 of title 5, United States Code, shall apply with respect to any proceeding under this subsection.

"(i) COLLECTION.—

"(1) REFERRAL.—If any member bank or other person fails to pay an assessment after—

"(A) any penalty assessed under this section has become final and unappealable under subsection (d)(2) or (g)(4); or

"(B) the appropriate court of appeals has entered final judgment in favor of the Comptroller or the Board, as the case may be, pursuant to any review under subsection (h),

the Comptroller or the Board, as the case may be, shall recover the amount assessed by action in the appropriate United States district court.

"(2) APPROPRIATENESS OF PENALTY NOT REVIEWABLE.—In any civil action under paragraph (1), the validity and appropriateness of the civil penalty shall not be subject to review.

"(j) DISBURSEMENT.—All penalties collected under authority of this paragraph shall be paid to the appropriate Federal banking agency.

"(k) VIOLATE DEFINED.—For purposes of this section, the term 'violate' includes any action (alone or with another or others) for or toward causing, bringing about, participating in, counseling, or aiding or abetting a violation.

"(l) REGULATIONS.—The Comptroller of the Currency and the Board shall prescribe regulations establishing such procedures as may be necessary to carry out this section.".

(h) MEMBER BANK.—Section 19(l) of the Federal Reserve Act (12 U.S.C. 505(l)) is amended to read as follows:

"(l) CIVIL MONEY PENALTY.—

"(1) PENALTY IMPOSED FOR CERTAIN VIOLATIONS.—Any member bank which, and any director, officer, employee, or agent of such member bank or other person participating in the conduct of the affairs of such member bank who, violates any provision of this section, or any regulation issued pursuant thereto, shall forfeit and pay a civil penalty of not more than $15,000 for each day during which such violation continues.

"(2) PENALTY IMPOSED FOR CERTAIN VIOLATIONS WITH SERIOUS CONSEQUENCES.—Notwithstanding paragraph (1), any member bank which, and any director, officer, employee, or agent of such member bank or other person participating in the conduct of the affairs of such member bank who, knowingly or with reckless disregard for the requirements of the provisions described in paragraph (1), commits any violation described in paragraph (1) resulting in a substantial loss to the member bank or significant pecuniary gain or other benefit to such person shall forfeit and pay a civil penalty in an amount not to exceed the applicable maximum amount determined under paragraph (3) for each day during which such violation continues.

"(3) MAXIMUM AMOUNTS OF PENALTIES FOR ANY VIOLATION DESCRIBED IN PARAGRAPH (2).—The maximum daily amount of any civil penalty which may be assessed pursuant to paragraph (2) for any violation described in such paragraph is—

"(A) in the case of any person other than a member bank, an amount not to exceed $1,000,000; and

"(B) in the case of a member bank, an amount not to exceed the lesser of—

"(i) $1,000,000; or

"(ii) 1 percent of the total assets of such member bank.

"(4) ASSESSMENT.—

"(A) WRITTEN NOTICE.—Any civil penalty imposed under paragraph (1) or (2) may be assessed and collected by the Board by written notice.

"(B) FINALITY OF ASSESSMENT.—If, with respect to any assessment under subparagraph (A), a hearing is not requested pursuant to paragraph (7)(A) within the period of time allowed under such subparagraph, the assessment shall constitute a final and unappealable order.

"(5) AUTHORITY TO MODIFY OR REMIT PENALTY.—The Board may, in the discretion of the Board, compromise, modify, or remit any civil penalty which the Board may assess or had already assessed under paragraph (1) or (2).

"(6) MITIGATING FACTORS.—In determining the amount of any penalty imposed under paragraph (1) or (2), the Board shall take into account the appropriateness of the penalty with respect to—

"(A) the size of financial resources and good faith of the member bank or other person charged;

"(B) the gravity of the violation;

"(C) the history of previous violations; and

"(D) such other matters as justice may require.

"(7) HEARING.—

"(A) OPPORTUNITY REQUIRED.—The member bank or other person against whom any civil penalty is assessed under this subsection shall be afforded an opportunity for agency hearing if such member bank or person submits a request for such hearing within 10 days after the issuance of the notice of assessment.

"(B) ADMINISTRATIVE ADJUDICATION.—In any hearing under this paragraph, all issues shall be determined on the record pursuant to section 554 of title 5, United States Code.

"(C) FINAL ORDER.—The Board's assessment of any civil penalty under this subsection shall be made by final order which may be reviewed only as provided in paragraph (8).

"(D) FINALITY OF PENALTY IMPOSED BY ORDER.—If judicial review of any final order under subparagraph (C) is not requested pursuant to paragraph (8)(A) within the period of time allowed, the order shall constitute a final and unappealable assessment of such penalty.

"(8) JUDICIAL REVIEW OF ADMINISTRATIVE ORDER.—

"(A) IN GENERAL.—Any member bank or other person against whom an order imposing a civil money penalty has been entered after agency hearing under this subsection may obtain review of such order by—

"(i) the United States court of appeals for the circuit in which the home office of the member bank is located or in which such other person resides or is located; or

"(ii) the United States Court of Appeals for the District of Columbia Circuit,

by filing a notice of appeal in such court within 30 days after the date of service of such order and sending a copy of such notice by registered or certified mail to the Board.

"(B) FILING OF RECORD.—Upon receipt of any notice under subparagraph (A), the Board shall promptly certify and file in such court the record upon which the penalty was imposed, as provided in section 2112 of title 28, United States Code.

"(C) SCOPE OF REVIEW.—Section 706 of title 5, United States Code, shall apply with respect to any proceeding under this paragraph.

"(9) COLLECTION.—

"(A) REFERRAL.—If any member bank or other person fails to pay an assessment after—

"(i) any penalty assessed under this paragraph has become final and unappealable under paragraph (4)(B) or (7)(D); or

"(ii) the appropriate court of appeals has entered final judgment in favor of the Board to any review under paragraph (8),

the Board shall recover the amount assessed by action in the appropriate United States district court.

"(B) APPROPRIATENESS OF PENALTY NOT REVIEWABLE.—In any civil action under subparagraph (A), the validity and appropriateness of the civil penalty shall not be subject to review.

"(10) DISBURSEMENT.—All penalties collected under authority of this subsection shall be paid to the Board.

"(11) VIOLATE DEFINED.—For purposes of this section, the term 'violate' includes any action (alone or with another or others) for or toward causing, bringing about, participating in, counseling, or aiding or abetting a violation.

"(12) REGULATIONS.—The Board shall prescribe regulations establishing such procedures as may be necessary to carry out this subsection.".

(i) BANKS.—Section 106(b)(2)(F) of the Bank Holding Company Act Amendments of 1970 (12 U.S.C. 1972(2)(F)) is amended to read as follows:

"(F) CIVIL MONEY PENALTY.—

"(i) PENALTY IMPOSED FOR CERTAIN VIOLATIONS.—Any bank which, and any director, officer, employee, or agent of such bank or other person participating in the conduct of the affairs of such bank who, violates any provision of this paragraph shall forfeit and pay a civil penalty of not more than $15,000 for each day during which such violation continues.

"(ii) PENALTY IMPOSED FOR CERTAIN VIOLATIONS WITH SERIOUS CONSEQUENCES.—Notwithstanding clause (i), any bank which, and any director, officer, employee, or agent of such bank or other person participating in the conduct of the affairs of such bank who, knowingly or with reckless disregard for the requirements the provisions of this paragraph, commits any violation described in clause (i) resulting in a substantial loss to such bank or significant pecuniary gain or other benefit to such person shall forfeit and pay a civil penalty in an amount not to exceed the applicable maximum amount determined under clause (iii) for each day during which such violation continues.

"(iii) MAXIMUM AMOUNTS OF PENALTIES FOR ANY VIOLATION DESCRIBED IN CLAUSE (ii).—The maximum daily amount of any civil penalty which may be assessed pursuant to clause (ii) for any violation described in such clause is—

"(I) in the case of any person other than a bank, an amount to not exceed $1,000,000; and

"(II) in the case of a bank, an amount not to exceed the lesser of—

"(aa) $1,000,000; or

"(bb) 1 percent of the total assets of such bank.

"(iv) ASSESSMENT.—

"(I) WRITTEN NOTICE.—Any civil penalty imposed under clause (i) or (ii) may be assessed and collected by written notice—

"(aa) in the case of a national bank, by the Comptroller of the Currency;

"(bb) in the case of a State member bank, by the Board; and

"(cc) in the case of an insured nonmember State bank, by the Federal Deposit Insurance Corporation.

"(II) FINALITY OF ASSESSMENT.—If, with respect to any assessment under subclause (I), a hearing is not requested pursuant to clause (vii)(I) within the period of time allowed under such subclause, the assessment shall constitute a final and unappealable order.

"(v) AUTHORITY TO MODIFY OR REMIT PENALTY.—The agency having authority to impose a civil money penalty may, in its discretion, compromise, modify, or remit any civil penalty which such agency may assess or had already assessed under clause (i) or (ii).

"(vi) MITIGATING FACTORS.—In determining the amount of any penalty imposed under clause (i) or (ii), the agency having authority to impose the penalty shall take into account the appropriateness of the penalty with respect to—

"(I) the size of financial resources and good faith of the bank or other person charged;

"(II) the gravity of the violation;

"(III) the history of previous violations; and

"(IV) such other matters as justice may require.

"(vii) HEARING.—

"(I) OPPORTUNITY REQUIRED.—The bank or other person against whom any civil penalty is assessed under this subparagraph shall be afforded an opportunity for agency hearing if such bank or person submits a request for such hearing within 20 days after the issuance of the notice of assessment.

"(II) ADMINISTRATIVE ADJUDICATION.—In any hearing under this clause, all issues shall be determined on the record pursuant to section 554 of title 5, United States Code.

"(III) FINAL ORDER.—The assessment of any civil penalty under this subparagraph shall be made by final order which may be reviewed only as provided in clause (viii).

"(IV) FINALITY OF PENALTY IMPOSED BY ORDER.—If judicial review of any final order under subclause (III) is not requested pursuant to clause (viii)(I) within the period of time allowed, the order shall constitute a final and unappealable assessment of such penalty.

"(viii) JUDICIAL REVIEW OF ADMINISTRATIVE ORDER.—

"(I) IN GENERAL.—Any bank or other person against whom an order imposing a civil money penalty has been entered after agency hearing under this subparagraph may obtain review of such order by—

"(aa) the United States court of appeals for the circuit in which the home office of the bank is located or in which such other person resides or is located; or

"(bb) the United States Court of Appeals for the District of Columbia Circuit,

by filing a notice of appeal in such court within 20 days after the date of service of such order and sending a copy of such notice by registered or certified mail to the Comptroller of the Currency, the Board, or the Federal Deposit Insurance Corporation, as the case may be.

"(II) FILING OF RECORD.—Upon receipt of any notice under subclause (i), the the Comptroller of the Currency, the Board, or the Federal Deposit Insurance Corporation, as the case may be, shall promptly certify and file in such court the record upon which the penalty was imposed, as provided in section 2112 of title 28, United States Code.

"(III) SCOPE OF REVIEW.—Section 706 of title 5, United States Code, shall apply with respect to any proceeding under this clause.

"(ix) COLLECTION.—

"(I) REFERRAL.—If any bank or other person fails to pay an assessment after—

"(aa) any penalty assessed under this clause has become final and unappealable under clause (iv)(II) or (vii)(IV); or

"(bb) the appropriate court of appeals has entered final judgment in favor of the agency that imposed such penalty, to any review under clause (viii),

such agency shall recover the amount assessed by action in the appropriate United States district court.

"(II) APPROPRIATENESS OF PENALTY NOT REVIEWABLE.—In any civil action under subclause (I), the validity and appropriateness of the civil penalty shall not be subject to review.

"(x) DISBURSEMENT.—All penalties collected under authority of this subsection shall be paid to the agency that imposed such penalty.

"(xi) VIOLATE DEFINED.—For purposes of this paragraph, the term 'violate' includes any action (alone or with another or others) for or toward causing, bringing about, participating in, counseling, or aiding or abetting a violation.

"(xii) REGULATIONS.—The Comptroller of the Currency, the Board, and the Federal Deposit Insurance Corporation shall prescribe regulations establishing such procedures as may be necessary to carry out this subparagraph.".

(j) BANK HOLDING COMPANIES.—Section 8 of the Bank Holding Company Act of 1956 (12 U.S.C. 1847) is amended—

(1) in subsection (a), by striking out the first 2 sentences and inserting in lieu thereof the following:

"(a) Any company which knowingly violates any provision of this Act, or any regulation or order issued by the Board pursuant thereto, shall be fined not more than $100,000 for each day during which the violation continues. Any individual who knowingly violates any provision of this Act shall be fined not more than $100,000, imprisoned not more than 1 year, or both. Any individual who knowingly violates any provision of this Act with intent to deceive, to defraud, or to profit significantly shall be fined not more than $1,000,000, imprisoned not more than 5 years, or both."; and

(2) by amending subsection (b) to read as follows:

"(b) CIVIL MONEY PENALTY.—

"(1) PENALTY IMPOSED FOR CERTAIN VIOLATIONS.—Any company which violates, and any individual who participates in a violation of, any provision of this Act, or any regulation or order issued pursuant thereto, shall forfeit and pay a civil penalty of not more than $15,000 for each day during which such violation continues.

"(2) PENALTY IMPOSED FOR CERTAIN VIOLATIONS WITH SERIOUS CONSEQUENCES.—Notwithstanding paragraph (1), any company which commits, and any individual who participates in a commission of, any violation described in paragraph (1), knowingly or with reckless disregard for the requirements of the provisions described in paragraph (1), resulting in a substantial loss to a bank or significant pecuniary gain or other benefit to such company or person shall forfeit and pay a civil penalty in an amount not to exceed the applicable maximum amount determined under paragraph (3) for each day during which such violation continues.

"(3) MAXIMUM AMOUNTS OF PENALTIES FOR ANY VIOLATION DESCRIBED IN PARAGRAPH (2).—The maximum daily amount of any civil penalty which may be assessed pursuant to paragraph (2) for any violation described in such paragraph is—

"(A) in the case of any person other than a company, an amount to not exceed $1,000,000; and

"(B) in the case of a company, an amount not to exceed the lesser of—

"(i) $1,000,000; or

"(ii) 1 percent of the total assets of such company.

"(4) ASSESSMENT.—

"(A) WRITTEN NOTICE.—Any civil penalty imposed under paragraph (1) or (2) may be assessed and collected by the Board by written notice.

"(B) FINALITY OF ASSESSMENT.—If, with respect to any assessment under subparagraph (A), a hearing is not requested pursuant to paragraph (7)(A) within the period of time allowed under such subparagraph, the assessment shall constitute a final and unappealable order.

"(5) AUTHORITY TO MODIFY OR REMIT PENALTY.—The Board may, in the discretion of the Board, compromise, modify, or remit any civil penalty which the Board may assess or had already assessed under paragraph (1) or (2).

"(6) MITIGATING FACTORS.—In determining the amount of any penalty imposed under paragraph (1) or (2), the Board shall take into account the appropriateness of the penalty with respect to—

"(A) the size of financial resources and good faith of the company or other person charged;

"(B) the gravity of the violation;

"(C) the history of previous violations; and

"(D) such other matters as justice may require.

"(7) HEARING.—

"(A) OPPORTUNITY REQUIRED.—The company or other person against whom any civil penalty is assessed under this subsection shall be afforded an opportunity for agency hearing if such association or person submits a request for such hearing within 10 days after the issuance of the notice of assessment.

"(B) ADMINISTRATIVE ADJUDICATION.—In any hearing under this paragraph, all issues shall be determined on the record pursuant to section 554 of title 5, United States Code.

"(C) FINAL ORDER.—The Board's assessment of any civil penalty under this subsection shall be made by final order which may be reviewed only as provided in paragraph (8).

"(D) FINALITY OF PENALTY IMPOSED BY ORDER.—If judicial review of any final order under subparagraph (C) is not requested pursuant to paragraph (8)(A) within the period of time allowed, the order shall constitute a final and unappealable assessment of such penalty.

"(8) JUDICIAL REVIEW OF ADMINISTRATIVE ORDER.—

"(A) IN GENERAL.—Any company or other person against whom an order imposing a civil money penalty has been entered after agency hearing under this subsection may obtain review of such order by—

"(i) the United States court of appeals for the circuit in which the home office of the company is located or in which such other person resides or is located; or

"(ii) the United States Court of Appeals for the District of Columbia Circuit,

by filing a notice of appeal in such court within 30 days after the date of service of such order and sending a copy of such notice by registered or certified mail to the Board.

"(B) FILING OF RECORD.—Upon receipt of any notice under subparagraph (A), the Board shall promptly certify and file in such court the record upon which the penalty was imposed, as provided in section 2112 of title 28, United States Code.

"(C) SCOPE OF REVIEW.—Section 706 of title 5, United States Code, shall apply with respect to any proceeding under this paragraph.

"(9) COLLECTION.—

"(A) REFERRAL.—If any company or other person fails to pay an assessment after—

"(i) any penalty assessed under this paragraph has become final and unappealable under paragraph (4)(B) or (7)(D); or

"(ii) the appropriate court of appeals has entered final judgment in favor of the Board pursuant to any review under paragraph (8),

the Board shall recover the amount assessed by action in the appropriate United States district court.

"(B) APPROPRIATENESS OF PENALTY NOT REVIEWABLE.—In any civil action under subparagraph (A), the validity and appropriateness of the civil penalty shall not be subject to review.

"(10) DISBURSEMENT.—All penalties collected under authority of this subsection shall be paid to the Board.

"(11) VIOLATE DEFINED.—For purposes of this section, the term 'violate' includes any action (alone or with another or others) for or toward causing, bringing about, participating in, counseling, or aiding or abetting a violation.

"(12) REGULATIONS.—The Board shall prescribe regulations establishing such procedures as may be necessary to carry out this subsection.".

(k) SAVINGS AND LOAN HOLDING COMPANIES.—Section 10(i) of the Home Owners Loan Act of 1933 (as redesignated, transferred, and inserted in such Act by section 319 of this Act and subsequently redesignated by section 319(7) of this Act) (12 U.S.C. 1730a(j)) is amended—

(1) by striking paragraphs (1) and (2) and inserting in lieu thereof the following:

"(1)(A) Any company which knowingly violates any provision of this section, or any regulation or order issued by the Director pursuant thereto, shall be fined not more than $100,000 for each day during which the violation continues.

"(B) Any individual who knowingly violates any provision of this section shall be fined not more than $100,000, imprisoned not more than 1 year, or both.

"(C) Any individual who knowingly violates any provision of this section with intent to deceive, to defraud, or to profit significantly shall be fined not more than $1,000,000, imprisoned not more than 5 years, or both.";

(2) by redesignating paragraphs (3) and (4) as paragraphs (2) and (3), respectively; and

(3) by amending paragraph (3) (as so redesignated by paragraph (2) of this subsection) to read as follows:

"(3) CIVIL MONEY PENALTY.—

"(A) PENALTY IMPOSED FOR CERTAIN VIOLATIONS.—Any company which violates, and any individual who participates in a violation of, any provision of this section, or any regulation or order issued pursuant thereto, shall forfeit and pay a civil penalty of not more than $15,000 for each day during which such violation continues.

"(B) PENALTY IMPOSED FOR CERTAIN VIOLATIONS WITH SERIOUS CONSEQUENCES.—Notwithstanding subparagraph (A), any company which commits, and any individual who participates in a commission of, any violation described in paragraph (1), knowingly or with reckless disregard for the requirements of the provisions described in paragraph (1), knowingly or with reckless disregard for the requirements of the provisions described in subparagraph (A), resulting in a substantial loss to a savings association or significant pecuniary gain or other benefit to such company or individual shall forfeit and pay a civil penalty in an amount not to exceed the applicable maximum amount determined under subparagraph (C) for each day during which such violation continues.

"(C) MAXIMUM AMOUNTS OF PENALTIES FOR ANY VIOLATION DESCRIBED IN SUBPARAGRAPH (B).—The maximum daily amount of any civil penalty which may be assessed pursuant to subparagraph (B) for any violation described in such subparagraph is—

"(i) in the case of any person other than a company, an amount to not exceed $1,000,000; and

"(ii) in the case of any company, an amount not to exceed the lesser of—

"(I) $1,000,000; or

"(II) 1 percent of the total assets of such company.

"(D) ASSESSMENT.—

"(i) WRITTEN NOTICE.—Any civil penalty imposed under subparagraph (A) or (B) may be assessed and collected by the Director by written notice.

"(ii) FINALITY OF ASSESSMENT.—If, with respect to any assessment under clause (i), hearing is not requested pursuant to subparagraph (G)(i) within the period of time allowed under such subparagraph, the assessment shall constitute a final and unappealable order.

"(E) AUTHORITY TO MODIFY OR REMIT PENALTY.—The Director may, in its discretion, compromise, modify, or remit any civil penalty which the Director may assess or had already assessed under subparagraph (A) or (B).

"(F) MITIGATING FACTORS.—In determining the amount of any penalty imposed under subparagraph (A) or (B), the Director shall take into account the appropriateness of the penalty with respect to—

"(i) the size of financial resources and good faith of the company or other person charged;

"(ii) the gravity of the violation;

"(iii) the history of previous violations; and

"(iv) such other matters as justice may require.

"(G) HEARING.—

"(i) OPPORTUNITY REQUIRED.—The company or other person against whom any civil penalty is assessed under this paragraph shall be afforded an opportunity for agency hearing if such company or person submits a request for such hearing within 10 days after the issuance of the notice of assessment.

"(ii) ADMINISTRATIVE ADJUDICATION.—In any hearing under this subparagraph, all issues shall be determined on the record pursuant to section 554 of title 5, United States Code.

"(iii) FINAL ORDER.—The Director's assessment of any civil penalty under this paragraph shall be made by final order which may be reviewed only as provided in subparagraph (H).

"(iv) FINALITY OF PENALTY IMPOSED BY ORDER.—If judicial review of any final order under clause (iii) is not requested pursuant to subparagraph (H)(i) within the period of time allowed, the order shall constitute a final and unappealable assessment of such penalty.

"(H) JUDICIAL REVIEW OF ADMINISTRATIVE ORDER.—

"(i) IN GENERAL.—Any company or other person against whom an order imposing a civil money penalty has been entered after agency hearing under this paragraph may obtain review of such order by—

"(I) the United States Court of Appeals for the circuit in which the home office of the company is located or in which such other person resides or is located; or

"(II) the United States Court of Appeals for the District of Columbia Circuit,

by filing a notice of appeal in such court within 30 days after the date of service of such order and sending a copy of such notice by registered or certified mail to the Director.

"(ii) FILING OF RECORD.—Upon receipt of any notice under clause (i), the Director shall promptly certify and file in such court the record upon which the penalty was imposed, as provided in section 2112 of title 28, United States Code.

"(iii) SCOPE OF REVIEW.—Section 706 of title 5, United States Code, shall apply with respect to any proceeding under this subparagraph.

"(I) COLLECTION.—

"(i) REFERRAL.—If any company or other person fails to pay an assessment after—

"(I) any penalty assessed under this paragraph has become final and unappealable under subparagraph (D)(ii) or (G)(iv); or

"(II) the appropriate court of appeals has entered final judgment in favor of the Director pursuant to any review under subparagraph (H),

the Director shall recover the amount assessed by action in the appropriate United States district court.

"(ii) APPROPRIATENESS OF PENALTY NOT REVIEWABLE.—In any civil action under clause (i), the validity and appropriateness of the civil penalty shall not be subject to review.

"(J) DISBURSEMENT.—All penalties collected under authority of this paragraph shall be paid to the Director.

"(K) VIOLATE DEFINED.—For purposes of this section, the term 'violate' includes any action (alone or with another or others) for or toward causing, bringing about, participating in, counseling, or aiding or abetting a violation.

"(L) REGULATIONS.—The Director shall prescribe regulations establishing such procedures as may be necessary to carry out this paragraph.".

(l) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to violations committed and activities engaged in after the date of the enactment of this Act, except that the increased maxi-

mum civil penalty of $15,000 per violation or per day may apply to such violations or activities committed or engaged in before such date if such violations or activities—

(1) are not already subject to a notice issued by the appropriate Federal banking agency or the Board (initiating an administrative proceeding); and

(2) occurred after the last completed report of examination.

SEC. 908. CLARIFICATION OF CRIMINAL PENALTY PROVISIONS FOR VIOLATION OF CERTAIN ORDERS.

(a) FINANCIAL INSTITUTIONS INSURED BY THE FDIC.—Section 8(j) of the Federal Deposit Insurance Act (12 U.S.C. 1818(j)) is amended to read as follows:

"(j) CRIMINAL PENALTY.—Whoever, being subject to an order in effect under subsection (e) or (g), without the prior written approval of the appropriate Federal banking agency, knowingly participates, directly or indirectly, in any manner (including by engaging in an activity specifically prohibited in such an order) in the conduct of the affairs of—

"(1) any insured financial institution;

"(2) any institution treated as an insured bank under subsection (b)(3) or as a savings association under subsection (b)(8);

"(3) any insured credit union (as defined in section 101(7) of the Federal Credit Union Act); or

"(4) any institution chartered under the Farm Credit Act of 1971,

shall be fined not more than $1,000,000, imprisoned for not more than 5 years, or both.".

(b) CREDIT UNIONS INSURED BY THE NCUA.—Section 206(l) of the Federal Credit Union Act (12 U.S.C. 1786(l)) is amended to read as follows:

"(l) CRIMINAL PENALTY FOR VIOLATION OF CERTAIN ORDERS.—Whoever—

"(1) under this Act, is suspended or removed from, or prohibited from participating in the affairs of any institution or credit union described in section 8(j) of the Federal Deposit Insurance Act; and

"(2) knowingly participates, directly or indirectly, in any manner in the conduct of the affairs of such an institution or credit union;

shall be fined not more than $1,000,000, imprisoned for not more than 5 years, or both.".

SEC. 909. SUPERVISORY RECORDS.

Section 11 of the Federal Deposit Insurance Act (12 U.S.C. 1821) is amended by inserting after subsection (m) (as added by section 211(10) of this Act) the following new subsection:

"(n) SUPERVISORY RECORDS.—In addition to the requirements of section 7(a)(2) to provide to the Corporation copies of reports of examination and reports of condition, whenever the Corporation has been appointed as receiver for an insured financial institution, the appropriate Federal banking agency shall make available all supervisory records to the receiver which may be used by the receiver in any manner the receiver determines to be appropriate.".

SEC. 910. INCREASED PENALTY FOR PARTICIPATION BY CONVICTED INDIVIDUALS.

(a) BANKS INSURED BY THE FDIC.—Section 19 of the Federal Deposit Insurance Act (12 U.S.C. 1829) is amended to read as follows:

"SEC. 19. PENALTY FOR UNAUTHORIZED PARTICIPATION BY CONVICTED INDIVIDUAL.

"(a) PROHIBITION.—Except with the prior written consent of the Corporation—

"(1) any person who has been convicted of any criminal offense involving dishonesty or a breach of trust may not participate, directly or indirectly, in any manner in the conduct of the affairs of an insured financial institution; and

"(2) an insured financial institution may not permit such participation.

"(b) PENALTY.—Whoever knowingly violates subsection (a) shall be fined not more than $1,000,000 for each day such prohibition is violated or imprisoned for not more than 5 years, or both.".

(b) CREDIT UNIONS INSURED BY THE NCUA.—Section 205(d) of the Federal Credit Union Act (12 U.S.C. 1785(d)) is amended to read as follows:

"(d) PENALTY FOR PROHIBITED PARTICIPATION.—

"(1) PROHIBITION.—Except with the prior written consent of the Board—

"(A) any person who has been convicted of any criminal offense involving dishonesty or a breach of trust may not participate, directly or indirectly, in any manner in the conduct of the affairs of an insured credit union; and

"(B) an insured credit union may not permit such participation.

"(2) PENALTY.—Whoever knowingly violates paragraph (1) shall be fined not more than $1,000,000 for each day such prohibition is violated or imprisoned for not more than 5 years, or both.".

SEC. 911. AMENDMENTS TO VARIOUS PROVISIONS OF LAW RELATING TO REPORTS.

(a) BANK PROTECTION ACT.—Section 3(b) of the Bank Protection Act of 1968 (12 U.S.C. 1882) is amended by striking out "and shall require the submission of periodic reports with respect to the installation, maintenance, and operation of security devices and procedures".

(b) AMENDMENTS RELATING TO NATIONAL BANKS.—

(1) Section 5211 of the Revised Statutes (12 U.S.C. 161) is amended—

(A) in the 5th sentence of subsection (a), by striking out "within ten days after the receipt of a request therefor from him" and inserting in lieu thereof "within the period of time specified by the Comptroller"; and

(B) in subsection (c), by striking out the last sentence.

(2) Section 5213 of the Revised Statutes (12 U.S.C. 164) is amended to read as follows:

"SEC. 5213. PENALTY FOR FAILURE TO MAKE REPORTS.

"(a) PENALTY IMPOSED FOR CERTAIN VIOLATIONS.—Any association which—

"(1) fails to make, obtain, transmit, or publish any report or information required by the Comptroller of the Currency under section 5211 of this chapter; or

"(2) submits or publishes any false or misleading report or information,

shall be subject to a penalty of not more than $15,000 for each day during which such failure continues or such false or misleading information is not corrected.

"(b) AUTHORITY TO IMPOSE GREATER PENALTY FOR VIOLATIONS WITH SERIOUS CONSEQUENCES.—Notwithstanding subsection (a), if any association knowingly or with reckless disregard for the accuracy of any information or report described in subsection (a) engages in conduct described in subsection (a), the Comptroller may, in its discretion, assess a penalty of not more than $1,000,000 or 1 percent of total assets of the association, whichever is less, per day for each such day.

"(c) ASSESSMENT.—Any penalty imposed under subsection (a) or (b) shall be assessed and collected by the Comptroller of the Currency in the manner provided in section 8(i)(2) of the Federal Deposit Insurance Act (for penalties imposed under such section) and any such assessment (including the determination of the amount of the penalty) shall be subject to the provisions of such section.".

(c) AMENDMENT RELATING TO STATE NONMEMBER INSURED BANKS.—The last sentence of section 7(a)(1) of the Federal Deposit Insurance Act (12 U.S.C.1817(a)(1)) is amended to read as follows: "Any such bank which—

"(A) fails to make or publish any report required under this paragraph within the period of time specified by the Corporation; or

"(B) submits or publishes any false or misleading report or information,

shall be subject to a penalty of not more than $15,000 for each day during which such failure continues or such false or misleading information is not corrected.

Notwithstanding the preceding sentence, if any such bank knowingly or with reckless disregard for the accuracy of any information or report described in such sentence engages in conduct described in such sentence, the Corporation may, in its discretion, assess a penalty of not more than $1,000,000 or 1 percent of total assets of such bank, whichever is less, per day for each such day. Any penalty imposed under any of the 2 preceding sentences shall be assessed and collected by the Corporation in the manner provided in section 8(i)(2) (for penalties imposed under such section) and any such assessment (including the determination of the amount of the penalty) shall be subject to the provisions of such section.".

(d) AMENDMENT RELATING TO STATE MEMBER BANKS.—The penultimate sentence of the 6th undesignated paragraph of section 9 of the Federal Reserve Act (12 U.S.C. 324) is amended to read as follows: "Any bank which—

"(1) fails to make such reports within the period of time specified by the Board; or

"(2) submits or publishes any false or misleading report or information,

shall be subject to a penalty of not more than $15,000 for each day during which such failure continues or such false or misleading information is not corrected. Notwithstanding the preceding sentence, if any bank knowingly or with reckless disregard for the accuracy of any information or report described in such sentence engages in conduct described in such sentence, the Board may, in its discretion, assess a penalty of not more than $1,000,000 or 1 percent of total assets of such bank, whichever is less, per day for each such day. Any penalty imposed in any of the 2 preceding sentences shall be assessed and collected by the Board in the manner provided in section 8(i)(2) of the Federal Deposit Insurance Act (for penalties imposed under such section) and any such assessment (including the determination of the amount of the penalty) shall be subject to the provisions of such section.".

(e) AMENDMENT RELATING TO BANK HOLDING COMPANIES.—Section 8 of the Bank Holding Company Act of 1956 (12 U.S.C. 1847) is amended by adding after the subsection added by section 905(i) of this Act the following new subsection:

"(d) PENALTY FOR FAILURE TO MAKE REPORTS.—

"(1) PENALTY IMPOSED FOR CERTAIN VIOLATIONS.—Any company which—

"(A) fails to make, submit, or publish such reports or information as may be required

under this Act or regulations prescribed by the Board pursuant to this Act within the period of time specified by the Board; or

"(B) submits or publishes any false or misleading report or information,

shall be subject to a penalty of not more than $15,000 for each day during which such failure continues or such false or misleading information is not corrected.

"(2) AUTHORITY TO IMPOSE GREATER PENALTY FOR VIOLATIONS WITH SERIOUS CONSEQUENCES.—Notwithstanding paragraph (1), if any company knowingly or with reckless disregard for the accuracy of any information or report described in paragraph (1) engages in conduct described in paragraph (1), the Board may, in its discretion, assess a penalty of not more than $1,000,000 or 1 percent of total assets of such company, whichever is less, per day for each such day.

"(3) ASSESSMENT.—Any penalty imposed under paragraph (2) or (3) shall be assessed and collected by the Board in the manner provided in subsection (b) (for penalties imposed under such subsection) and any such assessment (including the determination of the amount of the penalty) shall be subject to the provisions of such subsection.".

(f) AMENDMENT RELATING TO FEDERAL ASSOCIATIONS.—Section 5 of the Home Owners' Loan Act of 1933 (12 U.S.C. 1464) is amended by inserting after the subsection added by section 319 of this Act the following new subsection:

"(u) REPORTS OF CONDITION; PENALTIES.—

"(1) REPORTS OF CONDITION.—Each savings association shall make reports of condition to the Director which shall be in such form and shall contain such information as the Director may require.

"(2) PUBLICATION.—The Director may require reports of condition to be published in such manner as it may direct.

"(3) PENALTY FOR FAILURE TO REPORT.—Any savings association which—

"(A) fails to submit or publish any report or information required by the Director under paragraph (1) or (2) within the period of time specified; or

"(B) submits or publishes any false or misleading report or information,

shall be subject to a penalty of not more than $15,000 for each day during which such failure continues or such false or misleading information is not corrected.

"(4) AUTHORITY TO IMPOSE GREATER PENALTY FOR VIOLATIONS WITH SERIOUS CONSEQUENCES.—Notwithstanding paragraph (3), if any savings association knowingly or with reckless disregard for the accuracy of any information or report described in paragraph (3) engages in conduct described in paragraph (3), the Director may, in its discretion, assess a penalty of not more than $1,000,000 or 1 percent of total assets, whichever is less, per day for each such day.

"(5) ASSESSMENT.—Any penalty imposed under paragraph (3) or (4) shall be assessed and collected by the Director in the manner provided in section 8(i) of the Federal Deposit Insurance Act for penalties imposed under such subsection, and any such assessment (including the determination of the amount of the penalty) shall be subject to the provisions of such subsection.".

(g) AMENDMENT RELATING TO SAVINGS AND LOAN HOLDING COMPANIES.—Section 5 of the Home Owners' Loan Act of 1933 (12 U.S.C. 1464) is amended by inserting after the subsection added by subsection (f) of this section the following new subsection:

"(v) PENALTY FOR FAILURE TO PROVIDE TIMELY AND ACCURATE REPORTS.—

"(1) IN GENERAL.—Any savings and loan holding company, and any subsidiary of such holding company, which—

"(A) fails to submit or publish any report or information required under this section or regulations prescribed by the Director within the period of time specified; or

"(B) submits or publishes any false or misleading report or information,

shall be subject to a penalty of not more than $15,000 for each day during which such failure continues or such false or misleading information is not corrected.

"(2) AUTHORITY TO IMPOSE GREATER PENALTY FOR VIOLATIONS WITH SERIOUS CONSEQUENCES.—Notwithstanding paragraph (1), if any savings and loan holding company or any subsidiary of such a holding company knowingly or with reckless disregard for the accuracy of any information or report described in paragraph (1) engages in conduct described in paragraph (1), the Director may, in its discretion, assess a penalty of not more than $1,000,000 or 1 percent of total assets of such company or subsidiary, whichever is less, per day for each such day.

"(3) ASSESSMENT.—Any penalty imposed under paragraph (1) or (2) shall be assessed and collected by the Director in the manner provided in section 407(k)(3) (for penalties imposed under such subsection) and any such assessment (including the determination of the amount of the penalty) shall be subject to the provisions of such subsection.".

(h) AMENDMENT RELATING TO CREDIT UNIONS.—Section 202(a)(3) of the Federal Credit Union Act (12 U.S.C. 1782(a)(3)) is amended by striking out the 2nd sentence and inserting in lieu thereof the following new sentences: "Any insured credit union which—

"(A) fails to submit or publish any report required under this subsection or section 106 within the period of time specified by the Board; or

"(B) submits or publishes any false or misleading report or information,

shall be subject to a penalty of not more than $15,000 for each day during which such failure continues or such false or misleading information is not corrected.

Notwithstanding the preceding sentence, if any insured credit union knowingly or with reckless disregard for the accuracy of any information or report described in such sentence engages in conduct described in such sentence, the Board may, in its discretion, assess a penalty of not more than $1,000,000 or one percent of total assets of such credit union, whichever is less, per day for each such day. Any penalty imposed under any of the 2 preceding sentences shall be assessed and collected by the Board in the manner provided in section 206(k)(2) (for penalties imposed under such section) and any such assessment (including the determination of the amount of the penalty) shall be subject to the provisions of such section.".

(i) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to reports filed or required to be filed after the date of the enactment of this Act.

SEC. 912. AUTHORITY OF THE FDIC TO TAKE ENFORCEMENT ACTION AGAINST SAVINGS ASSOCIATIONS.

Section 8 of the Federal Deposit Insurance Act (12 U.S.C. 1818) is amended by adding after the subsection added by section 901(a) of this Act the following new subsection:

"(v) AUTHORITY OF BOARD TO TAKE ENFORCEMENT ACTION AGAINST SAVINGS ASSOCIATIONS.—

"(1) AUTHORITY TO RECOMMEND THAT DIRECTOR OF OFFICE OF THRIFT SUPERVISION TAKE ENFORCEMENT ACTION.—The Corporation, based on an examination of a savings association by the Corporation or by the Director of the Office of Thrift Supervision or on other information, may recommend that the Director take any enforcement action authorized under this section or under section 18(j) with respect to any savings association.

"(2) AUTHORITY OF BOARD TO ORDER CORPORATION TO TAKE ENFORCEMENT ACTION IF DIRECTOR OF OFFICE OF THRIFT SUPERVISION FAILS TO FOLLOW RECOMMENDATION.—If the Director fails to take the recommended action or to provide an acceptable plan for addressing the concerns of the Corporation as set forth in its recommendation within 60 days after receipt of the formal recommendation from the Corporation, the Board of Directors may order the Corporation to take such action if the Board determines that the association is in an unsafe or unsound condition to continue as an insured financial institution or that failure to take the recommended action will result in continuance of unsafe or unsound practices in conducting the business of the savings association.

"(3) EFFECT OF EXIGENT CIRCUMSTANCES.—

"(A) AUTHORITY TO ACT.—Notwithstanding paragraphs (1) and (2), the Board of Directors may order the Corporation to exercise its authority without regard to the time period set forth, in exigent circumstances upon notification of the Director.

"(B) AGREEMENT ON EXIGENT CIRCUMSTANCES.—The Corporation shall, by agreement with the Director, set forth those exigent circumstances in which the Corporation may act without regard to the time period set forth above.

"(4) REQUESTS FOR FORMAL INVESTIGATIONS.—

"(A) SUBMISSION OF REQUESTS.—The Federal Home Loan banks shall concurrently submit all requests for formal investigations or enforcement actions to both the Director and the Corporation.

"(B) DIRECTOR REQUIRED TO REPORT QUARTERLY ON REQUESTS.—The Director shall report quarterly to the Corporation the status or disposition of all such requests, including the reasons for the Director's decision to either approve or deny all such requests and the status of all ongoing investigations and enforcement proceedings.

"(5) NONDELEGATION.—Any decisions by the Board of Directors to order actions described in this subsection shall not be delegated.".

SEC. 913. PUBLIC DISCLOSURE OF ENFORCEMENT ACTIONS REQUIRED.

(a) ORDERS ISSUED BY APPROPRIATE FEDERAL BANKING AGENCIES.—Section 8 of the Federal Deposit Insurance Act is amended by adding after the subsection added by section 912 of this Act the following new subsection:

"(w) PUBLIC DISCLOSURE OF NOTICES AND FINAL ORDERS.—

"(1) IN GENERAL.—The appropriate Federal banking agency shall publish and make available to the public—

"(A) any final order issued with respect to any administrative enforcement proceeding initiated by such agency against any insured financial institution or individual under this section or any other provision of law; and

"(B) any modification to or termination of any final order described in subparagraph (A) of this paragraph.

"(2) DELAY OF PUBLICATION UNDER EXCEPTIONAL CIRCUMSTANCES.—If the appropriate

Federal banking agency makes a determination in writing that the publication of any final order pursuant to paragraph (1) would seriously threaten the safety or soundness of an insured financial institution, such agency may delay the publication of such notice for a reasonable time.".

(b) ORDERS ISSUED BY NCUA.—Section 206 of the Federal Credit Union Act (12 U.S.C. 1786) is amended by inserting after the subsection added by section 901(b) of this Act the following new subsection:

"(s) PUBLIC DISCLOSURE OF NOTICES AND FINAL ORDERS.—

"(1) IN GENERAL.—The Board shall publish and make available to the public—

"(A) any final order issued with respect to any administrative enforcement proceeding initiated by such agency against any such bank or individual under this section or any other provision of law; and

"(B) any modification to or termination of any final order described in subparagraph (A).

"(2) DELAY OF PUBLICATION UNDER EXCEPTIONAL CIRCUMSTANCES.—If the Board makes a determination in writing that the publication of any final order pursuant to paragraph (1) would seriously threaten the safety or soundness of an insured credit union or other federally regulated depository institution, the Board may delay the publication of such notice for a reasonable time.".

SEC. 914. AGENCY DISAPPROVAL OF DIRECTORS AND SENIOR EXECUTIVE OFFICERS OF CERTAIN FINANCIAL INSTITUTIONS.

(a) FINANCIAL INSTITUTION INSURED BY THE FDIC.—The Federal Deposit Insurance Act (12 U.S.C. 1811 et seq.) is amended by adding at the end thereof the following new section:

"SEC. 28. AGENCY DISAPPROVAL OF DIRECTORS AND SENIOR EXECUTIVE OFFICERS OF INSURED FINANCIAL INSTITUTIONS OR FINANCIAL INSTITUTION HOLDING COMPANIES.

"(a) PRIOR NOTICE REQUIRED.—An insured financial institution or financial institution holding company shall notify the appropriate Federal banking agency of the proposed addition of any individual to the board of directors or the employment of any individual as a senior executive officer of such institution or holding company at least 30 days before such addition or employment becomes effective, if the insured financial institution or financial institution holding company—

"(1) has been chartered less than 2 years in the case of an insured financial institution;

"(2) has undergone a change in control within the preceding 2 years; or

"(3) is not in compliance with the minimum capital requirement applicable to such institution or is otherwise in a troubled condition, as determined on the basis of such institution's or holding company's most recent report of condition or report of examination or inspection.

"(b) DISAPPROVAL BY AGENCY.—An insured institution may not add any individual to the board of directors or employ any individual as a senior executive officer if the appropriate Federal banking agency issues a notice of disapproval of such addition or employment before the end of the 30-day period beginning on the date the agency receives notice of the proposed action pursuant to subsection (a).

"(c) EXCEPTION IN EXTRAORDINARY CIRCUMSTANCES.—

"(1) IN GENERAL.—Each appropriate Federal banking agency may prescribe by regulation conditions under which the prior notice requirement of subsection (a) may be waived in the event of extraordinary circumstances.

"(2) NO EFFECT ON DISAPPROVAL AUTHORITY OF AGENCY.—Such waivers shall not affect the authority of each agency to issue notices of disapproval of such additions or employment of such individuals within 30 days after each such waiver.

"(d) ADDITIONAL INFORMATION.—Any notice submitted to an appropriate Federal banking agency by any insured financial institution pursuant to subsection (a) shall include such information as the agency may prescribe by regulation.

"(e) FACTORS TO BE CONSIDERED.—In making any determination with respect to any notice submitted pursuant to subsection (a), the appropriate Federal banking agency shall consider the background, qualifications, experience, and integrity of the individual with respect to whom such notice is submitted.

"(f) DEFINITION REGULATIONS.—Each appropriate Federal banking agency shall prescribe by regulation a definition for the terms 'troubled condition' and 'senior executive officer' for purposes of subsection (a).".

(b) CREDIT UNIONS INSURED BY THE NCUA.—Title II of the Federal Credit Union Insurance Act (12 U.S.C. 1781 et seq.) is amended by adding at the end thereof the following new section:

"SEC. 212. BOARD DISAPPROVAL OF DIRECTORS, COMMITTEE MEMBERS, AND SENIOR EXECUTIVE OFFICERS OF INSURED CREDIT UNIONS.

"(a) PRIOR NOTICE REQUIRED.—An insured credit union shall notify the Board of the proposed addition of any individual to the board of directors or committee or the employment of any individual as a senior executive officer of such credit union at least 30 days before such addition or employment becomes effective, if the insured credit union—

"(1) has been chartered less than 2 years; or

"(2) is in troubled condition, as determined on the basis of such credit union's most recent report of condition.

"(b) DISAPPROVAL BY THE BOARD.—An insured credit union may not add any individual to the board of directors or employ any individual as a senior executive officer if the Board issues a notice of disapproval of such addition or employment before the end of the 30-day period beginning on the date the agency receives notice of the proposed action pursuant to subsection (a).

"(c) EXCEPTION IN EXTRAORDINARY CIRCUMSTANCES.—

"(1) IN GENERAL.—The Board may prescribe by regulation conditions under which the prior notice requirement of subsection (a) may be waived in the event of extraordinary circumstances.

"(2) NO EFFECT ON DISAPPROVAL AUTHORITY OF BOARD.—Such waivers will not affect the authority of the Board to issue notices of disapproval of such additions or employment of such individuals within 30 days after each such waiver.

"(d) ADDITIONAL INFORMATION.—Any notice submitted to the Board by any insured credit union pursuant to subsection (a) shall include such information as the agency may prescribe by regulation.

"(e) FACTORS TO BE CONSIDERED.—In making any determination with respect to any notice submitted pursuant to subsection (a), the Board shall consider the background, qualifications, experience, and integrity of the individual with respect to whom such notice is submitted.

"(f) DEFINITION REGULATIONS.—The Board shall prescribe by regulation a definition for the terms 'troubled condition' and 'senior executive officer' for purposes of subsection (a).".

SEC. 915. CLARIFICATION OF NCUA'S AUTHORITY TO CONDUCT COMPLIANCE INVESTIGATIONS.

(a) EXAMINATIONS.—Section 204(b) of the Federal Credit Union Act (12 U.S.C. 1784(b)) is amended—

(1) by inserting after "insured credit unions," the following: "or with other types of investigations to determine compliance with applicable law and regulations,"; and

(2) by inserting after "subpena duces tecum" the following: "and to exercise such others powers as are set forth in section 206(p)".

(b) ENFORCEMENT.—Section 206(p) of the Federal Credit Union Act (12 U.S.C. 1786(p)) is amended in the first sentence—

(1) by inserting after "any proceeding under this section" the following: "or in connection with any claim for insured deposits or any examination or investigation under section 204(b)";

(2) by inserting after "the Board" the first place such term appears the following: ", in conducting the proceeding, examination, or investigation or considering the claim for insured deposits,"; and

(3) by inserting ", claims, examinations, or investigations" before the period.

(c) PAYMENT OF CLAIMS.—Section 207(c)(1) of the Federal Credit Union Act (12 U.S.C. 1787(c)(1)) is amended in the last sentence by inserting after "before paying the insured accounts," the following: "may investigate said claims under section 206(p),".

SEC. 916. CONTINUITY OF AUTHORITY FOR ONGOING LITIGATION.

All ongoing litigation in which the Federal Home Loan Bank Board or the Federal Savings and Loan Insurance Corporation are named parties, shall be pursued after the effective date of this Act by the Director of the Office of Thrift Supervision or the Federal Deposit Insurance Corporation, as appropriate under this Act.

SEC. 917. EXTENSION OF AUTHORITY.

(a) CONTINUITY OF ADMINISTRATIVE ACTIONS.—Any administrative hearing or proceeding initiated before the effective date of this Act or any order issued, agreement entered, condition imposed, memorandum of understanding entered, penalty assessed or capital directive issued pursuant to those provisions in section 5(d) of the Home Owners' Loan Act (12 U.S.C. 1464(d)) (as such sections were in effect before the date of the enactment of this Act) or pursuant to subsections (e) through (h), (k), or (p) of section 407 of the National Housing Act (as such sections were in effect before the date of the enactment of this Act) shall be continued by the Director of the Office of Thrift Supervision as if those provisions remained in effect.

(b) CONTINUITY OF CERTAIN PROHIBITIONS.—Any individual who has been prohibited by order of the Federal Savings and Loan Insurance Corporation or the Federal Home Loan Bank Board from voting for any director or serving or acting as a director, officer, or employee or from participating in the affairs of any institution the accounts of which were insured by the Federal Savings and Loan Insurance Corporation before the effective date of this Act, of any holding

company, or of any subsidiary or service corporation of such institution or holding company, may not serve or act in any of those capacities with respect to a financial institution that is a member of the Savings Association Insurance Fund, without the prior written approval of the Director of the Office of Thrift Supervision.

SEC. 918. IMPROVED ADMINISTRATIVE HEARINGS AND PROCEDURES.

The Federal banking agencies and the National Credit Union Administration Board shall jointly—

(1) establish their own pool of administrative law judges, and

(2) develop a set of uniform rules and procedures to improve and expedite the administrative hearings, including provisions for summary judgment rulings where there are no disputes as to material facts of the case.

SEC. 919. TASK FORCE STUDY OF DELEGATION OF ENFORCEMENT ACTIONS.

(a) CREATION OF TASK FORCE.—The Federal banking agencies and the National Credit Union Administration Board shall create a joint task force to study the desirability and feasibility of delegating investigation and enforcement authority to their regional or district offices or banks.

(b) COMPOSITION OF TASK FORCE.—The composition of the task force shall be reasonably balanced between officials from headquarters and officials from the regions, districts, or district banks.

(c) REPORT.—Not later than September 30, 1990, the task force shall report to the Congress the findings and recommendations of the Task Force, together with the responses of the Comptroller of the Currency, the Director of the Office of Thrift Supervision, the Chairman of the Federal Deposit Insurance Corporation, the Chairman of the Federal Reserve Board, and the Chairman of the National Credit Union Administration.

SEC. 920. IMMUNITY OF AGENCY EMPLOYEES FOR FURNISHING INFORMATION TO OTHER AGENCIES.

(a) IN GENERAL.—When acting in their official capacity, officials and employees of the Federal banking agencies and the National Credit Union Administration shall be immune from all civil actions in State and Federal court arising from transmittal—

(1) of a criminal referral (and information contained therein) to a State law enforcement agency or to the Attorney General; or

(2) information to a State or Federal banking agency.

(b) ADDITION TO OTHER IMMUNITIES AND DEFENSES.—This provision shall be in addition to any other immunities or defenses that are otherwise available to a Federal employee in the exercise of the official duties of the employee.

SEC. 921. ANNUAL REPORT TO CONGRESS.

(a) IN GENERAL.—Each agency described in subsection (b) shall submit an annual report to the Congress which shall contain the following information with respect to the 12-month period for which such report is made:

(1) The number of formal and informal supervisory, administrative, and civil enforcement actions initiated or completed by such agency during such 12-month period, including actions initiated or taken with respect to memoranda of understanding, written agreements, cease and desist orders (including temporary orders), suspension orders, removal or prohibition orders, and civil money penalty assessments.

(2) The number of individuals and institutions against whom civil money penalties were assessed by such agency during such 12-month period, the amount of each such penalty, the total amount of all such penalties, and data on uncollected penalties for such period and prior years.

(3) A description of all other enforcement efforts and initiatives relating to unsafe and unsound practices, criminal misconduct, and insider abuse which were undertaken by such agency during such 12-month period.

(4) Recommendations concerning the need for additional legislation or financial resources.

(b) AGENCIES REQUIRED TO SUBMIT REPORTS.—The agencies referred to in subsection (a) are as follows:

(1) The Comptroller of the Currency.

(2) The Board of Governors of the Federal Reserve System.

(3) The Federal Deposit Insurance Corporation.

(4) The Federal Housing Finance Board.

(5) The Office of Thrift Supervision.

(6) The National Credit Union Administration.

(7) The Attorney General of the United States.

SEC. 922. CREDIT UNION AUDIT REQUIREMENTS.

Section 202(a) of the Federal Credit Union Act (12 U.S.C. 1782(a)) is amended by adding at the end thereof the following new paragraph:

"(6) AUDIT REQUIREMENT.—

"(A) IN GENERAL.—Before the end of the 120-day period beginning on the date of the enactment of the Financial Institutions Reform, Recovery and Enforcement Act of 1989 and notwithstanding any provision of Federal law, the law of any State, or the constitution of any State, the Board shall prescribe, by regulation, audit standards which require an outside, independent audit of any insured credit union by a certified public accountant for any fiscal year (of such credit union)—

"(i) for which such credit union has not conducted an annual supervisory committee audit;

"(ii) for which such credit union has not received a complete and satisfactory supervisory committee audit; or

"(iii) during which such credit union has experienced persistent and serious record-keeping deficiencies, as determined by the Board.

"(B) UNSAFE OR UNSOUND PRACTICE.—The Board may treat the failure of any insured credit union to obtain an outside, independent audit for any fiscal year for which such audit is required under subparagraph (A) as an unsafe or unsound practice within the meaning of section 206(b).".

Subtitle B—Termination of Deposit Insurance

SEC. 926. REVISION OF PROCEDURES FOR TERMINATION OF FDIC DEPOSIT INSURANCE.

Section 8(a) of the Federal Deposit Insurance Act (12 U.S.C. 1818(a)) is amended—

(1) by striking out "(a) Any insured bank" and all that follows through the period at the end of the 4th sentence and inserting in lieu thereof the following:

"(a) TERMINATION OF INSURANCE.—

"(1) VOLUNTARY TERMINATION.—Any insured financial institution which is not—

"(A) a national member bank;

"(B) a State member bank;

"(C) a Federal branch;

"(D) a Federal savings association; or

"(E) an insured branch which is required to be insured under subsection (a) or (b) of section 6 of the International Banking Act of 1978,

may terminate such financial institution's status as an insured financial institution if such insured institution provides written notice to the Corporation of the institution's intent to terminate such status not less than 90 days before the effective date of such termination.

"(2) INVOLUNTARY TERMINATION.—

"(A) NOTICE TO PRIMARY REGULATOR.—If the Board of Directors determines that—

"(i) an insured financial institution or the directors or trustees of an insured financial institution have engaged or are engaging in unsafe or unsound practices in conducting the business of the financial institution;

"(ii) an insured financial institution is in an unsafe or unsound condition to continue operations as an insured institution; or

"(iii) an insured financial institution or the directors or trustees of the insured institution have violated any applicable law, regulation, order, condition imposed in writing by the Corporation in connection with the approval of any application or other request by the insured financial institution, or written agreement entered into between the insured financial institution and the Corporation,

the Board of Directors shall notify the appropriate Federal banking agency with respect to such institution (if other than the Corporation) or the State banking supervisor of such institution (if the Corporation is the appropriate Federal banking agency) of the Board's determination and the facts and circumstances on which such determination is based.

"(B) NOTICE OF INTENTION TO TERMINATE INSURANCE.—If, after giving the notice required under subparagraph (A) with respect to an insured financial institution, the Board of Directors determines that any unsafe or unsound practice or condition or any violation specified in such notice requires the termination of the insured status of the insured financial institution, the Board shall—

"(i) serve written notice to the insured financial institution of the Board's intention to terminate the insured status of the institution;

"(ii) provide the insured financial institution with a statement of the charges on the basis of which the determination to terminate such institution's insured status was made (or a copy of the notice under subparagraph (A)); and

"(iii) notify the insured financial institution of the date (not less than 30 days after notice under this subparagraph) and place for a hearing before the Board of Directors (or any person designated by the Board) with respect to the termination of the institution's insured status.

"(3) HEARING; TERMINATION.—If, on the basis of the evidence presented at a hearing before the Board of Directors (or any person designated by the Board for such purpose), in which all issues shall be determined on the record pursuant to section 554 of title 5, United States Code, and the written findings of the Board of Directors (or such person) with respect to such evidence (which shall be conclusive), the Board of Directors finds that any unsafe or unsound practice or condition or any violation specified in the notice to an insured financial institution under subparagraph (B) has been established, the Board of Directors may issue an order terminating the insured status of such financial institution effective as of a date subsequent to such finding.";

(2) by striking out "Unless the" and inserting in lieu thereof the following:

"(4) APPEARANCE; CONSENT TO TERMINATION.—Unless the";

(3) by striking out "Any insured financial institution whose insured status" and inserting in lieu thereof the following:

"(5) JUDICIAL REVIEW.—Any insured financial institution whose insured status";

(4) by striking out "The Corporation may publish" and inserting in lieu thereof the following:

"(6) PUBLICATION OF NOTICE OF TERMINATION.—The Corporation may publish";

(5) by striking out "After the termination of the insured status" and inserting in lieu thereof the following:

"(7) TEMPORARY INSURANCE OF DEPOSITS INSURED AS OF TERMINATION.—After the termination of the insured status";

(6) in paragraph (7), by striking out "of two years" and inserting in lieu thereof "of at least 6 months or up to 2 years, within the discretion of the Board of Directors";

(7) by adding at the end the following new paragraph:

"(8) TEMPORARY SUSPENSION OF INSURANCE.—

"(A) IN GENERAL.—If the Board of Directors initiates a termination proceeding under paragraph (2), and the Board of Directors, after consultation with the appropriate Federal banking agency, finds that—

"(i) an insured financial institution (other than a savings association) has no common or perpetual noncumulative preferred equity capital, or its equivalent for mutual institutions; or

"(ii) a savings association has no risk-adjusted capital and no core capital (as determined under section 5(t) of the Home Owners' Loan Act of 1933),

the Corporation may issue a temporary order suspending deposit insurance on all deposits received by the institution after the effective date of such order.

"(B) EFFECTIVE PERIOD OF TEMPORARY ORDER.—Such order shall become effective not earlier than 10 days from the date of service upon the institution and, unless set aside, limited or suspended by a court in proceedings authorized hereunder, such temporary order shall remain effective and enforceable until an order of the Board under paragraph (3) becomes final or until the Corporation dismisses the proceedings under paragraph (3).

"(C) JUDICIAL REVIEW.—Within 10 days after any temporary order has been served upon an insured financial institution under subparagraph (A), such institution may apply to the United States District Court for the District of Columbia, or the United States district court for the judicial district in which the home office of the institution is located, for an injunction setting aside, limiting or suspending the enforcement, operation or effectiveness of such order, and such court shall have jurisdiction to issue such injunction.

"(D) CONTINUATION OF INSURANCE FOR PRIOR DEPOSITS.—The insured deposits of each depositor in such financial institution on the effective date of the order issued under this paragraph, minus all subsequent withdrawals from any deposits of such depositor, shall continue to be insured, subject to the administrative proceedings as provided in this Act.

"(E) PUBLICATION OF ORDER.—The Corporation may publish notice of any order issued under this paragraph and the financial institution shall give notice of such order to each of its depositors in such manner and at such times as the Board of Directors may find to be necessary and may order for the protection of depositors.

"(F) NOTICE BY CORPORATION.—If the Corporation determines that the financial institution has not substantially complied with the notice to depositors required by the Board of Directors, the Corporation may provide such notice in such manner as the Board of Directors may find to be necessary and appropriate.

"(G) LACK OF NOTICE.—The failure of a depositor to receive notice shall not affect the effectiveness of any order issued under this paragraph, except that a deposit shall remain insured to the extent that the depositor establishes that—

(i) such deposit consists of additions made by automatic deposit the depositor was unable to prevent; or

(ii) such depositor did not have notice of the suspension of insurance."; and

(8) by adding after the paragraph added by paragraph (7) of this section the following new paragraph:

"(9) FINAL DECISIONS TO TERMINATE INSURANCE.—Any decision by the Board of Directors to—

"(A) issue a temporary order terminating deposit insurance; or

"(B) issue a final order terminating deposit insurance;

shall be made by the Board of Directors and may not be delegated.".

Subtitle C—Improving Early Detection of Misconduct and Encouraging Informants

SEC. 931. INFORMATION REQUIRED TO BE MADE AVAILABLE TO OUTSIDE AUDITORS.

(a) FINANCIAL INSTITUTIONS INSURED BY THE FDIC.—Section 7(a) of the Federal Deposit Insurance Act (12 U.S.C. 1817(a)) is amended by adding at the end thereof the following new paragraph:

"(8) REPORT TO INDEPENDENT AUDITOR.—

"(A) IN GENERAL.—Each insured financial institution which has engaged the services of an independent auditor to audit such financial institution within the past 2 years shall transmit to such auditor a copy of the the most recent report of condition made by such financial institution (pursuant to this Act or any other provision of law) and a copy of the most recent report of examination received by such financial institution.

"(B) ADDITIONAL INFORMATION.—In addition to the copies of the reports required to be provided to an auditor under subparagraph (A), each insured financial institution shall provide such auditor with—

"(i) a copy of any supervisory memorandum of understanding with such financial institution and any written agreement between a Federal banking agency and the financial institution which is in effect during the period covered by the audit; and

"(ii) a report of any action initiated or taken by the agency during such period under subsection (a), (b), (c), (e), (g), (i), or (s) of section 8, or any other civil money penalty assessed under any other provisions of law with respect to—

"(I) the financial institution;

"(II) any officer or director of the financial institution; or

"(III) any other person participating in the conduct of the affairs of the financial institution.".

(b) INSTITUTIONS INSURED BY THE NCUA.—Section 202(a) of the Federal Credit Union Act (12 U.S.C. 1782(a)) is amended by adding after the paragraph added by section 922 of this Act the following new paragraph:

"(7) REPORT TO INDEPENDENT AUDITOR.—

"(A) IN GENERAL.—Each insured credit union which has engaged the services of an independent auditor to audit such financial institution within the past 2 years shall transmit to such auditor a copy of the most recent report of condition made by such credit union (pursuant to this Act or any other provision of law) and a copy of the most recent report of examination received by such credit union.

"(B) ADDITIONAL INFORMATION.—In addition to the copies of the reports required to be provided to an auditor under subparagraph (A), each insured credit union shall provide, within 30 days after the date the reports are transmitted pursuant to subparagraph (A), such auditor with—

"(i) a copy of any supervisory memorandum of understanding with such credit union and any written agreement between the Board and the credit union which is in effect during the period covered by the audit; and

"(ii) a report of any action initiated or taken by the Board during such period under subsection (e), (f), (g), (i), (l), or (q) of section 207, or any other civil money penalty assessed by the Board under this Act, with respect to—

"(I) the credit union;

"(II) any officer or director of the credit union; or

"(III) any other person participating in the conduct of the affairs of the financial institution.".

SEC. 932. FINANCIAL INSTITUTION EMPLOYEE PROTECTION REMEDY.

(a) EMPLOYEES OF FINANCIAL INSTITUTIONS INSURED BY THE FDIC.—The Federal Deposit Insurance Act (12 U.S.C. 1811 et seq.) is amended by adding after the section added by section 222(b) of this Act the following new section:

"SEC. 31. FINANCIAL INSTITUTION EMPLOYEE PROTECTION REMEDY.

"(a) PROHIBITION AGAINST DISCRIMINATION AGAINST WHISTLEBLOWERS.—No federally insured financial institution may discharge or otherwise discriminate against any employee with respect to compensation, terms, conditions, or privileges of employment because the employee (or any person acting pursuant to the request of the employee) provided information to any financial institution regulatory authority or to the Attorney General regarding a possible violation of any law or regulation by the financial institution or its officers, directors, or employees.

"(b) ENFORCEMENT.—Any employee or former employee who believes he has been discharged or discriminated against in violation of subsection (a) may file a civil action in Federal district court within 1 year after the date of such discharge or discrimination. The complainant shall also file a copy of the complaint initiating such action with the appropriate Federal banking agency.

"(c) REMEDIES.—If the district court determines that a violation of subsection (a) has occurred, it may order the financial institution which committee the violation—

"(1) to reinstate the employee to his former position,

"(2) to pay compensatory damages, or

"(3) take other appropriate actions to remedy any past discrimination.

"(d) LIMITATION.—The protections of this subsection do not apply to any employee who—

"(1) deliberately causes or participates in the alleged violation of law or regulation, or

"(2) knowingly or recklessly provides false information to such an agency or the Attorney General.

"(e) PENALTY FOR ACTIONS BROUGHT IN BAD FAITH.—If the district court finds that an action filed under this section has been brought in bad faith, the court may award to the defendant financial institution a reasonable attorney's fee not exceeding $20,000.".

(b) EMPLOYEES OF CREDIT UNIONS INSURED BY THE NCUA.—The Federal Credit Union Act (12 U.S.C. 1751 et seq.) is amended by inserting the after section added by section 914(b) of this Act) the following new section:

"SEC. 213. CREDIT UNION EMPLOYEE PROTECTION REMEDY.

"(a) PROHIBITION AGAINST DISCRIMINATION AGAINST WHISTLEBLOWERS.—No federally insured credit union may discharge or otherwise discriminate against any employee with respect to compensation, terms, conditions, or privileges of employment because the employee (or any person acting pursuant to the request of the employee) provided information to any financial institution regulatory authority or to the Attorney General regarding a possible violation of any law or regulation by the credit union or its officers, directors, or employees.

"(b) ENFORCEMENT.—Any employee or former employee who believes he has been discharged or discriminated against in violation of subsection (a) may file a civil action in Federal district court within 1 year after the date of such discharge or discrimination. The complainant shall also file a copy of the complaint initiating such action with the Board.

"(c) REMEDIES.—If the district court determines that a violation of subsection (a) has occurred, it may order the credit union which committed the violation—

"(1) to reinstate the employee to his former position,

"(2) to pay compensatory damages, or

"(3) take other appropriate actions to remedy any past discrimination.

"(d) LIMITATIONS.—The protections of this subsection do not apply to any employee who—

"(1) deliberately causes or participates in the alleged violation of law or regulation, or

"(2) knowingly or recklessly provides false information to such an agency or the Department of Justice.

"(e) PENALTY FOR ACTIONS BROUGHT IN BAD FAITH.—If the district court finds that an action filed under this section has been brought in bad faith, the court may award to the defendant financial institution a reasonable attorney's fee not exceeding $20,000.".

SEC. 933. REWARD FOR INFORMATION LEADING TO RECOVERIES OR CIVIL PENALTIES.

(a) FINANCIAL INSTITUTIONS INSURED BY THE FDIC.—The Federal Deposit Insurance Act (12 U.S.C. 1811 et seq.) is amended by adding after the section added by section 932(a) of this Act the following new section:

"SEC. 32. REWARD FOR INFORMATION LEADING TO RECOVERIES OR CIVIL PENALTIES.

"(a) IN GENERAL.—An appropriate Federal banking agency, with the concurrence of the Attorney General, may pay a reward to a person who provides original information which leads to—

"(1) recovery, in an amount that exceeds $50,000, of a criminal fine, restitution, or civil penalty—

"(A) under—

"(i) the Federal Deposit Insurance Act;

"(ii) the Federal Credit Union Act;

"(iii) sections 5213, 5239(b), and 5240 of the Revised Statutes;

"(iv) the Federal Reserve Act;

"(v) the Bank Holding Company Act Amendments of 1970;

"(vi) the Bank Holding Company Act of 1956; or

"(vii) the Home Owners' Loan Act of 1933;

"(B) pursuant to a conviction for an offense under section 215, 656, 657, 1005, 1006, 1007, 1014, 1341, 1343, 1344, or 3663 of title 18, United States Code, affecting a financial institution insured by the Federal Deposit Insurance Corporation, or for a conspiracy to commit such an offense; or

"(C) under section 951 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989; or

"(2) a forfeiture under section 981 or 982 of title 18, United States Code, that—

"(A) arises in connection with a financial institution insured by the Federal Deposit Insurance Corporation; and

"(B) exceeds $50,000.

"(b) PERCENTAGE LIMITATION.—An appropriate Federal banking agency may not pay a reward of more than 25 percent of the amount of the fine, penalty, restitution, or forfeiture or $100,000, whichever is less.

"(c) OFFICIALS AND PERSONS INELIGIBLE.—An appropriate Federal banking agency may not pay a reward to—

"(1) an officer or employee of the United States, State, or local government who provides information described in subsection (a), obtained in the performance of official duties; or

"(2) a person who—

"(A) deliberately causes or participates in the alleged violation of law or regulation, or

"(B) knowingly or recklessly provides false information to such an agency or the Attorney General.

"(d) NONREVIEWABILITY.—A reward decision, or decision not to give a reward, made pursuant to this section by the appropriate Federal banking agency is final and not reviewable by any court.".

(b) CREDIT UNIONS INSURED BY THE NCUA.—Title II of the Federal Credit Union Act (12 U.S.C. 1790 et seq.) is amended by inserting after the section added by section 932(b) of this Act the following new section:

"SEC. 214. REWARD FOR INFORMATION LEADING TO RECOVERIES OR CIVIL PENALTIES.

"The Board may pay rewards in connection with an offense affecting a federally insured credit union, under the same circumstances and subject to the same limitations that a Federal banking agency may pay rewards under section 30 of the Federal Deposit Insurance Act in connection with an offense affecting a financial institution insured by the Federal Deposit Insurance Corporation.".

Subtitle D—Right to Financial Privacy Act Amendments

SEC. 941. DEFINITIONS.

Section 1101 of the Right to Financial Privacy Act of 1978 (12 U.S.C. 3401) is amended—

(1) by redesignating paragraphs (6) and (7) as paragraphs (7) and (8), respectively; and

(2) in paragraph (7) (as so redesignated), by striking all that precedes subparagraph (A) and inserting in lieu thereof:

"(7) 'supervisory agency' means with respect to any particular financial institution, holding company, or any subsidiary of a financial institution or holding company, any of the following which has statutory authority to examine the financial condition, business operations, or records or transactions of that institution, holding company or subsidiary;"; and

(3) by inserting after paragraph (5) the following new paragraph (6) to read as follows:

"(6) 'holding company' means any 'bank holding company' as defined in section 2 and any company described in section 3(f)(1) of the Bank Holding Company Act of 1956 (12 U.S.C. 1841), or any 'savings and loan holding company' as defined in the Home Owners' Loan Act of 1933.".

SEC. 942. ADDITIONAL EXCEPTIONS.

Section 1113 of the Right to Financial Privacy Act of 1978 (12 U.S.C. 3413(b)) is amended—

(1) by amending subsection (b) to read as follows:

"(b) This chapter shall not apply to the examination by or disclosure to any supervisory agency of financial records or information in the exercise of its supervisory, regulatory, or monetary functions, including conservatorship or receivership functions, with respect to any financial institution, holding company, or any subsidiary of a financial institution or holding company or any officer, director, employee, agent, or other person participating in the affairs thereof."; and

(2) by adding at the end the following new subsections:

"(m) This title shall not apply to the examination by or disclosure to employees or agents of the Board of Governors of the Federal Reserve System or any Federal Reserve Bank of financial records or information in the exercise of the Federal Reserve System's authority to extend credit to the depository institutions or others.

"(n) This title shall not apply to the examination by or disclosure to the Resolution Trust Corporation or its employees or agents of financial records or information in the exercise of its conservatorship, receivership, or liquidation functions with respect to a financial institution.

"(o) This title shall not apply to the examination by or disclosure to the Federal Home Financing Board or any of the Federal home loan banks of financial records or information in the exercise of the Federal Home Financing Board's authority to extend credit (either directly or through a Federal home loan bank) to depository institutions or others.".

SEC. 943. PROHIBITION.

Section 1120 of the Right to Financial Privacy Act of 1978 (12 U.S.C. 3420) is redesignated as section 1120(a) and is amended by adding at the end the following new subsection:

"(b) No officer, director, partner, employee, shareholder, or attorney of a financial institution shall, directly or indirectly, notify—

"(1) any customer (of such institution) whose records are sought pursuant to a grand jury subpoena served on such institution in connection with an investigation relating to a possible—

"(A) crime against any financial institution or supervisory agency; or

"(B) conspiracy to commit such a crime; or

"(2) any target of a grand jury investigation in the course of which such a subpoena has been served, about the existence or contents of such subpoena, or information that has been furnished to the grand jury in response to such subpoena. Section 8 of the Federal Deposit Insurance Act shall apply to any violation of this subsection.".

SEC. 944. MISCELLANEOUS PROVISIONS.

Section 1112(e) of the Right to Financial Privacy Act of 1978 (12 U.S.C. 3412(e)) is amended—

(1) by inserting after "with respect to a financial institution" the following: ", holding company, or any subsidiary of a financial institution or holding company,"; and

(2) by striking out "Council" and inserting in lieu thereof "Council and the Securities and Exchange Commission".

Subtitle E—Civil Penalties for Violations Involving Financial Institutions

SEC. 951. CIVIL PENALTIES.

(a) IN GENERAL.—Whoever violates any provision of law to which this section is made applicable by subsection (c) shall be subject to a civil penalty.

(b) AMOUNT OF PENALTY.—

(1) GENERALLY.—The amount of the civil penalty under this section shall not exceed twice the amount of actual loss to the Government. Actual loss to the Government includes costs of experts, attorneys' fees, administrative overhead, salaries of employees, and other costs in regulating, investigating, and prosecuting civil and criminal cases with respect to the conduct that is the basis of the claim for a civil penalty under this section. Actual loss to the Government also includes all moneys paid out of any Federal deposit insurance fund and any other costs incurred by the Government as a result of such conduct.

(2) SPECIAL RULE FOR VIOLATIONS CREATING GAIN OR LOSS.—If any person derives pecuniary gain from the violation, or if the violation results in pecuniary loss to a person other than the violater, the amount of the civil penalty may exceed the amount described in paragraph (1) but may not exceed the amount of such gain or loss.

(c) VIOLATIONS TO WHICH PENALTY IS APPLICABLE.—This section applies to a violation of, or a conspiracy to violate—

(1) section 215, 656, 657, 1005, 1006, 1007, 1014, or 1344 of title 18, United States Code;

(2) section 1341 or 1343 of title 18, United States Code, affecting a Federally insured financial institution.

(d) MODE OF RECOVERY.—The Attorney General may in a civil action recover a civil penalty under this section.

(e) BURDEN OF PROOF.—In a civil action to recover a civil penalty under this section, the Attorney General must establish the right to recovery by the preponderance of the evidence.

Subtitle F—Criminal Law and Procedure

SEC. 961. INCREASED CRIMINAL PENALTIES FOR CERTAIN FINANCIAL INSTITUTION OFFENSES.

(a) RECEIPT OF COMMISSIONS OR GIFTS FOR PROCURING LOANS.—Section 215(a) of title 18, United States Code, is amended—

(1) by striking "$5,000" and inserting "$1,000,000"; and

(2) by striking "five" and inserting "20".

(b) THEFT, EMBEZZLEMENT, OR MISAPPLICATION BY BANK OFFICER OR EMPLOYEE.—Section 656 of title 18, United States Code, is amended—

(1) by striking "$5,000" and inserting "$1,000,000 or twice the amount authorized by section 3571(d), whichever is greater,"; and

(2) by striking "five" and inserting "20".

(c) LENDING, CREDIT, AND INSURANCE INSTITUTIONS.—Section 657 of title 18, United States Code, is amended—

(1) by striking "$5,000" and inserting "$1,000,000 or twice the amount authorized by section 3571(d), whichever is greater,"; and

(2) by striking "five" and inserting "20".

(d) BANK ENTRIES, REPORTS, AND TRANSACTIONS.—Section 1005 of title 18, United States Code, is amended—

(1) in the 1st paragraph, by inserting "bank or savings and loan holding company," after "member bank,";

(2) in the 3rd paragraph—

(A) by inserting "or company" after "bank" each place it appears; and

(B) by striking the "—" at the end and inserting a semicolon;

(3) by adding after the 3rd paragraph the following:

"Whoever with intent to defraud the United States or any agency thereof, or any financial institution referred to in this section, participates or shares in or receives directly or indirectly any money, profit, property, or benefits through any transaction, loan, commission, contract, or any other act of any such financial institution—";

(4) by striking "$5,000" and inserting "$1,000,000 or twice the amount authorized by section 3571(d), whichever is greater"; and

(5) by striking "five" and inserting "20".

(e) FEDERAL CREDIT INSTITUTION ENTRIES, REPORTS, AND TRANSACTIONS.—Section 1006 of title 18, United States Code, is amended—

(1) by striking "$10,000" and inserting "$1,000,000 or twice the amount authorized by section 3571(d), whichever is greater"; and

(2) by striking "five" and inserting "20".

(f) FEDERAL DEPOSIT INSURANCE CORPORATION TRANSACTIONS.—Section 1007 of title 18, United States Code, is amended to read as follows:

"§ 1007. Federal Deposit Insurance Corporation Transactions

"Whoever, for the purpose of influencing in any way the action of the Federal Deposit Insurance Corporation, knowingly makes or invites reliance on a false, forged, or counterfeit statement, document, or thing shall be fined not more than $1,000,000 or twice the amount authorized by section 3571(d), whichever is greater, or imprisoned for not more than 20 years, or both.".

(g) FEDERAL SAVINGS AND LOAN INSURANCE CORPORATION TRANSACTIONS.—

(1) IN GENERAL.—Chapter 47 of title 18, United States Code, is amended by striking section 1008.

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 47 of title 18, United States Code, is amended by striking the item relating to section 1008.

(h) LOAN AND CREDIT APPLICATIONS GENERALLY; RENEWALS AND DISCOUNTS; CROP INSURANCE.—Section 1014 of title 18, United States Code, is amended—

(1) by striking "a Federal Home Loan Bank, the Federal Home Loan Bank Board, the Home Owners' Loan Corporation, a Federal Saving and Loan Association";

(2) by striking "the Federal Saving and Loan Insurance Corporation, any bank the deposits of which are insured by";

(3) by striking "any member of";

(4) by inserting "the Resolution Trust Corporation" after "Federal Deposit Insurance Corporation,";

(5) by striking "$5,000" and inserting "$1,000,000 or twice the amount authorized by section 3571(d), whichever is greater"; and

(6) by striking "two" and inserting "20".

(i) FRAUDS AND SWINDLES.—Section 1341 of title 18, United States Code, is amended—

(1) by striking "$1,000" and inserting "$1,000,000"; and

(2) by adding at the end "If the violation affects a financial institution, such person shall be fined not more than $1,000,000 or imprisoned not more than 20 years, or both.".

(j) FRAUD BY WIRE, RADIO, OR TELEVISION.—Section 1343 of title 18, United States Code, is amended—

(1) by striking "$1,000" and inserting "$1,000,000"; and

(2) by adding at the end "If the violation affects a financial institution, such person shall be fined not more than $1,000,000 or imprisoned not more than 20 years, or both.".

(k) BANK FRAUD.—Section 1344 of title 18, United States Code, is amended—

(1) in subsection (a)—

(A) by striking "$10,000" and inserting "$1,000,000 or twice the amount authorized by section 3571(d), whichever is greater"; and

(B) by striking "five" and inserting "20";

(2) in subsection (b)—

(A) in paragraph (1), by striking "bank" and inserting "institution";

(B) by striking paragraphs (2) and (4) and redesignating paragraphs (3) and (5) as paragraphs (2) and (4), respectively; and

(C) by inserting "or" at the end of paragraph (2) (as so redesignated).

(l) LIMITATIONS.—

(1) IN GENERAL.—Chapter 213 of title 18, United States Code, is amended by adding at the end the following:

"§ 3293. Financial institution offenses

"No person shall be prosecuted, tried, or punished for—

"(1) a violation of section 215, 656, 657, 1005, 1006, 1007, 1014, or 1344;

"(2) a violation of section 1341 or 1343, if the offense affects a financial institution; or

"(3) a conspiracy to commit a violation described in paragraph (1) or (2),

unless the indictment is returned or the information is filed within 10 years after the commission of the offense.".

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 213 of title 18, United States Code, is amended by adding at the end the following new item:

"3293. Financial institution offenses.".

(3) EFFECT OF AMENDMENTS ON OFFENSES FOR WHICH THE CURRENT PERIOD OF LIMITATIONS HAD NOT RUN.—The amendments made by this section shall apply to an offense committed before the effective date of this section, if the statute of limitations applicable to that offense under this chapter had not run as of such date.

(m) SENTENCING GUIDELINES.—

(1) IN GENERAL.—Pursuant to its authority under section 994(p) of title 28, United States Code, and section 21 of the Sentencing Act of 1987, the United States Sentencing Commission shall promulgate guidelines, or shall amend existing guidelines, to provide that a serious banking related offense be assigned an offense level under chapter 2 of the sentencing guidelines that is not less than level 24.

(2) DEFINITION OF "SERIOUS BANKING RELATED OFFENSE".—As used in this subsection the term "serious banking related offense" means an offense under section 215, 656, 657, 1005, 1006, 1007, 1014, 1341, 1343, or 1344 of title 18, United States Code, or a conspiracy to commit such an offense, that substantially jeopardizes the safety and soundness of a Federally insured financial institution.

(3) EXPIRATION OF REQUIREMENT.—The requirement of this subsection shall expire on December 31, 1993.

SEC. 962. MISCELLANEOUS REVISIONS TO TITLE 18.

(a) SPECIFIC TERMINOLOGY CHANGES AND REPEAL.—

(1) SECTION 212.—Section 212 of title 18, United States Code, is amended—

(A) by striking "bank" and "banks" each place such terms appear (except in "land bank", "member banks", and "Federal Reserve bank") and inserting in lieu thereof "financial institution" and "financial institutions", respectively; and

(B) in the 2nd undesignated paragraph, by striking "or by the Federal Deposit Insurance Corporation" and inserting in lieu thereof ", by the Federal Deposit Insurance Corporation, by the Office of Thrift Supervision, or by the Federal Housing Finance Board".

(2) SECTION 213.—Section 213 of title 18, United States Code, is amended by striking "banks the deposits of which" and inserting "financial institutions the deposits of which".

(3) REPEAL OF SECTION 1009.—Title 18, United States Code, is amended by striking out section 1009.

(4) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 47 of title 18, United States Code, is amended by striking out the item relating to section 1009.

(5) SECTION 1030(e)(4).—Section 1030(e)(4) of title 18, United States Code, is amended—

(A) in subparagraph (A), by striking "a bank" and inserting "an institution,";

(B) by striking subparagraph (C); and

(C) by redesignating subparagraphs (D), (E), (F), (G), and (H), as subparagraphs (C), (D), (E), (F), and (G), respectively.

(6) SECTION 1114.—Section 1114 of title 18, United States Code, is amended—

(A) by striking "the Federal Savings and Loan Insurance Corporation,"; and

(B) by striking "the Federal Home Loan Bank Board" and inserting "the Office of Thrift Supervision, the Federal Housing Finance Board, the Resolution Trust Corporation".

(7) CHANGES RELATING TO NATIONAL CREDIT UNION ADMINISTRATION.—Sections 657, 1006, 1014, and 2113(h) of title 18, United States Code, are each amended by striking "Administrator of the National Credit Union Administration" and inserting "National Credit Union Administration Board".

(b) CROSS REFERENCE CHANGE.—Section 1306 of title 18, United States Code, is amended by striking "section 20 of the Federal Deposit Insurance Act, or section 410 of the National Housing Act" and inserting "or section 20 of the Federal Deposit Insurance Act".

(c) OBSTRUCTION OF CRIMINAL INVESTIGATIONS.—Section 1510 of title 18, United States Code, is amended—

(1) by redesignating subsection (b) as subsection (c); and

(2) by inserting after subsection (a) the following:

"(b) Whoever, being an officer, director, partner, employee, or attorney of a financial institution, knowingly notifies, directly or indirectly—

"(1) a customer of that financial institution whose records are sought by a grand jury subpoena that has been served relating to—

"(A) a possible violation of—

"(i) section 215, 656, 657, 1005, 1006, 1007, 1014, or 1344; or

"(ii) section 1341 or 1343 affecting a financial institution; or

"(B) a possible conspiracy to commit any violation described in either clause of subparagraph (A); or

"(2) a target of a grand jury investigation in connection with which such a subpoena has been served,

about the existence or contents of that subpoena, or information that has been furnished to the grand jury in response to that subpoena shall be fined under this title or imprisoned not more than 1 year, or both, or, if the offense was committed with the intent to obstruct the enforcement of the subpoena or to obstruct any other proceeding, shall be fined under this title or imprisoned not more than 5 years, or both.".

(d) CONFORMING TERMINOLOGY IN BANK ROBBERY SECTION.—Section 2113 of title 18, United States Code, is amended—

(1) in subsection (f), by striking "any bank the deposits of which" and inserting "any institution the deposits of which";

(2) by adding before the period at the end of subsection (h) ", and any 'Federal credit union' as defined in section 2 of the Federal Credit Union Act"; and

(3) by striking subsection (g) and redesignating subsection (h) as subsection (g).

(e) CREATION OF GENERAL DEFINITION OF FINANCIAL INSTITUTION FOR TITLE 18.—

(1) IN GENERAL.—Subsection (b) of section 215 of title 18, United States Code, is transferred to the end of chapter 1 of such title.

(2) UPDATING AND TECHNICAL AMENDMENTS.—Such subsection (b), as so transferred, is amended—

(A) by inserting at the beginning the following section heading:

"§ 20. Financial institution defined"

(B) by striking "(b)";

(C) by striking "this section" and inserting "this title";

(D) in paragraph (1), by striking "a bank" and inserting "an institution"; and

(E) by striking paragraphs (2) and (8); and

(F) by redesignating paragraphs (3), (4), (5), (6), and (7) as paragraphs (2), (3), (4), (5), and (6), respectively.

(3) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 1 of title 18, United States Code, is amended by adding at the end the following new item:

"20. Financial institution defined.".

SEC. 963. CIVIL AND CRIMINAL FORFEITURE.

(a) CIVIL FORFEITURE.—Section 981(a)(1) of title 18, United States Code, is amended by adding at the end the following:

"(C) Any property, real or personal, which constitutes or is derived from proceeds traceable to a violation of section 215, 656, 657, 1005, 1006, 1007, 1014, or 1344 of this title.".

(b) TRANSFER OF PROPERTY UNDER CIVIL FORFEITURE.—Section 981(e) of title 18, United States Code, is amended—

(1) in the matter before paragraph (1), by striking out "determine to—" and inserting in lieu thereof "determine—";

(2) by striking out paragraphs (1) and (2) and inserting in lieu thereof the following:

"(1) to any other Federal agency;

"(2) to any State or local law enforcement agency which participated directly in any of the acts which led to the seizure or forfeiture of the property;

"(3) in the case of property referred to in subsection (a)(1)(C) (if the affected financial institution is in receivership or liquidation), to any Federal financial institution regulatory agency—

"(A) to reimburse the agency for payments to claimants or creditors of the institution; and

"(B) to reimburse the insurance fund of the agency for losses suffered by the fund as a result of the receivership or liquidation;

"(4) in the case of property referred to in subsection (a)(1)(C) (if the affected financial institution is not in receivership or liquidation), upon the order of the appropriate Federal financial institution regulatory agency, to the financial institution as restitution, with the value of the property so transferred to be set off against any amount later recovered by the financial institution as compensatory damages in any State or Federal proceeding; or

"(5) in the case of property referred to in subsection (a)(1)(C), to any Federal financial institution regulatory agency, to the extent of the agency's contribution of resources to, or expenses involved in, the seizure and forfeiture, and the investigation leading directly to the seizure and forfeiture, of such property."; and

(3) by adding at the end the following new sentence: "The United States shall not be liable in any action arising out of a transfer under paragraph (3), (4), or (5) of this subsection.".

(c) CRIMINAL FORFEITURE.—Section 982 of title 18, United States Code, is amended—

(1) in subsection (a)—

(A) by inserting "(1)" after "(a)"; and

(B) by adding at the end the following:

"(2) The court, in imposing sentence on a person convicted of an offense under section 215, 656, 657, 1005, 1006, 1007, 1014, 1341, 1343, or 1344 of this title, or a conspiracy to commit such an offense, affecting a financial institution, shall order that the person forfeit to the United States any property constituting, or derived from, proceeds the person obtained directly or indirectly, as the result of such violation."; and

(2) in subsection (b), by striking "(b) The provisions" and all that follows through "However, the" and inserting in lieu thereof the following:

"(b)(1) Property subject to forfeiture under this section, any seizure and disposition thereof, and any administrative or judicial proceeding in relation thereto, shall be governed—

"(A) in the case of a forfeiture under subsection (a)(1) of this section, by subsections (c) and (e) through (p) of section 413 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 853); and

"(B) in the case of a forfeiture under subsection (a)(2) of this section, by subsections (b), (c), (e), and (g) through (p) of section 413 of such Act.

"(2) The".

SEC. 964. GRAND JURY SECRECY.

(a) IN GENERAL.—Chapter 215 of title 18, United States Code, is amended by striking section 3322 and all that follows through section 3328 and inserting the following:

"§3322. Disclosure of certain matters occurring before grand jury

"(a) An attorney for the government (as defined in the Federal Rules of Criminal Procedure), and a person to whom matters have been disclosed under rule 6(e)(3)(A)(ii) of such Rules, may disclose matters occurring before a grand jury concerning a banking law violation to another attorney for the government for use in enforcing section 951 of the Financial Institutions Reform, Recovery and Enforcement Act of 1989.

"(b)(1) Upon motion of an attorney for the government, a court may direct disclo-

sure of matters occurring before a grand jury during an investigation of a banking law violation to identified personnel of a financial institution regulatory agency—

"(A) for use in relation to any matter within the jurisdiction of such regulatory agency; or

"(B) to assist an attorney for the government to whom matters have been disclosed under subsection (a).

"(2) A court may issue an order under paragraph (1) only upon a finding of particularized need.

"(c) A person to whom matter has been disclosed under this section—

"(1) in the case of a disclosure under subsection (a) or (b) for the purpose set forth in paragraph (1)(B), shall not utilize the matter disclosed for any purpose other than to enforce section 951 of the Financial Institution Reform, Recovery and Enforcement Act of 1989; and

"(2) in the case of a disclosure under subsection (b) for the purpose set forth in paragraph (1)(A), shall not utilize the matter disclosed other than in relation to any matter within the jurisdiction of such regulatory agency.

"(d) As used in this section, the term 'banking law violation' means—

"(1) a violation of—

"(A) section 215, 656, 657, 1005, 1007, 1014, or 1344; or

"(B) section 1341 or 1343 affecting a financial institution; or

"(2) a conspiracy to commit any violation described in paragraph (1).".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 215 of title 18, United States Code, is amended by striking out the item relating to sections 3322 through 3328 and inserting the following:

"3322. Disclosure of certain matters occurring before grand jury.".

SEC. 965. DEPARTMENT OF JUSTICE APPROPRIATION AUTHORIZATION.

(a) IN GENERAL.—There is authorized to be appropriated, without fiscal year limitation—

(1) $65,000,000 for the fiscal year ending September 30, 1989 and for each of the 2 succeeding fiscal years, to the Attorney General, for purposes of investigations and prosecutions involving financial institutions to which this Act and amendments made by this Act apply; and

(2) $10,000,000 for the fiscal year ending September 30, 1989 and for each of the 2 succeeding fiscal years, to the Attorney General, for purposes of civil proceedings involving financial institutions to which this Act and amendments made by this Act apply.

(b) SUPPLANTATION AND REALLOCATION PROHIBITED.—Sums authorized by this section—

(1) are in addition to any other sums authorized to be appropriated for such purposes;

(2) shall not be used to supplant sums otherwise available for such purposes; and

(3) shall not be reallocated for any other purpose.

(c) REPORT TO CONGRESS.—During the period for which sums are authorized to be appropriated by this section, the Attorney General shall report to Congress on the expenditure of such sums, and on the number and status of grand jury investigations and investigations being conducted by the Federal Bureau of Investigations, and indictments obtained and civil actions filed by the Attorney General pursuant to this Act. The Attorney General shall file—

(1) the 1st such report not later than 180 days after the date of the enactment of this Act;

(2) the 2nd such report not later than 1 year after such date; and

(3) the succeeding 2 reports annually thereafter.

SEC. 966. AUTHORIZATION OF ADDITIONAL APPROPRIATIONS FOR THE JUDICIARY.

There is authorized to be appropriated to the Federal courts system $10,000,000, to carry out such system's duties under this Act, for each of fiscal years 1989 through 1991.

TITLE X—STUDY OF FEDERAL DEPOSIT INSURANCE AND BANKING REGULATION

SEC. 1001. STUDY OF FEDERAL DEPOSIT INSURANCE SYSTEM.

(a) IN GENERAL.—The Secretary of the Treasury, in consultation with the Comptroller of the Currency, the Chairman of the Board of Governors of the Federal Reserve System, the Director of the Office of Thrift Supervision, the Chairperson of the Federal Deposit Insurance Corporation, the Chairman of the National Credit Union Administration Board, the Director of the Office of Management and Budget, and individuals from the private sector, shall conduct a study of the Federal deposit insurance system, including an appropriate structure for the offering of competitive products and services to consumers consistent with standards of safety and soundness.

(b) TOPICS.—As part of the study required under subsection (a), the Secretary of the Treasury shall investigate, review, and evaluate the following:

(1) The feasibility of establishing a deposit insurance premium structure which would take into account, on an institution-by-institution basis—

(A) asset quality risk;

(B) interest rate risk;

(C) quality of management; and

(D) profitability and capital.

(2) Incentives for market discipline, including the advantages of—

(A) limiting each depositor to 1 insured account per institution;

(B) reducing the amount insured or establishing a graduated scale according to which marginal insurance coverage declines from 100 to zero percent;

(C) combining federal with private insurance in order to bring the market discipline of private insurance to bear on the management of the financial institution; and

(D) ensuring, by law or regulation, that on the closing of any financial institution, the appropriate Federal insurance fund will honor only its explicit liabilities, and will never make good any losses on deposits not explicitly covered by federal deposit insurance.

(3) The scope of deposit insurance coverage and its impact on the liability of the insurance fund.

(4) The feasibility of market value accounting, assessments on foreign deposits, limitations on brokered deposits, the addition of collateralized borrowings to the deposit insurance base, and multiple insured accounts.

(5) The impact on the deposit insurance funds of varying State and Federal bankruptcy exemptions and the feasibility of—

(A) uniform exemptions;

(B) limits on exemptions when necessary to repay obligations owed to federally insured financial institutions; and

(C) requiring borrowers from federally insured financial institutions to post a personal or corporate bond when obtaining a mortgage on real property.

(6) Policies to be followed with respect to the recapitalization or closure of insured depositories whose capital is depleted to or near the point of, insolvency.

(7) The efficiency of housing subsidies through the Federal home loan bank system.

(8) Alternatives to Federal deposit insurance.

(9) The feasibility of requiring, by statute or other means, that—

(A) independent auditors and accountants of a financial institution report the results of any audit of the institution to the relevant regulatory agency or agencies;

(B) a regulator share reports on a financial institution with the institution's independent auditors and accountants; and

(C) independent auditors and accountants participate in conferences between the regulator and the financial institution.

(10) The feasibility of adopting regulations which are the same as or similar to the provisions of England's Banking Act, 1987, ch. 22 (4 Halsbury's Statutes of England and Wales 527-650 (1987)), enacted on May 15, 1987, relating to the Bank of England's relationship with auditors and reporting accountants (including sections 8, 39, 41, 45, 46, 47, 82, 83, 85, and 94 of such Act).

(c) FINAL REPORT.—Not later than the close of the 18-month period beginning on the date of the enactment of this Act, the Secretary of the Treasury shall submit to the Congress a final report containing a detailed statement of findings made, and conclusions drawn from, the study conducted under this section, including such recommendations for administrative and legislative action as the Secretary determines to be appropriate.

SEC. 1002. SURVEY OF BANK FEES AND SERVICES.

(a) ANNUAL SURVEY REQUIRED.—The Board of Governors of the Federal Reserve System shall conduct an annual survey of—

(1) the retail banking services provided by insured financial institutions; and

(2) the fees, if any, which are imposed by such institutions for providing such services.

(b) ANNUAL REPORT TO CONGRESS REQUIRED.—

(1) PREPARATION.—The Board of Governors of the Federal Reserve System shall prepare a report of the results of each survey conducted pursuant to subsection (a).

(2) CONTENTS OF REPORT.—Each report prepared pursuant to paragraph (1) shall include—

(A) a description of any discernable trend with respect to any increase or decrease in—

(i) the number of retail banking services provided by insured financial institutions;

(ii) the number of such services for which a separate fee is imposed; and

(iii) the amount of fees imposed by such institutions for providing any such service;

(B) a description of the correlation, if any, between—

(i) the amount of the fees imposed by insured financial institutions for providing retail banking services; and

(ii) the costs incurred by such institutions in providing such services;

(C) a description of the extent to which the net profits of insured financial institutions are attributable to fees imposed by such institutions for providing retail banking services; and

(D) a description of the correlation, if any, between—

(i) any increase in the amount of any deposit insurance premium assessed by the Federal Deposit Insurance Corporation against insured financial institutions; and

(ii) any increase in—

(I) the amount of the fees imposed by such institutions for providing retail banking services; or

(II) the number of such services for which a separate fee is imposed.

(3) SUBMISSION TO CONGRESS.—The Board of Governors of the Federal Reserve System shall submit—

(A) the first annual report required under paragraph (1) not later than June 1, 1990; and

(B) each subsequent annual report not later than June 1 of each calendar year beginning after 1990.

(c) PARTICIPATION OF OTHER BANKING AGENCIES REQUIRED.—

(1) COLLECTION OF DATA REQUIRED.—Each appropriate Federal banking agency shall—

(A) in the course of any examination of an insured financial institution by such agency, collect information on the number and amount of fees imposed by such institution for providing retail banking services; and

(B) prescribe, by regulation, a requirement that information on the number and amount of such fees be included in each report of condition submitted by any insured financial institution to such agency.

(2) TRANSMISSION OF DATA TO THE BOARD.—Each appropriate Federal banking agency shall transmit the information collected by such agency under paragraph (1) to the Board of Governors of the Federal Reserve System on a regular and timely basis for inclusion in the Board's annual survey under subsection (a).

SEC. 1003. LIMITATION ON EXPANDING DEPOSIT INSURANCE COVERAGE DURING STUDY PERIOD.

(a) IN GENERAL.—The Federal Deposit Insurance Corporation may not prescribe, issue, or implement any regulation, order, or interpretation which has the effect of—

(1) extending deposit insurance coverage to any obligation of an insured financial institution (as defined in section 3(c)(2) of the Federal Deposit Insurance Act) which would not be treated as a deposit for which insurance coverage is available under regulations, orders, or interpretations of the Corporation in effect on April 6, 1989; or

(2) extending deposit insurance coverage on a pro rata or pass-through basis to—

(A) individual investors in any unit investment trust; or

(B) individual participants in any pension or profit-sharing plan which is a qualified plan under section 401(a) of the Internal Revenue Code of 1986,

if such coverage was not available with respect to such investors or participants on such basis on April 6, 1989.

(b) INAPPLICABILITY OF PREVIOUSLY ISSUED ORDERS TO SUBSEQUENTLY ISSUED OBLIGATIONS.—

(1) GENERAL RULE.—Except as provided in paragraph (2), any regulation, order, or interpretation which—

(A) has the effect of extending deposit insurance coverage on a pro rata or pass-through basis to individual participants in any qualified plan under section 401(a) of the Internal Revenue Code of 1986; and

(B) was prescribed or issued by the Federal Deposit Insurance Corporation before April 6, 1989,

shall not apply with respect to any obligation issued after April 6, 1989, by any insured financial institution with respect to any such plan.

(2) EXCEPTION FOR CERTAIN RENEWALS BEFORE DATE OF ENACTMENT OF OBLIGATIONS ISSUED BEFORE APRIL 6, 1989.—Paragraph (1) shall not apply to the extension of deposit insurance coverage on a pro rata basis to individual participants with respect to the renewal at maturity of any obligation which is not a bank investment contract and was first issued before April 6, 1989, to retirement plans for employees of any State or local government or any agency or instrumentality of any such government, if such renewal occurs before the date of the enactment of this Act.

(c) EFFECTIVE PERIOD.—The limitations contained in subsections (a) and (b) shall not apply after the end of the 6-month period beginning on the date on which the Secretary of the Treasury submits to the Congress the final report under section 1001(c).

SEC. 1004. GENERAL ACCOUNTING OFFICE STUDY.

(a) IN GENERAL.—The Comptroller General of the United States shall conduct a study of deposit insurance issues raised by section 1001 emphasizing in particular—

(1) analysis of the policy considerations affecting the scope of deposit insurance coverage;

(2) evaluation of the risks associated with bank insurance contracts both as to the issuing institution and the deposit insurance funds; and

(3) the effect of proposed changes in the definition of "deposit" on—

(A) market discipline; and

(B) the ability of other participants in capital markets to raise funds.

(b) REPORT.—Not later than the close of the 18-month period beginning on the date of the enactment of this Act, the Comptroller General shall submit to the Congress the results of the study required by subsection (a).

SEC. 1005. ANNUAL REPORT ON THE CONDITION OF THE FEDERAL DEPOSIT INSURANCE FUNDS.

(a) IN GENERAL.—On January 31, 1990, and on or before January 31 of each succeeding year, the Federal Deposit Insurance Corporation shall deliver a detailed written report and analysis to the Committee on Banking, Finance and Urban Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate on—

(1) the current financial condition of the Bank Insurance Fund and the Savings Association Insurance Fund;

(2) the current level of the economic factors;

(3) the exposure of each insurance fund to insured losses if no changes occur in the economic factors;

(4) the exposure of each insurance fund to insured losses under reasonably possible changes in each of the economic factors, including worst case reasonably possible scenarios for each factor and an aggregate worst case reasonably possible scenario for all factors combined; and

(5) background information on historic levels and variations in each of the economic factors to substantiate the reasonableness of the scenarios presented.

(b) ECONOMIC FACTORS.—For purposes of this section, the economic factors shall include—

(1) the general level of interest rates;

(2) the general volatility of interest rates;

(3) the shape of the yield curve for United States Treasury obligations;

(4) the spread relationship between interest rates paid on United States Treasury obligations and interest rates paid on obligations of insured financial institutions;

(5) the default rate on outstanding loans held by insured financial institutions; and

(6) the rate of prepayments on fixed and variable rate loans held by insured financial institutions.

TITLE XI—REAL ESTATE APPRAISAL REFORM AMENDMENTS

SEC. 1101. ESTABLISHMENT OF APPRAISAL SUBCOMMITTEE OF THE FEDERAL FINANCIAL INSTITUTIONS EXAMINATION COUNCIL.

The Federal Financial Institutions Examination Council Act of 1978 (12 U.S.C. 3301 et seq.) is amended by adding at the end thereof the following new section:

"SEC. 1011. ESTABLISHMENT OF APPRAISAL SUBCOMMITTEE.

"There shall be within the Council a subcommittee to be known as the 'Appraisal Subcommittee', which shall consist of the designees of the heads of the Federal Financial Institutions Regulatory Agencies. Each such designee shall be a person who has demonstrated knowledge and competence concerning the appraisal profession.".

SEC. 1102. FUNCTIONS OF APPRAISAL SUBCOMMITTEE.

(a) IN GENERAL.—The Appraisal Subcommittee shall—

(1) monitor the requirements established by States for the certification and licensing of individuals who are qualified to perform appraisals in connection with federally related transactions, including a code of professional responsibility;

(2) monitor the requirements established by the Federal Financial Institutions Regulatory Agencies and the Resolution Trust Corporation with respect to—

(A) appraisal standards for federally related transactions under their jurisdiction, and

(B) determinations as to which federally related transactions under their jurisdiction require the services of a State certified appraiser and which require the services of a State licensed appraiser.

(3) maintain a national registry of State certified and licensed appraisers who are eligible to perform appraisals in federally related transactions; and

(4) transmit an annual report to the Congress not later than January 31 of each year which describes the manner in which each function assigned to the Appraisal Subcommittee has been carried out during the preceding year.

(b) MONITORING AND REVIEWING FOUNDATION.—The Appraisal Subcommittee shall monitor and review the practices, procedures, activities, and organizational structure of the Appraisal Foundation.

SEC. 1103. CHAIRPERSON OF APPRAISAL SUBCOMMITTEE; TERM OF CHAIRPERSON; MEETINGS.

(a) CHAIRPERSON.—The Council shall select the Chairperson of the subcommittee. The term of the Chairperson shall be 2 years.

(b) MEETINGS; QUORUM; VOTING.—The Appraisal Subcommittee shall meet at the call of the Chairperson or a majority of its members so often as there is business to be conducted. A majority of members of the Appraisal Subcommittee shall constitute a quorum but 2 or more members may hold hearings. Decisions of the Appraisal Subcommittee shall be made by the vote of a majority of its members.

SEC. 1104. OFFICERS AND STAFF.

The Chairperson of the Appraisal Subcommittee shall, subject to the provisions of title 5 of the United States Code relating to the competitive service, classification and General Schedule pay rates, appoint such officers and staff as may be necessary to carry out the functions of this title.

SEC. 1105. POWERS OF APPRAISAL SUBCOMMITTEE.

The Appraisal Subcommittee may, for the purpose of carrying out this title, establish advisory committees, hold hearings, sit and act at times and places, take testimony, receive evidence, provide information, and perform research, as the Appraisal Subcommittee considers appropriate.

SEC. 1106. PROCEDURES FOR ESTABLISHING APPRAISAL STANDARDS AND REQUIRING THE USE OF CERTIFIED AND LICENSED APPRAISERS.

Appraisal standards and requirements for using State certified and licensed appraisers in federally related transactions pursuant to this title shall be prescribed in accordance with procedures set forth in section 553 of title 5, United States Code, including the publication of notice and receipt of written comments or the holding of public hearings with respect to any standards or requirements proposed to be established.

SEC. 1107. AUTHORIZATION OF APPROPRIATIONS.

For purposes of this title there are authorized to be appropriated to the Appraisal Subcommittee a one-time payment of $5,000,000 for the 24-month period beginning on the date of the enactment of this time. Thereafter, expenses of the subcommittee shall be funded through the collection of registry fees from certain certified and licensed appraisers pursuant to section 1108 or, if required, pursuant to section 1121(3) of this title.

SEC. 1108. ROSTER OF STATE CERTIFIED OR LICENSED APPRAISERS; AUTHORITY TO COLLECT AND TRANSMIT FEES.

(a) IN GENERAL.—Each State with an appraiser certifying and licensing agency whose certifications and licenses comply with this title, shall (1) transmit to the Appraisal Subcommittee, no less than annually, a roster listing individuals who have received a State certification or license in accordance with this title; and (2) collect from such individuals who perform or seek to perform appraisals in federally related transactions, an annual registry fee of not more than $25, such fees to be transmitted by the State agencies to the Council on a semiannual basis. Subject to the approval of the Council, the Appraisal Subcommittee may adjust the dollar amount of registry fees, up to a maximum of $50 per annum, as necessary to carry out its functions under this title.

(b) USE OF AMOUNTS APPROPRIATED OR COLLECTED.—Amounts appropriated for or collected by the Appraisal Subcommittee under this section shall be used—

(1) to maintain a registry of individuals who are qualified and eligible to perform appraisals in connection with federally related transactions;

(2) to support its activities under this title;

(3) to reimburse the general fund of the Treasury for amounts appropriated to and expended by the Appraisal Subcommittee during the 24-month startup period following the date of the enactment of this title; and

(4) to make grants in such amounts as it deems appropriate to the Appraisal Foundation, to help defray those costs of the foundation relating to the activities of its Appraisal Standards and Appraiser Qualification Boards.

SEC. 1109. FUNCTIONS OF THE FEDERAL FINANCIAL INSTITUTIONS REGULATORY AGENCIES RELATING TO APPRAISAL STANDARDS.

Each Federal Financial Institutions Regulatory Agency and the Resolution Trust Corporation shall prescribe appropriate standards for the performance of real estate appraisals in connection with federally related transactions under the jurisdiction of each such agency or instrumentality. These rules shall require, at a minimum, that real estate appraisals be performed in accordance with generally accepted appraisal standards as evidenced by the appraisal standards promulgated by the Appraisal Standards Board of the Appraisal Foundation; provided that each such agency or instrumentality may require compliance with additional standards if it makes a determination in writing that such additional standards are required in order to properly carry out its statutory responsibilities.

SEC. 1110. TIME FOR PROPOSAL AND ADOPTION OF STANDARDS.

Appraisal standards established under this title shall be proposed not later than 6 months and shall be adopted in final form and become effective not later than 12 months after the date of the enactment of this title.

SEC. 1111. FUNCTIONS OF THE FEDERAL FINANCIAL INSTITUTIONS REGULATORY AGENCIES RELATING TO APPRAISER QUALIFICATIONS.

Each Federal financial institutions regulatory agency and the Resolution Trust Corporation shall prescribe, in accordance with section 1112 of this title, which categories of federally related transactions should be appraised by a State certified appraiser and which by a State licensed appraiser under this title.

SEC. 1112. TRANSACTIONS REQUIRING THE SERVICES OF A STATE CERTIFIED APPRAISER.

In determining whether an appraisal in connection with a federally related transaction shall be performed by a State certified appraiser, an agency or instrumentality under this title shall consider whether transactions, either individually or collectively, are of sufficient financial or public policy importance to the United States that an individual who performs an appraisal in connection with such transactions should be a State certified appraiser, except that—

(1) a State certified appraiser shall be required for all federally related transactions having a value of $1,000,000 or more; and

(2) 1-to-4 unit, single family residential appraisals may be performed by State licensed appraisers unless the size and complexity requires a State certified appraiser.

SEC. 1113. TRANSACTIONS REQUIRING THE SERVICES OF A STATE LICENSED APPRAISER.

All federally related transactions not requiring the services of a State certified appraiser shall be performed by either a State certified or licensed appraiser.

SEC. 1114. TIME FOR PROPOSAL AND ADOPTION OF RULES.

As appropriate, rules issued under sections 1112 and 1113 shall be proposed not later than 6 months and shall be effective upon adoption in final form not later than 12 months after the date of the enactment of this title.

SEC. 1115. CERTIFICATION AND LICENSING REQUIREMENTS.

(a) IN GENERAL.—For purposes of this title, the term "State certified real estate appraiser" means any individual who has satisfied the requirements for State certification in a State or territory whose criteria for certification as a real estate appraiser currently meets the minimum criteria for certification issued by the Appraiser Qualification Board of the Appraisal Foundation.

(b) RESTRICTION.—No individual shall be a "State certified real estate appraiser" under this section unless such individual has achieved a passing grade upon a suitable examination administered by a State or territory that is consistent with and equivalent to the Uniform State Certification Examination issued or endorsed by the Appraiser Qualification Board of the Appraisal Foundation.

(c) DEFINITION.—As used herein, the term "State licensed appraiser" shall mean an individual who has satisfied the requirements for State licensing in a State or territory.

(d) ADDITIONAL QUALIFICATION CRITERIA.—Nothing in this title shall be construed to prevent any Federal agency or instrumentality under this title from establishing such additional qualification criteria as may be necessary or appropriate to carry out the statutory responsibilities of such department, agency, or instrumentality.

SEC. 1116. ESTABLISHMENT OF STATE APPRAISER CERTIFYING AND LICENSING AGENCIES.

To assure the availability of State certified and licensed appraisers for the performance in a State of appraisals in federally related transactions and to assure effective supervision of the activities of certified and licensed appraisers, a State may establish a State appraiser certifying and licensing agency.

SEC. 1117. MONITORING OF STATE APPRAISER CERTIFYING AND LICENSING AGENCIES.

(a) IN GENERAL.—The Appraisal Subcommittee shall monitor State appraiser certifying and licensing agencies for the purpose of determining whether a State agency's policies, practices, and procedures are consistent with this title. The Appraisal Subcommittee and all agencies, instrumentalities, and federally recognized entities under this title shall not recognize appraiser certifications and licenses from States whose appraisal policies, practices, or procedures are found to be inconsistent with this title.

(b) DISAPPROVAL BY APPRAISAL SUBCOMMITTEE.—The Federal Financial Institutions Regulatory Agencies, the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation and the Resolution Trust Corporation shall accept certifications and licenses awarded by a State appraiser certifying the licensing agency unless the Appraisal Subcommittee issues a written finding that—

(1) the State agency fails to recognize and enforce the standards, requirements, and procedures prescribed pursuant to this title; or

(2) the State agency is not granted authority by the State which is adequate to permit the agency to carry out its functions under this title; or

(3) decisions concerning appraisal standards, appraiser qualifications and supervision of appraiser practices are not made in a manner that carries out the purposes of this title.

(c) REJECTION OF STATE CERTIFICATIONS AND LICENSES.—

(1) OPPORTUNITY TO BE HEARD OR CORRECT CONDITIONS.—Before refusing to recognize a State's appraiser certifications or licenses, the Appraisal Subcommittee shall provide

that State's certifying and licensing agency a written notice of its intention not to recognize the State's certified or licensed appraisers and ample opportunity to provide rebuttal information or to correct the conditions causing the refusal.

(2) ADOPTION OF PROCEDURES.—The Appraisal Subcommittee shall adopt written procedures for taking actions described in this section.

(3) JUDICIAL REVIEW.—A decision of the subcommittee under this section shall be subject to judicial review.

SEC. 1118. RECOGNITION OF STATE CERTIFIED AND LICENSED APPRAISERS FOR PURPOSES OF THIS TITLE.

(a) EFFECTIVE DATE FOR USE OF CERTIFIED OR LICENSED APPRAISERS ONLY.—

(1) IN GENERAL.—No later than July 1, 1991, all appraisals performed in connection with federally related transactions shall be performed only by individuals certified or licensed in accordance with the requirements of this title.

(2) EXTENSION OF EFFECTIVE DATE.—Subject to the approval of the council, the Appraisal Subcommittee may extend, until December 31, 1991, the effective date for the use of certified or licensed appraisers if it makes a written finding that a State has made substantial progress in establishing a State certification and licensing system that appears to conform to the provisions of this title.

(b) TEMPORARY WAIVER OF APPRAISER CERTIFICATION OR LICENSING REQUIREMENTS FOR STATE HAVING SCARCITY OF QUALIFIED APPRAISERS.—Subject to the approval of the Council, the Appraisal Subcommittee may waive any requirement relating to certification or licensing of a person to perform appraisals under this title if—

(1) the Appraisal Subcommittee or a State agency whose certifications and licenses are in compliance with this title, makes a written determination that there is a scarcity of certified or licensed appraisers to perform appraisals in connection with federally related transactions in a State leading to inordinate delays in the performance of such appraisals; and

(2) the waiver terminates when the Appraisal Subcommittee determines that such inordinate delays have been eliminated.

(c) REPORTS TO STATE CERTIFYING AND LICENSING AGENCIES.—The Appraisal Subcommittee or any other Federal agency, instrumentality or federally recognized entity shall report any action of a State certified or licensed appraiser that is contrary to the purposes of this title, to the appropriate State agency for a disposition of the subject of the referral. The State agency shall provide the Appraisal Subcommittee or the other Federal agency or instrumentality with a report on its disposition of the matter referred. Subsequent to such disposition, the subcommittee or the agency or instrumentality may take such further action, pursuant to written procedures, it deems necessary to carry out the purposes of this title.

SEC. 1119. VIOLATIONS IN OBTAINING AND PERFORMING APPRAISALS IN FEDERALLY RELATED TRANSACTIONS.

(a) VIOLATIONS.—Except as authorized by the Appraisal Subcommittee in exercising its waiver authority pursuant to section 1118(b), it shall be a violation of this section—

(1) for a financial institution to knowingly seek, obtain, or give money or any other thing of value in exchange for the performance of an appraisal by a person who is not a State certified or licensed appraiser in connection with a federally related transaction; and

(2) for the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation or the Resolution Trust Corporation to knowingly contract for the performance of any appraisal by a person who is not a State certified or licensed appraiser in connection with a real estate related financial transaction defined in section 1120(5) to which such association or corporation is a party.

(b) PENALTIES.—A financial institution that violates subsection (a)(1) shall be subject to a civil penalty of not more than $25,000 for the first violation, and not more than $50,000 for each subsequent violation.

(c) PROCEEDING.—

(1) IN GENERAL.—A proceeding with respect to a violation of this section shall be an administrative proceeding which may be conducted by a State appraiser certifying and licensing agency whose certifications and licenses are in compliance with this title or by a Federal Financial Institutions Regulatory Agency in accordance with the procedures set forth in subchapter II of chapter 5 of title 5, United States Code.

(2) JUDICIAL REVIEW.—Notwithstanding any other provision of law—

(A) a decision of a State appraiser certifying and licensing agency under this section shall be subject to review by a court of competent jurisdiction of the State; and

(B) a decision of a Federal Financial Institutions Regulatory Agency under this title shall be subject to review by the United States Court of Appeals for the District of Columbia in accordance with chapter 7 of title 5, United States Code.

SEC. 1120. DEFINITIONS.

For purposes of this title:

(1) STATE APPRAISER CERTIFYING AND LICENSING AGENCY.—The term "State appraiser certifying and licensing agency" means a State agency established in compliance with this title.

(2) APPRAISAL SUBCOMMITTEE; SUBCOMMITTEE.—The terms "Appraisal Subcommittee" and "subcommittee" mean the Appraisal Subcommittee of the Federal Financial Institutions Examination Council.

(3) COUNCIL.—The term "council" means the Federal Financial Institutions Examinations Council.

(4) FEDERALLY RELATED TRANSACTION.—The term "federally related transaction" means any real estate-related financial transaction which—

(A) a Federal Financial Institutions Regulatory Agency or the Resolution Trust Corporation engages in, contracts for, or regulates; and

(B) requires the services of an appraiser.

(5) REAL ESTATE RELATED FINANCIAL TRANSACTION.—The term "real estate-related financial transaction" means any transaction involving—

(A) the sale, lease, purchase, investment in or exchange of real property, including interests in property, or the financing thereof;

(B) the refinancing of real property or interests in real property; and

(C) the use of real property or interests in property as security for a loan or investment, including mortgage-backed securities.

(6) FEDERAL FINANCIAL INSTITUTIONS REGULATORY AGENCIES.—The term "Federal Financial Institutions Regulatory Agencies" means the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporations, the Office of Comptroller of the Currency, the Office of Thrift Supervision, and the National Credit Union Administration.

(7) CHAIRPERSON.—The term "Chairperson" means the Chairperson of the Appraisal Subcommittee selected by the council.

(8) FOUNDATION.—The terms "Appraisal Foundation" and "Foundation" means the Appraisal Foundation established on November 20, 1987, as a not for profit corporation under the laws of Illinois.

SEC. 1121. MISCELLANEOUS PROVISIONS.

(a) TEMPORARY PRACTICE.—A State appraiser certifying or licensing agency shall recognize on a temporary basis the certification or license of an appraiser issued by another State if (1) the property to be appraised is part of a federally related transaction, (2) the appraiser's business is of a temporary nature, and (3) the appraiser registers with the appraiser certifying or licensing agency in the State of temporary practice.

(b) SUPPLEMENTAL FUNDING.—Funds available to the Federal Financial Institutions Regulatory Agencies may be made available to the Federal Financial Institutions Examination Council to support the council's functions under this title.

(c) PROHIBITION AGAINST DISCRIMINATION.—In addition to State certification or licensing, the Federal agencies or instrumentalities, the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation, and the entities regulated by or in a contractual relationship with them under this title may require other specific appraiser qualifications or experience for certain federally related transactions, except that any such other appraiser qualifications shall be necessary to carry out or to meet the statutory responsibilities of such agencies, instrumentalities or federally recognized entities, shall be related to the special skills that are required of an individual in connection with the specific appraisal assignment, and shall not exclude an appraiser for consideration for such assignment solely by virtue of membership or lack of membership in any particular appraisal organization.

(d) STUDIES.—The Appraisal Subcommittee shall—

(1) conduct a study to determine whether real estate sales and financing information and data that is available to real estate appraisers in the States is sufficient to permit appraisers to properly estimate the values of properties in connection with federally related transactions; and

(2) study the feasibility and desirability of extending the provisions of this title to the function of personal property appraising and to personal property appraisers in connection with Federal financial and public policy interests.

The Appraisal Subcommittee shall report its findings to the Congress with respect to the study described in paragraph (1) no later than 12 months after the date of the enactment of this title, and; and report its findings with respect to the study described in paragraph (2) to Congress no later than 18 months after the date of the enactment of this title.

TITLE XII—MISCELLANEOUS PROVISIONS

SEC. 1201. AMENDMENTS TO THE FEDERAL DEPOSIT INSURANCE ACT.

The Federal Deposit Insurance Act (12 U.S.C. 1811 et seq.) is amended by inserting after the section added by section 933(a) of this Act the following new section:

"SEC. 33. INDEPENDENT ANNUAL AUDITS OF INSURED FINANCIAL INSTITUTIONS AND INSTITUTIONS APPLYING FOR INSURANCE.

"(a) ANNUAL INDEPENDENT AUDITS OF FINANCIAL STATEMENTS.—Notwithstanding any other provision of law, each insured financial institution, or financial institution applying to the Corporation for insurance, shall have an annual audit made of the institution's financial statements by an independent public accountant in accordance with generally accepted auditing standards.

"(b) AUDIT REPORTS.—

"(1) SCOPE OF AUDIT.—Each audit conducted pursuant to subsection (a) shall determine and report whether the financial statements of the financial institution present fairly its financial position, the results of its operations, and its cash flows in accordance with generally accepted accounting principles.

"(2) REPORT ON MANAGEMENT ASSERTIONS.—Annually, in conjunction with the annual audit, and in accordance with applicable attestation standards of recognized auditing standards setting bodies, the independent public accountant shall render 1 or more reports on management's assertions contained in the reports required under subsection (c).

"(c) REPORT OF RESPONSIBILITIES OF MANAGEMENT OF INSURED FINANCIAL INSTITUTIONS AND FINANCIAL INSTITUTIONS APPLYING FOR INSURANCE.—The management of each financial institution subject to subsection (a) shall prepare an annual report which contains—

"(1) a description or statement of its responsibilities for establishing and maintaining an adequate internal control structure over—

"(A) financial accounting and reporting; and

"(B) procedures directly related to providing, or designed to provide, reasonable assurance as to compliance with specified laws and regulations related to safety and soundness; and

"(2) an assessment, as of the institution's most recent fiscal year end, of—

"(A) the effectiveness of such internal control structure and procedures; and

"(B) the institution's compliance with specific laws and regulations related to safety and soundness.

"(d) CONTENTS AND DISTRIBUTION OF REPORTS.—

"(1) FORM AND CONTENT OF REPORT.—

"(A) IN GENERAL.—The form and content of the auditor's report under subsection (b)(2) shall conform with applicable attestation standards of recognized auditing standards setting bodies.

"(B) INTERNAL CONTROL STRUCTURE.—For purposes of the report on management's assertions of the effectiveness of the internal control structure and procedures, the regulations of the Corporation shall require the auditor to apply such attest services and standards as are determined appropriate by recognized auditing standards setting bodies.

"(C) COMPLIANCE WITH APPLICABLE LAW.—

"(i) IN GENERAL.—For purposes of the report on management's assertions of compliance with specific laws and regulations related to safety and soundness, the regulations of the Corporation shall—

"(I) require attest services to be based upon specified procedures; and

"(II) require the auditor's report to be in the form of a summary of procedures and findings.

"(ii) SPECIAL RULE.—The regulations of the Corporation shall allow the financial institution and such institution's auditor to agree upon a higher level of attest service in accordance with applicable attestation standards of recognized auditing standards setting bodies.

"(2) SPECIFIC CRITERIA REQUIRED.—The Corporation shall, by regulation, require the management report described in subsection (c), to the extent practicable, to recognize and specify criteria and guidance developed by recognized private sector bodies which the Corporation determines to be consistent and adequate to the purposes of this section.

"(3) DESIGNATION OF APPLICABLE LAWS.—

"(A) IN GENERAL.—The Corporation, by regulation, shall specify those laws and regulations relating to safety and soundness which are required to be taken into account for purposes to which the management's report under subsection (c)(2) applies.

"(B) CRITERIA APPLICABLE TO DESIGNATION.—In designating the applicable laws pursuant to subparagraph (A), the Corporation shall specify only those laws and regulations—

"(i) which relate to financial matters within the competence of auditors to evaluate;

"(ii) which establish requirements with sufficient precision to permit objective evaluation of financial institution compliance; and

"(iii) for which reasonable criteria are available and can be applied to measure compliance and permit an assertion with respect to compliance that is capable of reasonably consistent estimation or measurement.

"(4) FILING OF REPORTS.—

"(A) IN GENERAL.—Reports under subsection (b) and subsection (c) shall be filed with the Corporation and with such Federal banking agencies as the Corporation may designate by regulation.

"(B) PUBLIC INSPECTION.—Unless otherwise restricted by law or by rule of the Corporation, such reports shall be available for public inspection.

"(C) LIMITATION ON USE OF REPORTS.—The use of the auditor's report under subsection (b)(2) shall be limited to the purposes of the Corporation and designated Federal banking agencies and such auditor's report shall include an appropriate statement indicating the intended limited use of such report.

"(5) REGULATIONS TO BE PRESCRIBED AFTER NOTICE AND COMMENT.—The Corporation shall prescribe regulations under this section only after public notice and opportunity for comment, and consultation with recognized auditing standards setting bodies and the Comptroller General of the United States.

"(e) REQUIREMENT FOR SMALL BANKS.—In lieu of the requirements contained in subsections (a) through (d) of this section, the Corporation shall prescribe, by rule, alternative auditing and reporting requirements that shall apply to each insured bank that has less than $150,000,000 in total assets at the end of the bank's fiscal year. In prescribing alternative requirements under this subsection, the Corporation shall consider the cost of complying with such requirements.

"(f) EFFECTIVE DATE.—The reporting requirements under subsection (b)(2) and subsection (c) shall apply with respect to fiscal years of financial institutions which begin after the conclusion of the 18-month period which begins on the date of the enactment of this Act.".

SEC. 1202. STUDY OF STRUCTURE AND CONDITION OF CREDIT UNION SYSTEM.

(a) STUDY REQUIRED.—The Comptroller General of the United States, in consultation with the Chairman of the National Credit Union Administration Board, the Comptroller of the Currency, the Chairman of the Board of Governors of the Federal Reserve System, the Director of the Office of Thrift Supervision, the Chairman of the Federal Deposit Insurance Corporation, and the Director of the Office of Management and Budget, shall conduct a study of the structure of the National Credit Union Administration, including the financial condition of the national credit union system, the present and future role of credit unions in the financial marketplace, the solvency, structure, and funding of the National Credit Union Share Insurance Fund, credit union supervision and regulation at the Federal and State level, credit union capital levels, credit union common bond issues, and an appropriate structure for the offering of competitive products and services to consumers consistent with standards of safety and soundness.

(b) TOPICS.—As part of such study required under subsection (a) of this section, the Comptroller General shall investigate, review, and evaluate whether—

(1) the contributions to the National Credit Union Share Insurance Fund should be accounted for in a manner consistent with those of insured banks and savings associations;

(2) the capital, accounting, and other supervisory standards are appropriate and consistent with those of insured banks and savings associations;

(3) the National Credit Union Administration examinations of credit unions are comparable in frequency and quality to supervisory examinations of insured banks and savings associations;

(4) the National Credit Union Share Insurance Fund should be separated from the other functions of the National Credit Union Administration;

(5) the position of Chairman of the National Credit Union Administration Board should be reestablished as a separate bureau in the Department of the Treasury;

(6) the credit union tax exemption continues to be warranted; and

(7) the common bond rules regarding credit union membership continue to serve their original purpose and the extent to which recent interpretations of such rules may have contributed to the growth of credit unions.

(c) REPORT REQUIRED.—Before the end of the 18-month period beginning on the date of the enactment of this Act, the Comptroller General shall submit to the Congress a final report which shall contain a detailed statement of findings and conclusions in connection with the study conducted pursuant to subsection (a), including such recommendations for administrative and legislative action as the Comptroller General determines to be appropriate.

SEC. 1203. OCC EMPLOYMENT PROVISION.

Section 5240 of the Revised Statutes (12 U.S.C. 482) is amended by striking out the first sentence and inserting in lieu thereof "After consulting with the Secretary of the Treasury, the Comptroller of the Currency shall fix the compensation and number of employees of the Office of the Comptroller of the Currency and shall make a report thereof to the Congress. Such compensation shall be determined by the Comptroller

without regard to the provisions of any law or regulation (including title 5, United States Code) relating to Federal employee and officer compensation. In setting and adjusting such compensation, the Comptroller shall seek to maintain comparability with the compensation at the other Federal bank regulatory agencies.".

SEC. 1204. NCUA EMPLOYMENT PROVISION.

Section 120 of the Federal Credit Union Act (12 U.S.C. 1766) is amended by adding at the end thereof the following new subsection:

"(j) EMPLOYEE PROVISION.—The number and compensation of employees appointed by the Board pursuant to subsection (i)(1) shall be determined by the Board without regard to the provisions of any law or regulation (including title 5, United States Code) relating to Federal employee and officer compensation. In setting and adjusting such compensation, the Board shall seek to maintain comparability with the compensation at the other Federal bank regulatory agencies. The salaries and expenses of the Board and employees of the Board shall be paid from fees and assessments (including income earned on insurance deposits) levied on insured credit unions under this Act.".

SEC. 1205. EXPANSION OF USE OF UNDERUTILIZED MINORITY BANKS, WOMEN'S BANKS, AND LOW-INCOME CREDIT UNIONS.

(a) CONSULTATION ON EXPANDED USE.—The Secretary of the Treasury shall consult with the appropriate Federal banking agencies and the National Credit Union Administration Board on methods for increasing the use of underutilized minority banks, women's banks, and limited income credit unions as depositaries or financial agents of Federal agencies.

(b) REPORT TO CONGRESS.—Before the end of the 6-month period beginning on the date of the enactment of this Act, the Secretary of the Treasury, each appropriate Federal banking agency, and the National Credit Union Administration Board shall submit a report to the Congress on actions taken by such Secretary, agency, or Board pursuant to subsection (a).

(c) DEFINITIONS.—For purposes of this section:

(1) APPROPRIATE FEDERAL BANKING AGENCY.—The term "appropriate Federal banking agency" has the meaning given to such term in section 3(q) of the Federal Deposit Insurance Act.

(2) MINORITY BANK.—The term "minority bank" means any depository institution described in clause (i), (ii), or (iii) of section 19(b)(1)(A) of the Federal Reserve Act—

(A) more than 50 percent of the ownership or control of which is held by minority individuals; and

(B) more than 50 percent of the net profit or loss of which accrues to minority individuals.

(3) MINORITY.—The term "minority" means any Black American, Native American, Hispanic American, or Asian American.

(4) LOW-INCOME CREDIT UNION.—The term "low-income credit union" means any depository institution described in section 19(b)(1)(A)(iv) of the Federal Reserve Act which serves predominately low-income members (as defined by the National Credit Union Administration Board pursuant to section 101(5) of the Federal Credit Union Act).

(5) WOMEN'S BANK.—The term "women's bank" means any depository institution described in clause (i), (ii), or (iii) of section 19(b)(1)(A) of the Federal Reserve Act—

(A) more than 50 percent of the outstanding shares of which are held by women;

(B) a majority of the directors on the board of directors of which are women; and

(C) a significant percentage of senior management positions of which are held by women.

SEC. 1206. CREDIT STANDARDS ADVISORY COMMITTEE.

(a) ESTABLISHMENT.—There is hereby established the Credit Standards Advisory Committee (hereinafter in this section referred to as the "Committee").

(b) MEMBERSHIP.—

(1) APPOINTMENT.—The Committee shall consist of 11 members selected as follows:

(A) The Chairman of the Board of Governors of the Federal Reserve System, or the Chairman's designee.

(B) The Director of the Office of Thrift Supervision, or the Director's designee.

(C) The Chairperson of the Federal Deposit Insurance Corporation, or the Chairperson's designee.

(D) The Comptroller of the Currency, or the Comptroller's designee.

(E) The Chairman of the National Credit Union Administration, or the Chairman's designee.

(F) 6 public members selected by the President who are knowledgeable with the credit standards and lending practices of insured depository institutions, no more than 3 of whom shall be from the same political party.

(2) TERMS.—Each member appointed under paragraph (1)(F) shall serve for a term of 2 years.

(3) CHAIRPERSON.—The members shall elect a chairperson of the Committee who shall serve for a term of 1 year.

(4) VACANCIES.—Any vacancy on the Committee shall be filled in the manner in which the original appointment was made.

(5) PAY AND EXPENSES.—Members of the Committee shall serve without pay but each member of the Committee shall be reimbursed for expenses incurred in connection with attendance of such members at meetings of the Committee. All expenses of the Committee shall be shared equally by the Federal financial regulators appointed in subparagraphs (A) through (E) of paragraph (1).

(6) MEETINGS.—The Committee shall meet, not less frequently than quarterly, at the call of the chairperson or a majority of the members.

(c) DUTIES OF THE COMMITTEE.—The Committee shall do the following:

(1) REVIEW CREDIT STANDARDS, LENDING PRACTICES, AND SUPERVISION BY FEDERAL REGULATORS.—Review the credit standards and lending practices of insured depository institutions and the supervision of such standards and practices by the Federal financial regulators.

(2) PREPARE RECOMMENDATIONS.—Prepare written comments and recommendations for the Federal financial regulators to ensure that insured depository institutions adhere to prudential credit standards and lending practices that are consistent for all insured depository institutions, to the maximum extent possible.

(3) MONITOR CREDIT STANDARDS, LENDING PRACTICES, AND SUPERVISION BY FEDERAL REGULATORS.—Monitor the credit standards and lending practices of insured depository institutions, and the supervision of such standards and practices by the Federal financial regulators, to ensure that insured depository institutions can meet the demands of a modern and globally competitive financial world.

(d) ANNUAL REPORT.—

(1) REQUIRED.—Not later than January 30 of each year, the Committee shall submit a report to the Committee on Banking, Finance and Urban Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate.

(2) CONTENTS.—The report required by paragraph (1) shall describe the activities of the Committee during the preceding year and the reports and recommendations made by the Committee to the Federal financial regulators.

(e) CONFLICT OF INTEREST GUIDELINES.—The Committee shall prescribe such guidelines as the Committee determines to be appropriate to avoid conflicts of interest with respect to the disclosure to and use by members of the Committee on information relating to insured depository institutions and the Federal financial regulators.

(f) FEDERAL ADVISORY COMMITTEE ACT DOES NOT APPLY.—The Federal Advisory Committee Act shall not apply to the Committee.

SEC. 1207. MINIMUM REQUIREMENTS FOR ACCREDITATION OF STATE DEPOSITORY INSTITUTION SUPERVISORY AGENCIES AND FOR STATE EXAMINATIONS OF FEDERALLY REGULATED OR INSURED INSTITUTIONS.

(a) CONGRESSIONAL PURPOSE.—The purposes of this section are—

(1) to establish a uniform procedure, with the consent of the States, for establishing accreditation standards for State depository institution supervisory agencies and for reviewing the adequacy of State examinations of depository institutions which are also subject to examinations by Federal depository institutions regulatory agencies;

(2) to prohibit Federal depository institutions regulatory agencies from relying solely on any such State examinations in lieu of conducting their own examinations of such depository institutions if the State examinations are deemed inadequate pursuant to such review or if the State refuses to allow such review to be made; and

(3) to require Federal depository institutions regulatory agencies to accept State examinations of financially sound depository institutions if such State examinations are determined to be adequate pursuant to such review.

(b) ESTABLISHMENT OF MINIMUM REQUIREMENTS.—

(1) IN GENERAL.—In consultation with the liaison committee established by the Council pursuant to section 1007 of the Federal Financial Institutions Examination Council Act of 1978, the Council shall establish minimum requirements for accreditation of State depository institutions supervisory agencies and for examinations of depository institutions by State depository institution supervisory agencies in order for any such examination of any depository institution to be deemed adequate for purposes of Federal law.

(2) CRITERIA FOR REVIEW.—In establishing the minimum requirements described in paragraph (1) for any State depository institution supervisory agency, the Council shall establish standards relating to—

(A) the frequency of safety and soundness examinations of depository institutions;

(B) the quality and thoroughness of safety and soundness examinations;

(C) the standards and procedures for classifying loans and supervising lending practices;

(D) the education, training, and experience of examiners (including the number of commissioned or certified examiners), supervisors, and other individuals employed by such agency who are involved in conducting or supervising safety and soundness examinations; and

(E) such other conditions and procedures as the Council may determine to be appropriate.

(3) LIMITATION.—The requirements established under paragraphs (1) and (2) for any State depository institution supervisory agency, as in effect at any time, may not exceed the minimum standards in effect for the corresponding Federal regulatory agency at such time.

(c) REQUEST FOR PERMISSION TO REVIEW.—At least once during each calendar year, the Council shall request each State depository institution supervisory agency which conducts examinations of depository institutions within such State which are also subject to examinations by a Federal depository institutions regulatory agency to allow the Council to conduct a review, in accordance with subsection (d), of the administration of such examinations by such State agency.

(d) REVIEW.—

(1) IN GENERAL.—If, pursuant to a request under subsection (c), the Council receives permission to review the administration of examinations by a State depository institution supervisory agency, the Council shall determine whether such agency meets the minimum requirements established under subsection (b) in administering such examinations.

(2) PROCEDURES.—The Council, in consultation with the liaison committee, shall prescribe by regulations the procedures for conducting any review under paragraph (1).

(e) NOTIFICATION OF FAILURE TO MEET MINIMUM REQUIREMENT.—

(1) IN GENERAL.—If, at any time, the Council determines a State depository institution supervisory agency does not meet the minimum requirements established under subsection (b), the Council shall notify the head of such agency of such determination. Such determination and notice shall not be made public by the Council.

(2) DETAILED EXPLANATION.—Any notice under this subsection shall be accompanied by a report containing a detailed explanation of the circumstances by reason of which the agency was found not to be in compliance with the requirements established under subsection (b).

(3) PERIOD FOR REMEDYING THE DEFICIENCY.—

(A) INITIAL PERIOD.—Upon making a determination described in paragraph (1), the Council shall prescribe, on the basis of all the circumstances of the case, the period of time it will provide to the agency to cure the deficiency giving rise to such determination before taking any action under subsection (f).

(B) EXTENSIONS.—The period so prescribed may be extended by the Council in its discretion, except that the period so prescribed in any case, including any such extensions, shall not exceed 3 years.

(f) NOTICE TO FEDERAL DEPOSITORY INSTITUTIONS REGULATORY AGENCIES.—

(1) IN GENERAL.—The Council shall notify each Federal depository institutions regulatory agency of—

(A) the refusal by any State depository institution supervisory agency to comply with any request by the Council under subsection (c) for permission to review the administration of examinations by such agency; or

(B) the failure by any State depository institution supervisory agency to remedy any deficiency giving rise to a determination under subsection (e)(1) within the period of time allowed by the Council under subsection (e)(3).

(2) AGENCY NOTICE TO REGIONAL OFFICES.—If examinations of depository institutions which are subject to examination by a Federal depository institutions regulatory agency are actually conducted by regional banks, branches, or other offices of such agency, the agency shall notify each such bank, branch, or other office of any notice received by such agency under paragraph (1).

(g) SOLE RELIANCE ON STATE EXAMINATIONS PROHIBITED WHILE NOTICE IS IN EFFECT.—While any notice under subsection (f) with respect to any State depository institution supervisory agency is in effect, each Federal depository institutions regulatory agency and each regional bank, branch, or other office of any such agency shall not rely solely on any report of examination by such State agency in lieu of conducting examinations otherwise required under any Federal law or any regulation prescribed by such Federal agency.

(h) SPECIAL RULES.—

(1) SEPARATE REVIEW AND NOTICE.—If a State depository institution supervisory agency has separate branches or departments each of which have authority to conduct examinations, the Council may—

(A) review each such department or branch separately under subsection (d); and

(B) limit the scope of any notice issued under subsection (f) to the department or branch in which the deficiency has been found which resulted in the notice.

(2) DEFICIENCIES RELATING TO EXAMINATIONS OF PARTICULAR TYPES OF INSTITUTIONS.—If a State depository institution supervisory agency has authority to examine more than 1 type of depository institution and the Council's determination of a deficiency which results in a notice under subsection (f) relates to the State agency's capacity to conduct examinations of a particular type of depository institution, the Council may limit the scope of the notice to examinations of that type of depository institution.

(i) ACCEPTANCE OF STATE EXAMINATIONS REQUIRED UNDER CERTAIN CIRCUMSTANCES.—

(1) INSURED BANKS.—Section 7(a)(2) of the Federal Deposit Insurance Act (as amended by section 208(1) of this Act) is amended by adding at the end thereof the following new subparagraph:

"(C) REQUIRED ACCEPTANCE OF STATE EXAMINATIONS.—

"(i) IN GENERAL.—Except as provided in clause (ii), the Corporation shall accept any report of examination made by a commission, board, or authority described in subparagraph (A) in connection with an examination of a financially sound insured bank if, in the most recent review of such commission, board, or authority by the Financial Institutions Examination Council under section 1207(d) of the Financial Institutions Reform, Recovery and Enforcement Act of 1989, the Council determined that such commission, board, or authority met the minimum requirements established under section 1207(b) of such Act.

"(ii) NOTICE OF REASON FOR FAILURE TO ACCEPT.—The Corporation may refuse to accept any report of examination described in clause (i) if—

"(I) the Corporation determines that the commission, board, or authority which made the report fails to meet a requirement established under section 1207(b) of the Financial Institutions Reform, Recovery and Enforcement Act of 1989; and

"(II) the Corporation notifies the commission, board, or authority of such refusal and a detailed explanation of the reason for such refusal.

"(iii) FINANCIALLY SOUND INSURED BANK.—For purposes of this subparagraph, the term 'financially sound insured bank' means an insured bank with a CAMEL composite rating of 1 or 2 under the Uniform Financial Institutions Rating System or an equivalent rating under a comparable rating system.".

(2) MEMBERS OF, AND NONMEMBER BORROWERS FROM, HOME LOAN BANKS.—Section 8 of the Federal Home Loan Bank Act (12 U.S.C. 1428) is amended—

(A) by striking out the following:

"EXAMINATIONS AND STUDIES BY THE BOARD

"SEC. 8. The"

and inserting in lieu thereof the following:

"SEC. 8. EXAMINATIONS AND STUDIES BY THE BOARD.

"(a) IN GENERAL.—The"; and

(B) by adding at the end thereof the following new subsection:

"(b) REQUIRED ACCEPTANCE OF STATE EXAMINATIONS.—

"(1) IN GENERAL.—Except as provided in paragraph (2), the Board shall accept any report of examination made by a commission, board, or authority having supervision of State-chartered member or nonmember borrowers under this Act in connection with an examination of a financially sound borrower if, in the most recent review of such commission, board, or authority by the Depository Institutions Examination Council under section 1207(d) of the Financial Institutions Reform, Recovery and Enforcement Act of 1989, the Council determined that such commission, board, or authority met the minimum requirements established under section 1207(b) of such Act.

"(2) NOTICE OF REASON FOR FAILURE TO ACCEPT.—The Board may refuse to accept any report of examination described in paragraph (1) if—

"(A) the Board determines that the commission, board, or authority which made the report fails to meet a requirement established under section 1207(b) of the Financial Institutions Reform, Recovery and Enforcement Act of 1989; and

"(B) the Board notifies the commission, board, or authority of such refusal and a detailed explanation of the reason for such refusal.

"(3) FINANCIALLY SOUND BORROWER.—For purposes of this subsection, the term 'financially sound borrower' means a member or nonmember borrower under this Act with a CAMEL composite rating of 1 or 2 under the Uniform Financial Institutions Rating System or an equivalent rating under a comparable rating system.".

(3) INSURED THRIFTS.—Section 14 of the Home Owners' Loan Act of 1933 (as added by section 323 of this Act) is amended by adding at the end thereof the following new subsection:

"(g) REQUIRED ACCEPTANCE OF STATE EXAMINATIONS.—

"(1) IN GENERAL.—Except as provided in paragraph (2), the Corporation shall accept any report of examination made by a commission, board, or authority having supervision of State-chartered insured institutions in connection with an examination of a fi-

nancially sound insured institution if, in the most recent review of such commission, board, or authority by the Financial Institutions Reform, Recovery and Enforcement Act of 1989, the Council determined that such commission, board, or authority met the minimum requirements established under section 1207(b) of such Act.

"(2) NOTICE OF REASON FOR FAILURE TO ACCEPT.—The Corporation may refuse to accept any report of examination described in subparagraph (A) if—

"(A) the Corporation (or the Board) determines that the commission, board, or authority which made the report fails to meet a requirement established under section 1207(b) of the Financial Institutions Reform, Recovery and Enforcement Act of 1989; and

"(B) the Corporation notifies the commission, board, or authority of such refusal and a detailed explanation of the reason for such refusal.

"(3) FINANCIALLY SOUND INSURED INSTITUTION.—For purposes of this subsection, the term 'financially sound insured institution' means an insured institution with a CAMEL composite rating of 1 or 2 under the Uniform Financial Institutions Rating System or an equivalent rating under a comparable rating system.".

(4) INSURED CREDIT UNIONS.—Section 204 of the Federal Credit Union Act (12 U.S.C. 1784) is amended by adding at the end thereof the following new subsection:

"(e) REQUIRED ACCEPTANCE OF STATE EXAMINATIONS.—

"(1) IN GENERAL.—Except as provided in paragraph (2), the Board shall accept any report of examination made by a commission, board, or authority described in subsection (d) in connection with an examination of a financially sound insured credit union if, in the most recent review of such commission, board, or authority by the Depository Institutions Examination Council under section 1207(d) of the Financial Institutions Reform, Recovery and Enforcement Act of 1989, the Council determined that such commission, board, or authority met the minimum requirements established under section 1207(b) of such Act.

"(2) NOTICE OF REASON FOR FAILURE TO ACCEPT.—The Board may refuse to accept any report of examination described in paragraph (1) if—

"(A) the Board determines that the commission, board, or authority which made the report fails to meet a requirement established under section 1207(b) of the Financial Institutions Reform, Recovery and Enforcement Act of 1989; and

"(B) the Board notifies the commission, board, or authority of such refusal and a detailed explanation of the reason for such refusal.

"(3) FINANCIALLY SOUND INSURED CREDIT UNION.—For purposes of this subsection, the term 'financially sound insured credit union' means an insured credit union with a CAMEL composite rating of 1 or 2 under the Uniform Financial Institutions Rating System or an equivalent rating under a comparable rating system.".

(j) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) The eighth paragraph of section 9 of the Federal Reserve Act (12 U.S.C. 326) is amended by adding at the end thereof the following new sentence: "The directors shall not approve any examination by any State authority while any notice under section 1207(f) of the Financial Institutions Reform, Recovery and Enforcement Act of 1989 is in effect with respect to such authority.".

(2) The second sentence of section 7(a)(2)(A) of the Federal Deposit Insurance Act (12 U.S.C. 1817(a)(2)(A)) is amended by inserting "(other than any such commission, board, or authority with respect to which a notice under section 1207(f) of the Financial Institutions Reform, Recovery and Enforcement Act of 1989 Depository Institution Examination Improvement Act of 1989 is in effect)" after "authority" the first place such term appears.

(3) The 2d to last sentence of section 8(a) of the Federal Home Loan Bank Act (12 U.S.C. 1428) (as amended by subsection (i)(2)) is amended by inserting "(and any State examination with respect to which a notice under section 1207(f) of the Financial Institutions Reform, Recovery and Enforcement Act of 1989 is in effect shall be deemed inadequate)" after "Home Loan Banks".

(4) Subsection (d) of section 204 of the Federal Credit Union Act (12 U.S.C. 1784(d)) is amended by inserting "(other than any such commission, board, or authority with respect to which a notice under section 1207(f) of the Financial Institutions Reform, Recovery and Enforcement Act of 1989 is in effect)" after "credit union".

(k) TRAINING AND EXAMINATION COSTS.—

(1) TRAINING COSTS.—

(A) REIMBURSEMENT FROM DEPOSIT INSURANCE FUNDS.—Notwithstanding any other provision of law, in order to help ensure that examiners and others involved in conducting safety and soundness examinations receive adequate training, the appropriate Federal depository institutions regulatory agency shall reimburse, from amounts in the appropriate deposit insurance fund, any State supervisory agency for 65 percent of the costs of training directly related to improving the technical skills of such examiners and the State supervisory agency shall provide the remaining 35 percent of such costs.

(B) ELIGIBLE TRAINING PROGRAMS.—Such training may be provided by the Council, member agencies of the Council, any State depository supervisory agency, or a constituent professional association of the State depository supervisory agencies.

(C) ELIGIBLE TRAINING COSTS.—The Council shall determine the types of activities to which this reimbursement program applies.

(2) WITHHOLDING OF ASSESSMENT CREDIT.—In the case of any insured financial institution (as defined in section 3(c)(2) of the Federal Deposit Insurance Act) and any insured credit union (as defined in section 101(7) of the Federal Credit Union Act) which is located in a State which is subject to a notice issued under subsection (f), the appropriate Federal banking agency (as defined in section 3(q) of the Federal Deposit Insurance Act) and the National Credit Union Administration Board shall withhold 1/2 of the assessment credit to which such financial institution or credit union would otherwise be entitled for the year in which such State agency is the subject of such notification.

(l) RULE OF CONSTRUCTION.—Section 7(a)(2)(C)(i) of the Federal Deposit Insurance Act shall not be construed to prevent the Federal Deposit Insurance Corporation from—

(1) performing an examination of an insured financial institution whenever such Corporation is otherwise authorized do so; or

(2) relying on the determinations or conclusions of such Corporation based on all of the information available to such Corporation.

(m) DELAYED EFFECTIVE DATE.—Subsection (g) and the amendments made by subsections (i), (j), and subsection (k)(2) shall take effect at the end of the 3-year period beginning on the date of the enactment of this Act.

SEC. 1208. COMPARABILITY IN COMPENSATION SCHEDULES.

The Federal Deposit Insurance Corporation, the Office of the Comptroller of the Currency, the National Credit Union Administration Board, and the Office of Thrift Supervision, in establishing and adjusting schedules of compensation which are to be determined solely by each agency under applicable provisions of law, shall inform the heads of the other agencies and the Congress of such schedules and shall seek to maintain comparability in such schedules.

SEC. 1209. STUDY BY SECRETARY OF THE TREASURY.

Not later than the close of the 18-month period beginning on the date of the enactment of this Act, the Secretary of the Treasury shall conduct a study and report to the Congress on—

(1) whether, and to what extent, the issuance of bonds by the Resolution Funding Corporation and other United States Government securities in small denominations benefits small investors, increases the participation of small investors in United States Government securities offerings, and promotes savings and thrift by the average United States taxpayer; and

(2) additional measures the Secretary recommends be taken to expand the availability of bonds issued by the Resolution Funding Corporation and other United States Government securities to benefit small investors, increase their participation in United States Government securities offerings, and to promote savings and thrift by the average United States taxpayer.

SEC. 1210. EXPENDITURE OF TAXPAYER MONEY ONLY FOR DEPOSIT INSURANCE PURPOSES.

Funds appropriated to the Secretary of the Treasury pursuant to an authorization contained in this Act, and any amount authorized to be borrowed from the Secretary of the Treasury by any entity pursuant to this Act, may only be used as permitted in this Act, any amendment made by this Act, or by the Federal Deposit Insurance Corporation, and may not otherwise be used for making any payment to any shareholder in, or creditor to, any insured financial institution.

SEC. 1211. SEPARABILITY OF PROVISIONS.

If any provision of this Act or the application thereof to any person or circumstance is held invalid, the remainder of the Act and the application of the provision to other persons not similarly situated or to other circumstances shall not be affected thereby.

TITLE XIII—PARTICIPATION BY STATE HOUSING FINANCE AUTHORITIES

SEC. 1301. DEFINITIONS.

For purposes of this title:

(1) STATE HOUSING FINANCE AUTHORITY.—The term "State Housing Finance Authority" means any public agency, authority, or corporation which—

(A) serves as an instrumentality of any State or any political subdivision of any State; and

(B) functions as a source of residential mortgage loan financing in such State.

(2) MORTGAGE-RELATED ASSETS.—The term "mortgage-related assets" means—

(A) residential mortgage loans secured by 1- to 4-family or multifamily dwellings; and

(B) real property improved with 1- to 4-family or multifamily residential dwellings,

which are located within the jurisdiction of the applicable State Housing Finance Authority.

(3) NET INCOME.—The term "net income" means income after deduction of all associated expenses calculated in accordance with generally accepted accounting principles.

SEC. 1302. STATE HOUSING FINANCE AUTHORITY AUTHORIZATION.

Notwithstanding any other provision of Federal law, State law, or the constitution of any State, State Housing Finance Authorities may purchase mortgage-related assets from the Resolution Trust Corporation or from financial institutions with respect to which the Federal Deposit Insurance Corporation is acting as a conservator or receiver (including the assets associated with any trust business), and any contract for such purchase shall be effective in accordance with its terms without any further approval, assignment, or consent with respect to contract, except that any State Housing Finance Authority which purchases mortgage-related assets pursuant to this section shall be required to invest any net income attributable to the ownership of such assets in the financing, refinancing, or rehabilitation of low- and moderate-income housing within the jurisdiction of such State Housing Finance Authority.".

TITLE XIV—TAX PROVISIONS

SEC. 1401. EARLY TERMINATION OF SPECIAL REORGANIZATION RULES FOR FINANCIAL INSTITUTIONS.

(a) GENERAL RULE.—

(1) REORGANIZATIONS.—Subparagraph (D) of section 368(a)(3) of the Internal Revenue Code of 1986 (as amended by section 4012 of the Technical and Miscellaneous Revenue Act of 1988) is amended to read as follows:

"(D) AGENCY RECEIVERSHIP PROCEEDINGS WHICH INVOLVE FINANCIAL INSTITUTIONS.—For purposes of subparagraphs (A) and (B), in the case of a receivership, foreclosure, or similar proceeding before a Federal or State agency involving a financial institution referred to in section 581 or 591, the agency shall be treated as a court.".

(2) NET OPERATING LOSS RULES.—The last sentence of section 382(l)(5)(F) of such Code (as so amended) is amended by striking "after December 31, 1989" and inserting "on or after May 10, 1989".

(3) FINANCIAL ASSISTANCE.—

(A) Section 597 of such Code (as so amended) is amended to read as follows:

"SEC. 597. TREATMENT OF TRANSACTIONS IN WHICH FEDERAL FINANCIAL ASSISTANCE PROVIDED.

"(a) GENERAL RULE.—The treatment for purposes of this chapter of any transaction in which Federal financial assistance is provided with respect to a bank or domestic building and loan association shall be determined under regulations prescribed by the Secretary.

"(b) PRINCIPLES USED IN PRESCRIBING REGULATIONS.—

"(1) TREATMENT OF TAXABLE ASSET ACQUISITIONS.—In the case of any acquisition of assets to which section 381(a) does not apply, the regulations prescribed under subsection (a) shall—

"(A) provide that Federal financial assistance shall be properly taken into account by the institution from which the assets were acquired, and

"(B) provide the proper method of allocating basis among the assets so acquired (including rights to receive Federal financial assistance).

"(2) OTHER TRANSACTIONS.—In the case of any transaction not described in paragraph (1), the regulations prescribed under subsection (a) shall provide for the proper treatment of Federal financial assistance and appropriate adjustments to basis or other tax attributes to reflect such treatment.

"(3) DENIAL OF DOUBLE BENEFIT.—No regulations prescribed under this section shall permit the utilization of any deduction (or other tax benefit) if such amount was in effect reimbursed by nontaxable Federal financial assistance.

"(c) FEDERAL FINANCIAL ASSISTANCE.—The purposes of this section, the term 'Federal financial assistance' means—

"(1) any money or other property provided with respect to a domestic building and loan association by the Federal Savings and Loan Insurance Corporation or the Resolution Trust Corporation pursuant to section 406(f) of the National Housing Act or section 21A of the Federal Home Loan Bank Act (or under any other similar provision of law), and

"(2) any money or other property provided with respect to a bank or domestic building and loan association by the Federal Deposit Insurance Corporation pursuant to sections 13(c), 15(c)(1), and 15(c)(2) of the Federal Deposit Insurance Act (or under any other similar provision of law),

regardless of whether any note or other instrument is issued in exchange therefor.

"(d) DOMESTIC BUILDING AND LOAN ASSOCIATION.—For purposes of this section, the term 'domestic building and loan association' has the meaning given such term by section 7701(a)(19) without regard to subparagraph (C) thereof.".

(B) Subparagraph (B) of section 904(c)(2) of the Tax Reform Act of 1986 is hereby repealed.

(C) The table of sections for part II of subchapter H of chapter 1 of such Code is amended by striking the item relating to section 597 and inserting the following:

"Sec. 597. Treatment of transactions in which Federal financial assistance provided.".

(b) TECHNICAL AMENDMENTS.—

(1) Section 904 of the Tax Reform Act of 1986 (other than subsection (c)(2)(B) thereof) is hereby repealed and the Internal Revenue Code of 1986 shall be applied as if the amendments made by such section had not been enacted.

(2) The last sentence of paragraph (3) of section 4012(c) of the Technical and Miscellaneous Revenue Act of 1988 is amended to read as follows:

"In the case of any bank or any institution treated as a domestic building and loan association for purposes of section 597 of the 1986 Code by reason of the amendment made by subsection (b)(2)(B), the amendments made by this subsection shall also apply to any transfer before January 1, 1989, to which the amendments made by subsection (b)(2) apply.".

(3) The last sentence of section 593(e)(1) of such Code is amended to read as follows: "This paragraph shall not apply to any transaction to which section 381 applies, or to any distribution to the Federal Savings and Loan Insurance Corporation (or any successor thereof) or the Federal Deposit Insurance Corporation in redemption of an interest in an association, if such interest was originally received by any such entity in exchange for assistance provided under a provision of law referred to in section 597(c).".

(c) EFFECTIVE DATES.—

(1) SUBSECTION (a)(1).—The amendment made by subsection (a)(1) shall apply to acquisitions on or after May 10, 1989.

(2) SUBSECTION (a)(2).—The amendment made by subsection (a)(2) shall apply to transactions on or after May 10, 1989.

(3) SUBSECTION (a)(3).—

(A) IN GENERAL.—The amendments made by subsection (a)(3) shall apply to any amount received or accrued by the financial institution on or after May 10, 1989, except that such amendments shall not apply to transfers on or after such date pursuant to an acquisition to which the amendment made by subsection (a)(1) does not apply.

(B) INTERIM RULE.—In the case of any payment pursuant to a transaction on or after May 10, 1989, and before the date on which the Secretary of the Treasury (or his delegate) takes action in exercise of his regulatory authority under section 597 of the Internal Revenue Code of 1986 (as amended by subsection (a)(3)), the taxpayer may rely on the legislative history for the amendments made by subsection (a)(3) in determining the proper treatment of such payment.

(4) SUBSECTION (b)(1).—The provisions of subsection (b)(1) shall take effect on the date of the enactment of the Tax Reform Act of 1986.

(5) SUBSECTION (b)(2).—The amendment made by subsection (b)(2) shall take effect on the date of the enactment of the Technical and Miscellaneous Revenue Act of 1988.

(6) SUBSECTION (b)(3).—The amendment made by subsection (b)(3) shall take effect on the date of the enactment of this Act.

(7) CLARIFICATION OF PRIOR LAW.—Any reference to the Federal Savings and Loan Insurance Corporation in section 597 of the Internal Revenue Code of 1986 (as in effect on the day before the date of the enactment of this Act) shall be treated as including a reference to the Resolution Trust Corporation and the FSLIC Resolution Fund.

SEC. 1402. TAX EXEMPTION FOR RESOLUTION TRUST CORPORATION AND RESOLUTION FUNDING CORPORATION.

(a) GENERAL RULE.—Subsection (l) of section 501 of the Internal Revenue Code of 1986 (relating to government corporations exempt under subsection (c)(1)) is amended to read as follows:

"(l) GOVERNMENT CORPORATIONS EXEMPT UNDER SUBSECTION (c)(1).—For purposes of subsection (c)(1), the following organizations are described in this subsection:

"(1) The Central Liquidity Facility established under title III of the Federal Credit Union Act (12 U.S.C. 1795 et seq.).

"(2) The Resolution Trust Corporation established under section 21A of the Federal Home Loan Bank Act.

"(3) The Resolution Funding Corporation established under section 21B of the Federal Home Loan Bank Act.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act.

SEC. 1403. ANNUAL REPORTS ON TRANSACTIONS IN WHICH FEDERAL FINANCIAL ASSISTANCE PROVIDED.

(a) IN GENERAL.—The Secretary of the Treasury or his delegate shall submit annual reports to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate on—

(1)(A) the transactions which occur during the year for which the report is made and with respect to which Federal financial assistance is provided;

(B) the aggregate amount of Federal financial assistance provided with respect to such transactions; and

(C) any tax benefits available by reason of such transactions; and

(2) the aggregate amount of Federal financial assistance provided during such year, and the aggregate tax benefits utilized during such year, which are attributable to such transactions in prior years.

(b) DEFINITION.—For purposes of this section, the term "Federal financial assistance" means any assistance to which section 597 of the Internal Revenue Code of 1986 applies.

SEC. 1404. ANNUAL STUDY OF RELATIONSHIP BETWEEN PUBLIC DEBT AND ACTIVITIES OF GOVERNMENT-SPONSORED ENTERPRISES.

(a) IN GENERAL.—In order to better manage the bonded indebtedness of the United States, the Secretary of the Treasury shall annually conduct a study to assess the financial safety and soundness of the activities of all Government-sponsored enterprises and the impact of their operations on Federal borrowing.

(b) ACCESS TO RELEVANT INFORMATION.—

(1) INFORMATION FROM GSE'S.—Each Government-sponsored enterprise shall provide full and prompt access to the Secretary to its books and records, and shall promptly provide any other information requested by the Secretary.

(2) INFORMATION FROM SUPERVISORY AGENCIES.—In conducting the study under this section, the Secretary may request information from, or the assistance of, any Federal department or agency authorized by law to supervise the activities of any Government-sponsored enterprise.

(c) ASSESSMENT OF RISK.—In assessing the financial safety and soundness of the activities of Government-sponsored enterprises, and the impact of their activities on Federal borrowing, the Secretary shall quantify the risks associated with each Government-sponsored enterprise. In quantifying such risks, the Secretary shall determine the volume and type of securities outstanding which are issued or guaranteed by each Government-sponsored enterprise, the capitalization of each Government-sponsored enterprise, and the degree of risk involved in the operations of each Government-sponsored enterprise due to factors such as credit risk, interest rate risk, management and operations risk, and business risk. The Secretary shall also report on the quality and timeliness of information currently available to the public and the Federal Government concerning the extent and nature of the activities of Government-sponsored enterprises and the financial risk associated with such activities.

(d) REPORT TO CONGRESS.—Not later than March 1 of each year, the Secretary shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a report setting forth the results of the study conducted under this section.

(e) DEFINITIONS.—For purposes of this section:

(1) GOVERNMENT-SPONSORED ENTERPRISE.—The term "Government-sponsored enterprise" means—

(A) the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, the Federal Home Loan Bank System, the Farm Credit Banks, the Banks for Cooperatives, the Federal Agricultural Mortgage Corporation, the Student Loan Marketing Association, the College Construction Loan Insurance Association, and any of their affiliated or member institutions; and

(B) any other Government-sponsored enterprise, as designated by the Secretary.

(2) SECRETARY.—The term "Secretary" means the Secretary of the Treasury.

The CHAIRMAN. The amendment printed in part 1 of House Report 101-85 accompanying House Resolution 173 shall be considered as having been adopted.

No amendments to said substitute are in order except the amendments printed in part 2 of House Report 101-85. Said amendments shall be considered only in the order and manner specified and shall be considered as having been read. Debate time specified for each amendment shall be equally divided and controlled by the proponent of the amendment and a Member opposed thereto. Said amendments shall not be subject to amendment except as specified in House Report 101-85 and shall not be subject to a demand for a division of the question, except for amendment No. 1 printed in part 2 of House Report 101-85.

If more than one of the amendments on the subject of supervisory goodwill is adopted, only the last amendment adopted shall be considered as finally adopted and reported back to the House.

AMENDMENTS EN BLOCK OFFERED BY MR. GONZALEZ

Mr. GONZALEZ. Mr. Chairman, pursuant to the rule, I offer amendments in bloc.

The CHAIRMAN. The Clerk will designate the amendments.

The text of the amendments en bloc is as follows:

Amendments en bloc offered by Mr. GONZALEZ: Page 4, strike the item relating to section 809.

Page 205, strike line 14 and all that follows through page 206, line 7, and insert the following:

"(1) APPOINTMENT AND COMPENSATION.—After consulting with the Secretary of the Treasury, and notwithstanding section 301(f)(1) of title 31, United States Code, the Director shall fix the compensation and number of, and appoint, employees of the Office of Thrift Supervision.

"(2) RATES OF BASIC PAY.—Rates of basic pay for employees of the Office may be set and adjusted by the Director without regard to the provisions of chapter 51 or subchapter III of chapter 53 of title 5, United States Code.

"(3) ADDITIONAL COMPENSATION AND BENEFITS.—The Director may provide additional compensation and benefits to employees of the Office if the same type of compensation or benefits are then being provided by any other Federal bank regulatory agency or, if not then being provided, could be provided by such an agency under applicable provisions of law, rule, or regulation. In setting and adjusting the total amount of compensation and benefits for employees of the Office, the Director shall seek to maintain comparability with other Federal bank regulatory agencies.".

Page 284, strike line 17 and insert the following:

"Section 5314 of"

Page 281, line 11, strike "(a) COMPENSATION OF DIRECTOR.—".

Page 281, strike line 16 and all that follows through line 20.

Page 297, strike line 25 and all that follows through page 298, line 1, and insert the following:

of this transfer may retain for 1 year after the date such transfer occurs membership in any employee benefit program of the

Page 302, line 8, after "employment" insert "no later than 60 days after the date of enactment of this Act".

Page 302, strike line 11 and all that follows through line 18, and insert the following:

"(2)(A) Each transferred employee shall be guaranteed a position with the same status, tenure, and pay as that held on the day immediately preceding the transfer. Each such employee holding a permanent position shall not be involuntarily separated or reduced in grade or compensation for 1 year after the date of transfer, except for cause.

"(B) In the case of employees occupying positions in the excepted service, the excepted appointing authority established pursuant to law or regulations of the Office of Personnel Management for filling such positions shall be transferred.".

Page 303, line 12, strike "through" and all that follows through "occurs" in line 13.

Page 303, line 18, strike ", and paid by,".

Page 316, strike line 20 and all that follows through page 317, line 4, and insert the following:

"(4)(A) Subject to subsection (u) and the approval of the Oversight Board, to fix the compensation and number of, and appoint, employees for any position established by the Corporation pursuant to paragraph (3).

"(B) To set and adjust rates of basic pay for employees of the Corporation without regard to the provisions of chapter 51 or subchapter III of chapter 53 of title 5, United States Code.

"(C) To provide additional compensation and benefits to employees of the Corporation if the same type of comapensation or benefits are then being provided by any other Federal bank regulatory agency or, if not then being provided, could be provided by such an agency under applicable provisions of law, rule, or regulation; in setting and adjusting the total amount of compensation and benefits for employees of the Corporation, the Corporation shall seek to maintain comparability with the other Federal bank regulatory agencies, except that the Corporation shall not in any event exceed the compensation and benefits provided by the Federal Deposit Insurance Corporation with respect to any comparable position.

Page 425, strike lines 13 through 16, and insert the following:

"(b) STAFF.—

"(1) APPOINTMENT AND COMPENSATION.—The Board shall fix the compensation and number of, and appoint, employees of the Federal Housing Finance Board. Rates of basic pay for employees of the Board may be set and adjusted by the Board without regard to the provisions of chapter 51 or subchapter III of chapter 53 of title 5, United States Code.

"(2) ADDITIONAL COMPENSATION AND BENEFITS.—The Board may provide additional compensation and benefits to employees of the Board if the same type of compensation or benefits are then being provided by any other Federal bank regulatory agency or, if not then being provided by such an agency under applicable provisions of law, rule, or regulation. In setting and adjusting the total amount of compensation and benefits for employees, the Board shall seek to maintain comparability with other Federal bank regulatory agencies.".

Page 428, line 23, strike "(1)" and insert "(1)(A)".

Page 429, after line 6, insert the following:

"(B) In the case of employees occupying positions in the excepted service, the excepted appointing authority established pursuant to law or regulations of the Office of Personnel Management for filling such positions shall be transferred.".

Page 429, line 17, strike "level".

Page 430, line 8, strike "through" and all that follows through "which" in line 9, and insert "for 1 year after the date".

Page 430, strike lines 14 and 15, and insert the following:

or program is continued by the Director of the Office of Thrift Supervision. The difference in costs between the benefits which would have been provided by the Federal Housing Finance Board and those provided by this section shall be paid by the Director of the Office of Thrift Supervision. If the em-

Page 475, after line 10, insert the following:

(c) Section 3132(a)(1) of title 5, United States Code, is amended—

(1) in subparagraph (B), by striking "or" after the semicolon;

(2) in subparagraph (C), by adding "or" after the semicolon; and

(3) by adding at the end the following:

"(D) the Office of the Comptroller of the Currency, the Office of Thrift Supervision, the Federal Housing Finance Board, the Resolution Trust Corporation, and the National Credit Union Administration;".

Page 489, strike lines 4 through 8.

Page 695, strike lines 13 through 25, and insert the following:

The third undesignated paragraph of section 5240 of the Revised Statutes (12 U.S.C. 482) is amended—

(1) by striking the 1st sentence thereof and inserting the following:

"Notwithstanding any of the preceding provisions of this section, after consulting with the Secretary of the Treasury, the Comptroller of the Currency shall fix the compensation and number of, and appoint, all employees of the Office of the Comptroller of the Currency. Rates of basic pay for all employees of the Office may be set and adjusted by the Comptroller without regard to the provisions of chapter 51 or subchapter III of chapter 53 of title 5, United States Code. The Comptroller may provide additional compensation and benefits to employees of the Office if the same type of compensation or benefits are then being provided by any other Federal bank regulatory agency or, if not then being provided, could be provided by such an agency under applicable provisions of law, rule, or regulation. In setting and adjusting the total amount of compensation and benefits for employees of the Office, the Comptroller shall seek to maintain comparability with other Federal bank regulatory agencies."; and

(2) by redesignating the remaining sentences of such undesignated paragraph as a new undesignated paragraph.

Page 696, strike lines 5 through 16, and insert the following:

"(j) STAFF.—

"(1) APPOINTMENT AND COMPENSATION.—The Board shall fix the compensation and number of, and appoint, employees of the Board. Rates of basic pay for employees of the Board may be set and adjusted by the Board without regard to the provisions of chapter 51 or subchapter III of chapter 53 of title 5, United States Code.

"(2) ADDITIONAL COMPENSATION AND BENEFITS.—The Board may provide additional compensation and benefits to employees of the Board if the same type of compensation or benefits are then being provided by any other Federal bank regulatory agency or, if not then being provided, could be provided by such an agency under applicable provisions of law, rule, or regulation. In setting and adjusting the total amount of compensation and benefits for employees of the Board, the Board shall seek to maintain comparability with other Federal bank regulatory agencies.

"(3) FUNDING.—The salaries and expenses of the Board and employees of the Board shall be paid from fees and assessments (including income earned on insurance deposits) levied on insured credit unions under this Act.".

Page 718, line 14, after "Board," insert "the Federal Housing Finance Board, the Resolution Trust Corporation, the Farm Credit Administration,".

Page 719, after line 25, insert the following new sections (and redesignate the succeeding section and amend the table of contents accordingly):

SEC. 1211. AMENDMENT TO SECTION 5373 OF TITLE 5, UNITED STATES CODE.

Paragraph (2) of section 5373 of title 5, United States Code, is amended to read as follows:

"(2) sections 248, 482, 1766, and 1819 of title 12, section 206 of the Bank Conservation Act, sections 2B(b) and 21A(e)(4) of the Federal Home Loan Bank Act, and section 2A(i) of the Home Owners' Loan Act of 1933;".

SEC. 1212. FARM CREDIT ADMINISTRATION EMPLOYMENT PROVISION.

(a) OFFICERS AND EMPLOYEES.—Section 5.11(c)(2) of the Farm Credit Act of 1971 (12 U.S.C. 2245) is amended to read as follows:

"(2) OFFICERS AND EMPLOYEES.—

"(A) APPOINTMENT, COMPENSATION, AND BENEFITS.—The Chairman shall fix the compensation and numbers of, and appoint, employees of the Administration. The Chairman may set and adjust the rates of basic pay for employees of the Administration without regard to the provisions of chapter 51, or subchapter III of chapter 53, of title 5, United States Code. The Chairman may provide such additional compensation and benefits to employees of the Administration as is necessary to maintain comparability with the total amount of compensation and benefits provided by other Federal bank regulatory agencies. In setting and adjusting the total amount of compensation and benefits for employees of the Administration, the Chairman shall seek to maintain comparability with other Federal bank regulatory agencies.

"(B) DEFINITION.—For purposes of this subsection, the term "other Federal bank regulatory agencies" includes—

"(i) the Office of the Comptroller of the Currency;

"(ii) the Federal Deposit Insurance Corporation;

"(iii) the Office of Thrift Supervision;

"(iv) the Resolution Trust Corporation;

"(v) the Federal Housing Finance Board; and

"(vi) the National Credit Union Administration.

"(C) ETHICS IN GOVERNMENT.—The officers and employees of the agency shall be—

"(i) subject to the Ethics in Government Act of 1978 (2 U.S.C. 701 et seq.); and

"(ii) considered officers or employees of the United States for the purposes of sections 201 through 203, and sections 205 through 209, of title 18, United States Code.".

(b) CONFORMING AMENDMENTS.—

(1) Section 3132(a)(1) of title 5, United States Code, is amended—

(A) in subparagraph (B), by striking "or" after the semicolon;

(B) in subparagraph (C), by inserting "or" after the semicolon; and

(C) by adding at the end the following new subparagraph:

"(D) the Farm Credit Administration;".

(2) Section 5373 of title 5, United States Code, is amended—

(A) in paragraph (3), by striking "or" after the semicolon;

(B) in paragraph (4), by striking the period and inserting in lieu thereof "; or"; and

(C) by adding at the end the following new paragraph:

"(5) section 5.11 of the Farm Credit Act of 1971.".

Page 155, strike the sentence beginning on line 9, and insert the following: "If the parties elect to seek review under this paragraph in lieu of filing suit under paragraph (3), the Corporation shall consider the claim after opportunity for a hearing on the record.".

Page 670, strike line 1 and all that follows through page 672, line 7, and insert the following new section (and amend the table of contents accordingly):

SEC. 1003. STUDY OF DEPOSIT INSURANCE PASS-THROUGH.

Not later than 6 months after the date of the enactment of this Act, the Federal Deposit Insurance Corporation shall transmit to the Committee on Banking, Housing, and Urban Affairs, of the Senate and the Committee on Banking, Finance and Urban Affairs and the Committee on Education and Labor of the House of Representatives a report containing its findings and recommendations relating to the pass-through of deposit insurance either to individual investors in unit investment trust funds or to individual participants in pension or profit-sharing plans that are qualified plans under section 401(a) of the Internal Revenue Code of 1986. Such report shall also contain the Corporation's assessment of the potential effects on the operation of capital markets of such broadening of deposit insurance coverage.

Page 374, strike line 20 and all that follows through page 378, line 11, and insert the following:

"(9) AGGREGATE ANNUAL CAPITAL CONTRIBUTION OF FEDERAL HOME LOAN BANKS.—The sum of the amounts subject to paragraph (3)(B) that are invested by the Federal home loan banks under paragraph (1) shall, for each calendar year for which paragraph (3)(B) applies, equal—

"(i) $300,000,000, in the case of a calendar year before 1993; or

"(ii) the adjusted dollar amount determined under subparagraph (B), in the case of a calendar year after 1992.

"(B) ADJUSTED DOLLAR AMOUNT FOR YEARS AFTER 1992.—

"(i) IN GENERAL.—The adjusted dollar amount under subparagraph (A) for any calendar year shall be calculated by multiplying the dollar amount which applied under subparagraph (A) for the preceding calendar year by the sum of 1 and whichever of the following is lower:

"(I) CPI ADJUSTMENT.—The CPI adjustment under subparagraph (C).

"(II) NET EARNINGS ADJUSTMENT.—The net earnings adjustment under subparagraph (D).

"(ii) MAXIMUM AMOUNT.—The adjusted dollar amount for any calendar year shall not exceed $600,000,000.

"(C) CPI ADJUSTMENT.—

"(i) IN GENERAL.—For purposes of subparagraph (B)(i), the CPI adjustment for any calendar year is the percentage (if any) by which—

"(I) the consumer price index for the preceding calendar year; exceeds

"(II) the consumer price index for the second preceding calendar year.

"(ii) CONSUMER PRICE INDEX.—For purposes of clause (i), the consumer price index for any calendar year is the average, as of the close of such year, of the last consumer price index for all-urban consumers published by the Department of Labor.

"(D) NET EARNINGS ADJUSTMENT.—

"(i) IN GENERAL.—For purposes of subparagraph (B)(i), the net earnings adjustment for any calendar year is the percentage (if any) by which—

"(I) the net earnings for the preceding calendar year; exceeds

"(II) the net earnings for the second preceding calendar year.

"(ii) NET EARNINGS.—For purposes of clause (i), the net earnings for any calendar year is the aggregate net earnings of the Federal home loan banks for such year.

"(10) RESERVE REQUIREMENTS CONTAINED IN SECTION 16 DEFINED.—For purposes of this subsection, the term 'reserve requirements contained in section 16' means—

"(A) with respect to the period ending on the day before the date of the enactment of the Financial Institutions Reform, Recovery and Enforcement Act of 1989, the first 2 sentences of section 16; and

"(B) with respect to the period beginning on such date of enactment, the reserve requirements contained in section 16(a).

"(f) OBLIGATIONS OF THE FUNDING CORPORATION.—

"(1) ISSUANCE.—The Funding Corporation, subject to the direction of the Resolution Trust Corporation, may issue bonds, notes, debentures, and similar obligations, in an aggregate amount not to exceed $50,000,000,000.

"(2) INTEREST PAYMENTS.—The Funding Corporation shall pay the interest due on (and any redemption premium with respect to) such obligations from funds obtained for such interest payments in the manner provided in the following subparagraphs (in the order in which such subparagraphs appear):

"(A) EARNINGS ON CERTAIN ASSETS.—All earnings on assets (of the Funding Corporation) which—

"(i) are described in subsection (g)(1) of this section; and

"(ii) are not invested pursuant to subsection (g)(2),

shall be used to make interest payments on Funding Corporation obligations when interest is due.

"(B) PROCEEDS OF RTC.—The Resolution Trust Corporation shall pay to the Funding Corporation—

"(i) the net proceeds received by the Resolution Trust Corporation from the liquidation of institutions under the management of the Corporation pursuant to section 21A of this Act to the extent the amount of such proceeds are determined by the Oversight Board to be in excess of the amount of funds necessary for resolution costs in the short-term period following the date of such determination; and

"(ii) any proceeds from warrants and participations of the Resolution Trust Corporation.

"(C) SUPPLEMENTARY PAYMENTS BY HOME LOAN BANKS.—To the extent the funds available pursuant to subparagraph (A) and (B) are insufficient to cover the amount of interest payments, the Federal home loan banks shall pay to the Funding Corporation—

"(i) an aggregate annual amount equal to—

"(I) $300,000,000 in the case of a calendar year before 1993; or

"(II) the adjusted dollar amount determined under subsection (e)(9)(B), in the case of a calendar year after 1992; minus

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The CHAIRMAN. Under the rule, the gentleman from Texas [Mr. GONZALEZ] will be recognized for 30 minutes and a Member opposed will be recognized for 30 minutes.

The Chair recognizes the gentleman from Texas [Mr. GONZALEZ].

Mr. GONZALEZ. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I just want to say briefly that the passage of amendments offered in this en bloc first amendment represent agreements between the committees of the House on the issues that are either technical or jurisdictional in nature, and in each case the committees have worked together to resolve these differences or to make technical changes required by the actions of another committee.

Mr. Chairman, I believe that these amendments represent a very fair compromise.

Mr. Chairman, I yield such time as she may consume to the gentlewoman from Washington [Mrs. UNSOELD], a member of the Committee on Education and Labor.

MODIFICATION OFFERED BY MRS. UNSOELD TO THE AMENDMENTS EN BLOC OFFERED BY MR. GONZALEZ

Mrs. UNSOELD. Mr. Chairman, I ask unanimous consent that the amendment printed on page 7 of House Report 101-85, striking line 1, page 670, and all that follows through page 672, line 7, be modified to instead strike on page 664, line 10, through line 15 on page 666, and insert the following new section as printed on page 7 of House Report 101-85.

The CHAIRMAN. Is there objection to the request of the gentlewoman from Washington?

Mrs. ROUKEMA. Mr. Chairman, reserving the right to object, and I will not object, but I reserve the right only for the purposes of permitting the gentlewoman from Washington [Mrs. UNSOELD] to explain the nature of her unanimous-consent request and what the intention is.

Mr. Chairman, I yield such time as she may consume to the gentlewoman from Washington [Mrs. UNSOELD].

Mrs. UNSOELD. Mr. Chairman, I thank the gentlewoman from New Jersey [Mrs. ROUKEMA] for yielding.

Mr. Chairman, this unanimous-consent request is made only to correct a technical drafting error and will insure that the original amendment's line and page numbers are adjusted to the corresponding line and page numbers of the text entitled "Committee Print, Committee on Rules, June 13, 1989." There is no substantive change being made from the original Hawkins amendment as made in order by the Rules Committee.

Mrs. ROUKEMA. Mr. Chairman, I withdraw my reservation of objection.

Mr. WYLIE. Mr. Chairman, reserving the right to object, I was given the courtesy of looking at the amendment a little earlier. It is purely technical in nature, not substantive. I do not like the provision in substance, but I will not object to correcting it technically.

Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN. Is there objection to the request of the gentlewoman from Washington?

There was no objection.

The CHAIRMAN. The modification is adopted.

Mr. GONZALEZ. Mr. Chairman, our first amendment, the en bloc amendment, is mostly technical changes and is also jurisdictional because of the fact that we had three other; actually five, but three in reality, other committees that have pertinent jurisdiction on a sequential referral basis.

Mr. Chairman, this first one on personnel issues is an amendment that the gentlewoman from Ohio [Ms. OAKAR], who served very valiantly with tremendous exertion on her part both as a member of the Committee on Post Office and Civil Service and as a member of the Committee on Banking, Finance and Urban Affairs in doing that which is necessary in view of our reconstruction of the regulatory environment and the agencies that will be created so that in effect this would establish the composition and the number of employees in the agencies that are provided for in the bill.

Mr. Chairman, this includes a new Office of Thrift Supervision, the Office of the Comptroller of the Currency, both under the Treasury De-

partment and the Federal Housing Finance Board, the Resolution Trust Corporation, and the National Credit Union Administration.

The amendment is also designed to provide for pay comparability, and to that end each agency is directed to maintain comparability with the other Federal bank regulatory agencies.

I might say that this is the first time that we have what some Members like to call a symmetry in this area among our various regulatory agencies.

Mr. Chairman, the amendment from the distinguished gentlewoman from Ohio [Ms. OAKAR] essentially is defined that way. I know of nothing beyond that.

I believe that the gentleman from Texas [Mr. DE LA GARZA] had a similar proviso with respect to the Farm Credit Administration, also with respect to pay comparability, and I now see the distinguished chairman of the Committee on Agriculture here.

Mr. Chairman, I yield such time as he may consume to the gentleman from Texas [Mr. DE LA GARZA] to explain his part of this amendment.

Mr. DE LA GARZA. Mr. Chairman, I rise today on behalf of the Committee on Agriculture, in support of the en bloc amendment to H.R. 1278, the Financial Institutions Reform, Recovery, and Enforcement Act of 1989. This amendment, among other things, adds a new section 1212 concerning the Farm Credit Administration. The provisions of the amendment regarding the Farm Credit Administration, or FCA, are designed solely to allow the FCA to be competitive with other Federal financial regulatory agencies in hiring and retaining employees. the FCA is the Federal financial regulatory agency charged with regulating the institutions of the Farm Credit System, and is within the jurisdiction of the Committee on Agriculture.

These provisions concerning the Farm Credit Administration have the support of the Honorable EDWARD R. MADIGAN, the ranking minority member of the Committee on Agriculture, as well as the Honorable GLENN ENGLISH and the Honorable E. THOMAS COLEMAN, the chairman and ranking minority member, respectively, of the Subcommittee on Conservation, Credit, and Rural Development, which is the subcommittee of jurisdiction. I know of no opposition to the amendment.

Under current law, the Federal Deposit Insurance Corporation [FDIC] has broad authority to pay compensation and benefits to its employees at rates higher than can be paid by the FCA or by other Federal financial regulatory agencies. As reported, H.R. 1278 would amend current law in an effort to harmonize these authorities by authorizing the Federal financial regulatory agencies other than the FCA to offer compensation and benefit packages comparable to those offered by the FDIC.

Mr. Chairman, some key FCA employees have already been hired away from the FCA by the FDIC, and the problem could get worse in the near future. Approximately 200 prospective bank examiners are currently being trained by the FCA pursuant to the requirements of the Farm Credit Act of 1971, as amended most recently by the Agricultural Credit Act of 1987. These examiners are being trained at the expense of the institutions of the Farm Credit System. Because these institutions are cooperatively owned by the farmers and ranchers who borrow funds from these institutions, it is these farmers and ranchers who must foot the bill for the recruitment, employment, and training of these FCA employees.

Without this amendment, the 200 bank examiners currently being trained by the FCA could be hired away from the FCA by any of the other financial regulatory agencies who, because of the provisions of H.R. 1278, could offer them higher pay and better benefits than the FCA. In fact, many of these other agencies will require new hires to meet the demands placed on them by H.R. 1278. Similarly, the FCA would be at a competitive disadvantage with these other agencies with respect to the hiring and training of future employees.

H.R. 1278 currently includes provisions to enhance the appointment and pay-fixing authorities of the Office of the Comptroller of the Currency, the National Credit Union Administration, the new Office of Thrift Supervision, the new Resolution Trust Corporation, and the new Federal Housing Finance Board. Other provisions of the en bloc amendment are designed to perfect these provisions and to harmonize the authorities of those Federal financial regulatory agencies to hire and pay compensation and benefits to qualified personnel. The provisions of the amendment relating to the Farm Credit Administration are designed to give parallel authorities to the FCA.

I would like to acknowledge and thank Chairman GONZALEZ of the Committee on Banking, Finance and Urban Affairs, Chairman FORD of the Committee on Post Office and Civil Service, and Congresswoman OAKAR for their cooperation and assistance in drafting these provisions of the amendment. I appreciate their recognition of the importance of these provisions of the amendment to the farmer-borrowers of the Farm Credit System.

This amendment will help the FCA to hire, train, and retain the skilled employees the agency requires to effectively regulate the institutions of the Farm Credit System, to efficiently serve the borrower-owners of the System, and to protect the interests of the taxpayer through the regulation of the System's institutions. I commend the amendment to the House and urge my colleagues to support its adoption.

I also include in the RECORD a summary of the provisions of the amendment concerning the Farm Credit Administration.

PROVISIONS OF THE AMENDMENT CONCERNING THE FARM CREDIT ADMINISTRATION

The Farm Credit Administration (FCA) provisions of the en bloc amendment are designed to provide the FCA the same authorities provided to other financial regulatory agencies by H.R. 1278. Specifically, the amendment would—

(1) authorize the Chairman of the FCA to set rates of basic pay for FCA employees without regard to either (a) the grades and classifications or (b) the General Schedule pay rates established in Chapter 51 and subchapter III of Chapter 53 of title 5 of the United States Code, respectively;

(2) authorize the Chairman of the FCA to provide additional compensation and benefits to FCA employees as is necessary to maintain comparability with other Federal financial regulatory agencies;

(3) require the Chairman of the FCA to (a) seek to maintain comparability with other financial regulatory authorities in setting and adjusting the total amount of compensation and benefits of FCA employees, and (2) inform the other agencies and the Congress of such compensation schedules;

(4) add the FCA to the list of agencies exempted from the definition of an "agency" for purposes of the application of the Senior Executive Service established under subchapter II of Chapter 31 of title 5 of the United States Code; and

(5) add the FCA to the list of agencies exempted from the GS-18 pay limit (currently $75,500) on employee pay established under setion 5373 of title 5 of the United States Code.

Mr. GONZALEZ. Mr. Chairman, as I said, and I repeat, the amendments go a long way in making the personnel provisions of these various agencies as similar as possible, and the distinguished gentleman from Illinois [Mr. ROSTENKOWSKI], chairman of the Committee on Ways and Means, is here to give us his explanation.

Mr. Chairman, I yield such time as he may consume to the gentleman from Illinois [Mr. ROSTENKOWSKI].

Mr. ROSTENKOWSKI. Mr. Chairman, I rise in support of the Gonzalez en bloc amendment especially that part of it which increases and ensures the contribution the industry must make toward the funding of the assistance package.

First, let me say that I am happy to join with HENRY GONZALEZ, chairman of the Banking Committee, in an effort to develop a fair compromise on what the industry contribution should be. Members of both committees have struggled with this issue. While we do not want to place undue burden on the banks, we must consider the American taxpayer as well. It is important to remember that whatever costs the indus-

try does not pay will be passed on to the taxpayer.

The language in the bill calls for an annual contribution by the Federal home loan banks of the lesser of $300 million or 20 percent of net earnings. This second option allows for the contribution to fall below $300 million. The provision does not index the contribution for inflation, allowing the real value to decline over time. A $300 million contribution in 2021, the final year of the package, is equivalent to $39 million today.

The amendment before us calls for an annual industry contribution of $300 million, indexed by the lesser of inflation or the increase in net earnings. In addition, a $600 million cap is placed on the contribution. This provision assures that the industry contribution never falls below $300 million, which protects the taxpayer, and never exceeds $600 million, which protects the solvency of the industry. The indexing mechanism assures that we do not let the real value of the industry contribution to interest payments decline over time.

Taxpayers will have to pay 70 to 80 percent of the cost of this bailout. I can't believe that this Congress would choose to add to this burden, rather than asking the Federal home loan banks to make a significant contribution toward the restoration of their industry.

This amendment does not place an unreasonable burden on members of the industry. It merely assures that they make a significant contribution, one that does not decrease in value over time.

I urge that this amendment be adopted.

Mr. WYLIE. Mr. Chairman, I yield such time as he may consume to the distinguished minority leader, the gentleman from Illinois [Mr. MICHEL].

Mr. MICHEL. Mr. Chairman, particularly the gentleman from Ohio [Mr. WYLIE], I thank you very much for yielding to me at this time, as we begin another day on the debate on the savings and loan bill, I thought what I would like to do is read into the RECORD here verbatim the letter that I received from the President, dated yesterday, but received just this morning, to more clearly define specifically where the President stands on this legislation and in support of what we are attempting to do here by cleaning up this S&L mess.

THE WHITE HOUSE,
Washington, June 14, 1989.

Hon. ROBERT H. MICHEL,
Republican Leader of the House of Representatives, the Capitol, Washington, DC.

DEAR BOB: Today the House of Representatives begins floor consideration of the Financial Institutions Reform, Recovery and Enforcement Act of 1989 (FIRREA). This legislation will provide vitally needed funds to restructure or close insolvent thrift institutions. The legislation would also overhaul the existing system of thrift regulation. Inadequacies in capital rules, accounting practices and supervisory oversight in the past were fundamental causes of this disaster.

In addition to protecting depositors, passage of this bill will allow us to begin reducing the ongoing losses in the S&L industry. This program will cost the American public tens of billions of dollars to replace deposits of the public lost through speculation, criminality, fraud and irresponsible risk-taking.

I am determined that in the future federally-insured institutions should have to put their own money at risk before that of the insurance fund and the taxpayers. This is an essential element in protecting against any future repetition of this problem.

The capital provisions of the legislation adopted by the Banking Committee recognize the need for a new core capital requirement to protect the public. Thrifts that fail this capital standard would be required to submit a prudent business plan, and they would generally be subjected to closer supervisory oversight and limitations on excessive future growth.

Unfortunately, amendments have been offered that would allow as much as $20 billion of "supervisory goodwill" to be included in the computation of tangible net worth, even though it has no tangible value. Any such amendment could permit a relatively small group of firms to maintain $600 billion in loans without investing one dollar in tangible capital. Under this approach the American public could be required to carry 100% of this risk for decades.

I adamantly oppose each of the proposed amendments that will be debated on the House floor concerning supervisory goodwill. Giving recognition to goodwill as capital or creating procedural changes that could have the same effect is not justifiable. There should be no mistake. This matter goes to the very heart of my determination to clean up the abuses of the past among the savings and loans, about which every voter is entitled to be outraged. Each of the amendments to the tough capital standards proposed by the Banking Committee would render this bill unacceptable to me.

In financing the thrift plan, the Administration's proposal, as adopted by the Senate and the House Banking Committee, preserves the Gramm-Rudman-Hollings (GRH) process. It properly scores on-budget all Treasury payments, while industry contributions to the financing package are kept out of the budget. The alternative proposal by the Ways and Means Committee requires a waiver of $44 billion to GRH, which is our only statutory bulwark for fiscal discipline. Maintaining bipartisan efforts to control our budget process is a critical objective to continuing a positive domestic and international economic climate.

The legislation I submitted also seeks a number of other important provisions to strengthen our supervisory system. These include a substantial increase in civil and criminal penalties for those who have committed wrongdoing in insured institutions. As the legislation moves forward, I ask each Representative to review carefully the specific items outlined in the Administration Statement of Position as well as my letters of May 22 to the House leadership.

As I stated in today's meeting, I am firmly committed to these principles and offer again my support to your efforts to enact responsible legislation. The United States Government must seek to ensure the safety and soundness of the thrift industry once and for all, as well as to protect the trust of insured depositors and the interest of the American public.

Since I sent my proposed legislation to the Congress, more than $1.1 billion in potentially avoidable losses have occurred. The industry had total losses of $3.4 billion in the first quarter alone, on top of more than $13 billion in 1988. This financial hemorrhage continues to mount at a cost of more than $10 million every day. I urge Congress to complete its work and pass an effective and responsible bill that reflects adequately my concerns, and those of the American public.

Sincerely,

GEORGE BUSH.

□ 1050

I just wanted, Mr. Chairman, to have that read into the RECORD at the very outset of today's deliberations because, as indicated by the President in his letter, there will be a number of amendments that were made in order by the rule and to be offered and debated on the floor, several having significant implications with respect to supervisory goodwill and other aspects of the bill.

I intend to support the President's position and my votes during the course of this day are certainly going to mirror what the President intends by his legislation. Of course, if several of those amendments are offered later in the day, I will have appropriate remarks of my own to make specifically on those amendments.

I thank the distinguished gentleman from Ohio for yielding me this time to make this statement.

Mr. WYLIE. Well, Mr. Chairman, I thank the gentleman for his excellent contribution. I think his remarks were timely and most appropriate.

The point the gentleman is making is that this is not a partisan issue. It has the support of the President of the United States and the Democratic leadership in the House, as well as the minority leadership in the House and in the Senate and the Democratic leadership in the Senate.

The President, may I say, called this morning and is concerned about this, but restated his willingness to talk to anyone about the issues at any time during the day if there was some doubt as to the strength of his position.

Mr. Chairman, I yield such time as he may consume to the gentleman from Ohio [Mr. REGULA].

Mr. REGULA. Mr. Chairman, I thank the gentleman for yielding this time, and I would like to enter into a colloquy with the gentleman from Ohio.

I would like to seek clarification of language in the House committee report defining "supervisory goodwill." The committee report states that supervisory goodwill includes goodwill resulting from a merger where the market value of the assets of the savings association acquired was less than

the market value of its liabilities at the time of the transaction and where the accounting treatment of the goodwill has been approved by the Federal Home Loan Bank Board. With respect to the approval requirement, can you confirm that this would include the case where: First, the accounting treatment of the goodwill was fully described in the merger application; second, pursuant to a condition of the Bank Board resolution approving the merger, the accounting treatment of the goodwill was subsequently furnished to the principal supervisory agent; third, the principal supervisory agent confirmed that the condition was satisfied, and, finally; fourth, such accounting treatment has been reflected in reports filed with the Federal Home Loan Bank Board since the acquisition?

Mr. WYLIE. Yes, Mr. Chairman, if the gentleman will yield, I would confirm the gentleman's statement. I think he does make a good point in his timing for the record.

There ought to be a track record on regulatory agency approval and of industry approval, too, and what would constitute approval by the Federal Home Loan Bank Board, as intended by the committee. So I think the gentleman's statement does clear that up, and I thank the gentleman for his contribution.

Mr. REGULA. Mr. Chairman, I thank the gentleman for his contribution.

Mr. WYLIE. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I am opposed to certain portions of this technical amendment. I am opposed to the Hawkins amendment regarding the pass through of deposit insurance on certain deposits. I also have some concerns about the indexing of Federal Home Loan Bank contributions to the bailout.

Let me explain briefly what the amendment will do.

First, the en bloc amendments of the gentlewoman from Ohio [Ms. OAKAR] are a series of technical amendments clarifying personnel and pay provisions which were adopted by the Banking Committee. Generally, the committee has lifted pay ceilings for the Federal banking agencies, such as the new Office of Thrift Supervision, the OCC, the new Federal Housing Finance Board, and the Resolution Trust Corporation. I think that these are good provisions. With billions of dollars of the Government's money at risk, we need competent, well paid examiners and personnel.

Second, Congressman DE LA GARZA's amendments will extend to the Farm Credit Administration essentially the same provisions to ensure these employees are paid at a competitive salary. We certainly do not want another bailout of the FCA, and competent, well paid examiners are an integral part of ensuring that this doesn't happen again.

Third, Congressman FRANK's amendment will allow those who file claims against the FDIC, and choose to accept an administrative remedy, rather than going into court immediately, to have the opportunity for a hearing on the record.

Finally, the Gonzalez provision strikes a compromise between the Banking Committee and Ways and Means Committee. Under the bill as proposed by the President, the home loan banks would have contributed $300 million annually to help pay the costs of the FSLIC bailout. The Banking Committee adjusted this to provide $300 million or 20 percent of annual earnings. The Ways and Means Committee deleted the 20 percent alternative, but instead chose to index the $300 million annually for inflation.

The compromise will leave the $300 million contribution in place, and have it indexed to the lesser of the inflation index or the banks' earnings. For example, if the CPI is 4 percent, and the home loan banks earnings increase 2 percent, the contribution would be $306 million. Most importantly, the contribution level can never fall below $300 million, thus ensuring that the industry pays its fair share of this bailout.

Nevertheless, I am somewhat concerned about the indexing provision. Home loan bank earnings are expected to be volatile over the next several years in terms of percentage, unless, however, they were measured against a base, like their 1988 earnings of $1.5 billion. Unfortunately, no base is provided in this amendment, thus, the home loan banks' contributions will essentially be indexed against the inflation indicator for some time, which I do not believe is the real intent of the bill. While I am all for the industry paying its fair share, I think the President's bill should have been left alone in this regard.

HAWKINS AMENDMENT

Let me now turn to the Hawkins amendment. This amendment strikes an important part of this bill. The Banking Committee bill provides for a study and moratorium on the passthrough of deposit insurance coverage for bank investment contracts. These are relatively new products by which banks guarantee principal and interest on investments. Of course, this is all backed by FDIC insurance. Therein lies the danger.

There is an old saying—"we have met the enemy, and it is us." This applies here. I am sure that many on the Education and Labor Committee have decried the cost of this bailout. They have decried this bailout for the crooks. I could not agree more. However, expanding the scope of deposit insurance to cover risky new products is a part of this problem. Members of the Education and Labor Committee have become unwitting participants in this.

There are several problems with the amendment;

First, it only studies the problem, without a moratorium. Outstanding bank investment contracts are currently valued at $1 to $3 billion, and growing rapidly. Without a moratorium, it may be too late to stop the increased liability for the FDIC.

Unhealthy banks, who need access to funds, can offer high rates of return on these investments—and of course if the bank goes under, its all insured by the FDIC.

We need more market discipline in the Federal deposit insurance area, not less. But listen to what members on the Education and Labor Committee said, when writing to the late Chairman Claude Pepper—without passthrough coverage on bank investment contracts, pension managers will have to undertake rigorous investigations of the creditworthiness of the particular banking institution. This is of course exactly what they should be doing, not blindly investing in any bank offering the highest rates.

Finally, the study is only being conducted by the FDIC, not the GAO as well, as the Banking Committee provided. I believe that the Congress' investigative arm should study this also.

□ 1100

Mr. MORRISON of Connecticut. Mr. Chairman, will the gentleman yield?

Mr. WYLIE. I am happy to yield to the gentleman from Connecticut.

Mr. MORRISON of Connecticut. Mr. Chairman, I want to commend the gentleman for his statement on the Hawkins amendment, and I think that there is no question that the Committee on Education and Labor is well intentioned in its amendment, but I think that they are missing a very important point about what this bill is supposed to accomplish.

We are about to spend a very large amount of taxpayers' money. The estimates are from $250 to $350 billion over the next 30 years, and there is one thing that my constituents have said to me over and over again, "Don't let this happen again," and one of the reasons that this happened was something called hot money. There were weak institutions, and they needed deposits, and they went around the country with higher and higher deposit rates being offered to bring in brokered deposits.

Why could they do that? They could do that because of deposit insurance. We now have pension funds. Pension funds today can get guaranteed investment contracts from banks, from insurance companies, from anyone they wish who is willing to guarantee them

an interest rate, and they should be able to do that. There is nothing wrong with their getting those kinds of investments. But they should oversee them and make sure they are not risky.

Some people have characterized this as an argument between the banks and the insurance companies, that the insurance companies want this business and want it taken away from the banks. That is false. That is not what this is about. Banks can sell this product now if they have a high enough investment grade rating, but they have to sell it without the Federal Government taking the risk. Once the Federal Government takes the risk, this is going to become the hot-money issue of the 1990's.

Mr. Chairman, today it is $1 to $3 billion. In the 2 years it is going to take to do the study, if we do not do a moratorium, it will be $20 or $30 billion.

Does anyone think that if the study says it is a bad idea and the pension funds are in for $20 or $30 billion that we will be able to pass an amendment to close it down? Right now people are afraid to vote to close it down for 2 years because labor does not want it closed down, and the banks do not want it closed down.

The taxpayer wants it closed down until we can be sure that this is not going to create a huge new liability. It is a mistake, I think it is regrettable, that this amendment was made in order.

The Committee on Banking, Finance and Urban Affairs looked at this as it should be looked at. It is a deposit insurance liability question. It is not a labor issue. It is not a pension issue. It is not any of those things. It is not for the insurance companies. It is not for the banks. It is for the taxpayers.

I really think the people should very seriously consider whether they want to hand over this new hot-money check to the pension funds.

Mr. WYLIE. Mr. Chairman, I yield myself such time as I may consume.

The gentleman from Connecticut has stated the issue most succinctly, and he certainly is absolutely correct.

With that, I will conclude my statement. As I mentioned, I support the en bloc amendment in balance. I do not support the Hawkins amendment.

Mr. Chairman, how much time do I have remaining?

The CHAIRMAN. The gentleman from Ohio [Mr. WYLIE] has 13 minutes remaining.

Mr. WYLIE. Mr. Chairman, I yield 3 minutes to the gentlewoman from New Jersey [Mrs. ROUKEMA].

Mrs. ROUKEMA. Mr. Chairman, as a member of the Banking Committee and as the ranking member of the Labor-Management Subcommittee of the Education and Labor Committee, I rise in support of the Education and Labor Committee's amendment regarding section 1003 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989.

Specifically, section 1003 would prevent the FDIC, for 2 years, from extending deposit insurance to any obligations issued after April 6, 1989. This could conceivably include insurance on traditional deposit investments such as CD's, money market certificates, simple pass-book savings accounts, and checking accounts. In addition, FDIC deposit insurance coverage could not be extended on a passthrough basis to individual investors in any "unit investment trust" or individual participants in any tax qualified pension or profit-sharing plan.

Part 4 of title I of ERISA requires a fiduciary with respect to an employee benefit plan to invest plan assets prudently. If this moratorium were to remain in place, then the entire business of pension investments could be disrupted. This would affect not only employees and retirees of corporate employers but would also affect pension plans of State and local government employees, farmers, professionals and others who use Keogh-pension plans.

Both the legislative history of ERISA and the statutory framework itself clearly reject the notion that pension funds be precluded from investing in certain types of instruments. But since section 1003 precludes any FDIC insurance on deposits from pension funds, it in effect makes all time-deposit instruments issued by banks, including certificates of deposit, a less attractive investment and effectively limits the class of investments a pension plan fiduciary could consider as a prudent investment.

This issue was brought to the Banking Committee because there was a concern for the impact open-ended Bank Investment Contracts [BICS], would have on the FDIC insurance fund. The amendment was raised without advanced notice and with little discussion. At that time, I cautioned that there could be unforeseen consequences for the investment practices of pension plans if this amendment were adopted. I indicated to the author of the amendment that the provisions of this amendment may be subject to oversight by the Education and Labor Committee. I was wrongly advised that there would be no impact on the ability of pension plan fiduciaries to continue to make prudent investment decisions and that there would be no conflict with current ERISA laws.

I believe that at the time the amendment was adopted by the Banking Committee, members were not fully cognizant of the scope of the matter. And perhaps, even the author did not fully understand the total impact of the amendment.

As we have reviewed this provision since its adoption, we have determined that the impact of the amendment goes much beyond the original intent of the drafters. Therefore, the Education and Labor Committee, claimed a jurisdictional right to review this issue.

I believe that before any action is taken to restrict time-deposit investment instruments from pension plan fiduciaries, a full and open debate must occur. Since this issue was never brought to the Education and Labor Committee's attention no testimony has been presented to our Subcommittee on Labor-Management Relations, or to the Banking Committee, which would indicate the existence of a problem when pension funds invest in time deposits offered by banking institutions. Further, in response to this matter, the FDIC has indicated that it was opposed to section 1003 because it saw no significant risk to the insurance fund in passthrough coverage to beneficial owners of pension plans.

Because I believe the provisions of section 1003 seriously undercut ERISA's fiduciary rules, it is necessary to offer the Education and Labor Committee amendment which calls for a study of this matter. Our amendment, which is similar in intent to what is in the Senate version of the S&L bill, would also allow the Labor-Management Subcommittee to hold oversight hearings and properly investigate and evaluate this issue.

I urge the House to adopt this amendment so that our committee will have the opportunity, through hearings, to review the implications of this issue.

Mr. Chairman, the letter from Ann L. Combs, Deputy Assistant Secretary, U.S. Department of Labor, is included for the RECORD, as follows:

U.S. DEPARTMENT OF LABOR, PENSION AND WELFARE BENEFITS ADMINISTRATION,
Washington, DC, June 13, 1989.

Hon. MARGE ROUKEMA,
House of Representatives,
Washington, DC.

DEAR CONGRESSWOMAN ROUKEMA: You have requested our views concerning the continuation of passthrough deposit insurance coverage to pension plan participants while a study of FDIC coverage is being conducted.

H.R. 1278, as amended by the House Banking Committee, would limit to $100,000 in the aggregate the Federal deposit insurance coverage on bank obligations issued after April 6, 1989 held by qualified pension and profit sharing plans during the period of the deposit insurance study required under title X of the bill and for 6 months thereafter (the so-called Schumer amendment). Currently, full $100,000 deposit insurance coverage on bank obligations held by qualified plans is passed through to individual participants in such plans.

In his April 25, 1989 response to Congressman Neal's request for the views of the Federal Deposit Insurance Corporation [FDIC]

on the Schumer amendment, William Seidman, chairman of the FDIC, stated the belief that passing through coverage to beneficial owners of pension plans poses no significant risk to the insurance fund and that there is no evidence that these deposits represent a particular threat to the fund. He also expressed the belief that it is preferable to study the pass-through issue before taking action that could have a disruptive effect on a major segment of the deposit market.

The Department regulates pension plans under the Employee Retirement Income Security Act of 1974 [ERISA] and has a strong interest in policies that have an effect on pension plan investments. It is the Department's position, noting the expertise of the FDIC in this area and its statements concerning the passthrough issue, that it is important that no action be taken that would limit the deposit insurance protections currently available to plan participants before the study is completed.

The Department therefore believes that full passthrough of deposit insurance coverage to plan participants should continue during the period of the study required under title X of the bill.

The Office of Management and Budget has advised the Department that there is no objection from the standpoint of the administration's program to the submission of this report for your consideration.

Sincerely,

ANN L. COMBS,
Deputy Assistant Secretary.

□ 1110

Mr. WYLIE. Mr. Chairman, I yield myself 3 minutes to respond.

I knew what I was voting for, I would respectfully suggest to the gentlewoman from New Jersey, when I voted for the amendment in committee. The gentleman from Connecticut [Mr. MORRISON] made the point that this are brokered investment contracts and the original purpose of FDIC insurance and FSLIC insurance was to insure only individual accounts up to $100,000.

What we really should do is be offering an amendment whereby a person would have to give his Social Security number in order to get insurance on FCIC or FSLIC, and then we would know that each individual account was insured up to $100,000 and not through these passthrough deposit-type accounts which are insured up to millions and millions of dollars.

The Committee on Education and Labor itself acknowledged that there would be some exposure of the FDIC insurance fund when they wrote to the chairman of the Rules Committee and said, and I repeat this for the purposes of the gentlewoman from New Jersey, "Without pass due coverage on the bank investment contract, pension managers will have to undertake rigorous investigations of the creditworthiness of particular banking institutions." That is what they should be doing.

Mr. MORRISON of Connecticut. Mr. Chairman, will the gentleman yield?

Mr. WYLIE. I yield to the gentleman from Connecticut.

Mr. MORRISON of Connecticut. Mr. Chairman, I commend the gentleman again for his clarifications. I do not think members of the Committee on Banking, Finance and Urban Affairs cast important votes in the dark. I think there was a lot of careful consideration of all the committee did, and I think that is why it is a very good bill that the Committee on Banking, Finance and Urban Affairs has brought to the floor, and I hope it is going to get the support of the House.

The gentleman from New York spoke about certificates of deposit. We are not talking about certificates of deposit here, we are talking about guaranteed investment contracts. What is this? This is a guarantee of a certain interest rate. There is a certain risk involved in making that guarantee, and the competition is to pay the highest possible interest rate. That is what the competition is to get the money. And there ought to be market discipline, the gentleman is absolutely correct, and banks ought to have to deal with this as a risk investment by them, not as a standard deposit covered by deposit insurance.

This is not a special interest provision that is in the banking bill. This is not a protection for particular entities, and it really is not pension policy. Ask the question: Do the pension funds get to decide how the Securities and Exchange Commission regulates the stock markets? They perhaps would like insurance on what is in the securities that they buy. Everyone would like the Federal Government to guarantee that there will be no risk, but every time we do that we remove the market discipline that the gentleman from Ohio so correctly said we need more of, not less of.

We are really taking a risk here. It is a shame that people want to do it. We could do much better to wait the 2 years. It would not interfere with any of the investments that are out there. The gentlewoman from New Jersey said this would interfere. It would not. People can roll over the amounts of money under the committee amendment, and they can also keep the investments they already have. This is no new investments would be able to be made. It is the prudent, safe thing to do.

Mr. WYLIE. The gentleman from Connecticut is obviously well informed on the issue, and I conclude with that.

Mr. GONZALEZ. Mr. Chairman, I yield 5 minutes to the distinguished gentleman from Missouri, [Mr. CLAY], a member of the Committee on Education and Labor.

Mr. CLAY. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, I rise in support of the Gonzalez cross-committee amendments, containing the amendment proposed by the members of the Committee on Education and Labor. This amendment strikes section 1003 of the bill reported by the Banking Committee and thus eliminates the 2-year moratorium on passthrough insurance for bank time deposits of qualified pension and profit-sharing plans. In addition, the amendment requires that the Federal Deposit Insurance Corporation [FDIC] study the issue of passthrough insurance and report back to Congress on its conclusions within 6 months.

Section 1003 of the bill reported by the Banking Committee contains matters affecting the jurisdiction of the Committee on Education and Labor over pension and profit-sharing plans covered under the Employee Retirement Income Security Act of 1974 [ERISA]. Part 4 of title I of ERISA, which is solely within the jurisdiction of the Committee on Education and Labor, requires a fiduciary with respect to an employee benefit plan to invest plan assets prudently. Both the legislative history of ERISA and the statutory framework itself clearly reject the notion that pension funds should be precluded from investing in certain types of investments. All types of investments begin on an equal footing under ERISA, but plan fiduciaries must evaluate the suitability of each investment by applying the prudence standard.

Pension funds have a long history of investing in traditional bank time deposits—such as certificates of deposit, money market certificates, simple passbook savings accounts, and checking accounts. A substantial percentage of pension assets, particularly those of pension plans sponsored by small businesses, have been invested in these traditional bank time deposits. In the past, these investments have been popular and safe for pension funds and a stable source of capital for banking institutions.

For many years, under regulations of the Federal Deposit Insurance Corporation [FDIC], insurance on these deposits has been applied to pension plans on a pro rata or pass-through basis to each participant in the plan, with each such participant subject individually to the $100,000 insurance limit. Of course, deposit insurance premiums have also been paid to the FDIC on the basis of the number of participants covered by the deposit insurance.

Section 1003 precludes the FDIC from insuring on a pass-through basis deposits of qualified pension and profit-sharing plans covered under ERISA made after April 6, 1989. Contrary to the information provided to many of my colleagues by the American Council on Life Insurance, this prohibition on FDIC insurance passthrough is sweeping in its scope and

affects any new deposits or rollovers of existing deposits for all qualified pension plans of private companies and state and local governments made after that date. A narrow exception for certain rollovers of existing deposits for State and local plans was also included in the bill reported by the Banking Committee, but the provision was limited to rollovers prior to the date of enactment.

This moratorium on deposit insurance would last for a period of 2 years. Under section 1001 of the reported bill, the Secretary of the Treasury would be required to study various issues related to the Deposit Insurance Program, including whether pro rata or passthrough insurance as applied to pension plans ought to be continued. The moratorium would extend through the period of the study—18 months—plus an additional 6 months.

Thus section 1003 would immediately make time deposits offered by banking institutions a far less attractive investment vehicle for pension plans. The adoption of a moratorium on pass-through insurance coverage would require pension plan fiduciaries to undertake a substantially different and, in some respects, more sophisticated type of financial analysis that would currently be required to determine whether the investment in bank time deposits is prudent.

This abrupt withdrawal of deposit insurance coverage would complicate the pension investment decisionmaking process by forcing plan fiduciaries to undertake immediately and without any notice or transition period a far more rigorous and burdensome investigation of the creditworthiness of the particular banking institution offering the certificate of deposit than is required under current law in order to satisfy the prudence requirements. This would totally disrupt the pension investment decisionmaking process for the millions of pension plans that invest in time deposits offered by banking institutions. Thus the practical result of section 1003 would be that most pension funds, particularly the small ones, would simply avoid investing in banking institution time deposits since they could not afford to do the requisite financial analysis quickly enough or at all to assure the investment was prudent.

This concerns us. To deny pension plan participants of pass-through insurance coverage arbitrarily for a class of investments that have in the past been both popular and productive for pension funds without public hearings or the opportunity to discuss or debate the merits of the issue is troubling. The unsubstantiated claims of both the proponents of this moratorium and the life insurance industry that bank time deposits pose some undifined threat to the Federal deposit insurance system cannot be allowed to overshadow the legitimate interests of workers, retirees, employers and pension plan managers in assuring that the long-standing practice of passthrough insurance for pension plan deposits continue.

Moreover, for years members of the Committee on Education and Labor and others in Congress have been urging the financial institutions to develop investment products that are simple, safe, and reliable for small employers to use so as to remove a major disincentive to new pension plan formation—the need to hire expensive and sophisticated investment advisors to counsel employers how to invest pension assets. In the past 10 years, these certificates of deposit appear to have done the job—they have provided solid and safe investments.

Now that these bank products are being used by pension plans, the insurance industry is worried about competition. Thus it has promoted the idea that somehow these are risky products that pose a great risk to the FDIC if the current system of pass-through deposit insurance continues.

I know that all of us are wary. I know that none of us want to be back in a few years having to face another bailout. But there is not one shred of evidence that any of these bank time deposits have been a problem in the past or will be a problem in the future. If there is a problem with these investments, if they do pose some risk to the Federal Deposit Insurance Corporation, we would have heard about it by now. Do not let the climate of serious concern over the dimensions and cost of our current problem with the thrifts cause us to take action to disrupt pension plan investments without any concrete examples of abuse.

Since no factual basis has been demonstrated for the allegations of the proponents of the moratorium that bank time deposits are a threat to the insurance system, we believe it is inappropriate to withdraw passthrough insurance for pension plan participants at this time. Nevertheless, we believe that this issue is sufficiently complicated and technical to warrant the study called for in the bill so that a full and open debate over the merits of this issue can occur. But in the interim, since neither a factual basis for the allegations of risk to the deposit insurance system nor a compelling need for such drastic action have been shown, it seems unnecessary and contrary to sound pension policy to prejudge any conclusion the study might reach about the desirability and risk to the system of continuing the longstanding practice of passthrough insurance by withdrawing the insurance protection while the study is going on.

The Subcommittee on Labor-Management Relations, which I chair, has held a series of oversight hearings, focusing on pension fund investment practices, beginning in early February of this year. Neither at those hearings nor in the past have concerns about the security or safety of time deposit investments offered by banking institutions been brought to our attention. Nor have we had any evidence nor information that shaky banks were offering high rates of return to pension funds in order to lure them to invest in time deposits.

Investments and investment practices of pension funds are issues clearly within the oversight and legislative jurisdiction of the Committee on Education and Labor. While the study is going on, the subcommittee will investigate this issue and thus be in the position to contribute to the debate, once the statutory study is completed, based on our own oversight activities.

In summary, I believe that before actions are taken that would seriously undercut the statutory framework of ERISA's fiduciary rules, effectively prelude pension funds from taking advantage of a particular type of investment that has proved both attractive and successful for pension funds in the past, and totally disrupt the investment market, particularly for defined contribution plans of small employers, a full public discussion and debate should occur. Passthrough insurance coverage ought not to be arbitrarily withdrawn based on the hypothetical risks to the insurance system raised by the insurance industry, the major beneficiary of the market disruption that would occur were section 1003 to be enacted.

Both the FDIC and the U.S. Department of Labor, speaking for the Bush administration on this issue, oppose the moratorium on pass-through insurance. In addition, among the other groups opposing the moratorium and supporting the position of the members of the Committee on Education and Labor are the following:

American Federation of Labor and Congress of Industrial Organizations (AFL–CIO).
American Association of Retired Persons.
American Bankers Association.
National Coordinating Committee for Multiemployer Plans.
International Ladies' Garment Workers' Union.
American Federation of State, County and Municipal Employees.
American Federation of Teachers.
Government Finance Officers Association.
International Association of Firefighters.
Natinal Association of State Retirement Administration.
National Conference of Public Retirement Systems.
Service Employees International Union.

Finally, our amendment striking section 1003 of the reported bill, contained in the Gonzalez en bloc amendment, would delete language limiting the FDIC's authority to define the term "deposit" for purposes of the deposit insurance program. Contrary to

the allegations that this issue is outside the scope of the jurisdictional interest of the Committee on Education and Labor, this issue is integral to our pension plan concerns and affects our jurisdication over pension plans. In some respects, this issue has the potential for causing far more harm to pension plans and their participants than the moratorium on pass-through FDIC coverage.

In order to be insured by the FDIC at all, an investment must be a deposit. According to the chairman of the FDIC, L. William Seidman, in a letter to Congressman STEPHEN NEAL dated April 25, 1989, this provision calls into question the validity of the deposit insurance coverage for the substantial existing bank deposits—including traditional certificates of deposit—held by pension plans. Chairman SEIDMAN indicates that, according to the Federal Reserve Bulletin, as of the first quarter of 1988, pension and profit-sharing plans held over $124 billion in bank demand and time deposits.

Thus the limitation of FDIC's authority contained in section 1003 is far-reaching, overly broad, disruptive, unjustified, and will have a substantial impact on pension funds.

The more I have examined section 1003 and probed its impact, the more concerned I have become that Congress is being railroaded into acting in a high-handed and precipitous manner without really understanding what it is doing or what the ramifications of its actions are. Both banking law and pension law are complicated and technical areas. Careful study is necessary before attempting to change either.

Congress should demand the facts before it acts. If there is a genuine problem with any facet of pass-through insurance, the 6-month study required under the Hawkins amendment should reveal it. Then, if necessary, we can take action. Hasty congressional action based on unsubstantiated claims that a problem exists can prove far more detrimental in the long run than a brief delay to determine whether there really is a problem in the first place.

I urge my colleagues to support the amendment offered by the members of the Committee on Education and Labor as part of the Gonzalez package of cross-committee technical amendments.

Mr. BARNARD. Mr. Chairman, will the gentleman yield?

Mr. CLAY. I yield to the gentleman from Georgia.

Mr. BARNARD. Mr. Chairman, as a member of the Committee on Banking, Finance and Urban Affairs, I want to associate myself with the remarks of the gentleman from Missouri. I really feel if I had to make a judgment, and I will make a judgment on the provision that was in the bill as opposed to the Education and Labor Committee amendment, I think that the approach of the gentleman from Missouri is the more reasonable approach. As he said, there have been no hearings on this matter and we do not know what kind of problems are involved.

When we went to the agencies to say what do you think about it, they said we do not support the provision in the banking bill. We think that a study would be more timely.

So I want to say that I support what the Education and Labor Committee has done in this regard and feel that we have improved the bill by their approach.

Mr. CLAY. I thank the gentleman from Georgia.

Ms. OAKAR. Mr. Chairman, will the gentleman yield?

Mr. CLAY. I yield to the gentlewoman from Ohio.

Ms. OAKAR. Mr. Chairman, I want to associate myself with the remarks of the gentleman from Missouri. I think he has approached this in a comprehensive manner, a reliable manner by asking for a study.

The fact is that pension and profit-sharing plans by many groups across the country have placed large certificates of deposit in banking institutions. This is a form of an investment contract. It is defined as a large certificate of deposit.

As the gentleman mentioned, this has been in existence for over 20 years, and I think studying that and dealing with it more comprehensively is the right approach. I, like my friend on the other side of the aisle, did support this in committee, but did not realize because we had not had hearings on this issue the ramifications of the disruption that this would cause. So I want to associate myself with the remarks of the gentleman from Missouri and support the Committee on Education and Labor's point of view on this particular item to study it, and in 6 months deal with it comprehensively.

Mr. CLAY. I thank the gentlewoman from Ohio.

Mrs. UNSOELD. Mr. Chairman, will the gentleman yield?

Mr. CLAY. I yield to the gentlewoman from Washington.

Mrs. UNSOELD. Mr. Chairman, I rise today in support of the Gonzalez en bloc amendment, which includes a provision—the Hawkins-Goodling amendment—that impacts heavily upon workers and pensioners.

For many years, the Federal Deposit Insurance Corporation has insured the deposits made by pension funds subject to the $100,000 maximum limit applied individually on a passthrough basis to each participant in tax-qualified pension or profit-sharing plans. Without the Hawkins-Goodling amendment, section 1003 of H.R. 1278 precludes the FDIC from extending deposit insurance to pension plans on a passthrough basis with respect to any new deposits made after April 6, 1989.

Such a moratorium would cause widespread disruption to the pension plan investment market since it affects the qualified pension and profit-sharing plans of virtually every type of employer.

Over the years, many pension funds have invested a substantial portion of their asset portfolios in time deposits, such as certificates of deposits, offered by banking institutions. This is especially true of small funds and State and local pension funds. It is also true of multiemployer pension funds covering workers in the building and construction trades, since bank investments increase the pool of assets available to finance construction project loans.

Under the Employee Retirement Income Security Act of 1974 [ERISA], time deposits have proved attractive because of their competitive rates of return and their safety. In no small measure, the existence of passthrough FDIC insurance has been a significant factor in this investment decision. No evidence of harm to the insurance fund has ever been demonstrated that would require such drastic and precipitous action. No hearings were held. No public debate or discussion was held. The first time the issue was raised was late in the subcommittee markup.

I believe such a precipitous withdrawal of passthrough FDIC insurance protection would unnecessarily disrupt the current pension plan market for time deposits offered by banking institutions without the slightest bit of evidence that the continuation of this practice poses any risk to the FDIC insurance system, beyond the self-serving assertions to that effect made by the life insurance industry.

The security of our Nation's pension funds and the integrity of the fiduciary's decisionmaking—the key element of the ERISA enforcement scheme—is of obvious concern to the workers and pensioners everywhere. It is in this framework that I rise in support of this bipartisan amendment which I have coauthored. It is supported by virtually all the members of the House Committee on Education and Labor, as well as many other groups including:

AFL-CIO;

National Coordinating Committee for Multiemployer Plans;

American Federation of State, County, and Municipal Employees;

Government Finance Officers Association;

National Conference of Public Retirement Systems;

American Federation of Teachers;

International Association of Firefighters;

National Association of State Retirement Administration;

Service Employees International Union;

International Ladies' Garment Workers' Union;

American Association of Retired Persons; and

American Bankers Association.

Some of the letters of support are herewith attached to be included in the CONGRESSIONAL RECORD.

Our amendment is the same as that adopted in the Senate and provides for a 6-month study by the Federal Deposit Insurance Corporation as to the need for such a legislative denial of the passthrough protection for these classes of deposits to individual participants. Certainly, it is more prudent, and a more responsible means of legislating if we first determine if there is some problem that needs solving before making permanent law changes which could affect pension fund security. Based on such a study, it will then be to the deliberative bodies of the Congress to make an informed decision based not just on what is profitable for one industry but on what is good for the solvency of the Federal Deposit Insurance Corporation and the good credit of this country. Only after careful consideration can the security of our pension funds be reconciled with the interest of the competing financial institutions.

Mr. Chairman, I urge my colleagues to vote for the Gonzalez amendment. Workers and their pension funds should not be held hostage in a war between the banking and insurance industries. A yes vote will protect the billions of dollars in pension funds of so many hard-working Americans.

AMERICAN FEDERATION OF LABOR AND CONGRESS OF INDUSTRIAL ORGANIZATIONS,
Washington, DC, June 12, 1989.

DEAR REPRESENTATIVE: This week the House will consider H.R. 1278, the "Financial Institution Reform, Recovery, and Enforcement Act." The AFL-CIO supports this legislation, with the addition of two amendments and the retention of certain key provisions.

First and foremost, we strongly urge your support for a bipartisan amendment that will be offered to Section 1003 of the bill by Representatives Hawkins, Goodling, Clay, and Roukema.

Section 1003 of the reported bill would preclude the Federal Deposit Insurance Corporation (FDIC) from extending pass-through insurance coverage to deposits from pension plans made after April 6, 1989. This moratorium would last at least two years (an 18-month study plus six months).

Pension plans have considerable assets involved in bank deposits. For twenty years, the FDIC has passed through insurance coverage to pension plan participants and beneficiaries.

In the AFL-CIO's view, by repealing federal insurance for bank deposits of pension plans, Section 1003 would have a serious impact on pension plans and the responsibilities of plan fiduciaries. The retirement benefit security of workers and their families would be jeopardized, thereby undermining important policies and purposes of the Employee Retirement Income Security Act (ERISA). Significant in this vein is that the proposed moratorium would compel a shift in pension fund investments toward higher risk vehicles without any documented showing that such a drastic action is warranted.

It is our understanding that Section 1003 was conceived to a large extent to deal with the offering by some banks of deposit products called Bank Investment Contracts (BICs). However, we are concerned that Section 1003 singles out deposits made by pension funds for its harsh treatment. Additionally, Section 1003 has a far broader application than that apparently intended by its proponents. Indeed, the difficulty that the proponents of Section 1003 evidently had in defining which bank products should be denied FDIC insurance reinforces the conclusion that no change in current FDIC insurance practices should occur while there is a study of the issue of pass-through insurance.

Based on the foregoing, we strongly urge your support for the Hawkins-Goodling-Clay-Roukema Amendment to Section 1003. This amendment, which is identical to that adopted in the Senate, would retain the requirement that the matter of pass-through insurance protection be studied while continuing the current law practice of passing through insurance protection for pension plan participants during the study period.

We also support another amendment to be offered by Chairman Gonzalez and Representative Kennedy which, under the Home Mortgage Disclosure Act, would require mortgage lenders to disclose information about applicants for home loans, rather than information only with respect to loans actually made, and requires federal supervisory agencies to publish their evaluations of compliance by lending institutions with the Community Reinvestment Act.

Specifically, we support provisions in the reported bill which set the minimum capital standards required under Section 5 of the Home Owners Loan Act of 1933, which would require savings associations to maintain a ratio of core capital to assets of three (3) percent, and the provision which assures on-budget financing of the operations of the Resolution Funding Corporation.

In addition, we support retention of those provisions which require the Federal Home Loan Bank to establish a Community Investment Program and an Affordable Housing Program setting aside up to $150 million per year at interest rates equal to the cost of borrowing plus administration for member institutions making loans for affordable low and moderate income housing at below-market interest rates, and the provision requiring the Resolution Trust Corporation, in its sale of properties acquired from bankrupt savings and loan associations, to offer for a three month period to sell the property to any qualified nonprofit organization, public agency, or lower income family, prior to offering to sell the property to any other qualified purchaser.

Based on the foregoing, the AFL-CIO urges your support for H.R. 1278, as reported, with the amendments discussed above.

Sincerely,

ROBERT M. MCGLOTTEN,
Director,
Department of Legislation.

AARP,
Washington, DC, June 5, 1989.

Hon. JOE MOAKLEY,
U.S. House of Representatives,
Washington, DC.

DEAR REPRESENTATIVE MOAKLEY: The American Association of Retired Persons supports a rule that would allow amendment to H.R. 1278, the Financial Insitutions Reform, Recovery and Enforcement Act of 1989. In particular, AARP supports an amendment to Section 1005 of the bill, to be offered by Chairman Hawkins, Rep. Goodling, and other members of the Committee on Education and Labor, that would retain the requirement that pass-through insurance protection for pension plans be studied, but that would leave intact current law protection for plan participants.

Section 1005, as currently written, would disallow the Federal Deposit Insurance Corporation (FDIC) from extending its insurance protection on a pass-through basis to deposits made by pension or profit-sharing plans after April 6, 1989. The moratorium on FDIC protection would last two years, during which time a study on pass-through protection would be required from the Secretary of the Treasury.

In effect, current Section 1005 would make time deposits offered by banking institutions a less attractive investment option for pension plans. By requiring a more in-depth review of the credit status of a particular bank, pension funds, particularly smaller plans, would avoid investment in such vehicles. In essence, the inability to analyze individual banking institutions will limit the type of investment that a plan fiduciary would consider prudent.

At present, a large percentage of pension assets, particularly for small business pension plans, are invested in time deposits. It has not been demonstrated why longstanding FDIC protection for these deposits—which is currently applied on a pass-through basis to each plan participant—should be withheld.

The FDIC has stated its opposition to Section 1005, stating that there is "no significant risk" from pass-through coverage. By singling out pension plans for unfavorable treatment, the present bill would undermine pension benefit security for millions of workers and retirees. At the same time, this bill would deter pension plans from investing in an attractive and prudent investment option.

Given that there is no immediate risk to the insurance fund from pass-through protection, and given the potential harm to penion plans and the benefit security of millions of workers and retirees covered under these plans, the Association believes that a moratorium on pass-through insurance protection is not warranted. The Association therefore supports a rule that allows amendment to Section 21005 of H.R. 1278.

Sincerely,

JOHN C. ROTHER,
Director, Legislation,
Research and Public Policy.

INTERNATIONAL LADIES' GARMENT WORKERS' UNION,
Washington, DC, June 12, 1989.

DEAR REPRESENTATIVE: The International Ladies' Garment Workers' Union strongly opposes Section 1003 of H.R. 1278 which precludes extension of pass-through Federal Deposit Insurance Corporation (FDIC) coverage to bank deposits of pension plans after April 6, 1989.

There is no apparent basis for terminating the time honored pass-through FDIC coverage to pension plan participants and beneficiaries. Pension plans traditionally use bank time deposits as a secure, low risk investment mechanism with a view towards protecting vested participants, as well as pensioners in pay status.

The proposed moratorium would impose additional and unnecessary cost and administrative burdens if, to preserve the insurance coverage, ERISA funds were compelled to make individual $100,000 deposits in separate banks. Further, to avoid the newly imposed administrative and cost consequences, pension funds may be compelled to utilize higher risk investment products.

The ILGWU wholeheartedly endorses the Hawkins-Goodling-Clay-Roukema amendment to Section 1003. Such amendment continues the essential pass-through insurance while studying whether the drastic action of terminating the pass-through is warranted with respect to ERISA pension fund bank deposits.

We firmly believe that the dire results brought by an unamended Section 1003 are unwarranted, unintended and unnecessarily detrimental to workers and pensioners as well as their families. We urge that FDIC pass-through insurance be continued while the matter receives further study.

Sincerely,

EVELYN DUBROW,
Vice President
and Legislative Director.

U.S. DEPARTMENT OF LABOR, PENSION AND WELFARE BENEFITS ADMINISTRATION,
Washington, DC, June 13, 1989.

Hon. WILLIAM L. CLAY,
Chairman, Labor-Management Relations Subcommittee, House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: You have requested our views concerning the continuation of pass-through deposit insurance coverage to pension plan participants while a study of FDIC coverage is being conducted.

H.R. 1278, as amended by the House Banking Committee, would limit to $100,000 in the aggregate the federal deposit insurance coverage on bank obligations issued after April 6, 1989 held by qualified pension and profit sharing plans during the period of the deposit insurance study required under Title X of the bill and for six months thereafter (the so-called Schumer Amendment). Currently, full $100,000 deposit insurance coverage on bank obligations held by qualified plans is passed through to individual participants in such plans.

In his April 25, 1989 response to Congressman Neal's request for the views of the Federal Deposit Insurance Corporation (FDIC) on the Schumer Amendment, William Seidman, Chairman of the FDIC, stated the belief that passing though coverage to beneficial owners of pension plans poses no significant risk to the insurance fund and that there is no evidence that these deposits represent a particular threat to the fund. He also expressed the belief that it is preferable to study the pass-through issue before taking action that could have a disruptive effect on a major segment of the deposit market.

The Department regulates pension plans under the Employee Retirement Income Security Act of 1974 (ERISA) and has a strong interest in policies that have an effect on pension plan investments. It is the Department's position, noting the expertise of the FDIC in this area and its statements concerning the pass-through issue, that it is important that no action be taken that would limit the deposit insurance protections currently available to plan participants before the study is completed.

The Department therefore believes that full pass-through of deposit insurance coverage to plan participants should continue during the period of the study required under Title X of the bill.

The Office of Management and Budget has advised the Department that there is no objection from the standpoint of the Administration's program to the submission of this report for your consideration.

Sincerely,

ANN L. COMBS,
Deputy Assistant Secretary.

JUNE 9, 1989.

DEAR REPRESENTATIVE: The security of state and local government pension plan investments will be adversely affected by a provision in H.R. 1278, the Financial Institutions Reform, Recovery and Enforcement Act of 1989. Under section 1005 of the bill, the Federal Deposit Insurance Corporation is precluded from extending its insurance protection on a pass-through basis to deposits made by pension plans after April 6, 1989. We urge your support for an amendment to H.R. 1278 which may be offered by Chairman Hawkins and Representatives Goodling, Clay and Roukema and other members of the Committee on Education and Labor that would retain the requirement that pass-through insurance protection for pension plans be studied, but would leave intact current law protection for plan participants and beneficiaries.

Based on an incorrect analysis of the Internal Revenue Code, some proponents of this provision have informed Congress that the proposed restrictions would not affect state and local government pension plans—this is not so. Public plans hold hundreds of billions of dollars in cash deposits and investments in the nation's financial institutions, and the millions of pension plan participants and retirees rely on the security provided by deposit insurance.

The availability of "pass-through" deposit insurance has been an important incentive for public plan investment managers to retain funds in demand and time accounts and to invest in certificates of deposit and overnight accounts. Without the deposit insurance, this investment strategy will have to be reevaluated. It seems ironic that as Congress is striving to reestablish the stability of the nation's financial system that a provision which will encourage disinvestment in banks and savings and loans is contained in H.R. 1278.

Current law deposit insurance rules must be retained for state and local government pension plan deposits and investments. Accordingly, we again request your support for the amendment to be offered by members of the Committee on Education and Labor.

Sincerely,

American Federation of State, County and Municipal Employees, American Federation of Teachers, Government Finance Officers Association, International Association of Firefighters, National Association of State Retirement Administration, National Conference of Public Employee Retirement Systems, Service Employees International Union.

FEDERAL DEPOSIT INSURANCE CORPORATION,
Washington, DC, April 23, 1989.

Hon. STEPHEN L. NEAL,
House of Representatives, Washington, DC.

DEAR MR. NEAL: Thank you for requesting our views concerning Congressman Schumer's amendment adopted by the Subcommittee on Financial Institutions ("Subcommittee") adding a new section 1005 to H.R. 1278 ("Schumer Amendment"). The effect of the Schumer Amendment would be to severely restrict the recognition of pension plan beneficiaries' interests for insurance purposes in bank obligations held by the plans. In general, federal deposit insurance coverage provisions now protect the interests of pension plan beneficiaries in deposit products held by such plans by providing "pass-through" insurance coverage to the individual plan participants.

We are extremely troubled by the Schumer Amendment for several reasons. First, it calls into question the deposit insurance coverage applicable to the substantial bank deposit market represented by deposit products held by pension and profit sharing plans. A recent article in the *Federal Reserve Bulletin* indicated that in the first quarter of 1988, pension and profit sharing plans held over $124 billion in demand and time deposits.

Second, the Schumer Amendment would interfere with the FDIC's implementation and interpretation of *existing* statutory provisions, regulations and orders, thus impairing the ability of the agency to carry out its mandate. Specifically, it inhibits our ability to issue interpretations or opinions regarding deposit insurance coverage. Apparently, the amendment was occasioned by the offering by some banks of deposit products called bank investment contracts ("BICS"). The amendment has a far broader application, however.

Third, this provision, when coupled with a separate amendment introduced by Representative Hubbard (No. 91) and adopted by the Subcommittee, creates a disparity between commercial banks and thrifts in the treatment of identical deposit products held by pension and profit sharing plans. Mr. Hubbard's amendment would assure that thrift products receive full pass-through insurance treatment up to the entire beneficial interest of the beneficiary (which itself is more favorable than existing statutes that would protect only up to the "vested" interest of the beneficiary). The anomaly created by providing full pass-through treatment for one type of federally insured depository institution and essentially no pass through treatment for another is competitively unfair and likely to cause consumer confusion.

Your letter asks several specific questions. The first is whether there is an inherent risk of volatility in BICs "covering" pensions plans or profit sharing plans, and if so, how that risk compares to other deposit instruments. (We should note that, contrary to the implication in the purpose language of the Schumer Amendment, banks do not fund pension plans but merely provide vehicles in which the plans' funds may be deposited.) There may be some risks in BICs which do not exist in the "garden variety" certificate of deposit because there is a period after the initial deposit during which funds may be deposited at a guaranteed rate. However, we believe the banking regulators are fully capable of evaluating this risk and dealing with it on a case-by-case basis, just as we would with any other activi-

ty of an insured bank. It is our understanding that a very limited number of insured banks, approximately 20 or 30, are issuing BICs.

You next ask if the FDIC believes there is any significant risk to the insurance fund in passing through coverage to beneficial owners in pension plans. The FDIC emphatically believes that there is no significant risk to the insurance fund in passing through coverage to beneficial owners of pension plans. Such coverage has been in existence for over twenty years, and there is no evidence to indicate that these deposits represent a particular threat to the deposit insurance fund.

You also ask whether the moratorium in the Schumer Amendment raises doubts about previous interpretations by the FDIC in similar pass-through situations. We believe that the amendment does raise doubts about all interpretations applying to virtually any pension plan, with the exception of individual retirement accounts ("IRAs"), where the deposit is made after April 6, 1989.

Finally, you ask whether the coverage provided by passing through deposit insurance coverage in BICs is consistent with the public purpose underlying deposit insurance, that is, to protect small savers. The FDIC believes that the proposed Schumer Amendment would affect virtually all new deposits by pension plans, regardless of the size of the bank or the plan. Indeed, there are many small savers who are participants in pension plans. Since a BIC is a deposit, the same public purpose applies in allowing pass-through insurance coverage to its holder as it would to any other deposit instrument.

Under current law pension fund deposits are accorded pass-through insurance coverage. In addition, a BIC meets the definition of deposit and thus is insured. Thus we see this issue as not one of defining terms, but one of defining powers and, as such, should be decided in another forum.

During recent deliberations over a similar amendment, the Senate Banking Committee adopted a provision requiring a study of the potential effects on capital markets of the FDIC's proposed rule expanding deposit insurance coverage and BICs. We believe that it is preferable to study the issue before action is taken which could have a severely disruptive effect on a major segment of the deposit market. We urge the Committee to delete § 1005 of H.R. 1278.

Please let me know if you would like to discuss the subject further.

With best wishes.

Sincerely,

L. WILLIAM SEIDMAN,
Chairman.

HALLMARK CARDS, INC.,
Kansas City, MO, May 15, 1989.

Hon. DONALD W. RIEGLE, Jr.,
U.S. Senate, Dirksen Senate Office Building, Washington, DC.

DEAR SENATOR RIEGLE: Recently, as you know, the House Banking Committee, while considering the FSLIC legislation, agreed to the Schumer/McCollum Amendment (Section 1005, Title 10). This amendment places an 18-month moratorium on the issuance of FDIC insurance coverage on Bank Investment Contracts (BICs) while a study of the deposit insurance issues is undertaken.

The Senate Banking Committee, wisely, we think, rejected this amendment in favor of a six-month study of the issues with no moratorium until such time as the study's findings are reviewed and evaluated.

I am writing to you because this is a matter of significant importance to Hallmark management and the company's benefit plan fiduciaries as the House proposal would proscribe the use of an extremely useful investment vehicle that has been used rather extensively in company-sponsored benefit plans; i.e., the Hallmark profit-sharing and thrift plans.

Hallmark purchases investment contracts (both Guaranteed Investment Contracts or GICs and BICs) using a competitive bidding procedure in which insurance companies and banks are given identical information and requested to submit bids effective as of a specific time and day. Our experience during the last year has been that in most instances, the banks have offered more competitive bids. As fiduciaries of the plans, we feel that the competition being offered by the banks is good for both the financial services industry and plan participants.

We feel that the complaint that FDIC insurance coverage of BICs is an unfair advantage to the banks is completely spurious. Insurance premiums paid to FDIC by the issuing banks are fully reflected in their quoted rates. Furthermore, due to the high credit quality that we demand of banks with which we do business, the probability of ever having to rely on the FDIC insurance is minute.

We would like to also comment on the comparison between BICs and CDs. In our view, they have been identical. To our knowledge few, if any, banks are issuing "window" contracts, i.e., those which allow future deposits at predetermined interest rates. All of the contracts which we have placed have been at fixed rates and for fixed periods. Thus, the plans (and ultimately the participants) do bear the risk that interest rates will rise once the contract is completed as they can subsequent to a CD purchase.

We would also like to point out that our Thrift and Profit Sharing plans are the primary source of income for our employees when they retire. Both plans are of a "defined contribution" nature. As such, every penny of assets in the plans belongs to, and in fact, is allocated to the employees. Thus, the original intent of FDIC insurance coverage is well served. To the extent that the plans invest in BICs, FDIC insures each participant's pro rata share. Those pro rata shares are conceptually identical to individual savings accounts.

Senator, we are hopeful that when the Senate-House conference begins on the many difficult issues that are raised by the S&L crisis, you will consider strongly supporting the Senate language for the six-month study without the House moratorium language.

I have asked Rae Evans, Vice President in our Washington office, to be in touch with your staff on this matter. If we can be of any further assistance, I do hope you will be in touch.

Sincerely,

IRVINE O. HOCKADAY, Jr.

SELECT COMMITTEE ON AGING,
Washington, DC, June 9, 1989.

Hon. JOE MOAKLEY,
Chairman, Committee on Rules, Washington, DC.

DEAR MR. CHAIRMAN: As Chairman of the House Select Committee on Aging, I urge the Committee on Rules to consider a rule that would allow an amendment to section 1003 of H.R. 1278, the Financial Institutions Reforms, Recovery and Enforcement Act of 1989. This amendment to be offered by Chairman Hawkins and Rep. Goodling and other members of the Education and Labor Committee, retains the requirement that pass-through insurance protection for pension plans be studied, but that no moratorium be placed on deposit insurance.

As written, section 1003 would unfairly penalize pension plan investors who would become ineligible for the same FDIC protection as other investors. I fully support the intent of ERISA which stipulates a fiduciary with respect to an employee benefit plan to invest plan assets prudently. However, ERISA does not encourage nor discourage any particular type of investment, as long as it is considered prudent. As written, section 1003 violates this neutrality and discourages pension plan investors from investing in time deposits by disallowing the FDIC pass-through insurance protection. The withdrawal of this insurance coverage poses a threat to pension plan participants and discriminates against pension plan investors by requiring a far more rigorous and burdensome investigation than ERISA intended.

I join with my colleagues on the Education and Labor Committee, and the American Association of Retired Persons, the AFL-CIO, the American Banking Association and the Federal Deposit Insurance Corporation in urging you to support the amendment to H.R. 1278, section 1003, to protect the pension plans of current and future retired Americans.

Sincerely,

EDWARD R. ROYBAL,
Chairman.

NATIONAL COORDINATING
COMMITTEE FOR MULTIEMPLOYER PLANS,
Washington, DC, May 26, 1989.

Re H.R. 1278—Financial Institutions Reform, Recovery and Enforcement Act of 1989.

Hon. JOE MOAKLEY,
Member of Congress, U.S. House of Representatives, Washington, DC.

DEAR REPRESENTATIVE MOAKLEY: I am writing as Chairman of the National Coordinating Committee for Multiemployer Plans ("NCCMP") to urge you to support the request of the Education and Labor Committee that the Committee on Rules make in order, under the rule for H.R. 1278, an amendment to section 1005 of the bill that would preserve Federal deposit insurance for employee pension plan assets.

The NCCMP is an organization of more than 170 multiemployer pension, health and welfare plans and their labor-management sponsors. Since 1975, the NCCMP has represented the interests of multiemployer plans, and the workers, retirees and families covered by such plans, before Congress.

Multiemployer pension plans have many billions of dollars in assets which are invested to finance retirement benefits for millions of American workers. Many of these plans invest substantial assets in time deposits (*e.g.*, certificates of deposit) with banks. In addition, most multiemployer plans have substantial assets in demand deposits with banks. The Federal Reserve has reported that well over $100 billion in pension and profit sharing plan assets are held in demand and time deposits with banks. A significant portion of that amount represents multiemployer plan assets.

Multiemployer plan fiduciaries deposit plan assets with banks in reliance on the Federal deposit insurance against bank de-

fault. More specifically, they rely on the pass-through insurance treatment which pension plan deposits have received under Federal Deposit Insurance Corporation ("FDIC") regulations for more than twenty years. Under this pass-through treatment, deposit insurance up to the $100,000 limit is provided in effect for each pension plan participant. This treatment permits a pension plan to deposit more than $100,000 in a bank without losing the security provided by Federal deposit insurance. Such insurance is a matter of protecting pension plan assets against the risk of loss; it is a matter of retirement benefit security for workers and their families.

Despite this, section 1005 of H.R. 1278, as reported by the Committee on Banking, Finance and Urban Affairs, would repeal pass-through insurance coverage for pension plans for a "moratorium" period of at least two years (an 18-month study period plus 6 months). As we read section 1005(b) of the bill in particular, the FDIC would be prohibited from providing pass-through insurance for any pension plan deposits made after April 6, 1989 and this prohibition would continue for at least the two-year "moratorium" period. This repeal provision was inserted in the bill without consideration of the impact on pension plans and the responsibilities of plan fiduciaries under the Employee Retirement Income Security Act of 1974 ("ERISA") by the committee with jurisdiction over such matters, the Committee on Education and Labor.

The repeal of Federal insurance for bank deposits of pension plans would undermine important policies and purposes of ERISA. It would limit investment options for pension plans contrary to ERISA's policy of expanding investment opportunities. Indeed, the effect of the bill would be to eliminate a low-risk investment vehicle and compel pension plan fiduciaries to invest retirement monies in more risky vehicles.

Undoubtedly the repeal of Federal deposit insurance will cause pension plans to withdraw funds from banks and to limit future deposits. Much of the money so lost to banks would be longer-term time deposits inasmuch as pension plans tend to invest for the longer term. This reaction can only serve to destabilize banks, contrary to the purposes of H.R. 1278. The savings and loan crisis has already shaken pension plan depositors. The passage of H.R. 1278 in its current form would be the proverbial "other shoe."

I note that FDIC Chairman L. William Seidman, in a letter of April 25, 1989 to Representative Stephen L. Neal, stated that the "FDIC emphatically believes that there is no significant risk to the [bank deposit] insurance fund in passing through coverage to the beneficial owners of pension plans. Such coverage has been in existence for over twenty years, and there is no evidence to indicate that these deposits represent a particular threat to the deposit insurance fund."

It would be a tragic mistake for Congress to repeal this longstanding protection for retirement assets, particularly before thoroughly studying the implications for the millions of workers, retirees and families who depend on pension plans and the security of plan assets. Accordingly, the NCCMP urges you to support the request of the Education and Labor Committee for approval of an amendment that would require a study but maintain pass-through insurance during the study period.

Respectfully,

ROBERT A. GEORGINE,
Chairman.

SEAFIRST,
May 1, 1989.

Hon. JOLENE UNSOELD,
House of Representatives, Longworth House Office Building., Washington, DC.

DEAR CONGRESSWOMAN UNSOELD: This letter is to express concern about the proposed new section 1005 to H.R. 1278 ("Schumer Amendment"). The amendment would severely restrict FDIC protection for individuals placing their retirement savings in FDIC insured banks through employee benefit plans. Bank Investment Contracts (BICs) are an example of an investment vehicle that would be restricted.

Seafirst and other banks offer BICs to customers from around the country. They have become popular among working men and women seeking a place to put their pension plan savings that will provide the greatest benefit and security. At issue is a feature of this type of account that provides deposit insurance to individual plan participants on a "pass-through" basis. Proponents of the amendment, who typically offer a competing product, state that FDIC pass-through insurance on BICs benefits large monolithic corporate funds and poses a significant risk to the insurance fund.

Rather than being large corporate deposits, defined-contribution money invested in BIC's consists of accounts held by individual savers, who direct their own investments and bear the risk in the event of default. Congress established the FDIC insurance to protect the small depositor. It is against this often stated intent of Congress to withdraw the FDIC protection from citizens saving for their retirement through a plan. The present amendment is a direct result of the insurance industry's attempt to restrict competition and reduce interest paid on retirement savings.

Seafirst strongly supports the prompt passage of FSLIC legislation. Efforts to substantially modify the integrity of the FSLIC plan presented by President Bush will delay and adversely impact progress. This amendment is not related to reform of the savings and loan industry and does not help solve the current crisis situation. For these, and other reasons outlined in the attached discussion sheet, we urge you to reject this amendment.

Please don't hesitate to call me at (206) 358-6940 or Jeff Lewis our Manager of Public Affairs at (206) 358-3433 if you have any questions. Thank you for your interest.

Sincerely,

JAMES H. WILLIAMS,
EVP and Chief Financial Officer.

Mr. GONZALEZ. Mr. Chairman, I yield 3 minutes to the gentlewoman from Ohio [Ms. OAKAR], a distinguished member of the Committee on Banking, Finance and Urban Affairs.

MODIFICATION OFFERED BY MS. OAKAR TO EN BLOC AMENDMENTS OFFERED BY MR. GONZALEZ

Ms. OAKAR. Mr. Chairman, I ask unanimous consent that the amendment pending before the Committee of the Whole House on the State of the Union be modified by, after the words "other Federal bank regulatory agencies," striking the words "Page 284, strike line 17 and insert the following:

Section 5314 of.".

□ 1120

This was a typographical error on the part of the Committee on Rules. They put in extraneous language that we did not in fact mean to do. It is only a typographical error and I just think it is easier to deal with that right now.

The CHAIRMAN. Is there objection to the request of the gentlewoman from Ohio?

Mr. WYLIE. Mr. Chairman, reserving the right to object, I am sorry I did not hear the request of the gentlewoman from Ohio.

Ms. OAKAR. Mr. Chairman, will the gentleman yield?

Mr. WYLIE. I yield to the gentlewoman from Ohio.

Ms. OAKAR. I thank the gentleman for yielding.

Mr. Chairman, yes, the modification would remove extraneous language placed in the amendment related to personnel; as a result of a typographical error the language to be deleted makes no sense. It is my understanding this modification has been cleared with minority and the Committee on Post Office and Civil Service and apparently was a typographical error.

Mr. WYLIE. It merely makes a correction of a typographical error?

Ms. OAKAR. The gentleman is correct.

Mr. WYLIE. Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN. Is there objection to the request of the gentlewoman from Ohio?

There was no objection.

The CHAIRMAN. The modification is agreed to.

Ms. OAKAR. Mr. Chairman, I would like to discuss the issue that relates to personnel.

Mr. Chairman, due to the magnitude of this legislation, this bill had been referred to many committees. In order to move the legislation forward, the Committee on Post Office and Civil Service, of which I am a member, as well as the Committee on Banking, Finance and Urban Affairs, waived sequential referral. What we tried to do, Mr. Chairman, was work on amendments that were agreed upon unanimously to make all of the personnel-related matters uniform as respects all the different agencies, the current ones, the ones we are forming, to have parity with respect to personnel.

So the primary purpose of the proposed amendments is to establish uniform appointment and pay-fixing parity for the newly formed Office of Thrift Supervision, the Federal Housing Finance Board, the Resolution Trust Corporation, and the Office of Comptroller of the Currency as well as

the National Credit Union Administration.

While the Committee on Banking markups provide a consistency regarding compensation levels within the Federal banking regulatory agencies, these amendments retain that consistency but emulate the language regarding the Federal Deposit Insurance Corporation. In other words, what we are trying to do is establish parity among organizations so that we really do have talent and excellent regulators.

I believe that this bill and what we are trying to do by way of reform will only be as good as the caliber of personnel who are involved in regulation and oversight.

That is why it is very, very important that we have a uniform pay policy and that we are able to have parity and have the best caliber people so that we do not head into some of the problems that we have had in the past.

Mr. Chairman, the amendment clarifies the scope and authority of each relevant agency as it pertains to setting compensation levels and benefits.

In addition, each agency may provide additional compensation and benefits to its employees if the same type of compensation or benefits package is being provided under applicable law by any other bank regulatory agency.

What we are doing now basically is finetuning the personnel amendments that we proposed that were adopted unanimously on both sides of the aisle in the Committee on Banking, Finance and Urban Affairs.

We are really trying to put in something that was an oversight, I think, in drafting the initial legislation by the administration. That was to take into consideration the personnel, the pay scales and so forth.

Mr. Chairman, I am delighted to see the spirit of cooperation relevant to these amendments, not only by the bipartisan approach in the Committee on Banking, Finance and Urban Affairs, led by my distinguished chairman and the minority leader, but also on behalf of the administration.

I am delighted that they agree with the amendment as well.

The only question I would have is why we in the future will have to address the district banks and their personnel in terms of oversight and the Federal Reserve System. But we have done quite a bit of work right now, and I ask for its adoption.

Mr. Chairman, as we all know, due to the magnitude of this legislation, this bill has been referred to many committees. In order to move this legislation forward and in an expeditious manner and to save the taxpayers further expense, the Post Office and Civil Service Committee waived sequential referral on the differing personnel titles. As a member of the Post Office and Civil Service Committee as well as the Banking Committee, Chairman GONZALEZ asked me to coordinate the concerns of both committees.

Mr. Speaker, these amendments were worked out by all the Federal banking regulators, the full Banking Committee and my staff with technical advice from the staff of the Committee on Post Office and Civil Service. The primary purpose of the proposed amendments is to establish uniform appointment and pay-fixing authorities for the newly formed Office of Thrift Supervision, the Federal Housing Finance Board, Resolution Trust Corporation and the Office of the Comptroller of the Currency as well as the National Credit Union Administration. While the Banking Committee markups provided consistency regarding compensation levels within the Federal banking regulatory agencies, these amendments retain that consistency but emulates the language regarding the Federal Deposit Insurance Corporation.

Mr. Speaker, the FDIC, under their pay-fixing authority is allowed flexibility to acquire and retain talented examiners. Historically, Federal banking regulatory agencies have competed for top talent unfairly. In many instances, examiners performing the same supervisory function are paid vastly different sums of compensation. Also, while some Federal banking regulators may provide for geographic pay differentials, others do not. The OCC, for example, is not allowed to offer its examiners regional compensation packages while the FDIC provides for such packages. This disparity has caused human resources shortfalls within some agencies.

Mr. Speaker, under the proposed amendments, each of the agencies would be authorized to appoint and fix the compensation of employees of the agency. This amendment clarifies the scope and authority of each relevant agency as it pertains to setting compensation levels and benefits. In addition, each agency may provide additional compensation and benefits to its employees if the same type of compensation or benefits package is being provided, or could be provided under applicable law, by any other bank regulatory agency. For example, the relevant amendment to the OCC's authority provides that the Comptroller shall, after consulting with the Treasury Secretary, appoint OCC employees and fix the number and compensation of these employees. Thus, the examiners performing supervisory functions in the Midwest need not be compensated at the same level as those in the Boston area. However, in setting and adjusting the total amount of compensation and benefits for employees of the agency, each agency is required to maintain comparability with the compensation and benefit programs provided by the other Federal bank regulatory agencies.

Last, Mr. Speaker, in addition to the above proposed amendment, there are technical changes to several sections relating to the rights of Federal employees who will be transferred from the FSLIC/Bank Board to one of the other Federal bank regulatory agencies. These changes are intended to ensure that substantially the same rights and protections are afforded to the transferred employees under each of the sections.

In conclusion, Mr. Speaker, the emphasis of this omnibus legislation is to protect the Federal interest and to provide the necessary safeguards to ensure that this fiscal tragedy never occur again. I wish to thank the Post Office and Civil Service Committee, the full Banking Committee, and the Federal bank regulatory agencies for helping to craft this much needed legislation. All parties agree that having consistent and uniform employment guidelines will help to acquire talented professionals in examining and supervising our Nation's financial institutions. But most of all, these provisions will go a long way in preventing this crisis from recurring.

Mr. WYLIE. Mr. Chairman, I yield 2 minutes to the gentleman from Indiana [Mr. HILER].

Mr. HILER. Mr. Chairman, I rise in strong support of Congressman HAWKINS' amendment contained in this package. The Hawkins amendment corrects a grave error made by the Committee on Banking, Finance and Urban Affairs that threatens the hard-earned moneys of pension plan participants across the country by restricting their deposit insurance. The Hawkins amendment solves this problem and I urge my colleagues to adopt the amendment.

The fact is there has been no evidence of harm or risk to the FDIC demonstrated; no hearings have been held, no public debate or discussion. The Hawkins amendment is exactly the right approach to dealing with this issue calling for a study in 6 months.

H.R. 1278, as reported by the Banking Committee, provides for a study of bank investment contracts, so-called BIC's, and their effect on the safety and soundness of insured institutions. BIC's are a device similar to a certificate of deposit. For a number of years pension funds, trusts, and similar organizations have placed large certificates of deposit in banking institutions. Historically, the deposit insurance has always run through these certificates to the beneficial owners. In other words, the FDIC has always held that the beneficiaries of a pension plan are each entitled to insurance coverage of $100,000 when their pension fund deposits money in a bank in the form of a large CD. The terms of these CD's have always been negotiable between the bank and the pension fund, as is the case with all large CD's. The only thing new about a BIC is that in a BIC the pension plan has the right to add additional sums to the CD at a later date, as is the case with a number of ordinary consumer CD's.

BIC's are not in any fashion risky. They are nothing more than a large traditional CD. The funds obtained by a bank from such a deposit are used in the same manner as any other deposit in the banking institution. BIC's pose no additional risk to the deposit insurance fund. They are nothing more than an ordinary large deposit. Insurance premiums are paid on all such deposits in the same manner they are on any other deposit. It is my understanding that the FDIC strongly supports the Hawkins amendment and opposed the committee's efforts to limit deposit insurance on pension plans.

Through the use of BIC's we are able to protect the savings of pension plan participants by providing them deposit insurance. In fact, BIC's have become popular with pension plans recently because of the perception that competitors who provide similar instruments, such as insurance companies, may be facing financial problems in the future. Therefore, prudent pension fund managers are moving to protect their participants' funds by taking advantage of Federal deposit insurance. This is their right and I believe Congress should not restrict deposit insurance for pension funds unless a severe threat to the deposit insurance fund can be demonstrated. I believe that no such threat exists and I strongly support the Hawkins amendment.

Mr. Chairman, I would also like to comment though on the Committee on Ways and Means amendments to index the contributions that the Federal Home Loan Banks make to the funding of REFCOR.

The current contribution of $300 million has been deemed to be what the Federal Home Loan Bank Board's banks can afford by the Bush Administration. By placing this additional burden on the Federal Home Loan Bank's earnings, the Congress will further limit the ability of the institutions, member institutions, to raise capital.

We have gotten a lot of discussion about raising capital. Capital comes from profits, and one of the places that profits come from is the dividends paid by the Federal Home Loan Bank Board System to the individual member banks or savings and loans.

It seems to me that by going beyond what was deemed to be the appropriate level in terms of money being taken from the Federal Home Loan Banks, we are going to contribute to future difficulties in the S&L's being able to raise capital. This will eventually lead to higher costs for the taxpayers, not lower costs, and a revisiting of these issues in later years.

I would urge my colleagues to defeat the Committee on Ways and Means amendment to the particular Gonzalez package that is being offered.

Mr. GONZALEZ. Mr. Chairman, I yield 1½ minutes to the gentleman from Delaware [Mr. CARPER] for the purpose of asking a question.

Mr. CARPER. I thank the gentleman for yielding.

I think when we look at the causes or try to affix the blame for the hold that we are in, the coupling of deregulation early in this decade with "desupervision" is at the top of the list. We had too few examiners. We did not compensate them fairly. As a result, the turnover among examiners was high, but their experience level was not. These factors contributed greatly to the crisis that we are not trying to resolve.

I would like to ask a couple of questions of the gentlewomen from Ohio with regard to the issue of pay and benefits for those who supervise and examine our Nation's depository institutions.

It is our intent here to seek to maintain comparability in levels of compensation between the regulatory agencies, to seek to maintain, rather than to mandate absolute comparability between these agencies?

Ms. OAKAR. Mr. Chairman, will the gentleman yield?

Mr. CARPER. Mr. Chairman, I yield to the gentlewoman from Ohio.

Ms. OAKAR. I thank the gentleman for yielding.

Mr. Chairman, the former point that the gentleman made is correct.

Mr. Chairman, I also want to commend the gentleman [Mr. CARPER] for his work on these issues and thank him for all of this help. So, yes, to maintain.

Mr. CARPER. During our debate in committee we questioned who should have to consult, which agencies should have to consult with Treasury.

Our understanding is that the Office of the Comptroller of the Currency, the Office of Thrift Supervision would have to consult because they are going to be part of Treasury; the other agencies would not have to consult with Treasury in setting compensation levels or number of employees. Is that also correct?

Ms. OAKAR. The OCC and the thrift supervision agency, on that the gentleman is correct, they are the ones who have to consult.

Mr. CARPER. Do I further understand that what we are providing is the kind of flexibility, including geographical pay differentials, that FDIC now enjoys compared to the other regulatory agencies?

Ms. OAKAR. Yes. And we used FDIC as a kind of role model in that respect.

Mr. CARPER. Finally, that the regulatory agencies themselves concur and agree with these viewpoints and intent as expressed in this technical amendment?

Ms. OAKAR. The gentleman is correct, they do concur.

Mr. CARPER. I thank the gentlewoman and I salute her.

□ 1130

Mr. GONZALEZ. Mr. Chairman, I yield 5 minutes to the gentleman from New York [Mr. SCHUMER].

Mr. SCHUMER. Mr. Chairman, I thank the gentleman from Texas [Mr. GONZALEZ] for his generous offer of time. Before I begin my remarks, I do want to salute the chairman. I think it is appropriate now, for his leadership on this bill throughout. Every time we were in a hole, the chairman of this committee rallied the forces and gathered members together. He deserves a heck of a lot of credit, even as we speak today. I am glad to see him smiling.

I am worried about a part of this amendment. I am very worried. That is the Committee on Education and Labor part. The reason I am worried is this: If Members look at how we got into this mess with the thrifts, it was because we took market forces out of the whole equation. We said that any institution that wants to pay a higher rate of interest could get money and then do whatever it wanted with it. But the amendment that the Committee on Education and Labor has asked for, very simply it says, let us say the Bank of Podunk wishes to increase their deposits by millions and hundreds of millions and billions of dollars. They could then go to a big pension fund and say, "We will give you 11 percent interest." Right now, if we did not have these BIC's, it would be the fiduciary obligation of the pension fund, whatever the fund is, to say, "Wait a minute, the Bank of Podunk is not very strong. It does not have much ability to invest all this kind of money," et cetera. However, if the BIC's continue, then the responsibility of the pension fund to look at the safety and soundness of the institution it is invested in would be removed. Once it is removed, the system goes crazy, as we learned with the whole thrift crisis, because even though the pension fund's money may be invested in very risky and very shaky things, the pension fund does not have to worry because under this amendment, they could insure not just $100,000 of the pension fund's money but tens of millions, hundreds of millions, even billions of dollars of the pension fund money. That, ladies and gentlemen, is a formula for disaster. It is a different guise, but it is the same issue that will be before us on the rest of the bill.

Admittedly, this issue is not the heart of the bill. I would urge my colleagues who feel strongly about this issue, as I do, that this should not be something that is going to divide Members. There are other more important issues ahead.

However, my colleagues, I want the RECORD to show that by expanding Federal deposit insurance so that any pension plan can put tens of millions, nay, hundreds of millions of dollars in any bank, and good old Uncle Sam, or in this case Uncle Sap, can come and insure the whole amount, is telling Members that no one is going to be watching where the money is invested. That is how we got into this crisis. I would say unless we are careful with these kinds of funds we will get into them again.

Should banks be allowed to do these contracts? Yes. Should they be allowed to insure them over $100,000? A strong and vociferous no. The Committee on Education and Labor amendment allows them to insure these contracts, not for $10,000 or

$100,000 but for millions, and even in some cases hundreds of millions of dollars. That is wrong. That is what got Congress into this mess. I would hope in conference or at some point in the future we could look at this issue and deal with it in the way that we should.

The CHAIRMAN. The gentleman from Texas [Mr. GONZALEZ] has 7½ minutes remaining and the gentleman from Ohio [Mr. WYLIE] has 5 minutes remaining.

Mr. GONZALEZ. Mr. Chairman, I yield 3 minutes to the gentleman from Pennsylvania [Mr. KANJORSKI].

Mr. KANJORSKI. Mr. Chairman, this bank investment contract issue is an awfully important issue. Let me say the reservations I have had on this bill are in three areas. This was not one of them because I thought the committee acted so responsibly to take care of this issue. So to find it reemerging today is disconcerting.

Until this BIC issue was raised, I saw only three major problems with the bill. First, I found a problem with how we treat supervisory goodwill. I understand, however, that reasonable people can differ on the goodwill issue. Second, I think we should have had restraints put on the States that caused these problems such as Texas and California. We have lost that issue in the Committee on Rules. Third, there is a problem, perhaps, in the bill, on how the bailout will be funded, on budget or off budget. These are the three major issues.

However, this BIC issue is a time bomb or a land mine of gigantic proportions. Under this amendment a bank investment contract could allow pension funds to come in and invest literally billions of dollars with the right to add to deposits over the life of that contract or to take out deposits. Yet pension funds will only benefit when the rate of interest is higher on the contract, than it is in the marketplace. When BIC interest rates exceed market rates the pension funds will add to their BIC's. When BIC rates are below market rates, they will withdraw funds. In either case, it is the FDIC, and thus Federal taxpayers, who will bear the extra risk and become the insurers of these pension funds. This is tantamount to creating a second financial disaster, but not in the FSLIC but in the FDIC, the very institution which we are trying to put in order with increased premiums. I urge my colleagues to really look at this issue because BIC's are very risky, both for banks and for the FDIC.

I also want to call your attention to something else. I want it clearly on the record. I can understand the banks wanting the U.S. Government's taxpayers to underwrite their BIC's so they can make a profit. That is not unusual in this Congress or in this country. What we also have here is a joining of the labor unions with the banks. These strange bedfellows have crawled into bed together and said they want their BIC's and their pension funds 100 percent insured. I do not know whether we should have insured pension funds for working people in this country, but if we are going to, let Members do it directly and have insured pension funds or a Government pension fund, but by God, let Members not pay money managers a percentage to manage pension funds and give them the opportunity to have total government insurance without risk to those pension funds.

This is the greatest disaster in the entire bill. I predict not too far in the future we are going to be standing in this well of the House, not with a bailout of S&L's, but a bailout of the banking institutions of this country because of the irresponsible act today of the Committee on Education and Labor, bowing down to organized labor. Labor wants total protection for some of their pension funds, and so they crawled into bed with the bankers of this country and put the taxpayers of the United States at great risk. I think it is a sham. I think it is a disgrace. we went over this in the Banking Committee. The Banking Committee's action was proper. This bill is proper on this issue, but with the adoption of this amendment we will be raping the American taxpayer.

Mr. WYLIE. Mr. Chairman, I yield 3 minutes to the gentleman from Texas [Mr. BARTLETT].

Mr. BARTLETT. Mr. Chairman, I yield to the gentleman from California [Mr. HAWKINS].

Mr. HAWKINS. Mr. Chairman, I thank the gentleman for yielding. I rise in strong support of the gentleman from Texas [Mr. GONZALEZ] en bloc amendment, as it contains the amendment that is a bipartisan agreement supported by 30 members of the Committee on Education and Labor. I thank the gentleman and wish simply to express the support of the Committee on Education and Labor.

Mr. Chairman, I rise in strong support of the Gonzalez en bloc technical amendment, as it contains the Hawkins-Goodling-Clay-Roukema amendment supported by 30 members of the Committee on Education and Labor.

The Hawkins-Goodling amendment would require the Federal Deposit Insurance Corporation to conduct a 6-month study on the issue of FDIC passthrough deposit insurance to individual participants in qualified pension or profit-sharing plans. This study replaces the current section 1003 moratorium which would deny currently available passthrough protection to deposits from pension and profit-sharing plans covered under ERISA made after April 6, 1989, while a broader mandated study is undertaken. Members of the Education and Labor Committee, both Republican and Democrats, share a very deep concern over the impact of the original section 1003 moratorium on pension funds over which our committee has jurisdiction. Specifically, we believe this section greatly affects the security of pension funds and undercuts the fiduciary's decisionmaking, a key element of the ERISA enforcement scheme.

Mr. Chairman, as I indicated in my statement to the Rules Committee, there is an incredible degree of confusion, even by the original sponsors of section 1003, over what the original language actually did or was intended to do, and what instruments and obligations were affected by the amendment. We were first told that there was a real threat to the soundness of the FDIC as a result of certain new products called BIC's [bank investment contracts]; then we learned they weren't new having been available in the market for a number of years, nor was the availability of the passthrough protection for these deposits new. We asked for evidence of such a threat and received no data or information to substantiate that claim. We were told that the original provision did not apply to State and local pension funds, only to find out that it did. We were told it was really designed to deal only with BIC's yet we discovered the language was so broad that even your standard vanilla CD was covered by the moratorium. And then, apparently it really wasn't BIC's after all that was of the greatest concern to the sponsors of the amendment but rather it was the pending consideration by the FDIC of the question of passthrough protection for individual investors in unit investment trusts now in formal rulemaking, in addition to the consideration by the FDIC of what constitutes a "deposit," specifically relating to "deposit notes," now also in formal rulemaking. Both sets of rules would have been stayed under the provisions of the original amendment.

Mr. Chairman, it should be noted that the other body rejected any notion of a new threat to the FDIC, and opted instead to take the prudent course of first determining the facts before amending permanent law which would damage pension fund security. We also should take such prudent action. My amendment, as included in the Gonzalez en bloc amendment, with the clear support of the majority of the Republican and Democratic members of the Education and Labor Committee, provides for such a study. It will then be to the deliberative bodies of the Congress to make an informed decision based not just on what is profitable for one industry but what is good for the Federal Deposit Insurance Corporation and the good credit of this country, with due consideration for the security of our pension funds for thousands of participants, as well as interests of the competing financial institutions. Let us, my colleagues, first find out what the facts are and then consider remedial action if necessary. Isn't this really a better way to legislate? I hope that all my colleagues will support the Hawkins-Goodling-Clay-Roukema amendment, as contained in the en bloc amendment.

Mr. BARTLETT. Mr. Chairman, I thank the chairman for his support of one of the excellent amendments contained in this bloc of amendments.

I rise on two amendments. First, in somewhat reluctant support of the compromise amendments of No. 4, of the compromise amendment for the

tax on advances from Federal Home Loan Banks. It is a compromise, and thus my reluctant support. The Committee on Banking, Finance and Urban Affairs did that correctly. We provided for a $300 million per assessment on the Federal Home Loan Bank System, or 20 percent of the system's earnings, whichever was lesser. The Committee on Ways and Means then provided us $300 million to be adjusted by a totally unrelated index of the Consumer Price Index; the compromise which I accepted, with some reluctance, would provide for either the percentage of the earnings or the CPI, whichever is lesser.

I want to use that, though, as an opportunity to remind colleagues of the enormous numbers and size of taxes on the industry in this bill already, without the extra tax that was placed on at the last minute, that is in the so-called Affordable Housing Program.

□ 1140

Mr. Chairman, I prepared a chart which demonstrates the size of the taxes. This is a chart showing the total collections from 1989 to the year 2020. It shows that the banking systems retained earnings currently at $3 billion which would be expropriated. It then shows appoximately $18 billion of this tax on earnings, which I think is wholly appropriate.

It then shows another $145 billion of bank insurance premiums or add-ons. That is also wholly appropriate.

Then it shows the $60 billion of new capital requirements that is also wholly appropriate.

I want to call the attention of the House to the fact that section 717 of the bill places a new tax in this that has not been discussed very much, and this is one that the gentleman from Georgia [Mr. BARNARD] and I will be offering an amendment to delete later on. This is a tax on advances or a transaction liquidity tax. It has never been heard of before and hopefully will never be heard of again. It could well be the straw that broke the camel's back which would go to subsidizing a new housing program. That is the one that I think needs to be deleted later on in the debate.

I also support the Hawkins amendment. I serve on both the Education and Labor Committee and the Banking Committee. The fact is that current law provides for desposit insurance for pension funds as they are moving their money though banks into permanent investments. That is a sound system.

The CHAIRMAN. The time of the gentleman from Texas [Mr. BARTLETT] has expired.

Mr. WYLIE. Mr. Chairman, I yield 30 additional seconds to the gentleman from Texas [Mr. BARTLETT].

Mr. BARNARD. Mr. Chairman, will the gentleman yield?

Mr. BARTLETT. I yield to the gentleman from Georgia.

Mr. BARNARD. Mr. Chairman, I would ask the gentleman, especially since he is on both the Banking Committee and the Education and Labor Committee, what are the records showing how the banks have been impaired here?

Mr. BARTLETT. There is no record, there is no problem. No one has produced a problem. There has not been a study of the issue, and there has not been a hearing of any issue. No regulatory agency has come forward with a problem. The Banking Committee version would change a current system which is working just fine, a deposit insurance directed toward individuals.

Mr. BARNARD. There is no record of loss?

Mr. BARTLETT. There is no record of loss. There has been no hearing, and there is no record of a problem.

The CHAIRMAN. The gentleman from Ohio [Mr. WYLIE] has 1½ minutes remaining, and the gentleman from Texas [Mr. GONZALEZ] has 4½ minutes remaining.

Mr. GONZALEZ. Mr. Chairman, I yield 1 minute to the distinguished gentlewoman from Washington [Mrs. UNSOELD], a member of the Education and Labor Committee.

Mrs. UNSOELD. Mr. Chairman, if the distinguished gentleman from New York were a member of the Education and Labor Committee, he would know that the Employee Retirement and Income Security Act of 1974 [ERISA] prevents currently the horrors that were described. He suggests that our amendment will expand deposit insurance, but for 20 years billions of dollars have been insured under these pension plans.

This is nothing new, and nothing is at risk. Nothing has been shown to be at risk. This is contrary to the way it has been described. Pension funds and workers are attempted to be held hostage by a battle between the insurance and banking industries, and we should protect them by approving the Gonzalez amendment today.

Mr. GONZALEZ. Mr. Chairman, I yield 1 minute to the gentleman from Connecticut [Mr. MORRISON].

Mr. MORRISON of Connecticut. Mr. Chairman, I thank the chairman of the committee for yielding time to me. I thank him also for his leadership, and the evidence of that leadership is going to be shown throughout the course of the debate on this bill.

I wish it were that this was a no-problem situation established over a 20-year period. Only last September did the FDIC say that pass-through insurance was available, and that is because the FDIC is desperate for deposit insurance payments. We have given them an answer to that with expanded deposit insurance payments under this bill. That is a much better answer.

It is really not the workers who are being held hostage; it is the taxpayers in the long run who are being threatened. The gentleman from Pennsylvania is absolutely correct. If we want to protect the pension funds of workers, let us do it directly. Let us not do it in a system that creates an incentive to undermine the stability of our deposit insurance. We have learned that these payments sometimes come due because we are paying a heck of a lot of money in this FSLIC crisis. Let us not start another time bomb ticking.

Mr. WYLIE. Mr. Chairman, I yield my remaining time, 1½ minutes to the gentleman from Nebraska [Mr. BEREUTER].

Mr. BEREUTER. Mr. Chairman—this is my first opportunity to speak on the House floor on this legislation. Today we begin debate on the most controversial legislation that we will address in the 101st Congress, H.R. 1278, the Financial Institutions Reform, Recovery, and Enforcement Act of 1989. The bill provides for an historic rescue of the Nation's savings and loan insurance fund, and makes sweeping reforms in the S&L industry.

As a member of the House Banking Committee, I want to commend the distinguished chairman of the committee, Mr. GONZALEZ, the chairman of the Financial Institutions Subcommittee, Mr. ANNUNZIO, and our ranking minority member, Mr. WYLIE, for their patience and tireless efforts in shepherding this bill through subcommittee and full committee markup.

During markup, the House Banking Committee considered almost 300 amendments and its members debated almost 75 hours before reporting this bill to the House. The fairness demonstrated by Chairman ANNUNZIO and Chairman GONZALEZ, and the comity which members extended to one another during the markup ensured that the debate and deliberations were both well organized, fair, and thorough.

The immediate purpose of this bill is to resolve the insolvency of the Federal Savings and Loan Insurance Corporation [FSLIC]. The second purpose of this bill is to ensure that the current financial catastrophe in the S&L industry will never occur again.

The capital requirements for savings and loan institutions contained in this bill are critical to preventing the speculative abuse and the errant mismanagement that jeopardized the S&L industry in the past. Under its current provisions, this bill will require all savings and loan institutions to maintain a 3-percent core capital standard by June 1, 1990. By January 1, 1995, S&L's must replace intangible capital such as supervisory goodwill with tangible capital consisting of common and preferred stockholder's equity and retained earnings.

As we debate this bill, we should avoid two temptations that would impair the effectiveness of this legislation. The first is to weaken the capital standards that would be required of savings and loan institutions. The second is to attach extraneous provisions which will increase the cost of the bill for both financial institutions and taxpayers.

In recent weeks, part of the S&L industry has stepped up its efforts to modify and weaken the capitalization requirements. With regard to supervisory goodwill, the arguments in support of such proposals as the Hyde amendment, to be offered by the very distinguished and able gentleman from Illinois [Mr. HYDE] are compelling insofar as they involve the integrity and credibility of the U.S. Government and the Federal regulators who established agreements with S&L's to take over troubled institutions.

However, until savings and loans have adequate capital investments in their institutions, the Federal Government, and the American taxpayer, will continue to be more financially at risk than the institutions themselves. Continued recognition of supervisory goodwill as tangible capital will only prolong the S&L crisis, and expose the Federal Government to additional losses in the future. Therefore, the gentleman reluctantly must urge rejection of the Hyde amendment.

To use this bill as the legislative vehicle for substantial new social programs will only increase its cost and delay the resolution of the immediate problem before us—the insolvency of the FSLIC. Again, while the arguments in support of these programs may be very tempting, these programs should be considered on their own merits separate from this legislation.

Admittedly, this legislation is expensive and while complex, relatively narrow in purpose, and because of it, the bill has few supportive, well-organized constituent or interest groups. However, unlike other financial bailouts in which Congress and the Federal Government have chosen to intervene—such as Chrysler, Lockheed, New York City, or the Farm Credit System—this a situation in which we have no choice but to move forward to conference with legislation to stop the escalating costs. The FSLIC is insolvent. The longer we delay passage of legislation, the larger the cost of resolving the problem. Currently, that insolvency is growing by approximately $1 billion per month.

There are numerous reasons to explain how the savings and loan industry got into their current situation: poor management; insider abuse and fraud; rapid growth in speculative investments; an inappropriate ideological preoccupation with deregulation by appointees of the previous administration; inadequate supervision by regulators; an inherently incestuous relationship between the Federal Home Loan Bank Board and the institutions it was supposed to be regulating; a nearly covert, last-minute legislative initiative on earlier legislation that increased the deposit insurance level from $40,000 to $100,000; and extremely broad and permissive grants of power under state statutes for State chartered S&L institutions—especially in States like California, Texas, and Florida. Those grants of authority, in connection with highly inadequate regulatory supervision in some of those States contributed very heavily to the disaster that FSLIC, the Congress, the executive branch, and the taxpayers now face.

I regret that this legislation has a crucial flaw in that it does not require those same States and their taxpayers to pay a larger share of the costs for this crisis. Certainly Texas should pay more since an estimated 65 percent of the total FSLIC disaster can be attributed to that State. California should also bear a larger share of the costs. We have thus far been unable to adopt such requirements in this legislation. Without such provisions, this legislation constitutes a massive regional transfer of costs and Federal funds of an unprecedented size. This Member will support any reasonable conference committee effort to correct this major flaw.

It would also be a disservice and a lack of candor if the role and responsibility of Congress, and former key congressional leaders, in contributing to this unprecedented financial scandal was not recognized. Congress, especially the past Democratic leadership of the House and the past House Banking Committee majority leadership, must share the blame for the current S&L crisis because as key leadership of the institution it failed to be diligent in its oversight of the S&L industry and Federal regulators and to act in a timely and proper fashion. The Banking Committee leadership in the body on the other side of Capitol Hill is certainly not blameless either. The influence of the S&L industry which permeated Congress and regulatory agencies contributed to lenient legislative and regulatory treatment of the industry, as did the campaign funding activities of the Democratic Congressional Campaign Committee.

For those who want a well-documented and cryptic account of the current S&L crisis and an explanation of the influence peddling by a few institutions and individuals in the S&L industry, I would recommend to my colleagues that they read chapter 14 of the book by Brooks Jackson, Wall Street Journal investigative reporter entitled "Honest Graft."

Thus, this legislation is, sadly, the unavoidable legacy of the failed and flawed legislative and regulatory policies of the past. From this experience, we should commit ourselves to ensuring that this tragic experience is never repeated—even in a minor fashion.

In conclusion, this Member again warns that weakening the capital standards contained in this bill would be legislatively irresponsible. We must maintain strong capitalization requirements in this legislation and push for other important provisions in this legislation today on the floor, as permitted under the adopted rule, and in conference.

Primarily, I rise to engage in a colloquy with respect to one part of the en bloc amendments now under consideration. The gentlewoman from Ohio [Ms. OAKAR], my colleague on the Banking Committee, previously made reference to the part of the amendments related to personnel, and I would like to ask my colleague, the gentleman from Delaware [Mr. CARPER], who has also been active on a bipartisan task force of the Banking Committee, along with this gentleman, to study the proper number and salary levels of regulatory agency examiners.

At several stages in the subcommittee and committee deliberations, we discussed the necessity of giving the Office of Thrift Supervisor the authority to set the compensation and the number of on-the-line regulatory employees of that office regardless of what the Treasury might intend. That is the intent of the Banking Committee. The same would be true of the Office of the Comptroller of the Currency.

So while it says, "In consultation with the Secretary of the Treasury" I want to make it perfectly clear for the legislative record we are establishing here, and which was established in the Banking Committee and its Financial Institutions Subcommittee, that "consultation" does not in any way mean "control." Treasury is to be consulted, but their advise can be ignored. I would like to yield to the gentleman from Delaware [Mr. CARPER] for any concurring remarks or any other remarks he might wish to make.

Mr. CARPER. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I agree that "consultation" does not mean veto power, and "consultation" does not mean the "Secretary can block unilaterally." "Consultation" does not mean the Secretary has to agree with the actions of the OCC or OTS. It means only consultation.

The CHAIRMAN. The gentleman from Texas [Mr. GONZALEZ] has 2½ minutes remaining.

Mr. GONZALEZ. Mr. Chairman, I yield the balance of my time, 2½ minutes, to the gentleman from Georgia [Mr. BARNARD], a distinguished member of the Committee on Banking, Finance and Urban Affairs, to conclude debate on these amendments.

Mr. BARNARD. Mr. Chairman, the action of the Rules Committee in permitting these en bloc amendments at this point was, I think, very, very wise. All of these amendments are very necessary. The amendments improve the bill.

We have had a very good and healthy debate on a number of these amendments, and I think it is well that all sides be expressed. We have in these en bloc amendments some very definite improvements to this bill. The amendment having to do with the Ways and Means Committee amendment, amendment No. 2, is a good compromise from what the Ways and Means Committee did. It is very necessary.

The amendment offered by the gentlewoman from Ohio [Ms. OAKAR], No. 51, is likewise an improvement in the bill. It brings into conformity and consistency the salary schedules which we certainly need to be addressing. Likewise, the Annunzio amendment improves the bill. And I am also in support of the Hawkins amendment. So in closing this hour of debate on these particular amendments, I would like to encourage all the Members to vote for these en bloc amendments. They have been well considered. They have appropriately been put into this one amendment, and I think all of them

will lead to the improvement of the bill. So I would like to encourage the Members to support these en bloc amendments, and let us move on to further consideration of the legislation.

Mr. GOODLING. Mr. Chairman, as the ranking member of the Committee on Education and Labor, I rise in support of the committee's amendment to section 1003 of H.R. 1278.

The amendment strikes section 1003 and substitutes a 6-month study by the Federal Deposit Insurance Corporation relating to the passthrough of deposit insurance to individual investors in unit investment trusts and to individual participants in pension and profit-sharing plans that are qualified under section 401(a) of the Internal Revenue Code of 1986. Absent the adoption of this amendment, a 2-year moratorium on passthrough insurance will be imposed on all bank deposits in which such qualified pension plans invest.

Numerous concerns have been raised in connection with the potential disruption such a moratorium would have on the investment operations of both private and public pension plans.

Given the Committee on Education and Labor's jurisdictional responsibility to oversee the regulation of our Nation's pension system and to set pension investment policy, I believe at this time the best course is to adopt the 6-month study which will also allow the committee to hold hearings and afford all parties an opportunity to share their expertise on this complex issue.

The administration also shares these views on the need for a study. For example, the Department of Labor, which regulates pension plans under the Employee Retirement Income Security Act of 1974 [ERISA], also has a strong interest in policies that have an effect on pension plan investment. In a letter from the administration dated June 13, 1989, the Department of Labor stated its position that it is important that no action be taken that would limit the deposit insurance protections currently available to plan participants before the 6-month study is completed. Furthermore, the Department believes that full passthrough of deposit insurance coverage to plan participants should continue during the period of the study required under title X of H.R. 1278.

In an earlier letter to the Congress, FDIC Chairman William Seidman raised additional objections to the moratorium on passthrough insurance coverage under section 1003. Generally, Mr. Seidman expressed concern: First, that the breadth of the amendment would affect not only bank investment contracts but other traditional bank obligations: second, that that amendment would single out pension funds for passthrough restrictions while leaving other investors unaffected, and also that the amendment would interfere with the regulatory interpretations of the Federal Deposit Insurance Corporation.

Given these concerns raised by the two agencies of jurisdiction and the lack of evidence of any harm to the FDIC system of passthrough insurance, I would urge my colleagues to act favorably on the Education and Labor Committee amendment when offered by Mr. GONZALEZ as provided under the rule.

The CHAIRMAN. All time has expired.

The question is on the en bloc amendments offered by the gentleman from Texas [Mr. GONZALEZ], as modified.

The en bloc amendments, as modified, were agreed to.

The CHAIRMAN. The next amendment is amendment No. 2, Supervisory Goodwill.

AMENDMENT OFFERED BY MR. QUILLEN

Mr. QUILLEN. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. QUILLEN:

Page 235, strike line 4 and insert the following:

cember 31, 1994, contributed mortgage servicing rights permitted before April 1, 1989, pursuant to a written action of the Federal Home Loan Bank Board, shall be

Page 235, strike lines 8 through 14 and insert the following: such paragraph.

Page 237, strike lines 3 through 12.

Page 245, after line 20, insert the following new paragraph (and redesignate the succeeding paragraph accordingly):

"(8) SUPERVISORY GOOD WILL.—

"(A) Notwithstanding any other provision of law, any capital standard applicable to a savings association pursuant to Federal law—

"(i) shall not provide for the deduction from core, risk based, or other capital of any good will accounted for in accordance with generally accepted accounting principles (including the period and rate of amortization thereof) or as permitted under applicable regulations of the Federal Savings and Loan Insurance Corporation then in effect; and

"(ii) shall provide for the amortization of such good will in accordance with generally accepted accounting principles or on such a basis as specified in a written agreement between a savings association and the Federal Home Loan Bank Board or the Federal Savings and Loan Insurance Corporation.

"(B) As used in subparagraph (A)(ii), the term 'written agreement' includes a resolution adopted by an agency with respect to the treatment of good will by a named savings association (or by any successor in interest to which the resolution applies), and any document issued by such agency (or a duly authorized employee or agent thereof) in accordance and consistent with such resolution.

"(C) This paragraph shall apply only with regard to good will that existed as of April 1, 1989 (or resulted from a transaction with respect to which a definitive written agreement existed as of that date), and resulted from a supervisory transaction.".

The CHAIRMAN. Under the rule, the gentleman from Tennessee [Mr. QUILLEN] will be recognized for 30 minutes, and a Member opposed, the gentleman from Texas [Mr. GONZALEZ], will be recognized for 30 minutes.

The Chair recognizes the gentleman from Tennessee [Mr. QUILLEN].

□ 1150

Mr. QUILLEN. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I think that a deal is a deal and, if we cannot trust our Federal Government, who can we trust?

Back in the early 1980's, the Federal Home Loan Bank Board went to some healthy savings and loan institutions throughout the country and said in effect, "You have a good financial statement, you have good management, and we need your help. There are some failing savings and loans in your area. The Federal Government does not have the insurance funds to bail them out, and we need your help. If you will go and take over these failing institutions, we will allow good will to be amotized over a period up to 40 years."

Mr. Chairman, these were healthy savings and loans that were making money and tried to help their Government. They accepted the agreement that the Federal Home Loan Bank Board offered them. The Federal Home Loan Bank Board issued a written commitment and agreement stating, "If you'll do this for us and save the taxpayers money, we'll let you amortize the good will over a period up to 40 years."

Mr. Chairman, they did that. Some 700 institutions are involved. Now the House banking bill reneges on that agreement, the Federal Government's word, the Federal Government's agreement, the Federal Government's contract, and I think that we cannot in clear conscience do away with the word of the Federal Government. After all, who makes the laws? We make the laws that the regulatory agencies comply with, and it is a directive from the administration on down the line.

Mr. Chairman, if the banking bill goes through as now structured, approximately 150 savings and loan associations will go down the drain, in my opinion, and the taxpayers will have to pick up the bill.

We are here today to shore up the savings and loan industry with up to $150 billion of the taxpayers' money. Shore it up we must, but at the same time we must not create another crisis in the savings and loan industry throughout the country. I say to my colleagues, "If you cure a problem, you must cure it in a way that is fair."

Mr. Chairman, my amendment applies to title III, of the banking bill. There is another amendment to be offered by the gentleman from Illinois [Mr. HYDE] that involves title IX, allowing a legal procedure for savings and loans to achieve the same goal.

I find myself here on the floor of the House with an amendment that grandfathers in all of these savings and loan institutions that had such agreements, and it is a good amendment. However, Mr. Chairman, if we are going to debate this amendment, and then debate the amendment of

the gentleman from Illinois [Mr. HYDE], I think it is unfair to the House to do so.

So, Mr. Chairman, I ask unanimous consent to withdraw my amendment.

The CHAIRMAN. Is there objection to the request of the gentleman from Tennessee?

There was no objection.

The CHAIRMAN. The amendment is withdrawn.

The CHAIRMAN. Amendment No. 3, the amendment of the gentleman from New York [Mr. SCHUMER] is the next amendment.

The Chair awaits the gentleman from New York [Mr. SCHUMER] to see whether he wishes to offer amendment No. 3.

PARLIAMENTARY INQUIRIES

Mr. GONZALEZ. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. GONZALEZ. Mr. Chairman, my understanding from the distinguished gentleman from New York [Mr. SCHUMER] was that he had intended to withdraw and not offer his amendment.

Would it be in order for me to ask unanimous consent that the gentleman from New York be permitted to withdraw his amendment, or is it just simply passed over?

The CHAIRMAN. Either the amendment is not offered or the gentleman from Texas [Mr. GONZALEZ] may ask unanimous consent for that purpose, and, if no Member objects, the amendment will be considered withdrawn.

Mr. GONZALEZ. Mr. Chairman, I ask unanimous consent that the gentleman from New York [Mr. SCHUMER] be permitted to withdraw his amendment, No. 3.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas?

Mr. WALKER. Mr. Chairman, reserving the right to object, I am just trying to figure out what the process is here.

Mr. Chairman, we have an amendment which the Committee on Rules has made in order that the gentleman from New York [Mr. SCHUMER], who was the designated person to offer that amendment, now wishes to withdraw.

Mr. GONZALEZ. Mr. Chairman, that is my understanding.

Mr. WALKER. Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas?

There was no objection.

The CHAIRMAN. The amendment is withdrawn.

Mr. GONZALEZ. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. GONZALEZ. Mr. Chairman, may I ask that the gentleman from California [Mr. TORRES] be recognized for purposes of a colloquy on the immediate preceding amendment?

The CHAIRMAN. Could the gentleman from Texas [Mr. GONZALEZ] do that during the amendment time or during the next debate?

Mr. GONZALEZ. Yes, Mr. Chairman.

Mr. HYDE. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. HYDE. Mr. Chairman, do we have an hour to debate this amendment?

The CHAIRMAN. The gentleman from Illinois [Mr. HYDE] is correct.

The Clerk will first designate the amendment. Then the gentleman from Illinois [Mr. HYDE] will have 1 hour equally divided.

Mr. HYDE. In addition, Mr. Chairman, will I be in charge of the time?

The CHAIRMAN. The gentleman from Illinois [Mr. HYDE] will have 30 minutes, and a gentleman opposed will have 30 minutes.

Mr. HYDE. Mr. Chairman, will I have the right to close debate?

The CHAIRMAN. Under the circumstances set forth in the rule, the gentleman from Illinois [Mr. HYDE] is correct. He will have the right to close debate in this instance.

Mr. GONZALEZ. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. GONZALEZ. Mr. Chairman, will we be allowed 30 minutes on our side in opposition?

The CHAIRMAN. The gentleman from Texas [Mr. GONZALEZ] is correct.

AMENDMENT OFFERED BY MR. HYDE

Mr. HYDE. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. HYDE:

(b) ACTIONS AND PROCEEDINGS ON GROUNDS OF ALLEGED CAPITAL INADEQUACY.—Section 8 of the Federal Deposit Insurance Act (12 U.S.C. 1818) is amended by adding after the subsection added by section 913(a) of this Act the following new subsection:

"(x) ACTIONS AND PROCEEDINGS ON GROUNDS OF ALLEGED CAPITAL INADEQUACY.—

"(1) GENERAL RULE.—Except pursuant to the procedures provided in this subsection, an appropriate Federal banking agency shall not take any action under this section, based on the capital requirements determined under section 5(t) of the Home Owners' Loan Act of 1933, with respect to a savings association that—

"(A) meets such requirements but for the exclusion of supervisory goodwill; and

"(B) has a substantial claim that the exclusion of supervisory goodwill would violate either a contractual obligation of an agency of the United States or the Constitution.

"(2) PROCEDURE FOR CONSIDERATION OF CLAIM.—Upon receiving notice of a claim in the circumstances described in paragraph (1), the appropriate Federal banking agency shall afford notice to all interested parties and an opportunity for a hearing on the record to determine the merits of the claim. If the appropriate Federal banking agency determines that the claim is meritorious, such agency shall make an appropriate order with respect to the inclusion of supervisory goodwill in the required capital on an interim or long-term basis as the equities may require.

"(3) JUDICIAL REVIEW.—A determination by the appropriate Federal banking agency under paragraph (2) is a final agency action for the purposes of judicial review under chapter 7 of title 5, United States Code.".

Page 616, line 7, insert "(a) IN GENERAL.—" before "Section".

The CHAIRMAN. Under the rule, the gentleman from Illinois [Mr. HYDE] will be recognized for 30 minutes and the gentleman from Texas [Mr. GONZALEZ] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Illinois [Mr. HYDE].

Mr. HYDE. Mr. Chairman, I yield myself such time as I may consume.

(Mr. HYDE asked and was given permission to revise and extend his remarks.)

Mr. HYDE. Mr. Chairman, as my colleagues know, one of the biggest lies in America is the statement that "I'm from the Government, and I'm here to help you."

Mr. Chairman, this bill undergirds and reinforces the cynicism behind that comment. A fundamental goal of our system ought to be "for every wrong there's a remedy," and part of this bill is radically wrong and perpetrates an egregious injustice, and cries out for remedy.

□ 1200

About 8 years ago the Federal Savings and Loan Insurance Corporation and the Federal Home Loan Bank Board was confronted with about a hundred savings and loans, thrifts, around the country that were failing, that were terminally ill. Now, that is out of a total of approximately 3,000 savings and loans in the country.

FSLIC, the Federal Savings and Loan Insurance Corporation, did not have the money in its insurance deposit fund to take care of the depositors in these 100 institutions, so they talked other institutions into merging with the sick institutions. They got some healthy institutions to merge with the sick institutions.

The healthy institutions said:

Well, what is in it for us? Will you give us cash to make up the difference between the assets and the liabilities of these sick institutions?

The regulators said:

Oh, no, we don't have that kind of money. What we will do is let you count supervisory goodwill, which is the difference between the assets and the liabilities of that sick in-

stitution. We will authorize and permit you to count that as part of your capital structure and you will have to amortize that, turn that into cash over a period of up to 40 years.

Now, these savings and loans were given that concession as a tradeoff for getting half sick themselves, assuming the liabilities and the responsibilities of some failing savings and loans. So the agreement was made, this contract, which includes offer, acceptance and consideration. I have been a lawyer for nearly 40 years and that is my understanding of what constitutes a contract. In reliance on the promise of the Government, these healthy institutions merged with these sick institutions and proceeded to do business.

There would have been no reason to merge. There would have been no reason in God's green Earth for these healthy institutions to assume the liability of the sick institutions unless they were granted the concession of being permitted to count supervisory goodwill.

Now, remember, supervisory goodwill was not the creation of the savings and loans. This is a concept in generally accepted accounting principles that was created by the Federal Home Loan Insurance Corporation as an inducement to the healthy savings and loans to merge with the sick ones.

Now, these mergers, I might add, saved the taxpayers about $13 billion.

I want you to know that the savings and loans that find themselves currently victimized by this legislation are not the bad guys. They are not the high fliers. They are not the fast buck artists that exploited the deposit insurance to make risky investments. Their only sin, the cardinal sin of which they are guilty, was trusting the bank regulators and accepting their word that they could count this accounting procedure, this supervisory goodwill, for up to 40 years, and in reliance on the word of their Government they merged and they tried to make viable and profitable and solvent the sick institutions.

Now, what is the remedy? My amendment does not grandfather-in the sick institutions. My amendment does not erode the capital standards that are set by this bill. It provides a due process hearing, a hearing for these savings and loans that trusted the Government, to their detriment, and merged with the sick institutions, procedural due process on a case-by-case basis before the regulators, not a court, not somebody else, just the regulators.

Now, to qualify for this hearing, and that is all it is, a hearing, no result is mandated, just a hearing, a chance to make your case before the sword falls, before you get supervised by the regulators, before the scarlet letter is painted on your forehead, the same consideration that five blocks away from here rapists and drug dealers and murders get, a hearing before you are punished. That is all it provides.

Now, to qualify for this radical remedy of a hearing before you are punished you have to prove two things: You must prove that you would comply with the new capital standards but for the disallowance of supervisory goodwill. That is No. 1.

The second hurdle is that you have a contract with the Government or a constitutional claim under the fifth amendment which says, and I remind you because we are all dedicated to the Constitution in this 200th year, this bicentennial year, that "no person shall be deprived of life, liberty or property, without due process of law."

Now, I assume when we took our oath that we would defend and protect the Constitution we were serious about it. So I just thought I would remind you that due process of law is part of that Constitution.

So to qualify you have to meet the new higher capital standards but for the disallowance of supervisory goodwill which they promised you could count up to maybe 40 years, and you have a contract. These promises were reduced to writing or are evidenced by documentation, or you have a constitutional cause of action for an unlawful taking.

This reduces the number of affected savings and loans, by our calculation, to 241, 8 percent of the industry. Ninety-two percent of the industry is covered by the new capital standards when this bill is signed, but 8 percent is a special group, 241 out of 3,000, because special circumstances have disadvantaged them and we are seeking to accord them due process. That is all the amendment does.

I am amazed at what the press accounts and the editorial accounts have characterized this amendment as, somehow supporting the high fliers, the bad guys, eroding the capital structure. I do not erode it. I affirm it. I support it. We need strong capital structure and it should be cash or tangible assets, but in our rush to solvency and to symmetry, we ought not to roll over some people whose crime was trusting the Government.

Let me tell you, I have seen movies all my life about the CIA, and other Government agents, they are all portrayed as bad guys, they are amoral, they are cynical, they are assassins, they are underworld people, and I am sick and tired of it. I do not like my Government to be portrayed as less than honest, but I must say if this bill passes some people, 241 businessmen, I know they are not the homeless, I know they are not the schoolteachers lobby, they are just American citizens who had a right to believe in their Government and they did believe in their Government and now they are hurting.

The administration bill introduced a short 3 months ago gave them 10 years to amortize their goodwill, 10 years on a straight line basis, which meant that you could count it all for 10 years. Now suddenly it is down to 5 years and half of it goes in the first year.

We hear about ethics in Government; oh, do we hear about ethics in Government. I am at a loss to determine what is more fundamental to the concept of ethics than keeping your word. All we ask is a hearing. We do not erode. We do not corrode the standards. We affirm them, but before execution on a one-to-one basis before the very regulators that promised these institutions supervisory goodwill, let us have a hearing, not formal, it can be informal. They make the determination whether the thrift can qualify and their order can be anything they want it to be. They can say "close up." They can say shut down or they can say take 10 years. It is entirely up to them. There is no result mandated.

I just want to point out that these S&L's are not free from regulatory sanctions during the hearing process. Any unsafe practice, any unsound practice, and the whole weight of the law can fall down on them, cease and desist orders, take away their insurance, do anything you want, but where supervisory goodwill is concerned, where you promised it to them and they relied on your promise, give them a hearing before you punish them.

□ 1210

Mr. GONZALEZ. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, of course, time is on us. We intend in a bipartisan way to continue, and we have promised to share our time with the distinguished ranking member, the gentleman from Ohio [Mr. WYLIE]. I will restrict my statement to just about a minute or a minute and a half.

Of course, I am in strong opposition to the Hyde amendment, and the reason is simple. If anybody wants to find out what has happened in three States already, including Maryland, where we have thousands of good, innocent depositors who still have not gotten their money back because the legislatures in those States, the regulators in those States did exactly what the gentleman from Illinois [Mr. HYDE] is asking us to do on the national level.

Let us not for 1 minute deceive ourselves as to the impact of the Hyde amendment. It just guts the strong capital standards that the bill, as approved by the Committee on Banking, Finance and Urban Affairs, has approved already.

I urge my colleagues for every reason conceivable in the experience we have had to, please, vote against the Hyde amendment.

Mr. Chairman, during the late 1970's and early 1980's, economic and competitive conditions adversely affected the financial position of many savings and loans and mutual savings banks. High interest rates eroded profit margins and many financial institutions recorded significant losses.

Some institutions received outright financial assistance in the form of income capital or net worth certificates, some institutions were encouraged to dispose of the low yielding loans, take the loss and amortize that deferred loan loss over an agreed upon period, and others were closed and merged or acquired based on a supervisory decision with the acquirer recording goodwill.

In return for taking on a low yielding—not a nonperforming—portfolio of loans, those institutions who acquired troubled thrifts not only received supervisory goodwill but also immediately:

Realized substantial amount of growth, which ordinarily would have been considered excessive and grounds for a supervisory control.

Acquired a well-established branch network giving them a significant edge over their competition and an enhanced ability to generate earnings through fee income and consolidation of activities.

Obtained a substantial presence in a number of States that would have normally been prohibited.

Acquired forbearance from capital maintenance, growth, and earnings standards.

Obtained large amount of core deposits which could be used at their discretion to acquire high quality yielding assets.

In addition to these benefits, institutions that recorded supervisory goodwill as a result of a merger or acquisition of a troubled institution prior to 1983, had an advantage in that they could offset the goodwill—which was reducing income based on a 25-year amortization period—with the loan discount established from the writedown of the low yielding loans—which was increasing income based on a 10-year amortization period. This situation allowed institutions to increase their net income, retained earnings, and therefore increase their capital base.

Furthermore, those institutions that entered into these supervisory arrangements were able to sell the low yielding loans acquired under more favorable economic conditions and realize substantial gains, which also increased their income, retained earnings and capital base.

Based on all these factors it appears that institutions that assisted FSLIC in the resolution of troubled institutions were well compensated and if the operations had been prudently run should have realized substantial capital.

Some Members have stated that in the early 1980's the Bank Board ran out of cash in assisting troubled institutions and begged healthier thrifts to take over failing institutions by allowing the acquirers to record goodwill.

Although it was true that the Bank Board in the early 1980's recognized that they did not have adequate reserves to resolve cases in the traditional way, they did not simply beg other institutions to take on troubled institutions. On the contrary, from January 1981 to December 1984 FSLIC closed 13 institutions and provided assistance in the merger of 116 troubled thrifts. The cummulative assets of FSLIC assisted cases was approximately $70 billion.

In resolving the problems in the industry caused primarily by a mismatch between the earnings generated from long-term mortgages and interest paid on deposits, FSLIC introduced new resolution techniques such as; use of income capital certificates, new worth certificates, negotiable notes, interstate and interindustry acquisitions, and mutual to stock conversions. FSLIC also continued to provide outright cash, indemnification against future losses and guarantees on the earnings of certain assets.

Thus, those institutions that acquired troubled institutions without financial assistance did so on their own behalf, primarily attracted by opportunities for geographic expansion or the creation of new lines of business.

HYDE AMENDMENT

Mr. Chairman, I strongly oppose the Hyde amendment which provides for a lengthy and disruptive administrative appeals process that will have the effect of nullifying the improvements in regulation this bill requires. The agencies responsible for assuring the safe operation of this Nation's savings and loans must be able to act swiftly and decisively when an institution is in jeopardy of failing. The Hyde amendment limits the regulators flexibility and severely hampers their efforts to protect the deposit insurance fund, and ultimately the taxpayers, from additional preventable losses.

Some say "a deal is a deal." I agree. After the Great Depression, the Congress made a deal with the American public. It pledged that deposits in banks and savings associations would be protected from loss. That's why this rescue legislation is before us today. The moneys provided in this bill will allow the Federal insurance funds to keep faith with the depositors in failed financial institutions.

But just as providing the funds for the clean-up is important—it is essential that necessary reforms be made. First on this list is to shift a portion of the risk from the taxpayers to the thrift operators.

Allowing supervisory goodwill to be counted as capital in an unlimited amount or for an indefinite period would provide no real cushion for the institutions' losses. The purpose of a minimum capital standard is to require the savings associations' owners to have an amount of their own money at risk.

According to the Justice Department:

The new capital standards would not constitute a fifth amendment "taking," [of property] or give rise to well-founded contractual claims against the Government. FSLIC's forbearance letters simply do not create an interest that rises to the level of a property right that would limit Congress' power to legislate in this area. A contracting party assumes the risk that Congress may alter, amend, or abolish the statutory scheme upon which an agreement was based. Passage of FIRREA would not cause a failure of performance because the parties involved did not bargain for a promise of inaction by Congress.

Mr. Chairman, in blunt terms, the Bank Board and FSLIC insurance fund managers entered into bad deals—I might even call them steals. We as legislators have a responsibility to restore the public's confidence in our financial system and ensure that this hideous crisis never reoccurs.

Goodwill is not a good deal for the American public or the integrity of its financial institutions.

Mr. Chairman, I yield 2 minutes to the gentleman from Minnesota [Mr. VENTO], who labored very hard, and it was his amendment to the Wylie-Gonzalez amendment that did the very thing that the gentleman from Illinois [Mr. HYDE] says is not being done.

Mr. VENTO. Mr. Chairman, it is imperative that this House reject this amendment. The bill that we have before us does not put any S&L out of business, but we do get some standards for S&L's that are going to be in business in the future in this country.

In other words, the gentleman says that he supports capital standards. He supports the standards, but he is not supporting the implementation of those standards. It is ridiculous. The fact is that he suggests that we cannot correct a bad regulation or a failed policy. That is, indeed, what this has been: a failed policy, a $150 billion failed policy, and our constituents in this Nation, the people we represent, and many of us, are very angry about what is happening.

The Hyde amendment is a $10 or $15 billion proposition, at least, in terms of what is at stake. Let's put the record straight here. Let Congress write some fair rules. Let Congress not adopt and readopt the failed S&L policies of the past. Let us deal with the problem that is persented to us.

The Vento amendment adopted, wrote in committee between myself and the gentleman from Texas [Mr. GONZALEZ] and the gentleman from Ohio [Mr. WYLIE] is fair. Yes, it is tougher than what President Bush sent to us. That is what we are about. We are trying to make certain that this failed S&L policy is not repeated.

I do not question the good intentions of the gentleman from Illinois, but I certainly question the consequence of this Hyde amendment. This is a oneway amendment which provides legal benefits and other advantages for specific S&L's. These S&L's received significant benefits in the merger process. They received tax breaks, they got new franchises, they took some chances. If they want to do business, they can do business, but there are going to be realistic standards in place and Congress must put such standards in place. We do have the power, in fact we have the responsibility, to modify such flawed agreements. We modify tax laws and we

modify other regulations regularly and with deliberation and thought.

Mr. Chairman, I urge my colleagues to reject the Hyde amendment, to reject the premise of it, and to move forward so that we can have a bill that we can be certain will not result in the repeat of the same problems. We have difficulties enough to deal with without exacerbating and reenacting a failed regulators weak standards and policies which the Hyde amendment represents.

Mr. HYDE. Mr. Chairman, I yield 5½ minutes to the gentleman from Illinois [Mr. ANNUNZIO].

Mr. ANNUNZIO. Mr. Chairman, I support the amendment. I would prefer to see goodwill treated fairly, but wild and hysterical claims have made rational lawmaking impossible. The amendment is a step toward reversing the frenzied stampede against supervisory goodwill.

No topic in the S&L bill has generated more misunderstanding than supervisory goodwill. It has become, quite wrongly, a scapegoat for the cause of every problem in the S&L industry. It has become the "bloody shirt" of the savings and loan crisis, to be waved about as proof that all savings and loans are bankrupt, that savings and loan employees are crooks, and that the Congress is in the pocket of the industry's lobbyists.

Nothing about supervisory goodwill could be further from the truth.

Institutions with supervisory goodwill have become the innocent sacrificial lambs of the savings and loan morality play. They are to be sacrificed for the sins of the high-flyers, the crooks and the incompetents. Their sin is to still be in business after the wrong-doers are gone. For surviving, and for trying to help the FSLIC with their own money, they are to be punished.

Supervisory goodwill was created when healthy savings and loans agreed to take over insolvent savings and loans. They did so, in many cases, at the urging of the Federal Government to keep FSLIC from having to pay out cash that FSLIC did not have.

Last year FSLIC did not give acquirers supervisory goodwill when resolving insolvent thrifts. Instead, it gave them tangible assets, like cash, and notes backed with the full faith and credit of the United States.

The total cost of the 1988 deals is estimated by GAO to be $62 billion on a cash basis. And who will pay the $62 billion? Our taxpaying constituents will pay that $62 billion, that's who.

Compare that with the thrifts with supervisory goodwill. Those thrifts have written off an estimated $6 billion in supervisory goodwill. That is $6 billion that the Government would have had to pay if the institutions had not assumed the liabilities and losses of the insolvent thrifts. These thrifts paid for those losses out of their own earnings. They have paid the $6 billion, not your taxpaying constituents.

With an estimated $18 billion of supervisory goodwill still in existence, that is a large undertaking. And it will save your taxpaying constituents $18 billion.

If there is a scandal over supervisory goodwill, it will be that the United States broke its word over the approvals of supervisory goodwill.

In all cases involving supervisory goodwill, the Federal Government approved the takeovers.

It is ironic that Congress is willing to leave the 1988 deals basically untouched, but wants to undo the supervisory goodwill approvals.

It makes no sense to me that Congress would uphold the deals that may cost the taxpayer money and then overturn those agreements in which others volunteered to take the losses. Yet that is what H.R. 1278 does.

In December FSLIC gave Ronald Perelman, a man with an estimated net worth of $5 billion, assistance worth $5.1 billion to take over five insolvent Texas thrifts. Included were $2.80 in tax breaks for every dollar he put into the deal. Perelman had no experience in savings and loans, but he was savvy enough not to take any Government goodwill. He wanted, and he got, cash aid.

The news media has been in a feeding frenzy over intangible assets: "smoke and mirrors," "no real capital," "bad accounting." Let's take a look at the business side of the news. The Washington Post Company, $342 million in intangible assets. The New York Times Company, $547 million in intangible assets. Dow Jones & Company, publisher of the Wall Street Journal, $964 billion in intangible assets. Chicago's Tribune Company, $1 billion in intangible assets. Gannett Company, publisher of USA Today, $1.5 billion in intangible assets.

Intangible assets are not good enough for savings and loan shareholders, but they are good enough for media shareholders.

Unfortunately, some Members and the media have decided to make those thrifts with supervisory goodwill the sacrificial offering in lieu of the actual wrong-doers. These thrifts are still in existence and operating. Thus they stand the risk of being punished and wiped out to satisfy the blood lust that has been whipped up.

The amendment is a small step to moderate this misdirected frenzy.

Mr. Chairman, this is a modest amendment designed to restore some sanity to the storm over goodwill, and I urge its adoption.

□ 1220

Mr. HYDE. Mr. Chairman, I am pleased to yield 2 minutes to the distinguished gentleman from New York [Mr. SOLOMON].

Mr. SOLOMON. Mr. Chairman, I rise in support of the Hyde amendment. I am one of those Members who sat through marathon sessions of the Rules Committee in support of every amendment we could find to strengthen this S&L bill.

Let me just point out what would happen if the U.S. Government did not live up to its word and had to reimburse all of these solvent savings and loan associations who were coerced into buying out the insolvent ones. It would cost billions of dollars if the United States were to be fair with them, billions of dollars paid for by the taxpayers of this country.

I supported the Leach amendment to strengthen capitalization. I supported his amendment to knock out all of the special pork exemptions that are in bill, I supported every way that we could strengthen it. And I support the Hyde amendment to provide due process of law for those solvent S&Ls who did what was asked by their Government.

Let me point out one thing, the Senate bill, which is resting over here right now, passed by a vote of 91 to 8. Do my colleagues know that it has a weakening amendment in it that is much, much worse than what this bill is that we are considering here today?

Let me tell Members that the Hyde amendment is a strengthening amendment, it is a due process amendment which treats the American depositors and the American people fair. Ladies and gentleman, we should be fair and we should support the Hyde amendment.

Mr. HYDE. Mr. Chairman, I yield such time as he may consume to the gentleman from Illinois [Mr. CRANE].

Mr. CRANE. Mr. Chairman, in the early 1980s a number of savings and loans were asked by our Government to acquire ailing thrifts in order to help the Government and the taxpayers avert paying billions of dollars in bailout funds. Estimates indicate that these acquisitions saved the Government at least $13 billion.

These institutions did not get cash or FSLIC notes for taking on these ailing thrifts, but instead received what has become known as supervisory goodwill. In agreements with the Government these acquiring thrifts were allowed to write off this goodwill over a period of 20 to 40 years. Their ability to help the Government and get involved in these transactions in the first place was premised upon this agreed treatment of supervisory goodwill. These saving institutions relied on these agreements and would not have gotten involved in these transactions had there not been such agreements.

H.R. 1278 in its present form would require these S&Ls to write off this goodwill in a scant 5 years. This legislation violates the present agreements that these institutions made with the Federal Government and will unnecessar-

ily and arbitrarily turn many otherwise healthy and profitable thrifts into losing enterprises—many of these institutions will be considered in noncompliance with the capital standards in this legislation.

This is unfair and unnecessary. Those of us who support the Hyde amendment are simply asking that our Government live up to the agreements it has made. None of the institutions who acquired ailing thrifts would have done so in the first place had they known the Government was going to change the rules in the middle of the game. Had these S&Ls insisted on cash to take over the ailing thrifts or simply refused to take over those thrifts, the Government would have been forced to pay billions of dollars more in the early 1980s to bail out ailing thrifts. Instead, these institutions helped us out and in return what is this Government proposing to do? Congress is proposing to renege on Government agreements and push the very thrifts who helped us out, down the road of financial insolvency.

How many institutions will trust the Government in the future after seeing Congress abrogate these deals? As our colleague from Tennessee has said "If you can't trust the Federal Government, who can you trust?" Mr. Chairman, "A deal is a deal." If our Government and this Congress is to maintain any credibility and help restore any of its tarnished integrity, we had better act and support the Hyde amendment and ensure that the Federal Government lives up to the agreements it has made.

Mr. GONZALEZ. Mr. Chairman, it is with a great sense of privilege that I yield 10 minutes of our time to the distinguished gentleman from Ohio [Mr. WYLIE], the minority manager.

The CHAIRMAN. The gentleman from Ohio [Mr. WYLIE] is recognized for 10 minutes, and without objection, he may yield time to other Members.

There was not objection.

Mr. WYLIE. Mr. Chairman, I yield myself 3 minutes.

Mr. Chairman, the gentleman from Illinois [Mr. ANNUNZIO] who was in the well a little while ago, said that other corporations use goodwill on their books, in their accounting, and he is right about that, but he misses the point. The point is here we are using depositors' money. No money was advanced by a lot of these operators to buy sick thrifts.

It is true that maybe some of them were led down the primrose path and were promised goodwill when they took a sick thrift off the hands of the Federal Home Loan Bank Board, but they recognized a good deal when they saw one. In some cases they have up to 40 years of goodwill carried on their books. In a situation like that, they are not really gambling, they are not really gambling with their own money because they do not have any money up front. They are gambling with the public's money. If the business succeeds, management gets the profits. If the business goes down the drain, the Federal Savings and Loan Insurance Corporation has to pick up the losses, and that is what we are talking about.

That is a real money tree that they have discovered. In some cases, as I say, they may have been led down the primrose path, but we are not talking about naive dunces here, we are talking about smart people who entered into these agreements, and they sensed a good deal when they saw one.

What about the thrift institutions out there who have their 3-percent capital, who are meeting the requirements? There are over 2,000 of them, and we are beginning to hear from them. I got a letter from Great Western and World Savings. They took out full-page ads: "Support the higher capital standards in the House Banking Committee amendment."

I have a letter here from Mr. Shackleford in my own district who says:

> The long-run solution, as we have discussed before, is for S&Ls to meet the comparable capital requirements and risk regulations of commercial banks.

That is another point, 14,000 commercial banks have to meet these capital standards, and 2,000 thrifts already meet those capital standards, as I say. Only 441 are between 0 and 3 percent, tangible capital and most of them are big ones, and they can meet the capital standards requirements, in this bill.

I got a letter from the Governor of Ohio this morning and he said:

> Do not go back on the capital standards requirement. Remember what happened to us in Ohio when we had no deposit insurance and we had no money at risk up front because we did not have any capital requirements.

We went through a very agonizing situation in the State of Ohio. We came out of it, and those institutions now have to have capital up front. They have to have their own money at risk. We do not want to bail out these thrifts that have goodwill as capital. We need these strong capital requirements in this bill, and I urge all of the Members to vote in opposition to the Hyde amendment.

Mr. Chairman, I yield 2 minutes to the gentleman from Iowa [Mr. LEACH].

Mr. LEACH of Iowa. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, as usual, the gentleman from Illinois [Mr. HYDE] has made a very powerful case, but the question is whether it is compelling. I would simply raise to the body three modest weaknesses to the Hyde approach:

First, it is shallow constitutionalism; second, it is weak regulation; and third, it is bad public policy.

From the constitutional perspective, it is nuts to think that the Government can be bound forever by deals which were made by a regulator with insolvent funds. The Supreme Court has long held that Federal agencies cannot supersede and override the constitutional powers of the Congress. Let me quote from the Supreme Court of the United States:

> Immunity from Federal regulation is not gained through forehanded contracts. Were it otherwise, the paramount powers of Congress could be nullified by "prophetic discernment."
>
> Those who do business in the regulated field cannot object if the legislative scheme is buttressed by subsequent amendments to achieve a legislative end.

That is the Supreme Court speaking.

Simply put, there is no God-given right to offer federally insured deposits. It is a privilege, not a right.

The Hyde amendment is premised on the assumption that regulators have done a good job. But we would not be here if that had been the case.

Yes, Henry, for every bad deal there should be a remedy. Regulators have given us bad deals, $100 billion worth of bad deals. Now is the time for remedy.

At issue is the question of whether the word of this body should be kept to the industry that has made highway robbery of the American public, or whether it should be kept to the taxpayer who is asked to pay the piper. The analogy that must be kept in mind would be to the National Transportation Safety Board. If a large number of planes crashed and the Board did not toughen supervision of aircraft safety, we would all cry in despair. The fact of the matter is, in the savings and loan industry the wings are falling off. It is time we toughen regulation; it is time we defeat the Hyde amendment and support the President of the United States.

Mr. WYLIE. Mr. Chairman, I reserve the balance of my time.

Mr. HYDE. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Florida, Mr. CRAIG JAMES.

Mr. JAMES. Mr. Chairman, I have listened hard to all the arguments concerning the extremely controversial issue of supervisory goodwill. I fervently support efforts to require the strictest of capital requirements. If we had had the proper Federal regulations in place we never would have plunged into this crisis in the first place. But we didn't—and in the early 1980's the Federal Government approached healthy thrifts and asked for their assistance. Asked that these healthy thrifts assume liability for failing institutions. The Federal Government used as the attraction a bit of accounting wizardry called supervisory goodwill. These healthy thrifts would be allowed to carry this goodwill on their books as an asset. Was this a bad idea? Yes it was. Were Federal regulators wrong to allow thrifts to count as assets something that didn't even exist? Definitely. But our Government promised to allow these healthy

thrifts to use supervisory goodwill in calculating their capital for a period of 20 to 40 years. Our Government gave its word. In return we were able to save billions of Federal dollars that would have otherwise gone toward bailing out these failing thrifts. Now, many in this Congress are recommending that this Government break its promise, renege on its contracts, go back on its word. I cannot support this recommendation. If a government's word is not as good as gold, then its integrity and credibility vanishes. If our Government, if any government cannot be trusted, then we do not have government—we have anarchy. I ask that you vote to retain the integrity and credibility of our Government. I ask that you vote to keep the word and the promise of our American Government. I ask that you vote in favor of the Hyde amendment.

□ 1230

The CHAIRMAN. The Chair will announce that the gentleman from Illinois [Mr. HYDE] has 10½ minutes remaining, the gentleman from Ohio [Mr. WYLIE] has 4 minutes remaining, and the gentleman from Texas [Mr. GONZALEZ] has 16 minutes remaining.

Mr. GONZALEZ. Mr. Chairman, I yield 3 minutes to the distinguished minority leader, the gentleman from Illinois [Mr. MICHEL].

Mr. MICHEL. Mr. Chairman, there ought to be a short story written about the genesis of this legislation. We should call it the Anatomy of a Public Policy. It is quite a tale with all of the intrigue, scandal, and inefficient Government which seems to attract readers these days.

The story is lacking in sex and violence. But what it does have for spice is my dear friend from Illinois [Mr. HYDE]. His amendment is worthy of the House's consideration because it illustrates the real complexity of this issue.

The story is one of financial speculation, economic decline, and Government mismanagement. As the gentleman so well pointed out, it began several years ago when savings and loans across America were going belly up. The Government stepped in and enticed strong savings and loan institutions to merge with weak ones to prop them up. The Government's inducement to do this was fool's gold, a thing called goodwill, which the Government promised to turn into real gold by allowing it as a capital asset.

Now admittedly goodwill is an acknowledged acceptable accounting principle where in the transfer of businesses there really is some bona fide goodwill by name that changes hands. But the principle of goodwill was stretched out to the ultimate in these cases, believe me.

Many good, solid savings and loans bought into that Government offer. I have often wondered why, but they did. They put the fools gold on their books as a capital asset and the Government accepted it.

Now, however, the crisis in the savings and loan industry remains, and the Government no longer has the luxury of offering quick fixes and economic miracle drugs like goodwill.

The problem, which my friend HENRY HYDE acknowledges in his amendment, is that more than 240 savings and loans across the country, many of which are in Illinois, are left holding the bag, and with one stroke of our pen here today we are declaring a solvent institution insolvent because they carry goodwill on their books. That has been a hard one for me to deal with over the last several weeks.

The gentleman from Illinois believes those institutions though they had an honest contract with their Government on the use of goodwill as an asset regardless of how unsound the practice seemed then or now. But I tell you around here every once in a while we pass laws doing exactly the opposite of what we did a few years prior because we though what we did at the time was right but we had to recant and turn around. People have lost great sums of money because of that, in the tax bill particularly. So, while the gentleman's response to the problem may be responsible, I have to ask myself is it really right? I am not so sure. I have serious reservations about it.

We do face an economic crisis now, but we would face one of monumental proportions 3 years from now if we do not take the right steps now. We have to be not only responsible but we have to be right today.

Perpetuating goodwill in these cases, frankly, perpetuates the problem.

The CHAIRMAN. The time of the gentleman from Illinois [Mr. MICHEL] has expired.

Mr. WYLIE. Mr. Chairman, I yield 1 additional minute to the gentleman from Illinois [Mr. MICHEL].

Mr. MICHEL. I thank the gentleman for yielding.

I wanted to tell the gentleman from Illinois that I could not support him, it is a difficult decision for me. The problem is not, as Mr. HYDE said, nearly as simplistic as it is being portrayed on the nightly news.

I want to compliment my colleague from Illinois for the honorable motivation behind his amendment and express my appreciation to him for having the courage to present another view that at least deserves to be heard on the floor of this House.

But having said that, I want to urge my colleagues to defeat his well-motivated amendment.

Mr. HYDE. Mr. Chairman, will the gentleman yield?

Mr. MICHEL. I yield to my friend, the gentleman from Illinois [Mr. HYDE].

Mr. HYDE. I thank the gentleman for yielding.

Mr. Chairman, that is what is known in debating circles as "the perfumed icepick," but I welcome it.

Mr. GONZALEZ. Mr. Chairman, I yield 1 minute to the distinguished gentleman from North Carolina [Mr. NEAL] who has been a stalwart in this battle.

Mr. NEAL of North Carolina. I thank the distinguished chairman for yielding.

Mr. Chairman, I just want to say to Mr. HYDE and to others supporting his side of this argument that I have a good deal of sympathy with their positions. This was, frankly, the most agonizing issue that we had to deal with in committee.

But when you spend time on it, as we were forced to do in the committee, over a number of weeks during hearings, in subcommittee deliberations, in full committee, and so on, you come to the inescapable conclusion that we cannot solve this problem without making sure that there is adequate private capital in this industry. The capital simply is not there.

If we were to allow the continued counting of goodwill which is not worth anything if you have to liquidate one of these failed institutions, then we will be right back here again in a very short period of time.

As agonizing as it is, we simply must reject this amendment. We must make sure that there is real tangible capital in this industry.

Mr. GONZALEZ. Mr. Chairman, I yield 1 minute to the distinguished gentleman from Connecticut [Mr. MORRISON].

Mr. MORRISON of Connecticut. I thank the gentleman for yielding.

Mr. Chairman, the issue here is "Don't let it happen again." And the way we don't let it happen again is we protect the taxpayers' deposits, protect the deposits and the taxpayers with adequate capital. This bill has adequate capital. The Hyde amendment undermines adequate capital.

We are not violating any promises that have been made. We are putting in new regulatory requirements on cash money, 3 percent, not goodwill, cash money for capital. We are not undermining any promises. There is an available procedure to get an exemption if you are really building up your capital. There is that already.

The process that is due is already there. We do not need any more due process for those people who are going to risk the taxpayers' money. We need to protect the taxpayers' money and see to it that it does not happen again.

Mr. GONZALEZ. Mr. Chairman, I yield 1 minute to the gentleman from California [Mr. LEHMAN].

□ 1240

Mr. LEHMAN of California. This amendment would continue and expand the subversion of the regulatory process that got Congress into this problem in the first place. It would encourage the favoritism to continue and would encourage more legislative meddling in the regulatory process.

Just as a hypothetical, what do any of the Members think a regulator would do if five legislators happened to sit down with him prior to one of the hearings and discuss what ought to be done with good will? I come from a State with a lot of good will on the books. I had to study this issue very carefully, very deliberately. I came to the same conclusion that the administration came to, and the same conclusion that the Senate came to, and the same conclusion that the vast majority of the Committee on Banking, Finance and Urban Affairs came to: That the one thing we could do to prevent this from happening again is to have a strong capital requirement, no exemptions, no exceptions, as the Hyde amendment would permit. We do not close down those institutions, by the way, if they do not meet the capital requirement. We merely require that they provide a plan by which they will meet the capital requirement and we limit their growth until they do. This is a sound policy. I urge a no vote on the Hyde amendment.

Mr. GONZALEZ. Mr. Chairman, I yield 1 minute to the distinguished gentleman from Delaware [Mr. CARPER].

Mr. CARPER. Mr. Chairman, some would have Members believe that S&L's which will not meet the capital standards in this bill would just be closed, closed automatically. No appeal. No hearing. No consultation. Well, let's consider a couple of points. First, over three-fourths of the S&L's in the country today already meet the 1990 standards that are in the bill; over two-thirds of the S&L's in the country already meet the tougher standards that will exist after 1994.

Earlier today, someone said all they are asking for with this amendment is for those institutions not meeting capital standards to have a hearing. Let me take a minute to explain what happens under the bill if an S&L does not meet the standards that are called for in this legislation. They ask for hearings. They go to the chairman of the FDIC, and they say, "We would like to have the opportunity to sit down. Here is our business plan to enable us to meet the capital standards by a date certain. Yes, we are making a profit. No, we are not dissipating our assets. Yes, we are prudent managers." The FDIC has to sit through those hearings. They have to judge the merit of the presentation of each S&L. Then, the FDIC must decide which S&L to exempt from the capital standards.

As a practical matter, my colleagues, we may not have authorized enough money in this entire bill to close down all of the institutions that we need to close down. The FDIC is going to be looking, as a practical matter, for those promising, albeit marginal, institutions that it can help by providing them with short-term exemptions from capital standards which demonstrate the ability ultimately to meet those standards.

I urge my colleagues to stick with the bill and oppose the Hyde amendment.

Mr. HYDE. Mr. Chairman, I yield such time as he may consume to the gentleman from Illinois [Mr. PORTER].

Mr. PORTER. Mr. Chairman, I rise in strong support of the Hyde amendment.

Mr. Chairman, one of the greatest complaints the people of this country have about Congress is we make it impossible to plan for the future because we change directions so frequently that people are forced to operate from a defensive position.

We cannot operate in a historic vacuum when creating legislation. We must make laws today with an eye toward what happened yesterday as well as what should happen tomorrow.

To discount supervisory goodwill categorically is to ignore the reasons it was created in the first place and to turn on the very institutions that helped the Government resolve a serious financial dilemma 5 years ago.

FSLIC asked healthy thrifts to merge with insolvent thrifts in the early 1980's. These thrifts did the Government a favor and were made promises in return. Now they're kicking themselves for trusting us.

It is unfair that we are trying to go back on our word. If we don't offer to give thrifts at least a fair hearing we are sending a strong message to all Americans: Don't bother planning for the future. There's a good chance we'll pull the carpet out from under you if you do.

That is not a message we should be sending.

Mr. Chairman, the Hyde amendment does not require the Government to honor all of the goodwill it has previously approved in encouraging mergers. All it does is provide an administrative procedure—a hearing—where the issue can be raised.

Frankly, without the Hyde provisions, it is inevitable that those thrifts that were encouraged to merge—some 240 institutions—will take the Government to court to force us to recognize our commitments and treat them with equity.

Mr. Chairman, Hyde provides the possibility of relief to a small number of institutions. It does not undermine the strong capital requirements of the bill, which I believe should be part of the law I support. But thoughtful Members of this body underrated the obligations of the past and the need, contractually, constitutionally, and equitably, to give them some measure of recognition in fashioning new policy—and needed new policy—for the future.

Mr. HYDE. Mr. Chairman, I yield 1 minute to the gentleman from California [Mr. DREIER].

Mr. DREIER of California. Mr. Chairman, I yield to the gentleman from Indiana [Mr. HILER].

Mr. HILER. Mr. Chairman, I rise today in support of the Hyde amendment. I believe the Hyde amendment improves the capital provisions of the bill as adopted by the Banking Committee. The Hyde amendment does not alter the capital standards one bit. All it says is that if you have supervisory goodwill on your balance sheet, that has been granted by the regulator, then you are permitted a hearing to determine whether your arrangement with the regulator is binding. This represents the most fundamental form of due process.

Critics of Congressman HYDE'S amendment indicate that it will create delay for the regulators in dealing with problem institutions. I believe that the procedures called for by Congressman HYDE are no different than the administrative procedures already utilized by the regulators. I believe that each of the sanctions imposed for capital inadequacy under section 314 of the bill represent "final agency actions" under the Administrative Procedures Act. This means that the regulators' decisions will likely be subject to some form of review even without the Hyde amendment. What the Hyde amendment would do would be to clarify the parameters of a hearing on the goodwill issue. It would create no new hearing requirement but merely tracks current law under section 8 of the Federal Deposit Insurance Act. No greater delay should occur than already occurs pursuant to ordinary administrative enforcement actions. To state that this procedure will add months and years to the resolution of problem cases demonstrates a fundamental lack of knowledge on how the agencies currently conduct enforcement actions. By virtue of this legislation, the Government is reneging on a $23 billion agareement it had with industry members who took the Government's word in lieu of cash or notes that were not available. With this legislation we take this agreement away from the industry in one fell swoop. All Congressman HYDE'S amendment does is to give these institutions their day before the agency to present evidence that they had entered into a binding arrangement. Fairness dictates that Congress should give them such a hearing.

Additionally, I am troubled by the legal precedent we are setting for future FDIC and RTC case resolutions. The documents used in the supervisory goodwill deals were based on documents used in similar private transactions. The Bank Board documents were made as parallel to documents used in comparable private transactions as possible so that the provisions would have a common legal interpretation. No one denies that the underlying documents of the goodwill deals would form a binding arrangement if the agreement was between private parties. If we permit the Government to abrogate these contracts, how will the documents for future case resolutions be

drafted. Will the FDIC have to begin to pay a premium, almost a performance bond, to potential acquirers who will not be able to judge or price the deals they are entering into with any certainty when dealing with the Government. If the supervisory goodwill arrangements are abrogated without even a hearing on the issue, why will potential acquirers rush to pick up new problem cases. I am very concerned by the precedent we are setting here and the precedent Congress is setting for institutions that are interested in dealing with the FDIC or the RTC in the future.

I strongly support Congressman HYDE'S reasonable approach to inject a small measure of due process into the system. I urge my colleagues to support the Hyde amendment.

Mr. DREIER of California. Mr. Chairman, I thank my friend for his very able contribution.

Mr. Chairman, attracting private capital to the thrift industry is something that we all want to see. There is no doubt about the fact we want to continue to encourage it. However, when one looks at what we are doing with this provision of this bill, it is clearly a disincentive for attracting private capital.

In the early part of this decade, the Federal Home Loan Bank Board tried to provide an incentive for strong thrifts to acquire the week; that incentive was provided by way of supervisory good will. What we are trying to do with the Hyde amendment is to recognize the fact that that agreement did exist, and we have to consider recognizing it on a case by case basis.

One of the things that we face as a real threat is legal challenges emanating from virtually every institution which would be denied the ability to count supervisory goodwill. All the gentleman from Illinois [Mr. HYDE] does with his amendment is establish a hearing process. That hearing process could play an important role in eliminating, eliminating, the threat of a legal challenge. I think we need to take that into consideration as we debate this very balanced amendment.

Mr. GONZALEZ. Mr. Chairman, I yield 1 minute to the gentleman from Georgia [Mr. BARNARD].

Mr. BARNARD. Mr. Chairman, the issue of appropriate capital standards for savings and loans, obviously, has been one on which the Banking Committee and the Judiciary Committee have been round and round for many weeks.

Many have suggested, and will suggest during this debate and, indeed, through conference, that a compromise is necessary to permit those with supervisory and other forms of goodwill to be treated more leniently or with special procedures. One of my perspectives is that a compromise has been struck.

When the administration bill was introduced it called for S&L's to have leverage capital equal to that of national banks and provided for a phase-in period ending on June 1, 1991, at which time S&L's not in compliance would be growth prohibited. Leverage capital for national banks is 6 percent. All goodwill could, with the concurrence of the Secretary of the Treasury, be counted for up to 10 years with straight line amortization, even though national banks have virtually none of it on their books now and were totally stopped from posting it in 1985.

The Banking Committee bill and, therefore, the Gonzalez amendment—the last in this king of the mountain round—provides for only 3 percent leverage capital, with goodwill having to be purged from the books, by phases, by January 1, 1994. Moreover, growth is permitted if the S&L can file a business plan acceptable to the office of thrift supervision, or the FDIC.

Members who believe the Banking Committee has been unduly harsh on the industry should recognize that there has been fully a one half cut in the standards which the administration originally recommended.

I would have preferred that we did not get embroiled in what is essentially a very detailed accounting matter, more fit for regulators. Plainly, what I was up against was that the regulatory track record was very poor. Since early in the decade, the FHLBB had ravaged capital standards to the point where they made no sense. The FHLBB rule on leverage capital in place today is simply incoherent. However, a committee made up of regulators, such as the FED, which have a history of toughness, could have addressed this whole area much better and with more flexibility geared to needs and shortcomings of given S&L's.

However, the time for that is passed, and we are stuck with the more narrow approach of complex legislating of capital, something which Congress has avoided for decades. This is so for no other reason than capital needs change. Indeed, the bank regulators are in the process of altering to a whole new system, based on asset risk instead of leverage ratios.

Additionally, the banking formula could have been improved by providing more leniency on goodwill for institutions which have it but which are consistently profitable. The banking language has the shortcoming that it punishes firms without looking at whether they really are successful and not merely leaning on goodwill as a crutch. I would recommend to the conference considering some sort of "bonus" in the growth permitted for institutions made capital deficient by banking's standards but which are consistently profitable.

Despite my problems with the banking text, I found little to recommend supporting any of the amendments permitted by rules except the banking reinstatement language to be offered by Mr. GONZALEZ.

Mr. QUILLEN would not move goodwill off the books as fast as possible. Mr. SCHUMER'S accelerated requirements for purging goodwill from the books would ask the impossible. Mr. HYDE'S approach concerns the improbable.

By improbable, I mean it is addressed to a problem which I do not believe exists—that some form of property right was vested in acquirers of defunct or failing institutions by the FHLBB when it permitted those acquirers to hold goodwill generated by the acquisition as qualifying regulatory capital. I am persuaded in this by the excellent letter of the Justice Department to Mr. WYLIE of June 12, 1989.

In any event, what we should be doing today is not deciding on whether banking's language violates the fifth amendment's prohibition on taking property without due process and compensation or breaches contract rights. What we should be doing is setting basic policy on S&L capital standards by signalling that the party is over. Supreme Court rulings on contract rights and the fifth amendment in the future will be case by case with all parties being able to present whether they have been specifically wronged.

In conclusion with respect to capital issues, I have sat through literally hundreds of hours of hearings; reviewed thousands of pages of material on the subject; listened to endless conversations; weighed and worried about solutions. The Banking Committee has done just about as well as possible to date. Conference will undoubtedly provide some improvements, especially with respect to technical problems in drafting, but the vote today should be for the document banking has produced.

Mr. GONZALEZ. Mr. Chairman, I yield 1 minute to the gentleman from Maryland [Mr. MCMILLEN].

Mr. MCMILLEN of Maryland. Mr. Chairman, I rise today in opposition to the Hyde amendment and in support of the committee's position. The treatment of good will was one of the most contentious issues that we faced in the Committee on Banking, Finance and Urban Affairs during the long deliberation of this bill. Some members on the committee were sympathetic to those institutions that carry large amounts of good will on the books, and recognize that some were responsible institutions, and, in fact, the Government had encouraged these forebearances. Keeping that in mind, we worked to draft a compromise that was fair. Some members would have been willing to discuss stretching out the transition period for the writing off of good will somewhat beyond 5 years as required by the Committee on

Banking, Finance and Urban Affairs bill provided, but there would be reasonable, required adequate tangible capital.

However, I am sorry to say that the Hyde amendment will completely eviscerate these real standards. Some have argued the Hyde amendment is a fair, reasonable approach to the question of good will. Instead, it is an administrative nightmare. Not only would the administrative hearings required by the amendment delay enforcement of the bill's new capital requirements, it would also increase the already difficult burden shouldered by the regulators, diminish their flexibility, and greatly hamper their ability to deal with the S&L crisis. I urge a "no" vote on the Hyde amendment.

Mr. GONZALEZ. Mr. Chairman, I am delighted to yield 1 minute to the gentleman from North Carolina [Mr. PRICE].

Mr. PRICE. Mr. Chairman, I rise today to urge my colleagues to vote against the Hyde amendment. This amendment, in the the most plain and simple terms, is an attempt to keep the cost of running a thrift on the taxpayers of this country rather than the operators of the savings and loan associations. It is this kind of mentality that created the current situation; it is this kind of practice we must stop.

The proponents of this amendment say a "Deal is a Deal" and wear buttons proclaiming this sentiment. But to claim that Congress can never change a regulator's decision even if that decision has already cost our Nation billions of dollars and could continue to cost us billions in the future is simply not tenable.

We change laws constantly. The tax laws are changed all the time to improve public policy without regard to their effect on business decisions made in reliance on prior law. Previously approved substances upon being found to be detrimental to health, are outlawed without regard to previous permissions by the Government. Supervisory goodwill is one of the remaining poisons of the savings and loan industry, and it is time we ended the practice of using it.

If the proponents of this amendment are so concerned that a deal is a deal, they should freeze all past regulatory promises or deals. In their world, banks should not have to change to risk-based capital standards; S&L's should be able to continue all their current capital practices. We all know that to prohibit such changes, based on the supposed sanctity of past deals and decisions, would be wrongheaded and unprecedented.

I agree with the proponents, however, that these changes should not be made lightly. That is why the House Banking Committee worked so long and hard to develop standards that were tough and fair, and that provided considerable administrative flexibility at the end of the phase-in period for the new standards. The provisions that were developed meet our most important commitment: to protect the Nation's taxpayer. It is this commitment and contract that I hope we will follow today.

Mr. WYLIE. Mr. Chairman, I yield 2 minutes to the gentleman from North Carolina [Mr. MCMILLAN].

Mr. MCMILLAN of North Carolina. Mr. Chairman, I rise today in opposition to the Hyde amendment. This amendment is only forbearance by another name. It guts the capital requirement by delaying action by the FDIC to correct an undercapitalized situation, and ultimately can increase the size of the taxpayers' bailout. The primary cause of the thrift problem was weak regulatory power in a framework of Government deposit guaranty. This and other amendments would perpetuate the problem.

A crucial purpose of the bill is to place undercapitalized thrifts under greater and timely supervisory oversight because they pose a constant risk to the deposit insurance fund and taxpayers. If this oversight can't be exercised during the hearing period called for in the Hyde amendment, thrifts will be able to continue the practices that led to this crisis.

The Hyde amendment weakens the power of the FDIC to work out a viable solution with those institutions who, after 5 years, still don't meet the minimal capital adequacy test. Why, as trustees of the taxpayers' dollars, should we allow a litigious administrative review in a situation that can best be handled between the regulators and the industry.

Hyde is offered on the premise that it allows for a due process review of S&L's who carry supervisory good will. What many don't understand is the bill already calls for case-by-case review. If an S&L does not meet the capital requirements, the result may not be immediate closure, but increased supervisory oversight—exactly what is needed. Regulators will work with the institution under a business plan to bring it into compliance and soundness.

It is these very measures in the bill that maintain the constructive tension that deals with the immediate financial situation, rather than resort to litigation and lack of action. The spirit of the Hyde amendment is right—it is correct to honor commitments made, but only in the interest of preserving a sound thrift and protecting the public exposure in its guarantee of deposits. The bill provides for that in a timely manner.

Supervisory good will is not an asset owned by the thrift, but an accounting treatment granted by the regulators to facilitate a workout in the public interest. I urge my colleagues to support the committee bill and defeat this and other weakening amendments.

□ 1250

Mr. HYDE. Mr. Chairman, I yield 1 minute to the gentleman from Louisiana [Mr. BAKER].

Mr. BAKER. Mr. Chairman, I thank the gentleman for yielding this time to me.

Mr. Chairman, among the thundering hooves of the lynch mob trying to rid the land of vandals, it is difficult sometimes to hear the quiet voice of reason, but let us think for a moment. The most important investment American families make is their home, and they will have no stake in the S&L industry. They have no stake in what their neighbor next door does when he leaves his home vacant to go to another job somewhere else in another State. But in this process, with the foreclosure of S&L's and the dumping of assets in the marketplace, that innocent person, having no stake in this, will see property values precipitously decline as properties are dumped in the marketplace.

That is fact of life. It is occurring today in Louisiana, and it will occur in other States as this process proceeds.

Let us for a moment think quietly about the cost of resolution. In some cases the cost of closing the institution and dumping the assets is higher than the cost of continued forbearance and the extension of good will. There is no question that a case-by-case resolution of this matter is the most important and the logical way to proceed.

Mr. Chairman, this is not due process just for the savings and loan industry; it is due process for the American homeowner and the taxpayer.

Mr. GONZALEZ. Mr. Chairman, I yield 1 minute to the distinguished gentlewoman from California [Ms. PELOSI].

Ms. PELOSI. Mr. Chairman, I rise in opposition to the Hyde amendment. This amendment would have the effect of weakening the capital standards which are at the heart of this legislation. Strong capital standards are absolutely essential if we are to resolve the current savings and loan crisis and to ensure that the crisis is never repeated.

One important lesson we have learned through the savings and loan crisis—and we have learned it the hard way—is that deposit insurance works when private capital is at risk. Institutions and individuals with nothing of their own to lose often take greater risks than they might if they had their own assets on the line. That, indeed is what we saw happen in the savings and loan industry, and now the American taxpayer must pay the cost for those failed risks.

The capital standards included in H.R. 1278 as passed by the Banking

Committee were designed to protect the American taxpayer by mandating that institutions must establish and maintain a cushion of real, hard, tangible capital—cash—which will protect the deposit insurance system and the taxpayer. Strong capital standards are the single most important safeguard we can provide.

The Hyde amendment undermines the goal of tough capital standards by placing procedural obstacles in the way of the regulators who are responsible for ensuring that institutions meet the capital standards. The capital standards in this bill are basic—we must resist efforts to allow ailing institutions to drag out the process and thus continue to act as a drain on the resources of the deposit insurance system.

The purpose of the deposit insurance system is to provide a level of safety to depositors in our financial institutions. Let me repeat, safety is the operative word. Proponents of the amendments to weaken the capital standards are basing their arguments on fairness to the thrift industry, not safety of the deposit insurance system. While I, along with my colleagues, am an ardent advocate of fairness, being fair is often a subjective determination. The American taxpayer deserves objectivity here—objective, hard, tangible capital will provide the best protection to the taxpayer—goodwill will not.

Fairness to thrifts will not pay the bill; it will not prevent a reoccurrence of distortions in the accounting system; it will not rebuild the deposit insurance system and maintain that system as a healthy, functioning entity. We, as Members of Congress, have a responsibility to insist on the reestablishment of safety as the primary purpose.

Passage of the Hyde amendment would serve as a disincentive to many companies to take the necessary steps to raise capital. It would allow them to stall by implementing a complex procedure through which they could tie the regulators' hands. Included in the language already in the bill is a provision giving the regulators some latitude in working with institutions that can make a legitimate case that they are making progress toward meeting the new capital standards.

We must be serious in our determination to revitalize the savings and loan industry. We must be serious in our determination to protect the deposit insurance system and the American taxpayer and we must be serious in our determination to see that this crisis cannot and will not happen again. The Hyde amendment sends the opposite message—it says to the thrift industry that we are willing to make exceptions to strong capital standards and that we are willing to drag our feet on a real, workable resolution to the problem.

I understand that this decision may be a hard one for my colleagues. The Hyde amendment is well-crafted. From the standpoint of the thrift industry, the Hyde amendment is appealing. But I caution them that it is dangerous.

We have to choose here between making a decision in favor of the American taxpayer or in favor of the savings and loan industry. The Hyde amendment represents a bail-out for the savings and loan industry, with the taxpayer bearing the cost. I urge my colleagues to make their decision in favor of the taxpayer, not the savings and loans. I urge my colleagues to oppose the Hyde amendment.

Mr. HYDE. Mr. Chairman, I am pleased to yield 2 minutes to the gentleman from Pennsylvania [Mr. RIDGE].

Mr. RIDGE. Mr. Chairman, the debate on capital standards over the past couple of months has escalated from tough to tougher to toughest. Everybody is on this macho legislative trip to make sure we have the most rigorous capital standards possible. We should not settle for less and I do not think there is any dissent on this issue. But the Hyde amendment is not about tough capital standards. The Hyde amendment is about toughness, fairness, and practicality.

Let us think about what we are doing here. We are asking for a case-by-case review of those healthy institutions that had grafted onto themselves unhealthy institutions when asked by the Federal Government.

Those who simply want to be tough, should eat some spinach, go down to the weight room, and ignore what I have to say. But if you want to be tough and fair, you should consider this amendment carefully. We have these institutions with supervisory goodwill. The Federal Government asked them to absorb unhealthy institutions. We are not grandfathering all supervisory goodwill for all time and under all circumstances. We are merely asking the regulators, with the idea that we can avoid additional costs to the taxpayers, to take a look at these 200 or 300 institutions individually. We will be able to identify those that can survive if we amortize the good will as promised. Let them continue to amortize it. We will be able to identify those that should be shut down, and if amortization of goodwill would be accommodation, then the regulators can close the door.

My colleague, the gentleman from Illinois [Mr. HYDE], is not asking for anything more than a case-by-case review of those institutions which absorbed unhealthy institutions at the request of their government. It is reasonable and it is appropriate, to deal with them in this fashion because the $150 billion we have in this legislation cannot cover the potential obligations of these institutions. They are not the "go-go" "high flying" institutions. They were healthy until the government asked them to become unhealthy and gave them time to become sound again. The record should be clear as to the nature of supervisory goodwill.

Goodwill is not permanent, it is transitional. It has a scheduled, defined, limited lifespan. In the case of supervisory goodwill, it can only be carried on the balance sheets for a limited period of time as agreed to by the acquiror and the Federal regulator. Under generally accepted accounting principles, goodwill is normally carried on the books from 10 to 25 years. The deduction of goodwill from a company's or financial institution's balance sheet over time is referred to as "amortizing" the goodwill.

Amortization means liquidation. A company's goodwill disappears over time. As it disappears, it must be replaced by net income from business operations or some other form of capital for the company to maintain its net worth level.

Tangible replaces intangible. Amortization requires replacing intangible capital to maintain net worth. Most thrifts have been and continue to replace goodwill with tangible capital. Goodwill is no different in this respect from any other assets which are subject to depreciation on the theory that they do not last forever and the portion used up in a particular year should be written off.

Goodwill is an asset. It is so recognized by thrift regulators, the Securities and Exchange Commission, and the standards of the accounting profession. Goodwill exists for all types of companies, including thrifts, newspapers, and manufacturers. It represents the "going concern" value of a business acquired, including its customer base, reputation, and location.

Goodwill, however, is not and should not be a component of capital for banks or thrifts. A tough, tangible core capital requirement is the proper goal that should be established in this bill. But, it is vitally important to keep a few important points in mind in establishing this goal. First, we must consider how future deals will be impacted by reneging on standing agreements with the U.S. Government. Second, we must consider whether, on a case by case basis, some institutions, those who have considerable equity at risk, continue to raise significant capital, are profitable and have been amortizing the goodwill should simply have an opportunity to be considered by the Federal regulators for some leniency on the deduction of goodwill from capital. In order to enable them to continue to raise capital unim-

paired, the regulator must make this determination before they are determined to be unsafe and unsound, are placed under a supervisory arrangement and have their growth controlled. Most importantly, it provides the regulators with sufficient flexibility to avoid spending taxpayer money to seek acquirors or to liquidate what are essentially viable institutions. Similar, less restrictive, language is proposed by the Office of the Comptroller of the Currency for national banks.

Such an approach would not undermine the tangible standard and would not provide for a general grandfather of goodwill. It would simply provide the regulator with flexibility concerning the most viable institutions with goodwill accumulated in federally supervised transactions.

I urge my colleagues to support the Hyde amendment which enables those institutions that have this supervisory goodwill to have their cases reviewed individually. It is that sinple, but that important.

Mr. GONZALEZ. Mr. Chairman, I yield 1 minute to the gentleman from Wisconsin [Mr. KLECZKA].

Mr. KLECZKA. Mr. Chairman, let me first of all thank the chairman of the committee for yielding this time to me.

Mr. Chairman, we read in the newspapers that the killer bees are on their way to this country. I think they have arrived in the Chamber today in the form of the Hyde amendment, because clearly this amendment goes right to the heart of this bill, and if in fact it is adopted, I think in a few years we are going to have to revisit this financial crisis.

Throughout the entire debate on this issue, the S&L's came before the committee opposing every portion of the bill. They opposed regulation by the FDIC, they opposed increased premiums, and at the end of all this opposition they said they want the same logo as banks. So they want to look like banks, they want to talk like banks and they want to smell like banks. But when the committee provided the same capital standards that banks have, then they said, "Well, we don't want to be banks anymore."

Mr. Chairman, I ask the Members to oppose the Hyde amendment. Wisconsin's S&L's are already at this heightened capital standard. I think it is time the rest of the industry followed suit, and let us stop the buzzing.

Mr. Chairman, we'll hear one argument over and over.

Thrifts which were able to work out deals with FSLIC earlier in this decade which allow them to operate with no real capital will argue that they should be allowed to maintain those low standards.

The slogan of the day? "A deal's a deal."

If anyone should be arguing that "A deal's a deal," it should be the taxpayers.

The deal they made with the savings and loan industry was that our system of deposit insurance would be financed by the industry itself, not by the taxpayers.

The industry has told the Congress: "That deal's off. We want the taxpayers to bail us out."

We haven't heard much about the abrogation of that particular contract.

Those who lobby for favorable treatment for thrifts which hold substantial amounts of goodwill make the case on behalf of the stockholders of their thrifts.

Each of us, however, represents approximately 500,000 stockholders. When we throw around slogans like "A Deal's a Deal," let's keep in mind that they're entitled to a hearing as well.

To protect their interests, I urge my colleagues to vote against the Hyde and Quillen amendments to reduce capital standards.

Mr. WYLIE. Mr Chairman, I yield 2 minutes, the balance of my time, to the gentleman from Wisconsin [Mr. ROTH].

Mrs. ROUKEMA. Mr. Chairman, will the gentleman yield?

Mr. ROTH. I yield to the gentlewoman from New Jersey.

Mrs. ROUKEMA. Mr. Chairman, the Hyde amendment should be opposed. It guts the bill, and it is totally unnecessary.

Mr. Chairman, I rise in opposition to the Hyde amendment which would gut the important and necessary capital requirements of the bill.

Strong capital requirements are essential to correct past mistakes and protect against incurring significant new costs to the insurance funds and the American taxpayer.

The Hyde amendment would seriously jeopardize the process under which the regulators can protect the insurance fund and weed out weak institutions. Which of course, was implicit in the President's promise of "never again."

Goodwill agreements are essentially regulatory forebearances and not contracts. There is no constitutional imperative here.

The Justice Department has determined that the imposition of new capital standards would not be a governmental appropriation of private property since goodwill is not tangible property.

An agency may limit its own discretion under a regulatory scheme but it cannot limit Congress' power to modify that scheme in the future.

This legislation already permits goodwill to be counted for 5 years. This should be enough of a commitment for those thrifts have goodwill. Permitting 20 or 30 years of goodwill accounting is well beyond the reasonable for the crisis we are in.

The bill before us already provides a process under which S&L's not in compliance with the capital standards can remain open and operation. This discretion is encompassed in the Vento-Roukema Amendment adopted in the Committee.

The Hyde amendment will be dilatory and will permit unnecessary delays in making the S&L industry safe and sound.

The President opposes this amendment. The Home Loan Bank Board, the FDIC and the Comptroller oppose this measure.

I urge defeat of this amendment.

Mr. ROTH. Mr. Chairman, there have been a lot of tears shed this morning about the poor people involved in the takeover of these S&L's. I would like us to come down from the clouds into the real world. Let us take a look at some of these takeovers, are really sweethearts deals.

In one deal, for $350 million last year and $150 million this year, the buyers are taking over $8 billion in goods assets. In addition, they have a guarantee against loss for 10 years. What other business in the United States of America has guarantees like that?

The only people who are losing under this legislation are the taxpayers. In many of these takeovers, the purchasers also get fat contracts from FSLIC to sell off the bad assets, which the Government kept. They have everything to gain and nothing to lose.

□ 1300

Mr. Chairman, when we talk about the savings and loans and goodwill, we are not talking about all 2,900 savings and loans. We are only talking about 750 S&L's that are involved with goodwill. This is not chicken feed. This is not penny ante.

Mr. Chairman, half of all the capital in the S&L industry is in goodwill, amounting to $23 billion. This is a big, big issue. This is the guts of this bill.

I hope my colleagues will vote no on this amendment. Goodwill is nothing but smoke. Goodwill is nothing but cotton candy. It looks good, it looks inviting, but, if an S&L had to bite into it, there is nothing there.

I say to my colleagues, "If you adopt this amendment, this will be nothing but a blatant bailout."

This amendment is really the taxpayers versus the S&L's. First it was a $10 billion problem, then a $15 billion problem. Now it is $284 billion. Where is it going to end?

I say to my colleagues, "This amendment is milking the taxpayers like you milk a dairy cow."

Mr. GONZALEZ. Mr. Chairman, I yield 1 minute to the gentleman from Nebraska [Mr. HOAGLAND], who has been supportive and stalwart.

Mr. HOAGLAND. Mr. Chairman, I appreciate the kind remarks of the gentleman from Texas [Mr. GONZALEZ] and his yielding this time to me.

I have some prepared remarks here. It is with considerable reluctance that I oppose the Hyde amendment. It has not been an easy decision to determine what to do on the supervisory goodwill issue. I recognize the equities in favor of it. I have a problem concerning supervisory goodwill in my district that makes the decision particularly hard

for me, but I think in the end we have simply got to oppose the Hyde amendment for the reasons stated in these remarks I will put in the RECORD.

In the meantime, Mr. Chairman, given the limited time I have here today, I think it would be helpful to remind the body that President Bush has taken a strong position on this, and I would like to read his words to our Speaker in a letter dated yesterday. This is just a paragraph from page two of the President's letter:

I adamantly oppose each of the proposed amendments that will be debated on the House floor concerning supervisory goodwill. Giving recognition to goodwill as capital or creating procedural changes that could have the same effect is not justifiable. There should be no mistake. This matter goes to the very heart of my determination to clean up the abuses of the past among the savings and loans, about which every voter is entitled to be outraged. Each of the amendments to the tough capital standards proposed by the Banking Committee would render this bill unacceptable to me.

Mr. Chairman, the Hyde amendment to section 926 provides certain savings associations with an opportunity for an administrative hearing concerning the treatment of supervisory goodwill.

This amendment was offered and defeated in the Judiciary Committee. It would make it very difficult to take enforcement actions against institutions that have supervisory goodwill.

This provision will only serve to weaken the existing language in the bill regarding an institution's right to apply for an exemption from regulatory action.

This amendment would allow an undercapitalized institution to continue to grow without restriction for an indefinite period of time while it had an application for an exemption pending with the FDIC or office of thrift supervision.

This amendment would also allow an undercapitalized institution to be granted an exemption from growth restrictions contained in the bill's existing language. The current language of the bill allows an institution to apply to the appropriate regulator for an exemption from any regulatory sanction or penalty except the growth restriction.

It is essential that undercapitalized institutions not be permitted to increase in size without the supervision of the appropriate regulator. Widespread unsupervised growth of institutions without sufficient capital to support this growth is one of the primary reasons why the Nation's thrift industry is in the crisis it is in today. If we are to prevent the continuation of this crisis, we must put an end to the factors such as uncontrolled, undercapitalized growth, that led to the crisis in the first place.

Mr. GONZALEZ. Mr. Chairman, I yield such time as he may consume to the gentleman from Kansas [Mr. GLICKMAN].

Mr. GLICKMAN. Mr. Chairman, I rise in opposition to the Hyde amendment. I opposed it in the Committee on the Judiciary.

Mr. Chairman, I rise in support of H.R. 1278, the Financial Institutions Reform, Recovery and Enforcement Act, and in specific opposition to the Hyde amendment. The issue we face today is the preservation of the safety of our Nation's financial institutions. Make no mistake about it; our financial institutions, and particularly the savings and loan industry, represent a potential ticking time bomb for American financial security.

Critics charge that the savings and loan industry is responsible for the massive problem we face today, arguing that negligent, and in some cases fraudulent investment decisions, were made by greedy management looking for a quick profit and an unrealistically high rate of return. Others blame Congress for deregulating thrift institutions and giving them new powers to make risky loans without effective oversight. Clearly, the Reagan administration deserves partial responsibility, for refusing to hire enough auditors and inspectors to guard against fraud and abuse, and for failing to enforce the law when it had reason to believe depositors were threatened. Finally, the regulators from the Federal Home Loan Bank Board and the FSLIC worked with many savings and loan institutions as if they were all business partners as opposed to the arms-length relationship of regulators that is demanded by the American people. All of these allegations are substantially true, but even more clear is the fact that American depositors and taxpayers are not at all responsible for the massive fraud and mismanagement.

It is a primary function of government to protect the bank and savings accounts of Americans. The consequences of deregulation and minimal government are now coming home to roost to the tune of hundreds of billions of dollars. We must respond to the concerns of the average American who has a simple message: Make certain my hard earned money is protected; make sure my savings are there so I can buy a house; make sure my money is safe so I can send my children to college. The fox cannot be trusted to watch the chicken coop, nor can a financial institution be charged with self-regulation; it doesn't work and always endangers the savings account. As such, our laws need to be toughened to insure that managers and owners of S&Ls act as trustees of the money in accounts, that the Government employs enough auditors and inspectors to properly scrutinize the industry, and that we fully enforce civil and criminal laws if violations are found to have occurred.

Strong capital standards, tight regulation, and harsh penalties are at the heart of this bill. Our votes on these issues will test whether this Congress legislates for specific financial institutions or for the taxpayers of the United States. We are in a crisis situation. Tough reforms must be made to prevent future failures and to restore consumer confidence in our savings and loan industry. Without adequate capital standards, up to $1 trillion of savings and loan assets could be at risk. At risk to the owners? No. At risk to the insurance fund and the taxpayers. This legislation, H.R. 1278, provides that the first dollar of risk be borne by the owners, not by the taxpayers. Without their own money at risk, the owners have no incentive to operate in a safe and sound manner.

And to my friends on the Democratic side of the aisle, I ask who are our constituents here? Will we bow to pressures from politically well-connected businesses, pressures which attempt to erase the distinction between ours and the Republican Party; or will we take a stand for a fundamental, middle class, Democratic message—the protection of the savings of average Americans? While most savings and loan associations are run by honest people, the question must be asked—Will Democrats prop up the failing fortunes of some high-flying businesses that may have imprudently invested millions of dollars? Or will we insist on a regulatory structure that will protect and secure the owners of those millions from unwarranted risk? Let's reassert the traditional Democratic belief that government has a role in protecting the safety of our financial institutions. Our fundamental concern must be with middle class Americans who want to know that their money is protected from undue risk in junk bonds, the commodities market, or empty skyscrapers. We must take a decisive step to once again make government work for the average citizen through a rigorous and fair regulatory system. The Hyde amendment represents an indirect way to reduce the capital requirements, and an inefficient way at that. As the Wichita Eagle-Beacon stated in its editorial, June 16, 1989 entitled "S&L Thievery": "Perpetuating the mechanism that allowed the plundering—and led to billions in losses to American citizens—is indeed, as one industry source said, "like giving a new ax to Lizzie Borden." There is absolutely no reason to believe the same thing won't continue to happen without strong capital requirements." The Hyde amendment, while well intentioned, perpetuates the problems and jeopardizes the savings of average savers and depositors. We must be fair to savings and loan associations, but more importantly we must be fair to the tens of millions of depositors, savers and taxpayers who have their money in the bank and who will foot the bill of the problems of the past.

Mr. GONZALEZ. Mr. Chairman, I yield such time as he may consume to the gentleman from Alabama [Mr. ERDREICH].

Mr. ERDREICH. Mr. Chairman, I rise in opposition to the Hyde amendment.

Mr. Chairman, the capital requirements as reported by the Banking Committee are fair and will provide additional protection for the savings of the American people and as importantly will help prevent further taxpayer involvement to support the insurance fund of these thrift institutions.

As has been said here many times today, the capital requirements in the bill have been increased and tightened during the considerations of both the subcommittee and full committee. The 3-percent tangible capital level to be attained over a 5-year period allows for an orderly transition from the phantom capital positions of many institutions.

The Banking Committee considered and debated the many options proposed for inclusion in the revised capital requirements. Subordinated debt, supervisory goodwill, GAAP goodwill, convertible debt, purchased mortgage servicing rights, retained mortgage servicing rights, loan loss reserves, capital forebear-

ances, risk based capital, leverage ratios and core capital were all examined, discussed, and in many cases voted upon. The committee's work was inclusive and encompassing and the capital requirements that were finally fashioned provided a sound capital base for these institutions.

The capital requirements serve as a first line of defense against abuse and fraud. In addition to this a strong, stable, and competent field examination force must be in place to examine and review the actions of the thrift institutions. The hearing record is replete with references to lapses in the frequency and thoroughness of these examinations, exacerbated by efforts in the early 1980's by the Office of Management and Budget in the White House to reduce the number of examiners.

Some have claimed that the Congress encouraged lax examination practices because Congress did not authorize or appropriate enough funds to provide for adequate examinations. It is very important to understand that Congress does not appropriate funds for the examination process because the examination process is self-sustaining through fees levied on the thrift institutions that are examined.

Thrift institutions pay an annual fee based on the amount of assets held by the institution and a special examination fee that is assessed at the time of an examination. This fee is based on an amount paid each day an examiner is in the institution. For the year ended June 30, 1988, these fees amounted to $96.2 million for the entire Home Loan Bank System. The examination system is funded by these fees independent of congressional authority.

I supported Chairman GONZALEZ' first amendment this morning, which provided a clear and uniform pay structure for all the examining agencies. It was needed and makes clear that Congress regards the examination process a most important part of the safety and soundness of this Nation's thrift institutions. I also oppose this amendment, which would reverse a basic amount of hard capital to protect the savers of this country. I urge its rejection.

Mr. FRENZEL. Mr. Chairman, I rise today before the House to oppose the Rostenkowski amendment. This amendment would place H.R. 1278's funding mechanism on-budget while exempting it from the Gramm-Rudman deficit calculations. The amendment's supporters justify their position by stating that the Banking Committee's version of this bill furthers budget gimmickry and that it adds to the resolution cost by eschewing cheaper Treasury borrowing.

Even if true, there is no evidence that this amendment would address these concerns. I opposed this amendment in the Ways and Means Committee, and I believe that the reasons for doing so are as cogent now as they were then.

Proponents of placing the Resolution Funding Corporation [REFCORP] on-budget argue that it would somehow be more honest. This is simply not true. Would it be more honest to go back on the agreement that was reached in the 1990 Bipartisan Budget Summit? Would it be more honest to turn our backs on the assumption that was made in the House budget resolution, in the conference agreement we reached with the Senate and in the concurrent budget resolution? No, it would not. Yet that is precisely what this amendment's backers want us to do, all in the name of honesty.

They respond that this amendment would result in more honest budgeting. Again, this is not the case. This amendment would put REFCORP on-budget while simultaneously taking it off Gramm-Rudman. Is this more honest? When we brought the budget resoluton before the House, Member after Member rose to attack the practice of having social security off-budget but on Gramm-Rudman as a charade. I ask you, how do these cases differ? This amendment would have us repeat this legerdemain by adding to the budget but subtracting from the deficit.

If it is honesty that is desired, then I suggest my colleagues vote to put this on-budget and on Gramm-Rudman. They will get that opportunity when the House next considers the LaFalce amendment. After you have voted for this honesty I suggest you get ready to explain to your constituents why you have decided to impose a $20 billion sequester on the rest of the budget.

The other argument of this amendment's supporters is their claim that it will save $150 million per year due to the interest rate difference between Treasury and non-Treasury borrowing. In fact they have gone farther still. They claim there exist savings of interest on interest. Finally they also state, that if Treasury did the borrowing it would be able to issue debt of various maturities which would enable it to capture the most advantageous interest rates.

As Treasury points out, the slighest doubts on Wall Street concerning Gramm-Rudman's continued efficacy could result in a $250 million increase in servicing the national debt with only a single basis point rise. The market's negative reaction will be all the more likely and severe should another program follow this example. I am told that the economic expertise of Wall Street prevents them from seeing this circumvention of Gramm-Rudman as a precedent. This is not a question of economic expertise but of political acumen. And I ask the august experts seated before me, How many of you do not see a loophole large enough for virtually any program to fit through?

As for the arguments about interest on interest and for savings from Treasury's ability to issue debt of varying maturities, let me quote from a Congressional Budget Office letter to Representative CHARLES SCHUMER dated June 6, 1989. CBO writes concerning the issue of debt maturity: "CBO believes that there is no clear basis for projecting such savings." In regards to the question of interest on interest CBO states: "While interest costs have become a major component of Federal spending, we question how useful it is to measure a program's cost by including financing costs ad infinitum." The CBO letter follows this statement.

If Members are seriously concerned about minimizing the Government's costs of resolving the S&L crisis then let me remind them of two facts. First, the longer we delay in getting a bill out and putting money into the hands of the regulators, the higher the total resolution cost. Experts have put this cost of delay as high as $1 billion per month. This amendment does nothing if not add to the time that will be consumed in crafting a final version with the Senate which has already defeated a similar attempt.

Second, rejecting this amendment forces the thrift industry to assume the maximum amount of resolution costs. This is because the administration crafted its plan, which the House Banking and the Senate adopted, in order to require the industry to offset the resolution's principal expenditures. If these payments are not forthcoming from the industry, the plan will not be scored as off-budget. What guarantee can this amendment's proponents offer you compared to this one? They have none, and they have none because once the principal is excluded from Gramm-Rudman deficit calculations there is no real budgetary reason why the industry's contribution is necessary. If we are not counting the principal costs anyway, why do we need to worry about defeasing it?

I agree with this amendment's supporters in their desire to achieve honesty and to reduce the cost to the American taxpayer. The best way to achieve honesty is not by abandoning the deals we have already made or to legislate further budget obfuscation. The best way to save the American taxpayer money is not by abandoning the most effective deficit reduction tool we have—Gramm-Rudman. The best way to achieve the ends that this amendment's supporters embrace is to vote against their proposal.

The savings and loan crisis is too large and too immediate for a perfect solution and admittedly, the administration's plan is not perfect. Yet it is the best, most comprehensive plan we have for dealing with this catastrophe. We should pass it without this amendment. The letter follows:

CONGRESSIONAL BUDGET OFFICE,
Washington, DC, June 9, 1989.

Hon. CHARLES E. SCHUMER,
Task Force on Urgent Fiscal Issues, Committee on the Budget, U.S. House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: I am pleased to respond to your request that the Congressional Budget Office evaluate and estimate certain incremental costs that may be associated with off-budget financing of savings and loan resolutions. Your letter mentioned three types of costs: (1) additional interest costs resulting from the use of long-term debt rather than Treasury's selection of maturities; (2) Treasury's additional interest costs on the borrowings needed to finance the extra cost of REFCORP securities; and (3) the administrative and issuing expenses of REFCORP. I will discuss each of these separately.

DEBT MATURITY

Mr. Bert Ely, in his testimony before your task force, indicated that one of the advantages of Treasury financing would be the flexibility to use short-maturity Treasury bills rather than the 30-year REFCORP bonds anticipated in the Administration's plan. He suggested that by using short-term financing for several years, and then shifting to long-term Treasury bonds when long-term rates are presumably lower, the Treasury would save billions of dollars in interest costs.

CBO believes that there is no clear basis for projecting such savings, because the Treasury does not manage the debt in the way that Mr. Ely suggests. That is, the Treasury does not seek to minimize interest costs by shifting large amounts of borrowing among different maturities. Rather, it borrows funds using a wide range of maturities, from three months to 30 years. In managing the debt, the Treasury tries to balance many objectives, taking into account its significant influence on the financial markets resulting from the large size of its offerings and its access to information on future government policies. It has particularly emphasized regularity and predictability. While short-term financing might appear superior on occasion, the Treasury has generally avoided excessive reliance on it, because such debt must be constantly refinanced and heightens the budget's vulnerability to interest rate fluctuations.

While the Treasury borrows in every maturity, it has met the bulk of its financing needs since the early 1980s by selling medium- and long-term securities. Annual totals vary, but the Treasury has typically met about three-fifths of its net marketable financing needs in maturities of five years or more (and about one-third in maturities of 20 to 30 years). For the first seven months of fiscal year 1989, about three-fourths of Treasury's net market borrowing has been in maturities of five years or more. The Treasury has said on many occasions that it seeks to continue lengthening the maturity of the federal debt. (In any event, since the Treasury does not auction debt for specific programs or purposes, it would be impossible even after the fact to ascribe specific Treasury issues to the savings and loan legislation.)

There is some question as to whether the Treasury, if it tried, could successfully reduce interest costs by guessing future interest rates and shifting its financing mix accordingly. As a rule, though, it doesn't try.

INTEREST ON INTEREST

CBO has estimated that under H.R. 1278, as reported by the House Committee on Banking, Finance and Urban Affairs, the interest rates on REFCORP securities would exceed the rates on similar Treasury issues by 40 basis points in 1989, by 35 basis points in 1990, and by 30 basis points in 1991. On $50 billion in REFCORP securities, the additional interest costs would come to about $75 million a year. The added costs of the REFCORP securities would amount to $1.5 billion over the fiscal years 1989 through 1999, and such costs would continue to accrue through the year 2022.

In his testimony before your task force, Dr. David Jones pointed out that the Treasury would have to borrow in order to pay these additional costs, further increasing the government's interest costs. CBO estimates that over the 1989-1999 period the government would incur another $0.7 billion in interest costs in order to finance the $1.5 billion in added outlays for the REFCORP securities.

While interest costs have become a major component of federal spending, we question how useful it is to measure a program's cost by including financing costs ad infinitum. The cost of dams, aircraft carriers, and the operations of government agencies are not usually measured by including their effect on interest on the public debt. Similarly, a home purchased for $100,000 may result in mortgage payments totaling $400,000 over 30 years, but the cost of that home is usually considered to be $100,000. Finally, the value of a dollar 20 or 30 years from now is vastly different from the value of a dollar today; thus, adding together a stream of dollars over many years produces a total that has little economic meaning.

A more meaningful measure of costs would be a discounted present value calculation, which measures the value today of a future stream of cash flows. Depending on the interest rate differential assumed and the discount rate used, we estimate that the use of REFCORP financing rather than Treasury debt would add between $1.5 billion and $2 billion, measured in 1990 dollars, to the cost of the savings and loan legislation.

ADMINISTRATIVE AND ISSUING EXPENSES

Administrative and issuance costs necessitated by the creation of REFCORP would be negligible in comparison to the other costs involved in the savings and loan legislation. REFCORP would have no employees of its own; its functions would be performed by employees of the Federal Home Loan Banks and its administrative costs would be covered by the banks. Issuance costs would also be small. For example, the Financing Corporation (FICO) in its first 16 months of existence (through December 31, 1988) issued $5.85 billion worth of bonds and incurred issuance and custodial costs totaling less than $0.8 million. Such costs for $50 billion in REFCORP bonds would probably amount to several million dollars, mostly in the next three years.

Dealer concession fees would be more substantial but they are encompassed by the interest rate spreads assumed for the REFCORP bonds relative to Treasury issues. (About 5-6 basis points of the spread are probably attributable to such fees.) Such costs are therefore already reflected in our estimate of the added interest costs for the REFCORP bonds.

CONCLUSION

CBO believes that the government would save money by financing the savings and loan resolutions through Treasury borrowing rather than REFCORP bonds, because funds could be raised more quickly and at lower interest rates. In our view, the three factors you identified in your letter do not significantly affect the amount of the savings when measured in present value terms.

If you wish further information on these matters, we will be pleased to provide. The CBO staff contact is Robert Sunshine, who can be reached at 226-2860.

Sincerely,

ROBERT D. REISCHAUER,
Director.

Mr. DONNELLY. Mr. Chairman, I am in strong opposition to H.R. 1278, the savings and loan legislation. This legislation places an outrageous burden on the backs of the taxpayers of this country and suggests that they should pay for the scandalously lax regulation of this industry during the early part of the decade.

Mr. Chairman, this problem has been coming for 5 years. In 1984, the State of Ohio faced an S&L crisis. In 1985, former Governor Hughes of Maryland called the State legislature into emergency session to resolve that State's S&L crisis. The point is, the regulators of the S&L industry saw this coming, knew or should have known this was coming, and did nothing.

To his credit, President Bush took steps within 2 weeks of his assuming office to begin to deal with this crisis. Unfortunately, the Bush plan—and this bill—place the burden on the taxpayers of America to the tune of $50 billion—and the Washington Post reported 2 weeks ago that the cost could easily be $100 billion.

Much has been said about this legislation, and how it will prevent this crisis from occurring again. That is just not true. The solution offered puts honest taxpayers on the line to bail out unscrupulous thrift administrators and those who had the legal and the moral responsibility to regulate this industry. I will not be a party to this waiver of liability.

Let me give you just one example of how the industry views its level of responsibility. Prior to the date on which the Committee on Ways and Means adopted title 14 of this bill, there were three enormously generous tax benefits available to purchasers of financially troubled S&L's. The committee adopted my amendment to repeal these benefits, which Tax Notes magazine has called the last remaining tax shelter.

As a result of the tax benefits available, we have a situation where $4 billion of tax breaks were given away to cosmetic manufacturers, automobile companies, and investment bankers when they acquired financially troubled S&L's for the tax benefits available. Those acquisitions illustrate the feeding frenzy the industry went on up to the last possible minute—and it is that type of behavior which H.R. 1278 would excuse.

Ironically, I was denied my right to offer an amendment which would have recaptured those tax benefits. Were I allowed to offer my amendment, the industry could have at least—in some small way—paid back the taxpayers of this country for the mess they created. But my amendment was not allowed. I have no choice but to oppose this bill, and I urge its defeat.

Mr. KYL. Mr. Chairman, I rise in support of H.R. 1278, the Financial Institutions Reform, Recovery and Enforcement Act.

I intend to vote for the bill for one simple reason: It protects depositors—not those savings and loan [S&L] executives who squandered millions of dollars, and not the shareholders or bondholders who invested in those S&L's, consciously risking their money. It protects depositors.

This bill tells Americans who put their money in accounts insured by the Federal Savings and Loan Insurance Corporation [FSLIC] that the insurance wasn't just a scam. The Federal Government made a commitment to back their accounts to $100,000, and it will make good on that commitment.

Moreover, the bill includes a number of tough requirements that will ensure that this debacle isn't repeated. For example, its higher capital requirements will promote more prudent investment decisions, guard against future losses, and, in the event of losses, minimize the need for additional taxpayer dollars. I strongly support these capital requirements.

Some S&L's will litigate the issue of removing supervisory goodwill from capital on grounds that they had a binding contract with the Government allowing them to include goodwill. I will support the Hyde amendment because I believe it will provide a better proc-

ess for resolving the issue of how to treat supervisory goodwill. An administrative determination is usually much quicker than litigation in court. And, the only institutions that could use the administrative procedure are those that meet the new capital standards except for the statutory change in goodwill, and prove they have legitimate preexisting contracts with the Government allowing the ongoing use of supervisory goodwill.

The intent of the Hyde amendment is being somewhat mischaracterized—it will not benefit insolvent institutions. The intent is simply to ensure that the Government honors the contracts it has made with institutions that are being prudently operated—institutions which would meet the new capital standards but for the contracts they signed with the Government. Honoring contracts is what this bill is all about. We won't unilaterally abrogate our contracts with depositors to protect their accounts; we shouldn't abrogate contracts with healthy S&L's either.

But, whether or not the Hyde amendment is adopted, this bill must pass. It's absolutely critical to fund the new Resolution Trust Corporation with the $50 billion to protect depositors' accounts.

The bill increases civil and criminal penalties for crimes involving financial institutions and improves methods to detect misconduct in financial dealings. It estalishes civil penalties of $1 million per day for misconduct involving financial institutions, and criminal fines of up to $1 million and up to 20 years in prison. I believe the penalties provided in the Judiciary Committee's amendment are even stronger; but, these will go a long way toward ensuring that those who acted improperly will be punished.

I hope we will also have an opportunity to eliminate all of the provisions granting special treatment to a handful of S&L's before we take a vote on final passage. The taxpayers' interest, not special interests, ought to prevail.

While the bill has some very worthwhile and necessary provisions, it isn't perfect. But, in this instance, we can't afford to wait for perfection. Every day we delay adds another $10 million to the ultimate cost to the taxpayers.

Mr. Chairman, one of the flaws of the legislation is its funding mechanism. Ideally, it should be put on-budget and subject to the Gramm-Rudman-Hollings law. That would require us to make some tough decisions about other spending and taxes, but it would save the taxpayers about $140 billion in carrying costs over the next 30 years.

If the LaFalce amendment subjecting the costs to Gramm-Rudman-Hollings is defeated, the better alternative is the administration's position taking it off-budget and exempting it from Gramm-Rudman. I hope the President will eventually be able to sign a bill that handles the budget issue in that fashion to avoid the bad precedent that is otherwise likely to be set.

I also oppose the new tax in title VII which is to be imposed on the industry, not to finance the cleanup of insolvent S&L's, but to finance a new housing subsidy program. Such subsidies have no place in this bill. They divert funds that would otherwise be used to pay examination and thrift supervision costs.

If these new housing subsidies have merit, they should be authorized and funded through the regular appropriations process, not through this emergency legislation.

Finally, I oppose the new disclosure requirements under the Community Reinvestment Act and the Home Mortgage Disclosure Act that will be proposed in the Kennedy amendment.

While the bill isn't perfect, the costs of delay are too great, and the need to protect depositors as the Government has promised is too important. I will vote for the bill on final passage and urge my colleagues to do the same.

Mr. STOKES. Mr. Chairman, I rise today to support the bill, H.R. 1278, to reform and recapitalize the savings and loan industry, and I do so with some reservations. While I support the stronger capital standards required by the bill, and I strongly support the Kennedy-Gonzalez amendment to require community investment disclosure, I am loath to place the burden of the cost of this plan to rescue the thrift industry on the backs of the taxpayer. They are the innocent ones in this tragedy. They did not make the bad loans and insider deals that lost billions of dollars, and forced the Federal Government to step in to rescue the industry insurance fund.

However, despite this major reservation, I support the bill because it achieves the compromises necessary to strengthen the industry, clean up the worst situations, restore the public confidence, and still be fair to the institutions, which although healthy, will struggle to meet the stringent capital requirements.

The new tangible capital standard of 3 percent of total assets will provide the security from economic hardship to insure public confidence in the savings and loan industry, and prevent another depletion of the deposit insurance fund.

The new capital requirement will not eliminate goodwill from the books of thrifts, but will disallow the counting of goodwill toward the tangible capital standard. This provision has met with stiff opposition from the savings and loan industry, which argues that healthy thrifts will be forced into bankruptcy without goodwill. H.R. 1278 provides a solution for this problem, allowing healthy thrifts, with well-managed, secure portfolios, but unable to meet the January 1991 deadline, to negotiate with Federal regulators an extension of up to 5 years to meet the new requirements.

I am also a strong supporter of the Kennedy-Gonzalez amendment, which requires Federal regulatory agencies to disclose the ratings and evaluations that they give to banks and thrifts regarding lending to the communities that they serve. The amendment also requires mortgage lenders to disclose the number of applications they receive by categories of race, income, and gender, and the number of applications they approve by the same categories. This amendment is necessary to put a stop to the disgraceful practice of red-lining within the mortgage lending industry. It is also an essential part of the bill, because if we will be requiring all Americans to pay taxes to fund this enormous bailout, it is only appropriate that the bill include some provision to help insure that all Americans have equal access to credit for home mortgages.

Along these same lines, I opposed the Bartlett-Barnard amendment which would have stripped from H.R. 1278 the provisions requiring the Federal Home Loan Banks to set aside funds for the Affordable Housing Program and the Community Investment Program. As I said previously, since we are asking the American taxpayer to fund the majority of the cost of this bailout, we should insure that the savings and loan industry, which was created to assist buyers in obtaining home mortgage loans, is fulfilling that mandate for the sector of our society that needs their assistance the most, low- and moderate-income families.

As I said at the outset, I am not in absolute agreement with each and every provision of this legislation, but I recognize the complexity of the task involved in developing such a massive and vital piece of legislation in such a short time, and I believe that the bill we have before us achieves the strongest reforms in the savings and loan industry, while insuring fairness to both the thrifts and the consumers.

Mr. HYDE. Mr. Chairman, I yield 2 minutes to the gentleman from Pennsylvania [Mr. KANJORSKI].

Mr. KANJORSKI. Mr. Chairman, I find that we have a strange combination of characters on the floor today, so many people from both sides supporting and opposed to his amendment.

Mr. Chairman, I would just like to call my colleagues' attention, particularly those who are not on the floor, to something that is very important. We hear a lot about how much this involves and everything, but, when we look at the bailout that is occurring, we have to analyze how it came about.

According to the Federal Home Loan Board, less than 5 percent of the institutions that have failed thus far in the savings and loan industry had any substantial amount of supervisory goodwill. Supervisory goodwill was a method used by the regulators of this administration in the early 1980's to encourage good S&L's around this country to take over bad S&L's, put in good management, and succeed, and eventually pay that goodwill off. That saved the FSLIC, and thus U.S. taxpayers, billions of dollars.

In Pennsylvania alone that is part of the record. We have $4 billion in risk in Pennsylvania alone if we do not pass the Hyde amendment.

Now it seems to me that, if everybody is talking about going back to virginity and purity, as we did in the Southwest in Texas, may I call my colleagues' attention to something? Down in Texas last year and the year before two-thirds of all the money lost by S&L's in the entire United States flowed into Texas. Do my colleagues know what this aid amounted to? Three times the Marshall plan.

Now why are we going to go out and attack maybe 100 successful money-making, well-operated, well-managed

S&L's in this country and increase the loss because we want to be macho and hold on to what we call high capital standards without realizing the commitment we made when the Governmenty gave out supervisory goodwill in lieu of cash or FSLIC notes.

I say to my colleagues, "If you really are interested in being sound and getting to a level playing field, it is important, it seems to me, to support the Hyde amendment and to shore up that portion of the industry which came to the Government's aid in the early 1980's. The gentleman from Wisconsin [Mr. ROTH] said, "Sure as God we'll be back here if we pass this."

I can say to my colleagues, "If we don't pass the Hyde amendment, 3 years from now we'll be back running a rescue on 150 S&L's that will have failed because of this act today."

Mr. GONZALEZ. Mr. Chairman, I yield 1 minute to the gentleman from Minnesota [Mr. FRENZEL].

Mr. FRENZEL. Mr. Chairman, I oppose the amendment offered by the distinguished gentleman from Illinois [Mr. HYDE].

This S&L bailout will be financed 70 percent by the taxpayers and only 30 percent by the industry. The taxpayers are being stuck for the lion's share of the cost. In my judgement, their interests would be badly served by the Hyde amendment.

One of the major causes of the S&L crisis was the fact that owners and managers of S&L's have been able to operate without tangible capital. Instead they have operated off the Federal guaranties. The results have been disastrous. Unless we require that S&L's operate with their own money, instead of the public money, we will be asking for more disasters.

These capital-free S&L's were not forced to accept the acquisitions which generated the goodwill now on their balance sheets. The Congress made them no promises. We change regulations all the time. We change laws all the time. In the Tax Reform Act of 1986, we changed tax laws retroactively which were ruinous to individuals and corporations alike.

The capital-free S&L's, if they are healthy as is claimed, have access to new capital. They might take some profits into capital, even if that has not been the standard of the industry.

Our prime responsibility is to the people. The people are best served by a safe system. The very best guarantee of safety is the requirement that S&L's operate with tangible capital.

How can we face those taxpayers who we have to stick with costs of the bailout, if we can't guarantee to them they won't have to bail out the industry again? If we compromise the capital standards, we may be asking those taxpayers to shoulder greater burdens in the future.

In our economy, few persons can run a business, and expect to be able to make a profit, with no tangible capital. Fewer still can attact business on the basis of a Federal guarantee. The capital requirement of the bill imposes minimal levels of tangible investment. Weakening that requirement will create a substantial risk for further S&L failures.

The net of this issue is that no law or regulation, or even a letter from a Government agency, is forever. The S&L emergency overrides the goodwill arrangements whenever or however made. The interests of the people demand that the capital requirements of the bill be maintained.

Therefore, the Hyde amendment must be defeated.

Mr. HYDE. Mr. Chairman, I yield 1 minute to the gentleman from New York [Mr. FLAKE].

Mr. FLAKE. Mr. Chairman, I rise today in support of the Hyde amendment as the person who has carried the weight for it in the committee, and I rise in support of it because, when the regulators said that we need someone to come with the live support system, they came to those persons who had the system, those persons who had assets, those persons who had cash, those persons who could, in fact, help them to bail the industry out.

Now, Mr. Chairman, we come back to them and say, "We have a capital standard. You cannot meet the capital standard because you gave us what you had in order that we could solve this $23 billion problem."

Now we say to them, "We're pulling the plug. We're going to let you down. We have sympathy for you."

Mr. Chairman, sympathy will not solve the problem. The reality that must be clear in our understanding is that those institutions are in the position they are in because the Government put them in that position.

It is only fair. It is only right. It is only just that we stand with them now and say to them that, "As you gave us your life support system, we are willing to support you now. We will let you live."

I urge my colleagues' support on this amendment.

Mr. Chairman, I would like to thank you for your cooperation as we attempt to resolve the major issues confronting this body as we complete action on H.R. 1278. I rise in favor of the Hyde amendment because I believe it is good public policy. The overriding objective is to maintain tough and adequate capital standards so that the current situation does not reoccur. Therefore, this amendment is limited to fair and equitable treatment of institutions which participated in the specific situations in which a healthy institution acquired a failing savings association in order to aid the Government in resolving problem institutions.

First, this amendment is specific to the situation when a healthy thrift institution acquired a failed or failing association with the approval of the Federal Home Bank Board or its agent. In the process of this acquisition, FSLIC and the Bank Board provided assistance to the the healthy institution in the form of supervisory goodwill. It is important to state clearly that supervisory goodwill served the same purpose as cash or FSLIC notes as a form of Government support to resolve failing institutions, except for one major difference—in the case of supervisory goodwill the cost of support borne by private industry is much greater. Instead of cash which earns interest or notes on which interest is paid to the holder, supervisory goodwill has negligible cost to the Government. In effect, the use of supervisory goodwill is the most favorable method from a Government cost perspective for resolving the problem of a failing institution.

Second, this amendment requires that the institutions involved have real capital consisting of common stockholders' equity, perpetual preferred stock and related surplus, and retained earnings in an amount equal to not less than 2 percent of total assets immediately, and 3 percent of total assets after June 1, 1991.

This clearly means that the owners and managers of these institutions must have capital at risk which serves as a real buffer between the institutions and the insurance fund. For institutions in New York, as well as others across the country, common stockholders' equity, perpetual preferred stock and related surplus and retained earnings is real money invested in savings institutions by average ordinary citizens who believed in these institutions which are an integral part of helping these citizens achieve their dreams of home ownership.

In summary, this amendment is a compromise on the treatment of supervisory goodwill so that the concerns for adequate capital are addressed. The overriding purposes of this compromise amendment bill are to protect the financial system and ultimately the taxpayers by requiring adequate capital standards; to provide fairness by upholding contracts which our Government or its agents entered into; to encourage and foster a good public policy concept of using private involvement to help resolve problems within the industry; and to recognize that supervisory goodwill and private sector involvement effectively saved the FSLIC significantly more than $20 billion.

Overall, it is important to emphasize that this legislation does not weaken capital standards—it just treats Government contracts fairly and intelligently. For long range public policy reasons, it is important that the Government honor these agreements especially because they do not cost the Government money.

Also, as we attempt to place all the mechanisms in place to resolve this problem, such as transferring the responsibility of the FSLIC to the FDIC, setting up the RTC, arranging financing, and providing capable management of failed institutions, by not adopting this amendment, we will add to the current burden facing the regulators by forcing otherwise healthy institutions into FDIC oversight. Conversely, the passage of this amendment will in no way limit the regulator's ability to protect the insurance fund from risky operations by

any institutions which have supervisory goodwill.

The supervisory goodwill transactions are working effectively. I firmly believe that private industry is more capable of managing the assets which these healthy thrifts acquired when they took management control of these failed institutions as compared to Government management. This time, I am in agreement with President Bush and earnestly believe that private industry involvement is better than Government micromanagement. I am sure that most of my Democratic and Republican colleagues will agree with the need for private participation with effective Government oversight.

But, I am very concerned that if the agreements made with private industry regarding supervisory goodwill are not honored, not only will the problem institutions acquired by healthy associations require more Government assistance to resolve, but it will also be very difficult to get private industry involved in the future. For these reasons, I urge passage of this amendment.

Supervisory goodwill refers specifically to agreements between FSLIC and institutions which acquired failing S&L's. First, let me provide an example of how this goodwill was generated:

BALANCE SHEET

	Bank A	Bank B	Bank B*	Bank A/B	Bank A/B#
ASSETS					
Cash	$50	$50	$50	$100	$100
Loans	50	50	25	75	75
Goodwill	0	0	0	0	25
Total	100	100	75	175	200
LIABILITIES					
Deposits	90	90	90	180	180
Debt	5	5	5	10	10
	95	95	95	190	190
Net worth	5	5	(20)	(15)	10
Total	100	100	75	175	200

*Write down of assets.
Acquisition assisted by FSLIC with goodwill.

As shown above, if two banks with the same balance sheets are combined assuming that Bank B assets are devalued by 50 percent—loans of $25 versus $50 on balance sheet, there are two basic scenarios. Under the bank A/B combination, the write down of the assets are subtracted from the net worth of the acquiring Bank A. The results are that the combined institution has a negative net worth and would therefore be declared insolvent.

In the combination of Bank A/B#, FSLIC allows the writedown of assets to be shown as goodwill and written off over a term of 25 to 40 years to allow the acquiring institution to change policies in order to return to profitability. The combination makes good business sense because Bank A projects that it can improve the management of Bank B. In some instances this reflects sharing cost such as advertising, computer operations and loan processing which are all large fixed cost items which are easily spread over a larger institution. With the cost savings from reorganization, the combined Bank A/B# will have the profits necessary to write off goodwill.

It should be noted that the other means for resolving the "hole" due to the write down of Bank B's assets would have been for FSLIC to provide cash assistance or notes. Since FSLIC did not have cash, the use of goodwill with long term writeoffs appears to have been a reasonable strategy.

In regard to decreasing the term of the write off, a simple example illustrates the impact. Assume goodwill of $99. With a 40-year write off, the annual expense would be approximately $2.5. If the term is reduced to 10 years, the annual writeoff would be $9.9. Clearly, a reduction of terms would require substantially higher profits to service the write-off of goodwill. In addition, it should be noted that the shorter period would invalidate contracts and would therefore make it more difficult to encourage other institutions to participate in these types of assisted bailouts.

In conclusion, I hope that a fair review of legitimate agreements made in good faith are upheld while making sure that the legislation completely and equitably resolves the crisis.

Mr. GONZALEZ. Mr. Chairman, I yield 1 minute to the distinguished gentleman from Tennessee [Mr. COOPER].

Mr. COOPER. Mr. Chairman, I thank the gentleman from Texas [Mr. GONZALEZ] for yielding this time to me.

Mr. Chairman, I rise in support of the committee plan and in opposition of the Hyde amendment. The committee plan is a very reasonable plan. It allows a full 5-year phaseout of goodwill, supervisory goodwill, plus it then looks at the goodwill on a case-by-case basis. This is a more lenient plan than, for example, most industries dream of in a transition rule. This is more lenient treatment than we are giving the notch babies around the United States. This is a very good compromise, and the House should stick with it.

Mr. Chairman, we have been too lenient with the S&L industry in the past. The Hyde amendment is too lenient. Let this House not cave in to the S&L industry one more time. We are asking the taxpayers of this country to fork over $50 billion plus. Let us make sure that this rescue plan works. Let us stick with the committee plan.

Mr. GONZALEZ. Mr. Chairman, I yield such time as she may consume to the gentlewoman from Ohio [Ms. OAKAR].

Ms. OAKAR. Mr. Chairman, the House Banking Committee spent hours and deliberated on many amendments regarding capital standards within this omnibus legislation. The actual guts of this legislation are the capital standards. In order to prevent the insurance fund from suffering future losses, Congress must mandate that all institutions maintain an adequate "tangible" core capital requirement. In addressing the capital standards, one only has to question, how can I protect the Federal Interest? How can I be sure that this financial catastrophe never occurs again? The answer my distinguished colleagues is to have real, tangible money in place.

Mr. Chairman, when this bill was sent by the administration, many felt that Treasury's proposed capital guidelines were sufficient and comprehensive. The administration's capital provisions called for the chairman of the appropriate Federal banking agency to draft capital standards applicable to national banks. Also, the chairman shall prescribe a timetable for the implementation of these capital standards that requires their full implementation by no later than June 1, 1991. While the administration's proposed capital guidelines appear stringent, they don't address the tangible core capital requirement. Under these original capital guidelines, an institution could have no real tangible capital for a period of many, many years. In other words, an institution could fully reach their designated capital requirements with no real tangible capital but with all goodwill.

Mr. Chairman, when the House first considered H.R. 1278, the Senate Banking Committee had completed their deliberation of their legislation to address the savings and loan crisis. The capital standards reported by the committee left in tact the administration's proposed capital requirements regarding tangible capital. Also, goodwill would be allowed to be written off over a longer period of time. Only after the committee bill was sent to the floor, an amendment was accepted to require thrift institutions to maintain a tangible core capital ratio of 1.5 percent effective June 1, 1991. However, while this provision requires thrifts to maintain 1.5 percent tangible capital, it allows the institution to write off their goodwill over a long period of time.

Mr. Chairman, I commend both Chairman ANNUNZIO and Chairman GONZALEZ for their leadership in requiring institutions to meet tangible capital requirements. Within the subcommittee on financial institutions markup, a 1.5 percent tangible core capital requirement was incorporated to be effective June 1, 1990.

In the full committee deliberation, provisions were adopted to phase in new capital standards by 1995. Two separate measures of capital would be used. First, there would be a core capital requirement of 3 percent. It would become effective in 1990 with an allowance for qualifying intangibles. Intangibles eligible to be counted as part of that core capital would be phased out between 1990 and 1995. In other words, institutions could not carry on their books any type of goodwill for a period of more than 5 years. Also, as goodwill and other qualifying intangibles are phased out, higher tangible core capital requirements will be phased in. For example, beginning June 1, 1990, institutions are required to maintain 1.5 percent tangible capital. By January 1, 1992, institutions are required to maintain 2.0 percent tangible capital. After December 1, 1994, institutions must phase out all qualifying intangibles and maintain 3 percent tangible capital.

Mr. Chairman, the second capital measure based on the principals of risk-based capital, would recognize that the asset portfolios of savings institutions consist largely of residential mortgages which are less risky than many other kinds of credit because of the security in the property or insurance backing up the mortgage.

Mr. Chairman, in order to adhere to many of our constituents' wishes and to prevent this financial crisis from recurring, I urge all my colleagues to install tangible core capital requirements within this legislation. I realize no one wants to be back in this same position 2 years from now; but we will, if tangible core capital requirements are not in place.

□ 1310

Mr. GONZALEZ. Mr. Chairman, I yield our remaining time to the gentleman from New York [Mr. SCHUMER] to close the debate.

Mr. SCHUMER. Mr. Chairman, a lot has been said about this amendment. Make no mistake about it, this amendment guts the bill. It is a substantive amendment in procedural clothing, because it will change the way weak banks, the banks who need the most regulation, are regulated. Regulators depend on moving quickly and swiftly when a bank is in trouble and what this amendment does is allow those very weak institutions to delay and delay and delay the day of reckoning. While they delay and delay and delay, the taxpayers will pay and pay and pay.

Mr. Chairman, we are voting $150 billion, a huge and outrageous and appalling sum of money, for a great mistake, a mistake that was made by the administration, by the Congress, by the regulators and everyone else. How dare we make the same mistake again by supporting the Hyde amendment. I urge my colleagues to vote it down decisively.

Mr. HYDE. Mr. Chairman, I yield myself the remainig time to close the debate.

Mr. Chairman, let me respond briefly to the last gentleman, the gentleman from New York [Mr. SCHUMER], the administration's new and very effective ally on this and I am sure many other matters.

The gentleman says this will allow weak institutions to delay and delay and delay.

They are weak because they trusted the Government. That is first of all. They were healthy until they sat down with the Federal Home Loan Bank Board and were talked into merging with some sick ones and took supervisory good will on as compensation.

Delay? It takes 2 years to shut one of these down anyway. The timeframe of the hearing, it is an administrative hearing before the regulators. It is up to the regulators. They can speed it up or not have one at all, as the gentleman wants.

The gentleman from Wisconsin [Mr. ROTH] and the gentleman from Minnesota [Mr. FRENZEL], my dear friends, were talking about something else, not my amendment.

The gentleman from Ohio [Mr. WYLIE] said, this amendment was to "Bail out these thrifts." Let me tell you, when the Government invites you into a rowboat because they need help pulling the oars and they get you out in the middle of the lake and then they drill a hole in the bottom, you need a bailout. It is not your fault.

The gentleman from Iowa [Mr. LEACH] talked about highway robbery. You have a real problem when you do not know who the robber is and who the victim is. You ought to be able to distinguish the good guys from the bad guys.

I am talking about those few 8 percent of the industry who trusted the Government and got sick and now but for the trust of the Government they would be healthy. They need special consideration. All we give them is a hearing within the control of the administration.

Now, I cannot believe the cavalier way the Government's promises are dismissed. I remember seeing conventions, and I will not tell you which party, but in front of the podium it said, "Promises made, promises kept." I suggest if this bill passes unamended, do not ever use that again, because it will confirm your cynicism.

God help us on future promises. Do not ever listen to your Government or believe your Government unless you get it in writing with the seal from the White House and the Cabinet and even then, according to a legal brief the Justice Department sent up, it is not worth the paper it is written on.

Let me say something to my Republican people and everybody. You have been lobbied by the White House. You have been lobbied by the Treasury. You made commitments, and I know that. I have not lobbied anybody.

But let me just say something. Edmund Burke said, in effect,

A member of Parliament owes total fidelity to his constituency, but he owes his conscience to nobody.

As far as I am concerned, this is a matter of conscience. You are in the anomalous position of having to give your word to the White House or the Treasury to facilitate the Government breaking its word.

Let me appeal again to my Republican colleagues. In the foreseeable future, you will never be a chairman and you will never be a chairman of a subcommittee. You cannot have any power to move things around here. There is one thing you can do and that is fight injustice. That is the psychic payoff for this job, the agony, the exhaustion. You get to fight injustice, and when businessmen trust their Government and their Government breaks its word, that is a gross injustice and you can fight that injustice here.

Due process of law, boy, how we brush that off. Go down to the mall. You will see a lot of names on a monument of people who fought for the idea of justice and due process of law. I just suggest to you, think about this. Show your independence. Vote for a little hearing for the good guys whose only sin was trusting their Government.

Mr. ROSTENKOWSKI. Mr. Chairman, I rise in opposition to the Hyde amendment. However, I want to emphasize that this was a very difficult decision and a close call for me. I am very concerned about the appearance of the Federal Government reneging on its commitments. Mr. Chairman, I feel very strongly about the issue of retroactivity. During the 8½ years of my chairmanship on the Committee on Ways and Means, my committee has taken a strong and consistent position against retroactive changes in the tax law.

When we considered amendments to this savings and loan bill in the Ways and Means Committee, there was an amendment to undo the tax aspects of the deals negotiated and consummated last December. Late last year, the chairman of the FSLIC rushed to advertise, accept bids for, and negotiate the sale of troubled thrift institutions before the tax rules changed on January 1. In the 1 month before the 50 percent cutback of these tax provisions took effect, he sold $4.5 billion worth of tax benefits. He sacrificed the public interest in order to get rid of a few problems of his own. What the FSLIC did in December was to undo the hard work of the Ways and Means Committee in 1986 to eliminate tax driven transactions. However, I opposed this amendment in committee because "a deal is a deal."

On the other hand, supervisory good will is not a tangible asset. It is simply thin air, that cannot be used to pay depositors if the thrift is in default. Real capital is cash. The President, the House Banking Committee, and the public demand that the Hyde amendment be rejected. Under the Banking Committee bill, supervisory good will is phased out over a period of time. Everyone recognizes that tough capital standards are needed. Undercapitalized savings and loan institutions have been demonstrated to be enormously costly to the American public. This country cannot afford another savings and loan crisis in the future.

I believe the Federal Government should be able to change requirements when they have proven to be disastrous and contrary to the public interest. The contracts between the savings and loan owners when they acquired failing institutions in the early 1980's are not contracts written in stone. These arrangements are clearly different than the tax deals negotiated last December.

Mr. Chairman, taking into account all of these competing concerns, I have decided to oppose the Hyde amendment. The American people cannot afford another savings and loan crisis in the future. Although the proponents of the Hyde amendment present reasonable arguments, I have concluded that the public interest would be better served if the amendment is defeated.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Illinois [Mr. HYDE].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. HYDE. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device; and there were—ayes 94, noes 326, answered "present" 5, not voting 8, as follows:

[Roll No. 87]

AYES—94

Ackerman	Gekas	Morrison (WA)
Annunzio	Goodling	Murphy
Armey	Hall (OH)	Murtha
AuCoin	Hall (TX)	Nowak
Baker	Hammerschmidt	Packard
Bartlett	Hastert	Paxon
Boggs	Hefley	Porter
Boucher	Hiler	Quillen
Bruce	Hochbrueckner	Ridge
Burton	Holloway	Roberts
Byron	Horton	Robinson
Carr	Hyde	Russo
Coleman (MO)	Inhofe	Saiki
Craig	Jacobs	Shumway
Crane	James	Slattery
Dannemeyer	Kanjorski	Smith (IA)
Davis	Kolter	Smith (MS)
DeFazio	Kyl	Smith (NJ)
DeLay	LaFalce	Smith, Denny (OR)
DeWine	Lipinski	Smith, Robert (OR)
Dornan (CA)	Livingston	Solomon
Douglas	Lowery (CA)	Staggers
Dreier	Luken, Thomas	Stump
Durbin	Lukens, Donald	Tauzin
Early	Manton	Walgren
Emerson	Marlenee	Watkins
English	McCandless	Weldon
Espy	McEwen	Whittaker
Fawell	McGrath	Yatron
Fish	Molinari	Young (AK)
Flake	Mollohan	
Gaydos	Moorhead	

NOES—326

Akaka	Clinger	Garcia
Alexander	Coble	Gejdenson
Anderson	Coelho	Gephardt
Andrews	Coleman (TX)	Gibbons
Anthony	Combest	Gillmor
Applegate	Conte	Gilman
Archer	Conyers	Gingrich
Aspin	Cooper	Glickman
Atkins	Costello	Gonzalez
Ballenger	Cox	Gordon
Barnard	Coyne	Goss
Barton	Crockett	Gradison
Bateman	Darden	Grandy
Bates	de la Garza	Grant
Beilenson	Dellums	Gray
Bennett	Derrick	Green
Bentley	Dickinson	Guarini
Bereuter	Dicks	Gunderson
Berman	Dingell	Hamilton
Bevill	Dixon	Hancock
Bilbray	Donnelly	Hansen
Bilirakis	Dorgan (ND)	Harris
Bliley	Downey	Hatcher
Boehlert	Duncan	Hawkins
Bonior	Dwyer	Hayes (IL)
Borski	Dymally	Hefner
Bosco	Dyson	Henry
Boxer	Eckart	Herger
Brennan	Edwards (CA)	Hertel
Broomfield	Edwards (OK)	Hoagland
Browder	Engel	Hopkins
Brown (CA)	Erdreich	Houghton
Brown (CO)	Evans	Hoyer
Bryant	Fascell	Hubbard
Bunning	Fazio	Huckaby
Bustamante	Feighan	Hughes
Callahan	Fields	Hunter
Campbell (CA)	Flippo	Hutto
Campbell (CO)	Florio	Ireland
Cardin	Foglietta	Jenkins
Carper	Ford (MI)	Johnson (CT)
Chandler	Frank	Johnson (SD)
Chapman	Frenzel	Johnston
Clarke	Frost	Jones (GA)
Clay	Gallegly	Jones (NC)
Clement	Gallo	Jontz
Kaptur	Nielson	Shays
Kasich	Oakar	Shuster
Kastenmeier	Oberstar	Sikorski
Kennedy	Obey	Skaggs
Kennelly	Olin	Skeen
Kildee	Ortiz	Skelton
Kleczka	Owens (NY)	Slaughter (NY)
Kolbe	Owens (UT)	Slaughter (VA)
Kostmayer	Oxley	Smith (FL)
Lagomarsino	Pallone	Smith (NE)
Lancaster	Panetta	Smith (TX)
Lantos	Parker	Smith (VT)
Laughlin	Parris	Smith, Robert (NH)
Leach (IA)	Pashayan	Snowe
Leath (TX)	Patterson	Solarz
Lehman (CA)	Payne (NJ)	Spence
Leland	Payne (VA)	Spratt
Lent	Pease	Stallings
Levin (MI)	Pelosi	Stangeland
Levine (CA)	Penny	Stark
Lewis (CA)	Perkins	Stearns
Lewis (FL)	Petri	Stenholm
Lewis (GA)	Pickett	Stokes
Lightfoot	Pickle	Studds
Lloyd	Poshard	Sundquist
Long	Price	Swift
Lowey (NY)	Pursell	Synar
Machtley	Rahall	Tallon
Markey	Rangel	Tanner
Martin (IL)	Ravenel	Tauke
Martinez	Ray	Thomas (CA)
Matsui	Regula	Thomas (GA)
Mavroules	Rhodes	Thomas (WY)
Mazzoli	Richardson	Torres
McCloskey	Rinaldo	Torricelli
McCollum	Ritter	Towns
McCrery	Roe	Traficant
McCurdy	Rogers	Traxler
McDade	Rohrabacher	Udall
McDermott	Rose	Unsoeld
McHugh	Rostenkowski	Upton
McMillan (NC)	Roth	Valentine
McMillen (MD)	Roukema	Vander Jagt
McNulty	Rowland (CT)	Vento
Meyers	Rowland (GA)	Visclosky
Mfume	Roybal	Volkmer
Michel	Sabo	Vucanovich
Miller (CA)	Sangmeister	Walker
Miller (OH)	Sarpalius	Walsh
Miller (WA)	Savage	Waxman
Mineta	Sawyer	Weber
Moakley	Saxton	Weiss
Montgomery	Schaefer	Wheat
Moody	Scheuer	Williams
Morella	Schiff	Wilson
Morrison (CT)	Schneider	Wise
Mrazek	Schroeder	Wolf
Myers	Schuette	Wolpe
Nagle	Schulze	Wyden
Natcher	Schumer	Wylie
Neal (MA)	Sensenbrenner	Yates
Neal (NC)	Sharp	Young (FL)
Nelson	Shaw	

ANSWERED "PRESENT"—5

Brooks	Madigan	Sisisky
Hayes (LA)	Martin (NY)	

NOT VOTING—8

Buechner	Courter	Whitten
Collins	Ford (TN)	Wright
Coughlin	Lehman (FL)	

□ 1336

The Clerk announced the following pair:

On this vote:

Mr. Buechner for, with Mr. Coughlin against.

Messrs. BONIOR, OWENS of Utah, FLIPPO, HAYES of Illinois, GILMAN, FASCELL, and ROE changed their vote from "aye" to "no."

Messrs. HALL of Texas, LIVINGSTON, and TAUZIN changed their vote from "no" to "aye."

Mr. McCLOSKEY changed his vote from "present" to "no."

So the amendment was rejected.

The result of the vote was announced as above recorded.

ANNOUNCEMENT OF WITHDRAWAL OF AMENDMENT NO. 5

Mr. GONZALEZ. Mr. Chairman, I withdraw the next pending amendment.

The CHAIRMAN. The amendment is withdrawn.

Mr. GONZALEZ. Mr. Chairman, I move to strike the last word.

The CHAIRMAN. Without objection, the gentleman from Texas is recognized.

There was no objection.

Mr. GONZALEZ. Mr. Chairman, I yield to the gentleman from Georgia.

□ 1340

Mr. BARNARD. Mr. Chairman, I would like to ask the distinguished chairman of the House Committee on Banking, Finance and Urban Affairs a question about the effect of H.R. 1278 on prior supervisory actions by the Federal Home Loan Board where acquirors of troubled thrifts were allowed to contribute tangible assets as capital.

It is my understanding that where: First, supervisory transactions were approved by the Federal Home Loan Board prior to the enactment of H.R. 1278; second, the Federal Home Loan Bank Board authorized certain capital treatment for tangible assets, like land, as part of these supervisory transactions; and, third, the FHLBB valued those contributed assets at market value for regulatory capital purposes; those assets would continue to be treated as capital to the same extent previously authorized.

Such treatment would be comparable to the treatment the Comptroller of the Currency provides national banks in its risk based capital regulations. In section 3.3(a) of the regulations, institutions may continue to count as capital, to the extent previously authorized, certain capital instruments approved as capital prior to the effective date of their risk based capital regulations.

The alternative, Mr. Chairman, is to leave these institutions in limbo as to the treatment of their capital or force them to sell real estate at bargain basement prices. This would be unfair. This is a discrete problem applicable to only a few institutions.

Mr. Chairman, is it also the view of the gentleman that the bill would not affect the valuations in these transactions?

Mr. GONZALEZ. Yes, it is also my view, provided the FDIC will follow the reappraisal and reconfirm the capital asset.

Mr. BARNARD. Mr. Chairman, I thank the gentleman for clarifying that issue.

Mr. GONZALEZ. Mr. Chairman, I yield to the gentleman from Missouri [Mr. VOLKMER] for the purpose of conducting a colloquy.

Mr. VOLKMER. Mr. Chairman, I thank the Chairman for yielding.

Mr. Chairman, I would like to begin by congratulating the distinguished chairman of the Banking Committee and the ranking minority member, Mr. WYLIE, for the tremendous effort that went into bringing this complex legislation to this stage. The President and the American public have rightly asked the Congress to act promptly in addressing the savings and loan crisis, and while there remain some important issues to be resolved, we should not lose sight of the fact that there is agreement of the basic need to fund the FSLIC deficiency up front, and put in place the regulatory reforms necessary to ensure that a crisis of this type does not reoccur.

One of the most important regulatory reforms is the requirement that savings and loan associations be subject to the same capital and accounting standards as commercial banks. Here again, there is no basic disagreement as to the goal although the method and precise timing of getting from here to there is still a matter of some dispute. My purpose in speaking out today is not to focus on the appropriate capital rules, but to bring attention to the special needs of mutual associations in meeting higher capital requirement.

Mutual associations still constitute over 55 percent of the savings and loan industry, and in the State of Missouri, this percentage is even higher—66 of our 80 S&L's are mutuals.

Mutual savings and loans have historically carried out the mortgage finance mission of the thrift industry, and continue to represent an extremely important part of the industry, especially in the central part of the country and in the small communities of our Nation. There is no reason to believe that mutuals cannot continue to play a vibrant, essential role in the American financial system.

It is widely recognized that it is more difficult for mutuals to increase their capital than is the case for stock companies. One source of external capital is the mutual holding company, and I am pleased to note that the bill does include some important changes designed to enhance this new type of corporate structure. Another equally important capital-raising vehicle, which already exists in current law, is the mutual capital certificate.

In order to facilitate the transition to higher capital requirements by mutual S&L's, our distinguished colleague from North Carolina [Mr. LANCASTER] introduced an amendment to extend for 1 year the time period for capital compliance by mutual institutions. I support this amendment, and hope it can be accommodated in conference. Iin the same vein, my colleague from Missouri [Mr. BUECHNER] filed an amendment with the Rules Committee that would clarify current law in order to enhance the efficacy of mutual capital certificates.

Given the time constraints in which we are trying to move this legislation and the fact that these amendments are highly technical in nature, I do not propose to take the time of the full House to address them. However I do ask the managers of the bill for their cooperation in seeing to it that the special needs of mutual institutions will receive due attention during the conference committee on this legislation.

Mr. GONZALEZ. Mr. Chairman, the gentleman from Missouri has raised an excellent point, and I can assure him that we will work with our colleagues from the Senate to make certain that the mutual form of organization is not disadvantaged by this legislation. Indeed, it is my personal view that mutual savings and loan associations have made an outstanding contribution to homeownership in America.

Mr. WYLIE. Mr. Chairman, if the gentleman will yield. I would also like to commend our distinguished colleagues, Messrs. VOLKMER, BUECHNER, and LANCASTER, for their efforts to focus greater attention on this issue, and I look forward to working with them to effect the changes in current law that may be necessary to help mutual institutions meet the new capital requirements called for by this legislation.

Mr. VOLKMER. Mr. Chairman, I thank the gentlemen for their time and attention. In closing, I include for the RECORD at this point a recent article on this subject that appeared in the St. Louis Post Dispatch.

S&L'S ABANDONING MUTUAL OWNERSHIP

(By Adam Goodman)

The days may be numbered for mutual savings and loan associations—the traditional customer-owner S&Ls that dominate the industry.

Strengthened capital requirements that are part of the various S&L bailout proposals making their way through Congress promise to make life difficult for many S&Ls. And mutual S&Ls are especially vulnerable to that pressure.

"The issue of mutuals has been a forgotten issue," said Alex J. Pollock, chairman and chief executive at Community Federal Savings and Loan Association in Des Peres.

Unlike stock institutions that can sell stock to shareholders to raise capital, mutuals have no stockholders. They typically raise additional capital only through retained profits.

As the S&L reform plan is finalized, a growing number of mutual S&Ls will convert into stock institutions through public or private stock offerings or will be merged into stock institutions, industry experts say.

"We see a lot of institutions researching and exploring their options at the present time," observed Dennis R. Havener, assistant director of applications at the Federal Home Loan Bank of Des Moines, Iowa.

The local market already is experiencing a rush of stock offerings by mutual institutions:

Home Federal Savings, a mutual S&L based in Alton, last week agreed to be merged into Roosevelt Bank, a subsidiary of publicly held Roosevelt Financial Group Inc. of Chesterfield. Roosevelt will sell stock to Home Federal customers and to the public as part of the acquisition.

Great Southern Savings and Loan Association, a mutual S&L based in Springfield, Mo., agreed May 26 to merge with United Savings and Loan Association, a publicly held S&L in Lebanon, Mo. The combined institution will issue new stock to Great Southern's customers and the public.

Metro Savings Bank of Wood River is preparing to apply to federal regulators within the next two weeks to convert to a stock institution. It will offer stock to its customers and the public.

"The anticipated government requirement for S&Ls to build up capital levels under any reform plan is fueling the mergers and conversions," said lawyer Robert L. Freedman, Freedman, a partner in the firm of Silver Freedman & Taff in Washington, is representing Roosevelt and Great Southern in their deals.

"The idea of a mutual is almost American," commented Edward G. Throop, chairman of Jefferson Savings and Loan Association one of the most highly capitalized mutual S&Ls in the area and one now intending to buck the stock-conversion trend. ". . . For them to go stock and be owned by the wealthy minority is unfortunate."

Many mutual S&Ls do not plan to make a move until Congress approves a final version of the S&L legislation. "It's difficult for many institutions to make any definite plans until they know what the legislation will be," said Havener of the Federal Home Loan Bank.

One large mutual S&L contemplating a conversion or merger is Illinois Federal Savings and Loan Association of Fairview Heights, Illinois Federal has assets of $562 million and 10 offices.

"Until the bill passes we really don't know what the final decision will be," explained Richard C. May Illinois Federal's chairman.

Illinois Federal almost had a public stock offering in 1984, but pulled back because of a downturn in the market, May said. And May said he believes the nation "will see the mutual concept disappearing" eventually because of the industry's recent troubles and the regulatory changes those troubled will bring.

"It is increasingly difficult to know exactly what direction to go," May said.

Mutual S&Ls that are large enough and strong enough to convert on their own will probably do so, S&L executives say. But some other mutual S&Ls will be left to be acquired.

"They may desire to go public, but the marketplace may not desire to buy their stock," said Michael J. Gorman, executive vice president of United Postal Savings Association, a mutual S&L based in Warson Woods.

"United Postal, with assets of $1.4 billion, has studied going public for several years but has made no commitments," Gorman said. Although United Postal's capital level represents a healthy 6.5 percent of its

assets, the S&L's management view a public offering as a potential way to better its position for making future merges when an industry shakeout occurs.

"Clearly there are going to be a lot of institutions going by the wayside," Gorman said.

Metro Savings Bank is one small Institution trying to keep its local roots by proposing a stock offering. Formerly called Wood River Savings and Loan Association, Metro has assets of $87 million.

"It is our desire to stay independent," said Metro's president, Eugene V. Wrischnik. "It is just more practical to do it on a stock basis."

The public offering would be aided by the savings bank's directors, who are interested in buying about 34 percent of the proposed stock issue, and an employee stock ownership plan, which could buy up to 10 percent, Wrischnik said.

"Our management is well in place, and we are fairly young." Wrischnik said. But management at other mutual S&Ls—some of whom have spent decades at the institutions—may be ready to leave the business in the wake of the industry's latest upheaval.

Longtime S&L executives "may just want to bail out," said Raymond T. Gusnard, chairman of Roosevelt, which is acquiring Home Federal in a merger-conversion. Roosevelt itself was a mutual until it converted into a publicly held stock institution in 1987.

Home Federal President Eugene L. Frizzo, who intends to remain in the management ranks after the merger into Roosevelt, said Home Federal's directors approved the merger plan with Roosevelt after recognizing the pressures that new capital requirements will put on S&Ls in the future.

"Without sufficient capital, these will be restrictions on your activities," he said.

Despite the widespread interest in merger conversions among mutuals, representatives of stock institutions say it can be difficult to find likely target acquisitions.

"The market is thin," John J. Wuest, president of Heartland Savings Bank, a privately held stock institution in St. Louis." . . . They are either so far underwater you don't want to make up the capital or they are of the size that they can do it on their own and they don't need you."

And negative publicity about the industry has also given some S&L executives second thoughts about trying to find investors for their stock.

Troubled Community Federal, a mutual S&L with assets of $3.6 billion, last year proposed a stock conversion through the private placement of its stock with the help of a California venture-capital firm.

But its proposal is so far stalled this year. There is so much uncertainty around about what Congress will do, you can't do a deal," said Pollock, the S&L's chief executive.

The CHAIRMAN. The time of the gentleman from Texas [Mr. GONZALEZ] has expired.

(By unanimous consent Mr. GONZALEZ was allowed to proceed for 5 additional minutes.)

Mr. GONZALEZ. Mr. Chairman, I yield to the gentleman from California [Mr. TORRES] for the purposes of a colloquy.

Mr. TORRES. Mr. Chairman, I thank the chairman for yielding.

Mr. Chairman, I wish to engage in a colloquy with Chairman GONZALEZ of the Banking Committee regarding the status under H.R. 1278 of finance subsidiaries of State-chartered savings associations.

Under H.R. 1278, certain investment activities of savings associations would be limited. While it is clear that these limitations are designed to prevent speculative investments by savings associations, I wish to clarify that they would not affect finance subsidiaries of State-chartered savings associations. Established pursuant to Bank Board regulations, finance subsidiaries are limited in their activities to raising funds for their savings association parents through the sale of securities, principally debt offerings collateralized with assets transferred to the subsidiary by the parent association.

In the past several years, finance subsidiaries have been generally well received in the financial markets. Financial market participants reluctant to invest directly in savings association securities have invested in securities of separate finance subsidiaries of associations. The result is greater access to capital markets for savings associations.

H.R. 1278 does not affect finance subsidiaries of federally chartered savings associations, however, the issue of state finance subisidiaries is open to question.

The bill clearly intends to establish parallel regulation of State and federally chartered associations by generally requiring State associations to operate under policies applicable to Federal associations. Given this intent, and in view of the fact that the bill does not affect finance subsidiaries of Federal associations, it is appropriate to conclude that the legislation is not intended to affect finance subsidiaries of state associations. I would ask Chairman GONZALEZ if he agrees with my view?

Mr. GONZALEZ. Mr. Chairman, I do agree with that. The gentleman is correct.

The gentleman has correctly interpreted the thrust and language of the bill pending.

Since the Federal finance associations may establish their finance subsidiaries as incidental to the main purpose of carrying out their functions, the State associations certainly would, under the existing laws, and regulations governing the Federal. So there is all reason to conclude that the gentleman is quite correct in his interpretation, and I think the RECORD should show that.

Mr. TORRES. Mr. Chairman, I thank the gentleman for his clarification on this question.

□ 1350

Mr. GONZALEZ. Mr. Chairman, for the purpose of colloquy, I yield to the gentleman from North Carolina [Mr. NEAL].

Mr. NEAL of North Carolina. Mr. Chairman, If I might have the attention of the distinguished chairman of the Subcommittee on Financial Institutions Supervision, Regulation and Insurance, I would like to say to the chairman that during the Subcommittee on Financial Institutions, Supervision, Regulation and Insurance markup of H.R. 1278, the distinguished chairman introduced an amendment that would require thrift institutions to increase the amount of traditional mortgage lending. The amendment, subsequently approved by the subcommittee, sets forth an 80 percent of assets qualified new thrift investment test for assets acquired after February 28, 1989. It left in place the existing 60 percent of assets qualified thrift lender test for thrift investments made prior to that date.

The distinguished Chairman's amendment also provided for a reduction, from 40 percent of assets to 20 percent of assets, in the permissable amount of nonresidential real property lending for federally chartered thrifts. Is it the distinguished chairman's intent to apply this new standard on a prospective basis?

Mr. ANNUNZIO. Mr. Chairman, will the gentleman yield?

Mr. NEAL of North Carolina. I yield to the gentleman from Illinois.

Mr. ANNUNZIO. Yes, that is correct. It would be unreasonable to require thrift institutions to divest existing nonresidential real property loans or not to honor outstanding commitments on such loans which were made prior to the date of enactment of this legislation.

Mr. NEAL of North Carolina. I thank the distinguished chairman for his response. I share his view and will be pleased to work with him in conference to further clarify this point.

Mr. ANNUNZIO. I also want to thank my good friend, the distinguished gentleman from North Carolina, for his offer to assist with this matter.

AMENDMENT OFFERED BY MR. BARNARD

Mr. BARNARD. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. BARNARD:

Page 655, before line 21, insert the following new section (and redesignate subsequent sections and amend the table of contents accordingly):

SEC. 965. CRIMINAL DIVISION FRAUD SECTION REGIONAL OFFICES.

(a) ESTABLISHMENT.—Not later than 120 days after the date of the enactment of this Act, the Department of Justice shall—

(1) create regional offices of the Fraud Section of the Criminal Division;

(2) locate such offices in the Central District of California and the Northern District of Texas; and

(3) maintain such offices, by providing sufficient legal and other staff and office space, through fiscal year 1992.

(b) STUDY.—Not later than 180 days after the date of the enactment of this Act, the Comptroller General shall study and report to the Congress on whether additional task forces or regional offices of the Fraud Section of the Criminal Division should be established in other parts of the country.

The CHAIRMAN. Under the rule, the gentleman from Georgia [Mr. BARNARD] will be recognized for 20 minutes in support of his amendment, and the gentleman from Wisconsin [Mr. KASTENMEIER] will be recongized for 20 minutes in opposition to the amendment.

The Chair recognizes the gentleman from Georgia [Mr. BARNARD].

Mr. BARNARD. Mr. Chairman, this amendment is being offered by myself and the gentleman from New York [Mr. SCHUMER]. We worked very long and hard on title IX of this bill which is in the enforcement powers section of the legislation.

What we have promised the taxpayers of this country is that we will see to it that those who are guilty of wrongdoing, those who are guilty of bringing down these savings and loans, would be prosecuted. In the bill we set up a mechanism whereby this would be done, along with giving various powers to the regulators, to enforce prosecution and to bring wrongdoers to pass.

The purpose of our amendment this morning is to reinstate section 965 of the Banking Committee's bill. This provision would establish two temporary DOJ Criminal Division Fraud Section regional offices, one in the Dallas area and the other in southern California—areas where backlog of bank and S&L fraud investigations is the greatest. Under the sunset provision of September 1992, the Justice Department would have to operate these temporary offices for 3 years. Section 965 also requires the GAO to study the need for offices elsewhere.

Both the Banking Committee and the Government Operations Committee have taken the following positions: First, the fraud section has a major role to play—together with U.S. attorneys—because it has handled some of the more serious bank fraud cases and has developed an expertise in this area. Second, these two regional offices could help reactivate many of the major cases backlogged in California, Texas, and neighboring States. There are almost 3,600 cases of financial institution fraud or embezzlement cases involving losses of $100,000 or more, with over a thousand cases probably in a dormant status.

The existing DOJ structure has failed, and placing additional U.S. attorneys in 25 out of 94 U.S. attorney offices, as Justice has proposed to do, will not provide the flexibility nor the expertise which is needed. At least two regional offices would be a much more efficient means of handling cases than constant travel from Washington, and also a less costly way. I estimate that the Justice Department would probably save several hundreds of thousands of dollars annually in travel costs, if not more—money better spent on salaries. For example, Justice is probably spending at least $15,000 to $20,000 a month by sending 10 fraud section attorneys to Dallas twice a month, for a week each time.

Also, cases would be better handled with attorneys nearby. We had several U.S. attorneys testify in front of my Government Operations Committee that bringing in attorneys from 1,500 to 2,000 miles away for a few days at a time is not a satisfactory solution, even when travel funds exist. They testified that you need an attorney onsite or in a city close by who can work daily on these cases and gain the confidence of the judges there. Fraud section attorneys in regional offices would more efficiently handle these cases.

There was unanimous support in the Banking Committee for the inclusion of this provision, offered by myself and Mr. SCHUMER, who is also cosponsoring this amendment today with me. Also, the House Government Operations Committee's extensive October 1988 report, "Combating Fraud, Abuse, and Misconduct in the Nation's Financial Institutions: Current Federal Efforts Are Inadequate" strongly recommended the creation of these offices. This proposal was deleted by the Judiciary Committee, after only brief consideration and, with all due respect, without a full understanding of the fraud section's important role in supplementing inadequate U.S. attorney resources and an awareness of the inefficiencies and travel cost constraints.

We are offering this amendment, not primarily to save money—and I am always reluctant to tell an agency where it should direct its efforts—but because the American people want timely and fair justice for those who have committed criminal fraud and contributed to this mess, and the public is not getting it. We are extremely disappointed by the slow pace of efforts in the Southwest and the Far West, including the poor results of the fraud section's current massive efforts in Dallas to redress S&L fraud. We are also concerned by the fraud section's reluctance to take on new criminal cases in the West and other locations, because of the recurrent shortages in travel funds. This inability extends, not only to bank fraud cases, but also to defense procurement and telemarketing fraud cases. Consequently, individuals defrauding a bank or an S&L in the West and Southwest, especially in less populated States, are much less likely to be prosecuted, because many of those States are unlikely to receive either any new Federal prosecutors or adequate numbers of them under the proposed appropriations.

On February 10, the Wall Street Journal ran a front page story on the fraud section's massive efforts in Dallas. I quote from it:

> Although the Dallas task force is still the largest in Justice Department history, it has failed to achieve much. Budget cuts, low pay, low morale, and ineffective strategies have plagued it * * * The force is stretched thin. Of 11 fraud section lawyers currently working for it, only [one] actually lives in Dallas. The rest commute from Washington, dividing their time between task force cases and investigations in other parts of the country * * *. [T]he incessant travel is tiring and demoralizing. Task force lawyers feebly joke that the Justice Department should establish a legal defense fund to handle their divorce settlements. At one point, money appropriated for the task force was deverted to the National Obscenity Enforcement Unit * * *. With travel to Dallas * * *. Restricted to 1 trip a month, the investigation was largely directed by remote control from 1,500 miles away.

A Los Angeles Fraud Section Office could assist, at much less cost and travel, those U.S. attorney offices throughout California, which has the most pending financial institution fraud cases of any State.

The Justice Department opposes these regional offices, even on the temporary trial basis provided in this amendment, because the officials in the fraud section, with the Attorney General's support, want sections efforts centralized in Washington. Although, the Justice Department does have a number of regional offices, including Criminal Division and Antitrust Division regional offices. Centralization may work in most cases; it is not working now.

The Judiciary Committee set forth two criteria under which it rejected this proposal. Its report states:

> The Committee believes that Congress should mandate management decisions such as [this] only under the most extraordinary circumstances. One such circumstance would be a showing of a failure of the existing structure, and an unjustified Refusal of the Attorney General to implement changes. No such record exists, * * *

With all due respect to that committee, the two criteria have been met and a record exists. First, the Department of Justice has failed to respond in writing to this and other recommendations in the October 1988 House Government Operations report, unlike several banking and other agencies which did respond, for the most part favorably. We are dealing with an agency which wants to do business as usual. Second, we are dealing with an extraordinarily circumstances: An amount of fraudulent misconduct that is staggering. Moreover, there is a ample legislative record for this recommendation: Years and years of in-

vestigation by the Government Operations Committee with numerous reports, beginning in 1983; years of oversight by the Banking Committee; and also 2 days of hearings before the Judiciary Committee's Criminal Justice Subcommittee, chaired by Mr. SCHUMER.

To conclude, locating specialized units of DOJ attorneys for 3 years in these two regions would go far in reactivating these massive fraud cases and responding to the wishes of the American people for justice. While I have great respect for the Attorney General, the Department of Justice's wish to do business as usual will not suffice. The American people want action against all persons who committed fraud in financial institutions. This amendment would significantly contribute to that effort, and I urge its adoption.

□ 1400

Mr. Chairman, I would like to state further that in regard to creating these offices in Dallas and Los Angeles, the Financial Assistance Division of FSLIC and the Office of the General Counsel of the Bank Board have both opened offices in Dallas and Los Angeles, finding that this is the best remedy in order to take some control in these situations.

Mr. CRAIG. Mr. Chairman, will the gentleman yield?

Mr. BARNARD. I yield to the gentleman from Idaho.

Mr. CRAIG. Mr. Chairman, I thank my colleague for yielding.

Mr. Chairman, I stand in strong support of reinstating section 965 in H.R. 1278. I served as the ranking Republican on the Subcommittee of the Committee on Government Operations chaired by my colleague, the gentleman from Georgia [Mr. BARNARD], when we made extensive investigative efforts in the area of fraud in the savings and loan industry.

It is very clear that if we are to answer to the public in rooting out the fraud and prosecuting those who in part were responsible for the downfall of this industry, that we not attempt to rehabilitate today, we deal with it in a timely fashion, and that we provide the adequate resources to do so.

I believe the Barnard amendment attempts to accomplish this. If any of our Members question this, they should read House Report 100-1088 of the Government Operations Committee which strongly recommends the fraud section regional offices in Texas and California, as referred to by my colleague, the gentleman from Georgia [Mr. BARNARD].

Mr. SHUMWAY. Mr. Chairman, will the gentleman yield?

Mr. BARNARD. I yield to the distinguished gentleman from California, a member of the Banking Committee.

Mr. SHUMWAY. Mr. Chairman, I appreciate the gentleman's yielding.

Mr. Chairman, I think that there is excellent reason for this amendment. It is a very modest amendment. Yet, I think the extraordinary circumstances that the gentleman from Georgia [Mr. BARNARD] referred to are indeed present.

As I have talked with my constituents about the issue we are now grappling with, I find that there is a great deal of misunderstanding. Many of the provisions of this bill have been misconstrued. People have gone off in different directions, and sometimes, incorrectly so. But there is one thing that everybody seems to be very united about, and that is that we should exert every possible effort to go after and prosecute and sue civilly those who are responsible for getting us into this mess.

I think it makes eminent good sense for that reason to beef up our presence in the those forces in California and in Texas, so that we can indeed accomplish this kind of prosecution and civil suits.

Mr. Chairman, the amendment is a modest one. I think it moves us very significantly in the right direction, and I urge my colleagues to support it.

The CHAIRMAN pro tempore (Mr. MONTGOMERY). The gentleman from Georgia [Mr. BARNARD] has used 11 minutes of his time.

The gentleman from Wisconsin [Mr. KASTENMEIER] is recognized for 20 minutes in opposition to the amendment.

Mr. KASTENMEIER. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in opposition to the amendment to H.R. 1278 offered by the gentleman from Georgia [Mr. BARNARD]. The Attorney General has announced his intention to eliminate all organized crime task forces based in the field rather than in Washington. His reason is that the investigation and prosecution of organized crime should be based in the local U.S. attorneys' offices. While I have some questions about the Attorney General's decision, I do not believe that we should recreate the situation he is seeking to avoid by establishing two new fraud offices, which would be regional offices of the fraud section of the Department of Justice.

In addition, I understand that the Justice Department already has a joint bank fraud task force in Dallas, consisting of lawyers from both the Department and the local U.S. attorney's office, and that its success is due largely to the fact that it is a cooperative venture between Washington and Dallas. Prosecutions are handled locally, and not out of Washington.

I do not believe that we know enough yet to decide whether to set up these offices. My subcommittee, which has jurisdiction over the U.S. attorneys offices, has not had a chance to hold hearings on this issue. I know that the Government Operations Committee has considered the issue, but it rejected the recommendations of lower level departmental officials. We should seek the advice of the Attorney General, who I understand opposes the amendment.

The Justice Department opposes these regional task forces on the grounds that they will create undesirable fragmentation of enforcement responsibilities. They are inconsistent with the Department's policy that there be one primary enforcement agency responsible for Federal criminal prosecutions.

The local U.S. attorneys offices have demonstrated their ability to deal with these cases. If they need more resources and personnel, the answer is not to bring people in from Washington. It is to provide them with the resources so that they can do the work out of their own offices.

I urge you to vote no on this amendment.

Mr. McCOLLUM. Mr. Chairman, will the gentleman yield?

Mr. KASTENMEIER. I yield to the gentleman from Florida.

Mr. McCOLLUM. Mr. Chairman, I thank the gentleman very much for yielding.

Mr. Chairman, I want to concur in the gentleman's assessment of this matter. The Attorney General definitely opposes this amendment because it restricts his hands, and it seems to me that what we are about in this legislation is to try to allow maximum flexibility to the Justice Department to give them the resources they need. They need the resources and maximum flexibility to go out and get these guys that were bad, to prosecute the fraud cases, and we should not further tie the hands of those people we want to do the job.

□ 1410

Mr. Chairman, what the proposed amendment does is to require the Attorney General to establish a criminal division, fraud section, regional office in Dallas, TX, and another one in Los Angeles, CA, and that would set an unfortunate precedent in micromanaging the law enforcement activities of the Department of Justice. It is just as simple as that. I think it was properly rejected by the Committee on the Judiciary. The Attorney General has the responsibility and the capability of assessing whether regional offices in particular locations are the most effective way to combat financial institution crimes, and that is where the power ought to lie to make those decisions.

With respect to Dallas, as the gentleman has pointed out, there already is

a Dallas task force for fraud. It is located, granted, in Washington, but that is the prerogative of the Attorney General. If he wanted to put it in Dallas, if he thought it was more efficient, then let him do that. I would not have any opposition to that, but we should not dictate that to him.

Even if it were to be concluded that the concept of these regional fraud offices are the place that we should put our emphasis and that they should be established, it is unwise to require that these offices be located in the fraud section of the criminal division because that is too confining, and the Attorney General has specifically pointed out that fact. If we were to establish divisions like this, they should not be in the fraud section. The AG might determine that there are other structures, such as a group of U.S. attorneys offices or task forces not under the fraud section that represent a better approach.

So, all in all I think that the gentleman from Wisconsin [Mr. KASTENMEIER] has hit the nail on the head. All of us want to see tough prosecution of those people who have caused the debacle to the degree they have caused it in the savings and loans matter. All of us want to see the Attorney General and the U.S. attorneys go after them with a strong arm. There is money in this bill to do that. There are new stiff criminal penalties in this bill to do that, but it is wrong to go out and spell out to the AG the details in micromanagement of where he locates his personnel and which places he has to open offices in rather then allowing him to determine that and what divisions, what sections, what structures he uses.

I thank the gentleman from Wisconsin [Mr. KASTENMEIER] for yielding, and I oppose the amendment.

Mr. KASTENMEIER. Mr. Chairman, I yield 3 minutes to the gentleman from New Jersey [Mr. HUGHES].

Mr. HUGHES. Mr. Chairman, I thank the distinguished gentleman from Wisconsin [Mr. KASTENMEIER] for yielding, and I want to, first of all, congratulate the gentleman from Georgia [Mr. BARNARD]. I think he has focused in on something that we need to take a much more serious look at. I, too, would prefer to see us begin to regionalize many of our operations. I think that is one of the concerns that the gentleman from Georgia has.

Mr. Chairman, I think it is often very difficult to run a fraud or other investigation from headquarters in Washington, so I think the gentleman is right on target in many respects. We should be regionalizing not just fraud sections, but a whole host of other ongoing criminal investigations.

I might say also that we are awash in fraud investigations in this country, not just with regard to thrift fraud. White collar crime has been on the upswing, and we are not committing sufficient resources to investigate what is a very pernicious, a very serious, form of crime that we too often have put on the back burner and have not paid enough attention to.

So, Mr. Chairman, I very reluctantly oppose the amendment of the gentleman from Georgia [Mr. BARNARD]. In the Judiciary Committee I am asked often to micromanage the Drug Enforcement Administration. I say to my colleague, the gentleman from Georgia [Mr. BARNARD], that many of our colleagues want drug task force operations in their particular congressional district, and I am forever attempting to defend the Drug Enforcement Administration against micromanagement that would put strike forces and task forces in particular parts of the country. I think that is the wrong direction.

Mr. Chairman, we do have serious problems in the South, and certainly in California, the Far West, and I can understand the attractiveness of attempting to at this point determine that we want regional offices in both Dallas, TX, and Los Angeles, CA, but I say to my colleague from Georgia [Mr. BARNARD] that tomorrow it is goint to be major fraud investigations in New York, or in Chicago or in some other part of the country. We just cannot begin to micromanage the Justice Department in this fashion.

So, Mr. Chairman, while I am very sympathetic, I think it is a wrong direction. It is a terrible precedent. I think it is a terrible precedent because frankly it is for the Justice Department to decide where they need to commit these resources and what structure it should take.

Now I am not so sure that it should not take the form of a strike force or a task force, perhaps a mobile task force that we can move around to various regions. However that is something that the Attorney General is best able to assess and determine when he sees what the total case load is.

So, Mr. Chairman, I urge my colleagues to reject the amendment while it certainly is attractive. I think the gentleman from Wisconsin [Mr. KASTENMEIER] and certainly my colleagues from Florida [Mr. MCCOLLUM] is absolutely correct when they say that is the wrong direction for us to take. I would urge that the amendment be rejected.

Mr. BARNARD. Mr. Chairman, I yield 2 minutes to a distinguished member of the Committee on Banking, Finance and Urban Affairs, the gentleman from Illinois [Mr. ANNUNZIO], who is chairman of the Subcommittee on Financial Institutions Supervision, Regulation and Insurance.

Mr. ANNUNZIO. Mr. Chairman, I rise in strong support of the amendment offered by my distinguished colleague, Mr. BARNARD of Georgia, reinstating the "field office" provisions originally passed by the Subcommittee on Financial Institutions and reported out by the full House Banking Committee.

I say to the Members of the House that it is clear that we have a serious problem on our hands. Fraud, insider abuse, and self-dealing have run rampant through parts of the thrift industry. Unscrupulous officers and directors have taken brash advantage of the public trust, squandering the hard-earned dollars of our constituents without fear of punishment from Federal authorities.

The Subcommittee on Financial Institutions sought to change this. After numerous hearings and 4 long days of markup, the subcommittee reported out a bill—with the able assistance of Mr. BARNARD and others—that created two special field offices of the Department of Justice, one in Texas and one in California, to prosecute the criminals within the industry. It is in these two States where fraud is most prevalent—it is there that we must focus our resources.

We cannot fight fires a thousand miles from the source—we need to be on the scene, with a strong public presence. We must show these criminals we mean business, by prosecuting them, tossing them in jail, and throwing away the key.

We must be tough on these wrongdoers. Creation of these special field offices takes a big step in that direction. I urge all of the members to strongly support this amendment.

On February 10, the Wall Street Journal ran a front page story on the fraud section's massive efforts in Dallas, and I quote from it:

> Although the Dallas task force is still the largest in Justice Department history, it has failed to achieve much. Budget cuts, low pay, low morale, and ineffective strategies have plagued it. The Force is stretched thin, of 11 fraud section lawyers currently working for it, only [one] actually lives in Dallas. The rest commute from Washington, dividing their time between task force cases and investigations in other parts of the country.
>
> [T]he incessant travel is tiring and demoralizing. Task force lawyers feebly joke that the Justice Department should establish a legal defense fund to handle their divorce settlements. At one point, money appropriated for the task force was diverted to the national obscenity enforcement unit. With travel to Dallas, restricted to 1 trip a month, the investigation was largely directed by remote control from 1,500 miles away.

A Los Angeles fraud section office could assist, at much less cost and travel, those U.S. attorney offices throughout California, which has the most pending financial institution fraud cases of any State in the Union, and I urge adoption of the Barnard amendment.

Mr. BARNARD. Mr. Chairman, I yield 2 minutes to the gentleman from California [Mr. MCCANDLESS].

Mr. McCANDLESS. Mr. Chairman, I thank the gentleman from Georgia [Mr. BARNARD] for yielding this time to me.

Mr. Chairman, I would first like to say that I have a great deal of respect for my colleagues that serve on the Committee on the Judiciary.

□ 1420

The experience of the Government Operations Committee has not led us to any conclusion lightly. The Office of the Attorney General has not been that responsive to what I consider to be a crisis situation.

We have 3,600 cases currently pending that are under investigation or in some part of the judicial system. It is my understanding, Mr. Chairman, that there are another 7,000 cases yet to be undertaken, so if one were to take a look at this from the total potential, 10,600 cases could conceivably be the ultimate result of the situation that we are here discussing today.

I am not a micromanager, but I must say in all candidness, based on our experience in the Government Operations Committee relative to the activities of the Attorney General in his field leads us to believe that because we are placing in this bill $75 million over a 3-year period, there needs to be a better result from the Attorney General in this specific field where the allegations are coming than we have currently experienced.

Too much time is being spent on airplanes. As one who spends time on airplanes, I can respect the problems because you are usually tired by the time you get there. So instead of spending that time and resource traveling, instead of spending that time and resource trying to conduct something long distance from Washington or another location, to me it is very timely that we take the resources being allocated under this bill and establish two regional offices in the areas that have been talked about and develop those regional offices to handle these potential 10,000-plus cases.

Not being an attorney, Mr. Chairman, I would simply say that 10,000 cases, with my limited experience in court, is going to take many, many years to resolve if we were to get that far.

The CHAIRMAN pro tempore (Mr. MONTGOMERY). The gentleman from Georgia [Mr. BARNARD] has 4 minutes remaining. The gentleman from Wisconsin [Mr. KASTENMEIER] has 9 minutes remaining.

The Chair will rule that because this section of the bill did come from the Judiciary Committee that the gentleman from Wisconsin [Mr. KASTENMEIER] in effect is managing this part of the legislation, so the gentleman from Wisconsin will be allowed to close debate.

Mr. BARNARD. Mr. Chairman, I yield the balance of my time to the gentleman from New York [Mr. SCHUMER], a cosponsor of this amendment.

Mr. SCHUMER. Mr. Chairman, I thank the gentleman from Georgia for yielding me this time.

First, let me compliment the gentleman for his leadership on this whole issue of enforcement. It has been a passion and a goal of the gentleman from Georgia to see that there be adequate enforcement. He has really steered this legislation.

I speak in the anomalous position of wearing two hats. I am a member of the Judiciary Committee, and in fact I am chairman of the Criminal Justice Subcommittee. I am also a member of the Banking Committee. I really believe that this amendment is the correct thing to do.

Mr. Chairman, our constituents have been asking us, "Why have there been so few prosecutions?" Here we have huge amounts of fraud, huge amounts of potential criminal prosecution and so little to show for it.

The question is why? Well, there are a whole lot of reasons, one of which there is not enough money, although I must tell my colleagues that one of the most important reasons to vote for this bill is that it does put $75 million in for these kinds of prosecutions.

Another is that the penalties were not tough enough, but this bill does strengthen the penalties and strengthen significantly.

But the third reason and the reason this amendment is important is a lack of focus. If you are the U.S. attorney of a certain area, you have thousands and thousands of responsibilities. At one point in time drugs may be very important in your area. Then there may be bank robberies. Then there may be counterfeiting and your attention shifts from one issue to the other.

What is needed to help prosecute those who have caused these terrible, terrible crimes, is focus and concentration, and given the fact that U.S. attorneys have so much responsibility, I would argue to all of you that the best way to get that focus, to get that concentration, is very simply to set up these units.

These types of cases, my colleagues, take years to develop and build. There is a very real risk that there is no payoff if the case cannot be brought, and because there are so many other types of prosecutions that are quicker or more glamorous or enticing, all too often the prosecutions of these kinds of fraud cases get fourth or fifth priority. If we set up the kinds of task forces envisioned in the amendment introduced by the gentleman from Georgia and myself, we are certain that there will be the focus that is needed.

We are not saying all the money should go into these task forces. In fact, the vast majority of the money will go to the U.S. attorneys throughout the country to prosecute these issues, but a small amount of the money under this amendment will go into these task forces.

I say to my colleagues, as well as to this fly that is buzzing around here, I say to my colleagues, why not try it both ways? Why not give the U.S. attorneys the money they need, but why not authorize these task forces which will provide the focus that has been so sorely missing?

Mr. WYLIE. Mr. Chairman, will the gentleman yield?

Mr. SCHUMER. I am happy to yield to the gentleman from Ohio.

Mr. WYLIE. Mr. Chairman, I think the gentleman is making an excellent statement.

This amendment was part of an enforcement package which the gentleman from Georgia and I introduced as an amendment in the committee, as the gentleman knows. What it would do would be to require the Department of Justice to set up field offices in Texas and California.

I am sure this point has been made, but most of the fraudulent activity has occurred in financial institutions in Texas and California.

There is currently an investigative backlog in cases in those States and I think it makes sense to try to expedite it.

Mr. SCHUMER. Well, I thank the gentleman for his valued leadership on this issue.

If you want to put these guys in jail where they belong, vote for the Barnard-Schumer amendment.

Mr. KASTENMEIER. Mr. Chairman, I yield such time as he may consume to the gentleman from Michigan [Mr. CONYERS], the chairman of the Committee on Government Operations.

Mr. CONYERS. Mr. Chairman, I rise in strong support of the Barnard amendment.

Mr. KASTENMEIER. Mr. Chairman, to conclude the debate, I must say that I do not wear two hats. I just wear one. But in behalf of the Committee on the Judiciary, I would urge that we reject this amendment.

As I indicated earlier, the gentleman from Georgia in his investigations in the Government Operations Committee turned up some very useful information and made a number of very important suggestions about use of personnel; but I suggest to you that "going both ways" is not the answer; that is to say, buying back this section, which was eliminated, which says to create regional offices of the broad section of the criminal division and locate them in the central district of California and the northern district of Texas is not an answer to the issue of

using resources for the purpose of prosecuting these cases.

As has been pointed out, we have drug problems, we have organized crime problems, we have white collar crime problems, we have all sorts of potential task forces that could be organized and utilized if that were the answer alone. It is not. What we would be doing is imposing a statutory scheme on a Department of Justice that does not want it.

You will not find this in the Senate bill. We should not seek, as they do not, to micromanage the Justice Department. They are responsible to us, and I am sure the gentleman from Georgia and the gentleman from New York [Mr. SCHUMER] in their respective capacities, and the gentleman from New Jersey [Mr. HUGHES], chairman of the Crime Subcommittee of the Judiciary Committee, will insist in months to come that the Justice Department pursue these cases effectively under its present system and that we will dedicate enough resources to them to achieve that without imposing this sort of structure upon them.

Mr. Chairman. I ask that the committee reject the amendment.

The CHAIRMAN pro tempore (Mr. MONTGOMERY). The question is on the amendment offered by the gentleman from Georgia [Mr. BARNARD].

The amendment was agreed to.

□ 1430

AMENDMENT OFFERED BY MR. ANNUNZIO

Mr. ANNUNZIO. Mr. Chairman, I offer an amendment.

The CHAIRMAN pro tempore (Mr. MONTGOMERY). The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. ANNUNZIO: Page 637, strike out line 22 and all that follows through page 638, line 9, and insert in lieu thereof the following (and redesignate the subsequent paragraph accordingly):

(b) AMOUNT OF PENALTY.—

(1) GENERALLY.—The amount of the civil penalty shall not exceed $1,000,000.

(2) SPECIAL RULE FOR CONTINUING VIOLATIONS.—In the case of a continuing violation, the amount of the civil penalty may exceed the amount described in paragraph (1) but may not exceed the lesser of $1,000,000 per day or $5,000,000.

Page 638, beginning on line 14, strike out "amount described in paragraph (1)" and insert in lieu thereof "amounts described in paragraphs (1) and (2)".

Page 639, beginning on line 5, strike out "the preponderance of the evidence" and insert in lieu thereof "clear and convincing evidence".

The CHAIRMAN pro tempore. The gentleman from Illinois [Mr. ANNUNZIO] will be recognized for 20 minutes and a Member in opposition will be recognized for 20 minutes.

Mr. HUGHES. Mr. Chairman, I rise in opposition to the amendment.

The CHAIRMAN pro tempore. The gentleman from New Jersey [Mr. HUGHES] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Illinois [Mr. ANNUNZIO].

Mr. ANNUNZIO. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, this amendment is a referendum on crooks. The American public is shocked and outraged over the problems that exist in our Nation's savings and loan industry. They cannot believe that crooks, wearing tailor-made suits and wily smiles, have pilfered the industry of billions of dollars in cash, and that they, the taxpayers, have been left to pick up the tab.

The Subcommittee on Financial Institutions, which I Chair, did everything in its power to ensure that such crooks got their due—we imposed long prison terms and large penalties for taking advantage of the American taxpayer. The Full Banking Committee, by a 49-to-2 vote, strongly endorsed these provisions. However, the Judiciary Committee has decided to lessen some of these penalties, giving the appearance that we are letting these crooks off scot-free.

The administration wants tough penalties. The Banking Committee wants tough penalties. And the American people want tough penalties.

One of the big questions facing America today is whether there should be a death penalty for drug dealers. Given the strong feeling that many Americans have towards providing realistic punishment to criminals, how can we favor lessening the penalties against financial crooks who have created an economic problem rivaled only by the Great Depression? The American public will not stand for this.

My amendment is quite simple. It would reinstate the $1 million a day civil monetary penalty for violations of specified criminal statutes passed by the subcommittee, with aggregate penalties of up to $5 million. The Judiciary Committee's language would reduce this amount to twice the actual loss to the Government.

Some will argue that the Judiciary Committee's language is stronger because it has no cap on penalties. They are mistaken—there is no cap on penalties under my amendment either. Under an existing provision of the bill, if the gain or loss involved is above $5 million, then the Justice Department can get it. This provision will remain applicable under my amendment. Clearly, my amendment is much stronger than Judiciary's version.

Under the Judiciary Committee approach, if the crooks get caught before they cause the Government any loss, they will hardly incur any civil penalty for committing a crime. We are letting the crook off even though his hands just got caught in the cookie jar. Let's get tough on these criminals—let us throw them in jail, toss away the key, and get back the money they pilfered from the American taxpayer to boot.

In confronting this problem, the Subcommittee on Financial Institutions addressed head-on the concerns of Federal regulators and their need for additional enforcement powers. We carefully crafted a strong web of enforcement provisions which vastly increased the power of these regulators to combat fraud and insider abuse in the bank and thrift industries. The Full Banking Comittee endorsed these tough enforcement standards.

The Judiciary Committee, however, after only one day of debate, and then only by an 18-14 vote, proposes to lessen the criminal penalty provisions in the Banking Committee-passed bill.

As soon as these Banking Committee-passed penalty provisions were passed, bankers across the country started to complain that it was too harsh a penalty. The felt that innocent officers and directors would be subject to large fines.

Well, nothing can be further from the truth—these penalties only apply to the "bad guys" within the industry—those who engage in bribery, embezzlement, filing false reports, perpetrating deposit insurance fraud, filing false statements and overvaluation to mislead regulators or are engaged infraudulent activities.

Honest and responsible and individuals and institutions have nothing to fear from such tough penalty provisions. The provisions may be strong, but they are necessary. After all, my colleagues, we are talking about a $300 billion bill to be paid by the American taxpayer because of these crooks.

Some will claim that this amendment will impose unconstitutionally disproportionately harsh and unconstitutional civil penalties. The taxpayer has a $300 billion bill from the savings and loan crisis. Yes, the penalties are disproportionate, disproportionately low.

There is nothing unconstitutional about a million dollar penalty for a $300 billion crime. If anything, the civil penalties are not unconstitutional; they are too low.

We need to be tough. If the industry does not like it, let them find another business to engage in, one that does not provide them with a Federal safety net for their misdeeds, and which does not place upon them the noble responsibility of protecting the public trust.

In conclusion, we should not be endorsing any lessening of the tough standards reported out by the House Banking Committee—to do so would be a grave disservice to our constituents. We must punish criminals for

crimes that may eventually cost the American taxpayer over $300 billion.

We should be doing everything in our power to ensure that this body is never again confronted with a financial problem of such magnitude that it dominates the local and national media and places fear in the hearts of our neighbors. Every one of us in this Chamber has been contacted by numerous constituents outraged over having to foot the bill for regulatory laxity and financial mismanagement. We cannot go back to these same constituents and admit that we have weakened the sanctions that would apply to these crooks.

The press and many Members of Congress have called for severe penalties, because an institution has supervisory goodwill on its books.

If we can even consider taking severe action against legitimate, well-run institutions, how can we not take even harsher action against crooks who have stolen billions of dollars from the American taxpayers? The choice is clear.

I ask for Members' support on this important issue.

Mr. CONYERS. Mr. Chairman, will the gentleman yield?

Mr. ANNUNZIO. I am happy to yield to the gentleman from Michigan.

Mr. CONYERS. Mr. Chairman, I rise in support of the amendment. The gentleman should know three things: The Attorney General just said that he cannot prosecute, cannot even investigate, more than two-thirds of all the major financial fraud cases, major. He just said that yesterday.

No. 2, in another Committee on Judiciary, when I asked them, considering S&L penalties, what about civil RICO, the only law that allows treble damages for white-collar crooks, does the gentleman know what the witness told me? "I don't know anything about that bill; I don't know anything about that law." It has only been on the books about 10 years.

No. 3, today, and for the last 2 years, all of these white-collar criminals through their lobbyists and legislative representatives and advisers and friends who are at our doors are up here trying to knock out the civil RICO treble damages for the white-collar criminals, the Milkens, the Boeskys, the Levines, all the investment companies that are quietly pleading guilty.

Mr. Chairman, we need this amendment. This bill is not worth the paper it is written on if we are not going to give the Attorney General and the Department of Justice some way to authorize this, and I am glad to see one member of the Committee on Banking, Finance and Urban Affairs, among others, who is willing to put some teeth into this law as we write a $300 billion check.

□ 1440

Mr. ANNUNZIO. Mr. Chairman, I reserve the balance of my time.

The CHAIRMAN. The gentleman from New Jersey [Mr. HUGHES] is recognized for 20 minutes.

Mr. HUGHES. Mr. Chairman, I yield myself such time as I might consume.

Mr. Chairman, I want to say that it is very seldom that I am ever on the other side of an issue with my good friend and colleague, the gentleman from Illinois, who is a most distinguished member of the Committee on Banking, Finance and Urban Affairs. But in this instance, I really respectfully believe he is wrong.

We do not hear from the Justice Department today because I think the Justice Department recognizes that they made a mistake in this section dealing with civil penalties. After this legislation was sent to the Congress a decision came down in the matter of United States versus Halper. It was decided on May 15, 1989 and that dealt with civil penalties, and that is what we are talking about. When the Justice Department sent this legislation to Congress for consideration, they asked that we increase criminal penalties, which we have done, and for good reason; and that we increase the civil penalties, and make it cumulative; that is, in addition to the criminal penalties, which we have done. We all agree with that, and we all agree that we need to increase criminal penalties; that is, jail terms and fines for these people who have bilked the taxpayers of hundreds of billions of dollars.

But we need to do it first of all constitutionally, and Halper said it is not what it says, it is not whether you call it a civil penalty if it is really another criminal penalty, it is whether it is in fact a civil penalty. That is whether it is crafted to be remedial in nature or crafted to be criminal in nature.

If it is criminal and you have convicted the person of a felony or any other crime, a misdemeanor, then it is double jeopardy if you then attempt to levy again on them what is in fact a criminal penalty. It has to track the actual loss to the Government, and that is the problem with the Banking Committee language. I say to my colleague, the gentleman from Illinois.

When the Justice Department sent this to us they did not know that Halper was going to be decided on May 15 as it was. I do not fault anybody. But what we have tried to do is clean that up in the Judiciary Committee so we have, in fact, a constitutional civil penalty. We all want to clobber the crooks.

The second thing we did was to remove the cap of $5 million on what the Government can recover of $1 million per day, up to $5 million. So if the Government loss, which is conceivable, is $50 million, if we pay out in insurance $50 million, guess what; if the amendment of the gentleman from Illinois carries, the most the Government can collect is $5 million maximum.

Something else occurred in the Committee on Banking, Finance and Urban Affairs which the Judiciary Committee did not think made sense. They increased the standard of proof to a clear and convincing standard, the so-called Schumer amendment. Why did they do that? Why do they want to make it harder for the Government to prosecute these crooks? I'm not sure.

So if my colleagues support the gentleman from Illinois, they are going to make it tougher for the Justice Department to prosecute those that violate our laws. If that is what Members want to do, then support the gentleman from Illinois. But if they want to sock it to them, and they want the Government to collect up to twice its actual loss, that is, if it is $50 million that the Government has lost, to collect up to $100 million in civil penalties then what the Judiciary Committee has done will permit that.

I hope my colleagues will reject the amendment of the gentleman from Illinois. It is generally a good bill, and I commend my colleagues for strengthening the capital requirements. I do have some concerns, but I think overall it is a good bill.

We need to preserve what was done in the Judiciary Committee to make it the tough bill we all want in this area of civil penalties.

Mr. Chairman, I yield 2 minutes to the gentleman from Florida [Mr. MCCOLLUM].

Mr. MCCOLLUM. Mr. Chairman, I thank the gentleman for yield time to me.

Mr. Chairman, I think the gentleman from New Jersey has made an excellent point. The key to this whole proposition is we are dealing now with civil penalties, not crimial. The fact of the matter is criminal penalties that are really tough, that come out of the Committee on Banking, Finance and Urban Affairs, are untouched by anything that happened in the Judiciary Committee. We have good stuff in there, we ought to leave it alone, and we have.

But when it comes to civil penalties, there was a defect in what came out of the Banking Conmittee and went over to the Judiciary Committee. One of the most glowing defects was the fact that the burden of proof was a clear and convincing standard. We went to a prepponderance of the evidence standard. We allow the Justice Department then not to have to carry as though a burden of proof as otherwise would be the case.

If the Annunzio amendment is adopted, the one we are considering right now, we will go back to more dif-

ficult standard for the Justice Department to be able to get civil penalties.

If Members want to have civil penalties collected by the Justice Department under this bill, they should defeat the Annunzio amendment. It is as simple as that.

The second point the gentleman from New Jersey made is equally true, and that is that there is a constitutionality question if we go and pass this amendment. For that reason, if we want to have the kind of results in the civil penalty area that we all I think share, that is the opportunity to have criminal penalties and a cumulative civil penalty on top of that, Members need to stick with what is now in the bill that the Judiciary Committee put there. We need to allow the opportunity for the Justice Department to show the proportionality, to show the relationship of the civil penalty, the actual costs that are involved in this, the attorneys' fees, the loss to the insurance fund, and so forth. We allow for double those costs, but we say they have to prove the cost. If they prove those costs, if they prove that is actually a cost to the Government we are dealing with, then there is no constitutional problem and they can recover criminal and civil penalties against the bad guys in this case.

If the Annunzio amendment is adopted, then we have big constitutional battle that is going to go to the Supreme Court, and chances are they are going to throw out these civil penalties.

So vote down the Annunzio amendment and leave the bill the way it is with tough criminal and civil penalties and an easier burden of proof on the Justice Department.

Mr. ANNUNZIO. Mr. Chairman, I yield 2 minutes to the gentleman from Michigan [Mr. CONYERS].

Mr. CONYERS. Mr. Chairman, we have a lot of lawyers on the Judiciary Committee. Many of them are going to be judges in the futures, many of them were prosecutors before, and some of them taught law, and they are astute at making laws and understanding the civil and criminal justice provisions.

I am also on the Judiciary Committee. But in this matter, as I read it, what we are doing here is setting up an amendment that will allow the Department of Justice to piggyback the criminal and civil penalties together, is that not correct?

Mr. ANNUNZIO. Mr. Chairman, will the gentleman yield?

Mr. CONYERS. I yield to the gentleman from Illinois.

Mr. ANNUNZIO. The gentleman from Michigan is absolutely correct.

Mr. CONYERS. So what we are doing here is raising a constitutional objection based on interpreting the Halper case, which I want to suggest is very distinguishable. The court emphasized repeatedly in the Halper case that these determinations must be made on a case-by-case basis.

The Banking Committee version permits up to $1 million, not more than $5 million in the case of continuing violation. This permits the court discretion in imposing penalties. But in the case everybody is telling us is going to send this amendment to the Supreme Court, in Halper, there was a $2,000 a day penalty, and it was absolute. There was no discretion to raise or lower it.

Ladies and gentleman, that distinguishes the case that my Judiciary Committee colleagues are so sure is going to send this to the Supreme Court. I think that is probably prophetic insight, but I do not think it has a darn thing to do with socking it to the white collar criminals who are making us write a $300 billion check over 33 years on the American people.

Mr. ANNUNZIO. Mr. Chairman, I thank the gentleman from Michigan for his contribution.

Mr. Chairman, I yield 2 minutes to the gentleman from Wisconsin [Mr. ROTH].

Mr. ROTH. Mr. Chairman, I thank my good friend, the gentleman from Illinois, for yielding time to me. I want to congratulate him on what I consider to be a very fine amendment.

□ 1450

As I interpret the amendment, it means that we are going to have stiffer penalties for those people who are going to be brought to justice. That is what we should strive for. The gentleman from New Jersey made an excellent presentation, and so did our friend from Florida. I like to look at the facts of these things rather than just the rhetoric.

In 1987, we had 4,000 cases of fraud reported to the Justice Department. In 1988, we had 6,000 cases of fraud reported to the Justice Department.

Now my question is how many have been brought to justice? How many have been brought to trial? The facts indicate 25, that is right, 25 out of 10,000 cases reported to the Justice Department. I feel the job is not being done properly. That is why I am for this amendment.

We need a strong deterrent, but we also need a strong detergent, and this is the "Ivory Soap" amendment of this legislation.

It is our responsibility to decide how these cases will be prosecuted and the penalties to be imposed. We need an effective deterrent to prevent future fraud.

Of the three pillars of this bill, two of them are that we will not revisit this bill again and that the crooks are brought to justice. These are incorporated in this particular amendment.

When the Attorney General appeared before the Banking Committee in the other body, he said essentially that there is little use in going after the criminals if we retrieve $1 when it is going to cost us $1 to prosecute. But that is not the way I look at it. It is not only a matter of money, it is a matter of telling our taxpayers that we are going to go after the people who are causing this $284 billion bill. That is why it is important to have this amendment.

In the "December deals" I asked the Attorney General to look at their legality, because they started at $18 billion, and in 3 months they grew to $29 billion. That is an $11 billion increase in just 3 months. The taxpayers cannot put up with that, and that is why I support this amendment.

The CHAIRMAN pro tempore (Mr. MONTGOMERY). The gentleman from Illinois [Mr. ANNUNZIO] has 7 minutes remaining and the gentleman from New Jersey [Mr. HUGHES] has 13 minutes remaining.

The Chair will inform the two managers of the time that under a ruling of the Chair, because this section was handled by the Committee on the Judiciary, the gentleman from New Jersey will have the privilege of closing the debate.

Mr. HUGHES. Mr. Chairman, I yield 2 minutes to the gentleman from Florida [Mr. MCCOLLUM].

Mr. Chairman, will the gentleman yield?

Mr. MCCOLLUM. I yield to the gentleman from New Jersey.

Mr. HUGHES. I thank the gentleman for yielding.

Mr. Chairman, I say to my colleagues, "Don't listen to the debate, read the bill, read the bill."

In the Banking Committee bill there was $5 million cap which means that the Government can only collect up to $5 million. If in fact the insurance fund is tapped for $25 million, the maximum the Government can recover is up to $5 million, as I read the Banking Committee bill.

Now can the gentleman from Florida tell me is there any question about that?

Mr. MCCOLLUM. There is not. There is no question that you have a much higher recovery potential against the bad guy under the Judiciary Committee amendment than you would under Mr. ANNUNZIO's amendment. No question at all. You could collect double the losses, and that includes losses to these insurance funds that could be millions and millions of dollars.

Mr. HUGHES. Am I correct that in the Banking Committee bill the standard of the Government is by clear and convincing proof standard?

Mr. MCCOLLUM. The gentleman is correct.

Mr. HUGHES. What is the general civil recovery standard in our civil courts, will the gentleman tell me?

Mr. McCOLLUM. The preponderance of evidence, and a much lighter standard, clear and convincing.

Mr. HUGHES. So the Banking Committee required a clear and convincing standard, making it tougher for the Government to prove the cases.

Mr. McCOLLUM. The gentleman is correct, absolutely right. That is why Annunzio amendment should be defeated in this case, we should stay with the lighter burden of proof, the preponderance of the evidence and the potential for much heavier penalties.

Mr. ROTH. Mr. Chairman, will the gentleman yield?

Mr. McCOLLUM. I yield to the gentleman from Wisconsin.

Mr. ROTH. I thank the gentleman for yielding.

In the 10,000 cases of fraud reported to the Justice Department, what is the highest we have ever retrieved?

Mr. McCOLLUM. I have no idea what the highest is that we have retrieved. But the point is you could receive a lot higher under our bill because we spell out when you can retrieve, the actual losses, administrative costs, attorneys fees, money paid out of the insurance fund, investigative costs, and double that amount could be recovered specifically under this bill, and the burden of proof is much lighter here than it would be if the Banking Committee provision were adopted.

Mr. ANNUNZIO. Mr. Chairman, I yield 1 minute to the gentleman from Georgia [Mr. BARNARD].

Mr. BARNARD. I thank the gentleman for yielding.

Mr. Chairman, I would just like to clarify some of the comments that have just been made. The way I read the Banking Committee bill, it says $5 million or, or, underline "or", and it says, this "may not exceed the amount of such gain or loss."

Mr. McCOLLUM. Mr. Chairman, will the gentleman yield?

Mr. BARNARD. I yield to the gentleman from Florida.

Mr. McCOLLUM. I thank the gentleman for yielding.

Mr. Chairman, we put in our bill double the total amount of loss. So you are limited to $5 million loss, and we have twice the loss in our bill.

Mr. BARNARD. It is double cost, double cost. It says double cost, not double the loss.

Mr. McCOLLUM. Double the loss, double the loss, and the loss includes by definition all the insurance funds, all the investigative costs.

Mr. BARNARD. My interpretation of what the Judiciary Committee said was double the cost, but they did not—in other words they did not change double loss.

Mr. McCOLLUM. Will the gentleman yield?

Mr. BARNARD. Yes, because I think this needs to be clarified because I do not think that the penalties under the Judiciary amendment is harsher than what it is in the Banking Committee.

Mr. ANNUNZIO. Mr. Chairman, I yield 2 minutes to the gentleman from Massachusetts [Mr. FRANK].

Mr. FRANK. I thank the gentleman from Illinois for yielding.

Mr. Chairman, it is the practice around here often, when you are going to disagree with someone, first you lionize him. I do not usually do that, if you will check the record. I will in this case.

I have as much respect for the gentleman from New Jersey in this area of considerable expertise as anyone else, and he has raised some points that I think ought to be addressed. I hope we can address them in conference because I believe that the language in the Banking Committee, which the gentleman from Illinois, the chairman of the subcommittee, worked so hard on, sends some very important messages and has some important parts here.

The decision came afterward. There is some question which we just raised, and it deals with—a lot will turn on who you mean by "person." There is a definition in the bill on page 638; if we were to change the definition of "person" some, I think we would meet the problem the gentleman from New Jersey raised about the $5 million cap.

But the fundamental point is I think the gentleman from Michigan accurately described the Halper decision, as I understand it. And we have some room.

We are told by Justice they plan to do civil and criminal together. They plan to do a lot of things when they testified. We have to look at what they do. There has been historically, not just recently but historically, a severe underutilization of the criminal process to protect the public interest in cases of this sort. Maybe it is going to change in the future, but I would not base public policy on it. Having very, very stern civil penalties of the sort the gentleman from Illinois put in the Banking Committee bill seems to me important.

Some of these constitutional and other questions that have been raised can be addressed in conference. We always have room in conference and flexibility to deal with things.

But the thrust I would hope that we would vote here that we want to be as tough as possible.

The Halper decision, having come down subsequently, may put some litigation. I do not want to accept that until we have to.

We are told it will be litigated. It will be litigated in any case. The best way to send a very strong message and put us in the best shape to get the best possible penalty is with the language of the gentleman from Illinois.

The CHAIRMAN pro tempore. The gentleman from Illinois [Mr. ANNUNZIO] has 4 minutes remaining and the gentleman from New Jersey [Mr. HUGHES] has 11 minutes remaining.

Mr. HUGHES. Mr. Chairman, I yield 3 minutes to the gentleman from Florida [Mr. McCOLLUM].

Mr. Chairman, will the gentleman yield to me?

Mr. McCOLLUM. I yield to the gentleman from New Jersey.

Mr. HUGHES. I thank the gentleman for yielding.

I just want to say to my colleagues once again, all we have to do is read the language in the legislation. It refers to a person and the person does not include the Government of the United States. In the Judiciary Committee amendment we purposely included all the expenses, all the costs to the Government, including a tapping of the insurance fund, which could be humongous.

□ 1500

Mr. McCOLLUM. I would like to read the language because the gentleman from Georgia [Mr. BARNARD] raised this point. The actual language of the Committee on the Judiciary says the penalty shall be "the amount of the civil penalty under this section shall not exceed twice the amount of actual loss to the Government," not cost, but loss to the Government. "Actual loss to the Government includes cost of experts, attorneys' fees, administrative overhead, salaries of employees, and other costs in regulation, investigating and prosecuting civil and criminal cases with respect to the conduct that is the basis of the claim for a civil penalty under this section. Actual loss to the Government also includes all moneys paid out of any Federal Deposit Insurance Fund and any other costs incurred by the Government as the result of such conduct."

We pick up every conceivable loss. Very intentionally on our past, we pick it up and we say, "twice that loss," could be the penalty. It is a much tougher, potentially much more expensive loss factor for the person who is being penalized than the Committee on Banking, Finance and Urban Affairs' version, and we have a lighter burden of proof on the Government, the ponderance of the evidence.

I think there is a lot of confusion. I do not think there should be any question, though, that the Committee on the Judiciary actually strengthened this penalty provision, not weakened it, strengthened it, makes it tougher and makes it easier for the Government to collect the civil penalty, either

cumulatively with criminal or civil alone. I think we are arguing about something we should not be. We actually improved it.

Mr. BARNARD. Mr. Chairman, will the gentleman yield?

Mr. McCOLLUM. I yield to the gentleman from Georgia.

Mr. BARNARD. Mr. Chairman, let me offer this illustration. What if a person defrauded a bank or savings and loan of $300,000, but yet it brings down a $30 million institution; in other words, which provision is the harshest penalty, the Committee on the Judiciary or the Committee on Banking, Finance and Urban Affairs?

Mr. McCOLLUM. Mr. Chairman, the Committee on the Judiciary would be harsher because it brings down that institution. The chances are it will be paying out millions of dollars to depositors and the insurance fund will sustain millions of losses. It could be $100 million or $200 million, you could select in civil penalties under the Committee on the Judiciary version, and no more than $5 million under the Committee on Banking, Finance and Urban Affairs.

Mr. BARNARD. If the gentleman will yield, are you saying you would be able to collect twice the cost of the Government?

Mr. McCOLLUM. Twice the actual losses and costs under the Committee of the Judiciary version. That is why it explicitly says that both, everything, all-encompassing. I think that is a missed point in this thing. Very, very tough penalty.

Mr. ANNUNZIO. Mr. Chairman, I yield 3 minutes to the gentleman from Georgia [Mr. BARNARD].

Mr. BARNARD. Mr. Chairman, we are dealing in some particularly technical legal language, and of course, it does take lawyers and judges and professors of the law to adequately interpret this. I do not fault that.

Certainly, I have a high regard and respect for members of the Committee on the Judiciary and their evaluations. Members of the Committee on Banking, Finance and Urban Affairs felt incumbent to send a strong message to those that have defrauded banks, committed fraud in banks, and brought down banks and savings and loans. We serve notice those individuals are going to pay. They are going to pay very dearly. They are going to pay from their illegal gains through their activities. They are going to pay, also, from the standpoint of jail terms.

I think that the reason that we were so adamant about this, and probably that we had stronger provisions than the Committee on the Judiciary, because we wanted to send a message to the taxpayers, that we want to see wrongdoing prosecuted. However, likewise, we wanted to send a message to those that are out there who have flagrantly, and cavalierly breaking banks, creating riches for themselves. When they are prosecuted and found guilty, they are going to have to pay. That is the reason that we have tried to insist that the harsher penalties be imposed. That is why we felt like our amendments, the Committee on Banking, Finance and Urban Affairs amendment was stronger.

I would urge the members of the committee to support the Committee on Banking, Finance and Urban Affairs on this. We understand where we are trying to go on this particular amendment. We feel like the taxpayers will be happier with what we are doing in bailing out the savings and loans, if they know where there is wrongdoing, wrongdoing will have to pay the price.

Mr. ANNUNZIO. Mr. Chairman, I yield myself 1 minute.

It is being said on the floor today that the Committee on the Judiciary amendment is tougher on the crooked bankers. If that were true, why are the bankers, and I read all of their magazines and periodicals, opposed to my amendment?

This is a simple amendment. Vote for the Annunzio amendment to put the crooks in jail. A vote for the Committee on the Judiciary is a vote to go easy on crooks. That is what it is all about. We have heard all of those arguments throughout the day on supervisory good will. All these crooks were going to take this money. Now we have an opportunity. We have an opportunity to catch the crooks, find out what the crooks are, and as President Bush said in his inaugural address here to the Congress, we must put a fine of $1 million a day on these crooks, with a $5 million cap. I am trying to follow the instructions of my President.

Mr. HUGHES. Mr. Chairman, I yield myself such time as I may consume.

I have three points. First of all, Mr. Chairman, I think our intent is the same, to try to make it the strongest possible civil penalty that we can draft. The only place where we differ from the Committee on Banking, Finance and Urban Affairs, and we have to deal with title XVIII and criminal penalties all the time, is as to how to do that. We think we do not have to clean it up in conference as the gentleman from Massachusetts suggested. We think we have done that. We think we have made it constitutional. However, more importantly, Mr. Chairman, the language in the bill already makes it possible for our Government to impose a more severe civil penalty because we removed the $5 million cap. For example if the loss to the Government is $100 million, Mr. Chairman, under the Committee on the Judiciary language in the bill, we can recover as a Government up to $200 million, twice the loss to the Government. That is the first thing.

Finally, we make it easier for prosecutors to make their case. I do not know why the Banking Committee increased the burden of proof. It was not sent to the Committee on Banking, Finance and Urban Affairs with a clear and convincing evidence standard by the Justice Department. That is not the usual standard. The usual standard in a civil case is by a ponderance of the evidence. The Committee on Banking, Finance and Urban Affairs proposal by Mr. ANNUNZIO would again return Members to the clear and convincing standard which makes it more difficult for the Government to make a civil case.

So Mr. Chairman, if my colleagues want to strengthen the civil penalties, they should support the language in the bill and reject the Annunzio amendment.

Ms. OAKAR. Mr. Chairman, I come out in strong support of Chairman ANNUNZIO'S amendment that would reinstate and restore the Banking Committee provision authorizing civil penalties of up to $1 million a day for certain criminal offenses. Letter after letter from my constituents call for harsh penalties of those executives who engage in fraudulent activity which cost the American taxpayer billions of dollars. The Congress must mandate that these executives be accountable for their actions when federally insured money is at stake.

Mr. Chairman, in reading the National Thrift & Mortgage News Weekly just recently, there appeared four major fraud cases involving millions of dollars worth of losses to the FSLIC because the FSLIC does not have the adequate funds to compensate for these losses, the American taxpayer must be called on once again. Just recently, the Justice Department's Dallas bank fraud group expressed frustration with a sentence recently handed down. A Louisiana financier, has contributed to the collapse of 16 savings and loans in four States which amounted to over $40 million in damages. He was allegedly also associated with funding the purchase of other thrifts, most of which are now insolvent due to suspected fraud. Now my fellow colleagues, here we are debating whether to reinsert stronger penalties for fraud and abuse. Let me share with all of you, the actual penalty this individual received. For causing at least $40 million in damages, with additional association with other now defunct thrifts, this individual received a 1-year sentence.

Stories like this are common. Law enforcement personnel are frustrated. I urge my fellow colleagues to support Chairman ANNUNZIO'S amendment and make those pondering fraudulent activity think twice.

The CHAIRMAN pro tempore (Mr. MONTGOMERY). The question is on the amendment offered by the gentleman from Illinois [Mr. ANNUNZIO].

The question was taken; and the Chairman announced that the ayes appeared to have it.

RECORDED VOTE

Mr. HUGHES. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 382, noes 41, answered "present" 5, not voting 5, as follows:

[Roll No. 88]

AYES—382

Ackerman	Duncan	Kennelly
Akaka	Durbin	Kildee
Alexander	Dwyer	Kleczka
Andrews	Dymally	Kolter
Annunzio	Dyson	Kostmayer
Anthony	Early	LaFalce
Applegate	Eckart	Lagomarsino
Archer	Edwards (CA)	Lancaster
Armey	Edwards (OK)	Lantos
Aspin	Emerson	Laughlin
Atkins	Engel	Leach (IA)
AuCoin	Erdreich	Lehman (CA)
Baker	Espy	Lehman (FL)
Barnard	Evans	Leland
Bartlett	Fascell	Levin (MI)
Barton	Fawell	Levine (CA)
Bateman	Fazio	Lewis (FL)
Bates	Feighan	Lewis (GA)
Beilenson	Fields	Lightfoot
Bennett	Flake	Lipinski
Bentley	Flippo	Livingston
Bereuter	Florio	Lloyd
Berman	Foglietta	Long
Bevill	Ford (MI)	Lowery (CA)
Bilbray	Ford (TN)	Lowey (NY)
Bilirakis	Frank	Luken, Thomas
Bliley	Frenzel	Lukens, Donald
Boehlert	Frost	Machtley
Boggs	Gallegly	Madigan
Bonior	Gallo	Manton
Borski	Garcia	Markey
Bosco	Gaydos	Marlenee
Boxer	Gejdenson	Martin (IL)
Brennan	Gibbons	Martinez
Broomfield	Gilman	Matsui
Browder	Gingrich	Mavroules
Brown (CA)	Glickman	Mazzoli
Brown (CO)	Gonzalez	McCandless
Bruce	Goodling	McCloskey
Bryant	Gordon	McCrery
Bunning	Grandy	McDade
Burton	Grant	McDermott
Bustamante	Gray	McEwen
Byron	Green	McGrath
Callahan	Guarini	McHugh
Campbell (CA)	Gunderson	McMillan (NC)
Campbell (CO)	Hall (OH)	McMillen (MD)
Cardin	Hall (TX)	McNulty
Carper	Hamilton	Meyers
Carr	Hammerschmidt	Mfume
Chandler	Hansen	Michel
Chapman	Harris	Miller (CA)
Clarke	Hastert	Miller (OH)
Clay	Hatcher	Miller (WA)
Clement	Hawkins	Mineta
Clinger	Hayes (IL)	Moakley
Coelho	Hefley	Montgomery
Coleman (TX)	Hefner	Moorhead
Combest	Henry	Morella
Conte	Hertel	Morrison (CT)
Conyers	Hiler	Morrison (WA)
Cooper	Hoagland	Mrazek
Costello	Hochbrueckner	Murphy
Coughlin	Holloway	Murtha
Cox	Hopkins	Myers
Coyne	Horton	Nagle
Craig	Houghton	Natcher
Crane	Hoyer	Neal (MA)
Crockett	Hubbard	Neal (NC)
Darden	Huckaby	Nelson
Davis	Hutto	Nowak
de la Garza	Hyde	Oakar
DeFazio	Ireland	Oberstar
DeLay	Jacobs	Obey
Dellums	James	Olin
Derrick	Jenkins	Ortiz
Dickinson	Johnson (CT)	Owens (NY)
Dicks	Johnson (SD)	Owens (UT)
Dingell	Johnston	Oxley
Dixon	Jones (GA)	Packard
Donnelly	Jones (NC)	Pallone
Dorgan (ND)	Jontz	Panetta
Dornan (CA)	Kanjorski	Parker
Douglas	Kaptur	Parris
Downey	Kasich	Pashayan
Dreier	Kennedy	Patterson
Paxon	Scheuer	Swift
Payne (NJ)	Schiff	Tallon
Payne (VA)	Schneider	Tanner
Pelosi	Schroeder	Tauzin
Penny	Schuette	Thomas (GA)
Perkins	Schulze	Torres
Petri	Schumer	Torricelli
Pickett	Sensenbrenner	Towns
Pickle	Sharp	Traficant
Porter	Shays	Traxler
Poshard	Shumway	Udall
Price	Shuster	Unsoeld
Pursell	Sikorski	Upton
Quillen	Skaggs	Valentine
Rahall	Skeen	Vander Jagt
Rangel	Skelton	Vento
Ravenel	Slattery	Visclosky
Ray	Slaughter (NY)	Volkmer
Regula	Smith (FL)	Vucanovich
Rhodes	Smith (IA)	Walgren
Richardson	Smith (NE)	Walker
Ridge	Smith (NJ)	Walsh
Rinaldo	Smith (TX)	Watkins
Ritter	Smith (VT)	Waxman
Roberts	Smith, Denny (OR)	Weber
Robinson	Smith, Robert (NH)	Weiss
Roe	Smith, Robert (OR)	Weldon
Rogers	Snowe	Wheat
Rose	Solarz	Whittaker
Rostenkowski	Solomon	Whitten
Roth	Spence	Williams
Roukema	Spratt	Wilson
Rowland (CT)	Staggers	Wise
Rowland (GA)	Stallings	Wolf
Roybal	Stark	Wolpe
Russo	Stearns	Wright
Sabo	Stenholm	Wyden
Saiki	Stokes	Wylie
Sangmeister	Studds	Yates
Sarpalius	Sundquist	Yatron
Savage		Young (FL)
Sawyer		
Saxton		

NOES—41

Anderson	Hughes	Pease
Ballenger	Hunter	Rohrabacher
Coble	Inhofe	Schaefer
Coleman (MO)	Kastenmeier	Shaw
Dannemeyer	Kolbe	Slaughter (VA)
DeWine	Kyl	Smith (MS)
English	Lent	Stangeland
Fish	Lewis (CA)	Stump
Gekas	McCollum	Synar
Gillmor	McCurdy	Tauke
Goss	Molinari	Thomas (CA)
Gradison	Mollohan	Thomas (WY)
Hancock	Moody	Young (AK)
Herger	Nielson	

ANSWERED "PRESENT"—5

Boucher	Hayes (LA)	Sisisky
Brooks	Martin (NY)	

NOT VOTING—5

Buechner	Courter	Leath (TX)
Collins	Gephardt	

□ 1530

Messrs. NIELSON of Utah, ROHRABACHER, and HANCOCK changed their vote from "aye" to "no."

Messrs. BROWN of Colorado, DUNCAN, HEFLEY, SMITH of Texas, and RITTER changed their vote from "no" to "aye."

Mr. BROOKS changed his vote from "aye" to "present."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

□ 1530

AMENDMENT OFFERED BY MR. ROSTENKOWSKI

Mr. ROSTENKOWSKI. Mr. Chairman, I offer an amendment.

The CHAIRMAN pro tempore. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. ROSTENKOWSKI: Page 359, strike line 18 and all that follows through page 391, line 6, and insert the following:

SEC. 502. RESOLUTION FUNDING CORPORATION ESTABLISHED.

(a) IN GENERAL.—The Federal Home Loan Bank Act (12 U.S.C. 1421 et seq.) is amended by inserting after section 21A (as added by section 501 of this title) the following new section:

"SEC. 21B. RESOLUTION FUNDING CORPORATION ESTABLISHED.

"(a) STATEMENT OF PURPOSE.—It is the purpose of this section to establish a Resolution Funding Corporation to provide the funds necessary for the Resolution Trust Corporation to carry out its purposes under this Act.

"(b) ESTABLISHMENT.—There is hereby created a body corporate to be known as the Resolution Funding Corporation. The Funding Corporation shall be an instrumentality of the Federal Government and shall maintain any offices necessary or appropriate in the conduct of its business.

"(c) MANAGEMENT.—

"(1) IN GENERAL.—The Funding Corporation shall be subject to the general supervision and direction of the Secretary of the Treasury.

"(2) STAFF.—The Funding Corporation shall have no paid employees. The Secretary may, on a reimbursable basis, authorize the officers or employees of the Department of the Treasury to act for and on behalf of the Funding Corporation in the manner necessary to carry out the functions of the Funding Corporation.

"(3) ADMINISTRATIVE EXPENSES AND ISSUANCE COSTS.—

"(A) IN GENERAL.—All administrative expenses and issuance costs of the Funding Corporation shall be paid by the Federal home loan banks.

"(B) PRO RATA DISTRIBUTION.—The amount each Federal home loan bank shall pay shall be determined by the Secretary by multiplying the total administrative expenses and issuance costs for any period by the percentage arrived at by dividing—

"(i) the aggregate amount the Secretary required the bank to pay to the Funding Corporation (as of the time of such determination) under paragraphs (3) and (4) of subsection (e) (as computed without regard to paragraphs (2) or (5) of such subsection); by

"(ii) the aggregate amount the Secretary required all Federal home loan banks to pay (as of the time of such determination) under such paragraphs.

"(d) POWERS.—The Funding Corporation shall have only the following powers, subject to the other provisions of this section and any regulations issued by the Secretary:

"(1) REQUIRE PAYMENTS.—To take such actions as may be necessary to collect amounts required to be paid to the Funding Corporation in this section.

"(2) TRANSFER FUNDS.—To transfer funds to the Resolution Trust Corporation.

"(3) ISSUE OBLIGATIONS.—To issue debentures, bonds, or other obligations to the Secretary and to pay interest on (and any redemption premium with respect to) any such obligation.

"(4) IMPOSE ASSESSMENTS.—To impose assessments in accordance with subsection (e)(6).

"(5) CORPORATE SEAL.—To adopt, alter, and use a corporate seal.

"(6) SUCCESSION.—To have succession until dissolved.

"(7) CONTRACTS.—To enter into contracts.

"(8) AUTHORITY TO SUE.—To sue and be sued in its corporate capacity, and to complain and defend in any action brought by or against the Funding Corporation in any State or Federal court of competent jurisdiction.

"(9) INCIDENTAL POWERS.—To exercise incidental powers which are not inconsistent with this section and are necessary or appropriate to carry out this section.

"(e) PAYMENTS BY FEDERAL HOME LOAN BANKS AND OTHERS FOR FUNDING CORPORATION PRINCIPAL FUND.—

"(1) IN GENERAL.—

"(A) TOTAL AMOUNT REQUIRED.—The Secretary shall ensure that the aggregate of the amounts obtained under this subsection shall be sufficient to permit the total of the face amounts (the amount of principal payable at maturity) of noninterest bearing instruments in the Funding Corporation Principal Fund to be equal to the aggregate amount of principal on the obligations of the Funding Corporation.

"(B) PAYMENTS BY FEDERAL HOME LOAN BANKS.—Each Federal home loan bank shall make payments to the Funding Corporation for the Funding Corporation Principal Fund at times and in amounts prescribed by the Secretary.

"(2) MAXIMUM PAYMENT LIMITATION FOR EACH FEDERAL HOME LOAN BANK.—The cumulative amount of funds paid to the Funding Corporation by each Federal home loan bank under paragraph (1) shall not exceed the aggregate amount of—

"(A) the sum of—

"(i) the reserves maintained by the bank on December 31, 1988, pursuant to the reserve requirements contained in section 16 (as in effect on such date); and

"(ii) the undivided profits of the bank on such date; minus

"(iii) the amounts used as of such date to invest in the capital stock of the Financing Corporation pursuant to the requirement contained in section 21; and

"(B) for the period beginning on January 1, 1989, and ending on the later of December 31, 1991, or such date as may be necessary to fund the Funding Corporation Principal Fund pursuant to subsection (g), an aggregate amount equal to—

"(i) the sum of—

"(I) the amounts added to reserves after December 31, 1988, pursuant to the reserve requirements contained in section 16; and

"(II) the undivided profits of the bank accruing after December 31, 1988; minus

"(ii) the amounts used to invest in the capital stock of the Financing Corporation after December 31, 1988, pursuant to the requirement contained in section 21.

"(3) PRO RATA DISTRIBUTION OF FIRST $1,000,000,000 PAID TO FUNDING CORPORATION BY FEDERAL HOME LOAN BANKS.—With respect to the first $1,000,000,000 of the aggregate which the Chairperson of the directorate of the Financing Corporation pursuant to section 21 or the Secretary under this section (as the case may be) may require the Federal home loan banks to invest in the capital stock of the Financing Corporation under section 21(d) or pay to the Funding Corporation under this subsection, respectively, the amount which each Federal home loan bank (or any successor to the bank) shall invest or pay shall be determined by the Chairperson or the Secretary (as the case may be) by applying to the aggregate amount of such investment or payment by all banks the percentage appearing in the following table for each such bank:

Bank:	*Percentage*
Federal Home Loan Bank of Boston	1.8629
Federal Home Loan Bank of New York	9.1006
Federal Home Loan Bank of Pittsburgh	4.2702
Federal Home Loan Bank of Atlanta	14.4007
Federal Home Loan Bank of Cincinnati	8.2653
Federal Home Loan Bank of Indianapolis	5.2863
Federal Home Loan Bank of Chicago	9.6886
Federal Home Loan Bank of Des Moines	6.9301
Federal Home Loan Bank of Dallas	8.8181
Federal Home Loan Bank of Topeka	5.2706
Federal Home Loan Bank of San Francisco	19.9644
Federal Home Loan Bank of Seattle	6.1422

"(4) PRO RATA DISTRIBUTION OF AMOUNTS REQUIRED TO BE PAID IN EXCESS OF $1,000,000,000.—With respect to any amount in excess of the $1,000,000,000 amount referred to in paragraph (3) which the Secretary may require the Federal home loan banks to pay to the Funding Corporation under this subsection, the amount which each Federal home loan bank (or any successor to the bank) shall pay shall be determined by the Secretary by multiplying the excess amount by the percentage arrived at by dividing—

"(A) the sum of the total assets (as of the most recent December 31) held by all Savings Association Insurance Fund members (as defined in section 7(1)(5) of the Federal Deposit Insurance Act) which are members of the bank; by

"(B) the sum of the total assets (as of such date) held by all Savings Association Insurance Fund members (as defined in section 7(1)(5) of the Federal Deposit Insurance Act) which are members of any Federal home loan bank.

"(5) SPECIAL PROVISIONS RELATING TO MAXIMUM AMOUNT LIMITATIONS.—

"(A) IN GENERAL.—If the amount any Federal home loan bank is required to pay to the Funding Corporation pursuant to a determination by the Secretary under paragraph (4) (or under subparagraph (B) of this paragraph) exceeds the maximum amount applicable with respect to the bank under paragraph (2) at the time of such determination (in this paragraph referred to as the 'excess amount')—

"(i) the Secretary shall require each remaining Federal home loan bank to pay (in addition to the amount determined under paragraph (4) for the remaining bank and subject to the maximum amount applicable with respect to the remaining bank under paragraph (2) at the time of such determination. on behalf of the bank the amount determined under subparagraph (B);

"(ii) the Secretary shall require the bank to subsequently reimburse the remaining banks in the manner described in subparagraph (C); and

"(iii) the requirements contained in subparagraphs (D) and (E) relating to the use of net earnings available for dividends shall apply to the bank until the bank has reimbursed the remaining banks for all of the excess amount.

"(B) ALLOCATION OF EXCESS AMOUNT AMONG REMAINING FEDERAL HOME LOAN BANKS.—The amount each remaining Federal home loan bank shall be required to pay under subparagraph (A)(i) is the amount determined by the Secretary by multiplying the excess amount by the percentage arrived at by dividing—

"(i) the amount paid to the Funding Corporation by the remaining bank at the time of such determination; by

"(ii) the aggregate amount of such payments made by remaining banks at such time.

"(C) REIMBURSEMENT PROCEDURE.—The bank on whose behalf a payment is made under subparagraph (A)(i) shall annually pay to each remaining bank an amount determined by the Secretary by multiplying the amount available for such payments (at the time of such determination) by the percentage determined under subparagraph (B) with respect to the remaining bank until the aggregate amount of the excess amount has been reimbursed by the bank.

"(D) LIMITATION ON DIVIDENDS.—The amount of dividends which may be paid for any year by a bank on whose behalf a payment is made under subparagraph (A)(i) shall not exceed an amount equal to ¼ of the net earnings available for dividends of the bank for the year.

"(E) TRANSFER TO ACCOUNT FOR REIMBURSEMENTS REQUIRED.—Of the net earnings available for dividends for any year of a bank on whose behalf a payment is made under subparagraph (A)(i), the amount necessary to make the reimbursements required under subparagraph (A)(ii) shall be placed in a reserve account (established in the manner prescribed by the Secretary) the balance in which shall be available only for such reimbursements.

"(6) ADDITIONAL SOURCES.—If each Federal home loan bank has exhausted the amount applicable with respect to the bank under paragraphs (2) and (7), as calculated under paragraphs (3), (4), and (5), the amounts necessary to provide additional funding for the Funding Corporation Principal Fund shall be obtained in the manner provided in the following subparagraphs (in the order in which such subparagraphs appear):

"(A) ASSESSMENTS.—The Funding Corporation, with the approval of the Board of Directors of the Federal Deposit Insurance Corporation, shall assess against each Savings Association Insurance Fund member an assessment (in the same manner as assessments are assessed against such members by the Federal Deposit Insurance Corporation pursuant to section 7 of the Federal Deposit Insurance Act) except that—

"(i) the maximum amount of the aggregate amount assessed shall be the amount of additional funds necessary to fund the Funding Corporation Principal Fund;

"(ii) the sum of—

"(I) the amount assessed under this paragraph; and

"(II) the amount assessed by the Financing Corporation under section 21;

shall not exceed the amount authorized to be assessed against Savings Association Insurance Fund members pursuant to section 7 of the Federal Deposit Insurance Act;

"(iii) the Financing Corporation shall have first priority to make the assessment; and

"(iv) the amount of the applicable assessment determined under such section 7 shall be reduced by the sum described in clause (ii) of this subparagraph.

"(B) RECEIVERSHIP PROCEEDS.—To the extent funds available pursuant to subparagraph (A) are insufficient to provide sufficient capital to fund the Funding Corporation Principal Fund, the Federal Deposit Insurance Corporation shall transfer to the Funding Corporation from the receivership proceeds of the FSLIC Resolution Fund the remaining amount of funds necessary for such purpose.

"(7) AGGREGATE ANNUAL PRINCIPAL CONTRIBUTION OF FEDERAL HOME LOAN BANKS.—

"(A) AMOUNT REQUIRED.—The sum of the amounts subject to paragraph (2)(B) that are paid by the Federal home loan banks under paragraph (1) shall, for each calendar year for which paragraph (2)(B) applies, equal—

"(i) $300,000,000, in the case of a calendar year before 1993; or

"(ii) the adjusted dollar amount determined under subparagraph (B), in the case of a calendar year after 1992.

"(B) ADJUSTED DOLLAR AMOUNT FOR YEARS AFTER 1992.—

"(i) IN GENERAL. The adjusted dollar amount under subparagraph (A) for any calendar year shall be calculated by multiplying the dollar amount which applied under subparagraph (A) for the preceding calendar year by the sum of 1 and whichever of the following is lower:

"(I) CPI ADJUSTMENT.—The CPI adjustment under subparagraph (C).

"(II) NET EARNINGS ADJUSTMENT.—The net earnings adjustment under sybparagraph (D).

"(ii) MAXIMUM AMOUNT. The adjusted dollar amount for any calendar year shall not exceed $600,000,000.

"(C) CPI ADJUSTMENT.—

"(i) IN GENERAL.—For purposes of subparagraph (B)(i), the CPI adjustment for any calendar year is the percentage (if any) by which—

"(I) the consumer price index for the preceding calendar year; exceeds

"(II) the consumer price index for the second preceding calendar year.

"(ii) CONSUMER PRICE INDEX.—For purposes of clause (i), the consumer price index for any calendar year is the average, as of the close of such year, of the last consumer price index for all-urban consumers published by the Department of Labor.

"(D) NET EARNINGS ADJUSTMENT.—

"(i) IN GENERAL.—For purposes of subparagraph (B)(i), the net earnings adjustment for any calendar year is the percentage (if any) by which—

"(I) the net earnings for the preceding calendar year; exceeds

"(II) the net earnings for the second preceding calendar year.

"(ii) NET EARNINGS.—For purposes of clause (i), the net earnings for any calendar year is the aggregate net earnings of the Federal home loan banks for such year.

"(f) OBLIGATIONS OF FUNDING CORPORATION.—

"(1) ISSUANCE TO SECRETARY.—

"(A) IN GENERAL.—The Funding Corporation may issue bonds, notes, debentures, and similar obligations to the Secretary, in an aggregate amount not to exceed $50,000,000,000. No obligation may be issued under this paragraph unless, at the time of issuance, the face amounts (the amount of principal payable at maturity) of noninterest bearing instruments in the Funding Corporation Principal Fund are equal to the aggregate amount of principal on the obligations of the Funding Corporation that will be outstanding following such issuance.

"(B) TERMS AND CONDITIONS OF PURCHASE.—The Secretary shall purchase each obligation issued under this paragraph upon terms and conditions established by the Secretary. Each such obligation shall bear interest at a rate determined by the Secretary, taking into consideration the current average yield on outstanding marketable obligations of the United States of comparable maturity.

"(2) INTEREST PAYMENTS.—The Funding Corporation shall pay the interest due on (and any redemption premium with respect to) such obligations from funds obtained for such interest payments in the manner provided in the following subparagraphs (in the order in which such subparagraphs appear):

"(A) EARNINGS ON CERTAIN ASSETS.—All earnings on assets (of the Funding Corporation) which—

"(i) are described in subsection (g)(1); and

"(ii) are not invested pursuant to subsection (g)(2);

shall be used to make interest payments on Funding Corporation obligations when interest is due.

"(B) PROCEEDS OF RTC.—The Resolution Trust Corporation shall pay to the Funding Corporation—

"(i) the net proceeds received by the Resolution Trust Corporation from the liquidation of institutions under the management of the Corporation pursuant to section 21A to the extent the amount of such proceeds are determined by the Oversight Board to be in excess of the amount of funds necessary for resolution costs in the short-term period following the date of such determination; and

"(ii) any proceeds from warrants and participations of the Resolution Trust Corporation.

"(C) PAYMENTS BY FEDERAL HOME LOAN BANKS.—To the extent the funds available pursuant to subparagraphs (A) and (B) are insufficient to cover the amount of interest payments, the Federal home loan banks shall pay to the Funding Corporation—

"(i) an aggregate annual amount equal to—

"(I) $300,000,000, in the case of a calendar year before 1993; or

"(II) the adjusted dollar amount determined under subsection (e)(7)(B), in the case of a calendar year after 1992; minus

"(ii) the sum of—

"(I) the aggregate amount paid by such banks to the Financing Corporation pursuant to section 21 during the year; and

"(II) the aggregate amount paid by such banks to the Funding Corporation pursuant to subseciton (e) during the year;

with the individual share of each bank to be determined pursuant to the formulation and limitations of paragraphs (2) through (5) of subsection (e).

"(D) ASSETS OF RTC.—Upon the dissolution of the Resolution Trust Corporation, the net proceeds from all assets of such corporation shall be transferred to the Funding Corporation for payment of interest under this paragraph.

"(E) TREASURY BACKUP.—

"(i) IN GENERAL.—Notwithstanding any other provision of this Act, if the Secretary determines that the Funding Corporation is unable to pay the interest on any obligation issued under this subsection from the sources of funds under the preceding subparagraphs of this paragraph, the Secretary shall pay, out of any funds appropriated for such purpose, to the Funding Corporation the additional amount due, which shall be used by the Funding Corporation to pay such interest.

"(ii) LIABILITY OF FUNDING CORPORATION.—In each such instance where the Secretary is required to make a payment under this paragraph to the Funding Corporation, the amount of the payment shall become a liability of the Funding Corporation to be repaid to the Secretary upon dissolution of the Funding Corporation (to the extent the Funding Corporation may have any remaining assets).

"(iii) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary, for fiscal year 1989 and each fiscal year thereafter, such sums as may be necessary to carry out clause (i).

"(3) PRINCIPAL PAYMENTS.—On maturity of an obligation issued under this subsection, the obligation shall be repaid by the Funding Corporation from the liquidation of noninterest bearing instruments held in the Funding Corporation Principal Fund.

"(4) PROCEEDS TO BE TRANSFERRED TO RESOLUTION TRUST CORPORATION.—Subject to terms and conditions approved by the Secretary, the proceeds of any obligation issued by the Funding Corporation shall be used to—

"(A) transfer amounts to the Resolution Trust Corporation under section 21A; or

"(B) refund any previously issued obligation the proceeds of which were transferred in the manner described in subparagraph (A).

"(g) USE AND DISPOSITION OF ASSETS OF FUNDING CORPORATION NOT TRANSFERRED TO RESOLUTION TRUST CORPORATION.—

"(1) IN GENERAL.—Subject to regulations, restrictions, and limitations prescribed by the Secretary, assets of the Funding Corporation which are not required to be transferred to the Resolution Trust Corporation under section 21A and are not needed for current interest payments shall be invested in direct obligations of the United States issued by the Secretary.

"(2) SEPARATE ACCOUNT FOR ZERO COUPON INSTRUMENTS HELD TO ENSURE PAYMENT OF PRINCIPAL.—

"(A) IN GENERAL.—The Funding Corporation shall invest amounts received pursuant to subsection (e) in, and hold in a separate account to be known as the Funding Corporation Principal Fund, noninterest bearing instruments—

"(i) which are direct obligations of the United States issued by the Secretary; and

"(ii) the total of the face amounts (the amount of principal payable at muturity) of which is approximately equal to the aggregate amount of principal on the obligations of the Funding Corporation.

"(B) PREVENTION OF DOUBLE COUNTING AGAINST PUBLIC DEBT LIMIT.—Noninterest bearing instruments purchased by the Funding Corporation under subparagraph (A) shall not be taken into account for purposes of determining compliance with the public debt limit under section 3101(b) of title 31, United States Code.

"(h) MISCELLANEOUS PROVISIONS.—

"(1) JURISDICTION AND POWER TO REMOVE.—

"(A) FEDERAL COURT JURISDICTION.—Notwithstanding any other provision of law, any civil action, suit, or proceeding to which the Funding Corporation is a party shall be deemed to arise under the laws of the United States.

"(B) REMOVAL.—The Funding Corporation may, without bond or security, remove any such action, suit, or proceeding from a State court to the United States District Court for the District of Columbia.

"(2) IMPOSITION OF LIEN FOR FAILURE TO MAKE PAYMENTS.—

"(A) IN GENERAL.—If any entity fails to make a payment required to be paid to the Funding Corporation under this section within 10 days after demand for such payment, then there shall be a lien in favor of the Funding Corporation equal to the amount not paid upon all property and rights to property, whether real or personal, belonging to such entity.

"(B) APPLICABLE RULES.—Any amount with respect to which a lien is imposed by subparagraph (A) shall be treated as taxes due and owing the United States, and rules similar to the rules of subsections (c), (d), and (e) of section 4068 of the Employee Retirement Income Security Act of 1974 shall apply with respect to a lien imposed by subparagraph (A) and the amount with respect to such lien.

"(i) ANNUAL REPORT.—

"(1) IN GENERAL.—The Secretary shall annually submit a full report of the operations, activities, budget, receipts, and expenditures of the Funding Corporation for the preceding 12-month period.

"(2) CONTENTS.—The report required under paragraph (1) shall include—

"(A) audited statements and any information necessary to make known the financial condition and operations of the Funding Corporation in accordance with generally accepted accounting principles;

"(B) the financial operating plans and forecasts (including estimates of actual and future spending, and estimates of actual and future cash obligations) of the Funding Corporation taking into account its financial commitments, guarantees, and other contingent liabilities; and

"(C) the results of the annual audit of the financial transactions of the Funding Corporation conducted by the Comptroller General pursuant to section 9105(a) of title 31, United States Code.

"(3) SUBMISSION TO CONGRESS AND PRESIDENT.—The Secretary shall submit each annual report required under this subsection to the Congress and the President as soon as practicable after the end of the calendar year for which the report is made, but not later than June 30 of the year following such calendar year.

"(j) TERMINATION OF FUNDING CORPORATION.—

"(1) IN GENERAL.—The Funding Corporation shall be dissolved, as soon as practicable, after the maturity and full payment of all obligations issued by the Funding Corporation under this section.

"(2) AUTHORITY OF SECRETARY TO CONCLUDE AFFAIRS OF FUNDING CORPORATION.—Effective on the date of the dissolution of the Funding Corporation under paragraph (1), the Secretary may exercise on behalf of the Funding Corporation any power of the Funding Corporation which the Secretary determines to be necessary to settle and conclude the affairs of the Funding Corporation.

"(k) DEFINITIONS.—For purposes of this section:

"(1) ADMINISTRATIVE EXPENSES.—The term 'administrative expenses' does not include any interest on (and any redemption premium with respect to) any obligation of the Funding Corporation.

"(2) FUNDING CORPORATION.—The term 'Funding Corporation' means the Resolution Funding Corporation established in subsection (b).

"(3) FUNDING CORPORATION PRINCIPAL FUND.—The term 'Funding Corporation Principal Fund' means the separate account established under subsection (g)(2).

"(4) ISSUANCE COSTS.—The term 'issuance costs' means issuance fees and commissions incurred by the Secretary in connection with the issuance or servicing of any obligation under chapter 31 of title 31, United States Code, the proceeds of which are used to purchase obligations of the Funding Corporation, as determined by the Secretary in accordance with procedures established by regulation.

"(5) NET EARNINGS AVAILABLE FOR DIVIDENDS.—The term 'net earnings available for dividends' means the net earnings of a Federal home loan bank for any period as computed after reducing the amount of earnings of such period by the amount required to be carried (for such period) to reserves maintained by the bank pursuant to the reserve requirements contained in section 16.

"(6) OVERSIGHT BOARD.—The term 'Oversight Board' means—

"(A) the Oversight Board of the Resolution Trust Corporation; and

"(B) after the termination of the Resolution Trust Corporation, the Secretary of the Treasury, the Board of Governors of the Federal Reserve System, the Attorney General, the Secretary of Housing and Urban Development, and the Chairperson of the Federal Deposit Insurance Corporation.

"(7) RESERVE REQUIREMENTS CONTAINED IN SECTION 16.—The term 'reserve requirements contained in section 16' means—

"(A) with respect to the period ending on the day before the date of the enactment of the Financial Institutions Reform, Recovery and Enforcement Act of 1989, the first 2 sentence of section 16; and

"(B) with respect to the period beginning on such date of enactment, the reserve requirements contained in section 16(a).

"(8) SECRETARY.—The term 'Secretary' means the Secretary of the Treasury.

"(9) UNDIVIDED PROFITS.—The term 'undivided profits' means retained earnings minus the sum of—

"(A) the portion required to be added to reserves maintained pursuant to the reserve requirements contained in section 16; and

"(B) the dollar amounts held by the respective Federal home loan banks in special dividend stabilization reserves on December 31, 1985, as determined by the table set forth in section 21(d)(7).

"(l) REGULATIONS.—The Secretary may prescribe any regulations necessary to carry out this section.".

(b) ANNUAL GAO AUDIT OF FUNDING CORPORATION.—Section 9105(a)(2) of title 31, United States Code (as amended by section 501(c) of this title) is further amended by inserting ", Resolution Funding Corporation," after "Corporation".

(c) BUDGETARY TREATMENT OF FUNDING CORPORATION.—

(1) INCLUSION IN BUDGET.—The receipts and disbursements of the Resolution Funding Corporation shall be included in—

(A) each budget of the Federal Government submitted by the President under title 31, United States Code; and

(B) each concurrent resolution on the budget considered by the Congress pursuant to title III of the Congressional Budget Act of 1974.

(2) EXCLUSION FROM CALCULATION OF DEFICIT.—

(A) IN GENERAL.—The outlays of the Resolution Trust Corporation which are attributable to the net Treasury borrowing of the Resolution Funding Corporation shall not be counted for purposes of calculating—

(i) the deficit in each budget of the Federal Government submitted by the President under title 31, United States Code, for purposes of comparison with the maximum deficit amount in section 3(7) of the Budget and Impoundment Control Act of 1974;

(ii) the deficit under section 3(6) of the Congressional Budget and Impoundment Control Act of 1974 for purposes of comparison with the maximum deficit amount in section 3(7) of the Budget and Impoundment Control Act of 1974; and

(iii) the deficit and excess deficit for purposes of sections 251 and 252 of the Balanced Budget and Emergency Deficit Control Act of 1985.

(b) NET TREASURY BORROWING.—For purposes of this paragraph, the term "net Treasury borrowing" means—

(i) the principal amount of the obligations of the Resolution Funding Corporation purchased by the Secretary of the Treasury under subsection (f)(1) of section 21B of the Federal Home Loan Bank Act; minus

(ii) the funds invested by the Resolution Funding Corporation in noninterest bearing instruments under subsection (g)(2) of such section.

(C) IDENTIFICATION OF AMOUNT EXCLUDED.—The amount excluded pursuant to subparagraph (A) for any fiscal year shall be identified in—

(i) each budget of the Federal Government submitted by the President under title 31, United States Code;

(ii) each concurrent resolution on the budget considered by the Congress pursuant to title III of the Congressional Budget Act of 1974; and

(iii) each report submitted by the Director of the Office of Management and Budget or the Director of the Congressional Budget Office under section 251 of the Balanced Budget and Emergency Deficit Control Act of 1985.

(3) EXEMPTION FROM SEQUESTRATION.—The Resolution Funding Corporation shall be exempt from any order issued under part C of the Balanced Budget and Emergency Deficit Control Act of 1985.

Page 316, strike lines 11 and 12.

Page 333, strike line 12 and all that follows through page 334, line 10.

Page 397, strike lines 5 through 9 and insert the following (and amend the table of contents accordingly:

SEC. 504. RESOLUTION FUNDING CORPORATION AS WHOLLY OWNED GOVERNMENT CORPORATION.

Section 9101(3) of title 31, United States Code, is amended by inserting after subparagraph (N) (as added by section 505 of this title) the following new subparagraph:

"(O) the Resolution Funding Corporation.".

Mr. ARCHER. Mr. Chairman, I rise in opposition to the amendment.

The CHAIRMAN pro tempore. The gentleman from Illinois [Mr. ROSTENKOWSKI] will be recognized for 30 minutes, and the gentleman from Texas [Mr. ARCHER] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Illinois [Mr. ROSTENKOWSKI].

Mr. ROSTENKOWSKI. Mr. Chairman, I yield such time as he may consume to the gentleman from New York [Mr. GARCIA].

Mr. GARCIA. Mr. Chairman, I rise in favor of the bill.

I rise to make clear my understanding that, notwithstanding the separation of the credit and regulatory functions of the existing home loan bank system, Congress intends with the passage of this bill, to insure that the Federal home loan banks continue to have access to all reports, records, and other information they currently receive regarding the condition and ownership of institutions with which they transact business.

I refer specifically to information like the monthly and quarterly financial reports submitted by the institutions to their regulators, as well as examination reports and other information prepared by the regulators regarding the institutions.

This bill, as I understand it, requires the new Office of Thrift Supervision to provide the Federal home loan banks all of the information they now receive about their member institutions in the same prompt fashion that they now receive this information.

This information is essential to the safe operation of the home loan banks. It should be made available to the home loan banks as soon as its accuracy is confirmed by the regulators. This is how the system has operated in the past, and this is how it should continue to operate.

Mr. ROSTENKOWSKI. Mr. Chairman, I yield myself such time as I may consume.

Mr. CHAIRMAN, I rise in strong support of the amendment passed by the Committee on Ways and Means to move the Resolution Funding Corporation, or REFCORP, on-budget.

Before discussing the details of the committee amendment, I want to stress that this amendment has become far more controversial than I think is necessary. When the Ways and Means Committee decided to move the REFCORP on-budget, it did so for two simple reasons. First, the committee decided that an agency that is created to finance a liability insured by the Federal Government should be included in the Federal budget and be managed like any ordinary Government agency. However, the primary reason the committee adopted the on-budget provision is because it saves the American taxpayer money. The administration can try to hide the problem from the public by placing such an agency off-budget. But we simply cannot hide the cost, for we are asking the taxpayers of America to help pay it.

The Federal Reserve Board, the Treasury Department, and the Congressional Budget Office [CBO] all agree that the administration's off-budget proposal to borrow from the public without the full faith and credit of the U.S. Government would significantly increase the borrowing cost relative to direct Treasury borrowing in the market.

According to CBO's projections, the committee's proposal for direct Treasury borrowing will reduce borrowing costs by more than $600 million over the next 5 years, and by approximately $4.5 billion over the next 30 years. These additional interest savings will reduce the burden on the American taxpayer.

In order to avoid triggering sequestration, the committee amendment exempts outlays resulting from the $50 billion in borrowing from calculations of the deficit for the purposes of Gramm-Rudman. This provision seems to be the principal point of contention with the administration. The Treasury Department has argued that providing such an exemption from the Gramm-Rudman act might raise the overall interest cost of Treasury borrowings. They claim that Wall Street would see this as setting a precedent for further Gramm-Rudman exemptions in the future.

I think we should give Wall Street more credit than that. The financial markets recognize that the off-budget financing approach is simply a back door method of avoiding the Gramm-Rudman act restrictions. The off-budget financing scheme also has potential implications—troubling implications—for the budget process. Using an off-budget agency to finance public policy objectives would set a precedent that could be followed for other spending initiatives.

Furthermore, the case for an exemption from Gramm-Rudman will be hard to duplicate. The unique aspect of this case is that the costs have already been incurred and the Federal Government is already liable. We are not asking for additional spending, but simply trying to finance these incurred costs in the most efficient, inexpensive, and honest way possible.

Several committees of the House—the Budget Committee, the Rules Committee, the Banking Committee, and the Government Operations Committee—have heard extensive testimony from Wall Street that the Gramm-Rudman exemption will not cause any additional concern. They view the on-budget option as a more honest, money-saving approach. In addition, CBO has projected no increased interest cost as a result of an exemption from Gramm-Rudman. In addition, upon adoption of the Ways and Means on-budget amendment last month, I directed the committee staff to monitor the financial markets to see if there was an adverse reaction as predicted by the Treasury Department. In fact, just the opposite occurred—the stock market, the bond market, and particularly the market for 30-year Treasury bonds have all strengthened since the on-budget amendment was adopted. There is no evidence of a weakening market.

It seems clear to me that the Ways and Means Committee made the right decision in moving REFCORP on-budget. The American taxpayer saves money, and the Congress demonstrates more honest budgeting by accounting for these expenses in the Federal budget. I urge my colleagues to join me in approving this committee amendment. The administration should place its priorities elsewhere than in opposing a proposal which saves the taxpayer $4.5 billion.

□ 1540

Mr. ARCHER. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, during general debate, I outlined my own major objections to the on-budget amendment adopted by the Ways and Means Committee.

I would like to take a minute at this time to read a portion of a letter I received yesterday from Secretary of the Treasury Nicholas Brady expressing his concerns about the two financing plans.

I quote:

The Administration strongly supports the financing plan reported by the House Banking Committee, which has also passed the Senate. This plan preserves the budget discipline of the Gramm-Rudman-Hollings Act which remains our best check on government spending. My recent conversations with our major foreign trading partners have only confirmed this point. Furthermore, the plan locks up the thrift industry's contribution and is not likely to have any significant impact on interest rates.

The alternative approach in the Ways and Means Committee amendment has none of these advantages. Its explicit exemption from Gramm-Rudman-Hollings is a fundamental breach of the budget process. Others will be lining up with their exemption requests if this one passes. This budget breakdown is likely to cause interest rates to rise, wiping out any purported savings of the alternative financing approach. A rate increase of as little as 10 basis points—1/10 of a percent—would add as much as $1.4 billion each year to our debt financing costs.

Let me add that the on-budget amendment, if adopted will only delay enactment of this urgent legislation. Even if the conference committee agreed to it, the Senate would need a 60-vote supermajority to waive Gramm-Rudman-Hollings. We need to enact this legislation without further delay if we are serious about stemming the losses of the thrift industry.

I feel strongly that the House must preserve the discipline of Gramm-Rudman-Hollings, reject the committee amendment, and speed the passage of this urgent bill. I urge my colleagues to vote "no" on the committee's amendment.

Mr. ROSTENKOWSKI. Mr. Chairman, I yield 2 minutes to the gentleman from North Dakota [Mr. DORGAN].

Mr. DORGAN of North Dakota. Mr. Chairman, it might be useful for the folks who might not understand the arcane language of Congress to define the difference between on budget and off budget. The difference is: Are we going to tell people about it or are we not? If we put it on budget, everybody

knows what we are doing. They can see it. If we keep it off budget, somehow there is some suspicion that maybe no one will understand it ever happened. That is the difference, for the folks back home and the folks in the country who wonder what this language is all about.

For a decade we have made a career here in Washington, DC, of ducking and bobbing and weaving around all of these things. I read David Stockman's book about budgeting during the first half of this decade, and the whole point was: Just try to obscure everything, just do not tell people what is going on, play with the budget.

We know where that got us. We used gimmicks for years, and it got us nowhere.

The whole proposition is: If we have to do this, then let us put it on the budget. Let us do it straight up. The President's proposal to us is to not put it on the budget. His proposal is to spend $4 billion or $5 billion more and keep it off the budget. He wants to spend the equivalent amount of 4 years' appropriations for the Food for Peace Program and keep if off the budget.

How on Earth can we justify that? The President says that if we put it on budget he will veto it. Come on, show us, would you really veto it? Just because the Congress says it finally ought to be on the budget where people can see it and understand what we are doing? Mr. Secretary, do you really believe that if we take it off the budget somehow Wall Street will be fooled? No. This is a very simple proposition.

This amendment makes good sense. This ought to be on budget. We ought to make a "U" turn and provide a breath of fresh air in this Congress to say what we do from now on that we are going to tell folks we are going to do; we are going to do it right up front, no more budgetary gimmicks.

That is what this amendment is all about, and that is why I support it.

Mr. ARCHER. Mr. Chairman, I yield 4 minutes to the respected Republican leader of the House, the gentleman from Illinois [Mr. MICHEL].

Mr. MICHEL. Mr. Chairman, last year the House voted to move the Postal Service off budget by a vote of 390 to 16. The Senate kept it on budget. This year our colleague, the gentleman from Texas [Mr. LELAND], introduced legislation to take it off budget, and the bill already has 363 cosponsors. Five years ago we voted to take Social Security off budget, even though we kept it on budget for Gramm-Rudman. Two years ago we voted to put the Financing Corporation bonds off budget, and only one Member wanted them on budget.

Two Congresses ago there was more talk of taking the highway trust fund off budget, but it was left on budget. The House also voted to keep the aviation trust fund on budget when some wanted it off budget. But the House moved the farm credit reform package off budget instead of on budget.

When the Congress took its first run at congressional budgeting back in the 1940's, everything was on budget. That effort failed.

Now we suffer from budgetary schizophrenia. We never seem to be sure. We sing different tunes. First we put the on budget in, and then the off budget out. Then we put the off budget in and shake it all about. We do the hokey-pokey and turn ourselves around. That's what it's all about.

That could have been done musically.

At some point, this House must address off budget and on budget issues in the larger context of the sound budget policy, and what we ultimately decide ought to be consistent across the board. We either have a unified budget policy or we don't.

The point is if we accept the logic of the gentleman from Illinois that his amendment is merely honesty in budgeting, then we ought to be honest every day, not just today. If you want to be honest, you also must concede that putting this program on budget but exempting it from Gramm-Rudman, is also inconsistent.

If we want to be honest, we must also concede that this action is going to cause more delay in passage of this legislation at a cost of $10 million a day. Is that responsible budgeting?

The administration plan keeps on budget that which the taxpayer will be obligated to pay, and that is as it should be. What is off budget is that which we dearly hope will be financed without a greater burden on the taxpayer.

This is the second time now today, unfortunately, that I have stood here in the well to oppose an amendment offered by a dear colleague from Illinois, a close friend as well, and I do so only because I believe that their arguments are legitimate but ill-timed. This is not the time to get snarled in budgetary policy debates. It just is not the time to correct past mistakes on the goodwill issue.

We have to keep this process on track, get this legislation passed and signed into law as quickly as we can. Let us do the right thing here today and defeat this amendment.

Mr. ROSTENKOWSKI. Mr. Chairman, I yield 2 minutes to the gentleman from Michigan [Mr. LEVIN].

Mr. LEVIN of Michigan. Mr. Chairman, I found the presentation by the distinguished minority leader, as usual, to be articulate, but I am even more confused than before by his argument. He is saying there has been inconsistency in the past, so let us be more inconsistent. That makes no sense at all.

Mr. Chairman, if we are going to be honest and forthright, let us do it today. Off budget is an attempt at out of sight.

If the shoe were on the other foot and the Democrats were in the White House and there were this kind of a deficit, I wonder what the gentleman from Illinois and others on the minority side would be saying. They would come up here and they would scream "irresponsibility," "be forthright, put it on the budget," and they also would be saying, "How can you stand here and defend losing $4 billion to $5 billion?"

The answer is there is no defense for that. There is none. The administration came before us and gave these arguments and persuaded none of us.

On budget with a waiver, if necessary, is more forthright. It is also said, "We will create a precedent." I want to speak for myself, this is no precedent for me, waiver of Gramm-Rudman.

It is a more honest way though to proceed to put it on the budget.

□ 1550

The delay of $10 million a day, there will be delay of $10 million a day only if the President were to carry forth with his threat to veto a bill because it is more fiscally responsible. I cannot believe he will do so.

I am in favor of this amendment, and I hope on both sides of the aisle we can strike one small blow today for honesty and saving a few billion dollars at the same time.

Mr. ARCHER. Mr. Chairman, I yield 3 minutes to the gentleman from Ohio [Mr. WYLIE], the ranking Republican on the Committee on Banking, Finance and Urban Affairs.

Mr. WYLIE. Mr. Chairman, I thank the gentleman for yielding time to me and I rise in opposition to the amendment offered by the gentleman from Illinois [Mr. ROSTENKOWSKI].

I think there is a misconception here, Mr. Chairman. The $50 billion would be raised through the sale of REFCORP bonds to the private sector, and any moneys expended by Treasury would be on budget. The REFCORP bonds are sold in the private market; they are not guaranteed by the Federal Government. They are guaranteed by the purchase simultaneously of so-called zero coupon bonds which would be worth $50 billion at maturity.

But I think the gimmickry comes when we say we are going to do this through Treasury borrowing, but since fiscal year 1989 has already passed so far as Gramm-Rudman is concerned, we are going to waive Gramm-Rudman. I think that would be a very dangerous precedent. Under the discipline of Gramm-Rudman, we have gone from a deficit of $220 billion down to $100 billion in 1990, and while

we might disagree as to the realities of these reductions, the market thinks we are doing something right.

Mr. Greenspan came before our committee and estimated that the cost in the overall difference might be as little as $1.2 billion, in net present value but that again depended on the market. But he said that would be a small cost to ensure the discipline of Gramm-Rudman and send the right signal, not the wrong signal, to our trading partners that we are indeed serious about the discipline of Gramm-Rudman.

I wanted to find out too from the market people which is better. Merrill Lynch and to J.P. Morgan, said the off-budget arrangement would be cheaper in the long run. The gentleman from Merrill Lynch said, "In our opinion, the distributional problems associated with significantly larger Treasury borrowing would push long-term yields up by at least 50 basis points." That would increase the cost in the long term far above any cost that has been talked about here.

Mr. Preston of J.P. Morgan Co. said the same thing, and said "We strongly support the President's off-budget approach."

I understand the arguments made by the gentleman from the Ways and Means Committee, but I continue to strongly support the administration's funding approach as being the more honest approach. I think that we have heard a lot of talk about honest budgeting from critics of the administration plan, but I would repeat again that all Treasury expenditures are on budget in this off-budget arrangement suggested by the President in his bill which he sent up to us. I think if we go on the on-budget route, it might drive up interest rates on Government borrowing, and we could lose money in the long run.

Mr. ROSTENKOWSKI. Mr. Chairman, I yield 3 minutes to the gentleman from California [Mr. PANETTA], chairman of the Committee on the Budget.

Mr. PANETTA. Mr. Chairman, in dealing with this issue of on budget or off budget, I really think that the issue before the House is not so much how we treat it for accounting purposes, although I understand the arguments on all sides with regard to that. I think the more important question is what saves the most money, and I think putting it on budget clearly saves more money, and that is in the best interest of the President, the best interest of the Congress, and in the best interest of the Nation.

The unfortunate fact is we are dealing with a crisis, and it is never pleasant to have to deal with a crisis that demands emergency action. But from a budget point of view, there is no clean or pure approach. Members will hear a lot of arguments that someone has the pure approach today. The gentleman from Illinois was absolutely correct, there is no pure approach.

The administration recommends that we put this off budget and, therefore, we avoid the budget altogether. The approach suggested by the Committee on Ways and Means is that we put it on budget, but exempt it from Gramm-Rudman, and the LaFalce approach, which will be offered here later, says we keep it on budget without any kind of exception, but it also does not tell us how we are going to pay for it.

So the key question, it seems to me, that we all have to ask is what saves more money. It is clear from all of the evidence, it is clear from the testimony we have received in committee, it is clear from the witnesses who have come before our task forces, and it is clear from the Congressional Budget Office that by putting it on budget we will immediately save $5 billion in interest cost. And there is testimony that shows that we could save as much as $20 to $25 billion by virtue of providing flexibility on the interest rates over the 30-year period of these bonds.

Treasury's argument, on the other hand, is somehow by taking it off budget this could impact on basis points and interest rates, but there really is no evidence that in fact that will happen. That assumes that most investors somehow do not understand what we do when we are making exemptions from Gramm-Rudman, and that is just not the case.

In addition, this does not establish the kind of precedent that is argued by the Treasury Department. Martin Feldstein has testified that what we are dealing with here is a debt that is already incurred. This is not as if we are dealing with spending because of new spending that we have to achieve in the future, it is dealing with a debt that is already there in the society.

I realize that this is not a pleasant bill to deal with. It has angered a lot of people because of the poor management and the greed that has been involved with regards to this crisis. But it is a crisis, and it is something that we are going to have to deal with one way or the other, and to do it we ought to do it in a way that saves us the most money.

We spend our time in the Budget Committee struggling and fighting to try to achieve some degree of savings. By putting it on budget we are assured that we can save $5 billion and perhaps as much as $20 to $25 billion. That is enough of an argument for me to support putting it on budget.

I thank the gentleman for yielding time and giving me the opportunity to speak to the issue of how best to finance the Federal response to the thrift institution crisis.

THE THRIFT INSTITUTION CRISIS

H.R. 1278 is before the House today because the Federal Savings and Loan Insurance Corporation [FSLIC] cannot fulfill its obligations as the Federal insurer of deposits in thrift institutions. Almost 600 federally insured, but insolvent, thrift institutions already have been identified. Some of these insolvent institutions were closed or sold by FSLIC during 1987 and 1988. Some have been taken over by Federal regulators. Many others still await Federal action. We must and will act to honor and preserve Federal insurance of thrift deposits.

The administration has estimated that $205 billion will be required over the next 10 years to deal with insolvent thrifts, with the Federal Government paying 30 percent and industry sources 70 percent of that cost. However, the Congressional Budget Office estimates that the Government will have to pay 70 percent of the cost, because the assumptions used by the Office of Management and Budget about industry contributions are overly optimistic. In addition, the General Accounting Office has estimated that the total long-term cost of resolving the crisis will be $285 billion. Private estimates are even larger.

Clearly, the most critical matter is that thrift rescue legislation be passed immediately. The enactment of the legislation is more important than whether the financing is done on- or off-budget. However, we are acting quickly to complete the legislation. The issue of on- or off-budget financing, then, is a major issue which we should examine carefully.

ON-BUDGET OR OFF-BUDGET FINANCING?

The administration has proposed off-budget financing, which is reflected in H.R. 1278 as reported by the Banking Committee. The Ways and Means Committee amendment contains on-budget Treasury financing with an exemption from Gramm-Rudman deficit calculations. Both of these approaches violate proper budgeting principles. However, the evidence presented to the Budget Committee indicates that the on-budget alternative is significantly less costly. For this reason, a majority of the House Budget Committee favors on-budget financing of the rescue plan with an exemption from deficit calculations under Gramm-Rudman, as proposed by the Ways and Means Committee.

On-budget Treasury borrowing to deal with the thrift crisis and to protect insured deposits in insolvent institutions would save taxpayers tens of billions of dollars in interest payments over the life of the thrift insurance rescue plan. In this regard, it is important to note that whatever interest the Resolution Funding Corporation [REFCORP] cannot pay must be paid by the Federal Government under the administration's plan and H.R. 1278 as reported by the Banking Committee. As a result, any savings in interest costs would reduce the Federal Government's cost and the ultimate burden on the taxpayer.

The Congressional Budget Office has estimated that on-budget Treasury borrowing will cost $5 billion less than off-budget REFCORP borrowing because of the higher interest rates that would have to be paid on REFCORP bonds over their 30-year life. In addition, expert witnesses testifying before the House Budget Committee Task Force on Urgent Fiscal Issues on May 19 indicated that there are two other ways in which on-budget financ-

ing would be less costly. First, the extra $5 billion of interest which would have to be paid on REFCORP bonds by Treasury would require additional borrowing by Treasury, compounding the interest cost. One witness estimated that this interest compounding would cost an additional $17 billion to $25 billion over the same 30-year period.

Second, REFCORP would have to lock in today's long-term interest rates on its 30-year bonds. In contrast, Treasury has the ability to manage the maturity structure of its debt. It could borrow short term now and shift to longer term debt when interest rates decline. Significantly, both OMB and CBO project that interest rates will decline through 1994. Another witness at the May 19 hearing estimated that managing the maturity of the $50 billion of new financing in the thrift crisis plan could save $20 to $50 billion over the next 30 years, depending on interest rates.

These extra costs are simply too high a price to pay for financing the thrift insurance rescue off-budget. Let there be no mistake, the proposed exemption from Gramm-Rudman deficit calculations also is an evasion of proper budget control. However, we believe such an exemption is no worse a violation of budget principles than the creation of a new off-budget source of financing, and it would cost tens of billions of dollars less.

The administration argues that such an exemption from Gramm-Rudman deficits would provide an excuse for exempting future emergency spending. However, we should note the point made by Dr. Martin Feldstein, former Chairman of the Council of Economic Advisers under President Reagan. An exemption from Gramm-Rudman is justified on fiscal policy grounds because the Government's liabilities already have been incurred, and the economic impact of the outlays associated with the thrift plan has also occurred. On-budget financing merely recognizes what has already happened. Contrary to arguments made by the administration, this fiscal policy rationale for an exemption does not rely on to the argument that the thrift crisis is an emergency and does not provide a precedent for exempting future emergency spending from Gramm-Rudman.

A majority of the members of the House Budget Committee support on-budget financing with an exemption from Gramm-Rudman deficit calculations for the reasons I have outlined. We urge you to vote for the ways and Means Committee amendment and, ultimately, for H.R. 1278 on final passage. This legislation is necessary to protect insured deposits in insolvent thrift institutions, to put in place the reforms needed to minimize the risk of any future crisis, and to restore depositor confidence in their thrift institutions.

Mr. ARCHER. Mr. Chairman, I yield 2 minutes to the gentleman from New Jersey [Mr. SAXTON].

Mr. SAXTON. Mr. Chairman, I rise in strong opposition to this amendment which places the rescue cost for the depositors and the S&L industry on budget.

This is a misguided amendment which would completely undermine the much needed discipline of the Gramm-Rudman provisions. This dangerous precedent would endanger the future value and viability of the Gramm-Rudman mechanism. A mechanism that is responsible for over $120 billion in deficit reduction so far.

Supporters of this amendment claim that we are missing a chance to save the taxpayers $150 million a year.

This is simply not true. The fact is that any potential savings in lower interest rates would be consumed immediately by the resulting market reaction and rise in interest rates because Gramm-Rudman would be broken—and with it the market's faith in the Government's budget discipline.

Indeed, if interest rates increase only 1 basis point, the increase in our debt servicing cost would be $280 million. Mr. Speaker, the cost/benefit analysis of this amendment simply does not work.

I might add that the President and the Senate oppose this on-budget treatment—as well they should. I urge my colleagues to maintain the budget discipline forced on this body should protect the Gramm-Rudman firewalls and reject this amendment.

Mr. ROSTENKOWSKI. Mr. Chairman, I yield 2 minutes to the gentleman from Michigan [Mr. DINGELL], chairman of the Committee on Energy and Commerce.

Mr. DINGELL. Mr. Chairman, I rise in support of the amendment offered by the distinguished gentleman from Illinois [Mr. ROSTENKOWSKI]. I urge my colleages to support that amendment.

We have already discussed the question of the cost of this matter to the Federal Government if this matter is done in the quaint, curious and excessively costly way that the administration would have it be done.

□ 1600

The total cost of that is supposed to be somewhere around $4.5 to $5 billion. But beyond this there is another defect which I believe this body should address. And that is carrying forward in the fashion the administration would have us carry forward would leave the investors in obligations issued by this curious corporation without the protection that would ordinarily be available to an investor under the securities laws because these obligations, even though they were issued by a private institution, would be exempt from the registration laws which assure protection for all other investors who would invest in similar kinds of obligations.

This leaves the investor, whether he be an individual or whether he be an institution, in the position of, A, not having the information; and B, investing in what he thinks is in fact a Government obligation.

But beyond that it carries a further liability, and that is the discipline of the registration process which assures investors that truthful reporting as to the reliability and the character of the security would be denied him even though it appeared to be on its face a Government security. That is an intolerable condition.

The Government finds it costs more; the taxpayers pay more; the obligation masquerades as a Government security and it is exempt from the requirements of registration. So that there is no discipline upon the issuer and so that there is a richer opportunity for fraud and misbehavior.

Mr. Chairman, I urge my colleagues, on all of these bases, to support the amendment offered by the gentleman from Illinois to get us a responsible program for issuance of responsible securities and to do so at the least cost to the taxpayers.

Mr. Chairman, I urge my colleagues to vote for the Rostenkowski amendment.

Mr. ARCHER. Mr. Chairman, I yield such time as he may consume to the gentleman from Ohio [Mr. GRADISON].

Mr. GRADISON. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, I rise in support of the recommendations of the Committee on Ways and Means.

Mr. Chairman, we will see plenty of finger-pointing during this debate. To be sure, there is plenty of blame to go around. But rather than look for culprits, I would rather look for reasons, and then develop legislation that best solves the immediate problem and ensures it does not recur. One key issue concerns the budget accounting of the bailout package, whether the financing is on or off budget.

How important is the fiscal accounting? In my view, it's critical.

First, some perspective. According to Dr. Ronald Utt of the Heritage Foundation, the current dollar costs of the S&L bailout are exceeded only by what our country spent on World War II. It seems only reasonable, then, to ask how this mess grew to such size, especially in face of unprecedented public concern over the deficit and extensive media reporting on the issue.

The answer, I believe, is apparent. We face this huge cost today because Congress routinely swept the issue under the rug. As a result, and despite the media, the costs of the S&L debacle went largely unregistered with the public. Because the costs, current and prospective, were kept off budget, they have never shown up in the politically sensitive deficit.

Out of sight, out of mind, one might say. Let me put it this way: Do any of my colleagues believe that we would be debating legislation to deal with a problem whose cost GAO now puts at $285 billion if all the costs had been reflected in the budget, and hence the deficit, estimates? Most likely, we would have excised this cancer when the cost was much, much lower, and the problem would be behind us.

By continuing our sweep it under the rug, off-budget policy, we only invite, if not guaran-

tee, additional costs in the not too distant future. It is long past the time to change this policy.

Other reasons abound for recording the costs of the S&L bailout on budget. The most often heard has to do with Gramm-Rudman. While I appreciate the point that members would rather not be recorded as voting for a waiver of Gramm-Rudman, as on-budget accounting would require, the issue is otherwise unambiguous. The fact is that Gramm-Rudman is waived in either case—whether the bailout is on budget or off budget. The issue is whether to waive Gramm-Rudman explicitly by putting the bailout's financing on budget, or to waive Gramm-Rudman implicitly through off-budget accounting.

By now, we should all know the folly of arguing that the markets will react adversely to on-budget financing, that somehow on-budget financing will demonstrate to the financial world our lack of will with respect to deficit reduction. Well, the markets have known about the possibility of on-budget financing for some time, have taken it into account, and with no discernible effects.

If anything, off-budget financing tells the world more about the reality of our deficit commitment precisely because of its lack of budget candor. Certainly, the markets are not fooled, nor was there ever any reason to expect them to be fooled. After all, the borrowing requirement is the same in either case.

The financial markets' view of our devotion to frugality is best reflected in the recent congressional testimony of First Boston's Allen Sinai:

> Exempting the GRH budget deficit targets from the thrift bailout costs [sic] would not cause a loss of confidence in GRH as a budget-balancing lever nor a crisis of confidence in the eyes of international investors. GRH has long ceased to be viewed as a mechanism for credible deficit reduction. As much chance exists for a loss in confidence on resolve to reduce the budget deficit through avoiding GRH than exempting through GRH the thrift bailout costs from the budget targets. And, on-budget financing is cheaper!

This last point deserves some elaboration. Depending on economic assumptions, the extra cost of 30-year off-budget financing ranges from $4.5 to $49.8 billion. Treasury itself has long acknowledged that off-budget financing is more expensive.

Frankly, I'm a lot more comfortable telling my constituents that in voting to waive Gramm-Rudman, I voted to save them at least $4.5 billion than I am in saying I voted to impose on them an added and totally unnecessary cost on the taxpayer of at least $4.5 billion and as much as $50 billion.

In voting for on-budget financing, I'm also one member who will not have to explain why he voted for a windfall premium for the wealthy investors who would buy the off-budget REFCORP bonds and, in the process, generated unnecessary commissions for Wall Street bond traders.

Off-budget proponents have also argued that an amendment requiring off-budget financing must be passed in the Senate with 60 votes. To be blunt, this is disingenuous. The fact is the Senate must pass this legislation with 60 votes regardless of whether the financing is on or off budget.

And don't be taken in by the argument that on-budget and off-budget financing are both gimmicks. As GAO, CBO, and CRS have pointed out, the bailout constitutes an economic wash—substituting one liability for another. However financed, the essential element is that capital is being withdrawn from the credit markets and then put right back. Just as asset sales are appropriately on-budget and exempt from Gramm-Rudman deficit targets, so too is it appropriate for the S&L bailout to be on-budget and exempt from Gramm-Rudman.

Supporters of off budget, off Gramm-Rudman financing have pressed the point that time is of the essence. I agree. Yet, if the goal is to shut down insolvent thrifts as soon as possible, then the fastest way to get the money to do the job is for Treasury to raise the money.

Off-budget proponents have also argued that on-budget financing would not guarantee full participation of the thrift industry. This is a curious argument. In the face of all the earmarked taxes, user fees, assessments, and premiums that are routinely collected from defined contributors and duly recorded on budget, I leave it to others to explain why this argument should not be dismissed out of hand.

Finally, I ask my colleagues to simply look around. The list of off-budget advocates is, well, short. Aside from a noticeably small number of administration advocates, where is the support for off-budget status? How about the business community (hint: the U.S. Chamber favors on-budget)? Have you seen any editorials or op/eds in favor of off-budget status? And where is the record of expert testimony favoring off budget?

There is no need to belabor this issue. If ever there was a one-sided argument, this is it. I urge my colleagues to support on-budget financing. It is the right thing to do.

Mr. ARCHER. Mr. Chairman, I yield 1 minute to the gentleman from Oklahoma [Mr. EDWARDS].

Mr. EDWARDS of Oklahoma. Mr. Chairman, the Ways and Means proposal is simply not honest. The administration's plan, the Banking Committee's plan puts public spending on budget and counts it against the Gramm-Rudman targets.

The Ways and Means plan counts private money toward the Federal budget and exempts public spending from deficit reductions calculations. That makes no sense whatsoever.

The advocates of the Ways and Means amendment eliminate Government payments from deficit reduction calculations from Gramm-Rudman, and yet they say that their amendment is more honest. It is not more honest, it is deceptive.

Mr. Chairman, private debt has no place on the Federal budget; public debt has no place off the Federal budget.

The administration's proposal, supported by the Banking Committee and the Senate, recognizes this. The marketplace and the American people recognize this, but the Ways and Means Committee does not.

Mr. Chairman, I urge opposition to this amendment.

Mr. ROSTENKOWSKI. Mr. Chairman, I yield 2 minutes to the gentleman from Texas [Mr. PICKLE].

Mr. PICKLE. Mr. Chairman, I rise today in support of the proposition that Federal rescue of the savings and loans industry which the House is considering today should be financed in an on-budget manner. My primary reason for supporting on-budget financing is that it is the least expensive way to finance the bailout. On-budget financing will save taxpayers at least $4.5 billion over the next 30 years. In addition, I believe that the on-budget approach gives a truer and more accurate picture on the Nation's finances.

I have very serious reservations about the administration's proposal to create yet another off-budget Government sponsored enterprise to finance what are, by any reasonable standards, obligations of the Federal Government. I am afraid that this REFCORP is, in large part, an attempt to sweep these potential liabilities under the rug, and to hide fiscal reality behind a smoke screen of accounting mumbo jumbo. It is unrealistic to pretend that the obligations of REFCORP are not the responsibility of the Federal Government, and we should not engage in Federal bookkeeping gimmicks that make such pretense possible.

In fact, I am concerned that we may have gone too far down that road already. Existing Government sponsored enterprises have already issued or guaranteed debt exceeding $700 billion. This debt is not considered to be on-budget, but, if Government sponsored enterprises run into hard times, as did the savings and loan industry, I assure my colleagues that their potential liabilities will become very real debts which the Congress and the taxpayer will be called upon to pay. I recognize that some of these enterprises are well run, and my goal is not to alarm the public. But I caution my colleagues that we must carefully monitor their activities. And, I believe it is extremely unwise to create any additional Government sponsored enterprises for the sole purpose of keeping Federal debts off the Federal Budget.

It is for this reason that Congressman BILL GRADISON and I supported the provision of this legislation that calls for the Department of the Treasury to fully study the activities of all Government sponsored enterprises and the effect they have on the Federal debt. While there is currently some reporting on the part of some of these enterprises, neither the Department of the Treasury nor the tax-writing committees of the Congress receive a reporting or overall accounting of

these activities. The public is entitled to know that these activities are being operated on a sound basis, and that they are not endangering the credit of the United States.

Mr. ARCHER. Mr. Chairman, I yield 1 minute to the gentleman from California [Mr. DREIER].

Mr. DREIER of California. Mr. Chairman, I thank my friend for yielding.

Back in 1985, Mr. Chairman, I was an unenthusiastic proponent of Gramm-Rudman. I was one who did not like the prospect of abrogating our responsibility to an OMB computer. But I have to stand here 4 years later saying that Gramm-Rudman certainly has had a very stabilizing effect on the marketplace and on interest rates.

I am greatly concerned, Mr. Chairman, at the prospect of our violating Gramm-Rudman now. We have seen a clear stabilization which must be maintained. If we do begin the process with this bill we will see continued violations and I believe that, while my friend from California said, we do not have empirical evidence that it will be the case, we do face the serious prospect of increased interest rates.

Mr. Chairman, I am adamantly opposed to this proposition.

Mr. ROSTENKOWSKI. Mr. Chairman, I yield 2 minutes to the gentleman from New York [Mr. SCHUMER].

Mr. SCHUMER. I thank the chairman of the committee for yielding this time. I want to thank the Committee on Ways and Means and their chairman for their leadership on this issue.

I think of the many issues before us today, this one is really the most clear-cut. As chairman of the task force on fiscal issues of the Committee on the Budget, we had extensive hearings on this particular issue. And the number of arguments on the other side were negligible.

Experts on the market agree that this would be cheaper; experts on the market agreed that on-budget would make the markets more confident; experts on the market agree that the markets are not so dumb as to be fooled by an off-budget item. They knew darned well that we would be borrowing the money.

Furthermore, experts on the market agreed that the cost of savings would not just be the $4.5 billion that the 20 or 30 basis points would matter, but closer to $20 billion over the 30 years because of compounding interest on interest.

So there are many reasons to be for this amendment. It saves money, it is more honest, it avoids the kinds of things that the gentleman from Texas mentioned when you have to have a GSE, which have not worked in the past.

The only argument on the administration's side is, "Well, we have to exempt things from Gramm-Rudman," and that is a terrible idea.

Well, my colleagues, when you have to do something off budget that also sets a precedent. We could be back here next year doing other off-budget items.

At the very least the on-budget approach imposes some market discipline because it shows the budget deficit number to be closer to what it actually is rather than hidden under the rug in the off-budget method.

We started out many, many months ago urging that we do this on-budget.

I would say to the gentleman from Oklahoma that the Banking Committee is not for the administration's position; most of us are for this position.

So I say to my colleagues this is the right way, the honest way, and the cheaper way to do it; let us vote for it.

□ 1610

Mr. ROSTENKOWSKI. Mr. Chairman, I yield 1 minute to the gentleman from Kansas [Mr. SLATTERY].

Mr. SLATTERY. Mr. Chairman, I thank the chairman of the Committee on Ways and Means for yielding time to me and rise in strong support of this amendment to put the cost of the S&L cleanup on budget.

I do so for two very simple reasons. As far as I am concerned, the evidence is overwhelming that if we put this on-budget and put the full faith and credit of the U.S. Government behind these bonds, it is going to reduce the interest rate by somewhere between 25 and 40 basis points. I do not think there is any question about that particular point. That will save $4 to $5 billion. Ladies and gentlemen, when the taxpayers are being fleeced as they are in this whole mess, the least we can do is save $4 or $5 billion for them.

In addition to that, there is a fundamental question of honesty with the American public. As far as I am concerned, we should be honest with them and tell them the truth. We are not going to reach the $100 billion deficit target because of this problem. We should put in on-budget and tell the American people the truth.

For those two simple reasons, Mr. Chairman, I rise in strong support of this amendment, and I urge my colleagues to join me in supporting it.

Mr. ARCHER. Mr. Chairman, I yield 1 minute to the gentleman from Indiana [Mr. HILER].

Mr. HILER. Mr. Chairman, I thank the gentleman for yielding to me.

I rise in support of keeping the provision off budget. Earlier it was said by one of my colleagues on the Committee on Banking, Finance and Urban Affairs that a majority of members of the Committee on Banking, Finance and Urban Affairs support moving it on budget. I do not know how the gentleman would know that. We never had the vote in the Committee on Banking, Finance and Urban Affairs. We never had this issue debated and voted on in the Committee on Banking, Finance and Urban Affairs.

The fact is, whatever savings might occur by going on budget, if by going on budget, if by exempting this from Gramm-Rudman, if we put the concern out among the financial markets that this is the first of a number of items that will change their category, that will exempt them from Gramm-Rudman, this potential future cost of having higher interest rates on the existing financial debt will far surpass and far outweigh any potential savings that might come from having it on budget. So I urge my colleagues to continue to keep it off budget.

The CHAIRMAN pro tempore (Mr. MONTGOMERY]. The Committee will rise informally in order that the House may receive a message.

MESSAGE FROM THE PRESIDENT

The SPEAKER pro tempore (Mr. MURTHA) assumed the chair.

The SPEAKER pro tempore. The Chair will receive a message.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. Kalbaugh, one of his secretaries.

The SPEAKER pro tempore. The Committee will resume its sitting.

□ 1614

FINANCE INSTITUTIONS REFORM, RECOVERY AND ENFORCEMENT ACT OF 1989

The Committee resumed its sitting.

Mr. ROSTENKOWSKI. Mr. Chairman, I yield 1 minute to the gentleman from Hawaii [Mr. AKAKA].

Mr. AKAKA. Mr. Chairman, I rise in support of the amendment and in support of H.R. 1278, the Financial Institutions Reform, Recovery and Enforcement Act of 1989. I would like to congratulate and commend my good friend from Texas, the distinguished chairman of the Banking Committee [Mr. GONZALEZ], and all the members of the committee for their thoughtful consideration of this complex legislation.

Mr. Chairman, I also rise in support of the amendment offered by Mr. ROSTENKOWSKI on behalf of the Ways and Means Committee. Adoption of this amendment will reduce the taxpayer burden by $5 billion dollars by making the Resolution Finance Corporation an on-budget entity authorized to borrow directly from the Treasury. The off-budget financing prescribed

by the President would not fool our financial markets, nor would it strengthen budgetary discipline, but it would add tens of billions of dollars to the taxpayers' cost of this resolution. Off-budget treatment fools no one—instead it punishes everyone—I urge my colleagues to minimize the burden borne by the American taxpayer and support the Rostenkowski amendment.

Mr. Chairman, the reform and rescue package is a bipartisan, constructive remedy to a financial crisis of monumental proportion. The plan goes a long way to restore public and investor confidence in the American financial system. In H.R. 1278, we do not attempt to bailout poorly-managed savings and loans. Rather, this bill will swiftly close sick thrifts while safeguarding the good-faith deposits of individual savers. This bill also includes the regulatory reforms and supervision necessary to insure that we do not witness a repeat of past mistakes, high-risk investments, and harebrained schemes. Finally, this bill reasserts the thrift industry's fundamental commitment to home finance borrowing.

We in Hawaii are fortunate that all our thrifts are secure and well-managed. Passage of H.R. 1278 without weakening amendments will insure the continued soundness of the Hawaii financial community, and preserve the hard-earned public faith and confidence in our local financial institutions. I thank the gentleman for yielding me this time.

Mr. ROSTENKOWSKI. Mr. Chairman, I yield 1 minute to the gentleman from Minnesota [Mr. VENTO].

Mr. VENTO. Mr. Chairman, I rise in support of the Rostenkowski amendment.

So often we hear some platitudes about the Gramm-Rudman law. Many Members could not vote for the law because we felt it was not workable. The Congress ought to be making decisions. Gramm-Rudman is a political law, because as Members have come to treat it, all of a sudden, the bottom line is not whether we are working toward a balanced budget, but whether the deficit is only $150 or $100 billion. Members and the administration are claiming success, which is interesting. When they attain such goals under only the most tortured budget computations, I do not think that is success. I do not think the American public believes it is success. However, that is current political life decisionmaking as it goes in terms in today's fiscal and spending policy.

This amendment will change the proposal of the administration, Congress and the American people need some truth in budgeting. This is not political. It is $4 or $5 billion of costs we are discussing and debating about here. We have a responsibility to deal with the issues. I would hope that the Members would adopt this and provide some dollars for housing and other needs in this Nation rather than pursuing a separate Federal agency that will cost the borrowing entity 30 to 50 basis points more in borrowing without the coordination of total Treasury borrowing. Don't we owe the most efficent, economical policy in this instance to the taxpayer. Earlier today the House voted 94 to 326 in favor of eliminating the S&L hocus pocus bookkeeping tricks. It is now time to get rid of the Bush administration's own sleight of hand. Mr. Chairman, this amendment would properly place this bailout on budget at the lowest cost to the constituents we represent.

Mr. ROSTENKOWSKI. Mr. Chairman, I yield 1 minute to the gentleman from Delaware [Mr. CARPER].

Mr. CARPER. Mr. Chairman, I am a supporter of Gramm-Rudman. I am not interested in smoke and mirrors. I am not interested in playing games with Gramm-Rudman or the Gramm-Rudman targets.

I do believe this amendment is well-advised, and I believe we should support it. There has been some discussion about whether or not we can save money by issuing bonds by the U.S. Treasury Department, as opposed to some new quasi-government agency like REFCORP. I believe the answer is clear. I think that we can save money with the adoption of this amendment. A lot of it. The interests costs on the U.S. Treasury obligations will be less, perhaps $5 billion over 30 years. An even bigger savings can accrue—as much as $20 billion—because the on-budget approach permits the use of a full range of Treasury maturities. If it makes sense to issue short-term maturities to raise funds, the Treasury Department may do so. The converse is also true. On the other hand, an off-budget approach likely will result in the saturation of the market with long-term REFCORP bonds. I urge support of this amendment.

The CHAIRMAN pro tempore (Mr. MURTHA). The gentleman from Texas [Mr. ARCHER] has 16 minutes remaining and the gentleman from Illinois [Mr. ROSTENKOWSKI] has 8 minutes remaining.

Mr. ARCHER. Mr. Chairman, I yield 5 minutes to a respected member of our Committee on Ways and Means, the ranking Republican on the Committee on the Budget, the gentleman from Minnesota [Mr. FRENZEL].

Mr. FRENZEL. Mr. Chairman, the amendment that the House is now considering is claiming to possess two advantages: First, that it helps honesty in budgeting; and the second, that it saves money.

I would like to suggest to the House that it really does neither. The administration proposal, that is, the Committee on Banking, Finance and Urban Affairs bill, provides for off-budget borrowing by REFCORP. The amendment provides for on-budget borrowing, but that borrowing is exempted from Gramm-Rudman. What Members have here is two equally devious schemes to prevent any strictures of the budget slowing down any of the spending or interfering with any other spending. What we must make our choices between is two different scams, neither one of which has anything to do with honesty. As a matter of fact, if Members accept the Committee on Ways and Means amendment, Members will have put this on budget but off Gramm-Rudman.

As the distinguished minority leader indicated, we already have Social Security off budget and on Gramm-Rudman. What happens is the House simply puts these things where it is convenient, so that it does not interfere with any of the rest of our spending.

Now if Members are really looking for honesty in budgeting, Members would vote for the LaFalce amendment. We actually considered that in the Committee on Ways and Means. Members understood that that would provide somewhere between $25 and $30 billion of unaccounted spending and plunge us into immediate sequester. Our budget now does not make Congress immune from sequester, but at least we have the chance that it might not happen. If Members really want honesty, vote for the LaFalce amendment, and then Members can be guaranteed some wonderful sequester and see some of your programs cut. However, if Members believe the committee on Ways and Means is honesty in budgeting, disabuse yourself of that motion, because there is no relationship between it and honesty, but it punches three separate holes in Gramm-Rudman: exempting it from sequester, taking it out of our budget resolution, and making sure that for Gramm-Rudman purposes the President is exempted from taking this into account in his budget message to the Congress.

□ 1620

The second advantage of this amendment is that it is supposed to save money. The allegation is that the Federal Government can borrow up to 20 to 25 fewer basis points and save up to $125 million. The Treasury allegation, of course, is that if the credit markets perceive that punching these holes in Gramm-Rudman is a bad deal and if our interest rates were raised by one basis point, we would automatically make up the difference of that $125 million, and if the fear were that it would be 10 basis points or 50 basis points or 250 basis points, we would be in for annual losses of billions of dollars.

The gentleman from Ohio [Mr. WYLIE] has already pointed out what his advisers suggested. Another Member suggested that all the experts said it was cheaper to do it the Ways and Means Committee way. I would like to suggest to the House that experts vary in their opinions, and at the moment those who want to say that the Treasury does not know what it is doing are cheerfully advised to do so and may cheerfully go ahead and do so. But I think their warnings of risks have to be taken into account. Therefore, there is no honesty in the amendment, and there is no guaranteed savings in the amendment. In fact, there is risk in this amendment of incurring much greater costs.

We must remember, too, that the taxpayers are paying about 70 percent of this bailout when we get done with the 30-year period. Would they rather pay 20 extra basis points and be relatively secure, or would they rather worry about a much greater number of basis points being applied to the whole short term or even some of the long-term portion of our debt?

The CHAIRMAN pro tempore (Mr. MURTHA). The time of the gentleman from Minnesota [Mr. FRENZEL] has expired.

Mr. ARCHER. Mr. Chairman, I yield 1 additional minute to the gentleman from Minnesota [Mr. FRENZEL].

Mr. FRENZEL. Mr. Chairman, the reason that the precedent of the Treasury's suggestion is better is that it is harder to reproduce. The income stream provided by the industry enables the system to back this debt with zero bonds which pay it off ultimately. The Treasury and the taxpayers then do not have the obligation for the bond. The committee amendment has to make a waiver or, rather, punches three holes in Gramm-Rudman and puts the full faith and credit of the Government and the taxpayers behind the bond.

It is very apparent to people who have studied this question that the Gramm-Rudman wreckage is easier to reproduce, and, therefore, that is a far more dangerous precedent than following the bill of the Banking Committee and the proposal of the Treasury.

Mr. Chairman, I urge the defeat of the Ways and Means Committee amendment. It is too risky to subject the taxpayers to this treatment.

The CHAIRMAN pro tempore. The gentleman from Illinois [Mr. ROSTENKOWSKI] has 8 minutes remaining and the gentleman from Texas [Mr. ARCHER] has 10 minutes remaining.

Mr. ROSTENKOWSKI. Mr. Chairman, I yield 4 minutes to the gentleman from Wisconsin [Mr. MOODY].

Mr. MOODY. Mr. Chairman, I rise in strong support of the Rostenkowski-Ways and Means Committee amendment to put this package on budget. Fiscal responsibility and accountability requires that this multibillion dollar program be on budget.

There are three important reasons to do so. First: plain old honesty, honesty in budgeting. Public support for any very expensive program, any controversial program—and this is certainly that—requires knowledge and understanding of the program. Otherwise people rebel against it, and rightfully so, in a democracy.

The first step to understanding this program is to honestly describe the program, and the first step to honestly describe the program is put it on budget. That way we can see it and follow it, and know what the burdens and the benefits are. So honesty in budgeting is the first requirement. It is essential for public support.

The second reason to put the program on budget is oversight, congressional oversight. It is a simple fact that this Congress spends much more time and energy watching and overseeing things that are on budget, things that we are directly responsible for. If it is on budget, we are going to watch it a lot closer, and if there is anything that has been lacking in the sad story of the S&L mess, it has been oversight. So that is the second reason.

The third reason is cost, the total dollar cost. The cost advantage of putting the program on budget are truly large. First of all, we have a substantial interest differential—more expensive interest—because the borrowing would be off budget and not backed by full faith and credit of the U.S. Treasury. Off-budget financing would cost us at least 30 basis points and probably about 50 basis points—one half of one percentage point—in difference. Right now FICO bonds, which are also off budget are the nearest thing we have to REFCOR bonds. FICO bonds carry an extra 50 basis points, or one half of one percentage point higher interest rates than Treasury notes of comparable maturity. Now, if the 50-basis point differential proves true, the extra 30-year financing cost of the package would not be $4.5 billion, but $7.5 billion. It would cost the taxpayers $7.5 billion simply to take it off budget for basically window dressing purposes.

But that is only the beginning. There are two more cost items. The next cost item is the interest costs of borrowing that extra $7.5 billion. Since the Nation is in a deficit situation, we are going to have to borrow the $7.5 billion and therefore pay interest on it. Over 30 years, the cumulative compound interest cost amounts to $17 billion, or perhaps $20 billion, depending on interest rates.

Finally, the largest cost item of all would be the off-budget approach of borrowing all the money at a 30-year maturity. Not only would that congest the long end of the bond market, but it would preclude the Treasury from selecting among all the available maturities and thereby selecting whichever one is cheapest. At this time 30-year bonds are more expensive than short-term bonds, so it costs much more to borrow 30-year money of different, shorter maturities. Why would we want to insist, as the administration bill does, that we borrow at the most expensive part of the maturity range? That would cost an estimated additional $20 billion.

So we are talking spending up to $47.5 more billion if the bill goes off budget. The maturity problem, the extra premium problem, and the cost of borrowing those differences all argue for an on-budget approach. Honesty in budgeting and adequate congressional oversight also do.

So, Mr. Chairman, for all those reasons I think it is very important that we put the whole enormous S&L bailout package on budget. Only then will we begin to face fiscal reality and structure the rescue package in the most forthright and cost-conscious manner.

Mr. ARCHER. Mr. Chairman, I yield back the balance of my time.

Mr. ROSTENKOWSKI. Mr. Chairman, I yield such time as she may consume to the gentlewoman from Ohio [Ms. OAKAR].

Ms. OAKAR. Mr. Chairman, I support the Rostenkowski approach.

Mr. Chairman, before the Banking Committee, witness after witness, whether it was an economist or the Comptroller General at the GAO, all have stated their concern of putting this financing package off budget. The GAO's latest estimates are that REFCORP's borrowings will carry higher interest rates than Treasury's in the range of 25 basis points. If this conservative estimate is correct, it will add an additional $4 billion to interest costs over the 30-year life of bonds issued by REFCORP.

Mr. Chairman, others have testified that in addition to incorporating this financing mechanism off budget, the proposed schedule of maturity is inefficient. In order to save our Nation's taxpayers further expense, a variety of maturities which mixes in varying interest rates should be incorporated. To issue 30-year bonds in this current high interest rate environment will only add to already excessive costs. In addition, the secondary market for Treasury bonds is significant. The duration regarding the maturity of the bond sold determines whether an investor will consider this instrument appealing. I believe flexible, short-term maturities, which are part of the Treasury auction, will provide a much needed savings to our constituents. I urge my colleagues to put this financing plan on budget. We owe it to the taxpayers.

Mr. ROSTENKOWSKI. Mr. Chairman, I reserve the 4 minutes remaining on this side in support of my amendment.

AMENDMENT OFFERED BY MR. LA FALCE AS A SUBSTITUTE FOR THE AMENDMENT OFFERED BY MR. ROSTENKOWSKI.

Mr. LAFALCE. Mr. Chairman, I offer an amendment as a substitute for the amendment.

The CHAIRMAN pro tempore (Mr. MURTHA). The Clerk will designate the substitute.

The text of the amendment offered as a substitute for the amendment is as follows:

Amendment offered by Mr. LAFALCE as a substitute for the amendment offered by Mr. ROSTENKOWSKI:

Page 333, strike out line 12, and all that follows through page 334, line 10, and insert in lieu thereof the following new subsection:

"(l) FUNDING.—

"(1) AUTHORIZATION OF APPROPRIATIONS.—There is hereby authorized to be appropriated to the Corporation for fiscal years 1990, 1991, and 1992, the sum of $50,000,000,000, to be available without fiscal year limitation.

"(2) PURCHASE OF CAPITAL STOCK BY FEDERAL HOME LOAN BANKS—

"(A) IN GENERAL.—Each Federal home loan bank shall invest in nonvoting capital stock of the Resolution Trust Corporation at such times and in such amounts as the Oversight Board may prescribe under this subsection.

"(B) PAR VALUE; TRANSFERABILITY.—Each share of stock issued by the Corporation to a Federal home loan bank shall have par value in an amount determined by the Oversight Board and shall be transferable only among the Federal home loan banks in the manner and to the extent prescribed by the Chairman of the Oversight Board at not less than par value.

"(3) MAXIMUM INVESTMENT AMOUNT LIMITATION FOR EACH FEDERAL HOME LOAN BANK.—The cumulative amount of funds invested in nonvoting capital stock of the Corporation by each Federal home loan bank shall not exceed the aggregate amount of—

"(A) the sum of—

"(i) the reserves maintained by such bank on December 31, 1988, pursuant to the reserve requirements contained in section 16 of this Act; and

"(ii) the undivided profits (as defined in paragraph (8)) of such bank on such date; and

"(B) for the period beginning on January 1, 1989, and ending on the later of December 31, 1991, or such date as may be necessary to fund the Funding Corporation Principal Fund pursuant to subsection (g), an aggregate amount equal to—

"(i) the sum of—

"(I) the amounts added to reserves after December 31, 1988, pursuant to the reserve requirements contained in section 16; and

"(II) the undivided profits of such bank accruing after December 31, 1988; minus

"(ii) the amounts used to invest in the capital stock of the Financing Coroporation after December 31, 1988, pursuant to the requirement contained in section 21 of this Act.

"(4) PRO RATA DISTRIBUTION OF 1ST $1,000,000,000 INVESTED IN CORPORATION BY HOME LOAN BANKS.—With respect to the first $1,000,000,000 in the aggregate which the Chairperson of the directorate of the Financing Corporation pursuant to section 21 or the Oversight Board under this section, as the case may be, may require the Federal home loan banks to invest in the capital stock of the Financing Corporation and the Funding Corporation under section 21(d) and this subsection, respectively, the amount which each Federal home loan bank (or any successor to such bank) shall invest shall be determined by the Chairperson or the Oversight Board, as the case may be, by applying to the aggregate amount of such investment by all banks the percentage appearing in the following table for each such bank:

"Bank	Percentage
Federal Home Loan Bank of Boston	1.8629
Federal Home Loan Bank of New York	9.1006
Federal Home Loan Bank of Pittsburgh	4.2702
Federal Home Loan Bank of Atlanta	14.4007
Federal Home Loan Bank of Cincinnati	8.2653
Federal Home Loan Bank of Indianapolis	5.2863
Federal Home Loan Bank of Chicago	9.6886
Federal Home Loan Bank of Des Moines	6.9301
Federal Home Loan Bank of Dallas	8.8181
Federal Home Loan Bank of Topeka	5.2706
Federal Home Loan Bank of San Francisco	19.9644
Federal Home Loan Bank of Seattle	6.1422

"(5) PRO RATA DISTRIBUTION OF AMOUNTS REQUIRED TO BE INVESTED IN EXCESS OF $1,000,000,000.—With respect to any amount in excess of $1,000,000,000 referred to in paragraph (4) which the Oversight Board may require the Federal home loan banks to invest in capital stock of the Corporation under this subsection, the amount which each Federal home loan bank (or any successor to such bank) shall invest shall be determined by the Oversight Board by multiplying such excess amount by the percentage arrived at by dividing—

"(A) the sum of the total assets (as of the most recent December 31) held by all Savings Association Insurance Fund members (as defined in section 7(1)(6) of the Federal Deposit Insurance Act) which are members of such bank; by

"(B) the sum of the total assets (as of such date) held by all Savings Association Insurance Fund members (as defined in section 7(1)(6) of the Federal Deposit Insurance Act) which are members of any Federal home loan bank.

"(6) SPECIAL PROVISIONS RELATING TO MAXIMUM AMOUNT LIMITATIONS.—

"(A) IN GENERAL.—If the amount any Federal home loan bank is required to invest in capital stock of the Corporation pursuant to a determination by the Oversight Board under paragraph (5) (or under subparagraph (B) of this paragraph) exceeds the maximum investment amount applicable with respect to such bank under paragraph (3) at the time of such determination (hereinafter in this paragraph referred to as the 'excess amount')—

"(i) the Oversight Board shall require each remaining Federal home loan bank to invest (in addition to the amount determined under paragraph (5) for such remaining bank and subject to the maximum investment amount applicable with respect to such remaining bank under paragraph (3) at the time of such determination) in such capital stock on behalf of the bank in the amount determined under subparagraph (B);

"(ii) the Oversight Board shall require the bank to subsequently purchase the excess amount of capital stock from the remaining banks in the manner described in subparagraph (C); and

"(iii) the requirements contained in subparagraphs (D) and (E) relating to the use of net earnings available for dividends shall apply to such bank until the bank has purchased all of the excess amount of capital stock.

"(B) ALLOCATION OF EXCESS AMOUNT AMONG REMAINING HOME LOAN BANKS.—The amount each remaining Federal home loan bank shall be required to invest under subparagraph (A)(i) is the amount determined by the Oversight Board by multiplying the excess amount by the percentage arrived at by dividing—

"(i) the amount of capital stock of the Corporation held by such remaining bank at the time of such determination; by

"(ii) the aggregate amount of such stock held by all remaining banks at such time.

"(C) PURCHASE PROCEDURE.—The bank on whose behalf an investment in capital stock is made under subparagraph (A)(i) shall purchase, annually and at the issuance price, from each remaining bank an amount of such stock determined by the Oversight Board by multiplying the amount available for such purchases (at the time of such determination) by the percentage determined under subparagraph (B) with respect to such remaining bank until the aggregate amount of such capital stock has been purchased by the bank.

"(D) LIMITATION ON DIVIDENDS.—The amount of dividends which may be paid for any year by a bank on whose behalf an investment is made under subparagraph (A)(i) shall not exceed an amount equal to 1/2 of the net earnings available for dividends of the bank for the year.

"(E) TRANSFER TO ACCOUNT FOR PURCHASE OF STOCK REQUIRED.—Of the net earnings available for dividends for any year of a bank on whose behalf an investment is made under subparagraph (A)(i), such amount as is necessary to make the purchases of stock required under subparagraph (A)(ii) shall be placed in a reserve account (established in such manner as the Oversight Board shall prescribe by regulations) the balance in which shall be available only for such purchases.

"(F) NET EARNINGS AVAILABLE FOR DIVIDENDS DEFINED.—For purposes of this paragraph, the term 'net earnings available for dividends' means the net earnings of a bank for any period as computed after reducing the amount of earnings for such period by the amount required to be carried (for such period) to reserves maintained by such bank pursuant to the reserve requirements contained in section 16 of this Act.

"(7) ADDITIONAL SOURCES.—If each Federal home loan bank has exhausted the investment amount applicable with respect to such bank under paragraphs (3) and (9), as calculated under paragraphs (4), (5), and (6), the amounts necessary to provide additional funding for the Corporation shall be obtained in the manner provided in the following subparagraphs (in the order in which such subparagraphs appear):

"(A) The Corporation, with the approval of the Board of Directors of the Federal Deposit Insurance Corporation, shall assess against each Savings Association Insurance Fund member an assessment (in the same manner as assessments are assessed against such members by the Federal Deposit Insurance Corporation pursuant to section 7 of

the Federal Deposit Insurance Act) except that—

"(i) the maximum amount of the aggregate amount assessed shall be the amount of additional funds necessary to fund the Corporation;

"(ii) the sum of—

"(I) the amount assessed under this paragraph; and

"(II) the amount assessed by the Financing Corporation under section 21 of this Act,

shall not exceed the amount authorized to be assessed against Savings Association Insurance Fund members pursuant to section 7 of the Federal Deposit Insurance Act;

"(iii) the Financing Corporation shall have first priority to make such assessment; and

"(iv) the amount of the applicable assessment determined under such section 7 shall be reduced by the sum described in clause (ii) of this subparagraph.

"(B) To the extent funds available pursuant to subparagraph (A) are insufficient to provide sufficient funds for the Corporation, the Federal Deposit Insurance Corporation shall transfer to the Funding Corporation from the receivership proceeds of the FSLIC Resolution Fund the remaining amount of funds.

"(8) UNDIVIDED PROFITS DEFINED.—For purposes of paragraph (3), the term 'undivided profits' means retained earnings minus the sum of—

"(A) that portion required to be added to reserves pursuant to the reserve requirements contained in section 16; and

"(B) the dollar amounts held by the respective Federal Home Loan Banks in special dividend stabilization reserves on December 31, 1985, as determined under the table contained in section 21(d)(7)(B) of the Federal Home Loan Bank Act.

"(9) ADDITIONAL ANNUAL CONTRIBUTION BY FEDERAL HOME LOAN BANKS.—

"(A) IN GENERAL.—In addition to the investments in nonvoting capital stock of the Resolution Trust Corporation, the Federal Home Loan Banks shall pay to the Corporation the aggregated annual amount of $300,000,000.

"(B) DISTRIBUTION OF ANNUAL CONTRIBUTION.—Each bank's individual share of the annual contribution required under subparagraph (A) shall be determined pursuant to the formulation and limitations of paragraphs (3) through (6).

"(10) RESERVE REQUIREMENTS CONTAINED IN SECTION 16 DEFINED.—For purposes of this subsection, the term 'reserve requirements contained in section 16' means—

"(A) with respect to the period ending on the day before the date of the enactment of the Financial Institutions Reform, Recovery and Enforcement Act of 1989, the first 2 sentences of section 16; and

"(B) with respect to the period beginning on such date of enactment, the reserve requirements contained in section 16(a).".

Page 316, strike out lines 11 and 12 and insert in lieu thereof the following new paragraph:

"(2) To issue nonvoting capital stock to the Federal home loan banks as provided in subsection (1).".

Page 335, line 5, insert ", including the liability for the nonvoting capital stock issued by the Corporation," before "shall be transferred".

Page 359, strike out line 16 and all that follows through page 391, line 6, and insert in lieu thereof the following new substitle heading (and redesignate subsequent sections and amend the table of contents accordingly):

"Subtitle B—Miscellaneous Provisions"

Page 397, strike out line 5 and all that follows through line 9 (and redesignate subsequent sections and amend the table of contents accordingly).

Page 57, line 7, strike out "Funding Corporation" and insert in lieu thereof "Resolution Trust Corporation".

Page 57, line 8, strike out "21B" and insert in lieu thereof "21A,".

The CHAIRMAN pro tempore. The gentleman from New York [Mr. LAFALCE] is recognized for 15 minutes in support of his substitute amendment, and a Member opposed will be recognized for 15 minutes.

Mr. ROSTENKOWSKI. Mr. Chairman, I rise in opposition.

The CHAIRMAN pro tempore. The gentleman from Illinois [Mr. ROSTENKOWSKI] will be recognized for 15 minutes in opposition to the substitute amendment.

PARLIAMENTARY INQUIRY

Mr. WYLIE. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN pro tempore. The gentleman will state it.

Mr. WYLIE. Mr. Chairman, may I ask the gentleman, is the amendment made in order under the rule that is being offered by the gentleman from New York [Mr. LAFALCE]?

Mr. LAFALCE. Yes, it is, Mr. Chairman.

Mr. WYLIE. So, Mr. Chairman, we are going straight to the next amendment provided for by the Rules Committee?

Mr. LAFALCE. Mr. Chairman, I am offering the amendment provided for by the Rules Committee, yes. Let me state that I would like to have unanimous consent for a modification to that amendment to conform with the technical amendments that have been agreed to between the Republicans and the Democrats as offered by the gentleman from Texas [Mr. GONZALEZ], but I have been specifically advised that the other side would object to that unanimous-consent request, and for that reason I will not go through with a charade.

Mr. WYLIE. Mr. Chairman, I thank the gentleman for his explanation.

The CHAIRMAN. The gentleman from New York [Mr. LAFALCE] is recognized.

Mr. LAFALCE. Mr. Chairman, I yield myself 3 minutes.

Mr. Chairman, I will strongly support the Ways and Means Committee amendment regardless of the fate of my amendment. Yet I strongly hope that my amendment will pass. Then I would be able to support the Ways and Means Committee amendment much more enthusiastically.

Why so? Up until now, the debate in the media and in the Congress has focused on whether the costs of the S&L bail-out should be off budget or on budget. Now, there is certainly some relevance to this debate.

□ 1630

If we go on budget, I think almost everyone agrees we can save from $5 billion to $25-$30 billion. I think that is very important. But that is not the only issue.

Insofar as fiscal integrity is concerned, the off-budget approach circumvents Gramm-Rudman. It is tremendously evasive, and attempts to ignore the very real costs we are incurring. The on-budget approach is not evasive. It is very explicit. It exempts the costs of the bailout from Gramm-Rudman. But both approaches are assaults on fiscal integrity.

What I want this body to do is stand up for both fiscal integrity and, most importantly, moral responsibility.

With respect to fiscal integrity, if we put the costs of the bailout on budget and on Gramm-Rudman, we force the issue.

What will the issue be? The issue will be how to pay for approximately $15 billion more per year for the next 3 years.

Will we cut spending, will we increase taxes, or will we come in with some combination of the two? I have my own preference, of course. I would prefer a 1½-percent surtax for the next 3 years. But we do not decide that issue in this amendment. We leave it up to this House, but force the issue to be decided, thereby saving carrying costs of approximately $200 billion over the next 30 years.

Moral responsibility is the next issue, and the most important one. My colleagues can see that what we are going to be borrowing for, either under the approach of the Committee on Banking, Finance and Urban Affairs, or the approach of the Committee on Ways and Means, is not capital construction. No. It is not even present consumption. It is past consumption. One should never borrow for past consumption.

What we would be doing, my colleagues, if we accept either of these two approaches, is saying:

There's a serious problem here. We must deal with it. We will deal with it, but we'll have our children and our grandchildren pay for it.

Mr. Chairman, we have been doing that, and that has been immoral. We ought not to continue doing it, because that would be to continue in immoral legislative action by foisting costs that we should bear ourselves off on our children and grandchildren.

My colleagues, let us stop doing that. If we exempt the S&L bailout from Gramm-Rudman, we are saying that it is more important than the problems of the poor. We are saying that the S&L bailout is more impor-

tant than the problems of the blind and the afflicted.

Let us not do that.

Mr. ROSTENKOWSKI. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in strong opposition to the LaFalce amendment. The amendment of the Committee on Ways and Means would move the resolution funding corportion on-budget in order to save the American taxpayer almost $5 billion. The LaFalce amendment strikes the exemption from Gramm-Rudman. This amendment will add $23 billion to the Federal deficit in fiscal year 1990. The consequences of the amendment would be that we will either have to come up with an additional $23 billion of deficit reduction—by raising taxes or cutting spending—or we will have to accept a $23 billion sequester this fall. In order to prevent this disruption of the budget process, the Ways and Means Committee and the Government Operations Committee provided a Gramm-Rudman exemption for the financial assistance plan in order to avoid sequestration.

The budget process this year has been long and arduous. In the end, all we have is a slide-by budget—something to hold us over for 1 more year. Committees are now meeting to draft their reconciliation bills, and cutting spending is not an easy task. Asking for an additional $23 billion in spending cuts or revenue increases is simply not possible. The President will not sign a major revenue increase bill. I wish he would, but it will not happen this year.

In lieu of legislating an additional $23 billion in deficit reduction, a huge sequestration will inevitably occur this fall. Even if we pass the reconciliation and the appropriations bills as agreed to in the budget resolution, the LaFalce amendment would require sequestration of an additional $30 to $40 billion of budget authority reductions in the defense programs and a similar amount in the nondefense programs. This may save us some tough decisions, but it is irresponsible and both defense and nondefense programs will suffer greatly.

The LaFalce amendment jeopardizes the passage of a good, sound policy of placing the financial assistance plan on budget. If passed, it ensures a significant sequestration. The Ways and Means Committee amendment sets forth a responsible on-budget package that saves the American taxpayer $5 billion and does not put unreasonable burdens on the fiscal year 1990 budget. I strongly urge that we reject the LaFalce amendment, and then approve the responsible amendment of the Committee on Ways and Means.

Mr. Chairman, I reserve the balance of my time.

Mr. LAFALCE. Mr. Chairman, I yield 1 minute to the gentleman from North Carolina [Mr. NEAL].

Mr. NEAL of North Carolina. Mr. Chairman, I thank the gentleman from New York [Mr. LAFALCE] for yielding this time to me.

First let me commend the gentleman from New York [Mr. LAFALCE]. He has worked hard for this concept through committee, and he continues his fight.

On the question of whether or not this ought to be on budget or not, there are several important points. In the first place, sure, it ought to be on budget. It is honest. It is an expenditure of funds. It ought to be on the budget.

Second, it will save us money, many billions of dollars, if we put this on the budget.

Third, as was pointed out earlier, it will give us the opportunity for better oversight.

It was mentioned that the Committee on Banking, Finance and Urban Affairs did not put this on budget. We did not, but we did not have a vote on it. If we had voted, I feel certain that the Committee on Banking, Finance and Urban Affairs would have put it on budget. It just was not within our jurisdiction.

Mr. Chairman, as to the quest of the gentleman from New York [Mr. LAFALCE] that we be honest about this thing and pay for it, he is exactly on target. If we will pay for it over the next 2 or 3 years, we will literally save well over a hundred billion dollars.

Mr. Chairman, I commend the gentleman. He is 100 percent correct.

Mr. ROSTENKOWSKI. Mr. Chairman, I yield 4 minutes to the gentleman from New York [Mr. DOWNEY].

Mr. DOWNEY. Mr. Chairman, I rise in strong opposition to the amendment of the gentleman from New York [Mr. LAFALCE]. My friend from New York takes a good idea and drives a stake through its heart.

When we talk about Gramm-Rudman, we are talking about a goal, not a commandment. It would be nice for us to be in the position of saying that we should never open the flood gates of Gramm-Rudman by doing things off budget, and in a normal world that would be the way we would behave.

Sadly, Mr. Chairman, we do not live in a normal world. We live in a world where the President of the United States has said, "I don't want to see any tax increases."

The consequences of adopting the amendment of the gentleman from New York [Mr. LAFALCE] would mean very simply that we would have to come up with $23 million in additional revenue, or we would have to cut spending by $23 billion, or we would have to be prepared for sequestration.

Now I say to my Republican friends, "None of you are beating down the door to raise $23 billion in new taxes, so that is not an option."

I would say to my Democratic friends, "You clearly are not interested in seeing us open the door to further reductions in domestic spending."

Mr. Chairman, given that reality, we are stuck with the unpleasant, but real situation of saving the money that the Committee on Ways and Means saves and taking it away from the Gramm-Rudman targets. We are doing what the gentleman from New York [Mr. LAFALCE] is suggesting.

No one here is prepared to do that. We would be engaging in the greatest level of legerdemain since the adoption of Gramm-Rudman.

So, Mr. Chairman, I say to my colleagues, "Please, please, don't be silly. Recognize that the Ways and Means Committee deals with the world as we know it and not the world that some would like to see us live in."

Mr. SLATTERY. Mr. Chairman, will the gentleman yield?

Mr. DOWNEY. I yield to the gentleman from Kansas.

Mr. SLATTERY. Mr. Chairman, I thank the gentleman from New York [Mr. DOWNEY] for yielding, and I would just observe that there is one fundamental point here, and that is: Are we going to pay today for the mistakes that were made in the last few years during the Reagan administration watch and during the watch of some of the Members of this Congress? Are we going to pay for those mistakes now? Or are we going to borrow the money and spread it out over a long period of time? And, if we do it that way, it is going to cost us at least four or five times as much as it will if we pay now.

All I am saying, Mr. Chairman, is that the gentleman from New York [Mr. LAFALCE] is absolutely correct. We should do what is necessary to come up with the $20 to $25 billion necessary to pay for our bills now and to avoid more of this mindless borrowing from our kids.

□ 1640

All I am saying is that we have to pay our bills now. The LaFalce approach is the honest approach. If it means raising revenues, then let it be; if it means cutting other programs, then let it be, but let us pay our bills. Let us be responsible and let us stop mortgaging the future of this country.

Mr. DOWNEY. Mr. Chairman, the gentleman's refrain reminds me of the great Beatles song, "Let It Be." The only letting it be that we are going to let be is the fact that this House is unprepared to do what the gentleman would like us to do. The House is unprepared to pay for the bills today. The House is unprepared to cut the budget, as the gentleman would like to cut it.

I agree with the gentleman. In the world that you should live in, the LaFalce amendment would make perfect sense. It is a world without Gramm-Rudman. It is the world where the President would be prepared to face the reality of raising revenues or cutting spending.

Mr. SLATTERY. Mr. Chairman, will the gentleman yield further?

Mr. DOWNEY. I yield to the gentleman from Kansas.

Mr. SLATTERY. Mr. Chairman, I guess my point is that we are the decisionmakers. Those of us in this body are the decisionmakers. We have got to force this issue and that is what I hope the LaFalce amendment will do.

Mr. LAFALCE. Mr. Chairman, I yield 1 minute to the gentlewoman from Illinois [Mrs. MARTIN].

Mrs. MARTIN of Illinois. Mr. Chairman, the LaFalce amendment brings a degree of honesty to a bill that by its requirements needs it desperately. We are rescuing people around this Nation and asking others who have had no part in the fiasco to help pay for it. To do it with the additional con game of either side on budget, but no Gramm-Rudman, off budget, is two different con games.

I absolutely refuse to accept the fact that this House cannot and will not act.

Is it any wonder that people have lost faith in us if we do not face this honestly?

Let me tell you what else it says. It says in effect that those of you who support defense, that defense was never important enough to change Gramm-Rudman. For those of you who believe in education, that was never important enough to change Gramm-Rudman. For those of you who want to help the poor, who want to help the farmers, none of that was ever important enough, but this is.

Well, nothing should be important enough to take us from our goal. Vote for the LaFalce amendment.

Mr. LAFALCE. Mr. Chairman, I yield 1 minute to the gentleman from Delaware [Mr. CARPER].

Mr. CARPER. Mr. Chairman, I thank the gentleman for yielding this time.

Mr. Chairman, let me just say that I believe the LaFalce amendment is the most honest and I think the least expensive means to finance the legislation that is before us today. If the long-term savings of the Ways and Means amendment, which I support, can be measured in billions of dollars, the long-term savings of the LaFalce amendment can be measured in the tens of billions of dollars, perhaps even in the hundreds of billions of dollars.

The decision to exempt Gramm-Rudman in this instance I fear invites future exemptions to Gramm-Rudman. That is not a prospect which I relish.

Given the reluctance of some to raise taxes and given the reluctance of others to cut spending, what we end up doing is really neither. We fudge on the numbers in our budget estimates, and the deficit continues to grow.

Earlier, I believe the gentleman from New York [Mr. DOWNEY] said the LaFalce amendment reminded him of the old Beatles song, "Let It Be." I am reminded by our efforts to subvert Gramm-Rudman targets of another Beatles song, "Strawberry Fields Forever." Or, maybe the old Platters tune, "Smoke Gets In Your Eyes," is more appropriate, given our penchant for smoke and mirrors around here. If we fail to adopt both the Lafalce and Rostenkowski amendments, we are still working with smoke in terms of dodging the Gramm-Rudman targets. We continue to overestimate economic growth, and we continue to underestimate expenditures in crafting our Nation's budget.

Here, we have the opportunity to eschew smoke and mirrors, to do the right thing, and I would urge support for the LaFalce amendment.

Mr. LAFALCE. Mr. Chairman, I yield 1 minute to the gentleman from Minnesota [Mr. VENTO].

Mr. VENTO. Mr. Chairman, I rise in support of the amendment. Both the basic amendment that the gentleman from Illinois [Mr. ROSTENKOWSKI] has offered that the Ways and Means Committee never voted on and the Banking Committee, I have supported and I think the two committees have supported, that is a realistic amendment. It suggests that if we are really going to treat the instrumentality of the Federal Government as a Treasury note, thereby saving some $4 or $5 billion, the LaFalce amendment to the underlying amendment really deals with the issue in the ideal manner, whether we are going to pay for this now or we are going to finance it for 10, 20, or 30 years. You pick the cost of the program based on what the financing costs are for the 10, 20, or 30 years. It could be $100, $200, or $300 billion in financing costs. Pick the time of the bonds and the corresponding cost.

What LaFalce is saying is that here is a problem that is occurring right now. We ought to address that particular problem through the tax and revenue program today. The Gramm-Rudman law has become the biggest dodge, rather than facing up to our fiscal responsibilities.

So I support the LaFalce amendment so we can deal with the problems that are occurring today now, rather than postponing them until tomorrow and compounding the cost and the injury from this S&L bailout.

Mr. ROSTENKOWSKI. Mr. Chairman, I yield 3 minutes to the gentleman from Minnesota [Mr. FRENZEL].

Mr. FRENZEL. Mr. Chairman, in the discussion on the previous amendment, the one that this amendment seeks to amend, I indicated that the LaFalce amendment was the real truth in budgeting amendment, because this puts the bailout both on budget and on Gramm-Rudman.

Many Members who feel overpowered by urges to be wholly honest and to make good their pledges of truth in advertising may want to support it for that reason.

The problem with it, however, has been pointed out I think very clearly on the floor of this House, and that is that it will plunge us $23 billion into certain sequester.

Now, I happen to be one who thinks that sequester would not be a bad idea for the House, but I do not think it is something that the House wants to consider in this environment and at this time. Like other Members, I have not seen any heroic figures come forward volunteering to assess new taxes or to slash their favorite spending programs. Until they do, I think we ought to set the LaFalce amendment aside and make our budget decision in the proper environment, which is the consideration of the budget resolution for the House.

So those Members who want to make a sacrifice of laying on $23 billion or more of new taxes or cutting other people's favorite programs by that much will certainly want to support the LaFalce amendment.

I think the rest of us will say that the Rostenkowski amendment, or the Ways and Means Committee amendment, is bad enough. It is going to cause us trouble. It has a Senate point of order lying against it. It has administration objections to it. I think that is bad enough and we ought to be satisfied with it.

Mr. LAFALCE. Mr. Chairman, I yield 1 minute to the gentleman from Massachusetts [Mr. KENNEDY].

Mr. KENNEDY. Mr. Chairman, the savings and loan industry would like us to believe that they are picking up the principal and all the American taxpayer has to do is pick up the interest on paying off the savings and loan crisis.

The fact is that it is a sham on the American people. If we look at the costs of this bill, the savings and loan industry will end up footing the bill for about $2 billion and the American taxpayer will have to pick up a bill of about $150 billion, which is the interest on the loans.

It is time for this body to start standing up for the working people and the poor people of our country. If we look at the Tax Code, we will find that the wealthy individuals are getting off the hook. People with $200,000 a year incomes and the like end up having their taxes dropped,

and yet the ordinary working people see their taxes go up and up and up.

The fact is that it is about time we played fair with the American people. We are not doing it today.

I believe that the LaFalce amendment will allow this country to stand up to the savings and loan industry. There are a lot of people, President Bush included, who say there will be no new taxes in any amount. It is time we stood up to the wealthy and powerful interests that put this crisis on the American people and we can do that by supporting the LaFalce amendment.

□ 1650

Mr. LAFALCE. Mr. Chairman, I yield 1 minute to the gentleman from Connecticut [Mr. MORRISON].

Mr. MORRISON of Connecticut. Mr. Chairman, I rise in support of the gentleman's amendment.

The simple fact is that the American taxpayer is going to pay. But is the American taxpayer going to pay $50 billion over the next 3 years in a cheap and economical solution, or is the American taxpayer going to pay an extra $150 billion over the next 30 years?

The money is already spent, folks. We cannot save it. So there is no budget-cutting to solve this problem.

We ought to be raising the revenue now to pay for it, and that $150 billion is going to be spent forever as soon as those bonds are issued, 30-year bonds, and there will not be any canceling of them. It will be a $150 billion bill for the next 30 years. It is now that we have to act on-budget is the right move.

The amendment of the gentleman from Illinois is correct, but it will be a better amendment if we tell the American people that we are ready to raise the revenue today to pay the bill.

Mr. LAFALCE. Mr. Chairman, I yield 1 minute to the gentleman from New York [Mr. OWENS].

Mr. OWENS of New York. Mr. Chairman, never before in the history of the Nation has there been a bill before us which proposed as large an authorization for a nondefense measure as this monumental bill we have before us now. We are going to obligate ourselves to $157 billion or more.

I applaud the fact that the Committee on Ways and Means has voted to move this bill on-budget, this obligation on-budget, but we should go further, because if we are going to assume this kind of obligation, we ought to maximize the truth. We ought to have it out there fully exposed so the American people can see it.

Every decision that is going to be made about budgets for the next 5 to 10 years we are going to have to consider the impact of this measure. It is always going to be there in the background. Something is always going to be made of it.

Why not have it on-budget, fully on-budget, not exempt from Gramm-Rudman? Then we can see fully what is happening. Let us bite the bullet and do what is necessary.

Mr. ROSTENKOWSKI. Mr. Chairman, I yield 4 minutes to the gentleman from California [Mr. PANETTA].

Mr. PANETTA. Mr. Chairman, I have a tremendous amount of respect for the motives and the goals of the gentleman from New York and what he seeks to do here in terms of the budget. But the biggest problem we have in dealing with the deficit and in dealing with the budget is that it is always pleasant to talk about these issues but very difficult to do anything about them, and the amendment, unfortunately, makes the same mistake. It fails to do the very thing it says it wants to do, which is to tell us how we are going to pay for $23 billion being added to the deficit.

The fact is when we add $23 billion to the deficit, we have either got to pay for it in additional taxes or additional cuts in spending or sequestration. Those are the options.

Unfortunately, what we have shown in the last few months is that there is not a willingness to proceed with any dramatic addition to taxes. When it comes to cuts in spending, there is not a tremendous amount of enthusiasm for that either. If we add the $23 billion here to the deficit, we are guaranteeing sequestration this fall, and what that means is that we are going to cut programs like education, housing, health research, AIDS research, all of the programs we care about, in order to bail out the S&L industry. That does not make much sense either, very frankly.

We have a tough enough time dealing with the deficit as it is. This amendment is the equivalent of giving 2 gallons of bad wine to an alcoholic in order to say, "If we give you a little more booze, perhaps you might take care of your problem." It does not work that way.

The reality is we have a tough job facing us with the deficit that we have. This amendment in the name of responsibility is irresponsible because it undermines the budget resolution that we have put in place, and it undermines the reconciliation process that the committees are now working on.

In the name of honesty, it is being dishonest, because it really does not include how we pay for it. If this were the kind of amendment it proposes to be, then taxes ought to be part of it or cuts in spending ought to be part of it, but, instead, it says, "Let us leave that problem for sometime down the road," and we know what that means.

In the name of good budgeting, this undermines the only budgeting we have in place, the budget resolution, the budget agreement which, very frankly, whether we like it or not, is the only game in town.

Please, please, if Members are all going to be brave enough to raise taxes or cut spending, let us do it in the name of deficit reduction and not to assist the S&L industry in bailing them out. Please vote against the LaFalce amendment.

BACKGROUND

In the debate on the Ways and Means Committee amendment just agreed to, I indicated that both off-budget financing, as requested by the President and reported by the Banking Committee, and on-budget financing with an exemption from Gramm-Rudman deficit calculations violate proper budget principles. I supported on-budget financing, as did a majority of the budget committee members, not because it represents any better method of budgeting but because it has overwhelming cost savings advantages.

The LaFalce amendment is an attempt to capture the cost saving advantages of on-budget financing while maintaining the best budget principles. This is a worthy objective, one to which I also subscribe and for which I am committed to work. Unfortunately, the LaFalce amendment does not reach this objective. Perhaps no means of financing the Federal response to this extraordinary thrift crisis can fully maintain budget principles and minimize the cost to taxpayers at the same time, because of the political circumstances that now exist.

OBJECTIONS TO THE LA FALCE AMENDMENT

I oppose the LaFalce amendment for several reasons. First, the amendment is incomplete. It does not tell us how the new financing necessary to deal with the thrift crisis will be done. It must be paid for with tax increases or additional spending cuts. A complete amendment would not leave that choice for another day.

Second, the amendment is unrealistic. If the exemption from Gramm-Rudman deficit calculations is removed, the amount of deficit reduction required in 1990 would increase by $23 billion. It is much too late in the budget cycle for Congress and the administration to agree on $23 billion of additional spending reductions for 1990. Further, given the President's campaign pledge, it is impossible to reach agreement on $23 billion of new revenues for 1990 to cover the costs of this crisis.

If such agreements are impossible, and I believe that is the case, this amendment would trigger a $23 billion or larger sequestration cut. That would translate into an automatic 9.6-percent reduction in defense programs and an 8-percent reduction in nondefense programs. Even if such agreements were possible, they would be inconsistent with and would undermine the bipartisan budget compromise, which was reached earlier this year before the outline of the thrift legislation was known.

Third, the $23 billion of additional spending cuts or revenue increases required in 1990 by this amendment would have a sharp contractive effect on the economy. Because the economy has already slowed, and is projected

by the blue chip consensus to grow only at a rate of 1.6 percent in 1990, the additional restraint could easily cause a recession. This amendment is not fiscally neutral; it would have a restrictive effect on the economy.

REASONS FOR AN EXEMPTION FROM GRAMM-RUDMAN DEFICIT CALCULATIONS

In contrast, spending on the thrift crisis is fiscally neutral. As former CEA Chairman Martin Feldstein indicated to the Budget Committee, the economic impact of the Federal spending to deal with insolvent thrifts has already occurred. Because the economic effects have already taken place, recognition of these costs in the Federal budget is really an accounting change, not a fiscal change. This recognition does not increase spending and public consumption nor does it decrease national saving. This means spending on the thrift crisis is consistent with the purpose and goals of Gramm-Rudman. That is the justification for an exemption. And, as I indicated in the debate on the previous amendment, most budget emergencies are not fiscally neutral, so I do not believe that this exemption from Gramm-Rudman creates a precedent for other exemptions in the future.

The two realistic alternatives are: off-budget financing or on-budget financing with an exemption from Gramm-Rudman deficit projections. As stated before, both of these choices violate some of our budget principles; however, I believe the exemption from Gramm-Rudman is less offensive than trying to hide the costs off-budget. The most compelling argument is the tens of billions of dollars to be saved with on-budget financing compared to off-budget financing.

We must move forward with this legislation to restore confidence in the deposit insurance system and to stop the continuing losses being realized by insolvent thrifts. For all of the reasons I have outlined, I ask you to vote against the LaFalce amendment and to maintain the Ways and Means financing plan.

Mr. LAFALCE. Mr. Chairman, I yield 1½ minutes to the gentleman from Kansas [Mr. SLATTERY].

Mr. SLATTERY. Mr. Chairman, it is not often that I have to rise in opposition to my good friend, the chairman of the Committee on the Budget, the gentleman from California [Mr. PANETTA], but on this occasion I must.

When Gramm-Rudman was passed by the Congress and signed into law by the President of the United States, I believe we collectively made a commitment to the American public to reach the $100 billion deficit-reduction target. Ladies and gentleman, the economy in this country is performing well. There is no reason, why we should not honor that commitment. If we need, to find another $23 billion to $25 billion in defined reductions to avoid sequestration next year, we can do that. Do not let anybody tell us we cannot do that.

Mr. Chairman, as far as I am concerned, in the final analysis what we are talking about here today is whether this institution and this President want to pay for this mess today or do we want to pay later, and if we pay later, we are going to pay with interest, and we are going to pay with about $100 billion to $150 billion in interest. That is money that is going to come out of the American taxpayers' hides.

As far as I am concerned, if we want to talk about honesty, we have to start now and say that we are going to pay for our bills. This is one of the bills that has come due, and it is time for us to pay our bills.

Mr. LAFALCE. Mr. Chairman, I yield 1 minute to the gentlewoman from Ohio [Ms. KAPTUR].

Ms. KAPTUR. Mr. Chairman, I rise in support, very strong support, of the LaFalce amendment.

As far as I am concerned this is probably the most important amendment to the bill, because it means that the bill we ultimately approve will be three times less expensive than the Bush plan.

This chart summarizes the true costs of the savings-and-loan bill over 30 years, totaling over one-third of a trillion dollars.

The amendment offered by the gentleman from New York [Mr. LAFALCE] would make sure that we pay for it as we go annually on a year-by-year basis, and ask the President and Congress to stand up to their financial responsibilities to this country.

To date, of the bonds that have been sold by the Federal Savings and Loan Insurance Corporation, over one-third have been purchased by Japanese financial interests. This country is becoming beholden to foreign creditors and long-term debt. That is not the type of legacy we wish to give to our children and grandchildren into the 21st century.

Mr. Chairman, it is time to stand up to our financial responsibilities.

Mr. ROSTENKOWSKI. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, this is a bold amendment which comes at the wrong time. I have considerable doubts that when the Committee on Ways and Means proposes tax increases or spending cuts next year for the purposes of deficit reduction that there will be many bold supports as there are today.

The Ways and Means Committee is currently thinking about how we are going to raise $5.3 billion. We are presently having a tough time doing that.

We have a President who will not sign a bill that increases taxes. He has said this on many occasions. Yet, if this amendment passes, the Committee on Ways and Means will either have to raise $23 billion in revenues or cut $23 billion in spending, or we'll have to accept sequestration.

This is a mischievous amendment offered at the worst possible time.

However, I want to inform my colleagues that I expect to bring a responsible deficit reduction bill to the House floor next year, and we will see how many strong Members will vote for a tough deficit reduction package in the next budget cycle.

Mr. Chairman, I yield back the balance of my time.

□ 1700

Mr. LAFALCE. Mr. Chairman, I yield myself my remaining 2½ minutes.

Mr. Chairman, I say to my distinguished colleague and friend, the gentleman from Illinois [Mr. ROSTENKOWSKI] and to those gentlemen who spoke in opposition to my amendment, such as the gentleman from New York [Mr. DOWNEY], the gentleman from Minnesota [Mr. FRENZEL], the gentleman from California [Mr. PANETTA], and others: as I heard you I wanted to thank you very much for praising my amendment and for saying that my amendment is a courageous amendment, it is an honest amendment, it is the way we should go if we lived in a better world. But, you argued, this is the wrong time.

Gentlemen, this is the only time. It is now or never.

My colleagues also argue that we cannot vote for this amendment because this House would not support biting the bullet now. Ladies and gentlemen, the vote on this amendment would bite the bullet now. It says we do not want to pass these costs on to future generations of Americans. We want to deal with the problem now and we will force ourselves to do it by voting for an amendment putting it on budget and on Gramm-Rudman.

The gentleman from California [Mr. PANETTA] says there are other ways to handle it. If we go off Gramm-Rudman we can define the problem out of existence. I have great respect for the chairman of the Budget Committee, but there has been too much smoke and mirrors. We have dealt with problems too often by defining them out of existence. There is only one problem with that approach: the problem remains.

But we do not deal with it. We say we have dealt with it, but we let our children and grandchildren pay for it.

Each of my colleagues likes to go into the classrooms in his or her district, each of us likes to talk to children in grammar school, to students in high school and college. When we go into the grammar schools in our congressional districts, when we see our own children at home, let us not say we dealt with the problem by giving them the check. This is a generational inequity that we would be perpetrating on our children and grandchildren. Let us stop doing it.

The CHAIRMAN. All time has expired.

The question is on the amendment offered by the gentleman from New York [Mr. LAFALCE] as a substitute for

the amendment offered by the gentleman from Illinois [Mr. ROSTENKOWSKI].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. LAFALCE. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 171, noes 256, answered "present" 1, not voting 5, as follows:

[Roll No. 89]

AYES—171

Alexander	Hatcher	Porter
Anderson	Hefley	Poshard
Andrews	Henry	Pursell
AuCoin	Herger	Ray
Barnard	Hertel	Regula
Barton	Hiler	Ritter
Bates	Hoagland	Robinson
Beilenson	Holloway	Rohrabacher
Bennett	Hopkins	Sarpalius
Bentley	Hughes	Savage
Bereuter	Jacobs	Schaefer
Bilbray	James	Scheuer
Bliley	Jontz	Schiff
Bosco	Kanjorski	Schroeder
Boxer	Kaptur	Schulze
Broomfield	Kasich	Sensenbrenner
Brown (CO)	Kastenmeier	Sharp
Bruce	Kennedy	Shays
Bryant	Kleczka	Shuster
Burton	Kolbe	Sikorski
Campbell (CA)	Kostmayer	Slattery
Campbell (CO)	Kyl	Smith (VT)
Carper	LaFalce	Smith, Robert (NH)
Carr	Laughlin	Smith, Robert (OR)
Chandler	Leath (TX)	Solomon
Coleman (TX)	Leland	Staggers
Cooper	Lewis (FL)	Stangeland
Costello	Lightfoot	Stark
Cox	Long	Stenholm
Craig	Luken, Thomas	Studds
Dannemeyer	Lukens, Donald	Stump
DeFazio	Martin (IL)	Synar
Dellums	Matsui	Tallon
Derrick	Mavroules	Tauke
DeWine	Mazzoli	Tauzin
Dixon	McCurdy	Thomas (CA)
Dorgan (ND)	McHugh	Thomas (WY)
Dreier	McNulty	Torres
Duncan	Miller (CA)	Towns
Durbin	Miller (OH)	Udall
Early	Moody	Vento
Evans	Moorhead	Visclosky
Fascell	Morella	Walgren
Fawell	Morrison (CT)	Walker
Flake	Murphy	Watkins
Frost	Neal (NC)	Weiss
Gaydos	Nielson	Weldon
Gejdenson	Nowak	Wheat
Gibbons	Obey	Wilson
Glickman	Olin	Wise
Goodling	Owens (NY)	Wolpe
Gordon	Owens (UT)	Wyden
Goss	Pashayan	Yates
Grandy	Patterson	Yatron
Hall (OH)	Payne (NJ)	Young (AK)
Hall (TX)	Payne (VA)	
Hamilton	Pease	
Hancock	Penny	

NOES—256

Ackerman	Bevill	Cardin
Akaka	Bilirakis	Chapman
Annunzio	Boehlert	Clarke
Anthony	Boggs	Clay
Applegate	Bonior	Clement
Archer	Borski	Clinger
Armey	Boucher	Coble
Aspin	Brennan	Coelho
Atkins	Browder	Coleman (MO)
Baker	Brown (CA)	Combest
Ballenger	Bunning	Conte
Bartlett	Bustamante	Conyers
Bateman	Byron	Coughlin
Berman	Callahan	Coyne
Crane	Jones (GA)	Rahall
Crockett	Jones (NC)	Ravenel
Darden	Kennelly	Rhodes
Davis	Kildee	Richardson
de la Garza	Kolter	Ridge
DeLay	Lagomarsino	Rinaldo
Dickinson	Lancaster	Roberts
Dicks	Lantos	Roe
Dingell	Leach (IA)	Rogers
Donnelly	Lehman (CA)	Rose
Dornan (CA)	Lehman (FL)	Rostenkowski
Douglas	Lent	Roth
Downey	Levin (MI)	Roukema
Dwyer	Levine (CA)	Rowland (CT)
Dymally	Lewis (CA)	Rowland (GA)
Dyson	Lewis (GA)	Roybal
Eckart	Lipinski	Russo
Edwards (CA)	Livingston	Sabo
Edwards (OK)	Lloyd	Saiki
Emerson	Lowery (CA)	Sangmeister
Engel	Lowey (NY)	Sawyer
English	Machtley	Saxton
Erdreich	Madigan	Schneider
Espy	Manton	Schuette
Fazio	Markey	Schumer
Feighan	Marlenee	Shaw
Fields	Martin (NY)	Shumway
Fish	Martinez	Sisisky
Flippo	McCandless	Skaggs
Florio	McCloskey	Skeen
Foglietta	McCollum	Skelton
Ford (MI)	McCrery	Slaughter (NY)
Ford (TN)	McDade	Slaughter (VA)
Frank	McDermott	Smith (FL)
Frenzel	McEwen	Smith (IA)
Gallegly	McGrath	Smith (MS)
Gallo	McMillan (NC)	Smith (NE)
Garcia	McMillen (MD)	Smith (NJ)
Gekas	Meyers	Smith (TX)
Gephardt	Mfume	Smith, Denny (OR)
Gillmor	Michel	Snowe
Gilman	Miller (WA)	Solarz
Gingrich	Mineta	Spence
Gonzalez	Moakley	Spratt
Gradison	Molinari	Stallings
Grant	Mollohan	Stearns
Gray	Montgomery	Stokes
Green	Morrison (WA)	Sundquist
Guarini	Mrazek	Swift
Gunderson	Murtha	Tanner
Hammerschmidt	Myers	Thomas (GA)
Hansen	Nagle	Torricelli
Harris	Natcher	Traficant
Hastert	Neal (MA)	Traxler
Hawkins	Nelson	Unsoeld
Hayes (IL)	Oakar	Upton
Hefner	Oberstar	Valentine
Hochbrueckner	Ortiz	Vander Jagt
Horton	Oxley	Volkmer
Houghton	Packard	Vucanovich
Hoyer	Pallone	Walsh
Hubbard	Panetta	Waxman
Huckaby	Parker	Weber
Hunter	Parris	Whittaker
Hutto	Paxon	Whitten
Hyde	Pelosi	Williams
Inhofe	Perkins	Wolf
Ireland	Petri	Wright
Jenkins	Pickett	Wylie
Johnson (CT)	Pickle	Young (FL)
Johnson (SD)	Price	
Johnston	Quillen	

ANSWERED "PRESENT"—1

Hayes (LA)

NOT VOTING—5

Brooks	Collins	Rangel
Buechner	Courter	

□ 1722

Messrs. GALLEGLY, McDADE, SHAW, and DORNAN of California changed their vote from "aye" to "no."

Messrs. DONALD E. "BUZ" LUKENS, BLILEY, MOORHEAD, COX, and LELAND changed their vote from "no" to "aye."

So the amendment offered as a substitute for the amendment was rejected.

The result of the vote was announced as above recorded.

The CHAIRMAN. The gentleman from Illinois [Mr. ROSTENKOWSKI] has 4 minutes remaining.

Mr. ROSTENKOWSKI. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, as we conclude this debate on the Ways and Means Committee amendment, I strongly urge an aye vote in favor of on-budget financing. This is a vote to save the American taxpayer approximately $5 billion in interest savings and could save additional billions of dollars if debt management savings are also achieved. In addition, there are indications that the administration will not veto this bill over this on-budget issue, particularly in light of our earlier vote today for strong capital standards.

Mr. Chairman, in the interest of saving $5 billion for American taxpayers, I strongly urge an affirmative vote on the Ways and Means Committee amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Illinois [Mr. ROSTENKOWSKI].

The question was taken; the Chairman answered that the ayes appeared to have it.

RECORDED VOTE

Mr. ROSTENKOWSKI. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 280, noes 146, answered "present" 1, not voting 6, as follows:

[Roll No. 90]

AYES—280

Ackerman	Carr	Fascell
Akaka	Chapman	Fawell
Alexander	Clarke	Fazio
Anderson	Clay	Feighan
Andrews	Clement	Flake
Annunzio	Coelho	Flippo
Anthony	Coleman (TX)	Florio
Applegate	Conyers	Foglietta
Aspin	Cooper	Ford (MI)
Atkins	Costello	Ford (TN)
AuCoin	Coyne	Frank
Barnard	Crane	Frost
Bates	Crockett	Garcia
Beilenson	Dannemeyer	Gaydos
Bennett	Darden	Gejdenson
Bereuter	de la Garza	Gephardt
Berman	DeFazio	Gibbons
Bevill	Dellums	Glickman
Bilbray	Derrick	Gonzalez
Bilirakis	DeWine	Gordon
Boggs	Dicks	Goss
Bonior	Dingell	Gradison
Borski	Dixon	Grant
Bosco	Donnelly	Gray
Boucher	Dorgan (ND)	Guarini
Boxer	Downey	Hall (OH)
Brennan	Durbin	Hamilton
Brooks	Dwyer	Harris
Browder	Dymally	Hatcher
Brown (CA)	Dyson	Hawkins
Bruce	Early	Hayes (IL)
Bryant	Eckart	Hefner
Bustamante	Edwards (CA)	Hertel
Byron	Engel	Hoagland
Campbell (CA)	English	Hochbrueckner
Campbell (CO)	Erdreich	Houghton
Cardin	Espy	Hoyer
Carper	Evans	Huckaby

Hughes	Mollohan	Scheuer
Hutto	Montgomery	Schroeder
Hyde	Moody	Schumer
Jacobs	Morella	Sensenbrenner
Jenkins	Morrison (CT)	Sharp
Johnson (SD)	Mrazek	Sikorski
Johnston	Murphy	Sisisky
Jones (GA)	Murtha	Skaggs
Jones (NC)	Nagle	Skelton
Jontz	Natcher	Slattery
Kanjorski	Neal (MA)	Slaughter (NY)
Kaptur	Neal (NC)	Smith (FL)
Kastenmeier	Nelson	Smith (IA)
Kennedy	Nowak	Solarz
Kennelly	Oakar	Solomon
Kildee	Oberstar	Spratt
Kleczka	Obey	Staggers
Kolter	Olin	Stallings
Kostmayer	Ortiz	Stark
LaFalce	Owens (NY)	Stenholm
Lancaster	Owens (UT)	Stokes
Lantos	Pallone	Studds
Laughlin	Panetta	Swift
Leath (TX)	Parker	Synar
Lehman (CA)	Patterson	Tallon
Lehman (FL)	Payne (NJ)	Tanner
Leland	Payne (VA)	Tauke
Levin (MI)	Pease	Tauzin
Levine (CA)	Pelosi	Thomas (GA)
Lewis (GA)	Penny	Torres
Lipinski	Perkins	Torricelli
Lloyd	Petri	Towns
Long	Pickett	Traficant
Lowery (CA)	Pickle	Traxler
Lowey (NY)	Porter	Udall
Luken, Thomas	Poshard	Unsoeld
Machtley	Price	Valentine
Manton	Rahall	Vento
Markey	Ray	Visclosky
Marlenee	Regula	Volkmer
Martinez	Richardson	Walgren
Matsui	Ridge	Watkins
Mavroules	Rinaldo	Waxman
Mazzoli	Roe	Weiss
McCloskey	Rogers	Wheat
McCurdy	Rose	Whitten
McDermott	Rostenkowski	Williams
McGrath	Roukema	Wise
McHugh	Rowland (GA)	Wolpe
McMillen (MD)	Roybal	Wright
McNulty	Russo	Wyden
Mfume	Sabo	Yates
Miller (CA)	Sangmeister	Yatron
Mineta	Sarpalius	Young (AK)
Moakley	Savage	
Molinari	Sawyer	

NOES—146

Archer	Gallo	Madigan
Armey	Gekas	Martin (IL)
Baker	Gillmor	Martin (NY)
Ballenger	Gilman	McCandless
Bartlett	Gingrich	McCollum
Barton	Goodling	McCrery
Bateman	Grandy	McDade
Bentley	Green	McEwen
Bliley	Gunderson	McMillan (NC)
Boehlert	Hall (TX)	Meyers
Broomfield	Hammerschmidt	Michel
Brown (CO)	Hancock	Miller (OH)
Bunning	Hansen	Miller (WA)
Burton	Hastert	Moorhead
Callahan	Hefley	Morrison (WA)
Chandler	Henry	Myers
Clinger	Herger	Nielson
Coble	Hiler	Oxley
Coleman (MO)	Holloway	Packard
Combest	Hopkins	Parris
Conte	Horton	Pashayan
Coughlin	Hubbard	Paxon
Cox	Hunter	Pursell
Craig	Inhofe	Quillen
Davis	Ireland	Ravenel
DeLay	James	Rhodes
Dickinson	Johnson (CT)	Ritter
Dornan (CA)	Kasich	Roberts
Douglas	Kolbe	Robinson
Dreier	Kyl	Rohrabacher
Duncan	Lagomarsino	Roth
Edwards (OK)	Leach (IA)	Rowland (CT)
Emerson	Lent	Saiki
Fields	Lewis (CA)	Saxton
Fish	Lewis (FL)	Schaefer
Frenzel	Lightfoot	Schiff
Gallegly	Livingston	Schneider
Schuette	Smith, Denny (OR)	Thomas (WY)
Schulze		Upton
Shaw	Smith, Robert (NH)	Vander Jagt
Shays		Vucanovich
Shumway	Smith, Robert (OR)	Walker
Shuster		Walsh
Skeen	Snowe	Weber
Slaughter (VA)	Spence	Weldon
Smith (MS)	Stangeland	Whittaker
Smith (NE)	Stearns	Wolf
Smith (NJ)	Stump	Wylie
Smith (TX)	Sundquist	Young (FL)
Smith (VT)	Thomas (CA)	

ANSWERED "PRESENT"—1

Hayes (LA)

NOT VOTING—6

Buechner	Courter	Rangel
Collins	Lukens, Donald	Wilson

□ 1742

The Clerk announced the following pairs:

On this vote:

Mr. Donald E. "Buz" Lukens for, with Mr. Buechner against.

So the amendment was agreed to.

The result of the vote was announced as above recorded.

Mr. GONZALEZ. Mr. Chairman, I ask unanimous consent to strike the last word in order to recognize the gentleman from Alabama [Mr. ERDREICH] for a brief colloquy on some questions having to do with the thrust of the language of the bill with respect to any impact on pending litigation. It has nothing to do with any amendment.

The CHAIRMAN pro tempore (Mr. MURTHA). Is there objection to the request of the gentleman from Texas?

There was no objection.

The CHAIRMAN pro tempore. The gentleman from Texas [Mr. Gonzalez] is recognized for 5 minutes.

Mr. GONZALEZ. Mr. Chairman, I yield to the gentleman from Alabama [Mr. ERDREICH].

Mr. ERDREICH. Mr. Chairman, is my understanding correct that enactment of H.R. 1278 would not affect in any way the rights of an institution currently involved in litigation with the Federal regulators regarding the alleged wrongful denial of their application to leave the FSLIC? In other words, the law in effect at the time of the filing of the lawsuit would be applied, and not this new legislation we are enacting today.

Mr. GONZALEZ. Yes, it does remain, and, as far as I know, there is no retroactive language in any part of the bill that would have any impact one way or the other on pending litigation.

Mr. Chairman, I yield back the balance of my time.

AMENDMENT OFFERED BY MR. GONZALEZ

Mr. GONZALEZ. Mr. Chairman, I offer an amendment.

The CHAIRMAN pro tempore. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. GONZALEZ:

Page 357, after line 10, insert the following new subsections:

"(y) MAXIMUM AMOUNT LIMITATIONS ON OUTSTANDING OBLIGATIONS.—

"(1) IN GENERAL.—Notwithstanding any other provision of this section, the amount which is equal to—

"(A) the sum of—

"(i) the total amount of contributions received from the Resolution Funding Corporation; and

"(ii) the total amount of outstanding obligations of the Corporation; minus

"(B) the sums of—

"(i) the amount of cash held by the Corporation; and

"(ii) the total value (determined on the basis of the fair market value) of assets held by the Corporation,

may not exceed $50,000,000,000.

"(2) LIMITATION BASED ON AMOUNT OF CONTRIBUTIONS.—The total amount of outstanding obligations of the Corporation (other than obligations described in paragraph (4)(C) and obligations which are fully secured by assets held by the Corporation) at any time may not exceed the sum of—

"(A) the total amount of contributions received from the Resolution Funding Corporation; and

"(B) the total of the outstanding amounts borrowed from the Secretary of the Treasury pursuant to subsection (r).

"(3) PROCEDURE FOR REQUESTING LEGISLATION INCREASING THE AMOUNT OF THE PARAGRAPH (2) LIMITATION.—

"(A) REQUEST FOR INCREASE.—If the Oversight Board determines that, for purposes of carrying out the duties of the Corporation, the Corporation should be allowed to incur obligations in an amount in excess of the sum of the amounts described in subparagraphs (A) and (B) of paragraph (2), the Oversight Board shall submit a request for legislation which increases the amount of the limitation contained in paragraph (2) to the Committee on Banking, Finance and Urban Affairs of the House of Representatives in accordance with subparagraph (B).

"(B) CONTENTS OF REQUEST.—Any request submitted to the Committee on Banking, Finance and Urban Affairs pursuant to subparagraph (A) shall contain—

"(i) the specific dollar amount by which the Oversight Board has determined the limitation contained in paragraph (2) should be increased;

"(ii) the specific period of time for which the Oversight Board has determined such increase should be effective;

"(iii) a detailed explanation of—

"(I) the necessity for the increase in the amount of such limitation;

"(II) the basis for the request for the effective period of such increase; and

"(III) the types and amounts of outstanding obligations of the Corporation at the time of the submission of such request.

"(4) OUTSTANDING OBLIGATION DEFINED.—For purposes of this subsection, the term 'outstanding obligation' includes—

"(A) any obligation or other liability assumed by the Corporation from the Federal Savings and Loan Insurance Corporation under this section or pursuant to any provision of the Financial Institutions Reform, Recovery and Enforcement Act of 1989;

"(B) any guarantee issued by the Corporation;

"(C) the total of the outstanding amounts borrowed from the Secretary of the Treasury pursuant to subsection (r); and

"(D) any other obligation for which the Corporation has a direct or contingent liability to pay any amount.

"(5) OBLIGATIONS REQUIRED TO INCLUDE MAXIMUM DOLLAR AMOUNT LIMITATION.—Notwithstanding any other provision of this section—

"(A) the Corporation may not enter into any agreement or issue any guarantee, indemnity, or other instrument under which the Corporation assumes any liability which does not contain a provision which establishes the maximum dollar amount which the Corporation may be liable to pay with respect to such agreement, guarantee, indemnity, or instrument; and

"(B) the maximum dollar amount required to be included under subparagraph (A) shall be the dollar amount taken into account under paragraph (1)(A)(ii) (for purposes of paragraph (1)) and paragraph (2).

"(z) INFORMATION PROVIDED TO AND APPEARANCES BEFORE CONGRESSIONAL COMMITTEE.—

"(1) SEMIANNUAL APPEARANCE REQUIRED.—At the end of each 6-month period beginning after the date of the enactment of the Financial Institutions Reform, Recovery and Enforcement Act of 1989, the Oversight Board shall appear before the Committee on Banking, Finance and Urban Affairs of the House of Representatives to—

"(A) report on the progress made during such period in resolving cases involving institutions described in subsection (b)(1)(A)(ii);

"(B) provide an estimate of the short-term and long-term cost to the United States Government of obligations issued or incurred during such period;

"(C) report on the progress made during such period in selling assets of institutions described in subsection (b)(1)(A)(ii) and the impact such sales are having on the local markets in which such assets are located;

"(D) describe the costs incurred by the Corporation in issuing obligations and managing and selling assets acquired by the Corporation;

"(E) provide an estimate of the income of the Corporation from assets required by the Corporation;

"(F) provide an assessment of any potential source of additional funds for the Corporation; and

"(G) provide an estimate of the remaining exposure of the United States Government in connection with institutions described in subsection (b)(1)(A)(ii) which, in the Oversight Board's estimation, will require assistance or liquidation after the end of such period.

"(2) DISCLOSURE OF ASSISTED TRANSACTIONS.—The Corporation shall make available to the Committee on Banking, Finance and Urban Affairs of the House of Representatives any agreement entered into by the Corporation relating to an assisted transaction not later than 25 days after the first meeting of the Oversight Board after such agreement is entered into.

"(3) APPEARANCE BEFORE START-UP OF CORPORATION.—

"(A) APPEARANCE REQUIRED.—Before the earlier of—

"(i) the date which is 30 days before the date described in subsection (b)(5)(C)(i); or

"(ii) the end of the 150-day period beginning on the date of the enactment of the Financial Institutions Reform, Recovery and Enforcement Act of 1989,

the Oversight Board shall appear before the Committee on Banking, Finance and Urban Affairs of the House of Representatives for the purposes described in subparagraph (B).

"(B) PURPOSE OF APPEARANCE.—In connection with the appearance of the Oversight Board pursuant to subparagraph (A), the Oversight Board shall—

"(i) provide and describe in full detail the business plan established by the board for the operations of the Corporation;

"(ii) provide and describe in full detail the policies and procedures established or proposed to be established for the Corporation;

"(iii) provide any regulation proposed to be prescribed by the Corporation; and

"(iv) provide and describe the proposed case resolution schedule established by the board.".

Page 357, line 10, strike the closing quotation marks and the 2d period.

The CHAIRMAN pro tempore. Under the rule, the gentleman from Texas [Mr. GONZALEZ] will be recognized for 20 minutes and the gentleman from Ohio [Mr. WYLIE] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Texas [Mr. GONZALEZ].

Mr. GONZALEZ. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I really want to get the attention of my colleagues. This is a very important amendment.

I think my colleagues will remember, as I do, on January 3, when we opened this session, I had almost every Member present from both sides of the aisle coming and asking me with great anxiety, "How could this blizzard of announcements in December by the Home Loan Bank Board committing itself to these billions of dollars happen? How can this happen? What do you know about them?"

All I could say is, "All I know is the press releases that have been made by the Home Loan Bank Board," and indeed the Home Loan Bank Board and FSLIC committed the Treasury to $44 billion without any accountability of the regular processes of authorization, or appropriation, or coming to the Congress. Mr. Chairman, even the President cannot do that.

So, in order to prevent any chance of this happening with this tremendous apparatus that will result by passage of this bill, the Resolution Trust Corporation, which will have 400 billion plus of REO, real estate ownership, and having FSLIC, or what FSLIC was doing, happen again with the Resolution Trust Corporation by allowing it to commit itself way over and beyond the resources it has.

In other words, Mr. Chairman, under this bill, the RTC will have all of the case resolution powers of the FDIC and the FSLIC as we have known them. This broad grant of power includes the ability to provide financial assistance to acquirers of insolvant thrifts, assistance such as notes.

In 1988, the Bank Board provided to acquirors promissory notes and agreements that guaranteed the value of and return on assets. The projected costs from these notes and with what the Treasury settled is $44 billion.

As the bill now stands the RTC will have this same power as FHLBB to obligate the Federal Government. The RTC should not hold a blank check on the U.S. Treasury. Without a limit, the ultimate taxpayer cost of resolving insolvent institutions could be increased by the RTC without regard to the $50 billion authorized for the bailout. Without a cap the mistakes of 1988 could be repeated on a grand scale.

My amendment limits the RTC's ability to issue unsecured obligations by requiring the RTC to budget such obligations against the cash it receives from REFCORP. This is accomplished in two ways. First, the amendment provides for an overall cap by limiting the total of RTC's unsecured debt and REFCORP obligations to $50 billion. Technically, the amendment provides that the total of RTC unsecured obligations plus REFCORP borrowing minus RTC cash and assets may not exceed $50 billion. Thus, if the RTC issues unsecured notes of $15 billion, as CBO has predicted, and receives and spends $35 billion from REFCORP, additional REFCORP borrowing will have to be used to retire the existing unsecured debt. Under this amendment, the RTC will not be able to spend all its cash and leave the American people with an unauthorized and unpaid tab for the bailout.

□ 1750

The amendment also limits the incremental growth in RTC obligations by providing that in addition to the overall cap, the RTC cannot at any time have more unsecured obligations than net worth as represented by the total REFCORP borrowing to date and RTC's outstanding borrowings from Treasury. The bill authorizes it to borrow up to $5 billion dollars from the Treasury. If the RTC needs additional cash, the amendment establishes a procedure for the RTC to request from Congress additional borrowing authority. This request would have to include specific information as to why the Oversight Board believes the RTC needs this additional authority and information as to RTC's current outstanding obligations.

To avoid the danger of asset dumping my amendment excludes from both the total cap and the incremental cap the secured loans. The RTC will be able to use its assets as collateral for loans and such secured loans will not be counted for purposes of the caps.

The amendment simply says that if the RTC needs to borrow, it must have the resources to honor those commitments, it cannot rely on the taxpayer to pay its bills.

The amendment addresses another concern that arose after the Bank Board's December deals—as I said earlier—unquantifiable obligations such as asset maintenance agreements. The amendment requires the RTC to include a maximum amount in every obligation entered into by the RTC and requires that this stated maximum be used to calculate the limits I have described. This requirement in effect provides that if the RTC cannot fix the terms of the deal it should make the deal.

The amendment also requires the RTC to appear before the Banking Committee every 180 days to provide information on the RTC's outstanding obligations and the status of its activities.

Finally, the amendment requires the RTC to come before the committee before the expiration of the period during which the FDIC acts on behalf of the RTC to explain the status of the RTC's startup activities, and it provides for the disclosure of assisted transactions to Congress.

Mr. Chairman, I urge the adoption of this amendment.

Mr. WYLIE. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I reluctantly oppose the gentleman's amendment. I say reluctantly because I think the gentleman is on to something when he wants to impose a cap on RTC borrowing authority, but I oppose it because I wanted the opportunity to offer my own amendment which would have provided the RTC with more flexibility, which the Rules Committee did not allow me to do.

Under the chairman's amendment, RTC borrowing authority would be limited to assets sold. For example, if the RTC closed down an institution, put $10 billion into the institution to close it down, recovered $7 billion in assets, the RTC then could only issue notes against that $7 billion in assets after it was sold. They could not issue notes against the assets at the time of acquisition, even though it might be quite clear that the assets are worth $7 billion.

Now, unlike the FSLIC notes, the RTC notes would be under close scrutiny by the Oversight Board. The Oversight Board has the Secretary of the Treasury, the Secretary of HUD, the Attorney General, the Chairman of the Federal Reserve Board, and finally, the FDIC Chairman as nonvoting positions on the Board as advisors. All those persons are on this Oversight Board, which could examine the RTC and determine whether it was doing the right thing or not.

I think the RTC might need some flexibility to use bridge or interim financing to resolve the maximum number of institutions over the shortest period of time.

As I say, these RTC notes are backed by the assets which came into the hands of the RTC, through the closing down of a financial institution.

It seems to me if this amendment were carried to its extreme, it might be an incentive for the RTC to dump assets in order to come up with badly needed cash so they could issue some more notes and could handle further case resolutions more expeditiously; additionally, I think there is a disincentive to liquidate an institution in the proper fashion.

I had hoped to be able to offer an amendment which would place a cap on the RTC borrowing, which as I say I think is a good move. It would have limited the RTC obligations to those notes which are fully collateralized notes backed by the REFCORP through the sale of bonds, the Treasury line of credit which is about $5 billion right now, an emergency line of credit, and seized assets to which I made previous reference.

For those reasons, as I say, I think the concept of the Gonzalez amendment is appropriate. I do feel that RTC borrowing should be limited in its line of credit, but on the other hand I think it has the unintended effect of being too restrictive and may in the final analysis cost the RTC money.

For those reasons, Mr. Chairman, I will vote against the amendment.

Mr. GONZALEZ. Mr. Chairman, I yield myself such time as I may consume. I will yield to the distinguished gentleman from North Carolina [Mr. PRICE] in a moment.

I would like the RECORD to show that the gentleman from North Carolina [Mr. PRICE] has been a tremendous asset to the committee. He was the first one to raise the issue about the proper capping of this tremendous organization-to-be. I think he should be recognized for that endeavor. I certainly want the RECORD to show that we respect him for that and that we are in his obligation for first having offered an amendment during the time we had the bill in the committee, and subsequent to that.

I want to render tribute to the gentleman for actually inspiring us on the amendment we are presenting today. In fact, it reflects substantially the Price amendment.

Mr. Chairman, I yield 3 minutes to the gentleman from North Carolina [Mr. PRICE].

Mr. PRICE. Mr. Chairman, I thank the gentleman for his generous words and I want to commend the gentleman for offering this amendment. I think it is an important addition to the bill and I very strongly urge its adoption.

In the Banking Committee, along with our colleague, the gentleman from Nebraska [Mr. HOAGLAND], I offered an amendment to strictly limit the amount of notes or other obligations that the FDIC could issue in resolving failed financial institutions.

What this amendment that the gentleman from Texas [Mr. GONZALEZ] has offered would do essentially would be to put a similar limit on the Resolution Trust Corporation, which will be heavily involved in the disposition of failed thrifts once H.R. 1278 becomes law.

Currently under both the House and the Senate bill, the RTC has the authority to issue notes or other obligations with no apparent limit. The bill must be changed in this area.

I support the amendment of the gentleman from Texas [Mr. GONZALEZ] which would ensure that the RTC is limited in its ability to obligate itself or the Federal Government through notes or any other forms of assistance agreements. No Government entity should have the ability to obligate Treasury funds without explicit authority from the Congress and the President. It was an outrage when the Bank Board did it and it would be even more outrageous if we let the RTC to do it.

Mr. Chairman, we must adopt this amendment. I urge my colleagues very strongly to vote in support of it.

□ 1800

Mr. GONZALEZ. Mr. Chairman, I yield 2 minutes to the gentleman from Maryland [Mr. MCMILLEN].

Mr. MCMILLEN. Mr. Chairman, today I rise in support of the Gonzalez amendment.

The question is: The Federal Home Loan Bank Board in December stole the Treasury checkbook to the tune of $44 billion; the question revolving around this amendment is: Are we going to allow the RTC to steal the Treasury's checkbook going forward?

Many members of the committee were incensed by the December deals that the Bank Board cut with a lot of financiers across this country. As Bill Simon himself said, the Chairman of the FDIC, it is an unusual situation where a Government agency can add $30 billion to Federal Treasury's obligations in 4 weeks without congressional action.

The time is now to ask who gave the Treasury checkbook to the Bank Board then, and are we going to give it to the RTC in the future.

There is one more important point to make. If it is true, as we have heard in testimony, that the administration has grossly underestimated the costs of this crisis to the tune of $20 to $30 billion, are we going to allow the administration to backdoor finance this potential shortfall in the future with promissory notes without congressional approval?

Our esteemed chairman's amendment will allow the kind of congres-

sional approbation that is needed and should be a part of this bill.

I urge its adoption.

Mr. GONZALEZ. Mr. Chairman, I yield 2 minutes to the gentlewoman from South Carolina [Mrs. PATTERSON].

Mrs. PATTERSON. Mr. Chairman, I rise in support of the Gonzalez amendment. Many of us believe that the Resolution Trust Corporation is the Achilles's heel of this bill. The RTC's ability to obligate the U.S. Government through promissory notes and debt guarantees should be limited.

With the Resolution Trust Corporation, we are creating a new bureaucracy that will become one of America's largest institutions on the day the President signs this bill into law. It will control hundreds of billions of dollars in assets.

Yet, the RTC is an institution that has the potential for severe problems in the future. It will be managed by an oversight board composed of high Government officials who already have enormous responsibilities. They will not be able to give this huge agency their undivided attention.

In addition to a lack of strong control and accountability, the RTC's mission and responsibility are poorly defined. We should not give them unlimited power to put the Federal Government in debt. They should not be able to unilaterally bind us to deals.

An advertisement in a trade publication 2 days ago only adds to my concern about the RTC. Let me read the ad to you. It says, "Who's Going to Cash in When the Resolution Trust Corp. Opens Its Doors? How About You?" Ladies and gentlemen, there are people out there waiting to pick the RTC's pockets before it even gets its pants on.

We should not give the RTC unlimited authority. I commend Chairman GONZALEZ on his amendment and urge my colleagues to support the Gonzalez amendment.

[From the National Thrift & Mortgage News, June 12, 1989]

WHO'S GOING TO CASH IN WHEN THE RESOLUTION TRUST CORP. OPENS ITS DOORS?—HOW ABOUT YOU?

The Resolution Trust Corp. will start operations as the biggest American business in history, with more than $400 billion in assets.

It will be hiring staff, contracting out work and selling assets throughout the 1990s.

Its activities will affect every real estate market in the country and every developer, insurer, appraiser and, of course, every lender as it undertakes the enormous task of dealing with the residue of the thrift collapse of the 1980s.

Now you can follow the activities of this enormous government organization in a biweekly report designed for managers and advisers who must know what RTC is selling; who's buying and at what price.

Resolution Trust Reporter will be your ongoing guide to the people and the deals that will impact the entire financial community for a decade or more to come.

Resolution Trust Reporter will arrive on your desk every other Monday with the latest information on what, where and how RTC is operating and what the competitive impact is on the markets where deals are done.

Resolution Trust Reporter will be published by the Dorset Group in cooperation with National Thrift & Mortgage News (formerly National Thrift News.)

Stan Strachan, editor of NTMN will serve as consulting editor of the report and Brian Collins, former editor of the Banking Regulator and a member of NTMN's Washington news staff, will be Washington editor.

NTMN's award-winning news staff will contribute regularly to Resolution Trust Reporter offering in-depth coverage and detail that would be impossible for a publication devoted to general financial coverage.

National Thrift News won the George Polk award for financial reporting in recognition of its 1988 coverage of the Federal Savings and Loan Insurance Corp. crisis.

Resolution Trust Reporter will be produced by a professional news team that understands the issues involved in thrift resolutions and real estate workouts.

Resolution Trust Reporter will focus on what RTC is doing, giving you an ongoing reference source that will serve as a working file whenever your business comes in contact with an RTC transaction.

Resolution Trust Reporter will begin regular publication Monday, September 11. But as soon as Congress has set out the parameters on the operations of RTC, we will be sending all charter subscribers a special report detailing just what the lawmakers expect of RTC and what the rules and the opportunities will be.

We'll be sending bulletins throughout the summer as RTC hires its executive staff and publishes regulations for contractors and bidders.

Let us be your eyes and ears at RTC operations in Washington and around the country.

Mr. WYLIE. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I want to make my position clear on this amendment and the position of the administration clear.

The administration recognizes the need to place a cap on the aggregate amount of RTC notes and obligations based on last year's FSLIC experience. That has been referred to as the guidepost by which we need a cap amendment like this, and I agree.

But FSLIC was issuing notes and guarantees on the questionable strength of premium income it expected to receive over the next 20 to 30 years. That is why the administration does support a cap. They support a cap, though, like the one that would have been an amendment which I filed with the Committee on Rules which was not made in order.

The administration believes that all RTC obligations should be backed by tangible assets as my amendment would have required. Assets would be limited to the amount of funds to be received from REFCORP, the $5 billion line of credit with Treasury, the estimated market value of assets held by the RTC as a result of case resolutions, plus the cash and investments that are readily convertible into cash.

Because the taxpayers were exposed to excessive risks with the FSLIC notes and guarantees, we do need the cap amendment, and we certainly do not want a repeat of that.

As I say, I reluctantly oppose the gentleman's amendment, not because of the concept, but because my alternative amendment was not made in order.

Mr. GONZALEZ. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from North Carolina [Mr. NEAL].

Mr. NEAL of North Carolina. Mr. Chairman, I would like to support the gentleman's fine amendment. I would like to commend the chairman for it, and I say that I think it is absolutely essential, but I also would like to say I would like to see us go just a little bit further.

As the Chairman knows, after we reported our bill, we held a hearing on the question of the budget treatment of this bill, and that hearing evolved into consideration of some other matters, and among those other matters was this RTC. I came to think that as a result of those hearings we ought to make the FDIC Board the board of the RTC. The board of the RTC as currently conceived has no experience in asset disposition. They do not know how to dispose of shopping centers and office buildings and houses. They know nothing about it.

Mr. Chairman, the FDIC has 50 years of experience in this area, and it just seems to me that we ought to pinpoint responsibility, pinpoint accountability, and that making the FDIC Board the board of this would do that.

The Committee on Rules did not make our amendment in order, so I just wanted to bring up the question at this time. My worry about the RTC is that it can become another FADA if we are not careful. If we do not exercise good oversight, that could happen. I just wanted to raise that caution.

I hope that we will keep an eye on this organization. It is going to be responsible for handling a whole lot of money, and as I say, the Board as now constituted is not experienced in this area, and we had better keep a close eye on it.

Having said that, I would like to commend the chairman for his fine amendment and urge support for it.

Mr. WYLIE. Mr. Chairman, I have no further requests for time at the present, but I reserve the balance of my time.

Mr. GONZALEZ. Mr. Chairman, I yield 2 minutes to the distinguished gentlewoman from Ohio [Ms. OAKAR].

Ms. OAKAR. Mr. Chairman, one of the major recommendations submitted

to the Banking Committee regarding this omnibus legislation was to structure the Resolution Trust Corporation to the greatest possible extent possible. The Resolution Trust Corporation will have a monumental task on their hands in closing, and liquidating insolvent institutions throughout the country. In addition, the RTC will have to manage billions and billions of dollars worth of real estate and other tangible assets from these insolvencies. The U.S. Government will become the largest land owner ever.

Mr. Chairman, with all the responsibility levied upon the RTC, the Congress must install limitations on what this entity may accomplish. Chairman GONZALEZ' amendment would limit the RTC's total debt at any time to the $50 billion requested by the administration. In addition and most importantly, the RTC cannot at any time, have more obligations than its net worth as represented by bonds issued by REFCORP. Also, the Congress would have further oversight by establishing a procedure for the RTC to request from Congress additional borrowing authority, if needed.

Congress will need to monitor and scrutinize this entity very closely. I commend the distinguished chairman for his amendment and urge my fellow colleagues to support this provision. We must provide the necessary protections to shield our taxpayers from further exposure.

□ 1810

Mr. GONZALEZ. Mr. Chairman, I yield 1 minute to the gentleman from Nebraska [Mr. HOAGLAND].

Mr. HOAGLAND. Mr. Chairman, I appreciate our illustrious Chairman of the full Banking Committee yielding time to me and appreciate his gracious handling of these complex issues in committee, and now on the floor. It is a great pleasure to serve with the gentleman from Texas. He has done the Nation and our Congress proud with his handling of this bill.

I would just like to rise to echo the sentiments expressed by my colleagues, the gentleman from North Carolina, Mr. DAVID PRICE. He and I cosponsored a similar amendment dealing with FDIC, dealing with the same sorts of restrictions on lending and borrowing practices, and I think the same principle applies here It is a good amendment, and I encourage my colleagues to support it.

The CHAIRMAN. The gentleman from Texas [Mr. GONZALEZ] has 1 minute remaining, and the gentleman from Ohio [Mr. WYLIE] has 14 minutes remaining.

Mr. WYLIE. Mr. Chairman, I yield back the balance of my time.

Mr. GONZALEZ. Mr. Chairman, I yield the balance of my time and concluded by saying that the gentleman from Nebraska [Mr. HOAGLAND], and the gentleman from North Carolina. [Mr. PRICE], Mr. HOAGLAND being a more recent member of the committee and the Congress, are a wonderful inspiring example of how much we have received of very brilliant, honest, hard-working performance.

The gentleman from Nebraska also had an amendment patterned on an attempt to try to restrain and control this tremendous power that will be inherent in this Resolution Trust Corporation, and the gentleman from North Carolina, having had a similar and anterior amendment, the gentleman from Nebraska yielded, and it was based on their efforts that we constructed, and reconstructed, and reshored-up this amendment that is now pending.

I ask my colleagues to support this amendment. It is a must. It will do credit to the Congress, and it will protect the American people.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Texas [Mr. GONZALEZ].

The amendment was agreed to.

The CHAIRMAN. The Chair awaits the gentleman from Massachusetts.

Mr. ECKART. Mr. Chairman, I ask unanimous consent that the amendment of the gentleman from Massachusetts be carried over without prejudice, due to his momentary delay reaching the floor. The gentleman from Massachusetts is on his way, and did not expect the completion of the prior amendment and so imminent a handling of his own.

The CHAIRMAN. Is there objection to the request of the gentleman from Ohio?

Mr. WYLIE. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard.

The gentleman from Ohio may wish to ask unanimous consent to strike out the last word, and he could be recognized in that fashion.

Mr. ECKART. Mr. Chairman, I ask unanimous consent to strike the last word.

The CHAIRMAN. Without objection, the gentleman from Ohio is recognized for 5 minutes.

There was no objection.

Mr. ECKART. Mr. Chairman, the legislation we have before us is very critical and obviously affects the welfare financially and in many other respects of thousands of American depositors.

Mr. Chairman, I know that this matter is of great concern to many of our constituents, and I would thank all of my colleagues for their cooperation and for making today's events so successful.

Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The Chair recognizes the gentleman from Massachusetts [Mr. KENNEDY].

AMENDMENT OFFERED BY MR. KENNEDY

Mr. KENNEDY. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. KENNEDY: Page 719, after line 25, insert the following new sections (and redesignate the subsequent section and amend the table of contents accordingly):

SEC. 1211. FAIR LENDING OVERSIGHT AND ENFORCEMENT.

(a) INFORMATION REGARDING INCOME LEVEL, RACIAL CHARACTERISTICS, AND GENDER OF MORTGAGORS AND MORTGAGE APPLICANTS.—Section 304(b) of the Home Mortgage Disclosure Act of 1975 (12 U.S.C. 2803(b)) is amended—

(1) in paragraph (2), by striking "and" after the semicolon at the end;

(2) in paragraph (3), by striking the period at the end and inserting "; and"; and

(3) by adding at the end the following new paragraph:

"(4) the number and dollar amount of mortgage loans involving mortgagors or mortgage applicants grouped according to income level, racial characteristics, and gender.".

(b) INFORMATION REGARDING LOAN APPLICATIONS.—

(1) GENERAL REPORTING REQUIREMENT.—Section 304(a)(1) of the Home Mortgage Disclosure Act of 1975 (12 U.S.C. 2803(a)(1)) is amended by inserting after "that institution" the following: "(or for which the institution received applications)"

(2) CONFORMING AMENDMENTS.—

(A) The last sentence of section 304(a)(2) of the Home Mortgage Disclosure Act of 1975 (12 U.S.C. 2803(a)(2)) is amended by inserting after "originated or purchased" the following: "(or for which applications were received)".

(B) Section 304(g)(1) of the Home Mortgage Disclosure Act of 1975 (12 U.S.C. 2803(g)(1)) is amended by inserting after "made" the following: "(or for which applications are received)".

(C) Section 304(g)(2) of the Home Mortgage Disclosure Act of 1975 (12 U.S.C. 2803(g)(2)) is amended by inserting after "approved" the following: "(or for which applications are received)".

(D) The first sentence of section 311 of the Home Mortgage Disclosure Act of 1975 (12 U.S.C. 2810) is amended by inserting after "approved" the following: "(or for which applications are received)".

(c) APPLICABILITY OF REPORTING REQUIREMENTS TO ALL MORTGAGE LENDERS.—Section 303(2) of the Home Mortgage Disclosure Act of 1975 (12 U.S.C. 2802(2)) is amended—

(1) by striking ", or" and inserting a comma; and

(2) by inserting before the semicolon at the end the following: ", or any person not otherwise referred to in this paragraph who engages in the business of mortgage lending".

(d) EFFECTIVE DATE.—The amendments made by this section shall be applicable to the portion of calendar year 1989 that begins 60 days after the date of the enactment of this Act, and to each calendar year beginning after December 31, 1989.

SEC. 1212. AMENDMENT TO THE COMMUNITY REINVESTMENT ACT OF 1977.

(a) CONFORMING AMENDMENT TO DEFINITION OF REGULATED FINANCIAL INSTITUTION.—

Section 803(2) of the Community Reinvestment Act of 1977 (12 U.S.C. 2902(2)) is amended by striking out "insured bank as defined in section 3 of the Federal Deposit Insurance Act or an insured institution as defined in section 401 of the National Housing Act" and inserting in lieu thereof "insured financial institution (as defined in section 3(w)(2) of the Federal Deposit Insurance Act)".

(b) EXAMINATION IMPROVEMENT.—The Community Reinvestment Act of 1977 (12 U.S.C. 2901 et seq.) is amended by adding at the end thereof the following new section:

"SEC. 807. WRITTEN EVALUATIONS.

"(a) REQUIRED.—

"(1) IN GENERAL.—Upon the conclusion of each examination of an insured depository institution under section 804, the appropriate Federal depository institution regulatory agency shall prepare a written evaluation of the institution's record of meeting the credit needs of its entire community, including low- and moderate-income neighborhoods.

"(2) PUBLIC AND CONFIDENTIAL SECTIONS.—Each written evaluation required under paragraph (1) shall have a public section and a confidential section.

"(b) PUBIC SECTION OF REPORT.—

"(1) FINDINGS AND CONCLUSIONS.—The public section of the written evaluation shall—

"(A) state the appropriate Federal depository institutions regulatory agency's conclusions for each assessment factor identified in the regulations prescribed by the Federal depository institutions regulatory agencies to implement this Act; and

"(B) discuss the facts supporting such conclusions.

"(2) EMPHASIS ON SPECIFIC TYPES OF CREDIT.—The statement, discussion, supporting facts, and conclusions shall place special emphasis on the insured depository institution's record of serving the housing credit needs of low- and moderate-income persons, small business credit needs, and small farm credit needs.

"(3) ASSIGNED NUMERICAL RATING.—The public section shall also contain the institution's numerical rating and a statement describing the basis for the rating.

"(c) CONFIDENTIAL SECTION OF REPORT.—

"(1) PRIVACY OF NANED INDIVIDUALS.—The confidential section of the written evaluation shall contain all references that identify any customer of the institution, any employee or officer of the institution, or any person or organization that has provided information in confidence to a Federal or State depository institutions regulatory agency.

"(2) OTHER TOPICS NOT SUITABLE FOR DISCLOSURE.—The confidential section shall also contain any inflammatory statements or other such statements which, in the judgment of the appropriate Federal depository institutions regulatory agency, are not properly subject to disclosure to the institution or the public.

"(3) NONDISCLOSURE TO DEPOSITORY INSTITUTION.—The confidential section shall not be disclosed to the institution or the public, unless the appropriate Federal depository institutions regulatory agency determines that such disclosure would be in the public interest.".

SEC. 1213. REPORTS ON GEOGRAPHIC ORIGIN OF DEPOSITS OF DEPOSITORY INSTITUTIONS.

(a) REPORTS REQUIRED.—Before the end of the 180-day period beginning on the date of the enactment of this Act and subject to such regulations as the Board of Governors of the Federal Reserve System may prescribe under subsection (c), each federally insured depository institution shall submit a report to the appropriate Federal depository institutions regulatory agency on the geographic origins of the deposits in such institution and the extent to which the deposits in such institution are derived from areas outside the communities served by such institution.

(b) TRANSFER OF REPORTS TO THE BOARD OF GOVERNORS.—After the end of the 180-day period described in subsection (a), each appropriate Federal depository institution regulatory agency (other than the Board of Governors of the Federal Reserve System) shall promptly transmit the information collected from depository institutions pursuant to subsection (a) to the Board of Governors of the Federal Reserve System.

(c) ADDITIONAL REQUIREMENTS PRESCRIBED BY THE BOARD.—The Board of Governors of the Federal Reserve System may prescribe such regulations governing reports under this section as the Board determines to be appropriate, including requirements relating to the extent of the details required to be reported and variations in the reporting requirements on the basis of various classes of institutions which the Board may establish.

(d) STUDY BY BOARD.—After the Board of Governors of the Federal Reserve System receives all the reports required under this section, the Board shall conduct a study on the basis of such reports to determine the extent to which the acquistion of deposits by depository institutions from depositors located outside the communities of States served by such institutions is detrimental to the purposes and requirements of the Community Reinvestment Act of 1977.

(e) REPORT BY BOARD.—Before the end of the 1-year period beginning on the date of the enactment of this Act, the Board of Governors of the Federal Reserve System shall submit a report to the Congress on the results of the study conducted under subsection (d) and any recommendations for administrative or legislative action as the Board may determine to be appropriate.

(f) PUBLIC AVAILABILITY OF REPORTS.—Reports filed by depository institutions under subsection (a) shall be made available to the public.

The CHAIRMAN. Under the rule, the gentleman from Massachusetts [Mr. KENNEDY] will be recognized for 20 minutes and the gentleman from Ohio [Mr. WYLIE] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Massachusetts [Mr. KENNEDY].

Mr. KENNEDY. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, the purpose of this amendment is twofold. First of all, it has to do with the Community Reinvestment Act.

As many of the Members in this Chamber know, the Community Reinvestment Act was passed in 1977 with great support in this body. This particular amendment asks that the ratings and evaluations under the CRA be disclosed in a public fashion. The amendment which was passed back in 1977 simply required that the banks and savings and loans put investments back into the very communities and neighborhoods from which they withdrew their funds.

What we have found is that out of the 50,000 banks that have applied through the CRA, only 9 have failed. The purposes of this amendment is very simple. We ask the bank regulators, we do not ask anything more of the savings and loans, we do not ask anything more of the banks, we just ask the Federal regulators to disclose to the public the ratings and evaluations.

The second thrust of the amendment has to do with the Home Mortgage Disclosure Act. That has demonstrated from recent data from across the country based on a study of over 3,100 savings and loans that it is 2 to 3 times harder if the color of your skin happens to be black or brown than if the color of your skin in white, coming from the same neighborhoods with the same incomes, to receive a home mortgage. It does seem to me if we are pumping in over $200 billion into the savings and loan industry and into our Nation's financial institutions, that the very least we could expect is that we do not continue a pattern of discrimination that may exist, and we ask those institutions to lend back in to the very communities that provide them with the capability of going out and competing in the marketplace.

We need to have a little fairness associated with this bill, and I think the two thrusts of this amendment will go a long way toward dealing with some of the injustices that take place in the financial markets of our Nation.

Mr. BARTLETT. Mr. Chairman, will the gentleman yield?

Mr. KENNEDY. I yield to the gentleman from Texas.

Mr. BARTLETT. Very quickly, Mr. Chairman, if the gentleman from Massachusetts was quoting the Atlanta Study on Racial Characteristics, it does seem to me that an accurate reading of that study was not a reading of the same neighborhood or the same income levels. In fact, it did demonstrate some redlining, but the redlining was by geographic area, not by racial characteristic.

Mr. KENNEDY. The fact is, as I understand the study, it was done using the best available information, which only gets the information down to the ZIP Code, and what the study demonstrated was that if you come from the same ZIP Code, which is basically the same neighborhood, if you come from that neighborhood and the color of your skin happens to be black or brown versus the color of your skin being white, and the income levels are the same whether your skin is black or white or brown, you are 2 to 3 times more likely to have your home mortgage turned down if you are black or brown than if you are white.

Mr. BARTLETT. Will the gentleman yield further for a moment?

Mr. KENNEDY. I yield to the gentleman from Texas.

Mr. BARTLETT. I think the study actually shows a disparity between ZIP Codes, but not according to race within the same code, because the fact is, as the gentleman is seeking to point out, we do not have the information on the racial characteristics of home loans. We have it only according to the ZIP Code. So it is simply not available, according to the rates.

Mr. KENNEDY. The fact is it is available at the local level in banks and savings and loans, they do take the information in, and the question is whether or not we are going to allow that information to be passed along to the regulators themselves.

Mr. Chairman, I reserve the balance of my time.

Mr. WYLIE. Mr. Chairman, I yield 4 minutes to the gentleman from Georgia [Mr. BARNARD].

□ 1820

Mr. BARNARD. Mr. Chairman, I thank the gentleman from Ohio for yielding this time to me.

Mr. Chairman, whatever else we can say about the causes and solutions of the savings and loan crisis, CRA and HMDA had nothing to do with it. These amendments are extraneous to this bill and a similar version of them was soundly rejected during the markup by the full Banking Committee.

The Senate has no such provisions and inclusion of the amendment in the bill will guarantee a protracted conference with the Senate, all at a time when we have already delayed this legislation far too long.

Even if CRA and HMDA bore some relation to the S&L crisis, I would still have to oppose these amendments. CRA and HMDA unquestionably have good intent, but are badly flawed. The amendment before us does not address these problems but instead adds more structure to an already shaky foundation.

The Senate held hearings on CRA last September and again last week. It will continue the hearings in the near future. We should follow the Senate's example. If and when we do, my review of the Senate testimony indicates that we will find that—

First. There is no interagency uniformity and consistency in making CRA evaluations.

Second. There is a great need for increased regulatory and community guidance concerning community assessments.

Third. There is a very serious lack of reasonable procedural safeguards such as maximum timeframes for protests.

Fourth. There is also a lack of congressional hearings and regulatory studies into the impact of the secondary market or other nonbank underwriters as obstacles to CRA. For example, do PMI underwriters prevent low income loans by denying insurance?

One of the worst features of the existing CRA process is the lack of reasonable procedural safeguards involving challenges to various regulatory applications by depository institutions.

There are no maximum time limits for protests, although there are mimimum time limits. Regardless of the merits, or the number of times the same protests have been raised, protesting groups use this as a means to extort financial settlements or other concessions from banks who are engaged in the regulatory applications process. For specific examples, I refer you again to the Senate testimony.

One of the worst results of CRA occurred in the recent attempt of a bank to acquire Grand Canyon National Bank in Arizona. The bank, generally considered to have a good CRA record, saw its application denied on CRA grounds. Grand Canyon recently failed.

Whose interests were served? The taxpayers? The insurance fund? The consumers?

I know that the Democratic Party is committed to consumers and the disadvantaged. I hope that the fact that this amendment is labeled as such will not keep you from voting against it on substantive and procedural grounds. It is easy to get a stranglehold on the moral issue and to demagog on this type of legislation. That is fine for the Phil Donahue show, but it makes for bad legislation.

Mr. KENNEDY. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, the gentleman from Georgia has indicated that he has done the research and found one or two banks that have gotten themselves in some difficulty with an example which I did not quite understand about the CRA.

The fact is we are here today dealing with hundreds and hundreds of banks that have gotten themselves into great difficulty which have nothing to do with the CRA, but had to do with the fact that there were grave injustices that took place, people getting themselves fat and rich. It does seem to me that what we have to be concentrating on is the fact that if this amendment is so onerous and so difficult, then why, out of 50,000 banks that have applied, have only 9 failed?

The fact is that we ought to be looking at whether or not there is discrimination. And studies, a Pulitzer Prize was just received by a journalist with the Atlanta Constitution to indicate that there is massive discrimination that is potentially taking place in this industry.

All we are trying to do is determine that.

There is no real teeth in this amendment. All we are really suggesting is that we want disclosure, we want disclosure of those ratings in a public way and we want to have the information be gathered with regard to race, color, creed, and that that be passed along to the Federal regulators.

Mr. Chairman, I yield 3 minutes to the gentleman from Texas [Mr. GONZALEZ], the chairman of the full committee.

Mr. GONZALEZ. I thank the gentleman for yielding.

Mr. Chairman, American democracy proclaims that men and women, unequal in their endowments, shall be equal in their right to develop those endowments. I think that is our basic inherent promise of American democracy.

Racial discrimination, or ethnic discrimination, or religious discrimination, or economic discrimination, or discrimination on account of sex, all of these being factors that are God-endowed talents and differences, are obnoxious. We should not tolerate any kind of such discrimination.

This kind of discrimination is crushing when it is used to deny any American his or her access to a fair and an equal basis to loans at institutions, particularly those that will continue to live because of all of the taxpayers, of all descents contributing to their survival. It just seems to me reprehensible that we would not stand and at least speak out and make this effort for which I compliment and thank the gentleman from Massachusetts [Mr. KENNEDY].

In the committee it was known as the Kennedy-Gonzalez amendment.

It is an issue that no matter what and how pressing it is, that we proceed, that we must mark, stop, pause, consider, and then act favorably on this amendment which, despite the arguments to the contrary, will not place any onerous burden of any kind, of substance, on any of the institutions affected.

I will say one thing in conclusion. The gentleman from Georgia brought up the Continental Illinois, which, incidentally, is still under Government ownership, and its denial by the Federal Reserve Board implementing the existing laws, such as they are, on the type of amendment we are seeking here, in denying its application to acquire this other institution in Arizona.

There is no question that the Federal Reserve Board had ample reasons on other grounds to deny that but the blame was placed on the Community Reinvestment Act, such as it is.

□ 1830

I urge my colleagues, despite the difficulty it would be, to support this amendment.

The CHAIRMAN. The gentleman from Massachusetts [Mr. KENNEDY] has 11 minutes remaining and the gentleman from Ohio [Mr. WYLIE] has 15 minutes remaining.

Mr. WYLIE. Mr. Chairman, I yield 4 minutes to the gentleman from Indiana [Mr. HILER].

Mr. HILER. Mr. Chairman, I rise in opposition to the Kennedy amendment.

The provisions in the amendment concerning the Home Mortgage Disclosure Act and the Community Reinvestment Act have no place in this bill. Similar amendments offered by the gentleman from Massachusetts were decisively defeated in the Banking Committee.

The portion of the amendment dealing with HMDA expands the act to any organization that purchases or originates mortgages. This would expand the scope of the act to include mortgage bankers, Freddie Mac, Fannie Mae, the Veterans' Administration, and countless others. This is a tremendous far-reaching change in the law and we are considering it today without even a single day of hearings on this issue before the Banking Committee. In my four terms on the Banking Committee, we have held separate hearings on this act. I believe it is inappropriate to make the far-reaching changes contained in this amendment without proper consideration.

The CRA portion of the amendment requires the regulators to disclose an institution's CRA rating. The Federal Reserve Board vigorously opposes this provision and is concerned that the general public will confuse the CRA rating with an institution's safety and soundness rating. It is my understanding that the Banking Committee has never, ever held hearings on the Community Reinvestment Act and yet the gentleman from Massachusetts is proposing broad changes to the act, contrary to the regulators expert opinions. I am not necessarily opposed to the goals of this amendment. However, I do think it is dangerous to be considering these amendments without the benefit of committee consideration.

I would like to make two additional points concerning CRA policy. First, the regulators have recently adopted new policy guidelines concerning the Community Reinvestment Act. I believe this is a result of the controversy that has surrounded this legislation in recent years. I believe that Congress should permit these guidelines to take effect and be evaluated before pursuing legislative initiatives in this area.

Second, and more importantly, poorly conceived CRA policy may represent a threat to the Federal Deposit Insurance Fund. As an example, Continental Illinois Bank recently sought to purchase Grand Canyon State Bank located in Scottsdale, AZ. The Federal Reserve Board rejected this application for acquisition based on CRA grounds. Subsequently, Grand Canyon was declared insolvent and it is estimated that the liquidation will end costing the FDIC $1.8 million. The Grand Canyon situation is unfortunate, and demonstrates the need to consider CRA policy in a thoughtful and prudent manner through the committee process.

Thus, I believe that we should not be considering broad changes in HMDA and the Community Reinvestment Act without adequate committee review and I urge my colleagues to defeat the Kennedy amendment just as similar amendments were defeated in the Banking Committee.

Mr. KENNEDY. Mr. Chairman, I yield 3 minutes to the distinguished gentleman from Michigan [Mr. CONYERS].

Mr. CONYERS. Mr. Chairman, this amendment is the first discussion, and outside of my raising the subject of redlining, the first mention of this subject that we have had. How amazing, on a subject of bailing out billions of dollars, we are now up to $305 billion now from the $40, $50 billion that was projected to relieve the S&L's of this mess a couple of years ago. Now at the close of this debate we present an elementary amendment that would seek only to ask the banking regulators to disclose their Community Reinvestment Act ratings, require lenders to report the number of applications they receive and reject by race, gender, and income as required under the Home Mortgage Disclosure Act, and now we are saying that there were no hearings. This is very complicated. This is heavy duty. This is so basic to this amendment, to be asking 30 million African-Americans to acquiesce in a $300 million bailout and tell them that racially discriminatory practices in mortgage lending will have to continue until after we hand over the check, and then we will hold some hearings to see if it is valid, flies in the face of morality and common sense.

First of all, in Atlanta, the newspapers have done it. Banks and S&L's favor citywide areas by a margin of 5 to 1. In Detroit, a Free Press study shows the banks and savings institutions in Metro Detroit make home loans in the city's white middle-income neighborhoods at 3 times the rate of similar black neighborhoods.

All this information was inadvertently released, accidentally disclosed. We want to put it on the RECORD.

If this legislation is to mean anything, and I compliment the chairman of the committee for endorsing this amendment, it is totally irrelevant whether it passed or failed in the Committee on Banking, Finance and Urban Affairs. I am asking 434 of my colleagues to join with me in the most important dimension of this civil rights amendment to savings and loan bailout. Members will not enjoy my support, and this is not a warning. There is no way in the world I can go back to my constituency and explain to them why redlining is still a practice in this country.

Mr. WYLIE. Mr. Chairman, I yield 5 minutes to the gentleman from Texas [Mr. BARTLETT].

Mr. BARTLETT. Mr. Chairman, I rise in opposition to the amendment, but not in opposition to reforming the Community Reinvestment Act or the Home Mortgage Disclosure Act.

However, the fact is that we do not know what we are doing here with this amendment. The fact is there is a good deal of reform that ought to be done with those two acts, and there is a good deal of very careful and aggressive thought and action that ought to be made to the practice of redlining in this country. However, redlining occurs on a geographic basis. What we know about it, we know occurs when geographical areas, neighborhoods, are redlined by forces beyond the power of either the financial institutions individually or the residents, to do anything about.

This amendment, if we were to adopt it on an unrelated bill would, in fact, stop the process that needs to happen of some kind of set of reforms in both the Community Reinvestment Act and HMDA. Consider what the amendment does: First thing it does is it applies the Home Mortgage Disclosure Act reporting requirements to all mortgage lenders. Now, it is unclear as to who-all that is. The bill says—any person engaged in mortgage lending. That may be VA, FHA, may not be. It surely is FNMA, FHLMC, insurance companies, any individual mortgage banker, without any indication as to whether those are the agencies or the problem. If it does not include VA and FHA, it is without any decision as to whether FHA may well be part of the problem, and it may well be.

What I am suggesting is what we ought to do is take some time, examine the causes of redlining, because it does occur; then construct a bill in the Committee on Banking, Finance and Urban Affairs that will address and solve those problems.

Mr. KENNEDY. Mr. Chairman, will the gentleman yield?

Mr. BARTLETT. I yield to the gentleman from Massachusetts.

Mr. KENNEDY. I thank the gentleman for yielding. With regard to the concerns, the concerns are that if there are, in fact, banks and savings and loans making mortgages, home mortgages available, and that there are other factors that should be taken into account, that is all we are asking them to do. All we are trying to get them to do is disclose not only what

the rating is, but asking the banks themselves and the savings and loans to tell Members race, creed, and color.

Mr. BARTLETT. I understand the gentleman's amendment. The difficulty is that may or may not be related to the problem. We know that the problem is a geographic problem.

Mr. KENNEDY. If it is not related to the problem, it does not hurt the banks. All we ask for is information. Not a single thing in the amendment that is in any way punishing to any institution or the regulations. Just asking them to give the raw material.

Mr. BARTLETT. Mr. Chairman, reclaiming my time, let me suggest a few things we could be doing and would be doing if the Congress was given some opportunity to do it and the Committee on Banking, Finance and Urban Affairs is given a nudge, a mandate, perhaps by the debate on the House floor, to consider the Community Reinvestment Act.

For example, some amendments that I filed, they were not made in order under this rule to this amendment, including a mandatory increase agency uniformity on reporting requirement. Right now, reporting requirements for each agency are different, allowing for public comments on applications submitted to the regulators, but setting a time limit. Today, the CRA applications are without time limit, with no sense of any finality to it.

□ 1840

A form of public disclosure in the regulator's rationale is the rating. Today banks and savings and loans do not know why, in any rational way, they get a CRA rating of 1, 2, 3, 4, or 5.

Mr. Chairman, if I may proceed, we could be considering advanced public notice of branch closings or we could be considering the assessment criteria, the voluntary provision of basic banking, or check cashing, something that is not in the gentleman's amendment nor in the current law. Whether the banks and savings and loans want this, they are given no CRA credit, but this gives that banking institution a period of time in which the rating would not be contestable if they get a good rating, and then they could continue on to do their business. Perhaps most significant here is the safe harbor, where we say that a financial institution has a safe harbor. If we create a community development corporation or some kind of a community reinvestment activity, that creates a safe harbor for them.

What we really need to do with this on HMDA is to step back from it and consider what the causes of redlining are and consider how we can through legislation mitigating against that red lining.

The CHAIRMAN. The time of the gentleman from Texas [Mr. BARTLETT] has expired.

Mr. WYLIE. Mr. Chairman, I yield 30 additional seconds to the gentleman from Texas [Mr. BARTLETT].

Mr. BARTLETT. Mr. Chairman, I think the gentleman's amendment is very well intentioned, but the fact is that we do not know what we are doing with his amendment. We do know one thing, that we are expanding the Community Reinvestment Act and HMDA, which has not worked at all with anybody in a whole group of new activities, some of which may not be involved in redlining and some of which have not been expanded but are included in the gentleman's amendment.

Mr. KENNEDY. Mr. Chairman, will the gentleman yield?

The CHAIRMAN. The time of the gentleman from Texas [Mr. BARTLETT] has expired.

Mr. KENNEDY. Mr. Chairman, I yield 1 minute to the gentlewoman from Ohio [Ms. KAPTUR].

Ms. KAPTUR. Mr. Chairman, I thank the gentleman from Massachusetts for yielding time to me, and I commend him for his amendment.

In response to the gentleman from Texas [Mr. BARTLETT], I would say that one of the best reasons to support this amendment is because it will make the marketplace work. In fact, consumers have the right to know that the savings and loans they are putting their money in are responsible community lenders. This modest provision just asks the regulators to disclose 1, 2, 3, or 4 or 5 ratings that the regulators have on file about these institutions. It imposes no new reporting requirements on banks or S&L's; it just requires public disclosure.

As someone who has funds in a savings and loan, I certainly would like to know whether they are making responsible loans in my community. What is interesting is that we know that racial disparity prevails today even among neighborhoods of comparable income categories, so we think this will make these lending institutions more responsible. In fact, it will hold them more accountable.

One of the reasons these S&L's got into trouble is because they have been high fliers. They have been more interested in windmill farms and condominiums than they have been in making bankable loans to average consumers who want to buy smaller homes.

Mr. KENNEDY. Mr. Chairman, I yield 1 minute to the gentleman from Minnesota [Mr. VENTO].

Mr. VENTO. Mr. Chairman, I rise in support of the amendment offered by my distinguished chairman and our colleague on the House Banking Committee that will strengthen the disclosure provisions of the Community Reinvestment Act and the Home Mortgage Disclosure Act. By requiring Federal regulatory agencies to disclose the ratings and evaluations that they make of an institution's lending practices with regard to race, gender, or the location of neighborhoods, we will help to ensure that financial institutions in communities across our Nation will remain viable and active members of the very communities they serve.

Mr. Chairman, I disagree with those that say that this amendment, this policy initiative, this opportunity, is somehow not the right time to tackle the issue of consumer rights and discrimination. For some, it never is the right time to tackle discrimination.

To say that the idea of accountability through disclosure is in some way not germane or irrelevant to the legislation at hand is a smokescreen. The real result is to allow the reprehensible practices of redlining and discriminatory lending by some financial institutions to continue to operate virtually in the dark without oversight. This is the amendment—the necessary policy. This is the bill. This is the time to force financial institution accountability through public disclosure.

This bill has been referred to as a bailout bill. Congress is considering the allocation of hundreds of billions of dollars to replenish the insurance fund commitment to millions of depositors and permit the S&L industry to continue to function. These financial institutions have a legal and moral responsibility to practice nondiscriminatory lending. It is not extraneous nor onerous to require that information already being collected from institutions regarding their lending practices to prospective borrowers be made public. Monumental bailout sums such as we require here deserve to have responsible public policy strings attached.

Mr. Chairman, I urge my colleagues to support this amendment.

Mr. KENNEDY. Mr. Chairman, I yield 1 minute to the gentleman from Pennsylvania [Mr. WALKER].

Mr. WALKER. Mr. Chairman, I thank the gentleman for yielding me this time.

Mr. Chairman, some of my colleagues do not believe that this is the right time and the right place to address redlining, but this is the place and the time the Rules Committee has given us. I have to tell the Members that from my position redlining is an abomination. It is an abominable practice that needs to be eliminated.

I might say to some of my conservative friends that the problem is that we often oppose things that are raised in the name of civil rights that are being spending measures, and I believe we ought to try to hold the public purse and we probably ought to

oppose those things. But here is something where we are talking about opportunity and access. We are not talking about spending a lot of money; we are talking about opportunity and access, and we have been given the opportunity to address it.

So, Mr. Chairman, I rise in support of the gentleman's amendment.

Mr. BARNARD. Mr. Chairman, will the gentleman yield?

Mr. WALKER. I am glad to yield to the gentleman from Georgia.

Mr. BARNARD. Mr. Chairman, I appreciate the gentleman's yielding.

The point is that we do not have any consistency here. Each regulatory agency has its own standard for CRA.

Mr. WALKER. Reclaiming my time, Mr. Chairman, I appreciate the gentleman's point. The problem is that I see many, many times when the Rules Committee has only given us a certain time to act, and this is the time we have to act.

Mr. WYLIE. Mr. Chairman, I yield myself 3 minutes.

Mr. Chairman, I agree with the gentleman who just spoke in the well that redlining is an abomination and it should be discontinued. The gentleman's amendment, though, may I submit to the gentleman from Pennsylvania, is a very mischievous amendment.

At a time when our preeminent concern is the public's perception of the safety and soundness of financial institutions, I think the last thing we should do is to be proposing a public disclosure of the ratings of an institution that could be misinterpreted by its depositors.

This all-encompassing amendment on which we have not had an opportunity for hearings, in addition to covering mortgage subsidies—and I wish the gentleman from Pennsylvania would listen to this—not only includes bank subsidiaries but also includes and extends the Home Mortgage Disclosure Reporting Act to any person who engages in the business of mortgage lending, which would include insurance companies, pension plans, and so forth. We have not had hearings in the Banking Committee on those issues, and may I say that HMDA was summarily extended in the housing act later, and the Federal Reserve, in response to our bill, has only now come forward with a copy of a pamphlet with guidelines on how you may comply with this Home Mortgage Disclosure Act. Here it is.

I strongly oppose this amendment, because we tried this out in our committee. It was defeated on a bipartisan basis. It is a combination of three amendments. Why it was made in order to this bill by the Rules Committee, I do not know.

Mr. CONYERS. Mr. Chairman, will the gentleman yield?

Mr. WYLIE. Mr. Chairman, let me finish first.

Disclosure of CRA ratings, as I said, could be confused by the public with safety and soundness ratings. Can we imagine what would happen if a savings and loan we are trying to close and pay off the depositors has a bad numerical rating by one of these agencies? I think it would be confusing and potentially very destabilizing at a time when we do not want to destabilize.

Under this amendment, under the home mortgage disclosure provision, information would be published, but not for the legitimate reasons of being turned down for the reasons of debt load and creditworthiness. And also it would apply to the Nation's 14,000 banks.

The amendment is very controversial. I think we need to have more time and have a full hearing in the Banking Committee. I know that the Senate defeated a similar amendment on the Senate floor, and I urge my colleagues to defeat the amendment on the House floor.

Mr. CONYERS. Mr. Chairman, will the gentleman yield now?

Mr. WYLIE. I yield to the gentleman from Michigan.

Mr. CONYERS. Mr. Chairman, I know that the gentleman from Ohio would not want to stand between the gentleman from Massachusetts [Mr. KENNEDY] bringing together the gentleman from Pennsylvania [Mr. WALKER] and the gentleman from California [Mr. DELLUMS]. We have something here that is unparalleled in S&L legislation. This may never happend again, I say to the gentleman.

Mr. WYLIE. Mr. Chairman, I am more concerned about another issue, may I say to the gentleman from Michigan.

Mr. KENNEDY. Mr. Chairman, I yield 1 minute to the gentleman from New York [Mr. FLAKE].

Mr. FLAKE. Mr. Chairman, as we stand here today and address this savings and loan bill, it is interesting to me that every time we talk about something that affects the lives of people, we talk about the American people and we talk about the public. I want to ask a question. Who is the public? Who are the American people?

□ 1850

Obviously it is not representative of those people who have been discriminated against, people who apply for loans who have the resources, the wherewithal, to be able to pay their mortgage on a timely basis and yet in many instances are denied in a community like mine, like Queens, where out of every 1,000 applications that are made, 42 of them, if they are white, are accepted. Eighteen of them are accepted if they are not.

Mr. Chairman, there is something wrong when we reduce this to geographical—talking about geography. We know that certain ZIP Codes represent certain predominantly minority communities. Other ZIP Codes represent communitites that are not predominantly minority.

Who are we fooling? We have already made the drawing line, we have cut the edge. We need to be clear about one thing.

Mr. Chairman, that is that red lining represents the height of the discrimination and that this is an opportunity for us in the House of Representatives to say to all Americans:

We are concerned about you, we're going to do the right thing for you, and we're going to be just in our pursuit.

Mr. KENNEDY. Mr. Chairman, I yield 4 minutes to the gentleman from California [Mr. DELLUMS].

The CHAIRMAN. The 4 minutes will conclude the time of the gentleman from Massachusetts.

Mr. DELLUMS. Mr. Chairman and my colleagues, first I would like to join my distinguished colleague, the gentleman from Michigan [Mr. CONYERS] in complimenting our distinguished colleague, the gentleman from Pennsylvania [Mr. WALKER]. I admire his integrity and his consistency as a conservative at this particular moment.

There has been a great deal of discussion on this floor about this amendment. I find it almost uncanny. The gentleman from Massachusetts [Mr. KENNEDY] and the gentleman from Texas [Mr. GONZALEZ] simply are asking for information. But Members on both sides of the aisle are coming forward suggesting that there is some extraordinary burden placed upon institutions in order to provide this information, which leads me to believe that they do not want this information to become public.

Therefore, Mr. Chairman, I feel even stronger about this amendment than I did when I walked on the floor of Congress by simply listening to the quality of the opposition. If people are so afraid to receive information in a body that ostensibly prides itself in sunshine and disclosure, suddenly we are talking about a billion of multibillions of dollars that will cost American taxpayers across race, across sex, across class, and across geography billions of dollars in real terms, and in priority terms, and in programmatic terms.

So, in the context of this institution we ought to be willing, Mr. Chairman and members of this Committee, to say that in America in 1989, "This is not America 1929. This is not America 1939."

I hope, Mr. Chairman, not to die in a nation that is not intelligent enough, and bright enough and compassionate enough to get beyond the earthbound, mundane, pedestrian notions of race, and yet here we are in 1989

playing these extraordinary games about why institutions cannot give this information. Do not give me these flimsy reasons.

The gentleman from Massachusetts [Mr. KENNEDY] is correct, very straightforward. We know that blacks and other Third World people in this country have not been the beneficiaries of billions of dollars in monetary largesse. We know that. We know redlining is a reality, Mr. Chairman.

Some Members have said, "Well, we don't know what this amendment will do."

Huh? Mr. Chairman, they know exactly what it will do. That is why they are opposed to it.

Mr. Chairman, maybe this information may not be useful. If it is not useful, we will throw it out. However, if it is, we have the basis upon which to establish national policy.

I am shocked and appalled that I still live in a nation that has not embraced national policies that say, "All human beings, irrespective of race, creed or color, national origin, economic attainment, sexual preference, or whatever, are equal human beings in the context of American government."

I urge every single one of my colleagues to support this amendment. There is no rational, sane reason for opposition to this amendment that has merit. If my colleagues believe in the rights and the dignity of human beings, then they have to support this amendment. If they believe that redlining is an abomination, they should support this amendment. If they believe racism and discrimination should be abolished from the American scene, they should support this amendment.

Mr. Chairman, this is no amendment that is earth shattering. There are no great teeth in this amendment. There is no enforcement in this amendment. It simply asks for information.

Are we in this body afraid of information? This is a body that has paraded across the American scene for the last few weeks concerned about ethics. We cannot be ethically concerned about dealing with the eradication of discrimination and redlining, one of the great ethical issues of our time.

The CHAIRMAN. The gentleman from Ohio [Mr. WYLIE] has 3½ minutes remaining.

Mr. WYLIE. Mr. Chairman, I yield myself the 3½ minutes.

Mr. Chairman, I do not expect to compete with the oratory of the gentleman from California [Mr. DELLUMS], but I do think that something needs to be said.

Everyone is against redlining, but this just does not apply to race. This amendment requires lenders to report loans and applications grouped by race, sex, and income. This is a triple reporting requirement because every borrower has three characteristics, race, sex, and income.

This reporting requirement is further complicated by the fact that most mortgages are sought by couples. Will reporting requirements for the race, sex, and income of each applicant literally double the reporting requirements?

This amendment includes a third element that was also rejected by the Committee on Banking, Finance and Urban Affairs, a burdensome new reporting requirement that all depository institutions report on the geographic origin of their deposits. What does that have to do with redlining? I submit it does not have anything to do with redlining.

This amendment is not related to the bill's purpose, which is to try to fix our savings and loan system. The Senate had a similar debate. Mr. DIXON suggested and moved that they have hearings on the amendment, and that is what the Senate is doing, and it was not voted on as a part of the savings and loan crisis bill over in the Senate, and I suggested we do the same thing in the House, that we turn it down here and have some hearings on it in the Committee on Banking, Finance and Urban Affairs so we will know for sure what we are doing.

Mr. HILER. Mr. Chairman, will the gentleman yield?

Mr. WYLIE. I yield to the gentleman from Indiana.

Mr. HILER. Mr. Chairman, I would ask for a question of great concern on this issue, but to the best of the knowledge of the gentleman from Ohio [Mr. WYLIE] has the Committee on Banking, Finance and Urban Affairs held separate hearings on either of these two issues in the last 4, 5, 6 years?

Mr. WYLIE. Mr. Chairman, we have not. At least we have not had any hearings on whether a depository institution should report on the geographic origins of their deposits and make that public. We have not had any hearings on whether this should be a public disclosure based on whether it is on race, creed, or origin of the loan. Those subjects have not been the subject of hearings by the Committee on Banking, Finance and Urban Affairs I submit.

Mr. BARNARD. Mr. Chairman, will the gentleman yield?

Mr. WYLIE. I yield to the gentleman from Georgia.

Mr. BARNARD. Mr. Chairman, let me say that I certainly appreciate the fine speech that was made by the gentleman from California [Mr. DELLUMS]. I think he is right on target, but this is not a antiredline bill.

Mr. Chairman, all we are saying is, "Why don't we have a deliberative process? Why don't we bring all of these facts to the attention of our committee?"

Mr. KENNEDY. All we are trying to do—Mr. Chairman, will the gentleman yield?

Mr. BARNARD. Mr. Chairman, I only have a few seconds.

Mr. Chairman, I ask my colleagues, "Why don't we go through a deliberative process? Why are we trying to hide all these facts? Why doesn't the Banking Committee have hearings?"

Mr. Chairman, we are not trying to hide anything. We should have a bill to address all of that.

That is the point. The point is not that we are trying to deprive somebody of credit. That is not it at all. The idea is that we have never addressed CRA in the Committee on Banking, Finance and Urban Affairs. When it goes back to 1977 or 1978, when this was first brought, it was brought not through our Committee on Banking, Finance and Urban Affairs. It was never voted on on this floor. It was accepted in conference.

All we are saying is, "Let's do it right. Let's do it through the deliberative process and not just by some emotion."

Mr. ESPY. Mr. Chairman, I am glad to rise in support of the amendment offered jointly by the distinguished chairman of the Banking Committee and colleague from Massachusetts.

This amendment offers further assurances to the people who are served by our Nation's mortgage lenders that they will be dealt with fairly and honestly. I believe the current reporting regulations for lenders requires disclosure on the number of loans that are made within tracts and this is too general and needs more detail.

Some may see this amendment as regulatorily burdensome, but surely you can see Mr. Chairman, it is the assurances of fairness and access that are sought. The mortgage lenders will be required to disclose the number of applications they receive by categories of race, income, and gender, and the number of applications they approve by the same categories.

Mr. Chairman, this is another step we must take toward a just lending system. It is a step toward protecting against the creeping possibilities of redlining and outright lending discrimination.

I am glad to rise in support of the Kennedy-Gonzalez amendment, and I urge the support of my colleagues.

The CHAIRMAN. All time has expired.

The question is on the amendment offered by the gentleman from Massachusetts [Mr. KENNEDY].

The question was taken; and the Chairman announced that the ayes appeared to have it.

RECORDED VOTE

Mr. WYLIE. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 214, noes 200, answered "present" 5, not voting 14, as follows:

[Roll No. 91]

AYES—214

Ackerman	Gordon	Pallone
Akaka	Gradison	Panetta
Anderson	Gray	Parker
Annunzio	Green	Pashayan
Aspin	Guarini	Payne (NJ)
Atkins	Gunderson	Pease
AuCoin	Hall (OH)	Pelosi
Bates	Harris	Perkins
Beilenson	Hawkins	Petri
Bennett	Hayes (IL)	Poshard
Berman	Henry	Pursell
Bevill	Hertel	Rahall
Boehlert	Hochbrueckner	Ravenel
Boggs	Hopkins	Richardson
Bonior	Horton	Rinaldo
Borski	Hoyer	Ritter
Boxer	Hubbard	Roe
Brennan	Hughes	Rose
Broomfield	Jacobs	Rostenkowski
Brown (CA)	Jones (NC)	Roybal
Brown (CO)	Jontz	Russo
Bryant	Kaptur	Sabo
Bustamante	Kasich	Savage
Campbell (CA)	Kastenmeier	Sawyer
Cardin	Kennedy	Scheuer
Carper	Kennelly	Schneider
Carr	Kildee	Schroeder
Clay	Kleczka	Schuette
Coleman (TX)	LaFalce	Schumer
Conte	Lantos	Sensenbrenner
Conyers	Leach (IA)	Sharp
Cooper	Lehman (CA)	Shays
Costello	Lehman (FL)	Sikorski
Coughlin	Leland	Slaughter (NY)
Courter	Levin (MI)	Smith (FL)
Coyne	Levine (CA)	Smith (IA)
Crockett	Lewis (GA)	Smith (NJ)
Dannemeyer	Long	Snowe
de la Garza	Lowey (NY)	Solarz
DeFazio	Luken, Thomas	Spratt
Dellums	Machtley	Staggers
Dicks	Markey	Stark
Dixon	Martin (IL)	Stokes
Donnelly	Martinez	Studds
Dorgan (ND)	Matsui	Swift
Downey	Mavroules	Synar
Durbin	Mazzoli	Tallon
Dwyer	McCloskey	Tauke
Dymally	McCurdy	Torres
Dyson	McDade	Torricelli
Early	McDermott	Towns
Eckart	McNulty	Traficant
Edwards (CA)	Mfume	Traxler
Engel	Michel	Udall
Erdreich	Miller (CA)	Unsoeld
Espy	Miller (WA)	Upton
Evans	Mineta	Vento
Fazio	Moakley	Visclosky
Feighan	Moody	Walgren
Fish	Morella	Walker
Flake	Morrison (CT)	Walsh
Florio	Mrazek	Watkins
Foglietta	Nagle	Waxman
Ford (MI)	Natcher	Weiss
Frost	Neal (MA)	Weldon
Garcia	Nowak	Wheat
Gejdenson	Oakar	Wise
Gekas	Oberstar	Wolpe
Gephardt	Obey	Wyden
Gibbons	Ortiz	Yates
Gilman	Owens (NY)	
Gonzalez	Owens (UT)	

NOES—200

Alexander	Boucher	Darden
Andrews	Browder	DeLay
Anthony	Bruce	Derrick
Applegate	Bunning	DeWine
Archer	Burton	Dickinson
Armey	Byron	Dingell
Baker	Callahan	Dornan (CA)
Ballenger	Campbell (CO)	Douglas
Barnard	Chandler	Dreier
Bartlett	Chapman	Duncan
Barton	Clarke	Edwards (OK)
Bateman	Clement	Emerson
Bentley	Clinger	English
Bereuter	Coble	Fascell
Bilbray	Combest	Fawell
Bilirakis	Cox	Fields
Bliley	Craig	Frenzel
Bosco	Crane	Gallegly
Gallo	Lukens, Donald	Sarpalius
Gaydos	Manton	Saxton
Gillmor	Marlenee	Schaefer
Gingrich	McCandless	Schiff
Glickman	McCollum	Schulze
Goodling	McCrery	Shaw
Goss	McEwen	Shumway
Grandy	McGrath	Shuster
Grant	McMillan (NC)	Skaggs
Hall (TX)	McMillen (MD)	Skeen
Hamilton	Meyers	Skelton
Hammerschmidt	Miller (OH)	Slattery
Hancock	Molinari	Slaughter (VA)
Hansen	Mollohan	Smith (MS)
Hastert	Montgomery	Smith (NE)
Hatcher	Moorhead	Smith (TX)
Hefley	Morrison (WA)	Smith, Denny (OR)
Hefner	Murphy	Smith, Robert (NH)
Herger	Murtha	Smith, Robert (OR)
Hiler	Myers	Solomon
Hoagland	Neal (NC)	Spence
Holloway	Nelson	Stallings
Houghton	Nielson	Stangeland
Huckaby	Olin	Stearns
Hunter	Oxley	Stenholm
Hutto	Packard	Stump
Hyde	Parris	Sundquist
Inhofe	Patterson	Tanner
Ireland	Paxon	Tauzin
James	Payne (VA)	Thomas (CA)
Johnson (CT)	Penny	Thomas (GA)
Johnson (SD)	Pickett	Thomas (WY)
Johnston	Pickle	Valentine
Jones (GA)	Porter	Vander Jagt
Kanjorski	Price	Volkmer
Kolbe	Quillen	Vucanovich
Kolter	Ray	Weber
Kostmayer	Regula	Whittaker
Kyl	Rhodes	Whitten
Lagomarsino	Ridge	Williams
Lancaster	Roberts	Wilson
Laughlin	Robinson	Wolf
Leath (TX)	Rogers	Wylie
Lent	Rohrabacher	Yatron
Lewis (CA)	Roth	Young (AK)
Lewis (FL)	Roukema	Young (FL)
Lightfoot	Rowland (CT)	
Livingston	Rowland (GA)	
Lloyd	Saiki	
Lowery (CA)	Sangmeister	

ANSWERED "PRESENT"—5

Brooks	Madigan	Sisisky
Hayes (LA)	Martin (NY)	

NOT VOTING—14

Buechner	Flippo	McHugh
Coelho	Ford (TN)	Rangel
Coleman (MO)	Frank	Smith (VT)
Collins	Jenkins	Wright
Davis	Lipinski	

□ 1918

The Clerk announced the following pairs:

On this vote:

Mr. Jenkins for, with Mr. Flippo against.

Mr. Rangel for, with Mr. Buechner against.

Mr. SLATTERY and Mr. DONALD E. "BUZ" LUKENS changed their votes from "aye" to "no."

Messrs. STAGGERS, PASHAYAN, and SCHUETTE changed their vote from "no" to "aye."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

□ 1920

AMENDMENT OFFERED BY MR. DORGAN OF NORTH DAKOTA

Mr. DORGAN of North Dakota. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. DORGAN of North Dakota:

Page 199, after line 5, insert the following new section:

SEC. 223. PROHIBITION OF INVESTMENTS BY INSURED SAVINGS ASSOCIATIONS IN JUNK BONDS.

The Federal Deposit Insurance Act (12 U.S.C. 1811 et seq.) is amended by inserting after section 30 (as added by section 222(b) of this Act) the following new section:

"SEC. 31. PROHIBITION ON INVESTMENTS BY INSURED SAVINGS ASSOCIATIONS IN JUNK BONDS.

"(a) IN GENERAL.—Except as provided in subsection (c), no insured savings association and no subsidiary of any insured savings association may acquire or retain any junk bond.

"(b) JUNK BOND DEFINED.—For purposes of this section—

"(1) IN GENERAL.—The term 'junk bond' means any obligation of a corporation evidenced by a bond, debenture, note, or certificate, or other evidence of indebtedness, if such obligation meets the requirements of one of the subparagraphs of paragraph (2).

"(2) REQUIREMENTS.—

"(A) SUBORDINATION.—An obligation meets the requirements of this subparagraph if principal or interest with respect to such obligation is—

"(i) subordinated to the claims of trade creditors of the issuing corporation generally,

"(ii) subordinated to the payment of any substantial amount of unsecured indebtedness, either outstanding or subsequently issued, of the issuing corporation.

"(B) RATING IS BELOW INVESTMENT GRADE.—An obligation meets the requirements of this subparagraph if such obligation bears, at the time of its issue, a rating from any nationally recognized rating agency and such rating is below that agency's rating for investment grade obligations.

"(C) HIGH YIELD TO MATURITY.—An obligation meets the requirements of this subparagraph if—

"(i) such obligation, at the time of its issue, has a yield to maturity of more than 135 percent of the applicable Federal rate (as defined in section 1274(d) of the Internal Revenue Code of 1986) with respect to such obligation; or

"(ii) all or a portion of the principal or interest payable pursuant to the terms of such obligation is guaranteed by a person which is not a member of the affiliated group of corporations which includes the issuing corporation.

"(D) OTHER EQUITY FEATURES.—An obligation meets the requirements of this subparagraph if—

"(i) such obligation is by its terms at any time convertible into or exchangeable or redeemable for any property other than cash at the option of any person or otherwise;

"(ii) such obligation is part of an investment unit or other arrangement which includes, in addition to such obligation, an equity interest in any entity or an option to acquire, directly or indirectly, an equity interest in any entity, or

"(iii) the amount of, or due date for, any payment of principal or interest with respect to such obligation is, under the terms of such obligation, contingent.

"(3) AFFILIATED GROUPS.—All members of an affiliated group of corporations which includes the issuing corporation shall be treated in the aggregate, pursuant to regulations prescribed by the appropriate Federal banking agency, as the issuing corporation.

"(4) AFFILIATED GROUP DEFINED.—For purposes of this subsection, the term 'affiliated group' has the meaning given to such term by section 1504(a) of the Internal Revenue Code of 1986 (determined without regard to the exceptions contained in section 1504(b)).

"(c) TRANSITION RULE.—Notwithstanding subsection (a), any insured savings association, or any subsidiary of an insured savings association, which holds a junk bond on the date of the enactment of the Financial Institutions Reform, Recovery and Enforcement Act of 1989 may not be required, by the appropriate Federal banking agency, to divest such junk bond before the end of the 2-year period beginning on such date, unless the agency determines that the divestment of the junk bond by such institution or subsidiary is necessary (before the end of such period) to protect the safety and soundness of the insured savings association.".

The CHAIRMAN. The gentleman from North Dakota [Mr. DORGAN] will be recognized for 20 minutes.

Mr. NEAL of North Carolina. Mr. Chairman, I oppose the amendment.

The CHAIRMAN. The gentleman from North Carolina [Mr. NEAL] will be recognized for 20 minutes.

The Chair recognizes the gentleman from North Dakota [Mr. DORGAN].

Mr. DORGAN of North Dakota. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, the amendment that I have offered today is not a very complicated amendment. The amendment essentially says that while we are here to bail out the thrift institutions and provide substantial public money for failed thrifts, we want to prevent those same institutions and other institutions in the thrift industry from purchasing so-called junk bonds. Junk bonds are a special category of high-risk bonds, so defined by their name, junk, because they are by definition high-risk, noninvestment-grade bonds.

The question is, Do we want savings and loans in this country, at a time when so many of them have failed, and so many now require a Federal bailout, to go out and purchase substantial quantities of junk bonds? I think the answer is "No."

The point is, Mr. Chairman, I do not think we ought to provide this bailout and commit substantial Federal funds, and then just sort of turn away and say it is fine if the thrifts now want to go out and continue to buy junk bonds, by definition high-risk assets.

There is about a $200 billion market in this country now for junk bonds, and it has grown exponentially. About $13 billion in junk bonds is now held by thrifts, and almost three-quarters of that is owned by only a dozen or so institutions.

The purpose of my amendment is to say if we are going to provide the taxpayers with a guarantee for their deposits, we do not want those deposits to be invested in high-risk ventures. Junk bonds are high risk.

Federal banks, banks in this country, are not able to invest in junk bonds. Members will not see junk bonds in the portfolios of banks, and yet this bill, with the Senate bill, unless it is amended, would see the savings and loans continue to buy additional junk bonds.

My amendment does two things. It says you shall not purchase or retain junk bonds, number one; and for those who have, they have 2 years to divest them. That is a very simple amendment.

Let me make a couple of quick observations. Some have floated some notions around this House today that this amendment would somehow catch Ginnie Mae and Freddie Mac. I just got off the phone with the Ginne Mae folks, and they said, Look, we are not affected by this amendment. This amendment talks only about corporate obligations. We don't issue them, we issue agency securities.

So whoever is floating that sort of admonition about this amendment, that is simply not the case. This amendment attempts to focus on junk bonds, and we provide a definition.

Let me be quick to admit that maybe the definition is not perfect. I do not know. If there are some unintended effects from this definition, I am certainly willing to work with Members in conference to correct it. But at least those effects that have been floated in the last day or so do not turn out to be accurate.

So, Mr. Chairman, that is my amendment. I hope the House will consider it seriously and pass it this evening so that when we bail out the thrifts we are not saying to them yes, we have bailed you out, but you just continue going right on ahead and buying junk bonds, because we think that is just fine. With this Member, it is not just fine. It is far too risky to have them now throwing the dice when the taxpayer is required to pick up the bill.

Mr. Chairman, I reserve the balance of my time.

Mr. NEAL of North Carolina. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, the committee has considered this question a number of times over recent years, and in almost every instance has voted to allow savings and loans to own high-yield bonds. The reason generally has been diversity. It has been felt that an institution is in better health if it can diversify its lending portfolio.

In the case of the bill that we are dealing with now, we are taking the approach of higher capital requirements for different kinds of investments. Let me give an example of what I mean by diversity. Let us take the example of a community, for instance, like one of those in Texas that was hard hit when oil prices fell dramatically and agriculture prices fell at the same time. Therefore, people got behind on their mortgage loans and so on. If a savings and loan had all of its investments in housing loans, for example, and that community had a turndown, then that savings and loan is in trouble. It has all of its eggs in one basket, as they say. But if they can diversify their portfolio, they have a better chance of surviving a downturn.

Junk bonds, of course, is a pejorative term. What that means is that they are not rated as highly as investment grade bonds. But if we can sort of get beyond that and look at a few facts, the General Accounting Office did a study of the impact of high-yield bonds on the savings and loan problem. Let me show Members this headline which states, "Junk Bonds Not to Blame for Saving and Loan Ills, GAO Finds."

Let me quote from the first few sentences. This is Washington, dated March 2, 1982.

A widespread assumption that rapid and reckless investment in junk bonds contributed to the thrift industry crisis is wrong, according to the General Accounting study to be released today. There is no evidence that investment in high-yield bonds has been responsible for current problems of the 500 insolvent institutions comprising a troubled segment of the thrift industry, said Assistant Comptroller General, Richard L. Fogel, in written testimony.

Mr. Chairman, as I started to say, the approach to this bill is to apply risk-based capital standards. In the case of high-yield bonds, the capital requirement would be twice what it is for a home mortgage loan.

□ 1930

We think that is the right approach. But if you go beyond that and say for some reason that you do not agree with the GAO, you do not agree with the committee and say that junk bonds, high-yield bonds should never be allowed. I think we ought to take a fairly close look at this amendment itself. The author of the amendment is correct. There was an earlier concern that it might have affected FNMA's and FHLMC's, but we believe that is not the case.

We believe it is the case, though, that it would stop savings and loans from holding investments in what are known as REMIC's, real estate mortgage investment certificates, and CMO's, which are collateralized mortgage obligations. Both of these are mortgages packed as securities and then sold to the public to provide money for housing finance.

Billions of dollars for housing finance would not be available if we prohibit savings and loans from buying these instruments. I just frankly cannot see what is served by this.

The regulators already have the ability to prohibit any such invest-

ment or any high-yield bond if in their opinion it is risky to an institution.

I believe this is overkill, unnecessary. I believe there are some other, maybe drafting flaws, you would say, in here. For instance, the language says that a thrift institution could not own one of these bonds if it were below investment grade at the time of its issue.

In the case of Chrysler and WPPSS, for example, those were investment grade at the time of issue but later they became very risky and in the case of Chrysler they came back and they are high-yield again.

Mr. LENT. Mr. Chairman, will the gentleman yield?

Mr. NEAL of North Carolina. I have a few other folks I would like to yield to. I have talked too long. Let me stop at this point and recognize some of the gentlemen who are on the list.

Mr. LENT. Will the gentleman yield just briefly?

Mr. NEAL of North Carolina. I yield to the gentleman briefly.

Mr. LENT. I thank the gentleman for yielding.

Mr. Chairman, No. 1, I do not serve on the Banking Committee. I serve on the Committee on Energy and Commerce. But I was concerned, curious as to whether any of the failures of the S&L's across the country have been attributed to ownership of high-yield bonds?

Mr. NEAL of North Carolina. No. The General Accounting Office has said that none of them are attributed to high-yield bonds.

Mr. LENT. Has anybody looked into what the effect would be on the marketplace if some $13 billion worth of high-yield bonds had to be divested and dumped out into the marketplace?

Mr. NEAL of North Carolina. I think the gentleman makes a very good point. There have been no hearings on this. We do not know what the effect of that would be. I believe it would be a very poor effect.

Mr. Chairman, I reserve the balance of my time.

Mr. DORGAN of North Dakota. Mr. Chairman, I yield 3 minutes to the gentleman from Iowa [Mr. LEACH].

Mr. LEACH of Iowa. I thank the gentleman for yielding.

I would simply say there may be some subtle definitional problems that need cleaning up in conference. But the question this amendment poses to Congress is simple: Should the U.S. taxpayer subsidize leveraged buyouts, takeover artists, and large corporate mergers? If you think the Federal Government's scarce resources should be stretched for such Wall Street machinations, then you should not support this amendment. If you think the savings and loan industry should help middle-class families finance the purchase of their homes, then you should support this amendment.

Every billion dollars that a thrift invests in junk bonds is $1 billion less for families to invest in their homes.

Alas, this body and various State legislatures have passed legislation in the past that has turned institutions designed to serve the little guy into the private piggybanks for the well-heeled.

The question before us with this amendment is whether thrifts should be allowed to have governmental subsidies—including Federal deposit insurance, tax breaks, access to cheap money through Federal home loan banks—for concentration of corporate ownership or for decentralization of home ownership, whether middle-class families should have to stand in line for credit behind Ivan Boesky, F.J. Reynolds, and Mike Milken.

Finally, a note about risks: While junk bonds do have a yield, they may not be high enough. In a recent Harvard study, the default rate for high-yield so-called junk bonds issued between 1977 and 1978 was 34 percent, for bonds issued between 1979 and 1983, between 19 and 26 percent; and for bonds issued between 1984 and 1986, 4 to 9 percent. Junk bonds defaulted at these extraordinarily high rates during the longest peacetime expansion in the history of this economy.

The Harvard study thus punctures two commonly held assumptions: One, that the default rate for junk bonds is less than 2 percent; and second, that the problems in the junk bond market will only emerge when the economy stutters.

The fact is they are risky investments in good times as well as bad. Therefore from a safety and soundness perspective as well as from the perspective of home ownership this body should reorder its priorities and support this amendment.

Using thrifts to finance the junk bond market is an idea whose time has gone.

Mr. NEAL of North Carolina. Mr. Chairman, I yield 2 minutes to the gentleman from Kentucky [Mr. HUBBARD].

Mr. HUBBARD. Mr. Chairman, I rise in opposition to the Dorgan amendment to prohibit federally insured savings and loan institutions from acquiring or retaining high-yield bonds. Permit me to share the following information with my colleagues about why I am opposed to this amendment.

A widespread assumption that rapid and reckless investment in high yield or junk bonds has contributed to the thrift industry crisis is wrong, according to the General Accounting Office [GAO] study that was released during the hearing held March 2 of this year by our House Banking Subcommittee on General Oversight and Investigations, which I am privileged to chair. Indeed, our General Oversight and Investigations Subcommittee has held several hearings on the issue of high yield securities and federally insured institutions, one during the 99th Congress and the one I mentioned earlier, the March 2 hearing, concerning these bonds.

I think the findings of the March 2 hearing are notable. According to Assistant Comptroller General Richard L. Fogel:

> There is no evidence that investment in high yield bonds has been responsible for the current problems of the 500 insolvent institutions comprising the troubled segment of the thrift industry.

The GAO also concluded that,

> No thrift has failed because of unsuccessful high yield bond investing.

The GAO also concluded that an actively managed and diversified portfolio of high yield bonds has provided savings and loans with higher returns than other investments, such as U.S. Treasury bonds, adjustable rate mortgages and commercial loans, after taking defaults into account.

By definition high yield bonds do pay a higher rate of return than "investment grade" debt due to their slightly greater rate of default: Around 1.5 to 2 percent annually. However, the Federal regulatory agencies are already initiating the establishment of new safeguards for high yield securities. In January 1989, the Federal Home Loan Bank Board issued guidelines for investing in high yield bonds by FSLIC-insured institutions. These new directives limit investments by thrifts with low capital ratios and prohibit investments by insolvent institutions.

The Dorgan amendment is unnecessary. H.R. 1278 gives the FDIC and the new Federal Home Loan Bank System the full authority to restrict or prohibit investment in high yield bonds. Further, H.R. 1278 will likely result in a requirement that savings and loans that invest in high yield bonds must raise double the capital that would be required for home mortgages.

There are many other reasons to oppose the Dorgan amendment. In summary, let me just urge my colleagues to avoid an issue that is born out of emotion. There are no facts to support the Dorgan amendment, and if my colleagues are serious about wanting to assure a healthy and profitable thrift industry in the future, I urge them to vote no on the Dorgan amendment.

Mr. DORGAN of North Dakota. Mr. Chairman, I yield 2 minutes to the gentleman from Illinois [Mr. DURBIN].

Mr. DURBIN. Mr. Chairman, I rise in support of the Dorgan amendment. I am happy to cosponsor this amendment.

Those opposed to it have suggested that we would be robbing the thrift industry of delivery.

Let me suggest, ladies and gentlemen of the House, we have robbed the federally chartered banks of this same opportunity for diversity. And the reason we have done so, I think, is very obvious; we have said to these institutions that federally insured banks cannot invest in junk bonds. Why? They are high-risk paper.

They have a 33-percent higher default rate than ordinary investments.

At a time when we are attempting to restore the soundness of the thrift industry, when we are trying to give it back its reputation, why on Earth would we allow thrifts to continue to put their futures in the junk bond market?

How many S&L's are affected if the Dorgan amendment passes? Seventy-six percent of all the junk bonds held by thrifts are held by 10 savings and loans, 10 of them, across the United States, holding $9.9 billion in high-risk junk bonds. Let us return the thrifts to their primary mission, the mission of providing mortgage lending and sound investments. Taking junk bonds out of thrift portfolios means more mortgage money for American families, the same families who are going to have to shoulder the tax burden of this S&L bailout.

□ 1940

Mr. NEAL of North Carolina. Mr. Chairman, I yield 2 minutes to the gentleman from California [Mr. LEHMAN].

Mr. LEHMAN of California. Mr. Chairman, I think anyone who gets up on the floor to say they are not particularly happy with an amendment affecting junk bonds is probably doing so at great risk. However, I do not think this amendment is well drafted, and I think it is more harmful than good.

I think a lot of good was done in the committee with respect to junk bonds. Myself and many members of the committee felt there was too much use of junk bonds by thrifts, and that ought to be curtailed. We took two substantial steps in committee to do that. One, we now have a risk-based capital system for the first time, so that institutions that want to do riskier things must put up more capital. Under the bill, without this amendment, an institution that wanted to buy a high-yield bond would have to have six times as much capital in reserve as they would for a home mortgage to protect against potential losses.

Also, the original Annunzio amendment in subcommittee would raise the qualified thrift test for using the advance window from 60 percent to 80 percent. As one institution in California currently has 40 percent in junk bonds, the most they could have under our bill would be 20 percent, and they would have to reserve six times as much capital for that activity as they would have to for a home mortgage, thus creating a great incentive for home mortgages.

What the gentleman from Illinois [Mr. DURBIN] said with respect to banks is really not true, because banks do deal in risky securities. They do so through their holding companies and through their affiliates and in what is called mezzanine financing. Also, this amendment does not really prohibit entities from purchasing all junk bonds as it was intended to do, because it defines junk bonds as a high-yield bond at the time of issue. Many bonds are at the time of issue, but may be perfectly sound. An institution may buy them, but they become junk down the way. So any institution that wants to buy a high-yield bond after it has been issued may still continue to do so under this amendment, and hold them in their portfolio.

The committee adequately addressed the problem. We should reject this effort.

Mr. DORGAN of North Dakota. Mr. Chairman, I yield 2 minutes to the gentleman from New York [Mr. SOLOMON].

Mr. SOLOMON. Mr. Chairman, I thank the gentleman for yielding time to me.

I fought for this amendment in the Committee on Rules, because it is badly needed. Make no mistake about it, this is an amendment which has to do with standards, which is why we are here tonight. If the House is going to be consistent with the vote which was cast several hours ago on cap standards, this amendment should be adopted.

Mr. Chairman, it makes no sense at all to commit tens of billions of dollars' worth of taxpayers' money to rescue savings and loan industries without at the same time addressing those practices which brought the S&L industry to ruin in the first place.

Low capital requirements were only part of the problem. It is high time we started looking at investment standards. This amendment does exactly that. It is a great amendment. It is also time that the savings and loan industry was brought back to reality. This amendment works to that end.

Mr. Chairman, there is only one restriction currently governing investments in junk bonds by federally insured thrifts. S&L's may invest up to 11 percent of its tangible assets for this purpose. Now that is a hot one. This bill would set a core capital requirement at 3 percent, but a thrift would be permitted to put nearly quadruple that amount into high-risk bonds. That does not make any sense at all, gentlemen. If Members really want to do what we are all expected to do here, which is solve this problem, Members will enact this amendment today. The gentleman from North Dakota, Mr. DORGAN's amendment is badly needed to back up this bill.

Mr. NEAL of North Carolina. Mr. Chairman, I yield 2 minutes to the gentleman from Indiana [Mr. HILER].

Mr. HILER. Mr. Chairman, I thank the gentleman for yielding to me.

I think the gentleman from New York is mixing apples and oranges on assets and capital, but I would like to reiterate a couple of comments that the gentleman from California [Mr. LEHMAN] made, because I think they are particularly succinct.

No. 1, we have instituted in this bill risk-based capital so that any thrift that would invest in a high-yield bond will have to have higher capital standards backing up that investment in that high-yield bond. So in a sense we are preserving at the time of investment the concept that there will be capital to back it up. No. 2, thrifts have to meet a qualified thrift lending test. So the amount of total capital or total assets at any time that they can have invested in a high-yield bond is minimized. No. 3, the Fed, the Bank Board System, has already put out regulations in this area and has the authority to issue more regulations and to keep more control on this, if necessary. No. 4, the GAO has done a study that was released as recently as March 1989 that there have not been any thrifts that have gone under, that have gone under because of high-yield bonds.

We keep slaying dragons that are not out here on the floor today. We keep talking that this bill is to clean up a problem, and that somehow high-yield bonds are a part of the problem. They have not been a part of the problem. The GAO and the report used within the last 3 months, and the Congress has indicated as much. Last, 149 thrifts will be obligated to divest $13 billion in bonds over the next 2 years. Does any Member believe that that divesture is going to take place without having a subsequent loss to those thrifts because of that?

I urge my colleagues to vote against this amendment.

Mr. DORGAN of North Dakota. Mr. Chairman, I yield 2 minutes to the gentleman from Minnesota [Mr. PENNY].

Mr. PENNY. Mr. Chairman, I rise in support of the amendment by the gentleman from North Dakota that would prohibit savings associations from investing in junk bonds.

As we have all recently seen, junk bond investments can be extraordinarily speculative and dangerous. Why should the full faith and credit of the U.S. Government be behind an insured thrift that sees fit to speculate in the volatile junk bond markets? Why should U.S. taxpayer dollars be threat-

ened by financing risky leveraged buyouts financed by junk bonds?

I would argue that we should not jeopardize our taxpayers' investment in the thrift insurance fund, and we should send a message to the savings institutions that continue to acquire and hold junk bonds. That message is that Congress will no longer tolerate the types of risky investment and speculation that got us in this horrendous situation in the first place.

I urge my colleagues to support this amendment.

The CHAIRMAN. The gentleman from North Dakota [Mr. DORGAN] has 7 minutes remaining, and the gentleman from North Carolina [Mr. NEAL] has 7 minutes remaining.

Mr. NEAL of North Carolina. Mr. Chairman, I yield 2½ minutes to the gentleman from Maryland [Mr. MCMILLEN].

Mr. MCMILLEN of Maryland. Mr. Chairman, today I rise in opposition to the Dorgan amendment offered by my colleague. I commend the gentleman for his intent to put constraints on risky investments, but this amendment is the wrong vehicle. We are attacking the wrong subject, high yield bonds.

It has been noticed that GAO has said last March that there is no connection between defaults and savings and loan and high yield investments. This amendment is an overkill. It is far more extreme than anything the Bush bill, the House bill or the Senate bill has proposed.

I might add, high yield investments are not investments in fly-by-night companies. They are investments in MCI and Holiday Inns, and to respond to what the gentleman from Minnesota said about risky investments, how about a lot of the leveraged buyouts being financed by banks using conventional debt financing? Our bill has plenty of limitations. For one, Federal savings banks can only invest in high yields to the extent of 11 percent. Our bill gives the regulators discretion to cease and desist those investments if a thrift is unprofitable or pursuing unsafe and unsound practices.

Finally, the Bank Board has issued risk-based guidelines that are based on a formula so that the riskier the investment, the more capital they put up. As the gentleman mentioned in the case of high yield, they have to put up 6 times what a home mortgage would require. I might also add if it were a thrift in Texas in the last 4 years and they put all their money into home mortgages, they would be in sorry trouble today. The high yield provisions in this bill is the kind of prudent diversification that is necessary.

□ 1950

If we are going to attract the kind of capital we need in the thrift industry—and believe me, we will need lots of capital—we are going to have to allow them to prudently diversify.

Last and most importantly is the fact that most profitable thrifts in this country have invested in high yield bonds, and I think if we move on the Dorgan amendment, we will be moving in the wrong direction.

Mr. Chairman, I urge a vote against the amendment.

Mr. DORGAN of North Dakota. Mr. Chairman, I yield 2 minutes to the gentleman from Massachusetts [Mr. MARKEY].

Mr. MARKEY. Mr. Chairman, I rise in support of the Dorgan amendment.

I rise to note that "high risk" is the description of these bonds. That is the description, "high risk." That is how they are sold.

"High risk" is the essence of what these financial instruments are.

It is probably true that they have not yet contributed in any substantial way to any of the problems which the S&L industry has. However, the same thing could probably be said about the Texas real estate and oil industries before a recession hit Texas in the oil and real estate industries of the Southwest. At that point we had to test, unfortunately, the portfolio of oil and real estate holdings by the S&L industries of those States, and we saw what happened.

Right now what we have on our hands is a situation where the Senate has passed a bill which caps at 11 percent the assets in junk bonds which any savings and loan can hold. There are $13 billion in junk bonds which are held by all savings and loans in this country, and $9 billion of the $13 billion is held by eight savings and loans. We should not as a matter of public policy allow for those eight savings and loans to be tested in a recession with regard to whether or not the definition, "high risk junk bonds," will in fact have n adverse effect upon their stability. We might as well just start writing out the check right now from the American taxpayer.

This 11 percent in the Senate bill is much, much too high. If we do not like this zero in the Dorgan amendment, we still must vote for it. We must go to the conference committee and dramatically lower the 11 percent overall mix that is allowed for junk bonds in the portfolio or else we will run the risk of repeating the S&L crisis in real estate and oil all over again.

Mr. Chairman, I urge the Members to vote for the Dorgan amendment.

Mr. NEAL of North Carolina. Mr. Chairman, I yield 1 minute to the gentleman from New York [Mr. GREEN].

Mr. GREEN. Mr. Chairman, the proponents of this amendment have been arguing that it deals with high-risk or leveraged buyout paper. But if we read the amendment, that is not what it says at all.

In fact, this amendment makes any convertible debenture illegal for an S&L to hold. It could be a convertible debenture of AT&T or IBM or the best credit in the world, and it is illegal under this amendment.

Despite what has been said earlier, there is nothing in the amendment about leveraged buyouts.

The fact of the matter is that this amendment is just playing on the scare words, "junk bonds." In fact, there is nothing particularly scary about bonds that are convertible debentures, nor need there be anything scary about a prudent portfolio of bonds which are less than triple B, which is an alternative criterion for disqualifying investment under this amendment.

Mr. Chairman, the General Accounting Office has looked at this situation and told us that high-yield bonds have not been a problem, and that the recent regulations of the Home Loan Bank Board deal adequately with this high-yield bond issue. I urge defeat of the amendment.

Mr. DORGAN of North Dakota. Mr. Chairman, I yield 1 minute to the gentleman from Louisiana [Mr. HUCKABY].

Mr. HUCKABY. Mr. Chairman, I thank the gentleman for yielding this time to me.

Mr. Chairman, one of the lessons that should be learned from all of this is that the American people certainly have the right to expect that the Congress, the Government, and the regulators shall be involved and shall have a say in trying to protect the Federal guarantee.

That is what this amendment is about. It just says that junk bonds by definition, by nature, are risky, and they are highly speculative or they would not be in that category. The Federal Government is not going to guarantee these speculative investments, so where we are going to have a guarantee, we are not going to be involved in this type of investment.

Mr. Chairman, this makes sense, and I urge my colleagues to support this amendment.

Mr. NEAL of North Carolina. Mr. Chairman, I yield 1 minute to the gentleman from Ohio [Mr. THOMAS A. LUKEN].

Mr. THOMAS A. LUKEN. Mr. Chairman, if there were no limits in the bill on the percentage of assets which are to be invested in junk bonds, this amendment might make sense.

The proposed amendment, by seeking to totally outlaw high-yield bond investments by all thrifts, regardless of capital, track record, or amount owned, is far more extreme and restrictive than anything proposed by the Bush administration, the Senate, or the Federal Home Loan Bank Board.

This total prohibition is especially unjustified in light of a recent GAO report finding that high-yield bonds have been among the most profitable investments for thrifts through the 1980's and did not contribute in any way to the current crisis. And the big losers would not be the high flyers that caused the crisis, but many of the very profitable, well-capitalized thrifts being counted on to finance the bailout.

It is also unnecessary. The Federal Home Loan Bank Board bars insolvent S&L's from buying high-yield bonds and requires undercapitalized thrifts to get explicit permission to do so; and the House bill gives the regulators unfettered authority to bar any investment by thrifts that threatens the insurance fund; finally, the bill will force S&L's buying high-yield bonds to raise more of their own money than S&L's investing in mortgages, a tough check on abusive high-yield bond investing.

The amendment would require the 149 thrifts that own a total of about $13 billion in high-yield bonds—9 percent of the market—to divest these securities within 2 years. A forced dumping on the high-yield bond market of so many bonds could result in massive price decreases for all other holders of high-yield bonds, and huge losses for those thrifts being forced to liquidate.

S&L's, through their purchase of high-yield bonds, are providing critical growth capital for hundreds of America's fastest growing companies. By wiping out 9 percent of the market, the Dorgan amendment will raise the cost of capital for many of the companies leading America's competitive resurgence.

It is true, as sponsors note, that national banks cannot invest in high-yield bonds. But they do make far riskier junk loans to less developed countries; also, this bill's goal is to preserve a distinct S&L industry, not make all thrifts the same as banks; as long as S&L's must put 60 percent—or more—of their assets into frequently unprofitable home mortgages, they must be able to diversify into areas such as high-yield bonds to generate the profits required to subsidize this mortgage lending obligation.

The CHAIRMAN. The gentleman from North Dakota [Mr. DORGAN] has 4 minutes remaining, and the gentleman from North Carolina [Mr. NEAL] has 2½ minutes remaining.

Mr. NEAL of North Carolina. Mr. Chairman, I yield 1 minute to the gentleman from New York [Mr. LENT].

Mr. LENT. Mr. Chairman, I rise in opposition to the gentleman's amendment to H.R. 1278. The Dorgan amendment would require thrifts to sell off their junk bonds within 2 years and prevent further acquisitions. This amendment has a lot of superficial appeal, and I can understand why some Members might be tempted to support it. One could easily assume that there must be some connection between junk bonds and the S&L failures. I listened in vain to the sponsors explain their amendment for any mention of S&L failure based on failure on high-yield bonds in their portfolio.

S&L's currently own about $13 billion in high-yield bonds. These junk bonds have not been any part of the S&L problem; to the contrary, they have been one the few investments S&L's have made that have performed extraordinarily well. They have not been part of the S&L problem; they have been part of the solution. According to a March 1989 GAO report, "high-yield bonds have not caused the current thrift industry problem." Although high-yield bonds involve a somewhat higher risk than some other investments, they have provided an attractive yield for thrifts compared to many alternative investments. With the new bank board regulations governing high-yield bond investments, this amendment is mischievous. The GAO believes that thrifts can safely invest in high-yields "without incurring unnecessary or unreasonable risk."

This is a classic example of an "if it ain't broke, don't fix it" amendment.

This amendment would prevent thrifts from investing in junk bonds when those bonds have caused no problems. The amendment will prevent thrifts from investing in profitable and safe bonds, and, presumably force thrifts to purchase more speculative investments.

Why do I say this amendment is mischievous? Because it could have an unintended result. It could have a calamitous effect on the high-yield bond markets of the United States and create problems not only for the very thrifts that the amendment purports to protect, but tens of thousands of pension funds and innocent investors with a substantial stake in high-yield bonds. Divestiture of the $13 billion in high-yield bonds now held by S&L's is 10 percent of the junk bond market. Suppose the government forced 10 percent of your neighbors to sell their houses in the next 2 years; what would that edict do to the price of your house? Obviously, the value of your house would fall. I do not think that pulling the rug out from under the bond market and forcing down the value of the thrifts' portfolios will protect the safety and soundness of the thrift industry. And it could hurt thousands of your constituents out in the country who believe in—and invest in—through their pension plans and IRA's and individually, the kind of investment products we are talking about in this amendment.

The definition of junk bonds as used in the amendment is excessively broad. For example, it includes bonds that are "convertible into or exchangeable or redeemable for any property other than cash at the option of any person or otherwise." This provision could include the most blue chip convertible debenture. A AAA rated IBM convertible bond would be considered junk under this amendment.

But even if all of my concerns about the junk bond market are true, why should anybody care? Because junk bonds provide the primary source of fixed rate long term capital for many of America's new companies. I listen to my colleagues on the other side of the aisle bemoaning the fact that American companies are not sufficiently competitive, especially vis-a-vis Japan. Yet this amendment would knock a leg out from under our companies and their ability to obtain the capital that is needed for new plants, new equipment, new products, and new jobs.

Finally, I have a serious procedural concern about this bill. The Rules of the House grants the Energy and Commerce Committee jurisdiction over securities and exchanges. This amendment was never considered by the Energy and Commerce Committee. We have no hearing record on this amendment in the Energy and Commerce Committee—or for that matter, any other committee. It is ill advised for the House to approve an amendment to legislation as important as this bill, without allowing the committee of jurisdiction to look at the issues that the amendment raises.

I believe that this amendment cures a problem that does not exist, and ends up hurting thrifts, American companies, and the American people. I urge my colleagues to look beyond the superficial appeal of this amendment and reject it.

Mr. DORGAN of North Dakota. Mr. Chairman, I yield 1 minute to the gentleman from Wisconsin [Mr. MOODY].

Mr. MOODY. Mr. Chairman, this is a very good amendment. I normally would not think that we should dictate to any private financial institution that any particular investment be off limits. But in fact we are in the S&L mess exactly because S&L's have engaged in a lot of risky investments. These instruments are, by definition, very risky investments, a potentially very dangerous part of a portfolio.

If the S&L's had a track record of very sound portfolio and investment management, a little bit of danger in one corner of their portfolios might be all right. But that is not what we have seen. What we have seen is that in many cases there has been a massive flirtation with danger. We have seen S&L portfolios that have a high mix of danger instead of a low mix of danger. Should the taxpayers insure, by way of S&L's, these highly risky securities.

If we are going to bail these folks out—and I think we have to for the sake of the depositors—I think the taxpayers—the ultimate underwriters—deserve to have some protection in the form of requirements against very high risk material.

So, Mr. Chairman, I urge the adoption of this amendment.

Mr. NEAL of North Carolina. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, we may find it interesting that only one member of the Banking Committee has spoken against the bonds, and I think that is because we have spent some time on it in the committee, and I think generally speaking members of the committee have come to the conclusion that there is safety in diversity.

We pointed out numerous times that the GAO has reported that the junk bonds, the high yield bonds, have been responsible for no part of the problem we face, that money for housing finance would be greatly reduced if we were to pass this amendment, and that there have been no hearings.

So we do not know what would happen if we were to outlaw them and then dump on the market billions of dollars' worth of these bonds. The regulators can already prohibit investment in these bonds in appropriate circumstances.

Mr. Chairman, I believe that this amendment is well-intentioned, but I believe it is sort of a play on the words, junk bonds. If we refer to these as high yield bonds, I just do not believe there would be any support for this amendment at all.

□ 2000

Mr. Chairman, I do not think it is well advised. I think it will limit the ability of the thrifts to make safe investments, and I would urge its defeat.

Mr. DORGAN of North Dakota. Mr. Chairman, I yield 1 minute to the gentleman from Connecticut [Mr. MORRISON].

Mr. MORRISON of Connecticut. Mr. Chairman, I rise in support of the amendment, and speaking as a member of the Committee on Banking, Finance and Urban Affairs, I would like to respond to the gentleman from North Carolina [Mr. NEAL] that I think members of the Committee on Banking, Finance and Urban Affairs are aware of riskiness as a problem with banks and S&L's. To say that this particular kind of risky investment has not caused this problem is to overlook the fact that in the 1970's the banks were lending money in the Third World willy-nilly, and making a fortune, and saying, "no problem there," and then in the 1980's those became the source of great instability in the banking system.

Mr. Chairman, our job here is to make sure this problem does not happen again. The way to do that is to worry about risk, not to worry about which risk caused the current problem.

The amendment of the gentleman from North Dakota [Mr. DORGAN] focusses on a new form of risk that the S&L's are taking on. Let us not let them get down this road and create another crisis. Let us stop them right here and now, and the gentleman's amendment is a great amendment and should be supported.

Mr. DORGAN of North Dakota. Mr. Chairman, someone mentioned playing on the word "junk." The term "junk" is not an accident. I did not come here to the floor tonight and invent the term "junk bond."

Mr. Chairman, the term "junk" is used to describe a very high risk, noninvestment-grade bond.

If my colleagues want to go home and say to their constituents, "We bailed out the savings and loans because they had a lot of risks out there, and a lot of it failed; they played the dice, and they played the tables with the taxpayers' money; we bailed them out, but we did not do anything to prevent them from doing even more, investing and buying substantial junk bonds."

If my colleagues want to say that to their constituents, fine. I do not.

Mr. Chairman, I want my constituents to know that we tried to solve this problem and prevent future occurrences of it.

There is an old story about somebody jumping off a 10-story building, and as he crossed or came down through the fourth floor, people leaned out the window and heard him say, "Well, so far, so good," but it did not last long for him. And this is not going to last long.

They say that the default rate is fine. Well, the default rate on the oldest of junk bonds, according to a Harvard study, is now up in the mid-30 percent.

Junk bonds are junk, highly speculative, highly risky, and they have no place in any substantial quantity in the portfolio of a savings and loan.

Do my colleagues want to come here tonight and bail out savings and loans, and then open your arms and say: "You just keep doing this. You just keep buying risky assets with it because we're behind you all the way. The good old taxpayer will take care of you at the end. You buy more junk bonds, my folks will take care of you."

Many of my colleagues will say that, but not this Member of Congress, and I hope that enough Members of Congress tonight will stand up and say: "Yes, we're going to correct the problem, but, no, we're not going to allow it to happen again because we will not allow those kind of risk assets to be purchased by savings and loans in the future."

Mr. Chairman, that is what the issue is. Some people want to try to make it much more confusing and more complicated than it is. It is not. We do not think savings and loans ought to buy junk bonds, period.

Mr. DREIER of California. Mr. Chairman, the easy vote is "yes." The responsible vote is "no." The Banking Committee has had numerous hearings on the subject of thrift investments in high yield bonds, and there is absolutely no basis for this onerous amendment.

In fact, a March 1989 GAO report to the General Oversight Subcommittee stated: "There's no evidence that thrift investment in high yield bonds has been responsible for the current industry problems." The report also noted that:

No thrift has failed because of unsuccessful high yield bond investing;

Net returns to thrifts from such investments were second only to credit cards; and

The risks of high yield bonds are outweighed by their yields.

Mr. Chairman, because savings associations account for almost 10 percent of today's high yield market, the effect of the Dorgan amendment would be to force them out of a highly profitable investment and increase the cost of capital for American businesses. This would be particularly damaging in California, where three of the seven thrifts with the highest percentage of assets in high yield bonds are located.

As seen from the following information, contained in a 1987 study, firms in California rely heavily on the high-yield bond market for growth capital:

Between January 1, 1977, and April 30, 1987, 391 California corporations and their parent firms issued noninvestment grade bonds.

Altogether, the high yield bond issues sold by these firms have raised $37 billion in capital, exclusive of any identifiable financing related to hostile takeovers.

These 391 companies employed a total of 179,613 California workers throughout the State as of April 30, 1987.

CALIFORNIA HIGH-YIELD BOND ISSUES BY INDUSTRY

Category	Amount issued (billions)	Percent of California issues
Manufacturing	$10.5	28.2
Service and retail	9.9	26.6
Finance	5.2	13.9
Energy	2.6	7.0
Communications	2.4	6.3
Health care	2.3	6.1
Agriculture	1.6	4.4
Construction	1.9	4.2
Transportation	1.2	3.3

Mr. Chairman, this amendment seeks to correct a problem that does not exist. According to Richard Fogel of the GAO,

There are approximately 160 thrifts that have some investment in high-yield bonds, but the percentage of thrifts that have investments even close to 11 percent is relatively low, so our assumption is that if there was a higher default rate, that would not have a significant overall effect on the industry.

The amendment will actually work to the detriment of the savings and loan industry, while severely destabilizing the high-yield bond market and increasing the cost of capital to American businesses. I urge my colleagues to vote against the Dorgan amendment.

The CHAIRMAN. All time on this amendment has expired.

The question is on the amendment offered by the gentleman from North Dakota [Mr. DORGAN].

The question was taken; and the Chairman announced that the ayes appeared to have it.

RECORDED VOTE

Mr. GREEN. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 303, noes 114, answered "present" 4, not voting 12, as follows:

[Roll No. 92]

AYES—303

Ackerman	Dwyer	Kaptur
Akaka	Dymally	Kasich
Anderson	Dyson	Kastenmeier
Annunzio	Early	Kennedy
Applegate	Eckart	Kennelly
Archer	Edwards (CA)	Kildee
Aspin	Emerson	Kolbe
Atkins	Engel	Kolter
AuCoin	English	Kostmayer
Ballenger	Espy	Kyl
Bateman	Evans	LaFalce
Bates	Fawell	Lagomarsino
Beilenson	Fazio	Lancaster
Bennett	Fish	Lantos
Bentley	Flippo	Laughlin
Bereuter	Florio	Leach (IA)
Berman	Foglietta	Leath (TX)
Bevill	Ford (TN)	Lehman (FL)
Bilbray	Gallo	Levin (MI)
Bilirakis	Garcia	Levine (CA)
Boehlert	Gaydos	Lewis (FL)
Boggs	Gejdenson	Lewis (GA)
Bonior	Gekas	Lightfoot
Borski	Gephardt	Livingston
Boucher	Gibbons	Lloyd
Boxer	Gilman	Long
Brennan	Gingrich	Lowey (NY)
Broomfield	Gonzalez	Machtley
Browder	Gordon	Madigan
Brown (CA)	Goss	Markey
Bruce	Grandy	Marlenee
Bryant	Grant	Martin (IL)
Bustamante	Guarini	Martinez
Cardin	Gunderson	Matsui
Carr	Hall (TX)	Mavroules
Chandler	Hammerschmidt	Mazzoli
Chapman	Hancock	McCloskey
Clement	Harris	McCollum
Clinger	Hatcher	McCrery
Coble	Hawkins	McCurdy
Coleman (TX)	Hayes (IL)	McDade
Combest	Hefley	McDermott
Conte	Hefner	McHugh
Conyers	Henry	McMillan (NC)
Cooper	Herger	McNulty
Costello	Hertel	Meyers
Coughlin	Hoagland	Mfume
Courter	Hochbrueckner	Michel
Coyne	Holloway	Miller (CA)
Crane	Hopkins	Miller (OH)
Crockett	Horton	Miller (WA)
Dannemeyer	Houghton	Mineta
Darden	Huckaby	Moakley
de la Garza	Hunter	Moody
DeFazio	Hyde	Moorhead
DeLay	Ireland	Morella
Derrick	Jacobs	Morrison (CT)
DeWine	James	Mrazek
Dicks	Jenkins	Myers
Donnelly	Johnson (SD)	Nagle
Dorgan (ND)	Johnston	Natcher
Douglas	Jones (NC)	Neal (MA)
Duncan	Jontz	Nelson
Durbin	Kanjorski	Nielson
Oakar	Roukema	Stearns
Oberstar	Rowland (CT)	Stenholm
Obey	Rowland (GA)	Stokes
Olin	Russo	Studds
Owens (NY)	Sabo	Swift
Pallone	Saiki	Tallon
Panetta	Sangmeister	Tanner
Parker	Sarpalius	Tauke
Parris	Savage	Tauzin
Pashayan	Saxton	Thomas (WY)
Patterson	Schaefer	Torricelli
Paxon	Scheuer	Traficant
Payne (NJ)	Schneider	Traxler
Payne (VA)	Schroeder	Udall
Pease	Schuette	Unsoeld
Pelosi	Schumer	Upton
Penny	Sensenbrenner	Valentine
Perkins	Sharp	Vento
Petri	Shaw	Volkmer
Pickett	Shays	Walgren
Pickle	Sikorski	Walsh
Porter	Skeen	Watkins
Poshard	Slaughter (NY)	Waxman
Pursell	Slaughter (VA)	Weiss
Rahall	Smith (IA)	Weldon
Ravenel	Smith (NE)	Wheat
Regula	Smith (NJ)	Whittaker
Ridge	Smith (VT)	Whitten
Rinaldo	Snowe	Wilson
Ritter	Solarz	Wise
Roberts	Solomon	Wolf
Robinson	Spence	Wolpe
Roe	Spratt	Wyden
Rogers	Staggers	Wylie
Rose	Stallings	Yates
Rostenkowski	Stangeland	Young (AK)
Roth	Stark	Young (FL)

NOES—114

Alexander	Glickman	Oxley
Andrews	Goodling	Packard
Anthony	Gradison	Price
Armey	Green	Quillen
Baker	Hall (OH)	Ray
Barnard	Hamilton	Rhodes
Bartlett	Hansen	Richardson
Barton	Hastert	Rohrabacher
Bliley	Hiler	Roybal
Bosco	Hoyer	Sawyer
Brown (CO)	Hubbard	Schiff
Bunning	Hughes	Schulze
Burton	Hutto	Shumway
Byron	Inhofe	Shuster
Callahan	Johnson (CT)	Skaggs
Campbell (CA)	Jones (GA)	Slattery
Campbell (CO)	Kleczka	Smith (FL)
Carper	Lehman (CA)	Smith (MS)
Clarke	Leland	Smith (TX)
Clay	Lent	Smith, Denny (OR)
Cox	Lewis (CA)	
Craig	Lowery (CA)	Smith, Robert (NH)
Dickinson	Luken, Thomas	
Dingell	Lukens, Donald	Smith, Robert (OR)
Dornan (CA)	Manton	
Downey	McCandless	Stump
Dreier	McEwen	Sundquist
Edwards (OK)	McGrath	Synar
Erdreich	McMillen (MD)	Thomas (CA)
Fascell	Molinari	Thomas (GA)
Feighan	Mollohan	Torres
Fields	Montgomery	Towns
Flake	Morrison (WA)	Vander Jagt
Ford (MI)	Murphy	Visclosky
Frank	Murtha	Vucanovich
Frenzel	Neal (NC)	Walker
Frost	Nowak	Weber
Gallegly	Ortiz	Williams
Gillmor	Owens (UT)	Yatron

ANSWERED "PRESENT"—4

Brooks	Martin (NY)
Hayes (LA)	Sisisky

NOT VOTING—12

Buechner	Davis	Lipinski
Coelho	Dellums	Rangel
Coleman (MO)	Dixon	Skelton
Collins	Gray	Wright

□ 2022

Mr. RICHARDSON and Mr. DORNAN of California changed their vote from "aye" to "no."

Messrs. SCHAEFER, ANNUNZIO, MILLER of Washington, DARDEN, ROWLAND of Georgia, and HALL of Texas changed their vote from "no" to "aye."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. BARTLETT

Mr. BARTLETT. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. BARTLETT: Page 444, strike line 21, and all that follows through page 452, line 9, (and redesignate the subsequent subsection accordingly).

The CHAIRMAN. The gentleman from Texas [Mr. BARTLETT] will be recognized for 30 minutes and the gentleman from Texas [Mr. GONZALEZ] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Texas [Mr. BARTLETT].

Mr. BARTLETT. Mr. Chairman, I yield myself 4 minutes.

Mr. BARTLETT. Mr. Chairman, I offer this amendment which would strike the so-called affordable-housing section of the savings and loan bill. I do so with a great deal of respect for the chairman of the Committee on Banking, Finance and Urban Affairs, who has conducted the committee hearings in this with a great deal of fairness and integrity.

Mr. Chairman, the fact is this section in the bill is out of place. It is bad housing policy. It is a new tax that has never been seen before, that is off-budget in its taxing and off-budget in its expenditures. It is unrelated to savings and loans. It has a great deal of regional disparity in it.

First, it is a new tax. The bill is already taxing savings and loans. This is a new $150 million-per-year tax that is, in effect, a tax on savings and loans, and a tax on single-family mortgages.

□ 2030

It is a tax on a very narrow, single industry, the purposes of which go to broad public policy. It is exactly the opposite of anything one would expect to come out of Congress or even out of the Ways and Means Committee.

In fact, the Ways and Means Committee asserted its jurisdiction over this tax, thought that they had the tax changed, and just the day before yesterday and self-executing rule put the tax back into the bill.

I want to point out to Members that the tax on the Federal home loan bank system and thus on savings and loans is a private tax that is in addition to the taxes or the assessments that are already placed on the industry for purposes of the savings and loan, and that is appropriate. It is a tax that is in addition to what the Treasury Department proposed, and in addition to what the committee added on for purposes of the saving and loan

deposit insurance fund, and became the straw that broke the camel's back of a tax for subsidized housing purposes only.

In a best case scenario of bank earnings, it would take 50 percent of all of the earnings of the bank board. In a worst case it would take over 100 percent of the earnings in the first place. It is an off-budget tax. It is a tax that is collected off budget by no one's jurisdiction and spent off budget by the Federal home loan bank system that has no expertise and no idea how to provide for a HUD-type public housing program.

It is a new housing program that is not really well thought out. There has been no debate, there has been no bill introduced, no hearings, no markups. It only passed the committee late at night on a bipartisan 27-to-24 vote.

It has parts that just simply do not work. It includes a requirement for 40 percent of units in multifamily to be subsidized, whereas most housing programs require only 20 percent. It requires 30-year certificates which do not even exist in Federal law today.

In addition, it places its emphasis in the wrong place. We ought to be providing single-family home loans. This is a multifamily tax and a multifamily expenditure entirely, and it has a great deal of regional disparity. It taxes the places that cannot afford it and it spends the money in places in this country that do not need it.

We ought to send this back to the Committee on Banking, Finance and Urban Affairs and to the Housing Subcommittee for a better try. There are 29 housing bills that have been introduced in this Congress since January 1. The new HUD Secretary is in the midst of proposing a new housing policy for the 1990's. The Banking Committee can do much better than an off-budget tax with an off-budget expenditure that emphasizes exclusively multifamily subsidies, not a nickel of single-family mortgage money in this entire expenditure. In fact, it takes the money from single-family mortgages to spend on multifamily subsidies.

It is the wrong place at the wrong time and the wrong tax on the wrong bill.

Mr. GONZALEZ. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in as strong an opposition as it is humanly possible to be against this amendment. It would, of course, knock out the amendment that was placed in the committee that gave a little bit of soul to a soulless Presidential bill.

I want to ask my colleagues if every one of them votes in the final vote for this bill and the providing of funds for continued life of the S&L industry, but with not 1 dollar's commitment to affordable housing, it is incredible. I cannot believe it.

But the thought that really anguishes me the most is the "Dear Colleague" letter put out by my colleague from Texas [Mr. BARTLETT] which is totally wrong. I am sure my colleague from Texas means to act in good faith, but I have always said that we are all entitled to our opinion. We have a right to our opinion, but we do not have a right to be wrong in our facts.

He got up a while ago and repeated these erroneous statements. This is not a tax at all. All it does is to make sure that we do not allow these home loan board presidents, and particularly the one from the Texas region who is strong against this, because they want to continue to do what they have been doing, to have that window financed to give sums for high-flying S&L's such as has brought the misery and destruction to the industry in Texas. Why, I would not expect the president of the home loan bank, Mr. Barkley, in Texas to be for affordable housing, for moderate-income families. He gets a salary greater than the President's. He gets $206,000 a year. He gets a chauffeur-driven limousine. The only thing he does not have is openly public housing such as the President has because the White House, after all, is public housing.

But how in the world can we say that the only thing that gives a legitimacy of public purpose by providing housing finance in a bill that every American would think and would take for granted would have that could bring about this onslaught against a very modest amendment?

The other thing is besides it not being a tax, what it does do is open a third window of finance or funds or cash for mortgages for low, moderate-income mortgages, moderate-income families. Even the Los Angeles Times and other major newspapers have endorsed our proviso for that main reason, that it is one little glimmer of hope for that American family who has lost the dream of home ownership. This is a revival of that dream.

On top of that, one of the reasons we are on the floor with this mammoth bill is because the Congress failed to require the home loan banks and the savings and loans to live up to their statutory roles as housing lenders. This is why we are here. It would be incredible to me to tell my colleagues that we would go and vote in anguish and travail in producing this kind of legislation, and then come out and say but there is not one penny of commitment for housing finance for moderate-income families. That is the majority of our families. Less than 6½ percent of American families today can qualify to buy a newly constructed home. That is wrong. That is a sin. Here is our first chance to put an end to this terrible debacle, and say let us please vote down the amendment offered by my colleague, the gentleman from Texas [Mr. BARTLETT].

It seems to me that the least we can do is provide this modicum of housing finance, the last vestige of an attempt to keep these institutions in line with their primordial, their original, their statutory, their congressionally intended purpose to begin with.

Mr. Chairman, I reserve the balance of my time.

The CHAIRMAN. The gentleman from Texas [Mr. GONZALEZ] has consumed 5 minutes.

Mr. BARTLETT. Mr. Chairman, I yield myself 1 minute.

Mr. Chairman, I want to respond to jus two or three things that the chairman just said.

First of all, it is not just the chairman of the Federal home loan bank board in Dallas. It is also the chairmen of the Federal home loan banks in 6 out of 12 of the districts, in Atlanta, Chicago, Dallas, Topeka, Des Moines, Indianapolis, who all have signed letters opposing this tax and this program. If my colleague will call the other six on the telephone, they would say exactly the same thing. It is a tax on something that should not be taxed.

Second, of course it is a tax. It is an expenditure of funds that is required. It is not voluntary, as per this memorandum from the Legal Services Division of the Congressional Research Service dated June 9, 1989, and that is why the Ways and Means Committee attempted to assert its jurisdiction over this tax, and would have had its jurisdiction over it and stopped it cold except it was changed in the committee report before it came to the floor.

Third, the fact is this program has nothing to do with home loans or mortgages. It says, according to what the bill says, the priority is public rehabilitation, construction of multifamily rental housing.

□ 2040

Mr. GONZALEZ. Mr. Chairman, I yield 4 minutes to the gentleman from Massachusetts [Mr. FRANK].

Mr. FRANK. Mr. Chairman, I was somewhat puzzled to hear the gentleman from Texas say we should oppose it because it was off-budget. This whole program came to us from the administration off-budget. Complaining about this being off budget is like having the Iranian Government sue for violation of the freedom of speech clause.

This is the group that wanted it all off budget.

As to being anti-homebuilder or homeowner, the National Association of Realtors opposes the amendment and supports the bill as is.

Yes, it is expenditure of funds. In fact, the amount involved is less than

the additional interest that would have paid if we had done this the administration's way of keeping it off budget.

We would like to do housing in some other ways. The fact is that for 8 years the housing programs of this country have been decimated.

James Watt alone has gotten more money than a statistically significant percentage of the poor people from the housing program.

The fact is that every effort we have made to deal with housing—and it has been passed in this House, I agree, we have had a majority for it and we are not going to be able to do anything unless we have a majority today. But the bills are vetoed, they are blocked in the other body, we do not have the two-thirds and we have not had the 60 percent that they need over there with their rules and their filibusters.

We have a terrible housing crisis. Yes, it deals with multifamily. My friend from Texas says, well, it is not about single-family homes, it is about multifamily homes. I do not find that a bad thing. I rather think multifamily homes are an important part of the housing stock.

We have had a lot of concern about the homeless, people wanting to feed the homeless, shelter the homeless, they want to do everything for the homeless execept to build them homes.

They will then be better fed, better clothed, better cared-for homeless people, still miserable and degraded.

We are a wealthy society. We are voting today without much hesitation well over $100 billion to pay off depositors because the savings and loans behaved badly in some cases and we did not regulate them well. Can we not at a time of great expenditure spare a pittance for the very poorest? Because that is what we have in this bill.

Yes, there are other places in which we might do it legislatively, if we could override a veto, if we could override the obstructionism that would arise in the other body. As to the formula, it is not a good formula, we did not look at the formula. It will be changed in conference to provide equity.

But I have to say to my friends on this side: Allow those who are opposed—and I should say the gentleman from Texas talked about other housing programs, all of which he is against as he is entitled to be. There is no formula that would get the gentleman from Texas to vote for this bill unless it was one which was slipped into his drink.

The fact is the gentleman is opposed at all times and all places to increased spending for the production of housing. And if you do not do something to help more low-income housing to get built, there just is not going to be any more housing and you are moving pieces on a chessboard.

I am sorry that we have not got more support on both sides. It has been no great source of pleasure for people on our side to be as supportive of the President as we have been on this bill. In committee, on the floor, we have voted a tough bill and we are going to vote one on passage I hope. It has rough capital standards, angering some people. It is going to put some burdens financially on the taxpayer, well over $100 billion, to pay off the savings and loans. It would not have seemed to me that we would have engendered such a near-unanimous reaction of opposition on the other side when we said in the midst of this erroneous expenditure of funds to pay for regulatory errors and in the absence of our ability to do it in other places, may not the majority of this House find a pittance for the very poor? And people say, well, we are going to do it later, we will do it here, we will do it there.

Understand well what this vote will auger; if we cannot get a majority for this small program here which creates no bureaucracy, which funds through existing programs, then they will take that and they will make it very, very difficult to pass any housing.

If you have spoken about alleviating the problems of the homeless and the poor, this is the first chance to do it.

Mr. BARTLETT. Mr. Chairman, I yield 5 minutes to the cosponsor of the amendment, the gentleman from Georgia [Mr. BARNARD].

Mr. BARNARD. Mr. Chairman and members of the committee, all of us respect highly the attitude of our chairman of the Committee on Banking, Finance and Urban Affairs and how he feels about housing, as well as the housing subcommittee. We appreciate it and we respect their earnestness and their zeal to provide low-cost housing for our citizens. We appreciate that. But the question comes about what is the purpose of this bill? I mean, I thought this bill had to do with addressing the problems of the savings and loan industry. Now there has been some attitude that, "OK, if they're going to bail out the thrifts, they are going to pay the price."

Mr. GONZALEZ. Mr. Chairman, will the gentleman yield?

Mr. BARNARD. I yield to the chairman of the committee, the gentleman from Texas [Mr. GONZALEZ].

Mr. GONZALEZ. I thank the gentleman for yielding.

Mr. Speaker, the first title, under purpose, section 101 line 3, "The purposes of this act are as follows: number one, to promote a safe and stable system of affordable housing finance through the regulatory reform." That is the first purpose of the bill.

Mr. BARNARD. It means different things, Mr. Chairman, to different people. It says affordable financing. It did not say affordable subsidization. What this amendment does is a subsidization program outside of the budget.

The problem is how much can we tax the savings and loan industry? That is the whole question. I mean, how much blood can we take out of this turnip? Already the bill requires a contribution from the savings and loan industry of $2.1 billion. We all agree they ought to pay the price of this. This is the $2.1 billion that is going to pay for the principal on the resolution bond.

Then after that, my friends, there is an additional annual assessment of $300 million to service the interest on those bonds. Now this happens to be about 20 percent of the net income of the banks.

Now the members of the Federal home loan banks, who are they? They happen to be, my friends, the savings and loans; they are the thrifts. So consequently then we go to say where would this money normally go? They need these earnings to carry on operating expenses.

You ask why are they failing? Well, here on top of all this we are taking money away from them to fit into a program, a good program that ought to be put out of the appropriation funds. It ought to go through the budget.

We went to an extreme today, and I supported it, to put this program on budget. But we are not putting this housing program on budget; no, we are taking it from the earnings of the Federal home loan banks that are paying the price of this bailout, restricting their own dividends on which they would build capital.

My friends, these costs will severely impair the bank earnings available for dividends. Already, nonmandatory members such as FDIC insured savings banks are leaving the system, while other institutions are selling their bank stock that is over and above what is necessary for membership.

While H.R. 1278 opens up membership to new types of institutions, few are likely to join if the banks are too severely impaired.

There is no question that we must maximize industry contributions to the bailout and that the Federal home loan banks have been profitable and should contribute. It is clear from the above that past a certain point, we are simply doing more damage to the industry and raising the overall costs of the bailout. The banks are not a financial resource separate and apart from the thrift industry.

The low-income housing provisions added to H.R. 1278 take us well past the damage point, regardless of which assessment formula is adopted.

The Affordable Housing Program requires contributions that begin at 5

percent of net earnings and increase to 10 percent with a minimum of $75 million for the period from 1990 to 1993 and a minimum of $150 million commencing in 1995.

The additional charges further reduce the dividend capacity of the banks as well as their overall financial health. This will only serve to place still more pressure on profitable thrifts and those trying to raise capital. This can only reduce their capacity to carry out their basic home lending function. The special advances program serves as a further disincentive to new investment in the thrift industry. Finally, the additional funds make no contribution to paying for the bailout, which is the overriding purpose of H.R. 1278. The additional charges serve solely to finance a new housing subsidy.

Aside from the above issues, there is the problem of whether such a program should be funded through off budget, private means, as opposed to on budget appropriations. Many Members of Congress, including many supporters of the special advances program, have vigorously opposed funding the bailout off budget and we have heard a great deal about honesty in that debate.

While there are some good reasons to do the bailout off budget, it is difficult to see how anyone opposed to that can argue that the special advances program should somehow be exempt from the budget process. Just because a program is supposed to help a good cause does not justify such differential treatment. We all have what we perceive as good causes, yet we cannot proceed in this manner.

This is a dangerous precedent. If we retain this means of funding, then there is a good possibility that it will be extended to other entities where there is an income stream such as the Federal Reserve or other Government sponsored enterprises. Budget discipline would suffer a severe blow at a time when we can least afford it.

I appreciate your patience in considering the above arguments and I urge you to vote to delete these provisions. This is a complex and confusing bill, but I hope that we will carefully consider this provision before allowing it to pass out of the House.

Mr. Chairman, we are sympathetic with the housing provision. I do not doubt at all that our chairman wants affordable housing. But how much can the savings and loan industry really pay? How much can they pay if they expect to restore them to their normal vitality?

□ 2050

Mr. GONZALEZ. Mr. Chairman, I yield 2 minutes to the gentleman from Kansas [Mr. GLICKMAN].

Mr. GLICKMAN. Mr. Chairman, a few years back, the Congress, by an overwhelming majority passed something called the Farm Credit Act providing $4 billion of a plan to help bail out the Farm Credit System. That system, which lent money to farmers all over this country, was in very much the same kind of trouble that our S&L is right now. Not as big in terms of scope, but affecting people just as desperately. About seven-eights of the Members of that body voted for that bill, including people on this side of the aisle and people on that side of the aisle. Not only did we provide direct assistance on that bill, but we provided indirect assistance almost indentical to what the committee's bill provides in this housing bill.

Let me tell Members what was in there: Moratorium on farms foreclosure; special and preferential provisions for new and low income farmers; there was mandatory rights of first refusal to keep people on their farms; there was arbitration provisions to keep people on their farms. These provisions were not directly related to the provisions of the Farm Credit System bailout, but we felt we had an obligation to keep those people, particularly the need of the farmers, on their farms during a period of tight financial trouble.

Now, this is not exactly parallel to that. However, it is close enough for me to come down on the floor to say to those Members, particularly from rural America, farm America, when we provided that assistance, the Farm Credit System, we also provided the assistance to farmers to keep their homes and to keep their farms. It may not have been working perfectly, but there was this general commitment in this place that it was a moral obligation for Members to at least try that kind of assistance.

I say that we have the same kinds of obligations here. We, in rural America, received that kind of assistance. Those Members on this side and on that side voted for it. I think that same moral obligation is required of Members in a limited fashion. I urge Members to vote against the Bartlett amendment and for the committee's position.

Mr. BARTLETT. Mr. Chairman, I yield myself 30 seconds.

It does seem to me that a more exact parallel to what we are doing to the Farm Credit System would be as if we decided to tax the Farm Credit System, which was a credit system for ownership of farms, and to spend the money on operating subsidies for crop subsidies.

What we are doing here is we are taxing a very narrow segment, a very narrow financial institution industry and sending the proceeds on a HUD type housing project, multifamily, that is a public purpose.

Mr. GONZALEZ. Mr. Chairman, I yield 3 minutes to the gentleman from New York [Mr. GARCIA].

Mr. GARCIA. Mr. Chairman, this is like deja vu. Let me make it very clear, this is not a handout. I believe that this Chamber has been very responsible on this legislation.

I think at the end of this evening, under the leadership of our chairman, we can walk out of this Chamber holding our heads high because we are acting responsibly. There is no question in my mind. I believe the saddest part I have is over the last 8 years. I have heard the same story about the hardship about this, about that. Let me say to my colleagues, this bill and this amendment will probably end up benefitting your constituents on that side, the blue-collar worker, the families that are earning $20 to $40,000 with two people working, than my constituents.

I say that to Members because I can tell without hestitation and without any doubt that what we are trying to do here is take .5 out of 1 percent of $15 billion, which is the first year. I think that we have a responsibility not only to my constituents but to your constituents. I would ask, and I want to make it very clear, I would ask that those Members on that side of the aisle do not be limited, do not be limited by thinking that this is a handout. It is not a handout. What we are saying to the people in America is that through this bill and because of this bill we are going to be able to say to those people, come on, for those young families that right to this moment could not have gotten a mortgage, now they will be able to do it. I say that because I believe that that is our responsibility.

I also would like to close by saying the following: Housing is one of the most important things that we can do. Young married couples today are having it much more difficult, much more difficult than we have had it. If a Member asks a person 25 to 35 years old who is looking to buy a home, going into the marketplace to buy a two- or three-family home so they can help pay their rent and pay the mortgage, and then if they can do it, the bottom line is that they cannot. Why not? Because in the marketplace, the mortgages are too high and the money is not available.

What the chairman of this committee is saying to all Members and to the American people is that we are going to make it possible with a very, very small percentage of this legislation, to make available affordable housing.

Mr. BARTLETT. Mr. Chairman, I yield 3 minutes to the ranking Republican member of the Subcommittee on Housing and Community Development, the gentlewoman from New Jersey [Mrs. ROUKEMA].

Mrs. ROUKEMA. Mr. Chairman, I thank the gentleman from Texas for yielding this time to me, and I rise in support of his amendment.

As members of the committee know, I am the ranking minority member of the Housing Subcommittee, and I have a solid record during the years I have served on the committee as being sensitive to the housing requirements of those Americans who are most in need.

The chairman of our subcommittee, who wrote the provision in question, and I have a very good working relationship. I know that his motives are all to the good.

However, I must reluctantly oppose his position.

The housing provision now in the bill should be struck for several reasons.

First, this is simply the wrong bill for this proposal. This is a bill to address the very serious problems of the thrift industry. We should not encumber it with extraneous provisions, no matter how important they may be.

Also this major housing provision has had inadequate consideration and study. It was never introduced in bill form, and thus Members had no opportunity to study it. The Banking Committee has not held a single hearing on this housing measure. We called in no experts to give the committee their evaluation or any suggestions for revisions.

There are several major housing initiatives pending in the Housing Subcommittee. In fact, we have prepared these three charts which are displayed in the well to list the housing bills which have been introduced and referred to the Housing Subcommittee. These include the chairman's own bill, H.R. 1180, and legislation which the gentleman from New York [Mr. RANGEL] and I have introduced, H.R. 1637, the National Affordable Housing Act. The Members of the House can see that there is no shortage of housing proposals. There are many good ideas in the bills listed on these charts. Prudence would require that we examine these bills closely, hold hearings, receive expert testimony, and then mark-up a housing authorization bill.

The chairman has scheduled hearings on housing matters beginning at the end of this month. That should be the time to consider housing proposals, and whatever the committee ultimately decides to approve should come to the full House as a separate housing bill, not as part of the bill before us today.

I am pleased that the chairman has scheduled hearings before the Housing Subcommittee, and I am sure he knows that I am prepared to work with him in good faith to produce a housing bill.

In addition the provision as it now stands has substantive problems. The affordable housing fund would be used to subsidize interest rates on advances made to member institutions for low-income housing loans. To finance this fund, each bank would be required to contribute 5 percent of its net income in 1990 through 1993, 6 percent in 1994, and 10 percent in 1995 and thereafter. Obviously, this places a new, additional burden on an industry which is already in deep financial difficulty, and it may aggravate the problem we are trying to fix.

The proposal as it now stands also requires that 40 percent of the housing it finances be retained for low-income use for 30 years. How are low-income tenants, people with incomes of 80 percent or less of area median income, supposed to pay their rent on such units? Bear in mind that they would not be allowed to pay more than 30 percent of their income for rent. Clearly, some type of assistance directly to the tenant would be necessary. The implication of the legislation is that we are committing ourselves to 30 years of subsidy to these tenants.

I would also note that the allocation of the money raised by the assessment contained in the bill has no relationship to need. That is, money raised in a bank district is advanced to institutions in that district. Under this bill some of the areas of the country which are in relatively good shape with respect to housing must raise the greatest amount of money. Other areas of the country which have great housing needs are required to raise relatively little. In short, the money raised by this bill would not be distributed according to housing needs.

Finally, I will let the members of the Ways and Means Committee detail their objections to what amounts to a new tax. However, I would just observe that it is a new tax which drains money away from a sick industry to finance a new Federal housing program which ought to be considered by the Housing Subcommittee and should not be part of this bill.

If we are to create housing let's provide a subsidy or direct allocation—not a tax targeted on a simple industry.

In conclusion, I want to reiterate my pledge to the distinguished chairman of the Housing Subcommittee to work with him to advance a housing bill this year. However, I must urge the Members of the House to oppose the provision contained in H.R. 1278 and support the amendment offered by the gentleman from Texas [Mr. BARTLETT] and the gentleman from Georgia [Mr. BARNARD].

□ 2100

Mr. GONZALEZ. Mr. Chairman, I yield 2 minutes to the distinguished gentlewoman from California [Ms. PELOSI].

(Ms. PELOSI asked and was given permission to revise and extend her remarks.)

Ms. PELOSI. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, I want to congratulate the chairman of the committee for the work he has done on this legislation, and I must say it was particularly proud day when the Banking Committee passed this particular aspect of the savings and loan bill. I was interested to see our colleague illustrate some of the legislation that has come out of Congress. Perhaps she could be of assistance in getting us a signature on some of the legislation so it could be part of public policy.

I join the chairman of the committee in his disappointment in the "Dear Colleague" letter that went out today from the sponsors of this amendment. I would like to address a couple of points that were made in it.

First of all, there was myth No. 1: The provision will only subsidize developers in buying or repairing rental units.

Fact: The language of the bill indicates that priority should be given to housing sponsored by nonprofit organizations, States, local housing authorities, and State housing finance agencies.

A second priority is the purchase of rehabilitation of housing held by the U.S. Government. Another priority is indeed multifamily rental units. Clearly, young families will be among the beneficiaries of this provision.

Myth No. 2: This is a tax.

This is not a tax. Unlike the savings and loan bailout, this section of the bill will not cost the American taxpayer one penny. The program is not a new concept. In the late 1970's, regional banks had in place community investment programs. As times got bad, low-income families paid the price. The affordable housing provisions put teeth in operating and maintaining community reinvestment efforts.

The program will work hand-in-hand with Federal housing programs and save tax dollars. The loan program will subsidize between 60,000 and 125,000 housing units per year. It also disposes of boarded-up foreclosed federally controlled housing properties.

Mr. Chairman, I urge my colleages to support the chairman's report and to oppose the Bartlett-Barnard amendment. That is the very least we can do for the homeless people of America.

Mr. BARTLETT. Mr. Chairman, I yield 3 minutes to the ranking Republican member of the Committee on Ways and Means, the gentleman from Texas [Mr. ARCHER].

Mr. ARCHER. I yield to the gentleman from Texas.

Mr. BARTLETT. Mr. Chairman, will the gentleman yield to me briefly?

Mr. BARTLETT. Mr. Chairman, I do want to call to the attention of the gentlewoman from California [Ms. PELOSI], the previous speaker, her own supplemental views in the committee report in which she, as well as two other members, state this: "It was our intent that the subsidization of the cash advance windows would focus a lender's priorities on the purchase, rehabilitation, or construction of multifamily rental housing."

Mr. ARCHER. Mr. Chairman, I feel very strongly that this important legislation to address the financial crisis in the Nation's thrift industry is not the appropriate vehicle for initiating a costly new subsidized housing program. Importantly, the funding for this program would come from savings and loan assets badly needed to provide their stability in the years to come. There are many other ways to increase affordable housing. The Congress has never turned its back on this national need.

The manner in which this provision wound up in the bill in its present form is also a serious matter in and of itself. Quite frankly, it violates normal House procedures.

Some procedural history is in order. The original language reported by the Banking Committee set off a jurisdictional firestorm in the Ways and Means Committee when we began our conceptual markup of the bill. As reported out by the Banking Committee, the funding mechanism used for the housing provisions appeared to be a tax, pure and simple. We were compelled to challenge it from the standpoint of jurisdiction.

In response to those concerns, and in an effort to avoid losing its jurisdiction over the provision, the Banking Committee majority took the extraordinary step of changing the language before filing the report in the House.

It was not a technical change. The revised language provided for a completely different funding mechanism from what had been voted in committee.

An exchange of letters between Chairman GONZALEZ and Chairman ROSTENKOWSKI, acknowledged that the rewrite of the provision apparently negated our committee's jurisdictional claim.

But something happened on the way to the House floor. The original language is now back in the bill—which arguably places the funding outside of the Banking Committee's jurisdiction and back into the jurisdiction of the Ways and Means Committee.

As the member of the committee who felt compelled to raise the jurisdictional point initially, I'm very disappointed that our legitimate concerns in that regard have been cast aside.

At this point, though, it really doesn't matter, because all points of order have been waived. But it's been a valuable lesson in procedural chicanery—one which I hope none of us will allow to be repeated in the future.

For that reason, as well as the substance of the provisions themselves, I urge the adoption of the Bartlett amendment.

Mr. GONZALEZ. Mr. Chairman, I yield 1 minute to the gentleman from Illinois [Mr. HAYES].

Mr. HAYES of Illinois. Mr. Chairman, I appreciate the kind of leadership the chairman of the committee has given us on this issue.

Mr. Chairman, I find it very hard to do justice to my feelings and the feelings of my constituency regarding this Bartlett amendment because I am bitterly opposed to it.

Mr. Chairman, I rise to speak against the Bartlett amendment and in favor of H.R. 1278, the Enforcement Powers Improvement Act of 1989. By now, we all would agree that the savings and loan crisis has to be considered one of the worst financial calamities ever to strike this country. In my view, a resolution of this situation will be fair, only if it protects the interests of low- and moderate-income depositors—ordinary taxpayers and mortgage borrowers.

However, at the present time, the country is facing another catastrophe, equally, if not more serious than the savings and loan crisis. That catastrophe is the shortage of affordable and accessible housing. Fortunately, some of the provisions of H.R. 1278 are designed to address this problem.

I realize that everyone benefits from stability in the financial system. Deposit insurance has gone a long way to promote such stability, and the Federal Government, rightfully, must stand behind the insurance funds. At the same time it is the responsibility of Congress to take a bold step in addressing the problem of housing. There are thousands, perhaps millions, of Americans crying out for our assistance.

As a matter of fact, it is past time to deal with this situation. As we plan to allocate an unprecedented amount of money to the savings and loan industry, which is estimated to cost the American taxpayers upward of $157 billion, it seems only logical that we give something back to the very people these institutions were established to assist. They, my friends, are the low- and moderate-income Americans looking to buy homes.

Any legislation that allocates billions of tax dollars for a mismanaged S&L industry, must ensure that the industry survives to serve a public purpose. H.R. 1278 without this amendment addresses this public policy demand by establishing an affordable housing program at the Federal Home Loan Bank and by giving nonprofit groups the right of first refusal when the Government sells residential properties from liquidated S&L's.

This provision calls for a minimum amount, $75 million in 1990, rising to $150 million in 1995, that must be set aside for the program. Although this annual amount is extremely modest in relation to FHLB earnings, it will institutionalize some public purpose for the boards and their shareholders, the S&L industry. It will also help thrifts tap new and profitable markets in traditionally underserved communities.

The public at large, is angry that they are being forced to bail out an industry that squandered publicly insured deposits on commodities speculation and junk bonds while the shortage of affordable housing reached crisis proportions. If a specialized, publicly supported financial industry is to survive, which we believe is a laudable goal, it must serve its original public purpose of assisting Americans with affordable housing.

The provisions in H.R. 1278 which address the housing crisis bring the savings and loan industry back to is original intent. I urge my colleagues to consider the beneficial impact these provisions will have on the American public. In doing so, it will be clear that this legislation deserves a yea vote.

Mr. BARTLETT. Mr. Chairman, I yield 2 minutes to the gentleman from Louisiana [Mr. TAUZIN].

Mr. TAUZIN. Mr. Chairman, affordable housing is a laudable goal. Many of us in this House, including myself, have supported programs for affordable housing in this Congress, and I intend to support them again.

The concern I have and, I think, one that is shared by many in this House is that this is not the place to do it. More importantly, the cost of this program falls upon the wrong classification of citizens.

We are not going to find $75 million a year out of the nice blue sky. It has to come from somebody. Who does it come from? It comes from the asset base of the same S&L's, the same financial institutions that are hemorrhaging today.

Where do they get it from? They get it from those who borrow from them.

Just think today if you were sitting on an adjustable mortgage right now and you were watching those adjustable rates go up and interest rates go up and you find out tomorrow that now the banks have to supply an extra $75 million a year and an extra $150 million a year beginning in 1995, and forever; who do we think ends up paying for it? Those who have already borrowed money from those institutions that are troubled today.

Let me tell it like it is. If we want affordable housing in America and we are willing to put together a housing program, we ought to have the fortitude to come forward with the cost of that program as a general tax. If we instead are going to ask those who have already borrowed and are trying to finance their homes and trying to make their payments watch their interest rates go up so we can finance this program through this back door approach, then I think we are taking the wrong step. This is not the bill on which to add another costly program.

In 30 years, $6.2 billion is going to be the cost of this program, and who will pay for it? Those who are struggling to pay their housing mortgages today.

Mr. Chairman, I hope that we will support the Bartlett amendment and pass it, because this particular program, as good as its goals are, is placed on the wrong bill and taxes the wrong people.

Mr. GONZALEZ. Mr. Chairman, I yield 2 minutes to the gentleman from Connecticut [Mr. MORRISON].

□ 2110

Mr. MORRISON of Connecticut. Mr. Chairman, I would like to commend the chairman of the Committee on Banking, Finance and Urban Affairs for his creativity and his commitment that brought this amendment forward in the Committee on Banking, Finance and Urban Affairs and made it a part of this bill. He has been a champion of housing in this House for his entire career, and he remains our greatest champion for housing.

Mr. Chairman, I really find it discouraging, to say the least, to hear Members of this body say that this is the wrong place and the wrong time to deal with the need for housing. It is never the right place and the right time around here. The same gentleman who offers this amendment is always offering amendments to cut money out of the appropriations for housing, so he can never find it to be the right place and the right time to pay for housing.

Now let us talk turkey about where this money comes from. The Federal Home Loan Bank Board borrows money in the marketplace with a Federal guarantee. The taxpayers stand by it. They get preferential interest rates, and we are saying out of that benefit that they get that they owe something back, and that is to help the weakest and poorest of our citizens have a little better chance to have a permanent home in which to live.

Mr. Chairman, to look at this as a tax is fraudulent. The tax is what all American taxpayers pay to guarantee those loans so that the Federal Home Loan Bank Board gets lower interest rates.

This is not a tax on the system. It is a creation of a purpose for the Federal Home Loan Bank System, and the purpose is housing, market rate lending for market rate housing, at-cost lending to support housing for moderate-income people, and a small amount of subsidy for the poorest Americans to get a home that they can afford.

Mr. BARTLETT. Mr. Chairman, I yield 3 minutes to the gentleman from Kentucky [Mr. BUNNING].

I would ask the gentleman from Kentucky [Mr. BUNNING] to yield to me briefly.

Mr. BUNNING. I yield to the gentleman from Texas.

Mr. BARTLETT. Mr. Chairman, I do want to briefly correct the gentleman from Connecticut.

The purpose of the Federal Home Loan Bank System is to provide liquidity to savings and loans so that those savings and loans can loan money to single-family homeowners. That is the purpose. We are taxing it away in this bill and providing it for an entirely different purpose.

Mr. BUNNING. Mr. Chairman, I was very encouraged this year with the new makeup of the House Banking Committee. During my freshman year, the committee was ruled by "the little dictator." There was no democracy, no order, only Freddie's rules governed.

This year, with the dictator's defeat, I was looking forward to working on the Banking Committee.

Our first order of business on the Banking Committee was the FSLIC crisis. Subcommittee went well. In fact, it was downright refreshing. Chairman ANNUNZIO let the will of the majority govern. It was a welcome relief from the order of the committee in the past.

So too, at full committee, Chairman GONZALEZ let the will of the majority take its course. Everyone who wanted to speak was given a chance and he didn't throw his weight around unreasonably.

It was one of the most refreshing changes that I had seen since coming to Congress. The Banking Committee operating in a democratic manner.

However, what happened after the full committee markup let us on the Republican side know it was business as usual on the Banking Committee.

As we all know by now, after the markup and before the report was issued by the committee, Chairman GONZALEZ made substantive changes to the language of the bill.

In committee, by a narrow vote, we added an amendment by the chairman establishing the affordable housing plan. This was a plan to tax the Federal home loan banks for the purpose of low-income, subsidized housing. It has nothing to do with the S&L crisis.

The way that this plan was funded in the chairman's amendment was to tax the retained earnings of the Federal home loan banks. A tax would be assessed every year on the bank's retained earnings with a minimum amount due.

After the committee narrowly voted to accept this subsidized housing tax, it became obvious that the House Ways and Means Committee would have jurisdiction over it, as they do on all tax measures.

So, in order to avoid some one else having anything to say about his white elephant, Chairman GONZALEZ changed the language of the bill that had already been voted upon. His change was to make the funding mechanism for the affordable housing plan different.

What he did was say forget the tax that we voted on and he substituted a new fee on the advances at the window of the Federal home loan banks. Now, we all know that this is a tax, as well, but we can get away with calling this a fee instead of a tax. Thereby, we can keep Ways and Means hands off of the plan entirely.

Magically, with a wave of his chairman's magic wand, the bill was amended without a vote of the committee.

Consider for a minute if we were considering a tax bill instead of this bill. At the Ways and Means Committee they agreed to place a tax on inventory. But when it was reported it is a tax on accounts receivable. Some may argue that because the same amount of revenue is raised than the provision is the same.

We all know that this is not the truth. A change is a change, is a change. And it is a smoke screen to call it anything else.

It appears that we are going back to business as usual at the Banking Committee.

Thank goodness that the Rules Committee had the leadership and foresight to change the language back to the way it was reported from the Banking Committee. However, the fact still remains, we are voting on a tax that has never been before Ways and Means Committee.

During floor consideration of this bill you will get the opportunity to vote on the Barnard-Bartlett amendment to strike the affordable housing plan. I submit that the rules of play and committee referral mandate your support for this amendment.

However, there are also substantive reasons why we should support the Barnard-Bartlett amendment. This is a bill to solve the ills of an industry, not the problems of the world. Let a housing program come in the context of a housing bill, but not here.

Moreover, it seems a little strange that we are taxing a failing industry. We are before the Congress right now to provide funds to keep the industry afloat. At the same time we are taxing them further. The Federal home loan banks are federally-sponsored, privately-held institutions. Their stock is owned by the member thrifts in the district. They are currently exempt from any Federal taxation. The affordable housing plan changes that.

Under the bill, a large portion of the retained earnings of the Federal home loan banks are dedicated to resolving the crisis. Now, on top of that we are adding an additional tax for subsidized housing. Considering the tax payer burden in this bill, this money would be better spent on resolving the crisis.

Finally, let's fact it, this is just another "sin tax." The sin was committed by the high rollers and caused the downfall of an industry. Now we are going to teach them a lesson by a tax on that sin.

And just like the other sin taxes on alcohol and cigarettes, this FSLIC sin tax places an unfair burden on States like Kentucky that have a strong and viable thrift industry.

This is a bill to solve the problems of an industry. It is not meant to solve the problems of the world. Yet States like Kentucky, where thrifts have stuck to the traditional mortgage lending practices intended for the industry are going to be paying for the sins of the high rollers in the industry.

Despite the outcome of the vote on the affordable housing plan and its obvious substantive problems, the Banking Committee reported a good bill that deserves your support.

In subcommittee and full committee we spent nearly 80 hours in markup considering hundreds of amendments.

Included in our consideration was a great deal of discussion and consideration on the topic of capital and what can be used to compose capital, that is, goodwill, deferred loan loss and mortgage servicing rights.

If you think that the debate on tangible core capital and what composes it is confusing, you should look at a chronology of capital requirements under the bill. You are in a big boat. It seems everyone has experienced a little confusion all along.

When the Bush plan came to the Hill it had absolutely no requirements for tangible core capital. The capital standard was stated as not less than the standards for national banks, but it let goodwill count in the formula immediately and then amortized it over 10 years.

In other words, under the administration proposal, capital could be 100 percent goodwill with no tangible core capital.

Then the bill came to the financial institutions subcommittee. An amendment there sought to add a tangible core capital requirement. The amendment sought to divide capital into two tiers and half of tier one had to be tangible.

The administration opposed this requirement. But, in the end after all of the amendments to the capital provisions either passed or failed, we had a much tougher requirement than originally proposed by the administration.

The Senate then took up the bill and upped the tangible capital requirement passed at subcommittee even higher. Now, the provision once called a vetoable item by Secretary Brady had become the rallying point. He publicly applauded the Senate action and said they were headed in the right direction.

Finally, we came to the full Banking Committee, were we adopted an even tougher core requirement but then weakened it under agreement with Secretary Brady by moving back the effective date and adopting a "sliding scale" effective date for compliance.

Personally, I think that this sliding scale approach made these new capital standards ineffective and therefore opposed the amendment in committee.

I stated in my views on this bill that the terms tougher and weaker in reference to capital standards have been highly overused as buzz words. The media, the trade associations, the administration all have tried to couch every amendment in these stronger versus weaker terms.

Yet when you follow a substantive chronology you can see that these terms are in fact subjective, misunderstood and drastically overused.

All things considered on this bill, it is a good proposal that deserves your support.

Mr. GONZALEZ. Mr. Chairman, I yield 1 minute to the gentleman from New York [Mr. FLAKE].

Mr. FLAKE. Mr. Chairman, as we come together today, once again we find ourselves in the midst of a crisis situation, and yet the institution that is charged with the responsibility for trying to address that crisis says that it has no business here. We have no responsibility for it. We cannot do it on this floor. This is a social program. This is another affirmative action program.

Mr. Chairman, it is not that. It is a proactive program. It is not restrictive to race or ethnicity. This program has to do with young people who cannot afford to share in the American dream of homeownership. This program has to do with people who are part of the ever-increasing population of homeless persons who meander through this land hoping that one day they will be able to have a place where they will be able to lay their heads.

Mr. Chairman, it is a strange thing that, as we have been presented these beautiful charts with all of this interesting data, we have not done it with the kind of feeling that suggests we know that we are dealing with the plight of human beings.

I urge the support of my colleagues on the bill and urge their vote against the Barnard-Bartlett amendment.

Mr. BARTLETT. Mr. Chairman, I yield 1 minute to the gentleman from California [Mr. DREIER], a member of the subcommittee and also the chairman of the Task Force on Housing for the Republican Research Committee.

Mr. DREIER of California. Mr. Chairman, I thank the gentleman from Texas [Mr. BARTLETT], my friend, for yielding.

Mr. Chairman, affordable housing is clearly something that every single one of us wants to see every American able to attain. The thing that concerns me most is the fact that we have the only housing bill of the year here on the floor which is unamendable. Twenty-nine different housing bills have been offered in this 101st Congress, and there are some great ideas in those, but not one of those things can be offered as amendments to this.

Mr. Chairman, I went before the Committee on Rules to offer a very modest amendment to Chairman GONZALEZ' proposal. It said that, if we were going to be offering this tremendous influx of cash to deal with affordable housing, what we should do is deal with the onerous local and State regulations which are imposed on a home buyer.

Look at the situation which exists today. In Los Angeles County alone, 1978 to today, $3,000 was the cost of regulation for a new home purchase. Today it is $22,000.

Mr. Chairman, on a nationwide basis 25 percent is the increase in cost due to zoning, rent control, impact fees, et cetera. They are costs which jeopardize housing affordability.

I urge support of this amendment.

Mr. GONZALEZ. Mr. Chairman, I yield 2 minutes to the gentleman from Kentucky [Mr. HUBBARD].

Mr. HUBBARD. Mr. Chairman, first I would like to thank and congratulate our chairman of the Committee on Banking, Finance and Urban Affairs, the gentleman from Texas [Mr. GONZALEZ] for his excellent work on this entire legislation, House bill 1278, and for his opposition to this particular amendment.

Mr. Chairman, the original purpose of the savings and loan industry was to create housing opportunities for Americans. What is the purpose of the S&L industry today? S&L officials answer that question: "The main purposes of today's S&L is to create housing opportunities for Americans."

H.R. 1278, this bill, is to resolve the S&L crisis. Unlike S&L bailout, this section of the Banking Committee bill, a bill which passed by a vote of 49 to 2 in the House Banking Committee on May 2, does not cost the American taxpayer one penny.

It's simple. As much as the gentleman from Texas [Mr. BARTLETT] and the gentleman from Georgia [Mr. BARNARD], are highly respected members of the House Banking Committee, if this Bartlett-Barnard amendment passes, the savings and loan industry gets off the hook from helping low and moderate-income families to purchase homes.

I urge my colleagues to vote "no" on the Bartlett-Barnard amendment.

□ 2120

Mr. BARTLETT. Mr. Chairman, I yield 2 minutes to the gentleman from Indiana [Mr. HILER], a member of the subcommittee.

Mr. HILER. Mr. Chairman, I thank the gentleman for yielding this time.

Mr. Chairman, I rise in strong support of the Bartlett-Barnard amendment to delete the Gonzalez housing provisions placed in H.R. 1278 by the

Banking Committee. I would like to make three points in the Gonzalez proposal.

First, the Gonzalez plan is purely a tax. The provisions of the Gonzalez housing proposal represents an additional tax on the earnings of Federal home loan banks. These institutions already must contribute $300 million of their earnings to the thrift bailout and the Gonzalez housing proposal further taxes their income stream.

Second, the Gonzalez proposal is bad housing policy. It does nothing to concentrate upon the problems of purchasing single-family homes. Its concentration is strictly on multifamily dwellings and will aid developers buying or repairing rental units and not homebuyers. Further, if the Banking Committee wishes to make housing policy, they should do it pursuant to a housing bill. Twenty-nine separate pieces of housing legislation have already been introduced this Congress and Secretary Kemp is now preparing his own proposal at HUD.

Third, the Gonzalez housing proposal creates regional disparity. The rich get richer. The distribution of housing moneys is not based on need but instead on earnings. Therefore, areas of the country where the economy is the strongest will receive the most housing funds. Those economically depressed areas of the country most in need will be excluded. I believe this to be a grossly inequitable result.

I am hopeful that this Congress will pass meaningful housing legislation. However, H.R. 1278 is not the right vehicle. Pass the Bartlett-Barnard amendment and send the issue of housing back to our committee for hearings and a comprehensive, thoughtful approach. I urge my colleagues to support the Bartlett-Barnard amendment and to defeat this inequitable tax.

Mr. GONZALEZ. Mr. Chairman, I yield 2 minutes to the gentleman from Delaware [Mr. CARPER].

Mr. CARPER. Mr. Chairman, I thank the gentleman for yielding this time.

Mr. Chairman, the issue before us tonight is a close one. It is a close call. The same issue before our committee was a close call as well.

I voted for what I think is this very modest, affordable housing initiative within our committee. I would encourage my colleagues to resist the temptation to strike it now.

Each one of us here knows there is a crisis in affordable housing in our country. Each one of us here knows that we have cut the appropriations for housing dramatically in the course of the last 8 years. Each of us knows that the housing appropriations in the supplemental were struck. Each of us knows that we have to try something new, something different, be willing to experiment. The provision of this bill, this affordable housing provision, is just that, an experiment.

Our bill broadens the membership of the 12 regional home loan banks. Traditionally only thrifts could be members, only thrifts could buy stock in those home loan banks.

Our bill says that a lot of others, including banks, may become members of the home loan banks, buy stock, making those regional banks much more profitable.

Under this bill that new profitability, a very small portion of it, initially 5 percent, eventually 10 percent, could be used to help make housing a bit more affordable for low-income people.

Is it an experiment? Yes, it is an experiment.

Is it worth trying? I think that it is.

I would encourage each of my colleagues to carefully weigh this particular issue, and if you are in doubt on this particular question, give your vote to the chairman of our committee.

Mr. BARTLETT. Mr. Chairman, will the gentleman yield for a question?

Mr. CARPER. I am happy to yield to the gentleman from Texas.

Mr. BARTLETT. Mr. Chairman, I did not hear the gentleman state where the new found profitability was coming from.

Mr. GONZALEZ. Mr. Chairman, I yield 2 minutes to the distinguished gentlewoman from Ohio [Ms. OAKAR].

Ms. OAKAR. Mr. Chairman, I think that the S&L's went astray somewhat when some of them forgot the original mandate of the 1932 act. What this amendment will do is gut what is prevailing in the report that was acted upon in the committee.

Let us look at the 1932 act. In 1932, Congress enacted the Federal Home Loan Bank Act in response to a directive—now, listen to this, Mr. Chairman—from President Hoover, that the establishment of the Federal Home Loan Bank System was required in order to revive employment, by facilitating new home construction, mitigate the difficulties of refinancing mortgages on homes and farms and to encourage home ownership.

Let us look at the committee conference report of 1932:

> This measure is an important and integral part of the comprehensive program for economic recovery undertaken by Congress. No consideration has previously been given to the homeowner, who after all is the backbone of our Nation. The home loan bank system will serve the wage earner and people in the humbler walks of life, through serving those institutions which are devoted to helping them accumulate their savings for the "rainy day" and also helping them to own their own homes.

Mr. Chairman, it is time to go back to the 1932 act. The rate of homeownership has declined for the first time since World War II. Why? Because young people have no accessibility.

I urge you to vote against the Bartlett amendment.

Mr. BARTLETT. Mr. Chairman, I yield 1 minute to the gentleman from Louisiana [Mr. HUCKABY], and I ask the gentleman to yield to me.

Mr. HUCKABY. I yield to the gentleman from Texas.

Mr. BARTLETT. Mr. Chairman, the whole point, of course, based on the last statement of the gentlewoman, is that nothing in this section provides for single family homes. All three priorities are multifamily.

Mr. HUCKABY. Mr. Chairman, I rise in support of the Bartlett amendment.

I believe this is the wrong time, the wrong vehicle, for another new housing program.

Keep in mind that even with the passage of this bill, this is going to be a sick industry. It is going to be a struggling industry for years and years to come, and now is not the time to burden this industry with yet additional costs, because it is a spread. They operate on a spread between their cost of money and the interest they charge, and here we are saddling them with additional costs which in the long run their borrowers are going to have to pay, the American people.

I urge the adoption of the Bartlett-Barnard amendment.

□ 2130

Mr. BARTLETT. Mr. Chairman, I yield 30 seconds to a new Member of this House, the gentleman from New Mexico [Mr. SCHIFF].

Mr. SCHIFF. Mr. Chairman, I support the amendment. The issue is not the merits of the housing provisions. The issue is that the housing provisions do not belong in this bill.

Its supporters say that these provisions are well-intentioned, but that is the reasoning that has held up the Veterans' Administration emergency funding. That funding has not passed because of other unrelated but well-intentioned provisions which have been saddled onto it.

Mr. Chairman, I believe the amendment should pass, and these provisions should go in the housing bill.

Mr. GONZALEZ. Mr. Chairman, I yield 2 minutes to the gentleman from North Carolina [Mr. PRICE].

Mr. PRICE. Mr. Chairman, the 101st Congress simply must begin the reconstruction of our Nation's Federal housing policy, ending the tragedy of the homeless sleeping in our Nation's streets and helping young families with homeownership opportunities.

An excellent example of this type of innovative thinking we need to revitalize the Federal role in housing is the amendment offered by the gentleman from Texas [Mr. GONZALEZ] to require the Federal home loan banks to set aside a small amount of their profits

each year to provide low-cost loans for low- and moderate-income housing.

I support this amendment because I believe it is consistent with the public purpose of the thrift industry, and it will help inject more resources into local affordable-housing initiatives, and contrary to what is being claimed by some in this debate, it would neither tax the savings and loan industry nor divert funds from the recapitalization of the savings and loan insurance fund.

It is also flatly erroneous to suggest, as was said a moment ago, that the Gonzalez proposal only subsidizes developers in buying or repairing rental units, multifamily rental units. The bill does list multifamily housing as a priority, but there are other priorities that would cover all types of housing for low- and moderate-income families including single-family homes.

Much work needs to be done to reinvigorate the Federal Government's role in housing policy. We can make the first down payment on a new affordable-housing policy for our country today.

I urge my colleagues to leave the provisions intact of the Committee on Banking, Finance and Urban Affairs, and to vote against the Bartlett amendment.

Mr. BARTLETT. Mr. Chairman, I yield the balance of my time, 3 minutes, to the gentleman from Pennsylvania [Mr. RIDGE], a member of the subcommittee, who has sponsored or cosponsored more housing legislation in this body than most Members of the body, and, in fact, probably more than all the speakers combined, and I say that with some exaggeration,

Mr. RIDGE. Mr. Chairman, I have to question of my colleagues how many would step down and pick up a penny or a nickel or a dime that has been discarded on the sidewalk. If they are so inclined to pick up a small piece of change, I certainly hope that they listen to what I have to say about this particular amendment. This bill has a price tag of between $150 and $200 billion. We have heard some discussion of this modest amendment. It only costs us $75 million in the first year, maybe $1 billion in the first 5 years, and only $5 billion or $6 billion in 20 or 30 years.

Mr. Chairman, some say this is a drop in the bucket; others say it is a very modest amount, something we certainly ought to be doing. But I remind my colleagues that this is not a housing bill, this is not a housing reauthorization bill. We are asking the taxpayers of the United States to pick up the cost, the bulk of the cost, of $150 to $200 billion to take care of the savings and loan industry. This effectively reduces the ability of that industry to contribute what we mandate they contribute to the refinancing package.

There are not an infinite number of places we can look for money for this $150 to $200 billion. Really, there are only two: It is either the taxpayer or the thrift industry. If we want to tax the thrift industry, and it is a tax on net income, and a tax on net income affects profitability, and if we affect profitability, we will affect their ability to raise capital.

I thought that is what this debate was all about: tougher standards and ensuring that they raise more capital to meet those tougher standards.

What are we doing? We are saying to the savings and loan industry:

Tougher standards. We want you to be profitable. We want you to go out there and generate more income, become more profitable so you can meet those capital standards but, oh, along the way, we are going to skim off the top just a billion or two over the next couple of years.

Not only is this a bad tax, not only is it an inappropriate financing mechanism, but the distribution is grossly unfair. Most of the bulk of it will go to three or four regions who have received most of the money in this bill and who received most of the money in the bailouts of 1988. It is a gross mismatch. It is a gross tax. It is really a gross fabrication to suggest that we can be in favor of tough capital standards. We have to get out there and raise capital, be profitable, but we are going to skim a little bit off the top from the savings and loan industry in order to fund the housing program.

If we want tougher capital standards, we should be worried about the negative impact of this kind of initiative on their ability to raise capital, and I am going to tell the Members that if they are willing to pick up that small piece of change on the sidewalk, if that penny or nickel or dime means something to them, and $1 billion or $6 billion means something to them, and if they truly believe that they want to minimize the impact on the taxpayer who is footing most of this bill, remember when the S&L's pay less, and they will pay less, if we pass this, and if we leave this language the way it is, if they do pay less, the taxpayer will pay more.

I encourage my colleagues to support the Bartlett-Barnard amendment.

Mr. GONZALEZ. Mr. Chairman, I yield such time as he may consume to the gentleman from Minnesota [Mr. VENTO].

Mr. VENTO. Mr. Chairman, I rise in opposition to the amendment and in support of the language that will help avert the housing crisis in this bill.

This legislation has been fundamentally improved by the inclusion of the Affordable Housing Program through the cash-advance windows. The provision seeks to reestablish and refocus the lending practices of the savings and loan industry to its founding origins—creating housing opportunities for Americans. Because of these underlying principles, this bill is the appropriate vehicle to begin addressing the critical situation that has developed in housing over the last 8 years.

Opponents of the Affordable Housing Program have attacked the measure with arguments that do not hold water.

They argue that this provision will only subsidize developers in buying and repairing rental units. This allegation is misleading. They fail to mention that funds available for multifamily rental housing through the cash-advance windows are subject to strict requirements for low- to moderate-income households. They fail to mention the priority established for the purchase or rehabilitation of housing held by the U.S. Government. They fail to mention the priority given to housing sponsored by nonprofit housing and State or local housing authority projects. And they fail to mention that each bank will have an advisory council consisting of active low- to moderate-income housing providers from that district that will analyze the activities of their respective bank.

Opponents of the provision argue that it does not take into account areas of actual housing need. First, Federal housing programs have been cut over 70 percent in the last 8 years. Housing needs are not isolated to one or two regions of the Nation. The housing shortage is critical across the country. In the U.S. Conference of Mayors annual report on hunger and homelessness in America's cities, demand for assisted housing was shown to have increased an average of 43 percent in 88 percent of the cities. Not one of the cities found a decrease in demand. Second, the program provides that if a bank fails to utilize all of the set-aside funds, they will be returned to a centralized affordable housing reserve fund administered by the Board to be distributed to banks with unmet need.

The opponents of the Affordable Housing Program allege that the targeted cash-advance window is a tax. It is not a tax. It will not cost the American taxpayers a penny. It is a modest requirement for an assessment on the net income of the regional home loan banks.

The administration has modestly estimated that this legislation would cost about $157 billion over 10 years. This affordable housing targeted cash-advance program is a minimal $75 million per year for the first 4 years, gradually increasing to $150 million by 1995. That represents $1.14 billion that will be gradually allocated through the cash-advance window over the next 10 years. That is less than 1 percent of the total cost of this bill. Less than 1 percent.

Most importantly, this program will have a sizable impact on the availability of affordable housing throughout the Nation. It has been estimated that it will subsidize some 62,086 to 124,171 units of housing per year.

Finally, the Affordable Housing Program will refocus a program that was established in the late 1970's. The Community Investment Program was a successful stimulus for community development initiatives at the time. Unfortunately, this program has not been utilized to its fullest potential during the past 8 years. Providing a specific structure through a targeted cash-advance window is just what the

doctor ordered for community investment by the S&L's.

Mr. Chairman, to suggest that this provision is inappropriate is to suggest that the savings and loan industry no longer has the responsibility that was the root of its creation. Providing housing to Americans is essential to the industry and it is essential to this bill.

Mr. Chairman, I urge my colleagues to vote "no" on the Bartlett amendment.

Mr. GONZALEZ. Mr. Chairman, I yield such time as he may consume to the gentleman from Wisconsin [Mr. KLECZKA].

Mr. KLECZKA. Mr. Chairman, I rise in very strong opposition to the Bartlett amendment.

Mr. Chairman, the Gonzalez housing provisions are crumbs from a table that is set for an S&L feast—financed by taxpayers.

The assertion that the Federal home loan banks are somehow private institutions without a public purpose is factually and legally wrong:

The Federal home loan banks were created and chartered by the Federal Government for a public purpose and can be abolished at any time.

The Federal home loan banks have a $4 billion line of credit to the Treasury. This draw on the taxpayer is why they are able to issue bonds so cheaply, thereby allowing S&Ls a cheap source of liquidity.

The operative court case on the question of the exact status of the Federal home loan banks is *Fahey et al.* v. *O'Melveny* (U.S. Circuit Court of Appeals, 9th Circuit, 1952). The court held that the banks are not the property of private investors (even though thrifts subscribe to stock in them) but are a "federal instrumentality."

The court said:

A Federal Home Loan Bank is a federal instrumentality organized to carry out public policy and its functions are wholly governmental. * * *

The court also said:

We hold that all Federal Home Loan Banks within the system are, and operate as, public banking agencies and instrumentalities of the federal government.* * *

The court further reaffirmed the public purpose:

While the Home Loan Banks are operated under carefully delimited private management, this fact in nowise militates against our view that they are governmental banking agencies. No constitutional limitations are suggested which forbid Congress to create this type of agency to perform certain functions of a public nature.* * *

These are not private entities. They are creatures of Congress.

Mr. GONZALEZ. Mr. Chairman, I yield myself 1 minute.

Mr. Chairman, I take this minute in order to rebut the absolute incorrectness, the falsity of the diagrams and the alleged distribution of the formula that has been advanced on the other side.

The funding formula is applied equitably in all of the district banks, determines the pool of funds available to subsidize low- and moderate-income housing, not just multiple housing but single-family housing mortgages as well.

The money is used within the district first to the extent that there are worthy projects in the district. This determination is made by community investment officers in that region subject to criteria established by the Federal Housing Finance Board.

To the extent that the need in any region is not sufficient to utilize the funds provided, then that goes into a pool, a national pool, and is subtracted thereof accordingly.

Mr. Chairman, I yield the remainder of my time, 1 minute, to the gentleman from Maryland [Mr. MFUME].

Mr. MFUME. Mr. Chairman, leadership is bold, daring, creative, innovative, courageous, and it has vision. It challenges us to be different, and in doing so to make a difference.

The provisions in this bill offer a glimmer of hope for the American family. It is an opportunity for us to seize this great imperative and to do the right thing. There are those who said that this is a tax. The real tax on all of us in America who look at this exercise tonight is the $150 billion that all of us will have to pay throughout this generation for this debacle that we find ourselves in.

□ 2140

I say to you who are the 94 percent who cannot afford to buy a newly constructed home, the 100 percent who have to bear the burden of this bailout, that you stand tonight all over this Nation, the elderly, American farmers, those in our inner cities, the blue-collar workers, the young couples who are fighting to make ends meet, and challenge us tonight in this Congress to take this opportunity and to do the right thing.

This is a bad amendment and I urge its defeat.

Mr. ROSTENKOWSKI. Mr. Chairman, I rise in support of the Bartlett amendment to strike the Afforable Housing Program.

I strongly support low-income housing. The Federal Government has an obligation to make sure that all Americans have access to affordable, decent shelter. And I believe that under my chairmanship the Committee on Ways and Means has an impressive record of providing effective incentives for low-income housing through the Tax Code.

However, from a substantive standpoint, the Housing Program currently contained in the bill is a new, unfocused, off-budget program.

I have profound reservations about the creation of off-budget programs. I believe that programs are best run if they are reflected directly on the budget and are subject to the discipline of the budget process. Congress has much less control over off-budget programs. For example, over 40 percent of the benefits of this proposed Housing Program flow to California and Texas. Congress would never directly legislate a program in which the benefits flow so disproportionately to two areas of this country. We would not legislate this type of program directly; and we should not do it indirectly.

Let us also be clear that this program would be funded by an indirect tax increase on savings and loan depositors. The money earmarked under the bill for the Housing Program is raised through a tax equal to a certain percentage of the annual net earnings of the Federal home loan banks. I point out again that we would never legislate a flat tax on savings directly. It is far more preferable to fund the housing programs we enact through general appropriations financed by the Federal income tax.

The prudent course of action is to pass the Bartlett amendment and strike the Housing Program. We should then join forces and approve an expanded Federal Housing Program directly. For example, the Committee on Ways and Means will soon be considering an extension and expansion of the low-income housing tax credit. In my view, this is a more reasonable approach to providing Federal assistance for low-income housing than what is currently before us.

I urge Members to support the motion to strike.

Mr. LEHMAN of California. Mr. Chairman, I want to raise my voice in support of affordable housing. I am pleased to see that you refocus the savings and loan industry toward home financing—the original intent as established in the 1930's. It is my understanding that the use of the community investment fund has been lax to nonexistent at most district banks. Your amendment not only requires that they develop and maintain such a program, but that each district bank establish an affordable Housing Program that will subsidize low- and moderate-income housing for qualifying projects.

As you know, in California there is a low-income housing fund—a nonprofit financial intermediary established 4½ years ago. The activities of this fund are all focused on very low-income households. In making specific projects work, this fund requires a large number of sources of financing, long-term deferred loans and subsidies. A simple reduction in conventional rates—even 2 percent—would play an important role in enhancing a project's feasibility. The $75 million you initially propose from the banks at a 2-percent interest rate subsidy will create $3.75 billion of loans to be dedicated toward low- and moderate-income housing projects.

The CHAIRMAN. All time has expired.

The question is on the amendment offered by the gentleman from Texas [Mr. BARTLETT].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. BARTLETT. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 206, noes 208, answered "present" 6, not voting 13, as follows:

[Roll No. 93]

AYES—206

Alexander	Hefley	Ravenel
Anderson	Henry	Ray
Andrews	Herger	Regula
Annunzio	Hiler	Rhodes
Archer	Holloway	Ridge
Armey	Hopkins	Rinaldo
Baker	Horton	Ritter
Ballenger	Houghton	Roberts
Barnard	Huckaby	Rogers
Bartlett	Hughes	Rohrabacher
Barton	Hunter	Rose
Bateman	Hutto	Rostenkowski
Bentley	Hyde	Roth
Bereuter	Inhofe	Roukema
Bevill	Ireland	Rowland (GA)
Bilirakis	James	Saiki
Bliley	Jenkins	Saxton
Boehlert	Johnson (CT)	Schaefer
Broomfield	Jones (NC)	Schiff
Brown (CO)	Kasich	Schneider
Bruce	Kolbe	Schuette
Bunning	Kyl	Schulze
Burton	Lagomarsino	Sensenbrenner
Byron	Laughlin	Shays
Callahan	Leach (IA)	Shumway
Campbell (CA)	Leath (TX)	Shuster
Chandler	Lent	Skeen
Clinger	Lewis (CA)	Slattery
Coble	Lewis (FL)	Slaughter (VA)
Combest	Lightfoot	Smith (MS)
Coughlin	Livingston	Smith (NE)
Craig	Lloyd	Smith (NJ)
Crane	Lowery (CA)	Smith (TX)
Dannemeyer	Lukens, Donald	Smith (VT)
Darden	Machtley	Smith, Denny (OR)
DeLay	Marlenee	Smith, Robert (NH)
Derrick	Martin (IL)	Smith, Robert (OR)
DeWine	McCandless	Snowe
Dickinson	McCollum	Solomon
Dornan (CA)	McCrery	Spence
Douglas	McCurdy	Stangeland
Dreier	McDade	Stearns
Duncan	McEwen	Stenholm
Edwards (OK)	McGrath	Stump
Emerson	McMillan (NC)	Sundquist
English	Meyers	Tauke
Fawell	Michel	Tauzin
Fields	Miller (OH)	Thomas (CA)
Flippo	Miller (WA)	Thomas (GA)
Frenzel	Molinari	Thomas (WY)
Gallegly	Montgomery	Upton
Gallo	Moorhead	Valentine
Gaydos	Morrison (WA)	Vander Jagt
Gekas	Murtha	Vucanovich
Gillmor	Myers	Walker
Gilman	Nielson	Walsh
Gingrich	Olin	Watkins
Goodling	Oxley	Weber
Goss	Packard	Weldon
Gradison	Parker	Whittaker
Grandy	Parris	Wilson
Grant	Pashayan	Wolf
Green	Paxon	Wylie
Gunderson	Payne (VA)	Yatron
Hall (TX)	Penny	Young (AK)
Hammerschmidt	Petri	Young (FL)
Hancock	Pickett	
Hansen	Porter	
Hastert	Pursell	
Hatcher	Quillen	

NOES—208

Ackerman	Brown (CA)	Dellums
Akaka	Bryant	Dicks
Anthony	Bustamante	Dingell
Applegate	Campbell (CO)	Dixon
Aspin	Cardin	Donnelly
Atkins	Carper	Dorgan (ND)
AuCoin	Carr	Downey
Bates	Chapman	Durbin
Beilenson	Clarke	Dwyer
Bennett	Clay	Dymally
Berman	Clement	Dyson
Bilbray	Coleman (TX)	Early
Boggs	Conyers	Eckart
Bonior	Cooper	Edwards (CA)
Borski	Costello	Engel
Bosco	Courter	Erdreich
Boucher	Coyne	Espy
Boxer	Crockett	Evans
Brennan	de la Garza	Fascell
Browder	DeFazio	Fazio
Feighan	Levine (CA)	Robinson
Fish	Lewis (GA)	Roe
Flake	Long	Rowland (CT)
Florio	Lowey (NY)	Roybal
Foglietta	Luken, Thomas	Russo
Ford (MI)	Manton	Sabo
Ford (TN)	Markey	Sangmeister
Frank	Martinez	Sarpalius
Frost	Matsui	Savage
Garcia	Mavroules	Sawyer
Gejdenson	Mazzoli	Scheuer
Gephardt	McCloskey	Schroeder
Gibbons	McDermott	Schumer
Glickman	McHugh	Sharp
Gonzalez	McMillen (MD)	Sikorski
Gordon	McNulty	Skaggs
Gray	Mfume	Slaughter (NY)
Guarini	Miller (CA)	Smith (FL)
Hall (OH)	Mineta	Smith (IA)
Hamilton	Moakley	Solarz
Harris	Mollohan	Spratt
Hawkins	Moody	Staggers
Hayes (IL)	Morella	Stallings
Hefner	Morrison (CT)	Stark
Hertel	Mrazek	Stokes
Hoagland	Murphy	Studds
Hochbrueckner	Nagle	Synar
Hoyer	Natcher	Tallon
Hubbard	Neal (MA)	Torres
Jacobs	Neal (NC)	Torricelli
Johnson (SD)	Nelson	Towns
Johnston	Nowak	Traficant
Jones (GA)	Oakar	Traxler
Jontz	Oberstar	Udall
Kanjorski	Obey	Unsoeld
Kaptur	Ortiz	Vento
Kastenmeier	Owens (NY)	Visclosky
Kennedy	Owens (UT)	Volkmer
Kennelly	Pallone	Walgren
Kildee	Panetta	Waxman
Kleczka	Patterson	Weiss
Kolter	Payne (NJ)	Wheat
Kostmayer	Pease	Whitten
LaFalce	Pelosi	Williams
Lancaster	Perkins	Wise
Lantos	Pickle	Wolpe
Lehman (CA)	Poshard	Wyden
Lehman (FL)	Price	Yates
Leland	Rahall	
Levin (MI)	Richardson	

ANSWERED "PRESENT"—6

Brooks	Madigan	Sisisky
Hayes (LA)	Martin (NY)	Tanner

NOT VOTING—13

Buechner	Cox	Skelton
Coelho	Davis	Swift
Coleman (MO)	Lipinski	Wright
Collins	Rangel	
Conte	Shaw	

□ 2159

The Clerk announced the following pairs:

On this vote:

Mr. Buechner for, with Mr. Rangel against.

Mr. Cox for, with Mrs. Collins against.

Messrs. MOLINARI, PORTER, and FLIPPO changed their vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

□ 2200

AMENDMENT OFFERED BY MR. GONZALEZ

Mr. GONZALEZ. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. GONZALEZ: Page 39, strike out line 15, and all that follows through page 40, line 2.

The CHAIRMAN. Under the rule, the gentleman from Texas [Mr. GONZALEZ] will be recognized for 5 minutes in support of his amendment, and the gentleman from Ohio [Mr. WYLIE] will be recognized for 5 minutes.

The Chair recognizes the gentleman from Texas [Mr. GONZALEZ].

Mr. GONZALEZ. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, this amendment deletes an amendment that was placed on my request by a vote of 37 to 11 by the committee, conditioned on my reaffirming some of the assurances I was given at the time, and conditioned on those reassurances by the FDIC after 2 weeks of reexamination, and the FDIC not being able to confirm what had been reported to me to begin with, I then requested that I be given permission to offer this amendment to delete that amendment, and I do so now.

Mr. WYLIE. Mr. Chairman, I yield myself such time as I may consume.

The distinguished chairman of the full committee is to be commended for this amendment. As everyone knows, he is a Member with absolute integrity. When this amendment was offered in the committee, I asked if it would impact negatively on FDIC. The chairman said no, and when he discovered it would, he came to me and said that he would offer this amendment tonight. The gentleman is as good as his word, and I compliment him for it and support his amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Texas [Mr. GONZALEZ].

The amendment was agreed to.

AMENDMENT OFFERED BY MR. HOAGLAND

Mr. HOAGLAND. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. HOAGLAND: Page 616, after line 2, insert the following new section (and amend the table of contents accordingly):

SEC. 923. NCUA POWERS AS LIQUIDATING AGENT AND CONSERVATOR.

(a) IN GENERAL.—Section 207 of the Federal Credit Union Act (12 U.S.C. 1787) is amended—

(1) in subsection (a), by striking out paragraph (2) and by redesignating paragraph (3) as paragraph (2);

(2) by striking out subsection (b) and inserting in lieu thereof the following:

"(b) BOARD AS CONSERVATOR OR LIQUIDATING AGENT.—

"(1) POWERS AND DUTIES.—As conservator, pursuant to section 206(h) of this Act, or liquidating agent, the Board shall have the following authorities and duties:

"(A) The Board is authorized—

"(i) as conservator or liquidating agent, and by operation of law shall succeed to (I) all the rights, the titles, powers, and privileges of the credit union, and of its members with respect to the insured credit union and

its assets, and (II) title to the books, records, and assets of every description of any previous conservator or other legal custodian of such insured credit union,

"(ii) as conservator or liquidating agent, to take over the assets of and operate the insured credit union with all the powers of the members, the directors, and the officers of the credit union and shall be authorized to conduct all business, collect all obligations and money due the credit union, and perform all functions of the credit union in its own name which is consistent with the appointment as conservator or liquidating agent and to preserve and conserve the assets and property of such credit union,

"(iii) as conservator, to take such action as may be necessary to put the insured credit union in a sound and solvent condition,

"(iv) as conservator, to take such action as may be appropriate to carry on the business of the insured credit union and preserve and conserve the assets and property of the credit union,

"(v) as conservator or liquidating agent and subject to the direction of the general counsel of the Board, to institute, prosecute, maintain, defend, intervene, and otherwise participate in any and all actions, suits, or other legal proceeding by or against the conservator, the liquidating agent, the credit union, or any creditors or member with respect to the credit union,

"(vi) as liquidating agent, to transfer any asset or liability of the insured credit union, such transfer to be effective without any approval, assignment, or consent with respect to such transfer, except, that if the transferee is another insured financial institution, the transfer must be approved by the appropriate Federal banking agency for such institution,

"(vii) as liquidating agent, to determine claims under the provisions set forth under subsection (k),

"(vii) as conservator or liquidating agent, to exercise all powers specifically granted to conservators or liquidating agents, respectively, by the provisions of this Act and such incidental powers as shall be necessary to carry out the powers so granted, and to take any actions authorized by this Act, whichever shall appear to be in the best interests of the insured credit union, of its accountholders, or the Board.

"(B) The conservator or liquidating agent shall pay all valid credit obligations of the insured credit union in accordance with the prescriptions and limitations set forth in this Act.

"(2) NOTICE REQUIREMENTS.—

"(A) PUBLICATION REQUIRED.—In cases of liquidation, or other closing or winding up of the affairs of a closed insured credit union, the liquidating agent shall—

"(i) promptly publish a notice to the credit union's creditors to present their claims, together with proof, to the liquidating agent by a date specified in the notice which shall be not less than 90 days after the publication of such notice; and

"(ii) republish such notice at the end of each 30-day period beginning after the date of the publication under clause (i) until the end of the period established in the first notice for submitting claims.

"(B) MAILING REQUIRED.—The liquidating agent shall mail a notice similar to the notice published under subparagraph (A)(i) at the time of such publication to any creditor shown on the insured credit union's books—

"(i) at the creditor's last address appearing in such books; or

"(ii) upon discovery of the name and address of a claimant not appearing on the credit union's books within 30 days of discovery.

"(C) CLAIMS DISALLOWED AFTER END OF PERIOD.—Claims filed after the date specified in subparagraph (A) shall be disallowed (and such disallowance shall be final) except that any claim later filed may be considered if the claimant that holds such a claim did not have notice of the conservatorship or liquidation in time for filing of such claim and such claim is filed in time to permit payment of such claim.

"(D) ALLOWANCE OF CLAIMS.—The liquidating agent shall allow any claim received before or on the date specified in subparagraph (A) and proved to its satisfaction. The liquidating agent may wholly or partly disallow any creditor claim or claim of security, preference, or priority not so proved, and shall within 180 days notify the claimant of the disallowance and the reason therefor. Mailing notice of the disallowance to the claimant's last address appearing on the insured credit union's books or on the proof of claim shall be sufficient notice. Unless, within 30 days after notice is mailed, the claimant files a written objection to the disallowance, disallowance shall be final. Those claims to which an objection is properly and timely filed shall be decided in accordance with the provisions of subsection (k).

"(E) PAYMENT OF CLAIMS.—The liquidating agency may pay creditor claims which are allowed by the liquidating agent or approved by a final determination by the liquidating agent in accordance with subsection (k), from time to time, in the liquidating agent's discretion, to the extent funds are available, in such manner and amounts as are authorized under this Act.

"(3) The liquidating agent shall—

"(A) retain for the account of the Board such portion of the amounts realized from any liquidation as the Board may be entitled to receive in connection with the subrogation of the claims of accountholders; and

"(B) pay to accountholders and creditors the net amounts available for distribution to them.

"(4) The liquidating agent may, in its discretion, pay dividends on proved claims at any time, and no liability shall attach to the Board itself or as such liquidating agent by reason of any such payment for failure to pay dividends to a claimant whose claim is not proved at the time of any such payment.

"(5) The conservator or liquidating agent may request a stay for a period of up to 90 days after the appointment of the liquidating agent as to any legal action or proceeding to which the liquidating agent or the insured credit union is or may become a party. Upon petition, the court shall grant such stay as to all parties.

"(6) CONTRACTS.—

"(A) AUTHORITY TO REPUDIATE CONTRACTS.—The conservator or liquidating agent may disaffirm or repudiate any contract or lease the performance of which the conservator or liquidating agent in its discretion considers to be burdensome, and in its discretion considers the disaffirmance or repudiation of which will promote the orderly administration of the insured credit union's affairs:

"(i) If the conservator or liquidating agent repudiates or disaffirms any contract other than as provided in clauses (ii), (iii), and (iv), the claim for damages resulting from such repudiation or disaffirmance shall be limited to actual direct compensatory damages, and, in the case of contracts and agreements referred to in clause (v) of this subparagraph, shall be measured as of the date of disaffirmance or repudiation. There shall be no liability on the part of the conservator or liquidating agent for any other damages, including punitive, exemplary, or damages for lost profits or opportunity or damages for pain and suffering. With respect to contracts and agreements under clause (v) of this subparagraph, lost profits and opportunity shall be deemed to include normal and reasonable costs of cover or other reasonable measures of damages utilized in the industries for such contract and agreement claims, and, except as otherwise specifically provided, shall be paid in accordance with this subsection and subsections (j) and (k) of this section.

"(ii) If the conservator or liquidating agent disaffirms or repudiates a lease under which the financial institution was the lessee within 90 days from the date the Board is appointed or discovers the existence of the lease, the conservator or liquidating agent shall not be liable with respect to such lease, except that the lessor shall be entitled to the contractual rent for the period from the appointment to the date the notice of disaffirmance or repudiation is mailed or effective, unless the lessor is in default or breach of the terms of the lease, and the lessor shall have a claim to be paid in accordance with subsections (j) and (k) of this section for any unpaid rent, subject to all appropriate offsets and defenses (but shall have no claim for damages under acceleration or other penalty provisions), due as of the date of the appointment.

"(iii) If the conservator or liquidating agent repudiates an unexpired written lease of real property of the insured credit union under which the institution is the lessor and the lessee is not in default, the lessee under such lease may treat the lease as terminated by such repudiation; or, in the alternative, the lessee may remain in possession of the lease-hold interest for the balance of the term of the lease unless the lessee defaults under the terms of the lease. If such lessee remains in possession under the provisions of this paragraph, the lessee shall continue to pay the contractual rent, and may offset against the rent unpaid for the balance of the term after the date of the repudiation of the lease, any damages occurring after such date caused by the nonperformance of any obligation of the insured credit union under the lease after such date, but the lessee does not have any rights against the conservator or liquidating agent on account of any damages arising after such date from the repudiation, other than such offset.

"(iv) If the conservator or liquidating agent repudiates a written contract of the insured credit union for the sale of real property, which satisfies the provisions of section 208(a)(3), under which the purchaser is in possession and not in default, such purchaser may treat the contract as terminated, or in the alternative, may remain in possession of such real property. If the purchaser remains in possession, the purchaser shall continue to make all payments due under the contract, but may offset against such payments any damages occurring after the date of the repudiation of the contract caused by the nonperformance of any obligation of the credit union contained in the contract after such date, but the purchaser does not have any rights against the conservator or liquidating agent on account of any damages arising after such date from the repudiation, other than such offset; and the conservator or liquidating agent shall deliv-

er title to the purchaser in accordance with the provisions of the contract, but is relieved of all other obligation to perform under the contract. Nothing herein is intended to limit the conservator or liquidating agent's right to assign such contract and sell the property subject to the contract and the provisions of this paragraph. If such an assignment and sale is consummated, the conservator or liquidating agent shall have no further liability.

"(v) CERTAIN FINANCIAL CONTRACT.—

"(I) Subject to subclause (III) and clause (x) of this subparagraph, but notwithstanding any other provision of this Act (other than section 208(a)(3) of this Act), or any other provision of Federal or State law, no person shall be stayed or prohibited from exercising any rights such person has to cause the termination or liquidation of a securities contract, forward contract or repurchase agreement, with an insured credit union based upon the appointment of the Board as conservator for the purpose of liquidation or liquidating agent or any rights under any security arrangement relating to the foregoing, or any rights to set off or net out any termination values, payment amounts, or other transfer obligations arising under or in connection with one or more such contracts and agreements, including any master agreement for such contracts or agreements: *Provided, however,* That if any party to such a contract or agreement shall bring any judicial action or proceeding against such conservator or liquidating agent or insured credit union, the provisions of subsection (b)(1)(A)(vi) of this Act shall be applicable.

"(II) Notwithstanding clause (vi) of this subparagraph, the Board, in its corporate, liquidation, and conservatorship capacities, shall have no authority to avoid any transfer of money or other property made in connection with a contract or agreement defined in subclause (III) except upon a showing of actual intent by such party to hinder, delay, or defraud such financial institution, the creditors of such financial institution, or the conservator or liquidating agent.

"(III) For purposes of subclauses (I) and (II), the following terms shall have the following meanings:

"(aa) The term 'securities contract' has the meaning given to such term in section 741(7) of title 11, United States Code, for purposes of section 555 of title 11, United States Code: *Provided, however,* That the term 'security' as used in such section 741(7) shall have the meaning given to such term in section 101(43) of title 11, United States Code, and shall include mortgage loans and interests herein: *Provided further, however,* That a participation in a commercial mortgage loan does not itself constitute a 'securities contract', unless the Board determines by regulation, rule, resolution, or order to include a participation in a commercial mortgage loan itself within such term.

"(bb) The term 'forward contract' has the meaning given to such term for purposes of section 556 of title 11, United States Code.

"(cc) The term 'repurchase agreement' has the meaning given to such term in section 101(41) of title 11, United States Code, for purposes of section 559 of title 11, United States Code: *Provided, however,* That the term ', mortgage-related securities (as such term is defined in section 3(a)(41) of the Securities and Exchange Act of 1934 (15 U.S.C. 78a et seq.), mortgage loans, and interests therein' is inserted after the word 'States' the second time the word 'States' appears in such definition, inserted before the word 'with' in such definition, and inserted before the word 'as' the second time the word 'as' appears in such definition: *Provided further, however,* That a participation in a commercial mortgage loan does not itself constitute a repurchase agreement, unless the Board determines by regulation, rules, resolution, or order to include a participation in a commercial mortgage loan itself within such term.

"(dd) The term 'transfer' has the meaning given to such term in section 101(50) of title 11, United States Code.

"(IV) Notwithstanding any other provision of this Act or any other provision of Federal or State law, the provisions of subsection (k)(4) and section 208(a)(3) of this Act shall not apply with respect to any contract or agreement referred to in subclause (III) of this clause, so long as the person claiming under such contract or agreement has relied in good faith on a written representation and undertaking made by the insured credit union that the insured credit union has complied with and will continue to comply with the requirements of section 208(a)(3) of this Act.

"(vi) Nothing herein is intended to allow the avoidance of any legally perfected security interest in any of the assets of the institution except where such an interest is taken in contemplation of the institution's insolvency or with the intent to hinder, delay, or defraud the institution or its creditors.

"(vii) The conservator or liquidating agent shall determine whether or not to exercise the rights of repudiation under this section within a reasonable period following its appointment.

"(viii) If, pending its determination whether or not to exercise the right of repudiation under this section, a conservator or liquidating agent accepts performance by the other party to a contract for services, the other party shall be paid under the terms of the contract for the services performed as an administrative expense of such conservatorship or liquidation. Any claim of such other party for services performed prior to the appointment of the conservator or the liquidating agent shall be a claim to be paid in accordance with subsections (j) and (k) and shall be deemed to have arisen as of the date of the Board's appointment as such conservator or liquidating agent. Such acceptance of services shall not be a waiver of the conservator or liquidating agent's right to later repudiate.

"(ix) In effecting any transfer of assets or liabilities of an insured credit union, the liquidating agent or conservator shall either—

"(I) transfer to a single financial institution, as appropriate (other than an insolvent insured credit union), all financial contracts (as defined in clause (v)) of a party with such credit union, all claims of a party and its affiliates under financial contracts against such insured credit union (other than claims subordinated by any such financial contracts to the claims of general unsecured creditors), all claims of such insured credit union in default against such party and its affiliates under all such financial contracts, and all property securing claims under all such financial contracts; or

"(II) transfer no financial contracts of an insolvent insured credit union with the particular party or its affiliates, no claims of a party and its affiliates under financial contracts against such insured credit union, no claims of such financial institution against such party and its affiliates under such financial contracts, and no property securing claims under such financial contracts.

"(x) The conservator or liquidating agent shall use its best efforts to notify a party whether it has effected a transfer of assets and liabilities of an insured credit union in accordance with clause (ix)(I) prior to 12:00 local time on the business day following its first appointment. If a party to a contract or agreement specified in clause (v) of this subparagrpah is notified by the conservator or liquidating agent by the close of business on the business day following its first appointment as such that it has transferred to a single financial institution (other than an insured credit union in default) all financial contracts with the insured credit union for which it has been appointed as conservator or liquidating agent, all claims of a party and its affiliates under financial contracts against such insured credit union (other than claims subordinated by any such financial contracts to the claims of general unsecured creditors) all claims of such financial institution in default against such party and its affiliates under all financial contracts, and all property securing claims under all financial contracts, then the provisions of clause (v)(I) shall not apply. For purposes of this clause, the conservator or liquidating agent shall be deemed to have notified a party if it has taken steps reasonably calculated to provide notice to such party. As used in this clause, 'business day' means a day other than a Saturday, Sunday, or day on which either the New York Stock Exchange or the Federal Reserve Bank of New York is closed. As used in this clause and clauses (ix) and (xi) of this subparagraph, the term 'financial contract' means a contract or agreement referred to in clause (v) of this subparagraph.

"(xi) Notwithstanding any other provision of this Act (other than subsections (b)(7) and (k)(4) of this section and section 208(a)(3) of this Act) or any other provision of Federal or State law, no person shall be stayed or prohibited from exercising any rights such person has to cause the termination, liquidation, or acceleration of financial contracts with an insured credit union in a conservatorship based upon a default under such financial contracts enforceable under applicable noninsolvency law, or any rights under any security arrangement relating to such financial contracts, or any rights to set off or net out any termination values, payable amounts, or other transfer obligations arising under or in connection with financial contracts.

"(7) The conservator or liquidating agent may enforce any contract, other than a directors or officers liability insurance contract or a financial institution bond, entered into by the insured credit union, notwithstanding any provision of the contract providing for termination, default, acceleration, exercise of rights upon insolvency or the appointment of a conservator or liquidating agent or following such appointment. Nothing in this paragraph shall impair or affect any right, if any, of the conservator or liquidating agent that may have existed immediately prior to the enactment of the Financial Institutions Reform, Recovery and Enforcement Act of 1989 to enforce or recover under a directors or officers liability insurance contract or financial institution bond with regard to institutions for which a conservator or liquidating agent has already been appointed before the date of the enactment of such Act or those institutions for which such appointment is made after such date. No extension of credit from a Federal home loan bank or Federal Reserve bank shall be subject to this subsection.

"(8) The Board as conservator or liquidating agent shall, consistent with its established accounting and reporting practices and procedures, keep a full accounting of each conservatorship and liquidation or other disposition of institutions and shall make such accounting or reports, as appropriate, regarding each such conservatorship or liquidation available to the Comptroller General of the United States or, in the case of a State-chartered credit union, the authority appointing the conservator or liquidating agent under State law, if appropriate, which report shall be available upon request to any shareholder or any member of the public.

"(9) In any case in which funds remain after all account holders, creditors, other claimants, and administrative expenses are paid, the liquidating agent shall distribute such funds to the insured credit union's shareholders or members along with the accounting specified in paragraph (8).

"(10) The Board may, any time 6 years after its appointment as liquidating agent of an insured credit union, destroy any records of such institution which the Board in its discretion deems to be necessary unless otherwise prohibited by statute or applicable regulation.

"(11) Notwithstanding any contractural provisions to the contrary, the applicable statute of limitations with regard to any action brought by the Board as conservator or liquidating agent shall be 6 years for contract claims and 3 years for tort actions, or in either case the applicable State statute of limitations. The statute of limitations on such actions shall not begin to run until the date of the appointment of the Board as such conservator or liquidating agent or the accrual of the cause of action, whichever is later.

"(12) Whenever the authority having supervision of any insured State chartered credit union appoints a conservator or liquidating agent for such State insured credit union and tenders appointment to the Board, the Board may accept such appointment. The Board as such conservator or liquidating agent shall possess all the rights, powers, and privileges granted by State law to a conservator or liquidating agent of a State insured credit union of any kind, in addition to and not in derogation of the powers conferred upon the Board under this Act. As such conservator or liquidating agent, the Board shall not be subject to the discretion or supervision of any other agency or Department, State or Federal, in the exercise of its rights, powers, and privileges. For the purposes of this section, the term 'liquidating agent' includes a liquidating agent, receiver, conservator, commission, person, or other agency charged by law with the duty of winding up the affairs of a credit union.";

(3) in subsection (c)—

(A) by striking out the 5th sentence of paragraph (1); and

(B) by inserting after paragraph (3) the following new paragraph:

"(4) PAYMENT OF INSURED ACCOUNTS.—

"(A) In cases of liquidation, or other closing or winding up of the affairs of a closed insured credit union payment of the insured accounts in such insured credit union shall be made by the Board as soon as possible, subject to the provisions of subsection (h) of this section either by cash or by making available to each account holder transferred funds in a new insured credit union in the same community or in another insured credit union in an amount equal to the insured funds of such account holder.

"(B) The Board, in its discretion, may require proof of claims to be filed and may approve or reject such claims.

"(C) In the case of a disputed claim, the Board shall have the power to resolve such disputed claims according to rules and regulations established by the Board for that purpose with full regard for the due process rights of all parties.

"(D) Final determination made by the Board shall be reviewable by the Court of Appeals for the District of Columbia Circuit or the court of appeals for the circuit where the insured credit union is located.

"(E) Any request for review of a final determination by the Board shall be filed with the appropriate circuit court of appeals not later than 60 days after such determination is ordered.

"(F) In the absence of rules and regulations, the Board may require the final determination of a court of competent jurisdiction before paying such claim.";

"(4) by striking out subsection (j) and inserting in lieu thereof the following new subsection:

"(j) VALUATION OF CLAIMS AGAINST CREDIT UNIONS IN LIQUIDATION.—Notwithstanding any other law, State or Federal, or the constitution of any State, and regardless of the method which the Board determines to utilize with respect to an insured credit union, the following provisions shall govern the rights of the creditors (but not insured account holders) of such credit union:

"(1) MAXIMUM LIABILITY.—The maximum liability of the Board to any person having a claim against the liquidating agent of an insured credit union shall be equal to the amount such claimant would have received from the liquidating agent upon liquidation of such institution.

"(2) ADDITIONAL PAYMENT AUTHORIZED.—The Board may, in its discretion, pursuant to section 208, use its own resources to make additional payments or credit additional amounts to or with respect to or for the account of any claimant or category of claimants: Provided, That the Board shall not be obligated as a result of having made any such payment or credited any such amount to or with respect to or for the account of any claimant or category of claimants, to make payment to any other claimant or category of claimants.

"(3) The Board may make the payments or credit the amounts specified in paragraphs (1) and (2) directly to the claimants or may make such payments or credit such amounts to an open insured financial institution to induce the open insured financial institution to accept liability for such claims."; and

(5) by adding at the end thereof the following new subsection:

"(k) RULEMAKING AND CLAIMS DETERMINATION AUTHORIZED.—

"(1)(A) The Board shall have the power to make rules and regulations for the conduct of conservatorships and of liquidations where it is so appointed and the Board may, by regulation or order, provide for the exercise of functions by members or directors, or officers of a credit union during conservatorship or liquidation.

"(B) The Board shall also have the power to make rules and regulations regarding the allowance of claims and the administrative adjudication of claims.

"(C) No court shall have jurisdiction over any claim or action seeking payment from, or a determination of rights with respect to, the assets of any credit union for which the Board has been appointed conservator or liquidating agent, including assets which the Board may acquire from itself as such conservator or liquidating agent, or with respect to any act or omission of the institution or the Board as conservator or liquidating agent, except as set out in this subsection.

"(2) The Board shall have 180 days from the date a claim is timely filed under subsection (b)(2)(C) to determine whether or not to allow the claim. The amount of time for such a determination may be extended in writing by the claimant and the Board.

"(3) Within 60 days after the end of the period provided in paragraph (2) of this subsection, or within 60 days after the Board denies the claim, whichever is sooner, a claimant may either seek review within the Board under paragraph (6) or file a suit in the district or territorial court of the United States held within the district in which the credit union's principal place of business is located or in the district court for the District of Columbia, or to continue a suit filed before the appointment of a liquidating agent.

"(4) The Board shall establish a procedure for expedited relief outside of the routine claims process for claimants with legally valid and perfected security interests who allege irreparable injury if the routine claims procedure is followed. 60 days after the filing of a request for expedited relief, or as soon as the Board denies the claim, whichever is sooner, the claimant shall be permitted to file or continue a suit filed before the appointment of the liquidating agent with respect to such security interest but only as to the claimant's rights as to such security interest. If suit is not filed, or motion to renew a previously filed suit is not made, within such 60-day period, the claim shall be deemed disallowed, such disallowance shall be final and the claimant shall have no further rights or remedies.

"(5) There shall be no judicial review of the Board's decision not to allow a claim under paragraph (2). A claimant's only remedy shall be to file or continue a suit as provided in paragraphs (3) and (4).

"(6) If a claimant elects to seek review under this paragraph in lieu of filing suit under paragraph (3), the Board shall consider the claim de novo after opportunity for a hearing on the record. The final determination of the Board with respect to such claim shall be subject to judicial review under chapter 7 of title 5, United States Code.

"(7) The Board shall establish such alternative dispute resolution processes as may be appropriate for the resolution of claims under this section. In creating such processes, the Board shall strive for procedures which are expeditious, fair, independent, and low cost. The Board may establish both binding and nonbinding systems, which may be conducted by any government or private party, but all parties, including the claimant and the Board, must agree to the use of the process in a particular case. The Board shall seek to develop incentives for claimants to participate in the alternative dispute resolution process. The Board shall report to the Congress within 180 days of the enactment of the Financial Institutions Reform, Recovery and Enforcement Act of 1989, on such systems and incentives.

"(8) No agreement which does not meet the requirements set forth in section 208(3) shall form the basis of, or substantially comprise, a claim against the liquidating agent or the Board.

"(9) The Board may not by regulation or rule disturb the final nonappealable adjudi-

cation of a court rendered prior to the appointment of the Board as conservator or liquidating agent. In the event of such a judgment, the liquidating agent shall have all the rights and remedies available to the institution prior to failure and the Board in general, including removal to Federal court and all appellate rights, but shall not be required to post any bond in order to pursue such remedies.

"(10) No attachment or execution may issue by any court upon assets in the possession of the liquidating agent.".

(b) Section 206(h)(3) of the Federal Credit Union Act (12 U.S.C. 1786(h)(3) is amended by adding at the end thereof the following sentence: "Except as provided in this paragraph, no court may take any action, except at the request of the Board by regulation or order, to restrain or affect the exercise of powers or functions of the Board as a conservator.".

The CHAIRMAN. Under the rule, the gentleman from Nebraska [Mr. HOAGLAND] will be recognized for 5 minutes in support of his amendment and the gentleman from Nebraska [Mr. BEREUTER] will be recognized for 5 minutes.

Mr. HOAGLAND. Mr. Chairman, I'd like to offer an amendment today which is technical and conforming in nature but very important in substance.

It provides to the National Credit Union Administration the statutory authority to continue doing what it has been doing: regulating the federally insured crecdit unions of this country in an effective and successful manner.

In the past, the NCUA has had to rely upon case law construing the statutory authority of the FDIC and the FSLIC to demonstrate its authority in liquidation and conservatorship situations. Under H.R. 1278, the statutory authority of the FDIC will change significantly, but the NCUA will be left out in the cold. It may be unable to cite FDIC case law, because the statutory laws for FDIC will have been revised.

This amendment seeks to bring NCUA's authority into conformity with the authority granted to the FDIC for liquidation and conservatorship purposes, and to clearly delineate NCUA's authority and duties as conservator and liquidating agent. In this way, the amendment seeks to mirror the commendable work Chairman GONZALEZ has done in clarifying the liquidation and conservatorship provisions of Federal Banking laws in H.R. 1278.

I am pleased to be able to say that the Chairman of the House Banking Conmittee and officials of the National Credit Union Administration strongly support the adoption of the amendment. It needs to be done.

The credit unions of this country, through their representatives, have been most helpful in developing this amendment. It is not accident that the credit union insurance fund is the healthiest of the three insurance funds. In light of the experiences occasioning this bill, it is crucial we keep it that way. Credit unions take a proprietary—even a jealous—interest in the health of their insurance fund. To their credit, they have generally supported enhanced enforcement authorities for the NCUA, as well as regulatory efforts to minimize insurance fund losses.

They are to be commended for their work in developing this amendment. I thank them for their cooperation.

I appreciate very much the work of Chairman MOAKLEY in allowing me to present this amendment. With Mr. BEREUTER of Nebraska, I urge my colleagues to adopt it. Thank you, Mr. Chairman.

Mr. HUBBARD. Mr. Chairman, I rise in support of the amendment offered by my good friend, PETER HOAGLAND of Nebraska.

On June 2, the subcommittee on general oversight and investigations of the House Banking Committee that I chair, and on which Congressman HOAGLAND is a member, held a hearing in Congressman HOAGLAND's district, in Omaha, NE. During this hearing we heard the testimony from the National Credit Union Administration on legislative initiatives that could be implemented to increase their ability to adequately supervise credit unions to ensure the continued safety and soundness of these institutions.

This amendment will maintain the regulatory authority of the NCUA on the same level as the Federal Deposit Insurance Corporation [FDIC] after the passage of H.R. 1278.

I congratulate the gentleman from Nebraska on his good and needed amendment, and I urge its adoption.

Mr. HOAGLAND. Mr. Chairman, I yield 1 minute to the gentlewoman from Ohio [Ms. OAKAR]

Ms. OAKAR. Mr. Chairman, I rise in support of the amendment offered by my colleagues, Messrs. HOAGLAND and BEREUTER, with whom I am pleased to serve on the Banking Committee. I applaud the gentlemen from Nebraska for their work on this amendment.

Mr. Chairman, I am proud to be an ardent supporter of the role credit unions play in the Nation's financial marketplace. I know that most Members of this body recognize the special mission which the Nation's credit unions carry out—namely to provide basic, low-cost financial services to nearly 60 million Americans, many of whom would be denied such services if it were not for credit unions.

There is one thing which I would like to mention to my colleagues which each of you should be aware of in this time of economic uncertainty—and that is the safety and soundness of the Nation's credit union community. Mr. Chairman, we should note that since the voluntary 1984 recapitalization of the National Credit Union Share Insurance Fund—legislation which I am pleased to have helped steer through Congress—it has been by far the strongest of the three Federal deposit insurers. Furthermore, while the FDIC and FSLIC were busy closing down a record high number of banks and savings and loans last year, the NCUSIF closed down a record low number of credit unions.

To my colleagues who are wondering why we are talking about credit unions in this emergency legislation, I want to state for the record that it is not because we are experiencing—or expecting—problems with credit unions. We are not. Rather, this is merely a technical amendment to provide the National Credit Union Administration with authorities which are uniform with powers available to bank and savings and loan regulators.

Mr. BEREUTER. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in strong support of the amendment being offered by my distinguished colleague from Nebraska [Mr. HOAGLAND].

As the gentleman knows, the Omaha-Council Bluffs metropolitan area and our entire State were recently shocked by the failure of a credit union in Nebraska which has become one of the largest credit union failures in the history of the NCUA.

While I do not believe that one credit union failure is indicative of wholesale or widespread problems in the credit union industry, the ability of this $40 million fraudulent scam to occur should give us pause to consider the adequacy, and more importantly, the quality of the current regulation of federally insured credit unions.

Of course, the bulk of this legislation quite properly pertains to regulation and restructuring of the savings and loan sector and it ensures that the Federal insurance funds for savings and loan institutions and commercial banks remain sound. Congress also has a responsibility to ensure that the regulatory problems which have occurred in the S&L industry do not similarly afflict our Nation's credit unions.

The amendment which my colleague offers today is a reasonable and necessary one that will grant to the National Credit Union Administration the same authority as that given to the FDIC and the FSLIC so as to manage the assets of failed institutions which are in liquidation or conservatorships. The amendment provides for procedures that will be consistent with the procedures and caselaw applicable to the FDIC and the FSLIC.

While the regulated industry surely should not ultimately be determining what powers the regulator should have, it is noteworthy that this

amendment has been reviewed and approved by the NCUA, and association representatives from the Credit Union National Association [CUNA], and the National Association of Federal Credit Unions [NAFCU].

I would also note that a previous amendment offered by my colleague from Nebraska [Mr. HOAGLAND] for himself, for the distinguished gentleman from Kentucky [Mr. HUBBARD] and this Member, to strengthen the annual audit requirement for credit unions, and an amendment by this gentleman which authorizing a GAO study of a variety of credit union issues, were both adopted by the Banking Committee during markup. Both are also important to credit unions and the security of the credit union insurance fund and they are complimentary to the Hoagland amendment. This Member intends to work hard to ensure that these amendments, and the one being offered today, survive in the conference with the other body.

Again, I support the amendment offered by my colleague, and I urge its adoption.

Mr. HOAGLAND. Mr. Chairman, I yield such time as she may consume to the gentlewoman from New York [Mrs. LOWEY].

Mrs. LOWEY of New York. Mr. Chairman, I rise to express my support for and reservations about H.R. 1278, the savings and loan bailout bill. The Federal Government's responsibility to restore the stability of the savings and loan system is unquestioned. Savings and loans have historically performed a critical role in assisting people to realize the American dream of owning their own home. These institutions also hold the deposits of millions of Americans. We clearly must restore the viability of these institutions to protect their depositors. We also must make changes so that the abuses, the fraud, and the mismanagement which played a major role in the creation of this financial mess are never allowed to be repeated.

The Federal Government has no choice but to stabilize the savings and loan industry. That requires strengthening regulations and enforcement and guaranteeing deposits. I am concerned, however, about the cost of this program and where that burden will ultimately fall. It seems to me that there should be procedures in this bill to place additional responsibility on those responsible for the vast majority of failures. After much contemplation, I have decided to support this measure because failure to do so would only leave a worse, more costly, problem to be confronted in the future. Simply put, the crisis must be dealt with and dealt with now.

Under H.R. 1278, thrifts will be required to maintain a larger cushion of capital to absorb losses. The savings and loan insurance system will be better prepared to handle future savings and loan failures as a result of an increase in the insurance payments paid by thrifts and commercial banks. Insolvency will become less likely thanks to new standards which I trust will be strongly enforced by a newly restructured system of regulations. And fines will be levied on violators of those regulations. These reforms are urgently needed to restore confidence and reliability in this industry. In my view, they are the heart of this legislation because they are designed to see that we do not permit the irresponsible acts that contributed to this situation to happen again.

If H.R. 1278 is adopted, its greatest contribution will be in preventing another crisis like the one currently overwhelming so many savings and loans. The solvency of the savings and loan industry involves more than the health of a business proposition. This industry is tied to a basic tenet of the American dream. It's time to get the thrifts back into the business of providing stable, affordable mortgages to home buyers and out of the speculative ventures and high risk gambles that have created, in large part, the mess they are in today.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Nebraska [Mr. HOAGLAND].

The amendment was agreed to.

Mr. RICHARDSON. Mr. Chairman, we are all very aware of the current crisis in the savings and loans industry. But, what about the depositors?

Individuals, their life savings insured by the Federal Government, expected their money to remain safe and secure. Instead, mismanagement and fraud, by a few "bad apples" threatens to destroy the entire industry.

Now the people of the United States will have to pay to close or restructure these institutions in order to pay back the depositors. And they are not happy.

The Federal Government instilled in the people the assurance that their money would remain safe if in federally insured institutions. Now that some of these institutions are in trouble, we have no choice but to bail them out. We cannot let the depositors suffer.

In exchange, we owe the taxpayers three things: First, to prevent a situation like this from ever happening again; second, to establish severe penalties for the abuse, misuse or fraud against federally insured institutions, and; third, to ensure that the Nation's taxpayers do not bear the financial burden of this legislation.

I am not condemning the entire savings and loan industry, however, I am condemning the 500 savings and loans that were operating in an unsafe and unsound manner and exposing their institution's funds to imprudent risks.

Mr. Chairman, I believe the savings and loan industry is important to the financial well-being of our communities, our businesses, and home ownership. However, I also believe that they must pay for their misconduct, not the American taxpayer.

Mr. DANNEMEYER. Mr. Chairman, there are certain things which must be said at this juncture, as Congress is trying to resuscitate FSLIC, the Government-owned and operated deposit insurance system for the thrift industry, which has been brain-dead for many a year.

The savings and loan industry had a great mission in this country. It was to gather funds for the benefit of the homemakers, and to reward the savers whose thrift made the American dream a reality. There is no question that, under a regime of stable prices and interest rates, the savings and loan industry could fulfill its mission and flourish. Deposit insurance was designed to serve as a safety net, not as a milch cow.

But a funny thing happened on the way to the forum, before the American dream could be fulfilled. In 1968, Congress eliminated the gold reserve requirement of the Federal Reserve notes, and thus let the genie of inflation out of the bottle. The reason given for this mindless act was the need to make good on America's pledge that the dollar was as good as gold, and that America was going to honor its commitment to pay out gold to foreign holders of dollars down to the last bar in Fort Knox. When in 1971, President Nixon temporarily shut the gold window, no mention of America's pledge to foreigners was made. The cork was blithely thrown away, and with it our chance that the genie of inflation might be put back into its bottle.

The intervening years have clearly demonstrated that the dire predictions of monetary scientists, warning of the dangers of irredeemable currency, were well-founded. The genie of inflation ushered in the regime of high and increasingly volatile prices and interest rates. High prices robbed the wage earners of their reward for an honest day's work. High-interest rates, far from helping the savers, ruined the capital of the producers, the productivity of the wage earners, and the balance sheets of the banks. We make a financial distinction between solvent and insolvent savings banks. But if we apply strict accounting standards, then all our financial institutions are insolvent. Solvency nowadays is established by cooking the books, that is, by carrying assets at a figure far higher than true market value, and by the sleight of hand of goodwill, tailormade to cover the shortfall.

A counsel of perfection was dollar stabilization. It would have arrested not just the obvious price-spiral, but also the less conspicuous, albeit more insidious interest-rate spiral plaguing our economy. The books of the savings banks could have been balanced easily in a stable-interest environment.

Instead, we followed the counsel of despair. We called for deregulation. Like first graders having been invited by the teacher to help themselves at the candy store, the managers of our savings banks went on a wild binge. They invested in everything short of mortgages on real estate in the Moon. They thought they were playing "heads—I win; tails—your lose". They would keep the profits, but would pass on the losses to the taxpayer.

As this debate in the House shows, we are still not ready to learn the lessons from this bitter experience. Evil is not the thrift industry or its managers; evil is not the deposit insurance system; evil is not deregulation per se. Evil is the government which deliberately engages in the debasement of its own currency. No bailout plan, regardless of how many billions of dollars are earmarked for it, can possibly succeed until we realize that central fact. Congress, in all humility, must admit its full share of the blame for the fiasco.

According to Federal Reserve Chairman Alan Greenspan, the genie of inflation is a one-armed bandit, the one arm being the price spiral, and he pledges to disarm it. But

Mr. Greenspan is mistaken. The genie of inflation is, in fact, a two-armed bandit. It has a second arm: the interest-rate spiral. As Mr. Greenspan attempts to disarm the first, it will continue to deal its deadly blows to the economy with its second free arm, the existence of which we even refuse to admit. Our blindness to this second arm of the genie of inflation also spells the doom of the bailout plan we are here to debate today.

I wish to sound the alarm, with all the earnestness that I can muster in this hour of great need, that this House is about to throw taxpayer money at a problem without understanding the nature of the problem itself. The same problem will come back later with a vengeance. But by that time it may be of unmanageable dimensions—unless we wake up and address the underlying cause, the ailing dollar. Congress must stop the rot, and offer its won propitiation for past errors of omission and commission in the monetary arena. Congress must stabilize the dollar.

Mr. ROWLAND of Connecticut. Mr. Chairman, today we are debating equity and fairness. Within Chairman GONZALEZ's en bloc amendment is an amendment offered by my colleague Mr. HAWKINS, the chairman of the Education and Labor Committee, which would eliminate the provision in H.R. 1278 which places a 2-year moratorium on the FDIC extending passthrough insurance to deposits from pension plans.

For many years, insurance companies in the U.S. have been providing pension managers with secure investment opportunities through guaranteed investment contracts [GIC's]. Within the past 2 years, banks have begun to enter this market by offering bank investment contracts [BIC's]. Mr. Chairman, those who know me, know me to be one who ardently advocates competition in the marketplace. However, if competition is to work, those competing must play on equal terms. The banks offering BICs do not play fair.

The BIC, Mr. Chairman, has an unfair advantage over the GIC of exactly 100,000 times. That's because every BIC depositor is insured by Uncle Sam, the FDIC, and the American taxpayer to the tune of $100,000. The insurance company GIC, however, has no such backing. The GIC's backing is the hard work and business acumen of the insurance company. If anyone were to describe this situation as fair competition, I would know that I was speaking to a fool.

I am not saying that banks should not be allowed to compete with GIC's for pension fund investors. H.R. 1278, as it stands now, would not prevent that in the least. What the bill does provide for, is that banks and insurance companies would have to offer their BIC's and GIC's on an equal footing. Even then, the moratorium on extending "pass through" would only last until a study on the "past through" issue is completed. Banks and insurance companies with equal credit worthiness should compete for the pension fund investors, but the banks and thrifts should not have FDIC backing during the time the study is being conducted.

Mr. Chairman, it is very much the case that savings and loan and banks with credit ratings of B, or perhaps worse, are offering BIC's, backed by the FDIC, and taking business away from AAA-rated insurance companies. Mr. Chairman, if the B-rated savings and loan becomes insolvent, and let us not forget that the business before us is precisely that—insolvent savings and loans and what to do with them—the FDIC will have to cover every single BIC depositor. The FDIC's role in the bailout is work enough. Let's not make the job that much harder, costly and unworkable. In the name of fairness, defeat the Hawkins' amendment. Thank you, Mr. Chairman.

Mr. SLATTERY. Mr. Chairman, Groucho Marx cnce said, "Politics is the art of looking for trouble, finding it everywhere, diagnosing it incorrectly and applying the wrong remedies."

This certainly is true of section 1003 of H.R. 1278, which would preclude the FDIC for the next 2 years from extending deposit insurance to pension plans on a passthrough basis with respect to any new deposits made after April 6, 1989.

Over the years, many pension funds have invested a substantial portion of their asset portfolios in time deposits, such as certificates of deposit, offered by banking institutions. This is especially true of small funds and State and local pension funds.

Time deposits have proved attractive because of their competitive rates of return and their safety. Undoubtedly, the existence of passthrough FDIC insurance has been a significant factor in this investment decision. No one has ever expressed concern to me about any problems that exist with these investments.

Based on an incorrect analysis of the Internal Revenue Code, some proponents of section 1003 have told Congress that the proposed restrictions would not affect State and local Government pension plans. This is not the case. Public plans hold hundreds of billions of dollars in cash deposits and investments in the Nation's financial institutions, and the millions of pension plan participants and retirees rely on the security provided by deposit insurance.

The availability of passthrough deposit insurance has been an important incentive for public plan investment managers to retain funds in demand and time accounts and to invest in certificates of deposit and overnight accounts. Without deposit insurance, this investment strategy will have to be reevaluated. It seems ironic to me that while Congress is striving to reestablish the stability of our financial system, a provision which would encourage disinvestment in banks and savings and loans has been included in H.R. 1278.

In my home State of Kansas, the Kansas Public Employee Retirement System [KPERS] held $110,900,000 in pension funds in cerificates of deposit offered by banks across the State at the time this matter was first taken up by the House Banking Committee. Those certificates of deposit were up for renewal on June 3 of this year. This money is resting safely in Kansas financial institutions, helping to provide capital for economic expansion across the State. Under the provisions of section 1003, KPERS was able to rollover those CD's and maintain insurance coverage, but no new deposits by KPERS in Kansas financial institutions could be made. There is no good reason to take these additional funds contributed by public employees in the State of Kansas and invest them in the stock market instead of in home State financial institutions.

The amendment offered by the House Education and Labor Committee leadership would provide for a 6-month study by the FDIC with respect to the need of such a legislative denial of the passthrough protection for these classes of deposits to individual participants. It is only simple common sense to first determine if there is a problem that needs correcting before we make permanent law changes that could affect pension fund security. I urge my colleagues to join me in supporting this amendment.

Mr. GRADISON. Mr. Chairman, 3 years ago, I was one of about a dozen House Members who voted against the previous S&L bailout bill. At that time, I said my vote was based on three deficiencies in the legislation:

First, that the funding was off-budget; second, that the resources being provided were inadequate; and third, that much needed reforms were essentially absent.

Today, regrettably, I find myself in much the same situation. While I am pleased that the House bill, H.R. 1278, dictates on-budget financing, the resources provided in this legislation to shut down insolvent thrifts are likely to fall well short of what is needed. For this reason alone, we are likely to be back for another go around. This will also raise the total cost.

Unlike the last bailout, this bill does contain reforms. Unfortunately, I believe the way in which they are drafted risks failure.

My detailed evaluation of this problem is presented in my RECORD statement of May 2, 1989, so I will not burden my colleagues further with anything more than a summary of my principal concerns.

If this bill becomes law, special interests will have won a clear victory over the American people. This reform package is unnecessarily complex and convoluted. It sets up a regulatory system without clearly identifying and defining authorities and responsibilities. In fact, on careful reading, it almost appears as if legal obfuscation is one of the objectives.

H.R. 1278 provides unwarranted administrative loopholes and ambiguities and overlapping and confusing bureaucratic jurisdictions. It vests unintended and unwise discretion with the regulators. I think the program prescribed in this bill is unadministerable; certainly, it is inefficient. This bill blurs important distinctions between governmental and private responsibilities. These deficiencies will make it more difficult for Congress to perform its oversight function. And given our recent history of oversight, this is not a minor point.

The various entities created by this bill will be outside the purview of civil service pay and position classifications. Apparently, salaries will be determined by the entities themselves, and without the pesky constraints, such as salary caps, normally applicable to government workers and agencies. So, don't be surprised when your constituents question the excessive salaries in those new agencies. I fail to see why these government employees should receive more compensation than, say, the Secretary of the Treasury who, after all, is supposed to be in charge.

We do our constituents a disservice by enacting this legislation. Despite the potential additional cost of further delay, I believe it would be better to start over from scratch. I am not convinced it would be more expensive if we were to stop and go back to the drawing board, if in doing so we come up with a more rational bill.

Mr. ACKERMAN. Mr. Chairman, in the early 1980's, faced with large numbers of failing thrift institutions and limited funds, the Federal Savings and Loan Insurance Fund [FSLIC] undertook an aggressive program of merging small failing S&L's with healthier institutions. Over 700 thrifts agreed to assist the Government by acquiring troubled thrifts on the basis that goodwill generated in the supervisory acquisitions would be treated as capital and gradually be eliminated through amortization over a period of up to 40 years. The Government had no cash to provide acquirers and therefore offered to use goodwill to make up the difference between the liabilities and the assets of the acquired institutions. Those mergers would not otherwise have been accomplished, and there would have been a great burden placed upon the American taxpayer.

Under the legislation we are considering today, the ability to count supervisory goodwill as capital would be eliminated. In its present form, H.R. 1278 would abrogate written agreements made by the U.S. Government to thrifts that acquired failing institutions by changing the rules in the middle of the game and no longer counting goodwill as capital after a 4-year transition period. In effect, the Government is saying, "Thanks for your help, but we don't need you anymore, so we're breaking our promise."

The treatment of goodwill under new capital standards is an issue of equity as well as the perceived credibility and integrity of our Government. Federal regulators approached healthy S&L's and asked for their assistance in resolving insolvent institutions because the Government itself could not cover the cost of liquidating the sick thrifts. As a tradeoff, the Government promised that in lieu of cash payment, supervisory acquirers could recognize goodwill as capital and depreciate it over time.

Many savings and loan institutions trusted the Federal Government, depended on the Government's word, and acquired failing S&L's. It would now appear that thrifts that relied in good faith on the word of the Federal Government did so to their detriment. Under H.R. 1278, institutions that acquired supervisory goodwill would be victimized for trusting bank regulators and accepting their word that they could count capital as goodwill for a number of years. The sudden loss of capital would place hundreds of thrifts in financial jeopardy, if not insolvency, resulting in further obligations by the Federal thrift insurance funds. Reneging on this promise will clearly undermine confidence in the Federal Government. It will bring into question whether the Government is trustworthy, whether it is to be believed. At a time when thrifts will be trying to increase their capital to meet the new requirements, investors and healthy financial institutions will be wary of cooperating with Federal efforts to dispose of insolvent institutions through mergers or sales.

The Federal Government made a deal with healthy thrifts that should be kept. I urge my colleagues to take action to ensure that the Government does not break its commitment to recognize supervisory goodwill as capital.

Mr. EVANS. Mr. Chairman, although I commend the hard work of the members of the Banking Committee as well as members of the other committees that had jurisdiction over the legislation, I must oppose it for several reasons.

I feel very strongly that we cannot ask the average American taxpayer to fund the bailout of an industry that has failed due in large part to fraud, mismanagement, and lax supervision. Why should we ask the average taxpayer to assume the costs of this bailout that will deprive them of funding for domestic programs that have already been slashed to the bone during the Reagan administration. These citizens did not benefit in any way from the rampant speculation that contributed to this problem. Why should they pay?

To make matters worse, we don't know for sure what we will pay for this bailout. By spreading the costs over 30 years, we both increase them and make them harder to estimate. I cannot approve legislation that obligates our taxpayers, their children and grandchildren to an unspecified amount of tax dollars for this bailout. There is every reason to believe that the administration's figures on the costs are low. Their estimates of the price tag rely heavily on rosey assumptions of future interest rates and unrealistic estimates of savings and loan growth.

I believe that we need to take the honest approach—pay for the bailout in 3 years with new revenues. We could clean up this mess for approximately $15 billion a year for 3 years—saving the $150 billion that will be required to spread the costs over 30 years. And, we could do this by increasing taxes on the highest income individuals and corporations—the people who can best afford to pay and who will benefit the most from the bailout.

In addition, I am concerned that this legislation does not provide adequate assurances that the savings and loans will serve their orginal purpose of providing mortgage funds for moderate income and first-time home buyers without discrimination. This bill does not ensure that the industry serves this public purpose.

For these reasons, I must cast my vote in opposition to this legislation.

Mr. BRENNAN. Mr. Chairman, I rise today to urge my colleagues to support tough capitalization standards for savings and loans, including the phaseout of goodwill. The genesis of the crisis was the fact that thrift operators could put millions in highly speculative investments and not worry about the return, because if the investment failed the bill was going to be paid by Uncle Sam. Tough capital standards put the thrift operators money at risk in an investment, Just like the money of an individual investor and, lest we forget, the American taxpayer.

Mr. Speaker, I know the real issue in the debate with regard to capital has been goodwill. Goodwill is an accounting device that lets thrifts count what is in many cases essentially thin air as capital. If we were to allow thrifts to use goodwill in their calculations, we would be cutting the tough capital standards in H.R. 1278. I have little sympathy for those who are saying they had a contract with the Government. These thrifts knew full well what they were undertaking when they acquired failing thrifts, and they did not do so because they were in a charitable mood—they did it because they viewed it as good business.

I do not wish to condemn all savings and loan institutions, indeed, most of them are solid and responsible. But if we here in this house are to craft a bill that is also sound and responsible, we must make it clear where we stand. We stand for fairness: The gradual elimination of goodwill is fair both to those thrifts who have goodwill and those investors, and taxpayers, who want security. We stand for integrity: Requiring thrifts to more honestly account when calculating their own risk means good, solid investments by thrifts. Finally, and most importantly, we stand for justice. The level of greed and white-collar crime that caused this crisis is a disgrace, and while I stand strong for the full prosecution of those who are criminally responsible, I want to ensure that such a crisis never occurs again. The key to doing this is to require the strongest capital standards possible.

Mr. Chairman, we must take care not only to dispose of the mess created by this crisis, but also prevent it from happening again. Eliminating goodwill over a period of time is sound accounting and responsible public policy. I urge my colleagues to support tough capital standards and the phaseout of goodwill.

Mr. WEISS. Mr. Chairman, I rise today to support the bill H.R. 1278, to reform and recapitalize the savings and loan industry, with several amendments. I must stress that my support for this bill is not without reservation, especially considering the enormous cost of this bill to American taxpayers.

There are three essential sections in this bill which I wish to discuss. They are the strong capital standards currently in the bill, the Ways and Means Committee proposal to put the financing on budget, and the Gonzalez-Kennedy provisions in the bill to create an Affordable Housing Program and a Community Investment Program.

Strong capital standards are the key to the bill before us this week. The Bush administration, the House Banking Committee, industry experts, and consumer groups all recognize that the lack of adequate private, tangible capital requirements for thrifts was a major cause of the current crisis. If we are going to ask the American taxpayers to contribute hundreds of billions of dollars toward rescuing the ailing savings and loan industry, imposition of these standards is imperative to increase consumer confidence and to minimize the risk of future failures and additional bailouts.

I would remind my colleagues that the capital standards provision in the bill before us, and in the Gonzalez amendment, represents a reasonable compromise between the needs of American consumers and taxpayers and the concerns of healthy institutions which may be affected by the bill. It gives thrifts 5 years to phase out the use of supervisory goodwill as an asset and to meet a 3-percent minimum tangible capital requirement, far less than is

expected of national banks. This reasonable provision is crucial to the bill as it is before us today.

Also crucial to the interests of taxpayers in our consideration of this bill is the outcome of the vote on the Ways and Means Committee amendment to put the financing of this bailout on budget. The Congressional Budget Office has estimated that making the Resolution Funding Corporation [REFCORP], which would be responsible for raising the funds for dealing with insolvent savings and loans, an on-budget Government corporation would save the American taxpayer at least $5 billion over the life of this bailout. It is incumbent upon us, as we prepare to approve a $150 billion expenditure, to do whatever we can to lighten the burden of this legislation on the average taxpayer, and this amendment would do just that. I urge my colleagues to support the Ways and Means Committee amendment.

Mr. Chairman, among the most important provisions in this bill are those that have been least discussed, but which address the fundamental problem that savings and loans were created to address, and that is the need for financing for affordable housing in our Nation. This huge taxpayer bailout of the savings and loan industry is only palatable because of what savings and loans represent to millions of low- and moderate-income homeowners across the Nation, and that is a source of financing for purchasing those homes.

Mr. Chairman, since 1980, Federal spending on housing has decreased by 70 percent. The incredible rise in homelessness, among not only those in poverty but also families of some means, is largely due to the abandonment of the Federal Government's commitment to providing housing for people of low- and moderate-income. The 101st Congress must begin to do something about this tragic reversal in policy. While the housing provisions in this bill are by no means a solution—in fact, the bill authorizes only $75 million a year for housing programs, a paltry sum considering the magnitude of our housing crisis—they do represent a step in the right direction.

An amendment will be offered during consideration of the bill to remove the housing provisions, by Members who consider $75 million a year to be too great a financial burden on the thrift industry. Let me remind my colleagues that the thrift industry earned $1.5 billion in profits in 1988, and requiring a small fraction of those profits to be used for a public purpose is a small price for an industry that is about to be the beneficiary of the biggest Government bailout in American history. I urge my colleagues to vote against the Bartlett-Barnard amendment.

Mr. Chairman, it is my hope that with the passage of this bill, Congress can clean up the current mess in the savings and loan industry, prevent another recurrence of this crisis, and set us on a course toward addressing the housing shortage in our country today.

Mr. PICKLE. Mr. Chairman, I support H.R. 1278, the Financial Institutions Recovery, Reform, and Enforcement Act of 1989. I salute the work of the Banking Committee, and its chairman, Mr. GONZALEZ, my distinguished colleague from Texas. The Banking Committee has brought to the floor a bill which will fulfill the Federal Government's commitment to insure the deposits of the average saver who placed his faith in savings and loan institutions.

Equally important, the bill sees to it that another savings and loan crisis does not arise by insisting on strict capital standards for S&L's. It also establishes reasonable enforcement mechanisms, like those for banks, for S&L's which fail to meet capital standards.

I am glad to see that the Banking Committee has toughened capital requirements, so that the fraud, abuse, and plain bad judgment that led to the current crisis cannot happen again.

But I want to be sure that these tougher requirements do not penalize those thrifts with good, honest management, which are the victims of hard economic conditions and weak real estate markets. These are often small thrifts, which serve their communities well, which are doing an honest job, but might not be able to meet the new capital requirements.

It will be hard for these small thrifts, in the midst of a real estate depression, to attract the capital needed to meet the new standards. It is my hope that the FDIC work with these thrifts to bring them into compliance with the capital standards, so that they can continue to serve their communities.

Mr. Chairman, the FDIC must move quickly and forcefully to close S&L's which cannot survive and have abused the trust that depositors placed in them. But for those S&L's which have a proven track record of good, honest management, the FDIC should give them every chance to pull through hard times. The marginally safe S&L's are doing a good job against great odds. We need to infuse them with some new capital, and the FDIC can and should do that. These independent locally owned institutions are a good investment. I call on the FDIC to help them and to help them now.

Mr. EVANS. Mr. Chairman, a combination of economic factors, fraud, mismanagement and lax supervision, brings us here today to vote on the biggest ever taxpayer bailout of an industry. I share the outrage of American taxpayers who are being asked to pay hundreds of billions of dollars to rescue the savings and loan industry.

If the taxpayers are going to be asked to fund the cleanup of this mess, we have a responsibility to demand certain reforms. First, S&L's must be tightly regulated. The laissez-faire policy of the Reagan years has gotten us to this point. Second, we must ensure that S&L's serve their original purpose of providing mortgage funds for moderate income and first-time home buyers—no more junk bond investments or discriminatory lending practices. And third, we must see that the average taxpayer does not bear the brunt of the costs of this cleanup. They neither caused nor benefited from the rampant speculation that contributed to this failure.

In this vein, I would like to submit for the RECORD a letter I received from Ms. Joan Claybrook, president, and Ms. Sherry Ettleson, staff attorney of Public Citizen:

PUBLIC CITIZEN,
June 6, 1989.

DEAR REPRESENTATIVE: Soon you will be asked to vote on the savings and loan bailout—which is now estimated by GAO to cost a staggering $285 billion. Unless the S&L bailout is paid for equitably—and with reforms to ensure this fiasco never happens again—this bill will be one of the greatest consumer ripoffs in history.

The S&L collapse was caused by a combination of reckless deregulation, agency failure and rampant white-collar crime and fraud. According to the Federal Deposit Insurance Corporation (FDIC), fraud was a factor in 75 percent of S&L insolvencies. This crime wave was allowed to flourish by agencies and lawmakers because of aggressive lobbying and lavish campaign contributions by the S&L industry. Now those same lobbyists are coming to Congress again, asking for a bailout without any necessary reforms.

Public Citizen strongly urges you to support provisions that: do not place the unprecedented cost of the bailout on the backs of average taxpayers and depositors, provide for public access to agency information so the public can protect itself from future crisis, retain strict capital requirements, end discriminatory redlining and instead promote affordable housing, and limit the Resolution Trust Corporation's ability to issue debt and establish guidelines under which to operate.

THE S&L BAILOUT COSTS SHOULD NOT BE PLACED ON THE BACKS OF AVERAGE TAXPAYERS

The bill as marked up by successive committees has placed the bailout on budget—a move that has been supported by an overwhelming majority of newspapers and citizen groups. The Bush administration proposed putting the bailout off-budget. By rejecting such a transparent attempt to mitigate the political magnitude of the bailout, the House can strike a blow for fiscal sanity.

But true budgetary reponsibility—not to mention fairness—requires that average taxpayers not bear the brunt of the cost of this bailout. Average citizens neither caused nor benefited from the wave of financial deregulation that spawned this scandal. Instead, the bailout should be funded by those who benefited—the very wealthy, the S&Ls and other financial institutions. Reps. Joseph Kennedy III and Bruce Morrison will offer an amendment that would fund the bailout through direct appropriation and require the Ways and Means committee to raise the sufficient revenues. We strongly urge you to support it. Otherwise your constituents will be stuck with the tab—and the cost will crowd out needed spending for critical programs, from education to our national infrastructure.

SUPPORT PROVISIONS THAT PROVIDE FOR PUBLIC ACCESS TO AGENCY INFORMATION SO THE PUBLIC CAN PROTECT ITSELF FROM FUTURE CRISES

The Federal Home Loan Bank Board and other regulators stood idly by as the S&L industry spun out of control. But the press and public were blocked from receiving information about agency conduct. And now even Congressional committees have been refused crucial data—at the height of the crisis.

The reason? A unique, indefensible blanket exemption to the Freedom of Information Act (FOIA) covers all banking-related information. The exemption is legitimately designed to prevent runs on financial institutions due to the disclosure of raw bank examinations and similar material. But there can be no excuse for blocking public access to agency documents dealing with the health of an entire industry or compliance

with consumer protection anti-discrimination laws.

House Government Operations Committee Chairman John Conyers will offer an amendment to trim this overbroad exemption. Under the proposal, information that directly concerns the solvency and soundness of banks and S&Ls would be exempt. All other records including information about failed institutions and about compliance with anti-discrimination laws would be available to the public.

TO AVOID FUTURE FIASCOS, S&L'S SHOULD BE TIGHTLY REGULATED

Loose regulation of S&Ls has allowed high-flying financiers to gamble away depositors' money, with disastrous results. For example, thrifts are allowed to count "goodwill" and bad-debt reserves as assets to meet the institution's capital requirements. The House Banking Committee bill tightens these standards to put thrifts on the same sound footing as commercial banks.

A fierce lobbying campaign by the U.S. League of Savings Institutions seeks to drastically dilute these reforms. This is precisely the formula for disaster that led to the current crisis.

If Congress votes to strip away these needed protections, future disasters are inevitable. We strongly urge you to place the interests of depositors and taxpayers ahead of self-serving and discredited S&Ls.

The House Banking Committee's report on the bailout recommend that capital standards for savings and loans be raised to three percent by 1994, the same level required of commercial banks. By requiring S&Ls to back up their investments with more of their own money, Congress will protect against S&Ls gambling with depositors money and instead return to their traditional role of providing housing for families.

S&L'S EXIST TO PROVIDE CREDIT FOR HOUSING—THE BAILOUT SHOULD ENSURE THAT THOSE GOALS ARE ADVANCED.

Thrifts are given special government protection because of their mission to provide capital for housing. Yet, too many S&Ls lost sight of this mission during the speculative frenzy, pouring money into junk bonds and other high-risk investments, instead of into home mortgages and other real estate in their community. Now the proposed S&L bailout offers little protection against a continuation of the disastrous practices that led to the current crisis.

Any legislation that asks average taxpayers to pay the exorbitant price for this bailout should ensure that the industry serves a public purpose. The public should not be asked to bailout an industry that does not invest in the community and discriminates in its lending practices. Congressmen Joe Kennedy and Henry Gonzalez will offer an amendment to require public disclosure of more complete information on financial institutions' mortgage lending practices.

SUPPORT LIMITATIONS ON THE RESOLUTION TRUST CORPORATION'S ABILITY TO ISSUE DEBT AND ESTABLISH GUIDELINES UNDER WHICH IT MAY OPERATE.

The current legislation sets up a new agency, the Resolution Trust Corporation (RTC), to assist failing or failed S&Ls. However, the legislation offers little guidance as to what extent the RTC can issue bonds, and obligate the government.

To protect against a new and unrestrained government agency, Representative Gonzalez will offer an amendment to limit the RTC's total obligations at any time to the $50 billion authorized by the bill. The amendment also provides for timely reporting of RTC's debt status and operational plan to allow better congressional oversight of its progress on managing and disposing of failed S&L assets.

This S&L bailout legislation is not the kind of a bill that you can "put behind you." It will continue to fester and erupt its unsavory combination of greed, corruption and uncontrolled power over institutions and careers—private and public. The news media is just beginning to report on this mixture. How much better it would be for strengthened and just legislation to separate the past from the future rather than merely to extend its dismal legacy for a repeat performance.

Sincerely,

JOAN CLAYBROOK,
President.
SHERRY ETTLESON,
Staff Attorney.

Mr. PARRIS. Mr. Chairman, I rise to congratulate the House for finally addressing the savings and loan crisis in a comprehensive and substantive manner. The legislation that we are now considering, H.R. 1278, the Financial Institutions Reform, Recovery and Enforcement Act of 1989, will most likely go down in history as one of the most important and expensive bills dealing with the financial services industry ever considered by the Congress. The task before us is nothing less than a complete restructuring of our Federal deposit insurance system and a major reformation in the way our Nation's banks and thrifts are held accountable for their own stability, as well as the way in which they conduct their business.

It is indeed unfortunate that the Congress is just now considering this very serious crisis, especially since the problems within the S&L industry and the Federal Savings and Loan Insurance Corporation—the FSLIC—have been known for quite sometime. In fact, it was in 1985 that I requested a report from the General Accounting Office on the status of the FSLIC and learned that the insurance fund was in serious trouble. It was that report which prompted me to address the House in October 1985 in a 1-hour special order to inform the House of the impending FSLIC crisis. Regrettably, no action was taken, and each subsequent year since 1985 I have addressed the House on the need to recognize and resolve the S&L crisis.

Mr. Chairman, I will include in the RECORD, following my statement, the three floor statements I presented before the House from 1985 to 1988.

In 1985, the cost of resolving the FSLIC crisis was estimated to be approximately $15 to $20 billion. And today, just 4 short years later, the estimated cost of resolution is between $150 to $190 billion.

There is plenty of blame to go around for the FSLIC crisis. From the regulators to the S&L industry, from the Congress to the White House, there are many who are responsible for the loose oversight and inaction that has contributed to the problems we face today with the thrift industry and the FSLIC.

I generally believe that H.R. 1278 is a good bill and a comprehensive approach to resolving the S&L crisis. H.R. 1278 was considered at great length by the Banking Committee and passed by an overwhelming vote of 49 to 2, and I was among those voting in the affirmative.

H.R. 1278 makes much needed reforms to the Federal deposit insurance system, and I would like to briefly address some of the major provisions of this legislation.

Some of the most important elements of this legislation are the provisions dealing with the capital requirements. For too long, the thrift industry has been allowed to operate with little or no capital, and it was these lax capital standards that have ultimately increased the losses to the FSLIC and the American taxpayer.

I support strong capital requirements for all federally insured financial institutions. It is simply ludicrous that S&L's have been allowed to operate with little or no money to backup their business activities. Allowing insolvent or "financial hollow" institutions to continue to operate has compounded the losses to the FSLIC and, ultimately, the American taxpayer.

When H.R. 1278 was considered by the Subcommittee on Financial Institutions, I joined with my colleague from Illinois [Mr. ANNUNZIO] in offering an amendment that strengthened the capital requirements in the President's original proposal. Whether it was done intentionally or in error, the President's bill, as originally introduced, would have permitted S&L's to count up to 100 percent of core capital in goodwill: an inferior form of capital.

That is why I was pleased when the subcommittee moved to adopt tougher capital provisions by supporting the Annunzio-Parris amendment which not only moved the compliance date from 1994 to 1991, but it also required that not more than 50 percent of core capital could include intangible capital like goodwill and purchased mortgage servicing rights, and with the proviso that all intangible capital be completely phased out of core capital so that capital standards of thrifts are identical to those of national banks.

The full committee moved to further improve the capital requirements in the bill. As the bill now stands, it would require that thrifts reach a 3-percent level of tangible capital by December 31, 1994, and it ties the remaining capital over the 3-percent core capital to a risk-based capital system. I believe these provisions are necessary, long overdue, and they may prevent an S&L crisis from occurring in the future.

One of the most troubling consequences of the thrift crisis is the fact that the American taxpayer is being called upon to pay a substantial portion of the resolution cost. It is extremely tragic that the S&L crisis was allowed to continue to the point where in order for the Government to honor its full faith and credit guarantee of deposits it must now draw funds from the U.S. Treasury.

The financing mechanism established through H.R. 1278 will require funds from the U.S. Treasury, but it will also utilize funds from the S&L industry and the Federal Home Loan Bank System. Yes, it is unfortunate that healthy, well-managed thrifts will be forced to pay for the unhealthy one-third of the S&L industry. But I believe it is even more unfortunate that the taxpayers in Virginia will have to pay for a problem that has been most promi-

nent in States like Texas, California, Oklahoma, and Louisiana. This is an industry problem, and I feel strongly that the S&L industry should pay a large portion of the price to clean up the savings and loan mess.

H.R. 1278 will draw billions of dollars from thrifts by increasing the insurance premiums for institutions insured by the new S&L insurance fund created under H.R. 1278. It will also draw funds from the resources of the 12 Federal home loan banks, and it will establish a financing corporation known as REFCORP, to raise cash through the issuance of "REFCORP bonds."

Specifically, the bill calls for the issuance of $50 billion in REFCORP bonds to be bought by the S&L industry. The $50 billion raised through the sale of REFCORP bonds will be used to dissolve, sell, merge, or otherwise deal with the insolvent portion of the thrift industry. The interest on these bonds over the 30-year maturation period will be paid through a combination of sources including: the S&L industry; proceeds from the sale of assets held by insolvent institutions; and, direct funding from the U.S. Treasury.

When the Banking Committee adopted the financing mechanism to fund the resolution cost, it overwhelmingly supported provisions to keep the funding off-budget. I firmly believe that this is important and I am disappointed that the Ways and Means Committee voted to put the funding cost on-budget by waiving the Gramm/Rudman budget law.

In my opinion, it would be a mistake to place the resolution cost on-budget. I agree with President Bush and Secretary Brady that it is in the best policy interests of the Federal budget process that the resolution cost be kept off-budget. By waiving the budgetary requirements of Gramm/Rudman we will be setting a dangerous precedent for dismissing the only form of budgetary discipline this Congress has. Moreover, what kind of signal does this send to domestic and international financial markets? I believe that waiving Gramm/Rudman will prove to everyone that Congress is not serious about reducing the Federal budget deficit or adhering to the strict budgetary guidelines of Gramm/Rudman.

If we are able to fund the resolution cost without making a sham of our budget process, then I believe we should do so. I hope the House will support the Banking Committee's original proposal and vote to keep the funding off-budget.

H.R. 1278 effectively dissolves the Federal Savings and Loan Insurance Corporation and creates a new Government entity—the Resolution Trust Corporation [RTC]—to dispose of the insolvent one-third of the S&L industry. The RTC will be under strict supervision by an oversight board and it will be limited to a "date certain" as to the amount of time it has to cleanup the thrift mess. Furthermore, H.R. 1278 places a cap on the amount of funds that the RTC may spend.

I am particularly pleased to note that the committee adopted language which instructs the RTC to utilize the resources of the private sector which specialize in liquidating real estate that is, for various reasons, difficult to dispose of. I believe it is important that we draw from the experience in the private sector in order to ensure the greatest return on real estate owned by troubled thrifts because these savings will ultimately be passed on to the taxpayer.

In dissolving the FSLIC and the current structure of the Federal Home Loan Bank Board, the fate of many Federal employees is directly affected. As the Representative of many Federal employees who are employed at the Bank Board, I was greatly concerned that these hardworking individuals be provided the utmost consideration and fairness in transferring from their employment at the Bank Board to other positions within the Government. For this reason, I was pleased to support the provisions in H.R. 1278 which will ensure that the rights and benefits of Bank Board employees are protected when transferring from the Bank Board to the Resolution Trust Corporation, the Office of Thrift Supervision, or any other Federal agency.

One of the most tragic elements of the savings and loan crisis is the fraud and criminal negligence committed by some "high flying" thrift executives. These unprincipled operators were involved in what many have referred to as a game of "heads I win, tails FSLIC loses." Their squandering of depositors money drained the resources of the FSLIC and contributed greatly to the dilemma we now face.

I firmly believe that we must go after these individuals and punish them for their actions that are now costing the American taxpayers billions of dollars. Moreover, we must strengthen enforcement and penalties to prevent future occurrences of fraud and mismanagement of institutions insured by the Federal Government. H.R. 1278 goes a long way in providing funds to track down and prosecute thrift executives suspected of engaging in fraudulent activities, and it greatly increases the severity of penalties for future abuses. I've been told by some industry representatives that the enforcement and penalty provisions in this bill are too tough. I say that's good. Let's hope they are so tough that people will think twice before squandering taxpayer dollars in the future.

Finally, I would like to touch upon some provisions in H.R. 1278 about which I have some concern: specifically, the provisions when they are offered as an amendment at the committee level because they simply do not belong in an emergency bill to resolve the savings and loan crisis. The President has stated repeatedly that he wants a FSLIC bill that is void of extraneous provisions that do not directly relate to solving the S&L crisis. I agree with the President on this point and I do not feel that exceptions should be made on this matter.

But what troubles me even more than the actual housing provisions in H.R. 1278, is the fact that these provisions were substantively rewritten after the committee had adopted the amendment and reported the bill. This type of egregious abuse undermines the integrity of the committee process, and I hope that the House will vote to strike the housing provisions from this legislation.

H.R. 1278 is not a perfect bill, but I believe it goes a long way toward achieving a responsible solution to the S&L crisis. We owe it to our constituencies to solve this problem once and for all, and to do so in a manner that will ensure that future generations never face this type of crisis.

Floor statements referred to follow:

STATEMENT BY HON. STAN PARRIS, THE FEDERAL SAVINGS AND LOAN INSURANCE CORPORATION AND THE SAVINGS AND LOAN INDUSTRY, APRIL 28, 1988

Mr. Speaker, I take to the well of the House today to again bring to the attention of my fellow colleagues in the Congress and the citizens of this great nation, the continuing problems of the thrift industry and the Federal Savings and Loan Insurance Corporation or FSLIC.

It has been approximately one year since I spoke at length on this issue and, unfortunately, the precarious state of the FSLIC and the thrift industry has worsened greatly. The state of the thrift industry and the FSLIC is, and should continue to be, a matter of great concern to American taxpayers.

As I have previously stated, there is no justification for S&L depositors to be concerned about the stability or access to individual accounts in local FSLIC insured thrift institutions at least up to the statutory limit of $100,000. The full faith and credit of the United States guarantees those deposits and will be available to them in any circumstance. The Congress reaffirmed this backing in "sense of Congress" language incorporated in the "Competitive Equality Banking Act" passed last year.

This is a problem which affects an industry rather than one that jeopardizes the existence or future of individual savings accounts.

But before I continue, Mr. Speaker, I think it would be beneficial to look at how we arrived at where we are today.

Savings and loan institutions were formally designated by the Congress during the 1930's to be special lenders for housing. S&L's were to be supported by various federal agencies and programs, and were specifically intended to provide long-term, fixed-rate home mortgages while, at the same time, taking in deposits on a short-term basis.

The savings and loan scheme worked quite well up through the late 1970's. In the view of many, we had a sound credit system founded on regulated deposit interest rates and regulatory structure that restricted competition. On the surface, the system worked well because institutions took in deposits at a lower rate than the rate at which they were lending.

However, many experts believe, and I would agree, that this was a sure recipe for failure in the long-term.

What happened? Well, during the early 1980's federal regulators removed the interest rate ceilings on deposits and the result was an increase in competition between S&L's. At prima facie value, an increase in competition sounds like a healthy practice, but the deregulation of interest rates was a policy which would have a tremendous negative impact on the S&L industry. In 1981 and 1982, hundreds of S&L's failed. The industry's overall reported losses for that two year period were approximately $9 billion. Its real losses were undoubtedly much higher.

As federal regulators gradually phased out interest rate ceilings, some savings institutions took advantage of this phase out and began to actively compete for deposits by offering high yields for interest on deposits. Depositors have not always looked for the institution that is the most sound but, as

long as it is federally insured, the one which pays the highest interest rate. All too often, the institutions that pay the highest interest rate are not the most competent. Meanwhile, many S&L's used these fresh deposits to begin lending in a very aggressive manner.

Since there were many lenders now looking for business, many S&L's seriously relaxed their loan policies. The result was risky lending and, inevitably, borrowers who were unable to repay their loans.

Increased competition between S&L's, banks, and credit unions has provided consumers with a number of institutions from which to apply for a loan or deposit their savings. Eventually, the supply of deposits outstripped loan demand, and savings institutions turned to other sources of income in order to stay alive.

S&L's have turned to direct investments in an attempt to return to profitability. Unfortunately, many of these investments have backfired. This has compounded the problems for S&L's. Furthermore, many of the investments were made in areas such as commercial real estate and in areas dependent on the energy and agricultural areas of the economy. When the economy went sour in these areas, the result was even greater losses for the thrift industry.

The problems that have confronted the thrift industry have taken a heavy toll on the FSLIC. As the FSLIC has tried to deal with the failures of savings and loans, its own financial condition has deteriorated.

LAST YEAR'S SPECIAL ORDER

A year ago at this time, I reported that the thrift industry was in poor condition. I also reported that of the 3,287 thrift institutions in the U.S., 1,043 or 32%, almost one-third, were either insolvent or in a weak and inadequate capital position. The average return on the assets of these institutions was a negative 0-.16%.

I also pointed out the geographical distribution of the problem and that 140 of the GAAP insolvent and undercapitalized institutions were in Texas, 60 were in California, 45 in Florida, 49 in Louisiana, and 25 in Oklahoma. Moreover, I discussed actions which were underway at that time to deal with the FSLIC issue, specifically, the Recapitalization Plan and the reasons why I believe it is inadequate. Finally, I outlined my proposal for bailing out the troubled thrift industry and the FSLIC.

OVERVIEW OF ACTION TAKEN LAST YEAR BY THE CONGRESS

As you know, Mr. Speaker, last year the Congress passed H.R. 27, the "Competitive Equality Banking Act of 1987" (CEBA). Included in this legislation was a plan to recapitalize the FSLIC. The final outcome of the proposal was a variant of a proposal developed by the Administration.

The Recapitalization Plan as passed under H.R. 27 uses funds which are already available in the Federal Home Loan Bank System, of which the FSLIC is a part, to support borrowing for the insurance fund. The funds are being raised by a financing corporation that issues debt instruments, called FICO bonds, in the private markets. The borrowings will be repaid in the far distant future from the returns on zero-coupon bonds purchased with funds supplied by the Federal Home Loan Bank System. The annual interest costs will be met by the FSLIC. Effectively, the Recapitalization Plan would raise approximately $10.8 billion, with no more than $3.75 billion sold annually.

As I have previously stated, I believe that the Recapitalization Plan is flawed in many respects. If anything, all it has done is buy us some time in the short-term for resolving the problems with the S&L industry; but, this is very expensive time. In the long-term, however, it has not helped the problem but, rather, exacerbated it. Essentially, we have punted this problem to the next Congress and Administration.

To begin with, the plan effectively mortgages the future of the FSLIC because the bond interest will be paid from future FSLIC premiums. In addition, the bonds being sold by the financing corporation to raise equity for the FSLIC are sold at a higher rate than U.S. Treasury bonds. Early this month, FICO bonds were selling at 104 basis points (more than one full percentage point) over 30-year Treasury bonds. This means that FSLIC's burden of paying the interest on FICO bonds will be great. If high spreads over Treasuries continue, this spread could add approximately $1 billion to the cost of the plan.

To make matters worse, the sale of FICO bonds may not be a roaring success. Already, many investors are wary about buying these bonds because they question FSLIC's ability to stand behind them.

The Recap Plan also places an unnecessary strain on all savings institutions in trying to meet the increased assessments for their deposit insurance. A recent study by the Federal Home Loan Bank Board estimated that FSLIC-insured institutions pay a 20 to 40 basis point premium over FDIC-insured institutions to retain and attract deposits. While the exact magnitude of the rate premium is not known, it definitely harms thrifts in trying to raise the new equity capital that so many of them need.

Furthermore, the Recapitalization Plan does not generate enough cash resources to keep up with the amount of losses currently occurring within the industry. FSLIC's losses are approximately $8 billion annually which is $2 to $3 billion more per year than the plan will generate to dispose of ailing institutions.

Finally, if one looks at the current state of the thrift industry, one would find that the Recap Plan is clearly inadequate. It is estimated that the cost of disposing of all of the insolvent thrifts is between $50 to $60 billion. As you can see, this amount goes far beyond what is provided by the Recap Plan. I continue to believe that the American taxpayer ultimately will have to pick up the cost of closing these institutions—a cost which will continue to grow unless we substantively address this issue now.

WHERE ARE WE TODAY?

In order to fully understand the magnitude and urgency of this problem, we should look at where we are today. I would propose that the problem is, unfortunately, one which is growing like a cancer. Regrettably, the situation has not improved since Congress dealt with it last year in CEBA.

At this time, the 1987 annual audit by the General Accounting Office (GAO) of the FSLIC has not been released. It is my understanding, however, that the figures on the FSLIC are not going to be positive.

According to a recent article in the Washington Post, government sources claim that the GAO report may show that FSLIC's liabilities are as much as $13 billion more than its assets at the end of 1987. The Post article also notes that this figure is more than double the deficit of $6.3 billion that the insurance fund had at the end of 1986.

To further illustrate the current state of the FSLIC I will point out that as of September 30, 1987, FSLIC's accumulated insolvency losses were estimated to be approximately $52 billion. According to a financial consulting firm in Alexandria, Virginia, this is equal to the regulatory worth of the entire thrift industry, and is more than double the industry's tangible net worth. Furthermore, experts now believe that the $52 billion may be a bit conservative, and that a more accurate figure may be around $60 billion.

CURRENT CONDITION OF THE THRIFT INDUSTRY

The thrift industry also is in poor shape. The Federal Home Loan Bank Board recently released the 1987 fourth quarter figures for the thrift industry, and reported that the industry had a record loss of $6.8 billion for the year 1987 as compared with earnings of $132 million in 1986.

For the fourth quarter of 1987, the profitable two-thirds of the industry earned $1.3 billion, while the overall industry lost $3.2 billion. Three hundred forty-five thrifts that were regulatory insolvent at the end of 1987 and losses of $3.2 billion with total losses for 1987 at $9.5 billion. Finally, the Bank Board's report shows that total losses in 1987 caused a substantial reduction in the industry's retained earnings, producing a decline in its aggregate capital/assets ratio from 4.51 percent at the end of 1986, to 4.12 percent at the end of 1987, the lowest since 1984.

Overall, it is apparent that many thrifts are still trying to make up for losses they incurred during the early 1980's. For the most part, one could categorize sick thrifts into four types of institutions: 1. interest-rate insolvent thrifts from the early 1980's, of which there are still a few; 2. poorly managed institutions that got into trouble in the early 1980's and have made their problems worse due to a variety of problems relating to mis-management; 3. adequately managed thrifts that are victims of local economic conditions, particularly in economically depressed rural and energy belt regions; and 4. thrifts that have grown wildly since the early 1980's while practicing marginal if not criminal lending practices.

While many institutions are making some progress, there are equally as many, if not more, that have never recovered from the losses of the early '80s. To make matters worse, the efforts of S&L's are further hampered due to the increased assessments they must now pay for deposit insurance.

As we continue to allow these insolvent thrifts to operate, the problem continues to grow. Many insolvent thrifts are not closed because the FSLIC's simply does not have the resources to allow them to fail. In a sense, FSLIC's hands are tied by bureaucratic constraints in that it can only resolve these problems at the rate of $5 billion per year as provided by the recapitalization plan enacted last year. This amount is far lower than the annual rate at which losses are occurring, and the result is that insolvent thrifts continue to operate at a loss while slipping further into the hole.

THE FUTURE OF THE THRIFT INDUSTRY

The future of the thrift industry relies, to a large extent, on the stability of the economy. Presently, the overall economy of the United States is not in recession, and yet a large part of the thrift industry is in very weak condition. A recession would most assuredly have a severe negative impact on S&L's. One only has to look at the situation in Texas and apply that scenario nationally

to understand the ramifications which could result if the national economy went into recession.

The future of the thrift industry also will depend on the industry's ability to adapt to changes in marketplace driven by revolutionary changes in financial and electronic technology. Some financial experts believe that the thrift industry is slowly being driven out of its original business, intermediating the deposits of savers into home mortgages, by structural changes in the financial markets that are, at the same time, beneficial to both savers and home buyers.

THE NEED TO ACT NOW

Mr. Speaker, while I do not wish to sound overly pessimistic or paint a stark picture of impending doom, I firmly believe that we must recognize the problems confronting the FSLIC and, therefore, the American taxpayer. The situation is continuing to worsen, and yet we in the Congress are not addressing the problem. As I stated earlier, the Recap Plan passed last year fails to address the thrift crisis, and we simply cannot afford to wait until the three-year Recap Plan is over before we wrestle with this issue.

Approximately one third of the S&L's in the thrift industry are in trouble. Of the 345 RAP insolvent thrifts in the United States, 149 are located in the Southwest. However, some experts estimate that there are approximately 700 to 800 institutions that are going to need assistance.

With this many insolvent thrifts currently in operation, one may wonder how they manage to raise cash in order to operate and pay interest on deposits.

Basically, many of these "brain dead" thrifts continue to operate by not making investments or loans, but only by taking in deposits and paying the interest on them. This "game" goes as follows: a thrift offers a high interest yield to attract deposits and, for the most part, uses the fresh deposits it raises to pay for overhead costs and interest on deposits. The problem with this practice is that the longer these "brain dead" thrifts continue to play this "Ponzi" scheme, the more negative their net worth becomes.

Also, because many insolvent thrifts have literally nothing to lose, they continue to make risky investments and loans with the hope of making a profit. Why do they have nothing to lose? These thrifts have nothing to lose because they are already insolvent, and they realize that the FSLIC will cover any losses they are unable to pay. Many have termed this game: "Heads I Win, Tails FSLIC Loses."

Clearly, Mr. Speaker, the longer thrifts are allowed to engage in these unsound practices, the deeper they sink into debt. This will obviously make the ultimate losses upon liquidation even greater.

We must address this issue now. As the situation currently stands, the problem is growing at the rate of $8 billion a year before taking into account what FSLIC spends to reduce the problem.

While I believe it is safe to say that neither the Congress nor the Administration has any desire of addressing this issue during this legislative session, I believe it would be negligent on our part to not act at this time. Noah didn't wait for rain to build the ark, and I do not think we should wait for a crisis before taking substantive action to correct the problems confronting the thrift industry.

I also believe the problems confronting the FSLIC are beyond the realm of being contained by the political process. This is evidenced if one takes into account the action taken by the Congress last year. After succumbing to political pressure from the S&L industry, the Congress passed an inadequate recapitalization plan. Also, the Congress has resisted proposals to use government funds which could add to the budget deficit. I fear this pattern of action will continue into the future and undoubtedly will influence any future funding decisions.

Furthermore, I believe we must all face the reality that the S&L industry is not going to accept, nor can it afford, to pay another increase in its deposit insurance assessment. Both strong and weak S&L's are concerned with having to pay an additional increase in their insurance assessment on deposits. Healthy institutions feel they should not have to pay amounts supplemental to their regular insurance premiums to finance the FSLIC's resolution of problem institutions. In addition, large insurance premiums could very well tip weak institutions into the "failed" category.

Moreover, the ability of the Congress and the Administration to enact interest rate ceilings is not an option in view of the political power of our nation's depositors. We also must face the reality that the next dollar lost will be the taxpayers. The extent to which the FSLIC will need taxpayer assistance depends directly on when and how the Congress acts to help the FSLIC. Politics aside, we must begin to deal with this issue realistically.

WHAT CAN BE DONE?

As you know, Mr. Speaker, the Committee on Banking, Finance and Urban Affairs will soon consider legislation to expand banks' powers. Because of the urgency to draw attention to this issue, I intend to offer an amendment to this legislation which would create a bi-partisan, bi-cameral, Congressional task force to study the current situation of the thrift industry and the FSLIC, and to make recommendations for resolving FSLIC's heavy case load while, at the same time, adding stability to our federal insurance funds.

Moreover, Mr. Speaker, I believe that any proposal to resolve the problems with FSLIC must take into account a number of factors including the following points:

1. The FSLIC is bankrupt.

2. The Recapitalization Plan passed last year will not work because it will not raise the funds needed to cover FSLIC's accumulated insolvency loss of at least $52 billion.

3. An outright merger of the FSLIC with the FDIC is not desirable for three reasons. To begin with, the FDIC's excess reserves plus the funds to be raised under the Recapitalization Plan, are substantially less than FSLIC's present and future liabilities. Also, a merger will not address FSLIC's most serious problem, which is disposing of failed thrifts in the least costly manner. Finally, a merger will not accomplish one important step in dealing efficiently with the insolvent thrifts: separating them from the healthy thrifts so that they will not contaminate the healthy thrifts. This separation would be comparable to creating a "good bank-bad bank" situation whereby a failing bank's problem assets are transferred into a separate entity where specialized management can minimize future losses on those problem assets.

4. Taxpayer funds eventually will have to be injected into FSLIC because Congress cannot renege on its full-faith-and-credit backing for the three federal deposit insurance funds without endangering the entire American financial system. As I stated earlier, the Congress reaffirmed this backing in "sense of Congress" language incorporated in CEBA. Furthermore, the Ohio and Maryland legislatures, in using state taxpayer funds to bail out quasi-private deposit insurance funds, set precedents that cannot be ignored in dealing with FSLIC's pending bankruptcy.

5. Reregulation of the thrift industry will not bail out the FSLIC or the insolvent thrifts, yet reregulation would be very damaging to those thrifts that otherwise could survive in our rapidly changing financial world.

I believe, Mr. Speaker, that the objective of any proposal should be to provide the best opportunity possible for healthy thrifts to survive as free-standing depository institutions while, at the same time, harmonize the regulatory structure between thrifts and commercial banks. Furthermore, we must encourage new equity capital investments in thrifts that have the potential to survive as free-standing institutions, and reduce the role of the federal government in providing funding for depository institutions.

For these reasons, I continue to support my plan as outlined in my special order one year ago. At that time, I proposed that the healthy part of the thrift industry transfer to the FDIC, after paying a reasonable exit fee to FSLIC. Permit me to emphasize at this point, however, that while I do not support an outright merger of the insurance funds, we must face the reality that it is almost inevitable that there will be a restructuring of the federal deposit insurance funds. Certainly, the Congress will utilize all possible options before using taxpayer funds to clean up the FSLIC mess. This separation of good from bad should be a part of this clean-up process.

The FSLIC's main responsibility would then be to dispose of the remaining "brain dead" S&L's within a time period of three to five years. Taxpayer funds would be the last dollars used to meet FSLIC's prospective losses. FSLIC's existing resources, future income, exit fees, and the retained earnings of the federal home loans banks would be used first to fund FSLIC's losses.

Finally and most importantly, Mr. Speaker, I would urge Members to reject quick fixes and additional delays, and work instead to restore public confidence in the system before a crisis occurs.

IMMEDIATE DISPOSAL OF INSOLVENT THRIFTS

There is no question that the task before us is great. Yet, to keep failing institutions open for indefinite periods while funding is being decided clearly adds to the cost that taxpayers ultimately will have to bear. I firmly believe, therefore, that we must begin to liquidate or merge insolvent thrifts in an expeditious and organized manner.

We must move immediately because it is obvious that the thrift industry cannot afford to pay the tab for this alone. The alternative is to default on consumer deposits. Needless to say, this is neither politically nor economically feasible. Thus, use of taxpayer funds is inevitable. Our challenge today is to spend those funds wisely by moving quickly.

REGULATORS NEED TO DEAL MORE AGGRESSIVELY WITH PROBLEM INSTITUTIONS

As I mentioned earlier, many insolvent institutions continue to make loans and investments even though they have a negative net worth. It is my belief that the Federal Home Loan Bank Board has not been ag-

gressive enough in dealing with failing and insolvent thrifts, or in controlling the scope of risky business ventures in which they may engage. This only serves to dig a deeper hole that must be filled later with taxpayer dollars. This senseless digging must be stopped!

While I understand that the FSLIC may not be capable of immediately closing all of the failed institutions, the Board must be more aggressive in using its authority to restrict the types of activities in which a failing or insolvent institution engages.

The Congress attempted to address this issue last year under Section 406 of the "Competitive Equality Banking Act." Section 406 increases the authority of the Federal Home Loan Bank Board in dealing with failing and insolvent thrifts, and requiring minimum capital requirements for these institutions.

It simply goes against common sense to allow an institution which a negative net worth to continue to lead and invest money which it simply does not have. Therefore, I would hope that the Bank Board will utilize its authority as granted under Section 406 of CEBA to the fullest extent possible.

THE SOUTHWEST PLAN

Finally, Mr. Speaker, I would like to address the so-called "Southwest Plan" currently under consideration by the Federal Home Loan Bank Board.

As I reported earlier, the region of the United States which has the most weak and insolvent thrifts is the Southwest. 104 of the country's RAP insolvent-thrifts are located in Texas. In Texas alone, the entire thrift industry had a net loss of $2.15 billion for the fourth quarter of last year.

Because of the many problems confronting the thrift industry in the Southwest, the Federal Home Loan Bank Board devised the "Southwest Plan" with the hope of strengthening this beleaguered region. However, I would submit that the "Southwest Plan" is bad medicine for a seriously ill patient.

The "Southwest Plan" is basically premised on consolidation and attracting equity. The "Plan" calls for the consolidation of nearly 100 savings institutions located in Texas.

In the Bank Board's Resolution 88-68 the Board states that the consolidation of insolvent thrifts with some combination of healthy institutions and capital infusions would achieve various benefits including the following:

Significant savings in operating expenses;

Management teams capable of providing the leadership and controls necessary to achieve viability;

The ability to permit higher cost deposits to be reduced by cash flow from investments supported by lower cost deposits;

Merging within one institution complex financial investments in several institutions, with attendant unnecessary costs;

Attract equity capital to a market that currently has too many inefficiencies to produce a reasonable return on new capital.

Certainly, Mr. Speaker, these goals are laudable, however, I do not believe the "Southwest Plan" will be successful. The problem with this proposal is that it does not go far enough in addressing the grossly inadequate capital base of savings institutions located in the Southwest.

While consolidation is the main premise of the "Southwest Plan," I believe that consolidation is the plan's fatal flaw. The "Plan" is implicitly premised on consolidation on an intrastate basis. I say "implicitly premised" because the Board's resolution does not make any reference to out-of-state capital. Healthy institutions in this region are few and far between, and the end result will be melding the weak with the very weak.

Before we can begin to attack the problems with the thrift industry in the Southwest and, in particular, Texas, we must recognize the heart of the problem. In my view, the heart of the problem is an inadequate capital base.

To illustrate this point I would point to the fact that as of December 31, 1987, the thrift industry in Texas had a RAP negative net worth of $6.2 billion. The entire thrift industry in Texas had a GAAP negative net worth of $7.4 billion. I use Texas as an example because it is the state which has the most insolvent thrifts.

An example of intrastate consolidation is First Republic Bank of Texas, and we all know how successful that was. Melding the sick with the very sick will not make a healthy institution but, rather, a larger unhealthy one with a greater cost to close.

What is needed in the Southwest is an increased capital base for savings institutions. S&L's in this region do not have the capital necessary to sustain themselves, and merging them together while preventing the infusion of capital from resources located outside the state will not serve to help the problem. The most practical way to bring in outside capital is to encourage healthy banks and thrifts based in other states to acquire Texas thrifts.

CONCLUSION

Mr. Speaker, we can no longer afford to view this problem as a parochial issue solely affecting the thrift industry. Each month we delay action and allow FSLIC's problems to continue, we are increasing the final burden the American taxpayer will eventually have to shoulder. The FSLIC must be dealt with in a manner which will minimize the future cost to the taxpayer.

In this day of raging deficits, it seems that every bankrupt tentacle of the Federal government is making a run on the U.S. Treasury. I can assure you that the FSLIC will be no different from these other unfortunates. The question is, when and how are we going to administer the last rites and call the caretaker to come and remove the corpse.

Clearly, Mr. Speaker, there are many difficult decisions that we must confront in addressing this issue. Nonetheless, I believe that now is the time when we in the Congress must work toward achieving a viable solution before the ultimate cost to the American taxpayer reaches an exorbitant amount.

Thank you, Mr. Speaker, for allowing me this opportunity to address the House.

HON. STAN PARRIS ON THE THRIFT INDUSTRY, APRIL 1, 1987

Mr. Speaker, I take to the well of the House today to discuss what I consider to be a very significant, and an increasingly frightening prospect now facing this Congress and the U.S. financial services industry, and millions of depositors in our nations thrifts looking to us protect their hard-earned savings.

I refer to the problems of the thrift industry, and the precarious financial state of the Federal Savings and Loan Insurance Corporation, better known as the FSLIC. The deteriorating state of a significant segment of the thrift industry and the FSLIC has increasingly been the subject of discussion in the business sections of our local papers and is from time to time making front page news. Its compounding problems are beginning to permeate the public conscience. We in the Congress must take some responsible action to put the thrift industry and FSLIC back on its feet at the earliest possible date. Not doing so will erode public confidence even further, and regrettably, our citizens will one day begin to withdraw their deposits from savings institutions. Hopefully, this would not manifest itself in the form of a depression style banking crisis, but I believe, and I am not alone in that thought, that if something substantive is not done now, the depositors will soon begin to lose faith in the savings system at an ever-increasing rate as they become increasingly aware of the situation which exists and which continues to deteriorate daily. We cannot permit nor afford a crisis of confidence in our financial system.

Before we begin an in depth consideration of this matter let me reiterate to depositors around the country that there is no justification for them to be concerned about the stability or access to their individual accounts in their local FSLIC-insured thrift institutions at least up to the statutory limit of $100,000. The full faith and credit of the United States guarantees those deposits and will be available to them in any circumstance. This is a program affecting an industry rather than one that jeopardises the existence or future of individual savings accounts.

To fully understand this problem, it is important to understand how we have reached this point. Let me begin by discussing the recent history of the thrift problem.

BEGINNING OF THE THRIFT PROBLEMS

For years S&L's met this country's need for long-term fixed-rate mortgages—a market that many commercial banks were barred from filling. In conjunction with this, the U.S. Government promoted home ownership through a panoply of supports and subsidies to S&L's. Thrifts responded by making millions of long-term mortgages at fixed rates.

Despite the popularity of these mortgages with the home buyer—the funding scheme of S&L's, which was predicated on borrowing short term and lending long term, has always been questionable, if not unsound. Maturity mismatches between thrift rates and liabilities has always left thrifts vulnerable to insolvency and failure whenever interest rates jumped. We learned in the Ohio and Maryland crises that should depositors of any S&L, well capitalized or not, ever began a run on S&L, it would have trouble raising the cash to meet these needs, except if it sold its mortgages at "fire sale" prices.

Until the late 1970's, the thrift funding scheme worked well, but the interest rate fluctuations of that period and into the early 1980's posed great problems for thrifts. S&L's held millions of fixed rate mortgages that were worth less than their face value. Low-yielding loan portfolios made many thrifts insolvent based on the market value of these loans. At the same time, the deregulation of deposit rates forced many thrifts to compete for deposits and to pay higher interest rates to preserve their core deposit base. In 1981 and 1982, S&L's failed by the hundreds. The thrift industry as a whole reported a total of $9 billion in losses in these 2 years alone.

Adding to these problems, many S&L's turned to direct investments in an attempt to return to profitability. Unfortunately, many of these risky ventures backfired and

resulted in even greater losses for many S&L's. That has had the effect of compounding the problems facing FSLIC. To add fuel to the fire, many investments were made in energy and agriculture dominant areas. The subsequent downturn of the economy in those industries has resulted in an even greater number of thrift failures.

What all this means is that the strain on FSLIC resources has been significant. In 1985, FSLIC had $4.6 billion in primary reserves. By the end of 1986 these primary reserves had shrunk to a negative $4.5 billion. More critically, FSLIC had only $4 billion in cash and securities to use in meeting its obligations. We were told last month that FSLIC's cash resources had since been depleted to $1.4 billion. It is obvious that the FLSIC's liquidity problems are clearly far worse than is generally recognized. FSLIC's depleted cash position and its negative reserve position dramatizes its inability to absorb insolvency losses beyond its current cash income.

Insolvent thrifts increasingly are bidding up interest rates in order to attract deposits. Unfortunately, healthy thrifts also have to pay these higher rates. Thus, FSLIC's problems are clearly affecting all thrifts it insures.

Now that we have examined how we have gotten to this point, let me tell you where we are today; the state of the thrift industry; and the size of the problem that FSLIC faces.

THRIFT INDUSTRY STATUS: 1987

The thrift industry is not in good financial condition. Approximately one-third of the industry is in a severely weakened condition. The other two-thirds of the industry is generally well managed and is in a good financial condition, and have in fact, reported record profitability. However, as the good thrifts prosper, the weak of "brain dead" institutions, are losing more than the good ones are earning.

As of October 31, 1986 low quality assets equaled 90 percent of the industries' net worth under regulatory accounting practices. Two years earlier they were only 53 percent. The picture is worse if goodwill and other intangibles are substracted from net worth. After reducing industry net worth by intangible assets low quality assets equaled 168 percent of reduced net worth in the third quarter of last year. Delinquent loans and repossessed assets have increased $29 billion dollars over the last 2 years.

In order to assess the state of the industry, let us use the latest GAO figures which have been provided to the Banking Committee, figures which are not disputed by the FHLBB. In fact, the Bank Board has used many of the statistics to argue in favor of recapitalizing FSLIC.

As of September 1986, there were 445 insolvent thrifts in the U.S. as determined by Generally Accepted Accounting Principles [GAAP]. This means that every one of these institutions has a negative net worth, which means that their liabilities exceeds the value of their assets under GAAP accounting. These 445 institutions had assets totaling $112 billion.

Beyond these 445 there are 598 institutions with net worths between 0-3 percent, which is dangerously low. In the early 1970's, the Bank Board would close institutions whose net worth had reached that level. The average return on assets of these institutions is a negative −0.16 percent. That figure is startling and dangerous, because it implies that there are hundreds more institutions that could slip into GAAP insolvency, and ultimately become FSLIC cases that must be resolved with FSLIC funds. The inescapable conclusion is that the problem is really much larger than generally thought, and will take many more dollars to solve than has ever been publicly acknowledged.

It is a clear fact that of the 3,287 thrift institutions in the U.S., 1,043 or 32 percent, almost one-third, are either insolvent or are in a very weak and inadequate capital position. All totaled these institutions have $395 billion in assets.

Not all of the approximately 1,000 troubled institutions are unprofitable. In fact about half still report a profit, but the return on assets from this group is so small, and their positions so precarious that the lightest change in any number of factors could make them unprofitable, and quickly move them into GAAP insolvency.

The geographics of this problem are also very significant. Texas is at the center of the fire storm. One-hundred-forty of the GAAP insolvent and undercapitalized institutions are in Texas. Sixty are in California. Forty-five are in Florida. Forty-nine are in Louisiana, and 25 are in Oklahoma. It is obvious therefore that the Southwest has been hit hardest by this crisis. Many of these institutions have been seriously affected by the economic depression in that area. Many, however, are what we call high-flyers. They made risky investments, with no thought that the oil boom and the real estate market would even end. Now that the good times are over, these thrifts threaten to destroy the rest of the S&L industry.

In addition, it cannot be ignored that the economics and structure of the thrift industry are changing in an irreversible manner. Recent innovations in mortgage securitization, enhanced by the 1986 tax legislation are rapidly altering the thrift industry. Origination and servicing functions by specialists financing home mortgages thru REMICS, floating rates, mortgage backed securities, and new computer technologies have enabled thrifts to reduce costs and rates. New accounting rules and increased capital standards, satisfied in many cases by shrinking in asset size and looking to origination fees as an immediate source of profits and cash flow will bring further changes to the thrift industry.

These changes, and others, surely to follow in the marketplace, with or without approval of the regulators, will force the traditional thrift out of its original business which was funding home mortgages with retail deposits.

The fundamental question then that must be asked is, when faced with the growing competition from nondepository and no-reserve lenders, will the funding cost disadvantage that now burden thrifts largely eliminate any viable long term role for an industry of depository institutions that largely specialized in home mortgage lending?

In fairness it should be state that although the current situation was in part generated by gross mismanagement, abuse, and some outright fraud among a portion of thrift industry managers, that was only a small portion of the influences at work.

The economics of the industry, technology and changes in the market place also were involved and the failure of the regulatory structure, and the regulators themselves were also partly responsible for the dilemma with which we are faced.

Acknowledgement should be given to the fact that the profitable and well managed thrifts did not cause the FSLIC problem and therefore they should not get punished for it.

While the thrift industry has suffered these major losses, it's insurance fund, FSLIC, has slowly dwindled toward bankruptcy.

FSLIC TODAY

As I pointed out earlier, FSLIC has used its resources down to the point that it stands at least at a negative $4 billion according to the GAO and admitted by the Bank Board Chairman.

Why has the GAO determined that FSLIC is insolvent. Let me quote from their testimony:

"As part of our audit of FSLIC's calendar year 1986 financial statements, we have preliminarily determined that FSLIC needs to establish a contingent liability in the range of $8 billion to handle cases that will require action in the near future. When this amount is deducted from FSLIC's reserves, FSLIC would have a deficit of over $3 billion at the end of 1986. Clearly, such a fund balance cannot handle the real liability FSLIC now faces."

The liquidity problem that FSLIC faces has affected its ability to handle the insolvent cases that it has in its caseload. In 1986, FSLIC acted upon only half of its serious cases. During the same period, its serious case list doubled. It is now up to 182.

Another aspect of FSLIC's problems is that the cost of liquidations increased from $981 million to at least $3 billion in 1986. Assistance to open institutions rose form $4.8 billion to $6.9 billion last year.

Another cloud on the horizon for FSLIC is the large amount of uncollateralized advances or loans that have been made by the regional Federal Home Loan Banks with the full backing of the FSLIC. The banks have made $5.9 billion in advances to 83 troubled institutions. Of these, $3.4 billion are guaranteed by the FSLIC. The FSLIC guarantee is most likely the only source of prompt repayment on these loans to the troubled institutions. We have seen recently that regional bank auditors will not give a clean bill of health to these institutions when a bankrupt entity, FSLIC, is the guarantor of these notes.

There is no reason to believe that the regional banks will continue to be willing to make more uncollateralized loans to the troubled thrifts. The director of these banks have a fiduciary duty to their shareholders, all of which are other thrifts. If the foundation of the regional Federal Home Loan Banks is shaken, their stock value will decline, and the ripple effect will plunge even more thrifts into GAAP insolvency.

Another problem with an insolvent FSLIC is that it has $4.5 billion in outstanding notes payable to troubled thrifts. Once again, accountants will have to face the question of whether an institution can count a note as an asset if it is from an insolvent corporation.

FSLIC's prospective insolvency loss at the end of 1986 among insolvent and barely solvent thrifts is estimated to be $35-$45 billion. This figure represents the difference between *market* value of the assets and their insured and collateralized liabilities as of the end of 1986. In effect, this range represents the amount of cash FSLIC would have to disburse, as of the end of last year, to pay third parties to take over all of the assets and just the insured and collatoralized liabilities of every thrift that was insolvent at that time.

These are the losses that are looming for FSLIC. The ongoing operating losses in 347 so called "significant supervisory cases" alone are $6 million a day. This totals over $2 billion a year, and these daily losses alone exceed FSLIC's total income. Another 400 thrifts also lost money in the 3rd quarter of 1986 with the possibility of their loss amounting to another $2 or $3 million daily.

FSLICs income is composed of regular assessments of 1/12th of 1% of deposits that generate $740 million annually and a special assessment, now in its third year, of 1/8 of 1%, which is a *burden* to the thrift industry, and yet it is *the primary source FSLIC's income.* It produces about $1.1 billion a year.

Insolvent thrifts increasingly are bidding up interest rates in order to attract deposits. Unfortunately, healthy thrifts also have to pay these higher rates solely because they are FSLIC-insured rather than FDIC-insured. All totaled, these excessive interest rates are costing the industry another $4 billion a year.

An additional cost of delay of resolving of this situation is the certainty of future declines in market values of deteriorating assets.

What all this means is that the FSLIC probably has no more than $2 billion on hand today. Furthermore, and most importantly, the FSLIC at the present time has no money and no way to resolve the troubled cases on which it needs to act. The total cash resources it could marshall to meet its cash requirements approximate just 1% of total thrift deposits which were almost $900 billion at the end of 1986.

The problems of the thrift industry are apparent, but the conditions that I have highlighted here have been known to the Administration, and to the respective House and Senate Committees for some time now. Despite this, the Congress has been slow to act on the FSLIC crisis. The irony is now that as we near some kind of action it may be too little, too late.

Now that the problems of the thrift industry have been laid on the table, and the troubled condition of the FSLIC fully exposed over these past few years, we have all searched, albeit slowly, for a solution.

ACTIONS ANTICIPATED BY THE CONGRESS

History assures that neither the Bank Board or its staff will provide anything approaching adequate direction as the thrift industry approaches its hour of crisis.

Individual state regulators will have little influence because restructuring of the Nation's financial institutions will be determined by Congress, which will not be overly attentive to state interests if doing so will increase the cost or necessity of bailing out FSLIC with Federal Treasury funds.

While Congress will not repudiate resolutions of full faith and credit behind the Federal deposit insurance guarantees, it will do everything possible to avoid backing up those guarantees with appropriations of hard cash from the treasury. Political expediency, driven by the budget deficit, will delay the actual injection of taxpayer funds into FSLIC. Congress will also be extremely reluctant to divert money from its cherished domestic programs.

If funds have to be diverted to FSLIC many will propose that we consider reregulation as a preferable approach. However, reregulation will generate no cash or other support for FSLIC and will instead perpetuate an already outmoded industry structure.

Because of the budget deficit and the adverse impact that the use of federal funds would have on it, the Congress and probably the Administration would surely impose even more of FSLIC's insolvency losses on the thrift industry itself so as to avoid using taxpayer funds to bail out FSLIC.

If it becomes obvious to all that FSLIC's problems cannot be contained within the thrift industry, which is another way of saying that a recap plan will not work, Congress will, as an action that will carry with it political exposure less than direct appropriations, order the merger of the two insurance funds and the use of FDIC insurance reserves to help stem the tide with attendant risks to the banking industry as it faces more bank failures this year than in any year since the depression in the 1930's. A merger would open a Pandora's box that ultimately would effect every type of financial services institution, as well as creating foreign concern about the soundness of the entire American banking system.

In addition there are major structural policy decisions that would have to be made in the event of a merger or a loan from FDIC to FSLIC.

So what are the alternatives for solving the FSLIC problem?

The Senate has offered to issue bonds in order to give the FSLIC $7.5 billion for the next two years. Importantly, the Senate bill would cap what the FSLIC can borrow at $3.75 billion each year.

The House Banking Committee is giving FSLIC bonding authority of $5 billion over 2 years with an annual limit of $2.5 billion.

I must ask the question, does anyone who is really serious about this problem believe that it can be corrected with an effort of just $5 or $7.5 billion in two years, or that we can simply wait out this problem and hope it will shrink in two years? If they do, they are very, very wrong because as has already been shown, the potential insolvency loss is $35 to $45 billion and the proposed remedy to that problem would be only about 10%-15% of the resolution cost. The 85% balance of the cost to solve this problem would simply be ignored—in a desperate hope that maybe it will go away.

Let me say now, however, that this should not be interpreted as a plea for the Treasury's recapitalization plan because even that plan, had it been adopted, would have been inadequate as well. I am convinced that any of the proposed recap plans are not feasible under any possible scenario.

But I am saddened that the small sum plans are being discussed and might well become the law for the next two years.

In that two years period or perhaps even sooner, FSLIC will suffer losses that will far outstrip its ability to meaningfully correct this problem. Consequently FSLIC will be forced to again delay the resolution of its problem thrifts until that time expires and we will again face the same problem, again at a much higher cost.

The problems that the losing institutions face are not interest rate problems. Their profitability will not return even if interest rates decline as they did for many thrifts in the mid 1980's. Neither will an economic turn around in the Southwest save many of these thrifts because most of them have asset quality problems. That means the market value of their loans and investments are not as large as the amount of debt that these assets secure. Asset quality problems are potentially more expensive to the insurance fund than were the interest-rate spread problems of the early 1980's. They also can be more difficult to deal with.

Let me quote from GAO on this problem "we have seen that asset quality problems are both less predictable and more costly to the insurance fund than interest rate spread problems. Perseverance is not a virtue for an institution with poor credit risks, bad assets, and a worsening insolvency problem. First, evey dollar of continuing losses by an insolvent thrift adds to the FSLIC's cost and creates a growing imbalance between the liabilities for which FSLIC is responsible and the assets it must manage at the time of case resolution".

FSLIC will be forced to defer any meaningful action while the losses build up. I don't think that this is what the Congress wants. Unfortunately we cannot simply wait out this problem as that would lead to certain catastrophe.

Let me give you three more reasons why any action short of an adequate solution to this situation is negative for the thrift industry. A small sum such as proposed will actually increase the future cost of borrowing in the marketplace, as all the recap plans depend on long term borrowing. The financial condition of FSLIC, the weakness of a large part of the industry, the certainty that Congress will have to revisit this problem in the near future and growing skepticism that the bonds can be marketed successfully at a reasonable interest rate, all will cause the bonds to be more expensive to market. They will in effect become government "junk bonds" because of the high risk associated with the problems of FSLIC.

Another risk of delay. The Bank Board estimates that just a modest increase of 200 basis points in interest rates would cost FSLIC an additional $7 billion over the next two years—and jeopardize the future of hundreds more thrift institutions. Even this is undoubtedly an underestimate given the Bank Board's previous optimism.

There is another major problem that is associated with the theory that we can "wait out" this problem. It is more than likely that interest rates will slowly increase in the future rather than continue to decline significantly. Therefore, the longer the delay, the greater the interest and carrying costs incurred on FSLIC's accumulated insolvency loss.

The final cost of delay is perhaps the most frightening in that it could result in increasing costs by additional billions of dollars. The new tax bill made the resolution of thrift failures more difficult after December 31, 1988. One provision will tax FSLIC financial assistance used to acquire failing thrifts. The other provision removes the ability of acquiring institutions to use loss carryforwards in mergers with troubled institutions. Without these tax advantages, unassisted mergers will not be viable alternatives. To quote the Bank Board on this issue "FSLIC's costs will be raised by having to compensate acquirers for future tax payments or by having to liquidate institutions for which mergers are no longer feasible."

You may ask, why is this so devastating? Well, the benchmark for solving this size of problem is asset resolution percentage. In the early 70's, the Bank Board could resolve a problem S&L at a cost of about 3% of assets. Now, 25% is the benchmark for resolving an institutions failure. The percentage the Bank Board must expend to solve their problem cases will increase as fewer failing thrifts can be merged or acquired by other institutions. The higher the resolution percentage, the greater the cost to the FSLIC, and ultimately to the American taxpayer.

I am and will continue to be opposed completely to any short sighted and unrealistic bailout scheme that will surely fail. To quote the Bank Board Chairman's views on the smaller funding plans, "the adoption of plans involving lesser recapitalization resources would be tantamount to the adoption of a continuous crisis resolution. No one has demonstrated that such sums are even remotely adequate to meet the full magnitude of the FSLIC's problems."

The other major alternative that has been offered to recapitalize FSLIC is the Treasury plan.

TREASURY PLAN PROBLEMS

The Treasury Plan shares some of the problems that the smaller plan does, but it authorizes the sale of $15 billion of Recap plan bonds over the next five years.

One major defect in the Treasury's Plan is that it would require thrifts to pay the interest on the borrowed bonds with the special assesment, and would have the effect of mortgaging the future of all of the thrift industry for many years to come. Thrifts are already paying two and one half times as much in premiums as are their FDIC counterparts. It is increasingly difficult for healthy thrifts to attract depositors and make a profit with the special assessment in affect. The Treasury bill proposes to phase out the special assessment within five years. But the GAO has demonstrated that even the Treasury plan may not be enough to solve the problem. If this is true, the special assessment may have to continue indefinitely, effectively "bleeding" the profitable portion of the thrift industry for many years to come. Clearly, if enacted, the Treasury plan would seriously harm the stronger element of the thrift industry and weaken its profitable segment.

Additionally, there is considerable question whether or not we can market these bonds at a reasonable rate of interest—the risk premium may be very high.

Finally, the other major defect in the Treasury logic is that it erroneously assumes an 8% annual growth in deposits. The shaken confidence in the FSLIC fund has already reduced the growth of S&L deposits, and will have an increasingly adverse effect on any future increases.

According to the Wall Street Journal, Tuesday, March 24, withdrawal from federally insured S&L's exceeded deposits by $2.2 billion in January. The Bank Board is quoted as saying this represents a "much larger deterioration in deposits" (than the normal holiday withdrawals of December). Does anyone believe that people are going to put their money into S&L's over the next two years unless we really solve this problem, and restore public confidence? In addition, higher capital requirements are going to give thrift management an incentive to shrink their deposits because it will be easier and less dilutive to existing stockholders to raise capital ratios by shrinking in size than by selling additional stock.

The Treasury recap plan fundamentally pledges and leverages much of FSLIC's highly unpredictable income stream over the next 20-30 years and simply will not begin to generate sufficient funds to pay for FSLIC's present or future insolvency problems.

The approach in anybody's recap plan therefore, can be summarized as follows: cover up the serious nature of this situation with accounting gimmicks; postpone a painful resolution as long as possible; if money is needed to bail it out, get the winners in the program to subsidize the losers; provide bandaids and window dressing and show appropriate concern and compassion by ordering forebearance thru the use of capital certificates of an insolvent agency, certificates which are nothing more or less than a phony IOU; and finally tap the Treasury only indesperation after all else fails.

So what is the answer to this frightening spectrum?

I believe there is a better alternative, and perhaps several of them. The one I prefer and propose, would, I believe, permanently solve the thrift crisis, and not simply postpone the inevitable recognition of the problem.

I have for the past two years watched as the FSLIC crisis has grown. I first began to talk openly about FSLIC's deteriorating financial condition in 1985. I have taken to the well of the House twice before to speak at length on this issue and I asked GAO to conduct a study of FSLIC's financial state. That report and its on-going follow ups have been available to us all for some months now.

I have put a great deal of time, effort, and thought into the FSLIC issue. At times, I was the only voice speaking on this issue. A year ago, I warned Members of Congress that the size of the FSLIC problem was at least $22-23 billion. At that time, the Bank Board strongly disagreed with my assumptions. All along, the Bank Board has deliberately underestimated or refused to acknowledge the size of solving this situation.

It is time to construct a plan that will save the thrift industry now. We cannot forget that it was not raining when Noah built the ark.

The plan that I propose will be controversial and is a dramatic departure from our recent history. It makes several assumptions. Among those are:

1. FSLIC is bankrupt.

2. The Re-cap plan will not work because it raises an insufficient amount of money to correct FSLIC's existing and future liabilities.

3. An outright merger of FDIC and FSLIC is not desirable for a number of reasons. Three of these are: A. Even FDIC reserves are not enough to pay both its own bills and FSLIC's liabilities; B. a merger will not dispose of failing thrifts in the least costly manner; and C. a merger would not accomplish the severability of the healthy thrifts from the brain dead ones so that the latter don't drag down the former.

4. Reality is that the taxpayers of this nation will ultimately have to provide money to solve the problem. To think otherwise is pure fantasy. To wait for the problem to become worse adds billions annually to the cost of the solution of this situation.

5. The thrift industry is slowly being driven out of the original business for which it was formed—and it must diversify

6. Reregulation of the industry will not bail out FSLIC or the insolvent thrifts and would be damaging overall to the thrift industry.

The plan that I propose is fairly simple.

First, we should have the healthy part of the industry transfer to the FDIC. All the thrifts that can meet the capital requirements of the FDIC would transfer under this plan. Upon transfer, each institution would pay a "reasonable" exit fee to the FSLIC. Over a five year transition period, uniform accounting standards, regulatory practices, and capital requirements would be imposed on banks and thrifts so that the playing field would become truly level. I would reason that at the very least, two-thirds of the industry would choose to transfer. Others close to the capital requirement threshold would have a tremendous incentive to raise fresh capital in order to be permitted to join the FDIC club.

Secondly, my proposal would charge FSLIC with just one responsibility: that is, disposing of the thrifts that are unable or unwilling to transfer to FDIC coverage, and doing so in a manner that minimizes for the taxpayer the present or future cost of disposal. In order to fund FSLIC we would combine FSLIC's present reserves with exit fees from the healthy thrifts, and the retained earnings of the Federal Home Loan Banks. Under this proposal there would be no reason to maintain the Federal Home Loan Banks, thus allowing us to use their retained earnings to pay for some of the FSLIC's losses. Additionally, we would place the full faith and credit of the U.S. behind the FSLIC fund so as to avoid any loss of confidence among depositors in those institutions.

FSLIC would be given five years to accomplish the task of disposing of the remaining insovlent thrifts. I think that this time period is sufficient to allow those thrifts that are currently experiencing problems to build their capital to transfer to FDIC. Those that are beyond saving should be closed as soon as possible in order to minimize FSLIC's losses.

As with all ideas, there will be parts of this plan that will be subject to criticism from industry sectors. But this proposal rises above these interests and is a giant leap forward, not only in solving our current thrift crisis, but in paving the way for long overdue regulatory reform of America's financial services.

Allow me to expand on the positives that this proposal offers in solving the FSLIC problem.

First, and most importantly, it will minimize the cost to the American taxpayer. Maryland and Ohio eventually had to use taxpayer funds for a bailout. Why not recognize that some budget assistance is inevitable, and compartmentalize the problem in order to minimize our losses?

Second, this proposal will save the healthy portion of the thrift industry, which is holding hundreds of billions of dollars of deposits. Unlike the Treasury recap plan, it will not burden healthy thrifts with onerous special assessments or extract prohibitive exit fees. Most of the institutions supporting the smaller dollar plans are doing so because they recognize that their own solvency is in danger under the Treasury scheme.

Third, the Congress would immediately restore public confidence in the banking system. No longer will it have to witness a FSLIC crisis spelled out in the papers everyday. Safety and soundness will be restored to the majority of savings institutions. No longer will they be threatened with the loss of business as the American public becomes increasingly disenchanted with thrifts.

Let us not fool ourselves into thinking that if we re-visit this problem in one or two years that we will have some kind of quick resolution. It has taken us three years to reach this point alone. Public confidence will surely erode if we don't solve this problem now.

Fourth, we will prevent a crisis driven merger of the FSLIC and FDIC. Nothing could be worse for all sectors of the industry. It would jeopardize the FDIC fund, would hide the real problems of the thrift industry, and not address the need to meld

together two financial regulatory structures which have outlived their usefulness. It is the easy answer, but the most dangerous solution. But in an election year Congress, or a Congress that faces an exhausted public, will be very tempted to simply merge the funds. We must prevent that!

Finally, the Congress will simply be ratifying the changes that have taken place in the marketplace. The market place has overrun the ability of the regulatory system to regulate it. We do not need a separate thrift industry anymore simply to fund home mortgages. That already is being accomplished by the secondary mortgage market, mortgage bundling, REMIC's and so forth. We really don't need the Home Loan Banks anymore or even the Federal Home Loan Bank Board. We no longer fear a shortage of home mortgages in the marketplace. Home mortgages are big business now. Who hasn't heard of Ginnie Mae's, Freddie Mac, Fannie Mae. A merger of the funds won't destroy home mortgages, it will make them cheaper and more accessible all to the benefit of the consumer. the thrifts recognize that already, and it is time that the Congress does the same.

In conclusion Mr. Speaker, this Congress faces a very serious problem, and as is often the case, rather than leading the way we will continue to grope and stumble until the problem overtakes us and gives us no choice but to do something even if it is too late.

This is not the first time, nor the last time, even today, that a Member will plead his cause on a particular issue before the House. It is serious, it is a problem, it is a crisis, we hear these words so often that they have become cliches, and they usually fall on deaf ears.

But it is just a matter of time before this crisis does catch up to us. It will be a political problem for many. No one wants to have the thrift industry collapse on their watch. I don't want it to happen on mine.

It will have a budget impact, because sooner or later we will have to bail out the FSLIC, and no one around here likes to cut spending, or increase the deficit, but we may have to do both! And if you don't think a bailout is coming, you have ignored the fact that we are witnessing a race to the Federal Treasury between FSLIC and the Farm Credit System (FCS), and they will soon be joined by the Pension Benefit Guaranty Corp., and the Federal Maritime Commission—all those hogs rooting in the public trough all at once is mind boggling.

Finally, I would ask my fellow Members of this Congress to focus on this problem. To give consideration to the most thoughtful approach. To reject quick fixes, and to restore confidence with the pulbic so that we can indeed handle this problem before it becomes a crisis, and to prove that we are capable of preventing continuation of this situation through insufficient action.

Thank you for this opportunity to address the House Mr. Speaker.

STATEMENT OF HON. STAN PARRIS OF VIRGINIA, BEFORE THE HOUSE OF REPRESENTATIVES, OCTOBER 29, 1985

I have today introduced legislation which reaffirms that deposits at all federally insured institutions are backed by the full faith and credit of the United States Treasury. A similar resolution, House Concurrent Resolution 290, passed the House of Representatives on March 18, 1982 by an overwhelming margin of 382-7. The Senate passed this guarantee to depositors unanimously. I commend that resolution to my colleagues and am confident it will receive substantial support.

I take the well of the House today, Mr. Speaker, in an attempt to increase what I have called less than complete public understanding of the problems facing the nation's thrift industry. Regulators at the Federal Savings & Loan Insurance Corporation (FSLIC), which protects Depositors' accounts up to $100,000 per depositor per institution, have become increasingly concerned about a portion of the savings institutions it insures. The problem is twofold: in our older, industrial states, thrifts are still crippled by interest rate problems left over from the collapse of 1981-1982. In some of our Sunbelt states a new, potentially more costly problem has emerged related to exposure to credit risk. 80 percent of the thrift industry's problems are in four states: California, Texas, Florida and Louisiana, but in those states particularly, those problems are severe.

I want to assure my fellow Virginians that, according to federal regulators, Virginia savings institutions are generally very safe and sound.

Scores of our nations thrifts see little prospect of an early return to profitability; therefore, these institutions have little to lose by making highly speculative loans and direct equity investments with money obtained from the federal credit window; they know the FSLIC will cover all their losses. The situation therefore, amounts to an industry that is steadily deteriorating—a condition that can no longer be tolerated.

The Chairman of the Federal Home Loan Bank Board has testified that the insurance fund could be at zero balance within a year. An independent study by the General Accounting Office (GAO) reveals that 42% of all savings institutions are insolvent or have a dangerously low net worth. This group of 1343 institutions, at the end of 1984, had roughly one-half of the industry's assets, $483.7 billion. Most are not earning a profit and are, in fact, accumulating losses. Over time, the potential cost of liquidating all these troubled institutions is estimated at between $15 and $20 billion. The cost could even amount to between $30 and $50 billion, according to FSLIC officials.

This far outstrips the insurance fund's current reported $3.2 billion unobligated balance. The GAO study is important because it focuses on the low net worth of the entire thrift industry and provides an independent assessment of the number of insolvent institutions that may need assistance from the FSLIC. The numbers also demonstrate that Congress was correct in adopting the principle of expanded powers for thrifts in 1980 and 1982 in order to allow the market value of the thrift industry's sagging loan portfolio to recover from the ravages of inflation and to enjoy the benefits of a declining interest rate. In addition, it is clear that any attempt to require the industry to set aside a portion of its own resources would move an additional 159 thrifts into insolvency and categorize 247 more in a low net worth position, depleting funds available to protect the industry from future losses which would make the future even more bleak. But equally important, these powerful facts confront the Congress, thrift regulators, and the industry with a crucial window of opportunity to address the insolvency crisis at FSLIC before the cost escalates dramatically and the nation's healthy and profitable thrifts are adversely affected by the unfortunate condition of low or negative net worth, which is the condition of a portion of thrift institutions now.

Mr. Speaker, these are the unfortunate facts we have gathered from conversations with top officials at the insurance fund and experts who have investigated the thrift industry at the General Accounting Office, Congress's independent auditor.

Let me hasten to add, the thrift industry is in the midst of a serious situation, but there is no reason for the average depositor to be concerned. Congress will never allow deposits at federally insured savings institutions to be lost. That precedent has been firmly established and will not be repudiated. In 1982, when a portion of the thrift industry was collapsing, Congress pleaded the full faith and credit of the United States Treasury in support. I don't believe there is one Member of Congress who does not feel obligated to stand behind this promise, even though the thrift industry may face much more costly problems today. No account holder should feel compelled to withdraw their deposits from their neighborhood savings and loan. Yet all of us as taxpayers must urge the thrift industry, its regulators and we in the Congress to calmly and decisively begin improving the situation which exists at institutions that threaten this $1 trillion industry, the bulwark of our housing finance efforts. We simply cannot afford to ignore the situation any longer. It would be unthinkable to permit the excesses of a few to jeopardize the future of the many in this important industry.

The real issues surrounding this crisis, Mr. Speaker, only indirectly relate to the current balance of the Federal Savings and Loan Insurance Fund. We must begin to consider the questions: How many thrifts will or should be allowed to fail? Who will pay to correct this increasingly serious situation? How much will it cost the nation's taxpayers? And how many profitable thrifts will be adversely affected by the mistakes in judgment by a number of thrifts that are already insolvent or floundering in low net worth?

I wholeheartedly agree with the principles advocated by the Federal Deposit Insurance Corporation, the insurer of commercial banks' deposits. "Public confidence in the banking system is enhanced when the public receives fair and meaningful disclosure, and confidence is eroded when the public believes it is being deceived or is not receiving all the facts it needs to evaluate a situation."

As one Member of Congress and one Member of the House Banking Committee, I believe it is long since past time to be candid with America about the extent of the problems at the Federal Savings and Loan Insurance Corporation. Therefore these remarks are the beginning of what I hope will be increased candor by all concerned with this situation.

FSLIC is a wholly owned government corporation that is governed by the Federal Home Loan Bank Board. FSLIC is responsible for insuring the safety of deposits in thrift and home financing institutions.

At my request, a team of economists at the General Accounting Office (GAO) has compiled the most up-to-date pubiic analysis of the problems facing the thrift industry and the solvency of the insurance fund available. "Thrift Industry Problems: Potential Demands on the FSLIC Insurance Fund," dated October 23, 1985, was prepared by and through the auspices of the GAO.

This independent analysis of the perilous financial condition of a significant portion of thrift institutions insured by the Federal

Savings and Loan Insurance Corporation dramatically illustrates the problems faced by the fund. What's more, GAO's timely study exposes the strains a significant number of financially distressed thrifts have placed on the large majority of savings and loans who have labored to retain a margin of profitability.

These glaring numbers illustrated in tables and charts, to which I will refer throughout these remarks, are based on data supplied to the GAO by the Federal Home Loan Bank Board. The GAO analyzed the Bank Board's data in a sophisticated computer study, using one of the best data bases on the thrift industry currently available. The figures presented in the study are based on data from 1977 to December 31, 1984, and are consistent with historical data which is comparable over time. The numbers clearly show the developing trends.

By way of background, in the 1960s and 1970s, thrift industry profits were healthy. Commercial banks and savings institutions operated under interest rate ceilings. The financial of housing was a priority for this country, and S&Ls were given a slight advantage over commercial banks on what they could pay for deposits in order to compete with banks.

Savings and loans would take in deposits on a fixed rate basis and lend out those funds as home mortgages. Thrift failures were rare, but economic and financial upheaval in the 1970s began to unravel this scenario.

Inflation and a volatile interest rate environment left thrifts with an asset base of primarily long-term, fixed rate mortgages yielding lower rates of return than the institutions had to pay to attract deposits to support their loans. The easy days of thrift profits from fixed rate deposits loaned out as home mortgages were long gone.

Pressure built for Congress to address these structural problems. In 1980 Congress passed legislation to phase out consumer interest rate ceilings by 1986, with the passage of the Depository Institutions Deregulation and Monetary Control Act. Nevertheless, banks and thrifts remained hampered by interest rate ceilings and were losing deposits. Consumers had a choice about where they would deposit their money. Money market mutual funds, free to offer market rates, attracted over $200 billion by 1982. Consequently, the thrift industry was thrown into the throes of a real crisis between 1981 and 1982.

As interest rates soared to unprecedented heights, thrifts failed in record numbers. According to figures compiled by Washington Financial Reports, a full 20 percent of the federally insured savings industry vanished between 1980 and 1984. FSLIC-insured thrifts either failed or were merged out of existence. The number of federally insured savings institutions fell from 4,002 in 1980 to 3,167 in 1984, with a record 252 thrifts failing in 1982. In contrast, only 117 savings institutions failed between 1934, when the FSLIC was set up, and 1980, a failure rate of 2.5 institutions per year, 1/100th of last years rate.

Congress soon realized that the process of lifting consumer interest rate ceilings had to be accelerated. Legislation passed in 1982, the Garn-St. Germain Depository Institutions Act, thrust depository institutions onto the same level playing field as uninsured money market mutual funds. It gave federally-insured institutions a money market deposit account, a ceiling-free, ready-access account and expanded operations opportunities. Once again, depository institutions could offer the small saver market rates of interest on savings.

Today, the thrift industry has approximately $1 trillion in total assets. Deposits amount to 80% of this $1 trillion figure. Net income, the after-tax profits for the industry, has improved for many thrifts, especially the larger, better managed thrifts. A great majority of federally insured thrifts—80% of all thrifts according to the Bank Board Chairman—are returning to profitability. Many analysts project that the savings and loan industry will earn between $4 and $5 billion in 1985. This year could well bring record profits for the industry, but earnings are still a modest return on assets when compared with other commercial ventures. However, the thrift industry's earnings are historically declining.

(See Net Income, Table 1.)

The 1985 after tax earnings should be an improvement over the $2 billion in profits earned in 1983 and the $1.7 billion the industry earned in 1984. But let's put the $4 to $5 billion projected earnings for 1985 in proper perspective. They are a modest return when contrasted with the $1 trillion size of the industry. In fact, these earnings are probably overstated because the Bank Board and Congress have permitted creative accounting techniques to artificially increase net worth and earnings; the undesirability of these accounting methods will become clear when we examine the net worth of FSLIC-insured institutions.

The rate of return on assets in the thrift industry has been steadily deteriorating—reduced from .80 to .25% return on assets—and casts doubt on whether the thrift industry can attract much needed new capital for private mergers of insolvent thrifts, at a time when regional and national banking are developing.

(See table 2, Net Worth as a Percentage of Total Assets.)

The net worth of federally-insured savings institutions, that is assets minus liabilities, fell below 3% of assets at the end of 1984 for the thrift industry as a whole, according to the GAO study. This is measured according to generally accepted accounting principles. Industry analysts project that net worth will improve marginally in 1985, hovering around the 3% mark for the year; but that is still the level at which, under the Bank Board's own rules, an individual institution should be closed.

Net worth is one measure of how well protected against losses the thrift industry is. It presents a much truer snapshot of the industry than regulatory net worth, which was 3.87% for the last quarter of 1984. Regulatory net worth is measured according to the Bank Board's more liberal regulatory accounting principles (RAP).

Let me give you a short lesson on thrift accounting history.

In 1980, net worth for all FSLIC-insured institutions was roughly 5.5%, as measured by the Bank Board's regulatory accounting standards and generally accepted standards. But net worth plunged between the middle of 1980 and the end of 1984. Remember, the industry was caught between the one two punch of long-term, fixed rate mortgages yielding lower rates of return than the thrifts had to pay to attract deposits to support their loans.

Confronted with a collapsing thrift industry, the Bank Board, with Congress's blessing, devised new definitions of net worth for regulatory purposes. Prior to the adoption of these creative accounting "reforms," FSLIC could close or bailout a savings institution when its net worth fell below 5%. This was eased to 4% in 1980 and dropped to 3% in 1982.

Regulatory net worth is calculated according to regulatory approved principles. It is a Washington device that many disdainfully call creative accountng. RAP amounts to a two front assault on a sinking balance sheet.

(Go to table 5, Net Worth Certificates.)

First, capital is bolstered through the use of a device called net worth certificates, a "paper for paper" exchange between the insurance fund and an ailing thrift, which can list them as assets. If net worth certificates aren't enough to prop up a savings and loan, then, when FSLIC takes over an insolvent thrift, it can make another capital infusion called income capital certificates.

According to the Bank Board Chairman, FSLIC has had to reduce its unobligated insurance balance by $580 million in 1985 in order to bailout just 17 thrifts with these capital infusions and the meter is still running. The Chairman has said that more than a billion and a half dollars more may be needed to sustain these and other thrifts before the end of the year.

(Go to table 5, Deferred Losses.)

At the end of 1984, regulatory net worth appears to be a somewhat stronger percentage of assets, but as table 5 demonstrates, roughly 26% of RAP is creatively accounted. The thrift industry does not earn profits on these assets and good will, which is 63% of net worth, is also pumped into net worth, but they are all non performing in terms of profits. Deferred losses work this way. You sell your bad assets but only acknowledge 10% of the loss. Over the next ten years you carry the balance as remaining asset, which it clearly is not—deferred losses equal full 17% of the RAP net worth of insured institutions.

(Go to table 3, GAAP Insolvent Thrifts.)

The General Accounting Office reports that at the end of 1984, a total of 434 savings and loans and mutual savings banks insured by the FSLIC—with total assets of $101.6 billion—are insolvent under generally accepted accounting principles. Ten percent of the industry's total assets are held by insolvent institutions. I am told by generally reliable sources close to the crisis that this number has recently increased by another 25, bringing the total to roughly 460 insolvent institutions.

(Go to table 4, Low Net Worth Thrifts.)

Unfortunately, more troubles loom on the horizon. 909 Depository institutions insured by FSLIC—with total assets of $382.1 billion—have a low net worth of between 0 and 3 percent of assets. Again, the source of this information is the independent General Accounting Office relying on FSLIC's own numbers. Keep in mind, savings and loans with a net worth below 3% were often closed by FSLIC before 1982.

If you combine the 909 thrifts with low net worth with the 434 insolvent thrifts being kept in business because FSLIC lacks the resources to reorganize them, you find a staggering 1343 problem institutions. Viewed on a percentage basis, almost one-half of all thrifts still in business today—42%—should be technically closed if the regulatory standards were impartially applied.

(Go to table 6, Estimates of FSLIC Losses.)

The cost to close just the 434 insolvent thrifts with (negative net worth) at the end of 1984 may have exceeded $15 billion. This figure does not include the potential cost of having to liquidate or assist the 909 thrifts

with net worth between 0 and 3 percent at the end of 1984.

The $15 billion price tag is based on a 15% average cost to the insurance fund of dealing with failed institutions in 1984. Obviously this potential cost is far in excess of the often-cited $3.2 billion FSLIC currently has on hand to insure over $800 billion of deposits.

The GAO cost is probably conservative. The Bank Board Chairman recently told the House Banking Committee that the loss ratio FSLIC is experiencing on bailout this year is between 15 and 20 percent. In Texas, the FSLIC estimates losses at some thrifts could go as high as 70% of assets.

A high ranking Bank Board official has told Members of Congress that the cost of riding the savings and loan industry of all the threatened thrifts could cost $30-$50 billion over the next several years.

Early this fall, the head of the FSLIC told the House Banking Committee that the reserves of the insurance fund were $6.6 billion. On October 17, the Bank Board Chairman told the same panel that the unobligated reserves are currently $3.2 billion.

But he also conceded that $2.6 billion "represents the effective, usable reserves of the fund available at this time to deal with the problem cases." And there is some confusion about whether that figure includes all of the Banks' obligations for income certificates and net worth certificates or not.

We know all too well that there is no shortage of problem thrifts. Right now, FSLIC is operating a holding operation for 18 insolvent thrifts it was forced to liquidate but for which it lacks a buyer. A team of recognized experts from solvent institutions, who are on loan to FSLIC under short-term management consignment contracts, operate these federally-chartered institutions. FSLIC injects capital through income capital certificates.

When FSLIC reopens these managed thrifts, they begin with a negative net worth. FSLIC has put together a fine group of thrift executives who are laboring to straighten out these troubled institutions.

However, these 18 thrifts have cost the insurance fund $580 million in this year alone, over $32 million a piece. Liquidity is provided through the reserve window at the Federal Home Loan District Banks. To date, just these 17 thrifts have received $1.2 billion in cash advances guaranteed by FSLIC.

The Chairman also admitted at the October 17 hearing that within the next six or seven months the fund would be depleted by another $1 to $1.5 billion, just to keep alive the 17 thrifts it is operating under management contract, plus prop up another 30 to 70 thrifts located mainly in California and Texas.

FSLIC will receive up to $1 billion over the next year from a special premium assessed on the industry. Also, the fund will receive another billion dollars from investment revenue and from the regular industry premium, which is 1/12 of deposits of insured institutions.

But, the Chairman has publicly stated that FSLIC "could run out of money much sooner than (a year) if we chose to resolve all these cases and not just keep them."

The magnitude of the problem, therefore, far outstrips FSLIC's current and future resources, unless other funds are provided.

There are those in the thrift industry who indicate that the mounting problems among the 20% or so of the industry that are the most serious are not really significant because, with time, many of these institutions will recover. Meanwhile, FSLIC can quietly close the thrifts that are unable to make it.

(Go to table 7, Profit Experience.)

The GAO analysis contradicts this hope. The vast majority of insolvent thrifts for 1984 did not earn a profit for the year, when profit performance is measured on an average annualized basis.

The economists at GAO found that of the 19 thrifts whose liabilities exceeded assets by 9 to 12 percent, only one turned a profit for the year. What's more, this group's rate of return on assets can only be considered a disaster, ranging from negative 3.2% to negative 8.12%. That means their net worth is falling every day and their problems are worsening.

The table shows that of the 334 thrifts whose liabilities exceeded assets by 0 to 6 percent, only 138 earned a profit for the year.

For the 179 thrifts with a positive net worth, whose assets exceeded liabilities by 1 percent, only half (89) managed to generate a profit. The average rate of return for this group was a negative 0.16%. The picture is not much better for many of the 302 thrifts with a net worth as a percentage of assets between 1 and 2 percent.

Therefore, the profit experience for those institutions with a negative net worth is generally one of declining net worth for every day they remained in business in 1984. These institutions are piling up losses, which clearly indicates we cannot expect that they can work themselves out of their unprofitable condition.

(Go to figure 1.)

This chart shows that the institutions with the greatest negative net worth are losing money at the fastest rate. That does not give you cause for great optimism that they can work themselves out of these problems.

By comparison, there were 455 thrifts with a positive net worth, whose assets exceed liabilities by 3 to 4 percent. This group's rate of return on assets is a positive 0.39%. Only 21% of this group failed to earn a profit in 1984. This is a positive sign and is cause for optimism for their future. But, as shown in figure 1, the poor thrifts are getting poorer, and they are deteriorating rapidly. The ones whose net worth are the lowest are generally performing worst. Congress, the regulators, and the healthy thrifts must act quickly to correct this imbalance.

Presently, the guardians of our federal insurance fund are powerless to act, except to move against the thrifts in the most dire straits. Unfortunate, yes, but reality. FSLIC officials are understandably apprehensive that if they enforce the law and close insolvent thrifts, the fund will be exhausted soon after they begin the job of reducing the number of threatened thrifts. Depositor confidence could be shaken, even though the full faith and credit of the United States Treasury stands behind insured thrift deposits. As you can see, there are so many problems and so little money.

This study clearly demonstrates that the longer FSLIC is immobilized, the higher the cost to the taxpayer will be and the greater the damage to the majority of all thrifts whose fortunes are improving.

The complexion of thrifts' problems has changed from the earnings spread problems encountered in 1981 and 1982. The cost of correcting that situation is proving to be minor in comparison to the asset quality problems with which FSLIC is now confronted.

We were told on October 17, 1985 that the cost of solving today's asset deterioration crisis is between three and five times as great as the earnings spread costs experienced in 1981 and 1982. At that time, FSLIC spent 4 to 5 percent on bailouts; today the cost is running between 15-20% of insolvent thrift's assets.

Most of the thrift failures this year were largely due to bad judgment on real estate and credit extensions.

Recall that Congress passed legislation in 1980 and 1982 to assist thrifts to meet the changing competition. The 1980 law also granted federally chartered thrifts new authority to make commercial real estate and consumer loans and to invest in commercial paper and corporate securities.

The Garn-St Germain Depository Institutions Act, passed in 1982, greatly expanded savings institutions' power to make commercial real estate and consumer loans. The 1982 law also gave thrifts the power to make commercial loans. Many states also expanded the loans and investment powers of their state chartered, federally insured thrifts.

But clearly, real estate activities are the leading cause of today's thrift problems. Under current federal regulation, Federally chartered thrifts can invest, in effect, no more than 3% of their assets in direct real estate investments. These activities include the ownership of land held for development, commercial projects, and equity and service corporations.

But state chartered thrifts have been able to utilize a greater share of their assets in direct investments. In California, for example, state chartered thrifts can invest up to 100% of their assets in real estate development and other investments held on the thrift's behalf.

If the risky ventures pay off, then owners and lenders benefit. If they do not, then losses due to excessive risk taking by some thrifts may be borne by other, more conservatively managed institutions, or ultimately, if the insurance funds were depleted, by the U.S. Treasury.

As I previously indicated, California, Texas, Florida, and Louisiana have lead the way in liberalizing direct investment and loan powers for their state chartered thrifts. They are also the states where the FSLIC is uncovering the most troubled institutions.

The worst failures have occurred in these four states, where the legislatures freely grant lending and investment powers in excess of federal authority, but have no obligation to pay the cost when failures occur.

To his credit, the Bank Board chairman recognized the risk to the fund taken by these state chartered thrifts and rushed through regulations that now require state-chartered thrifts to obtain Bank Board permission for direct investments greater than 10% of their assets.

It would be simplistic to say a problem of this magnitude has been caused by real estate activities alone. The problem is more widespread, and includes federally chartered institutions. While FSLIC stands by, unable to deliver the treatment of liquidation or assisted merger, desparate thrift executives who find themselves trapped in an unprofitable position are taking other types of big risks in a last ditch effort to grow out of their problems. Failures are inevitable.

"Common threads are woven through the fabric of such failure" the Chairman told us, "Exceedingly fast growth, very high levels of brokered funds, very poor underwriting of loans and investments, shoddy management systems and practices, atro-

cious record-keeping, and questionable documentation, misleading and sometimes fraudulent behavior by those vested with a public trust as insurance depository institution executives."

The Chairman lays much of the blame on "high flyers and dare devils," who have tried to grow out of their problems. For the last two years the industry has enjoyed an annual growth rate in deposits of 20%. Bank Board officials have told me they have found 25 thrifts in Texas that have been growing at a rate 70-90 percent above what the Board thinks is prudent.

The Bank Board recently provided Congressional investigators a glimpse of the problems FSLIC has uncovered at a number of California thrifts now operated by the fund. The deposed executives of the large thrift invested in a mushroom farm and a tire retreading company, which FSLIC must now dispose of.

FSLIC is also trying to figure out what to do with Olympic Village, a Squaw Valley time-share resort, in which one federally-chartered thrift invested. This "investment," made without a feasibility study is a $750,000 a month drain on this FSLIC operated thrift. This thrift's problems are compounded by the drain created in its being the sole lender for another time share developer with poorly planned locations throughout the country. All told, the thrift is losing $2 million a month on its holdings.

This same thrift's interest in vacation projects extended to its own facilities. It built a $25 million headquarters complete with executive bedrooms, wine cellar, raquetball courts, a 2-story theater and a 30 foot waterfall. Shortly after this palatial headquarters was completed, the thrift collapsed. By now the excesses in some of the thrift industry are legend.

But even lending to those in the housing business has brought on problems for some savings institutions. In Texas, where FSLIC is bracing for more asset problems, a glut in apartment construction is forcing some thrifts that loaned money for construction projects to foreclose and sell the properties at a loss.

The Wall Street Journal reported on October 16 that Texas has accounted for fully half the nation's apartments constructed since 1983. The article cited the problem landlords face in Fort Worth. In that city alone, experts predict that it would take an estimated six years to rent all the apartments now available and more are being built. The city's vacancy rate has hit 16%, up from 12% in 1984. Meanwhile, rents have remained stagnant.

Well managed thrifts are being hurt by those with extended positions. A number of the FSLIC operated thrifts in California are unable to attract deposits without paying interest rates up to 1½ percentage points above the market rate. This is pushing up the cost of funds for the most healthy thrifts, and forcing them to redouble their loan and investment returns to cover the high rates of return they must meet to hold their position in the market.

(Go to figure 2, Consolidated Bond Financings.)

Of even greater concern, Home Loan bank note rates are up since July of this year, possibly caused by a proposal to buttress FSLIC with an asset management division financed by Federal Home Loan Banks bond issues, a so-called Sec. 406 bank. 0

Clearly, sophisticated investors are beginning to attach risk to the Bank's offerings, and investors are demanding higher rates of interest for these securities.

The Maryland and Ohio thrift crises precipitated by state insurance failures reveals how precious depositor confidence is to the stability of a thrift system, while at the same time demonstrating how fragile this important resource is.

If the danger of unacceptable low net worth ratios are not soon addressed, it could quickly spread and unfairly threaten some of our nation's large number of stable, profitably managed, secure savings and loans which are the institutions that are taking prudent steps to build on increased earnings.

If depositors are not comfortable with and do not have confidence in their thrifts, what is there to prevent a huge drain of thrift deposits into commercial banks, which are protected by a much stronger Federal Deposit Insurance Corporation?

Healthy thrifts, therefore, have much to gain in the long run from the correction of the problems of that important portion of their industry that is troubled.

(Go to Table 8, Market Value of Assets.)

This table clearly indicates that the losses have been reduced by adoption of the banking legislation of 1982. Table 8 also shows that even the troubled thrifts, with low-yielding loans in the early 1980's, have gained from adjustable rate mortgages and lower interest rates. The market value of the loan portfolio of 66 thrifts who received net worth certificates has gained by about one third between the end of 1982 and 1984. Thus, the market value of the entire industry is dramatically higher today than it was two years ago.

Should we wait much longer? No, interest rates will probably not trend much lower, if at all. Can we afford to rely on the uncertainty of the continuation of relatively-low interest rates into 1986, which would permit healthy thrifts to maintain favorable earnings spreads and profits?

Even if rates did continue to decline, it is not clear that additional delay would prove beneficial to the thrift industry. Consumers will begin to refinance their mortgages in greater numbers if rates continue to drop and this could erode the market value of many thrifts' assets even further.

What's more, with regional banking a reality and nationwide banking being advocated by many, the value of a thrift charter to those interested in its advantages will not last for long and voluntary mergers with profitable institutions in the future will become more difficult to arrange.

We now, therefore, have a window of opportunity in which the cost to the taxpayers of liquidating or merging thrifts can be minimized. The benefits of waiting have already been maximized.

So, what do we do about the situation?

There are no easy answers to the severe problems facing the thrift industry and its insurance fund. We have only painful, costly options. Frankly, there is no ready cure. I can only begin to identify for my colleagues in Congress a menu of possible alternatives available. Many of these entrees are so costly that perhaps none of us could support any or all of them.

The alternatives available must also be considered against our current backdrop of money problems;

We have a $180 billion national deficit;

Congress is being asked to consider a multi-billion dollar bailout of the farm credit system;

We may have to provide billions of dollars of funds to our neighbors in the less developed countries who are running out of cash and cannot obtain loans from the international banking system because these countries are no longer good credit risks.

Nevertheless, we must address the immediate and long term funding problems that face the Federal Savings and Loan Insurance Fund. Through a combination of some of the following alternatives, and those that are developed through the ingenuity of the many responsible parties at work to save the thrift industry, I hope that we can reduce the number of troubled institutions and renew confidence in the majority of thrift institutions returning to a profitable position.

The first alternative is, obviously, to do absolutely nothing. We could turn our backs on depositors and the industry, allowing them to bear the cost. This is indefensible. Depositors must be fully protected. We cannot return to the uncertainty of the 1920s, when depositors had to sort out the good financial institutions from the bad without any guidance or backing if their guesses proved wrong. Besides, this option is morally and politically unjustifiable.

The second alternative is equally as undesirable. Congress could write a blank U.S. Treasurer's check for FSLIC to draw upon whenever the need would arise. This option is equally unacceptable. At a time of record deficits and other pressing problems, the taxpayers would not support an increase in the deficit or individual and corporate taxes to bailout the thrift industry.

(Go to Table 9, 1% Recapitalization.)

A third option involves collecting more money from the savings and loan industry itself. The thrift industry itself has always provided the capital necessary to enable FSLIC to meet its obligations to insured depositors. This could take several forms.

We would recapitalize the insurance fund with industry profits. It has been suggested that the industry pay 1% of its deposits into the FSLIC fund, to be held as an asset on the thrift's balance sheet until they are used by FSLIC and then they would be expensed. The credit union industry recently completed a similar proposal, but credit union problems are simply not comparable to those facing FSLIC. This option would provide the fund with an additional $8.5 billion. In effect, the total tangible net worth of the industry at the end of 1984 would be transferred to FSLIC.

The main problem is that GAO figures show that if this set-aside plan had been adopted at the end of 1984, an additional 159 institutions would have plunged from low net worth to insolvency. An additional 247 thrifts would have tumbled from a position of adequate net worth to low net worth below 3 percent. While this $8.5 billion infusion appears to help the industry bridge the funding crisis at FSLIC, the industry is opposed. Many healthy thrifts would simply convert to a bank charter, in order to preserve their stockholders' profits and escape the levy of this set-aside proposal. It is not an attractive prospect and appears to provide no benefit either long or short term.

Another potential solution to the problem of FSLIC would be for it to turn to the Federal Home Loan Bank System for funding. Currently, the 12 District Banks have approximately $9 billion in capital, some portion of which could be used to bailout FSLIC. How much of this money would be actually available is in question because much of the total capital, which is held by the member thrifts, is tied up in capital stock. But invading the District Bank's capital could send tremors through the money

markets, where the Bank's must borrow money on a constant basis.

The District Banks are also authorized to raise money in the financial markets and lend what they borrow to FSLIC. The District Banks could issue bonds in the financial markets as a possible option to bailing out FSLIC. Rather than having the District Banks go to the credit market, Congress could increase the FSLIC credit line at the Treasury from the current line of $750 million to somewhere approaching the $3 billion line of credit the FDIC enjoys.

Another industry solution to FSLIC's problems would be to set up a federally chartered S&L to help the insurance fund to dispose of problem assets, the so-called sec. 406 bank. This institution would acquire and liquidate assets now held by FSLIC. The corporation would be funded initially through the purchase of stock by FSLIC and the Federal Home Loan Banks. The immediate goal of the corporation would be to inject capital back into the insurance fund through the purchase of low-quality assets.

This semi-private company, operating free of budget and personnel constraints that pertain to the fund, could perhaps manage and dispose of the more than $2.3 billion in assets that the insurance fund has acquired from failed thrifts. Advocates of this proposal say it would be a vehicle for FSLIC's liquidations to operate more efficiently at a lower cost to the insurance fund. But unless carefully structured, this company could simply be another level of regulatory management under the government. In addition, there is some question whether the 12 District banks, who would provide some of the startup capital, can legally take an equity position in this Sec. 406 proposed semi-private banking corporation. So, many difficult questions remain.

Another potential solution to the problem of FSLIC under-capitalization is to merge the FSLIC and the FDIC, the commercial banks' insurance fund. According to the former FDIC Chairman, the FDIC is so strong financially it may be able to handle thrift institutions solely from the earnings of the combined fund. However, a merger would force the banking industry to pay for the excesses of its competitors and could possibly require a supplemental tariff on member banks. It would most certainly take some time to phase in and would surely bring an end to the thrift industry as we know it. In fairness, substantial changes in the federal laws and regulations would be required to bring about greater parity in capital requirements, the ability to offer various financial products and services, and many other areas. Both bankers and thrift executives oppose this option. Merger would still leave the taxpayers with a huge number of ailing thrifts.

Another option would be to attract additional capital to the thrift industry from whatever source; these non-thrift firms could be enticed to acquire weak but still salvageable thrifts. Financial service firms engaged in securities activities, such as insurance firms and bank holding companies, could serve as potential acquirers. These entities may be willing to inject capital into the thrift industry in order to gain access to the federal payments window. But how realistic is it to think that nonfinancial institutions would be willing to invest in thrift charters when nationwide banking may be just around the corner and FSLIC is having to provide cash to induce healthy thrifts to take over its backlog of ailing thrifts?

There are still other, long-term remedies that Congress may choose to consider. These options include:

Risk-related deposit insurance premiums or risk-related capital requirements, which would allow FSLIC to charge a higher premium or increased capital based on the risk an institution poses to the insurance fund. But this would require some subjective rating process by the regulators.

Thrifts could also be required to sell short-term subordinated debt to the market. This would subject thrifts to market discipline, since a thrift engaging in risky activities would either have to offer a much higher interest rate to sell its subordinated debt, or would not be able to market its debt instruments at all. Of course, this option would have to be coupled with increased disclosure to the public of problems thrift examiners uncover and dramatically intensified supervision. Examiners would also have to be better compensated for the insurance fund to attract and retain high-quality people who can analyze sophisticated loans and investments.

A change to market value accounting may also be required. At present, institutions value both their assets and liabilities for regulatory purposes at the initial cost or value of the asset or liability.

Since the initial value of an asset or liability does not represent its current value, this method does not give the regulator a true picture of the institution. One proposal to correct this problem is to switch to market value accounting, under which the asset is valued at its value in the market at the time of the report.

And there are other possible alternatives, all of which must be considered.

After listening to this description of the magnitude of the problems facing our thrift industry and its insurance fund, you may join me in the realization that no easy answers exist. I have been studying the problems for weeks; I have discovered no ready cure. Perhaps my colleagues will summarily dismiss all the options I have set forth today for dealing with this situation, but I do hope I have begun to identify the problem and alternatives. Congress cannot begin to act alone. We need the assistance and the suggestions of all responsible parties associated with the thrift industry.

In closing, I hope I have begun to increase the public's understanding of the problems facing the thrift industry. The public, is after all the final arbiter of what actions we here in this body take.

I am confident that Congress will act calmly and decisively. Depositors should remain assured that the full faith and credit of the United States Treasury stands behind their money. In 1982, when similar problems confronted the thrift industry, Congress overwhelmingly move to restore confidence to our historic system of federal deposit insurance. I have little doubt that Congress will renew this important pledge so that we can act decisively to revitalize the thrift industry, an important aspect of the financial planning of many Americans.

The CHAIRMAN. The question is on the amendment in the nature of a substitute, as amended.

The amendment in the nature of a substitute, as amended, was agreed to.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly, the Committee rose; and the Speaker pro tempore [Mr. GEPHARDT] having assumed the chair, Mr. KILDEE, Chairman of the Committee of the Whole House on the State of the Union, reported that that committee, having had under consideration the bill (H.R. 1278) to reform, recapitalize, and consolidate the Federal deposit insurance system, to enhance the regulatory and enforcement powers of Federal financial institutions regulatory agencies, and for other purposes, pursuant to House Resolution 173, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendments to the amendment in the nature of a substitute adopted by the Committee of the Whole? If not, the question is on the amendment.

The amendment was agreed to.

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The SPEAKER pro tempore (Mr. GEPHARDT). The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

MOTION TO RECOMMIT OFFERED BY MR. LEACH OF IOWA

Mr. LEACH of Iowa. Mr. Speaker, I offer a motion to recommit.

The SPEAKER pro tempore. Is the gentleman opposed to the bill?

Mr. LEACH of Iowa. I am, Mr. Speaker.

The SPEAKER pro tempore. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. LEACH of Iowa moves to recommit the bill H.R. 1278 to the Committee on Banking, Finance and Urban Affairs with instructions to report back the same forthwith with the following amendments:

Page 270, after line 13, insert the following new subsection:

(d) HOLDING COMPANY ACTIVITIES CONSTITUTING SERIOUS RISK TO SUBSIDIARY SAVINGS ASSOCIATION.—Section 10 of the Home Owners' Loan Act of 1933 (as so redesignated, transferred, and inserted into such Act by subsection (a) of this section) is amended by adding at the end the following new subsection:

"(q) HOLDING COMPANY ACTIVITIES CONSTITUTING SERIOUS RISK TO SUBSIDIARY SAVINGS ASSOCIATION.—

"(1) DETERMINATION AND IMPOSITION OF RESTRICTIONS.—Notwithstanding any other provision of this section, whenever the Director determines that there is reasonable cause to believe that the continuation by a savings and loan holding company of any activity constitutes a serious risk to the financial safety, soundness, or stability of a savings and loan holding company's subsidiary savings association, the Director may impose such restrictions as the Director determines to be necessary to address such risk. Such restrictions shall be issued in the form of a directive to the holding company and any of its subsidiaries, limiting (A) the

payment of dividends by the savings association; (B) transactions between the savings association, the holding company, and the subsidiaries or affiliates or either; and (C) any activities of the savings association that might create a serious risk that the liabilities of the holding company and its other affiliates may be imposed on the savings association. Until or unless such directive lapses or is rescinded or modified as provided in paragraph (2), it shall be effective as a cease and desist order that has become final.

"(2) REVIEW OF DIRECTIVE.—

"(A) ADMINISTRATIVE REVIEW.—At any time after a directive referred to in paragraph (1) is issued, the savings and loan holding company, or any subsidiary of such holding company subject to the directive, may object and present in writing its reasons why the directive should be modified or rescinded. Unless within 10 days after receipt of such response the Director either affirms, modifies, or rescinds the directive, such directive shall automatically lapse.

"(B) JUDICIAL REVIEW.—If the Director affirms or modifies a directive as provided in subparagraph (A), the affected party or parties may immediately thereafter petition the United States district court for the district in which the savings and loan holding company has its main office or in the United States District Court for the District of Columbia to stay, modify, terminate or set aside the directive. Upon a showing of extraordinary cause, the savings and loan holding company, or any subsidiary of such holding company subject to a directive, may petition a United States district court for relief without first pursuing or exhausting the administrative remedies set forth in this paragraph.".

Page 31, strike line 20 and all that follows through page 32, line 14, and insert the following:

"(C) APPROVAL DURING MORATORIUM.—The Corporation may approve a conversion transaction at any time if—

"(i) the conversion transaction affects an insubstantial portion, as determined by the Corporation, of the insured liabilities of each financial institution participating in the conversion transaction; or

"(ii) the Corporation and, during the existence of the Resolution Trust Corporation, the Oversight Board of the Resolution Trust Corporation determine that the conversion transaction is in the best interests of the Bank Insurance Fund and the Savings Association Insurance Fund.

Page 42, strike line 3 and all that follows through page 43, line 6, and insert the following:

"(5) LIMITATION.—During the 5-year period beginning on the date of the enactment of the Financial Institutions Reform, Recovery and Enforcement Act of 1989—

"(A) no Savings Association Insurance Fund member shall have any liability to the Corporation under this subsection arising out of assistance provided to or loss incurred by the Corporation as a result of the default of a Bank Insurance Fund member; and

"(B) no Bank Insurance Fund member shall have such liability with respect to assistance provided to or loss incurred by the Corporation as a result of the default of a Savings Association Insurance Fund member.

Page 45, line 18, insert closing quotation marks and a 2d period after the period.

Page 45, strike line 19 and all that follows through page 46, line 18.

Page 271, beginning on line 5, strike "and a bank (as such terms are" and insert "(as such term is".

Page 271, line 11, strike "and a bank (as such terms are" and insert "(as such term is".

Page 272, strike line 24 and all that follows through page 276, line 15 (and redesignate the subsequent subsection accordingly).

Page 292, strike line 17 and all that follows through page 293, line 4 (and redesignate the subsequent subsection accordingly).

Page 402, line 8, insert closing quotation marks and a 2d period after the period.

Page 402, strike line 9 and all that follows through page 404, line 5.

Mr. LEACH of Iowa (during the reading). Mr. Speaker, I ask unanimous consent that the motion to recommit be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Iowa?

There was no objection.

The SPEAKER pro tempore. The gentleman from Iowa [Mr. LEACH] is recognized for 5 minutes in support of his motion to recommit.

Mr. LEACH of Iowa. Mr. Speaker, we are at the end of a historic bill. There are a lot of amendments this gentleman wanted to offer, including one to require higher capital standards for the industry as well as for Freddie Mac and Fannie Mae, and also an amendment that would relate to savings banks.

Personally I believe capital standards are inadequate. I also believe that estimates of the depth of the hole in the insurance fund are insufficient and that we will have to revisit this bill in 18 to 36 months.

However, Mr. Speaker, I have taken the advice of my leadership and have designed a motion to recommit that does not simply swing at windmills; it swings at power.

This motion to recommit strikes all the special interest exceptions in the bill and gives the Federal thrift regulators stronger oversight power over thrift holding companies.

I recognize that many of the exceptions in the bill, such as those put in by the gentleman from Georgia [Mr. BARNARD], my friend, and the gentleman from North Dakota [Mr. DORGAN], reflect their public policy concerns. But the issue in this bill is reform.

Mr. Speaker, we are looking at the greatest debacle, the greatest lapse of legislative judgment in this history of this Republic with the bailout requirements in the 12-figure range and fraud estimates in the range of 10 figures. What we are looking at is a bailout larger than Chrysler, and Lockheed and New York City times a factor of 10. We are looking at a fraud problem larger than Teapot Dome to Abscam times a factor of 100.

Under these circumstances the only way the American people can accept the cost implication of this bill; cost estimates, by the way, that amount in this bill alone to almost $500 per every man, woman, and child in this country and which are likely in the next decade to exceed a $1,000 for every man, woman, and child, is to have as few exceptions as possible.

Mr. Speaker, now is the time for reform, not politics as usual. I urge bipartisan support for this very modest, very simple motion to recommit.

Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The gentleman from Texas [Mr. GONZALEZ] is recognized for 5 minutes.

Mr. GONZALEZ. Mr. Speaker, I yield to the gentleman from Pennsylvania [Mr. KANJORSKI].

Mr. KANJORSKI. Mr. Speaker, I have very mixed emotions about the bill we are about to pass. On the one hand, it corrects many of the errors of the past that allowed the thrift crisis to grow this large. On the other hand, the financing of the bailout is terribly inequitable and forces the many to pay for the sins of a few.

Among the positive contributions made by this legislation are:

First, the bill separates the thrift insurance fund from the thrift chartering agency so that the often conflicting goals of these two groups do not jeopardize the health of our thrift industry, or its insurance fund.

Second, it puts one person in charge of the chartering agency instead of a board. A single head will provide the Office of Thrift Supervision with uniform direction and continuity, and will enhance responsibility and accountability.

Third, this legislation mandates higher and more uniform capital standards for banks and thrifts, and makes capital standards risk-based so that more capital will be required for relatively risky investments. This will give institutions a market incentive to be more careful and it will provide the deposit insurance funds and the taxpayers with greater protection. While I feel the transition rule included in the bill for supervisory goodwill is inadequate and unfair, I strongly support the overall goal of higher capital standards for both banks and thrifts.

Fourth, our bill authorizes risk-based insurance premiums. Just as the amount of capital an institution must maintain should vary depending on the riskiness of its investments, so too should the premiums it pays. An institution with the bulk of its funds invested in home mortgages should not pay as much in premiums as a similarly sized institution with the bulk of its funds in commercial loans or junk bonds. I regret we did not mandate risk-based premiums, and I sincerely hope that the regulators will act quickly to use their new discretionary authority to implement risk-based premiums.

While they are at it, the regulators should use their discretionary authority to vary both capital and premiums based on the individual experience of each institution. An institution with a long track record of stable and sound

investment, should not have to have as much capital, or pay as much in premiums, as a new and untested, institution, or an institution which has been beset with problems in the past.

Fifth, the committee bill makes it easier for the deposit insurance funds to take action against individual managers, as well as individual institutions.

Sixth, the bill prohibits the States from granting risky new powers to State-chartered thrifts unless they are approved by Federal regulators. Since it is the Federal Government, and not the State governments, which supports the deposit insurance system and pays for mistakes, it is the Federal Government which should determine which powers are too risky to insure. In particular, this bill and new regulations proposed by the regulators will limit the use of brokered deposits, limit investments in junk bonds, and limit the rate of growth of individual institutions.

Seventh, our bill sets new minimum Federal standards for bank and thrift examinations, State bank and thrift examiners, real estate appraisals, and real estate appraisers. It also requires annual audits of banks and thrifts over $150 million in size, sets standards for auditing, and requires abbreviated reviews of the books of smaller banks and thrifts.

Eighth, our legislation makes it easier for Federal regulators to take over failing institution before it fritters away all its assets. This will preserve capital, reduce the risk of a troubled institution making risky loans, and minimize the long-term cost to the deposit insurance fund and the taxpayer.

Ninth, the House bill will centralize asset disposition in one agency that is clearly owned, operated, and controlled by the Federal Government, thus ending the failed FADA experiment. This follows the recommendations of both my task force of the House Banking Committee, and the General Accounting Office, and includes many of the specific recommendations the gentleman from Maryland [Mr. MCMILLEN] and I included in our bill to abolish FADA.

Tenth, the committee bill as amended by the amendment of the gentlewoman from Ohio [Ms. OAKAR], enhances our ability to attract and maintain quality bank examiners by allowing greater flexibility in pay and compensation so that the regulatory agencies can compete effectively with the private sector. As a member of the House Post Office and Civil Service Committee, as well as the Banking Committee, I am pleased to have worked with the gentlewoman from Ohio, and Chairmen GONZALEZ and FORD, on these important provisions.

Eleventh, the House bill will provide important additional resources to the Justice Department and the FBI to catch and prosecute individuals guilty of embezzlement and fraud.

Twelfth, the bill also increases the penalties for financial fraud from the current maximum of $5,000 and 5 years in jail, to $1,000,000 and 20 years in jail. If there is one message we should be sending to the American people tonight, it is that we will vigorously prosecute all those who violated the law, and we will seek maximum restitution in order to minimize the cost of the bailout to American taxpayers.

Thirteenth, as improved by the adoption of the amendment of the gentleman from Illinois [Mr. ROSTENKOWSKI], the bill puts the bailout on-budget rather than off-budget as proposed by President Bush. Putting the bailout on-budget is not only more intellectually honest, but according to a report done for me by the General Accounting Office it will save Federal taxpayers $4.5 billion, no small sum of money.

Fourteenth, the legislation raises $75 to $150 million a year from the Federal Home Loan Banks to provide low-cost loans to low- and moderate-income families. Since the housing sector of the Federal budget has been cut more over the last decade than any other single section of the budget, this provision will provide meaningful help for many families who are in need of safe, decent, and affordable housing, and who would not otherwise have a chance to achieve the American dream of home ownership.

Fifteenth, the committee bill also gives nonprofit groups the right of first refusal to purchase single-family homes acquired by the Resolution Trust Corporation, in order to help house the homeless.

Sixteenth, the bill requires the regulators to conduct an annual survey of bank and thrift fees and services.

The flaws in this legislation are much less numerous than its good points. Unfortunately, however, they are fundamental in nature, and go directly to the issue of fairness.

Data from the Federal Home Loan Bank Board and the Federal Deposit Insurance Corporation both strongly indicate that the thrift crisis to date results almost exclusively from losses at State-chartered thrifts, and not federally chartered thrifts, and largely from State-chartered thrifts in just a handful of States. State-chartered thrifts in just one State, Texas, are responsible for a substantial majority of our losses.

Under this legislation, in a period of just a couple of years, the taxpayers of 49 States will be sending more than three times as much money to the State of Texas then we sent to all of Europe during the Marshall plan after World War II.

This is the largest bailout, and the largest transfer of wealth among the States, since our Nation was founded.

When the Federal Government bailed out Chrysler, Lockheed, New York City, and various States' unemployment insurance funds, it did not make direct grants to these entities as it is in this legislation. Instead it issued loans and loan guarantees which had been paid back with interest. It also required those who benefited to make major sacrifices, either in the form of lower wages, cash contributions, or tax surcharges.

Yet this legislation does not require any similar sacrifice by those who created this mess in the first place. Texas and other States which gave away charters and powers like candy, and which were negligent in their supervision and examination, are getting a totally free ride under this legislation.

I do not believe that Texas and other States should pay the full cost of this bailout. No one ever proposed that. What I proposed, along with the gentlewoman from Ohio [Ms. KAPTUR], the gentleman from Michigan [Mr. WOLPE], the gentlemen from New York [Mr. HORTON and Mr. LAFALCE], and the gentleman from Wisconsin [Mr. ROTH], was that Texas should pay at least some small part of the excessive costs which it imposed on the taxpayers of the other 49 States.

Unfortunately, we were denied an opportunity to offer our amendment to more fairly distribute the burden of paying for this bailout.

It is also unfortunate that the news media has whipped up a frenzy of misunderstanding and hysteria over the supervisory goodwill issue.

No one disagrees that capital standards must be raised and that goodwill should not be permitted in the future.

In fact, for all intents and purposes, goodwill did not exist in the thrift industry prior to the Reagan-Bush administration.

It was not the thrift industry which created or requested supervisory goodwill. The Reagan-Bush administration created supervisory goodwill when it needed to close down failing thrifts but did not have enough money in the FSLIC fund to pay off depositors. Those failing thrifts experienced troubles in the early 1980's as a result of the rapid rise in interest rates in the late 1970's.

Instead of doing the right thing, which would be to close these institutions and pay off their depositors, the Reagan-Bush regulators engaged in an elaborate financial shell game.

They went to healthy thrifts and begged and pleaded with them to become "White Knights" and take over the failing thrifts. But instead of offering the healthy thrifts cash or notes to compensate for the fact that the failing thrifts' liabilities exceeded their assets, all the Government offered was supervisory goodwill.

After the passage of the CEBA bill, the Government finally had some cash to deal with troubled thrifts, but instead of using the cash to buy back the supervisory goodwill it issued in the early 1980's it used it instead to deal with the growing backlog of problem thrifts in the Southwest.

The white knight thrifts of the early 1980's, located primarly in the Northeast, only received supervisory goodwill. Institutions which took over troubled thrifts in 1987 and 1988 in the Southwest, however, received much more valuable cash or notes. This is a blatent case of regional discrimination, made all the worse by the fact that the Southwest thrifts' troubles were largely due to bad lending practices and fraud, both of which are the result of bad management, while the Northeastern thrifts' problems were due to rapid increases in interest rates over which the thrifts' had little control.

Ironically, therefore, not only will the residents of 49 States be paying through the nose for fraud and abuse in Texas, but Texas' thrift industry will emerge from this bill healthier than ours because Texas thrifts which experienced difficulties received cash and notes, while Northeastern thrifts only received supervisory goodwill.

I should also note, Mr. Speaker, that supervisory goodwill is not what is causing thrift institutions to fail. They are failing as a result of fraud, abuse, and bad loans. According to the Federal Home Loan Bank Board, only 10 of the 205 thrifts which failed last year had any

significant amount of supervisory goodwill. Thus supervisory goodwill is not part of the problem, it was part of the Reagan-Bush administration's solution to the thrift problems of the early 1980's.

We should not grant additional supervisory goodwill in the future, and we must increase capital standards for all banks and thrifts. At the same time, it is unconscionable that in this bill we are not providing a more reasonable transition rule for profitable thrifts which came to the aid of the Government during its time of need. These are, after all, the thrifts which saved the deposit insurance fund, and thus U.S. taxpayers, billions of dollars.

Finally, Mr. Speaker, let me note that this bill, and the Bush thrift plan on which it is based, are predicated on somewhat rosy estimates for inflation, interest rates, deposit growth, and our ability to recover assets from failed thrifts. I am deeply concerned that as large as this bailout is, it may not be large enough. Only careful administration of this law by the executive branch and the Federal banking regulators will keep us from being in the same position 3 or 5 years from now. It will be incumbent on us as Members of Congress to ensure that the new law is aggressively enforced and that the FDIC and the RTC in particular do their job properly. I will continue to encourage the Banking Committee to vigorously exercise its oversight responsibilities in this area.

Only then can we be sure that President Bush's pledge of "never again" will become a reality.

Mr. GONZALEZ. Mr. Speaker, I yield to the gentleman from North Carolina [Mr. NEAL].

Mr. NEAL of North Carolina. Mr. Speaker, for nearly 55 years our Government has promised the American people that their savings and checking accounts in banks, savings and loans, and credit unions will be safe and sound, guaranteed by Federal deposit insurance.

Mr. Speaker, we simply must stand behind this pledge. Our Government has given its word. We have no choice. In fact, if we fail to honor this solemn commitment there would be a run on the banks and other financial institutions, the likes of which we haven't seen since the Great Depression.

Mr. Speaker, H.R. 1278 is not a perfect bill, but it fully honors that commitment. It also honors several other important principles: It provides a framework for an effective solution to the problem; it seeks to do so at the lowest possible cost to the American taxpayers; finally, perhaps most important it seeks to ensure that this kind of S&L debacle will never happen again.

As we consider this bill, Mr. Speaker, I believe it will be helpful to take a brief look at what happened to create this huge and costly problem. If we understand clearly what happened, it will help us to make sure it never happens again and will help assure that what we do will be effective.

Mr. Speaker, from the end of World War II until the mid-1970's, the savings and loan business was generally safe, steady, and predictable. The Federal Government set the interest rates that S&L's could pay on savings, keeping them low to ensure low-cost housing loans for American families. An S&L could lend money at about 3 percent more than it paid depositors and make a very good living. Everything was straightforward and simple.

But Mr. Speaker, the high inflation rates in the late 1970's changed all this. As inflation and interest rates soared, a whole new industry emerged to compete with S&L's. The new Money Market Mutual Funds, unregulated, paid much higher interest rates than the regulated S&L's were allowed to offer. In a short time, hundreds of billions of dollars flowed out of the S&L's into these funds.

In response to pleas from S&L's that they be allowed to compete, Congress and the Reagan administration agreed to deregulate deposit interest rates. S&L's were permitted for the first time to pay market rates. By this time, however, inflation had pushed interest rates to the high double digits. As a result, the S&L's had to pay 12, 15 percent or more for money. At the same time, their income came mainly from old mortgage loans of 6 to 8 percent. That gap made profitable operations impossible. S&L's were lending long-term at low-interest rates and borrowing short-term at high interest rates—a formula for disaster. The S&L industry started losing money in a big way, and much of its capital drained away.

Looking back, some say that Congress should not have deregulated S&L interest rates. But frankly I don't know what else we could have done. The American people wanted higher interest rates and would not have put money in S&L's without getting a competitive return. There was little choice.

The next blow to S&L's came when the 1981–82 recession hit. The Federal Reserve had dedicated its policies to halting ruinous inflation of the 1970's. Even more severe economic decline came, for a variety of reasons, to the oil patch States of the Southwest and the farm States of the Midwest. As the economy sagged and income declined, families had trouble meeting mortgage payments and other S&L loans started going bad. The ailing S&L's were getting in even worse trouble.

At that point, to give S&L's a chance to survive, Congress, the President, and the regulators allowed S&L's to leave their familiar turf of housing and move into other kinds of lending. This, too, created problems because many S&L managers simply didn't have the experience to properly manage these new products and services. Some made risky, hair-brained loans at high rates in a desperate attempt to recover losses. Some engaged in outright criminal activity.

Mr. Speaker, about this time, with the S&L industry already in turmoil, the Reagan administration was launching a Governmentwide crusade against regulation. President Reagan was extremely popular and he was an eloquent consistent spokesman, as he had been for many years, in behalf of getting the Government off industry's back. The administration and the OMB refused to adequately staff and provide resources for the force overseeing the S&L's. The S&L regulators who were left were often too easy on the industry, encouraging, for example, creative accounting practices that lowered capital standards for S&L's.

For S&L's, this couldn't have come at a worse time. Lax regulators and aggressive S&L operators—a dangerous combination. Some S&L's weren't looked at for years at a time. That's when the high flyers, bad managers, and outright crooks figured out that no one was watching the store; they went wild. They paid unrealistically high rates to lure deposits from all over the country, often using the services of deposit brokers, and lent the money out on risky ventures with the promise of high returns.

Mr. Speaker, the worst abuses and misjudgments in the S&L industry were made in the mid-1980's. By 1987, Congress and the administration began to recognize that the problem was worse than we had thought. We provided some money to shore up the FSLIC, an amount the Federal Home Loan Bank Board said at the time said was adequate. Now we see that the amount was woefully inadequate and that the industry was in much worse shape than recognized. By the beginning of 1989, we had a clearer idea of the magnitude of S&L failures nationwide, and we began working on the bill that we are considering here today.

Mr. Speaker, what do we seek to do in H.R. 1278? As I said, we have to honor our commitment to depositors. We have to provide a plan to resolve this problem effectively and efficiently and at the lowest possible cost to the taxpayers. And we have to make sure—very sure—that this kind of debacle never happens again.

Some have suggested that the S&L industry should pay the full cost of this cleanup. That would be nice, but it's not a realistic idea. There is not enough capital in the industry to cover it. Counting up the assets and liabilities of the whole industry at the end of 1988, the General Accounting Office found that there was about $46.5 billion of GAAP capital. Of that, about $23 billion is in "goodwill." So there is some $23 billion or less of net hard capital in the industry. If we took that, we would bankrupt the rest of the industry, and we would then face another huge problem. The Bush administration estimates that it will take $90 billion to solve the S&L problem—a task far beyond the industry's capability.

This bill requires the industry to pay a substantial part of the cost, but clearly there is not near enough capital in the industry to pay it all.

Mr. Speaker, as we can see from reviewing the history of the S&L debacle, the two big problems have been: lack of adequate private capital and lack of adequate regulation.

Our bill insists on real, tangible capital. The Bush administration agrees that we must resist any attempt to weaken the capital standards. We must defeat any and all amendments offered to reduce these standards. Without adequate capital standards we would not have a bill worth passing.

Our bill provides for beefing up the regulatory staff overseeing this industry, in an attempt to be sure that the loose practices of recent years will not recur, and stiffens criminal penalties.

Mr. Speaker, in fairness to taxpayers, it is also important that we resist those, including the Bush administration, who would like to put this costly S&L cleanup off-budget. This expense should be a clearly stated part of the

budget. Nor should we exempt it when we calculate the deficit for the purposes of the Gramm-Rudman-Hollings Deficit Reduction Act. We should start paying our own bills instead of passing them along to our children.

Everyone agrees that we can save at least $4.5 billion by putting it on budget. More important, it is the only honest thing to do. The monies spent under provisions of this bill are federal expenditures and there should be no attempt to hide this fact from the American people.

Mr. Speaker, to make certain that we don't wind up in this fix again, we should do some other things: We should severely limit the practice of brokered deposits. The S&L high flyers were attracting money from all over the country that was federally guaranteed and then using that money in very risky ways. The committee adopted my amendment to this bill restricting the use of brokered deposits by S&Ls. We should watch this practice very carefully.

I think in addition we ought to examine whether we should have deposit insurance at all. I'm not prepared to make a judgment now, but clearly we wouldn't have this problem if there were not Federal deposit insurance. Our bill provides for a study of this question. Should brokered deposits be limited to a certain amount per person for a lifetime? Should only a percentage of deposits be covered by insurance? I don't have the answer to these questions, but we need to consider them and our bill requires such a study.

Clearly, Mr. Speaker, we need to examine this idea that government—and especially all government regulation—is evil. It's unrealistic to think that the Federal Government should guarantee deposits but not have anybody watching how insured deposit institutions are managed. This practice has caused a major part of the problem—a practice that will cost American taxpayers tens, maybe hundreds of billions of dollars.

There's no doubt that a lot of the S&L high flyers did things that were simply criminal. Our bill stiffens penalties for wrongdoing. It adds substantial funds for enforcement. There's money for pursuing these criminals so that we can try to recoup all the money we can. I doubt, however, that there is much left to recover; some has been spent on high living; some is sitting around in half-completed office buildings and apartments and failed projects. But our bill provides lots of money for enforcement and increases criminal penalties in an attempt to recover all we possible can and save taxpayers as much as possible. In fact, thousands of cases have been turned over to the Justice Department for prosecution and there will be many more.

Finally, it would help if we made clear to the people of this country that this is not a bailout bill for the owners and managers of failed S&Ls. This bill is intended to help depositors—your neighbors and mine, mostly ordinary folks—who have their money in S&Ls. It makes good our promise to insure their deposits. This bill does nothing to "bail-out" the owners, managers, stockholders or bondholders in the S&L business. At my request, the committee added an amendment attempting to make clear that the money in this bill is for the purpose of fulfilling promises made to depositors, not owners and managers. This bill is not a bailout of the S&L industry. It's making good a commitment to the American people, I must say this: the most important aspect of the bill is capital requirements. We must not let them be weakened; they are our best insurance that this fiasco will not be repeated.

Mr. Speaker, the Banking Committee has worked in a bipartisan way over a long period of time on this bill. We reported H.R. 1278 out on a vote of 49 to 2. The Bush administration essentially agrees with what we have done; we've taken their ideas and drafted a bill that's even stronger than the one they suggested.

It is important now that the Congress pass this bill as soon as possible and get it to the President for his signature. Every day of delay is costly.

Mr. Speaker, this is not a perfect bill. We may not have foreseen some of the problems that will arise. We have to make decisions based on the information we have. But this bill provides a good framework for handling the failed S&Ls and improving regulation. The Banking Committee will be monitoring the implementation of this bill, however, and can propose changes if needed. I urge my colleagues to support H.R. 1278.

Mr. GONZALEZ. Mr. Speaker, I yield to the gentleman from Texas [Mr. COLEMAN].

Mr. COLEMAN of Texas. Mr. Speaker, the S&L legislation is the only solution to the current crisis. It is not perfect legislation. It will cost a lot of money and frankly a lot of it will have to come at the taxpayer's expense. It is, however, the only way to save the industry, the only workable solution so far proposed.

If we are to support the economic recovery in Texas, if we are to continue to fulfill the American dream of home ownership we must have this legislation. It will provide the type of regulatory control that will prevent this from ever happening again. It will provide stricter criminal penalties for those who broke the law. It will strengthen the integrity of deposit insurance, a system that separates us from the financial chaos that started the Great Depression.

Many people saw Ralph Nader's comments on television the other day where he said that the ballot was going to cost every taxpayer $1,000. I think his comments were irresponsible. If I had voted no I would have abandoned a system on the verge of collapse. If I had voted no I would have ensured that the taxpayer paid even more, in higher rates, in lost deposits, in reduced availability of credit, in a lengthened and more painful economic recovery for the whole State of Texas, already burdened by high unemployment and depressed property values.

A thousand dollars over 30 years works out to $33 a year. It is still a lot of money but I know that the situation is serious enough that we have no other choice. Think of those $33 against the $20 to $200 million we are losing for every day we delay this legislation. The situation is worsening exponentially and it must be corrected.

Finally, a lot of my constituents have said they are worried because the few greedy men who turned a bad situation into a crisis will escape justice. I'm here to tell you that this is not the case. Most of those who took advantage of the system have seen their careers destroyed and are facing appropriate charges.

Mr. GONZALEZ. Mr. Speaker, I yield to the gentleman from Michigan [Mr. CONYERS].

Mr. CONYERS. Mr. Speaker, I would like to take this opportunity to bring to my colleagues' attention the General Accounting Office's latest estimate of the cost of the S&L bailout legislation we are considering today. After studying these figures—which GAO issued just this morning—I am sure my colleagues will agree with me that the long-term costs can only be described as staggering.

The bottom line of GAO's estimate is that resolving the thrift crisis will require $305.9 billion over the next 33 years. Of this amount, $157.3 billion will come from the taxpayers' pockets, while $148.6 billion will come from the S&L industry. And I would hasten to add that this estimate is based on the administration's optimistic projections on factors such as interest rates, the growth of S&L deposits, et cetera. If this rosy scenario proves off the mark, the taxpayers' burden could be significantly greater.

The breakdown on GAO's cost estimate for fiscal years 1989 through 1999 is as follows: $61.6 billion for closing down S&L's that went bust prior to fiscal year 1989; $50 billion for closing down S&L's expected to go bad over the next 3 years; $24 billion for closing down S&L's that are expected to go broke in fiscal year 1992 through fiscal year 1999; $22 billion in interest—from the Treasury—on bonds issued by the Resolution Funding Corporation [Refcorp] that would be established by this bill; an additional $14.4 billion in interest on Refcorp bonds—with this portion paid through contributions from the Federal home loan banks; $10.7 billion in interest on bonds issued as result of 1987 legislation to recapitalize the FSLIC fund; $6 billion for paying off principal on Refcorp bonds; $8.8 billion to establish a new S&L insurance fund to replace FSLIC; and $0.7 billion for repayment of advance premiums paid by the S&L's to FSLIC.

These fiscal year 1989 through fiscal year 1999 costs of $198.2 billion are, unfortunately, just the beginning. In fiscal year 2000 through 2021, another $78.7 billion in interest will be incurred on long-term Refcorp bonds—along with $20.3 billion in interest on bonds issued to recapitalize the FSLIC fund. Finally, we must add another $8.7 billion to the total. This figure respresents the loss in tax revenues the Treasury will experience as a result of sweetheart tax breaks given in 1988 by the FSLIC to firms who took over ailing S&L's.

Adding all these figures up we get a total of $305.9 billion. But wait, that still may not be all. While GAO's estimate does not reflect it, the U.S. Treasury will incur additional borrowing costs to finance the Government's portion of this bailout. These borrowing costs may add another $40 billion or so, giving us a grand total to almost $350 billion and a final tab to the taxpayers of about $190 billion.

As these figures clearly reflect, this can only go down as a sad day for the taxpayers of this country—and a red letter day for the bond dealers of Wall Street.

TABLE 1.—*Funding needs of thrift legislation based upon the administration's analysis and assumptions*

[In billions of dollars]

OMB estimate—based on fiscal year 1989-99 budget outlays:	
Old cases and administrative costs	61.6
RTC cases	50.5
Post-RTC cases	24.0
Refcorp interest expense	22.0
Subtotal	157.6
Fiscal year 1989-99 items not counting as budget outlays:	
Establish new fund	8.8
Defense Refcorp bonds	6.0
Industry/FHLBanks contribution for Refcorp interest	14.0
FICO reserve interest [1]	19.7
Secondary reserve credit [1]	0.7
Subtotal—fiscal year 1989-99 funding needs	198.2
Fiscal year 2000-21 interest on Refcorp debt	78.7
Fiscal year 2000-21 FICO interest expense [1]	20.3
Subtotal—direct funding requirements	297.2
Lost tax revenue from 1988 deals [2]	8.7
Total 33-year estimated funding needs [3]	305.9

[1] Deducted from insurance premiums payable to FSLIC/SAIF.

[2] Not recognized as a funding need by the administration.

[3] This estimate is based solely upon the administration's assumptions. As GAO has stated on numerous occasions, we believe many of the administration's assumptions, including those related to interest rates and deposit growth, are optimistic. To the extent the assumptions prove optimistic, the funding needs could increase. For example, if interest rates are 1 percent higher than the administration assumed, the REFCORP interest costs would increase by $12.2 billion.

Source: OMB funding summaries and FSLIC projection of tax benefits attributed to its 1988 assistance actions.

TABLE 2.—*Funding requirements and sources of funds based upon administration's analysis and assumptions* [1]

[In billions of dollars]

Funding requirements:	
Pre-1989 assistance actions and administrative costs:	
Yield maintenance payments	29.7
Interest on notes issued	9.2
Note retirement	19.6
Administrative costs	3.1
Subtotal—Pre-1989 funding needs and administration	61.6
Fiscal year 1989-92 (RTC cases)	50.0
Fiscal year 1993-99 (Post-RTC cases)	24.0
Subtotal—Funding for resolutions and administration	132.5
Refcorp interest	115.1
FICO interest	31.0
SAIF fund	8.8
Refcorp bond defeasement	6.0
Secondary reserve credit	0.7
Subtotal—Direct funding requirements	297.2
Forgone tax revenues	8.7
Total funding requirements	305.9
Private funding sources:	
Refcorp bond proceeds	50.0
FICO bond proceeds	7.1
Insurance premiums [2]	52.0
Receivership proceeds and corporate held assets	21.8
FHLBank contributions	11.7
Other	6.0
Total private funds	148.6
Government resources needed:	
Direct funds needed	148.6
Tax revenue forgone	8.7
Total Governmental resources [3]	$157.3

[1] These estimates are based solely upon the administration's assumptions. As GAO has stated on numerous occasions, we believe many of the administration's assumptions, including those related to interest rates and deposit growth, are optimistic. To the extent the assumptions prove optimistic, the amount of governmental resources needed will increase. For example, if interest rates are 1 percent higher than the administration assumed, the REFCORP interest costs and the amount of governmental resources needed would increase by $12.2 billion. Also, if insured deposit growth is 1 percent less than assumed, the governmental contribution must increase by $1.5 billion to make up the shortfall in premium revenue.

[2] Includes $20.3 billion in premiums during FY 2000-2021 to pay for FICO interest expenses during that period. No other insurance premiums or SAIF costs are included for that period because it is difficult to predict what costs will be that far into the future.

[3] Does not include any interest costs that the Treasury may incur as a result of having to borrow the funds to pay the governmental contribution since CBO and OMB do not include such costs as program costs. Instead, they deal with these costs at the aggregate level for all of the government's borrowing.

Source: OMB funding summaries and FSLIC projection of tax benefits attributed to its 1988 assistance actions.

Mr. GONZALEZ. Mr. Speaker, I am opposed to this motion. It does not differentiate purpose, nor intent of the effective provisions.

Mr. Speaker, what it does is to say that any provision that affects a narrow group is bad, no matter what, no matter why. I might not like or support all of these provisions he refers to, but the motion gives me no way to distinguish between them.

Mr. Speaker, this is inherently an unfair motion, and, therefore, I must oppose it, ask my colleagues to oppose it, just on the simple basis that it is grossly unfair.

Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to recommit.

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

RECORDED VOTE

Mr. LEACH of Iowa. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. Pursuant to the provisions of clause 5 of rule XV, the Chair announces that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device, if ordered, will be taken on the question of passage.

The vote was taken by electronic device, and there were—ayes 412, noes 7, answered "present" 4, not voting 10, as follows:

[Roll No. 94]

AYES—412

Ackerman	Dreier	Johnson (CT)
Akaka	Duncan	Johnson (SD)
Alexander	Durbin	Johnston
Andrews	Dwyer	Jones (GA)
Annunzio	Dymally	Jones (NC)
Anthony	Dyson	Jontz
Applegate	Early	Kanjorski
Archer	Eckart	Kaptur
Armey	Edwards (CA)	Kasich
Aspin	Edwards (OK)	Kastenmeier
Atkins	Emerson	Kennedy
AuCoin	Engel	Kennelly
Baker	English	Kildee
Ballenger	Erdreich	Kleczka
Bartlett	Espy	Kolbe
Barton	Evans	Kolter
Bateman	Fascell	Kostmayer
Bates	Fawell	Kyl
Beilenson	Fazio	LaFalce
Bennett	Feighan	Lagomarsino
Bentley	Fields	Lancaster
Bereuter	Fish	Lantos
Berman	Flake	Laughlin
Bevill	Flippo	Leach (IA)
Bilbray	Florio	Leath (TX)
Bilirakis	Foglietta	Lehman (CA)
Bliley	Ford (MI)	Lehman (FL)
Boehlert	Ford (TN)	Leland
Boggs	Frenzel	Lent
Bonior	Frost	Levin (MI)
Borski	Gallegly	Levine (CA)
Boucher	Gallo	Lewis (CA)
Boxer	Garcia	Lewis (FL)
Brennan	Gaydos	Lewis (GA)
Broomfield	Gejdenson	Lightfoot
Browder	Gekas	Livingston
Brown (CA)	Gephardt	Lloyd
Brown (CO)	Gibbons	Long
Bruce	Gillmor	Lowery (CA)
Bryant	Gilman	Lowey (NY)
Bunning	Gingrich	Luken, Thomas
Burton	Glickman	Lukens, Donald
Bustamante	Goodling	Machtley
Byron	Gordon	Madigan
Callahan	Goss	Manton
Campbell (CA)	Gradison	Markey
Campbell (CO)	Grandy	Marlenee
Cardin	Grant	Martin (IL)
Carper	Gray	Martinez
Carr	Green	Matsui
Chandler	Guarini	Mavroules
Chapman	Gunderson	Mazzoli
Clarke	Hall (OH)	McCandless
Clay	Hall (TX)	McCloskey
Clement	Hamilton	McCollum
Clinger	Hammerschmidt	McCrery
Coble	Hancock	McCurdy
Coleman (TX)	Hansen	McDade
Combest	Harris	McDermott
Conte	Hastert	McEwen
Conyers	Hatcher	McGrath
Cooper	Hawkins	McHugh
Costello	Hayes (IL)	McMillan (NC)
Coughlin	Hefley	McMillen (MD)
Courter	Hefner	McNulty
Cox	Henry	Meyers
Coyne	Herger	Mfume
Craig	Hertel	Michel
Crane	Hiler	Miller (CA)
Crockett	Hoagland	Miller (OH)
Dannemeyer	Hochbrueckner	Miller (WA)
Darden	Holloway	Mineta
de la Garza	Hopkins	Moakley
DeFazio	Horton	Molinari
DeLay	Houghton	Mollohan
Dellums	Hoyer	Montgomery
Derrick	Hubbard	Moody
DeWine	Huckaby	Moorhead
Dickinson	Hughes	Morella
Dicks	Hunter	Morrison (CT)
Dingell	Hutto	Morrison (WA)
Dixon	Hyde	Mrazek
Donnelly	Inhofe	Murphy
Dorgan (ND)	Ireland	Murtha
Dornan (CA)	Jacobs	Myers
Douglas	James	Nagle
Downey	Jenkins	Natcher

Neal (MA)	Rowland (CT)	Stearns
Neal (NC)	Rowland (GA)	Stenholm
Nelson	Russo	Stokes
Nielson	Sabo	Studds
Nowak	Saiki	Stump
Oakar	Sangmeister	Sundquist
Oberstar	Sarpalius	Swift
Obey	Savage	Synar
Olin	Sawyer	Tallon
Ortiz	Saxton	Tauke
Owens (NY)	Schaefer	Tauzin
Owens (UT)	Scheuer	Thomas (CA)
Oxley	Schiff	Thomas (GA)
Packard	Schneider	Thomas (WY)
Pallone	Schroeder	Torres
Panetta	Schuette	Torricelli
Parker	Schulze	Towns
Parris	Schumer	Traficant
Pashayan	Sensenbrenner	Traxler
Patterson	Sharp	Udall
Paxon	Shaw	Unsoeld
Payne (NJ)	Shays	Upton
Payne (VA)	Shumway	Valentine
Pease	Shuster	Vander Jagt
Pelosi	Sikorski	Vento
Penny	Skaggs	Visclosky
Perkins	Skeen	Volkmer
Petri	Slattery	Vucanovich
Pickett	Slaughter (NY)	Walgren
Pickle	Slaughter (VA)	Walker
Porter	Smith (FL)	Walsh
Poshard	Smith (IA)	Watkins
Price	Smith (MS)	Waxman
Pursell	Smith (NE)	Weber
Rahall	Smith (NJ)	Weiss
Ravenel	Smith (TX)	Weldon
Ray	Smith (VT)	Wheat
Regula	Smith, Denny (OR)	Whittaker
Rhodes	Smith, Robert (NH)	Whitten
Richardson	Smith, Robert (OR)	Williams
Ridge	Snowe	Wilson
Rinaldo	Solarz	Wise
Ritter	Solomon	Wolf
Roberts	Spence	Wolpe
Robinson	Spratt	Wyden
Roe	Staggers	Wylie
Rogers	Stallings	Yates
Rohrabacher	Stangeland	Yatron
Rose	Stark	Young (AK)
Rostenkowski		Young (FL)
Roth		
Roukema		

NOES—7

Anderson	Frank	Roybal
Barnard	Gonzalez	
Bosco	Quillen	

ANSWERED "PRESENT"—4

Brooks	Sisisky
Hayes (LA)	Tanner

NOT VOTING—10

Buechner	Davis	Skelton
Coelho	Lipinski	Wright
Coleman (MO)	Martin (NY)	
Collins	Rangel	

□ 2238

Mr. QUILLEN changed his vote from "aye" to "no."

Messrs. AUCOIN, FROST, FORD of Tennessee, NELSON of Florida, HAWKINS, ERDREICH, APPLEGATE, MARTINEZ MAZZOLI, McMILLEN of Maryland, CONYERS, BROWN of California, WISE, STAGGERS, MOAKLEY, WAXMAN, AND CROCKETT, Ms. PELOSI, Messrs. CLARKE, JACOBS, PERKINS, LELAND, ACKERMAN, DE LA GARZA, LEWIS of Georgia, ANNUNZIO, and PICKLE, Mrs. LOWEY of New York, and Messrs. FEIGHAN, HAYES of Illinois, SCHEUER, JOHNSTON, NEAL of Massachusetts, AKAKA, FORD of Michigan, GARCIA, and GRAY changed their votes from "no" to "aye."

So the motion to recommit was agreed to.

The result of the vote was announced as above recorded.

PARLIAMENTARY INQUIRY

Mr. WALKER. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER. The gentleman will state his parliamentary inquiry.

Mr. WALKER. Mr. Speaker, could the Chair, in this rather unusual circumstance where we win a motion to recommit, explain to the House where we may be with regard to final passage and what the schedule might be for the rest of the evening and the rest of the week?

□ 2240

The SPEAKER. The Chair will inform the gentleman that the motion to recommit with instructions having been agreed to, it is the Chair's intention to recognize next the distinguished gentleman from Texas [Mr. GONZALEZ], chairman of the Committee on Banking, Finance and Urban Affairs, who will then offer amendments to the bill, reporting the bill back forthwith with the amendments, and the Chair will put the question on the amendments and on engrossment and third reading of the bill and on final passage.

As previously announced, the vote on final passage, if by recorded vote, will be limited to 5 minutes.

The majority leader's intention is not to schedule any further action this evening or for the week.

Mr. WALKER. I thank the Chair.

The SPEAKER. The Chair recognizes the gentleman from Texas [Mr. GONZALEZ].

Mr. GONZALEZ. Mr. Speaker, pursuant to the instructions of the House, I report the bill, H.R. 1278, back to the House with amendments, as follows:

Page 270, after line 13, insert the following new subsection:

(d) HOLDING COMPANY ACTIVITIES CONSTITUTING SERIOUS RISK TO SUBSIDIARY SAVINGS ASSOCIATION.—Section 10 of the Home Owners' Loan Act of 1933 (as so redesignated, transferred, and inserted into such Act by subsection (a) of this section) is amended by adding at the end the following new subsection:

"(q) HOLDING COMPANY ACTIVITIES CONSTITUTING SERIOUS RISK TO SUBSIDIARY SAVINGS ASSOCIATION.—

"(1) DETERMINATION AND IMPOSITION OF RESTRICTIONS.—Notwithstanding any other provision of this section, whenever the Director determines that there is reasonable cause to believe that the continuation by a savings and loan holding company of any activity constitutes a serious risk to the financial safety, soundness, or stability of a savings and loan holding company's subsidiary savings association, the Director may impose such restrictions as the Director determines to be necessary to address such risk. Such restrictions shall be issued in the form of a directive to the holding company and any of its subsidiaries, limiting (A) the payment of dividends by the savings association; (B) transactions between the savings association, the holding company, and the subsidiaries or affiliates or either; and (C) any activities of the savings association that might create a serious risk that the liabilities of the holding company and its other affiliates may be imposed on the savings association. Until or unless such directive lapses or is rescinded or modified as provided in paragraph (2), it shall be effective as a cease and desist order that has become final.

"(2) REVIEW OF DIRECTIVE.—

"(A) ADMINISTRATIVE REVIEW.—At any time afer a directive referred to in paragraph (1) is issued, the savings and loan holding company, or any subsidiary of such holding company subject to the directive, may object and present in writing its reasons why the directive should be modified or rescinded. Unless within 10 days after receipt of such response the Director either affirms, modifies, or rescinds the directive, such directive shall automatically lapse.

"(B) JUDICIAL REVIEW.—If the Director affirms or modifies a directive as provided in subparagraph (A), the affected party or parties may immediately thereafter petition the United States district court for the district in which the savings and loan holding company has its main office or in the United States District Court for the District of Columbia to stay, modify, terminate or set aside the directive. Upon a showing of extraordinary cause the savings and loan holding company, or any subsidiary of such holding company subject to a directive, may petition a United States district court for relief without first pursuing or exhausting the administrative remedies set forth in this paragraph.".

Page 31, strike line 20 and all that follows through page 32, line 14, and insert the following:

"(C) APPROVAL DURING MORATORIUM.—The Corporation may approve a conversion transaction at any time if—

"(i) the conversion transaction affects an insubstantial portion, as determined by the Corporation, of the insured liabilities of each financial institution participating in the conversion transaction; or

"(ii) the Corporation and, during the existence of the Resolution Trust Corporation, the Oversight Board of the Resolution Trust Corporation determine that the conversion transaction is in the best interests of the Bank Insurance Fund and the Savings Association Insurance Fund.

Page 42, strike line 3 and all that follows through page 43, line 6, and insert the following:

"(5) LIMITATION.—During the 5-year period beginning on the date of the enactment of the Financial Institutions Reform, Recovery and Enforcement Act of 1989—

"(A) no Savings Association Insurance Fund member shall have any liability to the Corporation under this subsection arising out of assistance provided to or loss incurred by the Corporation as a result of the default of a Bank Insurance Fund member; and

"(B) no Bank Insurance Fund member shall have such liability with respect to assistance provided to or loss incurred by the Corporation as a result of the default of a Savings Association Insurance Fund member.

Page 45, line 18, insert closing quotation marks and a 2d period after the period.

Page 45, strike line 19 and all that follows through page 46, line 18.

Page 271, beginning on line 5, strike "and a bank (as such terms are" and insert "(as such term is".

Page 271, line 11, strike "and a bank (as such terms are" and insert "(as such term is".

Page 272, strike line 24 and all that follows through page 276, line 15 and redesignate the subsequent subsection accordingly).

Page 292, strike line 17 and all that follows through page 293, line 4 (and redesignate the subsequent subsection accordingly).

Page 402, line 8, insert closing quotation marks and a 2d period after the period.

Page 402, strike line 9 and all that follows through page 404, line 5.

The SPEAKER pro tempore (during the reading). Without objection, further reading of the amendments will be dispensed with.

There was no objection.

The SPEAKER. The question is on the amendments.

The amendments were agreed to.

The SPEAKER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER. The quesiton is on the passage of the bill.

The question was taken; and the Speaker announced that the ayes appeared to have it.

RECORDED VOTE

Mr. GONZALEZ. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 320, noes 97, answered "present" 6, not voting 10, as follows:

[Roll No. 95]

AYES—320

Ackerman	Chandler	Fazio
Akaka	Chapman	Feighan
Alexander	Clarke	Fields
Anderson	Clay	Fish
Andrews	Clinger	Flake
Annunzio	Coble	Florio
Anthony	Coleman (TX)	Foglietta
Applegate	Combest	Ford (MI)
Archer	Conte	Ford (TN)
Armey	Conyers	Frank
Aspin	Cooper	Frenzel
Atkins	Coughlin	Frost
AuCoin	Courter	Gallo
Ballenger	Coyne	Garcia
Barnard	Craig	Gekas
Bartlett	Crockett	Gephardt
Barton	Darden	Gibbons
Bellenson	de la Garza	Gillmor
Bereuter	Derrick	Gilman
Berman	DeWine	Gingrich
Bilbray	Dickinson	Glickman
Bliley	Dicks	Gonzalez
Boehlert	Dingell	Goodling
Boggs	Dixon	Gordon
Bonior	Dornan (CA)	Goss
Borski	Downey	Grandy
Bosco	Dreier	Grant
Boucher	Duncan	Gray
Boxer	Dwyer	Green
Brennan	Early	Guarini
Broomfield	Eckart	Gunderson
Browder	Edwards (CA)	Hall (TX)
Brown (CA)	Edwards (OK)	Hamilton
Bryant	Emerson	Hammerschmidt
Bunning	Engel	Hansen
Bustamante	English	Harris
Callahan	Erdreich	Hastert
Campbell (CA)	Espy	Hatcher
Cardin	Fascell	Hawkins
Carper	Fawell	Hayes (IL)
Hefner	Michel	Sharp
Herger	Miller (WA)	Shaw
Hiler	Mineta	Shays
Hoagland	Moakley	Shumway
Hochbrueckner	Mollohan	Sikorski
Holloway	Montgomery	Skaggs
Houghton	Morella	Skeen
Hoyer	Morrison (CT)	Slattery
Huckaby	Morrison (WA)	Slaughter (NY)
Hughes	Mrazek	Slaughter (VA)
Hunter	Murtha	Smith (FL)
Hutto	Myers	Smith (IA)
Hyde	Nagle	Smith (MS)
Inhofe	Natcher	Smith (NE)
Ireland	Neal (MA)	Smith (NJ)
Jenkins	Neal (NC)	Smith (TX)
Johnson (CT)	Nelson	Smith (VT)
Johnson (SD)	Nielson	Smith, Denny (OR)
Johnston	Oakar	
Jones (GA)	Oberstar	Snowe
Jones (NC)	Obey	Solarz
Kanjorski	Olin	Spence
Kasich	Ortiz	Spratt
Kastenmeier	Owens (UT)	Staggers
Kennedy	Oxley	Stallings
Kildee	Packard	Stangeland
Kleczka	Panetta	Stenholm
Kolbe	Parker	Stokes
Kostmayer	Parris	Studds
Kyl	Pashayan	Sundquist
LaFalce	Patterson	Swift
Lancaster	Paxon	Synar
Lantos	Payne (VA)	Tauke
Laughlin	Pease	Tauzin
Leach (IA)	Pelosi	Thomas (CA)
Lehman (CA)	Penny	Thomas (GA)
Lehman (FL)	Pickett	Thomas (WY)
Leland	Pickle	Torres
Lent	Porter	Torricelli
Levin (MI)	Price	Traxler
Levine (CA)	Pursell	Udall
Lewis (GA)	Rahall	Unsoeld
Livingston	Ravenel	Valentine
Lowery (CA)	Rhodes	Vander Jagt
Lowey (NY)	Richardson	Vento
Luken, Thomas	Ridge	Visclosky
Lukens, Donald	Rinaldo	Volkmer
Manton	Roberts	Vucanovich
Markey	Robinson	Walgren
Martin (IL)	Roe	Walker
Martinez	Rogers	Walsh
Matsui	Rose	Watkins
Mavroules	Rostenkowski	Waxman
McCandless	Roth	Weber
McCloskey	Roukema	Weiss
McCollum	Rowland (CT)	Weldon
McCrery	Rowland (GA)	Wheat
McCurdy	Roybal	Whittaker
McDade	Sabo	Whitten
McDermott	Saiki	Wilson
McEwen	Sarpalius	Wise
McHugh	Sawyer	Wolf
McMillan (NC)	Saxton	Wyden
McMillen (MD)	Scheuer	Wylie
McNulty	Schroeder	Yates
Meyers	Schuette	Young (AK)
Mfume	Schumer	Young (FL)

NOES—97

Baker	Dyson	Long
Bateman	Evans	Machtley
Bates	Flippo	Marlenee
Bennett	Gallegly	Mazzoli
Bentley	Gaydos	McGrath
Bevill	Gejdenson	Miller (CA)
Bilirakis	Gradison	Miller (OH)
Brown (CO)	Hall (OH)	Molinari
Bruce	Hancock	Moody
Burton	Hefley	Moorhead
Byron	Henry	Murphy
Campbell (CO)	Hertel	Nowak
Carr	Hopkins	Owens (NY)
Clement	Horton	Pallone
Costello	Hubbard	Payne (NJ)
Cox	Jacobs	Perkins
Crane	James	Petri
Dannemeyer	Jontz	Poshard
DeFazio	Kaptur	Quillen
DeLay	Kolter	Ray
Dellums	Lagomarsino	Regula
Donnelly	Leath (TX)	Ritter
Dorgan (ND)	Lewis (CA)	Rohrabacher
Douglas	Lewis (FL)	Russo
Durbin	Lightfoot	Sangmeister
Dymally	Lloyd	Savage
Schaefer	Smith, Robert (OR)	Towns
Schiff	Solomon	Traficant
Schneider	Stark	Upton
Schulze	Stearns	Williams
Sensenbrenner	Stump	Wolpe
Shuster	Tallon	Yatron
Smith, Robert (NH)		

ANSWERED "PRESENT"—6

Brooks	Madigan	Sisisky
Hayes (LA)	Martin (NY)	Tanner

NOT VOTING—10

Buechner	Davis	Skelton
Coelho	Kennelly	Wright
Coleman (MO)	Lipinski	
Collins	Rangel	

□ 2250

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. CONTE. Mr. Speaker, on rollcall 93, I was in the well here before the vote was announced. I asked to vote. I was told that the vote had been announced.

Mr. Speaker, I have been told by the parliamentarian after the vote that I was right. I would have voted "no" on rollcall 93, the so-called Bartlett amendment.

PERSONAL EXPLANATION

Mr. SWIFT. Mr. Speaker, I would like to follow the gentleman from Massachusetts [Mr. CONTE], who had precisely the same problem I did. There seems to be a tent out where normally one would be able to find a place to park their vehicle in order to vote. I would have voted exactly the same way, "no" on the Bartlett amendment.

PERSONAL EXPLANATION

Mr. COX. Mr. Speaker, I was in the Chamber at the time of the vote on the Bartlett amendment, presented my voting card and was informed that voting was closed. I would have voted "aye" on the amendment.

AUTHORIZING THE CLERK TO MAKE CORRECTIONS IN ENGROSSMENT OF H.R. 1278, FINANCIAL INSTITUTIONS REFORM, RECOVERY AND ENFORCEMENT ACT OF 1989

Mr. GONZALEZ. Mr. Speaker, I ask unanimous consent that, in the engrossment of the bill H.R. 1278, the Clerk be authorized to correct section numbers, cross-references, punctuation, and indentation, and to make any other technical and conforming changes necessary to reflect the actions of the House.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

GENERAL LEAVE

Mr. GONZALEZ. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and include extraneous material on H.R. 1278, the bill just passed.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

PRIVILEGES OF THE HOUSE—RETURNING TO THE SENATE S. 774, FINANCIAL INSTITUTIONS REFORM, RECOVERY AND ENFORCEMENT ACT

Mr. ROSTENKOWSKI. Mr. Speaker, I rise to a question of the privileges of the House.

Mr. Speaker, I offer a privileged resolution (H. Res. 177) returning to the Senate the bill S. 774 and ask for its immediate reconsideration.

The SPEAKER. The Clerk will report the resolution.

The Clerk read the resolution as follows:

H. RES. 177

Resolved, That the bill of the Senate (S. 774) to reform, recapitalize, and consolidate the Federal deposit insurance system, to enhance the regulatory and enforcement powers of Federal financial institutions regulatory agencies, and for other purposes, in the opinion of this House, contravenes the first clause of the seventh section of the first article of the Constitution of the United States and is an infringement of the privileges of this House and that such bill be respectfully returned to the Senate with a message communicating this resolution.

Mr. ROSTENKOWSKI (during the reading). Mr. Speaker, I ask unanimous consent that the resolution be considered as read and printed in the RECORD.

The SPEAKER. Is there objection to the request of the gentleman from Illinois?

There was no objection.

The SPEAKER. The gentleman from Illinois [Mr. ROSTENKOWSKI] is recognized for 1 hour on his question of privilege.

Mr. ROSTENSKOWSKI. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the House has just passed H.R. 1278, a bill providing financial assistance to troubled savings and loan institutions. The Senate passed its version of the bill, S. 774, on April 19, 1989. Like the House bill, S. 774 would create two corporations to administer the financial assistance under the bill: the Resolution Trust Corporation and the Resolution Financing Corporation. The Senate bill confers tax exempt status to these two corporations. Without these two tax provisions, these two corporations would be taxable entities under the Federal income tax.

The presence of these two provisions in S. 774 causes the Senate bill to be a revenue-matter which violates the prerogatives of the House to originate revenue legislation which, therefore, should be returned to the other body.

Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER. The question is on the resolution.

The resolution was agreed to.

A motion to reconsider was laid on the table.

PERMISSION FOR COMMITTEE ON FOREIGN AFFAIRS TO HAVE UNTIL MIDNIGHT SATURDAY, JUNE 17, 1989, TO FILE REPORT ON H.R. 2655, FOREIGN ASSISTANCE ACT AUTHORIZATION, FISCAL 1990-91

Mr. FASCELL. Mr. Speaker, I ask unanimous consent that the Committee on Foreign Affairs may have until midnight, Saturday, June 17, 1989, to file a report on the bill (H.R. 2655) to amend the Foreign Assistance Act of 1961 and for other purposes.

The SPEAKER. Is there objection to the request of the gentleman from Florida?

Mr. SOLOMON. Mr. Speaker, reserving the right to object, I would at this time direct my remarks to the chairman of the Committee on Foreign Affairs. Has the gentleman requested a rule on the foreign aid bill?

Mr. FASCELL. Mr. Speaker, will the gentleman yield?

Mr. SOLOMON. I yield to the gentleman from Florida.

Mr. FASCELL. I thank the gentleman for yielding.

Mr. Speaker, yes, the minority and I have requested a rule on the foreign aid bill.

Mr. SOLOMON. Would the gentleman care to just give us an idea of what kind of rule he has asked for?

Mr. FASCELL. We have asked for an open rule, 1 hour of general debate, 8 hours on all amendments.

Mr. SOLOMON. So that it would be an open rule subject to 1 hour of debate and 8 hours on the amendments.

Mr. FASCELL. That is correct.

Mr. SOLOMON. And I would assume that if the 8 hours is used up and there are additional amendments, we would go under the regular rules of the House where there would be 5 minutes on either side to explain the amendment.

Mr. FASCELL. I am not the parliamentarian, but I think the gentleman is absolutely correct.

Mr. LAGOMARSINO. Mr. Speaker, will the gentleman yield?

Mr. SOLOMON. Further reserving the right to object, I yield to the gentleman from California.

Mr. LAGOMARSINO. I thank the gentleman for yielding.

Mr. Speaker, I just want to confirm what the chairman said, that the minority approves of the unanimous-consent request.

Mr. WALKER. Mr. Speaker, will the gentleman yield?

Mr. SOLOMON. Further reserving the right to object, I yield to the gentleman from Pennsylvania.

Mr. WALKER. I thank the gentleman for yielding.

Mr. Speaker, I just want to check on the procedure. Would the amendments that would be considered then at the end of the 8 hours have had to have been printed in advance in the CONGRESSIONAL RECORD under the rule that the gentleman is requesting?

Mr. FASCELL. Mr. Speaker, the rule that we are requesting does not change the rules of the House, I would say to the gentleman from Pennsylvania.

PARLIAMENTARY INQUIRY

Mr. SOLOMON. If I might, Mr. Speaker, I would propound a question to the Chair then in the form of a parliamentary inquiry, continuing my reservation.

The SPEAKER. The gentleman will state it.

Mr. SOLOMON. Mr. Speaker, as I understand the rules of the House, then, if we are on the 8-hour amendment process and at the end of the 8 hours when debate ends and there are still amendments that want to be offered by Members on either side of the aisle, that we continue then under the 5-minute rule, 5 minutes in favor and 5 minutes opposed to it, is that correct? Is that the rule of the House?

The SPEAKER. That is the rule of the House.

Mr. SOLOMON. So that does not have to appear in the rule, that is the rule of the House, and we will proceed accordingly.

The SPEAKER. Unless the special rule would change the rule.

Mr. SOLOMON. Unless the rule prohibited that procedure.

The SPEAKER. Yes.

Mr. SOLOMON. I thank the gentleman. I think that is a fair rule in my opinion.

Mr. FASCELL. Mr. Speaker if the gentleman will yield, I have to make a statement with regard to that last colloquy.

The rules of the House are the rules of the House, and this rule that we are seeking does not change that. The gentleman from New York is correct that if an amendment is in the RECORD, under the rules, then that amendment will be considered and the proponent would have 5 minutes and the opponent would have 5 minutes.

And if it is not printed in the RECORD, then the Member would proceed to just offer the amendment and vote on it. But I must remind the gentleman that we are going to read the bill by title. That means Members still have to be timely with amendments. They just cannot wait forever.

Mr. SOLOMON. I think the gentleman has explained it. That is certainly more than reasonable, I believe. I want to thank the chairman for being more than reasonable.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Florida?

There was no objection.

PERMISSION TO HAVE UNTIL MIDNIGHT, FRIDAY, JUNE 16, 1989, TO FILE CONFERENCE REPORT ON H.R. 2072, DIRE EMERGENCY SUPPLEMENTAL APPROPRIATIONS, FISCAL 1989

Mr. WHITTEN. Mr. Speaker, I ask unanimous consent that the managers may have until midnight tomorrow, Friday, June 16, 1989, to file a conference report on the bill (H.R. 2072) making dire emergency supplemental appropriations and transfers, urgent supplementals, and correcting enrollment errors for the fiscal year ending September 30, 1989, and for other purposes.

Mr. SPEAKER. Is there objections to the request of the gentleman from Mississippi?

There was no objection.

LEGISLATIVE PROGRAM

(Mr. MICHEL asked and was given permission to address the House for 1 minute.)

Mr. MICHEL. Mr. Speaker, I request this time so that I might inquire of the distinguished new majority leader the program for next week.

Mr. GEPHARDT. Mr. Speaker, will the gentleman yield?

Mr. MICHEL. I yield to the gentleman from Missouri [Mr. GEPHARDT].

Mr. GEPHARDT. I thank the gentleman for yielding.

First the program for today is finished. On Friday, June 16, the House will not be in session.

□ 2300

The program for the week of June 19, 1989, is as follows. On Monday, the House will meet at noon but there will be no legislative business. It will be a pro forma session. Tuesday, June 20, the House will meet at noon, Private Calendar, there will be suspension, six bills. Recorded votes on suspensions will be postponed until after debate on all the suspensions. The suspensions will be:

H.R. 2539, to extend title I of the Energy Policy and Conservation Act;

H.R. 1485, providing for the sale of certain Federal lands to Clark County, Nevada, for national defense and other purposes;

H.R. 1529, to establish the White Haven National Historic Site in Missouri;

H.J. Res. 175, Palau Compact of Free Association Implementation Act;

H.R. 2214, to ratify certain agreements relating to the Vienna Convention on Diplomatic Relations;

H. Res. 120, to express the sense of the House in support of actions to eliminate preventable deaths and disabling illness, especially among children, and of efforts to attain the U.N. goals of universal childhood immunization by 1990 and health for all by the year 2000.

The House will meet at noon on Wednesday and 10 a.m. on Thursday. We will be considering the Foreign Assistant Act authorization for fiscal years 1990 and 1991, subject to a rule, which we just discussed.

At any time during these 2 days we will be looking to consider a conference report on H.R. 2072, the direct emergency supplemental appropriations, fiscal 1989, subject to a rule.

It would be the intention to try to finish each night by 7 or 8 o'clock. Obviously, if there is action that is required on the emergency supplemental which we do not foresee, one of those evenings could go later than that. It is our intention on Friday, June 23, that the House would not be in session. Of course, conference reports may be brought up at any time, and any further program would be announced later.

ANNOUNCEMENT OF APPOINTMENT OF REPUBLICAN OBSERVERS TO THE CHEMICAL WEAPONS TALKS IN GENEVA

Mr. MICHEL. Mr. Speaker, pursuant to the agreement between the bipartisan leadership of the House of Representatives, I am pleased to announce that the following Republican Members will be observers to the chemical weapons talks in Geneva:

Mr. PORTER of Illinois; and
Mr. HEFLEY of Colorado.

ANNOUNCEMENT OF APPOINTMENT OF REPUBLICAN OBSERVERS TO STRATEGIC ARMS REDUCTION TALKS

Mr. MICHEL. Pursuant to the agreement between the House and Senate joint congressional leadership, I am pleased to announce that the following Republican Members of the House will be observers to the strategic arms reduction talks:

Mr. BROOMFIELD of Michigan;
Mr. DICKINSON of Alabama;
Mr. LAGOMARSINO of California;
Mr. COLEMAN of Missouri;
Mr. EDWARDS of Oklahoma;
Mr. COURTER of New Jersey;
Ms. SNOWE of Maine;
Mr. BEREUTER of Nebraska;
Mrs. MARTIN of Illinois;
Mr. MARTIN of New York; and
Mr. BATEMAN of Virginia.

ADJOURNMENT TO MONDAY, JUNE 19, 1989

Mr. GEPHARDT. Mr. Speaker, I ask unanimous consent that when the House adjourns today, it adjourn to meet at noon on Monday next.

The SPEAKER. Is there objection to the request of the gentleman from Missouri?

There was no objection.

HOUR OF MEETING ON WEDNESDAY NEXT

Mr. GEPHARDT. Mr. Speaker, I ask unanimous consent that when the House adjourns on Tuesday, June 20, 1989, it adjourn to meet at 12 noon on Wednesday, June 21, 1989.

The SPEAKER. Is there objection to the request of the gentleman from Missouri?

There was no objection.

DISPENSING WITH CALENDAR WEDNESDAY BUSINESS ON WEDNESDAY NEXT

Mr. GEPHARDT. Mr. Speaker, I ask unanimous consent that the business in order under the Calendar Wednesday rule be dispensed with on Wednesday next.

The SPEAKER. Is there objection to the request of the gentleman from Missouri?

There was no objection.

APPOINTMENT AS MEMBER OF THE HOUSE OFFICE BUILDING COMMISSION

The SPEAKER. Pursuant to the provisions of 40 U.S.C. 175 and 176, the Chair appoints the gentleman from Missouri [Mr. GEPHARDT], as a member of the House Office Building Commission, to serve with himself and the gentleman from Illinois [Mr. MICHEL].

RESIGNATION FROM THE HOUSE OF REPRESENTATIVES

The SPEAKER laid before the House the following resignation from the House of Representatives:

HOUSE OF REPRESENTATIVES,
OFFICE OF THE MAJORITY WHIP,
Washington, DC, June 15, 1989.

Hon. THOMAS S. FOLEY,
The Speaker, House of Representatives, Washington, DC.

DEAR MR. SPEAKER: Attached is the letter sent to the Governor of California notifying him of my resignation from the U.S. House of Representatives effective today, June 15 at the close of business.

Sincerely,

TONY COELHO.

HOUSE OF REPRESENTATIVES,
OFFICE OF THE MAJORITY WHIP,
Washington, DC, June 15, 1989.

Hon. GEORGE DEUKMEJIAN,
Governor of California, State Capital, Sacramento, CA.

DEAR GEORGE: This is to notify you that effective today, I have resigned my seat in the U.S. House of Representatives, as Representative for the 15th District of California.

Sincerely,

TONY COELHO.

ANNOUNCEMENT OF APPOINTMENT OF DEMOCRATIC OBSERVERS TO THE STRATEGIC ARMS REDUCTION TALKS AND CHEMICAL WEAPONS TALKS

Mr. FOLEY. Pursuant to an agreement with the Republican leadership of the House, and with the joint leadership in the Senate, there will be observers from the House, from the Democratic side and from the Republican side, to the strategic arms reduction talks and to the chemical weapons talks. The observers to the strategic arms reduction talks from the Democratic side will be as follows:

Mr. GEPHARDT of Missouri;
Mr. FASCELL of Florida;
Mr. ASPIN of Wisconsin;
Mr. DOWNEY of New York;
Mr. DICKS of Washington;
Mr. MOODY of Wisconsin;
Mr. TORRES of California;
Mr. MAVROULES of Massachusetts;
Mr. AUCOIN of Oregon;
Mr. CARR of Michigan; and
Mr. BERMAN of California.

The observers to the chemical weapons talks from the Democratic side will be as follows:

Mr. OWENS of Utah; and
Mr. LANCASTER of North Carolina.

COMPREHENSIVE VIOLENT CRIME CONTROL ACT OF 1989—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 73)

The SPEAKER pro tempore (Mr. MURPHY) laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on the Judiciary and ordered to be printed:

(For message, see proceedings of the Senate of today, Thursday, June 15, 1989.)

COMMUNITY LIFE AMENDMENT

(Mr. DANNEMEYER asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. DANNEMEYER. Mr. Speaker, in 1985 the Brookings Institution—not known for conservative viewpoints—issued a study entitled "Religion in American Public Life." This study concluded that "a society that excludes religion totally from its public life, that seems to regard religion as something against which public life must be protected, is bound to foster the impression that religion is either irrelevant or harmful." Again, these are the words of a Brookings Institution report.

Mr. Speaker, I am now introducing legislation that will successfully correct the impression that a formal recognition of God in our public schools is either irrelevant or harmful as we have been told through a series of Supreme Court decisions.

The time is now right to let public school kids formally acknowledge the Creator who endowed them with life, liberty, and the pursuit of happiness.

Mr. Speaker, today I introduce the Community Life Amendment to the Constitution of the United States. The text of the amendment is as follows:

SECTION 1. The right of the people to allow voluntary school prayer and the teaching of the Judeo-Christian ethic in public schools shall not be denied or abridged by the United States.

SEC. 2. For the purpose of section 1, the term "teaching of the Judeo-Christian ethic" shall include the Ten Commandments, and the creation of the earth as accepted in Judeo-Christian tradition.

SEC. 3. Section 1 shall not force the people to enact any statute against their will.

SEC. 4. Nothing in this Amendment shall constitute an establishment of religion, nor shall this Amendment permit any governmental or administrative authority to prescribe the form or content of any voluntary prayer.

Mr. Speaker, America is at a crossroads. The dilemma we face in this great Nation transcends all other problems faced by mankind. The quest for peace pales in relation. The hungry, the homeless, the ill, the abused are all secondary concerns. The shrouded beast of national debt that threatens all of us with his sickle of poverty is, by comparison, of minuscule proportion. These are all but symptoms of a malignancy that is robbing the heart and soul of America.

We have broken faith with ourselves. We have attempted to deceive the very nature of our being, and in the process, we have robbed ourselves of the only solution to so many of our temporal woes. I am speaking of perspective and purpose. America, it seems, has succumbed to perhaps the ultimate delusion of mankind, the highest act of egotism. We have cast our eyes on the world, found it comely, called it our own, and have relinquished the eternities. America now serves at the altar of man.

For some individuals, serving at the altar of man is the highest personal reward, a lofty goal upon which our land was founded. I disagree. The America that I have come to love and admire is a land of liberty, a fertile soil where the seeds of individual liberty and dedication will permit good works to bear fruit. This liberty comes from our Creator and to think otherwise is to lessen the potential of our existence. For if man is the source of his own liberties, then he is justified in their vanquishment. As a nation serves at the altar of man it is only in servitude. I prefer to be a servant and not a slave.

Most of America, indeed the world, is enslaved by selfish conceit. When imperfect man bestows upon himself the title of perfection, the last authority, the great conqueror of our existence, then mankind is doomed to a life of chaos, uncertainty, disappointment, and tragedy.

The United States has lost much of the vision of its founders. Our forefathers came to this land to be unencumbered by the philosophies of men. Free to think, free to assemble, free to act responsibly. This was the vision of America, a place where imperfect men asked no more of each other than liberty, and as a result, this people have prospered as never before recorded in history.

Unfortunately, prosperity has never been man's strong suit, and inevitably, a prosperous America slowly forgot what had made her that way. We have ultimately forgotten that the circumstances of our existence, not the mechanics of our existence, pave the way to prosperity; that it is our freedoms that permit prosperity and not our genius. To our detriment, over the last 25 years, we have conveniently assumed the latter.

We Americans have not been immune to the pride and egotism that have eventually confounded every world civilization. We have even formalized these weaknesses into a bit of deceptive sophistry that we proudly wear as "humanism."

Much has been written about and spoken of humanism in all its variations. But what is particularly relevant to the Community Life Amendment, Mr. Speaker, is that the humanist philosophy has kicked the God of Abraham, Isaac, and Jacob, and all rivals other than man himself, out of our Nation's public school system.

In all deference to toleration, kicking deity out of our public schools

might have been marginally bearable were it not for compulsory school attendance laws, existing in every State, which require schoolage children to attend an approved private or public school. Many private religious schools, or State laws accommodating home schooling, exist to appease the social pressures of a religious people, but not all persons are able to afford a private school nor do many have the luxury of time to school their children at home. In other words, most children are stuck with the public school system.

Regardless of what might have been, the benefits of voluntary prayer and teaching the principles of the Judeo-Christian ethic in our public schools supersede a position of compromise on this issue. I have not come before you today to genuflect before the altar of man and make of the Community Life Amendment a sacrifice in a spirit of compromise. I rise before you, in all humility, to offer each of you the opportunity to magnify your stewardship as a duly elected leader of these United States.

Members of Congress know, perhaps better than anyone, that it is never convenient to do what is right. There will always exist good reasons not to do something. The issues contained in the community life amendment are a magnet for such reasons, but I would like to tell you why this amendment deserves your support and loyalty.

The day that the United States took the teaching of the principles of the Judeo-Christian ethic out of public schools was the day that this Nation lost all purpose and identity. This despair was not instantaneous. After all, not every public school classroom throughout the United States held daily prayer, not every child had been instructed in ethics identified as religious in nature prior to 1962. No, the identity crisis we bear today has come with time.

For the past 25 years, the rising generation have been denied a full opportunity to address the most fundamental of life's questions: Who am I?, Why am I here?, and Where am I going? Any education, in my opinion, that does not fully access all intellectual avenues to sufficiently answer these questions is a mockery to an enlightened people. It is the height of arrogance for anyone to believe that an enduring and valued education can be created precluding these questions.

Without answers to these three fundamental questions all people will spend a life full of empty victories and debilitating defeats. Humanism cannot fill the substantive void left by the expulsion of religious principles and beliefs from public schools. Man, judging life by his own experience, by what he sees, is incapable of sustaining an ethical system founded on his own authority. The evidence of failure is everywhere. From abused children to juvenile delinquents to unethical business practices to the modern welfare state.

Judeo-Christian principles and beliefs relegated to their "proper place" are not enough to effectively influence the active minds of children who spend most of their days away from both home and church and in an environment that unhesitatingly proclaims that such instruction is antithetical to reasoned thought and intellectual stimulation.

Children attending public schools got along quite nicely for over a century when the principles of the Judeo-Christian ethic were not precluded from their daily activities. The United States has always been a melting pot of ethnics, creeds, and religions. This fact was never a stumbling block in education. I am not naive enough to believe that questions were never raised about the utility of school prayer or the use of religous documents in instruction, but these questions must have been appropriately addressed within the various communities.

Why are we so different today? Are we not mature enough as a people to tolerate differing beliefs? Or does our modern problem originate from the judicial activism and statist mentality of power politics? I believe, frankly, that many adults rejecting the fundamental tenets of the Judeo-Christian ethic have, it their disdain, unconstitutionally bequeathed their narrow-mindedness to America's youth.

The time has come to say to these modern day know-nothings that it is far better that one may be offended that a whole nation dwindle in unbelief. The intrinsically barbed, but carefully worded, provisions of the Community Life Amendment allow no fence-sitters. We must regain our heritage through the lives of our children or else continue to suffer the consequences of a failed stewardship.

JUDICIAL HISTORY

Mr. Speaker, prayer in public schools, for all intent and purpose, was ruled unconstitutional by the Supreme Court on June 25, 1962. The case of *Engel* v. *Vitale*, 370 U.S. 421 (1962), centered on a state-imposed and drafted prayer that was recited daily in the public schools of the State of New York. The beginning of each day would begin with:

Almighty God, we acknowledge our dependence on Thee, and we beg Thy blessings upon us, our parents, our teachers and our Country.

The Court held that:

The constitutional prohibition against laws respecting an establishment of religion must at least mean that in this country it is no part of the business of government to compose official prayers for any group of the American people to recite as a part of a religious program carried on by government.

And further, that the first amendment's "prohibition against governmental establishment of religion, as reinforced by the provisions of the Fourteenth Amendment, government in this country, be it State or Federal, is without power to prescribe by law any particular form of prayer which is to be used as an official prayer in carrying on any program of governmentally sponsored religious activity."

The nondenominational aspect of the Regent's prayer did not persuade the Court to preclude it from application under the First Amendment. Neither did the fact that student participation was strictly voluntary. Left unresolved was the issue of whether or not other issues such as student initiated voluntary prayers, reading the Bible in class, and posting the Ten Commandements were constitutional.

Only one year later, on June 17, 1963, the Court addressed these other concerns in *Abington School District* v. *Schempp* (374 U.S. 203, 1963). Each morning at Abington Senior High School selected students would read ten verses of the Holy Bible over the school's intercommunications system. The reading was followed by the recitation of the Lord's Prayer with all student's being ask to stand and repeat the prayer in unison. The exercises were closed with a flag salute and the Pledge of Allegiance. Once again, these activities were voluntary and students could either refrain from participation in class or leave the room entirely until completion of the exercise.

In ruling against Abington School District, as with its forerunner Engel, the Court ruled that such exercises were a violation of the establishment clause as applied to the States under the 14th amendment. The majority arguments in both cases rested on the 14th amendment incorporating the establishment clause.

This Court has decisively settled that the First Amendment's mandate that 'Congress shall make no law establishing an establishment of religion, or prohibiting the free exercise thereof' has been made wholly applicable to the States by the Fourteenth Amendment. (Abington)

The 1940 case of Cantwell versus Connecticut was the seminal decision on incorporation. The Court ruled:

The fundamental concept of liberty embodied in that Amendment embraces the liberties guaranteed by the First Amendment. The First Amendment declares that Congress shall make no law respecting an establishment of religion or prohibiting the free exercise thereof. The Fourteenth Amendment has rendered the legislatures of the states as incompetent as Congress to enact such laws. * * *

Of course, underlying this interpretation is the rejection of the contention that the Establishment Clause forbids only governmental preference of one religion over another. The seminal decision on this matter was handed down in Everson versus Board

of Education (1947). Referring to Everson, the Court quoted:

The [First] Amendment's purpose was not to strike merely at the official establishment of a single sect, creed or religion, outlawing only a formal relation such as had prevailed in England and some of the colonies. Necessarily it was to uproot all such relationships. But the object was broader than separating church and state in this narrow sense. It was to create a complete and permanent separation of the spheres of religious activity and civil authority by comprehensively forbidding every form of public aid or support for religion.

The Court in Abington interestingly concluded:

While none of the parties to either of these cases has questioned these basic conclusions of the Court, both of which have been long established, recognized and consistently reaffirmed, other continue to question their history, logic and efficacy. Such contentions, in the light of the consistent interpretation in cases of this Court, seem entirely untenable and of value only as academic exercises.

Mr. Speaker, for the Supreme Court of the United States to dismiss the original intent of the Constitution as an "academic exercise" is beyond reason. This judicial sleight of hand to control constitutional nomenclature can legitimately be deemed the sophistry of judicial activists. As the Legislative branch does with extreme effectiveness, the Court has chosen to ignore the past (inasmuch as it detracts from their argument) and has invoked a new constitutional order based on revisionist history that, in this case, did not commence until 1940.

Perhaps it is a latter-day Court's perogative to interpret the Constitution contrary to its original intent. But the Court should have the integrity to explicitly tell Americans that it has decided to change course.

In a concurring opinion regarding Abington, Justice William Brennan writes that "a too literal quest for the advice of the Founding Fathers * * * seems to me futile and misdirected * * *." He then offers four reasons why he believes this.

First, Justice Brennan believes that "the historical record is at best ambiguous" surrounding the Framers intent of the First Amendment; second, he claims that "American education has greatly changed" since the Amendment was adopted; third, Brennan suggests that time has created a religious community in America "vastly more diverse" than originally; and, fourth, "free public education" is driven from our religious diversity.

Each point is arguable; some more than others. The first point, regarding the historical record, is the least arguable. Constitutional scholar and law professor Raoul Berger, author of Government By Judiciary (Harvard University Press, 1977), in his chapter entitled "Incorporation of the Bill of Rights in the Fourteenth Amendment", addresses this very issue of the historical record. In it he writes, "* * * the paramount consideration is to ascertain the intention of the legislature. That intention may be evidenced by statements of leading proponents, and, if found, is to be regarded as good as written into enactment: 'the intention of the lawmaker is the law'." Berger cites a plethora of Court cases and congressional records not only in support of congressional intent, but also in support of the Founder's refusal to incorporate the Bill of Rights in the 14th amendment.

Writing that the "invocation of the Bill of Rights against the States is of fairly recent origin", Professor Berger continues that at our founding:

It was not fear of State misgovernment but distrust of the remote federal newcomer that fueled the demand for a federal Bill of Rights which would supply the same protection against the federal government that State Constitutions already provided against States.

Agreeing with Professor Berger in dissent to Abington, Justice Potter Steward declared:

As a matter of history, the First Amendment was adopted solely as a limitation upon the newly created National Government. The events leading to its adoption strongly suggest that the Establishment Clause was primarily an attempt to insure that Congress not only would be powerless to establish a national church, but would also be unable to interfere with existising state establishments. Each State was left free to go its own way and pursue its own policy with respect to religion. Thus Virginia from the beginning pursued a policy of disestablishmentarianism. Massachusetts, by contrast, had an established church until well into the nineteenth century. * * *

I accept wihtout question that the liberty guaranteed by the Fourteenth Amendment against impairment by the States embraces in full the right of free exercise of religion protected by the First Amendment. * * * I accept too the proposition that the Fourteenth Amendment has somehow absorbed the Establishment Clause, *although it is not without irony that a constitutional provision evidently designed to leave the States free to go their own way should now have become a restriction upon their autonomy.* But I cannot agree with what seems to me the insensitive definition of the Establishment Clause contained in the Court's opinion. * * *

Remembering back, Justice Brennan's third point against applying the original intent of the Framers to both the first and 14 amendments is entirely moot. It is not really possible to be "more heterogeneous religiously" than in the past. Justice Brennan's point is insensitive to all religions who disagree in doctrine in one way or another. The lack of Jews and Catholics or atheists in 18th century America is irrelevant to the diversity that did actually exist in that day. Religious diversity has always existed in America.

Where Justice Brennan's arguments could have had impact but didn't was on his two points regarding the evolution of education. He argues that the public nature of today's education, both in control and funding, requires "an atmosphere in which children may assimilate a heritage common to all American groups and religions. This heritage is neither theistic nor atheistic, but simply civic and patriotic."

Notwithstanding, for the moment, his infantile understanding of modern education, Justice Brennan follows this breath with a clear lack of progressive foresight:

Attendance at the public schools has never been compulsory; parents remain morally and constitutionally free to choose the academic environment in which they wish their children to be educated.

Assuming that compulsory attendance at a state-approved school has never been law, though a totally false assumption, modern economic problems force many Americans to send their children to public schools. Whether the reason is time, money or locale, most kids are stuck with public education. What was once an argument in favor of "at atmosphere of a common heritage" is now an argument in favor of allowing religious instruction in public schools. Forcing religious Americans to attend an anti-religious institution is certainly a violation of that other forgotten first amendment right: the free exercise of religion.

Perhaps the most suspect assumption in Justice Brennan's argument is that of an educational system totally void of partisan morality and ethical teachings. Along this line of reasoning, the Abington decision was used by the Court to create a test whereby activities to be in violation of the first amendment could be judged. Justice Thomas Clark, author of the majority opinion, wrote that:

The test may be stated as follows: what are the purpose and primary effect of the enactment? If either is the advancement or inhibition of religious then the enactment exceeds the scope of legislative power as circumscribed by the Constitution. That is to say that to withstand the structures of the Establishment clause there must be a secular legislative purpose and a primary effect that neither advances nor inhibits religion.

Mr. Speaker, I agree with Justice Clark that every position should ask what are the purpose and primary effect of enacting any policy in our public schools. However I reject the notion that our country was founded on the premise that the Constitution is an incubus for amorality. As we all know, very few laws of great significance in society can be considered amoral, and to ascribe judicial approval, let alone the existence, of such a concept to our Founding Document is beyond reason and historical understanding.

Most every parent and teacher in America will agree that students should be taught values and ethics. By

continuing to submit ourselves to the ill-wisdom of Engel and Abington, effectively inhibiting the inculcation of the foundation of Western civilization within our public school children. Congress is sending a message to the youth of this nation that moral and ethical values can be viewed exclusive of the Judeo-Christian ethic.

The primary secular legislative purpose of the amendment is to reinforce in the minds of our children the declaratory edict from the founding of our Nation that all people are endowed by their Creator with certain inalienable rights.

A formal recognition of God in public school can serve as a daily reminder to students that they have a few liberties and responsibilities that are not delegated to the governments of men and, hence, cannot be taken away by men.

The fundamental proposition of America is that life, liberty, and the pursuit of happiness are rights granted us by our Creator. In addition, our entire system of American jurisprudence is based on Judeo-Christian ethics. The ability of parents to teach these principles to their children depends upon the opportunity for them to exercise their formal recognition of the Source of these rights in public school.

Without this formal recognition, America is left with humanism. Are Members of Congress prepared to genuflect before the altar of man? Are the American people?

WHAT IS HUMANISM?

Mr. Speaker, our whole lives are spent discerning between opposites. Out of necessity we must experience the burdens of mortality to experience the many joys of our existence. Bad accompanies good and sadness accompanies happiness. We cannot know the true meaning of one without the other.

This principle of opposites presents a dilemma for humanism. On the one hand, it is stated, humanism exists simply because man exists, and "existence" was not created. (First Affirmation of the Humanist Manifesto I.) But on the other hand, humanism claims moral authority to guide the lives of men. (Eighth Affirmation of the Humanist Manifesto I.)

The dilemma is that since the beginning of time man has accepted God or the concept of a Supreme Being as the ultimate moral force in the world, the source of moral good. To deny the existence of God, as the humanists do, is to relinquish any claim of moral authority over man. One thing cannot substitute or displace another thing which is nonexistent. All things are relative to the humanist, including morals. Hence, humanism cannot meet the demands of the principle of opposites. In practice this means that humanism cannot accept a "hollow" existence of man and, simultaneously, provide a substantive solution for our existence.

This dilemma shows the sophistry of humanism. This "nontheistic" religion is nothing more than a revolt against God and his people. It holds that,

1. The universe is self-existing and not created;
2. Man has followed an evolutionary pattern of existence;
3. Man is void of Spirit;
4. Religion is cultural;
5. God does not exist;
6. All religious intellectual thought is outdated;
7. True religion can only consist of human action;
8. Life is limited to this earthly sphere;
9. Social cooperation is the apex of human development;
10. Supernatural religious expression is intolerable;
11. All actions will be based on the limitations of the human mind;
12. Religion inhibits creativity;
13. Religions must be controlled by the state;
14. Communism must supplant free enterprise;
15. Traditional religion is personlly restrictive, close-minded, bigoted and unjust. (Humanist Manifesto I, 1933)

Forty years later, humanists issued a second Manifesto.

As in 1933, humanists still belive that traditional theism, especially faith in the prayer-hearing God, assumed to love and care for persons, to hear and understand their prayers, and to be able to do something about them, is an unproved and outmoded faith. Salvationism, based on mere affirmation, still appears as harmful, diverting people with false hopes of heaven hereafter.

The signatories, all influential in their own right, added punctuation to the first document,

We can discover no divine purpose or providence for the human species. While there is much that we do not know, humans are responsible for what we are of will become. No deity will save us; we must save ourselves.

Promises of immortal salvation or fear of eternal damnation are both illusory and harmful * * * There is no credible evidence that life survives the death of the body. We continue to exist in our progeny and in the way our lives have influenced others in our culture.

We affirm that moral values derive their source from human experience. Ethics is autonomous and situational, needing no theological or ideological sanction. Ethics stem from human need and interest * * * We strive for the good life here and now.

Reason and intelligence are the most effective instruments that humankind possesses. There is no substitute: neither faith nor passion suffices in itself.

The right to birth control, abortion, and divorce should be recognized * * * neither do we wish to prohibit, by law or social sanction, sexual behavior between consenting adults.

The separation of church and state and ideology and state are imperatives. (Humanist Manifesto II, 1973.)

Mr. Speaker, these are but a few examples of what humanism represents, direct from the mouth of humanists. Perhaps the most influential signatory of the Humanist Manifesto was educator John Dewey. Should America be so surprised that God had been kicked out of public schools with this kind of progenitor?

How many of our constituents would subscribe to the humanist way of thinking? And yet the forces that are allowed to shape education policy in this Nation are ideological soulmates of humanism. In fact, they are one and the same. The National Education Association, Planned Parenthood, the American Civil Liberties Union, People for the American Way, et cetera, all are defenders of the antitheistic humanist ideology.

In Torcaso versus Watkins (1961) the Supreme Court explicitly included within the scope of religion nontheistic faiths as well as atheism, stating:

Among religions in this country which do not teach what would generally be considered a belief in the existence of God are Buddhism, Taoism, Ethical Culture, Secular Humanism, and others. (367 U.S. at 495, n. 11.)

But the Court's most comprehensive definition of religion in the conscientious objection cases of *United States* v. *Seeger* (380 U.S. 163, 1965) and *Welsh* v. *United States* (398 U.S. 333, 1970). In these cases, the Court was required to determine the scope of the statutory phrase "religious training and belief" as used in the Selective Service Act. The act defined the term seemingly in theistic terms stating it to mean:

An individual's belief in the relation to a Supreme Being involving duties superior to those arising from any human relation, but not including essentially political, sociological, or philosophical views or a merely personal code.

The Court, in Seeger, construed the phrase "in relation to a Supreme Being" to mean:

Whether a given belief that is sincere and meaningful occupies a place in the life of its possessor parallel to that filled by the orthodox belief in God of one who clearly qualifies for the exemption.

In *Welsh*, the Court wrote:

What is necessary * * * for a registrant's conscientious objection to all war to be "religious" within the meaning of Section 6(j) is that this opposition to war must stem from the registrant's moral, ethical, or religious beliefs about what is right and wrong and that these beliefs be held with the strength of traditional religious convictions.

These opinions were not only incorporated into the Selective Service Act, but also the Immigration and Naturalization Act and the Civil Rights Act of 1964.

Mr. Speaker, clearly humanism is a religion. It is certainly a way of life. Even more paramount is that humanism is the ideology of America's public schools. One religion has replaced all others in the name of the first amendment. The community life amendment would simply allow the people of the United States the discretion to set their own internal policies regarding the establishment of religion and its free exercise. Currently, public school students have no choice. They must submit to humanism. And by our allowing this tragedy to continue we are facilitating a national religion and a gross violation of the Establishment Clause.

THE SCHOOL PRAYER PROVISION

Only 6 percent of Americans do not believe in God (Gallup, 1986), unchanged from 1947. All but a few of the majority believe voluntary school prayer should be allowed in public schools (66 percent, CBS News-New York Times Poll, August 1988). The community life amendment will allow children, encouraged if desired by the people, to once again offer prayer in school. This scenario should be as simple as little Johnnie or Susie requesting of the teacher some appropriate time to offer a prayer from the heart. The process would be no different for little Abdul, Ling, Menacham, or Manuel. The teacher may even ask the children if any would like to avail themselves of the opportunity.

Justice Potter Stewart, in his dissenting opinion on Engel, wrote:

> With all respect, I think the Court has misapplied a great constitutional principle. I cannot see how an "official religion" is established by letting those who want to say a prayer say it.

My colleagues, please consider the simple act of a child offering a public prayer. Atheists and agnostics may be offended at even the thought, but every person who professes a belief in God has little room for discomfort. It is one matter to weigh a claim of offense from a person affirming a religious belief and quite another matter to respond likewise to a person offended in disdain of a religious belief. I reiterate that it is far better that one man be offended than for a whole nation to dwindle in unbelief.

WHY NOT THE TEN COMMANDMENTS?

Mr. Speaker, the bloodhounds of humanism are always on the lookout for any violations of the separation of church and state. A nativity scene on the grounds of a local courthouse is a particularly onerous crime in their book. Most schoolchildren are no longer allowed to outwardly celebrate Christmas, Hanukkha, or Ramandan. They now have generic holiday parties. Kids today take off for spring break, not Easter vacation as in the past. No more Halloween, just character or imagination day.

Heaven forbid * * * excuse me, mortality forbid that a teacher or student should hang an image of diety on the classroom wall, unless of course the picture is a religious favorite of the humanists.

The National Education Association version of natural selection holds true for wall posters and placards imprinted with value-oriented slogans as well. A poster stating, "It's not a good deal to go out and steal" will certainly past muster. But change the message to "Thou shalt not steal" and the lords of lunacy cramp and gyrate themselves all the way to the Supreme Court. Do the religious overtones of this latter message really warrant the label of an unconstitutional offense?

The teaching of the Ten Commandments, and other similar tenets of the Judeo-Christian ethic, in our public schools is of immense educational worth. The primary benefits, as I see them, are twofold. First, the Ten Commandments teach children that ethics represent much more than mere lessons of utility, and second, the Ten Commandments broaden our earthly perspectives.

The values which built America were grounded more in our spiritual nature than in some philosophical concept of utility. An orderly society dependent upon the voluntary actions of men must necessarily transcend all appeals to the self-serving nature of utility to avoid chaos. To simply teach a child that stealing is not in their best interest, due to potential punishments or retribution, ignores the intellects of those kids who may actually profit from stealing.

Teaching children that "thou shall not steal" is a clear lesson: Whether you benefit or not, don't steal; not only do we have laws to punish such acts, we are adamant that the act itself is wrong and unbecoming any citizen. This message can be given in any language, within any culture, and among all serious religions. More than this, most kids will positively respond to this idea of an all-encompassing authority, or equally acceptable, to the society that is governed by this idea.

Second, teaching the Ten Commandments in our public schools will broaden the earthly perspectives of children. Most people focus on the last six commandments: Honor thy father and mother, thou shall not kill, thou shall not commit adultery, thou shall not steal, thou shall not bear false witness, and thou shall not covet thy neighbor's anything. Forgotten are the first four concerning our relationship to diety.

Children are always in need of being reminded to think of others. Later, as adults, they are in constant need of humility. Helping school children to understand that selfishness is not a virtue is only a forerunner to helping these kids, as adults, remember their mortal limitations. Showing reverence for their God, or even mortal recognition of the unknown, introduces the human mind to something it rarely considers: That the individual is not the center of the universe around which all else revolves. Humanism is incapable of teaching this fundamental lesson.

CREATION AS ACADEMICS

This same reasoning is why school children ought to be taught, along with various other theories, about the divine creation of the Earth. Creationism, as it is popularly referred to, adds to kids' perspectives. It will remind them time and again to be cautious of the smug assumptions of humanism.

I was humored to read a National Academy of Sciences [NAS] report entitled, Science and Creationism: A View From The National Academy of Sciences (1984), in which the authors prefaced their remarks by referring to the front and back covers of the publication. The back cover illustrated a map of the world as imagined in the days of Columbus, while the front cover displayed a satellite photograph of how the world really looks. The analogy of contrast, of course, was drawn between creationism and science, respectively.

The report followed with:

> Teaching creationism is like asking our children to believe on faith without recourse to time-tested evidence, that the dimensions of the world are the same as those depicted in maps drawn in the days before Columbus set sail with his three small ships, when we know from factual observations that they are really quite different.

What humored me was the smugness of the authors. After all, that satellite camera could have just as easily been pointed at the expansive universe with a caption reading "all that science does not know about, and may never know about."

Those who accept the divine creation of the Earth deeply appreciate the knowledge of the Ultimate Scientist who created it. The divine creation and physical science are one, and all efforts to discredit this fact are demagogic smokescreens.

Yes, unashamedly we will ask school children to accept on faith certain phenomena, not "without recourse to time-tested evidence", but just until we have developed some recourse. Faith is the first fundamental principle of any bona fide religion. It is also the first fundamental principle of life. Do we not have faith that the sun will rise each morning? Because we can observe its pattern does not explain why it happens. We accept this on faith.

The late physicist Dr. Joseph F. Merrill, 40 years ago, eloquently addressed the relationship between science and faith:

> In discussing gravity * * * no text book, no teacher, ever speaks of any mystery. We are so used to this familiar phenomenon that

the idea of mystery never occurs to us * * * Newton's law merely describes how one body attracts another—a phenomenon that can be accurately measured in the laboratory. But what is the nature of the force of gravitation that pulls two bodies together, as the earth and the apple, as the earth and the sun? * * * Can you conceive of how one body can exert force on another except through a medium of some kind? * * * But [Newton's law] gives no idea why they attract each other, that is, of the cause and nature of the force, or why the force can exist between them when there is no medium * * * in this matter of a falling apple lies one of the most profound mysteries in the universe * * * Every moment you are in contact with a mystery of the first order.

Dr. Merrill concludes:

There never was a time when man knew more and perhaps could explain less of what he knows about nature than at present, because the deeper he digs the more unexplainable his findings * * * How can anyone accept the teachings of science and reject those of religion on the ground of miracles and mysteries? * * * The whole of modern science experimentation rests upon the principle of causation. Should not this drive any reasonable man to the first great cause, to God? Is it reasonable to apply this principle only in the part of the realm of nature known to the scientist and abandon it elsewhere? (God the Father, edited by Gordon Allred, pgs. 255-278.)

School children need to be exposed to this type of reasoning. Humanism will dare not allow similar words to be uttered in public schools without the Community Life Amendment. Children have faith in so many things, one being the honesty and integrity of their teachers. How do you explain to a child that the moral value systems which guide his parents, his community, and his Nation for so many years are not allowed to be properly addressed in his school, an authoritative place of learning assigned to him by society?

The failure to answer this question, I am convinced, is a major reason why there are so many troubled youth in America today. We are denying them a full opportunity to comprehend the nature of their existence. The Community Life Amendment will provide local communities with a valuable opportunity, a pearl of great price, to assist men and women of good heart in their stewardship over the youth of our Nation.

Last, Mr. Speaker, I appeal to the liberal nature of my opponents. All of us can hide behind the Constitution's seemingly endless meanings backed by any given modern Court interpretation. But what, I ask are we hiding from? Do opponents of prayer in public schools really worry about the establishment of religion, or are they actually obsessed with their own particular brand of anti-religious ideology. Are they interested in the general welfare and education of youth, or are they constrained by their own prejudices and bigotry?

Humanism is a religion and, as such, its doctrines taught in public schools must necessarily violate the establishment clause if the Court is to avoid duplicity. The Federal Government, through the actions of the Court and the inactions of Congress, have allowed humanism to become entrenched in society at taxpayer expense thereby breaching that liberal metaphor "the wall of separation of church and state". My liberal friends should be mindful of hypocrisy.

Cato's Letters provided the popular justification and intellectual force for our American Revolution. One "letter" proclaimed:

Ignorance accompanies Slavery, and is introduced by it. People who live in Freedom will think with Freedom; but when the Mind is enslaved by fear, and the Body by Chains, Inquiry and Study will be at an End. (6th edition, 1755, 1:96.)

Obviously, either side could use this quote as a defense to allow or restrict their or an opponent's beliefs. But this is exactly my point. If our minds are "enslaved by fear," then by all means let this House prohibit States from setting their own courses on the issue of religious education in public schools. However, if we are truly secure with our freedom, then let us "think with freedom".

I am opposed to humanism, but I am not opposed to its teachings in public school. I support the Judeo-Christian ethic and would like to see it candidly taught in public schools. Because a value-free education is not possible nor desirable for our youth, why not allow the people the option to open their schools to all positive values, no matter the source. This is a policy a free mind would allow. Congress should set this policy as a first amendment standard.

Mr. Speaker, I ask my colleagues for their support.

PRAISE FOR THE LAKERS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. DREIER] is recognized for 5 minutes.

Mr. DREIER of California. Mr. Speaker, as this thrilling couple of days comes to an end, I take this special order for a very important purpose. I would like to point out something that needs to be recognized. I rise to officially recognize the valiant effort of the Los Angeles Lakers.

□ 2310

Yes, I realize that the Detroit Pistons swept the Lakers in four straight games to the shock of many of us, however it is very important to note that Magic Johnson and Byron Scott, arguably one of the most noted backcourts in the National Basketball Association, were not suited up for most of the series, but enough for excuses, Mr. Speaker.

The Pistons are a fine basketball team. My colleague, the gentleman from Michigan [Mr. HERTEL] will now enjoy the fruits of the Pistons labor as this morning in his office I presented him with two Sun World California seedless watermelons. That came about as a result of our wager. California is famous for many things, and now notably for our seedless watermelons.

Mr. Speaker, this is also a fitting time for us to pay tribute to Kareem Abdul Jabbar who is retiring. Clearly, as most everyone will agree, he is the National Basketball Association's greatest player ever. We in Los Angeles will sorely miss his talents, and we wish him all the best.

Enough thought. They did not win their third consecutive championship, however, Mr. Speaker, I doubt that anyone can dispute the fact that the Los Angeles Lakers were most clearly the leading NBA team of this entire decade.

HEADING OFF FUTURE PROBLEMS WITH THE S&L INDUSTRY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio [Mr. PEASE] is recognized for 5 minutes.

Mr. PEASE. Mr. Speaker, I rise to discuss for a moment the bill that we just passed on the savings and loan industry.

Mr. Speaker, I voted for the bill. I think it was a responsible vote. I wish that we had some other choices than the one we did in bailing out the S&L industry. However I do not think we had any choice, and, therefore, I voted for the bill.

I do want to say though that I am disappointed that the Committee on Rules did not make in order an amendment that I had hoped to offer which would speak to heading off future problems with the S&L industry. It is my belief that we got into the trouble we are in today with upwards of $200 to $300 billion of liability for deposit insurance because, among other things, the S&L industry got out of control completely, and too many people began to abuse the deposit insurance system.

Mr. Speaker, we set up deposit insurance back in the 1930's to prevent runs on banks and to assure small depositors that the money they put in institutions would be safe. That got changed over the years, and in the early 1980's the amount was raised to $100,000 per account. That was very ill-advised in my view, but worse than that it was made and has been on a per-account basis rather than a per-person basis.

Mr. Speaker, what that means is that corporations, wealthy individuals, and pension funds have put millions of dollars into savings and loans spreading them out over 10, or 20, or 30 different institutions around the country. Unfortunately, they have put their money in those institutions which provide the highest interest rates. They provide the highest interest rate because they are the weakest institutions and have to offer the most interest in order to attract any deposits at all.

Mr. Speaker, I think without question the size of the bailout that we are facing now was exacerbated by the fact that we had unlimited deposit insurance. My amendment would have limited deposit insurance to $100,000 per person rather than per account. I think it would have been a very solid step toward preventing this kind of repetition rather than the kind of problem we are now in. Again, I am sorry that the Committee on Rules sought fit not to make that amendment in order.

Notwithstanding my amendment, I decided that as a responsible Member of this House I ought to vote for the S&L bill, and I did.

A TRIBUTE TO DR. DAVID GOULD

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania [Mr. COYNE] is recognized for 5 minutes.

Mr. COYNE. Mr. Speaker, all of us remember the terrible tragedy on December 21, 1988, when Pan Am flight 103 exploded in the skies over Scotland. One of the passengers killed on that flight was a remarkable man from Pittsburgh, Dr. David Gould. Dr. Gould was associate professor of public administration at the University of Pittsburgh and director of the management training program there. No one will ever know just how many friends he had and how many lives he touched both here and in Africa; but there is a glimpse of his magnificent work and contribution in a collection of tributes to him that were recently compiled by his friends.

I know that my colleagues join me in offering condolences to Dr. Gould's family and friends. In honor of his memory, I would like to request that the tributes to him be printed in the RECORD.

BELOVED AMERICAN EDUCATOR TO AFRICA LOST IN PAN AM CRASH

(By friends and colleagues of David Gould)

Dr. David Gould, Associate Professor of Public Administration at the University of Pittsburgh, was returning from his latest of ten trips to Africa in 1988 when Pan Am 103 was blown from the air over Scotland on December 21st. As Director of Pittsburgh's management training program, Gould was the best known American educator in French-speaking Africa over most of the last decade. The many messages of condolence which have come from the countries whose leaders have participated in Gould's programs, from Senegal in the west to Madagascar in the east, from Ministers and Ambassadors, are evidence that Gould was also a greatly loved American in this vast and little known area of the Third World.

A graduate of Harvard and New York University with a superb mastery of French, Gould (45) founded Pittsburgh's Management Development Program for Francophone Africa and Haiti in 1979. Each summer, with funding from the USAID, the World Bank, and other official sources, Gould brought senior and mid-level managers from among twenty African countries and Haiti to Pittsburgh's seven-week, state-of-the-art management training course. In addition, Gould and his colleagues, including the best of French Africa's management trainers, organized over 50 specialized courses in 15 selected African countries, reaching thousands more with modern management techniques and, what is more, with his infectious optimism and humor. His ability to communicate in French was almost unsurpassed by professional diplomats. More importantly, Gould understood intuitively the bureaucratic context in which his colleagues functioned and was able to bring that awareness to bear in his personal contacts.

For most of his African and Haitian trainees, their trip to Pittsburgh for the seminar was their first visit to the United States. The impressions gained in this exposure were invariably positive. Gould never tired of explaining the ins and outs of American culture and the sometimes "difficult to comprehend" reactions of American people. The highlight for many of his foreign visitors was Gould's annual 4th of July picnic, hosted at his house for the more than 100 participants who now enroll in the summer course. Gould's French-language description of democracy in America was both a primer and a challenge to leaders from countries striving to emulate many of the values so cherished in our democratic society.

Trying to keep up with David was an impossible task. Gould was ever airborne, "breaking ice", and testing limits. He would show up unexpectedly on flights to and from, and across Africa. His travels around the continent put him in touch with diverse programs and people; his political savvy, empathy, and humor enabled him to cross-fertilize friendships and activities.

For U.S. Government colleagues, bumping into David in his myriad criss-crossings of the continent was always a special experience. He would welcome you with a warm, effusive greeting, delivered in a classic French bureaucratic context with a twinkle in his eye: "Hello, courageous representative of the American people (Bonjour, M. ou Mme. le representant du vaillant peuple américain)!" David was a veritable "tam-tam" of what was happening around the continent, transmitting the latest reassignments of senior (and not so senior) officials. Afterwards, while others slept, he would hunch over his laptop computer, to prepare a draft reporting cable on a recently completed training program. Or, he would dash off follow-up thank-you notes to those he had just left behind.

These notes scribbled from airplanes were numerous, always courteous and efficient and somehow wistful. They expressed thanks for cooperation and gently reminded his colleagues of follow-up actions. His scrawl, which seemed to arise from his subconscious, suggested how deep his commitment was to his work, and made those who read his notes wonder if he ever rested.

It was nothing for David to report for work following thirty-six hours of grueling non-stop travel, appearing exhausted but brimming with energy. Toting a shopping bag overflowing with both documents and gifts, chocolate, UPitt t-shirts, and recorded music tapes. Everybody relished David's attention, including secretaries and drivers as well as ministers and ambassadors. Everyone appreciated his warmth and humor, bringing people to smile at the ironies which he as an outsider was able to detect, to chortle at the salty jokes he deftly used to liven training sessions, and, most astonishingly, to laugh at themselves.

During his visits, David used weekends to convene Ambassadors, former training participants, and donors to discuss his programs round restaurant tables. Right up to the time of his departure for the airport he was proposing yet another meal together, another seminar idea, another civil servant for sending to the U.S.

More eloquent, however, than a description of David's indefatigable, humorous, intelligent spirit, are the condolences cabled from both Americans and Africans shortly following the Pan Am disaster. Reprinted below are samples of the many expressions of loss and remembrance from those touched by Gould's extraordinary persona. Representative of these messages is one from a colleague of Gould's, personal advisor to President Diouf of Senegal, and himself one of Africa's most distinguished management experts:

"In my country we are urged not to cry for the departed but to pray for them. It is difficult, however, not to mourn the death of a close friend, even more so when it concerns a friend with exceptional human qualities that I have known for 12 years. David was a man whose very being transcended willingness and openness towards others, loyalty, peace, love and respect. Despite the press of external demands, David always manifested these qualities.

"In my thirty years of professional experience, I have never met a man so persistent, innovative and devoted to his work. David's daily program was infinitely expandable, with no time for rest. In the office or in the field, he was always the same, dynamic and zestful * * * David was also demanding in his concern for quality, for himself as well as for others, expressed with a remarkable sense of tact and sensitivity. This unyielding commitment for excellence led him to step in for, if necessary, his colleagues even when it required fifteen or sixteen hour days.

"David was skilled at convening a wide range of senior African officials to share both his dreams and his loves. The network of skilled collaborators he created is unique in the United States, although other universities have attempted to copy the University of Pittsburgh's example."—Aliou Samba Diallo, Human Resources Development Advisor to President Diouf, Dakar, Sénégal.

"In this difficult moment, I would like to convey for myself, for all of the previous participants in the University of Pittsburgh's management development program, and for David Gould's friends living in Burkina Faso (formerly Upper Volta), my sincerest condolences on the occasion of his tragic death. Cruel destiny has snatched away Professor Gould at the very moment in which he was contributing his extraordinary technical and human qualities to the betterment of the Burkinabé people and to the noble cause for friendship and cooperation among all nations. We remain convinced that the passing of this remarkable friend of Burkina Faso will only strengthen

the bonds of solidarity which unites our two peoples."—Ambroise Zagre, Assistant Dean of the University of Ouagadougou, Ouagadougou, Burkina Faso.

"Having been profoundly affected by the accidental death of our dear friend David Gould, I would like to inform you that the Ministry of Agriculture of the Republic of Cote d'Ivoire shares the grief of the mourning family. Mr. David Gould who has contributed greatly to the training of several Ivorian cadres, was highly regarded for his moral qualities, his availability and his courteousness. It is with great pleasure that we received him here for the preparation of a management seminar which was scheduled to take place here from February 20 through March 3, 1989.

"I entreat you to kindly accept and transmit to the afflicted family, the expression of our most sincere and sorrowful condolences."—D. Bra Kanon, Minister of Agriculture, Abidjan, Ivory Coast.

"It is with sadness and grief that we learned of this tragic loss. The USAID staff and many Burundians who knew him join all his other friends in mourning for him. He will be missed. Please accept our sincerest condolences."—James Dunn, USAID/Burundi Mission, Bujumburu, Burundi.

"We at REDSO/WCA send our deepest condolences to the Gould family, friends and associates at University of Pittsburgh. We will remember David as a valuable colleague and friend not only because of his support to our development efforts in Africa, but also because of the personal relationships he developed with individual Americans and Africans in West and Central Africa. David has been one of our strongest partners in African Human Resources Development."—Mission Staff USAID/Abidjan, Abidjan, Ivory Coast.

"In life he was a true friend and supporter of Francophone Africa. His memory and work will live on as those he trained makes strides toward further developing their respective countries. Their work will serve as a living memorial in his honor. As one who cared, he will be deeply missed."—Mission Staff USAID/Mali, Bamako, Mali.

"I first met David a little over two years ago and was immediately impressed by his sophisticated appreciation of Africa and Africans. His superb French, won above all his friendly outgoing manner and his usual ability to quickly win the confidence of all of his interlocutors. Those of us who got to know him felt privileged to count him as a friend. When we received word here in Benin that he had been on the Pan Am flight, there was widespread shock amongst my Embassy colleagues, government ministries, senior civil servants, international representatives and the many Beninois who had profited from his counsel.

"On behalf of all my colleagues, please accept our deepest sympathy. You and your family can take considerable pride in the fact that David's legacy will live on and continue to make life richer and happier for countless people in this and many other countries."—Walter E. Sadler, U.S Ambassador to Benin Cotonou, Benin.

"Death of Professor David Gould, a loyal friend of our country.

"Among the victims of the Pan Am airplane that crashed in Scotland (Great Britain) was a great friend of Mauritania and the Third World, Mr. Gould, Director of the International Institute for Management Development of the University of Pittsburgh (Pennsylvania) * * *:

"Mr. Gould is indeed, first and foremost, a management expert. His writings on this subject are authoritative. He was also an unequaled organizer and seminar leader. He brought together a team of specialists from Africa, Europe and America who brought such credit and fame to the seminar that the lectures are "exported" in the form of seminars and conferences sponsored by the University of Pittsburgh.

"Mr. Gould and his team of experts organized two seminars during visits to Mauritania. The first seminar on human resources management was organized in 1986 with the ENA and the CGEM, and in January 1987 a second seminar on project management was organized with the collaboration of the Ministry of Economy and Finance. These two seminars generated wide interest at the time.

"Nicknamed 'Ould' by his Mauritanian friends, we often recalled anecdotal the kindness, warm welcome, and hospitality of our fellow countrymen. He talked about this so often that one could perceive a certain nostalgia for the Mauritanian way of life.

"Death struck him down in the force of this age (45 years old) before he could return to Mauritania where he had a number of projects.

"Those who knew him well surely regret his absence which deprives Africa in general and our country in particular of loyal friend and remarkably gifted man who had so many qualities and capabilities."—Mr. Mohamed Ould Babetta, Deputy Commissioner, Food Security Agency, Government of the Islamic Republic of Mauritania (Appeared in the December 23, 1988 edition of the Chaab Newspaper in Nouakchett, Mauritania.)

"It is with sadness and grief tnat we learned of this tragic loss. The many people here who know him and the many Senegalese who have participated in this program join all his other seminar is largely due to this professionalism. Devotion to the principles of development our sincerest condolences."—Sarah Jane Littlefield, Director, USAID/Dakar, Dakar, Senegal.

"I was shocked to hear of David Gould's death on Pan Am 103. He was an old friend and former neighbor of my sister in Pittsburgh. No one worked more tirelessly to develop better relations between the U.S. and Francophone Africa."—Robert M. Pringle, American Ambassador to Bamako, Bamako, Mali.

"The office of the AID Representative in Mauritania expresses its most profound condolences to the family of Dr. David Gould as well as to his colleagues at University of Pittsburgh to our collective loss. His loss is especially painful for those of us in AID who have known David from as early as his years in Lumumbashi, Zaire and before at Chico State University, California. His disappearance from the scene of management training for Africans will be indelible."—Mission Staff, USAID/Nouakchott, Nouakchott, Mauritania.

"Please convey my shock and profound condolences to Mrs. Gould about the tragic death of her husband. I knew David well and had tremendous respect for his energy and great service and dedication in promoting management training for so many Africans."—Mark Edelman, American Ambassador to Cameroon, Yaoundé, Cameroon.

"U.S. Mission in Kinshasa has just learned the extremely sad news of the death of David Gould. USAID Director and several members of his staff had the pleasure of seeing David several weeks ago and plans were being prepared to see him again soon in Congo and Zaire. The news of his passing is truly a shock to all those who have worked with David throughout the past several years.

"David's friends from Zaire and within the American community of Kinshasa have always appreciated his openness and profound commitment to the development of human potential and institutions. The intensity of his work and his very kind approach to everyone were very much cherished by all those that came in contact with him"—Mission Staff, USAID/Kinshasa, Kinshasa, Zaire.

"It is with profound regret that I have just learned of the accidental death of David Gould, American citizen, known to us in the Central African Republic for the enormous service he has rendered to the country, in the field of training Central African civil servants. The death of this great friend of the Central African Republic leaves a difficult void to be filled.

"As for me, from my personal ties with David, this news was the greatest shock of my life.

"I would like to take this opportunity to extend my condolences to all the Embassy staff, and request that you also transmit to his family the pain I feel and will continue to always feel."—Michel Salle, Minister of Energy, Mines, Geology and Hydrology, Bangui, Central African Republic.

"We are certain that David has left behind many intangible but invaluable memorials throughout Francophone Africa, in Haiti, and elsewhere. The spirit of learning, enhanced collaboration and rapport which he helped establish among Francophone country and American colleagues is a lasting memorial. It is a memorial based on mutual appreciation, high professional standards, and good cheer. For those responsible for development in resource-poor countries, he called much-needed attention to the promise of improved management and of international cooperation. The geographic scope of his work has been truly vast. We of the Performance Management Project and the Institutional Development and Management division of this Office join you in appreciation for David's distinguished contributions to international development cooperation, and friendship."—Kenneth Kornher and Jeanne North, S&T/RD, USAID/Washington, Washinton, D.C.

"Entire Mission and Togolese community is grief stricken to learn of the tragic death of professor David Gould. We join with the many missions and hundreds of Africans who have benefitted over the past two decades from the teachings of this remarkable man in mourning his untimely passing. His lively sense of humor, energetic creativity and non-stop dynamism served as a catalyst for introducing modern management training in Francophone Africa. Moreover, his infectious love for Africa and commitment to seeing Africa grow through human resources development have left a lasting impact on all those who knew him.

"David Gould was such a rare and great friend of Africa and contributed so immensely to the training of Africans that his passing should not go unmarked. He will be missed as few have ever been missed. He and his works are the stuff legends are made of. He will be well remembered and his indomitable spirit will most certainly live on."—Mission Staff, USAID/Lome, Lomé, Togo.

"I didn't know David for very long, but he left a lasting impression after the first encounter. During his recent visit to Ouagadougou, we played softball together—on the same team and we won. We played volley-

ball together; David won some and lost some. He gave me a briefing (always enthusiastic) on his past and future seminars in Burkina FASO. I watched him participate at the Ran Hotel on Tuesday evening, December 20, 1988, together we handed out T-Shirts (often ill-sized) to the Burkinabe guests. David spoke to the group in fluent and beautiful French, His humor was infectious; his rapport with Bourkinabé unique. David Gould will be deeply missed by his many Burkinabe and American friends in Burkina Fasco."—David H. Shinn, U.S. Ambassador to Burkina Fasco, Ouagadougou, Burkina Faso.

"On behalf of the many friends of David Gould in the USAID Mission, the U.S. Embassy and throughout the Government and private citizens of Burkina Faso, I express a profound sense of loss from David's death in the senseless tragedy. Ougadougou had been David's final stop in this last of many trips to Africa. He hosted a well-attended reception for the many Burkinabé alumni of Pittsburgh's Development Management Seminar on the evening of his fateful departure for Frankfurt to discuss possible FRG sponsorship of participants at future Pittsburgh seminars. David was indefatigable in working for his beloved seminar with which he was so intimately identified. I had personally known David for the past thirteen years, had worked with him closely in the development and conduct of in-country seminars, sponsoring many participants to his seminar in Pittsburgh. His death is the loss of a personal friend as well as that of a professional colleague. Francophone Africa has lost a great friend but his commitment, dedication, and contribution to development will continue to live through his former participants."—Herbert Miller, Director, USAID/Ouagadougou, Ouagadougou, Burkina Faso.

"Like so many others, my wife Judith and I were deeply saddened by the news of your husband's death. We were very fortunate in having come to know David in the course of his frequent visits to begin during our three years there, and through continuing contacts following our return to Washington. We learned much from him, he was a wonderful teacher, sensitive to Africa's aspirations and needs. Committed to bringing to Africa the best of American management philosophy and practice. He will be greatly missed. But he will always be remembered for his rich legacy. A whole new generation of Francophone African leaders who, because of his extraordinary commitment, have acquired the tools to master their own destinies and chart a brighter future for their countries. Please accept this expression of our heart-felt condolences."—George Moose, Ambassador to Senegal, Dakar, Senegal.

"The news of David's death came as a devastating shock to the many people in our firm who knew him and admired him so much. It is hard to imagine that nay individual in the United States has had more impact than David did on the education, training, and personal growth of Francophone Africans. The term magnetic does not begin to do him justice: his warmth, enthusiasm and sheer brilliance drew everyone to him. We mourn the loss of a friend and a uniquely gifted colleague who left his mark, in a way that very few individuals do, in the international development field.

"It is gratifying to know that David's ideals and commitment to excellence will be sustained by the University, and that the fine programs which he initiated will be carried on by his colleagues. The best way we can honor his memory is to continue the work that we enjoyed doing together, in Rwanda, Zaire, Niger, and many other countries."—Albert H. Barclay, Jr., Senior Vice President, Development Alternatives (DAI), Washington, D.C.

"We bitterly mourn the sudden and tragic death of professor Gould, who remains for us an exemplary architect of cooperation between America and Togo, particularly in the field of training."—Barry Moussa, Minister, Ministry of Plan and Mines, Lomé, Togo.

"The death of Dr. David Gould is certainly a loss for his family, for the U.S. But it is also painful for Africa and specifically for Mali. Dr. Gould has always fully devoted himself to the training of Malian participants and other senior government officials in management Seminar (FDMS). Dr. Gould has constantly and efficiently fought against underdevelopment in Africa through the development of human resources which is the key to any social and economic development effort.

"The circumstances of his death are proof that Dr. Gould has devoted his life to the training of African cadres for it was on his return trip from Africa that the accident occurred.

"Dr. Gould has been a loyal and persevering personality who conquered the friendship and attraction of all Malian officials who attended FDMS. On behalf of members of the AUA please transmit our heart-felt condolences to the family, the Department of State and all the staff of FDMS."—Members, Alumni of Returned Participants, Bamako, Mali.

"It is still hard to get use to the death of David Gould. A vital and warm person—now just a memory to those of us who knew him personally when we were at the University of Pittsburgh as students in 1987. Our sincere condolence for the untimely death of Prof. Gould. And big sympathy to his family, especially his wife, Terri."—Shaubhagya Lal Shrestha, USAID/Kathmandu, Sudanarshan K.C. Central Panchayat Training, Institute, Kathmandu, Subhakar Baidya, Ministry of Panchayat and local development, Kathmandu, Ram Krishna Shrestha, Public Youth Campus, Kathmandu, Kathmandu, Nepal.

REINTRODUCTION OF KIDNEY PATIENTS PROTECTION ACT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. STARK], is recognized for 5 minutes.

Mr. STARK. Mr. Speaker, today, Representatives CHANDLER, DONNELLY, LEVIN, COYNE, PICKLE, MOODY and I are introducing a revised End State Renal Disease Patient Protection and Quality Assurance Act to ensure that kidney disease patients receive the best care possible.

Last October 12, I introduced a similar bill, H.R. 5515 (CONGRESSIONAL RECORD, E3391), and sought public comment and ideas on the proposal. We have received dozens of suggestions and ideas on that bill, and I would like to thank everyone who has helped suggest improvements. The American Association of Kidney Patients, the National Renal Administrators Association, the letters to the editor of Nephrology News & Issues, the Renal Physicians Association, the National Dialysis Association, the American Nephrology Nurses' Association, the Government of the District of Columbia, the National Kidney Patients Association, National Medical Care Inc., the Forum of ESRD Networks, and the National Kidney Foundation, all spent a great deal of time and effort on suggesting ways to improve the bill. Not all of these ideas could be included in the bill, but I believe that this new version is a substantial improvement over H.R. 5515.

There are approximately 110,000 ESRD Medicare beneficiaries who are dialyzed three times a week for the their disease in outpatient maintenance dialysis facilities or who receive various types of dialysis treatment at home.

The very lives of these Medicare beneficiaries depend upon successful dialysis treatments. By and large the treatments are very safe and permit thousands of beneficiaries to live relatively normal lives. Without dialysis treatment or transplantation, these people would die quickly.

Given the life-sustaining nature of dialysis treatment, any change in Medicare payments or policy—such as the administration is proposing—creates concern among ESRD beneficaries. This is particularly true, because for reasons that we do not understand, the yearly mortality in the ESRD patient population has been rising gradually. While there is no clear documentation that quality of care is a problem, there has been a growing uneasiness in the renal community that some facilities have reduced services and staffing in the face of steadily declining real dollar levels of Medicare reimbursement and that these reductions could jeopardize the health and safety of patients.

The bill we are introducing seeks to ensure certain minimum levels of quality of care. Those who cannot meet these standards, standards which are geared to the outcome of the patient in terms of health, should either clean up their act or get out of the dialysis business.

First, the bill spells out the rights and responsibilities of ESRD patients. Currently, many of these rights are contained in regulations governing the program but there is concern that these rights are not being fully implemented nor are there effective means of enforcing them. This year's bill repeats the rights of H.R. 5515, but adds several new items:

First. Patients may form councils or committees within a facility.

Second. Patients may review their own medical records.

Third. Network organizations shall provide patients with information about facilities in their area that offer home or self-care dialysis and flexible hours of dialysis.

In the past, there have been stories of patients unaware of facilities much closer to their homes, who for years commuted long distances to other, less-convenient facilities. For a facility, a patient is cash-flow, and patients are not always agressively made aware of more convenient options. This is why it is particularly important that patients receive early and frequent counseling about other facilities and other treatment options: transplantation, peritoneal dialysis, and self-care at home.

A recent poll of ESRD patients shows that they are hungry for more information and that those who were given more information about options were more likely to choose treatments such as peritioneal dialysis—a mode of treatment generally considered to permit a higher quality of life.

Fourth. Patients shall be provided a statement of policy explaining that they may not be transferred or discharged from a facility except for reasons identified in the bill.

The previous bill did not address the most contentious issue in ESRD treatment today: Whether patients can refuse to be treated with reused dialysis filters and bloodlines. To some patients, this is an extremely serious issue. Yet tens of thousands of patients reuse their filters repeatedly without known adverse impact. Indeed, some physicians find that reused filters have less chance of causing certain kinds of toxic shock. Obviously, if patients use properly cleaned filters, a facility can save money. If patients insist on a new filter each time, the cost of treatment is increased. The bill adopts language proposed by the American Association of Kidney Patients saying that a patient cannot be discharged for refusing to be treated with a reused filter, but adds a clause saying that this protection applies only to patients that have obtained a nephrologist's written opinion that such reuse is not safe for overriding medical reasons.

This section is likely to be the most controversial part of the new bill, and I remain open to comment and reaction on the proposal.

Second, the bill requires a new survey and certification process for ESRD outpatient facilities that is patient outcome oriented and will better able to assure quality of care. This section of the bill and its enforcement mechanisms is modeled on the 1987 changes in nursing home and home health quality programs.

In this year's bill, more attention is given to ensuring that the survey protocol's are more or less standard throughout the Nation and are administered by trained or experienced survey teams.

Added to the list of items reviewed by the survey teams is the facility's own internal Quality Assurance Program. Rather than relying on government inspectors to insure quality through yearly visits, quality must be a daily, ongoing effort promoted by each facility's own staff and quality assurance plan.

One quality issue that State surveyors are to look at is whether patients are started on dialysis too soon or are perhaps dialyzed unnecessarily. As the American Nephrology Nurses' Associaton notes,

There is a possibility that patients may be started earlier than actually needed and referrals to other therapies, particularly home dialysis, may not be made.

The survey process should pay close attention to these possible abuses.

There is a danger whenever minimum quality, standards are set that they will indeed become the standard—and that excellence beyond the minimum will be neglected. If we hunt hard enough for bad apples, we are sure to find bad apples. To get away from the policing nature of our past approaches to quality, the bill proposes that the States may, if they want to, develop a multitude of annual awards for excellence in quality. Rather than encouraging minimum levels of quality, the States can encourage ever higher levels of performance. We would envision a variety of awards—with adjustments to account for differences in the severity of cases at different facilities. Awards could be for referral to successful transplantation, for reductions in morbidity, for rehabilitation, for facility morale, for patients following dietary guidelines, et cetera, et cetera.

Since patients are somewhat free to select the facility they want to, awards will provide a free market incentive to perform at the highest possible level. I hope that a number of States will explore this option and see if new levels of quality can be achieved.

The bill also specifically allows the States to cooperate in developing survey capabilities. We are asking for a more sophisticated, thorough survey program. But for some smaller States and rural Western States, this could be a burden. Therefore, to reduce costs, some States may want to cooperate in putting together survey teams or, possibly, contracting with another State for survey services.

Third, to help develop uniform protocols for quality standards, the Secretary would be required to establish an advisory board. The new bill ensures a wider membership on the board, and provides for two followup reports on a 2-year cycle on ways in which quality can be further improved. This board would also make recommendations on ways to improve the administration of the ESRD Program within HHS. In the past, the program has sometimes seemed lost in the larger Medicare Program, and the Department has been slow to resolve issues involving data collection and reimbursement levels.

Fourth, as a condition of participation facilities would be required to employ at least one registered professional nurse experienced in dialysis therapy to directly supervise patient care personnel during dialysis treatment. This means a nurse on the floor, in contact with the patients—not a nurse in the backroom, processing paperwork.

Fifth, all suppliers, not just staff-assisted suppliers, would be required to provide data to the networks.

Sixth, the function of the networks is adjusted. We have heard a great deal of criticism that the networks have not been functioning aggressively, perhaps because of legal problems involved in criticizing centers and perhaps because of delays at HHS. Since the survey teams will be greatly enhanced "sticks" to ensure quality, network critiques become somewhat of a duplication. Therefore, the bill proposes to make the networks the "carrots," organizations to help facilities with plans of correction, to help resolve patient-facility problems, and to provide information to patients.

Mr. Speaker, I hope that all or part of this bill could be included in the next round of Medicare amendments considered by the Congress. It will help bring peace of mind to tens of thousands of patients.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. Goss) to revise and extend their remarks and include extraneous material:)

Mr. DREIER, for 5 minutes, today.

Mr. RITTER, for 5 minutes, today.

Mr. MCEWEN, for 5 minutes, today.

(The following Members (at the request of Mr. HARRIS) to revise and extend their remarks and include extraneous material:)

Mr. COYNE, for 5 minutes, today.

Mr. ANNUNZIO, for 5 minutes, today.

Mr. STARK, for 5 minutes, today.

Mr. LIPINSKI, for 5 minutes, on June 20.

Mr. JONES of Georgia, for 60 minutes, on June 21.

Mr. LIPINSKI, for 60 minutes, on June 21.

Ms. PELOSI, for 60 minutes, on June 20 and 21.

(The following Member (at his own request) to revise and extend his remarks and include extraneous material:)

Mr. GONZALEZ, for 60 minutes, on June 19.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. ROSTENKOWSKI prior to the vote on the Hyde amendment in the committee of the whole today.

(The following Members (at the request of Mr. Goss) and to include extraneous matter:)

Mr. CRANE.

Mr. SPENCE in two instances.

Mr. BROOMFIELD.

Mrs. MEYERS of Kansas.

Mr. SHAYS.

Mr. MICHEL in two instances.

Mr. COX.

Mr. MACHTLEY in two instances.

Mr. DORNAN of California in two instances.

Mr. PURSELL.

Mr. LAGOMARSINO in two instances.

Mr. LOWERY of California.

Mr. ARMEY.

Mr. KYL.

Mr. MCEWEN.

Mr. EMERSON.

Mr. SCHEUER in two instances.

Mr. PACKARD.

Mr. SOLOMON.

Mr. GRADISON.

Ms. SNOWE.

Mr. DANNEMEYER.

Mr. CLINGER.

Mr. ROWLAND of Connecticut.

(The following Members (at the request of Mr. HARRIS) and to include extraneous matter:)

Mr. LIPINSKI.
Mr. BERMAN.
Mr. DOWNEY.
Mr. TRAFICANT.
Mr. PENNY.
Mr. SOLARZ in two instances.
Mr. HOYER.
Mr. MANTON.
Mr. SKELTON.
Mr. BILBRAY.
Mr. HOCHBRUECKNER.
Mr. TOWNS.
Mr. WILLIAMS in four instances.
Mr. ALEXANDER.
Mr. LEHMAN of Florida.
Mr. SCHUMER.
Mr. DELLUMS.
Mr. MARKEY.
Mr. SLATTERY.
Mr. BONIOR.
Mr. TORRES.
Ms. KAPTUR.
Mr. STARK.
Mr. CARR.

SENATE BILL AND CONCURRENT RESOLUTION REFERRED

A bill and a concurrent resolution of the Senate of the following titles were taken from the Speaker's table and, under the rule, referred as follows:

S. 1184. An act to allow the obsolete destroyer United States ship Edson (DD 946) to be transferred to the Intrepid Sea-Air-Space Museum in New York before the expiration of the otherwise applicable sixty-day congressional review period; to the Committee on Foreign Affairs.

S. Con. Res. 44. Concurrent resolution to express the sense of the Congress concerning the funeral of Imre Nagy, the former Prime Minister of Hungary, and other heroes of the 1956 revolution in Hungary; to the Committee on Armed Services.

ENROLLED JOINT RESOLUTION SIGNED

Mr. ANNUNZIO, from the Committee on House Administration, reported that that committee had examined and found truly enrolled a joint resolution of the House of the following title, which was thereupon signed by the Speaker:

H.J. Res. 274. Joint resolution to designate the week beginning June 11, 1989, as "National Scleroderma Awareness Week."

ADJOURNMENT

Mr. GONZALEZ. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 11 o'clock and 15 minutes p.m.), under its previous order the House adjourned until Monday, June 19, 1989, at 12 noon.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. DINGELL: Committee on Energy and Commerce. H.R. 2539. A bill to extend title I of the Energy Policy and Conservation Act (Rept. 101-86). Referred to the Committee of the Whole House on the State of the Union.

Mr. BROOKS: Committee on the Judiciary. H.R. 536. A bill to amend chapter 171 of title 28, United States Code, to allow claims against the United States under that chapter for damages arising from certain negligent medical care provided members of the Armed Forces; with an amendment (Rept. 101-87). Referred to the Committee of the Whole House on the State of the Union.

Mr. FASCELL: Committee on Foreign Affairs. Report on allocation of budget totals under the Concurrent Resolution on the Budget for fiscal year 1990, submitted pursuant to section 302 of the Congressional Budget Act of 1974 by the Committee on Foreign Affairs (Rept. 101-88). Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. GEJDENSON (for himself and Mr. ROTH):

H.R. 2653. A bill to authorize appropriations for fiscal year 1990 to carry out the Export Administration Act of 1979; to the Committee on Foreign Affairs.

By Mr. RITTER:

H.R. 2654. A bill to amend the Internal Revenue Code of 1986 to deny any deduction for loss on certain abandonments of nuclear powerplants, and for other purposes; to the Committee on Ways and Means.

By Mr. FASCELL (for himself, Mr. HAMILTON, Mr. YATRON, Mr. SOLARZ, Mr. WOLPE, Mr. CROCKETT, Mr. GEJDENSON, Mr. DYMALLY, Mr. LANTOS, Mr. KOSTMAYER, Mr. TORRICELLI, Mr. SMITH of Florida, Mr. BERMAN, Mr. LEVINE of California, Mr. FEIGHAN, Mr. ACKERMAN, Mr. UDALL, Mr. CLARKE, Mr. FUSTER, Mr. OWENS of Utah, Mr. JOHNSTON of Florida, Mr. ENGEL, Mr. FALEOMAVAEGA, Mr. BOSCO, Mr. MCCLOSKEY, Mr. PAYNE of New Jersey, Mr. GILMAN, Mr. SMITH of New Jersey, Mrs. MEYERS of Kansas, and Mr. MILLER of Washington):

H.R. 2655. A bill to amend the Foreign Assistance Act of 1961 to rewrite the authorities of that act in order to establish more effective assistance programs and eliminate obsolete and inconsistent provisions, to amend the Arms Export Control Act and redesignate that act as the Defense Trade and Export Control Act, to authorize approriations for foreign assistance programs for fiscal years 1990 and 1991, and for other purposes; to the Committee on Foreign Affairs.

By Mr. ARCHER:

H.R. 2656. A bill to amend the Internal Revenue Code of 1986 to provide that unearned income of a child attributable to damages received on account of personal injuries or sickness of the child shall not be taxed at the marginal rate of such child's parents; to the Committee on Ways and Means.

By Mr. CROCKETT (for himself, Mr. BERMAN, Mr. FAUNTROY, Mr. LELAND, Mr. OBERSTAR, Mr. TOWNS, and Mr. WEISS):

H.R. 2657. A bill to provide for direct mail delivery to Cuba and for the installation, maintenance, and repair of telephone communications equipment and facilities in Cuba, and for other purposes; jointly, to the Committees on Post Office and Civil Service; Energy and Commerce; and Foreign Affairs.

By Mr. GRAY:

H.R. 2658. A bill to clarify the application of section 531(b)(5) of the Deficit Reduction Act of 1984; to the Committee on Ways and Means.

By Mr. MONTGOMERY:

H.R. 2659. A bill to amend title 38, United States Code, to terminate as of April 1, 1990, the authority for the provision of certain assistance to the Republic of the Philippines for medical care and treatment of veterans and the authority for a Department of Veterans' Affairs Regional Office in the Republic of the Philippines; to the Committee on Veterans' Affairs.

By Mr. UPTON (for himself, Mr. IRELAND, and Mr. SISISKY):

H.R. 2660. A bill to amend the Regulatory Flexibility Act to provide for judicial review of certain administrative certifications, to provide for regulatory flexibility analyses of IRS interpretive rules, and for other purposes; jointly, to the Committees on the Judiciary and Ways and Means.

By Mr. RIDGE (for himself, Mr. LEWIS of Georgia, Mr. BURTON of Indiana, Mr. WALGREN, Mr. EDWARDS of Oklahoma, Mr. NEAL of North Carolina, Mr. HYDE, Mr. MURPHY, Mr. BATEMAN, Mr. ERDREICH, Mr. CLINGER, Mr. SLATTERY, Mr. MCDADE, Mr. SMITH of Mississippi, Mr. SMITH of New Hampshire, Mr. ROBERTS, Mr. BUNNING, Mr. COUGHLIN, Mr. SENSENBRENNER, Mr. WELDON, Mr. HANCOCK, Mr. WALKER, Mr. KOLTER, Mr. DICKINSON, Mr. HILER, and Mr. SCHULZE):

H.R. 2661. A bill relating to decennial censuses of population; to the Committee on Post Office and Civil Service.

By Mr. SKAGGS (for himself and Mrs. SCHROEDER):

H.R. 2662. A bill to prohibit the Department of Energy from paying fines or penalties assessed against national security programs contractors for violations of laws or regulations and to direct the Secretary of Energy to revise the system of award fees to such contractors to encourage discovery and remedy of conditions and practices that could lead to such violations; to the Committee on Armed Services.

By Mr. THOMAS of Georgia:

H.R. 2663. A bill to amend the Internal Revenue Code of 1986 to encourage reforestation and preservation of our Nation's forest habitats; to the Committee on Ways and Means.

By Mr. VISCLOSKY (for himself, Mr. CLAY, Mr. GAYDOS, Mr. MARTINEZ, Mr. JONTZ, Mr. HAYES of Illinois, Mr. MURPHY, Mrs. UNSOELD, Mr. KILDEE, Mr. RAHALL, Mr. OWENS of New York, Mr. SAWYER, Mr. MFUME, Mr. FUSTER, Mr. PAYNE of New Jersey, Mr. PERKINS, and Mr. WILLIAMS):

H.R. 2664. A bill to amend title I of the Employee Retirement Income Security Act of 1974 to provide for joint trusteeship of single-employer pension plans; to the Committee on Education and Labor.

By Mr. WILLIAMS:

H.R. 2665. A bill to amend the Job Training Partnership Act to improve the operations of the Job Corps, and for other purposes; to the Committee on Education and Labor.

By Mr. WILLIAMS (for himself and Mr. MOAKLEY):

H.R. 2666. A bill to establish a Mildred and Claude Pepper Scholarship Program; to the Committee on Education and Labor.

By Mr. WILLIAMS (for himself, Mr. STAGGERS, and Mr. SMITH of New Hampshire):

H.R. 2667. A bill to amend the Communications Act of 1934 to prohibit encryption of broadcast programming produced with Federal subsidization; to the Committee on Energy and Commerce.

By Mr. CAMPBELL of Colorado (for himself, Mr. UDALL, Mr. WHITTEN, Mr. MINETA, Mr. YOUNG of Alaska, Mr. CLAY, Mr. BOSCO, Mr. RHODES, Mr. KILDEE, Mr. VENTO, Mr. WILLIAMS, Mr. RICHARDSON, Mr. LEWIS of Georgia, Mr. DEFAZIO, Mr. FALEOMAVAEGA, Mrs. VUCANOVICH, Mr. RANGEL, Mr. WEISS, Mr. BENNETT, Mr. BEVILL, Mr. BROWN of California, Mr. BUSTAMANTE, Mr. COLEMAN of Texas, Mr. DELLUMS, Mr. FASCELL, Mr. FRENZEL, Mr. FUSTER, Mr. GORDON, Mr. JOHNSON of South Dakota, Mr. LEWIS of California, Mr. PASHAYAN, Mr. SMITH of Florida, Mr. SYNAR, and Mr. TOWNS):

H.R. 2668. A bill to authorize the establishment with the Smithsonian Institution of the National Museum of the American Indian, to establish a memorial to the American Indian, and for other purposes; jointly, to the Committees on House Administration; Public Works and Transportation; and Interior and Insular Affairs.

By Mr. CLINGER (for himself, Mr. ANDERSON, Mr. HAMMERSCHMIDT, Mr. SAVAGE, Mr. MCEWEN, Mr. HORTON, Mr. BALLENGER, Mr. BORSKI, Mr. BOSCO, Mr. BROWDER, Mr. COSTELLO, Mr. DE LUGO, Mr. EMERSON, Mr. HANCOCK, Mr. HASTERT, Mr. INHOFE, Mr. KOLTER, Mr. LIPINSKI, Mr. LEWIS of Georgia, Mr. MINETA, Mr. NOWAK, Mr. OBERSTAR, Mr. PACKARD, Mr. PALLONE, Mr. PARKER, Mr. PAYNE of Virginia, Mr. RAHALL, Mr. ROE, Mr. SHUSTER, Mr. STANGELAND, and Mr. TOWNS):

H.R. 2669. A bill to improve budgetary information by requiring that the unified budget presented by the President contain an operating budget and a capital budget, distinguish between Federal funds and trust funds, and for other purposes; jointly, to the Committees on Government Operations and Public Works and Transportation.

By Mr. DICKS (for himself, Mr. FOLEY, Mr. SWIFT, Mr. MORRISON of Washington, Mr. CHANDLER, Mr. MILLER of Washington, Mrs. UNSOELD, and Mr. MCDERMOTT):

H.R. 2670. A bill to direct the Administrator of the Environmental Protection Agency to make grants to the State of Washington Puget Sound Water Quality Authority to implement the Puget Sound water quality management plan; to the Committee on Public Works and Transportation.

By Mr. FLAKE:

H.R. 2671. A bill to amend the Internal Revenue Code of 1986 to provide for the establishment of, and the deduction of contributions to, home ownership plans; to the Committee on Ways and Means.

By Mr. MCEWEN:

H.R. 2672: A bill to authorize the President to provide appropriate protective measures for persons who, in the judgment of the President, may be under threat by reason of their knowledge of sensitive matters relating to national security; to the Committee on the Judiciary.

By Mr. MARKEY (for himself and Mr. DONNELLY):

H.R. 2673. A bill to amend title XVIII of the Social Security Act to provide coverage of nurse practitioner services under the Medicare Program; jointly, to the Committees on Ways and Means and Energy and Commerce.

By Mr. PACKARD (for himself, Mr. KOLBE, Mr. ROHRABACHER, Mr. BROWN of California, Mr. HALL of Texas, Mr. LEWIS of Florida, Mr. RITTER, and Mr. CRAIG):

H.R. 2674. A bill to encourage the development and full capability of a competitive U.S. space transportation industry by requiring the Federal Government to contract for commercially provided space transportation services with certain exceptions; to the Committee on Science, Space, and Technology.

By Mr. PORTER (for himself and Ms. PELOSI):

H.R. 2675. A bill to amend the Immigration and Nationality Act to provide for special immigrant status for certain aliens who are nationals of Hong Kong; to the Committee on the Judiciary.

By Ms. SCHNEIDER (for himself, Mr. WOLPE, Mr. SCHEUER, Mr. HENRY, Mr. BROWN of California, Mr. SHAYS, and Mrs. MORELLA):

H.R. 2676. A bill to establish within the Environmental Protection Agency a program for research and assistance to State and local governments with respect to solid waste prevention; to the Committee on Science, Space, and Technology.

By Ms. SNOWE (for herself, Mr. MILLER of Washington, Mrs. MORELLA, and Mr. CHANDLER):

H.R. 2677. A bill to amend title XVIII of the Social Security Act to establish a drug utilization review system to prevent adverse drug reactions, and for other purposes; jointly, to the Committees on Ways and Means and Energy and Commerce.

By Mr. STARK (for himself, Mr. CHANDLER, Mr. DONNELLY, Mr. LEVIN of Michigan, Mr. COYNE, Mr. PICKLE, and Mr. MOODY):

H.R. 2678. A bill to amend title XVIII of the Social Security Act to protect the rights of, and improve the quality of services provided to, end stage renal disease patients; jointly, to the Committees on Ways and Means and Energy and Commerce.

By Mr. WHITTEN:

H.J. Res. 296. Joint resolution providing authority for accelerated use of fiscal year 1989 appropriations by the Department of Veterans' Affairs; to the Committee on Appropriations.

By Mr. DANNEMEYER (for himself, Mr. ARMEY, Mr. BAKER, Mr. BALLENGER, Mr. BARTON of Texas, Mr. BLILEY, Mr. BURTON of Indiana, Mr. CALLAHAN, Mr. COBLE, Mr. CRAIG, Mr. DORNAN of California, Mr. EMERSON, Mr. FIELDS, Mr. HANCOCK, Mr. HANSEN, Mr. HOLLOWAY, Mr. HUNTER, Mr. HUTTO, Mr. HYDE, Mr. MCEWEN, Mr. MOORHEAD, Mr. NIELSON of Utah, Mr. OXLEY, Mr. ORTIZ, Mr. ROHRABACHER, Mr. SHUMWAY, Mr. SMITH of Mississippi, Mr. SMITH of New Jersey, Mr. SOLOMON, Mr. STENHOLM, Mr. SUNDQUIST, and Mr. MCCRERY):

H.J. Res. 297. Joint resolution proposing an amendment to the Constitution of the United States relating to the right of the people to allow voluntary prayer and the teaching of the Judeo-Christian ethic in public schools; to the Committee on the Judiciary.

By Mr. DOWNEY (for himself, Mr. GEJDENSON, Mr. GIBBONS, Mr. FRENZEL, Mr. GRADISON, Mr. GEPHARDT, Mr. STARK, Mr. FEIGHAN, and Mr. DE LA GARZA):

H. Con. Res. 153. Concurrent resolution relating to congressional support of a Presidential waiver of the provisions of the Jackson-Vanik amendment with respect to the Soviet Union; jointly, to the Committees on Ways and Means and Foreign Affairs.

By Mr. SOLARZ (for himself and Mr. HOYER):

H. Con. Res. 154. Concurrent resolution condemning the brutal treatment of, and blatant discrimination against, the Turkish minority by the Government of the People's Republic of Bulgaria; to the Committee on Foreign Affairs.

By Mr. ROSTENKOWSKI:

H. Res. 177. Resolution returning to the Senate the bill S. 774; considered and agreed to.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. JOHNSON of South Dakota:

H.R. 2679. A bill for the relief of Elmer Feather; to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 81: Mrs. LOWEY of New York.

H.R. 83: Mr. LIVINGSTON.

H.R. 373: Mr. GARCIA, Mr. ROBERT F. SMITH, Mr. POSHARD, Mr. SAXTON, Mr. DANNEMEYER, Mr. JACOBS, Mrs. UNSOELD, Mr. VALENTINE, Mr. WOLF, Mr. MCCANDLESS, Mr. KILDEE, Mr. MORRISON of Washington, Mr. PETRI, Mr. BILIRAKIS, Mr. LEHMAN of Florida, Mr. LIPINSKI, Mr. BEVILL, Mr. MOORHEAD, and Mr. HERGER.

H.R. 418: Mr. OBERSTAR.

H.R. 572: Mr. HANCOCK.

H.R. 578: Mr. LAGOMARSINO.

H.R. 586: Mr. WILSON.

H.R. 594: Mr. MADIGAN, Mr. PICKLE, and Mr. JOHNSTON of Florida.

H.R. 614: Mr. VOLKMER.

H.R. 624: Mr. GUNDERSON and Mr. BROOMFIELD.

H.R. 633: Mr. ERDREICH and Mr. INHOFE.

H.R. 673: Mr. GINGRICH and Mr. MARTIN of New York.

H.R. 746: Mr. FRENZEL, Mr. PARRIS, Mr. HUGHES, Mr. PAXON, Mr. DANNEMEYER, Mr. GALLEGLY, Mr. WISE, Mr. ROGERS, Mr. BARNARD, and Mr. WALSH.

H.R. 747: Mr. PARKER, Mr. THOMAS of Georgia, Mr. BROWN of California, Mr. GAYDOS, Mr. DE LA GARZA, Mr. CLAY, Mr. ROYBAL, Mr. IRELAND, Mr. NAGLE, Mr. SARPALIUS, Mrs. SCHROEDER, Mr. HOCHBRUECKNER, and Mr. NOWAK.

H.R. 790: Mr. ANNUNZIO.

H.R. 800: Mr. DURBIN and Ms. SCHNEIDER.
H.R. 957: Mr. MCDERMOTT.
H.R. 995: Mr. MONTGOMERY, Mr. KOLTER, and Mr. HASTERT.
H.R. 1024: Mr. BONIOR, Mr. LEVINE of California, Mr. HUNTER, and Mr. SMITH of Vermont.
H.R. 1028: Mr. HENRY, Mrs. SMITH of Nebraska, Mr. DONNELLY, Mr. MOODY, Mr. JONES of Georgia, Mr. HAMILTON, Mr. RAVENEL, Mr. RAHALL, Mr. WHITTAKER, Mr. KLECZKA, Mr. OBERSTAR, Mr. STARK, Mr. WALGREN, Ms. PELOSI, Mr. SAXTON, Mr. TORRES, Mr. LAGOMARSINO, Mr. COLEMAN of Texas, Mr. KOLBE, Mr. BOSCO, Mr. SMITH of Vermont, Mr. ENGLISH, Mr. TALLON, Mr. RANGEL, Mr. YOUNG of Alaska, Mr. DYMALLY, Mr. CAMPBELL of California, Mr. MOORHEAD, Mr. DWYER of New Jersey, Mr. KENNEDY, Mr. OLIN, Mr. BEREUTER, and Mr. WILSON.
H.R. 1036: Mr. ROBINSON, Mr. HERGER, Mr. TORRICELLI, and Mr. TRAFICANT.
H.R. 1044: Mr. HAYES of Illinois, Mr. DYMALLY, Mr. SMITH of Mississippi, and Mr. CROCKETT.
H.R. 1046: Mr. CLEMENT, Mr. KYL, Mr. BLAZ, Mr. SCHUMER, Mrs. UNSOELD, and Mr. FROST.
H.R. 1078: Mr. GINGRICH, Mr. CLAY, Mr. SLATTERY, and Mr. WEISS.
H.R. 1083: Mr. STARK, Mr. AUCOIN, Mr. DEFAZIO, Mr. DICKS, Mrs. UNSOELD, Mr. ENGLISH, Mr. FRANK, and Mr. BROWN of California.
H.R. 1100: Mr. KYL.
H.R. 1112: Mr. DURBIN.
H.R. 1117: Mr. ENGEL.
H.R. 1197: Mr. COMBEST, Mr. EDWARDS of Oklahoma, Mr. SMITH of Mississippi, Mr. DYSON, Mr. STALLINGS, Mr. SMITH of Florida, Mr. MADIGAN, Mr. ERDREICH, Mr. PARKER, and Mr. SHUSTER.
H.R. 1227: Mr. SMITH of New Hampshire, Mr. BLILEY, Mr. STEARNS, Mr. JAMES, and Mr. RHODES.
H.R. 1235: Mr. CROCKETT.
H.R. 1242: Mr. ROHRABACHER, Mr. DANNEMEYER, Mr. PAXON, Mr. MCEWEN, Mr. CRAIG, Mr. LAGOMARSINO, and Mr. INHOFE.
H.R. 1281: Mr. FUSTER, Mr. DONNELLY, Mr. VALENTINE, Mr. BRYANT, Mr. ROGERS, Mr. GOSS, Mr. FORD of Michigan, Mr. HILER, Mrs. BOXER, Mr. FROST, Mr. WILSON, Mr. LEVIN of Michigan, and Mrs. MEYERS of Kansas.
H.R. 1283: Mr. LEVIN of Michigan, and Mr. JOHNSON of South Dakota.
H.R. 1287: Mr. MARTINEZ.
H.R. 1317: Mr. CRANE, Mr. CARDIN, Mr. RAVENEL, Mr. MOORHEAD, Mr. EMERSON, Mr. CAMPBELL of California, Mr. JONES of North Carolina, and Mr. COBLE.
H.R. 1334: Mr. FLORIO.
H.R. 1336: Mr. PARKER.
H.R. 1337: Mr. SYNAR, Mr. STUDDS, and Mr. JONTZ.
H.R. 1377: Mr. BORSKI, Mr. KOSTMAYER, Mr. LEWIS of Florida, Mr. HUTTO, Mr. TOWNS, Mr. HUGHES, Mr. DEFAZIO, Mr. MCEWEN, and Mr. BOSCO.
H.R. 1602: Mr. BROWN of California and Mr. GLICKMAN.
H.R. 1608: Mr. SCHUETTE.
H.R. 1643: Mr. JONTZ and Mr. GARCIA.
H.R. 1652: Mr. SOLARZ.
H.R. 1687: Mr. ARMEY and Mr. LIGHTFOOT.
H.R. 1703: Mr. WALKER, Mr. PACKARD, Mr. GALLEGLY, and Mr. HERGER.
H.R. 1780: Mr. HAMMERSCHMIDT, Ms. PELOSI, Mr. SMITH of New Jersey, and Mr. BURTON of Indiana.
H.R. 1839: Mr. LIPINSKI, Mr. DONNELLY, Mr. LEWIS of Georgia, Mr. OWENS of New York, Mr. VENTO, and Mr. ATKINS.
H.R. 1875: Mr. BUSTAMANTE, Mr. PARRIS, and Mr. ROHRABACHER.
H.R. 1953: Mr. PARRIS.
H.R. 2050: Mr. FALEOMAVAEGA.
H.R. 2097: Mr. COURTER, Mr. HENRY, Mr. BUECHNER, Mr. ROBINSON, Mr. ARMEY, Mr. GRANT, Mr. OWENS of New York, Mr. PACKARD, and Mr. HOLLOWAY.
H.R. 2099: Mr. OLIN.
H.R. 2131: Mr. ROE, Mr. WELDON, and Mr. PRICE.
H.R. 2190: Mr. CAMPBELL of Colorado, Mr. DYSON, Mr. GUARINI, Mr. KENNEDY, Mr. MCCRERY, Mr. MCDERMOTT, Mr. PENNY, Mrs. SAIKI, Mr. TAUZIN, Mr. TORRES, Mr. WYDEN, Mr. ROBINSON, Mr. MAVROULES, Mr. RICHARDSON, Mr. INHOFE, Mr. JOHNSON of South Dakota, Mr. FAUNTROY, Mr. BOEHLERT, Mr. FLORIO, Mr. FORD of Michigan, Mr. RAY, Mr. BRYANT, Mr. TRAFICANT, Mr. BROOKS, and Mr. BONIOR.
H.R. 2195: Mr. FLORIO.
H.R. 2197: Mr. PARKER, Mr. ESPY, and Mr. WHITTEN.
H.R. 2202: Mrs. BOXER, Mr. RAVENEL, and Mr. TALLON.
H.R. 2217: Mr. WALSH, Mr. STENHOLM, Mr. SAVAGE, and Mr. DONNELLY.
H.R. 2257: Ms. SNOWE.
H.R. 2258: Mr. COMBEST.
H.R. 2269: Mr. FIELDS and Mr. MANTON.
H.R. 2273: Mr. SKAGGS, Mr. YATRON, Mr. SANGMEISTER, Mr. JENKINS, Mr. JOHNSON of South Dakota, Mr. GREEN, Mr. DYSON, Mr. CLEMENT, and Mr. SLATTERY.
H.R. 2277: Mr. HANCOCK.
H.R. 2287: Mr. FUSTER, Mr. MARTINEZ, Mr. ROBINSON, Mr. FAUNTROY, Mr. ATKINS, Mrs. BENTLEY, Mr. BILBRAY, and Mr. HUGHES.
H.R. 2335: Mr. HEFNER, Mr. NEAL of North Carolina, and Mr. JONES of North Carolina.
H.R. 2374: Mr. DYMALLY, Mr. STARK, Mr. FUSTER, Mr. PAYNE of New Jersey, Mr. GEJDENSON, Mr. CONYERS, Mr. LANCASTER, Mr. PARKER, Mr. OWENS of New York, Mr. LIPINSKI, Mrs. MARTIN of Illinois, Mr. MARTINEZ, Ms. PELOSI, and Mr. DE LUGO.
H.R. 2386: Mrs. JOHNSON of Connecticut, Mr. LIPINSKI, Mr. MILLER of California, Ms. SCHNEIDER, Mr. FORD of Michigan, Mr. FAWELL, Mr. KILDEE, Mr. DE LUGO, and Mr. BATES.
H.R. 2395: Mr. SCHUETTE, Mr. SCHEUER, and Mr. WISE.
H.R. 2417: Mr. GINGRICH, Mr. ROBINSON, Mr. WALGREN, Mr. DE LUGO, Mr. TRAFICANT, Mr. UPTON, Mr. MCEWEN, Mr. CLINGER, Mr. DEFAZIO, Mr. LIGHTFOOT, Mr. HANCOCK, Mr. EMERSON, Mr. LENT, Mr. STANGELAND, Mr. VALENTINE, Mr. COX, Mr. PACKARD, Mr. SHUSTER, Mr. GRANT, Mr. PETRI, Mr. BALLENGER, Mr. ROGERS, Mr. HASTERT, Mr. HAMMERSCHMIDT, Mr. KOLTER, Mr. COURTER, and Mr. WISE.
H.R. 2418: Mr. PENNY, Mr. EMERSON, Mr. HANCOCK, Mr. MOLLOHAN, and Mr. FAWELL.
H.R. 2437: Mr. FUSTER and Mr. WILSON.
H.R. 2462: Mr. DEFAZIO, Mr. HAYES of Illinois, Mr. PARKER, Mr. BROWN of California, Mrs. COLLINS, Mr. BUSTAMANTE, Mr. WOLPE, Mr. ATKINS, Mrs. LOWEY of New York, Mr. STUDDS, and Mrs. PATTERSON.
H.R. 2465: Mr. BEREUTER, Mr. DYMALLY, Mr. FUSTER, Mr. HERGER, Mr. INHOFE, Mr. KOLTER, Mr. MRAZEK, Mr. OXLEY, Mr. PAXON, Mr. PENNY, Mr. ROBINSON, Mr. WALSH, Mr. FORD of Michigan, and Mrs. MEYERS of Kansas.
H.R. 2466: Mr. MINETA, and Mr. SABO.
H.R. 2467: Mr. SMITH of Missisippi, Mr. BARTON of Texas, Mr. WOLPE, and Mr. JONES of North Carolina.
H.R. 2480: Mr. DUNCAN, and Mr. TANNER.
H.R. 2507: Mr. MACHTLEY and Mr. LAGOMARSINO.
H.R. 2543: Mr. RANGEL, Mr. CHAPMAN, and Mr. OWENS of Utah.
H.R. 2547: Mr. FAZIO.
H.R. 2585: Mr. MINETA, Mr. OBERSTAR, and Mr. PALLONE.
H.J. Res. 36: Mrs. ROUKEMA, Ms. PELOSI, Mr. RINALDO, and Mr. MANTON.
H.J. Res. 54: Mr. STARK and Mr. MARKEY.
H.J. Res. 67: Mr. MAVROULES, Mr. AKAKA, and Mrs. VUCANOVICH.
H.J. Res. 127: Mr. VALENTINE and Mr. PRICE.
H.J. Res. 178: Mr. PARKER, Mrs. LOWEY of New York, Mr. ROE, Mr. HAYES of Illinois, Mr. LIVINGSTON, Mr. ASPIN, Mr. WILSON, Mr. ROWLAND of Georgia, and Mr. DORGAN of North Dakota.
H.J. Res. 188: Mr. HOLLOWAY.
H.J. Res. 221: Mr. BORSKI, Mr. BOUCHER, Mr. LEACH of Iowa, Mr. MOORHEAD, Mr. OLIN, and Mr. SARPALIUS.
H.J. Res. 226: Mr. HEFNER, Mr. WEISS, Mr. PRICE, Mr. GALLO, Mr. FORD of Michigan, Mrs. PATTERSON, Mr. ROE, Mr. SIKORSKI, Mr. WYLIE, and Mr. STALLINGS.
H.J. Res. 263: Mr. HORTON.
H.J. Res. 265: Mr. ACKERMAN, Mr. GEJDENSON, Mr. HUNTER, Mr. FAUNTROY, Mr. FROST, Mr. OWENS of New York, Mr. ROE, Mrs. BOGGS, Mr. HAYES of Louisiana, Mr. LIVINGSTON, Mr. MATSUI, Ms. PELOSI, Mr. ANDERSON, Mr. BENNETT, Mr. TRAFICANT, Mr. MACHTLEY, and Mr. BLILEY.
H.J. Res. 282: Mr. FAZIO, Mr. KOLTER, Mr. OWENS of New York, Mr. SHUMWAY, Mr. EMERSON, Mr. APPLEGATE, Mr. BOUCHER, Mr. BUSTAMANTE, Mr. CARPER, Mr. ATKINS, Mr. VENTO, Mr. DE LUGO, Mr. EVANS, Mr. DEFAZIO, Mr. FLORIO, Mr. FAWELL, Mr. GARCIA, Mr. GRANDY, Mr. HAYES of Louisiana, Mr. HOCHBRUECKNER, Mr. HYDE, Mr. FOGLIETTA, Mr. DWYER of New Jersey, Mr. HAMMERSCHMIDT, Mr. SCHUETTE, Mr. PARKER, Mrs. COLLINS, Mr. WALSH, Mr. DORGAN of North Dakota, Mr. COURTER, Mr. FORD of Tennessee, Mr. FAUNTROY, Mr. FUSTER, Mr. LANCASTER, Mr. LEWIS of Florida, Mr. LIPINSKI, Mr. THOMAS A. LUKEN, Mr. MARKEY, Mr. MARTIN of New York, Mr. LEVIN of Michigan, Mr. HERTEL, Mr. HALL of Texas, Mr. MCCLOSKEY, Mr. ESPY, Mr. MCCOLLUM, Mr. MCDADE, Mr. MCEWEN, Mr. MILLER of California, Mrs. MEYERS of Kansas, Mr. NEAL of North Carolina, Mr. CONTE, Mr. SMITH of Florida, Mr. CRAIG, and Mr. VANDER JAGT.
H. Con. Res. 48: Mr. PICKLE and Mr. OBERSTAR.
H. Con. Res. 62: Mr. KOLTER, Mr. GALLO, Mr. MCNULTY, Mr. EVANS, Mr. GUARINI, Mr. DONNELLY, Mr. ROWLAND of Connecticut, and Mr. AKAKA.
H. Con. Res. 130: Mrs. BOXER, Mr. DIXON, Mr. ENGEL, Mr. FAZIO, Mr. MFUME, Mr. NEAL of North Carolina, and Mr. WILSON.
H. Res. 95: Mr. DANNEMEYER.
H. Res. 134: Mr. RHODES.
H. Res. 139: Mr. ENGLISH, Mr. ESPY, Mr. SOLOMON, and Mr. HEFNER.1

EXTENSIONS OF REMARKS

AN ANALYSIS OF THE CURRENT CRISIS IN THE PEOPLE'S REPUBLIC OF CHINA

HON. FLOYD SPENCE

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 15, 1989

Mr. SPENCE. Mr. Speaker, in the wake of the tragic and suppressive actions taken by the Government of China, I would like to share with my colleagues an editorial written by a noted professor of government and international studies at the University of South Carolina, an exceptional institution located in my congressional district. Prof. James T. Myers has been a professor of East Asian affairs at the university for the past 20 years. In this piece, entitled "Whither China?" Dr. Myers illustrates the realities of the Beijing crisis by bringing the student riots into historical perspective. He reminds his readers that "democracy" was not on the verge of becoming the new ideological basis for the Government in China; nor was it the principal catalyst for the turmoil. Dr. Myers reascertains that communism is alive and well in China and, that the harsh actions taken by the Chinese Government against the will of the students and also its people, while contemptible, should not come as a surprise to anyone.

WHITHER CHINA?

(By James T. Myers, professor of government and international studies, University of South Carolina)

Recent events the People's Republic of China have caused world leaders to express "regret," "outrage," even "shock," that the Chinese government would resort to the use of naked, deadly force against its own people. There can be no argument about the tragic nature of these events, not only for the cause of human rights in China, but also for the increasingly faint hope for the success of the Chinese modernization plans. But the decision of the Chinese government to use units of the People's Armed Police and the People's Liberation Army (P.L.A.) against a non-violent demonstration by the Chinese people should not be a cause of astonishment to anyone. Regret surely, but not surprise.

It was, afterall, only a few short weeks ago that the same Chinese government ordered the use of deadly force against peaceful demonstrations by Tibetan-Chinese citizens in Tibet. The fact that the Chinese government has carried out a policy of genocide against the Tibetan people for decades, and that the Tibetans want their independence from China, makes the Lhasa demonstrations different from those in Tiananmen Square only in detail, not in principle. I suspect the real source of the world's shock is the intensive media coverage which the Beijing student demonstrations have received and the attendant pious but naive commentary to the effect that democracy was about to come to China, that the "Mandate of Heaven" was slipping away from China's Communist government, and that the progress of the Chinese reform movement toward "liberalism" was irreversible. If nothing else good comes out of this tragedy it will perhaps have a heuristic value, reminding us that nothing in politics is irreversible, especially the march toward Western liberal democracy in a political system like that of the People's Republic of China.

In fact, the spectacle of the Chinese government engaging in the "wanton slaughter" of its own people, to quote a distinguished member of the U.S. Congress in describing the use of the Army against the students, is really nothing new.

If we look back to 1951, for example, the first year in which the new Communist government had consolidated complete control over the Mainland, Hainan Island and Tibet, the government launched what can only fairly be described as a year-long reign of revolutionary terror. The campaign was called "Suppression of Counterrevolutionaries." The precise human toll of this campaign is impossible to calculate, but responsible scholars estimate the numbers of deaths in the hundreds of thousands, and perhaps in the millions. The Land Reform Movement was taking place at the same time with the bloody and violent (and successful) attempt to eliminate the gentry class in the Chinese countryside. One figure may give an indication of the scale of the killing; in the city of Canton alone, the government reported more than 20,000 executions in a ten-month period in 1951. To such execution statistics must be added large numbers of suicides plus the deaths associated with the agrarian reform movement in the countryside. Mao Zedong had explained all this with his usual clarity.

"Our state is a people's democratic dictatorship. * * * What is dictatorship for? Its function is to suppress the reactionary classes and elements and those exploiters in our country who resist the socialist revolution, to suppress those who try to wreck socialist construction."

Mao's point is an important one to remember in the context of current events because it was made in 1957 in response to the "thaw" of the so-called "100 flowers" period when the Party asked for the helpful criticism of Chinese intellectuals. What the Party got for its trouble was an outburst of criticism not unlike the recent criticism of the Beijing students, namely: the problem with China is the Party itself. The Party was no more receptive to this notion in 1957 than it has been in 1989.

And in the mean time, there have been all the other campaigns in which the Chinese government has turned on its own people, such as the "three-anti" and "five-anti" and "anti-rightist" campaigns of the 1950s and, of course, the famous Great Leap Forward. We now know from extremely reliable demographic studies that the famine in China caused principally by the Great Leap policies created in China in 1960-61 a population deficit of approximately 31 million. A famine may not be as sudden as a massacre, but the end result is pretty much the same. It is also important to remember that Deng Xiaoping was General Secretary of the Communist Party and a member of the Politburo during most of this period.

And then, there was the famous Great Proletarian Cultural Revolution (1966-1976), the details of which we need not belabor here. The "wounded" literature of the survivors of China's holocaust is well-known, some of the personal accounts of this period having become best sellers in the United States. Deng himself became a victim of the Cultural revolution, purged and branded a "capitalist roader." His son was thrown out of a window at Beijing University and paralyzed for life.

Over the years, then, the record of government violence against the Chinese people is a rather substantial one.

During this time the factional strife within the Communist leadership has not been between "liberals" and "conservatives" in the Western sense, or between "hard liners" and those who advocated "human rights," but between those more willing to take risks to make the inefficient Marxist system work more efficiently and those more comfortable with the security of the inefficient status quo. Deng has been among the risk takers, but it has been a mistake to regard him as a "liberal" in the Western sense, leading his country toward democracy and capitalism. Deng has never favored the sort of intellectual disorder which is necessary to make a pluralist, democratic political system work. Deng has always been identified with the forces of order and repression whenever things got out of hand.

The problem is that Deng has wanted to have it both ways. He has wanted to maintain control and order, but he has also wanted to encourage the sort of intellectual innovation which is necessary to achieve economic development and modernization. Unfortunately, from his perspective, every time political openness has invited innovation, someone has innovated the response that China's problems lay in its Marxist-Leninist Communist system and that the Communist Party should go away and leave the people alone. And each time the government's predictable response has been repression. The recent case is different only in its scale and in the intensity of media coverage which it has attracted.

And now, the army is in the streets with reports of fighting between units loyal to various factions or individuals in the leadership. None of this is entirely new either. Indeed, the middle-aged and senior officers of the P.L.A. have been through this not so long ago in the Cultural Revolution when wholesale violence and civil disorder swept the nation for nearly three years. Army units battled each other and armed rival Red Guard units. In the end though, the army came together to end the violence and to restore order, and essentially to run the country for the next five or six years. And this despite the fact that deep political divisions remained within the leadership which were not finally solved until after Mao's death in 1976.

Can the same thing happen again, or is China doomed to disintegration and civil war? It is always hazardous to predict the future and especially so in a situation as

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

fluid and volitile as that which exists in China today. Several points, however, are worth remembering.

There is no effective opposition to communist rule in China. There is, to be sure, widespread popular discontent, unease, malaise, call it what you will, but such "opposition" is atomized. There is no focus, no leadership, no structure, no institutional support for the opposition. Suppose the "hard liners" Deng Xiaoping and Li Peng should be ousted, who would replace them? Deng and Li, after all, are last year's "reformers," and Deng was cited as *Time* Magazine's "Man of the Year" for leading his country toward capitalism. There are no philosopher kings waiting in the wings, only Communist Party bureaucrats who have spent a lifetime maneuvering their way to the top of the Party hierarchy.

In addition, the P.L.A. has an enormous stake in seeing that China does not fragment and drift into anarchy. It is not entirely unlikely that the army will bury its differences as they did during the Cultural Revolution and restore order and at least the appearance of a normally functioning society. The current situation cannot persist for much longer with public transportation paralyzed, food deliveries to many cities interrupted or stopped, and essential services shut down because no one is going to work.

It is, of course, also possible that civil war will break out in China, though this seems the less likely outcome of what is essentially an intra-Party power struggle at the moment. Indeed, we should probably not be surprised if, a year from today, the government of China looks much like it did before the student demonstrations, with a Central Committee and a Politburo run by most of the same people, and Chairman Mao's portrait still in its place over the Gate of Heavenly Peace.

The problems symbolized by the student demonstrations in Beijing are long-term problems which are not susceptible to short-term solutions. It is true that we are witnessing history in the making, that China will never be the same, even that this may be the end of Communist rule in China, but the culmination of these events is not likely to be sudden and dramatic. The May 4, 1919 Movement may have marked the birth of modern China, but it was a decade before the impact of this movement was seen in the political life of the nation.

Many of the problems which the students and intellectuals of 1919 were responding to had been around since the 1890s. They sought the appropriate political formula for China's successful entry into the modern world. Those who believed that Communist rule provided this formula have been proven wrong. For the Chinese students and intellectuals of the 1990s, like their counterparts of a century ago, their quest will be neither quick nor easy.

THE LAST SCHOOLBOY

HON. IKE SKELTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 15, 1989

Mr. SKELTON. Mr. Speaker, recently I had the opportunity to read a short item about the now-retired Senator from Mississippi, John C. Stennis. He was in many ways an inspiration to us all. I submit this writing to the CONGRESSIONAL RECORD by Mr. Nicholas Glakas, the former general counsel of the Senate Appropriations Committee, so that it may be shared with the other Members of this body.

THE LAST SCHOOLBOY

Many years ago when I first read James Hilton's classic, "Goodbye, Mr. Chips," I could not know that one day I would find myself in the role of that novel's last schoolboy. Perhaps this is because when life imitates art, it often does so in subtle ways. For me, this will happen at year's end with the departure of the senior senator from Mississippi—John C. Stennis—chairman of the Appropriations Committee and President Pro Tempore of the Senate. When he finally does leave this institution which he so loves and where he is in turn revered by all, he will undoubtedly do so in the same steady way he has served it for almost 42 years and under eight presidents: with quite grace, unflinching modesty and serene gentility.

John Stennis was born when the century was new—in 1901— and as our nation now stands on the threshold of the last decade of this long century, he will return to his beloved Mississippi from where he was first sent to the Senate in 1947. He will leave behind a legacy which is almost unique: a senatorial career that spans one-fifth of the republic's history, including our country's emergency after World War II as a superpower. In this respect, and as it was once remarked of Dean Acheson, it may be said of John Stennis that he, too, was "present at the creation."

I came to know this great and gentle man in the twilight of his career when he chose me to serve as general counsel to the Senate Appropriations Committee. At 85, he had just assumed the chairmanship of one of the most powerful committees in the Senate, and at 42 I was being offered a job that most lawyers could only dream about.

The Chairman counseled me that first morning on the duties and responsibilties that would be mine and then spoke in reverent fashion of the great men he had known and served with over the course of his 40 years in the Senate. None occupied a higher place in his pantheon of heroes than Dick Russell—the legendary senator from Georgia who many years before had also been chairman of the Appropriations Committee and who had taken under his wing the young John Stennis. Whenever he spoke of Russell, who died in 1973, it was as if his mentor were still present and he, John Stennis, still had so much to learn.

Over the following weeks and months as we came to know each other, and our daily conversations ranged over the numerous and varied issues before the committee, a bridge was slowly built between the years that separated us. In discussing military matters, if I strayed into remembering my own wartime experience as a young naval officer in Vietnam or my father's service in World War II, he remembered and spoke of his uncle who fought and died at Gettysburg. If our conversation turned to politics where my earliest recollections were of the Kennedy-Nixon debates, he remembered with clarity his first presidential election which involved Woodrow Wilson. He always considered himself a Woodrow Wilson Democrat, and so informed President Reagan when first they met in 1981. The new President's reply was immediate: "That's what I am!" And so the bond was forged with yet another chief executive.

I cannot remember when it first dawned on me that I was slowly becoming the privileged recipient of a wonderful oral history of our country. Instead, I saw myself as a schoolboy again—a student to a teacher who had the marvelous ability of being able to consider the problems of the present within the context of the solutions of the past. The critical problem this year of adequate appropriations for a future manned space station reminded him of President Kennedy's request to him many years ago for assistance in getting sufficient funds from the committee to support the new president's announced goal of putting a man on the moon before the end of that decade. Similarly, President Reagan's recent visit to the Soviet Union to conclude the INF Treaty with representatives of that "evil empire" reminded John Stennis of when President Nixon first sought his advice on a secret plan to visit China and the repercussions which might result if Nixon were to try and open relations with a country which he had so bitterly denounced over the years. When Senator Stennis informed the president that he supported the secret overture, Nixon asked: "But will you support me on the Senate floor if I fail?" John Stennis replied, "Yes I will, Mr. President." There is in Senator John Stennis a deep reverence for the office of the presidency surpassed only by his love for the Constitution. Presidents come and go, but the office, like the Constitution, remains and must be protected. Perhaps because he never aspired to the office, but memorized every word of the document, that the Constitution remains paramount.

I once raised the notion of his writing a book about all that he had seen, learned, and been privy to over the course of his career—of his first meeting with President Harry Truman, of his long friendship with Lyndon Johnson, of his relationships with the 400 senators with whom he had served. "No," he said, "I don't think there would be much interest in such a book." And when I persisted over the course of several weeks, even giving him a short chronology of the major events of the past 40 years, explaining that there would indeed be a large audience of scholars, historians, politicians and others who would benefit from his perspective on these events, he would smile, sitting there in his wheelchair, blue eyes twinkling, and reply again and again, "No, I have no lessons to teach."

Of course, he was wrong. Or perhaps he understood better than I that what I hoped he would spell out were the traits he has come to embody for his colleagues and which cannot really be taught except by example. Senator J. Bennett Johnston of Louisiana has said that John Stennis is a man who "defines the word integrity." Senator Ted Stevens of Alaska has called him "an inspiration to new senators for four decades." Senator John Warner has likened him to a "second father." Senator Sam Nunn has declared that "no higher honor has come my way than serving in the United States Senate with John Stennis." Senator Mark Hatfield, the ranking Republican on the Appropriations Committee and one of the Chairman's closest friends, will show you that on the wall of his inner office are only family pictures, except for one—that of John Stennis. Perhaps for all of these qualities and so much more, President Reagan has announced that as an expression of the nation's gratitude for his years of public service, the Navy's next aircraft carrier would be named in his honor and christened the *USS John C. Stennis* (CVN-74).

In the words of his Senate colleagues, "integrity," "inspiration," "honor," and "service" are the hallmarks of John Stennis. And although he may not believe he has any lessons to teach, he has already taught them to a generation of today's leaders. And in his own quiet way, he has even found the time to teach me—his last general counsel.

I have seen firsthand the true quality of courage from a man who has faced adversity in the form of gunshot wounds, amputation of a cancerous leg and the loss of his beloved wife, but who has steadily maintained his love for life, his work and his country. I have observed integrity from one who embodies that virtue in the eyes of his colleagues and who, 34 years ago when our political institutions were cowed by Senator Joseph McCarthy, was the first to take to the Senate floor to denounce the "slush and slime" of McCarthy's tactics in pursuit of Communists and who later went on to devise the Senate's first code of ethics. I have seen real modesty in a man who has added so much to the fabric of our nation, especially during the 1970's when he served as chairman of the Senate Armed Services Committee, but who fervently believes that his contributions were small and that others deserve the real credit. I have learned from this man that there should be no room in a person's life for self-pity regardless of how unfair or harsh life may sometimes be. I have learned that honor and duty are the touchstones of public service and that the "old-fashioned" virtues remain the sign posts on the journey through life.

And finally, I have seen the quintessential graceful exit of a great man from an institution which he loves: At his last meeting with the staff of the Appropriations Committee the Chairman thanked everyone for their hard work this year in helping to enact 13 individual Appropriation bills and then reflected on his pending retirement. "You know, I had been giving some thought to making the Senate a career, but finally decided against it." Amid the laughter which ensued, more than just a few tears were noticeable around the room.

John Stennis has had many general counsels over his career, but I was the last—the last schoolboy to sit with Mr. Chips. And like the last schoolboy in the novel, the lessons he has taught and the example he has shown will remain with me for the rest of my life. I am a better man for having known him and when the time comes to say goodbye, we will laugh one last time together.

I wish you well, Mr. Chairman, and may your spirit forever echo down the halls of your beloved Senate.

A CONGRESSIONAL TRIBUTE TO PASTOR H. FRANK COLLINS

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 15, 1989

Mr. ANDERSON. Mr. Speaker, I rise today to pay tribute to an outstanding individual who has devoted 26 years to his congregation and the community of Bellflower, CA. Pastor H. Frank Collins will be honored on Sunday, June 18, 1989 as he celebrates his 26th anniversary with Calgary Baptist Church. This occasion allows me to thank Pastor Collins for the valuable influence he has had on his congregation and the community.

Pastor Collins was born on a farm in north western Alabama, and was the youngest of 12 children. He attended Lamar County schools in Alabama before moving on to the Dallas School of Music in Texas and later the Chadok Conservatory of Music in Tennessee. He also attended Franklin College in Indiana. After attending the Northern Baptist Seminary in Chicago he was ordained to the ministry on July 2, 1951. Since then, he has been given three doctorates, from Bob Jones University, California Graduate School of Theology, and Pacific Coast Baptist Bible College.

Also during this time Pastor Collins was very active in music. Between 1941–49 his performances were covered on 10 radio stations and both CBS and mutual network weekly programs. He shared this musical interest with his wife, Bernice, whom he married in 1946. Bernice was a professional singer with CBS Network and WHAS Radio Station in Louisville, KY, at the time. Pastor Collins has continued his interest in broadcasting as the speaker for the radio and television program "Meetin' Time at Calvary," heard in the Los Angeles area, for the past 15 years.

After being ordained to the ministry, Pastor Collins pastored churches in Franklin, IN, and Greenville, SC. He also served as assistant to the president at the Baptist Bible College in Springfield, MO, before being called to pastor at Calvary Baptist Church in Bellflower in June 1963.

While under his pastorship, the congregation has grown from 400 members to 3,200, and the church has acquired property and built four new buildings. His influence has extended around the world, as the Calvary Baptist Church now supports 52 missionaries worldwide and three educational institutions. One of the institutions, located in the Phillipines, was built solely by the Calvary Baptist Church. Two of these colleges have dormitories that bear his name.

Always active, Pastor Collins has also conducted 12 tours of Europe and the Holy Land. He is also in constant demand as a National and International Bible Conference speaker.

My wife, Lee, joins me in extending our congratulations to this generous and caring individual, and to his wife, Bernice, and children, Sandra Gale Lapham of Bellflower, and David Scott Collins of Lubbock, TX. He is truly a remarkable individual who, over the years, has provided support and comfort to his congregation and has devoted his talents to building his church and community. We wish Pastor Collins all the best in the years to come.

MEALS ON WHEELS AMERICA ROLLS ON

HON. THOMAS J. DOWNEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 15, 1989

Mr. DOWNEY. Mr. Speaker, as chairman of the Subcommittee on Human Services of the House Select Committee on Aging, I was pleased to participate in the Meals on Wheels America second annual press conference breakfast on Wednesday, May 31. At this breakfast an announcement was made of the selection of 10 additional communities to be included in the Meals On Wheels America Program for the coming year.

Meals On Wheels America is the nationwide supplemental meals program designed to benefit the homebound elderly. Officially launched on June 8, 1988, in Washington, DC, Meals On Wheels serves as a complement to Federal funding under the Older Americans Act. The home-delivered meals program was added as a separate section to the Older Americans Act in 1978, and has been included in every reauthorization since.

As Meals On Wheels America expands this year, even more elderly Americans will receive not only meals, but also the accompanying benefits which this outstanding service provides. This past Thanksgiving, 25,000 hot holiday meals were delivered to needy elderly who otherwise might not have been able to eat.

Not only were the meals delivered, but in many cases time was spent visiting with the elderly, who most likely would have spent the holiday alone. This added aspect of attention and human caring is what makes Meals On Wheels America so special and so necessary.

The additional cities which have been included in the program are: Boise, ID; Huntsville, AL; North Little Rock, AR; Colorado Springs, CO; New Castle, DE; St. Louis, MO; Cleveland, OH; Nashville, TN; Madison, WI; and Rochester, in my home State of New York. These cities will join the founding cities in serving the needs of the Nation's elderly. This expansion must be viewed as a victory not only for Meals On Wheels America, but for the elders of America as well. Meals On Wheels America helps to provide an alternative to institutionalization for many elderly people, and is provided at a small fraction of the cost to the Government.

Throughout the last year, thousands of elderly homebound in our Nation have been made much more secure because of Meals On Wheels. Thousands more may look forward to this assistance in the coming year thanks to the efforts and leadership of Commissioner Janet Sainer of the New York City Department of the Aging, which continues to serve as a model for the program.

I would also like to congratulate the sponsors of Meals On Wheels America, Bristol Myers Products and Joseph E. Seagram & Sons, Inc., whose generosity continues to bring happiness to more cities, and more people.

TRIBUTE TO 50TH ANNIVERSARY OF LAFAYETTE HIGH SCHOOL

HON. STEPHEN J. SOLARZ

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 15, 1989

Mr. SOLARZ. Mr. Speaker, I take great pleasure in rising today to pay tribute to Lafayette High School, located in the Gravesend section of my district, which is celebrating its 50th anniversary this year. I am proud of the exemplary service that it has given to the high

school students of Gravesend for so many years.

Lafayette has played a very important role in the community since it began functioning in 1939. Whether supporting the war effort during the 1940's, delighting the neighborhood with a spring carnival in the 1950's, or rallying fans around the school's exceptional athletic teams during the 1960's, 1970's, and 1980's, Lafayette has been a model educational institution and community center since its founding.

Through time, the school has flourished under the loving attention of devoted principals and faculty, and has grown to accommodate changes in the population and ethnic character of the surrounding community.

Everyone connected with Lafayette believes that the school is not only an academic community, but a social one as well, and as a result, extracurricular activities have thrived. The first student elections were held in 1940, and ever since, succeeding principals have encouraged and have recognized the importance of programs sponsored by the student organization.

The Lafayette community has long held the philosophy that public service goes hand-in-hand with learning and has established a tradition of involvement that will continue to benefit Gravesend residents for years to come. Through many years of growth and enrichment, the school has continued to add to the strength of the area and has enabled Gravesend to grow into one of the most prosperous neighborhoods in Brooklyn.

While Lafayette's presence is felt most strongly in the neighborhoods surrounding it, the school has had even more widespread impact. Indeed, graduates of Lafayette—excelling in areas as diverse as entertainment, medicine, engineering, and professional baseball—have not only made major contributions to Brooklyn's greatness, but to New York City's, New York State's, and the United States' as well.

On the celebration of this milestone, I am proud to honor Lafayette High School as among the finest institutions of learning and community activity in my district.

LET'S SWAP FSX FOR HDTV

HON. FRANK PALLONE, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 15, 1989

Mr. PALLONE. Mr. Speaker, I would like to bring to the attention of my colleagues the following article, written by my fellow New Jerseyan, the Honorable JAMES J. FLORIO and published in the June 12, 1989, edition of the Christian Science Monitor. There are many mutual benefits to a continued close relationship between the United States and Japan. The only thing that American business and American workers ask is that they be allowed to compete on a level playing field with their Japanese counterparts. I believe that Congressman FLORIO offers us a reasonable, commonsense approach to maintaining our close relationship with Japan by allowing each nation to benefit from the other's expertise and enhancing both countries' national security and economic strength in the process.

LET'S SWAP FSX FOR HDTV

(By James J. Florio)

The Bush administration believes there are valid reasons for the United States to co-develop the FSX fighter jet with Japan. If that's the case, then why wouldn't a similar agreement in which the roles of the United States and Japanese industries are reversed also be justified?

Japan has an infant aircraft industry; we are the world leaders in aircraft manufacturing. Under the FSX agreement, we will show Japan how to build the FSX, *and* Japan will get 60 percent of both the development and production work generated by the project. The U.S. will get 40 percent of the development and production work.

The U.S., on the other hand, has an infant high-definition television (HDTV) industry, while Japan is a leading world competitor in this newest high-technology industry. Why shouldn't we require Japan to share its HDTV technology with us, in order to sell its HDTV products in the U.S.? Furthermore, if Japan can demand 60 percent of the development and production work for the FSX, then we have every bit as much right to require that 60 percent of the development and production of HDTVs sold here be done by American firms.

Some might say that national security is a factor in the FSX agreement, which makes Japan's demands for technology, development, and production sharing justified. But what could be more directly related to national security than the ability to produce state-of-the-art high-technology electronics on which most modern weapons systems depend?

High-Delinition television is the technology driver for the next generation of electronics that will dominate and redefine the workplace and transform defense and other electronics products in a matter of just a few years. America's national security demands that we have a capability in this critical new industry.

What's good for the FSX should be good for HDTV. Don't prohibit the sale of Japanese HDTVs in our market; but as in the case of the FSX, force Japan to share its technology with us, and we will manufacture those HDTVs sold here using a majority American content.

If, as the administration claims, Japan's national interests justify building its own fighter plane, then we have the right to ensure the preservation of our electronics industry, on which our defense strength directly depends.

To be strong, America must help Japan and our other allies meet their legitimate economic and defense needs. But we must also keep our essential industries competitive and strong and fight to expand markets. If the FSX agreement is a legitimate way to address Japan's defense needs, I believe and similar agreement may also be our best hope for maintaining the competitiveness of the U.S. electronics industry.

OUTSTANDING LEADERSHIP OF MR. MARVIN E. HOWELL

HON. CARL D. PURSELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 15, 1989

Mr. PURSELL. Mr. Speaker, I would like to bring to the attention of the House and this Nation, the outstanding leadership given to Michigan's community of Hillsdale, by Mr. Marvin E. Howell. While I cannot begin to state the many accomplishments that are his, I know his integrity, enthusiasm, and love of community and family have driven a remarkable career and contribution to Hillsdale.

On May 24, 1989, Marvin Howell Day was celebrated in Hillsdale, MI. It was an opportunity for the city to honor a giant among its citizens.

While adding my most sincere and heartfelt congratulations and thanks to Marv Howell, I would also like to submit the following editorial which appeared in the Hillsdale Daily News:

[From the Hillsdale Daily News, May 26, 1989]

A FITTING TRIBUTE TO "MARV-ELOUS"

They don't call Marvin E. Howell "Marvelous" for nothing, even though the name is just used in fun.

He's earned it.

A packed house at Hillsdale College's Curtiss Dining Hall heard friends and co-workers of Howell roast and toast him Wednesday evening as part of the Exchange Club's honoring of him as their 1989 Book of Golden Deeds recipient.

It was a fitting tribute to a man who has adopted Hillsdale County as his own county and Hillsdale as his home town. We are lucky he and his wife Joyce made the decision to send down roots in our community.

Marv Howell is one of those unique individuals who performs and provides community service without asking "what's in it for me?" or "what's the bottom line?"

Those truly selfless people are hard to find.

You may not realize it, but traveling through the county you will see many businesses or activities in which Howell has had a hand.

He has found a niche in economic development and the projects in which he has played a part are many. In some projects, he has taken a lead role; in others, he has been a player. In all cases, he is a team player.

In church work, in Rotary activities, in business, in his efforts and behalf of the Hillsdale County Industrial Development Commission, the Hillsdale County Railway and more, he is the consummate team member working toward a goal, shoring up his team mates, sharing the success with those around him.

He has a quick wit and a ready smile; he's a great kidder. Those who know him admire him, respect him and enjoy his company. He is friendly and genuine in his love of people and community.

Jack Barker, Hillsdale attorney and one of the speakers at the banquet, talked about the good in Marv Howell. Granted, he said, the "big" good things one does is evident to all. It is the "little" good things that count the most.

Yes, Howell has done many good things big and little and the sum total is a man who has friends and admirers galore. That

was most evident at the impressive turnout Wednesday evening.

Around the tables during dinner, people talked about the guest of honor, sharing anecdotes and reviewing his many accomplishments.

He is community servant in its purest form. If it's good for the community, it's good for Howell. He never says "no" to a good cause or personal involvement in something he sees as being beneficial to the community.

And yes, he has been a success in business; this is a tribute to the person who finds time first for others and then for himself. Good comes to those who give of themselves for the right reason.

We applaud the Exchange Club for its choice; the speakers for their good-natured humor and warm remembrances; Howell's family members who have encouraged him to give of himself to his community; and those who came to honor their friend Marv Howell.

But most of all, we applaud Marv Howell for really putting himself into this community and for taking risks on our behalf.

We're all better for it.

He really is Marv-elous.

IN RECOGNITION OF THE DISTINGUISHED SERVICE OF SENATOR STROM THURMOND

HON. FLOYD SPENCE

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 15, 1989

Mr. SPENCE. Mr. Speaker, not long ago, the senior Senator from South Carolina, the Honorable STROM THURMOND, was honored for his distinguished service to the veterans of this Nation. Throughout the greater part of the 20th century, Senator THURMOND has exerted his influence as a statesman, a patriot, and a dedicated public servant. We are all grateful for his untiring devotion to duty. To further commemorate his several achievements, I would like to share with my colleagues remarks made by several prominent Americans which testify to the Senator's many fine qualities and his countless efforts in behalf of the people of South Carolina and of the United States. I can only add to their comments by stating that, truly, Senator STROM THURMOND is one the great Americans in our country's history.

TRIBUTE TO SENATOR STROM THURMOND

(Remarks by distinguished guests on May 4, 1989, when South Carolina Senator Strom Thurmond was presented the prestigious "Award for Life Service to Veterans" by the Paralyzed Veterans of America and the Vietnam Veterans Institute.)

Senator ALAN CRANSTON. Strom's imprint has been on every piece of veterans legislation enacted since our committee came into being. I have many memories of our work together, but the two most vivid are of our collaboration on the special discharge upgrading legislation in 1977 and our more recent efforts on the legislation finally enacted last year to bring VA and Ed Derwinski into the President's Cabinet.

Strom's influence also has been felt very directly at the Department of Labor in the Veterans Employment and Training Service. In fact, it was his effort that led to the creation of the Assistant Secretary position to head that office.

Strom Thurmond's record on behalf of veterans is surely absolutely first rate, and he well deserves this recognition, and what I'm sure is a wonderful portrait over here by Tom Nielsen.

Congratulations to you, Strom.

General WILLIAM WESTMORELAND: I am really privileged to be a part of this ceremony because of my long association with Senator Thurmond. He and I are fellow South Carolinians, going back many, many generations.

Since that time, we are very proud in our state that he has been our senator. And now he is one of the senior statesmen in the Congress of the United States. And he is one heck of a guy. He is a man of tremendous stature, not only as a politician, particularly as a statesman, but it's already been mentioned that he also has quite a record as a soldier. He did land with the 82nd Airborne Division in Normandy in a glider and fought his way across the peninsula.

He's a man that has visited our troops in every conflict we've had since that time. He's a man that is not only respected highly in his home state of South Carolina, but throughout the nation. And I feel that I've been privileged to have known a great statesman, Strom Thurmond; and who is not only well known and is revered in the great state of South Carolina, but in the Congress of the United States, as we have noted from the remarks that have recently been made.

So, Senator Thurmond, speaking for the veterans, which I assume I'm not entitled to do as of now, but before you became veterans, I was entitled to speak for you.

Representative FLOYD SPENCE. I want to say two things.

You could have looked the whole world over and never found a better person to be the recipient of your award this evening. All those things that have been said about him by other people, I couldn't add to it. I don't command enough of the vocabulary I'd like to be able to adequately express my feelings for this gentleman, except to say he's a great American and to tell you that I'm honored to be in his presence, and your presence, because you're heroes, all of you. And history is going to record it.

Thank you very much.

Secretary EDWARD DERWINSKI. Something all of you know: that the man who was the most persistent advocate of creating a new Department of Veterans was Strom Thurmond. So that now that we've had two months of a new Department, you haven't seen any miracles, but I hope you've seen some progress. Whatever progress you've seen is attributable to Strom Thurmond, whose persistence—I commend all of you for recognizing him tonight, as you do. And I commend all of you for your support, not only to your own organization, but all the causes of veterans.

If we at the new Department could help, we're going to do our best. And I think if Strom has anything to say about it, we might even have a slightly improved budget position.

So, thank you, Strom.

Representative JOHN PAUL HAMMERSCHMIDT. Members of the PVA, VVI, your honored guests, my distinguished colleagues in the Congress.

The Life Service to Veterans Award. Life service. You know, let me ask all of you here this evening, how could we find anyone more qualified to be honored for a full life of public service than the recipient of your award tonight? And, yes, a great part of that life has been service to veterans.

You know, the Paralyzed Veterans of America and the Vietnam Veterans Institute do themselves very proud, and in fact the nation proud, by their selection of Senator Strom Thurmond as the 1989 recipient of their prestigious Award for Life Service to Veterans.

Two years ago, as you know, I was greatly honored by your organization to be included among the distinguished award winners: Senator Robert Byrd, Senator Alan Cranston, Congressman Sonny Montgomery, and Senator Bob Dole. Certainly it was a gratifying experience to be associated in this manner with these esteemed colleagues.

And now, to join the Senior Senator from South Carolina as your latest recipient of the Life Service to Veterans Award makes each of us even more gratified for your memorable recognition.

Strom Thurmond comes to this place tonight with a remarkably distinguished record. In war and in peace, he has demonstrated great leadership and courage. If I tried to comment even briefly on Senator Thurmond's 60 years of public service, it would take more time than allotted for this whole program. He's such a renowned public figure, most of us here know that story anyway. So, suffice it to say he is admired and respected by his colleagues and by his countrymen all across the land.

The Senator knows that global wars have an individuality about them that transcends the millions of persons involved. The Senator knows that war often has a pain attached to it that never goes away, pain that can never be fully described, even by those upon whom it's inflicted. And he knows and understands that in the governing process there is a rightful place for a just veterans legislative program, a program that is and ought to be the pride of our nation. He's been in the forefront of those who would assure that this is so.

He knows and understands how a great nation must govern itself, that such a nation needs and must have leaders who can match the greatness of her people.

So, Senator Thurmond has made a difference. He's made good government better government. His exercise of leadership in the halls of Congress has a firm foundation in the life experience of a soldier, educator, lawyer, judge, and governor.

This special friend of veterans is being honored tonight by very special veterans. You who bestow your highest award tonight are front-line defenders of freedom, heroes whose commendation has great meaning to the recipient. The award itself is distinctive. And I expect that even Tom Nielsen's terrific talent has been challenged by the task of painting some of us.

But with Strom's wonderful wife Nancy here this evening, Tom, you may be tempted to paint the ladies of honorees, instead.

But again let me express my appreciation to the PVA and the VVI for the pleasure and honor of being part of this auspicious occasion honoring the great Senator Strom Thurmond.

A CONGRESSIONAL SALUTE IN HONOR OF THE GALA CHRISTENING OF THE "CALIFORNIA HORNBLOWER"

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 15, 1989

Mr. ANDERSON. Mr. Speaker, I rise today to recognize the *California Hornblower,* a luxurious 1,000-passenger dining yacht, that will be christened on June 17, 1989. This occasion gives me the distinct pleasure of recognizing this fine vessel as the newest addition to southern California's maritime commerce and the Long Beach community.

This luxurious dining yacht, flagship of the Hornblower Dining Yachts' fleet of 16 yachts in California ports, will serve both Worldport LA and my district's Port of Long Beach. Once christened she will be the largest capacity dining yacht on the west coast.

In an area that prides itself on a strong and distinct maritime industry, the *California Hornblower* will undoubtedly add a new dimension to maritime and port activities. Her classic steamship style, impeccable service by uniformed stewards, and fine cuisine freshly prepared on board, are expected to attract many new and diverse individuals to the harbor. The *California Hornblower* will offer elegant dining cruises on an individual basis and will be a resource for corporate executives nationwide seeking unique and upscale sites for conventions, special events, and meetings in the Los Angeles area.

A grand ship, the *California Hornblower* evokes the memories of the early 1900's when classic steamships like the *Harvard* and *Yale* sailed the California coast. The vessel is now making her way through the Panama Canal toward Worldport LA and the Port of Long Beach for her gala christening ceremony this Saturday night. In honor of this occasion, my wife, Lee, enthusiastically joins me in extending our congratulations to the *California Hornblower,* and in welcoming her to Long Beach.

A TRIBUTE TO ROY RICHARDSON

HON. HOWARD L. BERMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 15, 1989

Mr. BERMAN. Mr. Speaker, I rise today to honor a respected and popular member of the community, Mr. Roy Richardson. After 11 challenging years as mayor of San Fernando, Roy is retiring and it is my distinct pleasure to salute a dedicated public servant who has consistently worked to improve the lives of his fellow citizens.

Roy Richardson has served the city of San Fernando with intelligence, skill, and dedication and has been a bold and effective city leader. His record of accomplishments reflect his ability and his vision. Roy's hard work and high professional standards have revolutionized the fiscal direction of San Fernando. During Roy's tenure, the city has gone from near bankruptcy to its current state of fiscal stability and healthy reserves. Under Roy's sure hand, enhanced revenue and sound financial administration together with economy and efficiency in government have become the key elements in San Fernando's revitalization.

In addition, Roy was instrumental in bringing new business to San Fernando along with new police facilities, a senior center and the upgrading of city park grounds and facilities.

In other spheres as well, Roy's accomplishments are substantive and his career includes a full spectrum of triumphs in the many associations and programs designed to better the city of San Fernando.

Roy Richardson has been a resident of San Fernando for almost 60 years and has served as director and officer in the 20-30 Club, chamber of commerce, Rotary Club, and Lions Club.

Roy attended UCLA and graduated as a pilot in the Naval Air Corps in Corpus Christi, TX. He and his wife, Frankie, have six beautiful children of whom they are very proud.

Mr. Speaker, it is my honor and pleasure to ask my colleagues to join me in saluting Roy Richardson, a lifetime leader of the city of San Fernando, a truly dedicated citizen and an exemplary role model for future generations.

EMPLOYEE PENSION RIGHTS ACT

HON. PETER J. VISCLOSKY

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 15, 1989

Mr. VISCLOSKY. Mr. Speaker, in recent years, there has been growing concern about various problems associated with corporate mergers and acquisitions and the concurrent growth in corporate debt. While some mergers have been good for the companies and their employees, others have resulted in the loss of jobs and the devastation of entire communities.

Pension funds have often been used to help finance these corporate restructurings. In a number of cases, corporate raiders have terminated pension plans and used so-called excess pension assets to help finance the takeover. In other cases, the assets of ongoing pension plans have been invested in junk bonds and other financial instruments which are used to underwrite the corporate takeovers.

Pension plans represent deferred compensation. In effect, workers forego higher wages and benefits in exchange for future retirement income. These benefits are actually earned by employees over their working careers and, in a very real sense, the moneys which are contributed to a pension plan represent another form of compensation to which workers are entitled.

It is only fair that employees should have a voice in the management of their pension funds. Therefore, I have introduced legislation, the Employee Pension Rights Act, that calls for employee representation on the boards that oversee single-employer pension funds. The number of employee representatives would be equal to the number of management representatives on the board.

Although labor unions theoretically have the right to negotiate for worker representatives on single-employer pension plans, in practice this has not been feasible. Employers which sponsor these plans have guarded their "management prerogative" to name the pension plan trustees. Unlike the multiemployer setting, where control over the plan is already diffused among a number of employers, in the single-employer setting companies have not been willing to allow workers to have a voice in the management of their pension funds.

The notion of workers being represented on the board of trustees of a pension plan is not unprecedented. Workers have long had representatives on the boards of trustees of multiemployer pension plans. Section 302 of the Labor-Management Relations Act specifically provides for equal union-management representation on multiemployer plans. There is no reason why this same principle should not be extended to single-employer pension plans.

TRIBUTE TO MRS. MABEL HOGGARD

HON. JAMES H. BILBRAY

OF NEVADA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 15, 1989

Mr. BILBRAY. Mr. Speaker, I rise before my colleagues today with deep sadness. An outstanding member of the Las Vegas community and an inspiration to all Americans, Mrs. Mabel Hoggard, passed away on Wednesday, May 31, 1989, after a long illness. Mrs. Hoggard was 84 years old.

Mabel Hoggard was a remarkable woman, who will be remembered as Nevada's first black school teacher.

Born on March 10, 1905, to Marshall and Maybelle Welch in Pueblo, CO, Mrs. Hoggard worked during the summers for her parents in the family grocery store in Pueblo. The remainder of the year, she lived with her grandparents in Iowa and went to elementary and high school in Des Moines and Colfax, IA. While growing up, she informed one and all that someday she was going to be a teacher.

She graduated with a cum laude degree in education from the Bluefield State Teachers College in Bluefield, WV. Her first job was as a teaching principal in a two-room school house in Jenkins, KY. She did postgraduate work at the University of Southern California and the University of Nevada, Las Vegas.

When she came to Las Vegas in the 1940's for a visit, she decided to stay. In 1946 she became the first black teacher hired in Nevada. For the next 24 years she taught first and second grades.

Mrs. Hoggard's energy and commitment to helping and educating people was shown in her dedication to civic work. She volunteered in a number of organizations and founded several programs to help people—especially minorities. In 1975 Mrs. Hoggard founded Project Savings at West Side Federal Credit Union. She did this to help children learn the value of savings accounts.

For her distinguished and selfless contributions, Mrs. Hoggard received many commendations and awards. Among her achievements she was recognized as a Distinguished Nevadan by UNLV. She was named woman of the year by several clubs and was honored by the American Red Cross, NAACP, Las Vegas Rotary Club, Zion Methodist Church and Wesleyan Service Guild, and the Clark County Classroom Teachers' Association. But, one of the most noticeable honors and probably the most lasting memory of her is the Mabel W. Hoggard Elementary School.

"Only when the horizons of all children have been broadened—when children are motivated to move ahead, to secure the education they must have in order to fill positions of responsibility in our society—then, and only then, will we be able to make much needed change possible without undue painful conflict," Mrs. Hoggard said in 1974, when she spoke to the Clark County School Trustees, who renamed Bonanza Elementary School in her honor.

Mrs. Hoggard had a great impact on children, the community, the church, the NAACP and people everywhere she went. Her dedication to children and her contribution to her profession and her community earned her the respect and love of all whose lives she touched. She was admired by many friends, coworkers, and countless Las Vegans and her passing leaves a void that will not easily be forgotten. Her boundless energy, talent, and zest for life serves as a true inspiration to us all.

Mr. Speaker, the passing of Mrs. Mabel Hoggard is a great loss to all Las Vegans and Nevadans, but she leaves behind a legacy for which her family and all Americans can be proud.

NEWPORT HARBOR LAWN BOWLING CLUB'S 50TH ANNIVERSARY

HON. C. CHRISTOPHER COX

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 15, 1989

Mr. COX. Mr. Speaker, it is my privilege today to recognize the 50th anniversary of a California institution, the Newport Harbor Lawn Bowling Club. Lawn bowling, a challenging and exhilarating sport, has enjoyed great popularity around the world in this millennium. Nowhere is the tradition more properly represented than in Orange County, CA.

In 1937, William V. Jones arrived in the Newport area from British Columbia. He raised more than $2,000 to build a lawn bowling field and, with the cooperation of local officials and the assistance of many volunteers, a green was ready by the summer of 1938. The articles of incorporation were prepared and filed with the California Secretary of State in 1939, which is why we now recognize the club's 50th anniversary.

Mr. Speaker, the sport of lawn bowling has a long and noble history. Its origins can be traced to 13th century England, when the first of the more than 4,000 clubs that exist today was founded in Southhampton. As the first club remains strong and active, so does the Newport Harbor Lawn Bowling Club. The Newport Harbor membership, now numbering 120, is dedicated to preserving the great traditions of the sport for future generations. I ask my colleagues to join me today in saluting the Newport Harbor Lawn Bowling Club upon its 50th anniversary.

KANSAN COLONEL EARNS RECOGNITION

HON. JAN MEYERS

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 15, 1989

Mrs. MEYERS. Mr. Speaker, it is with great pleasure that today I pay tribute to a fine constituent of the Third Congressional District of Kansas, Col. David A. Ballentine. In August, Colonel Ballentine will be retiring from his position as deputy director of the Marine Corps Reserve Support Center in Overland Park, KS.

A native Kansas, Colonel Ballentine has served in the U.S. Marine Corps for the past 23 years. His Marine Corps career began in 1966 and, since that time, he has distinguished himself by valiantly earning the Distinguished Flying Cross and the Air Medal with Two Gold Stars. He has been the deputy director of the Marine Corps Reserve Support Center since December 1988.

Apart from these achievements, Colonel Ballentine has distinguished himself as an active member and deacon of the Overland Park Christian Church. He is a model citizen and soldier, who sets the ideal example for Kansans and all Americans.

Colonel Ballentine has now decided to return to his birthplace in Bonner Springs and raise his family.

I commend Colonel Ballentine for his years of service, dedication, and generosity. His service has not gone unnoticed, and it will certainly be long remembered.

Mr. Speaker, I wish to express my appreciation to Colonel Ballentine for his honorable service to our country and its people.

VOICE OF AMERICA—STILL THE BEST BARGAIN IN AMERICAN FOREIGN POLICY

HON. ROBERT H. MICHEL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 15, 1989

Mr. MICHEL. Mr. Speaker, media reports tell of the explusion from Communist China of two American journalists for allegedly violating martial law restrictions and inciting counterrevolutionary activities.

One of those expelled is Alan W. Pessin, the bureau chief of the Voice of America, the international broadcasting service of the U.S. Government. Mr. Pessin has been covering China since 1984 and, according to the Chinese, engaged in "illegal newsgathering."

It should not be news when a totalitarian government expels an American journalist for doing his job. Totalitarian governments, like that of Communist China, have no conception of a free press.

But in one sense the expulsion of Mr. Pessin is good news. By that I mean that it reminds us of the importance of the Voice of America. In an age of high-tech gadgetry, of television by satellite, of fax machines and glasnost, the Voice of America may have seemed to some to be old-fashioned, a "relic of the Cold War" as some have said.

To the contrary—the Voice of America remains, as it has been since World War II, a voice of freedom, of solid, factual news, of opinion that is labeled opinion and of clear, authoritative, official U.S. policy. The jazz programs of Voice of America's Willis Conover have introduced millions in Europe and Asia to the best of American culture and, in doing so, have opened a window through which freedom of artistic expression could be glimpsed by those long denied such freedom.

If the expulsion of Mr. Pessin reminds us of the importance of the Voice of America, perhaps it was worth the price. We in the United States, who are used to freedom of information, and who take it for granted, forget how important a free flow of information can be to those who lack freedom.

I just want to congratulate the Voice of America, its director Richard Carlson and the entire staff. An organization whose representative is expelled for telling the truth to those denied freedom deserves the support and the applause of the American people. I hope our colleagues recognize the importance of this great American institution and that we provide the funding and support its needs. The Voice of America remains, what it has been for years, the best bargain the American people have in foreign policy.

TRIBUTE TO CSABA KUR

HON. JAMES A. TRAFICANT, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 15, 1989

Mr. TRAFICANT. Mr. Speaker, I rise today to pay tribute to Csaba Kur, a Hungarian-American artist, who came to the United States in search of the American dream and is now bestowing the world with his invaluable gifts of art.

Csaba war born in Hungary in 1926 and arrived in America in 1951 impoverished. Driven from his homeland by the Red Army, he sought refuge in Germany where he received his preliminary training in the arts. Mr. Kur began his career creating prints with water colors, but soon moved to creating statues, for which he is most famous today.

Mr. Kur has sculpted many works that can be seen in public buildings in Chicago, New York, and Cleveland. He also has a statue in the permanent collection at the John F. Kennedy Center for the Performing Arts in Washington, DC. Presently he runs his own gallery in my 17th Congressional District of Ohio and teaches classes to individuals in hopes of spreading his love of art to others. His expressionistic style of art captures the deep meaning behind all of his subjects.

Mr. Speaker, Csaba Kur has truly made an outstanding contribution not only to my district but also to the world. The recording of history in his manner will allow the events to live on forever in a true to life form. I am extremely grateful for his contributions, and consider it an honor to represent him.

THE 25TH ANNIVERSARY OF THE SCHOOL VOLUNTEER ASSOCIATION

HON. CHRISTOPHER SHAYS

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 15, 1989

Mr. SHAYS. Mr. Speaker, I am pleased to have this opportunity to extend my warmest wishes to the School Volunteer Association, a worthy organization in Bridgeport, CT, that is celebrating its 25th anniversary today.

Since its inception as Youth Opportunities Unlimited, this organization has provided tutorial and enrichment services to many thousands of Bridgeport students. Drawing on the time, talents, and efforts of dedicated volunteers from Bridgeport and neighboring communities, SVA continues to meet the changing needs of the school system. Each year more than 1,000 men and women tutor students in basic skills and motivate them to achieve career goals. Their gifts of encouragement and concern make a world of difference to the young people whose lives they touch.

Today the School Volunteer Association celebrates 25 years of helping those in need and making our Bridgeport community a better place to live. In recognition of this special anniversary, I am honored to bring to my colleagues' attention the achievements of this worthy organization.

OUTSTANDING ACCOMPLISHMENT OF ATOM KYLE DUSZYNSKI

HON. JOLENE UNSOELD

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 15, 1989

Mrs. UNSOELD. Mr. Speaker, I would like to use this time to call to my colleagues attention the outstanding accomplishments of one of my constituents. Nowadays it seems the only news we hear about the young people of America is negative. When you pick up a newspaper, stories about the achievements of students in this country will most likely be buried in the back pages. It seems that these positive stories rarely get heard.

That is why I feel privileged to use my position to honor a young student in my district who has been singled out for his talents as a writer. Atom Kyle Duszynski, an eighth grader at Winlock Junior High School, has recently been selected as a finalist for the Respec-Teen National Youth Forum. Out of more than 5,300 seventh and eight graders from across the country approximately 200 were chosen as finalists.

The students were judged by letters that they wrote to their U.S. Representatives, and the finalists were selected according to the quality of their writing. Atom's letter dealt with the issue of gun control. It makes me happy to see young people like Atom Duszynski taking interest in current affairs, developing their opinions, and then eloquently and concisely expressing those opinions. I am sure that Atom's parents are very proud of his achievement and the promising future that these talents guarantee.

So I ask my fellow Members of the House of Representatives to think of Atom Duszynski and remember all the other young talented students in their own States that may not make the headlines but are deserving of our praise.

McCARRAN-WALTER CONTINUES TO EMBARRASS THE UNITED STATES

HON. STENY H. HOYER

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 15, 1989

Mr. HOYER. Mr. Speaker, the Vienna followup meeting of the Conference on Security and Cooperation in Europe, which concluded in January 1989, examined implementation of the Helsinki Final Act and the Madrid Concluding Document in the areas of military security, trade, and human rights. The participating States sought to highlight areas where improved performance was necessary and adopt new measures to encompass more fully the ideas of freedom, self-determination, democracy, and human dignity. The Vienna Concluding Document, adopted by all 35 participating CSCE states, called for specialized meetings to be held during the next 3 years in such areas as information, economics, the environment, culture and human rights. In addition, two major sets of talks dealing with military security have been convened.

On May 30, 1989, the first of the three Human Dimension Conferences opened in Paris. Under discussion are violations of Helsinki commitments, measures to improve compliance with those commitments and the usefulness and effectiveness of the human rights mechanism formulated during the Vienna followup meeting. The mechanism was devised as an additional tool by which any CSCE State may raise any human rights issue with any other CSCE state.

Mr. Speaker, it is significant that the first of three conferences on the Human Dimension is taking place in Paris, for next month marks the 200th anniversary of the French Revolution, a course of events heralding the spread of liberty, equality, and justice across Europe. These ideals are still clearly at work today in countries where people are taking to the streets and demanding free expression, free elections and self-determination. Each of the 35 states at the Paris Conference has shared a commitment to honor such freedoms. In Paris their commitment to these ideals will be tested at a time when a similar revolution of ideas beckons across Eastern Europe and the Soviet Union.

The human rights mechanism set forward in the Vienna Concluding Document provides a useful vehicle to act upon specific injustices and widespread abuses of stated Helsinki commitments. It provides for a four-step approach to issues under discussion, starting with a request for information and moving on to bilateral and multilateral discussion of the issues at hand. In short, the mechanism is a formal diplomatic channel for lodging complaints on human rights performance.

The United States has invoked the mechanism on four occasions: with the Romanian Government for arresting six former leading officials who circulated a letter critical of the Romanian regime; with the Czechoslovak Government for the arrest and detention of eight human rights activists including Vaclav Havel; with the Bulgarian Government for the arrest and detention of human rights activists; and with the Soviet Government for denying visas to Lithuanian Americans invited to attend a conference in Vilnius. The U.S. Government considered each instance carefully and used the mechanism to raise stark violations of the spirit and letter of the Helsinki Final Act.

Mr. Speaker, as I have indicated, the mechanism is not solely a Western device. It is available to all of the CSCE States equally. Recently, the Soviet Union invoked the mechanism against the United States for denying visas to Soviet doctors and journalists in January of this year because of their affiliation with Communist trade unions. Once again the 1952 McCarran-Walter Act has become an international embarrassment to the United States, undermining our credibility not only with the nations we single out for human rights violations, but with our allies in the human rights struggle as well.

The 1952 law, enacted over the veto of President Truman, systematically excludes foreigners on the basis of their beliefs and affiliations. For example, under the McCarran-Walter Act Communist Party members and representatives of labor unions from Communist countries can be excluded from entering the United States. The subsequently adopted McGovern Amendment, which provides for an automatic waiver of entry denial for Communist Party members, does not extend to the afore-mentioned labor union representatives. Last month, at the CSCE London Information Forum on the free flow of information, the United States was roundly criticized by Eastern nations and Western allies for its restrictive visa policies. It is hardly appropriate for this nation, founded on principles of liberty and democracy to maintain a law that permits government officials to determine which ideas and individuals will be given voice in the United States. It is hardly appropriate that in this age of satellites, computers and fax machines, ideas can transcend borders but their authors cannot.

The McCarran-Walter Act contradicts the very spirit of the Helsinki Final Act, and at the same time needlessly damages U.S. credibility. While I believe that the United States maintains an exceptional record in implementing the letter and spirit of the Final Act, the McCarran-Walter Act stands in splendid isolation as an exception and has become an easy object of criticism both here and abroad.

The newly established mechanism demands that the United States demonstrate good faith by conscientiously examining its own implementation record when challenged by other CSCE participants and responding in a timely manner. It is my belief that an appropriate response would be radical revision of the McCarran-Walter Act. For years now the United States has answered recurring criticism of its visa laws by insisting that Congress is considering changes to the law. That tired response is quickly losing all credibility, given the long years of its use. It is time for the administration to give serious consideration to working with Congress in carrying out this important legislative reform.

TRIBUTE TO STEVEN P. MELLO

HON. RONALD K. MACHTLEY

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 15, 1989

Mr. MACHTLEY. Mr. Speaker, it is my distinct pleasure to congratulate Steven P. Mello of East Providence, RI, this year's recipient of the first annual Ronald K. Machtley Award for East Providence High School in East Providence, RI.

This award is presented to the student, chosen by East Providence High School, who demonstrates a mature blend of academic achievement, community involvement, and leadership qualities.

Steven has clearly met this criteria by being a member of the Rhode Island Honor Society, and president of the National Honor Society. Steven was valedictorian of his class and has also been active in the school band.

I commend Steven for his achievements and wish him all the best in his future endeavors.

THE 600TH ANNIVERSARY OF THE BATTLE OF KOSOVO

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 15, 1989

Mr. CRANE. Mr. Speaker, for thousands of Serbians, this month marks the 600th anniverary of the Battle of Kosovo where, in 1389, they lost their freedom. In remembrance of the anniversary, the Free Serbian Orthodox Diocese of the United States and Canada, as well as other Serbian national organizations, will host a 3-day event in my district recalling the Battle of Kosovo.

For the Serbs, the Battle of Kosovo, although a defeat, became a symbol of steadfast courage and valor. The Serbs lost their independent kingdom—now a region of Yugoslavia—to the Turkish forces headed by Sultan Murad, an oppression that would continue for the better part of six centuries.

The leader of the Serbs, Prince Lazar, had been forewarned the day preceding the battle that three of his top soldiers were thinking of becoming traitors, including Milosh Oblich. But when the wounded Lazar was captured and taken to the Sultan's tent, he found that Oblich had done one of the most heroic acts in Serbian history. Pretending to surrender and waiting to kiss the Sultan's foot in repentance, Oblich pulled out a concealed dagger and mortally wounded Murad.

When those brave, dedicated, Christian Serbs chose immortality on this historic occasion, they did so with the knowledge that they had paid the last full measure of devotion on behalf of the ideals promulgated by our Lord almost 1,400 years before when He achieved immortality to save the souls of us all. Western civilization owes unending gratitude to those brave Serbians. On this special occasion, let us rededicate ourselves to those precious ideals and pledge ourselves to the memorialization of those brave souls who did not die in vain but preserved an example that we must all exalt and follow.

I ask my colleagues to join me in saluting the dedicated descendants of this sublime Serbian tradition, who gather together at the Monastery of the Protection of the Most Holy Mother of God in Third Lake, IL, to keep this fine tradition alive.

PROGRESSIVE POLICY INSTITUTE STUDY ON WORK AND POVERTY

HON. TIMOTHY J. PENNY

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 15, 1989

Mr. PENNY. Mr. Speaker, I rise today to insert in the CONGRESSIONAL RECORD a copy of a recent study by the Progressive Policy Institute that makes a cogent case for a modest increase in the minimum wage coupled with an expansion of the earned income tax credit [EITC].

I have recently introduced legislation, H.R. 2543, to increase the minimum wage in three steps to $4.25 in 1992 and to enhance and expand the EITC in 1991. Mr. Speaker, I urge you and our colleagues to read the Progressive Policy Institute study and if you agree with its conclusion to cosponsor H.R. 2543.

Mr. Speaker, I ask that a copy of the Progressive Policy Institute study that I have attached be included in the RECORD at this point:

WORK AND POVERTY: A PROGRESSIVE VIEW OF THE MINIMUM WAGE AND THE EARNED INCOME TAX CREDIT

EXECUTIVE SUMMARY

Is the federal minimum wage an anachronism—or, worse yet, a regressive as well as outdated policy? So it seems today, when less than one-fifth of minimum-wage workers are poor, and any increase means higher prices for everyone, including the poor. However, the current dispute between the President and Congress over the minimum wage does have the salutary effect of focusing attention on the plight of America's working poor.

In this report, the Progressive Policy Institute proposes to refocus the minimum-wage debate on a clear goal: No American family with a full-time worker should have to live in poverty. The Institute believes that this pledge is an integral part of a progressive social compact for the 1990s, and that any society that persistently allows hard-working people and their families to live in poverty tacitly undermines the moral and practical value of the work ethic.

The most efficient and fair way of lifting working poor families out of poverty is not a higher minimum wage, but an expanded Earned Income Tax Credit. The EITC targets assistance to those supporting families on poverty incomes, rewarding their work efforts without subsidizing low-wage earners from more prosperous families.

The Institute recommends that over time, the EITC should be expanded sufficiently to eliminate poverty among all families of full-time workers. As an interim step, we recommend a compromise to break the current stalemate over the minimum wage: Combine Democratic proposals for an expansion of the EITC, with the President's proposal for a $4.25-an-hour minimum wage.

HIGHLIGHTS

While the EITC targets all those working and supporting families on incomes below or near the poverty line, more than 80 percent of those helped by the minimum-wage law live in non-poor families.

If the hourly minimum wage goes to $4.55, the majority of the working-poor would gain nothing—those who are self-employed, or who work for salaries, or in firms exempt from the minimum-wage law, or for wages above $4.55-an-hour. Half of those who would benefit live in families making over $23,000 a year.

While most poor families would not gain from a $4.55 hourly minimum, everyone—poor and rich alike—would help bear the estimated $14.7 billion in additional labor costs, passed on in higher prices to consumers.

Once firms pass on these costs, the $4.55 minimum wage will cost an average family nearly $200 through higher prices; the cost for poor families would average $112.

A $5 billion expansion in the EITC, along with a $4.25-an-hour minimum, would bring a family of three $535 closer to non-poverty status than would the $4.55-an-hour minimum—at less total cost.

WORK AND POVERTY: A PROGRESSIVE VIEW OF THE MINIMUM WAGE AND THE EARNED INCOME TAX CREDIT

(By Robert J. Shapiro, Progressive Policy Institute, Director of Economic Studies)

Once again, a Republican President and a Democratic Congress are embroiled in a dispute over the minimum wage. In their customary roles, liberals are promoting legislated wage rates and conservatives are defending free markets. While focusing attention on the serious plight of America's working poor, the debate thus far has been frozen along ideological lines drawn in the Great Depression. As a result, we are failing to address the realities facing working-poor Americans today.

Can liberals face the evidence that the minimum wage, despite its progressive beginnings, now has certain regressive effects? In the late 1980s, four of every five minimum-wage earners are not poor, and legislating a raise is not an efficient way to help those who are. Worse yet, the poor, most of them gaining nothing from a higher minimum wage, have to help pay for it along with everyone else.

Can conservatives accept that, for millions of Americans, the U.S. economy in the 1980s does not reward hard work with an income that a family can live on? Despite their romance with free markets, our economy lets millions of working families stay poor, how-

ever hard and long they work. If we are to redeem the pledge of the American work ethic, that anyone who works hard in America will not have to live in poverty, government will have to help do it.

Democrats are right to reject a status quo that condemns millions of working Americans to living in poverty. The question for progressives concerns the means: Is the minimum wage still the best way to aid the working poor?

The Progressive Policy Institute proposes to refocus this debate on a clear goal: No American family with a full time, year-round worker should have to live in poverty. We consider this pledge a basic part of a progressive social compact.

In the 1980s and 1990s, the practical and progressive way to stand behind the work ethic is the "Earned Income Tax Credit" (EITC), widely recognized as the most direct way of supplementing the incomes of those working for poverty wages. It is more efficient than the minimum wage because it targets those working under or near the poverty line. It is more progressive because it does not make poor people help subsidize pay raises for low-wage earners in families that aren't poor.

We can best enhance the value of work by expanding the EITC over time to lift every full-time working household out of poverty, and letting the minimum wage fade into history.

For now, with both sides committed to increasing the minimum wage, we propose an interim step to break the veto deadlock between President Bush and the congressional majority: Combine a moderate minimum-wage hike with an expansion of the EITC. In this compromise, Democrats would accept the President's offer for a $4.25 hourly minimum, and Republicans would agree to expand the EITC.

We believe that the current impasse offers liberals and conservatives the opportunity to reconsider their traditional positions and to collaborate on promoting, at once, greater economic equity and the traditional values of family and hard work.

MINIMUM WAGE INCREASES: WHO BENEFITS?

"One-third of our population . . . is ill-nourished, ill-clad, and ill-housed," Franklin Roosevelt reminded Congress when he first proposed a minimum wage in 1937. And when Congress passed the first minimum wage the following year, it was a policy to recover some of the economic ground lost by millions of family breadwinners. That first law raised the wages of 11 million people, nearly one of every four Americans at work, to 25 cents an hour, at a time when the average hourly wage was 62 cents.[1]

Today, fewer than 4 million people work for the current $3.35 minimum hourly wage, little more than 3 percent of the national labor force, and less than 900,000 of them are heads of households.[2] If the Government were to raise the hourly minimum to $4.65—a dime more than approved by Congress—it would affect some 14 million of America's 116 million workers. Still, only a quarter would be heads of household.[3]

Raising the minimum wage is not an efficient way to reduce working poverty, because most of those affected are not poor but middleclass. Despite the old stereotypes of minimumwage workers as invariably poor, the people earning minimum wages today live in families pretty much like everyone else's, because so many are second or third earners in relatively middle-class households. Last year, only about 18 percent of those working for the $3.35 minimum wage lived in poor families, while two-thirds were working part-time to supplement the family's income.[4]

A 1983 study based on Department of Labor data showed that minimum-wage earners in the 1970s lived in families that were distributed roughly evenly among every income level, from the poorest decile to the richest. In fact, the richest 20 percent of American households had a larger share of minimum-wage workers than did the poorest 20 percent of households.[5] Today, according to Department of Labor data, half of those who would benefit from a raise to $4.55-an-hour live in families making more than $23,000, and almost 85 percent live in families above the poverty line.[6]

Some people's making more than $4.55-an-hour could also gain through a "ratchet" effect. For example, the $4.00-an-hour server at a fast-food restaurant would likely get a raise if the minimum wage dishwasher received a raise under federal law. This effect is probably limited, however; and only a small minority of those affected would live in poor families.

The demographics of the low-wage work force make it clear that minimum-wage laws now target, not the working poor but those working for low wages—poor, middle-class or rich—and most are middle-class. Stated simply, the chief effect of a higher minimum wage today would be to increase incomes, not for working poor people but for a group of workers who are predominantly part-time, second earners in middle-class families.

More generally, the debate over the minimum-wage increase goes to the larger issue of the politics of entitlement, often defended by traditional liberals: Which economic benefits should the Government entitle people to, regardless of how rich or poor they are?

MINIMUM WAGE INCREASES: WHO PAYS?

Even if a higher minimum wage is not an efficient way to help poor workers, what's wrong with passing a law giving a raise to 14 million Americans from every walk of life, including more than 2 million poor people? It might, for example, improve the quality of some services by attracting more skilled second the third-earners into part-time, minimum-wage jobs. The answer is, it also would be regressive for many poor people who gain nothing and end up bearing part of the cost.

Some argue that the minimum wage is regressive because it reduces job opportunities for the poor—a view often pressed by conservatives opposed to most federal programs for the poor and eager to hold down costs for business. But that's not the basic reason it can be regressive. Certainly, employers will hire fewer minimum-wage workers when they have to pay more for them—but like the larger universe of low-wage jobs, these positions will be lost mainly by part-time workers in middle-class families.

There is also much dispute over the extent of those job losses, with estimates ranging from 60,000 to 350,000. Taking the midpoint—assuming that both sides are equally right or equally wrong—there will be 200,000 fewer new jobs if the minimum wage rises to $4.55 over 3 years, as Congress proposes. And these 200,000 fewer jobs, most part-time, represent $1.3 billion in lost economic output—a small, but real, cost in a $5 trillion economy supporting 116 million jobs.[7]

But if the higher minimum wage leaves the economy $1.3 billion smaller than it would otherwise be, where does the money come from to pay the additional labor costs for some 14 million people—which we estimate at $14.7 billion—when the minimum goes to $4.55 an hour?

(The estimate for the total cost of the additional pay for everyone earning an hourly wage of less than $4.55 is derived by calculating differences between current workers' wages and $4.55, and estimating the hours worked. We estimated the total to be $16 billion. There is a $1.3 billion savings, representing the wages of those whose jobs would be cut, leaving $14.7 billion.)

The answer, in a word, is inflation. As a rule, over time businesses pass on wage increases by raising their prices. Wherever there are minimum wage workers—at the supermarket, the laundromat, the movie theater; at restaurants, retail stores and gas stations—prices will go up.

In short, raising the minimum wage to $4.55-an-hour would be financed by transferring $14.7 billion from consumers to some 14 million people working today, full-time or part-time, for less than $4.55. There is no line item in the federal budget for their pay hike; but the federal action would cost every American, on average, $59 a year, or nearly $200 per family. (Note the cost will increase if there is a significant "ratchet" effect raising the wages of some people earning just over $4.55-an-hour.)

The $14.7 billion transfer may enhance the general social welfare, and $200 is not a large burden on prosperous families, or for those receiving the raise. But here's the problem: Less than one-quarter of the poor live in households where someone works for an hourly wage of less than $4.55.

Whatever its sponsors intend, raising the minimum wage entails a transfer that is regressive for the remaining three-fourths of America's poor, or almost 25 million people: Poor families headed by people working for themselves or in jobs excluded from the minimum wage; and poor households headed by people who don't work because they're elderly, or disabled, or can't read and write, or have an infant at home to take care of.[7]

Poor families spend less than average Americans—they have less to spend—and so, minimum-wage inflation will cost them less than the $200 average. Adjusting for expenditures by poor families, we estimate that the average poor household would pay $112 a year in higher prices. Even so, the poor bear the biggest burden of a higher minimum wage: $112 is almost 2 percent of the $5,774 median income for poor families—while $200 represents less than seven-tenths of 1 percent of the national median family income of $30,853.[8]

Despite the history of the minimum wage, despite its sponsors' good intentions, an increase, by itself, has certain plainly regressive effects: More than 75 percent of poor Americans would gain nothing, while having to pay an average of $112 per family in higher prices—in order to boost the incomes of some low-wage workers, nearly 85 percent of whom are not poor.

HELPING THE WORKING POOR

The enduring appeal of the minimum wage lies in a basic tenet of the American work ethic: Any American who works hard should be able to support a family in dignity—by living on the prosperous side of the poverty line. If the demographics of the work force preclude our honoring this prin-

Footnotes at end of article.

ciple by simply raising the minimum wage, progressives can take other steps.

Who are the working poor? They number more than 8 million Americans; 23 percent of them work full-time, year-round, and still their families are below the poverty line. Unlike poor people of America's central-city underclass, the working poor live in traditional families much like most Americans—but on less money. Nearly two-thirds of all working-poor families are headed by someone with at least a high school education; more than two-thirds are headed by a father or mother in their twenties or thirties; more than two-thirds live in suburbs or small towns.[9]

Despite their efforts to follow a traditional work ethic, full-time working-poor families are actually the poorest single group in America. They begin less poor than those who cannot work because they are disabled and elderly, or those who do not work; but they end up worse off because they get so little help from the government.

Harvard professor David Ellwood writes: "The social welfare system creates an astonishing inverse relationship between work and poverty. After government aid [e.g., Social Security, SSI, Medicare], the disabled and elderly who do not work are the least poor. Those who are unemployed or partially employed are the next worse off [i.e., after AFDC, medicaid and food stamps]. The full-time working poor end up the least secure of all. . . . *On average they are as far below the poverty line as single-parent families on welfare in which no one is working.*" *(emphasis added)* [10]

The only major support offered working poor families is the EITC, which currently provides up to $910, with an average benefit of $291. (EITC provides benefits equal to 14 percent of the wages of anyone supporting one or more children and earning less than about $6,500 a year, with smaller benefits for those with family incomes of up to about $19,000 a year. The current maximum benefit is not enough for someone earning $6,500 to support a family of three above the poverty line.)

EXPANDING THE EITC: HONORING THE WORK ETHIC FOR POOR WORKING FAMILIES

The EITC's means-tested benefits raise the incomes of needy working people, consistent with the promise of the American work ethic. Like the minimum wage, it ties government support to work, but by targeting the support to families based on their incomes, not on the wages of one member. Moreover, while less than one-third of all working poor would be covered by a $4.55 minimum wage, the EITC helps any working poor family with children—those who are salaried or self-employed, as well as those earning an hourly wage. And it is administered easily through the computers that presently withhold payroll and income taxes.

As a first step, a $5 billion expansion in EITC benefits, along the lines of legislation introduced by Senator Al Gore and Representative Thomas Downey, for instance, would bring a family of three within $1,500 of the poverty line—reducing working poverty nearly as much as would raising the minimum wage to $4.55 an hour, which will cost consumers nearly $15 billion.

The EITC is more efficient not only because it targets wage assistance for those who most need it—the working poor. Moreover, it helps all working poor and near-poor families with children—not just the 30 percent or so of the working poor who fall within the provisions of the minimum wage law. It also will not cost the economy jobs and output, because it does not raise labor costs for business. In fact, it may well help create jobs, by attracting more non-working poor into the work force. And the EITC is more progressive as well as more efficient. It will not increase prices for consumers, because it does not raise labor costs for business—and as a result, its costs are not passed on to millions of poor people who are not benefitting from it. Instead, the cost of honoring the work ethic by expanding the EITC can come from taxes which exempt poor people, working and non-working.

In the face of economic reasoning and evidence, why does Washington resist common sense? Apart from the force of ideological habit, the minimum wage debate today is driven by an understandable desire to help the working poor without increasing the deficit and facing hard choices on spending and taxes. Just as too many liberals and conservatives are stuck in the political formulas of the 1930s, so too many are also locked into the fiscal myopia of the 1980s, which considers any cost shifted to consumers and business to be "free." But outside official Washington, most Americans know that whether they reach into their pockets as taxpayers or as customers, the money comes from the same wallet.

For now, we recommend that progressives break the current deadlock by combining Republican support for a $4.25 hourly minimum wage with Democratic proposals for expanding the EITC, such as the Gore-Downey bill. (The Democrats' modest "training wage" plan is also much preferable to the President's more extensive one.)

The bipartisan combination would bring more working Americans closer to non-poverty, than would either step alone. Taken together, the two steps would bring a family of three headed by a full-time worker within $800 of the poverty line. The total cost to taxpayers and consumers would be less than the cost to consumers of the $4.55-an-hour minimum wage—which by itself would leave the same family $1,335 shy of the poverty line. (Taken alone, the $4.25-an-hour minimum would leave them $2,225 below the poverty line.) [11]

Over time, EITC benefits should be further increased, adjusted for the size of the family, and made available to working-poor households without children, in order to finally lift the families of all full-time workers out of poverty. At that point, the minimum wage can be allowed to fade into history.

A bigger and better EITC should not be financed by more federal borrowing, which can fuel inflation or higher interest rates, followed by a recession which would strike working-poor families hard and fast. But the deficit cannot be a permanent excuse for not honoring the national commitment to the work ethic. Political leaders determined to end poverty among hard-working families will find funds for the EITC by cutting spending that does not affect working families, or by raising new revenues. It will require new political leadership to mobilize public support for additional federal spending cuts—in defense, entitlements and some discretionary accounts. We also recommend restoring more progressive tax rates, so that wealthy taxpayers pay a higher rate than middle-class families.

A PROGRESSIVE SOCIAL COMPACT: FIRST STEPS

A society that persistently allows hard-working people and their families to live in poverty tacitly undermines the moral and practical value of work. And a society in which low-wage jobs often provide a lower standard of living than welfare, cannot credibly claim that hard work is the surest route to security and self-reliance.

These are the perverse outcomes of the market's failure to provide living wages for many on the low rungs of the economic ladder, and the government's failure to face up to how outdated policies affect working families.

We can remedy these failures—but not effectively through minimum wages.

We can begin with political leadership to expand the EITC, as part of a set of initiatives based on a progressive social compact that can nourish the work ethic and moderate America's growing economic inequality.

Even the EITC is only a temporary solution. Ultimately, the best response for working poverty is to help low-wage workers become more productive, so they can earn non-poverty incomes on their own. People become more productive by learning new skills and by working with more productive technologies. We should implement educational reforms and a comprehensive system of basic skills training. And we should encourage both research and development and job-training efforts in the industries and firms that depend on low-wage labor.

We also should reconsider the impact on all working families of the payroll tax, a regressive levy that finances a growing share of all federal programs.

A progressive social compact entails responsibilities for business, along with government and individual citizens. For example, millions of low-wage workers and their families do not have health-care coverage, and ultimately must depend on public programs. While business benefits from federal support for R&D and job training, as well as from the EITC for low-wage employees, so business should shoulder a significant share of the burden of providing health-care coverage from all full-time workers.

In coming months, we will offer more details of a progressive view on American citizenship. The first provision: Americans who work hard to support themselves and their families have the right to live above the poverty line.

FOOTNOTES

[1] *William E. Leuchtenburg,* Franklin D. Roosevelt and the New Deal, *The University Library, Harper & Row, Publishers, NY: 1963, p. 263; Paul H. Douglas and Joseph Hackman, "The Fair Labor Standards Act of 1938, I," in* Political Science Quarterly, *Vol. LIII, No. 4, pp. 491ff.*

[2] *Department of Labor, Wage Rates, March 1988.*

[3] *Calculations based on data provided by Senate Committee on Labor and Human Resources.*

[4] *Ibid.; Isabel V. Sawhill, "Assisting the Working Poor," Statement before the Subcommittee on Human Resources, House Ways and Means Committee, March 21, 1989.*

[5] *William R. Johnson and Edgar K. Browning, "The Distributive and Efficiency Effects of Increasing the Minimum Wage: A Simulation," in* American Economic Review, *Vol. 73, No. 1, pp. 204–211.*

[6] *Department of Labor; Wage Rates, March 1988.*

[7] *There are an estimated 2.2 million poor people working for an hourly wage of less than $4.55, with an estimated 7.8 million family members, or 24 percent of the nation's poor people. Some 59 percent of all poor households are headed by disabled or elderly persons or by someone who does not work. An estimated 17 percent of poor households are headed by working persons not eligible for the minimum wage, because they are self-employed or excluded from coverage, or working part-time for wages above $4.55 an hour. (See Sawhill,* op. cit.; Poverty in the United States, 1987, *Bureau of the Census, Current Population reports, series P–60.) In 1988, for example, 40 percent of working families with incomes below $9,100 a year—under the poverty line for a family of three—have wage earners working*

for more than $4.65 an hour. (Department of Labor, Wage Rates, March 1988.)

[8] *Calculation based on data from* Consumer Expenditure Survey, *Table I, Bureau of Labor Statistics, U.S. Department of Labor, April 1988 and* Poverty in the United States, *op. cit., Table 6 (family size). Note, some of the cost for elderly and disabled poor would be offset by COLA increases in social security benefits a year later: COLA increases attributed in the additional labor costs, however, also add to the total cost of the higher minimum wage.*

[9] *David T. Ellwood,* Poor Support, Poverty in the American Family, *Basic Books, N.Y.: 1988, chapter 4.*

[10] Ibid.

[11] *Note, the $5 billion EITC expansion would leave a family of three $1,500 shy of non-poverty status; the $4.55-an-hour minimum wage, along with the current EITC, would leave the same family $1,335 below the poverty line, at a consumer cost of $14.7 billion. (See Isaac Shapiro and Robert Greenstein, "Making Work Pay: A New Agenda for Poverty Policies," Center on Budget and Policy Priorities, Washington, DC: March 21, 1989.)*

HONORING F. SHERWOOD ROWLAND

HON. C. CHRISTOPHER COX

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 15, 1989

Mr. COX. Mr. Speaker, it is my privilege to represent Orange County, CA, one of the leading urban areas in America. Today in our county, we have world class cities, internationally respected institutions of higher learning, and a thriving high technology economy that is unsurpassed around the globe.

Just a few short decades ago, however, Orange County was far different: part sleepy suburb of Los Angeles, part agricultural outpost, recognized mostly for being located in between the city of Angels and San Diego. The county has changed rapidly during the past half century. While all Orange Countians share in the pride of our region's accomplishments during recent history, the credit for much of our progress can be directly attributed to the hard work, dedication, vision, and leadership of a few greats.

In recognition of this fact, the University of California, Irvine, will honor F. Sherwood "Sherry" Rowland as one of Orange County's greats on Friday, June 16, 1989, with the award of its highest honor: The UCI Medal. This Congress should join in that tribute, and for that reason I am pleased to do so today.

The work of Sherry Rowland is familiar to all of us here in Washington. His research into the destruction of the Earth's ozone layer was a critical prerequisite to a new, higher awareness of our global environment. He was a founding faculty member at UC Irvine and has been responsible for drawing national and international recognition to our region with his outstanding academic research.

Mr. Speaker, Sherry Rowland, one of Orange County's greats, deserves the recognition of the U.S. Congress for the outstanding leadership and dedication that he has exhibited for the benefit of all. It is my privilege to applaud his accomplishments and to join with my colleagues today in saluting him as a great American.

TRIBUTE TO ED WILLIAMS

HON. JOHN S. TANNER

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 15, 1989

Mr. TANNER. Mr. Speaker, I rise today to recognize Mr. Ed Williams of Friendship, TN, who recently retired from the position of mayor of hometown. I think Mr. Williams' career as a public official deserves special recognition because he has devoted his life to public service.

In addition to 13 years in the mayor's office, Mr. Williams served on the Tennessee Highway Patrol for over 20 years, as a veterans service officer for 7 years, and as postmaster for 15 months. He also served in a part-time capacity as a special assistant to my predecessor Ed Jones. Serving as a mayor at the time, he was able to bring a special insight to the problems facing towns and communities in rural areas.

Ed Williams closes out his public career with the high regard of everyone who knows him. He never met a person he did not win over immediately and he never encountered a problem he did not try to solve. Friendship, TN, is going to miss his experience and his leadership, but he will, at last, be able to devote full time to his love of the outdoors.

I extend wishes for Ed and his wonderful wife Dorothy a long and happy retirement.

THE 40TH ANNIVERSARY OF MONSIGNOR O'GORMAN

HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 15, 1989

Mr. LAGOMARSINO. Mr. Speaker, I rise today to call to the attention of the House an important event which will be celebrated on June 25 of this year, the 40th anniversary of the ordination of Msgr. Charles O'Gorman of Santa Clara Church in Oxnard, CA.

Monsignor O'Gorman has had a long and fruitful vocation in the service of church, country, and community. He was born January 27, 1925, in a farmhouse in Ballyhaise, County Cavan, Ireland, the ninth child of Edward and Mary Anne Cahill O'Gorman. He received his primary and high school education in local schools, and in 1943, following in the footsteps of two uncles who were priests, he entered All Hallows Seminary, where he was ordained in 1949.

Father O'Gorman then came to Los Angeles, where, after three parochial assignments, he volunteered for service in the U.S. Navy and was commissioned a lieutenant junior grade in June 1957. Eleven duty assignments, some in the United States, three overseas and one aboard ship followed. In September 1971 then Comdr. Charles O'Gorman, chaplain at Point Mugu Naval Air Station, received the Bronze Star with combat distinguishing device and Combat Action Ribbon, for meritorious service with Marine air units in Vietnam, ministering to isolated units and helping to organize social welfare programs for Vietnamese civilians.

In July 1977 he retired at Miramar Naval Air Station and came to Santa Clara Church as administrator in January 1978. He was named monsignor in September 1988 and formally installed on November 1, 1988.

Mr. Speaker, I would like to extend to Monsignor O'Gorman the best wishes and congratulations of the U.S. House of Representatives for his distinguished service to God, country, and community, and to wish him the very best as he marks the 40th anniversary of his ordination in the priesthood.

THE MILDRED AND CLAUDE PEPPER SCHOLARSHIP PROGRAM

HON. PAT WILLIAMS

OF MONTANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 15, 1989

Mr. WILLIAMS. Mr. Speaker, last year our late and beloved colleague Claude Pepper requested that the House pass legislation to create a scholarship program in honor of his late wife, Mildred. It is appropriate that we now so honor both Mildred and Claude Pepper. I am pleased to introduce today, along with Congressman MOAKLEY, legislation to authorize $500,000 to create a scholarship program in honor of the late Claude and Mildred Pepper. During his 41 years of public service, Claude Pepper was committed to reaching out to help those most in need of additional assistance. The Mildred and Claude Pepper Scholarship program will offer a special opportunity to those secondary students who are hearing impaired or otherwise disadvantaged or disabled; an opportunity to learn first hand about the American legislative process; a process to which he devoted so much of his life. Scholarship recipients will attend a week long seminar to observe the workings of the Congress followed by a month-long internship assignment in a congressional office.

The Mildred and Claude Pepper Scholarship Program will provide incentive to hundreds of young Americans to continue in the Pepper tradition of public service and achievement. It will also recognize Congressman Pepper's dedication and service to the handicapped, by focusing on the disabled student, primarily those with hearing impairments. The program will inevitably promote more independence for individuals with these special disabilities and would serve a very worthwhile transitional service, bridging the gap between the security of the classroom and the risks and opportunities in adulthood. Last year, Mr. Pepper wrote to me about this scholarship program, giving it his total support. I believe such a program would be a fitting tribute to him. I urge your support in continuing the work of our former colleague Claude Pepper by supporting this legislation.

PERSONAL EXPLANATION

HON. WILLIAM LEHMAN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 15, 1989

Mr. LEHMAN of Florida. Mr. Speaker, earlier today I missed the vote on the Hyde amendment due to a meeting I was attending on the Senate side concerning a matter in the supplemental appropriations bill. Although I had requested the Cloakroom to notify me of any votes, an unfortunate error in writing down the appropriate phone number prevented the Cloakroom from reaching me in time. Had I been present, I would have voted "no."

TRIBUTE TO MIO AU SABLE HIGH SCHOOL BASKETBALL TEAM

HON. BILL SCHUETTE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 15, 1989

Mr. SCHUETTE. Mr. Speaker, I rise today to recognize the Mio Au Sable High School boys basketball team. Mio is located in the 10th Congressional District, which I have the honor of representing.

The Michigan High School Athletic Association recently selected the Mio Au Sable High School to be the first recipient of the new "tournament sportsmanship award" for their outstanding sportsmanship during the Michigan High School Athletic Association State finals held at the Crisler Arena. This award complements Mio's perfect 28–0 season. Mr. Speaker, the Mio High School basketball team not only demonstrated outstanding sportsmanship, this talented group of young men exhibited exemplary teamwork and sheer determination to capture the first Class D State Championship in the school's history. This honor demonstrates that high school athletics brings a school and community together in a common cause, sharing good memories that enrich the lives of everyone involved.

Mr. Speaker, and my colleagues in the House, please join me in congratulating this North Star League School for their accomplishments. They have made us all proud and I wish them the best of luck in the future.

U.S. ROLE IN EUROPE

HON. JAMES H. SCHEUER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 15, 1989

Mr. SCHEUER. Mr. Speaker, I am pleased to submit into the RECORD an exemplary article by Elliott Kulick, the director of the National Democratic Institute for International Affairs and the Center for Democracy.

Elliott Kulick and I both recently attended ceremonies commemorating the 40th anniversary of the Council of Europe. We share the view that the United States should pay close attention to and maintain influence over the great changes that are taking place in Europe.

[From the International Herald Tribune, May 19, 1989]

(By Elliott Kulick)

I recently attended ceremonies to commemorate the 40th anniversary of the Council of Europe, Europe's oldest postwar institution and a vital instrument of Europe's new integration. Sadly, I was one of very few Americans there. My European friends were not surprised. The low U.S. presence at the event was not a matter of diplomatic error or administrative understaffing. It reflected a wider malaise: a drifting away from Europe at a time when the Continent is moving in new directions.

Traditionally, the American view of Europe has been divided into two extremes: Europe as a group of diverse and unrelated nation states, and Europe as a collective political and economic power. With the recent publicity surrounding the European Community and the plan for a single market in 1992. America has emphasized the latter perspective.

This dual vision has led to a good deal of confusion. Now, more than ever, it is debilitating. Economic and security issues are being brought together in new ways. The questions which lie ahead are significant. Will America continue its present levels of support for NATO? Will a wealthy European Community pay for its own defense, will East-West trade grow, and how does this affect the security relationship? It is a critical time for dialogue. But dialogue is sadly lacking.

America needs to be able to focus upon developments within a broad range of European spheres. It also needs to be able to anticipate European events. One practical means of achieving this would be to establish a stronger presence within the Council of Europe. The Council, with 23 member nations is the largest forum for policy recommendations within Europe. The 340 members of the Parliamentary Council are important representatives in their home governments. They are an excellent barometer of European opinion and are involved in the shaping of government policies. The council has contributed significantly to European policy in areas such as international law, health, education, the environment and transportation.

The Council of Europe also offers America a potentially useful forum for stressing common values and identity—what was once referred to as Atlantic "unity." An increasing number of European leaders find themselves questioning American understanding of the changes occurring in Europe, particularly with regard to East-West relations. At the same time, U.S. leaders are increasingly questioning the relevance and commitment of certain European groups to the Atlantic alliance.

The United States cannot afford to view events in Europe from the perspective of an outsider. American leaders must develop long-range strategies in conjunction with European leaders. Day-to-day cooperation and dialogue are the only methods through which the United States can help to shape European events.

American ideas can and should have an influence over the changing face of Europe, just as European ideas must be continually built into the American consciousness. This is a heritage of political ideals and shared values. It must not falter.

JOHN KUYERS, NEW PRESIDENT OF EDPAA

HON. RICHARD K. ARMEY

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 15, 1989

Mr. ARMEY. Mr. Speaker, I would like to recognize John A. Kuyers, newly elected president of the Data Processing Auditors Association [EDPAA]. Long and active member of the business and computer communities, Mr. Kuyers has displayed exceptional talent and durability in his field. His most recent accomplishment certainly merits our attention.

The EDPAA was founded in 1969 to assist in the maintenance of electronic data processing system control. It has since grown into an international organization concerned with the worldwide communication and education of its members. As the sole professional membership association committed to information systems auditing, the EDPAA combines data processing, accounting, management, and security for the purpose of developing more effective information systems.

Mr. Kuyers, a graduate of Michigan State University, boasts a career as successful as it is long. During his 23 years with the firm of Ernst & Whinney, he designed the company's national training program for computer auditing and served as regional director of computer audit for both the South and Midwest. A member of the computer system security and privacy advisory board, Mr. Kuyers holds a master's degree in business administration and is a certified CPA.

In this, the EDPAA's 21st year, the membership has selected John Kuyers to lead them. As president, he will build on the organization's already rich past by skillfully directing its promising future. I wish this most deserving new president the best of luck and continued success.

UNITED STATES-CUBA COMMUNICATIONS ACT INTRODUCED

HON. GEO. W. CROCKETT, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 15, 1989

Mr. CROCKETT. Mr. Speaker, today I am pleased to introduce the United States-Cuba Communications Act of 1989.

This act provides for the beginning of direct mail service to Cuba. In addition, it permits a United States common carrier to install, maintain, repair, and upgrade telephone communications equipment and facilities in Cuba. The bill also calls for the release of frozen funds held by the Treasury Department in compliance with the United States embargo against Cuba. The funds to be released are Cuba's share of revenues that have accrued over the years from telephone calls. The bill mandates that those released funds then be applied to the telephone repairs.

The freedom to communicate is a basic first amendment right. There is no reason why Americans should be deprived of that right in

peacetime. Yet as it stands now, mail from the United States to Cuba is sent via Canada or Mexico and can take up to 3 weeks. In addition, the telephone lines in Cuba are in such a state of disrepair that AT&T is only able to connect an estimated 2 percent of the phone calls placed each day.

The United States embargo against Cuba has prevented a United States common carrier such as AT&T from repairing or upgrading the lines, which were installed more than 30 years ago and have badly decayed over the years.

Mr. Speaker, I realize that usually when anyone mentions Cuba, red flags appear. I just want you to know that this bill is in no way as controversial as it might seem. For example, we have found that while Cuba-Americans differ substantially on whether the United States should normalize relations with Cuba, a large majority of them strongly support efforts to ease communications between their family members in Cuba and the United States.

Therefore, I urge my colleagues to look closely at this issue and to come down on the side of the freedom to communicate by supporting this bill.

HONORING HOWARD SCHNEIDERMAN

HON. C. CHRISTOPHER COX

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 15, 1989

Mr. COX. Mr. Speaker, it is my privilege to represent Orange County, CA, one of the leading urban areas in America. Today in our county, we have world class cities, internationally respected institutions of higher learning, and a thriving hi-tech economy that is unsurpassed around the globe.

Just a few short decades ago, however, Orange County was far different: part sleepy suburb of Los Angeles, part agricultural outpost, recognized mostly for being located in between the City of Angels and San Diego. The county has changed rapidly during the past half century. While all Orange Countians share in the pride of our region's accomplishments during recent history, the credit for much of our progress can be directly attributed to the hard work, dedication, vision, and leadership of a few greats.

In recognition of this fact, the University of California, Irvine, will honor Howard Schneiderman as one of Orange County's greats on Friday, June 16, 1989, with the award of its highest honor: The UCI Medal. This Congress should join in that tribute, and for that reason I am pleased to do so today.

Howard Schneiderman, one of the early deans of biological sciences at UC Irvine, deserves much credit for the university's meteoric rise to world-class status. While he retired from teaching to join Monsanto 10 years ago, those at UC Irvine will tell you that he never really left the campus. He has continued serving as a professor on leave and, in the words of university administrators, "has served as a UCI ambassador throughout the country."

Mr. Speaker, Howard Schneiderman, one of Orange County's greats, deserves the recognition of the U.S. Congress for the outstanding leadership and dedication that he has exhibited for the benefit of all. It is my privilege to applaud his accomplishments and to join with my colleagues today in saluting him as a great American.

TRIBUTE TO WILLIAM HENDREN

HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 15, 1989

Mr. LAGOMARSINO. Mr. Speaker, I rise to bring to the attention of the House the retirement of William F. Hendren, senior pastor of the Church of the Foothills in Ventura, CA. Pastor Hendren has had a notable career as a minister, spanning 30 years, 23 of them in Ventura, as well as a distingushed record of community service.

A graduate of Carleton College and the Pacific School of Religion, Pastor Hendren began his career in 1959 as pastor of the North Berwyn Congregational Church in Berwyn IL. He began his pastorship at the Church of the Foothills in Ventura in 1966. In this position, Pastor Hendren has involved his congregation in various services to the community including the Victim-Witness Program, housing for the homeless, and hosting delegations from the U.S.S.R. He has served on the pastoral search committee for conference ministerial positions on the Southern California Conference of the United Church of Christ. He is also a member of the conference board of directors, and the church development and evangelism commission. He was elected conference moderator, the highest elected position, in 1986.

Pastor Hendren has also found time for numerous civic activities. He served as president of the Poinsettia School PTA, vice president of the Master Chorale, and cofounded and coached the Tigre Youth Track Club. He volunteers at a hotline as a call receiver, the Kimball House, and the American Field Service.

Pastor Hendren's lifetime of service to the community and to his chosen profession is an inspiration to us all, and on behalf of the U.S. House of Representatives, I would like to extend sincerest congratulations and our best wishes for a long and happy retirement.

TRIBUTE TO COMDR. DOUGLAS TIDBALL

HON. PAT WILLIAMS

OF MONTANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 15, 1989

Mr. WILLIAMS. Mr. Speaker, I rise today to take a moment to recognize my constitutent, Comdr. Douglas Tidball. Commander Tidball retires this week after serving more than 25 years in the U.S. Navy. Through those 25 years his outstanding years of service have included Vietnam shipboard duty, graduation from the Navy's Post Graduate School and most recently served as military special assistant to the Specification Control Advocate General of the Navy.

In this capacity Tidball was charged with implementing the congressionally mandated acquisition streamlining initiative. Starting from scratch Commander Tidball drew upon the intent of this initiative and built a program, both in policy and mechanics, that has been a valuable tool to Navy acquisition. He personally developed and implemented the training that has been critical in spreading the success of this initiative throughout the Navy. He personally established the mechanisms which effectively operate this initiative—thereby refocusing the entire acquisition mind-set of the Navy. As a result, Commander Tidball has been primarily responsible for the more than $2 billion in Navy acquisition savings attributed to this program.

Because such accomplishments often go unnoticed, I am pleased and proud to take this opportunity to recognize Comdr. Douglas Tidball for his distinguished career in service to these United States, and to say thank you for a job well done.

TRIBUTE TO BILL S. TANNER

HON. JOHN S. TANNER

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 15, 1989

Mr. TANNER. Mr. Speaker, I rise today to pay tribute to one of the many heroes of World War II. He is Bill Tanner, who served with distinction and honor with the 47th Infantry Regiment during some of the heaviest fighting in the European theater.

Bill Tanner received an Army commission as a second lieutenant in 1941. In 3 short years, he was promoted to lieutenant colonel and assumed the command of an infantry battalion prior to engagement in the decisive battle at Remagen Bridge over the Rhine River. For his gallantry in engagements of eight campaigns, Bill was awarded the Silver Star, the Bronze Star and the Purple Heart with Oak Leaf Cluster. Like many of his contemporaries, Bill returned home to Union City, TN, after the war, married, started farming, and raised a family.

Recently his exploits during the war came to light through feature stories in the Union Daily Messenger printed prior to his going to visit with the 3d Battalion, 47th Regiment now posted at Fort Lewis, WA. I ask that those articles be included in the RECORD.

Bill Tanner is recognized and respected by his community both for his service to his country in time of war and his involvement in the work of his community. The people of Union City and Obion County share great pride in Bill Tanner's achievements. Likewise, his family takes great pride in his accomplishments:

TANNER TO RECALL WAR DAYS FOR TODAY'S 47TH REGIMENT

(By David

(By David Bartholomew)

El Guettar. Bizerte. Sicily. The Remagen Bridge. The Roer Dams.

Chances are anyone under 60 might think they were getting a geography test if some-

one mentioned those far away places with the strange sounding names to them. But for those who have been there, and those who were waiting back home, the words have a hallowed ring.

They mean many things: The dreaded shock of a telegram saying a husband, son or brother was lost in action. The memory of being wounded in combat. A medal for heroism and bravery. And most of all, the sites are signposts along the way to an allied victory in World War II which preserved the freedoms we so often take for granted today.

Union Citian Bill Tanner will try to take the officers and non-coms of the 47th Infantry Regiment back to those decisive battles this weekend when he addresses them in a banquet at the regiment's home base, Fort Lewis, Wash.

As a young lieutenant colonel commanding the 3rd Battalion during the difficult days of World War II, Tanner distinguished himself and his unit, fighting first in North Africa and then through Europe, including leading his men into Germany, part of the first wave that crossed the Rhine River into the Nazi homeland.

A Distinguished Member of the Regiment, Tanner will leave for Fort Lewis Thursday for a four-day visit with his old outfit. While he sees his cronies from the war at annual reunions, he is being asked to share his memories of the 47th with men who were not even born when the outfit was kicking the Third Reich.

"It is a program, modeled I think, after the British program of famous regiments," Tanner explained. "They have the Blackwatch Regiment, the Coldstream Guards and others. Basically, it is designed to establish regimental continuity, build tradition and esprit de corps," Tanner said.

Tanner will be joined for the occasion by retired Brig. Gen. Chip Maness for the ceremonies. Maness was one of the commanders who served with Tanner and opted for a military career.

The ceremonies had been planned for several months ago but were delayed because the 47th has been serving in the Sinai Peninsula in the Middle East as part of the United Nations peacekeeping force.

While Tanner prefers to talk about the actions of his outfit, his own personal accolades are many. In three and a half years, he rose from a second lieutenant to lieutenant colonel and was successively a platoon leader, company commander and then battalion commander, a unit of 700 to 800 men.

Military records and data show Tanner was "recognized by all the officers and men of the regiment as one of the most courageous aggressive leaders in the regiment."

His personal honors are many, including the Silver Star, the nation's second highest award for personal gallantry; the Bronze Star with Oak Leaf Cluster; Purple Heart with Oak Leaf Cluster; Combat Infantryman's Badge; and a Presidential Unit Citation.

The Silver Star came in March 1943 while Tanner was serving in the North African campaign. His unit pinned down by machine gun fire, he charged the Nazi position and destroyed the machine gun nests, armed at the time only with a pistol.

He was wounded three times, the last time rather seriously at Dessau on the Elbe River, the farthest point of penetration by the 47th into Germany. While recuperating in England, he was personally invited by Gen. Randall—with whom he had served in North Africa—to come to the Pacific and take command of another battalion as the war was continuing there. "I told him thanks but no thanks, I had had enough and I was ready to come home," Tanner recalls.

Tanner will give the members of the 3rd Battalion some of the unit's history, trying to help the professional soldiers establish some roots with their unit. But it won't be history from a textbook. It will be the best kind, living history, not only from a man who was there but one who was a central figure in making it.

EIGHT CAMPAIGNS PUSHED COLONEL TANNER INTO SOME OF WAR'S WORST FIGHTING

It could have been yesterday, not almost a half-century ago, as Bill Tanner, decorated World War II veteran, recalls the eight major campaigns he was involved in with one of the Army's most famous units, the 47th Infantry.

Tanner commanded a battalion of that regiment and will be in Fort Lewis, Wash., this weekend to share his memories with the men who are now in the regiment's 3rd Battalion.

Perhaps the most famous battle came at the Remagen Bridge. As the Germans were being driven back to their homeland, they failed to blow the bridge and allied troops soon captured it. The 47th was to cross it and start the decisive drive towards the German heartland which would end the war.

Tanner recalls the role his battalion played.

"We were about 20 miles away and had marched right through the German army to get to a point overlooking the Rhine, just opposite Bonn. We walked in at night and I remember getting down by the side of the road, the men holding a blanket over me so I could look at the topographical map by flashlight.

"We had men who spoke German, so they led and would speak to any sentries we encountered and take care of them. As we came to houses, we sent men inside to make sure nothing went wrong. We were so close to their army we could smell their bacon frying and hear their orders. We got behind them though and spent a week or so calling for artillery fire to drop a few rounds right into the middle of their command post. We were watching every time we saw staff cars coming or going. But I had orders and coordinates so as not to call any fire on the cathedral there in town because it contained so many treasures," Tanner recalls.

On March 9, his unit was ordered down to the Remagen Bridge. Discovered by the Germans, the unit fought its way out through day-long bad weather and arrived at the bridge, just to be sent into battle about 7:30 in the evening, his objective a town about two miles away.

Concerned about hitting the heavily fortified fortress head-on, Tanner led his men across a mountain, coming out on the backside of the Germans. "I recall we got into some grape vines as we crossed the mountain and we had to crawl through row after row, each one having two wires, one about knee high and the other near head height. I was afraid we were going to get caught there come daylight but we made it through."

When the Germans discovered what had happened, they hastily turned their firepower around and set off what was one of the most fierce battles of the war as the Nazis tried desperately to retake the bridge and utilized the river to halt allied forces.

"We fought from one end of the town to the other, often in the same house together as we cleared it room by room. I recall seeing one company of 160 men; by nightfall there was a sergeant and eight men left. Another had only its lieutenant and 16 men. I lost the bulk of my battalion that day." Tanner remembers.

What Tanner and his battalion did that day as they worked to lead the allied forces forward has been memorialized in several books.

"It was surely some of the most intense fighting in the history of the world," he pointed out. The fierceness of it was so that during the course of the campaign, Tanner's rifle companies had 1,800 percent casualties.

He remembers the El Guettar battle along with the Remagen Bridge as the stiffest he was ever in. What didn't start out as much of a battle wound up costing many lives following the American landing at Saffi in French Morocco. It was there Tanner was elevated to company commander after his captain was killed.

He remembers other battles as well, such as the North African campaign, the work in Sicily and landing on the French coast in the Normandy invasion, four days after D-day.

He saw the war as his job, a responsibility thrust on him as he graduated from the University of Tennessee with a commission in 1941. What he will share in Fort Lewis is that if there is another place and another time but similar circumstances, he and the others of the 47th will be counting on the regiment to continue the proud tradition of being winning fighters.

JULIUS NAIMAN WINS 1989 SILVER POET AWARD

HON. WILLIAM LEHMAN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 15, 1989

Mr. LEHMAN of Florida. Mr. Speaker, recently, a constituent and special friend of mine, Julius Naiman, was unanimously voted the 1989 Silver Poet Award by the World of Poetry's board of directors. This is an exclusive award for poets who have shown the confidence, skill, and depth to express themselves in poetry.

On September 2, 1989, Mr. Naiman will be honored for his achievement at the Fifth Annual World of Poetry Convention in Washington, DC. I would like to congratulate Julius Naiman on his outstanding poetry and share with my colleagues one of his excellent poems:

HAPPY NEW YEAR

(By Julius Naiman)

Today starting a new year,
This is the wish I send:
May good fortune be yours always,
And I your faithful friend.

It's my wish that you'll find happiness,
Through the year that's on its way,
And only good and pleasant things,
Will fill each coming day.

I hope that you'll have riches,
Both in happiness and health,
And even though a small detail,
I also wish you wealth.

A man and his dough may be parted,

But friendship never ends,
I'm not so rich in money,
But I'm wealthy when it comes to friends.
I'm proud to list you among them,
For a pal is worth more than gold.
You can trade money for chattels,
But friendship can't be bought or sold.
This card may be worth but a penny,
But I send it on its way,
It's just my little agent,
To express what I want to say.

STEVEN HUEY—A WINNER

HON. BILL SCHUETTE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 15, 1989

Mr. SCHUETTE. Mr. Speaker, I rise today to extend my congratulations to Steven Huey, son of Gary and Bonnie Huey of Big Rapids, MI.

Steven placed first in the Grand Rapids Spelling Bee Finals to become the spelling bee champion for the State of Michigan. For his excellent performance, this eighth grade student from Big Rapids Middle School will have the privilege to apply his talents at the 1989 Scripps Howard National Spelling Bee Finals held in Washington, DC. This is the first time a student from the Big Rapids area has had the opportunity to compete in national competition.

Steven demonstrated his skill and determination which has proven to be very successful.

Mr. Speaker, and my colleagues in the House, please join me in congratulating Steven for his great accomplishment. Steven should be very proud and I extend to him my best wishes for success in the national finals.

STATEMENT ON DRUG ABUSE

HON. JAMES H. SCHEUER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 15, 1989

Mr. SCHEUER. Mr. Speaker, I am pleased to insert into the CONGRESSIONAL RECORD a brief statement on drug abuse by Francis J. Wolfe, a longtime crime fighter in the city of New York.

CONGRESSMEN: I am Francis J. Wolfe. In 1968, I retired from the New York City Police Department after 28 years of service.

I spent ten years in the N.Y.C. Narcotics bureau, as lieutenant, captain and deputy inspector. I was in charge of all narcotics work in N.Y.C.

In 1968, I had four captains; eight lieutenants; 16 sergeants; 400 detectives; and a 20 man clerical staff. There were 55,000 addicts in N.Y.C. Today there are over 335,000 addicts, and we are losing the war! We now have 2100 men in the narcotics bureau.

In 1968, we used to seize kilos of cocaine and heroin. Today, we seize it by the ton. Gentlemen, we are losing the war.

If we were to enact a bill to legalize narcotics in the U.S., it would do the following:

1. Eliminate 90% of the crime.
2. Stop drug related shootings, killings, stabbings, robberies, burglaries, etc.
3. Eliminate organized crime cartels.
4. Reduce the number of High School dropouts.
5. Put people back to work.
6. Open factories for cars, steel, appliances, etc.
7. Make our streets, subways, and houses safe.
8. Make the U.S. the number one world economy.
9. Would help balance the budget.
10. We could feed, clothe, and educate the impoverished.
11. No more crack and heroin babies.
12. Reduce the number of Aids cases.
13. Put more cops on the beat further reducing crime.
14. Use jails for treating addicts.

CARL GARNER REACHES MILESTONE

HON. BILL ALEXANDER

OF ARKANSAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 15, 1989

Mr. ALEXANDER. Mr. Speaker, it gives me great pleasure to mark a very significant milestone in the life of my good friend, Carl Garner of Heber Springs, AR.

On Friday, Carl—who serves as resident engineer at Greers Ferry Lake in my district—will receive a certificate in observance of his 50th year of Government service.

The person who coined the phrase "above and beyond the call of duty" must have known Carl, or at least someone like him. It is certainly the way he has approached his job during the past five decades.

Carl Garner is not only responsible for the development, construction, operation, and maintenance of Greers Ferry Lake, its parks, dams, and powerplant—he also has responsibility for 700 miles of streams and rivers, 55 miles of levees, and in providing assistance in disasters such as floods and tornadoes in a 4,000-square mile area of north central Arkansas.

That's a pretty full plate as we say at home, but Carl Garner doesn't stop there.

Because of his genuine love for the State of Arkansas and its environment, he was responsible for initiating the annual Greers Ferry Lake and Little Red River Cleanup Program. That program, Mr. Speaker, has received national recognition and served as the model for Federal Pulbic Land Day which came into being under a bill I was proud to sponsor in the House.

The purpose of the legislation was to take Carl Garner's cleanup idea beyond Greers Ferry. It worked. Today, efforts similar to the one he launched are carried on at many lakes, parks, and other locations throughout the Nation.

I would like to list just a few awards this most commendable program has received since it was launched in 1970: Eleven Keep America Beautiful National Awards (including two National Model Awards); three Take Pride in America Awards; Department of the Army Community Relations Award of Excellence; Chief of Engineers Award of Excellence; Congressional Award of Merit; Governor's Award of Excellence, and the Keep Arkansas Beautiful Association Pioneer Award.

Since 1970, more than 40,000 volunteers have been involved in the cleanup at Greers Ferry/Red River alone. They have removed 1,500 tons of garbage from the banks of the lake and river, making these beautiful locales even more enjoyable for the thousands of visitors who come each year.

I have been honored to participate in each of the cleanups and can personally attest that while the work is hard, the rewards are many.

The attention the program has received has also made people more aware of the problem of litter and preservation of the environment during the entire year.

Carl has also received the Department of the Army Exceptional Civilian Service Award, the highest civilian award the service can bestow, as well as being named Employee of the Year in the Little Rock District and Employee of the Year in Federal Service in Arkansas.

In addition to all of the time and energy he had devoted to his job, Carl also finds time to serve on Governor Bill Clinton's Keep Arkansas Beautiful Commission as well as giving his services to a number of other organizations.

During Carl Garner's 50 years of service, he has come in contact with people from all walks of life—from the family enjoying the beauty of the Greers Ferry Lake and Red River area to President John F. Kennedy. It was Carl Garner who was responsible for preparations for the dedication of Greers Ferry Dam by President Kennedy.

Carl was born and raised on a farm near Sulphur Rock, AR. His wife, Jean, also works for the Corps of Engineers—making it truly a family affair.

My friend, Carl Garner, has much to be proud of and we hope that he knows we are very proud of him. He exemplifies the best of those who have chosen Federal service as their careers.

ROBERTA COHEN-KOLIN

HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 15, 1989

Mr. TOWNS. Mr. Speaker, it is my distinct honor to congratulate Ms. Roberta Cohen-Kolin of Staten Island, NY, on her years of service in the New York City school system.

Ms. Cohen-Kolin has served the community with dedication and commitment for over 25 years. Beginning in 1963, with her career as an elementary schoolteacher, Ms. Cohen-Kolin has evinced a willingness to employ a direct approach to overcome the difficult problems facing the inner-city school system. Willing to accept new challenges, Ms. Cohen-Kolin has served in various positions at all levels of the school-based educational hierarchy. Currently serving as principal of P.S. 290 in Brooklyn, NY, Ms. Cohen-Kolin manifests a type of educational leadership borne of experience, industriousness, and devotion.

In addition to her active participation in the education of others, Ms. Cohen-Kolin has managed to find time to further her education by acquiring a master of science degree in education.

Finally, her dedication to the educational mission was recognized by her peers when she was voted one of the Outstanding Elementary School Teachers of America.

I commend Ms. Cohen-Kolin for her professional achievements and service to the community. I wish her continued success in her future efforts.

DECONFRONTATION AGREEMENT ALONG THE GREEN LINE IN CYPRUS: LET'S KEEP THE MOMENTUM GOING

HON. WM. S. BROOMFIELD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 15, 1989

Mr. BROOMFIELD. Mr. Speaker, I want to commend the good work of the United Nations in brokering a deconfrontation agreement between the two parties to the Cyprus dispute. I trust that this plan will be the prelude to further progress in resolving the complex questions underlying the long standing Cyprus problem.

Since the 1974 invasion of Cyprus and the tragic partition of that island, United Nations forces have manned the green line, a buffer zone that divides the island. The military positions of the Greek and Turkish Cypriot forces in certain areas of Nicosia were, until recently, dangerously close to each other. This proximity resulted in numerous incidents over the years that claimed the lives of both Greek and Turkish Cypriot soldiers. Blood was shed for no reason along that line and more names were added to the long list of those who have been victimized by the Cyprus dilemma.

After lengthy discussions involving the United Nations, the Turkish Cypriots and the Greek Cypriots, a disengagement agreement went into effect on May 17 which resulted in the demanning of 12 sentry posts on each side of the buffer zone. These limited military adjustments are designed to avoid further unnecessary tragedies along the green line.

I want to commend the good work of the Secretary General as well as the persistence of Maj. Gen. Clive Milner of Canada, the new commander of the United Nations Forces in Cyprus, in making this disengagement plan a reality.

If progress can be made on the deconfrontation issue, I hope that the Greek and Turkish Cypriots will also be able to move forward with the same spirit of cooperation and bring about a resolution of the New Famagusta [Varosha] problem. Since 1974, that once thriving coastal city has been abandoned and millions of dollars in buildings and city services have been ruined by lack of proper upkeep. With the exception of a few Turkish and Greek Cypriot students, that city has been put "off limits" to both Turkish and Greek Cypriots. A 1984 Security Council Resolution called for the transfer of the city to the administration of the United Nations. A resolution of the New Famagusta issue would be a welcome step forward in the ongoing intercommunal talks between the two communities on that island.

I have followed the tragedy of Cyprus for many years here on the Foreign Affairs Committee. I am realistic and know that there are no quick and easy solutions to the complex problems on that divided island. A dramatic breakthrough, however, is desperately needed in the ongoing talks. I hope that this recent small achievement can lead to further substantive progress in resolving the challenging issues that characterize the Cyprus dispute.

HONORING RICHARD HAUSMAN

HON. C. CHRISTOPHER COX

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 15, 1989

Mr. COX. Mr. Speaker, it is my privilege to represent Orange County, CA, one of the leading urban areas in America. Today in our county, we have world class cities, internationally respected institutions of higher learning, and a thriving high technology economy that is unsurpassed around the globe.

Just a few short decades ago, however, Orange County was far different: Part sleepy suburb of Los Angeles, part agricultural outpost, recognized mostly for being located in between the City of Angels and San Diego. The county has changed rapidly during the past half century. While all Orange Countians share in the pride of our region's accomplishments during recent history, the credit for much of our progress can be directly attributed to the hard work, dedication, vision, and leadership of a few greats.

In recognition of this fact, the University of California, Irvine, will honor Richard Hausman as one of Orange County's greats on Friday, June 16, 1989, with the award of its highest honor: The UCI Medal. This Congress should join in that tribute, and for that reason I am pleased to do so today.

Richard Hausman, vice chairman of Allergan Pharmaceutical, Inc., has been a close friend of the University of California for over 15 years. He established one of the first endowed chairs in the College of Medicine, and recently agreed to cochair UC Irvine's first capital campaign. His company's growth to become a world leader has been a key to our region's success. Dick Hausman's committment to higher education and commerce is truly exemplary.

Mr. Speaker, Richard Hausman, one of Orange County's greats, deserves the recognition of the U.S. Congress for the outstanding leadership and dedication that he has exhibited for the benefit of all. It is my privilege to applaud his accomplishments and to join with my colleagues today in saluting him as a great American.

JOB CORPS AMENDMENTS OF 1989

HON. PAT WILLIAMS

OF MONTANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 15, 1989

Mr. WILLIAMS. Mr. Speaker, I rise today to introduce amendments to the Job Corps Program which are designed to improve services to the many young Americans who participate in Job Corps each year.

These amendments would: First, increase the upper age limit in the program from 22 to 25; second, clarify the authority to permit concurrent or subsequent participation in Job Corps and JTPA for the benefit of the individual; third, increase the limitation on nonresidential participation in Job Corps from 10 to 20 percent nationally; fourth, provide child care for children of enrollees; fifth, provide alcohol and drug abuse counseling; and, sixth, establish limits on administrative reductions.

My amendments are primarily the result of the research and demonstration findings conducted by the Department of Labor.

TRIBUTE TO HUBERT STEELE, JR.

HON. BOB McEWEN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 15, 1989

Mr. McEWEN. Mr. Speaker, I rise today to bring to your attention the accomplishments of Hubert Steele, Jr., of Portsmouth, OH. Hubert holds the rank of captain in the Salvation Army, but to those who know him best, Hubert holds the far greater unofficial title of "Good Neighbor Extraordinaire."

In Portsmouth, and in his previous home of Middletown, OH, Hubert has developed an unmatched reputation for helping those who are needy and less fortunate. That is not to say that he has performed his good deeds with an eye on drawing attention to himself. On the contrary, this selfless man has done much of his best work under nightfall, when scarcely anyone else has been awake to notice.

Hubert is special because he views an opportunity to help others as a blessing, and it doesn't seem to bother him that those opportunities can present themselves at times which others might consider inconvenient. Though a Salvation Army officer is not required to be on call 24 hours a day, Hubert has spent many a sleepless night serving people in need.

For instance, Hubert has been called at 3 or 4 o'clock in the morning to drive people he did not know to the hospital. He has responded willingly. Similarly, Hubert worked night and day supplying food to firefighters as they fought severe summer forest fires in southern Ohio the past several years. It is at such odd hours, under trying circumstances, when people like Hubert reveal the true extent of their concern for others.

His fellow workers in the Salvation Army have watched Hubert take the shoes off his own feet in order to give them to a homeless person who had no shoes. He has worked tirelessly to end the use of drugs in his community, and taken the children of drug-torn families under his wing, steering them down the path toward productive lives. He has taken the last $5 from his wallet in order to buy milk for a mother to give to her hungry baby.

Many good and decent people try to be helpful to others, to perform charitable acts and ease suffering in a less-than-perfect

world. But the human tendency is to help others on our own terms, in ways that best fit our busy schedules. Hubert is noteworthy because he steps in to help not when it is easy to do so, but when it might require the greatest personal sacrifice.

After many years of helping southern Ohioans, Hubert, a retired steelworker, and his wife, Diane, are moving to New York, where he will become the head of an alcohol rehabilitation center in Manhattan. It is my wish that the people of New York City might receive just a fraction of the benefits of Hubert's service that he has already freely given to the people of Ohio. But of course, Hubert will give New Yorkers his very best, which is much indeed.

Mr. Speaker, I hope you and our colleagues will join Hubert's sons, Hubert III and Scott, his daughter, Rhonda, and his grandchildren, and Hubert's many friends and me in applauding his good work, and wishing him all the best in his new assignment in New York.

TERROR IN CHINA

HON. GEORGE J. HOCHBRUECKNER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 15, 1989

Mr. HOCHBRUECKNER. Mr. Speaker, we are all acutely aware of the large number of American citizens who have been detained in China since troops moved into Tiananmen Square on June 3. I am sure all of my colleagues have joined me in devoting their efforts to the safe and immediate return of all the Americans detained in China.

Today, I would like to welcome home two members of New York's First Congressional District. Profs. Scott Feld and his wife Jill Suitor have recently returned to their home in South Setauket, NY, after being detained in Beijing by Chinese troops. Mr. Feld and his pregnant wife showed inspiring bravery as they calmly responded to the horror of being faced with Chinese guns. We can only try to imagine the terror this couple lived with as they were lined up against a wall by troops, fearing they would be shot. The couple's nightmare continued as they were detained in large rooms surrounded by troops. After their release, the couple spent 2 grueling days making accommodations to return to the United States.

I am very pleased that Scott Feld and Jill Suitor are safely back in New York and I ask my colleagues to join me in welcoming this couple home. I want to encourage the Members of Congress to continue to work for the safe return of all American citizens who are facing fear similar to that of this returned couple.

IN RECOGNITION OF THE FORT GUIJARROS MUSEUM FOUNDATION

HON. BILL LOWERY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 15, 1989

Mr. LOWERY of California. Mr. Speaker, today I would like to applaud the tireless volunteer efforts of the Fort Guijarros Museum Foundation of San Diego, CA.

Over the past few years, extremely limited land resources have forced the Naval Submarine Base of San Diego to build on sites of suspected or known archeological significance. To mitigate the adverse effects caused by the construction projects, the foundation, headed by Ronald Y. Mays, has provided advice and counseling to the naval base commander and coordinated with the State historic preservation officer, naval engineering command, and local agencies and archeologists.

In addition, the Fort Guijarros Museum Foundation has volunteered vast amounts of equipment and labor to locate and document such sites as Fort Guijarros, the first coastal fortification in California, and the Ballast Point whaling station. Of particularly significant merit was the whaling station project, located on the proposed site of a Coast Guard search and rescue facility. On short notice, over 400 man-days were contributed to the recovery of the whaling station. Among the discoveries was a Tryworks Oven Foundation, the brick furnace in which metallic pots were used to render whale oil.

The Tryworks, which was relocated and preserved for future study, is the only known intact example of its kind in the United States. The efforts of the foundation allowed the Coast Guard's project to be completed on time and as planned, saving the Government more than $50,000.

The foundation's efforts have not only assisted in the preservation of irreplaceable archeological artifacts, but also facilitated the successful and efficient development of the submarine base, increased overall awareness of the unique history of San Diego, and greatly improved public relations for the Navy in the area. Mr. Speaker, I ask you to join me in saluting the inspiring dedication and initiative of the Fort Guijarros Museum Foundation.

HONORING DONALD BREN

HON. C. CHRISTOPHER COX

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 15, 1989

Mr. COX. Mr. Speaker, it is my privilege to represent Orange County, CA, one of the leading urban areas in America. Today in our county, we have world class cities, internationally respected institutions of higher learning, and a thriving hi-tech economy that is unsurpassed around the globe.

Just a few short decades ago, however, Orange County was far different: Part sleepy suburb of Los Angeles, part agricultural outpost, recognized mostly for being located in between the City of Angels and San Diego. The county has changed rapidly during the past half century. While all Orange Countians share in the pride of our region's accomplishments during recent history, the credit for much of our progress can be directly attributed to the hard work, dedication, vision, and leadership of a few greats.

In recognition of this fact, the University of California, Irvine, will honor Donald Bren as one of Orange County's greats on Friday, June 16, 1989, with its highest award: The UCI Medal. This Congress should join in that tribute, Mr. Speaker, and for that reason I am pleased to bring this commendation to the floor of the House today.

Donald Bren, the chairman of the board of the Irvine Co., has long been committed to improving the quality of life for all Americans, as evidenced by his outstanding support of higher education and his extraordinary contribution to our economy. Through his company, he has helped hundreds of businesses to create thousands of jobs for Californians, and he has helped to house thousands more. He has, moreover, been a leader in UCI's efforts to educate future generations of Californians and future world leaders. His endowment of the Bren Fellows program and his key role in the construction of the Bren Center at UCI are just two examples of his dedication to higher learning and to our citizens.

Mr. Speaker, Donald Bren, one of Orange County's greats, deserves the recognition of the U.S. Congress for the outstanding leadership and dedication that he has exhibited for the benefit of all. It is my privilege to applaud his accomplishments and to join with my colleagues today in saluting him as a great American.

THE SATELLITE PUBLIC EDUCATION AND INFORMATION ACT OF 1989

HON. PAT WILLIAMS

OF MONTANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 15, 1989

Mr. WILLIAMS. Mr. Speaker, today I am introducing the Satellite Public Education and Information Act of 1989. This legislation seeks to promote the widest possible dissemination and use of telecommunications programming which is supported by the Federal Government.

For some time the Federal Government, through a number of efforts and agencies, has helped finance and promote a wide variety of valuable educational and informational programming. It is an excellent and worthwhile endeavor that well serves the American public by expanding the range of information our free society relies upon. These efforts are especially important for folks who live in the sparsely populated or rural regions of our country where conventional reception of telecommunications often is difficult.

In this age of extraordinary advances in communications, our national policy should do all it can to encourage the free and unrestrained flow of information—especially information and programming which the American

taxpayers have financed. Unfortunately, in some areas restrictions have been imposed on the access and use of federally supported programming. My bill simply asserts that open dissemination, instead of the narrowing of avenues for information, is the best public policy, and it calls for the unrestrained dissemination of programming which the Federal Government has financed.

CONSECRATION OF ASSUMPTION GREEK ORTHODOX CHURCH

HON. DAVID E. BONIOR

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 15, 1989

Mr. BONIOR. Mr. Speaker, I rise today to pay tribute to the parishioners, clergy, and friends of Assumption Greek Orthodox Church of St. Clair Shores, MI, as they consecrate their new church according to ancient Byzantine rites.

Beginning with a Vespers service on Saturday, June 17, 1989, honoring the memory of martyrs who died for their ideas. His Eminence Archbishop Iakovos, His Grace Bishop Timmothy of Detroit, Pastor Reverend Demetrios S. Kavadas, and Assistant Pastor Reverend Constantine Makrinos will lead the parish in the ceremonial baptism of their new church, thereby setting it apart as a sacred place.

The consecration ceremony will occur the next morning on Sunday, June 18, 1989. During this ancient Byzantine ceremony, Archbishop Iakovos will permanently seal a gold box containing the relics of St. George the Great Martyr, St. Boniface and the Martyrs of Mount Sinai, all from the third century, in the cavity of the altar. This timeless ceremony will establish a spiritual link between their new church and the Holy Land thousands of miles away.

Furthermore, I understand that the Greek Orthodox clergy has invited the religious leaders from the many different faiths of greater Detroit to participate in an ecumenical council prior to the opening vesper service. This weekend represents the most important event in a church's spiritual life. The willingness of the Assumption parishioners to share this special moment exemplifies their commitment to the community and to the foundations of our free country.

I am honored to see the Greek Orthodox hierarchy transplant their centuries-old traditions and beliefs here in St. Clair Shores, MI. As a Nation we have always welcomed people of many creeds and religious beliefs, guaranteeing them freedom of thought and religion. And as a Nation, I am sure my colleagues will agree that we have become the most culturally rich society in the world.

Mr. Speaker, thank you for allowing me to commemorate this special moment. I would like to offer the very best wishes and hopes to the clergy, parishioners, and friends of Assumption Greek Orthodox Church for their continued success in the years to come.

SALUTE TO MRS. GERALDINE STOCKER

HON. BILL EMERSON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 15, 1989

Mr. EMERSON. Mr. Speaker, my colleagues and I know that as Members of the House of Representatives, we are fortunate to have the opportunity to meet many diverse types of people. However, it is truly a rare and welcome occasion when one is afforded the opportunity to meet an individual as dynamic, inspiring, and special as Geraldine Stocker.

Mrs. Stocker, who is from Farmington, MO, located in the Eighth District of Missouri which I represent here in the House, received her general equivalency diploma [GED] after completing the Adult Basic Education Program at Lead Belt Vocational Technical School. Now, the unique twist in this very special success story is that Mrs. Stocker is 92 years old—the oldest person in the State of Missouri to ever earn an equivalency degree. Mrs. Stocker decided to finish her high school diploma after her children began families of their own and her husband of 46 years passed away. As you might imagine, because 78 years had passed since she had completed the ninth grade, Mrs. Stocker experienced the most problems with the math and social sciences questions. Can you imagine having to test out on the new math today? On the other hand, the reading and writing sections of the exam posed few problems, thanks to Mrs. Stocker's experience in writing for senior citizen's publications. Mrs. Stocker passed the examination for her general equivalency diploma with a score of 248. Even more remarkable is that she earned her GED on her first attempt.

What is Mrs. Stocker planning for the future? Never one to rest on her laurels, Mrs. Stocker has great plans for her years ahead. In a recent inteview in the St. Louis Post Dispatch she said, "I hope to go to college this fall. I want to learn sign language. I'm sort of hard of hearing myself, and a couple at the church had a grandson who was born deaf. Maybe it'll be a help to someone."

For her own self-edification, Mrs. Stocker wants to study geology in college—that is if she has time between pursuing her hobbies of playing the organ and listening to Cardinals baseball games and dancing at the local senior citizens center.

Mr. Speaker, I have recently had the pleasure of meeting Mrs. Stocker. I was extremely impressed by her great fortitude and strength. Not many of us can boast of such courage, will, and gumption when we are 22 years old, much less 92. I am proud that I am able to refer to Geraldine Stocker as a constituent of mine. I am proud that she has seized this opportunity to further her education and improve herself. I am proud of Geraldine Stocker. And, I would like to take this opportunity to salute this truly remarkable individual.

BEST WISHES IN FUTURE ENDEAVORS TO MR. AND MRS. WRIGHT

HON. PAT WILLIAMS

OF MONTANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 15, 1989

Mr. WILLIAMS. Mr. Speaker, Dr. Nick Masters recently wrote the following letter to his friend, Jim Wright.

In particular, I wanted to bring the next to last paragraph to the attention of the House.

CONGRESS OF THE UNITED STATES,
Washington, DC, June 1, 1989.

Hon. JIM WRIGHT,
The Speaker, House of Representatives, Washington, DC.

DEAR MR. SPEAKER: The announcement of your resignation as Speaker and later as a Member of the House of Representatives can only be viewed by me with the deepest regret. The defense of your position as to the alleged violation of House rules was eloquently presented by you before the House of Representatives and, indeed as a result of television, before the American people. The citizens of Fort Worth, your Texas Democratic colleagues, and Members from every congressional delegation were saddened by the turn of events that led to your resignation.

What is amazing in this whole process, and I think to your credit, was that there was very little disagreement as to the facts. Everyone knew that Mrs. Wright drew a salary. Everyone knew that there was a condominium at her disposal when in Fort Worth. Everyone knew that Carlos Moore published a book written by you. Everyone also knew that these books were sold in bulk and that you received royalties from the sale of the book. What then really happened if no one disagrees as to the basic facts?

Mr. Richard Phelan, Special Counsel, started with the basic proposition that facts are meaningless unless they are related to some explanatory theory. Given this assumption, Phelan constructed a theoretical scheme to explain these facts. In so doing, Phelan was very selective about what facts he would leave out, and very careless in reporting the details surrounding his theory. Even worse, Phelan committed the most egregious error of all—he deliberately misrepresented or misconstrued critical testimony presented to the House Committee on Standards and Conduct and sought to cover up his misdeed by having the Committee threaten a witness who attempted to correct his testimony. He did all this before the respondent or his attorneys had a reasonable opportunity to question Mr. Phelan's theoretical explanation of the facts. I don't think there is any question that the Committee on Standards and Conduct, and I say this largely because of the advice given to Members of the Committee by their Special Counsel, violated the basic requirements of due process.

In any event, none of this matters now, because the American people will pay for Mr. Phelan's actions for years to come. Mr. Speaker, you are a man of substance. You are a man who is concerned about the direction of public policy. You are a person who uses power to assist and help people. In short, over your 34 years in the Congress, you have made a difference. Therefore, be-

cause of your departure, and because I believe it will be some time before we return to your kind of leadership, there will be fewer people getting a college education. There will be fewer people buying homes at reasonable prices. There will be fewer people benefiting from the Nation's health services. And there will be fewer people finding meaningful jobs in society. Indeed, you have made a difference and it will be some time before we fill the void left by your resignation.

May I join the millions of Americans who, I am sure, hope that you remain a public man. I wish the best of luck to you and Mrs. Wright in whatever endeavor you may choose.

Sincerely,

NICHOLAS A. MASTERS,
Committee on the Budget.

THE BOASTINGS OF AN ABORTIONIST—THE TRAGEDY CONTINUES

HON. ROBERT K. DORNAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 15, 1989

Mr. DORNAN of California. Mr. Speaker, I would like to share with you an incredible article which was published about 9 years ago in the San Diego Union. Although it was published on October 12, 1980, it is still worthy of receiving careful attention today. It reveals the horrible truths about the American abortion industry.

This article is an interview with a doctor who became a multimillionaire by forming the largest chain of abortion clinics in California. By his own words and example, Dr. Allred testifies to the callous, greedy, and racist attitudes which are prevalent in the abortion industry, an industry which generates at least $282 million annually as recently reported in the media. Dr. Allred boasts that he has "eliminated needless patient-physician contact," that he likes to spend no more than 5 minutes on each abortion, and that he opened his clinics to "help stem the Hispanic tide" into the United States.

This candid testimony, coming from the doctor who profits from the abortion business, exposes the inherent realities of the American tragedy of abortion—the exploitation of women, the poor, and the "undesirables," not to mention the cold-hearted disregard for human life.

I urge my colleagues to read this horrifying article.

[From the San Diego Union, Oct. 12, 1980]

DOCTOR'S ABORTION BUSINESS IS LUCRATIVE

(By Anthony Perry)

Abortion is a business in Edward Campbell Allred, and business has never been better.

Since finishing a two-year hitch as an Army doctor in 1967 with "a negative net worth," Allred has become a multimillionaire by forming the largest chain of abortion clinics in California. Allred estimates his clinics will perform upwards of 60,000 abortions this year—up from 40,000 just two years ago.

Allred also owns two industrial medical practices, two pharmacies and a portfolio of silver and oil stocks, but his main investment is his abortion business.

Allred declines to discuss his finances, but state health officials estimate Allred's 12 clinics and 22-bed abortion hospital will gross more than $12 million this year—about 25 percent from Medi-Cal.

A new clinic will open in Long Beach this January, and Allred talks of opening one in Calexico to "help stem the Hispanic tide" into the United States.

"I love to work very hard," said Allred, who performs an estimated 1,800 abortions each month. "I almost feel guilty when I'm not working. Golf is the only thing that can take my mind off work. But if I'm away more than a day or two I get nervous and worried and have to get back to work."

Allred may love to work, but he also loves his leisure hours and the pleasures his lucrative Family Planning Associates Medical Group abortion clinics can buy.

Allred owns homes in Fresno, Long Beach and La Crescenta, a 270-acre ranch near San Luis Obispo, a 6,500-acre cattle ranch in Nevada, and one of the largest stables of quarter horses in the country. He uses his Mercedes 450XL or two planes, including his 10-place King Air 200 turboprop, to travel between clinics.

An Allred horse named Rich Grich won the $330,0000 Golden State Derby this year at Bay Meadows Race Track in San Mateo. Allred's Charger Bar earned nearly $500,000 before being retired for breeding. Allred owns about 200 quarter horses—about 40 of which are on the race track circuit.

Allred, 44, is a 1964 graduate of the Loma Linda University Medical School run by the Seventh-day Adventist Church. He said he would have prefered to be a lawyer or politician but "every good Seventh-day Adventist boy is supposed to become a doctor."

"I was not much interested in science or medicine, frankly," Allred said "I went to USC Law School but dropped out. I didn't have much aptitude for science but all my friends were going to medical school so I went. My instincts, I think, were better suited to the business world than medicine.";

Allred's interest in politics persists, however. A moderate to conservative Republican, Allred has contibuted to Ronald Reagan's campaigns "since the early days." He also contributed to the gubernatorial campaign of Sen. Ken Maddy, R-Fresno, (despite Maddy's anti-abortion views) and the campaign by Carey Peck to defeat Rep. Robert Dornan, R-Calif., a staunch foe of abortion.

Allred began his abortion business soon after passage of a 1967 state law allowing abortion in cases where the mother's mental health was endangered. Allred was administrator of the 22-bed Avalon Memorial Hospital (which he later bought) near Watts when the law passed.

Allred quickly made Avalon the leader in the abortion business. He says he was urged to turn Avalon into a abortion hospital by officials of the Los Angeles Free Clinic—a version of events which clinic officials say is not true.

"Here we were, this tiny hospital in the worst area of town, doing 17,000 abortions the year before the 1973 Supreme Court decision and our nearest competitor was doing 6,000," Allred said. "We just worked at it harder and were organized better than our competitors.

"Half of our patients were from out of state. Planeloads would come in on the weekends from Houston and Dallas-Fort Worth. We'd meet them at the plane with a bus and take them directly to the hotel. I'd work fom 6 in the morning until midnight performing abortions."

After the Supreme Court struck down all anti-abortion laws. Allred began expanding into outpatient clinics where women could get abortions without staying overnight in a hospital. Allred now has clinics in San Diego, Orange, Riverside, Los Angeles, Ventura, Kern, Fresno and Stanislaus counties.

"We've been pioneers in so many ways," Allred said. "We dropped the psychiatric evaluation even before the Supreme Court decision. We let the physican make the mental health decision. We streamlined, we made efficiencies, we employed the suction technique better than anyone, and we eliminated needless patient-physician contact."

A typical Allred clinic does abortions only two or three days a week. On other days nurses give pregnancy exams and postoperative follow-ups. Allred and his staff arrive only for the abortions. Allred tries to visit each clinic at least once a month.

Allred prides himself on keeping the clinics clean, comfortable and stocked with the least in medical equipment. The San Diego clinic, for example, has a plush, carpeted waiting room, two spotless operating rooms, two recovery rooms, and every piece of equipment suggested for outpatient gynecological surgery in a recent edition of Clinical Obstetrics and Gynecology.

Allred and his staff work quickly. Allred likes to spend no more than five minutes on each abortion in order, he says, to reduce the amount of anesthesia needed and the chances of anesthesia-related problems. Speed also means lower prices, Allred argues.

At the San Diego clinic, on Alvarado Road, a first trimester suction abortion costs $160 with a local anesthetic, $185 with a general anesthetic, according to clinic director Kazumi Kato. Abortions for Mexican nationals cost $150, regardless of the type of anesthetic, Kato said, because "they can't afford more."

Kato says the doctors sometimes are told to slow down because the recovery rooms are full.

The secret of the clinics' efficiency, Allred said, is "giving everyone one job to do and them making them an expert at it."

"We try to use the physician for his technical skill and reduce the one-to-one relationship with the patient," Allred said. "We usually see the patient for the first time on the operating table and then not again. More contact is just not efficient. A nurse-practitioner is adequate, although, of course, the doctors are always ready if there are problems."

Allred is also proud that he has neve lost a malpractice suit. Nor has a medical charge ever been filed against him with the Board of Medical Quality Assurance. Even Camen Trujillo, president of the California Pro-Life Council, says, "Our feedback is that the clinics are clean and medically sound."

The clinics do not require hospital licenses and thus do not receive the same scrutiny as hospitals by state health officials—a fact that suits Allred fine. "We hate having state bureaucrats crawling around," he said. "The state doesn't know a damned thing about abortions."

The Allred clinics perform the abortions for the Insurance Co. of North America and three hospitals run by the Kaiser health plan ("We're negotiating to get the work from two more.")

Allred said he was interested in population control even before he went into the

abortion business. He said he and his wife decided 20 years ago to have no children and never regretted his decision. He suffers the controversy surrounding abortion without apparent turmoil ("It's inevitable") and refuses to debate morality ("I'm not a philosopher.")

Population control is too important to be stopped by some right-wing pro-life types," Allred said. "Take the new influx of Hispanic immigrants. Their lack of respect for democracy and social order is frightening. I hope I can do something to stem that tide; I'd set up a clinic in Mexico for free if I could. Maybe one in Calexico would help. The survival of our society could be at stake."

Eliminating welfare would be a good step toward population control, Allred said.

"The Aid to Families with Dependent Children program is the worst boondoggle ever created," he said. "When a sullen black woman of 17 or 18 can decide to have a baby and get welfare and food stamps and become a burden to all of us, it's time to stop. In parts of South Los Angeles having babies for welfare is the only industry the people have."

If the state eliminates Medi-Cal funding for abortions, Allred said his clincis might continue giving free abortions to poor women "for the social good." Besides, he said, the funding issue will be moot when the pharmaceutical industry perfects the abortion suppository, probably within the next decade.

"When the suppository is available at every drugstore, I'll be a dinosaur," Allred said. "I'll be glad to get out of the business. I'm sure I'll be remembered as a pioneer. I love what I've created, and I love my organization."

THE STEVEN McDONALD STORY

HON. THOMAS J. MANTON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 15, 1989

Mr. MANTON. Mr. Speaker, today I am commending to my colleagues' attention the second and third parts of the series in Newsday on Steven McDonald. Steven and his wife Patti Ann suffered a tragedy of immeasurable consequences 3 years ago when Steven, a young New York City Police officer at the time, was seriously injured in a vicious shooting while questioning three young suspects. Yet, both Steven and Patti Ann have demonstrated a strength of will and courage which most of us could only hope to achieve and maintain. Their determination not to allow this tragic misfortune to defeat them, I believe, can be attributed in great part to their deep love for one another and their young son, Conor, and the strength and support of their family and friends.

Steven McDonald and the many other public safety officers throughout our country who have suffered similar catastrophic injuries in the line of duty deserve our recognition and support for their unselfish service to their communities. I hope my colleagues will join me as original cosponsors of the Steven McDonald Public Safety Officer's Compensation Act.

THE STEVEN McDONALD STORY—THE EARLY MONTHS AT BELLEVUE

(By Steven McDonald and Patti Ann McDonald with E.J. Kahn III)

Bellevue Hospital, July 12, 9 p.m.—A group of officers led us through the emergency ward entrance. In the crowd outside the trauma room, I spotted my mother and father. I was startled. Their faces looked as if . . . as if someone had died.

"Why is everyone here?" I demanded to know. "What's going on? I want to know."

"Calm down," my mother tried to advise me.

"No," I said. "Where is Steven? I want to see him."

"Oh, he's somewhere else," they told me. "Sit down. We'll bring you up to date . . ."

"No," I cut them off angrily. "I want to see him now."

After a few minutes, the hospital relented, and I was allowed into the three-bed emergency ward, just off the trauma room. Then I saw Steven. I was shocked.

Steven was swollen, blown up from the trauma. He was a mess, swabbed in yellow Betadine. The respirator tube was in his mouth; they hadn't performed a tracheotomy yet. He couldn't communicate at all, but he was awake and saw me.

Tomorrow, I thought, I'm going to come back and they're going to tell me this isn't as bad as it looks. Because there's just no way this is happening to us. We're having a baby in 7 months. This is just not reality.

Bellevue Hospital, July 16, 1986: By Sunday afternoon I'd been moved upstairs, to the intensive care unit on Bellevue's 15th floor. The doctors put me in a small cubicle, a tiny room with its own door, and a variety of machines and computers were monitoring my vital signs. The scene was chaotic, with my family, Patti Ann's family, the cops, the city officials, and everyone else who wanted to see me crowding in.

The doctors agreed I needed exploratory surgery on my neck to trace the bullet's path—and a tracheostomy, in which a hole would be cut at the base of my throat, and a metal tube implanted to carry air from a mechanical respirator into my lungs. The tube the doctors chose is called a cuff trache.

The cuff trache allowed the hospital to pull the air tube out of my mouth, which was positive. But there was a negative side effect, too. The air balloon was positioned so it pressed against my vocal chords, not permitting any air to pass over them.

Even with the tube out of my mouth, I couldn't speak above a whisper. To understand what I was saying, you either had to read my lips or put your ear next to my mouth.

Less than 24 hours after the shooting, improvement seemed to be wishful thinking. The first deputy policy commissioner, Richard Condon, had been told by one surgeon, "If I had wanted to do the most damage to the human body, without affecting the mind, I'd go in with a scalpel right where that bullet lodged."

I went upstairs to Steven's room, but I couldn't say anything. I stood there, my arms wrapped around my stomach where our baby was growing. I wanted Steven to hold me, but he couldn't reach out to me. And he couldn't talk.

He looked at me and mouthed a sentence. "I'm paralyzed," he tried to say.

I nodded my head to show I understood, but I couldn't speak either. All I could do was cry.

Bellevue, July 20, 1986: The doctors moved me from the intensive care ward on the 15th floor to the special neurosurgical ICU on the 7th floor. This was an open ward, maybe six or seven beds, with no private rooms, no doors, no walls.

For me, it meant no sleep. Even the drugs they were giving me wouldn't let me rest. The morphine, the Demerol, the painkillers . . .

They helped me avoid thinking about the way I was. And the way I had been. No more basketball. No more football. No more dancing until four in the morning. With the drugs, I'd escape. From the paralysis, from the people around me, from Patti Ann. It would be weeks before anyone could bring me back and focus me on the future.

Future? There was, I thought, no future. Bellevue, August 1986: By the end of my first week in Bellevue, I'd been moved out of neurological intensive care and into a private room on the seventh floor—the neurology department.

My body was no longer my own—it was out of my control, punctured by needles and tubes, tied into computer monitors. A large plastic tube pumped air into my chest from an oversized respirator next to my bed. Another tube led into my stomach, where some blenderized food concoction would be fed into me. Intravenous lines sent glucose and medicines into my arms. A Foley catheter removed my urine.

I felt none of it. My entire field of sensation extended from the top of my forehead to just below my jaw, and back on either side to my ears. There was nothing else, not even enough strength in my neck muscles to lift my head and hold it straight. Instead, it lolled to one side or the other, until someone thought to straighten it out.

Fevers wracked my body, which now had no internal temperature controls. Patti Ann, my family, friends would come and go, but I was only dimly aware.

The hospital continued to assess my injuries, fight my fevers, and maintain my bowels. I barely made it through a bout of sepsis, blood poisoning from bacteria created by the bullet wound in the neck. The bullet had penetrated my larynx, the back of my throat, and had caused an infection from contamination. That had been compounded by an abscess in my neck, and by pneumonia. And, of course, I was drugged.

The X-rays and CAT scan pictures showed that the .22-caliber bullet had shattered into three fragments that had lodged in the spinal canal around the spinal cord. Their placement was high on the spinal column between the second and third vertebrae below the brain stem. The cord was partially severed. Below the C-2 vertebra, my nervous system was out of operation. I was a quadriplegic, with no control or feeling in my arms and legs. I could not breathe on my own, nor urinate, nor defecate. I couldn't feel hot, or cold. My automatic nervous system, which normally controlled my blood pressure and my body temperature, had also been derailed.

Later, I'd find out I'd be susceptible to light-headedness, and fainting, when I was elevated too quickly; I'd be vulnerable to hypothermia and hyperthermia, getting either too hot or too cold; and there'd be spasticity in my arms and legs, a reflex action generated by the healthy spinal cord, located below my injury, that was no longer regulated by the brain.

You have to have hope, they told me.

Looking back now, what I remember most vividly are the drugs—the morphine, the

painkillers, the Demerol. I was asking for them into October, seeking the oblivion that would deflect the reality of my injury. And they worked.

The drugs shielded me from everything, even the people who were caring. Even when I didn't have pain, I'd say, "I need another shot."

By the early fall, Patti Ann, my nurse Nina, and my mother were pressing me to stop relying on the drugs.

One afternoon, a lawyer named Peter Johnson, another friend of Brian Mulheren's who'd been visiting off and on through the summer, took it upon himself to try and talk me out of my despair. I didn't really know Johnson; like other visitors, he'd come into my room, say a few words, maybe stay for mass, and leave. Since I couldn't respond, except with a whisper or two, there wasn't much give and take.

"I heard you were down," Peter said, speaking sympathetically. "I heard you wanted to give up. You really don't know me, but we have something in common. When I was 18, I had cancer. Hodgkins disease. The people around me thought I was going to die. I knew better.

"You've come through the hardest part," Peter continued. "You understand that even when it looks the most hopeless, it's not."

I tried to nod that, yes, I understood, but I wasn't sure I did. Did we have more in common than I thought?

"I'll pray for you," I mouthed, as he left.

Finally, it clicked.

I knew I wasn't going to die. I'd gotten to the point where I could tell myself, "Jeez, this is the way it is for now. I can't kid myself. It's not going to go away."

Bellevue, September 1986—The hospital was giving Steven almost all the medication he asked for. Steven was straight his whole life. I didn't want him to become an addict now. One early fall day, I don't remember exactly when, I found him wiped out, semiconscious.

"What did you give him?" I demanded.

"It's not so high a dosage," said the doctor.

"Well, why is he so out of it?" I said. "It's five o'clock in the afternoon, and he's zonked out. He's been sleeping the whole day."

I began sobbing, and Steven's mother joined me. When he finally awoke, and was alert enough to recognize us, we confronted him.

"What do you want to do?" I said, my voice rising. "Are you going to lay here in a daze forever? Is this what you want to do? Never mind walking out of here paralyzed. Do you want to walk out of here being a drug addict, too? Do we have to do that, too?

"Steven," I said, softly, "I love you. You've got to stop, for me and for the baby."

Behind me, his mother wept. Steven said he'd try.

THE STEVEN MCDONALD STORY—THE BIRTH OF A SON

Bellevue's Sixth Floor, January, 1987—When Patti Ann's due date arrived and she stopped visiting, the isolation we'd suffered at the beginning of our marriage returned. It had been bad to feel the baby inside. Now I didn't even have her.

Patti Ann called the morning of January 29, then left for the hospital. I wanted to be at Mercy Hospital. My connection would be via a video fax machine hooked to a camera outside the delivery room. I'd be watching tiny black-and-white stills on a nine-inch monitor. This wasn't right.

At 3:56 p.m., the call came from the hospital. A few minutes later, the fuzzy pictures. I could barely make them out. A son. Who did he look like? Me? Patti Ann? It didn't matter. Thank God, he was healthy. But Patti had had a cesarean. She'd be in the hospital for a week, anyway. The baby would stay with her.

And the press had another piece of news. Five hours before Conor came into the world, Shavod Jones, whose trial had ended in early December, two weeks after it had begun, was sentenced. For shooting me, he got three-and-a-half to ten years. For the bike theft he'd pleaded guilty to before he shot me, another three-and-a-half-to-ten sentence.

A week passed, and I still hadn't seen Conor. Patti Ann was hurting from the operation. Then, on Saturday morning, the nurses put me in a wheelchair facing the window, my back to the door.

I must have dozed, because the next thing I knew, something was tickling my ear. I turned as quickly and as far as my neck muscles would let me. Our baby. Conor. I was stunned. His eyes closed, wrapped in swaddling, hands in tight fists, legs jerking . . . it was as if I could move my own arms and legs again. He looked just like me. He was me. A blessing. Patti Ann kept him close to my face, smiling at my wonder.

"Steven, I'm so happy to be with you," Patti told me, as I stared. "Being away was too hard. Everything's okay now, I'm going to be here always. You've got this beautiful baby, this baby we prayed for. We can thank God for this."

Bellevue's Sixth Floor, February, 1987—I wanted to find improvement, but it was hard. Conor's birth had been one more sign that life was moving on, but I wasn't progressing at all.

On the sixth floor, maybe 30 feet from my door, was the gymnasium. On mats and benches, other patients would work on rehabilitation exercises. I didn't like to visit the gym; everybody there, it seemed, had more to work with than I did. But Dr. [Greg] Fried insisted. One afternoon, he placed my chair in front of a full-length mirror. For six months I had not looked at myself.

"Take a look at your head," he said. "You can hold it up now. Six months ago, you couldn't."

I stared. Watching me was a young man in a sweat suit, his brown hair falling in bangs over his forehead. The young man in the mirror, his face straining with effort, nodded slightly. Dr. Fried was right. Sitting in a chair with my head erect, I'd gotten a piece of myself back. Not a lot, but it was a start.

On Feb. 3, 1987, Dr. Fried said, "I'll show you that you can talk. Trust me, I'm not going to let you die."

Talk? I was willing to try almost anything to talk again, to find my own voice and be understood.

Dr. Fried turned up the respirator to give me more air. He gently held the valve on my trache tube. He pressed a button on the valve. There was a slight hiss of pressure being released; inside my larynx, the balloon that had been pressing against my vocal cords sagged and flattened. For the first time in seven months, air could pass over the cords. The entire procedure had taken seconds and had been painless.

"Now talk," he said.

"Hello," I offered. My voice sounded mechanical, like a robot's. It could be heard though. The two or three seconds Dr. Fried spent deflating the balloon had given a gift I hadn't had during the past six months: the ability to communicate.

Brian Mulheren picked up the phone, dialed Patti's number, and held the receiver to my mouth.

"Hi, Patti," I said, in this froggy croak. "I love you."

"Steven?" she said. "Steven? Is that really you?"

Malverne, L. I., February-March, 1987—I'd been reluctant to ask the Cardinal to christen Conor, because I didn't want him to feel I was imposing. Finally, I asked.

"I've been waiting," the Cardinal said with a smile.

Bellevue, March 1, 1987—On the night before the baptism, Peter Johnson came to my room. For two months, Peter had been discussing the possibility of a public statement. Peter and I had more or less agreed to a message of thanks, acknowledging the prayers, letters and expressions of love Patti and I had received from all over the country. Conor's birth, and the promise of our new family, made me want to go further. Early on, Peter and I had discussed saying something positive about Shavod Jones to the media.

"I want to forgive him," I mouthed.

"Yes," Peter nodded. "That would be good. And inspirational."

I didn't know about that. I only knew it came from my heart.

The next morning, Peter read me a draft. Those were my sentiments, I nodded. Yes.

Malverne to Bellevue, March 1, 1987—I woke early, dressed the baby in his white baptismal gown, packed Steven's clothes and left for Bellevue. I wanted Steven to look good; many people would be seeing him sitting in a chair for the first time. It was also his 30th birthday.

"I baptize you in the name of the Father, the Son, and the Holy Ghost," said the Cardinal. Conor cried, and Steven smiled. I took his hand, and with it, traced the Cross on the baby's forehead. As the fellow cops and family members came forward to take Communion from the Cardinal, they paused to kiss Steven's forehead, or touch his cheek.

"On this happiest day of our life together," I read, my voice beginning to crack with emotion, "Steven has asked me to let you know what he is thinking. So I read this letter from Steven to the people of New York City.

"I became a police officer to help the people of New York in any small way I could. My father and my grandfathers before me had the same dream.

"On some days when I am not feeling very well, I can get angry. But I have realized that anger is a wasted emotion, that I have to remember why I became a police officer. I'm sometimes angry at the teenage boy who shot me. But more often I feel sorry for him. I only hope that he can turn his life to helping and not hurting people. I forgive him and hope that he can find peace and purpose in his life."

"I have always had the love of my mom and dad, brothers and sisters, Patti Ann and now our son Conor Patrick," I continued fighting sobs. "I never thought there could be anyone else in my life. The last months have proven me wrong. But let me tell you, there is more love in this city than there are street corners."

My Face was wet with tears, my emotions torn by the beauty of Steven's thoughts and the horror of his injury.

"I chose the life of a police officer with all its risks. I believe that I am the luckiest man on the face of this earth. I only ask you to remember the less lucky, the less fortunate than I am who struggle for the dignity of life, without the attention and without the helping hands that have given me this life."

The less fortunate. The sound of Steven's respirator, like a metronome, filled the church. Whoop-whoosh.

Bellevue, March 1, 1987—With the birth and the baptism over, it was time to plan my future.

"We'd all agreed that Bellevue was no long-term answer. The weaning had been a failure, and I still lacked a voice. Even using Dr. Fried's technique with the cuff trache, I couldn't handle talking more than 30 minutes a day, and the effort it took barely made it worthwhile to me, though I realized how grateful others were to hear me.

Bellevue, March 26, 1987—At 8:30 in the morning, Dr. Robert Menter, [a staff physician at Englewood, Colorado's] Craig Hospital, and Sue Nyre [admissions director] arrived at Steven's room. After reviewing the X-rays, the doctor began a pinprick test on Steven, a simple way to confirm the level of injury, and how badly Steven's phrenic nerve—the nerve that controls the diaphragm, opening and closing it to allow air in and out—had been damaged. When the pinprick test was finished, though, Dr. Menter had some disappointing news. The central nervous system was as damaged as the X-rays suggested.

"It doesn't look like I can get you off the ventilator," he said. "Not completely, anyway. Maybe several hours a day, but I don't want to make you any promises."

We invited the rest of our families, and Brian, into the room to watch a videotape that described Craig. We saw patients outdoors, and in shopping malls, learning how to manage excalators and to get in and out of vans.

When the tape was over, Steven was ready to leave immediately. I was sold, too, except for the fact that it was so far away.

If Steven and I had any future at all, I now knew, it would have to begin at the base of the foothills of the Rocky Mountains. At Craig Hospital.●

PUGET SOUND CLEANUP PROGRAM

HON. NORMAN D. DICKS

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 15, 1989

Mr. DICKS. Mr. Speaker, I am proud to join my colleagues from the great State of Washington today in introducing a bill that will promote a more directed and better coordinated approach to protecting one of the Pacific Northwest's most treasured natural resources, Puget Sound. The legislation that I and my seven colleagues are introducing today will provide specific authorization for the Puget Sound cleanup program, which until now has been funded as part of the overall national estuary program by the Environmental Protection Agency.

In some respects this legislation signifies a small change form the present situation—it merely creates a separate line item in the Federal budget for the Puget Sound program. However, it is a move that we view as absolutely fundamental to the success of the large-scale task of protecting the health and vitality of the sound for posterity—an effort that will require the energy and resources of numerous governmental entities, small and large businesses, farmers, developers and, of course individual citizens around the Puget Sound region.

There can be no doubt about the consensus in our region: protecting the marine organisms that inhabit Puget Sound and preserving for future generations this important part of our northwest culture is top priority. Our livelihoods and our recreational opportunities depend upon maintaining the health of Puget Sound. We cannot become complacent and we must remain vigilant in preventing any additional contamination of the sound. As we look around the beaches of the Nation in such areas as New York and New Jersey, we are reminded that disposing of our garbage by throwing it away in offshore waters or estuaries doesn't work anymore. The east coast situation provides a strong keynote for our efforts in Puget Sound. We need a stronger, more concerted Federal and State effort to identify contaminants already in Puget Sound and to stop further contamination from entering the sound's waters.

To accomplish these objectives, we need a mroe directed Federal approach to complement the aggressive stance that the State of Washington has already taken through its cleanup program. The legislation that we are submitting today provides specific authority for the administrator of the Environmental Protection Agency to make funds available to the Puget Sound water quality authority for the purpose of carrying out cleanup activities in the Puget Sound estuary. The bill signals a giant step forward in addressing a problem that is plaguing too many of our Nation's large inland and coastal water bodies, and which threatens our own Puget Sound.

We are fortunate in Washington State to have the Puget Sound Water Quality Authority, established in 1985, working actively to ensure that well-defined goals for water quality are both established and implemented. Puget Sound has many critical needs that must be addressed immediately in order to avert further contaminaiton in its waters. In our short experience with analyzing the impact of hazardous chemicals in Puget Sound, researchers have uncovered alarming evidence of harm to species in the area; including: High concentrations of PCB's in the tissue of marine birds in some locations along the sound; tumors in fish due to concentrations of aromatic hydrocarbons; malignant cancer in shellfish; and liver abnormalities in English sole and other species.

The water quality authority has identified an ongoing need in such areas as the monitoring of water and sediment quality, research, technical studies, and the implementation of source control programs. However, without Federal involvement, this task will be made much more difficult. This bill provides an authorizing vehicle for permitting critically needed resources to be made available to Puget Sound through the water quality authority for the implementation of its management plan, which the EPA has referred to as a model for other estuaries throughout the Nation.

While the water quality authority is beginning to receive recognition for its initial achievements, this legislation is aimed at ensuring that it also gets the resources to move the cleanup program from the research phase to the action phase. In addition to implementing and updating the water quality authority's management plan, the bill authorizes other critical activities, including the implementation of a program for: Monitoring the water quality of Puget Sound—including sampling and the analysis of the sediment, water quality, and plant and animal populations and habitats of Puget Sound and its fresh water tributaries; and conducting supporting research aimed at increasing an understanding of Puget Sound, its ecological systems, and the implications of human activities in its waters.

This legislation mandates that the Federal share of activities carried out with the grants provided is not to exceed 75 percent of the total cost of such activities, and further requires the water quality authority to submit an annual report to the administration of EPA outlining progress on the activities carried out using the grants. Furthermore, the goals and intent of the bill are not unprecedented, as Congress in the past has recognized the need to designing large water bodies in order to better respond to their geological uniqueness and complexity. Prior legislation has already provided such provisions for Boston Harbor, the Great Lakes, and Chesapeake Bay.

Mr. Speaker, this bill is a valid attempt to protect a national treasure, and to leave an environmental legacy for future generations in the Pacific Northwest.

TIE WHITE RIBBONS EVERYWHERE

HON. GERALD B.H. SOLOMON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 15, 1989

Mr. SOLOMON. Mr. Speaker, there's a reason why the rest of the world still looks to America. It's because America still stands for freedom. It's true of us as a nation, and its true of us as individuals, like Theresa Lawrence of West Milton, NY.

We were all filled with hope when hundreds of thousands of Chinese from all walks of life—not just students—showed the world how human and universal is the longing for freedom. And when the tanks of Deng Xiaoping crushed the budding democratic movement in Beijing, we watched and read with horror.

Mr. Speaker, there's a way we can stand up and be counted, and let the world know America still stands for freedom, and still condemns every attempt to stamp out freedom everywhere in the world. And I'm proud to say the idea has come from someone who lives in my district.

Theresa Lawrence thinks we should tie white ribbons everywhere.

She was quoted in a local newspaper as saying "We typical people, we need to do something to show we care. I really feel for those people."

Many Americans already tied yellow ribbons around trees when our Embassy hostages were being held by the Iranians. We can't use red ribbons, either, because as Theresa Lawrence said "there's been enough bloodshed there already." But white ribbons would stand for the purity of the desire felt in every human heart for freedom.

That desire beats especially strong in the hearts of all the Theresa Lawrence's in all the congressional districts of this country. I think we should urge all Americans to tie white ribbons everywhere—around trees, poles, fence posts—everywhere we can show our solidarity with the freedom-loving millions of China and our contempt for their brutal slavemasters.

END DISCRIMINATION AGAINST THE MILITARY—SUPPORT H.R. 572, H.R. 2277, H.R. 2300

HON. ROBERT K. DORNAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 15, 1989

Mr. DORNAN of California. Mr. Speaker, I have introduced three key pieces of legislation which will go a long way to restore fairness and equitable treatment to members of the U.S. Armed Forces.

H.R. 572, H.R. 2277, and H.R. 2300 would amend the Spouse Protection Act to make it more consistent with the existing pension plans, which Congress has established for members of the Foreign Service, the Central Intelligence Agency, and portions of the civil service retirement/survivors benefits. Specifically:

One. H.R. 572 would terminate court ordered retirement payments to ex-military spouses upon remarriage. Public Law 97-252 currently provides an ex-spouse with a lifetime military retirement pension even though they may have been married for as little as 10 years. Yet, the military member must devote more than 20 years of service for eligibility. The ex-spouse continues to receive these benefits even if he/she remarries. If the remarriage is to another military member, there exists the possibility of two Government pensions. This a priori judgment is neither fair nor equitable.

Two. H.R. 2277 would explicitly state that a court may not force a military member to pay a spouse or former spouse any portion of his or her retired pay until the service member is him/herself entitled to retired pay. This is consistent with both the intent of Congress and the existing law for other Federal employees.

Three. H.R. 2300 will not only correct an inequity, but will provide incentive for service members to stay in. This legislation simply ensures that any increase in retired pay resulting from increased service or promotion after a separation would be the separate property of the member. It makes no sense that an ex-spouse should receive the additional benefits that accrue for time served in the military after the marriage is dissolved.

It is important to note that all three bills follow congressional precedents and common State divorce provisions. Further, note that in all cases, although the legislation is retroactive, savings provisions are incorporated requiring no repayment of previous awards, and no further payments shall ensue after enactment. None of the changes affect spousal or child support provisions. Just retirement.

I believe these changes, as well as others being considered by our Senate colleagues, are long overdue to provide the Armed Forces members the protection afforded the other Government employees upon retirement. Retired pay is perhaps the No. 1 incentive for retention of our Armed Forces and equal treatment with other Federal retirees is only equitable and fair.

Please take the time and review the analysis that was prepared for me by the Military Retirees Spouses organization of Santa Maria, CA.

ANALYSIS AND COMPARISON OF FEDERAL EMPLOYEES EX-SPOUSAL AWARD TREATMENT BY FEDERAL STATUTES: DISCRIMINATION AGAINST THE ARMED FORCES ACTIVE AND RETIRED MEMBERS

(Prepared by Floyd W. Kniss)

ANALYSIS

The Ex-spousal Comparison Chart illustrates continual Federal statutory discriminatory treatment of members of the Armed Forces (DOD) retired pay awards to former spouses, compared to the Central Intelligence Agency (CIA) and Foreign Service Agency (FSA) members, for no compelling reason. To wit:

1. Only the Armed Forces law (P.L. 97-252, 10 U.S.C. 1408) was fully retroactive, reversing a 130 year traditional personal entitlement of the member (U.S. Supreme Court, *McCarty* vs. *McCarty* decision, June 26, 1981); but not the CIA or FSA, and

2. Ex-spousal awards of retired/retainer pay of the Armed Forces:

A. continue after remarriage of ex-spouse; not so for the CIA and FSA, and

B. are awarded with no minimum marriage time; not so for CIA and FSA, and,

C. "earned contribution time", or "prorata share" is not defined; it is for the CIA and FSA, and

D. have no statute of limitations time for filing after divorce; it is limited for the CIA and FSA, and

E. have no ex-spouse minimum/maximum age specified; these are for "certain CIA and FSA ex-spouses".

3. The Armed Forces member is subject to Title 10 restrictions for life, including pay forfeiture for civil or criminal convictions; not so for the CIA or FSA member, or an ex-spouse.

4. The Armed Forces members always pay ex-spousal awards; their ex-spouses receive "windfall" increases due to a member's service time and promotion after divorce; certain CIA and FSA members never suffer a reduction in their annuity for ex-spousal awards.

5. Note the chronological dates of major legislation; FSA (1980), CIA (1982), Armed Forces (1983) and again, CIA and FSA (1987). On not one occasion were the Armed Forces afforded the 6 Federal statutory provision that protect the CIA and FSA members (all of the provisions in 1 and 2 above are at no cost to the taxpayer).

In summary: Federal statutes protect the CIA and FSA members with 6 provisions not afforded the Armed Forces member, and the 1987 CIA and FSA laws on ex-spousal awards were paid by the taxpayers, which includes members of the Armed Forces.

Further, CIA and FSA annuities—and ex-spousal awards—are from community cash contributions, which clearly makes them community assets divisible upon divorce.

The discrimination against the Armed Forces member/retiree is consistent and continuing. Clearly, they should be afforded the same reasonable statutory protection afforded the CIA and FSA member/retiree. Public Law 97-252 should be amended to correct this continuing discriminatory oversight.

EX-SPOUSAL AWARDS OF (FEDERAL EMPLOYEES) RETIRED PAY COMPARISON

[Prepared by: Military Retirees Spouses (MRS), Santa Maria, CA]

Statutory provisions	Central Intelligence Agency [CIA]		Foreign Service Agency [FSA]		Armed forces (DOD) 1983	Remarks: legislative dates
	1982	1987	1980	1987		
Retroactivity	No	No	No	No	Yes	[1]
Remarriage	Yes	Yes	Yes	Yes	No	
Time factors:						
Marriage time	Yes	Yes	Yes	Yes	No	
Earned time (pro rata)	Yes	Yes	Yes	Yes	No	
Statute of limitations	Yes	Yes	Yes	Yes	No	[2]
Ex-spouse age	No	Yes	Yes	Yes	No	
Member eligibility	Years	10		10	20	
Payee	Member	[3]	Member	[3]	Member	

[1] DOD unlimited (McCarty, 6/26/81)
[2] DOD unlimited (property).
[3] U.S. Government.

NOTES

1. This analysis was made using the major applicable Federal statutes dealing with the subject, and the "CRS Report for Congress, No. 88-512A, dated July 25, 1988, Treatment of Former Spouses Under Various Federal Retirement Systems."

2. Some specific provisions were purposely omitted for brevity sake; e.g., the FSA ex-spouse had to be over 50 years old and not remarry prior to age 55 or 60. These specifics are found in the (Note 1) CRS Report, and in the particular Public Law or U.S. Code. Those details can be provided by calling the author.

3. All data used was compiled from publicly available unclassified data.

SUPPORT A PRESIDENTIAL WAIVER OF THE JACKSON-VANIK AMENDMENT WITH RESPECT TO THE SOVIET UNION

HON. THOMAS J. DOWNEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 15, 1989

Mr. DOWNEY. Mr. Speaker, today I am introducing legislation that supports a waiver of the Jackson-Vanik amendment with respect to the Soviet Union. My resolution affirms that Congress is prepared to support such a waiver once the President has received appropriate assurances that the Soviet Government is on a course toward sustained high levels of emigration.

We are witnessing very significant progress in Soviet emigration performance. I believe that concrete actions by the United States

that encourage the Soviets to make even further progress—and there is more to be made—are essential to our national interests and to the interests of all people in the Soviet Union who wish to emigrate. A Presidential waiver of the Jackson-Vanik amendment is one such action.

The fact is that Jackson-Vanik has worked as it was envisioned by its authors. Emigration of Soviet Jews in 1989 may well surpass any previous year. Once the President is assured that this is a trend that will continue and so requests a waiver, we are ready to support him.

I am equally aware that, while something has been happening in the Soviet Union, there is also something exciting happening in the American Jewish community. This community, which has fought so tirelessly to promote the human rights of Soviet Jews, has been examining its own position on the waiver of Jackson-Vanik over the last several months. I am pleased that the new and historic position of the National Conference on Soviet Jewry also supports a Presidential waiver once appropriate assurances have been received.

The success of this waiver effort will demand hard and honest work on the part of the Soviet Union. And it will also require the continued foresight of the Jewish community, the administration, and the Congress. Working together, we can make this happen. And it must happen if we are to ensure that United States-Soviet relations are based on a mutual respect for the dignity of all human beings.

CONDEMNATION OF BULGARIA'S TREATMENT OF ITS TURKISH MINORITY

HON. STENY H. HOYER

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 15, 1989

Mr. HOYER. Mr. Speaker, today while the world's attention remains riveted on the tragic events unfolding in China, I wish to focus on another Communist regime's efforts to crush its own people, who are striving to secure basic human rights. I speak, in my capacity as cochairman of the Commission on Security and Cooperation in Europe, of the Bulgarian Government's continuing violation of the human rights of its approximately 1,000,000 citizens of Turkish background.

I am pleased to join my good friend and colleague STEVEN SOLARZ in introducing a resolution condemning the discriminatory practices of the Bulgarian Government toward the country's ethnic Turkish community. STEVEN SOLARZ has a long and distinguished record as a defender of human rights worldwide and his untiring work on behalf of oppressed peoples everywhere truly exemplifies American idealism at its finest and most effective.

The resolution STEVEN SOLARZ and I are sponsoring also calls on Bulgaria to honor its obligations to allow Bulgarian citizens to emigrate freely and urges the President and Secretary of State to make diplomatic representations to the Bulgarian Government protesting the brutal treatment of Bulgarian Turks. A similar resolution is being introduced in the Senate by my esteemed friend and colleague DENNIS DECONCINI, chairman of the Commission on Security and Cooperation in Europe.

The Bulgarian Government claims that it is a single-nationality state in which all of its citizens, even Muslims, are of Bulgarian descent. As for the ethnic Turks, they are the descendants of Bulgarians who were forcibly "Turkicized" during the country's 500 years of Ottoman rule. In recent years, officials maintain, these ethnic Turks have begun to revert voluntarily to the original Bulgarian identity.

This explanation for this assimilation process is discounted by the world community and by ordinary Bulgarians themselves. The truth is that since the 1950's the Bulgarian regime has tried to assimilate forcibly the Turkish minority. In 1984, however, the Government stepped up the campaign's tempo and scope, seemingly aiming at nothing less than the elimination of a people's cultural and religious heritage. Harsh measures directed at Turkish-Bulgarians have included forcing them to adopt Bulgarian-sounding names, forbidding them from speaking Turkish, and severely restricting their practice of Muslim religious rites. Moreover, the Koran is not permitted to be published in Bulgaria and cannot be imported.

The name change campaign was particularly infamous for the way in which it was carried out: Often by military and security forces at gun point. Several deaths resulted and hundreds of ethnic Turks were imprisoned for their nonviolent opposition to this all-out attack on their ethnic identity.

I have seen the effects of the assimilation program firsthand. At the invitation of the Bulgarian Government, I led a delegation to Bulgaria in September 1987 in my capacity as chairman of the Helsinki Commission. We went to the Kurdzhali region, where many ethnic Turks live. While I appreciated Bulgaria's willingness to receive us and the openness of officials we spoke with there, I can accept neither the Government's dubious rationale for its assimilation policy nor its harsh methods of implementation.

In reaction to this inhumane policy, ethnic Turks in several towns in the northeastern part of Bulgaria participated in peaceful demonstrations last month. The demonstrators clashed with security forces, who violently broke up the protests. Estimates of the casualties vary, but some place the figure at around 30 ethnic Turks killed and hundreds more wounded.

Since May 25 several thousand ethnic Turks have been forcibly deported from Bulgaria, with many then making their way to Turkey. Ethnic Turks, like all Bulgarians, have always been denied the right to travel freely and to emigate freely by the authorities. Now, in a cynical twist on these past practices, President Todor Zhivkov has declared that "all Bulgarian Muslims" are free to leave the country. What he did not add was that his Government has started forcing ethnic Turks to leave Bulgaria, whether they wish to or not, and the emigrants or deportees are not being compensated for their homes, businesses, or farms.

Some analysts believe that, during a time of severe economic strain for Turkey, Zhivkov is trying to embarrass Turkey, which has a declared open-door policy for all ethnic Turks.

Whatever the motivations underlying Bulgaria's recent actions, this forced deportation of its citizens is yet another example of the regime's brutality toward its largest minority community. Yet, in spite of its egregious human rights record, Bulgaria seldom receives the world's attention, let alone its condemnation. This absence of criticism and pressure is a tribute to the tight grip the Communist leadership maintains over its citizenry and its almost airtight control of what information leaves and enters Bulgaria.

Because the Bulgarian Government rigidly restricts the foreign media's access to the country, no cameras or journalists have been on hand to give eye-witness reports of the abuses committed by the authorities over the years. We must rely on the accounts provided by Western diplomats and Bulgarian emigres who talk of what they have personally experienced and pass on what friends and family still in Bulgaria report to them.

There isn't always a lot of information available, but enough manages to get through to paint a chilling picture of a government that nearly does achieve the totalitarian goal of maintaining rigid control of all aspects of life. Although conditions for Bulgaria's ethnic Turks are even harsher and more restricted than they are for the country's Slavic majority, all Bulgarians are subject to a system that permits them absolutely no alternative to the Communist Party for participation in public life and precious little space for private life as well.

For the ethnic Turks of Bulgaria, however, it isn't just a question of eking out some kind of private life within the narrow limits set by the regime. Rather, for them it is a question of their cultural survival. The international community must do more than it has heretofore to protest this unfolding atrocity. If we wait to act, the eradication of the language, culture, the very identity of Bulgaria's ethnic Turks may become a fait accompli.

The human rights violations being committed by the Bulgarian regime against the country's ethnic Turks are very real; so then must be the condemnation of these acts. The results of the assimilation campaign against the Turkish Bulgarians have been frighteningly effective, so then must our counterpressure be against the Bulgarian authorities. This outrage against a perople is a cirme of great magnitude, but, to let this persecution continue without mounting systematic and sustained opposition to it, would also be a crime. Thank you, Mr. Speaker.

THE DRUG UTILIZATION ACT OF 1989

HON. OLYMPIA J. SNOWE

OF MAINE

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 15, 1989

Ms. SNOWE. Mr. Speaker, today I am introducing a bill, the Drug Utilization Act of 1989. I believe this legislation will be a very important step in preventing needless painful and costly adverse drug reactions among our Nation's Medicare beneficiaries. It also more specifically clarifies the intent of Congress for integrat-

ing a comprehensive drug utilization review process with the claims processing system in the implementation of the prescription drug benefit of the Medicare Catastrophic Coverage Act of 1988.

The Human Services Subcommittee of the Select Committee on Aging, of which I am the ranking minority member, held a hearing on mismedication among the elderly a few weeks ago and a few facts stood out very starkly. First, Americans over 65 years old represent about 12 percent of the population, yet use 30 percent of the prescribed drugs. They also average 15.5 prescriptions a year and are more sensitive to medications. Consequently, they suffer a corresponding high rate of adverse reactions to those drugs, often resulting in costly hospitalizations and nursing home placements.

A recent draft report on adverse drug reactions issued by the Inspector General of the Department of Health and Human Services estimated that Americans over age 60 comprise 17 percent of the total U.S. population but account for 30 percent of all hospitalizations and 51 percent of deaths from drug reactions.

By reviewing a patient's entire medication profile for potential adverse reactions before filling prescriptions, a pharmacist can often prevent adverse drug reactions from occurring. Many chain drug stores have pioneered such computerized systems which for years have been in use in community pharmacies throughout the Nation. A May 1989 GAO report on a review of some currently available drug utilization systems found that the attributes of computer capability to fulfill the patient profile information and other functions required by this bill are currently available in at least some systems.

Furthermore, the design of the specific system can be piloted in Seattle, King County, WA, which will clearly demonstrate the feasibility and workability of medication management and the anticipated savings as a result of substantially fewer hospital admissions. The pilot has been designed by a community team, headed by Chisato Kawabori, regional program director, region X, for the Administration on Aging, and private funding is being sought for it.

The bill which I am introducing would bring that same protection to all Medicare beneficiaries by requiring computer identification of potential adverse drug reactions that may result from drug interactions with other drugs, allergies, known physical conditions or illnesses, and under, over and misutilization of the prescribed drug. The bill also guarantees the privacy of beneficiaries by giving them protection from being required to disclose information and safeguarding access to their medication profiles.

As we move toward implementation of the Medicare prescription drug benefit in January 1991, I believe it is imperative that Congress also strengthen its intent that an integrated, comprehensive computerized drug utilization review system be in place to safeguard aging Medicare beneficiaries against preventable drug reactions. I believe that we must lose no time in moving forward to develop the national system capability required to do the job. That is why I am introducing this bill today.

SPACE TRANSPORTATION SERVICES PURCHASE ACT OF 1989

HON. RON PACKARD

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 15, 1989

Mr. PACKARD. Mr. Speaker, I rise today to introduce the Space Transportation Services Purchase Act of 1989, legislation to enhance the viability of the U.S. space transportation industry.

The primary objective of the U.S. space transportation policy should be to encourage the emergence of a strong competitive U.S. commercial space industry. The Space Transportation Services Purchase Act furthers this objective through enhanced competitiveness in the U.S. space transportation industry.

Obtaining this objective will give the United States two important benefits. One, the safe and successful launching into orbit of Government and private payloads at the lowest possible cost. Free competition among private companies will promote competitive pricing without sacrificing performance. Two, NASA can focus on its original objective of space exploration and research. NASA can use its resources to increase our knowledge of space and leave commercial development of space to the private sector.

The U.S. space transportation services companies are at a severe competitive disadvantage with foreign launch companies because the foreign governments either subsidize the launch cost or provide a portion of third-party liability coverage. It is true that the intensity of world competition for the launch services market will depend in part on the level of demand for services. Yet, the fact remains that the European Arianespace and the Chinese Long March offer increasingly competitive space transportation services, and the Japanese are currently planning to begin operation of their space transportation services in 1992.

Mr. Speaker, only commercialization will permit a restructuring of U.S. space activities necessary and sufficient to establish a viable U.S. space transportation industry capable of competing internationally. The U.S. Government should encourage this privatization by purchasing launch services in a commercially reasonable manner from the private sector.

The bill I am introducing today addresses these two key areas which will greatly affect the viability and privatization of the American space transportation industry.

First, the Government would be required to purchase all space transportation services from the private sector, except for specialized military and shuttle-specific payloads. This is being done currently on a very limited basis. Presently, the Government usually purchases space transportation vehicles from a company, then later purchases launch services from that same company. By contrast, a private sector payload owner always purchases a complete package—space transportation services—never the vehicle, then the services. As a buyer of the vehicles, the U.S. Government has maintained unnecessary regulatory and oversight authority over the construction and operation of the vehicle which results in substantially higher costs incurred and lack of engineering and operating freedom.

To be internationally competitive in the long term, the U.S. industry must be launching competitively designed and priced vehicles, not vehicles designed by Government regulation. Major launch companies have a commercial division and a Government division. There should be no difference between the two. The commercial division's product design is supposed to reflect marketplace demands such as cost, efficiency, and reliability. By contrast, the Government division's design is governed by the Federal Acquisition Regulations, milspecs, and the procuring agency's needs. The more that the Government buys commercially rather than in the traditional manner, the more commercial features will appear in these vehicles, the lower the cost, and the greater the efficiency of the company.

The second key area which will affect privatization is the Government's space transportation services procurement policy. This legislation mandates that all Federal agencies procure space transportation systems in a commercially reasonable manner which would result in a significant cost savings to the Government and to the space transportation industry. The traditional procurement methods of the Government impose burdensome and unnecessary cost controls and accounting procedures at great cost to the industry.

Mr. Speaker, the U.S. private sector has the capability and entrepreneurial spirit needed to expand its role as a major competitor in the world commercial space market. The economic, technological, scientific, foreign policy, and national security benefits the Nation would reap from this achievement are great. I invite my colleagues to join me in supporting the Space Transportation Services Purchase Act of 1989 as an important step toward enhancing the commercial environment for the U.S. space transportation industry.

A TRIBUTE TO LYNN TYLCZAK FOR HER PUBLIC SERVICE

HON. CHARLES E. SCHUMER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 15, 1989

Mr. SCHUMER. Mr. Speaker, today, I wish to honor Lynn Tylczak, mother, consumer activist, and concerned citizen for her one-woman crusade to make the world a safer place for America's children. There is no greater public service a citizen can provide than protecting our Nation's youngsters from hidden dangers.

Mrs. Tylczak has single-handedly brought national attention to an issue of importance to all consumers, parents and nonparents alike—the existence of a bittering agent known as denatonium benzoate which when added to common household products could save millions of children from poison ingestion each year.

The American Association of Poison Control Centers has graphic evidence to support Mrs. Tylczak's concern. Of the 731,000 children under 6 reportedly exposed to poison in 1987, 166,700 sampled household products, pesti-

cides, or automotive products. In 1987, cleaning products alone caused 14 deaths and 100,000 children were rushed to the emergency room for suspected poison ingestion.

The mother of two, ages 5 months and 4 years, Mrs. Tylczak knows of kids' insatiable curiosity first-hand. And upon learning of Great Britain's widespread use of denatonium benzoate to keep kids from consuming killer doses of sweet-smelling home and garden products, Mrs. Tylczak took matters into her own hands and sought to investigate its history in America.

Finding that few American manufacturers lace their products with this bitterest of substances known to man, Mrs. Tylczak began a letter-writing campaign and now runs the Poison-Proof Project out of her Albany, OR home. She has received thousands of letters from parents across the country who are ready to fight for denatonium benzoate in American products and are alarmed that most American manufacturers have not sought to use denatonium benzoate already. Mrs. Tylczak and her supporters are planning an intensive lobbying effort to urge American companies to use the bitter additive as an extra measure to prevent children tempted by scented cleaners and candy-colored car products from sampling more than a small, very bitter taste.

Rather than sit back and wait for a tragic poisoning to grab media attention and spark public interest, Mrs. Tylczak took the initiative to alert American consumers to the need for denatonium benzoate before it becomes too late. In doing so, Lynn Tylczak has given voice to the rights of American consumers.

Her efforts to warn parents of the reality of accidental poisonings and her readiness to fight for further safeguards deserve special commendation. Mr. Speaker, I ask that you join with me in honoring Lynn Tylczak for her undying contribution to the preservation of public safety and the lives of America's children.

HONORING SEYMOUR HOLTZMAN, BALDWIN PARK CHAMBER OF COMMERCE

HON. ESTEBAN EDWARD TORRES

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 15, 1989

Mr. TORRES. Mr. Speaker, I rise today to recognize a very special individual, Mr. Seymour Holtzman, executive director of the Baldwin Park Chamber of Commerce. Seymour is retiring from the chamber and will be honored at a special dinner on Friday, June 30, 1989.

Seymour Holtzman served as executive director for the Baldwin Park Chamber of Commerce for 12 years, longer than any other person holding the position in this chamber. As executive director, Seymour provided continuity and stability to the chamber.

Seymour was born in 1917 in New York City. A few years later, his family moved to California where he attended Washington High School in Los Angeles and is a proud alumnus of UCLA. He also served 4 years in the U.S. Army during World War II. After the war, Seymour and his wife, Audrey, owned Harley Shoe Store in El Monte for 33 years.

In El Monte, Seymour became interested in community involvement, and in 1965 served as president of the Downtown El Monte Business Association. He was the key figure in the development of El Monte's progressive downtown mall. It was through his dedication and leadership that the downtown merchants rallied together to be the first in the State to implement assembly bill 103 (parking and promotional district), which allows chambers of commerce to use a percentage of business license fees for promotion and parking. Seymour served as president of the El Monte/South El Monte Chamber of Commerce in 1970–71. In 1965, he was named Distinguished Citizen of the Year by the Jaycees, and in 1966 he was named Citizen of the Year by the El Monte/South El Monte Chamber of Commerce.

In 1977, Seymour came to the Baldwin Park Chamber of Commerce as its executive director. His immediately began to work on implementing AB103, the district assessment program in Baldwin Park. The plan was adopted for the downtown area, and as a result of the bill and an accompanying ordinance passed by the city council, the Baldwin Park chamber does not rely on funding from the city. One of his proudest achievements has been the establishment of the benefit assessment program in both El Monte and Baldwin Park.

Seymour developed a Royal Ambassador membership team and chamber membership went from a tentative 166 to a healthy 500 plus today, thus making the Baldwin Park Chamber of Commerce financially independent.

Seymour was recently honored three times by the Baldwin Park Chamber of Commerce Board of Directors in unprecedented action to make him an honorary past president—the first time this honor has ever been awarded. In addition, he was made an honorary lifetime member of the group and was named 1989 Baldwin Park Citizen of the Year.

Seymour Holtzman lives in Arcadia with his wife of 47 years, Audrey. They have two children, and twin granddaughters.

Mr. Speaker, on June 30, 1989, the citizens of Baldwin Park will honor Seymour Holtzman for his tremendous contributions to the businesses and residents of this community. I ask my colleagues to join me in saluting Seymour Holtzman for his outstanding record of service to the community of Baldwin Park.

NURSE PRACTITIONERS CAN HELP PROVIDE LONG-TERM HEALTH CARE AT NO ADDITIONAL COST

HON. EDWARD J. MARKEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 15, 1989

Mr. MARKEY. Mr. Speaker, in this day of spiraling health care costs and growing long-term health care needs, we are all looking for ways to provide more care without more cost. Today, with my colleague, Mr. DONNELLY, I am introducing legislation which will do just that. Our bill would allow Medicare reimbursement for services provided by nurse practitioners working in collaboration with a physician. This is an important step, particularly in the area of long-term care, as it will increase the supply of quality care available to senior citizens.

This is an idea which has been tried and tested in a very successful project in Massachusetts, the Nursing Home Connection. Since 1983, the Nursing Home Connection has been operating under a Medicare waiver allowing teams of nurse practitioners and physician assistants working with a physician to provide primary care services to nursing home residents. Preliminary results of an evaluation of the program conducted by the Health Care Financing Administration indicate that the program provides better quality care at no additional cost to Medicare.

Serving over 100 nursing homes in the Commonwealth, the Nursing Home Connection addresses both the acute shortage of physicians available to care for geriatric patients and the rigid cap of one reimburseable visit per month per nursing home patient. This policy provides a strong disincentive to treat residents more than once a month, meaning that health problems which could be treated with two or three visits may develop into more serious illnesses, requiring residents to be treated in a much more costly hospital setting.

Our bill addresses this inflexibility in two ways. The first is by giving carriers the discretion to provide routine payment for up to 1.5 visits per month per patient, giving providers more freedom in determining when a patient needs treatment beyond just one visit per month. Second, we instruct the Secretary to provide for a demonstration project in which an innovative new model of determining payments would be applied. This model would allow providers to meet the cap on visits by averaging the number of reimbursable visits over the aggregate number of patients receiving services from the physician-nurse practitioner-physician assistant team.

We feel that this legislation is a small, yet significant step in meeting the long-term health care needs of this country.

CONGRESSMAN MEL LEVINE'S REMARKS ON TRADE COMPETITIVENESS AND OUR ECONOMY

HON. HOWARD L. BERMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 15, 1989

Mr. BERMAN. Mr. Speaker, I recently had the opportunity to hear our colleague MEL LEVINE deliver an important and insightful speech. It outlines, in a very impressive way, the unprecedented changes and challenges which face our Nation, both at home and abroad. I ask for unanimous consent to include it in the RECORD and commend it to the attention of all of our colleagues.

REMARKS BY CONGRESSMAN MEL LEVINE ON AMERICA'S ECONOMY, JUNE 1, 1989, LOS ANGELES

This is an appropriate occasion to take stock as we witness some of the most momentous changes of the post-war era.

In this country, our society is being transformed as we deal with challenges that we barely knew existed even a decade ago. And, perhaps most dramatically, the world today is undergoing the most profound period of change in the post-war era.

Think of Moscow, Tiananmen Square, a reunifying Europe, a newly resurgent Japan, a third world in turmoil. On the surface, these swirling events often seem separate and disconnected. But one theme connects them all: we are moving toward becoming one global civilization more quickly than ever before in human history.

The United States, as author Joel Kotkin notes, symbolizes this emerging global civilization. We are the first "world nation" in history, with people living here from every corner of the globe. And it is our principles that are now spreading around the world. Chinese students quote Thomas Jefferson, Muscovites call for free elections and free enterprise much of Asia follows our model, and Latin America and Eastern Europe move toward democracy as well.

Since others emulate our ideals and institutions, we have a special role in helping the world to become a global civilization. To do so, it seems to me, we need to realize three great truths:

First, the principal global struggle is no longer the Cold War. The Cold War should no longer dominate our thinking. Russians and Chinese now study American political institutions, and they regard democracy as their ideal. We have an opportunity today to accomplish both nuclear and conventional arms reductions thought impossible just a few short years ago.

Second, economic competition is the key battleground of our time. Evan as the Cold War is winding down, a new sort of conflict has begun. It is a battle of markets—not missiles, trade—not tanks. And strangest of all, it is being fought between friends, not foes. Some of our closest military allies have become some of our fiercest economic competitors. And our economic competition with allies like Japan and a United Europe will do far more to determine our living standards and our sovereignty than will our relationship with the Soviet Union.

Third, success requires that we rebuild at home rather than blame others abroad. It is ironic that, just at the moment when our ideals have triumphed around the world, we find our industrial base challenged at home. Eight irresponsible years have seen us lose our lead in every strategic industry from machine tools to high definition television. We are no longer the world's industrial leader for the first time since Henry Ford invented the assembly line. Eight years ago, most of the world's largest banks were American. Today, nine of the ten largest are Japanese. We have become the world's largest debtor. We are challenged by an array of enormous problems—drugs, homelessness, global warming, ozone layer depletion, poor schools.

So it may be natural that many, frustrated by such problems, would begin to blame others for them. One hears increasing talk of "economic nationalism," protectionism, "Japan-bashing," these days.

But though this may be natural, it makes very bad policy. We do need to speak out when our competitors gain unfair advantage over us. This is why I have helped lead the fight in Congress to stop the sale of the FSX fighter to Japan.

But we must realize that, on the whole, our problems begin at home, not abroad. I have introduced a bill to lengthen the school year because I do not believe we can blame others for the fact that our children study only 180 days a year, while children in other nations study 220-240 days a year. I am fighting to increase civilian funding for research and development and technology commercialization, because it is our fault that other countries outspend us in these areas. And we fought against an American, not a Japanese oil company last year that sought to drill off the coast of Pacific Palisades.

I have helped to found a think tank called Rebuild America because of our future, and that of our own kids, requires that we rebuild at home in order to win abroad.

Rebuild America has an ambitious agenda:

We seek to promote a new "investment economics," developed by a team of eminent economists led by Nobel Laureate Robert Solow.

A group of business, leaders including Robert Noyce, a Silicon Valley pioneer who co-invented the microprocessor, are working with us to develop an "industry-led policy" to revitalize and strengthen our strategic industries.

We encourage "investment in people," particularly by promoting new learning technologies that can increase students' desires to learn.

And we seek to build support for "global co-development and growth" through economic superpower cooperation, rather than the protectionism that has proven so disastrous in the past.

Some may say that such an agenda is too ambitious. But I think we have no alternative.

Last week, Rebuild America held a conference in Washington on the anniversary of President John F. Kennedy's launching of the space age. It recalled the excitement of those days—the spirit that took it for granted that we would hold the cutting-edge. It was an occasion to remember what it was like for our whole nation to be united—to reflect on the true meaning of national commitment.

I think it is time to rekindle that spirit again—to say that we will no longer settle for second-best, to say we will gain the cutting-edge, from the classroom to the shop floor to the boardroom. For a strong economy and industrial base will help to ensure of all of the other vital objectives we seek, such as a clean environment, a sound health care system, an effective foreign assistance program, affordable housing, or educational excellence.

This is what you have sent to Congress to do. And, with your support, this is what we can achieve together in the challenging years to come.

INTRODUCTION OF THE FEDERAL BUDGET STRUCTURE ACT OF 1989

HON. WILLIAM F. CLINGER, JR.

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 15, 1989

Mr. CLINGER. Mr. Speaker, today I introduced the Federal Budget Structure Act of 1989.

Before describing the provisions of this legislation, however, I wish to express my appreciation for the valuable assistance of Charles Bowsher, the Comptroller General, and his staff in helping to develop this legislation. The Comptroller continues to play a valuable leadership role in improving our antiquated financial management practices.

The Federal Budget Structure Act simply seeks to identify, define, and present separate operating and capital components of the Federal budget, and to distinguish between Federal funds and trust funds, while maintaining a unified budget. It is not yet a perfect piece of legislation, but hopefully it will help fuel a needed debate. We've begun down that path with this year's budget resolution.

Mr. Speaker, let me reiterate that this legislation seeks to retain a unified budget. This proposal does not attempt to reduce the Federal budget deficit through more smoke and mirrors by taking capital expenditures off-budget. A unified budget is maintained. This legislation seeks to provide what the existing budget does not—adequate information on the revenues, expenditures, surplus/deficit amounts, and financing requirements for capital activities of the Federal Government. It also attempts to provide a distinction between Federal funds and trust funds, and between capital and operating activities in a manner which does not hinder identifying the resources needed to meet the Government's capital infrastructure needs.

The benefits of a capital budget are many. The private sector and a large majority of State and local governments have set a financial example of the direction the Federal Government should follow. A capital budget:

Focuses attention to a greater degree on the deteriorating physical infrastructure of the Nation and allows us to make more rational investment decisions;

Promotes intergenerational equity by burdening future generations with debt service only for activities that provide future tangible benefits [capital];

Provides more equitable budget treatment of capital activities by avoiding the current front-end loading of the full costs in the first year; and

Shows that borrowing to finance capital investments is accompanied by an increase in the Nation's assets.

A capital budget that remains part of the unified budget may also help us better define "what is a balanced budget?" As we move in the direction of a balanced budget, we need to more fully explore whether it makes sense for the Federal Government to balance its annual budget under current bookkeeping practices.

Efforts to improve Federal financial management and better identify capital activities will bear directly on the quality and clarity of the financial information that we use to make budget decisions.

In closing, Mr. Speaker, Congress continues to debate reducing the Federal budget deficit, budget process reform, and more. However, all this may be to no avail, unless we recognize the most fundamental problem—the lack of accurate, timely, and comprehensive Federal financial information.

NO NET LOSS OF WETLANDS

HON. CHARLES E. BENNETT

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 15, 1989

Mr. BENNETT. Mr. Speaker, I read with great interest an article recently published in the Washington Post on President Bush's initiatives to preserve wetlands in the United States. I applaud his efforts and would like to bring attention to my bill H.R. 1746, the Wetlands No Net Loss Act of 1989 which aims to meet President Bush's goals.

Senate Majority Leader MITCHELL and other Members should be commended for their legislation aimed at specific types of wetlands, such as those in coastal regions, but since such wetlands only represent a fraction of the entire U.S. wetland base, we should move toward a national policy on all wetlands. My bill does that, and I hope my colleagues will join in cosponsporing H.R. 1746. I have 17 cosponsors and several environment groups in support of this legislation.

Because the preservation of wetlands is so essential to maintaining our environment, it is appropriate to have this Washington Post article placed in the CONGRESSIONAL RECORD as it appeared in the June 9, 1989, edition as follows:

[From the Washington Post, June 9, 1989]

PRESIDENT TAKES FIRST STEPS TO PRESERVE WETLANDS

(By Ann Devroy)

President Bush announced yesterday that he has formed a government task force to help implement his campaign pledge of maintaining the nation's wetlands and he endorsed in principle new legislation to achieve that goal.

During his presidential campaign, Bush pledged a "no net loss" policy to preserve wetlands that would replace every acre taken out of preservation with land added by public or private purchase. "It's time to stand the history of wetlands destruction on its head," Bush told a symposium on the issue yesterday.

Wetlands preservation has been a major environmental preoccupation for decades. More than half the original 200 million American acres have been drained, filled or cleared since 1950. Most of the wetlands are privately owned and almost 500,000 acres are lost to development each year.

Environmental groups have lauded Bush's pledge to meet the no-net-loss standard but have been impatient with his lack of initiative to implement the promise. Yesterday, he took two of the early steps they sought: endorsing the concept of new wetlands legislation and setting up an interagency task force to produce a "united federal policy" on wetlands preservation.

The president said a bill sponsored by Senate Majority Leader George J. Mitchell (D-Maine) is among the measures the White House is examining. The Mitchell bill is aimed at implementing a North American plan to preserve wetlands that calls for protecting an additional 50,000 acres of land along the East Coast of the United States. Funding would be provided through various fees.

The president, who has been emphasizing environmental issues this week leading up to his planned announcement Monday of new clear air proposals, also used the speech to outline his environmental principles. He said these include his belief that "a strong ecology and a strong economy can coexist." He also emphasized that environmental protection is a federal-state-local effort, that his goal will be preventing, not just cleaning up, environmenal problems and that such problems "know no borders."

Scott Feierabend of the National Wildlife Federation praised the speech for "not diluting or back-tracking" on Bush's campaign pledges, but said he was "somewhat disappointed" that Bush did not offer more specifics nor a broader statement of governmental responsibility.

After the speech, about two dozen leaders of environmental groups met with Bush to discuss the Clean Air Act. Several of the environmentalists said they are hopeful the administration's response will be, as one put it, "at least 70 percent acceptable."

One environmentalist showed Bush a chart that indicated the air near his summer compound in Kennebunkport, Maine, failed to meet pollution standards for several days during a testing period last summer. Bush was told the same was true near his other "homes" in Houston, Washington and Connecticut, where he was born. Officials said Bush replied that "he's surprised he's still alive."

NAMIBIAN PEACE PROCESS

HON. RONALD V. DELLUMS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 15, 1989

Mr. DELLUMS. Mr. Speaker, we have all been watching the United States-negotiated peace plan take hold in Namibia. I wish to share with you an account of the peace process from the highly respected Lawyers' Committee on Civil Rights. This weekly account is being provided to give the Members an objective view of the events unfolding there daily. These weekly reports will be provided on a regular basis from members of a newly formed group of representatives that will be following the process to ensure that the people of Namibia have a fair opportunity for freedom and democracy.

THIS WEEK IN NAMIBIA

(Week of June 4-11, 1989)

(A weekly report filed by the Lawyers' Committee for Civil Rights Southern Africa Project Staff in Namibia.)

GENERAL COMMENTS

The Administrator General's (AG) capacity to administer impartially the 435 process was thrown into doubt this week by reports linking his Chief Election Officer to discussions aimed at preventing a SWAPO victory in the upcoming elections. In a front-page article headlined EXPOSED, The Namibian published minutes from a September 7, 1988 meeting of the former National Security Council (NSC) which promoted the use of civil servants in a strategy to "discredit SWAPO while boosting the internal parties". DTA Chairman Dirk Mudge chaired the September 7 meeting in his then capacity as Governmental Affairs Minister. Other top government, army and police officials were present. Chief Election Officer Visser did not attend the meeting but acknowledged receiving the minutes.

AG Pienaar publicly denied that the revelations compromised his impartiality. He pointed out that the NSC dissolved along with the interim government just prior to the implementation of 435. He stressed that he was not a member of the NSC and only attended two of its meetings. He assured the public that his current administration "is an impartial one established in terms of Resolution 435", and that "up to this point [he has] fully demonstrated [his] impartiality and that of [his] officials".

It appears unlikely The Namibian revelations will force either the AG or the Chief Election Officer to step down. Nonetheless, they clearly exacerbate what a recent National Democratic Institute (NDI) delegation terms the "atmosphere of distrust [which] permeates the political scene" here. The AG's impartiality was further thrown into doubt by his admission that although the NSC was disbanded, the National Intelligence Service (a security police force administered separately from SWAPOL) still operates. He contended that the service used to fill "a security function", but now simply reports to him on the "effectiveness of the administration". One local observer captured the general public reaction commenting, "this is a wholly implausible contention".

IMPLEMENTATION OF RESOLUTION 435

1. Amnesty:

The proclamation for amnesty (No. AG 13 1989), subtitled "The Granting of Amnesty to Certain Persons," was issued on June 7. As the subtitle suggests, it applies only to persons who were born in Namibia (and their spouses and children) and were "ordinarily resident outside Namibia" immediately prior to the act's commencement. The amnesty covers "any criminal offense committed by such person in the territory or elsewhere" at anytime prior to enactment of the proclamation. In order to be eligible for amnesty, such person must enter Namibia through designated entry points. The proclamation empowers the AG to designate additional entry points or broaden the application of designate additional entry points or broaden the application of the amnesty to include additional persons or categories of persons.

While the amnesty was generally welcomed, reservations were expressed. It only applies to returnees and does not cover persons currently living in Namibia. In addition, it requires those wishing to take advantage of the provision to enter through designate entry points. Those refugees who do not want to call attention to their return by going through a process monitored by South Africa will not qualify for amnesty. Finally, it does not cover civil claims.

2. Release of Political Prisoners:

Reportedly, arguments before the UN's independent jurist regarding at least 25 prisoners are scheduled to be completed by June 15. Some disagreement persists as to

the definition of "political". As noted last week, SWAPO announced the release of 204 political prisoners. However, objections to the release have been raised by the South African government and opposition political parties. Reportedly, UNHCR representatives were not allowed into the camps to count the number of SWAPO detainees and consequently the total numbers prove difficult to verify. In addition, reports released this week in the Namibian describe angry SWAPO detainees and detail their alleged mistreatment and torture.

3. Repeal and Amendment of Discriminatory and Restrictive Laws:

The draft repeal of laws (No. AG 14, 1989) was issued on June 5 and officially gazetted June 12. The Proclamation (short title Abolition of Discriminatory or Restrictive Laws For Purposes of Free and Fair Election) repeals 36 laws and amends 10. The amended and repealed laws include the Terrorism Act, the Internal Security Act, AG 9 (1979) and AG 26 (1,978). Among other things, AG 14 spells an end to detention without trial (AG 9 and the Terrorism Act), the end of forced conscription of white Namibians into the South African Defense Force (Defense Act), the lifting of the curfew in the north (Security Districts Proclamtion) and an end to the South African State President's capacity to terminate trials of SADF officers (Defense Act).

For most Namibians, AG 14 marks the beginning of the end to a long era of legalized oppression. However, many local commentators, including DTA Chairman Dirk Mudge, protested that AG 8, the 1980 proclamation dividing Namibia's population into 11 semi-autonomous ethnic groups, has not been repealed. (Mr. Pienaar suggested that "parties say it's part of their political programme to repeal AG 8.") In addition, the likelihood of further repeals is a matter of some dispute. On June 6, the AG implied that AG 14 represents the lion's share of laws to be amended or repealed. On the same day, however, the Special Representative (SR) suggested that the proclamation covers only an initial list of laws. In any event, the AG appears to have the upper hand. AG 14 vests the ability to request further repeals with the vague category of persons "having an interest in the election." Final decisions are based solely on the AG's discretion and he is not required to provide rationale for these decisions.

4. Repatriation

Promulgation of AG 13 and 14 paves the way for the long-delayed repatriation of Namibian refugees, though at the last moment the AG hesitated to sign the empowering protocol. He reportedly raised several new pre-conditions to repatriation, including requirements that UNHCR pay cash for airplane fuel (purchased at the designated entry points). Eventually the protocol was signed, and the refugees are scheduled to begin arriving from Angola and Zambia on June 12.

The returnees are scheduled to arrive over a six week period, six days a week. Most will spend from 1-7 days at secondary reception centers. On departure from the centers, they will be given a month's food ration and other items. The World Food Program (WFP) will continue supplying food for another 11 months.

Potential obstacles to the repatriation process posed by the lawsuit of 11 tribal leaders against SWAPO, the CCN nd 6 others (see "This Week" May 28-June 4) were for the most part removed late this week. Lawyers for the headmen compromised, eliminating certain orders restricting repatriation from the relief they were seeking. Final arguments in the case are scheduled for late evening June 12. Nevertheless, enthusiasm for repatriation continues to be dampened by concern for the overall security situation in the north.

OVERALL SECURITY SITUATION

The school boycott protesting Koevoet's presence in SWAPOL continues. A recent student delegation to the north reports a noticeable presence of casspir troop carriers, in apparent violation of Resolution 435 which limits SWAPOL to the "carrying of small arms." Most Casspirs have double barrelled machine guns on top and are occupied by SWAPOL members in grey uniforms, most of whom according to local residents are former members of Koevoet. Both Reverend Brian Brown, Africa Secretary of the British Council of Churches and the NDI delegates called for Koevoet's immediate withdrawal from SWAPOL. The AG maintains that SWAPOL has sufficiently "restrained" Koevoet. Ironically, however, the AG's spokesman himself summed up the population's general concern when he said "perhaps the perception that Koevoet is still a major presence has been accentuated by the fact that they are still using Casspirs and because some of them are wearing their old uniforms."

Additional security concerns have been raised by reports that Citizen Forces were rearmed in the wake of events of early April. Under 435, these forces (along with commandos and ethnic forces) are to be demobilized and dismantled. However, under the repeal of discriminatory and restrictive laws, no changes were made in the Police Act, No. 7, 1958, under which police forces established by tribal, communal and regional authorities are allowed to perform police duties. In addition, Sections 34 and 34(a) of the Act respectively provide for the appointment of "special constables" and create a police reserve of former SWAPOL and South African police members. Despite earlier pledges by the South African government to reduce the Namibian police force from 8300 to 6000, the head of the Organization of African Unity's recent advance mission reports that police force enrollment has reached 8000.

ROLE OF UNTAG

When asked this week about the overall security situation in the north, the SR responded "I don't think we can say the situation here today is perfect." UNTAG maintains that paramilitary entities are supposed to be disbanded (including Koevoet) and the SR has reportedly asked for details on the existence of and numbers in the security forces. Thus far, however, the UN has taken no official action. Continuing concern about the overall security situation has raised questions in the minds of the local population regarding UNTAG's credibility.

In the north, there is tremendous confusion regarding UNTAG's role. At a meeting among school teachers, principals and UNTAG police monitors held in Oshakati on May 26, the teachers vented their frustration over UNTAG's performance, which they reportedly declared had been ineffectual in protecting them against intimidation and abuse. To some extent, these objections arise out of basic misconceptions about UNTAG's role under 435, which include assumptions that UNTAG is granted control of functions previously performed by the SADF and SWATF and/or SWAPOL and that the UN Special Representative's authority equals that of the AG in the implementation process.

ELECTORAL PROCESS

1. Political Parties: Focus: SWAPO President: Sam Nujoma; National Chair: David Meroro; Vice President: Hendrik Witbooi; Secretary General: Andimba Toivo ja Toivo.

SWAPO was founded as the Ovamboland People's Congress (OPC) in 1957 by a group of SWA expatriates in Cape Town. OPC originally focused on the plight of the Ovambo workers. It was renamed the Ovamboland Peoples' Organization (OPO) and merged temporarily with the South West Africa National Union (SWANU). In 1959, key members of OPO broke from SWANU and committed to building a national (rather than Ovambo) following. OPO was renamed the South West African People's Organization (SWAPO).

In the 1960's SWAPO formed the Peoples' Liberation Army of Namibia (PLAN) and launched a campaign of armed resistance against South Africa. In the 1970's SWAPO placed representatives with the FAO, ILO and UNESCO and helped establish the U.N. Institute for Namibia. The U.N. recognized SWAPO as "the sole and authentic representative of the Namibian people."

SWAPO differs substantially from its main political opponent, the Democratic Turnhalle Alliance (DTA), particularly with regard to economic policy. SWAPO envisions a socialist economy with elements of private enterprise. DTA advocates a free market economy and "independence without economic chaos."

CALIFORNIA SOCCER HONORED

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 15, 1989

Mr. STARK. Mr. Speaker, I would like to submit for the RECORD an example of America's increased interest in a global institution, soccer. On June 16 of this year, approximately 1,200 soccer players, from 10 through 18 years old, their families, and numerous spectators will meet for the 1989 USYSA Far West Regional Championship at Foothill High School in Pleasanton, CA.

The California Youth Soccer Association [CYSA], which will host the competition, is the largest State youth soccer association in the United States. This is the first time the Far West Championship has been held in northern California since 1981. I am pleased to honor the CYSA on this, its 20th anniversary.

Soccer is not only the fastest growing youth participation sport in the country it is already the largest. I commend the young athletes and the CYSA for helping to make California prominent in the world's most popular sport.

SAVINGS AND LOAN CRISIS

HON. MARCY KAPTUR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 15, 1989

Ms. KAPTUR. Mr. Speaker, the collapse of the savings and loan industry provides yet another glimpse of our capacity as a government

"of the people, by the people, and for the people" to ignore the people—that is, until we have to find someone to pay the bill. The American taxpayer did not cause the savings and loan crisis. Yet the Bush administration legislation will cost the taxpayer a minimum of $150 billion over the next 30 years to fund an "off budget" bond financing scheme to resolve troubled thrifts. Some estimate the cost to the taxpayers could rise as high as $300 billion depending on what happens to interest rates and the health of savings and loan institutions in the future.

In fact, the Bush administration bond proposal is the biggest tax increase in recent memory that will begin kicking in in 1991, at a rate of $4 billion per year for 30 years to pay the interest costs on the new bonds issued. Where will the annual $4 billion come from to pay the interest on the bonds? Where will the $120 billion in interest over 30 years come from? Whose taxes will be raised to make these payments? Which budget accounts will be short changed as a result—education, health care, veterans, defense? No one in the executive branch wants to answer these questions.

Incredibly, this bond scheme—which is actually a hidden tax—is being done in the name of fiscal responsibility—that is to meet Gramm-Rudman-Hollings budget targets. Yet if Congress would put the bailout on-budget and pay for it over the next 3 years, it would be three times less expensive than the Bush plan and the cost to the taxpayer would be cut by 300 percent. This is why I support both the Ways and Means Committee amendment to place the bailout on-budget and the LaFalce amendment to force the Congress to pay for the bailout annually on a pay-as-you-go basis.

If the bailout is placed on-budget, Congress and the President should negotiate and use a process similar to what was done on the recent budget agreement to make those responsible for this debacle pay for it. The average taxpayer is not guilty. States in certain regions of our Nation that permitted their State-chartered institutions to engage in excessively risky activities must be made to pay their fair share. The financial services industry, financial intermediaries and certain individuals that took advantage of high interest rate, brokered deposits also should pay their fair share of the bailout. Special taxes could be assessed on these groups for a limited time period to help fund the bailout.

If the Bush administration off-budget tax scheme must be used, the interest payments on the bonds should at least be structured to benefit the American taxpayer. The operative question should be: How can the bond offering be structured to benefit the American public which will pay the tab for this "debacle of deregulation with lax examination?" My amendment adopted in the Banking Committee to lower the face value of bonds sold to $1,000 (from the Bush proposal of minimum face value $10,000) is one step to make the bond offering more available to our citizens. But why should U.S. taxpayers pay billions of dollars in interest payments over 30 years to foreign investors—who are the most likely buyers of these bonds—when the American taxpayer is being asked to fund the bailout? My amendments defeated at the Banking Committee gave the Treasury an incentive to sell the bonds to the U.S. public first by limiting to 10 percent the amount foreign creditors could purchase in the first 18 months of the bond offering. I also proposed a report back to Congress on which foreign creditors buy these bonds and to whom Americans thus owe principal and interest. Americans have a right to know to whom our financial system is indebted.

Finally, in any acceptable solution to the S&L crisis, reinvestment must take place in communities which have faced lending discrimination. It is a pathetic commentary on those who steered the S&L industry down this dead-end path that deposits flowed out of communities that were red-lined in order to pay for risky investments made far from home by institutions that manipulated small depositors' funds. It is sad public policy that the Banking Committee did not pass the Gonzalez/Kennedy amendments to strengthen the Community Reinvestment Act and the Home Mortgage Disclosure Act to make restitution to those who have been discriminated against.

I believe that the enforcement provisions of this legislation go a long way to assure that this thrift debacle will never occur again. But in solving the present crisis, I believe this legislation failed miserably in proposing a fair financing mechanism to give American taxpayers something for their money—namely, fairness. That is why I must vote against this legislation.

SRI LANKA GOVERNMENT

HON. BOB CARR

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 15, 1989

Mr. CARR. Mr. Speaker, as you know, the Government of Sri Lanka is fighting a guerrilla movement of Tamil nationalists. The war is producing human rights violations that are of great concern worldwide. The case of George Alexis is one such violation.

On September 8, 1988, George Alexis, a 30-year-old carpenter, was arrested in Sri Lanka by officials of the Indian Peace Keeping Force. He was taken to the Pandeteruppu camp. Camp officials at first refused Alexis' relatives entry, then told them that Alexis had been released. The camp commander showed the family Alexis' thumb-print on the release document. The family pointed out that Alexis can read and would have signed his name, and that a curfew was in effect at the time of Alexis' supposed release. He has not been seen since.

George Alexis is one of 700 civilians who have been disappeared in recent years by the security forces in Sri Lanka. Even though the Government is fighting the Tamil insurgent movement, the disappearance of civilians is wrong. I call on the Sri Lankan Government to find Alexis and the others who have disappeared. They should be either charged and given fair trials or unconditionally released. Sri Lanka must end this violation of human rights now.

SECRETARY OF STATE BAKER'S MIDEAST POLICY SPEECH: "EMINENTLY FAIR"

HON. HOWARD WOLPE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 15, 1989

Mr. WOLPE. Mr. Speaker, Israel and the Palestinians have been engulfed for over 18 months in the turmoil and challenges posed by the uprising, known as the intifada, in the occupied territories. These are events of historical significance and great human anguish. The intifada reflects the truth that the status quo in the West Bank and Gaza that has prevailed since 1967 can no longer endure—even though these territories were thrust upon Israel, against her will, in a war of aggression initiated by the combined military might of th Arab world. The intifada demonstrates that the legitimate political aspirations of the Palestinians must be accommodated. But just as clearly it shows there is only one road to peace: through a cessation of the violence; direct, face-to-face negotiations, without conditions, between Palestinian representatives and Israel; and the forging together of a future that will let Israelis and Palestinians live with each other in peace.

In the wake of these momentous developments, two important and positive initiatives have emerged. First, the PLO has met the conditions established by successive Presidents regarding the recognition of Israel and the renunciation of terrorism—and on that basis, a dialog has begun between the United States and the PLO. It is imperative, at each and every session with the PLO, that we test the intentions of the PLO's leadership, members and supporters, and hold the PLO strictly accountable for both its rhetoric and actions. The dialog that has begun can just as easily be suspended, and the PLO should not doubt for a moment our resolve that terrorism against Israel, its people, and its armed forces will not be tolerated. Indeed, I have joined in sponsoring legislation that requires the Secretary of State to regularly ascertain PLO compliance with the policies and conditions governing the dialog with the PLO.

Second, the Government of Israel has come forward with a far-reaching and just proposal for elections to be held in the territories to select bona fide representatives of the Palestinians to enter negotiations with Israel over their future. Many details of this proposal need to be resolved. But this courageous initiative is a necessary first step if any progress is to be made. The issues are too difficult, and the political gulf too broad, for the tabling of sweeping proposals by either side. But beginning a framework in which all issues can be discussed is essential. The Palestinians have a choice: riots or ballots. They have been heard—in Israel and around the world. It is time to talk.

Until diplomacy is underway, however, the violence of the intifada, and Israel's response to it, continues. So many children—far too many children—have been killed by the application of lethal force by the Israeli Army. This is an offense to moral sensibility, and it must

be stopped. The violence has also hardened Israeli attitudes generally, with Israeli settlers taking the law into their own hands, and imposing cruel vigilante justice, often on innocents. Controls on the movement of Palestinian workers, and the issuance of identification cards, have been imposed—practices that smack of the reprehensible policies of other regimes.

At the same time, over 40 Palestinians have been murdered as "collaborationists" with Israel—a chilling message of intimidation and fear that undercuts the hopes of moderate Israelis and Palestinians alike.

More and more, the territories are taking on the raw character of Palestine in the 1920's and 1930's—venues of ethnic warfare and strife.

Israelis and Palestinians must pull back from the abyss. It was in this spirit that Secretary of State James Baker addressed the National Conference of the America Israel Public Affairs Committee [AIPAC]. He made extremely tough, but eminently fair, demands on the Palestinians to cease their violence against Israel, to relinquish their hopes of destroying Israel, and to embrace Israel's proposal for elections in the territories—the only peace initiative on the table today. He called on the Arab nations to terminate their economic boycott of Israel, to recognize the Jewish State, and to repudiate the calumny that Zionism is racism.

Speaking to Israel, the Secretary reaffirmed the special relationship that exists between our countries, and asked Israel to renounce any annexation of the territories and to adhere to its policy, under U.N. Resolutions 242 and 338, of exchanging land for peace.

Secretary Baker's speech was a restatement of longstanding views of the United States Government—policies that have consistently found favor in Israel and within the American Jewish community.

Many leading organizations issued strong statements of support for the Secretary's speech. I wholeheartedly concur with them, and accordingly am pleased to share with my colleagues the press releases issued by the American Jewish Congress, the American Jewish Committee, and the Union of American Hebrew Congregations:

[From the American Jewish Congress]

JEWISH ORGANIZATION REASSURED BY BAKER REMARKS

In reaction to Secretary of State James Baker's speech before the American-Israel Public Affairs Committee yesterday, Robert K. Lifton, president of the AJCongress, has issued a statement noting that the Secretary's remarks were "a sobering but ultimately reassuring assessment of the events in the Mid-East." Calling the Secretary's remarks "essentially an extension of existing U.S. policy," he noted that some observers have overlooked the fact that the demands Secretary Baker has made on the Palestinians are considerably more rigorous than those made on Israel."

The full text of the statement follows:

Secretary of State Baker delivered a sobering but ultimately reassuring assessment of the present state of events in the Mid-East. His presentation is a hard-headed inventory of the challenges facing all parties in the area. The important factor is that his speech essentially represents an extension of existing U.S. policy with respect to the territories and which continues to value Israeli security as among its highest priorities.

Some observers have overlooked the fact that the demands Secretary Baker has made on the Palestinians are considerably more rigorous than those made on Israel. He called on the Palestinians to end the intifade violence, to "renounce the policy of phases," to amend the covenant, to accept the current Israeli peace initiative, to enter direct, face-to-face negotiations with Israel, and to accept a transitional period of autonomy prior to a final settlement, which will "mean full recognition of Israel as a neighbor and partner in trade and in human contact." He also urged the Arabs to end the economic boycott, to "stop the challenges to Israel's standing in international organizations," and to "repudiate the odious line that 'Zionism is racism.' "

There may be occasions down the road when the views of the Administration will seem to us inadequately responsive to the real dangers Israel confronts. It has happened before. But it would be wrong, as some have done, to act in anticipation of an event that has not occurred.

[From the American Jewish Committee]

NEW YORK, May 23.—Commenting on Secretary of State Baker's remarks yesterday on the Middle East situation, Ira Silverman, executive vice president of the American Jewish Committee, said today:

The American Jewish Committee believes Secretary of State James Baker's call to the parties to the Arab-Israeli dispute to take concrete steps toward peace is both timely and correct. We share his characterization of the Israeli Government's proposal for Palestine elections in the territories as "an important and very positive start down the road toward constructing workable negotiations." We also welcome Secretary Baker's reaffirmation of the importance of continued bipartisan U.S. support for Israel, his declaration that "a key condition for progress" is "a productive United States-Israeli partnership," his opposition to any imposed settlement, and his clear message to the Palestinians that "no one is going to deliver Israel for you."

We applaud and agree with Secretary Baker's call to the Arab states to end their economic boycott of Israel, to take steps to make peace with Israel, and to repudiate the obscene equation of Zionism with racism.

We agree whole-heartedly that it is time and past timefor the Palestinians to end the violence in the territories, for the PLO to abandon its "strategy of stages" for the piece-by-piece destruction of Israel, to appropriately amend its Charter, and to cease its use of UN specialized agencies for its own political purposes.

Regarding the specific steps that the Secretary calls upon Israel to take, it has long been the AJC position that UN Security Council resolutions 242 and 338 apply in the West Bank and Gaza. This means trading land for peace within the context of a comprehensive settlement that assures Israeli security within properly defensible borders. Similarly, while we believe that Jews have a right to live on the West Bank, we have urged that settlement be voluntarily halted in order to advance the peace process.

Overall, AJC agrees with Secretary Baker that it is necessary for all sides, the Israelis, the Arab states and the Palestinians, to take concrete measures to build confidence and move the peace process forward. We want and need a settlement that will make it possible for Israel, its neighbors and the Palestinians to live in peace and security, with human rights secured for all.

The American Jewish Committee protects the rights and freedoms of Jews the world over; combats bigotry and anti-Semitism; promotes human rights for all; works for the security of Israel and deepened understanding between Americans and Israelis; defends democratic values and seeks their realization in American public policy; enhances the creative vitality of the Jewish people. Founded in 1906, it is the pioneer human-relations agency in the U.S.

COMMENT BY RABBI ALEXANDER M. SCHINDLER, PRESIDENT, UNION OF AMERICAN HEBREW CONGREGATIONS (REFORM JUDAISM) ON AN ADDRESS BY SECRETARY OF STATE BAKER

Secretary Baker's speech deserves to be commended and not criticized. It was an eminently fair statement of what Israel and the Arabs must do to bring peace. His words have been described as "blunt" and even "tough." Is that necessarily bad for Israel? Is it better to hear sweet nothings or honest talk about what has to be done on both sides?

In fact, the tougher demands were made of the Arab side—by far. If I were an Arab policymaker at PLO headquarters in Tunis or in Damascus or Baghdad or Amman, I would regard the Baker statement of American Middle East policy as a devastating blow. Let's take a look at what the Secretary said:

He called on the Palestinian Arabs to abandon violence and begin a serious political dialogue with Israel. He urged the Palestinians to relinquish their hopes of destroying Israel and to renounce all talk of taking over Israel in stages—the first stage being a Palestinian state in the West Bank and Gaza.

He endorsed Prime Minister Shamir's proposal for elections in the territories as "an important and positive start down the road toward constructing workable negotiations." He called on Arab governments to end their economic boycott of Israel, to stop their unremitting challenges to Israel's standing in the international community and to "repudiate the odious lie that Zionism is racism."

The Secretary called on the PLO to rescind its charter, which calls for the destruction of Israel, and said that attempts to destort the programs and services of international organizations, such as the World Health Organization, should be ended.

The major issue in the Middle East today is the refusal thus far of the Palestinian Arabs to bring a halt to the intifada and to accept Israel's plan for free elections in the territories. Secretary Baker knows that. His remarks were, it seems to me, directed mainly at the Palestinians for their refusal to turn from violence to negotiations.

In my judgment, Israel will have few problems in taking Mr. Baker's advice. The American Secretary of State is not the first of Israel's friends to urge Israel to abandon the idea of annexing the West Bank and Gaza. Previous Administrations have done so; many American Jews have done so; I have done so. In any case, annexation of the territories is nowhere in Israel's present plans, as far as I understand.

Moreover, the 'constituency for peace' that Mr. Baker urged already exists in Israel. Israel—not the Arabs—long ago ac-

cepted UN Security Council Resolution 242 as the basis for a settlement with the Arabs. And Israel would be more than eager to follow Mr. Baker's suggestion to reopen the schools in the West Bank, provided only that they are used as educational institutions and not as staging areas for the intifada.

On settlements, there may be some differences between Washington and Jerusalem. But that is a minor matter compared with all of the other major points on which the United States and Israel clearly agree, particularly since Israeli budgetary restraints make this academic anyway.

Arab-Israel peace will come not by violence, not by terrorism, not by continuing the intifada but rather, in the Secretary's words, through "full recognition of Israel as a neighbor and partner in trade and human contact."

It is gratifying to know that Secretary Baker clearly understands this reality. He has told the Palestinians that violence will not work. He has made clear that a Middle East settlement can be reached only through direct negotiations. He has reiterated the American position that opposes the creation of an independent Palestinian state.

For all these reasons, I welcome the Secretary's remarks. All who love Israel should do so.

SENATE—*Friday, June 16, 1989*

(Legislative day of Tuesday, January 3, 1989)

The Senate met at 10 a.m., on the expiration of the recess, and was called to order by the Honorable HARRY REID, a Senator from the State of Nevada.

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray:

Blessed is the man that walketh not in the counsel of the ungodly, nor standeth in the way of sinners, nor sitteth in the seat of the scornful. But his delight is in the law of the Lord; and in His law doth he meditate day and night. And he shall be like a tree planted by the rivers of water, that bringeth forth his fruit in his season; his leaf also shall not wither; and whatsoever he doeth shall prosper. The ungodly are not so: but are like the chaff which the wind driveth away. Therefore the ungodly shall not stand in the judgment, nor sinners in the congregation of the righteous. For the Lord knoweth the way of the righteous: but the way of the ungodly shall perish.—Psalm 1.

Gracious God our Heavenly Father, give us seeing eyes, hearing ears, understanding minds, receptive hearts and the will to take seriously the fundamental wisdom of the first Psalm, its promised blessing, its perilous warning.

In Jesus' name. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

THE PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore [Mr. BYRD].

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, June 16, 1989.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable HARRY REID, a Senator from the State of Nevada, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

Mr. REID thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE ACTING MAJORITY LEADER

The ACTING PRESIDENT pro tempore. Under the standing order, the acting majority leader is now recognized.

THE JOURNAL

Mr. CRANSTON. Mr. President, I ask unanimous consent that the Journal of the proceedings be approved to date.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

SCHEDULE

Mr. CRANSTON. Mr. President, this morning, following the time for the two leaders, there will be a period for morning business not to extend beyond 10:30 a.m., with Senators permitted to speak for up to 5 minutes each. At 10:30 the Senate will resume debate on S. 5, the child care bill.

As the majority leader indicated on yesterday, there will be no rollcall votes today. Any votes ordered today and Monday will not occur prior to 5:30 p.m. on Monday, June 19.

THE CHILD CARE BILL

Mr. CRANSTON. I would like to say a word about the child care bill. I was one of the originators of this measure, an original cosponsor. It is a very fine, a very important step toward providing care for children who need it when their parents are not providing it for one reason or another. And it is designed to end the tragic choice that many parents face where they either have to be at work and leave their child unattended, or stay with their child and be on welfare. We obviously should end that tragic situation for parents and for children, and for society generally.

S. 5 is a measure designed to move us in the direction that our society needs to go. It is a family oriented bill, and I am proud to be one of its architects and one of its principal supporters.

RESERVATION OF THE MAJORITY LEADER'S TIME

Mr. CRANSTON. I ask unanimous consent that the remainder of the time for the majority leader be reserved.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

RECOGNITION OF THE REPUBLICAN LEADER

The ACTING PRESIDENT pro tempore. Under the standing order, the Republican leader is now recognized.

Mr. DOLE. I yield all my leader time to the Senator from Iowa.

The ACTING PRESIDENT pro tempore. The Senator is recognized for 9 minutes and 50 seconds.

THE CHILD CARE BILL

Mr. GRASSLEY. Mr. President, first of all, I thank the Republican leader for yielding his time to me. I also appreciate very much this opportunity to visit with you about the ABC bill, the child day-care bill. I rise in context of the debate on that bill.

The issue I am addressing has concerned me ever since I entered public service over 30 years ago. That is the tendency of the Federal Government to discriminate against religious persons when providing services that are available to everyone else.

In this particular case, it was the discrimination against religious providers of child care.

I recognize that a hopefully workable compromise is included in the new substitute amendment. But I am compelled to raise this matter again. It is important to air this topic because we should not have even considered legislation which would restrict religious freedom.

Unfortunately, it is all too common to sacrifice our constitutional right of religious liberty, in favor of efforts to expand, and unfortunately distort, the concept and effect of our constitutional protection of separation of church and state.

The concept of separation should be aimed at protecting, not threatening, religious liberty.

I am not an attorney, but I have long been a student of the Constitution as most of my colleagues probably have been. It has always been my belief that one of the great tenets on which this country was founded is that of religious liberty.

Yet, it seems that this Congress exerts much more of its legislative prowess to restrict religious practices with overreaching interpretations of separation of church and state.

Mr. President, I applaud the work of the majority leader, the chairman of the Labor and Human Resources Committee, and the chairman of the Children and Family Subcommittee.

Their cooperation in reaching a compromise will enable families to select day care providers which include religious activities without forfeiting their much-needed Federal assistance.

As good as this agreement is, we need to put this whole issue, including the compromise, in the proper context. Except for the work of the Senator from Kentucky [Mr. FORD] and the Senator from Minnesota [Mr. DURENBERGER] there would be no agreement. They are to be commended for an excellent job on this part of the legislation.

They persisted to find a solution to protect the rights of religious liberty, without compromising separation of church and state. Their leadership ensured that this bill does not discriminate against religious child care providers.

Otherwise, Mr. Chairman, we might have a bill like that of last year. As introduced, S. 1885 made a point to specifically exclude church-run day care centers from Federal programs.

The committee version worsened things by allowing churches to participate, but only by shrouding all religious symbols—a rather spectral sight for little children.

This year, S. 5, the "new and improved" ABC, acknowledged that religious organizations perform a valuable social service, but would have deprived them of their church functions. Such child care centers could receive Federal assistance, but only on the condition that they deny children and their families the opportunity to practice their faith while in day care.

Can you imagine, in church, before a meal, at a day-care center, that the children would not be able to thank God for that food? The "compromise" in this bill has seen a long and hard road. Lest I seem disparaging, I do appreciate the accommodation made for the constitutionally guaranteed right of religious freedom.

I deplore, however, the bloodletting, such as experienced by the Senators from Minnesota and Kentucky, that it has taken.

Why should Congress be so afraid of religion? Even people who do not make any pretense of being religious generally agree that it is good that other people are.

Even people who do not claim a religious faith often enroll their children in Sunday school or parochial school. Further, most non-church people agree with Proverbs 22:6—"Train a child in the way he should go, and when he is old, he will not turn from it."

Why? Because religion teaches good values and morals! Because people active in church and synagogues generally make good citizens! Because people feel they can trust churches.

What right do we have to dictate how a family chooses to instill religious values and morals in their young children?

A good share of parents have faith in the values of religious organizations which provide child care. We have no right to deny that freedom of choice.

A 19th century author and poet once said that, "Now-a-days, we know the price of everything and the value of nothing."

He must have had Congress in mind when he wrote that. We have revenue estimates and cost projections for every thing we legislate. But we seldom take the time to look at what a program is really worth—and what its value is to our constituents. I was always taught that value increases with personal and community investment.

There is a big difference between investment and interference.

It is so tempting for the long arm of the Federal Government to reach its greedy fingers into the personal decisions of families.

It is too easy for politicians and bureaucrats to impose what they believe to be omniscient knowledge, based on the wealth of information from the bowels of the Federal Government, on trusting and unknowing constituents.

Mr. President, as a Federal legislature, we should proceed very carefully into family policy. We should look for solutions to family needs and concerns in existing community institutions. Churches and synagogues are the very pillars of community institutions.

Families need support from community institutions in order to handle our complicated society, especially when many families live hundreds of miles away from their extended families.

The Federal Government should encourage, not stifle, that support structure. Religious and charitable organizations are exactly what Congress should look toward to solve our societal and family problems.

But most important, we must seek creative means for families to help themselves. No one should think that by restricting religious liberty that families are best helped.

I am frustrated with the Federal Government, specifically the Congress, for putting so much emphasis on the separation clause of the first amendment, that, in effect, we impinge on the free exercise clause of the first amendment.

In closing, one of my favorite books, which was written way back in 1954, regarding the Constitution, is entitled, "The Forgotten Ninth Amendment." I think a book could also be written about "The Forgotten Free Exercise of Religion Clause in the First Amendment."

Though this may be a cliche: The Constitution guarantees the freedom of religion, not the freedom from religion. I hope that adopting the Ford/Durenberger amendment is an indication that this body will give equal time to both protections provided in that very important first amendment.

The ACTING PRESIDENT pro tempore. The leaders' time has expired.

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of morning business, not to extend beyond the hour of 10:30 a.m., with Senators permitted to speak therein for a period of time not to exceed 5 minutes.

The Senator from Iowa.

Mr. GRASSLEY. I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. SIMON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The ACTING PRESIDENT pro tempore. The Senator from Illinois is recognized.

Mr. SIMON. I thank the Chair.

(The remarks of Mr. SIMON pertaining to the submission of Senate Concurrent Resolution 47 are located in today's RECORD under "Submission of Concurrent and Senate Resolutions.")

Mr. SIMON. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. Will the Senator withhold?

Mr. SIMON. Yes, I will.

NUKE DUMP A SHAM

Mr. REID. Mr. President, the nuclear waste dump planned for Nevada has always been a sham, foisted on the people of Nevada by outsiders who bent the rules and ignored the experts to get their own way at our expense. Every independent study has proven that the nuke dump is a sham. The people of Nevada know the dangers of radiation poisoning firsthand because of our experience with the Nevada Testing Site. In the last week we have seen additional proof that the very idea of a nuclear waste dump in Nevada is absurd and reprehensible.

I am referring to the Rocky Flats nuclear weapons plant in Colorado, where FBI agents spotted illegal burning of toxic solids and illegal dumping of tainted chemicals into streams that run through the plant grounds. If they cannot stop criminal dumping and dangerous negligence at a weapons plant that is just a few years old, what makes the Department of Energy think it is going to do a better job with 70,000 tons of high-level radioactive poison, buried under Yucca

Mountain, in the fastest growing State in the country, in a nuke dump that is supposed to last for 10,000 years?

They were wrong before and they are wrong now. I stand today in the Senate with the firm commitment, Mr. President, that the people of Nevada and their elected representatives in Washington will do everything we can to prevent Nevada from becoming the garbage dump for the rest of the country.

I ask unanimous consent to have printed in the RECORD the following editorial, "After Rocky Flats, Can We Trust DOE?" which appeared in the Las Vegas Review-Journal on Tuesday, June 13, 1989. It is just one example of the rage and skepticism felt by the people of Nevada.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

[From the Las Vegas Review-Journal, June 13, 1989]

AFTER ROCKY FLATS, CAN WE TRUST DOE?

The news concerning the Rocky Flats nuclear weapons plant in Colorado last week reflected poorly—to say the least—on the Department of Energy's already shaky credibility.

It must have been quite a spectacle to see 75 federal agents swarming through the sprawling plant, 16 miles northwest of Denver. The FBI aptly dubbed the Rock Flats raid Operation Desert Glow. The operation was designed to secure further evidence that the plant has been grossly mismanaged over the years, and that the DOE has consciously participated in a coverup.

Following the raid, the FBI released a slew of documents that catalogs a pattern of illegal dumping, burning and polluting at Rocky Flats, the nation's sole manufacturer of plutonium triggers used in nuclear warheads.

The FBI documents allege that the plant illegally burned hazardous waste, illegally disposed of up to 40 different hazardous chemicals on the 6,550-acre grounds and dumped 13 different toxic chemicals into two creeks that flow directly into the drinking water supplies of several Denver suburbs.

All this was occurring at a time when the DOE awarded Rockwell International (main contractor for the weapons plant) $8.6 million as a bonus for "excellent" management of Rocky Flats.

Perhaps the most damaging document released by the FBI was a 1986 memo—written by a DOE employee—acknowledging that some of the waste facilities at the site "are patently illegal" and stating that "we have serious contamination." The memo also noted that the public had no idea "just how really bad the site is."

What's even more galling is that the FBI documents also outline a pattern of coverup by the DOE which apparently sought to hide gross mismanagement at the plant.

In light of the events at Rocky Flats, is it any wonder Nevadans are wary of DOE's plans to bury 70,000 metric tons of high-level nuclear waste at Yucca Mountain? DOE has created for itself a major credibility problem, and Nevadans will need some big-time convincing before they come to believe the Yucca Mountain repository can be operated safely.

TRIBUTE TO THE LATE JESSE W. SWEETSER

Mr. NUNN. Mr. President, I want to take a few minutes to pay tribute to Jesse W. Sweetser, who died recently at his home in Washington, DC. He was 87 years old and had been suffering from cancer.

Jess Sweetser, a native of St. Louis, MO, and a graduate of Exeter Academy and Yale University, had a long and distinguished business career. Jess began as a stockbroker in New York City in the mid-1920's and continued in this field until he joined Curtiss-Wright Aircraft Co. as a salesman. Following World War II, he moved to Baltimore and continued his career in the aircraft industry with the Glenn L. Martin Aircraft Co. Jess was soon promoted to the vice president of sales, and retained this position following the merger of Martin Aircraft Co. and the American Marietta Co. He retired in 1967, and, after that, worked as a consultant in the Washington area.

From those who knew him in these fields, Jess was remembered as an astute, knowledgeable businessman who possessed an eye for the future. With each task he undertook, regardless of its scope or difficulty, Jess sought to broaden his own vision. He was adept at bringing his collective experience to bear on problems to reach the most effective solutions.

While most of us strive to lead such a distinguished career, this was only part of Jess' contributions to our country. Fitting of the ideals Plato held in the Republic, Jess Sweetser developed and honed not only his mental abilities, but his physical talents as well. This aspect is where he is most widely remembered.

Jess Sweetser was an accomplished baseball player, track athlete, and amateur golfer. Jess always claimed that his true sports love was baseball, but it was in amateur golf that he left an indelible mark. Although all the accomplishments of his career would be too numerous to list, I would like to provide some of them for the record.

In 1920, and only 2 or 3 years after he began playing golf, Jess won the National Collegiate Athletic Association championship. Two years later he defeated Charles Evans, Jr., 3 and 2 to capture the U.S. Amateur Championship. In 1926, Jesse Sweetser became the first native-born American to win the British Amateur by beating A.F. Simpson by the score of 6 and 5.

Jess Sweetser was a member of the first U.S. Walker Cup team in 1922, and again represented our Nation in this competition in 1923, 1924, 1926, 1928, and 1932. Jess also captained the Walker Cup team in 1967 and 1973. These years were notable in the fact that each of these U.S. teams came away victorious.

I would like to add a few personal remarks about the friendship I enjoyed with Jess Sweetser. Each time I joined Jess for a game of golf and strolled down a fairway with him I sensed that I was witnessing a part of history. He competed against and won against Bobby Jones, yet adapted easily to the modern era ushered in by Arnold Palmer and Jack Nicklaus. He had an uncanny ability to recall shots he had hit a half-century earlier, to remember the layout of holes he had not seen in 40 years, and to simplify golf to its most basic terms.

In golf, you often encounter players who have the ability to focus singly on the task at hand. Jess Sweetser was a man with a strong competitive drive, as evidenced by his record of successes, but he was also a consummate gentleman. He would share his vast experience with the game as easily as one greets an old friend. I recall more than one occasion when Jess would pass by me on the driving range as I practiced. Jess gently would tell me that I was making the game too difficult. He stated that golf was no harder than taking the club back with your left hand, and then hitting the ball with your right hand.

Perhaps golf is no more complicated than that. Or perhaps it is life that is not so complicated when it is enjoyed by a man of such grace and talent as Jess Sweetser. With Jess, life and golf were inseparable. Though his friends and family will miss Jess, we will never forget the contribution he made to the game he loved so much, and the love of life he brought to all those who had the pleasure of knowing him.

MOYNIHAN RESOLUTION ON JACKSON-VANIK—SENATE CONCURRENT RESOLUTION 45

Mr. DOLE. Mr. President, yesterday the distinguished Senator from New York [Mr. MOYNIHAN] submitted a concurrent resolution dealing with the so-called Jackson-Vanik amendment—legislation which seeks to use the leverage of trade benefits to encourage improved human rights performance in the Soviet Union.

I want to commend Senator MOYNIHAN for this initiative. It reflects the growing recognition that the reforms we are seeing in the Soviet Union are real and significant; and the growing conviction that it is in our interest to encourage a continuation and acceleration of those reforms.

Senator MOYNIHAN's office and mine sought to work out some differences on language in his resolution, prior to its submission, but we were not able to accomplish that. As a result, I am not in a position yet to put my name on as a cosponsor. But I do agree with the basic proposition of the concurrent resolution: that the Congress ought to

respond favorably to a request from the President to extend MFN to the Soviet Union, when the President is satisfied that the immigration reforms in the Soviet Union are not going to be set aside, and will be faithfully implemented.

Hopefully, as the committee considers this resolution and we move to later floor action, some language adjustments can be made to bring on board many additional cosponsors, including this Senator. In the meantime, I again want to commend the Senator from New York for his initiative, and to indicate my support for the principle embodied in this resolution, and the policy articulated by the President.

LIVING IN EXTRAORDINARY TIMES

Mr. COHEN. Mr. President, we are living in an extraordinary period of time. It is extraordinary not only because of the enormity of the events that we are witnessing in the world but in the rather feeble reaction to those events.

I recall several weeks ago, for example, we saw the elections take place in Panama and Mr. Noriega send out his so-called dignity battalions. There is an irony involved in the use of the word "dignity" for those goon squads that were sent out to beat, pummel, and brutalize the opposition that was seeking to restore a sense of democracy to that country. He declared the elections to be null and void, and said he had to do so because there was massive fraud committed by people who were seeking a democratic opportunity for their country.

I noted last week that the Tass news agency almost immediately praised Noriega's actions. Tass said they were necessary because of the fraud being perpetrated by the people who were in the streets, and, therefore, the election should remain null and void.

This is not the new thinking that Mr. Gorbachev is promoting, but, rather, the old thinking that we have seen for so many years. I was in China back in 1979. I traveled to China with Senator GLENN, of Ohio, Senator HART, of Colorado, and Senator NUNN, of Georgia. That was the first trip that was made after the recognition of China, and I had an opportunity to meet with Vice Premier Deng Xiaoping. I also traveled to China several years later with Senator WILSON, and he has his own experiences to relate about his trip to China. I recall asking Deng Xiaoping how long he would tolerate this new breeze of democracy that was starting to blow through the city of Beijing, how long he would tolerate that wall of democracy staying up where people were writing the news and reading the news that was open, and not controlled by the official press. And he said that this breeze of democracy would flow through the city of Beijing forever and ever. Those were his words.

Well, today's news tells a very different story. Today's accounts that appear in the Washington Post and New York Times, the morning telecasts, say that no students shed any blood. No bullets were ever fired. The only people who died in the recent demonstrations were the valiant soldiers who fought against those counterrevolutionaries. But the fact is, the world witnessed students being shot. I can tell you that they were not only shot, but the 27th Army went through and bayoneted hundreds, if not thousands, of students. They were run over by tanks, and now they are being hunted down and arrested and beaten into signing confessions and then executed.

In this country we have had reports that Chinese officials have been videotaping students who have been out demonstrating on behalf of their fellow students back in China, and they are threatened with retaliation against them and their families, who remain in China.

I was one of the architects of the Speedy Trial Act of 1978 in which we mandated that a person who was indicted ought to be brought to trial within a period of 90 days. Well, in China you get a very speedy trial. In less than 90 minutes you can be charged, tried, sentenced, and executed. The Chinese Government has said that these freedom demonstrations never occurred; it was a figment of the outer world's imagination. Can you not see? There were no riots, no burned-out tanks, no students in the streets. Everything is quite back to normal.

Some of our allies who spoke of these murderous actions of the Chinese Army spoke with a weak voice—they are back to business as usual. According to the Washington Post, Japan, ever eager to seek profits, decided that profits are more important than principle. It is an internal affair, according to the reports, as far as the Japanese attitude is concerned.

Mr. President, the United States should not permit our principles to be swept into the Tiananmen Square ash heap. We cannot allow the image of those brave people, who died for freedom, to be airbrushed away. Now, it may be an internal affair for China, but it is of international concern and, I would hope, international consequence. For years, the Soviet Union said that its brutal treatment of its own citizens was no one else's business. We rejected that, and we denied them trade benefits under the Jackson-Vanik amendment, until they changed. Now they are changing and we are considering lifting that trade restriction.

Mr. Gorbachev has tried to move the Soviet Union into the 21st century, to introduce glasnost, and hopefully a more humane way of dealing with people who disagree with the Communist Party line. We wish him well. But there are several notes of irony I feel compelled to point out today. The students who hailed Mikhail Gorbachev several weeks ago when he was in Beijing as the champion of democracy would have to take note that he left Beijing claiming the students were simply a group of hotheads. He has been noticeably mute on the events in China, and I suggest that his words rival the ambiguity of the Delphic Oracle. He said that he regretted some aspects of what took place in China. What aspects? The fact that the students were in the streets or the fact that the soldiers were running them over? Where is the clarification of which aspects he regrets? It seems to me astonishing, absolutely astonishing to witness the wisdom that is being imparted to his words today.

President Bush went to West Germany 2 weeks ago. He said the Berlin Wall must come down. He was clear; he was unambiguous. He said that wall stands as a scar against the conscience of humanity. Take it down. Mr. Gorbachev was reported in today's paper, saying that nothing is eternal in this world; the wall can disappear once the conditions that created the need for it disappear. What is he saying? What is Gorbachev saying? Did he mean that once the people of the eastern bloc stopped yearning for freedom, they would no longer have to stay in jail? Is that what he means by "once the conditions disappear, the wall will disappear"?

He said there was no evil intention on the part of those who erected the wall. Apparently, no evil interest by those people who shot down and murdered over 200 people trying to flee the brutality of the East for the dream of the West. According to the Washington Post today, Hans Klein praised Mr. Gorbachev's statement as immensely positive.

I must tell you, this sent me running to my library. Lawrence Durrell, a famous poet-author once wrote that everything here is believable, because nothing here is real. This was contained in a work of fiction. We find the converse true. Everything here is real, and to me, it is absolutely unbelievable.

I thought of that wonderful little story called "Being There." some of you may recall that Peter Sellers played the part in the movie. It was a short novel written by Jerzy Kosinski. The reaction to Mr. Gorbachev's statement brought it clearly into focus. Chance Gardiner had a meeting with the President of the United States and the President said to Mr. Gardiner,

who was not really a rocket scientist, to say the least, "Mr. Gardiner, what do you think about the bad season on The Street?" He was meaning Wall Street. Finally, Chance Gardiner said, "In a garden, growth has its season. There are spring and summer, but there are also fall and winter. And then spring and summer again. As long as the roots are not severed, all is well and all will be well." To which the President responded: "I must admit that what you have just said is one of the most refreshing and optimistic statements I have heard in a very, very long time." He said, "We welcome the inevitable seasons of nature, yet we are upset by the seasons of our economy! How foolish of us!" He smiled at Chance and said, "I envy Mr. Gardiner his good solid sense. This is just what we lack on Capitol Hill."

I could not help but think of that particular scene, as we witnessed the reaction of a West German spokesman saying, the wall will come down when the conditions for the need for the wall disappear. What a marvelous reaction we had from the West German spokesman. George Orwell warned us over 40 years ago about the very thing that is taking place today.

He talked about Newspeak and doublethink, where the Government starts controlling words and, of course, the distortion of language is always the precursor to a debasement of values. We found a situation in which the Government could declare black is white and white is black—not only declare it, but make you believe it. And that all one had to do to deal with history is simply to rewrite it on a constant basis.

History is being continuously rewritten day to day, falsification of the past carried out by the ministry of truth, and it is as necessary as the stability of the regime itself. If it is necessary to rearrange one's memories or tamper with the written records, then it is necessary to forget that one has done so. I will quote from this one section: "Even the names of the four ministries by which we are governed exhibit a sort of impudence in their deliberate reversal of the facts. The Ministry of Peace concerns itself with war, the Ministry of Truth with lies, the Ministry of Love with torture, the Ministry of Plenty with starvation. These contradictions are not accidental, nor do they result from the ordinary hypocrisy: They are deliberate exercises in doublethink. For it is only by the reconciling of contradictions that power can be retained indefinitely."

Mr. President, some lies are so gracefully told, so artfully constructed, that the lies take on the perfume of truth. This is not the case in Panama, and it surely is not the case in China. Let the Chinese Government say that it has had little experience in dealing with democracy or dissent.

Let the Chinese Government say that the United States, the champion of democracy, has not had an unblemished record in dealing with dissidents or human rights. Let the Chinese Government say that it overreacted and it failed to stop or restrain the brutality of its own army, and let them call off the manhunts, the persecutions, and the purges, and instead let them provide amnesty for those students who were demonstrating for nothing more than the right to be free. Then the West can perhaps try to reengage and help China make its way into the modern world.

Mr. President, let me say that the Chinese Government cannot ask us, the United States, the free world, to swallow the Chinese Government's pride and its lies and declare that 2 plus 2 equals 5. The lies that are being told today do not have the perfume of truth. They have the stench of lies.

I yield the floor.

The PRESIDING OFFICER. The Senator from California is recognized under the previous order.

Mr. WILSON. Mr. President, let me begin by thanking the senior Senator from Maine for the eloquence that we have become accustomed to expect from him, but I think that the poignancy of the situation that he has described is one that is truly difficult to comprehend.

Those of us who watched on television with great hope and optimism what seemed to be the first real breaths of freedom and democracy in the People's Republic were deluded for that brief period as were many others, including those who had the courage to utter those protests. I think the senior Senator from Maine has put in perspective the fact that wishing will not make it so, that those who have had that courage are now suffering a terrible retribution from a society whose governors have decided that however much they might desire Western economic modernization they are not willing to pay the price of the accompanying political democracy that necessarily makes both function for the benefit of people in the West. It is clear they have chosen repression and control at the expense of their people and at the expense of it would seem any near-term hope for democracy.

HAPPY BIRTHDAY TO ASPEN MUSIC FESTIVAL

Mr. WIRTH. Mr. President, I am pleased to note that 1989 marks the 40th anniversary of the Aspen Music Festival.

Aspen, CO, is well known as one of the most beautiful resort communities, with some of the best skiing in the world. Nestled in the high Colorado Rockies, beneath clear skies and against the magnificient backdrop of the Maroon Bells Wilderness, Aspen is a place of breathtaking beauty. This atmosphere makes Aspen a haven for the spirit and the body.

For the last 40 years, the Aspen Music Festival has augumented the lives of so many in Aspen and in Colorado. The festival is an internationally recognized cultural event, bringing nearly 100,000 visitors to Aspen each year. It is a world class event, and I hope my colleagues and all those who love fine music, will have the opportunity to attend.

The Aspen Music School has been an integral part of the festival's success. From modest beginnings in 1952, the Aspen Music School has grown from a 200-student Institute of Music housed in temporary quarters to a prestigous campus with an expected enrollment this year of nearly 1,000 students. The school has attracted an outstanding faculty and an international alumni including such names as William Bolcom, James Conlon, Dennis Russell Davies, David Del Tredici, Barbara Hendricks, James Levine, Jorge Mester, John Nelson, Nadja Salerno-Sonnenberg, Leonard Slatkin, Morton Subotnik, Joan Tower, and other members of leading orchestras the world over.

Under the leadership of Gordon Hardy since 1962, the Aspen Music School has been dedicated to the advancement and education of young musical talent. The Aspen Music Festival has served to showcase this extraordinary talent. The festival also provides a forum for adventurous programming and creative trailblazing in music.

I can think of no more eloquent testimonial to the festival than that which came from one Aspen Music School graduate, who said:

> There is no place like Aspen. It is a testing ground for us, one where we can experience a total immersion in music. We come for that, and to play, not only under, but with some of the finest professional artists anywhere.

Like many Colorado communities, Aspen was nearly busted during the great silver slump at the close of the 19th century. Aspen survived tis economic crash, and its special beauty, combined with the frontier spirit of its people, have produced a recreational and cultural renaissance we recognize by celebrating the 40th birthday of the Aspen Music Festival.

This festival has achieved much, and continues to aspire to greatness. I know all Coloradans, and the members of the Senate, will want to join me in wishing the Aspen Music Festival a very happy 40th birthday.

THE 1,553D DAY OF TERRY ANDERSON'S CAPTIVITY

Mr. MOYNIHAN. Mr. President, it is now 1,553 days that Terry Anderson has been held in captivity in Beirut.

A report that appeared in Time on February 2, 1987, describes a rash of hostage-taking—termed a "wave of terror" by the author—which occurred during this time. I ask unanimous consent that it be printed in the RECORD at this point.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From Time Magazine, Feb. 2, 1987]

TERRORISM: A FRENZY OF HOSTAGE TAKING

(By Michael S. Serrill)

For the small knot of foreigners still crazy or desperate enough to brave the mean streets of Beirut, it was one of the worst weeks in memory. In the short span of eight days, eight new hostages were swept up in a frightening new paroxysm of terrorist kidnapings. Almost any foreigner was fair game, and the reign of terror struck almost anywhere in the tortured city, from the backseat of a taxicab to a sun-drenched sidewalk, from a quite hotel room to a seat of higher learning.

The first victim was Rudolf Cordes, a West German businessman, who was pulled out of his cab in the West Beirut slum of Ouzai by two carloads of pistol-wielding terrorists. Three days later, Alfred Schmidt, an engineer for Siemens, the giant West German electronics firm, was rousted from bed in his hotel room at gunpoint. He was led away wearing only his pajamas and a leather jacket. On Friday, two more men were kidnaped in downtown West Beirut. Police later said they were Lebanese Armenians, not West Germans as claimed earlier by the kidnapers. Finally, on Saturday night, a well-organized band of machine-gun-toting thugs pulled off the week's most daring escapade. Disguised as Lebanese police, they drove unchallenged onto the campus of Beirut University College, gathered four professors, three of them Americans and the other an Indian-born man carrying a U.S. passport, and drove off, holding guns to the heads of their stunned prey.

The abductions brought to eight the number of Americans known to be held in Lebanon. Ironically, the episode that sparked the new wave of terror appeared to be the Jan. 13 arrest in Frankfurt, West Germany, of a Lebanese suspect in the 1985 hijacking of a TWA jetliner and the subsequent murder of a U.S. Navy diver. The kidnapings also coincided with the latest mission to Beirut by Anglican Emissary Terry Waite, his first since it was revealed last November that the U.S. had sold weapons to Iran in exchange for hostages held by pro-Iranian groups in Lebanon.

Waite vanished on Tuesday into secret enclaves controlled by the Shi'ite terrorist group known as Islamic Jihad, or Holy War. Islamic Jihad is thought to be holding U.S. Hostages Thomas Sutherland, acting dean of agriculture at American University, and Terry Anderson, chief Middle East correspondent for the Associated Press. But when Waite, the towering (6 ft. 7 in.) envoy of Archbishop of Canterbury Robert Runcie, failed to reemerge by early this week after five days of talks, fears grew that he might have become a kidnap victim himself.

Saturday's mass abduction began to unfold when three men wearing olive-drab uniforms and the trademarks red berets of the Lebanese special police entered the college campus at about 7 p.m. in what appeared to be a police patrol jeep. They had campus security guards round up a dozen of the school's teaching staff, saying they wanted to discuss new security arrangements. When the group had assembled, police said later, the terrorists picked out the four professors, "drew their guns and took them all away."

"I thought they were regular policemen," reported a Lebanese campus guard. "They wore the red berets of the Squad 16 riot police, which made me unsuspicious. I was astonished to see them about 10 minutes later racing out in a jeep with the professors. They were pointing guns to the professors' heads. One of them yelled at me, 'If you talk we shall finish you!' "

Police and university officials identified the Americans as Alann Steen, a journalism professor; Jesse Turner, a computer-science instructor; and Robert Polhill, assistant professor of business. The fourth victim was Mithileshwar Singh, chairman of the business department.

In Washington, the National Security Council informed Ronald Reagan of the kidnapings at the President's Camp David retreat. "The President is concerned," said a White House spokesman. "We hold those individuals who took the hostages responsible for the safety of the hostages, and call for their immediate release." State Department officials, meanwhile, re-emphasized that all of Lebanon is dangerous for U.S. citizens. Washington, they said, cannot guarantee the safety of those few Americans who continue to live there.

Even before last week's grim harvest of hostages, the roster of those already held captive in Lebanon consisted of five Americans, five Frenchmen, two Britons, an Italian, an Irishman, a South Korean and a Saudi Arabian. Last week Vice President Geroge Bush confirmed that another American hostage, CIA Beirut Station Chief William Buckley was killed last year by his captors. Anderson and Sutherland were abducted in the spring of 1985 by Shi'ite radicals. Their captors' principal demand: the release of 17 presumed Shi'ites who are serving prison sentences for, among other things, terrorist attacks on the U.S. and French embassies in Kuwait. Three other Americans, Joseph Cicippio, Frank Reed and Edward Tracy, are said to be held by groups called the Revolutionary Justice Organization and Arab Revolutionary Cells-Omar Moukhtar Forces.

The outrages in Beirut followed what seemed a rare break in the long and painful campaign against international terrorism. That was the chance arrest in West Germany of Mohammed Ali Hamadei, 22, one of four alleged ringleaders in the TWA hijacking and suspects in the killing of Navy Diver Robert Stethem. Hamadei is thought to be one of the two gunmen who were actually aboard TWA Flight 847 when it was commandeered and who savagely beat and then shot the American sailor. Hamadei was detained at Frankfurt's international airport after officials discovered he was carrying a false passport and bottles with liquid explosives.

West German elation at Hamadei's arrest quickly dissolved when Cordes, then Schmidt, was kidnaped. It was immediately assumed that the abductors planned to use the West German hostages as bargaining chips for Hamadei's release. The hostage takings were a rude awakening for West Germans. For years Bonn has cultivated good relations throughout the Muslim world. Partly as a result, the three-year spree of kidnapings in Lebanon, until now aimed mostly at the U.S. and France, has had little impact on Germans living in Beirut, who continued to operate more or less normally.

The West Germans' captors lost no time making their demands known. Within 24 hours of Cordes' disappearance, officials in Bonn received word that his kidnapers were indeed demanding a hostage-for-prisoner swap. Suspicion immediately centered on the radical Shi'ite organization Hizballah (Party of God), to which Hamadei is thought to be linked. A West German radio station, quoting an unnamed Christian source in Beirut, said the abductions were planned by Hamadei's brother Abdul, who is thought be a Hizballah security officer.

Bonn was also under pressure from the Reagan Administration to extradite Hamadei to the U.S., where he faces a dozen separate charges related to the 1985 hijacking. Early in the week, the Justice Department reluctantly agreed to promise that it would forgo the death penalty for Hamadei, bowing to a provision in the U.S.-West German extradition treaty that prevents Bonn from turning over prisoners who face capital punishment. After first indicating that extradition would be arranged quickly, Bonn officials grew concerned that any such course would doom one or both of the new hostages. Turning Hamadei over to the U.S., they suggested, would take at least several weeks and might not be possible at all. Said one government official: "Nothing will happen suddenly."

For Chancellor Helmut Kohl, the hostage crisis could hardly have come at a worse time. In the closing days of a reelection drive that he was expected to win handily, Kohl was forced to spend much of his time directing the behind-the-scenes effort to free the hostages. Bonn's strategy: to negotiate the release of the German hostages with the help of Middle East governments linked to Hizballah, including Iran and Syria. The Chancellor carefully consulted leaders of the opposition Social Democratic Party, the major challenger to his center-right coalition. SDP Candidate Johannes Rau declared that the hostage crisis would not become a last-minute election issue.

Even as the crisis escalated, Anglican Emissary Waite decided to prolong his latest mission to the Lebanese capital. Just before his scheduled departure from Beirut early in the week, Waite announced that he had re-established contact with the Islamic Jihad and promptly drove off into West Beirut with his usual bodyguard of Druze militiamen. As time passed and Waite did not reappear, both Anglican officials in England and Waite's Druze protectors repeatedly assured the press that he was in no danger. Said a Druze spokesman late Friday: "He is fine, and he is still negotiating with the hostage holders."

The mission was Waite's fifth attempt to free hostages held in Lebanon. When the U.S.-Iran arms-for-hostages deals surfaced, there was immediate speculation that the secret American weapons shipments to Iran—and not Waite's negotiating skills—might have been responsible for the release of three U.S. hostages; originally the Anglican official had been credited with securing their freedom. Last week Waite insisted that despite Iranscam, "my credibility has

not been affected as a negotiator." Perhaps not. But as the list of hostages continued to lengthen, even in the face of delicate negotiations and secret deals, more than a few government leaders had to be wondering exactly what could be done to end the terror.

PUBLIC SERVICE OF WILLIAM H. TAFT IV

Mr. NUNN. Mr. President, I would like to take a few minutes today to recognize the public service of William H. Taft IV, who has recently left his position as Deputy Secretary of Defense. At a moment when he is about to assume another important position in the Federal Government, I think it is appropriate to commend Will for his many contributions to our national security.

After having already served in several Federal agencies, Will Taft joined the Department of Defense in 1981 as its general counsel. Then, 3 years later, he was appointed to the key position of Deputy Secretary of Defense. Now, President Bush has nominated Will to be the U.S. Ambassador to NATO.

During his 8 years of service in the Pentagon, Will has served two Presidents and three Secretaries of Defense. He has loyally and energetically carried out his many demanding responsibilities. As Deputy Secretary of Defense, in particular, he assisted the Secretary in managing the largest and most complex organization in the free world.

I have had the opportunity to work closely with Will on several defense issues of mutual interest. For example, in his position as Chairman of the Defense Resources Board, which is the senior budget policymaking committee in the Defense Department, Will took the lead in implementing the concept of biennial budgeting for the Department of Defense. I know he shares my hope that, over time, 2-year budgeting will enhance the stability and cohesion of defense planning. This was a major shift in the Pentagon that required Will Taft's determined leadership.

Another major interest that Will and I have shared are the security relationships between the United States and its allies in NATO and the Pacific. Will has worked extremely hard to strengthen those alliances, and he can take pride in the progress that has been achieved. One particular improvement on which we have cooperated is the growth of armaments collaboration. Will took the lead within the Pentagon in encouraging the military services to join allied services in developing and producing common military equipment. That effort has been difficult but essential if we hope to mitigate the effects of structural disarmament. I commend Will for pursuing armaments cooperation with vision and tenacity.

I am looking forward to continuing to work with Will on this and other issues of importance to the NATO alliance. As the new U.S. Ambassador to NATO, he will, in effect, be the point man in representing the United States within its most important security alliance. He will assume this position at a particularly challenging time in the history of NATO, but I am confident that he will display the same expertise and dedication that characterized his service in the Department of Defense.

CONCLUSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, the time for morning business is ended. Morning business is now closed.

Mr. SIMON. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DODD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

CHILD CARE IMPROVEMENT ACT

The ACTING PRESIDENT pro tempore. The Senate will now resume consideration of S. 5, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 5) to provide a Federal program for the improvement of child care and for other purposes.

The Senate resumed consideration of the bill.

Pending:

Mitchell Amendment No. 196, in the nature of a substitute.

Mr. DODD. Mr. President, I invite colleagues today who would care to speak on the legislation before us to come to the floor. We are anxious to hear what some of our colleagues may have to say about the bill.

The majority leader has announced that there would be no votes today, but certainly if there are amendments that Members have, I would ask them to submit them. We could look at them and there may be some, in fact many, that could be agreed to without having to go to a vote.

So the fact there will be no votes does not mean that we would not consider amendments to the legislation. And if they are noncontroversial amendments or ones that can be accepted by both the minority as well as the majority, we could possibly move this bill along. So even though there are no votes planned, that does not mean we cannot consider proposals affecting the legislation before us.

I would just like to make a couple of observations if I could. I listened yesterday with great interest to the comments of a number of our colleagues and particularly those who have raised questions regarding the intentions behind the legislation before us, suggesting somehow that what is before us is really not the intent of the sponsors.

The legislative process, as every Member of this body knows, is an evolving one and until you finish a conference report, legislation is always subject to change and modification, based on new information and new ideas that come forward in the process of debate, the tension that a forum like this creates. So to imply or suggest somehow that because the legislation is now different than what it was when first introduced, that somehow that is a subterfuge is, I think, really an unfair characterization.

Even a freshman student of the political process knows that the legislative product that we produce is a process of give and take, of discussion and debate. So the bill that we have before us is exactly a reflection of that.

We have debated this issue for 2 years. I have listened with great interest to a number of people who took very strong positions in opposition to the original bill as it was proposed, including my chief cosponsor, the distinguished Senator from Utah. and it was as a result of his ideas, hearings that we held, listening to people from across the country who are involved in early childhood development, that we changed the legislation even before it came to the committee this year. And I commend him for that.

Many others have raised ideas and suggestions which are now incorporated as part of that legislation, including the Senator from Kentucky, Senator FORD, who raised concerns about whether or not certificate holders would be able to send their children to religious-based child care programs. That proposal by the distinguished Senator from Kentucky is now a part of the pending matter. It is part of the bill before this body. It is not a question of a future amendment being offered. That is part of the Act for Better Child Care.

Now there may be some who want to change that but, nonetheless, to suggest somehow that that is not a part of the bill is just an inaccurate characterization.

So, as we debate the legislation, I would urge those who have possibly a Pavlovian, almost, objection to the legislation that they read the product that is now before the Senate and not refer back to some data they may have had a year or two or even 6 months ago.

The legislation has changed. If we are going to debate this legislation, it

is important that those who want to express opposition to it do so with the full knowledge of what is in the bill today, what is pending before this body. And that is important as we move forward.

I hope that we could move on this legislation early next week. As I said earlier, I am prepared to entertain amendments, even accept some. I know of a couple that, I think, it is likely that will be offered that I think we can accept without votes. So we could actually move the legislative product along without having to engage in votes either today or Monday which, of course, under the agreement reached between the majority leader and minority leader would not be the case anyway until after 5:30 p.m. on Monday.

So, Mr. President, I look forward today to our colleagues coming to the floor and raising questions. I invite questions about the Act for Better Child Care. That is the way the legislative process works. If there are Members who have concerns about various aspects of the bill as it is before us today, then I wish they would come over and raise those questions. If they have questions about what was in the bill 6 months ago or a year ago, that may be interesting, but it is not going to be terribly enlightening in terms of the legislative product.

So, Mr. President, I look foward to the debate today, I look foward to the debate on Monday, and hopefully completing action on this legislation sometime early next week, wherein this body, this Congress, will go on record for the first time in 46 years as supporting a national child care program.

Let me correct that statement. I should say 21 years ago this body actually did support a national child care program. It was vetoed by President Nixon. But prior to that time, in 1943, this Congress, this body, supported a national child care program that was signed into law during World War II. That is the last time that we had a national child care program. When women were working in war production, men were fighting in the Pacific and in European theaters, and this Senate on a voice vote, in the middle of World War II, appropriated $20 million so that women could have decent, quality, affordable child care as they worked and their husbands fought to defend the interests of this country.

Thank God today we are not in a conflict, we are not in a war, at least the kind we were in 40 years ago. But there is no doubt that we are in the same situation, wherein women are working today out of necessity. Certainly the reasons for child care today are no less significant than they were in 1943.

My hope would be that this body would act in the same fashion that its predecessor did 46 years ago on a voice vote. It was not even a recorded vote, there was that much unanimity. In fact, the legislation was offered by the distinguished Senator from Utah for a national child care program and supported by Republicans and Democrats right across this Chamber.

So again I hope that we might tear a page, if you will, out of history, and look back at what a Congress did 46 years ago when it appropriated $20 million in the middle of World War II. One might have argued we could not afford that kind of money because the high priority had to be the war effort, and yet this Congress understood that the war effort, as important as it was, that children were also important and families were important.

Today I would like to suggest that that is the case as well; that families and children are important. What we propose is an effort to try and make it possible for families to be able to stay together, to be able to meet their economic needs, to be productive and to work and, simultaneously, to be able, at least to a minimal extent, to guarantee a quality environment for the children who are not able to speak for themselves, infants and others.

Mr. President, I look foward to the debate today and in ensuing days as we move forward. I am confident in adopting a very comprehensive and thoughtful child care program for this country.

Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BOND. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered. The Senator from Missouri.

Mr. BOND. Mr. President, yesterday the distinguished Republican leader joked that the problem he had with beginning debate on the bill was everyone on this side of the aisle, and I expect many on the other side of the aisle, has his or her own bill that he considers is certain to solve the child-care problem. I come to the debate today as one of those Senators who does have some very specific views on what is needed to solve the problem of adequate child care in this country.

Child care has been in the works for almost 2 years now, but the major parties are no closer to agreement on many issues than they were at the start of this debate.

Last September when Senate considered the so-called family package, I began a floor statement with words to the effect that there was now agreement that the Federal Government should play a role in assisting communities and parents with their child care problems, but certainly no consensus on how that ought to be done existed. I think I could have opened today's statement with those same words.

In fact, in many ways, there was less controversy or at least fewer controversial issues in last year's parental leave child care antiporn package than in this year's package, which has become an omnibus tax child health child care employee benefits church-state entanglement package.

I commend the supporters, the authors, and the amenders of the bill in working to resolve many of the problems that have arisen. Unfortunately, while we have made progress in a number of areas, I definitely do not think that what we have achieved is the best possible child care package and I have some grave reservations about it.

While it is true that a compromise has been reached on the standards issue with the National Governors Association, of which I used to be a member, I question whether all of the Governors or all of the State agencies involved and concerned about child care would accept it. Certainly the so-called NGA compromise is an improvement over where we were. But I share the concerns that my colleague from Oregon expressed yesterday that the incentives for State standards and the nature of those standards are apt to be the forerunner of mandated Federal standards.

As one who spent a number of years trying to develop effective programs in spite of Federal restrictions and limitations which often tied our hands, cost too much time, effort and energy in meeting those standards, and denied us the ability to place resources and efforts where we needed them, I feel that any effort to establish Federal standards is not the right way to go. A number of old issues have been dredged up by the amendment and they are still unresolved. And there are some new questions that have come up as a result of the scope of the Mitchell amendment.

The effect is unsettling. No one wants to consider voting against a child care bill. However, I am reluctant to support the Mitchell amendment for a number of reasons. I would hope some of the things that do not deal directly with child care could be taken out. Section 89 is an issue which I and many of my colleagues have addressed in this Chamber. I do not think this is the proper time or place to try to deal with the very serious burdens that section 89 puts on many of our employers. I would like to see us deal with that issue separately and I do not believe a halfway resolution of that issue will suffice to relieve the burdens and the tremendous disincentive for employers to provide health care insurance.

Let me continue with specific concerns I have with this bill and the amendment to it. First, about the money involved.

Both sides seem to have concluded that a major ongoing Federal commitment is necessary to meet the need our families have with regard to taking care of our children. However, this provision in the amendment before us could conceivably turn into a multibillion-dollar bill, far beyond the original $2.5 billion envisioned by the sponsors of ABC. In fact, the $2.5 billion ABC authorization would be for next year only. As has been pointed out before, beginning in 1991 we are offering an open-ended authorization for the next 4 years.

"Such sums as are necessary," that wonderful phrase, never turns into a narrowing of Federal involvement. It always means more, bigger, and more expense.

I do not think this is responsible, nor is it necessary in this time of great budget constraints. While it is necessary to provide assistance to families with very low income, I strongly question whether States should be required to spend a minimum of 70 percent of their allotment on that type of assistance. I believe that parents face far more problems than just obtaining affordable child care.

I note with interest in Senate bill 5, the original draft, there is a great deal of emphasis placed on the need for availability of child care services.

Mr. President, let me tell you, I have spent a good bit of time, as my staff has, talking with parents in Missouri, talking with child care providers, talking with people who regulate child care providers, civic groups who are interested in it, and employers who are concerned about assuring adequate child care for their many employees who now need child care.

I would agree, as I assume everyone in this body would, with the statistics that more and more parents are working and need child care. Whether it is a two-parent working family or a single parent head of household, we have increased significantly, in our economy, the need for child care.

But what I have found, as I have gone back to Missouri, is a tremendous crying need for more spaces. A civic leadership group in Kansas City, Kansas City Consensus, took a look at some of the problems facing that city. And they found an overwhelming shortage of infant care in Kansas City.

I have talked with employers who provide day care services. Some of them are hospitals. They have excellent day care facilities but they have waiting lists as long as the enrolled list now. And they keep telling me that they are looking for additional ways to establish more child care slots.

Our Missouri Department of Social Services, and Division of Family Services, has taken a lead role in promoting child care, regulating child care, making sure that the child care afforded to the children of Missouri is the best available at the dollars which can be provided. They tell me that their greatest concern is a shortage of subsidized slots. There are 400 children that the State has money for on waiting lists and there is no place to put them.

I provided in a bill that I submitted a much more modest authorization for funds for assistance for children from families who need subsidization of child care costs. I believe, for a much more modest sum, we can deal with the problem of families below the median income. It does not help us, however, to put more money simply into the affordability, into the assistance for low-income parents. We have at least 400 children for which there is money available and there are no slots. I do not think we are focusing on the real need, which is a lack of available child care resources.

Second, I have some problems with the scope of the bill and the direction of it. I continue to believe we could get much more for our money by using Federal seed money to begin programs that will leverage State and local dollars in expanding the supply of care. Federal programs work best when they require commitment from the State and local level and when the recipients of aid do not begin to rely on the Federal Government for ongoing and expensive assistance.

We already provide assistance to the States. The States match that. And that money is essential for helping those who really do need care. But that, to me, is not the problem we see in my State and I would suggest to my colleagues that if they will look at the child care situation in their States, they may find similiar problems.

Third, I have some real problems with the extent of earmarking. The priorities that are established may sound good to a number of us. Certainly we all like to see more dollars placed in assisting low-income families to get their children into good child care. But, as I have said before, that is not the problem. I might state parenthetically, I support a general tax credit or earned income tax credit for low-income families as a matter of good social policy. It is a good way to assist people at the low-income end of the economic spectrum.

It is probably an excellent idea if we were considering a consumption-based tax. It may well be a better solution to assisting low-income families and increasing the minimum wage, as several of my colleagues have suggested. But that, too, does not deal specifically with the problem of availability of care.

To go back to the ABC bill and the Mitchell substitute, one of the good things that the bill's sponsors like to say about the bill is that it provides for State flexibility and control. If I gave you a $10 bill and told you how to spend $9 of it, would that be flexible? That, in fact, is what the ABC bill does; $7 of $10 must be spent on direct assistance through grants to providers or certificates to parents. Eighty cents will be spent on administrative costs. Up to $1 will be used to set up mandatory resource and referral systems, teacher training programs, and scholarships to the teacher training programs. An unspecified amount will be used by the State to ensure everyone who should be registered is registered, a day care police. I am not sure we need to spend money on that effort, but the States do not have the flexibility of deciding where their needs are. The total of these items comes to about $9 out of $10. States are not able to choose how to use the resources available to meet the needs as they see in their State.

Among the things that we have found as we have talked with people interested in child care are a couple of overwhelming needs. No. 1, there is a concern about liability. How can they pay the liability insurance premiums that are required? Personally, I think we ought to be putting money into a risk retention, a liability pool to lower the costs of insurance for all day-care providers so that they will not be shut out of the market or have to charge such high fees that they will discourage moderate-income families from participating in child care. That, I think, needs to be addressed. Many companies have said that they are looking at child care and they are discouraged by the amount of the initial startup costs to get involved in child care, to set up the facilities they need. I think there ought to be more flexibility so States could assist with that type of use of resources to provide, either through tax credits or grants, partial reimbursement for establishing child care.

Finally, there is one major area which I think is left out of this bill. It is mentioned in passing as one of the possible opportunities. The bill defines an eligible child as one under 16 but it virtually guarantees that the assistance will go to children under 5. Mr. President, what about the millions of children who go home from school to empty houses or whose parents have to go to work early before the school opens? I think that the latchkey approach to day care is extremely important. We have seen latchkey programs working on a pilot basis in Missouri. They have been assisted by the use of State funds to set up the startup costs of beginning an extended day program by putting money up front for doing the surveys, doing the training and establishing the programs. They have

been able to get good extended day care programs in Missouri. Some 30 school districts provide it. In some instances, the schools provide it directly, hiring people who are day care providers to come in and use the school facilities after hours and before hours. In other instances, they cooperate with community organizations, such as the YMCA in St. Louis does a wonderful job. Still, there are far too many years in the State of Missouri where children in school do not have a place to go, while their parents work, after school hours or before school hours.

I really believe that we need to focus more attention and more effort on extended day care. From my own family's experience, I know when you have two working parents you are very much concerned about what happens to your child before or after school. One of the things that Scholastic magazine found when it asked children to write about what they feared was a tremendous number of children who said they feared being at home alone.

Mr. President, I think we need a bill that either directs or at least allows more flexibility for States to provide the startup costs. Really getting these programs started is expensive, and we could use Federal seed money to do that. The fees for the parents with adequate incomes would carry the program and the subsidies that are already built in could provide for scholarships for children whose parents cannot afford the day care costs that would be charged.

With all of the other requirements in the bill, if we are going to earmark these provisions, then we should at least establish a floor of activity so that the latchkey component can be addressed. I will be supporting amendments to this bill which I hope will direct its focus more toward assuring the availability of services, and I hope that they will succeed. In any event, I am prepared to offer an amendment, if we choose to go the earmarking way, which will earmark funds specifically for the startup costs for latchkey children.

Funding the startup costs, whether it be construction or in the case of schools the surveys and the training needed, are essential if we are going to address the availability problem. I hope we will be able to direct this bill away from the current jumble of issues which are addressed into one which effectively and economically provides for meeting the great need that we see in this country, and that is to provide more adequate child care for children in need.

I thank the Chair.

Mr. DODD. Will my colleague yield? I want to commend him for his comments and tell him we will take a look at the amendment the distinguished Senator would like to offer in that regard. I want to commend him for a couple points. As he will not be terribly surprised, I also want to disagree with a couple points he raised.

One of the criticisms we have received from opponents of the ABC bill is there is no supply problem. A lot of the correspondence suggested there is not a supply problem; there are plenty of slots available. My colleague from Missouri has accurately pointed out the situation in his State.

Let me share with him very quickly the statistics nationally in supply, just so we make the case. Seventy-four percent; a survey done recently indicated that it was difficult for working parents to find quality care at affordable prices. In a 1986 survey, 230 public housing projects across the country with on-site child-care centers reported combined waiting lists of 96,000 children. That is the AFDC family we are talking about. Most of the on-site child care is provided by hospitals, and the hospital industry is the largest work-site child-care center. One hundred twenty-nine of the centers showed that two out of every three babies whose parents applied were turned away. Centers were serving 12,336 children while 7,988 were on waiting lists at hospitals.

The Senator is absolutely correct. For those who will make the case that availability is not an issue here, they just have not read the data, and I invite them to do so. It is objective data collected by hospitals and State organizations like the distinguished State of Missouri.

I also suggest there is a relationship between availability and affordability. In a survey just completed by Lou Harris for the Philip Morris Corp. in April or May, interestingly, child care is more expensive in our urban areas, the urban poor areas, than it is for families in the $35,000 to $50,000 range income. Part of it, I suspect, is because there are fewer available child-care sites in the inner cities, and so the market is such that those centers can charge whatever they want because there is little competition there. Actually, those poorer families are paying more. So there is a relationship, I would suggest, between affordability and availability as well.

Third, and here I will disagree with my colleague, our bill provides $7 of $10, to use his analogy of the $10, directly for parents. One of the things that has been raised, I think, where there is unanimity of thought here, is the money ought not to go to the Federal Government or the State government or the local government. We ought to be providing assistance to parents. That is where the real issue is, get the money to the parents. So in our legislation here, $7 out of every $10 goes directly to parents, not to some State agency that might or might not do something intelligent with it, but goes directly to parents. The remaining $3 is discretionary. Obviously what we want to see the States do is more in the supply area, to increase availability, with low interest loans and the like to increase supply. But the $7 goes directly to folks, to parents to make choices about where they want their children to go.

Last, I would say that there is a liability provision in the bill. Senator HATCH is the author of it. It is $100 million. I think my colleague might argue we should have more in there. I would not necessarily disagree; we may need some more, but we do have that important issue of insurance included in there.

He is absolutely correct on the latchkey issue. We have to work out something to maybe do a bit better job. The problem with the proposal of the President and minority leader, their bills cut off all assistance after the child reaches the age of 4, in the case of the minority leader, and in the President's bill up to the age of 3.

My colleague from Missouri has pointed out there is a serious problem with children between the ages 6 and 15 and I could not agree more with him. Our bill provides assistance up to the age 16 in child care.

What we might want to do is lower that age for child-care assistance and then build in a factor beyond the age of, say, 10 or 12 for latchkey and do something else for children in the school system but something along the lines of the suggestion of my colleague from Missouri would be very helpful. I commend him for his comments and point out some areas I would have some disagreement with him, but I thank him.

The PRESIDING OFFICER (Mr. KOHL). The Senator from Missouri.

Mr. BOND. Mr. President, to respond to my colleague from Connecticut, as I indicated, there are many areas of agreement that we have and certainly availability of spaces is one where I think we really do not have an argument. We have talked to too many people in our State of Missouri who say, "We cannot get it. We just do not have the child care available."

Now, the Department of Labor has not been a great fan of the proposition that there is a shortage of child-care slots but even the Department of Labor study last year conceded that if there was one it would be about a million latchkey slots. So that is a grudging recognition that there is a lack of availability.

I am not as familiar with the national figures as my colleague from Connecticut, but I can tell you that we have talked to people who are in the child-care business, and those who are parents who are seeking child care and the lack of availability is the overwhelming need. Four hundred children in Missouri: The State depart-

ment of social services has the money but they do not have the spaces. And that is why I would like to see the focus of this measure directed toward things that will provide for availability. The extended day I think is extremely important beginning from whatever, 5, 6 years old, whenever the child gets in school perhaps through 12. We can agree or disagree within a couple of years, but I think getting schools to participate in that requires simply some startup or seed money, so we will be discussing with my colleague from Connecticut that option.

But now that we have agreed the problem is availability, I hope that we could free more of the money to go for those things which could assist employers to set up day care, or which would provide a revolving loan fund. To help the small in-home day care provider to meet State standards. These are the things that are going to bring more slots into the market. The 400 chidren that have been identified by the Division of Family Services are from low-income families who need direct State assistance. I can tell you from direct personal experience that the pool of chidren needing day is much larger and I hope we can address that.

I thank my colleague from Connecticut. Mr. President, I yield the floor.

Mr. KERREY. Mr. President, I have listened with great interest to the distinguished Senator from Missouri, as I did to the Senator from Iowa earlier, in particular the concerns of the Senator from Missouri for the States and their role. The Senator from Missouri, having been a Governor before, understands the difficulty that States have with Federal mandates and the costs very often imposed by these mandates are not provided for in the legislation.

The National Governors Association approached me, and I approached the distinguished Senator from Connecticut on this issue, and the Senator from Connecticut was willing to make some alterations in the bill that took that into account. As a result, the National Governors Association now is in full support of this piece of legislation. The Republican Governor of New Jersey, the Republican Governor of Iowa, the Democratic Governor of Arkansas, and the Democratic Governor of Virginia are the lead Governors for the Governors in support of this.

They are concerned about mandates.

The welfare reform bill, the nursing home regulation bill that was passed last year, have added additional costs to States without any commensurate reimbursement coming from the Federal Government and they are concerned about the rising costs of these mandates. The Senator from Missouri is absolutely correct. I am sure he could get up at length and talk about the cost of mandates during his time as Governor, and I can as well.

I had some concerns about the vouchers. I have enjoyed the support of the education association of my State for a long time and they have opposed the bill as a consequence of vouchers. I have overcome my concern for that and have managed to irritate in a minor way some friends of mine who see this as an opening. I do not. My concern for this particular problem causes me to override my concern for irritating my friends.

I listened to the Senator from Iowa talk about his concern for freedom of religion and the importance of religion in the lives of American families, and I think his voice needs to be heard more. I, as well, believe that an individual who has the requisite faith will be able to endure all kinds of problems, will be guided by that faith, will be enabled to overcome all kinds of adversity. The precepts and the lessons of religion are extremely important. We have a first amendment that I think wisely guides us to keep religion and Government separate.

Again, the distinguished Senator from Connecticut has made many concessions that have pushed those of us who are concerned about the first amendment, have pushed us to our limit. I think he has conceded concerns all of us have that religion be an integral part of the life of a young person as they mature.

The question of Government involvement is also an important issue, and I wrestled with this at great length, but as an individual who has been assisted myself as a consequence of Government involvement I am able to say the demand is so great that Government involvement is absolutely essential. We have to look for a way to accomplish the objectives we have, and I think again the distinguished Senator from Connecticut has made every effort to do that in this bill. It seems to me he is extremely reasonable in that regard.

I have heard concern that the cost of this program might rise. The Senator from Missouri raised that issue. I have been challenged before by people at home who say, gee, we are going to start this program and it is going to grow in cost." The truth is the requirement of cost is much greater than this bill even provides and that many people, myself included, have some difficulty with this bill because of the amount of money that is being provided is so low.

We all know that although there will be an authorization of $2 billion, $2.5 billion, it is very likely that the ABC bill, if it is passed, will be dealt with in a similar fashion as the drug bill. It is not likely there will be $2.5 billion appropriated in the final analysis. There will be far less.

As a former Governor, I was concerned, as again I am quite certain the Senator from Missouri is, that we will be saddled at the State level with additional costs without adequate resources being provided. I agree with the Senator from Missouri. I think much more needs to be done, that there are other problems that with which we are faced. He referenced the title 20 reimbursement. It is woefully inadequate.

And it places an enormous burden on individuals who are trying through educational training to provide for children and for themselves simultaneously. The health care and nutritional needs of our children in many instances is an embarrassment and should be an embarrassment to all.

Mr. President, before I proceed further I want to join the rising chorus of people who are heaping praise on the Senator from Connecticut, and as well the Senator from Utah who joined forces to fight for this legislation. I believe they are fighting against most difficult odds, not only the odds, but the people who resist, the previous administration and this administration resisting this particular form of legislation, people who believe that it is going to do terrible things. Not only is he battling against the specific instances of disagreement, but, Mr. President, I believe he is also battling against our worst tendency, and that is the tendency to procrastinate until an opportunity becomes an emergency, until we are threatened with all the adverse consequences of crisis.

Our inclination, our natural inclination to wait until tomorrow, prevents us from responding as we should when we observe the facts of the current condition of America's children. We look, and with notable and fortunate exception of the Senator from Connecticut and the Senator from Utah and others who have labored long for this bill, we are unwilling to act. I believe we will stand 20 years from now and look at the individuals who fought long and hard for this piece of legislation, and everyone almost unanimously will agree that it was necessary that we should have done it earlier.

We are overcoming our resistance to do something we have not done before that we desperately need to do, and we need to do, in my judgment, more of.

We simply do not feel the crisis. So we are unable to connect the difficulties that are faced by many American schools because malnourished and poorly developed children are arriving daily. Our teachers, American teachers, are increasingly distracted by the extra attention required for children whose care is insufficient. A child who arrives at school a year or two behind will arrive at the end of their education 4 or 5 years behind. It is almost impossible to catch up.

We do not feel the crisis, and so we are unable to connect the increasing violence of our cities as well as the

rising populations of our prisons with the damage that is being done to children raised in an environment where such violence is rewarded. Our law enforcement officers are increasingly dismayed by the rising tide of juvenile disorder and disobedience. They know that tough laws are only part of the solution.

We do not feel the crisis, and so we are unable to connect the rising cost of health care in America with the decreasing availability of early childhood care. Here our tendency to wait until tomorrow is illustrated best: The baby looks healthy so we do not intervene; the child looks good so we do not act; we wait until the illness caused by neglect becomes evident and more costly.

We do not feel the crisis, and so we wait until the child grows into an adult. We wait until the adult cannot read a job application, or cannot operate the sophisticated technology of today's work place. We wait until human potential has been nearly extinguished, and then we wonder what we can do.

Mr. President, one man who knows there is a crisis and has been urging us not to wait is the Senator from Connecticut. The controversy of church/State concerns, the worry over federally imposed standards, the alternative proposals offered to avoid having to appropriate money, none of these have caused him to quit. He has patiently endured and now we are near the beginning of Federal action that is long over due.

Mr. President, a remarkable measure of our need to act now is the presence and the courage of the Senator from Utah in support of this legislation. He is not a man given to rash actions that require movement by the Federal Government. He is a man whose conservative credentials are impeccable.

With the Senator from Connecticut and the Senator from Utah marshalling their forces behind S. 5 I do not understand why it does not garner the same kind of mandate given the S&L legislation. Surely, the needs of our children are greater. Surely, the wallet which became available to rescue this Nation's gamblers can rescue those on whom we are all betting to carry us into the next century.

Mr. President, Nebraska is a State blessed with strong families who have always been the foundation of our society and the foundation of our economic effort. They have always been the source of our greatest pride and accomplishment. They have always nourished the most remarkable human efforts of creativity and perseverance.

Nebraska families need the Act for Better Child Care. There are 140,000 children under the age of 5 in our State. Of those, 72,500 need child care. However, there are only 35,000 slots available, slightly less than half the number who need care.

There are only 1.2 positions in Nebraska's State government reserved for administering child-care programs. This is woefully inadequate.

Mr. President, there is a further dilemma, a dilemma that I and everyone else who has visited child-care facilities have seen, a dilemma that is in Nebraska and I suspect it is not unique to my State. It is a dilemma of parents struggling to pay for the cost of the care and centers that are struggling to hire qualified people at the existing level of reimbursement.

Last year this Senate passed the welfare reform bill, providing opportunities for individuals who are on welfare to move into the work force. And one of the most imposing barriers that are there is the cost of child care for that individual.

The average cost of quality child care in Nebraska is $3,000 a child, a figure that is far beyond the means of many families who want only the best for their children. However, Mr. President, with this level of reimbursement most centers in Nebraska can only afford to hire employees at or slightly above the minimum wage. This does not permit the hiring of care givers whose skill level is as advanced as we would desire.

As I have referenced in my earlier remarks, Mr. President, this situation is simply far worse for title XX reimbursement.

Mr. President, I urge my colleagues to see child care in the same way that we look at our own children. We love our children. They are not problems to be solved. We accept full responsibility for their care, not because we have to but because we choose to. Perhaps the most difficult aspect of this effort taking care of our children and helping our children is accepting that at least to some measure we will fail. Not all will blossom with our nourishment. Sometimes we will simply not know what to do. The rule will be an incremental program, and very often it does not conform and does not reproduce well on campaign brochures. The exception will be when an individual says thank you and expresses some gratitude.

I know that many of my colleagues have grown skeptical of Government's ability to provide care and assistance, and I have heard that skepticism repeated over and over and over. I understand and have seen myself programs that simply do not work. Sometimes they are corrupted as we have recently in the Housing and Urban Development scandal by the very people we hire to make them work. Sometimes they are undermined by consultants, more interested in fees than they are in results.

Mr. President, I stand here today before my colleagues and remind all of them that Government programs designed by them have helped me. The Army doctors who operated on me on the 15th of March, 1969, saved my life. And the time I spent in the Philadelphia Naval Hospital in 1969, and Veterans' Administration hospitals after that enabled me to put my life back together. The Government programs allowed me to go back to school, and Government assistance gave me the income I needed to live a better life.

Mr. President, I can be very critical of Government. I have a very healthy disrespect for Government and its actions. It is a long way from perfect. The care we give does not always help, but in my case it did.

I hope we will pass this bill in the same spirit. Moreover, I hope it is simply a first step in a long march toward a comprehensive policy for our children. Such a policy must look 10 to 20 years ahead. We should be considering what we can do so you and I can celebrate in the year 2008 the great progress that will be made by the children that will be born in the summer and fall of 1990.

That is the kind of forward look that we need in order to do the right things now. Such a policy must recognize that quality child care encompasses not merely custodial care of children while their parents work. Many children need help for complete development, including health, education, and nutrition.

S. 5 is a beginning in setting up the framework needed for such a program. In order to make sure that it is done well, we must dedicate ourselves to providing the final resources to get the job done. If we can make the commitment to the health of our financial institutions, if we can move a bill as rapidly as we did to provide for the health of our financial institutions, $157 billion over 10 years, $300 billion over the 30-year life of this program, if we can see the urgency that is required to provide the health of our financial institutions, surely we can do the same thing for our children, surely we can look at the lives of the children of the United States of America and see that we will depend upon them, at least as much as we will depend upon our savings and loans institutions to build our homes. They will be building America in the 21st century, and, Mr. President, I think it is time for us to act.

Morever, Mr. President, I call upon President Bush and Vice President Quayle to put the same kind of energy they are putting into perfecting our relations with other nations into the effort to perfect our children, American children. Let me further suggest that this would be a good assignment for the Vice President of the United States. So far this year I have seen him in a bar in Australia, a refugee camp in Thailand, and rafting on a river in West Virginia, and the day before yesterday he was in El Salvador. Rather than standing between two Salvadoran generals with a Soviet flamethrower in his hands, I would like the President of the United States to assign the Vice President to rally Americans to be concerned about our children and to ask what we need to do. This is a first step.

This will not answer all the questions, will not solve all the problems, will not do all that we need to do. It will open the problem up and say to Americans that we need to do much more. We need to look at the preamble of the Constitution and look at it carefully. We are not here in this Nation to secure the blessings of liberty just for ourselves. We are here to secure the blessings of liberty for ourselves and posterity.

Mr. President, it seems to me that this piece of legislation sets us firmly on a course to get that done. I look forward to working toward the goal of providing high quality child care for all the children of the United States of America.

Mr. President, I yield the floor.

Mr. SANFORD addressed the Chair.

The PRESIDING OFFICER. Senator Sanford.

Mr. SANFORD. Mr. President, I want to commend Senators DODD and HATCH and other cosponsors of this ABC bill. They have strongly supported S. 5 and formulated a great idea into a workable plan, worked on it now for several years. And I want to congratulate, also, our distinguished majority leader for so skillfully bringing together several very diverse components into one bill, making it the most comprehensive piece of child-care legislation ever to be offered in Congress.

This child-care bill will help North Carolina make child care more effective. It is not a new Federal program. It will help the State do a better job. It will help our State create an environment where our children grow up safe, supported, and nurtured.

In 1986 there were 487,000 children under 6 years of age in North Carolina. Ninety-five thousand of these children lived in poverty, and 58 percent, 6 out of 10 mothers with children under 6, were employed. The child-care bill is projected to help serve 32,000 children in North Carolina. It is an important first step, and there is much yet to be done.

Senator BENTSEN's tax credit legislation would provide a new, refundable tax credit to help low-income families provide health insurance coverage for their children; make the current dependent child care credit refundable and increase the amount of the credit for low-income families. His initiative would also repeal the current section 89 nondiscrimination rules for employee benefit plans and replace them with new, simplified test.

Now, of course, these tax credits alone would not be enough. That is where the ABC bill comes into play. S. 5 addresses in a comprehensive manner the key issues of cost, availability, and quality that low-income families face in meeting their child care needs.

The ABC bill not only makes child care more affordable for parents and encourages their involvement, but also insures minimum standards for providers and looks at ways to improve their wages. It is forward looking and an approach which views the development of children as an investment. The very best investment in our country's future.

It is clear that child care is no longer a luxury for American families—it has become a bottom-line necessity. Policymakers from all points of the political spectrum now argue that we can no longer ignore the changing demographics of our work force and its effect on children and families. So, we are no longer debating whether to act on the critical issue of child care, but rather, how to act and how much to spend.

Some critics argue that there is only a shortage of funds to pay for child care, not a shortage of child-care programs in this country. Let me state resoundingly for the record that that is just not so. In my State of North Carolina, for example, 55,476 children are not being served in day-care programs.

If we continue to neglect the child care and early childhood development of millions of poor children, we imperil not only their future, but our own. This is especially unfortunate when study after study reveals that high quality, comprehensive early childhood development programs lay the foundation for the basic skills that our children must have for success in school and later at work. These programs are even more crucial for disadvantaged children and can help them to overcome some of the harmful effects of poverty.

Our employment policies have not kept pace with the changing realities of our work force. With the exception of South Africa, the United States is the only Western industrialized nation that does not have a parental leave policy that allows parents to stay home with their new babies. As a result, most low-income mothers must return to work and seek care for very young infants. Nearly half of the women who went back to work 4 to 7 months after childbirth faced significant problems finding child care.

Additionally, many members of my constituency believe homebased child care is an integral part of a parent-child relationship. Therefore, in looking at the child-care needs of mothers who, for a variety of reasons, choose to work outside the home, we should likewise seek to make possible the effective choice of a mother to remain out of the labor force and to provide home-based child care. This certainly is not a constitutional right, but it is good public policy.

Samuel Sava, executive director of the National Association of Elementary School Principals, has spoken of the "endangered promise" of early childhood. Mr. Sava's well researched document reports that early childhood programs can contribute to children's development, help prevent the personal and social problems of children living in poverty, and save society money. The danger is that we may squander the opportunity, by not providing the good care that not only protects children from immediate harm but also contributes to their long-term development.

The wisdom of old sayings is the correct advice today. Let us avoid being left with a pound of cure, nine unneeded stitches, and the tree growing in the wrong direction. Let's move now to take the ounce of prevention, make the stitch in time, and bend the twig in the right direction.

Thank you, Mr. President.

Mr. DODD addressed the Chair.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. DODD. Mr. President, briefly, I just wanted to commend my colleague from North Carolina for his remarks and also the very fine speech by Senator KERREY of Nebraska. I want to personally thank them for their kind comments about the senior Senator from Connecticut, but I particularly am moved by a number of their observations regarding child care and the future of this country.

I would invite my colleagues on both sides of the aisle to read, if they have not heard, the comments of the Senator from Nebraska and the Senator from North Carolina this morning.

Mr. President, I yield the floor.

Mr. EXON addressed the Chair.

The PRESIDING OFFICER. The Senator from Nebraska is recognized.

Mr. EXON. I thank the Chair.

(The remarks of Mr. EXON pertaining to the introduction of S. 1197 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. EXON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. KOHL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. DODD). Without objection, it is so ordered.

Mr. KOHL. Mr. President, we live in a society in which an increasing number of parents must both work to make ends meet.

In the next 5 years, two-thirds of all pre-school-age children and almost 80 percent of school-age children will have mothers working outside the home.

Whether we like it or not, whether we agree on who can provide the best care for our Nation's children, increasing numbers of children are doing without quality child care.

Families are being torn apart at the seams—economically, socially and emotionally. And many have ruptured.

There are 15.5 million children who live in single-parent families. And the hopes and dreams of these children in particular are in jeopardy. The promise of free and equal opportunity is being violated. When parents must make a choice between food and child care, the child loses either way.

The pressures on the American family, Mr. President, are not the fault of the children.

The children are the victims of so many of our policies that I cannot even begin to name them.

But I do know that we must invest in the children, not deprive them. We must love them, not make them feel like the problem. We must turn them on to learning, not turn them off. We must give to these children and their families the very best that we have to offer.

The worst thing we can do is to leave the children unsupervised, or poorly supervised. The best thing we can do is to invest in their futures, and in so doing, preserve our own future.

I am proud to be a cosponsor of the Act for Better Child Care. We know it is an expensive proposal. But we also know that to provide early childhood education now, to provide a nurturing and nutritional environment now, to build the understanding and self-esteem of otherwise underprivileged children now, will save a fortune later.

It is not only the fair and compassionate thing to do, it is the wise thing to do.

In closing, I remind my colleagues of a series of television advertisements that were aired extensively early last fall. The images were of a loving family—playing together, picknicking together, embracing each other. Throughout the ad, our eyes focused on a child—alert, smiling, running, laughing. At the very end of this truly beautiful image, the child was lifted up; raised above and beyond the hopes and dreams of the grandfather.

It is a vision that the American people shared, Mr. President. It represents our past and our future. It represents our traditional values.

I urge my colleagues to support the Act for Better Child Care, to fulfill that promise to America's families—and most importantly—to America's children.

I thank the Chair and I yield the floor.

The PRESIDING OFFICER. The Senator from Indiana.

Mr. COATS. Mr. President, I rise today in opposition to S. 5, the Act for Better Child Care or ABC bill. I do so for a number of reasons, but primarily because S. 5 does not provide parents with a wide range of choices concerning the care of their children.

I think it is safe to say that child care is an issue on the minds of many Americans as increasing numbers of couples are forced into the workplace by financial pressures. That is a reality we may want to decry, but it is a reality nonetheless.

No one questions that families, especially low-income families, need help with their child-care needs. We must pursue solutions with a compassionate realism, recognizing our budgetary limitations but motivated by a concern for children and their best interests.

This is a goal I share with my distinguished colleague from Connecticut, to provide high quality child care to those who need it the most. But I am convinced that the ABC bill he has proposed is a misguided effort at reform in a manner that multiplies our troubles, not divides them.

On May 1, of this year, Newsweek magazine published an article by Robert J. Samuelson entitled "Helping the Working Poor." The article was very incisive and revealed what I believe to be the key defect in approaches like S. 5. Mr. Samuelson opens his article by noting that "the most important kind of help is self-help. Government programs don't pull people out of poverty; people pull themselves out of poverty." He then goes on to say that what the Government can best do but does not is to help those who help themselves. It can, "provide tax relief for the working poor. This is the most straightforward way of aiding many poor parents and their children. The poorest workers deserve to keep all of their wages. Taxes simply push them closer to welfare, where their prospects diminish and they become a burden on society. Tax relief is common sense. * * *"

Tax relief is common sense, and that is what this debate is all about. There are two very different approaches to child care. One is a commonsense approach which gives tax relief to the working poor so that they can make these important child care decisions for themselves. The other is a $2.5 billion boondoggle that will primarily benefit bureaucracies, not individuals. The two approaches could not be more different, nor the effect more profound.

In developing a Federal approach to child care we must keep this in mind, and we must remember certain key, yet basic principles, principles that are irreconcilable with those that animate the ABC bill, principles that should set the limits for our approach to child care.

First, we must always remember that the child care needs of employed parents are diverse. Less than one preschool child in three has a mother employed full time. Less than one in five has a mother employed full time throughout the year. A truly profamily policy must not neglect the needs or overlook the contributions of working families that sacrifice the benefits of a second income to have a parent stay at home. We must consider the needs of all parents with children, not just the needs of those in which both parents work.

This past Sunday, the Washington Post carried an article by David Blankenhorn, president of New York's Institute for American Values. The articles entitled "Ozzie and Harriet, Alive and Well" addressed what I will call the great American lie, namely, that the traditional American family is a relic of the past. Mr. Blankenhorn surmises, and I agree, that this charge is not only false, but pernicious. The fact of the matter is, that more than one-third of all families with preschool age children are "Ozzie and Harriets," homemaker mothers married to breadwinner fathers. Says Mr. Blankenhorn: "They comprise the Nation's largest single category of families with young children." These families sacrifice on the average of $13,000 a year to have mom at home raising the children. They are paying in effect, $13,000 a year for child care. Yet under the ABC bill, these families would get nothing. I do not know about you, but I do not think that is fair, and I can assure you that these hardworking families will not think it fair either if we pass this discriminatory bill.

Mr. President, in looking at these principles we must carefully target scarce Federal resources to those most in need. Though it is sold as a broad-based relief for financially strapped families, the ABC child-care bill actually benefits only a tiny minority. Remember, a majority of families with children under 5 do not have mothers in the work force. And if we even expand that category to include all children under age 18 we still find that the basic picture does not change. While 44 percent of these mothers

work full time, 35 percent are not in the labor force at all. Further, since the Dodd bill only covers "licensed day care" it excludes some 90 percent of providers from eligibility. All told, the ABC bill would give help to about 1 in 10 American children.

And I would add that the small number of children that are helped, ironically, do not come from lower income families, but from wealthier, professional ones. When low-income families use day care at all, they seldom use the professional, licensed facilities that would primarily benefit from ABC. Their choice, more often than not, is a relative or a neighbor. Mothers in professional or white-collar jobs are three times more likely to put their children in professional group care than are mothers in blue collar or service jobs. Lower income families would not benefit from ABC, but they would help foot the bill in taxes.

Third, we must expand, not restrict, parental choice in child care. This is my chief complaint about the ABC bill. We should not subsidize licensed, group day care over alternatives like relatives, neighbors, or the mother herself. That is a choice which should remain with parents. And I find it particularly disturbing that sectarian providers would be severly limited in their provision of child-care services. Many would not quality under ABC is they used even $1 of their own funds for "sectarian purposes or activities."

My distinguished colleague from Connecticut believes that families would best be helped by putting $2.5 billion in the hands of bureaucrats, governments, and professional child care providers. He believes that governments, not parents can best determine what quality child care is. He believes that the governments, and not parents, can best regulate child care, and can best protect the health and welfare of our Nation's youth. He believes that parental choice should be limited to licensed, regulated, nonsectarian care. I disagree with that approach and for that reason, am opposed to the ABC bill.

Mr. KERREY. Will the Senator yield?

(Mr. KOHL assumed the chair.)

Mr. COATS. Mr. President, I will be happy to yield after I have finished my statement. I would like to finish my statement first.

Mr. President, I believe that as Federal legislators we must do everything we can to provide parents with a wide range of choices concerning the care of their children. In developing any child care policy, we must keep the principles I have outlined in mind—principles which clearly demonstrate the irreconcilable differences between the ABC bill and, say, the Domenici-Wallop-Coats bill. It is the principles, that must be determinative and indeed undergird our policy. We must be careful not to rush toward passage of legislation that while fiscally responsible—which I do not think this ABC bill is—undermines the very fabric of our most precious resource, the family.

I hope my colleagues who are listening and watching now understand that simply adding a tax component to the ABC bill will not work because the ABC bill is fundamentally flawed. Working families need help. But the ABC bill gives more comfort to bureaucrats than those who need it the most. The last thing we want is a national child-care bureaucracy run with all the efficiency and compassion of the license bureau. The last thing we want is a program that helps those who are wealthier at the expense of the poor.

A universal tax credit targeted toward lower income families provides the greatest direct benefit to families most in need, while assuring flexibility and parental choice.

Parents could use the tax credit for whatever type of child care they, and not the Federal Government, determined to be best for their children—be it licensed or unlicensed care, care at a neighbors house, care by a relative, or care by a church or synagogue. They would have the choice. They should have the choice.

Mr. KERREY. Will the Senator yield?

Mr. COATS. Mr. President, I am happy to yield for a question from the Senator from Nebraska.

Mr. KERREY. The Senator from Indiana has made, I think, some effective arguments, and I have listened to those arguments, in fact, prior to my joining the Senator from Connecticut on this bill. But a couple of comments that he made caused me to wonder if he and I are reading the same pieces of legislation.

The one that was most disturbing to me was the reference to it being a $2½ billion boondoggle. What in the bill caused the Senator to describe this as a boondoggle?

Mr. COATS. Well, my concern is, while we will be spending up to $2½ billion in the first year and such sums thereafter if ABC is adopted, that the funding will not truly address the concerns of the working poor and truly expand, in the way that we ought to, the choices that are available for parents to place their children into child care and that it would be money ill spent—perhaps that is a better phrase—but money ill spent, not money which is utilized by the Federal Government to assist those who need child care in providing the broadest choice, the broadest range of options to parents. By directing the funds through licensed care, through the programs as set up by ABC, I do not believe it is the wisest use of Federal tax dollars. I think we can get far more coverage for that amount of money by taking a different approach.

Mr. KERREY. Will the Senator yield for another question?

Mr. COATS. I am happy to yield for an additional question.

Mr. KERREY. I agree that a wiser choice of words would have been that it is not as good a program as it should be rather than a boondoggle.

But it seems to me, as I hear the Senator's argument, the Senator's concern seems to be that we are not addressing all the problem; that ABC does not get the job done entirely, it just hits a small percentage of the children being served.

By the way, for the Senator's information, I support the President's tax credit proposal. I do not see the two being mutually exclusive. I see the problem being so large that we need to address it.

Does the Senator look at situations like this and try to reach some percentage before a program is going to be satisfactory? I mean, does the Senator have a percentage in mind? Is it that 50 percent of the childen have to be served, or 40 percent, or 30? Do we need to expand this program a bit before the Senator would support it?

Mr. COATS. I will respond to my colleague from Nebraska that the content of my statement clearly indicated that while one of the concerns I have is that ABC, for the expenditure, does not provide us with a sufficient amount of child care per dollar spent, much more important to my opposition to S. 5 is that it does not meet the undergirding principles that I think ought to be part of any child-care bill. It takes away the choice of parents in terms of where that child will be placed. That is a choice that I think should rest with the parents.

Second, and perhaps most important, it discriminates against the mothers who chooses, sometimes at great financial sacrifice, to stay home and provide child care for their children and directs Federal tax dollars not into forstering the family in a pro-family way, but directing funds to only those who choose the child-care option.

It is those underlying bases that form my opposition to S. 5 far more than any particular percentage as to how many slots we will be able to open up with a particular amount of money.

Mr. KERREY. Well, I hear in the argument, though, with all due respect to the Senator from Indiana, I hear in the argument a premise that would say "Let's not build the interstate highway until we all have cars. Until every American owns a car, let's not invest in our highways, let's not build bridges, let's not make any investment whatsoever until all of us can enjoy it."

What I hear in the Senator's argument is seems to be almost circular. The parents have no choice now because there is no Federal response to a real problem that is there.

Mr. COATS. Mr. President, if the Senator will allow me to respond again. In response to the Senator, let me say a couple of things. No. 1, the Federal Government is involved in helping children. We pay $7 billion a year of Federal tax dollars to provide the dependent care tax credit for a whole range of child care uses in this country. What we are talking about here is an additional provision and how best to utilize those dollars.

Second, it is not a matter of simply saying when we reach a certain critcial mass we will then provide the additional funds. Because, as the Senator knows, I have introduced my own legislation and worked for several years in the House of Representatives on developing what I think is a very responsible child care bill that meets the criteria that I outlined here.

I am a sponsor of the Domenici-Coats-Wallop bill. I am a sponsor of the President's effort to provide child care through tax credits.

So it is not a question of whether or not this Senator from Indiana believes that there is a need for response from the Federal Government to assist the working poor in particular in meeting child care needs. I support the current tax credit that is in place, although I think it ought to be revised, and I have have suggested a number of ways to make it more effective and truly target the resources toward those in need.

I do not believe the taxpayer, given the limitation on the number of slots available for child care, particularly for working poor people, that we ought to be subsidizing at the Federal level those who are in the income ranges of $75,000, $100,000, and $150,000. It is available to corporate presidents, those executive vice presidents, to lawyers on Wall Street with starting salaries of $85,000. In fact, they are utilizing most of that $7 billion. I think that ought to be targeted.

But it is not a question of whether or not this Senator, or most of us on this side of the aisle, support child care. We do. We just think there is a more effective approach, a more effective way of delivering child care while we take those very essential principles that we think are critical to any Federal response, those that I outlined in my bill.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Washington.

Mr. ADAMS. Mr. President, I have listened with great interest to the debate between Senator COATS and Senator KERREY. Additionally I want to compliment Senator DODD for the many hours that he has spent on this bill.

Mr. President, I rise in support of the majority leader's substitute to S. 5, the Act for Better Child Care, the so-called ABC bill. As we listen to these arguments, they seem to be saying to us that we are not doing enough for our children or that the child care issue can simply be handled by a nonstructured program. This would include giving some tax credits to some people. But let me emphasize that a great portion of the people we are trying to help do not deal very well with tax credits. They do not understand them very well. They have a very difficult time with the complexity of vouchers. Alternatively, what we are trying to establish here are two things: First, grants to help the people who require them and, second, a structure where their children will be safe.

Goodness only knows, everybody in this body wants to be certain that we have helped the States strengthen their child-care facilities to make certain they are safe, and to see that the Federal Government assists the States in taking care of this problem caused by new democratic demographic figures for the entire United States.

We have been taking care of our elderly, passing a number of programs, and I have supported those initiatives. But our future lies with our children and some of the statistics I am going to give, Mr. President, were horrifying to me and I think should be horrifying to the American public, regarding how we are neglecting basic care for our very young.

If we neglect that basic care, those children will never have a chance in our educational system. If they do not have a chance in our educational system, they will not have a chance in our work force. And if our work force is not a high quality work force, we will not stand a chance in the competitive world of high technology we all face.

Many of us who have lived through the Depression and through the times of World War II sometimes look back and wonder how we managed to make it. But the competition was not nearly as strong in the educational area, and therefore the need for child care was not as great.

I am pleased, as the Senator stated, that there are still one-third of the families that are the Ozzie and Harriet families, so called: one working, one at home, able to take care of their children. Hurrah for that. But that is not where our problem is.

It is in the other two-thirds, Mr. President, where we have created the latchkey kids. The latchkey kid must come home to no one because both are working, and often he or she has to take care of younger siblings. We cannot be confident of our Nation's future if we do not take better care of our children.

Mr. President, I want to emphasize and I hope that as we go through this debate we understand this, that this is not a bill about philosophy. It is not about a so-called traditional model of a mother staying at home. Maybe it is desirable for this to occur. But we are long past that in the history and the demography of this country. That debate can wage on for years.

Rather, this bill that Senator DODD, the majority leader, and Members on the other side of the aisle have helped work on—and one which I played a small part in—deals with the following statistics: 63 percent of the mothers with children under age 18 are working. These are the two-thirds who are not the Ozzie and Harriet families staying at home. Two-thirds of those mothers are either the sole supporter of their family or have husbands who earn less than $15,000 a year. And only 2 percent of all the preschool children with working mothers can be accommodated in the licensed day-care centers we have today. The question can easily be asked: Where are the rest of the children? Well, they are stuck in nooks and crannies throughout this country, Mr. President, and that is wrong. They are the latchkey kids. They are staying with a grandmother which may be all right; or may be with nobody in the house.

We are not trying to stop people from doing things. We are trying to aid the ones who are in deep trouble. That is what this is, a small bill in terms of the total problem. It is a bill that begins to address the worst of the problem with the hopes that we can address the rest of it in any one of a number of innovative services. And I hope the Senator from Indiana has some additional things because this bill is a start, a start on the most difficult of the problems.

Let us take my own State of Washington. We are looked upon as a prosperous State, Mr. President. Unfortunately, we have, like much of the United States, a kind of a Swiss cheese economy. We have some places that are very prosperous. We have some places that are not very prosperous. And in my State, 43 percent of the mothers of children under the age of 6, nearly half, are in the labor force. Some 65,000 children under the age of 5 in the State of Washington live in poverty. I am ashamed of that statistic, Mr. President. We have prosperity but it has not spread throughout the whole land.

Of these 65,000 children, only 8,700 of them received any child-care subsidy last year.

It has been said on this floor that we are paying a lot of money out to help with child support. But let me answer by saying that we are shifting our

younger population into the work force and as they are going into the work force, both have to work, even those who have children, and these children are left behind. These children are not receiving child care. These are working people; working people who have children who are not receiving adequate care.

My State is trying to meet these needs. It is not that the States are ignoring it. Washington State spent $16 million last year. But they do not have the resources. They do not have the tax base. State of Washington cannot take care of the problem alone.

Beyond facts and figures, Mr. President, emotionally, in our hearts, and in our souls, we need to think about the need for quality of day care and why improvement is imperative.

We need a floor of safety and protection for children and that is what this bill does. That is part of the bill. That is why I support it. That is why I did not just support a voucher bill.

My God, if we put a safety net under our elderly and under the poor, we must also have it under our children who are our future. Nobody will remember what we say here today. My colleagues and myself will be gone, but those children will be here. Those children need to have had a floor of safety, of health and protection beneath them. This is America, one of the wealthiest Nations in the world. We must be able to tell our children, you will stand tall, you will have a chance. You will enter the first grade with sufficient health, mental capacity and ability where you can develop your personality and your abilities to the fullest.

We must be able to tell our children, we will not send you into the world half crippled, or halfway into a life of crime and delinquency. We will give you a chance.

So, whether we are talking about protection from injury, or promoting the mental and physical health of our children, we must provide enough money so that the States can license, train, and provide technical assistance to child care providers. That is the genius of Senator DODD's bill.

Mr. President, this might be called the "peace of mind legislation," peace of mind for parents working at very low wages knowing that when they arrive home at the end of the day their child is all right and maybe, their child is a little ahead of where he or she was in the morning.

Peace of mind for the mother and the father and the family of a small child who worry where that child is all day and what they are doing. For many of us who are parents it is impossible to put a price tag on it.

I was lucky to grow up in a generation after World War II where we still did have the Ozzie and Harriet family. I was awfully happy to arrive home at night and see everybody was still all right. If there had been a broken arm during the day it got fixed, or if one of the children had been sick, there had been some care. But times have changed, Mr. President.

Mr. President, this bill works to reduce future costs for the Government, future costs for America. Mr. Lawrence Schweinhart from the High/Scope Educational Research Foundation pointed out that from a cost-benefit ratio, quality day care is an excellent investment. For instance, in 1988, an annual program cost per participant of $6,600 achieves benefits of $39,000 per child. Why? Because it is savings in costs of special education, crime, welfare assistance, and higher tax revenues due to projected increases in lifetime earnings.

Mr. President, I have had to serve on a committee in this body where we are dealing with crime in the District of Columbia. I can state to you flatly that money spent in the lower grades and money spent for child care so that children have a chance entering into the Head Start Program and into the schools will save us millions. I have just come out of an appropriations conference where we appropriated millions more for special prosecutors and $50 million more for additional persons. And we will have to come back later and ask for another special prison. We are putting people in prison rather than into jobs. It all starts with whether we have initially provided for our children.

In addition, Mr. President, the chairman of the Finance Committee has developed a tax credit proposal that will provide additional assistance to those parents who care for their children within their own home. I support that approach and I thank the Finance chairman. We are not trying to take children out of the home. We are just trying to make the situation a little better, giving the children a chance in life.

I believe that this is a compatible approach and can work hand in hand with ABC. We are serious about a comprehensive child care package, and the Senator from Connecticut has led us in this direction. I appreciate that.

In conclusion, Mr. President, I implore my colleagues to provide their support. Our children are a very fragile resource. They need to be nurtured, cherished and, above all, prized. They hold our families together. They are the reasons we have families, and they are the reasons why we can pursue our own dreams. What we accomplish may be very little, but we can dream for what our children can accomplish.

In the end, Mr. President, it is the children who are going to build on what we have left. Is it not important to give them a chance, a sound mind, a healthy body, and a drive to achieve a destiny we can all be proud of?

Mr. President, I am pleased to have been both an original cosponsor of this bill and part of this committee. I plead with the Members of this body to pass this legislation, a comprehensive child-care bill. I know I want my children to do better than I have done, and I think that dream is shared by every parent in America.

Thank you, Mr. President, I yield the floor.

The PRESIDING OFFICER (Mr. BRYAN). The Senator from Texas [Mr. BENTSEN].

Mr. BENTSEN. I thank the distinguished Senator from the State of Washington for the comments he has made, and also the Senator from Connecticut for his extraordinary effort on behalf of children and child care.

Last Tuesday, by a vote of 17 to 3 we passed out of the Finance Committee a bill which also addresses child care under a somewhat different approach, one which complements the approach that has been offered by the Senator from Connecticut. I think each complements the other. We also approved a major initiative on child health, and a delay and simplification of the regulations on section 89 of the Internal Revenue Code. In reporting changes in section 89 we have responded forthwith to a vote by the Members of this body.

The other thing we have done in putting together the Finance Committee package is to provide the funding for it, to see that it is revenue neutral, that it does not contribute to the deficit.

And now the Finance Committee bill is incorporated as title II of this major piece of legislation that has been presented by the majority leader.

I would like to take a few minutes to describe some of the points in that piece of legislation, but before I do, I would like to respond to some of the concerns expressed about procedures of the Finance Committee in bringing this package to the floor.

Let me say, first of all, that the members of the staff of the Finance Committee worked with the Treasury Department for almost a week, talking about section 89, and how to ensure that there was enough revenue to cover this initiative. Second, at the request of my colleagues from the other side of the aisle, I scheduled a hearing on the health credit component of the committee bill. In fact, the markup on the tax provisions was delayed in order to take care of that request.

Third, on the afternoon before the committee markup, the staff—Republican and Democratic committee staff and personal office staff—met to iron out some important issues. They talked about the provisions to be taken up in the markup, and talked about the procedure that we would be following during the markup on Tues-

day afternoon. And the intention to link the child care and the child health credits with section 89 was discussed at that time.

Finally, when that markup began, I turned to the members of the committee and once more stated my desire to report the section 89 and the child care credits together. I stated that Members would have a chance to vote on any section of the bill, but when we had finished the process we were putting everything together as one piece of legislation, because one part complemented the other and, in addition, because we had to have the umbrella of revenues to cover all features.

I asked if anyone objected, and no one did. We had a representative of the Department of Treasury there, and I turned to him for any objection he might have, and he had none. When we voted out that legislation, the vote was not even close. It was 17 to 3; strong bipartisan support.

Now why was it desirable to bring out these provisions together? It was desirable for budgetary reasons. It allowed us to match the revenues with the costs of tax credits and the section 89 reforms. And that was essential because otherwise we would have been subject to a point of order, and objections for not having been responsible. It was desirable for reasons of equity because the child health care credit is going to be a lot more successful, a lot more meaningful with section 89 antidiscrimination provisions that work. If you do not have section 89, the problem you could have is an employer who decided, well, the employees are going to get this $500 tax credit if they have health insurance covering their children, so I will just switch some of the cost over to them. But then we would not be accomplishing our objective. So the section 89 piece is germane, it fits together with the health insurance credit, and it complements it.

So I am perplexed by the criticism. Sure, we acted quickly. That is what was asked. That is what the majority leader wanted, that is what the ranking member wanted, and that is what the President wanted.

I also understand there was regret by some on behalf of the administration that they failed to obtain enough votes to win in committee.

But I take issue with the charge that the committee might have acted improperly. The process was open. There was a chance to influence the substance, plenty of chance to influence the procedure, and plenty of chance to object every step of the way.

I must say when I look at this bill I do not see how anybody could oppose what we brought out of the committee. How could anyone oppose a bill which ends a practice that subsidized child care for people making $5 million a year but not for people making $5,000 a year? That is not equity. That does not make sense, but that is the current law.

Now everyone benefits. People opposing this bill are to child care what Grinch was to Christmas.

And these provisions—on both child care and health care—are going to be welcomed by working families.

After all, working families have a tough time making it in America today. It is tough to hold down a job full time, then come home to feed the kids, help them with homework, even before changing your clothes. But American parents are doing it every day. They know it is their job and they are accomplishing it.

And leveling the playing field a little by letting them use this kind of a tax credit now being used by the affluent? I think that's our job.

That is what has to be accomplished, and that is what we have tried to do with this legislation. It can help the millions now locked out of a chance to see their kids treated by doctors when they are sick and cared for when they are well.

A few weeks ago we had a situation where the police charged a mother here in Washington with the death of her infant son. She had gone to take her first job. She called her husband to ask for money for a babysitter, and he refused to give it to her. So she went on to the job and took the baby with her. She felt she had no other choice but to lock up the baby in the car. She was housecleaning for her employer for 3 hours. She came out, and the child had died in those 3 hours.

Now, I do not argue that the provisions of the Finance Committee bill would have necessarily avoided that particular tragedy, but I do argue that such incidents demonstrate the interrelated nature of child care and child health. The fact is America is facing what one health group recently called a "child health crisis" in our country.

White American babies die at a greater rate than babies born in Singapore—or a dozen other countries. Minority babies born within a couple of miles of where we are seated now have a greater chance of dying before their first birthday than babies in Cuba. This is not something to be very proud of in this country of ours.

Of the nearly 40 million Americans without health insurance, 13 million are children. 40 percent of the children under 4 do not get their immunizations. In fact, the percentage of immunizations in this country has actually gone down in the 1980's, which helps explain the sharp upsurge we are seeing in measles, mumps, and whooping cough. Not only do millions of kids not get their shots, they do not get the basic health care that they need.

In recent years we have seen the costs of health insurance premiums going up. We see employers dropping health insurance, particularly dropping health insurance for dependents, because it adds substantially to their costs. A 1988 employer survey by the Health Insurance Association of America showed that annual premiums that year increased by an average of 11 percent for conventional plans, and 17 percent for PPO plans. Meanwhile, a 1988 study by CRS found that the percentage of people under 65 lacking health insurance grew from 14.6 percent in 1979 to 17.5 percent in 1986.

What was the biggest change? In the coverage of dependents.

Am I just talking about the poorest of the poor? Not at all. About one-third of the uninsured kids come from families making from the proverty line to 185 percent of poverty. A parent working full time for, say, the minimum wage—and this one really grates on me—has less chance for access to medical care for her child than someone on welfare. That is not right. There is something wrong with the system. And that is what we are trying to address in this specific piece of legislation.

The problem of children health is exacerbated by the crisis in child care. Right now there are more than 11 million preschool kids with mothers in the labor force, and that number goes up each year as part of the change in this society of ours. It used to be about the only jobs women were allowed to hold were as a nurse or a teacher—great professions, but for them was limited access to the work force. Now jobs are spread across the spectrum, and women are filling all kinds of specializations. But that means a lot of them are not home with the kids these days. So they send their children to child care centers, and they are expensive—often $3,000 a year. Upper-income families spend about 5 percent of their income to try to see that their kids are in adequate child care centers, but poor people can spend as much as 25 percent of their income to accomplish that.

Mr. President, that is why we reported out of the Finance Committee a bill that we thought would address both needs, at least in part. It offers help with child care and with health insurance coverage to protect both children and parents.

These provisions build on a mechanism that is already in the law—the dependent care tax credit already used by over 8 million families to pay for child care.

The committee bill amends that credit in two ways. First, it makes the current credit refundable, which means that it can be used even by families that are not making enough money to pay taxes, or paying such a

small amount that this at least becomes a supplement. Second, it adds a new credit to cover health insurance for kids. Families do not have to choose between those two credits. They can take advantage of both.

This is how the provision works. Right now the dependent care credit almost exclusively helps middle-income and upper-income families. They will still receive a subsidy. But under the package developed by Senators PACKWOOD and MOYNIHAN, most of the new child care money claimed under the refundable credit will go to low-income families. The amount of the credit is also increased for very low-income families. Right now the maximum credit is 30 percent for families with income below $10,000.

The committee's proposal will increase that credit to 34 percent for taxpayers with an adjusted gross income of less than $8,000, and to 32 percent for taxpayers with adjusted gross income of between $8,000 and $10,000.

How about the child health insurance credit? How does that work? It works the same way. Families are eligible if they have a child under the age of 19. They can apply that credit toward a policy covering the child only, or the child and other family members.

The credit amount is based on a sliding percentage of $1,000 of expenditures. Thus, families with incomes under $12,000 are eligible for 50 percent, or $500. The credit phases out completely for families with incomes above $21,000.

Finally, there is a provision aimed at making health coverage more available.

I can remember when I was a kid growing up. You just did not have health insurance. I remember I had a cold, and I could not get rid of it. And my parents took me to see the doctor in our small town. I remember my father asked the doctor what it was going to cost to take my tonsils out. It was terribly important to him how much it was going to cost, and he wanted to be sure he could pay for it. I have forgotten what the doctor told him. At that point, it did not make that much difference to me, a 12-year-old kid. I knew some way dad could raise the money. I was not sure I wanted my tonsils out anyway. But the cost was probably $40 or $50, which was a lot of money then.

I remember my father turned to him, and said, "Don't all kids have to have their tonsils out?" In those days they thought so, and the doctor said yes. So my father said, "Well, if you charge $40 for one, what would you charge for five?" And the doctor said, "Why, Lloyd, you don't have five kids." He said, "No, but with my brother, we have five."

So the doctor told him, and he gave him a substantial discount. My father called my uncle, and five kids, five of us, had our tonsils out that afternoon. And it was a group approach to paying for health care.

But we have moved ahead quite a bit since that time in what we are doing with health insurance. And in this bill we are trying to do more in that regard. We are trying to develop new policies aimed at kids, and families with kids.

Let me make a couple more points about this package. First, it is not going to increase the Federal deficit. The 5-year cost of the bill is estimated by the staff of the Joint Tax Committee to be $10.6 billion. But the new cost will be fully offset by revenues, or we would have never let it leave our committee.

Second, this legislation by itself is not going to solve the problems of child health. But it is a piece of the puzzle. It is a piece of that quilt that we are putting together that compliments the various ways that Congress has sought to strengthen the Medicaid and Maternal and Child Health Programs, things we have brought out of our committee, and things that have been brought out of the committee of the Senator from Massachusetts and the committee of the Senator from Connecticut.

There is one final component of this bill, and that is the repeal of section 89 rules and their replacement with a practical alternative. Those rules were so complex they were causing employers to consider dropping their health plans completely. If they do, they are going to dilute the effectiveness of the child health insurance credit.

Without antidiscrimination rules, you would have that distortion in the premiums that I talked about earlier. There are some who simply argue we ought to repeal all of those rules. But I do not think repeal is the right answer. The Members of this body showed the other night that they did not think it was the right answer. It would mean going back to no rules.

Under the Finance Committee bill, if an employer wants to take advantage of the tax benefits for his highest paid employees, then he has to offer the same coverage to at least 90 percent of his employees. That seems fair to me. And this time, I think the test will work.

The charge has been made that the health insurance credit that we will propose will not increase the number of people who are covered. But that is based on a static analysis. That is the same way the child-care credit has been estimated, too. That is an estimating assumption—not evidence of what will really happen.

What I fear you are going to see is more and more plans dropped, and more and more dependents cut out of plans. You will see the continued escalation in health insurance costs. That is what we are trying to squelch—that kind of an erosion.

We have had testimony before the committee by insurers saying they will respond to the incentives we are providing by making available low-cost products with the objective of reaching children and their parents.

We are seeing some innovative things done, and I believe States, hospitals, schools, or even churches will have an incentive to respond with an affordable insurance package for children. One group in Florida is already putting together a demonstration project providing for health insurance through the school system. That is the kind of innovative approach we ought to see across the country. Some new programs that have been put together in California cost as little as $300 to $400 a year, depending on the age of the child.

And will the health insurance credit buy something worth while? Absolutely. For example: The actuarial value of the child portion of the Blue Cross/Blue Shield standard option for Federal employees is about $1,000. It gives you unlimited hospital care, major medical coverage, and well-child services—some very substantial benefits for children.

The Health Insurance Association of America also agrees that the credit will expand coverage. They concluded the health insurance credit would make a dramatic difference in the proportion of low-income employees choosing to extend health care coverage to their kids. That is a gap that has to be taken care of.

When the Joint Tax Committee estimated the cost of this exchange they concluded the bill would help a lot of people already insured but struggling to pay those premiums and beginning to drop them. I would be surprised if there are not families that now decide to buy that additional insurance.

So I think it is a positive step forward that should be taken.

I urge very strongly that Members of this body support the proposal of the majority leader which will be a step toward closing that gap of child care and child health for the children of this country.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from California.

Mr. WILSON. Mr. President, at the outset of my remarks, let me commend my colleague from Connecticut, Senator DODD, for his extraordinary efforts in the area of child care. The Senator has been an outspoken advocate for the kind of legislation that he hopes will bring about a marked improvement, and indeed he has called this

legislation the Act for Better Child Care. That is clearly his fervent hope, and he is deserving of much credit for bringing the ABC bill and more importantly the subject of child care to the forefront of the legislative agenda.

I say that having publicly and privately differed with him on approach. The happy thing is that those of us in the Congress and certainly President Bush in this campaign have made clear that we accord to the subject of caring for children the priority that it must enjoy if in fact we are to keep faith with the children who are our inspiration and for whom we hold such aspirations that they will know a better life than we have.

But as has been pointed out repeatedly on this floor, we are in a time of great change, indeed change has occurred, marked change, since the time that most privileged to serve on this floor were themselves children. At the time that the men and women now Members of the Senate were growing up the norm was that they would be given care within their own family, typically by mothers and grandparents, living in what was then an extended family.

That is no longer the norm and tragically so. I say that I think we have lost a great deal.

I learned a great deal from not only my own mother but also my grandmother, who had a high school education, I guess the equivalent of it. She came from the old country, born in County Clare about a half mile from the River Shannon, but she knew geography, she knew history, she knew a great deal of literature. Somehow she managed to teach me to read before I got to kindergarten, which was a source of some distress to my kindergarten teacher. In any case, I think I was privileged to enjoy a rather remarkable child care in the context that we all did at that time because at that time women worked to be certain. They worked as homemakers. They worked in the home.

But today, Mr. President, for reasons that relate to inflation, reasons that relate more importantly to the fact that there are a great many more single parents than in the time that you and I were children, we have seen the vast majority of women of childbearing years enter the marketplace and in most cases not simply as a matter of fulfillment, but as a matter of economic necessity.

It is because we differ on approach that this very healthy debate is taking place, and I must say that having commended the Senator from Connecticut for having pressed relentlessly to bring this legislation to the floor and to focus upon the need for better child care.

I would commend him as well, he and the majority leader, and the chairman of the Finance Committee, for having sought to accommodate those of us who hold different views, who agree upon goals but would differ with respect to approach, and I will discuss some of the changes that have been made in this legislation since it was first introduced and do so with the commendation that they have sought to be accommodating.

I will also say I wish that I could have been more persuasive with my colleagues than in fact I have been, but the debate continues and perhaps the legislation that is before us will change; in fact I think that it will.

Mr. President, I had hoped that we would be considering legislation which adopts a different and I believe an even better approach to the child-care issue, one which the administration could support without qualification.

In my view we should fashion child-care legislation which adheres to four basic principles.

First, I believe that the choice as to the most appropriate care for a child must remain with the parent and not with well meaning bureaucrats. The choice should be in the hand that rocks the cradle, not the decision, I repeat, of some bureaucratic professional who cannot be possessed of the wisdom of Solomon and hope to prescribe for the differing circumstances that exist in every community across our land, for the different needs that relate to difference in circumstance of the consumer, the parents involved, that relate to differences arising from economic and ethnic and societal differences. In my own State, Los Angeles is not Lodi. They are not the same community. They do not have the same challenges or the same opportunities and the circumstances of parents there differ.

So parents should be able to choose freely from the widest possible range of child-care services whether the services that he prefers or that she prefers be that offered by a church-based organization, or by a neighbor, or a relative, or be it after school care or that offered by so-called professionals who are offering child care in a center-based way, whether it be through a proprietary or for profit or nonprofit institution.

That choice should be that of the consumer, the parent, and the Federal Government ought not to seek to influence that choice through the use of public assistance and specifically it ought not to seek to narrow the choice by reducing the variety that is presently available under existing State standards.

Second, I believe that the Federal child-care policy that we adopt should not discriminate against those families in which one parent chooses to remain at home to care for the children.

I spoke of my own upbringing. I realize that affords a straight line to many of my witty colleagues, but, as a matter of fact, I think I was not atypical.

I think that a great many of us learned a great deal from mothers and fathers, from grandmothers.

But since 1970, the number of women entering the work force with children has grown by over 20 percent. And it is a fact, like it or not, that, for a variety of reasons, we do have a majority of women of child-bearing ages in the marketplace and again I repeat that for most of them that is not really a matter of choice but too often a matter of economic necessity.

That is clearly true in the case of the single working parent whose choice is to remain home on welfare. And for those who have sought, instead, to draw a payroll, be on a payroll rather than on a welfare roll, they obviously must have the peace of mind and sense of security that their child is not only safe and secure but hopefully experiencing the kind of learning process that will contribute to the emotional as well as the physical growth of the child.

In order to assist families in which both parents work or those in which a single parent has chosen work rather than welfare, the dependent care tax credit which now exists provides these families with a credit worth $1,440 annually for child care costs. However, for those families in which one of the parents of two has sacrificed additional income to remain at home with the children to give that special kind of child care that I think really is available in no other way, there is no tax relief available.

The so-called at-home moms really do not enjoy the same tax benefit. At a time when families must face all manner of societal challenges—drug traffic in their streets, gang activity in their neighborhoods, other destabilizing elements—there is perhaps an even greater impetus than ever before for this kind of very personal familial care. I believe Congress should enact a policy which does not penalize those families in which one parent remains in the home to care for the young children. Rather, we should seek to encourage it.

Similarly, for that single parent, the working parent with young children, we must ensure that the present dependent care tax credit is a worthwhile benefit, one that actually gives some help. Now, I say that because, unless it is made refundable, to many parents, many single parents and low-income wage earners, we have a situation in which this credit simply is not useful because their tax liability is not sufficient so that they will derive real benefit from the credit.

In addition, many of these single-parent families do not have documentable child-care expenses which is a re-

quirement under the law for them to receive the dependent care tax credit.

Third, Mr. President, we should seek to increase the range of choices available to families rather than unncessarily restricting access to certain child care services through funding prohibitions and burdensome requirements.

Mr. President, during debate of the family and medical leave legislation last fall I spelled out what I felt to be some of the serious shortcomings of the ABC child care amendment that was offered at that time. One requirement contained within that measure was compliance with Federal standards. Standards were mandated and States were required to comply with those standards. And, indeed, whatever those standards might turn out to be after the regulations were adopted by a national commission having devised what the generalized prescription should be in every community across the land, in that instance, compliance was mandatory or there could be no Federal assistance.

Similarly, for single-parent families with young children there was not the kind of assistance that I think must be offered by a tax credit approach. Specifically, the ABC legislation that then was offered would have required the States and, more importantly, most publicly subsidized child-care providers to comply with those standards, including at the time training requirements for relatives, for neighbors.

Now, there is nothing wrong with standards. Obviously, we must have standards, but we must be very careful. As my friend from Oregon, the junior Senator from Oregon, pointed out yesterday in a very eloquent statement on this floor, we must see to it that we do not, in the name of imposing standards to assure quality, in fact, create such great burdens that we narrow the range of choice by narrowing the availability of child-care providers.

During testimony before the Senate Finance Committee recently and during my remarks on the floor last fall, I indicated that the effect of these burdens and requirements would necessarily be to increase child care costs for families and, even more significantly, a reduction in the range of those child-care choices for those families, which the amendment, ironically, of course, intends to assist, the working poor.

And again I thought my colleague from Oregon was most eloquent on this subject as he examined two studies, one by the New York Human Resources Administration and another by ABT from Cambridge, both of which found that we need to look very carefully at standards and at the burdens that we impose in the name of assuring quality through the imposition of standards.

Mr. President, if I am to understand the compromise legislation that is now before us, there is no longer a requirement for national standards. Instead, the States would be required to set child care standards and those standards would not be mandated to meet that national standard, but there would be recommended national standards and incentives would be offered to the States to meet a so-called model standard prescribed by an ad hoc advisory committee.

Mr. President, this is a step and it is a step that I applaud my colleague from Connecticut for taking. I believe it represents movement toward progress on a successful child care package. However, I have to say that I still have strong reservations about requiring States to set standards in very specific areas.

All the Members of this body share a concern that there be access to American life in the fullest sense of the word for those who are disabled. We have spent taxpayers' dollars to remove architectural barriers to provide access. And quite rightly so. We have sought to remove employment barriers for those suffering disabilities. And quite rightly so. Not only is that justice for those who, through no fault of their own, suffer some disability, but as talent scouts for American society, we need their talent.

But, Mr. President, I ask what sense it makes to prescribe, as a case in point, architectural barrier requirements for what will be a home-based child care center in which—to use Senator PACKWOOD's 28-year-old Susie, a neighbor who brings into her home three or four neighborhood children—what sense does it make to impose those requirements upon her if, in fact, the children that she will be taking care of are not disabled?

Under the compromise legislation before us, States would retain the right to set the level of their standards based upon their unique needs. But after 3 years, those States would be compelled to elect, to make a choice, between foregoing that incentive, as it is described, or meeting the recommended model standard, a national standard to receive additional assistance to serve a greater number of eligible families. That would be their choice. They would either do so or they would forego that bonus.

Mr. DODD. Will my colleague yield on that point?

Mr. WILSON. I will be pleased to yield.

Mr. DODD. That provision has already been changed in the substitute as well. There is no longer any differential.

Mr. WILSON. Well, if I am correct, I understand there is now a floor of 80 percent.

Mr. DODD. That is true.

Mr. WILSON. But, as I understand it, there is still a bonus offer?

Mr. DODD. No. That has been changed.

Mr. WILSON. Further progress has been made. I commend my friend from Connecticut.

According to the committee report, about 18 million children will be eligible for assistance under the ABC bill. The committee indicated that approximately 1 million children would receive direct assistance annually.

That figure may have changed because, as I understand it, the amount being authorized would be $1.75 billion with 70 percent of that funding being allocated to vouchers; that would be roughly $1.3 billion, which, divided by an average market cost of child care at $3,000, comes out to about half a million slots.

More importantly, the ABC bill would not adequately provide assistance to the majority of very low-income families with young children. The arithmetic that I have just gone through, I think, illustrates the point. The Bureau of Labor Statistics estimates that there are roughly 4 million children under age 5 who are members of families making less than $13,000 per year. If the ABC bill would serve 1 million children rather than the estimate of half a million that is directed by the reduction in authorization to $1.75 billion, if that were the case, then, according to the Bureau of Labor Statistics, with 4 million children under age 5 and only 1 million being served, why, then, nearly 3 million children from very low-income families would not receive assistance.

It is a rich program for a relatively few consumers.

A better approach, Mr. President, would be to offer a tax credit which can assist, if not fully pay for, the child care costs of a far greater number of eligible low-income parents.

Mr. President, this brings me to another point. Under the ABC bill, the funding distribution requirements are broadly defined. States must give a priority to "very low-income families," presumably those which I have just discussed, those whose income does not exceed 100 percent of the State median income and who choose services offered on a sliding fee scale.

The question then, Mr. President, that occurs in the context of this 1 million who will be provided for against a universe of need of 4 million is: How is the State to determine which parents, which child care consumers are to be the lucky few to receive that assistance?

Will we do it by lottery? What about the 3 million other children?

By enacting the ABC bill we are creating an environment in which low-income families will have to compete with their neighbors for limited Feder-

al assistance. That is the effect if not the intent. It is the effect at the end, if not a procedural process that is envisioned. Since the need for child care services will continue to grow, increasing pressure will be placed upon the States to meet demand. As a result, the States will be all but compelled to assist additional families through increased State funding or by applying for some further incentive grant. Strained State finances make it likely that the States will seek additional Federal funds.

My friend from Oregon expressed the view last night that those who backed the ABC legislation as it was presented last year have come to a point where they recognized the need for compromise to get half a loaf. But his expectation and mine is that their honest conviction is that what they sought to have introduced, what they sought to enact as law last year, will be their ultimate goal. They will continue to press for those standards that now, apparently, have been removed.

I think we we have to anticipate, as did the junior Senator from Oregon [Mr. PACKWOOD], that in subsequent sessions of the Congress we will see amendments proposed to make mandatory Federal standards which we have seen in prior versions of this legislation as mandates. We think that the kind of strained State finance that have infinite numbers of claims will, in fact, look to the Federal Government. That is a concern that he has. It is a concern that I have.

Our concern, ultimately, is that that hunger for dollars in order to accommodate the need for child care will, in fact, have the effect of reducing the variety of child care that is available because it will work through what will become mandatory State standards, if those who sought this legislation in its original form have their way.

Assuming that the National Advisory Committee on Recommended Child Care Standards were to choose the most stringent State models, that being those offered by the State of New York, child-care costs would inescapably escalate. I had a very ugly, if effective, chart which I presented in the Finance Committee hearings which made the point that only New York would meet the New York State standards. Other States would necessarily engage in marked increases in the cost of providing care to meet the New York State standards.

The junior Senator from Oregon yesterday, citing the two studies that I mentioned, took pains to point out that there was no evidence that more expensive child care—that provided by the so-called professionals who have been certificated, who have been given advanced degrees, who are paid far more than Senator PACKWOOD's 28-year-old Susie taking in three or four neighborhood children—provides, necessarily, the best child care. Nor even the best opportunity for a learning experience for the growth of those children.

But, under the scenario where we have, if not a subtle form of bribery, an incentive offered to make State standards meet the national recommended standard, ultimately the fact that it is recommended and not expressly mandated becomes a semantic difference rather than a substantive one. Under that scenario the winner would not be the American working family. They would be the real losers for the very simple reason, Mr. President, that that kind of policy would inevitably diminish the variety of child care available. And clearly, that was the intention of those who first offered the unchanged version of the ABC bill. Because, as you know, there was at that point an expressed, explicit prohibition against the provision of child care by a church-based organization.

There was an expressed requirement that only secular organizations could be engaged in the provision of child care which, had it continued to exist, I think, probably would have doomed this legislation. And for the very good and simple reason that it would have needlessly and wrongly eliminated about 40 percent of the available child care in this Nation and, incidentally, some of the most affordable child care, if you are looking at center-based child care rather than that provided in the home.

Mr. President, we must ask ourselves can we afford such a policy? Can we afford a policy that tends to reduce the variety and availability of child care; a policy that reduces choice for the ultimate consumer, the parent? A policy that does that is not, Mr. President, a policy which helps the majority that we are seeking to assist.

Should we support an ABC bill if there are more effective means, such as a tax credit, to provide assistance to all eligible families? And the answer is we should seek to provide some support to all eligible families, rather than having this lottery by whatever means that provides for a rich program for approximately one-quarter of the most low-income children in America.

The final principle that we should uphold in our concern to provide quality care for children is driven by the fact that Federal resources are limited, therefore, assistance must be targeted to low-income families with young children. For these families, the ability to provide child-care services is the most difficult. Federal child-care legislation must recognize this fact. It must target assistance to these families, those most in need.

Having outlined what I believe to be the core criteria which Congress should follow in developing a national child-care policy, let me discuss several concerns, concerns that I share with a number of colleagues, about this specific legislation before us, the ABC bill.

Simply stated, were it enacted in its present form, I believe the ABC bill will inevitably be limiting, not expanding, parental choice. It will have the effect of restricting, not expanding, access to existing child-care services. In addition, as discussed previously, the ABC bill filters scarce Federal resources through a very limited method of assistance—a child-care voucher, a system based upon prevailing market rates. That is why it is so expensive per unit cost; that is why it is a program for a very few, a rich program for a very few. It is sort of a Davis-Bacon child-care program.

In short, for the millions of families who must ask the question who will watch our children, the ABC bill does not offer the best solution. It restricts choice; it does not serve the universe of need; it leaves three-quarters of the most needy children without Federal assistance.

Does the ABC bill preserve parents' rights to choose the most appropriate care for their children? That is the most fundamental question, and the answer is, it does not. It will be said that it does, that nothing in this legislation restricts that choice. But that is inevitably not the case when you reduce the variety when those who are able to offer care under existing State standards can no longer do so.

Like President Bush, I believe a parent should be able to choose freely from the widest possible range of child-care services, but the ABC bill would prohibit parents from selecting a family-based child-care provider or their next door neighbor, for example, who currently meets existing State standards but who may not meet new State standards as, in fact, they evolve because the ABC bill urges them on to a national recommended standard.

It is the committee's analysis at page 31 of the committee report that low-income families have been forced to utilize informal services, by which they mean those provided by a neighbor; that they have been forced to utilize such services out of economic necessity. I think that is a premise that is, indeed, subject to challenge.

I would say that probably many have done so as a matter of choice because they know the provider and trust them. But if those families choose the very same child-care arrangement when provided by a fully paid voucher, then why should Congress seek to restrict that type of child care? It is because it is the policy of those who wanted the original ABC bill to force families to turn to "center-based care."

Mr. President, neither the Senator from Connecticut, my friend who has expended so much of his time and energy on this, nor I can say how long it would be before those who seek with a foot in the door to gain the beginning of a child-care policy that they hope to change. We can neither of us say how long it would be before change would occur, but it is the history of Federal programs that increasingly those who control the purse strings, those who dole out Federal assistance insist on more and more control substantively of the programs that they are funding.

I would say that I think we need to have a child-care bill in this 101st Congress. It was my hope we might even have made sufficient changes to have gained one in the 100th Congress, but it is also true that we should have the right kind of child care because, No. 1, we are faced with fiscal constraints but, No. 2, and really more important, we need to be very certain that as we begin with a legislated program, a program in which we set forward a policy that we seek very clearly and permanently to preserve the maximum possible choice by the parent, the ultimate consumer of child care, and yet I know there will be people who will vote for this legislation with the idea they will change it in future sessions.

Throughout this 2-year-long debate, a perception has developed that most States have not regulated the child-care industry. Indeed, I have spoken to proponents of the ABC bill who have told me that when told that, in fact, they have regulated, that the States have been in the business of prescribing some standards. Some have shrugged off those standards as inadequate. That has been their justification for instead requiring States to enact a significant number of standards under the guise of protecting our children, and the means by which they seek to do that is by tightening the purse strings. The truth is that every State in the Nation regulates the child-care industry.

Mr. President, I ask unanimous consent that two tables prepared by the Department of Labor be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

REGULATION OF CHILD CARE UNDER STATE LAW—FAMILY DAY CARE

State	Type of regulation	Minimum size to be covered	Maximum size before becoming group home or center	Number of children under age 2 permitted with 1 caretaker [1]	Preservice training required	Criminal/child abuse records checks		Inspections per year
						Criminal records checked	Child abuse registry checked	
Alabama	License	1	6	6	Yes	Yes	No	1.
Alaska	do	4	6	2 under 30 mo	No	No	No	1 per 2 yr.
Arizona	[2]	1	Not regulated	Not regulated	No	No	No	2.
Arkansas	License	6	16	Varies	No	No	No	3 to 4.
California	do	1	6	3 to 4	No	Yes	Yes	10 percent sample.
Colorado	do	1	6	2	Yes	Yes	Yes	33 percent sample.
Connecticut	do	1	6	2	No	Yes	No	1 per 2 yr.
Delaware	do	1	6	4	Yes	No	Yes	1.
District of Columbia	do	1	5	2	No	No	No	1.
Florida	License (county) Registration (State).	1	5	No limit	Yes	Yes	Yes	2.
Georgia	Registration	3	6	6	Yes	Yes	No	3 percent sample.
Hawaii	do	3	5	2	Yes	Yes	No	1.
Idaho [3]	License	Not regulated	4	2	No	No	No	1.
Illinois	do	4	8	3	No	Yes	Yes	1.
Indiana	do	5	10	No limit	No	No	No	1.
Iowa	Registration (voluntary)	1	6	4	No	Yes	Yes	20 percent sample.
Kansas	License	1	10	Varies	No	Yes	Yes	Unknown.
Kentucky	do	4	Varies with age	No limit	No	Yes	No	1.
Louisiana	None	Not regulated	Not regulated	Not regulated	No	No	No	0.
Maine	License or registration	3	12	3 to 4	No	No	Yes	1.
Maryland	Registration	1	6	2	No	No	No	1.
Massachusetts	do	1	6	2	Yes	Yes	No	Unknown.
Michigan	do	1	6	2	No	Yes	Yes	0.
Minnesota	License	1	10	3 (30 mo.)	Yes	Yes	No	Unknown.
Mississippi	do	6	15	Varies	No	No	No	2.
Missouri	do	5	10	2	No	Yes	Yes	2.
Montana	Registration	1	6	3	No	No	No	15 percent of sample.
Nebraska	do	4	8	2 to 4	No	Yes	Unknown	5 percent per month.
Nevada	License	5	6	4	Yes	Yes	No	4.
New Hampshire	do	3	6	3	Yes	Yes	No	3 per 2 yr.
New Jersey	License (voluntary)	Not regulated	Not regulated	Not regulated	No	No	No	1 per 3 yr.
New Mexico	License	5	12	2	No	Yes	No	2.
New York	do	3	6	2	No	No	Yes	1.
North Carolina	Registration	1	5	No limit	No	No	No	Unknown.
North Dakota	License	6	7 (4 under age 2)	4	No	No	Yes	2.
Ohio	do [4]	1	12	4 under 18 mo	No	No	No	2.
Oklahoma	do	1	5	No limit	No	No	No	4.
Oregon	do [4]	1	6	2	No	Yes	Yes	0.
Pennsylvania	Registration	4	6	4	No	Yes	Yes	20 percent sample.
Rhode Island	License	4	6	2	Yes	Yes	No	1 per 2 yr.
South Carolina	Registration [2]	1	6	3	No	No	No	0.
South Dakota	do [2]	1	12	No limit	No	No	Yes	1 to 12.
Tennessee	License	5	7	4	No	Yes	Yes	2.
Texas	Registration	4	12	Varies	No	Yes	No	0.
Utah	License	1	6	2 to 3	Yes	Yes	Yes	1 per 2 yr.
Vermont	License and Registration	1	6	2 to 3	No	No	No	2.
Virginia	License	6	9	4	No	No	No	2.
Washington	do	1	6	2	No	Yes	Yes	0.
West Virginia	Registration (voluntary)	1	7	No limit	No	Yes	No	1.
Wisconsin	License [2]	4	8	3 under age 1	Yes	No	No	Varies.
Wyoming	Registration	3	6	2	Yes	No	No	Do.

[1] Entries denoting a range in the number of children permitted are usually the result of State requirements concerning the mix of ages in the group and other factors.
[2] Arizona, South Carolina, South Dakota, and Wisconsin: Reportedly, only subsidized family day care is regulated.
[3] Idaho: Secondary source information available at this time is contradictory with respect to family day care licensing requirements for this State.
[4] Ohio and Oregon: Reportedly, family day care of fewer than 6 children is regulated only if subsidized.

Source: "The National State of Child Care Regulation 1986," by Owen Morgan, published by Work/Family Directions, Inc. This information consists of 1986 date.

REGULATION OF CHILD CARE UNDER STATE LAW-CHILD CARE CENTERS

State	Permitted age of entry	Child: Staff ratios [1]			Group size permitted [1]			Criminal/Child abuse records checks		Preservice training required			Health/first aid training required for staff		Inspctions per year
		Up to 1 yr. old	3 yrs. old	5 yrs. old	Up to 1 yr old	3 yrs. old	5 yrs. old	Criminal records checked	Child abuse registry checked	Directors	Teachers	Assistants	Health	First aid	
Alabama	3 weeks	6:1	10:1	20:1	6	10	20	Yes	No	Yes	No	Unknown	No	No	1.
Alaska	6 weeks	5:1	10:1	15:1	NR	NR	No	No	No	No	No	No	No	Yes	1 per 2 yrs.
Arizona	NR	5:1 or 11:2	13:1	13:1	NR	NR	NR	Yes	No	Yes	Yes	No	Yes	No	2.
Arkansas	6 weeks	6:1	12:1	18:1	NR	NR	NR	No	No	Yes	No	No	No	No	3–4.
California	NR	4:1	12:1	12:1	NR	NR	NR	Yes	Yes	Yes	No	No	No	No	1.
Colorado	6 weeks	5:1	10:1	15:1	10	NR	NR	Yes	Yes	Yes	Yes	No	No	Yes	1 per 2 yrs.
Connecticut	4 weeks	4:1	10:1	10:1	8	20	20	Yes	No	Yes	No	No	No	Yes	1 per 2 yrs.
Delaware	NR	5:1	15:1	20:1	NR	NR	NR	No	Yes	Yes	Yes	No	No	Yes	1.
District of Columbia	6 weeks	4:1	8:1	15:1	8	16	25	No	No	Yes	Yes	No	No	No	1.
Florida	NR	6:1	15:1	25:1	NR	NR	NR	Yes	Yes	Yes	No	No	Yes	Yes	4.
Georgia	NR	7:1	15:1	20:1	NR	NR	NR	Yes	No	No	Yes	Yes	No	No	4.
Hawaii	2 years	Under 2 prob.	16:1	20:1	NR	NR	NR	Yes	No	Yes	Yes	Yes	Yes	No	1–3.
Idaho	6 weeks	6:1	10:1	15:1	NR	NR	NR	Yes	No	No	No	No	No	No	1.
Illinois	3 months	4:1	10:1	20:1 or 30:2.	12	20	30	Yes	Yes	Yes	Yes	No	No	No	1.
Indiana	NR	4:1	12:1	15:1	8	NR	NR	No	No	Yes	No	No	No	Yes	3
Iowa	2 weeks	NR	NR	NR	NR	NR	NR	Yes	Yes	Yes	No	No	No	No	1.
Kansas	2 weeks	3:1	12:1 or 10:1.	14:1 or 12:1.	9	24 or 20	28 or 24	Yes	Yes	Yes	Yes	No	Yes	No	Unknown.
Kentucky	NR	6:1	12:1	15:1	NR	NR	NR	Yes	No	No	No	No	Yes	No	1.
Louisiana	NR	6:1	14:1	20:1	NR	NR	NR	No	No	No	No	No	No	No	1
Maine	6 weeks	4:1	10:1	10:1	12	NR	NR	Yes	No	Yes	No	No	No	No	1
Maryland	8 weeks	3:1	10:1	13:1	6	20	26	No	No	Yes	Yes	No	Yes	No	1
Massachusetts	NR	3:1 or 7:2	10:1	15:1	7	30	NR	No	No	Yes	Yes	No	Yes	Yes	Unknown.
Michigan	2 weeks	4:1	10:1	12:1	NR	NR	NR	Yes	Yes	Yes	No	No	Yes	No	1.
Minnesota	6 weeks	4:1	10:1	10:1	8	20	20	No	No	Yes	Yes	No	Yes	No	Unknown.
Mississippi	NR	5:1	14:1	20:1	NR	NR	NR	No	No	No	No	No	No	No	2.
Missouri	6 weeks	4:1	10:1	16:1	8	NR	NR	Yes	Yes	Yes	Yes	No	No	No	2.
Montana	NR	4:1	8:1	10:1	NR	NR	NR	No	No	Yes	Yes	No	Yes	No	1.
Nebraska	6 weeks	4:1	10:1	15:1	NR	NR	NR	Yes	N/A	Yes	Yes	No	No	Yes	2.
Nevada	NR	6:1	10:1	10:1	NR	NR	NR	Yes	No	Yes	Yes	Yes	Yes	Yes	4.
New Hampshire	6 weeks	4:1	8:1	15:1	8	NR	NR	Yes	No	No	Yes	Yes	Yes	No	3 per 2 yrs.
New Jersey	NR	4:1	15:1	NR	NR	NR	NR	No	No	Yes	Yes	No	Yes	No	1 per 3 yrs.
New Mexico	6 weeks	6:1	15:1	20:1	NR	NR	NR	Yes	No	Yes	No	No	No	Yes	2.
New York	8 weeks	4:1	6:1 or 7:1	8:1 or 9:1	8	18 or 14	24 or 18	No	Yes	No	Yes	No	Yes	No	1.
North Carolina	NR	7:1	15:1	25:1	14	25	25	No	No	Yes	Yes	No	No	Yes	3.
North Dakota	NR	4:1	7:1	12:1	NR	NR	NR	No	Yes	Yes	Yes	Yes	Yes	No	2.
Ohio	NR	6:1	12:1	14:1	12	24	28	No	No	Yes	Yes	Yes	No	Yes	2.
Oklahoma	NR	6:1	12:1	15:1	NR	NR	NR	No	No	Yes	No	No	No	No	4
Oregon	6 weeks	4:1	10:1	15:1	8	20	30	Yes	Yes	Yes	No	No	No	Yes	1.
Pennsylvania	NR	4:1	10:1	10:1	NR	NR	NR	Yes	Yes	Yes	Yes	No	No	Yes	1.
Rhode Island	6 weeks	4:1	15:1	20:1	4	15	25	Yes	No	Yes	Yes	Yes	No	Yes	1.
South Carolina	NR	8:1	15:1	25:1	NR	NR	Nr	Yes	No	Yes	No	No	Yes	No	Varies.
South Dakota	NR	5:1	10:1	10:1	20	20	20	No	Yes	Yes	No	No	Yes	No	1–12
Tennessee	NR	5:1	10:1	25:1	10	20	25	Yes	Yes	No	No	No	No	Yes	2.
Texas	NR	5:1 or 12:2	15:1 or 17:1.	22:1 or 24:1.	5 or 12	35	35	Yes	No	Yes	Yes	Yes	No	No	2.
Utah	NR	4:1	15:1	20:1	8	25	25	Yes	Yes	Yes	No	No	No	No	3.
Vermont	NR	4:1	10:1	10:1	8	20	20	No	No	Yes	Yes	No	No	Yes	2.
Virginia	NR	4:1	10:1	12:1	NR	NR	NR	Yes	No	Yes	Yes	No	Yes	No	2.
Washington	4 weeks	4:1	10:1	10:1	8	20	20	Yes	Yes	Yes	No	No	No	Yes	1.
West Virginia	NR	4:1	10:1	15:1	NR	NR	NR	Yes	No	Yes	No	No	Yes	No	1
Wisconsin	4 weeks	4:1	10:1	17:1	8	20	32	No	No	Yes	Yes	Unknown	Yes	No	Varies.
Wyoming	3 months	5:1	10:1	20:1	NR	NR	NR	No	No	No	No	No	No	Yes	1.

[1] Entries denoting more than one ratio or permitted group size, are usually the result of State requirements concerning the mix of ages in the group and other factors.

Notes: NR—Not regulated. N/A—Not applicable. NC—Not covered.

Source of Data: "The National State of Child Care Regulation 1986" by Gwen Morgan, published by Work/Family Directions, Inc. This information consists of 1986 data.

Prepared by: Division of State Employment Standards Programs, Office of State Liaison and Legislative Analysis, Employment Standards Administration, U.S. Departmnet of Labor, February 18, 1988.

(Mr. WIRTH assumed the chair.)

Mr. WILSON. The first of these two tables illustrates existing State standards for a family-based child-care provider—34 States licensed family day care and 15 register these providers. All States, with the exception of Arizona, Louisiana, and New Jersey have developed group-sized thresholds. All but six States inspect family day-care providers on a regular basis.

With regard to group-based providers, as illustrated in the second chart, all States, with the exception of Iowa, have established child/staff ratios, the number of individual adults to children being cared for. The majority require preservices training for providers and all conduct inspections on a regular basis. That statement relates to group-based providers.

Clearly a State child regulatory network already exists. The States have not felt it necessary to wait for Federal assistance. They have moved because they have had the need to do so and because they are not without the wits or the caring, the concern to devise programs that seem adequate to the needs of the parents who have sought that kind of child care at the State level. Therefore, we should weigh very carefully the costs and the benefits of imposing additional standards upon the States especially if our goals are to increase access to child-care services and to preserve parental choice in selecting the most appropriate care for children.

Mr. President, I say again, it should be the hand that rocks the cradle that makes that choice and not some well meaning Federal bureaucrat. Mr. President, I have outlined what I believe to be essential principles in a national child-care policy, what I believe to be the shortcomings of the ABC bill's approach in the context of those needed and essential principles.

In the days ahead I will outline what I believe to be a better alternative in amendment form, one which I hope the majority of my colleagues will support, one which will reflect the principles to which I have made reference today.

Mr. President, the debate that is occuring is a healthy one. It reflects a very great concern on the part of the Members of this body that we take the kind of action necessary to give the relief to parents, working parents, nonworking parents who have chosen to stay in the home to give child care, to afford to those who are differently situated some relief of an adequate kind because there is nothing more precious than America's children. It is the reason we undertake most of the legislative activity that brings to this floor.

So the debate could not be a healthier one, one long overdue. For that

reason I think it is terribly important that we have that debate fully, honestly, that we really look at the kinds of first principles that are necessary to have a successful child-care policy rather than simply another failed Federal good intention.

Mr. President, I say that not depreciating the sincere conviction and the very hard work that has brought the ABC bill to the floor. To the contrary, I have great admiration for my colleague from Connecticut in particular because he has given great leadership in this area. He has worked very long and hard. He has sought to be accommodating, and in fact it is the spirit of accommodation that has existed which makes me optimistic that we will in fact achieve child-care legislation of the right kind, of the kind that has been worth all the time and the effort and the healthy debate we are engaged in at this point.

I thank the Chair and at this point relinquish the floor.

Mr. DODD. Mr. President, first of all, I thank my colleague from California for his very kind and generous remarks regarding the legislative product before us, albeit a product that he has not endorsed 100 percent, but his recognition of support for much of what is in this legislation. I would like to make, if I could, a couple of comments regarding my colleague's speech.

I should first of all point out to him it is not just the Senator from Connecticut. The Senator from Utah is my principal cosponsor. I do not know of anyone who would want to challenge the conservative credentials of the distinguished Senator from Utah [Mr. HATCH]. As I have listened over the last 2 days, some would like to paint this product as somehow a liberal bill, the product of only a group of liberal Senators. They have not, I would add, looked at the list of cosponsors of the bill including my chief cosponsor, Senator ORRIN HATCH of Utah. Certainly he does not need any expressions of support in terms of his conservative credentials from the Senator from Connecticut, but nonetheless it is somewhat amusing to me there are those who would suggest somehow he has lost his credentials as a conservative because he supports the Act for Better Child Care. And go down the long list here of people who are cosponsors, many of whom clearly fall into the conservative column in this body. The issue here is not conservative or liberal.

I think the effort of those who would like to defeat this legislation is to frame the debate as if it were a liberal-conservative debate, but it is not a liberal-conservative debate. This legislation is the product of a lot of people who come from the Republican Party, the Democratic Party, who are liberals and conservatives and moderates, who have tried to fashion a piece of legislation that makes sense in terms of putting together a well-brought-out child care program for this country that deals with what is now recognized—and it has taken 2 years to get this, I might add—as three basic pillars of many child care program: to deal with the availability of child care, to deal with the affordability of child care, and to deal with the quality of that child care.

We are no longer debating whether or not that is the issue. Now we are debating about how best to achieve those goals, to achieve the best quality, the maximum availability, and to reduce the cost to the extent possible.

I clearly remember standing in the places over the last 2 years where you could not even get recognition of that, whether or not that was the debate. In fact, many argued that we did not need to do anything in the area of child care.

Now, some have suggested that the real motives of those of us who sponsor the ABC bill is to somehow mandate all sorts of programs, deprive families of choice, to crawl into the homes of Americans, lure their mothers out into the work force and steal their children and place them in a child-care center, some sort of abusive system somehow.

How ludicrous can you be? That because this bill reflects what normally goes on in a legislative product: debate, discussion, modification, and to impugn the intentions or the motives of those who have made some changes would be to suggest that those who oppose the ABC bill initially never have wanted to do anything about child care. I do not believe that.

I think those who have opposed child care legislation in the past have done so because they honestly believed the product before them could be better crafted. I do not question whether or not they wanted to do something in that area. And so for the other side to suggest somehow that because the product today is different than it was a year ago and that our real intentions are to do something terrible onerous and unfair to the American family is just unfair. Let me go into some specifics here if I can, briefly.

Mr. HATCH. Will the Senator yield?

Mr. DODD. I will be glad to yield to my colleague.

Mr. HATCH. I really have enjoyed my distinguished colleague's remarks. Of course, the subject is of much interest because I have supported this bill. But I have come to the conclusion that if it had not been for this bill we would not be here today. As a matter of fact, a year and a half ago, 2 years ago, when the distinguished Senator form Connecticut and I were trying to come up with an appropriate way of doing this, I am just asking my friend is it not true there was very little support for a child care bill on either floor of Congress? As a matter of fact, it did not look like we would ever get one up; it looked like we were going to be continually embroiled in a mess that would prevent any type of resolution of these problems. Does the Senator not think this is true?

Mr. DODD. My colleague from Utah is absolutely correct. I do not question the motives of people, but I always find it is somewhat intriguing that the very day we marked out of our committee a child care bill, within an hour all of a sudden there was a child care proposal out of the White House.

Yesterday we got to the floor with this package. All of a sudden there is a substitute. Where was the substitute 2 days ago, a week ago, a month ago? All of a sudden it emerges out of nowhere within a matter of hours after we get to the floor. I say my colleague is absolutely correct. It is somewhat intriguing to me that we find ourselves today with everyone coming to the floor. I do not find an opponent of child care.

Mr. HATCH. That is right. Will the Senator yield for a couple comments?

Mr. DODD. I am happy to yield.

Mr. HATCH. Not only do we not find an opponent, but everybody has a child care bill and everybody has a child care idea. I think that is healthy, and to be honest with you I have enjoyed the process. But what has really driven it has been the work done in our committee in forcing people to face this issue and the problems that are involved and the statistics and the down-home pain and anguish of people all over this country because they are worried about their children and they are worried about this country and they are worried about what is going to happen to these kids who are easy prey to the drug lords, the drug pushers, the pornographers, those who foster and foment juvenile delinquency. There are up to 15 million kids without any supervision at all.

What I am getting down to and what I would like to ask my colleague about, because I think it is important, the original bill which I was very critical of.

Mr. DODD. Correct.

Mr. HATCH. Because I thought it was too bureaucratic, too Federal Government-oriented; it did not take care of home care, religious problems—as a matter of fact, it seemed to be hostile to religious intentions. It did get out there and try to increase the availability of child care. As a matter of fact, it had pure Federal standards which some believe is nirvana but I believe the majority thinks is not really the way to go because we have different needs throughout different parts of the country.

But am I correct as the chief sponsor of this bill, that we have worked

on every one of these problems to try to solve them so we have a package that everybody can support across the board? Does the Senator not think I am correct?

Mr. DODD. My colleague from Utah is absolutely correct. I do not agree with the statement that the original bill was hostile to religious-based institutions because they provide the bulk of child care in the country, and in the legislation I initially and absolutely insisted that the religious-based institutions be included. There has been some change because of the question of what the States do. Many States have contracts or grants. Some provide direct assistance to the parents. We, because of what our colleagues have said, do not tell States what to do and do not mandate to States. We tried to recognize that distinction.

My colleague is correct. We have this bill because of the hearings, because of my colleagues' input, because our friend and our colleague from California has a bill, a child care bill. He is absolutely correct. His bill, much of it, incorporated in what is before us here, targets dollars to families of low and moderate incomes, States must establish standards in specific areas, $100 million in the liability risk retention group, revolving loan fund for family providers, makes dependent care credit refundable—those are all part of the legislation of the Senator from California, all of which are part of the Act for Better Child Care.

Mr. WILSON. If I may say so, I am coming to like the bill better.

Mr. DODD. Come on aboard.

Mr. HATCH. We think the Senator will enjoy it.

Mr. WILSON. I told my friend from Connecticut that I think he should be commended for seeking accommodation with those who have labored in the vineyard with it.

Mr. President, if I may just take 1 minute. My friend from Connecticut has been very, very patient. No one is depreciating the motives of anyone. Certainly, no one is depreciating the motives of the two men who are standing there on the floor. To the contrary, they have made very clear their concern. But what I think is clear is versions of the legislation have not indicated any different approach, and accommodation has been made.

Obviously some of us think still more accommodation needs to be made but I think really what we are concerned with here is that those who have testified in favor of the legislation have made it very clear that it is their honest conviction that a different approach should apply. I commend them for their conviction. We have disagreement on approach. It is not a matter of impugning anybody's motives. I do not think those who are approaching the thing in a different way seek to do any evil to anyone else.

Mr. DODD. I appreciate my colleague's comments.

Mr. WILSON. It is simply that the difference in approach is one that I think is clear from the different initial versions of ABC bill as indicated.

Mr. DODD. As I said to my colleague earlier—he may not have been in the Chamber at the time—I think there may be some point I suppose if someone wants to go back and visit what earlier versions look like, but what I sense somehow is that point is being used somehow to discredit the product in front of us. I say that because we seem to be—at least half the debate is—focused on what has existed in some prior bill. Unfortunately, in some cases, I get the feeling people have written the statements and then read the bill, the recent product, just submitted as of yesterday.

I do not question the fact because other people oppose our original bill that they were totally opposed to child care, and if they had their way there would never be any legislation in this area. That would be unfair. I think there are people who did support child care who are opposed to the ABC bill who did not buy every single piece of it at all. We have gone through a legislative process which is normally the way things are done here. I do not know what we have a committee structure for if you have the Republican minority leader, the Democratic chairman of the committee, spend 2 years working on a product, get the Governors' association, the National League of Cities, National Association of State Legislatures, business groups, labor groups, all across the country, we go out and do the work, we put together a product, we come to the floor, and we are told it is not good enough. All of a sudden there is a miraculous substitute. I do not understand what has happened to our process here if that process no longer works, that it does not make any difference when a very conservative Member of the Senate and a very liberal Member of the Senate, who can work together, come out with a product together, present it to our colleagues, and it is still not good enough.

Mr. HATCH. If the Senator will yield, I want to say to my distinguished friend from California, who, I think, has been one of the better leaders on this issue, frankly, we are not saying that the ABC part of this bill is all we want. We are happy to look at any tax credit program that the Senator cares to consider. I will say that the distinguished Senator from Connecticut has been open to anybody's suggestions from the beginning. That is why I get a little bit upset. I am not mad at the distinguished Senator from California because I watched him work. We have worked together. We have tried to resolve these problems. I know he will help in the end to resolve this one way or the other. If there is a further refinement, correction, improvement in the ABC bill, we are going to listen to him here on the floor. If he has a desire to change it, we will listen. We are open to these types of things.

What really irritates me is that some on my side of the floor, and especially some of our political persuasion, have gone off and used the old ABC bill as though it is the present bill on the floor. It is not. There is disinformation about that bill, about this bill, based upon that bill, all over the floor, all over the country, and some of it, I think, is deliberate. It bothers me a little bit because this bill has been drastically changed. Anybody who thinks that the tax credit approach is the sole approach that works does not look at affordability, does not look—it looks at affordability to a very modest degree—does not look at availability very carefully, and certainly is not looking at quality very carefully.

We have to take all three of these problems into consideration. That is why we think the ABC portion of this bill, which is a bulk portion of this bill, makes a lot of sense because it addresses all three major issues that are worrying parents to death. We also feel that if there is a way of coming up with a reasonable tax credit that will bind everybody together and get child care through the floor, we are certainly open to it, and interested in it.

Mr. WILSON. Mr. President, I thank my friends. I will take no more of their time.

I look forward to responding to the invitation from the Senator from Utah. I think we need to have a lengthy, at least a full, debate on the subject of the use of tax credits because I think it is a necessary tool that offers great promise. Properly amended, I think it can be not only affordable but it affords much greater choice.

I look forward to that debate next week. Both Senators have been generous this morning on that issue.

Mr. DODD. I thank my colleague.

Of course, as we have talked about California a little bit, Mr. President, I ask unanimous consent that an editorial from the Los Angeles Times dated May 16, 1989, be included in the RECORD along with a resolution, a joint resolution, adopted February 9, 1988, by the California State Legislature which strongly supports the ABC bill.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Los Angeles Times, May 16, 1989]

HELP THE CHILDREN NOW

Oregon Gov. Neil E. Goldschmidt last year went to Portland's City Club and ticked off what the assembled business and civic leaders must do together to give children a healthy start in school. He expected

a modest response. He got a standing ovation.

The people were ahead of him, he discovered. The people are ready to address children's issues in the 1990s. And the proposals are ready before the U.S. Congress and the California Legislature. Small programs are even in place here and there across the country. What is needed now is leadership to secure the money, votes and commitment to duplicate those demonstrated successes.

One of the most comprehensive proposals come from Rep. George Miller (D-Martinez), who chairs the House Select Committee on Children, Youth and Families. He and Rep. Henry Waxman (D-Los Angeles) are co-sponsoring a measure that emphasizes helping children early in life. Miller can point to report after report to buttress his case. For example, he says, "the Committee for Economic Development, composed of the leaders of Fortune 500 companies, estimates that each year's high school dropouts cost the country $240 billion in lost productivity and forgone taxes."

Miller's bill sets 1993 as a target to provide all impoverished pregnant women, their infants and children with health-care coverage under the Medicaid program. There would be a similar 1993 goal for complete coverage of those groups by the federal Women, Infant and Children nutrition program and for full immunization of all preschool children. Miller also wants appropriations increased for disabled preschool children and for ensuring an adequate vaccine supply.

His program is ambitious—and not as expensive as not acting. The first year of the four-year effort would cost $1.4 billion. In the long run, this investment in children's futures will save billions more than it will cost.

Congress must also pass and pay for a child-care bill. Not a tax credit, as President Bush proposes, but the kind of bill that creates new child-care spaces, helps parents pay for decent care, requires that safety standards be set and helps improve the training of child-care workers. The Act for Better Child Care, sponsored by Sen. Christopher J. Dodd (D-Conn.), is such a bill.

There also is much that can be done in California, where one out of every nine American children lives. Leaders of a California advocacy group, Children Now, report that only a small fraction of needy children here receive health checkups, preschool education and other preventive measures. Not only must state government devote more of its resources to children, it must not cut valuable programs like the Office of Family Planning or community mental health services. More, not less, must be done to help prevent child abuse and supervise children who must be placed in foster care. None of these programs can be expanded unless the Gann spending limit that straitjackets the state is lifted.

Ultimately, the issues of income and housing for poor families must be squarely addressed as well. All these tasks are made difficult by the fact that neither the United States nor California has any coherent policy on what should be done for children. President Bush could provide leadership by reporting each year on the tasks that remain.

But the real work is done on the local level with state money. A few counties and private agencies may lead the way to better coordination. For example, Ventura County has established a network that coordinates mental health, social services, corrections and special education programs to help treat all of a child's needs. Stuart House in Santa Monica, which helps abused children, brings together under one roof social workers, medical personnel and law enforcement agencies to reduce youngsters' trauma. The state could profit by these examples of coordination. Citizens need to get far more involved as well, by helping their local programs or working as Children Now does to push for a stronger state commitment.

The people are indeed ahead of their government on this issue. The children, the greatest resource for the nation's future, are ready, too. Where are the leaders?

ASSEMBLY JOINT RESOLUTION No. 62

Whereas, after food, shelter, and taxes, child care is the fourth highest family expense and ranges anywhere from $250 to $500 per month per child; and

Whereas, California's subsidized child-care program only meets the needs of 7 percent of low-income working families who are eligible; and

Whereas, there are at least 1.2 million children in California who have working parents in need of some child care, yet our state can only accommodate a portion of this need; and

Whereas, predictions show that within 10 years, the number of children under the age of six needing child care will increase by 50 percent; and

Whereas, the need for, and price of, child care will continue to rise; and

Whereas, experimental programs have proven that low-income children who have been enrolled in high-quality child-care programs develop higher levels of self-esteem, grow up to be more confident, and become productive adults and are less dependent upon social programs; and

Whereas, our congressional leaders have recognized the need for more affordable, better quality child care through House Bill 3660 and Senate Bill 1885, the Act for Better Child Care Services of 1987; and

Whereas, this act will provide $2.5 billion to help states supplement current child-care programs, resulting in $221 million for California; and

Whereas, the act will make funds available to increase the number of child-care openings, provide training and technical assistance to child-care providers, help local governments improve licensing standards, and help providers meet licensing standards; and

Whereas, the act has received bipartisan support and is supported by more than 150 national organizations; now, therefore, be it

Resolved by the Assembly and Senate of the State of California, jointly, That the Legislature of the State of California respectfully joins in support of House Bill 3660 and Senate Bill 1885, the Act for Better Child Care Services of 1987 and calls for its enactment; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative in the Congress of the United States.

Mr. DODD. Mr. President, I lastly point out that there are a lot of data which our colleague from California has gone into, talking about the numbers of people who qualify or should qualify under the poverty rates and so forth. I would point out that under this bill as it is now amended about $170 million would go to the State of California if our bill is passed.

The cost, of course, to child care, just in San Diego County, as our colleague well knows, having been the former mayor of the city of San Diego, just the cost of child care in that county: infants 0 to 23 months, range between almost $4,000 to in excess of $6,000 a year; preschool to 5 years, range $2,700 to $5,000; school age over 5 years, $2,700 to $5,000 a year. So you get an idea of the cost of child care.

Then, of course, you look at where people are in terms of poverty and then you look at what the substitute would offer. The substitute would offer $500 to a family in poverty for child care costs. Then, of course, they do not have to spend the $500 on child care. The likelihood that some very poor person would get a $500 tax credit faced with a $3,000 to $5,000 a year cost is going to somehow immediately drop welfare and get into the work force to pick up that is I think totally unrealistic. I think that is the point some are trying to make.

We appreciate the fact there is some movement in that area. It is unrealistic to assume those kinds of costs people face in California—and those numbers are not, I would point out, terribly different than they are in Connecticut or elsewhere in the country—particularly when you do not insist that the credit be used for child care which I think we should, otherwise, it would end up for all sorts of things that may have nothing to do with that child or that family's basic needs at all. That can be presumptuous in some cases, but if we are trying to do something about child care, it seems to me we ought to target those tax credits as we do with the present child-care credits for child care use, rather than saying here is $500 for a child; go out and do with it what you will. That is a waste, in my view, when we are looking at fiscal problems in this country. I hope we would be able to target a couple of those proposals a little more carefully.

I see my colleague from Minnesota wants to get the floor. I want to make a couple additional points regarding our distinguished colleague from Texas, the chairman of the Finance Committee, who addressed this issue along with, of course, substantially, the part of the legislation that emanates from his committee, which is part of the majority leader's substitute. I want to commend the distinguished Senator from Texas. He, like many others, has had a very positive and sound effect on the Senator from Connecticut, his ideas and suggestions, on how I could make the Act for Better Child Care a better piece of legislation. I want to personally thank him for those suggestions. As he has

suggested here earlier today, what has come out of the Finance Committee and what we have produced in the Labor Committee, fit very nicely together. They complement one another, the two parts of this package.

The children's health credit, which has come out of the Finance Committee does relate directly, as the chairman of the Finance Committee indicated this morning, with child care, children who are not in proper child care, just nutrition alone, and my colleagues said we should not set standards. My Lord, we have the school lunch programs; we insist that kids in Minnesota and Connecticut get proper nutrition in a school lunch program.

Asking the States to develop a standard, their standard, on child nutrition is not asking too much. These are vulnerable kids who cannot speak for themselves. The failure to do that is one example of how a child's health can be adversely affected. His health care credit would go to all kinds of families, including those with mothers at home, so the child care health credit is an extremely important feature of this package.

When you get 13 million—almost 40 million uninsured people in this country are children. Here we are now going to provide some real relief to those children and their families, in terms of the premium costs, that is going to have a tremendous and positive impact on the whole question of the wellbeing of young children. So I highly commend the Finance Committee and, particularly, the chairman of the Finance Committee for including the children's health credit as a part of this package that is before us. I hope that our colleagues would support that particular aspect.

Unlike, of course, the proposal, alternative proposal being suggested to us, these particular child-care credits are targeted to address a critical need of poor families with children, improving the quality of their health care. So it is an extremely important add-on to the legislation, as was clearly explained by the distinguished chairman of the Finance Committee. Again, I commend him and his colleagues on the committee, both Democrats and Republicans, for including that as part of this.

My colleague from Utah and I find these are not matters we were directly involved in, but we see these aspects as being positive ones. So I applaud him for those efforts.

Last, Mr. President, I want to emphasize a couple of points again, regarding the standards question. I realize that no matter how often I say these things, no matter how clear it is in the legislation that is now before this body, there will be those who will want to disregard the facts because the speech has been written, the statements have been given, letters have been sent out; and no matter what has been done to change this bill, they want to still desperately hold on to what they would almost like.

I suspect what they are angry about is that I have not retained the provisions that they disagreed with before. They are sort of upset with me because I got rid of the provisions they did not like. They are angry that I have modified the bill to their satisfaction, but upset because it makes it more difficult to oppose it. I find the argument still coming in that this bill mandates standards for the States. Absolutely untrue, absolutely untrue. That has been changed entirely in this legislation. Or that somehow I am now prohibiting religious-based child-care centers from receiving assistance under this legislation. Patently false.

Senator FORD and Senator DURENBERGER have offered language which is now incorporated as part of this substitute offered by the majority leader. That issue is over with. I know it disappoints some of my colleagues, who would like desperately to argue that we are discriminating against religious-based child-care centers.

That is just not the case any longer. In a sense, I am sorry that you are disappointed. We have taken care of the concern you raised. It has been taken care of. They say that somehow that we have established a huge Federal bureaucracy. I will say this as clearly as I know how. There is not 1 single cent in this bill to establish a Federal bureaucracy—none, none. Not 1 single penny of taxpayer money is to establish an agency or establish some broad group of people that are going to somehow control the child-care agenda of this country.

This is a bill that sends those funds back to the States, back to local communities, directly to parents. The Federal Government is involved in this proposal only to the extent that we are coming up with the money to provide for it. We are proposing the money. But once the money is appropriated, once the tax credits are passed, those dollars go to the parents, to the States, and to the local communities. That is it.

Now, I do not know how more clearly I can say that. So I would hope that when these debates go on over the next few days, I do not have to stand up every time some opponent gets up and talks about those issues again. I do not mind people opposing the legislation, if they want to. I do not mind them being critical. All I ask is that they read the legislation, that they know what they are talking about, what the bill says, before they come over and start reaching back to the old file or some misguided statement that they picked up someplace and decided to make that the basis of a speech on the floor.

So I urge my colleagues to look at the legislation carefully, but, again, I make the point as clearly as I know how in the area of standards, the religious question in the bill, and on the costs. And I have had people talk about the bill, as a $2.5 billion bill. Read the bill. That bill has been cut in half in the last 48 hours. Again, I urge you to have some staff work done, so that before you come over to give the speech, know what is here and know what changes have been made.

Again, I have nothing but the highest commendation for my colleague from Texas who has added what I think are very important elements to the legislation. Again, I know my colleague from Minnesota has been anxious to be heard on this legislation.

On that point, I will yield the floor.

Mr. BOSCHWITZ addressed the Chair.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. BOSCHWITZ. Mr. President, I listened with interest, and I am glad I came in at a time to hear my friend from Connecticut talking about the new and revised ABC bill, which I have looked at in some detail. I am somewhat surprised to hear him say that there is not going to be any Federal imposition of Federal standards and Federal bureaucracy. It will be the first bill ever to go through here, spending this kind of money, that left without imposing a number of standards.

As I read his new, revised bill, in which the Senator from Utah joins, there are still plenty of requirements that are imposed on the States, so that I think that this bill indeed is going to do what he says it will not. It would establish quite a large Federal bureaucracy, and before we finish negotiating on this with the House, it may even grow some more.

I would say to my friend from Connecticut that the comparison of child nutrition standards and the School Lunch Program is not an appropriate one. In child nutrition programs, the Government is dealing with schools which deal with hundreds, sometimes thousands, of students at one time. That is very different from dealing with hundreds of thousands of home care providers who will care for three, two or even one child at a time, or perhaps for as many as eight or nine.

I also feel that this side of the aisle has not suddenly produced a substitute. Lots of child care bills have been up, including one that I have introduced, so that all of the options and all of the various elements to be considered have been before the Senate for quite some time. Of course, we are now packaging them somewhat differently and putting them together somewhat differently.

I admire the fact that the Senator from Connecticut and the Senator from Utah have joined forces. That certainly makes it more interesting. I am not sure that it makes the bill more credible because one is a conservative and one is a liberal.

I find that on various issues people are hard to track by liberal and conservative labels in this body. However, I admire the fact that both are on the bill. I admire the fact that both are so interested in child care, because it is a subject that does demand our attention and it is a subject on which some legislation should go forward.

I have taken a very practical approach to child care, as I do to most issues. There is not necessarily a liberal and conservative split on this issue, although I think if you compare the original ABC bill, to some of the other legislation, there is indeed a liberal and conservative split.

But we are all concerned about the availability and affordability of child care. I for one am very impressed with the need for parents to be able to make choices. The program we pass here must not impede the ability of parents to make choices in obtaining child care for their children. I also think it is enormously important not to burden the child care system of this country with additional Government regulation, if it can be avoided. Can it be avoided entirely? Absolutely not. I understand that.

But I still understand that of the child-care providers in this country, roughly 80 percent are now unregulated and kind of underground. Roughly 80 percent are people who perhaps are not paying taxes. About 80 percent of them are not licensed child-care providers.

I would submit to my friend from Utah and my friend from Connecticut that in the event we make child care more bureaucratic, that number is going to rise even above the 80 percent level. Fewer and fewer child-care providers will want to participate in the system or subject themselves to regulation, and we will succeed in driving more people underground and making the regulated part of child care, in my judgment, more expensive.

In preparing for this debate my office has held throughout Minnesota 60 to 80 hearings with child-care providers, parents, and people who are interested in the issue of child care. I have attended approximately a dozen of those hearings.

When it comes to child care, Minnesota is an unusual State. While we are the 21st State in population, in number of licensed child-care providers we are third. We have about 12,000 licensed child-care providers, 12,000 people who subject themselves to State regulations.

It is interesting to note their reaction to child care legislation. The bill I have authored is very different from the ABC bill, at least in its initial form, and certainly the ABC bill has come more my way, so to speak, but there is still a great deal of difference. Frankly, I thought that the child-care providers were going to go for the ABC approach. This is a program that seemed to shower money on the system. This is a program that talks in terms of billions of dollars. This is a program that I thought would provide a basis for growing child-care organizations around the country and therefore would be supported by them.

But interestingly the largest child-care association in Minnesota has endorsed the Boschwitz child care bill, in a State that is third only to California and Texas in the number of licensed child-care providers.

My approach to child care begins with the understanding that most child care originates not in a large setting, not in a setting where 60 or 80 or 100 children are taken care of, but in a home where a mother cares for her children and some other children from the area. She takes in children basically from her neighborhood or from among our friends to provide the family with a second income. Much child care also starts among relatives, among grandmothers, among aunts and uncles who decide they will take care of some other member of the family. It is to those people that I have tried to address my child-care legislation.

Most child care begins, and indeed ends, with a woman who wants to stay home with her own children and cares for some additional children to provide a second income for her family. That is the reality, and that is where we should direct our efforts, in order to make that kind of child care easier to achieve.

The State of Minnesota really has an exceptional child-care system, where there is a partnership among parents care providers, and the State. The care providers endorsed my bill because it provided for direct tax benefits that go directly to the parents or to the day-care provider. It has left regulation pretty much to the States themselves.

Minnesota child-care providers believe that if the Federal Government begins to set standards, their input into the systems will diminish or disappear.

The 12,000 Minnesota child-care providers feel that they will be able to have some input with the State legislature of Minnesota. They will be able to go to St. Paul and deal with those State legislators. But if we move the focus of the entire child-care system or the center of regulation to Washington, they feel, and correctly so, that they would lose their impact. They feel their ability to influence the outcome of the business in which they spend so much time is going to be diminished, and there is no question that they are correct.

That is why I want to keep the power, so to speak, close to the people. I want to give those people who are engaged in child care the ability to influence the events, to have an influence on the regulations that are to guide them.

Recently I stopped to ask for directions in the small town of Watertown, MN. I drove into somebody's yard, and the husband and wife were outside doing some gardening. It was a weekend day. She told me that she was a child-care provider and said that her first child arrived at 5 in the morning and her last child left at approximately 5:30 in the afternoon.

That is not an uncommon day. It is an early start, but it is not uncommon that day-care providers have their first child appear at 6 or 6:30 and their last child leave at the dinner hour. It is important that we do not complicate their lives unduly, that we do not suddenly make new provisions with respect to fire walls, new provisions with respect to so many square feet in a house for each child, new provisions with respect to how many children they can provide for within their house.

Reasonable standards indeed should be imposed, but child care is not something that has to be the subject of extensive regulation. Child care is not something for which there has to be books and guides written that will go into the hundreds and indeed thousands of pages in the event the Federal Government gets into it. That will certainly be the result of the Federal Government becoming the chief regulator or the supervisor of those who regulate child care.

My approach, therefore, is more basic and more practical. We provide tax credits for people who have their children in day care. We provide a refundable tax credit, so that the poor can indeed use that credit. Even if they do not owe any taxes, the working poor would still benefit from the credit.

Very frankly, I am willing to trust parents who obtain this tax credit to spend the money on their children. I do not think that the Federal Government should reach down into the family and say, "We want to develop a system that compels you to spend the money in a certain way."

The amount of regulation that is required to achieve that is such that I think it would threaten the integrity of the family, and I do not want to see that happen.

We have in our bill a number of other elements. We provide a refundable tax credit for those parents who use child care, and we have the earned income tax credit in addition for the

working poor. Under this approach, parents are eligible for a refundable tax credit for their child-care expenses and an earned income tax credit in the event that they have low income. So they will have the assistance of a refundable tax credit for child care and the incentive of an earned income tax credit to move them into the workplace.

In addition, my bill has a tax credit which the ABC and other bills normally do not have, a tax credit for the child-care provider. If that child-care provider has to make improvements in his or her home, we will give a 20-percent tax credit on those improvements, to a maximum credit of $1,800.

We also provide in our bill for an additional meal or snack under the child-care food program. The current child-care food program provides the child who stays at a person's house 8 hours or more two meals and a snack. Small children particularly have to eat quite frequently. We would provide for an additional meal or snack.

Part of my goal is to make the child-care food program more meaningful to child-care providers. The program is only available to licensed providers. A better child-care food program becomes an incentive for providers to become licensed, under State standards. The program can help encourage many of the 80 percent of providers who are now unlicensed to become licensed and take advantage of it.

We also have a latchkey program that would provide money for schools, so that in the event that a family needs to leave at 7 in the morning, there will be somebody at the school. In the event that the parents come home later at night, somebody would stay at the school with the child after the close of the school day.

We also have a program that supports child care at postsecondary institutions. Many times, single mothers have to go back to school in order to give them the education needed to earn a decent living. Child care is an important need for those mothers.

We even have a provision to expand library services. This funding would support bookmobiles that go to child care homes or centers on a regular basis and provide new reading materials. This would enrich the experience of the children in those kinds of licensed facilities.

So there are many ways, in my judgment, to provide better child care. My bill gives tax credits directly to the parents so that they have the choice, tax credits that go to the providers so that they can make improvements in their homes. It provides funding for important programs, as I have already described.

I take, Mr. President, a practical approach to child care. Once again, most child care starts with a mother who wants to stay home with her own children and decides that she not only want to stay home, but has to provide some income by taking other children into her home. How to preserve that system, how not to overregulate that system, how to preserve the choice on the part of the parents so that they can fit into this system easily, how to make the system the kind that will encourage child care providers to become licensed, that is the purpose of my bill. I think it achieves that.

I will be offering amendments to the bill before us here on the floor to try to achieve those ends. The time has come for child care legislation, and it demands the attention of the Congress of the United States. We will come through this debate, in my judgment, with a good bill, a sound bill that will help the children and parents of America.

I yield the floor.

Mr. HATCH. Mr. President, I have really enjoyed and appreciated the debate thus far. I think we have discussed this matter in a certain amount of detail in the last couple of days and I look forward to the debate next week.

I do have a couple of things I would like to say before we finish today. Several of my colleagues have commented on various provisions of the new ABC bill and I would like to respond to several of these criticisms.

As a matter of fact, I am sure we are going to be debating this bill over perhaps a number of days, but certainly next week and much more thoroughly. However, I would like to clear up some misunderstandings on a few points that have been made by some of our colleagues.

For instance, I was interested that one or more of them have indicated that they think the ABC bill, as currently drafted, is biased in favor of center care. Well, I agree that the previous bill, the original version of the ABC bill, was biased in favor of center-based care. But with the improvements that we have made, this is no longer the case.

First, we have added a loan fund solely to assist family-based providers. Family-based providers are the first choice of parents with infants. In fact, between 80 to 85 percent of all parents with preschool-age children prefer to have their children cared for in a home setting. So it was critical that our bill expand the availability of this particular option, and it does. We have changed the bill to encourage home-base care. So it is a very unjust criticism to state that it does otherwise.

Second, family-based child care providers have great difficulty being able to obtain and afford liability insurance. One family provider in Utah, one of our family providers, told me that her liability insurance costs her about $900 per year. Well, the ABC bill permits the States to establish liability insurance pools to address those needs.

I might add, the substitute amendment by the distinguished minority leader and Senator PACKWOOD have borrowed that concept, as well. In fact, almost everybody has borrowed that concept. But we have it in our bill, and it will work and help address the liability needs of the providers, especially the home providers.

Third, our bill permits child care certificates to be used for home-based care. So the ABC bill takes care of it from that standpoint.

Fourth, our bill not only permits the reimbursement for child care rendered by grandparents, aunts, and uncles. It also exempts relatives from any requirements for licensing or regulation, provided the State itself does not impose the requirement.

The bill does not require the same standards set for center-based care to apply to family-based care. Standards are to be appropriate for family-based child care.

One criteria for training, resource and referral programs is their outreach to and recruitment of family-based providers. Various support programs, including programs for substitute care givers are authorized.

So it is not only an oversimplification, it is an absolute, downright falsehood to indicate that the ABC bill as currently drafted is biased in favor of center care. I think we have more than adequately addressed that particular problem.

So all I can conclude is that our colleagues who have asserted this are very badly misinformed. I would certainly not accuse them of prevarication but they certainly are misinformed and I want to clarify that.

One of the criticisms that has arisen is about our new change in standards. And I might add, even the distinguished Senator from Minnesota, who has studied in light of the amendments even as late as yesterday on standards, I think, is still somewhat misinformed as to what our standards provision provides. They have a feeling that there is an ulterior motive for even having modest standards in the bill.

The Senator from Oregon, for instance, yesterday suggested that the model standards exist in order for liberals to put pressure on State legislatures to raise State standards to the level of model standards.

My response to the distinguished Senator from Oregon is: So what? I do not think it is our place to cut off debate within the States as to which standards they should or should not select, as long as they have the total, absolute control to accept whatever standards they want. The whole purpose of the model standards is to try

to set minimum standards that people should want to accept.

The fact that we do not require the States to accept any particular standards, model standards included, means that those who come up with the model standards, the advisory panel from back here, are going to have to be reasonable in those standards or the States will not adopt them. But I think as a practical matter we will find that States will voluntarily adopt them because they will be reasonable, modest and workable standards that will not be imposed upon them. They will voluntarily take them and that is the goal here.

So we addressed one of the most important issues that 95 percent of all parents are concerned with, and that is: What about the quality of care? And we do that in the ABC bill by listing six categories of what we would like them to do, one of which has, I think, six subcategories. I think anybody who looks at child care would say these are reasonable categories. Now the States can fill in what they want with regard to standards.

If the Senator from Oregon is correct that these model standards are the camel's nose under the tent and that Congress will eventually be asked to make them mandatory, then I will be the first in line to oppose such legislation. And the Senator from Connecticut knows that as well, and I think, although he might prefer a different approach, ultimately he has been super to deal with in trying to resolve what really has been the No. 1 problem to resolve with regard to the ABC bill.

Then, I might add, the Senator from Oregon is correct in one sense, the model standards are there to stimulate discussion and self-examination within the States with regard to the quality of child care provided or to be provided.

Let me just mention another one. Others have said on the floor, including the Senator from Oregon, that the ABC bill probably subsidizes secular day-care centers. Well, first, even in contracting situations, the subsidy provided for by the ABC bill is for the purpose of providing care to the children of low-income parents. It is not a benefit to the institution. It is to reimburse the institution rendering child-care services to children.

Second, States are not prohibited in any way from signing contracts with religious institutions. In fact, in many needy areas, both rural and urban, the church may be the only logical provider.

Third, churches currently provide a significant number of child-care slots. States are not so stupid as to ignore the potential of churches and synagogues to provide quality care. In fact, 30 to 40 percent of the child care being provided in our country today, is in an institutional church center.

Fourth, child-care certificates provided for under this bill permits parents to enroll their children with any licensed or regulated provider, including a religious one.

The Ford-Durenberger provisions which are already adopted in the Mitchell amendment that is currently being debated include—I might say in Senator MITCHELL's modification—and emphasize our intention not to exclude child care provided by sectarian institutions or to hamstring parents who want this particular option.

Another argument that they have used is that the ABC bill is discriminatory because two-parent, one-income families are taxed to provide child care for two-earner families. Well, under this reasoning, education programs, which expand taxpayer dollars, are equally discriminatory against citizens who do not have children. And I have heard those arguments through the year and they are what I would call phony arguments.

Working parents pay taxes on their incomes. While low-income families have limited tax liability, they are still contributing their taxes and their work product to the national economy. These services are not free if parents are working. Without child-care assistance, many of these low-income parents would be on welfare and guess who is going to pay for that. And that, of course, is free—I guess somebody would try to say.

So that is not a good argument and it is one that really is somewhat offensive.

Some critics have said that the quality of care cannot be measured quantitatively. I do agree with the distinguished Senator from Oregon that there is no way to measure caring or kindness on the part of child-care providers. I agree that a child-care worker's individual commitment to her charges—child-care workers are usually women—can sometimes compensate for a large group size or the lack of formal training. But I asked my colleagues and I put it to parents all over America who have entrusted their children to out-of-the-home child-care providers: Do you not think that parents need some assurance that their children are with adults who know basic first aid? Or who recognize chicken pox? Or who know how and have the means to put out an electrical fire?

Even meat is graded for quality by the USDA, and it seems to me we ought to be at least as concerned about children. Subjective measures of quality are important, but they will not help one adult get 20 toddlers out of a burning building. Objective standards have a purpose, too.

An argument that was made yesterday was the ABC bill would tax poor families to subsidize day care for the rich. Well, how do opponents of ABC come to this conclusion? Any family earning more than the State median income is ineligible for ABC benefits.

The Utah median income is $17,600. Do the opponents of the bill believe that is rich? At least my State, under the ABC bill, has the option of providing some help to the average Utah family on a sliding fee scale basis.

A tax credit that applies only to families below $13,000 is not going to help very much. In fact, it will hardly make a dent on the cost of child care which averages $3,000 per child in this country; hardly a dent on the total cost of child care.

If you add it up and look at it carefully, a tax credit only takes care of kids ages 1 to 4. And if you want to take credit for four kids, that means you have to have four kids under the age of 4, which is not very logical. It would be very unlikely to have three kids under the age of 4. But what happens to those from 5 to 12; or under our ABC bill as currently drafted, 5 to 16?

We may, before this is over, reduce that down a little bit. The fact of the matter is that it is a phony argument.

Another argument is that tax credits provide direct assistance without middlemen. "Without the middleman."

I say I like the tax credit approach but not as the sole approach to these problems. A tax credit also does not make hardly a dent in a family's actual child-care costs. Under the proposal to be offered by the distinguished minority leader, as advocated by Senator PACKWOOD—and I sincerely appreciate what he is trying to do here—a family would receive a maximum of only $500 additional credit for one child under 4, and $250 for each additional child under 4, and families with incomes over $13,000 would not be eligible. That would not even cover the least expensive child care for one child. A tax credit does not encourage additional child-care availability because the purpose of the credit is not specified. I am not saying it should be. But we cannot say that parents will have any additional choices of care. So to argue against ABC which does give additional choices for care, which does have appropriate standards, which does touch many more people, which includes children up to the age of 16, as currently drafted, which, of course, has all that the Dole substitute will have in it as far as the $400 million, it seems to me the ABC bill does an awful lot which the tax credit approach does not do.

I think the best way to solve this problem is to marry the two and put them into one bill. For those who believe that tax credits are the only answer to child care, we will put it in there. That is what the Bentsen proposal does. I suspect that is what the

President's proposal wants to do. But let us acknowledge that there is a place for the grant process, and we have carefully drafted it so that it is not an entitlement process, and we can say that the grant process makes a lot of sense, especially with the changes that have been made in the ABC bill.

In that regard, I have to particularly thank the distinguished Senator from Connecticut [Mr. DODD] and, of course, the distinguished Senator from Maryland [Ms. MIKULSKI]. The three of us have spent hour after hour after hour trying to resolve difficulties that would bring more and more people into support of the ABC bill. It is basically a very good bill.

If we add the tax credit component to it, in whatever form, none of us are going to cry about it. As a matter of fact, all of us have supported a refundable tax credit approach. So it is not that we are behind the curve on that either. We might prefer our own tax credit approach, but we know that there is enough desire on the part of certain people around here to have a tax credit approach added, that we can accept almost anything that will work and make sense. However, we would like it to be in a married bill so that you have the best of both worlds—you have a grant program plus you have the tax credit program.

With regard to the religious institution amendment, true, the tax credit would work better because you give the money directly to the parents but that does not necessarily mean it goes to child care, therefore, you do not run into the constitutional problems that you do through a grant program, but we have written the grant program with the Durenberger language so well, that we give maximum protection to religious institutions under the circumstances provided for in constitutional law, and that is about all we can do. It still does not negate the fact that it pays in some ways to look not only at affordability, but also availability and quality.

In this case, we reached all three. No tax credit approach that I have seen today reaches all three of those problems which every parent, every provider and everybody who is astute in this area says has to be done. Our bill does. I think our colleagues ought to take that into consideration.

There are a lot of other criticisms of the bill I would like to dispel right now, but I think I have taken enough time for today. We will get into it more next week.

I do not want to disparage the tax credit approach. I admire the people who want to do it. Both Senator DODD and I, including Senator MIKULSKI and others, are not adverse at all to a tax credit approach.

But let us understand how important the ABC approach is at this point. We have covered every problem through the years. We have been working on this, and I think we have done it in a way that should bring people in and cause them to want to support this bill.

You can find good arguments on both sides on both issues. I think if we marry them together, we will have the best of both worlds. Let us not disparage the ABC bill because we have worked too hard and know too much about this issue to think it does not have a noble perspective toward resolving some of the serious problems the families are facing in this country with regard to child care.

I want to again thank my distinguished friend and colleague for his leadership in this matter. Regardless of how it turns out, regardless of what happens, I have to say he deserves a great deal of credit for trying to do something to help in the child-care area. And regardless of how it turns out, I think he deserves a great deal of credit for the ultimate result. I commend him for it, and I just want to say how much I personally admire him.

Mr. DODD addressed the Chair.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. DODD. First let me say I do not believe we have any more people on this side who wish to be heard on this issue today, and so I would anticipate the close of my remarks to note the absence of a quorum and then I guess the leadership will be coming to close out matters for today.

Before my colleague from Utah leaves, let me thank him once again for his kind comments. Some of our colleagues may have left to return to their respective States, but those Senators and their staffs who may have been listening the last 15 or 20 minutes, the remarks of the Senator from Utah are extremely important. I encourage all of our colleagues to read those comments if they have not heard them because he dispels in a very efficient and clear way the myths that persist and make this debate a difficult one, because we are still dealing, unfortunately, with arguments which no longer should exist. So I commend him for the clarity of his comments, taking to task the various arguments that have been raised.

Mr. President, as I understand it, we will resume debate on this matter late Monday morning or early Monday afternoon. I encourage colleagues who have amendments to this legislation to bring them forward on Monday, and even though under our agreement there will be no votes until after 5:30 p.m., it is highly likely that many of the amendments to be offered we can accept and will not require votes. So I strongly encourage colleagues on both sides of the aisle to put their amendments in order and then notify our respective staffs, the staff of Senator HATCH as well as my own, as to the content of those amendments and we will try if at all possible to accommodate our colleagues. It may not be possible, but if it is we would like to accommodate our colleagues.

So, Mr. President, on that note I again commend my colleague from Utah for his comments, for the clarity of his statement, and I also want to thank our colleagues from both sides of the aisle who did come to the floor today to express their views on this legislation, both pro and con. My hope is that we can get to the amendments very quickly on Monday and continue the debate and hopefully conclude the early part of next week.

Mr. President, I see my colleague from Colorado. I will yield the floor. At the conclusion of his remarks, unless someone else desires to speak, I will then note the absence of a quorum, after which we can conclude the business of the day.

Mr. WIRTH addressed the Chair.

The PRESIDING OFFICER (Mr. ROBB). The Chair recognizes the Senator from Colorado [Mr. WIRTH].

Mr. WIRTH. I thank the Chair. I have been in the chair for much of the debate the last couple hours and planned to comment on Monday, but I thought it was appropriate today to add some remarks in support of the legislation from other than authors of the legislation, the Senators from Connecticut and Utah, whom I think have done such a superb job maintaining the momentum of this legislation. We all know that without this kind of advocacy, things have a way of slowing down. But their efforts have brought before us a viable compromise.

We have listened this morning and this afternoon to a lot of misconceptions about what is in the bill. Some of those are valid because they are based, perhaps, on earlier drafts of the legislation. Some are not valid. I think the two sponsors of the legislation, especially the Senator from Utah, have been careful in pointing out where those misrepresentations have been made.

As one of the cosponsors of the Act for Better Child Care, I support this version as amended by Senator MITCHELL, which has received such broad bipartisan support in the Senate and in the House and the endorsement, as has been pointed out, of the National Governors Association and 137 other State and local organizations. The ABC bill is certainly the appropriate vehicle to ensure the long-overdue commitment to the well-being of our Nation's children, along with providing peace of mind to working parents that they have adequate options for their children to receive quality care.

As the number of families headed by single mothers increases and the economic status of two-parent families with children declines, more and more

mothers are entering the work force out of economic necessity. Often a mother's paycheck is all that stands between her family and poverty. In 1988 alone, more than 35 million children, or 60 percent of all children under the age of 18, lived in families in which both parents or the sole parent were in the work force. In addition, 56 percent of all mothers with preschool-age children worked outside the home.

With the realization that parents in the work force have become an economic reality, the need for quality child care becomes paramount. Unfortunately, our national supply is completely inadequate to meet the needs of the American family. A recent poll conducted by Marian Edelman and the Children's Defense Fund discovered that 74 percent of the working parents find it difficult to find quality child care at affordable prices, and 63 percent said there were not enough child care services to provide even for expected needs.

We must remember that one of the ways parents care for their children is by working to provide income. As a country, we must ensure that parents can afford quality child care in order to fulfill these responsibilities. In addition, we have to create a healthy supply of quality child care and never ask parents to enroll their children in anything less. I believe the ABC bill provides a comprehensive approach to meet these needs and am very proud to be a cosponsor of this important effort.

The legislation provides funds for direct financial assistance, targeted at low-income families, to select the form of child care that best meets their needs, as well as funds to help establish new, and expand existing, child care facilities. These are two critically important pillars of any comprehensive legislation.

In addition, the ABC bill works to enhance the quality of day care by requiring States to ensure that all providers required by the State be licensed, are so licensed. Recommendations for minimum national heatlh and safety standards will also be issued. Each State may use these recommendations when developing their own required standards. Let us remember that these standards are extremely important to assure parents that their children are being taken care of in an appropriate, careful, and professional fashion.

The ABC bill is an outstanding vehicle for establishing a comprehensive policy for child care involving a strengthened commitment by all levels of government, in addition to a more visible and vigorous private sector. In expanding child care, we will enhance the economic opportunity for the American family to move away from poverty and dependence on welfare toward economic self-sufficiency through education, training, and employment. The ABC bill is sound policy and a wise investment in our families and in our Nation's future. That commitment is one worth making and warrants our very broad support.

A final note, if I might, Mr. President. One of the most disturbing trends in the United States today is the growing gap between rich and poor. That gap has never been broader in America. Statistical abstracts are now showing that at no time in our Nation's 200-year history has the gap been so great and at no time has it accelerated more rapidly. One of the reasons for that is the people at the bottom end of the income scale simply do not have access to many opportunities. They do not have access to good education programs. They do not have access to reasonable job opportunities. They do not have access to all of those institutions that are necessary to make the American dream come true. It is that kind of access to which our Government should be committed.

We have a responsibility to do everything we can to provide every American individual with that access and that opportunity. We are not going to guarantee them anything. We are not going to guarantee them that they will have a particular job or are going to get A's in school, but we can make sure they have access and are given the opportunity to achieve. If they throw that opportunity away, that is the individual's responsibility. But we have an institutional responsibility to provide it. And maybe no place is that more important than for little kids.

We have found through the experience of the Head Start Program that the single best investment we have ever made in our society in terms of a broad education program is the Head Start Program. Now operating for more than 20 years, that program has been a superb track upon which very small children have flourished, and the evidence is very clear that those children who are involved in Head Start have done significantly better than those who have not.

That program was criticized when it was first passed. I was in Washington during the late 1960's when it happened. When that program first passed, we were going to be reaching in and grabbing children out of households, putting them in Communist-inspired classrooms; we were going to experience the Devil himself having an undue influence over these small children.

No one ever makes that argument today. Head Start has been an extraordinarily good program with results far beyond what anyone dreamed. ABC is taking that Head Start Program and, in effect, expanding it so that even more children have the opportunity, not only to have that kind of carefully put together child-care program, while allowing for their parents to provide for those kids.

Child care is more than just providing supervision and growth for our youngsters. Child care also means giving the parent the economic opportunity to allow that child to grow up and flourish and have opportunities for their future well-being. So this legislation has many implications.

We have an obligation to pass this bill, Mr. President, and I hope opponents will take the time over the weekend to read the carefully crafted compromise that has been put together, and analyze the very careful, and I thought, very balanced discussion of Senator HATCH. The Senator from Connecticut has done a wonderful job, but I was especially struck by how Senator HATCH came back over and over and over again and took all the arguments that remain and say they are no longer there or they do not make any sense.

I commend the distinguished senior Senator from the State of Connecticut for his good efforts. I am pleased to be a cosponsor of the bill. This is part of the obligation we have to provide opportunities to all Americans. Let us move this legislation and do so as rapidly as possible.

I thank the Chair. I yield the floor.

Mr. DODD. Mr. President, I thank my colleague from Colorado for his very kind and generous comments, but more important is the very unique element he adds to this debate, which has not been raised over the last 2 days, and that is the notion that child care not only provides opportunities for children but provides greater opportunities for parents as well, the opportunity for that AFDC mother to get off welfare as the welfare reform package is designed to. Our colleague from New York [Mr. MOYNIHAN] and others really did an excellent job on that legislation.

They provided child care for the year of training, and there is even some child care for the first year thereafter. Then it ends.

So in the sense of a cruel circumstance, if you can go through the training period, get the job, then lose the very thing that made it possible for you to get off the welfare, it would be tragic. In a sense we are trying to pick that up now and make it possible for that person to continue. I think that argument that has been raised by our distinguished colleague from Colorado is an extremely important one, one that really has not been raised in the last year or so of this debate.

We have been focusing on that child, how we create opportunities for that child, providing some help for the families, but really focusing on the opportunities for American families as

well to grow and become better families.

We all know historically what happens to the parent that works, that has a job, how much difference that economic independence can mean in terms of the loving care the children get if they are not preoccupied with the economic situation at home. The rates of alcoholism and unemployment just overlap. It seems so clear. There are so many cases of child abuse. The likelihood of a child being abused in a home with its unemployed parents or an employed parent head of household are just remarkable.

So all of those statistics seems to indicate we are broadening the opportunity here. I really do thank my colleague from Colorado for making that observation.

Again, I just underscore what he has said about our colleague from Utah who has left the floor now, but I really commend to our colleagues reading the fact and fiction discourse that our colleague from Utah gave this afternoon about some of the arguments that have been raised against this legislation.

At any rate, Mr. President, I note the absence of a quorum.

The PRESIDING OFFICER. Thank you, Senator DODD.

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DODD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

MORNING BUSINESS

Mr. DODD. Mr. President, I now ask unanimous consent that there be a period for morning business during which Senators be permitted to speak.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECORD TO REMAIN OPEN

Mr. DODD. Mr. President, I ask unanimous consent that the record remain open until 3:30 p.m. today for statements and the introduction of legislation.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-1296. A communication from the Director of the Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, the cumulative report on budget rescissions and deferrals dated June 1, 1989; pursuant to the order of January 30, 1975, as modified on April 11, 1986, referred jointly to the Committee on the Budget, the Committee on Appropriations, the Committee on Agriculture, Nutrition, and Forestry; the Committee on Armed Services; the Committee on Banking, Housing, and Urban Affairs; the Committee on Commerce, Science, and Transportation; the Committee on Energy and Natural Resources; the Committee on Environment and Public Works; the Committee on Finance; the Committee on Foreign Relations; the Committee on the Judiciary; and the Committee on Labor and Human Resources.

EC-1297. A communication from the Secretary of Defense, transmitting, pursuant to law, the Interagency Net Assessment; to the Committee on Armed Services.

EC-1298. A communication from the Secretary of Energy transmitting, pursuant to law, energy targets for net imports, domestic production, and end use consumption of energy; to the Committee on Energy and Natural Resources.

PETITIONS AND MEMORIALS

The following petitions and memorials were laid before the Senate and were referred or ordered to lie on the table as indicated:

POM-163. A joint resolution adopted by the Legislature of the State of California; to the Committee on Finance:

"ASSEMBLY JOINT RESOLUTION No. 11

"Whereas, The Medicare Catastrophic Health Care Act of 1988 abandons the traditional insurance financing principles of social security and Medicare; and

"Whereas, All Medicare beneficiaries will pay an escalated premium covering 37 percent of the new benefits; and

"Whereas, Approximately 44 percent of Medicare beneficiaries, or 14,300,000 persons will, under the act, pay an additional supplemental premium covering 63 percent of the cost of the new benefits; and

"Whereas, The supplemental premium cannot be used as an income tax deductible expense item; and

"Whereas, There is a growing dissatisfaction with the financing provisions of the act by the four million elderly in California; now, therefore, be it

"Resolved by the Assembly and the Senate of the State of California, jointly, That the Legislature of the State of California respectfully memorializes the President and the Congress of the United States to amend the Medicare Catastrophic Coverage Act of 1988 to restore the traditional insurance financing principles of funding the Medicare program; and be it further

"Resolved, That the act be amended to eliminate the discriminatory supplemental tax on federal income taxes to fund Part B coverage, the new prescription drug coverage, and other new coverages; and be it further

"Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice Presidnt of the United States, to the Speaker of the House of Representatives, the Chairpersons of the House and Senate Committees on Aging, and to each Senator and Representative from California in the Congress of the United States."

POM-164. A concurrent resolution adopted by the Legislature of the State of Hawaii; to the Committee on Finance:

"HOUSE CONCURRENT RESOLUTION 248

"Whereas, under the present federal law, Section 1612(a) of the Social Security Act, elderly parents living with their children, in Hawaii, for example, must court their rooming privileges as "in-kind" income and lose some or all of their Social Security supplemental income; and

"Whereas, caring for elderly parents at home is a tradition and customary practice in Hawaii and may be considered a socially beneficial practice for all Americans, and such practice should be encouraged rather than penalized by our Social Security laws; and

"Whereas, a bill has been introduced in Congress to amend our present Social Security Act to provide that support and maintenance furnished in kind in the form of room or rent to any individual by an immediate family member shall be disregarded in determining the amount of the individual's Social Security benefits; and

"Whereas, if such measure were to be enacted it would in effect eliminate the penalty against our senior citizens who find living quarters amongst their family members and children: Now, therefore, be it

"Be it resolved by the House of Representatives of the Fifteenth legislature of the State of Hawaii Regular Session of 1989, the Senate concurring, That this honorable body hereby expresses support for the pending measure in Congress which would have the effect of Social Security penalty against our elderly recipients who live with their families; and

* * * * *

POM-165. A resolution adopted by the Senate of the State of Hawaii; to the Committee on Foreign Relations:

"SENATE RESOLUTION 138

"Whereas, every country in the world, through the World Health Assembly, has set a common goal in which they are striving to eradicate the worst aspects of poverty in the world by the year 2000; and

"Whereas, the worst aspects of poverty include sub-standard health care, hunger, homelessness, and illiteracy; and

"Whereas, President Reagan in 1987 announced that the United States would support and assist in ending hunger in sub-Saharan Africa by the year 2000; and

"Whereas, in 1987, the president of the World Bank stated, "In the large poor countries of Asia, we wish to support government strategies to eliminate the worst aspects of absolute poverty in Asia by the year 2000"; and

"Whereas, the South Asian Association for Regional Cooperation has committed itself to achieving the following goals: providing universal immunization by the year 1990; and by the year 2000, providing universal primary education; adequate maternal and child nutrition; safe drinking water; and adequate shelter for all persons in the world; and

"Whereas, the United States through the Foreign Assistance Act of 1961 has committed itself to assisting "people in developing countries to eliminate hunger, poverty, illness, and ignorance"; and

"Whereas, the government of India has established the goal of eliminating absolute poverty in that country by the year 2000; and

"Whereas, currently before the United States Congress is the Global Poverty Reduction Act which requests the President of

the United States to establish a plan for the United States to assist in eliminating the worst aspects of poverty by the year 2000; and

"Whereas, this Act also sets the following goals to be achieved by the year 2000: an under-five mortality rate of 70 per cent; a female literacy rate of 80 per cent; and an absolute poverty level of not more than 20 per cent; now, therefore, be it

Resolved by the Senate of the Fifteenth Legislature of the State of Hawaii, Regular Session of 1989, That the United States Congress is respectfully urged to support the enactment of Global Poverty Reduction Act; and be it further

Resolved, That certified copies of this Resolution be transmitted to the President of the United States Senate, the Speaker of the United States House of Representatives, and Hawaii's congressional delegation."

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. FORD, from the Committee on Rules and Administration, with an amendment in the nature of a substitute:

S. Res. 13: A resolution to amend Senate Resolution 28 to implement closed caption broadcasting for hearing-impaired individuals of floor proceedings of the Senate (Rept. No. 101-54).

By Mr. FORD, from the Committee on Rules and Administration, without amendment:

S. Res. 147: An original resolution to authorize the Secretary of the Senate to discharge certain functions under chapter 37 of title 31, United States Code (relating to claims of or against the United States Government).

S. Res. 148: An original resolution relating to the purchase of calendars.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. MACK:

S. 1196. A bill to amend the Internal Revenue Code of 1986 to provide a refundable credit to parents for dependents under age 6, and for other purposes to the Committee on Finance.

By Mr. EXON:

S. 1197. A bill to prohibit the payment of Federal benefits to illegal aliens; to the Committee on the Judiciary.

By Mr. KENNEDY (for himself and Mr. KASTEN):

S. 1198. A bill to amend title 17, United States Code to provide certain rights of attribution and integrity to authors of works of visual art; to the Committee on the Judiciary.

By Mr. CHAFEE (for himself, Mr. BRADLEY, Mr. MOYNIHAN, and Mr. DASCHLE):

S. 1199. A bill to amend the Social Security Act to improve Medicare and Medicaid payment levels to community health clinics; to the Committee on Finance.

By Mr. KERRY (for himself, Mr. JEFFORDS, Mr. ADAMS, Mr. ARMSTRONG, Mr. BENTSEN, Mr. BRADLEY, Mr. BURDICK, Mr. CHAFEE, Mr. COCHRAN, Mr. CRANSTON, Mr. DASCHLE, Mr. DURENBERGER, Mr. GLENN, Mr. INOUYE, Mr. LAUTENBERG, Mr. LEAHY, Mr. LIEBERMAN, Mr. METZENBAUM, Ms. MIKULSKI, Mr. MITCHELL, Mr. MOYNIHAN, Mr. NUNN, Mr. RIEGLE, Mr. ROBB, Mr. SANFORD, Mr. STEVENS, and Mr. WIRTH):

S.J. Res. 158. A joint resolution designating October 22 through 28, 1989, as "World Population Awareness Week"; to the Committee on the Judiciary.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. FORD, from the Committee on Rules and Administration:

S. Res. 147. An original resolution to authorize the Secretary of the Senate to discharge certain functions under chapter 37 of title 31, United States Code (relating to claims of or against the United States Government); placed on the calendar.

S. Res. 148. An original resolution relating to the purchase of calendars; placed on the calendar.

By Mr. SIMON (for himself, Mr. BOSCHWITZ, Mr. BOREN, and Mr. DODD):

S. Con. Res. 47. A concurrent resolution expressing the sense of the Congress on multilateral sanctions against South Africa; to the Committee on Foreign Relations.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. MACK:

S. 1196. A bill to amend the Internal Revenue Code of 1986 to provide a refundable credit to parents for dependents under age 6, and for other purposes; to the Committee on Finance.

TAX CREDIT FOR FAMILIES ACT

● Mr. MACK. Mr. President, we have begun debate on the child-care issue. The ABC bill is a big government, big bureaucracy bill that limits parental choices. I fundamentally disagree with this approach. The child-care problem is not so much a lack of affordable child-care opportunities. The real problem is that families are overtaxed. In 1948, a median-income family of four paid 2 percent of its income to the Federal Government in taxes. Today, a median-income family of four pays 24 percent of its income to the Federal Government in taxes.

For this reason, I am today introducing the Tax Credit for Families Act, a bill which I think is much more consistent with what the families of America want. This is the Senate version of the Holloway-Schulze toddler tax credit which has already received significant support in the House.

The appeal of this bill crosses partisan lines. Families all over the country want to make their own decisions about child care. My bill gives parents what they want: a tax credit freeing up income for appropriate child care of their choice.

The bill provides up to a $1,000 refundable tax credit for one child and up to a $2,000 refundable tax credit for two or more children for families to use in purchasing or providing care for their preschool children under 6 years old. And, unlike other proposals, not a single dollar is wasted on administrative costs. Every dollar is targeted to the children.

This bill is fair to all families, providing a solution which is controlled and administered by the parents. It does not penalize families who choose to care for their own children, as do other bills which require that both parents work. Instead, it extends tax benefits to both single and double income households.

While my bill targets its benefits to low-income families, it does not ignore the needs of middle-income families. For example, families earning $30,000 a year can claim a $700 per child tax credit.

The family, not government, is where responsible, equitable and nondiscriminatory child-care decisions should be made. This legislation gives more choice and more assistance to more families than any other proposal.●

By Mr. EXON:

S. 1197. A bill to prohibit the payment of Federal benefits to illegal aliens; to the Committee on the Judiciary.

PROHIBITING FEDERAL BENEFITS FOR ILLEGAL ALIENS

Mr. EXON. Mr. President, I rise to introduce legislation to prohibit the payment of direct Federal benefits to illegal aliens. This legislation will help deter illegal immigration and reduce unintended Federal spending.

In 1986, the Congress made good progress in the effort to control illegal immigration into the United States. By making it illegal to hire illegal aliens, the Congress removed one of the magnets for illegal immigration. Another powerful "magnet" still remains. That attraction to illegal immigration is the real or perceived availability of U.S. Government benefits to illegal aliens.

This legislation would establish a Governmentwide policy that direct Federal financial benefits not be paid to illegal aliens unless specifically provided by the Immigration and Nationality Act.

Over the years, the Congress has crafted ad hoc qualifications in Federal benefit statutes. At times, due to congressional inaccuracy or expansive court interpretations, these statutes have been used to provide Federal financial benefits to illegal aliens.

This situation has led to the payment of unemployment benefits, Social Security benefits, health care benefits and housing benefits to individuals who have no legal right to even be in the United States.

In an era of massive Federal deficits, even small instances of waste, fraud, and abuse cannot be tolerated.

The Federal Government must insure that limited Federal funds go to their intended beneficiaries. The Congress made good progress in requiring verification of status for certain entitlement programs and in authorizing the systematic alien verification for entitlement programs better known as the "save" program.

However, these steps contained in the Immigration Reform and Control Act of 1986 can only be as effective as the interpretations of the various underlying benefit statutes.

I expect the opponents of this legislation to ask for sympathy for the illegal aliens who have come to depend on the generosity of Uncle Sam.

They will certainly cite some compelling stories about illegal aliens in unfortunate situations. I am most sympathetic. However, there are stories as dire and compelling among our own citizens.

When our Nation is facing large Federal deficits and the constraints of the Gramm-Rudman law, Federal dollars paid to an illegal alien, sympathetic or otherwise, are literally dollars taken away from one of our own citizens.

This legislation gives the Congress an opportunity to set the record straight in a comprehensive manner. This measure is both a means to control illegal immigration and means to control budget deficits. Without the real or perceived attraction to Federal benefits, illegal immigration will be deterred. Without the seepage of benefits away from intended beneficiaries, money will be saved.

I introduced this legislation in the last Congress. The Senate Judiciary Committee held a hearing on this bill. It is long past time that this problem be corrected. I am hopeful that this legislation can be passed as a free-standing bill; however, I am prepared to offer this legislation as an amendment to an appropriate immigration or spending measure.

Simply put, Mr. President, this legislation states that Federal benefits should not go to those who are in the United States illegally. If my colleagues feel as I do, that taxpayer's dollars should not go to illegal aliens, I ask them to join me in support of this measure.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1197

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

(a) DIRECT FEDERAL FINANCIAL BENEFITS.—That on or after the date of enactment of this act, notwithstanding any other provision of law, no direct Federal financial benefit or social insurance benefit may be paid or otherwise given to any person not lawfully present within the United States except pursuant to a provision of the Immigration and Nationality Act as amended.

(b) UNEMPLOYMENT BENEFITS.—No alien who has not been granted employment authorization pursuant to Federal law shall be eligible for unemployment benefits.

(c) DEFINITION.—For the purposes of this act, the term "person not lawfully within the United States" shall be any person who at the time he or she applies for, receives, or attempts to receive such Federal financial benefit is not a United States citizen, a United States national, a permanent resident alien, an asylee, a refugee, a parolee, or a nonimmigrant in status.

By Mr. KENNEDY (for himself and Mr. KASTEN):

S. 1198. A bill to amend title 17, United States Code, to provide certain rights of attribution and integrity to authors of works of visual art; to the Committee on the Judiciary.

VISUAL ARTISTS RIGHTS ACT OF 1989

● Mr. KENNEDY. Mr. President, I am pleased to reintroduce the Visual Artists Rights Act. The bill will establish long-overdue rights for America's visual artists.

I believe that the Federal Government has a responsibility to provide leadership in the arts and to ensure a lively climate in America that will enable creative men and women to pursue careers and livelihoods in the arts. The Visual Artists Rights Act of 1989 will help the Federal Government fulfill that responsibility. It will guarantee the integrity and attribution rights of fine artists.

Nearly 70 countries around the globe protect artists' authorship rights and the integrity of creative works. Still, the United States permits any individual to maliciously mutilate or destroy a work of art without fear of any sort of reprisal. Without these protections, cultural properties have been irretrievably damaged. Congress can no longer overlook its responsibility to safeguard the Nation's artistic heritage.

In the last Congress, the Judiciary Committee took a careful look at this legislation and endorsed it. Compromise language was agreed to which protects legitimate interests of museum and curatorial work. Further limitations were included to clarify the scope of the legislation to address only the unique circumstances of fine art creative works of painters and sculptors. Also, appropriate exemptions have been included to treat work that is attached to buildings. In this year's bill, we have added protection for fine art photography, a very limited class of still photographic images produced for exhibition purposes in galleries and museums.

A second provision of the bill will require that the Registrar of Copyrights and the Chair of the National Endowment for the Arts shall jointly conduct a study to evaluate the feasibility of new initiatives that would permit visual artists to share in the financial appreciation of his or her work after its first sale. The study will provide much needed empirical data to guide Congress in future legislative initiatives to ensure that artists realize a fair profit from their work.

This bill addresses a narrow and specific problem—the mutilation and destruction of works of fine art which are often one-of-a-kind and irreplaceable. Over the past three Congresses, I have worked with the copyright community to craft a precise bill that does not inadvertently affect other copyrighted works. I look forward to speedy approval by the committee and the full Senate, without changes that would upset this delicate balance.

President Kennedy observed that—

To further the appreciation of culture among all the people, to increase respect for the creative individual, to widen participation by all the processes and fulfillments of art—this is one of the fascinating challenges of these days.

It remains today an exciting challenge and I look forward to working with my colleagues here in the Senate to reaching that goal.

I ask unanimous consent that the full text of the bill be inserted at this point in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1198

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Visual Artists Rights Act of 1989".

SEC. 2. WORK OF VISUAL ART DEFINED.

Section 101 of title 17, United States Code, is amended by inserting after the paragraph defining "widow" the following:

"A 'work of visual art' is a painting, drawing, print, sculpture, or still photographic image produced for exhibition purposes only, existing in a single copy, in a limited edition of 200 copies or fewer, or, in the case of a sculpture, in multiple cast sculptures of 200 or fewer. A work of visual art does not include—

"(1) any version that has been reproduced in other than such limited edition prints or cast sculptures;

"(2)(A) any poster, map, globe, chart, technical drawing, diagram, model, applied art, motion picture or other audio visual work, book, magazine, periodical, or similar publication;

"(B) any merchandising item or advertising, promotional, descriptive, covering, or packaging material or container;

"(C) any portion or part of any item described in subparagraph (A) or (B);

"(3) any work made for hire;

"(4) any reproduction, depiction, portrayal, or other use of a work in, upon, or in any connection with any item described in paragraph (1), (2), or (3); or

"(5) any work not subject to copright protection under section 102 of this title.".

SEC. 3. RIGHTS OF ATTRIBUTION AND INTEGRITY.

"(a) RIGHTS OF ATTRIBUTION AND INTEGRITY.—Chapter 1 of title 17, United States Code, is amended by inserting after section 106 the following new section:

"§ 106A. Rights of certain authors to attribution and integrity

"(a) RIGHTS OF ATTRIBUTION AND INTEGRITY.—Subject to section 107 and independent of the exclusive rights provided in section 106, the author of a work of visual art—

"(1) shall have the right—

"(A) to claim authorship of that work, and

"(B) to prevent the use of his or her name as the author of any work of visual art which he or she did not create;

"(2) shall have the right to prevent the use of his or her name as the author of the work of visual art in the event of a distortion, mutilation, or other modification of the work as described in paragraph (3); and

"(3) subject to the limitations set forth in section 113(d), shall have the right—

"(A) to prevent any distortion, mutilation, or other modification of that work which would be prejudicial to his or her honor or reputation, and any intentional or grossly negligent distortion, mutilation, or modification of that work is a violation of that right, and

"(B) to prevent any destruction of a work of recognized stature, and any intentional or grossly negligent destruction of that work is a violation of that right.

In determining whether a work is of recognized stature, a court or other trier of fact may take into account the opinions of artists, art dealers, collectors of fine art, curators of art museums, conservators of recognized stature, and other persons involved with the creation, appreciation, history, or marketing of works of recognized stature. Evidence of commercial exploitation of a work as a whole, or of particular copies, does not preclude a finding that the work is a work of recognized stature.

"(b) SCOPE AND EXERCISE OF RIGHTS.—The author of a work of visual art has the rights conferred by subsection (a), whether or not the author is the copyright owner, and whether or not the work qualifies for protection under section 104. Where the author is not the copyright owner, only the author shall have the right during his or her lifetime to exercise the rights set forth in subsection (a).

"(c) EXCEPTIONS.—(1) The modification of a work of visual art which is a result of the passage of time or the inherent nature of the materials is not a destruction, distortion, mutilation, or other modification described in subsection (a)(3) unless the modification was the result of gross negligence in maintaining or protecting the work.".

"(2) The modification of a work of visual art which is the result of conservation is not a destruction, distortion, mutilation, or other modification described in subsection (a)(3) unless the modification is caused by gross negligence.

"(d) DURATION OF RIGHTS.—(1) With respect to works of visual art created on or after the effective date set forth in section 10(a) of the Visual Artists Rights Act of 1989, the rights conferred by subsection (a) shall endure for a term consisting of the life of the author and fifty years after the author's death.

"(2) With respect to works of visual art created before the effective date set forth in section 10(a) of the Visual Artists Rights Act of 1989, but not published before such effective date, the rights conferred by subsection (a) shall be coextensive with, and shall expire at the same time as, the rights conferred by section 106.

"(3) All terms of the rights conferred by subsection (a) run to the end of the calendar year in which they would otherwise expire.

"(e) TRANSFER AND WAIVER.—(1) Except as provided in paragraph (2), the rights conferred by subsection (a) may not be waived or otherwise transferred.

"(2) After the death of an author, the rights conferred by subsection (a) on the author may be exercised by the person to whom such rights pass by bequest of the author or by the applicable laws of interstate succession.

"(3) Ownership of the rights conferred by subsection (a) with respect to a work of visual art is distinct from ownership of any fixation of that work, or of a copyright or any exclusive right under a copyright in that work.".

(b) CONFORMING AMENDMENT.—The table of sections at the beginning of chapter 1 of title 17, United States Code, is amended by inserting after the item relating to section 106 the following new item:

"106A. Rights of certain authors to attribution and integrity.".

SEC. 4. REMOVAL OF WORKS OF VISUAL ART FROM BUILDINGS.

Section 113 of title 17, United States Code, is amended by adding at the end thereof the following:

"(d)(1)(A) Where—

"(i) a work of visual art has been incorporated in or made part of a building in such a way that removing the work from the building will cause the destruction, distortion, mutilation, or other modification of the work as described in section 106A(a)(3), and

"(ii) the author or, if the author is deceased, the person described in section 106A(e)(2), consented to the installation of the work in the building in a written instrument signed by the owner of the building and the author or such person,

then the rights conferred by paragraphs (2) and (3) of section 106A(a) shall not apply, except as may otherwise be agreed in a written instrument signed by such owner and the author or such person.

"(B) An agreement described in subparagraph (A) that the rights conferred by paragraphs (2) and (3) of section 106A(a) shall apply shall not be binding on any subsequent owner of the building except where such subsequent owner had actual notice of the agreement or where the instrument evidencing the agreeing was properly recorded, before the transfer of the building to the subsequent owner, in the applicable State real property registry for such building.

"(2) If the owner of a building wishes to remove a work of visual art which is a part of such building and which can be removed from the building without the destruction, distortion, mutilation, or other modification of the work as described in section 106A(a)(3), the author's rights under paragraphs (2) and (3) of section 106A(a) shall apply unless—

"(A) the owner has made a diligent, good faith attempt without success to notify the author or, if the author is deceased, the person described in section 106A(e)(2), of the owner's intended action affecting the work of visual art, or

"(B) the owner did provide such notice by registered mail and the person so notified failed, within 90 days after receiving such notice, either to remove the work or to pay for its removal.

If the work is removed at the expense of the author or the person described in section 106A(e)(2), title to that fixation of the work shall be deemed to be in the author or such person, as the case may be. For purposes of subparagraph (A), an owner shall be presumed to have made a diligent, good faith attempt to send notice if the owner sent such notice by registered mail to the last known address of the author or, if the author is deceased, to the person described in section 106A(e)(2).

"(3) The Register of Copyrights shall establish a system of records whereby any author of a work of visual art that has been incorporated in or made part of a building, or persons described in section 106A(e)(2) with respect to that work, may record their identities and addresses with the Copyright Office. The Register shall also establish procedures under which such authors or persons may update the information so recorded, and procedures under which owners of building may record with the Copyright Office evidence of their efforts to comply with this subsection.".

SEC. 5. PREEMPTION.

Section 301 of title 17, United States Code, is amended by adding at the end the following:

"(f)(1) On or after the effective date set forth in section 10(a) of the Visual Artists Rights Act of 1989, all legal or equitable rights that are equivalent to any of the rights conferred by section 106A with respect to works of visual art to which the rights conferred by section 106A apply are governed exclusively by section 106A and section 113(d) and the provisions of this title relating to such sections. Thereafter, no person is entitled to any such right or equivalent right in any work of visual art under the common law or statutes of any State.

"(2) Nothing in paragraph (1) annuls or limits any rights or remedies under the common law or statutes of any State with respect to—

"(A) any cause of action from undertakings commenced before the effective date set forth in section 10(a) of the Visual Artists Rights Act of 1989; or

"(B) activities violating legal or equitable rights that are not equivalent to any of the rights conferred by section 106A with respect to works of visual art.".

SEC. 6. INFRINGEMENT ACTIONS.

"(a) IN GENERAL.—Section 501(a) of title 17, United States Code, is amended—

(1) by inserting after "118"; the following: "or of the author as provided in section 106A(a)"; and

(2) by striking out "copyright." and inserting in lieu thereof "copyright or right of the author, as the case may be. For purposes of this chapter (other than section 506), any reference to copyright shall be deemed to include the rights conferred by section 106A(a).".

(b) EXCLUSION OF CRIMINAL PENALTIES.—Section 506 of title 17, United States Code, is amended by adding at the end thereof the following:

"(f) RIGHTS OF ATTRIBUTION AND INTEGRITY.—Nothing in this section applies to infringement of the rights conferred by section 106A(a).".

(c) REGISTRATION NOT A PREREQUISITE TO CERTAIN REMEDIES.—(1) Section 411(a) of title 17, United States Code, is amended in the first sentence by inserting after "United States" the following: "and an action

brought for a violation of the rights of the author under section 106A(a)".

(2) Section 412 of title 17, United States Code, is amended by inserting "an action brought for a violation of the rights of the author under section 106A(a) or " after "other than".

SEC. 7. STATUTE OF LIMITATIONS.

Section 507(b) of title 17, United States Code, is amended by adding at the end the following: "For purposes of an action brought for infringement of the rights under section 106A(a) of an author of a work of visual art, the claim accrues when the author (or person described in section 106A(e)(2), as the case may be) knew or should have known of the violation of the author's rights under section 106A(a).".

SEC. 8. FAIR USE.

Section 107 of title 17, United States Code, is amended by striking out "section 106" and inserting in lieu thereof "sections 106 and 106A".

SEC. 9. STUDY ON RESALE ROYALTIES.

(a) IN GENERAL.—The Register of Copyrights, in consultation with the Chair of the National Endowment for the Arts, shall conduct a study on the feasibility of implementing—

(1) a requirement that, after the first sale of a work of art, a royalty on any resale of the work, consisting of a percentage of the price, be paid to the author of the work; and

(2) other possible requirements that would achieve the objective of allowing an author of a work of art to share monetarily in the enhanced value of that work.

(b) GROUPS TO BE CONSULTED.—The study under subsection (a) shall be conducted in consultation with other appropriate departments and agencies of the United States, foreign governments, and groups involved in the creation, exhibition, dissemination, and preservation of works of art, including artists, art dealers, collectors of fine art, and curators of art museums.

(c) REPORT TO CONGRESS.—Not later than 28 months after the date of the enactment of this Act, the Register of Copyrights shall submit to the Congress a report containing the results of the study conducted under this section, and any recommendations that the Register may have as a result of the study.

SEC. 10. EFFECTIVE DATE.

(a) IN GENERAL.—Subject to subsection (b) and except as provided in subsection (c), this Act and the amendments made by this Act take effect 6 months after the date of the enactment of this Act.

(b) APPLICABILITY.—The rights created by section 106A of title 17, United States Code, shall apply to works created but not published before the effective date set forth in subsection (a), and to works created on or after such effective date, but shall not apply to any destruction, distortion, mutilation, or other modification (as described in section 106A(a)(3) of such title) of any work which occurred before such effective date.

(c) SECTION 9.—Section 9 takes effect on the date of the enactment of this Act.●

● Mr. KASTEN. Mr. President, I rise today in support of S. 1198, the Visual Artists Rights Act of 1989.

The Constitution of 1787 declared the following:

The Congress shall have the power * * * to promote the progress of Science and useful Arts, by securing for limited times to authors and inventors the exclusive right to their respective writings and discovers.

Today, more than 200 years later, the rights of one of our Nation's most important groups of inventors remain at risk. It is time Congress exercised its power to promote and secure the rights of America's visual artists.

The Federal Government has a responsibility to provide leadership in the arts and to ensure a lively climate in America that will enable men and women to pursue their art.

A very important part of the omnibus trade bill was the protection of U.S. intellectual property rights abroad. Can we in good conscience fail to protect the rights of visual artists right here at home?

This is an important and necessary bill to provide rights of integrity and attribution to visual artists. Works protected by this bill are one of a kind or very limited editions. When these works are altered or destroyed, they are gone—forever. We have a duty to protect them.

During the last Congress this legislation was carefully reviewed. Compromise language was agreed to which protects legitimate interests of museum and curatorial work.

Today there is no guarantee that the owner of a fine work of art will protect the integrity of that art. We have all heard the horror stories about paint being removed from sculpture, murals painted over, paintings altered. We have to commit ourselves to the fundamental premise that even when an artist has sold his work he has the moral and legal right to see the integrity of that work preserved.

This bill will require the Registrar of Copyrights and the Chair of the National Endowment for the Arts to study the feasibility of an artist sharing in the financial appreciation of their work after its first sale. The study will provide much needed data to guide Congress in future legislative initiatives to ensure that artists realize a fair profit from their work.

It is time we protect the creative skills of artists. I am proud to be an original cosponsor of this legislation introduced by my colleague from Massachusetts. I urge my colleagues to support this initiative.●

By Mr. CHAFEE (for himself, Mr. BRADLEY, Mr. MOYNIHAN, and Mr. DASCHLE):

S. 1199. A bill to amend the Social Security Act to improve Medicare and Medicaid payment levels to community health clinics; to the Committee on Finance.

COMMUNITY HEALTH CLINIC IMPROVEMENT ACT

● Mr. CHAFEE. Mr. President, I am introducing the Community Health Clinic Improvement Act, legislation which would reform the reimbursement under Medicare and Medicaid for community health clinics. I am joined in this effort by Senators BRADLEY, MOYNIHAN, and DASCHLE.

We face extraordinary problems in our health care system today. The number of Americans, especially children, without insurance coverage, and therefore, without access to services has been growing in the past few years. Something is desperately wrong in a country where we spend more than $500 billion per year on a health care system that does not even come close to being comprehensive, and fails to reach far too many.

The focus of our system is on high-technology care, mostly for people who are already sick. There is a decided lack of emphasis on preventive and primary care services. This results from the mistaken notion that people can afford prevention and primary care, but not acute care. This is not true—not for the working poor, not for the unemployed, and not for low-income families.

It seems to me we have been neglecting an important, and perhaps critical, resource in our fight to improve services and access: community health centers. Over the years, I have come to the conclusion that community health clinics should be our first line of offense in this effort.

There are over 900 health clinics in the United States. Most of them serve not only the uninsured, but also Medicare and Medicaid beneficiaries. These health clinics provide primary and preventive services, as well as acute care, to approximately 6 million Americans who might otherwise have nowhere to go for medical help.

Although they are providing exactly the sort of care we should be encouraging in the United States, our investment in their efforts, at both the State and Federal levels, is falling short.

Because we are in the midst of a budget crisis, their Public Health Service grant funds have been limited. In addition, they have had to rely on other Federal programs for adequate reimbursement—specifically, Medicare and Medicaid.

Unfortunately, payment under Medicare and Medicaid is insufficient to cover reasonable costs of providing care, because the method of reimbursement for providers in these two programs is completely unsuited to health clinics.

As a result, it appears that many health clinics are being forced to use scarce Federal grant funds to, in a sense, subsidize the Medicare and Medicaid Programs. This situation has put even more demands on already limited public and private grants and has hampered the clinics' ability to provide care to the uninsured. Moreover, because health clinics serve a disproportionate share of low-income and Medicare and Medicaid patients, there is virtually no capacity to shift costs. The net effect is that the ability of

health clinics to care for the working poor is slowly but surely being sapped of its strength.

The legislation I am introducing today would change the method of reimbursement under Medicare and Medicaid, and take into account the unique situation and composition of health clinics.

My bill would expand an existing program under Medicare which allows federally funded health clinics to qualify for cost-based reimbursement. It would make this same reimbursement method available to the 475 nonfederally funded health clinics. These clinics are virtually identical in function to the federally funded clinics, but do not qualify for this special status simply because of the limited funds available to the Public Health Service to certify and fund new clinics.

My proposal would allow health clinics that meet all the criteria for a federally funded health clinic to be certified and thus to qualify for cost-based reimbursement. The Medicaid Program also would be changed to establish cost-based reimbursement for all health clinics.

This measure would significantly increase access to health care—at a relatively low cost. Together, these changes will allow community health clinics in both rural and urban areas to serve about 750,000 additional people each year. I believe it will cost in the neighborhood of $40 million each year.

Community health clinics can and do play a critical role in our efforts to improve access to services for all Americans. We have a choice: We can continue to inadequately reimburse our health clinics, forcing more and more low-income people, including children, to lose access to health care each year; or, we can enact this legislation and expand access to health care for the uninsured. I urge my colleagues to join in this effort to provide reasonable Medicare and Medicaid reimbursement for community health clinics.●

By Mr. KERRY (for himself, Mr. JEFFORDS, Mr. ADAMS, Mr. ARMSTRONG, Mr. BENTSEN, Mr. BRADLEY, Mr. BURDICK, Mr. CHAFEE, Mr. COCHRAN, Mr. CRANSTON, Mr. DASCHLE, Mr. DURENBERGER, Mr. GLENN, Mr. INOUYE, Mr. LAUTENBERG, Mr. LEAHY, Mr. LIEBERMAN, Mr. METZENBAUM, Ms. MIKULSKI, Mr. MITCHELL, Mr. MOYNIHAN, Mr. NUNN, Mr. RIEGLE, Mr. ROBB, Mr. SANFORD, Mr. STEVENS, and Mr. WIRTH):

S.J. Res. 158. Joint resolution designating October 22 through 28, 1989, as "World Population Awareness Week"; to the Committee on the Judiciary.

WORLD POPULATION AWARENESS WEEK

● Mr. KERRY. Mr. President, during the past year Congress has increasingly focused its attention on the problems of global warming, rain forest deforestation, natural resource depletion, third world debt, and the dangers such environmental destruction present to the health and prosperity of the world and its people. Population growth is another essential factor in this equation and demands our attention.

Today the world's population exceeds 5 billion, and if population growth continues at its present rate, the world's population will double in the next 40 years. Most of the additional 5 billion people will be living in the Indian subcontinent, the Middle East, Africa, and Latin America—precisely those areas that are least equipped to support such growth.

If the United States is going to do something to address the pressing problems facing today's planet, we must recognize the strain that rapid population growth places on the already scarce resources of so many developing nations.

Last year, World Population Awareness Week educated Americans from Maine to Hawaii about the implications of rapid population growth in the developing world. The hundreds of university forums, public library exhibits, and community meetings that were held in relation to the week were extremely important.

The American public must continue to learn about the complex ways in which rapid population growth effects peace and prosperity in the Third World. We must be aware that infant mortality rates and death rates among mothers could be decreased if voluntary child spacing and maternal health programs were expanded. Half of the women of reproductive age in the developing world would like to control the size of their families but lack the means or ability to gain access to family planning.

The great effort that we are expending on environmental issues will not be enough if we ignore the fact that, according to demographers' predictions, Ethiopia's population will increase fourfold in the next several decades; India is expected to grow by 1 billion people; at present growth rates, El Salvador, a country the size of the State of Massachusetts, is expected to grow to 15 million people by the year 2025, and Mexico will gain 20 million people in the next 10 years.

This year World Population Awareness Week will take place on October 22 through October 28, 1989. Ten other countries, including Turkey, Brazil, Bangladesh, Tunisia, Zimbabwe, Costa Rica, Indonesia, Colombia, China, and Nigeria will also be participating. The expanded number of educational activities and events to be held this year will help the American public understand the implications of rapid population growth and will illustrate the direct effects that environmental destruction and other global problems have on people living in the Third World and the United States.

Mr. President, I ask unanimous consent that the text of the joint resolution be printed in the RECORD.

There being no objection, the joint resolution was ordered to be printed in the RECORD, as follows:

S.J. Res. 158

Whereas the population of the world today exceeds 5,000,000,000 and is growing at an unprecedented rate of approximately 90,000,000 per year;

Whereas virtually all of this growth is occurring in the poorest countries, those countries least able to provide even basic services for their current citizens;

Whereas the demands of growing populations have contributed substantially to enormous environmental devastation and pose threats of even greater harm to the world;

Whereas one-half of the 10,000,000 infant deaths and one-quarter of the 500,000 maternal deaths that occur each year in the developing world could be prevented if voluntary child spacing and maternal health programs could be substantially expanded.

Whereas research reveals that one-half of the women of reproductive age in the developing world want to limit the size of their families but lack the means or ability to gain access to family planning;

Whereas the global community has for more than 20 years recognized that it is a fundamental human right for people to voluntarily and responsibly determine the number and spacing of their children and the United States has been a leading advocate of this right;

Whereas the demands of growing populations force many countries to borrow heavily and sell off their natural resources to cover the interest on their debt;

Whereas selling off natural resources in such circumstances often causes irretrievable losses, such as the destruction of the tropical rain forests at a rate of 50,000 acres per day;

Whereas the reliance of a rapidly growing world population on burning fuels is a critical factor in the emission of carbon dioxide into the atmosphere, which many scientists believe has already catalyzed a warming of the Earth's climate;

Whereas pollution is damaging the ozone layer to such an extent that within 40 years the ultraviolet light reaching our planet is expected to be up to 20 percent greater than it is today; and

Whereas in 1988, 40 State Governors proclaimed "World Population Awareness Week" in their States to call attention to the consequences of rapid population growth and the House of Representatives also passed a resolution to that effect: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That October 22 through 28, 1989, is designated as "World Population Awareness Week", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe such week

with appropriate programs, ceremonies, and activities.●

ADDITIONAL COSPONSORS

S. 216

At the request of Mr. MOYNIHAN, the name of the Senator from North Carolina [Mr. SANFORD] was added as a cosponsor of S. 216, a bill to establish the Social Security Administration as an independent agency, which shall be headed by a Social Security Board, and which shall be responsible for the administration of the old age, survivors, and disability insurance program under title II of the Social Security Act and the supplemental security income program under title XVI of such act.

S. 478

At the request of Mr. DODD, the names of the Senator from Pennsylvania [Mr. HEINZ] and the Senator from California [Mr. CRANSTON] were added as cosponsors of S. 478, a bill to provide Federal assistance to the National Board for Professional Teaching Standards.

S. 494

At the request of Mr. DURENBERGER, the name of the Senator from Iowa [Mr. HARKIN] was added as a cosponsor of S. 494, a bill to amend the Internal Revenue Code of 1986 to extend for 5 years, and increase the amount of, the deduction for health insurance for self-employed individuals.

S. 724

At the request of Mr. GRAHAM, the name of the Senator from California [Mr. CRANSTON] was added as a cosponsor of S. 724, a bill to modify the boundaries of the Everglades National Park and to provide for the protection of lands, water, and natural resources within the park, and for other purposes.

S. 811

At the request of Mr. BENTSEN, the name of the Senator from Arizona [Mr. DECONCINI] was added as a cosponsor of S. 811, a bill to amend the Internal Revenue Code of 1986 to provide notice to any taxpayer of amounts withheld in excess of such amounts reported on a tax return by such taxpayer.

S. 933

At the request of Mr. HARKIN, the name of the Senator from Tennessee [Mr. SASSER] was added as a cosponsor of S. 933, a bill to establish a clear and comprehensive prohibition of discrimination on the basis of disability.

S. 993

At the request of Mr. KOHL, the names of the Senator from Massachusetts [Mr. KERRY] and the Senator from Pennsylvania [Mr. HEINZ] were added as cosponsors of S. 993, a bill to implement the Convention on the Prohibition of the Development, Production, and Stockpiling of Bacteriological (Biological) and Toxin Weapons and Their Destruction, by prohibiting certain conduct relating to biological weapons, and for other purposes.

S. 1041

At the request of Mr. CONRAD, the name of the Senator from Mississippi [Mr. COCHRAN] was added as a cosponsor of S. 1041, a bill to amend the Internal Revenue Code of 1986 to provide tax relief for farmers who realize capital gain on the transfer of farm property to satisfy an indebtedness, and for other purposes.

S. 1130

At the request of Mr. PRYOR, the name of the Senator from Iowa [Mr. GRASSLEY] was added as a cosponsor of S. 1130, a bill to amend titles II and XVI of the Social Security Act to improve supervision of representative payees on behalf of beneficiaries under those programs.

S. 1139

At the request of Mr. ROTH, the name of the Senator from Georgia [Mr. NUNN] was added as a cosponsor of S. 1139, a bill to provide for equality of State taxation of domestic and foreign corporations.

S. 1149

At the request of Mr. BAUCUS, the name of the Senator from Louisiana [Mr. BREAUX] was added as a cosponsor of S. 1149, a bill to amend title XVIII of the Social Security Act and the Internal Revenue Code of 1986 to limit application of the benefits and premiums of the Medicare Catastrophic Coverage Act of 1988 to those voluntarily enrolled in part B of the Medicare program.

SENATE JOINT RESOLUTION 57

At the request of Mr. PELL, the names of the Senator from Mississippi [Mr. COCHRAN] and the Senator from Wyoming [Mr. SIMPSON] were added as cosponsors of Senate Joint Resolution 57, a joint resolution to establish a national policy on permanent papers.

SENATE JOINT RESOLUTION 124

At the request of Mr. GORTON, the name of the Senator from New Mexico [Mr. DOMENICI] was added as a cosponsor of Senate Joint Resolution 124, a joint resolution to designate October as "National Quality Month."

SENATE JOINT RESOLUTION 157

At the request of Mr. LEVIN, the names of the Senator from North Dakota [Mr. CONRAD] and the Senator from Delaware [Mr. ROTH] were added as cosponsors of Senate Joint Resolution 157, a joint resolution designating June 16, 1989, as "Soweto Remembrance Day."

SENATE CONCURRENT RESOLUTION 45

At the request of Mr. MOYNIHAN, the names of the Senator from Texas [Mr. BENTSEN] and the Senator from Connecticut [Mr. LIEBERMAN] were added as cosponsors of Senate Concurrent Resolution 45, a concurrent resolution relating to congressional support of a Presidential waiver of the provisions of the Jackson-Vanik amendment with respect to the Soviet Union.

AMENDMENT NO. 196

At the request of Mr. BENTSEN, his name was added as a cosponsor of amendment No. 196 proposed to S. 5, a bill to provide for a Federal program for the improvement of child care, and for other purposes.

At the request of Mr. MITCHELL, the names of the Senator from Iowa [Mr. HARKIN], the Senator from West Virginia [Mr. ROCKEFELLER], the Senator from California [Mr. CRANSTON], and the Senator from Michigan [Mr. RIEGLE] were added as cosponsors of amendment No. 196 proposed to S. 5, supra.

SENATE CONCURRENT RESOLUTION 47—RELATING TO MULTILATERAL SANCTIONS AGAINST SOUTH AFRICA

Mr. SIMON (for himself, Mr. BOSCHWITZ, Mr. BOREN, and Mr. DODD) submitted the following concurrent resolution; which was referred to the Committee on Finance:

S. CON. RES. 47

Whereas the Congress found in the Comprehensive Anti-Apartheid Act of 1986 that "international cooperation is a prerequisite to an effective anti-apartheid policy";

Whereas the Comprehensive Anti-Apartheid Act of 1986 states that it is the policy of the United States "to seek international agreements with the other industralized democracies to bring about the complete dismantling of apartheid";

Whereas the Comprehensive Anti-Apartheid Act of 1986 states that "Sanctions imposed under such agreements should be both direct and official executive or legislative acts of governments.";

Whereas the Comprehensive Anti-Apartheid Act of 1986, Congress expressed its sense that the President "should instruct" the Permanent Representative of the United States to the United Nations to propose that the United Nations Security Council impose measures against South Africa "of the same type as are imposed by this Act";

Whereas the Permanent Representative of the United States to the United Nations contravened the intentions of the Congress, as expressed in the Comprehensive Anti-Apartheid Act of 1986, by vetoing two proposed Security Council Resolutions, on February 20, 1987, and March 7, 1988, that would have imposed selective but mandatory international economic sanctions against South Africa, similar to those imposed by the United States through the enactment of the Comprehensive Anti-Apartheid Act of 1986;

Whereas those vetoes by the United States in the United Nations Security Council run counter to the recommendations of the Secretary of State's Advisory Committee on South Africa, established pursuant to Executive Order 12532 of September 9, 1985;

Whereas the Advisory Committee concluded in its January 1987 report that the "most effective external pressure" on the Government of South Africa will come from a "concerted international effort";

Whereas the Advisory Committee recommended that the President begin "urgent consultations" with United States allies to "enlist their support for a multilateral program of sanctions" drawn from those measures in the Comprehensive Anti-Apartheid Act of 1986;

Whereas the European Community, the British Commonwealth, and Japan have adopted selected economic sanctions against the Government of South Africa which parallel some of the measures taken by the United States, such as a ban on new investment and on the importation of gold coins, iron, and steel;

Whereas Japan, Italy, France, the United States, the United Kingdom, and the Federal Republic of Germany are South Africa's major trading partners, accounting for 81 percent of South Africa's imports and 78 percent of South Africa's exports in 1987;

Whereas Japan and the Federal Republic of Germany became South Africa's top trading partners in 1987;

Whereas the United States General Accounting Office concluded in its September 1988 summary report on South Africa that sanctions imposed by the United States on South Africa under the Comprehensive Anti-Apartheid Act of 1986 reduced South African exports by $417 million and caused a total trade reduction of $469 million be-

cause of South Africa's inability to redirect trade to other markets;

Whereas the United States, United Kingdom, the Federal Republic of Germany, and Switzerland account for almost half of South Africa's international debt of $23 billion;

Whereas Congress authorized the President in the Comprehensive Anti-Apartheid Act of 1986 to limit the importation into the United States of products or services of a foreign country "to the extent to which such foreign country benefits from, or otherwise takes commercial advantage of, any sanction or prohibition" imposed under the Comprehensive Anti-Apartheid Act of 1986;

Resolved by the Senate (the House of Representatives concurring), That it is the sense of the Congress that the President should—

(1) take immediate steps to achieve a consensus among South Africa's major trading partners on effective economic, political and diplomatic measures to bring about an end to apartheid;

(2) implement to the fullest extent all the provisions of the Comprehensive Anti-Apartheid Act of 1986;

(3) implement to the fullest extent the recommendations of the Advisory Committee;

(4) take active steps designed to bring about concerted multilateral pressure by Japan, Canada, the member states of the European Community, and other United States allies on the Government of South Africa to dismantle its immoral and inhumane system of apartheid through a process of negotiation with legitimate representatives freely chosen by all the citizens of South Africa;

(5) instruct the Permanent Representative of the United States to the United Nations to offer a resolution in the Security Council that would impose selective mandatory sanctions similar to those embodied in the Comprehensive Anti-Apartheid Act of 1986 against South Africa for a period of twelve months;

(6) instruct the Permanent Representative of the United States to the United Nations to vote for any resolution offered in the Security Council that would impose selective mandatory sanctions against South Africa as a means of promoting an end to apartheid;

(7) strengthen the impact of the Comprehensive Anti-Apartheid Act of 1986 through the use of diplomatic and political pressure in private as well as public fora;

(8) direct the Department of State, the Department of Commerce and other appropriate executive agencies to monitor carefully trade relationship between South Africa and United States allies; and

(9) take effective action against those foreign countries benefitting from or taking advantage of United States sanctions against South Africa.

SEC. 2. The Secretary of the Senate shall transmit a copy of this concurrent resolution to the President.

Mr. SIMON. Mr. President, I am submitting a concurrent resolution today cosponsored by Senator BOSCHWITZ, Senator BOREN, and Senator DODD, that calls on the United States to ask other countries to join in the limited sanctions that we have right now with South Africa. It is not a substitute for strengthened sanctions by our own country, and I would add it is not contrary to what the administration's position is. Right now the administration has not taken a position on this, and Secretary of State James Baker has made clear in statements to the Foreign Relations Committee that they have not taken a position on this.

What we would like the administration to do is to simply ask Japan, West Germany, Great Britain, the other major trading partners of South Africa, to join so that peaceful change can be achieved in South Africa.

Today is the 13th anniversary of the Soweto Township uprising when there was a massive slaughter of young people and many others.

South Africa is a time bomb. South Africa is going to explode. I cannot tell you whether it is going to explode 6 days from now or 6 months from now or 6 years from now, but explode it certainly will unless there is peaceful change moving away from apartheid, and we have to get that message to them that we want peaceful change.

It is not punitive. I do not want to punish anyone. I just want to bring justice to people in South Africa, and that is in the interest of the whites, the blacks, the coloreds, the Asians, the major categories that they list.

Let me just mention a couple of other things very briefly. There are those who say, well sanctions really do not work. The GAO report in September says that sanctions have cost South Africa at least $469 million in trade and in terms of their credit market there is no question that it has cost South Africa. South Africa today pays about 20 percent interest. That is a huge interest rate for a country that has the basic economic strengths that South Africa has.

The study also indicated that six countries, the United States, Japan, Italy, France, West Germany, and Great Britain account for 81 percent of the trade in South Africa. There is just no question that we can have an impact.

Let me add, because my colleague from Kansas, the Republican leader, mentioned the other day apparently in response to a news article, that was not accurate, that Bishop Tutu and others are backing off their call for sanctions. That is just not the case. The real black leaders of South Africa are urging sanctions.

My hope is that we can adopt this concurrent resolution in the very near future and that we can continue to send a very clear message to South Africa. We want justice for all the people of South Africa. We want to get rid of the system of apartheid. We do not expect it to disappear overnight, but we want to see a plan that moves that nation in the direction of justice.

If apartheid does not change, there is going to be massive bloodshed in South Africa and the lesson of history is that that kind of massive bloodshed is not going to be contained within the borders of one country.

SENATE RESOLUTION 147—ORIGINAL RESOLUTION REPORTED AUTHORIZING THE DISCHARGE OF CERTAIN FUNCTIONS BY THE SECRETARY OF THE SENATE

Mr. FORD, from the Committee on Rules and Administration, reported the following original resolution; which was placed on the calendar:

S. RES. 147

Resolved, That, for purposes of subchapter I and II of chapter 37 of title 31, United States Code (relating to claims of or against the United States Government), the United States Senate shall be considered to be a legislative agency (as defined in section 3701(a)(4) of such title), and the Secretary of the Senate shall be deemed to be the head of such legislative agency.

SEC. 2. Regulations prescribed by the Secretary pursuant to section 3716 of title 31, United States Code, shall not become effective until they are approved by the Senate Committee on Rules and Administration.

SENATE RESOLUTION 148—ORIGINAL RESOLUTION REPORTED RELATING TO THE PURCHASE OF CALENDARS

Mr. FORD, from the Committee on Rules and Administration, reported the following original resolution; which was placed on the calendar:

S. RES. 148

Resolved, That the Committee on Rules and Administration is authorized to expend from the contingent fund of the Senate, upon vouchers approved by the chairman of that committee, not to exceed $72,800 for the purchase of one hundred and four thousand 1990 "We The People" historical calendars. The calendars shall be distributed as prescribed by the committee.

NOTICES OF HEARINGS

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. GLENN. Mr. President, I would like to announce that the Governmental Affairs Committee will hold a hearing on Wednesday June 21, at 9:30 a.m., in SD-342 Dirksen continuing with the subject: "Averting Alcohol Abuse," new directions in prevention policy. For further information, please call Len Weiss, staff director, at 224-4751.

Mr. President, I would like to announce that the Governmental Affairs Committee will hold a hearing on Friday, June 23, at 9:30 a.m., on the legislation: S. 253, National Nutrition Monitoring Act. For further information, please call Len Weiss, staff director, at 224-4751.

AUTHORITY FOR COMMITTEES TO MEET

SUBCOMMITTEE ON MEDICARE AND LONG-TERM CARE

Mr. DODD. Mr. President, I ask unanimous consent that the Subcommittee on Medicare and Long-Term Care of the Committee on Finance be authorized to meet during the session of the Senate on June 16, 1989, at 9:30 a.m. to hold a hearing on the issue of physician payment reform under the Medicare Program.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. DODD. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation, be authorized to meet during the session of the Senate on June 16, 1989, at 9:30 a.m. to hold a hearing on the nominations of Richard Harrison Truly, of Texas, to be Administrator, and James R. Thompson, Jr., of Alabama, to be Deputy Administrator, of the National Aeronautics and Space Administration.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON GOVERNMENT INFORMATION AND REGULATION

Mr. DODD. Mr. President, I ask unanimous consent that the Subcommittee on Government Information and Regulation, of the Committee on Governmental Affairs, be authorized to meet during the session of the Senate on June 16, 1989, at 9:30 a.m., to discuss the reauthorization of the Paperwork Reduction Act.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON FEDERAL SERVICES, POST OFFICE AND CIVIL SERVICE

Mr. DODD. Mr. President, I ask unanimous consent that the Subcommittee on Federal Services, Post Office and Civil Service, Committee on Governmental Affairs, be authorized to meet during the session of the Senate on Friday, June 16, 1989, at 9:30 a.m., to examine policy issues regarding operational testing, as well as contracting practices.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON THE CONSTITUTION

Mr. DODD. Mr. President, I ask unanimous consent that the Subcommittee on the Constitution of the Committee on the Judiciary, be authorized to meet during the session of the Senate on Friday, June 16, 1989, at 10:30 a.m., to hold a oversight hearing on the Bail Reform Act of 1984.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON HOUSING AND URBAN AFFAIRS

Mr. DODD. Mr. President, I ask unanimous consent that the Subcommittee on Housing and Urban Affairs of the Committee on Banking, Housing, and Urban Affairs be allowed to meet during the session of the Senate on Friday, June 16, 1989, at 10 a.m., to conduct hearings on S. 566, the National Affordable Housing Act of 1989.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON ENVIRONMENTAL PROTECTION

Mr. DODD. Mr. President, I ask unanimous consent that the Subcommittee on Environmental Protection, Committee on Environment and Public Works, be authorized to meet during the session of the Senate on Friday, June 16, 1989, at 10 a.m., to conduct a hearing on the implementation of the 1987 Amendments to the Federal Water Pollution Control Act.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

MAGGIE

● Mr. LEAHY. Mr. President, Vermont's favorite columnist has written her final entry for the Burlington Free Press, my State's largest newspaper. Maggie Maurice, known simply as Maggie by the newspaper's readers, has retired after more than 23 years of reporting on people and events in Chittenden County.

A friendly, wonderfully charming person, Maggie developed a style of community reporting that was a readable and entertaining as it was informative.

In a wonderful story on her retirement, John Johnston, a Free Press staff writer notes:

Her Sunday column was like a visit to the general store from many Vermonters. It was the place a person could find out about the latest comings and goings, could learn who's who and what's what, or could just listen to the proprietor's musings on the weather.

A person like Maggie Maurice helped define an entire community. The outpouring of affection for her upon retirement represents the gratitude and appreciation of the public she served so well.

I would ask that this excellent article by Mr. Johnston, that appeared in the June 2, 1989, edition of the Burlington Free Press, be reprinted in the CONGRESSIONAL RECORD, so that the Senators and public at large can learn more about this wonderful person.

Vermonters miss you already, Maggie, but thank you for the memories.

The article follows:

MAGGIE!

(By John Johnston)

One day in late December 1965 two production workers at The Burlington Free Press thought aloud about the newly hired women's editor, who was mired in a mass of wedding, engagement and anniversary announcements. "I give her six weeks," one quipped.

The women's editor, a bit overwhelmed by the new job, overheard the remark and wondered if they were right.

But she persevered, began churning out stories, and over the next 23½ years became one of the newspaper's most popular and respected writers.

Today that writer, Maggie Maurice, retires from the newspaper. She plans to stay active, take classes and possibly travel.

"She's very, very much going to be missed," said Free Press President and Publisher Donna Donovan, echoing the thoughts of legions of loyal readers.

Said Gov. Madeline Kunin: "Maggie Maurice is a Vermont institution. It's hard to imagine opening up the Sunday Free Press and not seeing her column. She captures the human side of the news, those small but important events that add pleasure to our lives."

Reading Maurice's column, which has appeared Sundays in the Living section for 14 years, was like a visit to the general store for many Vermonters. It was the place a person could find out about the latest comings and goings, could learn who's who and what's what, or could just listen to the proprietor's musings on the weather.

"We pick up our Sunday Free Press from a delivery tube en route to church," said former Free Press Publisher J. Warren McClure. "As I drive, I always ask my wife, Lois, 'What's in Maggie's column today?' "

"It's like reading a letter from your best friend," said Maggie Green, who retired last year as director of the Sara Holbrook Community Center. "For many of us, she's the reason we buy the Sunday paper. She is the personal side of Burlington for us."

The column was born in 1975 along with the newspaper's Sunday features section. A group of editors from Gannett Co., which bought the Free Press in 1971, took Maurice to lunch and announced: "You're going to be a columnist."

Her philosophy from the outset, Maurice said, was "to tell newsy things that weren't in other parts of the paper." But in the beginning that was easier said than done.

"Nobody would tell me a thing," she said. Jeannie Williams, who now writes a column for USA Today, was one of the Gannett editors who helped launch the Free Press Living section. She encouraged Maurice to attend events that might yield newsworthy nuggets.

"But Jeannie, I'm not invited," Maurice said.

"Go!" came the response.

"So I got pretty brazen," Maurice said.

But she knew what her column *would not* include. "I wouldn't ever write anything to hurt anybody. It's not worth it to me," she said.

Former Gov. Philip Hoff, who has known Maurice almost 40 years, said her non-judgmental nature is one of her most endearing qualities.

"Maggie has that wonderful characteristic of being able to accept people for what they are, and then finding something unique and interesting about them.

"She always finds a way of looking at people in their most favorable light. It isn't a question of just being kind, it's that this is the way she approaches life."

The column sometimes produced some interesting results. On Jan. 10, 1982, Maurice wrote: "No more time and temperature by calling the Burlington Savings Bank. It was a nice service. Not cost effective advertising,

a representative of the bank said. So it goes."

Three weeks later, the bank placed a large advertisement in the Free Press announcing the reinstatement of time and temperature. It carried this headline: "OK, Maggie, you win."

Although the column contributed heavily to her popularity, her feature stories earned her the most professional recognition.

An article Maurice wrote in 1978 about the appearance of poet Archibald MacLeish in Middlebury won first prize in the Best of Gannett feature writing competition, which included entries from 78 daily newspapers.

In a note MacLeish wrote to Maurice after the article appeared, he said he was "naturally quite pleased by it, but that is not why I am writing. . . . What moves me is the piece itself. You have caught the tone and feel of that room, that audience, the rain on the roof. Lovely, lovely writing!"

Other accolades have come from the New England Women's Press Association, the New England Press Association, the Visiting Nurse Association and the Vermont Council on the Arts.

She is most grateful for the Vermont awards. Indeed, her feelings for the state run deep. "I love Burlington," she said. "I love Vermont. I believe in Burlington."

The Syracuse, NY, native moved here after graduating from Tufts University with an English degree in 1944. She was hired by the Free Press to write obituaries, weather reports and birth announcements, but acknowledges that she "goofed off." She was fired after a year.

"It was the best thing that ever happened to me," she said. "I have been hustling ever since. I never goofed off again."

That year also was significant because she was assigned to interview soldiers returning from World War II. One of them was Melville "Pug" Page Maurice, an Army Veteran who had seen action in the Pacific.

When the article appeared, his name was spelled "Morris." Mr. Maurice called Maggie Armstrong and pointed out the mistake. "I hoped I'd never see him again," she now says.

But they met shortly thereafter on the street and he held no grudge. Fourteen months later, he asked her to marry him and this year they will celebrate their 43rd wedding anniversary.

After leaving the Free Press, Maurice worked a year as a proofreader for the old Burlington Daily News, then spent one-year stints with radio stations WJOY and WCAX. She quit work for 13 years to raise her four children.

"Don't regret a bit of it," she said.

But with two dyslexic children and bills piling up, she went back to work as an editorial assistant for the University of Vermont Extension Service in the early 1960s. In 1965, then-Free Press Editor Gordon Mills asked if she wanted to apply for the job of women's editor, and she got the job.

Once Maurice had the multitude of social announcements under control, she wanted to do more. So she began coming in early and writing a story or two a week.

One of her role models was Vic Maerki, who covered City Hall and now writes a weekly column for the newspaper's opinion page.

"He was brilliant," Maurice said. "He sort of challenged me because he thought I was no good and I wanted to show him. If it weren't for Vic Maerki I'd still be typing those weddings."

In 1968, Publisher McClure sent Maurice to a two-week American Press Institute seminar where she learned lessons in reporting, writing and layout. "That changed my life," she said. "I came back and announced I was lifestyles editor."

And indeed she covered the gamut of lifestyles. The Maggie Maurice byline perched above stories on priests, politicians, rabbis, restaurateurs, writers—the list of the famous and not-so-famous goes on and on.

Former Free Press photographer Stu Perry often was paired with Maurice on assignments. "She could charm the pants off any celebrity," he said. "In fact, she did exactly that when she called on the late comedian Georgie Jessel at a South Burlington motel. Jessel answered his own door, clutching his cane in one hand and his pants in another. Never blinking an eye, Maggie launched into her interview before Jessel had the second leg in his pants."

No one knows how many interviews Maurice has conducted—"It's better we don't," she said—but Green notes that it's likely countless readers feel a special attachment to the Free Press writer.

They are the people whose family albums and scrapbooks contain newspaper articles that have touched their lives. Articles with the byline: By Maggie Maurice.

Said Green: "She may be gone from the Free Press, but she'll always be with us because of those memories."

HE'LL MISS MAGGIE'S COMPASSION

(By John Johnston)

As I scanned old clips for the accompanying story on Maggie Maurice I came across something she wrote when Walter Cronkite retired.

"I wonder how Walter Cronkite really felt on Friday night when he did his last broadcast as CBS anchorman," she wrote in her March 8, 1981, column. "So many tributes have appeared that you'd think he died. Probably he was glad to get it over with, the leaving, I mean, although who knows how to relish a great moment better than Walter Cronkite."

As Maggie embarks on her first summer off in 28 years, I'm sure she, too, will be glad to get the leaving over with.

The fact that the newspaper is making a relatively big deal about all this no doubt makes her more than a little uncomfortable. Maggie is a private person who would, I'm sure, prefer to make a quiet exit.

That's just my perception, of course, based on my interview with her and the number of times—roughly a dozen—that she prefaced a statement with "You don't have to write this down."

Since I'm already in trouble for mentioning the "R" word (Maggie prefers the phrase "moving on" to "retiring"), I figured I might as well dig myself a deeper grave by devoting this column to her.

Certainly there's no shortage of material. Mention that Maggie is retiring and it triggers an outpouring of affection from the people she's worked with and written about. To wit:

Bish Bishop, retired Free Press outdoors editor: "She's one of the most pleasant people I've ever worked for in a business that's known for its stress. Nobody's indispensable, but some people are really missed and she's going to be one of them."

Former Free Press librarian Barbara VonBruns: "Maggie is not only a gifted writer but a thoughtful and considerate lady. Be it her family, her friends or her church, she generously cares about people."

Bishop John A. Marshall of the Catholic Diocese of Burlington: "She has a very genuine interest in the person she's interviewing. She has that style of writing that catches the interest of people."

Kay H. Ryder, public relations director for the Visiting Nurse Association: "When I saw her in someone's home, she always reminded me of the way our staff operates—we're guests. It wasn't 'I'm going to interview you,' it was 'I want to interview you. I want to hear what you have to say.'"

Sheila Herberg, executive director of the Humane Society of Burlington: "She's been a great help to me at the shelter and made many people aware of what we do here. She's part of the whole scene in Burlington."

The list could go on and on.

I've probably learned more facts about Maggie Maurice in the past week than I learned in the two years since I first met her. But the really important stuff I didn't have to be told: that she is a compassionate, caring, witty, dedicated person with a heart of gold.

When Maggie leaves the newsroom, I'll not only miss her stories and column, but the little, less noticeable things: her compliments, because she was always the first to say, "Nice story"; the funny notes she'd write on the computer; and I'll even miss the way she answers the phone. There was something comforting about hearing her say "Hello" instead of "Free Press newsroom."

Maggie's Jan. 1, 1984, column looked back over the past year. I think it's just as relevant today as it was then. Here's an excerpt:

"But isn't life a journey? You may get lost and never find your destination, but you have all kinds of adventures along the way.

"Looking back over the year is like getting on the scales. Unless you're somebody like Meryl Streep, you don't want to look. But then you do, and what you see gives you new resolve. You can do anything, you tell yourself, if you just try."

Not only can you do anything, but as Maggie showed us, you can do it with class.●

DENIS GALVIN, NATIONAL PARK SERVICE

● Mr. McCAIN. Mr. President, excellence and dedication to service are qualities that Americans admire and cherish. Today I would like to call attention to a remarkable individual who has set a standard for those qualities throughout his 27-year career with the National Park Service. I am speaking about Mr. Denis Galvin, whose leadership and expertise as Deputy Director of NPS will be sorely missed.

As you know, Mr. President, the American people have long prized the Park Service as a jewel among Government agencies with uncompromising standards for excellence. The stewardship of Denis Galvin is one of the primary reasons that we have held this agency in such high regard. His commitment to the agency's mission, knowledge of the issues, creativity, dependability and ethical standards reflected the best in public service. He has distinguished himself and is a role model to any young man or woman contemplating a career in public service.

I had the great pleasure of working with Denis on a number of issues affecting the National Park System. Of particular note is our work on issues involving the Grand Canyon National Park—especially the problem of unrestricted overflights in the Canyon area. His interest and assistance were essential in helping me clarify both the issues and objectives of protecting the pristine experience that is the essence of hiking or rafting the Grand Canyon. He approached this issue in his usual fashion—with vigor, unquestioned professionalism, and the best interests of the resource at heart. I might add that while the 100th Congress finally enacted legislation to restrict overflights, in 1975 it was Denis who had recommended taking action on that issue. This was typical of his foresight and ability.

His guiding hand played a role in so many important efforts to restore, preserve, and protect our Nation's natural and historical heritage—too many to number here. As Denis looks back on his assignment as Deputy Director at the Park Service, he must do so with great satisfaction. His stewardship has left a special legacy—one that can be measured in the joy found by the millions who visit our Nation's parks. Denis, please accept the deepest and warmest heartfelt thank you from a grateful Nation on a job well done. Your contribution is enduring.●

SELMA TEAM WINS ODYSSEY OF THE MIND COMPETITION

● Mr. SHELBY. Mr. President, I rise today to recognize the outstanding achievement of seven young Alabamians from Meadowview Elementary School who were judged the best "Ye Gods" team at the Odyssey of the Mind international competition held in Boulder, CO.

The Meadowview Elementary School in Selma, AL, embodies many characteristics that set it apart as a leader. With an innovative curriculum and an outstanding faculty, there are many factors that distinguish the Meadowview Elementary School from its counterparts nationwide. Selected from over 600 schools across the world, the "Ye Gods" team from Selma, AL, won high marks not only for its academic excellence in creative problem solving, but also for the commitment, dedication, and understanding of the coaches Martha Lockett, Wanda Calame, and Leah Weaver.

Odyssey of the Mind is a creative problem solving competition. The teams competing consist of especially gifted students. Members of the first-place Meadowview team are: Peyton Lockett, Patrick Weaver, Scott Weaver, Logan Casey, Clay Blanton, Matt Calame, and Amanda Calame. The "Ye Gods" team put together an advertising campaign to promote a product related to a mythical character. The students competed with 47 other teams in their category and while the competition was fierce, they managed to come out on top.

Frequently in Congress, we have the opportunity to witness the culmination of many levels of effort. We have a chance to see our combined goal—excellence in education—come to fruition through the unity of Federal, State, and local efforts. Meadowview Elementary School is a product of a community that cares about education and that wants the best for its children.

I applaud the school; its principal, tremendous faculty, and, of course, the Odyssey of the Mind team members and coaches.●

STALEMATE IN AFGHANISTAN?

● Mr. HUMPHREY. Mr. President, Representative SOLARZ, chairman of the House Foreign Affairs Subcommittee on Asian and Pacific Affairs, held a timely hearing on Afghanistan yesterday at which he graciously allowed me to testify. There has been concern expressed by some of my colleagues recently as to the continued commitment of the United States for the Afghan people. I commend Chairman SOLARZ for focusing the attention of his subcommittee on Afghanistan at such a crucial juncture.

I have been concerned that recent press reports about the situation in Afghanistan would erode congressional support for the Afghan Mujahideen. My concern was so great, in fact, that I traveled to Pakistan only 2 weeks ago to determine what was truly going on inside the country. The statement that I include in the RECORD today, and which I delivered before Chairman SOLARZ' subcommittee yesterday, represents the findings of my trip, and assessments of the situation based on 5 years of close involvement with the Afghan issue. I hope my colleagues can take the time to review the brief remarks.

Mr. President, I ask that the accompanying statement be included in the RECORD.

The statement follows:

STATEMENT OF SENATOR GORDON J. HUMPHREY BEFORE THE HOUSE FOREIGN AFFAIRS COMMITTEE, JUNE 14, 1989

Mr. Chairman, thank you for the opportunity to testify.

In recent weeks, some accounts of the situation in Afghanistan have portrayed it as a stalemate. Even worse, some accounts have portrayed the struggle as merely a "civil war" and by implication a struggle in whose outcome we should have little interest. Some accounts assert the United States and Pakistan have decided to opt for a political settlement, as though that is a new policy and represents an abandonment of the Afghan resistance. In my view, such accounts result from misunderstandings of fact.

Is there a stalemate? There is not. It's easy to understand why some might perceive a stalemate, when, first of all, one recalls the predictions that the Kabul regime would fall automatically upon the withdrawal of Soviet troops. There was never any grounds for such self-delusion, for the Soviets made it clear from the start that they would attempt to keep their puppet regime in power by all means short of continued military occupation. Indeed, the Soviets left behind a mountain of weaponry and have provided a continuous resupply so massive that it might exceed last year's levels. Second, fighting always comes to a virtual halt between November and June, when the mountains are blocked by snow and it is literally impossible to resupply the resistance forces. Indeed, this year's snowfall was the heaviest in decades. And it isn't only a problem of snow, there is the added problem of swollen rivers in the spring runoff. To say there is a stalemate before the fighting season begins, is on the face of it illogical.

It is true, the resistance has failed so far to take Jalalabad. But, again, bear in mind, the Kabul regime has been able to concentrate its forces at Jalalabad, because fighting elsewhere has been negligible. Very soon the Kabul regime will find itself thinly stretched, as fighting resumes throughout the country.

One further point about Jalalabad. Reading the reports over the last several weeks, one gains the impression that the resistance have been firing upon the city without restraint, causing large numbers of needless civilian casualties. One gains the impression that Jalalabad, the most beautiful city in Afghanistan, is being utterly destroyed. Mr. Chairman, I invite my colleagues to request an intelligence briefing. I invite them to look at the overhead photos of excellent quality, as I have as recently as one week ago. My colleagues will see that the city has hardly been touched. Try to find even one rooftop destroyed, try to find one damaged structure. However, then view photos of areas outside the city, where the Kabul regime's military fortifications lie, and you will see a profusion of craters and destroyed structures. The photo evidence is quite convincing: the city of Jalalabad has suffered only light damage. The resistance have not been indiscriminate in their firing. They have been careful, because, in fact, many of them have relatives in the city.

The second question is, is this just a "civil war" and, by implication, a struggle about whose outcome we should feel ambivalent? Let us not forget, Mr. Chairman, that before being elevated by his Soviet patrons, Mr. Najibullah was the head of the Afghan version of the KGB. Let us not forget that he and his party cooperated in a genocide against the Afghan people costing well over one million lives. Let us not forget the PDPA cooperated with the Soviets in littering the countryside with millions of mines that have torn off the legs of thousands of children and will tear off yet more thousands of legs for years to come. This is no civil war. This is a struggle to overthrow an illegitimate regime imposed by brutal force at the point of 125,000 Soviet bayonets.

The massive sacrifice on the part of the Afghan people makes it a moral imperative for the United States and Pakistan to continue to seek genuine self-determination for Afghanistan. Let us never yield to the expedient of re-defining this important struggle as a civil war and, in so doing, opening the back door to a sell-out. That would be a great tragedy for Afghanistan. Let us not permit the Soviets to win through clever po-

litical maneuvering what they failed to win by force of arms. The Soviets have learned an important lesson about the limits of militarism and imperialism. That lesson, I believe contributed substantially to the reduction of the influence of military spheres within the Soviet system under perestroika. Let us never erase that lesson by accommodating a sell-out of the Afghan resistance. The struggle in Afghanistan is not a civil war. It is a struggle to overthrow a regime imposed by a foreign army of occupation.

The third question is, Has there been a change in U.S. and Pakistani policy? Does the recent talk of a political settlement mean there has been a backing away from support of the resistance? The answer is no, because our policy and that of Pakistan has always been to seek a political solution, using military leverage to secure the right kind of political solution.

I quote a letter from Secretary Schultz dated January 17, 1987, "our objective is a negotiated settlement, consistent with UN resolutions, and predicated on the prompt and complete withdrawal of Soviet troops and full self-determination for the people of Afghanistan."

I cite a State Department update of December, 1987: "The U.S. seeks a negotiated settlement in Afghanistan that brings about the prompt and complete withdrawal of Soviet troops and self-determination for the Afghan people. This is outlined in the U.N. General Assembly resolutions passed overwhelmingly each year for the past 8 years."

From the remarks of Ambassador Herbert S. Okun before the U.N. General Assembly on November 10, 1987, "My government supports these fundamental principles. It supports as well the search for a negotiated political settlement to end the agony the Afghan people have so long endured. The policy of the United States Government toward the Afghanistan situation is clear and consistent. The United States seeks an early settlement which provides for the prompt withdrawal of the invading forces and for the restoration to the Afghan people of freedom to choose their own political course. The United States firmly believes that a peaceful settlement is possible."

By an increasing margin, the U.N. for nine years running adopted resolutions urging the withdrawal of foreign forces and self-determination for the Afghan people.

And just last week, the Prime Minister of Pakistan, in her impressive address to the joint meeting of Congress, reminded us that our objective has been self-determination for the people of Afghanistan. The Prime Minister pointed out that for ten years the United States has stood side by side with Pakistan in supporting the cause of a free Afghanistan.

Yet, apparently some would abandon that cause. Some would seize upon the Soviet withdrawal as negating our second objective of long standing, self-determination. For all of these years we haven't been just saying withdrawal of foreign forces. We have been saying withdrawal of foreign forces and self-determination. They are separate and distinct. Self-determination is not forced power-sharing with a Nazi-like regime. Forcing the resistance into power-sharing by cutting off the flow of weapons would be a sell-out, not the achievement of self-determination.

Prime Minister Bhutto identified the obstacle to genuine self-determination, when she told a recent press conference in Pakistan: "If a political settlement is not in ascendancy at the moment, it is because of the recent situation in Afghanistan. The present administration in Kabul is not acceptable to the Pakistan-based Mujahideen, the Iran-based Mujahideen, the Afghan commanders, and even ex-King Zahir Shah." She added that the impediment to an Afghan settlement is "an obstinate refusal of the administration in Kabul to step down."

In short, Mr. Chairman, there is no stalemate, the first fighting season since the Soviet withdrawal is just beginning. The struggle in Afghanistan is not a civil war and one whose outcome can little concern us. It is a struggle to oust a regime installed at the point of 125,000 Soviet bayonets. As Prime Minister Bhutto has asserted, that regime is the barrier to self-determination. And finally, the recent remarks by the U.S. and Pakistan about a political settlement are nothing new. Our policy of long-standing is to seek such a settlement, using military leverage to secure the right kind of settlement. And Mrs. Bhutto is right when she defines the right kind of settlement as one which excludes the PDPA regime in Kabul.

President Bush has reaffirmed our commitment to self-determination by reaffirming our commitment to support the resistance forces. And let us remember the words we heard just a week ago in the House of Representatives, when Prime Minister Bhutto spoke of our joint commitment to self-determination, and then urging steadfastness said, "Let us not at this stage out of impatience or fatigue become indifferent. We cannot, we must not abandon their cause."●

CALL TO CONSCIENCE

● Mr. BOREN. Mr. President, I rise today asking my colleagues to join me in a call to conscience concerning the repeated refusal on the part of the Soviet Union to allow the five members of the Genis family to emigrate from that country. These Soviet Jews have been denied permission to emigrate continually since 1977.

In the past several years, I and other Senators concerned with the civil rights of citizens of the Soviet Union have been greatly encouraged by the improvements brought by Mr. Gorbachev to his country in the areas of tolerance and openness. But despite these changes, there remains a great number of people who are still denied their right to freely emigrate. The problem of human rights in the Soviet Union has not been resolved.

Today, I want to call particular attention to the Genis family. The father, Anatoly, aged 51, and the mother, Gayla, 44, are both highly educated former mathematicians and engineers. They have three sons, Peter, Seva, and Stephen, aged 21, 17, and 4. In 1980, 3 years after their first attempt to emigrate, Gayla became terribly ill, suffering from pains in her sides, chest, and back accompanied by heart palpitations and severe depression. Two of the sons have acquired an endocrine disorder which causes high blood pressure, leaving only the father Anatoly and one of the brothers to take care of the entire family.

Furthermore, Mr. President, Anatoly has problems of his own. Due to his refusenik status, he cannot obtain even the most menial employment despite his extensive professional training in one of Moscow's most prestigious universities.

Out of desperation, Anatoly began peacefully demonstrating in January 1988. He has been arrested several times, the last ending in an unjustified 10-day prison sentence. Reportedly, if he is arrested again he will face much stiffer penalties, including up to a year and a half in a Soviet prison.

Anatoly also must contend with the upcoming difficulties of his 17-year-old son, Seva. When Seva reaches the age of 18, despite his medical condition he will become eligible for the draft. If Seva is, in fact, drafted, he can automatically be refused emigration for 5 years after his service is terminated on the grounds that he knows "state secrets."

Mr. President, time is surely running out for the Genis family. For too long they have been denied a right guaranteed to them under the Helsinki accords. I sincerely hope that my colleagues will join me in my efforts on behalf of the Genis family. Their plight is indeed tragic, and we have in our power the ability to help. I hope all of my colleagues will join me in a cause that is truly just.●

AUTHORIZING THE PRINTING AS A DOCUMENT OF TRIBUTES TO THE LATE SENATOR CLAUDE PEPPER

Mr. DODD. Mr. President, I have cleared the matter I am about to raise with the minority leader. So I move to that.

I ask unanimous consent that the Senate now proceed to the consideration of House Concurrent Resolution 150, a concurrent resolution authorizing printing of statements made in tribute to the late Representative Claude Pepper now at the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A concurrent resolution (H. Con. Res. 150) authorizing the printing as a House document a collection of statements made in tribute to the late Representative Claude Denson Pepper.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the concurrent resolution?

There being no objection, the Senate proceeded to consider the concurrent resolution.

The PRESIDING OFFICER. The question is on agreeing to the concurrent resolution.

The concurrent resolution (H. Con. Res. 150) was agreed to.

Mr. DODD. Mr. President, I move to reconsider the vote by which the concurrent resolution was agreed to.

I move to lay that motion on the table.

The motion to lay on the table was agreed to.

RECESS UNTIL MONDAY, JUNE 19, 1989, AT 11:30 A.M.

Mr. DODD. Mr. President, there is no further business that I am aware of. I see no additional Member of the Senate seeking recognition.

I now ask unanimous consent that the Senate stand in recess under the previous order until 11:30 a.m., Monday, June 19, 1989.

There being no objection, the Senate, at 2:43 p.m., recessed until Monday, June 19, 1989, at 11:30 a.m.

HOUSE OF REPRESENTATIVES—*Friday, June 16, 1989*

CONFERENCE REPORT ON H.R. 2072

Pursuant to the order of June 15 1989, Mr. WHITTEN submitted the following conference report and statement on the bill (H.R. 2072) making dire emergency supplemental appropriations and transfers, urgent supplementals, and correcting enrollment errors for the fiscal year ending September 30, 1989, and for other purposes:

CONFERENCE REPORT (H. REPT. 101-89)

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 2072) making dire emergency supplemental appropriations and transfers, urgent supplementals, and correcting enrollment errors for the fiscal year ending September 30, 1989, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its amendments numbered 3, 5, 7, 13, 22, 30, 38, 39, 50, 52, 53, 56, 57, 65, 73, 82, 86, 91, 108, 121, 129, 132, 140 and 141.

That the House recede from its disagreement to the amendments of Senate numbered 1, 4, 8, 14, 16, 20, 26, 31, 32, 34, 43, 45, 46, 47, 48, 49, 63, 64, 69, 70, 76, 83, 84, 85, 114, 116, and 126, and agree to the same.

Amendment numbered 9:

That the House recede from its disagreement to the amendment of the Senate numbered 9, and agree to the same with an amendment, as follows:

Restore the matter stricken by said amendment, amended as follows:

In lieu of the section number named in said amendment, insert *302*; and the Senate agree to the same.

Amendment numbered 10:

That the House recede from its disagreement to the amendment of the Senate numbered 10, and agree to the same with an amendment, as follows:

Restore the matter stricken by said amendment, amended as follows:

In lieu of the section number named in said amendment, insert *303*; and the Senate agree to the same.

Amendment numbered 36:

That the House recede from its disagreement to the amendment of the Senate numbered 36, and agree to the same with an amendment, as follows:

In lieu of the matter inserted by said amendment, insert the following:

HEALTH RESOURCES AND SERVICES ADMINISTRATION

HEALTH RESOURCES AND SERVICES PROGRAM OPERATIONS

For activities authorized under section 799A(e) of the Public Health Service Act, $800,000.

And the Senate agree to the same.

Amendment numbered 42:

That the House recede from its disagreement to the amendment of the Senate numbered 42, and agree to the same with an amendment, as follows:

In lieu of the matter inserted by said amendment, insert the following:

HIGHER EDUCATION

For an additional amount for "Higher Education" which shall be available for such project as the Secretary may deem appropriate which is authorized under existing law, $1,600,000.

And the Senate agree to the same.

Amendment numbered 55:

That the House recede from its disagreement to the amendment of the Senate numbered 55, and agree to the same with an amendment, as follows:

Restore the matter stricken by said amendment amended to read as follows:

CONSERVATION RESERVE PROGRAM

In Public Law 100-460, "An Act making appropriations for Rural Development, Agriculture, and Related Agencies for the fiscal year ending September 30, 1989, and for other purposes", in the account titled "Conservation Reserve Program", delete the sum "$1,864,000,000" and insert in lieu thereof "$1,789,000,000", and delete the sum "$385,000,000" and insert in lieu thereof "$370,000,000".

And the Senate agree to the same.

Amendment numbered 72:

That the House recede from its disagreement to the amendment of the Senate numbered 72, and agree to the same with an amendment, as follows:

In lieu of the matter proposed by said amendment insert:

For an additional amount for orphan product grants and contracts, $500,000.

And the Senate agree to the same.

Amendment numbered 94:

That the House recede from its disagreement to the amendment of the Senate numbered 94, and agree to the same with an amendment, as follows:

Restore the matter stricken by said amendment, amended as follows:

In lieu of the sum named, insert *$12,000,000*; and the Senate agree to the same.

Amendment numbered 97:

That the House recede from its disagreement to the amendment of the Senate numbered 97, and agree to the same with an amendment, as follows:

In lieu of the chapter number named by said amendment insert: *XII*; and the Senate agree to the same.

The committee of conference report in disagreement amendments numbered 2, 6, 11, 12, 15, 17, 18, 19, 21, 23, 24, 25, 27, 28, 29, 33, 35, 37, 40, 41, 44, 51, 54, 58, 59, 60, 61, 62, 66, 67, 68, 71, 74, 75, 77, 78, 79, 80, 81, 87, 88, 89, 90, 92, 93, 95, 96, 98, 99, 100, 101, 102, 103, 104, 105, 106, 107, 109, 110, 111, 112, 113, 115, 117, 118, 119, 120, 122, 123, 124, 125, 127, 128, 130, 131, 133, 134, 135, 136, 137, 138, and 139.

JAMIE L. WHITTEN,
WILLIAM H. NATCHER,
NEAL SMITH,
SIDNEY R. YATES,
DAVID R. OBEY,
EDWARD R. ROYBAL,
TOM BEVILL,
JOHN P. MURTHA,
BOB TRAXLER,
WILLIAM LEHMAN,
JULIAN C. DIXON,
VIC FAZIO,
W.G. BILL HEFNER,
VIRGINIA SMITH,
Managers on the Part of the House.

ROBERT C. BYRD,
DANIEL K. INOUYE,
FRITZ HOLLINGS,
J. BENNETT JOHNSTON,
QUENTIN BURDICK,
PATRICK LEAHY,
DENNIS DECONCINI,
DALE BUMPERS,
FRANK R. LAUTENBERG,
TOM HARKIN,
BARBARA A. MIKULSKI,
HARRY REID,
BROCK ADAMS,
WYCHE FOWLER, JR.,
J. ROBERT KERREY,
MARK O. HATFIELD,
TED STEVENS,
JIM MCCLURE,
JAKE GARN,
THAD COCHRAN,
BOB KASTEN,
ALFONSE D'AMATO,
WARREN RUDMAN,
ARLEN SPECTER,
CHUCK GRASSLEY,
DON NICKLES,
PHIL GRAMM,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 2072) making dire emergency supplemental appropriations and transfers, urgent supplements, and correcting enrollment errors for the fiscal year ending September 30, 1989, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

Amendment No. 1: Deletes the table of contents to the bill proposed by the House and stricken by the Senate.

TITLE I—DIRE EMERGENCY SUPPLEMENTALS AND TRANSFERS

Amendment No. 2: Reported in disagreement.

Amendment No. 3: Senate recedes. The House chapter number is retained.

DEPARTMENT OF JUSTICE

OFFICE OF JUSTICE PROGRAMS

JUSTICE ASSISTANCE

Amendment No. 4: Appropriates $4,000,000 for the Public Safety Officers' Benefits Program as proposed by the Senate. The House bill included these funds under title I, Chapter I Emergency Drug Funding.

□ This symbol represents the time of day during the House proceedings, e.g., □ 1407 is 2:07 p.m.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

CHAPTER III

Amendment No. 5: Restores Chapter number proposed by the House.

Amendment No. 6: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which transfers $2,225,000 to "General regulatory functions" from "Construction, general".

Amendment No. 7: Restores language proposed by the House and stricken by the Senate relating to the Sunset Harbor, California, project.

Amendment No. 8: Deletes language proposed by the House and stricken by the Senate relating to exchange of Federal land.

Amendment No. 9: Restores language proposed by the House and stricken by the Senate relating to the Saylorville Lake, Iowa, project and changes section number.

Amendment No. 10: Restores language proposed by the House and stricken by the Senate relating to the Sims Park, Ohio, project and changes section number.

Amendment No. 11: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate relating to the Bonneville Lock and Dam, Oregon and Washington, project, with an amendment as follows:

In lieu of the first section number named in said amendment insert: *"304"*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

Amendment No. 12: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate relating to the West Fork of Mill Creek Lake, Ohio, project, with an amendment as follows:

In lieu of the first section number named in said amendment insert: *"305"*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

West Columbus, Ohio, Local Protection Project.—The conferees are aware that the Corps of Engineers is reviewing a request from local sponsors of the West Columbus, Ohio, local protection project to advance funds for pre-construction activities. In order to eliminate further delay, the conferees direct the Secretary of the Army to accept up to $2,000,000 in fiscal years 1989 and 1990 combined from local sponsors to continue preconstruction engineering and design of the West Columbus, Ohio, project. This action is taken with the understanding that any credit to the sponsors towards the requirement of local cooperation would be provided by the Federal Government only when and if construction funds are appropriated by the Congress for the project. Further, this action is not a commitment to future project construction.

Continuing Authorities Program.—The conferees are aware of a number of dire emergencies within the Corps of Engineers' Continuing Authorities Programs, (which consist of small navigation projects, small flood control projects, small streambank and shoreline protection projects, small beach erosion control projects, snagging and clearing for flood control, and mitigation of shore damage due to navigation), and, therefore, have no objection to the initiation of new construction starts in the Continuing Authorities Programs for the remainder of fiscal year 1989 using available funds.

CHAPTER IV

FUNDS APPROPRIATED TO THE PRESIDENT

AGENCY FOR INTERNATIONAL DEVELOPMENT

ECONOMIC SUPPORT FUND

Amendment No. 13: Restores chapter number as proposed by the House.

ASSISTANCE FOR POLAND

Amendment No. 14: Deletes the word "electoral" from the language proposed by the House.

Amendment No. 15: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which adds Senate language relating to democratic transition in Poland.

Amendment No. 16: Deletes House language relating to international observer missions in Poland.

Amendment No. 17: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which adds language relating to the independent media and publishing activities in Poland.

PROMOTION OF DEMOCRACY IN NICARAGUA

Amendment No. 18: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter inserted by said amendment, insert the following: *: Provided further, That there shall be available an additional amount for the "Economic Support Fund", $3,000,000, which shall be made available notwithstanding any other provision of law for the promotion of democracy in Nicaragua: Provided further, That of the funds made available under this heading for the promotion of democracy in Nicaragua, $1,500,000 shall be made available as a contribution to the Organization of American States to carry out election monitoring activities in Nicaragua: Provided further, That the amount provided for promotion of democracy in Nicaragua under this heading shall be derived from funds appropriated under such heading in the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1987, or from funds earmarked under such heading in Public Law 100-202 for reconstruction and rehabilitation of the National University of El Salvador and other institutions of higher education in El Salvador: Provided further, That such funds shall be in addition to funds made available for the promotion of democracy in Nicaragua by Public Law 100-461*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conferees agree to provide a total of $3,000,000 for the promotion of democracy in Nicaragua, of which $1,500,000 is designated for the Organization of American States to carry out election monitoring activities in Nicaragua under the El Salvador Accords. None of the funds provided for the promotion of democracy in Nicaragua are to be available for obligation until the Committees on Appropriations are notified.

The conferees agree that the Organization of American States should review its per diem rate for Nicaragua in order to bring it in line with realistic costs.0

NATURAL RESOURCE DEPLETION ACCOUNTING

Amendment No. 19: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur with the amendment of the Senate with an amendment as follows:

In lieu of the first section number named in said amendment, insert the following: *401*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conferees recognize that methods of incorporating natural resource depletion into national accounting systems still are in the process of being developed and field tested. As such, the timeframe for adoption by national governments (including the United States), and therefore the timeframe for use by international organizations and bilateral donors, will depend upon the development of an internationally accepted model of accounting. The conferees direct the Agency for International Development and the Department of Treasury to work to expedite the development and utilization of accounting systems that score resource depletion or enhancement. The Agency for International Development is encouraged to provide technical assistance to developing country governments interested in pursuing that objective.

INTERNATIONAL PEACEKEEPING ACTIVITIES AND OPERATIONS

Amendment No. 20: Deletes language proposed by the House concerning funding for Peacekeeping forces. Funding for Peacekeeping is addressed under amendment number 109.

ASSISTANCE FOR HAITI

Amendment No. 21: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which provides two additional exemptions to the current restrictions on U.S. foreign assistance for Haiti.

Amendment No. 22: Retains chapter number "V" as proposed by the House, instead of "IV" as proposed by the Senate.

Amendment No. 23: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which appropriates $7,300,000 to be available until September 30, 1990, and establishes an Oil Spill Emergency Fund in the Department of the Interior, as proposed by the Senate. The Fund would be available to agencies of the Department for contingency planning, and for response and natural resource damage assessment activities related to the Exxon Valdez oil spill in Prince William Sound, Alaska on March 24, 1989.

It is the managers' intent that the Department pursue full and complete recovery, to the maximum extent practical, for all damages to lands and resources under its jurisdiction. Further, the Secretary should seek full reimbursement for the expenses of this recovery effort from Exxon and any other responsible parties. Such reimbursement shall include full charges for all work performed by any employees or consultants of the Department.

In addition to the establishment of the Fund and the provision for related reimbursements to the affected programs of the Department, Amendment 23 amends section 102 of the Department's FY 1989 Appropriations Act to permit the emergency transfer of funds from any no-year appropriations available to the Secretary for the purpose of "contingency planning subsequent to actual oil spills, response and natural resource damage assessment activities related to actual oil spills."

Within thirty days, the Secretary of the Interior is requested to provide a comprehensive plan, with cost estimates, for the oil spill clean up work done to date, and for the work that remains to be done, by agencies under his jurisdiction.

The Department is expected to report monthly to the Committees on Appropriations on disbursements from, and reimbursements to, the Oil Spill Emergency Fund. These reports should indicate what amounts have been provided to which agencies and for what purposes, and should be structured in a manner to indicate current balances in the fund. Such reports should be accompanied by a status report of the Department's oil spill recovery efforts in Alaska.

Amendment No. 24: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which provides that projects resulting from a third solicitation of demonstrations under the clean coal technology program shall be selected no later than January 1, 1990.

Amendment No. 25: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter stricken and inserted by said amendment, insert:

SEC. 501. No funds appropriated or made available heretofore or hereafter under this or any other Act may be used by the executive branch to contract with organizations outside the Department of Energy to perform studies of the potential transfer out of Federal ownership, management or control by sale, lease, or other disposition, in whole or in part, the facilities and functions of Naval Petroleum Reserve Numbered 1 (Elk Hills), located in Kern County, California, established by Executive order of the President, dated September 2, 1912, and Naval Petroleum Reserve Numbered 3 (Teapot Dome), located in Wyoming, established by Executive order of the President, dated April 30, 1915: Provided, That the negotiation of changes to the unit plan contract with Chevron which governs operation of Elk Hills, where the purpose of the changes is to prepare for the divestiture of the Reserve, is prohibited.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The amendment would prohibit the use of outside contractors to perform divestiture studies on the Naval Petroleum Reserves, and would also prohibit negotiation of changes to the current unit plan contract with Chevron at Elk Hills if the purpose of such changes is preparation for divestiture of the Elk Hills Reserve. The original House amendment prohibited all divestiture activities, including use of DOE personnel, and the Senate amendment prohibited use of outside contractors only in fiscal year 1989.

Amendment No. 26: Deletes House provisions relating to oil spills. The same provisions are included in Amendment Numbered 23.

Amendment No. 27: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the section number named in said amendment, insert: *502*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The amendment provides for the distribution of excess timber receipts. The language clarifies Public Law 100-446, and provides for the same formula distribution of the excess receipts as directed in P.L. 100-446. The managers agree that the additional funds provided to the timber sales program under the formula are to be used to address the timber sales preparation pipeline. The provision of funds herein for the timber pipeline is not intended to change the volume of the timber sales program proposed in the FY 1990 President's Budget.

Amendment No. 28: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the section number named in said amendment, insert: *503*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The amendment adds the citation of Public Law 100-383 to the "Miscellaneous Payments to Indians" account. This will allow $150,000 to be reprogrammed from the Old Age Assistance Program to begin implementation of the Aleutian and Pribilof Island Restitution Act in fiscal year 1989. The funds will be used to begin to identify individuals who are eligible for restitution payments under the Act. It is not intended that the Bureau will make any actual restitution payments with these funds, except in cases where extreme emergencies exist.

Amendment No. 29: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the section number named in said amendment, insert: *504*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The amendment provides for a transfer of $400,000 from the National Forest System appropriation account to the Forest Research appropriation account. These funds are to be used for research related to the effect of fires which occurred in the Yellowstone area during 1988. The managers direct that the National Forest System funds are to be transferred as follows: $200,000 from Timber Sales Administration and Management; $100,000 from Wildlife and Fish Habitat Management; and $100,000 from Soil, Water, and Air Management.

The managers agree further that $400,000 is to be reprogrammed within funds available for the Operation of the National Park System to conduct research related to the fires which occurred in the Yellowstone National Park area during 1988. The managers direct that the $400,000 be derived from those funds previously set aside by the National Park Service at the regional level for Alaska oil spill emergencies. These funds are available for release since the managers have provided $7.3 million for an oil spill emergency fund to address such requirements.

Apparently both the National Park Service and the Forest Service have developed separate priority lists of Yellowstone-related fire research projects. The managers expect the Services to convene a panel of experts to merge these priority lists immediately so that a single list of the most important fire research projects in priorty order will guide all federal research in the Yellowstone area. This panel should be comprised of two representatives from the National Park Service, two from the Forest Service, and three recognized experts from universities in three different states. The panel should confine its activities to the merger of the two lists of research projects in priority ranking; new projects should not be proposed.

Funds available to the National Park Service and the Forest Service and previously identified for research in the greater Yellowstone area, together with an additional $400,000 from other park operations and $400,000 to be transferred to the Forest Research Department from the National Forest System account, are to be obligated to accomplish the research tasks in their order of priority on the soon-to-be-developed interagency list of fire research projects. All such research projects are to be awarded competitively. The managers understand that, in practice, one agency's funds may be used to accomplish the other agency's priorities. The agencies are further encouraged to solicit supplemental resources from State and local organizations to accomplish these research priorities. It is intended that any contractual assistance be awarded on a competitive basis and that the research program be executed on a cooperative basis in much the same manner as the Interagency Grizzly Bear Committee.

CHAPTER VI

Amendment No. 30: Restores chapter number proposed by the House.

DEPARTMENT OF LABOR

EMPLOYMENT AND TRAINING ADMINISTRATION

FEDERAL UNEMPLOYMENT BENEFITS AND ALLOWANCES

TRADE ADJUSTMENT ASSISTANCE

Amendment No. 31: Appropriates $90,648,000 as proposed by the Senate instead of $126,648,000 as proposed by the House.

Amendment No. 32: Earmarks $56,000,000 for trade adjustment weekly benefits as proposed by the Senate, instead of $92,000,000 as proposed by the House.

The conferees are concerned that the Department has not been sufficiently sensitive to the difficulties the State of Hawaii is encountering in establishing a culturally effective job training program for American Samoans residing in Hawaii and on the mainland. For example, the conferees expect that the funds provided in the regular fiscal year 1989 appropriations bill will be used to establish outreach programs on the various Hawaiian Islands and thus result in significant administrative costs and possible reduction in training services during the startup years. The Department is directed to work closely with the State of Hawaii to ensure that funds necessary for administrative purposes shall be released and further, that the State shall be able to expand last year's program to similarly address the pressing employment needs of other Pacific islander and Asian immigrants.

The conferees recommend that the Office of Job Corps give consideration prior to September 30, 1989, to expanding those Job Corps centers (1) which are currently operating in excess of their capacity, (2) which have predominantly Hispanic or other minority enrollment, and (3) which have demonstrated superior performance and effectiveness as determined by the Office in its annual rankings.

STATE UNEMPLOYMENT INSURANCE AND EMPLOYMENT SERVICE OPERATIONS

Amendment No. 33: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which states that funds made available in the fiscal year 1989 Appropriations Act under section 6 of the Wagner-Peyser Act may be used to carry out the targeted jobs tax credit program under section 51 of the Internal Revenue Code of 1986.

OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION

SALARIES AND EXPENSES

Amendment No. 34: Appropriates $3,200,000 as proposed by the Senate. The House bill included no funds for this purpose.

DEPARTMENTAL MANAGEMENT

SALARIES AND EXPENSES

(TRANSFER OF FUNDS)

Amendment No. 35: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which makes available $1,445,000 by transfer from the Black Lung Disability Trust Fund appropriation. The House bill included no similar provision.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

HEALTH RESOURCES AND SERVICES ADMINISTRATION

Amendment No. 36: Appropriates $800,000 for a study of rural health manpower needs as proposed by the Senate and corrects the legal citation for the study.

HEALTH CARE FINANCING ADMINISTRATION

Amendment No. 37: Reported in technical disagreement. The managers on the part of the House will move to recede and concur in the amendment of the Senate, which prohibits the use of the appropriation for rural health care transition grants for forward or multi-year funding. The conferees have agreed that funds appropriated by the Department of Health and Human Services Appropriations Act of 1989 to implement section 4005(e) of the Omnibus Budget Reconciliation Act of 1987, Public Law 100-203, may not be used to provide forward or multi-year funding. The conferees expect the Health Care Financing Administration to award at least 160 first-year grants of $50,000 to rural hospitals. The conferees intend to provide second-year funding for this program in fiscal year 1990, enabling rural hospital grantees to have two full years to complete restructuring.

REFUGEE AND ENTRANT ASSISTANCE

Amendment No. 38: Delete language proposed by the Senate to modify the refugee authorizing statute by amending the 1989 appropriations Act to make assistance to Nicaraguans an eligible activity for targeted assistance grants.

ASSISTANT SECRETARY FOR HUMAN DEVELOPMENT SERVICES

PAYMENTS TO STATES FOR FOSTER CARE AND ADOPTION ASSISTANCE

Amendment No. 39: Deletes language proposed by the Senate which would have placed a cap on fiscal year 1990 State administrative costs under the title IV-E foster care program.

The conferees are gravely concerned over the escalating administrative costs associated with the foster care program. Administrative costs increased by 868% from FY 1981 to FY 1987. At the same time, maintenance costs increased by 52% and the number of children served only increased by 9%. Should administrative costs remain unchecked, they will soon exceed the amount provided for maintenance payments. Further, the conferees are concerned that while Federal costs have increased, these increases may not necessarily reflect increased services to children. The conferees are encouraged that the Senate Finance Committee intends to address this problem this year.

DEPARTMENT OF EDUCATION

IMPACT AID

Amendment No. 40: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate amended to read as follows:

In lieu of the matter proposed by said amendment insert the following:

IMPACT AID

Section 5(e)(1)(D) of the Act of September 30, 1950, as amended (20 U.S.C. ch. 13), shall not apply to any local educational agency that was an agency described in section 5(c)(2)(A)(ii) of the Act in fiscal year 1987 but is an agency described in section 5(c)(2)(A)(iii) of the Act in fiscal year 1989 as a result of families being moved off-base in order to renovate base housing: Provided, That any school district which received a payment under section 5(b)(2) of the Act for fiscal year 1986 but which the Department of Education has determined to be ineligible for section 2 assistance due to a review of the original assessed value of the real property involved at the time of acquisition of the federal property shall be deemed eligible for payments under section 2, for fiscal year 1989 only.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference agreement retains language proposed by the Senate related to certain school districts receiving assistance under section 5(c)(2) of the Impact Aid program. In addition, the conferees have agreed to similar language affecting school districts receiving payments under section 2 related to federal property. Both parts of the agreement are effective for fiscal year 1989 only.

REHABILITATION SERVICES AND HANDICAPPED RESEARCH

Amendment No. 41: Reported in technical disagreement. The managers on the part of the House will move to recede and concur in the Senate amendment which clarifies that section 517 of Public Law 100-436 does not apply to activities in the Rehabilitation Services and Handicapped Research account during fiscal year 1989.

HIGHER EDUCATION

Amendment No. 42: Appropriates $1,600,000 for Higher Education as proposed by the Senate but modifies the Senate language to provide these funds for such project as the Secretary may deem appropriate which is authorized in law. The Senate bill earmarked these funds for the Urban Education Foundation as authorized under Public Law 98-312. The House bill contained no similar provision.

DEPARTMENTAL MANAGEMENT

PROGRAM ADMINISTRATION

(RESCISSION)

Amendment No. 43: Inserts heading as proposed by the Senate.

Amendment No. 44: Reported in technical disagreement. The managers on the part of the House will move to recede and concur in the amendment of the Senate which rescinds $5,533,000 of funds previously appropriated for the National Student Loan Data System.

OFFICE FOR CIVIL RIGHTS

Amendment No. 45: Appropriates an additional $790,000 for the Office for Civil Rights as proposed by the Senate.

OFFICE OF THE INSPECTOR GENERAL

Amendment No. 46: Appropriates an additional $440,000 for the Office of the Inspector General as proposed by the Senate.

RELATED AGENCIES

Amendment No. 47: Modifies heading as proposed by the Senate.

RAILROAD RETIREMENT BOARD

Amendment No. 48: Provides $150,000 as proposed by the Senate for the Railroad Retirement Board Inspector General to conduct an audit of the Board's contract for processing Medicare claims.

WHITE HOUSE CONFERENCE ON LIBRARY AND INFORMATION SERVICES

Amendment No. 49: Appropriates $1,750,000 as proposed by the Senate for the White House Conference on Library and Information Services.

Amendment No. 50: Restores chapter number proposed by the House.

Amendment No. 51: Reported in technical disagreement. The managers on the part of the House will move to recede and concur in the amendment of the Senate which provides that the Library of Congress shall provide financial management services to the United States Capitol Preservation Commission.

CHAPTER VIII

DEPARTMENT OF AGRICULTURE

Amendment No. 52: Restores House proposed Chapter number.

COOPERATIVE STATE RESEARCH SERVICE

Amendment No. 53: Deletes Senate language providing that funds available for the support of the Mid-America World Trade Center shall be used for the promotion of nonagricultural products, as well as agricultural products, and for the development of the rural economy through international trade.

AGRICULTURAL RESEARCH SERVICE

The conferees agreed to pass without prejudice House report language regarding planning funds for the Agricultural Research Service Center in Lane, Oklahoma. The conferees agreed this issue will be addressed in connection with the fiscal year 1990 bill.

ANIMAL AND PLANT HEALTH INSPECTION SERVICE

The conferees agreed to pass without prejudice Senate report language regarding the use of available resources for control and monitoring scrapie. The conferees agreed that this program will be addressed in the fiscal year 1990 bill.

AGRICULTURAL STABILIZATION AND CONSERVATION SERVICE

SALARIES AND EXPENSES

Amendment No. 54: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which provides that of the funds available for the Agricultural Stabilization and Conservation Service, $275,000 shall be trans-

ferred to the Cooperative State Research Service to be paid to the Kansas Agricultural Research Experiment Station at Kansas State University for the purpose of disseminating information to farmers on methods of alleviating drought problems and exploring improved water conservation techniques.

CONSERVATION RESERVE PROGRAM

Amendment No. 55: Restores House language deleted by the Senate which provided for a $75,000,000 reduction in the funds appropriated for the Conservation Reserve Program. The conference agreement also reduces the amount avvailable under the Conservation Reserve Program for cost share assistance by $15,000,000 as proposed by the Senate instead of $75,000,000 as proposed by the House.

Amendment No. 56: Deletes Senate language since this amendment was incorporated into Amendment No. 55.

EMERGENCY CONSERVATION PROGRAM

Amendment No. 57: Deletes Senate language requiring the Secretary of Agriculture to issue regulations or take such other action as is necessary to provide payments for emergency water conservation or water enhancing measures that benefit confined animals within thirty days of enactment of this Act.

In view of the continuing drought situation in the Midwest, the Department is urged to consdier seriously the addition of a practice advocated in the Senate bill and report.

ADVANCED DEFICIENCY PAYMENTS

Amendment No. 58: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter inserted by said amendment, insert the following:

ADVANCED DEFICIENCY PAYMENTS

Notwithstanding any other provision of law, effective only for the 1988 crops of wheat, feed grains, upland cotton and rice, if the Secretary determines that any portion of the advanced deficiency payment made to producers for the crop under section 107C of the Agricultural Act of 1949 must be refunded, such refunds shall not be required prior to December 31, 1989, for that portion of the crop for which a disaster payment is made under section 201(a) of the Disaster Assistance Act of 1988: Provided, That for the purposes of section 202 of the Balanced Budget and Emergency Deficit Control Reaffirmation Act of 1987 (Public Law 100-119), this provision is a necessary (but secondary) result of a significant policy change.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference agreement makes a technical change to the Senate language. The Disaster Assistance Act of 1988 provided that certain producers may have to refund advanced deficiency payments for that portion of a crop for which a disaster payment is made. The Act stipulates that these refunds shall not be required prior to July 31, 1989. Because of the continuing drought, the conferees recommend that these refunds not be required prior to December 31, 1989. This period of time will allow farmers to harvest their 1989 crop and generate the funds necessary to refund any required advanced deficiency payments on the 1988 crop.

FARMERS HOME ADMINISTRATION

AGRICULTURAL CREDIT INSURANCE FUND

OPERATING LOANS

(INCLUDING TRANSFER OF FUNDS)

Amendment No. 59: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter stricken and inserted by said amendment, insert the following:

OPERATING LOANS

(INCLUDING TRANSFER OF FUNDS)

For an additional amount for insured operating loans, $70,000,000, to be derived by transfer from emergency disaster loans, to remain available until September 30, 1990: Provided, That the Secretary shall allocate immediately insured farm operating loans to States from the national reserve, from pooling of unobligated funds previously allocated to States, and from this appropriation, in a manner that will provide each State with an opportunity to fund at least the same level of obligations as in fiscal year 1988.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference agreement provides $70,000,000 in additional operating loans instead of $75,000,000 as proposed by the House and stricken by the Senate. The conference agreement also provides that the funds shall be transferred from emergency disaster loans and shall remain available until September 30, 1990. The conference agreement incorporates Senate language directing the Secretary to allocate immediately insured farm operating loans to the States from the national reserve, from pooling of unobligated funds previously allocated to States, and from this appropriation, in a manner that will provide each State with an opportunity to fund at least the same level of obligations as in fiscal year 1988. The conferees wish to stress that such provision shall not prevent the transfer of unneeded funds to other States where there is a need.

Amendment No. 60: Reported in technical disagreement. The Managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter inserted by said amendment, insert the following:

In Public Law 100-460, "An Act making appropriations for Rural Development, Agriculture, and Related Agencies for the fiscal year ending September 30, 1989, and for other purposes", in the account titled "Agricultural Credit Insurance Fund", delete the sum of $14,000,000" and insert in lieu thereof $7,000,000", delete the first sum of $3,000,000" and insert in lieu thereof "$1,500,000", and delete the sum of "$2,000,000" and insert in lieu thereof "$1,000,000".

The managers on the part of the Senate will offer a motion to recede and concur in the amendment of the House to the amendment of the Senate.

The conference agreement reduces the amount available for water development, use, and conservation loans from $11,000,000 in insured loans and $3,000,000 in guaranteed loans to $5,500,000 in insured loans and $1,500,000 in guaranteed loans. The conference agreement also reduces the amount available for Indian tribe land acquisition loans from $2,000,000 to $1,000,000. The Senate amendment proposed to reduce total funding for water development, use, and conservation loans to $7,000,000 and Indian tribe land acquisition loans to $120,000.

RURAL HOUSING INSURANCE FUND

Amendment No. 61: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which amends the language in the Rural Development, Agriculture, and Related Agencies Appropriations Act, 1989 (Public Law 100-460) regarding the obligation of funds for rural rental assistance agreements. Due to previous reductions in financing for farm labor housing—sections 514 and 516—and other factors, the need for rural rental assistance for farm labor housing has diminished. However, the need remains to use these funds under the rural rental housing program. The agreement will not reduce funds available for farm labor housing; rather, it will permit the use of the funds for other low-income households eligible under the section 515 program. This change will ensure full use of funds made available for fiscal year 1989 and will not affect the Federal budget.

RURAL DEVELOPMENT INSURANCE FUND

Amendment No. 62: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter inserted by said amendment, insert the following:

RURAL DEVELOPMENT INSURANCE FUND

For an additional amount for insured water and sewer facility loans, $2,500,000, to remain available until expended.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference agreement provides an additional $2,500,000 in water and sewer facility loans as proposed by the Senate, and also provides that the funds shall remain available until expended.

RURAL WATER AND WASTE DISPOSAL GRANTS

Amendment No. 63: Appropriates an additional $7,500,000, to remain available until expended, for water and wate disposal grants as proposed by the Senate.

SOIL CONSERVATION SERVICE

Amendment No. 64: Inserts a paragraph heading as proposed by the Senate.

CONSERVATION OPERATIONS

Amendment No. 65: Deletes Senate language appropriating an additional $5,000,000 for conservation operations of the Soil Conservation Service since additional funding is provided in connection with Amendment No. 66.

REIMBURSEMENT TO THE SOIL CONSERVATION SERVICE FOR CONSERVATION RESERVE PROGRAM ASSISTANCE

Amendment No. 66: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter inserted by said amendment, insert the following:

REIMBURSEMENT TO THE SOIL CONSERVATION SERVICE FOR CONSERVATION RESERVE PROGRAM ASSISTANCE

The Agricultural Stabilization and Conservation Service shall reimburse the Soil Conservation Service for services provided to carry out the Conservation Reserve Program pursuant to the Food Security Act of

1985 (16 U.S.C. 3831-3845), at a rate of $3.00 per acre bid in the program: Provided, that reimbursement for this service is made retroactive to October 1, 1988.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference agreement amends Senate language to provide for a reimbursement of $3.00 per acre bid rather than $2.50 per acre enrolled. These funds are provided to reimburse the Soil Conservation Service for technical assistance provided by the Service in connection with the Conservation Reserve Program.

WATERSHED AND FLOOD PREVENTION OPERATIONS

Amendment No. 67: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the sum of "$80,000" named in said amendment, insert: *"$4,000,000"*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference agreement reduces the amount available for watershed and flood prevention loans provided in the Rural Development, Agriculture, and Related Agencies Appropriations Act, 1989 (Public Law 100-460) from $7,949,000 to $4,000,000. The Senate amendment proposed to reduce this loan program to $80,000.

RESOURCE CONSERVATION AND DEVELOPMENT

Amendment No. 68: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the sum of "$56,000" named in said amendment, insert: *"$600,000"*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference agreement reduces the amount available for resource conservation and development loans provided in the Rural Development, Agriculture, and Related Agences Appropriations Act, 1989 (Public Law 100-460) from $1,207,000 to $600,000. The Senate amendment proposes to reduce these loans to $56,000.

FOOD AND NUTRITION SERVICE

FOOD STAMP PROGRAM

Amendment No. 69: Appropriates an additional $224,624,000 for the food stamp program as proposed by the Senate. The President submitted a supplemental budget request for additional funds for the food stamp program after the supplemental appropriations bill had been considered by the House.

FOOD AND DRUG ADMINISTRATION

Amendment No. 70: Inserts a paragraph heading as proposed by the Senate.

Amendment No. 71: Reported in disagreement.

Amendment No. 72: Appropriates an additional $500,000 for orphan product grants and contracts. The Senate amendment provided $1,000,000 for orphan drug grants and contracts. The House bill contained no similar provision.

CHAPTER IX

DEPARTMENT OF TRANSPORTATION

Amendment No. 73: Restores chapter number as proposed by the House.

OFFICE OF THE SECRETARY

PAYMENTS TO AIR CARRIERS

Amendment No. 74: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter inserted by said amendment, insert the following:

OFFICE OF THE SECRETARY

PAYMENTS TO AIR CARRIERS

For an additional amount for "Payments to air carriers", $6,600,000: Provided, That notwithstanding any other provision of law, after September 30, 1989, no subsidy shall be paid for any service to or from any essential air service point in the contiguous United States for which the per passenger subsidy exceeds $300.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conferees recognize the importance of the Essential Air Service (EAS) program in providing transportation service to small, isolated communities. The bill therefore includes sufficient funds to continue existing service through the end of the fiscal year. However, the conferees are concerned that excessive per passenger subsidies exist in certain instances. Accordingly, language is included in the bill that would prohibit subsidies from being paid for service to or from any subsidized EAS point in the contiguous forty-eight states after September 30, 1989, that exceeds $300 per passenger based on the most recent fiscal year data available to the Department of Transportation.

The conferees direct the Secretary of Transporation to submit within 60 days of enactment of this Act a report to the House and Senate Committees on Appropriations on the impact of a per passenger subsidy cap. The Secretary shall report on those instances where a per passenger subsidy cap is not the best measure for evaluating the value of the service provided because of other considerations such as the necessity of air freight delivery or the lack of other common carriers such as truck, bus and rail. If a per passenger cap is determined not to be the best evaluative measure, the report should identify alternative measures that the Secretary deems to be more appropriate, and how the affected subsidized points perform against those measures. The conferees expect to consider the Secretary's findings in determining the appropriate funding level for fiscal year 1990.

STATE AND LOCAL ANTI-APARTHEID POLICIES

Amendment No. 75: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate that inserts the words "or subsequent".

COAST GUARD

OPERATING EXPENSES

Amendment No. 76: Inserts heading as proposed by the Senate.

Amendment No. 77: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate requiring that sums provided by any party, including sums provided in advance, as reimbursement of operating expenses incurred by the United States Coast Guard in response to the oil spill from the "Exxon Valdez" grounding, shall be credited to the "Operating expenses" appropriation for the United States Coast Guard, and shall remain available until expended.

The conferees direct the Coast Guard to submit a status report on funding and reimbursements relating to the Coast Guard's expenses as of June 1, 1989, updated monthly thereafter until all "Exxon Valdez" reimbursements are collected.

Amendment No. 78: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter inserted by said amendment, insert the following:

From funds made available under this head in Public Law 100-457, up to $5,600,000 shall be made available until expended for development, acquisition, installation, operation, and support, including personnel, or equipment to provide vessel traffic management information in the New York Harbor area: Provided, That the United States Coast Guard shall initiate action within sixty days of the date of enactment of this Act to establish such a system: Provided further, That, within sixty days of the date of enactment of this Act, the Secretary shall initiate a rulemaking to determine which class or classes of vessels operating in the New York Harbor area shall be required to participate in an active vessel traffic management system, and the specific operating procedures and requirements of such a mandatory system.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

Amendment No. 79: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter inserted by said amendment, insert the following:

Notwithstanding any other provision of law, funds available under this head in both Public Law 100-457 and this Act shall be available for expenses incurred in fiscal year 1989 by the Coast Guard in responding to any oil spill.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conferees direct the Coast Guard to immediately notify the House and Senate Committees on Appropriations of the expenditure of funds pursuant to this authority.

FEDERAL AVIATION ADMINISTRATION

INSTALLATION AND USE OF EXPLOSIVE DETECTION EQUIPMENT

Amendment No. 80: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate that requires the Federal Aviation Administrator to initiate rulemaking action regarding the deployment of explosive detection systems at such airports, both domestic and foreign, as the Administrator determines necessary. The Senate amendment also requires the Federal Aviation Administration to renegotiate certain Logan County Airport grant agreements.

The conferees concur in the House report language earmarking $360,000 for the Mid-American Aviation Resource Consortium.

FEDERAL HIGHWAY ADMINISTRATION

Amendment No. 81: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate that reiterates the legislative history of the

provision in the fiscal year 1987 supplemental appropriations Act regarding the Dubuque City Island Bridge.

DEPARTMENT OF THE TREASURY

OFFICE OF THE SECRETARY

Amendment No. 82: Restores Chapter number as proposed by the House.

Amendment No. 83: Deletes a provision proposed by the House which would have transferred $2,063,000 from Salaries and expenses to International Affairs and inserts a provision proposed by the Senate which transfers $1,623,000 from Salaries and expenses to International Affairs.

FINANCIAL MANAGEMENT SERVICE

Amendment No. 84: Deletes a provision proposed by the House which would have authorized the transfer of $5,500,000 to the Financial Management Service.

The Conferees have denied the Administration request to transfer $5,500,000 from other Treasury bureau accounts to cover the increased costs of postage for the Financial Management Service. In denying this request, the Conferees direct the Department of Treasury to exercise its existing general transfer authority to cover the increased costs due to postage. The Conferees have agreed to a provision in the bill increasing the Department's authority to transfer funds between accounts from one percent to two percent. In so doing, the Conferees expect the Department to comply with the transfer guidelines included in the Fiscal Year 1989 appropriations Act.

The Conferees note that the costs for postage may exceed the additional $5,500,000 requested and directs the Department to provide the Committees on Appropriations of the House and Senate with a report on specifically how it expects to fund these additional costs in Fiscal Year 1989.

INTERNAL REVENUE SERVICE

Amendment No. 85: Deletes provisions proposed by the House which would have authorized the transfer of $73,983,000 between appropriation accounts of the Internal Revenue Service. The conferees have been informed that the Service can accomplish its mission within the transfer authority available.

CHAPTER XI

Amendment No. 86: Restores Chapter number as proposed by the House.

DEPARTMENT OF VETERANS' AFFAIRS

Amendment No. 87: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

Restore the matter stricken by said amendment, amended to read as follows: *: Provided, That of the sums appropriated under this heading in fiscal year 1989, personnel compensation and benefits payments for the two-week pay period ending September 23, 1989, shall be made by no later than September 29, 1989, and pursuant to section 202(b) of the Balanced Budget and Emergency Deficit Control Reaffirmation Act of 1987, this action is a necessary (but secondary) result of a significant policy change*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference agreement provides that the salary payments for the last pay period in fiscal year 1989 be made by no later than September 29, 1989. The Administration currently has the authority to make such payments by September 29. This action is similar to the action proposed for the last pay period for employees of the Department of Defense.

The conferees have deleted the language earmarking not less than $6,800,000,000 of total 1989 medical care funding for personnel compensation and benefits object classifications because of the difficulty of hiring qualified medical personnel in some geographic areas and the short time in which the additional funds will be available in fiscal year 1989. However, the Veterans Health Service and Research Administration is directed to proceed as quickly as possible to increase the average employment to an annual rate of 194,720. This is the staffing level assumed in the 1989 Appropriations Act and anticipated for 1990. The VA estimates that approximately $6,750,000,000 of 1989 medical care funds will be obligated for personnel compensation and benefits object classifications. The conferees wish to make clear that the VA is not to hire temporary administrative and engineering support personnel simply to increase the 1989 staffing level. The VA is expected to hire permanent employees so as to be able to enter fiscal year 1990 at the 194,720 level. If the VA, despite all best efforts, should not be able to utilize these funds to reach this staffing level, the conferees direct that any remaining portion projected to be available during the closing days of the fiscal year be obligated by the VA for acquisition of urgently needed medical equipment and prostheses.

Amendment No. 88: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter inserted by said amendment, insert the following:

(TRANSFER OF FUNDS)

For an additional amount for the purchase of prosthetic appliances for "Medical care", $5,000,000, to be derived by transfer from "Construction, major projects".

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conferees agree that the amount available in the construction, major projects appropriation for facility development plans be reduced $10,000,000, and $5,000,000 of that amount be transferred to the medical care appropriation for the purchase of prosthetic appliances. The balance of the reduction, $5,000,000, is to be placed in the working reserve. This action will provide funds, as required, for major construction projects.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Amendment No. 89: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate exempting recaptured section 8 moderate rehabilitation funds in the annual contributions for assisted housing appropriation in excess of $47,000,000 from being rescinded.

Amendment No. 90: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

Restore the matter stricken by said amendment, amended to read as follows:

For an additional amount for "Payments for operation of low-income housing projects", $88,000,000, to remain available until September 30, 1990: Provided, That such amount shall be derived by transfer from "Annual contributions for assisted housing", and the amount specified for the section 8 moderate rehabilitation program in the first proviso under that head in the Department of Housing and Urban Development—Independent Agencies Appropriations Act, 1989 (Public Law 100-404, 102 Stat. 1014) shall be reduced by such amount: Provided further, That from the foregoing amount, $8,200,000 shall be made available, notwithstanding section 9(d) of the United States Housing Act of 1937, for grants for use in eliminating drug-related crime in public housing projects, consistent with the criteria set forth in section 5125(b), and reflected in other requirements of the Public Housing Drug Elimination Act of 1988 (Public Law 100-690, 102 Stat. 4301).

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

Amendment No. 91: Deletes language proposed by the Senate transferring $8,200,000 since this language is incorporated in amendment numbered 90.

INDEPENDENT AGENCIES

COURT OF VETERANS APPEALS

Amendment No. 92: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter inserted by said amendment, insert the following: *: Provided, That, notwithstanding section 4081 of title 38, United States Code, during fiscal year 1989 (1) the United States Court of Veterans Appeals may (A) without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, appoint not to exceed 35 employees (and employees to replace any employees so appointed whose employment by the Court is terminated) who shall be eligible for noncompetitive conversion to a position in the competitive service if (i) application therefor is made to the Office of Personnel Management by December 31, 1990, and (ii) the Director of the Office of Personnel Management determines that such noncompetitive conversion is in the interest of the Government, and (B) procure the services of experts and consultants under section 3109 of such title, (2) in the making of appointments pursuant to clause (1), preference among equally-qualified persons shall be given to persons who are preference eligibles (as defined in section 2108(3) of such title), and (3) the authorities provided in clause (1) may be exercised by the Chief Judge of the Court whenever there are not at least two Associate Judges on the Court*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

ENVIRONMENTAL PROTECTION AGENCY

Amendment No. 93: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter inserted by said amendment, insert the following:

SALARIES AND EXPENSES

(TRANSFER OF FUNDS)

For an additional amount for "Salaries and expenses", up to $5,000,000, which shall be derived by transfer from "Abatement, control, and compliance": Provided, That of the sums appropriated under this hearing in fiscal year 1989, personnel compensation and benefits payments for the two-week pay period ending September 23, 1989, shall be made by no later than September 29, 1989,

and pursuant to section 202(b) of the Balanced Budget and Emergency Deficit Control Reaffirmation Act of 1987, this action is a necessary (but secondary) result of a significant policy change.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conferees are in agreement that the reductions in abatement, control, and compliance be taken from contracting and consulting services other than from activities augmented by the Congress.

The conference agreement also provides that the salary payments for the last pay period in fiscal year 1989 be made by no later than September 29, 1989. The Administration currently has the authority to make such payments by September 29. This action is similar to the action proposed for the last pay period for employees of the Department of Defense.

FEDERAL EMERGENCY MANAGEMENT AGENCY

Amendment No. 94: Restores language proposed by the House and stricken by the Senate appropriating $15,000,000 by transfer from the urban development action grants program for the emergency food and shelter program, amended to appropriate $12,000,000.

The conferees agree with the Senate report language directing FEMA to make available $250,000 from within the funds previously appropriated in fiscal year 1989 for the emergency management planning and assistance appropriation for the State and local direction, control, and warning program element for a matching grant to Kanawha County, WV for purchase and installation of a comprehensive early warning signal system.

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

Amendment No. 95: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter stricken and inserted by said amendment, insert the following:

RESEARCH AND PROGRAM MANAGEMENT

(TRANSFERS OF FUNDS)

For an additional amount for "Research and program management", up to $35,000,000, to be derived by transfer from "Research and development" and "Space flight, control and data communications": Provided, That of the sums appropriated under this heading in fiscal year 1989, personnel compensation and benefits payments for the two-week pay period ending September 23, 1989, shall be made by no later than September 29, 1989, and pursuant to section 202(b) of the Balanced Budget and Emergency Deficit Control Reaffirmation Act of 1987, this action is a necessary (but secondary) result of a significant policy change.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate. The conferees expect NASA to follow traditional reprogramming procedures prior to the initiation of any proposed use of this transfer authority.

The conference agreement also provides that the salary payments for the last pay period in fiscal year 1989 be made by no later than September 29, 1989. The Administration currently has the authority to make such payments by September 29. This action is similar to the action proposed for the last pay period for employees of the Department of Defense.

NATIONAL SCIENCE FOUNDATION

Amendment No. 96: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate inserting language appropriating $75,000,000 for research and related activities.

These funds will provide for replacement of the 300-foot National Radio Astronomy Telescope at the Green Bank Astronomy Observatory in Green Bank, WV.

CHAPTER XII—DISTRICT OF COLUMBIA

Amendment No. 97: Inserts new chapter and heading for fiscal year 1989 supplemental appropriations for the District of Columbia government as proposed by the Senate and changes the chapter number to conform with the numbering sequence in the bill. The District's supplemental request is included in House Doc. No. 101-61 and was submitted too late to be included in the House version of the bill.

The District's fiscal year 1989 supplemental request consists of $1,000,000 in Federal funds to be derived by transfer and $144,398,000 in local District revenues consisting of $28,426,000 in operating expenses and $115,972,000 in capital outlay. The amount recommended by the conferees totals $1,000,000 in Federal funds derived by transfer as proposed by the Senate and $159,098,000 in District funds. The District funds total reflects increases of $15,700,000 above the request and includes $1,000,000 to allow for the payment of additional inaugural expenses from the District treasury which was inadvertently omitted in the District's request and $14,700,000 in additional capital borrowing authority for the new Correctional Treatment Facility to be constructed in the District of Columbia. These matters are discussed under subsequent amendments in this chapter.

Amendment No. 98: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter proposed by said amendment, insert the following:

INAUGURAL EXPENSES PAYMENT

(TRANSFER OF FUNDS)

For an additional amount for "Inaugural expenses payment", $1,000,000, to be derived from Expenses, Presidential Transition, General Services Administration.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference action appropriates $1,000,000 derived by transfer from Expenses, Presidential Transition, General Services Administration, to reimburse the District of Columbia for expenses incurred in connection with the January 1989 Presidential Inaugural as proposed by the Senate.

The conferees note that the additional costs incurred by the District government totaled $1,029,574 but the estimate submitted by the Administration totaled only $1,000,000.

DISTRICT OF COLUMBIA FUNDS

DIVISION OF EXPENSES

Amendment No. 99: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter proposed by said amendment, insert the following:

DIVISION OF EXPENSES

The following amounts are appropriated for the District of Columbia for the current fiscal year out of the general fund of the District of Columbia, except as otherwise specifically provided.

GOVERNMENTAL DIRECTION AND SUPPORT

(INCLUDING RESCISSION)

For an additional amount for "Governmental direction and support", $26,000: Provided, That of the funds appropriated under this heading for fiscal year 1989 in the District of Columbia Appropriations Act, 1989, approved October 1, 1988 (Public Law 100-462; 102 Stat. 2269-1 to 2269-2), $7,216,000 are rescinded for a net decrease of $7,190,000.

ECONOMIC DEVELOPMENT AND REGULATION

(INCLUDING RESCISSION)

For an additional amount for "Economic development and regulation", $1,990,000: Provided, That of the funds appropriated under this heading for fiscal year 1989 in the District of Columbia Appropriations Act, 1989, approved October 1, 1988 (Public Law 100-462; 102 Stat. 2269-2), $19,016,000 are rescinded for a net decrease of $17,026,000.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

Governmental Direction and Support.—The conference action appropriates an additional $26,000 and rescinds $7,216,000 for a net decrease of $7,190,000 as proposed by the Senate.

Economic Development and Regulation.—The conference action appropriates an additional $1,990,000 and rescinds $19,016,000 for a net decrease of $17,026,000 as proposed by the Senate.

PUBLIC SAFETY AND JUSTICE

(INCLUDING RESCISSION)

Amendment No. 100: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter proposed by said amendment, insert the following:

PUBLIC SAFETY AND JUSTICE

(INCLUDING RESCISSION)

For an additional amount for "Public safety and justice", $29,360,000, of which $5,064,000, to remain available until expended, shall be solely for overtime expenses of the Metropolitan Police Department and $800,000, to remain available until expended, shall be solely for overtime expenses of the Superior Court: Provided, That of the funds appropriated under this heading for fiscal year 1989 in the District of Columbia Appropriations Act, 1989, approved October 1, 1988 (Public Law 100-462; 102 Stat. 2269-2 to 2269-4), $1,210,000 are rescinded for a net increase of $28,150,000.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

Public Safety and Justice.—The conference action appropriates $29,360,000 of which $5,064,000 is solely for police overtime and $800,000 is solely for overtime in the Superior Court, both amounts to remain available until expended, and rescinds $1,210,000 for a net increase of $28,150,000. The conference agreement increases the amount available for police overtime from $5,000,000 as proposed by the Senate to $5,064,000 which is the exact amount of the fourth quarter payment to the Federal

Bureau of Prisons that is forgiven under amendment number 103.

Superior Court.—The conference agreement provides $995,000 for the Superior Court of the District of Columbia as proposed by the Senate. The conferees agree that $800,000 of these funds shall be available until expended for overtime for court personnel involved in processing criminal cases.

Metropolitan Police Department.—The conference agreement provides that $5,064,000 be transferred to the Metropolitan Police Department for overtime expenses as part of the District's efforts to stem drug and homicide crimes in the Nation's Capital. The increase of $64,000 over the Senate proposal reflects the exact amount of the fourth quarter payment to the United States for District inmates housed in Federal Bureau of Prisons facilities that is forgiven under amendment number 103.

Department of Corrections.—The conference agreement transfers to the Metropolitan Police Department for police overtime the $5,064,000 fourth quarter payment to the United States that is forgiven under amendment number 103. The Senate proposal transferred $5,000,000.

PUBLIC EDUCATION SYSTEM

Amendment No. 101: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter proposed by said amendment, insert the following:

PUBLIC EDUCATION SYSTEM

(INCLUDING RESCISSION)

For an additional amount for "Public education system", $4,529,000, which shall be allocated as follows: $3,758,000 for the public schools of the District of Columbia and $771,000 for the District of Columbia School of Law: Provided, That of the funds appropriated under this heading for fiscal year 1989 in the District of Columbia Appropriations Act, 1989, approved October 1, 1988 (Public Law 100-462; 102 Stat. 2269-4), $2,000,000 for the University of the District of Columbia, $6,000 for the Educational Institution Licensure Commission, $389,000 for the Public Library, and $185,000 for the Commission on the Arts and Humanities are rescinded for a net increase of $1,949,000.

HUMAN SUPPORT SERVICES

(INCLUDING RESCISSION)

For an additional amount for "Human support services", $45,858,000: Provided, That $3,611,000 of this appropriation, to remain available until expended, shall be available solely for the District of Columbia's employees' disability compensation: Provided further, That of the funds provided for the Office of Emergency Shelter and Support Service, $750,000 shall be used to provide food for the homeless and may not be used for any other purpose: Provided further, That of the funds appropriated under this heading for fiscal year 1989 in the District of Columbia Appropriations Act, 1989, approved October 1, 1988 (Public Law 100-462; 102 Stat. 2269-4), $9,945,000 are rescinded for a net increase of $35,913,000.

PUBLIC WORKS

(INCLUDING RESCISSION)

For an additional amount for "Public works", $5,436,000: Provided, That of the funds appropriated under this heading for fiscal year 1989 in the District of Columbia Appropriations Act, 1989, approved October 1, 1988 (Public Law 100-462; 102 Stat. 2269-4), $10,655,000, including $300,000 from the school transit subsidy are rescinded for a net decrease of $5,219,000.

WASHINGTON CONVENTION CENTER FUND

For an additional amount for "Washington Convention Center fund", $543,000.

REPAYMENT OF LOANS AND INTEREST

(RESCISSION)

Of the funds appropriated under this heading for fiscal year 1989 in the District of Columbia Appropriations Act, 1989, approved October 1, 1988 (Public Law 100-462; 102 Stat. 2269-5), $5,834,000 are rescinded.

REPAYMENT OF GENERAL FUND DEFICIT

For an additional amount for "Repayment of general fund deficit", $13,950,000: Provided, That in addition, all net revenue that the District of Columbia government may collect as a result of the District of Columbia government's pending appeal in the consolidated case of U.S. Sprint communications et al. v. District of Columbia, et al., CA 10080-87 (court order filed on November 14, 1988), shall be applied solely to the repayment of the general fund accumulated deficit.

SHORT-TERM BORROWINGS

For an additional amount for "Short-term borrowings", $4,592,000.

PERSONAL SERVICES ADJUSTMENTS

(RESCISSION)

Of the funds appropriated under the various appropriation headings for fiscal year 1989 in the District of Columbia Appropriations Act, 1989, approved October 1, 1988 (Public Law 100-462; 102 Stat. 2269-1 through 2269-6), $18,553,000 as determined by the Mayor, are rescinded: Provided, That the Mayor shall reduce appropriations and expenditures for personal services within object classes 11, 12, 13 and 14: Provided further, That during the fiscal year ending September 30, 1989, the Mayor shall reduce the number of authorized, full-time, funded positions above DS-10 by 318.

INAUGURAL EXPENSES

For an additional reimbursement for necessary expenses incurred in connection with Presidential inauguration activities as authorized by section 737(b) of the District of Columbia Self-Government and Governmental Reorganization Act, Public Law 93-198, approved December 24, 1973 (87 Stat. 824; D.C. Code, sec. 1-1803), $1,000,000, which shall be apportioned by the Mayor within the various appropriation headings in this Act.

ENERGY ADJUSTMENT

(RESCISSION)

Of the funds appropriated under the various appropriation headings for fiscal year 1989 in the District of Columbia Appropriations Act, 1989, approved October 1, 1988 (Public Law 100-462; 102 Stat. 2269-1 through 2269-6), an additional $349,000 as determined by the Mayor are rescinded from object class 30(a) energy.

EQUIPMENT ADJUSTMENT

(RESCISSION)

Of the funds appropriated under the various appropriation headings for fiscal year 1989 in the District of Columbia Appropriations Act, 1989, approved October 1, 1988 (Public Law 100-462; 102 Stat. 2269-1 through 2269-6), $3,500,000 as determined by the Mayor are rescinded from object class 70 (equipment).

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

Public Education System.—The conference action appropriates $4,529,000 of which $3,758,000 is for the public school system and $771,000 is for the District of Columbia School of Law and rescinds $2,580,000 from funds previously appropriated for the University of the District of Columbia ($2,000,000), the Educational Institution Licensure Commission ($6,000), the Public Library ($389,000), and the Commission on the Arts and Humanities ($185,000) for a net increase of $1,949,000 under this heading as proposed by the Senate.

Human Support Services.—The conference action appropriates an additional $45,858,000 of which $750,000 is solely for food for the homeless and rescinds $9,945,000 for a net increase of $35,913,000 under this heading as proposed by the Senate.

Public Works.—The conference action appropriates an additional $5,436,000 and rescinds $10,655,000 for a net decrease of $5,219,000 in this appropriation account as proposed by the Senate.

Washington Convention Center Fund.—The conference action appropriates an additional $543,000 as proposed by the Senate to finance building repairs and maintenance projects at the Washington Convention Center.

Repayment of Loans and Interest.—The conference action rescinds $5,834,000 as proposed by the Senate.

Repayment of General Fund Deficit.—The conference action appropriates an additional $13,950,000 and requires that all net revenues which may be collected by the District government in a pending court case shall be applied to the repayment of the general fund accumulated deficit as proposed by the Senate.

Short-Term Borrowings.—The conference action appropriates an additional $4,592,000 as proposed by the Senate.

Personal Services Adjustments.—The conference action rescinds $18,553,000 as proposed by the Senate.

Inaugural Expenses.—The conference action inserts a new heading and paragraph under District of Columbia funds appropriating the additional $1,000,000 payment provided from Federal funds under amendment number 98 to cover expenses incurred in connection with the January 1989 Presidential inaugural activities. The conferees note that the additional costs incurred by the District government totaled $1,029,574 but the estimate submitted by the Administration totaled only $1,000,000.

Energy Adjustment.—The conference action rescinds an additional $349,000 as proposed by the Senate.

Equipment Adjustment.—The conference action rescinds $3,500,000 as proposed by the Senate.

CAPITAL OUTLAY

Amendment No. 102: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter proposed by said amendment, insert the following:

CAPITAL OUTLAY

(INCLUDING RESCISSION)

For an additional amount for "Capital outlay", $146,642,000, to remain available until expended: Provided, That of the amounts appropriated under this heading in prior fiscal years, $15,970,000 are rescinded for a net increase of $130,672,000: Provided further, That $14,700,000 shall be avail-

able solely for the Correctional Treatment Facility of which $8,700,000 shall be for delay claims owed to the contractor for construction delays and $6,000,000 shall be for fixtures and equipment connected to the floors, walls, and ceilings of the Facility by means of structural, mechanical, or electrical requirements: Provided further, That $4,185,000 shall be available for project management and $9,425,000 for design by the Director of the Department of Public Works or by contract for architectural engineering services, as may be determined by the Mayor: Provided further, That $25,000,000 shall be available to the Department of Corrections for a feasibility study, site acquisition, and design and construction of a jail that is generally bounded by G Street, N.W. on the north, 6th Street, N.W. on the west, Pennsylvania Avenue, N.W. on the south and 1st Street, N.W. on the east: Provided further, That the feasibility study shall include a companion analysis of a revised mission for the present jail to prevent duplication: Provided further, That the executive branch is prohibited from disposing of any property in the Judiciary Square area that is under the jurisdiction of the Mayor until a site has been chosen.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference action appropriates an additional $146,642,000 and rescinds $15,970,000 for a net increase of $130,672,000 instead of an additional $131,942,000 and rescissions of $15,970,000 for a net increase of $115,972,000 as proposed by the Senate. The conference action provides an increase of $14,700,000 in capital borrowing authority above the Senate proposal for the new 800-bed Correctional Treatment Facility to be constructed in Southeast Washington. The increase includes $8,700,000 to cover delay costs resulting from various court actions and restudies and $6,000,000 for kitchen, medical, maintenance and recreational fixtures and equipment connected to the floors, walls, and ceilings of the facility by means of structural, mechanical, or electrical requirements. The conferees are aware of the potential for increased costs to complete the construction of this facility and are committed to ensuring that it is constructed without delay.

REPROGRAMMING AND REDUCTIONS

Amendment No. 103: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter proposed by said amendment, insert the following:

WATER AND SEWER ENTERPRISE FUND

Of the funds appropriated under this heading for fiscal year 1989 in the District of Columbia Appropriations Act, 1989, approved October 1, 1988 (Public Law 100-462; 102 Stat. 2269-7), $100,000 shall be available to compensate individuals as provided in the Water Main Break Fund Emergency Act of 1988, effective December 21, 1988 (D.C. Act 7-269; to be codified at D.C. Code, sec. 47-375, note).

ADMINISTRATIVE PROVISIONS

The United States hereby forgives $5,064,000 of the fourth quarter indebtedness incurred by the District of Columbia government to the United States pursuant to the Act of March 3, 1915, D.C. Code, sec. 24-424, as amended, this amount being equal to the increased cost of housing District of Columbia convicts in Federal penitentiaries during the fiscal year ending September 30, 1989: Provided, That for the fiscal year ending September 30, 1990, the District of Columbia shall pay interest on its quarterly payments to the United States that are made more than 60 days from the date of receipt of an itemized statement from the Federal Bureau of Prisons of amounts due for housing District of Columbia convicts in Federal penitentiaries for the preceding quarter.

Notwithstanding any other provision of law, including, but not limited to the District of Columbia Historic Landmark and Historic District Protection Act of 1978, D.C. Law 2-144, as amended, 25 DCR 6939 (1979), the District of Columbia Government is directed to begin construction of a correctional facility to be located in the District of Columbia, as described in Public Law 99-591, within thirty days of enactment of this Act.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

Reprogramming and Reductions.—The conference action deletes the paragraph entitled Reprogramming and Reductions proposed by the Senate. The conferees believe this paragraph is a duplication of the District's existing internal reprogramming requirements and the reprogramming guidelines in section 122 of the District's fiscal year 1989 appropriations Act.

Water and Sewer Enterprise Fund.—The conference action provides that not to exceed $100,000 of funds previously appropriated shall be available to compensate individuals as provided by the Water Main Break Fund Emergency Act of 1988 as proposed by the Senate.

Administrative Provisions.—The conference action includes language forgiving the District's fourth quarter indebtedness to the Federal government of $5,064,000 reflecting the increased costs associated with housing District of Columbia inmates in Federal penal institutions as proposed by the Senate. The conferees agree that this should not be viewed as an abrogation of responsibility by the District nor as a reason to stop taking D.C. prisoners but rather as a short-term response to a very serious crime problem in the District. The conference action also includes language requiring the District government to pay interest on their quarterly payments to the United States that are made more than 60 days after receipt of the itemized statement from the Federal Bureau of Prisons showing the amounts due for the preceding quarter.

The conference action, in the second paragraph of the Administrative Provisions, directs the District government to begin construction in the District of an 800-bed correctional facility which was previously approved and funded. The language requires that construction begin within 30 days of enactment of this Act notwithstanding any other provision of law including but not limited to the District of Columbia Historic Landmark and Historic District Protection Act of 1978, as amended. Funds for this facility were first appropriated in December 1985 and construction has yet to begin.

TITLE II—URGENT SUPPLEMENTAL APPROPRIATIONS

CHAPTER I

DEPARTMENT OF COMMERCE

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

OPERATIONS, RESEARCH, AND FACILITIES

Amendment No. 104: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the Senate amendment with an amendment as follows:

In lieu of the matter proposed in said amendment insert the following:

DEPARTMENT OF COMMERCE

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

OPERATIONS, RESEARCH, AND FACILITIES

For an additional amount for "Operations, research, and facilities", $28,400,000, to remain available until expended.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The Senate had proposed a transfer of $19,200,000 from the Economic Development Administration's Economic Development Revolving Fund to the National Oceanic and Atmospheric Administration for the following items: $13,200,000 to meet contractual payments for the geostationary satellite program; $2,129,000 to meet certain requirements under the Marine Mammal Protection Act Amendments of 1988, and $3,871,000 to meet part of the FY 1989 funding shortfall of the National Weather Service. The House bill contained no provision on this matter.

The conference agreement provides a total of $28,400,000 in new budget authority for the National Oceanic and Atmospheric Administration. Of this amount, $19,200,000 is for the items which the Senate had proposed to fund by transfer and $9,200,000 in new budget authority is for the remaining FY 1989 funding shortfall of the National Weather Service.

DEPARTMENT OF JUSTICE

Amendment No. 105: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which inserts a heading.

LEGAL ACTIVITIES

SALARIES AND EXPENSES, GENERAL LEGAL ACTIVITIES

Amendment No. 106: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the Senate amendment with an amendment as follows:

In lieu of the matter proposed in said amendment insert the following:

LEGAL ACTIVITIES

SALARIES AND EXPENSES, GENERAL LEGAL ACTIVITIES

For an additional amount for "Salaries and expenses, general legal activities", $1,800,000.

ASSETS FORFEITURE FUND

(RESCISSION)

Of the $75,000,000 in expenses authorized by 28 U.S.C. 524 and appropriated from receipts of the Assets Forfeiture Fund in 1989 (Public Law 100-459), $2,232,000 are rescinded.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The Senate amendment would have provided $1,000,000 for the Office of Redress Administration to handle the processing of claims by Japanese Americans interned during World War II, to be derived by transfer from Federal Prison System, salaries and expenses. The House bill contained no similar provision.

The conference agreement provides $1,800,000 in new budget authority for the

Office, and assumes that the remaining $300,000 in estimated costs for FY 1989 shall be provided from within funds previously appropriated for General Legal Activities. The conferees understand that $2,100,000 is required to fully fund the current efforts of the Department to process these claims, however, sources to fully offset these additional costs could not be found.

The conference agreement also rescinds amounts from the Assets Forfeiture Fund and the Office of Justice Programs, which are no longer required for the purposes for which they were originally appropriated, in order to offset outlays associated with the above new budget authority.

OFFICE OF JUSTICE PROGRAMS

JUSTICE ASSISTANCE

Amendment No. 107: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the Senate amendment with an amendment as follows:

In lieu of the matter proposed in said amendment insert the following:

OFFICE OF JUSTICE PROGRAMS

JUSTICE ASSISTANCE

(INCLUDING RESCISSION)

From the amounts made available to the National Institute of Justice in Public Law 100-459, there shall be available $200,000 for a grant to the University of South Carolina for the purpose of studying the causes and effects of the increasingly disproportionate use of illegal drugs in the black community: Provided, That of deobligated funds previously awarded from appropriations for "Justice assistance", $2,053,000 are rescinded, notwithstanding any other provision of law.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The Senate amendment added language making $200,000 of existing appropriations to the National Institute of Justice available for a grant to study the causes and effects of the disproportionate use of illegal drugs in the black community. The House bill contained no similar provision.

The conference agreement includes the Senate language, amended to add a rescission of funds previously appropriated to the Office of Justice Programs. This rescission will partially offset new budget authority added in amendment Number 106. The amounts rescinded were identified by the Department as no longer required for the reasons originally appropriated. The programs affected are: Juvenile Justice and Delinquency Prevention Programs, $1,673,000; state and local law enforcement grants, $200,000; and the Bureau of Justice Statistics, $180,000.

The conferees agree that the $200,000 grant for the study of the impact of drugs on black communities shall be awarded immediately following the receipt by the National Institute of Justice of a grant proposal from the University of South Carolina.

GENERAL PROVISIONS—DEPARTMENT OF JUSTICE

Amendment No. 108: Deletes language proposed by the Senate which would have directed the FBI Director to pay a cost-of-living allowance to Newark division employees. The House bill contained no similar provision.

The conferees agreed to delete the Senate amendment because it is a piecemeal approach to resolving a nationwide problem involving compensation of Federal employees residing in high cost areas. The conferees agree that decisions to increase pay in such areas should be deferred until results are in on the various studies being made on this issue.

INTERNATIONAL PEACEKEEPING ACTIVITIES AND OPERATIONS

Amendment No. 109: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter inserted by said amendment, insert the following:

DEPARTMENT OF STATE

GENERAL PROVISION

(TRANSFER OF FUNDS)

SEC. 1. In order to meet urgent requests that may arise during fiscal year 1989 for contributions and other assistance for new international peacekeeping activities, and to reimburse funds originally appropriated for prior international peacekeeping activities, which have been reprogrammed for new international peacekeeping activities, the President may transfer during fiscal year 1989 such of the funds described in section 2(a) as the President deems necessary, but not to exceed $125,000,000 to the "CONTRIBUTIONS FOR INTERNATIONAL PEACEKEEPING ACTIVITIES" account or the "PEACEKEEPING OPERATIONS" account administered by the Department of State, notwithstanding section 15(a) of the Department of State Basic Authorities Act of 1956, section 10 of Public Law 91-672, or any other provision of law.

SEC. 2. (a) IN GENERAL.—The funds that may be transferred under the authority of this heading for use in accordance with section 1 are—

(1) any funds available to the Department of Defense during fiscal year 1989, other than funds appropriated by the Department of Defense Appropriations Act, 1989 (Public Law 100-463); and

(2) any funds appropriated by the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1989 (Public Law 100-461) for the "MILITARY ASSISTANCE" account, for the "INTERNATIONAL MILITARY EDUCATION AND TRAINING" account, or for grants under the "FOREIGN MILITARY FINANCING PROGRAM" account.

(b) RELATIONSHIP TO CERTAIN OTHER PROVISIONS.—Funds described in subsection (a)(2) may be transferred and used for contributions or other assistance for new international peacekeeping activities in accordance with section 1 of this provision notwithstanding section 514 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1989 (as amended by section 589 of that Act), relating to transfers between accounts.

SEC. 3. (a) REVIEW OF PROPOSED TRANSFERS.—Any transfer of funds pursuant to section 1 shall be subject to the regular reprogramming procedures of the following committees:

(1) The Committee on Appropriations of each House of Congress.

(2) The Committee on Armed Services of each House of Congress if funds described in paragraph (1) of section 2(a) are to be transferred.

(3) The Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate if funds described in paragraph (2) of section 2(a) are to be transferred.

(b) REVIEW OF PROPOSED OBLIGATIONS.—The regular reprogramming procedures of the following committees shall apply with respect to the obligations of any funds transferred pursuant to section 1:

(1) The Committee on Appropriations of each House of Congress.

(2) The Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate.

SEC. 4. (a) Of the amount that may be transferred pursuant to section 1, $38,950,000 shall be made available upon enactment for contributions with respect to implementation of the Agreement Among the People's Republic of Angola, the Republic of Cuba, and the Republic of South Africa, signed at the United Nations on December 22, 1988 (hereafter known as the Tripartite Agreement) only if the President determines and certifies to the appropriate Congressional committees that (1) the armed forces of the South West Africa People's Organization (SWAPO) have left Namibia and returned north of the 16th parallel in Angola in compliance with the agreements, (2) the United States has received explicit and reliable assurances from each of the parties to the Bilateral Agreement that all Cuban troops will be withdrawn from Angola by July 1, 1991, and that no Cuban troops will remain in Angola after that date, and (3) the Secretary General of the United Nations has assured the United States that it is his understanding that all Cuban troops will be withdrawn from Angola by July 1, 1991, and that no Cuban troops will remain in Angola after that date.

(b) An additional $38,950,000 of such amount shall be made available after August 15, 1989, for implementation of the Tripartite Agreement only if the President has determined and certified to the appropriate Congressional committees that (1) each of the signatories to the Tripartite Agreement is in compliance with its obligations under the Agreement, (2) the Government of Cuba has complied with its obligations under Article 1 of the Bilateral Agreement (relating to the calendar for redeployment and withdrawal of Cuban troops), specifically with respect to its obligations as of August 1, 1989, (3) the Cubans have not engaged in any offensive military actions against UNITA, including the use of chemical warfare, (4) the United Nations and its affiliated agencies have terminated all funding and other support, in conformity with the United Nations impartiality package, to the South West Africa People's Organization (SWAPO), and (5) the United Nations Angola Verification Mission is demonstrating diligence, impartiality, and professionalism in verifying the departure of Cuban troops and the recording of any troop rotations.

(c) Funding of these activities by the United States may not be construed as constituting recognition of any government in Angola.

(d) The term "Bilateral Agreement" means the Agreement Between the Governments of the People's Republic of Angola and the Republic of Cuba for the Termination of the International Mission of the Cuban Military Contingent, signed at the United Nations on December 22, 1988, and the term "Tripartite Agreement" means the Agreement Among the People's Republic of Angola, the Republic of Cuba, and the Republic of South Africa, signed at the United Nations of December 22, 1988.

(e) The term "appropriate Congressional committee" means the Committees on Ap-

propriations, Foreign Affairs, and Permanent Select Committee on Intelligence of the House of Representatives, and the Committee on Appropriations, Foreign Relations, and the Select Committee on Intelligence of the Senate.

SEC. 5. The Secretary of the Treasury shall instruct the United States Executive Directors to the International Monetary Fund and the International Bank for Reconstruction and Development to vote in opposition to the entry of the Government of Angola into these financial institutions or to approve any loans to Angola unless the President certifies to the appropriate Congressional committees that progress is being made toward national reconciliation.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference agreement for Peacekeeping Activities and Operations includes new bill lauguage that replaces language proposed by the House, in amendment number 20.

The conferees agree that the funds for Peacekeeping are to be transferred into the accounts and from the sources of funds proposed by the House.

Language proposed by the Senate concerning Peacekeeping operations in Namibia has been modified. Funding for Peacekeeping operations in Namibia may be provided upon enactment of the bill, and after August 15, 1989, in equal tranches of $38,950,000, based on Presidential certification and assurances.

The conferees also modified language relating to SWAPO combatants to indicate that the provision referred to the armed forces of the South West Africa People's Organization. While a large majority of the individual SWAPO combatants who infiltrated into Namibia have apparently now moved north of the 16th parallel in Angola, the conferees recognize that some individual SWAPO combatants may still remain south of that line. Precise estimates are not possible, given the vast size of the territory and the possibility that individuals may now be sheltered by families or relatives in Namibia. The modified language is intended to account for the possibility that a small number of individual SWAPO combatants may remain south of the 16th parallel when the President certifies that the parties are in compliance with the Tripartite Agreement. The conferees emphasize their intent is only to take account of the fact that the President may not be able to certify that every single SWAPO combatant has withdrawn, and not to create a loophole that would allow any organized SWAPO combatant units to remain in Namibia south of the 16th Parallel.

The conference agreement modifies Senate language concerning instructions related to the United States Executive Directors to the International Monetary Fund and the International Bank for Reconstruction and Development. The revised language indicates that the Secretary of the Treasury is to instruct the Executive Directors to these institutions to vote in opposition to the entry of the Government of Angola into these institutions and to vote not to approve any loans to Angola unless the President certifies to the appropriate Congressional committees that progress is being made toward national reconciliation.

Finally, the conference agreement deletes Sense of the Senate language relating to Angola. The conferees note that the Senate has already expressed its view.

RELATED AGENCIES

DEPARTMENT OF TRANSPORTATION

MARITIME ADMINISTRATION

FEDERAL SHIP FINANCING FUND

Amendment No. 110: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the Senate amendment which waives certain provisions of the Jones Act for the following vessels: The Liberty, Nancy Ann, Nor'Wester and Navatek I. The House bill contained no similar provision.

LEGAL SERVICES CORPORATION

ADMINISTRATIVE PROVISION

Amendment No. 111: Reported in disagreement.

UNITED STATES INFORMATION AGENCY

ADMINISTRATIVE PROVISION

Amendment No. 112: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the Senate amendment which adds an administrative provision to facilitate the testing of television broadcasting to Cuba, as funded in the FY 1989 Appropriations Act. This language is required to enable the Agency to lease, maintain and operate an airplane for a portion of the test. The House bill contained no similar provision.

THE JUDICIARY

ADMINISTRATIVE PROVISION

Amendment No. 113: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the Senate amendment with an amendment as follows:

In lieu of the matter proposed by said amendment insert the following:

SEC. 104. Section 631(b)(1) of title 28, United States Code, is amended by striking out all after "Puerto Rico, or the Virgin Islands of the United States," through "the bar of the district court of the Virgin Islands;" at the end of subparagraph (B), and by striking out the words "the first sentence of" that appear in the same paragraph.

SEC. 105. None of the funds provided in this or any prior Act shall be available for obligation or expenditure to relocate, reorganize or consolidate any office, agency, function, facility, station, activity, or other entity falling under the jurisdiction of the Department of Justice and the Small Business Administration.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The Senate amendment added language amending 28 U.S.C. 631 to give Federal District Courts the authority to fill a vacant magistrate position with an experienced magistrate who is not a member of the bar of the State or jurisdiction in which the vacancy occurs. Current law limits the hiring of magistrates to individuals who are members of the bar of the affected State. The House bill contained no similar provision.

The conference agreement provides substitute language which further expands the pool of qualified magistrate applicants. Under the conference agreement, an applicant for a magistrate vacancy would still have to be a member of the bar, but not necessarily a member of the bar of the particular state or jurisdiction in which the vacancy occurs. This will bring the qualifications for magistrates more in line with those applicable to bankruptcy judges.

The conference agreement also adds a new general provision (Sec. 105) which prohibits the Department of Justice and the Small Business Administration (SBA) from relocating, reorganizing or consolidating offices under their jurisdiction. The conferees have been forced to take this drastic step because of actions taken by the Department and SBA which are contrary to the intent of the House and Senate Appropriations Committees. Section 606 of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1989, includes language prohibiting the reorganization of offices unless the Committees on Appropriations are notified 15 days in advance of such an action. The notification requirement was placed into this provision as an alternative to a flat-out prohibition, but only with the understanding that any proposals are subject to the approval of the Appropriations Committees. The presence of the notification requirement (and the tacit agreement requiring approval of the Committees) provides the Departments and Agencies the flexibility they need to manage their resources. In the past, all Departments and Agencies under the jurisdiction of the Subcommittee on the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies have in good faith and in the spirit of comity, complied with the unwritten agreement that they will not go forward with reorganizations if the Appropriations Committees disapprove their proposals. In the past several months, the Justice Department and the SBA have proposed reorganizations which have not been approved by the Committees. The conferees have learned that both the Justice Department and SBA plan to go ahead with their proposals contrary to the wishes of the Committees. The conferees agree that the only alternative left in this situation is to prohibit all reorganizations for the remainder of fiscal year 1989. The conferees agree, absent assurances by the Department of Justice and SBA that they will comply in the future, that this reorganization prohibition should be continued into fiscal year 1990.

CHAPTER II

DEPARTMENT OF DEFENSE—MILITARY

ADMINISTRATIVE PROVISIONS

Amendment No. 114: Section 201—Inserts subsection designation as proposed by the Senate.

Amendment No. 115: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which directs that the increase provided for Morale, Welfare and Recreation activities be used to cover only the cost of transporting exchange merchandise overseas and the adverse change in foreign currency exchange rates.

Amendment No. 116: Deletes language proposed by the House which would have prohibited the use of Department of Defense funds for research, development, test, evaluation, production, deployment, or operation of the Mid-infrared Advanced Chemical Laser/SEALITE Beam Director during fiscal year 1989 unless regular reprogramming procedures were followed.

Amendment No. 117: Section 204—Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which adds the High Mobility Multipurpose Wheeled Vehicle (HMMWV) to the listed systems eligible for multiyear procurement contracts in fiscal year 1989.

Amendment No. 118: Section 205—Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which requires the Army to procure $50,000,000 of Extended Cold Weather Clothing Systems (ECWCS) during fiscal year 1989 from previously appropriated funds.

Amendment No. 119: Section 206—Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment, as follows:

In lieu of the matter inserted by said amendment, insert the following:

SEC. 206. The Secretary of Defense may, in conjunction with the Office of Personnel Management, conduct a test program to adjust pay rates to reflect local prevailing rates of pay for civilian employees in the following health care occupations: nurse, physician assistant, medical records librarian, medical laboratory technician, and radiology technician.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The Senate included a provision allowing the Department of Defense (DOD) to implement a test program to adjust pay rates to reflect local prevailing rates of pay for civilian employees in five health care specialities. The conferees have amended the Senate's provision to ensure that the test program is performed in conjunction with the Office of Personnel Management (OPM). The test program must be conducted under existing law.

The conferees are extremely concerned about the competitiveness of DOD when competing for health care specialists. The conferees expect OPM and DOD to work together for an expeditious implementation of this test program. The Department should keep the conferees informed on the progress of this test program.

Amendment No. 120: Sections 207 and 208—Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment, as follows:

In lieu of the matter inserted by said amendment, insert the following:

SEC. 207. Section 8037 of the Department of Defense Appropriations Act, 1989 (Public Law 100-463; 102 Stat. 2270-23), is amended by striking out "39 individuals" and inserting in lieu thereof "42 individuals".

SEC. 208. Within funds available to the Department of Defense, the Secretary of Defense shall transfer or otherwise make available funds as necessary to accommodate repair of real property, aircraft, and other Department of Defense assets damaged during the storm at Fort Hood, Texas, on May 13, 1989: Provided, That funds made available pursuant to this section shall be in accordance with established authorities and procedures.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The Senate proposed bill language to raise the ceiling on Executive Schedule positions in the Department of Defense from 39 to 45. The House contained no similar proposal. The conferees understand that the position of the Comptroller of the Department of Defense (DOD) is an Executive Schedule Level IV position under 5 U.S.C. 5317. Additionally, the positions of Assistant Secretary of Defense of Intelligence and Assistant Secretary of the Air Force for Financial Management were authorized as additional Assistant Secretary positions (Public Law 100-456). Since Assistant Secretary positions are normally Executive Schedule Level IV, the conferees recognize only these positions and the Comptroller of DOD as additional legitimate Executive Schedule positions and agree to raise the ceiling to 42.

On May 13, 1989, a severe wind storm hit Ft. Hood, Texas. The high winds from this storm damaged a number of Army aircraft and facilities. The Army has estimated that the cost of emergency repairs in fiscal year 1989 will be $176,700,000.

The conferees have included a provision directing the Secretary of Defense to use funds available to the Department of Defense (DOD) to accommodate emergency real property and aircraft repair requirements at Ft. Hood. The conferees agree that the Department should seek prior approval from the House and Senate Appropriations Committees and the House and Senate Armed Services Committees before any transfer or reprogramming of DOD assets for this purpose.

Furthermore, the conferees note that the Army has requested authority to realign an $80,000,000 mission from supply operations to depot maintenance (FY 89-13PA), without an increase in depot maintenance funding. The conferees agree that $36,200,000 should remain in depot maintenance to fund aviation maintenance contracts. The remainder should be transferred to the Army's P-2 mission account to fund unit level maintenance and repair of facilities. Therefore, the conferees agree that the realignment of mission requirements from supply operations should be postponed until fiscal year 1990. Any additional 1989 funding requirements for supply operations should be accommodated with a future reprogramming request.

KWAJALEIN MISSILE RANGE

The Senate report contained language regarding serious disruptions in the civilan contract work force at the Kwajalein missile range and the lack of consultation with the Congress about funding shortfalls in logistics support which precipitated the problem. The Senate language required the Army to submit a report no later than June 30, 1989 on several aspects of this problem and on the Army's plan to mitigate the impacts on the civilian work force and to prevent recurrence of similar problems in the future.

The managers on the part of the House share the concerns expressed by the Senate in its report. The House managers endorse the Senate requirements for the Army report and direct that the report be submitted to the House Committee on Appropriations when it is submitted to the Senate.

CHAPTER IV

DEPARTMENT OF TRANSPORTATION

FEDERAL AVIATION ADMINISTRATION

AIRCRAFT PURCHASE LOAN GUARANTEE PROGRAM

Amendment No. 121: Restores House language regarding interest payments on promissory notes issued to the Secretary of the Treasury.

GENERAL PROVISIONS

Amendment No. 122: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter stricken and inserted by said amendment, insert the following: *Notwithstanding any other provision of law, the New York State Bridge Authority shall have the authority to collect tolls on the Newburgh-Beacon Bridge and to utilize the revenue therefrom for the construction and reconstruction of and for the costs necessary for the proper maintenance and operation of any bridges and facilities under the jurisdiction of such Authority and for the payment of debt service on any of the Authority's obligations issued in connection therewith.*

Section 341 of Public Law 100-457 is amended by deleting "2" and inserting in lieu thereof *"4"*.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

DEPARTMENT OF THE TREASURY

UNITED STATES CUSTOMS SERVICE

Amendment No. 123: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which authorizes the transfer of two E2C aircraft from the Customs Service to the Coast Guard.

GENERAL PROVISIONS

Amendment No. 124: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which increases the amount the Department of the Treasury may transfer to or from any one of its accounts from 1 percent to 2 percent in fiscal year 1989.

EXECUTIVE OFFICE OF THE PRESIDENT

OFFICE OF ADMINISTRATION

Amendment No. 125: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which appropriates $1,500,000 for grants to certain political parties in Puerto Rico.

Amendment No. 126: Changes a word in a center heading from singular to plural as proposed by the Senate.

FEDERAL ELECTION COMMISSION

Amendment No. 127: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate amended to read as follows:

In lieu of the matter proposed by said amendment, insert the following:

FEDERAL ELECTION COMMISSION

SALARIES AND EXPENSES

(TRANSFER OF FUNDS)

For an additional amount for "Salaries and expenses", $250,000, to be derived by transfer from "Expenses, Presidential Transition", General Services Administration.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conferees are agreed that $250,000 is to be transferred from Expenses, Presidential Transition to the Commission.

GENERAL SERVICES ADMINISTRATION

FEDERAL BUILDINGS FUND

Amendment No. 128: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate amended to read as follows:

In lieu of the matter proposed by said amendment, insert the following:

GENERAL SERVICES ADMINISTRATION

FEDERAL BUILDINGS FUND

SEC. 201. (a) Notwithstanding any other provision of law, the General Services Administration is hereby authorized to purchase, from annual funds available in the Federal Buildings Fund in fiscal year 1989, such additional furniture and equipment as may be necessary, not to exceed $1,500,000, for the National Oceanic and Atmospheric Administration to relocate to the Silver Spring, Maryland Metro Center.

(b) The National Oceanic and Atmospheric Administration will reimburse the General Services Administration for such expenditures in equal amounts over a period of two years, beginning in fiscal year 1990.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conferees are agreed that this use of funds by the General Services Administration for the purchase of furniture and equipment for the National Oceanic and Atmospheric Administration is being done on a one-time only basis. The conferees are also agreed that the National Oceanic and Atmospheric Administration will fully reimburse the General Services Administration with the first repayment to be made at the beginning of fiscal year 1990.

EXPENSES, PRESIDENTIAL TRANSITION

Amendment No. 129: Deletes a provision proposed by the Senate which would have rescinded $250,000 from this account.

CHAPTER VI

DEPARTMENT OF VETERANS AFFAIRS

Amendment No. 130: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate permitting the costs of external contract audits in 1989 to be charged to the construction, major projects; construction, minor projects; or supply fund accounts instead of the general operating expenses account.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Amendment No. 131: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter inserted by said amendment, insert the following:

ANNUAL CONTRIBUTIONS FOR ASSISTED HOUSING

The Secretary of Housing and Urban Development may make amounts reserved or obligated under section 8 of the United States Housing Act of 1937 (42 U.S.C. 1437f) for particular projects under section 202 of the Housing Act of 1959 (12 U.S.C. 1701q), available as subsidy amounts for such projects under section 202(h)(4) of such Act: Provided, That from loans made under this section (section 202) the amounts realized from non-recourse sales of mortgages held as security for such loans shall be scored with respect to the level of budget authority or outlays under a committee's allocation under section 302 of the Congressional Budget Act of 1974.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference agreement includes language permitting the receipts from section 202 mortgage sales to be scored in the section 302 budget allocation. Language specifically authorizing actual sales of such mortgages must be included in subsequent legislation prior to any such sales.

TITLE IV—GENERAL PROVISIONS

Amendment No. 132: Restores a general provision inserted by the House and stricken by the Senate which permits a very limited exception to the Alcoholic Beverage Labeling Act of 1988.

Amendment No. 133: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter inserted by said amendment, insert the following:

SEC. 404. (a) Within 6 months of the enactment of this Act and after granting notice and opportunity to comment to affected tenants, the Secretary shall review the drug-related eviction procedures of all jurisdictions having a Public Housing Authority for the purpose of determining whether such procedures meet Federal due process standards.

(b) Upon conclusion of the review mandated by subsection (a), if the Secretary determines that due process standards are met for a jurisdiction, the Secretary shall issue that jurisdiction a waiver of the procedures required in section 6(k) of the United States Housing Act of 1937, 42 U.S.C. 1437d(k), for evictions involving drug-related criminal activity which threatens the health and safety of other tenants of public housing authority employees as long as evictions of a household member involved in drug-related criminal activity shall not affect the right of any other household member who is not involved in such activity to continue tenancy.

(c) Within 60 days of completion of the review mandated by subsection (a), the Secretary shall report to Congress the findings of the review including all waivers granted in accordance with subsection (b).

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

PANAMA

Amendment No. 134: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur with the amendment of the Senate with an amendment as follows:

In lieu of the section number named in said amendment insert the following: *405*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conferees agree to include Sense of the Senate language regarding the appointment of a new administrator for the Panama Canal Commission.

SENSE OF THE SENATE—RESTORATION OF EASTERN AIRLINES

Amendment No. 135: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the section number "405" insert: *406*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

NON-PROLIFERATION AND STINGER MISSILES

Amendment No. 136: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur with the amendment of the Senate with an amendment as follows:

In lieu of section number "406" named in said amendment, insert the following: *407.* And, in lieu of section number "407" named in said amendment, insert the following: *408*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conferees have agreed to the Senate language concerning nuclear, chemical, biological and missile non-proliferation and to the Senate language on the temporary suspension of the right to repurchase Stinger missiles from Bahrain.

Amendment No. 137: Reported in technical disagreement. The managers on the part of the House will move to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the first section number named in said amendment insert: *409*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The Senate amendment modifies the Social Security Act to waive civil service hiring procedures for the National Commission on Children and to permit the Commission to hire consultants.

SENSE OF THE SENATE—LEVERAGED ACQUISITION OF AIR CARRIERS

Amendment No. 138: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the section number "409" insert: *410*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

Amendment No. 139: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the first section number named in said amendment, insert: *411*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference agreement inserts a general provision as proposed by the Senate which provides that "The Secretary of Agriculture may use his section 32 authority in appropriate instances to stabilize the apple market and to satisfy the requests of recipient agencies." The conferees agreed that this language is not intended to restrict the historic use of section 32. The conference agreement also changes the section number.

Amendment No. 140: Deletes language proposed by the Senate expressing the sense of the Senate regarding Section 89 of the Internal Revenue Code of 1986. This question is one of legislation, and it was felt that an expression in an appropriations bill might be misunderstood. Therefore, it was dropped leaving the question to be resolved by the appropriate legislative committees.

Amendment No. 141: Deletes without prejudice language proposed by the Senate expressing the sense of the Senate that the Finance Committee should consider legislation prior to September, 1989 that would modify the Medicare Catastrophic Coverage Act of 1988.

The Senate conferees wish to make clear that they are receding for technical reasons, and not for reasons of substance.

The Senate conferees remain committed to the purposes of the sense of the Senate as expressed in amendment 141, that the Senate Finance Committee should consider modifying the supplemental premiums required under the Medicare Catastrophic Coverage Act of 1988 (Public Law 100-360). The Senate Finance Committee should also

consider reinstating voluntary participation, and a delay in the supplemental premium and benefits that have not become effective in 1989; and that these actions should be taken prior to September 1989.

The Senate conferees further intend that States should more aggressively enforce non-duplication requirements in private Medigap insurance, and that other Senate committees should address the issue of duplication of benefits for military, Federal and other retirees.

MILITARY CONSTRUCTION

MINOR CONSTRUCTION, NAVY

The conferees disagree with the Senate report language earmarking $1,000,000 for construction of a community center at Naval Radio Station, Sugar Grove, West Virginia. However, the conferees direct the Department of Defense to submit a reprogramming request for minor construction funds together with a notification as required by 10 U.S.C. 2805, in order that this project may be executed in a timely manner.

CONFERENCE TOTAL—WITH COMPARISONS

The total new budget (obligational) authority for the fiscal year 1989 recommended by the Committee of Conference, with comparisons to the fiscal year 1989 budget estimates and House and Senate bills for 1989 follows:

Budget estimates of new (obligational) authority, fiscal year 1989	$2,389,697,000
House bill, fiscal year 1989	3,721,111,500
Senate bill, fiscal year 1989	3,264,128,500
Conference agreement, fiscal year 1989	[1] 3,219,518,500
Conference agreement compared with:	
Budget estimates of new (obligational) authority, fiscal year 1989	[1] +829,821,500
House bill, fiscal year 1989	[1] −501,593,000
Senate bill, fiscal year 1989	[1] −44,610,000

[1] Excludes $821,579,000 reported in true disagreement in amendment no. 2.

JAMIE L. WHITTEN,
WILLIAM H. NATCHER,
NEAL SMITH,
SIDNEY R. YATES,
DAVID R. OBEY,
EDWARD R. ROYBAL,
TOM BEVILL,
JOHN P. MURTHA,
BOB TRAXLER,
WILLIAM LEHMAN,
JULIAN C. DIXON,
VIC FAZIO,
W.G. BILL HEFNER,
VIRGINIA SMITH,
Managers on the Part of the House.

ROBERT C. BYRD,
DANIEL K. INOUYE,
FRITZ HOLLINGS,
J. BENNETT JOHNSTON,
QUENTIN BURDICK,
PATRICK LEAHY,
DENNIS DECONCINI,
DALE BUMPERS,
FRANK R. LAUTENBERG,
TOM HARKIN,
BARBARA A. MIKULSKI,
HARRY REID,
BROCK ADAMS,
WYCHE FOWLER, Jr.,
J. ROBERT KERREY,
MARK O. HATFIELD,
TED STEVENS,
JIM MCCLURE,
JAKE GARN,
THAD COCHRAN,
BOB KASTEN,
ALFONSE D'AMATO,
WARREN RUDMAN,
ARLEN SPECTER,
CHUCK GRASSLEY,
DON NICKLES,
PHIL GRAMM,
Managers on the Part of the Senate..

HOUSE OF REPRESENTATIVES—*Monday, June 19, 1989*

The House met at 12 noon and was called to order by the Speaker pro tempore [Mr. BEVILL].

DESIGNATION OF SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC.,
June 16, 1989.

I hereby designate the Honorable TOM BEVILL to act as Speaker pro tempore on Monday, June 19, 1989.

THOMAS S. FOLEY,
Speaker of the House of Representatives.

PRAYER

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

Almighty God, may our lives be touched by Your spirit so we are open to the gift of hope and anticipation for the future. We know not the road ahead, nor do we expect to be free of the tensions of our times, but we know You to be our Creator, the giver of life and the one who nurtures our growth. So may Your good spirit, O God, which is and was and will ever be, show us the beauty of life and love and fill our empty hearts with that hope for tomorrow that gives us confidence for this new day. Amen.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. The gentleman from Pennsylvania [Mr. GEKAS] will please lead the House in the Pledge of Allegiance.

Mr. GEKAS led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Lundregan, one of its clerks, announced that the Senate had passed without amendment a bill and concurrent resolution of the House of the following titles:

H.R. 2344. An act to authorize the transfer to the Republic of the Philippines of two excess naval vessels; and

H. Con. Res. 150. Concurrent resolution authorizing the printing of a collection of statements in tribute to the late Representative Claude Denson Pepper.

The message also announced that pursuant to Public Law 99-624, the Chair on behalf of the President pro tempore, appoints Mr. HEINZ, to the Eisenhower Centennial Commission, vice Mr. ARMSTRONG, resigned.

REMOVING PRIVILEGE OF MOST-FAVORED-NATION TREATMENT FROM CHINA

(Mr. LANTOS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LANTOS. Mr. Speaker, the American people are shocked and appalled at what is happening in China. The time has come for the Congress to take stronger action.

The Chinese regime has massacred its most promising youth. Now it denies that it ever did so. Yet, lies are not so easy in an age of television and instantaneous global mass communications. The record is there, the evidence is there.

With my distinguished colleague, the Republican cochairman of the Congressional Human Rights Caucus, Congressman JOHN PORTER of Illinois, I have introduced legislation calling for the United States to deny China the privileges of most-favored-nation treatment for its trade and the benefits of the Overseas Private Investment Corporation [OPIC].

It is high time we told the butchers of Beijing that business as usual will not go on as long as they massacre young men and women whose sole crime it is to cry out for freedom and democracy.

Mr. Speaker, I urge all of our colleagues to join us in cosponsoring this legislation.

AMERICA'S EMBASSY IN BEIJING

(Mr. BROOMFIELD asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BROOMFIELD. Mr. Speaker, 10 years ago, Iranian militants stormed our Embassy in Tehran. Back then, America was the world's punching bag.

In the last 8 years, America has regained the world's respect—but only by standing firm.

If we learned anything in Iran, we now know that the world has no respect for the half-hearted, for those who are not willing to take a stand.

Today, America faces a new challenge in Beijing. As our distinguished Speaker suggested yesterday, Congress feels strongly about the safety of the Chinese couple in our Embassy. And we feel strongly about the sanctity of our Embassy grounds. The Chinese Government should be aware of that.

There are times to be flexible, and times to stand firm. This is a time to draw the line, and I urge the President to get that message through in every way he can. America will not tolerate another Embassy seizure, and the Chinese leadership ought to know it.

FOOD CONTAMINATION PREVENTION ACT

(Mr. SMITH of New Jersey asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. SMITH of New Jersey. Mr. Speaker, new information has come to light indicating that there are an increasing number of trucks which haul food to one destination and garbage on the return trip.

Mr. Speaker, with landfills on the east coast reaching capacity, especially in New Jersey, it appears that this practice is on the increase. Drivers who are bringing meat, produce, and grain products from the Midwest to the east coast are often returning with bales of solid waste to be disposed of in landfills. This practice of backhauling garbage was exposed in recent news accounts, including a story from the Philadelphia Inquirer, which I will submit for the RECORD.

The threat of contamination to our food supply is both serious and immediate. A professor of food science at Penn State University compared this practice to "shipping milk to Alaska and bringing back oil in the same truck."

In order to correct this situation, today I am introducing the Food Contamination Prevention Act, along with Mr. CLINGER of Pennsylvania and others, which will require the Department of Transportation to promulgate regulations within 90 days to prohibit any vehicle which transports solid waste or hazardous waste from being

used to transport food. Violators of this prohibition will be subject to criminal penalties of up to $250,000 and/or 5 years in jail.

Mr. Speaker, according to a 1987 report by the Environmental Protection Agency, "* * * competitive pressures on the trucking industry encourage back hauling of dissimilar materials and discourage expensive cleaning procedures." Unfortunately, truckers bringing food to the east coast often find few loads to return with. However, in New Jersey, we have about 15,000 tons of solid waste per day that needs to be shipped to landfills in western Pennsylvania and Ohio. This results in about 750 trucks a day hauling garbage to landfills in the Midwest. Although these trucks must be licensed by New Jersey to haul garbage within or out of the State, there are no requirements which prevent these same trucks from returning with a cargo of food.

Mr. Speaker, I have contacted all of the relevant departments and agencies of the Federal Government which have jurisdiction over this matter: the Department of Transportation, the Department of Agriculture, the Environmental Protection Agency, the Food and Drug Administration and the Interstate Commerce Commission. Each of them seems to have some requirements which touch upon this subject, but none of them could flatly prohibit the practice. The Food Contamination Prevention Act will make it very clear: if you want to haul garbage in your truck, you will not be allowed to haul food. I would urge all of my colleagues to support this legislation and put an end to this health threatening practice.

[From the Philadelphia Inquirer, June 2, 1989]

HAULING FOOD—AND GARBAGE, TOO—A GROWING NUMBER OF TRUCKS ARE CARRYING BOTH

(By Barbara Brueggebors)

STATE COLLEGE, PA.—An armada of tractor-trailers, the same trucks that carry the nation's food to market, has quietly and quickly become the new wave in America's interstate garbage fleet.

An ever-increasing number of trucks are sandwiching trips to the landfill between stops at food warehouses, produce docks, packing and processing plants and supermarkets.

"It boggles the imagination," Manfred Kroger, professor of food science at Penn State, said last week. "The implications for food contamination are tremendous. It's like shipping milk to Alaska and bringing back oil in the same truck."

Few hard statistics are available on the extent to which food-hauling trucks are doubling as garbage haulers. But at truck plazas on Pennsylvania's Interstate 80, drivers casually swap war stories about hauling meat, cheese, corn flakes and bananas to Eastern cities and heading back to Midwest landfills loaded with 20 or more tons of baled garbage.

During the last three weeks, a Centre Daily Times reporter observed many trailers and refrigerator trucks ("reefers" in trucker jargon) either carrying or being loaded with municipal solid waste at Pennsylvania transfer station and being unloaded at a large Ohio landfill.

Refrigerator trailers, with their ribbed, stainless-steel floors and hard plastic sides, normally carry meat, poultry, dairy products, fresh fruits and vegetables to market. Other trucks, called dry vans, carry a wide variety of cargo, including cereals, canned goods, potato chips, soda, paper products and disposable diapers.

"Neither one should be carrying garbage," said a 28-year-old trucker from Indiana who asked not to be identified. "Reefers seem worse because they carry fresh food. When you unload them at landfills, the fumes just belch out of the back when they open the doors. It's enough to make you not want to eat."

Truckers and solid-waste industry representatives say the practice of back-hauling garbage in dry and refrigerator trucks is growing because of three factors:

An almost complete lack of government or other regulations.

The unrelenting escalation of the East Coast garbage stream, a declining number of disposal sites, and the resulting enormous demand for trucks—any kind of trucks—to haul the trash westward to willing landfills.

Economic competition in the trucking industry that tempts, in fact, virtually forces haulers to scramble for the paying cargo of garbage as their rigs head back from the East Coast to the Midwest.

Trucking association officials say they have no knowledge of the practice. But drivers say company dispatchers have been routinely steering them to solid-waste transfer stations in places such as Jersey City, Philadelphia, Allentown and Bloomsburg, Pa., for the last year or two.

"The fact that garbage is moving in dry vans and refrigerator trucks that sometimes also carry food is something that's becoming increasingly apparent," said Dave Pointon of the National Solid Wastes Management Association." As an association, we feel it is unhealthy, unaesthetic and unappealing, but, right now, there's nothing on the books to prohibit it."

Food industry spokesmen, federal regulatory officials, consumer advocates and lawmakers reacted with amazement when told of the cross-hauling.

"It would be the worst imaginable publicity for our products to be in any way associated with garbage or dumps or landfills," Dennis Madsen of the Washington-based National American Wholesale Grocers Association said recently. "The trend in our industry is to get more backhauls—but certainly not garbage. I'm sure our membership would think this abhorrent."

Madsen said the 325 wholesale grocer members of the national association and its 250-member International Foodservice Distributors division put 20,000 trucks on the road every day. "None of them—as far as I know—is hauling garbage. I couldn't conceive of it happening," he added.

Penn State's Kroger, who also said he did not know food and garbage were traveling in the same trucks, said the practice pointed out a glaring lapse in the regulatory system. He said the crossover of waste and food products was something that could cause contamination under even the most carefully controlled conditions.

"Even if both the garbage and the food were plastic wrapped—which I'm sure they're not—and even if all the trucks were scrubbed and fumigated between hauls—which I'm sure they're not—there could still be contamination. It would be quite possible if bacteria lodged in the nooks and crannies of the trailer or in the cooler of a refrigerated van," he said.

Garbage odors, too, could easily be picked up by food products—either through air recycled through a trailer's refrigeration unit or from a dry van's wooded floor that has become saturated with garbage "ooze," said Kroger, a food-safety specialist.

U.S. Rep. William F. Clinger (R., Pa.) said recently that he was appalled to hear of the practice and surprised to learn it wasn't already prohibited by some federal regulation.

Clinger's congressional district in north-central and northwestern Pennsylvania includes nine counties and parts of three others. It also takes in a wide swatch of I-80, a principal solid-waste artery.

"I think the people who believe garbage should be hauled in trucks reserved just for garbage make a legitimate point," Clinger said in a telephone interview from his Washington office. "Clearly hauling garbage in food trucks poses a risk to the public health. I'd consider trying to introduce legislation to stop that practice myself."

At disposal sites like Browning-Ferris Industries' vast 800-acre Carbon Limestone, Sanitary Landfill near Poland, Ohio, tractor-trailers stand in long rows—cargo doors flung wide—inching their way toward the unloading area.

Eventually, a cleat-tracked compactor hitches to each trailer's cable-strung load and, with one long pull, yanks 20 or more tons of baled garbage from the truck's insides.

The Carbon Limestone landfill, Ohio's second largest, receives 12,500 cubic yards of municipal solid waste every day—more than half of it from out of state.

Every day, six days a week, some 400 trucks (about 200 from the East Coast) visit Poland, an Ohio town south of I-80 just across the Pennsylvania line.

Landfill manager Mike Herher said slightly more than half of those trucks are vans. Perhaps 10 to 15 percent of the vans are refrigerated, he estimated.

Herher said he knew some of the trucks dumping trash at his disposal site would carry food products on their next haul. He said he did not think that was right but quickly added that it was not his call to make.

Promised anonymity, truckers are happy to discuss the ins and outs of the food/garbage hauling game.

They talk about waiting for hours in mud, dust and filth to unload in giant landfills located just off interstate highways in Pennsylvania, West Virginia, Ohio, Indiana and other states.

They talk about between-load cleanouts that consist of nothing more than a quick sweep with a push broom and a spray or two of air freshener.

And they talk about lying if the subject of garbage ever comes up at the warehouse or food terminal.

"As long as your trailer looks and smells all right, nobody on the loading dock is going to challenge you," a Zeeland, Mich., driver said while waiting for orders from his dispatcher at I-80's Buckhorn interchange.

"With the deodorizing agents they have, I've left landfills with the inside of my trailer smelling better than it does after hauling a load of chicken. And if it doesn't, you can always throw in a couple of handfuls of ground roast coffee. That works wonders."

Truckers like the Michigan driver say government regulations relating to safe and sanitary interstate food transport—such as they are—are being circumvented or simply ignored.

U.S. Department of Agriculture representatives admit that trucking companies routinely violate a departmental regulation prohibiting meat and poultry products from being hauled in a vehicle that has carried anything inedible.

"Certainly if we knew trucks were used for inedibles, we wouldn't let them haul meat or poultry," said Bob Murphy, a food technologist with the USDA's Food Safety Inspection Service. "The trouble is, if it looks clean and smells clean, how can we tell?"

The U.S. Food and Drug Administration requires interstate carriers of all other food products (besides meat and poultry) to provide clean and sanitary vehicles. But to successfully prove a violation, the agency must be able to show the correlation between the condition of the truck and some type of adulteration of the food, FDA officials say.

"We've had any number of cases involving trucks and food adulteration, due to rodents and insects, but we've never had a case that had anything to do with garbage-hauling," Curtis Kocher of the FDA's Division of Regulatory Guidance said last week. "If this becomes an industrywide practice, though, I suppose we will."

Kocher said neither the FDA nor the USDA would be likely to check a truck unless one happened to be at a food loading dock when a government inspector was touring the plant.

"The FDA has 700 inspectors in the field trying to cover everything from TV sets to microwaves to drugs to seafood," Kocher said. "I leave it to your judgment as to whether that's adequate considering we regulate one-quarter of the gross national product of this country."

Penn State's Kroger said federal regulatory agencies, given current staffing and budget constraints, could not be expected to provide adequate scrutiny. He added that it was unrealistic to assume that stringent between-haul sanitation and fumigation procedures for trucks would be followed, assuming any existed.

"There must be sharp demarcation lines drawn in the trucking industry," Kroger said. "Food trucks should be reserved for food. Garbage trucks should be reserved for garbage. That's the only thing that would work."

From the point of view of those in the trucking industry, garbage is a ticket off the East Coast.

Hauling trash is a golden—if foul-smelling—way to avoid running empty or losing time waiting around for a sweeter-smelling cargo to come along.

Truckers say they don't make money on the deal. Companies generally get somewhere between $1 and $2 per mile for long-hauling 20 tons of baled garbage from Eastern transfer stations to Midwestern landfills.

"Trucking companies are making just enough on garbage to move the truck and keep it moving," said George, a Minneapolis driver whose refrigerated truck carries meat, potatoes, cheese and muncipal solid waste.

The 62-year-old veteran trucker, who was interviewed at Bestway truck plaza just off I-80 at Milesburg, said he did not think garbage should travel in a fresh-food truck.

"But with deregulation," he said, "trucking companies have to take whatever they can get to stay in business."

Interviewed during a stop for repairs at I-80's Snow Shoe interchange, a 28-year-old tractor-trailer driver who regularly picks up garbage in Jersey City, N.J., and drops it in Wabash, Ind., described the situation as terrible.

"Between 700 and 800 trucks a day go into New York," she said. "Garbage is the way for companies to get those trucks off the coast. It gives them something to haul."

UPDATE ON STATUS OF COMMITTEE ON BANKING, FINANCE AND URBAN AFFAIRS

The SPEAKER pro tempore (Mr. BEVILL). Under a previous order of the House, the gentleman from Texas [Mr. GONZALEZ] is recognized for 60 minutes.

Mr. GONZALEZ. Mr. Speaker, I rise in order to continue what I promised the first week that the 101st Congress entered into session or convened, and my assumption of the chairmanship of the Committee on Banking, Finance and Urban Affairs and I pledged to my colleagues that I would keep them abreast of the happenings, occurrences, plans, and doings of this committee.

I felt that this committee, on the threshold of a very, very trying time and confronting the need for legislation of such a comprehensive nature, that such a committee in the Congress, as a fact, has not confronted in 55 years.

□ 1210

As a matter of fact, the legislation approved, H.R. 1278, last Thursday at about 10 p.m., is the most comprehensive financial institution and regulatory overhaul in the history of this committee. The different enactments in the 1930's were just that. They were different and separate enactments. We had the ultimate bank, the 1935 Fundamental Bank Act, which was the actual predicate for the foundation for the structuralization of our financial institutions in our country in which we had a clear dividing line or a line of demarcation between the commercial and the banking activities. We had separate legislation having to do, and antecedent to this one. For instance, very few of my colleagues would have recognized the so-called savings and loan legislation. The Federal Home Loan Board Act as well as the subsequent enactment known as the Federal Savings and Loan Insurance Corporation Act, but the first one being the handiwork of Herbert Hoover's administration. During the election year of 1932 and before his defeat and departure from Office, this was one of the fundamental acts that Herbert Hoover offered the Congress and the Congress adopted. In his words, he said "This is the only hope American families will have to think in terms and dreaming of owning their own homes."

It is a very ironic twist of events, though, that through the years, I doubt very few Americans would have attributed this legislation to Herbert Hoover, yet the truth is that it was. However, then as now, it was born out of sheer necessity. Then as now, the antecedent, undercurrents were the same. The only difference, the context of the world then as compared to the world today. However, the same forces that contributed to the demise of the economic or the fiscal, as well the monetary system of not only the country but the world occurred for the same basic reasons as what we are confronting today.

I wanted to remind my colleagues that I am particularly grateful to them for their tremendous and heroic action last Thursday night. First, in putting an end to the very actions that have clearly, clearly marked this course of travel of this terrible misfortune or debacle that is confronting our Nation and the taxpayers. It put an end to sweeping under the rug those awesome problems, nettlesome political problems, unpopular it seems by some politicians, afraid to confront the people with the truth, ignorant of the facts, that the American people all through their history, once knowing the truth, can be depended upon to make the right decisions. However, they have to be given the facts and the figures and the truth. This had not been done.

I wanted to point out that the same underlying factors that led to the enactment of the Federal Home Loan Board Act of 1932 is exactly what led to the United States House of Representatives approval of what we call H.R. 1289, the Financial Institutions Reform, Recovery and Enforcement Act of 1989. The Senate passed a somewhat different version substantially along the same channels, but somewhat and in very substantive ways, earlier. I pointed out why we anticipated, why we were lucky, if we could have the House consider this in the full House by the middle of June, though I had hoped fervently we could have done so before we went on the Memorial Day break. However, I pointed out, and have prior to this special order, that the Senate's committee, unlike ours, can handle the entire panoply of issues of a given bill or legislative act by one committee, whereas in the House we have different committees that have substantive jurisdiction over different sections of such a comprehensive bill as H.R. 1278. So we know that we would have to go to the Committee on Ways and Means to pass and have their say-so on that title, having to do with the resolution trust corporations and the issue of bonds, and the tax treatment to be given those bonds.

After all, the Constitution mandates that all tax matters must originate and be considered by the Committee on Ways and Means. We had another title that had to do with the enforcement provisions because, unlike the 1932, 1933, 1945 enactments, we had to do everything in one package. We had to have not only the prime reason that we are confronting this crisis, and that is to shore up, to infuse with the necessary funds, the insurance fund, FSLIC. This is what should have been done ten years ago almost. It was obvious by then that we were headed for a crisis. However, as I said, the tendency to sweep things under the rug for political opportunism of the moment, clearly left to a point where we had no choice but to do everything, change completely the regulatory environment, reform it completely because it would have been unthinkable to ask the American people, as President George Bush so well stated, to go ask them to come in and save the insurance funds, and in effect, the industry to have a certain strength while we would go back to the possibility of the same thing happening.

It so happened that the title setting up the resolution trust corporation, which should really have been, and I want to tell my colleagues this is why I wanted to report to Members today, that we intend to continue particular sustained action with respect to this title, even though, hopefully, we will act expeditiously, together with the Senate, in the conference that I hope will be formed, and that we can get going this week. However, it remains for Members to continue to work.

This was the next thrust of what I wanted to say. We must evoke history, though, because we are in the same dilemma that our Nation was after a halcyon, glorious period of prosperity. I recall I was 10 years old, perhaps, but I remember what seemed to be never-ending prosperity. However, in 1929, the question of home ownership was a blue note; that is, only a fraction of the families in the United States in 1929, I am talking about a time that was still considered prosperous. Again, by way of parentheses, I want to explain, then like now, in 1987 on October 19, the stock market bust was not considered a big thing at the time.

□ 1220

The Depression did not really hit until 3 years later, when businesses went under, unemployment was rampant, banks and the financial systems were teetering and tottering, and as one of his first acts of the glorious first 100 days of his administration, Franklin Roosevelt instituted the Bank Holiday. The truth of the matter is that we have had a repetition of this already, not on the national level but on a State level. These actions, I say to my colleagues, are a precursor to what we are in the midst of right now.

This is what I wanted to discuss with the Members, because I think we are going to be calling on them again to show the solidarity, the understanding, and the great spirit of cooperation that poured forth recently from both sides of our membership. And at this point I want to make it clear that it was known from the beginning and the first time I took this podium in this 101st Congress that we would have to go to work, and I said that my fundamental intention was to work and the only way we could work successfully would be on a bipartisan track. I pointed out that the dimensions of the problem, the depths of its intricacy, and the complexity of this issue was of such a nature that, even working together in the utmost harmony, it will be taxing the ingenuity and the ability of the best minds in the Congress and out of the Congress.

I said that in the first special order I took here in January, soon after we had the historic hearings 24 hours after the 101st Congress was sworn in. As a matter of fact, we could not technically call those hearings because the committee itself was not organized, so we called them briefings, and such they were. But they were the prime issues that we saw would be engulfing us, as they seemed to have been since the month of December.

So going back to the genesis and the origination and why is it necessary for us to understand this, I must remind the Members that in 1966—and I said this is my last special order—we had what was then called the first credit crunch. What was the reason for it? The reason for it was the overnight jacking up of the prime interest 1 whole percentage point, on June 19, 1966. This was unprecedented, even during the Civil War, which, of course, was a period in which no such thing as a national banking system, as we know it now, existed. However, we did have antiusury national laws. We did have interest rates capped from the beginning of our country until 1865 and the passage of the National Currency Act, just about the time that Abraham Lincoln was shot. As a matter of fact, from reading history, we see that that was the uppermost subject matter on the President's mind at the time. He feared the inroads of those tremendous financial interests. He had those fears, and prior Presidents and subsequent Presidents have had the same fears, from Thomas Jefferson at the beginning of our Nation on.

I must remind my colleagues that these problems are not new. Fundamentally, the same issues have confronted our people, as they have confronted all peoples throughout history, and the question is: Who or what groups will be controlling the allocation of credit of any society? Interest rates then became the critical factor because the definition of "interest rate" is that mechanism by virtue of which wealth is transferred within a society. It is that simple. Interest has been punished by death. As long ago as 7,000 years before Christ, in the Code of Hammurabi, you will see those prohibitions. But we saw this in the very, very divisive bloody periods of the Civil War and at almost the terminal point of that bloody war. And we should shudder at the thought of even those words, "civil war," and such wars as are ravaging countries to the south of us and in other parts of the world.

We Americans are so privileged that we have slipped into the background and dust of history those raw memories of that Civil War period, because civil wars mean brother against brother, father against son, mother against daughter, and daughter against mother, and it is something that we must pray the Almighty to ever shed His grace and continue to shed His grace on us never to know this type of fratricidal strife again.

But the potential is there in all these factors, because in 1865, taking advantage of the dilemma then facing the Government, the Government then had to take action and had to borrow money in order to finance the Civil War. Some of us will recall in our history classes the Specie Act and the like, and the Greenbacks. All of those events occurred, as they are now, for the same reasons. The only difference is that ironically, while we are celebrating the 200th anniversary of our independence, in many ways America has allowed itself to revert to a mercantile system. We worry about the inroads of the Japanese in their purchase of our assets and our lands and what-not, but, frankly, the Japanese have about one-half of what Great Britain has in the United States. But we do not hear too much about that. Maybe it is perhaps because of a little racial antipathy.

Who knows what will happen? All I know is this: At the bottom of all this and at the bottom of all these flagellations we are floundering in on the domestic level, we have these other contributing forces which we must understand. That is the other reason for getting us to prepare for a victory, a victory as great as the one last Thursday, because as a matter of fact, as it seems to be a prelude to a successful conference, even if the President signs this bill into law, I want my colleagues to know that it is only the beginning. This must not be considered as having defined or even to have halfway resolved the problem.

So it goes back again into historical antecedents. When the 1865 Currency Act was passed, it was passed in the name of creating a national banking

system. Before then, going back to the first U.S. bank and the second U.S. bank chartered by the Congresses of that day, terminated by President Andrew Jackson, who pledged to throw the moneychangers out of the temple of democracy, the big dispensers of credit were on the State level, the State banking system.

So with the advent of the 1865 Currency Act, the cap on interest rates was very quietly done away with. We have had no control of interest rates and no antiusury laws on the national level since 1865.

In 1964 I wrote a history about interest rates and their caps in the United States, and this is the reason why it seems as if I know a little bit about it. The truth is that every society, I do not care which, becomes victimized by instability, particularly in the allocation of credit, and this was the issue when the Nation was born. I want to remind my colleagues that during the first 10 years of our national existence, such an office as the Presidency was not even thought of. In fact, it was feared very much. So we had the First and the Second Continental Congresses, and like all governments, as I said before, having prosecuted the successful War for Independence against Great Britain, they owed money. So the idea in Philadelphia was to charter a bank, and indeed the first one was chartered. That was the Bank of North America. But the bankers moved in, and that is natural. It is to be expected. What is not to be expected is that the government should be turned over to the bankers or that Congresses should quietly sit by and watch that power of constitutional responsibility slip away from them and see it placed in the hands of those who are not going to seeking the greatest for the greatest number. Mr. Speaker, that should have been obvious to so many, but it just has not been.

□ 1230

So, going back to history, it was Thomas Jefferson, whose expressions about bankers made anything I have said sound like a Boy Scout troop code of honor, and the reason was that, yes, they loaned money, but it would have to be at x-plus interest rates, and Thomas Jefferson said, "No way."

So, they finally compelled, through the chartering of the Bank of North America, the borrowing of money, but they capped the interest rate at no more than 6 percent. That was Thomas Jefferson.

Even Alexander Hamilton, who would be considered today—he would be called a conservative, but actually those are modern-day jargon words that have no relevancy in that historical input. The forces were the same. Hamilton was considered to be a centralist. He favored a strong Federal Government, and with that he also met with strong control of the credit allocations though there might have been philosophical differences between he and the agrarian Jefferson.

Mr. Speaker, the fact remains that we are talking about such a different world that to try to reconcile words today is like trying to reconcile words in our language like "democracy" with what that word means in order lands with different traditions, different cultures, different historical antecedents. It is just a dangerous thing to do, dangerous because the chance of erring is great.

The fact is that the leaders of our country did not succumb to the temptation to seek the praises, and the support and the money of the bankers. They controlled them, as they should have, and they did so in the name of national credit.

Subsequent to that and the formation of the Union, the enactment of the Constitution, the First Congress in 1789, came the chartering of the First United States Bank, or the Bank of the United States, and the second one had 20-year charters by the time the second charter was still extant. President Jackson became President, and he did not tolerate the tremendous accumulation of power and credit.

But then, between then and the Civil War, there were issues that faced into the background in respect to this, but all during that time you had strict control of interest. Surely you had different economies, but the fundamental premise is still the same, that he who allocates or they who allocate the credit of a nation determine that nation's standard of living, determine whether or not the engines of industry, small business, will survive or not. It is that simple. It is not any complicated thing at all. Those who would seek to cloud the issue of course would like to make it look as if it is an abstruse or esoteric sign, but it is no such thing.

It is very simple. What is the people's is the people's and what the Constitution says is the people's should stay with the people, and, as the Representatives of the people, we have a continuing duty to do two things; one, to undo some of the things that have been done sometimes very quietly in sleeper clauses such as in 1952, 1953, during President Eisenhower's regime in which the entire manner of paying, funding, and managing the debt was changed so that today we talk about the bailout.

Today, this year, the interest to be paid by the American people is compound interest, if my colleagues please, not simple interest, for servicing the so-called debt, and it will be in excess of $250 billion. How long, how long can that continue?

Mr. Speaker, this is a reason why, when we referred that section on the tax consideration to be given the bonds to be issued, to finance and obtain the funds with which to replenish the deposit insurance funds, that the President's bill, which in effect, I think, did not much credit to the administration because it continued its myth of off-budget expenses or commitments because they do not seem to add to the size of the deficit. But of course they do.

Right now the Treasury is in the danger of junkifying Treasury bonds. I got up on this House floor last year, over a year ago, pointed out how we had to do something, especially that it was clear after the Wall Street break on October 19, 1987. The fervor of speculation continues undiminished.

Since then, Mr. Speaker, I have said this repeatedly on this House floor. Ten-year U.S. bonds are held for less than 30 days. There is a tremendous flux, speculative unfortunately, that continues to dominate such transactions as the Wall Street stock market. The stock market activities today do not symbolize, do not reflect, honest-to-goodness industrial business activity out there. It is paper chasing paper and speculating on paper.

It would have been incredible to have told our predecessors 20, 30, 40 years ago, on these committees especially, that such things as Milken, Blinken, and Nod would be over there with $500 million a year; on what? Pure speculative money where our most august corporations, especially those that had been founded by families that had managed them well were profitable, employing people, even like the Safeway grocery chain suddenly finding themselves, in order to stay alive, having to borrow over their heads in order to fight the takeover.

What is worse, and this is a reason I wanted to take this special order and tell my colleagues that this is just the beginning. We intend, at least I do, and I told my colleagues in the beginning that, after I was elected, the only power I felt the chairman really has is to set the agenda. The chairman sets the course.

My colleagues, what is that course now? That course is and has already been underway. Sure we have this bill before us, but, even while we have the bill, we are also setting the agenda immediately on such other things as the disaggregation of deposits.

The deposit insurance system of the United States is what is at stake. It is not the bailout of any particular entity now after we cleaned up the President's bill, but it is the entire system of deposit insurance.

Mr. Speaker, I have been pointing out since the early seventies that the risk is there. How could we have had as early as 1973, 1974, 1975 in the S&L industry alone over $750 billion so-called insurance deposits with less, less than $10 billion in actual funds?

In addition, the banks are worse off. There is a trillion plus in so-called insurance deposits. I ask my colleagues, "How much have you got in that fund?"

Well, let me remind my colleagues that I had predicted that, unless we did something a year ago, we stop the hemorrhaging then, which incidentally still continues to the tune of $10 to $20 billion, that it would eventually reach such proportions as unmanageable.

□ 1240

The great risk was taking a bet that you would not have loss of confidence; but I pointed out that since the seventies in the case of the banks, a trillion dollars or so in insured deposits, with how much to cover them in the fund? Even if the fund used the ultimate $3 billion the Treasury has there, it would not even have been $20 billion.

You do not have to be an expert to know that then the insurance fund has been distorted in meaning and in purpose. It is not an insurance fund and it has not been an insurance fund, even though that is what millions of our fellow Americans think that is what they got.

So when the motion was made to jack that up from $45,000 to $100,000, I was one of the very few outcast voices saying, Hey, all you are going to do is protect and reward inefficient and even perhaps corrupt management of these institutions, because they are using the fund as the ultimate capital asset that they can use over and, of course, the rest has been history. There is no use going through that.

All I am going to say is that at this point during the debate and before that, the very distinguished gentleman from Ohio, he is not a member of our Banking Committee, but he has been very much in tune with our activities, the distinguished gentleman from Ohio [Mr. PEASE] wanted to have an amendment that would have tended to do something about this disaggregation in insured deposits. What does that mean? That is a fancy word. What it means is that you can have one individual with $5 million in different $100,000 accounts, all insured. He ends up with having $5 million insured. That is not the intent of the insurance of deposits at all.

Unfortunately, the gentleman from Ohio [Mr. PEASE] could not get the Rules Committee to do that, and of course, there was a good reason for their refusal. It is a complicated subject. I tried to explain to the gentleman from Ohio [Mr. PEASE] that we have not had hearings, we intend to, and I want to notify my distinguished colleague, the gentleman from Ohio [Mr. PEASE], that we intend to start pretty soon on that. We have got to. We have got to put back on track the true meaning of insurance, deposit insurance. Until we do that, all we are doing is flailing the air with these so-called reform acts, which yes, might do some good right now, but look out.

We had plenty of warning. We should not have waited long after the State of Nebraska Insurance Fund, they call it the Guarantee Fund, went broke. Fortunately for Nebraskans, though, they went to work pretty quick and the attorney general of Nebraska, I was told by our distinguished brand new member on the committee, the gentleman from Nebraska [Mr. HOAGLAND], and this is a real inspiration, here is a young man, served in the State Legislature of Nebraska, is here for his first year and he has become one of the most valuable members of the Banking Committee.

This is the beauty of our House. I have always said that if the Members, unrestrained and unfettered, were given an opportunity to contribute that we would have the results we had last Thursday. I think that is ample proof of the brilliance and the ability that is inherent here in this membership of the House, if given that opportunity.

I think this is where we, the so-called leaders of the moment, as chairmen, anyway, have the greatest responsibility, to make sure that nobody is shunted, that in our processes, as they were meant to be, every single sacred segment of America known as a congressional district shall have its Representative unfettered and never, never shut up for any procedural or any political reason at all.

I wanted to say that is one area we are going to look into. The other will be our need to constantly monitor the formation of this new entity known as the Resolution Trust Corporation. This is a real big one.

I think that we perfected the President's bill. The President's bill was what I call an amorphous, vague thing. I think we filled it in.

Then last Thursday, I want to thank my colleagues for giving me the overwhelming vote on my amendment to cap, so that the RTC will not go out here and take the Treasury down without anybody's consent.

Commitments such as the Home Loan Bank Board and FSLIC did last year are incredible. There is not an American, my colleagues, who will believe you when you say, "Well, we don't know what we could do," that this Board, quasi-private, quasi-public, could encumber the U.S. taxpayer and the U.S. Treasury $43 billion in less than a year and a half without having to come to the Congress, without having to account to anybody, making the deals that God only knows will be the ultimate cost, and that is why, by way of parenthesis, that we have a proviso in the RTC that says all those deals are going to have to be reconsidered, reviewed, as of January 1, 1988.

But who would think that even the President cannot do that. The President cannot go out and commit $43 billion without going through the authorization and appropriation process.

But here is Mr. Danny Wall issuing wallpaper notes. Why, I could have given a note as valuable as Mr. Danny Wallpaper notes, given all last year in Texas and up here in the north in December, not worth the paper they are written on. Is the taxpayer going to have to pay for that?

In one deal alone in the Southwest, plans, so-called were, where you have this incestuous relationship between the industry and the Home Loan Bank Board.

Let me remind my colleagues, we have got to look over the setup that we are providing in this legislation on the home loan banks.

A home loan bank president is paid more than the President of the United States. You have this crazy situation in which the 12 home loan bank presidents get more money than the members of the National Federal Home Loan Bank Board itself. It does not make sense, I am telling you.

How long did some of us cry bitterly in the wilderness? In fact, we found ourselves defending ourselves from the charge of being flamboyant, from being publicity seekers, even though we got no publicity. I wish we had. I wish somebody had listened to what we were saying since 1966, and particularly since 1985. It was obvious when the Nebraska deal went under, 60 Minutes had time on it, and when those facts were communicated to Ohio where you had a similar smelly situation, it produced a near panic, so the Ohio Insurance Fund went under. That was a private fund. It went under. It was a State setup, like in Maryland.

I want to remind my colleagues what I said the other day in debate. If you want to know how overdue this legislation is, just go out here and talk to several thousand Marylanders who still have not gotten their deposit money back from those Maryland S&L's that went broke. There were 108 State chartered uninsured banks with a paltry little insurance fund by the State of Maryland to protect them. The legislature, like the Congress on the national level, was not about to provide the funds to have real deposit insurance. That is exactly what has been happening to us nationally.

So in Maryland, go talk to some of these poor folks, hard-working Americans, who put their savings in these banks, the wife and father working, put their savings in so that their little kids could go to college someday to the University of Maryland, only to find

that they cannot get their money back. There were 108 of those institutions. There are only 22 left. Eighty-eight of them were either merged or, what, Federal chartered. The Federal Government came in and just simply passed a charter.

□ 1250

What has that cost the Federal Government? I have the staff trying to figure that out at this moment, but certainly nobody was saying anything at the time.

We had the same thing in Ohio except worse, because there, at least, the Ohio State Legislature finally did come in and appropriate tax moneys in order to pay out.

We could not expect that average citizen to tell the difference between an insured and uninsured. In fact, in Texas right now, we have institutions in my district, about half a dozen or more, that are stone broke. They have been stone broke, but the Southwest plan came in, put them together, patched them all up together, stitched them together. What are they traveling on? Advertising extremely high rates of yield and, incidentally, the same thing has happened with FDIC, with some of the banks that took over as well as some of the S&L's.

What does that do to the other little institutions that are trying to stay alive? They cannot compete by offering those high interest yields these dead institutions are offering.

What have they to lose? Nothing. Because the Southwest plan guarantees them never to lose; 2½ percent over their cost of funds is what Uncle Sam, through FSLIC, has promised them and committed to, so it has been a joke over in my part of the country.

I have seen these big shot rich ones laughing, "Well, we don't have anything to lose. If inflation comes back, we are OK, and if it doesn't, well, the Government comes over, takes over, and we are scot-free. In fact, we are guaranteed never to lose, because we'll be given 2½ percent over the cost of our funds."

Why, that is a thief's dream. Even the most dream-like promise could never be fulfilled better than that, and even there we have some of those who have come in, like the multimillionaires Hunt woman, benefited by acquiring hundreds of assets, putting up no cash, and then subordinated through debentures and the trust which really had the money, but through a deal later with Mr. M. Danny Wall, taking out that subordinated debt, absolutely no risk, no nothing, no guarantee, no money.

Those institutions are still there advertising every day that I am sure, even here as I am talking to the Members. My colleagues, that is sinful. That is wrong. How could that have happened?

It is like a Greek tragedy, and I will not take more than to say that the actions of the Members have brought great credit not only to our committee but to this whole House where we have come out with something that, at least if enacted into law, will stop the hemorrhaging. The insurance fund will go in and do what it should have been doing all along as I was advocating exactly a year ago. I offered the basic plan and, again, my compliments to President Bush and Secretary Nicholas Brady, because as soon as the election was over, the Secretary made a statement, and I had a meeting with him on November 23 last year when it was obvious that it looked like I would be elected chairman of the committee. I will give him credit for at least accepting that which their predecessor President did not even mention. Why, President Reagan left office on January 20 this year, and not at one time did the word "S&L" cross his lips. So that gives us an idea of for how long political expediency put these things under the rug or attempted to: "To hell with the little depositor, to hell with the taxpayer." As one of them said, "I have a God-given right to profits." That was the astonishing remark of one of the high-flying operators, "I have a God-given right to profits."

So we come in and we try to reform.

Everybody here would think that the home loan banks mean that they are for home mortgages. No, sirree, these are the banks that gave all of the funds for these high-flyers to go and buy junk bonds and everything else.

I put in an amendment that would say, "Hey, let us go back to fundamentals. You should provide for moderate housing, moderate-income Americans, this little bit, this modicum of the bill, plus have funds for that purpose, mortgages, not relief, mortgage credit."

They repelled as if they had been stuck with a hot iron bar, and they had the audacity to come up, the presidents who earn more than the President of the United States, and they are driven around in chauffeured limousines, and one can go to Dallas and see them, and they made deals with their buddies in industry, because they come from the industry, and they are going back to the so-called industry.

With that, my colleagues, I say that this is just the beginning. We will be back.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. UPTON) to revise and extend their remarks and include extraneous material:)

Mr. RITTER, for 5 minutes, on June 20.

Mr. FAWELL, for 60 minutes, on June 28.

(The following Members (at the request of Mr. GONZALEZ) to revise and extend their remarks and include extraneous material:)

Mr. ANNUNZIO, for 5 minutes, today.

Mr. HATCHER, for 5 minutes, today.

Mr. GONZALEZ, for 60 minutes, on June 20 and 26.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. UPTON) and to include extraneous matter:)

Mr. BROOMFIELD in two instances.

Mr. TAUKE.

Mr. PORTER.

Mr. SMITH of New Jersey.

(The following Members (at the request of Mr. GONZALEZ) and to include extraneous matter:)

Mr. ANDERSON in 10 instances.

Mr. GONZALEZ in 10 instances.

Mr. BROWN of California in 10 instances.

Mr. ANNUNZIO in six instances.

Mr. DE LA GARZA.

Mr. HOYER.

Mrs. BOXER.

Mr. SABO.

Mr. JOHNSON of South Dakota.

Mr. MAZZOLI.

Mr. ROE.

ADJOURNMENT

Mr. GONZALEZ. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 12 o'clock and 57 minutes p.m.), the House adjourned until tomorrow, Tuesday, June 20, 1989, at 12 noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

1356. A letter from the Office of the Comptroller, Department of Defense, transmitting fiscal years 1990 and 1991 budget revision, April 1989, pursuant to 10 U.S.C. 114; to the Committee on Armed Services.

1357. A letter from the Assistant Secretary of State for Legislative Affairs, transmitting copies of the report of political contributions by Joseph Bernard Gildenhorn, of the District of Columbia, Ambassador Extraordinary and Plenipotentiary-designate to Switzerland, and members of his family, pursuant to 22 U.S.C. 3944(b)(2); to the Committee on Foreign Affairs.

1358. A letter from the Assistant Secretary of State for Legislative Affairs, trans-

mitting copies of the report of political contributions by William H. Taft, IV, of Virginia, U.S. Representative-designate on the Council of the North Atlantic Treaty Organization, with the rank and status of Ambassador Extraordinary and Plenipotentiary, and members of his family, pursuant to 22 U.S.C. 3944(b)(2); to the Committee on Foreign Affairs.

1359. A letter from the Assistant Secretary of State for Legislative Affairs, transmitting copies of the original reports of political contributions by Frederick Morris Bush Ambassador Extraordinary and Plenipotentiary-designate to Luxembourg, by Chas W. Freeman, Jr., Ambassador Extraordinary and Plenipotentiary-designate to the Kingdom of Saudi Arabia; and by Thomas Patrick Melady Ambassador Extraordinary and Plenipotentiary-designate to the Holy See, and members of their families, pursuant to 22 U.S.C. 3944(b)(2); to the Committee on Foreign Affairs.

1360. A letter from the Secretary of Veterans' Affairs, transmitting a draft of proposed legislation to amend title 38, section 203(b), United States Code, to delete the requirement that settlements of claims in excess of $1 million on a construction contract be provided for specifically in an appropriation law, and to provide instead that the Secretary notify the House and Senate Committees on Appropriations of construction contract claims settlements of more than $1 million; to the Committee on Veterans' Affairs.

1361. A letter from the Secretary, Railroad Retirement Board, transmitting the first annual report on the financial status of the railroad unemployment insurance system, pursuant to 45 U.S.C. 369; jointly, to the Committees on Ways and Means and Energy and Commerce.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

[Pursuant to the order of the House on June 15, 1989, the following reports were filed on June 16, 1989]

Mr. WHITTEN: Committee of conference. Conference report on H.R. 2072 (Rept. 101-89). Ordered to printed.

Mr. FASCELL: Committee on Foreign Affairs. H.R. 2655. A bill to amend the Foreign Assistance Act of 1961 to rewrite the authorities of that act in order to establish more effective assistance programs and eliminate obsolete and inconsistent provisions, to amend the Arms Export Control Act and redesignate that act as the Defense Trade and Export Control Act, to authorize appropriations for foreign assistance programs for fiscal years 1990 and 1991, and for other purposes (Rept. 101-90). Referred to the Committee of the Whole House on the State of the Union.

[Submitted June 19, 1989]

Mr. UDALL: Committee on Interior and Insular Affairs. Supplemental report on H.R. 1529 (Rept. 101-83, Pt. 2). Ordered to be printed.

Mr. DE LA GARZA: Committee on Agriculture. H.R. 2467. A bill entitled the "1988 Disaster Assistance Extension Act"; with an amendment (Rept. 101-91). Referred to the Committee of the Whole House on the State of the Union.

SUBSEQUENT ACTION ON A REPORTED BILL SEQUENTIALLY REFERRED

[The following action occurred on June 16, 1989]

Under clause 5 of Rule X the following action was taken by the Speaker:

H.R. 1549 was referred to the Committee on Energy and Commerce extended for a period ending not later than July 17, 1989.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

[Submitted June 19, 1989]

By Mr. DYMALLY:

H.R. 2680. A bill to require automobile rental companies to make full disclosures of charges in advertising and to rental customers, and for other purposes; to the Committee on Energy and Commerce.

By Mr. SMITH of New Jersey (for himself, Mr. CLINGER, Mr. MOLINARI, Mr. COURTER, Mrs. ROUKEMA, and Mr. FUSTER):

H.R. 2681. A bill to amend the Hazardous Materials Transportation Act to require the Secretary of Transportation to issue regulations prohibiting the use of the same motor vehicle for the transportation of hazardous materials or solid waste and food, and for other purposes; to the Committee on Public Works and Transportation.

By Mr. TAUKE (for himself and Mr. TAUZIN):

H.R. 2682. A bill to amend the Communications Act of 1934 to eliminate the comparative renewal process and to specify public interest responsibility requirements for the renewal of radio and television broadcast stations; to the Committee on Energy and Commerce.

By Mr. DOUGLAS (for himself, Mr. AKAKA, Mr. ANDERSON, Mr. APPLEGATE, Mr. ATKINS, Mr. BAKER, Mr. BALLENGER, Mr. BARTLETT, Mr. BATEMAN, Mr. BENNETT, Mr. BEREUTER, Mr. BILBRAY, Mr. BILIRAKIS, Mr. BLAZ, Mr. BOEHLERT, Mrs. BOGGS, Mrs. BOXER, Mr. BRENNAN, Mr. BROOMFIELD, Mr. BROWDER, Mr. BUECHNER, Mr. BUNNING, Mr. BURTON of Indiana, Mr. BUSTAMANTE, Mrs. BYRON, Mr. CAMPBELL of Colorado, Mr. CHANDLER, Mr. CLEMENT, Mr. CLINGER, Mr. COBLE, Mr. COLEMAN of Missouri, Mr. COLEMAN of Texas, Mr. CONTE, Mr. COOPER, Mr. COSTELLO, Mr. COUGHLIN, Mr. COURTER, Mr. COX, Mr. CRAIG, Mr. CRANE, Mr. DANNEMEYER, Mr. DARDEN, Mr. DEFAZIO, Mr. DELAY, Mr. DEWINE, Mr. DORNAN of California, Mr. DREIER of California, Mr. DUNCAN, Mr. DWYER of New Jersey, Mr. DYMALLY, Mr. EDWARDS of Oklahoma, Mr. EMERSON, Mr. ENGLE, Mr. ERDREICH, Mr. EVANS, Mr. FAUNTROY, Mr. FIELDS, Mr. FRANK, Mr. FRENZEL, Mr. FUSTER, Mr. GALLEGLY, Mr. GALLO, Mr. GARCIA, Mr. GAYDOS, Mr. GEJDENSON, Mr. GEPHARDT, Mr. GILLMOR, Mr. GILMAN, Mr. GINGRICH, Mr. GOODLING, Mr. GOSS, Mr. GRANDY, Mr. GRANT, Mr. GREEN, Mr. GUNDERSON, Mr. HALL of Texas, Mr. HANCOCK, Mr. HARRIS, Mr. HASTERT, Mr. HAWKINS, Mr. HAYES of Illinois, Mr. HAYES of Louisiana, Mr. HEFLEY, Mr. HERGER, Mr. HILER, Mr. HOLLOWAY, Mr. HORTON, Mr. HOUGHTON, Mr. HOYER, Mr. HUCKABY, Mr. HUGHES, Mr. HUNTER, Mr. HYDE, Mr. INHOFE, Mr. IRELAND, Mrs. JOHNSON of Connecticut, Mr. JOHNSTON Florida, Mr. JONES of Georgia, Mr. JONES of North Carolina, Mr. KANJORSKI, Ms. KAPTUR, Mr. KASICH, Mr. KENNEDY, Mr. KLECZKA, Mr. KOLBE, Mr. KOLTER, Mr. LAGOMARSINO, Mr. LANTOS, Mr. LAUGHLIN, Mr. LEACH of Iowa, Mr. LENT, Mr. LEVIN of Michigan, Mr. LEWIS of California, Mr. LEWIS of Georgia, Mr. LIGHTFOOT, Mr. LIVINGSTON, Mr. LOWERY of California, Mrs. LOWEY OF NEW YORK, Mr. THOMAS A. LUKEN, Mr. DONALD E. LUKENS, Mr. MACHTLEY, Mr. MANTON, Mrs. MARTIN of Illinois, Mr. MARTINEZ, Mr. MCCANDLESS, Mr. MCCOLLUM, Mr. MCDERMOTT, Mr. MCEWEN, Mr. MCGRATH, Mr. MCNULTY, Mrs. MEYERS of Kansas, Mr. MFUME, Mr. MILLER of California, Mr. MILLER of Ohio, Mr. MONTGOMERY, Mr. MOODY, Mr. MOORHEAD, Mrs. MORELLA, Mr. MYERS of Indiana, Mr. NEAL of Massachusetts, Mr. NIELSON of Utah, Mr. OLIN, Mr. OWENS of New York, Mr. OXLEY, Mr. PALLONE, Mr. PARKER, Mr. PASHAYAN, Mrs. PATTERSON, Mr. PAXON, Mr. PAYNE of New Jersey, Ms. PELOSI, Mr. PERKINS, Mr. PETRI, Mr. PICKLE, Mr. PORTER, Mr. POSHARD, Mr. PURSELL, Mr. RAVENEL, Mr. RHODES, Mr. RINALDO, Mr. ROBERTS, Mr. ROE, Mr. ROGERS, Mr. ROHRABACHER, Mr. ROTH, Mr. ROWLAND of Connecticut, Mr. ROYBAL, Mr. SABO, Mrs. SAIKI, Mr. SARPALIUS, Mr. SAWYER, Mr. SAXTON, Mr. SCHEUER, Mr. SCHIFF, Mr. SCHUETTE, Mr. SHAYS, Mr. SHUSTER, Mr. SKAGGS, Mr. SKEEN, Mr. SKELTON, Mr. SLAUGHTER of Virginia, Mr. SMITH of Iowa, Mr. SMITH of Mississippi, Mrs. SMITH of Nebraska, Mr. SMITH of New Hampshire, Mr. SMITH of New Jersey, Mr. DENNY SMITH, Mr. SMITH of Vermont, Ms. SNOWE, Mr. SOLARZ, Mr. SOLOMON, Mr. STAGGERS, Mr. STALLINGS, Mr. STARK, Mr. STENHOLM, Mr. SUNDQUIST, Mr. TALLON, Mr. TANNER, Mr. TAUKE, Mr. TAUZIN, Mr. THOMAS of Wyoming, Mr. TORRES, Mr. TORRICELLI, Mr. TOWNS, Mr. TRAFICANT, Mrs. UNSOELD, Mr. UPTON, Mr. VANDER JAGT, Mr. VOLKMER, Mrs. VUCANOVICH, Mr. WALSH, Mr. WATKINS, Mr. WAXMAN, Mr. WELDON, Mr. WOLF, Mr. WOLPE, Mr. WYLIE, Mr. YOUNG of Alaska, Mr. YOUNG of Florida, and Mr. DE LA GARZA):

H.J. Res. 298. Joint resolution designating July 14, 1989, as "National Day to Commemorate the Bastille Day Bicentennial"; to the Committee on Post Office and Civil Service.

MEMORIALS

Under clause 4 of rule XXII,

156. The SPEAKER presented a memorial of the Assembly of the State of California, relative to the Medicare Catastrophic Coverage Act of 1988; jointly, to the Committees on Ways and Means and Energy and Commerce.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 40: Mr. JOHNSON of South Dakota.

H.R. 45: Mr. LANTOS.

H.R. 118: Mr. HUNTER.

H.R. 292: Mr. ENGEL.

H.R. 505: Mr. YOUNG of Florida, Mr. ROWLAND of Georgia, Mr. THOMAS of Wyoming, Mrs. LOWEY of New York, Mr. MAVROULES, Mr. HUCKABY, Mr. STENHOLM, Mr. MACHTLEY, Mr. EMERSON, Mr. YATRON, and Mr. HAMMERSCHMIDT.

H.R. 529: Mr. HOCHBRUECKNER, Mr. CROCKETT, and Mr. RANGEL.

H.R. 530: Mr. HOCHBRUECKNER, Mr. CROCKETT, and Mr. RANGEL.

H.R. 799: Mr. JONTZ.

H.R. 1059: Mr. SWIFT and Mr. SKAGGS.

H.R. 1083: Mr. HAYES of Illinois, Mr. BOSCO, Mr. CHAPMAN, Mr. OWENS of Utah, Mr. MINETA, Mr. BERMAN, Mr. DARDEN, and Mr. FUSTER.

H.R. 1574: Mr. NEAL of North Carolina, Mrs. JOHNSON of Connecticut, and Mr. WALKER.

H.R. 1662: Mr. SMITH of New Jersey.

H.R. 1782: Mrs. BENTLEY, and Mr. CHAPMAN.

H.R. 1883: Mr. FLORIO.

H.R. 2008: Mr. GOSS, Mr. SCHIFF, Mr. WYLIE, Mr. GALLO, Mr. LENT, Mr. ROBERTS, Mr. BILIRAKIS, Mr. BROWN of Colorado, Mr. COX, and Mr. SCHAEFER.

H.R. 2096: Mr. MARTINEZ, Mr. DE LUGO, and Mr. GARCIA.

H.R. 2123: Mr. WEISS and Mr. VENTO.

H.R. 2181: Mr. BARNARD.

H.R. 2184: Mr. MORRISON of Connecticut, Mr. DWYER of New Jersey, Mr. FUSTER, Mr. MARTINEZ, Mrs. MEYERS of Kansas, Mr. ATKINS, Mr. HUGHES, and Mr. HOYER.

H.R. 2241: Mr. ANDREWS.

H.R. 2265: Mr. DOWNEY and Mr. WAXMAN.

H.R. 2479: Mr. GOSS, Mr. SMITH of Florida, Mr. SCHEUER, and Mr. IRELAND.

H.R. 2493: Mr. ATKINS.

H.R. 2503: Mr. MCEWEN and Mr. FRENZEL.

H.R. 2534: Mr. CRANE.

H.R. 2561: Mr. OWENS of New York, Mrs. MEYERS of Kansas, Mr. FAWELL, and Mr. DWYER of New Jersey.

H.R. 2569: Mr. BONIOR, Mr. BROOMFIELD, Mr. CARR, Mr. CONYERS, Mr. CROCKETT, Mr. DAVIS, Mr. DINGELL, Mr. FORD of Michigan, Mr. HENRY, Mr. HERTEL, Mr. KILDEE, Mr. LEVIN of Michigan, Mr. PURSELL, Mr. SCHUETTE, Mr. UPTON, Mr. VANDER JAGT, and Mr. WOLPE.

H.R. 2596: Mr. WOLPE, Mr. GALLEGLY, Mr. COBLE, Mr. LIPINSKI, Mr. LAGOMARSINO, Mr. BONIOR, Mr. GIBBONS, and Mr. HEFLEY.

H.R. 2598: Mr. DYMALLY.

H.J. Res. 221: Mr. BATEMAN, Mr. GARCIA, Mr. JONES of Georgia, Mr. MARTINEZ, Mr. TORRICELLI, and Mr. WOLF.

H.J. Res. 257: Ms. KAPTUR, Mr. MURTHA, Mr. CONTE, Mr. WOLF, Mr. GALLEGLY, Mr. PICKETT, Mr. SAWYER, Mr. LAFALCE, Mr. DORNAN of California, Mr. MACHTLEY, Mr. MFUME, Mr. OWENS, of New York, Mr. SHAYS, Mr. ROE, Mr. MARTINEZ, and Mr. MORRISON of Washington.

H. Con. Res. 66: Mr. FOGLIETTA.

H. Con. Res. 83: Mr. RAHALL, Mr. LEACH of Iowa, Mr. WILLIAMS, Mr. HATCHER, Mr. STUDDS, Mr. BOEHLERT, Mr. GLICKMAN, Mr. DORGAN of North Dakota, Mr. SMITH of Texas, Mr. STALLINGS, and Mr. BROWDER.

H. Res. 104: Mr. DIXON, Mr. JONES of Georgia, Mr. CLINGER, Mr. PRICE, Mr. SOLARZ, Mr. CRAIG, Mr. LEACH of Iowa, and Mr. WAXMAN.

SENATE—*Monday, June 19, 1989*

(Legislative day of Tuesday, January 3, 1989)

The Senate met at 11:30 a.m., on the expiration of the recess, and was called to order by the Honorable TOM HARKIN, a Senator from the State of Iowa.

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray:

*God of Abraham, Isaac and Jacob, Father of us all, Moses warned Israel as she was about to become a nation: "And it shall be, if thou do at all forget the Lord thy God, and walk after other gods, * * * I testify against you this day that ye shall surely perish. As the nations which the Lord destroyeth before your face, so shall ye perish. * * *—*Deuteronomy 8:19, 20.

Thomas Jefferson asked the penetrating question: "Can the liberties of a nation be secure when we have removed their only firm basis, a conviction in the minds of the people that these liberties are the gift of God?"

Gracious God, every day since the Senate began 200 years ago, it has opened with prayer. They did it because they believed they needed it. Heavenly Father, forbid that we should continue it perfunctorily, simply because it is a custom to be gotten out of the way for more important things. Restore to our Nation the beliefs of our founders, infused as they were with Biblical values. Help us not to forget Thee, Lord, nor take Thee for granted. Help us to realize our daily, desperate need for Thee in the totality of our being and doing.

In the name of Him who is Lord of Heaven and Earth. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore [Mr. BYRD].

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, June 19, 1989.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable Tom Harkin, a Senator from the State of Iowa, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

Mr. HARKIN thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. Under the standing order, the majority leader is recognized.

THE JOURNAL

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Journal of the proceedings be approved to date.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

SCHEDULE

Mr. MITCHELL. Mr. President, this morning, following the time for the two leaders, there will be a period for morning business, not to extend beyond 12 noon, with Senators permitted to speak therein for up to 5 minutes each.

At noon the Senate will resume debate on S. 5, the child care bill. As I indicated last week, and under the order which now exists, any votes ordered today will not occur prior to 5:30 p.m. Under that order, the same provisions applied to any votes ordered on Friday. During Friday while there was extensive and informative debate on the subject, there were no votes ordered.

So as of now, no votes are scheduled for 5:30; although, if amendments are offered this afternoon with respect to which there could be action, either a vote on the amendment or tabling or otherwise, then the votes could occur at 5:30.

I hope, for the benefit of our colleagues, that we will get some indication of how we plan to proceed this afternoon, and we will be able to make an announcement so that the Senators can adjust their schedules accordingly. As of this moment, no votes are scheduled to occur today.

If any are scheduled this afternoon, they will not occur prior to 5:30, and I hope to have some indication as to whether or not there will be any such votes in advance of that time, so that Senators may be apprised of what will occur, so they can adjust their schedules accordingly.

Mr. President, I reserve the remainder of my leader time. I am pleased to yield to the distinguished Republican leader.

RECOGNITION OF THE REPUBLICAN LEADER

The ACTING PRESIDENT pro tempore. Under the standing order, the Republican leader is recognized.

Mr. DOLE. Mr. President, I know some of my colleagues will not be here any time today, and that is the only reason to be given notice on votes. I am not certain, but at least I know of no amendment on this side today. There may be some. I think we will find probably tomorrow we will have our substitute ready, and there may be single amendments on this side, but hopefully, by midafternoon I will be in a position to advise the majority leader.

Mr. MITCHELL. If I may suggest, in order to give our colleagues time to make the necessary travel arrangements, would it be possible for the distinguished Republican leader and I to meet and discuss this, perhaps prior to 1 o'clock, at which time I could then be in a position to make an announcement to indicate to Senators what is or is not likely to occur.

Therefore, Senators may look forward to a further announcement in this regard, hopefully, sometime around 1 p.m. or shortly thereafter.

A MESSAGE TO CONFEREES

Mr. DOLE. Mr. President, it is my understanding that the House will not be ready to send over its version of the Financial Institutions Reform, Recovery and Enforcement Act of 1989, H.R. 1278 until tomorrow. Once we receive the bill, we will proceed to conference on the thrift reform legislation.

URGENT ACTION NEEDED

I want to remind my colleagues from both Houses who will be participating in this conference how important it is that they move quickly to resolve the differences between the House and Senate versions of the bill and reach an agreement.

In President Bush's State of the Union Address on February 9, he gave Congress 45 days to complete action on this legislation. Today is day No. 130, and we still do not have a bill ready for the President's signature.

Senator JAKE GARN has stated repeatedly that we need to stop the "hemorrhaging." I agree. The losses have been piling up at a rate of $1 bil-

lion a month. It is crucial that we move to contain them.

Two full months have passed since the Senate passed its version of the bill, raising the ultimate cost of the thrift industry bailout by as much as $2 billion. The American taxpayer cannot afford further delay.

A bipartisan effort to produce reform in both Houses of Congress has generated two strong bills. The President was particularly pleased when Members of the House voted Thursday to defeat the Hyde amendment by a vote of 326–94. The House leadership on both sides of the aisle, the chairman of the House Banking Committee, HENRY GONZALEZ, and the ranking member, CHALMERS WYLIE, are to be commended for their efforts on this issue.

A STRONG BILL IS NEEDED

There are major differences between the House and Senate versions of the bill. The funding and housing provisions are obvious examples. These differences will have to be ironed out in the conference.

My hope is that the conferees will decide to include the toughest provisions in both bills in the conference agreement. I think we have to move quickly, but we also need to move responsibly.

We owe the American taxpayer our best effort to ensure that this never happens again. That means reducing the risk to the Federal deposit insurance funds by requiring that the industry put up real capital—not good will, not something else, but real capital.

This is a massive piece of legislation. It lays the groundwork for a structural overhaul of the thrift regulatory system and provides a funding mechanism for the largest bailout in history—the total cost could run over $157 billion. Nobody knows what the final cost will be.

KEEP THE MOMENTUM

There is work to be done, but we must not lose the momentum from the House action last week and the President's meeting with Republican and Democratic leaders in the House and Senate.

I urge my colleagues to push for a conference agreement as soon as possible.

Mr. President, I reserve the remainder of my time.

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of morning business, not to extend beyond the hour of 12 p.m., with Senators permitted to speak therein for a period of 5 minutes each.

The distinguished Senator from Illinois is recognized.

INCREASED UTILIZATION OF ETHANOL FUEL

Mr. DIXON. Mr. President, President Bush has just unveiled his proposal to Congress on the Clean Air Act. I am happy that the President has weighed in on the clean air debate, and I think his proposals will help the Congress and the White House to reach a consensus on how to clean up the Nation's air. Although his proposal is light on specifics, I heartily agree with the President on at least one important issue—the necessity of increasing our domestic utilization of oxygenated fuels, especially ethanol.

From a fledgling endeavor, the ethanol industry has grown to a domestic fuel industry that produced and marketed over 840 million gallons of fuel in 1988. In the process, the ethanol industry has created a cash market for some 340 million bushels of grain, thereby, increasing farm income by an estimated $1 million and lowering Federal farm program costs by $700 million. At the same time, this domestic industry has helped to reduce oil imports by nearly 40 million barrels.

Mr. President, in addition to being an excellent octane enhancing additive to gasoline, ethanol offers a whole host of significant environmental benefits which make it an effective pollution reduction option. Ethanol blended fuels can enable the over 80 carbon monoxide and ozone nonattainment areas to come into compliance with EPA standards. Current predictions suggest that the use of ethanol blends will reduce motor vehicle emission of carbon monoxide approximately 25 to 30 percent. Indeed, because the oxygen content of an ethanol blend is almost twice that of other oxygenated fuels, its ability to reduce carbon monoxide levels is greater than any alternative oxygenated fuel.

Motor vehicles are the major source of ozone precursors, the major source of carbon monoxide, and a significant source of air toxics. Control of vehicle emissions of these pollutants has focused on the vehicle. In turn, Detroit has made dramatic improvements in this area. We have already made most of the improvements possible on petroleum powered cars, buses, and trucks. It makes sense that the next round of improvements come from vehicles powered by clean renewable fuels. The President has called for car manufacturers to produce a million clean-fueled vehicles per year by 1997. I say this is a step in the right direction, and I hope to see at least that many clean cars and trucks sold by the turn of the century.

Mr. President, it is time that we recognize the importance of ethanol in solving our smog and air toxics problem. It is good for our air; it is good for our farmers; and it is good for reducing our dependency on foreign oil. Mr. President, this is a profoundly good idea.

I encourage my colleagues on the Environment and Public Works Committee to include the benefits of ethanol in the clean air reauthorization bill that they are now drafting.

Mr. President, I yield the floor, and I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BINGAMAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ACT FOR BETTER CHILD CARE SERVICES

Mr. BINGAMAN. Mr. President, I rise today to speak in favor of the Act for Better Child Care Services, the most sweeping piece of child care legislation ever introduced here in the Congress.

This bill is one of the most important pieces of legislation we will consider this year, and I urge its swift passage.

Finding safe, affordable child care has become critically important in recent years to families throughout my home State of New Mexico and across the country.

More and more households are headed by single working parents, and in two-parent households, more and more often both parents are working outside the home. Thus, growing numbers of dual-career families are confronted with the problem of finding a way to provide their children with safe and affordable care.

Nationally, 56 percent of all American women work outside the home. In New Mexico, some 43,000 households are headed by single mothers, and last year, more than 60 percent of the court-ordered child support was either not paid at all or was paid only in part. Child support payments that were made averaged only about $1,300 a year.

A recently completed study undertaken by the New Mexico Preschool Project Task Force, which I helped organize last year, revealed that more than 61,500 of our State's children under the age of 6 had mothers who worked outside the home.

But licensed child care space available in our State was for only 21,388, or space available for 35 percent of those children.

But even for the parents who do find care for their children, worries often continue. Each day parents wonder how things are going at home or at the sitter's. Do their children receive enough personalized attention? Are

they being challenged mentally? Are they safe? Does the sitter really care about them? Can a mother or father be a good parent if she or he leaves a child alone or with someone outside the family?

Through a series of forums and hearings conducted over the past couple of years, I have met parents and providers throughout New Mexico who have voiced these concerns to me. And I am troubled because I know there is a direct tie between the quality of child care and the ability of a child to become a happy, productive, useful member of society.

At a minimum, we know what the studies have shown. Quality, safe, supervised, and educational care, even as early as 3 years of age, eventually translates into well-rounded individuals, better school performance, lower dropout rates, lower unemployment rates, and lower crime rates. It means that 15 years later more children will go to college or participate in vocational and job training programs.

It makes sense that if our children get the proper nurturing and education during those critical preschool years, they likely will be that much more successful through the school years and beyond.

However, the need for quality care is not limited to children of preschool age. Indeed, many experts believe the benefits of early intervention can be negated if a child does not receive proper care and attention during the school years. And as with parents of infants and preschoolers, the working parents of school-age children daily face the challenge of finding affordable, supervised, care for their children during the hours before and after school.

During a field hearing of the Congress' Joint Economic Committee, which I chaired last year in Albuquerque, NM, I learned of the extent of this child care dilemma and of the urgent need for the Federal Government to work with States and local communities to assure access to quality, affordable school-age child care for families with such a need.

Clearly, as more and more parents move into the work force, whether from necessity or desire, the need for us to focus on all of the dimensions of this Nation's child care challenge becomes even more critical.

So far, we have not done that. In New Mexico we are trying, but with a child care delivery system comprised of many poorly funded programs, we are unable to meet a need that is growing out of control.

Without question, we in the Federal Government can and must do more to help. Many things can be done. First, the Congress and the President need to recognize that child care is an issue that must be addressed comprehensively.

We must address the availability and affordability of care, and to that end, I believe a refundable tax credit for families with young children is an excellent idea. It is a proposal that should be supported. But a tax credit or refund is not a substitute for—and will not ensure—safe child care.

We also must address the quality of care our children receive. This is an issue that we have neglected and ignored for too long. For our children's future, we must address it now.

The Act for Better Child Care Services is a significant step toward a comprehensive solution to the child care dilemma. The bill recognizes and supports the efforts of State and local governments and employers to address child care.

It would put into place a Federal foundation that will not impose a new bureaucracy or child care system; instead, it provides States with flexible support so that they can build upon their current efforts to help parents choose quality child care settings.

The act, as amended, will not impose strict standards of care on providers. The States, not the Federal Government, will set their own standards based on their particular needs and concerns.

A national panel will recommend basic child care safety standards, which the States may or may not adopt. In many States, the standards will be very basic. Always, the health and well-being of our children should remain our greatest concern.

This act is a major step forward for the Federal Government, yet a full 70 percent of its funds will go directly to parents, who can best select the type of care suited for their children. This is how it should be—a partnership involving Federal and State governments, local communities, and parents working together to ensure a safe, bright future for our children.

I will close by reiterating the need to acknowledge that child care is a national problem which must be addressed in a comprehensive way. We must realize it is a challenge that must be met if we are to meet all of the other challenges we face as a nation.

An investment in a comprehensive child care program is an investment in our Nation's future. It is an investment in New Mexico's children, in Wyoming's children, in Mississippi's children, in all of our children, that will pay off in stronger families, increased productivity in the workplace, and a healthier local, national, and international economy.

Simply put, it is an investment we must make for our children and our future.

I appreciate the chance to speak on this.

I yield the floor.

TRIBUTE TO DAVE GRIGGS

Mr. GARN. Mr. President, this past Saturday morning, my good friend and fellow crewmember from my flight aboard the space shuttle *Discovery*, Dave Griggs, was killed in a crash of an aircraft he was flying. Dave was more than just a good friend, as are all of the members of the crew with whom I flew in space. The unique bond that is formed among those who have traveled in space together is unlike anything else I have seen in human experience. We have seen and felt things that very few humans have felt and which are almost impossible to describe completely. So much of what we shared together remains in the realm of the unspoken.

The relationships formed in that experience are life long. In the years that have followed since that flight, I have maintained close contact with each member of that crew and their families as well as with many of the other astronauts and people at NASA who were involved in the preparation for and conduct of that flight. We have had crew reunions and get togethers; we have joined together in celebration of milestones in each others' lives; we have socialized and laughed and played together, and we have worked together to insure the continuation of our Nation's manned space flight program.

Dave's loss is a very deep and personal one. But it is also a great loss to NASA and to the Nation. Dave's entire career has been full of examples of his dedication to excellence. Rather than detail all of his many accomplishments, I ask unanimous consent that Dave's biography be printed in the RECORD at this time.

There being no objection, the biography was ordered to be printed in the RECORD, as follows:

BIOGRAPHICAL DATA

Name: S. David Griggs (Mr.), NASA Astronaut.

Birthplace and date: Born September 7, 1939, in Portland, Oregon. His parents, Mr. and Mrs. Jack L. Griggs, Sr., reside in Lawrence, Michigan.

Physical description: Brown hair; brown eyes; height: 5 feet 10 inches; weight: 175 pounds.

Education: Graduated from Lincoln High School, Portland, Oregon, in 1957; received a bachelor of science degree from the United States Naval Academy in 1962 and a master science in Administration from George Washington University in 1970.

Marital status: Married to the former Karen Frances Kreeb of Lake Ronkonkoma, Long Island, New York. Her parents, Mr. and Mrs. Charles Kreeb, reside in Lake Ronkonkoma, New York.

Children: Alison Marie, August 21, 1971; Carre Anne, May 14, 1974.

Recreational interests: He enjoys flying, auto restoration, running, and skiing.

Organizations: Member, Society of Experimental Test Pilots, National Air Racing Group, Naval Reserve Association, Naval Academy Alumni Association, Association of

Naval Aviators, Naval Institute, Naval Aviation Museum Foundation, Naval Order of the United States, Tailhook Association.

Special honors: Awarded the Navy Distinguished Flying Cross, Meritorious Service Medal, 15 Air Medals, 3 Navy Commendation Medals, Navy Unit Commendation, Meritorious Unit Citation, Defense Distinguished Service Medal, National Defense Service Medal, Republic of Vietnam Campaign Medal, Vietnamese Cross of Gallantry, NASA Space Flight Medal, NASA Achievement Award, and NASA Sustained Superior Performance Award.

Experience: Mr. Griggs graduated from Annapolis in 1962 and entered pilot training shortly thereafter. In 1964, he received his Navy wings and was attached to Attack Squadron-72 flying A-4 aircraft. He completed one Mediterranean cruise and two Southeast Asia combat cruises aboard the aircraft carriers U.S.S. *Independence* and U.S.S. *Roosevelt*. Mr. Griggs entered the U.S. Naval Test Pilot School at Patuxent River, Maryland, in 1967, and upon completion of test pilot training, was assigned to the Flying Qualities and Performance Branch, Flight Test Division, where he flew various test projects on fighter and attack-type aircraft. In 1970, he resigned his regular United States Navy commission and affiliated with the Naval Air Reserve in which he currently holds the rank of Rear Admiral.

As a Naval Reservist, Rear Admiral Griggs has been assigned to several fighter and attack squadrons flying A-4, A-7 and F-8 aircraft based at Naval Air Station New Orleans, LA, and Miramar, CA. His most recent assignments have been as Commanding Officer, Attack Squadron 2082, Executive Officer, Carrier Group 0282, mobilizing to Battle Force Sixth Fleet, Commanding Officer, Naval Reserve Naval Space Command 0166 stationed at the Naval Space Command Headquarters, Dahlgren, Virginia, and Commanding Officer, Office of Naval Research/Naval Research Laboratory 410, Houston, Texas. Rear Admiral Grigg's current mobilization assignment is as Chief of Staff Commander Naval Air Force, United States Pacific Fleet, San Diego, California.

He has logged 9,500 hours flying time—7,800 hours in jet aircraft—and has flown over 45 different types of aircraft including single and multi engine prop, turbo prop and jet aircraft, helicopters, gliders, hot air balloons and the Space Shuttle. He has made over 300 carrier landings, and holds an airline transport pilot license and is a certified flight instructor.

NASA experience: Mr. Griggs has been employed at the Lyndon B. Johnson Space Center as a research pilot since July 1970, and during this time, he has worked on various flight test and research projects in support of NASA programs. In 1974, he was assigned duties as the project pilot for the shuttle trainer aircraft and participated in the design, development, and testing of those aircraft pending their operational deployment in 1976. He was appointed Chief of the Shuttle Training Aircraft Operations Office in January 1976 with responsibility for the operational use of the shuttle trainer, and held that position until being selected as an astronaut candidate by NASA in Juanuary 1978. In August 1979, he completed a 1-year training and evaluation period and became eligible for Space Shuttle flightcrew assignment.

From 1979 to 1983 Mr. Griggs was involved in several Space Shuttle engineering capacities including the development and testing of the Head-Up Display (HUD) approach and landing avionics system, development of the Manned Maneuvering Unit (MMU), and the requirements definition and verification of on-orbit rendezvous and entry flight phase software and procedures. In September 1983 he began crew training as a mission specialist for flight STS 51-D, which flew April 12-19, 1985. During the flight, Mr. Griggs conducted the first unscheduled extravehicular activity (space walk) of the space program. The space walk lasted for over three hours during which preparations for a satellite rescue attempt were completed.

Current assignment: Mr. Griggs is in flight crew training as pilot for STS-33, as dedicated Department of Defense mission, scheduled for launch in August 1989.

February 1989.

[NASA news release, June 17, 1989]

ASTRONAUT S. DAVID GRIGGS KILLED IN AIR CRASH

Veteran Shuttle astronaut Rear Admiral S. David Griggs, USNR, was killed today when the North American AT-6 vintage trainer airplane he was flying crashed near Earle, Arkansas. Griggs was alone in the airplane when the accident occurred about 9:15 am cdt.

Griggs joined NASA in 1970 as a research pilot in the Johnson Space Center's Aircraft Operations Division. He served as project pilot for the shuttle trainer aircraft and later as Chief of the Shuttle Training Aircraft Operations Office before being selected as an astronaut candidate in 1978.

He made his first spaceflight in April, 1985, as a mission specialist aboard Discovery on missions STS 51-D, during which Griggs conducted the first unscheduled spacewalk in history.

Griggs had been in training as pilot for Shuttle mission STS-33, a classified Department of Defense flight aboard Discovery, scheduled for November of this year.

Mr. GARN. On Saturday when I learned of Dave's tragic death, I was simply incapable of granting the several requests for interviews which I received. Therefore, I issued a statement expressing my feelings about his death. I further ask unanimous consent to have that statement printed in the RECORD at this time.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

STATEMENT BY SENATOR JAKE GARN ON THE DEATH OF ASTRONAUT S. DAVID GRIGGS, JUNE 17, 1989

It is difficult to find the words to express my deep sorrow at the death of my good friend Dave Griggs, who was killed this morning in the crash of the airplane he was flying.

Dave and I flew aboard *Discovery* together in April of 1985. That experience, and the training we underwent together prior to that flight, created a special bond between us, and between all the members of that crew. We shared the ultimate flying experience together, from the thrill of lift-off to the long gliding return to earth a week later. We shared unforgettable moments, as we were able to float quietly in the darkened flight deck of the shuttle and look down on this incredibly beautiful planet, and the eternity beyond it. It prompted us all to look deeply within ourselves to see the real meaning of our lives.

I watched as Dave and Jeff Hoffman walked in space and prepared for the attempt to rescue the ailing satellite we had launched; I was so proud of them and all of that crew and what they accomplished. To me they came to represent the very epitome of excellence and skill. Dave took his responsibilities as an astronaut very seriously. He knew that his performance would help shape the future of all space travelers, and he worked hard to make sure that he did the very best he could at whatever task was before him. That dedication led to his recent promotion to Rear Admiral in the Naval Reserve and to his selection to be the Pilot of STS-33, to be launched aboard *Discovery* this coming November.

I spoke to Dave just two days ago. I could sense this excitement in his preparations for his next space flight, and his unbridled enthusiasm for the space program he loved so much. He was filled with a sense of purpose and justificable pride in the contribution he was making to the future. We talked about his wife Karen, and their daughters, and about what other members of our crew were doing. To suddenly have him gone is difficult to accept. I have lost a person who was a part of the most incredible experience of my life. NASA has lost one of its best and most promising astronauts. This nation has lost one of its most capable, dedicated and talented individuals. And, most tragically, Karen and her two daughters have lost a loving husband, friend, and father. Kathleen and I share their grief and our prayers are with them.

Mr. GARN. No matter how many times we face the tragic loss of people close to us both personally and professionally it never becomes any easier. I join Dave's wife Karen and their two daughters, Allison and Carey, and Dave's many friends and family in mourning his death and urge my colleagues to join me in paying tribute to this noble and great American.

Mr. CONRAD addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from North Dakota.

(The remarks of Mr. CONRAD pertaining to the introduction of S. 1200 are located on today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

LOUIS PASSMAN CELEBRATES 100TH BIRTHDAY

Mr. DIXON. Mr. President, I would like to congratulate Louis Passman who was born in Chicago on July 8, 1889, and who will celebrate his 100th birthday this July 8.

Louis was raised in a small house on 1034 West 31st Street with his four brothers and sisters, and the Passman family became a vital part of this predominantly Irish section of Chicago. Through hard work and dedication Louis graduated from the Holden School while devoting much of his free time to helping his father on a horse and wagon in the scrap business. Louis also became active in politics

and developed a longstanding friendship with the late Mayor Daley.

Until his retirement, Louis was successful in the steel and scrap business for 80 years. His late wife, Goldie, bore two daughters and one son, and Louis now has five grandchildren and eight great-grandchildren.

I heartily congratulate Louis Passman on his long and prosperous life. He and his family are a tribute to Illinois and I wish him all the best and many more birthdays to come.

LT. COL. ROBERT S. "BO" BLUDWORTH

Mr. BYRD. Mr. President, on the occasion of his recent retirement from the U.S. Army, I wish to commend Lt. Col. Robert S. "Bo" Bludworth for 22 years of dedicated service to our Nation. During his military career "Bo" Bludworth has rendered effective service in a wide range of responsibilities. Members and employees of the Senate have come to know and appreciate "Bo" as a "top-flight" officer in the Army's Office of Legislative Liaison to the Senate.

As Senate Army Liaison Officer, Colonel Bludworth's duties involved serving as the initial contact between the Army and Senate. In this important capacity he has provided Senate Members, committees, and staffs with accurate, up-to-date information concerning defense related matters. His broad expertise has helped to fill Senate needs for information on the military, from constituent services to congressional investigations.

In addition to these tasks, Colonel Bludworth was of great assistance to Members of Congress in planning, coordinating and escorting over 75 congressional factfinding delegations, most of which were to locations overseas.

I recall in particular Colonel Bludworth's performance during the Senate's first delegation to the Soviet Union to meet Secretary Gorbachev, which I led in August 1985. During that trip Colonel Bludworth's steadfast attention to detail was important to the success of our mission.

Colonel Bludworth served in Vietnam as a helicopter and ground platoon leader, and he has held other important assignments in the United States and abroad, such as commander of armor units. His military awards and decorations include the Silver Star, Distinguished Flying Cross, Bronze Star, Air Medal, Army Commendation Medal for Valor, and Combat Infantryman's Badge.

Colonel Bludworth's commonsense attitude, distinguished service, and sense of honor demonstrate a conscientious officer in whom the Army and the Nation can take pride.

As Colonel Bludworth retires to begin his new career in private enterprise, our best wishes go to "Bo" and his wonderful wife, Sheila, and their fine children, James, Stephanie, and Todd. I am certain that his future endeavors will match the success of his distinguished military career.

AGENT ORANGE UPDATE: THE AMERICAN LEGION STUDY

Mr. CRANSTON. Mr. President, since agent orange first came to public attention in the late 1970's, I have been working to address and to attempt to resolve the concerns raised about possible adverse health effects arising from veterans' exposure to this herbicide in Vietnam. During this time, it has been my practice to provide periodic updates for my colleagues and others with an interest in this issue on current scientific research. I am continuing that practice today by placing in the RECORD evaluations of a study—generally known as "The American Legion Study"—the results of which were published in the December 1988 issue of Environmental Research. This journal published five articles by Jeanne and Steve Stellman et al. examining the health effects of herbicide exposure and service in Vietnam, based on questionnaires completed by American Legion members.

In November 22, 1988, letters to the Veterans' Advisory Committee on Environmental Hazards, the Agent Orange Working Group, and the Office of Technology Assessment, the chairmen and ranking minority members of the House and Senate Veterans' Affairs Committees requested that these groups comment on the scientific methods used in these studies, the validity of the statistical analyses, and the strength of the findings.

In a January 19, 1989, letter, Don M. Newman, the chairman of the Domestic Policy Council Agent Orange Working Group, submitted a letter and summary of findings from the chair of the science panel. He also included the individual opinions of each scientist. On January 26, 1989, Dr. John H. Gibbons, Director of the Office of Technology Assessment, responded to our request enclosing an OTA staff paper reviewing the studies. On January 30, 1989, Oliver H. Meadows, chairman of the Veterans' Advisory Committee on Environmental Hazards, wrote advising that the studies would not be reviewed by the full committee until its April 25 and 26, 1989, meeting, but that Dr. Yanders, the chairman of the Committee's Scientific Council, had reviewed the papers and prepared a summary of his views on them, which was enclosed for our information. Because I wanted to share these reports together, I delayed this update until I received information on the results of the full committee's review. On June 2, 1989, I received a copy of the committee's assessment.

Mr. President, I ask unanimous consent that these letters and their enclosures be printed in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD:

CONGRESS OF THE UNITED STATES,
OFFICE OF TECHNOLOGY ASSESSMENT,
Washington, DC, January 26, 1989.

Hon. ALAN CRANSTON,
Chairman, Committee on Veterans' Affairs, U.S. Senate, Washington, DC.

DEAR ALAN: The enclosed OTA Staff Paper reviews a study titled "The Columbia University-American Legion Vietnam Veterans Study" sponsored by the American Legion of the effects of service in Southeast Asia during the Vietnam era. As you and your colleagues requested in your letter of November 22, 1988, the OTA review discusses the scientific methods used and the validity of the findings.

The study (referred to as "The American Legion Study") is based on responses to a mailed questionnaire by a sample of Legionnaires in six states who had served either in Southeast Asia (SEA) or elsewhere during the Vietnam era. Questions concerning military experiences and aspects of subsequent functioning and wellbeing were asked. The study was conducted by researchers based at the Columbia University School of Public Health, and the results were published in five papers in the December 1988 issue of *Environmental Research.*

The study investigators reported deficits in a number of social, economic, physical, and psychological measures that they attributed to having served in SEA. They also reported that among SEA veterans, problems appeared to be associated with the extent of combat experience and with having higher scores on an Agent Orange exposure estimate scale.

OTA finds that the study has major flaws that call into question the validity of virtually all the findings reported. These flaws include: (1) aspects of the method of selecting the study population and low rate of response to the questionnaire, both of which may have contributed to a biased comparison of SEA and non-SEA veterans, and of subgroups of SEA veterans; (2) an unvalidated and probably invalid method for assessing Agent Orange exposure; and (3) an unvalidated and probably invalid approach to collecting health (and possible other) information about the participants. All epidemiologic studies suffer from some bias, and no methodology is perfect. However, the American Legion study has such serious problems that, even though some of its conclusions might be correct, the evidence produced by the study cannot be relied upon for an understanding of the consequences of having served in SEA during the Vietnam era.

An editorial by Michael Gochfeld, which accompanies the American Legion Study reports, suggests that the method used to estimate exposure to Agent Orange in this study is an improvement on previous attempts, and should be applied widely in other studies of veterans. He ascribes the government's decision to halt the Congressionally-mandated Agent Orange study to CDC's "arguing nihilistically that since exposure cannot be well documented, the study was not feasible." The Government's

decision was made because of compelling evidence, from serum dioxing testing and also from a more sophisticated exposure estimation procedure than that used by the American Legion investigators, that there did not exist a large group of ground troops with significant exposure. The American Legion Study has done nothing to alter these conclusions.

I hope you find this review helpful. If you have any questions or comments on it, please feel free to call me, or to contact Clyde Behney or Hellen Gelband of the OTA Health Program (at 8-6590).

Sincerely,

JOHN H. GIBBONS.

OTA REVIEW OF: THE COLUMBIA UNIVERSITY-AMERICAN LEGION VIETNAM VETERANS STUDY*

(Staff Paper Prepared by Hellen Gelband, Special Projects Office of the Health Program, Office of Technology Assessment, U.S. Congress, January 1989)

SUMMARY

The American Legion sponsored a study in which a sample of their membership who had served during the Vietnam era filled out questionnaires concerning their military experiences and aspects of their subsequent functioning and wellbeing. The study was conducted by researchers based at the Columbia University School of Public Health, and the results were published in five papers published in the December 1988 issue of *Environmental Research.*

The investigators reported deficits in a number of social, economic, physical, and psychological measures that they related to having served in Southeast Asia (SEA). They also reported that among SEA veterans, problems appeared to be associated with more extensive reported combat experience, and with having higher scores on an Agent Orange exposure estimate scale. OTA was asked by the Chairmen and Ranking Minority Members of the Senate and House of Representatives Committees on Veterans' Affairs to comment on the methodology of the Columbia University-American Legion Vietnam Veterans Study (referred to as the "American Legion Study"), as well as the validity and strength of the findings reported.

This study has major flaws that call into question the validity of virtually all the findings reported. These flaws include: 1) aspects of the method of selecting the study population and low rate of response to the questionnaire, both of which may have contributed to a biased comparison of SEA and non-SEA veterans, and of subgroups of SEA veterans; 2) an unvalidated and probably invalid method for assessing Agent Orange exposure; and 3) an unvalidated and probably invalid approach to collecting health (and possibly other) information about the participants. All epidemiologic studies suffer from some bias, and no methodology is perfect. However, the American Legion study has such serious problems that, even though some of its conclusions might be correct, the evidence produced by the study cannot be relied upon for an understanding of the consequences of having served in SEA during the Vietnam era.

INTRODUCTION

This review gives a general description of the design and findings of the American Legion study, and discusses the Agent Orange exposure estimation methodology used, aspects of the participant selection process that might have affected the results, problems with self-reported data of the type collected in this study, and problems with the study questionnaire. The review concentrates on reported physical and psychological health outcomes.

DESCRIPTION OF THE STUDY AND FINDINGS

The American Legion study is a cross-sectional survey of 2,858 veterans who served in Southeast Asia during the Vietnam era (SEA veterans) and 3,952 who served elsewhere during that time. These were the respondents out of 12,588 Vietnam-era veterans to whom questionnaires were mailed.[1] While the participants are described as a "random sample" in the reports, that does not appear to be the case, as explained below (see *Study Population*).

Respondents filled out a printed questionnaire [2] and sent it back to the investigators. The questions cover military experience, basic demographics and education, attitudes toward the Veterans Administration, personal health history and current status, reproductive history, some aspects of lifestyle, economic status, and social relationships. The questionnaires were the sole source of information for the analyses published in *Environmental Research;* no independent documentation (e.g., military or medical records) of any information was collected. (A statement is made, however, that data on birth defects will be presented in a future report because of the necessity for medical verification.) Some problems with the questionnaire are discussed below (see *The Questionnaire*).

A variety of standard statistical techniques were used in the analyses, but inconsistencies in the types of adjustments made caused difficulties in interpreting some results. For example, some analyses relating findings to Agent Orange exposure scores are adjusted to attempt to remove the effect of combat (the study's Agent Orange exposure scores and combat scores are highly correlated), but some are not, leaving a question as to whether effects seen are associated with Agent Orange scores, combat scores, or both. In general, not enough information is given for the reader to reproduce the analyses given or to reanalyze the data in other ways.

Despite a wealth of detail, the study methodology is not described sufficiently well, there appear to be inconsistencies throughout the papers in the numbers of men in various categories, and there is a general lack of precision in reporting the methods and findings.

Reported health and reproductive outcomes

Health and reproductive outcomes are discussed in one paper.[3] A variety of physical conditions were reported more frequently by SEA veterans than by non-SEA veterans. These include: heart disease, venereal disease, benign fatty tumors, and various skin conditions. A greater percentage of men who reported handling herbicides directly, compared with other men who served in SEA, reported higher rates of high blood pressure, heart disease (but not when adjusted for differing age distributions), stomach or duodenal ulcer, and various skin conditions. Among men who served in SEA but did not handle herbicides directly, higher rates of benign fatty tumors and various skin conditions are reported with higher Agent Orange exposure scores. Among SEA veterans (excluding those who handled herbicides directly), higher rates of a number of conditions were reported in association with higher combat exposure scores: high blood pressure, stomach or duodenal ulcer, benign fatty tumors, arthritis or rheumatism, hepatitis, genito-urinary problems, nervous system disease, and major injury. In another analysis, various symptoms were grouped into five scales called (1) faint, (2) fatigue, (3) aches, (4) colds, and (5) skin. On the questionnaire, men were given a choice among the following answers to rate the symptoms included in these scales: (1) not a problem, (2) minor problems, (3) a problem, or (4) really a major problem. Results reported are as follows: (1) SEA veterans scored significantly higher (more problem symptoms) than non-SEA veterans on each scale; (2) men who reported handling herbicides directly had significantly higher scores on each scale than did other SEA veterans; (3) in multiple regression analysis, combat scores and Agent Orange exposure scores were correlated with scores on each scale. In the latter analyses, the combat scale was more strongly correlated than was the Agent Orange scale.

A slightly (but significantly) higher percentage of SEA veterans compared with non-SEA veterans reported either having children or having tried to have children (90.3 percent vs. 88.4 percent); the percentage increased significantly with combat level (low, medium, high). The percentage reporting difficulty having children was significantly higher among SEA veterans compared with non-SEA veterans (18.0 percent vs. 14.9 percent), but was not associated with combat levels. Rates of miscarriage in female partners correlated with Agent Orange exposure scores and with combat scores.

Post-traumatic stress disorder (PTSD)

Between 1.8 and 15.0 percent of SEA veterans in the study were reported to have PTSD, depending upon which of three definitions was used.[4] Using at least one of the definitions, the rate of PTSD increased with increasing combat scores.

AGENT ORANGE EXPOSURE ESTIMATION METHOD

The method used to arrive at numeric Agent Orange (and other herbicide) exposure scores for individual participants is described in a 1986 paper by Stellman and Stellman.[5] As have previous attempts at developing an Agent Orange exposure index, this one combines information from soldiers' locations and the computerized records of herbicide spraying (from the HERBS and Services HERBS tapes), taking into account time and distance from spraying. The authors make a number of claims for this methodology, the most general being that it "can be profitably used in most epidemiologic studies of the effects of herbicides on U.S. troops." Further, that "the accuracy and precision of the method are comparable to, or exceed, those used in many major environmental and occupational studies." They state that "a sizeable number of individuals were classified as 'high' exposure," and that the data "make the convincing point that sufficient numbers of troops are available and identifiable for epidemiologic study of herbicide effects."

The American Legion exposure estimation method suffers from more severe problems than did CDC's earliest attempt at an exposure index, which OTA rejected. The most serious of the problems with the exposure estimation method are:

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*The views expressed in this Staff Paper do not necessarily represent the views of the Technology Assessment Board or its individual members.

Footnotes at end of article.

1. Self-reported location data: Nearly 20 years after the fact, veterans were asked to recall each location at which they spent time during their tour of duty in Vietnam. Especially for men who moved around frequently (probably those in combat), this is an almost impossible feat.

2. Locations were chosen from a list of place names provided in the questionnaire. While men might have been near a particular town, large US bases, where many men were stationed, and where combat troops were likely to be, were not in the middle of towns. The place names may refer to places many miles off, yet it was presumably these actual towns that the American Legion researchers used as points of "location," from which the distances to spray coordinates were calculated. It is impossible to judge the accuracy of this method, and the investigators provide no information to support their claim that the method is "precise and accurate." In fact, it appears to be far less precise than CDC's method using grid coordinates from military records of troop locations.

3. There is no discussion of missing data, yet there must have been significant gaps in the information reported on the questionnaires. If gaps were ignored, as seems likely, it is possible that reporting a lot of places or accounting for a greater percentage of the tour of duty would produce higher scores. This is one point on which no information is found in the papers.

4. Any location up to 15 kilometers away from a spray path coordinate virtually any time—including years later—after spraying, is considered in the exposure zone, the scores diminishing with increasing distance from the coordinate. The highest exposure score appears to be given for being within 5 kilometers of spraying. The experimental data that exist from trials at Eglin Air Force Base, which, while not necessarily definitive are the best available, suggest that virtually no Agent Orange would have travelled more than 2 kilometers from the spray line, and even at that distance, the amounts were minuscule. In CDC's analyses, nearly all troop locations that were "within 5 kilometers" of spraying were actually beyond 2 kilometers (i.e. betwen 2 and 5 kilometers), so even what is considered to represent the highest exposure in the American Legion study would likely have been almost no exposure at all in most instances. While it is entirely possible that some people were within 2 kilometers of spraying, particularly some time after spraying, they would likely be in the minority. The rationale for including distances up to 15 kilometers does not appear to be supportable given the set of facts available.

The investigators do not give examples of other occupational or environmental studies that have less precise and accurate exposure measures, but at least in studies of herbicide or dioxin exposure, this is not true. Several studies have focused on occupational groups with known, direct exposure, including the studies of Swedish foresters, the current NIOSH studies of chemical production workers, and the Air Force Ranch Hand study. NIOSH and the Air Force are also measuring residual dioxin in the body by means of blood serum testing. Studies of heavy environmental exposure in Missouri and Seveso include groups with known, direct exposure. In no case would a person living 15 kilometers from where herbicides were sprayed be assumed to have had significant exposure, unless some direct exposure could be documented. A person living even 5 kilometers away from a plant producing a dioxin-contaminated chemical would in no way be considered exposed comparably to workers in the plant, even if some dioxin were entering the general environment from the plant. While everyone acknowledges that conditions in Vietnam were different in many ways, there is no evidence suggesting that a scenario as unlikely as that underlying the American Legion exposure estimation method existed.

The comment that a "sizeable" number of men were classified as having had high exposure is misleading. Although no description is given of the method used to divide the group into low, medium, and high exposure categories, it appears that divisions were made to create groups of convenient size for analysis. This conclusion is based on examining the "Agent Orange Exposure Index" distribution in Figure 3 (page 120) of the first paper.[6] It is clear that most of the 557 men classified as having had "high" exposure were very nearly the same as those classified as "medium" and that the entire range of scores, except for a few men in a long tail in the high end, was quite tight. Any array of individuals with specific numeric scores, which can vary by even small amounts, is divisible arbitrarily into groups, but doing so is not necessarily meaningful. To give a simple example, a man who was 10 kilometers from a spray would presumably have a higher score (for that occasion) than a man who was 15 kilometers, but in all likelihood, neither had a significant exposure, even if one is called "high" and the other "medium."

The authors claim a measure of validity for this index because they say that men could not have known, by the information they provided, how they would be classified. But according to data presented in the 1978 paper, men's self-reports of exposure were predictive of their exposure status as calculated. This could be due to the high correlation of the Agent Orange and combat indexes, suggesting that, in general, men who scored higher on the subjective combat exposure index also believed they had been more exposed to Agent Orange (and ultimately reported more health problems). Because of the gross imprecision represented by the Agent Orange index, the idea that it was actually measuring something else is a plausible explanation for the findings.

CDC's final exposure assessment method, used in their "validation study" [7] was superior to the American Legion method. When CDC arrayed their scoress, the range was quite small, with very few who had objectively high scores. This lack of clearly defined high exposure was borne out by the results of serum dioxin testing. In that study, the group of men who had served in heavily sprayed areas in Vietnam had dioxin levels no different from a similar group of men who had served elsewhere. If there were, in fact, large numbers of ground troops with high exposures, it is possible that CDC's method would have identified them accurately. The finding of only "background" dioxin levels in the ground troops contrasted sharply with significantly elevated levels in a group of Ranch Hands with known, direct exposure,[8] providing assurance that a heavily exposed group is easily identifiable from one with low exposure even 15 or 20 years after the exposure ceased. The American Legion study refers to testing for residual dioxin in the body as a means of detecting past exposure as "yet to be validated." That statement appears to be inaccurate, in light of CDC's study, a similar study conducted under the auspices of the New Jersey Agent Orange Commission [9] (coauthored by Michael Gochfeld, who wrote the editorial [10] in *Environmental Research* that accompanied the American Legion study reports), as well as studies of heavily exposed Missouri residents,[11] and recent results of serum dioxin testing in individuals living in a dioxin-contaminated area near Seveso, Italy.[12]

The editorial accompanying the American Legion Studies [13] erroneously states that the Government's decision to halt the Congressionally mandated Agent Orange study was a result of CDC "arguing nihilistically that since exposure cannot be well documented, the study was not feasible." This is not true. The decision was made because of compelling evidence, from serum dioxin testing and the military records, that there did not exist a large group of ground troops with significant exposure. The American Legion study has done nothing to alter this set of facts.

STUDY POPULATION

The participants in the American Legion study are referred to as a "random sample" of male Vietnam-era Legionnaires from six States. However, this does not appear to be the case, and the divergence from the ideal of a random sample could well have been responsible for some of the reported differences in health and other outcomes reported. The procedure for identifying potential participants describes an initial list of randomly selected names of American Legionnaires in the six States included in the study. Late in the process, 770 "volunteer researchers" were used to contact people on the lists to determine their time and place of service. Each volunteer was given a list of about 200 names, with the charge of identifying 15 SEA and 15 non-SEA Vietnam-era veterans. There is no suggestion that these volunteers contracted people on the list in a random order. Though the procedure is confusingly presented, it appears that once 15 from each group were identified, the volunteer could stop. This introduces some selectivity by the volunteers, the effect of which is unquantifiable. In a study of this type, it is important that the participants be selected independent of any characteristics other than their having served in Southeast Asia (for the SEA group) or having served elsewhere in the military during the Vietnam era (for the non-SEA group).

A second potential problem is participation bias. Once having received a questionnaire from the investigators, those who had been identified by the volunteers decided whether or not to participate. Every study that depends upon individuals freely choosing whether or not to participate has a potential problem with response bias. The greater the influence of other factors on selection into the study, particularly, for instance, if SEA veterans were more likely to participate if they had many health problems than if they were relatively healthy, the greater the potential for ending up with spurious results. The effects of this type of bias can be minimized in a number of ways. First, investigators attempt to get a high response rate from both groups, so that the "non-responders," even if they had participated, would have had little effect on the results. The overall response rate in the American Legion study was poor, reported to be between 52.5 percent and 64.1 percent, although it is impossible to determine, based on the information given, the precise response rate. The authors claim that the

sample is not significantly biased, but in the many figures they cite, and in the discussion, they do not include a simple comparison of the response rates of SEA veterans and non-SEA veterans separately, which is of fundamental importance. The information presented to substantiate their claim that the sample is not unduly biased and is representative of the class of veterans they represent is inadequate.

The low overall response rate and the potential bias introduced by the volunteer researchers suggest that the study population may not fairly represent the groups to which they belong, and that differential influences on response between SEA and non-SEA veterans, and possibly among various subgroups of SEA veterans may have affected the results significantly.

PROBLEMS WITH SELF-REPORTED, UNVERIFIED INFORMATION

This study depends entirely on information about "exposures" and a whole range of health and other outcomes. Nothing was verified by objective data. CDC's Vietnam Experience Study [14] (VES) clearly demonstrates that self-reporting of health events and reproductive history can lead to the erroneous conclusion that Vietnam veterans, and those who believe they were exposed to herbicides, have more health problems than non-Vietnam veterans and Vietnam veterans who do not believe they were exposed, respectively. Except for a small number of specific conditions (e.g., hearing loss), these differences were not borne out in the VES by standardized, detailed physical examinations, now was a reported excess of birth defects among the children of Vietnam veterans confirmed when all birth records were examined. These differences can occur because of underreporting by one group, overreporting by the other, or a combination of the two. It is not necessarily a result of individuals knowingly misreporting, but can be explained by differential recall.

Taking a specific example, the SEA veterans in the American Legion study reported significantly more skin problems than did the non-SEA veterans. Those who reported actually handling herbicides (and therefore would clearly have known that he would be in an "exposed" category) reported higher rates than SEA veterans who did not report handling herbicides. In addition, there was an increasing tendency to report skin conditions with increasing Agent Orange scores (though that association could be related to combat scores rather than Agent Orange scores) among the SEA veterans. In the VES, a similar excess of self-reported skin conditions was found. However, on physical examination, including an examination for scars of past skin problems, there was no difference between the two groups in the prevalence of any skin condition. With no corroboration of these differences based only on self-reporting, the American Legion study findings cannot be taken as evidence for real differences in health history or current health status.

The American Legion investigators claim that participants' health reporting could not have been influenced by prior knowledge of their Agent Orange exposure scores, therefore associations with Agent Orange are not the result of biases in response. This contention is not supported by the data presented, however. First, as discussed earlier, self-described exposure was correlated with exposure scores in the 1986 study. Second, Agent Orange exposure scores were highly correlated with combat scores. Combat scores were based on eight questions about experience in SEA, which in all likelihood led to a ranking reflecting mainly men's perceptions of how extreme their combat experiences were. The questions were all answered subjectively, the participant choosing between "never," "rarely," "sometimes," "often," and "very often," to describe the frequency of eight types of experiences, e.g., firing his weapon at the enemy, killing the enemy, seeing someone killed, etc. The way a veteran feels about and has dealt with his war experience in general is bound to affect the way in which he answers these questions. While this scale may be a valid measure of how a veteran perceives his wartime experience, which is of clear importance, it has not been validated against military records to determine whether these answers correspond to the veteran's actual experience. Nonetheless, the American Legion study uses this combat index as though it were an objective measure.

Issues related to PTSD assessment

The definition of PTSD in this study is based on use of the combat scale (eight questions) as a surrogate for identifying a traumatic event, and questions about PTSD symptoms, as defined by the Diagnostic and Statistical Manual of Mental Disorders ("DSM-III"). By arbitrarily defining different cutoffs and combinations of combat scores, the investigators arrive at different rates of PTSD among the SEA veterans. They refer to numbers of men "diagnosed" or with a "clinical diagnosis," though, in fact, none of the specific measures they use have been validated against the standard, which is a diagnosis based on an in-person clinical examination. The fact is that some particular percentage of these men actually has PTSD, and more have some symptoms of it. The actual numbers may be in the range circumscribed by the above estimates, but it is not possible to base conclusions about specific rates on this study.

Although validation of the questions used to define PTSD is mentioned, the claims are unsupported and in some cases misleading. The authors claim that the combat scale has been validated, but whether it has or not, it was not designed as a surrogate for detecting a traumatic event, but as a measure of combat. Any validation refers only to that. There is no evidence that the particular questions about PTSD symptoms used in this questionnaire, specifically self-administered, are a valid means of collecting this information.

At this point, with the National Vietnam Veterans Readjustment Study (NVVRS) and the VES completed, it is clear that PTSD is a real and significant problem for Vietnam veterans. Those two studies were better designed than the American Legion study, particularly the NVVRS, which did use a clinical examination to validate the in-person questionnaires on which PTSD prevalence estimates were based.

THE QUESTIONNAIRE

Two kinds of problems with the questionnaire itself, in addition to those already mentioned, may have affected the validity of various outcomes reported by the investigators. These problems include the "demand characteristics" of the questionnaire and several instances of faulty logic.

Demand characteristics

It is well known that the way in which questions are asked can influence the answers given, and these influences are known as demand characteristics. In the American Legion study questionnaire, the questions that might evoke negative feeling—e.g., about combat situations, about exposures to chemicals in the military, about flashbacks and anxieties—are asked first. Then the questions about happiness, satisfaction, and health are asked. This tends to set up certain hypotheses in the minds of participants as the questionnaire progresses.

The wording of some individual questions also suggest hypotheses. For example, one set of questions (which are obviously related to PTSD) is introduced with the statements: "Serving in the military often puts us in situations that stay in our memories for a long time." The first question then asks: ". . . how often have you: Had vivid recollections of your military services, especially bad scenes?" The introduction to the question sets up a situation in which the respondent would be encouraged to report recollections. If a person reported that he never or rarely has recollections, his response would be contrary to the statement made in the questionnaire. Answers to the rest of the questions in that group could be affected similarly.

Another example is a multipart question that begins with: "When all things are considered, to what degree were your military experiences stressful?" The next part of the question asks: "Taking all things together, how happy are you these days?" and then "In general, how satisfying is your life?" The grouping of these questions forces the respondent to evaluate happiness and satisfaction today in light of the level of stress he experienced in the military, as though there necessarily is a connection.

Faulty logic

The American Legion questionnaire, like many questionnaires, contains groups of questions that do not apply to all participants. To deal with this, "skip patterns" are built into it. For instance, the non-SEA veterans are told appropriately to skip the section on SEA military service. In two major instances, however, in the sections on drinking alcohol and the one dealing with family/marital relationship, inappropriate skips are introduced. The data on both subjects are reported in the papers with no mention of this problem, nor with any suggestion that the responses apply only to a portion of the respondents.

In the section entitled "Beverages, Tobacco and Medication," question 5 asks: "Do you drink alcoholic beverages?" If the answer is "No," the instruction is to go on to question 13. If yes, one continues with 6 through 12. Questions 6, 7, and 8 concern current drinking habits, and are skipped appropriately. Questions 9 through 12, however, should apply equally to former drinkers, e.g., question 10, which reads: "Has there been a change in your drinking habits since your discharge from the service?" The choices are: "no change," "yes, I drink more," or "yes, I drink less." Question 11: "Have you ever had a serious drinking problem?" Question 12: "Have you ever found yourself unable to consume alcohol even when you felt like it?" No other questions that would elicit the information that a respondent had stopped drinking are asked.

In the introduction to the section on family and marital relationships, respondents who had "lived alone for the past six months" are instructed to skip the entire series of questions. However, within the section to be skipped are questions directed clearly at men living alone: "If you have not lived with another person during the past six months have you had any friends of the opposite sex that you have enjoyed being

with?" In addition, a battery of questions concerning relationships with children are skipped. No rationale for this is given in the paper reporting these results, and they are reported as though they apply to the entire study sample.

In both of these cases (drinking alcohol and relationships) the information collected is incomplete, and the questionnaire may have been confusing to the respondent, making the accuracy of the reported results highly suspect.

FOOTNOTES

[1] Stellman, Jeanne M., and Stellman, Steven D., "Columbia University—American Legion Vietnam veterans study: Report #1," booklet, dated May 29, 1985.

[2] Vietnam Era Veterans Study, printed questionnaire, including letter signed by Keith Kreul and Jeanne M. Stellman, Ph.D., 12 pp., January 1984.

[3] Stellman, Steven D., Stellman, Jeanne Mager, and Sommer, John F., Jr., "Health and reproductive outcomes among American Legionnaries in relation to combat and herbicide exposure in Vietnam," *Environmental Research* 47:150-174, 1988.

[4] Snow, Barry R., Stellman, Jeanne Mager, Stellman, Steven D., and Sommer, John F., Jr., "Post-traumatic stress disorder among American Legionnaries in relation to combat experience in Vietnam: Associated and contributing factors," *Environmental Research* 47:175-192, 1988.

[5] Stellman, Steven D., and Stellman, Jeanne M., "Estimation of exposure to Agent Orange and other defoliants among American troops in Vietnam: A methodological approach," *American Journal of Industrial Medicine* 9:305-321, 1986.

[6] Stellman, Steven D., Stellman, Jeanne Mager, and Sommer, John F., Jr., "Combat and herbicide exposures in Vietnam among a sample of American Legionnaires," *Environmental Research* 47:112-128, 1988.

[7] CDC Veterans Health Studies, "Serum 2,3,7,8-tetrachlorodibenzo-p-dioxin levels in US Army Vietnam-era veterans," *JAMA* 260:1249-1254, 1988.

[8] CDC Agent Orange Projects Office, "Comparison of serum levels of 2,3,7,8-TCDD with indirect estimates of Agent Orange exposure in Vietnam veterans," typescript, August 1987.

[9] Kahn, Peter C., Gochfeld, Michael, Nygren, Martin, et al., "Dioxins and dibenzofurans in blood and adipose tissue of Agent Orange-exposed Vietnam veterans and matched controls," *JAMA* 259:1661-1667, 1988.

[10] Gochfeld, Michael, "New light on the health of Vietnam veterans," (editorial), *Environmental Research* 47:109-111, 1988.

[11] Patterson, D.G., Jr., Needham, L.L., Pirkle, J.L., et al., "Correlation between serum and adipose tissue levels of 2,3,7,8-tetrachlorodibenzo-p-dioxin in 50 persons from Missouri," *Arch. Environ. Contam. Toxicol.* 17:139-143, 1988.

[12] Mocarelli, P., Pocchiari, F. and Nelson, N, "Preliminary report: 2,3,7,8-tetrachlorodibenzo-p-dioxin exposure to humans—Seveso, Italy," *MMWR* 37(48):733-736, 1988.

[13] Gochfeld, Michael, "New light on the health of Vietnam veterans," (editorial), *Environmental Research* 47:109-111, 1988.

[14] CDC Vietnam Experience Study, "Health status of Vietnam veterans," *JAMA* 259:2701-2719, 1988.

VETERANS' ADMINISTRATION,
OFFICE OF GENERAL COUNSEL,
Washington, DC, January 30, 1989.

Hon. ALAN CRANSTON,
Chairman, Committee on. Veterans' Affairs, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: This is to advise you that the series of papers reporting on the health status of Vietnam era veterans who are members of the American Legion which were recently published in "Environmental Research" (vol. 47, pp. 129-209, (1988)) will be reviewed at the next meeting of the Veterans' Advisory Committee on Environmental Hazards (currently scheduled for April 25 and 26, 1989). Due to conflicting schedules of Committee members, it is not feasible to convene a meeting of the Committee or of the Dioxin Panel prior to that date for the purpose of discussing these papers. However, Dr. Yanders, the Chairman of the Committee's Scientific Council has reviewed the papers and has prepared a summary of his personal views on them. I am enclosing that summary for your information.

A similar letter is being sent to the Chairman and Ranking Minority Members of the House and Senate Veterans' Affairs Committees. If I can be of further assistance, please let me know.

Sincerely,

OLIVER H. MEADOWS,
Chairman, Veterans' Advisory, Committee on Environmental Hazards.

EVALUATION OF THE STUDIES BY THE STELLMANS AND THEIR ASSOCIATES, ENVIRONMENTAL RESEARCH 47 (1988).

1. The major problem with this work is apparent in the first paper, which asserts that "categorization of Vietnam Veterans according to herbicide exposure can be successfully accomplished, based on an existing detailed herbicide application data base." No data are cited. There is no support for this position. In fact, the far larger, far better designed study earlier begun by CDC was abandoned precisely because no such exposure could be established from the records of pesticide application and troop movements.

2. The second problem, of almost equal magnitude, is the total reliance of the investigators on a self-administered questionnaire with no attempt at confirmation. Such procedures are notoriously prone to errors for which "internal checks" alone are not sufficient.

3. In a contentious and self-serving editorial in the same issue of the journal which contains all five papers, Gochfeld refers to them as "a remarkable series of epidemiologic studies." They are indeed remarkable for their far-reaching conclusions based on inadequate and faulty evidence. The editorial also is heavily biased against the CDC and VA, and plays upon the emotions of the reader by implying that the failure of more rigorous studies to find increased levels of morbidity and mortality in the population studied is evidence that the Vietnam Veterans continue to be mistreated because of their participation in an unpopular war. The editorial—and the papers themselves—adopt an "us against them" tone, in which "us" are those who agree with this position, and "them" are everyone else. The papers selectively cite work which supports their position and largely ignore that which does not.

4. The inclusion of Post-Traumatic Stress Disorder (PTSD) in the study confuses the issue. By this inclusion, Agent Orange is implicated by association, but the authors do not even suggest a relationship. It is also interesting to note that no data on PTSD are given for those veterans who did not fall into the "median or above" combat category.

5. The studies involve a population that is considerably different from the Vietnam Veteran as a whole, in that it is (a) predominantly white, (b) predominantly Northern, and (c) predominantly Midwest. There is also the likelihood that being a Legionnaire is more prevalent in certain social classes than in others. Even if its conclusions were correct, this work is on shaky grounds when it attempts to speak for "the Vietnam Veterans"'

6. These studies contain nothing of value to the V.A., and should be completely disregarded.

VETERANS' ADMINISTRATION,
OFFICE OF GENERAL COUNSEL,
Washington, DC, June 2, 1989.

Hon. ALAN CRANSTON,
Chairman, Committee on Veterans' Affairs, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: Shortly after the publication of a series of papers reporting on the health status of Vietnam era veterans who are members of the American Legion were published last September you wrote to me requesting the views of the Veterans' Advisory Committee on Environmental Hazards concerning these papers. The papers were reviewed by the Committee at its April meeting and I am enclosing a copy of the Committee's assessment.

A similar letter is being sent to the Chairman and Ranking Minority Members of the House and Senate Veterans' Affairs Committees. If I can be of further assistance, please let me know.

Sincerely yours,

OLIVER MEADOWS,
Chairman, Veterans' Advisory Committee on Environmental Hazards.

The Veterans Advisory Committee on Environmental Hazards at its April 1989 meeting reviewed a series of papers reporting the results of a study of randomly selected members of the American Legion who had military service during the Vietnam era. The authors sought to analyze information on the personal, reproductive, family, and mental health of the veterans, and on health behaviors, such as smoking, drinking, and drug use, and to determine the extent to which these factors varied with respect to exposure to combat and herbicides. In the first paper, "Combat and Herbicide Exposures in Vietnam among a Sample of American Legionnaires" (Stellman, et al., Environ. Res. 47: 112-128 (1988)), the authors analyzed the patterns of exposure to combat and herbicides.

The study population was derived from American Legion members in six states (Colorado, Ohio, Maryland, Pennsylvania, Indiana, and Minnesota). The randomly selected participants were mailed a self-administered questionnaire.

The authors noted that "(e)stimation of exposure to herbicides such as Agent Orange in Southeast Asia is without doubt the most difficult component of the entire study." They used a probabilistic exposure index based upon the Department of Defense's HERBS tape and supplementary files developed by the U.S. Army and Joint Services Environmental Support Group in conjunction with the subject's self-reported recall as to his geographic location in Vietnam. The authors noted the data used in the construction of the index were "derived from respondents' self-reports of locations in Vietnam, and, as such, are subject to recall error. Nevertheless," the authors stated, "subjects appear to have exercised considerable care filling out this portion of the survey." The index of exposure was described as counting all sprayings which ever occurred near each location reported by the veteran and was weighted inversely according to distance and exponentially according to elapsed time. The authors did not provide evidence that the exposure index is a valid measure of actual exposure to herbicides, and blood or tissue levels of dioxin or other chemicals were not measured.

To measure combat exposure, the investigators asked eight questions which sought to characterize the extent to which the respondents had undergone traumatic combat

experiences. Again, the authors did not provide evidence that their calculated combat index is, in fact, a valid measure of actual combat exposure.

The authors concluded that this (or similar) methodology could be used in most epidemiologic studies of the effects of herbicides on U.S. troops. The Committee had serious reservations about the scientific validity of this paper. Particular criticism was directed towards the authors' indices of exposure for both Agent Orange and combat. With respect to Agent Orange, the Committee noted the complete reliance upon the HERBS tapes and the recall of the study's participants. The authors provided no evidence to support the validity of the exposure indices. The failure to do so, in the opinion of the Committee, constitutes a serious flaw in the study design, and raises serious questions about the validity of the authors' conclusions. The authors themselves commented that they realized that the "classification of exposure to herbicides of Vietnam veterans is fraught with controversy" and commented that they had addressed the methodological issues previously.

The Committee believed that the authors relied excessively upon the presumed accuracy of the HERBS tapes as indicators of spray paths. The members observed that the tapes can be very inaccurate and not representative of actual combat missions in Vietnam. Also, assumptions concerning the dispersal of the herbicide, particularly the authors' failure to consider the biological degradation and absorption by the foliage, were a source of concern to the Committee.

Another limitation of the study involves the possible bias due to nonresponse. The authors indicated that "return rates ranged from a low of 52.5% in Pennsylvania to a high of 64.1% in Minnesota." The Committee commented that a health survey with such low response rates is at best questionable with respect to its validity. A survey with a response rate below 75%, the Committee observed, is relatively prone to bias. The authors attempted to address this issue when they stated that "the critical question is whether the distribution on important variables differs between men coming from high response Posts, compared with men from low response Posts." The authors then went on to state, "(they) examined the relevant distributions of many variables and found no differences that could have affected the study results materially." The Committee observed that such comparisons do not involve veterans who did not respond, and, therefore, fail to address the issue of non-response bias. In the opinion of the Committee, the authors' argument appeared contrived leaving the possibility of nonresponse bias a serious limitation of the study. Additionally, the authors failed to provide information about possible differential response rates between the Southeast Asia group and the control group. A differential response rate could be another source of bias.

The Committee also expressed reservations about the reliance upon self-reporting. The Committee observed that both the Centers for Disease Control's Vietnam Experience Study and the Ranch Hand study demonstrated the occurrence of bias when self-reporting was used to assess health effects. Stellman, et al., made no effort to verify the response by physical examination or medical record review.

Self-reporting bias may also affect the calculated exposure indices. There was apparently no attempt to validate the veterans' responses by comparing them to the pertinent military data.

The Committee concluded that because of its serious flaws in design, the study could not provide valid information about exposure to herbicides or to combat.

The Committee then reviewed the paper entitled, "Social and Behavioral Consequences of the Vietnam Experience among American Legionnaires." (Environ. Res. 47: 129-149 (1988).) The authors reported their analyses of the data acquired as described in the preceding paper. Combat and exposure to herbicides were considered as independent variables. The analyses involved multiple regression that included terms for combat and Agent Orange exposures as well as a term for their interaction.

The authors reported a wide range of adverse effects. Vietnam combat veterans were found to have significantly lower family income irrespective of their educational levels. Men who experienced high levels of combat intensity were found to be at greater risk for divorce or separation. With regard to sexual satisfaction, the authors found statistically significant terms in the multiple regression model for combat exposure and for its interaction with Agent Orange. The Agent Orange term itself was not significant. The authors stated, "This result, where herbicide is not an independent predictor but only enters the equation in an interactive term, suggests that herbicide effect which is manifest only at very high levels of combat is present." The authors found, however, that in similar analyses of parental and marital outcome only combat was significant; neither Agent Orange nor the interaction term were significant.

With regard to psychological well-being, the authors employed five measures: depression, anxiety, helplessness/hopelessness, degree of anger/irritation, as well as physical symptoms of depression. All five scales were significantly associated with combat. For Agent Orange exposure, however, none of the five scales, after adjustment for combat exposure, showed an association. Consumption of alcoholic beverages was the only other variable analyzed with respect to Agent Orange exposure. After controlling for the effects of combat, the results revealed no association.

The authors concluded, "(O)ur data give some indication that certain behavioral effects related to combat intensity may be exacerbated by concurrent exposure to herbicides and indicated the need for further exploration of this issue. . . . Further study, with a larger population, is necessary in order to control the confounding effects of combat more effectively and thereby estimate more accurately the effects of herbicides on psychological well-being."

The Committee commented that this study must be interpreted cautiously due to the serious flaws in its design and execution difficulties revealed in the previous paper. The Committee again identified major areas of concern: failure to validate the measure of Agent Orange exposure, potential bias due to the low study response rates, and the total reliance on self-reporting without independent verification of the data. It was also observed that the observed effects were often relatively small. The effects may be statistically significant but biologically unimportant.

The Committee then reviewed the paper, "Health and Reproductive Outcomes among American Legionnaires in Relation to Combat and Herbicide Exposure in Vietnam." (Stellman, et al., *Environ. Res.* 47: 150-174 (1988).) The authors noted that the study was not designed to investigate the possible relationship between herbicide exposure and the development of malignancies. The authors stated, "Because of the low background rates of all types of cancer in a group with this age distribution, the present study does not have the statistical power to detect such effects. Also for the majority of the cohort, insufficient time has elapsed for the natural latency of the disease process to have passed."

For health conditions, the investigators found statistically significant increased associations for herbicide handlers versus nonhandlers in regard to reported histories of hypertension, heart disease, ulcers, sensitivity to light, change in skin color and skin rash with blisters. With regard to dose response relationship, the authors found statistically significant associations of herbicide exposure with histories of benign fatty tumors, adult acne, increased sensitivity to light, and skin rash with blisters.

By means of factor analysis, the investigators determined five symptom scales; faintness, fatigue or physical depression, aches and pains, colds, and skin effects. For each of these scales, the mean among herbicide handlers was significantly higher than among nonhandlers. Multiple regression with terms for combat exposure, Agent Orange exposure and their interaction revealed statistically significant associations for each of combat and Agent Orange exposure with all five symptom scales. In these analyses, generally, combat exposure had the stronger relation compared with Agent Orange exposure.

For reproductive effects, the authors confined their analysis to never-married men born in 1940 or later. With regard to dose-response relations with Agent Orange exposure, after adjustment for level of combat, no significant association was found for: difficulty having children, delay in fathering (defined as the time elapsed between the end of military service and the first reported pregnancy of a spouse), number of pregnancies fathered, gender of liveborn children, and birth weight of live-born children. The one reproductive outcome where the investigators did find a significant association with Agent Orange exposure was miscarriages.

The authors commented that "while the manifold effects noted in this study span a wide range of outcomes, they are by no means haphazard, but in fact constitute a set of highly specific endpoints, most of which were initially chosen for study because of previous reports in the literature on exposure to stress and to phenoxy herbicides or TCDD. . . . These findings on physical and reproductive health are consistent with and mutually reinforce the conclusions of the other papers in this series concerning the pervasive effect of combat and herbicide exposure on the lives of veterans of the Vietnam war."

The Committee commented that this paper is subject to the same serious criticisms as the other studies in this series because of flaws in design and execution. Also, this particular study has the additional statistical limitations associated with making multiple comparisons.

Finally, the Committee reviewed the paper entitled, "Post-traumatic Stress Disorder among American Legionnaires in Relation to Combat Experience in Vietnam: Associated and Contributing Factors," by Snow, et al. (Environ. Res. 47: 175-192

(1988).) The authors stated four goals. Those were to examine (1) the frequency of combat-related PTSD and its components in a large, randomly selected sample of Vietnam veterans, (2) the nature of the precipitating factors that are necessary for PTSD to be experienced, (3) the etiologic roles of selected demographic and precombat health variables upon the development of PTSD, and (4) the stability of the PTSD symptom complex over time. The authors reported their various findings and concluded that their research provided strong evidence for the existence of PTSD in a large nonclinical sample of Vietnam veterans and that the symptoms were most likely to occur in individuals who had higher levels of traumatic combat exposure.

The Committee did not consider this paper to be relevant to its charge as it did not involve Agent Orange or herbicide exposure. The Committee noted that the study contained the same design flaws as the other papers and that, consequently, the authors' conclusions are open to serious question.

UNDER SECRETARY OF HEALTH
AND HUMAN SERVICES,
Washington, DC, January 19, 1989.

Hon. ALAN CRANSTON,
Chairman, Senate Committee on Veterans' Affairs, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: As promised in my recent letter, the Science Panel of the Domestic Policy Council Agent Orange Working Group (DPC/AOWG) has reviewed the American Legion Epidemiologic Studies of Vietnam Veterans (*Environmental Research* 1988; 47109-209). At a specially convened meeting of the DPC/AOWG on January 10, 1989, their evaluation was reviewed and received concurrence.

In sending you the review, I include the letter and summary of findings from the Chair of the Science Panel. Of particular note, we have included the individual opinions of each scientist by name. Missing from the individual opinions is that of the representative from the Congressional Office of Technology Assessment (OTA) who contributed much to our deliberations. OTA will be making its own review and report under separate cover.

In sending this report, I also bid farewell as the Chairman of the DPC/AOWG. The important work of research will continue under new leadership until this vital issue is resolved.

It has been a privilege to have served our Nation's veterans and to have worked with you in the process.

With warm personal regards,

Sincerely,

DON M. NEWMAN,
Chairman, Domestic Policy Council, Agent Orange Working Group.

DEPARTMENT OF HEALTH
AND HUMAN SERVICES,
January 9, 1989.

Memorandum to: Mr. Don M. Newman, Chair, Domestic Policy Council, Agent Orange Working Group.

From: Chair, Science Panel, Agent Orange Working Group.

Subject: Review of the American Legion Study Papers Published in Environmental Research, December 19, 1988.

Because of concern about my own potential bias, I did not direct or participate in this review. The response from the Center for Environmental Health and Injury Control, Centers for Disease Control, were coordinated by Stephen B. Thacker, M.D., M.Sc., Assistant Director for Science, who also chaired the meeting of the Science Panel. My role was limited to convener and movement of paper to the various members of the Science Panel.

The Science Panel did not review the final article in the series entitled "Utilization, Attitudes and Experiences of the Vietnam-Era Veterans with the Veterans Administration Health Facilities: The American Legion Experience," in great detail. However, the Science Panel concurs with the reviews done by Dr. Han K. Kang and Dr. Lawrence B. Hobson of the Veterans Administration, which are attached as a portion of this communication.

Despite several requests, we were never able to obtain the protocol for this study. We did obtain a copy of the questionnaire but from a source other than the American Legion or the authors of the papers.

Included for transmission to the Congress is a summary review of the nine responders from the Center for Environmental Health and Injury Control, CDC, in addition to their individual reviews. Also included are reviews from Dr. Lawrence B. Hobson and Dr. Han K. Kang of the Veterans Administration; Dr. Manning Feinleib, Director, National Center for Health Statistics, CDC; Dr. Marie Sweeney from the National Institute of Occupational Safety and Health, CDC; Dr. Jeff Lybarger of the Agency for Toxic Substances and Disease Registry, Public Health Service; Colonel William H. Wolfe of the Department of the Air Force; Dr. John F. Young of the National Center for Toxicological Research, Food and Drug Administration; Dr. Donald Barnes of the Environmental Protection Agency; and Captain David Uddin of the Department of Defense, accompanied by a review prepared by Dr. Jerome Bricker, consultant to the Department of Defense, regarding the article, "Combat and Herbicide Exposure in Vietnam Among a Sample of American Legionnaires" by Stellman, et al, *American Journal of Industrial Medicine* 9:305-321 (1986), which apparently was the basis for the herbicide exposure cited in the American Legion studies.

The following is the review by the Science Panel.

The data presented in the American Legion report of the Epidemiologic Studies of Vietnam Veterans (Environmental Research 1988; 47:109-209) do not support the conclusions drawn by the authors. The study is seriously flawed due to major problems in study design and execution. First, there is potential selection bias due to nonrandom sampling and low response rates. Second, there is potential information bias due to poor questionnaire design and the analysis only of self-reported data without external validation. Probably of greatest concern, any observed association between combat or herbicide exposure is confounded by the investigators' use of subjective measures of combat and herbicide exposure. Combat exposure was not validated by comparison with military records. The herbicide exposure index used by the authors has not been validated, and based on the Agent Orange Validation Study and the Ranch Hand Study, does not accurately predict exposure. Because of these problems, the results of the American Legion report are of little or no value in further understanding the Agent Orange issue. The collective decision of the Government not to proceed with the CDC Agent Orange Study was correct and is not affected by the American Legion report.

Interpretation of the findings are made more difficult by the absence of standard tables on demographic distributions for the original sample, the participant sample, or the sample of veterans that provided sufficient information for estimation of herbicide exposure. Some of the information provided on service experience could have been cross-checked by reviewing discharge records for at least some veterans. The American Legion reports as well as the accompanying editorial imply erroneously that evaluating herbicide exposure in this study is not much different than in retrospective studies of exposure to workers where individual exposures are not measured. The analogy is misleading because in well-conducted occupational studies, one knows from objective records that the employee was in an area of potential exposure and that workers are exposed during operations. In contrast, in the American Legion Study, we do not know if veterans were within miles of a sprayed area, and we do not know if any dose, let alone a measurable dose, was received.

Discussion of the findings of the American Legion study is incomplete. Findings from the Vietnam Experience Study (VES), the Agent Orange Validation Study, and other important studies should have been addressed more thoroughly. For self-reported health outcomes, the results are similar to those obtained with the VES questionnaire. As with the American Legion study, almost all outcomes in the VES were reported more often by Vietnam veterans than by other Vietnam-era veterans. Those Vietnam veterans who reported either handling herbicides or having more combat experience also reported higher rates of most outcomes. Most of the verifiable self-reported conditions, however, were not substantiated by objective evidence obtained during the physical examination. It is not clear why the authors of the American Legion papers, as well as the author of the accompanying editorial, ignore these available data which would have helped them interpret their subjective data.

When one views the full range of the studies on Vietnam veterans, including those with detailed objective data, clear and consistent conclusions emerge:

(1) Many Vietnam veterans report psychologic and physical symptoms. Psychological abnormalities have been demonstrated by objective evidence to be slightly more prevalent in Vietnam Veterans. Combat-related Post Traumatic Stress Disorder has been shown to be a problem in several studies. Almost all physical abnormalities have not been confirmed.

(2) Many Vietnam veterans also were in and around herbicide or pesticide applications in Vietnam, and they have subsequently been told about dioxin and its "extreme" toxicity.

(3) Many Vietnam veterans, therefore, attribute their current symptoms to past herbicide exposure.

(4) Very few Vietnam veterans, unless occupationally exposed (e.g., sprayer or mixer), have been shown to absorb significant quantities of 2,3,7,8-tetrachlorodibenzo-p-dioxin (TCDD) (and therefore other harmful herbicide constituents).

Because of the selected and limited exposure of soldiers in Vietnam, studies of adverse effects produced by herbicide exposure cannot be efficiently done from general samples of Vietnam veterans. Studies which

can provide more precise measures of the effect on humans of TCDD are in progress in the small number of people with serum levels of TCDD's markedly above the background due to heavy and repetitive (usually occupational) exposure. The major studies are the Air Force Ranch Hand Study, the NIOSH Mortality and Morbidity studies, and the studies around the Seveso incident in Italy. Because of the documented absence of exposure in ground troops in Vietnam, even if these ongoing studies find exposure-related health effects, they cannot be applied directly to the vast majority of Vietnam veterans.

VERNON N. HOUK, M.D.,
Assistant Surgeon General, Director, Center for Environmental Health and Injury Control.

REVIEW OF THE AMERICAN LEGION STUDY OF THE HEALTH OF VIETNAM VETERANS

(Environmental Research 1988;47:109-209)

(Prepared by: Stephen B. Thacker, M.D., M.Sc., Assistant Director for Science, Center for Environmental Health and Injury Control, Centers for Disease Control, January 4, 1989)

SUMMARY

The data presented in the American Legion Study of the Health Effects of Vietnam Veterans (Environmental Research 1988;47:109-209) do not support the conclusions drawn by the authors. The study is seriously flawed due to major problems in study design and execution. First, there is potential selection bias due to non-random sampling and low response rates. There is potential information bias due to questionnaire design and self-reporting data without external validation. Finally, probably of greatest concern, any observed association between combat or herbicide exposure without biological validation of herbicide exposure. The herbicide exposure index used by the author has not been validated, and based upon the Agent Orange Validation Study and the Ranch Hand Study, that index is very likely to be flawed. Together, these problems make interpretation of the results of the study difficult.

The findings are made more difficult by the absence of standard tables on demographic distributions for the original sample, the participant sample, or the sample that provided sufficient information for estimation of herbicide exposure. Some of the provided information on service experience could have been cross-checked by reviewing discharge records for at least some veterans. The accompanying editorial implies erroneously that evaluating herbicide exposure in this study is not much different than retrospective studies of exposure to workers where individual exposures are not measured. The analogy is misleading because one knows from objective records in occupational studies that the employee was in an area of potential exposure, and that workers are exposed during operations. In the American Legion study, we do not know if veterans were in spray areas at the time of spraying, and we do not know if any dose, let alone a measurable dose, was received.

Discussion of the findings of the American Legion study is incomplete. Findings from the Vietnam Experience Study (VES), the Agent Orange Validation Study, and other important studies should have been addressed more thoroughly. For health outcomes, the results are very similar to the questionnaire component of VES. As with the American Legion study, almost all outcomes in the VES are reported more often by Vietnam veterans than by other veterans. Among Vietnam veterans, those who report either handling herbicides or having more combat experience report higher rates of most outcomes. Most of these associations, however, were not substantiated by the physical examination, and it is likely that in most cases the higher rates were due to recall bias. This is also probably true in the American Legion study. It is not clear why the authors of the American Legion papers, as well as the author of the accompanying editorial ignore available data that would have helped them interpret their subjective data.

When one views all of these studies, including those with very costly objective data, there is a clear and consistent alternative set of interpretations which is not at variance with any of the data reported to date by any study group:

(1) Many combat veterans have psychologic and physical symptoms.

(2) Many of them also were in and around herbicide applications in Vietnam, and they have subsequently been told about dioxin and its "extreme" toxicity.

(3) Many of them, therefore, attribute their current symptoms to past herbicide exposure, when complaints related to physical findings were objectively evaluated in the VES, most differences between the Vietnam group and the non-Vietnam era veteran could not be substantiated. Psychological abnormalities were found to be slightly more prevalent in Vietnam veterans. Combat-related Post Traumatic Stress Disorder has been shown to be a serious problem in several studies.

(4) Very few Vietnam veterans, unless occupationally exposed (e.g., sprayer or mixer), have been shown to absorb significant quantities of 2,3,7,8-tetrachlorodibenzo-p-dioxin (TCDD) (and therefore other harmful herbicide constituents) from the types of casual or non-repetitive exposures they experienced.

Because of the selected and limited exposure of soldiers in Vietnam, studies of adverse effects produced by herbicide exposure cannot be efficiently done from general samples of Vietnam veterans. Studies which can provide more precise measures of the effect on humans of TCDD are in progress in the small number of people with heavy, and repetitive (usually occupational) exposure. The major studies are the Air Force Ranch Hand Study, the NIOSH Mortality and Morbidity studies, and the studies around the Seveso incident in Italy. Preliminary reports for two of these studies suggest the hypothesis that TCDD is substantially less toxic to man than to guinea pigs. The NIOSH studies are not yet reported.

BACKGROUND

In the December 1988 issue of Environmental Research a series of five papers appears reporting on a study of the health of Vietnam era veterans who are members of the American Legion. Funded by the American Legion and conducted by investigators at Columbia University, the first four papers describe the results of a cross-sectional study of Legionnaires from six states relating health problems to the Vietnam exposure, in particular exposure to combat and herbicides.[1 2 3 4] The fifth paper reports on Legionnaires' utilization of Veterans Administration health facilities.[5]

The results of the American Legion study are in many ways consistent with those reported by the Centers for Disease Control (CDC) as they relate to veterans perception of illness and its relationship to the Vietnam experience.[6 7 8] There are, however, striking differences when the American Legion researchers attempt to relate herbicide exposure to specific adverse health effects. Any epidemiologic study can be criticized, and what must be decided is whether sufficient care has been taken in the design, implementation, analysis, and the interpretation of the results of the study, and whether or not the methods of a particular study will support the conclusions. In the American Legion studies there is sufficient concern with these issues to question the validity of the results of the study and their interpretation. The following discussion will spell out these concerns with the first four reports as they relate to sample selection, representativeness, questionnaire construction, measure of exposure to herbicides and combat, data analysis, and selected outcomes. We will not discuss the utilization study.

SAMPLE SELECTION

The authors chose a cross-sectional sample from American Legion membership roles from six states (CO, OH, MD, PA, IN, and MN). After exclusion of those with 20 or more years of membership, one-seventh of the records were selected at random. Each man in the one-seventh sample was sent a postcard to indicate if he was a Vietnam Era veteran, since this information is not included in Legion membership records. Those who did not return the card (an unspecified proportion) were contacted by the Post Adjutant to identify those known to be non-Era veterans. Vietnam Era veterans and those of unknown status were then contacted by 'volunteer researchers' to determine actual service location, and to encourage participation.

From these papers and a 1985 document,[9] it seems that the sample selection is based on an assumption that about 15 percent of all Legionnaires are Vietnam-era veterans. From the earlier report, we know that 85,000 men were included in the 1/7th random sample from all 6 states, and that 50,000 returned the postcard indicating time of service. The remaining 35,000 were apparently classified by volunteer researchers. 12,588 men were identified as Vietnam-era veterans and 6,810 completed questionnaires. None of the "attrition" in the population is broken down by cohort status.

It appears, however, from statements elsewhere in the papers that there was more to the sampling procedure than this. The authors state that they oversampled Vietnam veterans (taking 15 of each would indeed be slight oversampling of Vietnam veterans), yet their final sample has 42-percent Vietnam veterans and 58-percent non-Vietnam veterans. This is precisely what you would expect without oversampling. The first paragraph of the first paper says that 32 percent to 48 percent of era veterans served in Southeast Asia.

The authors also say nothing about differential response rates between the two groups. In the Vietnam Experience Study (VES), the Vietnam group was more likely than the comparison group to participate in the study. If there had been also a higher response rate among Vietnam veterans, it is even less clear how the investigators did

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Footnotes at end of article.

their sampling. In the VES, we found only one factor that differentially influenced participation rates in the examination component between Vietnam and non-Vietnam veterans. Non-Vietnam veterans with higher education levels were more likely to participate in the examination, perhaps because they understood the importance of their participation.

The preliminary 1985 report of these data[9] raises additional questions. The description of the sampling design differs somewhat from that described in the *Environmental Research* series of papers, although we believe they are describing the same exact study. This earlier report, however, says the 770 research volunteers were given the names of only those legionnaires who did not return postcards. They were still said to have been given 200 names each. This 1985 report also says that 12,588 men were identified as Vietnam veterans and mailed questionnaires. The 1988 report says that 2,858 subjects who served in Southeast Asia returned questionnaires. Since their response rate is reported to be between 52 percent and 64 percent for both cohorts combined (Southeast Asia and other), it is difficult to understand precisely what was done.

REPRESENTATIVENESS

The authors admit that they do not have a "representative" sample of Vietnam Era veterans, since American Legion members represent the "solid middle section of white America". Demographic data on both the total sample and respondents are sketchy, but the authors did indicate that 98 percent of the participants were white. The authors also indicate that participants have been resocialized sufficiently to join the American Legion.

There are further reasons to doubt that the survey participants were representative of Vietnam veterans:

1. In the Agent Orange Validation Study (AOVS), interviewed veterans who believed they had health problems or were exposed to herbicides were clearly more likely to go for medical exam than those who believed they were in good health or had little exposure to herbicides.[10] It is plausible that the same bias would occur in the American Legion Study in those willing to spend time filling out a long questionnaire.

2. Bias could be introduced by the use of volunteers to determine service location and establish contact. Recruitment of volunteers for assistance may have its place in studies with a strong *a priori* hypothesis known to the volunteers. In this case, however, the hypothesis is quite clear to the volunteer researchers, to the American Legion, and to the participants. Vietnam veterans with health or psychological problems and non-Vietnam veterans without problems could have selected themselves for the study by returning the postcards. Even more disturbing, the volunteer researchers could have selectively influenced participation. The researchers were given "goals" to identify 15 Southeast Asia and 15 non-Southeast Asia veterans for the study. With these expectations, it is easy to hypothesize that a well-meaning volunteer could have chosen the "worst" Vietnam veterans and/or the "best" non-Vietnam veterans.

3. The relatively low participation rate could lead to bias and a non-representative sample.

4. The definition of the eligible and final study population is inadequate. The reader should be given the following information: the size of the original total population sampled and the ½th random sample; the number of men comprising the one-seventh random sample of members with less than 20 years of continuous membership; the numbers of Vietnam and non-Vietnam veterans to whom questionnaires were sent; the number from this sample who returned postcards, who were ultimately contacted, and who could never be reached in any way and remained status unknown; of those who were contacted, how many participated, how many refused, and how many were lost to follow-up at this stage; and as much of the above as possible should be given by cohort status. With these numbers, one can compute the magnitude of losses and thus provide an assessment of the adequacy of the final respondent sample. The authors do not explain why they used these unorthodox recruitment procedures or why these procedures would not introduce bias in a study of this type.

The authors fail to use standard, accepted methods of presenting data. The extent of the potential bias introduced by this sampling scheme cannot be evaluated, because the authors do not provide baseline demographic information on the original sample and the selected population. Even basic information, such as age distributions by type of service (Army, Navy, etc.), are not provided. Information on at least some veterans, such as place of service, service dates, rank, and discharge status could have been verified from discharge records, yet the authors did not do so. The same holds true of cohort comparisons among respondents. The reader should see, for example, the age, race, education, and income distributions for Vietnam vs. non-Vietnam veterans and also for the different combat cohorts since so many comparisons are made by combat status. This is especially important because so many of their presented analyses are essentially crude and do not control for all these important variables.

The authors could also compare their sample of veterans to veterans from other studies if they want to examine representativeness. They say their study group is 98.5 percent white; this obviously is not representative of the general population or of the racial distribution found in other veteran studies. They say that their study group is "representative of the solid 'middle section' of white America, with its relatively high educational and income level and marriage rate" (p. 147). This statement may be a little misleading. Compared to other veteran studies that included more non-white veterans,[6 7 8 11] Legionnaires appear to have no more education than the veterans in the CDC study and substantially less than veterans studied by Card. The marriage rate among the Legionnaires may in fact be very nonrepresentative. Using the numbers of "ever-married" veterans (p. 136), the rate of ever married is 68 percent in both cohorts. This is extremely low; the rate in the VES study is about 91 percent and in the Card study about 93 percent.[11]

The authors do report on different response rates by state. On p. 124 they give it as ranging from 52.5 percent in Pennsylvania to 64.1 percent in Minnesota. (This is apparently inflated somewhat—bad addresses are removed before calculating the rate.) On p. 179, however, response rates range from 58.1 percent in Pennsylvania to 64.6 percent in Minnesota. These data become even more puzzling in Table 4 (p. 125), which shows more total respondents from Minnesota than from Pennsylvania. Since Pennsylvania has three times the populations of MN, either the investigators weighted the sample by state or Minnesotans are far more likely to join the American Legion than Pennsylvania veterans.

The authors claim that "representativeness of study subjects is intimately related to their response rates," and then proceed to give us response rates by state instead of by cohort. The total response rate in this study is not good to begin with (about 54 percent), and if the rate varies significantly by cohort, this could be a serious source of bias. The authors exclude from the denominator of their response rate those questionnaires "returned for bad addresses or otherwise undeliverable." This is very unconventional and will inflate the response rate a little or a lot depending on the number of veterans who could not be tracked down. So, the response rates presented are already inflated by some unknown degree.

In order to address potential bias in representation, the authors compare "the distribution of important variables" between men coming from high-response posts and men from low-response posts in an effort to address the question of representativeness of their sample. Because they did not find differences between these "high-response" and "low-response" subjects for these variables, they conclude that they have little response bias. This is a meaningful analysis only if you make the unsubstantiated assumption that respondents from "low-response" posts are more like non-respondents than respondents from "high-response" posts. The observation that age was related to response rate could, on the other hand, completely explain inter-post differences (i.e., respondents from all posts are similar, but some posts have higher rates of non-response because their membership is older). The authors also suggest that their sample is not biased because reported herbicide and combat levels by posts with high response rates are comparable to those with low response rates, although their outcome data suggest otherwise. Nearly 9 percent more men from high response posts report excellent health than those from low response posts. This suggests that those with the most health or psychologial problems could have been recruited first, with low response posts never getting around to recruiting other veterans. With their low response rates, it is quite possible that socio-demographic differences attributed to Vietnam service may be heavily influenced by differential motivational factors for participation. Finally, the authors try to address bias statistically, but tests of statistical significance probably are not appropriate for assessing selection bias. Such an approach to confounding, on the other hand, is well accepted.[12]

QUESTIONNAIRE CONSTRUCTION

The questionnaire is designed so that information on combat, herbicide exposure, symptoms of post-traumatic stress disorder (PTSD), social factors upon return, and helpfulness of the Veterans Administration were collected before the outcome data. Structuring this questionnaire in this way may bias respondents to falsely associate exposure with illness. Also, the tone of the questions implies that the veterans did have problems upon return. The herbicide section even includes questions on acute symptoms following exposure, thereby reinforcing to the respondent the potentially harmful effects of exposure.

The use of a self-administered questionnaire has a number of important limitations that could affect the quality of the re-

sponses: the respondent can take as little or as much time as he wants to complete the questionnaire; the absence of a trained interviewer precludes the ability to answer clarifying questions and to encourage completion of all questions; and the respondents can ask family, friends, or oher veterans for their opinions and help in filling out the questionnaire.

HERBICIDE INDEX

As Lilienfeld recently stated, "It is the assessment of exposure that is the cornerstone of any environmental epidemiologic study . . ."[13] Thus, the validity of the findings in this series of papers depends on the accuracy with which exposure was assessed in this study. We reviewed carefully the original paper describing the exposure estimation procedure[14] as well as the summary of exposure estimates for the men in this study. Especially in light of the findings in other publications, the authors of these studies must show that they have overcome the recognized difficulties and obtained valid exposure measures. We believe that their measures are unreliable for the following reasons:

1. Estimates of exposure are based completely on veterans' recollection of their locations and dates of service, without validation from military records.

2. The authors' procedure greatly overestimates the relative exposure of veterans who were more than 1-2 km from known herbicide sprays.

3. The procedure implicitly assumes that the only exposure of concern was from contaminated soil and perhaps water, which may result in a substantial overestimate of exposure for those within 2 km of a documented spray.

4. There were no comments concerning calculation of time periods for which no location was reported.

5. The authors ignore demonstrated limitations in indirect indices for dioxin exposure.

6. The exposure classifications appear arbitrary with no clear biological basis.

The following are detailed comments on these issues:

1. There are several concerns about exposure estimates based on recall not validated by historical records. Both published manuscripts report that exposure was estimated by asking veterans the dates they had served at about 100 locations in South Vietnam. First, because only 73 percent of Vietnam veterans reported enough location data to estimate herbicide exposure, for all analyses using this variable, at least ¼ of the data are missing. Second, it is difficult to remember specific dates and places nearly 20 years after the fact. Third, the questionnaire listed the names of base camps, villages, (along with a small map of Vietnam) yet much of the herbicide exposure may have occurred in more remote areas. Fourth, even with accurate recall of location and time, veterans would have difficulty giving correct exposure information. Veterans would think they were most heavily exposed when walking through defoliated areas, although by that time, the chemical constituents would have decomposed. In contrast, veterans would have been most exposed shortly after spraying and before chemical decomposition, when the jungle looked relatively normal. Using the model developed by the American Legion investigators, it would not be unusual for veterans to preferentially remember time spent in defoliated areas, and with the one-year half-life for herbicide in the environment built into the model, these men would be considered exposed.

For an alternative measure of personal exposures, veterans were asked if they had ever handled herbicides. Veterans could have responded positively if they handled many different types of chemicals, which they now presume were herbicides. Most of the chemicals used near base camps, etc. were insecticides, not herbicides. Thus, the index could represent belief in exposure to Agent Orange rather than actual exposure. In good faith, veterans could think they were exposed because they walked through defoliated areas, and because they sprayed or were otherwise exposed to unknown chemicals. On the other hand, this variable should not be discounted simply because it does not reflect objective exposure. The CDC studies found that reported exposure is associated with many adverse outcomes. The AOVS, however, found no correlation between reported exposure and objective exposure as measured by serum TCDD levels, suggesting that the association between reported exposure and adverse outcome is not due to exposure to TCDD.

The authors report that they obtained adequate data from 73 percent of the respondents to calculate a score, but they do not define what constitutes adequate. Because of the long half-life the authors used, their exposure measures probably do not depend very much on accurate date information. The VES showed that many soldiers moved frequently. Possibly their data are least adequate for those Army and Marine veterans who moved the most (and might be the most interesting group to study). It would be most adequate for those who remained in one spot for the war. The authors give no information on this. They do say that the entire questionnaire took 45–60 minutes to complete, including health status and feelings about the Veterans Administration, so that veterans could not have taken too long on the map portion. The score reflects where they served in Vietnam and when, which may be a surrogate for occupational specialty and branch of service (i.e., these are potential confounders for herbicide exposure). The results of the AOVS indicate that this exposure score, as well as epidemiologic exposure measures developed by CDC, probably has nothing to do with exposure to Agent Orange.

The authors should have tried to verify veterans' recollection of where they served by validating a sample of questionnaires with military records. Such records were used in the AOVS; they are the dates during which a veteran served in various units (from his military record), and the locations of those units on those dates (abstracted from military records by the Environmental Support Group).[10] In addition, the AOVS showed that there is no relation between current TCDD levels and relative opportunity for exposure according to a wide variety of scores derived from the military records or from self-reported exposure. Vietnam veterans whose main job was not handling herbicides have tissue TCDD levels similar to unexposed civilians of the same age. Thus, there is no evidence that ground troops who served in South Vietnam had meaningful exposure to TCDD.

2. Simulated Ranch Hand sprays at Eglin Air Force Base, Florida, showed exposure decreasing far more rapidly (as a negative exponential), with negligible exposure more than 1-2 km from the center of the spray path.[15] The exposure measure used in the American Legion study, however, allows for substantial exposure up to 15 km from a spray, with exposure decreasing as the inverse of the distance from the spray. Most perimeter sprays had no more dispersion than did Ranch Hand sprays, since most of the perimeter sprays would have been from ground level or low altitude. In contrast to this new report, for most scores the AOVS used only locations within 2 km of a spray to estimate exposure, a procedure that is in much better agreement with the available data.

In addition, some base camps in South Vietnam were quite large, so that perimeter spraying would not necessarily result in significant exposure for all veterans stationed at that camp. While no details are given, it is possible that each base camp is represented as a point in computing potential exposure in this report. In their 1986 report, the authors show that, for 6 base camps, there are far more herbicide spray "hits" 5-15 km from these base camps than within 5 km.[14] These considerations suggest that the authors may have substantially overestimated herbicide exposure for many veterans, in contrast to their statement that "Computed exposures will thus tend to underestimate true exposures."

3. The exposure measure in the American Legion study assumes a half-life of 1 year for the decay of TCDD in the environment. This is roughly consistent with the experimental data on the half-life of TCDD absorbed to soil and similar to the half-life of 5 years used to compute the "slow" or E_3 score in the AOVS. However, this half-life is about two orders of magnitude longer than the estimated half-life of several days for TCDD on vegetation. The Stellman exposure measure, therefore, assumes that the significant source of exposure is soil and gives an estimated exposure far greater than that which would be obtained if the important source was TCDD on vegetation. In fact, the relative importance of vegetation vs. soil is unknown.

The distribution of their herbicide index basically shows most veterans clustered at the low end with a few scattered out on a long tail. Even if one were to make the assumption that this index (based on HERBS tapes and self-reported location) has any validity, there is still no discussion of what the levels of the index might represent in biological terms. Until and unless some type of method of validation can be applied, the value of any such index is completely unknown. Certainly, past study of epidemiological and biological markers has taught us that and the authors should at least acknowledge the limitation of such markers.

4. There were no comments concerning calculation of scores for time periods for which no location was reported. If these periods were merely assigned a zero, then the analysis should have been adjusted for the number missing days. Otherwise results could be biased: men who report more illnesses might also report locations for more days, receive a higher score, and artifactually create the impression of an association between health outcomes and herbicides.

5. The half-life of TCDD in humans has been estimated at 7.1 years (95 percent confidence interval 5.8 to 9.6 years) which means that only 2-3 half-lives have elapsed since the Vietnam War.[4] Measurements in Ranch Hand Veterans have demonstrated that selected veterans who were exposed to Agent Orange in Vietnam have measurable and quantifiable serum TCDD levels which are above background levels.[16] When the same serum TCDD measurements were

made on ground troops who were classified as highly exposed by any one of five exposure indices including self-reported exposure, the supposed highly exposed group had a distribution of serum TCDD levels almost identical to veteran controls with no Vietnam experience.[17] The large set of data on Vietnam veterans in the AOVS with a variety of exposures has established the serum TCDD measurement as the current preferred method of assessing TCDD exposure in Vietnam veterans.

6. The criteria for "high," "medium," and "low" exposure classifications were not given. However, from the frequency distribution (p. 120) and numbers in the tables (pp. 158-159) it appears that "high" included anyone with an exposure level at or above the mean, i.e. 0.36-1.60. That means that, with the unreliability of the question responses, there was probably little difference between the "medium" (0.10-0.36) and "low" (0.0-0.10) groups.

Of note, the U.S. Air Force formulated an Agent Orange exposure index for Ranch Hand veterans, based on excellent records of the actual activities of the Ranch Hand veterans during their tours of duty. After comparing their index with measured serum TCDD levels on a subset of Ranch Handers, the Air Force decided the index was inadequate and that they should obtain a serum TCDD level on each of the Ranch Hand veterans. The blood samples have already been collected and the analyses are in progress. It is discomforting, therefore, that the authors describe their system as the gold standard, while referring to others as "yet to be validated exposure methods such as analysis of dioxin residues in tissue collected some 15 years postexposure." [11]

COMBAT INDEX

In their studies the American Legion investigators used a self-reported combat scale analgous to the one used by CDC. Their computation of an herbicide exposure opportunity index was based on the same sets of spray data used by CDC, and their OE3 formula is analogous to the E2 score used by CDC in its TCDD validation study in III Corps area veterans. The main methodologic difference was that in their questionnaire each veteran was given an annotated Vietnam map, with place names and military unit names and was asked to recall and record his location by month and year. With time limited to month, they were forced to use the assumption of a rather slow TCDD decay curve in their OE3 formula. In its TCDD study CDC used military records to identify the unit and probable location of each veteran for each day, thus allowing the use of both rapid and slow decay models for separate analyses.

The combat index used does not give sufficient detail to serve as a major exposure variable. The study includes groups other than ground troops, but focuses only on ground troop experience. For instance, fixed wing pilots or medical personnel could have had traumatic combat-related events, that are not described by this index. The combat index has limitations, even if it is confined to ground troop experience. The questions are redundant, and their intent is unclear. For instance, shooting one Vietnamese could elicit a response to 5 of the 8 questions. The index focuses on frequency not intensity. Seeing a dead man on five separate occasions could get more weight than being involved in one large ambush. The scoring procedures are also not weighted according to the severity of the experience. For instance, finding yourself in a situation you thought you would never survive receives equivalent weight as firing your weapon or seeing dead enemy. None of the combat indices, including the one used in the VES, are ideal but since combat is their major exposure of interest, they could have asked a more extensive battery of questions rather than a screening battery.

There were inconsistencies regarding the number of veterans invarious combat classifications. On page 119, for example, it was stated that 2087 Southeast Asia veterans had combat scores. However, on page 160 the total number of Southeast Asia veterans with combat scores was 2845, a number which apparently did not include herbicide handlers. This is unlikely since the total number of Southeast Asia veterans who were not herbicide handlers was only 2858−102=2756.

Some of their conclusions based on these indices are open to question. Higher combat score correlates with lower income Yet, given the cross-sectional nature of the data, it is impossible to distinguish cause from effect. The authors conclude that "significant family income loss has occurred among Vietnam combat veterans", but possibly those with lower income for whatever reason are more likely to score something as "very often" rather than "rarely, sometimes, or often". The finding of higher separation and divorce rates among the high combat group could be attributed to the same circular logic. In this section an observation that seems to reflect the authors bias is that divorce rates were 4 times as high in the high combat group as in the non-Vietnam group, although the percentages given, 60.4 percent vs. 28.4 percent (p. 136) do not reflect this.

The herbicide and combat indexes are correlated, and the herbicide index drops out in some multivariate analyses. Because of the resulting multicollinearity, the standard errors on the coefficients (not given) would be quite large. Although the resulting coefficients may be significantly different from zero, they are unlikely to be significantly different from each other. Therefore, their relative "importance" would be difficult to assess. Further, because of the instability of these estimates, these kinds of regressions often change radically when more subjects are added to the analyses. In addition, if combat is subject to misclassification and combat leads to certain health outcomes, then residual confounding may exist even after adjustment for the combat score. Thus, residual confounding could account for apparent association between exposure to herbicides and adverse health outcomes, each after adjustment using the combat score. The finding of correlation of both indices with self reports of physical and reproductive health problems is consistent with the VES. In the VES, however, these results were found on the interview component and almost never substantiated by the physical and laboratory exam.

There are two potential sources of bias with these analyses that the authors do not acknowledge or address. Because the combat index relies on self-reported data, it may not reflect actual combat; we know only that it reflects perceived combat, and the data should be analyzed and interpreted in that light. Second, even if the combat index validly reflects combat, the men who saw more combat may have been different going in than the men who saw little or no combat. The Louis Harris study of attitudes toward Vietnam era veterans found that "among those who served in Vietnam, those with less than high school educations at induction were three times as likely to see heavy combat as were those with college educations".[18] They concluded that "combat assignment processes . . . served to mirror the underlying class discrimination of the society itself". If this is the case, then many of the socio-demographic, behavioral, and health differences seen by combat status in the American Legion study may be due to preexisting differences in the men who saw different levels of combat. This issue could have been better addressed by more adequate control for all available covariates in the analyses. The general lack of specificity associated with combat (i.e., it is related to almost every reported health outcome) increases the likelihood of a reporting or selection bias.

The three combat exposure groups and the three herbicide exposure groups may differ appreciably with respect to other characteristics that are associated with reporting of outcomes. For example, Navy and Air Force veterans make up about 49 percent of the Low combat exposure group but only 10 percent of the High exposure group (Table 3 and Figure 5). Although not shown, the military rank profile of those exposure groups could also be quite different. Both branch of service and military rank could be important correlates of outcome reporting and should have been taken into consideration in comparisons among the combat and herbicide exposure groups. Other baseline traits that would be important to take into consideration are military occupational specialty and whether a man was drafted or volunteered for military service. Another point that should have been addressed is the possibility of response bias or selective reporting of outcomes by Vietnam veterans. Further, it is not possible from a cross-sectional study that relies on self-reported exposures (particularly combat) and self-reported outcomes to establish with certainty whether the exposure led to the outcome or vice versa.

ANALYTIC STRATEGY

There are several points of concern in the analysis:

Crude associations are reported in most instances. Joint effects of combat and herbicide exposure were assessed (and hopefully the 'non-significant' main effect of herbicide exposure was left in the model with and herbicide-combat cross-product term), but collected data on demographic variables or smoking, drinking and drug use were not included in multivariate models.

Dates during which the study was conducted were not given.

The possibility of residual confounding of the association between the herbicide index and various health outcomes by combat, age, etc., does not appear to be fully appreciated.

Power calculations leading to choice of sample size including the achieved power for various prevalences are not given. Is power for herbicide exposure clearly better than the Air Force Ranch Hand Study, where there are clearly exposed and unexposed groups?

No mention is ever made of missing data and how they are handled. Since the numbers are not consistent throughout the papers, the authors appear to have chosen to ignore this issue in the analyses. Depending on the extent of missing data, this could represent a real bias. For example, the analysis of average weekly consumption of alcohol is based on 1824 (64 percent) non-Viet-

nam veterans and 3254 (83 percent) Vietnam veterans. Because of a substantial amount of missing data and a large difference between the two cohorts, and validity of any comparison is questionable. For many outcomes, numbers are not given so no estimate of missing data can be made.

The authors classify persons as "In-Country" or not. There is no discrimination as to how long they were "In-Country" and no controls for this factor in any of the analyses in this report. A related problem is the use of birth year for analyses, not year of service in Vietnam. As we know from VES, the age of the veteran at time of service, and the actual year in which that service occurred were important factors in all of the analyses. The American Legion investigators confound both of these issues in their design.

The data did not demonstrate "that sufficient numbers of troops are available and identifiable for epidemiologic study of herbicide effects". This statement is a leap of faith from very limited and questionable exposure data. From Figure 3 (p. 120) it appears (assuming their herbicide exposure index is measuring exposure) that there might be insufficient numbers of men with high exposure scores.

The authors say that the "internal consistency of the findings also lends credibility to the study". However, nowhere do they present data that support what is really meant by internal consistency (i.e., that a particular association is present in various subgroups of the total study group). By internal consistency, the authors seem to mean that there was a large number of positive exposure-response associations for combat and herbicides. This is circular reasoning, using the health outcome results to justify the validity of the exposure measures.

While the findings in Table 1 (p. 156) are consistent with the results of the VES telephone interview component, results for the infrequent conditions should have been tabulated for descriptive purposes and for completeness. Also, all conditions should be shown, not just those that were reported more frequently in the Vietnam veterans.

Why would herbicide handlers have the highest mean combat score in view of their job distribution in Table 2 (p. 121)?

There is no discussion of why the herbicide handler group does not show an excess of adult acne (OR=0.99) whereas the High herbicide exposure group does show an excess for this condition (OR=1.45) (Tables 2, 3).

There is no discussion of the curious finding that "benign fatty tumors" is the only reported condition that is positively associated with both combat and herbicide exposure.

Despite the large number of statistical tests presented, the authors fail to discuss the problems of multiple comparisons in the same data set.

Psychological scales: Most scales chosen represent general adjustment and not specific diagnoses. The scales are all said to be reliable (e.g., repeatable), but they do not provide documentation of their reliability or any discussion of their validity.

The authors should have pointed out that the correlations obtained, while statistically significant, are weak (Tables 6 and 8).

There is a tendency of the authors to downplay, not to recognize, or to ignore the limitations of this study and to make only selected references to available knowledge in the literature such as the VES and the AOVS.

FINDINGS

Both the American Legion studies and the CDC studies found that self-reported combat exposure and self-reported or computed herbicide exposure opportunity are correlated, and that combat exposure correlates with subsequent anxiety, depression, post-traumatic stress syndrome, and certain self-destructive behaviors. In other words, we agree that combat tends to leave long-lasting "invisible wounds." Furthermore, both sets of studies found that combat-exposed people (often also believing that they were exposed to herbicides) tend to report more physician visits and more "yes" answers to a wide variety of symptoms and illnesses, including more miscarriages for their wives. Because of its larger budget, CDC was able to seek objective confirmation of some of the subjective data. Upon physical examination and laboratory tests, most of the differences between the Vietnam and non-Vietnam groups disappeared. Further, CDC found low residual TCDD levels (used as a marker of prior herbicide exposure) in the Vietnam veterans, not different from the levels found in the non-Vietnam group. Among the Vietnam veterans, there was no correlation between TCDD levels and either self-reported herbicide exposure or exposure opportunity scores calculated several ways.

High residual TCDD levels are being found by CDC's laboratory, however, in Air Force Ranch Hand veterans exposed occupationally, in civilians who are former herbicide production workers, in people with heavy environmental exposures in Missouri, and in people who were heavily exposed to the fall-out of an explosion in a herbicide factory in Italy. This last group has residual TCDD levels several orders of magnitude higher than the highest level found either in the CDC studies or in Vietnam veterans studied by the New Jersey group, yet after 12 years chloracne is the only ill-effect seen so far in the Italian group.[19]

Reproductive outcome

The reproductive findings are confined to ever-married men born in 1940 or later. The restriction on birth year is done in an attempt to "eliminate reproductive experiences that occurred before the Vietnam era". This is a very crude way to accomplish this goal and is subject to significant misclassification. Many children with no opportunity for "exposure" will be included and others who were conceived after service will be eliminated. In order to obtain meaningful results the investigators must have the veterans' dates of service and the dates of the reproductive events; all children and pregnancies should be included or excluded based on these dates, not on the birth year of the veteran. The authors found that Vietnam veterans reported more difficulty having children than non-Vietnam veterans, but both cohorts reported fathering the same average number of pregnancies. These results are similar to those of the VES.

The analysis of miscarriages is very difficult to evaluate because only a subset of veterans are included in the analysis. The report starts out with 5097 veterans who were ever-married and born 1940 or later. However, the miscarriage data are based on 6622 "birth outcomes" reported by 2950 veterans. There is no explanation why over 40 percent of the eligible veterans have been excluded from the analysis. The Table 10 (p. 166) note says that the restrictions on the veterans now include discharged 1974 or earlier, with the first pregnancy reported subsequent to discharge, but there is no explanation of why these restrictions are needed or how many men were lost from each cohort through the application of these restrictions. Thus, their data show a great deal of underreporting of this event in both cohorts (as did the VES data and most data that are based on fathers' reports). Clearly, there was a great deal of underreporting. Both the retrospective nature of the study and the fact that most of the reports may have been proxy reports would have affected the underreporting. Veterans who have no reason to suspect reproductive problems as a result of their previous military experience are likely to forget more miscarriages of their wives than the Vietnam veterans. Because of these limitations, one cannot be expected to comment responsibly on these findings because they are based on what is clearly a small subset of the total study group other than to say that rates of miscarriage in the general population are in the range of 20 percent to 25 percent of all pregnancies, far higher than the 7.6 percent and 5.5 percent rates found in the American Legion Study for Vietnam and non-Vietnam Veterans, respectively.

Social and behavioral consequences

The general items that were used to assess social and behavioral outcomes (pp. 132–133, and actual questionnaire were reviewed) are very limited. Generally, they represent symptom ratings. Only a few are time linked (within the last 6 months). Although some of these probably would correlate with more standardized and valid psychological instruments, one would expect that their validity would be more limited than the standardized tests due to the limited number of items (even though they have reasonable reliability). The fact that all of the variables are highly intercorrelated suggests that these different scales are not really measuring different factors, but probably are measuring general "psychological distress" (p. 139). This has been a problem for the scale that much of this has been taken from, the Psychiatric Epidemiological Research Interview. These measures do not provide a DSM-III diagnosis sincek the DSM criteria and methods were not used in the study. Given that the symptoms are never time-linked, a subject could have had one symptom this year, another last year, and another 5 years ago and ended up with a high score.

The interpretation of some of the findings are questionable. For example, the authors state that "the correlation is comparatively strong with combat exposure". Given that one is r = 0.18, the other r = 0.30, accounting for less than 2 percent and 9 percent of the predicted variance, these are unimpressive correlations. In Table 5 (p. 141), there is no correlation with combat exposure over 0.30, most are under 0.22. The Agent Orange index correlations are even lower. The mean differences between groups in Table 6 (p. 141) are also of limited clinical meaning, although statistically significant given the large sample sizes. It is misleading to suggest that the Vietnam veterans are more psychologically distressed than the non-Vietnam veterans, since these score differences are minimal (1 point generally out of 20 possible). The graphs on page 142 (Fig. 6) seem distorted given that the correlations are all less than 0.30.

It is of concern that the authors never look at the relationship between well recognized risk factors for psychological symptoms such as drinking and smoking and any of the psychological data. Instead, they con-

clude that the psychological problems are caused by the Vietnam experience, as are the drinking and drug problems when it is known that the psychological and drinking problems are highly interrelated and may account for more of the current findings than anything else.

Post traumatic stress syndrome (PTSD)

The main concern is the diagnosis of PTSD. First, the multiple approach to combat exposure classification is crucial. The authors assume that any subject who had a high combat exposure score had exposure to a traumatic event, as required by the PTSD criteria. This is not always accurate, as people working on transportation details may have seen many dead bodies, but never have been in life-threatening situations or had been traumatized. PTSD rates depend on the combat exposure index, which of course is correlated with PTSD symptoms. There is circularity to this approach to this disorder's definition. The authors use a symptom checklist without time frame (viz., date of discharge from service); no DSM-III diagnosis is made without a timeframe for symptom co-occurrence. In addition, the authors fail to diagnose other disorders whose symptoms may be similar, if not identical (anxiety disorders, depression, substance abuse, etc.). Therefore, there is no way to identify just those veterans who had PTSD, when they had it, or what else they may also had. Other traumatic events in the veterans lives are ignored, and it is not clear what "often" and similar words may have meant to a particular veteran. In short, this approach cannot provide a DSM-III PTSD diagnosis. At best, it provides a group of symptom ratings (p. 182) over a number of years (different for different veterans).

On page 183, the investigators use mean values of PTSD symptoms. This is not meaningful when one recognizes that one veteran may score 4-5 points on 5 symptoms over a 15-year period and get a score of 20, while another veteran may score rarely (2 points) on 10 symptoms over the past month and also get a score of 20. These men are not likely to have psychological problems. One is more concerned with the second rather than the first in some instances; yet, the authors treat both of these men as identical in their analyses.

FOOTNOTES

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DEPARTMENT OF HEALTH
AND HUMAN SERVICES,
November 28, 1988.

From: Chief, Agent Orange Projects, OD, CEHIC, (F16).

Subject: Comments on the Vietnam Experience Studies of Stellman, et al.

To: Stephen B. Thacker, M.D., M.Sc., Assistant Director Science, CEHIC, (F29).

These papers are a bit sloppy (data reported in one part are not consistent with that reported in another), but they probably do report accurately the results of the survey. The authors do not report well the potential sources of bias. They overgeneralize their conclusions and in some cases draw conclusions opposite to those I would draw about the generalizability of their results. They also provide little detail on the way their sample was drawn. In addition, they ignore other research of which they are certainly aware (AOVS in particular).

It is not possible to pronounce on the details of their sample selection scheme, because the details are not given. They have subsampled members of the American Legion (AL) in 6 states. Although they state that the AL has 700,000 era veterans, "a meaningful percentage of those approx. 3-4 million men who served in the military during that era" (p. 113), they also state that 9 million men served in the era (p. 112) of whom 3-4.4 served in SE Asia. These statements are inconsistent. I believe the membership is 700,000 out of 9 million, or about 8 percent of era veterans. They note that membership is mostly white. They state that AL members are more stable than nonmembers who are veterans and that therefore, physical and mental health problems would be worse in a larger sample. This is opinion. It could also be argued that AL members are less comfortable in the general social atmosphere and therefore join groups of old military vets because they have more scars from their past service and more trouble adjusting to the world at large.

It is not clear how they subsampled the veterans. Unfortunately, they give some information on further sampling procedures, but no numbers to determine how many people dropped out at each stage. They eliminated a percentage of non era veterans if they returned a postcard indicating whether they were era or non era, but do not say how many did or did not complete this step. They then sent the remainder of the names to individual posts of the AL to have post secretaries decide who was or wasn't an era veteran. Members of the AL, termed volunteer researchers, were then given lists of about 200 names, including those known to be era veterans plus those not known to be either era or non era by either of the above two steps (return of postcard or knowledge of post secretary). This selection technique looks OK so far (save that they're all AL members), except for the absence of numbers on how many fell into each group. The volunteer researchers were trained by Stellman and Stellman to identify 15 who served in SE Asia and 15 who did not from their list of 200. This is where I begin to get worried about the sample design.

Surely the volunteer researchers knew the study was to look at the health effects of Vietnam service and AO exposure. They may have volunteered because they had media generated opinions on the outcome of the study. If they only had to identify a total of 30 people out of a list of 200 (not all of whom where actually era veterans), they would most likely have stopped their effort when they got to 15 in each group. Perhaps they contacted first those people they were personally acquainted with. Perhaps a higher percentage of these had preformed opinions of the health effects of the Vietnam war.

It appears, however, from statements elsewhere in the papers that there was more to the sampling procedure than this. They say they oversampled Vietnam veterans (taking 15 of each would indeed be slight oversampling of Vietnam veterans), yet their final sample is 42 percent Vietnam and 58 percent non-Vietnam. This is precisely what you would expect without oversampling (and not what you'd get from 15 of each). The first paragraph of the first paper says that 32 to 48 percent of era veterans served in SE Asia. They also say nothing about differential response rates between two groups. In our study, the Vietnam group was more likely to travel to Abq. than the comparison group. If this research team also had a higher response rate among VN vets, it is even less clear how they did their sampling.

Report #1, the 1985 report on the same studies produced as an American Legion document, raises additional questions on the sampling. It appears to be reporting on the exact same study, but describes it differently. We are here given the information that 50,000 postcards were returned indicating war era. However, this earlier report says the 770 research volunteers were given the names of only those Legionnaires who did not return postcards. They were still said to be given 200 names each.

This 1985 report also says that 12,588 men were identified as "Vietnam veterans" and mailed questionnaires. The 1988 report says that 2858 subjects who served in SE Asia returned questionnaires. This is not consistent with the response rate reported as between 52 percent and 64 percent for both cohorts combined (SE Asia and other).

They do report on different response rates by state. On p. 124 they give it as ranging from 52.5 percent in PA to 64.1 percent in MN. (This is apparently inflated some-

what—bad addresses are removed before calculating the rate.) On p. 179 it's 58.1 percent in PA to 64.6 percent in MN. Table 4, p. 125 also shows more total respondents from MN than from PA. PA has three times the pop. of MN. Either they weighted the sample by state or Minnesotans are far more likely to join the AL.

The rest of the report also discusses only VN versus other. They never again use the category SE Asia, so I can't tell which they were actually looking at. They also never again mention branch of service (after p. 122). This seems a serious omission.

What they have so far is a sample with a high degree of self selection and an obviously high potential for bias on exactly the outcomes of interest.

The first sentence of the discussion of p. 123 indicates the bias on the part of the authors: "The data presented here once again confirm the massive use of herbicidal agents in Vietnam." The data presented have nothing to do with that issue. All they have done is describe their sample selection and given some hints about their AO exposure scale and their combat scale. All herbicide use data is borrowed from documents published long ago.

THE AO EXPOSURE CLASSIFICATION SYSTEM

This system is described to some extent in the 1986 publication. It relied on the vet sending back a map of VN with 98 places at which he could indicate his dates of service. They say they got adequate info back from 70% to calculate a score, but they don't define what constitutes adequate. That's a lot of recall unless most individuals spent their entire tour in one location. We know from our study of army ground troops, that many moved frequently. Possibly their data is least adequate for those army and marine veterans who moved the most (and might be the most interesting group to study). It would be most adequate for those who parked in one spot for the war. They give no info on this. They do say that the entire q'aire took 45-60 min. to complete, including health status and feelings about the VA, so they didn't take too long on the map portion. Their scoring system has both a proximity and a time component. What it probably serves as is a measure of where they served in VN, which may be a surrogate for occupational specialty and branch of service. The AOVS would indicate that it probably has nothing to do with AO exposure. The authors take the extreme position of standing logic on its head (p. 127) and describe their system as the gold standard, while referring to others as "yet to be validated exposure methods such as analysis of dioxin residues in tissue collected some 15 years postexposure".

THE COMBAT INDEX

On p. 179, you find their combat exposure index in Table 1. There's nothing inherently wrong with it except that it's very subjective. The difference between seeing someone killed rarely (score 2) or very often (score 5) is in the eyes of the beholder. Their recall of these events and classification of them between rarely and very often may be highly biased by their subsequent feelings about the war, physical health, and mental health. It would almost certainly be linked to their answers to the PTSD questions. Which came first would be a hopelessly muddled question.

Some of their conclusions based on these indices are open to question. Higher combat score correlates with lower income. They conclude (p. 135) that "significant family income loss has occurred among VN combat veterans". Well, maybe, but then maybe those with lower income for whatever reason are more likely to score something as very often rather than rarely, sometimes, or often. They also find higher separation and divorce rates among the high combat group. Same possibly circular logic. They also say that divorce rates were 4 times as high in the high combat group as in the non VN group. How 60.4 percent is four times 28.4 percent (p. 136) is something I do not understand.

They also attempt to look at their AO index and combat index as separate variables. They do find they are correlated, and that usually the AO index drops out in multivariate analysis. This is not a surprise. The combat index probably measures very closely the same thing as the sexual satisfaction, skin rash index, whereas the AO exposure index more closely measures branch of service, type of unit, and location in VN.

They also find some correlation with both indices and various self reports of physical and reproductive health problems. These are also not a surprise. They are not at all out of line with what we found in the VES (without an AO exposure index) in terms of either symptoms mentioned or odds ratios. However, we found these results on the interview component only. They were almost never substantiated by the physical and laboratory exam. The synthesis chapter of the VES monograph (Chapter 14) discusses our findings in this regard. Symptoms of four health problems correlated well with self reported herbicide exposure (mapping index was not used), but signs of the same four problems did not (p. 13). The same was true of the correlation with self reported combat exposure (p. 15-16).

SUMMARY

The combat index probably has something to do with combat. It is shown to be highly correlated with branch of service. It would be nice to see their results within Army only. However, combat index is subjective enough that this subjectivity alone could easily explain the entire correlation with physical and mental health and social outcomes.

The AO exposure index would be more interesting if we hadn't already published the AOVS. I agree that the individual could not have deliberately scored himself high for AO exposure. However, their index is serving as a surrogate for something else that related to their Vietnam service, not their exposure to Agent Orange. This something else is in return related to their reported health outcomes, although not particularly independently of their combat index. Again, it's probably a branch of service and occupational specialty index with a definite correlation to combat of its own.

Because there is no attempt to verify any of the questionnaire responses, you're basically back at square 1. The results of the VES fairly convincingly found that VN vets report more adverse health outcomes than comparison vets, but that these are not substantiated by physical or laboratory exam.

All of this, coupled with their sampling of a self selected group means that this study adds nothing to our knowledge of this issue. This is the type of research that launched the concerns about Vietnam service and Agent Orange exposure. It is many years out of synch with current efforts.

EDWARD A. BRANN.

DEPARTMENT OF HEALTH AND HUMAN SERVICES,
December 16, 1988.

From: Senior Statistician, AIDS Program.

Subject: Comments on the manuscripts by Stellman, Stellman, et al. on health of Vietnam veterans published in Environmental Research, December 1988.

To: Stephen M. Thacker, M.D., Assistant Director for Science, Center for Environmental Health and Injury Control.

I read carefully the first paper and the Stellmans' previous paper on estimating exposure. I was particularly interested in this part of this material because I had responsibility for overall coordination of the CDC Agent Orange Validation Study (AOVS), did a substantial part of the work on estimating herbicide exposure for the veterans in that study, and had the main role in writing the report and manuscript describing the AOVS results.

COMMENTS ON ESTIMATING EXPOSURE

Many studies of tissue TCDD levels have shown that Vietnam veterans whose main job was not handling herbicides have levels similar to unexposed civilians of the same age. In addition, the AOVS showed that there is no relation between current TCDD levels and relative opportunity for exposure according to a wide variety of scores derived from the military records or from self-reported exposure. Thus, there is no evidence that typical troops who served in South Vietnam had meaningful exposure to TCDD.

Analyses of herbicide spray and military unit location records show that units were seldom within 2 km of a Ranch Hand spray within a week after the spray (unpublished analysis done for the AOVS). Thus the greatest potential for exposure to herbicides shortly after spraying was likely to result from sprays around base camps. The Agent Orange Advisory Committee recognized that the records are seriously incomplete for these sprays (General Murray report).

As Lilienfeld recently stated, "It is the assessment of exposure that is the cornerstone of any environmental epidemiologic study" (D.E. Lilienfeld, Changing research methods in environmental epidemiology, Statistical Science 1988, 3: 275-280). Thus, the validity of the findings in this series of papers depends on the accuracy with which exposure was assessed in this study. I reviewed carefully the original paper describing the exposure estimation procedure (SD Stellman & JM Stellman, Estimation of exposure to Agent Orange and other defoliants among American troops in Vietnam: a methodological approach, Amer J. Industrial Med 1986, 9: 305-321) as well as the summary of exposure estimates for the men in this study. Especially in light of the findings in other publications, the authors of these studies must show that they have overcome the recognized difficulties and obtained valid exposure measures. I believe that their measures may be unreliable for the following reasons:

1. The authors' estimates are based completely on Vietnam veterans' recollection of their locations and dates of service, without any apparent validation from military records.

2. The authors' procedure greatly overestimates the relative exposure of veterans who were more than 1-2 km from known herbicide sprays.

3. The authors' procedure implicitly assumes that the only exposure of concern was from contaminated soil and perhaps

water, which may result in a substantial overestimate of exposure for those who actually were within 2 km of a documented spray.

The following are detailed comments on these issues.

1. Both published manuscripts report that exposure was estimated by asking veterans the dates they had served at about 100 locations in South Vietnam. The authors appear to believe that the provision of sufficient data to calculate an exposure measure is evidence that the data are reliable (1986, 311-315; 1988, 116 and 119-120). Because of the long half-life the authors used, their exposure measures probably do not depend very much on accurate date information. However, it would seem essential to verify veterans' recollection of where they served by validating a sample of questionnaires with military records. Such records were used in the Agent Orange Validation Study (AOVS); they are the dates during which a veteran served in various units (from his military record), and the locations of those units on those dates (abstracted from military records by the ESG).

2. The exposure measure allows for substantial exposure up to 15 km from a spray (1988, p. 116), with exposure decreasing as the inverse of the distance from the spray. Simulated Ranch Hand sprays at Eglin AFB, Florida, showed exposure decreasing far more rapidly (as a negative exponential), with negligible exposure more than 1-2 km from the center of the spray path (the AOVS report contains a reference to the U.S. Air Force study containing these data). It seems reasonable to believe that most perimeter sprays had no more dispersion than did Ranch Hand sprays, since most of the perimeter sprays would have been from ground level or low altitude. In contrast to this new report, the AOVS used only locations within 2 km of a spray to estimate exposure, a procedure that is in much better agreement with the available data.

In addition, some base camps in South Vietnam were quite large, so that perimeter spraying would not necessarily result in significant exposure for all veterans stationed at that camp. While no details are given, it is possible that each base camp is represented as a point in computing potential exposure in this report. In their 1986 report, the authors show that, for 6 base camps, there are far more herbicide spray "hits" 5-15 km from these base camps than within 5 km (1986, p. 311, Table II). Note also that use only of sprays within 5 km changes the ranking of these base camps with respect to their relative opportunity for exposure.

These considerations suggest that the authors may have substantially overestimated herbicide exposure for many veterans, in contrast to their statement (1986, p. 317) that "Computed exposures will thus tend to underestimate true exposures" and that the exposure scores do not rank relative opportunity for exposure correctly.

3. The exposure measure used here assumes a half-life of 1 year for the decay of TCDD in the environment (1988, p. 116). This is roughly consistent with the experimental data on the half-life of TCDD adsorbed to soil and similar to the half-life of 5 years used to compute the "slow" or E_5 score in the AOVS. However, this half-life is about two orders of magnitude longer than the estimated half-life of several days for TCDD on vegetation. The Stellman exposure measure, therefore, assumes that the significant source of exposure is soil and gives an estimated exposure far greater than that which would be obtained if the important source was TCDD on vegetation. In fact, the relative importance of vegetation vs. soil is unknown.

OTHER COMMENTS

These reports do not seem to contain much of the basic information necessary to evaluate the results of an epidemiologic study, including:

Why were the 6 particular states chosen?

What were veterans told about the purpose of the study?

What were response rates in Vietnam vs. non-Vietnam vets?

During what dates was the study conducted?

What power calculations were done leading to the choice of the sample size; what was the achieved power for various prevalences? (The only statement about power I found is in paper 1, p. 115, last sentence before "Characterization of Herbicide Exposure.") Is power for herbicide exposure better than the Air Force Ranch Hand Study, where we have clearly exposed and unexposed groups?

The dates the study was conducted and what vets were told do matter. Contrary to the statement in paper 1, p. 123, para. 2 of Discussion, vets could have given response leading to higher exposure scores. A book of maps showing locations of known herbicide sprays was published in California (I don't know date of publication). Thus it could matter whether questionnaires were completed before these maps were published.

REPRESENTATIVENESS AND BIAS

Are Legion members representative of all vets? Are members in these 6 states representative of Legion members? Are those responding respresentative of Legion members in those states? There is reason to doubt representativeness:

A. In the AOVS, interviewed veterans who believed they had health problems or were exposed to herbicides were clearly more likely to go to Lovelace Medical Foundation for the medical exam than those who believed they were in good health or had little exposure to herbicides (see Table 2 in the JAMA article). It is plausible that the same bias would occur in those willing to spend time filling out a long questionnaire.

b. There is some possibility that bias could be introduced by the use of volunteers to determine service location and establish contact. These volunteers might have worked harder to get a Vietnam vet with perceived or actual health problems to participate than a similar vet in good health. There was concern about this type of recruitment bias in the original American Cancer Society study of smoking and health (possible reference: TD Sterling, A critical reassessment of the evidence bearing on smoking as the cause of lung cancer. Amer J Pub Health 1975, 65; 939-953).

The relatively low participation rate gives ample room for bias and a non-representative sample. There is very little analysis of potential bias, and I did not find the analysis of representativeness convincing.

JOHN M. KARON, Ph.D.

DEPARTMENT OF HEALTH AND HUMAN SERVICES,
December 5, 1988.

From: Pierre Decoufle, Sc.D., Epidemiologist, Developmental Disabilities Branch (F-37).

Subject: Review of papers by Stellman & Stellman on health of Vietnam veterans published in December, 1988 issue of Environmental Research.

To: Stephen B. Thacker, M.D., Assistant Director for Science, Center for Environmental Health and Injury Control (F-29).

General Comments:

1. Representatives of the population from which the study group was selected—Are members of the American Legion representatives of any larger population of Vietnam veterans, let alone all Vietnam veterans?

There are no data given in the papers that address this issue, except the statement that the approximately 700,000 Vietnam era veterans in the American Legion constitute a "meaningful" percentage of the approximately 3 to 4 million men who served in the military during that era.

2. S lection of study sample: It is difficult to judge the adequacy (validity) of the final respondent sample because several key numbers were not given. These are as follows:

The number of men comprising the one-seventh random sample of members with less than 20 years of continuous membership;

The number of Vietnam era veterans in the one-seventh random sample;

The number of veterans in the one-seventh random sample that could *not* be classified as to era;

The numbers of Vietnam and non-Vietnam veterans to which questionnaires were sent.

With these numbers, one can compute the magnitude of losses and response rates and, thus, assess the adequacy of the final respondent sample.

3. Representativeness of final respondent group: The authors could at least have compared selected demographic and socioeconomic characteristics of their respondents with those of other groups of Vietnam era veterans so that one could assess the adequacy of their study group. The authors do state that their group is 98.5% white, for example, which is very different from the racial composition of every other group of Vietnam era veterans that has been studied.

4. Relationships between combat exposure and outcomes and herbicide exposure and outcomes: There are at least two important points about these exposure-response analyses that the authors do not address. One is the possibility that the three combat exposure groups and the three herbicide exposure groups differ appreciably with respect to other characteristics that are associated with reporting of outcomes. For example, Navy and Air Force veterans make up about 49 percent of the Low combat exposure group but only 10 percent of the High exposure group (based on data from Table 3 and Figure 5 on p. 122). Although not shown, the military rank profile of these exposure groups could also be quite different. Both branch of service and military rank could be important correlates of outcome reporting and should have been taken into consideration in comparisons among the combat and herbicide exposure groups. Other baseline traits that would be important to take into consideration are military occupational speciality and whether a man was drafted or

volunteered for military service. The second point that should have been addressed is the possibility of response bias or selective reporting of outcomes by Vietnam veterans. Further, it is not possible from a cross-sectional study that relies on self-reported exposure (particularly combat) and self-reported outcomes to establish with certainty whether the exposure led to the outcome or vice versa.

5. Use of a self-administered questionnaire: This mode of data collection has a number of important limitations that could affect the quality of the responses, such as: A respondent can take as little or as much time as he wants to complete the questionnaire;

Absence of a trained interviewer precludes the ability to answer clarifying questions and the ability to encourage completion of all questions;

Respondents can ask family, friends, or other veterans for their opinions and help in filling out the questionnaire.

Specific Comments (keyed to page numbers of journal):

1. P. 112: What is the basis for the statement in the first sentence of the second paragraph?

2. P. 119 (Fig. 2): The graphical display seems to indicate that more Agent White was sprayed than Agent Orange in Vietnam. Why is that?

3. P. 123: Why would herbicide handlers have the highest mean combat score in view of their job distribution in Table 2, p. 121?

4. P. 123: The first sentence of the Discussion Section is meaningless. This study was not needed to confirm that herbicides were used in Vietnam on a large scale.

5. P. 124: The authors do not provide the basis for the statement given in the last sentence of the first full paragraph. Where are the data that support this statement?

6. P. 124: The discussion of the representativeness of the study group misses the point entirely. No amount of internal analyses of respondents will permit an assesssment of whether the group is representative of all Vietnam veterans. The authors never compare the demographic & socioeconomic characteristics of their sample with any other external population to judge representativeness.

7. P. 126 (top): Just because 1 percent of the study group said they joined the American Legion because they needed assistance on a special "problem" does not eliminate "membership selection" as a possible source of bias. These data seem irrelevant to an assessment of bias.

8. P. 126 (middle): Their data do not demonstrate "that sufficient numbers of troops are available and identifiable for epidemiologic study of herbicide effects". This statement is a "leap of faith" from very limited and questionable exposure data. From Fig. 3 on p. 120 it would appear (assuming their herbicide exposure index is measuring exposure) that there might be insufficient numbers of men with high exposure scores.

9. P. 127: In the last paragraph of the article the authors claim that the accuracy and precision of their exposure assessment method "are comparable to, or exceed, those used in many environmental and occupational studies" without giving any basis for this conclusion.

10. P. 148: The authors say that the "internal consistency of the findings also lends credibility to the study". However, nowhere do they present data that support what is really meant by internal consistency, i.e. that a particular association is present in various subgroups of the total study group. By internal consistency, the authors seem to mean that there was a large number of positive exposure-response associations for combat and herbicides. Of course, this is circular reasoning, using the health outcome results to justify the validity of the exposure measures.

11. P. 156 (Table 1): These findings are consistent with the results of the VES telephone interview component. Results for the infrequent conditions should have been tabulated for descriptive purposes and for completeness. Also, all conditions should be shown, not just those that were reported more frequently in the SEA group.

12. P. 158 (Table 2 & 3): There is no discussion of why the herbicide handler group does not show an excess of adult acne (OR-0.99) whereas the High herbicide exposure group does show an excess for this condition (OR-1.45).

13. P. 158 (bottom): There is no discussion of the curious finding that benign fatty tumors is the only condition that is positively associated with both combat and herbicide exposure.

14. P. 162 (Table 6): The authors should have pointed out that the correlations obtained, while statistically significant, are weak.

15. P. 163 (Table 8): Same comment as in 14 above.

PIERRE DECOUFLE.

DEPARTMENT OF HEALTH
AND HUMAN SERVICES,
December 20, 1988.

From: Chief, Epidemiologic Studies Section, ERSSB, DCDCCI, Center for Chronic Disease Control and Health Promotion, (F11).

Subject: Comments regarding the Vietnam Experience Studies of Stellman et al.

To: Stephen B. Thacker, M.D., M.S., Assistant Director for Science, CEHIC, (F29).

Most of my comments have to do with sample selection, response rates, questionnaire construction, and creation of combat and herbicide indices, as potential biases introduced by these components make interpretation of results difficult.

American Legion Members as the Sampling Frame: This study, funded by the American Legion, was limited to members of this organization. The authors admit that they do not have a 'representative' sample of Vietnam Era veterans, since American Legion members represent the 'solid middle section of white America'. Demographic data on both the total sample and respondents is sketchy, but the authors did indicate that 98 percent of the participants are white. The authors also indicate that participants have been resocialized sufficiently to join the American Legion. The majority view it as a social organization, but information on services available to veterans is also provided. The authors suggest that a study based on this group represents a 'best case' analysis of the potential health and social effects of the War. It is also possible, given some of the issues discussed below, that the biases introduced by the sample selection and information collection procedures could lead to an over-representation of veterans with residual problems that they attribute to Vietnam service.

Sample Selection: The authors chose a cross-sectional sample from American Legion membership roles from six states (CO, OH, MD, PA, IN, and MN) on a specific date. After exclusion of those with 20 or more years of membership, one-seventh of the records were selected at random. Those in the one-seventh sample were sent a postcard to indicate if he was a Vietnam Era veteran, since this information is not included in Legion membership records. Those who did not return the card (an unspecified proportion) were contacted by the Post Adjutant to identify those known to be non-Era veterans. Vietnam Era veterans and those of unknown status were then contacted by 'volunteer researchers' to determine actual service location, and to encourage participation. The authors appear to have adopted this strategy from the American Cancer Society (ACS) where they were once employed. Recruitment of volunteers for assistance may have its place in studies without a strong prior hypothesis known to the volunteers, but in this case, the hypothesis is quite clear to the volunteer researchers, to the American Legion, and to the participants.

Vietnam veterans with health or psychological problems and non-Vietnam veterans without problems could have selected themselves for the study by returning the postcards. Even more disturbing, the volunteer researchers could have selectively influenced participation. The researchers were given "goals" to identify 15 Southeast Asia and 15 non-Southeast Asia veterans for the study. With these expectations, it is easy to presume that a well-meaning volunteer could have chosen the "worst" Vietnam and/or the "best" non-Vietnam veterans. These unorthodox recruitment procedures are not used in large-scale epidemiologic studies except by the ACS, yet the authors do not explain why they used them or why they would not introduce bias in a study of this type. At least some of the service-related information provided by participants could have been verified by obtaining discharge records. Information on at least some veterans, such as place of service, service dates, rank, and discharge status could have been verified from discharge records, yet the authors did not do so. The extent of the potential bias introduced by this sampling scheme cannot be evaluated, because the authors do not provide baseline demographic information on the original sample and the selected population. Even basic information, such as distributions by type of service (Army, Navy, etc.) is not provided.

Questionnaire Construction: The questionnaire is designed so that information on combat, herbicide exposure, symptoms of post-traumatic stress disorder (PTSD), social factors upon return, and helpfullness of the Veterans Administration are collected before the outcome data. Also, the tone of the questions implies that the veterans did have problems upon return. The herbicide section even includes questions on acute symptoms following exposure, thereby reinforcing its potentially harmful effects. Placing the exposure questions before the outcome questions is not standard practise, and the potential for biasing subsequent responses is clear.

Data Collection: Information was obtained by mailed questionnaire. It appears that the authors sent 12,500 questionnaires and received 6,810 (54.5 percent), a low response rate for survey research. With mailed questionnaires, one can never be assured that the intended person has completed the questionnaire or that he has not received undo assistance. With "volunteer researchers" available, the ability to receive this sort of help is enhanced. The authors suggest their sample is not biased because reported herbicide and combat levels by posts with

high response rates compared to those with low response rates, although their outcome data suggest otherwise. Nearly 9 percent more men from high response posts report excellent health than those from low response posts. This suggests that those with the most health or psychological problems could have been recruited first, with low response posts never getting around to recruiting other veterans. It might be difficult for volunteers to selectively recruit veterans by exposure because the scaling procedures are not known, but it would be very easily to consciously or subconsciously select veterans who seem to be in poor health. The usual information on methods, such as the number of mailings conducted and demographic characteristics of responders was not provided. In the VES, we found only one factor that differentially influenced participation rates in the examination component between Vietnam and non-Vietnam veterans. Non-Vietnam veterans with higher education levels were more likely to participate in the examination, presumably because they understood the importance of their participation. With their low response rates, it is quite possible that socio-demographic differences attributed to Vietnam service may be heavily influenced by differential motivational factors for participation.

Herbicide Index: Drew Baughman, John Karon and others are more familiar than I with construction of herbicide indices, but a few points come to mind. Only 72 percent of Vietnam veterans provided sufficient information on location for estimating herbicide exposure. For exposure data, it is not clear why a one-year half-life was chosen, and based on our knowledge, this seems quite long. The authors indicated they counted all sprayings which ever occurred near each location reported by the veteran. From their report, it does not appear that they excluded sprayings that occurred after the veteran had been in the location of interest. For location data, veterans were asked to give dates of services for about 100 locations of major troop activity. It would be difficult to remember specific dates and places nearly 20 years after the fact. The questionnaire listed the names of base camps, villages, etc. (along with a somewhat illegible map of Vietnam), yet most herbicide exposure would have occurred in more remote areas. Veterans would think they were most heavily exposed when walking through defoliated areas, although by that time, the chemical constituents of the herbicide would have decomposed. In contrast, veterans would have been most exposed shortly after spraying and before chemical decomposition when the jungle looked relatively normal. It would not be unusual for veterans to perferentially remember time spent in defoliated areas, and with the one-year half-life built into the model, these men would be considered exposed. For personal exposures, veterans were asked if they had ever handled herbicides. Veterans could have responded positively if they handled many different types of chemicals, which they now presume were herbicides. Most of the chemicals used near base camps, etc. were insecticides, not herbicides. Thus, the index could represent belief in exposure to Agent Orange rather than actual exposure. In good faith, veterans could think they were exposed because they walked through defoliated areas, and because they sprayed or were otherwise exposed to unknown chemicals. The potential for intentional exaggeration of exposure is also clear. This variable should not be discounted because it does not reflect objective exposure. Our studies suggest that belief in exposure rather than objective exposure as measured by blood dioxin levels, is a strong risk factor for many adverse outcomes, and in particular, depression.

Combat Index: The study includes groups other than ground troops, but focuses only on ground troop experience. For instance, fixed wing pilots or medical personnel could have had traumatic combat-related events, that are not described by this index. The index focuses on frequency not intensity. Seeing a dead man on five separate occasions could get more weight than being involved in one large ambush. The combat index has limitations, even if it is confined to ground troop experience. The questions are redundant and their intent is unclear. For instance, shooting one Vietnamese could elicit a response to 5 of the 8 questions. The scoring procedures are not weighted according to the severity of the experience. For instance finding yourself in a situation you thought you would never survive receives equivalent weight as firing your weapon or seeing dead enemy. None of the combat indices, including the one used in the VES, are ideal but since combat is their major exposure of interest, they could have asked a more extensive battery of questions rather than a screening battery.

Psychological Scales: Most scales chosen represent general adjustment and not specific psychiatric diagnoses. The scales are all said to be reliable (e.g. repeatable), but they do not provide documentation of their reliability or any discussion of their validity.

Analytic Strategy: Crude associations are reported in most instances. Joint effects of combat and herbicide exposure were assessed (and hopefully the "non-significant" main effect of herbicide exposure was left in the model with and herbicide-combat cross-product term), but collected data on demographic variables or smoking, drinking and drug use were not included in multivariate models.

In summary, this study is difficult to interpret due to major problems in study design and execution. Of these, problems with sampling, with questionable design, and with low response rates appear to have the most potential for introducing bias that cannot be corrected or otherwise evaluated. The authors have made interpretation of their findings more difficult by not providing standard tables on demographic distributions for the original sample, the participant sample, or the subsample that provided sufficient information for estimation of herbicide exposure. Some of the provided information on service experience could have been cross-checked by reviewing discharge records for at least some veterans. The accompanying editorial implies that evaluating herbicide exposure is not much different than for retrospective studies of exposure to workers where individual exposures are not measured. The analogy is misleading, because for the occupational studies, you know from objective records that the employee was in an area with potential for exposure, and that workers are exposed during operations. In this study, we do not know if veterans were in spray areas at the time of spraying and we do not know if any dose, let alone a measurable dose, was received. Findings from our dioxin study (that were initially surprising to us), should have been addressed in some manner rather than just labeling our conclusions as "nihilistic."

I hope these comments have been useful, and I would be most interested in seeing a copy of your final response.

NANCY STROUP, Ph.D.

DECEMBER 18, 1988.

DR. VERNON HOUK,
Director, Center for Environmental Health and Injury Control, Centers for Disease Control, Atlanta, GA.

DEAR DR. HOUK: This is in response to your request for my critique of the recently published American Legion studies of Vietnam veterans. Although they drew their sample in a way that is very different from the explicit and random method used in CDC's Vietnam Experience studies, their mailed questionnaire (subjective) findings are very similar to the telephone interview (subjective) findings reported by DCD. Their failure to consider the objective data available to them from CDC and from the New Jersey group, led them, however, to an unbalanced (too narrow) interpretation of their data.

Methods. In their studies they used a self-reported combat scale analogous to the one used by CDC. Their computation of an herbicide exposure opportunity index was based on the same sets of spray data used by CDC, and their OE3 formula is analogous to the E2 score used by CDC in its dioxin (TCDD) validation study in III Corps area veterans. The main methodologic difference was that in their questionnaire each veteran was given an annotated Vietnam map, with place names and military unit names, and was asked to recall and record his location by month and year. With time limited to month, they were forced to use the assumption of a rather slow TCDD decay curve in their OE3 formula. In its TCDD study CDC used military records to identify the unit and probably location of each veteran for each day, thus allowing the use of both rapid and slow decay models for separate analyses.

Findings. Both sets of studies found that self-reported combat exposure and self-reported or computed herbicide exposure opportunity are correlated, and that combat exposure correlates with subsequent anxiety, depression, post-traumatic stress syndrome, and certain self-destructive behaviors. In other words, we agree that combat tends to leave long-lasting "invisible wounds." Furthermore, both sets of studies found that combat-exposed people (often also believing that they were exposed to herbicides) tend to report more physician visits and more "yes" answers to a wide variety of symptoms and illnesses, including more miscarriages for their wives. Because of its larger budget, CDC was able to seek objective confirmation of some of the subjective data. Upon physical examination and laboratory tests, most of the differences between the Vietnam and non-Vietnam groups disappeared. Further, CDC found low residual TCDD levels (used as a marker of prior herbicide exposure) in the Vietnam veterans, not different from the levels found in the non Vietnam group. Among the Vietnam veterans, there was no correlation between TCDD levels and either self-reported herbicide exposure or exposure opportunity scores calculated several ways.

High residual TCDD levels are being found by CDC's laboratory, however, in Air Force Ranch Hand veterans exposed occupationally, in civilians who are former herbicide production workers, in people with heavy environmental exposures in Missouri, and in people who were heavily exposed to

the fall-out of an explosion in a herbicide factory in Italy. This last group has residual TCDD levels several orders of magnitude higher than the highest level found either in the CDC studies or in Vietnam veterans studied by the New Jersey group, yet chloracne is the only ill-effect seen so far in the Italian group.

Interpretation: The authors of the American Legion studies apparently did not read the studies mentioned above, since they accept their own subjective data at face value, without comment as to alternative explanations for those findings. When one views all of these studies, including those with very costly objective data, there is a clear and consistent alternative set of interpretations which is not at variance with any of the data reported to date by any study group:

(1) Many anxious, depressed combat veterans have psychologic and physical symptoms.

(2) Many of them also were in and around herbicide applications in Vietnam, and they have subsequently been told about dioxin and its "extreme" toxicity.

(3) Many of them, therefore, attribute their current symptoms to past herbicide exposure.

(4) Very, very few of them actually absorbed significant quantities of TCDD (and therefore other harmful herbicide constituents) from the types of casual or non-repetitive exposures they experienced.

Therefore, studies of adverse effects produced by herbicide exposure cannot be efficiently done from general samples of Vietnam veterans. This logical conclusion from the available data is not "nihilistic", as implied in the editorial accompanying the American Legion reports. Such studies can be efficiently done in the small number of people with clearly heavy, repetitive (usually occupational) exposure. Such studies are under way. Preliminary reporters suggest the hypothesis that TCDD is substantially less toxic to man than it is to guinea pigs.

One is left wondering why the authors of the American Legion studies and the author of the accompanying editorial seem to have selectively ignored recent objective data available to them for arriving at a more balanced interpretation of their subjective data.

With best regards,

ROBERT M. WORTH, MD, PHD,
Hawaii Department of Health (formerly Chief Scientist, Agent Orange Studies, CDC).

DEPARTMENT OF HEALTH AND HUMAN SERVICES,
January 5, 1989.

From: Member, Agent Orange Science Panel.

Subject: Review of the American Legion Studies published in *Environmental Research.*

To: Chairman, Agent Orange Science Panel.

In have reviewed the editorial and 4 epidemiological studies regarding Vietnam veteran members of the American Legion published in *Environmental Research*, Volume 47, Number 2, December 1988. I have, however, restricted my comments to portions of the editorial by M. Gochfeld, the 2 articles by S. Stellman et al., and 1 article by J. Stellman et al. which relate to herbicide exposure.

Editorial: New Light on the Health of Vietnam Veterans: I found this editorial to be unnecessarily inflammatory in a manner better fit for the newspapers than a scientific journal. Expressions like "in the face of remarkably complacent responses by the Department of Defense and the Veterans Administrations" are inappropriate. Gochfeld argues that broad surrogates of herbicide exposures, such as service in Vietnam, are inappropriate predictors of exposure and that blood dioxin levels are the best measures of exposure, but seems to dismiss the work performed by the Centers for Disease Control which did perform blood dioxin tests on a number of ground troop veterans. This testing was not able to adequately define an exposed group of veterans for evaluation. Despite arguing the importance of having a biological determination of exposure, Gochfeld then tends to endorse the exposure index created by Stellman and Stellman which is an unvalidated predictor of exposure.

Although I find the articles interesting in an exploratory or pilot sense, I would not agree with Gochfeld that they represent "a landmark in veteran health research and occupational epidemiology."

Combat and Herbicide Exposures in Vietnam among a Sample of American Legionnaires: The only conclusion that I can strongly agree with in this paper is that "our analysis demonstrates conclusively that mere presence in Vietnam cannot be used as a proxy for exposure to Agent Orange." This statement is not an original finding, but supports work previously performed by the Centers for Disease Control. This article, and their previous work published in 1986, describe a complicated mathematical index which addresses multiple factors thought to increase the risk of exposure to Agent Orange, such as assignment, occupation, and proximity to spraying.

The authors report that their exposure index to Agent Orange and combat experience were associated. This is not surprising since, I suspect, that the largest number of persons in the jungle where spraying occurred were ground combat troops.

Despite the apparent background work performed by the authors and complexity of the index, no information is provided about their model to make it a better predictor of exposure than others previously created. The Department of Defense, the Veterans Administration, and the Center for Disease Control used the Department of Defense records to create a predictive model. These government agencies, however, attempted to validate their model with biological testing and found that they could not define an exposed group of Vietnam veterans. The Stellmand and Stellman is not validated, and, thus, we do not know if it is predictive of exposure. In some analyses the authors use occupation as evidence of exposure, which may be a more reliable indicator, as was found in the Ranch Hand studies.

Health and Reproductive Outcomes among American Legionnaires in Relation to Combat and Herbicide Exposure in Vietnam: This paper describes the rate of self reported symptoms and diseases among study participants. The study cohort was defined via mailing and contact with American Legion posts. The actual participation rate for the study group was 42 percent for those serving in Southeast Asia and 58 percent for those serving elsewhere. These participation rates are not very high, and the presence, type, and direction of bias generated by the low participation are not predictable. One may be concerned about a potential bias, that participation may have been more likely among persons concerned about the effects of the Vietnam experience or those who believe that their health has been adversely impacted. This, however, cannot be evaluated.

The authors report significant elevations in the reporting of benign fatty tumors, adult acne, skin rash with blisters, and increased sensitivity of eyes to light. This corresponds to the elevated reporting of multiple health conditions among the Vietnam Veterans among the Centers for Disease Control Vietnam Experience Study (JAMA, May 13, 1988—Vol. 259, No. 18). In the Centers for Disease Control Study all veterans interviewed and those veterans eventually examined reported multiple health problems, many similar to those found by Stellman et. al., including chloracne and other skin conditions. These conditions, however, were not confirmed upon dermatological examination. One must be concerned that over-reporting may be responsible for the Stellman et. al. findings, but transient adverse health effect that have resolved cannot be discounted. The herbicide handlers did not have large number of significantly elevated adverse health conditions, but did report more skin rash with blisters and change in skin color.

Stellman et. al. also report a significant increase in reported spontaneous abortions among wives of Vietnam veterans. I could not determine if the information about spontaneous abortions was provided by the veteran or his wife. Previous studies report that men are poor sources of information about their wives maternity/gynecological medical history.

Social and Behavioral Consequences of the Vietnam Experience among American Legionnaires: This paper only describes herbicide exposure to be interaction terms in the relationship between combat and adverse social and behavioral outcomes.

Conclusions: I find this series of papers to be interesting as pilot studies and they would be informative if many more definitive studies had not already been performed. Validation of the exposure index would strenthen the results of this data. If the exposure index truly predicts exposure, as defined by dioxin blood testing, we could be more certain that the truly exposed veterans had been studied. Without this information the study of presumed exposed persons for non-validated self-reported health problems should only be considered as exploratory rather than definitive.

JEFFREY A. LYBARGER, M.D.

DECEMBER 26, 1988.

To: Tony Fowler.

From: Robin Morris, Ph.D.

Re: Comments on *Environmental Research* articles on American Legion Study.

Report No. 1, May 29, 1985: I am surprised that the hypotheses (pgs. 1 & 2) are stated in such a way. These are not "null" hypotheses and clearly set a psychological set for all participants in the study. I am particularly concerned with the use of Legion "research volunteers" making contact and discussing the study with potential participants. Even if the participants read the original hypotheses, this would bias their views of the study, and effect their responses since participants are prone to support the researchers hypotheses if they know them (I think this is called the Rosenthal Effect in psychology, but can remember for sure, there has been lots of research on this problem). Even though they state that they "volunteers" were trained "in the proper manner of contacting members" (pg. 4), there is no reported methodology to

monitor them to ensure it. Given the nature and multiple purposes of the study, I consider this a real limitation before any questions are even asked.

The general classificatory data they have is also of concern. They classify persons as "In-Country" or not. There is no discrimination on how long they were "In-Country", and no controls for this factor in any of the analyses in this report. A related problem is their use of birth year for analyses, not year of service in Vietnam. As we know from VES, the age of the vet at time of service, and the actual year in which that service occurred was an important factor in all of our analyses. They confound both of these issues in their design.

Their combat exposure scale is very similar to the one use in VES. Their summing of scores, and breakdown into low, moderate, or high combat exposure is also reasonable given the nature of the scale and its use in the past. It is still important to note that this is a self-report scale regarding combat exposure, and although reliable (pg. 6), there is no validation of its accuracy. The authors continue to report this data as if it is reality, when all other types of factors, including current psychological functioning may affect one's report on it. In other words, there may be correlations between it and other measures of psychological health, but this does not mean that combat exposure caused the psychological health, only that people who rate themselves high on combat exposure also rate themselves high on depression items, and vice versa. There are numerous studies showing that persons who are depressed, etc. have at tendency to answer all (even unrelated) scales in a more negative manner. This point needs to be kept in mind throughout all of the papers, as the authors clearly overstate the meaning of the findings and don't consider other interpretations which may have equal validity. They have no data to make such directional/causative statements. As you remember, we have similar difficulties in some of the VES analysis.

Another issue which I think shows their tendency to go past their data, is in their statements at the end of page 7 which try to argue that they there is no selection bias among those who join the Legion. Unless they question all those persons who did not join the Legion, and their reasons for not joining can they make the necessary analyses to address such a issue. What would happen if all those veterans who didn't join said that the reason they didn't was because they didn't want to have contact with military related organizations, etc. . . . Then the "military personality" may be alive and socializing with like personalities (which all persons are prone to do) in the Legion. Their logic is very odd throughout all of the study reports. I will not detail all such occurrences, only note my concern and the biases which appear to be involved.

A major analysis concern for all of the data they report is the lack of more sophisticated co-variate analyses. They rarely control for those data which they know are different between groups in analyses which are confounded by such variables. In addition, they have no "entry" data on these vets when they went into the service. As we know from VES, the GT, enlistment status (drafted, etc.), etc. at times accounted for a great deal of the variance among various analysis groups. They seem to have a very limited statistical model to adjust for such possible factors in their analyses. A good example of this issue is the differences between incomes in some of their groups. They do not control for the vets time since discharge, age, marital status (previous divorces?), employment history, etc. Given the big effects of each of these on income, their results are just not very telling from my viewpoint.

I know that the part dealing with the VA is not of specific relevance, but the lack of control for those men who have used the VA ever, in the recent past, etc., is a major problem with their analysis, again there appears to be a very simplistic analysis model which appears to be focused on presenting a specific viewpoint.

Comments on "Social and Behavioral Consequences" paper (pp. 129-149): The general items that were used to assess social and behavioral outcomes (pg. 132-133, and actual questionnaire was reviewed) are very limited. Generally, they represent symptom ratings. Only a few are time linked (within the last 6 months). Although some of these probably would correlate with more standardized and valid psychological instruments, one would expect that their validity would be more limited than the standardized tests due to the limited number of items (even though they have reasonable reliability). Of specific importance in all of these data is the paragraph on pg. 139 (1st under psychological well-being section). The fact that all of the variables are highly intercorrelated suggests that these different scales are not really measuring different factors, but probably are measuring general "psychological distress", or something like that. This has been a problem for the scale that much of this has been taken from (PERI). It should also be noted that these measures do *not* provide a DSM-III diagnosis, no matter what the authors imply. Given that the symptoms are never time-linked, a subject could have had one symptom this year, another last year, and another 5 years ago and ended up with a high score. Their interpretation of some of the findings (pg. 140, 1st pp) still leave a lot to be desired. As an example, they state that "The correlation is comparatively strong with combat exposure"—compared to what I have to ask, given one is r.=.18, the other r.=.30, accounting for less than 2 percent and 9 percent of the predicted variance! These are not correlations that I would be excited about, and many psychological journals wouldn't necessarily let you publish such a statement about them. Notice that in Table 5 (pg. 141), there is not a correlation over the .30, most are under .22, with combat exposure, and the agent orange index correlations are even lower. The mean differences between groups in Table 6 (pg. 141) are also of limited clinical meaningfulness, although clearly statistically significant given the large sample sizes. I feel that such data is misleading suggesting that the Vietnam vets are more psychologically distressed than the non-Vietnam vets, these score differences are minimal (1 point generally out of 20 possible). I also don't understand how the graphs on page 142 (Fig. 6) can possibly represent their data, given that the correlations are all less than .30 between these data. I think this is graphic "manipulation" of the actual relationships between this data. Do those look like such low correlations to you?

I also have great trouble in that they never look at the relationship between drinking, smoking, etc. and any of the psychological data. We all know that these interact with each other, but they do not use them for any comparisons. Again, they come to the conclusion that the psychological problems are caused by Vietnam, as are the drinking problems, etc., when we know that the psychological and drinking problems are highly interrelated, and may account for more of the current findings than anything else.

Comments on PTSD paper (pp. 165-192): Again, the main issue here is how they diagnosed PTSD. First, their multiple approach to combat exposure classification is a major factor for their findings. Their basic assumption is that any subject who had a high combat exposure score had to have had exposure to a traumatic event, as required by the PTSD criteria. This is not always accurate, as people working on transportation details may have seen lots of dead bodies, but never have been in life-threatening situations, or traumatized. Anyway, as can be seen by their data, PTSD rates all depend on how you cut the combat exposure index, which of course is correlated with PTSD symptoms, etc. Again, there is some circularity to this approach to this disorder's definition. Their approach is again generally using a symptom checklist without timeframe (since your d/c from service!). No DSM-III diagnosis is made without a timeframe for symptom co-occurrence, as has been discussed before. In addition, they diagnose no other disorders whose symptoms may be similar, if not identical (anxiety disorders, depression, substance abuse, etc.). Therefore, there is no way to identify just those vets who had PTSD, when they had it, or what else they may have also had. They also don't address other traumatic events in their lives (1% maybe had them), nor what "often" etc. may have meant to a particular vet. I do not consider this approach to provide a DSM-III PTSD diagnosis. The best it does is provide a group of symptom ratings (pg. 182) over a number of years (different for different vets of course). Yes there may be something in the data of interest, but I don't see how you can get it.

On page 183, they take the mean values of these PTSD symptoms. This is not very meaningful when you figure that one vet may score 4-5 points on 5 symptoms over a 15 year period and get a score of 20, while another vet may score rarely (2 points) on 10 symptoms over the past month and also get a score of 20. Are these men the same? I would be more concerned with the second rather than the 1st in some instances. They treat them in their analyses as identical.

As you can see, I'm not highly impressed with the psychological methodology, the analysis sophistication, nor the interpretation of the data presented. After the VES, all of these issues are too important and if you don't collect good data, there is just not much you can say about the findings.

If there are any questions for me, I'll be back to Atlanta on Jan. 2 (afternoon).

DECEMBER 20, 1988.

From: Medical Epidemiologist, Behavioral Epidemiology and Evaluation Branch, Division of Chronic Disease Control and Community Intervention, CCDPHP.

Subject: Comments on the Study by Stellman et al.

To: Stephen B. Thacker, M.D., Assistant Director for Science, CEHIC.

GENERAL COMMENTS

This is a cross-sectional study based on self-reported information. The results are very similar to the interview results from VES (Vietnam Experience Study)—almost all outcomes are reported more often by

Vietnam veterans than by other veterans, and, among Vietnam veterans, those who report handling herbicides or more combat experience reported higher rates of most outcomes. As with VES, it is possible that these higher self-reported frequencies are, in part, due to recall bias. One difference between this study and VES is the use of a herbicide exposure index based on the HERBS tapes and the veteran's report of his specific locations of service in Vietnam. This index also predicts self-reported outcomes among Vietnam veterans.

To evaluate the Stellman herbicide exposure index, we could ask Agent Orange Validation Study participants to complete the Stellman Vietnam location instrument. We could then compute exposure scores per Stellman and compare these scores to previously measured serum dioxin levels. We could similarly compute these scores for VES examination participants and see whether there is an association between this index and certain objective measures which correspond to the self-reported findings from the Stellman study (i.e.—"fatty skin tumors", evidence of acne, etc.).

SPECIFIC COMMENTS

Methods:

(1) The study population is not representative of the total Vietnam-era veteran population as it includes only American Legion members and is 98.5% white. This unrepresentativeness restricts generalization of the results.

(2) Because they did not restrict their population to men who served a single term of enlistment and because most career servicemen during the Vietnam-era served at least one term in Vitenam, the Vietnam group is likely to include a higher percentage of career servicemen than the comparison group. This limits comparability between the groups.

(3) The method of recruitment allows self-selection of study participants.

(4) The overall response rate was low (53-64 percent), increasing the possibility of selection bias. Neither the exact overall response rate nor the response by POS is specified. They attempt to address non-response by comparing responses from a "high" response state (Minnesota) and a low response state (Pennsylvania), but this is not helpful as it fails to address differences between non-respondents and respondents. Besides, the response was poor from all six states (64 percent or less).

(5) They have no objective measure of dioxin exposure with which to validate their exposure index. Furthermore, I question the ability of a person to recall exact time and place of service in Vietnam 20 years after the fact.

(6) Their five symptom scales are statistically derived rather than clinically based. It is unclear whether they are biologically plausible.

Results:

(1) The results are nonspecific as the odds ratio is increased for almost all outcomes.

(2) Our troops in Vietnam experienced higher incidence rates of venereal diseases and viral hepatitis than troops who served elsewhere during that era (see Ognibene AJ, Barrett O Jr, eds. General medicine and infectious diseases (vol. II): Internal medicine in Vietnam. Washington, D.C.: United States Army, Office of the Surgeon General and Center of Military History, 1982:233-256 and 419-442). The higher rates of these conditions reported by Vietnam veterans in this study probably reflect events which occurred while the veteran was still in the service.

THOMAS R. O'BRIEN, M.D., M.P.H.

DEPARTMENT OF HEALTH AND HUMAN SERVICES,
December 21, 1988.

From: Director, NCHS.

Subject: Review of American Legion Study of CEHIC.

To: Dr. Vernon Houk, Director, CEHIC.

I understand that on December 6 you asked NCHS to review the American Legion-Columbia University Vietnam Veterans Study for study design, sampling, response rates, and analytic methods that the authors used to cope with flaws. The following are some issues raised by the information sent for us to review. We only reviewed the findings regarding "Health and Reproductive Outcomes."

The American Legion study was a retrospective study of a well-publicized suspected toxic exposure experienced by men one to two decades ago. That is, the potential participants of the study were not "blinded" to the hypotheses. As such, there are many aspects that make it difficult to ever do such a study and get reliable, meaningful results. The investigators provided the reader with minimal information relevant to these issues and did not give adequate discussion regarding the interpretation of the findings.

SUBJECT RECRUITMENT

The subjects were recruited from the American Legion rolls in six States. There was an attempt to determine all veterans on these rolls that were in the services during the Vietnam era. The number was not explicitly stated, but it appears to be 12,588 (Report #1, p. 3). There was a 54 percent response rate to a mailed questionnaire. However, the investigators provided no information regarding the nonresponders. Hence, it was not stated whether there was a different response rate among veterans who served in Southeast Asia or who suspected that they had been sprayed with Agent Orange as compared to other veterans.

QUESTIONNAIRE

Many variables requested time in month and year. Given that the period of recall was as long as 20 years, the data from these questions were probably unreliable. Hence, the careful analysis that combined this information with the records of herbicide spraying were also likely to be unreliable.

The questions regarding skin conditions were stated in terms of "ever experienced" these conditions. The article implies, however, that the conditions were current.

ANALYSES

The criteria for "high," "medium," and "low" exposure classifications were not given. However, from the frequency distribution (EHR, p. 120) and numbers in the tables (EHR, 158-159) it appears that "high" included anyone with an exposure level at or above the mean, i.e. 0.36-1.60. That means that, with the unreliability of the question responses, there was probably little difference between the "medium" (.10-.36) and "low" (0.0-.10) groups.

Combat and herbicide exposure were confounded. There were inconsistencies regarding the number of veterans in various combat classifications. On EHR p. 119 it was stated that 2087 Southeast Asia veterans had combat scores. However, on EHR p. 160 the total number of Southeast Asia veterans with combat scores was 2845 . . . a number which apparently did not include herbicide handlers. This is unlikely since the total number of Southeast Asia veterans who were not herbicide handlers was only 2858-102—2756!

SELECTED FINDINGS REGARDING "HEALTH AND REPRODUCTIVE OUTCOMES"

Because the combat and herbicide exposures were confounded, it is hard to determine a primary cause (combat vs herbicide exposure) even if one regression coefficient may appear to be larger than another. Because of the resulting multicollinearity, the standard errors on the coefficients (not given) would be quite large. Although the resulting coefficients may be significantly different from zero, they are unlikely to be significantly different from each other. Therefore, their relative "importance" would be difficult to assess. Further, because of the instability of these estimates, these kinds of regressions often change radically of these estimates, these kinds of regressions often change radically when more subjects are added to the analyses.

The finding regarding the percentage of spouses' pregnancies that resulted in miscarriages is suspect. The miscarriage rate of pregnancies to women in the general population is 20-25 percent. However, this study only reported 7.6 percent for Vietnam veterans and 5.5 percent for others. Clearly, there was a great deal of underreporting. Both the retrospective nature of the study and the fact that most of the reports may have been by proxy reports would have affected the underreporting. Veterans who have no reason to suspect reproductive problems as a result of their previous military experience are likely to forget more miscarriages of their wives than the Vietnam veterans. Therefore, these data provide no evidence that the miscarriage rates have been different for wives of these study subjects.

The health symptom complex is based on symptoms severe enough for the veteran to seek medical attention one or more years following discharge. This means that veterans who may have sought attention while in the military as long as several years after serving in Vietnam would not be included. On the other hand, because of the recent, heavy publicity regarding Agent Orange exposure and these symptoms, veterans of Southeast Asia would have been more likely to seek medical attention regarding these health symptoms. Therefore, with regard to these symptoms, there may have been bias in terms of which group of men would have actually sought medical attention.

SUMMARY

There are several aspects of retrospective studies in general, and this study in particular, that make the interpretation of these results difficult. None of the above findings, and others, were discussed in light of the likely recall bias of this study population. Some of the numbers of subjects included in analyses are inconsistent and no information is given regarding the nonresponders. The authors do conduct largely within group comparisons, however, they are not critical of the effect of strong confounding of the variables of most interest.

MANNING FEINLEIB, M.D., Dr. P.H.

DEPARTMENT OF HEALTH
AND HUMAN SERVICES,
December 20, 1988.

From: Epidemiologist, Birth Defects and Genetic Diseases Branch, BDDD (F-37).
Subject: Review of Stellman & Stellman Vietnam Veteran Study.
To: Stephen B. Thacker, M.D., Assistant Director for Science, CEHIC (F-29).

EXPLANATION OF STUDY POPULATION

Pg. 114: The definition of the eligible and final study population is inadequate. The reader should be given the following information: the size of the original total population sampled and the ⅓th random sample; the number from this sample who returned postcards, who were ultimately contacted, and who could never be reached in any way and remained status unknown; of those who were contacted, how many participated, how many refused, and how many were lost to follow-up at this stage; as much of the above as possible should be given by cohort status.

From what I've been able to piece together from these papers and an earlier document, it seems that the sample selection is based on an assumption that about 15 percent of all Legionnaires are Vietnam-era veterans (maybe they got this from their pilot study in south Dakota). From an earlier report, we know that 85,000 men were included in the ⅓th random sample from all 6 states, and that 50,000 returned the postcard indicating war era. The remaining 35,000 were supposedly classified by volunteer researchers. 12,588 men were identified as Vietnam-era vets and 6,810 completed questionnaires. None of the "attrition" in the population is broken down by cohort status.

Why were these particular 6 states chosen for study? Some explanation is needed.

POSSIBLE SOURCES OF BIAS

Pg. 124: The authors claim that "representativeness of study subjects is intimately related to their response rates," and then proceed to give us response rates by state instead of by cohort! The total response rate in this study is not good to begin with (54 percent by my calculation) and if it varies significantly by cohort, they could easily have a serious source of bias operating.

They exclude from the denominator of their response rate those questionnaires "returned for bad addresses or otherwise undeliverable." This is very unconventional and will inflate the response rate a little or a lot depending on the number of vets who could not be tracked down. So, the response rates they are presenting are already inflated by some unknown degree.

Pg. 124-125: They conduct a strange comparison of "the distribution of important variables" between men coming from high-response Posts and men from low-response posts in an effort to address the question of representativeness of their sample. Because they did not find differences between these "high-response" and "low-response" subjects for these variables, they conclude that they have little response bias. This is a meaningful analysis only if you make the assumption that respondents from "low-response" posts are more like non-respondents than respondents from "high-response" posts. I know of no reason why this assumption should be true. They say that age was related to response rate; this variable alone could completely explain inter-post differences (i.e. respondents from all posts are similar, but some posts have higher rates of non-response because their membership is older).

Some of the standard things they could have done to address bias and representatives, they did not do. Any information they have available about nonrespondents should be presented to the reader. They mention almost ancedotally that age was related to response rate (pg. 125). Do they know anything else about nonrespondents? Why isn't the age distribution of respondents and nonrespondents compared? Why isn't the cohort (VN+, VN-) distribution of respondents and nonrespondents compared? These are standard, accepted methods of presenting data. The same holds true of cohort comparisons among respondents. The reader should see the age, race, education, income, etc. distributions for VN+ vs. VN- and also for the different combat cohorts since so many comparisons are made by combat status. This is especially important because so many of their presented analyses are essentially crude and do not control for all these important variables.

The authors could also compare their sample of veterans to veterans from other studies if they want to examine representativeness. They say their study group is 98.5 percent white; this obviously is not representative of the general population or of the racial distribution found in other veteran studies. They say that their study group is "representative of the solid 'middle section' of white America, with its relatively high educational and income level and marriage rate" (pg. 147). This statement may be a little misleading. Compared to other veteran studies that include more non-white veterans (CDC's VES Studies and Card's Lives After Vietnam), the Legionnaires appear to have no more education than the CDC veterans and substantially less than Card's veterans. The marriage rate among the Legionnaires may in fact be very nonrepresentative. Using the numbers of "ever-married" veterans given on pg. 136, I calculated the rate of ever married to be about 68 percent in both cohorts. This is extremely low; the rate in the CDC study is about 91 percent and in the Card study about 93 percent. (This very low marriage rate is difficult to evaluate with certainty because different numbers of ever-married vets—restricted to those born after 1940—are given on pg. 163 and are larger than those given on pg. 136—they should be smaller because of the additional year of birth restriction).

MISSING DATA

No mention is ever made of missing data and how it is handled. Since the numbers keep changing throughout the paper, my best guess is that they just ignore this issue in the analyses. Depending on the extent of missing data, this could represent a real bias. For example, the analysis of average weekly consumption of alcohol (pg. 145) is based on 1824 (64 percent) VN+ veterans and 3254 (83 percent) VN- veterans. This represents a substantial amount of missing data in total and a large difference between the two cohorts. The validity of such a comparison is in question. For many outcomes, numbers are not given so no estimate of missing data can be made.

HERBICIDE EXPOSURE

Pg. 116: 73 percent of VN—vets gave enough (self-reported) location data to be classified as to agent orange exposure. Consequently, for all analyses using this variable, at least ¼ of the data are missing.

Pg. 120 and 126: The authors present the correlation between the spraying activities and the military buildup in Vietnam as a finding of their study. This correlation is well documented; no study was necessary to detect it. As we have found, this does not necessarily imply that a great number of men actually incurred a biologically meaningful exposure.

Pg. 120: The distribution of their agent orange exposure index basically shows most vets clustered at the low end with a few scattered out on a long tail. Even if one were to make the assumption that this index (based on Herbs tapes and self-reported location) has any validity, there is still no discussion of what the levels of the index might represent in biological terms. Until and unless some type of method of validation can be applied, the value of any such index is completely unknown. Certainly past study has taught us that, and the authors should at least acknowledge it.

COMBAT

The authors analyze most of their data by level of combat within Vietnam service where combat is defined by self-reports. There are two problems and potential sources of bias with these analyses that the authors do not acknowledge or address. First and most obviously, because it relies only on self-reported data, the combat index may not validity reflect actual combat; we know only that it reflects perceived combat, and the data should be analyzed and interpreted in that light. Second, even if the combat index validly reflects actual combat, the men who saw more combat may have been different going in than the men who saw little or no combat. It makes sense that officers would see less combat than enlisted men and that older men would see less combat than younger men. But, since their data are never controlled for rank and rarely for age, we do not know if these variables might explain differences now attributed to combat. The Louis Harris study, Myths and Realities: A Study of Attitudes Toward Vietnam Era Veterans, found that "among those who served in Vietnam, those with less than high school educations (at induction) were three times as likely to see heavy combat as were those with college educations". They concluded that "combat assignment processes . . . served to mirror the underlying class discrimination of the society itself". If this is the case, then many of the sociodemographic, behavioral, and health differences seen by combat status in the Legionnaires study may be due, in whole or in part, to basic preexisting differences in the men who saw different levels of combat. This issue could have been better addressed by more adequate control for all available covariates in the analyses and through discussion. The general lack of specificity associated with combat (i.e. it is related to almost everything) increases the likelihood of a reporting or selection bias.

REPRODUCTIVE OUTCOMES

Pg. 162: The reproductive findings are confined to ever-married men born in 1940 or later. The restriction on birth year is done in an attempt to "eliminate reproductive experiences that occurred before the Vietnam era". This is a very crude way to accomplish this goal and is subject to significant misclassification. Many children with no opportunity for "exposure" will be included and others who were conceived after service will be eliminated. They must have the veterans' dates of service and the dates of the reproductive events; all children and pregnancies should be included or excluded based on these dates, not on the birth year of the veteran.

Pg. 164: They found that VN+ veterans reported more difficulty having children than VN− veterans, but both cohorts reported fathering the same average number of pregnancies. These results are similar to ours.

Pg. 164-166: The analysis of miscarriages is very difficult to evaluate because only a subset of veterans are included in the analysis. We start out with 5097 veterans who were ever-married and born 1940 or later (pg. 163 Table 9). However, the miscarriage data are based on 6622 "birth outcomes" reported by 2950 veterans (pg. 164). There is no explanation why over 40 percent of the eligible veterans have been excluded from the analysis. The Table 10 (pg. 166) note says that the restrictions on the veterans now include discharged 1974 or earlier, with the first pregnancy reported subsequent to discharge, but there is no explanation of why these restrictions are needed or how many men were lost from each cohort through the application of these restrictions. I cannot comment on these findings because they are based on what is clearly a small subset of the total study group other than to say that true rates of miscarriage are in the range of 20 percent of all pregnancies. Thus, their data show a great deal of underreporting of this event in both cohorts (as did our data and most data that are based on fathers' reports).

EUGENIA E. CALLE, Ph.D.

DEPARTMENT OF HEALTH
AND HUMAN SERVICES,
January 5, 1989.

Memorandum to: Members, Science Panel, AOWG.

From: Chairman, Science Panel, AOWG.

Subject: Review of the American Legion/ Stellman Papers.

Attached are copies of the reviews we have received to date on the subject study. There will be a Science Panel meeting from 11 a.m. to 1 p.m. January 10, 1989, in the Under Secretary's Conference Room, 6th Floor, Hubert Humphrey Building, to discuss this and attempt to prepare a final document for transmission to AOWG. This will be followed at 2 p.m. by a joint meeting of the AOWG and the Science Panel in the same room.

I am personally not involved in this review process but am only the convener of meetings and the sender of papers. Dr. Stephen Thacker, Assistant Director for Science, Center for Environmental Health and Injury Control, is taking the lead in coordinating these responses and preparing the final document.

Sincerely yours,

VERNON N. HOUK, M.D.,
Assistant Surgeon General, Director, Center for Environmental Health and Injury Control.

U.S. ENVIRONMENTAL
PROTECTION AGENCY,
Washington, D.C., January 9, 1989.

Dr. VERNON HOUK,
Science Panel, Chair, Agent Orange Work Group, Washington, DC.

DEAR DR. HOUK: At your request I have reviewed the five articles by the Stellman team published in the December, 1988 issue of Environmental Research, focusing on the first and third articles in the series: exposure and health outcomes. Some detailed comments on those two papers are attached.

In summary, I believe that the authors have taken upon themselves a complex task, with limited resources; namely, investigating a possible relationship between service in Vietnam (effects of combat and exposure to Agent Orange) and adverse outcomes (health, reproduction and social/behavioral). I fear that they have fallen short of establishing a relationship between exposure to Agent Orange and adverse health/reproduction effects. More regretably, they appear to be unable to recognize this shortcoming.

Specifically, in epidemiological studies several key points must be addressed, among they being a) representativeness of the sample population selected, b) an appreciation for the accuracy/validity of the exposure measure chosen, and c) some assurance of the validity of the effects reported. The Stellman studies leave serious questions in each of these areas.

The first concern is the representativeness of the study population. The authors selected their sample from American Legion Posts from six northern/border states. They imply that their conclusions are applicable to all veterans who saw service in Southeast Asia during the Vietnam Era. Questions regarding American Legion members vs. nonmembers and possible U.S. geographic differences remain unaddressed.

The second concern lies at the crux of study; that is, the adequacy of the "exposure index" (OE3) that is used as a surrogate for exposure to Agent Orange. The potentially fatal flaw in the approach lies in the fact that the index is not a validated measure of exposure. As you know, the Science Panel, the Office of Technology Assessment, and CDC have worked for several years with all of the data used by the Stellman group, plus considerably more (i.e., troop movement data), to devise various "exposure opportunity indices", which conceptually are similar that used in the Stellman study. And yet, when the CDC index was tested for validity using human tissue analyses (at the behest of the Science Panel and along the lines recommended by Dr. Gochfeld in the accompanying editorial), the index was found to be such an inadequate surrogate that further study could not be justified. There is every reason to think that the Stellman index would suffer a similar fate when subjected to a critical test for validation.

The third concern relates to the health effects reported. In the Stellman studies these effects are "self-reported", with confirmation being sought only for the reported birth defects. The link between the reported effects—many of them subjective (e.g., headaches)—and a biologically plausible mechanism related to exposure to Agent Orange is, in many instances, tenuous at best. For example, there is no mechanism even postulated by which Agent Orange exposure to the male could lead to miscarriages later in life, without manifesting a similar effect on what the authors characterize as an even more sensitive measure of reproductive impact; i.e., birth weight.

Finally, it is surprising that the researchers, the reviewers, and the editor appear to be unaware of the work of the Agent Orange Work Group and CDC. There is no reference to the previously mentioned work on exposure opportunity index and the validation studies which have been so critical in reacting to the whole Ground Troops Study issue. Also, while referencing the immunological phenomena initially reported in the Missouri population, there is no mention of the later CDC study which essentially rescinded that earlier work.

In conclusion, I hope that the combined comments of the Science Panel members will help to put the Stellman studies into a proper perspective, thereby counterbalancing the excessive enthusiasm of the accompanying editorial. No doubt, the Stellmans will be presenting their results in various scientific meetings which will serve, to some degree, as peer review fora. However, I believe it would also be useful for a subset of members of the Science Panel to meet with the Stellmans to share our respective insights. Such an exchange of views should be enlightening for all parties.

Sincerely,

DONALD G. BARNES.

COMMENTS ON FIRST STELLMAN ARTICLE IN DECEMBER 1988 ISSUE OF ENVIRONMENTAL RESEARCH

COMBAT AND HERBICIDE EXPOSURES IN VIETNAM AMONG A SAMPLE OF AMERICAN LEGIONNAIRES

1. General Concern:

The study includes various statistical analyses which seems to supply a level of sophistication that is not merited by the crude input data themselves.

2. AO Exposure Index:

This is the key to the study. If this is faulty, then the entire discussion of effects/ AO exposure is wanting.

a. The data sources used by the Stellmans were also used by AOWG and CDC. In addition, however, the two latter groups used record verified troop location information, rather than subjective recalls.

b. It is difficult to imagine that many veterans can accurately recall their dates and locations more than a decade after the event. Clearly, such assertions should be subjected to some validation. The statement that ". . . subjects appear to have exercised considerable care in filling out this portion of the survey" is an inadequate substitute for such validation.

c. The rationale behind the exposure index is not presented here. In the earlier article, it was presented as a somewhat, but not completely, arbitrary measure which could be calculated from existing data. It would be interesting to consider a sensitivity analysis of the possible functional forms for such an index.

d. It is not clear to me how the apparent singularities (i.e., when Dij = 0, the value to the term go to infinity) were handled.

e. The quote for the half life of one year (Young, 1976) was superseded by a later reference by the same author (Young, circa 1981) indicating that 10 years was more reasonably for the halflife of 2, 3, 7, 8-TCDD in soil.

f. Could those people who classified themselves as "herbicide handlers" were actually "insecticide handlers". It would have been good to have some questions that tried to tease out this difference.

g. There is a continuing inference in the paper that "herbicide handlers" received higher exposures than others, despite having similar exposure indices. While I agree with the assertion, I believe that it should and can be supported by specific references from the literature. It would be good to estimate the extent to which the exposure of these people might exceed that of others.

h. The correlation between AO exposure index and combat score suggests that there was, in fact, a correlation between combat experience and AO application. That is, these data suggest that there was combat in AO sprayed areas and little combat in non-

sprayed areas. Is this true? I thought the combat followed AO spraying by several weeks and I would have thought that there was considerable combat in some areas which were not sprayed.

This question also arises in regard to "herbicide handlers" who according to Fig 6b had higher combat exposure than any of the AO groups, but according to p. 120 ". . . appear to have been stationed in areas of Vietnam which received an 'average' amount of herbicide spraying" (and, hence, only "average combat exposure, as deduced from Fig 6a).

i. It is not clear to me what values of OE3 are associated with "high", "medium" and "low" AO exposure index categories.

j. Conclusions challenges—due to the above concerns, I believe that the following assertions have not been scientifically supported:

(1) P. 126, "Our data . . . make the convincing point that sufficient number of troops are available and identifiable for epidemiologic study of herbicide effects.

(2) P. 126, "[From Fig. 3 it can be seen that] a sizable number of individuals were classified as "high" exposure index." How is "high" defined in terms of OE3 values?

(3) P. 127. "The availability of a readily used and inexpensive exposure classification system . . . is encouraging for future studies. Both accuracy and precision of the method are comparable to, or exceed, those used in many major environmental and occupational studies." Simply because something can be done, doesn't mean that it is correct. Further, most epidemiological studies' surrogate measures for exposure are subjected to certain validation steps. The index in this study should be subjected to such tests as well; e.g., tissue analyses.

3. Validity of responses:

Many of the concerns listed below relate to innovative approaches taken by the authors, in part, due to the considerable expense necessary to gather the information in a more conventional manner.

a. The use of Legionnaire "volunteer researchers" is interesting, particularly since these people are likely to be motivated and certainly less expensive. However, their performance (after 1-day of training) vs. that of professional trackers/interviewers used in others studies is a question.

b. The self-administered questionnaire contains many questions which are rather subjective in nature; cf "headaches". It is not clear that reports of "medically diagnosed" conditions as described by the subject would, in fact, be verified by an examination of health records.

4. "Discoveries":

The paper presents information that has been known from previous studies. For example,

a. From the abstract, "Our analysis demonstrates conclusively that mere presence in Vietnam cannot be used as a proxy for exposure to Agent Orange." First, that possibility was never seriously suggested by anyone; second, the Stellman studies have no data on exposure, only probable exposure.

b. P. 123 "The data presented here once again confirm the massive use of herbicidal agents in Vietnam."

c. P. 126 "Our data . . . provide quantitative evidence of the concomitant buildup and movement of troops alongside herbicide spray operations".

5. Lack of attention to detail:

a. "Vietnam Era" is not directly defined.

b. P. 112 talks about 3-4 million men serving in Southeast Asia. P. 113 talks about 3-4 million men who served in the military during the Vietnam Era. The connection between the two statements is unclear.

c. When originally discussing the exposure index, the authors correctly referred to it as a measure of opportunity for exposure. However, throughout most of the paper, the index is referred to as exposure itself. Common sense and the CDC human tissue analyses suggest that the two can be vastly different.

6. Representativeness of sample:

The authors do not appear to address the question of how representative of the entire Vietnam Era group the American Legionnaires are.

7. Tone:

a. Portions of the paper appear to advocate certain policy/political positions which are important and legitimate, but are generally considered beyond the realm of scientific objectivity and commentary; cf., pp. 112-113.

b. The paper seems to conclude that the very fact that the method gives *some* results, in and of itself, validates the approach; cf., p. 127.

COMMENTS ON THIRD STLEEMAN ARTICLE IN DECEMBER, 1988 ISSUE OF ENVIRONMENTAL RESEARCH

HEALTH AND REPRODUCTIVE OUTCOMES AMONG AMERICAN LEGIONNAIRES IN RELATION TO COMBAT AND HERBICIDE EXPOSURE IN VIETNAM

1. Study design:

A. P. 153. The study chose not to examine malignancies due to the small numbers and latency issues. In fact, one of the most contentious issues deals with cancer (soft tissue sarcoma) which has been implicated in other studies. Some of the cohort have been exposed for 25 years, arguably sufficient latency for some tumors.

2. Classification issues:

a. P. 153. "SEA (in country)" suggests an equality between service in Southeast Asia and presence in Vietnam. It is not clear that this is correct. Also, length of stay in Vietnam is not addressed in this procedure.

b. P. 154. "Medically diagnosed" is something of a misnomer since this is still a self-reported classification.

c. P. 156. Here we find "high", "medium", and "low" AO exposure defined in terms of OE3 values, which were not apparent in the first paper. The choice of these divisions is not discussed and seems a bit strange; e.g., the mean value is in the "high" category.

d. P. 157. It is not clear that handlers of chemicals did or did not know that they were handling herbicides.

3. Verification:

a. P. 154. It is not clear why birth defects was the only endpoint for which it was considered necessary to obtain verification.

4. Clarity of the issue and rationale for choices:

a. P. 156. The reasons for selecting the particular endpoints for study are not clear. Not all of them are related to AO or combat; e.g., venereal disease.

b. P. 156. AO has been associated with "chloracne". The connection of this specific condition to "skin rash with blisters" is not clear. For example, poison ivy should not be confused with chloracne!

c. P. 161. The connection between the symptom components and AO is not clear; c.f., "Aches" which consists of "Headaches", "Back pain", and "Neck and shoulder pain".

5. "Symptom complexes":

a. P. 154. The paper should discuss the biological rationale, not simply appeal to the statistical justification, for these five symptom scales.

a. P. 159. It would be interesting to see what type of correlation there is between the variables (combat and AO exposure) and each of the 28 health conditions.

6. Cautionary notes and significance:

a. P. 160. It should be noted that the mean Fatigue score was 14.60, out of a possible value of 44. This means that the average score for any one of the 11 health conditions contributing to the Fatigue scale was 1.3; i.e., closer to "1 (not a problem)" than to "2 (minor problem)". The average value for the components in the control was 1.2. It is hard to see that there is much of a difference or, if there is a difference, whether there is much significance.

This argues even more for an analysis for each of the health conditions separately.

b. P. 162. In similar vein, the values in Table 7 should be viewed from the perspective that the maximum value for each of the other four symptom scales is 12. The value recorded here is in the 3-5 range: i.e., an average of 1-2 per component or between "1 (not a problem)" and "2 (minor problem)".

7. Reproductive effects:

a. P. 162. It is not clear that eliminating men born before 1940 successfully eliminates reproductive experiences which occurred before the Vietnam era. Men born in 1940 would have been between 24 and 35 during the Vietnam era (1964-1975), which leaves more than ample time for pre-Vietnam reproductive experiences.

b. P. 164. Several measures of reproductive effects are examined. Only after special statistical treatment was one is identified as being AO exposure related; i.e., miscarriages. There was no discussion of the significance of this finding in the light of the other results which did not show a positive relationship. Some attempt should be made to include a discussion of the entire set of data taken together.

c. PP. 161-168. While various endpoints are discussed and analyzed, there is no discussion of biological plausibility that would account for the data presented. For example, it is not apparent how effects on males could influence reproductive outcomes many years later. This is particularly the case in light of an experimental examination of an animal model (Lamb, et al, circa 1982, NIEHS) which showed no association. Similarly, one might anticipate that birthweights should also be affected if AO is a reproductive effects agent.

8. Attention to detail and work of others:

a. P. 151. Unclear distinction made between 2,3,7,8-TCDD and "dioxins".

b. P. 152. The 1986 study by Hoffman has been superseded by a later study of the same population which suggests no effects.

c. P. 152. There is no mention of the pending NIOSH studies which promise to have considerable impact on this issue.

OFFICE OF THE ASSISTANT
SECRETARY OF DEFENSE,
Washington, DC, January 6, 1989.

Dr. VERNON N. HOUK, M.D.,
Chairman, Science Panel, Agent Orange Working Group, Centers for Disease Control, Atlanta, GA.

DEAR DR. HOUK: I have read the studies published in Environmental Research. I believe the major discrepancy in this study is the fact that they have no objective evidence of exposure such as serum dioxin. Since the CDC has demonstrated that with serum measurements you cannot distinguish

a group defined as exposed from a group defined as not exposed using military records, any studies subsequent to that would not have as much weight as they might prior to availability of that objective evidence. While there are a number of specific areas in the selection of the population, the method in which the individuals were questioned, and the use of a select group such as the American Legion, these deficiencies can be seen in other epidemiological studies as well. Without an objective measure, describing the minimal effects observed as dose-related overstates the case.

Dr. Jerome Bricker has also reviewed this information. Since his experience in the analysis of spray patterns and the HERBS data set is so extensive, I am including his complete analysis of the American Journal of Industrial Medicine article.

Sincerely yours,

DAVID E. UDDIN,
Capt. MSC, USN,
Senior Policy Analyst for Medical Research.

REVIEW PREPARED BY DR. JEROME BRICKER

1. "Combat and Herbicide Exposures in Vietnam among a Sample of American Legionnaires," by S.D. Stellman, J.M Stellman and J.F. Sommer, Jr.

Since the conclusions in this and subsequent articles in the series concerning Vietnam veterans exposure to Herbicide Orange are based on the original methodology proposed by the authors in the 1986 article entitled "Estimation of Exposure to Agent Orange and Other Defoliants Among American Troops in Vietnam: A Methodological Approach" published in the American Journal of Industrial Medicine 9:305-321 (1986) it is necessary to first point out the potential problems believed to exist in the exposure estimation methodology. In the introduction the authors state that the 2,4,5-T used as Herbicide Orange was heavily contaminated with TCDD with a mean concentration of 2 ppm. The authors point out that the LD50 for guinea pigs is less than 2 micrograms/kg of body weight, however, they fail to mention that a similar LD50 for hamsters is 5000 times greater.

In the Materials and Methods section of the 1986 article a spray track diagram is presented for Ranch Hand missions flown near Pleiku with the city as the center point of three concentric circles of 5, 10, and 15 km radii. The authors did not seem to consider the meteorological and wind effects on these spray tracks. In this case, if the winds during this spray mission came from either the south or west then there would be no likely exposure to persons in Pleiku. At a release altitude of 150 ft. above the trees by C-123 (Provider) spray aircraft at a speed of 130 knots, even with the worst possible wind conditions (directly from the NE and greater than 10 knots) the downwind travel of any recordable amount of the herbicide would not have exceeded 2000 feet or less than a kilometer, hence probably none of the agent would have reached Pleiku. The authors are probably not familiar with the various military simulation models based on actual field test results for a line source release of chemical agents under various meteorological conditions. The Ranch Hand missions were planned and executed to put down a maximum concentration of herbicide in a per plane swath width of 260 (+/−20) foot spray line. The missions were accomplished either at the break of dawn or just at dusk when wind conditions were almost still. Missions were aborted if the wind speed exceeded 10 knots to avoid lateral dispersion of the herbicide and thus degrade the desired herbicide effects or possibly cause deleterious effects on friendly Vietnamese agricultural plots.

The authors use a decay rate of 1 year for TCDD, this may be true when the TCDD is adsorbed into the soil and is protected from the effects of light. The herbicide from the Ranch Hand missions was primarily deposited on triple canopy jungles requiring penetration through the foliage canopy with only 6 percent reaching the ground. Hence 94 percent of a typical aircraft herbicide load was deposited on the leaves of the three levels of jungle canopy. Most of the Ranch Hand missions were conducted at dawn, therefore the TCDD contained in herbicide orange would be exposed to photolytic decay from the sunlight during the day. The photodechlorination of TCDD at position 8 to produce 2,3,7-tri CDD have been reported to decrease the toxicity by 10,00D times. The detoxification of 2,3,7,8-TCDD is reported to proceed three times faster at 30 degrees C. (mean annual daytime temperature of Saigon) than at 23 degrees C. Under such sunlight conditions TCDD contained in the herbicide has been found to have a half-life of 2 hours on leaves. Therefore, by sundown of the day of a dawn spray mission the remaining TCDD on leaves would be about 3.125 percent of the original concentration deposited at 8 A.M. in the morning by the Ranch Hand spray mission. TCDD deposited on grasses (part of the 6 percent which penetrated the canopy and reached ground level) has been reported to have a half-life of as long as 6 days. Only when the TCDD enters the soil is its half-life postulated as 1 year. Hence the entire calculation of exposure is based on an exceptionally long TCDD half life situation since the great preponderance of the herbicide was deposited on the leaves where photolytic decay of TCDD was effective. The authors may not be aware that much of the herbicide was absorbed into the leaves within 30 minutes of application and hence was entrapped in the leaves, still subject to photolytic decay, but unavailable to expose humans. Thunderstorms taking place within 45 minutes after spray application did not wash off the herbicide as defoliation still took place four to six weeks later. The authors relate their 1 year decay rate of TCDD on the findings of herbicide Orange spraying of range C-52A at Eglin AF Base. This was a flat, sandy plot of land, 1 mile on each side, completely without any significant trees or vegetation. It received 948 pounds of herbicide per acre total and was considered to be the most heavily sprayed area in the world. Sometimes more than one spray mission would be made on the range during the same day. Such massive daily applications of the TCDD containing herbicide quickly penetrated the sandy soil and became protected from photolytic decay. This test situation was not comparable to the triple canopy jungles that were primarily defoliated by the Ranch Hand spray aircraft.

The use of three radii of 5, 10, and 15 km. from the spray line or spray source appears to be very excessive based on Eglin AF base spray trials and helicopter spray testing. In one severe Eglin test 100 micron droplets of Orange were carried 1594 feet in a lateral track from the flight path in a 9 knot cross wind. These 100 micron or smaller droplets (smaller than the width of a human hair) constituted 1.88 mean percent of the herbicide load. Droplets ranging from 50 to 70 microns constitute only 0.09 percent of the herbicide Volume, however these droplets could travel a maximum distance of 2.01 km. in a 9 knot wind. The rate of deposition for these 50 to 70 micron droplets would be 0.DOD2 gal/acre, or infinitesimally small amount of TCDD beyond 2 km. Helicopter spray testing produced, under strong cross wind conditions, a maximum swath width of 1020 feet at a flight altitude of 75 feet. In this test 93.9 percent of the herbicide mass was deposited in a swath width of 440 feet. Consequently, it is believed that the exposure consideration should have been limited to a maximum distance of no more than 2 kilometers from the spray source within a maximum period of no more than three days after the spray mission date. No significant residual contamination would be expected to exist in the jungle environment because of the confinement of the spray and photolytic decay of the TCDD on the leaves and grasses.

It should also be noted that in certain aspects the HERBS tapes were quite accurate. However there are certain hidden discrepancies such as the fact that although a mission may have listed 1000 gallons as disseminated the A/A45Y-1 herbicide spray tank (1 per C-123 aircraft) could not be filled beyond 970 gallons or it would not function properly. Also in the Services HERBS tape there were about 5 percent of the sprays with unknown herbicide being sprayed. The article places much emphasis on the use of backpack sprayers being used for firebase and perimeter spraying. This was not a very effective method as many of the areas needing spraying were heavily mined and thus dangerous to a man on foot. Many other methods were used such as the HIDAL helicopter spray system used in H-19 and H-34 helicopters, field expedient spray systems using 55 gal drums and field constructed spray booms on UH-1B and UH-1D helicopters, Agrinautics spray systems for UH-1B/D helicopters in 1967, jeep mounted Buffalo Turbines used along roads and around perimeters, and power driven decontaminating apparatus mounted on large trucks. These truck mounted devices contained up to 600 gallons of herbicide which could be disseminated through fire hoses at a considerable lateral distance over mine fields. Limited spraying was done with backpack garden sprayers because of the restricted distance of the spray.

The authors seem to assume that a circular area of contamination exists out to ranges of 5, 10, and 15 kilometers. This could not logically take place as 87 percent of herbicide disseminated from the A/A45-Y1 spray system used in the Ranch Hand C-123's was in droplets having a mass median diameter between 100 and 500 microns. These droplets travel with the wind and behave the same as other liquid agent droplets. They have well defined fall rates based on their diameters, and impact on the ground at predictable times and concentrations depending on the wind speed and the meteorological lapse rate conditions. The fallout plots are in some ways comparable to radioactive fall-out plumes and would not be circular in all directions. In a no wind inversion condition very little lateral transfer takes place as was so graphically evidenced by the sharp edged defoliated spray areas recorded by aerial photographs after defoliation had taken place subsequent to the Ranch Hand missions. Therefore, personnel upwind and lateral to a spray mission would not be exposed. Only those directly downwind in the fall-out plume would have any

likelihood for exposure. In only one case, such as a helicopter spray mission completely around the circumference of a small firebase could you consider that all of the personnel within the firebase could be exposed. Any long distance spray line release, such as was routinely accomplished by the Ranch Hand aircraft, would have a fallout plume in one direction that is downwind of the prevailing wind and this would be fairly well defined by the settling rate of the various droplet sizes. During this downwind travel, these droplets would also be acted upon by the sunlight and evaporative processes, and by dilution within the air currents. For example, 13 percent (about 126 gallons/1000 gal. tank) of the herbicide Orange released from a Ranch Hand aircraft flying at an altitude of 150 feet above the jungle canopy was lost to evaporation before the herbicide reached the top layer of foliage which further decreased the amount of herbicide used in earlier calculations. This evaporative process would continue with time as the cloud traveled downwind. A 100 micron droplet in a no wind condition takes about two minutes to fall 150 feet, while a 500 micron droplet would take only 2¼ seconds.

Another consideration in the exposure methodology comes from the fact that throughout the several years of spraying of herbicides only about 1/10 of South Vietnam was sprayed. In many parts of Vietnam there was not any need to spray, and thousands of troops were in these non-treated areas. The major portion of the Ranch Hand spraying was over densely forested jungle areas occupied primarily or continually by enemy troops. The defoliation missions were conducted to expose the enemy caches, training sites, storage facilities, and supply trails to observation from our aircraft so we could bomb and strafe these targets. The Ranch Hand Squadron aircraft had the highest battle damage of any Air Force unit in Vietnam. They constantly encountered enemy ground fire during their spray missions. Fighter aircraft were allowed to strafe the sources of this enemy fire. Many of these enemy areas were repeatedly sprayed but these were areas which were never fully controlled or occupied by American forces. Hence thousands of gallons of herbicide were distributed over enemy controlled areas with no likely possible exposure to American or Vietnamese forces. Forces even 5 km upwind or to the side of a spray track would have no possible exposure probability. It is believed that the model should have concentrated more heavily on the exposure probabilities to spray operations along our friendly lines of communications and roads, perimeter spraying of firebases, base camps, and along the banks of rivers. At least in these locations there was a minor possibility of some exposure to our personnel. However, as the authors point out by the heading of their Fig. 3, these were "Minor Uses of Herbicides in Vietnam, 2965-71". Such a specific modeling methodology would have required an exact day-to-day geographic placement of each responding veteran rather than the generalized method of using 100 geographic place names over extended periods of assignment time based on recall of events some 10 to 15 years earlier. Further, many of these combat veterans may have been stationed in one location but they could have been airlifted into combat situation by helicopter far from their base location for extended periods of time. A day-to-day exact location plot for each member would have to be made before reasonable exposure probability could be developed.

The authors downplay the possibility that a veteran could have known the many locations of the Ranch Hand spray missions because he was not likely to have access to the HERBS Tapes. This may not be completely factual as many copies of the official HERBS tape document were supplied to individual veterans, veterans groups and to State Veterans Organizations. Further, a publication containing the HERBS Tapes and detailed maps was published out in California by a private organization and sold to veterans for $25.00 each. This large oversized document contained detailed information as to how to plot your assigned location to that of a Ranch Hand spray track. Also hundreds of letters were answered by the Department of Defense in which the veterans were told how they could obtain copies of the HERBS Tapes from the National Technical Information Service either in hard copy or microfiche and gave the mailing address and purchase cost. Therefore, the HERBS tapes were no secret to many veterans, veterans organizations, and state veterans commissions.

The authors point out in their 1986 article that men could have been exposed by spending time in areas long after spraying took place. They then went on to mention that tissue samples from rodents, birds, fish, and reptiles trapped several years after spray tests were halted at a Florida test site (Range C-52A probably) contained traces of dioxin. They neglected to mention that these animals had lived their entire life in this area, ate the vegetation which may have contained the TCDD, burrowed in the sand which was heavily (948 lbs/acre) contaminated, licked their fur, and may have inhaled sand and soil dust containing the TCDD that had penetrated into the soil before sunlight could act upon it. It is not surprising that the beach mouse had 300 to 2400 ppt levels of TCDD. But, troops did not have that exposure nor live in a contaminated area for years. No area in Vietnam ever received the per square meter concentrations of Orange as was laid down on this range or spilled at the loading sites.

For the reasons stated in the preceding paragraphs, the model equations would seem to overestimate the possible exposures to troops stationed in Vietnam and would generally be quite liberal as to exposure probability.

In the most recent article, 1988, the authors provided a breakdown in Figure 1, of the amounts of the various herbicides and the purpose such as defoliation, crop destruction, and base perimeters. A much more meaningful chart would have been to show the number of gallons of herbicides distributed by year by Corps area. A chart should also have been included as to the numbers of those considered exposed persons serving in each of the four Corps areas. The III Corps area received about twice as much herbicide as the other Corps areas.

One particular puzzling finding was that "Herbicide Handlers had the highest mean combat scores, about 50 percent higher than those with the lowest Agent Orange index OE3." Herbicide handlers are not fully described as being exclusively combat infantrymen or whether they were support troops. These herbicide handlers may never have been in contact with Herbicide Orange, as they may have only taken part in the use of agents blue or white for perimeter clearing of firebases. The herbicide handlers need to be questioned in great detail to effectively establish exposure.

The good correlation between high OE3 Orange exposures and high combat exposures is quite logical when radii up to 15 km. are used for the exposure model. Ranch Hand aircraft often sprayed where the enemy was concentrated or known to be operating and consequently our troops would be expected to be near these enemy controlled areas trying to engage them in combat. But these proximities do not mean that our troops were sprayed on or even entered defoliated areas while there was any residual hazard present. There was no way in which an infantry soldier could by observation determine which herbicide was used on an area he may have passed through or tell exactly how recently it was sprayed.

In the Discussion Section of the article, the authors compare the yearly spraying amounts of herbicides with the number of American troops present in Vietnam by year and state that this comparison makes the convincing point that sufficient numbers of troops are available and identifiable for epidemiologic study of herbicide effects. This premise might be valid if there was a direct correlation such that herbicides were sprayed in the largest amounts in areas where the highest concentrations of troops were located. This was not the case, the herbicides were used where they were needed to open up dense enemy controlled jungles so we could bomb and strafe the enemy supply routes, caches, camps, and assembly points and to destroy enemy controlled agricultural plots. This premise might then be much more applicable to Vietcong and North Vietnamese troops than our American forces. Large numbers of American and allied forces served in areas in Vietnam which never required herbicide applications because of the nature of the environment and foliage cover. One must remember that only 1/10 of Vietnam was ever sprayed with herbicides, and some of this 1/10 area was strongly held by enemy forces, and required yearly respraying to keep the jungle open for observation of the enemy and bombing of his routes of supply and assembly locations.

DEPARTMENT OF THE AIR FORCE,
Brooks Air Force Base, TX,
December 30, 1988.

DR. VERNON N. HOUK, M.D.,
Director, Center for Environmental Health and Injury Control (F29), Centers for Disease Control, Atlanta, GA.

DEAR DR. HOUK: My comments concerning the series of reports on the American Legion/Columbia University study of Vietnam veterans fall into five primary areas: the exposure index, statistical interpretation, questionnaire format, bias, and literature review. Many of my comments cross several of these areas. I have summarized my impressions below but have included specific comments about each individual report or document in an attachment.

The most significant problem of these reports is the calculation of exposure indices based on probabilistic models. The exposure indices used by these authors is similar in many respects to the index used in the CDC validation study. The CDC index was the more accurate of the two since it was based on records of actual troop locations rather than memory of respondents nearly two decades later. Even the more accurate CDC index was found to be invalid as a measure of herbicide exposure. Locations of military service were provided from memory by the respondents and the authors made no attempt to determine the accuracy of those reports. They state that "lying" by respondents would not affect the index, but other-

wise ignored the misclassification that could have resulted. These data were collected only to the general area of named towns, villages, and the military areas by month. In contrast, the HERBS tapes contain data by day and time. This difference in precision further limits the comparability of these data sources.

The initial article on the exposure indices was published in 1986, before the CDC validation data were available. However, the authors had ample time before the publication of the reports in Environmental Research to take those results into account. They did not make use of the CDC work despite more than 12 months in which to make revisions.

The authors also make several untenable assumptions in calculating the indices. They use an estimate of 1 year as the half-life of dioxin in the environment; however, the half-life is on the order of hours to days as long as the dioxin is not bound in the soil. Once in the soil, its availability to troops traveling through the area would be minimal. The use of up to 15 km. from herbicide spraying is also an overestimation of the area of spray drift. In the light of the imprecision of determining locations of service, an area this large was probably necessary in order to have enough "exposed" men to study. Terrain features and prevailing winds are also ignored in the index. Troops upwind of spraying and those protected by high terrain would not have been exposed.

The use of sophisticated mathematical techniques to calculate the indices does not automatically make them valid. The indices are only as good as the quality of the primary data, which is known to be invalid. The fact that the authors cite a high correlation between two of their indices (r=0.88) does not make either index accurate or valid. It is likely that only the 83 men who reported handling herbicides were actually exposed. This group represents only approximately 4 percent of the studied group.

The questionnaire is poorly designed. The data on illicit drug use are likely to be seriously underreported. Data of this type must be collected by random response techniques to obtain reasonably accurate data. The location of the questions about attitudes toward the VA before questions on health could have biased subsequent responses. The answer choices are unbalanced with three "true" choices and only one "false" choice. Many of the questions are also biased in wording; the use of words like "fully" and "all" should not be used. Veterans not needing pension or compensation services should not be expected to be "very" knowledgeable about these programs. Many questions ask for opinion about "most" veterans; this is biased. Questions are generally superficial and choices are often poor, leading to possible sources of bias. Questions about attitudes toward the VA are generally biased in wording. Some endpoints such as "skin rash with blisters" are unnecessarily vague, making interpretation hard, while the authors ignore the fact that all endpoints were "reported"; none were verified.

The interpretation of correlation coefficients throughout the reports is flawed (0.08 and 0.15 are NOT significant correlations). Most correlations between the exposure index and endpoints are 0.30 or less, a level that shows poor correlation at best. The fact that correlations were all statistically significant is irrelevant. The low p value is an artifact of large sample size and the sum of all pairwise relationships in the correlation matrix. This p value has no bearing on the validity of the correlations, with most showing only poor associations at best. The p values only indicate a measure of pairwise variance of large sample sizes and not the validity of the correlations.

All of the conclusions may be biased by the characteristics of Legion members. Use of American Legion members could induce significant selection bias, due to differences between members and nonmembers. The use of "volunteer" researchers may also generate bias in identification. There is no method of quality assurance of their work. The use of Legionnaires raises the issue of significant selection bias since they are not representative of all Vietnam veterans. The authors demonstrate lack of participation bias between SEA and non-SEA vets but not between members and nonmembers. Do Vietnam vets join the Legion in different patterns than non-Vietnam vets? This issue is not addressed and could cause severe bias. The racial distribution is markedly different. Blacks are underrepresented in the study (only 1.5 percent). These results could be biased by the patterns of membership in the Legion. This finding may represent reporting bias, but the possibility is never considered by the authors.

The statement that "Mean levels of Agent Orange exposure were ALWAYS significantly higher in . . . miscarriage . . ." appears unlikely. Surely some miscarriages occurred in women married to "low" men. This elevation in every case is highly to highlight the effect of overreporting. The use of Legion representatives who work full-time in monitoring the VA to develop the questions is inappropriate.

The editorial group appears to be quite limited with 22 percent currently at Mt. Sinai (13 of 58). This fact, coupled with the failure of reviewers to recognize the results of the CDC validation work, leads me to doubt the thoroughness of peer review. The subjective opinions of the authors are clear in the text, e.g., ". . . CDC has declined to perform . . . arguing nihilistically . . .," and comments on the "reluctance" of the VA show prejudice. Evaluation of attitudes toward the VA seems to indicate a political motive to the study. This is not appropriate for a scientific journal. The articles are rife with value-laden terminology and demonstrate a major lack of objectivity in interpretation.

The literature cited is not a complete summary of available data. Selective citation of references is evident throughout the reports. There is no attempt to differentiate between acute effects and long-term effects of exposure. The literature review does not discuss the differences between exposure of pregnant females and males. Repeatedly, pertinent and recent data were not cited or used.

Sincerely,

WILLIAM H. WOLFE,
Colonel, USAF, MC,
Chief, Epidemiology Division.

COMMENTS ON THE STELLMAN STUDIES

Environmental Research 47, 109-111 (1988)

EDITORIAL

Page, paragraph, and comment

There appears to be a limited editorial group, with 22 percent of those listed currently working at Mt. Sinai (13 of 58). I doubt the thoroughness of the peer review given to this series of articles.

P. 109, 3: Subjective opinions are clear in text that ". . . CDC has declined to perform . . . arguing nihilisticly . . ." Study was halted when accurate assessment of exposure indicated that identifiable ground troops had no increase in TCDD.

P. 110, 1: Ignores CDC ground troop validation-Published the month before these articles were submitted and 14 months before publication; allowing adequate time for revision.

P. 110, 3: Ignores the fact that all endpoints were "reported"; none were verified.

P. 110, 5: Comments on the "reluctance" of the VA show prejudice; inaccurate statements are made without evidence.

P. 111, 2: The measure of exposure is invalid by CDC work; data are unverified.

American Journal of Industrial Medicine 9:305-321 (1986)

ESTIMATION OF EXPOSURE OF AGENT ORANGE

Page, paragraph, and comment

P. 305: The probabalistic model is shown to be invalid by CDC work. This article was published before that work, but is now invalid. The indices are "opportunity" indices, not "exposure" indices. The use of 1 year half-life is probably too long in a non-soil environment.

P. 306, 2: The use of "heavy" to characterize contamination is very selective and ignores data on other species with different thresholds.

P. 306, 3: The effects cited are primarily acute effects with the exception of chloracne.

P. 306, 4: The key question of "exposure" is not validly addressed.

P. 306, 5: Citation of AFHS data omitted caution that data on birth defects was not verified.

P. 308: No attempt was made to validate the index or determine its accuracy. The index is basically the same as that used by the CDC. 309 1 The CDC index was more accurate, as it was based on records of troop locations and not on memory of place names 10 years later. 2 The use of a 15 km. area is excessive and fails to consider terrain effects and wind direction. Both are key to assessing actual exposure risk.

P. 308, 3-5: Sophisticated math manipulations and formulae are only as good as the weakest data element. Therefore, the index in this study is worthless in light of lack of correlation between serum TCDD and troop locations and self-reported exposure by ground troops (CDC).

P. 310, 1: Use of memory to pinpoint location of duty is crude when relating to specific and far more accurate spray locations. 311 1 Six to 10 miles (10-15 km.) had to be used to get adequate number of subjects. Failure to account for terrain and wind make this an estimate of maximum likelihood and creates severe missclassification.

P. 310, 3-5: No attempt was made to assess accuracy of the reported locations. Memory collected to month, but HERBS tapes to day and time. Authors doubt "lying" affected the reporting. This does not make the reports accurate for placement in/near sprayed areas.

P. 317, 1: The fact that the index is similar to methods used in industry is not reassuring. Old studies are most likely as weak as this one.

P. 3320, 1: The statement is made that the method is "readily applied at minimal expense" is true, but it is not based on reality. It should not be confidently used in any studies. The AFHS index is probably more valid than this one, and it is being replaced due to its weaknesses.

Environmental Research 47, 112-128 (1988)

COMBAT AND HERBICIDE EXPOSURE

Page, paragraph, and comment

P. 112, abst: Use of American Legion members could Combat and Herb Exp induce significant selection bias, due to differences between members and nonmembers. Authors cite a correlation coefficient of 0.24 as meaningful. This is at best only a weak relaltionship between combat and exposure to herbicides. This error of interpretation is seen throughout these reports. Authors had access to CDC data for more than a year but failed to use or cite the data in revisions of the manuscript.

P. 112, 2: Authors are standing on a "soapbox" using overstatements and ignoring contrary reports and data.

P. 113, 4: Evaluation of attitudes to VA seems to indicate a political motive to the study. This is not appropriate for a scientific journal.

P. 114, 3: Assumption that the index measures exposure to herbicides is incorrect.

P. 115, 2: Use of "volunteer" researchers may generate bias in identification. There is no method of quality assurance of their work.

P. 116: Same comments as on pages 308-311 of AJIM.

P. 117, 2: The fact that two calculated indices are highly correlated (0.88) does make either one accurate or valid.

P. 120, 3: The 83 men who were herbicide handlers are the only ones in the study truly exposed. They represent only 4% of the studied group.

P. 124, 1: Mere proximity in time and space does not equate to actual exposure. 4: The use of Legionnaires raises the issue of significant selection bias since they are not representative of all Vietnam veterans. Authors demonstrate lack of participation bias between SEA and non-SEA vets but not between members and non-members. Do Vietnam vets join the Legion in different patterns than non-Vietnam vets? This issue is not addressed and could cause severe bias. Racial distribution is markedly different.

Environmental Research 47, 129-149 (1988)

SOCIAL AND BEHAVIORAL CONSEQUENCES

Page, paragraph, and comments

P. 129: Article is rife with value-laden Social Consequences terminology and demonstrates a major lack of objectivity in interpretation.

P. 129, abst: Scales for herbicide are not "validated as stated. Some selection factors may account for some of the findings. The observed combat effects are clear, but it is unclear to what extent they are real or are influenced by selection bias. The statement on the interactive "effect" with concurrent exposure to herbicides is not valid in the light of the deficiencies in the exposure index.

P. 130: The literature cited is not a complete summary of available data. Selective citation of references is evident.

P. 131, 2: As previously noted, the index of exposure is quite weak.

P. 132: None of the endpoints were verified by records review or examination. 133, 2: Mere proximity over an extended time to a sprayed area does not equal exposure.

P. 134, 1: Blacks are underrepresented in the study. Only 1.5 percent vs at least 12 percent overall.

P. 135: The study suggests that combat had some adverse effect, but the effect of selection bias is not considered or accounted for. The conclusions that income loss has occurred is not supportable from these data.

P. 136-137: The analyses of outcomes with the exposure index are conspicuously absent.

P. 138, 2: These results could be biased by the patterns of membership in the Legion.

P. 138, 4: The sophisticated exposure indices are essentially worthless in view of the lack of a relationship between probabalistic indices and actual exposures as measured by serum levels.

P. 139, 3: The statement that all measures are correlated with combat is false. All correlations are .30 or less, a level that shows poor correlation at best.

P. 140, 2: The fact that correlations were all statistically significant is irrelevant. The low p value is an artifact of large sample size and the sum of all pairwise relationships in the correlation matrix. This p value has no bearing on the validity of the correlationships, with most showing only poor associations at best.

P. 144, 4: The use of manufactured data for an analysis of alcohol use should be deleted. The assumptions implicit in the calculation make it untenable.

P. 147, 1: The data on illicit drug use are likely to be seriously underreported. Data of this type must be collected by random response techniques to obtain reasonably accurate data.

P. 148: The conclusions may be biased by the characteristics of Legion members. The interpretations of correlation coefficients is flawed (0.08 and 0.15 are not significant corrections). There is no discussion of the limitations of the exposure index, especially in view of 1987 CDC data. There was ample time for these data to be included or cited in this publication.

Environmental Research 47, 150-174 (1988)

HEALTH AND REPRODUCTIVE OUTCOMES

Page, paragraph, and comments

P. 150: There is heavy use of value-laden Health and Repro terminology in this paper. There is no mention of probable existence of differential reporting and its bias, absent the conclusions concerning herbicide exposure are unwarranted.

P. 151, 2-3: The literature review does not discuss the differences between exposure of pregnant females and males.

P. 152, 1: Pertinent and recent data were not cited or used.

P. 153: None of the claims of exposure were validated and health endpoints were not verified.

P. 154, 1: Some endpoints such as "skin rash with blisters" are unnecessarily vague, making interpretation hard.

P. 154, 3: There is no attempt to differentiate between acute effects and longterm effects of exposure.

P. 155, 1: Pre SEA reproductive experiences were discussed. This is potentially an important confounder.

P. 159, 2: All correlations are misinterpreted. The p values only indicate a measure of pairwise variance of large sample sizes and not the validity of the correlations.

P. 160, 4: The index does not measure exposure to herbicides. It measures something else but what is not clear.

P. 162, T: All correlations for year of birth, combat and "Agent Orange" are poor.

P. 163, 2: Data on the variable "child bearing attempts" is presented. What is the purpose of this variable? Why would Vietnam vets want to have more children? This appears to be a chance finding.

P. 164, 2: This finding may represent reporting bias, but the possibility is never considered.

P. 166, 2: Statement that "Mean levels of Agent Orange exposure were ALWAYS significantly higher in . . . miscarriage . . ." appears to highlight the effect of overreporting. This elevation in every case is highly unlikely. Surely some miscarriages occurred in women married to "low" men.

P. 170, 2: Again, no verification was attempted.

Environmental Research 47, 175-192 (1988)

POST-TRAUMATIC STRESS DISORDER

Page, paragraph, and comments

P. 175: This appears to be the best written of PTSD the series. It was clearly authored by a psychologist or psychiatrist.

P. 179, 1: Response bias is accounted for, but selection and reporting biases are generally ignored.

P. 179, 2: The group under study is not representative of any group other than American Legion members (too many whites).

P. 182, T: The numbers in the tables are not consistent (Tables 2-6).

P. 190, 3: This is the first mention of self reporting bias in the series.

VIETNAM ERA VETERANS STUDY (STELLMAN ET AL.) QUESTIONNAIRE

The questions are generally superficial and the choices offered to the respondent are often poor, leading to potential sources of bias.

Data locations of service in Vietnam are only "accurate" to the month. This makes it difficult to relate veterans activities to daily spray missions.

Questions about attitudes toward the VA are generally biased in wording.

The health inventory is very cursory, vague in many areas and only covers 1½ pages.

Questions on alcohol and smoking are so short that the data are probably unreliable for any reasonable analysis.

Environmental Research 47, 193-209 (1988)

UTILIZATION, ATTITUDES AND EXPERIENCES

Page, paragraph, and comments

P. 193, abst: Biased terminology is prevalent in VA in this VA report. The effect of the media and its effect on reporting is not considered.

P. 196, 1: The use of Legion representatives who work full-time in monitoring the VA to develop the questions is inappropriate. This likely injected bias in the questionnaire, as evidenced by the wording of the questions.

P. 196, 7: The location of the questions about attitudes toward the VA before questions on health could have biased subsequent responses. The answer choices are unbalanced; 3 "true" choices and only 1 "false" choice.

P. 198, 2: Supporting data for the statement about major medical insurance and combat level are lacking.

P. 202, T: Many of the questions are biased in wording. The use of words like "fully" and "all" are biasing. Veterans not needing pension or compensation services should not be expected to be "very" knowledgeable about these programs. Many questions ask for opinion about "most" veterans; this is biased.

P. 203, T: Only data for selected questions are presented in table and text. Where are results for other questions?

P. 203, 3: In interpreting responses, "slightly true" is interpreted as a negative

response. Words such as "considerable proportion" convey vagueness.

P. 208, 1: Use of "particularly disturbing" is not objective, and should be reserved for an editorial. Bias of the author is clear.

DEPARTMENT OF HEALTH
AND HUMAN SERVICES,
December 30, 1988.

Dr. VERNON HOUK, M.D.,
Director, Center for Environmental Health and Injury Control, Centers for Disease Control, Atlanta, GA.

DEAR DR. HOUK: In response to your letter of November 22, 1988, please find enclosed our review of three papers by Stellman *et al.*, 1988 one paper by Snow *et al.*, 1988, and the editorial by Michael Gochfeld, which are based on a single study conducted on a sample of American Legionnaires. The review was completed by Marie Haring Sweeney, Teresa Schnorr, Ph.D., Victoria Wells, M.D., Ph.D., and Marilyn Fingerhut, Ph.D. Each paper is reviewed separately. A summary of our findings is presented here:

This largely negative study of a sample of American Legionnaires, who served in Vietnam and in other areas, does not confirm that experience in Vietmam caused serious health or reproductive effects among the sample of Vietnam veterans compared to non-Vietnam veterans. Serious methodological limitations include incompleted ascertainment of the target sample, lack of verification of self-reported health conditions and reproductive events, inadequate control of risk factors such as smoking and other factors in the analysis of health outcomes, and absence of adjustment for multiple comparisons. The limitations require that the few positive findings be interpreted cautiously.

The detailed reviews of each article are enclosed.

Sincerely yours,

MARIE HARING SWEENEY,
Chief, Dioxin Activity, Industrywide Studies Branch, Division of Surveillance, Hazard Evaluations and Field Studies.

COMBAT AND HERBICIDE EXPOSURES IN VIETNAM AMONG A SAMPLE OF AMERICAN LEGIONNAIRES

Stellman S, Stellman JM, Sommer JF., Environmental Research 47, 112-128 (1988)

This paper presents a brief description of methods used to estimate exposure to Agent Orange using a "probabilisitic exposure index" based on information on spray missions carried out in Vietnam (date of application, herbicide type and coordinates of application) and methods to calculate level of combat experience. Methods for selection of the study population and the resulting participation rate were also discussed.

Selection of study population, data collection methods and participation rate: Major concerns include biases introduced due to possibily incomplete ascertainment of the target population, the data collection methodology of a mailed questionnaire, and the low participation rates.

Population selection: The study population was composed of members of the American Legion in six states who had been members for less than 20 years as of 10/1/83. Selection bias and the problem of non-representativeness of the study population are inherent in this type of study because the subjects are self-selected as members of the American Legion, thus omitting nonmember Vietnam and Vietnam-era veterans. This study is unlike the CDC study which included a sample of all living Army veterans. Yet like the CDC study, the design is cross-sectional, omitting those who died prior to the study. The Stellman study (1988) also excludes members who let their membership lapse.

A particular concern of this study is the potential inability to identify the entire target population. It is not clear from the text that all Vietnam and Vietnam-era veterans fitting the inclusion criteria of the sample were identified and asked to participate in the study. If the entire target population was not requested to participate, the results would not be representative of the membership of the American Legion, nor the Vietnam veteran population. For example, if those who responded were members worried about combat-related or Agent Orange exposure and their current health, the results would be biased.

Data collection methods: All data were collected using self-administered questionnaires. No verification of self-reported health effects was conducted. This issue is particularly a problem for interpretation of self-reported medical conditions and reproductive events and, therefore, is discussed in the review of "Health and Reproductive Outcomes among American Legionnaires in Relation to Combat and Herbicide Exposure in Vietnam."

Participation rate: The text does not state the exact response rate for each state. The report indicates that participation ranged from 52.5 percent to 64.1 percent, suggesting that participation of those contacted was low.

The method for assessing response bias appears reasonable for description of the respondents, but it is also important to determine the characteristics of the nonrespondents and whether or not the nonrespondents were similar in health and exposure parameters to those who participated. A characterization of non-respondents was not discussed.

Exposure assessment: The authors state that they "provide an analysis of patterns of exposure of American Legionnaires to various levels of . . . herbicides". Actually, they utilize their 1986 exposure indices which calculate proximity (within 15 km) between the location self-reported by the participants to the location of herbicide sprays obtained from the Air Force HERBS tapes and related documents.

Unfortunately, the authors failed to discuss the validation study conducted by the CDC to test the adequacy of a similar exposure system based upon the HERBS tapes, even though they were aware of the study. The validation study, required by the Office of Technology Assessment of the Congress, demonstrated conclusively that there was no association between the exposure levels predicted by the proximity of geographic location of troops with location of herbicides sprays as documented on the Air Force HERBS tapes. It is standard procedure for researchers to point out how their methods and results compare with others. The failure of the authors to explain why they consider their method to be valid in light of the demonstration of the CDC that a similar effort was proven incorrect leads to a worrisome concern about lack of objectivity in conducting the research or writing the paper. We would have preferred to see the authors propose that their system be tested in a similar fashion. Instead, they conclude that they have provided "a readily used and inexpensive exposure classification system", even though they have not tested its accuracy in any way nor have they pointed out the clear failure of a very similar system designed with at least equivalent care and effort by the CDC.

SOCIAL AND BEHAVIORAL CONSEQUENCES OF THE VIETNAM EXPERIENCE AMONG AMERICAN LEGIONNAIRES

Stellman JM, Stellman SD, Sommer JF, Environmental Research 47:129-149 (1988)

This paper reviewed demographics, smoking and alcohol consumption patterns and social and behavioral parameters among the studied sample of Legionnaires.

Demographic characteristics and personal habits: The study population was composed of all males and was 98.5 percent white. This is in contrast to the Army veterans studied by CDC who were 83.2 percent white males. Among the Legionnaires, there was no difference in the level of education achieved between Vietnam and non-Vietnam veterans. When comparing the Legionnaire data to the CDC cohort, 6.3 percent of the Vietnam veterans and 5.5 percent of the non-Vietnam veterans achieved less than a high school education while in the CDC cohort, 14.1 percent of the Vietnam veterans and 11.6 percent of the non-Vietnam veterans did not graduate from high school. These data suggest that the Legionnaires tend to be more highly educated than other groups of veterans.

Social and behavioral functioning: The report concluded that social and behavioral functioning, such as sexual satisfaction and marital stability, diminish with increasing exposure to combat. The arguments are presented clearly. Unfortunately, some factors which may predispose individuals to increasing combat level and the outcomes under study, e.g., personality characteristics developed prior to service, are not fully studied. The Card (1980) study claims that the men who served in Vietnam were "comparable to their peers who did not . . . (serve in Vietnam)," but it seems likely that unmeasured (and perhaps often unmeasurable) factors might lead to "increased combat exposure," and "social dysfunctioning."

Likelihood of exposure to Agent Orange was "statistically associated" with two behavioral outcomes, anxiety and physical depression. However, when "exposure to combat" was added to the model, these associations were not statistically significant. The authors conclude that the effects of herbicides on psychosocial well-being should be studied only with "exposure to combat" as a potential confounder. It is our opinion, that based on the results of the CDC serum 2,3,7,8-TCDD validation study, there is little evidence of exposure for the majority of the veterans stationed in Vietnam. Since the results of the CDC study were available to the researchers, it is surprising that their discussion include a recognition of this information. The results of this study implicate combat intensity as a contributor to increased social dysfunctioning.

HEALTH AND REPRODUCTIVE OUTCOMES AMONG AMERICAN LEGIONNAIRES IN RELATION TO COMBAT AND HERBICIDE EXPOSURE IN VIETNAM

Stellman S, Stellman JM, Sommer JF., Environmental Research 47:150-174 (1988)

A. HEALTH EFFECTS OTHER THAN REPRODUCTIVE

The study found generally negative results for most self-reported conditions which the authors describe as endpoints of exposure to phenoxy herbicides or TCDD.

Interpretation of the few statistically significant excess risks among veterans stationed in Vietnam compared to non-Vietnam veterans is severely limited due to possible selection biases. The limitations of the health data are as follows:

(1) Questionnaire construction: Many of the outcomes collected in the questionnaire are confined to broad classifications of diseases e.g., heart disease, genito-urinary problems or nervous system disease, rather than specific conditions. Information on specific conditions was not solicited. Collection only of broad classes of conditions is not appropriate because the relevant literature does not associate every disease within a broad classification with exposure to phenoxy herbicides. A better method would have been to collect the names of the specific conditions and then combined related effects in the analysis. In addition, some of the questions ask for past occurrences of unrelated conditions, which may lead to erroneous conclusions. For example, the article defines sebaceous cysts as an example of benign fatty tumors. Sebaceous cysts have been described in workers diagnosed with chloracne, however, according to our consulting dermatologist, sebaceous cysts are quite rare and they are not considered to be benign fatty tumors. Therefore, the excess of benign fatty tumors described among Vietnam veterans with "the potential for high Agent Orange exposure" may be an artifact of incorrect question construction.

(2) Risk Factors: An extremely important omission in the text is the lack of discussion about which confounders or other risk factors were included in the assessment of the reported conditions. For example, the risk for heart disease was adjusted for age, but there is no mention that the analysis was adjusted for smoking, high blood pressure, obesity or other factors which are well-known risk factors for many types of heart disease. Information on smoking and current weight and height was collected in the questionnaire and could have easily been introduced into the analysis.

Several skin conditions were also reported in excess among Vietnam veterans compared to non-Vietnam veterans. These conditions may also be related to exogenous or endogenous factors including medications, allergies, chemical exposures, none of which were quantified or controlled for in this study.

(3) Confirmation of self-reported conditions and symptoms: All of the information collected on each health outcome and symptom was self-reported in a mailed questionnaire. None of the conditions were confirmed by examination of records documenting such events. Although validation of self-reported events is an arduous task, it is necessary to assess and control for the possibility of recall and reporting biases in the study groups. Previous studies have documented that individuals with a disease of interest or with exposure to a substance under investigation, have heightened recall of events compared to controls without the disease or the exposure. For example, the four skin conditions asked about in the questionnaire were found to be statistically significantly elevated among Vietnam veterans. These conditions have been repeatedly reported in the scientific literature and popular press to be associated with exposure to dioxin-contaminated materials, particularly in exposed occupational populations. This coverage could have influenced the responses of the subjects.

Reporting bias may also be a problem if there is not a consensus on the interpretation of each question by the targeted responders. Short of employing training interviewers to administer the questionnaires, review of clinical records would help to confirm the diagnosis of the self-reported events. Without any type of confirmatory data, it is not possible to rule out the possibility that positive findings are the result of reporting and recall bias.

(4) Another major concern regarding this study is the lack of documentation of other exposures, particularly occupational, which are related to the health outcomes of interest and which may have occurred during the 20 years between the veteran's tour in Vietnam and his participation in the study. Many other chemicals and physical agents cause health effects which are also associated with exposure to dioxin-contaminated materials. The omission of this information is a serious flaw in the design of the study.

(5) There are many statistical tests conducted on this data set. However, there was no mention that corrections were made to correct for the multiple comparisons problem.

Summary: The health effects reported in this paper are generally negative, although some conditions were reported in excess among Vietnam veterans. The quality of the self-reported data are suspect because they were not confirmed with more objective data, such as information from medical care providers. Outcomes found in excess among Vietnam veterans compared to non-Vietnam veterans must be interpreted cautiously due to the absence from the models of risk factors other than the exposure and combat indices.

B. REPRODUCTIVE OUTCOMES

In the reproductive component of the study, there is not sufficient detail in the report to permit us to draw meaningful conclusions regarding reproductive effects. The descriptions of the study methods and the analytic techniques omit critical details. These are enumerated below:

(1) The response rate was apparently quite low. Of the 12,588 Vietnam veterans mailed a questionnaire (Stellman preliminary report) only 6,810 (54 percent) responded.

(2) The study population for the reproductive outcome analysis is not well described. In Table 9, a total of 3,372 men are reported to have had or tried to have children. In "the Delay in Fathering" analysis, 3,078 men were included in the analysis. This was 294 fewer men, presumably because 294 men had fathered a pregnancy prior to Vietnam service. In the miscarriage analysis, 2,950 men were analysed. This number is 128 fewer than the number given for the Delay in Fathering Analysis but no explanation is given for the difference.

(3) There is some concern about the validity of the outcome data for three reasons. (1) The data on the outcomes of pregnancies were obtained from men, not the women. Other studies have shown men to be poor informants regarding their wives' pregnancy outcomes. (2) The data were obtained by a mailed questionnaire, which is less detailed or complete than other administered questionnaires. (3) The pregnancy outcome responses were not validated with medical records, so the potential for differential recall cannot be evaluated.

(4) All pregnancies were included in the analysis. Inclusion of all pregnancies can lead to a biased estimate since the pregnancies of an individual woman are not independent events. In the analytic technique used, a single women could have contributed many miscarriages to the data set. The authors do not discuss this issue and did not attempt to control for this factor in the analysis.

(5) Factors such as parity and prior spontaneous abortion are important risk factors for spontaneous abortion. However, these factors were not considered in the analysis.

(6) It appears from the questionnaire that date of the pregnancy and date of Vietnam service were available for consideration in the analysis. An analysis of miscarriage by time since Vietnam service would have been useful in interpreting the findings.

(7) The question used to determine whether the veterans had difficulty having children was phrased rather vaguely "Have you ever experienced difficulty in having children?" A more objective definition such as "Did you ever try to have a child for at least one year but were unable to?" would have been more likely to be interpreted uniformly by respondents.

Summary: Given the limitation in the data collection and analyses, at this time, it is difficult to agree with the authors' conclusions that miscarriages showed a dose-related risk with Agent Orange exposure.

Post-traumatic stress disorder among American Legionnaires in relation to combat experience in Vietnam: associated and contributing factors. Snow BR, Stellman JM, Stellman SD, Sommer JF. Environmental Research 47: 175-192 (1988).

Of the four papers in the series, this one has the best organization and clearest presentation; the hypotheses and objectives of the analyses were stated clearly, and the results were to the point. The authors state that the instruments used to assess post-traumatic stress syndrome (PRSD) included a list of symptoms from the DSM/III and a combat scale, which had been validated in previous studies. The data indicate the individuals with exposure to eight or more combat events report more of the symptoms consistent with PTSD and that a higher combat score is directly related to higher PTSD intensity scores. According to one definition of PTSD, the percent of participants in this study reporting symptoms consistent with a diagnosis of PTSD (15 percent) was similar to the percent of Army veterans in the CDC study who had met the diagnostic criteria for PTSD at some time during or after service (15 percent).

Summary: This article shows that some veterans in this sample demonstrate symptoms which are consistent with PTSD. Although the authors state that the subjects were a "random sample" of Legionnaires, the first paper in the series points out the volunteer nature of the participation. Therefore, it is not possible to know whether or not the nonrespondents experience the same pattern of symptoms as respondents.

EDITORIAL: NEW LIGHT ON THE HEALTH OF VIETNAM VETERANS

By Michael Gochfeld

Although this editorial may have been written prior to the 1988 JAMA publication of the results of the CDC validation study, the MMWR carried the information in 1987, and the data were presented in October 1987 at the Seventh International Symposium on Dioxin in Las Vegas. Dr. Gochfeld omits a description of the CDC study, although he clearly supports the concept that "measurement of TCDD levels in blood is a feasible biologic marker of past exposure to dioxin . . ." and that ". . . such a surrogate may be utilized as an index of exposure

. . .". It is our opinion that the CDC validation study clearly demonstrated that there was not substantial exposure to Agent Orange among the ground troops in Vietnam. Failure to compare the two exposure systems in the editorial leaves the reader without a critical evaluation of them.

Dr. Gochfeld refers to the conclusion (drawn justifiably, in our opinion) to cancel the CDC study of Agent Orange-exposed veterans and he agrees that the CDC validation study had demonstrated that "only a minority of veterans had appreciable herbicide exposure". That validation study also demonstrated that the HERBS tapes failed to predict exposure levels which correlated with levels of dioxin in veterans. Consequently, we disagree with Dr. Gochfeld's statement that the present paper explains how to avoid the misclassification of exposure in prior studies. We suggest that the authors follow the CDC example and test their exposure-system by evaluation of dioxin levels in a sample of veterans identified as having high, medium, and low levels of exposure to Agent Orange. Until they have demonstrated that their system is accurate, it should be assumed to have the same flaws as the system ultimately rejected by CDC.

The editorial also misses the opportunity to explain the epidemiologic pitfalls of the study, including selection and reporting biases and non-representativeness of the sample. This would have been a perfect chance to educate the interested public in the problems associated with cross-sectional studies. However, the author does point out of the limitations of reconstructed exposure histories and the inherent biases of exposure misclassification.

With regard to health effects, the author suggests that the "health effects data actually confirm some fears" but he does not explain that the report reflects the opinions of the sampled veterans about their health because there was no confirmation of the accumulated data, and, therefore, the results of the study must be interpreted cautiously.

VETERANS' ADMINISTRATION,
Washington, DC, December 30, 1988.

Dr. VERNON N. HOUK, M.D.,
Director, Center for Environmental Health and Injury Control, Centers for Disease Control, Atlanta, GA.

DEAR DR. HOUK: As requested, enclosed are comments prepared by myself and Dr. Han K. Kang on the recently completed American Legion studies.

If you have any questions regarding our comments prior to the January 10, 1989, meeting of the Agent Orange Working Group Science Panel please feel free to call me at FTS 373-3064/4117. Dr. Kang can be reached at (202) 634-4600.

Sincerely,

LAWRENCE B. HOBSON, M.D.,
Director, Environmental Medicine Office.

AMERICAN LEGION STUDIES ON HEALTH OF VIETNAM VETERANS

1. The studies by Stellman and Stellman for the American Legion have produced a paper on methodology (AM. J. Industr. Med. 9:305-321. 1986) and a series of five papers on results (Envir. Research. 47:112-209. 1988). The latter series also contains an editorial by Gochfeld.

2. The entire effort depended on self-reporting by 6,810 American Legion members who are Vietnam era veterans and 2,860 of whom served in "Southeast Asia." Each subject received a questionnaire asking about his service in Vietnam, medical and psychological status, reproductive history, socioeconomic factors, and attitude toward the Veterans Administration. The questionnaire required some one and a half hours to complete and the American Legion assigned a "volunteer researcher" to each subject to ensure a high compliance rate. The investigators believe, but without evidence, that this did not influence responses to the questions.

3. Copies of the questionnaire have not been supplied on request, but some details are mentioned in the papers. The form asked whether a doctor had informed the veteran that he had one or more of 23 diseases (not listed in the paper) and also 28 "health conditions currently a problem" (also unlisted). In addition, specific questions were asked about acne, skin rash with blisters, changes in skin color, and a part of the body becoming more sensitive to light. These are said to have been "questionnaire derived."

4. Exposure to Agent Orange was calculated by a somewhat complex formula that depended on the veteran's locating himself in Vietnam. To do so he was given a list of at least 98 place names with a map and asked at which and on what dates he served there. Information from the HERBS tapes was used to locate spraying. The evaluation method is essentially the same as that tried and discarded by the AOWG Science Panel, Office of Technology Assessment, the VA, and the Centers for Disease Control. It has numerous serious defects and now has been shown to be useless by the finding of no exposure among ground troops by blood assays for 2,3,7,8-TCDD even for such veterans whose supposed contact with Agent Orange was calculated to be great.

5. Combat experience was judged by response to eight questions. No attempt was made to validate the answers by comparing with military records, i.e. assignment to companies, correlation with company records of location, military specialties, and special duties.

6. Results, especially physical and mental health, are reported in a confusing fashion, especially in respect to a causal relation distinguishing between Agent Orange exposure and combat stress. Thus heart disease is sometimes included among the effects of Agent Orange and at other times is specifically excluded. In most places, the health effects of herbicides are given as four: skin rash with blisters; adult acne; increased sensitivity to light, and benign fatty tumors. The latter are reported as including sebaceous cysts, not properly so considered. Veterans who had actually handled herbicides were said to have had more cases of hypertension and gastric or intestinal ulcers. Wives of veterans who were said to be exposed to Agent Orange were reported to have had greater risk of miscarriages.

7. Truly serious physical diseases, such as epilepsy, ulcerative colitis, and Addison's disease, had too few occurrences to be correlated and some, such as kidney disease and diabetes, occurred uniformly in various groups. Other medical conditions were said to be related to service in "Southeast Asia," e.g., heart disease, without ascription to a specific cause.

8. Combat stress was found to be dose-related to hypertension, ulcers, fatty tumors, arthritis, G-U problems, and major accidents. There was also an increasing prevalence of post traumatic stress disorder with an increasing level of combat, as judged from the questionnaires. Among 28 percent of veterans with higher combat stress, 15 percent reported PTSD according to the definition used.

9. Questions about relationships with the VA where biased in several instances, e.g. "I have been fully informed about the availability of an Agent Orange examination at the VA." Results included a lower level of knowledge about the VA and more negative attitudes toward the VA among veterans who had never used the VA. Emphasis was given to the failure of VA facilities to ask questions relevant to PTSD and about combat experiences.

10. The questionnaire survey was completed in 1984. No mention is made of Vet Centers, nor of the VA registry, of recent research, of late Air Force reports on Ranch Hand studies. The CDC blood level experience is completely ignored.

11. In view of the technical flaws, of the lack of reference to recent research, and the trivial nature of the health effects attributed to exposure to Agent Orange, the Stellmans' reports hardly justify the statement that the findings are of major importance or indicate serious health defects resulting from exposure to Agent Orange.

A REVIEW OF THE AMERICAN LEGION STUDIES PUBLISHED IN ENVIRONMENTAL RESEARCH

I. EDITORIAL: NEW LIGHT ON THE HEALTH OF VIETNAM VETERANS

The editorial points out "only a minority of veterans had appreciable herbicide exposure." No one seems to disagree on this point. The question that everyone is struggling with is how to identify them within the limits of resources and time. The Stellman et al paper simply presents another way to classify Vietnam veterans based on military records without any evidence that their classification method is reliable. The CDC validation study demonstrated convincingly that military records alone are not a sufficient basis for the categorization of Vietnam veterans according to their probable Agent Orange exposure. The editorial did not mention the CDC study.

Dr. Grochfeld seems to favor the use of a surrogate measurement, TCDD levels in blood, as an index of the exposure and as a basis for analytical stratification. However, it is not conceivable to apply this invasive, costly procedure to all of the 3 to 4.4 million veterans who served in Southeast Asia.

Granted this is an editorial, but some phrases are inflammatory and not substantiated. For example, "remarkably complacent responses" referring to the VA and the DOD, "a dearth of well designed studies" discussing scientific evidence, "arguing nihilistically" describing the CDC, "with much reluctance" and "of varying reliability" characterizing the VA Agent Orange Registry Program.

Contrary to the editorial, the VA has provided priority medical care to all Vietnam veterans under PL 97-92, 99-166 without regard to the veteran's age, service-connected status or the veteran's ability to pay for the expense of such care. Almost all Vietnam veterans who may have been exposed to Agent Orange are eligible for medical care under this program except those veterans presenting the following types of conditions that are not ordinarily considered to be due to Agent Orange exposure: 1. congenital defects; 2. conditions which are known to have pre-existed military service; 3. conditions resulting from trauma; 4. conditions having a special and well established etiolo-

gy. This priority treatment program has been in existence for 6 years (not 2 years) and a total of 1.3 million outpatient visits and 25,000 inpatient treatments have been made under this program. These figures indicate that the eligibility requirement for medical care is not as stringent as the editorial suggested.

II. COMBAT AND HERBICIDE EXPOSURES IN VIETNAM AMONG A SAMPLE OF AMERICAN LEGIONNAIRES

This paper describes two critical methods for determining the likelihood of exposure to Agent Orange and the extent of combat experience based on military records or self-reported data. Analyses and interpretation of the subsequent four papers very much hinge on the validity and reliability of these methods. The paper fails to present any convincing evidence that both methods are valid and reliable. The fact that "a large proportion of men whose likelihood of herbicide exposure was either nil or low, while a sizeable number of individuals were classified as high exposure" is not by itself evidence that the method is valid. This may be a simple reflection that herbicides were not applied uniformly throughout South Vietnam. Furthermore, "that health-related effects to be presented in the successor paper of this paper often display a dose-response relationship with respect to herbicide exposure" may be resulting from selective recall of veterans who may have various health conditions. The results of the study would have been more convincing had there been some effort to validate questionnaire data against readily available military personnel records and medical records.

No reference or discussion was made concerning the CDC validation study which indicated no matter how one uses military records to classify exposure likelihood, classification based on military records is not supported by TCDD levels in blood.

Aside from the lack of validation, there is no evidence that an internal consistence in responses was carefully checked. There are some questions I would like to ask.

1. What is the definition of Vietnam Era in this study?

2. How many veterans selected for the study by the "volunteer researchers" were found not meeting the eligibility criteria after questionnaires were completed?

3. How many veterans served in Cambodia or Laos? What was their Agent Orange exposure classification? What were their stated health problems? To my knowledge HERB tape and Services HERB tape do not contain data on use of herbicide in Cambodia or Laos. Therefore, veterans who served in either country should have been classified as no or minimum exposure unless they handled herbicides.

4. One out of 10 veterans who served in non Southeast Asia were classified as having levels of combat ranging from 11 to 15. Were they mostly career type veterans whose military service dates included a period of other war? If not, can their stated combat exposure away from hostile enemy activities in Southeast Asia be explained?

III. SOCIAL AND BEHAVIORAL CONSEQUENCES OF THE VIETNAM EXPERIENCE AMONG AMERICAN LEGIONNAIRES

The entire report is based on questionnaire data without a single item being checked for accuracy or a systematic bias. How does one rule out the possibility of selective recall among those veterans experiencing social and behavioral problems? Although the effects of combat experience on social and behavioral outcomes are plausible, erroneous findings cannot be ruled out. When there is substantial difference in the marital status of these two groups (Vietnam and non-Vietnam veterans), family income rather than veterans' income may not be an appropriate measure of socio-economic status of veterans.

IV. HEALTH AND REPRODUCTIVE OUTCOME AMONG LEGIONNAIRES IN RELATION TO COMBAT AND HERBICIDE EXPOSURE IN VIETNAM

Lack of any attempt to validate data on both outcome variables and independent variables is again of major concern in the report. Notwithstanding this concern, the observation that only one medical condition (benign fatty tumors) was associated with Agent Orange exposure provides a sense of relief. With respect to reproductive outcomes, it should be noted that male veterans were asked family reproductive histories rather than their wives. On page 152, the Hoffman et al. (1986) paper was cited for "statistically significant differences in immune system response". It should be noted, however, that in a later year the authors reported the failure to confirm depressed delayed-type hypersensitivity skin test reactions in the TCDD-exposed cohort. (Dioxins 87, October, 1987).

V. POST-TRAUMATIC STRESS DISORDER AMONG AMERICAN LEGIONNAIRES IN RELATION TO COMBAT EXPERIENCE IN VIETNAM: ASSOCIATION AND CONTRIBUTING FACTORS

The existence and elevated rate of PTSD among Vietnam veterans are certainly plausible but the lack of validation of combat experience makes the finding less convincing. It should be noted that the prevalence of PTSD can range from 1.8 percent to 15.0 percent depending on the definition of evidence of exposure to a traumatic event.

VI. UTILIZATION, ATTITUDES, AND EXPERIENCES OF VIETNAM ERA VETERANS WITH VETERANS ADMINISTRATION HEALTH FACILITIES: THE AMERICAN LEGION EXPERIENCE

There seems to be a gross misconception of the role of the VA in providing medical care to veterans. The VA under the law provides medical care (both in patient and outpatient) primarily to veterans with service connected health problems. If beds are available services are provided to other veterans. In other words, the VA is not authorized to provide free medical care to all veterans.

Several questions were asked which would likely generate negative responses. For example, (1) the lifetime health benefits of the VA were a strong incentive to me to join the service; (2) in an emergency situation I would prefer to go to a VA facility than to a community hospital; (3) the VA system is a good, secure alternative for me for health care needs in the future; and (4) the VA system provides security and peace of mind to most Vietnam era veterans.

Some questions were phrased in such a way that answers would be almost always "not true". Examples are (1) I am fully aware of all the benefits . . .; (2) I am very knowledgeable . . .; (3) I am aware of the workings of the . . .; and (4) I have been fully informed about the availability of . . . One question seems to ask other veterans' perceptions rather than the respondent's, i.e. most Vietnam veterans feel very positive about the VA. It is encouraging that the majority of those who used the VA have expressed a great deal of satisfaction toward their experience.

In conclusion, I do not find much fault in the mechanical handling of data that has been collected. Statistical tests seem appropriate and interpretation seems reasonable. However, they fail in one crucial area: no attempt was made to validate any of the data items they collected. If one starts out with invalid data, no amount of statistical manipulation will make it right.

HAN K. KANG, DR. P.H.,
Veterans' Administration,
Office of Environmental Epidemiology.

DEPARTMENT OF HEALTH AND HUMAN SERVICES,
December 23, 1988.

From: John F. Young, Ph.D., Dirctor, Division of Reproductive and Developmental Toxicology.

Subject: Review of articles from Environmental Research (47:112-209,1988) by Stellman et al.

To Dr. Vernon Houk, Chairman, AOWG Science Panel.

Overall Impression: A large study involving a lot of work which was fairly well done! The strong correlation between combat and Agent Orange (AO) exposures is not unexpected data to the way the study was conducted (self-reporting questionnaire); additionally, any correlation with combat status will also correlate with Agent Orange exposure. However, in light of the recently published CDC's TCDD serum data of Vietnam veterans (JAMA 260:1249-1254, 1988) which used similar procedures to identify the potentially highest AO exposure troops (including self-reporting) and which indicated that actual AO exposure probably did not occur to any appreciable extent in any of the ground troops, the findings by Stellman et al. in relation to AO exposure has less significance.

The combat scale is inconsistent among the five papers. Why?

Paper 1—Fig. 4 & 6 -> 3 levels of low, medium, and high. Table 3 -> 5 levels of numerical scores. Fig. 5 -> levels of lowest, low, medium, high, and highest.

Paper 2—3 levels used throughout this paper.

Paper 3—3 levels in Tables 4 and 5.

Paper 4—3 categories different from all other papers -> median, 1 or more events, and all 8 events.

Paper 5—Fig. 1,2,3, and Table 6-5 levels. Fig. 4-2 levels of average or less and above average.

Specifics:

PAPER 1: COMBAT AND HERBICIDE EXPOSURES IN VIETNAM AMONG A SAMPLE OF AMERICAN LEGIONNAIRES

Environ Res 47: 112-128, 1988

(1) Fig. 2.—Are the Orange and White labels reversed? It would appear to be reversed if Figure 1 is correct with the usage amount of AO about twice that of Agent White.

(2) Table 2.—How were the 95 percent confidence intervals calculated? According to the text (page 120, 2nd paragraph), the herbicide exposure index OE3 mean was 0.357 with a standard deviation of 0.752 which would translate into a 95 percent CI (+/− 2 SD) of 0-1.861. However, the table was a 95 percent CI of 0.32-0.39. I wonder about the rest that cannot be checked.

(3) The combat ranking scale varied from Table to Table or Figure; e.g., Table 3 has 5 levels of combat scores, Figure 5 has 5 levels of lowest, low, medium, high, and highest, and Figure 6 has 3 levels of low, medium, and high. How do these various rating scales

interrelate? Is the "lowest" in Figure 5 the same as the score of 8-10 in Table 3? Is the "low" in Figure 6 the same as the "low" in Figure 5 or is it equivalent to the "low + lowest" in Figure 5?

(4) In a paper describing a procedure of picking cohorts, it would be of interest to see the responder characteristics between the Vietnam veteran and the non-Vietnam veteran (the two comparison groups). Instead the authors chose to present the responses between two States (Table 4). Isn't this trivial information that skirts the main issue of comparison?

(5) In general it would have been informative if the authors had presented the actual logistical information of total number of members of the 6 American Legion state organizations, number of postcards sent out and returned, number of questionnaires sent out and returned, and complete demographic information on the two cohorts.

PAPER 2: SOCIAL AND BEHAVIORAL CONSEQUENCES OF THE VIETNAM EXPERIENCE AMONG AMERICAN LEGIONNAIRES

Environ Res 47:129-149, 1988

(1) The authors stated that education was predictive of income (p. 134, last paragraph) and that income was inversely related to combat level (Fig. 1). Is there any information from the available literature that would indicate that lower educated troops were more often used in the more intense combat areas? Does the "pre-Vietnam" educational level also correlate inversely with combat level?

(2) I doubt the significance of the data in Table 3. I find it hard to believe that a mean income difference of −$3000 will be statistically significant (Table 3) or that the bars in Fig. 1 are really the 95 percent CI. If we take the data from Fig. 1 for "Not SEA", the 95 percent CI would include incomes of between $20,000 and $21,000; using Table 2, 95 percent of the "Served elsewhere" group would have an upper income of $21,000 and a lower income of $20,000. Therefore only about half of the graduate/professional school group would be earning over $21,000 and only half of the group with less than a high school education are earning less than $20,000. I don't believe this is reasonable. It may be a minor point, but what does it mean in relation to the rest of the numbers that are presented as means and 95 percent CI that cannot be checked.

(3) The authors also state in regards to this same data that "These findings demonstrate that significant family income loss has, on the average, occurred among Vietnam combat veterans, irrespective of their degree of educational attainment." (p. 135, first sentence of last paragraph). They do not present the data to substantiate this statement.

(4) Table 4.—How do they calculate the odds ratios? I don't understand how they can calculate a "p" value from count data. What is used for the variance? It would have been helpful if the authors had chosen to present their statistical treatment procedures.

(5) On page 148, first paragraph, the authors state that ". . . there is an over-representation, by design, of men with combat zone experience, . . .". What is this based on and how was it done? There are more non-SEA persons than Vietnam veterans in the total study, there are more persons in the low combat category than the high, and the level of combat experience was only obtained after the questionnaire was returned. Therefore how or what was done "by design".

PAPER 3: HEALTH AND REPRODUCTIVE OUTCOMES AMONG AMERICAN LEGIONNAIRES IN RELATION TO COMBAT AND HERBICIDE EXPOSURE IN VIETNAM

Environ Res 47:150-174, 1988

(1) In the other 4 papers in this series, the measured parameter of interest is correlated to combat level and then to Agent Orange. In most cases the effect of AO is minimal due to the strong correlation that was obtained between combat and AO. Therefore the culprit was "combat" that caused all of the problems. However, in this paper the authors have reversed the order of regression with AO being the primary culprit and combat taking the secondary role. Why have they taken this approach and changed their mode of statistical evaluations?

(2) Table 1.—It is interesting to note that in every instance, the Vietnam veteran had a higher incidence of the disease or condition. Might not this indicate that the Non-SEA person was less likely to report a malady than the Vietnam veteran? Why was cancer (especially Non-Hodgkin's lymphoma or soft-tissue sarcomas) not included on the list of medically diagnosed diseases? That is the area that has received the most press for a number of years.

(3) On page 162, the authors explain that birth defects data is not included because it is necessary to have medical verification for such findings. Why is verification of the other medical diagnosis not necessary?

(4) Page 166, 2nd paragraph: Where is the data to support the authors' statement "Mean levels of Agent Orange exposure were always significantly higher in pregnancies which ended in miscarriage, compared to those that ended in live births, . . .".

(5) There is a general lack of a real discussion section in this paper. The literature is discussed but the "data" presented in this paper is not discussed.

PAPER 4: POST-TRAUMATIC STRESS DISORDER AMONG AMERICAN LEGIONNAIRES IN RELATION TO COMBAT EXPERIENCE IN VIETNAM: ASSOCIATED AND CONTRIBUTING FACTORS

Environ Res 47:175-172, 1988

(1) Page 190, 2nd paragraph: The authors state that PTSD-like symptoms were found in veterans not considered to be exposed to heavy combat, yet no data was presented to compare the Vietnam veteran to the "no combat" Non-SEA group. The data was apparently available to make such a comparison.

(2) AO is not discussed in this or the final paper, even as a potential interaction element, as was done in the first two papers. I wonder why?

PAPER 5: UTILIZATION, ATTITUDES, AND EXPERIENCES OF VIETNAM ERA VETERANS WITH VETERANS ADMINISTRATION HEALTH FACILITIES: THE AMERICAN LEGION EXPERIENCE

Environ Res 47:193-209, 1988

(1) I didn't find anything really surprising in this paper other than there was no comparison to the AO exposure level.

EDITORIAL: NEW LIGHT ON THE HEALTH OF VIETNAM VETERANS

Michael Gochfeld, Environ Res 47:109-111, 1988

The author indicates his bias very early in the editorial with the statement concerning the "remarkably complacent responses" of the DoD and VA. Later in the article he refers to the VA's role with terms such as "with much reluctance", "of varying reliability", and "the VA's inadequate role".

He also makes a much bigger point of the role of AO in the statistical analyses of the 5 papers than is actually found in the data. Mr. Gochfeld does indicate the value of TCDD blood levels as a biomaraker for AO exposure, but does not follow through with the logical inclusion of a reference to the CDC work; perhaps a problem with timing. In light of the DC JAMA article, I do not agree with Mr. Gochfeld or the Stellman et al. articles that "categorization of Vietnam veterans according to herbicide exposure can be successfully accomplished".

Unfortunately, the editorial put too little emphasis on the main issue of combat level related issues in the obvious desire to over implicate the weaker role of Agent Orange exposure.

THE UNDER SECRETARY OF DEFENSE FOR ACQUISITION

Mr. DIXON. Mr. President, in the near future the President will announce the results of the "management study" which he commissioned during his State of the Union Address. This study is to provide an overall review of the Defense Department's management structure and procurement practices, and initiate steps to bring the Department into full compliance with the recommendations of the "Packard Commission." I look forward to the conclusions and recommendations that the President and Defense Secretary Cheney will make.

Mr. President, since coming to the Senate in 1981 I have been personally involved in the Senate's review of and legislative initiatives in the area of defense procurement policy. In fact, I offered the first legislative proposal in the Congress to create the position of the Under Secretary of Defense for Acquisition—a position that Congress enacted in July 1986 and refined in subsequent legislative provisions. As a member of the Senate Armed Services Committee, I have been a student of the background and intent behind the Packard Commission recommendations, and a strong supporter of those very important guidelines.

When I introduced the first legislation to create the Office of the Under Secretary of Defense for Acquisition, I had one principal purpose in mind—to create a senior level official in the Department of Defense who would be the child policymaker for defense acquisition, and who would have the oversight authority for the Pentagon's weapons systems purchases. The position was to be the designated "czar" of all phases of defense procurement. Regrettably, I must report that, despite my efforts and those of my colleagues in the Congress, our goal has never been achieved.

Our congressional hopes and aspirations for the successful implementation of this critical position will have no future if this entire enterprise is not moved off dead center. Because that initiative appears fuzzy at the administration's end of this undertaking,

it appears that the task may once again be left to Congress.

Since the Packard Commission issued its report in June 1986 there has been a followup report which Mr. Packard personally conducted for President Reagan, and dozens of studies and analyses of the status of the recommendations. I remember vividly the testimony of former Deputy Secretary Taft—proudly announcing that the department had fully implemented all of the Packard Commission's recommendations. We now have the Department acknowledging that not all of the recommendations have been implemented, and more work needs to be done. This unfinished agenda has been confirmed by the General Accounting Office and several followup congressional hearings on both sides of the Capitol.

The law and legislative history, as well as the DOD implementing directive, make it clear that the Under Secretary of Defense for Acquisition is the primary Department of Defense official for procurement matters. It is that simple, Mr. President. I can not for the life of me understand why it is proving so difficult, so impossible, to get this show on the road. The statute relating to the duties of the Under Secretary of Defense for Acquisition provides for four functions for this job:

First, supervising all Department of Defense acquisitions;

Second, establishing policies for all phases of acquisition for all of the Department of Defense;

Third, establishing policies for the defense industrial base; and

Fourth, providing authority to direct the service secretaries of the military departments in all matters for which the Under Secretary has responsibility provided for by law or by direction of the Secretary of Defense. The law also specifically provides that, with respect to all matters for which the Under Secretary for Acquisition has responsibility, the person holding that position "takes precedence in the Department of Defense" After the Secretary and the Deputy Secretary.

The authority could not be stated any more clearly. Yet both of the men who held that position during the Reagan administration complained that they were hampered in carrying out their assigned statutory responsibilities. Suffice it to say, the failures do not stem from any ambiguity in the law or the Department's written directives.

I discussed the roles and responsibilities of the Under Secretary for Acquisitions with Secretary Cheney during his confirmation hearing. I probed this issue again with Don Atwood, the Deputy Secretary of Defense, when the Senate Armed Service Committee held his confirmation hearing. Atwood talked openly and candidly on the record about the role of the Under Secretary for acquisition, and the relationship which that individual should have with him and Secretary Cheney. Despite some early misinterpretations of his position, Secretary Atwood put his thoughts in writing to the Senate Armed Services Committee on the role of that post to the Department's senior leadership. I ask unanimous consent that the text of Mr. Atwood's letter be incorporated in the end of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. DIXON. Mr. President, we are awaiting the nomination of the first Under Secretary for Acquisition chosen by the Bush-Cheney administration. From the press reports concerning the search process, it appears that well over two dozen people have apparently declined the opportunity to serve in this important post, for a variety of reasons. I hope that a candidate will be nominated in the near future.

Mr. President, in the last Congress, I introduced S. 2621, which would have enhanced the statutory authority of the Under Secretary of Defense for acquisition. I had considered reintroducing that legislation, with changes, today. However, given the forthcoming management study intended to provide further guidance concerning the roles and responsibilities of the Under Secretary for Acquisitions within the Department of Defense, I have decided to withhold introducing my legislative proposal for the time being. However, I ask unanimous consent that the text of my proposed legislation appear at the end of my remarks.

The PRESIDING OFFICER. Without objection it is so ordered.

(See exhibit 2.)

Mr. DIXON. I will be watching both the words, and the deeds, of the President and of the Department of Defense when the management study is released. I am willing to wait for the confirmation process of a new Under Secretary of Defense for Acquisition, and the opportunity to question the candidate on his or her background, vision for this critical position, and assurances that have been received regarding the role of the position in the scheme of things at the Pentagon, and the interpretation of the authority and responsibility for the position within the Office of the Secretary of Defense and the service secretaries.

This position is too important to be left vacant or cut adrift at the start of the new administration. This Senator will be waiting and watching the Department's actions. To be prefectly candid, deeds thus far have not come close to matching up with the words coming from the Pentagon. Congress knows what it wants. It is now time for the Department of Defense to comply with those wants. Our citizens expect a dollar's worth of value for their defense dollar. They have not been getting that result, and the acceptance by the Department of Defense of the strategic importance of that position has to come if the taxpayers are to get their due. Compliance with the intent of Congress can come easy or it can come hard—but, Mr. President, it is going to come.

EXHIBIT 1

APRIL 10, 1989.

Hon. SAM NUNN,
Chairman, Committee on Armed Services, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: During last Wednesday's hearing on my nomination to be Deputy Secretary of Defense, I was asked to expand upon my written response to your pre-hearing Question 9, regarding the relationships among the Under Secretary of Defense for Acquisition (USD(A)), the Deputy Secretary of Defense, the Services Secretaries and the Service Acquisition Executives.

The legislative history of the statute that created the USD(A) position, and the subsequent hearings conducted by the Senate Armed Services Committee relating to the Department's implementation of the statute, provide clear statements of Congressional intent on the relationship between the USD(A) and the other Departmental officials identified in Question 9. The USD(A) is responsible for the supervision and direction of the Department's acquisition system, subject to the Secretary's authority, direction, and control. He is responsible for the formulation of policy regarding the full range of matters encompassed within the Department's acquisition system. It is expected that his policy decisions will be implemented by the Secretaries in the Military Departments and their Service Acquisition Executives.

It is clear to me from the Senate Report accompanying the legislation that created the USD(A) position (Senate Report 100-331) that, since the USD(A) will be held accountable for supervising the entire acquisition system, it is essential that he be empowered to enforce compliance with Defense-wide policies. In this regard, in the exceptional case where it may become necessary for the Under Secretary to issue a direction in an individual case, he has that power as provided by law. The Under Secretary will normally participate in or make programmatic decisions at relatively major programmatic decision points. To the extent that these decisions may differ with the wishes of a Service Secretary or a Service Acquisition Executive, the statute makes clear that the decisions of the Under Secretary will prevail in his area of responsibility. I believe that the DOD Directive specifying the responsibilities, functions, relationships, and authorities of the USD(A), revised following the Senate Armed Services Committee's September 22, 1987 hearing, seeks to embody this understanding.

With respect to relationships between the Deputy Secretary and the USD(A), the law is clear that the USD(A) is subject only to the authority, direction, and control of the Secretary of Defense. If the Deputy Secretary of Defense is to exercise supervision or exercise approval authority regarding acquisition policies, directives, or other decisions of the USD(A), it would be done only in the

capacity of acting for the Secretary under a delegation of the Secretary's authority.

The foregoing captures my understanding regarding the intent of the Congress regarding the relationships among the USD(A), and the Deputy Secretary of Defense, the Secretaries of the Military Department, and the Service Acquisition Executives.

Sincerely,

DONALD J. ATWOOD.

EXHIBIT 2

S. —

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE

This Act may be cited as the "Department of Defense Procurement Improvements Act of 1989".

SEC. 2. EXPANSION OF RESPONSIBILITIES OF THE UNDER SECRETARY OF DEFENSE FOR ACQUISITION

(a) RESPONSIBILITIES.—Subsection (b) of section 133 of title 10, United States Code, is amended to read as follows:

"(b)(1) Subject to the authority, direction, and control of the Secretary of Defense, the Under Secretary of Defense for Acquisition shall be responsible for the following:

"(A) The centralized procurement of all property and services for the Department of Defense.

"(B) The establishment and implementation of procurement policies for the Department and the approval of exceptions from the application of such policies in the case of any procurement.

"(C) All contract administration functions of the Department of Defense, including all functions relating to audit and oversight of contractor activities.

"(D) The supervision, direction, and control of all advocates for competition in the Department of Defense.

"(2) The Under Secretary may delegate his authority with respect to the procurement of any particular type or class of property or service to the senior procurement executive of a military department if the Under Secretary determines that the delegation of such authority will result in savings to the United States or is necessary to provide the property or service to the military department in a timely and efficient manner.".

(b) OTHER FUNCTIONS.—Section 133 of such title is further amended—

(1) by redesignating subsections (c), (d), and (e) as subsections (d), (e), and (g), respectively;

(2) by inserting after subsection (b), the following new subsection (c):

"(c) The following functions shall come under the Office of the Under Secretary of Defense for Acquisition:

"(1) All functions of the Department of Defense relating to the procurement of property and services.

"(2) All functions of the Defense Acquisition Regulatory Council and the Defense Logistics Agency.

"(3) All functions of the Office of Small and Disadvantaged Business Utilization of the Department of Defense (established under section 15(k) of the Small Business Act (15 U.S.C. 644(k)).".; and

(3) by inserting after subsection (e), as redesignated by clause (1), the following new subsection (f):

"(f) The Secretary of Defense, in consultation with the Under Secretary, shall appoint the senior procurement executive of each military department by and with the advice and consent of the Senate. Each senior procurement executive shall report directly to the Under Secretary.".

(c) CONSULTATION WITH INSPECTOR GENERAL.—Subsection (e) of such section, as redesignated by subsection (b)(1), is amended—

(1) by striking out paragraphs (1) and (2) and inserting in lieu thereof the following:

"(1) In carrying out responsibilities relating to audit and oversight of contractor activities by the Department of Defense, the Under Secretary shall consult with the Inspector General of the Department of Defense."; and

(2) by redesignating paragraph (3) as paragraph (2).

(d) UNDER SECRETARY TO REPORT DIRECTLY TO SECRETARY.—Section 133 of such title is further amended by adding at the end the following new subsection:

"(h) The Under Secretary shall be subject only to the authority, direction, and control of the Secretary of Defense and shall report directly, without intervening review or approval, to the Secretary of Defense personally on all matters relating to the functions specified in subsections (b) and (c).".

SEC. 3. REVIEW AND APPROVAL OF CONTRACTS FOR FULL-SCALE DEVELOPMENT AND FOR PRODUCTION

(a) IN GENERAL.—Chapter 137 of such title 10, United States Code, is amended by adding at the end the following new section:

"§ 2331. Contracts for full-scale development and for production

"A contract for the full-scale development of a major system or for the procurement of a major system may not be entered into unless the Under Secretary of Defense for Acquisition has reviewed and approved the contract. In reviewing any proposed contract for procurement of a major system, the Under Secretary shall evaluate the plans and specifications for the system, determine the necessity for production, consider the commonality of parts and components of the system, and consider the complexity and practicality of the system.".

(b) TECHNICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end thereof the following new item:

"2331. Contracts for full-scale development and for production.".

SEC. 4. TECHNICAL AND CONFORMING AMENDMENTS

(a) CIVILIAN EMPLOYEES.—Section 1584 of such title is amended—

(1) by striking out "of a military department" and inserting in lieu thereof "of the Department of Defense"; and

(2) by striking out "the Secretary of that department" and inserting in lieu thereof "the Under Secretary of Defense for Acquisition".

(b) PROCUREMENT MANAGEMENT PERSONNEL.—Section 1621(1) of such title is amended by striking out "the Secretary of a military department" and inserting in lieu thereof "the Under Secretary of Defense for Acquisition".

(2) Section 1622 of such title is amended—

(A) in subsection (a)—

(i) by striking out "The Secretary of each military department" and inserting in lieu thereof "The Under Secretary of Defense for Acquisition"; and

(ii) by striking out the last sentence; and

(B) in subsection (d), by striking out "the Secretary concerned" and inserting in lieu thereof "the Under Secretary of Defense for Acquisition".

(3) Section 1623 of such title is amended—

(A) in subsection (a)—

(i) by striking out "The Secretary of each military department" and inserting in lieu thereof "The Under Secretary of Defense for Acquisition".

(ii) by striking out the last sentence; and

(B) in subsection (c), by striking out "The Secretary concerned" and inserting in lieu thereof "The Under Secretary of Defense for Acquisition".

(c) PROCUREMENT GENERALLY.—(1) Section 2302(1) of such title is amended by striking out ", the Secretary of the Army, the Secretary of the Navy, the Secretary of the Air Force," and inserting in lieu thereof "(acting through the Under Secretary of Defense for Acquisition),".

(2) Section 2303(a) of such title is amended by striking out paragraphs (2), (3), and (4) and by redesignating clauses (5) and (6) as clauses (2) and (3), respectively.

(3) Section 2305(d) of such title is amended—

(A) in the first sentence of paragraph (1)(A), by striking out "The Secretary of Defense shall ensure that," and all that follows through the "head of an agency" and inserting in lieu thereof "The Under Secretary of Defense for Acquisition, in preparing a solicitation for the award of a development contract for a major system, shall";

(B) in the second sentence of paragraph (1)(A), by striking out "head of an agency" and inserting in lieu thereof "Under Secretary"; and

(C) in the first sentence of paragraph (2)(A), by striking out "The Secretary of Defense shall ensure that," and all that follows through "the head of an agency" and inserting in lieu thereof "The Under Secretary of Defense for Acquisition, in preparing a solicitation for the award of a production contract for a major system, shall".

(4) Section 2306(h) of such title is amended—

(A) in paragraph (2)(A), by inserting ", acting through the Under Secretary of Defense for Acquisition," after "Secretary of Defense"; and

(B) in paragraph (2)(D), by striking out "agencies in".

(5) Section 2311 of such title is amended by inserting "and subject to section 133(b)(2) of this title" after "Except as provided in section 2304(d)(2) of this title.

(6) Section 2318 of such title is amended by striking out subsection (c) and inserting in lieu thereof the following:

"(c) All advocates for competition in the Department of Defense shall be under the supervision, direction, and control of the Under Secretary of Defense for Acquisition.

"(d) Each advocate for competition of a military department or a Defense Agency shall transmit to the Under Secretary of Defense for Acquisition a report describing the activities of the advocate during the preceding year. The report of each advocate for competition shall be included in the annual report of the Secretary of Defense required by section 23 of the Office of Federal Procurement Policy Act (41 U.S.C. 419), in the form in which it was submitted to the Under Secretary.".

(7) Section 2324(h)(2) of such title is amended by striking out "or the Secretary of the military department concerned".

(8) Section 2327 of such title is amended in subsection (c)(2)—

(A) by striking out "Upon the request of the head of an agency, the Secretary of Defense" in the first sentence and inserting in lieu thereof "The Under Secretary of Defense for Acquisition"; and

(B) by striking out "Secretary of Defense" in the second sentence and inserting in lieu thereof "Under Secretary".

(9) 2329 of such title is amended—

(A) in subsection (b), by striking out "the Secretary of a military department" and inserting in lieu thereof "the Under Secretary of Defense for Acquisition";

(B) in subsection (c)—

(i) by striking out "the Secretary concerned" each place it appears and inserting in lieu thereof "the Under Secretary of Defense for Acquisition"; and

(ii) by striking out the last sentence of paragraph (3) and inserting in lieu thereof the following: "The Under Secretary shall establish criteria for cases in which a percentage less than 50 percent may be specified.".

(d) RESEARCH AND DEVELOPMENT.—(1) Section 2352 of such title is amended by striking out "a military department" and inserting in lieu thereof "the Department of Defense".

(2) Section 2353 of such title is amended—

(A) in the first sentence of subsection (a)—

(i) by striking out "a military department" and inserting in lieu thereof "the Department of Defense"; and

(ii) by striking out "the Secretary of the military department concerned" and inserting in lieu thereof "the Under Secretary of Defense for Acquisition"; and

(B) in subsection (b)(3), by striking out "the Secretary concerned" and inserting in lieu thereof "the Under Secretary of Defense for Acquisition".

(3) Section 2354 of such title is amended—

(A) in subsection (a), by striking out "the Secretary of the military department concerned, any contract of a military department" and inserting in lieu thereof "the Under Secretary of Defense for Acquisition, any contract of the Department of Defense";

(B) in subsection (c)—

(i) by striking out "the Secretary of the department concerned" and inserting in lieu thereof "the Under Secretary of Defense for Acquisition"; and

(ii) by striking out "of his department"; and

(C) in subsection (d), by striking out "the Secretary concerned" and inserting in lieu thereof "the Under Secretary of Defense for Acquisition".

(4) Section 2355 of such title is amended—

(A) by striking out "Secretary of each military department" and all that follows through "Comptroller General," and inserting in lieu thereof "Under Secretary of Defense for Acquisition, with the approval of the Comptroller General, may"; and

(B) by striking out "his department" and inserting in lieu thereof "the Department of Defense".

(5) Section 2356(a) of such title is amended to read as follows:

"(a) The Under Secretary of Defense for Acquisition may delegate any authority under section 1584, 2353 (except subsection (b)(3) of such section), 2354, 2355, or 2358 of this title to any employee of the Defense Logistics Agency.".

(6) Section 2357 of such title is amended by striking out "The Secretary of each military department" and inserting in lieu thereof "The Secretary of Defense".

(e) MISCELLANEOUS PROCUREMENT PROVISIONS.—(1) Section 2381 of such title is amended—

(A) in subsection (a)—

(i) by striking out "The Secretary of a military department" and inserting in lieu thereof "The Under Secretary of Defense for Acquisition"; and

(ii) by striking out "that department" in clause (1) and inserting in lieu thereof "the Department of Defense"; and

(B) in subsection (b), by striking out "the Secretary concerned" and inserting in lieu thereof "the Under Secretary of Defense for Acquisition".

(2) Section 2388 of such title is amended—

AN OPEN LETTER TO PRESIDENT GEORGE BUSH

Mr. HELMS. Mr. President, Sunday's Washington Post, June 18, contained the specious mouthings of someone identified as Charlotte R. Murphy who was protesting, among other things, the fact that there is widespread resentment to the American taxpayers' money being wasted on crude, blasphemous, and childish "works of art" by people to whom nothing is sacred.

I do not know Ms. Murphy and do not care to know her. The saints have been good to me in that regard. But what she needs to understand, and obviously does not, is that intellectual honesty is imperative in any rational discussion.

She claimed in her diatribe that she is "an adult working in the arts." She proclaimed that "Corcoran's chilling decision to drop the Robert Mapplethorp photographic exhibit" was a personal "misfortune" to her.

But what she doesn't say, Mr. President, is what kind of "photographic exhibit" it was that got canceled. She knows that the public, except for a minute segment of it, can never be made aware of the nature of the "art" which she feels is worthy of mandatory support by all American taxpayers.

Pictures of male genitals placed on a table is not art—except perhaps to homosexuals who are trying to force their way into undeserved respectability. Ms. Murphy failed to mention the prizewinning—$15,000 of the taxpayers, money—photograph that caused the uproar in the first place: A jerk filled a glass container with his own urine, struck a crucifix into the container, and took a picture of it. Even worse, he gave a name to his "work of art"—using a word that I will not utter in this Senate Chamber. Suffice it to say, this "artist" blasphemed the name of Jesus Christ.

Sure, Mr. President, I protested. I protested mightily. But I was not stronger in my condemnation of the "artist" than I was the "stewards" of Federal funds who decided to pay this "artist"—this jerk—$15,000 for this photograph of a crucifix resting in a glass container of the "artist's" urine.

In her Washington Post piece on Sunday Ms. Murphy referred to "a few reactionary politicians—like Senator JESSE HELMS—and their small-minded followers who have no interest in "art"—no matter how repulsive, no matter how blasphemous, no matter how arrogant.

I've got news for Ms. Murphy: All across America, good, decent taxpaying citizens are up in arms. If that's "chilling censorship," there are lot of folks around who intend to make the most of it.

Mr. President, over the weekend I read an article published last week, June 13, in the New York Tribune. it was written by James F. Cooper, the Tribune's art critic. Mr. Cooper writes a weekly column for the newspaper on the subject of Ameican culture.

Mr. Cooper's article was presented under the heading "An Open Letter to President George Bush." I intend to do my best to make sure that the President does indeed read it. It is an eloquent answer to the perverse elements in our society—to those who come forth with disgusting, blasphemous "art" which is not art at all.

Mr. President, I ask unanimous consent that Mr. Cooper's "Open Letter to President Bush" be printed in the RECORD at the conclusion of my remarks.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the New York City Tribune, June 13, 1989]

AN OPEN LETTER TO PRESIDENT GEORGE BUSH

MR. PRESIDENT: You are about to appoint a new chairman for the National Endowment for the Arts, an agency that dispenses almost $200 million per year to the arts.

Although articles about potential candidates have been appearing in the press for weeks, little space has been devoted to the critical role the arts play in the life of a nation.

Much attention has been focused on problems in fundraising, but less money was spent on the Italian Renaissance than is spent each year for public art in the United States. It is evident that Americans have been vastly shortchanged on their investment. The Medicis and popes gained works by Michelangelo, Raphael, and Leonardo, while American taxpayers have had to settle for "Titled Arc," "Piss Christ," and "Batcolumn."

The issue of public art should focus on quality, not quantity. Since the passage of the 1965 act establishing the National Endowments program recommended by John F. Kennedy, the number of art institutions in the nation have increased by more than 1,000 percent. In New York City alone there are now 29 orchestras, 33 opera companies, 35 theater companies and 214 dance companies.

Thousands of sculptures of questionable value have been installed in public spaces across the nation under the Art in Architecture program administered by the General Service Administration (GSA), which allocates one percent of federal money spent on construction to be set aside for public art.

Without exception, not one of these thousands of public sculptures evidence qualities that might be described as beautiful or meaningful. Millions of dollars of taxpayers money have been thrown down the drain.

Worse than the waste of money is the internecine message disseminated by these

ugly confrontational artworks. And what is that message?—that America reveres nothing; not beauty, not patriotism, not even virtue!

In contrast to the moral and aesthetic qualities evidenced in all great art since the time of the pharaohs, American public art inflicts a negative, self-destructive image upon the psyche of our nation.

Tilted Arc and *Batcolumn* by no means the worst examples) are characteristic of the thousands of ugly, confrontational, and vacuous art forms that deface public malls from Boston to Seattle. Together they stand as mournful symbols of the failure of national leadership to provide a *raison d'etre* for American culture.

Such was not always the case. George Washington, in his first annual address to Congress, advised: "Nothing better deserves your patronage than the promotion of science and literature." Washington provided money in his will to endow a national university for the arts and sciences.

In 1816, New York governor De Witt Clinton opened ceremonies at the American Academy of Fine Arts by proclaiming: "Can there be a country in the world better calculated than ours to exercise and exalt the imagination—to call into activity the creative powers of the mind, and to afford just views of the beautiful, wonderful, and sublime American wilderness and American cultural landscape."

Such words did not fall on deaf ears. Samuel B. Morse was already organizing the National Academy of Arts, and within a year a young immigrant, Thomas Cole (1801-48), from Liverpool, England would begin a cultural revolution that would establish the agenda of the nation for the next hundred years. Cole, and the artists of the Hudson River School—Frederic E. Church, Jasper F. Cropsey, Asher B. Durand, and George Inness—celebrated the American landscape as a second Garden of Eden and a "fitting place for God" in their magnificent paintings.

Morse's vision of the Academy was founded upon the moral responsibility of the artist to improve America. "We may be of essential aid to the cause of morality; or we may be an efficient instrument in destroying it; we may help to elevate and purify the public mind by the dissemination of purity of taste, and raise the arts to its natural dignity as the handmaid of Truth and Virtue, or we may assist to degrade it to the menial office of pandering for the sensualist."

Morse's moral role for the arts was not unique, in France, the great painter Jacques-Louis David, founder of the Institute of Fine Arts and Ecole des Beaux-Arts, proclaimed: "I would help the arts toward their true destiny which is to serve Morality and elevate men's souls."

Both Mores and David drew inspiration from Plato's admonition to "Seek artists whose instincts guide them to what is lovely and gracious, so that our young men may drink in from noble works."

What bureaucrat today among those who administer public-funded cultural programs speaks of moral and aesthetic values?

Former President Ronald Reagan, in his farewell address to the nation, warned against the loss of values in popular culture, which he said has seriously hurt the nation. He left it to the next administration—the "educational" presidency—to create a national cultural agenda.

The rise of crime, drug abuse, and the decline in the family, work ethic, education, and morality, are a direct result of the negative impact of American culture, particularly upon the young.

Federal art programs today are administered by elephantine agencies devoid of policy guidelines. The National Endowment for the Arts, the National Council on the Arts, Commission of Fine Arts, Arts in Architecture program of the General Service Administration (GSA), National Endowment for the Humanities, each maintain vast byzantine networks of support agencies and advisers.

No one seems to be in charge. When a public-funded exhibition of photographs of Christ and the Pope submerged in vats of urine toured the United States for a year, none of the organizers and sponsors—which included the National Endowment for the Arts (NEA), Awards in the Visual Arts, Southeastern Center for Contemporary Art, The Equitable Foundation, The Rockefeller Foundation, Los Angeles County Museum of Art, or the Virginia Museum of Fine Arts—would accept responsibility for awarding the artist, Andres Serrano, a grant of $15,000.

Each of the judges, curators, and art experts interviewed insisted they had no final say in the selection process. Indeed, suggestions that they should be held accountable drew counter charges of "censorship" and abrogation of freedom of expression granted under the First Amendment.

The fact is that it is the large cultural agencies who practice discrimination and censorship. It is clear that the NEA and the GSA have enforced their own brand of censorship by refusing to consider art forms that evidence moral or aesthetic values contrary to their own limited definition of what *is* and what *is not* "art."

Instead of allowing the creative expression of the individual artist, these agencies support only those artists who fit within their narrow interpretation of "modernism."

In this *Alice in Wonderland* artworld, Andres Serrano—who created *Piss Christ* and *Piss Pope*—received *several* grants funded with public money, while gifted artists, such as Stephen Gjertson—who paint intensely spiritual scenes—have been repeatedly denied grants from the National Endowment.

Ten years ago a report issued by the Interior Subcommittee of the House Appropriations Committee accused the NEA of "mismanagement," and reliance on a "closed circle" of advisers that resulted in a conflict of interest in contracts and grants. The report charged "The arts endowment budget has grown beyond its ability to administer and manage its programs in accordance with its own objectives."

The report's strongest criticism of the NEA was reserved for its failure "to develop and promote a national policy for the arts."

The report concluded, "the endowment has abrogated its leadership role and allowed the various project applications submitted from the field to become a surrogate national policy, shaping the program direction and emphasis of the endowment."

Despite an enormous infusion of federal funds since 1979, there has been little improvement in the management of the NEA.

In light of this Mr. President, I respectfully suggest that you withhold your selection of a new chairman for the National Endowment for the Arts until it is clear in your mind what purpose the arts serve. It might even be advisable that the National Council on the Arts—which is the advisory body to the NEA—assist you vigorously in the construction of a sound and vibrant culture agenda for the nation.

The current crisis in the arts is alarming. The Biblical admonition that "the people perish without a vision," is all so tragically true. Civilizations collapse from internal rather than external pressure, warned historian Arnold Toynbee.

The source of this dilemma can be traced to a selection process commandeered by a few who are actively involved in guiding the cultural destiny of the United States to the exclusion of a broad spectrum of artistic expression. William Diamond, regional director of the GSA, acknowledged as much when he finally bowed to the demands of several thousand federal employees to remove *Tilted Arc* from Federal Plaza in Lower Manhattan. "For too long," he said, "decisions about public art have been left to a small bunch of elitists."

The problem goes deeper than that. The conflict derives from a lack of values as well as the criterion used to determine what purpose a national art program serves. Both "aesthetics" and "morality" must play strong roles in that program. There is no evidence that these two factors play *any* part in public art today.

The arts have become so important in determining the quality of American life—indeed, the very survival of this great nation that a cabinet post should be created for its disposition. France and England both have established a Ministry of Culture.

In comparison, the NEA is the closest institution we have to such a ministry. Therefore, the chairmanship should not be tantamount to a political "reward" or "plum." It is a position in need of a "visionary," who is cognizant of the past, willing to address the current crisis, and capable of initiating a cultural agenda worthy of this nation.

TERRY ANDERSON

Mr. MOYNIHAN. Mr. President, I rise to inform my colleagues that today is the 1,556th day of Terry Anderson's captivity in Beirut.

On March 17, 1989, a date which marked the fourth full year of Terry Anderson's ordeal, an article appeared in the Washington Post which summarized this ordeal and commented thereon. I ask unanimous consent that this article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

A CAPTIVE IN A TRAGIC LAND—ANDERSON IN 5TH YEAR AS HOSTAGE IN LEBANON

(By Nora Boustany)

BEIRUT, March 16.—It was a sunny morning in March four years ago today when American journalist Terry Anderson, shaking off suspicions that he was being observed and followed, decided to go ahead with his tennis game in a city where he felt he belonged.

But within minutes, gunmen intercepted his car, dragged him out and bundled him into a Mercedes with drawn curtains.

After covering the news of tragedies in Lebanon as The Associated Press bureau chief here, Anderson, now 41, became the news himself, as threatening statements from his pro-Iranian captors, the Islamic Jihad, shaped fears and expectations about his fate.

Today, he began his fifth year in captivity as the longest-held foreign hostage in Lebanon. Except for occasional messages, pic-

tures and videocassettes distributed by his captors and containing appeals to the U.S. government and public, Anderson now rarely makes headlines, having become yet another nearly forgotten symbol of Lebanon's despair and chaos.

During his captivity, Anderson's father and a brother have died. A daughter, born shortly after his capture, has never seen him. Four other American hostages have been freed, as have all the French hostages.

One of the released Frenchmen, journalist Jean-Paul Kauffmann, freed last year after being held three years, made an impassioned plea today for rekindled public interest in the hostages, The Associated Press reported from Paris.

In the newspaper Le Monde, Kauffmann lamented that the hostages are no longer objects of mass compassion, no longer bargaining chips, no longer even political pawns.

"The truth is that the hostages in Lebanon today have become the damned of the West," he wrote. "Without hope of being saved, imprisoned in silence and darkness, deprived of the sight of the world of the living, forgotten, they no longer represent anything. . . .

"The most tragic thing is that this torment is administered as much from the outside by countries and people indifferent to their fate as on the inside by their captors."

Trapped in an unending game of conflicting interests involving Iran, Syria and local Lebanese groups that specialize in the business of hostage-taking, Anderson and the eight other Americans still held hostage have become the only consent factor—their captivity a kind of insurance policy for their captors.

Although prospects of their release seemed to improve with a cease-fire in the Persian Gulf war last summer. Tehran's crisis with the West over a book many Moslems consider blasphemous to Islam has dashed hopes that Anderson and other hostages will soon be freed.

The controversial book, "The Satanic Verses," by British author Salman Rushdie, led to a reversal of Iran's moves toward rapprochement with western powers. The row over the book overshadowed the significance of detente between Iran and the West and the importance of the liberation of foreign hostages.

The other Americans still held captive are Thomas Sutherland, kidnaped in June 1985; Frank Herbert Reed, Joseph James Cicippio and Edward Austin Tracy, kidnaped in 1986; Alann Steen, Jesse Jonathan Turner and Robert Polhill, held since 1987, and Marine Lt. Col. William Higgins, kidnaped in 1988. Other hostages include Terry Waite, a representative of the Church of England, seized in 1987.

The kidnaping of Anderson has had a devastating effect on first-hand western press coverage of Lebanon, driving out most foreign journalists. The virtual absence now of outside journalists in a country that once served as a window for understanding the forces at play in the Middle East has had grave implications for international understanding and press freedoms in the region.

Anderson—and the others—have become casualties in a struggle against a kind of darkness that has set in. In a desperate country that is daily at war or on the brink of war, the cause of absent or captive journalists is fading. Concern over blockades, airport closures, personal safety and the bare instincts of life and death now predominate.

GEN. BILL LEE: FATHER OF 82D AIRBORNE DIVISION

Mr. HELMS. Mr. President, one of the important heroes to hundreds of thousands of Americans is Gen. William C. Lee, who is known as the father of the gallant 82d Airborne Division. On a number of occasions I have spoken of General Lee and his enormous contribution to victory over Nazi Germany in World War II.

General Bill Lee was a native of Dunn, NC, a remarkable city in so many ways. In May, Dunn was named an "All-American City" by the National Civic League. As much as anything else, that recognition was bestowed because of a museum that has been created in Dunn to house all manner of memorabilia relating to the life and career of Gen. Bill Lee, father of the 82d Airborne Division.

Mr. President, two of the many people who have worked hard on this memorial to General Lee are Hoover Adams, publisher of the Dunn Daily Record, and Robert M. Pace, now a resident of Chapel Hill, NC. Their untiring efforts have paid off. The General Lee Museum is a splendid reality, and there is an annual celebration in honor of the general, who died in 1948.

On June 6, columnist Dennis Rogers of the Raleigh, NC, News and Observer published a column of great interest to all of us who are proud of General Lee. The heading on the column: "Bill Lee created the airborne and inspired his hometown." I believe all Senators, and others who read the CONGRESSIONAL RECORD, will find this column fascinating. Thus, Mr. President, I ask unanimous consent that the Dennis Rogers column be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

BILL LEE CREATED THE AIRBORNE AND INSPIRED HIS HOMETOWN

DUNN.—Bill Lee from Dunn looked a lot like another North Carolinian, a movie star named Randolph Scott. He was the perfect picture of a major general.

He stood tall and ramrod straight. His quiet demeanor, steely gaze and deep affection for his men inspired them to perform feats that even today, 45 years to the day after his and their greatest accomplishments, his name is still legend in the annals of those brave men who jump from airplanes.

D-Day, June 6, 1944. The Longest Day, movie makers called it. It is a day laden with myth and derring-do. It is the day that the largest invasion in history slammed onto the beaches of France. A well-planned but risky move, it spelled doom for Adolf Hitler and victory for the Allies. Bill Lee from Dunn was one of those who made it work.

Bill Lee from Dunn. Just a local kid, a football player and a baseball player. A big, strapping boy, he loved Dunn and Dunn loved him. He grew up in Dunn and went away to college but he always came home when he could. No one knew what would become of the Lee boy. But he did himself and his hometown proud.

There is a mansion at 209 W. Divine St. with a heroic statute on the lawn. It was Bill and Dava Lee's house, the place he came when war would lessen and he could get away. And it is in this house, and on this lawn, that his memory is preserved and his story told.

He was a career soldier. Fresh out of N.C. State University, he did his fighting in World War I, serving 18 months in the infantry in France. Then came a long, fallow period for soldiers. Throughout the 1920s and 1930s, with the Army shrinking around him, Bill Lee stayed in uniform and kept his eyes open.

During an assignment in Europe in the late 1930s, he watched, alarmed, as Hitler's army grew. And the thing that fascinated him the most were the German paratroopers. No one had done that sort of thing before, drop soldiers from airplanes with parachutes, but Bill Lee saw what they could become.

He came home to a frightened Washington. Everyone knew war was coming and knew it would be in Europe and we would be in it up to our bayonets. He talked to anyone who would listen about seeing those soldiers coming out of the sky. We need to be able to do that, he said. But no one wanted to hear it. After all, he was talking to generals who still believed in a cavalry on horseback.

But one man, just one, listened to Bill Lee from Dunn and believed what he had to say. He was President Franklin D. Roosevelt. It was the president himself who gave Bill Lee, the country boy from Dunn, the chance to become a legend.

He told Bill Lee to put together a platoon of young soldiers and see what he could do with this parachute business. He took a handful of volunteers from the 29th Infantry and within four years had formed, trained, and sent to war two of the most famous fighting outfits in the world, the 82nd Airborne Division and the Screaming Eagles of the 101st Airborne Division.

In four years this back-room organizer, trainer and planner had turned one platoon of 30 men into 20,000 elite sky soldiers.

And on this day, 45 years ago, those men jumped into the night skies of France, buying space and time for the hundreds of thousands of their comrades who stormed ashore from the English Channel.

It was a tradition that when paratroopers leaped from their planes into the thin air, they shouted a battle cry. That cry was "Geronimo!"

But not on D-Day. On that jump, when the future of the world was riding with them, they leapt from their planes and yelled, "Bill Lee!" No general could have had a greater honor, to be so loved and respected by the men he had trained and led.

But Bill Lee wasn't there with them that night. He was in Dunn, in his bedroom at 209 W. Divine St. Stricken by a massive heart attack four months earlier, he had been sent home, back to the shelter and safety of the small Harnett County town that had long been his refuge. He died there in 1948.

Bill Lee from Dunn did something else for this town. He gave the people something to believe in.

Five years ago, Dunn was just another little town on the way to nowhere. Nothing much was happening, and no one seemed to care. Realizing that something had to be done, some folks got together and proposed

that the Bill Lee's house be saved and that the people of Dunn tell the world how proud they were of their boy Bill by putting a museum in his old house. The "Father of the Airborne," they called him and they were not exaggerating.

That decision began a rejuvenation of both the house at 209 W. Divine St. and the spirit of a town that was lackadaisically taking itself for granted. The museum was finished, the town of 9,300 got some civic pride back, sights were set toward the future and last month Dunn named an All-American City by the National Civic League.

They held the local ceremony on the front lawn of Bill Lee's house. He was a shy, self-effacing man, but I think he would have liked that. He couldn't be there when his soldiers helped save the world, but he could be home, at least in spirit, when his friends and neighbors saved their town.

RESUMPTION OF NUCLEAR AND SPACE TALKS

Mr. DOLE. Mr. President, today the United States and the Soviet Union resume the strategic arms reduction talks in Geneva. If a START agreement is reached, it will have immense consequences for our national security. Therefore, as I have said before, it is essential that we take the time to do it right.

Our negotiators need to be patient, and we here in the Senate need to be patient. We in the Senate also need to be aware that our actions in this body can affect the United States negotiating posture in Geneva. This is especially true as we near consideration of the defense authorization bill.

We must be careful not to undermine our negotiators through unilateral cuts or other restrictions which could make it difficult for our negotiators to carry out their instructions from the President. President Bush has demonstrated his commitment to serious arms control. In order for these negotiations to be successful, this body must support him in that commitment.

I believe we must also keep in mind what success means in these negotiations—namely, enhanced stability and security. Our goal is not, and should not be just to make cuts. Our goal is—and should remain—to make 50 percent cuts in a way which enhances the stability of the strategic balance.

Reductions should be achieved in the context of a comprehensive and forward-looking approach to our force structure. That is why the distinguished President pro tempore Senator BYRD. The distinguished Senator from California [Mr. WILSON], and I cosponsored a resolution to last year's defense authorization bill calling for a comprehensive report on the implications a START agreement may have on our strategic force posture during the 1990's.

The Bush administration has approached our section 908 report seriously and I expect we will receive it this week.

We may not all agree on every element of a post-START force structure, but the section 908 report should provide a good basis for discussion.

In my view the U.S. approach toward a post-START environment should include an ever-increasing role for strategic defenses. America's SDI Program shows great promise for our goals of enhanced stability and security. SDI offers us the best insurance against any gaps in a START verification regime. Furthermore, strategic defense will also be our best insurance against mobile missiles.

In view of SDI's great potential, it is critical that the United States continue to protect and promote strategic defenses at the defense and space talks. In fact, I believe that a transition to greater reliance on strategic defenses will complement our efforts in the area of strategic offensive reductions in START.

I wish the best of luck to our Ambassadors Richard Burt and Hank Cooper in Geneva. The Senate observers will be traveling to Geneva next week and will be meeting with our negotiators. I won't be able to make this trip, but I look forward to hearing their report upon their return.

CONCLUSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Morning business is closed.

CHILD CARE IMPROVEMENT ACT

The ACTING PRESIDENT pro tempore. The Senate will now resume consideration of S. 5, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 5) to provide a Federal program for the improvement of child care and for other purposes.

The Senate resumed consideration of the bill.

Pending:

Mitchell amendment No. 196, in the nature of a substitute.

The ACTING PRESIDENT pro tempore. The Senator from Nevada.

Mr. REID. Mr. President, today I rise to express support for the Act for Better Child Care legislation. It has been almost a year since I conducted the Senate Appropriations Committee field hearings in Las Vegas to investigate child care concerns and needs. I heard some shocking and even moving testimony from needy families and single mothers who cannot find work because they cannot afford child care.

Mr. President, at this hearing there were a number of witnesses who testified: juvenile court judges who deal with this problem on a daily basis, we had statements of child care providers, sociologists from the university and high school level, and many other people testified.

What I want to bring before the Senate today is just a little bit of testimony from some of the mothers who testified at this hearing. As I indicated, Mr. President, this is just a little bit of the testimony that was given from some people who I think see it from a perspective that perhaps we do not. This is a statement of a woman by the name of Diana Cybil.

My name is Diana Cybil. I'm a resident of Las Vegas now for almost 20 years. I have been on the ADC for almost 2 years, since my divorce, with my two sons.

When I found out about this program I was thrilled to know I could go back into the work field. Only because of the child care did I accept to go on with this program.

This was a new, experimental program that allowed women to work and also have child care.

My main reason for not working and staying at home with my children was because of not having the child care.

Now that I am working and receiving child care, it's given me the incentive to go on and make something of my life and for my kids. But if we lose this program here with the ADC, when I get off of it, when I find a job, it will not be beneficial to me or my children to go on with the work field. More or less stay on ADC.

Another statement from a woman by the name of Julia Davis:

I'm a resident of Las Vegas. I've been here 2 years.

I am here to talk about child care. Because of the very difficult marriage that ended in divorce which left me as a single parent, I have two kids. I had no other choice but to apply for ADC.

Through ADC I got on the work program. I'm getting good training, but once the training is over I'll be prepared to get a job.

But once you get a job, you lose all your benefits and child care will still be a major problem.

If child care was available years ago I wouldn't be on ADC now.

I don't want to be on ADC. And there are many others on ADC that feel the same way that I do.

I want to work but the child care expenses will be at least one-half or more of my pay. The system, the way it is now, won't allow me into the work field.

Mr. President, here is the statement of a 12-year-old girl. Again, we look at her problem, I think, from different eyes but let us look at it in her own eyes.

My name is Lashona. And some of my experience is—OK, like when we get out of school you see some kids around where I live at. People are selling drugs to the kids and, you know, the parents are off at work.

And we need a day care center for the kids to go to until their moms get off from work.

So we need to have a day care established because you wouldn't like your kids around pushing drugs, pushing drugs onto other kids and kids dying because of different drugs being pushed on and different diseases. Our parents need to work and sometimes kids cannot be around some of our parents because of things that's going on.

Like parents in a divorce, they need time with their kids in a day care center but I think we really do need a day care center for the kids to go into and stop drugs from being pushed around.

Mr. President, a woman by the name of Deborah Mays gave some examples of how difficult it is in Las Vegas, which is like other places as far as finding a place for your children to be provided for. This is a woman talking about making the commitment to go to work but having the problems of trying to find a place for her three children.

I began my search for a babysitter, with three kids by my side and no money, at the grocery store bulletin boards. The boards were full of ads from other single mothers also in need of sitters. I also searched many laundromats and found the same thing. There were lots of ads from others in need of care providers.

I did find one ad for licensed day care in a private home. The charge was $24/day for three children. I was making $6.78/hour, (which is twice as much as many other single mothers earn), and still I could not afford to pay out half of my paycheck for a babysitter and pay my bills and household expenses. I just coud not afford to do it!

I checked the senior citizen job referral listings and the jobs requested list. I found that there were many others requesting sitters but apparently no seniors interested. I telephoned local churches, talked to school officials, and to other parents and found only that the child care dilemma was nothing new. I knew it would be difficult but I found the problem unbelievable and out of control.

I placed an ad in the newspaper, for a sitter to come to my home. I received calls from other people asking what type of response I got from my ad and they wanted to know if I could help them. Finally, I found someone willing to work with me according to my ability to pay.

Still there were many other child care problems that came up. I didn't even know what to expect when I came home. I didn't know if my children would be fed, bathed, safe from neighborhood bullies and off the street or babysitting the babysitter! I had to put up with people and situations that I didn't want to in order to keep child care services so I could keep my job.

Sometimes, when my main sitter was not available, I had to rely on neighborhood teenagers. Some months, I would have several different sitters. With each sitter, there was a new set of problems! My home was ransacked and things came up missing. Groceries disappeared from my shelves. Meals I prepared for my children were fed to others while my children went without supper. My job was threatened by harrassing phone calls to my employer. Every day it was something different. There was even a jealousy problem because some neighbors could see I was getting ahead. Some of the sitters questioned the children about our personal lives. I have put up with unreasonable attitudes and irresponsible behavior so I could work and stay off welfare.

At one point, my children insisted that I stay home with them. They promised to clean yards to pay the bills so they would not have to deal with the parade of sitters. My children did not understand when I told them it was time for us to move up and that all of these problems were a part of the process. It is much harder on me because I know I am fighting for our survival.

My testimony represents the problems of many other women, both those on A.D.C. and the working poor. Our children don't understand the way we must live. We need assistance with job training, educationl and child care. It is my main concern that the ABC Bill (Act for Better Child Care), if passed, will first benefit those families on ADC and the working poor who earn less than $13,000 a year.

Mr. President, there is more, much more. This is some of the testimony that went into the Act for Better Child Care and I applaud and commend Senator DODD for his tireless work on this effort because the people that I read into the Record here today are the people that this legislation will help. We are not working in a vacuum. There are people who will benefit directly and they will benefit quickly as a result of the passage of this legislation.

At this hearing, I heard the grim statistics all over again. I had heard them before, but somehow the numbers become real when you see and hear the hurt and frustration of a parent trying to make a living and care for their children. This testimony that I heard in Las Vegas made this a personal experience for me.

Mr. President, my personal experience has always included a traditional family scenario in which the mother stays at home and rears the children while the father provides for the family's financial needs. My support for the ABC bill in no way diminishes my respect for those who make the choice to be full-time mothers, but for most women entering the work force, this is no longer a matter of choice. In the decade from 1970 to 1980, the number of single-parent families in Nevada increased by the extraordinary rate of 146 percent. From 1980 to 1990, I believe it will go even higher. In families with two parents, the dual income is no longer a luxury; it is a necessity.

In Nevada the lack of affordable child care takes on a great urgency because we have a 24-hour-a-day economy. Both men and women work shifts all through the day and all through the night. The child does not always have a traditional haven provided when the mother and father return home after a day of work on the job. Day care in Nevada means night care in many instances. The ABC bill requirements for licensed child care facilities and health and saftey standards is critical for the well-being of children whose parents are away from the house by day or by night.

A short time ago, I introduced legislation for victims' rights with the focus on the rights of child victims. While working on this legislation, I delved deeper into challenges that a young child carries on his shoulder as he makes his way through day care, through school, on the streets and even at home. None of these places are always inviting or are they safe. When I introduced my bill, I repeated the familiar saying that today's children are our hope for the future. I actually invoked the words of a parent who said children are our future, but we are their salvation.

We have a responsibility in the United States Senate to the children of this Nation. Passage of ABC honors at least part of that obligation. Some who oppose child care legislation allege that it will cost too much, but the money spent now would be minimal compared to what is usually paid out for remedial education, juvenile justice, rehabilitation and welfare generally.

Mr. President, in this hearing held in Las Vegas, there was some unique testimony by Judge John McGroarty, who is a judge of a court of unlimited jurisdiction who has the assignment and has for the last several years been the chief judge responsible for juvenile matters in Clark County where Las Vegas is. He said that we would save for every dollar spent on child care. We would make for this government $5 in money that would not have to be spent for remedial education, juvenile justice and welfare generally. Judge McGroarty speaks for the juvenile judges in this country. There is a problem. We are being penny wise and pound foolish because this bill will save money.

The situation is very similar—that of child care—to that which I have come to know well in Nevada, the problem of illiteracy. Directing money toward literacy programs now means less money paid out later. Illiteracy exacts its price on a greater number of welfare beneficiaries; lost taxes and lost productivity. Literacy, like child care, requires an investment now with a tremendous pay back for a stable productive society in the future.

Mr. President, I extend my strong support for the Act for Better Child Care, and I would like to conclude with a statement by a public private enterprise in Nevada called the Children's Cabinet. This group studied the plight of Nevada's children and summarized the situation with a statement applicable to the children throughout our country. We should heed their words, which are as follows:

Our future and our children's future depend on the priorities we select today. It depends on our success in keeping children safe and families together. We can choose to continue to build more detention centers, jails and prisons, or we can choose to commit our resources to prevention, early intervention, and treatment programs to strengthen families and protect our most precious resource, our children.

I yield the floor.

Mr. DODD addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from

Mr. DODD. Let me commend my colleague from Nevada, first of all, for his comments this morning, but second, as far as I know, he is one of the few Members of this body who on his own conducted a hearing in his own State on this issue. Others of us have listened to our constituents and talked to groups as they have come through town. I held hearings, of course, here in the city and elsewhere as chairman of the subcommittee dealing with this issue. It is unique, indeed, when a Member not necessarily involved in a committee situation, as the Senator was at the time I believe, but invited people all across his State representing a diverse set of view points, in the State of Nevada to come and testify before him so he can learn first hand what the needs of his own State would be in the child care arena. I commend him for taking that step because it gives our Members and colleagues an opportunity to get a feel and a sense of how our own constituents feel about this at the local level.

I think there is an assumption with legislation like this that it is an idea popular in Washington maybe; that this is an idea like some specialist or some academicians or some professionals in the arena would like to see adopted but that it does not mean much to the average constituent who is working hard trying to raise a family and making ends meet. Our colleague from Nevada has gone out and tested that theory in his own State and discovered that, in fact, his constituents, without getting into the specifics, if you will, of a specific piece of legislation have said we have a problem; we have a problem in paying for child care. It is very expensive for the average family. We are concerned about whether or not we can find it even if we can afford it and if we can find it and afford it, we are deeply worried about who these people are who are watching the most prized possessions in our lives, our children.

So the answer came back from the people of Nevada, we would like to see something happen that would help us out in terms of improving the quality of child care, making it available and, to the extent possible, reducing the cost of working families for child care as they try and make ends meet.

I commend him immensely for having taken that step. His knowledge of the issue is rooted in that first-hand information which is the best information Members can always get, and that is from the people they represent. I thank him for his kind comments, I thank him for his remarks this morning and, most specifically, I thank him for taking the steps of inquiring of his constituents what their real interests are in this legislation.

Mr. President, I would like, if I could, at this juncture to bring my colleagues up to date on the legislation before us. We have had now two days of debate, not full days, only about 3 hours or so on Thursday and 3 hours or so on Friday. There were no votes. The leader has indicated there would be no votes today prior to 5:30 p.m., and even that may change depending upon a meeting, I gather, the leadership will be having a little later this afternoon. There are a number of amendments that are being drafted that I believe are noncontroversial, in which case the votes would not be required. We may deal with some of those this afternoon.

If I could, I would like to just brief my colleagues on the parts of the ABC bill, what is in the ABC bill as it is now before the Senate, having been resubmitted in the form of a substitute offered by the majority leader.

Mr. President, what I have with me is a chart that lays out the elements that are included in the Act for Better Child Care, S. 5, as revised, I would add, by, one, the National Governors Association agreement that was struck a number of days ago, and further by a substitute that was offered by the majority leader last Thursday that is now the legislation pending before the Senate.

First of all, the Act for Better Child Care is rooted on the desire to try to address three basic problems that the American family is facing today with the need for child care; that is, the availability of child care, the cost of it, and the quality of it. That has been said over and over again.

I might add, Mr. President, at the outset there was some debate as to whether or not those three issues were legitimate issues, whether or not in fact American families were having difficulty with those three parts of the child care issue. We now know as a result of numerous surveys that have been conducted across the country in fact those are the three problems that people are looking at.

In the Act for Better Child Care, we thought, unlike many other bills that have been adopted in the past, what we ought to try to do is see to it that the greatest percentage of the resources go directly to the parents in need rather than going through bureaucracies at the Federal level or the State or the local level, trying to get as much assistance directly to the people who have the crisis in child care, the affordability side, try to relieve the burden of cost. So 70 percent of the funds included in the legislation are direct assistance to low-income and working families. The income levels that are qualified to receive these funds are to be determined by each State with a cap that goes on about a level of 120 percent or so of median income, so the range would depend upon what the State decided, but it goes from low right up to the working families and 70 percent of the funds are direct assistance to people in those income categories.

Who can receive that assistance in addition to the parents? Relatives. There was great concern about whether grandma or grandpa could actually provide child care and be compensated, or the aunt or the uncle or the sibling who would be of majority age. In fact, all of them are included as potential recipients under the 70 percent. No one is excluded.

Second, some said you are going to deny choice to people, you are going to discriminate against religious based institutions or center based or school based or neighborhood based. You come up with a name. The fact is, Mr. President, no one is exempt. No one is excluded. Religious church care, center-based care, neighborhood care, family care, relative care, all of them quality, provided of course the State has licensed them, which is the way it ought to be. It is not the Federal Government licensing them; it is the State licensing them.

Last, in that same category, we should emphasize that there is no effort to try to take those funds and get them caught up in the cost of running these programs, which has been the case in the past.

So the first element, the 70 percent, is designed to reduce the affordability problem and not to deny at all people the opportunity to choose where they would best like to get child care. It is direct and it is meaningful assistance.

The second element deals with the availability of child care and to some extent the quality of that child care. To that we allocate 22 percent of these funds. These would allow for establishing some State standards, training, resource and referral, licensing, grants, and loans to help encourage people who might want to get into the child-care business, low-interest loans to make the renovations in their homes or elsewhere to get underway, a special authorization for State liability risk retention pools. We have been told as a result of our hearings over and over again that one of major costs of child care is insurance, and at the suggestion of our colleague from Utah [Mr. HATCH] we included the special authorization for State liability risk retention pools.

There is a section in this part of the legislation that encourages business partnerships. We are trying to encourage far more businesses to be involved in supporting child care. Today there are only about 750 or so businesses that actually have onsite child care. There are only a few thousand that support child care even to the extent of getting involved in resource and referral issues. So the 22 percent goes to improve supply, increase the availability, encourage the expansion of child care services in our States and local-

ities, and simultaneously to try to raise the level of quality and to do that in a positive, constructive way rather than a threatening way.

It has not been uncommon in the past when Federal legislation was adopted that the Federal Government has said if you do not do these things, we are going to penalize you. That is not what we do in this legislation. First of all, we do not say to the States exactly what each standard ought to be. We let the States decide that. So when we get to the issue of class size, let the State decide it. If Connecticut decides that there only should be 15 or 20 young people in a child-care classroom, then that is up for Connecticut to decide. If Utah wants 40, that is up to Utah. What we say is the class size is something to which ought to pay attention. We say much the same about ratio of adults to minors, supervision. Again there are those who will advocate it should be one adult to four children, that is enough children to supervise. I am inclined to agree. But rather than say in this legislation each and every State has one adult for every four infants, we let the States decide what that ratio ought to be. And that is the case in each and every one of the standards.

We feel very strongly that there ought to be minimum health and safety standards. Again, that is not anything people ought to argue with but rather than have the Federal Government say to all 50 States, to Iowa or Connecticut, here is what your health and safety standards have to look like, we allow Iowa and Connecticut to decide what those specific standards ought to be in that category. So unlike legislation in the past which has provoked a great deal of dissent and argument, this legislation is designed to give maximum flexibility to States, maximum flexibility for choice.

Let me come back to parental choice because that is one of the major points raised by those who oppose this legislation—we deny somehow parental choice.

We feel just the opposite. We feel we encourage and maximize parental choice by insisting that there be some standards in this area; we make it possible for families to make better choices. I happen to feel it is unfair to ask the average mother or father to go into a child-care center and determine whether or not the electrical or plumbing system is sound or safe. There ought to be a basic floor of minimum standards to which parents can have some degree of confidence and assurance that those standards will guarantee a minimum protection. What we have done in this legislation, by establishing those minimum standards which each State would decide, we increase the flexibility of parents. We make the choices easier for parents when they walk into a potential site where they are going to leave their infant child. Remember, an infant child under the age of 4 is not in a position to go home at night and complain about the food or to suggest the plumbing or the electrical system is not good. You are taking a highly vulnerable infant and placing them in a situation where the parents are gone. Every day, they are with people they do not know and you ought to have some assurance and some confidence as a parent that the basic minimum health and safety standards are in place; that you as a parent shopping for child care ought not have to determine whether or not the child care providers are felons, whether or not they have a record of child abuse. These are the kinds of things that States ought to be able to do to maximize the choice that parents have in deciding the child care setting they would like for their children.

So 22 percent goes into that area, to have some model standards, to encourage standards in those areas, and also to encourage the availability, to support and expand the availability of child care.

Last, Mr. President, 8 percent of these funds are for State administration. Again, not an uncommon complaint we received is that too often we provide or insist upon States doing certain things and then provide no assistance to them for the cost of doing those things. Well, here we have allocated 8 percent of these funds to be used by the States for whatever costs may be associated with this bill at the local level.

So in every single area, direct assistance going to the parents, allowing them to have maximum choice, trying to increase the supply of child care, provide, at least to the extent possible, encouraging standards which will guarantee improved quality of child care and then reducing or eliminating the costs to the States in having to take on the burdens that some of this legislation may impose.

So those are the three major legs of this legislation that are important, I think, for Members to be aware of. Since the substitute has been offered or at the time the substitute was offered by the majority leader I should add there have been three elements which were changed and included in that substitute. One is the level of the authorization of this bill. It has been reduced. This legislation in the past had an authorization level of $2.5 billion. That authorization level has been cut in half to 1.75 so that if you take the tax element of this legislation, the tax credit for child care equals the authorization for the Act for Better Child Care. So you have some symmetry in the bill.

Second, we have modified this version to include the so-called Ford-Durenberger amendment which permits parents to use certificates for sectarian child care programs provided this is done in a manner that is consistent with the Constitution. That, again, was a major element that people have been concerned about. It is no longer an issue here. It is included in the legislation.

Last, we made some changes in the incentive grant program. Under the leader's substitute, no State will be rewarded and no State will be penalized based on where the State standards are in relation to the national recommended standards. All States would have a 20-percent State match as long as they received ABC funds. That had been a concern of some in the past, that there was some discrimination here between the funding. That is no longer the case at all.

So those are the modifications that have been made in the legislation.

There are, of course, other elements to this bill that have already been addressed by the chairman of the Finance Committee, Senator BENTSEN, who on Friday addressed the part of the legislation which emanates from the Finance Committee. By a vote of 17 to 3, the Finance Committee reported the tax credits legislation. Let me just mention briefly what is in those again for the purpose of Members being aware of what is in the bill: The tax credit for child health insurance premiums, the bill to provide a new refundable tax credit of up to $500 for low-income families that purchase health insurance coverage for their children. A credit would be allowed up to 50 percent of the amount paid requiring health insurance up to $1,000 annually. The 50-percent credit phased out for families with adjusted gross incomes between $12,000 and $21,000. The phaseout is accomplished by reducing the credit by 5 percentage points for each $1,000 if the taxpayer's AGI exceeds $12,000.

To be eligible for the credit, the health insurance policy must provide coverage for one or more of the taxpayer's dependents under the age of 19. The credit would be effective for taxable years beginning in 1991.

The second part of the legislation involves a change in the refundable dependent tax care credit. The present law provides tax credit for qualifying child care expenses that enable the individual to work. The credit is 30 percent of allowable employment-related expenses for taxpayers with an AGI of up to $10,000. The committee measure would make the current dependent credit refundable for taxpayers with adjusted gross income of $28,000 or less. The credit would be 33⅓ percent refundable for 1990 and 100 percent refundable for all subsequent years.

Beginning in 1990, the percentage for credit would also be increased for

the lower income families, be raised to 34 percent for taxpayers with an AGI of less than $8,000 and 32 percent for families with adjusted gross income between $8,000 and $10,000.

The current law credit would also be modified to provide that no credit would be allowed for child care expenses to the extent they are paid, reimbursed, or subsidized by the Federal, State, or local governments.

I am sure the chairman of the Finance Committee and others who have been involved in that will be glad to go over the specifics of those in the bill. But they have been added to the Act for Better Child Care. So you have the refundable tax credit—a tax credit for health care costs. We now know of 37 million Americans with no health coverage at all. About 12 million to 13 million of that number are children. We are trying to reduce that number, of course, in the ABC portion of the bill.

I see my colleague from Utah has come to the floor. But I will be anxious to have Members come over who are interested in examining this legislation, and to go over the various pieces of it as we further debate the legislation today.

Mr. President, I yield the floor.

Mr. HARKIN addressed the Chair.

The PRESIDING OFFICER (Mr. DECONCINI). The Senator from Iowa.

Mr. HARKIN. Mr. President, today the Senate is presented with an important opportunity—an opportunity to do something positive for thousands of American families. Families in which parents are confronted every day with the kinds of choices with which no one wants to be faced—choices which involve the safety and well-being of their children and the economic integrity of their families.

Some early childhood experts contend that young children suffer if their mothers leave home and enter the work force. Others disagree. The point is that for many women today, entering the work force is not a matter of choice. It is a matter of economic necessity. It is not a matter of going to work to be able to afford life's little luxuries, it is a matter of going to work to be able to afford the basics—things like rent, food, and health care for their families. And every day these young parents are being forced to make untenable choices regarding their children's welfare.

The question of who will care for the children of this growing number of working mothers and how these children will be cared for is among the most urgent problems we face as a nation. We cannot afford to let this opportunity pass by.

Not so long ago, tragedy struck right here in the D.C. suburbs, when a working couple, with no better option available to them, was forced to leave their 8-year-old daughter in charge of her little brother and his playmate. When a fire broke out and she ran for help, the door locked behind her and both of the younger children died.

Out of sheer desperation, too many parents are forced to leave their children in situations that they realize are far less than satisfactory, if not downright dangerous. Low-income parents particularly face the dilemma of having to place their children in inadequate or potentially harmful situations or forgoing the work and training opportunities they need to provide food and shelter for their families.

We can no longer allow our children to pay the price for unsafe and inadequate care. As the parent of two young daughters myself, I do not believe there is a parent out there who does not worry about the safety and well-being of their children when they cannot be with them. We have the opportunity now to do something that will go a long way toward making safe, appropriate, and affordable child care available to the families that need it most.

My constituents back in Iowa are very concerned about child care, and they tell me that one of the most important things that a child care bill should do is to make sure that parents have a choice as to where they leave their children. Right now many parents do not have that choice.

It may come as a surprise to some that there is a critical shortage of child care in rural areas. Why there is not even one licensed child-care center in Van Buren County in Iowa, a county of 8,600 people. And it is not because there is not a market for child care. The newspaper recently reported the dilemma of one young mother in Keosauqua—a town in Van Buren County—who is looking for child care for her baby. She says she is looking for "something with a clean environment, balanced meals, a place that is State-approved and isn't too overcrowded." Well, she is going to have a hard time finding it in Van Buren County when there is not even one child care place in the entire county. And this situation repeats itself over and over again all across the country, especially in our rural areas.

Parents like this young woman do not have a choice when it comes to child care. And giving them a few extra dollars a week through a tax credit will not give them that choice. Tax credits as they are being proposed by the Bush administration and others do nothing to address the availability of quality child care to meet the varied needs of today's families. And they certainly are not sufficient to give these parents the option of staying home.

Tax credits as are proposed in this bill will be a way of enhancing the income of the poor, and they will complement the provisions of the ABC bill. That is why I support the tax credits that are part of this bill, because they do not supplant but they complement the other provisions of the ABC bill that speak to availability, quality, and affordability of child care.

That is why tax credits must be a part of the bill, but must not be the only thing in and of themselves. Tax credits alone will not give families a choice. Tax credits alone will not give these families the power to decide for themselves how they want their children taken care of. Tax credits, as a part of the overall bill, will indeed provide that kind of choice.

The Act for Better Child Care Services will help communities increase the availability of, and access to, good quality child care. It will encourage diversity and will expand, and not constrict, parents' child care options, options which would include family and relative care, as well as church-based care. The ABC bill will help build the infrastructure of child care to give parents a real choice. It will not build a new bureaucracy. The bottom line for me, basically, is that the ABC bill gives power to families to make the choices, to decide for themselves where they want to have their children taken care of.

A window of opportunity is now open to use to secure the future of America's families, especially those low-income families who share the same concerns, hopes and fears for their children, as do you or I. We must take advantage of this opportunity and not let it go by.

I am pleased to be an original cosponsor for the Act for Better Child Care services. I want to take this opportunity to commend my colleagues, especially the distinguished Senator from Connecticut, my good friend, Senator DODD, who has given, I know, at least 2 years of his life to making sure that this bill is drafted through committee and here on the floor of the Senate.

Again, Senator DODD, I know, has spent hours, days, weeks, months of his life, ensuring that we have a bill that addresses all the needs, not a narrow bill, but a broadly based bill, and one which really addresses the essential problems of the lack of afforable quality child care for our working families.

I also want to commend the chairman of the full committee, Senator KENNEDY, and the ranking member, Senator HATCH, and their staffs, who have spent countless hours developing a balanced and comprehensive response to the child care crisis in a truly bipartisan spirit.

The recent agreement reached with the National Governors Association regarding child care standards attests to the fact that all of us realize that the time has arrived to support comprehensive child care legislation.

I also want to point out, Mr. President, that the current vice-chairman and in-coming chairman of the National Governors Association, is the distinguished Governor of my State of Iowa, Governor Branstad. I am pleased and proud that he has signed on as a supporter of the ABC bill that is now before us.

The addition of a tax credit component, as I said, further complements this bill. We can be proud that we have finally recognized that American families deserve bipartisan support. An editorial appearing in the Des Moines Register this past year stated that the ABC bill, "has the potential to make life better for America's working poor, make life safer for their children, and ease the welfare burden on all of society."

Mr. President, I think that about says it all about the child care bill before us. I am hopeful that we will handle any and all amendments expeditiously. I hope that the bill passes as quickly as possible and that the President will sign it into law at the earliest possible time.

Again, I want to really compliment my friend and distinguished colleague from Connecticut for all of the work that he has done on this child care bill. As I said earlier in my remarks, for the last couple of years there has not been a time when I have met Senator DODD in the hallway and on the elevator and in a committee meeting that he has not said something to me about the ABC bill and the need to get it wrapped up and through the floor, and get it on its way. He has been the real engine that has been driving this legislation, the sparkplug behind it, and it is really a credit to him that we now have it on the floor, I think, with strong bipartisan support.

I also want to compliment Senator KENNEDY and Senator HATCH. Senator HATCH, I know, has worked a long time on this bill, also, and has had great input into it; from working with Senator HATCH on other issues, especially those dealing with the handicapped, I have been impressed with his deep care and concern about this issue of child care and his concern that families have choices, that they are able to put their children where the parents feel best, not where the State or Government or some bureaucrat might feel is best. I want him to know that I join him also in that concern.

The last thing, Mr. President, as the Chair of the Subcommittee on Appropriations that appropriates money for Health, Human Services, Education, and related agencies, it will fall within that subcommittee to try to find the money for this child care bill. As I said, I hope that the bill expeditiously passes and the President signs it into law, and then we will have to come down to the really hard business of finding the funds for next year. The clock is ticking away. We now find ourselves in mid-June, and we hope to have our appropriations bills passed and on their way by the end of September, to meet the deadline of the beginning of the fiscal year.

I urge my colleagues and others who support this very important piece of legislation, to help secure a 302(b) allocation from the Budget Committee and the full Appropriations Committee, that will allow us to begin funding the ABC bill; to make sure that we do not just pass authorizing legislation and then not have any money to meet the real needs of the families out there that have been waiting a long time for this legislation.

So I am hopeful that we will get this bill passed, but I hope that we can find the financial resources, so that when September rolls around, we will be able to put in the appropriations sufficient money to get this program on its way at the beginning of the next fiscal year.

I yield the floor.

Mr. MITCHELL addressed the Chair.

The PRESIDING OFFICER. The majority leader.

Mr. MITCHELL. Mr. President, I have consulted with the distinguished Republican leader and with the managers of the bill, both Senators DODD and HATCH, and I believe the best course of action now is for me to indicate that there will be no rollcall votes today, that amendments may be offered which can be accepted.

If any amendments are offered which require votes, then we will, by agreement, put them off until tomorrow. So there will be no rollcall votes today.

We expect to continue on the bill. Senators should be aware—and I repeat this, and I believe this will be the third time I have said that, so I hope Senators will take it to heart—that there are likely to be evening sessions with votes throughout this week. I hope to finish this bill this week, and it is an important bill, very complex, and, in some respects, controversial.

So Senators should be aware and should arrange their schedules in such a manner as to anticipate the possibility of lengthy sessions throughout the week, including Friday, if necessary.

Mr. President, I thank my distinguished colleague.

I yield the floor.

Mr. DODD addressed the Chair.

The PRESIDING OFFICER. The Senator from Connecticut [Mr. DODD].

Mr. DODD. I commend our colleague from Iowa for the statement and for his help over the last year and a half or so. We serve on the Labor Committee together, and he is a member of the Subcommittee on Children and Families and Drugs and Alcoholism, from which this legislation has come. He has been tremendously helpful, and the record ought to reflect that as a result of his labors, one of the things that have been included in this bill is a significant emphasis on rural child care delivery. The tendency, if you listen to some of the remarks and speeches, is to think this is geared to urban areas. As a result of the efforts from the Senator from Iowa, we have insisted that a major portion of this legislation be focused on rural delivery of child-care services, the availability, quality and cost of that child care, and I thank him immensely for that involvement.

I also point out—and the Senator from Iowa has said this is a bipartisan bill, and it clearly is, as reflected by the two managers of this legislation on the floor, Senator HATCH and myself, who are proposing this legislation; but it goes beyond just partisanship here in the U.S. Senate.

The distinguished Governor of the State of Iowa who is a member of the Republican Party in good standing, I might add, a conservative Republican Governor of Iowa, Governor Branstad, who is the incoming chairman of the National Governors Association, signed a letter along with Governor Kean of New Jersey, a Republican Governor, and Governor Clinton of Arkansas and Governor Baliles of Virginia, two Democrats, the outgoing chairmen of the National Governors Association and the two incoming chairmen of the Governors Association in support of the Act for Better Child Care.

So when we have our Governors across the country, Democrats and Republicans, from the States of Iowa, Virginia, Arkansas, New Jersey, as well as Republicans and Democrats here in the Senate, supporting this effort, then I think we can lay claim to the fact that we have reached out and developed clearly a bipartisan proposal.

So I thank Governor Branstad as well for his support of this effort and again particularly the Senator from Iowa for his help on the critical areas of resource and referral in rural areas of this country. He has done an excellent job.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Mr. President, it is my privilege to be on the floor and to chat about this particular bill a little bit more as we go into this week, an important week historically, it seems to me, for women, children, and families. This is a family issue. This is an issue that I think can make a difference in America and can help to solve some of the problems that we have in this country that are causing great anguish and great difficulty for a lot of people.

I thank the distinguished Senator from Iowa for his kind remarks concerning me as well as the others who

have worked so hard to try to bring this bill to fruition.

This is not an inconsequential bill. This is a bill that has tried to reach out or at least the chief sponsor and myself have tried to reach out to every Member of the U.S. Senate, and hopefully the Members of the House as well by trying to fashion this bill and conform it so that it meets the needs and the wishes of the vast majority of the people in the Congress.

I started on Friday talking a little bit about some of the misconceptions about this bill and some of the things that have been said about it, and I would like to continue that for just a few minutes and then I would like to chat just a little bit more about child care and how important it is and how important this particular subject is.

I am interested in one of the criticisms that some of the opponents of this bill have lodged against the bill. One of them is that they say that the families will receive virtually no ABC funds, that this bill really does not do much for child care.

I have to say there are a lot of misunderstandings with regard to the 70-percent requirement for direct assistance. They are saying that the only way the family is going to have a choice for child care is of course to do it through the refundable tax credit approach or through a tax credit approach where the families can use the money any way they want to. Of course, there is no obligation for them to use that money for child care, nor is there any way under the tax credit approach which I also support that they will have quality child care guaranteed because there is no way there is any encouragement to try to meet certain minimum standards to effectuate good child care, nor is there any way that there will be an increase of child care slots through solving the problem of availability if you go the tax credit route.

The fact of the matter is that that is not the only way that you can get families to have the choice with regard to the child care that is available. These funds in the ABC bill are to be used for direct subsidies to families. They can go directly to the parents in the form of a child care certificate or some call it a voucher, or they can go directly to the parents in the form of a prepaid slot in a child-care facility or in a family home.

Now that is helping parents and they can make the choice where their child goes for child care. If they get a child care certificate or voucher, they can use that certificate anywhere where child care is provided. If they ask for a prepaid slot, then they make the choice as to which slot their children are able to choose.

So there is little or no difference except that the moneys pursuant to this bill go for actual child care. They go for child care that has a reasonable set of minimum standards to be set by the State but certainly within categories that we define in this bill that I do not know anybody who would disagree with such categories, and they go for child care that is in the opinion of those parents the best form of child care for them and their children.

We considered requiring States to utilize voucher systems only, but were instead persuaded by the argument that States deserve the flexibility to use whichever mechanism or combination of mechanism for service delivery they believed was most effective to meet their own needs.

So we have left it up to the States. If they want to put the money into child care certificates, they can do that. But if they want to pay for prepaid slots for children so that the children can be placed in whatever slots the parents like, that is fine, too, whatever they would like to do. We have tried to bring bureaucracy down to a minimum. In fact, there is only one person under this bill in the Federal Government who will be responsible for child care, and that person is an existing member of the Department of Health and Human Services. We provide for a title for that person.

The real power is given to the States, but we do suggest that they handle these moneys for child care and that they utilize some of these moneys for the development of available slots for the children, and that they work to create quality child care for their families within their individual States.

For example, States may want to use certificates for areas within the State that have a variety of available child care options. States may also believe that prepaid care is better where availability is a problem.

So the States have that flexibility and in the process it really translates that the parents have the flexibility because either way they can call upon the States for help.

Currently, 26 of our 50 States have certificate programs, and I certainly agree that that approach is very desirable and we do have that as part of this bill.

But, I do not agree that a State's use of a contracting method means that families will not be directly helped, because they will be under this particular bill and anybody who says otherwise is not being fair or they just have not read the bill.

Another criticism that has arisen about the child care ABC bill is that the ABC bill provides no help to typical families since 75 percent of per-school children are cared for by parents and relatives.

I certainly agree that parents should have choices. When a grandparent or relative can provide care, I think that is wonderful. The ABC bill does allow for care by relatives virtually without restriction.

Unfortunatley, testimony provided to the House Select Committee on Children and Families in 1987 indicated that reliance on care by family members or relatives was dropping and that this care was becoming relatively—no pun intended—more expensive.

Additionally the ABC bill does not prohibit informal child care arrangements with friends and neighbors. Perhaps the opponents of this legislation are referring to the fact that when public money changes hands, certain strings are attached. If a neighbor cares for children, there are no restrictions really imposed by this bill on that neighbor unless the State itself has already made such arrangements subject to State regulation or registration.

So the argument that the ABC bill provides no help to typical families, since 75 percent of schoolchildren are cared for by parents and relatives, is not quite accurate, because family care is dropping.

The ABC bill also requires States to set standards for family-based providers receiving public funds that are appropriate for this type of care. There is clear recognition in this ABC bill that family-based providers should not be held to the same standards as center-based providers.

So we clearly, clearly resolve that problem. And, again, those who make these kinds of arguments either have not read the bill or they have not cared to analyze it correctly.

Another criticism that has arisen through the many months that we have tried to fashion this bill so that it would meet the needs of the most people in our society is that the child care certificates authorized by ABC would be ineffectual.

It has been said, based on experience with the social services block grant, that most States would not offer certificates. The fact is that most States do operate certificate programs. Twenty-six States offer vouchers to eligible parents. The ABC bill certainly does not discourage this practice.

It has been said that parent's choices would be restricted under a certificate program because they could not be used with a wide variety of providers. The fact is that parents issued a certificate under the ABC bill could use it absolutely anywhere that met the State requirements for licensing, regulation or registration. These choices for parents include family-based care, churches, school-based extended day programs, for-profit providers, or community-based programs. The only exception is a certificate used to reimburse a grandparent, aunt or uncle. Relatives do not need to meet any requirements imposed by the ABC bill.

Critics of the ABC bill argued that a provision requiring a three-way contract among the State, provider, and parent was a backdoor method for diluting parental choice. In fact, this provision was to assist the State in accounting for and monitoring the proper expenditure of funds. It was never intended by the committee to undermine the use of certificates. So, to be absolutely clear, this contract requirement was deleted from the bill as part of the Ford-Durenberger amendment requirement.

So much for that particular argument.

Now, finally, one of the arguments has been that grandmothers would have to meet standards.

Not so. Relative care is exempt from any standard or requirement imposed by this bill. And this bill basically imposes no standards other than we give six categories and some subcategories of areas where quality child care can be arranged and can be fulfilled.

Only if a State-imposed independent requirement on relative care would there be any regulation at all. And we have no right to interfere with whatever States want to do. Personally, I would not like to see those kinds of regulations. But if a State chooses to do so, they can. But this bill does not do so.

Majority Leader MITCHELL's modification makes several technical changes to clarify this intent, including the deletion of the contract provisions.

Additionally, the Ford-Durenberger language concerning the use of certificates for religious providers negates the red herring argument that grandmothers could not read Bible stories to their grandchildren and still be reimbursed with an ABC certificate.

Another argument that constantly crops up that is also false is that the ABC bill would require States to license child care programs in religious institutions.

Well, the bill is carefully drafted so that States set the categories of care to be licensed or regulated. A State that did not already require religious providers to be licensed would not be forced to do so upon passage of S. 5.

The so-called uniformity provision—over which there has been much confusion—States only that providers who are required to be licensed or regulated by the State are all subject to the same standards for their category of care. That is, a church-based provider accepting an ABC certificate under this bill would not be subject to more stringent standards than a church-based provider who did not receive ABC moneys, provided the State required licensing of church-based providers in the first place. And if they do not, well, then, there is no problem at all. And I do not think there is a problem anyway.

Mr. President, I understand the distinguished Senator from Arizona would like to speak on this matter and, of course, I would be happy to interrupt my remarks to enable him to do so. I yield the floor.

Mr. DECONCINI addressed the Chair.

The PRESIDING OFFICER (Mr. BINGAMAN). The Senator from Arizona.

Mr. DECONCINI. Mr. President, I thank my friend and colleague from Utah for his courtesy and for his leadership. If he stays around here, his ears will burn because I am going to say some very nice things about the Senator from Utah. He knows I feel very strongly about my friendship with him.

Before I do that, Mr. President, I rise in support of the ABC bill. Today it is estimated that half the women in America have to leave their babies in child-care programs they do not trust. As a nation, we can do much better than this and we must.

Right now, in this country, 21 States, as has been pointed out, do not require criminal record checks of child care provides. As a nation, we can do much better.

Today, across these United States, almost 2 million children come home from school each day to an empty house. As a nation, we must be better.

This country is in the midst of a child-care explosion. We have all heard the numbers time and time again. Half of all mothers with preschool children are now in the work force. Their number will only get bigger each day. And so will the demand for decent, affordable child care.

In Louisiana, 9,000 families are on the waiting list for child care. In Tennessee, only 1 out of 5 infants who need child care can get it. In my own State of Arizona, there are 130,000 latchkey children with no child care. There is a national need in this country to make child care more available.

In a community near Chicago, 47 children were found being cared for in a basement by only 1 adult. One adult for 47 children—and half of those children were younger than 2 years of age. That program cost $25 a week—one-third of the cost of most child care in the community.

The bottom line is simply this: Those children were in that child-care situation because their parents could afford no better. The facts speak out loud and clear: There is a national need in this country to make child care more affordable.

In Florida, two small boys burned to death when they climbed into the family clothes dryer. On that particular day, their child-care arrangements had fallen through, and their mother was forced to leave the boys on their own at home. Make no mistake: There is a national need in this country for child care that is safe.

President Bush has called child care "the single most important issue arising from the changes in our work force." In poll after poll, Americans are saying that child care is not an urgent need. To repeat: The need is urgent—not one that simply needs to be taken care of when we all have time, but now.

Few of us dispute the need, Mr. President. That is no longer the question. The question now is: What will Congress do about it?

All of us know what the Congress did last year. We brought legislation similiar to this bill to the floor of the Senate, only to see that it was killed by a filibuster. How cruel that is—that we could have child care provisions now that would be part of our national policy and law, but we lost a year.

Now, we have a second chance, and we have an even better bill than before. Senator DODD, who has sponsored this bill and has labored long and hard to see it go through the process in the last Congress and now this Congress, deserves the great deal of thanks and gratitude that have been expressed on the floor to him. And I express the same gratitude.

The same goes for Senator HATCH, only perhaps in a particular way. ORRIN HATCH and I arrived here in the same year. In 1977, we were sworn in. We both were new Senators. We both served on the Judiciary Committee. We found much in common; we talked about family issues from time to time; we talked about child care more than 6 or 7 years ago.

Senator HATCH last year introduced his own bill. And there was some reluctance by many to join the Senator from Utah in a different approach from what the ABC bill was. He talked to me about it, and I could tell through his usual genuine way of wanting to find a solution to a compelling problem that I should join in support of his bill, and I did enthusiastically.

As a result, I would like to think that Senator DODD and Senator HATCH were able to forge together this bill before us today. There were some different views to begin with, some concern about standards, about States being able to evolve their own process. They put together a bipartisan bill in the best of spirits, realizing the importance of the underlying issue—as Senator HATCH has pointed out and Senator DODD time and time again—the family.

If we are really interested in the family, it is time we do something here without intruding and without mandating that a family alter its ways of living. But let us provide an opportunity. Senator HATCH has moved in that

leadership capacity together with Senator DODD.

I do not know how much has been mentioned about him here, but the Senator from California, Senator CRANSTON, started this process about 6 years ago. I recall a memo that I received from him talking about the need for a comprehensive study as to how to approach child care on a national basis—one that would be realistic, affordable, and safe.

I want to compliment the Senator from California for the effort that he has put in. There are many others—Senator KENNEDY, and many others—who have labored long and hard. Senator DODD and Senator HATCH have forged a bipartisan bill that gives greater flexibility to the States. This bill promotes more business involvement. It offers protection against liability. Most importantly, it gives parents more choices. The ABC bill not only encourages, but insists on parental involvement in child-care programs.

Mr. President, we have a great number of bills in the Congress that claim to be the best answer to the child-care problem. Many are tax credit proposals. One is a tax credit proposal by the President.

Now tax credits are important. They can help low-income families pay for child care. I support the tax credit incorporated in the Mitchell amendment.

I even introduced a bill that would grant a tax credit, on a one-time basis, to businesses for establishing a child care center on or near the workplace.

But, Mr. President, tax credits alone are not the answer. The only bill on the table—the only one—that addresses all three parts of our child care problem is the Act for Better Child Care Services.

More than a year and a half ago the Nation watched the rescue of Jessica McClure. Jessica is the young girl who fell down the well in Texas. But what most of us did not know was the Jessica was being cared for in an unlicensed day-care home—with 1 person caring for 9 small children. Jessica was lucky.

Not everyone is so fortunate. I heard a mother from Springfield, VA, testify how her young daughter had died in the home of a day-care provider. The provider had given Ashley massive doses of an antidepressant drug to keep her quiet. Other parents had seen Ashley tied to a high chair, but said nothing. They said nothing because the child-care provider had told them Ashley was a Downs syndrome baby. Ashley was 10-months' old when she died.

This should not happen, ever—not in Virginia, not in Arizona, not any place in America. But it does happen, and people who believe there is no need for safe child care in this country are burying their heads in the sand.

Right now, 32 States require no first aid training for child-care center workers. Seven States have no requirement that staff wash their hands. In 10 of our States children enrolled in family day-care homes do not have to be immunized. Parents want child care to be affordable. They want it to be available. But they also want it to be safe.

In a child-care center in Virginia toddlers are locked in the bathroom for talking. This does not happen occasionally, Mr. President. This is a matter of routine discipline.

In Maryland, toddlers in some day-care centers are hit on the bottoms of their feet for talking at nap time. They are routinely expelled for wetting their pants. Do you know what happens in some centers near the Capitol when a child is bitten by another child? The child who is bitten is encouraged to bite the other child back.

Now, Senators may say that this is unbelievable. My colleagues may say that it is outrageous—and indeed it is. I say it is another kind of child abuse that is going on in our Nation today.

When a nation says people need a license to cut our hair, but not to care for our children—that nation has its priorities backward.

When a nation requires that our sausage be inspected regularly, but not the facility that cares for our children—then that nation has perhaps lost its priorities.

The ABC will give us accountability, Mr. President, in caring for the most important resource we have. The ABC bill, if modified by the Mitchell amendment, will provide us with model standards for child care. These are not mandated standards. They are recommended standards in critical areas of health and safety and quality.

The States would be free to set their own standards within these categories. These are not national standards we are talking about. We are not saying that the Federal Government is going to mandate and force something down the State's throat or its legislature or its regulatory agency.

This is a carefully crafted bill put together by the Senators from Connecticut and Utah and others of us in order to be sure that the States have every opportunity to realize the importance of some safety, some availability, some constant direction in child care. These are not national standards that we are talking about. They are State standards set by the State at its own speed, according to its own needs and its own resources.

For those who may be shaking their heads and saying: "Wait a minute, we have heard about that before where Washington says, 'Don't worry, be happy, we will take care of you' "—I say, is a simple tax credit approach to this sufficient? Is this going to be the whole answer that we have? Or perhaps a grant program where we hand some money over to States and say, "Hey, do with it as you like?"

This is not quite what we had in mind.

Imagine being in charge of a day-care center, and a fire breaks out. How many babies do my colleagues think they could carry to safety?

Let me ask has any Senator ever tried to pick up a child of 8 months' old or 13 months' old and carried him around in his arms? Try it. I have tried it. It is hard to do, particularly if we are in a hurry and there is an emergency.

If anyone can carry more than two for the distance across this Chamber, he is a very, very strong person.

And yet, right now, in this country, 11 States allow five or more babies to be cared for in family day-care homes—by just one person—without any assistant. Eleven States allow this practice today.

Recently I got a letter from a constituent who criticized day-care centers because she said they are a hot bed for infectious diseases. Now I do not think the answer is to keep a child out of a day-care center if this is what you want. I think the answer is not to allow a day-care center to endanger the health and safety of our children.

This is precisely what the ABC bill tries to do. In order to be eligible for ABC funds, States must take some action to prevent and control infectious diseases. They must take some action to prevent child abuse, and to have adequate safety exits in case of a fire. These are not unrealistic expectations. They are common sense actions that could prevent tragedy.

I repeat, under the Mitchell amendment the States will be able to set their own priorities and move at their own speed. They will have 3 years from the date of enactment to put their standards in place. If a State does not measure up to the national recommended levels at the end of that time, it will not be punished; it will not be penalized. It would be eligible for an incentive grant to improve its child-care quality.

Eleven short months ago George Bush was on the campaign trail. Eleven months ago he pronounced child care "nothing short of a family necessity." He called on the States and the Federal Government "to provide additional resources * * * for a broader range of choices and higher quality child care."

The President used the word "quality." Now a tax credit alone will not give you quality in child care. But the ABC bill before us today shoots for this goal.

The American people have spoken out—and spoken overwhelmingly—for quality in child care. In a national poll taken just 2 months ago, 73 percent of the parents surveyed believed the Fed-

eral Government should establish and pay for child-care programs to "provide quality day care for children."

Mr. President, I want to thank a couple of people who have helped me in my efforts to support this legislation. One, of course, is my wife Susan, who is a social worker and has been involved in a number of efforts around the country and in my own State, who is one of the moving forces in the establishment of the Child-Care Center for Senate Employees. The National Council of Jewish Women, has worked hard, as have the American Academy of Pediatrics, the National Junior League, and the Catholic Conference—just to mention a few.

Lynn Kimmerly of my own staff, and others on my staff, have labored long and hard to see that a piece of legislation of this magnitude and with this sensitivity toward the States rights and the people's rights to make some decisions themselves can be before us today.

I urge my colleagues to vote for the ABC bill. We have a chance to pass a bill that can make child care more affordable, more available and safer. We have a chance to make a difference, a positive difference in the lives of our children. We have a chance to make a difference in this country's future. It is the future that, after all, is in very small hands.

Mr. President, this is an important piece of legislation. I cannot think of anything that has come before us in this Congress and maybe the last Congress that we should try to move more and strive to find a consensus. I doubt there are too many, even those who will oppose the Mitchell amendment to this bill, who really do not believe that we need to do something to promote child care. It is a matter of how you accomplish it.

Legislation is a matter of compromise. We all learn that here. Nobody, I do not believe no matter how powerful you may be here or think you are—gets exactly what you want. It is a matter of compromise and—putting together and that is the way it is supposed to work—so we have legislation that takes in these other views and then comes to the center. This is exactly what we have achieved in this bill. I compliment the managers of the bill and thank them for letting me speak.

Mr. DODD addressed the Chair.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. DODD. Mr. President, I want to take a moment to thank our colleague from Arizona. He has been tireless in this effort. I have to go back a number of years when I first got involved in this issue—and the Senator is absolutely correct in identifying Senator CRANSTON as one of the people early on who tried to generate some interest in this subject matter. Senator DECONCINI has on every single occasion, without exception—and we have had press conferences, meetings, discussion groups on how best to proceed with this legislation—been there. We would not, I think, have moved as successfully as we have through the subcommittee and the committee to the floor.

I want to take this moment to thank him and also to thank Susan DeConcini. Susan DeConcini is an active force in her own right. In addition to being the spouse of our colleague, she has been a participant in major conferences all across this country. Every conference I have spoken to on child care, I look out in the audience and the first person sitting in the front row as a participant is Susan DeConcini. She has an active interest in this and has formed a coalition of parents across this Nation who are concerned about the future of our children and has done a remarkably good job of involving people, regardless of party persuasion, of political ideology, of geography, religion and bringing them together under the united effort to improve the quality of life of young people in this country.

One out of every four Americans is a child. As DENNIS DECONCINI said eloquently this afternoon, this Nation's future without question is in the hands of those 64 million Americans. Not because we have carved in the lintels of our great buildings the statements of our fearbears or the strong pronouncements of our Declaration of Independence or our Constitution. All of those are reminders of what this Nation's heritage is and the road signs of how we ought to conduct our affairs. It is people, each generation of Americans who sustains these values. If we fail to provide the generation of young Americans with the tools necessary to be educated, to be healthy, to be strong and to be informed, then we jeopardize those values. We make it possible for a demagog or others to erode those values and those principles.

What we are trying to do here with this child care legislation is to assist families and to assist children, and Susan DeConcini and DENNIS DECONCINI have been in the forefront of that battle for many years. I am honored that he is a cosponsor. I am honored he is a supporter, and I believe we will ultimately be successful because of his efforts. I am delighted with his statement today, Mr. President.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Mr. President, I also want to compliment my good friend and colleague from Arizona. I have watched Senator DECONCINI through the years, and on so many issues he has been right. On this one he is also right again. I also want to compliment his wife Susie. She has been a great friend to me through the years. Early on in this particular battle she came to me and said she was willing to help in every way she possibly could because she appreciated some of the things we were trying to do with regard to alleviating these problems that families have with regard to child care. She is a very active, very noble, very good person. It meant a lot to me at that time and still does.

I personally appreciated the kind remarks of the distinguished Senator from Arizona because I do not know of many people whose remarks mean as much to me as his always do. He is a good friend, and he is certainly a stalwart in fighting for these particular principles that mean so much to his families in the State of Arizona and my families in the State of Utah and I think for all families throughout the country. I want to personally thank him for his kind remarks.

When we began this debate, I made some points about some of the statistics involved in the child-care battle. I think these statistics are stark and they are very, very important. I would, therefore, like to go into some more detail. Let me begin by saying that I start from the premise that it is better to have a parent in the home with the children. That is the ideal. Nothing comes close to that because parents know what is best for their children; they personally feel the anguish and the problems and the vicissitudes and difficulties and exhilarations and joys that the children have more than any other human beings. Of course, they are the ones who anguish so much if their children are not getting the very best that they can offer in this life. And when they have to work, it really adds an additional burden. So it is better to have that parent in the home with the children whether it be the father or the mother. In most cases, it turns out to be the mother. Either way, it is better to have a parent with the children during the daylight hours, helping them with their problems, there for counsel and advice, there to pave the way, smooth the way and to help them through this really rocky road of life.

But today that is not a reality in this society. When reality is different, I think we have to approach things from a realistic standpoint and try and resolve the problems. About 45 percent of all of our workers in this society are women. That is going to go 50 percent by the year 2000. Two-thirds of those women are either single heads of households, meaning divorced, widowed, or otherwise unmarried, or are married to husbands who earn $15,000 or less a year. They have to work.

What happens to those children left at home? Seventy percent of all women between the ages of 25 and 34 now work in our society; 70 percent. Those are the principal child-bearing

years in marriage. They are all in the labor force. By the year 2000, 61.5 percent of all women will be employed.

It is almost a necessity to keep our country going because our labor demographics are trending downward and the only way we can make it up with regard to quality is with women in the labor force.

Three-fifths of all new entrants to the job market and the work force today are women—three-fifths. Three out of every five jobs are taken by women today.

According to Labor Department data, the labor force participation of mothers more than tripled between 1950 and 1981. It rocketed from 18.4 percent to 58.1 percent in that 30-year period. Think about it, tripled.

In 1950, only 12 percent of mothers with children under age 6 worked. Today 57 percent of them do.

That is reality. That is what we have to face and we cannot just do it by conflicts on the floor. We have to resolve those conflicts. If anybody has worked hard to do it, certainly the distinguished Senator from Connecticut and I have done that. We may not have resolved all the conflicts, but we have certainly come a long way in trying to meet everybody's needs.

Of all the mothers with children under age 14, almost two-thirds of them are in the work force. Of all mothers with children under age 14, two-thirds of them are in the work force today. In 1984, just 5 years ago—and it is worse today—over 6 million families were maintained by single parents—6 million families with children were maintained by single parents. A 1982 Census Bureau survey found that 45 percent of single parents and 36 percent of low-income parents would work if child care were available at a reasonable cost. And you are going to find that we are going to need to have these people work.

In 1983, 6 years ago, there were between 5 and 15 million latchkey children. These are elementary school children that are latchkey children, and that estimate did not include the millions of preschool age children with parents in the work force who need child care services. So 5 to 15 million latchkey children who are elementary students in this country, and it does not include the millions of kids of preschool age, in other words, 1 to 4 years of age.

Just stop and think about it. Look at my home State of Utah. If there is any State that is pushing to keep a parent in the home with the children, it has to be Utah. I think all States are trying, but Utah more than any other State emphasize it is better to have that parent in the home. My home State prides itself in the family. The word "family" is the most important word in the State I think. Everybody there wants their children to be raised properly and to be supervised properly. And yet look at Utah. In Utah there are 214,600 children between the ages of 0 to 5, and 292,000 children between the ages of 6 to 13. Approximately 149,412 children between the ages of 0 to 13 need child care because their parents work and they have no relatives at home to care for them.

Utah's fertility rate is the highest in the United States. Thirteen percent of the population is under 5 years of age compared to 7 percent of the population under 5 years of age throughout the United States. We are approximately double the average fertility rate.

Utah's population is the youngest of any State in the Nation with an median age of 25.5 years compared to an median of 32.1 years in the United States. In Utah, 40 percent of our total population is under age 19, and yet of the total number of women in Utah, 59.9 percent are in the labor force compared to 56 percent for the United States. We are above the national average even though families are emphasized and having a parent in the home is major emphasis in our State. Utah's labor force increased 170 percent from 238,115 in 1950 to 641,756 in 1980. That was compared to an increase of 83 percent in the Nation as a whole.

Between 1950 and 1980, labor force participation rates for women in Utah increased dramatically from 25.2 to 52.4 percent, more than doubling in that period of time, a little over 30 years.

In 1987, 57 percent of our Utah mothers with children under 6 and 71 percent of mothers with children ages 6 to 17 were in the labor force. Nearly three-quarters, or 74 percent, of all employed mothers with school-age children age 6 to 17 and two-thirds, or 67 percent, with children under 6 worked full time. That is according to the Bureau of Labor Statistics in 1987, just 2 years ago. And it is worse today. Three-quarters of employed adult women are full-time workers compared with more than 9 out of 10 men. The number of years an average 20-year-old woman could expect to spend in the labor force nearly doubled in Utah between 1950 and 1977, rising from 14.5 to 26 years. In contrast, the work life expectancy of a 20-year-old man drifted down from about 41.5 to 37 years over the same period.

Women remain concentrated in traditionally female occupations or female occupational fields. In 1982, throughout the Nation, 99 percent of the secretaries, 96 percent of the nurses and 82 percent of the elementary schoolteachers were women. Among women, work life expectancy has increased faster than life expectancy and in 1977, a 20-year-old woman could expect to spend 45 percent of her life in the labor market, and that is up from 27 percent in 1950.

In 1987, there were 407,000 families in Utah. Utah's income per capita for 1987 was 11,246 compared to 15,340 on the average throughout the United States. In 1987, there were 39,000, or 9.6 percent, Utah families living in poverty. In 1987, there were 42,000 families in Utah with women heads of household—14,000 of them were living in poverty. That is 33.3 percent of the women who are heads of household and their children living in poverty.

In 1987, in Utah, there were 64,000 children living in families with women heads of household—33,000 of the children were living in poverty. In 1987, the total number of children living in poverty in Utah was 80,000 or 12.8 percent.

What about income of women in Utah? In 1979, 9,372 out of 33,422 female heads of families—28 percent—had incomes below the poverty level in Utah. By 1983, 13,700 out of 38,808 or 33.5 percent were poor. The median income of female heads of family in Utah in 1979 was 46 percent of that of male family heads.

Utahns who were male householders with no wife present with children under 18 had in 1979 an average income of $20,053. For females in the same situation the average income was $10,476 or just about half. Women are suffering today. Families are suffering today. Nationwide, after 1 year of divorce, a woman's standard of living decreases by 73 percent while a man's increases by 42 percent. The estimated 1980 median income of Utah women aged 15 and older with income is $4,012 which is only 31 percent of the median income of their male counterparts. This ratio has remained constant over the past 11 years, thus even though more women are working, their average moneymaking capability has not improved with respect to that of males. The estimated median income ratio of year-round full-time working women for 1980 is 54.5 percent of the median income for comparable males.

I might say it is noteworthy that women with 4 years of college have a median income equivalent to that of males with only an eighth grade education.

I ask unanimous consent that a table be placed in the RECORD evidencing that at this point.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

UTAH'S 1980 MEDIAN INCOME BY EDUCATIONAL ATTAINMENT BY SEX, YEAR AROUND FULL-TIME WORKERS

Years of school completed	Median Income		Female to male ratios	
	Male	Female	Utah	United States.
Total, age 25+	$20,683	$11,117	53.7	59.9
8 years	12,444	3,382	67.4	60.4

UTAH'S 1980 MEDIAN INCOME BY EDUCATIONAL ATTAINMENT BY SEX, YEAR AROUND FULL-TIME WORKERS—Continued

Years of school completed	Median Income		Female to male ratios	
	Male	Female	Utah	United States.
9–11 years	15,940	8,024	50.3	60.1
12 years	18,982	9,712	51.2	59.3
13–15 years	17,689	10,418	58.9	62.0
16 years	20,251	12,455	61.5	62.3
17+ years	24,201	17,005	70.3	65.4

Mr. HATCH. There are many changes in the American family. The all-American family continues to be envisioned as dad at work, and mom at home with the children. Yet in 1980, less than 19 percent of families in the United States conform to this mode. The percentage of children in the United States with single parent households continues to increase from 19.1 percent in 1960 to 23.9 percent in 1987.

What about child care in Utah? Where are we there? There are 244 licensed child care facilities or centers in the State of Utah caring for approximately 18,000 children. There are 1,500 licensed family day-care homes in the State of Utah caring for approximately 12,000 children. Some State and Federal money is used to purchase day care for low-income families. Care is subsidized for approximately 7,500 children per month.

What about the salaries of those who give this care?

Based upon data collected in a survey of child care centers in Utah in 1988, the average salary paid to directors was $12,175 per year. Teachers earn an average of $4.08 per hour and teacher aides earn an average of $3.65 per hour. Forty-six percent of the care givers terminated their jobs last year, the majority of them because of low pay. So there is a high turnover in this industry as well.

Utah data on the income of family day-care providers is not fully available at this time. However, according to the National Day-Care Home Study of 1977, 87 percent of family day-care providers earned less than the minimum wage. Ninety-four percent of the family day-care providers earned wages below the poverty level. The National Day-Care Home Study showed that family day-care providers earn an average of $1.25 per hour with a weekly average of $73.92 per week. Those figures do not take the cost of food and supplies into account.

There is a lot you could say about this. The very least that anybody could conclude is, yes, although it is an admirable thing and a wonderful thing and the ideal thing to have a parent in the home with the children, that is not realistic today. It is also not relistic to think that all these kids are taken care of. I think it is an absolute disgrace that literally 5 to 10 million latchkey children have no adult supervision during daylight hours in the greatest country in the world. No wonder we are so drug-ridden, and no wonder they are so susceptible to the drug lords, the drug pushers, the pornographers, and those who foster and push juvenile deliquency and criminal activity.

I brought this statistic out last week; that is, 20,000 children, less than 4 years of age, have no adult supervision during the daylight hours. Again, how does a 1 to 4 year old take care of himself or herself? We cannot allow this condition to exist in this civilized society. We cannot allow this condition to exist in a society that provides for itself and its families. We cannot allow this condition to exist because of budgetary reasons at all.

I am known as a fiscal conservative around here. But there are things I would spend money on. This is one of them. It is worthwhile. In the end, it will pay off because in the end we will have less crime, we will have less poverty, we will have more educated people, we will be able to compete better, and we will be able to solve a lot of problems we would not otherwise solve if we continued to ignore these problems as I think this country has been doing for a number of years.

There is a real divisiveness here on the floor on whether there should be a tax credit approach, or whether a direct subsidy approach with block granting moneys to the States is the way to go.

I prefer both of them. For those who like the tax credit approach let us make that part of this bill. That is what the Bentsen amendment does. There are aspects of the Bentsen amendment I absolutely dislike. The fact of the matter is he has made a real attempt to try to resolve these problems with the refundable tax credit.

The President's approach is a very, very good approach. I like it. I think it is something that is worthwhile. It is something I would like to support. But do not knock the ABC approach as amended either, because it is a good approach, too. They both come at it from different ways, one directly, and the other indirectly. But both of them subsidize and both of them try to help with child care. One of them makes it child care, and the other makes it moneys to the family in the home.

I think it is very important that we perhaps put both of these in this bill, in the final bill that comes to the forefront because I believe both of them are extremely important.

But lest one side think they have all the answers compared to the other—and sometimes I get the impression that those who support their side think they all have the answers—let me make a few points on that. As much as I support it I recognize its limitations. Why should the tax credit approach be considered superior to this one? There are some good reasons. Under the President's approach he would take care of the mother who stays at home or the parent who stays at home as long as the other parent works. They would share in whatever child-care benefits occur. That is a nice idea. I like that idea. I wish we could amend our bill today to incorporate that idea. Maybe we will before it is all said and done.

To me that is the single most valid point that is made with regard to the President's approach, and there are others. The other approach is they give the benefit directly to the families, and they can do with it what they want. That is both a plus and a minus by the way, because although the benefit comes directly to the family it does not necessarily go out for child care. Under our bill it has to go for child care. Under the tax credit approach it does not necessarily go out to quality child care because there is nothing in that bill that would indicate that there is a question regarding quality. Under our bill we try to encourage more available child-care slots. As you can see, Utah has all this need, 149,000 students, but we only have about 30,000 slots. So it is apparent that we have to solve that problem some way or the other.

Let me just give some reasons why the tax credit approach is not the only way of solving this problem and maybe a limited way at best. No. 1, the amount of the credit that the President would have in his bill, or that I think the Dole-Packwood substitute that will be brought to the floor before this week is over will have in their bill, barely makes a dent in the true cost of child care. First of all, the average cost of child care in this country is $3,000 per year. That is a lot of money. Sometimes it will be a little lower but in some areas you pay a lot more too, up to $5,000 or $6,000 a year.

So the child-care tax credit approach barely makes a dent. It hardly makes a helpful contribution to the cost of child care but it is something. I have to admit, I prefer to have it rather than not have it.

No. 2, all tax credit bills, including the family earned income tax credit which both Senator DODD and I support, limit eligibility to young children. None of these bills help with the expenses of care for schoolage children, they only care for children up to age 4. The way you get more money is by having more children, but in order to have the maximum benefits you would have to have four children under the age of 4. That is a pretty hard thing to do in this day and age. Do not count on the maximum benefits from any of these tax credit bills.

You might have two or three children so none of the amount of the benefit goes up but it still hardly makes a dent in the true cost of the care of those children.

No. 3, unless use of the credit is restricted to child care such as the dependent care tax credit, it will not necessarily stimulate more slots or a greater array of choices of care. If the credit is restricted, then families with mothers at home would be automatically ineligible under this approach. So it does not attack the problem of availability as well as the ABC bill does.

No. 4, a tax credit, unless restricted to the child-care approach as meeting specific criteria, will not necessarily improve the quality of care available for what parents can generally afford.

While quality is a subjective term, most people agree that child care workers or family providers should know some basic things—first aid, for instance, and how to recognize the measles or chicken pox. They should have a clean and wholesome environment, proper toys and games, outdoor access, fire extinguishers, and so forth. I think most people will agree that those are minimum requirements.

You might ask why would I support a tax credit with some of these criticisms. Well, it is important. It is an unrestricted subsidy for families with young children. The ABC bill is a direct subsidy; the tax credit is an indirect subsidy. I think these families need and deserve a break, and the tax credit is a way of doing it, but do not be deceived; it is not a panacea for all day-care problems. I also predict that direct subsidy provided by any Federal program will stretch only to help the most needy and the tax credit will help pick up where the grant program leaves off.

So if we have both, I think we have the best of all possible worlds—a direct subsidy approach and indirect subsidy approach. So I look forward to hopefully coming up with the very best possible tax credit approach that we can possible have and going from there. That still comes back to the basic issue, and that is, if we believe in families in this country, we cannot continue to ignore the problems that families have.

If we believe in raising children properly, then we can no longer allow them to wander about unrestricted or unsupervised during daylight hours. If we believe that 20,000 children between the ages of 1 and 4 who have no adult supervision during daylight hours should have that supervision, then we have to provide for it. If we do not provide for it, then it seems to me we are opening up these children's lives to all kinds of perverse and evil influences that could really destroy them, and in the process hurt our society irreparably. That is why this debate is so important, and that is why we have been fighting so hard to try and resolve some of these problems.

I have a lot more to say about this in the future, but I notice that the distinguished Senator from California is here, and he would like to speak.

I yield the floor.

Mr. WILSON addressd the Chair.

The PRESIDING OFFICER (Mr. REID). The Senator from California.

Mr. WILSON. Mr. President, I thank my distinguished friend from Utah. Mr. President, I ask unanimous consent that I be allowed to proceed as if in morning business for a period of somewhat under 10 minutes, for the purpose of introducing a resolution.

The PRESIDING OFFICER. Hearing no objection, the Senator from California is recognized for a period up to 10 minutes, as if in morning business.

Mr. WILSON. Thank you, Mr. President.

The PRESIDING OFFICER (Mr. REID). The Senator from California is recognized.

Mr. WILSON. I thank the Chair.

(The remarks of Mr. WILSON pertaining to the submission of Senate Concurrent Resolution 48 are located in today's RECORD under "Submission of Concurrent and Senate Resolutions.")

Mr. DODD. Mr. President, I, at this juncture, suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. KERREY). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. KERREY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. DIXON). Without objection, it is so ordered.

AMENDMENT NO. 198 TO AMENDMENT NO. 196

(Purpose: To provide that the chief executive officer establish and appoint a board that shall serve as the lead agency)

Mr. KERREY. Mr. President, I send an amendment to the desk to the bill under consideration, S. 5, and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Nebraska [Mr. KERREY] proposes an amendment numbered 198 to amend numbered 196.

Mr. KERREY. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 11, line 16, insert before the period the following: "or the State Child Care Board appointed and identified by the chief executive officer of the State as the lead agency under section 6(a).".

On page 21, line 15, insert before the period the following: ", or the State Child Care Board that is appointed by the chief executive and that meets the requirements of subsection (b), to serve as the lead agency.".

On page 21, between lines 16 and 17, insert the following new paragraph:

"(1) APPOINTMENT OF BOARD.—

"(A) ESTABLISHMENT.—The chief executive officer of a State desiring to participate in the program authorized by this Act shall, if such chief executive officer has not designated a lead agency under subsection (a), establish a State Child Care Board that shall be composed of seven members to be appointed by such chief executive officer with the advice and consent of the legislature of such State.

"(B) CHAIRPERSON.—The chief executive officer of the State shall designate a member of the Board to serve as chairperson. Such chairperson shall report directly to the chief executive officer and serve at the pleasure of such chief executive.

"(C) TERMS, VACANCIES, COMPENSATION.—The chief executive officer of the State, with the advice and consent of the State legislature shall determine the terms of office of the members and chairperson of the Board established under subparagraph (A), the method to be used to fill vacancies on such Board, and the compensation to be received by such members.

"(D) DUTIES.—The Board established under this paragraph shall act as the lead agency for the State for the purposes of this Act.".

On page 21, line 17, strike out "(1)" and insert in lieu thereof "(2)".

On page 21, line 22, strike out "(2)" and insert in lieu thereof "(3)".

On page 22, line 3, strike out "(3)" and insert in lieu thereof "(4)".

On page 26, after line 25, add the following subsection:

"(e) REDESIGNATION.—The chief executive officer of a State may modify the original decision concerning the designation of a lead agency if such chief executive determines that the original designation is not appropriate.".

On page 27, line 9, insert ", that shall be prepared by the lead agency or the State Child Care Board established under section 6(b)(1)," before "that is".

On page 27, strike out lines 12 through 15, and insert lieu thereof the following new paragraph:

"(1) LEAD AGENCY OR STATE CHILD CARE BOARD.—The plan shall identify the lead agency or the members of the State Child Care Board appointed under section 6(b)(1), the location of the offices of such Board, and shall contain a certification that the Board solicited input from the local advisory councils in preparing the plan.".

The PRESIDING OFFICER. The Senator from Nebraska is recognized.

Mr. KERREY. Mr. President, the amendment I offer to the child-care bill is a further attempt to give the States, who will be implementing this act, the flexibility that they need to implement this bill effectively. The States are the ones who will carry out the program under the ABC bill.

The Senator from Connecticut and the Senator from Utah previously conceded some changes to this bill that gave the States the ability to develop

the regulations under which this program will be carried out. They have attempted to overcome practically every objection with a concession. In this case, I think a reasonable concession saying to the States, not only will we give the Governor the authority to make the assignment to a department of social services or a department of health care or a department of public institutions or Department of Education, giving the Governor the authority to make those kinds of assignments, but also giving the Governor authority, if the Governor chooses to, to create a seven-person board, to appoint a seven-person board with the approval of the legislature to administer this program.

The reason that this amendment will help the States is it does something that I think is particularly important today, particularly given some of the arguments that I have heard on this floor in opposition to S. 5. It will elevate child care. It will open it up so we will begin to see it for what it is: Parents making a decision to work, needing to find someone who will care for their children, not having some of the other options that were referenced by people who are in opposition, finding themselves needing to go to a church, needing to go to a synagogue, needing to go to some other operation that is providing child care and to purchase child care.

What we I think, in this Nation need to do is elevate child care and bring it out in the open so we can see what it looks like in 1989. As I said in earlier remarks, parents are having difficulty affording the cost of child care. It is a terrible dilemma. It is no longer baby sitting. It is no longer parents simply saying I need to find somebody to watch my child for a few hours. It is care. It is trying to provide an environment in which that child can be fully nourished. Mr. President, today, that environment is inadequate.

A couple of days ago, the vice chairman of AT&T, Randy Tobias, gave a speech in which he talked about the problem of dropouts in the United States of America. Three thousand five hundred students drop out every single day school is in session—3,500 a day. Mr. Tobias calculates that is $240 billion of gross national product lost forever, not counting the cost of incarceration, not counting the cost of special care that is needed once those adults have found themselves unable to read, to write, to do the things that are going to be needed in our society. Two hundred and forty billion dollars. What ABC does is just get us started to helping parents provide that kind of environment that they want and that we need.

I hear people proposing tax credits as an alternative, rushing to find something they can propose and say, "We care about children, too." I do not object to the use of tax credits, although I think it flies in the face of an effort to keep our taxes simplified, and although I suspect that it is an effort to be able to stand and say, "We care about children," without actually respsonding with the dollars.

I do not object to the tax credit that is being offered, but, Mr. President, it will not reach many American parents who are making decisions about providing care for their children. This bill just gets us started. It deals with parents that are having difficulty affording it, but it will in no way deal with the reverse part of that dilemma, and that is that this reimbursement is still insufficient to provide the revenue stream that these child-care centers need to go out and hire the kind of professionals most of us would want to provide care for our children.

The United States of America, in my opinion, is behind other industrial nations in trying to deal with the changes that have occurred over a relatively short period of time. Increasing numbers of parents, for a variety of reasons, not just economic, not just social, but for a variety of reasons, are choosing to go to work, both mother and father, and placing their children in the care of someone else.

Mr. President, I see an urgency in the United States of America that has caused me to override many things about this bill that I would prefer to be changed. I have some misgivings about some of the standards changes that were made. I have some misgivings about the concept of a voucher. I have some misgivings about a variety of things, but in the end the urgency overrides all of that, and my hope is that the rest of this body will similarly look at the problem and see that the facts present a proper conclusion to act in support of this legislation.

This amendment simply gives the States one additional tool they will need in order to carry out this program well. It gives the Governors a sufficient amount of flexibility, the kind of flexibility I think they need, so the program can change, so that it does not develop into some encrusted bureaucracy that is difficult for parents to approach and difficult for politicians to accept, so that Goverors can keep it flexible, keep it moving, as the situation changes in front of them, as the citizens demand; it is not top down bureaucracy; it is the States in charge; it has a variety, not according to horizontal need but vertical care as well, according to the health of the individual.

This amendment, in my opinion, gives the States the real flexibility they need, not taking away from the urgent need of the money as well. In the end, Mr. President, it seems to me this still gets down to a question of are you willing to appropriate money. Are you willing to spend $2.5 billion in authorization. And none of us believes that that total will be approriate. Are you willing to put that amount of cash on the line for America's children or do you see the problem to be of such little urgency that you are not willing to spend that amount. I wish the amount was larger, Mr. President. I wish the program was more comprehensive. I wish the program attempted to provide an even better environment at as early an age as possible, because I believe it is earnestly needed not only for America's children but for its economic and social health as well.

I urge adoption of the amendment.

I thank again the Senators from Utah and Connecticut for considering this amendment. I yield the floor.

Mr. DODD. Mr. President, I commend the Senator from Nebraska for his amendment. We reviewed it. This is, as I understand it, an option Governors would have, and one of the main points we have tried to emphasize in this legislation is flexibility in options, choices, choices for parents particularly, but also some flexibility for Governors. One of the reasons why the National Governors Association supports this legislation, why our colleagues from Virginia and Nebraska, both our colleagues today, as former Governors, are cosponsors in support of the legislation, is because we do maximize flexibility and allow them to set up a seven-member State child-care board to develop and implement the State child-care plan. Governors would thus have the option of designating the lead agency or establishing a State child-care board. The amendment would not modify any of the bill's other provisions for developing and implementing a State child-care plan.

This board will be appointed by the Governor and confirmed by the legislature.

The Governor would designate a chair of the State child-care board who could report directly to the Governor.

The Governor would notify his or her initial decision on whether to go with designating a lead agency or establishing a State child-care board, total flexibility of the Governors, and I support the amendment and urge its adoption.

Mr. HATCH. Mr. President, I commend the distinguished former Governor of the State of Nebraska, who has had to deal with some of these problems directly and who has vast experience as a result of his experience as Governor of the State of Nebraska, for this amendment. I think it is a helpful addition to this bill and certainly does provide more flexibility, which is what the distinguished Senator from Connecticut and I and others have tried to do. So it fits right in line with all of those principles and we certainly have

no objection to it on this side and urge its acceptance.

The PRESIDING OFFICER. If there is no further debate, the question is on agreeing to the amendment.

The amendment (No. 198) was agreed to.

Mr. DODD. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. HATCH. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DODD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. KERREY). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DOMENICI. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOMENICI. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. DOMENICI. Are we in a parliamentary position where we can just speak to the subject matter without any time limit?

The PRESIDING OFFICER. The Senator is advised that the Pastore rule has expired and the Senator is free to address his remarks.

Mr. DOMENICI. Mr. President, I yield myself as much time as I use.

Let me first say to those who have worked so hard on the so-called ABC bill which is now before the Senate in a substantially modified manner from that of its original purpose and original authorization, that knowing how hard they worked and the dedicated commitment that they have to this subject matter, I wish I could be here on the floor today saying that I could wholeheartedly support the approach to filling one of our very significant needs in this country, but I cannot.

I hope in just a few moments that I could outline in a general way, without a lot of detail and specificity, some of the philosophical notions that bother me about the bill and, as I do that, to sort of indicate in my own way what I would hope we would ultimately be able to do.

Let me first start by saying I do not think there could be any question that one of the most significant problems in the United States today is the issue of child care for the very young children in families across this land, in particular those families that have to work and yet have young children.

It is obvious that the population has changed in our country, the work force has changed in our country, and it also is obvious that our country had for a long, long time a very significant profamily policy exhibited in our Tax Code. We do not have to go back very far. This Senator is 57 years of age. I had four sisters and I can think back and in fact did that, looked at the Tax Code of the United States and the policy in the Tax Code with reference to an incentive to help mothers and fathers raise those children.

I might say right at the start of this discussion on my part that we used to allow a very significant tax deduction for dependent children. We still have one. In fact, in the Tax Code we reformed we raised it a bit over what it was a few years ago. But my research would indicate that over the years it has suffered significantly. It is approximately 29 percent per child off what it was when we had the most profamily Tax Code in the United States.

Those do not mean anything—29 percent, 39 percent, 50 percent. But what I am saying is that we had an American policy that said if you are a wage earner, whether both are working or, as it was in the days that I was a child, predominantly one-worker families, we had a very significant amount of money that we said you earn and you do not pay tax on because we want to help you raise your children. Whatever you call it, it has been significantly diminished over the years.

So it seems to me that whenever we talk of child care we ought to think about that first and we ought to say how can we help the parents of children who are earning some money, one working or two working, or a single head of household working, but the first thing that comes to my mind is how can we for those working Americans give them more resources to spend as they see fit for their children and in particular for that much-needed commodity today called child care.

So one might suspect right at the beginning that the Senator from New Mexico is most interested in a debate which for the first time is going to put the Federal Government into a policy-making position, into a sensitizing position, into either a disincentive or an incentive as the case may be to help mothers and fathers or single heads of households have more money in their pockets for the work and the dollars they earn to make some choices about their children and the child care that they need.

I happen to believe that the first major American debate on that issue ought to focus as much on policy as on somebody's idea about programs, and I start with the policy, at least from my standpoint, that says most parents will make good choices about taking care of their children. Most parents who work will make good choices if we can given them more resources. I opt philosophically and policywise to say let us let them make more choices.

Having said that, one would immediately know that in spite of a need, I do not favor the Federal Government setting up a fund, whether it is $5 billion as ABC started, or $1.7 billion, as it is today, for the first year of an appropriated amount which gets divvied up to the States for government to decide who gets subsidized and what do we build or help build institutionally to help these children.

I start with the notion that we ought to first address the issue of helping most parents with this child-rearing issue by giving as many of them as possible the right to choose and money to choose with.

Having said that, it is interesting that the reason for this so-called ABC bill and the reason it did not go in the direction that I am speaking of was because most people around who promoted it and who were excited about it had a notion of national standards.

I am not trying to exaggerate the case because I know my good friends are waiting here who are now on a new ABC bill and they will say, "Wait a minute, we don't have national standards in this bill anymore." But, Mr. President, the whole idea of it in its beginnings was out there in America they are not taking good care of little children and if we set national standards, whip, there will be a national miracle and they will all be taking care of children well because we are going to tell them how.

I submit that if you now take the national standards out what do you need a national bill for.

So to those who are going to stand up and say, "Well, the Senator from New Mexico is mistaken; the new ABC has no national standards," I wonder how they held all the coalitions who wanted the national standards because States did not do it right. There was even an implication that parents do not do it right; we ought to set national standards. There certainly was more than an implication that the hundreds of neighborhood centers, where one person stayed at home and cared for three or four children from the neighborhood for hire sometimes, where grandmothers and aunts and others took care of their related young children, were inadequate. That was the argument.

Now, it would be said we do not have standards in this bill. We have a model. And I assume, without reading all of the detail, which I will do this evening, that that model is now mandated on anybody. I understand the model does not even give anybody a preference; if they adopt the model standards, they get the same amount of money.

Well, then, if we are doing all that because we wanted to make everybody do it better, then it seems to me the motive is to eventually tell people,

States, counties, regions, localities, churches, that they have to follow this model. I do not believe it is in their just because we take some pride of authorship and put in a bill what a model looks like and here it is for you to look it.

So my second point is that we do not need any national standards but there, unless, unless we are sending a signal to the American people, to the Governors of the 50 sovereign States of the United States, that we have models and we are starting a program and we are going to pay for the program—"we," the Federal Government.

My second objection is that we are not going to pay for the program. The $1.7 billion could not be followed in this authorization bill with year No. 2 at $1.7 billion and year No. 3 at $1.7 billion and year No. 4 at $1.7 billion because, Mr. President, the cost is so big that nobody knows what it is. So in the usual manner when we really want to say we are eventually going to spend all it takes or fool somebody into thinking well, this bill is $1.7 billion in the first year and thereafter such sums as are necessary.

Mr. President, if I were a Governor of one of our sovereign States and this proposal were offered to me—and I see the distinguished occupant of the chair a former Governor—I would come to Washington and say:

> Now, look here, boys. We've seen this before. You give us the standard and you say they will be bound by it. Are you going to give us the money to pay for it?

I think some Governor said that. And I think they got rid of the standard and said, "Let's call it a model."

Mr. President, my rough estimate—and I am going to err on the conservative side—if you want to fulfill the implied goals of ABC for the American people, and you are certainly sounding like you are going to, and you do not need $1.7 billion. You do not need $5 billion. You do need $10 billion. I think you need no less than $20 billion. And that is almost arithmetic.

Unless you intend to subsidize these children, over 6 million who qualify as poor children, unless you intend to subsidize them in a very, very tiny amount; unless you are going to leave it in the hands of bureaucrats to pick and choose perhaps 1 out of 10 the first round and then maybe 2 out of 10 the second round, and then you are not even going to come close to middle-income America even though the bill says you can, at the State level, have your own plan and subsidize beyond poverty.

Mr. President, there are 21.6 to 22 million children in the United States who would be entitled under normal circumstances to child care, the kind of children we think should have it, either in their own home because they are still babies or in some center or neighborhood or with grandma or Aunt Jane, or the like. Of those, over six are poor. And I just ask you where 70 percent of $1.7 billion is going to take us down that line of helping them. I do not think very far.

If we once send a signal through the appropriation of dollars that we are in the child-care business in a big way, Mr. President, everybody in this Senate ought to be prepared to say we either are never going to live up to the implied promise or we better be prepared to double, triple, and quadruple that amount of money unless we think it is such a marvelous program, in spite of its enormous costs, that the States and the localities are going to find money growing on trees and finish the job. So I believe tax credits would be a much more appropriate way.

So my first concern is standards or models versus choice at the local level, and incentives to have the States do their own modeling and their own standards, versus appropriating and/or tax incentives in their hands of families and parents, dollars in their pockets for choice.

In that regard, choice of where you have your children taken care of has another resonance to it besides where you have your baby children taken care of. The other choice is, do you want to work? Should both spouses have to work to get some help from a new Government policy on child care? That has been given a new name—homemakers or stay-at-home parents.

I submit to you that we should not adopt in the U.S. Senate—not today, not next week, never—an American policy on child care that is motivated by encouraging parents not to stay at home or, put it the other way, that does not at least treat those parents who choose to stay at home with their children with equal dignity with those who want to work.

I am not here suggesting that this policy is going to be that big a motivator in that arena one way or another. But I say to my fellow Senators, if you have been home or if you have been communicating with people at home with children, if you have not heard from a young mother who will walk up to you and say, "I heard about child care. Mr. Senator, I choose to stay home and take care of them. How do I get helped?", then you are not talking to the people. And there are far more than we are led to believe that are making that choice. Because, Mr. President, the demographics and statistics we are reading are about the whole profile of working parents. Boil it down to working parents of small children and you find there are a lot of them staying at home, a much higher percentage than the percentage that are not working, because many are choosing that.

So my second concern is that we ought to maximize a national policy of equal treatment for the parent who chooses not to work. If one works and one stays home, we ought not say, "Since you choose to take care of that child, we are not concerned about your child care needs."

The amount of money we have in a tax incentive program can be regulated as to the amount by capping the income level of such parents, so we are not subsidizing the parent who stays home whose spouse is earning $100,000. They made that decision but they are not necessarily sacrificing economically. We do not intend in any tax incentives to help that situation. You draw a line based upon income.

So obviously appropriations to the States to spend money on either centers or selective children versus tax incentives, putting money in the hands of parents, is one philosophical difference. I choose the latter.

And then with reference to the latter, there are two ways to do that. One is to give the credit to those only that work. I choose to say any bill we produce here ought to do both. For those who are working and paying something, we ought to give them a refundable-type tax credit for the costs. For those who choose not to, they ought to get a new refundable credit or some addition to the earned income tax credit which is already part of the tax lore of this country.

My next point has to do with so-called sectarian centers. That is sort of another word for religious centers.

Mr. President, we are going to get, in the ABC bill, ourselves into the quagmire of the U.S. Supreme Court having to make interpretations as sure as we are here of whether any subsidy is legal even if we use certificates of payment. We are going to get into the courts because of our Constitution. And that is because the United States today has about 50 percent of the eligible children in this country already being taken care of in sectarian centers.

I use the word "sectarian" because those expert on this issue have tried to distinguish betweeen sectarian and religious. I assume that means that if the Catholic church, the Presbyterian church, the Baptist church, or the Jewish synagogue merely uses their basement for little children in day care and that is it, that is sectarian. But if there is some religious overtone to it, it is religious.

I believe if we do down that path we are inviting litigation; we are inviting discrimination; we are inviting excuses when it comes to whether we are going to help or not. I do not think we have to get in that mess.

We are told that only 6 to 8 percent of the little children are in religious centers, because somebody is drawing that nice little line that in that Presbyterian church, if you are teaching

about Christ that is religious, but if the crucifix is on the wall and you are not teaching about Him, it is not religious.

I really think we are in for nothing but opportunities for the bureaucrats to make excuses. Do we really want our States to go out there and start saying: well, we will monitor the First Baptist child-care center for a month and we will report to the second in charge in our labor and health and human services department and they will report to so and so and finally the Governor will decide if that is religious or not? I do not think we need to do that.

I think we ought to put some money in the hands of the mothers and fathers whose little children are in those centers and let them say it is my right to spend that money in behalf of my child how I would like and according to my desires. If I choose a very ritzy, nonreligious center, fine. If I choose one in the basement of the Holy Rosary Catholic Church that does not look very good but I like it, give them some money to pay for it.

My last point is going to be on homemakers or stay-at-home mothers. I want to repeat this argument one more time. Mr. President, not only do I believe that we should not discriminate or choose in those situations and move the pendulum of financial support in the direction of one or the other, but, rather, I believe we should make sure that we do not send a signal that you are going to be economically disadvantaged if you choose to stay home, if one spouse chooses to stay home. I move we should send a positive signal that if we can help make that choice by making it a little more economically significant and helpful, we ought to do that.

So I think the bill before us, the ABC bill, and the proposed tax credits that are going to be added to it—as I understand they are the two that came out of the Finance Committee—they are very deficient, from the standpoint of my philosophy and my ideas.

The Senator from New Mexico thinks we ought to get into this field. I do not think a $3 billion a year bill, eventually, on the tax side, is too big. I think we can afford it. I think the Finance Committee has made tax adjustments to afford it. But I conclude that to start down the path of direct Federal subsidies in the name of producing better centers—that was the issue—and then to say we are not going to have national standards—because obviously they would not sell—but then to say we will have model standards is nothing more than getting the big Federal foot in the door without the resources to open the door. And just as sure as the foot is in the door, the model standards are going to mean something more than "this is kind of nice." The States and those providing are going to live up to them eventually. If not on the first round, on the second round of money.

We are going to find an accidet in the day-care center and we are going to say if we had had these great national standards, it would not have occurred.

My last remarks are going to be addressed to the issue that seems to be accepted as if it were living truth and that is that there is a desperate shortage of facilities, these new handsome centers that we want to build with all these marvelously trained people taking care of the little children of America.

Mr. President, the truth of the matter is that it is resources that are lacking, not centers. Centers are growing each year, almost exponentially.

If we put more money in the hands of parents to make the choice, then facilities, neighborhood facilities, other kinds, will continue to grow in number. And the business sector will begin to build them, too. And you will have parents who work in those businesses getting their refundable tax credits and saying to their employer: We will match you. You put it in the business or with three other businesses, we will give you our refundable tax credit, and centers will keep pace. But we will do it in a much better American style than the notion of many, who started ABC's idea, and it was: We will tell you all how to do it. We know best.

My last comment, for those who are the least bit concerned about reality, let me just tell my version of why we are not going to be able to carry out over 6 or 8 or 10 years, the goals of the ABC bill. Senators are not going to find enough men and women to be trained to be the expert caretakers provided for and assumed and hoped for in this law. It is an absolute impossibility to look at the United States and say: We are going to have almost all our little children in centers with national standards and licensed personnel, without asking where will the people to be licensed come from?

There is a teacher shortage today. Almost every vocational training program around is short of personnel.

Nurses are in short supply. Those who would teach people who are disabled are in short supply.

Some would say if the Federal Government would put a little more seed money into training we would have more. But when you push them in hearings and say: are you not really saying there are just not enough people around to do this? The answer is, normally: you are right.

Mr. President, we should just think. Out there across America, with the goals of a bill that says we are going to appropriate money for subsidies for individuals and facilities with the primary objective being licensed personnel and licensed centers will be where the little children are, and just ask how many hundreds of thousands will be needed to do that. Frankly, I think the neighborhood might be better. The young mother who elects to stay at home and take in three neighborhood children to make additional money might be better than what we are talking about. In fact, it might be better, with additional resources, for the child or two children to stay with Uncle Tom and Aunt Jane in the neighborhood, and get paid for it.

There are plenty of people who say that is not good for America. We have to take care of them in some more orderly manner. Well, I, frankly, believe choice as to work; choice as to how to take care of them and who takes care of them, will get more appropriate response from parents for the dollar we spend in tax credits than the success rate over a long period of history, of Government knowing best and being the caretaker.

I just cannot believe that we really are going to be committed to the billions of dollars that we are talking about here over years to try to take the choices and make them more single minded and more directed at government taking care of things. I just do not believe it will work. I think it is a step in the wrong direction. I hope we do not do it. I hope the President lives up to his commitment and says if you do it that way, I will not sign it. I hope he stands firm if we pass a bill like ABC. By the time it gets out of the House, it might be twice as big. If not, next year it will be twice as big or is assumed to be. We will just have government in the business more and more.

I think there is a better way. I think we will find out about it in the next few days.

Several Senators addresses the Chair.

The PRESIDING OFFICER. The Chair recognizes the senior Senator from Kentucky [Mr. FORD].

Mr. FORD. I thank the Chair.

Mr. President, I rise today in support of the Mitchell substitute amendment to S. 5, the Act for Better Child-Care Services. This amendment contains the Ford-Durenberger compromise language regarding religious providers. Before I explain why this provision is so important, let me take a moment to recognize the efforts of Senator DODD. His tireless efforts on behalf of this Nation's childern have not gone unnoticed and I commend him for his work.

The ABC bill represents a major step toward expanding affordable and safe child care for low-income working families. But the original legislation went beyond what the constitution requires to ensure separation of church

and state. Section 19(a) of the original bill would have effectively prohibited churches from providing services under ABC thereby denying parents the choice to place their child in a religious setting.

I know that several Washington-based religious organizations take exception to this, but they are wrong. I met in Kentucky with the Kentucky Catholic Conference and the Kentrucky Council of Churches. Their message to me was clear. The churches in Kentucky could not participate in the ABC bill as reported. Let me point out, Mr. President, that one-fifth of all child care slots in Kentucky are filled by religious providers. Nationwide that figure is between 30 to 40 percent. We cannot afford to jeopardize the care these institutions provide. If we are truly serious about increasing the availability and affordability of child care, we must ensure the ability of these institutions to participate in the ABC program.

The original bill would have required religious-based care, whether purely secular or not, to remove all religious references, context, and perhaps even symbols and garb. It also would have required that all other providers, including grandmothers, aunts, uncles, and other in-home providers who receive assistance under this bill, completely sanitize their environment. Under these conditions, parents would be denied the right to choose religiously oriented care. Quite frankly, Mr. President, I do not believe that the Constitution of this great Nation, founded on the principle of religious freedom, requires us to go this far.

The Ford-Durenberger compromise language in the Mitchell substitute would allow parents to exercise their religious freedom with regard to child care for their children without running afoul of the establishment of religion clause of the first amendment. Families would have the freedom to choose whatever type of care they want for their child, including, if upheld by the courts, religious care.

The Ford-Durenberger compromise language is contained in section 121 of the Mitchell substitute. Specifically, this provision exempts certificates from the bill's prohibition against religious use of funds. In order to ensure that the exemption for certificates rests on constitutional grounds, two conforming changes are included in the Ford-Durenberger compromise. First, the requirement in the original bill that a written contract be signed between providers which receive certificates and the State, has been deleted. Second, the provisions of the bill referring to placement of a child with a provider are amended to refer only to services funded by contracts or grants.

It is significant to note that in recent years, the Supreme Court has differentiated between direct and indirect funding of services provided by religious institutions when examining establishment clause cases. The court has allowed forms of indirect assistance, such as tax benefits, vouchers and grants, to flow to religious institutions if the aid has been received purely due to individuals' choices. A recent analysis of the constitutionality of such an approach, prepared by the nonpartisan Congressional Research Services, concluded that excluding certificates from the bill's prohibition against religious funding would not seem to violate the establishment clause.

Obviously, Congress cannot authorize spending in violation of the Constitution. We believe that this language does not do so. To make it clear that Congress does not intend for this provision to create an unconstitutional use of funds, language has been added stating that no financial assistance provided under the ABC title of the act can be used in any manner inconsistent with the Constitution. This is not a statement of opinion; it is a statement of fact. Ultimately, the courts will resolve this issue in a manner consistent with the competing interests of the first amendment.

There are those that would argue that a bill funded only by tax credits does not raise this problem. But that approach ignores the fact that for very low income families, even an advance funded, refundable tax credit will not cover the full cost of child care. In those situations, the States will need federally appropriated money for grants to parents or providers to make up the difference. And if we are to have grants, it is important to note that once parents receive that subsidy even the tax credit assistance is tainted so that parents cannot choose religious care.

There are also those who would oppose this provision for fear it would be a foot in the door to tuition vouchers in education. As a staunch opponent of tuition tax credits and vouchers, I flatly reject this argument. I strongly believe in our public education system, and do not support weakening it through Federal tax credits or vouchers for private schools. But I feel just as strongly that while child care may have an educational component it should not be an extension of our public education system. Those hours outside of the regular school day belong to the child and his or her parents. And if parents are unable to be with the child during that time, then they should have the right to choose the provider that most closely reflects their own values and beliefs.

We should not have to take God out of the lives of a 6-week-old child in order to comply with the Constitution. The same Constitution that protects us against Government establishment of religion through separation of church and state also guarantees us the free exercise of religion. I do not believe that our Founding Fathers intended for those two freedoms to be mutually exclusive.

The Ford-Durenberger compromise allows parents to choose the most appropriate care for their child, even if that care is religious in content. We are confident that the courts will affirm this approach, which is both constitutionally sound and consistent with a child-care policy that gives parents the ultimate responsibility for choosing who cares for their children.

I commend my colleague, Senator DURENBERGER, for his leadership on this issue and for his assistance in drafting this compromise. I thank Senators DODD and KENNEDY for their efforts to reach this agreement, and I thank the majority leader, Senator MITCHELL, for including this provision in his substitute amendment. I encourage my colleagues to support this important provision.

Mr. President, I ask unanimous consent that a letter from John Bush—that is a good name—of the Kentucky Council of Churches and a letter from Ralph Quellhorst, of the Indiana-Kentucky Conference of the United Church of Christ, be printed in the RECORD.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

KENTUCKY COUNCIL OF CHURCHES,
Lexington, KY, June 14, 1989.

Hon. WENDELL FORD,
U.S. Senate, Washington, DC.

DEAR SENATOR FORD: I want to thank you for meeting with Ken Dupre and me regarding certain concerns around the Act for Better Child Care (S. 5). As I told you then, it would not be possible for Kentucky Council of Churches to reach a consensus in support of this bill without changes to the provisions of section 19a.

Your amendment addresses these concerns specifically. Without your amendment, we believe that the smaller Protestant congregations, as well as churches with a more comprehensive interest in education, would not be able to participate in the provision of child care under S. 5. Reading the committee report, I find it very clear that the intent of section 19a is to require that the facilities and environment be sanitized of all religious symbols, references and content. That circumstance is unacceptable to most of our constituency in Kentucky.

Further, as it stands, S. 5 deprives parents of the right to choose to provide child care in a specifically religious setting. While we do not believe that religious content should be forced on any child or family, we do believe that parents should have a choice among child care providers which may or may not be entirely secular.

As I understand the Ford-Durenberger Parental Choice Amendment to S. 5, you are addressing this concern in a constitutionally permissible manner.

While I understand that the view I have expressed varies from that of the National Council of Churches and a number of Washington-based denominational offices, I would point out that the constituency of Kentucky Council of Churches is more diverse than theirs since our membership includes both the Roman Catholic Church and several evangelical Christian bodies.

Thank you for your support for increased child care. This is a vital issue to families, churches and social institutions. It must be addressed by the Congress in ways that provide the greatest variety of services possible.

Sincerely,

JOHN C. BUSH,
Executive Director.

INDIANA-KENTUCKY CONFERENCE,
Indianapolis, IN, June 7, 1989.

Hon. WENDELL FORD,
U.S. Senate, Washington, DC.

DEAR SENATOR FORD: I continue to believe that the Better Child Care bill is still a very important bill before the Congress. I do believe that it will go a long way to help poor income families.

I do, however, want to offer a correction to my last letter. After being informed more fully about certain amendments to the bill I want to support the Ford Durenberger Parental Choice amendment. This amendment provides for church groups to offer care for pre-school and after school care but not care during the regular school educational process. While I do not support use of certificates for educational times, I do believe that use of certificates for child care for pre-school age and after school programs and other child care such as home care is helpful. Further information has convinced me such a provision is not unconstitutional.

I encourage you to support the bill and this amendment to section 19a. Thank you also for hearing my point of view one more time.

Sincerely,

RALPH C. QUELLHORST,
Conference Minister.

Mr. FORD. Mr. President, I also ask that an analysis by the Congressional Research Service, dated May 9, 1989, be printed in the RECORD.

There being no objection, the analysis was ordered to be printed in the RECORD, as follows:

CONGRESSIONAL RESEARCH SERVICE,
Washington, DC, May 9, 1989.

From: American Law Division.

Subject: Constitutionality of Possible Amendment to S. 5 Removing Certificates From § 19(a).

This is in response to your inquiry regarding a possible amendment to S. 5 to remove child care certificates from the strictures of § 19(a). More specifically, you asked about the constitutionality of such an amendment under the establishment of religion clause of the First Amendment. We have not seen the language of the proposed amendment, and so this analysis is necessarily tentative. But an amendment simply excluding certificates from the scope of § 19(a) would not seem to violate the establishment clause.

The establishment of religion clause of the First Amendment provides that "Congress shall make no law respecting an establishment of religion . . ." To guide the determination of whether a particular enactment violates the establishment clause, the Supreme Court has devised and generally employs a tripartite test:

"First, the statute must have a secular legislative purpose; second, its principal or primary effect must be one that neither advances nor inhibits religion . . .; finally, the statute must not foster 'an excessive entanglement with religion.'" *Lemon v. Kurtzman*, 403 U.S. 603, 612-13 (1971).

In applying this test to various public aid programs benefiting religious institutions, the Court has drawn two critically important distinctions. First it has drawn a distinction between religious institutions that are pervasively religious, i.e., that are devoted to inculcating religious faith, and those that may have a religious affiliation or identity but are not devoted to religious indoctination.[1] Second, it has made clear that a distinction can be made between public assistance that flows directly from government to religious institutions and public assistance that flows to religious institutions only indirectly, i.e., that gets there only as the result of an intervening choice by the primary recipient of the assistance.[2]

Direct assistance to religious institutions or programs, it has held, must be limited to "secular, neutral, and nonideological purposes."[3] Where the institution or program has not been pervasively religious, the Court has found aid so limited to be constitutionally permissible.[4] But direct aid to pervasively religious programs or entities the Court has found to be largely precluded by the establishment clause either because the aid would inevitably have a primary effect of advancing religion or because the government monitoring of its use would excessively entangle government with the religious institution.[5]

Indirect assistance such as tax benefits or vouchers, however, the Court has not found necessarily to be so constrained. Four decisions by the Court are particularly pertinent in this regard—*Committee for Public Education v. Nyquist, supra; Sloan v. Lemon*[6]*; Mueller v. Allen*[7]*;* and *Witters v. Washington Department of Services for the Blind, supra.* The gravamen of these decisions appears to be that indirect assistance programs will not pass muster under the establishment clause if their design virtually guarantees that the assistance flows largely to pervasively sectarian entities. But where the design of the program is genuinely religiously neutral and does not dictate to the immediate beneficiary (the taxpayer or voucher recipient) where the assistance is to be channeled, the program will be upheld as constitutional notwithstanding the fact that even pervasively religious entities may be benefited.

Nyquist involved, *inter alia*, two complementary programs enacted by New York to help the parents of children attending private elementary and secondary schools. A tuition grant program reimbursed low-income parents earning less than $5000 a year at the rate of $50 for each elementary school child and $100 for each secondary school child attending private school for whom the parents paid tuition. A tax relief program permitted parents not receiving a tuition grant to take a deduction from their gross income for each child attending a private elementary and secondary school in an amount that varied according to income. Parents with incomes of less than $9000 a year could deduct $1000 for each such child, with the deduction gradually declining to $0 for parents earning $25000 for more. The deduction had no relation to the amount of tuition paid but provided an amount of tax savings comparable to the amount of the tuition grants.

The Supreme Court held both programs unconstitutional, 6-3. With respect to the tuition grant program, the Court noted that such aid could not be given directly to sectarian schools, because the aid was not limited to secular use and thus would subsidize and advance the religious mission of the schools.[8] The fact that the aid was disbursed instead to parents, the Court held, was a factor to be considered but was not itself dispositive. More critical were the facts that aid was available only to the parents of nonpublic school children and that more than 85 percent of the private schools attended were pervasively religious in nature. As a consequence, the Court held, "the effect of the aid is unmistakably to provide desired financial support for nonpublic, sectarian institutions,"[9] The tax relief program, it said, was no different: "In both instances the money involved represents a charge made upon the state for the purpose of religious education."[10] It made no difference, the Court stated, whether the program was denominated a tax deduction or a tax credit: "Insofar as [special tax] benefits render assistance to parents who send their children to sectarian schools, their purpose and inevitable effect are to aid and advance those religious institutions."[11]

Sloan v. Lemon, supra, involved a similar tuition grant program enacted by the State of Pennsylvania. Parents who paid tuition to nonpublic schools were entitled to receive grants of $75 for each child in a private elementary school and $150 for each child in a private secondary school. The grants were available to all such parents, regardless of income, and more than 90 percent of the private school attended were religiously affiliated. The Court held the program unconstitutional, 6-3, saying "we find no constitutionally significant distinctions between this law and the one declared invalid today in *Nyquist*."[12]:

"The State has singled out a class of its citizens for a special economic benefit. Whether that benefit be viewed as a simple tuition subsidy, as an incentive to parents to send their children to sectarian schools, or as a reward for having done so, at bottom its intended consequence is to preserve and support religion-oriented institutions. . . . We hold that Pennsylvania's tuition grant scheme violates the constitutional mandate against the 'sponsorship' or 'financial support' of religion or religious institutions." [*Sloan v. Lemon, supra*, at 831-33.

In both *Mueller* and *Witters*, on the other hand, the Court upheld the programs in question as constitutional. *Mueller* involved a tax relief program enacted by the State of Minnesota under which parents could deduct from their gross income a broad variety of expenses incurred in educating their children, including tuition, nonreligious books and instructional materials, transportation, lab fees, gym clothes, and course materials. The deduction was limited to $500 for each elementary school child and $700 for each secondary school child. In holding the program to be constitutional, 5-4, the Court cited three factors. First, it said, the Minnesota scheme was a "genuine tax deduction," and it noted that the courts traditionally give broad deference to legislative classifications in the tax area. Second, and "most importantly," it said,

". . . the deduction is available for educational expenses incurred by *all* parents, including those whose children attend public schools and those whose children attend

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nonsectarian private schools or sectarian private schools. . . . 'The provision of benefits to so broad a spectrum of groups is an important index of secular effect.'" *Mueller v. Allen, supra,* at 398, quoting *Widmar v. Vincent,* 454 U.S. 263, 274 (1981).

Finally, it said, Minnesota reduced possible establishment clause objections "by channeling whatever assistance it may provide to parochial schools through individual parents";

"It is true, of course, that financial assistance provided to parents ultimately has an economic effect comparable to that of aid given directly to the schools attended by their children. It is also true, however, that under Minnesota's arrangement public funds become available only as a result of numerous, private choices of individual parents of schoolage children. . . . Where, as here, aid to parochial schools is available only as a result of decisions of individual parents no 'imprimatur of state approval' can be deemed to have been conferred on any particular religion, or on religion generally." *Id.,* at 399.

The dissenters argued that notwithstanding the facial neutrality of the statutory scheme, most of the benefits would flow to the parents of children attending sectarian schools because the bulk of the deductions would be claimed for tuition at private schools and 96 percent of the children in private schools attended religiously affiliated institutions. But the majority rejected the argument, stating "we would be loath to adopt a rule grounding the constitutionality of a facially neutral law on annual reports reciting the extent to which various classes of private citizens claimed benefits under the law." [13]

Finally, *Witters v. Washington Department of Services for the Blind, supra,* involved the vocational rehabilitation program of the State of Washington. The program provided assistance, *inter alia,* to visually handicapped persons "to overcome vocational handicaps and to obtain the maximum degree of self-support and self-care." An otherwise eligible blind applicant sought assistance to enable him to study at a private Christian college in preparation for a career as a pastor, missionary, or youth director. But the State denied him aid on the grounds it would violate the establishment clause. The Supreme Court unanimously reversed and held that it would not. Two factors, it said, were critical. First, it said, "any aid provided under Washington's program that ultimately flows to religious institutions does so only as a result of the genuinely independent and private choices of aid recipients." [14] The program, it observed, permitted training to be secured at institutions of all kinds, public and private, sectarian and nonsectarian, and it was in no way "skewed" toward religious training. Secondly, it stated, there was no evidence that "any significant portion of the aid expended under the Washington program as a whole will end up flowing to religious educaton." [15] The program was simply not designed "to provide desired financial support for nonpublic, sectarian institutions." As a consequence, the Court concluded, "we think the Washington program works no state support of religion prohibited by the Establishment Clause." [16]

The Court's opinion in *Witters* made no mention of *Mueller.* But five members of the Court authored concurring opinions to make clear their view that *Mueller* was directly relevant to the case, even though *Witters* involved a grant rather than a tax benefit. As Justice Powell [17] wrote with respect to whether the vocational rehabilitation grant had a primary effect of advancing religion.

"*Mueller* makes the answer clear: state programs that are wholly neutral in offering educational assistance to a class defined without reference to religion do not violate the second part of the *Lemon* v. *Kurtzman* test, because any aid to religion results from the private choices of individual beneficiaries. . . .Thus, in *Mueller,* we sustained a tax deduction for certain educational expenses, even though the great majority of beneficiaries were parents of children attending sectarian schools. . . .We noted the State's traditionally broad taxing authority. . . .but the decision rested principally on two other factors. First, the deduction was equally available to parents of public school children and parents of children attending private schools. . . .Second, any benefit to religion resulted from the 'numerous private choices of individual parents of school-age children.'" *Witters* v. *Washington Department of Service for the Blind, supra,* at 490-91 (Powell, J., concurring).

Thus, the critical element in these decisions does not appear to be whether the program involves a tax benefit or a voucher. Nor do the decisions appear to hinge solely on the fact that the benefits are channeled initially to parents. Instead, the critical issue appears to be whether there is a genuinely independent decisionmaker between the government and the ultimate beneficiary of the assistance. If the design of the program, as in *Nyquist* and *Sloan,* virtually requires that the assistance be channelled by the initial recipient to pervasively sectarian institutions, the program appears likely to be held unconstitutional. If, on the other hand, the design of the program does not dictate that the assistance be employed at pervasively sectarian institutions but provides a genuine choice to the initial recipient, as in *Mueller* and *Witters,* the program appears likely to pass muster under the establishment clause, even though pervasively sectarian institutions may be among the ultimate beneficiaries.

S. 5 would permit States funded under the bill to subsidize a board variety of child care services either by making grants to, or entering into contracts with, eligible child care providers, or distributing child care certificates to the parents of eligible children. According to the report of the Committee on Labor and Human Resources,[18] providers eligible for assistance would include "nonprofit and for-profit organizations, schools, community-based organizations, units of general purpose local government, employers, close relatives of eligible children . . ., and churches and synagogues that offer nonsectarian services." [19] That nonsectarian requirement derives essentially from § 19(a) of the bill, which proivdes that "[n]o financial assistance provided under this Act shall be expended for any sectarian purpose or activity, including sectarian worship and instruction." No assistance under the reported version of the bill, including certificates, in other words, could be expended for child care services that were religious in nature.

Under the foregoing interpretation of the pertinent cases, an amendment to S. 5 to remove certifcate assistance from the sectarian use prohibitions of § 19(a) would appear to be constitutional, even though pervasively religious child care providers might be among the ultimate beneficiaries of such assistance. If S. 5 dictated to the parents who received the certificates that they be redeemed only at pervasively sectarian child care providers, the amendment likely would not pass muster under the establishment clause. But S. 5 does not appear to so dictate. Estimates suggest that church-related child care comprises no more than a fourth to a third of center-based care, and it seems reasonable to assume that much of that is nonsectarian in nature. Moreover, the universe of choice available to a certificated parent would also include group home providers, family providers, businesses, public educational institutions, and community-based organizations. Thus, the scheme would not seem to have an inherent bias toward religious child care but to be religiously neutral. As a result, "any aid . . . that ultimately flows to religious institutions [would do] so only as a result of the genuinely independent and private choices of aid recipients." [20]

The one constitutional issue that might still be raised about the amendment, however, and that is not fully resolved by existing judicial decisions concerns excessive entanglement. S. 5 defines a "child care certificate" as something that is issued only "pursuant to a written agreement between the State and an eligible child care provider" providing for the use and redemption of certficates. In other words, the State would have to enter into a certificate use and redemption contract with providers wanting to participate in the certfiicate program. In addition, S. 5 would apply to such providers its full regulatory scheme, including applicable State and local licensing and regulatory requirements and the Federal standards to be developed after the bill is enacted. Whether these regulations, as applied to the pervasively sectarian child care providers that might participate in the certificate program, might excessively entangle government with the religious institutions is uncertain. Excessive entanglement is a matter of degree and in some instances may implicate the free excercise clause as well as the establishment clause. Generally, the Court has not found it to exist except where there has been a "comprehensive, discriminating, and continuing state surveillance" of publicly funded activities on the premises of prevasively sectarian institutions.[21] Moreover, it has upheld the application of certain kinds of regulations to sectarian institutions.[22] Nonetheless, in the absence of a decision involving the kinds of regulations that might be imposed under S. 5, a question might be said to exist.

I hope the above is responsive to your request. If we may be of additional assistance, please call on us.

DAVID M. ACKERMAN,
Legislative Attorney.

FOOTNOTES

[1] Compare, e.g., *Committee for Public Education* v. *Nyquist,* 413 U.S. 756 (1973) with *Roemer* v. *Maryland Board of Public Works,* 426 U.S. 736 (1976).

[2] Compare, e.g., Lemon v. Kurtzman, supra, with *Witters* v. *Washington Department of Services for the Blind,* 474 U.S. 481 (1986).

[3] *Committee for Public Education* v. *Nyquist,* supra, at 780.

[4] *Bradfield* v. *Roberts,* 175 U.S. 291 (1899); *Tilton* v. *Richardson,* 403 U.S. 672 (1971); *Roemer* v. *Maryland Board of Public Works,* supra; Bowen v. Kendrick, 108 S. Ct.—(1988).

[5] *Lemon* v. *Kurtzman,* supra; *Committee for Public Education* v. *Nyquist,* supra; *Wolman* v. *Walter,* 433 U.S. 230 (1977); *Grand Rapids School District* v. *Ball,* 473 U.S. 373 (1985); *Aguilar* v. *Felton,* 473 U.S. 402 (1985).

[6] 413 U.S. 825 (1973).

[7] 463 U.S. 388 (1983).

[8] "In the absence of an effective means of guaranteeing that the state aid derived from public funds will be used exclusively for secular, neutral, and nonideological purposes, it is clear from our cases that direct aid in whatever form is invalid." *Committee for Public Education* v. *Nyquist*, supra, at 780.

[9] Id., at 783.

[10] Id., at 791, quoting from the lower court decision at 350 F.Supp. 655, 675 (1972).

[11] Id., at 793.

[12] *Sloan* v. *Lemon*, supra, at 830.

[13] *Mueller* v. *Allen*, supra, at 401.

[14] *Witters* v. *Washington Department of Services for the Blind*, supra, at 487.

[15] Id.

[16] Id., at 489.

[17] Justice Powell, it might be noted, authored the Court's opinions in Nyquist and Sloan but also joined the Court majority in Mueller.

[18] S. Rept. 17, 101st Cong., 1st Sess. 1989).

[19] Id., at 42.

[20] *Witters* v. *Washington Department of Services for the Blind*, supra, at 487.

[21] See, e.g., *Lemon* v. *Kurtzman*, supra, *Meek* v. *Pittenger*, 421 U.S. 349 (1975); *Aguilar* v. *Felton*, supra.

[22] See *Bob Jones University* v. *United States*, 461 U.S. 574 (1983) (imposition of racial nondiscrimination requirements on tax exemption afforded religious school held not to violate free exercise clause) and Tony and Susan Alamo Foundation v. Donovan, 471 U.S. 290 (1985) (application of recordkeeping and reporting requirements of Fair Labor Standards Act to religious foundation held not to precipitate excessive entanglement).

Mr. FORD. Mr. President, I yield the floor.

Mr. GORTON. Mr. President, my dear friend, the respected senior Senator from New Mexico, has shared with me on a number of occasions the thoughts which he expressed on the floor a few minutes ago. Indeed, we have discussed in detail each of the concerns which he so eloquently shared with this body.

In that respect, at least, there is no way that I can add to or improve upon the comments which he has made or the conclusion which he has reached except to reemphasize his argument.

The debate in which we are engaged with respect to S. 5 is not a debate over the desirability of a Federal policy with respect to child care. In a time of a rapidly changing economy and a constant increase in families with either both parents working or the only parent in single-parent family having the necessity to work, few issues are of so great a concern among parents and those who sympathize with parents across the United States of America than child care.

That there should be Federal policies to enhance the ability of such parents to find appropriate care for their children is beyond debate. Both sides see a challenge. Both sides agree that the challenge must be met.

Nevertheless, in spite of the profound amendments which have been engrafted onto S. 5 and to its predecessor in the last Congress, there are deep differences in the philosophies and attitudes with which the two sides approach this debate over child care.

The first of those differences arises over the functions of the Federal Government in setting standards under which approved child care shall be provided. The predecessor of the ABC bill in another Congress set out a wide range of mandated Federal standards for the provision of child care, whether based in child care centers, in religious institutions, among one or more of the potential children.

Because the setting of Federal standards has proved unpopular enough and controversial enough, it has been constantly watered down in succeeding versions of this bill, to the point at which S. 5 in its present form simply calls for model standards to be encouraged by the Federal Government in one way or another. Nonetheless, the philosophy remains the same, that there is some wisdom in the Federal Government with which it is appropriate to impose upon States, local governments and child care providers, or at the very least to provide incentives or strong suggestions to conform to that "wisdom." On the other side, the philosophy is simply one that the best set of regulations are those which are locally imposed and those which are chosen by parents as they look at the choices available to them with respect to child care.

Paradoxically, we hear a great deal of debate in connection with availability. One of the goals of all parties yet the stiffer the standards and the more the Federal interference in those standards, the less available child care will be, particularly informal child care in the homes of relatives or in small cooperative groups.

I am inclined to believe that even the model standards remain in the ABC bill because the concept of Federal standards is so vitally important to those who originally wrote the bill and because they feel that however innocuous these model standards may be, they can lead in the future to Federal standards which are both more thorough and more directly enforceable.

The second and perhaps even more profound differences between the two basic approaches to this debate is whether or not the Federal Government should undertake an obligation to pay for child care either directly or indirectly to the provider of that care or whether the appropriate and best Federal Government participation should be to help parents make choices and to pay for child care, aiming that help and assistance at parents in lower income groups to a large extent.

The ABC bill as it appears before us here, of course, does not meet the need which it is perceived to meet throughout the country for the direct payment of child care. Any alternative proposal involving tax credits will not be able to provide enough in tax credits sufficient to cover all of the costs of all of the people who genuinely need help with respect to child care. Nonetheless, the difference between a tax credit, refundable or otherwise, and a direct or indirect payment by the Federal Government is a profound one and has to do with the degree of faith we have in parents to make their own choices in life and with respect to child care.

The third difference is in connection with the treatment of parents who choose to care for their own children.

In the ABC bill these families are ignored. In some tax credit proposals they have been ignored as well. It is the view of this Senator as it is of his friend, the Senator from New Mexico, that we should not even indirectly discriminate against parents who choose to care for their own children. The Federal Government should not express a preference as to whether parents should choose to care for their own children or have another person care for them while they work.

Whatever tax credit system is proposed, it ought to be equally available to those who choose to work and those who choose to stay at home to care for their own children, and perhaps the children of others.

The fourth difference is the difference addressed by the Senator from Kentucky in the last set of remarks before this body: the impact of these alternatives on the provision of care in religious institutions, and/or with a religious content. It is my understanding from the distinguished junior Senator from Oregon [Mr. PACKWOOD], who has been at the forefront of this debate, that roughly only 7 or 8 percent of all child care in the United States at the present time has a consciously systematic religious content. Yet that 7 or 8 percent represents hundreds of thousands of parents making a conscious choice about the influences which they wish to play upon their preschool children.

Another 30 percent or even more of child care is provided in religious institutions which may have some incidental religious content.

From the very beginning, the primary supporters of the ABC bill have resolutely set their heads against providing what they would consider any aid to religion, direct or indirect. Only at this last moment have they recognized that without at least a bow in the direction of the religious sensibilities of our people do they have any chance of winning a debate in this body, and so they have agreed to the amendment by the Senator from Kentucky [Mr. FORD]. Yet, to paraphrase in part, I think the Senator from Kentucky "doth protest too much."

The amendment he has proposed falls into one of two categories in the veiw of the Senator: either it will be effective and judged to be unconstitutional, or it will be ineffective in allowing the kind of freedom of choice which exists at the present time for

those who wish their children to have child care with a religious content.

Those of us who are on the other side and believe primarily in the use of tax credits simply do not face that dilemma. We do not have to write pages of small print in our statute or amendments to allow the fair choice on the part of the parent to choose secular, quasi-religious or fully religious child care for their children. The tax credit goes to the parent and not to the provider, and thus freedom of choice will not only be protected but enhanced.

Even in the current bill, those provisions which relate to discrimination, to religion, and the like, very carefully include with them a severability clause. That way, if any of the provisions which attempt to protect freedom of choice with respect to religious content of child care are found to be unconstitutional, the rest of the bill nonetheless remains in effect.

I predict that many of the most staunch and systematic proponents of the ABC bill from its beginning will be among the first to challenge the religious provisions in this bill and attempt to get them thrown out in court. Those who are sincerely concerned about that freedom of choice should support an alternative.

When it comes right down to it, there is one great difference between these two basic approaches. One emphasizes the choice of parents, enabling parents to be able to find and to choose for their children the kind of child care they wish, whether in a formalized institutional setting, in a church basement, in their own homes or in the homes of neighbors or friends or relatives, it emphasizes choice. and a trust in the ability of parents to make the best choice for their children. It is the antithesis of the alternative, a proposal which relies on the State both to decide and to administer the type of child care provided for our children.

Recognizing that neither proposal is completely adequate, the Senator from New Mexico, and I agree with the side offering to parents the right and the ability to make their own choices, enabling them to make those choices somewhat more easily than they can now, and we disagree with the alternative which, to exactly the extent it is effective, substitutes its own judgment for the judgments of parents.

The PRESIDING OFFICER (Mr. ROBB). The Chair recognizes the Senator from Utah [Mr. HATCH].

Mr. HATCH. Mr. President, I have enjoyed listening to the parts of the speech of my distinguished colleague in which he states that he dislikes parts of the ABC bill, but apparently likes the tax credit approach. I have said time after time that the tax credit approach has some merit. It has some definite qualities that I think would make anybody want to support a tax credit approach if it properly meshes with the direct approach we are taking under ABC. But what the critics seem to fail to understand is the ABC bill has some very great merits, too.

I think we ought to at least answer some of the questions that have been raised by the distinguished Senator from New Mexico as well as our friend and colleague from Oregon.

For instance, Senator DOMENICI said benefits to families for children under the Tax Code have eroded about 29 percent over the years. And restoring those benefits ought to come first. Well, I do not disagree. That is one reason I am a cosponsor, as is Senator DODD, of a tax credit approach.

As a matter of fact, I am a cosponsor of the bill introduced by Senator DOMENICI which has a great deal of the former Hatch-Johnston bill in it. In fact, almost all of these bills have taken ideas from the Hatch-Johnston bill which was the first child care bill filed early on in this whole battle. We are very proud of that fact. We do not have any claim of authorship. We are happy to see that many people like the ideas that we put into that bill. The ABC bill has adopted a great number of those ideas. I think virtually everybody admits those are the ideas that are cost effective and will work.

So we are all in agreement. That is one reason why we are coming up with these child-care approaches—to stop the erosion of benefits and moneys to American families. The Tax Code has eroded. But that is not an argument against the ABC bill, and I am not sure the distinguished Senator from New Mexico intended it to be.

Two, as I understood the argument of the Senator from New Mexico it was that he would oppose setting up a fund for the Government to assign the choice for child care and not giving the choice to parents. Let me tell you something. If I thought the ABC bill was that, that we were setting up a fund so government could assign what happens to children in families, I would not be supporting it. I am, however, a strong supporter of the ABC bill as currently amended in the Mitchell amendment. We have resolved a lot of those problems, and parents will have a choice under the ABC bill. What is amazing to me is that many of my conservative colleagues say, throughout many debates on many subjects that we need to have State and local control of these things; that all wisdom does not repose in the Federal Government; that it tends to become too bureaucratic; that there are lots of problems with the Federal Government; and that we do not want them imposing their will upon us in the States.

Well, if ABC does anything, it turns over the control of all of these funds to State and local governments. As a matter of fact, there is only one official that is appointed, the currently existing official at the Department of HHS, whose sole responsibility is to make sure these funds are distributed to the States and that other matters within the bill are carried out, none of which are offensive to the States or place any onerous or bureaucratic burdens on the States or the families.

I do not think there is much of an argument there. It could not be based upon the bill that we are discussing right now, and that is the Mitchell amendment, which is the modification to the original committee amendment. This was a very good bill to begin with. But it is improved by the Mitchell amendment. A number of us have participated in helping to bring about those improvements.

Further, we have heard a lot of talk about national standards. Now that we have reduced the standards to purely State and local standards, which I do not think anybody can refute at this point, we are hearing that the very fact that the Federal Government is involved, they are going to ultimately wind up being Federal standards. Well, you cannot have it both ways.

The ABC bill did initially prescribe Federal standards. But we have completely accommodated our colleagues, because we have concluded that a majority of our colleagues believe that Federal standards is not the way to go, that we ought to leave it up to the States to set the standards because each State and region has their own particular difficulties and problems. But, the minute we do that, they come back in and say that even though we now have only State and local standards, the fact that we are passing a Federal bill might lead to Federal standards again.

Well, one reason I am a cosponsor on this bill—and I am working very hard to support the distinguished Senator from Connecticut, who has done a marvelous job trying to accommodate everybody—is because I want to make sure that those standards remain State and local standards. Yes, in this bill we provide for six categories of help for things like first aid, recognizing chicken pox or measles, having some outdoor facilities, being able to have clean facilities, having appropriate toys, health and safety standards, minimum health and safety standards that the States can set within those categories. And what we are saying here is that those standards will be set by the States.

I intend to stick with my position with this bill, and I do not think anybody is going to override it under the circumstances, and I do not believe anybody is going to come in here and push Federal standards at this point.

Mr. DODD. Will my colleague yield?

Mr. HATCH. Yes.

Mr. DODD. I commend the Senator from Utah for what he is saying. I, too, listened to our good friend from New Mexico talk about standards. I had one sense that he was sort of upset at the fact that we had done exactly what many people advocated, to allow the maximum flexibility at the State and local level, which is what we did and why the National Governors Association is supportive of the legislation.

Let me add another element that I think gets forgotten when we are talking about standards. Standards in the area of child care—somehow, as if this is an area where no one ought to be setting standards—we set very tough Federal-mandated standards for the elderly, which came out of the Finance Committee a few years ago. One could argue that they are two of the most vulnerable populations, the child and elderly, standards under Medicaid. Standards, in a sense, have been historic, in terms of Federal dollars being spent.

We understood, as the Senator has indicated, that the repository of good sense and judgment regarding child care does not necessarily reside here in Washington. So we are allowing the States to do that. But the notion, somehow inherently—that standards are inherently evil, I think there is more of a notion of that, regardless where they come from.

Mr. HATCH. Will the Senator yield on that?

Mr. DODD. I will be glad to.

Mr. HATCH. I believe most parents want basic standards. The Lou Harris poll shows 90 percent of all people who responded to that poll wanted standards for their children. They want minimum standards, and as a matter of fact, they listed quality, which really involves standards, as their top concern with regard to child care.

States, with input from their citizens and parental advisory groups, can develop those appropriate standards any way they want to. This bill does not tell them how to do it; it sets categories that anybody would agree with it. Frankly, now that we have gotten to this point, as the distinguished Senator from Connecticut says, they come in and say, well, but you are probably going to go beyond that and impose Federal standards later anyway. If we cannot do it now, we are not going to impose them later. I would have fought this bill, if all it were going to have were Federal standards.

Mr. DODD. If the Senator will yield, one other point. They talk about the model standards, to allow parents unannounced access to the child-care centers. About 10 States in this country right now prohibit parents from showing up at the child-care center, to walk in and see how their child is being treated during the day. You think of standards being a burden somehow. Some of the standards we are talking about here are a great asset and benefit to families so they can go in and find out what is going on. Imagine a child-care center saying to parents "You have no right to show up at any point during the day to see how your child is being treated."

If you only have a tax credit approach, you never get to that issue. We do not mandate it. We set it as a model standard, encourage States to allow parents to have access in those situations. But if you abandon that part altogether and exclusively rely on the Tax Code, you never get to that issue at all; I point that out. And there are health and safety standards. How many parents are qualified electricians or plumbers who can walk in and say that this is a safe building, putting aside the issue of whether or not the people who are working there are qualified. Is this a safe building for my infant child to be in for 8 hours of the day? Most people are not experts in those areas. They cannot make those decisions. It is impossible for them to do it. Are we being onerous because we suggest there ought to be a model standard that says that minimum health and safety standards must be in place? Does that not help parental choice rather than confound it, complicate it?

If you had to go in and say what kind of paint did you use on the wall, is there lead in that paint, how do I know there is not lead in that paint? What sort of plumbing facilities are they? Are the electrical facilities protected; can children get electrocuted? They do not know those things. It is unfair to ask American families to be competent in all these areas, as they take their infant child, their infant child and leave it with a stranger, because they have to work for 8 hours a day, 5 days a week, as many weeks as required in the year for them.

We are saying: Give parents a choice. Give them a choice, and do not ask them to make impossible choices. They should not be asked to make impossible choices. That is all we are talking about here, and leaving it up to the States to decide what those standards are. Maybe we will talk about these standards, and they are written with the parents and families in mind, not Washington, not some State capitol at all, but with parents in mind, what helps them in that choice and decisionmaking process.

I apologize for interrupting my colleague from Utah.

Mr. HATCH. I appreciate the comments you have made. They are right on point. The Senator from Oregon suggested that the model standards that we provide for in this bill exist in order for liberals to put pressure on State and local governments to raise State standards to the level of national standards or the model standards.

My response to my friend from Oregon is: So what? I do not think it is our place to cut off the debate within the States on what their State status should be. The Senator from Oregon is exactly correct; the model standards are there to stimulate discussion and self-examination within the States about the quality of child care provided. That is why we put them in there.

If the Senator from Oregon is correct that those model standards are the camel's nose under the tent, and that the Congress will eventually be asked to make them mandatory, or if the Senator from Washington is correct, then I am going to be the first in line to oppose that legislation. I do not think there is any question about it. The fact is that the model standards are talking points, and there will be pressure on those developing those standards to make them reasonable so the States will adopt them—and most States already exceed what are likely to be the model standards.

What we are concerned about are some of the States that have no standards at all. Everybody admits we ought to have some standards in child care when we are dealing with the lives of our children. It does not take much effort to realize that that is so. And most States have standards. Most States will have more standards than the model standards will include, but they will be there as a beacon for people to look at. They are going to come from the best minds in child care in this country.

So I think it is a red herring to keep raising the standards issue since we met what I think are the desires of the vast majority of Senators on this floor that basically the States will have total carte blanche to do whatever they want to do with regard to standards.

Also, if I heard the argument correctly, the Senator from New Mexico said the cost is so large that if the ABC bill is passed, the authorization will just run out of control. He said the States cannot live with the ABC bill of only $1.7 billion; they would need much more than that. I ask, is the Senator from New Mexico advocating that we make this an entitlement? If so, his projections are probably rather modest or conservative. But we have carefully drawn this so it is not an entitlement. It is not an entitlement.

We do not claim that we are going to help every family in America. We are not making the outrageous claim that we are going to help every family in America that is eligible under this program. As a matter of fact, that is one reason I do support the tax credit in addition, because it will be a little extra help to the parents as well.

But under the ABC bill, States can target assistance. A tax credit by itself takes a scatter-gun approach that we sort of sprinkle a little bit of money out there and hope that it does some good. We do not even know if it goes for child care. That is fine with me. I am glad to do that, hoping that it does go to child care. But the fact of the matter is that with the ABC bill, we are able to target some of the money to solve the problem. We are not totally willing to just scatter the money and throw it out there to the wind and say, "We hope that you use it for child care, but if you don't, it is all right anyway."

Mr. DODD. Mr. President, will my colleague yield on that point as well?

Mr. HATCH. I am glad to yield.

Mr. DODD. He has again touched on a point that I think is extremely important here because our colleague from New Mexico talked about choice. If you are a working family with not a huge income, one of the most important elements in choice in child care is the ability to have the resources financially when you need them. You are not in the position where your disposible income is so large that you can afford to wait until next April 15 or sometime thereafter to collect back from the Internal Revenue Service that which you have expended up to $500 under the alternative proposal, in child care expenses. If your income is around $12,000 or $13,000 a year and if you have two children who need child care because you are working and are a single parent, put it in that category, a single parent, let us use that example, child care costs on the average run around $3,000 per year, actually if you take the statistics as provided in terms of mean cost, on cost, the numbers even when parents with no child care expenses are averaged in, the mean annual amount paid by parents is $2,280 a year. What is worse is the lower a family's annual income, the more money that family is likely to pay for child care services.

This is a Lou Harris survey done for the Phillip Morris Corp. The categories of families most likely to be poor and most dependent on their child-care arrangements—blacks, Hispanics, single mothers, and those in large cities—not only pay well above the national average, but more than those earning between $35,000 and $50,000 a year.

I suspect the reason for that is the lack of availability in some of these areas. So the choices are not great. One of the things we try and do is encourage expansion of child care services.

So you have to wait for the tax credit, and I am for a tax credit as a feature of this thing. But if you are put in a position to say, well, you must only have tax credits, I think what we have done here is try to put together two proposals so that it can work for families in this category. If you only have the tax credit and you are making an income of $12,000 a year with two children, that is $6,000. Or even use this statistic here. Say it is $5,000 a year. That is off your gross income of $12,000. And then to say, I am going to give you back $750 of that $5,000 cost provided that you now get off welfare and go back to work, I think it unrealistic.

I think people are not going to be able to wait the year in order to get the money back from the Internal Revenue Service. They need the money when they have the cost, and one of the features obviously of the ABC bill is that 70 percent of the funds go directly to parents when they need the cost at that very low-income level and the tax credit folds in, because we do not necessarily have to pay all of that child care cost, and the tax credit the following year when you get your credits back can offset the remainder of that cost. So it dovetails very neatly.

Mr. HATCH. And with the limited amount of tax credit you are not sure they are going to get $750 either.

Mr. DODD. That is true. I am giving the maximum case.

Mr. HATCH. What I am saying is if you assume the maximum case.

Mr. DODD. That is the maximum example from the alternative you offer.

Mr. HATCH. If you assume the maximum it is not enough.

Mr. DODD. That is an average.

Mr. HATCH. If you assume what is likely to occur because of the limited amount of dollars that really can be targeted for this, it is going to be just a small dent in the total overall cost of child care.

Mr. DODD. And you do not get it when you need it.

Mr. HATCH. What bothers me is—I admit that the tax credit approach really appeals to me, but it is not nirvana. It is not the final solution because it is only a small dent in the overall cost of child care, and the distinguished Senator from Connecticut is abolutely right.

There is a lot of misunderstanding with respect to the 70-percent requirement for direct assistance under our bill.

Mr. DODD. If my colleague will yield, I have one other point, which I think is worthwhile. There is not a single State in the United States that uses the State tax system to support child care. It is interesting, not one—there are only six States that do not have a State income tax. But of the 44 States that do, not one single State in this country uses the tax credit system to support child-care services.

They have drawn the conclusion that it just does not provide the kind of assistance when people need it, so they have gone for the direct support option. I merely point that out to my colleague as a good example of what States have already encountered.

I say that as someone who still believes that the tax credit feature we have added to this is vitally important for the full effectiveness of this legislation.

Mr. HATCH. We both support tax credits.

I mentioned before I am pleased to be a cosponsor of the President's child care tax credit proposal. Senator DODD and I have our own family earned income tax credit approach. I cosponsored a bill with Senator DOMENICI and other colleagues on this side of the aisle that contains a tax credit for families with young children. I agree that a tax credit can be a real boon to families, but it is not the total answer. Tax credits alone cannot solve this problem.

As we said first, the amount of money involved would not even provide a major dent in the cost of child care.

So the proposal which I presume that the distinguished Senator from New Mexico and the distinguished Senator from Washington are advocating is that which will be proposed by the minority leader sometime tomorrow that would at best add a grand total of $1,000 to the pockets of low-income families. That may sound like a lot, but in order to receive this maximum amount, a family would have to earn between $7,143 and $8,000 and the credit begins to phase out at that income level.

Then a family would have to have four children under the age of 4 in order to get that. Probably not too many American families would fit that criteria.

Finally, even the least expensive child care can be expected to cost between $2,000 and $3,000 per year per child.

Work it out. If a babysitter charges a rock bottom rate of $1 per hour for a 9-hour day, that is $9 per day; multiplied for a 5-day week, that is $45. Assume child care is needed for 50 weeks each year, that is $2,250 per year for one child.

The additional tax credit of $500 for one child will not even cover one-quarter of the cost of that very nominally priced child care. And how many people are going to be able to get child care at $1 an hour?

Second, tax credits do not address the need for increased availability and choices for parents.

As the junior Senator from Missouri noted the other day, the lack of supply of care is a major part of the child-care problem. There are waiting lists for subsidized care all over America. There are parents who would prefer to have their children cared for

closer to home, but there are no slots. There may be parents who want their children in extended day programs at school, but there is a long waiting list for that.

If it is available, the kids will be in high school before their names are called.

There may be parents who have children who have special needs. There is a real dearth of child care for these types of children.

A tax credit is not going to address greater availability.

Taxpayers can spend their credit money for any number of other purposes, and I agree that the credit must be unrestricted and the families who sacrifice a second income to have a full-time parent should benefit from this particular credit.

But we have to admit that such an unrestricted credit will not, by itself, result in the creation of a greater number of new child-care slots. It just will not.

Third, a tax credit is not going to improve the quality of care that parents have to choose from. Now what parent who must entrust their child to a nonrelative provider would not want some basic assurances that the provider was honest and competent? The tax credit bills do nothing to provide these assurances. So as good as they are, as important as they may be, there is a lot they do not do and that is why the ABC bill, among other reasons, is so important. I do think we need both and I am fighting as hard as I can to see that we have both.

I want to see the President's ideas come to fruition. On the other hand, if bringing those to fruition means knocking the ABC bill that has now been amended so that it will work very well, and give the States control over their own destiny, then I am not going to be very happy with that.

Now the distinguished Senator from New Mexico also seems to say that with regard to mothers at home, ABC does not help. Well, statistics do not do full justice to families who choose to have a parent at home. And I agree with that. That is why a comprehensive approach is needed. But the ABC bill should be a part of that approach.

In other words, if we put the tax credit, which does take care of the mother at home to a limited degree, with an ABC bill that does help with availability, quality and affordability, three of the most important aspects of this whole debate, then you may have something that will work. Also, if you put both of them side by side in a bill, then you can see which one does work the best and I think you are going to find that both of them work and both of them work for different reasons and for different purposes. And that is what I think we ought to try and get our colleagues to see.

Now what about the sectarian problems? It seems to me that that was raised also by the distinguished Senator from New Mexico. The language in this bill, the so-called Ford-Durenberger amendment, draws the line where many, myself included, believe it ought to be drawn, so that any restrictions with respect to the use of aid are consistent with, but do not exceed, what is required under the establishment clause of the Constitution. The Supreme Court has held that Federal dollars cannot go directly to subsidize pervasive religious teaching. That is the law and I don't believe anyone differs with it.

As a cosponsor of this bill, however, I certainly do not want to restrict the ability of parents to receive funds to send their children to religious institutions unless such participation is constitutionally prohibited. I really believe that that is a very, very important thing. But the language in this bill, including the addition of the Ford-Durenberger amendment, appears perfectly consistent with the Constitution and with precedents set by the court. And this language would likely ensure that the restrictions regarding use of direct aid for sectarian purposes would not apply to child care certificates.

Now, it may very well also be true, and probably is, that with the tax credit approach, since all the money comes directly to the parents and they can use it for anything they want to, maybe even child care, that they can send their children to a religious school where religion is taught, even though those dollars originally were Federal dollars. I do believe that that would be consistent with the Constitution, and I would argue that before the court no matter what.

But that is another reason why you need both of these. You can add that the tax credit approach is a good approach from that standpoint, but what we have done in this bill is the best that can be done under constitutional law for a direct subsidy and, with the Ford-Durenberger amendment, we have expanded the choices of parents using certificates to the extent permissible by the Constitution.

Now, the distinguished Senator from New Mexico pointed out that we need teachers, nurses, et cetera, in order to run adequate child care. Well, we agree. That is one reason why we need child care assistants. The teacher in some areas of my State makes barely enough to make ends meet. We need nurses. Now, that could be why hospitals have been in the forefront of providing on-site child care.

So in all of these, I do not see any really legitimate sticking reasons why the distinguished Senator from New Mexico, or anybody else, for that matter, should be against the ABC bill.

I could see why somebody might be against it because it is a direct payment by the Federal Government. But, really, if you stop to think about it, it is not too much different from an indirect payment from the Federal Government in the form of refundable taxes.

Now, the distinguished Senator from Washington made some points. Again, he does not like the standards aspect. He argues it should be left to the States. We do. He argues that the standards raise the cost of child care. They do. But without them we may have all kinds of health and other concerns, safety concerns, that parents are concerned about.

He argues that the model standards might lead to more and more standards. Well, they might, but they might not, too. The fact is that most States have adequate standards, and I think that model standards, will take that into consideration.

With regard to standards, the whole thing this bill does, other than turn it over to States and provide that there will be a national advisory panel to create model standards, is we suggest six categories where the States may be interested in working on the quality of child care.

No. 1 is staff-child ratio. Everybody who looks at this problem knows that that is a major consideration. If you are going to have 13 kids with one staff person, that may be a difficult situation where the children may not have adequate protections and care. So there may be some reasonable way that we can come up with in the States with an adequate staff-child ratio.

No. 2 would be group size. How big should the group be? How big should the child care facilities needs be? How much should they meet?

No. 3, health and safety. I do not know of anybody who is not concerned about that when you talk about our children.

We ought to be concerned with these six subcategories under health and safety.

Prevention and control of infectious diseases; injury prevention surely. We are concerned about whether a child has measles or chickenpox or the flu or any number of other things and a minimum of teaching may be able to make our people aware of child-care centers and otherwise as to what can be done in those areas. Everybody has to be concerned about that for our children. How about the building and physical premises? The distinguished Senator from Connecticut pointed out most parents are not engineers nor are we electricians. Nor are we safety experts or safety inspectors. It may be that the States should look at that, and I believe they should.

How about general health and nutrition? If they are going to give lunches or breakfasts or suppers at these child-care centers or in these homes or wherever child care is done, would it not be helpful to have some advice on general health and nutrition?

How about special needs children? Everyone of us ought to be concerned about that. There may be a good reason to come up with some basically satisfactory guidelines to help with special needs children.

How about child abuse prevention? Would it not be wonderful to make sure that in all the child care delivered in this country we can avoid child abuse?

Well, these are six categories, which I do not think anybody can disagree with, that ought to be looked at by the States, and we just suggest that they do.

Now, the next one is preservice training and background checks on personnel. It seems to me that is a logical thing to do.

The fifth one is parental involvement. Just how involved should the parents be? Some of the best child care in this country involves the parents, gets them to participate. They come in and give so much of themselves to these child-care facilities and in the process the children benefit. They feel part of it. The family participates and in the end it is a better center or it is a better child-care situation.

How about in-service training, which is the sixth major category?

Well, those are the categories with regard to child care. I think if we are going to do anything, we have to worry about the quality of child care delivered in our State and local areas and the States will be worried about that.

Our friend from Washington raises whether the Government should pay the providers directly or help the parents pay by delivering the tax credit to the parents in a refundable way and letting them pay for the child care of their choice.

Well, I am not sure that the difference between the tax credit and direct funding reflects a difference in freedom. Under this bill the State has the right to directly fund child-care slots for and on behalf of individual families or the State can give them child-care certificates which enable them to go anywhere they want to go with their child for child-care purposes and those certificates can be redeemed to help pay for the cost of the child care.

We are talking apples and oranges, in one sense. I think both approaches are legitimate and valid and both have their pluses and both have their minuses. Again, that is why we need a comprehensive bill that includes both.

My friend from Washington said that there is a concern for the treatment of parents who want to care for their own children. Well, he said we should not discriminate even indirectly; child care should be available to both.

I cannot differ with that. Both Senators from New Mexico and Washington are concerned about the impact of child care on religious institutions. Well, so am I. And to the extent we are dealing with direct funding in the ABC bill and also with certificates, we have permitted the greatest amount of participation by both sectarian and nonsectarian institutions permitted under the Constitution.

In the case of tax credits, it may very well be that they will work well in the sense that the moneys come to the parents. They can use it any way they want to. Therefore we do not have the church-state problems that we otherwise have, at least with respect to direct aid under the ABC bill.

Again, that is another reason why both approaches are desirable.

If I understand the amendment of the distinguished Senator from Kansas, our minority leader, it will be a substitute for the whole bill that would subsume and do away with the ABC portion of this bill, which can do so much good and can be so directly influential in helping to alleviate some of the child-care problems in this society, and replacing it completely with a refundable tax credit approach with the same $400 million block grant to enable the States to do so much that really came from the Hatch-Johnston bill that we filed early in the game, the earliest one filed.

The fact is that is already written into the ABC bill, and all we need is the refundable tax credit side and I think we would have a bill that really will work. So I am going to fight anybody who wants to do away with the ABC aspect of this because I think it has been amended to such a degree that it will work. It makes a lot of sense. It will help to alleviate problems that the other approach will not alleviate. And even though it does not do everything the other approach does, it does a lot of things the other approach cannot do. And that being the case, it seems to me it is deserving of our support.

So, I am hopeful that before all is said and done we will be able to merge the two. That way the President becomes part of this and, of course, we get the best aspects of both bills and we have a situation that really will work in our society for the benefit of families all over America, but ultimately for the benefit of these children, who simply have to be taken off the streets and given adequate care and supervision during daylight hours.

I am concerned about some of the things that have been raised, but let us not look at it just from one perspective. Let us look at it from a total perspective and comprehensive perspective and in the end I think we can benefit our families as never before.

I am happy to yield the floor.

The PRESIDING OFFICER. The Chair recognizes the Senator from Connecticut [Mr. DODD].

Mr. DODD. Mr. President, once again Senator HATCH, our colleague, has very adequately addressed the arguments that have been raised this afternoon in opposition to this legislation. He has done so in a very clear and concise way. It needs to be reemphasized.

Unfortunately, what we seem to be dealing with, I will say this again, is the fact that people, it seems, are sort of regretful, in a sense, that we have not introduced the old bill. They would like us to go back a couple of years and reintroduce the old bill, because that was an easier bill to attack. We have, in the last couple of days, had to remind people that the old bill is just that, it is the old bill. We have gone through a process of hearings and conferences and meetings with Governors and others, and this bill has evolved, as legislation does. I have never seen a bill yet that looked the same on the day it was passed as the day it was introduced. That is the legislative process. And this bill was introduced 2 years ago.

To listen to some people talk today, that bill is before us; it is on the floor. It is not. It has been gone for a long time. So we need to focus on what is before us. And what is before us, as the Senator from Utah pointed out, is a balanced appropriate piece of legislation that maximizes parental choice, provides assistance for people in making those choices, gives maximum flexibility to our States to set up standards that reflect what those States' needs are and the needs of the people who live in those States. It deals realistically with cost. It provides both tax credits as well as direct financial assistance. It marries the two ideas that people have been debating for 2 years: do we go the tax credit route or do we go the direct appropriations route?

A group of us sat down and said what seems to make sense here, because there is merit in both of those approaches, to put together a bill that reflects the benefits or the best aspects of both the credits and the direct appropriations. And that is what we have done with this legislation. It maximizes business-private, private-public partnerships, to encourage the expansion of child-care services, it encourages business participation through a variety of vehicles to be able to increase the availability of child care in this country. So, it reaches the quality issue, the availability issue and the affordability question, all of which are vitally important

and which no one disagrees with today.

If we just go the tax credit route we run the risk of not dealing effectively with the quality issue or the availability issue. If we just dealt with the ABC portion we do not deal effectively, in my view, with the affordability question and we may not get the kind of availability through expansion, because of people having more dollars to spend on child-care services that they need.

So, really, one side needs the other, in a sense, and that is what this process has produced. The evolution, if you will, of this piece of legislation has produced this.

Again, our colleague from New Mexico has indicated that we ought to be promoting parents staying at home; that somehow we are acting as a siren call, luring mothers out of their homes into the job market rather than staying at home where they belong.

First of all, I would say with all due respect to my colleague from New Mexico that is insulting to single parents who have no choice. A recent study or survey done by the New York Times indicated that well over 70 percent of women in the work force, regardless of their incomes, prefer to be at home with their children; poor and rich would prefer to be at home.

Obviously the ones who have money are making a choice not to be. We do not deal with them. We provide no subsidy, no assistance, nothing at all for that crowd.

I personally come down on the side that, people have the opportunity to make a choice, I would like to see them make a choice of one parent staying at home. That was my experience growing up. I think it is the best world for young children.

The reality is, as the Senator from Utah has pointed out, that there is a whole crowd of people, the overwhelming majority of people in the work force, who fall into that latter category, who do not have the choice. And some suggest, somehow, that they are doing something wrong by working, being productive, providing for their family, their two or three children they may be raising on their own; that they are doing something wrong by doing that. Ironically, some of the people who make that argument are the ones who I have heard for the last 15 years stand up and argue about that welfare mother, she ought to get out of the house and go to work. She ought to be productive.

Am I to believe now that those people who made all those statements for years really wanted her to stay at home and raise those children? Or is it a double standard? The welfare mother ought to work, but if you have a little money, you ought to stay at home? I mean that seems to me to be what they seem to be suggesting here, based on where you come from or what your economic position is here.

Again, I say most, the overwhelming majority of people we are talking about are either single parents raising children or those who have spouses who earn less than $15,000 a year. Our bill says that you cannot take advantage of either the tax credits or the direct financial assistance if your income gets above 100 percent of poverty in any State.

In my State, for a family of four, that would be around $30,000 a year. In the State of my colleague from Utah it is substantially lower than that number. He stated it the other day, but it is much lower, almost half that number.

So the idea that somehow we are providing some terrific incentive for affluent people here to lure them out of the home is just false: absolutely, categorically untrue. There is nothing in this legislation that indicates that.

For those who would stand up and suggest so, they are just not being honest in their appraisal of this legislation. I do not mind criticism. I do not mind an argument against the bill. But, please, do not raise arguments about parts of a bill that do not exist.

And that is what we are facing here. There are too many of these criticisms that are raised about it: Standards, denial of choice. My colleague from Utah could not have been clearer on that in terms of what we are talking about here in model standards and maximizing choice for parents with infants, or the choice between a tax credit and a direct appropriation.

A tax credit once it is done, it is done. That money is there for as far as the eye can see in the future. An appropriation requires this body to come back every year and approve it. Clearly, if we find that business is doing more, that the issue is being addressed by other means, we can decide not to appropriate the funds. The tax credit, once we do it, as we all know here, it is very difficult to take back the credit once you have established one. You have to change the law to do that.

So, again, I am repeating much of what has been said here by the Senator from Utah in a number of these areas. Again, I cite over and over again, I do not think—I see our good friend from Virginia who is occupying the Chair—the Governor of Virginia, Governor Baliles, Governor Kean, certainly a Republican in good standing in New Jersey, and the Governor of Arkansas, these people did not sign a letter supporting the act for better child care because they thought it was a huge federally mandated program that was going to impose restrictions on their States. Those Governors and the States they represent are not foolish.

The Senator from New Mexico suggested we are going to make the States pay for all this. You can walk back and see it, 8 percent of the funds go for State administration, one of the first times that has ever been done. Even when we do not mandate, we allocate the resources here, 8 percent being for the States so they do not have to go back to the citizens of Virginia or Connecticut and increase taxes to pay for expanded child care in their States.

I would hope my colleagues would walk to the back of the room and read what is in the bill. Some people said they have not read it yet; they will read it tonight. But they are on the floor today criticizing it. How do I handle an argument like that? Read the bill and then come over and debate it. Do not come over and tell me what is in the bill and tell me tonight I am going to go home and read that bill but today I want to tell you what is wrong with it.

I am willing to debate; I am willing to argue. It is pretty difficult to debate with people who have not read the legislation and yet want to be critical about it. I think what we have here, Mr. President, is a situation where people seem to be annoyed that we worked hard, and it has been a lot of hard work. As the Senator from Utah said the other day, there have been literally hundreds of hours, and that is not an exaggeration, hundreds of hours of people who walked into the room totally disagreeing with each other and hundreds of hours later walking out and agreeing. That is what legislators are supposed to do or try to do to see if you cannot come to some agreement when there is clearly a need that must be met. Child care as every single Member of this body knows, is an issue that must be met. We need to deal with that issue. We are not debating that any longer. We are not debating whether the three problems are quality, availability and affordability. We all agree with that. Now the issue is how best do you do it.

The Senator from Utah, the Senator from Connecticut, along with others, like the Senator from Maryland, can sit down for hundreds of hours with professionals and experts and parents and religious leaders in this country and spend 2 years putting together a bill that is now before us and then have someone walk out on the floor and say: "I haven't read it yet, but I'm against it." What kind of legislating is that?

We have not only read it, we have worked at it, we cried over it, we fought over it, we yelled at each other over it. We have done everything we can to produce a product that we think represents the best 2 years of labor. Tomorrow I hope we will get to some amendments. We have only dealt with one here today. We did not have recorded votes. We ought to get to

this, if there are alternatives, if people have good ideas, that is what we have floor debate for. If people have ideas as to how we can modify it or make it better, the Senator from Utah and I are open to that. We have never closed our eyes and ears to a good argument or good idea in this legislation. Certainly we have not arrived at that point, as far as this Senator is concerned.

If there are Members who would like to come forward and propose some ideas and suggestions in the spirit of making this a better product, I want to hear about them. If they are good ideas, I will take them, I will try and accept them. That is how we ought to proceed. I hope we do not get amendments and arguments being offered for the sake of trying to kill the bill or trying to come up with an alternative just for the sake of an alternative so someone claims credit for some product.

The best quote I ever heard about taking credit came from Gen. George Marshall who once said there is no limit to what you can accomplish in Washington, DC, as long as you are willing to give someone else credit for it. By God, if someone wants credit for it they can have credit for it if I can have their vote so we can do something about child care.

Sometimes I think that is the motivation behind all this: Whose name is on it, which party takes credit for it. The Senator from Utah and I got over that a long time ago in trying to put this together. I think we are both proud of that fact. I would not be here without him; this bill would not be on the floor. It would not have come out of committee had it not been for the conservative Senator from Utah. I believe that with every fiber of my body. It is a bipartisan proposal because the Senator from Utah and some of his colleagues worked to bring it to this point. The best legislation this place ever produces is when it is produced in that process. I am proud to be associated with him in that effort.

Again, Mr. President, I commend my colleague from Utah for his response to some of the criticism raised about the legislation today. All I can urge is tomorrow when Members come to the floor to debate this, I hope they will do what they said they will do, read the bill tonight, so we can have a good debate tomorrow.

The PRESIDING OFFICER. The Chair recognizes the Senator from Utah, Senator HATCH.

Mr. HATCH. Mr. President, I really enjoyed and appreciated the remarks of my distinguished colleague from Connecticut. I do not know how anybody could have worked harder. I think what he has done is gained some important details.

I think one of the most important details is anybody who argues that wealthy women are going to benefit from this bill has not read the bill and does not know what is going to happen. Anybody who argues that all we are doing is enticing women to go out of the home—hey, they are already out there, and they do not know what to do. They do not know what to do about their children. They are scared to death for their children, and they ought to be, in this drug-ridden and crime-ridden society today. I am not about to leave these kids just completely at the whim of the adverse influences on our society, which is what is happening.

The fact of the matter is, that this is to help families who really cannot afford to take care of child care. Neither of these approaches, either the tax credit approach or the ABC direct subsidy approach, is going to help people who do not need the help. Like the distinguished Senator from Connecticut said, there are literally millions of families out there in anguish because they do not know what to do with their children and they both have to work, or in the case of most women who are working, they have to work because they are a single, sole head of that household. They are divorced or widowed or otherwise unmarried and they do not have any other choice but to work unless they stay on welfare.

One of the best remarks he made was some of the people who are criticizing this the most are those who made the big stink about welfare mothers sitting and sapping up the tax dollars. Let me tell you something, you cannot have it both ways. If we want them to work and support their families, then we have to help them with their children.

I cannot begin to tell you over the last 4, 5 or 6 years since we worked with women in our State and with the Women's Advisory Committee that has advised me from the left to the right, Democrats, Republicans, independents, how this issue continues to crop up because women do not know what to do, if they have to work, with their children. They do not know what to do.

By the way, if we can create additional licensed slots that will effectively and carefully care for our children, then we ought to do that. That will benefit everybody, even women for any reason at all who want to work. They have every right to do that.

I agree with the distinguished Senator from Connecticut. I do not know of a parent yet who does not wish that parents or a parent could be in the home with their children. I do not know one family who would not want the better choice, and that is to have a parent home with the children. They would love to do it. In most of these cases, they have no other way. If they can work, and they do not want to be on welfare, and they want to be self-sufficient, and they want to have the self-esteem—that comes from taking care of themselves and their children—then, my gosh, you cannot imagine the anguish they must have when they realize they cannot take care of their children and work, too, or they cannot work and find a way to take care of their children.

I have had women come to me and tell me that even though they are making a fairly decent living, they do not have anywhere to send their kids. They do not have a baby sitter, they do not have family; they do not have anybody else in the town that they live in; they do not have anybody volunteering. They are willing to pay, but they do not even have the opportunity to find somebody to care for their kids. Where they can find them, they cannot afford them. And like Robin Brown, who I mentioned on the first day, with four kids, she had to work overtime constantly, two jobs, sometimes three jobs, in order to care for those kids and put food on the table, and her 10-year-old had to watch the younger children. She was cited for child neglect twice, and she is a wonderful mother. But because she was not home with those kids and had nobody to care for them and had to feed them, she did not have any choice other than to work and get cited for child neglect.

Look, let us get with the real world and let us try to solve these problems. I agree with the distinguished Senator from Connecticut. Let us not criticize the bill unless you can point to chapter and verse and say this needs to be changed and then we will change it. We are not averse to amendments. We would love to have them, but do not tell me that only the tax credit approach worked and this one does not. It used to be only the ABC bill worked and the tax credit did not work.

With the help of people with good will, we have now been able to elucidate the advantages of each of these approaches, and if we bind them together we will have something that really will work for the benefit of families in our society.

To that extent I want to tell the distinguished Senator from Connecticut how much of may respect he really has. I do not know anybody who could have worked as indefatigably as he has, to do what is right for families in America. I have total admiration for him.

As to the distinguished Senator from Maryland, BARBARA MIKULSKI, I cannot begin to tell you, Mr. President, how hard she has worked on this bill and all the approaches to it, and the intelligence she has brought to the process. It has been remarkable. My esteem and respect for these Senators could not be higher.

I think this bill is important and I would like to see it pass before the end of this week. I think it will give heart and hope, not total solutions; we do not have enough money to do that, to almost every family in America who is situated in such a condition as some of these people to whom I have been referring.

Mr. President, I think it is time maybe to end the debate for this day, and with that I yield the floor.

COMPANY CHILD CARE

Mr. COATS. Mr. President, we are in the middle of a debate over child care that has occupied our attention with a thousand sometimes petty controversies. But, when pieced together, they form the distinct outline of a more fundamental disagreement. We have come upon a great truth by way of smaller quarrels.

On one side are those whose trust in the unfailing wisdom of Government has never been tempered by the hard facts and failures of recent history. On the other side are those who trust instead in the judgment and ingenuity of intermediary institutions that stand between individuals and the state—groups like the family, the church, even private businesses.

Both of these approaches believe in activism to meet the child-care needs of lower income families. But the first approach restricts individual choice to those options Government can control. The second, in contrast, is a protest against paternalism. It does not substitute its own judgment for that of parents or businesses. It simply expands the range of options by adjustments in the Tax Code.

It is with this division in mind that I submit an article I recently read into the RECORD titled "Company Child Care"—Indiana Business, June 1989—it is an excellent example of how businesses in Indiana are meeting child care needs without intrusive Government intervention and regulation. These are the types of efforts that the Government should be encouraging. Our goal must not be the extention of governmental power but the provision of help. The only Government activism in child care that is worth our exertion is an activism that enables, not directs. Our object should be to help a free people meet their own goals—not a Government that puts its pudgy and soiled finger into every pie.

I ask unanimous consent that this article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

KID STUFF NO MORE

(By Susan Guyett)

Child care isn't kid stuff anymore. It's discussed in presidential campaigns, debated in the state legislature and considered by top management in corporate Indiana.

A growing dependence on women in the work force and a decline in population have forced businesses to take a new look at how child care plays a role in the marketplace. Quality child care gives working parents the peace of mind to concentrate on business. Quality child care supplements the educational and social skills children need as employees of tomorrow.

For more and more families, it's not a matter of whether Mommy is going back to work, it's when. A recent report commissioned by Lilly Endowment, Inc., on the state of the child in Indiana indicated that as of 1985, mothers with children under 6 comprise 53 percent of the work force.

The key issues in child care are affordability, availability and quality, the experts say. What's available in a city may be too expensive for some workers. On the other hand, there are times when what's out there may be merely substandard babysitting that offers little more than diaper-changing. Some parents have no choice but care that offers neither nurturing nor developmentally appropriate interaction.

A bill offering tax credits to businesses that subsidize child care failed in both houses of the Indiana General Assembly during this past session. The attention it received, however, has given child-care advocates reason to be hopeful. The measure left many Indiana people thinking that child care is an issue whose time has come.

But even without tax incentives, some Indiana businesses have realized that what is good for children is good for their employees as well. Throughout the state there are examples of companies that are participating in innovative child-care solutions. Support comes in many forms, including on-site day-care centers, sophisticated information and referral systems, flexible work hours, cooperative ventures and even outright payments to assist families with child-care needs.

Businesses have discovered that child care isn't just a women's issue anymore, says Ena Shelley, associate professor of education at Butler University in Indianapolis and president of the Indiana Alliance for Better Child Care. Child care is a business issue, a work force issue and, in some localities, a community development issue.

Businesses that have been successful in tackling child-care issues are those in which top executives have given their enthusiastic support to plans that carefully fit their company and employee needs.

For Excel Industries, Inc.'s Nyloncraft subsidiary in Mishawaka, the answer was an on-site, 24-hour-a-day learning center. The 8-year-old operation has a complicated transportation schedule that not only takes children to and from school but also delivers them, bundled up, to their parents at a sister plant in South Bend at the end of the 11:30 p.m. shift.

For Lincoln National Corporation in Fort Wayne, the answer was a nationally acclaimed information and referral system that provides employees with the names of qualified and monitored home day-care providers. The company, in addition, has taken on the job of helping the child-care providers become savvy businesswomen and, in turn, more-professional care givers.

That has nothing to do with the insurance business, but it does have something to do with improving the city's economy by helping nearly 300 small-business people. Madeleine Baker, Lincoln National's child-care coordinator, says home-care providers on the company-approved roster earn anywhere from $5,000 to $19,000 a year.

For a chain of Burger King restaurants in northern Indiana, the child-care solution was an outright subsidy. Qualified day shift workers can collect up to $45 a week for child-care expenses.

Dan Fitzpatrick, president of Burger Services, Inc., in South Bend, which owns and operates 41 Burger Kings in northern Indiana and in Michigan, says many of his 600 employees are working parents. The $1.50-an-hour subsidy has helped him recruit and keep quality workers. Approximately 30 workers are now taking advantage of the allowance. "All I can say is that it made sense and it makes sense today for us. If it didn't make sense, I wouldn't be doing it," he says.

Not every employer sees the issue as simply as Fitzpatrick does. Many executives who are working to find a solution to their employees' child-care needs are more cautious.

Frank McAlister, the Indiana Chamber of Commerce's senior vice-president for human resources, has had a lot of questions about child care lately. "I think there is a heightened enlightenment and awareness about the problem on behalf of the employers," he says. "But I'd be telling you wrong if I said there was a big stampede right now toward doing something."

Private sector initiatives are also popping up. Innovative Design Concepts of Indianapolis included a day-care center for infants in the design of a new building. Architect Brad Lewis says the building is expected to attract small-business operators who may have been working out of their homes. A day-care center for older children is located next door.

If company employees haven't expressed interest in child-care issues, it's not because families don't deal with them every day. Consider these statistics reported by the child-care consultation service at the Lutheran Hospital of Fort Wayne, Inc.:

Both spouses work outside the home in 60 percent of all two-parent families;

Single-parent households doubled in the past decade;

By 1990, 65 percent of the people entering the labor market will be women;

By 2000, four out of every five babies in the United States will have mothers working outside the home.

Unfortunately, there are no hard figures on the amount of child care that is needed. More than 2,100 licensed day-care centers and homes are registered with the state. Many more churches, schools and civic groups such as the YWCA also offer child care. These organizations aren't required to be licensed, though, if they provide care for only a few hours a day. According to the Indiana Department of Public Welfare's day-care licensing supervisor, Keith Carver, those licensed centers and homes can care for about 55,000 children. 1980 U.S. Census figures indicate that a total of 400,000 children age 6 and under live in Indiana, says Michael Mirable, president of the Indiana Licensed Day Care Association. Not all children are in need of licensed day care, to be sure, but there's no way of knowing how many children are under the care of someone other than their parents.

"We call it the 'underground market,'" says Ginny Purcell, a project director for the Fort Wayne Women's Bureau. "This is a major problem in Indiana. We know these children are receiving care because their parents are in the work force but they are not countable."

Finding a child-care solution in a business or community sometimes takes a decision maker who understands the stresses parents feel.

Marjorie Soyugenc of Evansville is a mother who is employed outside her home. She's spent all of her adult years going to school or working and, in the process, finding proper care for her children. She remembers the uncertainty and what she calls the "absolute panic" that sets in when a child-care provider abruptly fails to deliver services. She also remembers occasions when she couldn't give all of her attention to her job because of child-care worries.

Soyugenc's children are grown now, but, as president of Welborn Baptist Hospital, she's in a position to put other minds at ease. Next year, Welborn will open a $750,000 child-care facility a few blocks from the hospital. Welborn was prepared to go it alone but invited local businesses to participate. A dozen Evansville corporations have signed on as contributing members so their employees can take advantage of the service. It took five years to come up with the studies, plans and economic justification to get the Welborn center project off the ground, Soyugenic says.

Cal Olson, president of Child Care Management of Indiana, Inc., in Zionsville says businesses sometimes shy away from child-care issues because they think their only option is to build an on-site center. Consultants such as Olson recommend a needs assessment or survey to determine a company's individual requirements.

Asking the right questions is vital, says Kathleen Likeness, director of the Lutheran Hospital center in Fort Wayne. "Questions like 'Do you need child care?" just doesn't do it," she says. A carefully worded and analyzed survey may reveal that your employees have few child-care worries. Or an employer may discover workers have trouble finding before- and after-school care or their biggest worry is care for sick children. Research should tie in traffic patterns, care already available in the community and family trends within a company's employee population, Likeness says.

Fitzpatrick skipped the consultants when he set up the restaurant chain's subsidy program. "This isn't rocket science. It's really pretty simple," he says. "You have a bunch of people who work for you, so you talk to them. You say 'What do you need and how are we doing?' " His company uses a referral service so that the children in the subsidized program are cared for in monitored, licensed day-care homes near the worker's residence or near the restaurant where he or she works.

Liability factors also weigh heavily on executives' minds, says Loretta Kollar, director of the Excel-Nyloncraft center. They worry not only about injury lawsuits but also about child-abuse accusations. Kollar thinks liability fears, while a legitimate concern, shouldn't overshadow the benefits.

Olson advises clients who are concerned about liability to explore options—including voucher systems and contract arrangements with established day-care centers—to minimize the concern. Child-care officials blame the news media for blowing the number and extent of child-abuse cases out of proportion. Very few of the abuse incidents take place in licensed day-care centers, says Mirable, who is director of ECLC Learning Centers, Inc., in Indianapolis. The trouble, he says, is that news accounts categorize every child-care situation as having happened in a "center" whether it is a licensed center or not.

One thing that can stop cold any movement in child-care benefits is a CEO who isn't behind the notion, the experts say.

Just as there are differences of opinion among employers, families show preferences about child-care options. Mothers of young babies show a clear preference for home care rather than day-care centers, Olson says. "There's almost like a natural stigma attached to taking your child to a center, like you're taking them to an institution."

There's reluctance by traditionalists to acknowledge the changing family structure. "We have a lot of people, still, who really feel mothers should be home and that there's no excuse for mothers to work," Butler University's Shelly says. "We're really trying to educate them that for whatever reason they work, whether it be financial or just choice, the fact of the matter is, there are these children who need care."

Mr. DODD. Mr. President, I know of no other Members who wish to be heard on our side today on the matter before the Senate, and I gather the same is true on the Republican side.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Saunders, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE PRESIDENT RECEIVED DURING RECESS

Under the authority of the order of the Senate of January 3, 1989, the Secretary of the Senate, on June 16, 1989, during the recess of the Senate, received a message from the President of the United States submitting sundry nominations and withdrawals, which were referred to the appropriate committee.

(The nominations and withdrawals received on June 16, 1989, are printed in today's RECORD at the end of the Senate proceedings.)

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate together with accompanying papers, reports, and documents, which were referred as indicated:

EC-1299. A communication from the Acting Assistant Secretary of the Army (Manpower and Reserve Affairs), transmitting a draft of proposed legislation to permit the secretaries concerned to correct expeditiously military records regarding the promotion and pay of enlisted members of the armed forces; to the Committee on Armed Services.

EC-1300. A communication from the Deputy Assistant Secretary of the Air Force (Logistics), transmitting, pursuant to law, a report on the conversion of the packaging/transportation support function at McClellan Air Force Base, California, to performance by contract; to the Committee on Armed Services.

EC-1301. A communication from the Assistant Secretary of the Interior (Fish and Wildlife and Parks), transmitting, pursuant to law, maps of undeveloped coastal barriers along the Great Lakes that qualify for inclusion in the Coastal Barrier Resources System; to the Committee on Environment and Public Works.

EC-1302. A communication from the Assistant Secretary of State (Legislative Affairs), transmitting, pursuant to law, a report on extradition and mutual legal assistance treaties and model comprehensive antidrug laws; to the Committee on Foreign Relations.

EC-1303. A communication from the Administrator of the Agency for International Development, transmitting, pursuant to law, the semiannual report of the Inspector General, Agency for International Development, for the period ending March 31, 1989; to the Committee on Governmental Affairs.

EC-1304. A communication from the Chairman of the Federal Communications Commission, transmitting, pursuant to law, the annual report of the Commission under the Government in the Sunshine Act for calendar year 1988; to the Committee on Governmental Affairs.

EC-1305. A communication from the District of Columbia Auditor, transmitting, pursuant to law, a report entitled "A Review of Condominium Conversion Fees Collected and Disbursed for the Period 1983 through 1988"; to the Committee on Governmental Affairs.

EC-1306. A communication from the Acting Director of the Office of Personnel Management, transmitting, pursuant to law, a report entitled "Performance Management and Recognition System FY 1987 Performance Cycle"; to the Committee on Governmental Affairs.

EC-1307. A communication from the Acting Comptroller General of the United States, transmitting, pursuant to law, a report and recommendation with respect to a claim against the United States; to the Committee on the Judiciary.

EC-1308. A communication from the Secretary of Education transmitting, pursuant to law, a report of the National Center for Education Statistics entitled "The Condition of Education"; to the Committee on Labor and Human Resources.

EC-1309. A communication from the Chairman and Members of the Railroad Retirement Board, transmitting, pursuant to law, a report on the actuarial status of the railroad retirement system including any recommendations for financing changes; to the Committee on Labor and Human Resources.

EC-1310. A communication from the Secretary of Education, transmitting, pursuant to law, Final Priority, Required Activities, and Selection Criteria for a High Technology Competition under the Cooperative Demonstration Program; to the Committee on Labor and Human Resources.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. BIDEN, from the Committee on the Judiciary, with an amendment in the nature of a substitute:

S. 358: A bill to amend the Immigration and Nationality Act to change the level, and preference system for admission, of immigrants to the United States, and to provide for administrative naturalization, and for other purposes (Rept. No. 101-55).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. CONRAD:

S. 1200. A bill to implement a national comprehensive plant management program that will protect our environment by controlling or containing undesirable plant species on Federal lands; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. BENTSEN (for himself, Mr. CHAFEE, Mr. RIEGLE, Mr. MATSUNAGA, and Mr. BRADLEY):

S. 1201. A bill to amend title XIX of the Social Security Act to make certain modifications in the Medicaid program to provide pregnant women and children greater access to health care under such program, and for other purposes; to the Committee on Finance.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. WILSON:

S. Con. Res. 48. A concurrent resolution expressing the Sense of the Congress regarding human rights abuses in China since the Red Army massacre of June 3, 1989; to the Committee on Foreign Relations.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. CONRAD:

S. 1200. A bill to implement a national comprehensive plant management program that will protect our environment by controlling or containing undesirable plant species on Federal lands; to the Committee on Agriculture, Nutrition, and Forestry.

NOXIOUS WEED CONTROL ACT

Mr. CONRAD. Mr. President, today, I am introducing legislation to address a growing problem in my State and throughout the West—the spread of noxious weeds.

Leafy spurge, spotted knapweed, and other harmful weeds are threatening the quality of our forage, land, air, and water resources. These nuisance plants increase soil erosion and sediment yields which damages water quality. They are a threat to both wildlife and domestic animals as they reduce the growth of desirable vegetation. They adversely affect reforestation efforts and recreational opportunities. And they cause human health hazards through the spread of pollen and allergies.

The infestation and spread of noxious weeds creates a two-pronged financial loss for North Dakota and other Agricultural states: The loss of land; and the loss of the tax base because the land value is diminished.

North Dakota's most pervasive noxious weed, leafy spurge, now covers 1.5 million acres in North Dakota—in fact, this acreage level has doubled since 1973, according to the North Dakota State University.

The threat and damage imposed by noxious weeds will only get worse unless we act not to control the situation. At the top of our agenda should be better coordination of inter-agency weed control efforts and communication. No weed abatement strategy will be effective unless weeds are controlled across the board, regardless of landownership. For example, efforts to control weeds solely on Federal lands are ill-fated if the neighboring State or private land does not have a program.

The purpose of the bill I am introducing today is twofold: First, to coordinate Federal, State, and local efforts to manage weeds on private, State, and Federal lands through cooperative agreements; and, second, to require all Federal agencies managing or administering Federal lands to designate a specific office and contact person for coordinating noxious weed control efforts.

I am convinced that a unified, systematic, approach to weed control, coupled with research advancements we are achieving at the four USDA grasslands research centers and other facilities—such as the Weed Science Center at North Dakota State—will be the winning formula necessary for effective noxious weed management.

Mr. President, this weekend, I again traveled across my State and saw firsthand the threat that we are facing from the spread of noxious weeds. Leafy spurge is out of control. Kochia is out of control. Many of these weed infestations are on Federal lands, on conservation reserve acres.

The drought of last year provided an almost perfect environment for the weeds to prosper. It is a remarkable circumstance when hardship visited on a State is only made worse because it provides an environment in which weeds can spread even further.

Mr. President, it almost sounds humorous to have a war on weeds. And we have had some on this floor, some of my colleagues, who have in the past made it humorous to talk about weeds. I must say I share that feeling. But we also understand, those of us who represent agricultural States, as does the current occupant of the chair, that it is no laughing matter when the weeds take over and threaten the economic viability of an agricultural area.

I urge my colleagues to join me in this war against weeds, and I ask unanimous consent that the full text of my bill, the Noxious Weed Control Act, be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1200

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Noxious Weed Control Act".

SEC. 2. FINDINGS.

(a) CURRENT CONDITIONS.—The Congress finds that undesirable plant species are—

(1) contaminating Federal lands by taking over and encroaching on desirable plant species;

(2) polluting air, land, and water resources by increasing soil erosion and decreasing natural ground cover;

(3) spreading from Federal lands to contaminate State and private lands;

(4) causing wildlife species to migrate from Federal lands by taking over the natural habitat of those wildlife species; and

(5) causing human health hazards through the spread of pollen, insects, and disease.

(b) CONSEQUENCES OF INACTION.—The Congress further finds that unless undesirable plant species are controlled or contained, they will—

(1) increase exponentially, causing further contamination and deterioration of wildlife habitat, recreational resources, and aesthetic values;

(2) increase soil, water, and air pollution;

(3) have a detrimental effect to human health; and

(4) further eliminate natural species of vegetation.

(c) INADEQUACY OF EXISTING LAW.—The Congress further finds that even though there are numerous laws addressing the stewardship and management of Federal lands, those laws do not directly or effectively deal with the management of undesirable plant species on Federal lands.

(d) NECESSARY ACTION.—The Congress further finds that a comprehensive, national undesirable plant management act will—

(1) protect our environment by preventing the pollution of air, land, and water resources and will reduce soil erosion by preventing the introduction and continuing the spread of undesirable plant species on Federal lands;

(2) protect recreation uses and aesthetic values on Federal lands by reducing the risk of introduction of undesirable plant species from one area to another;

(3) protect habitat for wildlife and domestic animals on the Federal lands by reducing the spread of undesirable plants which are detrimental to desirable vegetation;

(4) protect threatened and endangered species listed under the provisions of the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.) by reducing the infestation of undesirable plant species to protected ecosystems; and

(5) provide for the management, development, and enhancement of Federal lands by protecting those lands from the continuing spread of undesirable plant species.

SEC. 3. DEFINITIONS.

As used in this Act—

(1) COOPERATIVE AGREEMENT.—The term "Cooperative Agreement" means a written agreement between a Federal agency and a State agency entered into pursuant to section 5.

(2) EXOTIC PLANT.—The term "exotic plant" means a plant with one or more of the following attributes—

(A) it is not a regular member of the native or natural community in which it is found;

(B) it is of little economic value; or

(C) it colonizes disturbed habitats.

(3) FEDERAL AGENCY.—The term "Federal agency" means a department, agency, or bureau of the Federal Government responsible for administering or managing Federal lands under its jurisdiction.

(4) FEDERAL LANDS.—The term "Federal lands" means lands managed by or under the jurisdiction of the Federal Government.

(5) INTEGRATED MANAGEMENT SYSTEM.—The term "integrated management system" means a system for the planning and implementation of a program using an interdisciplinary approach to select a method for containing or controlling an undesirable plant species or group of species using all available methods, including—

(A) education;

(B) preventive measures;

(C) physical or mechanical methods;

(D) biological agents;

(E) herbicide methods;

(F) cultural methods; and

(G) general land management practices.

(6) INTERDISCIPLINARY APPROACH.—The term "interdisciplinary approach" means an approach to making decisions regarding the containment or control of an undesirable plant species or group of species, which—

(A) includes participation by personnel of Federal or State administrative agencies with experience in areas including weed science, range science, wildlife biology, land management, and forestry; and

(B) includes consideration of—

(i) the most efficient and effective method of containing or controlling the undesirable plant species;

(ii) scientific evidence and current technology,

(iii) the physiology and habitat of a plant species; and

(iv) the economic, social, and ecological consequences of implementing the program.

(8) NOXIOUS PLANT.—The term "noxious plant" means a plant, seed, or part of a plant or seed with one of more of the following attributes—

(A) it is aggressive, difficult to manage, detrimental, destructive, or poisonous;

(B) it is a carrier of insects or disease;

(C) it is parasitic; or

(D) its direct or indirect effect is detrimental to the management of a desired ecosystem.

(8) STATE AGENCY.—The term "State agency" means a State Department of Agriculture or other State agency responsible for the administration of the undesirable plant laws of a State.

(9) UNDESIRABLE PLANT SPECIES.—The term "undesirable plant species" means plant species that are—

(A) of little economic, aesthetic, or nutritional value; or

(B) are classified as exotic plants or noxious plants as under State law or, in the absence of applicable State law, under Federal law.

SEC. 4. MANAGEMENT OF UNDESIRABLE PLANT SPECIES.

(a) IN GENERAL.—Each Federal agency shall—

(1) designate a specific office and person adequately trained in the management of undesirable plant species to develop and coordinate a program for the management of undesirable plant species on Federal land under the agency's jurisdiction;

(2) establish and adequately fund through the agency's budgetary process a program to manage undesirable plant species on a continuing basis;

(3) enter into and implement cooperative agreements with State and local agencies regarding the management of undesirable plant species on Federal lands under the agency's jurisdiction and on State and private lands adjacent to Federal land;

(4) establish integrated management systems to control or contain undesirable plant species targeted under cooperative agreements;

(5) require that equipment (including road construction equipment, recreational vehicles, and farm or ranch equipment) and agronomic crops (including hay, alfalfa, straw, and other feed for livestock or wildlife), prior to entry onto Federal lands, be certified free of undesirable plant species under certification standards set by the Federal agency in consultation with appropriate Federal and State agencies; and

(6) complete an environmental assessment or environmental impact statement that may be required under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) to implement plant control or containment no later than 1 year after the necessity of preparing such an assessment or statement is ascertained.

(b) EFFECT ON PERMIT HOLDERS.—(1) A Federal agency shall conduct undesirable plant control and containment in such a manner as will not unduly impair the enjoyment of the benefit of a permit, lease, easement, or right of way for the use of Federal land by the holder thereof.

(2) A holder of a permit, lease, easement, or right of way for the use of Federal land shall be required to exercise the holder's rights under the permit, lease, easement or right of way in such a manner as will not unduly impair a Federal agency's ability to conduct necessary control or containment of undesirable plant species.

SEC. 5. COOPERATIVE AGREEMENTS WITH STATE ADMINISTRATIVE AGENCIES.

(a) IN GENERAL.—A Federal agency shall enter into cooperative agreements with State agencies to coordinate the management of undesirable plant species on Federal lands and State and private lands adjacent thereto.

(b) CONTENTS OF PLAN.—A cooperative agreement entered into pursuant to subsection (a) shall—

(1) prioritize and target undesirable plant species to be controlled or contained within a specific geographic area;

(2) describe an integrated management system to be used to select a method to control or contain the targeted undesirable plant species; and

(3) detail the means of implementing the selected method, define the duties of the Federal agency and the State agency in prosecuting that method and establish a timeframe for the initiation and completion of the tasks specified in the integrated management system.

By Mr. BENTSEN (for himself, Mr. CHAFEE, Mr. RIEGLE, Mr. MATSUNAGA, and Mr. BRADLEY):

S. 1201. A bill to amend title XIX of the Social Security Act to make certain modifications in the Medicaid program to provide pregnant women and children greater access to health care under such program, and for other purposes; to the Committee on Finance.

MATERNAL AND CHILD HEALTH ACT OF 1989

● Mr. BENTSEN. Mr. President, Senators CHAFEE, RIEGLE, and I are pleased to introduce today S. 1201, a bill addressing one of the Nation's most serious problems—the health of America's children.

When I was a kid it was routine to get measles. Now a shot takes care of it. Whoever knew a family that didn't have one case of diptheria or rheumatic fever—or whooping cough? And what parent living through the fifties can forget the dread with which parents viewed summertime—and the onset of polio epidemics?

Now we can eliminate that with a few injections—or a sugar cube.

Except for one thing. Too many kids can't afford innoculations. Forty percent of children under 4 don't even get their basic set of immunizations.

The fact is, America is facing what one health group recently called a "child health crisis."

White American babies die at a greater rate than babies born in Singapore—or a dozen other countries. Minority babies born here today—just a few miles from this chamber—have a greater chance of dying before their first birthday than babies born in Cuba.

Of the 37 million Americans without health insurance, 13 million are children. Not only do millions of them not get immunized; they don't get regular health care of any kind, whether it is amoxicillin for an ear infection or getting the plaque scraped off their teeth.

And things aren't getting better. Between 1979-86 dependent insurance—that means insuring your kids—declined. So did immunizations. And according to CDC, childhood diseases went up. In 1985 mumps tripled over the year before. In 1986 we had the highest number of whooping cough cases since 1970—60 percent of them in kids under 5.

Am I talking just about the poorest of the poor? Not at all. A third of the uninsured kids come from families making from the poverty line to 185 percent of poverty. A parent working fulltime for, say, the minimum wage, can find out her kids have less access to a doctor than they would if she was on welfare. That's not right.

And that, Mr. President, is what this bill is designed to correct.

This bill expands Medicaid, and improves services included under the maternal and child health services block grant. It takes a comprehensive approach to correct the many problems facing pregnant women and children. It complements a variety of other initiatives now pending before this body. It closes gaps in access. It removes a lot of the financial barriers which prevent pregnant women from seeing doctors even when they feel early contractions.

Here's how it works.

First, S. 1201 extends Medicaid coverage to all pregnant women and children under the age of six with incomes below 185 percent of the Federal poverty line. It allows States to expand their coverage even further—for children until their 19th birthday—for families with incomes below the Federal poverty line.

There are some children who until now have been called uninsurable; this means that if they were born with a leaky heart valve, or epilepsy, or developed diabetes, they often can't get insurance even if their families can pay the premiums. This bill will authorize three statewide demonstration projects allowing States to either extend Medicaid coverage or buy employer based coverage for them.

Removing financial barriers can't do everything. There have been other obstacles for pregnant women or sick kids. One of them is the assets test for Medicaid eligilbility. This bill simplifies that test. In fact, it would require States to offer health care coverage to pregnant women who seem to meet the criteria while their applications are being processed.

There are other areas covered by this bill. For example:

EPSDT: Medicaid's early periodic screening, diagnosis, and treatment program has been highly praised those who have seen it work. This bill requires States to offer EPSDT screening whenever doctors suspect medical or mental health problems. It also requires prompt treatment once a condition has been diagnosed. And it requires the Secretary of HHS to find ways of increasing participation in this program which is now used only by about 25 percent of those who are eligible.

Maternal and child health services block grant funding: This bill increases it—from the $563 million now authorized to $711 million. Not much. But enough to enable States to help pregnant women and those children with special health needs—those with cerebral palsy, for example, or muscular dystrophy, or AIDS.

Provider participation: What happens when more and more pregnant women become eligible for Medicaid? We will need more doctors and clinics providing obstetrical and pediatric care. S. 1201 provides financial protection for hospitals caring for kids with costly illnesses. It requires States to provide administrative assistance to obstetrical and pediatric care providers for Medicaid patients.

Home health care: Where would most kids rather be? In a hospital ward or in their own home? I think their own home. Outpatient treatment cuts costs, too. But kids sometimes need equipment in their homes. This bill allows States to increase the number of kids they can treat in the home or community. It allows them to offer home or community based service as an optional Medicaid service for pediatric AIDS patients—or for kids who have to be hooked up to ventilators in order to breathe.

Those are the major provisions.

Mr. President, let me make a few points about this bill.

First, does it cost some money? Yes.

Because of the bill's scope, the Congressional Budget Office was unable to complete a final estimate in time for introduction today. Once they've prepared the final estimate, we may have to make adjustments in the benefit package or effective dates.

Nevertheless, a pretty good ballpark estimate is that this bill will cost about $1 billion—one-tenth of 1 percent of the budget. But what does it offer in return? Among other things, it extends medical insurance to almost two million kids. That's about 15 percent of those now without insurance. It proves the point of those who have been arguing for years, that insurance is cheap, if you design your proposals well.

Which we've done, thanks to the help we got from so many national organizations closely involved with child health, whether the American Academy of Pediatrics, the March of Dimes, the Association of Maternal and Child Health Programs, the National Governors Association, the Children's Defense Fund, or a lot of others.

Besides, these programs more than pay for themselves. Providing prenatal care saves about $3 in the first year of a child's life for every dollar we spend, and immunization? It more than pays for itself—even after the recent upsurge in litigation that's made vaccines so expensive. How can you beat that?

Is this a bill that helps only a few groups of people, or a few areas of the country? Not at all. This bill helps people all over America—not just in the ghettos of New York and Detroit but the small towns of Texas.

Because we've seen what happens to kids when their families can't afford insurance. Recently we had a 4 year old at a for-profit hospital in one Texas city transferred to a public hospital because he had no insurance. His heart stopped in the ambulance. And while he lived, others weren't so lucky. In Another Texas town a pediatric cardiologist—the only one in town—refused to see two twins with heart defects because they had no insurance. Bundled into an ambulance in a desperate attempt to get them the 60 miles to another hospital, both kids died.

Whatever you feel about who's to blame in this kind of incident, the fact is, it will continue to happen when we have so many uinsured kids. This bill is not about abstractions. It's about real kids, and real pain—and real cures.

There are those who oppose any efforts in Washington to help poor people. Some think they just don't work. Some think that no matter how poor you are, you can work hard, get ahead, and if you don't it's your own fault.

Well, maybe. But how does that apply to a 4-year-old in agony because of an ear infection? How does that apply to a kid in the burn unit of a hospital because a kerosene heater short-circuted? How does that apply to a kid with a heart defect, racing to a hospital far away because he's been refused care? How does that apply to the not-yet-born, whose mother simply doesn't know that smoking and drinking are dangerous not only for her—but the fetus?

Mr. President, with surgeon-like precision, we have a chance to remove major obstacles to health care, right now, without even picking up a scalpel. That helps both kids and their parents.

Because working families have a tough time making ends meet in America. It's tough to hold down a job fulltime, then come home to feed your kids and help them with homework before you even change your clothes. But American parents are doing it every day. They know it's their job. They're doing their job.

And levelling the playing field a little by giving their kids a chance at basic health care? I think that's our job.

It will pay dividends for America.

"Childhood shows the man," Milton wrote, "as morning shows the day."

When we examine the childhood of Americans beginning life, we'll be able to tell what kind of citizens they'll become. I urge my colleagues to join us in supporting this bill which will brighten the morning of their lives—and help bring to the rest of their lives, a bit more sunshine.

I ask unanimous consent that the text of S. 1201 and a bill summary be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 1201

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Maternal and Child Health Act of 1989".

SEC. 2. MANDATORY COVERAGE OF CERTAIN LOW-INCOME PREGNANT WOMEN AND CHILDREN.

(a) MANDATORY COVERAGE.—Section 1902(l) of the Social Security Act (42 U.S.C. 1396a(l)) is amended—

(1) in paragraph (1), by striking subparagraph (B) and inserting in lieu thereof the following new subparagraph:

"(B) children who have not attained 6 years of age, and"; and

(2) in paragraph (2), by striking subparagraph (A) and inserting in lieu thereof the following new subparagraph:

"(A) For purposes of paragraph (1), with respect to individuals described in subparagraphs (A) and (B) of that paragraph, the State shall establish an income level which is a percentage equal to 185 percent of the income official poverty line (as defined by the Office of Management and Budget, and revised annually in accordance with section 673(2) of the Omnibus Budget Reconciliation Act of 1981) applicable to a family of the size involved.".

(b) CONFORMING AMENDMENTS.—(1) Section 1902(l)(4) of such Act (42 U.S.C. 1396a(l)(4)) is amended—

(A) in subparagraph (A) by striking "infants under age 1" and inserting in lieu thereof "children under the age of 6", and

(B) in subparagraph (B) by striking "provided under clause (ii) of such paragraph" and inserting in lieu thereof "provided under such paragraph".

(2) Section 1902(a)(10)(A)(i)(IV) of such Act (42 U.S.C. 1396a(a)(10)(A)(i)(IV)) is amended by striking "minimum".

(c) EFFECTIVE DATE.—(1) Except as provided in paragraph (2), the amendments made by subsection (a) shall become effective with respect to payments under title XIX of the Social Security Act for calendar quarters beginning on or after January 1, 1990.

(2) For purposes of the amendment made in subsection (a)(1) the term "6 years of age" shall be considered to be "4 years of age" with respect to payments under title XIX of the Social Security Act for calendar quarters beginning on or after January 1, 1990, and ending before January 1, 1991.

SEC. 3. OPTIONAL COVERAGE OF CERTAIN LOW-INCOME CHILDREN.

(a) OPTIONAL COVERAGE.—Section 1902(l) of the Social Security Act (42 U.S.C. 1396a(l)) is further amended—

(1) in paragraph (1), by striking subparagraph (C) and inserting in lieu thereof the following new subparagraph:

"(C) at the option of the State, children who have attained 6 years of age but have not attained 19 years of age,"; and

(2) in paragraph (2)(B), by striking ", or if less, the percentage established under subparagraph (A)".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall become effective with respect to payments under title XIX of the Social Security Act for calendar quarters beginning on or after January 1, 1990.

SEC. 4. DEMONSTRATION PROJECTS TO STUDY THE EFFECT OF ALLOWING STATES TO EXTEND MEDICAID TO CERTAIN LOW-INCOME FAMILIES NOT OTHERWISE QUALIFIED TO RECEIVE MEDICAID BENEFITS.

(a) IN GENERAL.—(1) The Secretary of Health and Human Services (hereafter in this section referred to as the "Secretary") shall enter into agreements with 3 States submitting applications in accordance with subsection (b)(1) for the purpose of conducting demonstration projects to study the effect on access to health care, private insurance coverage, and costs of health care when such States are allowed to extend benefits under title XIX of the Social Security Act, either directly or in the same manner as alternative assistance authorized in section 1925(b)(4)(D), to certain children who because of a preexisting medical condition or who having exhausted health benefits available under private insurance can be considered to be medically uninsurable (as defined by the Secretary) and who are not otherwise qualified to receive benefits under such title.

(2) The Secretary shall also enter into an agreement with one state submitting an application in accordance with subsection (b)(2) for the purpose of conducting a demonstration project to study the effect on access to health care, private insurance coverage, and costs of health care when such State is allowed to extend benefits under title XIX of the Social Security Act, either directly or in the same manner as alternative assistance authorized in section 1925(b)(4)(D), to certain children who are members of families whose incomes are below the level described in subsection (b)(2), but who are not otherwise qualified for benefits under such title.

(b) PROJECT REQUIREMENTS.—(1) Each State applying to participate in a demonstration project under subsection (a)(1) shall assure the Secretary that only those children who are determined medically uninsurable by the Secretary under subsection (a)(1) shall be eligible to participate in such demonstration project.

(2) Each State applying to participate in the demonstration project under subsection (a)(2) shall assure the Secretary that eligibility shall be limited to—

(A) children who have not attained 6 years of age who are in families with income below 185 percent of the income official poverty line (as described in subsection (c)(1)); and

(B) children who have attained 6 years of age but who have not attained 20 years of age who are in families with income below 100 percent of the income official poverty line (as described in subsection (c)(1)).

(3) The Secretary shall further provide in conducting demonstration projects under this section that if one or more of such demonstration projects utilizes employer coverage as allowed under section 1925(b)(4)(D) of the Social Security Act that—

(A) such project shall require an employer contribution; and

(B) at least one of such projects shall be limited to employers with 50 or less employees.

(c) PREMIUMS.—Children eligible to participate in such demonstration projects whose family income level is—

(1) below 100 percent of the income official poverty line (as defined by the Office of Management and Budget, and revised annually in accordance with section 673(2) of the Omnibus Budget Reconciliation Act of 1981) applicable to a family of the size involved shall pay no premium;

(2) between 100 and 200 percent of the income official poverty line (as described in paragraph (1)) shall pay a premium equal to the lesser of—

(A) the actuarial value of the coverage, or

(B) 3 percent of the family's average gross monthly earnings (less the average monthly costs for child care); and

(3) over 200 percent of the income official poverty line (as described in paragraph (1)) shall pay a premium equal to the actuarial value of the coverage.

(d) DURATION.—A demonstration project conducted under this section shall be commenced not later than July 1, 1990, and shall be conducted for a 3-year period unless the Secretary determines that a State conducting a project under this section is not in substantial compliance with the requirements contained in subsection (b).

(e) WAIVER.—The Secretary where he deems appropriate may waive—

(1) the statewideness requirement described in section 1902(a)(1); and

(2) the requirements described in section 1902(a)(10)(A).

(f) LIMIT ON EXPENDITURES.—The Secretary in conducting the demonstration projects described in this section shall limit the amount of the Federal share of benefits paid and expenses incurred under title XIX of the Social Security Act to no more than—

(1) $100,000,000 in fiscal year 1990; and

(2) $250,000,000 for fiscal years 1991 and 1992 combined.

(g) EVALUATION AND REPORT.—(1) For each demonstration project conducted under this section, the Secretary shall conduct an evaluation on the effect of the project with respect to—

(A) access to health care;

(B) private health care insurance coverage; and

(C) costs with respect to health care.

(2) The Secretary shall prepare and submit to the Congress an interim report containing a summary of the evaluations conducted under paragraph (1) not later than January 1, 1992, and a final report containing such summary together with such further recommendations as the Secretary may determine appropriate not later than January 1, 1994.

(h) EFFECTIVE DATE.—The provisions of this section shall become effective upon the date of enactment of this Act.

SEC. 5. MODIFICATION OF ASSET TEST FOR PREGNANT WOMEN.

(a) IN GENERAL.—Section 1902(l)(3) of the Social Security Act (42 U.S.C. 1396a(l)(3)) is amended by inserting before the semicolon at the end of subparagraph (B) the following: "(except that, for purposes of this subparagraph, there shall be excluded from the term 'resources', without regard to the value thereof, any automobile, household goods, personal effects, burial spaces, and insurance policies)".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall become effective with respect to eligibility for medical assistance on or after January 1, 1990.

SEC. 6. PRESUMPTIVE ELIGIBILITY FOR PREGNANT WOMEN REQUIRED.

(a) IN GENERAL.—Section 1902(a)(47) of the Social Security Act (42 U.S.C. 1396a(a)(47)) is amended by striking "at the option of the State,".

(b) DAY OF ELIGIBILITY MODIFIED.—Section 1920(c) of such Act (42 U.S.C. 1396r-1(c)) is amended by striking paragraphs (2) and (3) and inserting after paragraph (1) the following new paragraph:

"(2) A qualified provider that determines under subsection (b)(1)(A) that a pregnant woman is presumptively eligible for medical assistance under a State plan shall notify the State agency of the determination within 5 working days after the date on which the determination is made.".

(c) CONFORMING AMENDMENTS.—Section 1920 of such Act (42 U.S.C. 1396r-1) is amended—

(1) in subsection (a) by striking "may provide" and inserting in lieu thereof ", in order to meet the requirement of section 1902(a)(47), must provide"; and

(2) in subsection (b)(1)(B)—

(A) by inserting "or" at the end of clause (i);

(B) by striking ", or" at the end of clause (ii) and inserting in lieu thereof "; and"; and

(C) by striking clause (iii).

(d) EFFECTIVE DATE.—The amendments made by this section shall become effective with respect to pregnant women who are qualified to become presumptively eligible on or after January 1, 1990.

SEC. 7. MANDATORY ELIGIBILITY, CONTINUITY OF CARE AND TEMPORARY EXTENSION OF MEDICAID ELIGIBILITY.

(a) CONTINUOUS ELIGIBILITY FOR PREGNANT WOMEN.—Section 1902(e)(6) of the Social Security Act (42 U.S.C. 1396a(e)(6)) is amended—

(1) by striking "At the option of the State, in" and inserting in lieu thereof "In"; and

(2) by striking "the State plan may nonetheless treat" and inserting in lieu thereof "the State plan shall treat".

(b) CONTINUOUS ELIGIBILITY FOR CERTAIN CHILDREN.—Section 1902(e) of such Act (42 U.S.C. 1396a(e)) is amended by adding at the end thereof the following new paragraph:

"(11)(A) In the case of a child who has not attained 6 years of age and who is determined eligible for medical assistance under this title (other than a child eligible for such assistance because such child is receiving aid under part A or E of title IV or under title XVI), such child shall remain eligible for medical assistance under this title after each determination of eligibility for a period of 6 months and no redetermination of such child's eligibility shall take place for a period of 6 months from the determination of eligibility of such child, regardless of any change in income or resources of the family of which such child is a member.

"(B) With respect to a child who has not attained 6 years of age and who is receiving aid under part A or E of title IV or under title XVI and who is determined to be no longer eligible for such aid, the State may not discontinue medical assistance under this title for such child until the State has determined that such child is not eligible for medical assistance under this title on a basis other than the receipt of aid under such parts or title.".

(c) EXTENSION OF MEDICAID ELIGIBILITY.—Section 20(b) of the Child Support Enforcement Amendments of 1984 is amended by striking "and before October 1, 1989".

(d) EFFECTIVE DATE.—(1) The amendments made by subsections (a) and (b) shall become effective with respect to eligibility determinations for medical assistance under title XIX of the Social Security Act on or after January 1, 1990.

(2) The amendment made by subsection (c) shall become effective upon the date of enactment of this Act.

SEC. 8. ADJUSTMENT IN PAYMENT FOR HOSPITAL SERVICES FURNISHED TO LOW-INCOME CHILDREN.

(a) IN GENERAL.—Section 1902 of the Social Security Act (42 U.S.C. 1396a) is amended by adding at the end thereof the following new subsection:

"(s) In order to meet the requirements of subsection (a)(53), the State plan must provide that payments to hospitals under the plan—

"(1) for inpatient hospital services furnished to infants who have not attained the age of 1 year, and to children who have not attained the age of 18 years and who receive such services in a disproportionate share hospital described in section 1923(b)(1), shall—

"(A) if made on a prospective basis (whether per diem, per case, or otherwise) provide for an outlier adjustment in payment amounts for medically necessary inpatient hospital services involving exceptionally high costs or exceptionally long lengths of stay,

"(B) not be limited by the imposition of day limits with respect to the delivery of such services to such individuals, and

"(C) not be limited by the imposition of dollar limits with respect to the delivery of such services to any such individual who has not attained their first birthday (or in the case of such an individual who is an inpatient on his first birthday until such individual is discharged); and

"(2) shall be made to a hospital in another State for inpatient hospital services furnished by such hospital to children (covered under the State plan) who have not attained the age of 19 years at the rates paid for such services in the State in which the hospital is located, unless the States involved have entered into an agreement providing for payment on another basis or rate.".

(b) CONFORMING AMENDMENT.—Section 1902(a) of such Act (42 U.S.C. 1396a(a)) is amended—

(1) by striking "and" at the end of paragraph (51);

(2) by striking the period at the end of paragraph (52) and by inserting in lieu thereof "; and"; and

(3) by adding at the end thereof the following new paragraph:

"(53) provide, in accordance with subsection (s), for adjusted payments for certain inpatient hospital services.".

(c) EFFECTIVE DATE.—The amendments made by this section shall become effective with respect to payments under title XIX of the Social Security Act for calendar quarters beginning on or after January 1, 1990.

SEC. 9. REQUIRED COVERAGE OF NURSE PRACTITIONER SERVICES.

(a) IN GENERAL.—Section 1905(a) of the Social Security Act (42 U.S.C. 1396d(a)) is amended—

(1) in paragraph (20), by striking "and";

(2) by redesignating paragraph (21) as paragraph (22); and

(3) by inserting at the end of paragraph (20) the following new paragraph:

"(21) services furnished by a certified pediatric nurse practitioner or certified family nurse practitioner (as defined by the Secretary) which the certified pediatric nurse practitioner or certified family nurse practitioner is legally authorized to perform under State law (or the State regulatory mechanism provided by State law), whether or not the certified pediatric nurse practitioner or certified family nurse practitioner is under the supervision of, or associated with, a physician or other health care provider;".

(b) CONFORMING AMENDMENT.—Section 1902 (a)(10)(A) of such Act (42 U.S.C. 1396a(a)(10)(A)) is amended by striking "(1) through (5) and (17)" and by inserting in lieu thereof "(1) through (5), (17) and (21)".

(c) EFFECTIVE DATE.—The amendment made by subsection (a) shall become effective with respect to services furnished by a certified pediatric nurse practitioner or certified family nurse practitioner on or after January 1, 1990.

SEC. 10. OPTIONAL STATE COVERAGE OF HOME OR COMMUNITY BASED SERVICES TO CERTAIN CHILDREN.

(a) STATE OPTION PROVIDED.—Section 1905(a) of the Social Security Act (42 U.S.C. 1396d(a)) as amended by this Act, is further amended—

(1) by redesignating paragraph (22) as paragraph (23); and

(2) by inserting at the end of paragraph (21) the following new paragraph:

"(22) home or community based services (as described in section 1915(c)(1)) for children—

"(A) who have not attained the age of 18 years; and

"(B)(i) who have acquired immune deficiency syndrome, or

"(ii) who are medically dependent on a ventilator for life support;".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall become effective with respect to services furnished on or after January 1, 1990.

SEC. 11. OPTIONAL STATE COVERAGE OF HOME VISITOR SERVICES.

(a) STATE OPTION PROVIDED.—Section 1905(a) of the Social Security Act (42 U.S.C. 1396d(a)) as amended by this Act, is further amended—

(1) by redesignating paragraph (23) as paragraph (24); and

(2) by inserting at the end of paragraph (22) the following new paragraph:

"(23) home visitor services as prescribed by a physician and furnished by a registered nurse to infants during their first 6 months of life who have medical conditions which require treatment with life sustaining medications or equipment or technologically assisted feeding; and".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall become effective with respect to services furnished on or after January 1, 1990.

SEC. 12. LIMIT ON NUMBER OF INDIVIDUALS ALLOWED TO PARTICIPATE IN HOME AND COMMUNITY BASED PROGRAMS UNDER WAIVERS INCREASED.

(a) IN GENERAL.—Section 1915(c)(10) of the Social Security Act (42 U.S.C. 1396n(c)(10)) is amended by striking "200" and inserting in lieu thereof "500".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall become effective with respect to waivers granted or renewed under section 1915(c) of the Social Security Act on or after January 1, 1990.

SEC. 13. ALLOCATION OF PAYMENTS AND REQUIREMENTS RELATED TO SUCH PAYMENTS UNDER THE MATERNAL AND CHILD HEALTH SERVICES BLOCK GRANT MODIFIED.

(a) INCREASED AUTHORIZATION.—Subsection (a) of section 501 of the Social Security Act (42 U.S.C. 701) is amended by striking "$553,000,000" and all that follows through "fiscal year 1989" and inserting in lieu thereof "$561,000,000 for fiscal year 1989, and $711,000,000 for fiscal year 1990".

(b) REALLOCATION OF PAYMENTS.—Title V of such Act (42 U.S.C. 701 et seq.) is amended by striking section 502 and inserting in lieu thereof the following new section:

"ALLOTMENTS TO STATES AND FEDERAL SET-ASIDE

"SEC. 502. (a)(1) Of the amounts appropriated under section 501(a) for a fiscal year the Secretary shall retain an amount equal to 15 percent thereof for the purpose of carrying out (through grants, contracts, or otherwise) the projects and programs described in this subsection, including—

"(A) special projects of regional and national significance, training, and research;

"(B) the funding of genetic disease testing, counseling, and information development and dissemination programs; and

"(C) comprehensive hemophilia diagnostic and treatment centers.

The authority of the Secretary to enter into any contracts under this title is effective for any fiscal year only to such extent or in such amounts as are provided in appropriation Acts.

"(2) For purposes of paragraph (1)—

"(A) amounts retained by the Secretary for training shall be used to make grants to public or nonprofit private institutions of higher learning for training personnel for health care and related services for mothers and children;

"(B) amounts retained by the Secretary for research shall be used to make grants to, contracts with, or jointly financed cooperative agreements with, public or nonprofit institutions of higher learning and public or nonprofit private agencies and organizations engaged in research or in maternal and child health or programs for children with special health care needs for research projects relating to maternal and child health services or services for children with special health care needs which show promise of substantial contribution to the advancement thereof; and

"(C) amounts retained by the Secretary for special projects of regional and national significance may be used to make grants, contracts with, or jointly financed cooperative agreements with, public or private organizations for projects—

"(i) for the screening of infants for sickle-cell anemia and other genetic disorders,

"(ii) to promote access to primary health services for children and community based service networks and case management services for children with special health care needs,

"(iii) promoting the use of outpatient and community based services (including day care) for children with special health care needs who utilize substantial amounts of inpatient hospital care;

"(iv) described in paragraph (3); and

"(v) to achieve the purposes set forth in section 501(a), based on priorities established by the Secretary.

"(3)(A) The Secretary shall conduct demonstration projects to evaluate and extend basic health insurance coverage to children under the age of 19 who are not covered by other public or private programs. The Secretary may enter into agreements (subject to the provisions of subparagraph (B)) to provide such coverage through public and private cooperative arrangements sponsored by organizations such as (but not limited to) (i) school based plans; (ii) plans operated under the auspices of nonprofit entities offering health insurance; and (iii) plans operated by nonprofit hospitals.

"(B) The agreements entered into between the Secretary and organizations under subparagraph (A)(ii) shall provide—

"(i) that such agreements will be in effect for a period of 3 years subject to the provisions of this paragraph;

"(ii) for non-Federal sources to fund such projects at a level not less than—

"(I) 50 percent in the first year of such agreement,

"(II) 65 percent in the second year of such agreement, and

"(III) 80 percent in the third year of such agreement;

"(iii) that with respect to an organization which at the time of entering into such agreement is conducting a project similar to the one described in this paragraph that such organization must maintain its current level of non-Federal funding at such current level unless such level is less than the applicable level described in clause (ii); and

"(iv) that organizations may not with respect to the health care plan provided by such organizations under this paragraph—

"(I) restrict enrollment in such plan on the basis of a child's medical condition, and

"(II) impose waiting periods or exclusions for preexisting conditions.

"(C) The Secretary in conducting demonstration projects under this paragraph shall provide in his agreements that all such organizations described in subparagraph (A) may charge a premium to individuals enrolling in the health care plan provided by such organizations.

"(D) The demonstration projects conducted under this paragraph shall evaluate the effects of such coverage on—

"(i) the access to health services,

"(ii) the availability of insurance coverage to participating children and their families,

"(iii) the characteristics of participating children and their families, and

"(iv) health care costs.

"(E) The Secretary shall publish no later than March 1, 1990, criteria governing the eligibility and participation of organizations in the demonstration projects conducted under this paragraph.

"(4) No funds may be made available by the Secretary under this subsection unless an application therefor has been submitted to, and approved by, the Secretary. Such application shall be in such form, be submitted in such manner, and contain and be accompanied by such information as the Secretary may specify. No such application may be approved unless it contains assurances that the applicant will use the funds provided only for the purposes specified in the approved application and will establish such fiscal control and fund accounting procedures as may be necessary to assure proper disbursement and accounting of Federal funds paid to the applicant under this title.

"(b) From the remaining amounts appropriated under section 501(a), the Secretary shall allot to each State which has transmitted a description of intended activities and statement of assurances for the fiscal year under section 505, an amount determined as follows:

"(1) The Secretary shall determine, for each State—

"(A)(i) the amount provided or allotted by the Secretary to the State and to entities in the State under the provisions of the consolidated health programs (as defined in section 501(b)(1)), other than for any of the projects or programs described in subsection (a), from appropriations for fiscal year 1981,

"(ii) the proportion that such amount for that State bears to the total of such amounts for all the States, and

"(B)(i) the number of low-income children in the State, and

"(ii) the proportion that such number of children for that State bears to the total of such numbers of children for all the States.

"(2) Each State beginning on or after January 1, 1990, must use not less than 30 percent of its allotment for services for children with special health care needs, including family centered community based coordinated care, as defined by the Secretary.

"(3) Each State beginning on or after January 1, 1990, must use not less than 5 percent of its allotment for any or all of the following: primary health services demonstration projects and programs for children, the development of community based service networks and case management services for children with special health care needs, and projects for the screening of infants for sickle-cell anemia and other genetic disorders.

"(c)(1) To the extent that all the funds appropriated under this title for a fiscal year are not otherwise allotted to States either because all the States have not qualified for such allotments under section 505 for the fiscal year or because some States have indicated in their descriptions of activities under section 505 that they do not intend to use the full amount of such allotments, such excess shall be allotted among the remaining States in proportion to the amount otherwise allotted to such States for the fiscal year without regard to this paragraph.

"(2) To the extent that all the funds appropriated under this title for a fiscal year are not otherwise allotted to States because some State allotments are offset under section 506(b)(2), such excess shall be allotted among the remaining States in proportion to the amount otherwise allotted to such States for the fiscal year without regard to this paragraph.".

(c) STATEWIDE NEEDS ASSESSMENT REQUIRED.—Section 505 of such Act (42 U.S.C. 705) is amended—

(1) in paragraph (1)—

(A) by striking "and (D)" and inserting in lieu thereof "(D)"; and

(B) by striking "such payments" and inserting in lieu thereof "such payments, and (E) a Statewide needs assessment as described in paragraph (3); and

(2) by inserting at the end of paragraph (2) the following new paragraph:

"(3) A statewide needs assessment described in this paragraph shall include—

"(A) a needs assessment on maternity and infant care, preventive and primary care for children, and services for children with special health care needs;

"(B) a plan for meeting the needs identified by the assessment; and

"(C) a description of how the funds received under this title will be utilized for the coordination and direct provision of services under the plan.".

(d) ADDITIONAL STATE ASSURANCES REQUIRED.—Section 505(2) of such Act (42 U.S.C. 705(2)) is amended—

(1) in subparagraph (D), by striking "and" at the end thereof;

(2) in subparagraph (E), by striking the period, and inserting in lieu thereof a semicolon; and

(3) by inserting after subparagraph (E) the following new subparagraphs:

"(F) the State will develop the annual report described in paragraph (1) with a State maternal child health advisory board appointed by the State official responsible for administering the State's program under this title and such board shall—

"(i) include representatives of families, State Medicaid and other related State agencies, health care providers, voluntary health and disability groups, and other appropriate participants;

"(ii) conduct public hearings;

"(iii) provide an annual written review and comments on the administration of the State's program under this title along with suggestions on improving the delivery of maternal and child health services under

such program, to be included as part of such annual report; and

"(iv) participate in the planning and development of services provided under this title, including family centered community based coordinated care for children with special health care needs described in subparagraph (G);

"(G) the State for fiscal years 1990, 1991, and 1992 in administering the State's program under this title will—

"(i) plan and develop a system of family centered community based coordinated care for children with special health care needs in collaboration with other programs, including—

"(I) programs receiving funds under title XIX,

"(II) Federal special education programs,

"(III) voluntary health service agencies,

"(IV) practicing health care professionals; and

"(V) parent groups; and

"(ii) designate a coordinator of services to children with special health care needs; and

"(H) the State will—

"(i) provide for the development and maintenance of a consolidated data base containing information describing medical and support service providers operating and available in the State to meet the needs of chronically ill children;

"(ii) provide for a toll-free telephone number for the use of parents with chronically ill children to access the information described in clause (i); and

"(iii) annually update and ensure the accuracy of the data base described in clause (i).".

(e) ANNUAL REPORTS EXPANDED.—Section 506(a) of such Act (42 U.S.C. 706(a)) is amended by redesignating paragraph (2) as paragraph (3) and by inserting after paragraph (1) the following new paragraph:

"(2) Each State shall include as part of the annual reports prepared and submitted under paragraph (1), information on—

"(A) the extent to which the State has met or not met the needs of individuals with respect to specific services;

"(B) the specific services provided by the State under this title, including—

"(i) the number of women, infants, and children served,

"(ii) the characteristics of the persons served,

"(iii) discharge planning, and

"(iv) family centered community based coordinated care for children with chronic illnesses;

"(C) information related to health status outcomes, including infant morbidity and mortality; and

"(D) the amount of funds allotted by the State for the purpose of developing the family centered community based coordinated care described in section 505(2)(G).".

(f) FEDERAL ADMINISTRATION AND ASSISTANCE.—Section 509(a) of such Act (42 U.S.C. 709(a)) is amended—

(1) in paragraph (5) by striking "and" at the end thereof;

(2) in paragraph (6) by striking the period and inserting in lieu thereof "; and" and

(3) by adding at the end thereof the following new paragraphs:

"(7) assisting States in the development of care coordination systems;

"(8) promulgating regulations to require consistent and accurate reporting formats to assure accountability in the use of funds under this title; and

"(9) developing and distributing to the State agency (or agencies) designated by each State a national directory listing by State the toll-free telephone numbers described in section 505(2)(H).".

(g) STATE FUNDING REQUIREMENT.—A State receiving funds for maternal and child health services under title V of the Social Security Act shall maintain the level of funds being provided solely by such State for maternal and child health programs at a level at least equal to the level that such State provided for such programs in 1989.

(h) EFFECTIVE DATE.—The amendments made by this section shall apply to fiscal years beginning and annual reports made after the date of enactment of this Act.

SEC. 14. ANNUAL REPORT ON HEALTH STATUS OF CHILDREN.

Title XI of the Social Security Act (42 U.S.C. 1301 et seq.) is amended by adding at the end thereof:

"ANNUAL REPORT ON HEALTH STATUS OF CHILDREN

"SEC. 1142. The Secretary shall, not later than January 1, 1991 and for every 12-month period thereafter, publish an annual report on the health status of the children of the United States. Such report shall include—

"(1) information summarizing the States' annual reports prepared and submitted to the Secretary pursuant to section 506(a)(1);

"(2) statistics on infant mortality (including annual percentages of decrease or increase in such) by State and population group;

"(3) information on and statistics related to the number of children, by State, participating in early and periodic screening, diagnostic, and treatment services as defined in section 1905(r);

"(4) information and statistics with respect to the increase or decrease, by State, in the delivery of maternity and prenatal care services;

"(5) information and statistics with respect to child morbidity, infectious diseases, and mortality;

"(6) information on the sources and extent of health insurance (both private and public) provided to children;

"(7) information on the utilization and costs of health services provided to children;

"(8) information and statistics on catastrophic illnesses among children; and

"(9) information and statistics on immunization rates with respect to children.".

SEC. 15. UNIFORM APPLICATION FOR MEDICAID.

The Secretary of Health and Human Services shall not later than January 1, 1991, develop and make available to States a model uniform application for benefits under title XIX of the Social Security Act for individuals who are not receiving cash assistance under part A of title IV of the Social Security Act, and who are not institutionalized. The model application developed under this section shall be made available to States as specified in the preceding sentence, but, such model shall not be required to be adopted by States as part of their State plan.

SEC. 16. REQUIREMENTS OF THE SECRETARY.

(a) DEFINITION OF MEDICALLY HIGH RISK PREGNANCY AND CHILDREN TO BE DEVELOPED.—(1) The Secretary of Health and Human Services (hereafter in this section referred to as the "Secretary") shall in consultation with appropriate professional health care related groups develop definitions of medically high risk pregnancy and children at a high risk of medical problems. In developing such a definition the Secretary shall consider, among other factors, low birthweight and placement in foster care.

(2) The Secretary shall report to Congress on the definition developed under paragraph (1) along with such further information or comments as the Secretary may deem relevant not later than March 1, 1990.

(b) DEFINITION OF MEDICALLY UNINSURABLE CHILDREN TO BE DEVELOPED.—(1) The Secretary shall in consultation with appropriate professional health care groups and health insurers develop alternative definitions of medically uninsurable children.

(2) The Secretary shall report to Congress on the definition developed under paragraph (1) along with such further information or comments as the Secretary may deem relevant not later than March 1, 1990.

(c) MODEL HEALTH BENEFIT PACKAGE FOR PREGNANT WOMEN AND CHILDREN TO BE DEVELOPED.—(1) The Secretary shall in consultation with appropriate professional health care groups and consumers develop a model health benefit package for pregnant women and children through age 18. The package developed by the Secretary shall include (but not be limited to)—

(A) appropriately timed primary care visits (including visits for prenatal care, immunizations, screening, and followup treatment of health problems); and

(B) protection against catastrophic expenses for inpatient hospital care.

(2) The Secretary shall report to Congress on the health benefit package developed under paragraph (1) along with such further information or comments as the Secretary may deem relevant not later than March 1, 1990.

(d) REPORT ON IMPROVING PUBLIC HEALTH COORDINATION.—(1) The Secretary shall study different methodologies to improve the coordination between various public health programs, in particular the coordination of benefits provided under titles V and XIX of the Social Security Act, and the special supplemental food program (WIC) established under section 17 of the Child Nutrition Act of 1966 (42 U.S.C. 1786).

(2) The Secretary shall report to Congress on the findings of the study conducted by the Secretary under paragraph (1) not later than March 1, 1990.

(3) The Secretary in conducting the study under paragraph (1) shall consult with the Governors of the various States and the Secretary of Agriculture.

SEC. 17. EARLY AND PERIODIC SCREENING, DIAGNOSTIC, AND TREATMENT SERVICES.

(a) DEFINED.—Section 1905 of the Social Security Act (42 U.S.C. 1396d) is amended by adding at the end thereof the following new subsection:

"(r) The term 'early and periodic screening, diagnostic, and treatment services' means:

"(1) Screening services—

"(A) which are provided—

"(i) at intervals which meet reasonable standards of medical and dental practice, as determined by the State after consultation with recognized medical and dental organizations involved in child health care; and

"(ii) at such other intervals indicated as medically necessary to determine the existence of suspected physical or mental illnesses or conditions, without any requirement for prior authorization by the State; and

"(B) which shall at a minimum include—

"(i) a comprehensive health and developmental history, including assessments of physical and mental health and development and nutritional status;

"(ii) a comprehensive unclothed physical exam;

"(iii) appropriate immunizations according to age and health history;

"(iv) laboratory tests (including lead blood level assessment appropriate for age and risk factors); and

"(v) health education including anticipatory guidance.

"(2) Vision services—

"(A) which are provided—

"(i) at intervals which meet reasonable standards of medical practice, as determined by the State after consultation with recognized medical organizations involved in child health care; and

"(ii) at such other intervals, indicated as medically necessary to determine the existence of suspected physical or mental illnesses or conditions, without any requirement for prior authorization by the State; and

"(B) which shall at a minimum include diagnosis and treatment for defects in vision including eyeglasses.

"(3) Dental services—

"(A) which are provided—

"(i) at intervals which meet reasonable standards of dental practice, as determined by the State after consultation with recognized dental organizations involved in child health care; and

"(ii) at such other intervals, indicated as medically necessary to determine the existence of suspected physical or mental illnesses or conditions, without any requirement for prior authorization by the State; and

"(B) which shall at a minimum include relief of pain and infections, restoration of teeth, and maintenance of dental health.

"(4) Hearing services—

"(A) which are provided—

"(i) at intervals which meet reasonable standards of medical practice, as determined by the State after consultation with recognized medical organizations involved in child health care; and

"(ii) at such other intervals indicated as medically necessary to determine the existence of suspected physical or mental illnesses or conditions, without any requirement for prior authorization by the State; and

"(B) which shall at a minimum include diagnosis and treatment for defects in hearing, including hearing aids.

"(5) Such other necessary health care, diagnostic services, treatment, and other measures to correct or ameliorate defects and physical and mental illnesses and conditions discovered by the screening services, whether or not such services are covered under the State plan.".

(b) CONFORMING AMENDMENTS.—(1) Section 1902(a)(43)(A) of such Act (42 U.S.C. 1396a(a)(43)(A)) is amended by striking "and treatment services as described in section 1905(a)(4)(B)" and inserting in lieu thereof "and treatment services as described in section 1905(r)".

(2) Section 1905(a)(4) of such Act (42 U.S.C. 1396d(a)(4)) is amended by striking subparagraph (B) and inserting in lieu thereof the following:

"(B) early and periodic screening and diagnostic services (as defined in subsection (r)) for individuals who are eligible under the plan and are under the age of 21; and".

(c) DEMONSTRATION PROJECTS.—(1) The Secretary of Health and Human Services (hereafter in this section referred to as the "Secretary") shall conduct demonstration projects (as described in paragraph (2)) to increase participation in early and periodic screening and diagnostic services provided under title XIX of the Social Security Act.

(2) In carrying out the demonstration projects under this section the Secretary shall—

(A) examine and utilize different methods to increase provider and recipient participation in early and periodic screening and diagnostic services; and

(B) examine and utilize different methods to reduce reporting requirements related to early and periodic screening and diagnostic services.

(3) The Secretary shall compile the results of the projects conducted under this subsection and shall issue a report to Congress summarizing the findings of the Secretary with respect to such projects not later than July 1, 1991.

(d) ANNUAL PARTICIPATION GOALS.—The Secretary shall, not later than July 1, 1990 and every 12 months thereafter, develop and set annual participation goals for each State for participation of individuals who are covered under the State plan under title XIX of the Social Security Act in early and periodic screening and diagnostic services. Such goals shall along with statistics on each State's results in attaining such goals be included in the Secretary's annual report on the health status of children as provided in section 1140 of the Social Security Act, as amended by this Act.

(e) STUDY AND REPORT.—(1) With respect to current early and periodic screening and diagnostic services provided under title XIX of the Social Security Act the Secretary shall conduct a study of such services and requirements related thereto with respect to mental illness. The Secretary in conducting a study of such services shall consult with appropriate medical and mental health organizations involved in child health care.

(2) The Secretary shall report the results of the study, along with any recommendations for changes in the current requirements with respect to such services, to the Congress no later than December 31, 1990.

SEC. 18. SECTION 209(b) STATES PROHIBITED FROM DENYING MEDICAL ASSISTANCE TO CHILDREN 18 YEARS OF AGE OR YOUNGER RECEIVING BENEFITS UNDER SSI.

(a) IN GENERAL.—Section 1902(f) of the Social Security Act (42 U.S.C. 1396a(f)) is amended—

(1) by striking "and section 1619(b)(3)," and inserting in lieu thereof ", section 1619(b)(3) and paragraph (2) of this subsection,";

(2) by striking "(1)" and inserting in lieu thereof "(A)";

(3) by striking "(2)" and inserting in lieu thereof "(B)";

(4) by inserting "(1)" after "(f)"; and

(5) by adding at the end thereof the following new paragraph:

"(2) Notwithstanding any other provision of paragraph (1), a State shall provide medical assistance to any individual who is eligible for and receiving benefits under title XVI and who has not attained the age of 18 years.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall become effective with respect to medical assistance provided on or after January 1, 1990.

SEC. 19. PAYMENT FOR OBSTETRICAL AND PEDIATRIC SERVICES.

(a) CODIFICATION OF ADEQUATE PAYMENT LEVEL PROVISIONS.—Section 1902(a)(30)(A) of the Social Security Act (42 U.S.C. 1396a(a)(30)(A)) is amended by inserting before the semicolon at the end the following: "and are sufficient to enlist enough providers so that care and services are available under the plan at least to the extent that such care and services are available to the general population".

(b) REQUIRING STATE ADMINISTRATIVE ASSISTANCE TO PROVIDERS OF OBSTETRICAL AND PEDIATRIC SERVICES.—Section 1902(a) of such Act (42 U.S.C. 1396a(a)) as amended by this Act, is further amended—

(1) by striking "and" at the end of paragraph (52);

(2) by striking the period at the end of paragraph (53) and inserting in lieu thereof "; and"; and

(3) by adding at the end thereof the following new paragraph:

"(54) provide to physicians, nurses, and other health professionals and clinics offering obstetrical or pediatric services under the State plan assistance in complying with billing and recordkeeping requirements mandated under this title, such assistance shall include—

"(A) training sessions in complying with administrative requirements under this section;

"(B) a State toll-free phone number for resolving administrative problems encountered in meeting administrative requirements with respect to obstetrical and pediatric services; and

"(C) appointing a State ombudsman for resolving the complaints of physicians, nurses, and other health professionals providing obstetrical and pediatric services.".

(c) REPORT OF SECRETARY ON STATE PAYMENT FOR OBSTETRICAL AND PEDIATRIC SERVICES.—The Secretary of Health and Human Services shall, not later than January 1, 1990, issue a report to Congress on current State practices with regard to the adequacy and timeliness of payment by States for obstetrical and pediatric services covered under the State plan and on factors influencing the number of days within which payment is made by States to providers of obstetrical and pediatric services.

(d) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall become effective with respect to payments under title XIX of the Social Security Act for calendar quarters beginning on or after January 1, 1990.

SEC. 20. HEALTH CARE PLANS FOR FOSTER CARE CHILDREN.

(a) IN GENERAL.—Section 475(1) of the Social Security Act (42 U.S.C. 675(1)) is amended—

(1) by inserting "(A)" before "The term"; and

(2) by adding at the end the following new subparagraph:

"(B) The case plan must also include a health care record for the child involved which includes information obtained from the child's parents, the foster care provider responsible for the daily care of the child, the child's health care providers, and other providers of care to the child, including the following:

"(i) A copy of a preplacement health care record that has been completed before the placement of the child in foster care (or within 30 days, in the case of emergency placement in foster care) and provided to the child's foster care provider to ensure that the provider is immediately made aware of the child's health and developmental needs that require continuing attention and services. The preplacement health care record shall, at a minimum, include the following:

"(I) A record of the child's health, mental health, and dental history, including allergies, current medications, immunizations,

and any known health and mental health problems.

"(II) Other information about matters concerning the child that may require emergency attention.

"(III) The names and addresses of the child's physician, dentist, and other providers of medical, mental health, developmental, and rehabilitation services.

"(ii) A record indicating that the child's foster care provider was advised of the child's eligibility under the early and periodic screening, diagnosis, and treatment program under title XIX.

"(iii) A health care plan for the child that is maintained by the agency indicating that the ongoing health, mental health, and dental needs of the child are being met. At a minimum, the health care plan shall include a record of the following:

"(I) Periodic health and dental examinations of the child.

"(II) Other diagnoses and treatment received by the child (including the dates of such examinations and treatments and the names and addresses of the health care providers).

"(III) Immunizations received by the child with a schedule of needed future immunizations.

"(IV) Known allergies of the child and prescribed treatment, if any.

"(V) Medications currently being taken by the child.

"(VI) Names and addresses of all health care providers, including those providing mental health, developmental, and rehabilitation services who have information regarding the child's current health care status.

"(iv) A record indicating that—

"(I) the foster care provider has been informed of its responsibilities related to maintaining and updating an abbreviated summary of the child's health care plan documenting the health, mental health, and dental services rendered to the child while in the care of the foster care provider;

"(II) the foster care provider and caseworkers assigned to the child clearly understand their responsibilities with respect to meeting the health care needs of the child; and

"(III) the agency has periodically reviewed the abbreviated summary of the child's health care plan which is maintained by the foster care provider to ensure that the child's health care plan is being adhered to and updated.".

(b) EFFECTIVE DATE.—The amendments made by this section shall become effective on January 1, 1990.

SEC. 21. USE OF MOST RECENT DATA IN CALCULATION OF FEDERAL MATCHING PERCENTAGE.

(a) IN GENERAL.—Section 1101(a)(8)(B) of the Social Security Act (42 U.S.C. 1301(a)(8)(B)) is amended—

(1) by striking "between October 1 and November 30" and inserting in lieu thereof "between April 1 and May 31"; and

(2) by striking "promulgation: *Provided*" and all that follows, and inserting in lieu thereof "promulgation. The Secretary shall publish in the Federal Register in October of each year a preliminary estimate for each State of the Federal percentage that will become effective in the following October.".

(b) EFFECTIVE DATE AND TRANSITION.—(1) Except as provided in paragraph (2), the amendments made by subsection (a) shall apply to payments for quarters beginning on or after October 1, 1990.

(2) In July 1989 the Secretary of Health and Human Services shall promulgate the Federal percentage in accordance with section 1101(a)(8)(B) of the Social Security Act as amended by subsection (a), using the most recent data that was available as of May 31, 1989. For quarters beginning on April 1, 1990 and on July 1, 1990, the Federal percentage for each State shall be the higher of the Federal percentage that became effective on October 1, 1989, or the Federal percentage calculated under this paragraph.

SUMMARY OF THE MATERNAL AND CHILD HEALTH ACT OF 1989

OPTIMIZING MEDICAID ELIGIBILITY

1. Mandatory coverage of pregnant women and children up to age 6 with family incomes below 185 percent of the federal poverty level.

Under curent law, as of July 1, 1990 states must cover all pregnant women and infants with incomes below the federal poverty line. States are allowed to cover pregnant women and infants with family incomes below 185% of the federal poverty line and may impose a premium for the coverage of those with family incomes in the 150-185% of poverty range. States must cover children up to the age of 7 whose family income is below the state AFDC limit, and may cover children up to the age of 8 with family incomes below the federal poverty level.

This provision would require states to provide Medicaid coverage to low income pregnant women and young children, so that vital preventive health measures, such as prenatal care and immunizations, will be accessible during the child's early formative years. It would extend these vital services to over 2½ million infants and children who currently have no health insurance.

Provision:

This provision would be phased in over 2 years, with states being required to cover pregnant women and children up to the age of 4 by January 1, 1990 and children up to the age of 6 by January 1, 1991 with family incomes below 185% of the federal poverty level.

2. Optional coverage of children up to age 19 with family incomes below the federal poverty level.

Currently states must cover children up to the maximum age set by the state (ages 18-21) who qualify for cash assistance and may cover children up to age 21 whose family income is below the state AFDC level but do not meet other criteria for cash assistance.

This provision would extend health care coverage to many of the uninsured poor children for whom preventive and early care is postponed, an action which can result in significant life-long costs.

Provision:

States would be allowed to cover children up to 19 with incomes between the state AFDC level and the federal poverty line. If a state opts for this coverage, all children age 6 to 19 at a particular income level must be covered.

3. Coverage of children receiving SSI benefits.

Currently, 14 states use the Medicaid 209b option which allows them to use criteria more restrictive than SSI standards to establish Medicaid eligibility.

Provision:

This provision would require states to provide Medicaid coverage to all children under the age of 18 who are SSI recipients.

4. Mandatory presumptive eligibility for pregnant women.

Through the OBRA of 1986 states are permitted to receive federal Medicaid dollars to offer health care coverage to pregnant women who are presumed to meet income and assets criteria for participation in Medicaid ("Presumptive eligibility"). This coverage enables pregnant women to obtain ambulatory prenatal care for 45 days while their Medicaid applications are being processed. Currently 20 states have adopted the presumptive eligibility option.

Pregnant women that obtain prenatal care during the first trimester are more likely to deliver healthy, full-term babies. The time it takes for Medicaid eligibility determinations to be made can unnecessarily delay access to early prenatal care. This provision would allow more women to obtain prenatal care sooner during the critical first trimester, rather than having to wait until they have a Medicaid card.

Provision:

States would be required to extend presumptive eligibility to pregnant women for 45 days. The states would be required to provide documentation only at the end of the eligibility period, rather than at interim points as is currently required, thus reducing the amount of paperwork required of states.

5. Utilization of a less restrictive asset test for pregnant women.

Through the OBRA of 1986 states may choose whether to impose an asset test when making eligibility determinations for pregnant women applying for Medicaid only. Currently 37 states have no asset test.

Provision:

This provision would require states that choose to use an asset test when making eligibility determinations for pregnant women, to apply the asset tests to liquid assets only, therefore exempting such items as automobiles, household goods, personal effects, burial spaces, and insurance policies.

6. Continuity of care for pregnant women and children.

(a) Under current law states can continue Medicaid coverage for pregnancy-related services for 60 days after delivery to any woman who was on Medicaid during her pregnancy, regardless of changes in her financial status. The infant born to this woman remains eligible for the same time period. Currently 39 states have guaranteed pregnant women and their infants continuous eligibility until 60 days after delivery.

In states where this option has not been implemented, prenatal care can be fragmented for a pregnant woman who must undergo eligibility redeterminations due to fluctuations in her income.

Provision:

This provision would require states provide continuous eligibility for pregnant women and infants until 60 days after delivery.

(b) For infants and children qualifying for Medicaid and not cash assistance, continuity of care is frequently interrupted while states are performing the monthly or quarterly eligibility redeterminations used for children whose families receive AFDC payments.

Provision:

This provision would require states to determine eligibility no more frequently than every six months for children up to the age of 6.

(c) Currently, continuity of care is also interrupted when children no longer meet the eligibility requirements for AFDC cash assistance and a redetermination must be performed to see if they are still eligible for Medicaid on some other basis. The following provisions would maintain health care cov-

erage under Medicaid for young children while redetermination of their eligibility is being processed.

Provisions:

If a child below the age of 6 loses eligibility for cash assistance, the state may not discontinue Medicaid coverage until the state determines that the child is not eligible for Medicaid on some other basis. This clarifies current law.

A child who loses eligibility for AFDC cash assistance due to increased collection of child support payments, continues to be eligible for Medicaid for 4 months. This provision, which is due to expire on October 1, 1989, would be made permanent.

7. Development of a uniform Medicaid application.

Currently some pregnant women and children who are eligible for Medicaid, but not for cash assistance, are required to complete the same eligibility forms used by those applying for cash assistance. Under this provision the process of application for health coverage would be streamlined by having the Secretary of HHS develop a model Medicaid application for this special group, which could be shorter since less information is needed to make eligibility determinations for Medicaid than for cash assistance.

Provision:

The Secretary would be required to develop a uniform application for Medicaid benefits for individuals who are not institutionalized and do not receive cash assistance. States would have the option of using this application.

8. Medicaid buy-in demonstration projects.

This provision would extend health care coverage to low income uninsured children and to "medically uninsurable children" not on Medicaid by requiring the Secretary of HHS to conduct 4 demonstration projects where parents of these children could buy into the Medicaid program or could use Medicaid assistance to purchase employer-based health insurance.

Provision:

The Secretary of HHS would be required to conduct demonstration projects in 4 states to study the effect on access to health care, private insurance coverage, and costs of health care when Medicaid coverage is extended to children not otherwise qualified to receive benefits. Three of the demonstration projects would limit eligibility for participation to children who because of a pre-existing medical condition or who having exhausted health benefits under private insurance can be considered medically uninsurable, as defined by the Secretary. If a state conducting a demonstration project for "medically uninsurable" children chooses to buy into employer-based health insurance plans, they must limit buy-ins to firms of 50 or fewer employees. One of the demonstration projects would be directed at populations of children who are not "medically uninsurable", but are low income (family income below 185% of poverty if the child is below the age of 6 and below 100% of poverty if the child is ages 6 to 18). If a state conducting a demonstration project chooses to buy into employer-based health insurance, the state must require an employer contribution. Families participating in these demonstration projects whose income level is below the federal poverty level would pay no premium, those whose incomes are between 100 and 200% of poverty would pay a premium equal to the actuarial value of the coverage of 3% of the family's average gross monthly earnings (less the average monthly child care costs) whichever amount is less, and those with incomes over 200% of poverty would pay a premium equal to the actuarial value of the coverage. The Secretary could waive statewideness for these demonstration projects. The demonstration projects would begin no later than July 1, 1990 and be conducted for a three year period. Under this provision, the FY90 funds for these demonstration projects would be capped at $100 million and for FY91 and FY92 combined $250 million.

ENSURING ADEQUACY IN PROVIDER PARTICIPATION

1. Payment adjustments for hospital services to low income children.

In the Medicare Catastrophic Coverage Act (PL 100-360), financial protection was extended to hospitals serving a disproportionate share of low income patients by prohibiting states from imposing limits on Medicaid payments for lengthy stays and requiring Medicaid to make extra "outlier" payments for infants whose conditions are expensive to treat. The following provisions extend additional financial protection to hospitals for excessive costs they incur when providing care to pediatric Medicaid recipients.

Provisions:

States would be prohibited from placing a limit on the number of covered hospital days and outlier payments are required in States that use a prospective payment system for infants in any hospital and children under the age of 18 in a disproportionate share hospital.

States would be prohibited from imposing overall dollar limits on the amount of inpatient hospital services provided to children beginning before their first birthdays and in the case where a child reaches his first birthday in the hospital, ending with the date of discharge.

States would be required to pay for a child's care in an out-of-state hospital at the receiving state's rate, unless the involved states have negtotiated an alternative payment agreement.

2. Payment for obstetrical and pediatric services.

As Medicaid eligibility is extended to increasing numbers of pregnant women and children, efforts are also required to ensure that there exist an adequate number of obstetric and pediatric providers so that needed services can be obtained. In a recent survey by the National Governor's Association, three-fourths of State Medicaid and Maternal Child Health agencies said they had a signficant problem getting providers to take Medicaid patients. The reasons cited for low provider participation included: low reimbursement rates, excessive paperwork, and difficult with claims processing. The following provisions would correct many of the current claims processing problems and address the adequacy of provider payments.

Provisions:

Current Medicaid regulations that states must set Medicaid payment rates at levels which are sufficient to induce enough providers of obstetric and pediatric services to participate in the program would be written into the statute.

States would be required to provide obstetrical and pediatric care providers participating in Medicaid administrative assistance in complying with billing and recordkeeping requirements. At a minimum, this assistance must include training, establishment of a toll-free number where problems can be addressed, and the establishment of a State ombudsman position to expedite resolution of provider complaints.

The Secretary of HHS would be required to issue a report on the adequacy and timeliness of Medicaid payments to providers of obstetric and pediatric services.

EXPANSION OF SERVICES AVAILABLE TO CHILDREN

1. Nurse practitioner services.

As Medicaid eligibility is expanded to include more children it is essential to ensure that there are sufficient providers available to deliver the health care services which these children need. Certified pediatric and family nurse practitioners currently provide needed preventive and primary health care services to many children.

Provision:

Under this provision states would be required to reimburse directly the services of certified pediatric and family nurse practitioners which are allowed under the state practice laws.

2. Expansion of home and community based services.

Improved technology and treatment methods have increased survival rates and produced better outcomes for many low birth weight infants and children suffering from a variety of chronic illnesses. Once the acute treatment period has passed, these children no longer need to receive maintenance treatment in an inpatient hospital setting and provision of care in a home or community setting is possible. Under current law, to provide home and community based services to Medicaid recipients, states must apply for a waiver through a cumbersome process which limits the number of persons who can be included in the waiver. The following provisions expand the ability of states to deliver needed health care services to chronically ill children in non-institutional settings.

Provisions:

This provision would enable states to cover home and community based services for children with AIDS and children who are ventilator dependent in their Medicaid state plan.

The limit on the number of individuals a state can cover in a home and community based waiver would be raised from 200 to 500 individuals.

States would be able to cover home visitor services for infants up to the age of 6 months in their state plan if the children have medical conditions which require certain types ot technological support.

MATERNAL CHILD HEALTH SERVICES BLOCK GRANT

Since 1981, when 7 categorical health programs were consolidated into the Maternal and Child Health Services Block Grant, Congress has made few changes in the program other than increasing its level of authorization. MCH supports activities to improve the health status of mothers and children, including the provision of preventive and primary care services to pregnant women and children and treatment services to children with special health care needs. In order to receive MCH Block Grant funds, states must match $3 of their own funds for each $4 in federal funds received. Most of the MCH Block Grant funds are distributed directly to state governments, but a portion is set aside for the Federal Government to support special projects of regional and national significance (SPRANS). States decide which services they will offer with MCH Block Grant funds. Currently, very little information is available describing how states

are using their MCH money, how many individuals are served, or how the program meets the health care needs of American mothers and children. This lack of data hinders the sharing of information about innovative, effective state initiatives and precludes the development of information about the national health care needs.

Provisions:

1. Increased Authorization.

This provision would increase the MCH block grant's authorization level by $150 million to a level of $711 million in FY90. This level of funding is less than the $739 million which results when the 1981 MCH authorization level is trended forward using the Consumer Price Index, but given the current constrained fiscal environment it is not possible to reach that level. The increased authorization level, however, will maintain important health care services which are provided to mothers and children under this block grant.

The current state match rate required to receive federal MCH funds would remain unchanged. All MCH funds would be allocated between the States (85%) and the Federal government's special projects (15%). States would be required to use at least 30% of their MCH funds for children with special health care needs and 5% of their MCH funds for projects in sickle-cell anemia and genetic disorders screening, community-based service network and case management services for children with special health care needs, and primary health care services for children.

2. Improved planning process and reporting.

The states would be required to revise their planning process for the use of MCH funds to include a needs assessment, establishment of a State maternal child health advisory board, and preparation of an annual report on the program's accomplishments.

3. Development of information network.

States would be required to develop and maintain a consolidated data base containing information about the medical and support services and providers available in the state to meet the needs of chronically ill children and to provide a toll-free telephone number for parents to access this information.

4. New Federal SPRANS projects.

The Secretary would be required to use a portion of the Federal set-aside funding to conduct demonstration projects which utilize alternative approaches to providing health insurance coverage to children under the age of 19 who are not covered by other public or private programs. These projects could be sponsored by schools, nonprofit organizations offering health insurance, nonprofit hospitals, or other qualifying organizations. The Secretary would also be required to support projects which promote the use of outpatient and community based services for children with special health care needs.

ENHANCED UTILIZATION OF THE EPSDT PROGRAM

The Early and Periodic Screening, Diagnosis, and Treatment Program is a service that all states must offer to Medicaid eligible children from birth to age 21. The EPSDT program is designed to provide regularly scheduled well-child examinations of the general physical and mental health of infants and children. Currently the EPSDT services are underutilized with only an estimated 25-30% of eligible children participating in the program. This provision will require states to offer interperiodic screens and treatment for conditions found during those examinations, thereby promoting improved utilization of this valuable program.

Provisions:

1. Codification of regulatory requirements.

Currently, most of the requirements of the EPSDT program appear only in the regulatory form. This provision would codify the regulations and assure that key elements of the program could only changed by legislative action.

2. Inclusion of interperiodic screens.

Under current regulation states have developed EPSDT periodicity schedules which specify the number of diagnostic visits children should obtain at various age levels. This provision would require states to offer EPSDT screening whenever a child demonstrates a medical, dental, or mental health problem, rather than only at the times indicated by the periodicity schedule.

3. Required treatment.

Appropriate treatment of conditions diagnosed during the screening process is included in the EPSDT program. Currently, states must provide certain treatment services to children participating in the EPSDT program and have the option of providing other treatment services that are not included in their Medicaid state plan. This provision would require that states cover health care services needed to treat or correct the illnesses or conditions identified by the EPSDT screen, regardless whether they are part of the Medicaid state plan.

4. Increasing EPSDT participation.

This provision is aimed at increasing the participation in the EPSDT program by two methods.

The Secretary of HHS will conduct demonstration projects to increase provider and recipient participation in EPSDT.

The Secretary will establish annual state EPSDT participation goals, work with states to measure attainment, and report the results to Congress.

HEALTH CARE PLANS FOR FOSTER CARE CHILDREN

Currently foster care providers are not always informed about the health status of the children who are placed into foster care.

Provision:

This provision would require federally financed foster care children to have a preplacement health care record completed and then provided to the foster care provider before the child is placed in foster care or within 30 days in the case of an emergency foster placement. The foster care provider must be notified of the child's eligibility to participate in the EPSDT program. The health care record must be maintained while the child is in foster care.

REQUIREMENTS OF THE SECRETARY OF HEALTH AND HUMAN SERVICES

1. Annual report on the health status of children.

Currently, no government office compiles global data related to the health status of American children. This provision would assign that responsibility to the Department of Health and Human Services by requiring the Secretary to report annually on a series of health, utilization, and financing factors relating to access and cost of pediatric care. Trends in these indicators provide valuable guidance for health policy analysis and proposals.

Provisions:

The Secretary of HHS would be required to publish an annual report on the health status of the nation's children.

2. Coordination of programs serving children.

The various health programs which serve children are poorly coordinated at the Federal and the state levels, resulting in lack of coverage as well as duplication of efforts. This provision is intended to promote more efficient and cost effective use of resources.

Provision:

In consultation with the Governors and the Secretary of Agriculture, the Secretary of HHS would study ways to improve coordination between Medicaid, MCH, WIC, and other public health programs.

The recent plethora of studies on maternal and child health have indicated an absence of agreement on key definitions and content and frequency of needed health care services. In order to better target maternal and child health resources in the future, development of consensus on these concepts would be helpful.

Provision:

In consultation with appropriate professional groups, the Secretary of HHS would develop definitions of medically high risk pregnancy, medically high risk children, and medically uninsurable children.

In consultation with appropriate professional health care groups and consumers, the Secretary of HHS would develop a model health benefit package for pregnant women and children through the age of 18.

MODIFY TIMETABLE FOR CALCULATING FEDERAL MATCHING RATE FOR AFDC, MEDICAID, FOSTER CARE, AND ADOPTION ASSISTANCE.

Matching rates are currently annually recalculated in October, to be effective the following October. The formula is based on the state per capita income for the most recent 3-year period for which data are available. This provision would shorten the lag time between promulgation and the effective date, allowing for the use of more recent data that more accurately reflect the condition of the state's economy.

Provision:

The Secretary of HHS would be required to promulgate the recalculation in April, to be effective the following October (an estimate would be published each October, one year in advance of the actual change). This provision will become effective for all states for payments for quarters beginning on or after October 1, 1990. However, for the third and fourth quarters of fiscal year 1990 (beginning on April 1, and July1, 1990), those states that would have a higher Federal percentage under the new rule (using the most recent data available as of April 1989) shall be paid using that higher percentage.●

● Mr. CHAFEE. Mr. President, I am proud to be joining Senator BENTSEN in sponsoring the Maternal and Child Health Act of 1989, legislation to expand access to health care for millions of low-income children and pregnant women.

Making an investment in our children's health is the most important investment we can make as parents and as a nation. Yet, despite good intentions, our efforts have fallen short. There are 12 million children who have little or no access to health care. Their future and the future of this Nation is at stake unless we move to correct this problem now.

We have been making incremental steps toward correcting this problem over the past few years despite fiscal

restraints. We have made a difference—unfortunately, it is a small difference in comparison with what we must accomplish.

We must ensure that all low-income pregnant women, infants, and children have access to quality and affordable health care. Children deserve to be born healthy and get a good start in life. Low-income pregnant women must have access to prenatal care regardless of their income. Without that care, their babies may be born with serious physical and mental impairments.

There are several reasons why health care is unavailable to millions of children. First, our health care system has changed dramatically over the past 20 years. The hometown family physician who provides affordable primary and preventive care doesn't exist for many American families anymore. Health care costs have risen dramatically, making it extremely difficult for providers to deliver affordable care to low-income families.

Public and private efforts to protect families from catastrophic illnesses has contributed to the evolution of a sick care system instead of a health care system. This means that primary and preventive care are no longer emphasized as they should be, particularly for growing children.

Second, many State Medicaid programs reimburse health care providers below their actual cost of providing care. Therefore, more and more providers of care are turning away from serving Medicaid beneficiaries.

Third, malpractice premiums, particularly for obstetricians and gynecologists, are increasing at alarming rates. The malpractice problem has led to the practice of defensive medicine which has led providers to perform costly and often unnecessary procedures. This in turn results in inefficient use of precious health care resources.

Fourth, and most importantly, the existing Medicaid Program only covers a portion of children who are poor, and does even less for the near-poor. It is not necessary to have an income below the Federal poverty level to be unable to afford health insurance. About half of the 12 million uninsured children are in families with incomes above the Federal poverty level. That is a large part of what our legislation seeks to remedy. Although we can't solve all the problems of access to health care for children without structural changes to the system, we can make a very large step by enacting this legislation.

Our bill would expand Medicaid eligibility to cover these poor and near-poor children. States would be required to provide care to pregnant women, infants and children under age 6 with incomes below 185 percent of the Federal poverty level. This requirement would be phased in over 2 years. In addition, States would be given the option to cover children under age 18 who are below poverty.

This legislation also addresses the problems of asset tests for the purposes of determining eligibility for pregnant women and children. Immediate coverage of pregnant women is critical in preventing low-weight births. Therefore our bill would extend presumptive Medicaid eligibility to all pregnant women and streamline the process for States by delaying documentation requirements. The bill also excludes the value of necessities such as personal effects, household goods, and burial plots from the asset test for pregnant women. Eligibility determinations would be made on a one-time basis for pregnant women and their newborn children until the child is 2 months old and every 6 months for children under age 6 who are eligible for Medicaid but not cash assistance.

The Maternal and Child Health Act of 1989 also creates Medicaid buy-in demonstration projects to extend health care coverage to low income uninsured children and to "medically uninsurable children" ineligible for Medicaid. These demonstration projects incorporate the principles established in legislation called MedAmerica which I introduced in the last Congress. MedAmerica would cover all individuals below 100 percent of poverty and allow people between 100 and 200 percent of poverty to purchase health care coverage on a sliding scale basis. In addition, the bill would allow those individuals who had exhausted their private insurance or who because of a preexisting condition were unable to purchase insurance to buy Medicaid coverage at a reasonable rate. By demonstrating these principles in four projects in the United States, we will be able to determine the effectiveness and affordability of expanding the Medicaid Program to those who have no other way to obtain health care.

The bill also seeks to promote Medicaid participation by health care providers. The current barriers for health care providers are addressed in the legislation by a number of technical provisions.

Both the early and periodic screening, diagnosis, and treatment benefit [EPSDT] under Medicaid and the maternal and child health block grant would be improved by our legislation. Medicaid would cover any medically necessary service identified as necessary through the EPSDT Program. The MCH block grant's authorization level would be increased by $150 million. A portion of these funds must be used for children with special health care needs.

There are too many provisions that will significantly increase care for uninsured children to list. However, I urge my colleagues to take a good hard look at this legislation and see how much we can accomplish for the amount of money spent. This Medicaid expansion would cover nearly 2.5 million children by 1991, making it a wise and cost efficient use of funds. It is not only a good investment—it is what our children need and deserve.

I commend the chairman of the Finance Committee for his efforts to increase access to health care for our children. I am proud to join him in sponsoring this bill and hope that my colleagues in the Finance Committee and in the Senate will do the same.●

ADDITIONAL COSPONSORS

S. 58

At the request of Mr. BOSCHWITZ, the name of the Senator from Mississippi [Mr. LOTT] was added as a cosponsor of S. 58, a bill to amend the Housing and Community Development Act of 1987 to improve the enterprise zone development program, to amend the Internal Revenue Code of 1986 to provide tax incentives for investments in enterprise zones, and for other purposes.

S. 148

At the request of Mr. PRESSLER, the name of the Senator from Nebraska [Mr. EXON] was added as a cosponsor of S. 148, a bill to require the Secretary of the Treasury to mint coins in commemoration of the Golden Anniversary of the Mount Rushmore National Memorial.

S. 417

At the request of Mr. HEINZ, the name of the Senator from Oregon [Mr. HATFIELD] was added as a cosponsor of S. 417, a bill to amend chapters 83 and 84 of title 5, United States Code, to expedite the processing of applications of Federal employees seeking retirement benefits, and for other purposes.

S. 435

At the request of Mr. REID, the name of the Senator from Illinois [Mr. SIMON] was added as a cosponsor of S. 435, a bill to amend section 118 of the Internal Revenue Code to provide for certain exceptions from certain rules determining contributions in aid of construction.

S. 503

At the request of Mr. BAUCUS, the name of the Senator from Vermont [Mr. LEAHY] was added as a cosponsor of S. 503, a bill to protect the ozone layer by reducing chlorofluorocarbons and halons, and for other purposes.

S. 656

At the request of Mr. GRASSLEY, the name of the Senator from Idado [Mr. MCCLURE] was added as a cosponsor of S. 656, a bill to amend the Internal Revenue Code of 1986 to restore the

deduction for interest on educational loans.

S. 685

At the request of Mr. METZENBAUM, the name of the Senator from Connecticut [Mr. LIEBERMAN] was added as a cosponsor of S. 685, a bill to amend title I of the Employee Retirement Income Security Act of 1974 to clarify the applicability of rules relating to fiduciary duties in relation to plan assets of terminated pension plans and to provide for an explicit exception to such rules for employer reversions meeting certain requirements.

S. 805

At the request of Mr. MCCLURE, the names of the Senator from Washington [Mr. GORTON], and the Senator from Tennessee [Mr. GORE] were added as cosponsors of S. 805, a bill to amend the Food Security Act of 1985 to permit certain school districts to receive assistance to carry out the school lunch program in the form of all cash assistance or all commodity letters of credit assistance.

S. 849

At the request of Mr. DASCHLE, the name of the Senator from Idaho [Mr. MCCLURE] was added as a cosponsor of S. 849, a bill to repeal section 2036(c) of the Internal Revenue Code of 1986, relating to valuation freezes.

S. 979

At the request of Mr. DASCHLE, the name of the Senator from Mississippi [Mr. COCHRAN] was added as a cosponsor of S. 979, a bill to provide grants for designating rural hospitals as medical assistance facilities.

S. 1076

At the request of Mr. BURDICK, the names of the Senator from Massachusetts [Mr. KERRY], the Senator from Colorado [Mr. WIRTH], the Senator from Wisconsin [Mr. KOHL], and the Senator from West Virginia [Mr. ROCKEFELLER] were added as cosponsors of S. 1076, a bill to increase public understanding of the natural environment and to advance and develop environmental education and training.

S. 1091

At the request of Mr. GRAHAM, the names of the Senator from Alabama [Mr. SHELBY], the Senator from New York [Mr. D'AMATO], the Senator from Hawaii [Mr. MATSUNAGA], and the Senator from Alaska [Mr. MURKOWSKI] were added as cosponsors of S. 1091, a bill to provide for the striking of medals in commemoration of the bicentennial of the U.S. Coast Guard.

S. 1149

At the request of Mr. BAUCUS, the name of the Senator from Wisconsin [Mr. KOHL] was added as a cosponsor of S. 1149, a bill to amend title XVIII of the Social Security Act and the Internal Revenue Code of 1986 to limit application of the benefits and premiums of the Medicare Catastrophic Coverage Act of 1988 to those voluntarily enrolled in part B of the medicare program.

S. 1155

At the request of Mr. PRYOR, the name of the Senator from Kansas [Mrs. KASSEBAUM] was added as a cosponsor of S. 1155, a bill to amend the Internal Revenue Code of 1986 to provide that certain educational and training grants to nonresident aliens shall be exempt from income tax, and for other purposes.

S. 1170

At the request of Mr. INOUYE, the name of the Senator from Hawaii [Mr. MATSUNAGA] was added as a cosponsor of S. 1170, a bill to amend the Federal Aviation Act of 1958 to provide for the establishment of limitations on the duty time for flight attendants.

S. 1191

At the request of Mr. HOLLINGS, the names of the Senator from Hawaii [Mr. INOUYE], and the Senator from Mississippi [Mr. LOTT] were added as cosponsors of S. 1191, a bill to authorize appropriations for the Department of Commerce's Technology Administration, to speed the development and application of economically strategic technologies, and for other purposes.

SENATE JOINT RESOLUTION 64

At the request of Mr. SPECTER, the name of the Senator from Connecticut [Mr. LIEBERMAN] was added as a cosponsor of Senate Joint Resolution 64, a joint resolution to designate March 25, 1989, as "Greek Independence Day: A National Day of Celebration of Greek and American Democracy."

SENATE JOINT RESOLUTION 129

At the request of Mr. DOLE, the name of the Senator from Oklahoma [Mr. NICKLES] was added as a cosponsor of Senate Joint Resolution 129, a joint resolution to provide for the designation of September 15, 1989, as "National POW/MIA Recognition Day."

SENATE JOINT RESOLUTION 133

At the request of Mr. SPECTER, the names of the Senator from Indiana [Mr. COATS], the Senator from Rhode Island [Mr. CHAFEE], the Senator from Vermont [Mr. JEFFORDS], the Senator from South Carolina [Mr. THURMOND], the Senator from California [Mr. WILSON], the Senator from Idaho [Mr. SYMMS], the Senator from Missouri [Mr. DANFORTH], the Senator from Oregon [Mr. HATFIELD], the Senator from Kansas [Mrs. KASSEBAUM], the Senator from Missouri [Mr. BOND], the Senator from New York [Mr. D'AMATO], the Senator from Delaware [Mr. ROTH], the Senator from Utah [Mr. GARN], the Senator from Iowa [Mr. GRASSLEY], the Senator from Utah [Mr. HATCH], the Senator from Washington [Mr. GORTON], the Senator from Kansas [Mr. DOLE], the Senator from South Dakota [Mr. PRESSLER], the Senator from Oregon [Mr. PACKWOOD], the Senator from Idaho [Mr. MCCLURE], the Senator from Minnesota [Mr. DURENBERGER], the Senator from Minnesota [Mr. BOSCHWITZ], the Senator from Wyoming [Mr. SIMPSON], the Senator from Alaska [Mr. STEVENS], the Senator from Ohio [Mr. METZENBAUM], the Senator from Nevada [Mr. REID], the Senator from North Dakota [Mr. BURDICK], the Senator from Arkansas [Mr. BUMPERS], the Senator from Massachusetts [Mr. KENNEDY], the Senator from Rhode Island [Mr. PELL], the Senator from Michigan [Mr. LEVIN], the Senator from Georgia [Mr. NUNN], the Senator from Illinois [Mr. SIMON], the Senator from Montana [Mr. BAUCUS], the Senator from Georgia [Mr. FOWLER], the Senator from Virginia [Mr. ROBB], the Senator from Alabama [Mr. HEFLIN], the Senator from Massachusetts [Mr. KERRY], the Senator from Michigan [Mr. RIEGLE], the Senator from New Jersey [Mr. LAUTENBERG], the Senator from Connecticut [Mr. LIEBERMAN], the Senator from Tennessee [Mr. GORE], the Senator from South Carolina [Mr. HOLLINGS], the Senator from Colorado [Mr. WIRTH], the Senator from Arkansas [Mr. PRYOR], the Senator from Nebraska [Mr. EXON], the Senator from Hawaii [Mr. INOUYE], the Senator from New Jersey [Mr. BRADLEY], the Senator from Connecticut [Mr. DODD], the Senator from West Virginia [Mr. BYRD], the Senator from California [Mr. CRANSTON], the Senator from Ohio [Mr. GLENN], the Senator from Washington [Mr. ADAMS], and the Senator from West Virginia [Mr. ROCKEFELLER], were added as cosponsors of Senate Joint Resolution 133, a joint resolution designating October 1989 as "National Domestic Violence Awareness Month."

SENATE JOINT RESOLUTION 155

At the request of Ms. MIKULSKI, the names of the Senator from Virginia [Mr. WARNER], the Senator from New Jersey [Mr. LAUTENBERG], the Senator from Rhode Island [Mr. CHAFEE], the Senator from Virginia [Mr. ROBB], the Senator from Alaska [Mr. MURKOWSKI], the Senator from Indiana [Mr. LUGAR], the Senator from New Jersey [Mr. BRADLEY], and the Senator from California [Mr. WILSON] were added as cosponsors of Senate Joint Resolution 155, a joint resolution designating June 23, 1989, as "United States Coast Guard Auxiliary Day."

SENATE RESOLUTION 136

At the request of Mr. CONRAD, the name of the Senator from Illinois [Mr. SIMON] was added as a cosponsor of Senate Resolution 136, a resolution to express the sense of the Senate that the Committee on Appropriations should make the full appropriations authorized for carrying out programs for assessment and mitigation of

radon under the Toxic Substances Control Act.

SENATE CONCURRENT RESOLUTION 48—RELATING TO HUMAN RIGHTS VIOLATIONS IN CHINA

Mr. WILSON submitted the following concurrent resolution; which was referred to the Committee on Foreign Relations:

S. CON. RES. 48

Whereas the Chinese government has arrested more than 1,000 students and other civilians in the aftermath of the brutal June 3, 1989 military assault on Tienanmen Square;

Whereas international human rights monitoring organizations such as Amnesty International and Asia Watch have documented incidences of arbitrary arrests, torture, and beatings by the Chinese police and military on a daily basis;

Whereas the Chinese government has reinstituted the death sentence as punishment for political dissent;

Whereas the Chinese government has re-established telephone hotlines and other local communications networks for the express purpose of identifying and imprisoning political dissidents throughout the country;

Whereas Chinese communist officials have uniformly denied that any abuses of human rights or activities to suppress the Chinese people's expression of their desire for democratic government have occurred since the massacre in Tienanmen Square;

Whereas regular citizens and grassroots associations within China that support democratic reform programs for their nation must be made aware of the American people's moral and political solidarity with them;

Whereas officials and agencies of the United Nations have remained silent in the face of the Chinese government's war against its own people;

Resolved by the Senate (the House of Representatives Concurring), That it is the sense of the Congress that—

(1) the Chinese government immediately release all men and women detained for the peaceful exercise of their fundamental human rights;

(2) the Chinese government publicize the names of all citizens arrested in connection with the recent protests as well as the reasons for their detainment so that they will not become the victims of torture or physical abuse while in custody;

(3) the President of the United States clearly inform the Chinese communist leadership that any resumption of normal diplomatic and military relations with China will directly depend on the Beijing government's releasing all those imprisoned for peacefully assembling to express their political beliefs and entering negotiations with leaders of the country's student democratic movement;

(4) the President of the United States publicly declare that he will carefully consider the extent to which the Chinese authorities act to restore basic human rights throughout their nation before he issues the required 1989 certification of China's eligibility to receive Most Favored Nation (MFN) trading status with the United States; and

(5) the United Nations General Assembly and Security Council condemn the repressive actions by the Chinese government and army and urge the communist party to open discussions with representatives of the political opposition.

The Secretary of the Senate shall transmit a copy of this resolution to the President and the Secretary of State immediately upon its passage.

Mr. WILSON. Mr. President, I rise to continue to focus the spotlight of American pressure on the Communist Government of the People's Republic of China for its appalling abuses of basic human rights, during the 2 weeks that have followed the Red Army's massacre of students in Tiananmen Square.

Mr. President, Amnesty International and Asia Watch both report that Chinese officials have arrested more than 1,200 people since the suppression of the student democratic movement on June 3. Several of my Chinese-American constituents in California, who have relatives within the People's Republic of China, have told me that eyewitnesses have observed Communist soldiers invade Beijing-area campuses and dormitories, dragging young students away to unreported and unknown fates. Men and women all over China have been handcuffed to trees, stuffed in prisons and, tragically, many stacked in the morgue.

Though police now have infested neighborhoods, a Stalinist-style telephone hotline has been provided to government informants so that they may expose dissenters. At least 11 civilians in Beijing and Shanghai have received death sentences during the past 7 days. In the meantime, Mr. President, with the sickening smell of bloodshed and the acrid fragrance of gunpowder still hanging heavy in the Beijing air, the Chinese Government continues the technique of the big lie. A spokesman smiling benignly at Tom Brokaw on Friday night denied that anyone had been crushed or anyone killed in Tiananmen Square.

As a result of this ongoing terror and the effort to shroud it from the world, by this truly Orwellian distortion, I am submitting a concurrent resolution to document the most repressive activities of the Chinese Government since the June 3 massacre and calling upon the Communist authorities to release all innocent civilians from imprisonment, as well as to publicize the names of those that they are holding and the reasons for their detention.

This concurrent resolution also urges the President to carefully consider the extent to which the Chinese authorities act to restore basic human rights before he certifies later this year that China can receive most-favored-nation trading status with the United States. Furthermore, it demands that the United Nations end its shameful silence on this tragic, tragic, and inexcusable repression of basic human rights.

In 1980 the President exercised his authority, under the Jackson-Vannick provision of Public Law 93-618, to grant China a waiver to the Trade Agreements Extension Act of 1951, denying all nonmarket countries most-favored-nation trading status with the United States. Although the Jackson-Vannick amendment permits the granting of this waiver if the country in question allows its citizens the right to emigrate, it also requires that the President ensure that our trade policies with totalitarian governments emphasize "the continued dedication of the United States to fundamental human rights."

China, Mr. President, received its waiver not because of its specific immigration policies, but as a result of a section of the Jackson-Vannik legislation giving the President authority to confer most-favored-nation status, if such an action "would substantially promote the policy objectives of the statute, including the general proposition of human rights."

It remains, clear, therefore, that at least the spirit, if not the letter, of existing law requires that the President consider a Communist nation's broader human rights record in determining whether to grant preferential treatment. But aside from the legal authority, we have the moral obligation to promote ideals, as well as interests, in the execution of American foreign policy.

If the President publicly states, as this concurrent resolution urges, that he will monitor Beijing's progress in restoring civil liberties as part of the process for his deciding on a renewal of China's most-favored-nation status, the Communist leadership will get a clear and early signal of America's intention not to apply the gentle rules of diplomacy to dictators who murder their own people.

We have seen in the history of the Jackson-Vannik legislation that the pressure that it brought to bear upon the Soviet leadership did, over a period of years, finally contribute to the relaxation of immigration standards that allow its Soviet Jewry and other persecuted minorities to leave the Soviet Union to travel to the United States, to Israel.

Moreover, I am convinced in my own mind it was part of the great public pressure that has led to whatever change seems to be occurring now in terms of a hoped-for democratization of the Soviet Union. But the United Nations, Mr. President, has adopted the even more gentle and abhorrent policy of silence. Its silence speaks volumes.

The General Assembly has not even given an indication of when it will meet to consider a resolution condemning the repression of the Chinese Government.

If this organization truly wishes to escape from the stigma of hypocrisy and cowardice, if it is at all sensitive to the charge that it imposes a double standard, one upon dictatorships and a far more stringent standard upon those nations that aspire to be described as democracies, it will put the power of the international diplomatic community behind the forces of liberation and democracy in China.

The students of Tienanmen Square, have shown that tanks and truncheons cannot bury the hopes for freedom that burn in the hearts of millions of courageous Chinese. From Beijing to Tibet, youngsters, workers, mothers, and monks all have taken a bold stand for liberty and pluralism before the gun barrels of the world's largest Communist power. Their voices heralded the promise of a new China where the old but enduring traditions of accountability from government, intimate families, free expression, and open markets can once again be not just a fond hope, but a realistic one for China. These voices have been shamefully suppressed. So now the obligation remains with us who are free not simply to enjoy our freedom in isolation, but instead to speak out and to tell the world that the proud people of China can and should be free as well. This resolution takes a modest step, but a necessary one in that direction, lest we too be accounted as part of that group who are simply too silent, too unconcerned with what has happened there to care. We need it and I ask my colleagues from both parties to enthusiastically support it.

The people of the United States I am convinced do not wish us to sit silent in the face of this kind of repression.

The world has grown much smaller since World War II. We are today shrunken, brought into far more intimate and immediate contact because of the marvel of modern communication, however much the present regime in Communist China seeks to shut down that kind of communication. It was notable in the most recent film footage that among the arrests made, among the other forms of repression, Communist soldiers were also photographed confiscating copying machines.

Mr. President, they cannot shut out the rest of the world. They cannot forever keep their people in bondage.

But if having the means to communicate we choose silence, if we do not communicate, not just our displeasure but our outrage, then we are not entitled to enjoy our own freedom. And our own freedom is threatened.

Mr. President, I urge my colleagues to join as cosponsors, I will seek expedited treatment because I think that we need not only to be heard but to be heard soon and unequivocally.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. DODD. Mr. President, first of all, let me just commend my colleague for his resolution. I am confident the Foreign Relations Committee and others will take a look at it very quickly. It is obviously a timely resolution.

AMENDMENTS SUBMITTED

ACT FOR BETTER CHILD CARE

KERREY AMENDMENT NO. 198

Mr. KERREY proposed an amendment to the bill (S. 5) to provide for a Federal program for the improvement of child care, and for other purposes, as follows:

On page 11, line 16, insert before the period the following: "or the State Child Care Board appointed and identified by the chief executive officer of the State as the lead agency under section 6(a).".

On page 21, line 15, insert before the period the following: ", or the State Child Care Board that is appointed by the chief executive and that meets the requirements of subsection (b), to serve as the lead agency.".

On page 21, between line 16 and 17, insert the following new paragraph:

(1) APPOINTMENT OF BOARD.—

(A) ESTABLISHMENT.—The chief executive officer of a Senate desiring to participate in the program authorized by this Act shall, if such chief executive officer has not designated a lead agency under subsection (a), establish a State Child Care Board that shall be composed of seven members to be appointed by such chief executive officer with the advice and consent of the legislature of such State.

(B) CHAIRPERSON.—The chief executive officer of the State shall designate a member of the Board to serve as chairperson. Such chairperson shall report directly to the chief executive officer and serve at the pleasure of such chief executive.

(C) TERMS, VACANCIES, COMPENSATION.—The chief executive officer of the State, with the advice and consent of the State legislature shall determine the terms of office of the members and chairperson of the Board established under subparagraph (A), the method to be used to fill vacancies on such Board, and the compensation to be received by such members.

(D) DUTIES.—The Board established under this paragraph shall act as the lead agency for the State for the purposes of this Act.

On page 21, line 17, strike out "(1)" and insert in lieu thereof "(2)".

On page 21, line 22, strike out "(2)" and insert in lieu thereof "(3)".

On page 22, line 3, strike out "(3)" and insert in lieu thereof "(4)".

On page 26, after line 25, add the following new subsection:

(e) REDESIGNATION.—The chief executive officer of a State may modify the original decision concerning the designation of a lead agency if such chief executive determines that the original designation is not appropriate.

On page 27, line 9, insert ", that shall be prepared by the lead agency or the State Child Care Board established under section 6(b)(1)," before "that is".

On page 27, strike out lines 12 through 15, and insert in lieu thereof the following new paragraph:

(1) LEAD AGENCY OR STATE CHILD CARE BOARD.—The plan shall identify the lead agency or the members of the State Child Care Board appointed under section 6(b)(1), the location of the offices of such Board, and shall contain a certification that the Board solicited input from the local advisory councils in preparing the plan.

NOTICES OF HEARINGS

SELECT COMMITTEE ON INDIAN AFFAIRS

Mr. INOUYE. Mr. President, I would like to announce that the Select Committee on Indian Affairs will be holding a hearing on Friday, July 14, 1989, beginning at 9:30 a.m., in 485 Russell Senate Office Building on amendments to the Indian Child Welfare Act.

Those wishing additional information should contact the Select Committee on Indian Affairs at 224-2251.

AUTHORITY FOR COMMITTEES TO MEET

SUBCOMMITTEE ON AGRICULTURAL CREDIT

Mr. DODD. Mr. President, I ask unanimous consent that the Subcommittee on Agricultural Credit of the Committee on Agriculture, Nutrition, and Forestry, be authorized to meet during the session of the Senate on Monday, June 19, 1989, at 1 p.m. to hold a hearing on the Credit Act of 1987; borrowers rights and restructuring provisions.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON HEALTH FOR FAMILIES AND THE UNINSURED

Mr. DODD. Mr. President, I ask unanimous consent that the Subcommittee on Health for Families and the Uninsured of the Committee on Finance be authorized to meet during the session of the Senate on June 19, 1989, at 10 a.m. to hold a hearing on proposals to provide universal access to health care.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON COMMERCE, SCIENCE AND TRANSPORTATION

Mr. DODD. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation, be authorized to meet during the session of the Senate on June 19, 1989, at 10 a.m. to hold a hearing on the authorization needs of the U.S. Coast Guard for fiscal years 1990 and 1991.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. DODD. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Monday, June 19, 1989, at 2

p.m. to hold a nomination hearing on Mark Edelman to be Deputy Administrator of the Agency for International Development.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

JOE'S GIFT

● Mr. LEVIN. Mr. President, on the floor of the U.S. Senate we hear often about the champions of sport, the men and women who fulfill their dreams and enrich our lives with the very hard work of their play. Behind these champions are stories of families and communities that build young people into engines of effort that go beyond sport. In the recent series that brought the Detroit Pistons to the championship of professional basketball, Joe Dumars was named most valuable player to the delight of his many fans in Michigan and across the country. A recent story in the Detroit News shows there was more than tenacious defense and clutch offense behind this young man, but also a family whose strength serves as an inspiration to us all. I ask that the story of this man and this remarkable family be printed in the RECORD.

The story follows:

[From the Detroit News, June 18, 1989]

JOE'S GIFT

(By Fred Girard)

NATCHITOCHES, LA.—The Red River spills out of the Arkansas badlands into the northwest corner of Louisiana, tumbles through Shreveport and the fields of cotton and soybean south of it, and into Natchitoches Parish.

That's pronounced *NACK-a-dish*, several young men shooting hoops on Martin Luther King Jr. Street helpfully instruct a stranger.

Up a hill and around a bend from the basketball court, a storm fence and a neat patch of lawn dotted with tall lilies fronts the simple, one-story brick house where Detroit Pistons' superstar Joe Dumars was raised.

Ophelia Jones Dumars holds court in the front room, amid a profusion of pictures of their nine grandchildren and the six sons and one daughter—Joe was the baby—she and her husband, Joe, raised.

One of the grandkids, Tiffany, 12, is playing secretary today, racing to and fro importantly, dirndl skirt aswirl. Two phone lines are ringing continuously, and Tiffany scribbles note after note on folded-up paper plates.

"It's Channel 31," she calls out. "They want Joe to be a judge in the Miss Black America contest."

Ophelia laughs. That doesn't sound like Joe's kind of night.

"I was up in Detroit not long ago, and after a game one night (John) Salley said to Joe, 'You want to go out? The girls are always asking for you—they know you're single.' Joe said right back, 'You tell the girls I said hello, 'cause I'm goin' home and go to bed.' "

Four rooms open off the living room—a small bedroom where Martha lived in splendid isolation as the only girl child in the family; a second, larger bedroom where all six brothers slept; the kitchen; and Ophelia and Joe's bedroom.

That's where the heart of the little brick house beats—and always has.

It's a small room, dominated by a large bed with brass headrails, an overstuffed easy chair and a color television set. Joe Dumars, 63, his arms and chest still roped with the muscles of a lifetimes of hard work, spends most of his time in this bed, both his legs amputated above the knee, a result of the ravages of diabetes.

He never has seen a Pistons game in person, but the television is equipped with cable. Joe Dumars plays every game broadcast as hard as his son, jerking in sympathetic body English, and taking off on one commercial by shouting at every critical point—to the vast amusement of his grandkids—"Gimme the ball! Gimme the ball!"

"I get too excited, but I just can't help myself," he said. "During the Chicago series, I was sitting here hollering and jumping around, and I started to get a shortness of breath, and my chest hurt . . . so I started hollering, 'Take me to a doctor.'

"I promised myself if the games got too exciting after that, I'd just pull the covers up over my head and forget about it.

"I try to level off, but I just can't sometimes. It gets so exciting, and these grandchildren hollering and cutting up in here—I just can't stop myself, so I just get with 'em."

It was from this bed that Joe arose at 4 o'clock every morning, from 1963 to 1985, to drive the 52 miles to Alexandria and his job as a grocery truck driver. He wouldn't get home until 10:30 or 11 at night, but whichever children were at home would be waiting for him—especially Joe, or "Boopsie," as they all called him, and sometimes still do. Joe and Boopsie, Ophelia says, would "talk father talk."

"He's crawl up here in the bed with me," Joe said, "and we had this little game we'd play. I'd say, 'Father to father, son to son; come here son, tell me everything you've done.' Well, he'd tell me everything, even the little bad things he did, and Tootsie—that's what we call his mama—she'd be listening to every word.

"Well, it didn't take him long to catch on to that. One day I tried to play our little game, and he said, 'Aw, Daddy, you just want Tootsie to whup me.' "

And as the little boy grew, the talks turned to more serious things . . . to Joe Dumars' idea of how success could be achieved.

"Attitude is everything," he said during an interview Thursday afternoon, the room dim and cool, the curtains pulled against the afternoon sun. It seemed natural for the reporter to sit on the end of the bed, where the Dumars children have been so many times; and the rest of the interview was conducted that way.

"Back in those days the places I went with my delivery truck were . . . rural." His eyes said the rest: Louisiana whites weren't used to seeing a black man drive up to their stores in a big delivery truck.

But Joe Dumars had been through worse. He had driven a truck for two years in the Army in Europe during World War II, landed on Omaha Beach on D-day, gotten lost with Patton in his lightning swoop into Germany, and given up his life for lost more than one. Bigots he could handle.

"My attitude was, let's be low-key. I have pride, but it's in here"—touching his chest. "I don't have to prove anything to the guy out on the street.

"If your attitude is good, you can make it. If it's bad, everywhere you turn you're going to run into problems."

Joe's own character was tempered but hurt. He was one of two sons, but for reasons he still doesn't understand, only his brother was raised by Bernice and Joe, his parents. Joe was sent to live with his grandmother, near the plot of ground where his house now sits, until he left school in the seventh grade to go to work.

"That stung me. For a long time, I fought with that. It was only when I got religion that I was finally able to work that out, to learn that I couldn't undo it, so I just had to accept. Its made me a better man.

"But I always said if I had children, I wouldn't treat them the way my Mom and Dad did."

Joe's method of child-rearing—he knows some disagree with it—was never to be satisfied.

"I've had people tell me, 'You never give your kids no play' "—cut them any slack, in today's idiom. "But I do that to prove a point.

"Whatever they did, I would say, 'You can do better.' Even their mother would say, 'You never give them any credit.' I'd say, 'you let me handle this.'

"And they would always try to prove to me that they're the best."

Young Joe certainly did. At first he was a football star, but he gave that up, his mother said, "one day when this boy hit him so hard he turned I don't know how many somersaults."

In his freshman year of high school, young Joe played junior varsity basketball for J.D. Garrett, a Natchitoches native who had been a running back with the New England Patriots of the National Football League.

Garrett recognized something in Joe right away. Not just talent, but drive. Joe Dumars was a kid with something to prove.

"He would practice real hard," recalled Garrett, still the coach at Natchitoches Central High, "and then he'd go get a bite to eat, and slip right back out and go to the college, and play with the college kids. When you see a kid practice that hard, you know he's on his way somewhere."

Young Joe was trying to impress his most beloved critic—and finally, he did.

"He would look me in the eye and say, 'Joe, I can play,' " his father recalls. "And I'd say, 'Boopsie, you can't hang with them big boys. They'll slap you up side the head, and you'll come home cryin'.'

"Last year, after the Chicago series, when he held that Michael Jordan so close and played so good, I said to him, 'Boopsie, you made me eat crow. You convinced me. You can play.' "

Old Joe felt as if a debt had been paid that day. He had done a father's job, and gotten the only reward he ever wanted.

"I've told all of my children, all you ever owe me is respect—and we owe each other love," he said.

"I don't want them to think they have to take care of me. I tell them, 'I want you to do just as good for your family as I did for y'all. No—do better. Then we're improving the Dumars family.

" 'But if I ever need a loaf of bread, you better come runnin' with two.' "

Across the street from the little brick house is one of Natchitoches' largest liquor

stores. People marvel that Dumars and his wife raised seven children who have never given their parents or their community the first speck of trouble.

Ophelia's explanation: "I wanted them to see just how liquor makes you act. Let them see that kind of life, and then decide to have a different one."

And old Joe's: "The thing we had in this family was love. We always stick together. I tell them if they ever get weak with one another, anyone can come in and break them apart. But if when one's down the others gives him a hand, you can't break a chain as strong as that.

"Being a black family, people just don't believe you can have that kind of love and affection. So many black families don't have that strong father figure."

Young Joe's hometown of 17,400, the oldest settlement in the 1714 Louisiana Purchase, plans to turn out in honor when he's finally able to return in two weeks or so.

Mayor Joe Sampite wasn't able to say on the record exactly what's planned, but hinted broadly that a street will be renamed in Joe's honor, and an addition made to the "Walk of Stars" on the sidewalk in front of a downtown bank, already featuring tributes to John Wayne, who made The Horse Soldiers there 30 years ago, and Dolly Parton and Sally Fields, who filmed the as yet unreleased Steel Magnolias there last year.

But nothing particularly impressed old Joe until he learned what young Joe planned to give him for a Father's Day gift: his championship ring, from the first title in the team's history, in which he was voted the Most Valuable Player.

"I was very surprised when he said that. I thought that was the thing he'd keep by him for the rest of his days," Joe said.

"But giving it to me is the same as if he'd kept it himself. We're that close.

"We're all that close."●

WEST POINT GRADUATION

● Mr. D'AMATO. Mr. President, on May 24 of this year the U.S. Military Academy at West Point, NY, graduated the class of 1989.

The Vice President of the United States delivered the commencement address to the graduating cadets. So we may all enjoy his poignant remarks, I ask that they be reprinted in the CONGRESSIONAL RECORD.

The remarks follow:

REMARKS BY THE VICE PRESIDENT, COMMENCEMENT ADDRESS TO THE U.S. MILITARY ACADEMY

General Palmer, Distinguished Guests, and men and women of the Corps of Cadets:

It is a high honor for me to address you today. Gathered here today are Americans from every walk of life, from backgrounds that reflect the richness and diversity of our nation's character and heritage. But despite this diversity, we all stand united behind one simple conviction: the belief that freedom can only be enjoyed by a people that is willing and able to defend it. That belief is the reason West Point exists. That belief—that commitment—is what West Point embodies.

Because this institution plays such a vital role in the life of our Nation and our world, I always paid special attention to the qualifications of the candidates I nominated for appointments to West Point during my 12 years in Congress. I am especially pleased that three of my nominees—Greg Buehler, Steven Calhoun, and Brett Jenkinson—are graduating today. And I'm proud to note that Greg and Steven made the Dean's List.

Today, I want to address special messages to three distinct groups in our audience—all of whom have dedicated themselves, in different ways, to the commitment to defend freedom.

First, I want to speak directly to the parents and loved ones who are with us here this morning. Your support for these superb young men and women, your understanding and encouragement, have been vitally important to these cadets. Now that they have earned the privilege of pinning the bar of gold on their Army green, you share not only in their joy, but also in the credit for their achievement.

As President Bush has emphasized time and again, America's families are the bedrock of our society. This is particularly evident on occasions such as these, which are, in effect, celebrations of our families and of their role in instilling values in succeeding generations of young Americans.

But your role is far from over; indeed, in some ways, it has only begun. For these men and women, as leaders in our armed forces, will face new and more demanding challenges in the years ahead. I ask, therefore, that you continue to provide them with the loving support that has been so important in their lives up to this point. They will need your reinforcement to get them through the tough times—and a cold dose of reality when everything seems to be going their way. And whatever the circumstance, always remember to be proud—very proud—that they have chosen to serve their country. There is no more noble calling.

Second, I want to express my appreciation for the staff and faculty here at the military academy. Once again, you have done a magnificent job. The task of educating and training our young men and women for a lifetime of service to our nation is crucially important to this country. Keep up the splendid work!

And, most important, to those of you graduating today, I offer my warmest congratulations. Your class has compiled an enviable record, both academically and in athletics. There are remarkable scholars in your midst—like Lisa Ann Shay, who was awarded a Marshall Scholarship at Cambridge; John Michael George, who received a Rhodes Scholarship at Oxford; and Andrew Fedorchek, who won both Hertz and National Science Foundation Fellowships. In football, your class has won a 20-15 victory over Navy that evened the series and captured the Commander-in-Chief trophy; in golf, you captured the eighth consecutive MAAC championship; in men's tennis, you captured the MAAC for the fourth time; and in women's tennis, you ranked second in the East. Not bad at all!

But all of these achievements are, of course, secondary to your basic achievement: you have successfully completed your vigorous course of study and training here, and are now ready to lead in the service of our country. I'm sure all of you recognize that you have been enormously privileged to attend this institution and to have the chance to join the "long gray line." Many talented candidates competed for appointments, but they were not as fortunate as you. You have received an education whose true value will become even more apparent with time. Moreover, you are about to realize the greatest privilege of all: leading our outstanding men and women in uniform.

As an officer in the regular Army, your service will be fulfilling and valuable for the Nation, but you will face some significant challenges. You will be challenged to lead young men and women from a variety of backgrounds in a very dangerous profession, the profession of arms. Those who volunteer for the ranks of the Army come from all walks of life in a diverse culture. Your challenge is to help them meet their potential in whatever they do.

You know that soldiers are pretty good judges of the ability and character of their commanding officers. So the only way to get a lot out of your units is to put a lot of time and effort into them. As General Douglas MacArthur once put it, "The respect, discipline, and self-confidence within a military unit, joined with fair treatment and merited appreciation from without. It will quickly wither and die if soldiers come to believe themselves the victims of difference or injustice on the part of their governments, or of ignorance, personal ambition or ineptitude on the part of their military leaders."

Fortunately, devotion to the profession of arms, and to the well-being of soldiers, is a legacy of West Point, and of those leaders in the long grey line that preceded you. It is their achievement, and their sacrifice, that you must never fail to honor.

General George Marshall, a great soldier-statesman, said this about the treatment of soldiers:

"The soldier is a man; he has rights; they must be made known to him and thereafter respected. He has ambition; it must be stirred. He has a belief in fair play; it must be honored. He has a need of comradeship; it must be supplied. He has imagination; it must be stimulated. He has a sense of personal dignity; it must be sustained. He has pride; it can be satisfied and made the bedrock of character once he is assured that he is playing a useful and respected role. He becomes loyal because loyalty has been given to him."

Never forget that our Army is part of a larger American democratic society where we measure soldiers not on the basis of gender, color or creed but rather on their performance. The President and I expect you to give soldiers the fair and equal treatment they deserve. More important, the American people expect the kind of dignified, respectful treatment of their sons and daughters in uniform that you will provide.

The American people are also united in the hope that never again will their sons and daughters be called upon to face the cruel test of battle. I know that everyone here today shares that hope. But everyone here also knows that the best way to prevent war is to think about it, and to prepare for it, in times of peace. As Alexander Hamilton put it in *the Federalist Papers* "To model our political systems upon speculations of lasting tranquility is to calculate on the weaker springs of the human character."

That is why, while hoping and working for peace, we need to keep our powder dry—and ample. We must maintain a military establishment that is respected by friend and adversary alike. And we must continue to support a strong national defense with military forces adequate to protect and defend our vital interests. Throughout your careers, you will be challenged to ensure that our forces remain prepared to carry out any mission assigned to them, ranging from disaster relief in our own country to conflict anywhere in the world.

You will also be challenged to develop and apply new methods for carrying out your responsibilities in battle. Changes in military technology have already resulted in long-range, conventional stand-off weapons systems like cruise missiles. Future developments in technology areas such as electrothermal propellants, hypersonic boost-glide vehicles, and multi-spectral sensors could cause, over the next 10-15 years, a revolution in military affairs. This will require us to develop new operational concepts, new military organizations and new methods of warfare. The Defense Department has initiated a new strategic planning tool called "Competitive Strategies" to help identify, develop, and field the weapons systems we need to be competitive with our major adversary, and to understand how those weapons might be used operationally.

Because of your background, education, and future assignments, you will be uniquely prepared to meet the challenges these changes will bring. Your education in the sciences and engineering allows you to comprehend the capabilities, and limits, of modern technology. Your military assignments will broaden your understanding of military innovation and operational requirements. And your military training provides you with deeper insights into the impact of human factors on warfare and with the leadership abilities to successfully deal with those factors. In sum, you have begun to develop the technical and operational skills to become effective battlefield leaders. You need to continue to hone those skills while simultaneously developing the necessary vision to contribute, as strategic thinkers, to the defense of our Nation.

And finally, you will be challenged to work long hours, to endure lengthy separations from your loved ones, and to risk your lives so that others may continue to enjoy the blessing of liberty. This is nothing new. But your challenge is to maintain your inner strength—your faith in our Creator and our Country—and to continue meeting the expectations of a leader throughout these periods of hardship.

You are prepared, perhaps better than you realize at this moment, to meet those challenges. West Point has imbued you with patriotic values, and developed your abilities as a leader. The education and training you have gained here will provide you with the necessary intellectual and moral foundation for a lifetime of service to our Country.

Since 1802, West Point has been the wellspring of bedrock values for over 40,000 graduated cadets. These values have developed in generations of Americans the strength to be a leader. You are privileged, because those values—gained here in the birthplace of our American military ethos—make up your moral, ethical, and professional character.

It is your character—shaped by your family and your loved ones to strive for ever-higher standards of excellence, and nurtured here at West Point—that will help you to be selfless in service, responsible in duty, and honorable in all things. It is your character that will give you the confidence to look your soldiers in the eye and say: "Follow me and do as I do." And it is your character that will enable you to instill those same fundamental values in your soldiers.

In closing, let me reiterate that your service to our Nation is a sacred privilege. Your service is sacred because our Nation's freedom, our way of life and our values ultimately depend on your ability to discharge your duties effectively and to meet the challenges of a changing world.

Ladies and Gentlemen of the West Point Class of 1989: today you enjoy the trust and confidence of the American people. Guard jealously that trust and confidence, because they enable you to carry out your task—the defense of our Nation and of the cause of peace and freedom.

Our peace and freedom have not been easily won; they have been gained at a heavy price. You who serve in defense of our Nation will come to understand the price of maintaining that peace and freedom. Your livetime of service, sacrifice, and selflessness will be for the benefit of millions of Americans across this great Nation, and for generations yet to come. For Americans of today, and Americans of the future, I thank you for joining the ranks of our armed services, and I wish you all the best.

God Bless you all.●

KELLY KAMMERER

● Mr. LEAHY. Mr. President, I ask that my remarks delivered on March 16, 1989, with regard to Kelly Kammerer, then Director of the Office of Legislative Affairs of AID, be printed in the RECORD.

The remarks follow:

Good morning. We had our first hearing yesterday where we heard from Secretary Baker and discussed in broad terms the Administration's Fiscal Year 1990 Foreign Assistance budget request.

We will continue that quest today with Alan Woods, Administrator of the Agency for International Development. I note the priority before us. We are going to have several hearings, but the first two involve you and the Secretary of State. There are a number of reasons for that. Primarily, I think you both have an extraordinary part to play.

I appreciate the way you and your office have dealt with us in an open, candid, and frank manner. One of the principal reasons we enjoy this good relationship is because of the work of Kelly Kammerer, who has been the Director of the Office of Legislative Affairs at AID since 1983.

Kelly will be leaving soon to become AID's mission director in Nepal. On behalf of the members and staff of this subcommittee, I want to pay my respects to him for the great job he has done. I don't want to embarrass him too much but we have relied heavily on him and his staff for years. He has always been an absolute professional, and the good relationship this committee has had with AID is because of Kelly. I am going to miss him an awful lot. I think the only criticism I have is that he is leaving just as I become Chairman.

There is another personal mention also. The dearest friends my wife and I have in Vermont, the Murthas have three absolutely lovely children. Marcelle and I are Godparents of their youngest child, and Kelly is the Godfather of their oldest daughter, Elizabeth. So we have a kind of personal relationship. They are coming down to visit soon, but unfortunately, Kelly will have left for Nepal.

Thank you again, Kelly, for the fine job you have done. We will miss you.●

SOUTH AFRICAN SANCTIONS

● Mr. BOSCHWITZ. Mr. President, I rise to express my pleasure in joining with Senator SIMON as the lead Republican in submitting Senate Concurrent Resolution 47, expressing the sense of Congress that the administration should seek to gain from our allies the imposition of the same economic sanctions against South Africa that we ourselves have imposed.

Mr. President, the abhorrent system of apartheid continues in South Africa, denying the overwhelming black majority population of that country the basic human rights of liberty and democracy that we enjoy and, indeed, take for granted. Apartheid is an abomination that must end and must yield to a nonracial democracy. Although the primary focus of that struggle is naturally within South Africa itself, we in the West can play an important supporting role.

I supported the economic sanctions Congress imposed on South Africa in 1986 and voted to override a Presidential veto. But if those sanctions are to have their fullest impact, the major industrial democracies must join in united action. Over 80 percent of South Africa's trade occurs with the industrial democracies. It does little good if, after we have imposed sanctions, our allies simply go in and pick up the pieces. In that case, the only group we have hurt are American firms that have been stopped from doing business in South Africa.

By gaining the agreement of our allies to impose the same sanctions we currently employ, we can significantly increase economic pressure on South Africa to change. I strongly believe that this is something worthy to pursue, reflecting the values that we Americans hold dear. It will also be a demonstration of American commitment and leadership in the drive to end the evil that is apartheid. I commend my colleague from Illinois, Senator SIMON, for his efforts and for the real leadership he has shown on this important issue.●

ADMINISTRATION VIEWS OF S. 377, THE REGIONAL PRESIDENTIAL PRIMARIES AND CAUCUSES ACT

● Mr. HUMPHREY. Mr. President, I take this opportunity to share with Senators a copy of a letter from Assistant Attorney General Carol T. Crawford to the majority leader regarding S. 377, legislation which would establish a system of regional Presidential primaries.

All Senators should note the letter states that both the Justice Department and the Office of Management and Budget will recommend a veto of S. 377. Now pending on the Senate Calendar, this legislation would replace the present Presidential nomination system with a series of regional

primaries, with the order determined by lottery.

There are many reasons why the administration should veto this bill, not the least of which, as Ms. Crawford points out, it is unconstitutional.

In addition, it virtually locks in frontrunners, at the expense of challengers. And, it turns 1-on-1 campaigning into a media circus in which candidates are never required to interact with the voters.

It may also be that Senate Republicans will be concerned about turning over their nomination process to the management—and ultimately micromanagement—of a democratically controlled Congress.

For all of these reasons and more, this is a piece of legislation which, if considered, will provoke extended debate. But, for the time being, I would simply ask that the full text of this letter be reprinted in the RECORD:

The letter follows:

DEPARTMENT OF JUSTICE,
OFFICE OF LEGISLATIVE AFFAIRS,
Washington, DC, June 7, 1989.

Hon. GEORGE J. MITCHELL,
Majority Leader, U.S. Senate, Washington, DC.

DEAR SENATOR MITCHELL: This letter presents the views of the Department of Justice on S. 377, the Regional Presidential Primaries and Caucuses Act of 1989. The Department opposes this bill because Congress does not have the constitutional authority to prescribe the time at which the states must conduct a presidential primary.

S. 377 establishes eight regional presidential primaries to be held every two weeks beginning in March during a presidential election year. The bill places each state and territory in one of eight geographic regions and provides that each state must hold its presidential primary or other means of expressing a preference for presidential candidates on the date chosen by lot for that region. The bill then prohibits any state from holding a presidential primary or other means of expressing a preference for a presidential candidate on any other date.

In our constitutional scheme, the process of selecting presidential electors is essentially a State concern. The Constitution provides that "[e]ach State shall appoint, in such Manner as the Legislature thereof may direct, a Number of Electors, equal to the whole Number of Senators and Representatives to which the State may be entitled in the Congress . . ." U.S. Const. art. II, §1, cl. 2.

Congressional power over presidential elections is described in Article II, section 1, clause 4 of the Constitution: "The Congress may determine the Time of Chusing the Electors, and the Day on which they shall give their Votes; which Day shall be the same throughout the United States."[1] By contrast, Congress has broader power to regulate elections for Senators and members of the House of Representatives: "The Times, Places, and Manner of holding Elections for Senators and Representatives, shall be prescribed in each State by the Legislature thereof; but the Congress may at any time by Law make or alter such Regulations, except as to the Places of chusing Senators," U.S. Const., Art. I, §4, cl. 1. Thus, while Congress has general power to regulate the time, place and manner of congressional elections, with respect to presidential elections its power is limited to determining the time of choosing the electors. Accordingly, the Constitution simply does not provide Congress with the power to determine the time of choosing delegates who will select a candidate who will be voted upon by the presidential electors.

We acknowledge that the Supreme Court has recognized that Congress has limited power to regulate presidential elections to the extent necessary to prevent fraud and preserve the integrity of the electoral process. *See Burroughs v. United States,* 290 U.S. 534 (1934) (upholding a federal law imposing record keeping requirements on political committees that accept contributions or make expenditures for the purpose of influencing the election of presidential or vice-presidential electors); *see also Buckley v. Valeo,* 424 U.S. 1, 13 (1976) (unholding a federal law regulating campaign contributions against a First Amendment challenge and observing in dicta that the constitutional power of Congress to regulate federal elections is "unquestioned"). However, while Congress has authority to preserve the integrity of the presidential election process, it cannot encroach upon the authority of the states to determine the manner in which the process and sequence of selecting a President is structured.

Congress also has power under several constitutional amendments to enforce prohibitions against specific discriminatory practices. *See* U.S. Const. amend. XV (race, color, or previous condition of servitude); amend. XIX (sex); amend. XXIV (poll taxes); amend. XXVI (age). In *Oregon v. Mitchell,* 400 U.S. 112 (1970), before the enactment of the Twenty-Sixth Amendment, the Supreme Court upheld a provision of the Voting Rights Act Amendments of 1970 which lowered the minimum age of voters in federal elections from twenty-one to eighteen. Four justices relied on Congress' power under section 5 of the Fourteenth Amendment to prohibit discrimination on the basis of age. *Id.* at 135-44 (Douglas J.); 239-81 (Brennan, White, & Marshall, JJ.).[2]

S. 377, however, is not designed to eliminate constitutionally prohibited discriminatory practices. Rather, it rests upon a concern that presidential primaries "are conducted without any semblance of order," section 2(1), and that federally regulated regional primaries are necessary to remedy such disorder and thus "to preserve the effectiveness of the Presidential election process and to provide for the public welfare of the Nation." Section 2(3). These purposes do not place the bill within the scope of Congress' constitutional authority over the conduct of presidential elections. To the contrary, S. 377 invades an area of state power to regulate the manner of presidential elections. A federal law requiring states to hold their primaries on a specified day strips the states of their fundamental power to determine the manner in which their presidential primaries will contribute to the presidential nominating process. Because the bill is not supported by Congress' constitutional power to assure the integrity of the electoral process or to eliminate discrimination, it is unconstitutional.

Of course, nothing in the Constitution prohibits a group of states in a region from deciding to hold their primaries on the same day, as occurred in 1988 with the so-called "Super Tuesday" primaries in the South. The "Super Tuesday" states, however, acted voluntarily. Other states prefer different arrangements. For instance, New Hampshire requires that its primary precede any other state's primary. *See* N.H. Rev. Stat. Ann. 653.9. S. 377 would deny the states the right to make this choice—an opportunity that is the very essence of federalism and creates the necessary opportunity for political experimentation.

For these reasons, the Department of Justice opposes S. 377 and will recommend that the President veto the legislation should it be presented to him.

The Office of Management and Budget has advised that the enactment of S. 377 is not in accord with the program of the President.

Sincerely,

CAROL T. CRAWFORD,
Assistant Attorney General.●

[1] The Electors referred to are of course the Electors who comprise the Electoral College and whose votes directly elect the President.

[2] The fifth justice in the majority in *Oregon v. Mitchell* believed that Congress has broad authority to set qualifications for voters for electors for President and Vice President, 400 U.S. at 119-24 (Black, J.), but four other justices denied that Congress has such power, *id.* at 209-12 (Harlan, J.) & 287-92 (Stewart, J., with Burger, C.J. & Blackmun, J.), while three justices expressly refused to consider Congress' authority to set qualifications for voting in federal elections. *Id.* at 237 (Brennan, White, & Marshall, JJ.).

SECTION-BY-SECTION ANALYSIS OF S. 774: THE FINANCIAL INSTITUTIONS REFORM, RECOVERY, AND ENFORCEMENT ACT OF 1989

● Mr. RIEGLE. Mr. President, I ask to have printed in the RECORD—for myself and Senator GARN—a section-by-section analysis of S. 774, the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, which was passed by the Senate on April 19, 1989.

The analysis follows:

S. 774: FINANCIAL INSTITUTIONS REFORM, RECOVERY, AND ENFORCEMENT ACT OF 1989 AS PASSED BY THE SENATE ON APRIL 19, 1989

Section-by-section analysis

SECTION 1. SHORT TITLE AND TABLE OF CONTENTS

This section designates the bill as the "Financial Institutions Reform, Recovery, and Enforcement Act of 1989," and provides a table of contents.

TITLE I—PURPOSES

SECTION 101. PURPOSES

This section sets forth some of the primary purposes of the bill, namely:

(1) to promote, through regulatory reform, a safe and stable system of affordable housing finance;

(2) to improve the supervision of federally insured depository institutions by strengthening the enforcement powers of Federal regulators;

(3) to curtail needless risks to the Federal deposit insurance funds by strengthening capital, accounting, and other regulatory standards;

(4) to promote the independence of the Federal Deposit Insurance Corporation through an independent board of directors, adequate funding, and appropriate powers;

(5) to put the Federal deposit insurance funds on a sound financial footing for the future;

(6) to establish an Office of Savings Associations in the Department of Treasury, under the general oversight of the Secretary of the Treasury;

(7) to create a new corporation, to be known as the Resolution Trust Corporation, to deal with failed thrift institutions;

(8) to provide funds from public and private sources to deal expeditiously with failed financial institutions; and

(9) to strengthen the penalties for crimes and other misconduct involving federally insured depository institutions.

TITLE II—FEDERAL DEPOSIT INSURANCE CORPORATION

SECTION 201. FINANCIAL INSTITUTIONS

This section generally amends the Federal Deposit Insurance Act ("FDI Act") by replacing "insured bank" with "insured financial institution." "Financial institution" encompasses both banks and savings associations. Savings associations (defined in section 204) include Federal savings associations, Federal savings banks, State savings and loan associations, and certain similar institutions.

SECTION 202. DUTIES OF THE FDIC

Under current law, the Federal Deposit Insurance Corporation ("FDIC") insures deposits in qualified banks. Under this section, the FDIC would also insure deposits in qualified savings associations.

SECTION 203. FDIC BOARD MEMBERS

The FDIC is currently administered by a three-member board of directors ("FDIC Board"), consisting of the Comptroller of the Currency and two appointed members. The appointed members are appointed by the President for six-year terms, subject to confirmation by the Senate. No more than two members may be of the same political party. The Chairman is selected by the Board itself from among the appointed members. If the chairmanship becomes vacant, the Comptroller acts as Chairman until the Board selects a new Chairman.

A. Structure of the Board

This section expands the FDIC Board from three members to five. The Comptroller of the Currency and the Chairman of the Office of Savings Associations ("COSA") will automatically be members. The remaining three members will be appointed by the President for six-year terms, subject to confirmation by the Senate. Of the three appointed members, one will be appointed (subject to confirmation by the Senate) as the Chairman of the FDIC. No more than two of the three appointed members may be of the same political party.

If the Chairman of the FDIC leaves office or becomes disabled, the Board may (pending the appointment of a successor) select an Acting Chairman from among the appointed members.

B. Transition Provision

The current members of the FDIC Board may continue to serve until their terms expire. The current Chairman of the FDIC Board may continue to serve until his term as a member expires.

SECTION 204. DEFINITIONS

A. Receiver

A "receiver" is currently defined as a person appointed to wind up the affairs of a bank. This section broadens the terms to include a person appointed to wind up the affairs of a savings association, or to conserve the assets of a bank or savings association.

B. Deposit

The definition of a "deposit" is amended to include deposits in a savings association.

Accounts in a savings association heretofore insured by the Federal Savings and Loan Insurance Corporation ("FSLIC") will automatically be insured by the FDIC up to the limit of FSLIC coverage, as determined by FSLIC regulations and interpretations in effect when the bill becomes law.

Although the FDIC and FSLIC have parallel statutes governing what kinds of deposits are insured and to what extent, the two agencies have developed slightly different standards on the subject (i.e., different regulations, principles, and interpretations regarding the scope of deposit insurance coverage). Under this section, accounts previously insured by FSLIC will for a limited time continue to be governed by FSLIC's standards, but will become subject to the FDIC's standards after the later of: (1) six months after the bill becomes law; (2) if the deposit has one or more maturity dates, after the first maturity date to occur after that six-month period; or (3) if prior notice to make a withdrawal is required, after the required notice period expires.

The FDIC should, to the fullest extent possible (consistent with safety and soundness) notify depositors that the transfer of deposit insurance from FSLIC to the FDIC may affect the extent of their coverage, so that no depositor unwittingly loses coverage because of this section.

C. Appropriate Federal Banking Agency

The FDI refers to the primary Federal regulator for a given type of institution (e.g., the Comptroller of the Currency for national banks) as the "appropriate Federal banking agency." This section specifies that the Chairman of the Office of Savings Associations, rather than the Federal Home Loan Bank Board ("Bank Board"), is the appropriate Federal banking agency for savings associations and savings and loan holding companies.

D. Savings Association

A "savings association" is defined as: (1) an institution whose accounts were insured by FSLIC when the bill became law (and that has not subsequently become a bank); (2) a Federal savings and loan association or Federal savings bank; (3) a State savings and loan association, building and loan association, or homestead association; and (4) any other corporation the FDIC determines to be operating in substantially the same manner as a savings and loan association.

E. Bank

The FDI Act's current definition of a "bank" is amended to specifically include cooperative banks that are FDIC-insured when the bill become law. The revised definition also specifies that a "bank" includes a former savings association that has become a bank, even if the institution is a member of the Savings Association Insurance Fund.

F. Default

Definitions of "default" and "in danger of default" are added to the FDI Act.

A financial institution is in "default" if a court of competent jurisdication, the appropriate Federal banking agency, or other public authority has made an offical determination under which a conservator or receiver or other legal custodian has been or will be appointed.

An institution is "in danger of default" if the appropriate Federal banking agency or the State chartering authority finds that: (1) the institution is not likely to be able to meet its depositors' demands or pay its obligations in the normal course of business, and there is no reasonable prospect that the institution will be able to meet those demands or pay those obligations without Federal assistance; or (2) the institution has incurred or is likely to incur losses that will deplete substantially all of its capital, and there is no reasonable prospect for the institution's capital to be replenished without Federal assistance.

G. Institution-related party

The bill introduces a new term, "institution-related party," to replace current references to directors, officers, employees, and other persons participating in the affairs of an insured bank or savings association, as used throughout the enforcement provisions of the Federal Deposit Insurance Act. The new term is more concise, and it is defined so as to expand the Federal banking agencies; enforcement authority to include all persons that may have an influence over the operations of an insured financial institution.

An "institution-related party" is defined to include any director, officer, employee, agent, controlling shareholder (other than a holding company), or other person participating in the conduct of the affairs of an insured financial institution or a subsidiary of an insured financial institution, and any person who has filed or is required to file a change-in-control notice with the appropriate Federal banking agency.

An institution-related party also includes an "independent contractor" such as an attorney, accountant, or appraiser, who knowingly or recklessly participates in a wrongful action that had or is likely to have an adverse effect on an insured financial institution. The additional requirement of knowing or reckless participation in a wrongful act applies only to an independent contractor who does not otherwise participate in the financial institution's affairs. Thus, for example, an attorney who is a director of a bank would automatically be an "institution-related party," even if he or she did not knowingly or recklessly participate in a wrongful act.

H. Subsidiary

A "subsidiary" is defined as any company directly or indirectly owned or controlled by another company. It includes a service corporation owned in whole or in part by an insured financial institution, and any direct or indirect subsidiary of the service corporation. Thus, if 20 savings associations each owned a 5 percent interest in a single service corporation, that corporation would be a subsidiary of each of the 20 parent savings associations. In addition, any subsidiary of such a service corporation would also be a subsidiary of each of the 20 parent savings associations.

SECTION 205. INSURED SAVINGS ASSOCIATIONS

This section provides that every savings association whose accounts are insured by FSLIC when the bill becomes law will automatically be insured by the FDIC.

This section also changes current procedures for granting FDIC insurance to national banks and State banks that are members of the Federal Reserve System ("State member banks"). Under the FDI Act, a national bank automatically receives FDIC insurance when the Comptroller of the Currency permits it to commence business as a national bank, and a State bank automati-

cally receives FDIC insurance when the Federal Reserve Board admits it to membership in the Federal Reserve System. In each such case, the Comptroller or the Board issues a certificate to the FDIC stating that it has considered the statutory criteria that the FDIC must consider when granting or denying insurance coverage, namely: (1) the bank's financial history and condition; (2) the adequacy of the bank's capital structure; (3) the bank's future earnings prospects; (4) the general character of the bank's management; (5) the convenience and needs of the community to be served; and (6) whether the bank's corporate powers are consistent with the purposes of the FDI Act. (These criteria, which are part of current law, are retained and strengthened by section 207 of the bill.)

Under this section, a national bank or State member bank cannot commence business as such until the FDIC has received notice of the application and had a reasonable time in which to comment. The Comptroller or the Federal Reserve Board must consider the FDIC's comments when making its final determination on whether the bank satisfies the statutory criteria for insurance.

SECTION 206. APPLICATIONS FOR DEPOSIT INSURANCE

A. State savings associations

A State nonmember bank must apply directly to the FDIC for deposit insurance. The FDIC considers the six statutory criteria noted above, and also examines the institution to ensure that it has sufficient assets, in excess of minimum required capital, to meet all of its liabilities.

This section extends the same requirements to State savings associations: such an institution must apply directly to the FDIC for deposit insurance, and the FDIC will then evaluate the application under the same criteria as apply to a State nonmember bank.

B. Federal savings associations

A new Federal savings association, having received its charter from the Chairman of the Office of Savings Associations, must apply to the FDIC and provide a certificate from COSA stating that COSA has considered the statutory criteria for granting deposit insurance. The FDIC is to review the application and the certificate, and may also conduct its own examination of the institution. The savings association will then receive FDIC insurance unless the FDIC Board determines, by a vote of at least three-fourths of its sitting members, that insurance should be denied.

In determining whether to grant or deny insurance, the FDIC Board is to give due deference to COSA's determination, but it is to independently consider: (1) the institution's financial history and condition; (2) the adequacy of the institution's capital structure; (3) the institution's future earnings prospects; (4) the general character and fitness of the institution's management; and (5) the risk that the institution presents to the pertinent insurance fund. The FDIC Board is not to consider the convenience and needs of the community to be served or whether the institution's corporate powers are consistent with the purposes of the FDI Act. (The institution's corporate powers would, of course, be set by Federal law.) If the FDIC Board votes to deny insurance, it must promptly notify COSA, giving specific reasons for the denial.

C. Interim associations; conversions and mergers

Three types of new Federal savings associations are exempt from the above procedures: (1) interim institutions that will not open for business; (2) institutions resulting from the conversion of an insured State institution; and (3) institutions resulting from the merger of existing insured institutions. Any such institution will automatically be insured upon receiving its charter from COSA.

D. New criteria for granting insurance

The criteria for granting deposit insurance to a branch of a foreign bank are expanded to include the risk presented to the pertinent deposit insurance fund as well as the "fitness" of management. As noted above, current law already requires the FDIC to consider the "general character" of management. Section 207 makes an identical change in the criteria to be considered before granting insurance to banks and savings associations.

E. Entrance fee

FSLIC may currently charge State thrift institutions an entrance fee based on the administrative costs to FSLIC of examining those institutions. This section imposes an entrance fee on any uninsured financial institution or uninsured branch of a foreign bank that seeks insurance from either of the FDIC's deposit insurance funds: the Bank Insurance Fund ("BIF") or the Savings Association Insurance Fund ("SAIF"). The fee is to be credited to the appropriate insurance fund. The FDIC is to set the amount of the fee by regulation, with due consideration for the need to establish and maintain adequate reserve ratios in each fund as required by section 208 of the bill. A savings institution previously insured by FSLIC automatically becomes SAIF-insured under the bill and need not pay an entrance fee.

F. Conversions from one fund to the other

A financial institution engages in a "conversion transaction" if it moves from the Savings Association Insurance Fund to the Bank Insurance Fund, or vice versa. Such a transaction also includes a merger or consolidation of a SAIF member with a BIF member, or a transfer of deposit liabilities from a member of one insurance fund to a member of the other fund.

The bill prohibits any insured financial institution from participating in a conversion transaction without the FDIC's prior consent. For five years after the bill becomes law, the FDIC may not consent to any conversion, with the following exceptions:

1. Insubstantial portion of liabilities.—The FDIC may at any time permit a conversion transaction that affects only an "insubstantial" portion of an institution's insured liabilities. A transaction meets the test if the insured liabilities transferred during the five-year period do not exceed 20 percent of the total insured liabilities held by the institution when the bill becomes law.

2. Acquisition of a troubled institution.—The FDIC may at any time permit a conversion transaction in connection with the acquisition of a financial institution that is in default or in danger of default. However, to approve a conversion under this exception, the FDIC must determine that the estimated financial benefits to the insurance fund the institution is leaving equal or exceed the estimated loss of assessment income to that insurance fund during the five years following the conversion. If the conversion transaction results in a loss of assessment income to SAIF, the Resolution Trust Corporation must concur in the FDIC's determination regarding the relative costs and benefits involved.

3. Transactions to meet capital requirements.—The FDIC may at any time permit a conversion transaction that assists the institution involved in meeting a capital standard that the institution and its Federal supervisory agency agreed to before August 10, 1987, if the institution has made a binding, written commitment to use any gain from the conversion to increase its capital.

4. Institution that never accepted deposits.—The FDIC may at any time permit a conversion transaction involving a particular State savings association that has never accepted deposits and was not FSLIC-insured when the bill became law.

G. Conversion fees

Every institution participating in a conversion transaction in which the resulting or acquiring institution is a BIF member must pay an exit fee to SAIF (or to the Financing Corporation, if the Financing Corporation has exhausted all other means of paying interest on its obligations). The fee is to be set by the FDIC with the approval of the Secretary of the Treasury, and collected from the converting institution or other institution involved, as specified by the Secretary.

The FDIC may impose an entrance fee on institutions converting from SAIF to BIF or vice versa. In either case, the entrance fee must be the amount necessary to prevent dilution of the fund into which the institution is transferring, and must be paid to that fund.

H. Liability of Commonly Controlled Financial Institutions

1. Liability to the FDIC.—Whenever the FDIC incurs a loss in connection either with a default or with providing assistance to a financial institution in danger of default, any commonly controlled insured financial institution is liable to the FDIC—and may be required to reimburse the FDIC—for the loss. No such liability exists unless the FDIC notifies each such institution of the liability within two years after incurring the loss.

Financial institutions are "commonly controlled" if they are subsidiaries of the same financial institution holding company, or if one financial institution controls the other financial institution.

2. Procedure; amount of compensation.—When an insured financial institution is in default, or needs financial assistance because it is in danger of default, the FDIC is to make a good-faith estimate of its anticipated loss. The FDIC must then notify all other commonly controlled financial institutions of the amount of the estimated loss, and each institution's share. After consulting with the appropriate Federal banking agency for each such institution, the FDIC is to specify the procedures and schedule by which those institutions are to reimburse the FDIC for the anticipated loss. The FDIC may compel immediate payment of those amounts. If the amount paid is more than the FDIC's actual loss, the FDIC is to refund the excess to each institution from which payments were received. If the amount paid is less than the actual loss, the FDIC may require each commonly controlled institution to make an additional payment.

3. Priority.— A commonly controlled institution's liability to the FDIC takes priority over any other obligation that is subordinat-

ed to depositors and general creditors, any obligation owed to shareholders because they are shareholders, and any unsecured obligation or liability owed to any other commonly controlled company or financial institution. The FDIC's claim is subordinate to deposit liabilities (other than deposits of commonly controlled financial institutions), secured obligations, and other general liabilities. The FDIC's claim is equal in preference to all other obligations and liabilities of the financial institution.

4. Review.—The FDIC is to establish an administrative procedure for reviewing its own determinations regarding the amount of loss, the liability of commonly controlled institutions, and the scheduling of payments. Commonly controlled institutions subject to liability are entitled to a full evidentiary hearing on the record pursuant to the Administrative Procedure Act.

The FDIC's determinations regarding loss, liability, and the procedures or scheduling of payments may be reviewed in the court of appeals. The scope of review shall be in accordance with section 706 of title 5. Thus the reviewing court shall set aside the FDIC's findings or conclusions if they are not supported by substantial evidence.

5. Limitations on private rights.—This section precludes any court from giving effect to any right conferred on any person, if giving effect to the right would impair a financial institution's ability to reimburse the FDIC under this section.

6. Exceptions.—In setting forth the liability of commonly controlled financial institutions, this section makes four limited exceptions.

a. Limited partnerships.—The first exception relates to certain limited partnerships that, on or before April 10, 1989, filed registration statements with the SEC indicating that the partnerships intended to acquire one or more insured financial institutions. This section does not apply to such a limited partnership or its affiliates, other than to a financial institution that is a majority-owned subsidiary of the partnership.

b. SAIF and BIF members.—For the first five years after the bill becomes law, no BIF member will be liable for losses arising out of the default of or assistance provided to a SAIF member, and vice versa.

c. Certain institutions that made acquisitions in economically distressed States.—The third exception relates to certain acquisitions by out-of-State acquirers in economically distressed States, consummated on May 1, 1987, or January 29, 1989, in which the institutions acquired in each case had aggregate total assets exceeding $4 billion. Unless extended by the FDIC, the exception expires five years after the acquisition.

d. Common control resulting from debts previously contracted.—Under the fourth exception, institutions are not commonly controlled if they are affiliated solely because voting shares are acquired in securing or collecting a debt previously contracted in good faith. The exception expires five years after the date of acquisition. During the five-year period, all transactions between the acquired institution and affiliated financial institutions must fully comply with sections 23A and 23B of the Federal Reserve Act, without using the exemption in section 23A(d)(1) for transactions between affiliated institutions.

SECTION 207. ELIGIBILITY FOR DEPOSIT INSURANCE

Under current law, the FDIC and the other Federal banking agencies are required to consider six criteria when determining whether an institution qualifies for FDIC insurance: (1) the financial history and condition of the institution; (2) the adequacy of its capital structure; (3) its future earnings prospects; (4) the general character of its management; (5) the convenience and needs of the community to be served; and (6) whether its corporate powers are consistent with the purposes of the FDI Act.

This section makes the criteria more stringent by requiring the agencies to consider (1) the "fitness" as well as the general character of management, and (2) the "risk presented to the Bank Insurance Fund or the Savings Association Insurance Fund, as appropriate."

SECTION 208. ASSESSMENTS

Section 208 amends section 7 of the Federal Deposit Insurance Act.

A. Reports

This section strengthens the FDIC's authority to obtain reports from insured financial institutions. It gives the FDIC access to all reports made by such institutions to other Federal banking agencies; permits the FDIC to provide the other Federal banking agencies with reports it receives; and authorizes the FDIC, with the consent of the other Federal banking agencies, to require insured finanical institutions to file additional reports for insurance purposes. This section retains the current requirement that insured banks file quarterly reports of their financial condition with the appropriate Federal banking agency, and extends that requirement to insured savings associations.

B. Assessment rates

This section establishes procedures governing the assessment of deposit insurance premiums, and sets the annual insurance assessment rates and target reserve ratios for BIF and SAIF members. Assessment rates are to be independently established for BIF and SAIF members.

The section specifies a target reserve ratio for each fund. The reserve ratio is the net worth of the fund divided by the aggregate amount of insured deposits held by the fund's members. The minimum reserve ratio for both BIF and SAIF is 1.25 percent of insured accounts, but the FDIC Board may apply a higher ratio to members of either fund it if determines that the higher ratio is justified by a significant risk of substantial future losses to that fund. The higher ratio cannot exceed 1.65 percent of insured deposits, and must be set annually, by a vote of the FDIC Board.

Any assets of either fund exceeding 1.25 percent of insured deposits constitute a "supplemental reserve," whose earnings will accrue to an earnings participation account for quarterly distribution to the fund's members. The supplemental reserve must itself be distributed to the fund's members if it is no longer needed to satisfy the reserve ratio.

This section establishes the amounts members must pay for deposit insurance. Those amounts are expressed as a percentage of the member's assessment base as determined under current law. BIF members must pay the current insurance assessment rate (1/12 of 1 percent) until the end of 1989. For 1990, the rate will be 12/100 of 1 percent. After 1990, the rate will be 15/100 of 1 percent.

Before 1995, the FDIC Board may raise the annual assessment rate for BIF members only if BIF's reserve ratio remains at or below the previous year's ratio. During and after 1995, the Board may raise the annual assessment rate for BIF members if it expects BIF's reserve ratio to be below the designated reserve ratio for that year. The increase in any year cannot exceed 5/100 of one percentage point, and the maximum annual assessment rate that may be set under this procedure is 30/100 of 1 percent. Each BIF member must contribute at least $1,000 per year.

Similarly, SAIF members must pay their current rate (20.8/100 of 1 percent) until December 31, 1990. From January 1, 1991, through December 31, 1993, they will pay 23/100 of one percent. From January 1, 1994, through December 31, 1997, they will pay 18/100 of 1 percent. After 1997, they will pay 15/100 of one percent.

After 1994, and until SAIF's reserve ratio reaches 1.20 percent, the FDIC may increase the SAIF assessment rate if: (1) SAIF has had a net loss in any of the three preceding years; or (2) the FDIC Board determines that extraordinary circumstances pose a reasonable risk of serious future losses to SAIF.

Once SAIF's reserve ratio reaches 1.20 percent, the FDIC may increase the SAIF assessment rate if the FDIC Board expects the reserve ratio to be below the designated reserve ratio for the year.

The SAIF rate cannot exceed 30/100 of 1 percent nor can the FDIC raise the rate by more than 5/100 of one percentage point per year. Each SAIF member must contribute at least $1,000 per year.

This section makes it clear that premiums paid to the Financing Corporation and the Resolution Funding Corporation will count (dollar for dollar) against the limits on SAIF assessments. This ensures that institutions are not double- or triple-assessed.

The FDIC's assessment producers apply to both BIF and SAIF members. The semiannual assessment due from each member is equal to one-half the annual assessment rate times the member's average assessment base for the immediately preceding semiannual period.

C. Credits

When the FDIC Board expects a fund's reserve ratio to exceed the designated reserve ratio, the FDIC will rebate to the fund's members the lesser of (1) the amount necessary to reduce the fund's reserve ratio to the designated reserve ratio, or (2) 100 percent of the fund's net assessment income in the succeeding year. For each Fund, net assessment income is defined as total assessments and investment income minus (a) net operating costs and expenses and (b) net additions to loss reserves and actual losses sustained. These credit payment procedures apply to each fund separately.

D. Change in control

This section amends the Change in Bank Control Act by requiring the appropriate Federal banking agency to consider the effect of a proposed acquisition on the pertinent deposit insurance fund and by applying the Act to savings and loan holding companies and any other companies that control financial institutions.

SECTION 209. CORPORATE POWERS OF THE FDIC

This section makes technical and conforming amendments to section 9 of the FDI Act, which generally sets forth the basic corporate powers of the FDIC. This section provides that when the FDIC has been appointed receiver under State law for a State savings association, claims by or against the savings association which arose before the FDIC was appointed shall not be

deemed to arise under Federal law. This preserves potential State court jurisdiction over such claims.

SECTION 210. ADMINISTRATION OF THE FSLIC

Section 210 authorizes the FDIC to examine any State savings association that applies for insurance, and to conduct "special examinations" of any insured savings association. The FDIC currently has similar authority to make special examinations of national and State member banks.

SECTION 211. INSURANCE FUNDS

A. Establishment and funding of separate funds

This section amends section 11 of the FDI Act to provide for two separate deposit insurance funds, which are not to be commingled. The Bank Insurance Fund is a continuation of the FDIC's existing fund. All assets, debts, obligations, contracts, and other liabilities of the existing FDIC fund are to be transferred to BIF. All assessments paid by BIF members are to be paid into BIF, and BIF's assets are to be used in connection with BIF members.

The other fund is the Savings Association Insurance Fund. All assessments paid by SAIF members are paid into SAIF, except to the extent that those assessments are committed to the Financing Corporation, the Funding Corporation, or the FSLIC Resolution Fund. SAIF's assets are to be used in connection with SAIF members. In addition, beginning in fiscal year 1991, to the extent that assessments paid into SAIF may fall short of the following amounts, the Treasury is to make up the difference (subject to available appropriations):

Fiscal year:	*Billions*
1991	$2.0
1992	3.4
1993	4.6
1994	3.0
1995	4.0
1996	4.0
1997	4.0
1998	4.0
1999	3.0

The Treasury will also contribute (subject to available appropriations) any additional funds needed by SAIF to maintain a certain minimum net worth. The minimum net worth for each of the years 1991 through 1999 is as follows:

Fiscal year:	*Billions*
1991	$0
1992	1.0
1993	2.1
1994	3.2
1995	4.3
1996	5.4
1997	6.5
1998	7.6
1999	8.8

The Treasury will provide any funds needed for SAIF to maintain the requisite net worth until the earlier of 1999, or the first fiscal year in which SAIF's reserve ratio is at least 1.25 percent. The Treasury's potential obligation is, however, indirectly limited by a provision that SAIF's cumulative additions to obligations for fiscal years 1991 through 1999 may not exceed $24 billion.

FSLIC currently has authority to borrow from the Federal home loan banks. This section authorizes the FDIC to borrow from the FHL Banks (with the concurrence of the Federal Home Loan Bank Agency) such funds as the FDIC deems necessary for use by SAIF, so long as SAIF's total obligations do not exceed 85 percent of its assets (as provided in section 220 of the bill).

B. Managing the insurance funds and the assets of failed institutions

Although BIF and SAIF must be kept separate, the FDIC may carry out its functions with respect to both insured banks and insured savings associations using common facilities, personnel, and other administrative resources, and may manage and liquidate assets of failed banks and savings associations on a combined, efficient basis. The FDIC must maintain adequate records of costs and expenses, and must properly allocate those costs and expenses between BIF and SAIF.

SECTION 212. FDIC RECEIVERSHIP POWERS

Section 212, together with sections 213 and 214, amend section 11 of the FDI Act to redefine FDIC's rights and powers as a receiver for insured financial institutions; to authorize the FDIC to act as a conservator for such institutions; and to integrate into a common code rights and powers that the FDIC and FSLIC have exercised separately over insured banks or insured savings associations.

A. General rights and powers

Paragraph (1) of new section 11(c) authorizes the FDIC to act as receiver or conservator for any insured financial institution for which a legal custodian is appointed, and gives the FDIC the powers and duties specified in the FDI Act. Paragraph (1) also authorizes the FDIC to act as receiver or conservator for insured savings associations for which FSLIC acted as a receiver or conservator before January 1, 1989. Other provisions of the bill require the Resolution Trust Corporation to act as receiver or conservator for savings associations placed in receivership or conservatorship since January 1, 1989.

Paragraph (2) sets forth the various powers that the FDIC can exercise as conservator or receiver. These include operating an insured financial institution as a going concern, liquidating the institution, merging the institution with another institution, or transferring the institution's assets or liabilities to another institution. Many of these powers derive from FSLIC's powers under section 406(b) of the National Housing Act.

B. Specific rights and powers

Paragraph (3) requires the FDIC to pay the financial institution's credit obligations in accordance with the FDI Act.

Paragraph (4) together with new section 11(1) (added by section 214 of the bill), establishes procedures for notifying creditors that they must present their claims by a given date, and authorizes the FDIC as receiver to pay claims proved to its satisfaction. Procedures for determining the validity of claims are discussed in connection with section 214.

Paragraph (5) authorizes the FDIC as receiver to pay the FDIC as insurer the amount properly due on claims of insured depositors to which the FDIC became subrogated through its insurance payments.

Paragraph (6) permits the FDIC at any time to pay dividends from the liquidation of the institution to claimants who have satisfactorily proved their claims.

Paragraph (7) enables the FDIC, as conservator or receiver, to obtain a stay for up to 45 days of any judicial proceeding to which the FDIC or the institution is or becomes a party.

Paragraph (8) codifies the FDIC's common-law right as a liquidating receiver to repudiate or disaffirm a contract or lease which the FDIC considers to be burdensome and whose repudiation will promote the orderly administration of the institution's affairs. FSLIC's receivership regulations currently include that right. 12 C.F.R. §§ 548.2(k), 549.3(a) (1988). This paragraph incorporates rights and principles established at common law or in bankruptcy. Subparagraphs (D) and (E) are closely modeled on parallel provisions of section 365 of the Bankruptcy Code. Subparagraph (C) is analogous to those provisions. Subparagraph (B) follows common-law principles in limiting to compensatory relief the damages that a party may claim on a repudiated contract.

Subparagraph (I) of paragraph (8) requires the FDIC to determine within a reasonable time whether or not it wishes to repudiate a contract or lease. Subparagraph (J) provides assurance of payment to a claimant that provides services to an institution after the FDIC is appointed as receiver.

Subparagraphs (G) and (H) of paragraph (8) limit the FDIC's right of repudiation to ensure that the right does not create risks either to those who have valid security interests in the institution's assets or to certain lenders of last resort that have extended credit to the institution.

Subparagraphs (F), (K), (L), (M), and (N) of paragraph (8) contain certain limitations or assurances that either have been recognized by FSLIC or the FDIC in prior administrative actions or are consistent with rights of claimants under bankruptcy law. These provisions, which were recommended by the FDIC, principally concern the contract liquidation rights of parties to extensions of credit, liquidity arrangements, or contracts facilitating risk management.

Paragraph (9) enables the FDIC, as receiver or conservator, to enforce contracts entered into by the financial institution, even if the contract purports to allow the other party to declare the contract in default solely because the FDIC has been appointed as custodian or because the institution is insolvent.

Paragraph (9) does not apply to director's and officer's liability insurance contracts or to financial institution bonds. The FSLIC and FDIC have frequently challenged clauses in such contracts or bonds that preclude the deposit insurer from bringing a claim under the contract or bond, contending that the clauses are unenforceable. Paragraph (9) remains neutral regarding such litigation and regarding the FDIC's ability under other provisions of State or Federal law, current or future, to pursue claims on such contracts or bonds. For example, if the law of a particular State declares limitations on the enforceability of director's or officer's liability contracts to be void as against public policy, the FDIC could pursue a claim on such a contract under that State's law.

Paragraph (10) requires that the FDIC maintain an accounting of its actions as receiver or conservator for an institution and annually provide a copy of the accounting, upon request, to the institution's shareholders, the Secretary of the Treasury, the Comptroller General, and the authority that appointed the FDIC as receiver or conservator.

Paragraph (11) requires the FDIC to distribute to an institution's shareholders or members any funds remaining after paying creditors and other claimants.

Under paragraph (12), the FDIC may, seven years after it is appointed receiver, destroy records of the institution that are no longer needed. However, the FDIC may not

destroy records that may be needed for a criminal prosecution or a civil or administrative proceeding.

Paragraph (13) authorizes the FDIC as receiver or conservator to sell certain single family or multi-family loans or collateral for such loans to State housing finance authorities.

Paragraph (14) gives the FDIC at least three years following its appointment as receiver or conservator to bring a legal action as receiver or conservator. The period may be longer than three years to the extent that more time is provided under any applicable State or Federal statute of limitations. Section 214 of the bill may provide additional time under Federal statutes of limitations.

C. Custody of Federal or D.C. institutions

Subsection (b) of this section requires that the FDIC be the receiver or liquidating conservator for an FDIC-insured Federal financial institution or an insured institution chartered under the District of Columbia Code. It also permits the FDIC to be appointed a nonliquidating conservator for such an institution. The FDIC, when acting as receiver or conservator for any Federal or D.C. financial institution, will have all powers set forth in the FDI Act as well as all powers granted under other applicable law. Unless the FDIC operates an institution in conservatorship as a going concern, the institution will be free from supervision by other agencies or departments.

D. Custody of State institutions

Subsection (c) of this section amends section 11(e) of the FDI Act to authorize the FDIC to accept appointment as receiver or conservator under State law for any insured State financial institution. In that capacity, the FDIC will have all powers granted under State law as well as those under the FDI Act. As is the case with Federal institutions, if the FDIC operates a State institution as a going concern, that institution will be subject to supervision by the appropriate Federal banking agency.

Paragraph (2) provides that during the three years after the bill becomes law, whenever COSA appoints a liquidating receiver or a liquidating conservator for a State savings association, that receiver or conservator must be the Resolution Trust Corporation (created under section 501 of the bill). In any case arising thereafter, the FDIC is to be appointed the liquidating receiver or conservator. The paragraph permits a State supervisor to appoint the RTC or the FDIC as a nonliquidating conservator for a State savings association.

Paragraph (3) empowers the FDIC to appoint itself as sole conservator or receiver for a State savings association under certain circumstances. This authority resembles that of the Bank Board under section 406(c)(2) of the National Housing Act. Section 501 of the bill gives the Resolution Trust Corporation similar authority to appoint itself conservator or receiver during the three years after the bill becomes law.

Paragraph (4) grants the FDIC as conservator or receiver the same powers over a State financial institution as section 11(d) of the FDI Act grants the FDIC over a Federal financial institution.

E. Deposit insurance payments

Subsection (d) of this section requires that insurance payments to depositor's of BIF members be made only from BIF, and that payments to depositors of SAIF members be made only from SAIF. Subsection (d) also authorizes the FDIC to determine deposit insurance claims administratively, subject to judicial review.

F. Right of subrogation

Subsection (e) provides that when the FDIC pays insurance to a depositor or arranges for another institution to assume liability for the deposit, the FDIC is automatically subrogated to the depositor's claim against the failed institution (i.e., the FDIC acquires all the depositor's rights).

G. Deposit Insurance National Bank

Subsection (f) makes technical changes in section 11(h) of the FDI Act, which sets forth the FDIC's authority to organize a new national bank to assume a failed bank's insured deposit liabilities.

SECTION 213. BRIDGE BANKS

This section revises section 11(i) of the FDI Act, which sets forth the FDIC's authority to organize bridge banks. A bridge bank is a temporary bank organized by the FDIC to purchase assets or assume liabilities of a failing bank while the FDIC attempts to arrange for a more permanent solution, such as a purchase and assumption by a healthy institution. The more significant of these changes will now be described.

Under current law, a bridge bank can be organized only after an insured bank is closed. This section permits the FDIC to organize a bridge bank to deal with an insured bank in default or in danger of default. It also specifies that more than one bridge bank may be used, and that a bridge bank may take on assets or liabilities of more than one failed or failing institution.

Under current law, a bridge bank cannot assume just part of a closed bank's deposits; it must assume all or none. This section permits the bridge bank to distinguish between insured and uninsured deposits or among uninsured deposits.

This section authorizes the FDIC to treat a bridge bank as being indefault, thus permitting the FDIC to avail itself of its conservatorship powers and other extraordinary remedies.

This section gives the FDIC greater flexibility and discretion in transferring assets and liabilities to a bridge bank, and specifies that assets and liabilities associated with a trust business may be transferred.

Under this section, a bridge bank is upon request entitled to a 45-day stay of judicial proceedings, and is also given protection against oral understandings that could erode its rights.

The FDIC may, but need not, provide a bridge bank with operating funds.

The Attorney General's antitrust review of any transaction involving the acquisition of the bridge bank may be waived if the transaction must be consummated immediately to prevent the probable failure of one of the parties.

The maximum life of a bridge bank is extended to five years from the current three.

SECTION 214. VALUATION OF CLAIMS AND REVIEW

This section adds nine new subsections to section 11 of the FDI Act, generally relating to the valuation, administrative determination, and judicial review of claims.

A. Valuation of claims

New subsection (k) sets forth the rights of creditors (other than insured depositors) of an insured financial institution in default or in danger of default when the FDIC acts other than as a nonliquidating conservator (e.g., as receiver, as liquidating conservator, or through a bridge bank). The FDIC's liability is limited to the amount the claimant would have realized from a liquidation of the institution's assets and the distribution of the net proceeds as liquidating dividends, including any proceeds actually realized for the institution's value as a going concern. Subsection (k) also clarifies that the FDIC may use its own resources to make additional payments to any claimant or category of claimants, without having to make such additional payments to other claimants. The payments may be made (1) to claimants directly, or (2) to an open insured institution to induce that institution to accept liability for claims.

Such payments must be from BIF if the institution in default is a BIF member; or from SAIF if the institution in default is a SAIF member.

B. Rulemaking: Administration determination of claims

New subsection (l) authorizes the FDIC to adopt administrative procedures for determining claims against an institution in receivership, under which a contested claim will be decided by an independent administrative law judge and that judge's decision will be subject to judicial review. This approach is intended to deal satisfactory with the statutory and constitutional issues recently analyzed by the Supreme Court in Coit Independence Joint Venture v. Federal Savings and Loan Insurance Corporation, 109 CT. 1361 (1989).

C. Limits on judicial intervention

Like current section 5(d)(6)(C) of the Home Owners' Loan Act, new subsection (m) limits judicial interference in the FDIC's conduct of a conservatorship or receivership.

D. Liability of officers and directors

New subsection (n) enables the FDIC to pursue claims against directors or officers of insured financial institutions for gross negligence (or negligent conduct that demonstrates a greater disregard of a duty of care than gross negligence) or for intentional tortious conduct. This right supersedes State law limitations that, if applicable, would bar or impede such claims. This subsection does not prevent the FDIC from pursuing claims under State law or under other applicable Federal law, if such law permits the officers or directors of a financial institution to be sued (1) for violating a lower standard of care, such as simple negligence, or (2) on an alternative theory such as breach of contract or breach of fiduciary duty.

E. Procedures applicable to certain claims

New subsection (o) makes procedural changes affecting claims by the FDIC against insured financial institutions' directors, officers, employees, and certain other parties, if the FDIC acquired the claim pursuant to section 11 or 13 of the FDI Act. For example, subsection (o) bars certain acts, errors, or omissions of the FDIC or any other Federal banking agency from being raised as defenses to such claims, and makes it clear that the liability of a director or officer for breach of fiduciary duty cannot be discharged in bankruptcy. However, although an act, error, or omission of an appropriate Federal banking agency does not allow a defendant to avoid liability for his own conduct, it may be considered when appropriate in determining whether the defendant acted negligently or improperly. For example, if the FDIC brings a malpractice claim against a bank's attorney based on advice that proved erroneous, the attorney—in seeking to demonstrate that his

advice was not negligent—would be free to show that the appropriate agency had agreed with his opinion.

F. Other provisions

New subsection (p) gives the FDIC additional time in which to pursue certain claims against persons associated with insured financial institutions. Subsections (q), (r), and (s) expedite judicial proceedings involving claims brought by the FDIC against insured financial institutions' officers, directors, attorneys, accountants, or other agents.

SECTION 215. FSLIC RESOLUTION FUND

This section transfers all assets and liabilities of the FSLIC (other than certain guarantees which are transferred to the RTC) to a separate fund to be known as the "FSLIC Resolution Fund." Although this fund will be managed by the FDIC, it must not be commingled with any other FDIC fund. The assets transferred include FSLIC's outstanding claims as subrogee of insured depositors against savings associations in liquidation. The liabilities transferred include FSLIC's outstanding obligations under assistance agreements with acquirers of failing thrift institutions.

This section insulates the FDIC and the other funds it manages from liabilities of FSLIC that are transferred to the FSLIC Resolution Fund; specifies how money (including Treasury funds if appropriated by Congress) will be provided to satisfy the fund's liabilities; grants the FDIC broad authority to manage the fund; provides for the fund to be dissolved once its liabilities are satisfied and its assets are sold; requires the FDIC to report on the fund annually; and requires an annual audit of the fund by the Comptroller General (or at the Comptroller's discretion, by an independent certified public accountant).

SECTION 216. SECONDARY RESERVE

Section 216 preserves current law relating to FSLIC's secondary reserve. Thus, for example, an insured savings association may set off its share of the reserve against its liability for deposit insurance assessments.

SECTION 217. AMENDMENTS TO SECTION 12

This section makes technical and conforming changes in section 12 of the FDI Act.

SECTION 218. AMENDMENTS TO SECTION 13

This section amends section 13 of the FDI Act.

A. Investment of funds

This section requires BIF, SAIF, and FSLIC Resolution Fund money not otherwise employed to be invested in obligations issued or guaranteed by the U.S. Government.

B. Stay of judicial proceedings

Under this section, the FDIC is entitled upon request to a 45-day stay of any action to which the FDIC becomes a party by exercising its authority under section 11 or 13 of the FDI Act.

C. Calculating the cost of assistance

Under current law, the FDIC may not provide assistance to an institution under section 13 unless it determines that such assistance will be less costly than liquidating the institution (unless the institution's continued operation is essential to the community). This section requires the FDIC, when comparing the cost of assistance with the cost of liquidation, to include in its calculations (1) any loss of Federal tax revenue resulting from the transaction to the extent such a loss can be ascertained, and (2) all of the FDIC's obligations with respect to any assistance, including contingent liabilities.

D. Net-worth certificates

This section repeals the FDIC's current authority to purchase net-worth certificates from an institution that is not federally insured, as well as a provision that treats net-worth certificates as net worth for statutory and regulatory purposes.

E. Emergency acquisitions of troubled savings associations

This section incorporates into section 13 of the FDI Act section 408(m) of the National Housing Act (repealed by the bill), which currently authorizes any company to acquire a failed or failing FSLIC-insured institution, "[n]otwithstanding any provisions of the laws or constitution of any State" or (with a few exceptions) "any provision of Federal law." This section greatly restricts the override of Federal law and makes a single exception to the override of State law. Only two provisions of Federal law may be overridden: (1) the service-corporation investment limitation in new section 5(c)(4)(B) of the Home Owners' Loan Act, but only to the extent necessary for the troubled savings association to be a subsidiary of the acquiring savings association; and (2) the Depository Institution Management Interlocks Act. Management interlocks may continue for up to 10 years.

Section 408(m)'s specific reference to a State constitution (rather than simply to "State law") is deleted as unnecessary, for under the supremacy clause of the U.S. Constitution, a Federal statute preempts any inconsistent State laws, including State constitutions and statutes. Thus new section 13(k) can be used to override all State laws (including State constitutions), with one exception: section 13(k) does not override State laws that restrict the activities of a savings association on behalf of any other entity. The intent of the prohibition is illustrated by State insurance laws. Under section 13(k), State laws prohibiting a savings association from being affiliated with an insurance company may be overridden, but not State laws that prohibit a savings association from marketing insurance products on behalf of an insurance company.

This section requires the FDIC, when acting under section 13(k), to determine that the acquisition does not present a substantial risk to the safety or soundness of the savings association to be acquired or to the acquiring institution. Thus the FDIC cannot simply consider short-term savings over the cost of liquidation when determining that the use of section 13(k) will lessen its risk.

F. Branching restrictions on certain savings associations

This section relaxes the branching restrictions applicable under section 408(m)(5) to a thrift subsidiary of a bank or bank holding company. Such a subsidiary will be able to branch to the same extent as a savings association that has its home office in the same State as the subsidiary does and is not affiliated with a bank holding company.

G. Other provisions

This section makes technical and conforming changes in section 13 of the FDI Act. For example, it extends the FDIC's assistance authority under section 13(c) of the Act to insured savings associations but specifies that payments with respect to SAIF members must be made from SAIF or with money provided by the Resolution Trust Corporation.

If an insured financial institution is in default, this section permits the institution's trusts to be transferred without judicial or other approval.

SECTION 219. BORROWING AUTHORITY

This section increases from $3 billion to $5 billion the FDIC's authority to borrow from the Treasury, and permits the FDIC to use that borrowing authority only if the Secretary of the Treasury approves and if funds have been appropriated. Funds borrowed become a liability of whichever of the separate insurance funds benefits from the borrowing.

SECTION 220. TAX LIABILITY; LIMITATION ON BORROWING

A. Liability for State and local taxes

Section 220 clarified current law by specifying that the only kind of non-Federal tax to which the FDIC is subject, in its corporate capacity or as receiver, is a tax on real property. It further specifies that if an insured financial institution fails to pay a tax, the FDIC's only obligation as receiver or conservator for the institution will be to pay the pro-rata claim for the tax. The FDIC will not be subject to any special penalties or forfeitures that might otherwise apply, such as losing a security interest in the property.

B. Limitation on borrowing

This section requires the FDIC, before issuing any note, bond, debenture, guarantee, or similar obligation, to estimate the cost of the obligation and include that cost in the FDIC's financial statements.

Neither BIF nor SAIF may incur any obligation whose estimated cost would reduce the fund's net worth below 15 percent of assets. In calculating the fund's net worth for purposes of that restriction, obligations owed to the Treasury (up to $5 billion) are disregarded, as are notes issued with the approval of the Secretary of the Treasruy in lieu of borrowing from the Treasury.

C. Full faith and credit

This section pledges the full faith and credit of the United States for payment of principal and interest on notes, debentures, bonds, guarantees, and similar obligations of BIF and SAIF.

SECTION 221. REPORTS

This section requires the FDIC to report to Congress at the beginning of each year on its operations, activities, and finances during the previous 12 months. The report should analyze the purpose, effect, estimated cost, and actual cost of each resolution action funded by BIF, SAIF, or the FSLIC Resolution Fund. The FDIC must provide annual estimates of the future resource needs of the three funds, and should include its conclusions, findings, and recommendations for any future legislative or administrative action. The FDIC is also directed to submit to the Treasury and the OMB a quarterly forecast of its financial operations.

This section also requires the FDIC to conduct three special studies. The first study, due on or before January 1, 1991, will consider whether a system of risk-based deposit insurance premiums should be adopted. If the FDIC concludes that risk-based premiums are desirable and recommends that they be adopted, it is to provide a timetable and plan for implementation.

The second study, due six months after the bill becomes law, will examine the effect on safety and soundness in the banking system of passing through deposit insurance

to individual investors in unit investment trusts or individual participants in pension plans. The study must also show how broadening deposit insurance coverage is likely to affect the capital markets.

The third study, also due six months after enactment, must be undertaken with the Justice Department and the Treasury, and must examine the structure and availability of directors' and officers' liability insurance and financial institution bonds. The report must consider various factors that may affect the availability of such insurance or bonds and the willingness of persons to serve as officers or directors of insured financial institutions. The report must also consider the effect of potential changes in those factors.

SECTION 222. REGULATIONS GOVERNING INSURED FINANCIAL INSTITUTIONS

A. Insurance logo

This section requires insured savings associations to display a deposit insurance logo (1) stating that insured deposits are "backed by the full faith and credit of the United States Government"; (2) stating that each depositor is "federally insured to $100,000"; and (3) containing a symbol of a bald eagle (similar, for example, to that on the Great Seal of the United States).

Insured banks may display either that logo or the current FDIC logo.

B. COSA's review of mergers and conversions

This section authorizes the Chairman of the Office of Savings Associations to review mergers and similar transactions under the Bank Merger Act if the acquiring or resulting institution is a savings association. This section also gives COSA similar authority over conversions from Federal to State charters.

C. Activities of Savings Associations and Their Subsidiaries

This section adds to section 18 of the FDI Act a new subsection (m), relating to the activities of insured savings associations, whether State or Federal.

1. Subsidiaries: regulatory review and enforcement; separate capitalization.—If a savings association wishes to establish a company, acquire control of a company, or conduct any new activity through a company controlled by the savings association, subsection (m)(1) requires the savings association to:

(1) notify the FDIC and COSA of the proposed transaction or activity, and provide the information required by each agency's regulations;

(2) deduct from its regulatory capital its investment in and loans to the company if the company engages as principal in any activity not permissible for a national bank; and

(3) comply with all rules, regulations, and orders of COSA relating to the company's activities.

The capital-deduction requirement does not apply if the activity in question falls within one of the exceptions in new section 5(t)(3)(B) of the Home Owners' Loan Act (added by section 301 of the bill), such as the exemption for mortgage-banking activities.

Subsection (m)(2) grants the FDIC and COSA the same powers over a company controlled by a savings association as they respectively have over the parent savings association under subsection (m) or under section 8 of the FDI Act (relating to enforcement). Subsection (m)(2) also authorizes COSA to require divestiture of the company, to restrict the company's activities, or to take other corrective measures if COSA determines that a savings association's relationship to the company (1) poses a serious risk to the savings association's financial safety, soundness, or stability; or (2) is inconsistent with sound banking principles or the purposes of the FDI Act.

2. Activities incompatible with deposit insurance.—Subsection (m)(3) authorizes the FDIC (in addition to its other authority under the subsection) to determine by regulation or order that any given activity of a SAIF-member State or Federal savings association poses a serious threat of loss to SAIF. Having made such a determination, the FDIC may prohibit any SAIF member from engaging in the activity directly. Activities permissible for Federal savings associations are not immune from scrutiny under this subsection.

3. No liability for activities conducted indirectly.—Subsection (m)(3) also bars a SAIF member from assuming liability for any activity conducted indirectly, subject to a narrow exception.

4. Other authority not affected.—The restrictions imposed and powers granted under subsection (m) are independent of those under other provisions of law. The FDIC's authority under the subsection does not limit the authority of COSA or a State charterer to impose more stringent restrictions, nor does the authority of those agencies limit that of the FDIC.

D. Prohibition against including unidentifiable intangible assets in calculating capital

This section of the bill also adds to section 18 of the FDI Act a new subsection (n), which prohibits any insured bank or insured savings association from including any unidentifiable intangible asset acquired after April 12, 1989, in calculating its regulatory capital. The only exception is for goodwill resulting from an acquisition for which the appropriate application under the Savings and Loan Holding Company Act was filed on or before March 12, 1989.

SECTION 223. INVESTMENT ACTIVITIES OF STATE SAVINGS ASSOCIATIONS

This section adds to the FDI Act a new section 28, relating to the activities of State savings associations. Section 28 has four key provisions:

(1) a prohibition against equity investments that are not permissible for a Federal savings association;

(2) a general rule relating to other State-authorized activities that are not permissible for a Federal savings association;

(3) a modified version of that rule applicable when the only difference between State and Federal powers is that a State savings association may engage in a greater amount of a given activity than can a Federal savings association; and

(4) special rules for corporate debt securities that are not of investment grade (commonly known as "junk bonds").

An activity is not permissible for a Federal savings association for purposes of section 28 if, for example, it is impermissible for a Federal savings association under regulations prescribed by the Chairman of the Office of Savings Associations pursuant to section 5(c) of the Home Owners' Loan Act. Section 5(c) permits a Federal savings association to engage in various activities, but only "to such extent, and subject to such rules and regulations as the Chairman may prescribe from time to time."

A. General rule

Subsection (a) prohibits a State savings association from engaging as principal, after January 1, 1990, in any type of activity that is not permissible for a Federal savings association unless both parts of the following two-part test are satisfied:

(1) the FDIC has determined that the activity in question would pose no significant risk of loss to the deposit insurance fund of which the savings association is a member; and

(2) the savings association has enough capital to meet the fully phased-in capital standards prescribed under section 5(t) of the Home Owners' Loan Act (section 301 of the bill).

The "fully phased-in capital standards" are those that will apply after any phase-in periods in either (1) the capital standards for savings associations, or (2) the capital standards for national banks (as the standards for savings associations are keyed to those for national banks). Under section 5(t)(4), the standards for savings associations must be fully implemented by June 1, 1991. The risk-based standards for national banks are scheduled to rise from 7.25 percent to 8.0 percent on December 31, 1992. 54 Fed. Reg. 4168, 4182 (1989). Section 5(t)(3), in requiring that certain subsidiaries be separately capitalized, provides a phase-in schedule that ends on June 30, 1994. Thus, for purposes of section 28, the fully phased-in capital standards are those that will apply to all thrift institutions once all such phase-in periods have expired.

Subsection (a) does not apply to activities that a savings association engages in only as its customer's agent, for such activities generally pose little risk of loss to the deposit insurance fund. Such activities could, however, be restricted under other provisions of law, such as new section 18(m)(3) of the Federal Deposit Insurance Act (added by section 222(4) of the bill), which authorizes the FDIC to prohibit any activity found to pose a serious threat of loss to SAIF.

B. Differences of magnitude

Subsection (b) applies when an activity is permissible for a Federal savings association and a State savings association seeks to engage in that activity in an amount greater than that permissible for a Federal savings association. Under subsection (b), the State savings association may engage in that higher amount of the activity so long as both parts of the following two-part test are satisfied:

(1) the FDIC has *not* determined that engaging in that higher amount of the activity would pose any significant risk of loss to the deposit insurance fund; and

(2) the savings association has enough capital to meet the fully phased-in capital standards prescribed under section 5(t) of the Home Owners' Loan Act.

The second part of the test (relating to capital) is identical to that under subsection (a). The first part (relating to risk) differs from that under subsection (a) in that it does not require a *prior* determination by the FDIC on the issue of risk: it is sufficient that the FDIC has *not* determined that the higher amount of the activity permitted by the State poses a significant risk of loss to the deposit insurance fund.

Subsection (a) applies to activities conducted after January 1, 1990.

Subsection (b) does *not* apply to three types of investments that are dealt with under other subsections of section 28:

(1) shares of corporations that exceed the amount permissible for a Federal savings association, which are governed by subsection (a);

(2) nonresidential real-estate loans, which are also governed by subsection (a); and

(3) junk bonds, which are governed by subsection (d).

C. Prohibition against equity investments

Effective as soon as the bill becomes law, subsection (c) prohibits a State savings association from acquiring or retaining any equity investment of a type or in an amount that is not permissible for a Federal savings association to acquire and retain directly. The prohibition applies to equity investments in real estate, investments in equity securities, and any other equity investment. In applying subsection (c), Federal regulators should look to the substance of the investment and not merely to the form. Any transaction that is in substance an equity investment is covered by subsection (c), even if the transaction is nominally a loan or other permissible transaction.

There is a limited exception for shares of service corporations. Such shares must, however, meet the two-part test of subsection (a) if either (1) the aggregate amount of the savings association's investment in service corporations exceeds that permissible for a Federal savings association; or (2) the service corporation engages in any activity that is not permissible for a service corporation of a Federal savings association. By the same token, subsection (c) does not restrict investments in service corporations that are permissible for a Federal savings association.

A State savings association must divest itself of any equity investment that is not permissible either (1) for a Federal savings association directly or (2) under the exception for shares of service corporations. Any such investment held when the bill becomes law must be divested as quickly as can be prudently done, as determined by the FDIC, and in any event not later than July 1, 1994. No such investment may be acquired after the bill becomes law.

Subsection (c) overrides subsections (a) and (b). Thus those subsections cannot be used to circumvent subsection (c).

D. Corporate debt securities that are not of investment grade

Subsection (d) contains a modified version of subsection (a) applicable to investments in junk bonds (i.e., corporate debt securities that are not rated in one of the four highest rating categories by at least one nationally recognized statistical rating organization), as well as a special rule for junk bonds held through subsidiaries.

1. General rule.—Under subsection (d)(1), a State savings association may not, directly or through a subsidiary, acquire or retain more in junk bonds than it could acquire directly if it were a Federal savings association with the same portfolio of commercial loans and other investments, unless:

(1) the FDIC has determined that no significant risk of loss to the deposit insurance fund would be posed if the savings association held the amount of junk bonds in question; and

(2) the savings association has enough capital to meet the fully phased-in capital standards prescribed under section 5(t) of the Home Owners' Loan Act, or would have enough capital to meet those standards if it were not required to exclude junk bonds from its capital pursuant to subsection (d)(4).

This two-part test differs from that of subsection (a) in that the savings association may satisfy the second part (relating to capital) by including in its capital certain investments by its subsidiaries in junk bonds, even though subsection (d)(4) generally requires that such investments be excluded from capital.

As subsection (d)(1) applies to investments made "directly or through a subsidiary," the junk-bond investments of the savings association are aggregated with those of its subsidiaries. The two-part test must be satisfied for the aggregate amount to exceed the amount that the savings association could acquire directly if it were a Federal savings association (taking all other relevant facts into account, such as the amount of the association's outstanding commerical loans).

2. Review procedures for existing investments.—Subsection (d)(1) takes effect as soon as the bill becomes law, but junk bonds held on the date of enactment may be retained for 12 months. Under subsection (d)(2), a State savings association must file an application with the FDIC within 90 days after the bill becomes law if the savings association wishes to retain junk bonds in an amount greater than what it could acquire directly if it were a Federal savings association. The FDIC must act on such applications within 10 months after the bill becomes law.

In acting on the applications, the FDIC must apply the two-part test of subsection (d)(1), with one narrow exception: a savings association may satisfy the second part of that test (relating to capital) by convincing the FDIC that it *will* have enough capital to meet the fully phased-in capital standards within a reasonable time (not to exceed six months) after the FDIC's decision, even if the savings association does not meet those standards at the time of that decision. In applying the first part of the test (relating to risk), the FDIC should consider, among other relevant factors, the risks of and returns on the junk bonds, the savings association's capital ratios, and the savings association's management expertise and past performance on such investments.

In approving an application, the FDIC may impose any conditions it determines to be appropriate in light of the two-part test in subsection (d)(1). Thus if the FDIC determines that part of a savings association's junk-bond portfolio poses a significant risk of loss to the deposit insurance fund, the FDIC could require that part to be sold, separately capitalized, transferred to a separately capitalized subsidiary, or otherwise restricted.

Subsection (d)(3) provides a divestiture schedule that will apply to the extent that the FDIC does not permit a savings association to retain junk bonds in an amount greater than what the savings association could acquire directly if it were a Federal savings association.

3. Separate capital requirement for certain junk bonds held through subsidiaries.—New section 5(t)(3) of the Home Owners' Loan Act generally requires a subsidiary of a thrift institution to be separately capitalized if it engages as principal in any activity not permissible for a national bank. But subsection (d)(3) of section 28 creates a special rule for junk bonds, applicable in place of section 5(t)(3).

Under section 5(t)(3), if a State savings association holds junk bonds through a subsidiary and the aggregate amount of such bonds held by the savings association and its subsidaries exceeds the amount that the savings association could require directly if it were a Federal savings association, then the excess amount is not counted as part of the savings association's capital (unless the FDIC, in approving an application under subsection (d)(1) or (d)(2)), has authorized the savings association to count the excess amount as part of its capital).

E. Determination by regulation or order

Determinations under section 28 may be made by regulation or order.

F. Definition of "activity"

As used in section 28, "activity" includes acquiring or retaining any investment. However, subsections (a) and (b) do not require a savings association to divest itself of assets acquired before the bill became law (although divestiture may be required by subsection (c) or (d), as discussed above).

G. Other authority not affected

Section 28 does not limit any authority of the FDIC under other provisions of law, such as new section 18(m)(3) of the Federal Deposit Insurance Act. Likewise, section 28 does not restrict any authority of COSA or of a State to impose more stringent restrictions.

SECTION 224. LOAN-TO-VALUE RATIOS

This section sets minimum collateral standards for loans secured by real estate, so that such a loan will not exceed a specified percentage of the appraised value of the collateral. The percentage varies with the riskiness of the collateral. Loans secured by the most stable collateral, homes, may be made in an amount up to 95 percent of the appraised value of the property. Loans secured by the most risky collateral, raw land to be developed, may be made in an amount up to 65 percent of the appraised value. Exceptions are made for loans to active farming operations and loans guaranteed by a Federal agency. The appropriate Federal banking agency may, for reasons of safety and soundness, increase or decrease the ratios.

SECTION 225. NONDISCRIMINATION

This section affirms that the FDI Act is not intended to discriminate against State nonmember banks or State savings associations. This statement of purpose does not impair the FDIC's authority under other provisions of law (e.g., its authority under section 222 of the bill to restrict activities of a State savings association that pose a serious risk of loss to the deposit insurance fund).

SECTION 226. BROKERED DEPOSITS

Under this section, an insured financial institution may not accept any new deposits by or through a deposit broker if the FDIC has determined that the institution is not in compliance with its applicable capital standards. The FDIC may waive this restriction for a given institution if it finds that acceptance of brokered deposits by that institution would not constitute an unsafe or unsound practice.

SECTION 227. CONTRACTS BETWEEN FINANCIAL INSTITUTIONS AND PERSONS PROVIDING GOODS, PRODUCTS OR SERVICES

Under this section, an insured financial institution or financial institution holding company may not enter into any contract that requires a person supplying goods or services to that institution or holding company also to purchase any asset of the institution or holding company (if the asset is not directly related to providing such goods or services), to invest in the stock of the in-

stitution or holding company, to make any other type of investment in the institution or holding company, or to make a deposit in that institution or an affiliated institution. However, the prohibition applies only if the purchase, investment, or deposit (1) would have an anticompetitive effect that would be prohibited under the antitrust laws, or (2) would adversely affect the safety or soundness of the financial institution or holding company involved (as determined by the appropriate Federal banking agency). Thus, for example, a financial institution that contracts to sell a vendor an asset at a price above market value in exchange for a long-term service contract on terms favorable to the vendor, would be in violation of the prohibition if the appropriate Federal banking agency determined that the contractual terms were intended to artificially inflate the institution's capital and would thus adversely affect the institution's safety or soundness. This section creates no private right of action.

This section requires the General Accounting Office to study the contracting practices prevailing between vendors and insured financial institutions and holding companies and the extent to which such contracts have been used to erode the financial integrity of such institutions and holding companies, and to report to the House and Senate Banking Committees within six months after the bill becomes law.

This section does not limit the authority of any Federal banking agency or any other unit of the Government to act against anticompetitive, unsafe, or unsound practices.

TITLE III—CHAIRMAN OF THE OFFICE OF SAVINGS ASSOCIATIONS

SECTION 301. RECODIFICATION OF THE HOME OWNERS' LOAN ACT OF 1933

The bill dissolves the Federal Home Loan Bank Board and the Federal Savings and Loan Insurance Corporation, transfers to the Chairman of the Office of Savings Associations (the "Chairman" or "COSA") most of the regulatory authority over savings associations and savings and loan holding companies heretofore possessed by the Bank Board and FSLIC, repeals title IV of the National Housing Act (relating to FSLIC and its regulatory authority), and transfers to the Home Owners' Loan Act of 1933 ("HOLA") many of the provisions currently in title IV.

To facilitate these and other changes, this section reenacts the Home Owners' Loan Act. Under the new Act, COSA charters Federal savings associations and is the primary Federal regualtor of all savings associations and savings and loan holding companies.

A. Definitions

1. Chairman.—New section 2(1) of the Home Owners' Loan Act defines "Chairman" as the Chairman of the Office of Savings Associations.

2. Savings association.—Under new section 2(2), "savings association" has the same meaning as in section 3(u) of the FDI Act: (1) an institution whose accounts were insured by FSLIC immediately before the bill became law (and that has not subsequently become a bank); (2) a Federal savings and loan asociation or Federal savings bank; (3) a State savings and loan association, building and loan association, or homestead association; and (4) any other corporation that the FDIC determines to be operating in substantially the same manner as a savings and loan association.

3. Federal savings association.—New section 2(3) defines "Federal savings association" to include a Federal savings bank that was previously chartered as a State savings bank and that became a Federal savings bank under section 5(o), even if the institution is a Bank Insurance Fund member.

4. Federal banking agencies.—Under new section 2(4), "Federal banking agencies" means the Office of the Comptroller of the Currency, the Federal Reserve Board, and the FDIC.

B. Supervision of savings associations

1. Supervision of savings associations.—New section 3(a) authorizes the Chairman to provide for the examination, safe and sound operation, and regulation of all savings associations. The overriding purpose of the Chairman's regulatory authority is to ensure that savings associations operate safely and soundly and, while so doing, provide credit for housing.

2. Accounting standards.—New section 3(b) requires the Chairman to prescribe uniform accounting and disclosure standards for all savings associations, for use in determining compliance with all applicable regulations. The accounting standards must incorporate generally accepted accounting principles to the same extent that such principles are used to determine compliance with regulations of the Federal banking agencies. Under new section 3(c), moreover, the accounting standards must be no less stringent than those of the Comptroller of the Currency.

The Chairman should require savings associations to achieve full compliance with the accounting standards as soon as possible, but in no event later than under the schedule currently provided in section 563.23-3 of title 12, Code of Federal Regulations. No deviation from the standards is permissible after December 31, 1993. The Chairman may at any time promulgate more stringent accounting standards if he determines that they are necessary to ensure the safe and sound operation of savings associations. A standard is more stringent to the extent that it is more conservative in valuing assets or liabilities or in timing the recognition of income or expenses.

3. Stringency of standards.—Under new section 3(c), all regulations and policies of COSA relating to the safe and sound operation of savings associations—including policies relating to accounting, asset classification, and appraisals—must be at least as stringent as the regulations and policies of the Office of the Comptroller of the Currency.

4. Accounts at savings associations as legal investments.—New section 3(d) preserves current law permitting certain public, fiduciary, and corporate funds to be deposited in insured savings associations.

5. Prohibition on involvement in lotteries.—New section 3(e) preserves current law prohibiting insured savings associations from participating in lotteries (other than accepting funds from, or performing lawful services for, State-sponsored lotteries).

6. Lending disclosures.—Section 3(f) retains the current requirement that the true recipient of a mortgage loan be disclosed before any such loan is made to an agent or trustee.

7. Usury override.—Current law overriding State usury limits under certain circumstances is transferred into new section 3(g) from the National Housing Act. The transfer in no way changes current law.

8. Issuance of securities.—Under new section 3(h), a savings association needs the Chairman's prior approval to issue securities that guarantee a definite maturity date, and may not issue any securities except in a form approved by the Chairman. The National Housing Act currently contains a similar provision.

9. Audit.—Section 3(i) creates a new statutory requirement that every savings association and service corporation must, at its own expense, be audited by an independent auditor at least once in each calendar year. COSA is to establish rules governing the selection of the auditor and the performance of the audit, as well as procedures for monitoring compliance with the auditing requirement. COSA may take appropriate action to assure compliance, such as requiring the auditor to perform the audit again at the auditor's own expense.

C. Chairman of the Office of Savings Associations

1. Establishment.—Section 4(a)(1) establishes COSA as a bureau in the Department of the Treasury, and transfers to COSA all powers and functions of the Bank Board that are not otherwise transferred or terminated by the bill. Sixty days after the bill becomes law, the Federal Home Loan Bank Board will be dissolved by operation of law. During that 60-day period, the Chairman of the Bank Board may take whatever steps are necessary to carry out the dissolution of the Bank Board.

2. Duties.—Under section 4(a)(2), the Chairman of the Office of Savings Associations shall supervise all savings associations and promulgate and enforce any regulations and orders necessary to carry out his statutory responsibilities. The Chairman shall perform his duties under the general direction of the Secretary of the Treasury, but the Secretary may not intervene in any matter or proceeding before the Chairman.

3. Appointment of Chairman.—Under section 4(b), the Chairman shall be appointed by the President for a five-year term, subject to confirmation by the Senate. The President may remove the Chairman for cause.

The current Chairman of the Federal Home Loan Bank Board is to serve as the initial Chairman of the Office of Savings Associations until his term as Chairman of the Bank Board would have expired had the Bank Board remained in existence.

4. Appointment of staff.—Section 4(c) authorizes the Chairman to employ and fix the compensation of his employees, attorneys, and agents. That compensation is to be determined solely by the Chairman, without regard to other provisions of law. In fixing that compensation, the Chairman shall consult, and seek to maintain comparability with the compensation at, the other Federal banking agencies. COSA and the other agencies should use such flexibility not to enter into a bidding war for other agencies' employees, but rather for all agencies to maintain comparable compensation at levels sufficient to attract and retain employees with specialized expertise needed to make sure that federally insured financial institutions operate safely and soundly.

5. Salaries and expenses.—Under section 4(d), all expenses of COSA, including the salaries of the Chairman and other employees, are to be paid from assessments levied under the Home Owners' Loan Act. Those funds shall not be treated as Government funds or appropriated monies. Compensation (other than that of the Chairman)

shall be paid without regard to other laws applicable to officers or employees of the United States.

6. Annual report and communications to Congress.—Section 4(f) requires the Chairman to make an annual report to Congress.

Under section 4(g), whenever the Chairman submits any budget estimate or request to any officer or employee in the executive branch of the Government, he shall concurrently transmit copies of that estimate or request to Congress. Whenever the Chairman submits any legislative recommendation to the President or to the Office of Management and Budget (or any successor agency), he shall concurrently transmit copies of it to Congress. No officer or agency may require the Chairman to submit legislative recommendations or testimony to any other officer or agency for prior approval, comments, or review.

D. Liquidity

Under section 5A of the Federal Home Loan Bank Act, insured savings institutions and other members of a Federal home loan bank are currently required to hold certain liquid assets in the manner and amount prescribed by the Federal Home Loan Bank Board. New section 4A of the Home Owners' Loan Act retains this requirement, applies it to all savings associations, and substitutes COSA for the Bank Board.

E. Federal savings associations

1. Authority to charter.—New section 5(a) transfers to COSA the Bank Board's current authority to charter, examine, and regulate Federal savings associations. Current law is also amended to emphasize that the lending and investment powers conferred on Federal savings associations by section 5 must be used safely and soundly.

2. Deposits.—New section 5(b)(1) preserves the current authority of Federal savings associations to accept various types of accounts, including time and demand deposits. COSA, rather than the Bank Board, is to prescribe the appropriate rules governing those accounts.

3. Authority to borrow and issue capital stock.—New section 5(b)(2) preserves current law authorizing Federal savings associations to borrow and to issue notes and other securities (including capital stock), with COSA rather than the Bank Board as the regulator.

4. Credit cards.—New section 5(b)(4) retains current law permitting Federal savings associations to issue credit cards, with COSA rather than the Bank Board prescribing regulations.

5. Mutual capital certificates and net-worth certificates.—New section 5(b)(5) preserves current law regarding mutual capital certificates and net-worth certificates, with COSA rather than the Bank Board as the regulator.

6. Loans and investments.—Current law governing loans and other investments permissible for a Federal savings association is retained by new section 5(c), with the following changes:

(a) *COSA*, rather the Bank Board, is the regulator.

(b) A Federal savings association may currently devote up to 40 percent of its assets to *loans secured by nonresidential real property*, regardless of whether the association has any capital. Under new section 5(c) such loans may not, in the aggregate, exceed 400 percent of the savings association's capital. COSA is given limited discretion to allow such loans to account for a higher proportion of a savings association's capital. COSA must, however, find that the additional amount will pose no significant risk to the safe or sound operation of the institution involved, and that the increased authority is consistent with prudent operating practices. If an institution is permitted to exceed the 400-percent limit, COSA must closely monitor the institution's condition so as to ensure compliance with all applicable laws.

(c) Obsolete language authorizing Federal savings associations to make a limited amount of *commercial loans* before 1984 is deleted, and the current authority of a Federal savings association to devote up to 10 percent of its assets to commercial loans is retained.

7. Regulatory authority.—New section 5(d) transfers to COSA the Bank Board's current authority to enforce the Home Owners' Loan Act, including authority to retain outside counsel, to sue and be sued, and to examine savings associations. The section specifically authorizes COSA to take enforcement action under section 8 of the Federal Deposit Insurance Act, and also incorporates the authority to examine savings associations and their affiliates that is currently in section 407(m) of the National Housing Act. COSA is entitled to prompt and complete access to the books, records, officers, directors, and employees of a savings association and its affiliates. If such access is not forthcoming, COSA may obtain injunctive relief from the appropriate district court.

8. Receiverships.—New section 5(d)(2)(A) of the Home Owners' Loan Act adds three additional grounds of the appointment of a conservator or receiver for a Federal savings association. Two of these are included in the term "in danger of default," as defined in section 3 of the FDI Act (section 204 of the bill): illiquidity or threatened illiquidity, and threatened insolvency. The third ground is failure to obtain a bank charter when required to do so after failing the qualified thrift lender test.

New section 5(d)(2) (C) and (E) incorporates with amendments former section 406(c)(1)(B) of the National Housing Act, which deals with the appointment of a conservator or receiver for a State savings association. The amendments permit a conservator or receiver to be appointed in cases of illiquidity, threatened illiquidity, or threatened insolvency. The amendments also reduce from 90 days to 30 days the period during which COSA must seek State approval for the custodial action.

New section 5(d)(2)(G) of HOLA specifies that only the FDIC may be appointed conservator or receiver to liquidate or wind up the affairs of a savings association.

Regulations issued by the COSA under new section 5(d)(3) will not apply to the FDIC or institutions in the FDIC's custody once the FDIC issues rules and regulations relating to its own conduct as conservator and receiver (section 214 of the bill).

9. Money laundering.—New section 5(d)(6) consolidates provisions of current law requiring insured savings associations to establish procedures designed to assure and monitor compliance with money-laundering statutes.

10. Character and responsibility.—New section 5(e) preserves current law allowing a Federal charter to be granted only to persons of good character and responsibility.

11. Federal home loan bank membership.—New section 5(f) preserves current law requiring each Federal savings association to be a member of the appropriate Federal home loan bank.

12. Preferred shares.—New section 5(g) repeals obsolete provisions permitting the Secretary of the Treasury to purchase preferred shares of Federal savings associations, and authorizing the Bank Board to require the Secretary to purchase such shares under certain circumstances.

13. Taxation.—New section 5(h) maintains Federal savings associations' current exemption from discriminatory State and local taxation.

14. Conversions.—Under current law, a qualified State savings association may become a Federal savings association, and a Federal savings association may become a State savings association if the conversion is permitted by the State and authorized by the association's shareholders or members. Mutual savings associations that become stock savings associations must comply with procedures intended to ensure equitable treatment for all members of the mutual association.

New section 5(i) preserves these provisions, with COSA rather than the Bank Board as the regulator.

15. Conversions of State savings banks into Federal savings banks.—Under section 5(i)(5), the Bank Board may currently permit: (1) a Federal savings bank chartered as such before October 15, 1982, to continue to make investments or engage in activities that were permissible for it as a Federal savings bank before that date; and (2) a Federal savings bank formerly organized as a mutual savings bank under State law to continue to make investments or engage in activities not otherwise authorized for Federal savings associations, to the degree it was authorized to do so as a mutual savings bank under State law. If a Federal savings association acquires (by merger or consolidation) a Federal savings bank enjoying the benefits of section 5(i)(5), the savings association may continue to enjoy those benefits.

New section 5(i)(4) retains those provisions, with COSA rather than the Bank Board as the regulator. COSA should make full use of its authority to circumscribe or prohibit any grandfathered activities that pose excessive risks to the institution in question or to the pertinent deposit insurance fund. This seciton in no way affects the FDIC's authority under sections 222 and 402(e) of the bill.

16. Subscription for shares.—New section 5(j) repeals an obsolete provision under which the Bank Board could require the Secretary of the Treasury to purchase certain shares of a Federal association.

17. Depository of public money.—New section 5(k) preserves current law permitting the Secretary of the Treasury to designate any Federal savings association or member of a Federal home loan bank as a depository of public funds and as a fiscal agent for the Government, and expands that provision to include insured State savings associations that are not members of a Federal home loan bank.

18. Retirement accounts.—New section 5(l) retains existing authority for a Federal savings association to act as trustee of any trust organized in the United States and forming part of a qualified stock-bonus, pension, or profit-sharing plan.

19. Branching.—New section 5(m) preserves current law requiring prior Bank Board approval either for branching by savings associations located in the District of Columbia, or for branching into the District of Columbia. COSA, rather than the Bank Board, is the regulator.

20. Trusts.—New section 5(n) preserves current law, under which a Federal savings association may receive a special permit (when consistent with State law) authorizing the association to provide trust services and otherwise act as a fiduciary.

21. Conversion of certain State savings banks.—Section 5(o) currently authorizes FDIC-insured State savings banks to become FDIC-insured Federal savings banks. The FDIC is also granted certain emergency powers to require an FDIC-insured savings bank in danger of closing to become a Federal stock savings bank.

New section 5(o) provides similar authority for a BIF-member State savings bank to become a BIF-member Federal savings bank, and for the FDIC to require a State savings bank in danger of closing to become a Federal stock savings bank.

22. Tying.—New section 5(q) consolidates anti-tying restrictions on Federal and State savings associations—which are currently in section 408(q)(1) of the National Housing Act as well as in section 5(q)—and makes COSA the regulator.

23. Out-of-State branches.—New section 5(r) retains current law regarding out-of-State branching by Federal savings associations.

24. Minimum capital requirements.—Under current law, the Bank Board must establish minimum capital standards for all thrift institutions and require all institutions to meet those standards. The Bank Board may also establish different capital levels for particular institutions. Failure to comply may be treated as an unsafe or unsound practice. The Bank Board may require an institution to submit and adhere to a plan for increasing its capital. Progress in complying with the plan is to be considered whenever the institution seeks regulatory approval for any action that might impede progress towards achieving the required capital level. New section 5(s) preserves these provisions, but with COSA rather than the Bank Board as the regulator. Under section 5(s), COSA can require a given institution to meet capital standards more stringent than the uniform standards prescribed under section 5(t).

25. Capital standards.—New section 5(t)(1) requires COSA to establish capital standards for all savings associations, and provides penalties for any association that fails to comply with those standards.

(a) Capital standards to be promulgated by COSA.—New section 5(t)(1) requires COSA to promulgate, within 90 days after the bill becomes law, final regulations setting uniform capital standards for savings associations, which must be fully implemented by June 1, 1991. The standards must be no less stringent than those applicable to national banks, and must require savings associations to meet standards no less stringent than both the "leverage ratio" and the risk-based capital standard applicable to national banks. The "leverage ratio" refers to capital requirements based on an institution's total assets without any adjustment based on the relative risk of the asset.

The risk-based capital standard refers to the capital requirement based on an institution's risk-weighted assets.

COSA's risk-based capital standard may deviate from that imposed on national banks to reflect interest rate or other risks, but any such deviations must not, taken as a whole, result in materially lower risk-based capital being required of savings associations than is required of national banks.

The leverage ratio applicable to savings associations must be no less stringent than that applicable to national banks, and must in any event be at least 3 percent of total assets, even if the leverage ratio applicable to national banks is some lesser percentage.

Finally, if the appropriate Federal banking agency ceases to impose risk-based capital standards on national banks, COSA must establish uniform capital standards that, taken as a whole, are no less stringent than the capital standards then applicable to national banks.

(b) Goodwill.—New section 5(t)(2) permits a savings association to include certain goodwill to a limited extent in computing capital—both under the risk-based standard and under the leverage ratio—even if national bank capital standards would exclude such goodwill.

In accounting for the acquisition of an institution under the purchase method of accounting, goodwill represents the amount by which the purchase price exceeds the fair market value of the institution's identifiable assets. As the Comptroller of the Currency has observed, "The true market value of [goodwill and other] intangible assets is often difficult to ascertain, as it involves a number of assumptions which are subject to changes in general economic circumstances or to changes in an individual institution's future prospects. Experience has shown that the value of many intangibles declines when the condition of a bank deteriorates, the most critical point at which capital is needed. It is because of this inherent weakness in the value of certain intangibles that goodwill . . . cannot be relied upon for capital support, and therefore [is] not counted in the determination of capital adequacy."

Goodwill shall be included under two circumstances. First, goodwill in existence on April 12, 1989, is to be included in calculating capital so long as the goodwill will be amortized on a straightline basis over the shorter of 25 years, or the remaining period for amortization in effect as of April 12, 1989. Second, goodwill resulting from the acquisition of a savings association or holding company for which the pertinent regulatory application was filed on or before March 12, 1989, shall be counted incalculating capital, so long as the goodwill is amortized on a straightline basis over 10 years or such shorter period as may be determined by COSA with the concurrence of the Secretary of the Treasury.

Every savings association must maintain tangible capital (excluding, e.g., goodwill) equal to at least 1.5 percent of the association's total assets. Any savings association that fails to do so is subject to consequences such as the growth restrictions of new section 5(t)(5) (discussed below).

(c) Separate capitalization for certain subsidiaries.—In computing a savings association's capital, the savings association's entire investment in and extensions of credit to any subsidiary engaged as principal in activities not permissible for a national bank must be deducted from the savings association's capital. This rule, set forth in new section 5(t)(3), does not apply under the following circumstances:

(1) the subsidiary is engaged solely in mortgage-banking activities;

(2) the subsidiary is itself a savings association, or a company whose sole investment is a savings association, and was acquired by the parent savings association before April 12, 1989;

(3) the subsidiary invests in corporate debt securities that are not permissible for national banks to invest in, but does not engage as principal in any other activity impermissible for a national bank; or

(4) the parent savings association (a) is a Federal savings bank that was chartered before October 15, 1982, as a State savings bank, or (b) acquired its principal assets from an institution that was chartered before October 15, 1982, as a State savings bank.

(d) Transition rule.—If a subsidiary is engaged in activities requiring the parent savings association to deduct from its capital its investment in and loans to the subsidiary, new section 5(t)(4) provides a transition rule. Under the rule, the parent may include in its computation of capital a certain percentage of its investments in and loans to the subsidiary on the date for which the parent's capital is being determined (or its investments in and loans to the subsidiary on April 12, 1989, whichever is less). The includible percentage declines each year over a five-year period so that after five years no such investment or loan may be included. Moreover, the FDIC may, by order, and in its sole discretion, require a particular institution to use a lower percentage than prescribed under the five-year phase-out if the FDIC determines that using the prescribed percentage would be unsafe or unsound.

(e) Schedule.—The capital standards mandated by section 5(t) must be fully implemented by June 1, 1991, and COSA should prescribe a phase-in schedule culminating in full implementation by that date.

(f) Restrictions on growth.—New section 5(t)(4) imposes certain consequences on savings associations that do not meet the capital standards applicable under section 5(t)(1). Until June 1, 1991, any institution not in compliance with applicable capital standards must submit a binding plan for increasing its capital. The plan must be acceptable to COSA, must set forth the types and levels of activities that the savings association will engage in to raise capital, and must provide for any growth in assets to be fully supported by increases in tangible capital equal in percentage amount to the applicable capital standard. COSA will retain discretion to further restrict the savings association's asset growth.

After June 1, 1991, asset growth by any savings association not in compliance with applicable capital standards must not exceed the amount of interest credited on the savings association's deposits, and must be limited to growth in residential-housing-related assets and consumer loans. Any growth in assets must be supported by tangible capital equal to at least 6 percent of the asset growth (or in COSA's discretion, tangible capital equal to the percentage required under the capital standard then in effect).

Any savings association that can meet minimum capital standards only by including goodwill must support any growth in assets by increases in tangible capital: before June 1, 1991, by tangible capital equal in percentage amount to the then-applicable capital standards; and after June 1, 1991, by tangible capital in an amount equal to 6 percent of the asset growth (or in COSA's discretion, tangible capital equal to the percentage required under the capital standard then in effect).

Finally, COSA may restrict the asset growth of any savings association that takes excessive risks or pays excessive rates for deposits, even if the savings association meets all capital standards.

26. Limits on loans to one borrower.—New section 5(u) generally makes savings associations subject to the same limit on loans to one borrower as apply to national banks.

The limits are incorporated by reference, and are self-executing.

A national bank's loans to one borrower are limited by statute to 15 percent of the bank's unimpaired capital and unimpaired surplus, except that loans to a given borrower "fully secured by readily marketable collateral having a market value, as determined by reliable and continuously available price quotations, at least equal to the amount of the funds outstanding" may account for an additional 10 percent of the bank's unimpaired capital and unimpaired surplus.

New section 5(c) exempts from the general rule two classes of loans by savings associations: (1) loans made to finance the sale of property that a savings association acquired by foreclosure in satisfaction of a debt previously contracted in good faith, which may be as much as 50 percent of the savings association's unimpaired capital and unimpaired surplus; and (2) loans of up to $500,000. The $500,000 exception is intended to facilitate residential mortgage loans.

27. Reports of condition.—Under new section (5)(v), every savings association must submit reports of condition that identify potential interest-rate and credit risks, the type and value of assistance received, the identity of all subsidiaries and affiliates, and equity investments made by the association and its affiliates, as well as any other information required by COSA. Information from the reports must be made available to the public upon request unless COSA determines (1) that a particular item or class of information should be withheld to protect the safety or soundness of the institutions involved, or (2) that disclosure of the information would not otherwise be in the public interest. COSA's determination not to permit disclosure must be in writing. If COSA decides to restrict disclosure of any item for savings associations generally, the reasons for the restriction must be published in the Federal Register. COSA may not withhold information from the Chairman and ranking minority member of the House or Senate Banking Committee.

F. Applicability

New section 7 preserves current law applying the Act to the United States, Puerto Rico, Guam, and the Virgin Islands.

G. District associations

New section 8 preserves current law governing the regulation of savings associations doing business in the District of Columbia, with COSA rather than the Bank Board as the regulator.

H. User fees; penalty for refusal to permit examination

New section 9 authorizes COSA to assess examination fees on savings associations and affiliated companies, including holding companies and their subsidiaries. COSA may also charge application fees. Moreover, fees may be assessed on any other institution for which COSA is the appropriate Federal regulatory agency (as defined in section 3 of the FDI Act), in proportion to the institution's assets or resources.

If any affiliate of a savings association refuses to permit an examination or to provide information requested by COSA, the savings association shall be subject to a civil penalty of up to $25,000 per day for each day that such refusal continues. A violation made with reckless disregard for the safety or soundness of the financial institution subjects the savings association to a civil penalty of up to $1 million per day.

To permit COSA to maintain a working capital fund, fees charged under this section may exceed actual expenses. Fee and assessment income may be used to pay all of COSA's salary expenses.

I. Regulation of savings and loan holding companies

Section 408 of the National Housing Act, also known as the Savings and Loan Holding Company Act, is transferred to section 10 of the Home Owners' Loan Act.

1. Definitions.—The definitions currently found in section 408(a) are reenacted as section 10(a) of the Home Owners' Loan Act, and amended to take into account the abolition of FSLIC, the FDIC's new role as deposit insurer for savings associations, and the establishment of COSA, and to make corresponding changes in terminology.

2. Registration and examination.—New section 10(b) preserves current law governing the registration and examination of savings and loan holding companies, with COSA rather than FSLIC as the regulator.

3. Holding company activities.—New section 10(c) generally preserves current law regarding savings and loan holding company activities. New section 10(c)(8) exempts from the activity restrictions of the Savings and Loan Holding Company Act any bank holding company regulated as such by the Federal Reserve Board, for the Bank Holding Company Act already stringently limits such a company's activities.

4. Acquisitions.—A savings and loan holding company must currently obtain FSLIC's prior approval before acquiring an additional savings association, and may not acquire shares of a savings institution that will not be a subsidiary. Interstate acquisitions of savings institutions are restricted. Section 10(e) preserves these provisions, with COSA instead of FSLIC as the regulator. Section 602 of the bill makes other substantive changes in these provisions, as will be discussed below.

5. Dividends.—Under current law, a savings association subsidiary of a savings and loan holding company may not declare a dividend without giving FSLIC 30 days advance notice. This provision becomes section 10(f) of the Home Owners' Loan Act, with COSA as the regulator.

6. Administration and enforcement.—Current provisions authorizing FSLIC to issue regulations, examine savings and loan holding companies and affiliated companies, and take enforcement action (including requiring holding companies to divest subsidiaries) become section 10(g) of the Home Owners' Loan Act, with COSA as the regulator.

7. Penalties.—Any company that willfully violates any provision of the Savings and Loan Holding Company Act or any regulation or order issued under the Act may be fined up to $1,000 per day. Any individual who willfully commits such a violation may be fined up to $10,000, imprisoned for up to one year, or both.

Under new section 10(i) of the Home Owners' Loan Act, any company that willfully commits such a violation may be fined up to $1 million per day. Any individual who, with reckless disregard for the safety and soundness of the savings association, participates in such a violation may be fined up to $1 million per day, imprisoned for up to 5 years, or both.

Any individual or company that willfully participates in a violation of any statutory provision governing savings and loan holding companies, or any regulation or order issued under such a provision, is subject to a civil penalty of up to $1 million per day. If the violation is not willful, the maximum civil penalty is $25,000 per day.

COSA's authority to act under section 10(i) is not affected by an individual's resignation or any other termination of the individual's employment.

8. Judicial review.—Section 10(k) preserves current law regarding judicial review of enforcement orders.

9. Treatment of FDIC-insured State savings banks and cooperative banks as savings associations.—Under current law, an FDIC-insured savings bank or cooperative bank may, if it meets the qualified thrift lender test, elect to be regulated under the Savings and Loan Holding Company Act rather than the Bank Holding Company Act. New section 10(l) retains that provision, with COSA as the regulator.

10. Qualified thrift lender test.—The qualified thrift lender test (or "QTL test"), currently section 408(o) of the National Housing Act, is intended to measure a thrift institution's involvement in housing finance. New section 10(m) of the Home Owners' Loan Act reenacts the current test and increases the consequences of failing to comply. (Those additional consequences are preserved in section 303 of the bill, which revises the QTL test, effective July 1, 1991.)

a. Current consequences of failing to comply.—Under current law, there are two consequences. First, under section 10(e) of the Federal Home Loan Bank Act, a thrift institution that fails the QTL test is eligible to receive only a reduced amount of Federal home loan bank advances. Second, under section 408(c) of the National Housing Act, a diversified savings and loan holding company is subject to the same activity restrictions as a multiple savings and loan holding company if any of its subsidiary thrift institutions fails the test. The QTL test discussed here has no tax consequences; the Internal Revenue Code contains its own criteria for determining whether thrift institutions may qualify for benefits under certain tax provisions.

b. Additional consequences under this section.—Under new section 10(m), a savings association that fails to remain a qualified thrift lender will have a one-year grace period in which to requalify as a qualified thrift lender. If it fails to requalify during that period, the savings association must convert its charter to one or more bank charters within three years after it ceased to be a qualified thrift lender. As soon as a savings association ceases to be a qualified thrift lender, it may not expand its activities or open any additional branch offices. Three additional consequences take effect beginning three years after the savings association ceases to be a qualified thrift lender. First, the savings association may not obtain advances from any Federal home loan bank, and must promptly repay any outstanding advances. Second, the savings association may not engage, directly or through a subsidiary, in any activity that is not permissible either for a national bank or for a State bank (other than a savings bank) located in the State in which the savings association is located. Third, any company that controls the savings association will become subject to the Bank Holding Company Act in the same manner and to the same extent as if the company were a bank holding company (other than a savings bank holding company) and the savings association were a bank (other than a savings bank).

c. Conversion does not affect deposit insurance premiums.—Any bank that is chartered pursuant to section 10(m) because of a

savings association's failure to remain a qualified thrift lender must remain a member of the Savings Association Insurance Fund and pay SAIF assessments until it pays the exit fee (section 206(6) of the bill) and becomes a member of the Bank Insurance Fund, having paid any applicable entrance fee. In no case can such a bank become a BIF member before January 1, 1994. Such a bank does not become subject to BIF assessments until it becomes a BIF member.

11. Tying restrictions.—Section 10(n) preserves section 408(q)(2) of the National Housing Act, which currently prohibits a savings and loan holding company and its affiliates from engaging in certain tying arrangements.

12. Mutual holding companies.—Under section 10(o), a mutual savings association may form a holding company though a special entity known as a "mutual holding company." This preserves what is currently section 408(s) of the National Housing Act, but makes COSA the regulator.

J. Transactions With Affiliates, and Insider Lending.—Transactions between thrift institutions and their affiliates are currently governed by section 408 (d), (p)(1), and (t) of the National Housing Act. The bill replaces those subsections with a new section 11 in the Home Owners' Loan Act. Section 11 establishes a uniform approach to regulating transactions with affiliates, based on sections 23A, 23B, and 22(h) of the Federal Reserve Act. The limits in those sections are incorporated by reference, and are self-executing.

1. Transactions with affiliates: sections 23A and 23B.—Under new section 11(a), a savings association must comply with sections 23A and 23B of the Federal Reserve Act in the same manner and to the same extent as if the savings association were a member bank. Section 23A limits a bank's transactions with its affiliates (e.g., loans, extensions of credit, guarantees, investments, and purchases of assets). Transactions with any one affiliate are limited to 10 percent of the bank's capital stock and surplus, and transactions with all affiliates are limited to 20 percent of the bank's capital stock and surplus. All transactions with affiliates must be fully secured by specified types of collateral furnishing prescribed margins of protection. A bank may not purchase a low-quality asset from an affiliate unless it committed itself to do so before the affiliate acquired the asset.

Under section 23B, transactions between a bank and its affiliates must be on terms at least as favorable to the bank as comparable transactions with unaffiliated companies. When a bank acts as a fiduciary, section 23B limits purchases of securities or other assets from an affiliate. The section also prohibits a bank from advertising or agreeing that the bank will be responsible for an affiliate's obligations.

Three additional rules apply to savings associations under new section 11(a), reflecting the fact that affiliates of savings associations can engage in a far greater range of activities than affiliates of banks, and can thus expose the savings association to greater risk. First, a savings association may not make any loan or other extension of credit to an affiliate unless that affiliate is engaged only in activities permissible for bank holding companies. Second, a savings association may not purchase or invest in securities issued by an affiliate. Third, except as provided in section 304 of the bill (relating to certain mortgage-banking transactions), COSA may for reasons of safety and soundness impose more stringent restrictions on savings associations, but may not exempt transactions from or otherwise abridge section 23A or 23B. Exemptions from section 23A or 23B may be granted only by the Federal Reserve Board, as is currently the case with respect to all FDIC-insured banks. In granting exemptions, the Board may distinguish between banks and savings associations if the situation warrants.

2. Loans to officers, directors, and principal shareholders: section 22(h).—New section 11(b) applies section 22(h) of the Federal Reserve Act to savings associations in the same manner and to the same extent that that section applies to member banks. Section 22(h) applies the following safeguards to loans and other extensions of credit by an FDIC-insured bank to its executive officers, directors, and principal shareholders (collectively "insiders") and to companies controlled by those persons:

(1) An extension of credit to an insider or a company controlled by an insider must be made "on substantially the same terms, including interest rates and collateral, as those prevailing at the time for comparable transactions with other persons" and must not "involve more than the normal risk of repayment or present other unfavorable features."

(2) An extension of credit to an insider or a company controlled by an insider must be approved in advance by a disinterested majority of the bank's board of directors if that extension of credit, when aggregated with all other outstanding extensions of credit to the insider and companies controlled by the insider, exceeds a certain threshold (currently set at the higher of $25,000 or 5 percent of the bank's unimpaired capital and unimpaired surplus).

(3) The extension of credit, when aggregated with all other outstanding extensions of credit to the insider and companies controlled by the insider, must not exceed the limit on loans by a national bank to a single borrower.

COSA may for reasons of safety and soundness impose more stringent restrictions on savings associations, but may not exempt transactions from or otherwise abridge section 22(h). Exemptions may be granted only by the Federal Reserve Board, as is currently the case with respect to all FDIC-insured banks.

K. Advertising

Under current law, the Bank Board regulates the advertising practices of Federal savings associations and FSLIC regulates the advertising practices of State savings associations. The bill adds a specific statutory provision prohibiting any sale, plan, or practice, or any advertising, by any savings association, in violation of regulations promulgated by COSA.

L. Separability

Section 13 specifies that the provisions of the Home Owners' Loan Act are separable: if any provision is held invalid, the remainder of the Act will remain in force.

SECTION 302. REPEALS

This section repeals sections 407(m), 408, 409, 410, 413 414, and 416 of the National Housing Act. (Section 405 of the bill repeals the remaining sections of title IV of that Act.) All of these sections except section 416 are reenacted as part of the Home Owners' Loan Act. Section 416 required the FSLIC to promulgate capital recovery regulations for troubled institutions, and is obsolete in light of amendments made by the bill. The bill repeals section 403(b), which imposes geographical limits on lending, and section 408(p)(2), which restricts cross-marketing by a diversified savings and loan holding company.

SECTION 303. QUALIFIED THRIFT LENDER TEST

The qualified thrift lender test seeks to measure a thrift institution's involvement in residential mortgage lending. New section 10(m) of the Home Owners' Loan Act (added by section 301 of the bill) increases the consequences of failing to meet the current test. This section revises the QTL test itself, effective July 1, 1991.

To satisfy the current QTL test, a thrift institution must hold 60 percent of its total tangible assets in: (1) loans, equity positions, or securities that are in some way related to residential real estate or mobile homes; and (2) premises, furnishings, and equipment used by the institution or its subsidiaries. Up to 10 percentage points of the 60-percent requirement may be met by counting: (a) liquid assets (e.g., money-market mutual funds and short-term, investment grade corporate debt securities); and (b) a mortgage-origination credit.

A. General rule

1. Numerator: qualifying assets.—The revised test requires that at least 60 percent of a savings association's "portfolio assets" (as defined below) consist of the following assets:

(1) residential mortgage loans;
(2) residential construction loans;
(3) home-improvement loans;
(4) home-repair loans;
(5) mobile-home loans;
(6) mortgage-backed securities; and
(7) home-equity loans, to the extent that the loans are used to purchase, refinance, construct, improve, or repair domestic residential housing or mobile homes.

In addition, there is a mortgage-origination credit for one half of the dollar value of residential mortgages originated and sold during the last 90 days, which may count towards as much as 5 percentage points of the 60-point test.

If a loan finances both residential and nonresidential property (e.g., both apartments and a shopping mall), only the residential portion of the loan counts towards the QTL test.

Because home-equity loans are often used to finance personal consumption or for other purposes unrelated to housing finance, the Chairman of the Office of Savings Associations is required to determine annually—based on a survey of industry-wide patterns—how much of savings associations' home-equity loans are used to purchase, finance, construct, improve, or repair domestic residential housing or mobile homes. COSA will determine a general percentage, and savings associations may then count towards the QTL test that percentage of their home-equity loans.

This section is intended to refocus the QTL test on residential mortgage lending and to prevent the inclusion of other assets by regulatory interpretation.

2. Denominator: portfolio assets.—Under the revised test, the base against which the 60-percent requirement is applied is "portfolio assets." A savings association's portfolio assets consist of its total assets minus:

(1) the institution's own premises, furnishings, and equipment:
(2) liquid assets that regulators require the institution to hold; and
(3) goodwill and other intangible assets. Subtracting these three items from total

assets ensures that they are treated neutrally: they do not count either towards the 60-percent requirement or against the remaining 40 percent.

B. Consistent accounting required

Under the current test, FSLIC permits thrift institutions to use different accounting for the numerator of the QTL test (qualifying assets) than for the denominator (total tangible assets). Some assets that have appreciated in value are included in the numerator at market value but in the denominator at historic cost. Intangible assets (such as the value attributed to mortgage-servicing rights, purchased deposits, and branch networks) and leasehold improvements are included in the numerator but not in the denominator. Likewise, the assets of subsidiaries are included in the numerator but not in the denominator.

Under the revised test, the same accounting principles must be used for the numerator of the QTL test (qualifying assets) as for the denominator (portfolio assets). If a savings association counts the assets of a subsidiary towards the numerator, then those assets must also be counted towards the denominator.

C. Averaging

Under FSLIC's regulations, thrift institutions must meet the current QTL test on only 18 days out of every three years. This infrequent averaging facilitates manipulation.

The revised QTL test would be calculated using a daily or weekly average of a thrift institution's assets during the preceding two years.

SECTION 304. TRANSITIONAL RULE FOR CERTAIN TRANSACTIONS WITH AFFILIATES

Under new section 11(a) of the Home Owners' Loan Act (as added by section 301 of the bill), savings associations must comply with section 23A of the Federal Reserve Act, which imposes limits on transactions (e.g., loans and purchases of assets) between a depository institution and its affiliates. If an institution purchases a mortgage from an affiliate, the purchase counts towards the limits unless, before the affiliate originated or acquired the mortgage, the institution (1) had made its own independent credit evaluation of the mortgage, and (2) based on that evaluation, had agreed to acquire the mortgage from the affiliate. Under these circumstances, the institution is regarded as "taking advantage of an investment opportunity rather than being impelled by an improper incentive to alleviate working capital needs of the affiliate that are directly attributable to excessive outstanding commitments." 12 C.F.R. § 250.250(c). However, FSLIC's conflicts regulations currently preclude a thrift institution from following the above procedure without specific regulatory approval from FSLIC. Under section 402 of the bill, those regulations could remain in force as regulations of the Chairman of the Office of Savings Associations.

A. Revision of current regulations

This section requires COSA to revise the conflicts regulations so as not to prohibit a savings association that seeks to purchase mortgages from a mortgage-banking affiliate from following the above procedure for complying with section 23A. Revised regulations must take effect not later than six months after the bill becomes law.

B. Transitional period

While COSA is revising its regulations and for six months after the date on which COSA prescribes final revised regulations, a transitional rule will apply to any savings association that, before April 12, 1989, had received approval from FSLIC pursuant to section 408(d)(6) of the National Housing Act as then in effect to purchase mortgages from a mortgage banking affiliate. Such a savings association may continue to engage during that period in the transactions for which it had received regulatory approval. Instead of being subject to section 23A, those transactions will be subject to the standards applicable under section 408(d)(6) (e.g., by statute, regulation, interpretation, or order) before the bill became law.

If any regulatory approvals given by FSLIC lapse during the transitional period, COSA may extend them for the remainder of that period, using the standards applicable under section 408(d)(6) before the bill became law.

TITLE IV—DISSOLUTION AND TRANSFER OF FUNCTIONS, PERSONNEL, AND PROPERTY OF FEDERAL SAVINGS AND LOAN INSURANCE CORPORATION

SECTION 401. DISSOLUTION

Subsection (a) of this section dissolves the Federal Savings and Loan Insurance Corporation 60 days after the bill becomes law. Subsection (b) transfers to the FDIC or the Resolution Trust Corporation all of FSLIC's functions that are not transferred to the Chairman of the Office of Savings Associations under other provisions of the bill.

SECTION 402. CONTINUATION OF RULES

A. Continuation of Rules; Allocation of Authority.—Subsection (a) preserves in effect all of FSLIC's rules, regulations, and orders relating to insurance of accounts, administration of the insurance fund, or the conduct of conservatorships or receiverships except to the extent that the FDIC, after consulting COSA, determines otherwise. The FDIC or the Resolution Trust Corporation will enforce the rules, regulations, and orders that remain in effect. Subsection (b) preserves in effect all FSLIC rules, regulations, orders, and administrative actions not covered by subsection (a), and provides that they will be enforced by the FDIC unless they relate to a function transferred to COSA, in which case COSA will enforce them.

Subsection (c) requires the Chairman of the FDIC and the Chairman of the Office of Savings Associations, within 60 days after the bill becomes law, to publish in the Federal Register notice of which rules, regulations, and orders covered by subsection (a) or (b) have been allocated to which agency.

Subsection (d) contains a savings provision that preserves in effect all orders, determinations, rules, and regulations issued by FSLIC until modified or set aside by the FDIC or COSA.

B. FDIC's Authority to Prevent Risky Actions and Practices.—Subsection (e) authorizes the FDIC to promulgate and enforce rules, regulations, and orders to prevent actions or practices of State or Federal savings associations that pose a serious threat of loss to the pertinent deposit insurance fund.

SECTION 403. PERSONNEL

A. Identifying Bank Board and FSLIC employees for transfer

Subsection (a) requires the Chairman of the Office of Savings Associations and the Chairman of the FDIC to jointly determine (1) which Bank Board and FSLIC employees were engaged in functions or activities transferred under the Act to the FDIC; and (2) which of those employees so identified will be transferred to the FDIC. Those decisions must be free from discriminatory or other prohibited personnel practices.

B. Rights of employees identified for transfer

Subsection (b) enumerates the rights of employees who are identified for transfer to the FDIC:

(1) Employees who are identified for transfer to the FDIC will be offered an FDIC position of the same status as their former positions at the Bank Board or FSLIC.

(2) The Office of Personnel Management previously gave the Bank Board excepted-service appointing authority that allowed the Bank Board to hire up to 500 Schedule B employees without following normal competitive procedures. This section transfers that authority to the FDIC, allowing the FDIC to continue to employ those persons.

(3) Employees identified for transfer will be transferred to the FDIC within 60 days after the bill becomes law. After transfer, employees will be placed in a manner consistent with part 351 of title 5, Code of Federal Regulations. Transfers from the Bank Board or FSLIC to the FDIC will, for purposes of determining assignment rights, be treated as transfers of functions. If a reduction in force occurs, transferred employees will have assignment rights under OPM regulations. Transferred employees will receive notice of their assignment rights within 120 days after their transfers.

(4) For purposes of initial placement, the FDIC may place transferred employees into competitive areas separate from those existing at the FDIC. But once placement is completed, the competitive areas should be realigned to eliminate such separate competitive areas.

The FDIC may assign excepted-service employees to competitive-service positions, and employees so assigned will thereafter receive career or career-conditional appointments.

(5) Transferred Senior Executive Service employees will be placed in comparable executive positions at the FDIC.

(6) Transferred employees will receive notice of their position assignments within 120 days after their transfers.

(7) Transferred employees will retain their pay and grades under the principles of OPM regulations. Although the FDIC does not use the General Schedule, it does have a similar schedule. Transferred employees who become FDIC employees will receive the pay that would normally accompany their new FDIC grade.

(8) COSA will give any employee who is in a transferred function but who declines to be transferred severance pay consistent with OPM regulations promulgated under section 5595 of title 5, United States Code, except that severance pay shall in any case be at least 90 days pay. Such employees will also receive placement assistance, consistent with OPM regulations.

(9) Excepted-service employees, who do not otherwise qualify for placement assistance under OPM regulations, will nonetheless receive placement assistance for up to 120 days if they decline to be transferred.

(10) Employees who are asked to transfer and who decline an unreasonable offer of employment, as defined in OPM regulations, will receive severance pay and placement assistance. If such employees are otherwise eligible for early optional retirement, they will receive that as well. COSA will pay

severance pay and placement assistance, as well as early optional retirement to the extent that retirement benefits are not funded from contributions made before the transfer.

(11) If the FDIC decides to reorganize its combined work force within one year after the transfer of functions, the reorganization will be a major reorganization for purposes of offering early optional retirement.

(12) If COSA continues the Bank Board's employee-benefit programs, employees transferred to the FDIC may retain their membership in those programs until the end of the calendar year. COSA will pay any difference in cost between FDIC programs and the benefits allowed by this section.

(13) Transferred employees who constitute an appropriate unit for labor union representation will be subject to union certification and collective bargaining structures in place at the FDIC (rather than to those currently applicable at the Bank Board).

SECTION 404. DIVISION OF PROPERTY AND PERSONNEL

This section requires the Chairman of the Office of Savings Associations and the Chairman of the FDIC to divide all personnel and property of FSLIC between their agencies within 60 days after the bill becomes law. The Director of the Office of Management and Budget will settle any disputes.

SECTION 405. REPEALS

This section repeals sections 401-406, 407 (except subsection (m)), 411, and 415 of the National Housing Act. Section 302(a) of the bill also repeals sections 407(m), 408-414, and 416 of that Act. The bill does, however, preserve many provisions of those sections as parts of other statutes.

SECTION 406. REPORT

This section requires FSLIC to provide a final written report to Congress, the Treasury, and the Office of Management and Budget.

TITLE V—FINANCING FOR THRIFT RESOLUTIONS

SUBTITLE A—RESOLUTION TRUST CORPORATION

SECTION 501. RESOLUTION TRUST CORPORATION ESTABLISHED

A. Purposes and function of the RTC

This section adds a new section 21A to the Federal Home Loan Bank Act establishing the Resolution Trust Corporation ("RTC"), a mixed-ownership Government corporation. Neither the RTC nor its Oversight Board will constitute an "agency" or "executive agency" for purposes of title 5 of the United States Code.

The RTC's primary purposes are: (1) to resolve (e.g., as receiver or conservator) cases involving FSLIC-insured thrift institutions that entered receivership or conservatorship after January 1, 1989, but before the bill becomes law; (2) to act as receiver or conservator for FDIC-insured savings associations for which a receiver or liquidating conservator is appointed during the three years after the bill becomes law; (3) to manage and wind up the affairs of the Federal Asset Disposition Association ("FADA"); and (4) to conduct its operations so as to maximize recovery on assets it acquires, make efficient use of funds it obtains from the Funding Corporation, and minimize losses incurred in resolving cases.

In dealing with institutions in its custody, the RTC will exercise the FDIC's receivership and conservatorship powers. These include the power to liquidate an institution, operate it as a going concern, or facilitate its acquisition. This section also contemplates that the RTC will undertake obligations or assume liabilities only to the extent that it can fund them from the resources available to it under this section.

The RTC is to review assisted thrift acquisition approved by FSLIC after January 1, 1988, report to the Oversight Board the results of that review, and exercise all existing legal rights to modify, renegotiate, or restructure assistance agreements on which savings can be realized. Any gains or losses from exercising such rights would accrue to the RTC or the FSLIC Resolution Fund, as the RTC determines.

In carrying out its responsibilities, the RTC should rely on private-sector services to the extent that such services are available and their use is practicable and efficient. The RTC must, whenever possible, take participation interests in insured institutions or their holding companies, or in the assets of institutions liquidated or otherwise resolved by the RTC.

The RTC will exist for five years, after which its assets and liabilities will pass to the FSLIC Resolution Fund created under section 215 of the bill.

B. Oversight Board

The RTC will operate under the direction of an Oversight Board chaired by the Secretary of the Treasury, and including the Attorney General, the Chairman of the Federal Reserve Board, and two persons chosen by the President of the United States from the private sector who have substantial experience in managing large business organizations engaged in relevant business activities. The Oversight Board will review and have overall responsibility for the RTC's activities. The Oversight Board must approve or disapprove, in its discretion, any RTC regulation, policy, procedure, guideline, statement, contract, or other action.

The Oversight Board shall select the RTC's chief executive officer, and may delegate its responsibilities to the chief executive officer or other employees of the RTC. The RTC may hire employees without regard to the civil service requirements of title 5, U.S. Code. The Oversight Board may also employ its own staff, on the same terms of employment as apply to the RTC itself. The compensation of RTC employees must be consistent with that of FDIC employees.

C. Performance of RTC functions

The RTC will have both general corporate powers and certain special powers with which to perform its functions.

The RTC will rely upon the FDIC as its "primary manager" pursuant to an agreement between the RTC and the FDIC. The RTC may also contract with other parties. If the RTC is exercising the FDIC's powers as conservator or receiver, such contracts must accord with procedures applicable under the FDI Act. In all other cases, such contracts must be competitively bid.

D. Exemption from taxation

The RTC will be exempt from taxation, other than taxes on real property.

E. FSLIC liabilities

The RTC succeeds to the FSLIC's liabilities as guarantor of certain loans made by the Federal reserve banks and Federal home loan banks to insured savings associations before the bill becomes law. (This is the only liability of FSLIC that does not pass to the FSLIC Resolution Fund under section 215 of the bill.) The RTC must, within one year, repay any outstanding indebtedness not repaid by the savings associations in question.

F. Regulations and procedures

The RTC may issue regulations, but need not comply with the Administrative Procedure Act. Regulations or procedures adopted by the RTC relating to its exercise of the FDIC's rights and powers under the FDI Act must, however, accord with that Act and with the FDIC's regulations.

The RTC must adopt written procedures for selling or otherwise disposing of insured institutions and their assets, and must document its decisions and reasons. Those procedures must provide for adequate competition, and fair and consistent treatment of offerors, and minimize the cost to the RTC and the Government.

G. Funding

To carry out its functions, the RTC will receive the net proceeds of the Resolution Funding Corporation's issuance of up to $50 billion of obligations, as well as whatever cash its activities generate. The RTC may also borrow up to $5 billion from the Treasury. The RTC cannot obligate the FDIC or any of its insurance funds.

H. Reports

The RTC must make both annual and semiannual reports to Congress. Annual reports must include financial statements, as well as the RTC's financial operating plans and forecasts. Semiannual reports must contain the same types of information as annual reports, plus certain items important for Congressional oversight.

The Comptroller General must audit the RTC annually, unless the Comptroller General notifies the RTC at least 180 days before the end of the fiscal year that he will not perform the audit. If the Comptroller General gives such notice, the RTC must arrange to be audited by an independent certified public accountant. The Comptroller General will have access to all books and records of the RTC and its agents.

I. Asset disposal

The RTC must dispose of assets under its control so as to maximize the net present value of its return from those assets, minimize disruption to local markets, and provide the RTC with adequate capital. The RTC must document its decisions in order to demonstrate that it has followed plans and procedures consistent with those objectives.

The RTC must adopt special asset-disposition procedures to protect the economies of distressed areas. The RTC must set a minimum disposition price for real property that it owns before it sells that property. The procedures for setting that price, and the discretion granted to the chief executive officer or his designees to approve specific transactions for lesser amounts, are intended to protect against the dumping of assets while retaining the flexibility needed to make sound business decisions.

The RTC will establish regional advisory boards to bring local expertise to bear on the RTC's marketing, financial, and other strategic and policy decisions.

J. Standards of conduct for RTC employees

The RTC may either employ or contract with persons that will have responsibility for vast amounts of what are, in substance, Federal resources. To ensure that such persons act for the public good rather than for personal gain, the RTC must adopt conflict-of-interest and ethical standards at least as stringent as those applicable to FDIC em-

ployees. In addition, independent contractors and employees of the RTC will be subject to the same criminal sanctions as FDIC employees.

Subtitle B—Resolution Funding Corporation

SECTION 502. RESOLUTION FUNDING CORPORATION ESTABLISHED

A. Purpose

This section adds a new section 21B to the Federal Home Loan Bank Act, establishing the Resolution Funding Corporation ("REFCORP"). REFCORP will raise funds for the RTC by issuing debt to the public. The Federal home loan banks ("FHL Banks") must invest in REFCORP, which in turn must invest in the RTC. Under subsection (b) of new section 21B, the Chairman of the Office of Savings Associations must charter REFCORP within five days after the bill becomes law.

B. Management of the Funding Corporation

Subsection (c) of new section 21B establishes a Directorate to manage the Funding Corporation, subject to supervision by the RTC Oversight Board. The Directorate will consist of the Director of the Office of Finance of the FHL Bank System, or his successor, and two FHL Bank presidents selected by the Oversight Board. One of the two FHL Bank presidents will be appointed for an initial term of three years and the other for an initial term of two years. After the initial terms have expired, each succeeding appointment shall be for a three-year term. The president of a given FHL Bank may not be selected to serve if there are other FHL Banks whose presidents have served fewer terms. The Oversight Board will select a chairperson of the Directorate from among its three members.

C. Compensation and staff

Members of the Directorate will receive no compensation from REFCORP for serving on the Directorate. REFCORP will have no paid employees, but the Directorate may, with the Oversight Board's approval, use officers, employees, and agents of the FHL Banks to carry out REFCORP's functions.

The FHL Banks will pay all of REFCORP's administrative expenses, including custodian fees but excluding issuance and interest costs. Each FHL Bank will pay a pro-rata share of administrative expenses based on its required capital stock investment in REFCORP. "Issuance costs" and "custodian fees" are defined in subsection (k).

D. Powers of the Funding Corporation

Subsection (d) lists REFCORP's corporate powers, namely: (1) to issue nonvoting capital stock to the FHL Banks; (2) to purchase capital certificates issued by the RTC; (3) to issue debt; (4) to impose assessments on SAIF member institutions; (5) to adopt and use a corporate seal; (6) to have succession until dissolved; (7) to enter into contracts; (8) to sue and be sued; and (9) to exercise incidental powers necessary to carry out section 21B.

E. Regulation by the Oversight Board

REFCORP's Directorate will be subject to the regulations, orders, and directions of the RTC Oversight Board.

F. Capitalization of the Funding Corporation

Subsection (e) requires the FHL Banks to invest in REFCORP's nonvoting capital stock as prescribed by the Oversight Board, up to a maximum of $2,995.8 million, less amounts required to be invested after December 31, 1988, in the Financing Corporation (created under the Competitive Equality Banking Act of 1987). The stock issued by REFCORP to the FHL Banks will have a par value determined by the Oversight Board. The stock will be transferable only among the FHL Banks as prescribed by the Oversight Board, at not less than par value.

Paragraph (3) of subsection (e) limits the cumulative investment by any individual FHL Bank in REFCORP capitalization to the sum of the following:

(1) the Bank's legal reserves and undividend profits on December 31, 1988, minus (a) the Bank's investments in the capital stock of the Financing Corporation and (b) reserves required by COSA to be set aside for certain administrative obligations; plus

(2) the cumulative amount, after December 31, 1988, of additions to legal reserves and undivided profits, net of (a) funds invested in the Financing Corporation after that date, (b) reserves required by COSA to be maintained for certain administrative purposes; and

(3) additional amounts, as necessary, determined by allocating any amount by which the amounts under item (2) above for all FHL Banks fall short of $300,000,000 per year.

If the FHL Banks' total investment under this test would be less than $300 million in a given year, an additional investment will be required (allocated among the FHL Banks under subsection (e)(5)) so that the total investment of all FHL Banks will be at least $300 million.

Paragraph (8) defines "undivided profits" as retained earnings less (1) legal reserves, and (2) amounts held in the dividend stabilization reserves account on December 31, 1985. "Legal reserves" means the amount each FHL Bank must carry in a reserve account pursuant to the first two sentences of section 16(a) of the Federal Home Loan Bank Act.

G. Allocation of stock purchases Among FHL banks

Paragraphs (4) and (5) of new section 21B(e) describe the pro-rata distribution among the FHL Banks of purchases of Financing Corporation and REFCORP stock. Each FHL Bank must purchase a specified percentage of the first $1 billion of the combined stock issues of the REFCORP and the Financing Corporation. These percentages are the same as those currently in effect for allocating new issues of Financing Corporation stock.

Once the first $1 billion in stock has been purchased, paragraph (5) requires the RTC Oversight Board to allocate the FHL Banks' purchases of REFCORP stock according to the following formula: each FHL Bank's share equals the ratio arrived at by dividing the total assets of the Bank's SAIF-insured members by the total assets of all SAIF-insured members of all FHL Banks. Calculations for 1989 will, if necessary, be made by applying that same formula to the assets of all member insitutions that would have been SAIF-insured had the bill been in effect on December 31, 1988.

Paragraph (6) sets forth procedures for temporarily reallocating stock-purchase requirements when the amount a FHL Bank must purchase exceeds its investment limit.

J. Additional sources of funds for the Funding Corporation

Proceeds from the sale of REFCORP stock must be placed in the Funding Corporation Principal Fund. If each FHL Bank has reached its capital-stock investment limit and the Principal Fund needs additional amounts to defease REFCORP obligations, paragraph (7) sets forth the process and the order in which REFCORP will resort to other sources of funds. First, REFCORP, with the approval of the FDIC Board, will impose an assessment on each SAIF member in the same manner and under the same restrictions as FDIC insurance assessments. Any such assessments will count (dollar for dollar) against the statutory limits on SAIF assessments, and may thus reduce SAIF's assessment income. Second, if REFCORP still needs additional funds, the FDIC will transfer the necessary funds to REFCORP from the receivership proceeds of the FSLIC Resolution Fund.

I. Obligations of the Funding Corporation

Subsection (f) authorizes REFCORP, subject to the direction of the RTC, to issue up to $50 billion in debt obligations. REFCORP will pay the interest due (and any redemption premium) on those obligations from the following sources: (1) the net proceeds received by the RTC from liquidating institutions managed by the RTC, to the extent that the Oversight Board determines that those proceeds exceed the funds necessary for resolution costs; and (2) proceeds from warrants and participations acquired by the RTC.

If those funds do not cover the interest due on REFCORP obligations during a given year, the FHL Banks will jointly pay REFCORP $300 million minus whatever amounts the FHL Banks have paid (or should have paid) the Financing Corporation or REFCORP to purchase REFCORP stock. Individual FHL Banks' shares of those annual payments will be determined under a formula based on each FHL Bank's net earnings and share of the total advances made by all FHL Banks to SAIF members.

When the RTC is dissolved, its net assets will also be transferred to REFCORP to be used for interest payments.

If the Directorate determines, with the approval of the Secretary of the Treasury, that REFCORP cannot pay the interest due on its obligations from the sources described above, the Treasury will pay REFCORP whatever additional amounts REFCORP needs to make its interest payments. Any such Treasury payment will become a liability of REFCORP to be repaid to the Treasury once REFCORP is dissolved, to the extent that REFCORP has any remaining assets. Subsection (f) appropriates to the Secretary of the Treasury whatever amounts he will need to carry out that duty in fiscal year 1989 and thereafter.

When obligations issued by REFCORP under subsection (f) mature, they will be repaid by liquidating non-interest-bearing instruments held by the Funding Corporation Principal Fund.

J. Funding Corporation obligations, investments, and assets

The net proceeds of REFCORP obligations will be used to buy capital certificates issued by the RTC or to repay earlier obligations whose proceeds were invested in such capital certificates.

REFCORP obligations are made lawful investments for all federally administered fiduciary, trust, and public funds.

All persons authorized to deal in various ways in FHL Bank obligations may deal similarly in REFCORP obligations.

REFCORP obligations will have the same tax status as FHL Bank obligations. Thus, for example, interest earned on REFCORP

obligations will be subject to Federal income tax but not to State or local income taxes.

REFCORP obligations will be "exempt securities" under the Federal securities laws administered by the Securities and Exchange Commission.

The Oversight Board and the Directorate must ensure that minority owned or controlled commercial banks, investment banking firms, underwriters, and bond counsel have opportunities to participate significantly in any public or negotiated offerings of REFCORP obligations issued under section 21B.

REFCORP's obligations will be neither obligations of, nor guaranteed as to principal by, the Federal Home Loan Bank System, the FHL Banks, the United States, or the RTC. The Secretary of the Treasury will pay interest on REFCORP obligations as required by subsection (f).

Under new subsection (g), any assets that REFCORP is not required to invest in the RTC or apply to current interest payments will—subject to regulations, restrictions, and limitations prescribed by the RTC Oversight Board—be invested in Treasury securities, mortgage-related securities, or any other securities lawful for fiduciary and trust funds under the laws of any State. Earnings on those assets must be applied to interest due on REFCORP obligations before the sources described in subsection (f).

K. Funding Corporation principal fund

Subsection (g) further requires that funds received by REFCORP from sources specified in subsection (e) be invested in non-interest-bearing instruments such as Treasury STRIPS. REFCORP must hold those investments in a segregated account, the "Funding Corporation Principal Fund," to ensure repayment of the principal of those obligations. The total principal payable when the assets in that account mature will approximately equal REFCORP's debt principal. REFCORP may lend assets in the segregated account (with adequate collateral) to primary dealers in Treasury securities to facilitate market liquidity.

L. Miscellaneous provisions

Paragraph (1) of new subsection (h) gives REFCORP the same tax status as the FHL Banks have under section 13 of the Federal Home Loan Bank Act. It also authorizes the Secretary of the Treasury to prepare the necessary forms of stocks, bonds, and other obligations, as approved by the Oversight Board, to be issued by the REFCORP.

Paragraph (2) permits the Federal Reserve banks to act as REFCORP depositories, fiscal agents, or custodians.

Paragraph (3) makes REFCORP a mixed-ownership Government corporation for purposes of certain sections of the Government Corporations Control Act. Thus REFCORP is subject to audit by the General Accounting Office, and REFCORP's accounts can be kept by the Secretary of the Treasury, a Federal reserve bank, or any bank designated as a depository or fiscal agent of the U.S. Government. The Secretary of the Treasury will prescribe the terms of REFCORP's obligations (including the form, denomination, maturity, and interest rate), the time and manner of issuance, and the price for which the obligations will be sold. REFCORP needs the Secretary's approval to buy or sell more than $100,000 of any direct obligation of the U.S. Government or any obligation on which the principal and interest are guaranteed by the Government (although the Secretary may waive this requirement).

Under paragraph (4), any civil action, suit, or proceeding to which REFCORP is a party will be deemed to arise under the laws of the United States. The U.S. District Court for the District of Columbia will have original jurisdiction over such cases. REFCORP may remove such cases from State court to the U.S. District Court for the District of Columbia without bond or security.

Paragraph (5) requires REFCORP to submit an annual report to the Senate, the House, and the President. The report will include audited financial statements prepared in accordance with generally accepted accounting principles, together with financial operating plans and forecasts (including estimates of actual spending, future spending, and actual and future noncash obligations that fully account for REFCORP's financial commitments, guarantees, and other contingent liabilities. REFCORP's financial statements must be audited annually by an independent certified public accountant.

New subsection (i) provides for REFCORP's termination and dissolution. REFCORP will dissolve as soon as practicable after all of its obligations have been retired. After REFCORP's dissolution, the RTC Oversight Board may exercise any of REFCORP's power in order to conclude REFCORP affairs. Upon REFCORP's dissolution, the Treasury will receive any remaining REFCORP funds up to the amount it provided REFCORP over the years, with interest. If any REFCORP funds remain after the Treasury is fully repaid, they will be paid to the FHL Banks to retire the capital stock.

New subsection (j) permits the Oversight Board to prescribe regulations necessary to carry out section 21B.

New subsection (k) defines certain terms used in new section 21B. Paragraph (2) defines "Oversight Board" as the Oversight Board of the RTC—and, after termination of the RTC, the Secretary of the Treasury, together with the Chairman of the Federal Reserve Board and the Attorney General of the United States. Paragraph (4) defines "issuance costs" as issuance fees and commissions incurred by REFCORP in issuing or servicing its obligations. Those costs include legal and accounting expenses, trustee and fiscal paying agent charges, costs incurred in connection with preparing and printing offering materials, and advertising expenses to the extent those costs are incurred by REFCORP in connection with issuing any obligation. Paragraph (5) defines "custodian fees" as fees incurred by REFCORP in transferring securities to or holding them in the Funding Corporation Principal Fund, and other expenses associated with establishing and maintaining that fund.

SECTION 503. FINANCING CORPORATION

This section amends section 21 of the Federal Home Loan Bank Act, which established the Financing Corporation. Paragraphs (1) through (7) of this section make technical amendments to section 21, primarily to permit the Financing Corporation to buy capital certificates issued by the FSLIC Resolution Fund (the "Fund"), if necessary. Those certificates will not pay dividends. When the FSLIC Resolution Fund terminates, the Fund's liability for the certificates will be subordinate to any Fund liability to the Treasury.

This section replaces section 21(f) of the Act, which currently authorizes the Financing Corporation to impose assessments on FSLIC-insured institutions to obtain money to pay interest on Financing Corporation obligations. New subsection (f) specifies three sources of funds for such interest payments. First, such payments can be made out of funds raised through Financing Corporation assessments levied on insured institutions before the bill becomes law.

Second, the Financing Corporation, with the FDIC's approval, may assess each SAIF member as if it were the FDIC acting under section 7 of the Federal Deposit Insurance Act. The amount assessed by the Financing Corporation plus the amount assessed by REFCORP under section 21B of the Federal Home Loan Bank Act may not exceed the assessment amount authorized under section 7 of the Federal Deposit Insurance Act, but the Financing Corporation will have first priority to make such assessments. All assessments made by the Financing Corporation under section 21 and by REFCORP under section 21B will count (dollar for dollar) against the limits on SAIF assessments set forth in section 7 of the FDI Act.

Third, if funds available from the first two sources cannot cover the interest due on the Financing Corporation's obligations, the FDIC will transfer the required balance to the Financing Corporation from the receivership proceeds of the FSLIC Resolution Fund, if REFCORP does not need those funds for the Funding Corporation Principal Fund under section 21B.

This section also permits the Financing Corporation to lend zero-coupon securities held in a segregated account to primary dealers in Treasury securities. Finally, the section provides for the Financing Corporation to be dissolved on December 31, 2026, or when its obligations mature and are fully paid, whichever comes first.

SECTION 504. MIXED OWNERSHIP GOVERNMENT CORPORATION

This section adds REFCORP and the RTC to the list of mixed-ownership Government corporations under the Government Corporations Control Act.

SECTION 505. FEDERAL HOME LOAN BANK RESERVES

Section 16(a) of the Federal Home Loan Bank Act currently requires each FHL Bank to retain 20 percent of its net earnings as reserves. This section repeals that requirement, effective January 1, 1992. The directors of each FHL Bank may then independently determine what percentage of the Bank's net earnings to retain as reserves. For purposes of section 16, "net earnings" will be computed without reduction for expenses incurred by an FHL Bank in connection with investments in REFCORP.

TITLE VI—THRIFT ACQUISITION ENHANCEMENT PROVISIONS

SECTION 601. ACQUISITION OF THRIFT INSTITUTIONS BY BANK HOLDING COMPANIES

A. Current law

A bank holding company may engage in a given nonbanking activity under section 4(c)(8) of the Bank Holding Company Act only if the Federal Reserve Board has determined that the activity is "so closely related to banking or managing or controlling banks as to be a proper incident thereto." The Board has determined that the operation of a thrift institution is "closely related to banking" but is generally not a "proper incident thereto." *See, e.g., Citicorp*, 68 Fed. Res. Bull. 656 (1982). The Board has, however, permitted a bank holding company to operate a thrift institution if that institution had failed or was failing when the bank holding company acquired it. *See, e.g., id.* In approving such acquisitions, the Board has imposed certain limits

on transactions between the thrift institution and other subsidiaries of the holding company, such as prohibiting the thrift institution from being "operated in tandem" with the other subsidiaries, and prohibiting the other subsidiaries from linking their deposit-taking activities to accounts at the thrift institution (e.g., through a sweep arrangement). *Id* at 659.

B. Discretion to approve acquisitions under section 4(c)(8)

This section of the bill specifically authorizes the Federal Reserve Board to permit a bank holding company to acquire a savings association pursuant to section 4(c)(8) of the Bank Holding Company Act, as described below.

1. Acquiring undercapitalized savings associations during the two years after the bill becomes law.—During the first two years after the bill becomes law, the Board may permit a bank holding company to acquire any savings association (1) that does not meet the capital standards prescribed by the Chairman of the Office of Savings Associations, or (2) whose tier 1 capital (as defined in COSA's risk-based capital regulations), excluding any goodwill, is less than 2 percent of the savings association's risk-adjusted assets.

2. Acquiring any savings association after that two-year period.—Beginning two years after the bill becomes law, the Board may permit a bank holding company to acquire *any* savings association.

C. Restrictions on transactions between the savings association and its affiliates

Effective immediately upon enactment, the Board may not impose restrictions on transactions between the savings association and its holding company affiliates except as required under sections 23A and 23B of the Federal Reserve Act or other applicable statutes. In addition, any orders issued before enactment must be modified to the extent that they contain restrictions not permissible under the preceding sentence.

D. Subsidiary savings association is fully subject to section 4(c)(8)

This section in no way permits a savings association subsidiary of a bank holding company to engage, directly or indirectly, in any activity not permissible under section 4(c)(8). On the contrary, any acquisition of a savings association pursuant to this section must be made under section 4(c)(8), subject to all of the requirements, limitations, and procedures applicable under section 4.

SECTION 602. INVESTMENTS BY SAVINGS AND LOAN HOLDING COMPANIES IN UNAFFILIATED THRIFT INSTITUTIONS

A. General rule

Section 408(e)(1)(A)(iii) of the National Housing Act (which the bill reenacts as section 10(e)(1)(A)(ii) of the Home Owners' Loan Act) prohibits a savings and loan holding company from acquiring any voting shares of a federally insured thrift institution—or a savings and loan holding company—that is not a subsidiary of the would-be acquirer. Thus a savings and loan holding company may not currently acquire voting shares of another savings and loan holding company or of a federally insured thrift institution unless it has, or is acquiring, control of that holding company or thrift institution.

This section permits a savings and loan holding company to acquire up to 5 percent of the outstanding voting shares of a savings association or a savings and loan holding company, even if the acquirer does not control the savings association or holding company that is the issuer of the shares.

Bank holding companies already have similar authority under section 4(c)(6) of the Bank Holding Company Act.

B. Exceptions

In determining compliance with the 5-percent limit described above, shares of a savings association or savings and loan holding company are not counted if they fall within the following seven categories:

(1) shares held as a bona fide fiduciary, with or without the sole discretion to vote the shares;

(2) shares held temporarily pursuant to an underwriting commitment in the normal course of an underwriting business;

(3) shares held in an account solely for trading purposes (i.e., as a market-maker);

(4) shares over which no control is held other than control of voting rights acquired in the normal course of a proxy solicitation;

(5) shares acquired in securing or collecting a debt previously contracted in good faith, for two years after the date of acquisition (subject to extension by the Chairman of the Office of Savings Associations);

(6) shares acquired under section 13(k) of the Federal Deposit Insurance Act, which authorizes emergency acquistions of failed or failing savings associations; and

(7) shares held by insurance company subsidiaries of the parent holding company, so long as all shares held by such insurance companies pursuant to this exception do not in the aggregate exceed 1 percent of any class of shares of a given bank or thrift institution.

These exceptions are identical to certain provisions of section 4(f)(2)(A)(ii) of the Bank Holding Company Act, as amended by section 1414 of the bill, Thus, for example, exception (1), like the basic fiduciary exception in new section 4(f)(2)(A)(ii)(I), focuses on whether a holder of shares *acts* as a fiduciary rather than merely has the status of a fiduciary. Exception (5), like new section 4(f)(2)(A)(ii)(VI), is modeled on section 2(a)(5)(D) of the Bank Holding Company Act. The 1-percent limitation in exception (7), like that in new section 4(f)(2)(A)(ii)(VIII), prevents the exception from becoming an open-ended loophole under which the 5-percent restriction could be evaded merely by holding shares through one or more insurance companies.

SECTION 603. TECHNICAL AMENDMENT TO THE BANK HOLDING COMPANY ACT

The Bank Holding Company Act currently uses the term "insured institution" to refer to a federally insured thrift institution, and section 2(j) of that Act incorporates by reference the definition of "insured institution" in section 408(a)(1) of the National Housing Act.

This bill repeals section 408, and generally refers to thrift institutions as "savings associations." Accordingly, this section amends section 2(j) so as to encompass "savings associations," and to incorporate by reference the definition of "savings associations" in section 10(a)(1)(A) of the Home Owners' Loan Act.

TITLE VII—FEDERAL HOME LOAN BANK SYSTEM REFORMS

Subtitle A—Federal Home Loan Bank Act Amendments

SECTION 701. DEFINITIONS

This section amends section 2 of the Federal Home Loan Bank Act by replacing "Federal Loan Bank Board" with "Federal Home Loan Bank Agency," replacing "Board" with "Agency," and making conforming changes.

SECTION 702. FEDERAL HOME LOAN BANK AGENCY

Under section 17 of the Federal Home Loan Bank Act, the Federal home loan banks ("FHL Banks") are currently supervised and regulated by the Federal Home Loan Bank Board, which will be abolished under section 301 of the bill. This section amends section 17 to replace the Bank Board as supervisor and regulator of the FHL Banks with a new Federal Loan Bank Agency (the "Agency"). (Title III of the bill transfers the Bank Board's authority to regulate savings associations to a new Office of Savings Associations in the Department of the Treasury.)

The Federal Home Loan Bank Agency will be governed by a three-member board of directors, whose members will be appointed by the President for six-year terms, subject to confirmation by the Senate. Each person appointed as a director must have extensive experience or training in housing finance, as well as a commitment to the provision of specialized housing credit. No more than two directors may be from the same political party. No director may hold any other appointive office during his or her term.

The Agency may set the compensation of its employees without being bound by U.S. Government pay constraints. However, to avoid a bidding war to attract employees from one agency to another, the Agency must consult with the Federal banking agencies in setting its employees' compensation, and that compensation must be comparable to that paid by the banking agencies.

The Agency's employees will not be officers or employees of the U.S. Government for purposes of title 5 of the U.S. Code. An agent of the Agency will, however, be an employee of the Government for purposes of section 2671 of title 28, which relates to tort liability.

The Agency may not delegate any of its functions to any employee or administrative unit of any FHL Bank.

All of the Agency's expenses, including the salaries of its employees and its board of directors, are to be paid from assessments levied on the FHL Banks. Those funds will not be treated as Government funds or appropriated monies, nor will they be subject to apportionment under title 31.

No member of the Agency's board of directors may have any direct or indirect financial interest in any institution that is a member of an FHL Bank.

The Agency may, for cause, suspend or remove any director, officer, or employee of an FHL Bank. The Agency must give the affected party written notice of the cause for the suspension or removal.

The Agency must report annually to Congress. Its reports should detail the operations of the Agency and the FHL Banks, and evaluate the Federal Home Loan Bank System's effectiveness in safely promoting affordable home financing, raising funds in the capital markets, and maintaining adequate capital.

SECTION 703. SHAREHOLDER ELIGIBILITY REQUIREMENTS

Section 4(a) of the Federal Home Loan Bank Act currently allows only thrift institutions and insurance companies to become members of a Federal home loan bank. Section 27 of that Act prohibits national banks from subscribing for stock of an FHL Bank.

This section repeals section 27, and amends section 4(a) to permit any federally insured bank or credit union to become a member of an FHL Bank, if the bank or credit union meets the qualified thrift lender test (sections 301 and 303 of the bill; also discussed below in connection with section 712). Any institution that is not a member of an FHL Bank on January 1, 1989, may become a member only if it meets the QTL test. The Agency may deny an application for membership if, in the Agency's judgment: (1) advances could not be safely made to the applicant; or (2) the applicant's management or home-financing policy is inconsistent with sound and economical home financing or with the purposes of the Federal Home Loan Bank Act.

SECTION 704. CAPITAL STOCK

This section deletes subsections (a), (e), (f), and (g) of section 6 of the Federal Home Loan Bank Act. These obsolete subsections governed the original issuance of FHL Bank stock, subscription for that stock by the Secretary of the Treasury, repurchase of stock held by the Treasury, and advances by the FHL Banks to State thrift institutions that were prohibited by State law from purchasing FHL Bank stock. This section of the bill also amends section 6(i) of the Act (redesignated as subsection 6(e)) to require any member that withdraws from, or is deprived of, membership in an FHL Bank to repay all advances and pay a prepayment fee.

SECTION 705. ELECTION OF BANK DIRECTORS

This section amends section 7 of the Federal Home Loan Bank Act to require that two of the directors appointed by the Agency to serve on the board of each FHL Bank be selected based on their qualifications as representatives of consumers or persons of moderate income.

This section authorizes each FHL Bank to determine the conditions under which it may indemnify its directors and officers.

If a member institution does not meet all applicable capital standards, this section also prohibits any officer or director of that institution from serving as a director of an FHL Bank. Thus, for example, if a member institution ceases to meet any applicable capital standard, any officer or director of the institution must immediately resign from the FHL Bank's board of directors, even if the institution met all applicable capital standards when he or she was elected.

SECTION 706. STUDIES

This section replaces obsolete section 8 of the Federal Home Loan Bank Act (authorizing certain studies of State law) with a new section 8 authorizing the Agency or the FHL Banks to study trends in home and property values, methods of appraisal, and other relevant subjects.

SECTION 707. ELIGIBILITY OF BORROWERS TO OBTAIN ADVANCES

This section deletes from the Federal Home Loan Bank Act all references to nonmember borrowers. Any borrower from an FHL Bank must henceforth own stock in that FHL Bank.

SECTION 708. FEDERAL HOME LOAN BANK LENDING

This section amends section 11(k) of the Federal Home Loan Bank Act to authorize the FHL Banks to make loans to the FDIC for use by the Savings Association Insurance Fund, as directed by the FDIC. The interest rate on such a loan must be no less than the FHL Banks' current marginal cost of funds, taking into account the maturity involved. These loans must have COSA's concurrence and must be secured to COSA's satisfaction.

SECTION 709. FEDERAL SAVINGS AND LOAN ADVISORY COUNCIL

This section repeals section 8a of the Federal Home Loan Bank Act, thereby abolishing the Federal Savings and Loan Advisory Council.

SECTION 710. FEDERAL SAVINGS AND LOAN INSURANCE CORPORATION INDUSTRY ADVISORY COMMITTEE

This section repeals section 21(i) of the Federal Home Loan Bank Act, therby abolishing the Federal Savings and Loan Insurance Corporation Industry Advisory Committee.

SECTION 711. RATE OF INTEREST

This section repeals section 5B of the Federal Home Loan Bank Act, which currently authorizes the Bank Board to regulate the payment and advertisement of interest paid to depositors by FSLIC-insured institutions. The authority to regulate interest rates is being transferred to COSA.

SECTION 712. ADVANCES

A. Advances must be fully secured by eligible collateral

Subsection (a) of this section amends section 10(a) of the Federal Home Loan Bank Act to specify that any advance or other extension of credit by an FHL Bank must be fully secured by one or more of the following: (1) fully disbursed home mortgage loans; (2) securities issued or guaranteed by the U.S. Government, or mortgage-backed securities issued or guaranteed by Freddie Mac, the Federal National Mortgage Association, or the Government National Mortgage Association; (3) deposits of an FHL Bank; or (4) real-estate-related collateral which has a readily ascertainable value and in which which the FHL Bank can perfect its security interest, so long as all such loans do not exceed 30 percent of the borrower's capital. However, this requirement does not limit an FHL Bank's authority to protect its security position on outstanding loans (e.g., by requiring additional collateral of any type). Long-term advances may be made *only* to provide funds for housing finance.

B. Special requirements for borrowers not in compliance with OTL test

Subsection (b) of this section amends section 10(e) of the Federal Home Loan Bank Act, dealing with advances to current members that fail the qualified thrift lender test. Under sections 301 and 303 of the bill, a member savings association that ceases to be a qualified thrift lender has three years in which to become a bank. After the three-year period, it may not obtain advances and must repay any outstanding advances. This section governs advances to such a savings association during the three-year transitional period. The savings association may obtain advances only if it purchases and holds stock in its FHL Bank in the amounts that would be required if it had 60 percent of its assets in home mortgage loans. A member seeking advances pursuant to amended section 10(e) would still have to satisfy additional requirements set forth in the Federal Home Loan Bank Act, the Home Owners Loan Act, Agency regulations, and the FHL Bank's credit program.

SECTION 713. EXAMINATIONS

This section amends section 20 of the Federal Home Loan Bank Act to require periodic examinations of the FHL Banks by the Comptroller General. These examinations shall focus on the effectiveness of the FHL Banks and the Agency in fulfilling the purposes of the Federal Home Loan Bank Act.

SECTION 714. CONFORMING FEDERAL HOME LOAN BANK ACT AMENDMENTS

This section makes certain conforming amendments to the Federal Home Loan Bank Act and other statutes in keeping with section 702 of the bill, under which the Agency will be funded by assessments levied on the FHL Banks. This section also makes certain other conforming amendments.

SECTION 715. LIQUIDITY

This section repeals section 5A of the Federal Home Loan Bank Act, relating to liquidity requirements. Section 301 of the bill re-enacts the substance of section 5A as section 4A of the Home Owner's Loan Act, but with liquidity requirements administered by the Chairman of the Office of Savings Associations rather than by the Bank Board.

SECTION 716. TRANSFERS

Under this section, FHL Bank employees who currently supervise and regulate savings associations will be transferred to the Office of Savings Associations. The section also provides for other incidental personnel transfers as agreed between COSA and the Agency.

Subtitle B—Conforming Amendments

SECTION 721. REPEAL OF LIMITATION OF OBLIGATION FOR ADMINISTRATIVE EXPENSES

This section deletes obsolete references to the Federal Home Loan Bank System, the Home Owners' Loan Corporation, and FSLIC in section 7(b) of the First Deficiency Appropriation Act of 1936.

SECTION 722. AMENDMENT OF ADDITIONAL POWERS OF CHAIRMAN

This section amends section 502(c) of the Housing Act of 1948 to give COSA the current authority of the Bank Board and FSLIC to contract with and otherwise utilize certain public and private resources in carrying out his duties.

SECTION 723. AMENDMENT OF EXECUTIVE SCHEDULE

This section specifies the compensation for certain newly-created positions by adding the Chairman of the Office of Savings Associations and the President of the Federal Home Loan Bank Agency to Level III of the Executive Schedule, and by adding the Agency's directors to Level IV of that schedule.

SECTION 724. AMENDMENT OF TITLE 31, UNITED STATES CODE

This section provides that the Office of Savings Associations is subject to the general oversight of the Secretary of the Treasury.

SECTION 725. AMENDMENT OF BALANCED BUDGET AND EMERGENCY DEFICIT CONTROL ACT

This section amends the Balanced Budget and Emergency Deficit Control Act of 1985 to exempt from sequestration the Office of Savings Associations, the FSLIC Resolution Fund, the RTC, the insurance funds administered by the FDIC, and payments to the Resolution Funding Corporation—just as the Bank Board and FSLIC are currently treated.

TITLE VIII—BANK CONSERVATION ACT AMENDMENTS

The Bank Conservation Act authorizes the Comptroller of the Currency to appoint a conservator for a national bank or a District of Columbia bank or trust company supervised by the Comptroller, if the Comp-

troller determines such action is necessary to conserve the bank's assets for depositors and other creditors. The Act was enacted in 1933 and has never been amended. The Comptroller has rarely invoked the Act since the Great Depression because of certain rigid constraints in the Act, such as a provision making the conservator's compensation subject to the Government pay scale, and an unwieldy requirement that new deposits be segregated from old deposits.

SECTION 801. DEFINITIONS

This section amends the Bank Conservation Act's definition of "bank" to include a Federal branch of a foreign bank, and any other federally chartered or licensed institution supervised by the Comptroller of the Currency.

SECTION 802. APPOINTMENT OF CONSERVATOR

A. Grounds for appointment

This section amends section 203 of the Bank Conservation Act. New subsection (a) of section 203 clarifies the grounds for the comptroller to appoint a conservator for a financial institution. Most of these grounds resemble the grounds for appointment of a conservator for a Federal savings association under section 5(d)(2) of the Home Owners' Loan Act.

B. Judicial review

New subsection (b) provides for judicial review of the Comptroller's appointment of a conservator. The appointment may be set aside only if the court finds it to be arbitrary or capricious, an abuse of discretion, or otherwise not in accordance with the law. Like section 5(d)(2) of the Home Owners' Loan Act, subsection (b) is intended to limit judicial interference in the conduct of conservatorships.

Subsection (b) also requires the court to stay for up to 90 days judicial proceedings to which the conservator or the bank is or may become a party, upon petition by the Comptroller.

New subsection (c) gives the Comptroller additional power to appoint a conservator if a majority of a bank's directors consent to the appointment, or if the FDIC terminates the bank's deposit insurance.

New subsection (d) makes exclusive the Comptroller's power to appoint conservators for banks, and permits the Comptroller to appoint as conservator the FDIC or any other person. The Comptroller may not appoint a conservator to liquidate or wind up the affairs of a bank (except insofar as section 804 of the bill permits a sale of voluntary liquidation).

New subsection (e) permits the Comptroller to replace a conservator at any time, without notice or hearing.

SECTION 803. EXAMINATIONS

This section authorizes the Comptroller, in carrying out his supervisory responsibilities, to use reports made by the FDIC as conservator. The Comptroller will continue to supervise national banks in conservatorship that are operated as going concerns.

SECTION 804. TERMINATION OF CONSERVATORSHIP

This section further defines the circumstances in which a conservatorship may be terminated. A conservatorship may be terminated when the Comptroller (together with the FDIC, when the FDIC is the conservator) believes termination is safe and in the public interest. Termination may occur (1) when the bank resumes business on terms prescribed by the Comptroller; (2) upon the sale, merger, consolidation, purchase and assumption, change in control, or voluntary liquidation of the bank; or (3) if the Comptroller declares the bank insolvent and places it in receivership.

If, on termination of a conservatorship, a bank resumes normal operations on terms imposed by the Comptroller, those terms will constitute an enforceable order, subject to judicial review. If a conservatorship terminates through a sale, change in control, or the like, any net proceeds of the transaction must be distributed to interested claimants, including shareholders, according to a specified notice and claims procedure.

SECITON 805. CONSERVATOR; POWERS AND DUTIES

This section amends section 206 of the Bank Conservation Act to clarify the scope of a conservator's management powers over the bank in conservatorship. These powers resemble those of a conservator for an insured savings association. Except as the Comptroller may otherwise provide by rule, regulation, or order, a conservator has the same rights and duties and is subject to the same penalties and requirements as apply to the directors, officers, or employees of the bank whose authority the conservator exercises.

The Comptroller may permit the conservator and persons retained to assist the conservator to be paid at rates exceeding Federal salary rates.

The Comptroller may direct the conservator to set aside funds to assure payment of depositors and other creditors.

This section preserves current law regarding the payment of conservatorship expenses from the bank's assets.

SECTION 806. LIABILITY PROTECTION

This section restates the limitations on the conservator's liability to third parties. The Federal Tort Claims Act governs if the conservator is a Federal agency or employee. In all other cases, the conservator is liable only for bad faith or gross negligence. The Comptroller may indemnify a conservator.

SECTION 807. RULES AND REGULATIONS

Under this section, regulations issued by the Comptroller must, insofar as they apply to cases in which the FDIC is conservator, must be consistent with the FDIC's regulations under the FDI Act.

SECTION 808. REPEALS

This section repeals sections 207 and 208 of the Bank Conservation Act. Section 207 currently permits a bank reorganization—which must be approved by depositors and other creditors, or stockholders, or both—to become effective only pursuant to a plan approved by the Comptroller and a supermajority of the interested parties. The repeal of section 207 will not impede the reorganization of banks in conservatorship. The conservator's power under section 206 (section 805 of the bill) to act for a bank's shareholders will greatly facilitate a reorganization. When the FDIC acts as conservator, it also has broad reorganization powers under section 11 of the FDI Act.

The repeal of current section 208 of the Bank Conservation Act, coupled with the amendment of section 206, removes the onerous requirement that new deposits be segregated from old deposits to prevent new deposits from being used to satisfy old deposit liabilities and to assure full payment on new deposits accepted during the conservatorship.

SECTION 809. CONFORMING AMENDMENT

This section adds conservators appointed under the Bank Conservation Act to the list of persons whom the Comptroller of the Currency may appoint without regard to section 5373 of title 5, United States Code, which (but for section 1404 of the bill) would prohibit the Comptroller from setting the compensation of a position or employee at more than the maximum rate for level V of the Executive Schedule.

TITLE IX—ENFORCEMENT AUTHORITY IMPROVEMENTS

SECTION 902. SHORT TITLE

This section designates this title as the "Enforcement Authority Improvements Act of 1989."

Subtitle A—Regulation of Financial Institutions

SECTION 911. CHANGE IN TERMINOLOGY

The enforcement provisions currently use inconsistent terminology to define the scope of the Federal banking agencies' enforcement authority. For example, cease-and-desist orders may be issued against any "director, officer, employee, agent, or other person participating in the conduct of the affairs of an insured bank." Removal orders, on the other hand, may be issued only against directors or officers.

This section deletes the various terms used to describe the parties covered by the enforcement provisions and substitutes the new term "institution-related party." The term is defined (in section 3 of the Federal Deposit Insurance Act, as amended by section 204 of the bill) to include any director, officer, employee, agent, or other person participating in the conduct of the affairs of an insured bank or a subsidiary of an insured bank; any person who has filed or should have filed a change-in-control notice with the appropriate Federal banking agency; and any controlling shareholder. It also includes an "independent contractor," such an attorney, accountant, or appraiser, who knowingly or recklessly participates in a wrongful action that had or is likely to have an adverse effect on an insured institution. The additional requirement of knowing or reckless participation in a wrongful action applies only to an independent contractor who does not otherwise participate in a financial institution's affairs. Thus, for example, an attorney who is a director of a bank would automatically be an "institution-related party" even though the attorney may not knowingly or recklessly participate in a wrongful act.

SECTION 912. PERIODS APPLICABLE TO INSURANCE TERMINATION

Under current law, the FDIC may initiate a proceeding to terminate an insured bank's deposit insurance if the FDIC determines that the bank is engaging in an unsafe or unsound practice; is in an unsafe or unsound condition; or has violated any law, regulation, or condition imposed in writing in connection with the granting of an application or other request. First, the FDIC must give a statement of the problem to the bank and its primary Federal regulator (and in the case of a State bank, the State regulator). The bank must then correct the probem within 120 days, or such shorter period not less than 20 days as the FDIC or the appropriate Federal agency may determine. If the bank does not correct the problem, the FDIC may give the bank 30 days notice of the FDIC's intent to terminate insurance. The bank is then entitled to an administrative hearing. Following the hearing, the FDIC may issue an order terminating the bank's insurance. Existing deposits at that bank will then remain insured for two

years, but new deposits will have no insurance.

This section of the bill reduces from 120 days to 60 days the maximum time an institution may take to correct violations. After insurance terminates, existing accounts will remain insured for at least six months and, at the FDIC's discretion, for up to two years.

SECTION 913. SUSPENSION OF INSURANCE

There is currently no procedure under which the FDIC may suspend insurance. This section adds a new section 8(a)(2) to the FDI Act, permitting the FDIC to issue a temporary order suspending deposit insurance on all deposits received by an insured institution. To issue such an order, the FDIC must find, after consultating with the appropriate Federal banking agency, that the financial institution has no tangible capital under the agency's capital standards. Such an order may take effect 10 days after service. Within the 10-day period, the institution may seek an injunction in U.S. district court. The court shall issue the injunction if it finds the FDIC's suspension order to be arbitrary or capricious.

A special rule applies for savings associations. Under that rule, the FDIC is to add goodwill to a savings association's tangible capital to the extent that such goodwill may be included in that savings association's capital under section 5(t) of the Home Owners' Loan Act. "Special supervisory associations" are those whose capital for purposes of section 8(a)(2) would be less than or equal to zero but for the inclusion of goodwill under the special rule.

The FDIC may suspend a special supervisory association's insurance if: (1) the association's capital suffers a material decline; (2) the association or any officer or director engages in any unsafe or unsound practice; (3) the association is in an unsafe or unsound condition; (4) the association or any officer or director violates any applicable law, rule, regulation, or order, or any condition imposed in writing; or (5) the association fails to enter into a capital-improvement plan within three months after the bill becomes law. The FDIC must examine every special supervisory association within three months after the bill becomes law and quarterly thereafter. Nothing in this section limits the right of the FDIC, as successor to FSLIC and the Bank Board, to enforce any contractual provision requiring a special supervisory association to amortize goodwill at a more rapid rate than would otherwise be required under Federal law or applicable accounting standards.

SECTION 914. RESTITUTION, REIMBURSEMENT, AND OTHER REMEDIES

A. Restitution, reimbursement, and indemnification

Section 8(b) of the Federal Deposit Insurance Act authorizes the Federal banking agencies to issue cease-and-desist orders, which may require an insured institution or its employees to "take affirmative action to correct the conditions resulting from any" violation. In *Larimore v. Comptroller of the Currency*, 789 F.2d 1244 (7th Cir. 1986), the court of appeals held that section 8(b) did not authorize the Comptroller to obtain reimbursement in an administrative proceeding from a director of a national bank who participated in a violation of the statutory lending limit.

The *Larimore* decision has created confusion about the Federal banking agencies' authority to order restitution, reimbursement, or other forms of indemnification. This section makes clear that the Comptroller as well as the other Federal banking agencies may order a party to make restitution to, reimburse, or otherwise indemnify an insured institution for losses resulting from violation of laws or other improper conduct. The banking agencies should use this power only in appropriate cases—for example, when the institution-related party has unjustly enriched himself at the institution's expense or has acted in reckless disregard of the banking laws or regulations. This power should not be used when the institution-related party has engaged in less serious violations or less serious conduct.

B. Restrictions on activities

This section also permits a permanent cease-and-desist order (1) to limit or restrict the activities or functions of a financial institution or any institution-related party in order to correct the conditions resulting from any violation or practice; and (2) to limit a financial institution's asset growth.

SECTION 915. APPLICABILITY OF SECTION 8

This section applies the banking agencies' basic enforcement statute, section 8 of the FDI Act, to savings and loan holding companies and their subsidiaries (other than a bank or any subsidiary of a bank) and to any subsidiary of a savings association. COSA will be the regulator, unless the savings and loan holding company is also a bank holding company, in which case both COSA and the Federal Reserve Board will be the regulator.

SECTION 916. TEMPORARY CEASE-AND-DESIST ORDERS

Current law permits a Federal banking agency to issue a temporary cease-and-desist order if it finds that a violation, a threatened violation, or a practice is likely to (1) make a bank insolvent, (2) lead to *substantial* dissipation of the bank's assets or earnings, (3) *seriously* weaken the bank's condition or (4) *seriously* prejudice the interests of the bank's depositors, before a regular cease-and-desist proceeding could be completed. This section deletes the terms "substantial" and "seriously" from the above requirements, and specifies that a temporary order may limit the activities or functions of a financial institution or any institution-related party. Such limits may include prohibitions on the institution's asset growth.

SECTION 917. TEMPORARY CEASE-AND-DESIST ORDERS RELATING TO BOOKS AND RECORDS

A Federal banking agency may issue a temporary cease-and-desist order whenever it determines that an insured financial institution's books or records are so incomplete or inaccurate that the agency cannot, through normal supervisory practice, determine the institution's financial condition or the details or purpose of any transaction that may adversely affect the institution's financial condition.

All temporary cease-and-desist orders are subject to judicial review under the "arbitrary and capricious" standard.

SECTION 918. REMOVAL ORDERS

Current law permits the Federal banking agencies to remove officers and directors of insured banks, but not other parties. Different removal provisions apply, depending upon whether the misconduct occurred at the bank that currently employs the individual (section 8(e)(1) of the FDI Act), or at another institution or business enterprise (section 8(e)(2)). These provisions essentially require a showing that: (1) the party has violated a law, rule, regulation, or cease-and-desist order, has engaged or participated in an unsafe or unsound practice, or has breached a fiduciary duty; and (2) the institution has suffered or will probably suffer *substantial* financial loss or could be *seriously* prejudiced because of that violation or practice, or the individual has received financial gain through that practice; and (3) the violation or practice involves personal dishonesty or demonstrates a willful or continuing disregard for the financial institution's safety and soundness.

The bill unifies the removal provisions to establish a single standard regardless of whether the misconduct occurs at the institution that currently employs the individual or at another institution. To be removed under the new standard:

(1) an institution-related party must have (a) violated a law, rule, regulation, final order, or written agreement with a Federal banking agency, (b) engaged in or participated in an unsafe or unsound practice, or (c) breached a fiduciary duty;

(2) (a) the institution must have suffered or be likely to suffer financial loss or prejudice to its depositors' interests, or (b) the party must have received financial gain through his or her violation, practice, or breach; and

(3) The party's conduct must have (a) involved personal dishonesty, or (b) demonstrated willful or continuing disregard for the safety and soundness of the institution.

The new removal provision will apply to all institution-related parties, not just officers and directors. An individual removed from one institution could not, without the prior consent of the agency that issued the removal order, become an institution-related party at any other federally insured depository institution. This section deletes the adjectives "seriously" and "substantial," highlighted above. Finally, it clarifies that actions taken either directly or indirectly by an institution-related party may be grounds for removal.

SECTION 919. TEMPORARY SUSPENSION ORDERS

Section 8(e)(4) of the FDI Act authorizes the Federal banking agencies to issue a temporary removal or suspension order if necessary for the protection of the bank or the interests of its depositors. This section of the bill makes certain conforming amendments to section 8(e)(4), allows those orders to be issued against all institution-related parties, and deletes certain obsolete terminology.

SECTION 920. EFFECT OF SUSPENSION OR REMOVAL

Section 8(j) of the FDI Act makes it a crime for an individual who is subject to a temporary or permanent suspension or removal order to vote for a director or serve as a director, officer, or employee of any bank, bank holding company, or Edge Act corporation without prior written approval from the appropriate Federal banking agency.

This section of the bill provides that a person removed or suspended from any one bank, bank holding company, subsidiary of a bank, or an Edge Act or Agreement corporation is also automatically removed or suspended from all other insured institutions, bank holding companies, savings and loan holding companies, farm credit banks, credit unions, and any subsidiaries of any insured financial institutions, unless the defendant has received prior written approval from the agency that issued the removal order. If the defendant is an employee of a business organization, such as an accounting firm or law partnership, the suspension or removal order will affect only the individual involved

unless the appropriate Federal regulatory agency specifies that it should apply to the employing company or firm.

SECTION 921. CIVIL MONEY PENALTIES

A. In general

Currently, civil money penalties generally may not exceed $1,000 per day. For violations of reporting requirements, penalties may not exceed $100 per day; for willful violations of the Change in Bank Control Act, $10,000 per day, with the defendant entitled to a full evidentiary trial in a U.S. district court before any penalty may be collected.

This section generally increases civil penalties to a maximum of $25,000 per day. If a violation is made with reckless disregard for the safety and soundness of the financial institution, the new maximum penalty will be $1 million per day. A civil money penalty may be imposed for violating any law, regulation, final order, or any condition imposed in writing in connection with the granting of any application or other request. In addition, a civil money penalty may be assessed for breaching any fiduciary duty if the breach results in a financial loss to the institution or pecuniary gain to the defendant. In determining penalty amounts, the agencies must consider the appropriateness of the penalty in view of the defendant's financial resources and good faith, the gravity of the violation, the history of previous violations, and such other matters as justice may require.

B. Limitation on penalties for de minimis violations

Notwithstanding the general increase in maximum civil money penalties, this section limits civil money penalties for minor violations to $2,500 per day. The $2,500-per-day limit does not apply if the appropriate agency finds that the violation (1) caused or is likely to cause a serious financial loss to the institution or the insurance fund, (2) evidenced reckless disregard for the safety or soundness of the financial institution, (3) resulted from gross negligence, (4) was part of a pattern of violations, or (5) enriched the defendant.

SECTION 922. CRIMINAL PENALTIES FOR VIOLATION OF REMOVAL OR SUSPENSION ORDERS

Under current law, any person who participates in the affairs of the bank from which he has been removed or suspended, or who, without prior approval from the appropriate agency, votes for a director or serves or acts as a director, officer, or employee of any other bank, may be fined up to $5,000, imprisoned for up to one year, or both.

This section provides that any person subject to a suspension or removal order who participates in the affairs of *any* insured depository institution may be fined up to $1 million per day, imprisoned for up to five years, or both.

SECTION 923. DEFINITIONS

A. Appropriate Federal regulatory agency

"Appropriate Federal regulatory agency" is defined to include the appropriate Federal banking agency, the National Credit Union Administration Board (in the case of an insured credit union), and the Farm Credit Administration (in the case of institutions chartered under the Farm Credit Act).

B. Order which has become final

The Federal Deposit Insurance Act currently defines an "order which has become final" as an order not subject to further *judicial* review. The bill changes the definition so that an "order which has become final" is one not subject to further *administrative* review. This change will enable agencies to assess civil money penalties for violations of orders, and obtain injunctive relief, at an earlier stage in the regulatory process.

C. Controlling shareholder

"Controlling shareholder" is defined as a person that directly or indirectly, or acting through or in concert with one or more persons, owns or controls a insured financial institution. Shares owned or controlled by a member of an individual's immediate family are considered to be held by the individual.

D. Additional terms

Each appropriate Federal banking agency may, by regulation, define terms not otherwise defined.

SECTION 924. EMPLOYMENT PROTECTION

This section forbids a federally insured financial institution or holding company to discharge or discriminate against any officer, director, or employee with respect to compensation, or terms or conditions of employment, because of information provided by that person to a regulatory authority or the Department of Justice relating to a possible violation of any law or regulation by the institution or an institution-related party. These protections do not apply to an individual who has deliberately caused the alleged violation.

SECTION 925. COORDINATION WITH COSA

This section permits the FDIC to recommend that COSA take enforcement action against any savings association. If COSA fails to take such action or to provide an acceptable plan to resolve the FDIC's concerns within 60 days, the FDIC may take the action itself if it determines that the institution is in an unsafe and unsound condition, or that unsafe or unsound practices will continue unless the FDIC takes the recommended action. In exigent circumstances, the FDIC may act before the 60-day period expires.

SECTION 926. EFFECT ON OTHER AUTHORITY

Section 926 provides that the authority granted to the Federal banking agencies under section 8 of the Federal Deposit Insurance Act shall be in addition to, and not restricted by, any other authority provided by Federal or State law.

SECTION 927. NONDELEGABILITY

Any decision by the FDIC to terminate or suspend insurance under section 8(a) of the FDI Act, or to initiate an enforcement action against a savings association under section 8(v) of that Act, must be made by the FDIC Board of Directors, and may not be delegated.

SECTION 928. EFFECT OF RESIGNATION OF INSTITUTION-RELATED PARTY

In *Stoddard v. Federal Reserve Board*, 868 F.2d 1308 (D.C. Cir. 1989), the court of appeals held that a Federal banking agency lacked authority to bring a removal action against an individual who had resigned just before removal proceedings were initiated. The court reasoned that the agency could not remove an individual who was not participating in the affairs of the institution. But removal also bars the defendant from future involvement in any insured financial institution. The court's decision would allow an individual to escape this bar merely by resigning just before the removal notice is served. To remedy this problem, this section provides that the jurisdiction and authority of the Federal banking agencies will not be affected by the resignation, termination of employment, or other separation of the party involved. This retention of authority will apply to all matters pending when the bill becomes law, whether or not formally commenced.

SECTION 929. PENALTY FOR PARTICIPATION

Currently, except with the prior written consent of the FDIC, no person may serve as a director, officer, or employee of an insured bank who has been convicted of any criminal offense involving dishonesty or a breach of trust. A bank that willfully violates this provision may be fined up to $100 per day. This section deletes the "willful" standard and instead provides that for each "knowing" violation of this provision, the financial institution and individual involved may be fined up to $1 million per day. This section aso provides a criminal fine of the same amount and imprisonment for up to five years. Finally, the amended prohibition will bar such an individual from serving as an institution-related party—thus making the prohibition broader than under current law.

SECTION 930. PARALLEL INCREASES IN CIVIL PENALTIES.

This section increases the maximum civil penalties in other banking statutes so that they parallel those in section 8 of the FDI Act.

SECTION 931. PENALTY FOR VIOLATION OF CHANGE IN BANK CONTROL ACT

Current law permits the agencies to assess a civil penalty of up to $10,000 per day for *willfully* violating the Change in Bank Control Act. The agencies may collect the fine only after a *de novo* evidentiary trail at the district court level. This section eliminates the right to such a trial and the requirement that violations be "willful." It also increases the maximum civil penalties to conform to the other civil money penalty provisions of the bill.

SECTION 932. REPORTS

Current law requires banks to make periodic reports on their security devices and procedures. It also requires national banks to file call reports within 10 days of a "call." Penalties of $100 per day may be assessed for late call reports and similar reports filed by State banks and bank holding companies.

This section repeals the requirement for periodic reports on security devices and procedures. It also eliminates the requirement to file call reports within 10 days of the request, and instead requires that such reports be filed within the time specified by the regulator.

This section provides civil penalties of up to $25,000 per day for filing late reports or filing any false, misleading, or incomplete report. If the violation results from reckless disregard for the safety or soundness of the institution, the civil penalty may be up to $1 million per day. Fines for minor violations of this requirement will, however, be limited to $2,500 per day (pursuant to section 8(i)(2)(B) of the FDI Act, as added by section 921 of the bill).

In assessing penalties under these provisions, the agencies must consider the appropriateness of the penalty in view of the defendant's financial resources and good faith, the gravity of the violation, any history of previous violations, and such other matters as justice may require.

Subtitle B—Regulation by COSA

SECTION 941. REPORTS OF CONDITION AND PENALTIES

This section of the bill adds a new statutory provision requiring savings associations to file reports of condition with COSA. COSA may impose civil penalties of up to $25,000 per day on any association that fails to submit such a report within the time specified by COSA, or that files a false, misleading, or incomplete report. If the violation results from reckless disregard for the safety or soundness of the institution, the civil penalty may be up to $1 million per day. In asssessing penalties under this provision, COSA must consider the appropriateness of the penalty in view of the defendant's financial resources and good faith, the gravity of the violation, any history of previous violations, and such other matters as justice may require. Fines for minor violations of this provision will be limited to $2,500 per day (section 8(i)(2)(B) of the FDI Act, as added by section 921 of the bill).

SECTION 942. CONTINUITY OF AUTHORITY FOR PENDING LITIGATION

All litigation to which the Bank Board or FSLIC is a party when the bill becomes law shall be continued after the date of enactment by COSA, the FDIC, or the Federal Home Loan Bank Agency, as may be appropriate.

SECTION 943. EXTENSION OF AUTHORITY

COSA may continue any administrative proceeding initiated before the bill becomes law, or any administrative enforcement action taken before enactment under a provision of law repealed by the bill, as if that provision remained in effect. Any person subject to an order or condition issued by FSLIC or the Bank Board shall remain subject to that order or condition.

Subtitle C—Credit Unions

Sections 951-969 of the bill change the enforcement powers of the National Credit Union Administration Board ("NCUA Board") over insured credit unions to make those powers and the corresponding penalties equivalent to the powers and penalties applicable to insured banks.

Section 970 requires the NCUA Board, within 120 days after the bill becomes law, to prescribe audit standards requiring every insured credit union to be audited by an independent certified public accountant for any fiscal year in which the credit union: (1) has not conducted an annual supervisory-committee audit; (2) has not received a complete and satisfactory supervisory-committee audit; or (3) has had persistent and serious recordkeeping deficiencies, as determined by the NCUA Board. The failure of any insured credit union to obtain an independent audit required by this section will constitute an unsafe or unsound practice.

Subtitle D—Right to Financial Privacy

SECTION 981. AMENDMENT TO RIGHT TO FINANCIAL PRIVACY ACT

The right to Financial Privacy Act generally prohibits Government access to financial records held by a financial institution unless the customer consents to the release of his or her records, or the release of the records falls within one of the exceptions in the Act. For example, one exception permits disclosure of financial records to a supervisory agency in the exercise of its supervisory, regulatory, or monetary functions.

A. Definitions

Subsection (a) amends the definition of a "supervisory agency" to make clear that it includes agencies that supervise the activities of a financial institution holding company and any subsidiary of a financial institution or financial institution holding company. It also makes clear that a "supervisory agency" also includes any agency that has statutory authority to examine the financial condition, business operations, or records or transactions of an insured financial institution.

B. Exceptions

Subsection (b) amends the exception that permits disclosure of financial information to a supervisory agency in the course of its supervisory, regulatory, or monetary functions to similarly permit disclosure to a supervisory agency in the course of its receivership and conservatorship functions. The subsection makes clear that the exception applies whenever a supervisory agency exercises its supervisory role with respect to an institution or any institution-related party. The subsection also excepts from the Right to Financial Privacy Act any disclosure of financial records or information to employees or agents of the Federal Reserve Board or any Federal reserve bank made in connection with an extension of credit by the Federal Reserve System to depository institutions or others. Finally, the subsection similarly excepts the disclosure of financial records and information to employees and agents of the Resolution Trust Corporation in connection with the exercise of its conservatorship, receivership, or liquidation functions.

C. Grand jury information

Subsection (c) prohibits a financial institution from notifying a customer or any other party that a grand jury has subpoenaed a customer's records in connection with a possible violation of certain financial institution related criminal provisions. Violation of this prohibition may result in a criminal fine of up to $5,000, imprisonment for up to five years, or both.

TITLE X—CRIMINAL ENHANCEMENTS

SECTION 1001. INCREASED CRIMINAL PENALTIES AND CIVIL PENALTIES FOR CERTAIN FINANCIAL INSTITUTION OFFENSES

A. Increased criminal penalties

This section increases the criminal sanctions for several major financial institution crimes in title 18, United States Code. The crimes covered are: section 215 (financial institution bribery); sections 656 and 657 (financial institution misapplication and embezzlement); sections 1005 and 1006 (false entries on the books of financial institutions); sections 1007 and 1008, now consolidated as section 1007 (fraud on deposit insurer); section 1014 (false statement or overvaluation); and section 1344 (financial institution fraud). Maximum criminal penalties are increased to a $1,000,000 fine, fifteen years imprisonment, or both. If a higher fine is appropriate, a court may use section 3571(d) of title 18 to set the fine at twice the amount of pecuniary gain to the defendant or loss to the affected financial institution, whichever is greater.

B. Civil penalties

This section for the first time authorizes the Civil Division of the Justice Department and the U.S. attorneys' offices to seek civil penalties for the financial institution crimes listed above. This new authority gives the Justice Department flexibility to proceed either civilly or criminally (or both) on matters referred by a bank regulatory agency. The Justice Department may also develop cases civilly or criminally (or both) without a referral (e.g., by using information from an informant). The new authority provides an additional means of assessing penalties; it does not limit penalties that may otherwise be imposed by the bank regulatory under their own authority. If a civil penalty is assessed but not paid, the Attorney General may recover the penalty through an action in Federal district court.

The civil penalties provided by this section for violations of sections 656, 657, 1005-07, 1014, and 1544 of title 18 may be up to $1,000,000 for each day the violation continues, or up to $5,000,000, whichever is greater. The civil penalty for violating section 215 is up to $1,000,000 or the value of the thing offered or solicited, whichever is greater.

The Justice Department may develop civil cases through new civil summons powers provided by this section, comparable to the civil summons powers of numerous other agencies with civil penalty authority. The powers include standard summons enforcement provisions, including contempt authority.

C. Statute of limitations

Subsection (j) adds a new statute of limitations provision, section 3293 of title 18, which temporarily extends to 10 years the statute of limitations for the crimes covered by section 1001 (sections 215, 656, 657, 1005, 1006, 1007, 1008, 1014, and 1344 of title 18). After January 1, 1995, the statute of limitations will be reduced to seven years. This gives the Government until the end of 1994 to prosecute offenses occurring on or before December 31, 1987. Offenses occurring after that date would have to be prosecuted within seven years. Currently, the general five-year statute of limitations for all crimes listed in section 3282 of title 18 applies. The temporary extension to 10 years recognizes both the complexity of many of the investigations under these provisions and the volume of such investigations pending and anticipated in the near future. The permanent extension of the statute of limitations for these crimes to seven years reflects the need for a longer period to uncover and prosecute such offenses.

The lengthened limitation periods apply retroactively to any offense committed before the bill becomes law, so long as the five-year statute has not run as of that date. It is well established that the application of a new statute of limitations to crimes for which the old statute has not run does not violate the constitutional prohibition on *ex post facto* laws. *See, e.g., United States v. Richardson*, 512 F.2d 105 (3d Cir. 1975).

D. Sentencing

Pursuant to the Sentencing Reform Act of 1984, sentences for all crimes committed or completed on or after November 1, 1987, must accord with the sentencing guidelines promulgated by the U.S. Sentencing Commission. Subsection (k) relates to the sentencing guidelines for violations of nine criminal statutes: sections 215, 656, 657, 1005, 1006, 1007, 1008, 1014, and 1344 of title 18.

Subsection (k) states that additional, substantial periods of imprisonment should be imposed when violations of those sections jeopardize the safety or soundness of a financial institution. The subsection does not refer to a specific offense level, in deference to the view of some Members of Congress that the Sentencing Commission can best establish consistency in sentencing if Congress does not assign specific numerical values in its instructions to the Commission

when enacting or amending criminal statutes.

The new language makes clear, however, that the Commission should include specific offense characteristics in its guidelines for those offenses. These provisions should substantially lengthen the incarceration of defendants who jeopardize the safety and soundness of financial institutions. The amended guidelines should take into account the fact that an offense was committed against a federally insured financial institution, the potential effect on the community being served by the financial institution, the amount of loss caused by the offense, and the effect on the financial community.

While the bill was pending, the Sentencing Commission considered amending the guidelines pursuant to section 994(p) of title 28, United States Code, to increase the punishment for defendants convicted of financial institution fraud. If the guidelines are amended to ensure that defendants who jeopardize the safety and soundness of a financial institution receive a substantial period of incarceration in addition to the period that can generally be imposed for the underlying fraud, no further Commission action may be necessary.

SECTION 1002. MISCELLANEOUS REVISIONS TO TITLE 18.

Subsection (a) of this section replaces "Federal Home Loan Bank Board" with "Chairman of the Office of Savings Associations" in title 18, consistent with other provisions of the bill.

Subsections (b) and (c) extend sections 212 and 213 of title 18 (relating to gratuities and loans to bank examiners) to examiners of COSA, and change the references to FDIC-insured "banks" to FDIC-insured "financial institutions."

Subsection (d) repeals section 1009 of title 18, which currently makes it a crime to circulate rumors about FSLIC.

Subsections (e), (f), (g), and (j) make technical revisions to four criminal provisions necessitated by this Act, such as deleting references to FSLIC.

Subsection (h) amends the obstruction-of-justice statute, making it a crime for a financial institution, or any officer, director, partner, or employee of a financial institution to notify a customer or any other party, including another financial institution insider, of the existence or contents of a grand jury subpoena relating to one of the financial institution crimes discussed above in connection with section 1001 (sections 215, 656, 657, 1007, 1008, 1014, or 1344 of title 18).

Subsection (i) makes several financial institution crimes predicate offenses for violations of the Racketeer Influenced and Corrupt Organizations Act (RICO): section 215 (relating to the receipt of commissions or gifts for approving loans); sections 656 and 657 (financial institution misapplication and embezzlement); sections 1004, 1005, 1006, 1007, 1014 (relating to fraud and false statements); and 1344 (financial institution fraud).

SECTION 1003. CIVIL AND CRIMINAL FORFEITURE

Section 1003 adds civil (new section 983) and criminal (new section 984) forfeiture authority to title 18 for use in connection with the financial institution offenses discussed above in connection with section 1001 of the bill.

Civil forfeiture will allow the Department of Justice to move immediately against the proceeds of a violation or against property traceable to those proceeds as soon as the Department has probable cause. Because of the nature of the crimes and the victims, forfeited amounts will, after deduction of forfeiture costs, be applied differently than forfeitures under other provisions of law. If the affected institution is in receivership, section 983(e)(3) requires that the proceeds of the forfeiture be deposited in the Treasury's General Fund. If the institution is not in receivership, new section 983(e)(4) requires that the proceeds be deposited in the General Fund, or at the option of the appropriate Federal banking agency, be paid as restitution to the institution. As with other victim restitution, the amount received through the forfeiture would, under section 3523 of title 18, be deducted from other amounts received as restitution in other civil actions or through cease-and-desist orders.

Criminal forfeiture would be mandatory following a conviction—unlike orders for victim restitution, which are discretionary. The proceeds of such a criminal forfeiture would be applied in the same way as the proceeds of a civil forfeiture.

SECTION 1004. GRAND JURY AMENDMENTS

Subsection (a) amends rule 6(e) of the Federal Rules of Criminal Procedure to overcome impediments to the Government's civil enforcement efforts resulting from two decisions of the United States Supreme Court. In *United States v. Sells Engineering, Inc.*, 463 U.S. 418 (1983), the Court ruled that Justice Department attorneys handling civil cases are not "attorneys for the government" for purposes of rule 6(e). Thus such attorneys need a court order to obtain grand jury materials pertaining to their civil cases. Such an order may be granted only upon a showing of "particularized need." In a companion case, *United States v. Baggot*, 463 U.S. 476 (1983), the Court narrowly defined the purpose for which disclosure may be made. It held that agency proceedings such as civil tax audits are not "preliminary to a judicial proceeding," and thus no court order may be secured in such cases, no matter how compelling the need.

This section (1) permits prosecutors to automatically disclose grand jury materials to Justice Department civil attorneys for civil purposes without a court order; (2) expands the types of proceedings for which other departments and agencies may gain court-authorized disclosure to include not only "judicial proceedings" but also other matters within their jurisdiction, such as adjudicatory and administrative proceedings; and (3) reduces the "particularized need" standard for court-authorized disclosure to a lesser standard of "substantial need" in certain circumstances. The amendments also codify that a criminal prosecutor who conducts a grand jury investigation may present a companion civil case.

Amended rule 6(e)(3)(A)(i) permits disclosure to any Government attorney (e.g., Department of Justice attorney) "to enforce Federal criminal or civil law." This includes civil enforcement in all non-criminal actions to which the United States is a party, such as civil claims against bank directors and officers under section 1001 of the banking laws. Disclosure is not limited by the term "judicial proceeding," but can be made for the sole purpose of an initial review of potential civil liability, or to facilitate global dispositions of cases.

The amendment covers disclosures only to attorneys and their support staff such as secretaries and paralegals. Further disclosures to non-attorney personnel such as examiners, auditors, or agents will require a court order.

The words "civil law" in amended rule (6)(e)(3)(B) permit personnel to whom disclosure has been made for criminal purposes under subparagraph (A)(ii), to use the disclosed material to assist any attorney for the Government in enforcing civil law. It will allow the Justice Department's civil attorneys to discuss the evidence without court order not only with the criminal prosecutor but also with the agents, auditors, or examiners who worked on the grand jury investigation.

Before this section was passed, the Department of Justice assured the Senate that it intended to issue policy guidelines that restate current practices and case law to the effect that a grand jury may not be improperly used to gather evidence for civil purposes. The guidelines will state that the criminal prosecutor has discretion to decide whether and when to disclose materials to civil attorneys, and what materials should be disclosed. Disclosures will be limited to those materials relevant to the civil case.

Rule 6(e)(3)(C)(i) is amended by adding the words "particularized need" to reflect the current standard for court-authorized disclosures preliminary to or in connection with a judicial proceeding. The addition does not change current law, but demonstates the contrast between this higher standard and the lesser standard of "substantial need" required in new subparagraph (C)(v), applicable when Government agencies seek disclosure with the concurrence of the Department of Justice. Rule 6(e)(3)(C)(i) will provide the only method of disclosure available to private parties. It can also be used by Government agencies with independent litigating authority when the Justice Department exercises its discretion and declines to request disclosure.

New rule 6(e)(3)(C)(v) authorizes prosecutors to seek court approval to release grand jury information to a Government agency for use in matters within the agency's jurisdiction. This is intended to eliminate the requirement that court-authorized disclosure be for use in a "judicial proceeding," and also to reduce the "particularized need" standard to a "substantial need" standard.

Under the substantial need standard, a court could consider a number of factors, such as: (1) the public interest served by disclosure—particularly the protection of the public health or safety or the safety or soundness of a federally insured financial institution; (2) the burden or cost of duplicating the grand jury investigation; (3) the possibility that witnesses may not be available; (4) whether the department or agency already has a legitimate independent right to the materials; (5) avoiding needless inefficiency or waste of resources; (6) the need to prevent ongoing violations of law; and (7) the expiration of any applicable statute of limitations. In weighing these considerations, a court could not deny disclosure merely because the agency for which disclosure is sought may have alternative discovery tools available to it.

On the other hand, the "substantial need" test does not contemplate that a court would simply rubber stamp the Government's request for disclosure. Review under the standard should require a Justice Department attorney to make more than a showing of mere convenience or simple relevance to matters within the agency's jurisdiction.

The phrase "for use in relation to any matter within the jurisdiction of such de-

partment or agency" makes clear that an agency's administrative, enforcement, and other non-judicial proceedings are included among those that may warrant disclosure. Because the phrase "matters within the jurisdiction of an agency" has been broadly interpreted in cases involving section 1001 of title 18, it was used here to avoid listing every conceivable agency proceeding. In the context of administrative and enforcement actions involving financial institutions, it could include use in licensing, examination, applications involving change in control or ownership, removal actions, cease-and-desist orders, termination of insurance, receivership actions, or penalty assessments.

Courts should retain effective control of grand jury disclosure by permitting it only when an agency shows substantial need, and by delineating in their disclosure orders the specific purposes for which disclosure is authorized. Department of Justice attorneys should not seek disclosure without being convinced that there is a strong public interest for each disclosure. Agency personnel who receive court-authorized disclosure of grand jury materials under this subparagraph may use the material only for the purpose for which the court order was granted.

Subsection (c) amends the Fair Credit Reporting Act to permit access to consumer credit report records pursuant to a subpoena issued by a grand jury. The Act currently forbids a credit-reporting agency from furnishing such records except in a few restricted instances. One of these is "in response to the order of a court." Although some district courts have held that a Federal grand jury subpoena is such an order, the predominant judicial view is that a grand jury subpoena does not qualify. *See, e.g., In re Application to Quash Grand Jury Subpoena,* 526 F. Supp. 1253 (D. Md. 1981).

SECTION 1005. LITIGATION AUTHORITY

This section affirms that the changes made by the bill in the responsibilities of Federal banking agencies do not affect the Attorney General's current authority under section 516 of title 28, to conduct and coordinate litigation on behalf of the United States Government.

SECTION 1006. DEPARTMENT OF JUSTICE APPROPRIATION

This section authorizes appropriations of $50 million annually for fiscal years 1989 through 1991 to investigate and prosecute financial institution crimes. This additional funding is authorized to be appropriated to the Attorney General to supplement funding included in the annual Department of Justice appropriations. The Department should treat these additional appropriations as additional funds, and should not use them to replace funds already drawn from other functions to investigate and prosecute crimes involving financial institutions. To achieve the objectives of the authorizations, the Attorney General may adjust the funding among the different organizations involved in investigating and prosecuting financial institution fraud, such as the Federal Bureau of Investigation, the U.S. attorney's offices, and the Criminal and Tax Divisions.

TITLE XI—FEDERAL HOME LOAN MORTGAGE CORPORATION

SECTION 1101. SHORT TITLE

This section designates this title as the "Federal Home Loan Mortgage Corporation Transition Act."

SECTION 1102. PURPOSES.

This section sets forth the purposes of the title: to provide stability in the secondary market for home mortgages; to ensure that the Federal Home Loan Mortgage Corporation ("Freddie Mac") responds appropriately to the private capital market; and to ensure that Freddie Mac continues to provide liquidity for mortgage investments.

SECTION 1103. NEW BOARD OF DIRECTORS; INTERIM BOARD

Under current law, the members of the Federal Home Loan Bank Board also serve as Freddie Mac's board of directors. The Bank Board will be dissolved under section 301 of the bill.

A. New Board

In place of the Bank Board, this section establishes a new board of directors for Freddie Mac patterned after the board of the Federal National Mortgage Association ("Fannie Mae"). The new board will consist of 18 directors, of whom 13 will be elected annually by voting common stockholders and 5 will be appointed annually by the President. Of the presidential appointees, one must be from the homebuilding industry, one from the mortgage-lending industry, and one from the real-estate industry. Any director may be removed by the President for cause.

B. Interim Board

Until a new board of directors is elected, Freddie Mac will be governed by an interim board consisting of the President of Freddie Mac, and the persons serving as Chairman of the Federal Home Loan Bank Board and Secretary of Housing and Urban Development when the bill becomes law.

SECTION 1104. REGULATORY POWER

This section gives the Secretary of Housing and Urban Development general regulatory authority over Freddie Mac and authorizes the Secretary to prescribe such rules and regulations as he determines to be necessary and proper. Pursuant to his regulatory authority, the Secretary may, for example, (1) require that a reasonable portion of Freddie Mac's mortgage purchases further the national goal of providing housing for low- and moderate-income families, so long as those mortgages provide a reasonable economic return to Freddie Mac; (2) limit cash dividends on Freddie Mac's common stock based on Freddie Mac's current earnings and capital; (3) audit Freddie Mac's books and financial transactions; and (4) require Freddie Mac to report on its activities.

Without the Secretary's approval, Freddie Mac may not (1) issue stock or debt obligations convertible into stock, or (2) purchase, service, sell, lend on the security of, or otherwise deal in residential mortgages. The Secretary will be deemed to have approved all programs or activities involving purchasing, servicing, selling, lending on the security of, or otherwise dealing in residential mortgages by Freddie Mac on or before the effective date of this subsection; thus those transactions need not be submitted for his initial approval, although he will still have regulatory oversight and control over those activities.

When Freddie Mac seeks approval or other action from the Secretary pursuant to the Federal Home Loan Mortgage Corporation Act, the Secretary must within 45 days after receiving the request either grant the request or report to Congress why he has not done so.

This section specifies that Freddie Mac's debt-to-capital ratio may not exceed 15 to 1 without the Secretary's approval.

SECTION 1105. COMMON STOCK

Freddie Mac currently has no voting stock outstanding. The common stock, all nonvoting, may be held only by Federal home loan banks. The senior participating preferred stock is held by private investors. This section converts each outstanding share of senior participating preferred stock into a share of voting common stock.

SECTION 1106. FEES

This section specifies that Freddie Mac may not charge any mortgagee approved by the Secretary of Housing and Urban Development for participating in any mortgage insurance program under the National Housing Act, solely because of the Secretary's approval.

SECTION 1107. STANDBY CREDIT

This section permits the Secretary of the Treasury to purchase and sell Freddie Mac notes, debentures, bonds, or other obligations or securities. As the Secretary's purchase of such an instrument amounts to an extension of credit from the Treasury to Freddie Mac, such purchases may be made only to the extent approved in appropriations Acts, and the Secretary's holdings of such instruments may not exceed $2.25 billion at any given time.

SECTION 1108. TERMS OF OBLIGATIONS

A. Unsecured debt obligations

This section prohibits Freddie Mac from issuing any note, debenture, or substantially similar unsecured debt obligation without the approval of the Secretary of the Treasury. The Secretary will be deemed to have approved any such obligation with a maturity of one year or less that Freddie Mac has issued or is issuing when the bill becomes law, but will also be free to revoke the approval. A note, debenture, or substantially similar debt obligation with a maturity of more than one year that Freddie Mac has issued or is issuing when the bill becomes law will also be deemed approved, but that approval will expire 60 days after the bill becomes law.

B. Mortgage-related securities

This section prohibits Freddie Mac from issuing mortgage-related securities without the approval of the Secretary of the Treasury. Any such securities that Freddie Mac has issued or is issuing when the bill becomes law will be deemed approved.

SECTION 1109. COLLATERALIZED MORTGAGE OBLIGATIONS

This section provides that Freddie Mac may lend and make commitments to lend on the security of mortgages it is authorized to purchase. Freddie Mac is, however, prohibited from using that authority to originate mortgage loans or to make interim loans to sellers or originators of mortgages pending the sale of those mortgages in the secondary market.

A parallel statutory framework will apply to Fannie Mae.

TITLE XII—PARTICIPATION BY STATE HOUSING FINANCE AUTHORITIES AND NONPROFIT ENTITIES

SECTION 1201. DEFINITIONS

This section defines four terms used in title XII.

"State housing finance authority" means a public housing agency or an instrumentality of a State, or political subdivision of a

State, that provides residential mortgage loan financing.

"Nonprofit entity" means any not-for-profit corporation chartered under State law, including a nonprofit corporation established by the National Corporation for Housing Partnerships.

"Mortgage-related assets" means residential mortgage loans secured by one-to-four family or multi-family dwellings and real property improved with such dwellings, in the jurisdiction of the pertinent State housing authority.

"Net income" means income remaining after all associated expenses have been deducted.

SECTION 1202. ACQUISITIONS BY STATE HOUSING FINANCE AUTHORITIES AND NONPROFIT ENTITIES

Section 1202 authorizes State housing finance authorities and nonprofit entities to purchase mortgage-related assets (1) from the Resolution Trust Corporation or (2) from financial institutions for which the FDIC is receiver or conservator. State authorities and nonprofit entities may purchase such assets without regard to any other provision of law. Contracts to purchase mortgage-related assets shall be effective according to their own terms without any further approval, assignment, or consent.

Any State authority or nonprofit entity that purchases mortgage-related assets must devote any net income received from such assets to providing low- and moderate-income housing within its jurisdiction.

TITLE XIII—STUDY OF FEDERAL DEPOSIT INSURANCE AND BANKING REGULATION

SECTION 1301. STUDY

This section requires a study of the Federal deposit insurance system by the Secretary of the Treasury in consultation with the Chairman of the Federal Reserve Board, the Comptroller of the Currency, the Chairman of the Federal Deposit Insurance Corporation, the Chairman of the Office of Savings Associations, the Chairman of the National Credit Union Administration, and the Director of the Office of Management and Budget.

SECTION 1302. TOPICS

This section specifies eight topics that the study required by section 1301 should include. In covering these topics, the study should describe and analyze the status quo and identify and evaluate possible reforms. The eight topics are (1) the risk and rate structure for deposit insurance; (2) incentives for market discipline, including supplementary private insurance; (3) the scope of deposit insurance coverage and its effect on the insurance fund, including possible coinsurance requirements for deposits of $10,000 to $100,000; (4) certain specific reform proposals, including market-value accounting, assessments on foreign deposits, additional limitations on brokered deposits and multiple insured accounts, and the addition of collateralized borrowing to the deposit insurance base; (5) policies for dealing with insured financial institutions that are insolvent or nearly insolvent; (6) examining managers of insured financial institutions on the principles and techniques of risk management; (7) the efficiency of housing subsidies through the Federal Home Loan Bank System; (8) whether insured credit unions and the National Credit Union Share Insurance Fund are adequately capitalized; and (9) whether supervision of the National Credit Union Share Insurance Fund should be separated from other functions of the National Credit Union Administration.

SECTION 1303. FINAL REPORT

This section requires the Secretary of the Treasury to submit a final report to Congress within 18 months after the bill becomes law. The final report should detail the findings and conclusions of the study required by this title, and set forth recommendations for administrative and legislative reform.

TITLE XIV—MISCELLANEOUS PROVISIONS

SECTION 1401. GAO STUDY OF THE CREDIT UNION SYSTEM

A. Study

Subsection (a) requires the Comptroller General of the United States to conduct a comprehensive study of the credit union system. The study must examine: (1) credit unions' present and future role in financial markets; (2) the financial condition of credit unions; (3) credit unions' capital; (4) credit union regulation and supervision at both the Federal and State levels; (5) the common-bond requirement; and (6) the structure and financial condition of the National Credit Union Share Insurance Fund, including whether supervision of the fund should be separated from other functions of the National Credit Union Administration Board. The Comptroller General should also examine such other related matters as he believes appropriate. The study should compare the regulation of credit unions with that of other financial institutions.

B. Submission

No more than 18 months after the bill becomes law, the Comptroller General must submit a report of the study required by subsection (a) to the House and Senate Banking Committees. The report must contain a detailed statement of findings and conclusions, including recommendations for such administrative and legislative action as the Comptroller General believes appropriate.

SECTION 1402. CREDIT UNION REGULATOR SALARIES

This section removes the limit on compensation paid to employees of the National Credit Union Administration Board. In fixing such compensation, the NCUA Board shall consult and seek to maintain comparability with compensation paid by the Federal banking agencies. The NCUA Board and the other agencies should use such flexibility not to enter into a bidding war for other agencies' employees, but rather for all agencies to maintain comparable compensation at levels sufficient to attract and retain employees with specialized expertise needed to make sure that federally insured depository institutions operate safely and soundly.

The salaries and expenses of the NCUA Board and its employees will be paid from fees and assessments levied on credit unions. These funds will not be treated as Government funds or appropriated monies, nor are they subject to apportionment.

SECTION 1403. AMENDMENT TO SECTION 203 OF THE FEDERAL CREDIT UNION ACT

This section amends section 203(b) of the Federal Credit Union Act by striking the words "deposits and."

SECTION 1404. COMPENSATION OF EMPLOYEES OF THE COMPTROLLER OF THE CURRENCY

This provision removes the limit on compensation paid to employees of the Office of the Comptroller of the Currency. In fixing such compensation, the Comptroller shall consult and seek to maintain comparability with the compensation paid by the other Federal banking agencies. The Comptroller and the other agencies should use such flexibility not to enter into a bidding war for other agencies' employees, but rather for all agencies to maintain comparable compensation at levels sufficient to attract and retain employees with the specialized expertise needed to make sure that federally insured depository institutions operate safely and soundly.

Whenever the Comptroller submits a budget estimate or request to any officer or employee in the executive branch, he shall concurrently transmit copies of that estimate or request to Congress. Whenever the Comptroller submits any legislative recommendation to the President or to the Office of Management and Budget, he shall concurrently transmit copies to Congress. No officer or agency may require the Comptroller to submit legislative recommendations or testimony to any other officer or agency for prior approval, comments, or review.

SECTION 1405. GAO AUDIT OF ALL ORGANIZATIONS CARRYING OUT FUNCTIONS UNDER THIS ACT

A. Entities subject to GAO audit

The Comptroller General is authorized to audit all agencies, corporations, organizations, and other entities that perform functions or activities under the bill with respect to those functions or activities. Similarly, the Comptroller is authorized to audit all persons and organizations that, by contract, grant, or otherwise, provide goods or services to, or receive financial assistance from, any entity performing functions or activities under the bill with respect to the provision of such goods and services or the receipt of such assistance.

B. GAO's authority to conduct audits

Subsection (b) permits the Comptroller General to determine the nature, scope, terms, and conditions of audits conducted under this section. That authority supplements the Comptroller General's authority to conduct audits under other provisions of the bill and other laws.

C. GAO access to books and records

The Comptroller General shall have access to—and may examine and copy all relevant records and property in the possession, custody, or control of—persons and entities subject to audit under this section. Section 716 of title 31, United States Code (relating to judicial enforcement of the Comptroller General's right of access to records and his duty to keep information confidential), applies to audits conducted under this section.

SECTION 1406. REPORTS ON LOAN DISCRIMINATION

The Secretary of Housing and Urban Development, the Comptroller of the Currency, the Federal Reserve Board, the FDIC, the NCUA, and COSA must each submit a report to Congress regarding discriminatory mortgage-lending practices within 60 days after the bill becomes law. Each report must contain findings on the extent of discriminatory lending practices by mortgage-lending institutions under the agency's regulation or supervision. The report by the Secretary of HUD may exclude information on mortgage lenders that are included in reports of the other agencies. Findings of each report under this section must be based on a review of currently available loan acceptance and rejection statistics. Each

report must recommend appropriate measures to ensure nondiscriminatory lending.

SECTION 1407. EQUAL OPPORTUNITY

A. Equal employment opportunity

Subsection (a) broadens the scope of Executive Order 11478, which provides for equal employment opportunity in the Federal Government, to eight Federal agencies and other entities that perform functions or activities under the bill, namely: (1) the Comptroller of the Currency; (2) the Chairman of the Office of Savings Associations; (3) the Federal home loan banks; (4) the FDIC; (5) the Federal Home Loan Mortgage Corporation; (6) the Federal National Mortgage Association; (7) the Resolution Trust Corporation; and (8) the Resolution Finance Corporation.

B. Solicitation of contracts

Subsection (b) requires the entities covered by subsection (a) to establish programs to encourage minority- and women-owned businesses to participate in their procurement activities. Procurement involves buying and contracting for goods and services required to carry out regular business activities. Certification requirements for minority- and women-owned businesses will follow the guidelines of the Small Business Administration. Programs established in accordance with this subsection must be consistent with prudent business practices. This section does not authorize setting aside fixed percentages of procurement contracts.

SECTION 1408. ANNUAL REPORT ON THE CONDITION OF THE FEDERAL DEPOSIT INSURANCE FUND

Beginning on January 31, 1990, the FDIC must report annually to the House and Senate Banking Committees on the condition of the Bank Insurance Fund and the Savings Association Insurance Fund. The report must evaluate the condition of the insurance funds in light of six economic factors: (1) the general level of interest rates; (2) the general volatility of interest rates; (3) the yield curve for United States Treasury obligations; (4) the spread between interest rates paid on Treasury obligations and those paid on obligations of insured financial institutions; (5) the default rate on outstanding loans held by insured institutions; and (6) the rate of prepayments on fixed- and variable-rate loans held by insured financial institutions.

The annual report must analyze in detail: (1) the current financial condition of the deposit insurance funds; (2) the current levels of the six economic factors; (3) each deposit insurance fund's exposure to losses, assuming no change in the economic factors; (4) each deposit insurance fund's exposure to losses under a range of reasonably possible changes in each of the economic factors, including the worst-reasonable-case scenarios for each economic factor and all factors combined; and (5) background information on historic levels and variations of the economic factors that show how the scenarios presented are reasonable.

SECTION 1409. UNIFORM ACCOUNTING AND CAPITAL STANDARDS

This section requires the Federal banking agencies to establish uniform accounting standards for determining capital ratios of all federally insured institutions and other regulatory purposes.

This section also requires each agency to report annually to Congress on any differences between the agency's capital standards and the capital standards of the different agencies. Their reports must explain the reasons for the discrepancies, and must be published in the FEDERAL REGISTER.

SECTION 1410. GROSS-MARKETING RESTRICTIONS ON COMPANIES CONTROLLING GRANDFATHERED NONBANK BANKS

A. Nonbank banks

Section 4 of the Bank Holding Company Act generally restricts the activities of bank holding companies (i.e., companies that control banks) to (1) "banking or . . . managing or controlling banks," and (2) activities that the Federal Reserve Board has determined to be "so closely related to banking or managing or controlling banks as to be a proper incident thereto." Thus bank holding companies generally cannot engage in commercial activities, and their financial activities must satisfy the "closely related" standard. Before the enactment of the Competitive Equality Banking Act of 1987 ("CEBA"), however, the Banking Holding Company Act defined a "bank" narrowly. Companies controlling banks that did not meet that narrow definition (so-called "nonbank banks";) were not subject to the Act's restrictions. As a result, commercial companies could obtain control of FDIC-insured banks and engage directly or through subsidiaries in a wide range of activities impermissible for bank holding companies.

B. The restrictions imposed by CEBA on cross-marketing through affiliates

CEBA redefined "bank" and imposed restrictions on existing nonbanks in order to limit the competitive advantages companies controlling such grandfathered nonbank banks may enjoy over other bank holding companies. One of the restrictions, in section 4(f)(3)(B)(ii) of the Bank Holding Company Act, generally prohibits a grandfathered nonbank bank from allowing its products or services to be cross-marketed by or through an affiliate unless the affiliate engages only in activities permissible for a bank holding company.

C. What this section does

This section amends section 4(f)(3)(B)(ii) to permit an affiliate of a grandfathered nonbank bank to cross-market the bank's products or services with products or services of the affiliate permissible for a bank holding company, even if the affiliate also engages in activities impermissible for a bank holding company. For example, an affiliate engaged in insurance activities could not cross-market the nonbank bank's certificates of deposit with insurance policies that a bank holding company is not permitted to sell, but the affiliate could cross-market the certificates of deposit with credit-related insurance that a bank holding company may sell under section 4(c)(8).

SECTION 1411. APPRAISAL SUBCOMMITTEE

This section amends the Federal Financial Institutions Examination Council Act of 1978 by adding a new section 1010 creating an Appraisal Subcommittee and requiring the Federal financial institution regulatory agencies (the Federal Reserve Board, the Office of the Comptroller of the Currency, the FDIC, COSA, and the NCUA Board) to develop standards for the performance of appraisals.

A. Establishment of an Appraisal Subcommittee

This section requires the Federal Financial Institutions Examination Council to establish an Appraisal Subcommittee, composed of one representative from each Federal financial institution regulatory agency. Each representative on the Appraisal Subcommittee must be familiar with the appraisal profession.

The Appraisal Subcommittee will monitor: (1) State certification and licensing requirements for appraisers; (2) regulations of the Federal financial institution regulatory agencies, the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, and the Resolution Trust Corporation (collectively the "Regulatory Agencies") that govern real-estate related financial transactions requiring the services of an appraiser ("Federally Related Transactions"); and (3) the practices, procedures, activities, and organizational structure of the Appraisal Foundation, a non-profit organization created in 1987 to develop uniform appraisal standards and appraiser qualifications for State certification and licensing. The Appraisal Subcommittee must establish a national registry of State certified and licensed appraisers eligible to perform appraisals in Federally Related Transactions. No later than January 31 of each year, the Appraisal Subcommittee must report to Congress on its performance in carrying out its functions.

The Appraisal Subcommittee will be funded through a single $5 million appropriation, authorized under this section, covering the two years after the bill becomes law. Thereafter, the Appraisal Subcommittee will meet its expenses by assessing and collecting annual registration fees (up to $25) from State certified and licensed appraisers eligible to perform appraisals in Federally Related Transactions.

B. Promulgation of appraisal rules by regulatory agencies

Not later than one year after the bill becomes law, each of the Regulatory Agencies must adopt standards governing the performance of real-estate appraisals in Federally Related Transactions. The standards must be no less stringent than the generally accepted appraisal standards ("GAAS") established by the Appraisal Standards Board of the Appraisal Foundation. The standards may be more stringent than GAAS if the Regulatory Agency determines that higher standards are consistent with its statutory responsibilities.

The Regulatory Agencies must also adopt standards governing the types of Federally Related Transactions requiring the services of State certified or licensed appraisers. In adopting those standards, the Regulatory Agencies must consider whether transactions are, individually or collectively, of sufficient financial or public policy importance to the U.S. Government that a State certified appraiser must perform the appraisal. State certified appraisers must in any event perform appraisals of real property valued at $1 million or more. Appraisals that may be performed by State licensed appraisers may also be performed by State certified appraisers.

C. Establishment of appraiser qualifications

As a general rule, the Regulatory Agencies may accept the certifications and licenses granted by the appropriate State agencies. However, a Regulatory Agency may also impose additional certification criteria consistent with its statutory responsibilities.

State requirements for designating certified appraisers must meet minimum certification criteria established by the Appraiser Qualification Board of the Appraisal Foundation. These criteria include satisfactory completion of an examination equivalent to the Uniform State Certification Examina-

tion approved by the Appraiser Qualification Board.

The Appraisal Subcommittee must review certifications and licenses awarded by the States. The Subcommittee may refuse to recognize certifications and licenses granted by State agencies whenever the State agency: (1) has failed to adopt and enforce standards, qualifications, or procedures prescribed under this section; (2) lacks adequate authority to carry out its responsibilities; or (3) has failed to act decisively regarding appraisal standards, appraiser qualifications, or appraiser supervision, as required by this section. The Appraisal Subcommittee must establish procedures to notify State agencies of its determination not to recognize their certifications and licenses. These procedures must give the State agencies an opportunity to present information to contest the denial or correct the conditions that caused the Appraisal Subcommittee to deny recognition. Appraisal Subcommittee actions denying recognition are subject to judicial review.

After July 1, 1991, at the latest, all appraisals performed in connection with Federally Related Transactions must be performed by State certified or licensed appraisers in accordance with this section. The Appraisal Subcommittee may extend the effective date until December 31, 1991, with the approval of the Federal Financial Institutions Examination Council, if it finds that a State has made substantial progress in establishing a State certification and licensing system that meets the requirements of this section.

The Appraisal Subcommittee may, with the approval of the Federal Financial Institutions Examination Council, waive the requirement to use State certified and licensed appraisers when a shortage of certified or licensed appraisers exists or when compliance with the requirement would create inordinate delays in performing appraisals.

D. Penalties for noncompliance

Financial institutions and other entities that knowingly employ an appraiser who is not certified or licensed in accordance with this section are subject to civil money penalties of up to $25,000 for a first violation and $50,000 for each subsequent violation. Civil money penalties may be imposed only after an administrative hearing conducted by a Federal financial institution regulatory agency or an appropriate State agency. All such civil money penalties are subject to judicial review.

E. Application of this section to other Federal agencies

The Office of Management and Budget may require other Federal agencies and departments to comply with this section.

SECTION 1412. SENSE OF THE SENATE RESOLUTION REGARDING TAX PROVISIONS GOVERNING FDIC AND FSLIC ASSISTED TRANSACTIONS

This section sets forth the Senate's finding that special tax provisions applicable to FDIC and FSLIC resolution of troubled depository institutions constitute inherently inefficient subsidies and do not permit for a full accounting of the costs of financing those resolutions. This section expresses the sense of the Senate that the House of Representatives, which is constitutionally responsible for originating tax measures, should adopt and send to the Senate legislation that repeals certain tax preferences relating to such transactions. Repeal of those tax preferences would apply only to transactions on or after the date this bill becomes law.

SECTION 1413. STATUS OF CERTAIN THRIFT INSTITUTION

This section permits a particular savings association to convert from SAIF membership to BIF membership. In 1987, when CEBA first restricted conversions from FSLIC to the FDIC, a drafting error inadvertently removed an intended exception for that institution. This section corrects that error.

SECTION 1414. PASSIVE INVESTMENTS BY COMPANIES CONTROLLING GRANDFATHERED NONBANK BANKS

A. Current restrictions on acquiring shares or assets of additional banks or thrift institutions

Section 4(f)(2)(A) of the Bank Holding Company Act generally prohibits companies controlling grandfathered nonbank banks from directly or indirectly (1) acquiring control of any additional bank or thrift institution, or (2) acquiring control of more than 5 percent of the shares or assets of any additional bank or thrift institution. These two restrictions are intended to limit the competitive advantages companies controlling grandfathered nonbank banks may enjoy over other bank holding companies (discussed above in connection with section 1410).

Only one exception exists to the first of the two restrictions, section 4(f)(2)(A)(i) of the Act: a company controlling a grandfathered nonbank bank may, under certain emergency circumstances, acquire control of a failed or failing thrift institution. (This emergency acquisition authority is currently contained in section 408(m) of the National Housing Act. The bill repeals section 408(m), and replaces it with a new section 13(k) of the Federal Deposit Insurance Act.)

Five exceptions exist to the second restriction, section 4(f)(2)(A)(ii) of the Act, which prohibits acquisitions of more than 5 percent of the shares or assets of any additional bank or thrift institution. These exceptions exclude shares or assets in the following categories when calculating compliance with the 5-percent restriction:

(1) shares acquired in a bona fide fiduciary capacity;

(2) shares held temporarily pursuant to an underwriting commitment in the normal course of an underwriting business;

(3) shares held in an account solely for trading purposes (i.e., as a market-maker);

(4) loans or other accounts receivable acquired in the normal course of business; and

(5) shares or assets of a failed or failing thrift institution acquired under the emergency acquisition authority described above.

B. Changes Made by This Section

This section revises section 4(f)(2)(A)(ii) of the Act to clarify what conduct will and will not violate the 5-percent restriction. The section rephrases the current exception for fiduciary holdings and makes additional exceptions for independent fiduciaries, insurance companies, proxy solicitation, and debt collection. Exceptions (2) through (5) remain unchanged.

As under current law, the exceptions relate only to the 5-percent restriction; they do not affect the prohibition in section 4(f)(2)(A)(i) of the Act against acquiring *control* of any additional bank or thrift institution.

1. Shares held as a bona fide fiduciary.—This section amends the current exception for fiduciary holdings, subclause (I) of section 4(f)(2)(A)(ii) of the Act, to specify that the exception will not be lost merely because the fiduciary has sole discretion to vote shares pursuant to its fiduciary obligations.

This section also rephrases subclause (I) for clarity. The subclause currently refers to shares "acquired in a bona fide fiduciary capacity," whereas the revised subclause refers to shares "held as a bona fide fiduciary." The use of "held" rather than "acquired" is consistent with the exceptions for shares held as an underwriter or market-maker, and makes clear that the exception does not apply in perpetuity merely because one *originally acquired* the shares as a bona fide fiduciary. Thus one who ceases to hold such shares as a bona fide fiduciary but continues to hold them in some other capacity may not avail himself of the exception. The use of "as a bona fide fiduciary" rather than "in a bona fide fiduciary capacity" emphasizes that the exception focuses on *acting* as a bona fide fiduciary rather than on mere fiduciary status. Thus, for example, the fiduciary must act solely in the interest of the beneficiaries rather than to aggrandize the company controlling the grandfathered nonbank bank.

2. Shares held by an independent fiduciary.—This section adds a new subclause (II) to the Act to provide an exception for shares held by an independent party as a bona fide fiduciary solely for the benefit of employees of the company controlling the grandfathered nonbank bank, employees of the company's subsidiaries, or those employees' beneficiaries. The new exception responds to concern that the basic fiduciary exception in subclause (I) may not apply to shares held by an independent party. The language of subclause (II), like that of subclause (I), emphasizes that the fiduciary is to *act* as a bona fide fiduciary solely for the benefit of the employees and their beneficiaries (and not, e.g., to aggrandize the company controlling the grandfathered nonbank bank).

3. Shares held by insurance companies.—This section adds a new subclause (VIII) to create an exception for insurance company subsidiaries of a company that controls a grandfathered nonbank bank. The exception cannot be used to hold more than 1 percent of any class of shares of a given bank or thrift institution. This limit prevents the exception from becoming an open-ended loophole through which the 5-percent restriction could be evaded merely by holding shares through one or more insurance companies.

4. Proxy solicitation.—In addition to perpetuating the current exception for shares held as a market-maker, subclause (IV) provides that the 5-percent restriction is not violated merely by acquiring control of voting rights in the normal course of a proxy solicitation.

5. Debt collection.—Subclause (VI) provides an exception for shares or assets acquired in securing or collecting a debt previously contracted in good faith. The exception follows the model of section 2(a)(5)(D) of the Act.

SECTION 1415. SEPARABILITY OF PROVISIONS

This section specifies that the provisions of the bill are separable: should a court hold invalid any provision or the application of any provision to any person or under any circumstance, that holding will not affect the validity of any other provision or of any provision as it relates to any other person or under any other circumstance.

TITLE XV—GENERAL PROVISIONS

SECTION 1501. DISTRICT OF COLUMBIA CORRECTIONAL FACILITY

This section calls for the District of Columbia to construct an 800-bed prison expeditiously.

● Mr. GARN. Mr. President, the section-by-section analysis inserted in the RECORD today was a collaborative effort of the majority and minority staff on the Banking Committee. I believe that it provides an excellent explanation of the recently passed FIRRE bill. Ordinarily, an analysis of this nature would have been included in the committee's report, but due to the time pressure the committee was operating under, an abbreviated report was issued in April. The publication of this document in today's CONGRESSIONAL RECORD fills that gap.●

PRINTING OF A COLLECTION OF INAUGURAL ADDRESSES OF THE PRESIDENTS OF THE UNITED STATES

Mr. DODD. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on Senate Concurrent Resolution 19.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the resolution from the Senate (S. Con. Res. 19) entitled "Concurrent resolution to authorize printing of a collection of the inaugural addresses of the Presidents of the United States", do pass with the following amendments:

Strike out all after the resolving clause, and insert:

That there shall be printed as a Senate document, with appropriate illustrations, a collection of the inaugural addresses of the Presidents of the United States, from George Washington, 1789, to George Bush, 1989, compiled by the Congressional Research Service of the Library of Congress. In addition to the usual number, there shall be printed 16,000 copies of the document which shall be made available for a period of 60 days, as follows: 5,000 copies for the use of individual Senators, pro rata, and 11,000 copies for the use of individual Members of the House of Representatives, pro rata. If, at the end of that period, any of the additional number of copies are not so used, such copies shall be transferred to the document room of the Senate or the House of Representatives, as appropriate.

Amend the title so as to read: "Concurrent resolution authorizing the printing of a collection of the inaugural addresses of the Presidents of the United States.".

Mr. DODD. Mr. President, I move that the Senate concur in the amendments of the House.

The PRESIDING OFFICER. The question is on agreeing to the motion.

The motion was agreed to.

Mr. DODD. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. HATCH. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ORDERS FOR TUESDAY, JUNE 20, 1989

RECESS UNTIL 11:30 A.M.—MORNING BUSINESS

Mr. DODD. Mr. President, on behalf of the majority leader, I ask unanimous consent that when the Senate completes its business today, it stand in recess until 11:30 a.m., Tuesday, June 20, and that following the time for the two leaders there be a period for morning business not to extend beyond 12:30 p.m., with Senators permitted to speak therein for up to 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS FROM 12:30 P.M. TO 2:15 P.M.

Mr. DODD. Mr. President, I further ask unanimous consent that the Senate stand in recess from 12:30 p.m. to 2:15 p.m. in order to accommodate the party conferences.

The PRESIDING OFFICER. Without objection, it is so ordered.

RESUMPTION OF THE CONSIDERATION OF S. 5

Mr. DODD. Mr. President, I now ask unanimous consent that at 2:15 p.m. the Senate resume consideration of S. 5, the child-care bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS UNTIL 11:30 A.M. TOMORROW

Mr. DODD. Mr. President, if the distinguished acting Republican leader has no further business and if no Senator is seeking recognition, I now ask unanimous consent that the Senate stand in recess under the previous order until 11:30 a.m. Tuesday, June 20.

There being no objection, the Senate, at 5:04 p.m., recessed until Tuesday, June 20, 1989, at 11:30 a.m.

NOMINATIONS

Executive nominations received by the Secretary of the Senate after the recess of the Senate on June 16, 1989, under authority of the order of the Senate of January 3, 1989:

DEPARTMENT OF STATE

LUIGI R. EINAUDI, OF MARYLAND, TO BE THE PERMANENT REPRESENTATIVE OF THE UNITED STATES OF AMERICA TO THE ORGANIZATION OF AMERICAN STATES, WITH THE RANK OF AMBASSADOR.

WARREN A. LAVOREL, OF CALIFORNIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, FOR THE RANK OF AMBASSADOR DURING HIS TENURE OF SERVICE AS THE U.S. COORDINATOR FOR MULTILATERAL TRADE NEGOTIATIONS.

DEPARTMENT OF DEFENSE

STEPHEN JOHN HADLEY, OF THE DISTRICT OF COLUMBIA, TO BE AN ASSISTANT SECRETARY OF DEFENSE, VICE RONALD F. LEHMAN II, RESIGNED.

HENRY S. ROWEN, OF CALIFORNIA, TO BE AN ASSISTANT SECRETARY OF DEFENSE, VICE RICHARD LEE ARMITAGE, RESIGNED.

DEPARTMENT OF JUSTICE

MARGARET P. CURRIN, OF NORTH CAROLINA, TO BE U.S. ATTORNEY FOR THE EASTERN DISTRICT OF NORTH CAROLINA FOR THE TERM OF 4 YEARS VICE SAMUEL T. CURRIN, RESIGNED.

DEPARTMENT OF COMMERCE

THOMAS J. DUESTERBERG, OF INDIANA, TO BE AN ASSISTANT SECRETARY OF COMMERCE, VICE LOUIS F. LAUN, RESIGNED.

DEPARTMENT OF TRANSPORTATION

BRIAN W. CLYMER, OF PENNSYLVANIA, TO BE URBAN MASS TRANSPORTATION ADMINISTRATOR, VICE ALFRED A. DELLIBOVI, RESIGNED.

DEPARTMENT OF ENERGY

J. MICHAEL DAVIS, OF COLORADO, TO BE AN ASSISTANT SECRETARY OF ENERGY (CONSERVATION AND RENEWABLE ENERGY), VICE JOHN R. BERG, RESIGNED.

STEPHEN A. WAKEFIELD, OF TEXAS, TO BE GENERAL COUNSEL OF THE DEPARTMENT OF ENERGY, VICE FRANCIS S. RUDDY, RESIGNED.

FEDERAL COMMUNICATIONS COMMISSION

SHERRIE PATRICE MARSHALL, OF NORTH CAROLINA, TO BE A MEMBER OF THE FEDERAL COMMUNICATIONS COMMISSION FOR THE REMAINDER OF THE TERM EXPIRING JUNE 30, 1992, VICE DENNIS R. PATRICK, RESIGNED.

NOMINATIONS

Executive nominations received by the Senate June 19, 1989:

FEDERAL COMMUNICATIONS COMMISSION

ANDREW CAMP BARRETT, OF ILLINOIS, TO BE A MEMBER OF THE FEDERAL COMMUNICATIONS COMMISSION FOR THE TERM EXPIRING JUNE 30, 1990, VICE MARK S. FOWLER, RESIGNED.

IN THE ARMY

THE FOLLOWING NAMED OFFICERS, ON THE ACTIVE DUTY LIST, FOR PROMOTION TO THE GRADE INDICATED IN THE UNITED STATES ARMY IN ACCORDANCE WITH SECTION 624, TITLE 10, UNITED STATES CODE. THE OFFICERS INDICATED BY ASTERISK ARE ALSO NOMINATED FOR APPOINTMENT IN THE REGULAR ARMY IN ACCORDANCE WITH SECTION 531, TITLE 10, UNITED STATES CODE:

CHAPLAIN

To be major

CHARLES R. *. BAILEY, xxx-xx-xxxx
JOHN H. *. BJARNASON, JR., xxx-xx-xxxx
GLEN L. *. BLOOMSTROM, JR., xxx-xx-xxxx
MICHAEL T. *. BRADFIELD, xxx-xx-xxxx
FRANK J. *. BRUNING, xxx-xx-xxxx
CHARLES D. *. CHANDLER, xxx-xx-xxxx
JOEL W. *. COCKLIN, xxx-xx-xxxx
DANIEL J. *. DEVENY, xxx-xx-xxxx
GAETANO *. FRANZESE, xxx-xx-xxxx
PHILIP T. *. GUISTWITE, xxx-xx-xxxx
FREDDIE L. *. HALL, JR., xxx-xx-xxxx
ALAN C. *. HENDRICKSON, xxx-xx-xxxx
MICHAEL J. *. HOOKER, xxx-xx-xxxx
FREDERICK L. *. HUDSON, xxx-xx-xxxx
RONALD R. *. HUGGLER, xxx-xx-xxxx
GORDON T. *. HUMPHREYS, xxx-xx-xxxx
JAMES W. *. JONES, JR., xxx-xx-xxxx
JO A. *. KNIGHT, xxx-xx-xxxx
RICHARD A. *. KUHLBARS, xxx-xx-xxxx
WILLIAM E. *. MADDOX, III, xxx-xx-xxxx
DANIEL A. *. MILLER, xxx-xx-xxxx
OTIS I. *. MITCHELL, xxx-xx-xxxx
ALVIN M. *. MOORE, III, xxx-xx-xxxx
DONNIE L. *. MOORE, xxx-xx-xxxx
SHERRILL F. *. MUNN, xxx-xx-xxxx
DENNIS A. *. NIEMEIER, xxx-xx-xxxx
RODNEY A. *. OZMUN, xxx-xx-xxxx
ALOYSIUS M. *. RODRIGUEZ, xxx-xx-xxxx
WILLIAM C. *. SHELNUTT, xxx-xx-xxxx
ORLANDO V. *. SUNGA, xxx-xx-xxxx
STEPHEN D. *. TURNER, xxx-xx-xxxx
JACK J. *. VANDYKEN, xxx-xx-xxxx
WILLIAM D. *. WILLETT, xxx-xx-xx...
LARRY J. *. WOODS, xxx-xx-xxxx
PAUL W. *. WOODS, xxx-xx-xxxx
RONALD W. *. WUNSCH, xxx-xx-xxxx
HERSHEL D. *. YANCEY, xxx-xx-xxxx

JUDGE ADVOCATE GENERAL'S CORPS

To be major

DEAN C. BERRY, xxx-xx-xxxx
NICHOLAS J. BETSACON, xxx-xx-xxxx
STEPHEN W. BROSS, xxx-xx-xxxx
STEPHANIE S. BROWNE, xxx-xx-xxxx
LEROY C. *. BRYANT, III, xxx-xx-xxxx
JOHN F. BURNETTE, xxx-xx-xxxx
JOHN W. CALDWELL, JR., xxx-xx-xxxx
MICHAEL K. CAMERON, xxx-xx-xxxx
JON J. *. CANERDAY, xxx-xx-xxxx
MARTIN D. CARPENTER, xxx-xx-xxxx
LYLE W. *. CAYCE, xxx-xx-xxxx
ROBERT L. *. CHARLES, xxx-xx-xxxx
JOHN L. CHARVAT, JR., xxx-xx-xxxx

ALAN D. CHUTE, xxx-xx-xxxx
PETER J. COMODECA, xxx-xx-xxxx
JAMES M. COYNE, xxx-xx-xxxx
JEFFREY S. DAVIS, xxx-xx-xxxx
BENJAMIN P. DEAN, xxx-xx-xxxx
WILLIAM L. DENEKE, xxx-xx-xxxx
THOMAS F. DOUGALL, xxx-xx-xxxx
ROBERT L. *. DUECASTER, xxx-xx-xxxx
MALINDA E. DUNN, xxx-xx-xxxx
MIGUEL A. ESCALERA, JR, xxx-xx-xxxx
GRECZMIEL M. FERNANDEZ, xxx-xx-xxxx
DAVID J. FLETCHER, xxx-xx-xxxx
JOHN J. FLUCK, xxx-xx-xxxx
JOHN M. FOMOUS, xxx-xx-xxxx
SHARON A. *. FORBUS, xxx-xx-xxxx
SHAWN T. GALLAGHER, xxx-xx-xxxx
LELAND A. GALLUP, xxx-xx-xxxx
MAUREEN E. GILMORE, xxx-xx-xxxx
RICHARD E. *. GORDON, xxx-xx-xxxx
ORIN R. HILMO, JR, xxx-xx-xxxx
JOHN B. *. HOFFMAN, xxx-xx-xxxx
WENDELL A. HOLLIS, SR, xxx-xx-xxxx
FRANK J. HUGHES, xxx-xx-xxxx
WILLIS C. HUNTER, xxx-xx-xxxx
GARY D. *. HYDER, xxx-xx-xxxx
CARLTON L. *. JACKSON, xxx-xx-xxxx
FREDERICK KENNEDY, III, xxx-xx-xxxx
LAWRENCE D. KERR, xxx-xx-xxxx
STANTON G. *. KUNZI, xxx-xx-xxxx
RAFAEL LARA, JR, xxx-xx-xxxx
ROBERT M. LEWIS, xxx-xx-xxxx
PHILIP W. LINDLEY, xxx-xx-xxxx
ROBERT L. LITTLETON, xxx-xx-xxxx
JOSEPH J. LODGE, JR, xxx-xx-xxxx
KEVIN G. MACCARY, xxx-xx-xxxx
SAMUEL R. MAIZEL, xxx-xx-xxxx
GREGG A. MARCHESSAULT, xxx-xx-xxxx
CHARLES R. MARVIN, xxx-xx-xxxx
KURT S. MECKSTROTH, xxx-xx-xxxx
ENRIQUE B. MENDEZ, xxx-xx-xxxx
KENNETH F. MILLER, xxx-xx-xxxx
EVA M. NOVAK, xxx-xx-xxxx
ALLAN R. PEARSON, xxx-xx-xxxx
RICHARD V. PREGENT, xxx-xx-xxxx
FRED T. *. PRIBBLE, xxx-xx-xxxx
KARL R. RABAGO, xxx-xx-xxxx
ROBERT E. RIGRISH, xxx-xx-xxxx
JUAN J. *. RIVERA, xxx-xx-xxxx
STEVEN T. *. SALATA, xxx-xx-xxxx
MARGARET A. SCHUYLER, xxx-xx-xxxx
JOHN J. SHORT, xxx-xx-xxxx
PAUL L. SNYDERS, xxx-xx-xxxx
STEPHANIE C. SPAHN, xxx-xx-xxxx
JOSEPH C. *. SWETNAM, xxx-xx-xxxx
DOUGLAS B. TESDAHL, xxx-xx-xxxx
STERLING L. THROSSELL, xxx-xx-xxxx
ELIZABETH W. WALLACE, xxx-xx-xxxx
ANDREW M. WARNER, xxx-xx-xxxx
STEPHANIE D. WILLSON, xxx-xx-xxxx
RANDY L. *. WOOLF, xxx-xx-xxxx

DENTAL

To be major

ANGELA S. *. ADAMS, xxx-xx-xxxx
DAVID C. *. ANDERSON, xxx-xx-xxxx
MICHAEL J. *. APICELLA, xxx-xx-xxxx
MATHEW S. *. AUSMUS, xxx-xx-xxxx
BARBARA L. *. BEASLEY, xxx-xx-xxxx
TIMOTHY A. *. BECKER, xxx-xx-xxxx
KEITH A. *. BERRY, xxx-xx-xxxx
GREGORY A. *. BLYTHE, xxx-xx-xxxx
PHILIP J. *. BREEDING, xxx-xx-xxxx
GEORGE L. *. BRUCE, xxx-xx-xxxx
WILLIAM W. CARMICHAEL, xxx-xx-xxxx
BENJAMIN T. *. COOK, xxx-xx-xxxx
MARYJO *. CORBETT, xxx-xx-xxxx
KATHRYN A. *. CRIPPS, xxx-xx-xxxx
STEVEN L. *. CURETON, xxx-xx-xxxx
PHILIP *. DENICOLO, xxx-xx-xxxx
DAVID G. *. DICKERHOFF, xxx-xx-xxxx
JIM B. *. DUKE, JR, xxx-xx-xxxx
CARLOS S. *. ENRIQUEZ, xxx-xx-xxxx
MARIA D. *. FERRER NICHOLS, xxx-xx-xxxx
MARK A. *. FIGARO, xxx-xx-xxxx
MARIA L. *. FREYFOGLE, xxx-xx-xxxx
MICHAEL S. *. FULKERSON, xxx-xx-xxxx
JOHN A. *. GAWLIK, xxx-xx-xxxx
DALE L. *. GIEBINK, xxx-xx-xxxx
MICHAEL E. *. GONZALES, xxx-xx-xxxx
MICHAEL J. *. GORDON, xxx-xx-xxxx
NATHAN *. HABER, xxx-xx-xxxx
GARY L. *. HALL, xxx-xx-xxxx
PHILIP A. *. HAMMOND, xxx-xx-xxxx
GARY W. *. HARRIS, xxx-xx-xxxx
JAMES P. *. HOUSTON, xxx-xx-xxxx
SCOTT M. *. IOSET, xxx-xx-xxxx
JOSEPH B. *. ISAAC, xxx-xx-xxxx
BLAINE L. *. KNOX, xxx-xx-xxxx
STEPHEN E. *. KOMYATI, xxx-xx-xxxx
THOMAS A. *. KORBITZ, xxx-xx-xxxx
DANIEL P. *. LAVIN, xxx-xx-xxxx
PAUL S. *. LEWIS, xxx-xx-xxxx
KAY H. MALONE, III, xxx-xx-xxxx
MARK F. *. MAXWELL, xxx-xx-xxxx
NATHAN K. *. METHVIN, xxx-xx-xxxx
MARTY G. *. MOON, xxx-xx-xxxx
WALTER J. *. MORRIS, JR, xxx-xx-xxxx
JOHN H. MUSE, xxx-xx-xxxx
LARRY P. *. MYERS, xxx-xx-xxxx
ROBERT S. *. NICHOLS, xxx-xx-xxxx
KEVIN S. *. OAKES, xxx-xx-xxxx
JAMES E. *. PARKER, xxx-xx-xxxx
DALE L. *. PAVEK, xxx-xx-xxxx
JOSE M. *. PEREZ, xxx-xx-xxxx
DONNA B. *. PHILLIPS, xxx-xx-xxxx
TIMOTHY M. *. PIVONKA, xxx-xx-xxxx
RICHARD J. *. PRICHARD, II, xxx-xx-xxxx
MARTIN C. *. RADKE, xxx-xx-xxxx
ARLYNN G. *. RAEZ, xxx-xx-xxxx
PETER G. *. REICHL, xxx-xx-xxxx
ROBERT B. *. ROACH, JR, xxx-xx-xxxx
GUILLERMO L. *. ROSADO, xxx-xx-xxxx
STEVEN C. ROSENBERGER, xxx-xx-xxxx
BRYAN K. *. RUSHING, xxx-xx-xxxx
BRET F. *. SANDLEBACK, xxx-xx-xxxx
KEVIN K. *. SCHULTZ, xxx-xx-xxxx
GREGORY L. *. SHIPMAN, xxx-xx-xxxx
HAROLD B. *. SNYDER, III, xxx-xx-xxxx
GREGORY R. *. SOUTH, xxx-xx-xxxx
DANIEL B. STORY, II, xxx-xx-xxxx
MARK A. *. SUNDBERG, xxx-xx-xxxx
GARY D. *. SWIEC, xxx-xx-xxxx
THUY T. *. SWIEC, xxx-xx-xxxx
MARCUS S. *. TAPPAN, xxx-xx-xxxx
THOMAS G. *. TEETS, xxx-xx-xxxx
DAVID G. *. THOMAS, xxx-xx-xxxx
RICHARD W. THOMAS, JR, xxx-xx-xxxx
MICHAEL J. *. WILL, xxx-xx-xxxx
MING T. *. WONG, xxx-xx-xxxx
RICHARD A. *. WOODARD, xxx-xx-xxxx
KEITH A. *. WUNSCH, xxx-xx-xxxx
ROBERT K. *. ZUEHLKE, xxx-xx-xxxx

WITHDRAWALS

Executive nominations withdrawn by the President from further Senate consideration, June 16, 1989:

DEPARTMENT OF ENERGY

JOHN R. BERG, OF VIRGINIA, TO BE AN ASSISTANT SECRETARY OF ENERGY (CONSERVATION AND RENEWABLE ENERGY), VICE DONNA R. FITZPATRICK, WHICH WAS SENT TO THE SENATE ON JANUARY 3, 1989.

FRANCIS S. RUDDY, OF TEXAS, TO BE GENERAL COUNSEL OF THE DEPARTMENT OF ENERGY, VICE J. MICHAEL FARRELL, RESIGNED, WHICH WAS SENT TO THE SENATE ON JANUARY 3, 1989..

EXTENSIONS OF REMARKS

WORLD REFUGEE SURVEY

HON. GARY L. ACKERMAN
OF NEW YORK
IN THE HOUSE OF REPRESENTATIVES

Monday, June 19, 1989

Mr. ACKERMAN. Mr. Speaker, the U.S. Committee for Refugees, a private organization that works to educate the American public about world refugees issues, recently issued its "World Refugee Survey: 1988 in Review." The report notes that the number of people displaced from one country to another climbed from 13.3 million in 1987 to 14.4 million in 1989—a nearly 10-percent rise in just 1 year. The Horn of Africa alone produced half a million refugees. The survey reports that 350,000 civilians fled violence in northern Somalia to, of all places, Ethiopia; another 150,000 southern Sudanese fled to Ethiopia, escaping civil war and joining 200,000 similar refugees in Ethiopia.

I am particularly impressed with the committee's work on the tragic famine in Sudan, in which as many as 500,000 innocent civilians died last year. The committee's director, Roger Winter, was one of the first people to bring public attention to this horrendous manmade famine. In the introduction to the survey, Mr. Winter writes:

It is hard to believe that a humanitarian tragedy of this dimension, fully known to governments including our own, could materialize with nary a murmur, until the outcry of refugees . . . and the burgeoning awareness of ordinary people of good will finally began to change the political equities and force a response.

I urge my colleagues to read the "World Refugee Survey: 1988 in Review," especially excerpts from "The Year in Review" chapter, which I include here:

EXCERPTS FROM "THE YEAR IN REVIEW" BY ROGER P. WINTER IN WORLD REFUGEE SURVEY—1988 IN REVIEW

Refugees need a permanent home. But, as victims of persecution and war, they have minimal control over their destinies. A solution for their homelessness must often seem utterly beyond their power to effect. That is because refugees are the flotsam of power struggles—world, regional, national, and local. The powerful, who have created the misery of the weak, have little regard for the tolls they have exacted and even less incentive for rectifying the losses incurred because of their actions. Therefore, the refugees are left to wait. And, if they retain the energy, to hope.

They hope that those who control the destiny of governments might take actions that will have the inadvertent bonus of affecting their destiny for the better as well. But the basic changes in the lives of common people that trickle down after negotiators have concluded their business are not easy to come by and don't materialize quickly. A year ago, we looked forward to the hope of Soviet withdrawal from Afghanistan, progress on the Central America peace plan, a peace accord in Sri Lanka, and the withdrawal of Vietnamese troops from Cambodia. A year later, progress has been made on a number of these situations. However, for most of the refugees another year has been added to their exile.

Still, progress between the superpowers and on some regional conflicts offers hope that perhaps soon the worldwide refugee population—now at 14 million—will decrease rather than increase. The dramatic progress on a settlement in Namibia adds to this hope.

In the meantime, reality confronts us. Hundreds of thousands of new refugees have been created in 1988 in Africa, largely fleeing conflict in southern Sudan, northern Somalia, and Mozambique. The situation for Vietnamese refugees in Thailand degenerated early in the year, resulting in great loss of life and sparking an as yet unfinished fundamental reassessment of refugee policy throughout Southeast Asia. The end of the Iran-Iraq war, instead of bringing the repatriation of hundreds of thousands of refugees, acutally resulted in the exile of an additional 100,000 Iraqi Kurds, and the internal displacement of perhaps ten times that number, as Iraq turned its guns—and more insidious weapons—away from its external enemy and onto troublesome elements within its own population.

While the resolution of so many refugee problems seems both tantalizingly close and as far away as ever, the interim protection of refugees through the offer of asylum and resettlement has noticeably deteriorated in 1988. Western Europe and North America continued a matrix of restrictive asylum policies and practices—particularly for refugees from the Third World—that are undermining the quality of refugee protection worldwide. The psychology, even the morality, of those in the developed world responsible for this latter situation is difficult to comprehend.

Political realism is essential in defining the level of flexibility nations adopt in permitting the entry of asylum seekers. But what has all-too-often happened is that principles are tossed to the winds and approaches are adopted that not only are biased or are unfairly restrictive, but moreover are designed to frustrate the asylum seeker's access to any system at all in which his claim might be adjudicated. Despite serious poverty and other maladies in parts of the developed world, the very truth is that most of us in North America and Western Europe are materially well off, even fat by the standards of most of the world's people. In December Bishop Herbert W. Chilstrom, head of the Evangelical Lutheran Church in America, recounted some of his recent experiences in the Third World. He said the sight of starving children and homeless people persuaded him that "never again will I be able to say I am middle class. The truth is I am a very rich person, and so are you." He said the chief sin that comes with acquiring possessions is that "we turn in our ourselves."

As usual, 1988 was a year of pluses and minuses for refugees. The most dramatic event early in the year was the action taken by Thailand to crack down on Vietnamese boat people. Beginning in late January, an interdiction blockade in the Gulf of Thailand deflected and redirected refugee boats headed to Thailand. Many boats were pushed back as they sought to land. In the process, several hundred refugees died. The changed psychology of the situation spawned a dramatic increase in pirate attacks against refugees. During the following months, attitudes in other first asylum countries of the region hardened. Pushbacks continued in Indonesia. Hong Kong rushed to implement a new screening program as a deterrent. Malaysia announced its intention to close its major refugee camp.

That these developments were tragic for individual Vietnamese refugees cannot be minimized. The events did, however, trigger movement towards a fundamental reassessment of the refugee situation in the region, including calls for a new international conference on the matter. It will be crucial in 1989 for the international community to resist pressures to wash its hands of the continuing exodus from Vietnam and to construct a truly principled approach that employs the full range of humanitarian solutions for these refugees—one that, while achieving improved control and minimizing less compelling flight, also fully protects refugees.

Thailand has unfortunately also allowed the deterioration of the screening program for refugees from Laos that it implemented in 1985. As a result, Hmong in particular continue to be pushed back into Laos. The U.S. quietly began to reconsider for resettlement some previously rejected Cambodians at Khao I Dang, a welcome change. Thailand made several important improvements in life quality and security for Cambodians located along the Thailand-Cambodia border, but inaction by Thailand and the international community permitted the dread Khmer Rouge to force thousands of refugees back into Cambodia. Finally, Thailand, which for years has provided unofficial haven for ethnic Karen and others who have fled fighting in Burma, also received a substantial number of students who fled political upheaval in most of Burma's major cities. Unfortunately, Thailand has not permitted UNHCR to fulfill its mandate regarding these refugees.

Aside from the successful final stages of the repatriation of Ugandan refugees from Sudan, the situation of refugees in Africa deteriorated markedly in 1988. The most predictable event was the continuing exodus from ravished Mozambique. The U.S. State Department released an invaluable report analyzing violence against civilians, attributing the great mass of it to the Renamo forces. Although the refugees have fled to every contiguous country, tiny Malawi has a refugee burden in many ways unmatched by any in the world. The refugee influx is a twelfth of the nation's own population.

Three other situations in Africa exploded into view in 1988. In August, ethnic violence in northern Burundi killed thousands and forced the flight of more than 50,000 to Rwanda.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

Conflict in northern Somalia resulted in massive destruction in the major city of Hargeisa. In June, some 350,000 fled into nearby Ethiopia, which itself remains the Horn of Africa's largest refugee producer. The situation of the Somali refugees deteriorated in late 1988, resulting in substantial criticism of UNHCR by the nongovernmental organizations providing assistance.

The conflict in southern Sudan finally entered the world's focus. This current phase of the struggle between the Islamic, Arabized north and the non-Islamic, African south resulted in the deaths of at least 260,000 civilians in 1988 alone from direct violence and disrupted food production and distribution. Militias affiliated with the Sudan army targeted ethnic Dinka for violence, causing a trek of hundreds of miles for tens of thousands of young Dinka men and boys. In March, they began to arrive in Ethiopia in dramatic numbers, but even more dramatic condition. Relief workers said that as many as a quarter did not survive the journey, and that those who arrived in Ethiopia were in the worst physical condition of any refugee flow in decades. In all, 350,000 southern Sudanese refugees remain in Ethiopian camps.

The larger tragedy was that of southern civilians who remained in Sudan as "internally displaced people." A million made their way to Khartoum to escape the direct fighting. There, the poorest of the poor, unassisted by a government that viewed them as a threat, they were the worst hit victims of August's massive Nile flooding. Most remain unassisted to this day. Interdiction of food supplies by authorities left many civilians in the transitional zone between north and south in absolute famine, as well as the victims of violent militias. And in the very south, the government was present in only a limited number of garrison towns. These towns, as well as towns like Kapoeta, controlled by the rebel Sudan People's Liberation Army, were ringed with thousands of the formerly proud, now dispossessed, often dying in southern Sudan.

It is hard to believe that a humanitarian tragedy of this dimension, fully known to governments including our own, could materialize with nary a murmur until the outcry of refugees and advocates, the beginnings of a media focus, and the burgeoning awareness of ordinary people of good will in many nations finally began to change the political equities and force a response.

Where was the UN? Where was the Organization of African Unity? Where was the world's humanitarian machinery in such a case? Sadly, there is little the international community is obliged to do, and little that it actually does. Such a situation is viewed as the "internal affair" of the country in question, whose government may well be fully or partially responsible for the very existence of the tragedy in the first place. Protecting and assisting internally displaced civilians—when the responsible government can't or won't respond adequately—is a major unresolved item for the international humanitarian agenda.

Although the shooting stopped in the Iran-Iraq war, it produced the ironic result of new waves of repression against the internal enemies of both Saddam Hussein and Ayatollah Khomeini. An escalation of arrests and executions in Iran clearly signalled to Iranian refugees that it was not yet safe to return. Iraq, on the other hand, used the armistice as an opportunity to wage all-out war on the Kurds of the mountainous north, displacing hundreds of thousands within Iraq and causing tens of thousands to flee to neighboring Turkey and Iran. Turkey was particularly uneasy with the new influx, and continued to refuse to grant refugee status to refugees from either Iraq or Iran.

In Central America, civilians displaced by warfare and violence within their own countries, as well as refugees throughout the region and in North America, continued the wait for peace and security. Human rights conditions deteriorated in both Guatemala and El Salvador, with refugees continuing to flee those countries and spontaneously make their way north. Some Salvadoran refugees decided to return home, despite the great turmoil and risk there. There decision in part reflected the privations of their lives in Honduran refugee camps. Nicaraguans in Honduras fared somewhat better, but Honduras was indicating reluctance to continue to provide haven for either refugee group. Although fighting in the contra war reached a standstill late in the year, tens of thousands of Nicaraguans continued to flee the Sandinista regime and the shambles of an economy beset by war and natural disasters.

A dramatic increase in applications for asylum in the United States and Canada, especially from Central Americans, led both countries to make it increasingly difficult to file and pursue asylum claims. A U.S. federal judge ruled that the Immigration and Naturalization Service uses methods "from subtle persuasions to outright threats and misrepresentations" to coerce and intimidate Salvadoran asylum seekers into abandoning their asylum claims.

Thanks to a continued relaxation of emigration policies in the Soviet Union, more than 70,000 people left in 1988, predominantly ethnic Germans, Armenians, and Jews.

These are welcome developments, although they challenge the United States and its resettlement partners to expand migration in order to accommodate such large numbers. While the reduction of east-west conflicts can pave the way for more constructive efforts to resolve some of the world's most trying refugee quandaries, among the greatest challenges will be the north-south variety, low intensity conflicts in the Third World, often involving brutal repression and wrenching dislocation.

The United States has a unique role to play in setting the tone for international response to these refugees and displaced people. The issue ultimately is one of moral, principled leadership, but too often that leadership does not surface without ordinary people supplying the motivation.

We are a people of causes. And when a cause catches us, strange and sometimes wonderful things happen. The little girl down the well, the ice-bound whales, the victims of earthquake in Armenia—all these caught us.

Refugees and displaced people are victims. A few are controversial. But the bulk are regular people caught up in persecution and violence. As a nation and as individuals, we have increasingly made the very tragic error of believing that refugees are one of our problems, rather than their becoming one of our cases.

We have a chance with a new Administration to change our course. While dealing with immigration enforcement, we should give the highest priority to preserving a humanitarian response to asylum seekers. While framing our foreign policy, we should give a priority of the highest order to human rights, to humanitarian assistance, to solutions to refugee movements, all in politically neutral terms that focus on the vulnerability of the victims of persecution and conflict.

THE U.S. MINT AIDS THE U.S. CAPITOL PRESERVATION COMMISSION

HON. WM. S. BROOMFIELD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Monday, June 19, 1989

Mr. BROOMFIELD. Mr. Speaker, in 1988, as part of the bicentennial celebration of Congress, legislation was passed to create a U.S. Capitol Preservation Commission to help restore the U.S. Capitol. To help create funds for the Commission, it was decided that the Treasury would mint bicentennial commemorative coins, including a gold $5 coin, a silver $1 coin, and a half dollar coin.

The proceeds of these coins will be placed in a new Capitol Preservation Fund administered by the Capitol Preservation Commission. The Commission, led by chairman, Senator ROBERT BYRD, will administer restoration projects like the Statue of Freedom and the Capitol Fountains.

On June 14 on the Capitol Grounds, the U.S. Mint began to strike the first of the bicentennial commemorative coins. The atmosphere was splendid as Speaker FOLEY along with many other Congressmen took part in the historical coin striking process.

It is most fitting that the world's symbol of democracy and freedom—our Capitol, will benefit through a restoration process funded by the proceeds of the Commemorative Coin Program.

We are most grateful to the U.S. Capitol Preservation Commission and the U.S. Mint for engineering such an outstanding bicentennial celebration program. I would like to send special thanks to the Director of the U.S. Mint, Donna Pope, for all her hard work on this project. She spoke during the first strike ceremony giving a detailed explanation of the Commemorative Coin Program and I would like to commend her remarks to my honored colleagues:

REMARKS BY THE HONORABLE DONNA POPE, DIRECTOR OF THE U.S. MINT, FIRST STRIKE CEREMONY

Good morning, I'm Donna Pope, Director of the United States Mint. As you know today is Flag Day and a very good time to pledge our allegiance to our flag. Would Johnny Stoel a Senior Patrol leader in the Boy Scouts and Shannan Burke, Girl Scout, both from the Washington Area come forward and lead us in the Pledge of Allegiance, would everyone please rise. Thank you. Before everyone gets too comfortable it is my pleasure to introduce our distinguished guests on the platform.

Also there are some very special people in the audience again please hold applause. Deputy Secretary of the Treasury John Robson; and very very special guests Mrs. Nicholas F. Brady and Kim Brady, good to have you.

We're here today to strike the first commemorative coins in honor of the Bicenten-

nial of the Congress. It is the first time a coin has been struck in the front yard of the Capitol. So, I welcome you all to our temporary off-site West Point and San Francisco Mints. Those are the two Mints where the bulk of the gold and silver coins will be produced, starting immediately after this First Strike Ceremony.

Using the Capitol grounds as a production facility—a foundry, seems strange at first, but on second thought it is quite fitting to think of the Capitol as a great white foundry where the spirits, dreams, and ambitions of the individual states and territories and millions of opinions are alloyed together in a process so brilliant, it is noticed and often envied throughout the world. It is a place where the experiment of democracy has triumphed for 200 years—proof that people can govern themselves, and it is the anniversary of that two hundred year TRIUMPH that these coins celebrate and commemorate. But a greater thinker, my father, has always said—anniversaries are not only for celebration, but for reflection and "taking stock" as well. So it is hoped that these coins will not only help Congress and the American people celebrate the Bicentennial, but will also cause reflection upon the roles we all play as caretakers of that which our founding fathers envisioned those 200 years ago.

The coin program we are about to christen will provide funds for the restoration of one of the most recognized buildings in the world—our Capitol which, of course, includes the famous statue standing high atop the Capitol dome, the Statue of Freedom. This is the second time this decade that the Mint has had the privilege of being a part of restoring an American, female, symbol of liberty and freedom. In 1986, the statue of Liberty and now, Freedom.

Although we are striking a gold $5 coin and a silver $1 coin today, there is a third coin, a half dollar coin, which is also part of the program, and one that millions of people can afford. The half dollar will be produced in Denver and San Francisco. All three coins will be produced in both proof and uncirculated condition. Numismatists in the audience will understand that terminology. By the way, those of you unfamiliar with the coin world—numismatist is not a respiratory ailment, but rather a coin collector and our best customer. Numismatists know that a proof version of a coin is one done with specially polished dies, has a mirror like finish, and is hand fed into the coining press and handled with white gloves, as you will soon see.

Over the years, since George Washington laid the first conerstone on September 18, 1783, the Capitol has been built, rebuilt, restored, extended, domed and redomed. I'm sure you can understand the constant need for maintenance and restoration.

The 22 million dollars we expect to realize from the sale of these coins will ensure that for years to come, the great white foundry, the Home of Democracy, the House of Congress, will endure. We have a number of would-be coin press operators with us today—some of whom will also speak good words about the coin program—before we let them near the coining presses to strike gold or silver.

The first is a lady, known around the world, for being "on the money"—Treasurer Katherine Davalos Ortega.

INGENUITY IN RURAL AMERICA

HON. E de la GARZA

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Monday, June 19, 1989

Mr. DE LA GARZA. Mr. Speaker, there is a great deal of inventiveness and ingenuity out in rural America. If one looks, one will find it. A valued constituent of mine, Mr. Kenneth McKamey, has proven this to be true.

Mr. McKamey lives in Gregory, TX. This is a small south Texas community near Corpus Christi, TX. Mr. McKamey has shown us what it takes to run a farming operation and make it work during these difficult times. His success was featured in a news article printed by the Corpus Christi Caller-Times newspaper. The entire article follows below so that our colleagues may know of Mr. McKamey's accomplishments.

[From the Corpus Christi Caller-Times]

INGENUITY IN AMERICA

(By Hoyt Hager)

TAFT.—Kenneth G. McKamey, a fourth generation farmer in the Taft area, has found that his talent as an inventor has helped him meet new problems on the farm.

He recently returned to the Ithaca, N.Y., campus of his alma mater, Cornell University, to talk about agricultural engineering in the real world.

He was speaking to a group of agricultural engineering students when he said the "greatest challenge" he has encountered in farming in the Coastal Bend since leaving college is "dealing with the government bureaucracy".

The master's degree in agriculture engineering that he earned at Cornell in the 1960s provided background for his continuing studies in the agribusiness world and his working with the government on the farm program.

McKamey operates a family farm of 3,000 acres and another spread of 1,000 acres of rented land. He also owns and operates a cotton gin and a grain elevator. He said he is confronted every day with problems developing in all three areas of agribusiness.

In his talk to the Cornell class of undergraduates, he was asked many questions about "flatland farming" with which the students were unfamilar since they live and work in hilly and mountainous areas. Also, they were interested in large farms like the McKamey spread.

Another challenge McKamey encounters, he said, is in the employment of machinery. All too frequently he finds "we never anticipated this device could he used in this manner." As an inventor, McKamey makes machinery modifications to meet new problems.

His farm has a machine shop where his 12 tractors are maintained and repaired. He has given a number of tractor and machinery modification ideas to farm equipment and gin machinery companies. Among these was a sensing device to help a tractor operator with multi-wheel drive keep his machine going in a straight line. McKamey also has invented attachments for cotton gins and elevator machines.

One of the most important developments coming from McKamey was an oil cooling system for a cotton gin. Also, he was the first to attach suction lines to a gin to increase flow of raw cotton into saws.

McKamey devotes much of his time to marketing because he harvests 2,000 bales of cotton and 70 to 100 carloads of grain sorghum each year. He also markets some produce for his rented-acreage landlords.

McKamey said he "always goes with the farm program." His family operation is in the government program as one farm, and there are three groups of landlords on the rented land.

McKamey was born in 1942 in Corpus Christi. He was in the ROTC program at Cornell University when he was graduated with a master's degree. He went into military service and after two years left in 1968 to take over the family farm after the death of his father, K.G. McKamey, who was the son of T.A. McKamey. T.A. McKamey was the son of J.S. McKamey, who set up the McKamey farm in the Gregory-Taft area in 1899.

Members of the family today are Kenneth McKamey's mother, Hattie Bell McKamey; a sister, Martha Decou; a daughter, Koko McKamey, who is a freshman at Cornell; and a son, Jeff, and daughter, Kara, in Gregory-Portland High School.

Jeff plans to take a summer course at Cornell this year.

REMEMBERING DICK CONLON

HON. MARTIN OLAV SABO

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Monday, June 19, 1989

Mr. SABO. Mr. Speaker, 1 year ago, the House lost a truly unique and exceptional staff member, and many of us individually lost a good and trusted friend, with the untimely death of Richard P. Conlon, who was killed in a sailing accident on June 19, 1988.

Dick served as executive director of the Democratic Study Group from 1968 until his death last year. During his 20-year tenure at DSG, Dick played a leading role in promoting institutional reform within the House, in building DSG into a preeminent source of legislative research, and in advancing the cause of progressive legislation.

On the anniversary of his death, it is appropriate that we pause for a few moments to remember Dick and his accomplishments—accomplishments that are well summarized in these editorial tributes that appeared following his death last year:

[From the Washington Post, June 23, 1988]

RICHARD CONLON

When Richard Conlon, who died in a sailboat accident last weekend, became the chief staffer for the Democratic Study Group almost exactly 20 years ago, the House of Representatives was a largely conservative and tradition-bound quarter of American politics. Elderly committee chairmen were vested with great power by operation of the seniority system, and an alliance between conservative southern Democrats and small-town Republicans dominated the House on issues far more often than its Democratic speakers could. At a time when the presidency and the executive branch were beginning to be transformed, when the Senate was in the throes of reform and state governments were growing larger and more competent, the House, in-

tended by the founders to be the branch of government most responsive to changes in opinion, seemed to be almost impervious to change.

Today the House is a vastly different institution, and Mr. Conlon was one of the handful of people responsible. He helped to establish the Democratic Study Group, not just as a lobby but also as an organization that provided reliable information on issues before the House. And he helped provide the leadership that abolished such hoary practices as unrecorded votes and automatic succession to chairmanships, insisting instead that members be accountable to their constituents, and chairmen to their colleagues. The political result through most of the 1970s and 1980s has been to favor the liberal Democratic causes Mr. Conlon supported. But the institutional changes guarantee that the House will be more responsive to any majority, as was shown when Republicans took effective control on the tax and budget issues of 1981.

Of course, Mr. Conlon did not work alone; various House Democrats and national political trends helped produce the results he sought. But he brought to his work important qualities of intellectual integrity and steadiness of purpose that helped make the DSG's victories not the momentary triumph of a faction but the restoration of a branch of government to something nearer its original purpose. His death came while he was still in the midst of his work, but he left behind major accomplishments.

[From the Washington Post, June 24, 1988]

CASUALTIES AND EFFECTS

(By Haynes Johnson)

The death of Dick Conlon in a boating accident last weekend on the Chesapeake Bay was one of those terrible events that cried out for comment, and I was pleased to read the tributes about him by my colleague David S. Broder and by The Washington Post editorially. But I would like to add a personal note.

Outside of Washington, few people heard of Richard Conlon. If they did, his job title as executive director of the Democratic Study Group of the House of Representatives undoubtedly made him sound like one of countless Washington bureaucrats. In fact, Dick Conlon represented the best of public service: a man of honor, intelligence, decency, who cared deeply about the institutions of government, and especially about the Congress. He did more than care: through tireless effort, he made them better. As such, he was one of the most influential people in Washington over the past generation.

At a time when a sense of scandal permeates the capital, with cases of bribery and insider/contractor Pentagon deals involving tens of billions of dollars dominating the headlines, the public has good reason to react cynically to the latest workings of Washington. The example of Dick Conlon is a reminder of the other, better side of Washington and government service. He never sought the spotlight, never tried to use his position to cash in personally, never became puffed up from association with power. He came to Washington to serve, and did so splendidly and selflessly.

[From the National Journal, June 25, 1988]

A HOUSE DEMOCRAT

Richard P. Conlon, executive director of the House Democratic Study Group (DSG), died on June 19 in a boating accident on the Chesapeake Bay. He was 57.

Conlon was a rare breed among congressional aides. He was an institutionalist. He cared deeply about the way Congress operates—especially the House and, most especially, the Democrats in the House. He worked on many levels: legislative, electoral, systemic, informational. He certainly was a Democrat, but he was, most passionately, a democrat, who believed that government must reflect the public will.

Conlon cared about results and the contents of legislation. As an institutionalist, he also pursued the Jeffersonian ideal that Members of Congress ought to work harder to assert their responsibility as lawmakers.

Like many of the House's institutionalists, Conlon could be unrelenting in advocating what he believed were the best interests of the House and his party. Friends and foes alike called him "the 436th Member." Some critics viewed him as "the prince of darkness."

Woe to the Member of Congress, especially a House Democrat, who stood in his way. During the 1985 House debate on the tax reform bill, Ways and Means Committee chairman Dan Rostenkowski, D-Ill., wanted to kill the tax credit for an individual's contribution to a political candidate. But DSG leaders, energized by Conlon, challenged and initially defeated Rostenkowski, coming away with the only House floor amendment to the committee-reported bill. The chairman later got his way in a House-Senate conference committee but, a Conlon ally said, "Rostenkowski was ready to kill him.

Woe, also, to the congressional reporter who did not give Conlon's view—which was usually the accurate view—of a story in which he was involved. Certain reporters, notably your truly, had a bad habit of crediting the "Watergate babies" elected in 1974 for the major internal House reforms that were approved by the Democratic Caucus after that election. As Conlon said very clearly, the 75 freshman Democrats provided the votes, but painstaking efforts of DSG leaders over many years performed the essential spade work and developed the tactics that led to the ouster of three autocratic committee chairmen and forced Members to be more accountable to the caucus. And when I wrote in 1979 that the DSG was suffering an "identity crisis" because it had achieved most of its goals, Conlon tartly responded that the report "would be news to DSG members" and that the organization had reached the peak of its influence.

Conlon held his post for 20 years—a remarkable feat, considering that a new chairman took control every two years. Ironically, friends celebrated the anniversary at a big Capitol Hill reception four days before his death: the invitation showed Conlon at the helm of a boat.

He had taken the DSG job after serving as a reporter in Minnesota and as a press secretary to then-Sen. Walter F. Mondale, D-Minn., and he quickly plunged into the effort of Members seeking to force a vote on ending the Vietnam war. Years later, he rallied DSG forces against aid to the Nicaraguan contras by publishing a long series of reports on events in the region, and he organized a lawsuit by 109 House Members challenging the constitutionality of U.S. reflagging of Kuwaiti tankers in the Persian Gulf.

"No person in this town has been more crucial than Dick to the success of progressives in the House for 20 years," said Rep. David R. Obey, D-Wis., a close ally and former DSG chairman. "His agenda was never finished. In the later years, our big problem was not the House rules but how to respond to the Reagan Administration's economic policy and foreign policy abuses." Obey, himself a major player, credited Conlon as the "driving force" behind the rules changes that weakened seniority and strengthened the part leaders. "Everything he did was to teach Members by producing information that was accurate and straight but pushed home a point."

On the campaign front, he organized the Democratic Study Group Campaign Fund in 1974 to give candidates access to low-cost polling. "Dick felt that in-house polling was a way to control escalating campaign costs, with professional standards," said political scientist Thomas E. Mann, who organized the program with Conlon in its early years and who is director of government studies at the Brookings Institution.

Starting in the early 1980s, the polling function passed to the Democratic Congressinal Campaign Committee, largely because its chairman, Rep. Tony Coelho of California, began raising enough money for the committee to underwrite the services. Coelho's aggressive style initially caused friction between the DSG and the campaign committee. "Dick opposed the cult of personality and feared that it could be manipulated by someone in the future," said Martin D. Franks, who was executive director of the campaign committee from 1981-87. "By 1985, he was satisfied with how we operated, and the two groups were restored to their proper roles, with DSG oriented to issues and inside the House."

Probably the most important aspect of that service, and the feature least visible to the public, has been the yellow DSG legislative fact sheets perfected by Conlon, which Members and aides of all ideological persuasions (plus more than a few reporters) use as crib sheets on pending bills.

At a time when congressional aides leave the Hill to earn big bucks in law or consulting firms or to write lightweight collections of Capitol Hill anecdotes. Conlon showed that professionalism can mean selfless and driven service to make Congress work better. His death came at a time when mounting legal and ethical misdeeds among House Members threaten the House's integrity and when the House is most in need of leadership to develop workable reforms in such areas as campaign finance and House operations. These are issues on which Conlon was a legislative genius.

Because Conlon won't be around, some Members might not feel as challenged to address the problems as they would have; others won't have the tactical help and institutional memory that they badly need. The public will be the loser.

HUNGARY'S MOST-FAVORED-NATION STATUS

HON. STENY H. HOYER

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Monday, June 19, 1989

Mr. HOYER. Mr. Speaker, each year during the congressional review of those countries enjoying most-favored-nation [MFN] status under the terms of section 402 of the 1974 Trade Act, the Commission on Security and Cooperation in Europe, of which I am cochair, takes the opportunity to provide Congress with an update on human rights and human contacts practices in the countries in question.

The Commission has long held that MFN status is tied not only to a country's human contacts practices, which are noted explicitly in section 402, but also to its broader human rights performance.

The annual MFN review has proven useful in focusing congressional attention on important human rights issues which might not otherwise be aired sufficiently. For example, the review process compelled the Congress to take a good, hard look at Romania's egregious human rights abuses.

Hungary has enjoyed most-favored-nation status since July 1978, when a bilateral trade agreement containing MFN provisions came into effect. For the past several years it has received a Presidential waiver and congressional approval almost without hesitation, although during those years it has not always upheld its human rights commitments undertaken as a signatory state of the Helsinki Final Act and subsequent CSCE documents in a consistent manner. Most recently, we have observed encouraging signs of a renewed commitment to uphold human rights principles in Hungary, to establish the rule of law, and to lay the groundwork for pluralism.

Hungary's emigration policy is relatively liberal, and its record on resolving family reunification cases is good. Emigration fees have been reduced significantly since 1984. Applicants for exit permission are neither harassed nor discriminated against. Most applicants receive permission to emigrate on their first attempt, and refusals can be appealed. Since 1984, United States-Hungarian divided family cases have been resolved without difficulty.

Hungary's policy on travel abroad has been liberalized further by the new passport regulations enacted in January 1988. Under these regulations, Hungarian passports are valid for an unlimited number of 90-day trips abroad, whether to the East or West. Pensioners and those working abroad and their dependents may stay abroad longer than 90 days. The waiting period for a new passport is 30 days. Hungarian citizens are not required to obtain permission from their employers for travel outside the country, or to indicate to the authorities the purpose of their trip. The absence of such requirements is a noteworthy exception in the context of Soviet and East European human contacts practices.

The main constraint on foreign travel since January 1988 is financial. Hungarian citizens traveling to the West are required to have a minimum of 3,000 Forints in hard currency—approximately $60—but can exchange a maximum of only 19,000 Forints for hard currency in a 3-year period. Financial constraints are eased somewhat by a Hungarian policy which permits some airline tickets and hotel accomodations abroad to be purchased with Forints.

Even after passage of the new passport law, however, some applications for new passports have been denied on "national interests" grounds. The most common reason for denial is the existence of a previous criminal record. This reason was used repeatedly to deny passports to several individuals who participated in the 1956 uprising. Since the Government lifted in 1988 the criminal records of 120 participants in the uprising, this restriction has not been used in a discriminatory way, to our knowledge. Denials also have been made because of acts against Hungarian law committed while abroad. This was the basis for denial in several instances to members of Hungary's democratic opposition as recently as last summer.

Passage of a newly-drafted law on emigration is promised within the next few months. This is an important development, for if, as expected, it guarantees citizens the substantially unrestricted right to leave and return to their country—as he concluding document of the Vienna review meeting stipulates that CSCE signatory-states should—it will codify a fundamental right in Hungarian law. Even though Hungarian emigration practice has been liberal in the recent past, passage of the new law should contribute to the institutionalization of reform which is so essential to sustained progress in human rights practices.

Mr. Speaker, it is my opinion that institutionalization is continuing apace across a wide spectrum of human rights-related issues. On a recent visit to Hungary, my delegation had the privilege of meeting with Justice Minister Kalman Kulcsar, who has the challenging duty of drafting a new constitution. While I could not claim that our constitutional approaches are identical, I was impressed by his evident commitment to give a solid, meaningful basis to hungarian law. This institutionalization of recent human rights advances through legislation is one of the most encouraging signs we have that Hungary's current reform effort will develop strong roots.

But democracy is premised on more than laws; those laws must be respected and enforced, and political participation must be a universal right. We must look to Hungary's small, but articulate and forward-looking independent opposition groups to keep up the pressure. Representatives of these groups have just embarked on roundtable talks with Hungarian officials to set the terms of upcoming multiparty elections.

Independent organizations have gained some stability from the recent legislation guaranteeing freedom of association and assembly. The combination of new legislation and opposition pressure has contributed to an atmosphere in which citizens enjoy widened opportunities for participation in Hungarian political and social life. Additional progressive legislation is promised on religious rights and the freedom to publish without prior censorship; the new Constitution is to be drafted and published for comment within the next few months.

Party and Government officials foresee a return to a multiparty system; independent activists likewise are cautiously optimistic about this prospect. A political parties law has been drafted and revised, and will be considered by the national assembly in its next session opening later this month. Multiparty elections are scheduled for 1990.

The Government has exhibited measured tolerance for religion, including for small denominations that previously encountered difficulties. Despite the tolerant atmosphere, expression of religious beliefs can limit a person's professional advancement. Party members and those in the teaching profession are not allowed to be active in religious affairs.

Religious denominations in Hungary generally can obtain religious materials without difficulty. Some have their own printing operations which put out bibles, prayer books, and newspapers. The state still sets publication ceilings and submits books to censorship.

In spring 1988, several groups formed independent unions to represent their interests. They had a rocky start, with meeting halls promised and then denied to the Academics' Union, and the young leaders of the Student Union threatened with prosecution and subjected to house searches. Yet by summer the unions were on more solid ground. Though small in membership and number, they were and are a force to be reckoned with.

The Department of State in its 1988 country report on human rights concluded:

Despite official tolerance of the independent white-collar unions, it is clear from episodes like the 1988 conviction—with suspended sentence—of retired steelworker Gyula Kristaly for incitement—that is, circulating pamphlets advertising worker grievances—that the authorities remain apprehensive about formation of independent labor organizations among industrial workers and will continue to discourage their formation.

The official Miners' Union did, however, endorse a 2-day strike by about 1,700 coal miners in PECS and two subsequent stoppages.

In February 1989, intellectuals affiliated with independent unions organized the foundation of the Solidarity Trade Union Workers Federation to encourage workers' unity in the face of planned legislation on strikes and other labor issues.

In mid-March, the Hungarian National Assembly passed a law granting workers the right to strike. Despite official opposition, the law included a provision for solidarity strikes called by official unions. The United States Congress should monitor the situation of independent trade unions in Hungary very carefully, and encourage their unfettered development.

While Hungarian authorities have allowed some independent demonstrations to take place, in 1988 they banned others for political reasons. For example, a November demonstration to lend support to Romanian citizens on the anniversary of the 1987 Brasov uprising was not permitted to take place for "foreign policy reasons." Yet the Hungarian Government took a step forward on March 15 of this year when, for the first time under Communist rule, Hungarians celebrated as an officially proclaimed national holiday the anniversary of their 1848 revolution against the Habsburg Empire. This holiday had long been a battleground between the Hungarian regime and citizenry, calling forth painful parallels between the revolutions of 1848 and 1956.

Today, in fact, in a mass demonstration, Hungarian citizens are paying homage to Imre Nagy, Hungary's leader during the 1956 revolution. This demonstration, organized with official approval and coordination, stands in marked contrast to last year's commemorative activities, which were marred by a massive police presence and violent official interference. Police arrested about 10 people, three

of whom were subjected to kicking and beating.

Today, on the 31st anniversary of his execution, Imre Nagy—along with four of his associates—will be reburied in a ceremony in the cemetery in which his body lay, without any official acknowledgement, for the past three decades. For many Hungarians, the reburial is an important step in the process of national healing. It is also a powerful reminder of the many unfulfilled dreams of 1956 which still fuel Hungarian citizens' aspirations today. I hope that this ceremony will signal the beginning of an equally respectful and sustained commemoration of all the people who fought in Hungary in 1956 and, indeed, in later years, to realize freedom in their lifetime.

AMERICA'S BEIJING EMBASSY: THE CHINESE SHOULD BE TOLD THE STAKES ARE HIGH

HON. WM. S. BROOMFIELD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Monday, June 19, 1989

Mr. BROOMFIELD. Mr. Speaker, today's Washington Post reports that companies from the United States and other Western countries are being showered with cables from their joint venture partners in China saying that things are back to normal and it's time to come back to China.

Yet I am also reading that the Chinese leadership is once again trying to intimidate the United States into surrendering the couple that has been given refuge in our Beijing Embassy.

If the Chinese believe that this behavior is part of a normal relationship, we should be doing everything we can to correct that notion.

No one is better situated to make America's position known on this issue than the President himself. We learned from the seizure of our Embassy in Iran that the world has no respect for the half-hearted, for those who aren't willing to take a stand.

Our distinguished Speaker made it clear yesterday how many of us in Congress would respond to a Chinese violation of our Embassy grounds. The President should also make it clear to the Chinese that the stakes are high. The Chinese should not believe there is any ambiguity in America's stand on this issue.

SENIOR CORPORAL WALTER M. CLIFTON, JR., DALLAS POLICE OFFICER OF THE MONTH

HON. JOHN BRYANT

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Monday, June 19, 1989

Mr. BRYANT. Mr. Speaker, our local law enforcement agencies and their dedicated employees are our first line of defense against crime. It is always a great pleasure for me, as a member of the House Committee on the Judiciary and its Criminal Justice Subcommittee, as well as a Dallas resident, to join in paying tribute to some of our best local law enforcement officers.

Dallas Police Sr. Cpl. Walter M. Clifton, Jr., has been recognized as June officer of the month, and I take pride in calling his achievements, described in the Dallas Police News, to the attention of my colleagues and fellow citizens.

SENIOR CORPORAL CLIFTON RECEIVES JUNE HONOR

Northeast Cpl. Walter M. Clifton, Jr., an 11-year veteran of the department, has been selected as the June Officer of the Month by the Dallas Community Police Awards Committee. He was honored yesterday during a dinner hosted by the Dallas Advertising League at the Anatole Hotel.

As a Field Training Officer, Cpl. Clifton has been responsible for the training of approximately 40 officers. Twenty five of those officers are still with the department including an assistant squad leader, an acting chaplain, six FTOs and six detectives.

He has received 36 commendations, 18 of which were generated by his supervisors for his professionalism. Cpl. Clifton has also received the Life Saving Award, several Shooting Bars and a 5-Year Safe Driving Award.

A conscientious beat officer, Cpl. Clifton continually exceeds the sector average in activity. In 1988 while assigned to beat 254, he helped combat the heavy burglary and narcotics problems prevalent at the time.

Cpl. Clifton served in Vietnam, earning the Bronze Star, two Army Commendation Medals, the Combat Infantryman Badge, Vietnamese Service Medel and Vietnamese Campaign Medal. He is an active member of the Texas Army National Guard and currently holds the rank of captain.

"Cpl. Clifton has demonstrated his leadership and excellent ability and is continually sought out by his peers for assistance," said Sgt. Charles Lynch. "His opinion is respected . . . he offers advice, guidance and solutions. He shows compassion and concern. He is indeed a credit to the Dallas Police Department and the law enforcement profession."

MARGARET SHEWMAKE: A SUBURBAN HERO

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, June 19, 1989

Mr. GILMAN. Mr. Speaker, we often hear of Americans whose lives serve as inspirations to the rest of us.

I recently learned of one such unselfish constitutent who has overcome tremendous odds and has chosen to devote her life to serving others.

Margaret Shewmake has suffered from severe diabetes since the age of 10. Today, this disease has rendered her crippled and blind. She has undergone more than 24 serious operations because of this illness, and spent a 10-year period confined to her bed.

Today, she visits the Elmsford hotel for the homeless 4 days a week. She expends her energies in convincing the less fortunate that there is hope, and to keep the faith that work and perseverance will result in a better life.

Margaret also serves as chairman of County Legislator Paul Feiner's advisory committee on the handicapped.

This remarkable woman, who is a resident of Hastings-on-Hudson, NY, was recently awarded the "Suburban Hero" designation by the Gannett Westchester newspapers. In addition, radio station WFAS has named her "the spirit of Westchester."

Margaret Shewmake will be in Washington on June 19 and 20, to visit my office and that of my colleague from Westchester County [Mrs. LOWERY]. I invite my colleagues to meet this inspirational woman.

I would like to insert her story, "Beating the Odds," in the CONGRESSIONAL RECORD at this point. This article initially appeared in the Westchester Gannett Newspapers:

BEATING THE ODDS

Margaret Shewmake has endured more than her share of pain and heartbreak in her 44 years.

A severe diabetic since the age of 10, Shewmake, of Hastings-on-Hudson has undergone more than two dozen serious operations related to her illness. For nearly 10 years she never left her bed. She was lost there in an addictive haze of prescribed painkillers.

She's suffered stillbirths and miscarriages. She no longer can walk and has only limited use of her arms. Two years ago, she went totally blind.

But she still makes her way four days a week to the Elmsford Motor Lodge, a county homeless hotel, where she gently but firmly prods people on welfare into looking for work. "I try to inspire people to get off welfare, to get control of their lives, to get jobs," she says. "If I've got the energy to go there, blind, handicapped, diabetic and in a wheelchair, then they can see they've got the energy to get a job

"It's working," she adds. "A couple of the men I've talked to have gotten jobs."

Shewmake has been a one-woman cheerleading squad for self-sufficiency since November. She found her calling through County Legislator Paul Feiner (D-Hastings-on-Hudson), whom she met while working on his failed state senate campaign. She also heads his advisory committee on the disabled. She admits that her role in his ad-hoc "Earned Fare" initiative (as opposed to the county's official workforce program) is as emotionally valuable to her as it is to the homeless clients she counsels.

"I was confined to the house for too long," she says. "I was in such a state of depression I didn't know there was a world out there. I pushed my husband away. I pushed my daughter away. I was hooked on drugs. I was so wrapped up in my own troubles that I couldn't see anything else.

"I enjoy being out of the house," she adds. "There's a satisfaction I get helping others. It also keeps my mind off my own troubles. It reminds me that there are people worse off than I am."

Shewmake's new zeal for volunteerism has brought her family closer together, she says. Husband Paul, a cook at the Andrus Memorial Home in Hastings, drives her to and from the hotel every day and drives some of her clients to job interviews. Daughter Mary Beth, 17, has become her mother's personal counselor, helping her channel bitterness about her own problems into concern for others. "She's proud of me now," Shewmake says. "She didn't used to be."

Feiner, who nominated Shewmake as a Suburban Hero, says the "new Margaret" is something to behold.

"She rolls down halls in her wheelchair, knocking on doors, reminding people to come out and talk when potential employers show up," he says. "She never forgets a name or the type of job someone is looking for or a reference. She spends hours on the phone trying to line up interviews for some of these people.

"For me, she's a real hero," Feiner adds. "She's proving the value of life. Even though she's disabled, she can still be cheerful. She can still be productive. I've met very few people who are as inspirational as she is."

Feiner says Shewmake's role will not change now that the county has decided to apply its workfare program to homeless-hotel residents in Elmsford. She will encourage them to participate in the program, which requires them to work in return for temporary housing. If she is no longer needed in Elmsford, she will work elsewhere in the county.

There are frustrations in her line of work, Shewmake says, such as employers' reluctance to forgive the pasts of some of her clients. A criminal record is a criminal record, she says, but if people have paid their debt, they should be allowed to get on with their lives.

"I think everyone deserves a second chance," she says. "I know I've had one."—Marc Brown.

A TRAGIC TALE OF INCREDIBLE HEROISM

HON. BART GORDON

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Monday, June 19, 1989

Mr. GORDON. Mr. Speaker, they buried a hero in Tennessee last week. He was a big man, both in body and in spirit, and especially in what we call heart; now he is gone.

Mr. Speaker, Jerry Anderson of Murfreesboro, TN, twice risked his life to save a child from drowning in high water. Both times, the child was saved to enjoy the fruits of what this life has to offer.

But there will be no more heroic deeds by Mr. Jerry Anderson.

On May 29, 1984, Jerry Anderson waded into a flooded building in Tulsa, OK, to carry a small girl to safety as the water rose.

On May 27, 1989, almost exactly five years later, Jerry Anderson dived into the rushing, rain-swollen Stones River and pushed a young boy to safety. This time, Mr. Anderson was unable to get out of the water, and he drowned, leaving a wife and two daughters.

Jerry Anderson had just moved back to his hometown, where he starred in football. He was supposed to start a new job the following week, and planned to enroll in college to finish up the credits he needed for his degree.

People in Oklahoma may remember Jerry Anderson. He played on the Oklahoma Sooners 1975 national championship team. People in Cincinnati and Tampa may also remember him, because he played on those two cities' National Football League teams. He ended his playing career with the Hamilton Cats of the Canadian Football League, where a knee injury sidelined him.

Back in Murfreesboro, TN, Jerry Anderson decided to go fishing with two young cousins the day he died. When the group approached the river, they saw that two other children had just fallen into the current. One managed to swim out, but the other could not. Never thinking of himself, Jerry Anderson immediately dived into the water to save the boy. Somehow, the exertion was too much this time, and Mr. Anderson could not save himself.

Neighbors got a boat and tried to save Mr. Anderson, pulling him from the water, but they were too late.

Mr. Speaker, two children have lost their father, a wife has lost her husband, and a mother has lost her son. But I think the words of the father of one of the boys Mr. Anderson had taken fishing sums it up.

God asks no more of a man than what Jerry Anderson was prepared to do, which was to give up his own life rather than permit a child to die.

Let's bow our heads in honor to Mr. Jerry Anderson, a true hero.

THE BROADCAST LICENSE RENEWAL REFORM ACT

HON. THOMAS J. TAUKE

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Monday, June 19, 1989

Mr. TAUKE. Mr. Speaker, today the gentleman from Louisiana [Mr. TAUZIN] and I are introducing legislation to reform the process by which TV and radio broadcasters renew their operating licenses with the Federal Communications Commission [FCC]. This legislation continues our long-standing efforts to reform the broadcast license renewal process. It also incorporates the recent work of the ranking Republican member of the Telecommunications Subcommittee, the gentleman from New Jersey [Mr. RINALDO], who has introduced a bill (H.R. 1136) to reform the license renewal process for radio stations. We are cosponsors of that legislation, and we commend him for his efforts. Our only difference is that we believe the time has come for both radio and TV station licensees to have the renewal "cloud" lifted from over their heads.

Currently, at license renewal time, broadcasters are thrown into the "comparative renewal" process simply because a challenger promises better service. This process puts the FCC in an impossible position—they must compare the challenger's promises with the broadcaster's record of performance.

Over the years, the "comparative renewal" process has proven to be an extremely costly and time consuming procedure which served to frustrate rather than further the public interest. The average cost for legal fees for radio stations involved in a "comparative renewal" proceeding exceeds $500,000, and the legal fees are usually over $1 million for television stations, according to a sample of cases reviewed by the National Association of Broadcasters. Furthermore, during the 1970's the average comparative renewal proceeding lasted 7 years and 10 months and involved over 5,000 pages of testimony, petitions, and other documents. To add insult to injury, of all the radio and television stations that have been involved in this expensive and cumbersome process, only a handful have had their renewal requests rejected! It's clearly time to change this wasteful renewal process.

Under our legislation, a license would be renewed if a station: First, broadcasts material responsive to the concerns of the community; and second, operates in compliance with the rules and regulations of the FCC. This legislation also prohibits the FCC from requiring specific categories of programming. Our proposal requires the FCC to study what information radio and television stations should maintain (for the public) to ensure that its public interest responsibilities are met.

Further, this measure prohibits individuals from blackmailing radio and TV stations. Unfortunately, our current system of license renewal encourages some individuals to file applications against a licensee to extract a payoff from the broadcaster in return for the withdrawal of the competing application. Finally, we establish an informal procedure by which the public can be involved in reviewing the performance of a broadcast station during the license term.

Our legislation provides certainty for consumers and for broadcasters. It reaffirms and clarifies a broadcaster's public interest responsibility. It assures that citizens or citizen groups can challenge a broadcaster's license if that broadcaster is failing to meet the needs and interests of its listening or viewing audience.

In sum, this legislation is in the public interest for three reasons. First, it will assure the public's ability to express its dissatisfaction with the performance of a broadcast licensee. Second, it will assure that broadcast licensees use their resources for the greatest public good—to improve broadcast programming—and not in fighting wasteful or frivolous challenges. Finally, it will assure that the FCC uses its limited resources in the most efficient manner. The Communication Act of 1934 was enacted when less than 600 radio stations were on the air, and commercial TV wasn't even around. Substantial regulation was necessary because many markets had access to only one or two radio outlets. But today the situation is vastly different. Over 10,000 radio and over 1,500 television stations are on the air presenting a multitude of choices for consumers. In this competitive marketplace, it is difficult to justify cumbersome regulations, especially in the renewal context. The legislation we have introduced today would make reforms that are long overdue. I encourage all Members to join us in cosponsoring this legislation.

TRIBUTE TO CHIEN-JEN CHEN

HON. EARL HUTTO

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Monday, June 19, 1989

Mr. HUTTO. Mr. Speaker, I would like to take this opportunity to commend Mr. Chien-Jen Chen on his outstanding performance as

the Deputy Respresentative at the Coordination Council for North American Affairs office in Washington, DC. I understand that Mr. Chen will be leaving Washington, DC and his present position this week in order to return home to the Republic of China on Taiwan to assume his new duties as the Vice Minister of Foreign Affairs.

I have known C.J. Chen for several years, and through his efforts I have developed a thorough understanding for the unique role the Coordination Council for North American Affairs [CCNAA] office in the United States plays in our foreign relations. I was pleased to participate with Mr. Chen in a series of meetings in August of 1987 in Taiwan. During these meetings I further developed a deep respect for Mr. Chen's knowledge and experience.

I am confident that Mr. Chen will do an outstanding job in his new capacity as the Vice Minister of Foreign Affairs. I look forward to a continued excellent relationship with Mr. Chen and the Republic of China on Taiwan.

C.J. Chen will be greatly missed in Washington. I wish Mr. Chen and his family health, happiness and continued success in the future.

MARGARET SHEWMAKE: AN INSPIRATION TO US ALL

HON. NITA M. LOWEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, June 19, 1989

Mrs. LOWEY of New York. Mr. Speaker, every day each one of us faces new and different challenges throughout all aspects of our lives. But I will tell you that meeting someone like Margaret Shewmake has given me a new perspective into what it really means to face and overcome a challenge.

Margaret Shewmake, from Hastings-on-Hudson, NY, heads the advisory committee for the disabled of Westchester County legislator Paul Feiner. She acts on her commitment to others by volunteering her time to the people of the Elmsford Motor Lodge, a homeless motel. Four days a week she goes from door to door persuading people on welfare to look for work. Each door she approaches is a new challenge to Margaret. She talks to the people about their problems, and counsels them on how to take the initiative to try to overcome the horrible conditions they live with. She keeps track of the names of the people she speaks with, and the types of jobs they are looking for. Then she spends hours on the phone trying to set up interviews for some of them.

When Margaret speaks to the people at the Elmsford Motor Lodge about facing challenges and overcoming adversity, she speaks from experience. You might never know from hearing about Margaret Shewmake that she has overcome incredible adversity herself to become the selfless, caring volunteer that she is today.

Margaret has been a severe diabetic since the age of 10. In her 44 years, she has undergone more than two dozen serious operations related to her illness, and for nearly 10 years she has never left her bed because she was overwhelmed by an addiction to prescribed painkillers. She can no longer walk, and 2 years ago she went totally blind.

But at age 44, Margaret has overcome the challenges of sickness and depression. She has turned her own adversity into a lesson. She has become a role model to the people of the Elmsford Motor Lodge. "I try to inspire people to get off welfare, to get control of their lives, to get jobs," she said to a local news reporter recently. "If I've got the energy to go there, blind, handicapped, diabetic, and in a wheelchair, then they can see they've got the energy to get a job."

Margaret Shewmake is an inspiration to me and to all the people who have met or heard about her. She puts new meaning into my definition of the value and meaning of life, and it is my hope that she will continue for many years to spread her smile and her inspiration to those who so desperately need it throughout Elmsford, throughout Westchester County, and throughout the Nation.

Today, I want to commend Margaret Shewmake for all her wonderful work, and I want to thank her for volunteering her valuable time and energy to help the people of Westchester County. She is truly an inspiration to us all.

COMMEMORATION OF CHANEY, GOODMAN, AND SCHWERNER

HON. MIKE ESPY

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Monday, June 19, 1989

Mr. ESPY. Mr. Speaker, 25 years ago, three young civil rights workers—James Chaney, Andrew Goodman, and Michael Schwerner were brutally murdered in Philadelphia, MS. They were participating with thousands of others in the "Freedom Summer" project, an interracial voter registration campaign. These young men gave their lives in the effort to guarantee all Americans their civil rights, especially the right to vote. Their deaths stunned the Nation and drew its attention to the struggle for racial justice and voting rights. Their actions were part of a national movement which led to the passage of the Civil Rights Act of 1964 and the Voting Rights Act of 1965 and helped advance the cause of political participation for all.

On June 6, 1989, I, along with several of my colleagues, introduced House Concurrent Resolution 141 to designate June 21, 1989, as Chaney, Goodman, and Schwerner Day and reaffirm our commitment to the purpose for which they gave their lives. I join with the State of Mississippi, the city of Philadelphia, and citizens from throughout this Nation to commemorate the contributions these three young men made to our Nation.

I look forward to joining the family members of the slain Civil Rights workers, congressional leaders, participants in the Mississippi Freedom Summer project of 1964, and significant national figures in the civil rights movement at the memorial ceremony in Statuary Hall of the U.S. Capitol Building on June 23, 1989, to continue the focus on civil rights challenges.

SALUTE TO JAMES T. BOYLE, JR., OF WAYNE, NJ, WINNER OF THE ROTARY CLUB'S HARRIS AWARD

HON. ROBERT A. ROE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Monday, June 19, 1989

Mr. ROE. Mr. Speaker, it is with the greatest pride that I rise today to salute an outstanding constituent in my Eighth District of New Jersey who, for the past two decades, has given of himself to his community, State, and Nation, and who has made us all the better for his efforts.

I am speaking of James T. Boyle, Jr., of Wayne, NJ, who will be honored for his great service on Wednesday, June 28, 1989, by the Wayne Rotary Club, which he has served with much distinction these many years. On that day, for his outstanding efforts, James T. Boyle, Jr., will receive the Paul Harris award, the highest honor a Rotarian can achieve. Considering the scope of community service that Rotary clubs provide around the world, I am certain that you, Mr. Speaker, and our colleagues will agree that the honor being accorded Mr. Boyle is one of the greatest magnitude.

Mr. Speaker, I know this event will be a great source of pride to Jim and his loving family; his devoted wife, Ruth Ellen, and their three sons, James III, Kenneth Charles, and Richard Earl Boyle.

Mr. Speaker, James T. Boyle, Jr. was born and raised in Passaic, NJ, attending Prospect Park Grammar School, Paterson Central High School, and Yale University. During his early years he worked hard in his parents' confectionery store, delivering newspapers. Jim was also an outstanding athlete and served as captain of his high school tennis and basketball teams.

Following high school and one semester at Newark College of Engineering, Jim Boyle served his Nation, joining the Navy where he became a radio technician. He was so highly regarded that he was selected for the Navy's V-12 officer training program at Yale University, where he was studying at the end of World War II. Jim eventually stayed on at Yale, graduating in 1948 in the same class as President Bush.

Mr. Speaker, James T. Boyle, Jr. recently completed an outstanding career with the New Jersey Bell Telephone Co., which he joined in 1951, working in the sales department. He rose rapidly through the company, moving to engineering and eventually the traffic department where he spent most of his career before retiring from Bell last year.

Beyond Jim Boyle's noted professional endeavors have been his numerous vital contributions to his community, for which the Wayne Rotary club is honoring him. He joined the Rotary club in 1970 and was appointed to its board of directors in 1972. Since that time he has been an integral part of the Wayne Rotary club, serving as club treasurer, vice president, vice president for program and as president.

It was during his term as president in 1975–76 that the club built a bicentennial float for the Wayne Bicentennial parade which received honorable mention from the parade committee. Jim also served as chairman of the Rotary club's vocational service committee and was responsible for obtaining the telephone network used during the 1988–89 Polio Plus Television Auction sponsored by the Wayne Rotary club.

Mr. Speaker, along with his numerous Rotary activities, James T. Boyle, Jr., has been deeply involved in numerous community endeavors. He is a member of the Packanack Community Church; a member of the Packanack County Club, and past president of the Packanack Tennis Club. Jim Boyle has also coached junior tennis and worked as a coach for the Packanack Junior Basketball League. In addition, Jim and his wife, Ruth, are currently involved in working with the Wayne Foundation for the Handicapped, a Rotary-sponsored sheltered workshop.

Mr. Speaker, I appreciate the opportunity to present a brief profile of a man who has given of himself to his community, his State and our Nation, and who has immeasurably improved his world through his innumerable contributions—James T. Boyle, Jr., recipient of the Wayne Rotary's Paul Harris award.

SENATOR THOMAS GAGLIANO A TRUE PUBLIC SERVANT

HON. CHRISTOPHER H. SMITH

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Monday, June 19, 1989

Mr. SMITH of New Jersey. Mr. Speaker, I rise today, to pay tribute to Tom Gagliano of Holmdel, NJ, who recently retired from his State senate post, to accept the appointment of executive director of the New Jersey Transit Corp., the State's rail and bus operating agency.

Mr. Speaker, Tom Gagliano, has been a public servant for most of his professional life. After graduating from Georgetown University Law School and serving on the staff of New Jersey Congressman James C. Auchincloss, Tom returned to New Jersey to begin a successful law practice in his home State. It was not much after his return that Tom set out on a career of public service and community activity.

In 1967, Tom was first elected as a councilman of the Borough of Oceanport, NJ. He served for 3 years, and was then elected as surrogate to the county of Monmouth. Within a short period of time, Tom was elected to the New Jersey State Senate where he served for approximately 10 years with great distinction before taking his new post at New Jersey Transit.

In the New Jersey State Senate, Mr. Speaker, Tom Gagliano was widely respected for his thoughtful legislation and "hands on" knowledge of the legislative process. Throughout his tenure in the senate he played a key role in crafting important legislation that has protected our environment, helped senior citizens and veterans, and improved mass transit and the infrastructure of New Jersey's highways.

You know, Mr. Speaker, Tom's long list of achievements and his effective legislative leadership was recognized by his colleagues who elected him to serve as assistant minority leader and then to the top post in 1985 as minority leader in the State senate.

Mr. Speaker, while the State senate, will indeed be loosing one of it's finest and most respected legislators, people of New Jersey will still benefit from Tom's noted dedication and commitment to our State. The New Jersey Transit Corp. has before it a tremendous challenge to facilitate greater and safer transportation of millions of inter- and intrastate commuters. Tom's years of service at the State House, as well as in his immediate local community, have prepared him well to lead the new Jersey transit as it works to provide cleaner, safer, on-time service in the years ahead.

It is a pleasure, then Mr. Speaker, for me to join Tom's family and many friends as they pay tribute to him at a special dinner this Wednesday, June 21. A personal friend and cochairman of my re-election campaigns, Tom has provided useful and helpful advice to me over the years. I am truly grateful for his support and I look foward to working closely with him in the many years ahead.

I offer my best wishes and congratulations to Tom for what I know will be a successful tenure at the New Jersey Transit Corp.

TRIBUTE TO BETTY AND LOU BURGELIN ON 50TH WEDDING ANNIVERSARY

HON. BARBARA BOXER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, June 19, 1989

Mrs. BOXER. Mr. Speaker, I wish to salute my constituents, Betty and Lou Burgelin of Vallejo, CA, on their 50th wedding anniversary July 9, 1989, and to join with their family and friends in extending best wishes and congratulations on a life together which has encompassed work, family, and service to their community.

Both Betty and Lou were born and raised in the North Bay section of my district. Lou worked for the U.S. Government for 37 years and his work for the community has never ceased.

All through Lou's life he has taken time to participate in civic enterprises, including the Vallejo Elks, National Association of Retired Federal Employees, Mare Island Navy Yard Association, Salvation Army, Kaiser Hospital, and Vallejo Senior Citizen's Council.

The Burgelins have three children, Jim, Karen, and Barry. In addtion to raising the children, Betty has been active in the Vallejo Symphony League and YLI. Her hobbies include sewing, golf, and gardening. Recently She published a book on the genealogy of her family, the Greenwells, which has been highly successful. The vows taken by Betty and Lou at St. Vincent's Church 50 years ago have flowered into a life filled with the many rewards of family and friends and of service to others. I express my hope for many more years to come.

JUST SAY NO TO PROSPECTIVE PAYMENT FOR PHYSICIANS

HON. JOHN EDWARD PORTER

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, June 19, 1989

Mr. PORTER. Mr. Speaker, Medicare is in bad shape. But the physician payment review commission wants to make a bad situation even worse by saddling doctors with expenditure targets, a fee-schedule, and limits on balance billing.

This is the worst form of price control. Haven't we learned anything from past efforts to control medical spending through price administration?

In 1983, Medicare began making hospital payments under such an administered price system. The new system was supposed to force wasteful hospitals to operate more efficiently. Instead, record numbers of hospitals closed, mostly in areas that could least afford closures—inner cities and rural towns.

We shouldn't be shunning the market in the name of cost savings. We should embrace the market. We should be moving toward a capitated system of health care coverage in which individuals can purchase integrated, tailored packages of health care with Medicare assistance, and still retain flexibility and choice.

Mr. Speaker, price administration isn't working on the hospital side, and it isn't going to work on the physician side. We should reject the PPRC recommendations.

TRIBUTE TO ELLEN D. PATTIN

HON. BENJAMIN L. CARDIN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Monday, June 19, 1989

Mr. CARDIN. Mr. Speaker, last Friday, June 16, 1989, the Women's Legal Defense Fund held their eighth annual luncheon. I was very pleased to learn that a fellow Marylander, Ellen D. Pattin, was awarded the 1989 Volunteer of the Year Award for her outstanding contribution of pro bono services to advance the rights of women. Mr. Speaker, I would like to share with my colleagues the impressive achievements of Ms. Pattin which are best described in the WLDF's program.

Since passing the Maryland bar in 1978, Ellen Pattin has volunteered her time and legal expertise as a member of WLDF's domestic relations counseling committee. No matter how busy her schedule as a private practitioner in Onley, MD, Ellen has taken at least three calls a week, 48 weeks a year, for more than 10 years. She has counseled more than 1,500 women who call with questions about divorce, child support awards, property division, pension rights, establishment of paternity, domestic violence, and a myriad of other family law matters. In addition, Ellen has taken reduced-fee cases of WLDF, as well as assisted in interviewing their referral attorneys. She is a distinguished professional, respected in her field, and admired for her commitment

to enforcing and advancing women's legal rights.

A graduate of the University of Baltimore School of Law, Ellen is an active member of the committee for family equity in the courts and serves on a special coalition studying wage withholding and child support guidelines in Maryland. She also serves on the judicial selection committee for the Maryland Women's Bar Association and is a member of the Prince Georges County Women Lawyers Caucus.

The Women's Legal Defense Fund could not have found a better person to honor who exemplifies the commitment and generosity in seeking equal rights for women.

GARBAGE-TO-FOOD HAULING BUSINESS

HON. WILLIAM F. CLINGER, JR.

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, June 19, 1989

Mr. CLINGER. Mr. Speaker, I rise today to inform this body of a severe problem in our food shipping industry. Recently, I discovered that many of our Nation's trucks that are used to bring food from the Midwest to Eastern markets are also hauling garbage. Instead of returning home empty, they are filling their trucks with garbage for Midwestern landfills. These trucks are than again loaded with foods for the east coast. According to food safety experts, sanitization of the trucks is difficult, if not impossible. The dangers to the health of the American public and the safety of our food supply cannot be overemphasized. I believe that we must bring this disgusting practice to a halt.

To that end, I am pleased that Congressman CHRIS SMITH is introducing legislation today. I want to take this opportunity to commend Mr. SMITH for his interest in seeing that this problem is resolved quickly and for initiating the legislative process. While I firmly believe that the issue needs to be investigated thoroughly, I commend him for his bill which will serve to stimulate discussion.

The garbage-to-food hauling issue is more involved than one might expect. While regulations do exist that touch on the issue, they are ambiguous and are spread between different government agencies. There are also many questions that are still unanswered. For example, what is the extent of the problem? Is the garbage-to-food hauling business solely a Midwest-Northeast concern, or is this a nationwide practice? What government agency is best equipped to combat this problem? What penalties should Congress consider as appropriate?

These are just some of the questions that I would hope could be addressed through the legislative process. To ensure that the garbage-to-food hauling issue is thoroughly investigated, I have spoken with my good friend, Representative GLENN ANDERSON, chairman of the Public Works and Transportation Committee about scheduling a hearing this summer. I was very pleased when my request was warmly received by Chairman ANDERSON. As a result of our meeting, the Public Works and Transportation Committee has launched an investigation. The findings from this investigation will prove crucial to the committee's understanding of the garbage-to-food hauling problem.

I am convinced that through the legislative process and with the efforts of Members like Congressman CHRIS SMITH and Chairman ANDERSON, we can bring an end to the disgusting, health-threatening garbage-to-food hauling business. I encourage my colleagues to join with us in combating this deplorable practice. Thank you, Mr. Speaker.

KILDEE COMMENDS FLINT CENTRAL HIGH SCHOOL THEATRE MAGNET

HON. DALE E. KILDEE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Monday, June 19, 1989

Mr. KILDEE. Mr. Speaker, I rise today to pay tribute to an extraordinary group of young men and women from my hometown of Flint, MI. Benjamin Cain, Aaron Shell, Justin Rossow, Amy Eisen, John Bright, Shonda Thurman, Erinn Milner, KaTonya Schuler, Melody Fowler, Wilson Personnet, Joshau Carrizales, Michael Ramsdell, Robin Koch, Lori Spears, Sue Ann Bennis, Greg Tatum, Kevin Kluender, Beth McGraw, Keri Mead, Daniel Collick, Leslie Hadley, and their director, Martin Jennings, have brought unprecedented honor to the State of Michigan, the city of Flint, and Central High School.

As the cast and crew of the Flint Central High School Theatre Magnet, these students were invited to perform their production of Jim Leonard, Jr.'s "The Diviners" at the International Thespian Society Festival. Before extending the invitation to Central High School, a representative from National Thespian Headquarters and the director of the International Thespian Society viewed Central High School's production of "The Diviners". They considered the production exemplary of the finest high school theater and a valuable addition to the International Thespian Society Festival's program. Only six high schools from across the United States, Canada and Europe are accorded this honor each year. The city of Flint is especially proud of these young men and women because Central High School is the first Michigan high school to be invited to this prestigious conference.

The International Thespian Society Festival will take place June 26 through July 2 on the campus of Ball State University in Muncie, IN. The opportunities that this conference affords theater students are invaluable. Over 3,000 high school students, their directors, as well as professional actors, directors, and designers from Broadway, television, and the cinema will attend the festival. Students invited to the conference participate in workshops on specific aspects of the theater and compete for scholarships to pursue a career in the performing arts.

All in the Flint community take great pride in the Flint Central High School Theatre Magnet for their efforts to earn a place among the best in the world. Mr. Speaker, I would like to take this moment to ask my colleagues in the U.S. House of Representatives to join me in commending these talented young men and women. They have set an example for all of us through their dedication and the rewards of their perfection.

A TRIBUTE TO PHILLIP E. PLUMART

HON. TIM JOHNSON

OF SOUTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Monday, June 19, 1989

Mr. JOHNSON of South Dakota. Mr. Speaker, I rise to honor today a tireless champion of education, Phillip E. Plumart of Brookings, SD, Professor Plumart is being honored after 28 years of outstanding service to South Dakota State University.

The awards Professor Plumart has won in teaching and service are too numerous to list. But if there is one award he is proudest of it has to be Outstanding Teacher of the Year in the Agriculture Department. Plumart has worked closely with many student organizations including Future Farmers of America, Alpha Zeta, and the Block and Bridle Club.

Plumart is known for his enthusiasm in the classroom. Students come alive during his lectures. He has been involved in organizing numerous livestock judging contests. These contests, particularly at the South Dakota State Fair and Little International, held at SDSU, have helped educate thousands of students about livestock.

Professor Plumart doesn't limit himself to just teaching poultry science. He is deeply involved in intergrating computers in his work. He has developed comprehensive computer programs for livestock judging contests. Also, he has worked to bring computers to county extension agents.

After all this Plumart still has energy to be involved in his community, Brookings, SD. He has worked hard for the future of the city on the Brookings City Planning Commission. Plumart also recently ran for the Brookings City Commission. He is active in Mt. Cavalry Lutheran Church, serving as both treasurer and on the church council.

Mr. Speaker, Phillip E. Plumart is the kind of South Dakotan we are especially proud of. Please join with his friends, colleagues, family, and myself in wishing him well as he looks forwards to an active retirement.

CONSCIENCE VIGIL FOR SOVIET JEWRY

HON. MATTHEW G. MARTINEZ

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, June 19, 1989

Mr. MARTINEZ. Mr. Speaker, I bring to your attention today the deplorable, and sad account of the lives of a Soviet refusenik family, Boris and Alla Kelman, and their two sons Efim who is now 21 and Maksim, age 13. Both Boris and Alla are active members of the Len-

ingrad refusenik community. They speak both English and Hebrew. Alla is a pediatricain in a government clinic, and unofficially coordinates medical care for other refuseniks.

Boris is a physican and mathematician. Since applying to emigrate in 1978, Boris has been unable to retain work in the field of mathematics. He now works as a shipbuilder.

As an active member of his community, Boris teaches Hebrew, Jewish history, and religion to children. He has also taken on the task of producing kosher wine for Leningrad's Jews. The Kelman family frequently hosts large number of guests for the Sabbath and holiday observances.

The Kelman's were refused their first visa in 1979, and as many other refuseniks are told, the Kelmans were denied their visas to protect government secrets. Mr. Speaker, we know by now that this excuse is a farce.

In December 1988, while many long-term, refuseniks were receiving permission to leave the Soviet Union, the Kelman's were once again refused. I find this reprehensible.

TAX DEDUCTIONS FOR IRA CONTRIBUTIONS

HON. ROMANO L. MAZZOLI

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Monday, June 19, 1989

Mr. MAZZOLI. Mr. Speaker, in 1982 Congress introduced the individual retirement account to working Americans in order to encourage savings and thrift and to provide working people with a more secure future upon their retirement. In the first few years of IRA's millions of Americans made use of this tax-deferred investment.

IRA's induce individuals to save and, in so doing, they increase the national pool of savings. In turn, this increased capital is available to American businesses to modernize plant and equipment. This investment is essential for economic growth, and it is a necessary element if our Nation is to remain competitive in today's expanding world market.

In 1986, however, Congress fumbled the ball regarding IRA's. It removed the universal-deductibility feature of IRA's. This reduced the attractiveness of IRA's to millions of Americans, and contributions to IRA's—and the capital pool they created—dropped considerably.

I believe that this error needs to be rectified. And, I am cosponsoring a bill which would amend the Tax Code to allow IRA's again to be deductible by all Americans in all income groups. I hope my colleagues will join in support of this needed initiative.

Because the United States has a lower saving rate than any other industrialized nation in the world, our economic growth is slower than many of those same countries. It is essential that Americans have the incentive to save which the IRA— when fully deductible and fully tax-deferred—provides so admirably.

An article, entitled "Bring Back a Brilliant Deduction," appeared in the April issue of Money magazine. This article contains useful and valid arguments for restoring the IRA to full deductibility. Following are major points taken from the article:

Contributions to IRA's in 1986 totaled nearly $40 billion. This represented 29 percent of all personal savings in the United States. Most important, 80 percent of the money contributed was cash that would have been spent rather than saved were it not for IRA's.

Preliminary Internal Revenue Service data shows that the proportion of taxpayers contributing to IRA's in 1987 dropped more than 50 percent from levels in 1986—the last year in which fully deductible contributions were available to all wage earners.

Contrary to contentions, IRA's do not primarily benefit the wealthy. According to a series of studies conducted by Steven F. Venti, associate professor of economics at Dartmouth College, and David A. Wise, professor of political economy at Harvard's John F. Kennedy School of Government, 62.2 percent of all IRA contributors earn less than $50,000 a year.

The Venti-Wise study also revealed the necessity of developing a savings incentive for Americans. Data, based on U.S. Census Bureau statistics through 1985, showed that the median total of financial assets (excluding housing) held by individual American families was only $600.

I ask to have the entire article from the April issue of Money magazine included at this point in the RECORD for the benefit of my colleagues.

A copy of the article is attached:

BRING BACK A BRILLIANT DEDUCTION

The spectacular growth in IRA assets from 1982 through 1986 occurred as more and more Americans awakened to the tremendous advantage they could enjoy by using a fully deductible IRA to save for their future. As the chart on this page indicates, the savings you can accumulate in an IRA that is built with fully deductible contributions far outpaces the total you'd amass in a nondeductible IRA or through taxable savings and investment vehicles.

THE IRA ADVANTAGE

Those who are still eligible to deduct their IRA contributions receive twin tax benefits. First, making a $2,000 contribution cuts your federal income tax bill $660 if you are in the 33% bracket, $560 in the 28% bracket and $300 if you pay the 15% rate. The tax savings reduce the real cost of the IRA contribution you make. In essence, a $2,000 contribution really costs a taxpayer in the 28% bracket only $1,440, since $560 would otherwise have gone into Uncle Sam's pocket.

The second tax break associated with IRAs is available to everyone, whether eligible for the deduction or not. All earnings on money inside an IRA grow tax-free until withdrawals begin. That tax-deferred growth gives IRAs a healthy competitive edge. If you were in the 28% tax bracket and you set aside $2,000 a year in a taxable investment earning an average 8% a year, you would have an after tax total of $115,435 after 30 years. That same annual contribution in a fully deductible IRA earning a comparable return would give you $192,978—a nest egg 67% larger than the non-IRA total. In a nondeductible IRA, your tax-deferred savings advantage is not quite as enticing, but still is substantial: $23,509 more than you would accumulate in a taxable alternative.

Playing by the new rules: For now, at least, anyone with an IRA must know how to play by the new rules set by tax reformers. Any wage earner under the age of 70½ may establish an IRA, contributing as much as $2,000 of his or her annual earnings. Anyone who qualifies for an IRA and has a spouse who has no earnings may contribute up to $2,250 of his or her income.

The deductibility of your contribution depends on your income and whether you are covered by a pension or other tax-advantaged plan. People qualifying for the full deduction include couples filing jointly with adjusted taxable income (after deductions for items such as mortgage interest and payments to 401(k)s or other tax-advantaged plans) or less than $40,000; singles with taxable income of less than $25,000 and anyone who is not covered by a pension, profit-sharing, 401(k), simplified employee pension plan or Keogh. Partial deductions are allowed for couples with taxable income between $40,000 and $50,000 or singles between $25,000 and $35,000. Their IRA deduction drops $10 for every $50 they earn above $40,000 if they are married or $25,000 if they are single. (For a more detailed overview of whether you qualify for a deduction and a worksheet to calculate a partial deduction, see tables on page S-6 and on page S-12.)

Not only did tax reformers eliminate the deductibility of IRAs for many Americans, but they piled on the additional pain of bookkeeping headaches for people who elect to continue making nondeductible contributions. If you make such contribution, each year you must fill out IRS tax form No. 8606 to keep track of your deductible and nondeductible payments. The forms must be saved for the life of your IRA and the information on them will determine the tax due on your withdrawals in the future. The nondeductible contributions are not taxed upon withdrawal but the deductible contributions, plus all earnings in your accounts, will be taxed at whatever your regular income tax rate is when you take the money out.

When Congress made the Individual Retirement Account available to all working Americans in 1982, a financial revolution was ignited. The aim: to give individuals an effective incentive to increase their savings and assure themselves greater security in their retirement years. Legislators also hoped IRAs would strengthen the U.S. economy by boosting the national pool of savings, thereby increasing the amount of money available for investment by American business and reducing our dangerous reliance on foreign capital

The IRA revolution succeeded beyond even its staunchest supporters' high expectations. In the first five years that IRAs were universally available, assets grew 429% to total $277.1 billion in accounts held by more than 40 million Americans Contributions to IRAs in 1986 alone totaled nearly $40 billion, which represented 29% of all personal savings in the U.S. When national personal savings totals are adjusted for inflation and pension contributions, money flowing into IRAs in that single year represented 70% of the nation's personal savings. Most important, 80% of the money contributed was cash that would have been spent rather than saved were it not for IRAs.

Despite IRA's great advances, Congress effectively stamped out the revolution in 1986 by cutting in half the number of people eligible to make fully deductible contributions and burdening anyone making nondeductible contributions with a snarl of record-keeping that persists throughout the life of their IRA.

The negative impact on what had been the most successful savings incentive ever devised in the U.S. has been dramatic. Preliminary Internal Revenue Service data shows that the proportion of taxpayers contributing to IRAs in 1987 dropped more than 50% from levels in 1986—the last year in which fully deductible contributions were available to all wage earners. The decrease in the total dollar amount of contributions is likely to be even greater, given the new lower contribution limits that apply for many taxpayers.

Legislator's rationale for hitting IRAs so hard was based on unfounded speculation and factually incorrect information about the accounts' use and impact. Tax reformers leading the fight to restrict IRA deductions contended the accounts primarily benefited the wealthy. They also argued that the federal revenue loss IRA tax deductions produced was not justified because the accounts were not generating new savings, but instead were being funded by transfers from existing savings.

Both contentions have been proven wrong by several economic studies relying on data from tax returns and surveys conducted by the Bureau of Labor Statistics, the Census Bureau and the Federal Reserve. The studies show that two-thirds of households with at least one IRA have income of less than $50,000 and many of those are families whose income comes from two wage earners. Moreover, 80% of IRA contributions represent new savings.

"The data just didn't support the arguments for limiting IRA deductions. Congress was ill-informed and shortsighted in damaging a savings vehicle as effective a the IRA," says Stephen Entin, who served as deputy assistant secretary for economic policy in the Treasury Department from 1982 through August of 1988 and who now is an economist at the Institute for Reseach on the Economics of Taxation in Washington, D.C.

In the following pages, you will learn more about the benefits of IRAs and how to take advantage of them. Most important, you also will find all of the ammunition you need to join the new IRA revolution: a grassroots campaign to persuade Congress to swiftly redress its mistake by restoring fully deductible IRA contributions for all working Americans.

The complications do not end there. Each time you take money out of your IRA, you must calculate the proportion of nondeductible to deductible contributions and earnings in all of your accounts combined. Your withdrawal is then considered to contain this proportion of nondeductible contributions and will be taxed accordingly. For example, assume that your combined IRAs total $20,000, of which $2,000, or 10%, represents nondeductible contributions. The other $18,000, or 90%, reflects deductible contributions plus earnings. If you withdrew $1,000, you would owe taxes on 90% of that amount, or $900. Such is the product of the reformers' "tax simplification."

Other rules governing IRAs remain relatively unchanged. You may withdraw money from your IRA at any time, but if you do so before age 59½, you'll pay a penalty equal to 10% of the amount you withdraw. After age 70½, however, you are penalized if you have not begun withdrawals. You may still defer taxes on a lump-sum distribution from a pension, profit-sharing or other tax-advantaged plan by rolling it over into an IRA, where it can continue to grow tax-free until you begin withdrawals. You must roll the cash over into an IRA within 60 days of receiving the distribution to defer tax on it.

WHO CAN TAKE AN IRA DEDUCTION?

If You Are Covered by a Retirement Plan at Work and Your Filing Status Is					If You Are Not Covered by a Retirement Plan at Work and Your Filing Status Is			
And your adjusted gross income is		Single, or head of household	Married filing jointly (even if your spouse is not covered by a plan at work) qualifying widow(er)	Married filing separately	Married filing jointly (and your spouse is covered by a plan at work)	Single, or head of household	Married filing jointly or separately (and your spouse is not covered by a plan at work)	Married filing separately (even if your spouse is covered by a plan at work)
At least	But less than	You can take	You can take	You can take	You can take	You can take	You can take	You can take
$0	$10,000	Full deduction	Full deduction	Partial deduction	Full deduction			
$10,000	25,001	do	do	No deduction	do			
$25,001	35,000	Partial deduction	do	do	do	Full deduction	Full deduction	Full deduction.
$35,000	40,001	No deduction	do	do	do			
$40,001	50,000	do	Partial deduction	do	Partial deduction			
$50,000 or over		do	No deduction	do	No deduction			

Source: Colossal Investment Services.

Unlike employer-provided retirement and savings programs, which typically allow you a narrow choice of investment options, an IRA offers a smorgasbord of investment alternatives. Just about the only choices not on the menu are those which federal rules prohibit for IRAs—antiques, art or other collectibles and hard assets such as gold bullion—and municipal bonds or other tax-exempt investments whose tax breaks would be wasted in an IRA.

INVESTMENT CHOICES

Annuities: Sold by insurance agents, financial planners and brokers, annuities essentially are savings accounts sponsored by life insurance companies. Fixed annuities are similar to bank certificates of deposit, in that the insurer guarantees to pay a specified rate of interest on your money. Variable annuities are akin to mutual funds, with your return reflecting the performance of the stock, bond or money-maker portfolio that you choose.

Bonds: Available through full-service or discount brokers, bonds pay interest regularly and repay your principal when the bond matures. Your choices include regular corporates and convertibles, which can be converted into shares of stock in the issuer's company and offer growth potential as well as income. You might also consider zero coupon bonds, which you buy at a big discount from their face value. Rather than paying interest periodically, zeros pay their interest in one lump sum when you cash in the bonds at full par value.

Certificates of Deposit: When you buy a CD through a bank, savings and loan, credit union or broker, you agree to leave money on deposit for a specified period of time, commonly ranging from 30 days to five years. In exchange, you receive a fixed rate of interest, paid in a lump sum when your CD matures. You also can count on guaranteed safety of principal for deposits up to $100,000 at federally insured institutions.

Gold: In an IRA, you can invest in gold in only these forms: shares in a gold mining company or a fund that buys such shares and American Eagle gold coins or gold coins issued by one of the 50 states. Prohibited are gold bars or coins, except those mentioned above, and gold accounts or certificates, which give you a fractional interest in gold bars or coins.

Money Markets: Money market funds, available through brokers and mutual fund companies, pool investors' cash to buy short-term debt securities. Money funds have a stellar safety record and give you access to your money at any time without penalty. When interest rates rise, the funds' yields quickly rise to keep pace.

Money market accounts are similar pools of funds operated by banks and savings and loans. A federally-insured money market account guarantees safety of principal in accounts up to $100,000.

Mutual Funds: Buying shares in a mutual fund makes you part owner of a professionally managed, diversified portfolio of securities. You usually are credited with dividends quarterly or semiannually and receive any capital gains once a year. The price you pay for shares you buy—or receive when you sell—depends on the composite value of the securities held by the fund at the market's close the day your transaction is carried out.

Funds without sales charges are called no-loads and are sold directly to investors. You merely telephone the fund you're interested in and request a prospectus and an order form. Some funds sold directly to investors are accompanied by so-called low-loads (up-front sales charges that are typically 1% to 4½% of your investment) while others may levy exit fees (rear-end loads) of several percentage points when you cash in. Load funds are sold by brokers and financial planners at sales charges ranging from low-loads to 8½% of your investment.

REITs: Available through full-service or discount brokers, a Real Estate Investment Trust is a public company whose shares trade on a stock exchange or over-the-counter. REITs are a means of putting real estate in your IRA portfolio because they use stockholders' money to buy investment properties and/or make mortgages. They pay 95% of their income from rents or mortgages to shareholders as dividends and when properties are sold, gains are passed on to stockholders as special dividends or as additional earnings per share.

Stocks: Achieving enviable returns from individual stocks requires selecting the right stocks and also correctly timing your buying and selling. Therefore, you must be willing to take the time to keep up with financial developments that could affect your particular stocks as well as the market in general.

If you are confident in your own ability as a stock picker, you may be able to save on commissions by using a discount broker, who merely executes trades. If you buy shares through a full-service broker, you will generally pay higher commissions in return for advice on buying and selling stocks as well as access to professional research reports.

Unit Trusts: Sold by brokers, unit trusts are portfolios of fixed-income investments such as corporate or government bonds, zeros or a combination of several types. Yields generally are locked in for the life of the trust, which can be up to 30 years. You are free to sell your trust shares at any time, but as with individual bonds, the price you will receive depends on the level of prevailing interest rates.

U.S. Government Securities: Government issues come in two primary categories: Treasuries, which are supersafe because they carry the direct backing of the U.S. Treasury, and government agency issues, which are just a step lower in safety because they are not direct Treasury obligations.

You can buy Treasuries directly from the 12 Federal Reserve Banks or their branches in 25 cities and from commercial banks and brokerages. You can also find mutual funds whose portfolios consist only of Treasuries. Government agency issues are available individually through brokers and also through unit trusts and mutual funds.

THE CASE FOR RESTORING IRA'S PUNCH

Since Congress lowered the boom on IRAs in 1986, evidence has steadily mounted contradicting the arguments IRA opponents used to persuade legislators that deductible contributions should be restricted. In light of proof that IRAs have indeed served the important purposes for which they were designed and that tax deductibility is key to their success. Congress should waste no time in reconsidering its ill-advised action.

"If the IRA is not restored, Congress will be seriously weakening the nation's retirement system and destroying an important incentive for Americans to save. This is a bad tax policy and worse economic policy," says Peter Ferrara, a senior fellow at the Cato Institute, a Washington, D.C. think tank.

Contrary to IRA opponents' contentions, the accounts do not primarily benefit the wealthy, according to a series of studies conducted by Steven F. Venti, associate professor of economics at Dartmouth College, and David A. Wise, professor of political economy at Harvard's John F. Kennedy School of Government. As the chart on page S-14 illustrates, their research showed that 62.2% of all IRA contributors earn less than $50,000. Moreover, Wise notes that in most cases, the income is produced by families with two wage earners. "There is not dispute that the argument Congress heard about IRSs being a tax loophole for the wealthy was just factually wrong," says Wise.

The other notion used to knock IRAs was that the loss in federal revenues that resulted from IRA's tax deductions was not justified because the accounts were not generating new savings. Opponents, led by U.S. Sen. Robert Packwood and U.S. Rep. Dan Rostenkowski, claimed that taxpayers came up with their annual contributions by shifting money from existing savings or by borrowing.

The Wise/Venti studies examined debt and savings levels for IRA holders and found that there was no evidence that IRA saving was accompanied by increased levels of debt. Even more important, their data showed that only 20% of IRA contributions represented transfers from other savings or investments; the remaining 80% was new savings.

Their study also revealed just how necessary a new savings incentive was. Their data based on U.S. Census Bureau statistics through 1985, showed that the median total of financial assets (excluding housing) for an American family was only $600. The study concluded that families who have contributed to IRAs since 1982 had not, prior to then, been accustomed to saving amounts that were even close to the annual IRA limit of $2,000 per worker. "The primary reason we didn't find much evidence of transfers from existing savings to fund IRAs was that before these things were instituded, people just weren't saving in other forms," says Wise.

That IRA boosted national savings was also supported by research conducted by Daniel Feenberg and Jonathan Skinner, research associates at the National Bureau of Economic Research. Their study set out to challenge the Wise/Venti data, but ended up supporting their conclusion that IRA savings reflected new savings.

Because they are successful in generating new personal savings, IRAs are vital to the national economy. The U.S. has the lowest personal savings rate of any industralized country. That low rate, combined with deficit spending by the federal government, forces the country to import $700 billion in foreign capital to meet our needs. An increase in the national pool of savings increases the cash available for investment by American businesses, thus promoting economic growth and reducing our dependence on foreign borrowing.

The contribution from IRAs toward those ends from 1982 to date has been substantial—approximately $266 billion in net new savings—and could be even more so if Congress lifted the restrictions it imposed. If IRAs had remained fully deductible for all working Americans, by this year new savings of $50 billion annually would have been generated by the accounts, according to projections based on a survey of IRA account holders conducted by the investment Company Institute, the mutual fund industry's trade association.

Tax reformer's true motivation in restricting IRA deductions was concern over the federal budget deficit, says Stephen Entin, who protested the restrictions in his post as deputy assistant secretary for economic policy in the Treasury Department under the Reagan Administration. "There was a short-term focus on getting money wherever they could and this was one easy, though misguided, way to do that," says Entin.

Legislators feared that the tax revenues the government was losing due to the IRA deducation would increase the budget deficit, thereby increasing government borrowing and adversely affecting the credit markets. What Congress has overlooked is that given current tax rates, the government only loses between 15 and 33 cents per IRA dollar, while the gain in new savings is 70 to 80 cents on that dollar. "IRAs were causing the savings pool to rise by more than federal borrowing, so they were clearly doing more good than harm," says Entin. "Moreover, the remedy for the deficit is economic growth, which means increased investment, and you don't have that unless personal savings are rising as they were thanks to IRAs."

In addition to serving as a personal savings incentive whose success is unprecedented, IRAs are crucial to retirement security, particularly for the baby boom generation. As the baby boomers entire, the number of workers supporting each Social Security beneficiary drops from more than three to less than two, making the system an enormous revenue loser. Whether the problem will be resolved by drastically cutting benefits or by dramatically increasing taxes to make up the shortfall is unclear now. In either case, IRAs are an important part of the solution.

HOW TO CALCULATE THE MAXIMUM TAX-DEDUCTIBLE CONTRIBUTION FOR 1988

	Filing jointly	Single	Example
	(A) $50,000	$35,000	$50,000
Adjusted Gross Income	(B)		$44,140
Subtract "B" from "A"	(C)		5,860
Multiply "C" by 20%	×.20	×.20	×.20
Round up to nearest $10 for your deductible contribution	(D)		$1,172 $1,180

While the future of Social Security is uncertain, relying on an employer-sponsored pension program for retirement savings also may be impossible for a workforce that is increasingly mobile. Many employees may not remain in one job long enough to meet pension vesting requirements. "The IRA always under a worker's control, offering greater freedom and self-reliance than Social Security or pensions, where the fate of the worker is in the hands of others and his eligibility can be lost or cut off," says the Cato Institute's Ferrara.

But for IRAs to be most effective in providing retirement security and generating new savings, contributions must be fully deductible. Fully deductible contributions to an IRA allow Americans to achieve retirement savings goals more quickly than conventional saving and investments or nondeductible IRAs. Tax deferral of earnings in an IRA is attractive, but not alluring enough to induce most Americans to put aside money annually.

The 1988 study conducted by Feenberg and Skinner for the National Bureau of Economic Research noted that the deductibility of the contribution accounts for roughly two-thirds of the total tax advantage in an IRA. "Our results suggest that taxpayer need the immediate gratification of a tax deduction to nudge them towards adequate retirement saving," the researcher concluded.

Harvard professor David Wise concurs: "What jars people into setting aside that money rather than spending it is the tremendous promotion for IRAs that occurs around tax time, combined with the immediate opportunity to take a tax deduction. If the government took the proper long-term view, it would not only restore deductible IRAs, but increase the annual contribution limit and help promote them too."

WHAT STEPS TO TAKE

Persuading Congress to restore fully deductible IRA contributions for everyone may require several steps, as just about everything in Washington does, but the first is one that you can take. If you agree that the IRA is vital to you personally and to the nation as a whole, express your feelings in writing to your U.S. representative and senators.

Such grassroots mail campaigns can be quite effective. "People on Capitol Hill tally the mail regularly. When the senator or rep hears that he's gotten two letters about a particular issue, it may not mean much, but if he's gotten 2,000, it is definitely taken seriously," say former Treasury official Stephen Entin.

The effort to revive the IRA already has begun in Washington. U.S. Rep. David Dreier, a Republican from California, has introduced legislation proposing bringing back the full IRA deducation for all wage earners and increasing the spousal contribution from $250 to $2,000. In drafting a letter to your own representative or senators, request that he or she support Dreier's bill, H.R. 682, and any equivalent proposals introduced in the Senate.

To be most effective, your letter should include information about your own financial circumstances and use of IRAs. If you have stopped contributing to an IRA because you no longer qualify for the deduction and are put off by the burdensome record-keeping nondeductible contributions require, be sure to say so. Include as much information as you feel you can about your income level and the role IRAs play in your retirement savings scheme. "Its important to dispel the notion that IRAs are only used by the wealthy, so Congress needs to hear that middle-income people struggling to save for the future are being hurt by the IRA restrictions in the tax code," says a Dreier aide.

What follows is a summary of other general points you might consider including in a letter to your U.S. representative and/or senators:

Contrary to what Congress was led to believe in 1986, contributions to IRAs are funded primarily from dollars that otherwise would not have gone into savings. Several recent studies conducted by the National Bureau of Economic Research have revealed that the majority of IRA contributions represent new additions to savings. The loss in federal revenue that IRA deductions produce is more than offset by the increase in personal savings that they generate.

At a time when boosting national savings is so important, an incentive as effective as the IRA should be strengthened rather than hurt. The boost in new savings that IRAs induce bolsters the economy by increasing domestic capital available for U.S. investment, reducing our dangerous reliance on foreign borrowing and lessening pressure on the troubled Social Security system.

Unfortunately, the restrictions Congress placed on IRA contributions in the tax reform bill have made it a less effective savings tool. Preliminary IRS data for 1987 shows a 50% drop in the number of people contributing to an IRA. As that evidence suggests, and National Bureau of Economic Research studies have concluded, full deductibility of contributions is crucial to the IRA's success as a retirement savings incentive. Therefore, Congress should act in the interest of Americans striving to provide for their own futures and in the interest of a stronger economy by restoring fully deductible IRA contributions for all Americans.

There may never be a better time than now to send the message outlined above to Congress. As this section was going to press, senior officials in the Bush Administration were beginning to send signals that they would like Congress to expand tax breaks for IRAs in order to boost savings and investment. Before a hearing of the Joint Economic Committee of Congress, President Bush's chief economist Michael J. Boskin stated that the nation's dismal 4% savings rate would have been even lower in the mid-1980s had tax deductions for IRAs not been allowed.

At the moment, Boskin indicated the Administration would propose ways to encourage people to make IRA contributions without restoring full deductions for all. One possibility: allowing people to make a certain number of penalty-free withdrawals from their IRAs while still permitting tax-deferred growth of earnings in the accounts. Although the official Administration stance is that such inducements are as much as Congress will allow in light of concern about reducing the budget deficit, other Administration officials have indicated off-the-record that there is strong support throughout the Bush Administration for restoring the IRA deduction. With some encouragement from a grassroots mail campaign, that goal might indeed become a reality.

You can find the names of U.S. representatives and senators in the white pages of your phone book under United States government listings. If an address is not listed, your representative's or senators' names followed by one of these addresses will suffice: U.S. House of Representatives, Washington, D.C. 20515 or U.S. Senate, Washington, D.C. 20510.

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Any changes in committee scheduling will be indicated by placement of an asterisk to the left of the name of the unit conducting such meetings.

Meetings scheduled for Tuesday, June 20, 1989, may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

JUNE 21

9:00 a.m.

Commerce, Science, and Transportation
Communications Subcommittee
To resume hearings on the diversity and concentration of media ownership.
SR-253

9:30 a.m.

Armed Services
To continue hearings on S. 1085, authorizing funds for fiscal years 1990 and 1991 for the Department of Defense, focusing on the ICBM modernization program.
SR-222

Commerce, Science, and Transportation
Aviation Subcommittee
To hold hearings on S. 640, to establish guidelines for Federal standards of liability for general aviation accidents.
SR-301

Energy and Natural Resources
Business meeting, to consider pending calendar business.
SD-366

Governmental Affairs
To resume hearings to examine the recently released proceedings of the Surgeon General's Workshop on Drunk Driving.
SD-342

Small Business
To hold hearings to examine the impact of enterprise zones on small business growth and development.
SR-428A

Joint Economic
To hold hearings to examine Federal efforts to increase U.S. saving and investment.
2253 Rayburn Building

10:00 a.m.

Banking, Housing, and Urban Affairs
Housing and Urban Affairs Subcommittee
To continue hearings on S. 566, the National Affordable Housing Act, focusing on rural and Indian housing.
SR-538

Environment and Public Works
Environmental Protection Subcommittee
To hold hearings on S. 1112, authorizing funds through fiscal year 1993 for solid waste disposal programs and S. 1113, to provide States with the policy direction, technical support and financial assistance to effectively manage the municipal solid waste within their borders.
SD-406

Finance
To hold hearings on S. 771, to deny Federal income tax deductions for the costs of cleaning up oil spills and other hazardous substance discharges, and provisions of S. 1066, to establish a domestic liability and compensation system for oil pollution from vessels and facilities and to implement the 1984 Protocols to the 1969 Civil Liability and 1971 Fund Conventions concerning seagoing tanker-source oil pollution.
SD-215

Foreign Relations
Business meeting, to resume mark up on proposed legislation authorizing funds for fiscal year 1990 for foreign assistance programs.
SD-419

10:30 a.m.
Judiciary
Immigration and Refugee Affairs Subcommittee
To hold hearings on Central American migration to the United States.
SD-226

1:30 p.m.
Agriculture, Nutrition, and Forestry
Conservation and Forestry Subcommittee
To hold hearings to review the sustainability of forest resources.
SR-332

2:00 p.m.
Commerce, Science, and Transportation
Science, Technology, and Space Subcommittee
To hold hearings on S. 1067, to provide for a coordinated Federal research program to ensure continued United States leadership in high-performance computing.
SR-253

Energy and Natural Resources
Public Lands, National Parks and Forests Subcommittee
To hold hearings on miscellaneous public lands measures, including S. 558, S. 560, S. 818, S. 855, S. 940, and S. 963.
SD-366

Foreign Relations
Business meeting, to continue mark up on proposed legislation authorizing funds for fiscal year 1990 for foreign assistance programs.
SD-419

JUNE 22

8:00 a.m.
Veterans' Affairs
To hold hearings on S. 404, H.R. 1415, S. 898, and S. 1158, bills to extend certain Department of Veterans' Affairs home loan guaranty provisions, S. 1153, to provide benefits to Vietnam veterans disabled as a result of exposure to agent orange, and Section 221, services to overcome service-connected disabilities affecting procreation of S. 13, proposed Veterans Benefits and Health Care Act of 1989.
SR-418

9:00 a.m.
Agriculture, Nutrition, and Forestry
Conservation and Forestry Subcommittee
To hold hearings to review conservation and agricultural practices.
SR-332

Banking, Housing, and Urban Affairs
International Finance and Monetary Policy Subcommittee
To hold oversight hearings to review foreign policy export controls and chemical weapons proliferation.
SD-538

Commerce, Science, and Transportation
Communications Subcommittee
To continue hearings on the diversity and concentration of media ownership.
SR-253

Labor and Human Resources
To resume hearings on S. 933, to establish a clear and comprehensive prohibition of discrimination on the basis of disability.
SH-216

9:30 a.m.
Small Business
To hold hearings to assess the problems faced by small businesses in complying with the paperwork requirements of the Occupational Safety and Health Administration's hazard communications standard.
SR-428A

Special on Aging
To hold hearings to review manufacturers practices in the pricing of drugs.
SD-562

10:00 a.m.
Environment and Public Works
Environmental Protection Subcommittee
Business meeting, to mark up S. 804, to conserve North American wetland ecosystems and waterfowl and other migratory birds and fish and wildlife that depend on such habitat.
SD-406

Labor and Human Resources
Education, Arts, and Humanities Subcommittee
To hold hearings on S. 1109, authorizing funds through fiscal year 1995 for programs of the Carl D. Perkins Vocational Education Act.
SD-430

10:30 a.m.
Judiciary
Business meeting, to consider pending calendar business.
SD-226

2:00 p.m.
Appropriations
Defense Subcommittee
To resume hearings on proposed budget estimates for fiscal year 1990 for the Department of Defense.
SD-192

Appropriations
Foreign Operations Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1990 for foreign assistance programs.
SD-138

Commerce, Science, and Transportation
Surface Transportation Subcommittee
To hold hearings on S. 1005, relating to the sale, purchase, or other acquisition of certain railroads.
SR-253

Energy and Natural Resources
To hold hearings to review trends in domestic CO_2 emissions as they contribute to the phenomenon of global warming.
SD-366

Finance
International Trade Subcommittee
To hold hearings to review Japanese trade barriers that block U.S. forest product exports.
SD-215

Foreign Relations
European Affairs Subcommittee
To hold hearings on political and military implications of European economic integration.
SD-419

Judiciary
Constitution Subcommittee
To hold hearings on proposed legislation authorizing funds for the Civil Rights Commission.
SD-562

JUNE 23

9:30 a.m.
Governmental Affairs
To hold hearings on S. 253, to establish a coordinated National Nutrition Monitoring and Related Research Program.
SD-342

10:00 a.m.
Labor and Human Resources
To hold hearings on S. 768, to provide basic health benefits for all Americans.
SD-430

2:00 p.m.
Select on Indian Affairs
To hold oversight hearings on administration of Indian programs by the Environmental Protection Agency.
SR-485

JULY 10

1:00 p.m.
Armed Services
Manpower and Personnel Subcommittee
Closed business meeting, to mark up S. 1085, authorizing funds for fiscal years 1990 and 1991 for the Department of Defense, focusing on manpower and personnel programs.
SR-232A

3:00 p.m.
Armed Services
Readiness, Sustainability and Support Subcommittee
Closed business meeting, to mark up S. 1085, authorizing funds for fiscal years 1990 and 1991 for the Department of Defense, focusing on readiness, sustainability and support programs.
SR-222

6:00 p.m.
Armed Services
Defense Industry and Technology Subcommittee
Closed business meeting, to mark up S. 1085, authorizing funds for fiscal years 1990 and 1991 for the Department of Defense, focusing on defense industry and technology programs.
SR-232A

JULY 11

8:30 a.m.
Armed Services
Conventional Forces and Alliance Defense Subcommittee
Closed business meeting, to mark up S. 1085, authorizing funds for fiscal years 1990 and 1991 for the Department of Defense, focusing on conventional forces and alliance defense programs.
SR-222

9:30 a.m.
Energy and Natural Resources
To resume hearings on S. 710, S. 711, and S. 712, bills to provide for a referendum on the political status of Puerto Rico.
SD-366

Governmental Affairs
To resume hearings on the recently released proceedings of the Surgeon General's Workshop on Drunk Driving.
SD-342

10:30 a.m.
Armed Services
Projection Forces and Regional Defense Subcommittee
Closed business meeting, to mark up S. 1085, authorizing funds for fiscal years 1990 and 1991 for the Department of Defense, focusing on projection forces and regional defense programs.
SR-232A

2:00 p.m.
Armed Services
Strategic Forces and Nuclear Deterrence Subcommittee
Closed business meeting, to mark up S. 1085, authorizing funds for fiscal years 1990 and 1991 for the Department of Defense, focusing on strategic forces and nuclear deterrence programs.
SR-232A

2:30 p.m.
Energy and Natural Resources
Energy Research and Development Subcommittee
To resume hearings on S. 964, authorizing funds for fiscal years 1990 and 1991 for civilian energy programs of the Department of Energy, and on fossil energy research and development and the clean coal technology program.
SD-366

JULY 12

9:00 a.m.
Armed Services
Closed business meeting, to mark up S. 1085, authorizing funds for fiscal years 1990 and 1991 for the Department of Defense, and to consider pending nominations.
SR-222

Commerce, Science, and Transportation
To hold hearings on the nomination of Janice Obuchowski, of Virginia, to be Assistant Secretary of Commerce for Communications and Information.
SR-253

10:00 a.m.
Commerce, Science, and Transportation
Communications Subcommittee
To hold hearings on S. 707, to require the Federal Communications Commission to reinstate restrictions on advertising during children's television, to enforce the obligation of broadcasters to meet the educational and informational needs of the child audience.
SR-253

2:00 p.m.
Armed Services
Closed business meeting, to continue mark up of S. 1085, authorizing funds for fiscal years 1990 and 1991 for the Department of Defense, and to consider pending nominations.
SR-222

JULY 13

9:00 a.m.
Armed Services
Closed business meeting, to continue mark up of S. 1085, authorizing funds for fiscal years 1990 and 1991 for the Department of Defense, and to consider pending nominations.
SR-222

9:30 a.m.
Commerce, Science, and Transportation
Merchant Marine Subcommittee
To hold hearings on capabilities and concerns of the national sealift policy.
SR-253

Governmental Affairs
Business meeting, to consider pending calendar business.
SD-342

Veterans' Affairs
Business meeting, to consider pending calendar business.
SR-418

10:00 a.m.
Energy and Natural Resources
To resume hearings on S. 710, S. 711, and S. 712, bills to provide for a referendum on the political status of Puerto Rico.
SD-366

Judiciary
Business meeting, to consider pending calendar business.
SD-226

2:00 p.m.
Armed Services
Closed business meeting, to continue mark up of S. 1085, authorizing funds for fiscal years 1990 and 1991 for the Department of Defense, and to consider pending nominations.
SR-222

JULY 14

9:00 a.m.
Armed Services
Closed business meeting, to continue mark up of S. 1085, authorizing funds for fiscal years 1990 and 1991 for the Department of Defense, and to consider pending nominations.
SR-222

9:30 a.m.
Select on Indian Affairs
To hold hearings on proposed amendments to the Indian Child Welfare Act.
SR-485

10:00 a.m.
Energy and Natural Resources
To continue hearings on S. 710, S. 711, and S. 712, bills to provide for a referendum on the political status of Puerto Rico.
SD-366

2:00 p.m.
Armed Services
Closed business meeting, to continue mark up of S. 1085, authorizing funds for fiscal years 1990 and 1991 for the Department of Defense, and to consider pending nominations.
SR-222

JULY 18

9:00 a.m.
Commerce, Science, and Transportation
To hold hearings in conjunction with the National Ocean Policy Study on tuna management.
SR-253

9:30 a.m.
Energy and Natural Resources
Energy Research and Development Subcommittee
To resume hearings on S. 964, authorizing funds for fiscal years 1990 and 1991 for civilian energy programs of the Department of Energy, focusing on reactor research and development, and on commercial efforts to develop advanced nuclear reactor technologies.
SD-366

Governmental Affairs
To hold hearings on S. 244, to provide for the development and use of plastics derived from certain commodities, and to include such products in the General Services Administration inventory for supply to Federal agencies.
SD-342

JULY 19

9:30 a.m.
Commerce, Science, and Transportation
Communications Subcommittee
To hold hearings on S. 999, relating to the broadcasting of certain material regarding candidates for Federal elective office.
SR-253

Governmental Affairs
To resume hearings on the recently released proceedings of the Surgeon General's Workshop on Drunk Driving.
SD-342

JULY 20

9:30 a.m.
Energy and Natural Resources
Energy Research and Development Subcommittee
To resume hearings on S. 964, authorizing funds for fiscal years 1990 and 1991 for civilian energy programs of the Department of Energy, focusing on reactor research and development, and on commercial efforts to develop advanced nuclear reactor technologies.
SD-366

Governmental Affairs
To hold hearings on provisions of S. 135, Hatch Act Reform Amendments of 1989.
SD-342

Veterans' Affairs
Business meeting, to mark up proposed legislation to revise certain provisions of VA health care programs, including S. 13, S. 86, S. 165, S. 192, S. 263, S. 405, S. 564, S. 574, S. 748, and S. 846.
SR-418

JULY 21

9:30 a.m.
Select on Indian Affairs
To hold hearings to establish a Tribal Judicial Resource Center.
SR-485

JULY 25

9:30 a.m.
Governmental Affairs
To hold hearings to review U.S. trade and technology issues.
SD-342

JULY 26

9:00 a.m.
Commerce, Science, and Transportation
Communications Subcommittee
To hold hearings on S. 1009, relating to the purchase of broadcasting time by candidates for public office.
SR-253

10:00 a.m.
Governmental Affairs
Business meeting, to consider pending calendar business.
SD-342

JULY 27

9:30 a.m.
Governmental Affairs
To hold hearings on S. 1165, to provide for fair employment practices in the U.S. Senate and U.S. House of Representatives.
SD-342

10:00 a.m.
Judiciary
Business meeting, to consider pending calendar business.
SD-226

CANCELLATIONS

JUNE 20

2:00 p.m.
Judiciary
Courts and Administrative Practice Subcommittee
To hold hearings on S. 396, to provide protection for the operation of interest rate and currency swap agreements when one party files for bankruptcy relief, and S. 84, to provide Federal debt collection procedures.
SD-2266

HOUSE OF REPRESENTATIVES—*Tuesday, June 20, 1989*

The House met at 12 noon.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

Gracious God, we recognize that our motivation for deeds is sometimes clouded by our desire to see results, and we know that we tend to decide what to do by what can be accomplished. In our prayers, O God, may we learn to express our praise and thanksgiving to You not because we may profit or even gain strength or solace, but because You are the giver of life, the source of love, the redeeming power in troubled lives. May our prayer and praise flow to You, O gracious God, in words of tribute and petition only because You have loved us and we are eternally grateful for Your gifts to us. In Your name we pray. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER. The gentleman from South Carolina [Mr. DERRICK] will lead the House in the Pledge of Allegiance.

Mr. DERRICK led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

EXPENDITURE TARGETS RESULT IN HEALTH CARE RATIONING

(Mr. DERRICK asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DERRICK. Mr. Speaker, the Ways and Means Committee Subcommittee on Health has taken on a difficult task in trying to satisfy physicians, Medicare beneficiaries, and those of us who want to cut Federal expenditures. In fact, this task is so monumental that I might grant them room to make errors. However, I must protest the action taken yesterday to establish expenditure targets for the Medicare Program.

Real-life experience with the program has shown us that though the theory might be attractive, the actual side-effects are not at all what the deficit doctor ordered. Consider this: Canadian experience has resulted in:

Growing waits for necessary surgery;

Degrading conditions for elderly hospital patients; and

An unwarranted intrusion into the physician-patient relationship.

Medicare beneficiaries in my State do not want health care rationing. They believe—and I believe—that we can effectively deal with increases in volume and intensity of medical services by more·efficient administration of clinical utilization and quality review.

Mr. Speaker, let us not go overboard in our understandable zeal to hold down costs of the health care delivery system. Many of us are willing to bite the bullet, but we just cannot take a bullet. Stop Medicare expenditure targets now.

COMMUNITY NOTIFICATION ACT

(Mr. SAXTON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SAXTON. Mr. Speaker, some of my colleagues in the House support the recommendations of the Commission on Base Closures and Realignments, some don't. But, I think all will agree with me that the communities surrounding the more than 150 affected military bases should be given every opportunity to prepare for the economic impact especially as it relates to local schools.

These communities, whether they are gaining or losing personnel, will need to adjust to the resulting changes. This is most critical to the area schools that depend on Federal impact aid. As you may know, impact aid is the program by which the Federal Government reimburses local school districts for educating military dependent children. Today, in order to assist the school districts in their adjustments, I am introducing the Community Notification Act.

This bill requires the Secretary of Defense to identify by February 1 of each year those local education agencies, such as local school boards, which will experience an increase or decrease in the enrollment of military dependent children.

Mr. Speaker, the budget process for a local school district is difficult. It is even more difficult for those districts that rely on impact aid. As the recommendations of the Base Closure Commission begin to be implemented, and the enrollment at local school districts begins to change, the budget process will become even more of a guessing game. Passage of the Community Notification Act should help to provide some level of stability to the process. I encourage my colleagues to cosponsor this bill.

MEDICARE EXPENDITURE TARGETS, HEALTH CARE RATIONING FOR THE ELDERLY

(Mr. SMITH of New Hampshire asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SMITH of New Hampshire. Mr. Speaker, the Nation's elderly are already greatly disturbed by the recent changes in Medicare—specifically, the catastrophic coverage law. In spite of thousands of letters from angry senior citizens, this law has remained on the books at a severe financial cost to the elderly. Now, Congress is planning to do it to them again. Only this time, seniors will be paying with their health, not their pocketbooks.

Actions are now being taken by Members of Congress to introduce expenditure targets into the Medicare system. For those unfamiliar with the term, "expenditure targets" simply put means the rationing of health care. "Expenditure targets" tell physicians that they can only be paid for treating x amount of patients. Physicians are then left to decide who the lucky patients will be. A decision physicians do not want to make.

This is a dubious approach to solving a difficult problem. No one questions the fact that our health care system needs to be reformed. We all agree that rising costs need to be contained. But how should we go about doing this? Should we go forward with a new, untested plan that will deny the elderly adequate care? Should we attempt to balance the budget on the backs of senior citizens? I certainly do not think so.

I urge my colleagues to reject the idea of expenditure targets. The rationing of health care is a price that our Nation's elderly can ill afford to pay.

AIRLINES OUGHT NOT TO BE IN THE LEVERAGED BUYOUT/HOSTILE TAKEOVER BUSINESS

(Mr. DORGAN of North Dakota asked and was given permission to ad-

dress the House for 1 minute and to revise and extend his remarks.)

Mr. DORGAN of North Dakota. Mr. Speaker, I hope the Secretary of Transportation is listening and is aware today of what is going on in the airline industry. I make note specifically of the proposed sale of Northwest Airlines, a sale for a little over $4 billion, a little over $3 billion of which will be debt. Load that debt on an airline and impose debt service costs of $300 to $400 million a year on a company that has never made $200 million a year, and the question is where does it bust out at the seams to try to pay these interest costs?

I think the answer is less service and higher ticket prices.

Mr. Speaker, I do not think our airlines ought to be in the mix here of this leveraged buyout/hostile takeover business. I think what it does is put at risk our transportation system.

Mr. Speaker, I am going to be meeting with the Secretary and others, and I hope we can make some sense of this because I do not want an awfully good airline carrier that our part of the country relies on very heavily to spend its time trying to raise money to pay interest costs on a $300 million debt because some folks wanted to buy it and make a bunch of money in the short term. We ought to be interested in building companies in the long term that provide good service and good business for our country.

That is what Northwest now does, and I fear it will not after this buyout.

I have not seen all the details, but I am concerned. I hope the Secretary of Transportation is concerned as well because it is partly his responsibility to see to it that we have a good transportation system and the airline companies that serve the major part of this country are not threatened by takeovers and by substantial loading up of debt as a result of takeovers.

SANDINISTA GOVERNMENT OF NICARAGUA DEFENDS CHINESE REPRESSION

(Mr. BALLENGER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BALLENGER. Mr. Speaker, 2 weeks ago this House unanimously approved a resolution commending the Chinese students for their efforts at democratic political reform and condemning the Chinese Government for its brutal and excessive use of force in repressing the demonstrations. As many as 7,000 Chinese citizens could have lost their lives.

In recent press reports, the Sandinista government of Nicaragua defended the massacre saying that the Chinese Government was merely suppressing a counterrevolution.

A government that would casually dismiss this type of brutal suppression cannot realistically be expected to meet its obligations for holding free elections.

We can only hope and pray that the opposition and the burgeoning movement for freedom and democracy in Nicaragua do not end up suppressed like the thousands of students in Tiananmen Square.

□ 1210

PERMISSION FOR COMMITTEE ON APPROPRIATIONS TO FILE PRIVILEGED REPORT ON THE ENERGY AND WATER DEVELOPMENT APPROPRIATION BILL, 1990

Mr. BEVILL. Mr. Speaker, I ask unanimous consent that the Committee on Appropriations may have until midnight tonight to file a privileged report on the energy and water development appropriation bill for 1990.

Mr. MYERS of Indiana reserved all points of order on the bill.

The SPEAKER pro tempore (Mr. DARDEN). Is there objection to the request of the gentleman from Alabama?

There was no objection.

AGAINST TURKISH HUMAN RIGHTS VIOLATIONS

(Mr. LAUGHLIN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LAUGHLIN. Mr. Speaker, I want to express my utter disgust and disapproval of the human rights violations being waged against the ethnic Turks of Bulgaria.

Since May of this year, when violence over the assimilation practices by the Bulgarian Government broke out, the plight of the Turks has been gaining international attention. Amnesty International estimates that approximately 100 ethnic Turks have died since the assimilation campaign began.

The assimilation campaign focuses on banning the use of the Turkish language in public, closing mosques, and razing Turkish cemeteries in the hope of wiping out any trace of the Moslem Turkish minority. In addition, the Bulgarian Government is forcing the Turks to renounce their ethnic heritage and change their names to Bulgarian names. Officially, the Turks no longer exist.

I can't help but be reminded of the countless deaths of Jews in concentration camps in Germany in the 1940's instigated by Adolf Hitler in an attempt to promote the perfect race. We cannot stand by and let the fervor of this mindless barbarianism escalate to disproportionate levels. Those who forget the past are condemned to relive it.

The assimilation campaign by the Bulgarian Government is an abomination to us as a people whose Government is based on democracy, freedom, and justice for all. As an American soldier stationed in Turkey for 1 year, I can attest to the Turks as being strong and faithful friends of the United States. Therefore, I urge my colleagues to demand that Bulgaria account for what Turkish Foreign Minister Mesult Yilmaz has called "one of the gravest human rights violations of our times."

Furthermore, we should demand that Bulgaria restore the rights of ethnic Turks to practice their cultural heritage or at least allow them to freely leave Bulgaria.

I applaud our Government's suspension of trade talks with Bulgaria until the issue of the forced exodus is addressed and I strongly support Turkish Prime Minister Turgut Ozal's call to keep the Turkish-Bulgarian border open to allow ethnic Turks the opportunity to return to their native land and bring to a halt the senseless deaths of persecuted Turks in Bulgaria.

APPROPRIATE FUNDS FOR VETERANS' HOSPITALS

(Mr. McEWEN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. McEWEN. Mr. Speaker, as Members will recall, many in this House said back in December, there was not sufficient funding for the Veterans' Administration. Back in March, the new Director-Administrator of Veterans' Affairs requested an additional $350 million. In April of this year, the President forwarded to the Congress a dire emergency supplemental request, and now the Congress has continued to play with it, having exploded that $350 million request to over $1 billion.

Included in that request are $75 million for a telescope in West Virginia; $1 million for a center for the Navy in landlocked West Virginia; a quarter of a million dollars for a warning system for chemical plants; a quarter of a million dollars for a drought information center; $400,000 for a fire research center; a provision urging the Department of Agriculture to purchase more apples; and a section of other nonemergency items that prevents the veterans from getting the money that the President requested some months ago.

I believe that Congress should act this week. We should appropriate the necessary funds to keep our hospitals open for the veterans. We should come back to these other unnecessary items

and deal with them directly, and not hold the veterans hostage to this sort of activity.

INVESTIGATION REQUESTED IN DEMJANJUK CASE

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TRAFICANT. Mr. Speaker, John Demjanjuk was a Cleveland auto worker. He was born in the Ukraine in 1920. He was forced into the Red Army in 1940. He became a German prisoner of war in 1942.

John Demjanjuk said he served and was in four prisoner-of-war camps until the end of the war. An Israeli court said "No." They said he is Ivan the Terrible. He is in an Israeli jail, sentenced to death.

I believe this case stinks. The sad part is the Office of Special Investigation in America has seemed to have turned their back on the rights of one of the citizens, setting a dangerous precedent that can endanger the rights of all citizens. There are too many irregularities. A defense attorney committed suicide. I do not know the truth, but no one else does.

I am asking for an investigation into the John Demjanjuk American citizen case, and also into the actions of the Special Office of Investigation in this country.

Even though he is an auto worker, even an auto worker is entitled to some rights. I do not know the truth, but America should find out.

JUST SAY NO TO PROSPECTIVE PAYMENT FOR PHYSICIANS

(Mr. PORTER asked and was given permission to address the House for 1 minute.)

Mr. PORTER. Mr. Speaker, Medicare is in bad shape. But the Physician Payment Review Commission wants to make a bad situation even worse by saddling doctors with expenditure targets, a fee-schedule, and limits on balance billing.

This is the worst form of price control. Have we not learned anything from past efforts to control medical spending through price administration?

In 1983, Medicare began making hospital payments under such an administered price system. The new system was supposed to force wasteful hospitals to operate more efficiently. Instead, record numbers of hospitals closed, mostly in medically underserved areas that could least afford the closures.

We should not be shunning the market in the name of cost savings. We should embrace the market. We should be moving toward a capitated system of health care coverage in which individuals can purchase integrated, tailored packages of health care with Medicare assistance, and still retain flexibility and choice.

Mr. Speaker, price administration is not working on the hospital side, and it is not going to work on the physician side. We should reject the PPRC recommendations.

H.R. 2654, THE TAXPAYER AND ENVIRONMENT PROTECTION ACT OF 1989

(Mr. RITTER asked and was given permission to address the House for 1 minute.)

Mr. RITTER. Mr. Speaker, last Thursday I introduced legislation that would block the Governor of New York State's plan to dismantle the Shoreham Nuclear Power Plant on Long Island.

Why? There are two reasons. First, given the fact that we are on the eve of strengthening the Clean Air Act, America should be weaning itself from its severe dependence upon the burning of oil and other fossil fuels, particularly the burning of imported oil for the generation of electricity.

In their place, we should be relying on American-made, clean, and reasonably priced sources of energy—such as the available 800 megawatts of electricity Shoreham could provide to a foreign oil-dependent region that faces the threat of brownouts this summer.

The second reason Congress should block the plan is because Federal taxpayers are being called in to help pay for the dismantling of Shoreham—despite the fact that it's a safe, $5.5 billion facility that has been granted a full power license by the Nuclear Regulatory Commission. Under Gov. Mario Cuomo's plan to dismantle Shoreham, the owner of the plant has been granted a $2.8 billion tax writeoff for this year.

So, while Congress struggles to keep the deficit down and clean up the environment, Congress also may be complicating its work by allowing Governor Cuomo to pursue his policy of dismantling Shoreham at any cost. American taxpayers and our environment cannot afford this folly.

My bill, the Taxpayer and Environment Protection Act of 1989, would work to block the dismantling of Shoreham by disallowing the $2.8 billion Federal tax writeoff on the grounds that the plan to dismantle Shoreham cannot be regarded as a legitimate form of abandonment. The bill also repeals the authority of the Long Island Power Authority to issue Federal tax exempt bonds that would be used to acquire and then dismantle the plant.

I urge my colleagues to support this legislation. Thank you, Mr. Speaker.

□ 1220

OPPOSING FURTHER FINANCING OF DEVELOPMENT IN PEOPLE'S REPUBLIC OF CHINA

(Mr. FAUNTROY asked and was given permission to address the House for 1 minute, and to revise and extend his remarks.)

Mr. FAUNTROY. Mr. Speaker, I have today introduced a resolution with the gentleman from New York [Mr. LAFALCE] calling upon President Bush to instruct the United States Directors of the World Bank and the Asian Development Bank to oppose all loans to the People's Republic of China. I have also scheduled this afternoon a hearing of my Subcommittee on International Finance to examine the issue because the repression carried out against the innocent young people of the People's Republic of China over the last few weeks is just repugnant to all of us.

We know, Mr. Speaker, that the multilateral institutions are the primary providers of external development finance for China. The People's Republic of China has $4.7 billion of loans pending and in the pipeline in the World Bank and an additional $1.1 billion is in some state of processing by the Asian Development Bank.

What bothers me most is that the leadership in China, that hard-line leadership presently in power, believes that it can act with impunity. Deng Xiaoping was quoted as saying that China's policy of economic reforms and its opening to the West will not change. What that attitude says to me, Mr. Speaker, is that they are saying:

> We will take whatever opportunity we can get from the international community, thank you very much, but we will not abide by certain basic standards of decency and respect for human rights.

I am sorry, I would say to Deng Xiaoping, but this is a two-way street. To continue to finance development in the People's Republic of China under the present circumstances is equivalent to making us an accomplice in this barbarous crackdown that is taking place there. We cannot and should not be a party to reinforcing those who would so brutally subvert the economic and political aspirations of their people.

TRIBUTE TO MRS. HARRIET VAN METER, FOUNDER AND DIRECTOR OF THE INTERNATIONAL BOOK PROJECT

(Mr. HOPKINS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HOPKINS. Mr. Speaker, I rise this morning to offer my personal congratulations and the thanks of the Nation of my friend, Mrs. Harriet Van

Meter, of Lexington, founder and director of the International Book Project.

On June 26, Mrs. Van Meter will receive this year's Kiwanis World Service Medal for her work with the IBP at the 74th Annual Kiwanis International Convention in Orlando, FL.

In 1966, Mrs. Van Meter visited India. Struck by the extreme poverty and lack of educational materials she saw there, she wrote an open letter to an Indian newspaper, offering to send food or books to anyone who asked for them. She received over 400 requests. Only two were for food; the rest, for books.

Since that time, the International Book Project, operating with no Government assistance, has served more than 1.3 million people in over 100 countries, meeting specific needs—sending books only on request, sending only the kinds of books requested. Her network of volunteer workers and supporters includes residents of every State in the Union and several foreign countries.

In addition to the award itself and the cash gift which accompanies it, the book project is being designated as the Kiwanis International service project for the next year.

Surely no project is more worthy of the recognition and assistance of this fine service organization than this one—dedicated to educational opportunity, personal development, and international cooperation—and no American is more worthy of our admiration and honor than its director, congratulations Harriet Van Meter.

THE GROWING NEED FOR FUNDING OF VETERANS' PROJECTS

(Mr. GUNDERSON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GUNDERSON. Mr. Speaker, let me ask, are we going to take care of the veterans, or are we not? Are we going to fund the veterans' dire emergency supplemental, or are we not? Already there are staff shortages of some 4,000 medical personnel, reductions in outpatient capacity amounting to 20,000 visits per week, a freeze on accepting new patients, whose eligibility depends on available VA resources, a freeze on capital accounts, and a halt on the activation of 96 recently completed medical facility projects.

Secretary Derwinski said that if we did not have a supplemental for veterans funded by June 15—and we did not, of course; it is now June 20—that would require additional steps: The closure of some specialized medical programs, coping with staffing problems in the benefits administration, and reductions in ground maintenance at 113 national cemeteries.

Mr. Speaker, let us quit playing politics. It is time that we fund the veterans in their supplemental.

SUPPORT FOR QUALITY HEALTH CARE FOR THE ELDERLY

(Mr. LIGHTFOOT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LIGHTFOOT. Mr. Speaker, I made a pledge to the elderly residing in my congressional district when I first took office that I would not support legislation in Congress denying them access to quality and affordable health care. As a member of the House Select Committee on Aging and the House Rural Health Care Coalition, my statements on the House floor and committee hearings emphasize my continued support to provide all elderly with quality health care.

I understand a proposal was approved recently in a House Ways and Means Subcommittee hearing supporting establishment of expenditure targets for the Medicare Program. One of the most eminent concerns in my congressional district is the threat of hospital closures. How will I explain to my older Americans that they will not only have to travel farther to receive quality care, but be subject to restrictive or rationing of physician services as a means of balancing the Federal budget? Those most at risk will be the elderly and the disadvantaged.

Mr. Speaker, let us take a couple of moments to recount Canada's experience with expenditure targets. Although the concept might appear to be appealing, according to Canadian reports, the quality of care provided to its residents is unacceptable and possibly life threatening. Expenditure targets might force a physician to limit or restrict access to health care services.

I cannot support a proposal resulting in long delays to obtain necessary medical care. I understand patients in certain Provinces wait 8 to 9 months for coronary bypass surgery. I can assure you had I been a Medicare beneficiary when I underwent bypass surgery I would not want to be held up because my surgeon was restrained from operating due to expenditure targets.

Mr. Speaker, I do not support expenditure targets and hope my colleagues will join me in opposing such efforts.

A SUCCESS STORY IN THE FIELD OF CHILD CARE

(Mrs. ROUKEMA asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. ROUKEMA. Mr. Speaker, last week, you may remember, I spoke of my child care bill and its purpose of providing seed money to the States. Today I would like to focus your attention on a model child care program in my home town of Ridgewood, NJ.

This program was started some 8 years ago by Mrs. Cathy Marino, a child early development and education specialist. She saw that working parents needed child care for infants and toddlers and, without Federal or State grants, started what has become a model for child care in my State. Her infant and toddler development center started with 12 babies and has grown to serve 110 infants and toddlers ranging in age from 6 weeks to 5 years old.

Working with the cooperation of the school system, Mrs. Marino set up the child-care center in the public school building—perhaps the most logical and well-suited location. With a lot of hard work and community effort in the form of donated materials by businesses and advice from health and safety professionals, this center has thrived.

My purpose in telling you about this success story is to make the point that the role of the Federal Government in child care should be to encourage this kind of innovation by passing a child-care bill that makes grants to the States to be used as seed money to start and continue programs like the one I have described for you today.

Any child care legislation that Congress passes should do four important things:

First, keep direction and choice as close to home as possible—with State, community, school and business—rather than a federally directed bureaucracy.

Second, inspire and invest in innovation suitable for local needs.

Third, give flexibility to integrate existing programs in the public schools as well as church-sponsored programs.

Fourth, and, given our enormous budget deficit, child care legislation must propose fiscally prudent expenditures.

My bill, H.R. 1708, will do just these things and I ask for your support.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. DARDEN). Pursuant to the provisions of clause 5 of rule I, the Chair announces that he will postpone further proceedings today on each motion to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 4 of rule XV.

Such rollcall votes, if postponed, will be taken after debate has been concluded on all motions to suspend the rules.

EXTENSION OF TITLE I OF ENERGY POLICY AND CONSERVATION ACT

Mr. SHARP. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2539) to extend title I of the Energy Policy and Conservation Act.

The Clerk read as follows:

H.R. 2539

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. EXTENSION.

Title I of the Energy Policy and Conservation Act (42 U.S.C. 6211 et seq.) is amended—

(1) in section 171, by striking out "June 30, 1989" each place it appears and inserting in lieu thereof "February 28, 1990"; and

(2) in section 104(b)(1), by striking out "June 30, 1989" and inserting in lieu thereof "February 28, 1990".

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from Indiana [Mr. SHARP] will be recognized for 20 minutes, and the gentleman from California [Mr. MOORHEAD] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Indiana [Mr. SHARP].

Mr. SHARP. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this bill, H.R. 2539, extends for 8 months the authority in title I of the Energy Policy and Conservation Act [EPCA] which established and continues to provide authority necessary to use the strategic petroleum reserve [SPR].

This is an important bill and has been worked out in consultation with the administration and the committee minority. Unless EPCA is extended before June 30, 1989, the Department of Energy may not have sufficient authority to drawdown the SPR in response to an oil shortage.

The strategic petroleum reserve [SPR] is this Nation's emergency supply of crude oil stored in huge underground salt caverns along the coast of the Gulf of Mexico. First authorized by Congress in 1975, this oil is our insurance policy against the economic problems associated with energy interruptions or shortages. It was established in the aftermath of the economic shock waves that rocked the industrialized world as a result of the 1973-74 oil embargo.

Today, with 570 million barrels, the SPR is the largest stockpile of crude oil in the world. It is our first line of defense against the economic disasters associated with an energy shortage. Recently, we saw how rapidly and dramatically oil prices can rise when this Nation experiences a temporary shortage of oil. During the days when Prince William Sound was closed to tanker traffic as a result of the grounding of the *Exxon Valdez,* gasoline prices, then crude oil prices, rose suddenly. If an 11-million-barrel shortage can cause gasoline to rise 10 cents per gallon in 2 weeks, the potential for disastrous rises during a major shortage are staggering. The SPR is our Nation's first and only immediate defense against these price rises and the associated damage to our economy.

The SPR is also required to meet our obligations to the International Energy Agency, which require the United States to have a minimum of 90 days of oil imports available in storage. In 1985, when our oil import dependency and oil consumption was lower than today, the SPR reached a maximum of 118 days of oil imports. Despite a continued oil acquisition program, oil imports have increased more rapidly that oil has been acquired for the SPR. At the end of 1988, assuming average net imports of 6.3 million barrels per day, the SPR held only 89 days of imports.

This bill grants an 8-month extension to the authority contained in title I of EPCA which is necessary to utilize the SPR effectively. The primary reason for the short extension is to allow the Department of Energy and the committee to consider a number of unresolved issues relating to the SPR. These issues were identified at a hearing on April 19, 1989, and in an exchange of letters between the Department of energy and the committee. These are contained in the committee report on the bill.

EPCA was last extended in 1985 for 4 years. In the intervening years there have been changes in the world oil supply situation. These changes should be reflected in EPCA authorities. During the next 8 months, DOE and the committee intend to consider exactly what changes are necessary.

The Subcommittee on Energy and Power intends to hold additional hearings to assist in resolving these issues. I urge my colleagues to support passage of this bill and allow sufficient time for the Congress and the administration to consider whether additional changes are necessary to EPCA.

Mr. MOORHEAD. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, as one with a longstanding interest in an adequate strategic petroleum reserve, I rise in support of H.R. 2539, which I cosponsored with the chairman of the Subcommittee on Energy and Power, Mr. Sharp. This bill would extend title I of the Energy Policy and Conservation Act, including the authority for the strategic petroleum reserve, through February 28, 1990. Current law expires on June 30, 1989.

The Department of Energy is generally to be commended for its management of the important Federal asset represented by the strategic petroleum reserve. American taxpayers have invested $20 billion in facilities and oil acquisition at the five sites which make up the SPR. Unfortunately, as our demand for imported oil has steadily increased during the past 4 years, the size of the SPR has not kept pace. In 1985, we had the equivalent of 118 days of imports in the SPR. Now, that level is only 89 days. As a member of the international energy program, the United States is obligated to maintain reserves equal to at least 90 days of oil imports.

In addition to the fill rate and the ultimate size of the SPR, the Congress must consider several other issues related to the strategic petroleum reserve. For example, the administration proposes to sell the naval petroleum reserves and use the proceeds to fill the SPR. Furthermore, we need to amend the draw down authority so that the SPR could be used in the event of an interruption of domestic supplies, as well as a cutoff of imported oil. In short, the 8-month extension of current law provided by H.R. 2539 would give Congress and the administration the time to thoughtfully consider these and other SPR issues.

The administration supports H.R. 2539.

Mr. Speaker, we look forward to working with our colleagues on the majority side of the aisle on swift passage of this bill and on a long-term extension of title I of the Energy Policy and Conservation Act, with appropriate amendments.

Mr. SHARP. Mr. Speaker, I yield 3 minutes to the gentleman from Hawaii [Mr. AKAKA], who has been a staunch advocate of a regional reserve for the Hawaiian Islands.

Mr. AKAKA. Mr. Speaker, I rise in support of this legislation.

The legislation before us extends title I of the Energy Policy and Conservation Act—widely known as the Strategic Petroleum Reserve—through February of 1990. The bill is necessitated by the fact that the Department of Energy's authority to purchase and store oil for the reserve expires on June 30.

I take the floor today not only because I support this vital piece of energy legislation, but also because I know that the bill before us will give the Energy and Commerce Committee the time it needs to craft a more comprehensive reauthorization for the Strategic Petroleum Reserve.

This reauthorization is critical to the energy security of the State of Hawaii. Earlier this spring, I had the opportunity to testify before Chairman SHARP and the other members of the Energy and Power Subcommittee to make my case for establishing a petroleum reserve in Hawaii. It is my firm hope that the legislation developed to meet next February's deadline will include provisions for such a reserve.

Compared to the mainland, Hawaii faces a much greater risk of an oil supply disruption because we have no overland access to domestic sources of crude. While the lower 48 States and Alaska have access to oil transported by pipeline, rail, or highway, in Hawaii all of our crude oil and refined products arrive by ocean tanker. Our total reliance on tanker deliveries makes Hawaii exceptionally vulnerable to a cutoff of oil supplies in the event of a crisis that disrupts oil imports.

The argument for establishing a regional reserve in Hawaii is compelling. Evidence indicates that Hawaii's energy dependence will turn from bad to worse in the coming decade.

If an energy crisis hits, Hawaii would wither on the vine. Our only means of access to the Strategic Petroleum Reserve would be by tanker delivery from the Gulf of Mexico through the Panama Canal. A recent study commissioned by the State of Hawaii indicates that the minimum delivery time for Strategic Petroleum Reserve oil to Hawaii would be 53 days. This exceeds the State's average commercial working inventory by 23 days. Under these circumstances, Hawaii's oil supply would run dry and our economy would grind to a halt.

The U.S. Department of Energy has consistently maintained that Hawaii's emergency petroleum supply needs are most effectively met through central petroleum storage in the SPR salt dome caverns in Texas and Louisiana. My colleagues, this notion is absurd. These facilities are as far away from Hawaii as Istanbul is distant from New York City.

In response to Hawaii's vulnerability to supply problems and the reluctance of the DOE to adequately address that vulnerability, I have introduced H.R. 1418, a bill to amend the Energy Policy Conservation Act to permit the establishment of a regional petroleum reserve for the State of Hawaii.

As we proceed with the reauthorization of the Strategic Petroleum Reserve, I hope we do not overlook the dire energy security needs of Hawaii. I hope my colleagues will remember that our islands are rich in many things—especially beauty—but poor in indigenous fossil fuels. Unless something is done now about Hawaii's vulnerability, when the next oil crisis hits it will be too late to act.

□ 1240

Mr. MOORHEAD. Mr. Speaker, I yield back the balance of my time.

Mr. SHARP. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Indiana [Mr. SHARP] that the House suspend the rules and pass the bill, H.R. 2539.

The question was taken; and two-thirds having voted on favor thereof, the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

Mr. SHARP. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 694) to amend the Energy Policy and Conservation Act to extend the authority for the Strategic Petroleum Reserve, and for other purposes, and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Indiana?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 694

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be referred to as the "Strategic Petroleum Reserve Amendments of 1989".

EXTENSION OF AUTHORITY

SEC. 2. Section 171 of the Energy Policy and Conservation Act, as amended (42 U.S.C. 6251), is amended by striking the term "June 30, 1989" everywhere it appears and substituting the term "June 30, 1994".

ENLARGEMENT TO ONE BILLION BARRELS

SEC. 3. (a) Section 159 of the Energy Policy and Conservation Act (Public Law 94-163), as amended (42 U.S.C. 6239), is amended by adding the following new subsection:

"(i) The Secretary shall by January 30, 1990, amend the Strategic Petroleum Reserve Plan to prescribe plans for completion of storage of one billion barrels of petroleum products in the Reserve. Such amendment shall comply with the provisions of this section and shall detail the Secretary's plans for the design, construction, leasing or other acquisition, and fill of storage and related facilities of the Reserve to achieve such one billion barrels of storage. Such amendment shall not be subject to the congressional review procedures contained in section 551 of Public Law 94-163 (42 U.S.C. 6421). In assessing alternatives in the development of such plans, the Secretary shall consider leasing privately owned storage facilities.".

(b) Section 160 of the Energy Policy and Conservation Act, as amended (42 U.S.C. 6240), is amended—

(1) by substituting in paragraph (c)(3)—

(A) the term "fiscal year 1995" for the term "fiscal years 1988 and 1989", and

(B) the term "1,000,000,000" for the term "at least 750,000,000", and

(2) in paragraph (d)(1)—

(A) by substituting in subparagraph (A) the term "1,000,000,000" for the term "750,000,000", and

(B) by striking the period at the end of subparagraph (B), substituting a semicolon, and adding a new subparagraph (C) as follows:

"(C) after January 30, 1990, the Secretary has amended the Strategic Petroleum Reserve Plan as required by section 159(i).".

PREDRAWDOWN DIVERSION OF SPR OIL

SEC. 4. Section 161 of the Energy Policy and Conservation Act, as amended (42 U.S.C. 6241), is amended by adding the following new subsection:

"(h)(1) If the President finds that a severe energy supply interruption may be imminent and that the world price of crude oil has, as a result, increased substantially, then the execution of new contracts for petroleum products for injection into the Strategic Petroleum Reserve may be curtailed or suspended for not to exceed thirty days, and the provisions of sections 160 (c) and (d) shall not apply: *Provided, however,* That the President may extend such finding for additional thirty-day periods if he finds that the conditions that justified the initial finding still exist. (2) The period during which such Presidential finding is in effect, and the quantity of any petroleum products involved, shall be disregarded in applying the provisons of such subsections for periods following the effective period of such finding. (3) When such a finding is in effect, the Secretary is authorized to sell, in accordance with rules or regulations which he shall promulgate, any petroleum products acquired for storage in, but not injected into, the Strategic Petroleum Reserve. (4) The receipts from such sales shall be deposited in the "SPR Petroleum Account" under section 167 and shall be subject to section 167(d).".

OIL LEASING STUDY AND REPORT

SEC. 5. The Secretary of Energy shall provide no later than ninety days after enactment of this Act to the Senate Committee on Energy and Natural Resources and to the House Committee on Energy and Commerce a written, detailed report on potential financial arrangements (including long-term leasing of crude oil and storage facilities) as additional, alternative means of financing the Strategic Petroleum Reserve. The Secretary of Energy shall direct that in the course of conducting this study the appropriate officials shall:

(a) survey a broad array of potential financial arrangements;

(b) communicate with persons in the private sector who might be interested in leasing crude oil or storage facilities;

(c) initiate, in cooperation with the State Department, discussions with representatives of foreign governments and other entities as to the types of financial arrangements (including crude leasing arrangements) that would interest them, consistent with United States interests, and

(d) draft preliminary solicitations for proposed Strategic Petroleum Reserve financial arrangements (including long-term leasing of crude oil and storage facilities).

Such report shall include legislative recommendations and proposals to facilitate such financial arrangements (including long-term leasing of crude oil and storage facilities).

MOTION OFFERED BY MR. SHARP

Mr. SHARP. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. SHARP moves to strike all after the enacting clause of the Senate bill, S. 694, and to insert in lieu thereof the provisions of H.R. 2539, as passed by the House.

The motion was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed.

The title of the Senate bill was amended so as to read: "An act to extend title I of the Energy Policy and Conservation Act."

A motion to reconsider was laid on the table.

A similar House bill (H.R. 2539) was laid on the table.

GENERAL LEAVE

Mr. SHARP. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the legislation just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Indiana?

There was no objection.

APEX PROJECT, NEVADA LAND TRANSFER AND AUTHORIZATION ACT OF 1989

Mr. VENTO. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 1485) to provide for the sale of certain Federal lands to Clark County, NV, for national defense and other purposes, as amended.

The Clerk read as follows:

H.R. 1485

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I—LAND TRANSFER IN CLARK COUNTY, NEVADA

SEC. 101. SHORT TITLE.

This title may be cited as the "Apex Project, Nevada Land Transfer and Authorization Act of 1989".

SEC. 102. FINDINGS AND DEFINITIONS.

(a) FINDINGS.—Congress finds the following:

(1) The only two domestic producers of ammonium perchlorate ("AP"), a principal component of solid rocket fuel essential to the Nation's defense and space programs, are Pacific Engineering and Production Company, Incorporated ("Pepcon") and Kerr-McGee Chemical Corporation ("Kerr.McGee"), which established production facilities near the city of Henderson in Clark County, Nevada ("the county"). On May 4, 1988, an explosion destroyed the Pepcon plant, thereby substantially reducing the Nation's capacity to produce solid rocket fuel.

(2) A commission subsequently appointed by the Governor of Nevada to examine the adequacy of existing policies and regulations pertaining to the manufacture and storage of certain industrial materials has recommended new policies which imply the desirability of relocating both some of Kerr-McGee's AP production and storage facilities and also other industries to a less densely populated part of Clark County, but within reasonable distance of the present work force.

(3) The Department of Defense and the National Aeronautics and Space Administration have identified an urgent need to replace the domestic ammonium perchlorate production capacity lost in the Pepcon accident and to firm up existing production capabilities in order to meet current shortages and long-term requirements.

(4) The county has identified as the preferred site for the relocation of Kerr-McGee AP facilities approximately 3,700 acres of land ("Kerr-McGee Site"), which is part of approximately 21,000 acres of Federal lands, identified by the county as the "Apex Site" managed by the Bureau of Land Management ("BLM"). The county has advised the BLM it would like to purchase some or all of the lands comprising the Apex Site for development as a heavy-industry use zone, to locate potentially hazardous facilities. Orderly and appropriate development of such an industrial zone, in a manner consistent with public safety, protection of environmental and other values, and relevant State and Federal policies and programs (including the national defense) would be preferable to development of the lands comprising the Apex Site in an unplanned manner.

(5) The Federal lands comprising the Apex Site are presently classified for retention and multiple use by the applicable BLM land use plan. At the time the current land use plan was developed, disposal of large parcels of land immediately outside the Las Vegas Valley was not identified as a possibility. However, the expeditious transfer of the Kerr-McGee Site to Clark County for resale to Kerr-McGee, and transfer of necessary associated rights-of-way to the county, will serve an important national need which cannot be served as well on non-Federal land in Clark County and which outweighs other existing and potential public uses of the lands which would be served by maintaining them in Federal ownership.

(6) Kerr-McGee has prepared an environmental assessment on the proposed transfer of the Kerr-McGee Site and supporting utility and transportation rights-of-way, entitled "Apex Nevada Land Transfer Proposal and Proposed Kerr-McGee Ammonium Perchlorate Facility", dated April 1989, which identifies certain environmental impacts likely to result from the transfer of the site and supporting rights-of-way to the county which would be mitigated with various control measures. Any transfer by the United States of lands within the Apex Site should be conditioned upon provision of all measures appropriate to prevent or mitigate adverse environmental impacts.

(7) Lands within the Apex Site provide habitat for the desert tortoise. The BLM, recognizing that the desert tortoise habitat found in Nevada, and elsewhere, is being significantly affected, especially within the Mojave Desert, by the rapid development associated with industrial growth and by other human activities, has prepared a rangewide plan for desert tortoise habitat management on the public lands. The goal of this plan is to ensure that viable desert tortoise populations will continue to exist through cooperative resource management aimed at protecting the species and its habitat. The BLM's implementation of this plan should be accelerated.

(8) Lands within the Apex Site are close to Nellis Air Force Base and to public lands withdrawn for use by the Air Force as part of the Nellis Air Force Range complex. Nellis Air Force Base is the most active military airfield in the United States (with many of the aircraft using the base carrying live ordnance) and, together with the Nellis Air Force Range, constitutes a unique facility that plays a vital role in maintaining the combat capability of the Air Force's tactical units. Maintaining the capability of Nellis Air Force Base to fulfill its mission must be a central part of any decisions concerning future use or disposition of the lands within the Apex Site.

(b) DEFINITIONS.—As used in this title, the following terms shall have the following meanings:

(1) The term "Secretary" means the Secretary of the Interior.

(2) The term "lands" means lands and interests therein.

(3) The term "county" or "Clark County" means Clark County, Nevada.

(4) The term "Kerr-McGee" means the Kerr-McGee Chemical Corporation.

(5) The term "BLM's Desert Tortoise Plan" means the plan entitled "Desert Tortoise Habitat Management on the Public Lands: A Rangewide Plan" approved November 14, 1988.

(6) All other terms shall have the same meaning as such terms have when used in the Federal Land Policy and Management Act of 1976.

SEC. 103. KERR-McGEE SITE TRANSFER.

(a) DIRECTED SALE.—Subject to all valid existing rights, the Secretary is directed to convey the public lands comprising approximately 3,700 acres designated as "Area 1" and "Area 2" within the "Kerr-McGee Site" on the map entitled "Apex Heavy-Industry Use Zone" dated May 1989, to Clark County, Nevada, solely for sale to Kerr-McGee, in return for payment of the lands' appraised fair market value, as determined by the Secretary in accordance with established appraisal practices. However, the lands within Area 1 shall not be conveyed unless and until the Secretary has received a written commitment from Clark County and Kerr-McGee that whichever is offered the opportunity to purchase the lands within Area 2 will do so at such lands' appraised fair market value when the lands are offered pursuant to subsection (c) of this section.

(b) RIGHTS-OF-WAY.—Subject to all valid existing rights, the Secretary is directed to grant utility and transportation rights-of-way to Clark County for the connection of existing electric power, water, natural gas, telephone, railroad and highway facilities to the Kerr-McGee, all as generally depicted on the map entitled "Rights-of-Way and Proposed Access and Utility Locations" dated May 1989. Each right-of-way shall not exceed 200 feet in width and shall not preclude the Secretary from permitting other uses of the affected lands compatible with the uses for which such rights-of-way are granted. Clark County may permit other parties to use the lands covered by such rights-of-way for some or all of the purposes specified in this subsection.

(c) TIMING, ETC.—(1) Subject to subsections (a) and (b) of this section, the Secretary shall offer to sell to Clark County the lands within the Kerr-McGee Site depicted as Area 1 and shall offer to grant the rights-of-way described in subsection (b) of this section to Clark County within 30 days of the date of enactment of this Act, but the Secretary's duty to transfer such lands and rights-of-way shall not lapse if they are not offered to the county within the prescribed time. Such sale shall be for fair market value, as determined by the Secretary in accordance with established procedures of the Bureau of Land Management. If Clark County fails to purchase such lands within 60 days of receiving the Secretary's offer, the lands and rights-of-way shall be offered to Kerr-McGee for sale and grant on the same basis, and subject to Kerr-McGee's entering into an agreement with the Secretary similar to the agreement described in section 106(a). If within 60 days after such offer, Kerr-McGee fails to purchase such lands, the lands shall become subject to the authorization provided for in section 104 of this Act, and the total acreage authorized

for disposition under that section shall be increased accordingly.

(2) If the lands within Area 1 are purchased pursuant to paragraph (1) of this subsection, upon completion of a survey of the boundaries of Area 2, the Secretary shall offer to sell to the purchaser of Area 1 the lands within Area 2 at their appraised fair market value, as determined by the Secretary in accordance with established procedures of the Bureau of Land Management.

(3) Each right-of-way granted pursuant to this section shall be subject to rental payments and other conditions provided for in applicable law, including the Federal Land Policy and Management Act of 1976 and this Act. The amounts received by the United States from sales of lands covered by this section shall be distributed pursuant to laws generally applicable to sales of public lands.

SEC. 101. AUTHORIZATION FOR ADDITIONAL TRANSFERS.

(a) SALES AUTHORIZED.—Notwithstanding any BLM land use plan calling for retention of the Apex Site and notwithstanding the reporting requirements and competitive bidding requirements of section 203 of the Federal Land Policy and Management Act of 1976, the Secretary is authorized, subject to any other requirements of law, including the conditions of this section, to sell to Clark County some or all of the lands within the "Apex Site", depicted on the map referred to in section 103(a), that lie outside the boundaries of the Kerr-McGee Site (as depicted on such map) for fair market value as determined by the Secretary in accordance with established appraisal procedures.

(b) REQUIREMENTS AND CONDITIONS.—If, no later than one year after the date of enactment of this Act, the county demonstrates to the satisfaction of the Secretary that the county has designated the lands comprising the Apex Site as a heavy-use industrial zone, pursuant to applicable laws of the State of Nevada, and has adopted a plan for the development of some or all of such lands accordingly, the Secretary shall offer to enter into a land sales agreement with Clark County for the transfer of some or all of such lands to the county by one or more direct sales pursuant to this section over a period not to exceed ten years. Such agreement shall provide for purchases of parcels of the lands within the Apex Site, with any specific parcels to be sold to be determined by the Secretary, in response to proposals by the county and after consultation with the Secretary of the Air Force concerning any potential impact of any such sale on activities associated with Nellis Air Force Base. The purchase price for each parcel shall be its appraised fair market value at the time of the sale, but any agreement between the county and the Secretary under this section shall provide that if the county sells any such parcel or portion thereof, the county shall pay the United States an amount equal to 50 percent of the amount by which the amount received by the county exceeds 110 percent of the sum equal to the total amounts expended by the county for acquisition of such parcel or portion thereof, for improvements to such parcel or portion thereof, and for preparation of such parcel or portion thereof for sale.

(c) RIGHTS-OF-WAY.—Pursuant to applicable law, the Secretary may grant Clark County such rights-of-way on public lands as may be reasonably necessary to support the development as a heavy-use industrial zone of some or all of the lands identified in subsection (a).

(d) PROCEDURES.—Except as specified in subsection (a), nothing in this section shall relieve the Secretary from compliance with all laws applicable either to the transfer of some or all of the lands identified in subsection (a) or to the granting of any rights-of-way, including, but not limited to, the National Environmental Policy Act of 1969. Unless otherwise specified in this Act, sales of lands pursuant to this section shall be made and patents or other documents of conveyance shall be issued as if such sales were made pursuant to the Federal Land Policy and Management Act of 1976.

(e) WITHDRAWAL, ETC.,—(1) Subject to all valid existing rights, the lands within the "Apex Site" (depicted on the map referred to in section 103(a)) are hereby withdrawn from all forms of entry and appropriation under the public land laws, including the mining laws, and from operation of the mineral leasing and geothermal leasing laws, but shall remain available for disposition under the Recreation and Public Purposes Act (43 U.S.C. 869 et seq.) and for sale under this Act or other applicable law. This withdrawal shall continue in effect until a parcel of land affected by such withdrawal is sold, if such sale includes the right, title, and interest of the United States in the minerals in such parcel. If the county or another party to whom such parcel is offered elects not to seek to purchase the minerals in any such parcel, such parcel shall remain withdrawn from entry, location, or patent under the mining laws but after receipt by the Secretary of notification that the county or other offeree does not seek to purchase such minerals, such parcel shall be open to operation of the mineral leasing and geothermal leasing laws. The withdrawal made by this subsection shall continue for 12 years after the date of enactment of this Act or until otherwise provided by an Act of Congress enacted after the date of enactment of this Act.

(2) Before offering any parcel for sale pursuant to an agreement with the county under this section, the Secretary (in addition to other requirements of law) shall consider whether development of such parcel as part of a heavy-use industrial zone, including any appropriate mitigation measure, would be inconsistent with BLM's Desert Tortoise Plan.

(f) COGENERATION PROJECT.—Notwithstanding any withdrawal of the "Apex Site" (depicted on the map referred to in section 103(a)), and subject to the provisions of applicable law, the Secretary may grant to holders of valid existing mill-site claims on such lands such rights-of-way as may be necessary for the construction, operation, and maintenance of facilities required in the cogeneration of electricity at the site of existing mill-site operations on such claims, unless and until the land subject to such claims is transferred out of Federal ownership. No such grant shall be made unless and until all environmental studies required in connection with such construction, operation, and maintenance have been completed and any necessary mitigation measures have been agreed to.

SEC. 105. RESERVATION OF RIGHT-OF-WAY CORRIDORS.

The transfer of lands pursuant to section 104 of this Act shall be subject to the reservation of the United States of the right-of-Way Corridors depicted on a map entitled "Right-of-Way Corridors Across the Apex Heavy Industrial Zone" dated May 1989. These corridors shall be administered by the Secretary, who may grant rights-of-way over, upon, under and through the corridors consistent with applicable law. The Secretary, in the administration of such corridors, shall so far as feasible locate rights-of-way so as to have the least possible impact on any industrial uses. Nothing in this Act shall be construed as restricting the authority of the Secretary, under the Federal Land Policy and Management Act of 1976 or other applicable law, to reserve or grant any other rights-of-way with respect to such lands, in addition to the rights-of-way decribed on such map.

SEC. 106. ENVIRONMENTAL CONSIDERATION.

(a) KERR-MCGEE SITE.—The Secretary shall not make the conveyance directed by section 103 until Kerr-McGee and Clark County have entered into a written agreement with the Secretary whereby Kerr-McGee and the county commit to undertake the measures specified in the document identified in section 102(a)(6) in order to mitigate adverse effects on wildlife and other resources and values resulting from the use of such lands for industrial purposes. At the request of the Secretary, the Attorney General of the United States may bring an appropriate legal action to enforce such agreement.

(b) BLM REPORTS.—(1) No later than one year after the date of enactment of this Act, the Secretary shall submit to the Committees on Interior and Insular Affairs and Merchant Marine and Fisheries of the House of Representatives and the Committeer on Energy and Natural Resources of the Senate a report as to the funds and personnel required to fully implement BLM's Desert Tortoise Plan.

(2) As soon as possible after the date of enactment of this Act, the Secretary, acting through the Director of the Bureau of Land Management, shall arrange for a class-three soil survey of pulic lands in Clark County, to assist in the implementation of such county of BLM's Desert Tortoise Plan and other aspects of the management of the public lands in such county.

(3) As soon as possible after the date of enactment of this Act, the Secretary shall invite public proposals for the designation, pursuant to the Federal Land Policy and Management Act of 1976, of areas of critical environmental concern whose designation would further the implementation of BLM's Desert Tortoise Plan or otherwise assist in the protection of resources and values of public lands in Nevada. The Secretary shall provide a reasonable period for receipt of such proposals, shall evaluate all proposals received, and shall take such action thereon as the Secretary considers appropriate.

(4) As soon as possible after the date of enactment of this Act, the Secretary shall consider the desirability of restricting or eliminating uses of public lands, in the Paiute Valley which may conflict with implementation of BLM's Desert Tortoise Plan with respect to those lands. No later than one year after the date of enactment of this Act, the Secretary shall submit to the Committee on Interior and Insular Affairs of the House of Representatives and the Committee on Energy and Natural Resources of the Senate a report concerning the results of the Secretary's actions pursuant to this paragraph.

(c) OTHER REPORTS.—(1) At the time that the President submits a budget request for fiscal year 1991, and annually thereafter for 15 years, the Secretary shall submit to the

Congress a statement of the total amounts received by the United States as the result of sales of public lands described in this Act, and an account of the distribution of such receipts.

(2) No later than 90 days after the date of enactment of this Act, the Secretary shall evaluate the desirability of acquisition of the lands specified in appendix A to the report of the Committee on Interior and Insular Affairs of the House of Representatives to accompany H.R. 1485 of the 101st Congress. Such evaluation shall be based solely on the resources and values of such lands and the extent to which national policies and programs for management of such resources and values would be furthered by such acquisition. Promptly after the completion of such evaluation, the Secretary shall report the results thereof to the Committee on Interior and Insular Affairs of the House of Representatives, the Committee on Energy and Natural Resources of the Senate, and the Representatives and Senators from the State of Nevada.

SEC. 107. MAPS AND LEGAL DESCRIPTIONS.

As soon as practicable after the date of enactment of this Act, the Secretary shall file maps and legal descriptions of the lands identified in sections 103, 104, and 105 with the Committee on Interior and Insular Affairs of the House of Representatives and the Committee on Energy and Natural Resources of the Senate. Such legal descriptions shall have the same force and effect as if included in this Act, except that the Secretary may correct clerical and typographical errors in such legal descriptions. The maps and legal descriptions shall be on file and available for public inspection in the offices of the Director of the BLM.

TITLE II—RECOVERY FOR DAMAGES TO CERTAIN NATIONAL PARK RESOURCES

SEC. 201. PARK SYSTEM RESOURCES.

(a) DEFINITIONS.—As used in this title—

(1) DAMAGES.—The term "damages" includes the following:

(A) Compensation for—

(i)(I) the cost of replacing, restoring, or acquiring the equivalent of a park sytem resource; and

(II) the value of any significant loss of use of a park system resource pending its restoration or replacement or the acquisition of an equivalent resource; or

(ii) the value of the park system resource in the event the resource cannot be replaced or restored.

(B) The cost of assessments under subsection (d).

(2) RESPONSE COSTS.—The term "response costs" means the costs of actions taken by the Secretary of the Interior to prevent or minimize destruction or loss of or injury to park system resources; or to abate or minimize the imminent risk of such destruction, loss, or injury; or to monitor ongoing effects of incidents causing such destruction, loss, or injury.

(3) PARK SYSTEM RESOURCE.—The term "park system resource" means any living or nonliving resource that is located within or is a living part of a marine regimen or a Great Lakes aquatic regimen (including an aquatic regimen within Voyageurs National Park) within the boundaries of a unit of the National Park System.

(4) REGIMEN.—The term "regimen" means a water column and submerged lands, up to the high-tide or high-water line.

(b) LIABILITY.—

(1) IN GENERAL.—Subject to paragraph (3), any person who destroys, causes the loss of, or injures any park system resource to a greater than de minimis extent is liable to the United States for response costs and damages resulting from such destruction, loss, or injury.

(2) LIABILITY IN REM.—Any instrumentality, including but not limited to a vessel, vehicle, aircraft, or other equipment that destroys, causes the loss of, or injures any park system resource shall be liable in rem to the United States for response costs and damages resulting from such destruction, loss, or injury to the same extent as is a person described in paragraph (1).

(3) DEFENSES.—A person is not liable under this subsection if—

(A) that person can establish that the destruction or loss of, or injury to, the park system resource was caused solely by an act of God, an act of war, or an act or omission of a third party other than an employee or agent of the allegedly liable person or a party (other than a common carrier) whose act or omission occurred in a contractual relationship with the allegedly liable person, and that the person acted with due care.

(B) the destruction, loss, or injury was caused by an activity authorized by Federal or State law; or

(C) the destruction, loss, or injury was of a de minimus nature.

(c) CIVIL ACTIONS FOR RESPONSE COSTS AND DAMAGES.—The Attorney General of the United States, upon request of the Secretary of the Interior after a finding by the Secretary of greater than de minimis damages to a park system resource, may commence a civil action in the United States district court for the appropriate district against any person who may be liable under subsection (b) for response costs and damages. The Secretary, acting as trustee for park system resources on behalf of the United States, shall submit a request for such an action to the Attorney General whenever a person may be liable for such costs or damages.

(d) RESPONSE ACTIONS AND ASSESSMENT OF DAMAGES.—

(1) RESPONSE ACTIONS. —The Secretary of the Interior may undertake all necessary actions to prevent or minimize the destruction or loss of, or injury to, park system resources, or to minimize the imminent risk of such destruction, loss, or injury.

(2) ASSESSMENT OF DAMAGES.—The Secretary shall assess and monitor damages to park system resource.

(e) USE OF RECOVERED AMOUNTS.—Response costs and damages recovered by the Secretary under this section shall be retained by the Secretary and without further congressional action may be used as follows:

(1) RESPONSE COSTS AND DAMAGE ASSESSMENTS.—Twenty percent of amounts recovered under this section shall be used to finance response costs and damage assessments by the Secretary.

(2) RESTORATION, REPLACEMENT, MANAGEMENT, AND IMPROVEMENT.—Amounts remaining after the operation of paragraph (1) shall be used, in order of priority—

(A) to restore, replace, or acquire the equivalent of park system resources which were the subject of the action and to monitor and study each park system resources; and

(B) to manage and improve the National Park System unit of which such park system resources are a part.

SEC. 202. INJUNCTIVE RELIEF.

If the Secretary of the Interior determines that there is an imminent risk of destruction or loss of or injury to a park system resource, or that there has been actual destruction or loss of or injury to such resource which may give rise to liability under section 201, the Attorney General of the United States, upon request of the Secretary, shall seek to obtain such relief as may be necessary to abate such risk or actual destruction, loss, or injury, or to restore or replace the resource, or both. The district courts of the United States shall have jurisdiction in such a case to order such relief as the public interest and the equities of the case may require.

SEC. 203. DONATIONS.

The Secretary of the interior may accept donations of money or services for expenditure or employment to meet expected, immediate, or ongoing response costs. Such donations may be expended or employed at any time after their acceptance, without further action by the Congress.

The SPEAKER pro tempore. Is a second demanded?

Mrs. VUCANOVICH. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Minnesota [Mr. VENTO] will be recognized for 20 minutes and the gentlewoman from Nevada [Mrs. VUCANOVICH] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Minnesota [Mr. VENTO].

GENERAL LEAVE

Mr. VENTO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 1485, the bill now under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

Mr. VENTO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 1485 as reported by the Interior Committee.

This bill deals both with the proposed transfer of certain public lands in Nevada and with the ability of the Secretary of the Interior to respond to accidents involving coastal portions of the National Park System.

As introduced, the bill would have directed the transfer of about 3,000 acres of BLM-managed lands to Clark County, NV, for resale to the Kerr-McGee Chemical Co. Kerr-McGee wants to use these lands for relocating some of its existing facilities for manufacturing ammonium perchlorate, a component of solid fuel for rockets, and to build additional such facilities. This relocation would respond to concerns about public safety in the wake of last year's explosion of the only other plant for producing this material—a plant located near Kerr-McGee's existing facilities in Henderson, NV.

The bill as introduced would also have in effect given Clark County a 10-year exclusive option to acquire up to 17,000 acres of additional lands, in the same area, which the county wishes to develop as a heavy-use industrial area.

The committee adopted an amendment in the nature of a substitute and it is that revised bill that we bring to the floor today.

The reported bill would direct an expedited sale for full fair market value of a particular tract where Kerr-McGee proposes to place its new and relocated facilities. In response to points raised by the Air Force, the bill includes an additional finding concerning the importance of activities at Nellis Air Force Base and the Nellis range complex, and the importance of maintaining the capability of Nellis to fulfill its vital missions.

The bill would authorize but not require direct sale to the county of additional lands in the same vicinity that the county wishes to designate as a heavy-use industrial zone. The Interior Department would retain control over which if any of the lands would be offered for sale to the county. Any sales would be made on a parcel-by-parcel basis, and only after appropriate consideration of any Air Force concerns and other procedures required under applicable law. Sales would be for fair market value at the time of the sale. Specific language is included to protect the interests of all who may have valid existing rights in the affected lands.

Furthermore, as an additional element of protection for the national taxpayers, sales of these lands would be subject to a agreement between the county and the United States whereby the county would be committed to paying the United States half of any of the county's resale profits in excess of the county's costs of acquisition, development, and sale preparation plus a 10-percent return.

In my opinion, these provisions respond fully to the concerns about the bill raised during our committee's consideration of H.R. 1485, and should go far to safeguard against any unjust enrichment by the county at the expense of the American people.

Unlike the bill as introduced, the bill now before the House does not earmark land-sale receipts for use solely in acquiring environmentally sensitive lands in Nevada. Instead, receipts from sales of these lands will be treated in the same way as receipts from sales of other public lands. However, so that possible appropriation of money for acquisition of environmentally sensitive lands in Nevada can be considered on an informed basis, the bill provides, first, that Congress will be kept informed as to the amounts received from these sales and, second, that the Secretary will provide to the committee and to the Nevada delegation information about the desirability, from a resource standpoint, of acquiring certain lands.

Further with respect to environmental considerations, the reported bill would require that transfer of the Kerr-McGee site come only after there is an enforceable legal agreement concerning measures to mitigate the effects of the planned developments there on wildlife and other values. It would require that proper consideration be given to BLM's plan for management of desert tortoise habitat when the BLM considers possible sale of any part of the additional lands covered by the bill. It would provide for a soil survey of public lands in Clark County, and for consideration of possible restrictions of conflicting uses in the Paiute Valley, so as to facilitate implementation of BLM's desert tortoise plan, and it would direct that the public be given an opportunity to suggest areas on the public lands in Nevada that BLM might want to designate as areas of critical environmental concern under FLPMA.

In my opinion, the reported bill does a good deal to address the environmental concerns raised at our hearing on H.R. 1485.

In addition, as I mentioned, the substitute would address another environmental and management concern not directly related to Nevada lands. Title II of the reported bill include language dealing with the ability of the United States to recover for damages to resources located in marine or Great Lakes coastal areas within the National Park System.

Basically identical language was passed by the House in the last Congress. Unfortunately, while the Senate adopted similar language dealing with the national marine sanctuaries, which is now law, the language dealing with the National Park System was dropped in the other body, in the 100th Congress: As a result, the United States does not now have all the legal tools needed to properly respond to such situations as the recent oil spill in Alaskan waters, which has already had a severe adverse impact on national parks in that State.

Therefore, I think it is a matter of urgency for the House to once again act to make this important and needed change in the law.

Title II of the reported bill does included some revisions of the House-passed language of last year. These were worked out in our committee on a bipartisan basis.

Title II of the bill would facilitate legal action to recover for damages to marine or Great Lakes resources of the National Park System caused by negligence, such as the tanker wreck that has recently had such tragic results in Alaska. It would provide that amounts recovered would be retained by the National Park Service and be used, first, to establish and maintain a fund for use in responding to future situations and, second, to restore or replace damaged resources and otherwise improve affected national park areas.

The bill of the course retains the provisions in last year's bill specifying that there would be no liability arising from cases in which the damage to park resources was so small as to be de minimis, or in which the activity resulting in the damages was being carried out in compliance with applicable Federal or State law. Due care would continue to be a defense, and of course damages from acts of God or acts of war would not give rise to liability.

When the House considered and approved language like this on July 26, 1988, I said here on the floor that the provisions in title II were sound and desirable. I continue to believe that they are sound, and in my opinion their desirability has been most dramatically and tragically underscored by recent events in Alaskan waters. I think we should not lose another day in moving to secure enactment of the provisions which the House wisely approved last year.

Mr. Speaker, H.R. 1485 as it comes before the House is a good and important bill. It responds to urgent national needs and as reported it includes provisions addressing all the concerns that may have existed with regard to the bill as introduced. I urge its passage.

Mrs. VUCANOVICH. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise today in strong support of H.R. 1485. This bill is very important to my State of Nevada, as well as to our Nation's national defense and space program.

In May, 1988, a series of explosions destroyed the Pepcon plant located in Henderson, NV, one of two plants in this country that produce ammonium perchlorate—or "AP" as it's called. Kerr-McGee, the other company that produces AP, is also located in Henderson, which is a rapidly growing community in Clark County.

Ammonium perchlorate is the principal component of solid rocket fuel. Since the Pepcon explosion, the capacity to produce solid rocket fuel has been severely reduced.

Mr. Speaker, I, along with several of my colleagues, introduced H.R. 1485 to remedy this situation. This bill will provide Kerr-McGee the ability to quickly move its AP plant out of Henderson and relocate it to a more remote area in Clark County.

Mr. Speaker, H.R. 1485 directs the Secretary of the Interior to convey approximately 3,800 acres of Bureau of Land Management land to Clark County, who will immediately sell the

land to Kerr-McGee so it can relocate its AP plant. It also authorizes the Secretary to convey up to an additional 17,000 acres of BLM land to Clark County adjacent to the Kerr-McGee site, which the county will develop as a heavy-use industrial zone. The 21,000 acres are located in an unpopulated area of Clark County, which would be ideal as a heavy-use industrial zone. The 17,000 acres would be sold on a parcel-by-parcel basis for its appraised fair market value at the time of the sale.

H.R. 1485 also provides for the United States to recover compensation for any damage done to certain marine and Great Lakes portions of our National Park System, which my colleague, the gentleman from Minnesota [Mr. VENTO] has described.

Mr. Speaker, this is a good bill. It has the support of the entire Nevada delegation, the chairman and ranking minority members of the Subcommittee on National Parks and Public Lands, and the Science and Technology Committee.

We have all worked very hard on this legislation and I would like to thank the gentleman from Minnesota [Mr. VENTO] for handling this bill in such an expeditious manner.

Mr. Speaker, I urge my colleagues to support H.R. 1485.

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Mr. Speaker, I reserve the balance of my time.

Mr. VENTO. Mr. Speaker, I yield such time as he may consume to the chairman of the Committee on Science, Space and Technology, the gentleman from New Jersey [Mr. ROE].

Mr. ROE. Mr. Speaker, I would like to thank the gentleman from Arizona [Mr. UDALL] and the gentleman from Alaska [Mr. YOUNG] of the Interior Committee and the gentleman from Minnesota [Mr. VENTO], the gentleman from Montana [Mr. MARLENEE], and the gentleman from California [Mr. LAGOMARSINO], of the Subcommittee on National Parks and Public Lands, for their serious and timely attention to this bill. I believe they will save the taxpayers millions of dollars by bringing this bill to the floor as efficiently as they have. It will help solve a problem of concern to all of us as a nation, and especially to the good people of Nevada.

Let me tell you how this bill came about and why it is so important to enact and enact as soon as possible. Nearly every rocket launched by this country for civilian or military purposes uses solid rocket fuel. That fuel requires an oxidizer to help it burn. The oxidizer is called ammonium perchlorate or "AP." Without AP, we cannot launch our solid fuel rockets; it is that simple.

For over two decades this Nation has relied on only two manufacturers for our supply of AP. The manufacturers were Kerr-McGee and the Pacific Engineering and Production Co. known as PEPCON. Both of them were located in Henderson, NV, near Las Vegas, about 1 mile from each other. When they were built, these plants were isolated in the desert. Now, they are within a mile of residential areas.

On May 4, 1988, a series of tremendous explosions destroyed the PEPCON AP plant in Henderson. The blasts killed two employees and caused millions of dollars of damage to homes, businesses, schools, hospitals, libraries and other personal and government property.

On June 8 and 24, 1988, the Science Space and Technology Committee's Investigations and Oversight Subcommittee, which I chair, held hearings in Washington, DC, and Henderson, NV, respectively, to review the national and local impact of the PEPCON disaster. We heard testimony from the military, from NASA, and other Federal agencies regarding the effect this explosion would have on our supply of AP and the dire consequences that would follow if new production facilities were not forthcoming.

Before the explosion, the PEPCON plant produced one-half of this Nation's supply of AP. As a result of the explosion, the U.S. production capacity for AP went from a 35-percent surplus to a 25-percent deficit.

We also listened to the stories of destruction and injuries suffered by the people of Henderson and heard their fears about similar events occurring at the Kerr-McGee plant. I personally saw the utter devastation where once the PEPCON plant stood and I visited with the doctors who treated the hundreds of wounded on May 4. No one in that town will ever forget the awful sounds and shock waves of the explosion.

But there are other fears. Kerr-McGee and PEPCON were two of the largest employers in Henderson. PEPCON has already relocated in Utah, leaving many Henderson workers behind in the process. Kerr-McGee would like to stay in Clark County but there simply is no private land that can accommodate Kerr-McGee's expansion. If Kerr-McGee leaves the area because it is unable to expand within Clark County, hundreds of people will lose their jobs.

H.R. 1485 addresses all of these concerns: The Nation's need for ammonium perchlorate, the need to expand the Kerr-McGee facility away from the residential area of Henderson and the need to keep Kerr-McGee within Clark County where its employees currently live. This bill prevents yet another disaster befalling the people of Henderson by allowing Kerr-McGee to expand within Clark County on what is now Federal land, but at a safe distance from population centers.

Under title I of the bill, the Federal Government will sell to Clark County for resale to Kerr-McGee about 3,700 acres of desolate land separated from Henderson by a ring of mountains. In this way the new Kerr-McGee facility will use existing labor but at a safe distance from Henderson. Both sales would be at fair market values. Second, it authorizes the Interior Secretary to sell additional land to Clark County over a 10-year period for an industrial park primarily for similar hazardous operations. Third, it provides that Kerr-McGee shall implement measures to mitigate the damage, if any, to the native desert tortoise population and other sensitive species, and further provides that land sale proceeds will support the acquisition of additional, environmentally sensitive land in Nevada near existing Federal land, as determined by the Secretary of the Interior.

This bill not only helps the people of Henderson, NV, but it also efficiently and economically serves a pressing national need. NASA and the Department of Defense need expanded production of AP as soon as possible at the lowest practical cost. Clark County is a prime location for Kerr-McGee's new plant because it has a trained work force, dry weather, and the necessary transportation facilities.

But in addition to these advantages, Clark County is also the most economical place for the new plant. Kerr-McGee benefits from inexpensive electric power rates in Clark County from power produced at the Hoover Dam. AP production is a power-intensive process. Loss of the inexpensive electricity available in Clark County may double the cost of this material. That would add millions of dollars to future NASA and DOD budgets.

H.R. 1485 is a responsible use of Federal land in Nevada. The land for the Kerr-McGee site will be sold at fair market values and will be used for the benefit of the Nation and the local community. Kerr-McGerr has worked diligently with local environmentalists to devise plans to mitigate any disruption to the local desert tortoise population and to fund those plans.

Time is of the essence in this matter. Every day that we delay passage of this bill is a day toward a future when we may not have enough AP to launch the Space Shuttle or a military satellite. H.R. 1485 deserves your support:

It will help increase our AP production capacity in an expeditious fashion, preventing layoffs and schedule delays in scores of programs important to this Nation's space and defense programs.

It will remove the most dangerous parts of the AP production and storage operations to a remote area of Clark County, easing the fears of Hen-

derson residents without forcing them onto the unemployment rolls.

Finally, it will enable Kerr-McGee to stay in an area where it can produce AP more cheaply and efficiently than anywhere else in the country, thereby sparing the taxpayers considerable future expenses.

With passage of this bill we can repair some of the damage from the May 4 explosion in Henderson, prevent future damage, and help the nation as a whole. Such opportunities are rare. Let us seize this one.

Mr. VENTO. Mr. Speaker, I yield such time as he may consume to the gentleman from Nevada [Mr. BILBRAY], who is one of the sponsors of this measure along with the gentlewoman from Nevada [Mrs. VUCANOVICH]. They did yeoman service on the House side to keep this bill on track, and to bring it to us today. I congratulate them.

Mr. BILBRAY. Mr. Speaker, I rise in support of H.R. 1485, a bill to transfer public land in southern Nevada, known as the Apex site, for the relocation of the Kerr-McGee plant operations for the production of ammonium perchlorate.

This measure has received bipartisan support. Sponsored by my colleague, Representative BARBARA VUCANOVICH, Representatives ROE, MCCURDY, and WALKER have joined me in supporting this important piece of legislation. Commendations should also be extended to Chairman VENTO for moving this measure in a timely manner.

Mr. Speaker, on May 4, 1988, the southern Nevada community of Henderson suffered a series of fires and explosions at a rocket fuel plant which killed 2 and left more than 350 injured.

The devastation wrought extensive property damage as far as 12 miles from the site of the explosion in Las Vegas, and the effects of a 5-square-mile toxic cloud created by the fires was felt by the residents of the towns of Moapa, Logandale, and Overton, NV.

Schools were closed and hundreds of residents were evacuated. One report indicated a ring of destruction 8 miles wide.

The blast and fires destroyed the Pacific Engineering and Production Co. [PEPCON] as well as the Kidd and Co. marshmallow factory contiguous to the rocket fuel plant. The Kerr-McGee Chemical Corp., also located in Henderson, was not damaged.

Together with PEPCON, Kerr-McGee is the only company in the United States to produce ammonium perchlorate. Once blended to specific needs, the chemical provides the fuel for our solid rocket motors used by the Air Force and NASA to power the space shuttle and a variety of military missiles.

Mr. Speaker, DOD and NASA must replace the capacity destroyed by the PEPCON blast. The Air Force has stated that the domestic need for ammonium perchlorate is great, adding that the Department of Defense and NASA need an estimated 52 million pounds of the chemical this year. The Kerr-McGee plant, has a capacity of about 40 million pounds per year.

This shortage is significant due to the Air Force's estimate that there will be a shortage of 9 to 15 million pounds needed in 1989.

As a result of the blast, Federal, State, and local officials explored the idea of building a plant far enough away from populated areas so a PEPCON-like disaster would not have any affect on residents or businesses.

The package the House will consider today meets this need. It provides for the relocation of the Kerr-McGee plant operations on 3,700 acres of Federal land. For future needs, the legislation transfers up to 17,000 acres of lands within the Apex site for future heavy industrial needs.

The legislation would allow the diversification of the economy in southern Nevada while insuring the safety of its citizens. Further, the measure is consistent with the findings of the Henderson Commission which recommended the siting of certain industries in areas well removed from population centers.

Mr. Speaker, the legislation before us today has been discussed with many of the interested parties. Language is in the bill to protect the mission at Nellis Air Force Base and the desert tortoise are protected through public input into the BLM's desert tortoise plan. I will not get into further details since they have been discussed by previous speakers.

Mr. Speaker, I believe this legislation warrants approval by the House. Remember what happened to my district: A 1-kiloton bomb was detonated in the middle of a population area. It was a miracle only two people were killed.

Kerr-McGee produces twice the AP that was handled by PEPCON. It also sits next to a chlorine factory. What happened when PEPCON exploded and it blew up, it blew up a marshmallow factory. That was disastrous, but just imagine if it had blown up a chlorine factory.

I asked the owners of that factory what would have happened. We would not have had just a smoke and a cloud of some relatively simple commodities or chemicals going. We would have had a chlorine gas flowing over the whole valley. It might have been like in Bhopal, India, thousands killed.

We are asking to relocate this plant to a site that is just over the mountains from the Las Vegas Valley so that people in southern Nevada will feel secure, and knowing the fact that if anything did go wrong, and God forbid it ever did, we would be protected.

Southern Nevadans are willing to pay for this property. We are not asking for a gift from anyone, just the right to buy back a little bit of the 87 percent that is owned by the Federal Government in our State. That is right, the Federal Government owns 87 percent of Nevada.

□ 1300

We are asking to buy back just a few thousand acres, and we are asking to pay for it, not that it be given to us.

We need the help of all Members on both sides of the aisle, and know the gentlewoman from Nevada [Mrs. VUCANOVICH] and myself appreciate all Members who will vote for this bill.

Mrs. VUCANOVICH. Before yielding back the balance of my time, Mr. Speaker, again I would like to thank the gentleman from New Jersey [Mr. ROE] as well as my colleague, the gentleman from Nevada [Mr. BILBRAY], and the gentleman from Minnesota, [Mr. VENTO] for their strong support of the bill.

Mr. Speaker, I yield back the balance of my time.

Mr. VENTO. Mr. Speaker, I would just remind my colleagues that this is a very important bill for the ammonium perchlorate issue and for the protection of our national parks in terms of the maritime and the Great Lakes areas, such as have been impacted by the *Valdez* oilspill.

I hope the bill will pass and be accepted by the Senate.

Mr. Speaker, I have no further request for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. DARDEN). The question is on the motion offered by the gentleman from Minnesota [Mr. VENTO] that the House suspend the rules and pass the bill, H.R. 1485, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The title of the bill was amended so as the read: "A bill to direct sale of certain lands in Clark County, Nevada, to meet national defense and other needs; to authorize sale of certain other lands in Clark County, Nevada; to further the ability of the United States to recover for damages to certain marine and other resources of the National Park System; and for other purposes."

A motion to reconsider was laid on the table.

WHITE HAVEN NATIONAL HISTORIC SITE IN MISSOURI

Mr. VENTO. Mr. Speaker, I move to suspend the rules and pass the bill

(H.R. 1529), to provide for the establishment of the White Haven National Historic Site in the State of Missouri, and for other purposes, as amended.

The clerk read as follows:

H.R. 1529

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SEC. 1. ULYSSES S. GRANT NATIONAL HISTORIC SITE.

In order to preserve and interpret for the benefit and inspiration of all Americans a key property associated with the life of General and later President Ulysses S. Grant and the life of First Lady Julia Dent Grant, knowledge of which is essential to understanding, in the context of mid-nineteenth century American history, his rise to greatness, his heroic deeds and public service, and her partnership in them, there is hereby established the Ulysses S. Grant National Historic Site near St. Louis, Missouri.

SEC. 2. PROPERTY ACQUISITION.

(a) WHITE HAVEN PROPERTY.—The Secretary of the Interior is authorized to acquire by donation the property and improvements thereon known as White Haven in the unincorporated portion of St. Louis County adjacent to Grantwood Village within the area generally depicted on the map entitled "Boundary Map, White Haven National Historic Site," numbered WHHA-80,000 and dated July 1988. The map shall be on file and available for public inspection in the offices of the Director of the National Park Service, Department of the Interior.

(b) PERSONAL PROPERTY.—The Secretary is authorized to acquire by donation or purchase with donated or appropriated funds personal property directly associated with White Haven or President or Mrs. Grant for the purposes of the national historic site referred to in section 1.

SEC. 3. ADMINISTRATION.

The property acquired pursuant to section 1 of this Act shall be administered by the Secretary of the Interior in accordance with provisions of law generally applicable to units of the national park system, including the Act of August 25, 1916 (39 Stat. 535), and the Act of August 21, 1935 (49 Stat. 666). The Secretary is authorized to enter into cooperative agreements with adjacent landowners for the provision of such parking and safe access to the property as may be necessary for public use.

SEC. 4. AUTHORIZATION OF APPROPRIATIONS.

There are hereby authorized to be appropriated such sums as may be necessary to carry out the purposes of this Act.

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from Minnesota [Mr. VENTO] will be recognized for 20 minutes and the gentlewoman from Nevada [Mrs. VUCANOVICH] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Minnesota [Mr. VENTO].

GENERAL LEAVE

Mr. VENTO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill presently under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

Mr. VENTO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 1529 was introduced by our colleague Representative DICK GEPHARDT and has the cosponsorship of the entire Missouri congressional delegation. The legislation authorizes the establishment of a national historic site in St. Louis County, MO, to commemorate and interpret the life and times of general and later President Ulysses S. Grant.

As one of the dominant figures of mid-19th century America, Ulysses S. Grant's role as a Union Army commander and later President served in significant measure to shape the course for this period of American history. The 9.6-acre White Haven property referenced by this legislation is integrally linked to Grant and his family. Although the years Grant spent actually living on the proposed national historic site were short, his association with the White Haven property spanned 40 years and were a deep influence on his personal history.

White Haven was designated a national historic landmark in 1986 by the Secretary of the Interior. Besides the main house, there are several outbuildings on the property that date from the Grant period. The property is presently owned by St. Louis County. Under the provisions of H.R. 1529, the property is authorized to be donated to the Secretary of the Interior for administration by the National Park Service as a national historic site.

The Committee on Interior and Insular Affairs received testimony from administration and public witnesses on the historical value of the White Haven property, especially through its association with Ulysses S. Grant. I appreciate Congressman DARDEN's chairing the Park and Public Lands Subcommittee hearing on this topic in my absence. There was significant interest expressed in providing for the proper care and administration of the site in a manner appropriate to its historical importance. H.R. 1529, as amended by the Committee modifies the text of the bill as introduced. These changes are not substantial but nevertheless are important to the proper administration, interpretation, and recognition of the site.

Mr. Speaker, I am pleased with the support that has been evidenced with this legislation and the local community's willingness to make a substantial donation of the White Haven property to the National Government. It was only a few short years ago that this property was saved through State and local initiatives from being bulldozed to make way for a subdivision. The site has been the subject of several historic reviews that attest to its significance and has been under consideration within the Department of the Interior for almost 4 years. I believe it is appropriate to go forward at this time to designate the White Haven property as the Ulysses S. Grant National Historic Site for the benefit of the American public. I support H.R. 1529, as amended, and urge its adoption by the House.

Mr. Speaker, I reserve the balance of my time.

Mrs. VUCANOVICH. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 1529 to establish the Ulysses S. Grant National Historic Site in the State of Missouri.

As the subcommittee chairman has explained, under the amended version of H.R. 1529 before us today, the national historic site would consist of 9.65 acres including the main house, former slave quarters, smokehouse, and barn. The property, known historically as White Haven, will be donated to the United States by the nonprofit Save Grant's White Haven, Inc. which bought the property to prevent its destruction.

According to John Y. Simon, the executive director of the Ulysses S. Grant Association:

> There is no more important structure so intimately connected with the life of the general who won the Civil War and then served two terms in the White House. In many respects, White Haven occupies the position in Grant's life that Arlington occupied in that of Robert E. Lee.

National Park Service historians concur with the significance of the property and have indicated that White Haven offers the best opportunity to interpret Grant's contributions to American history. In addition, White Haven's national significance was verified when it was listed on the National Register and subsequently designated a National Historic Landmark.

H.R. 1529 provides the authority to accept the donation of the White Haven property and to acquire, by donation or purchase, personal property such as furnishings directly associated with White Haven or General and Mrs. Grant. Necessary appropriations are also authorized to carry out the act.

Mr. Speaker, there is broad bipartisan support for this bill and I urge my colleagues to pass H.R. 1529.

Mr. Speaker, I reserve the balance of my time.

Mr. VENTO. Mr. Speaker, I yield such time as he may consume to the gentleman from Missouri [Mr. GEPHARDT], the author of the bill, and our majority leader.

Mr. GEPHARDT. Mr. Speaker, I thank the gentleman from Minnesota [Mr. VENTO], chairman of the subcommittee, as well as the gentleman from Georgia [Mr. DARDEN], presently occupying the chair, for the great work that both of them performed, along

with the members of the subcommittee and the committee in bringing forth this important legislation and improving the legislation that was originally proposed. As so often is the case, the subcommittee and the committee have done excellent work on behalf of the entire Congress which will inure to the benefit of the people of the Third District of Missouri and to people all over the country.

H.R. 1529 will establish the St. Louis County home of the prominent Civil War general and our 18th President as the Ulysses S. Grant National Historic Site.

This legislation gives the Secretary of the Interior the authority to accept as donation, valued at more than $500,000, his home known as White Haven into the National Park Service. It also authorizes the appropriations necessary for its upkeep.

In so doing, the legislation will enable future generations to learn about the life of Ulysses Grant and his times, among the most difficult in our history. The Grant story is about the American character, and it is a story that deserves to be remembered for future generations.

Grant knew failure in civilian life, but rose through sheer force of character to save the Union. His appearance was not imposing, but he advanced where others had faltered and rebuilt a dispirited Army into the world's most powerful military force.

He was a one-time slaveholder from a border State, that helped to win the war to end slavery.

He led nearly a million men through some of the Civil War's bloodiest campaigns, but remained generous to all of his countrymen regardless of the side they fought on.

His presidency saw setbacks, but no one can question Grant's integrity or intentions.

This bill is cosponsored by every member of the Missouri congressional delegation, and it has drawn solid bipartisan congressional support.

There is no question that the home known as the White Haven estate is the one most closely associated with the life of Grant. As such, it is the most appropriate for designation as the national historic site devoted to Grant's life.

White Haven was the childhood home of Grant's wife, Julia Dent. Grant courted her there during the mid-1840's. They married in 1848. Between 1854 and 1860, the Grants lived at and nearby the White Haven home.

□ 1325

For Grant, the years at White Haven were difficult ones. Neither his farming, his later work as a real estate agent, nor his candidacy for county engineer were successful. But he grew to love south St. Louis. Prominent historians believe that these were critical years for Grant. The adversity of these times helped forge Grant's strength of character. Over 2 years ago National Park Historian Edwin Bearss argued that the Park Service should take the lead in preserving White Haven. He wrote:

White Haven is key to interpreting a man who rose from a nobody to a position of national and world significance. Consequently it is our recommendation that the National Park Service assume a position of leadership in the preservation and interpretation of White Haven.

So this bill, H.R. 1529, commands a strong support within the St. Louis area and in Missouri.

In March 1985, citizens from St. Louis County and elsewhere formed the 1,200-member Save Grant's White Haven Committee. With the solid support of the State and the county, these citizens have worked hard to raise money and preserve the estate.

President Grant signed the legislation establishing the first national park, Yellowstone, in 1872, and it is especially appropriate that his home be included within the park system as a presidential site.

Again I wish to thank the gentleman from Minnesota [Mr. VENTO] for his excellent work and all of my colleagues here today, including the Speaker, who worked so well together to support this effort, so important for Missouri and so important for our United States.

Mrs. VUCANOVICH. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from Missouri [Mr. BUECHNER], a cosponsor of the bill.

Mr. BUECHNER. I thank the gentlewoman for yielding to me.

Mr. Speaker, I would certainly like to begin my remarks with congratulating my colleague from Missouri, the new leader, Mr. GEPHARDT, for his extraordinary leadership that he took in preserving this great American landmark. I think that as he has brought out, so many of the travails that President Grant went through before he became an outstanding Union general and then a leader of this United States, that we have to look at people when they are at the lowest point of their lives because it does contribute to them becoming greater.

Some people overcome, some people succumb.

General Grant I think really was a symbol for the people who live in that general area. It is right across the street from my old State legislative district and I came to know and, frankly, to love the people that joined together for the Committee to Preserve White Haven.

There are over 1,000 of those individuals. They were not willing to let the adversity that had beset them so many times and that was the failure of the county to do what maybe it could have done, the failure of the State to do what it could have done; they joined together and I know that the distinguished gentleman from the Third District of Missouri has been to many of the fundraising projects that they put together: lemonade stands, ice cream socials, General Grant look-alike contests.

I would have to say that they pulled out of their hat anything that would raise any small amount of money to make sure that St. Louis County ultimately took over this project.

In the very beginning various community organizations were asked for their help to show the wide support for this effort. These groups not only support, but used their memberships to communicate the message and to help raise money.

The groups are listed in alphabetical order:

Affton Chamber of Commerce; Affton Community Days Inc.; Affton Elks Lodge No. 2635 and Ladies Auxiliary; Affton Historical Society; American Legion Post 208; Brentwood Historical Society; Carondelet Historical Society; City of Crestwood; Civil War Round Table of St. Louis; Coop Local History Organizations of Metro St. Louis; Company of Military Historians; Crestwood Cultural Foundation; Creve Coeur-Chesterfield Historical Society; Dept of Conservation, Illinois Division of Historic Sites; DUVCW Julia Dent Grant Tent No. 16; Florissant Valley Historical Society; Historical Commission of Sunset Hills; Historic Florissant Inc.; Historical Preservation Commission of University City; Jefferson Barracks Civil War Historical Association; Kirkwood Historical Society; Kirkwood Landmarks Commission; Landmarks Association of St. Louis Inc.; Meramec Station Historical Society; Military Historical Society of St. Louis; Missouri Advisory Council on Historic Preservation; Missouri Civil War Reenactors Association; Missouri Heritage Trust; Old Trails Historical Society; St Louis Chapter/Missouri Press Women; St. Louis County Historic Buildings Commission; Sappington House Foundation; SUVCW Camp No. 65; The Ulysses S. Grant Assn. SIU< Carbondale, Il; Town of Grantwood Village; University City Historical Society; VFW Post No. 4202; Webster Groves Historical Society; Women's Architectural League.

The Officers and Members of the board that have served from the beginning are as follows: Jack Goldman, President; Jennine Cook, Vice-President; Harold Uthoff, Treasurer; Dr. Don Withrow, Secretary; Senator Frank Bild; Rosemary Davison; Charles O. Dent; Jo Ann Keller; James Komerek; Sue Kuhnert; Erle Lionberger; Henry Menghini; Al Swantner; Councilman H. C. Milford; Virginia Stith; Patricia Treacy; and Ross Wagner.

They held a number of major fundraisers and open houses during this past 4½ years and were successful due the hard work of some of their membership. The list that follows are those most counted on to get the job done: Lorraine Goldman; Edward Cook; Lois Uthoff; Quinton Keller; Jane Swantner, chairperson; Harry Kuhnert; William Bodley Lane, architect; Betty Sutter; Esley Hamilton; Norma Tynes; Ann Wenzlick; Bill Wenzlick; Phyliss Jerome; Norma Jacquot; William Cook; Paul Stoddard; Ina McNary, chairperson; Rosemarie Teng; ? Lionberger II; Amy Mesnier; Wilbert Meyer; Elinor Coyle; Ann Cuntz; Phyllis Martiz; Peter Ruger; Audrey Walsh; Hugo H. Harper; Marian Harper; Paul Douglass; Elinor Douglass; George Hefty; Elizabeth Krachenberg; Patrick Donelan; Jane Piper; Vernon Piper; Nancy Van Dillen; Max Lippman; Lucian Dressel; Ruth Flynn; Allen Douglass; Jackie Douglas; Gary Gern; Ruth Funck; Charles Funck; Susan Steinkiste; Pat Ilg; John Dressel; Helen Dressel; Oliver Dressel; Fred Heimberger; Joan Behnen; John Yl Simon; Loretta Seltzer; Mabel Harriss; Anthony Liebeg; Dan Martin; Dorothea Schellhardt; and Patti Deak.

Special recognition goes to Jerry Honse, who won the General Ulysses S. Grant look a like contest and has shown up at every event we have held. Also special recognition goes to Wane Gross, Director of the Missouri Division of Parks and Historic Preservation, who helped to access the State historical preservation revolving fund and to Wanye Kennedy, Director of St. Louis county Parks and Gene McNary, St. Louis County Executive, who put up the other half of the money needed to purchase White Haven and also took the responsibility of maintaining the property.

But now they have overcome that adversity and they need to do what General Grant did, they need to go to the Federal Government to really become great.

That is what this does. They are passing a truly historic piece of property to the United States, to the Department of the Interior and to us, to all of the people of this great Nation so that they will be able to go back in time, to go back to Grant's leaner years before he became the Napoleon of this Nation, to take a look and to say, "People start with very meager beginnings before they become great."

That is what White Haven was; it was the elementary part of General Grant, it was the elementary part of his Presidency.

I have to say that the people that worked so hard in St. Louis County and St. Louis City to raise the few dollars that became even more dollars, who pressured those in the county and in the State and now here at the Federal level, that they really do deserve a tremendous amount of congratulations.

Mr. Speaker, I know Mr. GEPHARDT and I join together with all the Missouri delegation in thanking them, and now, Mr. Speaker, thanking you and all the people in this body for taking another step and making White Haven a place that will bring back into the memory of the American people General Grant, President Grant, and those times.

Mrs. VUCANOVICH. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. VENTO. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. DARDEN). The question is on the motion offered by the gentleman from Minnesota [Mr. VENTO] that the House suspend the rules and pass the bill, H.R. 1529, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The title of the bill was amended so as to read: "A bill to provide for the establishment of the Ulysses S. Grant National Historic Site in the State of Missouri, and for other purposes."

A motion to reconsider was laid on the table.

EXPRESSING SENSE OF THE HOUSE IN SUPPORT OF UNITED NATIONS' GOALS OF UNIVERSAL CHILDHOOD IMMUNIZATION BY 1990 AND HEALTH FOR ALL BY THE YEAR 2000

Mr. YATRON. Mr. Speaker, I move to suspend the rules and agree to the resolution (H. Res. 120) expressing the sense of the House of Representatives in support of actions to eliminate preventable deaths and disabling illness, especially among children, through intensified international collaboration to attain the United Nations goals of Universal Childhood Immunization by 1990 and Health for All by the Year 2000, and through the convening of a World Summit on Children, as amended.

The Clerk read as follows:

H. RES. 120

Whereas the "Child Survival and Development Revolution", launched by the United Nations Children's Fund (UNICEF) in 1982, to reduce by one-half by the end of this century the then daily toll of 45,000 deaths of young children as a consequence of preventable disease and malnutrition, has achieved impressive results, despite the extreme economic and developmental difficulties afflicting most developing countries in the 1980's;

Whereas the adoption by the Congress of a joint resolution in 1983 (Public Law 98-198) was the first act by a national legislature to formally endorse the Child Survival and Development Revolution;

Whereas the low cost, high-impact, health and nutrition interventions which form the core of child survival programs, most notably oral dehydration therapy and immunization, are already by 1989 saving the lives of over 2,500,000 children per year who would have died if the death rates of 1982 still prevailed;

Whereas UNICEF, the World Health Organization (WHO), the United States Agency for International Development, developing country governments, the World Bank, and other multilateral and bilateral development assistance agencies have identified additional low-cost opportunities for dramatically improving the survival, health, and development of the world's children, which could, with increased international coordination, political commitment, and institutional innovation, increase the number of children saved to over 5,000,000 within 2 years and to over 10,000,000 annually on a permanent and sustainable basis by the year 2000;

Whereas fewer than 5 percent of children in the developing world were immunized against the 6 major childhood diseases when the United Nations' goal of "Universal Child Immunization of 1990" was initiated in 1977, now more than 50 percent of children worldwide are immunized and the Universal Child Immunization target of at least 80 percent immunization by 1990 is within reach for a majority of developing countries;

Whereas it is recognized that the Child Survival and Development Revolution requires integrated action to provide (1) nutrition, (2) primary health care, (3) environmental sanitation, water, and basic shelter, and (4) basic education, especially for women and girls; and that many governments, including the United States Government, have endorsed the attainment of these goals by the year 2000 as part of the WHO program of "Health for All";

Whereas child survival and development programs are being advanced collaboratively by a "Grand Alliance for Children" comprised of a vast array of critically important nongovernmental organizations, including voluntary associations, private businesses, the media, religious groups, and other entities, in addition to governments, intergovernmental agencies, and international organizations;

Whereas the emerging global concern for children, reflecting a new international political commitment to future generations, has been evidenced at the highest levels of international discourse, as reflected in the Joint Statement issued June 2, 1988, following the Summit Meeting in Moscow between the United States and the Soviet Union, in which President Reagan and General Secretary Gorbachev reaffirmed their support "for the WHO/UNICEF goal of reducing the scale of preventable childhood death" and urged other countries and the international community to "intensify efforts to achieve the goal";

Whereas the general surge in concern for children's welfare has formed the moral, legal, and political basis for the International Convention on the Rights of the Child, which would define the rights of children with regard to survival, protection, and development, and which is expected to be approved by the United Nations General Assembly in 1989;

Whereas Secretary of State James Baker has indicated that "the United States should take a leadership role" in the initiative to "develop a plan to get to the core of

the poverty problem" in order to achieve a health world by the year 2000;

Whereas the United States has consistently led the world in the provision of financial, operational, research, and advocacy support for child survival initiatives; and

Whereas the Executive Director of UNICEF, with the current endorsement of over a score of national leaders from developed and developing countries, East and West, has proposed a "World Summit on Children" to promote international plans for achieving the goals of child survival, health, and development of all children: Now, therefore, be it

Resolved, That—

(1) it is the sense of the House of Representatives that the child survival and development programs implemented collaboratively by national governments, UNICEF, WHO, the Agency for International Development, and many other governmental and nongovernmental organizations are to be commended and have the full support and encouragement of the House of Representatives;

(2) the House of Representatives reaffirms its commitment to the goal of permanent improvement in the survival rates, health, and development of people in all countries by the year 2000, especially children, and urges the President to adopt this as a major priority of the executive branch and to lead the world community in proposing concrete actions to achieve this goal;

(3) the President is urged, on behalf of the people and Government of the United States, to propose to the Secretary General of the United Nations that he establish an independent advisory commission to provide strategic planning, leadership and advice to the world community on collaborative actions and programs in primary health care, nutrition, basic education, and environment by all members of the Grand Alliance for Children in order to eliminate easily preventable death and disabling illness in all countries by the year 2000; and

(4) the House of Representatives endorses the call for a World Summit on Children at the earliest opportunity as an opportunity for governmental leaders, including the President of the United States, to commit their countries to concrete plans of national action and international cooperation to reduce the scale of preventable childhood deaths nationally and globally and, in particular, to attain the goals of Universal Childhood Immunization by 1990 and Health for All by the year 2000.

The SPEAKER pro tempore. Is a second demanded?

Mr. BEREUTER. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Pennsylvania [Mr. YATRON] will be recognized for 20 minutes, and the gentleman from Nebraska [Mr. BEREUTER] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Pennsylvania [Mr. YATRON].

Mr. YATRON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in strong support of House Resolution 120, as amended, which addressed the goal of universal childhood immunization by 1990 and health for all by the year 2000. This resolution has unanimous support from the Subcommittee on Human Rights and International Organizations, of which all the members are cosponsors. The resolution also enjoys strong bipartisan support from the full Foreign Affairs Committee.

House Resolution 120 expresses the support of the House for the enhancement and continued efforts for achieving the goals of child survival, health, and development of all children. Those organizations that have worked so hard for children's health, such as the World Health Organization, the U.S. Agency for International Development, and UNICEF are commended in this resolution for their child survival and development programs. The resolution also reaffirms the House's commitment to the goal of permanent improvement in the survival rates, health, and development of people in all countries by the year 2000.

I commend Chairman FASCELL and Mr. BROOMFIELD for their support and consideration of this resolution. I also want to commend Mr. BEREUTER, for conceiving and drafting this outstanding resolution and for his leadership role on child health issues.

Mr. Speaker, I reserve the balance of my time.

Mr. BEREUTER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, House Resolution 120 is an outgrowth of a deep conviction of this Member, and indeed undoubtedly many Members of this body, that we should constantly be marshalling whatever resources can be brought to bear through the governmental process, through the private voluntary sector, through the bully pulpit of the U.S. Presidency, and through any other means that our creative imaginations suggest to us to make the world a better place to live, especially for the most disadvantaged among us.

Growing out of this Member's extensive discussions on this subject with leaders in the international development community and a desire to further encourage and commend the excellent work of UNICEF, the World Health Organization, and the U.S. Agency for International Development in working to eliminate deaths and disabilities from easily preventable causes worldwide by the year 2000, this Member introduced House Resolution 120 on April 5, 1989, together with the distinguished gentleman from Pennsylvania, the chairman of the Subcommittee on Human Rights and International Organizations of the Committee on Foreign Affairs, [Mr. YATRON], and our colleagues in leadership positions on the Select Committee on Hunger and the Foreign Operations Subcommittee of the Committee on Appropriations, Mr. LELAND, Mr. EMERSON, Mr. HALL of Ohio, Mr. ROBERT F. (BOB) SMITH, Mr. OBEY, and Mr. EDWARDS of Oklahoma. The distinguished gentleman from Pennsylvania [Mr. YATRON] expedited the markup and reporting this legislation, as did the distinguished chairman of the committee, DANTE FASCELL, and the distinguished ranking member, the gentleman from Michigan [Mr. BROOMFIELD]. That is especially appreciated by this Member. Special recognition should be given to Dr. Nelle Temple, a member of the House Banking Committee staff whose assistance was absolutely crucial in the preparation of this legislation.

The resolution before the House today is cosponsored by over 70 Members of the House including a majority of the members of the Committee on Foreign Affairs and of the Select Committee on Hunger. It was reported, with a small technical amendment to further highlight the work of the Agency for International Development [AID], from the Committee on Foreign Affairs on June 7, 1989.

The resolution makes four basic points. It expresses the continuing strong support of the House of Representatives for child survival and development programs being implemented by UNICEF, AID, nongovernmental voluntary organizations, and many other organizations and governments.

Second, it urges the President to adopt as a major priority of his administration the promotion of actions by the international community to achieve permanent, sustainable improvement in survival rates, health, and development worldwide by the year 2000.

Third, it urges the President to propose to the Secretary General of the United Nations that an independent commission be set up by the Secretary General to provide strategic planning, leadership, and advice to the world community on collaborative actions on hunger, health, education, and the basics of environmental health in order to eliminate easily preventable death and disabling illness in all countries by the year 2000. This commission should work with all of those who want to help: national governments, international organizations, and the critically important nongovernmental organizations all the way from the village level to the international level. This Member has laid out more detailed suggestions for such an international commission, as well as its domestic counterpart, in a proposal for the President. This proposal, which arose from the results of detailed discussions with dozens of people conducted by this Member and my staff, has received a favorable reaction from Secretary of State James A. Baker and Surgeon General C. Everett Koop and is now being studied and assessed fur-

ther by the State Department, AID, the Department of Health and Human Services, and the Public Health Service.

Fourth, the resolution endorses the call being made by the Executive Director of UNICEF, James Grant, for a World Summit on Children. This could and should be an occasion for governmental leaders, including the U.S. President, to pledge themselves to concrete plans of action, domestically and internationally, to achieve the United Nations' goal of "Universal Childhood Immunization by 1990" and the World Health Organization goal of "Health for All by the Year 2000" and other specific actions that affect the well-being of the children of the world.

Here is the key fact that speaks to the need for the actions laid out in the resolution—actions not only by the U.S. Government but by all governments and concerned organizations and people everywhere. Today in the world, there are 35,000 easily preventable deaths a day—mostly in the poorest countries and mostly of young children. To put that figure in perspective, the final estimate of the total death toll in the recent devastating earthquake in Armenia was just under 25,000 people. So we have an ongoing preventable disaster the size of an Armenian earthquake and a half every single day. That is shocking, and we half don't want to know that it is true.

These deaths, and a roughly equal number of disabling illnesses, are labeled "preventable" because people do not die or become disabled for these reasons in situations where they have access to the most basic levels of education, food and nutrition, health care, and safe water and sanitation. Whereas, out of 1,000 children born alive in the developed world, only 10 to 20 children die in the first year of life, the infant mortality rate is 10 times higher—100 to 200 dying in the developing world before their first birthday. One or two mothers in ten suffers that deep anguish of seeing the child she has given birth to die before it can even walk.

What are the leading causes of these unnecessary deaths? About 9,000 of the 35,000 preventable deaths each day are from neonatal tetanus, whooping cough, or measles—diseases easily and effectively preventable by vaccines costing only pennies. Another 2,000 deaths a day are from other vaccine-preventable diseases. Vaccine-preventable diseases also disable an additional 11,000 children a day—4 million a year—including about 650 new cases of polio per day.

Unfortunately, simple diarrhea is still a principal killer and disabler of the world's children. An adequate and nutritious diet may not be enough to prevent malnutrition if the food goes out the other end. AID's demographic data for development project reports that in developing regions, between one-fourth and one-third of deaths of children under age 5 are attributed to diarrhea. About 2½ million children a year—about 7,000 per day—die from acute dehydration associated with diarrhea, and even larger numbers have acute malnutrition and consequent brain damage caused by recurrent diarrhea.

The good news about preventable deaths comes in two forms. First, these deaths are indeed now preventable. For the first time in world history, we have the technical means to prevent these deaths. We have vaccines. We can produce enough food to feed everyone in the world an adequate diet. We have radio and TV and other means of educating even poor, or remote, or homebound people. We have low-cost technologies for sanitation, safe drinking water, and diarrheal diseases. We have the communications, transportation, and managerial technologies to get the needed supplies and people to where they need to be. Grassroots associations and voluntary efforts, like mothers' clubs and other women's groups which are critical to community-based health delivery systems, are springing up all over the world.

The second part of the good news is that substantial progress is being made. Death rates from these same preventable causes were as high as 45,000 per day in 1982—a drop of 10,000 per day in less than 8 years. Whereas fewer than 5 percent of children in the developing world were immunized against the six major childhood diseases when the United Nations's goal of "Universal Child Immunization by 1990" was initiated in 1977, now more than 50 percent of children worldwide are vaccinated. Nongovernmental organizations, including the Rotary Clubs all over the world, have joined in partnership with public health departments to make this dramatic progress a reality. As a result, the Universal Child Immunization target of at least 80 percent immunization coverage by 1990 is within reach for the majority of the developing countries. The World Health Organization, also called WHO, is so encouraged that it last year set a target of completely eradicating polio, as smallpox was eradicated, by the year 2000.

Another encouraging sign is the breakthrough against diarrheal dehydration deaths. A combination of salts and sugars known as oral rehydration therapy or ORT—so simple that it can be administered by any parent and so cheap that it costs less than most poor families already spend on ineffective antidiarrheal remedies—is now so well-proven that it is standard practice in the most advanced hospitals.

ORT and expanded vaccination, together with growth monitoring and maternal and child health programs, form the core of child survival programs which are now saving the lives of over 2½ million children a year who would have died if the death rates of 1982 still prevailed.

The Congress and this House have been in the forefront of public action to eliminate these unnecessary deaths. A joint resolution in 1983 was the first act by a national legislature to endorse the goal of halving the death rates of young children by the end of the century. AID and its Child Survival Fund have provided the key funding for many of the initiatives to push faster and more sustainable use of high-impact, low-cost technologies like ORT.

Last October, this Member and my staff began a process of consulting with other people to see if they shared my sense that we can actually achieve the noble goal of eliminating these easily preventable deaths and disabilities by the year 2000, especially among children. This goal, of "Health for All by the Year 2000," had been endorsed by 134 nations at the historic international conference on primary health care at Alma-Ata in the Soviet Union in September 1978. At that conference, jointly sponsored by the World Health Organization and UNICEF, those governments pledged urgent action by all governments, all health and development workers, and the world community to attain for all the people of the world by the year 2000 "a level of health that will permit them to lead a socially and economically productive life" through an integrated program of action against hunger, disease, and illiteracy.

House Resolution 120 endorses the value of the progress that has already been made toward achieving this goal. It also, and importantly, commends to the attention of our President and the administration some of the outstanding suggestions that emerged from questioning many leaders from our government, from international organizations, and from the private sector—profit and nonprofit—about what could be done to help ensure that the goals of "Health for All by the Year 2000" and "Universal Childhood Immunization" are achieved.

These discussions with leaders of WHO, UNICEF, UNDP, the World Bank, CARE, with Roman Catholic, Protestant, and Jewish leaders, with Rotary International, the Task Force on Child Survival, the environmental movement, universities, businesses, major foundations, grassroots groups, and many more in and out of the U.S. Government, revealed a substantial degree of consensus. It is clear that political leadership, especially by the U.S. President and the Secretary General of the United Nations, could launch the world with great enthusi-

asm on the concrete objective of eliminating preventable deaths and disabilities throughout the world by the year 2000.

Contrary to what many people assume, these informed leaders believe that the main missing ingredient now is not money or technology, but coordination, inspiration, and leadership which harnesses the energies of international, national, and local organizations around the world—public and private, profit and nonprofit—in a cooperative effort with a clear goal and targets. UNICEF's "State of the World's Children Report for 1989" indeed documents that costs are modest and well within reach. For less than $5 per capita per year, it is possible to provide primary health care to everyone in the world. Piped water supply and basic sanitation involves a similar modest annual expenditure of about $6 per year per person. Basic education can be provided for only $25 per child per year, or about $5 per capita for the whole population. So, with well-directed expenditures of less than $20 per person per year, much of which is already budgeted by national governments or available from other sources, the basics of well-being and a productive life can be made available to all. If we act on this knowledge and use our management skills and technology well, the shadow of those 35,000 needless deaths each day need not hang like a question mark over the peace of the world in the 21st century.

This Member has every confidence that the sort of unified enthusiasm with which this body can support the goals of House Resolution 120 is equally shared all over the world by hungry people, mothers with sick children, concerned citizens, and world leaders. We can eliminate preventable deaths and disabilities, and we can do it worldwide by the year 2000, if we focus our attention and resources on it as a collective enterprise of the whole world community. Let history see this as the closing note of this millennium, so that we and all our children can enter the next millennium with a renewed spirit of hope and accomplishment.

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Mr. Speaker, I yield such time as he may consume to the gentleman from Michigan [Mr. BROOMFIELD].

Mr. BROOMFIELD. Mr. Speaker, House Resolution 120 would place the House of Representatives in full support of worldwide efforts to eliminate preventable deaths, especially among the world's children. The technology to achieve these ends are already available. What is needed now is the extra coordination, inspiration, and leadership to focus an international effort to this noble goal.

Through this resolution, this body expresses its strong support for child survival and development programs being implemented by UNICEF, AID, nongovernmental voluntary organizations, and many other organizations and governments. The resolution also urges the President to make the promotion of international efforts to achieve permanent improvement in survival rates, health and development by the year 2000 a major priority of his administration, and to call on the Secretary General of the United Nations to establish an independent commission to coordinate a world effort.

Mr. Speaker, our colleague, Congressman DOUG BEREUTER, deserves special credit for his leadership in developing this proposal and moving it forward. We have witnessed the dramatic progress that can be made in the saving of children's lives through such inexpensive programs as oral rehydration and children's vaccinations. It is time now to expand that effort to insure that no one in the world dies from an easily preventable cause. House Resolution 120 is an important step in that direction, and I urge our colleagues to support this resolution.

Mr. GILMAN. Mr. Speaker, I rise in support of House Resolution 120, legislation expressing the sense of the House in support of action to eliminate preventable death and disabling illness, especially among children. I commend the gentleman from Nebraska [Mr. BEREUTER], the ranking member of the International Task Force on the Select Committee on Hunger and a distinguished member of the Foreign Affairs Committee for introducing this legislation.

House Resolution 120 expresses the sense of the House in support of international efforts, including the proposed world summit on children, to eliminate preventable deaths and disabling illness. It urges President Bush to propose to the United Nations Secretary General that he take measures to enhance international collaboration and coordination toward the achievement of international health goals and to continue the United States role as the world leader in child survival initiatives. Acknowledging the heightened global concern for children, this resolution affirms American support for international coordination and political commitments toward attaining the United Nations goal of immunizing all children by the year 2000. The resolution also expresses American support for achievement of the World Health Organization [WHO] goal of Health for All (consisting of basic nutrition, health care, education, and sanitation for all people) by the year 2000.

Now, more than ever before in history of the world, the technology and know-how is available to eliminate preventable diseases among children. The year 2000 is not far off. However, the political will so crucial in carrying out this goal is growing day by day as grassroots indigenous organizations spread throughout the third world.

Accordingly, I strongly support House Resolution 120 and urge my colleagues to vote for the bill.

Mr. HALL of Ohio. Mr. Speaker, I rise in strong support of House Resolution 120. I am pleased to join with my colleagues in this expression of the sense of the House of Representatives in support of actions to eliminate preventable deaths and disabling illness, especially among the world's children.

I am glad to be among the original sponsors of this resolution, which was introduced by my colleague on the Select Committee on Hunger, the gentleman from Nebraska [Mr. BEREUTER]. I want to commend him for his leadership, not only on this specific resolution, but on a broad range of initiatives relating to global hunger, health, and education. His contributions to the select committee are highly valued and appreciated.

The resolution before us today was discussed at a hearing of the International Task Force of the Select Committee on Hunger on April 6, 1989, during which the task force focused on efforts to improve world health. At that hearing, which I chaired, the task force received energetic testimony from Jim Grant and Audrey Hepburn of UNICEF in support of efforts to attain the United Nations goals of universal childhood immunization by 1990 and health for all by the year 2000. There also was backing expressed for the convening of a world summit on children.

Through this resolution, the House of Representatives is going on record to endorse the call for a world summit on children. This summit would provide a needed opportunity for countries to develop concrete steps for national and international cooperation to reduce preventable childhood deaths.

The resolution also reaffirms the commitment of this body to the goal of a permanent improvement in the survival rates, health, and development of all people, especially children, by the year 2000, and urges the President to adopt this goal as a major priority.

I believe this expression of support for ending needless, preventable deaths among the world's children is both timely and necessary. Once we pass this resolution and endorse the international goals it cites, then we must commit ourselves to supporting the actions and initiatives to realize these goals. This resolution is an important first step, and I urge my colleagues to vote in favor of it.

Mr. HOYER. Mr. Speaker, I rise in support of today's resolution commending child survival and development programs of national governments and international organizations which have made such excellent progress towards decreasing child mortality and disease around the world.

In 1977, less than 5 percent of the developing world's children were immunized against childhood diseases. Today, 50 percent of these children are now immunized. We should all be pleased with this progress and support the continuation of these efforts. I also support the provisions of House Resolution 120 which urge the President of the United States to adopt, as a major policy goal, the achievement of real improvement in the survival rate and health of the world's children.

I believe a world summit on the condition of our children and the development of concrete plans for international cooperation to achieve the goal of the world health organization's Health for All by the year 2000 program and universal child immunization by 1990, is vital.

This is a tremendous opportunity for peaceful cooperation between the world's two greatest powers, the United States and the Soviet Union. I strongly urge the President to heed the House's message and work to convene such a summit.

However, while we must strongly support efforts in the developing world to address children's health, it is essential that we remember that there are developed nations which need to carefully monitor and address their children's needs. Today, in the United States, formerly the leader in childhood immunizations, we have a growing number of preschoolers who are not immunized against major childhood illnesses.

In 1985, the last year for which comprehensive figures are available, 26 percent of American children ages 1 to 4 were not immunized against rubella and 13 percent were not immunized against diphtheria, tetanus and pertussis. Although the United States gave the polio vaccine to the world, in 1985, 20.4 percent of all American infants were not fully immunized against polio. In fact, the percentage of United States infants under 1 year of age fully immunized against pertussis [DPT], is less than one-half the percentage immunized in other developed nations, including the United Kingdom, Canada, Sweden, France, Spain, Italy, and Israel.

Mr. Speaker, I fully support the goals, intent and language of House Resolution 120. But, I remind my colleagues that while the United States should fully support the United Nation's goal of at least 80 percent of the world's children being immunized, no American child should join the ranks of the unimmunized.

Mr. MILLER of California. Mr. Speaker, I rise in support of House Resolution 120, World Childhood Health, to express the sense of the House that child survival and development programs be commended, to reaffirm the commitment of the House to improving the health of all people, especially children, by the year 2000, and to urge the President to propose that the U.N. establish an independent advisory commission to provide planning and leadership on international collaborative efforts in child health, nutrition, basic education, and the environment.

The resolution also endorses the proposal for a world summit on children at the earliest possible opportunity to develop concrete plans for international cooperation to attain the U.N. goals of universal child immunization by 1990 and health for all by the year 2000.

As the Select Committee on Children, Youth, and Families has documented, the focus on prevention in many Western industrialized nations is a model for world health. In Europe, for example, no pregnant women has to ask how or where she will receive prenatal care or who will pay for it. The result is fewer infant and child deaths and healthier children. (See attached factsheet).

According to the Task Force for Child Survival, sponsored by UNICEF, the World Bank, UNDP, WHO, and the Rockefeller Foundation, over the last several decades, tremendous progress has been made to reduce the tragically high infant mortality rates, and the unacceptably low immunization level against major childhood illnesses, and to control diarrheal diseases and respiratory infections among young children.

However, especially in developing nations, the picture is not all positive. Still 50 percent of infants in developing countries are not immunized against polio or DPT, and millions of infants still die from preventable causes, necessitating an aggressive campaign over the next decade to bring world attention to the need to protect the health of the world's children.

It is not as if we are lacking the tools. Powerful evidence supports the success of methods such as prenatal care, oral rehydration, nutrition, and immunization in dramatically improving children's health status.

In many ways, children's health in parts of the United States where poverty is predominant and health access severely limited, still resembles the precarious health status of children in developing nations. The United States falls short in offering critical preventive health services, such as childhood immunizations, early and comprehensive prenatal care, well-child health care, or family supports such as respite care or homevisiting. That is why I introduced the Child Investment and Security Act, H.R. 1573, to ensure that every young child has access to early and preventive health, nutrition, and education services so that they enter school as healthy and emotionally developed as possible.

Along with less developed nations of the world, we have much to learn as well as much to share from a worldwide child survival campaign and from attaining the goal of health for all by the year 2000. I urge my colleagues to support the resolution.

CHILDREN AND FAMILIES: PUBLIC POLICIES AND OUTCOMES, A FACTSHEET OF INTERNATIONAL COMPARISONS

U.S. TRAILS INDUSTRIALIZED NATIONS IN PROMOTING ECONOMIC SECURITY FOR FAMILIES

Sixty-seven industrialized nations, excluding the U.S., provide a monthly or weekly cash benefit to families for every child regardless of income and work status of parents. Among European nations, family allowance benefits range between 5% and 10% of median wage and may be higher for larger families. (Kamerman & Kahn, 1984)

Many European nations, including Spain, France and West Germany, also provide maternity grants at the time of childbearing to assist with the cost of supplies and equipment for the new baby. (Arden Miller, 1987)

Single mothers often receive additional assistance. France, Austria and West Germany all supplement family allowances for single mothers. In Norway, single mothers receive extra pay for living expenses, education and child care; loans; priority in day care centers; and one year's leave from work. (Kamerman & Kahn, 1988)

Of 8 Western countries studied between 1979 and 1982, the U.S. and Australia began with the most families with children in poverty before taxes and transfers. While taxes and transfers reduced poverty in every country, these 2 countries continued to have more poor families with children after the impact of benefits was taken into account. (Smeeding, 1988)

The U.S. has the highest poverty rate among children (17.1%) compared to 16.9% in Australia, 10.7% in the United Kingdom and 5.1% in Sweden and Switzerland. (Smeeding, 1988)

Compared to other nations, the U.S. spends less per poor family with children than any other country except Switzerland. U.S. means-tested benefits, although presumably better targeted than social insurance, are too low to lift the average family with children out of poverty. (Smeeding, 1988)

LEAVE POLICIES HELP PARENTS BALANCE DEMANDS OF WORK AND FAMILY; U.S. LACKS POLICY

The U.S. and South Africa are the only major industrialized nations which do not guarantee some form of job-protected maternity leave. (Bureau of National Affairs [BNA], 1986) Of 135 countries providing leave, 125 mandate paid leave. All European nations, and 81% of nations in Central America, the Carribean and South America provide statutory cash benefits during maternity leave. (Congressional Research Service, 1985)

Leave arrangements vary considerably from nation to nation:

Japan: 12 weeks for mothers at 60% of pay. (BNA, 1986)

France: 16 weeks for mothers at full pay. Unpaid leave for up to 2 years available for both mothers and fathers. (Kamerman & Kahn, 1984)

Germany: 14 weeks for mothers at full pay, with social insurance paying up to the average wage. Employers supplement wages for those who earn more. 10 additional weeks (social insurance only) available plus another 10 months at a reduced rate. (Kamerman & Kahn, 1984)

Sweden: 9 months of paid leave available to either parent. Leave can be prorated so that parents can use the benefit to cover full, half or three-quarter time work. (Kamerman & Kahn, 1984)

Spain: In addition to 14 weeks leave, breastfeeding mothers are released from work twice daily for 30 minutes for 9 months; no proportional reductions in salary are alllowed. Parents directly caring for children under 6 or a disabled child have right to decrease their working day by one-third to one-half with proportional reduction in pay. (Arden Miller, 1987)

CHILD HEALTH INDICATORS LAG IN U.S.

The U.S. ranked 19th in the world its infant mortality rate (IMR) in 1985, behind less affluent countries such as Spain and Singapore. The white IMR placed the U.S. 14th behind Hong Kong and Japan. The black IMR placed the U.S. 28th, behind Cuba and Bulgaria and tied with Costa Rica and Poland. (Children's Defense Fund [CDF], 1988)

In 1985, 67% of U.S. infant deaths during the 1st month and 50% of deaths in the 1st year were attributable to low birthweight. (General Accounting Office, 1987)

The proportion of babies born at low birthweight in European democracies is approximately 4%, in contrast with 6.8% in the U.S. Even when disaggregrated by race, the rate for U.S. whites (5.7%) is still substantially higher. (Arden Miller, 1987)

In 1985, 60.8% of U.S. children 1-4 years old were immunized against measles, 58.9% against rubella, 64.9% against DTP, 55.3% against polio and 58.9% against mumps. (National Center for Health Statistics [NCHS], 1987)

The percentage of U.S. children under the age of 2 fully immunized for major childhood diseases (polio, rubella, measles, mumps and DPT) declined between 1980 and 1985. The proportion of 1- to 4-year-olds receiving no doses of polio vaccine rose by

40% for all children and 80% for non-white children. (CDF, 1987)

Among European democracies, immunization rates for infants generally exceed 75%. Among European countries with centralized economies, infant immunization rates exceed 90%. (World Health Organization, 1987)

CHILDREN HAVE GREATER ACCESS TO HEALTH IN OTHER NATIONS

Thirty-seven million Americans, including 12 million children, lack health insurance. (Congressional Budget Office, 1987)

Seventeen percent of U.S. pre-schoolers will have no health insurance in the year 2000. (CDF, 1987)

Dutch infants receive an average of 10 visits to publicly funded clinics during their first year. About 98% of pre-schoolers, 100% of primary school children and 90% of secondary school students receive medical care through the school health system. (Arden Miller, 1987)

All Japanese and Swedish citizens and over 90% of Germans have access to publicly financed hospital care, outpatient services and pharmaceuticals. Only 40% of U.S. citizens are eligible for publicly supported hospital care, only 25% for outpatient care and 10% for pharmaceuticals. (Economic Policy Institute, 1987)

Although higher proportions of U.S. citizens lack access to health care, the U.S. spends a greater percentage of its gross national product (GNP) on health care. In 1983, the U.S. spent 10.7% of GNP on health care. France spent 8%, Ireland 7.4%, Denmark 5.5%, and Spain only 4.3%. (World Health Organization, 1986)

PRENATAL CARE IS UNIVERSAL RIGHT IN EUROPE

Nearly 15 million American women of childbearing age have no private or government health insurance covering maternity. Each year, 555,000 give birth without health insurance protection. (Alan Guttmacher Institute, 1987)

Every year since 1979, nearly 1/4 of all U.S. women received late or no prenatal care. In 1985, 21% of white mothers and 38% of black mothers did not receive early prenatal care. (NCHS, 1987)

Unlike the U.S., among 10 European nations surveyed in 1987, all set uniform national standards for perinatal care. The officially required or recommended number of prenatal visits ranged from 4 in Switzerland to 12 in the United Kingdom. (Arden Miller, 1987)

European nations take extra steps to ensure that pregnant women receive appropriate health care:

In Germany, a mother's pass is issued at the 1st prenatal visit, entitling pregnant women to 10 perinatal visits and one at 6 weeks postpartum. 98% of pregnant women have a mother's pass at the time of delivery indicating a high participation in prenatal care. (Arden Miller, 1987)

In Belgium, all hospital and other perinatal expenses are covered for all women. Pregnant women are permitted to travel 1st class on railways when holding a 2nd class ticket. (Arden Miller, 1987)

Although Norway's population is scattered among isolated communities, participation of pregnant women in prenatal care varies only between 10 and 14 visits in all parts of the country. Women living in remote areas are reimbursed for all expenses necessary to move closer to a hospital 10 days prior to delivery. (Arden Miller, 1987)

In Britain, every newborn reveives a home visit from a health care provider by the 10th day after birth. Regular visits continue and weekly child health clinics are available for the first five years of life. (National Commission to Prevent Infant Mortality, 1988)

U.S. TEEN PREGNANCY RATES SIGNIFICANTLY EXCEED EUROPEANS

Each year, 1.1 million U.S. teens become pregnant. Although U.S. teens are no more likely to be sexually active than European teens, the pregnancy rate among U.S. teens is twice as high as rates in Britain, France or Canada; three times that in Sweden, and seven times that in the Netherlands. (Alan Guttmacher Institute, 1988)

Industrialized nations with the most liberal attitudes toward sex, the most easily accessible contraceptive services for teenagers, and the most effective formal and informal programs for sex education have the lowest rates of teenage pregnancy, abortion and childbearing. (Alan Guttmacher Institute, 1985)

PRESCHOOL EDUCATION MORE WIDELY AVAILABLE TO EUROPEAN CHILDREN

Most European children attend free public preschools. France has the most extensive program, covering virtually all children aged 3 to 6, and 40% of 2 year-olds. Germany serves 75% of 3 to 6 year-olds; Italy serves 70%. (Kamerman & Kahn, 1984)

Approximately 60% of U.S. children aged 3 to 5 attend preschool programs, largely under private auspices. (Kamerman & Kahn, 1984)

The federally supported Head Start program provides comprehensive early childhood education to low-income children aged 3 to 5. In 1987, only 453,000 children—fewer than 1 out of every 5 eligible—were being served. (Select Committee on Children, Youth and Families, 1988)

U.S. STUDENTS, NATIONAL EDUCATION EXPENDITURES OUTPACED

Students in the U.S. ranked well below average in an international test of mathematical skills of 8th grade students. Only 6 of 19 other nations scored below the U.S. (CDF, 1988)

In every mathematics category (e.g., algebra, geometry, measurement) in which 8 grade students were tested, the performance of U.S. students was inferior to that of Japanese students, sometimes by very substantial amounts. (Carnegie Forum, 1986)

In an analysis of international mathematics testing for the most advanced 12th grade mathematics students, U.S. students ranked next to last, 12th of the 13 nations compared. (CDF, 1988)

In 1983, the U.S. allocated 1.9% of federal spending for education. By contrast, Finland allocated 13.8%, the Netherlands 11.2%, Sweden 9.2%, and France 8.2%. In the same year, the U.S. devoted 23.7% of federal spending to defense while Finland devoted 5.5%, the Netherlands 5.3%, Sweden 6.9% and France 7.3%. (UNICEF, 1988)

Mr. BEREUTER. Mr. Speaker, I yield back the balance of my time.

Mr. YATRON. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. DARDEN). The question is on the motion offered by the gentleman from Pennsylvania [Mr. YATRON] that the House suspend the rules and agree to the resolution, House Resolution 120, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the resolution as amended, was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. YATRON. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks, and include therein extraneous material on House Resolution 120, the resolution just agreed to.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

DEMOCRACY IN EASTERN EUROPE ACT OF 1989

Mr. HAMILTON. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2550) to provide for certain forms of assistance to Poland and Hungary to encourage the process of democratic reforms in those countries as amended.

The Clerk read as follows:

H.R. 2550

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Democracy in Eastern Europe Act of 1989".

SEC. 2. ELIGIBILITY OF POLAND FOR GENERALIZED SYSTEM OF PREFERENCES.

Subsection (b) of section 502 of the Trade Act of 1974 (19 U.S.C. 2462(b)) is amended by striking out "Poland" in the table within such subsection.

SEC. 3. OVERSEAS PRIVATE INVESTMENT CORPORATION.

(a) ELIGIBILITY OF POLAND AND HUNGARY FOR OPIC PROGRAMS.—Section 239(f) of the Foreign Assistance Act of 1961 (22 U.S.C. 2199(f)) is amended by inserting ", Poland, Hungary," after "Yugoslavia".

(b) PARTICIPATION BY NONGOVERNMENTAL SECTOR.—

(1) IN GENERAL.—In accordance with its mandate to foster private initiative and competition and enhance the ability of private enterprise to make its full contribution to the development process, the Overseas Private Investment Corporation shall support projects in Poland and Hungary which will result in enhancement of the nongovernmental sector and reduction of state involvement in the economy.

(2) DEFINITION.—For purposes of this subsection, the term, "nongovernmental sector" in Poland or Hungary includes private enterprises, cooperatives (insofar as they are not administered by the Government of Poland or Hungary), joint ventures (including partners which are not the Government of Poland or Hungary or instrumentalities thereof), businesses in Poland or Hungary that are wholly or partly owned by United States citizens, including those of Polish or Hungarian descent, religious and ethnic groups (including the Catholic Church), and other independent social organizations.

SEC. 4. SCIENCE AND TECHNLOGY EXCHANGE.

(a) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of State for purposes of continuing to implement the 1987 United States-Polish science and technology agreement—

(1) $1,500,000 for fiscal year 1990, and

(2) $1,560,000 for fiscal year 1991.

(b) DEFINITION.—For purposes of this section, the term "1987 United States-Polish science and technology agreement" refers to the draft agreement concluded in 1987 by the United States and Poland, entitled "Agreement Between the Government of the United States of America and the Polish People's Republic on Cooperation in Science and Technology and Its Funding", together with the annexes relating thereto.

SEC. 5. MEDICAL SUPPLIES AND HOSPITAL EQUIPMENT AND TRAINING OF MEDICAL PERSONNEL FOR POLAND.

Notwithstanding any other provision of law, in addition to amounts authorized to be appropriated to carry out chapter 4 of part II of the Foreign Assistance Act of 1961 (relating to the economic support fund) for fiscal years 1990 and 1991, there are authorized to be appropriated to carry out that chapter for each such fiscal year $2,000,000, which shall be available only—

(1) for providing medical supplies and hospital equipment to Poland through private and voluntary organizations, including for the expenses of purchasing, transporting, and distributing such suplies and equipment, and

(2) for training of Polish medical personnel.

SEC. 6. ASSISTANCE IN SUPPORT OF DEMOCRACY IN POLAND AND HUNGARY.

Notwithstanding any other provision of law, in addition to amounts authorized to be appropriated to carryout chapter 4 of part II of the Foreign Assistance Act of 1961 (relating to the economic support fund) for fiscal years 1990 and 1991, there are authorized to be appropriated to carry out that chapter for each such fiscal year $2,000,000, of which—

(1) $1,000,000 shall be available in each such fiscal year only for the unconditional support of democratic institutions and activities in Poland; and

(2) $1,000,000 shall be available in each such fiscal year only for the unconditional support of democratic institutions and activities in Hungary.

SEC. 7. EDUCATIONAL AND CULTURAL EXCHANGE.

It is the sense of the Congress that the President should—

(1) encourage privately administered educational and cultural exchanges between the United States and Poland and between the United States and Hungary, through the International Research and Exchanges Board (IREX), the National Academy of Sciences, the Fulbright Educational Exchange Program, and the United States Information Agency; and

(2) consider the establishment of reciprocal cultural centers in Poland and the United States and in Hungary and the United States to facilitate government and privately funded educational exchanges.

SEC. 8. FUTURE ECONOMIC PROGRAM.

It is the sense of the Congress that the President should consult with our western allies and Japan on the establishment of a multiyear comprehensive program for Poland and Hungary, including debt rescheduling and increased investment, designed to facilitate and enduring economic recovery in each country in the context of a clear and binding commitment by the government of that country to establish genuine democracy and a free economy in that country.

The SPEAKER pro tempore. Is a second demanded?

Mr. BROOMFIELD. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Indiana [Mr. HAMILTON] will be recognized for 20 minutes, and the gentleman from Michigan [Mr. BROOMFIELD] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Indiana [Mr. HAMILTON].

Mr. HAMILTON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 2550, the Democracy in Eastern Europe Act of 1989.

This bill is a response to the request of President Bush to help democratic and free market forces in Poland and Hungary who seek economic and moral support from the United States.

H.R. 2550 would give this support in two ways.

First, access to tariff benefits and credit guarantees to encourage exports and develop the private sector;

Second, authorization for humanitarian assistance to Poland, to fund joint scientific and technological research with Poland, and to support democratic development in both Poland and Hungary.

SPECIFICS OF BILL

H.R. 2550 would:

Give Poland generalized system of preference [GSP] eligibility;

Give Poland and Hungary eligibility for OPIC guarantees;

Authorize $1.5 million in fiscal year 1990 and $1.56 million in fiscal year 1991 to support the 1987 United States-Poland science and technology agreement;

Authorize $2 million for fiscal year 1990 and another $2 million for fiscal year 1991 for medical supplies, hospital equipment, and training in Poland;

Authorize $2 million for fiscal year 1990 and again for fiscal year 1991 for developing democratic institutions and activities in Poland and Hungary;

Express the sense of Congress that the President should encourage private educational and cultural exchanges between the United States and Poland and Hungary; and finally

State the sense of Congress that the President should consult with our western allies and Japan on the establishment of a comprehensive economic program for Poland and Hungary.

REASONS FOR SUPPORTING BILL

Mr. Speaker, the United States has a national interest in supporting the growth of democracy, the institutionalization of democratic values, and the development of free market economies in Eastern Europe. This bill does that. Recent political and economic developments in two countries, Poland and Hungary, suggest that these nations are taking important steps to begin a peaceful evolution toward pluralistic political structures supported by open economies.

In Poland, recent political developments have been revolutionary. As a consequence of the April 6 agreement between the government and Solidarity, the trade union has been legalized and, in the most democratic elections held in Poland in 40 years, representatives to a newly structured bicameral legislature were elected on June 4. The vote was a triumph for the democratic opposition. The new political order recognizes a role for non-Communist groups in the administration and permits a free opposition press.

Hungary has also undergone welcome changes in the past year. It has become the first Eastern European country to legalize non-Communist political movements. A draft of a new constitution calls for popular elections, expected next year, and allows opposition parties to compete for seats. On June 10, representatives of the Hungarian Communist party and the major opposition groups signed and agreement to discuss Hungary's evolution to a multiparty democratic political system.

Democratic development in both countries in hindered by major economic problems, including huge foreign debts, high inflation, and declining standards of living. They need help from Western investors and importers to trigger growth, decentralize and modernize their economies, and allow them to produce the export goods necessary to bring in hard currency.

PRESIDENT BUSH'S INITIATIVE

In his speech in Hamtramck, MI on April 17, President Bush acknowledged the political achievements of Poland and promised United States assistance in easing economic problems that could undermine fragile political advances. H.R. 2550 provides the congressional approval necessary to fulfil the President's request for giving Poland access to the generalized system of preference and Overseas Private Investment Corporation guarantees. In recognition of Hungary's achievements, the bill extends eligibility to OPIC guarantees to that country as well.

By offering GSP eligibility to Poland, and OPIC eligibility to Poland and Hungary, the United States would support economic recovery in a cautious manner that does not repeat the mistakes of the past. The bill offers no unconditional credits. It makes no untied loans. Rather, it fosters eco-

nomic development through private initiative and foreign investment in a way that gives the governments no excuse for not tackling the painful economic restructuring that will be necessary.

The bill also supports enhanced people-to-people ties with Poland and Hungary. The authorization of $4 million for medical supplies, equipment, and training continues a long tradition of United States humanitarian aid for Poland. The $3 million for science and technology is intended to give a boost to productive and mutually beneficial research. The $1 million each in 1990 and 1991 for Poland and Hungary will help strengthen fragile institutions and promote activities that will contribute to the development of free political systems.

Mr. Speaker, President Bush will be making an historic visit to Poland and Hungary in mid-July. It is important for him and for the Congress that he be able to present these countries with concrete evidence of U.S. support for their political and economic initiative.

I urge my colleagues to join the Committee on Foreign Affairs and the Committee on Ways and Means in supporting this legislation.

□ 1330

Mr. BROOMFIELD. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, on June 4, the world witnessed one more sign that communism is in retreat. Poland held the first free election in Eastern Europe since World War II. The results confirmed that the Communist Party has very little support among the Polish people.

Unfortunately, the electoral ground rules will ensure that a majority of the seats in the Polish Congress will be held exclusively by the Communists. Still, we must recognize that Poland is on the right track, and with this legislation today, we may provide them further incentive to change.

Much of the progress made in Poland this year has also occurred in Hungary over the past few years. With fits and starts that country has moved toward a political system that is the most free in Eastern Europe.

For these reasons I support this modest legislative initiative. This bill will provide Poland and Hungary with funds to promote democratic institutions, increase educational and cultural exchanges, support a bilateral science and technology agreement with Poland, and continue medical assistance through nongovernmental agencies.

Most important, however, this legislation will allow the Overseas Private Investment Corporation to operate in Poland and Hungary, providing incentives for United States investment and stimulating private sector development at little or no cost to the United States taxpayer.

Poland and Hungary should realize that this is not an effort to salvage their moribund system of economic planning, but to help them build a vibrant private sector.

We take this action in expectation of further change. These initiatives can and will be canceled if the Communist Party goes back on its pledges. What has happened so far is only the beginning. We all look forward to the day when the transition to democratic politics and market economies in Poland and Hungary is complete and irreversible.

Mr. HAMILTON. Mr. Speaker, I yield 6 minutes to the gentleman from New York [Mr. SOLARZ].

Mr. SOLARZ. Mr. Speaker, I thank the gentleman for yielding this time to me.

Mr. Speaker, I want to pay tribute to the gentleman from Indiana [Mr. HAMILTON] for having brought this bill before the House. I think it is a very timely measure.

Our country has an enormous interest in the emergence of genuine democracy in Eastern Europe. The cold war began over four decades ago in Eastern Europe, and if the cold war is ever going to end, it will have to end in Eastern Europe with the emergence of governments in those countries that really reflect the will and wishes of their people.

Mr. Speaker, I think it may be worth noting that at the very moment when the authorities in Beijing were cracking down with brutal force in order to suppress the democratic aspirations of their people, Poland was experiencing, only 8 years after the Polish authorities had cracked down with force in order to suppress the democratic aspirations of the Polish people, the first quasi-free elections that had been held in Poland since the end of the Second World War. As a result of those elections, Communist candidates, even in constituencies where no one was running against them, went down to a crushing defeat. Just the other day, in Hungary they had a funeral where they reburied the remains of Imre Nagy, who helped lead the uprising of the Hungarian people in 1956 against the Soviet masters in an effort to establish a more open and democratic and truly independent Hungary. Three decades later, after the brutal suppression of that uprising, the very same Hungarian leaders, who were executed for alleged acts of treason against their motherland, have now been rehabilitated and have been reburied in the view of tens of thousands of Hungarians who were given the opportunity to pay tribute to these genuine patriots.

□ 1340

Mr. Speaker, what this demonstrates to me is that, while it may be possible to put the genie of democracy back into the bottle of repression for a period of time, the democratic aspirations of an entire people cannot be permanently suppressed, and that is why I am hopeful that democracy will have its day in Eastern Europe, just as it will one day have its day in China as well.

This legislation, which is now before us, is designed to facilitate a more rapid emergence of democracy in Poland and Hungary. I want, Mr. Speaker, to call particular attention to section 8 of the bill which expresses the sense of Congress that the President should consult with our Western allies in Japan on the establishment of a multiyear, comprehensive program for Poland and Hungary which would be designed to facilitate an enduring economic recovery in both countries in the context of a clear, binding and irrevocable commitment on the part of the authorities in both Warsaw and Budapest to establish genuine democracy and truly free economies.

Mr. Speaker, we need to learn from the lessons of our past. During the 1970's we pumped hundreds of millions of dollars into credits in Poland. It all went down the drain because the political and economic system in Poland was not in a position to make productive use of it. It would be a serious mistake to do the same thing again. However, Mr. Speaker, in the context of real democracy and a free economy there is no question that Poland can use that help.

Mr. Speaker, in the context of real democracy in a free economy there is every reason to believe they could use these resources. Solidarnosc has just proposed to the West the establishment of a $10 billion package of assistance designed to put the Polish economy on its feet. We have in the past said to the leaders of Poland, and Hungary and other East European countries that in the context of their willingness to move to democracy and a freer economy we would be willing to help. However, we have never spelled out with precision exactly what we would be prepared to do.

Mr. Speaker, the whole purpose of this sense of the Congress provision is to encourage the President to take the leadership in hammering out with our European allies and Japan a clear and comprehensive proposal which we could put on the table and in which we could say to the leaders of Poland and Hungary that, if they are willing to agree to the irrevocable establishment of democracy and a free economy, this is what we would be willing to do in exchange. I believe that such an initiative will be warmly welcomed by the people of Poland and Hungary, and I

also believe that it could conceivably make the difference in terms of a willingness on the part of the authorities of those countries to make the kind of binding commitments for democracy which, so far at least, they have not been fully willing to do.

Consequently, Mr. Speaker, I think this measure is a very timely measure. I think it sends a message of hope and encouragement to the peoples of Poland and Hungary, and it puts our Nation foursquare behind the essential effort to rid these nations of the shackles of communism and to give them the opportunity to emerge long after the war which was fought on behalf of freedom in Poland to become truly free once again.

Mr. BROOMFIELD. Mr. Speaker, I yield such time as he may consume to the gentleman from New York [Mr. GILMAN], a member of the Committee on Foreign Affairs, and vice chairman of the Subcommittee on Europe and the Middle East.

Mr. GILMAN. Mr. Speaker, I am pleased to rise to express my strong support for H.R. 2550, which I have cosponsored, in support of democracy in eastern Europe and I commend the distinguished chairman of the Subcommittee on Europe and the Middle East, Mr. HAMILTON, and the distinguished ranking member of our committee, the gentleman from Michigan, Mr. BROOMFIELD, for their outstanding work on this important and timely legislation.

On June 4, 1989, Poland held the first free election in Eastern Europe since the Second World War. The results confirmed what we have known all along: The Communist party is a dying entity in Eastern Europe.

The rules of the June 4 election, unfortunately, ensure that a majority of the seats in the Polish Sejn will be held by the Communists. We must recognize, however, that Poland is heading in the right direction. This legislative body today, through the adoption of this legislation, can provide further inspiration for change.

Much of the progress toward democratization made in Poland has taken place in Hungary, as well. That nation now maintains the strongest movement toward a pluralist political system in Eastern Europe.

Mr. Speaker, I strongly support this legislative initiative which responds to President Bush's recommendation to provide Poland and Hungary with funds to promote democratic institutions, increase educational and cultural exchanges, support a bilateral science and technology agreement with Poland, and continue medical assistance through nongovernmental agencies.

Most importantly, this legislation will allow the Overseas Private Investment Corporation to operate in Poland and Hungary, providing incentives for United States investment and stimulating private sector development. Accordingly, Mr. Speaker, I urge unanimous passage of this bill.

Mr. Speaker, I yield such time as he may consume to the gentleman from Wisconsin [Mr. ROTH].

Mr. ROTH. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, there are big changes taking place in Eastern Europe. A year ago I had my doubts about OPIC being extended to Hungary, but after a recent visit to Hungary, I can tell my colleagues that tremendous changes have taken place. Most recently, we all saw news reports about the re-burial of Imre Nagy, drawing people from all over the world to Budapest, including some who were there during the 1956 revolution.

Mr. Speaker, it is interesting when one goes to Eastern Europe, and talks to once-dedicated Marxists, and asks them about Karl Marx. They now say, "Well, Karl Marx is no different from any other philosopher." I think most of us probably would never have predicted that we would see that day taking place, but it has taken place.

Mr. Speaker, Hungary was at one time one of the most hardline countries in the Soviet orbit, and today Hungary is economically and politically flourishing. From the many business people that I talked to there, I find they are committed to a free enterprise system because they know it is the only way for them to work out of the economic doldrums that they have been in.

Of course, we have to remember that, as long as there is a Communist government, there is nothing that prevents them from going back to their old ways. How enthusiastic we were just a few weeks ago about China and how sanguine we were about the free enterprise system coming to China. In just the last 3 weeks we found out what can happen. Repression can come back, and this can happen in any Communist country, I think, however, in taking these incremental steps we are going to do a great deal to enhance the thaw. If there is a possibility of bringing down the Iron Curtain and of changing the economic and political climate in Eastern Europe, I think we should take it.

Mr. Speaker, there is an old Russian proverb that says, "Two mountains can never come together, but two men always can."

□ 1350

Even when two countries cannot come together, the people in those countries can come together. I think that is what we are witnessing in Eastern Europe. It is worth a try.

So I think this is legislation that is well thought out. Let us hope for the best, but as President Reagan would say, let us move forward, but let us verify as we take these incremental steps.

Mr. GILMAN. Mr. Speaker, I thank the gentleman from Wisconsin for his supportive remarks.

Mr. Speaker, I yield such time as he may consume to the gentleman from California [Mr. LAGOMARSINO].

Mr. LAGOMARSINO. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, I rise in support of H.R. 2550, the Democracy in Eastern Europe Act of 1989. In the wake of the recent elections in Poland, where solidarity won an impressive victory at the expense of the ruling Communist Party, and the partial political liberalization, both the Polish Communist leadership and solidarity have appealed to the west for economic assistance. This legislation is responsible and appropriate response to this legitimate Polish appeal.

In addition to President Bush's initiatives, which are contained in this bill, H.R. 2550 also includes several previously considered programs for Poland and Hungary such as extending OPIC coverage. H.R. 2550 as reported by the Foreign Affairs Committee, upon which I serve, permits Polish imports to enter the United States under GSP; extends OPIC coverage; authorizes bilateral science and technology agreements with Poland; authorizes $2 million for medical training and assistance through nongovernmental agencies in Poland; authorizes $2 million to promote democratic institutions in Poland and Hungary; and encourages increased educational and cultural exchanges with Poland and Hungary.

The recent events in Poland and Hungary are quite significant and very encouraging. It appears that real political and economic reforms are happening—right in the heart of the Warsaw Pact.

On June 4 we witnessed, for the first time since the Communist takeover in the late 1940's, free elections. And, from the results it is clear that had the Communist Party not reserved a number of seats in the SEJM—the Parliament, it would have been soundly ousted. It is very telling that the top Communist leadership, including the prime minister, were unelected by the Polish populace. While preelection agreements that controlled the electoral power of the people, such as the reservation of a number of seats for the Communist Party, were followed keeping the Communists in power, this election was a very significant step toward greater freedom and liberty in Poland.

I believe we should encourage this progress and promote further positive change. Helping the Poles address their critical economic situation does just that. Our assistance encourages

further reforms any expansion of the private sector. Of course, should the Communist leadership change direction, so can we, as we did in 1982 after martial law was imposed by suspending Poland's MFN status. In 1987, the MFN status was restored and additional reforms in Poland occurred. Today, through allowing Polish goods to enter the United States under lower GSP tariff rates and through other economic assistance, I believe we are advancing the reform movement.

In Hungary, the reforms have been even greater. I visited Hungary in January 1989 with a number of my colleagues and was very surprised by the level of economic and political freedom enjoyed by Hungarians. While much needs to be done and the iron fist of the Soviet still looms above Hungary, Hungary is the most advanced of all the Eastern European states. Its private sector is beginning to flourish. Non-Communist political parties play a real role and are not outlawed. Last weekend, Hungary paid tribute to its former leader Nagy—the same man condemned for liberalizing Hungary in 1955-56 and deposed by the Red Army after it brutally crushed the Hungarian uprising. Hungary has even protested its Warsaw Pact neighbor Romania's hideous human rights policy in the U.N.

Our previous carrots to Hungary, in the form of Western economic assistance, have prompted this change and convinced the Hungarian people that our economic and political system is better than the Soviet's. H.R. 2550, continues this progress by extending OPIC coverage to Hungary and financially supporting democratic institutions in this Eastern maverick. As one Hungarian official told me during a meeting in Budapest, "there is much talk about Gorbachev's reforms—glasnost and peristroika. However, think about this, if reform fails in Hungary, it too will fail in the Soviet Union. But, if reform fails in the Soviet Union, it will still continue in Hungary." Think about the meaning of that statement—Hungary has come a long, almost irreversible way. Hungary is the model for other East bloc nations to follow.

President Bush will soon be visiting Poland and Hungary. I believe quick passage of this legislation will give the President further ability to foster change and make his visit more successful.

Mr. GILMAN. Mr. Speaker, I thank the gentleman for his supporting remarks.

Mr. Speaker, we have no further requests for time, and I yield back the balance of our time.

Mr. HAMILTON. Mr. Speaker, I yield 5 minutes to the distinguished gentleman from Illinois [Mr. ROSTENKOWSKI], the chairman of the Ways and Means Committee.

Mr. ROSTENKOWSKI. Mr. Speaker, I rise in support of H.R. 2550, section 2 of which falls within the jurisdiction of the Committee on Ways and Means.

Mr. Speaker, title V of the Trade Act of 1974, as amended, authorizes the President to designate developing countries for duty-free treatment on imports of their products that are designated by the President as eligible under the Generalized System of Preferences [GSP].

Section 502(b) of the act prohibits the President from designating a specific list of countries as GSP beneficiaries. Poland is one of the countries on this statutory exclusion list.

Section 2 of the bill before us at this time, H.R. 2550, amends section 502(b) to remove Poland from the statutory exclusion list, effective upon date of enactment.

Section 2 does not amend any of the criteria under present law that the President must determine are met, or that the President must take into account, before designating Poland as a GSP beneficiary country.

Removing Poland from the exclusion list was proposed by the President in his speech of April 17, in Hamtramck, MI. It was also included as part of the legislative proposal regarding Poland which was introduced at the request of the administration as H.R. 2356. I was proud to cosponsor that bill.

Now, "GSP for Poland" is before us as part of a larger effort to formulate a positive and useful response to the recent dramatic developments in Poland.

Ever since the United States re-engaged Poland in dialogue in 1986, we have consistently and rightly conditioned any favorable action toward Poland on real progress toward national reconciliation and economic reform in that troubled country.

It is the opinion of the Committee on Ways and Means that it is time to make good on our commitment. Recent development in Poland are very much in keeping with the path we have been urging the Government of Poland to take. A positive acknowledgment and a helping hand are now our responsibility. I am happy to participate in offering both.

On a personal note, Mr. Speaker, I also wish to associate myself with those provisions of H.R. 2550 which fall outside of the jurisdiction of the Committee on Ways and Means.

I congratulate the gentleman from Indiana [Mr. HAMILTON] and the gentleman from Florida [Mr. FASCELL] for their prompt and good-willed efforts in bringing this measure to the full House on such a timely basis.

The interests of both chairmen in the best possible relations between Poland and the United States is well demonstrated and highly gratifying.

The package of provisions reported to the House as H.R. 2550 goes beyond that which was requested by the administration, but in a way which is responsible, responsive to the situation, and in keeping with the sentiment of the President's speech on April 17.

In addition to the modest legislative provisions in the bill, we also express our awareness that the real help which the United States can provide to Poland is in the forum of Mutilateral financial institutions. I strongly endorse the sentiment, expressed in the bill, that the United States should lead the way in all available forums to help Poland at this time of need.

I am happy to note that the administration supports the bill. I am sure that, if we can pass it and send it to the White House quickly, the President will carry it with him proudly when he visits Poland in July.

Mr. HAMILTON. Mr. Speaker, I yield 1 minute to the gentleman from New York [Mr. SCHEUER].

Mr. SCHEUER. Mr. Speaker, I had the privilege of being in Budapest a couple months ago for an Interparliamentary Union Meeting. We happened to be there on March 15 when they had that absolutely inspiring, marvelous, peaceful, quiet demonstration, that reflected so well on the process of loosening up, the process of perestroika and glasnost that is taking place there. It was orderly. It was peaceful. It was well organized. It was well disciplined and it was absolutely a joy to behold.

The American Ambassador in Hungary, Mark Palmer, is a brilliant, brilliant young man, who asked me and other Members of Congress if we could not help raise some funds for the little fledgling democratic institutions that he is encouraging and that the Government is permitting quite openly, little radio stations, little democratic organizations that want newsletters and whatnot. If there is any way that we could get American corporations and American foundations to make a deductible contribution to this work through Ambassador Mark Palmer, our Ambassador in Budapest, it would be a godsend. He is doing brilliant work. He is thoroughly familiar with all of these democratic bubblings, this growth out of nowhere of democratic institutions. He could guide anybody who wants to be involved in making contributions.

Mr. LANTOS. Mr. Speaker, the promise held by the dramatic political and economic changes in Hungary and in Poland poses a profound challenge and a historic opportunity for the United States to encourage and support the potential for freedom and democracy in Eastern Europe.

We must not exaggerate Hungary's march toward liberty nor minimize the internal and external obstacles in its path: They are many and grave. Nevertheless, those of us commit-

ted to freedom can only welcome the palpable progress and the even more promising trends in Hungary and Poland, which go well beyond the rest of Eastern Europe and the Soviet Union itself. Hungary is embarking upon sweeping reforms that will dismantle both one-party rule and the State-run economy and emulate the economic and political models of such neutrals as Sweden, Finland, and Austria.

A quiet revolution for economic freedom is occurring, slowly but steadily. New laws to let the private sector blossom and to free capital movement are steps toward a free market and a mixed economy. Individual enterprises and private shareholding companies, aided by eased taxation, will make new ventures more profitable and less risky. A new law on foreign investment permits foreign firms to buy into domestic companies or set up wholly owned subsidiaries. By the early 1990's, if the trend persists, half of Hungary's economy could well be in private hands.

Mr. Speaker, as my colleagues know, without political freedom there is no economic freedom. In Hungary, political reform is moving at an almost dizzying pace, spurred on by Communist Party reformers and the democratic opposition. Freedom of association and expression, a free press and free publishing, and a multiparty system are already legalized and becoming institutionalized. Citizens' rights, the rule of law, impartial justice, the multiparty system, freedom of press and assembly, and free trade unions are all to be enshrined and institutionalized in a new constitution now being drafted, which will be voted upon next January.

There are grave risks: All these incremental reforms could result in a crisis of systemic transition. Already the economic reforms have sparked an inflationary spiral, exacerbated discord between the poor and the newly rich, increased unemployment and impatient pressures for higher living standards. And another ominous note: On a per capita basis, Hungary is the most heavily indebted country in Eastern Europe.

Mr. Speaker, this is all the more reason for the United States, and its Western allies, to help ease that transition. Hungary presents an important opportunity but also a challenge. President Bush's forthcoming visit to Hungary and Poland is undoubtedly a fine gesture of high symbolic importance. It needs to be accompanied by concrete measures, commensurate with Hungary's progress in political and economic liberalization.

There is much that we can do. Our policies and actions can make an enormous difference by aiding a reform-minded regime to overcome its difficulties during the transition to a market-oriented economy.

Mr. Speaker the legislation that is before us today is an important step in that direction. This bill extends to Hungary the benefits of OPIC—Overseas Private Investment Corporation—which helps to insure United States business investment against political risks, and thus encourages investment by United States firms. The provisions of this bill will do much to encourage joint ventures, boost cultural and educational exchange programs, increase high-level contacts, and encourage small loans directed to specific private-sector projects and placed with small commercial banks.

With the measured policy and proposals that are contained in this legislation, we can at once aid the Hungarian people to advance to greater economic and political freedom, influence the course of democratic evolution in Eastern Europe as a whole, and open up freer trade—all of which will serve the American national interest.

Mr. Speaker, I urge my colleagues to support this excellent legislation.

Mr. HAMILTON. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Indiana [Mr. HAMILTON] that the House suspend the rules and pass the bill, H.R. 2550, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

□ 1400

GENERAL LEAVE

Mr. HAMILTON. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just passed.

The SPEAKER pro tempore (Mr. DARDEN). Is their objection to the request of the gentleman from Indiana?

There was no objection.

NATIONAL DAY TO COMMEMORATE THE BASTILLE DAY BICENTENNIAL

Mr. SAWYER. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the joint resolution (H.J. Res. 298) designating July 14, 1989, as "National Day to Commemorate the Bastille Day Bicentennial", and ask for its immediate consideration.

The Clerk read the title of the joint resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

Mr. RIDGE. Mr. Speaker, reserving the right to object, I simply want to acknowledge the work of our colleague, the gentleman from New Hampshire [Mr. DOUGLAS], the chief sponsor of House Joint Resolution 298. He has been unavoidably detained.

Mr. DOUGLAS. Mr. Speaker I rise today to urge the support of the House for House Joint Resolution 298, to commemorate July 14 of this year as the 200th anniversary of Bastille Day, the day the people of France stormed the hated Bastille prison and sparked the momentous events of the French Revolution. This day is of particular significance to the 3½ million Americans of French descent, more than 230,000 of whom live in my own State of New Hampshire.

The ideals of freedom and self-government that fired the French people on that day were shared by the patriotic Americans who fought in our own revolution.

Within weeks of that first Bastille Day, the National Assembly in Paris approved the Declaration of the Rights of Man, outlining the fundamental liberties that today form a basic part of our understanding of human rights. Just 31 days later, the U.S. Congress adopted the Bill of Rights, enshrining these same individual freedoms in our newly forged Constitution.

Today, as the bracing winds of democracy sweep the world, the ideals of the French and American Revolutions stand as shining examples to the courageous peoples from Poland to China who yearn to breathe the vitalizing air of democracy. The resilient people of these oppressed nations are struggling for a principle that we in the west now take for granted: That government exists to serve the people; not the reverse.

As freedom's march enters its third century, the commemoration of these historic events takes on even greater significance. Far from seeming stale or outdated, the principles of democracy, free expression and the rule of law are as fresh in 1989 as the day they flowed from the pens of men like Thomas Jefferson, Tom Paine, and the French patriots.

Mr. Speaker, in this year of bicentennial celebration of the roots of our own constitutional freedoms, it is altogether fitting and proper that we commemorate the similar principles that inspired the French Revolution.

I therefore urge my colleageus' support for this resolution.

Mr. SMITH of New Hampshire. Mr. Speaker, New Hampshire is very proud of its French heritage, and I am therefore pleased to rise in support of this resolution which will commemorate the 200th anniversary of the storming of the Bastille.

The day this took place, July 14, 1789, is unquestionably the most important date in French history. The assault on the Bastille was, and has remained, the most symbolic event in a revolution crowded with events. By 1789, the Bastille, which had served as a fortress for more than 300 years, had become a royal prison representing all that was wrong with the old France. People who dared to speak out against the government of Louis XIV were imprisoned there. The conquest of the Bastille by the people stood for all that was hopeful in the new France.

With the storming of the Bastille in July, events began to unfold in France that gave a profound new meaning to the notion of revolution—a meaning that has transformed world history and touched the lives of all nations. By August, the Declaration of the Rights of Man and of the Citizen was adopted by the Constituent Assembly of France. Article III of this document read "the source of all sovereignty resides essentially in the nation." Sound familiar? It should, because when Lafayette was drafting this Declaration of Rights, he sought the assistance of none other than our own Thomas Jefferson. Yes, Mr. Speaker, the success of the American Revolution founded on

these ideals just a few years earlier on this side of the Atlantic, had already begun to inspire other nations.

In this French bicentennial year, common attachments to liberty, human rights, and a revolutionary inheritance continue to bind the United States and France. Today, men and women throughout the world continue to fight for democracy, a democracy highlighted by the American and French Revolutions. We need only look to events in China for the most recent and stunning performance, which is now only at intermission. The free world knows that the second and triumphant act must inevitably follow.

And the Bastille? Less than a year after it was assaulted, the Bastille was demolished. All that remains today is a column marking its place. It is not among the most beautiful, impressive or moving monuments in modern Paris. It attracts fewer tourists than dozens of other places, but this is appropriate. The symbolic importance of the Bastille, now as in the French Revolution, is that it no longer exists.

Mr. Speaker, I am pleased to join my colleague from New Hampshire in supporting this resolution.

Mr. RIDGE. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The Clerk read the joint resolution, as follows:

H.J. RES. 298

Whereas the independence of the United States was achieved with significant assistance from France and from individual citizens of France;

Whereas the ideals of liberty and freedom which animated the people of the United States during the American Revolution were shared by many of the people of France and are held sacred by both peoples today;

Whereas the year 1789 was of particular significance in the history of both France and the United States, marking the opening chapter of the French Revolution and the concluding chapter of the American Revolution;

Whereas on July 14, 1789, the people of France liberated the hated Bastille prison, thus signifying the triumph of liberty over tyranny;

Whereas within a period of 31 days, the National Assembly of France approved the Declaration of the Rights of Man and the Citizen on August 26, 1789, and the Congress of the United States approved the Bill of Rights on September 25, 1789, thereby proclaiming the sanctity of human rights on both sides of the Atlantic Ocean and guaranteeing them for future generations; and

Whereas France and the United States remain fully committed to the principles of the Declaration of the Rights of Man and the Citizen and the Bill of Rights: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That July 14, 1989, is designated as "National Day to Commemorate the Bastille Day Bicentennial", and the President of the United States is authorized and requested to issue a proclamation calling upon the people of the United States to observe the day with appropriate ceremonies and activities.

The joint resolution was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

CHANEY, GOODMAN, AND SCHWERNER DAY

Mr. SAWYER. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the Senate concurrent resolution (S. Con. Res. 40) to designate June 21, 1989, as Chaney, Goodman, and Schwerner Day, and ask for its immediate consideration.

The Clerk read the title of the Senate concurrent resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

Mr. RIDGE. Mr. Speaker, reserving the right to object, again, I would like to acknowledge the work of our colleague, the gentleman from California [Mr. EDWARDS], who is the chief sponsor of House Concurrent Resolution 141.

Mr. Speaker, further reserving the right to object, I yield to my colleague, the gentleman from Ohio [Mr. SAWYER].

Mr. SAWYER. Mr. Speaker, I would like to echo the gentleman's comments on the outstanding work of both of the sponsors of both of these resolutions. They both commemorate events of great significance in the history of the democratic expression of free thought, both globally and in our own Nation as well.

Their efforts in bringing these matters to the attention not only of this body but of the Nation in this way have been exemplary of the format which we ask all Members to comply with as they address matters of comparable concern.

Mr. MICHEL Mr. Speaker, I am glad to join with our colleagues in sponsoring House Concurrent Resolution 141, to designate June 21, 1989, as Chaney, Goodman, Schwerner Day.

The murder of James Chaney, Andrew Goodman, and Michael Schwerner 25 years ago is an event of historic significance, reminding us of a time in our Nation's history when landmark civil rights legislation was yet to be written. They were murdered while trying to guarantee rights that are the birthright of every American. Surely the meaning of such a sacrifice is not limited to a certain time and place, but has meaning for anyone who wishes to see the triumph of justice.

The United States of America, given the tragic historic legacy of racial injustice, has made undeniable progress in civil rights. Yes; we have much to be proud of—if little to be complacent about.

And whatever we have achieved, whatever measure of justice has been gained during the past 25 years, we owe to many Americans, many of whose names are lost to history, many who endured patiently, many who fought bravely, many who merely helped while others carried the banner.

But we do know the names of Chaney, Goodman, and Schwerner—and they have come to symbolize the struggle in which so many nameless, yet heroic, figures played a part. Today, all over the world, in China, in Poland, in Central America, in the Soviet Union, other young men and women are bravely carrying a similar banner. In remembering Chaney, Goodman, and Schwerner we at once pay tribute to the good they accomplished long ago and pay our respects to those who today follow their example and are inspired by their sacrifice.

Mr. GILMAN. Mr. Speaker, it is with pleasure that I rise in strong support of Senate Concurrent Resolution 40 to designate June 21, 1989, as Jesse Emerson"Chaney, Goodman, and Schwerner Day."

June 21, 1989, will mark the 25th anniversary of the murder of James Chaney, Andrew Goodman, and Michael Schwerner. These three courageous young men gave their lives trying to guarantee the rights of all Americans and to put a stop to the historic legacy of racial injustice.

Mr. Speaker, the unselfish, brave acts of Chaney, Goodman, and Schwerner, and countless other heroic, nameless Americans were instrumental in the adoption of the Civil Rights Act of 1964 and the Voting Act of 1965. It was through their efforts that equal rights, equal opportunity, and equal justice are guaranted for all Americans, regardless of their race, religion, color, or ethnic background.

Whatever we have achieved, the struggle of these young men has come to symbolize the American dream. The dream that all Americans can fully participate in every aspect of our democratic process and especially in the electoral process.

Mr. Speaker, I invite my colleagues to join me in supporting Senate Concurrent Resolution 40 and to pay tribute to the good that was accomplished 25 years ago, and be reminded that young men and women today are struggling in China, Poland, and Central America to overcome injustice and inequality.

Mr. RIDGE. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The Clerk read the Senate concurrent resolution, as follows:

S. CON. RES. 40

Whereas on June 21, 1964, James Chaney, Andrew Goodman, and Michael Schwerner gave their lives at a young age in an effort to guarantee the rights that are the birthright of every citizen of the United States, particularly the right to vote;

Whereas James Chaney, Andrew Goodman, and Michael Schwerner were part of a movement that helped to achieve the passage of the Civil Rights Act of 1964, the Voting Rights Act of 1965, and other milestones in the progress of this Nation toward achieving the goal of ensuring equal rights, equal opportunities, and equal justice for all;

Whereas during the quarter century after the deaths of James Chaney, Andrew Good-

man, and Michael Schwerner this Nation has benefitted tremendously from the removal of many barriers to full participation by every citizen of this Nation in political, educational, and economic life;

Whereas the lives and resultant deaths of James Chaney, Andrew Goodman, and Michael Schwerner have come to symbolize the dream of brotherhood and sisterhood among citizens of this Nation from all races, religions, and ethnic backgrounds;

Whereas the memory of the struggle of James Chaney, Andrew Goodman, and Michael Schwerner and the sacrifice of such men will encourage all citizens of this Nation, in particular young citizens, to be rededicated to the ideas of justice, equality, citizenship, and community;

Whereas the State of Mississippi and the City of Philadelphia, Mississippi, are joining with citizens from throughout this Nation to commemorate the contributions that James Chaney, Andrew Goodman, and Michael Schwerner made to this Nation; and

Whereas the lifework of James Chaney, Andrew Goodman, and Michael Schwerner remains unfinished until all barriers are removed that bar the full participation of every citizen of this Nation in the democratic process of this Nation, especially in the electoral process: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That—

(1) June 21, 1989, is designated as Chaney, Goodman, and Schwerner Day,

(2) it is the sense of the Congress that the Voting Rights Act of 1965 has helped to fulfill the promise of democracy in this Nation, and

(3) the Congress reaffirms the goal of removing remaining barriers to full voter participation in this Nation.

The Senate concurrent resolution was concurred in.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. SAWYER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the joint resolutions and the Senate concurrent resolution just considered and adopted.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

U.S. ALTERNATIVE FUELS COUNCIL MEMO NO. 62089: AMERICANS DESERVE CLEAN AIR

(Mr. ALEXANDER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ALEXANDER. Mr. Speaker, addressing the House today as a member of the U.S. Alternative Fuels Council, I wish to focus the attention of the House on an article that was published in the opinions section of the Washington Post on Sunday under the heading of "Environment."

It points out the numerous options that Americans have for cleaner air. I learned just the other day that one out of every 4 Americans has someone in their family who suffers from a disease caused from breathing harmful air. More than half of the people in America live in areas where breathing is hazardous to their health. It is a very serious problem. This article points out the numerous options that we Americans have under present technology, to breathe cleaner air.

The options include cutting industrial energy comsumption. The article points out that U.S. industry uses twice as much energy for unit of production as its Japanese counterpart.

I applaud the leadership of the President and the Congress and of my friend, the gentleman from Indiana [Mr. SHARP] for giving to the American people the leadership they need now in order to provide for cleaner air.

Mr. Speaker, I include the article in the RECORD for the benefit of my colleagues;

[From the Washington Post, June 18, 1989]

WHY WAIT 20 YEARS FOR CLEAN AIR?

(By Cutis A. Moore)

After months of staff tinkering with one part here and another there George Bush last week unveiled his vehicle to "put America on the path toward markedly cleaner air." What he revealed was the energy and environmental equivalent of a 1964 Rambler, a great car, but way behind the times.

In his quest to "harness the marketplace" in the cause of clean air, Bush overlooked the many businesses which not only have been in the traces for two decades—but have developed the horsepower to clean up America's air—and fast.

Bush's proposal would have America wait until well into the next century for clean air. Why wait, when:

General Electric markets gas-fired turbines for generating electricity that reduce air pollution by between 50 and 99 percent compared to present coal-burning power plants.

Asea Brown-Boveri, the world's largest electric engineering company manufactures and sells a power plant system which, when coupled with other practice, nearly triples efficiency while cutting every air pollutant by 60 to 90 percent.

Toyota, Volvo, General Motors and most other auto markers have designed or built cars that get better than 60 miles on a gallon of fuel in city driving.

Most people think of these technologies as strategies for dealing with the pollutants which cause global warming. Although Bush was addressing more conventional threats such as smog and acid rain, again—why wait? These technologies can not only slash pollution, but lessen America's dependence on foreign oil which, in turn, would improve the trade imbalance. They also bring humanity close to the dream of high productivity coupled to zero pollution.

Germany Japan, Sweden, Switzerland, Austria and many other nations are in the forefront of adopting these and other technologies although, ironically, many are made-in-the-U.S.A. systems.

For example, the heart of a massive 2,000-megawatt power station in Futtsu, Japan which is one of the world's cleanest and most efficient power plants is a turbine set made by General Electric in Greenville, S.C. For almost 10 years none of these were installed in the United States because of federal regulatory constraints imposed in the wake of the natural-gas crisis of the '70's. And even today no U.S. plant achieves pollution levels as low as those at Futtsu.

THE FUTURE IS NOW

Such turbine systems are merely one of a burgeoning array of high-efficiency, low-pollution advances spawned by environmental and energy concerns of the mid-1970s. Collectively, they could form the basis of "a sort of second Industrial Revolution, comparable in importance and impact to that of two centuries ago," says William R. Moomaw of the World Resources Institute, an environmental think tank in Washington.

Consider the following:

Cleaning up King Coal. The dirtiest of fuels, coal causes acid rain—a primary focus of Bush's program—along with global warming and smog. To curb acid rain, Bush would cut sulfur dioxide from coal-burning 10 million tons by the year 2000, primarily by encouraging utilities to switch from high-sulfur Eastern coal to the cleaner Western product. He provides room for new technologies by giving utilities which use them until 2003, three extra years to comply.

The plan meets the requirements of most acid rain-control advocates by curbing sulfur. But it does little to control oxides of nitrogen (which in addition to acid rain also help produce ozone, or smog) and nothing to reduce carbon dioxide (like nitrogen oxide, a primary "greenhouse" gas) or the many other pollutants spewing from power plants, including toxic metals such as mercury.

Yet the means exist to eliminate the vast majority of all coal's pollutants, not just sulfur dioxide. Most of them will also slash fuel consumption—some by so much that they might actually reduce the cost of electricity. Those options include:

Fluidized-bed combustion. In normal coal-burning power plants, two-thirds of the energy goes straight up the smokestack in the form of heat and unburned fuel. With fluidized-bed combustion, massive fans keep powdered coal suspended in midair so it burns cleaner—with less energy lost. The major pollutants—oxides of nitrogen and sulfur dioxide—can be reduced sharply in the process, in part because the combustion temperature is lower.

Plants employing this technology are already operating around the world, and in Stockholm a facility using a variant called pressurized fluidized bed, is now being built to achieve an anticipated efficiency of 85 percent by capturing waste heat. It will emit one-tenth the sulfur dioxide that new plants are permitted in the United States and one-sixth the oxides of nitrogen.

Integrated gasification-combined cycle. This technology combines two concepts. First, coal is turned from a solid into a gas, removing much of the sulfur in the process. Second, the gas is used to run two turbines, one powered by the hot combustion gases, the other by steam—a concept akin to using gasoline to power your car's engine, then harnessing the tailpipe exhaust to run another machine.

At a plant on the edge of the Mohave Desert, Southern California Edison in partnership with Texaco and three other companies has already used the process to burn some of the highest-sulfur coal in the United States while sharply curtailing air pollution.

Add-on cleaners. Specific pollutants can be reduced even further with add-on pollution-control devices. Many more power plants could be equipped with "scrubbers" to remove sulfur dioxide. "Selective catalytic reduction" (SCR) works like the catalytic converters in automobiles, routing gases through chemical compounds which combine with the pollutants to convert them to less harmful substances. SCR systems, which are installed on hundreds of German, Japanese and Austrian plants, but on almost none in the United States, can reduce oxides of nitrogen by 80 to 90 percent at an added electricity cost of roughly 4 percent, according to equipment manufacturers and some Japanese utility companies. Yet the president's proposal does not explicitly require any of these add-on controls.

President Bush in effect endorsed greater use of these add-on controls for cars when he called for tightening the tailpipe-emission standard for oxides of nitrogen by 30 percent. But he refused to alter the federal requirement to the level now required by the nation's largest state, California, on the grounds that only selected cities would require it. Meanwhile, California officials are considering raising their standards by another 50 percent.

Switching to natural gas. Natural gas emits only half the carbon of coal, none of the sulfur and less nitrogen. Thus converting to natural gas, where possible, would substantially reduce unwanted greenhouse by-products.

More importantly, using gas also enables utilities to turn to new energy-efficient plants and to super turbines adaptable to various fuel sources. GE actually markets two different types of "super turbines": the large "combined cycle" versions used at the Futtsu plant and, developed more recently, others that are literally jet engines bolted to the ground: instead of powering Boeing 747s, they generate electricity.

Both types already turn 47 percent of their fuel into electricity (today's best conventional coal-fueled plants reached only about 38 percent). On paper the large turbines should be able to achieve over 50 percent fuel-to-electricity efficiency and the smaller ones—fasten your seat belts—60 percent.

"Mining" energy through conservation. Conservation measures can be imposed both where electricity is made and where it's used eliminating pollution in the process. According to the Lawrence Berkeley Laboratory, one-third to one-half of U.S. electricity—enough to displace all the coal-fired power in the country—could be conserved. How? Hundreds of ways.

Experts say that simply switching to one of the new high-efficiency light bulbs made by the Philips Lighting Co. can save so much energy that it avoids the burning of 300 pounds of coal over the bulb's multi-year lifetime. Window films can be used to screen out the sun's heat, lowering cooling costs; furnaces and air conditioners up to 50 percent more efficient than those customarily installed in even the newest homes are also available—not tomorrow, but today.

Tapping electricity from fuel cells. Conventional power plants make steam to spin turbine blades that generate electricity. Fuel cells have no gears to grind) and thus do not waste energy like mechanical systems because they convert fuel to electricity chemically, somewhat like batteries. Hundreds of small-scale versions—each about the size required to power 25 homes—already exist, and larger versions are under construction. Fuel cells now power submarines, the U.S. space shuttles and even some military installations in remote areas. Fuel cell technologies now approach 45 percent efficiency, and Westinghouse and other manufacturers say that 70 percent is achievable.

Heat generated as a by-product can also be harnessed for co-generation applications—something Japanese utilities are planning to do. Once again, this made-in-America technology is being developed commercially not in the United States, but Japan.

One kind of fuel cell, which uses phosphoric acid, has been used to run a power plant in Tokyo that produces 4.5 megawatts—enough electricity to support about 5,000 people. An 11-megawatt plant is also under development in Tokyo. The manufacturer's location: Connecticut.

Producing safer nuclear power Although nuclear plants produce electricity without conventional air pollution, they raise other fears. However, living with the risks of nuclear plants designed and developed in the 1960s and '70s is not the price which must be paid for this power source.

Nuclear plants approaching absolute safety—so-called "inherently safe" designs because they shut themselves down through the operation of laws of nature rather than human intervention—are designed and ready to be built. James Asselstine, a member of the U.S. Nuclear Regulatory Commission for five years, and an outspoken critic of the U.S. nuclear industry, says such designs provide margins of safety so great that "I think we can get reactor safety to the point where the possibility of an accident would cease to be a real concern."

Hydrogen-based fuels. Hydrogen is the cleanest of all fuels. An energy-rich gas, it can be burned in cars, power plants or even home furnaces to produce only energy and pure water. Hydrogen, now usually derived from natural gas, may soon be available in large quantities from electrolysis—that is, decomposing water into hydrogen and oxygen by passing an electric current through it. Solar power, which is on the verge of becoming economically competitive, might also be used to break the water down. And hydrogen may also be obtainable cleanly and efficiently from coal, according to Meyer Steinberg of Brookhaven National Laboratory. Some German firms already refine coal to produce pure carbon, giving off hydrogen-rich gases in the process. Switch the emphasis on the end products, and it becomes a hydrogen plant.

Building cleaner cars. Cars and trucks consume so much fuel that an increase in average U.S. auto mileage of just one mile per gallon would reduce carbon dioxide emissions by about 40 billion pounds per year. That's the rough equivalent of closing six coal-fired power plants.

Volvo has a crashworthy 65 mpg. (city)/83 mpg (highway) car that holds four, and Toyota's done better: 100 mpg. Both employ clean-burning, highly efficient diesel engines, aerodynamic designs and weight reductions. Deborah Bleviss, an auto analyst and author, concludes that U.S. cars averaging 45 miles per gallon are "realizable from the manufacturers' perspective" within 10 years.

SQUANDERING OUR SALVATION

If so much is at sake and so many solutions are availble to us, then why is so little being done?

The short answer is dollars. "In the language of Washington," writes journalist William Greider, "the environmental debate is just another argument over money." The same is true in many other countries as well. Power companies sell electricity—marketing less of it certainly won't improve profits. Car companies sell autos—and the profit on gas hogs is higher than that of gas misers. And solar cells, which run forever, certainly don't bring the profit of oil tanks that must be continually replenished.

It is here that Bush's proposal falls shortest, for it patches the same old tire. It relies on the technologies and practices of the 1960s, when what the United States requires are those of the 1980s and '90s. In fairness, it appears that Bush's staff never presented him with the option of embracing such a forward-thinking program. They failed for the same reason as the many who preceded them. In an era when, as a 1985 statement by a worldwide gathering of atmospheric scientists warned, "humanity is conducting a gigantic experiment with Earth's future without knowing the outcome," staff arguments were reportedly about costs, not the fate of the human race.

There is a natural tendency to confuse change with sacrifice, and Americans depend on political leaders to point the right direction—to exercise "the vision thing," as Bush called it after the NATO summit.

There he stepped out from his staff to almost universal acclaim as a world leader. He could do so again with respect to air pollution. The means exist to propel humanity into a bright new future. But doing something always appears to cost more than doing nothing, and doing a little looks cheaper than doing more. Unless Bush intervenes personally the government's decision-making will continue to be driven—first by science, then by business and finally by government—toward the status quo.

We will continue risking our lives, our future, and our children rather than our dollars.

MAKING WASTE WORK

(By Curtis A. Moore)

Power-plant energy savings can be achieved through cogeneration, which involves putting heat that would otherwise be wasted to some use, such as warming homes, offices and apartments, or even running manufacturing processes such as those in paper and chemical plants.

For example, a paper mill uses a jet turbine to generate its own electricity, selling the excess to a local power company. The turbine's exhaust heat, ordinarily wasted, is used to make the steam needed to process paper.

Called "district heating" in residential applications, cogeneration is coming into widespread use in California and is already common in Europe. In Stockholm, all of the downtown offices and stores are linked to cogeneration, as well as 80 percent of the central-city homes and 50 percent of those in suburbs. With cogeneration, efficiency routinely rises to 85 pecent in Europe, says Lars Garpas of Stockholm Energy.

TRUTH IN LEGISLATING

(Mr. STENHOLM asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. STENHOLM. Mr. Speaker, one of the great differences between our form of "For the People" government and most others throughout history is that we believe our citizens have a vital right to know what their government is doing. Indeed, some of the greatest backlashes against politicians have come when Americans have discovered dishonesty in their leaders.

Increasingly over the past few years, there has been a growing outrage over legislation which contains hidden, individualized tax, and spending benefits. Skepticism about Congress has grown from without and frustration from within over surprises in complex, hurried, omnibus bills.

That's why on Tuesday of last week, 61 of my colleagues and I introduced House Resolution 172, a truth-in-legislating resolution which would provide for reasonable disclosure regarding legislative provisions that confer special benefits on a few, specially targeted beneficiaries.

Concern about ethical, open behavior is also why last week the chairman of the Senate Finance Committee, our senior Senator from Texas, put his committee members and the entire Senate on notice that the days of hidden goodies are over.

I urge my colleagues to take a careful look at my resolution and to show their constituents that they, too, care about a more responsible behavior of their Congress.

I submit for the RECORD a copy of the language of the truth-in-legislating resolution, as well as a summary of the bill.

H. RES. 172

Resolved,

SECTION 1. SHORT TITLE.

This resolution may be cited as the "Truth in Legislating Resolution".

SEC. 2. IDENTITY, SPONSOR, AND COST OF CERTAIN PROVISIONS REQUIRED TO BE REPORTED.

Clause 4 of X of the Rules of the House of Representatives is amended by adding at the end thereof the following:

"(j)(1) Except as provided by subparagraph (2), the report or joint explanatory statement accompanying each bill or joint resolution of a public character reported by a committee or committee of conference shall contain, in plain and understandable language—

"(A) an identification of each provision (if any) of the bill or joint resolution which benefits only 10 or fewer beneficiaries in any one of the following categories: persons, corporations, partnerships, institutions, organizations, transactions, events, items of property, projects, civil subdivisions within one or more States, or issuances of bonds;

"(B) the name of each beneficiary of such provision;

"(C) the name of any Member or Members who sponsored the inclusion of each such provision and an indication of each such provision requested by any agency, instrumentality, or officer of the United States; and

"(D) an estimate by the Congressional Budget Office or the Joint Committee on Taxation, whichever is appropriate, of the costs which would be incurred in carrying out such provision or any loss in revenues resulting from such provision for the fiscal year for which costs or loss in revenues, as the case may be, first occurs and each of the next 5 fiscal years.

"(2)(A) Subparagraph (1) shall not apply with respect to any provision of a bill or joint resolution or of a conference report on a bill or joint resolution if the beneficiary of such provision is the United States or any agency or instrumentality thereof.

"(B) Subparagraph (1)(D) shall not apply with respect to any provision of a bill or joint resolution or of a conference report on a bill or joint resolution if the costs which would be incurred in carrying out such provision or any loss in revenues resulting from such provision are identified clearly in the report or joint explanatory statement accompanying such bill or joint resolution.

"(3) It shall not be in order to consider any such bill or joint resolution in the House if the report or joint explanatory statement of the committee or committee of conference which reported that bill or joint resolution does not comply with subparagraph (1). The requirements of subparagraph (1) may be waived only upon a separate vote directed solely to that subject.".

SEC. 3. EFFECTIVE DATE.

The amendment made by section 2 shall apply to bills and joint resolutions reported after the date of the adoption of this resolution.

EXPLANATION OF TRUTH-IN-LEGISLATING AMENDMENT TO THE RULES OF THE HOUSE

PURPOSE

To increase the confidence of the public—and of House Members—in the House as an open and democratic institution by ensuring that any legislating which could be inferred—fairly or unfairly—to benefit unusually narrow interests be conducted openly and "in the sunlight" of adequate disclosure.

THE PROBLEM

A public uproar followed as the press and some Members identified numerous provisions in the 1986 Tax Reform Act, 1987 Reconciliation bill, and 1987 Continuing Resolution that they felt benefitted narrow interests and some Members' special constituencies. While some of the wrangling has been simple politics, the outrage communicated to many Members by constituents and the press has been genuine and understandable.

Congress has the constitutional responsibility to provide for the general welfare of the nation. This frequently and justifiably involves funding a project or conferring a tax benefit that affects an individual or a limited class of beneficiaries. However, the more this process is shrouded in obscure language or inserted outside the public view of regular committee or floor work, the more the public views Congress cynically and assumes that the legislative process is of, by, and for a privileged few.

THE SOLUTION

The correct response to this situation should be measured, not an overreaction. It should take into account the legitimate ends that narrowly-drawn provisions can and do serve. It should prevent abuse, without creating undue obstacles to lawmaking. It should provide certainty to Members and the public, without being legalistic.

The solution is simple, adequate, and routine public disclosure of who benefits and how, when beneficial legislative provisions are narrowly drawn. In short, the public's confidence in Congress—and Members' comfortableness with the process—will be most enhanced when the public sees we have nothing to hide.

SUMMARY OF TRUTH-IN-LEGISLATING AMENDMENT

Amends Rule X, Clause 4, Rules of the House of Representatives.

Triggered when a provision of spending or tax legislation directly benefits ten or fewer beneficiaries.

When triggered, would require the name of each beneficiary, cost of the provision, and Member(s) sponsoring or Administration agency/officer requesting the provision, to be disclosed in the committee report accompanying the legislation (or joint explanatory statement accompanying a conference report).

Disclosure is required in plain and understandable language.

Any legislation not complying with these requirements would be subject to a point of order, which may be waived only upon a separate vote directed solely to that subject.

Provisions directly benefitting an agency or instrumentality of the federal government would be exempt.

OTHER COMMENTS

This proposal is the result of painstaking drafting and review and discussion with a variety of Members. it is not accusatory or punitive but, in response to public and Member sentiment, sets up a simple standard of operating above board.

The definition of a "beneficiary" is sufficiently broad to avoid loopholes, while the standard for disclosure is modest and the federal government exemption would prevent burdensome or repetitive reporting. For example, an appropriation to the Urban Development Action Grant program would not trigger a Truth in Legislating disclosure. However, a legislative provision earmarking UDAG funds for projects in one city would be disclosed. Such a provision might trigger the addition of no more than a single line in the committee report.

A Federal government exemption recognizes that Congress is supposed to be in the business of funding the government, such funding tends to be sufficiently identifiable, and such provisions are extremely numerous.

All that is sought is for someone to be on record and responsible when an unusually small, limited class receives a financial benefit via legislation. In fact, it is easy to imagine many instances when Members would want to take the credit for securing funding for a local project or a tax break for a worthy, local undertaking.

The goal is improving public and Member confidence in the House. The means is merely accountability and openness.

BENTSEN WARNS TAX LOBBYISTS

(By Paul Blustein)

In a move partially motivated by the new ethics atmosphere on Capitol Hill, Senate Finance Committee chairman Lloyd Bentsen (D-Tex.) said yesterday that he plans to make life more difficult for tax lobbyists seeking special-interest provisions from this committee.

Bentsen said he intends to eliminate much of the secrecy and favoritism surrounding the granting of so-called transition rules, which are tax breaks usually designed to ease the impact of a tax-law change on a particular company or individual. Bentsen

said he plans to publicize the beneficiaries of such rules, and to end the practice under which the rules are written to apply to a particular taxpayer.

Bentsen's initiative could put a damper on a widely criticized tradition in which members of Congress's tax-writing committees slip obscure provisions into tax legislation to benefit wealthy or well-connected constitents.

"This will slow [the practice] down very substantially," Bentsen predicted at a meeting with a small group of reporters.

Bentsen said transition rules are often justified because taxpays are unfairly hurt by a sudden shift in tax law. "But in years past, it has been the tradition to do them for individuals and individual companies. Now that I have the responsibility of the chairmanship, I want to change that," he said. "It's a matter of fairness and equity."

The Texas Democrat said he wants transition rules to be written "generically," so that they apply to all affected taxpayers, rather than to one in particular.

And he vowed that, as much as possible, he would provide the press with lists of beneficiaries of proposed rules. Lawmakers typically use obfuscatory language to disguise those for whom they are doing favors; one provison in the Tax Reform Act of 1986, for example, referred to "Property with respect to which the Board of Directors of an automobile manufacturer formally approved the plan for the project on Jan. 7, 1985." It was a break for General Motors Corp.'s high-technology Saturn plant in Spring Hill, Tenn., quietly inserted by House Ways and Means Committee chairman Dan Rostenkowski (D-Ill.).

Similary, the 1986 law allowed tax-exempt bonds to be issued by a city where an urban renewal plan "was adopted or ordered prepared before Aug. 28, 1986, by the city council of the most populous city in a state which entered the union on Feb. 14, 1859." The city was Portland, the state was Oregon, home of then-Senate Finance Committee Chairman Bob Packwood (R).

Bentsen sent a letter to committee members detailing his position, and he said that on the basis of a few conversations he has had, he expects to win their support.

However, he said he hasn't discussed the issue with Rostenkowski. A Ways and Means spokesman declined to comment on whether Rostenkowski would follow Bentsen's lead.

On another tax matter, Bentsen indicated that he and Rostenkowski may differ over how to respond to President Bush's proposal to cut the tax rate on capital gains.

In their broad approaches, the two Democratic tax-writers share the same strategy. Rostenkowski recently joined Bentsen in saying that he is willing to consider a tax cut on capital gains—the profits on the sale of stocks and other assets. Both men also assert that there would have to be some offsetting tax increase on upper-income taxpayers, who would benefit disproportionately from a capital-gains tax cut.

But Bentsen said he doesn't share Rostenkowski's view that the offset must consist of a rise in the top income-tax rate. "We're not going to touch the rates at this point, with the president's position being what it is," he said. Asked what he would favor doing in lieu of an income-tax rate increase, Bentsen smiled and said he didn't want to tip his hand.

Bentsen also said he would resist a proposal reportedly favored by Rostenkowski that would reduce the capital-gains rate only temporarily, for a year or so. "It's an easy way to raise a bunch of money in a hurry," he said, referring to the probability that investors would rush to sell stocks to take advantage of lower rates. But it's "bad tax policy . . . it's gimmickry."

Bentsen warned that if the administration doesn't negotiate a capital gains compromise that is acceptable to Democrats, his committee may fail to approve any tax or budgetcutting legislation this year. That would raise the possibility that an across-the-board spending cut may be required by the Gramm-Rudman-Hollings laws. Bentsen said he hopes to avoid such a development, but added: "I can imagine tax legislation worse than that."

□ 1230

PRAISE FOR PRESIDENT BUSH'S FIGHT AGAINST ACID RAIN

(Mr. BOEHLERT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BOEHLERT. Mr. Speaker, 1 week ago today President Bush proved to the American people that he is determined to be the environmental President. Since that time we have witnessed all over America, from all sectors of our economy, near-unanimous applause for George Bush's determination to put an end to the scourge of acid rain, that cancer in the sky that does so much damage to America.

Mr. Speaker, President Bush is making believers out of some past doubters. In this very body we have witnessed one after another, Democrat, then Republican, stand up to praise the President in his fight against acid rain.

Just last Friday in the New York Times a columnist, for whom I have great respect, Tom Wicker, who has not always been a cheerleader for George Bush, made this observation in a column headline: "Who Will Stop the Rain?" He said, "President Bush had made an important and innovative proposal that, if pressed, could eliminate the virulent effects of acid rain by about the end of the century." Mr. Wicker concluded his column by saying, "It's long past time to update a Clean Air Act that hasn't been changed since 1977. Mr. Bush's acid-rain and other clean-air proposals give Congress a real incentive to get on with the job."

Mr. Speaker, once again I stand here to praise President Bush for his determination in his effort to tackle the problem of acid rain, and I challenge my colleagues in the Congress to join with us in this worthy fight.

[From the New York Times, June 16, 1989]

WHO'LL STOP THE RAIN?

(By Tom Wicker)

ROCHESTER, VT.—Acid rain is reported by scientific observers to have turned the top of Camel's Hump, this state's highest mountain, into a "moonscape." On a recent fishing trip to heavily forested Quebec, even an unscientific observer saw enough blighted trees to raise the hackles on his neck.

Polluted air did not cause all the damage, and certainly not a disappointing catch; cold, rainy weather was mostly responsible for the latter. It was nevertheless consoling to emerge from the woods and find that President Bush had made an important and innovative proposal that, if pressed, could eliminate the virulent effects of acid rain by about the end of the century.

After eight years of do-nothing Reaganism, and Mr. Bush's indecision in most other areas, that's something to cheer about. In the first place, he demanded a greater reduction of sulfur dioxide emissions—10 million tons, about half the total, over 10 years—than had been expected, or than industry and his budgetary advisers wanted. Two million tons of oxides of nitrogen emissions would be eliminated in the same decade.

In the second place, Mr. Bush adopted a scheme devised by the Environmental Defense Fund that will cut the cost of the reductions, permit the industries affected greater flexibility in meeting the requirements, and adapt market principles to good public policy. Had it not been for these innovations, it's reported, the Office of Management and Budget would have rejected the vital 10-million-ton goal as too costly.

The Bush plan, owing to these features, will be far cheaper than one proposed last year by Senators George Mitchell of Maine and Robert Byrd of West Virginia, the new and old Democratic majority leaders. They would have forced polluting utility plants to install expensive "scrubbers" to cut harmful emissions; the costs surely would have been passed to the ratepayers.

Mr. Bush would allow these plants—107 of them, in 18 states—to install scrubbers, switch to lower-sulfur coal, adopt suitable new technologies, encourage consumers to cut back on use of electricity, or employ any combination of these ideas. The costs to some of these utilities could be cut, moreover, by allowing them to sell so-called "pollution rights."

The term is somewhat misleading but likely to stick. If one plant cut its emissions of pollutants more than required, it could sell the overage to another plant; the buying plant then could subtract that amount of emissions from the reduction it otherwise would be required to achieve. The total reduction required by the Bush plan would remain the same, but the selling plant could reduce its costs by the amount obtained from a buyer; and the buyer also might save money by having to reach a lower reduction goal.

This is not exactly a "pollution right" or a "license to pollute" because the required total reduction of emissions still would be achieved. The burden of achieving the total, however, could be shifted, for a fee, among the polluting utilities; and their political resistance to reducing emissions might be substantially lessened by the flexibility and the cost-recovery possibilities allowed by Mr. Bush's proposals. Increased rates to consumers still are inevitable; but they should be less than if all polluters were required to install scrubbers.

Stiff opposition is to be expected, certainly from states producing high-sulfur coal. Their representatives, like Mr. Byrd, will push for required scrubbers, in order to avoid a wholesale shift to low-sulfur coal—an option offered by the President that many plants are likely to take up. Some con-

sumer and environmental groups and others critical of business may fight the idea that "a license to pollute" can be purchased.

Legislation to codify Mr. Bush's proposals, not yet written, also will need to foreclose at least two critical loopholes:

Constant monitoring of smokestack emissions from all 107 of the affected utilities will be required to see that the reduction goals are being met, and to maintain public confidence—particularly in the "pollution rights" plan.

As demand for electricity grows and new utility plants come on line in the future, their emissions will have to be controlled and factored into the permitted total.

No doubt there will be other objections, some legitimate; but it's long past time to update a Clean Air Act that hasn't been changed since 1977. Mr. Bush's acid-rain and other clean-air proposals give Congress a real incentive to get on with the job.

TRIBUTE TO THREE COURAGEOUS MEN

Mr. LIPINSKI. Mr. Speaker, I rise today to honor the United States of America. I do this by paying tribute to three courageous men and the movement of which they were a part.

On this week in 1964, James Chaney, Andrew Goodman, and Michael Schwerner were brutally murdered for their participation in the "Freedom Summer" in Mississippi. They were deprived of their precious lives for their hope that nonviolent action would quench the burning hatred of racial intolerance and tragic ignorance. In death, however, they sparked the fires of moral indignation in a nation which is built upon the foundation of equality and justice.

From the bombings in Birmingham to the assassinations of John F. Kennedy and his brother Bobby, death seemed to be a part of a violent age in which racial hatred abounded. Yet, these men were but one part of an America which was experiencing growing pains. They were part of a maturing process in a nation which could no longer sustain the childish argument of separate but equal.

While the death of these young men is a shocking reminder of the injustices which existed in our Nation, the reaction to their deaths is a testament to the justice which is preeminent in our national character. Their lives were not wasted. For, they presented to America a picture of itself which it was not willing to tolerate. Their personal tragedy brought forth an understanding in this Nation, that we can never truly be one people until we administer with an equal hand all the principles upon which this Republic is founded.

We, as a nation, have made great strides since the deaths of Mr. Goodman, Mr. Chaney, and Mr. Schwerner. Yet, we cannot forget their sacrifice and their cause. As legislators we have a solemn duty to stand by the principles for which these young men fought, and we must demand of ourselves, our President, and our courts and adherence to the spirit of the movement of which they were a part. If we do not, we will surely fall victim to the crime of complacency.

I have confidence that the people of the United States have pride in their heritage and their Nation. And with such pride, we may all work together to create a nation and a world which takes no account of a person's beginnings. It is incumbent upon us to apply strict scrutiny upon all forms of racial, ethnic, and religious intolerance and to work toward achieving the goals for which Goodman, Chaney, and Schwerner died. We must remember, in the words of the great Justice John Marshall Harlan, that "there is in this country no superior, dominant, ruling class of citizens * * * Our Constitution is color-blind and neither knows nor tolerates classes among its citizens. The humblest is the peer of the most powerful."

H.R. 2654, THE TAXPAYER AND ENVIRONMENT PROTECTION ACT OF 1989

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania [Mr. RITTER] is recognized for 5 minutes.

Mr. RITTER. Mr. Speaker, central goals of public policy these days are keeping taxes down, reducing the Federal deficit as well as the trade deficit, and improving our environment via cleaner energy production.

Sadly, New York State Gov. Mario Cuomo is pursuing a policy that runs counter to these goals. Specifically, he is pressing ahead with his plan to dismantle the Shoreham Nuclear Power Plant, which will only increase our reliance on imported oil and other fossil fuels. At the same time, to help pay for the plant, the Governor has called for the help of Federal taxpayers—to the tune of a $2.8 billion tax writeoff. With this in mind, I introduced legislation last Thursday that will prevent such ill-conceived action.

Let me explain why. The Shoreham Nuclear Power Plant on Long Island is a safe plant ready to generate 800 megawatts of clean energy that is desperately needed for that region, which currently depends largely on imported oil to generate electricity. The plant cost $5.5 billion and has been granted a full power license by the Nuclear Regulatory Commission.

But instead of starting up this safe, fully licensed plant, the Governor has pressured the owner of the plant into transferring ownership of Shoreham to the State of New York for the nominal fee of $1. The Governor will then have the plant dismantled.

To replace the energy that Shoreham could provide, the Governor, the Long Island Lighting Co., and the New York State ratepayers will have to build new powerplants that burn either oil or gas. Besides costing taxpayers new billions of dollars, such plants emit pollutants that contribute to the current environmental problems, including global warming, acid rain, and smog.

All this while we're in the throes of amending the Clean Air Act to provide for a cleaner, higher quality environment. To dismantle Shoreham defies common sense.

This is not all that's wrong with the plan to dismantle Shoreham. To pay for the plant, Governor Cuomo has called for the participation of Federal taxpayers. That's right. Taxpayers from Alaska to Florida, from Rhode Island to California, will suffer because the plant's owner has been granted a $2.8 billion tax break. In other words, the pressure to raise taxes in this period of unprecedented deficits will rise because $2.8 billion will be lost to the Federal tax rolls. This does not include the additional losses that may be incurred through the use of Federal tax exempt bonds for the purposes of dismantling the plant.

The plan to dismantle the Shoreham Nuclear Power Plant clearly contradicts abiding concerns to reduce the budget and trade deficits and clean up the environment. Given all of that, Congress should do its best to ensure that the plan never comes to fruition * * * at least not to have the American taxpayers participate in the folly.

Accordingly, I've introduced legislation which would help protect our environment and ensure that Federal taxpayers are not saddled with the cost of dismantling Shoreham. My bill, the Taxpayer and Environment Protection Act of 1989, would work to block the dismantling of Shoreham by disallowing the $2.8 billion Federal tax writeoff on the grounds that the plan to dismantle Shoreham cannot be regarded as a legitimate form of abandonment. The bill also repeals the authority of the Long Island Power Authority to issue Federal tax exempt bonds that would be used to acquire and then dismantle the plant.

In closing, if the State of New York wishes to do away with nuclear power, we can say they are making a great mistake. But to have the Federal Government assist in paying for the dismantling of Shoreham does great disservice to environmental cleanup and the American taxpayer—not to say anything about rational energy policy, meaning reduced dependence upon foreign oil.

I urge my colleagues to cosponsor my bill, H.R. 2654, the Taxpayer and Environment Protection Act of 1989.

CONGRESS MUST PREVENT THE DISMANTLING OF SHOREHAM

Mr. Speaker, as we struggle to keep taxes down, reduce the Federal and trade deficits, and preserve our environment, the Governor of New York is pursuing a policy contrary to our efforts. Specifically, he is pressing ahead with his plans to dismantle the Shoreham Nuclear Powerplant on Long Island. This will only make our job of governing more difficult.

Why? First, to replace the energy Shoreham would have provided for that region, either oil- or gas-burning plants will have to be built, which will

cost taxpayers billions of dollars. Such plants emit pollutants that cause acid rain, global warming, and smog.

And second, the dismantling of Shoreham runs counter to our tax policy. Through the Governor's efforts, the owner of the plant (the Long Island Lighting Co., or "LILCO") has been granted a $2.8 billion tax break for this year by the Internal Revenue Service. This means the pressure to raise taxes will increase because $2.8 billion will be lost to the Federal tax rolls.

Given that the dismantling of Shoreham is wholly inconsistent with our Nation's tax, energy, and environmental policy, Congress should prevent Governor Cuomo from dismantling Shoreham. Accordingly, today I have introduced legislation which will protect Federal taxpayers from having to share the bill for dismantling Shoreham.

There are two sections to my bill. The first section disallows LILCO's $2.8 billion tax write-off by amending the Internal Revenue Code of 1986. Specifically, it says: If (A) a taxpayer constructed a nuclear powerplant that was granted a full power operating license by the Nuclear Regulatory Commission [NRC], (B) the taxpayer abandoned the plant (or sold it for a nominal value for the purposes of abandonment), and (C) a State utility regulatory body grants the taxpayer any rate increase directly or indirectly associated with the abandonment (or sale), then the taxpayer would not be allowed to deduct any of the loss sustained because of the abandonment (or sale).

This section of the bill is intended to be Shoreham-specific. Shoreham was recently granted a full power license by the NRC and, under its agreement with Governor Cuomo, LILCO will abandon the plant by selling it to the State of New York for the nominal value of $1. Finally, to keep LILCO solvent, the State of New York will permit LILCO rate relief through guaranteed rate increases of 5 percent a year for the next 3 years. The rate relief is in addition to LILCO's tax write-off.

The second section is intended to induce the Governor to not dismantle the plant. It does so by repealing the authority of the Long Island Power Authority [LIPA] to issue tax exempt bonds. Specifically, LIPA was created by the State of New York in 1986 for the purpose of acquiring Shoreham and then dismantling it. The revenue act of 1987 included an exemption for LIPA that allows LIPA to issue tax exempt bonds in order to acquire Shoreham. LIPA's charter states that it shall never operate a nuclear facility. This means that once ownership of Shoreham is transferred to LIPA, LIPA would be bound to dismantle it.

Section two of my bill would repeal LIPA's authority to issue tax exempt bonds. Section two says that the proceeds from the issuance of tax exempt bonds can be used only to finance the acquisition of a nuclear powerplant that is to remain an operating facility, that is, a facility that is not dismantled. Since LIPA by definition cannot operate a nuclear facility, Governor Cuomo would have to transfer ownership to another public entity that could not dismantle the plant, whereby the plant would remain operable.

The effective date for both of these sections is all abandonments (or sales) after February 27, 1989. This is a symbolic date because it was on February 28, 1989, that the Governor announced he had concluded an agreement with LILCO to dismantle the plant. Fortunately, there is still time to block the agreement since it does not become official until the shareholders vote on the agreement on June 28, 1989.

This means Congress still has time to thwart the plan to dismantle Shoreham. If we choose to allow the Governor to move ahead, then we have only made our job of reducing the twin deficits, preserving the environment, conducting sound energy policy, and protecting taxpayers all the more difficult. I urge my colleagues to cosponsor H.R. 2654.

Mr. Speaker, I am inserting in the RECORD at this point the text of my bill.

H.R. —

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Taxpayer and Environment Protection Act of 1989".

SEC. 2. DENIAL OF DEDUCTION FOR LOSSES FROM CERTAIN ABANDONMENTS.

(a) GENERAL RULE.—Section 165 of the Internal Revenue Code of 1986 (relating to deduction for losses) is amended by redesignating subsection (m) as subsection (n) and by inserting after subsection (l) the following new subsection:

"(m) TREATMENT OF LOSS FROM ABANDONMENT OF FULLY LICENSED NUCLEAR POWERPLANT.—If—

"(1) a taxpayer constructed or purchased a nuclear powerplant which was granted a full power operating license by the Nuclear Regulatory Commission,

"(2) such taxpayer abandoned such plant (or sold such plant for a nominal amount for purposes of abandonment), and

"(3) a State utility regulatory body permits the taxpayer any rate increase directly or indirectly related to such abandonment or sale,

then nothing in this section or in any other provision of law shall allow a deduction for any loss sustained on such abandonment (or sale)."

"(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to abandonments and sales after February 27, 1989, in taxable years ending after such date.

SEC. 3. LIMITATION ON A CERTAIN TRANSITIONAL RULE.

(a) GENERAL RULE.—Paragraph (3) of section 10631(c) of the Revenue Act of 1987 shall not apply to any bond unless the proceeds from the issuance of such bond are to be used to finance the acquisition of a facility which is to be an operating facility.

(b) EFFECTIVE DATE.—The provisions of subsection (a) shall apply to obligations issued after February 27, 1989.

□ 1410

BANKS, BUYOUTS, AND BAILOUTS—HOW MUCH IS TOO MUCH?

The SPEAKER pro tempore (Mr. CARDIN). Under a previous order of the House, the gentleman from Illinois [Mr. ANNUNZIO] is recognized for 5 minutes.

Mr. ANNUNZIO. Mr. Speaker, on July 25, 26, and 27, the Subcommittee on Financial Institutions Supervision, Regulation and Insurance will conduct hearings on the role of banks in financing leveraged buyouts and on merger activity between banks which are receiving Federal financial assistance. The first issue the subcommittee will consider—leveraged buyouts—has already been the subject of hearings in other congressional committees and will now be examined from the perspective of the financial services industry.

Over the last decade we have witnessed the advent of highly leveraged transactions as a common form of financing corporate takeovers. All such transactions essentially involve the use of debt to purchase stock. Whether it takes the form of an employee stock ownership plan, an outside takeover, or simply the stockholders cashing in their equity, the result is a corporation operating with little capital and little cushion against recession. The borrowers often know in advance that the normal cash-flow of the company will not be sufficient to repay the debt and that it will be necessary to sell assets, lay off workers, or reduce pension funding in order to meet their obligations. Some commentators refer to this as bootstrap financing.

Proponents of leveraged buyouts argue that they increase efficiency by compelling managers to make better use of capital and by giving them a stake in the company. They argue that they are simply holding management's feet to the fire. However, depriving a company of capital seems a peculiar way of encouraging capital investment. As stated by a recent congressional witness on LBO's, this is akin to holding a gun to a driver's head as a means of forcing him to be a better driver.

As of yet, the security of most of these companies has not been tested. Leveraged buyouts are a relatively new phenomenon and have existed in a relatively calm environment. If the analysts have overestimated the resale value of company assets or have underestimated the potential loss of sales from a recession, the corporate structure could prove to be a house of cards. In the words of one humorist, "running into debt isn't so bad, it's running into creditors that hurts." We must at least question the ability of these companies to manage the debt in the event of a nation-

wide or industrywide economic downturn. We must also take a close look at the risk to financial institutions which fund these transactions.

Financial institutions are only as solvent as the businesses they finance. In the wake of the thrift crisis, the United States can ill afford to underwrite the cost of another round of bank failures. In April of this year, the Comptroller of the Currency released a report, "Leveraged Financing and National Banks," which concluded that there is no basis for alarm. The Comptroller stated that the banks surveyed were pursuing well-managed and well-conceived transactions which offer them important business opportunities to make up for the decline in their traditional commercial lending activities. Others, however, including Treasury Under Secretary Robert Glauber, have urged a closer look at the exposure of these banks.

LBO loans are reportedly the most rapidly growing loan category among the money center and regional banks, representing an average of about 4 percent of total loans and one-third of capital at the bigger banks. In some cases, they represent as much as 11 percent of loans and 88 percent of capital. LBO exposure at the 11 largest banks is more than $20 billion, and it is estimated that banks have cumulatively made between $175 billion and $200 billion in total LBO loans. The popularity of these loans is due to the fact that they yield in excess of 500 basis points over the cost of funds, or 2 to 4 percentage points above the prime rate. The high profitability of these loans can only be the result of high degrees of risk.

Supporters of LBO loans defend them on the basis that they are mostly senior rather than subordinated debt, and are secured. They also argue that LBO loans are essential because banks are being squeezed out of the traditional commercial loan market by investment banks underwriting junk bonds, by large corporations turning to the commercial paper market, and by foreign banks taking advantage of lower cost of capital, lower reserve requirements, and greater securities powers. Although these are valid concerns, we must seriously question the ability of banks to manage the risks during periods of possible recession. Furthermore, we need to examine the risk to smaller banks which purchase participations in these loans, often without the ability to diversify.

We should also examine the procedures of banks and regulators for preventing conflicts of interest. Major financiers of leveraged transactions have business relationships with thousands of corporations and individuals. When one of the bank's customers engages in a hostile takeover attempt of another of the bank's customers and seeks to involve the bank, we must be sure procedures exist to avoid abuse of the position of trust.

The second issue the subcommittee will consider is the amount of merger activity between financial institutions themselves and the degree to which it is induced by Federal assistance. Between 1980 and 1984, there were 1,961 bank acquisitions, involving banks with $174 billion in assets. This represents a fivefold increase in banking assets acquired over the 1975 through 1979 period. In 1986, two-thirds of bank executives expected their banks to acquire another institution within 5 years, and one-third expected their banks to be sold during the same period of time. Without passing judgment on the advantages or disadvantages of this activity, I would like to consider the effect which Federal assistance has had in encouraging it.

In February of this year, the Federal Reserve Board denied the application of Continental Bank Corporation and Continental Illinois Bancorp, Inc. to acquire Grand Canyon State Bank, partly on the basis that Continental is the recipient of ongoing assistance from the FDIC. The Board was concerned with the potential for distortion of competition due to the use of government-provided capital in competition with private capital. Grand Canyon State Bank has since failed, and the FDIC estimates it will cost the agency $1.8 million to liquidate the assets. The subcommittee will consider whether mergers of this kind save tax dollars in the long run and, if so, whether the savings justify the distortion of competition.

It is of particular concern when FDIC-assisted institutions engage in hostile takeovers. Although the Federal Reserve Board does not distinguish between friendly and hostile takeovers, we have responsibility to ensure that Government funds serve a public purpose. We also have a responsibility to ensure that industry regulators act impartially. In the context of a hostile takeover, the presence of the FDIC as both owner and regulator of the acquiring institution puts the takeover target bank at a disadvantage. The potential here for distortion of competition is even greater.

On July 25, 26, and 27, the Subcommittee on Financial Institutions Supervision, Regulation and Insurance will conduct hearings on these two issues: Financial institution mergers which are induced by Federal assistance, and the role of financial institutions in funding leveraged buyouts. I should point out that since mergers of financial institutions cannot now be leveraged, as that would violate regulatory capitalization requirements, we are dealing with two separate issues. However, Wall Street firms are reportedly developing the technology that would allow the high yields of leveraged buyouts to be extended to the banking industry, supposedly without the risk of leverage. Therefore, the subcommittee will consider the two issues together in order to ascertain whether merger activity, both within and without the financial services industry, poses a threat to the soundness of our financial institutions and whether legislation should be introduced more closely governing this activity.

THE 600TH ANNIVERSARY OF THE BATTLE OF KOSOVO

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Maryland [Mrs. BENTLEY] is recognized for 60 minutes.

Mrs. BENTLEY. Mr. Speaker, on Friday of this week I will depart for Serbia, one of the six Republics that constitute the nation of Yugoslavia, to be the special guest of His Holiness Patriarch German, the prelate of the Serbian Orthodox Church, at the commemorations of the 600th anniversary of the Battle of Kosovo and the dedication of the Orthodox Cathedral.

The information about Kosovo which I will relate below was gathered from two sources which I will identify at the end.

The Battle of Kosovo began in the early dawn hours of Vidovdan, Saint Vitus' Day, June 28 in the year of our Lord, 1389.

The sultan of the Turks, Murad, fresh from the momentum of previously victorious campaigns in other parts of the Balkans, sought to solidify his foothold in Christian Europe by conquering the last major bulwark of Christian civilization in the region, the Kingdom of Serbia.

The Serbians were led by Prince Lazar, who had been elected to rule Serbia by the nobility and church dignitaries after the fatal battle at Maritsa in 1371 in which King Vukashin and his army perished.

Prince Lazar enjoyed great respect and popularity with his people. He was a pious and charitable man, well-cultured and a skilled warrior in battle.

But as the fateful day approached Prince Lazar was woefully unprepared to meet the Turkish forces in battle, for Murad, the sultan, had given him little time to rally together his troops and vassals.

Nevertheless, ill-prepared as he was, Prince Lazar had no choice but to meet Murad in battle. Murad's military counselors, a group of skilled military veterans of many campaigns, were determined to strike before the Serbians could fully deploy their forces.

Local rivalries and internal strife had already brought down the morale in Prince Lazar's camp, and the Serbians knew from the beginning they could not hope for a victory. But they were determined to fight to the bitter end to defend their homeland.

Sultan Murad led his great army straight toward Lazar's capital at Krushevats. In a bloody battle at the Serbian fortress at Nish the Serbs defended themselves against the Turkish onslaught for 25 days.

After overrunning the Serbian forces at Nish, the sultan pressed on to meet the large Serbian army that Prince Lazar had assembled at Kosovo.

According to Serbian tradition, Murad sent the following message to Prince Lazar as their forces approached one another:

> Oh Lazar, thou head of the Serbians: There was not and never can be one land in the hands of two masters . . . No more can two sultans rule here . . . Come straight to meet me at Kosovo! The sword will decide for us.

On the eve of the battle Prince Lazar met in council with his military

strategists and commanders. Vuk Brankovich, one of those gathered there, said to the Prince, "Fight we may, but conquer we cannot."

Prince Lazar also feared that some of his commanders, the vojvodas, were planning to abandon him, or worse still, turn against him if it looked like the battle was lost.

During that fateful eve of battle, his commanders gathered around him, Prince Lazar took a golden goblet filled with wine and raised it in a toast:

In his toast Prince Lazar appealed to one vojvoda in particular who was known for his prowess in battle: "Do not be faithless, and take this golden cup from me as a souveneir."

To which the vojvoda, that here of Serbian folklore Milosh Obilich, replied: "Oh Tsar, treachery now sits alongside your knee. For thy goblet I thank you. For thy speech I thank you not. Tomorrow, in the battle of Kosovo, I will perish fighting for the Christian faith."

In the early dawn hours of the next day, June 28, 1389, the Sultan Murad succeeded in surprising the Serbian forces by attacking while Prince Lazar and his men were still at prayer in the nearby Samodrezha Church.

It was in this church that Prince Lazar was told that the enemy forces were even then launching their attack against his front lines.

It was then that the prince was also informed that the warrior Milosh, who only the night before had pledged his loyalty to him, and been seen riding out early at the dawn to the Turkish encampment.

Surely Prince Lazar must have recalled the battle summons he had issued to all of Serbia before the battle:

> Whoever born of Serbian blood or kin comes not to fight the Turks at Kosovo, to him never son or daughter born, no child to heir his land or bear his name. For him no grape grow red, no corn grow white, in his hand nothing prosper. May he live alone, unloved, and die unmourned, alone.

Then Prince Lazar blessed his troops and led them into battle. In the early hours of the battle the Serbians, badly outnumbered, fought heroicly; and it seemed for a time they might actually be able to stand against the forces of the sultan.

But both time and fresh troops began to run out on the side of the Serbians, and before long the tide had turned against them and their forces were scattered in disarray.

Prince Lazar, determined to fight to the bitter end, made one last attempt to rally his troops around him and led them in one last, but unsuccessful, attack against the enemy.

Badly wounded and taken prisoner, Prince Lazar saw his army beaten in the field on the same day that the battle had begun.

Serbian legends tell us that as the wounded Lazar was taken to the tent of the sultan, he passed the wounded Milosh, whom he had suspected of treachery.

Only then did Prince Lazar realize, however, that Milosh had not betrayed his prince and his faith. For Milosh had, indeed, ridden into the Turkish camp in the early dawn hours, and gained entry under the pretext of being a Serbian nobleman who wanted to surrender himself to the sultan.

Then, when the presence of Murad, he produced a concealed dagger from his breast and flung it into the abdomen of the sultan, striking a mortal blow.

The dying sultan lived long enough to witness the execution of his foe, Prince Lazar, who gave a final blessing to his nobles and prayed, "My God, receive my soul," as he was beheaded.

The darkness that fell over Serbia that night, Vidovdan in the year 1389, was a darkness that would last for five long centuries.

For the centuries of Turkish occupation that followed the Battle of Kosovo were harsh ones for the Serbian people. During that time the Turkish overlords desecrated the churches, monasteries and sacred shrines of the Serbian Orthodox Church.

Priests and bishops were slaughtered and nuns were dragged out of their convents and put into Turkish harems.

Priceless and irreplaceable works of art, reaching back into the early centuries of Serbian culture were unceremoniously desecrated and destroyed.

The Turks engaged in a systematic and thorough attempt to destroy and wipe from the memory of man the proud Serbian heritage and culture, which had its roots in the missionary efforts of two ninth-century brothers from the Empire of Byzantium, Saints Cyril and Methodius.

Mr. Speaker, although the Serbs were not victorious on those plains of Kosovo on Vidovdan, Saint Vitus' Day, in 1389, Kosovo is at the root of the heart and soul of the Serbian people.

The Serbs heard that call of Christ in the Gospel of Saint John, "Greater love hath no man than this, that a man lay down his life for his friends."

The Serbs poured their last drop of precious blood onto the "Blackbird's Plain," as the site of the battle is today called. The Battle of Kosovo was a test of the Serbian people, and they stood up to that test in the face of overwhelming odds.

For their heritage and faith the Serbian people made the supreme sacrifice, and by their baptism in blood confirmed for all time the significance of Kosovo in the lives and tradition of the Serbian people.

An anonymous poet observes at the end of his poem "The Fall of the Serbian Empire," that in the battle of Kosovo, "Everything was saintly and honorable and pleasing to dear God."

On the field of Kosovo that Vidovdan the Serbs did not find defeat and despair, but rather honor and glory in the eyes of God.

Kosovo represents for the Serbian people a heroic defense of faith, country, and family.

The Battle of Kosovo is an integral part of the spiritual life and faith of the Serbian Orthodox Chruch. Another anonymous poet records the words of the brothers Jugovich in response to their sister Militsa, who begged them not to go into battle with Prince Lazar, for fear they would be killed:

"I am going, my sister to the Plain of Kosovo, to fight with my brethren for the vernerable cross, and to shed my blood for the faith," replied each brother in his turn.

Even to this day, Mr. Speaker, people of Serbian heritage look to the Battle of Kosovo as a monument to all that is holy and sacred in the Serbian tradition, for in Kosovo are the roots of the Servian tradition itself.

Ancient churches and chapels, their walls covered with frescoes of saints who have kept vigilant watch over the Serbian people and land throughout the centuries, testify to the sanctity of this blessed place.

The people of Serbia, to this very day, look back to the Battle of Kosovo and the inspiration for all Serbian accomplishments since.

Today, Mr. Speaker, Serbia is once again a nation that is not free. Ethnic unrest and turmoil has again fallen like a dark shadow over the land in a way that is reminiscent in many ways of the centuries of Turkish occupation.

The Communist Government of Yugoslavia, in an attempt to break the proud will and free spirit of the Serbian people, has allowed the widespread influx of Albanian Moslems into the sacred Kosovo region, to the point where Serbians have become a minority in their own homeland.

Again, Mr. Speaker, Serbian orthodox churches, sacred shrines, cemeteries and ancient monuments are being desecrated. Priests fear for their lives and nuns are afraid to leave their convent walls for fear of being violated.

There is underway today in Kosovo an attempt to eradicate the rich traditions and culture of the Serbian people. Unless we be vigilant now, the complete destruction of a culture and tradition that reaches back a thousand years is in danger of extinction.

It is my hope that the commemorations marking the 600th anniversary of the Battle of Kosovo will bring to the attention of all the world the plight of the Serbian people in their ancestral homeland.

The remains of Prince Lazar, who was beheaded by the Turks and who shed his last drop of blood for his people on the plains of Kosovo, now a saint of the Serbian Orthodox Church, have been returned by the church to the Monastery Ravanica, near the city of Cuprija, which was built by the prince himself.

There the remains of Prince Lazar will be put to rest, in the place where his sons, Stefan and Vuk, originally buried him; a place from which they were moved for safety during the first Serbian Exodus from the southern Serbian lands in the Panonia lowlands by Patriarch Arsenije Carnojevic in 1690.

Mr. Speaker, I ask all my colleagues to take the occasion of the 600th anniversary of the Battle of Kosovo to focus on the human rights abuses being perpetrated against the Serbian people.

I was very pleased, Mr. Speaker, to accept Patriarch German's invitation to be his His Holiness' special guest at the commemorations in Kosovo in the ancient and venerable Monastery Grachaniza.

I would like to share with you today, Mr. Speaker, the words of Patriarch German when speaking about next week's commemoration:

Our unity and our intensified prayers on that day will be directed to the Creator, begging that 600 years of the Serbian sufferings at Kosovo and Metohia finally stop. Pecka Patrijarsija Church, Visoki Decani, a beautiful Gracanica Church, and Martyr Devic are the Serbian Orthodox Churches and Monasteries. Over there are graves and remains of our saints. They are deeds of the Serbian ownership and an undisputed inheritance of the whole Serbian nation.

I would like to call the attention of the House, Mr. Speaker, to two excellent references from which I have compiled a great deal of the information that I have presented to the House today. The first is a very excellent book, "The Saga of Kosovo," written by Alex N. Dragnich and Slavko Todorovich and published by East European Monographs in 1984, that gives a detailed history of the Kosovo region, with its focus being on Serbian-American relations. The second resource is a very excellent article entitled "Does The Plight of Kosovo Trouble Us?" written by Father Mateja Matejic. This article appeared in the May 24, 1989 edition of the American Srbobran magazine and provides an excellent insight into many of the problems facing Kosovo today.

Mr. Speaker on Sunday next, there also will be dedicated in Belgrade the new cathedral of the Serbian Orthodox religion, Uracar, a beautiful edifice whose construction has been underway for decades and which finally is ready to be dedicated. This cathedral has been financed by contributions of Serbian and Serbian descendents throughout the world. Uracar will serve as the centerpiece of the Orthodox religion for decades to come.

□ 1420

TRIBUTE TO THE LATE HONORABLE CLAUDE PEPPER

The SPEAKER pro tempore (Mr. CARDIN). Under a previous order of the House, the gentleman from Florida [Mr. BENNETT] is recognized for 60 minutes.

Mr. BENNETT. Mr. Speaker, though we mourn the death of Congressman CLAUDE PEPPER it is time to rejoice and to celebrate because of his great achievements and contributions. These were contributions not just to his constituents in Florida, but to all our country and to mankind.

His achievements were truly great; in part because he was a man of intellectual excellence, our Nation's finest orator, and a man of integrity and courage. But his most essential quality was his compassion. We are blessed because he lived and gave so generously of his effort to help all in need. Of the letters from my constituents about his death, an eloquent one was from George Bauer, who wrote:

The elderly of this country will surely miss Congressman Claude Pepper. I'm sure there are many elderly in Heaven; and if God ever needs help in looking after them He will call on Congressman Pepper for assistance.

I include at this point an able editorial from the May 31, 1989 edition of the Florida Times Union.

REP. CLAUDE PEPPER ADVOCATED THE CAUSE OF THE COMMON MAN

While U.S. Rep. Claude Pepper, D-Miami, lay ill in Walter Reed Army Medical Center, his room was flooded with cards and letters from well-wishers from around the nation. Many came from people over 65 who make up a growing class of senior citizens for whom the powerful lawmaker had become the recognized champion.

But the image of the Florida congressman, who served as chairman of the House Rules Committee, was epitomized when President George Bush visited his hospital room and in an informal ceremony, awarded Rep. Pepper the nation's highest civilian award, the Presidential Medal of Freedom. The medal's citation called him "the champion of the most vulnerable among us."

Rep. Pepper's concern for the elderly is legend. But that was only part of the story. From the beginning of his long years of public service, he espoused the cause of the underprivileged, which included the poor and the ill as well as older citizens.

His death yesterday at 88 marked the end of a remarkable career in public service. His life started in the Presidency of William McKinley and 16 more presidents were to occupy the White House during Rep. Pepper's lifetime that spanned several generations marked by tides of change and contrast. He was an eyewitness to momentous events that transformed a still-young nation from a relatively unhurried, agrarian society with a bystander's role in world affairs into a society marked by rapid scientific and technological advances and an era that saw assumption of a world leadership role by the United States.

Born an Alabama farm boy in 1900, Rep. Pepper saw his first automobile at age 5; he watched the nation triumph in two devastating world wars, battle to a stalemate in Korea and then suffer humiliation through defeat of its South Vietnamese ally in the Vietnam encounter; he saw his country rise from its economic knees in the Great Depression in the 1930s to achieve unparalleled prosperity in these modern times; he met Orville Wright and welcomed the Apollo crew members from their historic flight into space.

Rep. Pepper often became annoyed that some people in the younger generation believed that the reason he championed the elderly was because he himself was old. That notion stemmed perhaps from the fact that Rep. Pepper, the oldest member of Congress was known as Mr. Social Security and Mr. Medicaid—symbolic of his efforts on behalf of the nation's elderly citizens—and his role in getting a federal law banning forced retirement before age 70. His most recent efforts included long-term health-care legislation.

He had shown an interest in the elderly before he had entered his thirties, long before he went to Congress. At age 28, while serving in the Florida Legislature, Rep. Pepper introduced a bill exempting senior citizens from buying a fishing license. But the elderly were not his lone concern even then. In the U.S. Senate, to which he was elected at age 36, he fought for the nation's first (25-cent) minimum wage in 1938, the same year he won federal assistance for handicapped children. He was among the first to back equal rights and equal pay for women.

"I have prayed many, many long hours . . . for the ability to improve the lives of my fellow Americans," Rep. Pepper said at the hospital ceremonies honoring him. His prayers, as the record well shows, were backed by dedication and tireless work. His life's work crossed and benefitted many generations, and he leaves a legacy that will continue to help people now and in generations to come. For that, we as a nation can be thankful.

Mr. Speaker, I had the greatest privilege when I was in college many years ago, over 50 years ago, to actively support Senator PEPPER in his race for the U.S. Senate. I was truly inspired by his vision for what America could achieve and what mankind could achieve. He never disappointed me. He was a true friend through all the years.

It is a real pleasure to think about Senator PEPPER. He came from Alabama where he was a lad who was born in Alabama and received most of his education there, and a very modest home. His home still stands. I know what it is like to be like Senator PEPPER for I found that portions of life which are similar, included the fact that at one time for a good number of years I lived in a house fairly similar to that of Senator PEPPER. The house I lived in had 1½ rooms. It was a very modest abode.

I understood the feeling of Senator PEPPER in trying to make possible a bright, more magnificent opportunity

for all people. I think he was, first of all, probably interested in all Americans having an adequate education. I was blessed with regard to that opportunity, as was he, because I entered college in 1928. When I entered college, people were very anxious to get people to go to college. I went to the University of Florida. My average expenditure was probably less than $300 a year. Most of it I earned by working on a school farm or in the cafeteria and occasionally I wrote for the United Press and Associated Press.

Senator PEPPER's first campaign for the U.S. Senate was one that ended in defeat. He was not elected, but was really stolen from him by the corrupt practices of one section of the State. I will not mention it, because it was a good section of the State outside of that question of elections. They stole that election from him. However, the man who was elected Senator, shortly thereafter died, and so Senator PEPPER, ran for a vacancy in the U.S. Senate at at time which allowed him to be unopposed. I suppose Senator PEPPER was the only U.S. Senator in history whose first running for the U.S. Senate elected him without opposition.

Senator PEPPER had many ups and downs in his life. We have a tendency, in 1989, to think of Senator PEPPER only as a benefactor of the aged, and most people that wrote to me about Senator PEPPER, write to me that way. However, I was 24 and he was 34 when we launched our political careers about the same time in the State of Florida and he had lots of good ideas, not just help to the elderly as important as that help is.

Mr. Speaker, at this point I will yield to the gentleman from Florida, who represents his constituency very well, Mr. YOUNG.

Mr. YOUNG of Florida. Mr. Speaker, I thank my distinguished friend and colleague, the gentleman from Florida [Mr. BENNETT] for yielding, and applaud him for taking this special order. I am not sure that any Members have the proper words to say about CLAUDE PEPPER, to really express how we feel about him. As Members might expect, being on this side of the aisle, CLAUDE and I did not vote together on an awful lot of times, but we did vote together a lot of times, and we worked together a lot of times, and worked together on matters dealing with the elderly.

However, something that a lot of people are not aware of, we worked together on matters of national defense. The gentleman from Florida [Mr. BENNETT] and I both, our committee assignments here in the Congress put us in the middle of national defense business, and responsible for the security of the Nation. So many times I had the opportunity to talk with CLAUDE PEPPER about national defense issues, and the time he spent in this Congress, in this House, and the times he and I have had an opportunity to talk with each other, I can say that he was committed to a strong America. He was opposed to the expansionistic activities of the Soviet Union. He was opposed to the expansion of communism. He was for a strong, prepared America. I have had many, many conversations with him on those issues, and oftentimes there would be a vote on the floor and he would want to vote the strongest national defense vote that he could vote.

Those are the times we would counsel each other. I am happy to make that point, because there have been times when questions were raised about where Mr. PEPPER stood on some of those issues. My experience has been that he was very, very strong.

I have other comments I want to make about our friend CLAUDE PEPPER, and again I compliment my dear friend and colleague, the gentleman from Florida, the dean of the Florida delegation, Mr. BENNETT for having taken this special order and paying tribute to our dear departed friend.

This Chamber has felt a little bit empty since CLAUDE'S passing last month and even though he will no longer be here in body, his spirit and memory will live on forever. With the death of CLAUDE PEPPER, each of us in this House has lost a good friend and colleague and when we think of CLAUDE a list of beautiful words comes to mind. Adjectives such as distinguished, dedicated, honorable, and statesman.

CLAUDE, however, was not only our friend and it is not only his former colleagues who remember him with beautiful words. CLAUDE was the friend of millions of Americans, most of whom never met him in person. They were his friends because they believed in him and recognized that he was fighting to make their way of life a little bit better.

We are truly fortunate that we had the opportunity to work side by side with CLAUDE PEPPER because the longer you knew him the more you loved him. My first encounter with CLAUDE was nearly 30 years ago when I was a Florida State Senator. He came to Tallahassee to meet with members of the State legislature and speak about events in Washington and issues that he was most concerned about.

Just a few years after that meeting, I had the privilege of being elected to the U.S. House of Representatives, where I was able to work side by side with him to address many areas of concern to the people of Florida we represent and to older Americans, who have lost their great champion. One of the highlights of my congressional career was the approval of my amendment in 1974 to establish the Select Committee on Aging and to see the great work that developed from the committee under his leadership.

We worked together on many successful efforts and we worked together on some noble causes that were not so successful. Our last effort together was an attempt last year to bring before the House legislation to provide home health care coverage for older Americans. Although unsuccessful in our effort, we were able to raise the issue and lay the groundwork for another attempt in this Congress.

Of the many great causes CLAUDE PEPPER took on, perhaps his work to provide home health care is symbolic of his drive, determination, and compassion. Even in the face of opposition from some of the most powerful committee chairmen, he persuaded the leadership to allow him to bring this issue before the House. He was determined to do what he and I believed was right—to provide the most compassionate care available for older Americans. He wanted them to have the opportunity to live out their final days in the comfort of their homes. If there is one way in which we can best memorialize the life of CLAUDE PEPPER it would be to see that this last great legislative dream of his is enacted by this Congress.

Despite all the accolades CLAUDE received for his work in the Congress, one thing always bothered our dear friend. It was his concern that some of the accusations made by his opponent in the bruising primary campaign in which he was defeated in his reelection bid to the U.S. Senate might stick with him throughout his life. One that he was most concerned about was the accusation that he was soft on communism and that he was not for a strong national defense for the United States. Over the years that I have had the privilege of knowing CLAUDE, and since I came to Congress, we have visited many, many times and discussed issues of national security and national defense, and I would like to say that during those discussions, CLAUDE PEPPER was not soft on communism.

CLAUDE was as opposed to the expansion of the Soviet Union and of communism as any Member of this House. He wanted to cast his vote for the strongest national defense for America and a review of the record will prove that he did just that.

Although we agreed on the need for a strong national defense and to stop communism in its tracks, over the years we did vote differently on many issues, but we never had a cross word. In fact, there was no more sincere or genuine person I ever served with than CLAUDE PEPPER. And while he was a gentle man on most occasions, he was a fierce competitor when he was fighting for a cause he truly believed in.

In this time of intense scrutiny of this institution, we have lost a symbol of what this body stands for—a symbol of why we are elected by the American people—a symbol of how we should represent them and carry out our responsibilities. Those of us who have had the privilege to serve with him can remember all that he has meant to the Congress and our Nation and can strive to serve the American people with the same loyalty and intensity. For the newer Members of this House, and for those who will be elected in future years, the memory of CLAUDE PEPPER should be a reminder of what public service is all about.

On the corner of my desk, I proudly keep a copy of "Pepper: Eyewitness to a Century." In the conclusion of the prologue to his autobiography, he writes:

Providence has given me a life of personal satisfaction and fulfillment that comes only from knowing one has been able to make life a bit better for others—for many others.

CLAUDE PEPPER in his 88 years did make life better for many thousands if not millions of Americans. He left the world a better place than he found it, as he had hoped he would. And as with his memory, these great contributions of more than 50 years of public service will live on for decades to come—continuing to make life better for future generations of Americans.

Mr. Speaker, perhaps the greatest loss from which he never recovered was the death 10 years ago of his beloved wife Mildred. One could not know CLAUDE PEPPER without realizing his great love for Mildred. No matter where they were, CLAUDE and Mildred were together. They were inseparable. And when they weren't together, CLAUDE was talking about her. There was something very special in their relationship and there was no more loving or devoted husband than CLAUDE PEPPER.

Knowing of this great love between CLAUDE and Mildred, those of us who believe in life after death are convinced that with CLAUDE's passing there has been the greatest reunion we could ever imagine taking place in Heaven between CLAUDE and Mildred. At long last he again is by her side.

CLAUDE PEPPER was a dear friend, a gracious gentleman, a proud American and an outstanding representative of the people that he represented and the people of America. We will miss CLAUDE PEPPER—our friend, our colleague, our fellow American—but we are all just a bit richer and better off for having known him and worked with him. And it is our duty to carry on his legacy by continuing the work he has started and to strive every day, as he did, to represent the people we serve to the best of our ability.

Mr. BENNETT. Mr. Speaker, at this time I am pleased to yield to the gentlewoman from Maryland [Mrs. BENTLEY].

Mrs. BENTLEY. Mr. Speaker, I, too, want to commend the gentleman from Florida for taking this time to talk about a wonderful person, a person who did so much for the seniors in this country.

Mr. BENNETT. Mr. Speaker, I now yield to the gentleman from Illinois [Mr. POSHARD].

Mr. POSHARD. Mr. Speaker, I am honored to be allowed this opportunity to say a few words about one of the greatest Americans of the 20th century, the late CLAUDE PEPPER.

I count myself among the many fortunate people able to spend some time with former Senator and Congressman PEPPER, and his example is one I will do my level best to live up to for as long as I am privileged to serve in this body.

I knew CLAUDE PEPPER as a friend, most of all, because he was always very gracious to me and very supportive of my career.

I met him at the Democratic National Convention in Atlanta, and we talked over a number of issues at great length. He of course asked for, and I of course gave, my support for long term health care for seniors, one of the issues which perhaps best marks his service to this country.

I sat beside Congressman PEPPER on the train to a meeting this year. During the entire 5-hour trip, he was constantly discussing issues, bills he wanted to sponsor, legislation he thought could improve the quality of life for all Americans.

He was constantly busy, but he also shared his time with me, as I am sure he had done so many times before with new Members, and I was simply amazed at his grasp of the issues, his clear-thinking approach to the future, and his unrelenting enthusiasm for the job.

CLAUDE PEPPER served with distinction in both Houses of Congress, was a champion of causes that assisted those who needed it most, and he always stayed true to the ideals of principle and purpose over political safety.

He is sorely missed by me, his fellow colleagues and friends here in Washington and in Florida, and by a very grateful Nation.

□ 1440

Mr. BENNETT. Mr. Speaker, I have not known the gentleman from Illinois [Mr. POSHARD] for a long time, but I think he illustrates for the people of his age bracket the quality of Senator PEPPER to which he referred. He has that quality himself, and that is that he is a nice person. I say to the gentleman, you are a nice person, and Senator PEPPER was a nice person.

I say that because one time not too long ago I made a speech before a college class, and I listed all the things I thought were essential in public life, and I asked at the end of it, "Have I left one out?"

One young lady stood up and said, "You have. A man in public life or a woman in public life ought to be a nice person."

Senator PEPPER was a nice person. He was a gentleman, he was a noble man, he was just a delightful person. He was thinking of other people, not only in massive legislation that might turn the world around, but he was interested in whether you were going to get reelected or what your wife's health was, and things like that. He was a very nice person. He was a very sweet, kind, wonderful person. I say to the gentleman, I think you are that kind of person, too.

Mr. CLARKE. Mr. Speaker, will the gentleman yield?

Mr. BENNETT. I yield to the gentleman from North Carolina.

Mr. CLARKE. Mr. Speaker, I thank the gentleman from Florida [Mr. BENNETT] for letting me participate in this tribute to CLAUDE PEPPER.

Mr. Speaker, my wife and I first met CLAUDE PEPPER in the summer of 1982 when he came to campaign for me. He stepped off the plane in Asheville and we drove him to a retirement center where he delighted a group of senior citizens.

From there we went about 70 miles to Forest City, NC, where he spoke to a large group in senior center. During his address there were enthusiastic shouts of approval. After this CLAUDE went to a nearby courthouse and delivered another talk for a full hour.

About 10 p.m. as we were driving back to our home near Asheville, NC, CLAUDE asked if we had a sandwich in the car. Fortunately, we did. On arriving at our home he had some orange juice and retired. The next morning he seemed in perfect shape, walking down to the garden to pick raspberries for breakfast.

CLAUDE told me that he campaigned for 76 candidates that year, and 65 of them won.

He loved golf and later invited me to play with him in Waynseville, NC where he stayed with his friends, Mr. and Mrs. English. CLAUDE was a short hitter but he was always right down the middle. In his later years, with his strength somewhat reduced, he played with his wife's Mildred's, clubs.

Once in Washington he came to dinner at our house and afterward we took him to the Kennedy Center to see a performance of "Showboat." when we got up to walk out during the intermission CLAUDE could hardly make his way through the crowd. Person after person came over to shake hands with him, saying, "Mr. PEPPER, you don't know me. But thanks for all you have done for us." Or, "Mr. PEPPER, thank you for all you have done for us senior citizens." He was literally swamped with people wanting to greet and thank him.

Several years later during an election year he called me at home in the summer and said, "Jamie, I'm only going to be here on Monday morning. But if there is anything I can do to help you I'll be glad to."

We invited him and his friends, Mr. and Mrs. English to come over for lunch, and I asked CLAUDE if it would be all right to have the TV station interview him. He said of course it would, and he did a superb job of it.

In CLAUDE PEPPER we have lost a good friend and a great American. The more we learn about CLAUDE's life the more we respect and admire him. he truly lived out Christ's words, "Greater love hath no man than this, that he lay down his life for his friends."

Mr. LEWIS of Florida. Mr. Speaker, will the gentleman yield?

Mr. BENNETT. I yield to the gentleman from Florida.

Mr. LEWIS of Florida. Mr. Speaker, I thank the distinguished gentleman from Florida for yielding.

Mr. Speaker, I say to the gentleman from Florida that I have experienced a few honors in my life, but they pale in comparison to the fact that I had the pleasure of knowing CLAUDE PEPPER. Even though his Capitol Hill career spanned almost half a century, it is a small, exclusive group of us left here to say, "I served with CLAUDE PEPPER."

If that sounds like bragging, it is. I had the double pleasure of serving my fellow Americans and Floridians with CLAUDE PEPPER, and nobody could be prouder.

I came to Washington toward the end of his remarkable career, which spanned 10 Presidents and countless Cabinet officers and Members of Congress, and still I feel like I spent a lifetime with him.

Over the past 6 years I learned a few things from the Senator. These were not lessons he went out of his way to teach any of us. He was far too busy with his work on the Rules Committee and with his own agenda and his office for that particular purpose.

No, these were lessons any of us could pick up by just watching and listening to our friend CLAUDE PEPPER. They were lessons in how to carry one's self in life, in respect for others, and in service to others.

□ 1450

CLAUDE PEPPER disagreed with a lot of us about a lot of things, but he always treated everyone on this floor with respect. What I liked about CLAUDE PEPPER was he was the same whether you were a Congressman, President, Senator, hair stylist, construction worker.

One of my staff members said he had a few occasions to chat with Congressman PEPPER. The staffer said he left every one of those brief encounters with the feeling that Congressman PEPPER had known him all his life.

A few weeks ago I stood here and said that I hope and pray Senator PEPPER's death serves to unite us in the interest of the people and the Nation.

He would have led the effort to make that happen had he achieved his goal to serve here past his 100th birthday. He would have done it to preserve this grand institution we call the U.S. House of Representatives.

Congressman PEPPER would have in the most eloquent of language told us preserving this House as we have known it throughout its history would be the only way to profess and prove our love for our country and its people.

The U.S. House of Representatives is the greatest governmental institution in the history of mankind. Senator PEPPER said: "I love the Senate, but I dearly love the House."

We have the opportunity here to use our old friend one more time. We can use CLAUDE PEPPER's incredible life and magnificant career in service to people as the inspiration upon which we begin a new day in this House and in American government.

If we can serve with just a small amount of Senator PEPPER's dedication, passion, and wisdom, he will look down upon us with great pride and satisfaction, for there will be no doubt that all is good in this House and this land.

He was a good friend and a great source of inspiration to me.

Mr. Speaker, I know there were many times Senator PEPPER and I were on opposite ends of the spectrum philosophically. He always had respect for me, and I always had respect for him for pushing for the right to differ and accept the other's opinion.

His love for our State and Nation is unsurpassed.

His passing creates a vacuum near impossible to fill on Capitol Hill and in the hearts and minds of millions of Americans, especially the elderly and infirmed.

I, like them, will miss CLAUDE PEPPER. But I believe CLAUDE PEPPER would tell you to have faith that in America someone always rises to the occasion and picks up the gauntlet.

Mr. Speaker, I thank the gentleman from Florida [Mr. BENNETT] for allowing me to speak during his special order.

Mr. Speaker, I thank the gentleman from Florida [Mr. LEWIS] for doing so, and I yield to the gentlewoman from South Carolina [Mrs. PATTERSON].

Mrs. PATTERSON. Mr. Speaker, when I was notified of this special occasion, my staff said, "Can I write you something?"

My remarks to them were simply, "No, I'd rather speak from my heart."

Mr. Speaker, let me tell my colleagues how I knew Senator PEPPER. In 1945, when my father was elected to the U.S. Senate, his office was across the hall from CLAUDE PEPPER, then U.S. Senator from Florida. As a child I often visited across the hall, and I was always welcomed by Senator PEPPER and by Mildred. They always seemed to be pleased to see children and to visit with children. They would show us things from Florida that they had brought up, whether it was a baby alligator in an aquarium or just something they had brought from one of their trips, and I remember how fondly my family felt toward his family.

Mr. Speaker, there was a joke at that time that they were called Senator Salt and Senator PEPPER, my father being Senator Salt since he was directly across the hall.

When I first decided to run for Congress, CLAUDE PEPPER, Senator PEPPER, was one of the first people I contacted, and he reminded me of those days when I was a child and my father and Senator PEPPER were such good friends. He told me how after his defeat he moved his office into my father's office and for a good long while worked out of dad's office.

So, Mr. Speaker, the friendship was very deep and very fond, and he came, and he helped me in my first campaign, and he came back again last fall and helped again.

Mr. Speaker, as he was campaigning and as I got with him here on the House floor, I think I really came to know Senator PEPPER, CLAUDE PEPPER, better.

In the South one of the highest compliments that one can give to a man is to call him a gentleman. Well, CLAUDE PEPPER was truly a gentle man. I think those words represent him better than many people I know.

In my short while here with them I think he taught me several things. First of all, he taught me a lot about history. I remember in Philadelphia when he spoke at the bicentennial celebration, and he gave a history of our great country and how interesting it was, and how I sat and listened to every word and was sorry when he finished. I remember having political lessons from him while he was standing at the podium, but I remember, most importantly, his concern for others.

Mr. Speaker, I do not believe I ever heard him speak about his defeat in the Senate. I do not believe I ever heard him speak about opponents or about enemies. I always heard him speak about people that needed help and assistance, whether it was seniors, or whether it was young people, handicapped folks, the people who needed help.

So, I learned from him a concern for others, but another thing that I learned from him was love for others, especially love for family and spouse. How well I know his devotion to Mildred, and how close they were through the years, and, although they did not have children, they really had many children and an extended family because people throughout the United States loved Senator PEPPER as if he were one of their own.

So, Mr. Speaker, I would say to all those persons who knew Senator PEPPER, and those who did not, "We have lost a friend, a loving, gentle man."

Mr. BENNETT. Mr. Speaker, that was a beautiful tribute.

I yield to the gentleman from New York [Mr. FISH].

Mr. FISH. Mr. Speaker, I am saddened by the loss of my good friend and colleague, CLAUDE PEPPER. CLAUDE embodied the pioneering spirit of this Nation and his death, at age 88, is a great loss.

CLAUDE became known as Mr. Senior Citizen, the national voice for the fastest growing segment of our population: older Americans. By his words, one could better understand the untapped potential and vitality of older Americans. By his actions, he exemplified that age is irrelevant.

In his many years in Congress, CLAUDE PEPPER became the champion of the Social Security and Medicare programs. When some entertained drastic changes to the system, CLAUDE PEPPER stood as a constant reminder to other Members of Congress that these programs were a sacred pact with older Americans that could not, and must not be broken. He played a critical role in instituting the Older Americans Act, and initiated a legislative response to the financial burdens associated with long term home health care and nursing home care.

In effect, CLAUDE PEPPER had two separate careers, one in the Senate and then one in the House. His earlier accomplishments were as impressive as his later work on behalf of seniors. In the Senate, CLAUDE helped craft the first minimum wage legislation, worked to establish the first five national institutes of health, and strongly opposed the poll tax. During his many years in the Congress, CLAUDE aspired to the leadership in his party and as chairman of the House Rules Committee, demonstrated unique skill and statesmanship. I appeared before his Rules Committee many times and was always treated with his unfailing courtesy.

I had the privilege and good fortune of working with CLAUDE on the FDR Memorial Commission for many years. Having been a strong supporter of the New Deal, CLAUDE was committed to honoring a man he greatly admired. As always, his focus was on others rather than himself.

In tribute to his great accomplishments, CLAUDE PEPPER was given the rare honor of lying in state in the Rotunda of the U.S. Capitol—joining Henry Clay, General Pershing, and many of our Presidents. Also President Bush recently presented him with the Medal of Freedom, our country's highest civilian honor.

The passing of CLAUDE PEPPER creates a tremendous void, but his legacy stands as a constant reminder and timeless challenge that all people are created equal, regardless of age, and everyone should be given the opportunities to fulfill their potential. CLAUDE's life was long and full and our Nation will forever be in his debt.

□ 1500

Mr. BENNETT. Mr. Speaker, I thank the gentleman for his participation.

Mr. Speaker, I yield to the gentleman from New Jersey [Mr. HUGHES].

Mr. HUGHES. Mr. Speaker, I want to thank the gentleman from Florida [Mr. BENNETT] for organizing this special order in tribute to the memory of our late colleague and dear friend, Senator CLAUDE PEPPER.

CLAUDE PEPPER was truly a giant—not only of this great deliberative body, but of public life. To millions of Americans he personified the House of Representatives, and no institution could ask for a more worthy exemplar. People who couldn't tell you the name of their own Congressman or Senator knew who CLAUDE PEPPER was. He was the fellow looking after their interests and keeping the big boys honest down in Washington.

For 50 years CLAUDE PEPPER was a major player in the affairs of our Nation. When the vast majority of their body's members were only freshman, CLAUDE PEPPER was already a living legend. Before some of us were even born, he was at the side of F.D.R., helping shepherd the New Deal through the Senate. Most of us had the high honor and privilege of serving with him during the most productive years of his public service career.

CLAUDE PEPPER first became a personal hero of mine back when I was a young assistant prosecutor in New Jersey and he was chairing field hearings of the the Select Committee on Crime. I was greatly impressed, not only with his ideas and insights on law enforcement issues, but also with his innate ability to lead. Under his chairmanship the fledgling committee went on to make significant recommendations in the areas of prison reform and drug abuse.

CLAUDE brought the same energy and determination to that assignment as he did to every other task he set himself. To millions of people in this country the name of CLAUDE PEPPER will always be synonymous with the causes of the aged—it was not for nothing that he became known as Mr. Social Security, for he was the champion and steadfast guardian of that program for over half a century.

CLAUDE's achievements in advancing the rights of senior citizens are so well recognized that we risk slighting his other major legislative accomplishments. We should not forget that it was CLAUDE PEPPER who led the fight for a minimum wage for working Americans—it was CLAUDE PEPPER who campaigned for medical care for handicapped youngsters—it was CLAUDE PEPPER who was instrumental in establishing five of the National Institutes of Health—it was CLAUDE PEPPER who sponsored legislation that lead to the creation of the World Health Organization.

Mr. Speaker, perhaps more than that of any other Member in the history of the Congress, the work of CLAUDE PEPPER has truly touched the life of every American. Statues will undoubtedly be commissioned, and scholarships endowed in his name, but CLAUDE PEPPER's outstanding accomplishments will be his living memorial and legacy to a grateful Nation.

This House has lost a respected leader and each one of us a close personal friend; the elderly, the sick, the handicapped and the downtrodden have lost one of their best friends in the Congress; and America has lost one of the greatest public servants in its history.

CLAUDE PEPPER was one of those rare Americans who not only embodied public service, he enobled it.

Mr. BENNETT. Mr. Speaker, I yield to the gentleman from Massachusetts [Mr. CONTE].

Mr. CONTE. Mr. Speaker, at the outset, I too, want to join and thank my good friend, the gentleman from Florida [Mr. BENNETT] for taking this special order in honoring a giant of a man, CLAUDE PEPPER.

Mr. Speaker, I thank the gentleman for the opportunity to reflect on the life and public career of Senator CLAUDE DENSON PEPPER of Florida. His death cost us a wonderful teacher and a good friend.

But as we mourn his passing, we should celebrate his accomplishments—from crafting some of the New Deal's most thoughtful and lasting reforms, to fighting for freedom in the era of Hitler, to working to help the Nation's schools, hospitals and senior citizens.

The Nation will remember CLAUDE PEPPER, above all, for his lifelong concern for the elderly. His first bill in the Florida State Legislature exempted the elderly from the requirement of a fishing license. Some of his most impassioned Senate battles of the 1930's helped Franklin Roosevelt set up the Social Security System.

In 1936, he sponsored legislation to guarantee the elderly the right to health care—almost 30 years before Medicare.

In the 1970's and 1980's, he served as chairman of the Select Committee on Aging.

In that position, he fought not only to preserve Social Security benefits, to guarantee long-term care and catastrophic health insurance, and to abolish mandatory retirement, but against fraud in the sale of Medicare and against medical scams on the elderly.

People sometimes said PEPPER pushed those causes because of his constitutency in south Florida. At times, they called him a demagogue.

They were wrong.

His commitment to helping the elderly was part of a philosophy he developed early in his life and never abandoned: that his task as a human being, and that the job of the Govern-

ment, was to help those who could not make it alone.

We used to talk about his early days in the Senate, during the Depression and the New Deal and the Second World War. He had stories about working with some of the greatest figures of the century—Roosevelt, Churchill—and had met some of the worst.

His goals never changed. He wanted, as he said in his autobiography, "a better life not just for the elite, but for all." He wanted people to look to the future without fear. He wanted a generous country, whose citizens helped each other succeed in the good times and survive in the bad.

PEPPER was born in a small town in Alabama, without electricity or paved roads, he learned from that town—its concern for family and neighbors, its respect for knowledge; its uncertain economic future and its cruel racism.

His career, as he often said, was built on that childhood; his struggles were to bring that town's blessings to the country, and to eliminate its problems from our society.

Like his father and his neighbors, he believed in education.

The three greatest influences on his life were Camp Hill High School's principal, the president of the University of Alabama, and the dean of Harvard Law School.

He believed everyone ought to be healthy.

In the 1940's, he won subsidized health coverage for mothers and children under 18. We all know about his unstinting battle for long-term care in this decade.

He believed in justice. In some of the bravest and noblest choices of his career, he stood for civil rights.

In 1929, he lost his seat in the Florida State House because he opposed a white supremacy resolution. In 1950, his support for civil rights bills helped his opponent win a bitter primary fight.

PEPPER did not, as they say, trim his sails.

He knew when he was right, and he stuck to his principles when they were popular and when they hurt him. And as admirable as his legislative record was, as many as were his achievements, that stand against racism made him great.

I last saw Senator PEPPER in the hospital on May 25 of this year. Several of us went there to visit him that day, to watch and applaud as President Bush awarded him the Congressional Medal of Freedom—our country's highest civilian decoration. Before they read the citation, he asked a nurse to bring him a picture of his wife, Mildred, and he held it on his lap all through the ceremony.

He told us he did not want Mildred to miss a moment of his life. Anyone who knew CLAUDE knew how much he loved her.

He thanked Barbara Bush for coming. She read the eulogy when Mildred Pepper died in 1979, and CLAUDE wanted to make sure she knew how grateful he was. And he turned around and talked to me for a few minutes—alert, happy to see his friends, enjoying his last week as much as he loved all the others.

Then, from his wheelchair, he thanked the President, and spoke for 10 minutes—perhaps the last speech of his life. He did not talk about the past, about what he had done for the country in 60 years of service—he talked about the work he had left to do. He talked about the obligation everyone in this House has to make America better, to make its people happier.

As ill as he was, he was still thinking about the people who had moved him since the beginning of the century—the children who cannot read, the sick who cannot afford medicine, the poor who have no homes, the old who face the future alone. I have experienced few more moving moments in my 30 years in Congress.

Mr. Speaker, CLAUDE PEPPER's life is the best tribute to the man.

Because of him, some people in this country who were sick are healthy.

Because of him, some young people in this country who might have dropped out of school can read.

Because of him, there are working people in this country who have jobs.

Because of him, there are old people in this country who live happily.

Two years before PEPPER began the first of 13 terms in the House of Representatives, John Kennedy told us to "ask not what your country can do for you—ask what you can do for your country".

Mr. Speaker, no one did more than CLAUDE PEPPER.

□ 1510

Mr. BENNETT. Mr. Speaker, I thank the gentleman for a beautiful tribute to Senator PEPPER.

Mr. Speaker, I yield to the gentleman from Florida [Mr. JOHNSTON].

Mr. JOHNSTON. Mr. Speaker, I appreciate the opportunity of appearing today on behalf of a close personal friend of mine, Senator PEPPER.

Congress and the American people suffered a great loss in May with the death of the premier advocate for the elderly, Senator CLAUDE PEPPER. As we have heard many times by now, Senator PEPPER introduced his first senior-citizen legislation, a bill to exempt those over 65 from having to obtain a fishing license, in 1929 while he was a member of the Florida State Legislature. That humble beginning can only hint at the greatness to come of a life devoted wholly to serving his fellow man striving to correct the injustices forced upon so many of this country's citizens.

From his passionate defense of FDR's New Deal to his still-unrealized goal of Federal financing of long-term health care, Senator PEPPER was time and again on the cutting edge of domestic policy.

Mr. Speaker, I had the opportunity of knowing Senator PEPPER for over 30 years. The year I graduated from high school was the year that he left the other body, the U.S. Senate, and I followed his career very closely here in the House of Representatives.

In my office in the Longworth Building, other than the pictures of my immediate family, I have two pictures of men whom I sat beside at times. One was George C. Marshall, who was the architect and author of the Marshall Plan, and one was CLAUDE PEPPER, and I have great respect for these two men. I am hopeful Senator PEPPER's legacy as a compassionate and tireless advocate and protector will be an everlasting reminder of what the job of a Congressman can and should be.

Mr. BENNETT. Mr. Speaker, I yield to the gentleman from Missouri [Mr. WHEAT].

Mr. WHEAT. Mr. Speaker, I thank the gentleman from Florida [Mr. BENNETT] for the opportunity to pay tribute to a great man, statesman, leader, and hero who the world and our country lost last month, CLAUDE PEPPER.

CLAUDE was a man who dedicated his life to serving others. He was my friend. I am sure that I share the grief that many others do at his passing.

I was privileged to have begun my career in the House of Representatives with CLAUDE PEPPER as my chairman. He was not only a consummate legislator, he was a man who lived what he espoused. Under his guidance I learned not only the rules and procedures which govern this great body but also the true meaning of public service.

The last time I saw Senator PEPPER was a few days before his death when President Bush presented him with the Congressional Medal of Freedom. He shared with those in attendance his beliefs about public service. To be a public servant was what CLAUDE PEPPER wanted most in life, and as he so humbly phrased it, "I asked that God allow me to be the vehicle to do his work." Senator PEPPER took this responsibility to heart. No task was to menial, no obstacle insurmountable, no opponent too formidable for CLAUDE PEPPER. He may have been slight of stature, but there was no slighting his mission or his accomplishments, whether it was working to assure a decent quality of life for all Americans, speaking out against the bigotry and hatred of Adolf Hitler, or championing the rights of the elderly, and Senator PEPPER worked tirelessly.

His desire, as he often stated, was to leave this world a better place than he found it. I am confident that CLAUDE PEPPER did that every day of his life.

Shortly after coming to Congress I had the opportunity to hear CLAUDE pay tribute to another colleague, and as always his remarks were eloquent and insightful. He concluded his comments with the following quote from Shakespeare's Julius Caesar:

His life was gentle, and the elements
So mixed in him that Nature might stand up
And say to all the world, "This was a man!"

More appropriate words cannot be found to describe the man that I had the honor of serving with for the past 6 years.

CLAUDE PEPPER'S presence will be sorely missed, but his spirited influence will live in this body forever.

Mr. BENNETT. Mr. Speaker, I think we have all been deeply touched by the things that have been said.

I yield to the gentleman from Texas [Mr. GONZALEZ].

Mr. GONZALEZ. Mr. Speaker, I once again thank the gentleman from Florida for giving us this time, particularly for those of us who did not have an opportunity to attend the funeral services as much as we had wanted to.

In my case, of course, the earliest memories I have of CLAUDE PEPPER were when I was a student back in Texas in San Antonio and reading about the stalwarts that so many of us so much admired during the terrible, trying times of the Depression.

Even in the city, a city like San Antonio, TX, the name of Senator CLAUDE PEPPER resounded with vibrancy and a great star of hope. Ours was a very, very troubled land, and particularly in that era in which we had what I call really devastating poverty.

Thank goodness today that what we witness as poverty compared to what I recall is really no comparison at all. I am talking about an era when food, clothing, and even shelter were very difficult to obtain.

In my city alone we were known during that period as the tuberculosis capital of the Nation. We had shanty after shanty in the middle of the city, lean-to's made out of tin and cardboard, in some cases dirt floor, pit privies, no available drinking water, in some cases within less than a quarter of a mile from city hall. But those champions for some of the programs somehow filtering little by little before the war down to communities such as San Antonio have always been synonymous with such names as Sam Rayburn, Lyndon Johnson, and CLAUDE PEPPER.

Then who was to say that years later I would find myself in the Congress, and the year following my arrival here in the House, the election of CLAUDE PEPPER, and we immediately struck a friendship. His first assignment was to the committee that I am still on, the Committee on Banking, Finance and Urban Affairs, and then he went on rapidly.

But we had a need that first year in 1963, his first year. He had need for some funding for the equivalent of what we called later the Hemisphere of San Antonio, which turned out to be the first World's Fair south of St. Louis in the southwest United States. I was the author of the legislation and the initiator of what turned out to be Hemisphere. The first man to help us, and I guess the definitive help, was a fellow Floridian by the name of DANTE FASCELL, who was chairman of the Foreign Affairs Subcommittee that had jurisdiction on so-called trade fairs.

The United States at that time was not a member of the Bureau of International Expositions, and I want everybody to know that because of CLAUDE PEPPER and our joining together in our efforts, I intervened with the Johnson administration and was successful in helping him to obtain the funding for what was projected for Miami, a similar venture, not the same, and then through the years following until 1966 when we completed all the legislative work, we ended up with what was known later as hemisphere in San Antonio.

CLAUDE PEPPER and Mrs. Pepper were the very first honored guests we had at the opening of the fair on April 6, 1968, in San Antonio, TX, a charming, beautiful couple. The people they met in San Antonio immediately warmed up to them. Then, of course, the rest is history, and the others preceding me have marked his tremendous accomplishments as a legislator.

□ 1520

To me, CLAUDE PEPPER symbolizes and personifies what I know as our country grows into maturity in its experience in government, that we will learn to recognize that the words "professional politician" are not pejorative words. I have often pointed out that Great Britain or England who has had a thousand years of experience has long ago accepted those individuals who through attribute, inclination, and ambition would be for the public purpose, and they found their room. Winston Churchill's greatest badge of honor was to be called a professional politician. I call it legislative advocacy in our country, and I will always look to CLAUDE PEPPER as the example par excellence of the true American legislative advocate and as soon we go into the 21st century, the next millennium, we will accept that as the dictum, the standard of success in America, which is not just exclusively the size of one's bank account or success in business, but how well one serves the public will and particularly in forging the legislation that is responsible and responsive to the needs of the American people.

CLAUDE PEPPER will also be that first true example of a true lawgiver, lawmaker, and in the full sense of the American definition, a true representative.

Again, I thank the gentleman for allowing us this time to evoke the memory of CLAUDE PEPPER.

Mr. BENNETT. I thank the gentleman from Texas for his contribution.

I yield to the gentleman from New York [Mr. WEISS].

Mr. WEISS. Mr. Speaker, I thank the gentleman for yielding to me and taking this special order so we can remember our friend and distinguished late colleague, CLAUDE PEPPER.

Mr. Speaker, the outpouring of affection for the late Senator CLAUDE PEPPER in the weeks since his passing is testimony to the tremendous and widespread impact he had on improving the lives of American people. While Senator PEPPER leaves behind a legacy of countless accomplishments, what I think I remember most about him is his absolute selflessness.

Senator PEPPER was a great American leader—dedicated, wise, and compassionate. Many will remember him for his overwhelming contributions on behalf of older Americans. From the time he served in the Florida legislature in his late twenties to his most recent term in the U.S. Congress, he was a champion of seniors. But his tenacious and courageous work had impact on the lives of many different groups of people. CLAUDE PEPPER was never afraid to stand up for the cause of human dignity, especially when it meant fighting for those who had no one else to speak for them.

He entered the U.S. Congress as a Senator and an ally of President Franklin Roosevelt, and soon made clear his dedication to improving the quality of life for the people of this country. An ardent supporter of the New Deal agenda, from early on in his tenure he was an advocate of social security, health care insurance and the minimum wage.

Throughout his long career as a legislator, Senator PEPPER worked to lighten the burden of health care costs for those who are the most vulnerable, and provide better health care services for all Americans. In 1945, he sponsored legislation that led to the creation of the World Health Organization, and he authored bills in the late 1940's which established five of the National Institutes of Health. As a Member of the House during the Kennedy administration, he supported the creation of the Medicare Program to provide medical care for older Americans and the disabled.

Through his last years in Congress, Senator PEPPER continued to fight relentlessly for the causes in which he

believed. In the last Congress, CLAUDE PEPPER almost realized a longtime dream of creating a meaningful catastrophic home care program in the Medicare Program. It would have been a major step toward protecting our Nation's families from the devastating costs of long-term catastrophic illness without adding to the Federal deficit. By providing for health care in the home, his bill would have helped families stay together and ease the suffering of both young and old.

During floor debate over this bill, Senator PEPPER spoke some words to his colleagues that aptly represent the humane and thoughtful approach he took to his work throughout his career. "Think about the human values in this matter," he said, "and vote to help those poeple who need help without hurting anybody while you do it."

I first had occasion to meet CLAUDE PEPPER when I visited Washington with my high school graduating class, at which time he was a Member of the U.S. Senate. So, of course, it was a tremendous honor for me when I came here to serve in the same body with him.

I feel very privileged to have been able to join forces with CLAUDE PEPPER in securing the adoption of some very important legislation. During the 95th Congress, in 1977 and 1978, I had the opportunity to work with him on legislation to protect older workers from age discrimination and to prohibit mandatory retirement below age 70 in most instances. At the time, Senator Pepper was chairman of the House Committee on Aging and I was a freshman member of the Employment Opportunities Subcommittee of the Education and Labor Committee.

There was significant opposition to the proposal by people who thought that those over the age of 65 were not capable of contributing fully to the workforce. The best argument to counter this erroneous and limited view was CLAUDE PEPPER himself. When the legislation, Public Law 95-256, was signed into law by President Jimmy Carter on April 6, 1978, CLAUDE PEPPER was a young 77. His example—he kept a schedule which people half his age would describe only as hectic—made it very difficult for opponents to argue their case successfully. His life also inspired older workers to see that working life need not end at age 65; that, in fact, great contributions to the work force could be made in one's later years.

I will miss this extraordinary man, and deeply mourn his passing. I wish to express my condolences to his brother, Frank, and his niece, Joanne, to his bereaved constituents and to his many friends across the country and around the globe.

Mr. BENNETT. I thank the gentleman from New York for his contribution.

Mr. Speaker, I have just come from the Chinese Embassy, along with the gentleman from Georgia [Mr. LEWIS]. I congratulate the gentleman from Georgia on the fine conversation he had there with the Chinese Ambassador and welcome him to say some words here about Senator PEPPER.

Mr. LEWIS of Georgia. Mr. Speaker, I want to thank the gentleman from Florida for yielding and for calling this special order as a tribute to CLAUDE PEPPER.

Mr. Speaker, It is with great sadness that this body and our nation notes the passing of our friend and our colleague, Senator CLAUDE PEPPER. While we are all saddened at his passing, we also have great reason to give thanks, for this Nation was indeed blessed to have had the national treasure that we had in CLAUDE PEPPER.

His drive, perseverance and stamina were legendary. Despite his age, CLAUDE PEPPER was a man of vision, a man of courage and a man of conviction. He was a great inspiration to all of us.

CLAUDE PEPPER made outstanding contributions to many areas of American life. He was a champion—not only of the elderly—but of all segments of our society which have been left out and left behind. He personified the best of humankind.

The greatest honor that this body can bestow on CLAUDE PEPPER is to continue to fight for the principles of social justice that are embodied in the legislation that he championed. Senator PEPPER has set the example and, my colleagues, we must let the American people of all ages know that this Congress will continue to pursue the higher causes that CLAUDE PEPPER so diligently and selfishly pursued.

He stayed the course. He was dedicated. He provided important leadership in Congress. He will be sorely missed. We are blessed to have served in the Congress with him.

Mr. BENNETT. Mr. Speaker, I thank the gentleman from Georgia for his very fine contribution.

Mr. LEHMAN of Florida. Mr. Speaker, Senator CLAUDE PEPPER's career was uniquely outstanding. Other public servants have lived long and productive lives, such as Winston Churchill and Franklin Roosevelt. But Churchill, whose lifespan equaled CLAUDE PEPPER's, spent his last decade on the sidelines, and Roosevelt was already slipping in strength and leadership when he died. CLAUDE PEPPER was unique because when he died at the age of 88, he was at the peak of his 50-year career in public service.

As a promising young politician, Senator PEPPER led the fight for civil equality and social justice decades before most others had the courage to speak out, and he was not afraid to jeopardize his own career in doing so. As a young State legislator, Senator PEPPER refused to support a resolution condemning Mrs. Herbert Hoover for inviting the wife of a black Congressman to dinner. This unwavering dedication to his principles cost him his State legislative seat in the early 1930's, but eventually, it won him the respect and admiration of millions.

Senator PEPPER once again showed remarkable foresight when he was one of the first American politicians to grasp the danger which Hitler presented to the world. Because he was convinced of Hitler's menace, he withstood the immense political cost of supporting lend lease and the military draft. With similar foresight and courage, he lashed out against McCarthyism and refused to yield to it, despite repeated attacks against his character.

Later in life, Senator PEPPER became a nationally known figure as a crusader for the elderly. John F. Kennedy, in a speech to Congress in February 1963 on the needs of senior citizens, stated, "It is not enough for a great nation merely to have added new years to life—our objective must also be to add new life to those years." CLAUDE PEPPER injected "life" into the lives of countless senior citizens. He was a champion of the elderly, fighting for them when no one else would, succeeding for them when no one else could.

CLAUDE PEPPER was a great statesman but also my dear personal friend. I often went to him for advice, and his guidance helped me greatly. In my first term, the House had an unexpected late evening session, and I asked him if I should stay to vote or return to a commitment in my district. He said, "Go to Miami—we will be here when you return; if you don't take care of your district, you may not be back."

In CLAUDE PEPPER's death, the Congress has lost one of its most powerful and enduring Members. He will not only be missed in the hallowed halls of the Capitol. He will be missed by those whose lives were touched by his efforts, from minorities whom he helped in the struggle for equality to the elderly whom he defended tirelessly. His legacy, however, is truly with the young and the yet to be born, for although they may never know it, their lives will be enriched because of the work of CLAUDE PEPPER.

Mr. SMITH of Florida. Mr. Speaker, it is with heavy hearts and a deep sense of loss that we mourn the death of our dear colleague, Senator CLAUDE PEPPER. With his passing, the Nation has lost a great leader and we have lost a great friend.

We often pay tribute to officials by saying that they devoted their lives to public service. However, saying this about CLAUDE PEPPER almost falls short—for CLAUDE PEPPER, public service was his life. His service to the people of Florida, and the Nation as a whole, spanned 50 years. Beginning as a member of the Florida State House from 1929 to 1931, CLAUDE went on to become a U.S. Senator from 1936 to 1951, and finally a Member of the House from 1962 until his death. Throughout his illustrious career, Senator PEPPER served 10 U.S. Presidents and championed many causes—none as dear to his heart, however, as the plight of the elderly.

As a confidant and ally to Franklin D. Roosevelt, CLAUDE was a staunch supporter

of the New Deal, something many of us are unable to recall since we were not yet born. From these initial beginnings as a supporter of Social Security, CLAUDE always fought for the rights of the elderly. He detested the stereotype of the elderly as "toothless, sexless, humorless, witless, and constipated." There is no one who did more to lay to rest that unfair characterization than Senator PEPPER. His opponents often said that his support of the elderly grew in proportion to his age. But, CLAUDE took pride in pointing out that it was as a freshman in the State house in 1929 that he first introduced legislation to aid the elderly, a bill which permitted people over the age of 65 to fish without a license. He never wavered in his support for senior citizens and finally got the opportunity to have his concerns displayed on the national stage when he served as the first chairman of the House Select Committee on Aging from 1977 to 1983.

Apart from his professional life, CLAUDE PEPPER was a man anyone would be proud to emulate. He was a man of deep conviction, dignity, and class. Even as he grew to an age where it seemed it would be impossible to meet the rigors of the life of a Member, CLAUDE, consistently proved that he was not only capable, but that he was exceptional. When many men his age would rather be fishing, CLAUDE could be found in his office poring over legislation, returning phone calls, or telling a story of days gone by to an old friend, colleague, or constituent. Perhaps there is no better way to describe CLAUDE than the tribute he was paid by Time magazine in 1982: "He is like a vintage automobile with new parts: he gets better and more powerful with age."

In a city where longevity is more often the exception than the rule, and respect is not easily won, Senator CLAUDE PEPPER achieved both. He was a dedicated legislator, a loyal friend, and a gentleman. He will be sorely missed by his constituents, his colleagues, and his friends.

Mr. YATES. Mr. Speaker, CLAUDE PEPPER has left us and I will miss him greatly. He was a dear, dear friend and I appreciate having the opportunity to remember him for the life he lived and the remarkable contributions he made to this institution and the Nation.

Over the years, CLAUDE and I worked together on many bills and we stood together in more than a few legislative battles. No one loved public life and the legislative process more than CLAUDE PEPPER. He was diligent and masterful in its application and his approach to colleagues and everyone combined a special blend of honest courtliness and complete civility. He was highly intelligent, tireless, and very effective. CLAUDE believed with all his heart that government has a basic and fundamental responsibility to help those in our society who are unable to help themselves. It was an unvarnished New Deal philosophy that he and I shared.

CLAUDE, of course, was a personal friend of Franklin Roosevelt and his love for FDR was never more apparent than in the testimony he presented to my Interior Subcommittee in April. Speaking without a note and with great sincerity, CLAUDE made a most compelling and eloquent statement on the life of Roosevelt and the need to construct a suitable monument in his memory in Washington. That was probably one of the last times that he spoke in a formal, public way. I am delighted that I was able to make that presentation and I only wish that he could be with us for the dedication of the memorial.

Mr. DE LA GARZA. Mr. Speaker, Chairman PEPPER was what I call a statesman—pure and simple, no question about that. He embodied every principle of greatness, and his life was lived in a way that earned him many friends and life-long admirers.

In every move he made, in every word he spoke, one could not fail to see the elements of statesmanship which mark a great person.

CLAUDE PEPPER endeared us all. When he spoke to us it was with passion and commitment. When he acted it was with determination. Every thing he did was done with fairness, civility, and generosity.

It is not difficult to know when a great man has passed away from us. His shadow is a long trail to the setting Sun under which the world gathers to remember the good works and friendship left behind—an infinite number of memories that even time cannot take from us.

Mr. ANNUNZIO, Mr. Speaker, I rise to join my colleagues in the House of Representatives, in paying tribute to our distinguished colleague, and my close friend, Senator CLAUDE PEPPER, who died on May 30, after a long and exemplary career in public service to our Nation.

I was privileged to know CLAUDE PEPPER as a friend throughout the years we served in the House of Representatives together, and I know that I speak for all of my colleagues in the House of Representatives, when I say that we shall all deeply miss this great American. I first met CLAUDE during the Presidential campaign in 1948, where he was the principal speaker at a gathering of over 1,000 precinct captains in Chicago.

CLAUDE PEPPER'S service to our Nation spans more than 50 years, representing almost one-quarter of the history of our Nation. Born in Alabama in 1900, he put himself through college and law school, and was elected to the U.S. Senate in a special election in 1936. During the 14 years he served in the Senate, CLAUDE became a tireless defender of New Deal legislation. He played an important role in developing our country's safety net programs, including securing passage of our country's first minimum wage law and protecting the Social Security system.

After a few years of private law practice, CLAUDE PEPPER was elected to the House of Representatives in 1963. During his 26 years of service in the House, he served with distinction his own constituents from the 18th Congressional District of Florida as well as all of the citizens of our country. He was a man of the people, who championed the causes of the poor and elderly. As chairman of the House Select Committee on Aging from 1977 to 1983, he continuously fought to protect the rights of the elderly. In 1978, he was instrumental in abolishing mandatory retirement for Federal government employees and in raising the retirement age in the private sector from 65 to 70 years of age. In recent years, he worked to provide comprehensive long-term health care for the elderly.

As chairman of the House Rules Committee from 1983 until his death, CLAUDE was highly respected by his colleagues as one of the most knowledgeable and effective legislators in Congress. He was truly a gentleman, known for his fairness, honesty, and for his great sense of humor. His dedication to the highest standards was an inspiration to his friends and his fellow citizens, and he will long be remembered by his constituents, and by all of the citizens of our Nation, for his deep commitment to the needs of the senior citizens in our country.

Mr. Speaker, CLAUDE PEPPER will be sorely missed by all whom he served, and by all who had the privilege of knowing him as a friend and a colleague. It is my hope that the long-term health care legislation, which CLAUDE PEPPER worked so hard to make a part of our country's public law, will be approved in the 101st Congress, as a lasting tribute to this great and selfless American.

Mrs. Annunzio and I extend our deepest sympathy to his brother, Frank, and the other members of his family who survive him.

Mr. FAZIO. Mr. Speaker, I would like to join in this special order today to remember our esteemed colleague, Senator CLAUDE PEPPER.

Since first coming to Congress in 1936, Senator PEPPER was a moving force in shaping the policies of this Nation. Throughout his long and distinguished career in public service, CLAUDE PEPPER was a deeply committed champion for the rights of the Nation's poor, the disadvantaged, and most notably, senior citizens. He had genuine concern for these individuals and worked long and hard on their behalf.

Senator PEPPER deserves special recognition and our greatest respect and admiration for his efforts in ensuring that our Nation's senior citizens maintain a high quality of life. He provided the Nation's seniors with direction and support whether he was spearheading the move to ensure adequate health care coverage or working to end age discrimination. And although he was the oldest Member of Congress, he was a tireless advocate who maintained tremendous vigor for his work.

It was a great honor to have served with CLAUDE PEPPER. He played a vital role in Congress for which he will be sorely missed. As a man of great principles and vision, his shoes will be extremely difficult, if not impossible to fill. Senator PEPPER leaves a great legacy and his special contribution to American society will be missed by this institution and the American people. His accomplishments, however, will continue to be remembered by all of us.

Mr. GRAY. Mr. Speaker, I rise today to pay tribute to a beloved friend and former colleague, CLAUDE PEPPER. Although he served in the House honorably for 27 years, we all knew him as Senator PEPPER.

Senator PEPPER began his career in public service before many of us were even born. During his long and distinguished service he witnessed the New Deal, World War II, the emergence of American as the world's foremost power, the cold war, and the civil rights movement.

The scenery changed and so did the actors, but one thing remained constant—CLAUDE PEPPER worked tirelessly in behalf of his country. In life, Senator PEPPER was a visionary leader who helped define the focus of contemporary American politics. He stood up for the elderly before Social Security; was a new dealer before the New Deal; laid the foundation for American health care policy long before the great society; fought for civil rights two decades before the passage of the Civil Rights Act; and was the spokesman for the underprivileged and powerless throughout his lifetime. In his memory, we find a role model for those serving today and for those aspiring to serve tomorrow.

This is a day of tremendous personal sadness as I recall my own experiences with this kind and decent man. Senator PEPPER is not with us today, but our fond memories of him will always remain. May Senator PEPPER rest in peace—he has earned it.

Mr. ROYBAL. Mr. Speaker, I consider it a privilege to take part in this special order in honor of the memory of Representative CLAUDE PEPPER of Florida, one of our Nation's great public servants.

The Nation has lost one of its most outstanding citizens and leaders, in the passing of my good friend and colleague, CLAUDE PEPPER of Florida.

Chairman PEPPER will always be remembered as "Mr. Senior Citizen": one of the country's most beloved and renowned defenders and champions of millions of elderly Americans.

As chairman of the House Select Committee on Aging, it has been my privilege to work closely with Congressman PEPPER toward our mutual goals of strengthening Social Security, expanding Medicare health insurance, developing comprehensive long-term care protection for our citizens, and extending health care to the 37 million Americans who are currently uninsured.

One of the last major bills CLAUDE PEPPER sponsored was the 1989 Pepper/Roybal long-term care bill, H.R. 2263, which CLAUDE and I cosponsored together on May 4, 1989.

I pledge myself to do everything in my power to assure that Chairman PEPPER's wish will be fulfilled: to establish a program to provide urgently needed long-term home care for all Americans.

CLAUDE PEPPER's 60 years of public service to our Nation will remain an inspiration to us all—as we continue the work of making America a country where every citizen, young and old alike, can live a life of personal fullfillment and human dignity.

In those 60 years, CLAUDE PEPPER remained the warm, gentle, and compassionate individual he has always been. His love for his life-long wife, companion and sweetheart, Mildred, was one of the most touching aspects of CLAUDE's nearly nine decades on this Earth.

In addition to his wonderful personal qualities, CLAUDE PEPPER was an outstanding legislative leader and true American statesman since he was first elected to the U.S. Senate in 1936.

We need but to list a few of the major legislative achievements in which he provided leadership to understand the comprehensive scope of CLAUDE PEPPER's accomplishments for his country: the Social Security Act, the Minimum Wage Act, elimination of the poll tax; Lend-lease aid to the allies to defend against Hitler's World War II Nazi attack in Europe, the Medicare and Medicaid programs, and elimination of mandatory retirement for America's senior citizens.

At this time, I would like to mention some personal remembrances of CLAUDE PEPPER.

On January 3, 1963, CLAUDE PEPPER and I were sworn in for the first time as elected freshmen Members of the U.S. House of Representatives.

Our legislative partnership in the Congress has continued for more than 26 years. We have worked closely together in legislative harness as a team for the cause of a better America, and specifically for an enhanced quality of life, with a useful and productive value, and a human dignity, worthy of the term golden years, for our millions of senior citizens across the Nation.

It is interesting to note that each of us also had a similar background of many years of prior legislative service as a foundation for our work here in the House. CLAUDE PEPPER served as a majority member of the U.S. Senate and in the Florida State Legislature. And I served as president pro tempore and chairman of the Health and Welfare Committee of the Los Angeles City Council.

As colleagues in the House CLAUDE and I joined in 1974 as original, organizing members of the House Select Committee on Aging. Over the years, we have served together both as subcommittee chairmen, and as full committee chairmen on the Aging Committee.

In recent years, our partnership was particularly close and valuable, with CLAUDE as chairman of the Committee on Rules, and I as chairman of the Committee on Aging.

In the last Congress, CLAUDE and I joined together again on the floor of the House to propose and secure adoption of six key reform amendments to the Older Americans Act to focus on the needs of specific groups of seniors currently underserved by the act; persons who are mentally impaired, home care consumers, minorities, victims of abuse, and Indian Americans.

Recently, I was delighted to learn that CLAUDE PEPPER had established an eminent scholarship in gerontology at Florida State University in Tallahassee, to provide an element of continuity to his years of work for America's senior citizens. Our parallels continue, as I have also established a Chair in gerontology and public service at California State University at Los Angeles to continue my work for the elderly in future years.

Since 1983, Chairman PEPPER has taken the reins of the House Rules Committee, and has used that committee as an effective engine of change for the country. With his outstanding national leadership over the years as a base, I predict we will continue to see momentous advances in the quality of life of America's fast-growing senior population: a continuing tribute to this great and good man.

Mr. HOUGHTON. Mr. Speaker, the death of CLAUDE PEPPER made me think of a favorite quotation of mine. In this case I think of the "Senator."

I believe in aristocracy—if this is the right word—and if a democrat may use it. Not an aristocracy of power, based upon rank and influence, but an aristocracy of the sensitive, the considerate, and the plucky. Its members are to be found in all nations and classes and all through the ages, and, there is a secret understanding between them when they meet. They represent the true human condition, the one permanent victory of our queer race over cruelty and chaos. Thousands of them perish in obscurity, a few are great names. They are sensitive for others as well as for themselves, they are considerate without being fussy, their pluck is not swankiness but the power to endure, and they can take a joke.—from "Three Cheers for Democracy" by E.M. Forester.

Mr. SMITH of Iowa. Mr. Speaker, I think everyone who was privileged to know CLAUDE PEPPER has a favorite memory of him. Mine was of the time in 1968 he came to Iowa to speak at a function in Des Moines and he stayed with us at our farm. That visit is something my wife, Bea, and I will never forget. We had known CLAUDE for years but had never before had a great opportunity for a leisurely personal visit with him. The memory we cherish is of a plain, humble man who completely captivated us with the warmth and strength and deep humanity of his personality. Although gentle and utterly unassuming in manner, he could relate to people instantly because he really cared about their problems and their hopes for a better life. He not only cared about their needs; he was willing to fight for them. I saw his magnetism in his contacts with the Iowans of my district. They still remember him from 1968 with enormous respect but also with the affection they would accord a member of their own family.

It has often been observed that public figures tend to be for change in youth and against change in their later years. CLAUDE never changed his willingness to accept change where it would produce benefits, his public commitment, never wavered in his fight to make the world better for all, including the humble and disadvantaged and the victims of discrimination.

It seems to me that in public life today, we pay too much attention to flair and charisma and to flashy but ad hoc initiatives. CLAUDE was a scholar, an accomplished orator, and excelled in many other ways, but above all he had a fundamental philosophy of human service to which he was faithful throughout his life. This gave his life and his public carrer a consistency that we seldom see. The old-fashioned word is nobility. If any man to his own self was true all the days of his life it was CLAUDE PEPPER.

In the course of his long and illustrious public career, CLAUDE became one of the most admired and beloved figures in American history. Yet when his great heart stopped at age 88, after a half century of public service; it was only then that full recognition was given to the magnitude of his contributions to the Nation.

When asked, late in life, how he would like to be remembered, he said he would like to be known for leaving the world a better place than when he found it and for helping people in need. A worthy epitaph for a noble life.

Mr. ANDERSON. Mr. Speaker, I pay tribute today to our distinguished former colleague, CLAUDE DENSON PEPPER, who will long be remembered in these Halls for his oratorial skills, his undying energy, and his gentlemanly manner.

I know that all of us have a favorite Senator PEPPER story. I fondly remember the time that I was in a conversation with my administrative assistant when my secretary buzzed me on intercom to say that Congressman PEPPER wished to "call on me." Well, I mistakenly thought that an appointment had been made in the future and continued working with my administrative assistant. Fifteen minutes later, as we left the office, I was shocked to find the Senator quietly sitting in my reception room waiting for me to finish what I was doing. This gentle gesture was typical of this unassuming man.

I would also like to pay tribute to the valuable work Congressman PEPPER accomplished throughout his public life for the Nation. Among his accomplishments we will remember his work in the creation of the National Cancer Institute, and especially his unfledging support of Social Security and Medicare.

I do not think it an exaggeration to say that in the long history of this Republic few have served, with such vigor and dedication, those who typically have little voice in the policy of this Nation. None have been as humble, kind and unostentatious as CLAUDE PEPPER.

Mr. DWYER of New Jersey. Mr. Speaker, on May 30, this institution and this country suffered a profund loss, the death of our friend Senator CLAUDE PEPPER.

Those of us who had the honor of working with Senator PEPPER can attest to his abilities and character. He was an honest and noble man, truly dedicated to serving others. Throughout his 41-one year congressional career, the Senator effectively defended those least able to defend themselves: the elderly, the poor, and the infirm.

CLAUDE PEPPER was first elected to the U.S. Congress, as a Member of the Senate, in 1936. Immediately, he set to work supporting the New Deal initiatives of President Roosevelt. He played a major role in the enactment of a national minimum wage as well as in the establishment of the National Institutes of Health.

After a defeat for reelection to the Senate in 1944, Senator PEPPER successfully campaigned in 1960 for a seat in the House of Representatives, where he served until his recent death. As we all know, his tenure in the House was filled with legislative accomplishments.

As a Member of the House, he was a key supporter of civil rights legislation, including the Voting Rights Act of 1965. Also in that year, he was the moving force behind the Older Americans Act. This marked the beginning of his strong advocacy for programs and legislation effecting our Nation's elderly.

In 1977, Senator PEPPER was appointed the first chairman of the House Select Committee on Aging. During his chairmanship, he focused the Nation's attention on the problems confronting the elderly: Abuse, nursing home fraud, health care needs, housing, and discrimination. Through his efforts and insight, mandatory retirement was eliminated and elderly health care became an issue of national concern.

While he may not have always prevailed on the floor of the House, we all benefited from his efforts. His heartfelt commitment and advocacy of those less fortunate educated the Congress and the country. He shall be sorely missed.

Mr. CONYERS. Mr. Speaker, I rise today to pay tribute to CLAUDE PEPPER, a man who was born to a poor family in rural Alabama and rose to become one of the greatest legislators in this Nation's history.

A professor of constitutional law prior to being elected to Congress, CLAUDE understood the liberal ideas that were incorporated into the Constitution and have become a part of this country. And he never shrank from that liberalism—not even when it caused his Senate defeat in 1950 as the Nation became mired in the swamp of McCarthyism.

He first came to Congress during the Great Depression and saw that Government involvement was necessary to help Americans. He fearlessly and tirelessly defended the interests of the poor, the elderly, the young, and the downtrodden in this country. In doing so, he became a giant among those who have served in this institution. His presence will be sorely missed. His legacy to this body and to this country will forever be felt.

CLAUDE was first elected to public office in 1929, and he spent nearly every year since in service to his country. In later years, he became known as a champion for the aged. Many assumed that his work on behalf of the elderly was a reflection of his own age. But most don't know that he has championed that cause all of his life. One of his first actions upon entering public service in 1929 was to push for legislation in the Florida Legislature exempting people over 65 from having to obtain fishing licenses.

The Young CLAUDE PEPPER championed the rights of the elderly because it was the moral thing to do. But in his more than 50 years of service to Congress and this country, he was the champion of far more. He was the champion of the downtrodden, the voiceless, the forgotten, and the abondoned. And he championed the rights of these groups with equal vigor, commitment, and effectiveness.

Few if any legislators have contributed more to this country than CLAUDE PEPPER.

He lead the fight in 1938 for the minimum wage, which at that time was established at 25 cents per hour. He also during his career led the fight for Social Security, Medicare, and Medicaid.

In 1944, CLAUDE PEPPER articulated a most unpopular position for his State when he introduced legislation to abolish the poll tax, a device which was used to deny blacks their right to vote. And he was among the first Members of Congress to support equal rights for women.

The list of CLAUDE's legislative accomplishments is too long to detail in this forum. But among the institutions for which he is responsible are the National Institutes of Health and the World Health Organization.

CLAUDE was also the sponsor and driving force behind legislation that eliminated the compulsory retirement age for Federal employees, eliminated the mandatory retirement age for most private sector employees, and required employers to continue health coverage for older workers.

In foreign affairs, CLAUDE was among the first to warn President Franklin D. Roosevelt of the menace of Hitler and nazism in 1938. He was a lead sponsor of the Lend-Lease Program, which provided assistance to Great Britain prior to United States entry into World War II, and he was a supporter of early entry of this country in the effort to turn back Hitler and Mussolini's charge in Europe, Asia, and Africa.

Last week, in giving CLAUDE the Medal of Freedom, the Nation's highest civilian award, President Bush cited CLAUDE's as a "career dedicated to preserving the values that make America great."

How true that was.

In the last speech before his death, Hubert H. Humphrey expressed better than anyone else the true mission of Government. He said that "the moral test of government is how it treats those who are in the dawn of life, the children; those who are in the twilight of life, the elderly; and those who are in the shadows of life—the sick, the needy, and the handicapped."

CLAUDE PEPPER was the embodiment of that ethic. His death leaves an inestimable hole in this body. His life and his legacy will live on forever.

Mr. COUGHLIN. Mr. Speaker, I rise to thank my colleague from Florida, CHARLES BENNETT, for calling this special order to honor a former Member who served our Nation with longevity and dedication.

CLAUDE PEPPER served the people of Florida's 18th Congressional District, the people of Florida, and the people of the United States for over 60 years, including the last 27 years of his life in this U.S. House of Representatives.

First in the Florida Legislature, then in the U.S. Senate, and later in the U.S. House of Representatives, CLAUDE never forgot who he served as an elected official. From his election to the Senate in 1936 to fill an empty seat, CLAUDE set out to prove himself a champion of liberal causes. Whether it was supporting President Roosevelt's New Deal in the 1930's, or campaigning for civil rights in the 1940's, or leading the fight to reform Social Security in the 1970's and 1980's, CLAUDE always had his cause and the conviction to pursue his cause.

During the past several decades CLAUDE PEPPER had become the spokesperson for the Nation's senior citizens. As chairman and later as a member of the House Select Committee on Aging, he fought to strengthen the Social Security System believing that the elderly should be able to live with dignity and relative comforts. He helped pass the 1978 law raising the mandatory minimum retirement age for most workers from 65 to 70 and the 1986 law which banned any mandatory retirement age for most employees, allowing people to work as long as they are able. In recent years, CLAUDE had been lobbying for a Federal long-term health care plan to help ease the financial burdens of old age for the elderly.

CLAUDE spent much of this century developing and refining superb political skills and in-

stincts. Though he will be remembered for his political savvy, he will be remembered more as a brilliant orator. He combined the courtesy of a southern gentleman with the capability to silence even the toughest, most stubborn politician. And CLAUDE was persuasive.

CLAUDE PEPPER will be remembered as a man dedicated to public service. For over 60 years, he gave of himself in order to serve others. His legacy is one of honor and conviction.

I send my deepest condolences to CLAUDE's family and his many friends.

Mr. HERTEL. Mr. Speaker, I rise today to pay tribute and a final farewell to our distinguished colleague, Congressman CLAUDE PEPPER.

CLAUDE PEPPER was an inspiration to us all. In over half a century of public service, he never failed to speak out on behalf of the disabled, the poor, and the elderly. He became their greatest champion, and never compromised his beliefs in him many successful efforts to aid them.

CLAUDE PEPPER was truly a man for others, on both a public and a personal level. He introduced a multitude of bills in an effort to enhance the quality of life of senior citizens, the disabled, and the poor, and he spearheaded the effort to derail legislation designed to eliminate some hard-fought programs that were scheduled for reduction. On an individual level, he was caring and compassionate, and willing to make sacrifices for the sake of others.

It was an honor to serve in the House of Representatives and on the House Select Aging Committee with CLAUDE PEPPER. He was a man of great vision and wisdom, and he will be greatly missed by myself, the House of Representatives, and the Nation.

Mr. BLILEY. Mr. Speaker, throughout his 41-year career in Congress—14 years in the Senate, and 27 in the House—CLAUDE PEPPER devoted his lifetime to public service and helping the less fortunate. He was completely respected by his colleagues for that devotion.

CLAUDE possessed a keen vision which never dimmed over the years, in fact it only grew brighter as time passed. He pursued that vision, of providing health care for every senior citizen in the country, with a vigor unsurpassed by many men that history has remembered as heroes. Indeed, he too, will be remembered as a hero in his own right. He was a hero to a generation of elderly persons who did not have many champions. Whereas his colleagues in Congress will remember him for his legislative acumen; senior citizens will remember him for more practical reasons. As a result of CLAUDE they have improved health care and retirement pensions. They will remember him for his compassion.

Above all, CLAUDE was an outstanding legislator who never lost sight of the basic premise that he was in the Nation's Capital as a representative of the people.

We pray that he has been united with some of the millions he has helped in heaven—a place where there is no poverty, no catastrophic medical bills, no hunger. God bless him.

Mr. RAY. Mr. Speaker, my remarks today concern a very sad event for the House of Representatives, namely the death of the very Honorable CLAUDE PEPPER. However, when I take a moment to reflect on the life of this great man, my memories are anything but sad. He was a joyous and humble man, and I remember his warmth and wit.

Congressman PEPPER, through his hard work and dedicated perseverance, was instantly recognizable to a national television audience at a time when more and more of our colleagues covet attention through snappy sound-bites and sham legislative initiatives. He did not seek personal fame, rather he fought to bring enormously important issues to the forefront of our Nation's agenda. For that, I and millions of other Americans will be indebted to Congressman PEPPER, a statesman who reflected the very best in these hallowed halls.

Mr. CRANE. Mr. Speaker, it will be a long time, indeed, before the name CLAUDE PEPPER is forgotten by those who will follow us here in the U.S. Congress.

Our friend and colleague from Florida made his mark both here in the House of Representatives and in the Senate. And during that legislative career which spanned more than half a century, CLAUDE became a giant—truly one of those few leaders who becomes a living legend.

But he was more than that. CLAUDE PEPPER was a monument—a monument of hope to the Nation's senior citizens.

He was one of the first with the vision to see the need for a leader for the causes of the seniors. He saw them as a group in great need of aid, direction, and leadership.

He assumed that leadership post and served with distinction beyond the wildest hopes of his followers.

His success can be attributed to two words that defined his entire career—he cared.

And what a tremendous career he had.

He served his country during some of the most difficult times in its history, aiding our Presidents from Franklin Roosevelt through George Bush.

His tireless work carried him through the Great Depression, three wars, and countless domestic crises.

We will miss CLAUDE PEPPER as a great legislator. We will also miss CLAUDE as a fine friend.

Mr. SCHULZE. Mr. Speaker, I rise to honor one of the most distinguished gentlemen ever to serve America in the Congress, CLAUDE PEPPER. CLAUDE's commitment to bettering the life of every American—"to cool the brow of many who suffer," as he put it—was the hallmark of his remarkably inspired career of public service and leadership.

In the passing of CLAUDE PEPPER, we have lost a man who lived the spirit of his conviction. He refused to blur the line of his principles, and proved it while serving in his first elected seat as a member of the Flordia State Legislature in 1929.

CLAUDE showed his compassion for senior citizens with his first bill as a legislator by waiving fishing license fees for those over 65 years of age. He displayed concern for civil rights early on by refusing to support a Florida resolution condemning President Hoover's wife for inviting the wife of a black Congressman to the White House. CLAUDE may have lost his Florida House seat over that controversial vote, but the experience served to entrench a constant theme to his life: Personal belief before political concern.

The title of his biography is appropriately named "Pepper: Eyewitness to a Century." He met Orville Wright and the Apollo 11 crew. He worked closely with President Roosevelt to shape the New Deal and President Reagan to shape care for the elderly. He cast the first Senate vote for Lend Lease to Britain after perceiving Hitler's threat to Europe, and voted in the House to aid freedom fighters in Central America pursuing democracy. Before either existed, he spoke of the necessity of minimum wage and a draft for World War II. He ensured that senior citizen issues be placed at the forefront of political consciousness. The history of the 20th century in the United States is his biography.

I am sure to others in this body this will sound familiar. A constituent of the 5th District of Pennsylvania calls my office for assistance with a Social Security problem. In explaining the problem, the constituent, a senior citizen, says that he wrote to Congressman PEPPER and had been assured by him that I will be notified of the problem. "Senator PEPPER said you will clear this up for me," the senior citizen says, having well-placed faith that the Senator is true to his word. As we all know, his word was enough. That type of trust comes only from a life dedicated to helping, and stands as special testimony to his accomplishments and sense of purpose.

Today we honor the memory of a gentleman who received the Medal of Freedom and was accorded the respect to lie in state in the Capitol rotunda. Frankly, I am honored to have the opportunity to pass on my feelings regarding such a great man of dignity. To the legacy of CLAUDE PEPPER, I say Amen.

Mr. RANGEL. Mr. Speaker, so much has been said recently, and rightly so, about Congressman CLAUDE PEPPER's invaluable contribution to the protection of our elderly. Certainly this man is one who cannot be over-eulogized. He was indeed a national treasure, and his memory will remain one.

Little has been mentioned, however, concerning the Congressman's relentless leadership in the war on drugs. His death will mean a significant loss in this country's effort to stem the tide of illegal drug use. His record on this issue was strong and effective.

Congressman PEPPER helped establish our war on drugs. He identified the magnitude of our drug crisis long before anyone else, predicting already in the 1960's that its reverberations would shake the foundations of our country for decades to come.

Amidst all of today's empty words about the war on drugs, the efforts of a warrior of action, not rhetoric, will be sorely missed. Congressman PEPPER's dedication transcended party lines—he did what was necessary to hammer out substantive antidrug legislation.

In 1969 he sponsored the resolution to create the House Select Committee on Crime, which he proceeded to chair for the next 4 years. During his chairmanship, he singled out illegal drugs as this country's most urgent problem, and he let it be known that substance abuse was not just a crisis of the poor and the inner-city.

In 1971 Congressman PEPPER reflected upon the young life of his committee: "If there is one word that I hope will be attributed to the efforts of this committee it is 'action.'" Indeed that word accurately describes his decades-long focus on the battle against drugs.

The Congressman's leadership continued unabated through the 1980's. As chairman of the Rules Committee he led the fight to pass the rules permitting the two most comprehensive antidrug measures to date: The Anti-Drug Abuse Acts of 1986 and 1988. In both cases he had to bring a dozen committees together to push the laws through, skillfully orchestrating competing jurisdictions in order to satisfy all points of view.

His determination and ability to bring opposing elements together for an urgent cause were demonstrated in his successful effort to pass the rule permitting the 1988 drug bill: "While the rule makes in order a wide variety of amendments representing the philosophies of Members across the ideological spectrum, I believe that the spirit of cooperation exhibited in the development of this rule will lead to enactment of a bill which goes a long way toward solving our Nation's illicit drug problem."

Furthermore, he provided unyielding support for the House Select Committee on Narcotics Abuse and Control, which I chair. Congressman PEPPER vehemently called for the reconstitution of our committee at every Congress since its 1976 inception.

The people who claim to be concerned about our national drug crisis could benefit from Congressman PEPPER's example. When the Congressman detected that our drug crisis was deepening even further in the summer of 1986, back when crack was a new phenomenon, he didn't just spout off rhetoric. He wrote three bills aimed to attack the problem on both the law enforcement and drug abuse treatment dimensions, one of which was incorporated in the 1986 antidrug bill.

As this country continues to grapple with what the late Congressman recognized as our most pressing threat to national security, the energy and determination of CLAUDE PEPPER stand out as a beacon of inspiration in a darkening crisis.

Mr. LOWEY of New York. Mr. Speaker, we are all gathered here today to pay tribute to a great man. Some of your knew Senator PEPPER for many years, some of us for only a few months, but his dignity, his grace and his determination have touched everyone.

I want to tell you a story. A story about a man of strength, compassion and unceasing dedication to people. A story about Senator CLAUDE PEPPER.

The first time I met CLAUDE PEPPER, I went to his office to talk with him about Medicare and issues facing the elderly. I had heard wonderful things about him from his colleagues and from the senior citizens with whom I spoke during my campaign. As we talked and began to get to know each other that day, I realized how right those people were. He spoke about the problems that senior citizens face everyday with such compassion that it almost brought tears to my eyes. He spoke eloquently about his long commitment to finding ways to meet the needs of the elderly without imposing an unfair or inordinate burden on them. To know CLAUDE PEPPER was to love, admire, and be awed by CLAUDE PEPPER.

Senator PEPPER was a dedicated man. He was dedicated to the people of this country, to the concerns of those people, and to the Congress that is responsible for addressing those concerns. I will never forget the day that I met CLAUDE PEPPER: a hero, a role model and a new friend.

Many people knew and admired CLAUDE PEPPER—in his district, in his State, and here in the Halls of Congress. But CLAUDE had something extraordinary. He had 29 million special friends. Those are the 29 million people in our country over the age of 65. He was a champion of their rights and their concerns for over half a century of public service. Long before he himself joined the ranks of senior citizens, he was their advocate.

I know that we all grieve the loss of Senator PEPPER. By coming together here today, we are paying a great tribute to him. But an even greater tribute would be to make a pledge to the people of our Nation, especially the 29 million senior citizens, on his behalf. We must pledge today that we will follow Senator PEPPER's years of leadership and public service on behalf of the elderly; that we will fight long and hard for the rights of all in our society, especially the poor, the homeless and the elderly who are so often forgotten; and that as a legislative body we will maintain a sense of responsibility, dedication and honor, so that we may live out Senator PEPPER's vision of a strong and effective Congress.

None of us can replace him, but we can all strive to emulate his compassion, his commitment to principle, and his love of this Nation and its people.

Mr. IRELAND. Mr. Speaker, the Florida delegation has set aside this time this afternoon to remember our friend and colleague CLAUDE PEPPER. It goes without saying that he is already missed, not only for his wit and intelligence, but for his sense of well-being for others.

CLAUDE became the national conscience on so many issues affecting individuals in this Nation. We remember him most often for his work on the Select Committee on Aging and his constant pursuit of fairness for senior citizens. He was, no doubt, first among us to recognize that we all have a contribution to make if we so choose, even after the age of 65.

Senator PEPPER gave new meaning to life for a whole generation of Americans. We did not always agree on the approach needed for some issues, but it was always a pleasure to debate and to come to an understanding of Senator PEPPER's philosophy on the truly important issues facing us.

The 10th Congressional District holds a special place for Senator PEPPER. He and his wife, Mildred, were frequent guests at the beautiful Cypress Gardens. We often spoke of this unique area of Florida and I know he shared my love and attraction to central Florida. I would guess that each section of our State holds a unique memory of Senator PEPPER.

Mr. Speaker, I do not need to tell how different it will be in the House without CLAUDE PEPPER. Surely, we are all better to have known him.

Mr. BONIOR. Mr. Speaker, on May 30, America lost one of its most cherished treasures with the death of Senator CLAUDE PEPPER. You cannot go anywhere in this country without finding someone whose life has been touched by him. His influence spanned generations.

Senator PEPPER was a mentor, an inspiration, almost a father to me. Nothing has given me more satisfaction in my political life than to serve alongside the Senator in the House and to work under him in the powerful Rules Committee.

In 1987, Senator PEPPER published his autobiography, "Pepper: Eyewitness to a Century." I have always thought that title showed the Senator's characteristic humility. For Senator CLAUDE PEPPER was not just a witness to this century, he profoundly shaped it.

The United States would not be the proud and strong Nation it is today if it had not been for the tremendous contribution of Senator PEPPER.

During the 1930s, when our Nation was ravaged by a terrible economic depression, Senator CLAUDE PEPPER was a champion of efforts to help the millions of Americans who needed the New Deal.

And, just prior to World War II, he was one of the first to warn this Nation of the dreadful horrors of Hitler, and to awaken our people to the need to defend democracy.

In the years since then, CLAUDE PEPPER time and time again was a leader in renewing our national commitment to better health, better housing, better education for all Americans.

Senator PEPPER found the secret to living a long and productive life, a life that was continually renewed with purpose and vigor. His secret was his tireless passion for helping his fellow citizens.

More than any other single person in this country, he was responsible for making America aware not only of the special needs of the elderly and our special responsibility to meet them—but also of the power and vitality of the movement for senior citizens' rights. He was the symbol of that movement.

Senator PEPPER's legacy will remain with us forever. No one could better remind us of what a high calling it is to enter public service. No one could provide a more stirring example of what it means to truly serve our country.

I feel a great personal loss at the passing of Senator PEPPER, and I will forever cherish the friendship and guidance he so generously gave to me.

Mr. KENNEDY. Mr. Speaker, like many other Americans and people from all over the world, I will deeply miss our dear friend and colleague, CLAUDE PEPPER. His vivacity and intense love for life will never die because he has passed it on to every one of us in his own special way. CLAUDE PEPPER was more than a giant. He sincerely believed in equality of all human beings regardless of race, religion, or gender. He helped a stranger in the same compassionate manner that he would help a dear friend.

CLAUDE PEPPER was to me a shining example of the American dream. Born in 1900 to

a poor family in Alabama, he proved that with dreams and hard work every person has the opportunity to succeed in life. Congressman PEPPER knew from the time he was a young child that he wanted to become a U.S. Senator. His tenacity and motivation enabled him to accomplish his goals. CLAUDE PEPPER was a dedicated public servant for 60 years of his life. The Capitol was a second home for him as he served in both the Senate and the House of Representatives and loved both dearly. As the oldest Member of Congress his overflowing energy and excitement never failed to impress the Members of the House and Senate with whom he came in contact daily.

CLAUDE PEPPER will always be remembered as a champion of the elderly. The advancements he made in social security, the mandatory retirement age for workers in private industry, and many other important issues will have a profound effect on every American. He elevated the status of senior citizens and abolished many derogatory stereotypes. One reason for his beneficial effect on all Americans was the fact that he was not fighting for the people, but he was fighting with them to improve the life of every citizen. He placed himself on the same ground as the common man and could therefore personally comprehend their grievances and work out the best remedy.

The passing of CLAUDE PEPPER is indeed a great loss to every citizen in this country. He has left a momentous imprint on this country. I thank him for all that he did for his fellow man and I hope for future generations that our country produces more leaders like CLAUDE PEPPER.

Mrs. MORELLA. Mr. Speaker, it is difficult for me to sum up my thoughts on a man who has left an indelible mark on American history. CLAUDE PEPPER was more than just a member of this body; he was an institution. Few Members of Congress have ever wielded the power, exerted the influence, or enjoyed the level of respect that CLAUDE PEPPER did. And with good reason.

In his 41 years in Congress, CLAUDE PEPPER came to symbolize what is best about this body. As a true public servant, he was not afraid to champion causes which were often unpopular. From his sponsorship of the controversial Lend-Lease Act to his support for full funding of Medicaid and Medicare during an era of budget cuts, Congressman PEPPER came to represent the conscience of the Congress.

I first met Congressman PEPPER when I joined the Select Committee on Aging in my first term. I remember being amazed at the fact that he truly lived up to the legend; he was as compassionate and as skillful a legislator as one could imagine. He was as stately as this Chamber and as awe-inspiring as any Member who ever walked these halls. I considered Congressman PEPPER, as I think most Members of Congress did, the consummate legislator. In an era of TV sound bites and round-the-clock campaigning, CLAUDE PEPPER reminded us that we are here to serve others—to help people. At age 88, CLAUDE PEPPER had more dignity and stature than the most telegenic of us. Perhaps my distinguished colleague from Massachusetts, Congressman SILVIO CONTE, said it best when, remarking upon the fact that Congressman PEPPER could not stand up to receive the Medal of Freedom, he said, "He didn't have to stand up. He was a giant."

I will always remember CLAUDE PEPPER in this way, and I will miss him.

Mr. SLATTERY. Mr. Speaker, I will always remember my first visit with CLAUDE PEPPER. Thanks to a generous letter of introduction from the late John Montgomery of Junction City, a mutual friend, Congressman PEPPER was expecting me.

He invited me to talk with him as he made the 10 minute dash from his office to the House floor to vote. I remember thinking how remarkable it was that this 83-year-old man could walk so fast, greet colleagues and friends by their first names, while giving me thoughtful advice about how to win the committee assignments I sought.

Senator PEPPER took time to introduce me to House Speaker Tip O'Neill and other members, and asked them to support my appointment to the Energy and Commerce and Veterans Affairs Committees. They did and I know how important his endorsement was.

CLAUDE PEPPER was a walking, living history book who taught unforgettable lessons and shared inspiring recollections during late-night sessions on the House floor. I'll never forget his stories of working with President Roosevelt and of traveling in Nazi Germany before World War II.

Senator PEPPER tirelessly defended the interests of seniors and advocated the causes of the homeless, voiceless and powerless, with vigorous and poetic oratory.

Time magazine wrote in 1982, shortly after Senator PEPPER received his first pacemaker, that he was, "like a vintage automobile with new parts: he gets better and more powerful with age."

As a Senator and Congressman, CLAUDE PEPPER saw and tried to relieve the pain and suffering of children who went to bed hopeless and hungry and of older Americans who existed and died impoverished and alone.

He spent 52 years serving our country and fighting for what he believed. He cared about people, and I am just one of millions who considered CLAUDE PEPPER a personal friend. He was a grand, a great American.

CLAUDE PEPPER was an inspiration to me and I'll miss him greatly.

Mrs. SLAUGHTER of New York. Mr. Speaker, CLAUDE PEPPER was the last of the truly great New Deal Democrats. He believed the role of Government was first and foremost to provide for the people. Throughout the 50 years he served in Congress he originated programs such as the World Health Organization, he played an instrumental role in the passage of the first minimum wage law and he inspired us all by his ideas and accomplishments. He once said about himself: "I am, and shall remain a liberal. * * * I intend to continue to devote my full energies to helping to free people from fear of dictatorial oppression, from fear of illness and poverty, from fear of discrimination, from fear of ignorance, and from fear of opportunity foreclosed." CLAUDE PEPPER never stopped trying to reach these goals and never hesitated to take a stand.

As the only Senator to cast a vote for Lend-Lease to Britain during the early World War II era, CLAUDE PEPPER demonstrated his concern for freedom from the totalitarian threat posed by Hitler.

As a major social welfare reformer, he devoted his life to protecting the people from illness and poverty.

As one who would not compromise his values for his political aspirations, CLAUDE PEPPER lost an important election because he adamantly defended first lady Lou Henry Hoover's decision to have the wife of a black Congressman to a reception at the White House.

By spending his entire career as one of the chief supporters of the elderly, he became their hero, and a champion of many of their causes. He made certain that opportunities were not foreclosed for the elderly, women, and other minorities. He was the first to offer a child care bill, worked to abolish mandatory retirement based on age, and he played a major part in restructuring the Social Security system.

Senator PEPPER, dubbed "RED PEPPER" by some because of his red hair and fiery oratory and by others for his political views, had a razor-sharp mind, a wealth of knowledge and a great flair for the dramatic. His stories and wit will be truly missed. A self-educated success, CLAUDE PEPPER epitomized the fulfillment of the American dream. His vast experience gave him insight into the needs of the people, and through hard work and dedication to public service, CLAUDE PEPPER devoted his own life to improving the lives of others.

As the chairman of the Rules Committee, he continued in the tradition of the New Dealers. Legislation that advocated service for the people was his primary concern. He used his position to fight for the rights and security of our Nation's elderly. Justice, in the sense that everyone is entitled to be healthy and happy and well taken care of, was CLAUDE PEPPER's foremost cause.

"It was said of Mr. PEPPER that he made it fashionable to be old". His age made him worldly and insightful. At 88 years old he was truly a fashionable man. He possessed a great sense of humor and the manner of a genuine southern gentleman. I am certain that we have all learned much from CLAUDE PEPPER, not only about the art of politics, but about the art of living.

Mr. MINETA. Mr. Speaker, I am proud to join with my colleagues to participate in this special order for our very dear friend, the late CLAUDE PEPPER. With his passing, the people of the United States have lost a powerful champion for justice, equality, and the quality of life here on this Earth.

Without Senator PEPPER'S tireless dedication, many important social, cultural, and political debates would never have gained the prominence Senator PEPPER knew they deserved. It would be difficult to find a significant piece of legislation in the last half-century which did not in some way speak of Senator PEPPER's ideals and influence.

As we now take up the causes which Senator PEPPER championed so diligently, we will find that his strength, skill, and patience are not easily matched. This is Senator PEPPER's lasting challenge to us, his colleagues.

But for the American people, Senator PEPPER leaves us with another challenge: To protect the elderly, aid the poor, and educate the uneducated. And indeed, we would betray the memory of Senator PEPPER were we not to fight for their rights, and especially the rights of anyone and everyone who falls victim to prejudice, hate, or discrimination.

These duties may seem all too obvious in this day and age. But when we stop and remember that Senator PEPPER addressed the rights of the elderly, the scourge of illiteracy and the nemesis of discrimination more than 50 years ago, we then realize just how much foresight, wisdom and courage lived in CLAUDE PEPPER.

While serving in the Florida House in the 1930's, CLAUDE PEPPER took a stand against racism. He refused to support a resolution condemning Lou Henry Hoover, the wife of the President of the United States, for inviting a black man to a tea at the White House. PEPPER lost the next election, but he never lost his opposition to discrimination.

Two years ago, as the House prepared to debate a law designed to offer redress for the summary denial of constitutional rights, here again was Senator PEPPER defending the rights of his fellow citizens.

In 1942, 120,000 Americans of Japanese ancestry were forcibly removed and interned by the United States Government simply because they were Americans of Japanese ancestry. There were no charges, no trials, no due process. I was one of those Americans who were interned solely on account of my ancestry.

When I testified before Senator PEPPER and his House Rules Committee, I came away knowing for fact that what I had always known in my heart: That CLAUDE PEPPER was always on the side of the Constitution. And with his help, the Civil Liberties Act of 1988 became law.

Senator PEPPER knew what it meant for Congress to enact truly meaningful legislation. While serving in the U.S. Senate, CLAUDE PEPPER was instrumental in the passage of the first minimum wage law, guaranteeing workers 25 cents an hour.

Mr. Speaker, we can only imagine how eloquent and passionate and determined CLAUDE PEPPER would have been during our attempt last week to override President Bush's unfortunate veto of the Fair Standards Amendments of 1989.

Throughout his public service career, Senator PEPPER always looked out for those not able to do so for themselves. Our national Social Security Program was introduced only a few years before Senator PEPPER began his congressional service. For the next 50 years, Senator PEPPER did everything in his power to defend and protect that pact with the American people.

The 1983 compromise which restored the health and solvency of our Social Security System benefited significantly from CLAUDE PEPPER's charge as Chair of the Rules Committee. Senator PEPPER was unable to eliminate all cuts in benefits which the Reagan administration had demanded, but he yielded no more than was absolutely necessary.

There are so very many accomplishments in CLAUDE PEPPER's career, it is hard to know not where to start but when to stop. So I will mention but one more.

CLAUDE PEPPER was the father of the modern National Institutes of Health, whose mission it was and is to improve the health of the American people. As a Senator, he sponsored legislation that created the NIH, and his interest in medical research lasted throughout his career. This concern, respect, and affection was reciprocated by the National Institutes of Health when NIH named its headquarters the Claude Denson Pepper Building.

Mr. Speaker, there are many honors we have bestowed upon CLAUDE PEPPER both in life and since his passing. But the greatest honor is not one we have granted. It is one which we were granted: The privilege to have CLAUDE PEPPER as our fellow citizen.

It was an honor for me to have known CLAUDE PEPPER and to have served with him in this, the greatest institution the world has ever known. I am a better legislator for the experience, and our Nation is better for the constant pursuit of excellence, the tireless devotion to justice, and the everlasting love of country which was CLAUDE PEPPER.

Thank you very much.

Mr. MONTGOMERY. Mr. Speaker, I want to thank our colleague, CHARLIE BENNETT, for taking this time to honor our friend and former colleague, CLAUDE PEPPER. CLAUDE was one of our best loved Members and he commanded the respect of men and women on both sides of the political aisle and on both sides of this Capitol building.

It was very fitting that President Bush was able to go to the hospital just before CLAUDE'S death to present him with the Presidential Freedom Award. I can think of no one more deserving of such recognition.

It was very obvious by the way official Washington reacted to his death that CLAUDE had a special place in all our hearts. That affection was felt throughout the country as well. I would venture to say that CLAUDE PEPPER was a popular figure in every congressional district throughout the United States for the untiring work he did on behalf of the Nation's elderly. He was the champion of issues affecting our elderly for so many years, and his successors in that area have helped make life easier for senior citizens all across America.

We will miss Senator PEPPER. But his great record of achievement in both the Senate and the House will live on.

Mr. GORDON. Mr. Speaker, it is a time of sadness and fond memories for those of us who had the pleasure of knowing and the privilege of working with Congressman CLAUDE PEPPER.

A self-made man whose career as a public servant spanned six decades, PEPPER saw three wars, economic depression and boom, and two visits by Halley's Comet.

He appeared on the cover of the Time magazine twice—as a Senator in 1938 and as a Congressman in 1983.

Through it all, PEPPER championed the causes of the less powerful. He worked not for those with the big money, but for those with the biggest needs.

He asked that his epitaph read, "He loved his God and his country, and he tried to serve them both."

And he did serve both, setting an example of courage and conviction, standing up for what he believed even when the breezes of popular opinion were blowing the other way.

Senator PEPPER entered politics in 1928 in the Florida Legislature. He went to the U.S. Senate in 1934, when he was just 36 years old.

When he died last week at 88, he was the oldest Member of Congress. He had served 18 years in the Senate and 28 in the House.

CLAUDE PEPPER was famed as the champion of the elderly, whose cause he first took up as a young man in the 1930's. He backed the formation of a Social Security System for retirees at that time, before the idea was considered acceptable.

No one has done more to try and insure that senior citizens enjoy the dignity and respect that is their due.

CLAUDE PEPPER showed his foresight in another area when he cast the only vote in favor of the Lend-Lease Program the first time it was proposed in 1940 to help the Allies fight Nazi Germany. A few months later, Congress sided overwhelmingly with the Senator from Florida, and Britain was saved.

Senator PEPPER's courage and convictions served his God and his country, but they also cost him his seat in the Senate. At a time when segregation was the norm in Florida and blacks were routinely denied the vote, CLAUDE PEPPER supported civil rights.

Remembering the poverty in which he grew up, CLAUDE PEPPER supported the creation of a minimum wage of 25 cents an hour at a time when many claimed a minimum wage was nothing but a sinister Communist ploy.

He was also a backer of TVA—the public power system that has meant so much to our economy in Tennessee.

For these and other acts of conviction, PEPPER was labeled "RED PEPPER" and called a Communist during the McCarthy hysteria. He was defeated for reelection in 1950, a victim of one of the vilest smear campaigns ever.

Ten years later he was back in Congress, this time representing a House district that included Miami and Miami Beach. His convictions remained as strong as ever, and he became the chief spokesman for seniors in Congress.

One of his last great fights came in 1988, when he tried to push through a bill to start a home health care program so that seniors who wish it could remain in their homes while convalescing. He lost that round, but I have a feeling that, as in so many of his endeavors, eventually his idea will win.

When I was picked for the House Committee on Rules, which CLAUDE PEPPER chaired, Senator PEPPER treated me like a grandson. He always went out of his way to help me learn the complex system of rules that makes it possible for all of us to debate and vote on legislation, even the most controversial, in an orderly fashion.

We spent a lot of personal time together, traveling to the Soviet Union and working through hundreds of committee hearings and meetings. Up close, I found Senator PEPPER to be a model of integrity and decorum. Even

when he disagreed with you, he did it in a pleasant way, a gentlemanly way.

He had learned patience with age, and he found that patience usually paid off in the long run.

Despite his failing health, Senator PEPPER continued to lead our committee, both in the hearing room and on the floor of the House. There was no self-pity, only will power, as he continued almost through his last breath to fight tenaciously for what he believed was right.

The day before he died, he called Richard Darman, Director of the Office of Management and Budget, to find out why more had not been done for something PEPPER had long sought—a monument in Washington to President Franklin D. Roosevelt.

Not satisfied with Darman's response, PEPPER called President Bush to make a last, personal plea for the monument.

Knowing his death lay only hours away, PEPPER as usual was not thinking of himself, but of his long-dead mentor and hero.

My admiration for this great public servant and all he accomplished helps to mute my sorrow at his passing.

Mr. MAZZOLI. Mr. Speaker, on May 30, America lost a stalwart legislator and we, in the Congress, lost a good friend. The death of CLAUDE PEPPER ends a rich and full chapter in American history.

Senator PEPPER was a remarkable man. His career in Congress spanned more than 40 years. He met Wilbur and Orville Wright. And, he shook hands with the astronauts. Few have seen, first-hand, so much of our Nation's history. And, few have played such an intimate role in that sweep of history.

Born as this century began, CLAUDE PEPPER not only witnessed, but participated in most of the major historical events in his lifetime. He helped shape the early days of the Roosevelt New Deal and gave life and focus to programs aiding millions of poverty-stricken Americans.

CLAUDE PEPPER was a marvel of tenacity and unyielding optimism on issues of importance to our senior citizens. Perhaps no individual in Congress has ever been more sympathetic to nor done more to help protect senior citizens in this country than CLAUDE PEPPER.

Senator PEPPER had the energy of someone many years his junior. And, he continued in political life long after many a lesser man would have retired. For more than 40 years in Congress he fought tirelessly for the poor and elderly. His career in public service and his record of legislative achievements stand as a model for all public servants to emulate.

A kind and courtly person, a scholar with all the grace and charm appropriate to a Southern gentleman, CLAUDE PEPPER was an eloquent and passionate public speaker. We have all heard and marveled at his orations on the House floor. But, never was CLAUDE PEPPER more eloquent than in his stirring message to the delegates gathered in Philadelphia's Congress Hall in July 1987 celebrating the 200th anniversary of our Constitution.

How is it possible to measure the value of a man's life? If the outpouring of tributes paid to this man since he passed away measure and reflect the love, respect and appreciation which he engendered among family, friends, and colleagues, then CLAUDE PEPPER truly was a giant.

Of humble origins himself, CLAUDE PEPPER had the rare gift of being able to touch people of all ages and from all walks of life. His contributions to the establishment of medical research programs, Social Security, and Medicare will remain as proud legacies to all Americans. Few Americans more richly deserved the honor which was bestowed on him a few days before his death by President Bush: the Presidential Medal of Freedom.

The House of Representatives and this Nation have lost a dear friend. This Chamber will not be the same place without CLAUDE PEPPER. We will miss his presence but will remember him often and fondly.

Mr. HORTON. Mr. Speaker, I have many fond memories and personal recollections of CLAUDE PEPPER. Upon our election to the 88th Congress in 1962, we became close friends. Of course CLAUDE'S earlier years of service in the Senate made him an instant leader of the 88th Club.

Each year, the Members first elected to the 88th Congress gather for a St. Patrick's Day dinner. My good friend JAKE PICKLE of Texas and I always looked to CLAUDE to give an inspirational speech. Last year marked the 25th anniversary of the club and CLAUDE again made an excellent speech. He was brilliant again this year in what has turned out to be his final address to the 88th Club.

My wife Nancy and I both considered CLAUDE and his wife Mildred to be friends. One of my favorite memories of him is an event that happened some years ago. Nancy and I were at a restaurant in his district, named Joe's Stone Crabs. By coincidence, the Senator stopped into the restaurant while we were there. It gave me great pleasure to be in his district and to see the fondness and respect which the constituents had for him.

Of course, everyone knows CLAUDE PEPPER as a champion of the poor, crusader for the elderly, and promoter of human dignity. Whatever the problem, CLAUDE PEPPER always landed on the side of humanity. He was a true believer in the causes for which he fought.

Throughout his distinguished public service career, CLAUDE was a staunch advocate for the elderly. As many of you know, the first bill he ever sponsored in the Florida Legislature was to rescind the fee for fishing licenses for senior citizens. He continued working on behalf of older Americans up until the time of his death last month. With his death, the elderly have lost their most ardent supporter. Though he was very successful in improving the welfare of our seniors, there is still work to be done.

It is my sincere hope that Senator PEPPER'S message will be heard and his legacy will be carried on by all Members of the House. There are several problems confronting our seniors which need to be addressed by the Congress in the near term. The successful completion of this task is the type of memorial which CLAUDE would have preferred.

Mr. RAHALL. Mr. Speaker, I rise today to speak in sadness at his death, and in celebration of the life of a man whose time among us was far, far too short—the honorable and revered CLAUDE D. PEPPER, Democrat from Florida.

Although CLAUDE PEPPER began his service in the U.S. Senate during the second term of President Franklin Roosevelt, in his own words "he loved the Senate, but he dearly loved the House."

But while he served the House longer than he served the Senate, he was nearly always greeted fondly and respectfully as "Senator".

I had the distinct honor early this year to travel down to CLAUDE PEPPER'S district to participate in a hearing on a bill that is pending before the Education and Labor Committee. His bill would have provided incentives for States to develop and implement programs to keep high school students in school, from dropping out in the first place. He believed as strongly in the needs of the youth of America as he did the needs of older Americans—and his legislative efforts show that, more than most of us, he recognized and understood that as the twig is bent, so grows the tree. Help the millions of senior citizens in this country? Oh my, Yes. But he knew our future depended upon our youngest citizens—and he made every effort to lend them a helping hand as well.

During that hearing on the Pepper bill, I recalled during my remarks that a majority of citizens of the United States believe that CLAUDE PEPPER became a champion for causes serving the elderly after he became a senior citizen himself. But in fact, one of his first legislative efforts, as a member of the Florida Legislature in 1929, was a bill to permit persons older than 65 to fish without a license. He himself, born in 1900, was only 29 years old.

CLAUDE PEPPER was a devoted husband to his beloved Mildred, his wife of 43 years who died in 1979. He mourned her loss, but cherished the memory of that loving relationship throughout the remainder of his life.

CLAUDE PEPPER defied the fact that he was the oldest Member serving in Congress with his energy, his 15-hour days, his tireless work on behalf of keeping Social Security intact and solvent, and making certain that the frail elderly folks in nursing homes were properly cared for and about. He came nearer to establishing a patient's bill of rights for nursing home residents than any other Member. But he never sat back to rest on his laurels, and in the case of cleaning up the nursing homes across this Nation, he would have told you that our efforts still fell short, and that much remained to be done to assure their health, safety, and dignity of life.

Early in his Senate years, he introduced legislation calling for Equal Rights for Women—long before it became fashionable to do so, and long before women's rights groups clamored for such legislation. He was a civil rights activist in every sense of the word before the term activist became a household word.

His early efforts on behalf of preventive health policy, and his involvement in establishing the first five National Institutes of Health programs, much improved and expanded over the years by his efforts to include research to find treatment and cures for a myriad of ills affecting the young and old alike, still stand and still flourish.

Early in his career, as one of the staunchest defenders of Roosevelt's New Deal programs, he saw enactment of the 25-cents-an-hour minimum wage law, and supported Roosevelt's effort to expand the Supreme Court, among other unprecedented initiatives of that era meant to save a failing nation. He was one of the staunchest supporters of President Roosevelt, and echoed forever afterward through his words and deeds, the admonition made by Franklin Roosevelt to new Members of Congress a few days after he took office, with a nation crying out for its leaders to do something.

"Gentlemen," said Roosevelt, "we may make mistakes in enacting many of my proposals into law, but to stand and do nothing would be the greatest mistake of all." It was not possible for a man of CLAUDE PEPPER's energy, talent and compassion for others to stand and do nothing. And he never once did.

When this honorable man was defeated in his 1950 campaign for reelection to his Senate seat, he was defeated on the basis of his being a shameless extrovert. He remained a shameless extrovert when he returned to Congress as a Member of the House, and the Nation has rejoiced ever since. He was also a shameless liberal, and he chaffed against efforts to make that word an epithet during more recent political campaigns.

There is no need for me to tell the story of CLAUDE PEPPER's life.

His was a life lived in sunshine, not in the shadow of ideology or fear of what other people might think. If it needed fixing, he fixed it. He went after controversial issues that concerned him with gusto and charm, armed with information gleaned from his tireless fact-finding missions on every subject he embraced and fought for. And, more often than not, he won more friends and supporters for his many and diverse causes along the way than he encountered foes.

CLAUDE PEPPER will never die, because of the example he set in living his own life. At the beginning of his adulthood, when he set his cap for the Senate, he was wise beyond his years, and from the beginning he had the characteristics of greatness we all seek—understanding, justice tempered with mercy and gentleness, nobility, dignity, and honor.

We shall miss his presence among us. But we have only to look at the record to continue to be instructed by him, and to learn from his example.

The humility that we often express before God in our prayers, is often buried in the daily rush of our lives. That was not so of the CLAUDE PEPPER I knew.

In my prayers upon hearing of the death of CLAUDE PEPPER, I remembered the Psalms of Praise, the 100th Psalm, which reads:

Know ye that the Lord He is God: It is He that hath made us, and not we ourselves; we are His people, and the sheep of His pasture. Enter into His gates with thanksgiving, and into His courts with praise; be thankful into Him and bless His name.

I will always miss this fine and gentle man, but though his voice is stilled, his words and deeds will live on in this institution, the House of Representatives, that he so loved and served so very well.

Mr. TORRES. Mr. Speaker, I thank the gentleman from Florida for convening this special order as a tribute to our friend and colleague, CLAUDE PEPPER.

I want to share with you a personal story which I believe is a manifestation of CLAUDE PEPPER's kindness, lucidity and institutional memory.

I recall going to a White House ceremony for the arrival of Secretary General Mikhail Gorbachev. It was a cold December morning. Then-President Ronald Reagan and Soviet Secretary General Gorbachev, the most powerful men in the world, were meeting to sign the historic arms control treaty. It was a momentous occasion. Both national anthems were played, and Secretary General Gorbachev received a 21 gun salute. We were watching history in the making.

I remember distinctly noting that Congressman PEPPER was seated in one of the first few rows reserved for elected officials. He had on a red corduroy golf cap which caught my eye. As Chairman PEPPER was making his way back to his car, he was surrounded by reporters. Always willing to share his thoughts, it took the help of his driver to direct him to his car for the short drive back to Capitol Hill.

I found myself on the White House lawn without transportation back to the Hill. I went over to Chairman PEPPER and asked if I could join him. He graciously agreed and suggested I take the back seat. He said it was easier for him to ride up front.

On that short drive up Pennsylvania Avenue, I asked Chairman PEPPER if he ever envisioned the day when Ronald Reagan and Mikhail Gorbachev would join together like that?

He said, yes, he knew that the superpowers would become friends again. He flashed back to a meeting with Josef Stalin wherein Stalin conveyed that he did not feel that the rift between our countries could ever be healed. Stalin believed that this rift was something that has been set in motion and could not be stopped.

As history will attest, Chairman PEPPER characterized Josef Stalin as a man Americans could trust. This characterization earned him the nickname "RED PEPPER." As we all know, Chairman PEPPER outlived Josef Stalin. He lived to see the day on that cold December morning when our two nations joined together in pursuit of peace.

Chairman PEPPER went on to share another anecdote. This one on his attempted meeting with Adolf Hitler at the request of then-President Franklin D. Roosevelt. A confirmed internationalist, and then-member of the Senate Foreign Relations Committee, Chairman PEPPER traveled to Germany to try to meet with Hitler. He was unsuccessful. Hitler refused to meet with him.

They were destined to meet. Over lunch with his beloved wife at a small cafe in the center of Berlin, Chairman PEPPER encountered the Fuehrer. Apparently, this was one of Hitler's favorite spots. Commotion over Hitler's coming overcame the cafe. People were moved so that the Fuehrer would sit at his favorite table.

Chairman PEPPER told me that he was not impressed with the man. He was too cocky and consumed by himself. With that, he and Mildred were ready to leave. Chairman PEPPER asked the waiter for his bill. The waiter, scared stiff, said he could not leave before the Fuehrer. Chairman PEPPER and Mildred continued to ready themselves to leave the cafe. All eyes were on them. I am told that you could have heard a pin drop. He said he could feel the heat of Hitler's eyes on him.

Chairman PEPPER and Mildred left the cafe before Hitler. At the door, before his exit. Chairman PEPPER did recognize the Fuehrer with a slight bow; the Fuehrer only glared back.

I thanked Chairman PEPPER for sharing his stories with me as I exited his car. I was delighted to have partaken in this small bit of history with a legend we knew as CLAUDE DENSON PEPPER.

Mr. HALL of Ohio. Mr. Speaker, I have joined with millions of Americans of all ages, and especially with my congressional colleagues, to mourn the death of Representative CLAUDE D. PEPPER, my friend and colleague. I want to thank the gentleman from Florida [Mr. BENNETT] for organizing this special order to celebrate the life and career of CLAUDE PEPPER.

It was my deep privilege to serve with CLAUDE PEPPER on the House Rules Committee. He was a distinguished chairman of the Rules Committee who used his power to help the powerless. He was a true champion of the needy, the disadvantaged, and the aged. He never abandoned his commitment to be their voice in the Capitol.

CLAUDE PEPPER was an inspiration to our Nation's senior citizens. As the oldest Member of the House, he had a great empathy for their needs and fears. They never doubted that he understood their concerns and would fight for them in Congress. He was their special advocate.

Yet CLAUDE PEPPER was more than just a spokesman and activist—he was a role model for all Americans. He demonstrated that mere age alone was no obstacle to effective job performance. He proved that a person could be alert, productive, and important—even at 88 years of age.

Senior citizens knew that if CLAUDE PEPPER could make a difference, so could they. Other Americans knew that if CLAUDE PEPPER could overcome the barrier of age, then they could overcome whatever barrier in life confronted them.

CLAUDE PEPPER leaves us an inspirational legacy. He enjoyed many successes over his decades of public service. As a participant in some of the greatest historical moments of this century, he was a national treasure and resource.

There are few individuals who deserve the title "Living legend." CLAUDE PEPPER was one of them. While we are saddened by his passing, it is consoling that CLAUDE PEPPER received so many of his deserved honors while he was still alive. He lived long enough both to see his place in history and to experience the love and appreciation of the Nation.

CLAUDE PEPPER was also revered around the world. He spearheaded congressional missions to foreign countries, and served as chairman of several United States delegations to Interparliamentary Union meetings over-

seas. He was a firm believer in interparliamentary exchanges and the forging of strong bonds among the world's democracies.

Truly, he was a citizen of the world. I am especially grateful for the support he lent to numerous initiatives to promote international respect for human rights and to encourage the fulfillment of basic human needs in developing nations. The world will miss his great heart.

CLAUDE PEPPER has left a tremendous void with his death. As we contemplate this loss, we should celebrate his life and draw encouragement from it. He accomplished many of his objectives, but left many others for us to pursue. May his life challenge us to continue his commitment to serve others and to contribute further to the high goals he set.

Mr. NEAL of Massachusetts. Mr. Speaker, I have only served in Congress since January and I did not have many opportunities to observe the work of CLAUDE PEPPER, but when he died on May 30, I felt a great sense of loss. CLAUDE PEPPER was a link to the 1930's and Franklin Roosevelt's New Deal. He was here, on the front line, as the Congress and the President struggled to pull our Nation out of the Great Depression. And he was here in the 1980's, defending many of the New Deal programs against crippling cuts. His passing was also the passing of an era.

From the time he came to Congress in 1937 as a U.S. Senator through his days as chairman of the House Rules Committee, CLAUDE DENSON PEPPER never wavered in his support for social programs aimed at the neediest in our society. He was a liberal in the best definition of the word. He stayed true to his liberal principles even when it was politically dangerous to do so. His outspoken brand of liberalism was the main cause of the loss of his Senate seat in 1950. CLAUDE PEPPER, however, was never a quitter and in 1963 he was back in Congress, here in the House, pushing strongly for President Kennedy's New Frontier legislation. During his 26-year House career, CLAUDE PEPPER became a champion for matters of concern to the elderly. For millions of Americans over the age of 65, CLAUDE PEPPER was a friend on Capitol Hill they could count on. He was consistently "out in front" on issues that took their place on the domestic agenda of this country: Social security, welfare, Medicare, and education. We will continue to debate important issues that CLAUDE PEPPER supported in his later years, most importantly, proposals for long-term health care.

Mr. Speaker, in one of his last major speeches before this House, CLAUDE PEPPER urged Members to vote for long-term care. He said that, by voting for long-term care, Members could say, "I helped a little bit today: I voted to help those who needed help." Those words capture the essence of CLAUDE PEPPER. He constantly sought ways to help the least fortunate members of our society. When we follow his example of commitment to the truly needy, we pay fitting tribute to CLAUDE PEPPER.

Mr. FORD of Michigan. Mr. Speaker, American history will show CLAUDE PEPPER as a leader and a fighter for all of the people who weren't strong or organized enough to help themselves.

Congressional history will show that CLAUDE PEPPER was a U.S. Senator first, and later became one of the most revered and respected Members of the House of Representatives.

But it is in his personal history that we find what CLAUDE PEPPER was all about and what good works he accomplished while he walked among us.

In that personal history, CLAUDE PEPPER had the unique opportunity to see Halley's Comet twice. CLAUDE PEPPER lived long enough to have known a Russia under the Czar—and under Mikhail Gorbachev. In CLAUDE PEPPER's time, America went from the horse and buggy to the automobile to the space shuttle. We went from a country where the slightest sickness could mean death to where we are now all facing a lifespan approaching 80 years of age. Wars have been fought, peace treaties signed. New countries have been formed. Old countries have disappeared.

The work—the legacy—of CLAUDE PEPPER will never disappear. His work here in this body—his concern for people that he transformed into action—will be his legacy. If you are a poor farmer struggling for a living; if you live in the inner city and are willing to work hard to get out; if you are a senior citizen who has earned the right to live in dignity; if you need help—the work that CLAUDE PEPPER did will make all of these possible for you. No one fought harder or longer to make sure that help from the government is available to those who need it the most.

CLAUDE PEPPER's work and his legacy are the essence of what good government is all about—giving everyone an equal chance to achieve the very best this country can offer.

CLAUDE PEPPER was our conscience. He never forgot where he came from and why the people of Florida—the ones who needed him—kept sending him back to the Congress. He would never let us forget either. If we ever wavered from what CLAUDE PEPPER thought was right for people, he would soon have his army on the march to set us straight, whether it was by bombarding our offices with mail, or meeting us with a message back home, or massing in great numbers behind a cause he supported.

If you name a program that helps people—one passed into law this century—the name of CLAUDE PEPPER is on it: Social Security, Medicare, unemployment compensation, food for the poor, fair housing—these programs are what this country is all about. They are a monument to what CLAUDE PEPPER was all about.

It was because of what CLAUDE PEPPER did for the American people—the little people—that he was accorded the high honor of lying in state in the Rotunda of the U.S. Capitol. This is the house of the people he loved and served—the house where we will carry on the compassion and caring that marked the long, admirable, honorable life of CLAUDE PEPPER.

Mr. HAMMERSCHMIDT. Mr. Speaker, I was greatly saddened at the passing of my good friend and colleague, Senator CLAUDE PEPPER. Although small in stature, CLAUDE PEPPER was in every other respect, a giant among us. We served together for 23 years, and during that time, I was fortunate to know him quite well.

CLAUDE PEPPER never seemed to waste a day in most of his 88 years. Working almost nonstop he compiled a towering record of public service to Americans of all ages. From beginning to end, he was totally committed to his ideals, and he followed through on those commitments, to the everlasting gratitude of millions of Americans.

I had the special opportunity to work closely with CLAUDE on the Select Committee on Aging while he was chairman and I was the senior Republican member. His knowledge of aging issues and his devotion to the needs of our Nation's elderly were legendary. He worked hard and successfully to change both the image and treatment of the elderly.

He was the driving force behind legislation dropping age as a reason for mandatory retirement for most Federal employment and increasing the retirement age for most employees in the private sector.

It was also during my service with him on the select committee that we put together the Congressional Conference on Mental Health for the Elderly. Then First Lady Rosalyn Carter served as our honorary chair, and she worked closely with Chairman PEPPER and myself to help make the conference bear fruit in behalf of the mentally impaired elderly of our Nation.

Social Security never had a greater friend than CLAUDE PEPPER. He realized the importance of this great income security program to those totally dependent on it, and he fought for full funding for the program and for its financial well-being through all of his service in Congress.

It was my pleasure to work with him on legislation and to appear before him often during his tenure as chairman of the Rules Committee, where he was always unfailingly fair and courteous.

I was also privileged to serve with him for several years as a delegate to the Inter-Parliamentary Union, which was established 100 years ago this year to promote peace and strengthen parliamentary institutions. In fact, CLAUDE and I had recently discussed this year's upcoming centennial observance meeting in London, which he was looking forward to attending.

It was my pleasure to garner votes for him at a meeting in Geneva, Switzerland, when he was elected to one of only 13 seats on the executive committee of the IPU, which is comprised of parliamentarians from some 108 nations. Service on the executive committee is quite a distinction, and I was flattered when he would refer to me as his "only Republican campaign manager."

I felt particularly close to CLAUDE because of his Arkansas connection. When he graduated with honors from Harvard Law School, where he was sixth in his class, his first teaching job was at the University of Arkansas. And when he left Arkansas and went to Florida, he tutored a young man in law from the Trumbo family, a very prominent family in my district for many years.

CLAUDE PEPPER was a warm and caring person, a true southern gentleman, and one totally dedicated to improving the quality of life for all. He never let the infirmities of age interfere with his mission. He was a citizen of the world, while at the same time he was a devot-

ed husband and dedicated public servant who had the distinction of serving first in the Senate, and then in this body.

CLAUDE PEPPER was an original, and he will be greatly missed both as a personal friend and as a colleague without equal.

Mr. COSTELLO. Mr. Speaker, it is with great humility and respect that I join my colleagues today in honoring one of the finest gentlemen ever to serve in the Congress, CLAUDE PEPPER.

CLAUDE PEPPER's death leaves a void of leadership, history, and ability in this House. His service here since 1962 was marked by a respect and praise from his fellow Members for being fair but determined in pursuing the most important issues in this country.

I know that many of the seniors in my district and around the Nation realize the contributions he made during his service in Congress, both in the Senate and House. He was a pioneer in pushing for the successful repeal of the mandatory retirement age, and he was recognized around the world for his efforts on behalf of senior citizens.

One of his last efforts in the House was to push for a comprehensive long-term care program for the elderly, to protect them from the bitterness of absolute poverty in the face of a long-term illness.

As a member of the Select Committee on Aging, I had the privilege of serving with Mr. PEPPER and had the highest respect for his priorities in Congress. He was a revered spokesman for the programs cared about most by seniors, including the protection of Medicare and Social Security programs.

Many people don't realize, however, that CLAUDE PEPPER's constituency included those of all ages who needed immediate governmental assistance. The PEPPER initiatives ranged from health insurance coverage for sick, newborn infants to the disabled, from the very old living alone in a nursing home to those out of work.

As chairman of the House Rules Committee, his reach extended to all forms of legislative business. His leadership provided many of the dramatic reforms of the last several years, including trade and welfare reform, new educational programs and clean water initiatives.

"Senator PEPPER," as many continued to call him out of respect for his service in the Senate, has left behind a legacy of compassion and dedication that I feel, as a younger Member of Congress, an obligation to continue. We will never forget his impact on this institution or this country.

Mr. DINGELL. Mr. Speaker, I knew Senator CLAUDE DENSON PEPPER for many years and regarded him as a dear and close friend. I always held this friendship in the highest esteem, no matter what the situation at hand. Needless to say, I regret deeply his departure from this Earth. I am confident the good Lord will bestow upon him the same kindnesses he has graced all of us in this body as well as almost every American.

During his long tenures in both the U.S. Senate and the House of Representatives, CLAUDE PEPPER was a champion of senior citizens throughout this great Nation. Senator PEPPER always held the noble belief that retirement is "an extravagant waste of people." He fought and won the legislative battle to have the required retirement age extended from 65 to 70 years old, whereby private businesses may compel people to retire. And to think what a genuine waste it would have been if those restrictions were placed upon the late Senator. He fought vigorously and relentlessly for a national health insurance system, a goal I wholeheartedly support and have proposed every session I have served in the Congress. CLAUDE PEPPER also was forever determined to see that every American received housing at an affordable price and that all Americans received a just wage for a job well done.

Senator CLAUDE PEPPER was one of the strongest advocates for civil rights long before this issue was discussed openly, particularly in his part of the country. In fact, his outspokenness on this and other issues may have led to his defeat in one of the nastiest Senate campaigns in history. Fortunately, this body and all Americans, who he cared so much about, were blessed by his return to elected office in 1962.

The Senator was a master of the English language. He could capture an entire room of people and hold them spellbound, eventually bringing them to their feet in adulation. I always admired his oratory skills, especially his unique ability to speak off the cuff with such arousing, patriotic fervor.

CLAUDE PEPPER will long remain in the hearts of not only those who served with him in the Congress, but also in the hearts and minds of those who were fortunate to meet and get to know this extraordinary man. I will miss this truly legendary public servant, great statesman, and lifelong friend.

Mr. STOKES. Mr. Speaker, I rise today to pay special homage to one of the most colorful personalities to walk the Halls of Congress. My friend and colleague, CLAUDE DENSON PEPPER, distinguished himself as a champion for older Americans; a crusader for social programs; and the oldest Member of Congress.

CLAUDE PEPPER exemplified the spirit of public service. During his lifetime he cultivated a stately political career which was marked by ups and downs and spanned 60 years; he lived through 12 Presidential administrations—from the New Deal to the Reagan era; he met many of the most charismatic historical figures from Orville Wright to the astronauts of Apollo 7; and he had the privilege of serving as a distinguished Member of both the U.S. Senate and U.S. House of Representatives. CLAUDE PEPPER was an institution.

CLAUDE developed tenacious spirit for which he is remembered during his humble beginnings in rural Alabama, where he was born at the turn of the century. He was a precocious child, deciding at age 10 that his career would be in politics. A 10-year-old CLAUDE carved the words: "CLAUDE PEPPER, U.S. Senator" in a tree near his home. CLAUDE seemed to know that he was destined to be a leader.

CLAUDE worked at a variety of jobs while attending the University of Alabama. He was a gifted scholar, earning membership in Phi Beta Kappa. From there, he attended Harvard Law School, where he distinguished himself by graduating at the top of his class. CLAUDE would leave Harvard to open a law practice in Florida. Two years later, in 1929, CLAUDE began his political odyssey when he was elected to his first political office, as a member of the Florida House of Representatives.

CLAUDE'S career as a State legislator ended abruptly when he failed to win a second term to the Florida State House. The reason: He refused to vote for a resolution condemning Mrs. Herbert Hoover for her choice of a black American as a guest at the White House. CLAUDE'S bid for a seat in the U.S. Senate ended unsuccessfully. But in 1936, CLAUDE was given the opportunity to come to Washington as the replacement of Senator Duncan Fletcher, who died in office.

CLAUDE PEPPER served in the U.S. Senate for 14 years, becoming a strong supporter of President Roosevelt's New Deal policies. But in 1951, CLAUDE became a victim of McCarthyism. After being branded with the nickname "Red Pepper and accused of being sympathetic to Communist Russia, CLAUDE lost his State senatorial primary. True to his character, CLAUDE PEPPER picked himself up by the bootstraps and started over, beginning another successful law practice. At the age of 62, he made the journey to Washington a second time, but as a freshman Congressman, representing the newly created 18th Congressional District. A district where today 30 percent of the adults are at least 65 years old.

CLAUDE developed a list of legislative accomplishments that is long and distinguished. CLAUDE, as a young Senator, conceived of and sponsored the Lend-Lease Program of World War II before any of his senior colleagues. He was a pioneering backer of equal rights for women, national health insurance, fair employment opportunities for minorities, the minimum wage, and the programs that became the National Institutes of Health. CLAUDE fought for the rights of the elderly from 1929, when he first entered politics, until his death. At the age of 78, CLAUDE was the key in pushing through a bill which raised the mandatory retirement age to 70 from 65 for workers in private industry, and banning mandatory retirement altogether for some Federal workers.

I had many opportunities to hear CLAUDE speak on the House floor on the issues he supported and those he opposed. I marveled at his eloquent oratory. I was always impressed with his ability to speak extemporaneously on any subject, without one note.

As a Member of the House, CLAUDE served in vital capacities. His first public advocacy role was as chairman of the Select Committee on Crime. After this committee was disbanded, CLAUDE was asked to serve as chairman of the Select Committee on Aging, where he was able to address critical issues affecting the Nation's elderly. In this capacity, CLAUDE PEPPER was given the titles "Mr. Social Security" and "Mr. Medicare" by his fans for his ardent defense of these programs. In 1983, CLAUDE gave up chairmanship of the Select Committee on Aging to take over the coveted chairmanship of the powerful Rules Committee.

CLAUDE'S last challenge was in getting Congress to fill in the gaps in Reagan's 1987 proposal for a catastrophic health insurance plan.

CLAUDE rose to the challenge like a true crusader. In the end, the bill passed but with fewer of the sweeping reforms CLAUDE would have liked. But CLAUDE'S influence then was concentrated in heading the Bipartisan Task Force on Comprehensive Healthcare, a Commission which has been charged with providing a blueprint for public policy on access to health care and long-term care for the next decade. The Commission's report is due in November and it is likely that through the Commission, CLAUDE DENSON PEPPER will remain the conscience of the Congress for many more years.

CLAUDE had the ability to enliven the surroundings whenever he was around. I am sure that my colleagues in the House will agree with me that CLAUDE was great at telling jokes. He always teased me about the fact that I once chaired the House Assassinations Committee, which examined the assassinations of John F. Kennedy and Martin Luther King, Jr. When we would see each other, CLAUDE always said, "Louie, did you catch that fella'."

One of the fondest memories I have of CLAUDE PEPPER is when he asked me to go on his behalf, as the U.S. Representative, to the Interparliamentary Conference, a worldwide conference on parliamentary affairs. I was flattered to represent CLAUDE on the executive committee of the organization, but no one could fill his shoes. CLAUDE was held in high esteem by the organization. The resolution I introduced for CLAUDE set up an Aging Committee within the organization. The resolution was adopted by the body.

Mr. Speaker, the great thing about CLAUDE PEPPER was his love of life and his commitment to the people whom he served. CLAUDE was an ideal advocate for older Americans. His perseverence was responsible for many of the reforms in public policy regarding the elderly. CLAUDE held on to his convictions no matter what the cost. Throughout, he remained a consummate and a great statesman.

Mr. FASCELL. Mr. Speaker, it is an extraordinary honor and privilege for me to pay tribute to our longtime colleague and friend CLAUDE PEPPER, U.S. Senator, Congressman, and dedicated public servant. This giant of a man had a remarkable career and personality. First and foremost, CLAUDE was a true champion and fighter for the defenseless: the poor, the refugees, and, above all, the elderly. In addition to this noteworthy public career, CLAUDE always demonstrated rigorous moral standards and values in his private affairs.

His career as a committed, public servant to our great Nation spanned more than half a century. As a young and energetic Senator from Florida, CLAUDE witnessed the hunger and hardship of the Great Depression. He responded to this crisis by steadfastly supporting President Roosevelt's New Deal programs. Throughout his political career, he always demonstrated extraordinary wisdom. Before the United States entered World War II, then-Senator PEPPER introduced in Congress the Lend-Lease Program. His compassion for our hungry, tired, and lonely was unceasing and unparalleled and his oratorical eloquence in their behalf remains legendary. CLAUDE'S unprecedented work on behalf of minorities, women, and the elderly is also a tribute to his remarkable and unique vision. In 1939, our colleague sponsored this Nation's first minimum wage bill and, 5 years later, he proposed a revolutionary health care system, Government-sponsored medical care which today is the Medicare Program. As a sign of his continuous commitment to this country, as a Member of the House of Representatives he again took on the plight of the underprivileged in the 1960's and firmly supported President Johnson's Great Society programs. As we all know, CLAUDE PEPPER was America's foremost spokesman for the elderly. He served as their leader, their inspiration, and, most importantly, their hope. The people of this country, especially our senior citizens, have lost a real champion.

I knew CLAUDE as a colleague from Dade County, FL. Our neighboring districts share the same problems and needs and I often sought his wise and generous counsel in the 27 years since his election to the House. He was devoted and loyal to his constituents.

CLAUDE PEPPER was a legend in his own time. His ingenuity, sensitivity, and integrity are unprecedented. He was justly proud of his years of service and hard work in the Congress. CLAUDE always welcomed and accepted new challenges with happiness, determination, and enthusiasm. Our colleague has left a tremendous impression upon this House and his significant contributions to his district, the State of Florida, and the Nation will not be forgotten. I, along with millions of Americans, will sorely miss CLAUDE and I find solace in knowing that he is finally reunited with his beloved Mildred: may they both rest in eternal peace.

I would like to bring to the attention of the House an excellent editorial on CLAUDE which appeared in the Wednesday, May 31, 1989, edition of the Miami Herald.

The article follows:

CLAUDE PEPPER

(1900-1989)

EXEMPLAR OF CARING

Florida's Rep. Claude Pepper, who died in Washington on Tuesday at the age of 88, had three great loves in his life: politics, Mildred, and Miami.

Politics came first. The young Alabaman was just 28 and five years out of Harvard Law School when he won a seat representing Taylor County in the Florida House of Representatives for the 1929 session.

Mildred came next, in 1931. She was a St. Petersburg girl who had attended Florida State College for Women and was working in Tallahassee. Theirs was love at first sight, and a long courtship ensued. They wed in 1936 and honeymooned in Cuba.

The Peppers' 43-year marriage was his haven from the world's slings and arrows. Mildred's death in 1979 was a profound loss. As he put it in his 1987 autobiography, "There is a void in my life since she left, a void that can never be filled. . . . I have tried to carry on as Mildred would have wanted me to do, terribly lonesome for her person, but sustained even today by her brave, beautiful spirit."

Miami was Mr. Pepper's final great love. The Greater Miami area—and especially Miami Beach, which was at the heart of his long-time congressional district—gave him a second life in politics after the pain of rejection in two unsuccessful statewide races to reclaim his U.S. Senate seat.

This political reprieve was important to Claude Pepper because politics remained his life-long passion. His career spanned 60 years. It included service in both the U.S. Senate (1936-1951) and House (1963-88).

Then-Sen. Pepper's stalwart support of Franklin D. Roosevelt's New Deal endeared him to the President. Indeed, he was FDR's initial choice to replace Henry Wallace as the Democrats' Vice Presidential candidate in 1944. Big-city bosses persuaded the President to go with Missouri Sen. Harry Truman instead. Had they not, Senator Pepper almost certainly would have been FDR's successor.

Claude Pepper's political views evolved a lot through the years—especially on foreign affairs—but his basic philosophy remained remarkably constant. He simply believed that the government's purpose is to help people. Mr. Pepper thus epitomized the humane and caring impulses central to modern political liberalism.

In his later years, Mr. Pepper's special cause was the elderly. Americans may disagree with some of the policies that he advocated, but even his critics must concede that he performed a singular service: He drew attention to issues affecting the elderly at a time when their numbers are growing more rapidly than ever.

In his energetic advocacy of programs for the elderly, Claude Pepper exemplified the very goal that he sought: a society in which all persons can contribute throughout their lives. Certainly he contributed until the end. Now that he has left politics and Miami behind, his legions of friends may be consoled in the thought that now he is reunited with his beloved Mildred.

Mr. HAWKINS. Mr. Speaker, I rise today to pay tribute to one of our most admired and respected colleagues, Senator CLAUDE D. PEPPER, the former U.S. Senator and Representative of the 18th District of Florida.

During his illustrious 26-year career as a Member of the House of Representatives, and in the U.S. Senate, he always demonstrated integrity, dedication, compassion, and a genuine commitment to making life better for all Americans.

In his own inimitable fashion, he worked throughout his entire career to improve the lives of senior citizens, the disadvantaged, and many others in our society. I remember vividly his forceful statements, his ability to sway his colleague's positions, as well as his uncanny ability to mobilize public opinion on issues he held dear.

As the first chairman of the House Select Committee on Aging, as the chairman of the Select Committee on Crime, and as chairman of the Rules Committee, he had a hand in enacting major reform initiatives and other landmark laws. With his guidance, such important legislation as the revamping of Social Security, Mandatory Retirement Act, Age Discrimination Amendments of the Older Americans Act, and the enactment of Medicare have become law.

I worked closely with CLAUDE several years ago on the bill to prevent age discrimination in employment, on extending mandatory retirement, and just recently was privileged to support that valiant effort he made on providing catastrophic health care to our citizens. Win or lose, his determination and enthusiasm were endless, as was his intellect and energy.

As Congress continues its battle to enact a decent increase in the minimum wage, we will miss Senator PEPPER's strong voice. He was the only Member of Congress who was actually involved in the original minimum wage legislation during Franklin Roosevelt's administration. We could have counted on Senator PEPPER to provide some insight to younger Members who only knew of pre-minimum wage days from their history books. He always pursued a strong Federal role in providing economic and social self-sufficiency.

In closing, we in the House, and especially those of us who had the privilege and opportunity to work closely with him were fortunate to have a man of his caliber associated with us. A debt of gratitude goes out to this great humanitarian and dedicated American. He will be missed as both a colleague and a friend.

Mr. GOODLING. Mr. Speaker, on May 30, the House of Representatives lost its oldest Member, a man who spent 46 years in the U.S. Congress. Today, I rise to pay tribute to CLAUDE PEPPER, a man who spent the majority of his working life in public service.

No matter what you thought about his philosophy or what side of the aisle you sat, you respected CLAUDE PEPPER.

CLAUDE PEPPER will best be remembered for his service to the senior citizens of our country, because he spent a great deal of his time in both Chambers protecting their benefits and encouraging legislation which provided seniors with security in their retirement years. He fought against fraudulent advertising and medical quackery directed at seniors and was a leader in the fight to stabilize the Social Security System.

I, personally, will never forget his floor statement on his long-term care bill. CLAUDE knew one of the greatest worries facing today's senior population is what will happen to them if they are no longer able to take care of themselves. How will they pay for care? Will their family be impoverished by their illness? Will they have to go into a nursing home? When seniors spoke, Senator PEPPER listened. More than any catastrophic health care bill, his bill addressed this concern. His speech was an impassioned plea for us to take a large step toward giving senior citizens greater peace of mind. Hopefully his dream of long-term care protection for senior citizens will become a reality during the 101st Congress. It would be an appropriate final tribute to CLAUDE for all of his work for our Nation's older population.

Mr. Speaker, Senator PEPPER is going to be missed by his constituents, by our Nation's senior citizens and, perhaps most of all, by those of us who worked with him in this great body.

Mr. PICKETT. Mr. Speaker, I rise to pay tribute to and honor our beloved late colleague, Senator CLAUDE PEPPER, who passed away late last month at the age of 88.

CLAUDE PEPPER'S distinguished public career extended over half a century, and he inspired many, many Americans by his dedicated and unselfish career in government.

As a young adult, I can remember reading about Senator PEPPER, about his early and courageous support for civil rights, and about how he was a faithful and effective lieutenant for President Roosevelt. And this was at a time when the President and his New Deal programs desperately needed supporters in the South. History also shows that during World War II, Senator PEPPER was a leader who recognized the need for military preparedness and who had the courage to reject calls for isolationism. He is credited with being the author of legislation setting up the lend-lease program to arm and support our Allies during World War II. His contributions to U.S. foreign policy are widely recognized and will be long remembered.

But the American people will best remember Senator PEPPER for his untiring support for America's elderly. He was a proud and tireless watchdog for the Social Security program, and a driving force behind expanded Medicare coverage. He also authored legislation while he was in his mideighties to eliminate mandatory retirement for America's seniors.

Perhaps even more important than his tremendous legislative record, however, is the simple fact that Senator PEPPER inspired and gave hope to America's elderly. He taught us that the quality of life need not be measured by age, but by our determination to remain young at heart and useful to our fellow man.

Mr. Speaker, another great American, Hubert Humphrey, used to say "the moral test of government is how that government treats those who are in the dawn of life, the children; those who are in the twilight of life, the elderly; and those who are in the shadows of life—the sick, the needy, and the handicapped."

One cannot recall the Vice President's words without also thinking about CLAUDE PEPPER. Without question, he was one of the greatest Americans of our time. He will be sorely missed by this institution and by the Nation he loved so much.

Mr. DE LUGO. Mr. Speaker, I am saddened, but honored, to join hundreds of my colleagues and millions of Americans across this country in expressing my appreciation for the life and achievements and indomitable spirit of the late CLAUDE PEPPER.

Senator PEPPER had admirers all over the United States and that includes the people of my district, the U.S. Virgin Islands, who benefited from his public service just like others around the country. Senator PEPPER'S advocacy on behalf of senior citizens is well known, but more than that, he was a giant in the national affairs of this country for more than 50 years.

Very simply, I feel privileged to have known and worked with Senator PEPPER, who was one of the most esteemed Members ever to serve in Congress. Just 2 years ago, my wife Sheila and I joined him on an extended trip to Thailand, as part of the Interparliamentary Union, and it is one of my fondest memories of my service in Congress. I still have a photo of the trip, autographed by Senator PEPPER, which I proudly display in my office and will treasure always.

Senator PEPPER was a remarkable man in many ways—his legislative abilities, his intellect, his longevity and energy, and his sheer ability to reach out to people from all sectors of our country. Most important, he devoted his abilities to helping those people who deserve a better shake from our Government. He will be regarded as a model for public service for generations to come.

I know that I am a better person because I had the honor of working alongside CLAUDE PEPPER, and Congress is a better institution because he passed this way and dedicated his life to making it represent the wishes of all our people.

Mr. NATCHER. Mr. Speaker, our friend CLAUDE PEPPER loved the House of Representatives and was one of the able Members of the Congress. His experience in the Senate, along with his tenure as chairman of the Rules Committee made him one of the most outstanding Members to ever serve in the Congress of the United States

During his service in the House he established an outstanding record and one that his people can be proud of, and one that will long be remembered. In every position he held, either private or public, he achieved distinction and his service in all of his assignment was marked by a high sense of conscience and duty. His character, his achievements and his faithful service will be an inspiration to generations yet to come.

Every year when we presented our bill that appropriates the money for the Departments of Labor, Health and Human Services, and Education, we always had the full support of our friend CLAUDE PEPPER. Like a great many of us in the House, he believed that if you take care of the health of your people and educate your children, you continue living in the strongest country in the world.

He was always a gentleman and at all times was on the front line for every bill that protected the elderly or contained provisions which would be of assistance to the older people in our country.

I have lost a true friend and this country has lost a great statesman.

Mr. PANETTA. Mr. Speaker, Senator PEPPER was a man of remarkable accomplishment. He was the consummate public servant who worked tirelessly for the good of those people in our society who desperately needed the Government's help—the sick, the poor, and the elderly.

Early in CLAUDE PEPPER'S career, he took an interest in issues affecting the elderly, particularly in the area of health care. Senator PEPPER was the prime cosponsor of legislation that created the National Cancer Institute, the first of the National Institutes of Health. Thereafter, Senator PEPPER played a leadership role in addressing the needs of the sick and the elderly. He even formed his own grassroots lobby, "PEPPER'S People," to inform seniors about issues of interest to them. Senator PEPPER worked to ensure that the Social Security system remained solvent and that the Government did not borrow from the trust funds. He also took great pride in ensuring that Social Security benefits were not cut while at the same time working to reduce Medicare and Medicaid fraud.

Since 1975, CLAUDE PEPPER chaired the House Aging Committee's Subcommittee on Health and Long-term Care. He moved up to the chairmanship of the full Committee on Aging in 1977, where he remained until 1982. It was during his tenure that aging issues were brought to the forefront of the Nation's consciousness and senior citizens from across the land realized the full dimensions of their

political power. Seniors throughout the land viewed CLAUDE PEPPER as a loyal and trusted friend on Capitol Hill.

Senator PEPPER was in the forefront of health-care reform as well. Early on he recognized the awful burden of ill health that so often befalls the elderly and robs them of the quality of life that they long hoped to enjoy in their retirement years. Late in his long career, CLAUDE PEPPER succeeded in bringing the first long-term health career to consideration on the House floor.

Senator PEPPER cared deeply about those who were so often forgotten and even shunned by the rest of society. He was a champion of those who had fallen between the cracks. For this, he was a man who was admired, respected, and, above all, loved. He left the world just a bit better and, for that, he will always be remembered. He was a great man, a great American. We will miss him.

Mr. MCCANDLESS. Mr. Speaker, Congressman CLAUDE PEPPER will long be remembered for the many years he devoted to helping the elderly in this country. He used his vibrant energy and intellectual strength to help those who were not so gifted, those who needed a hand to get on their own feet, and those who were more weighed down by the burden of years than he ever seemed to be.

During my first years in the Congress, Senator PEPPER visited my district in California and took part in the opening of a new housing project for the elderly. I was grateful for his willingness to take part in that opening day ceremony, and it was wonderful to see how the many retirees who attended the event crowded around him afterwards—he was their hero.

His service spanned six decades in the Congress. There are millions of Americans whose lives were made better by his efforts. He lived each day as an opportunity to do something for others, to help the poor, the less fortunate, the frail and elderly.

We will remember him with great affection and respect, and, as Vice President QUAYLE said at the memorial ceremony in the rotunda of the Capitol, we will honor him best by following his example in the years ahead.

Mr. UDALL. Mr. Speaker, an American original, CLAUDE DENSON PEPPER, one of the most distinguished and revered voices of the House, is no longer with us.

It is difficult to know where to begin to eulogize this man whose accomplishments, passions, and crusades were legendary in his own lifetime.

That he will be missed by those in this Chamber is a certainty, and he will be missed by thousands—millions, perhaps—of other Americans. This is a chance for those of us who shared CLAUDE's ideals to carry on in his behalf.

CLAUDE left several legacies. He left us with a vision that fought for change, for justice, for fair play, for dignity. And CLAUDE believed in Mark Twain's advice: "Always do right. This will gratify some people, and astonish the rest."

The man left his imprint on this Nation in more than four decades of service in the Congress, and from the outset, he led the fight for better health care for those among us who could not afford it.

We cannot mention the label, "Senior Citizen," without thinking of CLAUDE PEPPER. In the cause of the aged, CLAUDE was a tireless campaigner. Their voice became his own and he rallied to their side with relish.

CLAUDE was an Alabama farm boy with a Harvard law degree who never forgot his roots and found a calling in public service.

For the people he served in his beloved Florida, CLAUDE PEPPER was every bit the institution he had become to the rest of the country.

CLAUDE believed with all his heart that a nation could be judged by how it treated its less fortunate. And he devoted his life to seeing that the less fortunate were treated fairly.

Mr. Speaker, we honor a good and decent man here today. I am saddened that he is gone, and I extend my deepest sympathy to his family. May they find comfort in the condolences of a grateful nation.

GENERAL LEAVE

Mr. BENNETT. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to extend their remarks on the subject of my special order this evening.

The SPEAKER pro tempore (Mr. CARDIN). Is there objection to the request of the gentleman from Florida?

There was no objection.

RECENT SUPREME COURT DECISIONS AFFECTING CIVIL RIGHTS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Maryland [Mr. MFUME] is recognized for 60 minutes.

Mr. MFUME. Mr. Speaker, I have called this special order today because, quite frankly, I am deeply concerned about a series of Supreme Court decisions which have followed a predictable and unfortunate precedent. Since January, the Court has reversed five affirmative action cases, and in each of those decisions the Court was sharply divided along lines to which we are now growing uncomfortably accustomed. The death toll for civil rights has been a consistent 5-to-4 vote.

The Court's ruling certainly will not be, I think, the last thought on the historic Runyon versus McCrary in the Civil Rights Act of 1866, or for that matter title VII of the Civil Rights Act of 1964 and other measures which seek to prohibit discrimination in employment on the basis of race and on the basis of sex, religion, or national origin. The Court seems to be possessed these days by a political agenda which seeks to overturn laws which have changed America's course away from public and private racism and segregation. The Supreme Court, quite frankly, seems to be changing laws that are fair, are effective, and have worked.

The first ruling in January in Richmond versus Croson jeopardizes set-aside programs in contracting.

The next ruling, Wards Cove Packing Co. versus Atonio, placed a heavy burden on the victim to prove discrimination, while narrowing the scope of acceptable proof, and also making it harder for workers to use statistics to prove on-the-job discrimination.

The third ruling, Lorance versus AT&T, said that three women at AT&T simply waited too long to challenge a discriminatory change in the company's seniority plan.

The fourth ruling, Martin versus Wilks, allows white men to file affirmative action without any time restrictions, even when they are not directly affected by the historical consent decree.

□ 1530

And the fifth ruling, Patterson versus McLean Credit Union, narrows even further the landmark decision in Runyon versus McCrary concerning employment discrimination.

Now, because of the Court's judicial activism, the victim of racial discrimination has to prove that they are better qualified than the promoted employee. The Court's decisions make it legally, then, justifiable, I think, to ignore discrimination while allowing it to continue both against women and against minorities if the employer can simply show that these discriminatory practices are based on reasonable business practices.

By requiring plaintiffs to prove that the practices are unreasonable business practices, the Court's decision has made it easier, I think, for employers to discriminate, to win their cases, and it has made it more difficult for employees to prove discrimination.

What is considered acceptable proof by the Court of discrimination is even now also more narrowly defined. In essence, there are fewer practices that are considered discriminatory and fewer, even more, that we suspect would be considered discriminatory.

The Supreme Court, thus, is reconsidering cases that have proven worth. The Court seems, I think, to be picking special cases to reverse or to substantially narrow historic rulings on.

The Court seems to be bent on nullification of affirmative action. I think what they are doing is a disaster for civil rights for all in this Nation who have worked to make this a better place by making those rights ingrained in our American thought.

So it is sadly ironic that as we celebrate this year the 35th anniversary of Brown versus the Board of Topeka, Kansas, which led to the desegregation of public schools nationwide, the Court at the same time is eroding those very victories that attempted to

end segregation and to end discrimination.

So I would argue then that Congress has to respond in ways that are both meaningful and primary to this assault. And they have to respond, I think, with legislation.

We are called, I think, as Members of this body not only to legislate in a reactive sense but to be pro-active in what we do. We have to find ways also to sort of temper some of the things that are happening with the Supreme Court decisions.

The Court is not helping to reverse historic, systemic and endemic bias.

In fact, it has consistently reversed previous decisions considered victories protecting the rights of Americans, including those of African descent.

The Court has a specific agenda against affirmative action. If it does not, I certainly challenge the Court at this date to prove otherwise based on these five rulings this year, where I think their agenda has become more and more clear to a lot of individuals.

The January 23d Supreme Court ruling struck down a Richmond plan designed to give minority-owned construction companies more city work, thus casting a cloud over set-aside programs in more than 200 jurisdictions.

Now the Court ruled that because we are doing this, there is nothing to be fearful of, we just urge that jurisdictions go back and to rewrite the justifications for their programs.

But what we have actually seen is that in that short period of time there have already been 12 challenges nationwide in those jurisdictions.

Each time there is a challenge, because of the litigation that occurs, there also occurs a suspension of the program. It is clear that with the suspension of programs one after another around the Nation, then, the intent of the program is not carried out, the litigation could go on for years and we find ourselves in a situation that the Court has created through its interpretations, where we are not doing what we wanted to do or what the Court said would be possible under their rulings.

On June 5 the Supreme Court made it more difficult for minorities to use statistics to win claims of racial discrimination in employment. In this case, the workers involved were even subject to racially segregated mess halls and bunk houses. That is Wards Cove Packing versus Atonio.

June 12, the Supreme Court deals a major setback to affirmative action by expanding the ability of nonminorities to claim reverse discrimination, thus opening up all sorts of programs in nearly every major city to reverse discrimination cases.

Those sort of things have in fact, I think, set a tone in this Nation that should cause some concern certainly among those of us here in the Congress of the United States who have the legislative ability to go back and to rewrite the laws so that they are crystal clear and so that we fill this void, this legislative void and this void of interpretation that the Supreme Court has brought about through these series of rulings.

The Minority Business Education and Legal Defense Fund, which has been probably the primary defensive mechanism for minority businesses in this Nation, looked at those rulings, particularly the Richmond ruling, and it wrote, and I quote, "It is likely that the harm of the MBE community resulting from the suspension of these programs would be far greater than any potential harm to other contractors who might lose a contract because of an existing minority business enterprise program. There is clear legal precedent for minority contractors to sue for damages resulting from discrimination." And several court cases are cited.

Finally, they say, "To the extent local jurisdictions have contributed to the perpetuation of discrimination," that they themselves would also be liable.

I could cite ruling after ruling or interpretation after interpretation by individuals and groups and others who have taken the time to look at these rulings and to assess their impact, to argue rather forcefully, I think, that these rulings continue to move the pendulum in the earlier direction.

I mentioned earlier the Brown versus the Board of Topeka, Kansas, ruling in 1954 and offer that in contrast to what we see today.

In many cities, towns, and hamlets across this Nation there occurred what many referred to as the celebration of the 35th anniversary of the landmark decision of Brown versus Board of Education of Topeka, KS, where they did away with this notion, this concept of "separate but equal." On May 17, 1954, when nine men robed in black assembled on that day to announce to this Nation and to this world their unanimous decision, among the Nation's black citizens of the time and among its whites, there was indeed a celebration. At black colleges and universities classes were suspended and parties were hastily assembled. There was dancing in the streets of Richmond and Raleigh and Washington and Baltimore.

We felt that in the deepest crevices of our hearts and in the innermost parts of our existence that our Nation at long last on that day in 1954 was launched upon an unalterable course and that that decision by the Supreme Court would be the dawning of a new threshold, a new era for people who had suffered, endured, and survived three centuries of slavery, oppression, deprivation, denial, and disprivilege.

But we are reminded that in 1969 a high-ranking official advised the President that what eventually became known as the celebrated memorandum, "that black Americans had made so much progress, that issues related to the economic, social, and educational status of theirs ought be recorded benign neglect." That neglect, Mr. Speaker, once proposed as benign, is now a neglect that has become malignant.

I would argue that these rulings by the Supreme Court this year, unlike the bold and daring step that it took in 1954, moves us thus in another direction and makes it harder and much more difficult for individuals to develop and to be productive in this society.

Now there are those who will argue, "Well, the court simply interprets the law. The law was not correct."

Well, the court was not able to get together on a unanimous decision out of these five decisions simply because there remains a great deal of dissension in that court by individuals who are not part of the Reagan era, by individuals who were there when these landmark rulings took place, by individuals who recognize the inherent need of a democracy to protect the rights of all of its people.

□ 1540

Those individuals, unfortunately, have been outnumbered.

I would urge the Court to take a deliberate and cautious look at legislation affecting what we have come to know as affirmative action, legislation that deals with action that relates to economic development, social development, and educational development, and that it not seek to go back and rewrite laws that no one is asking it to rewrite, and that it uses some sense of institutional history to interpret, I think, decisions that have long-term ramifications and implications. Again, we are in a rather dubious position, recognizing as we do that these decisions are coming almost month after month. The Court, again I argue, is not helping to reverse historic, systemic, or endemic bias. With these rulings, it has consistently reversed the previous decisions considered victories that protect the rights of all Americans.

Again, Mr. Speaker, I would ask that my colleagues here in the House, certainly what is legislatively possible to rectify, to give new meaning to, to set a new direction on those things that have been interpreted by the courts, and thus, are now being reinterpreted by jurisdictions across this Nation, that in effect make it harder for minorities to be able to compete; also, make it harder, I think, for all Americans to be able to work together and understand one another and to respect basic rights, and to understand the historic aspect of how these laws came

into place; to understand, thus, why they are needed. They do not just mysteriously happen. The Court did not, through osmosis, one day wake up and recognize that there had been an historic pattern of discrimination. People took to the streets in this Nation, black and white, and old and young, from the north and the east and the south and the west, and argued over and over and over again that the legacy of the past had the sort of effect on the future that was presenting America in the wrong light, and preventing her from being recognized as to the true democracy she was. So it was the Court, out of that kind of activism, that became active themselves in interpreting many of these laws, in setting the United States on a new course, wanting citizens on a new threshold. That is why it does my heart great pain, and I am sure the hearts of others, to see now, all of these great decisions that have stood well and worked well, that have made this a better democracy, being overturned at this moment.

I think those Members in the Congress who feel a sense of responsibility as it relates to this ought to be reminded of the fact that silence is the worst enemy. To look at what is happening with the Court and not to respond creates an aura, creates, I think, a sense among the Court that they are doing the right thing, and that there is no judicial outcry, there is no legislative outcry. So I would argue that we must be wary of the silence that has come over much of the Congress as we watch again, month after month after month, the Supreme Court decisions that undermine, I think, the democracy that we hold so dearly.

I want to thank my other colleagues for joining me in this special order to express their concern, their outrage, their sincere desire that the Court move in the other direction, and that it not continue on this very, very dangerous path.

Mr. Speaker, I yield to the distinguished gentleman from New York [Mr. OWENS].

Mr. OWENS of New York. Mr. Speaker, I want to commend the gentleman from Maryland [Mr. MFUME] for taking out this special order to deal with the recent decisions of the U.S. Supreme Court.

There are people at two ends of the spectrum with respect to the recent Court rulings. There are some people who say these are the workings of lawyers who are making some adjustments in the way the law operates. It is really not a layman's concern, they are just making some corrections and some technicalities, and they are not rolling back the clocks. These decisions do not have any great impact on the basic thrust of civil rights legislation and law in this country. That is the one extreme.

The other extreme which is felt in my district, where people have watched these decisions and they think that they are rapidly rolling back, and in response to going backward, we have to get ready to start repeating the 1960's all over again. We have to mobilize the troops and get ready to march.

We have the Chinese in Tiananmen Square in Beijing, and they are saying "we better get ready to go to Washington and stand on the Mall for as long as it is necessary. Let us stay out there 2 or 3 weeks and see if they will bring out tanks to stop us, when we go to try to reclaim some of the rights we are losing, day by day, in the courts."

The tragedy of it is, is that the people in the streets who now are beginning to feel the anxiety, the battle was taken away from them, and we all applauded the fact that we no longer have to go out and picket, we no longer have to go out and march, have sit-ins, we do not have to confront the system on the street, that it moved to the courts, it moved to the legislature, and in an orderly process, these things were being worked out. There was a consensus, we felt, in America, where most people who cared about human beings recognized a great injustice has been done to African-Americans over the years. They recognized we do not just begin the history of a nation the day an individual is born, that any individual born into a culture or a nation must bear the burdens of that nation, whatever that nation's history is, as well as enjoying the advantages of that nation's history.

For anyone to argue, in court, as the firefighters argue, that we should not be penalized by the fact that once there was slavery, or once there was de jure segregation, segregation by law, now there is segregation de facto by the whole society, we should not be penalized as individuals. That argument throws away all of the sense of civilization, whereby people who are the heirs of a society, they get what is good, they get the property, they get the laws, and whatever has been done by their predecessors and their descendants and forebears, they get the benefit of that. They also must accept the responsibilities. The firemen arguing that this segregation has nothing to do with them, why should they be penalized as an individual, is the same argument I heard in Germany from a youngster who felt as an individual he had nothing to do with Hitler, he had nothing to do with World War II, he saw no reason why any portion of his taxes should be going to pay reparations for the Jews in Israel who were mistreated in Germany, and Germany was still making reparations. This young German, about 23 years old, a worker, doing very well, owned his Volkswagen, he was traveling, he felt he should have no part of his taxes, nothing that he had ever done had contributed to the plight of the Jews who were receiving reparations. He also felt it was unfair after World War II to force the Germans to pay reparations to the Allies.

The generation or the common people who had to pay the taxes that went into the reparations and maintained the Allied armies, he felt those people had nothing to do with starting the war or continuing the war. It was the German leader, it was Hitler. Those kinds of arguments are always being offered.

Now we have here an attempt to divorce individuals who do not want to accept responsibility for the past or accept the social responsibility, and the Supreme Court wants to go along with that and say each time they come in with a case, they have to prove in that particular case that there was discrimination, particularly in that case. It is ridiculous, absurd. In the Richmond decision, for example, they say that the contractors who might benefit from this were never discriminated against. They have to prove that they had black contractors in the city who were discriminated against. How could there be black contractors in Richmond or any other Southern city or Northern city, for that purpose, when there were laws on the books and practices on the books that prevented any black man from becoming an electrician? It was not so long ago that these laws were on the books in most of these Southern cities and Southern States, where a person could not, by virtue of being black, get a license as an electrician or plasterer, or any craftsman.

□ 1550

How could you begin the process if there was de jure discrimination recognized in law? How could you begin the process of getting the skills necessary in the building trades to go from there to become a contractor? The first step was blocked. You could not become a contractor unless you had some skill to offer. There were many African-Americans with the skills, many who could do the electrical work, who could wire houses, who could do plastering, and who could do all the things that they were denied licenses for. But they could not because they were not recognized. They could never become businessmen and do it on their own.

We could go back and dig up all that history if they want. It is pretty well known. The civilized society is aware of all these things. They are aware of the 250 years of slavery. They may not be aware of the horror of it because we have not dramatized it enough, but they are aware of more than 100 years of de jure segregation by law that was permitted to go on. They are aware of

that, and they are aware of the devastating effects of it.

But now they say, "Each time you bring a case, go back and dig it all up." They are saying to African-Americans in general as a group, "You had better go back and dig all this up." So we are to have a bitter regurgitation of the horror of slavery and the horror of the 100 years of segregation. We have got to go back and do all of that, and it will end up with people being quite angry and quite bitter on both sides. We will be in the streets again, and we will have the confrontations again. Our Supreme Court is inviting the worst kind of a method of achieving progress. But if we have no choice, we will have to do that.

Let me just sum this up, Mr. Speaker, by reading the editorial by William Raspberry entitled "Ruling in Favor of White Males," which appeared in the Washington Post on June 14. I think this sums it up pretty well:

Monday's Supreme Court decisions remind me of the bitter joke from the days when literacy tests were used to keep southern blacks from voting. An elderly Negro appears before the registrar, is handled an incredibly complicated legal document and given a few minutes to study it.

"What does that mean, boy?" the registrar demands.

"I guess," says the old man, "it means that I don't get to vote."

He should have been around to look at Monday's decisions.

In one case, the court ruled against three women employees of AT&T who were demoted under a dual-seniority system that allowed females to be fired or demoted before men. The women filed suit. Too late, the court said. You should have sued in 1979, when the rule was adopted—not in 1982, when you were demoted.

In the other case, the city of Birmingham, Ala., found—after two trials—to have discriminated against black applicants for firefighters' jobs, entered into a consent decree whose long-term goal was to have the city's work force match the racial makeup of the civilian labor pool. After the decree was signed and approved by the court (which first gave those objecting to it the opportunity to come forward and make their case), a group of white male firefighters sued on the ground that the agreement constituted "reverse discrimination" against them.

Were they too late to file their claim? Not at all, said the court, which, by a 5 to 4 vote, sided with the white plaintiffs.

What do the two rulings mean? The old man of the story might have looked past the clever wording of the majority decisions and concluded that the true meaning is that the court is not going to enforce affirmative action.

Mr. Speaker, that is the conclusion the people on the streets in my district have come to, that we are in a new era, that we cannot look to the Supreme Court to enforce any civil right decrees or certainly to enforce any affirmative action laws.

Mr. Speaker, to continue with the editorial, Mr. Raspberry wrote this:

Or as Mary Francis Berry, former member of the U.S. Civil Rights Commission now teaching at the University of Pennsylvania, put it: "The clear message is that they oppose the implementation of plans for women and minorities if it works to the disadvantage of some white male.

"When the rules worked in favor of white men, as in the AT&T case, the court said the affected women didn't come in in time. When the rules worked against white men, the court said white men can come in whenever they choose. If you are a civil rights plaintiff, you lose either way."

For all its intricate reasoning and ostensible concern with fair rules, Berry contends, the court is eroding the American consensus that blacks and women have been victimized by discrimination, that the balance needs to be redressed and that the courts, not the streets, are the appropriate place to enforce the remedy.

"They don't understand that the history of the civil rights legislation is conservative, not radical," she said. "The whole purpose was to keep the debate off the streets and off the picket lines and move it to the courts in the interest of public peace. The consensus was that we didn't want these issues in the streets."

Nor, she said, does the conservative majority display any familiarity with the realities of racism and sexism. "There was that lieutenant from the Birmingham Fire Department arguing that he shouldn't be disadvantaged by the effort to remedy the history of discrimination because he had nothing to do with it.

"Nowhere in any of the discussion was there mention of the fact that a lot of the white men involved got their jobs in violation of every affirmative action rule ever devised. They argue that they got their positions on merit, but the uncontroverted history is that they didn't have to compete with blacks. Blacks couldn't even apply to be in the fire department or the police department. These white men benefited from that absence of competition, so where is the justice in saying that their unfairly gained advantage must be protected now?"

The Birmingham ruling is particularly troubling because, by ruling that white men not specifically party to consent decrees are not bound by them, it destroys the value of consent decrees and leaves hundreds of carefully negotiated hiring plans subject to the whim of any white man willing to charge "reverse discrimination."

But perhaps most troubling of all is that the recent rulings—the two this week, last week's ruling in the Alaskan cannery case, and the overturning in January of a Richmond minority contract law—force minorities and women to fight all over against a costly battle they thought they had won 25 years ago.

Mr. Speaker, under leave to include extraneous matter, I present with my remarks a statement which appeared in the New York Times on the same day, June 14, 1989, which is entitled "Never Too Late for White Men," as follows:

NEVER TOO LATE FOR WHITE MEN

Americans of all races and persuasions have a right to a fair system for settling even the most vexing civil rights battles. For the second time in two weeks the Supreme Court has dashed those reasonable expectations, tearing down a legal structure that was fair, workable and working.

A new five-justice majority now rules that a day in court isn't enough for white men who want to keep fighting court settlements that promote equal job opportunities for minorities and women. In a second case, brought by women challenging changes in their company's seniority system, a 5-to-3 majority holds that the women aren't entitled to even one day in court.

Ignoring its own preachments against endless litigation, the Court ruled that disgruntled Birmingham firefighters could continue to challenge a consent decree that called for hiring and promotion of blacks and whites in equal numbers until the department reflected the labor market.

Previously there was wide agreement that such a decree could not be challenged by workers who had earlier passed up a chance to intervene in the litigation. Chief Justice Rehnquist's opinion for a 5-to-4 majority is so broadly worded as to invite similar attacks across the country on civil rights judgments long thought settled.

The ruling mocks the work of civil rights lawyers who brought the city its first black fire lieutenant, and it devalues the good faith of city officials striving to overcome a century of discrimination and defiance of law. It also rewards white firemen who chose to stand on the sidelines at the time the case was being fought out in the courts.

While the Court majority believes it's never too late for white men to assert a discrimination claim, the Justices apparently feel differently about women. Three women charged that A.T.&T. Technologies demoted them pursuant to a discriminatory change in seniority policy, and they filed their complaint shortly after being demoted. Too late, said the Court; you should have filed years earlier, within 300 days of the change in seniority policy.

A week earlier, the Court, coyly pretending it was not doing so, overturned a job discrimination landmark of the Burger Court. The new ruling holds that employers no longer have the burden of justifying employment practices that produce vast disparities in the racial markup of a work force.

These rulings involved different aspects of civil rights law, but together they deliver the same message. Today's Supreme Court majority sides with the beneficiaries, not the victims, of discrimination.

Congress has set very different priorities over the past quarter-century. Now the Court is giving the lawmakers a lengthening agenda for reasserting previously established rights, and for rebuilding a workable system of justice.

In conclusion, Mr. Speaker, I would like to just state that it appears that it is going to be necessary to dig up a lot of the slime of history. It appears that to make our case it is going to have to be necessary not only to go to the Supreme Court with volumes and volumes of examples and codes of the past and statistics, but it appears that African-Americans are going to have to go to the international arena.

This is a court that was appointed over a long period of time, and finally they have what they call a conservative majority, so the likelihood that this court is going to respond to reasons and facts is slim. The chances that it is going to respond affirmatively to the facts before it are quite slim, because we have a consensus, we have precedents that have been set, and they are turning their backs on these

precedents. This is a court that wants to make an ideological statement. It means that among African-Americans all resources will have to be mobilized and organized, and we will have to appeal to the larger international community, as well as to the Nation's best minds and most compassionate people.

It means that we are in for long, tortuous period where we will have to dig up what 250 years of slavery meant. We will have to say to the world what has never really been said before, that 250 years of slavery in America was probably the most heinous crime ever committed against humanity. Considering the duration of the crime, how long it lasted, and considering the millions of people who were involved, it was the most heinous crime ever committed in the history of civilization.

We are going to have to force that fact to the front and make everybody look at it and realize that we are going to have to argue the case for reparations, not in some puny, petty sense of giving a few dollars to individuals, but we are going to have to argue the case for reparations in terms of massive amounts of money to be put into education and to be put into programs which help to correct the tremendous damage that was done in that 250 years of slavery and that 100 years of lawful segregation and continuing de facto segregation. We are going to have to force all these things to the front burner in the most visable and most dramatic way possible.

That will not be pleasant. We are in for an era of confrontation, an era of charges, an era of bitter regurgitation of history, which will not do the Nation any good. But I feel that the Supreme Court, as it is constituted today, has not given us any choice. They have thrown down the gauntlet, they are saying, "We are a political court, we are an ideological court. We are going to turn our back on the longstanding American consensus."

Mr. Speaker, we have no choice but to mobilize and to march against this ideological and political Supreme Court.

□ 1600

Mr. MFUME. Mr. Speaker, I thank the gentleman from New York [Mr. OWENS] for his sensitivity on this issue, and for being a part of this special order and helping to broaden the debate as we argue again against what we consider to be the demerits of the Supreme Court decisions that have been rendered this year. As I indicated earlier, Mr. Speaker, I am happy that other Members of the House have chosen this opportunity to be with us, and some will be submitting statements for the RECORD. Mr. Speaker I yield to the distinguished gentleman from California [Mr. EDWARDS] for any remarks that he might like to contribute.

Mr. EDWARDS of California. Mr. Speaker, I thank the gentleman from Maryland [Mr. MFUME] for yielding to me, and I congratulate him for scheduling this series of discussions today on a very important event that happened just about 25 years ago, possibly the brightest spot in American history.

When I came here, Mr. Speaker, in January of 1963, there was apartheid in 11 States of the Old Confederacy very similar to the apartheid in South Africa today. One would be shocked to go there, as we did, and see the signs, black, white, and to see the discrimination and presecution that was going on.

Mr. Speaker, after we arrived in 1973, the situation got very bad down there. The black people of the South asked for very little. They just asked for part of the action, to be able to use the public facilities, to work, to get a decent education and not to be discriminated against, and for these "offenses" they were met with violence, with police dogs, with firehoses, and, I am sorry to say, with murder, and their churches were burned.

President Kennedy sent over his version of the civil rights bill, to his credit, early in 1963. We began the hearings in the Committee on the Judiciary. They did not go well at all. The old barons of the Deep South were very powerful. When Attorney General Robert Kennedy came over to testify for the Kennedy bill, he was treated with great condescension and even as a young upstart.

Sadly enough, and the poignant thing that happened, was that we did not have the votes until after President Kennedy was assassinated in Dallas. Five days after that President Johnson, the new President, very eloquently said to all of us that the greatest tribute we could pay to our assassinated President was to pass the civil rights bill, and from then on we continued in the Committee on the Judiciary and on the floor 9 long days of debate on the floor.

One day, Mr. Speaker, when we were debating, out of that door over there, busting past the guards, came a white man in blackface yelling epithets, racial epithets. The guards had to pull him out. All of the debate was not lovely, Mr. Speaker.

In August a group of us from the Committee on the Judiciary, about 20 of us, went down to the Mall where the great march, the great demonstrations, were going on. We wanted to hear Dr. King, and, as we walked through the crowd, up to the platform where we could hear Dr. King, we could hear the people murmur as they saw us, "Pass the bill, pass the bill, pass the bill." It was a very moving moment, Mr. Speaker, for all of us, and of course we were uplifted and inspired by the speech "I Have a Dream," by Dr. King.

Mr. Speaker, the bill went to the Senate after it passed the House, and 81 days it took to pass the Senate. The cloture vote, the filibuster, lasted 61 days, as I recall. So, where are we?

Emanuel Celler, the chairman of the Committee on the Judiciary, was elated when the President signed the bill in mid-1964. He said, "This brings to 20 million Americans a guarantee of happiness."

I ask my colleagues, Mr. Speaker, Is that what the civil rights bill of 1964, the greatest legislative achievement in the history of this Congress, has brought?

Yes, in some ways it has been very successful. It brought a lot of peace and decent treatment to a lot of people. It gave many rights to black Americans, Hispanic Americans and others. However, Mr. Speaker, was it enough?

The eloquent speaker, the gentleman form New York [Mr. OWENS] pointed out that we must go further. Should we not consider that it is also a civil right to have economic and social justice in our country regardless of the five distressing decisions made by this Ronald Reagan Supreme Court in the past few days and even few months? I think we should look at that because we are not doing so well insofar as a divided society is concerned, and that should be our agenda.

Mr. Speaker, we have the opportunity, we have the history behind us of a Civil Rights Act that brought great things to our country, and now greater events await us. The question is: Are we up to it?

Mr. Speaker, I thank the gentleman from Maryland [Mr. MFUME] for yielding.

Mr. MFUME. Mr. Speaker, I thank the distinguished gentleman from California [Mr. EDWARDS] also for his sensitivity to this issue and providing us, as he did, with a unique historical perspective on the deliberations of this House many years ago on, perhaps, what is one of its most remarkable achievements, the passage of the Civil Rights Act and the implications of the passage of that act, but, more importantly, the mood of this Nation that led to its passage.

Mr. Speaker, as the gentleman from California [Mr. EDWARDS] spoke, I thought back and tried to remember back as far as I could on some of the vestiges of segregation and Jim Crow that he talked about that existed in this Nation. Being a young person at the time, I do not remember all of it, but I remember enough to know that there were certain places in this Nation that a black person could not go to even if he lived five blocks away. I remembered being bused in 1954 past three schools to go to a segregated,

separate, and unequal school. I remembered the sort of unspoken doctrine that existed which said, "If you're black, get back."

Mr. Speaker, I remember the reluctance of this body, which I marveled at as a child, a body that I always wanted to belong to, and I could not reconcile in my own mind how this body resisted year, after year, after year to bring about substantive changes to protect the rights of all Americans.

The gentleman from California [Mr. EDWARDS] is right. It was not until the assassination of President Kennedy that the votes became apparent for the passage of the act. I think we have a very bold and historic lesson to learn from that, and that is why I argue that it is this body that must seize the initiative now in the wake of these ongoing Supreme Court decisions to right the wrong and to set the record straight again. I believe that it is this body that, through its activism, through its dialog, through confronting this issue, as we do today, that we will stir up a sense of outrage in Americans all across this Nation, those who are quote, unquote, considered to be the minorities of African ancestry, Hispanic Americans, Asian Americans, the women in this society who look to the Supreme court for some sort of judicial justice, that we begin to realize that our great enemy this day is silence and that we can be silent no more.

Mr. Speaker, I yield to the gentleman from Texas [Mr. GONZALEZ], another colleague who has joined us here on the floor to express his concern about this matter. He is the distinguished chairman of the Committee on Banking, Finance and Urban Affairs.

Mr. EDWARDS of California. Mr. Speaker, will the gentleman yield?

Mr. MFUME. I yield to the gentleman from California.

Mr. EDWARDS of California. Mr. Speaker, the gentleman from Maryland [Mr. MFUME] yielded to the gentleman from Texas [Mr. GONZALEZ], and I could not let this moment pass without reminding all of us that the gentleman from Texas, Chairman GONZALEZ, was here when I arrived here. He had arrived, I guess, in late 1959 or early 1960, and I imagine at the same time President Kennedy was elected.

Mr. Speaker, the gentleman from Texas [Mr. GONZALEZ] was one of our heroes from the South all during these trying periods, and his imprint is on the civil rights bill of 1964 and on the Voting Rights Act of 1965, the two greatest civil rights bills in the history of the United States.

□ 1610

Mr. GONZALEZ. Mr. Speaker, I thank my colleague, the gentleman from California, for yielding this time.

Actually, I am not that old. I came here just about half a semester before the gentleman from California. If he will recall, I joined him in 1962, that was my first year, that is, the first session, in his effective and successful campaign for election, so the first year of the gentleman from California was 1963. That was my second session. I came in the second half of the 87th Congress; but the truth is that the gentleman from Maryland, of recent arrival to this House, has shone brightly as a member of the Banking Committee. I wanted to say that he has developed such expertise, but on this occasion I rise to second his motion.

All the history, or developmental history of our country on major issues has been whether or not the existing system and the various basic three organs of Government arise to confront those burgeoning needs in our midst. When occasions arise in which there is a stalemate, like the compromises before the Civil War where neither Branch was sufficient enough to rise, in more modern history the clear example after World War II and the need for President Eisenhower to send troops to Little Rock, for instance, the legislature clearly failed to act. Congress did not rise, did not accept the challenge, did not initiate any civil rights legislation.

The President was wont to have to enforce the Constitution by sending troops to Little Rock.

At that time I was on the city council of San Antonio. Incredibly, the city council of San Antonio because through some oversight had neglected to adopt segregatory ordnances, so it relied on custom, on the fact that our fellow brother Americans of black descent constitute a real minority in San Antonio, never more than about 7½ percent of the total population, and also the fact that they depended on the Jim Crow laws of the State constitution and the State statutes which had led to this, but then with the advent of the Brown decision, an alarm was sounded and incredibly this council that I had just been elected to was drafting segregatory ordnances. So I rose to oppose them, was out voted 8 to 1, but I had the great satisfaction of coming back 3 years later—I was the only one reelected, incidentally, even though I had been told that it was political suicide for me to speak the way I did, and I had the great honor and the great satisfaction to come in with a new city council and on April 19, 1956, introduced an ordnance to do away with segregation on account of race, color, and creed, in all tax supported municipalities of the city of San Antonio, and San Antonio basked in glory. Even though four of the nine members of the council did not want to go along with us, I pled with them to make it unanimous so that we would not have a split community and we succeeded, thanks to their forebearance.

San Antonio was immediately the center of world attention as the first city south of the Mason-Dixon Line, to totally desegregate.

So my experience is that if we provide the leadership, as the gentleman is suggesting here, the membership will rise. It may be difficult. It may not be easy to begin with.

The Supreme Court indeed has not responded. It did not respond in the case of Little Rock. It finally did, but when you have a deadlock where neither the executive nor the legislative or representative body, the Judiciary, do not, then the people—when the leaders do not lead, the people must push.

That was when we had our Civil War. That is when we had our greatest crisis, because our governmental apparatus was unresponsive to that burgeoning need to define the problem.

In this case here, just before we broke up in the last session last year, I placed in the RECORD some alarming statistics having to do with the fact that the most endangered American is the young black male between the ages of 18 and 25, unemployed, not in school, subject to drug exposure because of the tremendous forces surrounding him that deprive any human being under those circumstances to rise to the point of even hope, which is devastating our black youth.

We have the greatest homicide rate; the greatest loss of life among our youth is among our black youth, particularly in our urban dense centers.

I left with a warning, but I was hopeful at the time that at least we would not have a devastating stab in the back by a Supreme Court decision.

So now we have it and it is up to the legislature, it is up to the Congress, it is up to the representatives of the people. I am delighted that I could be here in order to enjoy the gentleman's leadership as expressed today.

I, for one, want to volunteer, enlist as a foot soldier in the gentleman's endeavors to forge the legislation that is necessary in order to have equal justice to all Americans.

Mr. MFUME. Mr. Speaker, I think the distinguished gentleman from Texas for his leadership, both in the Committee on Banking and Urban Affairs which he chairs, and for his stellar leadership over three decades in this body and also for bringing a sense of institutional history to bear on this subject which we have been here today arguing on behalf of and in hopes that we send a very clear message to the court and perhaps even

more so to our colleagues here in the Congress that if the court does not act, we have a solemn and sober responsibility to do so.

This is not a perfect Nation and we are not a perfect people, yet we are still called to a perfect mission. It is a mission to feed the hungry, clothe the naked, house the homeless, teach the illiterate, provide guidance for our young, and security for our seniors.

Although as Americans we have a sober and sovereign territory, we have a sober and sovereign responsibility as well, and that is a responsibility to do more. We do less when we embrace the conditions of the decisions that have been released by the Supreme Court and the conditions that have brought those about. We do less when we are silent in the wake of these ongoing decisions month after months, five this year alone. We do less when we are not prepared to move as a body through legislative avenues to correct the wrongs and set and make them right again.

So again I commend the gentleman from Texas for sharing his sense of concern and the other Members who have joined us here today.

Mr. Speaker, I yield to the distinguished gentleman from New Jersey [Mr. PAYNE], who has also joined us here to talk on this very important subject.

Mr. PAYNE of New Jersey. Mr. Speaker, I thank the gentleman for yielding to me.

Mr. Speaker, I would like to compliment the gentleman from Maryland for bringing this very important issue before us today.

I think that we have some very seriour times coming up before us when we look at our Nation and we see that back on April 4, 1770, in the city of Boston where there were a group of Americans who were protesting against the British having taxation without representation. There was the Boston massacre where a number of men were killed.

As we look at the development and growth of this Nation, the first person to lose his life for this Nation was Chrispus Attucks, who was a former slave who became in the late 1700's a free man and was with the Freedom Fighters in Boston protesting against the British. So the first man recorded to die for this Nation happened to be a black man. So black people are a part of this Nation as much as anyone. We were first to shed our blood. There were outstanding fighters in the Revolutionary War, Peter Salem who was at the Battle of Bunker Hill, and there was a Major Pitcairn who led the Boston Massacre. Ironically enough, it was Peter Salem who fired the volley of shots that struck down Major Pitcairn at the Battle of Bunker Hill.

□ 1620

We go through history, and we find that there were many, many Afro-Americans who had a great deal to do with the growth and development of this country. We hear about Benjamin Banneker, who helped lay out this great city of Washington, DC, and when Admiral Peary was attempting to reach the North Pole, it was Matt Henson who was able to go on after Admiral Peary became snowblind and could not find his way. Matt Henson happened to be an Afro-American.

There were times during the War Between the States, and as we move through, there were a group of soldiers, the Buffalo Soldiers, they were called, when Teddy Roosevelt was at the Battle of San Juan Hill, it was a group of black soldiers who rescued Teddy Roosevelt, the Rough Rider. These soldiers were very instrumental in turning the tide of that great battle.

I simply bring up these items because many times we find that the history of Afro-Americans has been excluded from the textbooks, and people have a feeling that America is doing something special when it attempts to right wrongs of the past.

We have seen men like Dr. Drew who found a way to preserve blood plasma and, therefore, was one of the most important findings in medical history. There were so many Afro-Americans who gave so much to this country, and we saw those terrible times when the country showed its ugly face, when Emmett Till, the young boy from Chicago, was lynched and thrown into a river because he did not move into the gutter to let someone pass, and they said he might have whistled at a white woman. We saw Medgar Evers, Malcolm X, and Martin King struck down.

We have seen some terrible times in our history, and we saw then in the 1960's that America's conscience came about under the leadership of John F. Kennedy and Lyndon Baines Johnson. We saw a turn in the tide after the four babies in Birmingham were killed, and we saw an America that came to grips with some of the discrimination that had been perpetrated on a group of people, and they said, "We will change this;" we saw the sitins of SNCC following when Miss Rosa Parks refused to sit down and said, "I'm going to stay where I am," and we saw the Montgomery bus boycott, and Dr. King lead that. We saw the ugly times, and when America came together, now, we are once again seeing what I consider the ugly times.

It was in 1968 when the Kerner Commission report came up with its finding that if we have two Americas, one white and one black, separate and unequal, that we will continue to have problems in this Nation.

It was in 1896 in Plessy versus Ferguson when they said that separate but equal was constitutional, but in 1954 in Brown versus Topeka Board of Education of Kansas, they said separate but equal was unconstitutional, because when separated, people have a false feeling of inferiority, but more damaging is the false feeling of superiority that whites had, and it was found that it was devastating to our society to have both of these false feelings. So we have come to grips with that.

We saw campus disorder in 1967 at Kent State, where our troops shot down students, and the findings of that report said that any nation which uses weapons of war against its young is on the verge of chaos, and that any nation that loses large numbers of young people because of alienation is, indeed, losing a part of its future.

So we come to this time in this place, in this day and this hour, and we come here because we are disturbed at what is going on. Our Nation is losing, in the balance of trade, and we are not making the better car. Back in 1944, 41 percent of the jobs in this country were manufacturing jobs, because everyone was pitching in. It is now 18 percent of the jobs are manufacturing, and in the year 2000 only 5 percent of the jobs in this country will be from manufacturing.

Mr. Speaker, we have a very serious problem in front of us. Other countries, other places are making these items. We will see a unified Europe in 1992 where they will have 300 million people competing in a single market which will continually make our balance of trade difficult.

We see Hong Kong becoming a part of the People's Republic of China in 1997. What will that create as a problem for our country?

We say what does the balance of trade have to do with the Supreme Court decision, because unless this country can come together and have all of its persons productive, we are going to continue to lose our competitive edge.

At one period of time in Harlem for a 10-year period, not one single fellow or woman came out to become a physician, and that is sad, because there must be tremendous minds, and we have found that foreign countries do not waste the minds of people. We find in foreign countries, and even in the Soviet Union, which we criticized as the Iron Curtain countries, but in those countries, every young person is given an opportunity to live up to their full potential.

Here we must do the same. Racial discrimination has no place in the 21st century. If it comes to the point where we must legislate, then we will.

Our country does a tremendous job as we provide for the common defense, but it also says in the Constitution that it is our responsibility to promote

the general welfare. We are not doing that, and so I support the gentleman from Maryland. I believe that we will have to come to grips with ourselves.

In my town, there was not a black fireman until the late 1950's, because they said, if you passed everything, then "You have flat feet and you cannot serve," and because firemen did not want to sleep in the same area as blacks, and my friend, Curtis Moore of Newark, NJ, a neighbor of mine, was the first black to become a member of the Newark Fire Department.

Only last year, Newark, NJ, a northern city, paid fines to about 60 black men who took the test to become policemen in the 1970's, and were failed, and the courts found they were failed because of racial discrimination in the city of Newark, the city that I live in and was born in, and they will have to pay these persons retribution because they were falsely denied access to the police department.

We must right these wrongs. I certainly feel very moved here, and I think I have extended the time a little bit more, but I would just like to once again support the gentleman from Maryland for bringing this to the attention of all of us.

Mr. MFUME. Mr. Speaker, I thank the gentleman from New Jersey for being a part of this special order and for having the same sense of outrage and anger that we all do at the series of Supreme Court rulings that really tear at the underpinnings of our democracy. The gentleman is right. We are in the business also of promoting the general welfare, lest we forget.

Mr. Speaker, I yield to the distinguished gentleman from Massachusetts [Mr. FRANK].

Mr. FRANK. Mr. Speaker, I thank the gentleman from Maryland for taking out this special order and giving us a chance to express our dismay.

We should be very clear what we are talking about. Obviously, a color-blind society is our goal. The question is: How do we get there?

I was just reading about the appointment of Isaac Fulwood, and maybe someone has mentioned this, the chief of the District of Columbia police, and it mentioned that when Chief Fulwood, who is not an old man since he appears to be my age as I read the paper, but when he was appointed as a policeman of the District of Columbia, it said in the Washington Post that blacks were not allowed to run patrol cars. That is 25 years ago. Black police officers in our Nation's Capital, thanks to Federal laws, obviously, and this was not the choice of the majority of the people of the District of Columbia, but a black man who is now the chief of police, when he began, could not ride in a police car.

We live in a society which was unfortunately cursed with racism. I believe that this society has been making a very valiant effort to leave behind that racism.

This issue is: Can we ignore history as we continue that process? The notion that we should have to prove, and what the Supreme Court is basically saying is, we are only going to be able to resolve this where the people were stupid enough to admit that they were bigoted. Because where bigotry and discrimination was at all sophisticated, you would not be able to prove it.

□ 1630

I went to work for the mayor of Boston 21 years ago. At that time the city suffered from racism. I worked for Kevin White, who I think tried very hard to overcome it.

One of the problems we had in a city with a significant black and Hispanic population was that we had a police force that was virtually all white, and the best police officers knew they could not do a good job of policing that city in the interest of everyone in that city with a police force that was so unreflective of the population being policed. That does not mean we need have one-for-one representation. It means to anyone who knows policing that part of good policing is a knowledge of the community, being able to get sources, understanding when there is likely to be trouble, knowing the habits, knowing that an all-black police force could not police an all-white community or vice-versa.

What we are talking about is saying in a society which was racist, explicitly and admittedly racist, and which has been breaking away from that, at a pace that has been too slow for my taste, but it has been trying, the Supreme Court is now saying we have got to ignore history and assume that everything is wonderful, and we are all starting with day one, and in particular they are putting obstacles in the way of mayors and county officials and municipal officials who are saying look, we inherited a situation in which racism was a terrible problem, and we are trying to work together, black and white, to get out of this.

The mayor of Boston, Ray Flynn, who comes from a white area, one of the most resistant to certain forms of desegregation, has been distinguishing himself by saying affirmative action in various ways is an important tool for me as a mayor, for me to use so that I have a city administration that works, that can provide services.

For the Supreme Court of the United States, which was appointed by President Reagan, obviously for that purpose, the three members who have been so critical in this, for them to put obstacles in their way is a very sad day.

We will not stop trying to combat racism, but it is a sad day when the Supreme Court has made it so much harder, and I thank the gentleman for letting us call this to the attention of the American people.

Mr. MFUME. Mr. Speaker, I thank the gentleman from Massachusetts for taking part in this special order and for being, as he has been, a leader on this issue of fairness in Congress.

Mr. Speaker, I yield to the distinguished gentleman from the District of Columbia [Mr. FAUNTROY].

Mr. FAUNTROY. Mr. Speaker, I want to thank the gentleman from Maryland for his leadership and for making available this opportunity for so many of us to express our gratitude to the valiant people of the past who now over 25 years ago established the cadences to which I think we as Americans ought always to walk. I am particularly grateful for the opportunity he has given me, and indeed millions of Americans, to hear from the gentleman from California, Mr. DON EDWARDS, and the gentleman from Texas, my chairman, HENRY B. GONZALEZ, who were in the U.S. House of Representatives 25 years ago to be a part of that historic moment.

Twenty-five years ago I was in Washington, DC, but I was the Director of the Washington Bureau of the Southern Christian Leadership Conference. On this day 25 years ago I was preparing to go over to the White House to sit in the East Room thereof with Dr. Martin Luther King, Jr., the President of the Southern Christian Leadership Conference, to witness the signing of that historic Civil Rights Act of 1954. During that period, I say to my friend, the gentleman from Maryland [Mr. MFUME], we were saying we shall overcome. That was the clarion call of people of good will, black and white together across this Nation.

We said we shall overcome the humiliating for whites only signs which required people of African descent to sit in the backs of buses and drink water from separate fountains, to be denied access to public accommodations by law. And we sang we shall overcome, we shall overcome the massive resistance that had developed across the southland to the 1954 Supreme Court decision, Brown versus The Topeka Board of Education. And we sang we shall overcome the infamous literacy test and poll taxes and the various other means by which they denied millions of people of African descent the basic right to vote. We were saying we shall overcome a situation where so many of us died defending democracy that we did not fully enjoy in this country in defense of this country, and yet we died.

Today, as we look back, as we open the floodgates of our memories and

travel back through those years we hear another cry. It is a cry apparently emanating from the Supreme Court, and it is we shall overturn.

We shall overturn the great strides toward freedom that were made in the decade of the 1960's. We shall overturn the country's commitment when it identifies a wrong to provide a remedy.

To the great tribute, to the great credit of those who 25 years ago labored to bring about the Civil Rights Act signed on July 2, 1964, we must continue that struggle. One cannot reflect upon the painful losses of the decade of the 1960's, John F. Kennedy, Malcolm X, Martin Luther King, Jr., Robert F. Kennedy, one cannot reflect upon the painful loss of those men without remembering then the decade of the 1960's when we lost them, and that if we are to be successful in meeting this challenge, the challenge of the theme "we shall overturn," the question has to be what today's generation of young men and women will do to grasp the torch snatched so suddenly from their valiant hands.

So I just want to take this opportunity to issue a call to that coalition of conscience out there today, black and white together, young and old together, affluent and poor together, city and suburb together, to remember in the words of Goethe, "What we have inherited from our fathers we must earn again for ourselves, else we will lose it," to acknowledge the fact that we in this generation owe a debt of gratitude to those who worked 25 and 30 years ago to free us from the racial segregation and discrimination that plagued this Nation, and that the best way to pay our debt to the past is to place the future in debt to us by ourselves rising above race and region and party and restoring to the American body politic the commitment to treat all of its citizens fairly, justly, and with laws, and with implementation means that provide us equal opportunity.

I thank the gentleman for this opportunity to join in this dialog today.

Mr. MFUME. I thank the distinguished gentleman from the District of Columbia [Mr. FAUNTROY].

Mr. Speaker, I would like to close out the discussion today in the same spirit for which these special orders were called. That is because I am deeply concerned about the series of recent Supreme Court decisions which have followed a predictable precedent. Since January the high court has reversed five affirmative action cases, and in each decision the court was sharply divided along lines which we are now growing uncomfortably accustomed as the Reagan appointees outvote the older court members with proven commitments to civil rights.

The death toll for civil rights under these five rulings has been a consistent 5-4, 5-4, 5-4.

We have come here today on this issue to point attention to both our colleagues and those who watch us in this legislative process as we have made the case and argued forcibly that it must be the Congress now that must act to fill this void, to correct what many consider to be the wrongs of the courts and the direction that the courts are taking as it relates to affirmative action.

The court was wrong in terms of the grandfather clause; it was wrong with the white primaries; it was wrong with the literacy test, it was wrong in Plessy versus Ferguson in the 1890's when it said "separate but equal" was all right; and it is wrong today under these decisions.

What we are seeking more than anything else is a sense of fairness from the courts. There is nothing wrong with protecting the rights of historic minorities in this society, persons of African descent, Hispanic Americans, Asian Americans, and there is nothing wrong with protecting the rights of women in this society where we can detail over and over again case after case where those protections are warranted.

What is wrong is that the court has lost that special sensitivity and the court, in losing it, has now begun interpreting laws in such a way where we are not just simply rolling back the clock, we are rolling back our democracy.

So I thank all of my colleagues who have come to join in this effort today. I urge those who watch us across this Nation who feel the same sense of letdown, a sense of outrage by these decisions, to remember that it is together that we will bring about change in this society, not fighting against one another, not rallying around those ways in which we are different, but finding our similarities and building upon them and working together and pointing out to the court how wrong they are in these decisions.

Just remember, if I might close by saying, this great enemy that we face called silence is the enemy that will do us in if we are not careful, not just on this issue but on all the great issues that have confronted this Nation, that have confronted mankind.

We would argue and urge that the Supreme Court look a little closer at things that it is undoing, the things that it seeks to undo, to recognize that in a true democracy it has a special obligation as the judicial branch of the Government.

Mr. STOKES. Mr. Speaker, first, I would like to thank my distinguished colleague, KWEISI MFUME, for calling our attention to a serious matter. Today, I rise to offer my condolences to many Americans who will be unable to receive fair treatment under the U.S. Constitution. I have great admiration and respect for this beautiful document crafted by the forefathers of our great Nation. That is why I am perplexed and disappointed by the recent actions of our Nation's highest court—the U.S. Supreme Court.

By now, most of us are familiar with the recent, heavy-handed holdings of the Court which constitute a frontal attack on civil rights. In January, the Court dealt a supreme blow against affirmative action in the case of City of Richmond versus J.A. Croson Co. by deciding that minority set-aside programs must be narrowly tailored and a predicate finding of discrimination is necessary before establishment of a set-aside program.

Even more recently, the Court attacked discrimination cases headon by shifting the burden of proof on to the shoulders of the plaintiff, who is most often poor and oppressed, in Wards Cove Packing Co. versus Atonio. And, just last week, the Court dealt another blow to racial discrimination cases in Martin versus Wilks, which upheld the ability of whites to claim reverse discrimination by affirming their right to challenge affirmative action plans which have been approved in a court-monitored settlement.

The most crucial test of all of these controversial rulings will obviously be the impact of the Court's new brand of judicial activism. The Reagan revolution has left our Nation with economic and social scars. Reagan's efforts to pack the Court are now beginning to pay off in terms of the decisions which will affect minorities negatively in the long run.

Mr. Speaker, I challenge my colleagues to take a stand to reverse the perilous course the Supreme Court is taking in its attempt to dismantle over 30 years of civil rights legislation intended to heal the wounds of past discrimination. By the Court's recent rulings, the Justices are sending a clear and powerful message that they intend to limit significantly the rights of women and minorities to challenge discriminatory practices by employers. In plain terms, the rights of white males have been upheld at the expense of infringing upon the rights of those who have yet to enjoy fully all the rights provided by the Constitution.

Mr. Speaker, it is obvious what our role must be in this critical matter. We must act quickly and swiftly to reverse this current trend of conservative activism.

Mr. RANGEL. Mr. Speaker I rise today to join my colleagues to express my outrage in response to the recent judicial activism that the Supreme Court is now engaged in. On four occasions this year the Supreme Court has handed down decisions that have severly undercut the efforts over many years to overcome bias against minorities and women. The conservative majority on this Court has made it quite clear that they do not intend to support programs that have been designed to provide equity and protection for those groups that have experienced discrimination in the past.

The message that I receive from these decisions is that this Court is intent on narrowing the discrimination remedies, restricting affirmative action, and protecting the rights of white males at the expense of women and minorities. If these decisions are a sign of "the new breeze that's blowing" and of "a kinder and

gentler nation," then the minorities and women have some rough, foul weather ahead if they hope to achieve real equal opportunity.

The four decisions are:

City of Richmond versus J.A. Croson Co., in which the Court strikes down a City of Richmond plan designed to give minority-owned construction companies more city work. This decisions has placed over 200 set-aside programs in jeopardy.

Wards Cove Packing Co. versus Atonio, in which the Court makes it more difficult for minorities to use statistical data to win claims of racial discrimination against employers.

Martin versus Wilks. The Supreme Court expands the ability of nonminorities to file reverse discrimination complaints.

Runyon versus McCrary. The Court refuses to allow lawsuits based on racial harassment and limits the reach of section 1981 that prohibits discrimination in making and enforcing contracts.

Mr. Speaker, we in the Congress must take action to reverse these judicial trends and send a strong message to the American people that it is the intent of the Congress to provide equal opportunity and equal protection. It is our task to modify each of the four decisions by carefully drafted legislation to address the logic used in reaching these decisions. However, we must not run headlong and introduce legislation willy-nilly in an unstructured attempt to correct these injustices.

It is true that the symbol of justice is blind, but that same symbol holds a set of scales that is equally balanced. These four decisions once again tilt the scales of justice against the ones who have historically been discriminated against. We must act and act decisively.

Mr. AuCOIN. Mr. Speaker, I am very pleased to join my colleagues today in addressing what has become the single greatest threat to civil rights in America—the unprecedented attacks by the Supreme Court on established principles of justice.

In a recent string of regressive decisions, the Supreme Court has struck major blows aimed at halting this country's progress towards becoming a fairer, more just society. Who would have imagined that 25 years after the Civil Rights Act of 1964, the redemption of one of history's broken promises—equal justice under the law—would be challenged by the very institution that had previously been its most solid ally?

We have learned through these rulings that the Court is willing, by a narrow majority, to rewrite civil rights law. Especially alarming was the Court's autonomous decision to review the Runyon versus McCrary decision, the bedrock for all subsequent job discrimination decisions. Though the court upheld the ruling, this bold action signifies an overt attack by the Court on such precedents and renders all previous decisions vulnerable.

Sadly, these rulings are more predictable than most of us would like to think. After all, Ronald Reagan who appointed this narrow majority, vowed to achieve a new conservatism on the Court. These latest interpretations confirm this goal and prove that civil rights are in fact subject to the winds of political change.

A former top-level Reagan Justice Department official gave the best analysis of the Court's decisions when he hailed the rulings as a "home run" for white men. A home run for white men. Well, folks, we all know full well that white men have never been denied employment or promotions or suffered the degradation of slurs due to their skin color and/or gender. White men have been scoring home runs for centuries. How about giving everyone an equal opportunity to make it to at least first base?

Manipulating hiring practices to the exclusion of an employee group may be the most insidious form of discrimination and yet the Court saw fit to weaken the existing constitutional safety net. Each recently issued decision effectively ties the hands of women and minorities when seeking legal recourse in fighting job discrimination.

As noted in one of the majority opinions, this society has a "deep commitment to the eradication of discrimination based on a person's race or the color of his or her skin." Yet these Justices are unwilling to apply the "prevailing sense of justice" they claim to uphold. As Members of Congress, we are obliged to press for what is rightfully a national objective and that is "equal justice under the law." If the Supreme Court Justices are unclear about the law then we, as legislators, must clarify it for them.

I commend Congressman MFUME for his willingness to take the lead on this issue and pledge my support for initiatives that will undo the damage done to civil rights and affirmative action by the Rehnquist Court.

Mr. DIXON. Mr. Speaker, the recent Supreme Court decisions on affirmative action strike a severe blow to the struggle for racial justice in our country and sends a clear signal that this Court's conservative majority is charting a course to continue the Reagan assault on civil rights.

Eighteen years ago the Burger court handed down the landmark decision which set the standard for affirmative action cases. In Griggs versus Duke Power the Court ruled that discrimination need not be intentional. These recent decisions have overturned this landmark decision expanding the ability of nonminorities to claim reverse discrimination, making it more difficult for minorities to use statistics to prove discrimination in employment, and placing the burden of proof on the victim of alleged discrimination. Many employers now may be encouraged to scale back affirmative action plans that may adversely affect nonminorities. In order to prove discrimination minorities will have to show that employment practices do not make good business sense. This puts the burden of proof in the wrong place, on the victim.

For more than a decade the Court has struggled with determining when affirmative action is appropriate to remedy discrimination. Although these recent rulings involve different aspects of civil rights law, they all strike a serious blow to the victims of discrimination and opens the door for more challenges to the basic hard fought civil rights gains of the last 25 years. The decision in Ward's Cove Packing Co. versus Atonio will have a devastating impact on cases before the courts that rely on the landmark ruling in Griggs versus Duke Power which said that employers could be liable for discriminatory employment practices. The Wards decision relieves the employers of the burden of justifying such practices that produce disparities in the racial composition of their work force.

We cannot allow this Court to ring the death knell for affirmative action in this country. Yet these rulings clearly signal the view of the conservative majority that affirmative action has gone too far. They are wrong. Women and minorities must be given a fair chance to compete on a level playing field.

Justice Thurgood Marshall has observed that:

> A majority of this Court signals that it regards racial discrimination as largely a phenomenon of the past and that government bodies need no longer preoccupy themselves with rectifying racial injustice. The battle against pernicious racial discrimination or its effects is nowhere near won.

The Supreme Court is indeed attempting to apply colorblind rules to a race conscious society. The painful truth is that America is not a colorblind society. Racial discrimination and denial of equal opportunity remains a problem which can have a crippling affect on the aspirations of our young people. Minorities and women still face important obstacles to full participation in the job market and in business. In continuing the Reagan crusade against civil rights, the conservative cast on this Court is abandoning its historic role as the protector of the rights of the disadvantaged. Yet victims of discrimination have a right to expect the government to provide appropriate remedies. Yet in the words of Justice Blackmun:

> One wonders whether the majority still believes that race discrimination—or more accurately, race discrimination against nonwhites—is a problem in our society, or even remembers that it ever was.

This is a disturbing trend in our society. The Court has traditionally reflected the mood and the conscience of the nation. The decision of this new conservative majority is an ominous sign for race relations in our country.

We can ill afford to allow the Court or the Federal Government to ignore our shameful history of racial oppression and turn back the clock on civil rights. Affirmative action has been an important tool in the civil rights arsenal. It is needed to level the playing field for minorities and women; to bring them into the mainstream of American economic life.

The Congress has broad constitutional authority to remedy the invidious effects of discrimination. We must now reassert ourselves in this fight for equal opportunity and individual liberties and move expeditiously to reverse the damage done by these recent Supreme Court rulings.

Mr. PAYNE of New Jersey. Mr. Speaker, close scrutiny of the three recent Supreme Court civil rights decisions suggest that the plurality of the court considers affirmative action a dead issue. That state and local governments no longer have the option of balancing the scales tilted by the long duration of racial discrimination. That the burden of proof should now rest on the shoulders of the complainant, and no longer the employer. Affirmative action, equal employment—rest in peace.

The epitaph of an era of progressive legislation, and its usually reliable Supreme Court interpretations, was written best by Justice Brennan in his dissent to Patterson versus McLean Credit Union: "What the court declines to snatch away with one hand, it takes away with the other. When it comes to deciding whether a civil rights statute should be construed to further our Nation's commitment to the eradication of racial discrimination, the court has adopted a formalistic method of interpretation antithetical to Congress' vision of a society in which contractual opportunities are equal. 'One wonders,' he said further, 'whether the majority still believes that race discrimination—or more accurately, race discrimination against nonwhites—is a problem in our society, or even remembers that it ever was." As one who has lived through the time of two separate societies, I can tell you that racial discrimination is alive and well in this country.

In the past year, beginning with the City of Richmond versus Croson, and hopefully ending with Patterson versus McLean, the Nation has witnessed a series of opinions that have literally knocked the foundation out from under employment rights for women and minorities. By ignoring powerful historical evidence, the court has become duplicitous on its face. The majority, who swore under oath to leave their predispositions at home, seems to have taken the position that any attempts to correct the racial inequities of the past are nothing more than harassment against white males. The real irony though, aptly stated by William Raspberry, "is that minorities, who used to look to the Supreme Court for relief because Congress didn't seem to care, must now turn to Congress for relief from the Supreme Court."

Our challenge therefore as legislators lay in reaffirming or commitment to the passage of legislation that would limit employer power, and thus provide an equal footing for workers and businesses alike.

The movement is far from over. It has a far, far way to travel before it can be cast aside as a benign concern. And if the court has indeed forgotten what affirmative action was all about, and if they have forgotten what this "second reconstruction period" has really meant to blacks and women, then, Mr. Speaker, I would just remind them of the words Justice Harlan so prophetically wrote in his 1896 dissent to Plessy versus Ferguson, "the destinies of the two races * * * indissolubly linked together, and the interest of both require that the common government of all shall not permit the seeds of race hate to be planted under the sanction of the law. We boast of freedom * * * but it is difficult to reconcile a state law which, practically, puts the brand of degradation upon * * * our equals before the law. The thin disguise of 'Equal' * * * will not mislead anyone, nor atone for the wrong done."

GENERAL LEAVE

Mr. MFUME. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the subject of my special order.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Maryland?

There was no objection.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 2655, INTERNATIONAL COOPERATION ACT OF 1989

Mr. MOAKLEY, from the Committee on Rules, submitted a privileged report (Rept. No. 101-94) on the resolution (H. Res. 179) providing for the consideration of the bill (H.R. 2655) to amend the Foreign Assistance Act of 1961 to rewrite the authorities of that act in order to establish more effective assistance programs and eliminate obsolete and inconsistent provisions, to amend the Arms Export Control Act and redesignate that act as the Defense Trade and Export Control Act, to authorize appropriations for foreign assistance programs for fiscal years 1990 and 1991, and for other purposes, which was referred to the House calendar in order to be printed.

REPORT ON RESOLUTION WAIVING CERTAIN POINTS OF ORDER AGAINST THE CONFERENCE REPORT AND ANY AMENDMENTS REPORTED FROM CONFERENCE IN DISAGREEMENT ON H.R. 2072, DIRE EMERGENCY SUPPLEMENTAL APPROPRIATION, FISCAL 1989

Mr. MOAKLEY, from the Committee on Rules, submitted a privileged report (Rept. No. 101-95) on the resolution (H. Res. 180) waiving certain points of order against consideration of the conference report and any amendments reported from conference in disagreement on the bill (H.R. 2072) making dire emergency supplemental appropriations and transfers, urgent supplementals, and correcting enrollment errors for the fiscal year ending September 30, 1989 and for other purposes, which was referred to the House Calendar in order to be printed.

□ 1640

UPDATE ON STATUS OF COMMITTEE ON BANKING, FINANCE AND URBAN AFFAIRS

The SPEAKER pro tempore (Mr. CARDIN). Under a previous order of the House, the gentleman from Texas [Mr. GONZALEZ] is recognized for 60 minutes.

Mr. GONZALEZ. Mr. Speaker, I would like to thank you for your patience and want to assure you that on this special order it will be my intention to use just a modicum of the 1 hour allotted under this special order.

The reason for today's special order is to continue along the lines of reporting the activities and the projected activities of the Committee on Banking, Finance and Urban Affairs as we look toward a soon-to-be convoked conference committee with the other body.

As a matter of fact, it is my hope that the Speaker will announce our conferees early tomorrow, but in the meanwhile the chairman of the Senate Committee on Banking, the Honorable Senator from Michigan, and a former colleague of ours in the House of Representatives, Senator RIEGLE, has been in constant communication with me. Since he and I are friendly and our friendship goes back to the time he was a Member of the House, this friendship is now more than ever reaffirmed as he and I assumed simultaneously the respective chairmanships of the Banking Committees of the Senate and the House of Representatives.

But in reporting to you, my colleagues, as I promised at the very beginning of the 101st Congress in January, yesterday it was just not possible to sum up the real background lurking, dangerous situation that confronts us all and which cannot help but hover over any resolution of the current crisis in the insurance fund system, not just FSLIC, not just the savings and loan insurance fund, but the commercial bank fund, FDIC or Federal Deposit Insurance Corporation fund.

The whole system of fiscal and monetary setup in our country is in a heightened state of flux, particularly the financial environment. It seems that because either inadvertence or abdication of responsibility or inability at the time to confront the issues as they emerged in the beginning, after initial stages, and therefore have had a great deal of success in preventing the tremendous size of the problem confronting us, and the complexity of it, had we been willing, as some of us have been advocating for 23 years, to

look into the rudiments and the root causes of what obviously would end up with being where we are today. The fact remains that it did not happen.

So what do we have today? I explained yesterday the enormity of the accomplishments of the U.S. House of Representatives in its overwhelming vote with respect to H.R. 1872, which represents the effort to catch up, and in one complicated, comprehensive, all-encompassing bill, which has never happened before in the history of the Banking Committee, addressed the basic problems of reform, reforming the regulatory system. It would have been incredible to advocate a raising of funds and commitment of Treasury funds to shoring up the insurance fund without reforming and making sure that the same would not be repeated.

So we had very complicated and continue to have complicated titles, having to do with the reform and the resulting new structures which, potentially, can be very, very much exposing to a continuing series of scandalous possibilities but which the action of the House in adopting the amendment that I offered, capping, for instance, the Resolution Trust Corporation's ability to commit the Treasury beyond the funds authorized and appropriated by the Congress. This was not the case, and I mentioned that yesterday so there is no use repeating it, but we reached the unbelievable period of time last year when an agency, a quasi-governmental agency encumbered, committed the Treasury, the taxpayers, $40 billion without going to the Congress or through the appropriations process which even the President of the United States cannot do. Yet that happened.

We are now faced with the need of paying the tab. That part has yet to be addressed.

□ 1650

I have been speaking out since 1979, particularly about the dangerous fiscal and financial situation in our country. In August of 1979 I pointed out that we had reached that rule of thumb that the great international banking moguls, people and institutions that have been in there for 4 or 500 years, the Bank for International Settlements, which is really the controlling factor in rural banking, which the United States is not a member, but is a visiting or an associate and has no voting power, but nevertheless, we had a rule of thumb, and I announced it: that the banking system is beyond repair when there is a ratio of 22 to 1 on capitalization to debt or to exposure.

I computed in May what I figured was a reasonable estimate of the total resources, capitalization, and then the equivalent exposure which in 1979 had gone up from, in less than a year and a half, from $3.5 billion to over $45 billion, with the chief seven or eight banks in the United States lending fist over full to countries that we knew at the time, and I reported to the Congress right here from this podium in August of 1979, would not be able to pay out. No way. So this is a factor here that is hovering, and it is something that is a contingent one as to the stability of our financial system, even though it is not the headlines, it will not take much to make them headlines.

When I reported that fact in 1979, it was because I was impelled to report. I know that there are so many Interpretations about special orders, that my fundamental approach since the first month I was sworn into the Congress was the use of privilege of addressing the House in an extended way not provided during limited debate, in order to digress on issues that affected one very much. So I have been speaking out on this forum since January of 1962, except that it has not been, until the latter years that we have had television coverage, so then that became noticeable after that. Before that, it is no different. It is on the record. That is the reason I speak because I want this to be on the record. This is why I can say back in August of 1979, this is the why I came to the floor.

Now, at that time I had reported here, and the Chairman of the Federal Reserve Board did notice the speech in the RECORD, and he invited me to have breakfast with him, which I did. After that breakfast, I was more troubled than I ever was before, and continued to be. If we fund, as the bill provides and as the President's original bill requested, the recapitalization of the insurance fund and the reform of the regulatory system, and we provide the financing over a 30-year period as the Treasury intends, of up to $50 billion, we must realize what exactly this means, at a time when our country has become a debtor Nation as of 4 years ago, but the first time since 1914. At a time when the domestic debt, the Government debt, is in the trillions, and the private, just the corporate debt alone of American corporate life is even in excess of that. We must imponder exactly what it is we must continue to be doing, and hopefully on a sustained basis, not considering that once we enact legislation, and whether the amendment that the Committee on Ways and Means on that particular title because under our system our Committee on Banking, Finance, and Urban Affairs had to refer three different titles to three different committees because their particular jurisdiction extended. In the case of the Committee on Ways and Means, it was a tax consideration to be given, the Resolution Trust Corporation in their issuance of what are known as REFCORP bonds because the Resolution Trust Corporation would raise that by forming a Resolution Funding Corporation, [RFC], and that is where Members get REFCORP. It was so loosely done in the President's bill that it was necessary for staff to do it completely over. I had the responsibility of handling that and offering that amendment in our committee in which we reformed and put some definition into the very vague President's bill.

I think also, my colleagues ought to know why they should be particularly proud of themselves, individually and of this House of Representatives collectively. That is that the President's bill, when it came to our hands, it was easy to see it was very obviously defective, even in phraseology, in draftsmanship, so that within 24 hours of my having it in my hands, I had met with the legislative counsel and had him confirm what I knew to be very deficient aspects of the bill.

It was 9 days later that the administration informed Members that indeed they would be sending better than 400 technical amendments. So my friends and colleagues, we took all that. We have a wonderful staff, and that is another group that I wish to extol at this time. There were times when we were marking up the bill, that we were utilizing 30,000 pages of paper a day during markup, to show Members the frenetic activity of amendments, and we had over 150 amendments that were batted back and forth. However, all the time we kept the eye on the ball because the staff was on the ball. We had staff at work day and night, over weekends, day and night, in order to ferret out some 414 so-called technical amendments, were really technical, and that it turned out were not, about 20 were not, so we had to incorporate those in a regular markup procedure and give them the consideration that should have been given in a serious vein.

So I think this is a great day to show and reveal what I have always felt in my 28 years here, and that is high respect for the ability and the inherent goodness of the colleagues in this great body of ours. However, there still remains so much that has not even been addressed. For instance, in the Resolution Trust Corporation section, which as I said before in the President's bill was hardly even defined, we worked it over. We added a member, we made the Secretary of HUD one of that recommended three-member board. The President's bill would have the Attorney General, would have had the Secretary of the Treasury, and it would have had the Chairman of the Federal Reserve Board, as the board of the Resolution Trust Corporation. However, the Resolution Trust Corporation is going to have an unprecedented job in the history of our country. Not even during

the Depression did we have that 400 plus billion dollars' worth of REO's, real estate ownership, a mixed bag of commercial, industrial, dwelling residential property, and what to do with it. Well, none of these departments and heads have that experience. We felt that it would be an absolute mistake not to at least have the Secretary of HUD, so we did. It is in the bill as we passed it out of the House.

However, what was not discussed, was the financing, mostly because this is going to be and has been an executive branch task.

□ 1700

I do not know whether my colleagues specifically or those who are not Members of the Congress realize, as well as those who are not privy to the facts, that the high offices of high finance were certainly there. You do not have elected representatives of the people, you have the private financial interests, and they are not charged, nor should they be expected to be charged, as they never have and never will be, with responsibility for the greatest interest for the greatest number. But they know that our Government has been working dangerously close to what could unravel public confidence, not only in the deposit insurance system but in the whole credit worthiness of the Government.

Yesterday some people may have thought that I was impassioned or too emotional when I said that our Government bonds were on their way to being "junkified." Let me give the assurance that that was no hyperbole, that was no exaggeration. Let me explain why.

The Treasury, as it has before to some extent, on October 1 or thereabouts must deal in the market and find some way of marketing that $675 billion in debt. Our formal accepted debt—this is according to Gramm-Rudman and all that hocus-pocus, and this is what all the budgeteers and Secretaries of the Treasury tell us—stands at $2.6 trillion. That is on the balance sheet, so to speak.

What they do not mention and what the Congresses do not seem to be too anxious to mention is that off that column but nevertheless as an integral part of that debt is what is known overseas as the contingency debt, and since it is not considered part of the budgetary statistical debt, you just throw your shoulders back and say, "Well, that's all right. Let's just keep going off budget, because it won't be added."

Up to now, our financial marketeers have chosen, also for political reasons, to be aligned with the administrations that have been in power, so that like the Federal Reserve Board, on various occasions, as in 1972, in order to help the political fate of the administration in that election year, they made sure there was what they call M1, which is a fancy term for loosening the printing presses.

Mr. Speaker, I want to say to my colleagues that it used to be when I was younger that they used to accuse the Congress and the Presidents of phoney-baloney money because they were saying, "Oh, you print the money. All you have to do is crank that printing press."

But all I ask you to do now is to reach in your pocket and take out a dollar bill or any other bill. Now, what do you see? You see, "Federal Reserve Note." So it is the Federal Reserve Board that is printing our money.

When I came to the Congress 20 years ago, if I reached in my pocket and pulled out a dollar bill, I would find that almost every one of those had "U.S. Treasury Note" on it. There is a big difference there. I will not go into that now because I have discussed that for over 20 years here on this House floor without much success of arousing anybody's interest.

I have even introduced legislation to try to address a need to go back to adequately managing our debt. And I always asked this question to those who asked me: "Well, if you're so smart, how come nothing has been done?" So my question was: "All right, if you're so smart, can you tell me why Franklin Roosevelt and even Harry Truman—but particularly Franklin Roosevelt, because he had a whole World War to manage—along with the Government never had to pay even 2-percent interest?"

But today what are we paying? We pay compound interest. We even reached the point of paying over 15 percent. That is an absolute scandal. It is a wholesale theft of the American heritage. I have said this before for over 20 years, and I just cannot help but repeat it today because we are fast reaching that moment of truth, that day of reckoning beyond which, no matter what kind of political contortioning we make, we have got to face the facts. We are on that verge now.

Here is why I say this: As I said, on October 1, no less than $675 billion has got to go to the market by the Treasury. The unspecified amount, that is, the part that is off the accounting sheet, is $222 billion of guarantees on loans of $550 billion. Then there is an additional $720 billion in loans by Government-sponsored enterprises. That makes a total of almost $105 billion here on the side, and this is called contingency.

What do we mean by "contingency"? It means that I can be and should always be considered an integral part of the total amount of money that we are liable for in the form of debt, explicit and implicit. So this figure of $550 billion plus $720 billion is growing faster than the first figure, simply because that is considered off budget.

But you say, "Oh, we don't worry about Gramm-Rudman." Well, what is Gramm-Rudman?

Gramm-Rudman is the biggest fiction that ever has been seriously undertaken by any responsible legislative body in the history of the world and its own inherent bankruptcy should have been visible the very first day, on March 15, 1986, which was the first quarter when, on account of the recently enacted Gramm-Rudman legislation, we were supposed to have saved $15 billion or reduced the debt by that amount, whereas if anybody had been looking—and I reported it here—that same day the cost of the interest went up $30 billion.

So what did we save? How did we reduce the debt?

As a matter of fact it was not reduced; it was increased by $15 billion. Yet the charade has gone on.

We are now about to sacrifice again in the name of that shibboleth known as Gramm-Rudman. However, to its everlasting credit, the Ways and Means Committee, which has responsibility under the Constitution of initiating all tax matters, very wisely said, "There is no use of kidding anybody, this ought to be on budget, and we will just have to have an extension to Gramm-Rudman."

This is another thing we have to be aware of, and I do not understand all the travail about it. In April 1986, shortly after that first quarter, we had a big debate, and we had the first exemption on Gramm-Rudman, having to do with I forget how many hundreds of millions of dollars on the dairy price supports. That was an exemption right off the bat. As a matter of fact, the Gramm-Rudman language itself provides for such contingencies as these REFCORP bonds. And they are there in order to do what? To stabilize, to ward off a chaotic situation that potentially can still happen to us.

So if we add $50 billion to this off budget contingency debt at a time when 20 percent of all of the outstanding Treasury bonds is represented by that off-budget contingency, what in effect is going to be the impact on the money markets, or, more importantly, will they be fooled into thinking they will be giving us the same consideration as if they had up-front, on-budget, full faith and credit in the Treasury notes? Of course not.

□ 1710

Mr. Speaker, one does not have to be a financier to know that a paper is worth something if it has a full faith in credit and the full backing of the Treasury as compared to one that does not.

So, what does that mean? It means that at a time when the markets show exactly what they think of the Government bond market, the long and

short of it is that we are on the outer edge of a risky period of time as far as the short end maturity rate on these Government bonds has become.

For example, right now the average maturity rate is 4½ percent. In the 1930's it was 50 years. In 1947, after the world war, it was 20 years. It means what I said yesterday, that it is in great flux.

Mr. Speaker, I mentioned yesterday also that 10-year Government bonds are being held for less than a month, less than 30 days. What does that reflect?

My colleagues, I reported this last year as we were winding up the Congress, and I reported that the need since the stock market bust in September 1987 was great to have legislation to control that highly volatile, inflamed, speculative, fevered market, that it is only just a matter of time before we have the day of reckoning again, except that these processes take some time.

The stock market crash of 1929 was not immediately visible; I am old enough to remember, even though I was a kid then. I remember the atmosphere. It was not until 3 years later because these are glacier-like movements. They are slow, but they are inexorable.

So, we have to face this, and we have to be facing this sooner than we think.

Ninety percent of the debt must be rolled over during President Bush's term of office, but here again I have great confidence that, once the facts are known, the truth established, the unrebuttable facts, that then our colleagues here, as well as in the executive branch, no matter what commitments they may have made during the political campaign, will rise to the occasion.

Certainly, with very few exceptions in our history, lamentably with the immediate past President, we have had the individuals to rise. I recall the terrible atmosphere of antipathy and hatred outright against Harry Truman when he rose to the Presidency upon the death of Franklin D. Roosevelt. He had been vilified almost daily as a crony and the henchman of the Pendergrass machine of Kansas City. He was pictured as corrupt. It was daily drumming. It was horrible. I remember it as if it were today, and yet he stepped into the shoes of this tremendous, unsubstitutable leader, and he did, and he had crises of even greater proportion and a shorter range of time to make decisions. But, by golly, he made them, and he rose to the occasion, and history now marks him as a resolute, decisive and a very effective President.

Mr. Speaker, we have had other examples through our history, so it is this hope and the constant need for us to rise and say, "Look we know that it is easier to just kind of shake things and say, 'Oh, if we don't look, it will disappear,' or 'Let's sweep it under the rug,' or 'Let's forget about this 1½ trillion over here because all we got here to worry about is 2.6 trillion.'"

That, Mr. Speaker, I think has to reach an end, and it will, and then we get together and we chart courses.

It is true that through the years I have gotten up and I have spoken, and sometimes I have been highly critical, and sometimes I have been more than critical. I have been condemnatory, but the record will also show that on each one of those where there was a suggestion to be made as to how to either suggest an alternative or improve that being criticized that I have. I have submitted bills ranging from audits of the Federal Reserve Board to such things as restructuring the Federal Reserve Board to bring it back to the original intention of the 1913 Federal Reserve Board Act. Why, as long as we have had the system that has crept in sometimes indirectly in sleeper clauses, in innocuous legislation, ometimes less obvious than that, but, nevertheless, all the time subtracting accountability to the people for, as I have said before, the Federal Reserve Board is not a Government agency, yet it is the one that is making the decision as to the fiscal, and monetary, and even the social policies of our people.

Mr. Speaker, that is not the constitutional intent. The constitutional intent is that only the national policymaking body known as the Congress establishes national policy, but it is not happening that way.

As I have said time and time again, anytime the open market committee, so-called, of the Federal Reserve Board wants to do in or do up any administration, it can do it very simply through its decision on what it is going to offer on Treasury bills and notes.

Now England used to do it that way. The chancellor of the exchequer used to, and then, by golly, the British reformed that after the war, and they have more of an enlightened system. We are the only country in the industrialized world that handles our fiscal and monetary matters this way. Even in the printing of our dollar bill, I want to advise my colleagues, we are paying interest even on that.

I want to say though that the main thing we could do was to make sure that we restricted and we recapped the Resolution Trust Corporation so that it would not encumber or commit to Treasury beyond that which had been appropriated by the Congress unlike FSLIC which last year alone committed the Treasury to $44 billion without having to go anywhere for permission.

Mr. Speaker, that was wrong. It should never have been permitted to have reached the point where it could have happened, but it did.

Mr. Speaker, I have one final word: The Treasury, of course, will have to figure out how best to approach the marketing and the handling of the debt. I am sure that before the October 1 date, sometime later in the summer, we will be facing a debt ceiling resolution again, but that is pro forma. The real thing, I believe, will be for us not to add by going off budget and deceiving ourselves into thinking that it will not be costly, excessive.

Mr. Speaker, even the method of the Committee on Ways and Means means that we go on budget, but exempt from Gramm-Rudman, which the Senate may not go along with, but we still have to issue $50 billion additionally long term making our total tab a hundred.

Mr. Speaker, I advocated the plan which high officials in the administration told me that they had patterned theirs on exactly a year ago this month, in June, and that is what I was suggesting then, and I was suggesting straight Treasury funding on board, on budget, and I felt that, if we had gotten just one-fifth of that amount then, we would have stopped the bloodletting, and the costly tab today, I am convinced, would have been about one-twentieth of what it looks like it will turn out to be.

□ 1720

So with that, I wish to announce to my colleagues that as we progress in the conference, I will be reporting to you. I have always felt that where we have these multiplicity of committees that if we do not sit on one, we do not know until something comes up on the House floor, and I have always felt it is not desirable, but if it is possible, we should be informed from time to time by the respective committees as they progress along very, very important and inescapable legislation.

THE NATIONAL AGRICULTURAL PRODUCT TECHNOLOGY DEVELOPMENT ACT OF 1989

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois [Mr. MADIGAN] is recognized for 10 minutes.

Mr. MADIGAN. Mr. Speaker, the word "competitiveness" has become considerably overused, and some may be tired of hearing it by now. Nevertheless, it remains a key word for U.S. agriculture as well as for our balance of payments and balance of trade. It is a fact that U.S. agricultural exports continue to be critical to both, and our producers can continue to make this essential contribution only as long as they remain competitive in world markets. Aside from subsidies, there are two basic ways to stay competitive in nearly any market: reduce costs, and introduce marketable new products.

Last year at this time I introduced a bill—H.R. 4314—to encourage the development of new commercial products from agricultural commodities, and of new methods for reducing the costs of agricultural production and processing. That legislation, in a modified form, became a part of a larger bill—H.R. 5056—which was reported by our House Agriculture Committee and passed by the House later in the session. Unfortunately the Congress adjourned before differences between the House bill and a Senate version could be worked out. I am hopeful that a fresh start can be made in this new Congress, so I am today reintroducing my original bill—identical to H.R. 4314 of the last Congress with a few minor technical corrections.

This bill would provide additional focus and support for applied agricultural research and development through a program of matching competitive grants to research institutions for the purposes of, first, accelerating and expanding production of new commercial products from U.S. farm commodities, and, second, finding and implementing new ways of lowering agricultural production and processing costs.

The approach suggested in this bill would add an element that many believe is critical to the ultimate success of new agricultural product research—a direct link to potential commercial markets. The program would require that any research and development project proposal for new products must include a commercial U.S. company willing to invest at least 20 percent of the total cost of the project and to engage in commercial production of the product under licensing or royalty agreements.

One of the most serious problems that we have faced over the years in new-product agricultural research and development is the lack of an effective mechanism to move commercially viable products off the research shelf, into the final development stage, and out into the market. This bill would provide that mechanism.

The program proposed in this bill would be open to all colleges and universities, public agencies at any level of government, and consortiums of public and private entities. It would be administered separately from, but complementary to the existing publicly supported U.S. agricultural research system, by an independent institute within the USDA, headed by a nine-member board appointed by the Congress and the administration from nominees of producer and processor groups, the agricultural research community and others.

The board would set research and development priorities through a public process and disperse financial support to projects from a revolving fund. The program's exclusive goals would be to accelerate research and development along two basic tracks through biotechnology and other new and traditional methods. New-product grants would concentrate on new uses of familiar crops. Cost-reduction grants would spur innovative technologies to lower the costs of production and processing of agricultural commodities.

Important new agricultural products are moving into commercial markets, but many more are waiting on the research shelf for that last phase of development and testing that our existing agricultural research system is unable to carry out. In the long term, increased development and use of products made from renewable materials can help us get the best uses from nonrenewable materials such as petroleum. And, this kind of development of our agricultural resources may result in unique products that can open new industries in rural areas—helping the farmer and his small-town neighbors as well.

Through export subsidies, the decline of the dollar abroad, and aggressive marketing and trade negotiations, U.S. agriculture has slowly regained some of the world market share lost earlier in this decade. While prospects for producers generally have improved, the economic pressure is still intense. Economic viability for U.S. agriculture both here and abroad remains dependent on expansion of both traditional and new markets wherever we can find them, and on continuing to push production, processing and other costs down.

I am hopeful that our committee will move expeditiously in this area during this session, to address these things that need doing in agricultural research and development to ensure that the United States can continue into the next century as the world's preeminent producer, processor, and exporter of traditional and new agricultural commodities and products.

Following is a more detailed explanation of the provisions of this bill:

THE NATIONAL AGRICULTURAL PRODUCT TECHNOLOGY DEVELOPMENT ACT OF 1989

This bill proposes an expanded U.S. applied research and development program in agriculture to:

(1) find new uses for farm commodities, and new products to expand domestic and export markets; and

(2) improve the competitiveness of U.S. agricultural producers and processors through accelerated development and trransfer of cost-reducing, environmentally safe technologies.

PROJECT GRANT PROGRAM

A new 11-year program of competitive grants complementary to, but outside of the existing federal agricultural research support system would provide additional funding and focus on new uses, trade and competitiveness. The program's exclusive goals would be to accelerate new product development and cost-reduction applications through biotechnology and other new and traditional research and development methods.

These Federal grants would require in nearly all cases at least 50/50 matching by project applicants. Commercial production agreements with private industry, and incubation projects for development of rural industries based on new products and technologies would be important parts of the total program.

TWO TYPES OF GRANTS

Two types of grants would be available to the most promising projects of any public or private institution in the U.S. including non-land grant universities, public agencies at any level of government, and consortia of public and private entities. New Product grants would concentrate on new uses of familiar crops. Cost-reduction grants would spur innovative technologies to lower the costs of production and processing of agricultural commodities.

NEW PRODUCTS

A project proposal for development of a new use or product of an agricultural commodity would be eligible for consideration only if the applicant institution has entered into a joint development agreement with a U.S. company willing to invest at least 20 percent of the total cost of the project and engage in commercial production of the product under licensing and royalty agreements. A substantial commitment of applicant resources would also be required.

COST-REDUCTION

A proposal for a cost-reduction project would be eligible for consideration only if the applicant institution has obtained a commitment of other public or private funds for at least half of the total cost of the project. Allowable reprogramming or redirection of existing available federal or non-federal research funds would also qualify toward meeting this matching requirement.

INFORMATION NETWORKING AND TECHNOLOGY TRANSFER

The program would provide for cooperative efforts in the collection of relevant and useful scientific information from around the world to assist institutions in carrying out their projects, and for transfer of technological information from successful projects to producers and processors through electronic and other means.

NATIONAL INSTITUTE FOR AGRICULTURAL PRODUCT TECHNOLOGY

The program would be administered separately from the existing publicly-supported U.S. agricultural research system by an independent Institute within the USDA, headed by a nine-member board appointed by the Administration and the Congress. Two members would be appointed by the House and two by the Senate. Five members would be appointed by the Secretary of Agriculture through nominations from agricultural producer and commodity groups, agricultural processors, and the agricultural research community. One of these members must be a producer nominee, one a processor nominee, and one a nominee of the research community.

Board members would be appointed for staggered terms of one to three years. A sunset provision would end the entire program in 11 years. The Board would set research and development priorities through a public process, and disperse funds to support the projects. It would also establish advisory groups and a unique peer review system of scientists, processors, producers and others to help select projects and oversee their progress. An effective accountability and reporting system would be required.

REVOLVING FUND

A revolving fund would provide a mechanism for handling program money. Fees and royalties collected from industry commercialization of products developed through the program would be deposited in the fund.

Of the total funds available for the program annually, 85 percent would be allocated to competitive grants. Information networking and technology transfer would be allocated 10 percent, and 5 percent would be held for administrative expenses of the institute. Sixty percent of the total funds would be available for awards to the best project proposals of any qualified applicants, including the Land-grant system of 1862 and 1890 institutions. The remaining 25 percent, however, would be set aside to

assure that funding would be available for the most promising projects of the 1862 and 1890 institutions that survive the general competition among all qualified applicants.

IMPROVED RURAL OPPORTUNITIES

A successful program could provide significant benefits to the U.S. economy and to rural areas through increased farm and agricultural-related income and employment opportunities.

This legislation incorporates concepts and specific elements of legislation introduced in the 100th Congress and is considered to have such importance to the Nation that the Secretary's responsibility under this Act shall not be delegated.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mrs. COLLINS (at the request of Mr. GEPHARDT), for today through June 30, due to illness.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. SMITH of New Hampshire) to revise and extend their remarks and include extraneous material:)

Mr. DOUGLAS, for 5 minutes, today.
Mr. MCEWEN, for 5 minutes, today.
Mr. BEREUTER, for 5 minutes, today.

(The following Members (at the request of Mr. SAWYER) to revise and extend their remarks and include extraneous material:)

Mr. ANNUNZIO, for 5 minutes, today.
Mr. FEIGHAN, for 5 minutes, today.
Mr. STARK, for 5 minutes, today.

(The following Members (at the request of Mr. BEREUTER) to revise and extend their remarks and include extraneous material:)

Mr. BOEHLERT, for 5 minutes, today.
Mr. BOEHLERT, for 5 minutes, on June 21.
Mr. MADIGAN, for 10 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. SMITH of New Hampshire) and to include extraneous matter:)

Mr. DORNAN of California.
Mr. MACHTLEY in nine instances.
Mr. CRANE.
Mr. BILIRAKIS.
Mr. GREEN.
Mr. LAGOMARSINO.
Ms. SNOWE.
Mr. HUNTER.
Mrs. MEYERS of Kansas.
Mr. BEREUTER.

(The following Members (at the request of Mr. SAWYER) and to include extraneous matter:)

Mr. DINGELL.
Mr. LANTOS.
Mr. GUARINI in two instances.
Mr. MANTON.
Mr. BERMAN in two instances.
Mr. KLECZKA.
Mr. WAXMAN.
Mr. RAY.
Mr. LEHMAN of Florida.
Mr. SYNAR.
Mr. THOMAS A. LUKEN.
Mr. DONNELLY.

ENROLLED BILL SIGNED

Mr. ANNUNZIO, from the Committee on House Administration, reported that that committee had examined and found truly enrolled a bill of the House of the following title, which was thereupon signed by the Speaker:

H.R. 881. An act to provide for restoration of the Federal trust relationship with, and assistance to, the Coquille Tribe of Indians and the individual members consisting of the Coquille Tribe of Indians, and for other purposes.

JOINT RESOLUTION PRESENTED TO THE PRESIDENT

Mr. ANNUNZIO, from the Committee on House Administration, reported that that committee did on the following date present to the President, for his approval, a joint resolution of the House of the following title:

H.J. Res. 274. Joint resolution to designate the week beginning June 11, 1989, as "National Scleroderma Awareness Week."

ADJOURNMENT

Mr. GONZALEZ. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 5 o'clock and 21 minutes p.m.), under its previous order, the House adjourned until tomorrow, Wednesday, June 21, 1989, at 12 noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

1362. A letter from the Deputy General Counsel, Department of Defense, transmitting a draft of proposed legislation to amend provisions of law relating to the settlement of admiralty claims; to the Committee on Armed Services.

1363. A letter from the Deputy General Counsel, Department of Defense, transmitting a draft of proposed legislation to amend titles 10, and 37, United States Code, relating to personnel matters in the management of health care personnel in the Department of Defense; to the Committee on Armed Services.

1364. A letter from the Chairman, Securities and Exchange Commission, transmitting a draft of proposed legislation to provide for the self-regulation of investment advisers; to the Committee on Energy and Commerce.

1365. A letter from the Chairman, Nuclear Regulatory Commission, transmitting a copy of the annual report in compliance with the Government in the Sunshine Act for calendar year 1988, pursuant to 5 U.S.C. 552(j); to the Committee on Government Operations.

1366. A letter from the Assistant Attorney General, Department of Justice, transmitting a report on the feasibility of prosecuting Federal drug-related offenses in a manner alternative or supplemental to the current criminal justice system, pursuant to Public Law 100-690, section 6293 (102 Stat. 4181); to the Committee on the Judiciary.

1367. A letter from the Secretary of Transportation, transmitting a draft of proposed legislation to amend the requirements for the issuance and retention of licenses, certificates of registry and merchant mariners' documents; and for other purposes; to the Committee on Merchant Marine and Fisheries.

1368. A letter from the Acting Administrator, General Services Administration, transmitting copies of building project surveys and three lease prospectuses, pursuant to 40 U.S.C. 606(a); to the Committee on Public Works and Transportation.

1369. A letter from the General Counsel, Department of the Treasury, transmitting a draft of proposed legislation to authorize the Secretary of the Treasury to issue regulations to require that wages and salaries of Federal employees be paid by electronic funds transfer or any other method determined by the Secretary to be in the interest of economy or effectiveness, with sufficient safeguards over the control of, and accounting for, public funds; jointly, to the Committee on Banking, Finance and Urban Affairs and Post Office and Civil Service.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. HAMILTON: Committee on Foreign Affairs. H.R. 2550. A bill to provide for certain forms of assistance to Poland and Hungary to encourage the process of democratic reforms in those countries; with an amendment (Rept. 101-92, Pt. 1). Ordered to be printed.

Mr. ROSTENKOWSKI: Committee on Ways and Means. H.R. 2550. A bill to provide for certain forms of assistance to Poland and Hungary to encourage the process of democratic reforms in those countries. (Rept. 101-92, Pt. 2). Referred to the Committee of the Whole House on the State of the Union.

Mr. MONTGOMERY: Committee on Veterans' Affairs. Report of the Committee on Veterans' Affairs pursuant to section 302(b) of the Congressional Budget Act of 1974 (Rept. 101-93). Referred to the Committee of the Whole House on the State of the Union.

Mr. HALL of Ohio: Committee on Rules. House Resolution 179. Resolution providing for the consideration of H.R. 2655, a bill to amend the Foreign Assistance Act of 1961 to rewrite the authorities of that Act in order to establish more effective assistance pro-

grams and eliminate obsolete and inconsistent provisions, to amend the Arms Export Control Act and redesignate that Act as the Defense Trade and Export Control Act, to authorize appropriations for foreign assistance programs for fiscal years 1990 and 1991, and for other purposes (Rept. 101-94). Referred to the House Calendar.

Mr. BEILENSON: Committee on Rules. House Resolution 180. Resolution waiving certain points of order against the conference report and any amendments reported from conference in disagreement on H.R. 2027 (Rept. 101-95). Referred to the House Calendar.

Mr. BEVILL: Committee on Appropriations. H.R. 2696. A bill making appropriations for energy and water development for the fiscal year ending September 30, 1990, and for other purposes (Rept. 101-96). Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. COX:

H.R. 2683. A bill to prohibit joint use of the Marine Corps Air Station at El Toro, CA, with civil aviation; to the Committee on Armed Services.

By Mr. DAVIS:

H.R. 2684. A bill to provide for the cost-efficient us of federally acquired vessels; to the Committee on Merchant Marine and Fisheries.

By Mr. DAVIS (by request) (for himself and Mr. CONTE):

H.R. 2685. A bill to amend the requirements for the issuance and retention of licenses, certificates of registry and merchant mariners' documents; and for other purposes; to the Committee on Merchant Marine and Fisheries.

By Mr. DORNAN of California:

H.R. 2686. A bill to allow the importation of certain defense articles from Poland and Hungary for educational purposes; to the Committee on Foreign Affairs.

By Mr. GEKAS:

H.R. 2687. A bill to amend titles XVIII and XIX of the Social Security Act to delay for 1 year nurse aid training requirements; jointly, to the Committees on Ways and Means and Energy and Commerce.

By Mr. HAMMERSCHMIDT (by request) (for himself, Mr. DAVIS, and Mr. CONTE):

H.R. 2688. A bill to amend the National Driver Registration Act of 1982 to assist in the identification of merchant mariners who have an adverse driving record by permitting access to the National Driver Register, and for other purposes; jointly to the Committees on Public Works and Transportation and Merchant Marine and Fisheries.

By Mr. KASTENMEIER:

H.R. 2689. A bill to amend the Foreign Agents Registration Act of 1938, as amended, to eliminate potential infringements on freedom of communication; to the Committee on the Judiciary.

By Mr. KASTENMEIER (for himself, Mr. MARKEY, and Mr. BERMAN):

H.R. 2690. A bill to amend title 17, United States Code, to provide certain rights of attribution and integrity to authors of works of visual art; to the Committee on the Judiciary.

By Mr. MADIGAN:

H.R. 2691. A bill to establish a National Institute for Agricultural Product Technology and to authorize the Institute to implement and carry out a program for applied research and development of new product uses for agricultural commodities, for the development of new production and processing methods and new industrial products using agricultural commodities, and for other purposes; to the Committee on Agriculture.

By Ms. OAKAR:

H.R. 2692. A bill to amend the Woodrow Wilson Memorial Act of 1968 to provide that the Secretary of Education and two additional individuals from private life shall be members of the board of trustees of the Woodrow Wilson International Center for Scholars; to the Committee on House Administration.

By Mr. SAXTON (for himself, Mr. BROWN of California, Mr. CAMPBELL of Colorado, Mr. COURTER, Mr. GALLO, Mr. LEWIS of California, Mr. PALLONE, Mr. PORTER, MR. SMITH of New Jersey, and Mr. SMITH of New Hampshire):

H.R. 2693. A bill to require the Secretary of Defense to provide advance notice to local educational agencies of enrollment changes due to base closures and realignments; to the Committee on Armed Services.

By Ms. SNOWE:

H.R. 2694. A bill to amend title XIX of the Social Security Act to continue Medicaid financing of daytime habilitation services in certain States; to the Committee on Energy and Commerce.

By Mr. WALGREN:

H.R. 2695. A bill to amend the Federal Water Pollution Control Act to direct the National Response Center to establish and maintain a comprehensive computer listing of resources available for responding to emergencies involving discharge of oil or release of hazardous substances, and for other purposes; to the Committee on Public Works and Transportation.

By Mr. LAFALCE (for himself, Mr. FAUNTROY, Mr. FRANK, Mr. CARPER, Mr. KLECZKA, Mr. TORRES, Mr. MFUME, Mr. MORRISON of Connecticut, Mr. KANJORSKI, Mr. ARMEY, Mr. CONTE, Mr. LIPINSKI, Mr. BROWN of California, Mr. SMITH of New Hampshire, Mr. TOWNS, Mr. BATES, Mr. MARTINEZ, Mr. FUSTER, Mrs. BOXER, Mr. BILBRAY, Mr. GLICKMAN, Mr. WALSH, Mr. WATKINS, Mr. ACKERMAN, Mr. BOUCHER, Mr. DONALD E. LUKENS, and Mr. DE LUGO):

H. Res. 178. A resolution expressing the sense of the House of Representatives that the President should instruct the United States Executive Directors of the International Bank for Reconstruction and Development and the Asian Development Bank to oppose the making of loans or the extension of any financial or technical assistance to the People's Republic of China in accordance with section 701 of the International Financial Institutions Act; to the Committee on Banking, Finance and Urban Affairs.

By Mr. HALL of Ohio:

H. Res. 179. Resolution providing for the consideration of the bill (H.R. 2655) to amend the Foreign Assistance Act of 1961 to rewrite the authorities of that act in order to establish more effective assistance programs and eliminate obsolete and inconsistent provisions, to amend the Arms Export Control Act and redesignate that act as the Defense Trade and Export Control Act, to authorize appropriations for foreign assistance programs for fiscal years 1990 and 1991, and for other purposes; House Calendar No. 24, House Rept. 101-94.

By Mr. BEILENSON:

H. Res. 180. Resolution waiving certain points of order against consideration of the conference report and any amendments reported from conference in disagreement on the bill (H.R. 2072) making dire emergency supplemental appropriations and transfers, urgent supplementals, and correcting enrollment errors for the fiscal year ending September 30, 1989, and for other purposes; House Calendar No. 25, House Rept. 101-95.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 30: Mr. BOEHLERT.

H.R. 39: Mr. DYMALLY, Ms. SCHNEIDER, Mr. GARCIA, and Mr. STOKES.

H.R. 41: Mr. FORD of Michigan, Mr. GUARINI, and Mr. MFUME.

H.R. 47: Mr. HARRIS, Mrs. MARTIN of Illinois, Mr. ROBERTS, Mr. EMERSON, Mr. JONTZ, and Mr. HERGER.

H.R. 81: Mr. JACOBS.

H.R. 110: Mrs. MARTIN of Illinois and Mr. WISE.

H.R. 145: Mr. LEVIN of Michigan, Mr. ROYBAL, Mr. RINALDO, Mr. FLIPPO, Mr. WAXMAN, Mr. BOEHLERT, and Mr. MCMILLEN of Maryland.

H.R. 160: Mr. DORGAN of North Dakota, Mr. WALSH, and Mr. MATSUI.

H.R. 201: Mr. JOHNSON of South Dakota.

H.R. 209: Mrs. MORELLA.

H.R. 215: Mr. KOLBE, Mr. MOLINARI, Mr. NOWAK, Mrs. BOGGS, and Mr. FEIGHAN.

H.R. 243: Mr. COX and Mrs. VUCANOVICH.

H.R. 379: Mrs. MARTIN of Illinois, Mr. WALSH, Mr. TRAXLER, Mr. HOCHBRUECKNER, Mr. MARTIN of New York, Mr. GILMAN, Mr. JONTZ, Mr. LENT, Mr. HOUGHTON, Mr. MCNULTY, Mr. PAXON, Mr. MCHUGH, Mr. GREEN, and Mr. RANGEL.

H.R. 519: Mr. JOHNSON of South Dakota.

H.R. 529: Mr. BOEHLERT, Mr. DOWNEY, Mr. NOWAK, Mr. SCHEUER, Mr. SOLARZ, and Mr. WEISS.

H.R. 534: Mr. BOSCO, Mr. RANGEL, Mr. YATRON, Mr. FRANK, Mr. HAYES of Illinois, Mr. HAYES of Louisiana, Mr. BONIOR, Mr. TOWNS, and Mr. OWENS of Utah.

H.R. 581: Mr. TORRICELLI, Mr. CROCKETT, and Mr. WEISS.

H.R. 633: Mr. MCCRERY.

H.R. 638: Mr. ROBINSON.

H.R. 672: Mr. DIXON, Mr. YATES, Mr. WALSH, Mr. MCNULTY, Mr. FUSTER, Mr. RANGEL, Mrs. BOXER, Mrs. UNSOELD, and Mr. FAUNTROY.

H.R. 720: Mr. SMITH of Vermont and Mr. KASTENMEIER.

H.R. 876: Mr. BOSCO.

H.R. 930: Mr. ROWLAND of Georgia, Mr. SOLARZ, Mr. PRICE, Mr. CARR, and Mr. GARCIA.

H.R. 933: Mr. GLICKMAN, Mr. ENGLISH, Mr. COX, Ms. KAPTUR, Mr. DARDEN, Mr. DWYER of New Jersey, Mr. STENHOLM, Mr. CAMPBELL of Colorado, Mr. BARNARD, Mr. HAYES of Illinois, and Mr. BILBRAY.

H.R. 951: Mr. GRAY.

H.R. 971: Mr. JACOBS, Mr. OLIN, and Mr. TALLON.

H.R. 994: Mr. LAGOMARSINO, Mr. GREEN, and Mr. MACHTLEY.

H.R. 1025: Mrs. BOXER.

H.R. 1056: Mr. TRAFICANT, Mr. GUARINI, Mr. DELLUMS, Mr. BILBRAY, Mrs. COLLINS, and Mr. CAMPBELL of Colorado.

H.R. 1074: Mr. MOLLOHAN, Mr. HYDE, Mr. SCHUETTE, Mr. SHUMWAY, Mr. CARPER, and Mrs. PATTERSON.

H.R. 1123: Mr. STENHOLM.

H.R. 1150: Mr. TRAFICANT.

H.R. 1199: Mr. ESPY, Ms. OAKAR, Mr. TAUZIN, Mr. HAMMERSCHMIDT, and Mr. MOODY.

H.R. 1238: Mr. STANGELAND.

H.R. 1292: Mr. TORRICELLI.

H.R. 1295: Mr. TAUKE and Mr. SHUMWAY.

H.R. 1354: Mr. ROBINSON.

H.R. 1374: Mr. LELAND, and Mr. DWYER of New Jersey.

H.R. 1451: Mr. PACKARD, Mr. CLINGER, and Mr. ROHRABACHER.

H.R. 1468: Mr. EDWARDS of Oklahoma.

H.R. 1499: Mr. ROBINSON, Mr. INHOFE, Mr. BARTLETT, Mr. COX, and Mr. MAZZOLI.

H.R. 1515: Mr. SENSENBRENNER.

H.R. 1530: Mr. FAUNTROY, Mr. GORDON, Mr. HAYES of Illinois, Ms. PELOSI, and Mr. MILLER of California.

H.R. 1546: Mr. FALEOMAVAEGA.

H.R. 1561: Mr. ENGEL.

H.R. 1565: Mr. PENNY.

H.R. 1586: Mr. PENNY.

H.R. 1587: Mr. PENNY.

H.R. 1646: Mr. YOUNG of Alaska and Mr. CAMPBELL of Colorado.

H.R. 1730: Mr. RAHALL, Mr. BROWN of Colorado, Mr. PASHAYAN, Mr. MCEWEN, and Mrs. KENNELLY.

H.R. 1762: Mr. DIXON.

H.R. 1780: Mr. STARK.

H.R. 1931: Mr. HAMMERSCHMIDT.

H.R. 2022: Mr. HALL of Ohio and Mr. WALGREN.

H.R. 2044: Mr. HARRIS.

H.R. 2055: Mr. HASTERT.

H.R. 2080: Mr. HORTON, Ms. KAPTUR, and Mr. HERTEL.

H.R. 2121: Mr. MARTIN of New York, Mr. MURPHY, Mr. BATEMAN, Mr. CLINGER, Mr. SENSENBRENNER, Mr. ROSE, Mrs. LLOYD, Mr. SMITH of Mississippi, Mr. RAY, Mr. ERDREICH, Mr. HASTERT, Mr. SUNDQUIST, Mr. ROBINSON, Mr. APPLEGATE, and Mr. WALGREN.

H.R. 2131: Mr. GILMAN, Mr. ROBINSON, and Mr. MFUME.

H.R. 2144: Mr. HERTEL.

H.R. 2172: Mr. MOAKLEY, Mr. MARTINEZ, Mr. RAVENEL, Mr. ROE, Mr. SCHUMER, Mr. KILDEE, Mr. GEJDENSON, Mr. SMITH of Vermont, Mr. NEAL of Massachusetts, Mr. MORRISON of Connecticut, Mr. HOLLOWAY, Mr. CAMPBELL of Colorado, Mr. DWYER of New Jersey, Mr. JONTZ, Mr. FORD of Michigan, Mr. DELLUMS, Mr. ATKINS, Mr. KOLTER, Mr. OWENS of Utah, Mr. SCHUETTE, Mr. DE LUGO, Mrs. BENTLEY, Mr. LEVINE of California, Mr. DURBIN, Mr. DEFAZIO, Mr. DOWNEY, Mr. MOODY, Mr. DYMALLY, and Mr. STALLINGS.

H.R. 2192: Mr. DORNAN of California, Mr. HORTON, and Mr. MACHTLEY.

H.R. 2222: Mr. STARK.

H.R. 2253: Mr. COSTELLO, Mr. DYMALLY, Mr. TOWNS, Mr. GORDON, Mr. FRANK, Mrs. COLLINS, Mr. ACKERMAN, Mr. MCNULTY, Mr. MATSUI, Mr. DEFAZIO, Mr. MRAZEK, Mr. BERMAN, Mrs. UNSOELD, Mr. SOLARZ, Mr. BILBRAY, Mrs. BOXER, Mr. SKELTON, Mr. GEJDENSON, Mr. BROWN of California, Mr. SCHEUER, Mr. MCGRATH, Mr. LIPINSKI, Mr. BUSTAMANTE, Mrs. BENTLEY, Mrs. LOWEY of New York, Mr. HORTON, Mr. LEVIN of Michigan, Mr. HUGHES, Mr. WAXMAN, Mr. DE LUGO, and Mr. GILMAN.

H.R. 2265: Mr. OWENS of Utah.

H.R. 2279: Mr. CHANDLER.

H.R. 2302: Mr. RITTER, Mr. CLINGER, and Mr. KOLTER.

H.R. 2303: Mr. RITTER and Mr. KOLTER.

H.R. 2354: Mr. KILDEE.

H.R. 2359: Mr. WALSH and Mr. INHOFE.

H.R. 2366: Mr. FAUNTROY, Mrs. COLLINS, Mr. WALSH, Mr. FRANK, Mr. HENRY, Mr. SIKORSKI, Mr. DEFAZIO, Mr. SMITH of New Jersey, and Mr. BUSTAMANTE.

H.R. 2421: Mr. DYSON and Mr. SCHUETTE.

H.R. 2456: Mr. LEHMAN of Florida, Mr. SCHEUER, and Mrs. BOXER.

H.R. 2493: Mr. ROE.

H.R. 2503: Mr. ROE.

H.R. 2529: Mr. AUCOIN, Mr. LAGOMARSINO, Mrs. BENTLEY, Mr. ENGLISH, Mr. STENHOLM, Mr. ROE, Mr. OWENS of Utah, Mr. SKELTON, and Mr. HEFLEY.

H.R. 2560: Mr. PANETTA, Mr. DORGAN of North Dakota, Mr. GUARINI, Mr. DE LUGO, Mr. RAHALL, Mr. HAWKINS, Mr. RANGEL, Mr. LIPINSKI, Mr. MCGRATH, Mr. MARTINEZ, Mr. SHAYS, Mr. DIXON, Mr. MFUME, Mr. LEVINE of California, Mrs. BOXER, and Mr. DWYER of New Jersey.

H.J. Res. 47: Mr. ANDERSON, Mr. ATKINS, Mr. BLAZ, Mr. BONIOR, Mr. BROWN of Colorado, Mr. DELLUMS, Mr. DICKS, Mr. DIXON, Mr. ERDREICH, Mr. FALEOMAVAEGA, Mr. GRAY, Mr. GUARINI, Mr. HUNTER, Mr. LANCASTER, Mr. LOWERY of California, Mr. DONALD E. LUKENS, Mr. MANTON, Mr. MARKEY, Mr. MINETA, Mr. MOAKLEY, Mr. ROBINSON, Mr. ROYBAL, Mr. SAWYER, Mr. SHAYS, Mr. SMITH of New Jersey, Mr. STALLINGS, Mr. THOMAS of Georgia, Mr. TOWNS, Mr. WHEAT, and Mr. YATRON.

H.J. Res. 111: Mr. SAWYER, Mr. HARRIS, Mr. FORD of Michigan, Mr. BROWN of California, Mr. FOGLIETTA, Mr. MANTON, Mrs. BENTLEY, Mr. WELDON, Mr. BATEMAN, Mr. SAXTON, Mr. TORRICELLI, Mr. YOUNG of Alaska, Mr. LEVINE of California, Mrs. BYRON, Mr. LANCASTER, Mr. ROBINSON, Mr. HUNTER, Mr. MCCLOSKEY, Mr. SPENCE, Mr. HOPKINS, Mr. BILIRAKIS, Mr. TANNER, Mrs. LLOYD, Mr. EARLY, Mr. SHUMWAY, Mr. SOLARZ, Mr. MORRISON of Washington, Mr. HUBBARD, Mr. HEFNER, Mr. GRANDY, Mr. DERRICK, Mr. MCCOLLUM, Mr. CHANDLER, Mr. MCDERMOTT, Mr. FALEOMAVAEGA, Mr. DARDEN, Mrs. KENNELLY, Mr. VANDER JAGT, Mr. INHOFE, Mr. NELSON of Florida, Mr. MAVROULES, Mr. HERGER, Mrs. LOWEY of New York, Mr. ANDERSON, Mr. OWENS of Utah, Mr. PARRIS, Mr. BENNETT, Mr. PAYNE of New Jersey, Ms. OAKAR, Mr. PURSELL, Mr. OBERSTAR, Mr. VENTO, Mr. SCHUMER, and Mr. SABO.

H.J. Res. 204: Mr. OLIN, Mr. SAWYER, Mr. BUECHNER, Mr. KASICH, Mrs. PATTERSON, Mr. NELSON of Florida, Ms. SLAUGHTER of New York, Mr. PICKLE, Mr. MOORHEAD, Mr. HYDE, Mr. LENT, Mr. COUGHLIN, and Mr. BROOMFIELD.

H.J. Res. 255: Mr. HUTTO, Mrs. MARTIN of Illinois, Mr. BONIOR, Mr. FROST, and Mr. SMITH of Florida.

H.J. Res. 273: Mr. GEKAS, Mr. ATKINS, Mr. FROST, Mr. HANSEN, Mr. OBEY, Mr. HUTTO, Mr. FLORIO, Mr. LAGOMARSINO, Mr. LANTOS, Mr. LEWIS of Georgia, Mr. MCCOLLUM, Mr. MCDADE, Mrs. BYRON, Mr. ORTIZ, Mrs. MEYERS of Kansas, Mr. DWYER of New Jersey, Mr. JOHNSON of South Dakota, Mr. BERMAN, Mr. PAYNE of New Jersey, Mr. KOLTER, Mr. CLARKE, Mr. COOPER, Mr. GOSS, Mr. SKEEN, Mr. PAXON, Mr. PURSELL, Mr. ROBINSON, Mr. HEFNER, Mr. HUCKABY, Mr. WALSH, Mr. FAWELL, Mr. WYDEN, Mr. MARTINEZ, Mr. VOLKMER, Mr. OWENS of New York, Mrs. BOXER, Mr. ANTHONY, Mr. FALEOMAVAEGA, Mrs. BENTLEY, Mr. CARDIN, Mr. FORD of Michigan, Mr. COURTER, Mr. MACHTLEY, Mr. PETRI, Mr. BATEMAN, Mr. BARNARD, Mr. TAUZIN, Mr. DAVIS, Mr. MOORHEAD, Mr. VALENTINE, Mr. MCGRATH, Mr. KASTENMEIER, Mr. HENRY, Mr. HYDE, Mr. PANETTA, Mr. JONES of Georgia, Mr. JONES of North Carolina, Mr. MONTGOMERY, Mr. DYSON, Mr. RAY, Mr. PICKETT, Mr. SPRATT, Mr. LIVINGSTON, Mr. MANTON, Mr. HUNTER, Mr. HERTEL, Mr. HOCHBRUECKNER, Mr. MCHUGH, Mrs. MARTIN of Illinois, Mr. GINGRICH, Mr. SABO, Mr. LEWIS of California, and Mr. MURTHA.

H. Con. Res. 48: Mr. HOYER.

H. Con. Res. 79: Mrs. MORELLA, Ms. PELOSI, Mr. LEVIN of Michigan, Mr. COUGHLIN, Mr. ARMEY, Mrs. JOHNSON of Connecticut, Mr. FAWELL, Mrs. MARTIN of Illinois, Mr. WILSON, and Mr. GLICKMAN.

H. Con. Res. 85: Mr. VALENTINE, Mr. ESPY, Mr. BOUCHER, Mr. CARPER, Mr. ROBINSON, and Mr. BARNARD.

H. Con. Res. 92: Mr. LIPINSKI, Mr. ENGLISH, Mr. FALEOMAVAEGA, Mr. CAMPBELL of Colorado, Mr. MORRISON of Connecticut, Mr. ROWLAND of Connecticut, Mr. PENNY, Mrs. BENTLEY, Mr. DONNELLY, Mr. GEKAS, Mr. DORNAN of California, Mr. BROWN of California, Mr. SENSENBRENNER, Mr. GALLEGLY, Mr. HANSEN, Mr. NIELSON of Utah, Mr. JONES of Georgia, Mr. MARTIN of New York, Mr. DEFAZIO, Mr. NEAL of North Carolina, Mr. SMITH of Mississippi, Mr. DE LA GARZA, and Ms. KAPTUR.

H. Con. Res. 128: Mr. CAMPBELL of Colorado, Mr. TRAFICANT, and Mr. RANGEL.

H. Con. Res. 141: Mr. ACKERMAN, Mr. AKAKA, Mr. ANDERSON, Mr. ATKINS, Mr. AUCOIN, Mr. BATES, Mrs. BENTLEY, Mr. BEREUTER, Mr. BERMAN, Mr. BEVILL, Mr. BILBRAY, Mr. BLAZ, Mr. BOEHLERT, Mrs. BOGGS, Mr. BONIOR, Mr. BOSCO, Mr. BOUCHER, Mrs. BOXER, Mr. BRENNAN, Mr. BROOKS, Mr. BROWN of California, Mr. BRUCE, Mr. BUSTAMANTE, Mr. CAMPBELL of Colorado, Mr. CARDIN, Mr. CARPER, Mr. CARR, Mr. CHANDLER, Mr. CLARKE, Mr. CLAY, Mr. CLEMENT, Mr. CLINGER, Mr. COBLE, Mr. COLEMAN of Texas, Mrs. COLLINS, Mr. CONTE, Mr. CONYERS, Mr. COOPER, Mr. COSTELLO, Mr. COURTER, Mr. COYNE, Mr. CROCKETT, Mr. DANNEMEYER, Mr. DE LUGO, Mr. DELLUMS, Mr. DEWINE, Mr. DICKS, Mr. DIXON, Mr. DOWNEY, Mr. DURBIN, Mr. DWYER of New Jersey, Mr. DYMALLY, Mr. DYSON, Mr. ENGEL, Mr. EVANS, Mr. FAUNTROY, Mr. FAZIO, Mr. FEIGHAN, Mr. FLAKE, Mr. FORD of Tennessee, Mr. FRANK, Mr. FRENZEL, Mr. FROST, Mr. FUSTER, Mr. GALLO, Mr. GARCIA, Mr. GEJDENSON, Mr. GEKAS, Mr. GEPHARDT, Mr. GIBBONS, Mr. GILMAN, Mr. GINGRICH, Mr. GOODLING, Mr. GORDON, Mr. GRANDY, Mr. GRAY, Mr. GREEN, Mr. GUARINI, Mr. GUNDERSON, Mr. HAMILTON, Mr. HAWKINS, Mr. HAYES of Illinois, Mr. HENRY, Mr. HILER, Mr. HORTON, Mr. HOUGHTON, Mr. HOYER, Mr. HUBBARD, Mr. HUGHES, Mr. HYDE, Mr. INHOFE, Mr. JACOBS, Mrs. JOHNSON of Connecticut, Mr. JOHNSON of South Dakota, Mr. JONES of Georgia, Mr. KANJORSKI, Ms. KAPTUR, Mr. KASICH, Mr. KASTENMEIER, Mr. KENNEDY, Mrs. KENNELLY, Mr. KILDEE, Mr. KOLBE, Mr. KOSTMAYER, Mr. LANTOS, Mr. LEACH of Iowa, Mr. LEHMAN of Florida, Mr. LEHMAN of California, Mr. LELAND, Mr. LENT, Mr. LEVIN of Michigan, Mr. LEVINE of California, Mr. LEWIS of Georgia, Mr. LOWERY of California, Mrs. LOWEY of New York, Mr. DONALD E. LUKENS, Mr. MADIGAN, Mr. MANTON, Mr. MARKEY, Mr. MARTIN of New York, Mrs. MARTIN of Illinois, Mr. MARTINEZ, Mr. MATSUI, Mr. MAVROULES, Mr. MCCLOSKEY, Mr. MCDADE, Mr. MCDERMOTT, Mr. MCEWEN, Mr. MCHUGH, Mr. MCNULTY, Mrs. MEYERS of Kansas, Mr. MFUME, Mr. MILLER of Washington, Mr. MILLER of California, Mr. MINETA, Mr. MOAKLEY, Mr. MOLINARI, Mr. MONTGOMERY, Mr. MOODY, Mrs.

MORELLA, Mr. MORRISON of Washington, Mr. MORRISON of Connecticut, Mr. MRAZEK, Mr. MURPHY, Mr. NAGLE, Mr. NEAL of North Carolina, Mr. NEAL of Massachusetts, Ms. OAKAR, Mr. OBERSTAR, Mr. OBEY, Mr. OWENS of Utah, Mr. OWENS of New York, Mr. PALLONE, Mr. PANETTA, Mr. PARKER, Mr. PAXON, Mr. PAYNE of New Jersey, Ms. PELOSI, Mr. PERKINS, Mr. PORTER, Mr. POSHARD, Mr. PRICE, Mr. QUILLEN, Mr. RAHALL, Mr. RANGEL, Mr. REGULA, Mr. RICHARDSON, Mr. RIDGE, Mr. RINALDO, Mr. RITTER, Mr. ROSE, Mr. ROYBAL, Mr. SABO, Mrs. SAIKI, Mr. SANGMEISTER, Mr. SAVAGE, Mr. SAWYER, Mr. SAXTON, Mr. SCHEUER, Mrs. SCHROEDER, Mr. SCHUMER, Mr. SHUSTER, Mr. SISISKY, Mr. SKEEN, Mr. SLATTERY, Ms. SLAUGHTER of New York, Mr. SMITH of Vermont, Mr. SMITH of Florida, Mr. SOLARZ, Mr. SPRATT, Mr. STAGGERS, Mr. STARK, Mr. STENHOLM, Mr. STOKES, Mr. STUDDS, Mr. SWIFT, Mr. SYNAR, Mr. TALLON, Mr. TAUKE, Mr. THOMAS of California, Mr. THOMAS of Wyoming, Mr. TORRES, Mr. TORRICELLI, Mr. TOWNS, Mr. TRAFICANT, Mr. TRAXLER, Mr. UDALL, Mr. UPTON, Mr. VALENTINE, Mr. VANDER JAGT, Mr. VENTO, Mr. VISCLOSKY, Mr. VOLKMER, Mr. WALGREN, Mr. WALSH, Mr. WAXMAN, Mr. WEISS, Mr. WISE, Mr. WOLPE, Mr. WYDEN, Mr. YATES, Mr. YATRON, Mr. BORSKI, and Mr. FASCELL.

H. Con. Res. 149: Mr. DYMALLY, Mr. KILDEE, Mr. FAUNTROY, Mr. MANTON, Mr. GORDON, Mr. HARRIS, Mr. SAWYER, Mr. FLORIO, Mr. FRANK, Mr. MCHUGH, Mr. LEHMAN of Florida, Mr. RANGEL, Mr. PANETTA, Mr. LIPINSKI, Mr. ROE, Mr. MOORHEAD, Mr. ROBINSON, Mr. DORGAN of North Dakota, Mr. DWYER of New Jersey, Mr. BILBRAY, Mr. WAXMAN, Mrs. COLLINS, Mr. MFUME, Mr. RAHALL, Mr. DE LA GARZA, Mr. SAVAGE, Mr. DORNAN of California, Mr. WALSH, Mr. OWENS of New York, Mrs. MEYERS of Kansas, Mr. BEVILL, Mr. CHAPMAN, Mr. JONTZ, Mr. BERMAN, Mr. TORRICELLI, Mr. DEFAZIO, Mr. STALLINGS, Mr. SYNAR, Mr. SABO, Mr. MCGRATH, Ms. SLAUGHTER of New York, Mr. KOLTER, and Mr. JOHNSTON of Florida.

H. Res. 56: Mr. BUECHNER and Mr. STEARNS.

H. Res. 120: Mr. BRENNAN.

H. Res. 164: Mr. JACOBS.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 2655

By Mr. BEREUTER:

—Page 64, beginning in line 20, strike out "(including agricultural commodities)"; and line 21, before the period, insert ", except that the term does not include agricultural commodities or products derived from agricultural commodities".

—Page 64, beginning in line 20, strike out "(including agricultural commodities)"; and line 21, before the period, insert ", except that the term does not include agricultural commodities or products derived from agricultural commodities, petroleum and petroleum products, fertilizer, or coal".

—Page 61, strike out line 23 and all that follows through line 21 on page 64 (section 1303).

By Mr. BROOMFIELD:

—Page 33, after line 8, add the following:

"(9) IMPROVED INFRASTRUCTURE FOR DEVELOPMENT.—Improved infrastructure plays an important role in supporting balanced, long term economic and social development. Necessary infrastructure includes systems for water supply and sanitation, transportation and communications, appropriate energy and other facilities designed to meet human needs and create a basis for accelerated sustainable development. Participation in assistance to capital projects in developing countries has largely shifted to multilateral development banks and other foreign and international assistance programs. Nevertheless, the United States has an important role to play in the planning and design of such projects, and in assessment of their environmental impacts. In particular, United States technical expertise, primarily private sector skills, should be fully utilized to improve the quality of infrastructure projects in developing countries. United States participation in any phase of capital project implementation should emphasize sound planning, prudent resource utilization and minimization of adverse environmental impacts."

—Page 264, after line 8, add the following:

SEC. 231. SUSPENSION OF PREFERENTIAL TREATMENT.

(a) SUSPENSION.—The application of the sections specified in subsection (d) to a country described in those sections shall be suspended if that country impedes the ability of United States Armed Forces vessels, aircraft, or vehicles to traverse or land in its national terrority by implementing policies or procedures which are inconsistent with the policy of the United States not to confirm or deny the presence of nuclear weapons on such vessels, aircraft, and vehicles.

(b) WAIVER.—The President may waive subsection (a) with respect to a country if the President determines that—

(1) notwithstanding the implementation by that country of policies or procedures which are inconsistent with the policy of the United States not to confirm or deny the presence of nuclear weapons on United States Armed Forces vessels, aircraft, or vehicles, the country is nevertheless substantially fulfilling its responsibilities as a United States ally with respect to visits by such vessels, aircraft, and vehicles; or

(2) such a waiver is otherwise in the national interests of the United States.

(c) REPORT TO CONGRESS.—If the President exercises the authority of subsection (b), he shall promptly submit a written report to the Congress justifying the waiver.

(d) PREFERENCES TO BE SUSPENDED.—Subsection (a) applies with respect to the following:

(1) Section 2401(a)(6) of the Foreign Assistance Act of 1961 (relating to the assignment of United States military personnel to manage defense cooperation measures);

(2) Section 21(e)(2) of the Defense Trade and Export Control Act (relating to changes for certain arms sales costs);

(3) Section 21(g) of the Defense Trade and Export Control Act (relating to cooperative military training agreements); and

(4) Section 3(d)(3)(A)(i), section 36(c)(2)(A), section 36(d)(2)(A), and section 63(c)(1) of the Defense Trade and Export Control Act (relating to congressional review of arms transfers).

—Page 369, after line 16, insert the following:

"(h) ACQUISITION OF MOTOR VEHICLES.—

"(1) UNITED STATES VEHICLES.—Funds made available to carry out this Act may not be used to finance the purchase, sale, long-term lease, exchange, or guaranty of a sale of any motor vehicle that is not manufactured in the United States.

"(2) WAIVER.—Where special circumstances exist, the President may waive paragraph (1).

—Page 508, after line 21, insert the following new section:

SEC. 845. RETURN OF REFUGEES TO NEW FAMAGUSTA (VAROSHA).

(a) FINDINGS.—The Congress finds that—

(1) the 1974 invasion of Cyprus resulted in the displacement of over 150,000 Greek Cypriots from the north of the island, 80,000 of whom were refugees from the city of New Famagusta (Varosha). That city is now empty and is falling into disrepair with the resultant loss of billions of dollars in property and city services;

(2) in 1984, New Famagusta was placed under United Nations administration by Security Council Resolution 550, which forbids any attempt to settle any part of the city by people other than its inhabitants. Turkey has yet to implement that Resolution;

(3) past proposals by both Cypriot communities regarding the return of the refugees to the city of New Famagusta represent a positive step which should be pursued by appropriate officials; and

(4) should a proposal to return those refugees be accepted, U.N. officials should be officially granted control of New Famagusta and be responsible for the administration of that city and the protection of its inhabitants.

(b) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) the United States should as a matter of priority undertake a new initiative in the United Nations designed to promote the resettlement of New Famagusta by its inhabitants;

(2) the United States should encourage the Secretary General of the United Nations to work with the international community to bring about the effective implementation of U.N. Security Council Resolution 550; and

(3) the United States should also express its deep concern to the Secretary General about the presence in New Famagusta of people other than its inhabitants.

By Mr. BROWN of Colorado:

—Page 525, insert the following after line 16:

(a) FINDINGS.—The Congress finds that—

(1) there are still over 2,300 Americans unaccounted for in Southeast Asia;

(2) by not knowing the fates of their loved ones, the families of those unaccounted for in Southeast Asia have suffered tremendous hardship;

(3) the United States made a commitment that resolving the fates of Americans unaccounted for in Southeast Asia was a matter of the highest national priority; and

(4) the United States must reaffirm that commitment and fulfill its promise to the families of our missing Americans.

(b) STATEMENT OF POLICY.—It is the sense of the Congress that the United States should—

(1) continue to give the highest national priority to accounting as fully as possible for Americans still missing in Southeast Asia and to negotiating the return of any Americans still held captive in Southeast Asia; and

(2) heighten public awareness of the Americans still missing in Southeast Asia through the dissemination of factual data, including access to records to primary next of kin concerning reported live sightings of Americans missing in Southeast Asia, to the extent that the disclosure of such records does not reveal sources and methods of intelligence collection.

—Page 525, line 17, strike out "It is the" and insert in lieu thereof "(c) SUPPORT OF HUMANITARIAN PROJECTS IN LAOS.—It is the further".

By Mr. BUECHNER:

—Page 535, after line 10, insert the following new section:

SEC. 925. REMOVAL OF MINES IN AFGHANISTAN BY THE SOVIET UNION.

(a) FINDINGS.—The Congress makes the following findings:

(1) The Soviet Union has engaged in armed hostilities against the people of Afghanistan for over eight years.

(2) The hostilities in Afghanistan have resulted in extensive loss of life and property and economic dislocation for large numbers of the Afghan people.

(3) During the course of the conflict in Afghanistan millions of explosive mines, made of both plastic and metal, were planted or scattered throughout the Afghanistan countryside.

(4) The mines deployed by the Soviet Union in Afghanistan have injured or killed a disproportionate number of children.

(5) Many of the mines the Soviet Union has deployed in Afghanistan will remain active for many years, thus posing a significant threat to the lives and security of the Afghan people.

(6) One of the terms of the agreement governing the withdrawal of Soviet troops from Afghanistan guarantees the safe passage and return of Afghan refugees to their homeland.

(b) SENSE OF CONGRESS.—It is the sense of the Congress that—

(1) the Soviet Union should continue to abide by the letter and spirit of the agreement governing the withdrawal of its armed forces from Afghanistan;

(2) the Soviet Union should give all necessary aid in the removal of the mines the Soviet and allied Afghan armed forces deployed in Afghanistan;

(3) the Soviet Union should make available all information regarding the location of all minefields as well as information regarding areas in which mines were scattered by means of artillery or aircraft, or other means, and this information should be widely dispersed by all available methods to the Afghan people both in Afghanistan and in refugee camps outside the country;

(4) the Soviet Union should provide all funds, equipment, and personnel necessary to immediately begin the task of removing the mines and to continue such removal in a timely manner until such time as independent parties certify that all reasonable steps for the identification, location, and removal of mines have been taken;

(5) the Soviet Union should set aside funds, that will be available for a period of not less than ten years, to be used to provide medical care and assistance to those Afghan people injured as a result of, and to pay claims for property damage caused by, mines which were not removed by the Soviet Union;

(6) if the Soviet Union does not immediately begin the task of removal of mines in Afghanistan, the United States should assist Afghanistan in efforts to facilitate the removal of mines and should encourage the Soviet Union to fulfill its obligations to remove such mines; and

(7) the Soviet Union, being a party to the Geneva Accords which guarantees the safe return of refugees to Afghanistan, should recognize that the provisions of this resolution merely detail the steps that any humanitarian nation would undertake after the cessation of armed conflict and do not constitute interference by the Congress in the sovereign affairs of the Government or people of the Soviet Union.

By Mr. BURTON:

—Page 437, after line 14, insert the following:

(B) In making the determination required by subparagraph (A), the President should take into consideration that—

(i) the current, democratically elected government, in El Salvador is at war with elements which advocate and actively pursue the violent overthrow of the existing government,

(ii) these elements, primarily the communist Farabundo Marti National Liberation Front (FMLM), refuse to participate in the democratic process in accordance with the Constitution of El Salvador, and

(iii) these elements have been responsible for countless terrorist attacks killing innocent civilians and democratically elected government officials.

—Page 437, line 15, strike out "(B)" and insert in lieu thereof "(C)".

—Page 453, strike out lines 5 through 19 and insert in lieu thereof the following:

SEC. 705. ASSISTANCE FOR POLICE IN EL SALVADOR, GUATEMALA, AND HONDURAS.

Section 4202 shall not apply with respect to El Salvador, Guatemala, and Honduras during fiscal years 1990 and 1991.

—Page 481, strike out line 11 and all that follows through line 8 on page 482.

—Page 588, after line 7, insert the following:

SEC. 1101. UNITED NATIONS GENERAL ASSEMBLY RESOLUTION CALLING ZIONISM A FORM OF RACISM.

It is the sense of the Congress that—

(1) when considering the furnishing of foreign assistance to any foreign country, the President should give serious consideration to whether that country has formally rejected the resolution adopted by the United Nations General Assembly on November 10, 1975, that calls zionism a form of racism; and

(2) the United States should continue to reject that resolution and should urge all other countries, which have not done so, to join in formally rejecting that resolution.

—Page 435, line 14, after "conflict" insert "in accordance with the Constitution of El Salvador"; and page 436, line 15, after "Salvador" insert "in accordance with the Constitution of El Salvador".

—Page 454, after line 24, insert the following:

(d) COMPLIANCE WITH 1979 OAS RESOLUTION.—Not later than 6 months after the date of enactment of this Act, the Secretary of State shall submit to the Congress a report on compliance by the Government of Nicaragua with the resolution adopted on June 23, 1979, by the Seventeenth Meeting of Consultation of Ministers of Foreign Affairs of the Organization of American States, which calls for, among other things, "respect for human rights of all Nicaraguans without exception" and "the holding of free elections as soon as possible".

—Page 454, line 1, strike out "(a)" and all that follows through "ELECTIONS.—" in line 18.

—Page 454, strike out lines 2 through 8; and redesignate subsections (b) and (c) of section 707 as subsections (a) and (b), respectively.

—Page 454, strike out lines 9 through 17; and redesignate subsection (c) of section 707 as subsection (b).

—Page 583, line 21, after the words "made available" add the words "for activities of United States organizations and individuals".

—Page 567, insert the following after line 19:

SEC. 1012. POLICY TOWARD SOUTH AFRICA.

It is the sense of the Congress that the United States should work toward the elimination of apartheid by removing prohibitions on investment in South Africa to the extent necessary to encourage private sector investment in the nonwhite economic sector in South Africa. This would be part of a comprehensive policy to bring about a democratic multiracial South Africa. In addition, the President should seek the cooperation of the allies of the United States in Western Europe and Japan to create a multilateral initiative to assist education, job training, health care, small business development, and housing of blacks and other nonwhites in South Africa.

—Page 556, insert the following after line 4 and redesignate succeeding sections accordingly:

SEC. 1021. ASSISTANCE FOR ETHIOPIA.

(a) SENSE OF CONGRESS.—It is the sense of the Congress that it is in the interests of the United States to bring about a positive change in the political situation in Ethiopia, where the Mengistu regime's brutality and savagery against its own people is well documented.

(b) MILITARY ASSISTANCE.—The United States should therefore provide military assistance to non-Communist forces in Ethiopia. Not less than an aggregate of $15,000,000 in foreign military financing and international military education and training under the Foreign Assistance Act of 1961 for fiscal years 1990 and 1991 should be provided to the Ethiopian Democratic Union and the Ethiopian People's Democratic Alliance, who shall be deemed to be eligible recipients of such assistance under the Foreign Assistance Act of 1961.

—Page 588, add the following after line 8:

SEC. 1101. LINKAGE OF FOREIGN ASSISTANCE TO ECONOMIC PROGRAM.

It is the sense of the Congress that assistance authorized by this Act for any country should be linked to that country's cooperation with the Agency for International Development and the International Bank for Reconstruction and Development in implementing economic reforms and promoting free market economic policies.

—Page 588, add the following after line 7:

SEC. 1101. LINKAGE OF FOREIGN ASSISTANCE TO PERSONAL FREEDOMS.

The President should determine whether assistance authorized by this Act for any country should be linked to the degree of economic, political, and religious freedom in that country, and should attempt to develop a means of determining the degree of such freedoms.

—Page 588, add the following after line 7:

SEC. 1101. UNITED NATIONS VOTE ON HUMAN RIGHTS ABUSES IN CUBA.

(a) STATEMENT OF POLICY.—The United States expresses its deepest displeasure and disappointment with those countries who voted against the United States and with Cuba at the United Nations Human Rights Commission in Geneva in March of 1989 on the resolution proposed by Panama to curb the United Nations investigation of human rights abuses in Cuba. This was a vote crucial to United States interests and reflected the attitudes of these countries with respect to human rights and friendship with the United States.

(b) LIST OF COUNTRIES.—The countries referred to in subsection (a) are Botswana, Bulgaria, the People's Republic of China, Colombia, Cuba, Cyprus, Ethiopia, the German Democratic Republic, India, Iraq, Mexico, Panama, Peru, Sri Lanka, the Ukranian Soviet Socialist Republic, the Union of Soviet Socialist Republics, and Yugoslavia.

(c) DEDUCTION OF FOREIGN ASSISTANCE.—Any foreign assistance otherwise authorized to be made available under this Act for fiscal year 1990 for any country listed in subsection (b) shall be reduced by 50 percent.

—Page 588, add the following after line 7:

SEC. 1101. COMMISSION TO STUDY LINKAGE OF U.N. VOTING WITH FOREIGN ASSISTANCE.

(a) COMMISSION.—The President shall appoint a commission to study the feasibility of establishing criteria whereby United States foreign assistance for any country would be reduced by 50 percent in a fiscal year if, in the preceding fiscal year, less than 50 percent of the votes by that country on matters at the United Nations were the same as the votes of the United States on those matters.

(b) DEFINITION.—As used in this section, the term "United States foreign assistance" means assistance under the Foreign Assistance Act of 1961 or the Agricultural Trade Development Assistance Act of 1954, other than emergency humanitarian assistance under either such Act.

—Page 567, insert the following after line 19:

SEC. 1102. ANGOLA.

(a) SENSE OF CONGRESS.—It is the sense of the Congress that the United States should not recognize the MPLA government of Angola, and should oppose all attempts to allow the MPLA government of Angola to receive credits from the International Bank for Reconstruction and Development until that government agrees to negotiations aimed at national reconciliation with its opponents, and agrees to free and fair elections in Angola.

(b) DEFINITION.—As used in this section, the term "MPLA government of Angola" refers to the Popular Movement for the Liberation of Angola Labor Party.

—Page 565, line 24, and page 566, line 1, strike out "not more than $3,000,000" and insert in lieu thereof "at least $9,000,000".

—Page 566, strike out lines 3 through 6.

—Page 566, line 7, strike out "(c)" and insert in lieu thereof "(b)".

—Page 582, insert the following after line 8 and redesignate the succeeding title accordingly:

TITLE XIV—ECONOMIC SANCTIONS AGAINST NAMIBIA

SEC. 1401. TERMINATION OF SANCTIONS.

(a) FINDINGS.—The Congress finds that—

(1) Namibia is in the crucial process leading to its independence of South Africa; and

(2) the lifting of economic sanctions imposed under the Comprehensive Anti-Apartheid Act of 1986 against Namibia will enable the United States to pursue constructive policies to assist the Namibian people in their quest for a free and independent future.

(b) TERMINATION OF SANCTIONS.—Upon the enactment of this Act, the prohibitions set forth in title III of the Comprehensive Anti-Apartheid Act of 1986 (22 U.S.C. 5051 et seq.) shall cease to apply with respect to Namibia.

—Page 558, strike out line 21 and all that follows through page 561, line 16 and insert in lieu thereof the following:

SEC. 1026. ASSISTANCE FOR MOZAMBIQUE.

(a) FINDINGS.—The Congress makes the following findings:

(1) Strong mutual interests, bilateral and regional in nature, bind the United States and the people of Mozambique.

(2) United States interests in Mozambique lie in—

(A) alleviating the staggering humanitarian crisis there and its effects in the southern African region;

(B) ending severe human rights abuses by both sides in the civil war;

(C) promoting a just and lasting national reconciliation between the Government of Mozambique and its opponents; and

(D) advocating improved respect of human rights, and market-based, equitable development.

(b) STATEMENT OF POLICY.—It is the policy of the United States to pressure the Frelimo Government of Mozambique to negotiate national reconciliation with its opponents. It is also the policy of the United States to encourage the removal of the 12,000 Zimbabwean troops from Mozambique.

(c) WITHHOLDING OF ASSISTANCE PENDING CERTIFICATION.—United States assistance may not be made available for Mozambique for fiscal years 1990 and 1991 unless the President has certified to the Committee on Foreign Affairs and the Committee on Appropriations of the House of Representatives and the Committee on Foreign Relations and the Committee on Appropriations of the Senate that the Government of Mozambique agrees to enter into negotiations described in subsection (b) and agrees to the holding of free and fair elections.

(d) DEFINITION.—For purposes of subsection (c), the term "United States assistance" means—

(1) assistance under the Foreign Assistance Act of 1961 or the Agricultural Trade Development and Assistance Act of 1954, other than emergency humanitarian assistance under either such Act; and

(2) sales under the Defense Trade and Export Control Act.

By Mrs. BYRON:

—Page 455, after line 11, insert the following new section:

SEC. 709. UNITED STATES POLICY REGARDING REFORMS WHICH SHOULD BE TAKEN BY THE GOVERNMENT OF NICARAGUA IN ORDER TO BRING ABOUT LASTING PEACE, PLURALISM, AND DEMOCRACY IN NICARAGUA.

(a) FINDINGS.—The Congress makes the following findings:

(1) The bipartisan accord between Congress and the President of March 24, 1989, states that "to be successful, the Central American peace process cannot be based on promises alone. It must be based on credible standards of compliance, strict timetables for enforcement, and effective on-going means to verify both the democratic and security requirements of those agreements".

(2) In signing the Central American peace accord on August 7, 1987, entitled "Procedure for the Establishment of a Strong and Lasting Peace in Central America", the Government of Nicaragua pledged "to promote an authentic democratic, pluralist and participatory process that includes the promotion of social justice and respect for human rights".

(3) Under that accord, the Government of Nicaragua is specifically required to establish "complete freedom of press, television and radio" "for all ideological groups" "without prior censorship", to grant political groupings "broad access to communications media" and permit full exercise of the rights of association, free speech, and movement, to decree an amnesty guaranteeing "freedom in all its forms", and to terminate state of emergency laws while reestablishing "the full exercise of all constitutional guarantees".

(4) In signing the Joint Declaration of Presidents in San Jose, Costa Rica, on January 16, 1988, the Government of Nicaragua acknowledged that "the commitments of Esquipulas II have not been entirely fulfilled", "above all, democratization".

(5) The 5 Central American Presidents who signed that Joint Declaration pledged to fulfill those commitments, which they "view as irrevocable and inalterable", "unhesitatingly and unequivocally, aware that their peoples and the international community will judge their compliance with obligations undertaken in good faith".

(6) In signing the cease-fire agreement in Sapoa, Nicaragua, on March 21, 1988, known as the Sapoa Accord, the Government of Nicaragua established a verification commission which included Cardinal Miguel Obando y Bravo, and again promised to "guarantee freedom of speech without limitations as provided for in the Esquipulas II Agreement".

(7) The Government of Nicaragua further "guaranteed that all of the people who have left the country for political reasons or other reasons may return to Nicaragua, regardless of their economic or social status, and join the political, economic, and social processes without any conditions beyond those stipulated in the Republic's laws" and without being "tried, penalized, or persecuted for any political or military activities in which they may have engaged".

(8) In signing the Joint Declaration at El Tesoro, El Salvador, on February 14, 1989, known as the Tesoro Beach Accord, the Government of Nicaragua acknowledged "that the commitments assumed under the Esquipulas II and Alajuela Declaration constitute a harmonious and indivisible whole".

(9) The Government of Nicaragua has pledged to hold elections for President, Vice President, and representatives to the National Assembly, municipalities, and the Central American Parliament no later than February 25, 1990.

(10) The Government of Nicaragua has pledged to "form a Supreme Electoral Council with a balanced participation of representatives from the opposition political parties".

(11) The Government of Nicaragua has pledged that during the 6 months prior to the date set for elections a "period of political activity will begin" no later than August 25, 1989.

(12) The Government of Nicaragua has pledged that immediately preceding that 6-month period, there will be "an initial 4-month period for the preparation, organization, and mobilization of the parties", which will begin no later than April 25, 1989.

(13) The Government of Nicaragua has pledged that reforms will be made prior to April 25, 1989, in "electoral legislation and in laws regulating the expression of ideas, information, and the structure of public opinion in such a way as to guarantee political organization and action in the broadest sense for political parties".

(14) The Government of Nicaragua has pledged to "guarantee the free functioning of the communications media by reviewing and modifying the law on the media" and to "guarantee equal access in terms of broadcasting schedules and air time on the state television and radio stations for all parties".

(15) The Government of Nicaragua has pledged to authorize "all communications media to supply themselves from within the country or abroad, at their convenience, with all materials, instruments, and equipment necessary to fully perform their functions".

(b) ACTIONS WHICH SHOULD BE TAKEN BY NICARAGUA TO COMPLY WITH THE COMMITMENTS IT HAS MADE IN THE ESQUIPULAS II, ALAJEULA, SAPOA, AND TESORO BEACH ACCORDS.—It is the policy of the United States that the Government of Nicaragua should undertake the reforms described in subsection (c) in order to—

(1) bring about lasting peace, pluralism, and democracy in Nicaragua, and

(2) guarantee that the February 1990 elections in Nicaragua are completely free and fair.

(c) REFORMS.—The reforms referred to in subsection (b) to be undertaken by the Government of Nicaragua are as follows:

(1) IN GENERAL.—

(A) Separate the police, military, and security forces from any identification or link with any political party.

(B) Ensure freedoms of expression, association, assembly, movement, religion, and education.

(C) Restore the rights of security of person and home and the right of freedom from unjustified arrest.

(D) Stop coercive pressure to join the Sandinista Party or Sandinista Party directed or controlled groups.

(E) Stop officially incited, organized, or condoned harassment of persons or groups opposed to the ruling party or policies of the Government.

(F) Stop discriminatory and punitive application of military conscription.

(G) Allow all citizens, including refugees and exiles, to return to Nicaragua with full restitution of all civil and political rights.

(H) Reinstate due process protections, ensure fair trials, and release individuals imprisoned without charge, trial, or due process, including campesinos and East Coast residents.

(I) Guarantee the independence and neutrality of the judiciary, the police, and armed forces.

(J) Abolish the power of police forces to administratively sentence individuals to prison terms and decide appeals.

(K) End all forms of torture and conditions of confinement which constitute torture, end the practice of holding prisoners incommunicado, and permit unrestricted access to all detention facilities by international human rights groups.

(2) POLITICAL PROCESS REFORMS.—

(A) Allow political parties and the democratic opposition to meet and march publicly, publicize meetings, and meet with and utilize the media, without reprisals or harassment incited, organized, or condoned by the ruling party.

(B) Abolish the law known as the Law for the Maintenance of Public Order and Security.

(C) End the jailing of opposition party activists and the drafting of opposition party activists and their children in reprisal for nonviolent political activity.

(D) Abolish the role of the Committees for the Defense of Sandinismo's and other party organizations in dispensing rationing cards and government services.

(E) Repeal the suspension provisions of the Nicaraguan constitution.

(3) ELECTORAL REFORMS.—

(A) Institute the electoral procedures proposed by the broad-based 15 party opposition coalition.

(B) Permit independent polling by domestic and international entities and unrestricted publication of results.

(C) Establish a definitive interval of time between an election and the succession of winning candidates.

(D) Repeal current electoral laws that require legal recognition of political parties by the Government.

(4) PRESS AND MEDIA RIGHTS.—

(A) Allow an uncensored, free press, without prior restraint.

(B) End legal and administrative restrictions on the purchase of needed matrials and equipment for the production and distribution of radio, television, and print news, and allow private newsprint sales.

(C) Grant licenses for the full spectrum of private television and radio broadcasting.

(5) LABOR RIGHTS.—

(A) Ensure the right to bargain collectively, to strike, and to publish by independent unions.

(B) Immediately release those imprisoned because of nonviolent union activities.

(6) RELIGIOUS FREEDOMS.—

(A) Allow the Catholic Church to reopen its human rights and publication offices.

(B) Allow Cardinal Miguel Obando Y Bravo to resume his televised Sunday mass.

(C) Allow the return of all expelled Catholic priests.

(D) Allow religion courses to be taught in private schools.

(E) Allow Protestant evangelicals to preach and conduct meetings.

(7) CAMPESINO RIGHTS.—

(A) End preventive detention and the policy of forcible resettlement of campesinos and allow campesinos who have been displaced to return.

(B) End pressure to join Sandinista farming cooperatives.

(8) INDIAN AND CREOLE RIGHTS.—

(A) Permit Indian and Creole residents to freely travel, assemble, speak, publish, broadcast, and maintain cultural beliefs and practices.

(B) End preventive detention and the policy of forcible resettlement of East Coast residents, and allow Indians and Creoles who have been displaced to return to their home communities.

(C) Guarantee the rights of Indians and Creoles to engage in traditional farming, fishing, hunting, and necessary subsistence activities.

(9) VERIFICATION OF PEACE AND DEMOCRACY ACCORDS.—Permit independent, international, and non-governmental human rights observers, both international and domestic, including the Sapoa Verifying Commission, the Nicaraguan Independent Permanent Commission for Human Rights, the International Committee of the Red Cross, and representatives of the Organization of American States and the General Secretary of the United Nations, to meet and travel freely to all areas of the country and to visit all detainees, prisoners, prisons, and tribunals without harassment.

(d) ACHIEVEMENT OF DEMOCRATIC PRINCIPLES AND PROCESSES IN CENTRAL AMERICA.—The United States urges all countries in Central America to continue to work toward achieving the democratic principles and processess specified in the Central American peace accord of August 7, 1987, entitled "Procedure for the Establishment of a Strong and Lasting Peace in Central America".

By Mr. CHANDLER:

—Page 455, after line 11, insert the following section:

SEC. 709. HUMANITARIAN ASSISTANCE TO NICARAGUA.

Section 2(b)(3) of the Act entitled "An Act to Implement the Bipartisan Accord on Central America of March 24, 1989" (Public Law 101-14) is amended by inserting before the semicolon at the end thereof "and related monitoring, investigations, and prosecutorial activities".

By Mr. DE LA GARZA:

—On page 290, line 4, insert "and" after the semicolon.

—On page 290, strike lines 5 through 7.

—On page 290, line 8, strike "(v)" and insert "(iv)".

—On page 291, line 9, strike "or".

—On page 291 strike line 14 and insert the following: "Order 12333;

"'(ix) commercial export promotion activities of the Department of Agriculture, including the Commodity Credit Corporation.'"

By Mr. DOUGLAS:

—Page 328, after line 2, add the following:

(c) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) after 30 years, Fidel Castro has failed to recognize the basic human rights, aspirations, and freedoms of the Cuban people;

(2) oppressive government policies and economic mismanagement have increased the suffering and hardship on the people of Cuba;

(3) the Cuban people should be allowed to express their view on their country's political future, that the Cuban Communist Party permit a plebiscite, by a secret "yes/no" ballot, of the people's approval or rejection of Castro's continued rule;

(4) in order to guarantee an open and honest plebiscite, the Government of Cuba meet the following conditions—

(A) allow opposition and human rights groups to organize publicly and repeal all laws curtailing freedom of expression and of assembly;

(B) grant all opposition groups equal access to national press, radio, and television media;

(C) release all political prisoners; and

(D) invite a neutral, international commission to oversee the voting and ensure the legitimacy of the results;

(5) should the "no" vote on Castro's rule prevail, the regime would respect the will of the people, initiate a period of democratic openness, and hold prompt national elections through which the Cuban people could freely choose their leaders; and

(6) that normalized relations between the Governments of the United States and Cuba should one day be restored, and that a democratic Cuban Government elected by all the people must be an essential condition for such normalization.

—Page 482, after line 8 add the following new section:

SEC. 765—SENSE OF CONGRESS CONCERNING CUBA.

It is the sense of Congress that—

(1) after 30 years, Fidel Castro has failed to recognize the basic human rights, aspirations, and freedoms of the Cuban people;

(2) oppressive government policies and economic mismanagement have increased the suffering and hardship on the people of Cuba;

(3) the Cuban people should be allowed to express their view on their country's political future, that the Cuban Communist Party permit a plebiscite, by a secret "yes/

no" ballot, of the people's approval or rejection of Castro's continued rule;

(4) in order to guarantee an open and honest plebiscite, the government of Cuba meet the following conditions—

(A) allow opposition and human rights groups to organize publicly and repeal all laws curtailing freedom of expression and of assembly;

(B) grant all opposition groups equal access to national press, radio, and television media;

(C) release all political prisoners; and

(D) invite a neutral, international commission to oversee the voting and ensure the legitimacy of the results;

(5) should the "no" vote on Castro's rule prevail, the regime would respect the will of the people, initiate a period of democratic openness, and hold prompt national elections through which the Cuban people could freely choose their leaders; and

(6) that normalized relations between the Governments of the United States and Cuba should one day be restored, and that a democratic Cuban Government elected by all the people must be an essential condition for such normalization.

By Mr. DURBIN:

—Page 530, strike out line 15 and all that follows through line 7 on page 531 and insert in lieu thereof the following:

(b) SENSE OF CONGRESS.—It is the sense of the Congress that—

(1) the Government of India should accept without delay the offer of the Government of Nepal proposing a time, venue, and agenda for talks by the two governments to resolve, on an urgent basis, issues relating to trade and transit between the two countries, recognizing that an expeditious and amicable resolution is in their mutual self-interest;

(2) India, as a gesture of good will befitting a responsible regional power, should consider resuming the sale of petroleum products to Nepal and encourage the normal passage of people and goods into and out of Nepal; and

(3) the Secretary of State, or his designee, should provide regular briefings to the Congress regarding the effects of the Indian-Nepalese dispute on the two countries and on the interests of the United States with respect to both counties and in South Asia in general.

By Mr. GILMAN:

—Page 588, after line 7, insert the following new title:

TITLE XV—RESTRICTIONS ON EXPORTS OF DEFENSE ARTICLES TO THE PEOPLE'S REPUBLIC OF CHINA

SEC. 1501. RESTRICTIONS ON EXPORTS OF DEFENSE ARTICLES TO THE PEOPLE'S REPUBLIC OF CHINA.

(a) CONGRESSIONAL CONCERNS.—The Congress—

(1) condemns the brutal suppression of prodemocracy demonstrators in the People's Republic of China, including—

(A) the arrest, imprisonment, and execution of prodemocracy demonstrators;

(B) the restrictions on peaceful assembly;

(C) the expulsion of international media correspondents and journalists; and

(D) the gross distortion in the Chinese government accounts of its actions to repress the prodemocracy movement; and

(2) condemns the brutal suppression of Tibetan prodemocracy and human rights demonstrators in Tibet, particularly—

(A) the continuing gross violations of human rights by Chinese authorities in Tibet against the Tibetans as individuals and as a people;

(B) the exclusion of foreign press and human rights organizations and the restrictions imposed on other travelers;

(C) the imposition of martial law in Lhasa and surrounding areas; and

(D) the gross distortion in Chinese government accounts of its actions to repress the prodemocracy and human rights movement in Tibet.

(b) RESTRICTION ON MUNITIONS EXPORT LICENSES.—A license may not be issued under section 38 of the Arms Export Control Act for the export to the People's Republic of China of any defense article on the United States Munitions List, including helicopters and helicopter parts, unless the President certifies to the Congress that the Government of the People's Republic of China—

(1) is not carrying out any of the activities described in subsection (a);

(2) has permitted the establishment and operation of independent labor umions and student organizations;

(3) is negotiating with representatives of His Holiness the Dalai Lama's Government in Exile; and

(4) has released all political prisoners associated with the demonstrations in the People's Republic of China and Tibet.

By Mr. HERGER:

—Page 314, after line 17, insert the following new section:

SEC. 1201. INELIGIBLE COUNTRIES AND PROJECTS.

(d) COMMUNIST COUNTRY LIST.—

(1) ESTABLISHMENT.—The President shall maintain a list of those countries which are communist countries for purposes of subsection (a)(1).

(a) The list shall include—

Czechoslovak Socialist Republic.
Democratic People's Republic of Korea.
Estonia.
German Democratic Republic.
Hungarian People's Republic.
Latvia.
Lithuania.
Mongolian People's Republic.
People's Democratic Republic of Ethiopia.
People's Republic of Albania.
People's Republic of Angola.
People's Republic of Bulgaria.
People's Republic of China.
Polish People's Republic.
Republic of Cuba.
Socialist Federal Republic of Yugoslavia.
Socialist Republic of Romania.
Socialist Republic of Vietnam.
Socialist Republic of Laos.
Tibet.
Union of Soviet Socialist Republics.

—Page 61, after line 5, insert the following:

"SEC. 1215. LIMITATION ON DEVELOPMENT ASSISTANCE.

"(a) LIMITATION.—Subject to subsection (b), funds made available for development assistance (or for assistance for famine recovery and development in Africa) may not be obligated or expended for a country which has an incidence of voting agreement with the United States in the General Assembly of the United Nations which is less than 7 percent based on the contents of the report pursuant to section 527 of Public Law 100-461).".

"(b) APPLICATION.—The provisions of subsection (a) shall apply for the fiscal year which begins after the transmission of each such report to the Congress.".

—Page 525, lines 12 and 13, stike "and for economic support assistance".

—Page 525, lines 14 and 15, strike "Asia and Near East Regional Programs (excluding programs for the Near East)." and insert "India.".

—Page 535, after line 10, insert the following new section:

SEC. 925. LIMITATION ON ASSISTANCE TO INDIA.

Notwithstanding any other provision of law, $25,000,000 of the funds made available for fiscal year 1990 under the Foreign Assistance Act of 1961 for development assistance which are allocated for India may not be obligated or expended unless the President certifies to the Congress that India has—

(1) ended its economic blockade of Nepal;

(2) allowed Amnesty International access to the Punjab region; and

(3) made significant progress in reducing human rights abuses by local and paramilitary forces, including the release of or provision of fair trial for detainees in Jodhpur, the appointment of an independent human rights commission to review charges of human rights abuses, and certification by Amnesty International that progress has been made in guaranteeing human rights in India.

—Page 535, after line 10, insert the following new section:

SEC. 925. SUSPENSION OF FOREIGN ASSISTANCE TO INDIA.

(a) FINDINGS.—The Congress makes the following findings:

(1) Amnesty International has confirmed that in April 1989 a teenage Sikh girl was arrested by police in Laharka, held for three days, and repeatedly raped by a number of police officers.

(2) Such findings have been confirmed by the London Sunday Times and a local doctor, and were even acknowledged by the head of the Punjab Police.

(3) The Government of Indian has not taken any action against the officers suspected in this incident.

(4) Several Indian newspapers and magazines have reported on similar treatment of other women, including lan incident in mid-April where an aged widow and her two daughters were beaten up and tortured by a police party headed by officers of the Beas police station in Butala Village.

(5) The Government of India has refused to allow Amnesty International to investigate such allegations.

(6) No other democratic nation refuses to allow Amnesty International access within its borders; even Nicaragua and Cuba have allowed Amnesty International to investigate human rights abuses.

(b) SENSE OF CONGRESS.—The Congress condemns the inaction by the Government of India relating to the incidents described in subsection (a).

(c) LIMITATION ON DEVELOPMENT ASSISTANCE.—Notwithstanding any other provision of law, none of the funds made available for fiscal years 1990 and 1991 under the Foreign Assistance Act of 1961 for development assistance which are allocated for India may be obligated or expended unless the President certifies to the Congress that—

(1) the individuals responsible for the incidents described in subsection (a) are identified, charged with the appropriate offenses, and imprisoned for their crimes;

(2) Amnesty International is allowed access to the Punjab to investigate the incidents described in subsection (a) and other charges of human rights abuses by the government; and

(3) the economic blockade of Nepal is lifted.

—Page 535, after line 10, insert the following new section:

SEC. 925. MILITARY SALES TO INDIA BY THE SOVIET UNION.

(a) FINDINGS.—The Congress makes the following findings:

(1) The Soviet Union supplies India with over 80 percent of its military needs and provides high-technology weapons that are normally reserved for Warsaw Pact countries.

(2) India was the first country outside the Warsaw Pact to obtain MiG-29 fighter bombers, MiG-26 Halo heavy lift helicopters, and Soviet-built nuclear submarines. India and the Soviet Union also co-produce T-72 tanks and MiG-21 and MiG-27 fighters.

(3) Many of these Soviet weapons are currently being used to blockade Nepal.

(4) India recently tested a missile with a range of at least 2,000 miles that is capable of carrying either conventional or nuclear warheads. Such missile is capable of carrying the atomic device recently tested by the Indian Government. Indian missile development has continued despite a pledge by Pakistan Prime Minister Benazir Bhutto to end all Pakistani progress towards a nuclear weapon of any sort.

(5) India continues to provide humanitarian assistance to the communist government of Afghanistan despite Afghanistan's abysmal record on human rights and its complete lack of legitimacy among its own people.

(6) Tamil groups in Sri Lanka have charged that the 100,000 Indian troops there have engaged in or encouraged serious human rights abuses against the local population, including murder, indefinite incarceration, torture, rape, and arson. More than 6,000 Tamils have perished and thousands have been imprisoned without trial.

(b) STATEMENT OF POLICY.—The Congress—

(1) expresses its concern that, even as tensions around the globe are being alleviated, India continues to move closer to the Soviet Union, build up her armed forces, develop a nuclear missile force, and use military might to oppress less powerful nations in the region; and

(2) urges India to terminate such aggressive activities if United States assistance is to continue at current levels.

—Page 588, after line 7, insert the following new title:

TITLE XV—UNITED STATES POLICY WITH RESPECT TO INTERNATIONAL ECONOMIC ASSISTANCE FOR INDIA

SEC. 1501. UNITED STATES POLICY WITH RESPECT TO INTERNATIONAL ECONOMIC ASSISTANCE FOR INDIA.

The Secretary of the Treasury shall instruct the United States Representatives to the International Monetary Fund, the International Bank for Reconstruction and Development, and the Asian Development Bank to oppose any loan, grant, or other form of economic or technical assistance to India until the Secretary determines and certifies to the Congress that—

(1) Amnesty International has been allowed to initiate a comprehensive review of the human rights situation in the Punjab region of India; and

(2) the blockade of Nepal has been lifted.

By Mr. LANTOS:

—Page 511, add the following after line 25:

SEC. 862. HUMAN RIGHTS IN YUGOSLAVIA.

(a) FINDINGS.—The Congress finds that—

(1) the United States continues to support the independence, unity, and territorial integrity of Yugoslavia;

(2) the Department of State's 1988 Country Report on Human Rights Practices cites many human rights practices in Yugoslavia that violate internationally accepted human rights standards, including infringement upon and abrogation of the rights of assembly and fair trial, freedom of speech, and freedom of the press;

(3) the Country Report also indicates that these human rights violations are targeted at certain ethnic groups and regions, most particularly against the ethnic Albanians in the Socialist Autonomous Province of Kosovo;

(4) the human rights of all ethnic groups in Kosovo must be preserved;

(5) those human rights violations, in addition to recent actions taken to limit the social and political autonomy of Kosovo, have precipitated a crisis in that region;

(6) the response of the Government of Yugoslavia to that crisis was a police crackdown that led to the deaths of many civilians and police officers, the wounding of hundreds more, and the imprisonment of additional hundreds;

(7) these human rights abuses violate the high ideals of mutual equality, dignity, and brotherhood among all of the nations and nationalities in Yugoslavia, which have been the guiding principles of Yugoslavia since 1945; and

(8) the European Parliament of the European Community has condemned these actions.

(b) STATEMENT BY THE CONGRESS.—The Congress—

(1) expresses grave concern regarding the actions of the Government of Yugoslavia for repeated human rights violations and for its repressive handling of the crisis in the Socialist Autonomous Province of Kosovo;

(2) urges the Government of Yugoslavia to take all necessary steps to assure that further violence and bloodshed do not occur in Kosovo;

(3) urges the Government of Yugoslavia to observe fully its obligations under the Helsinki Final Act and the United Nations Declaration of Human Rights to assure full protection of the rights of the Albanian ethnic minority and all other national groups in Yugoslavia;

(4) requests that President and the department of State to continue to monitor closely human rights conditions in Yugoslavia; and

(5) calls upon the President to express these concerns of the Congress through appropriate channels to representatives of Yugoslavia.

—Page 526, after line 24, add the following:

SEC. 910. POLICY TOWARD THE PEOPLE'S REPUBLIC OF CHINA.

It is the sense of the Congress that the United States policy toward the People's Republic of China be explicitly linked with the situation in Tibet as well as elsewhere in that country, and that any actions taken in response to the recent repression in the People's Republic of China will take into consideration whether—

(1) martial law is lifted in Lhasa and other parts of Tibet;

(2) Tibet is open to foreigners, including representatives of the international press;

(3) Tibetan political prisoners are released; and

(4) the Government of the People's Republic of China has taken concrete steps to reach a negotiated settlement of the Tibetan question by negotiating substantively with representatives of the Dalai Lama on the basis of the proposals by the Dalai Lama for such negotiations.

By Mr. McCOLLUM:

—Page 447, add the following after line 24:

(e) POLICE TRAINING FOR EL SALVADOR.—Notwithstanding the prohibition contained in section 4202 of the Foreign Assistance Act of 1961, and without regard to any requirement or limitation contained in subsection (b) of this section, assistance otherwise prohibited by section 4202 of the Foreign Assistance Act of 1961 may be provided to El Salvador for fiscal years 1990 and 1991 if, at least 30 days before providing such assistance, the President notifies the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate, in accordance with the procedures applicable to reprogramming notifications under section 4304 of the Foreign Assistance Act of 1961, that he has determined that the Government of El Salvador has made significant progress, during the preceding 6 months, in eliminating any human rights violations including torture, incommunicado detention, of persons solely for the nonviolent expression of their political views, or prolonged detention without trial. Any such notification shall include a full description of the assistance which is proposed to be provided and of the purposes to which it is to be directed.

—Page 453, lines 5 and 6, strike out "El SALVADOR, GUATEMALA," and insert in lieu thereof "GUATEMALA".

—Page 453, lines 10 and 11, strike out "El Salvador, Guatemala," and insert in lieu thereof "Guatemala".

—Page 453, strike out lines 12 through 19 and insert in lieu thereof the following:

(b) DEFINITION.—As used in this section, the term "police forces" includes all members of security forces other than the regular uniformed armed forces.

By Mr. McEWEN:

—Page 511, add the following after line 25:

SEC. 862. USE OF FORCE IN SOVIET GEORGIA.

(a) FINDINGS.—The Congress finds that—

(1) the roots of Georgian national identity reach back to before the birth of Christ;

(2) the independence of the Republic of Georgia was reestablished on May 26, 1918, with the proclamation of the Republic of Georgia and with the introduction of a parliamentary democratic government;

(3) the independence of the Republic of Georgia was recognized by 22 countries, including the Soviet Union, on May 7, 1920;

(4) the Soviet Union invaded the Republic of Georgia 9 months later, on February 16, 1921, occupied the capital city of Tbilisi, and established Soviet power in Georgia on March 18, 1921;

(5) at the Genoa Conference in 1922, the Patriarch of the Georgian Orthodox Church, Katholikos Ambroyi, appealed for support from the international community to force the occupying Soviet forces out of the Republic of Georgia, but no help was forthcoming;

(6) in 1924, there was an uprising which started in the manganese mines of Tschiaturri and swept over the whole country;

(7) although assistance came from France and Poland, Soviet troops brutally crushed the uprising;

(8) the people of Georgia have renewed their demands for self-determination, as evidenced by the creation of the National Democratic Party of Georgia;

(9) the expression of these demands over the past 2 years by the people of Georgia has caused the expulsion of popular leaders

from the Soviet Union, such as Tengiz Gudava;

(10) the people of Georgia expressed their continuing desire for self-determination through demonstrations in Tbilisi, in which thousands participated on April 9, 1989;

(11) these peaceful demonstrations were met by waves of Soviet troops which were supported by tanks and armored personnel carriers, and which swept into the crowds of demonstrators and used clubs and spades causing 20 fatalities and over 200 injuries;

(12) officials of the Georgian Health Ministry are reported to have said that the Soviet troops also used a poisonous gas that causes nerve paralysis, delirium, and heart failure against the peaceful, nationalistic demonstrators in the Tbilisi demonstrations; and

(13) Georgian human rights leaders both in Georgia and in the West have renewed their call for help from the United States by asking that the United States demand "that the Soviet Government grant to the people of Georgia and Armenia the right to free multiparty pluralistic institutions and self-determination".

(b) STATEMENT OF THE CONGRESS.—The Congress—

(1) condemns the use of excessive and lethal force by Soviet troops in responding to the peaceful demonstrations of April 9, 1989, in Tbilisi, Georgian Soviet Socialist Republic;

(2) urges the Soviet Union—

(A) to investigate allegations of the use of toxic chemical agents against the demonstrators in Tbilisi; and

(B) if the allegations are found to be true, to take steps to prevent the recurrence of such use of toxic chemical agents;

(3) supports the demands of the people of Georgia for human rights, as guaranteed by the Universal Declaration of Human Rights, to which the Soviet Union is a party; and

(4) urges the Soviet Union to heed the demands of the people of Georgia and to guarantee the Georgian people their right to human rights and fundamental freedoms.

By Mr. OBEY:

—Page 61, strike out line 23 and all that follows through line 21 on page 64 (section 1303).

By Mr. PORTER:

—Page 526, after line 24, insert the following new section:

SEC. 910. CONCERNING THE PEOPLE'S REPUBLIC OF CHINA AND HONG KONG.

It is the sense of the Congress that—

(1) the President and the Secretary of State should convey to the People's Republic of China and the United Kingdom the strong reservations of the United States with respect to the absence of guarantees of free direct elections and human rights in the proposed Basic Law now being drafted pursuant to the bilateral agreement which provides for the reversion of sovereignty of Hong Kong to the People's Republic of China in 1997;

(2) The guarantee of the People's Republic of China for "one country, two systems" in Hong Kong has no credibility in light of the ongoing brutal crackdown on prodemocratic forces in the People's Republic of China;

(3) the United States should initiate an international effort to guarantee human rights and the development of democratic institutions in Hong Kong;

—Page 526, after line 24, insert the following new section:

SEC. 910. CONCERNING HONG KONG.

It is the sense of Congress that the President should take such actions as may be necessary under the Immigration and Nationality Act to permit increased immigration from Hong Kong to the United States.

—Page 527, line 7, immediately before the comma insert the following: "and for the development and implementation of long-range bilateral and multilateral reconstruction efforts for Afghanistan and the establishment of a broad-based freely-elected Afghan government".

By Mr. ROGERS:

—Page 64, line 21, before the period insert ", except that the term does not include coal".

By Mr. ROTH:

—Page 521, strike out lines 2 through 19 and insert in lieu thereof the following: "$200,000,000 for fiscal year 1990 and $200,000,000 for fiscal year 1991.".

"(b) USE OF SPECIAL AUTHORITIES PROHIBITED.—The authorities of sections 4101, 4102, and 4103 may not be used to make funds available for use under this chapter. The references to this chapter in sections 4102 and 4103 shall not be construed to supersede the limitation contained in the preceding sentence.

By Mr. SMITH of New Jersey:

—Page 526, after line 24, insert the following:

SEC. 910. UNITED STATES POLICY TOWARD THE ONE-CHILD-PER-FAMILY PROGRAM AND FORCED ABORTION POLICIES OF THE PEOPLE'S REPUBLIC OF CHINA.

(a) FINDINGS.—The Congress finds that—

(1) in 1979 the People's Republic of China adopted a one-child-per-family policy that purports to protect voluntary decisions by couples on matters relating to family planning but in reality relies on coercion, economic penalties, and forced abortions (often late in pregnancy) for refusal to comply;

(2) this one-child-per-family policy, implemented by the use of forced abortions and involuntary sterilizations, has been used against ethnic minorities and peoples, such as the Tibetans, by Chinese authorities in Tibet;

(3) as a direct result of this one-child-per-family policy, the incidence of female infanticide in the People's Republic of China has escalated, particularly among those living in rural areas who regard a male as vital to their economic well being and a source of financial security in retirement;

(4) the one-child-per-family policy of the People's Republic of China makes use of repressive "birth quota" system that empowers family planning workers to dictate to couples if and when they may have the one child permitted under the policy;

(5) the People's Republic of China's family planning workers violate a woman's right to privacy by monitoring private details of a woman's life, including the onset of menstruation in order to track compliance with the one-child-per-family policy;

(6) numerous reports by social scientists and by journalists associated with the Washington Post, the New York Times, the Wall Street Journal, the Public Broadcasting System "Nova" series, the Columbia Broadcasting System's "Sixty Minutes" and other media, have documented pervasive reliance by local People's Republic of China officials on forced or coerced abortion in order to achieve birth quotas for specified areas;

(7) reports that indicate that, as a result of the one-child-per-family policy, tens of millions of unborn children have been killed by abortion in the People's Republic of China;

(8) the policy of the Department of State for the 1984 International Conference on Population stated that, "Attempts to use abortion, involuntary sterilization, or other coercive measures in family planning must be shunned, whether exercised against families within a society or against nations within the family of man", and the United Nations Declaration of the Rights of the Child issued in 1959 calls for the legal protection of children before birth as well as after birth;

(9) at the Nuremberg war crimes trials, forced abortion was regarded as a "crime against humanity"; and

(10) while "official" People's Republic of China policy forbids infanticide, prosecution has been virtually nonexistent except in a few token cases.

(b) STATEMENT OF POLICY.—The Congress—

(1) strongly condemns the continued violations of internationally recognized human rights by the Government of the People's Republic of China, including—

(A) the one-child-per-family policy adopted in 1979 that relies on coercion, economic penalties, and forced abortions (often late in pregnancy) as a means of enforcing compliance;

(B) the continued use of a repressive "birth quota" system that empowers the authorities to dictate to couples if and when they may have a child; and

(C) the use of forced abortions and involuntary sterilizations of Tibetans by Chinese authorities in Tibet;

(2) affirms internationally recognized basic human rights, such as—

(A) the conclusion made by the 1981 United Nations Symposium on Population and Human Rights that compulsory abortion is a violation of human rights; and

(B) the declaration made at the Nuremberg war crimes trials that forced abortion be regarded as a "crime against humanity"; and

(3) asks that the President and the Department of State—

(A) raise the concerns expressed in this section with the Government of the People's Republic of China, and

(B) calls upon that Government to cease immediately this repressive policy.

By Mrs. SMITH of Nebraska:

—Page 62, strike out the sentence beginning in line 12; and page 64, strike out lines 6 through 10.

—Page 64, beginning in line 20, strike out "(including agricultural commodities)"; and line 21, before the period, insert ", except that the term does not include agricultural commodities or products derived from agricultural commodities".

—Page 61, strike out line 23 and all that follows through line 21 on page 64 (section 1303).

—Page 64, line 21, before the period insert ", except that the term does not include coal".

—Page 64, line 21, before the period insert ", except that the term does not include petroleum and petroleum products".

By Mr. SOLOMON:

—Page 315, after line 5, add the following new paragraph:

"(4) INITIAL DESIGNATIONS.—The following countries shall be deemed to have been so designated by the President as of the effective date of this Section, and the President is not required to notify the Congress of such designations of these countries:

"Czechoslovak Socialist Republic,

"Democratic People's Republic of Korea,

"Estonia,

"German Democratic Republic,

"Hungarian People's Republic,
"Latvia,
"Lithuania,
"Mongolian People's Republic,
"People's Democratic Republic of Ethiopia,
"People's Democratic Republic of Yemen,
"People's Republic of Albania,
"People's Republic of Angola,
"People's Republic of Bulgaria,
"People's Republic of China,
"People's Republic of Kampuchea,
"Polish People's Republic,
"Republic of Afghanistan,
"Republic of Cuba,
"Republic of Nicaragua,
"Socialist Federal Republic of Yugoslavia,
"Socialist Republic of Romania,
"Socialist Republic of Vietman,
"Tibet,
"Union of Soviet Socialist Republics (including its captive constituents republics).".

—Page 315, after line 5, add the following new paragraph:

"(4) INITIAL DESIGNATIONS.—The following countries shall be deemed to have been so designated by the President as of the effective date of this Section, and the President is not required to notify Congress of such designations of these countries:
"Czechoslovak Socialist Republic,
"Democratic People's Republic of Korea,
"Estonia,
"German Democratic Republic,
"Hungarian People's Republic,
"Latvia,
"Lithuania,
"Mongolian People's Republic,
"People's Republic of Albania,
"People's Republic of Bulgaria,
"People's Republic of China,
"Polish People's Republic,
"Republic of Cuba,
"Socialist Federal Republic of Yugoslavia,
"Socialist Republic of Romania,
"Socialist Republic of Vietnam,
"Tibet,
"Union of Soviet Socialist Republics (including its captive constituents republics).".

—Page 315, after line 5, add the following new paragraph:

"(4) MATTERS TO BE CONSIDERED.—In exercising the authority pursuant to subsections (d)(1) and (d)(3) of this Section, the President should give consideration to the following factors:

"(1) The security needs of the United States;

"(2) The extent to which a country maintains a centrally-planned economy based on the principles of Marxism;

"(3) The extent to which a country respects and observes internationally-recognized standards of human rights; and

"(4) The question of whether the provision of assistance from the United States will encourage the deliverance of the recipient country from political, economic, and military dependence (as the case may be) on the Union of Soviet Socialist Republics or on any other communist country.".

—Page 315, after line 5, add the following new paragraph:

"(4) INITIAL DESIGNATION.—The Republic of Nicaragua shall be deemed to have been so designated by the President as of the effective date of this Section, and the President is not required to notify the Congress of such designation of this country.".

—Page 315, after line 5, add the following new paragraph:

"(4) INITIAL DESIGNATION.—The People's Democratic Republic of Ethiopia shall be deemed to have been so designated by the President as of the effective date of this Section, and the President is not required to notify the Congress of such designation of this country.".

—Page 315, after line 5, add the following new paragraph:

"(4) INITIAL DESIGNATION.—The Republic of Afghanistan shall be deemed to have been so designated by the President as of the effective date of this Section, and the President is not required to notify the Congress of such designation of this country.".

—Page 315, after line 5, add the following new paragraph:

"(4) REPORTING REQUIREMENT.—Whenever a country on the communist country list is receiving humanitarian assistance pursuant to the provision contained in subsection (b)(1) of this Section, the President shall report to Congress every three months for as long as such assistance is being provided on what steps the government of the recipient country is taking in order to alleviate the conditions that make such assistance necessary.".

—Page 454, strike lines 9 through 17, and insert in lieu thereof:

"(b) RESTRICTION.—The United States shall not enter into any arrangement conditioning, expressly or impliedly, the provision of assistance under the Foreign Assistance Act of the purchase of defense articles and services under the Defense Trade and Export Control Act upon the provision of assistance by a recipient to persons or groups engaging in an insurgency or other act of rebellion against the Government of Nicaragua.".

—Page 526, after line 24, insert the following new Section:

"SEC. 910. HUMAN RIGHTS ABUSES IN THE PEOPLE'S REPUBLIC OF CHINA.

"(a) FINDINGS.—The Congress finds that—

"(1) The government of the People's Republic of China has arrested more than 1,000 students and other civilians in the aftermath of the brutal June 3, 1989 military assault on Tienanmen Square in Beijing;

"(2) international human rights monitoring organizations such as Amnesty International and Asia Watch have documented incidences of arbitrary arrests, torture, and beatings by the Chinese police and military on a daily basis;

"(3) the Chinese government has reinstituted the death sentence as punishment for political dissent;

"(4) the Chinese government has re-established telephone hotlines and other local communications networks for the express purpose of identifying and imprisoning political dissidents throughout the country;

"(5) Chinese communist officials have uniformly denied that any abuses of human rights or activities to suppress the Chinese people's expression of their desire for democratic government have occurred since the massacre in Tienanmen Square;

"(6) regular citizens and grassroots associations within China that support democratic reform programs for their nation must be made aware of the American people's moral and political solidarity with them; and

"(7) officials and agencies of the United Nations have remained silent in the face of the Chinese government's war against its own people.

"(b) SENSE OF CONGRESS.—It is the sense of the Congress that—

"(1) the Chinese government immediately release all men and women detained for the peaceful exercise of their fundamental human rights;

"(2) the Chinese government publicize the names of all citizens arrested in connection with the recent protests as well as the reasons for their detainment so that they will not become the victims of torture or physical abuse while in custody;

"(3) the President of the United States clearly inform the Chinese communist leadership that any resumption of normal diplomatic and military relations with China will directly depend on the Beijing government's releasing all those imprisoned for peacefully assembling to express their political beliefs and entering negotiations with leaders of the country's student democratic movement;

"(4) the President of the United States publicly declare that he will carefully consider the extent to which the Chinese authorities act to restore basic human rights throughout their nation before he issues the required 1989 certification of China's eligibility to receive Most Favored Nation (MFN) trading status with the United States, and

"(5) the United Nations General Assembly and Security Council condemn the repressive actions by the Chinese government and army and urge the communist party to open discussions with representatives of the political opposition."

—Page 556, strike line 5 and all that follows through page 557, line 3.

—Page 556, strike line 6 and all that follows through page 557, line 3, and insert in lieu thereof the following:

"(a) EXPRESSION OF CONCERN.—The Congress expresses its concern that, although actions by the Government of Kenya in the past year to improve the human rights situation in Kenya have included the release of all political detainees and efforts to eliminate incidents of torture by Kenyan officials, there continue to be human rights abuses in Kenya.

"(b) SENSE OF CONGRESS.—It is the sense of Congress that the Administration should, in the formulation of a program of economic support assistance and foreign military financing for Kenya under the Foreign Assistance Act of 1961 for fiscal year 1990, consider continued steps by the Government of Kenya toward improving human rights conditions in Kenya."

—Page 556, line 6, strike "(a)".

—Page 556, after the period on line 11, strike all that follows through page 557, line 3, and insert in lieu thereof the following: "Although actions by the Government of Kenya in the past year to improve the human rights situation in Kenya have included—

"(A) the release of all political detainees,

"(B) progress in addressing the issue of police torture, as demonstrated by Presiding Moi's firing of several police officials in 1988, his public condemnations of police brutality, and, most importantly, by the conviction and extended prison terms of four police officers convicted in March, 1989 of torture;

further steps to increase respect for human rights in Kenya are needed."

—Page 588, after line 7, insert the following new Section:

"SEC. 1101. MINERAL IMPORTS FROM COMMUNIST COUNTRIES.

"(a) SENSE OF CONGRESS.—It is the sense of Congress that the vital national interests and security of the United States would be jeopardized if the nation became dependent

on communist countries as the sources for essential minerals and metals.

"(b) REPORTING REQUIREMENTS.—(1) Every year after enactment of this Act, when the annual foreign assistance request is presented to Congress, the President shall submit to the Committee on Foreign Affairs in the House of Representatives and the Committee on Foreign Relations in the Senate a report on the extent to which the United States is dependent on communist countries (as defined pursuant to Section 4201(d) of the Foreign Assistance Act) as sources of supply and importation of—

"(1) chromium,

"(2) cobalt,

"(3) manganese,

"(4) platinum group metals,

"(5) ferroalloys, and

"(6) other strategic and critical materials (within the meaning of the Strategic and Critical Materials Stock Piling Act).

"(2) The annual report submitted to Congress should also contain relevant information about what the United States is doing to reduce such dependence. The information may include such matters as stockpiling, conservation, the development of substitute materials, and the development of new and/or different deposits.".

—Page 588, after line 7, add the following new Section:

"SEC. 1101. REDUCTION IN AUTHORIZED FUNDS.

"Notwithstanding any other provision in this Act, the amounts authorized for activities under this Act are reduced by a further 10%."

—Page 588, after line 7, add the following new Section:

"SEC. 1101. REDUCTION IN AUTHORIZED FUNDS.

"Notwithstanding any other provision in this Act, the amounts authorized for activities under this Act are reduced by a further 5%."

—Page 588, after line 7, add the following new Section:

"SEC. 1101. REDUCTION IN AUTHORIZED FUNDS.

"Notwithstanding any other provision in this Act, the amounts authorized for activities under this Act are reduced by a further 2%."

—Page 588, after line 7, add the following new Section:

"Notwithstanding any other provision in this Act, the amounts authorized for activities under this Act are reduced by a further 1%."

By Mr. TORRICELLI:

—Page 454, after line 24, insert the following:

(d) REPORTS ON ASSISTANCE TO INFLUENCE ELECTIONS.—Not less than 15 days after the end of each month, the head of any agency of the United States Government which expended any funds during that month in order to influence, directly or indirectly, the 1990 elections in Nicaragua shall submit an unclassified report describing those expenditures to the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate.

SENATE—*Tuesday, June 20, 1989*

(Legislative day of Tuesday, January 3, 1989)

The Senate met at 11:30 a.m., on the expiration of the recess, and was called to order by the President pro tempore [Mr. BYRD].

The PRESIDENT pro tempore. The prayer will be offered by the Senate Chaplain, the Reverend Dr. Richard C. Halverson.

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray:

"We hold these truths to be self-evident that all men are created equal, and that they are endowed by their Creator with certain inalienable rights * * * to secure these rights, governments are instituted among men deriving their just powers from the consent of the governed. * * *"— Excerpt, Declaration of Independence.

Eternal God, Creator, sustainer, consummator of history, thank Thee for the belief in creation at the roots of our political system. Recently the Prime Minister of Pakistan reminded us that three of the most beautiful words in the English language are "We the people." We have seen the hypocracy, the bankruptcy, of a government that calls itself the "people's republic" violently repress the voices of the people.

With unspeakable gratitude, we thank Thee for the unprecedented political system which is our legacy. Renew the people of the United States, mighty God, in dedication to this system. Save them from cynicism which allows them to abdicate their sovereign responsibility and then blame government for its failure. Help the people to see that our system will not function as intended if they fail to exercise their sovereignty. Arouse each of us, Lord, to the personal responsibility essential to our way of life.

In His name who is truth incarnate. Amen.

The PRESIDENT pro tempore. The Senate will come to order.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The majority leader is recognized under the order.

THE JOURNAL

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Journal of the proceedings be approved to date.

The PRESIDENT pro tempore. Without objection, it is so ordered.

SCHEDULE

Mr. MITCHELL. Mr. President, this morning, following the time for the two leaders, there will be a period for morning business not to extend beyond 12:30 p.m. with Senators permitted to speak therein for up to 5 minutes each.

The Senate will stand in recess from 12:30 until 2:15 p.m. for the party conferences. When the Senate reconvenes at 2:15, debate will resume on S. 5. I anticipate that there will be rollcall votes throughout the day, and possibly into the evening today. It is my hope that we will be able to complete action on this legislation this week.

Mr. President, I reserve the remainder of my time, and yield to the distinguished Republican leader.

The PRESIDENT pro tempore. Without objection, the remainder of the time of the majority leader is reserved.

RECOGNITION OF THE REPUBLICAN LEADER

The PRESIDENT pro tempore. The Republican leader is recognized under the order.

THE CHILD-CARE BILL

Mr. DOLE. Mr. President, hopefully some time this afternoon there will be an amendment discussed, hopefully offered, maybe offered to the pending substitute of the distinguished majority leader on child care.

I urge my colleagues on both sides of the aisle to take a look at the amendment. We believe it has a lot of features that Members on both sides of this aisle have supported many times before. The child-care tax credit, whether it is earned income tax credit, I think Members on both sides have gone on record in support of those programs, and this would be an expansion of the earned income tax credit refundability and, of course, the child-care tax credit would be refundable. We believe it is the right approach.

I say with reference to the ABC portion of the pending substitute that I took the report home last night believing I might be able to learn more about the ABC bill. But it has been changed so much it has become the XYZ bill. It has gone from one end of the alphabet to the other. I do not know what to read in this report. I hope maybe the distinguished Senator from Connecticut [Mr. DODD] or the Senator from Utah [Mr. HATCH] could cross out what is left so we know what to read in the RECORD.

In my view it is changing almost by the minute, and it would be helpful to some of us to properly assess the ABC bill to know precisely what remains of what was on the minds of the sponsors when the bill was considered in the committee.

I also urge my colleagues to keep in mind that $1.75 billion for the ABC portion of the bill would serve only about, as I calculate it, 5 or 6 percent of the children. So if you add up, and if you are going to fund the whole 100 percent, you are talking about $20 billion to $30 billion or more.

I say that is probably one of the real weaknesses of the ABC approach; $1.75 billion would create a whole new bureaucracy, have a new assistant secretary in HHS. I do not know how many millions of dollars it would cost for that, nor how many millions would be spent on each State to administer this new massive program. But if there are 14 million children out there and the sponsors indicate that $2.5 billion would serve 1 million children, that has been reduced to $1.75 billion, and 700,000 children, that leaves 13,300,000 who will not benefit from the ABC approach.

So I hope when we get into the debate that Members on both sides will not only carefully look at what we will propose hopefully on a bipartisan basis to address some of the concerns—stay-at-home mothers, religious concerns, reaching more children, letting the parents make the choice other than some bureaucracy. All those are real issues. They are not Republican or Democratic issues. They are issues that people in our State are going to be concerned about.

So we will make copies available, as soon as we have the prepared copies, to all Members of the Senate of our amendment, copies obviously to the majority leader, and copies to the sponsors of the ABC bill.

I also ask my colleagues to take a good look at the insurance provisions of the substitute.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

I believe any objective analysis of the proposal by my good friend, the chairman of the Senate Finance Committee, Senator BENTSEN, would indicate that nobody is going to benefit very much from the credit of $500, depending on income, to go out and purchase insurance for your children. What is going to happen is there is going to be a subsidy for those who already have coverage for their children. Again, in this time of tight constraints and budget problems it seemed to me we ought to try to find some way to address this very important issue of child care to make certain that the money goes where it will be needed, that it goes to the needy families. Though I know middle-income families can always use some help, in this critical time of budget restraint we had better make certain the programs go to the neediest.

That is what the earned income tax credit does. And to a certain extent that is what the child-care tax credit refundability provision will do, though in that case many of the poor people do not itemize and keep track of their child care expenses, and probably will not benefit from that portion.

So I know on both sides of the aisle, and on both sides of the child care policy some will say, "Well, it ought to be just tax credit, period."

We also have a grant provision in ours to be used for a number of things. So it is my view that if we can take a hard look at both proposals, and keep in mind the ultimate beneficiary is to be the child, not the Governors Association, not some lobbying group, not some new bureaucracy, but the child. Keep in mind that the choice ought to be the parents, the parents. Then I believe we can objectively assess both bills and, hopefully, the proposal we will offer will attract votes from both sides of the aisle. And I say that we will discuss it in detail later on. But I hope that the distinguished Senators from Connecticut and Utah could revise the committee report, maybe just take this one and X out what they have X'd out of their bill, so we can take a look at it and see what is left of the ABC and see if it has become XYZ.

I reserve the remainder of my time.

Mr. MITCHELL addressed the Chair.

The PRESIDENT pro tempore. The majority leader.

Mr. MITCHELL. Mr. President, I would like to comment on the subject of the pending legislation to which the distinguished Republican leader has referred.

First, all Senators should be aware that the amended version was introduced on Thursday, June 15, and printed in full in the RECORD on that day. Senators, therefore, have now had nearly a week to read precisely what is in the legislation. Since it was introduced, there have been 3 days of debate on the Senate floor in which the Senator from Connecticut and the Senator from Utah, the principal sponsors of the bill, one Democrat and one Republican, have explained in great detail what is their bill.

As I understand it, contrary to the assertions made here today, under that bill, if adopted, there would be no new Federal bureaucracy; 100 percent of the funds would go to the States. And, therefore, I think that the Senators have had an opportunity to review this pending proposal. It has been printed for nearly a week. Any Senator who wished to do so could get the CONGRESSIONAL RECORD for June 15, which I now have in my hand, and read precisely what is in this proposal word for word. When they do, I hope Senators on both sides will join with the bipartisan group that is sponsoring this legislation. Senator HATCH of Utah, a Republican, and Senator DODD of Connecticut, a Democrat, have joined to craft a responsible bill, and I believe that bipartisan support should extend to the full Senate.

We look forward, of course, to receiving the alternative to be proposed by the distinguished Republican leader. Obviously, none of us can make a judgment on it until such time as it is presented, and we understand that will be presented this afternoon. We look forward to that and to a vigorous debate on the two.

In conclusion, I simply say to those Senators who are interested in learning what is in the pending ABC bill, it was printed in full in the CONGRESSIONAL RECORD nearly a week ago. There have been 3 days of debate to explain it. Every Senator has had a full opportunity to hear, read, listen and understand the provisions of the pending legislation. When they do all of those things or any of them, I believe they will support this important bipartisan legislation.

Mr. President, I reserve the remainder of my time.

The PRESIDENT pro tempore. The remaining time will be reserved, without objection.

MORNING BUSINESS

The PRESIDENT pro tempore. Under the order, there will now be a period for the transaction of morning business not to extend beyond the hour of 12:30 p.m. today, with Senators being permitted to speak therein for not to exceed 5 minutes.

Mr. ROTH addressed the Chair.

The PRESIDENT pro tempore. The senior Senator from Delaware is recognized.

Mr. ROTH. I thank the Chair.

(The remarks of Mr. ROTH pertaining to the introduction of S. 1202 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

The PRESIDENT pro tempore. The Senator from Tennessee [Mr. GORE] is recognized for not to exceed 5 minutes.

Mr. GORE. Thank you very much, Mr. President.

I wish to discuss two matters this morning.

(The remarks of Mr. GORE pertaining to the introduction of Senate Joint Resolution 159 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. GORE. Mr. President, now I would like to turn to the second subject that I want to address today.

BUSH "START" PROPOSALS

Mr. GORE. Yesterday, the United States of America went back to the negotiating table in Geneva.

A few weeks ago, it seemed that President Bush had absorbed a valuable lesson about the difference between bureaucratic process and Presidential leadership. After letting the Cabinet agencies grind away on a review of security policy for 6 months, the President found himself on the eve of the NATO summit in Brussels, with a completely inadequate product. It was not inadequate because of any flaw in its details: it was inadequate because it embodied to a fault the caution of the bureaucrat; and it therefore lacked the essential element of vision needed to give it life. It was a document so safe, that it was dangerous.

The President was right to rely upon his instinct about the needs of the moment, and to push his closest advisers to produce something decisive on conventional arms control. It was risky, but it would have been a disaster had he not done so. With that example in mind, many of us hoped that the President would be similarly decisive in his approach to START, which is now resuming. Unfortunately, if the press accounts over the weekend and this morning are correct, this time the President has completely pulled his punch, and as a result may well fail to make a successful opening move either with respect to the Soviets or the Congress and that failure could cost him and the Nation dearly.

As we all know, there is no easy way to pursue arms control. A President must contend not just with the Soviets, but with a never-ending domestic struggle to impose order on the executive branch, and to achieve some meeting of the minds with Congress, including not only the political opposition, but even at times, members of a President's own party. Over the past 20 years, there have been more failures than successes, and the odds are always daunting. Nevertheless, it is incumbent upon a President to define

his goals, rather than allow them to be formed by others.

And yet, according to the press, what the President has decided to do is the reverse. Recognizing that he has disagreement inside his administration and some potential problems with Congress about verification, he has decided evidently that his opening move will be to find out what the Soviets will permit. Recognizing that his strategic modernization program is not fully supported within his administration, he will wait to see what Congress does before telling anybody how he thinks an arms control agreement should affect strategic force posture.

I do not want to criticize the President unfairly. There are hard verification issues, and, in the past such problems have made Senate ratification of agreements hard and sometimes impossible to obtain. Debate over SALT II ratification might have destroyed that treaty, had it not been withdrawn from the Senate's agenda after the Soviet invasion of Afghanistan. It is also true that the Reagan administration typically never came to grips either with verification until very late in the game, whether the same was deploying a new weapon—such as the sea-launched nuclear armed cruise missile—or START.

So, if the administration had begun by advancing both a substantive proposal and verification measures in parallel, that would have been an intelligent change for the better. Instead, we have a mixed and irrational assortment of ideas, with no organizing core, all served up as "confidence building measures." Let us examine them, bearing in mind that all this is based on information in the public domain. I will not discuss any classified material here.

First, there is a reported proposal for a ban on flight-test telemetry encryption. That is well and good. It is also a given in any U.S. negotiating approach in any administration.

Second, there is a reported proposal for both sides to be able to inspect each other's reentry vehicles, although it is not yet clear whether that will involve uncovering them in place, in silos on top of missiles. It would be an interesting and dramatic precedent and that makes this idea a fine piece of one upmanship to use against General Secretary Gorbachev, who has had the run of things on verification.

But such inspections will never entirely reassure specialists whose real concern is breakout, a situation in which the Soviets begin to load up their missiles with additional warheads to take advantage of their full potential. The only way to get at that problem is to reduce the size of missiles, preferably by deploying increasing numbers of single warhead systems, and by diminishing the impact of cheating or a breakout, by making missiles mobile.

Third, according to the press, we have a proposed ban on short-flight time or depressed trajectory submarine-launched ballistic missiles. That is vindication for a few Members of Congress—including especially my friend TOM DOWNEY in the other body—who have advocated such a thing for years against the dismissive ridicule of the Reagan administration. But depressed trajectory missiles are not a central issue. On the contrary, they are hypothetical weapons of a sort neither side is known to be developing. Should they be developed, however, they could rekindle fears about a nuclear first strike, which ought otherwise to be dealt with in the central provisions of a START agreement.

But the problem is that the central provisions of a START agreement, as envisaged by the Bush administration, are not in evidence.

Fourth, according to the press, we have a proposal to allow inspections of plants where the Soviet Union makes train-mobile launchers for its MIRV'd SS-24 missile. Now, here we have something that at least tip-toes up to the edge of a central issue. The Soviets are deploying the SS-24, in addition to their truck-mobile single warhead SS-25. The U.S. position inherited from the Reagan administration calls for a ban on such missiles, originally on the grounds that limits on them could never be verified. That point of view was softening by the end of the administration, however, and a concept for basing mobile missiles in geographically restricted areas—small enough for peace-time accountability, big enough for wartime survivability, was emerging.

But what is the administration's intent as regards limitations on mobile missiles, and what is the relationship between this proposal and the limits the administration might have in mind? We do not know, because this crucial element of architecture of an arms agreement remains undefined this morning, after months of review in the administration.

This is not an opening move in Geneva. It is an antimove. And it cannot last as policy because it does nothing to illuminate choices the United States must make in the meantime about its own strategic forces.

Again, it is similar to what happened in the runup to the NATO summit. For weeks, indeed months, the administration hung onto a collection of internally contradictory positions that could not be sold to the public, either here or in Europe, and then, finally, at the last minute, the President cleared away the bureaucratic underbrush and put his stamp on a sweeping proposal.

Well, that is what should have been done before the arms control talks in Geneva started yesterday, but it was not done. Unfortunately, the Congress, here and in the other body, will be proceeding to consider the strategic modernization package. The Congress needs to hear from the President about what he intends to propose in Geneva and how those arms control proposals relate to the Nation's plans for strategic modernization.

Now, we have heard about some proposed ideas and some of them sound pretty good. Some of us have been telling the Secretary of Defense, the National Security Adviser, and the President himself for weeks that this program for modernization needs their attention and needs the President's personal attention. The START framework he inherits from the last administration is built around the assumption of a large force of B-2 bombers. We are not going to be able to afford such a force, at least not as large as they have anticipated, and will therefore need to rely more on ballistic missiles than had been anticipated. In any event, we are going to want to retain some of those missiles on land. But that reinforces the need to come to grips with the problem of the vulnerability of these missiles to a theoretical first strike.

Arms control alone cannot solve this problem. We will need to deploy ICBM's as mobiles in order to do that. Therefore, the President's decision to redeploy the MX missile as a rail mobile, and then to deploy the Midgetman, is the center of all the concentric circles of an approach to modernization and arms control that seeks to solve the stability problem once and for all.

But the funding numbers announced at the time for Midgetman were so completely inadequate that they disheartened the President's supporters and left all other observers incredulous. Happily, we have just heard from the Secretary of Defense, who now acknowledges that the first projections were inadequate, and who now proposes somewhat more credible numbers.

But what should have been presented at once as the product of hard and clear strategic thinking has instead been parcelled out in such a way as to play into the hands of the President's critics—in both parties—who claim that the whole thing is merely as maladroit effort at compromise: a mere exercise in log rolling.

At least some members of the President's team know that the problem is much more severe than that, and have, in their minds, a clear, concise, and strategic concept. But the President himself has not yet endorsed it or presented it.

There was a way to remedy that impression, and—as SAM NUNN, LES ASPIN, and others including myself have repeatedly said—it was to make

clear the linkage between this kind of modernization, and the objectives the President presumably has in mind for strategic arms control.

In the weeks preceding this nondecision, the press was full of hints that exactly such a thing was about to occur. We read—and some of us were told privately—that the President wanted to put his stamp on these negotiations. At the top of the list, according to all these insiders—some of whom are very inside indeed—was a proposal to ban land-based MIRV'd mobile ICBM's and to permit single warhead mobile missiles on land.

It would have been an excellent idea and still could be. In the first place, such a proposal would mean retracting the Reagan administration's self-contradictory demand that all mobile ICBM's be banned. It was the Reagan administration itself which first embraced the idea of mobility: initially in connection with the Midgetman, and then as applied to MX. To this day, we do not have an accurate accounting of the reasoning which led to the proposal for such a ban in the first place.

How could such a proposal be serious, in view of stated U.S. policy for modernization? How could it be serious, in view of the ongoing Soviet deployment of two types of land-mobile intercontinental ballistic missiles? The idea of a ban is not only illogical but contrary to U.S. interests, and it cries out for rectification.

In the second place, a ban on land-based MIRV'd mobiles would have pointed us toward a highly stable and verifiable outcome. Have we not finally agreed that placing more and more warheads on fewer and fewer delivery systems was a perverse way to approach arms control? Have we not told ourselves that changing the ratio of warheads to targets made sense, and that making missiles highly mobile would eliminate the problem or bugbear of a successful nuclear first strike? Did it not become clear that monitoring restraints on a train-mobile MIRV'd system would be a lot riskier than monitoring restraints on a truck-mobile single warhead missile?

Well, the prospects in Congress will depend now upon anticipation of a good result in the ongoing deliberations in the administration. But we need a clear statement from the President.

In the House of Representatives, there have been efforts to form a strange coalition in opposition to single warhead mobile missiles, between some who have opposed virtually all such modernizing proposals and others who frequently feel that we never have enough for total security.

I do not want to mischaracterize either side's position, but I think my colleagues would agree that the coalition is certainly unusual.

The prospects for that coalition will depend upon the President's clarity in presenting the Nation's interest in these matters. Because, if they should happen to win, then the coalition partners would certainly soon split apart because they are in agreement on nothing else. One faction will then start gunning for the next strategic weapons system to do in, and rail mobile MX will be a very good target for that. The other faction will do its best to impose immoderation in all things strategic, mainly by pushing ahead on SDI much faster than this administration desires. Meanwhile, the centrist coalition the President needs, to help him anchor his programs in Congress while he negotiates with the Soviets, would have been discredited, defeated, and dismantled.

As for the negotiations, I predict that if the President suffers the defeat of his modernization program in Congress, he will have spoiled his opportunities from the outset. Deep reductions of strategic nuclear forces cannot be made without paying close attention to the stability of the remaining weapons on both sides. But there are only so many ways to provide for stability, and mobile single warhead missiles are the best of the lot by a long shot.

Consider the alternatives. We can have deep reductions involving highly MIRV'd missiles on land and at sea. The mathematical result of such reductions is to force an ever higher concentration of warheads on an ever smaller number of delivery systems. The results of that would be an inherently unstable arrangement which some would argue then demand redress through a full-scale SDI system.

Others do not seem ready to suggest that we do away with SDI. But no missile defense can be deployed without abrogating the ABM Treaty, and any such system, once deployed, would be extraordinarily destabilizing. In any event, the new technologies upon which so much hope is based are not nearly ready for application and deployment. Basing a strategic policy on the assumption that these futuristic SDI systems will soon be available would be like basing our entire energy policy on the assumption that coal fusion will provide all of the energy that we need.

Second, perhaps the administration has convinced itself that it has the luxury of delay, given the abbreviated timetable that the President has proposed for completing the conventional arms control talks. Hopefully, that is not what is going on. It was a brilliant piece of political manipulation to assert that those talks could be completed in such an incredibly short period of time. It let Chancellor Kohl and the Federal Republic off the hook and it gave General Secretary Gorbachev a shot that he has to run to catch, for a change. But anyone who seriously expects that timetable to be met is either cynical or self-deluded. Writing such a complex treaty will be the work of years, even if things go very well, or we will have something so unworkmanlike and rushed as to be dangerous. Consequently, if the idea is to slow down strategic talks until after we sign a conventional arms control treaty, the administration can easily spend the next 4 years with no strategic agreement whatsoever.

Now, according to the press, the White House intends to consult with the Congress. That is an excellent idea and one that has barely begun. But as these consultations are conducted, I hope the President will not merely argue the case for a colorless and essentially retrograde first move in START. I hope instead that he will lay out his own concept of where these talks should end up; of the role of strategic modernization in that outcome; the means to integrate modernization, arms control and verification; and the way that Congress can support such an overall strategy.

Only the President can provide that kind of leadership. A decision to wait and find out what the Congress will do on its own is an abdication of Presidential leadership. We need a clear statement of the kind which was forced in the conventional arms control area by the date of the Brussels summit meeting. There is no such summit meeting already set, already on the calendar between the President and the legislative branch of Government. If there were, perhaps it would serve to focus the efforts of his bureaucracy and give him the opportunity to clear away the self-contradictory proposals that have been emerging in the administration and give him the excuse for placing his own stamp on the outcome.

He will have to do that even without an onrushing summit meeting with the Congress. We need a clear statement, Mr. President, from President Bush about the strategic outcome he is seeking in Geneva and how our deliberations in the Congress of the United States can help the Nation reach that goal. It was a positive step for the Secretary of Defense to modify the proposals for funding Midgetman adequately, but that must be followed up by a statement from the President of the United States on strategic policy. Now is the time for the bold design that the President has promised us, and I hope that it will soon be forthcoming.

I thank the Chair.

Mr. McCAIN addressed the Chair.

The PRESIDENT pro tempore. The junior Senator from Arizona [Mr. McCAIN] is recognized for not to exceed 5 minutes.

(The remarks of Mr. MCCAIN pertaining to the introduction of S. 1203 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

The PRESIDENT pro tempore. The Senator from Arkansas [Mr. PRYOR] is recognized.

THE S&L BAILOUT

Mr. PRYOR. Mr. President, last month on the "Phil Donahue Show," Mr. Donahue and his audience were discussing the S&L crisis and how we should proceed with the so-called bailout legislation.

One of the people in the audience stood up and said that he did not believe that the taxpayer should pay for this bailout. On the other hand, he thought that the U.S. Government should pay for the bailout.

Of course, Mr. President, when the U.S. Government pays, that bill is ultimately sent to the American taxpayer. Today, the U.S. Government appears ready to spend $150 billion or more to clean up the mess in the savings and loan industry. The mess we will attempt to clean up was the result of incompetence, excesses, abuse and greed by S&L operators on a massive scale.

As Congress races to close the book on this tragic episode, I believe I may have found yet another problem involving the S&Ls that may need addressing. It also involves apparent incompetence, excesses and abuse. But this time, the culprits are not S&L operators. Instead, they are the very regulators whom we assigned to clean up the mess that the operators left behind.

Today I am releasing a report prepared at my request by the General Accounting Office about activities at the Federal Savings and Loan Insurance Corporation's receivership of FirstSouth Savings and Loan. FirstSouth is based in Little Rock, AR; it is a failed empire extending over a four-State area. The GAO will be referring this report to the Justice Department today for possible criminal investigation. At the same time, I am asking the GAO to expand its investigation to see if the concerns raised about FirstSouth should be raised industrywide.

First, the GAO questioned a contract granted by the receivership to a man who had just left the receivership. That contract was between the managing officer of the receivership and himself.

Only 1 day after that, he began filing those appeals. The GAO found that most of the work in preparing the appeals was done while the man was still a direct employee of the receivership. But once he became a private contractor, this man was able to skim a percentage of the appeals that he never would have collected at his old post. In one case alone, this individual was paid $69,000.

This was not just a boondoggle; it was an intolerable sweetheart deal. The GAO has now concluded that FSLIC regulations have been violated and it feels criminal violations may also have occurred.

Second, the GAO report, which I will release and place in the RECORD at the appropriate place, found that FirstSouth's receivership held an exclusive, employee-only auction on FirstSouth furnishings. Instead of liquidating this property in a way that benefited depositors who had already been ripped off, this auction allowed receivership employees only, in a private sale, to purchase these furnishings at fire-sale prices.

In one case, eight oriental rugs with a book value of about $15,000 were sold along with two other rugs for roughly $2,250. In another case, two video camera systems with book values of about $740 each were sold for a combined total of $180.

Mr. President, this was not the general public. These were the receivers who were supposed to act in a fiduciary capacity to protect the receivership and ultimately the taxpayers.

The GAO says that, in the case of the auctions, controls over receivership property were ineffective. I call it greed. And through greed, we see those who are put in a position of protecting the assets of the receivership instead choosing to look after themselves to the ultimate detriment of the American taxpayers.

The two incidents I have listed would gall me sufficiently on their own. But I was disturbed even further to find that the FSLIC's own watchdogs had stared these travesties in the face and remained silent.

The GAO also found that the FSLIC's inspector general had learned of both of these incidents through calls on their whistleblower hotline. The GAO also found that the inspector general's own work papers pointed to definite policy violations and possible criminal violations. But despite all of this, what do you think the inspector general's office concluded about all of this? Believe it or not, it found no wrongdoing had taken place. Clearly, this incident leaves me with serious questions about the quality of the inspector general's investigation.

One explanation we are given for this is that no violations occurred because employees at the FirstSouth receivership are not considered Federal employees, which means they are private contractors. That means they are not subject to conflict of interest statutes which otherwise would have prevented both transactions.

If that is the case, there is something wrong here. When the Federal Government places an S&L in receivership, taxpayers and depositors are placing their ultimate trust in the Government. And when a receivership grants a former property manager a bloated contract, or when it auctions furnishings for far less than fair market value to its own employees, it is the Government—and ultimately taxpayers—who will have to make up the difference.

Mr. President, even under a new FSLIC plan to improve oversight and control of receiverships, only 50 employees out of 1,300 will be considered "Federal employees". With about 100 receiverships operating right now, that's less than one Federal employee per receivership.

Mr. President, on one hand we are trying to assure depositors and taxpayers across the country that they are safe and will be treated fairly during the current crisis. But with another hand, we are dangling a juicy carrot on a stick in front of those who have the power to plunge us further into the abyss from which we seek escape. We must end this inconsistency, and I will introduce legislation to do that once we know the full scope of the problems which we must address.

Mr. President, I ask unanimous consent that the full statement of the General Accounting Office, dated June 16, a letter to me, and the following report be placed at the appropriate place in the RECORD.

There being no objection, the documents were ordered to be printed in the RECORD, as follows:

FAILED THRIFTS—ALLEGATIONS AT FIRSTSOUTH RECEIVERSHIP IN LITTLE ROCK, AR, JUNE 1989

GENERAL ACCOUNTING OFFICE,
Washington, DC, June 16, 1989.

Hon. DAVID PRYOR,
Chairman, Subcommittee on Federal Services, Post Office, and Civil Service, Committee on Governmental Affairs, U.S. Senate.

DEAR MR. CHAIRMAN: As agreed with the Subcommittee, we have made an assessment of four allegations of wrongdoing concerning the Federal Savings and Loan Insurance Corporation's (FSLIC) FirstSouth Receivership in Little Rock, Arkansas. These allegations are that: a former receivership employee improperly contracted with the receivership, an auction of receivership properties was restricted to employees only, the receivership gave an unsecured loan to a borrower who was in default on existing loans, and the receivership contracted with a borrower who had defaulted on existing loans.

Our objectives were to review the four allegations to determine whether improprieties occurred. However, as requested, we limited our work to some extent to meet the Subcommittee's time constraints. The appendix contains a detailed analysis of the allegations and more information concerning our objectives, scope, and methodology.

RESULTS IN BRIEF

The Managing Officer in charge of FirstSouth Receivership and a former employee did sign a contract that included work the former employee was responsible for while he was employed at the receivership. In ad-

dition, the receivership did hold a property auction that was limited to receivership employees. The contract and the auction were both improper, and federal criminal statutes may have been violated. After we discussed our findings with the Federal Home Loan Bank Board (FHLBB) and FSLIC officials, the Managing Officer was suspended pending FSLIC's further review.

The loan that was alleged to have been unsecured was secured by an escrow account; however, time did not permit us to fully evaluate all the circumstances surrounding the loan transaction. As to the fourth allegation, the receivership did do business with a debtor in default on loans, but we found no laws, regulations, or FHLBB policies that were violated.

FEDERAL MANAGEMENT OF FIRSTSOUTH RECEIVERSHIP

FirstSouth was a federally insured savings and loan association with its main office in Pine Bluff, Arkansas, and 35 branch offices located within the state. It was put into receivership on December 4, 1986, with assets of $1.68 billion. FHLBB documentation shows it closed FirstSouth because it was insolvent, had substantially dissipated its assets and earnings, and was in an unsafe and unsound condition to transact business.

FHLBB, an independent federal regulatory agency, is responsible for regulating and supervising the savings and loan industry and overseeing the operations of its various organizations, including the 12 Federal Home Loan Banks, the Federal Home Loan Mortgage Corporation, and FSLIC. FSLIC, a government corporation, insures savings accounts to a maximum of $100,000. The FHLBB also appoints FSLIC as receiver, a separate and distinct legal entity, for the purposes of liquidating a failed institution. Once the FHLBB decides to close a savings and loan and appoints FSLIC as receiver, FSLIC's duties as receiver include taking legal and physical possession, collecting obligations due, disposing of assets, and settling claims against the savings and loan association. As of April 30, 1989, there were 99 operating receiverships with total assets of $8.6 billion.

The Federal Asset Disposition Association (FADA), a wholly-owned subsidiary of FSLIC, was created by the FHLBB to assist FSLIC in managing and disposing of receivership assets. FSLIC often contracts with FADA for receivership asset management and did so for the FirstSouth Receivership. FSLIC also sometimes hires former employees of an association to remain on as receivership employees. For example, at FirstSouth, the Property Manager was a former association employee. The receivership's Managing Officer, however, was a former FHLBB employee.

CONSULTANT CONTRACT WITH A FORMER EMPLOYEE

In June 1988, FirstSouth's Managing Officer and the former Property Manager signed a contract under which the latter was to appeal 1988 property taxes on 26 properties that were in the receivership's asset portfolio. He was to be paid by the receivership on a percentage commission basis. As of early April 1989, receivership records showed one payment of about $69,000 had been made to the former Property Manager for contract work on 1 property, and billings of approximately $127,000 had been made on another 12 properties. The Managing Officer exceeded the monetary limitation on her authority in entering into this contract. Moreover, some of the work billed under the contract was done while the Property Manager was still an employee of the receivership.

Appeals on property taxes apparently had been completed on at least two properties covered under the contract and had begun on at least three others before the former Property Manager resigned. Yet, bills were submitted for work on these properties, and one payment of about $69,000 was made. Receivership employees who examined the contract arrangement said they believed that much of the work billed for had in fact been done by receivership employees, and they were not willing to approve any more payments.

We believe the circumstances concerning the contract and the payment for work done while the Property Manager was employed by the receivership constitute possible violations of criminal statutes.

EMPLOYEE-ONLY AUCTION

The receivership held a property auction in March 1988 that was open only to employees. This violated a July 1986 FSLIC policy because the property had not first been offered for public sale for a reasonable period of time. In addition, contrary to FSLIC requirements, we found no evidence that fair market value had been determined for the property. Although the market value of the property was unavailable, the cost data for some of the items sold suggest that they may have been sold for substantially less than their value. We could not verify whether the Managing Office acquired a number of expensive items or arranged for other employees to bid on her behalf or refrain from bidding on certain items, as alleged. In our opinion, the auction, in addition to violating FSLIC policy, may have violated criminal statutes.

Receivership employee standards of conduct issued May 11, 1989, now preclude employees from acquiring receivership assets.

ADDITIONAL LOAN AND CONTRACTING WITH DEBTORS IN DEFAULT

We found that a loan was made to a debtor in default, as alleged. However, the loan was secured by an escrow account, contrary to the allegation that it was not. According to FSLIC officials, the additional loan was made in order to minimize the receivership's losses on the borrower's other outstanding loans in default.

Also, as alleged, the receivership was obtaining insurance from a debtor in default, but we found no law, regulation, or policy that precluded this. FSLIC officials agree that a policy covering such situations would be desirable.

OFFICE OF INSPECTOR GENERAL INVESTIGATIONS

The Bank Board's Office of Inspector General (OIG) had also received allegations concerning the contract with a former employee, the auction, and the loan to a borrower in default. It did not investigate the employee-only auction because, on the basis of discussions with the Bank Board's Office of General Counsel (OGC) and other officials, it did not believe any laws, regulations, or policies had been violated. FSLIC adopted a new policy on asset disposal after the OIG brought the employee-only auction to its attention. Also, the OIG plans to audit controls over receiverships' property disposition in the future.

The OIG investigated with the former Property Manager but closed the investigation because, on the basis of discussions with the Bank Board's OGC and documents it reviewed, it did not believe federal conflict of interest statutes applied since receivership employees were not federal employees. Because FSLIC does not appoint receivership employees as federal employees, they are not subject to criminal conflict of interest statutes. In our opinion, however, they are subject to other criminal statutes. The OIG is currently investigating the allegation concerning the unsecured loan to the borrower in default.

RECEIVERSHIP EMPLOYEES WHO PERFORM FEDERAL FUNCTIONS SHOULD BE APPOINTED AS FEDERAL EMPLOYEES

The Bank Board has in the past chosen not to appoint any receivership employees as federal employees under federal law and civil service regulations. We believe that all receivership employees who perform federal functions under the direct supervision of federal officials should be appointed as federal employees. In our view, FSLIC's failure to appoint them as federal employees constitutes a circumvention of federal civil service laws and regulations.

As a general rule, a federal agency may not obtain personal services on a contractual basis but must have such services performed by personnel employed in accordance with the civil service classification laws. Application of this rule hinges on the existence of an employee-employer relationship. It is clear to us that such a relationship exists in the case of some receivership employees.

Although the agreements between the employees and FSLIC as receiver contain a statement that they are not federal employees, the degree of control and supervision by FSLIC is much broader than usually exercised in an agency-independent contractor arrangement. In particular, the Managing Officer, who heads the receivership's operations, appears to be subject to close supervision by FSLIC federal employees and must obtain prior approval from FHLBB or FSLIC before performing various duties. We also noted that the Managing Officer's performance appraisal was signed by the FSLIC Regional Director.

Other receivership employees also seem to be subject to substantial FSLIC control. For example, they can be reassigned and transferred by FSLIC to work at other receiverships. Their initial salaries are determined by FSLIC on the basis of a general proposed range of salaries for the particular positions they hold. We also noted that certain receivership employee performance awards are subject to FSLIC approval. These are just some of the indications that some receivership employees are subject to government supervision and appear to be acting as federal employees. Given this, such receivership employees should be federal employees and, therefore, subject to the laws and regulations applicable to federal employees.

FSLIC officials told us that they have been restructuring receivership operations to move a number of responsibilities to FSLIC regional offices and place responsibility for key operations under regional federal officials' control. According to FSLIC, about 50 of the approximately 1,300 employees involved in receivership activities will be appointed as federal employees under FSLIC's current restructuring plan.

CONCLUSIONS

In our opinion, the contract signed by the Managing Officer and the former Property Manager was not valid because the Managing Officer did not have the authority to enter into such a contract.

We do not believe the former Property Manager should have been paid for any

work that was performed while he was employed by the receivership. Additional billings, in our opinion, should not be paid until it can be shown that the work was not done while he was employed by the receivership and there is clear evidence of a benefit to the receivership.

The lack of fair market price determinations to support the seemingly low prices for some items sold at the auction indicates to us that maximum return on receivership properties sold may not have been obtained.

The award of the contract to the former Property Manager and the holding of the employee-only auction were indicative of overall weaknesses in controls, in effect at the time, for approving contracts awarded by receiverships and disposing of assets. Given the number of receiverships now under FHLBB's control, it is important that the Board ensure that the necessary controls are in place and functioning to prevent similar occurrences in the future. Time constraints did not permit us to evaluate recent changes in policy and operations that FSLIC officials believe strengthen controls over contracting and property.

The evidence we gathered concerning the contract and the payment for work done while the Property Manager was employed with the receivership, and the auction, suggests that certain criminal statutes may have been violated.

Since FSLIC does not appoint most receivership employees as federal employees, criminal conflict of interest statutes do not apply to them. We think some of the employees should be federal employees and therefore subject to these statutes.

Lastly, a FSLIC policy on receiverships doing business with debtors in default would be useful to determine under what circumstances doing business with a debtor in default would be appropriate.

RECOMMENDATIONS TO THE CHAIRMAN, FEDERAL HOME LOAN BANK BOARD

We recommend that the Chairman instruct the Executive Director, FSLIC, to

Appoint as federal employees those receivership employees who carry out federal functions under direct federal supervision;

Make no further payments to the former FirstSouth Receivership Property Manager for any work billed absent additional information that the work was not substantially completed while he was employed by the receivership and absent clear evidence of a benefit to the receivership;

Take action to recover funds paid to the former FirstSouth Receivership Property Manager under the invalid contract for work he did or for which he was responsible as a receivership employee;

Take action to recover the property disposed of inappropriately at the employee auction; and

Adopt a policy on the circumstances and conditions under which receiverships can and cannot do business with debtors in default.

AGENCY VIEWS

As requested by the Subcommittee, we did not obtain written comments from FHLBB. We did, however, discuss the factual content of our report with FHLBB, FSLIC, and OIG officials who generally agreed with the facts presented. They also generally agreed with the recommendations we are making to FHLBB and said they have decided not to make further payments to the former Property Manager. They also said they would look into recovering the payment already made to him and recovering the property inappropriately disposed of at the auction and would consider appointing more employees involved in receivership activities as federal employees. They provided us with additional views and information, which we incorporated in the report as appropriate.

FSLIC told us that since mid-1987, FSLIC has recognized problems with receivership operations and has taken steps to gain management control of its receivership operations and to increase their efficiency, accountability, and responsiveness. These steps include appointment of a Deputy Executive Director for Asset Management and Liquidation, a reorganization of regional operations, and creation of 42 senior management positions in the regional offices to ensure more federal control over the receiverships. FHLBB and FSLIC officials added that receivership employee standards of conduct, issued May 11, 1989, make receivership employees subject to the same standards of conduct established for all federal employees. While we think this is a positive step, it is not a substitute for appointing as federal employees those employees who perform federal functions.

As arranged with the Subcommittee, we plan no further distribution of this report until 5 days from the date of its issuance unless you publicly announce its contents earlier. At that time, we will send it to the Bank Board and other interested parties and make copies available to others upon request.

If you have any questions, please contact me on 275-5074.

Sincerely yours,

BERNARD L. UNGAR,
Director, Federal Human Resource Management Issues.

APPENDIX

DISCUSSION OF ALLEGATIONS AND ISSUES

ALLEGATION REGARDING A CONSULTANT CONTRACT WITH A FORMER EMPLOYEE

One of the allegations referred to us by the Subcommittee was that the Managing Officer of the FirstSouth receivership and the former Property Manager signed at two different times improper consulting contracts. It was further alleged that acting as a consultant, the former Property Manager, submitted, or had a receivership employee submit on his behalf, erroneous billings to the receivership for his services. On June 24, 1988, the FHLBB OIG received a hotline call regarding this allegation.

FirstSouth's Managing Officer and its former Property Manager signed a contract effective June 8, 1988, for the former Property Manager to attempt to obtain 1988 property tax reductions on real estate in which the receivership had an interest. Under the terms of the contract the former Property Manager's fee was to be 30 percent of any property tax reduction obtained. In our opinion, for reasons summarized below, the contract was improper, invalid, and a violation of FSLIC policy. In addition, the fee structure set forth in the contract does not appear to be reasonable, and billings and payment under the contract were either improper or questionable.

Propriety of the contract

In our opinion the June 8th contract signed by the Managing Officer and the former Property Manager was improper. The Managing Officer did not have the authority to enter into the contract without FSLIC approval. FSLIC approval was not obtained, and an earlier proposed contract signed by the Managing Officer and former Property Manager, including tax appeal and other property management work, was disapproved by FSLIC because the Property Manager would be acting more as an employee than a contractor.

The FirstSouth Property Manager, who had also been an employee of the association, was employed by the receivership from January 20, 1987, until he resigned on June 6, 1988. In this capacity, he was in charge of the receivership's property department with several Assistant Property Managers under his supervision. His duties included property tax statement analysis to determine accurate tax assessments and to appeal property taxes where they appeared to be too high. Also, he was responsible for soliciting and reviewing bids from, and recommending the selection of, property tax contractors. He obtained bids for the 1988 tax year in March 1988 and narrowed his recommendation to one contractor. However, after reviewing the bids from prospective contractors, he told us that it occurred to him to resign and bid for the work himself. This decision, he said, was also influenced by the changing nature of his receivership duties and the uncertain future of his job with the receivership because of the anticipated relocation of receivership operations.

In April 1988, the receivership's Managing Officer and the Property Manager, who was still employed with the receivership, signed a contract for the Property Manager to be a consultant, in his individual capacity, and to do property management and tax appeal work for the receivership. The Managing Officer said she had requested the former Property Manager to provide consulting services to the receivership until a suitable replacement could be found. The contract was submitted to FSLIC headquarters for approval by the Managing Officer, but it was not approved on the basis that the Property Manager would "be working more as an employee than as a consultant, eg, far too many hours and performing actual receivership duties normally performed by an employee."

On May 27, 1988, the Property Manager tendered his resignation effective June 6, 1988. After resigning he formed a corporation in the state of Arkansas. Then, the Managing Officer signed another contract with him on June 8, 1988, which he signed in a corporate rather than individual capacity, to appeal 1988 property taxes for 26 properties in the receivership's asset portfolio.

The June 8th contract to do tax appeal work which was one of the same types of work covered under the April proposal, was never approved beyond the level of the receivership. The contract was not submitted for approval initially because the receivership's Managing Officer said she believed that since this was a contract to obtain savings, it was not a contract involving expenditures. As such, she believed it was outside of FHLBB "Chairman's Order 613," which limited the Managing Officer's contracting authority to $20,000.

Under authority of the Chairman's order, in January 1986, the Director of FSLIC's Operations and Liquidation Division (OLD), without exception, limited a Managing Officer's contracting authority for general services, such as consulting, personal and professional-type services, to $20,000. Accordingly, we believe the order applies to all contracts, regardless of their nature. Therefore, we believe that the Managing Officer acted outside of her authority when she failed to forward the June 8th contract to the appro-

priate authority for approval. Because the Managing Officer did not have the authority to enter into such a contract, and because the contract was not approved at appropriate levels, it is our opinion that it was not a valid contract.

After concerns raised by the receivership Controller were addressed to FSLIC's regional office in June of 1988 and, ultimately, to FSLIC headquarters, the Director, OLD, ordered the receivership's Managing Officer on October 17, 1988, to terminate the contract in order to avoid even the appearance of compromised standards and to determine the fees owed.

Contract fee structure did not appear reasonable

The fee structure called for under the contract between the receivership and the former Property Manager was unreasonable because there was no ceiling on the amount the former Property Manager could earn, and substantially lower bids for the work had been provided to the receivership.

The purpose of the contract was to reduce the assessed values of, and taxes on, the properties in the receivership's portfolio. Under the terms of the June 8th contract, the contingency fee for these services was 30 percent of whatever tax savings the former Property Manager could obtain. The contract did not provide for a maximum fee per property as did five other bids received by FADA and provided to the receivership's Managing Officer and former Property Manager in March of 1988. For contingency fee contracts, the bids FADA obtained and provided to the receivership contained fees ranging from 25 percent to 50 percent of tax savings, with maximum fee ceilings ranging from $2,500 to $20,000 per property. FADA recommended that the receivership select a contractor whose bid was 25 percent of tax savings with a fee ceiling of $2,500 per property. Because there was no ceiling on fees per property, the former Property Manager's fee was substantially higher than these bids, which were rejected. For example, on one property, the former Property Manager was to receive a fee of almost $31,000. Under the contract proposal FADA recommended, however, the fee would not have exceeded $2,500.

According to the former Property Manager, the fee structure he proposed gave him the incentive to work for the highest possible reductions. We believe, however, the fee structure under the former Property Manager's contract was too high and was not necessary to acquire services desired. We also found that the Managing Officer had signed at least one other contract for property tax appeals based on the same fee structure, 30 percent of all tax reductions achieved with no maximum fee per property.

Work for the receivership was done and billed for apparently without FSLIC approval of the contract.

Improper and questionable billings and payment

As of early April 1989, the receivership records showed billings under the contract totaling approximately $127,000 on 12 properties. One payment of about $69,000 to the contractor had been made for work on another single property. In our opinion, there was no evidence what the actual tax savings were to the receivership, and some of the work had been done while the Property Manager was an employee.

The detailed explanation is as follows:

For two properties included in the contract, tax appeal work was apparently completed before the Property Manager resigned and before the contract was signed. Bills for these two properties were withdrawn by the Assistant Property Manager when the Controller found that the appeals for these two properties included in the contract signed on June 8, 1988, were scheduled on June 1, 1988, 5 days before the former Property Manager's June 6, 1988, resignation.

On at least three properties, it appears that the Property Manager, while employed with the receivership, arranged for taxes to be appealed on June 9, 1988, the day after his contract was signed and 3 days after his resignation became effective. Billings were submitted for appeal work to reduce taxes for these three properties, one of which resulted in the $69,000 payment to the former Property Manager. The Deputy Chief Appraiser in the county where these properties were located told us that the former Property Manager contracted him to set up an appointment to appeal the taxes for this property and two others in mid-May, after the district sent out appraisal notices dated May 11th.

The former Property Manager said he selected his resignation date to accommodate appeal dates. The former Property Manager, while an employee, was setting up appointments in mid-May for these three properties and apparently appealed the assessments near the date of his resignation. Thus, we conclude that he was influencing when appeals would officially take place and doing at least some work, while he was employed, on properties included in his contract for which he intended to claim fees as a contractor. After approving payment of about $69,000 to the former Property Manager, which he received in November 1988 for an appeal that was heard on June 9, 1988, the Managing Officer rejected another billing because an assessment reduction was dated June 9th, and the work was very likely done before his June 6th resignation. We believe the propriety of the $69,000 fee is also questionable, and grounds may exist for FSLIC to recover the fee paid to the former Property Manager.

As of early April 1989, the receivership had billings totaling approximately $127,000 on 12 properties. The receivership's Assistant Managing Officer and the Controller informed the Managing Officer that it was their belief that much of the work was done by receivership employees, and they were not willing to approve any of the disbursements. The Assistant Managing Officer added that appeal dates do not indicate when the preparatory work was done and that the appeal work was done by receivership employees under the former Property Manager's supervision. The Assistant Managing Officer stated that to pay a former department head under these circumstances was highly questionable and contrary to the way the receivership normally did business, and he recommended that the former Property Manager be paid only for expenses that could be properly documented. FSLIC officials told us they do not intend to pay the former Property Manager for these billings.

Billings submitted under the contract prior to February 1989 were not properly documented and in these cases where documentation was available, they were based on reductions in assessed property values and estimated, rather than actual, reductions in property taxes. For example, the basis for billing and payment for the property for which the contractor was paid $69,000 was savings based on estimated, not actual, tax rates.

FHLBB and FSLIC officials told us in June 1989 that the timing of their action on the termination of the contract with the former Property Manager was due to reorganization within FSLIC, personnel turnover, and the unavailability of contract information to appropriate officials. After our discussion with the officials, FSLIC suspended the Managing Officer at the First-South receivership for violations of FSLIC policies, instructions, and standards of conduct on the contract with the former Property Manager and the employee auction.

ALLEGATION REGARDING RECEIVERSHIP EMPLOYEES PURCHASING RECEIVERSHIP PROPERTY AT "BARGAIN" PRICES THROUGH "EMPLOYEE-ONLY" AUCTION

Another allegation the Subcommittee referred to us was that the receivership's Managing Officer organized and held an employee-only auction to dispose of expensive furnishings and obtained a high-value item from the failed FirstSouth savings and loan at a fraction of its original cost, as well as other items. It was also alleged that the Managing Officer requested other employees to assist her in bidding on selected items and made it clear that other employees were to refrain from bidding on the items she wanted. The OIG received a hotline call on June 24, 1988, regarding this allegation.

We were unable to substantiate allegations regarding the Managing Officer's acquisition of expensive items or her request for other employees to assist her in acquiring them. However, we found that an auction of certain receivership property, held on March 21, 1988, was limited to receivership employees and netted $7,453.50. Contrary to FSLIC policy and instructions contained in a July 7, 1986, memorandum to FSLIC Regional Directors, we found no evidence that fair market price had been established for the property, and the property had not been publicly offered for sale for a reasonable period of time prior to the auction.

Federal regulations require that an inventory of receivership property be provided by the receivership, as soon as practicable after FSLIC takeover of a failed institution, to both the Secretary to the Bank Board and FSLIC. The inventory was not available from these sources, and we were initially told that it was not available at the receivership. We asked for the inventory because we thought it might help us identify items auctioned. The inventory, showing fixed assets costing about $28 million with a book value (cost less depreciation) of approximately $22 million, was subsequently obtained from the receivership and provided to us. On the basis of our review of the inventory and the list of items auctioned, it appears that some items may have been sold for significantly less than they were worth.

The announcement for the March 21, 1988, auction listed such items as lamps, pictures, rugs, and miscellaneous items to be sold to the highest bidder. A handwritten list of items sold at the auction, provided to us by the receivership, does not show the original price paid by FirstSouth, a current appraised value, book value, or any other information from which we could reasonably estimate market values of the items sold.

We compared the takeover inventory with the list of auctioned items, but we were unable to match most of the items because the list of auctioned items did not include unique serial numbers or other specifically identifying information. No effort was made

to describe items on the auction list as they appeared on the takeover list.

We did find, however, two cases where items on the inventory appeared to match those on the auction list. In one case, the takeover inventory lists a category of eight rugs, most of which appeared to be Oriental, purchased by the institution during 1984 and 1985 for $19,479.95 with a book value of $14,796.32. From the auction list it appears that all eight of the rugs, plus two we could not identify, were auctioned for a total of $2,245. In another case, two camera systems were auctioned for $105 and $75. The takeover inventory shows eight such items costing a total of $10,500, or $1,312.50 each, based on our calculations, with a book value of about $740 each.

In response to our question regarding the allegation that the Managing Officer preselected items for herself and had other employees bid on them, she said there was no substance to the allegation. She said she had only purchased a couple of pictures and a small table for a total cost of about $100. Our review of the auction's cash receipts register showed her purchases totaled $120. However, because we could not continue our work long enough to determine whether the Managing Officer enlisted the services of other employees, we could neither refute nor support her claim.

An examination of the two examples and the two lists, plus the fact that receivership staff responsible for liquidating the inventory apparently did not provide it to appropriate FHLBB and FSLIC officials, contrary to federal regulations, indicates that previous controls over relationship property were not effective. Further, in the absence of appraisals or other outside estimates supporting the seemingly low prices for the two examples shown above, the Managing Officer failed to follow FHLBB policy and may have failed her fiduciary duty to obtain the maximum return to the receivership. FSLIC officials told us that the restructuring of their regional operations and a new policy and new procedures they have adopted strengthen controls considerably. FSLIC policy now prohibits employees from purchasing any receivership assets. Also, FSLIC officials said they were exploring the possibility of recovering the property inappropriately auctioned.

UNSECURED LOAN TO A DEBTOR IN DEFAULT

While we were working at the FirstSouth Receivership, an allegation was made to us that FSLIC breached its fiduciary responsibility by directing the receivership to grant an unsecured loan for $200,000 to pay attorneys' fees for services related to the sale of a major property owned by a debtor in default. A law firm in Little Rock was to be paid $142,000, and a law firm in Fairfax, Va., was to be paid $58,000. The same debtor, through the same attorneys, was seeking approval from FSLIC to reduce his total debt to the receivership from $37 million to $29 million.

Problems with this debtor existed when FirstSouth was an operating savings and loan. Documents obtained from the Federal Home Loan Bank of Dallas listed this debtor as one of the principal stockholders of the savings and loan who obtained loans in excess of the amounts permitted under 12 C.F.R. 563.9-3, "Excessive Loans to One Borrower," and the bank examiners considered the loans unsafe and unsound.

We found that FSLIC officially approved the $200,000 loan at the national level after the legal services had been rendered and after the property, in which the receiver had an interest, had been sold. According to the minutes of the meeting of the FSLIC Committee that approved the loan, repayment of the $200,000 was to become part of the overall negotiations that involved the $8 million debt reduction on loans the borrower in default owed the receiver. The minutes did not state a justification for the loan or the reason for including it in the overall negotiations with the debtor, nor did the minutes indicate whether or not the loan was secured. FSLIC officials told us that minutes do not normally include justifications for loans.

In June 1989, a FSLIC official said the loan was approved unofficially before settlement on the property and that the sale of the property would not have gone through unless the loan were made because net proceeds from the sale were insufficient to pay the debtor's attorneys. According to FSLIC officials, the loan was made to minimize the receivership's losses against the borrower on other loans, many of which were in default. Further, documents provided to us by FSLIC showed that the loan was secured by a $1 million escrow account established to pay off any creditors of the property.

Because of time constraints, we were unable to fully evaluate the propriety of the loan and its criticality to settlement on the property and the ultimate benefit to FSLIC. Negotiations with the debtor on his total debt to the receiver were still in process as of June 1989. FHLBB's OIG had received an anonymous call regarding this situation and has an investigation in process.

ALLEGATION CONCERNING THE PURCHASE OF INSURANCE FROM A CONTRACTOR IN DEFAULT TO THE RECEIVERSHIP

The Subcommittee requested that we look into an allegation from an anonymous source that a debtor, while in default, contracted to sell insurance to the receivership. According to the allegation, the debtor, a personal friend of two receivership employees, received premium payments for 2 years while negotiating to write off his debt.

Termination of our work at FirstSouth precluded us from fully evaluating this allegation. However, vendor files show that between December 30, 1986, and March 24, 1989, the receivership disbursed $535,845.50 for premium payments to the contractor who insured the receivership's property and the property of FirstSouth when it was an operating savings and loan. Documentation showed the contractor's debts to the receivership totalled $2,570,903 on February 1, 1989, with only one loan with a balance of $61,541 not in default. The remaining loans had apparently been in default since FSLIC's takeover of FirstSouth. A plan prepared by the receivership and approved by FSLIC's Eastern Regional Office in February 1989 outlined a settlement between $960,000 and the contractor's offer of $810,000. Not included in the settlement was $98,334 to be pursued against a second guarantor on that specific loan.

According to the receivership's Managing Officer, the recommended settlement, while probably not a good one, was the best that could be obtained. The Managing Officer did not believe that doing business with a debtor was unusual, since selection of the contractor was based on competitive bids. The Managing Officer also said that one of two employees whose duty was to evaluate bids and recommend an insurance contractor was a personal friend of the debtor.

We were unable to review the selection process. Documentation provided to us by FSLIC in June 1989 showed that bids were obtained, but it was inconclusive as to whether the contract was approved at appropriate levels. Neither were we able to obtain details of the final settlement with the contractor or find any laws, regulations, or policies prohibiting a receivership from contracting with a debtor in default. We discussed this issue with FSLIC officials who agreed that a policy covering such situations would be desirable.

THE FHLBB/OIG INVESTIGATIONS OF ALLEGATIONS OF IMPROPRIETIES AT RECEIVERSHIPS

The FHLBB's OIG is responsible for doing investigations at FSLIC receiverships. In fiscal year 1988, the Inspector General started 4 investigations into receiverships, and in fiscal year 1989 (as of May 22, 1989) started an additional 18 investigations. The allegations included mismanagement of receivership property, theft of government funds and property, conflict of interest, preferential treatment, unauthorized use of position, fraudulent conduct, and disclosure of confidential information.

The outcome of many of these investigations is still not known. One of the four cases in fiscal year 1988 was referred to an Assistant U.S. Attorney for possible further action, and the remaining three were referred to other units within the Board. As of May 22, 1989, 13 of the 18 cases started in fiscal year 1989 were still under investigation or review, 4 were closed with no violations found, and 1 had been referred to the Federal Bureau of Investigation and the U.S. Secret Service.

Investigation of allegations of improprieties at FirstSouth

On June 24, 1988, the OIG received hotline allegations from an unidentified source regarding the employee-only auction at FirstSouth, the attempts by the FirstSouth Managing Officer and former Property Manager to enter into improper consulting contracts, and the submission by the contractor of erroneous billings. The OIG declined to investigate the auction because, on the basis of discussions with Bank Board OGC and other officials, the OIG determined that no laws, regulations, or policies would have been violated since receivership employees are not federal employees. The OIG did investigate the alleged improper contract and erroneous billings. But, according to its January 12, 1989, report, the OIG was unable to identify any laws that "would have been violated" as described in the anonymous allegations because, as with the auction, receivership employees are not federal employees. The OIG consulted with the FHLBB's OGC during the course of its investigation prior to issuing its report. As previously discussed, the OIG has an ongoing investigation of circumstances surrounding a loan to a debtor in default to the receivership.

On January 12, 1989, the OIG issued a report regarding allegations involving FirstSouth Receivership staff, which stated that the first contract was proposed to the former Property Manager by the Managing Office but disapproved by FSLIC. The OIG report further stated that the Managing Officer and the former Property Manager did enter into a second contract after the first one was disapproved whereby the former Property Manager was to receive 30 percent of all tax reductions as his fee.

The report also stated that the OIG could not determine whether the former Property Manager had submitted a bill to the receivership for work on two properties that was accomplished in March 1988 while he was

still employed by the receivership. Inconsistent statements from the Assistant Property Manager, the Managing Officer, and the former Property Manager as to whether the former Property Manager or the Assistant Property Manager submitted the billings prevented this determination, according to the report.

The OIG declined to investigate the auction because, according to the OIG documents, the Director of OLD told OIG staff that policies and procedures do not prohibit this practice, and since receivership employees were not federal employees, no laws or regulations would have been violated by such actions. The OIG further stated it would be difficult to determine the fair market value of the items and the loss to the government. According to OIG documentation of a meeting between OIG and FHLBB OGC officials, OGC officials said it is unclear whether there is anything improper with limiting access to an auction of the receivership's assets to employees. According to OIG documentation of the meeting, OGC officials further said it might be considered a breach of the Managing Officer's fiduciary duty if the assets were sold at significantly less than their fair market value, but the officials said this is a judgment call.

When we met with an OGC official who attended the meeting between OGC and OIG officials, he confirmed what was said at the meeting. During a meeting in June with FHLBB officials to discuss the facts presented in this report, the OGC official said that the auction was clearly improper, and he had been under the impression that the auction was to be a public auction. As discussed previously, FSLIC policy contained in a memorandum in FSLIC Regional Directors prohibited the sale of property to receivership employees unless a fair market price had been established and the property had been first offered for sale publicly for a reasonable period of time.

After consultation with the FHLBB OGC and review of available documentation, the OIG was unable to identify any laws that would have been violated as a result of the circumstances described in the allegations and requested that OGC review its report for violations of the agency's standards of conduct. OGC stated that because receivership employees are not FSLIC employees, they are not subject to the conduct standards mandated for FSLIC staff. The OIG, therefore, closed its investigation into these allegations.

The OIG's report on, and/or workpapers for, its FirstSouth investigation contained sufficient information to show us that the contract was improper, the billings and payment under the contract were improper or questionable, and an employee-only auction took place. On the basis of our review of the OIG's report and its workpapers, we believe the contract billings and the auction may have violated criminal statutes. We could not determine whether or not sufficient documentation was provided to, or requested by, the FHLBB's OGC for it to determine that violations of criminal statutes may have occurred.

In June 1989, an OIG official explained to us that, generally, investigations are not initiated unless laws or regulations appear to have been violated, and based on OIG discussions with OGC officials, no laws or regulations were violated. The OIG official explained that at the time of the OIG review, it appeared that the indications of problems were more appropriate for audit rather than investigation, and plans were underway to audit controls over receivership property. Investigation reports, the official explained, do not contain recommendations for corrective actions. Time constraints did not permit us to fully evaluate the OIG's involvement in the FirstSouth allegations.

OBJECTIVES, SCOPE, AND METHODOLOGY

As agreed with the Subcommittee, we assessed 3 of 16 allegations of wrongdoing the Subcommittee referred to us concerning FSLIC's FirstSouth Receivership in Little Rock, Arkansas, and 1 allegation we received while working at the receivership.

Our objectives were to review the four allegations discussed above to determine whether improprieties occurred. We could not fully explore all aspects of the allegations because of the Subcommittee's time constraints. We did our work at the FHLBB and FSLIC headquarters in Washington, DC., and at the FirstSouth Receivership in Little Rock, Arkansas. To determine whether the OIG had addressed the allegations we received, or similar allegations, we reviewed the OIG's files on investigations done at receiverships, including FirstSouth. Because the status of receivership employees as nonfederal employees had an impact on the results of the OIG's investigation, we also addressed the issue of whether receivership employees should be appointed as federal employees.

In reviewing each allegation, we interviewed current and/or former FirstSouth Receivership employees, including the Managing Officer and former Property Manager, and reviewed records at the receivership. We interviewed FHLBB and FSLIC officials to obtain information on the operations of receiverships in general, and specifically FirstSouth. We also reviewed applicable laws, regulations, and internal orders and procedures. Our work was done between March and June 1989, in accordance with generally accepted government auditing standards.

Mr. PRYOR. Mr. President, in conclusion I thank the General Accounting Office for their very prompt and efficient reply to my request to look into these two particular matters that I am bringing to the attention of the Senate at this time.

VISIT OF PRIME MINISTER BRIAN MULRONEY OF CANADA

Mr. KENNEDY. Mr. President, last month I had the honor of welcoming Prime Minister Brian Mulroney of Canada to President Kennedy's Library in Boston. My family and I were especially touched by the Prime Minister's warm words about the influence of President Kennedy on his decision to enter public service.

I believe that Prime Minister Mulroney's remarks will be of interest to all of us in Congress, and I ask unanimous consent that they may be printed in the RECORD.

There being no objection, the remarks were ordered to be printed in the RECORD, as follows:

NOTES FOR AN ADDRESS BY THE RIGHT HONOURABLE BRIAN MULRONEY, PRIME MINISTER OF CANADA, JOHN F. KENNEDY PRESIDENTIAL LIBRARY, BOSTON, MA, MAY 3, 1989

I can remember clearly the first time I heard Senator John F. Kennedy.

And I can remember, transfixed, precisely the moment of his death.

My experience was not unique.

It could be repeated today by millions of young men and women around the world.

What was it then about this young leader that so captivated us all; what was the special quality about President Kennedy whose memory, even today, evokes images of joy and gentle humour, of principled leadership and burdens being shared—and whose call for excellence in government struck responsive chords in the hearts of an entire generation, from social democrats in India to Progessive Conservatives in Canada.

I thought initially my delight in his success was vicarious in nature.

After all, who could blame a teen-aged Irish Catholic from Canada, whose parents were named Mulroneys and O'Shea, for a feeling of enormous pleasure at the remarkable achievements of a graceful young Senator, whose parents were Kennedys and Fitzgeralds.

I used to muse that perhaps they had all been friends one day long ago or that they had known each other in the old country, before dreams actually came true on a continent far away.

There must have been a connection, if only a sentimental one, to explain the strong, almost tribal admiration I felt for a leader I had never met.

His election to the Presidency of this great Republic was, for me, remarkable in its impact.

It was, I believed, the culmination of a political initiative highlighted by great daring and uncommon skill.

The prophet Joel has said that "young men have visions and old men dream dreams".

By capturing the Presidency, John Kennedy did more than define a vision for his country.

He produced a rare moment in the life of America, quite unlike anything the Nation had seen before.

For an inexperienced Canadian observer of declared bias, it appeared to be a time of high excitement, and indelible memories.

There were setbacks and moments of great sadness but somehow they never gained the advantage over the image of a leader who shouldered the blame himself and who urged his nation on to more noble accomplishments.

The elegant words and the compelling images roll past, in my mind's eye, even today.

Especially today.

President Kennedy's obvious concern for the disadvantaged in Appalachia; a visceral commitment to civil rights and the dignity of man; a modern view of the world, combined with moderation in the deployment of American might, an unshakeable resolve at times of grave international crisis; a White House that seemed to glow with the sparkle of children's laughter—these are, for me, cameos of a man and his Presidency, which acquire added luster with the passage of time.

There have been outstanding world leaders in every generation.

In my judgment, what set President Kennedy apart was the vigor of his leadership combined with the moving eloquence he used to fashion it, it was the instinctive empathy one felt for a young leader and his beautiful family, who represented much of the hope one has for his own; and it was the poignant summons to high achievement when it all began and the overpowering sorrow with which it came to an end.

James MacGregor Burns has written of the "transforming" leader who "raises the level of human conduct, . . . who responds to fundamental . . . hopes and expectations and who may transcend . . . the political system rather than simply operate within it."

President Kennedy was able to do precisely that.

He was able to alter history and the great sweep of human events.

He was able to provide leadership that has transcended national boundaries and international ideologies.

He was able to touch the elderly and inspire the young.

Few leaders in history, in a brief lifeitme, have achieved so much.

La vie du Président Kennedy, qui a servi de modèle à toute une génération, continue encore aujourd'hui d'inspirer la jeunesse engagée, ici et à travers le monde.

C'est la preuvel la plus éclatante des dons exceptionnels de ce jeune homme que la mort a fauché en pleine gloire.

Ted Sorensen has written that "virtually every politician is willing at the slightest invitation to describe the qualities required for a great political leader; and inevitably they bear a remarkably striking resemblance to the very qualities he possesses himself."

I think however that most of us are ready to draw the line somewhere.

Advancing age and the scars of election battles eventually take their toll on all of us and unduce either realism or modesty and sometimes a combination of both.

In fact, neither virtue is needed to remind any practising politician worth his salt of the uniqueness of the legacy of John F. Kennedy.

Speaking at a White House dinner last year, I pointed out that:

"Every leader of a democracy knows the turbulence and the challenge that free societies exemplify."

"Every leader knows the joys of high accomplishment and the sadness of hopes unfulfilled".

"But history is usually generous to those who showed leadership, who brought prosperity, who strengthened freedom and who kept the global peace."

President Kennedy, has for all times, joined the ranks of world leaders who have done these things, acquiring in the process the elusive mantle of greatness.

I am here today, as Prime Minister of Canada, a nation whose relationship with the United States of America was described by Winston Churchill a half century ago as "an example to every country, and a pattern for the future of the world."

But I am here today as well as an individual whose life was touched and whose career was influenced by President Kennedy—a happy, human man who exemplified not perfection, but purpose—and who brought to the notion of public service a sense of excitement, and a degree of nobility, rarely equalled in the records of time.

All who new President Kennedy—and those who did not—celebrate today his genuine achievements, as we salute his special talents that made it all possible.

Long after critics grow mute, the accomplishments of this gifted young man from Massachusetts will continue to grow, as history grants them both perspective and permanence.

I am honoured to be in your company today, to add, on behalf of all Canadians, words of recollection and admiration for John Fitzgerald Kennedy.

As long as freedom flourishes and flowers grow, he will be remembered with affection.

TERRY ANDERSON

Mr. MOYNIHAN. Mr. President, I rise to remind and inform my colleagues that today marks the 1,557th day of Terry Anderson's captivity in Beirut.

A brief report appeared in Newsweek on May 16, 1988, and queried, "Now, What About the American Hostages?" I ask unanimous consent that it be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

NOW, WHAT ABOUT THE AMERICAN HOSTAGES?

(By Russell Watson)

Life in captivity alternated between fear and boredom. When the hostages weren't being beaten or humiliated, they rotted in their cells. One former prisoner, Marcel Fontaine, said he "passed the time by playing dominoes and chess with my cell mate." Asked who that was, he replied: "the American, Terry Anderson." The stories told by the three French hostages who were released last week shed some new light on the conditions in which nine Americans and a half-dozen other foreigners are still being held by pro-Iranian terrorists in Lebanon. But whether the freeing of the Frenchmen sets any hopeful precedent for release of the American hostages remains very much in doubt.

Anderson, 40, is the journalist who was kidnapped in March 1985 and has been held the longest. The sister of one former captive, Jean-Paul Kauffmann, told a reporter that the Americans were "maltreated" after trying to escape. She said Kauffmann had shared a cell with American Frank Herbert Reed, who was "left prostrate" by a beating. Later, Kauffmann disavowed his sister's story, apparently out of concern for the safety of the Americans.

NO REWARD

Their ordeal appears to be far from over. The Reagan administration, burned by the Iran-contra scandal, flatly refuses to negotiate for their freedom, arguing that Iran should not be rewarded for trading in human lives. That leaves some hostage relatives feeling abandoned. "It's easy to talk about foreign policy and stopping terrorism," Peggy Say, Anderson's sister, said on ABC's "Nightline." "But this is my brother that's being held. These are other American citizens. And I have to ask for them, don't they deserve better than being sacrificed to future long-term foreign policy in the Middle East?"

But even if Washington wanted to make a deal, the Iranians might refuse. "It's not at all clear Iran wants to improve relations with the U.S.," says Brian Jenkins, a Rand Corp. expert on terrorism. "We remain the Great Satan . . . a convenient enemy." In an interview on PBS, Henry Kissinger said Washington should "organize a campaign against terrorism, as there was against piracy in the early 19th century." He said America should insist on the release of the hostages before it will even consider Iranian demands.

HIGH PROFILE

Kissinger thinks Iran may have its price, including the release of embargoed U.S. military equipment purchased by the deposed shah. But James Bill, an expert on Iran at the College of William and Mary, says that when regimes like Iran's are backed into a corner, they cannot be persuaded by "intimidation or confrontation." Instead, he says, Washington should reduce its "very high profile position in the Persian Gulf" and adopt a policy of "patience and creative diplomacy." The administration, however, is not about to soften its position. Any such change in the U.S. stance would require a reduction of tensions in the gulf—and won't even be considered until a new president has taken office.

DURENBERGER ACID RAIN SPEECH

Mr. MITCHELL. Mr. President, on June 12, 1989, the senior Senator from Minnesota gave a speech in Canada on an issue of great interest to that country and to me: acid rain. I am introducing his statement in the RECORD today because I believe it is a thoughtful discussion of acid rain issues that teach of us should consider.

I commend my colleague for his efforts in support of acid rain controls and look forward to working closely with him this Congress to enact acid rain legislation. After 8 long years, the time has come to pass a bill.

Mr. President, I ask unanimous consent that his statement be printed in the RECORD.

There being no objection, the remarks were ordered to be printed in the RECORD, as follows:

REMARKS BY SENATOR DAVE DURENBERGER, CANADIAN COALITION ON ACID RAIN, TORONTO, CANADA, JUNE 12, 1989

During his campaign for the American presidency in the summer of last year, George Bush said:

"The time for study alone has now passed. We know enough to begin taking steps to limit future damage. As president, I will ask for a program to cut millions of tons of sulfur dioxide emissions . . . and to significantly reduce nitrogen oxide emissions as well."

Today, President Bush began to fulfill that promise by proposing specific revisions to the U.S. Clean Air Act that will accomplish the objectives he outlined.

It is an historic day for the relationship between our two Nations. It is in part due to your diligent efforts and those of your Government that we Americans will enjoy cleaner air again. And so, we thank you.

But more important, this day begins the end of the long invasion of air pollution from our industrial heartland that has despoiled your most precious natural resources. And so, we celebrate with you this promised truce which will end the scourge of acid rain.

EFFECTS OF ACID RAIN

The President was right to note that we have studied the problem thoroughly. We know the effects of acid rain all too well.

In the eastern United States about 11,000 lakes are highly vulnerable to acid damage. 3800 already have low pH levels and 1100 have been acidified. The effects on streams are even more severe. There more than 25,000 streams in the eastern U.S. that have been damaged with 3300 practically dead.

In Canada, of the 300,000 lakes that are vulnerable to acid rain, one-half are already damaged and 14,000 have been acidified to the point that they do not support fish populations.

Acid rain may also be having severe effects on our forests. In 1985 I traveled to West Germany, Sweden and Switzerland to talk with forest experts on the condition they call Waldsterben—forest death. I recall looking at Swiss mountains where the forest damage made a clear line at the elevation of normal cloud formations. Clouds saturated with acid rain.

I came home to find the same effects on Mt. Mitchell in North Carolina and Camel's Hump in Vermont. Complete death of the forest at the highest elevations. Sugar maple, red maple, yellow birch and beech are also showing signs of decline—most probably caused by air pollution—throughout New England and southern Canada.

In recent months, this debate has involved human health. The acid aerosols—the sulfates and nitrates—that are the precursors of acid rain may be drawn deep into the lung aggravating asthma and other bronchial diseases and making the lung more susceptible to infection. Studies in both the U.S. and Canada show hospital admissions rising significantly on days when the regional haze of sulfates and other pollutants is particularly severe.

You have all heard many times the toll of acid rain damage.

NEEDED REDUCTIONS IN SULFUR EMISSIONS

Based on the early evidence of these effects, the U.S. National Academy of Sciences issued a report in 1983 recommending a 50% reduction in sulfur dioxide emissions from the levels experienced in 1980 over the eastern half of the North American continent. NAS concluded that reductions of this magnitude were necessary to protect our most sensitive lakes and streams from further acidification.

There was a small group of senators and congressmen who took this report to heart. A 50% reduction has been our goal ever since. It is a proposition that remains our guiding principle today.

The Canadian Government came to that same conclusion after thorough study. Your nation is committed to a 50% reduction in the eastern provinces by 1994 and has sought a similar reduction in the transborder flows of acid precursors from the United States. Considering that 3.8 million tons of SO_2 moved across the border in 1980, a reduction and cap at about 2 million tons in the transborder flow has been the Canadian objective in the many conferences and discussions that have been held throughout this decade.

PRESIDENT BUSH'S ACID RAIN PROGRAM

The acid rain control program that President Bush proposed today will achieve a reduction of approximately ten millions of sulfur dioxide emissions—that is in the total emissions, not transboundary pollution—compared to levels experienced in 1980. It will also achieve some small reductions in the release of nitrogen oxides.

The program would be implemented in two phases. The first phase will be in place by 1995 and will eliminate five million tons of SO_2. One million tons of that has already been achieved. And the remaining four million tons will be accomplished by controlling our 20 largest electric utility powerplants.

In the second phase, with a target of the year 2000, a much larger group of powerplants and industrial boilers will be controlled achieving the second five million tons of reductions. This phase may be extended to 2003 for plants that need extra time to adopt innovative pollution control systems.

As expected, the President has included the option of emissions trading in his proposal. This is intended to reduce the cost of the program. It is a complicated notion, but has the potential to save a great deal of money. Let me give an example of how emissions trading might work.

Suppose we had just two powerplants both of which emit 100 tons of SO_2 per year. And also suppose that we ordered both of them to reduce their emissions to 50 tons. It may be the case, because of their location or coal markets or the design of the plants, that reductions would be much cheaper at one plant than at the other even though the reduction requirement is the same amount in tons.

Knowing that control costs are not the same per ton at each plant, we might save a great deal of money by reducing emissions at one of our hypothetical plants—the cheapest one—much more, to 30 tons, while controlling the other plant only modestly to 70 tons. We've achieved the same overall reduction, but by adjusting the assignments to each plant—not 50/50, but 30/70—and making the larger reduction where it's cheaper—we've reduced the overall cost.

Under this emissions trading proposal each plant will be assigned a limit on the number of tons of sulfur dioxide that it can emit each year. But a plant can be over its limit if it can be allowed from another who can afford to do more than its share of the reductions.

CAN IT MEET CANADA'S NEEDS

This is more than esoteric powerplant economics for Canada. Your concern is transborder flows of acidic compounds in the atmosphere. And emissions trading can have a significant impact on transborder flows.

Let us suppose that all of the plants that can be controlled cheaply are down in Florida and other southeastern states. And that all the plants that are expensive to control are up here in states near the Canadian border.

With emissions trading you could see the northern plants controlling less than average while paying the southern plants to control much more than the average. We would still get our overall ten million ton reduction, but the impact on transborder flows would not be substantial because most of the reductions would occur hundreds of miles from the U.S.-Canadian border.

In reality, it appears that the economics are just the reverse. The plants that are cheapest to control are those in the Ohio River Valley—up here near the border—which contribute the most to the transboundary pollution problem. They are in the region of the U.S. where high sulfur coal is mined. They have no scrubbers or other pollution control systems.

Because they are so very dirty and because they have made absolutely no effort to cleanup in the past, emissions reductions in this region are much less expensive than in other parts of the U.S. One can make a big difference with a small investment in the Ohio Valley.

Canada may be a major beneficiary to this emissions trading scheme that has been designed to reduce costs. First, the Ohio Valley plants will be required to install controls to get their share of the ten million ton reduction. And on top of that, some will be paid by other plants in other regions of the U.S. to make even greater reductions, because it can be done more cheaply in the Ohio Valley than elsewhere.

A 10 million ton reduction in SO_2 emissions is not 50% of our 1980 levels. It is about 40%. It is, thus, not equivalent to the program that Canada is already implementing. It is smaller than your effort. Nevertheless, transborder flows may be reduced by 50%, if this emissions trading option concentrates reductions near the border. And preliminary analysis of the President's program points in that direction.

OTHER CONCERNS

There is some irony in all of this for my home State of Minnesota. Some of the states recognized the acid rain problem long ago and implemented programs of their own to reduce emissions.

Minnesota is one of those states. We've already achieved a 50% reduction in our SO_2 emissions. We did so because of the Boundary Waters Canoe Area, a wilderness on our border that becomes Quetico on your side, with lakes very sensitive to acid deposition.

And we took the least cost strategy that I've described. We didn't control every plant. Some that were old and small were left uncontrolled, while emissions were reduced substantially at the big, new units where it was most cost effective. They are burning the lowest sulfur coal and are at the same time equipped with highly efficient scrubbers. Those new plants are squeaky clean.

But we apparently won't get credit for those efforts. Our old dirty plants will be assigned a tight emissions limit like every other plant in the country. And we won't be able to use the plants we've already cleaned up as a trade. A plant only gets credit for overcontrol under the President's program, if it's currently dirty. That means Minnesota will be buying emissions reductions from the Ohio Valley, too.

And there's the irony for my State. We have already accomplished the 50% reduction. We have a deposition standard in Minnesota that is 11 kilograms of wet sulphate per hectare, about half the Canadian standard. We've spent several hundred million dollars buying scrubbers and low sulfur coal. And now we will be required to buy air pollution credits from the owners of the dirty plants in Ohio. The failure to give some credit to those who went first is a concern.

I have other concerns with the President's program. It is not clear how it will deal with growth in emissions after the year 2000. As new plants are built to handle increasing electricity demand, they will add new sulfur dioxide emissions. No doubt they will be much cleaner than the old plants. But growth can be expected. How that growth is offset so that we stay at 10 million tons less than 1980 levels—and do not exceed 2 million tons in transboundary flows—is a critical question.

Second, I am concerned about a slippage in the deadline. Canada is implementing a 50% reduction by 1994. The President's pro-

gram is a 40% reduction by 2000. Maybe. And I say maybe because there appears to be room for further delay. Our bottom line must be 10 million tons by the year 2000 with no backtracking on that commitment.

ACID RAIN AND THE CONGRESS

President Bush has made an historic step toward clearer air and cleaner water. But as we commend him for his commitment, there are two things to keep in mind.

First, the President does not have the power to implement this proposal. Before anything can be done, our Congress must pass a law.

And second, the President has no power to schedule the consideration of bills in our Congress. He and his program are now at the mercy of an institution that has two houses, 535 members and no real leader, because it has so many leaders.

The U.S. system of government was intended to prevent laws from being enacted, unless they are absolutely needful. The President can't tell the powerplants to make these emissions reductions unless Congress authorizes him to do so. And it hasn't, yet.

With the Congress, we have a series of rules and procedures which are designed to protect the interests of minorities who feel intensely on an issue. We don't want them trampled by the passing fancy of a careless majority. A few members of the Congress who are very strongly opposed can block action on a proposed law for years, if they are sufficiently committed.

And on the issue of acid rain, there are a few members who are determined to block action. They come from the handful of states in our Midwest which produce high sulfur coal. That coal is burned in large powerplants with tall stacks which account for the largest share of the problem. Cleaning up those stacks with pollution control technology like scrubbers would cause electricity prices for their constituents to increase dramatically. Using cheaper, low sulfur fuels would close down the high sulfur coal mines where many of their constituents work.

A million ton reduction in sulfur dioxide emissions will cost the U.S. about $4 billion per year. It's true that this is a small amount per person, about $25 for each American. But it's not spread evenly like that. Most of the cost is concentrated in the four or five states which produce most of the emissions. We don't have one great big utility for that whole region. We have many, so the cost is not spread broadly. It is concentrated on a few Americans in a few states.

Given these economic facts, it is understandable that the senators and congressmen from those states would try to block legislation that would require reductions. There is, of course, a group of members on the other side. Those from the New England states, where the acid rain falls, have bene pushing for a sulfur dioxide control law for almost ten years now. But they have been blocked by those from the region which would pay a disproportionate share of the cost.

This is not a partisan issue. It is not Republicans against Democrats. I am one Republican who consistently opposed Ronald Reagan on acid rain. And there were Democratic leaders of the Congress who were his constant allies on this question. It's a regional issue—one part of the country against the rest.

President Bush's support for action makes some difference in this congressional struggle. It is not decisive. He has no role in scheduling a bill for consideration. But he focuses public opinion and press attention on the debate. When the President takes a strong stand for action, as President Bush did today, it usually means the majority is also becoming determined—has decided that a law is needful.

And I think the high sulfur coal states are now ready to concede that an acid rain control program is inevitable—that the majority will is determined enough to set aside the narrow concerns of a few states for the good of the whole. Coal state senators are now describing acid rain programs that they might support. Those proposals might generally be described as smaller and later than the President has proposed.

Rather than ten million tons, the coal states and utilities are proposing eight million tons. And rather than the year 2000 as a target date, they are proposing 2003 or 2005. A smaller, slower program is now their goal.

But we should not compromise on these questions. Ten million tons by the year 2000 is a must. Rather than compromise the program, we must look to other means which address the concerns of the high sulfur coal states. An acid rain control program should include assistance from the national government to help pay for the cost of the pollution control equipment. We can have a cleaner environment and protect the jobs and electricity consumers of the high sulfur coal states, if the whole nation will help pay for the cost of scrubbers and clean coal technology.

A CANADIAN-U.S. AIR POLLUTION AGREEMENT

Before leaving the subject of the U.S. legislative process, I want to make a comment on the possibility of a Canadian-U.S. accord on acid rain. I know that your Government has a strong interest in negotiating an agreement and I believe it might have value.

There are two kinds of agreements that our President is authorized to negotiate. One is a treaty. It is a formal agreement that has the force and effect of law in the United States. If our two nations made a treaty calling for emissions reductions at powerplants, the U.S. powerplants would be legally required to do so.

But a treaty must be approved by the Senate by vote. And it must carry by a two-thirds majority. Considering the intense regional opposition on acid rain, it may be easier to pass a law that requires only a simple majority than to ratify a treaty where two-thirds of the Senate must approve.

The other kind of agreement is called an accord. It is an agreement between the executive parties—the President and the Prime Minister—of the two governments. It establishes policy for the United States Government. But it does not establish law. If the President has been previously authorized by the Congress to carry out the provisions of an accord, he would be obligated to do so by the agreement. But if he has not been authorized by the Congress to take the actions that an accord specifies, all the President can do is ask the Congress for the authority. That is, ask the Congress to pass a law.

Before today, calling for an accord between the two governments on this question was an effective way to push our President to make up his mind and take action. Negotiating an agreement is a way to help the President shape his policy and sell it to the Congress.

But now that he has put a proposal on the table, the President is not really in a position to negotiate on the proposal with Canada. As I hope I've made clear, beginning today, he is in the process of negotiating with the Congress.

Nevertheless, I think there is a role for an executive agreement between the two nations. We might call it the third phase of the American program. The President has proposed five million tons in the first phase and five million tons in the second. But we still won't reach our goal of a 50% reduction from 1980 levels. We don't know whether the ten million tons will be sufficient to protect our most sensitive resources. And there is the problem of growth. How much additional loading from new plants can be tolerated?

Canada has already invented a system for answering these questions. You have established a deposition standard of 20 kilograms per hectare per year of wet sulphate. This is not a limit on emissions, but a measurement of the amount of sulfur that comes back to the earth in a specific area. Any loading over the 20 kilogram level will presumably threaten the resources where the excess load occurs.

These deposition standards can be easily tracked to detect excess acid loadings. Monitoring stations for deposition already dot the landscape. If, after our emissions reductions programs are fully implemented, excess loadings still occur, more reductions will be necessary.

We need a piece like that—a deposition standard—as the third phase of the U.S. program. It's a way to verify the effectiveness of our emissions reductions. And it may also create a cap on new growth. It would be most helpful if your Government would seek agreement to implement a deposition standard for the sensitive resources of the North American continent. This would be the final phase of the war on acid rain to be implemented jointly by both nations after the year 2000.

THE ENVIRONMENT IS AN INTERNATIONAL VALUE

In fact, international agreements of this kind will be a much more important aspect of environmental protection in the future. Recently, we have seen an agreement to protect the ozone layer from the effects of chlorine compounds high in the stratosphere. That was followed by an international agreement to freeze the transboundary movement of nitrogen oxides. And recently, thirty nations initiated an accord on the export of hazardous wastes.

The nitrogen oxides agreement has laid the foundation for a multinational agreement on deposition of acidic compounds and the definition of critical loads for sensitive resources. Canada can be justifiably proud for the leadership that it has provided in developing these concepts.

So, it's been a very good day for the relationship between our nations and for the resources of our continent. I am very honored that you have invited me here to be your guest today. I could have been at the White House this morning, instead, with the President as he made this historic announcement.

But I am happier being here with you. Happier because I can say thank you for all your efforts to bring us this much closer to clean air. Happier because I can celebrate with you the promise of a better day for our lakes and streams and forests—for the health of our children—and for the friendship which will always bind our people together in these great endeavors.

RETIREMENT OF LANDO W. ZECH, JR., CHAIRMAN OF THE U.S. NUCLEAR REGULATORY COMMISSION

Mr. BURDICK. Mr. President, on June 31 of this year the term of Adm. Lando W. Zech, Jr., the current Chairman of the U.S. Nuclear Regulatory Commission, will expire. I would like to take this opportunity to thank Admiral Zech for a job well done.

Admiral Zech has established a reputation for honesty and integrity while at the NRC. This reputation is well deserved. He has always done what he thought was right for the NRC and right for the country.

The NRC deals with some of the most difficult decisions we face. Most of the NRC's decisions are very controversial, and the debates are very emotional. All too often the job of the NRC is a thankless one. So it is important to remember to applaud those who serve in the NRC when it is earned.

Recently, Admiral Zech has led the NRC into several controversial rulemakings—on standardization and licensing reform, fitness for duty, and maintenance. His leadership in these areas has been strong and commendable. I hope that the Commission will continue with the course he has set on these initiatives.

At this time, I also would like to congratulate Admiral Carr, who the President has nominated to succeed Admiral Zech as Chairman of the NRC. I look forward to working with Admiral Carr on the nuclear issues we will be facing together.

Admiral Zech has been a true public servant. He is leaving a lasting mark for his dedication to nuclear safety, the NRC, and the American people.

HAPPY BIRTHDAY, WEST VIRGINIA!

Mr. BYRD. Mr. President, on this day 126 years ago, West Virginia became the 35th State in the Union.

Of course, we are far removed from the era in which West Virginia was born.

In his Gettysburg Address, Abraham Lincoln said in conclusion, "that this Nation, under God, shall have a new birth of freedom—and that Government of the people, by the people, for the people, shall not perish from the Earth."

Those were still revolutionary ideas in the era in which they were spoken, and are still today considered dangerous and threatening wherever tyrannies hold sway.

But the innate human hope expressed in Abraham Lincoln's words was the inspiration behind the actions last month of the student-worker demonstrators in Beijing, Shanghai, and numerous other cities in China. That hope is the goal at which the people of Poland and Hungary are aiming as they press toward the first free elections in their countries in more than four decades. And that is the hope toward which millions of men and women are looking in the Soviet Union as that vast nation takes the first stumbling steps toward genuine democratization since 1918.

Many people in West Virginia are mindful today of that hope and of the tradition of liberty that gave birth to our State and that has placed West Virginians in the front ranks of every struggle for our national freedom and our national security since West Virginia entered the Union. Indeed, though West Virginia has traditionally been one of the less populated States, in World War II, West Virginia ranked fifth among the States in the percentage of its male population participating in the fighting. In the Korean war, West Virginia was first among the States in the percentage of male population participating in the fighting. And during the Vietnam war, West Virginia ranked second among the States in the percentage of its male population participating in the fighting.

And West Virginia ranked first among the States in the percentage of deaths of its male population suffered during both the Korean and Vietnam wars.

On this 126th birthday of West Virginia statehood, then, I salute the deep love of liberty that has ever found a home in West Virginia, and that again and again has placed West Virginians on the side of freedom-loving peoples around the world. Our prayers are today that, as West Virginia celebrates its 126th birthday, those brave men and women in other lands who are yearning and valiantly struggling for their liberties and rights to self determination may finally be able to dwell in the freedoms that we in West Virginia prize and love so deeply.

NUCLEAR WASTE ISSUE

Mr. REID. Mr. President, I feel compelled to bring to the attention of the Senate yet another example of the double standard that the Department of Energy is using in dealing with the nuclear waste issue.

On June 17, the Department of Energy announced that they had reached agreement with Gov. Roy Romer, of Colorado, that public safety will be given a priority over production at the Rocky Flats nuclear weapons plant. According to the Department, this is a fundamental change in their priorities.

Deputy DOE Secretary Henson Moore stated in a news conference that we are under a new administration, both in the Presidency and in DOE. The new administration is making it very plain to our personnel and to those who work for us as contractors, that environmental safety and health is the first priority in the operation of our facilities.

This is an astounding revelation, Mr. President, and I hope that it applies to the storage of nuclear waste as well as the production of nuclear weapons. Twenty months ago when I offered an amendment to the Nuclear Waste Act of 1987 to ensure that public health and safety would be the No. 1 consideration in siting the proposed permanent nuclear waste dump, both the administration and the Department of Energy opposed the amendment and it was defeated in the Senate.

To date we haven't seen any commitment to putting public safety first when it comes to storing nuclear waste. Why, Mr. President, isn't the safety of the people of Nevada the No. 1 priority of this administration and the Department of Energy, just as is the safety of the people of Colorado.

I intend to ask Admiral Watkins this question. I hope that the safety of the citizens of Nevada will be just as important to him as the safety of the citizens of Colorado. If not, it will be just one more example of the double standard concerning nuclear waste at the Department of Energy.

Mr. President, I ask unanimous consent that a letter to every Member of Congress from the Department of Energy on this subject be included in the RECORD at this point.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

DEPARTMENT OF ENERGY,
Washington, DC, June 19, 1989.

DEAR MEMBER OF CONGRESS: In a press conference with Colorado Governor Roy Romer last Friday, the Deputy Secretary of Energy W. Henson Moore announced a fundamental change of priorities at the Department's nuclear weapon plants, whereby safety is given priority over production.

Enclosed are copies of the agreement between the Department and the Governor regarding the operation of the Rocky Flats facility in Colorado and of the transcript of the news conference. I have also attached a copy of the Secretary's June 15 letter to the Chairman of Rockwell International Corporation, in which he expressed his serious concerns about Rockwell's management of the facility.

I hope you will find this information useful.

Sincerely,

JOSEPH C. KARPINSKI,
Principal Deputy Assistant Secretary, Congressional, Intergovernmental, and Public Affairs.

CONCLUSION OF MORNING BUSINESS

The PRESIDENT pro tempore. Under the order, morning business is closed.

RECESS

The PRESIDENT pro tempore. The Senate will stand in recess until the hour of 2:15 p.m. today, at which time the Senate will resume consideration of S. 5.

Thereupon, at 12:29 p.m., the Senate recessed until 2:14 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer [Mr. SANFORD].

RECESS

The PRESIDING OFFICER. Without objection, the Senate will stand in recess until 2:30 p.m.

There being no objection, the Senate, at 2:14 p.m., recessed until 2:30 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer [Mr. SANFORD].

CHILD-CARE IMPROVEMENT ACT

The PRESIDING OFFICER. The clerk will report the pending business.

The assistant legislative clerk read as follows:

A bill (S. 5) to provide a Federal program for the improvement of child care and for other purposes.

The Senate resumed consideration of the bill.

Pending:

Mitchell amendment No. 196, in the nature of a substitute.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. DODD. Mr. President, first of all, I would like to just take a minute if I could. This morning during the morning business I listened with great interest to the minority leader and others talk about the pending matter before the Senate, S. 5, the child-care legislation, and I was somewhat intrigued that the complaint was that somehow the report was unclear.

We have had this bill, as the majority leader said, before us now since last Thursday. This is Tuesday. It has been almost a week, over the weekend, for people to go over and to read. The changes that were made are very clear. I think everyone knows what they are. I have certainly stated them, and the majority leader stated them last Thursday, and the Senator from Utah has stated them over and over again.

I cannot believe that anyone would suggest that somehow there has not been an adequate amount of time or it is unclear as to what is in the legislation.

So the notion somehow that we have been hiding something, if it is insufficient for people to have 5 days to review a piece of legislation, beginning day 1 in our articulation of it, then I find that criticism to be totally unfounded.

No. 2, there was a suggestion, and I have said this before, the Senator from Utah has said it, but again I guess we need to keep repeating what is not in this bill. I thought we were going to debate what was in it. But I guess I am speaking an inordinate amount of time answering criticisms that do not exist. The suggestion was again here that this was some huge Federal bureaucracy. We have made it clear there is no Federal bureaucracy. The legislation calls for the appointment of a Federal administrator. That is it.

The Congressional Budget Office in its analysis of this legislation said there may be Federal expenditures that will amount to three-tenths of 1 percent. So 99.7 percent of this legislation, according to the CBO, goes directly to parents or goes to States; that we have offered. The rest, of course, in the tax credit area is obviously not funds that would end up in the Federal bureaucracy.

So this has been sort of an historic response that when people talk about a piece of legislation like this, let us reach into the old bag here, an old argument worked before, let us try it out here. Whether it applies or not is irrelevant. Let us just use the argument anyway, and if we throw it and say it often enough, then maybe people will begin to believe it. It is sort of like what the Chinese are trying. They are denying that anything happened in Tiananmen Square. If you say it often enough, maybe the Chinese people will believe it.

Well, maybe if we say it often enough here that this is a huge Federal bureaucracy, then maybe people will believe it. Again, I emphasize, according to the Congressional Budget Office, again the work we have done, what you are talking about maybe is three-tenths of 1 percent of the funds.

Let me, if I can share as well editorials that appeared this morning in a number of papers, the Atlanta Constitution as well as the Los Angeles Times, and just a day or so ago, the Wichita Eagle-Beacon.

Mr. President, I ask unanimous consent that all three editorials be printed in the RECORD.

There being no objection, the editorials were ordered to be printed in the RECORD, as follows:

[From the Atlanta Constitution, June 20, 1989]

THE NEW, IMPROVED CHILD-CARE BILL

U.S. Sen. Christopher Dodd's multi-billion-dollar child-care bill has undergone some drastic changes on its way to the Senate floor, owing mostly to President Bush's intransigence.

In place of uniform federal standards, key to upgrading the quality of day-care centers but staunchly opposed by the White House, the Connecticut Democrat's bill now leaves regulation largely up to the states. It also permits the same assistance to church-run centers, provided they do not operate "in a manner inconsistent with the Constitution," which mandates separation of church and state. Those features should make it more palatable to President Bush, who earlier this year sent to Congress a bare-bones, $435 million plan calling for modest increases in Head Start, modest tax credits or refunds for low-income working partents—and nothing else.

As a further inducement to Republicans, the Act for Better Child Care (ABC) also carries an amendment delaying implementation of a law requiring businesses to end disparities in benefit programs for higher- and lower-paid employees.

Tax credits and refunds alone won't cure the nation's child-care problems, as Sen. Orrin Hatch (R-Utah)—ordinarily a staunch White House ally—now argues, taking issue with the simplistic solutions offered by the Bush plan. There are, he insists, "factors that discourage choice in child care which cannot be addressed simply be giving more money to consumers."

Thus, though 70 percent of the ABC funds provided by the Dodd bill would go directly to families to help pay for day care (now averaging $3,000 a year), 22 percent would be used to improve the quality and supply of day-care facilities through training grants, start-up loans, resource referrals, public/private partnerships and the like, leaving 8 percent for administrative and enforcement costs. The Dodd bill would provide assistance, on a sliding scale, for middle-class as well as poor families; it would also make tax refunds and credits, for child health insurance as well as child care available to poor families.

The changes in the bill are a stiff price to pay for realistic funding levels and incentives for employers and schools to start their own day/care programs—measures that should stand on their own when women constitute nearly half the work force, and two-thirds of women with children under 3 are working. But the price is worth it, if that's what it takes to avoid partisan squabbling and a presidential veto over a measure bringing affordable child care within reach of more families.

No longer the partisan measure proposed several years ago by Mr. Dodd, the bill now bears the stamp of key Republicans including the president. It is closer to the child-care initiative Mr. Bush promised during his campaign than the plan he himself sent to Congress—and it deserves swift bipartisan approval.

[From the Los Angeles Times, June 19, 1989]

A BILL WHOSE TIME HAS COME

American parents want safer, affordable child-care programs. The U.S. Senate is now debating legislation that might deliver programs that meet that description. But the question of how best to provide this care remains in doubt. So is the fate of the bill, broadly cast as it is. As fast as its chief sponsor, Sen. Chris Dodd (D-Conn.) takes care of one objection, opponents offer up another. His bill is even more sound now than when it started out, and the Senate should vote it on its way.

The Dodd bill, co-sponsored by Sen. Orrin Hatch (R-Utah) and supported by Senate Majority Leader George Mitchell (D-Maine), would expand the amount of child care available and provide subsidies for care of children when their parents cannot afford it. Working with Sen. Lloyd Bentsen (D-Texas), the sponsors have reduced the original bill's direct federal funding for services and subsidies, proposing to pay some of the costs through dependent care and child

health-care tax credits. The total bill remains $2.5 billion a year.

Last year the bill foundered on concerns about federal money going to religiously affiliated child-care programs. Churches and synagogues provide much of existing day care; backers wanted to preserve those services without violating constitutional questions of church-state separation. The dilemma has been resolved with a provision that churches and synagogue programs may receive federal money as long as they do not discriminate against children whose care is publicly subsidized and do not offer religious instruction.

Some governors did not want Washington to write health and safety standards for the states. The new bill gets around that by having states set their own standards. But it creates an advisory panel to draft model standards that states could adopt if they chose. States that adopted model standards would qualify for extra grants; states that did not would not. The National Governors Assn. now supports the bill.

President Bush and some Republican senators want Congress to pass only a tax credit for child care. But "tax credits standing alone simply do not address the need for affordable, quality child care for parents in the work force," says Marion Wright Edelman, president of the Children's Defense Fund and a key architect of the bill. Bush's proposal would pay an average of $20 a week; minimal child care costs at least $75.

Republicans charge also that the Dodd-Hatch bill will prevent parents from deciding who will care for their children. The charge is unsupportable. Families can use subsidies for care at day-care centers, at churches or synagogues or in private homes. It is entirely up to them. The bill actually would widen options by encouraging development of more day-care centers.

The day-care bill is a splendid expression of an idea whose time has come. It should pass now.

[From the Wichita Eagle-Beacon, June 16, 1989]

MORE CHILD CARE: CHANGING WORKPLACE DEMANDS IT

By now, it's difficult to ignore the obvious: American families need child-care assistance and they need it desperately. The makeup of American families and the necessity for child care that pattern imposes are clear and unavoidable. That's why the current Senate debate over the Act for Better Child Care, or ABC, is focused on how much regulation and how much money is necessary, not on whether the need exists or whether families should be the way they are.

Here's the way they are: Only about 11 percent of all American mothers still fit the June Cleaver mold—a mother at home with the kids while husband works to support the family. Now, more than two-thirds of all married couples are two-income families. More than half of all working moms are married to men who make less than $20,000 a year. Twenty percent of all families with children under age 18 are headed by a single parent. It's clear that the majority of American mothers with young children who work outside the home must do so out of economic necessity. As the century changes and the baby-bust generation goes to work, women and minorities will play an even stronger part in filling the workforce gap.

Yet safe, affordable day care is incredibly difficult for working parents to find. Facilities are not bound to national or even state uniform safety and health regulations. Too often, working parents must leave their young children in the hands of uncaring or unqualified strangers during working hours. The kids feel, and often are, neglected; their parents feel guilty for leaving them in such situations and angry that economic circumstances demand of them such heartrending choices.

That's neither a proper way for a child to grow up nor a productive way for any worker to do business. The link between inadequate care of children and social maladjustment, educational failure and involvement in crime in later years is becoming much clearer. An employee distracted and concerned hourly about children is certain to under-perform. The personal and economic costs of ignoring the need for child care are unacceptable.

The Act for Better Child Care is an attractive proposal. By helping states regulate and augment existing child care, the $2.5-billion program addresses the key concerns of most working parents—affordability, availability and safety—that President Bush's tax-credit alternative for working parents does not. Under the ABC, states would be expected to comply with federal regulatory guidelines and even could apply for additional funding to bring up lagging standards.

The regulation that any such federal child-care program sets in motion almost certainly will need some ironing out as the bureaucratic wrinkles become apparent. The final ABC bill carefully should address the potential for bureaucratic overkill.

At $2.5 billion, the ABC is an expensive program at a time of fiscal constraints. But failure to meet the long-term social and economic needs of young children and their working parents would amount to reckless gambling with the nation's future.

Mr. DODD. Mr. President, let me just share with my colleagues, if I can, the parts of the Atlanta Constitution editorial this morning called "The New Improved Child Care Bill."

U.S. Sen. Christopher Dodd's multi-billion-dollar child-care bill has undergone some drastic changes on its way to the Senate floor, owing mostly to President Bush's intransigence.

In place of uniform federal standards, key to upgrading the quality of day-care centers but staunchly opposed by the White House, the Connecticut Democrat's bill now leaves regulation largely up to the states. It also permits the same assistance to church-run centers, provided they do not operate "in a manner inconsistent with the Constitution," which mandates separation of church and state. Those features should make it more palatable to President Bush, who earlier this year sent to Congress a bare-bones, $435 million plan * * *

Reading on:

Tax credits and refunds alone won't cure the nation's child-care problems, as Sen. Orrin Hatch (R-Utah)—ordinarily a staunch White House ally—now argues, taking issue with the simplistic solutions offered by the Bush plan. There are, he insists, "factors that discourage choice in child care which cannot be addressed simply by giving more money to consumers."

Thus, though 70 percent of the ABC funds provided by the Dodd bill would go directly to families to help pay for day care (now averaging $3,000 a year), 22 percent would be used to improve the quality and supply of day-care facilities through training grants, start-up loans, resource referrals, public/private partnerships and the like, leaving 8 percent for administrative and enforcement costs.

No longer the partisan measure proposed several years ago by Mr. Dodd, the bill now bears the stamp of key Republicans including the president. It is closer to the child-care initiative Mr. Bush promised during his campaign than the plan he himself sent to Congress—and it deserves swift bipartisan approval.

Again, Mr. President, that is extremely important.

Furthermore, today or yesterday we received a letter from the office of the general secretary of the Catholic Conference of Bishops, dated June 19, 1989, addressed to Members of the Senate, signed by Father Robert Lynch, general secretary, of the U.S. Catholic Conference.

I ask unanimous consent, Mr. President, that this piece of correspondence be printed in the RECORD as well.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

NATIONAL CONFERENCE OF CATHOLIC BISHOPS.
Washington, DC, June 19, 1989.

DEAR SENATOR: The U.S. Catholic Conference, the public policy agency of the nation's Roman Catholic Bishops, strongly supports efforts in the U.S. Senate to pass comprehensive, broad-based and inclusive federal child care legislation.

We urge you to support the child care proposal offered by the Senate Leadership. The Catholic Conference has urged that the nation's political leadership work to bring together the best elements of the various approaches to child care legislation. The Senate child care package is a major step forward in this effort.

This proposal now strongly affirms parental choice with the incorporation of the Ford-Durenberger amendment. It offers vital and practical assistance to families in securing safe, quality child care through the current provisions of the Act for Better Child Care. And it now also includes important tax provisions helping low income families with children. Every piece of legislation is a combination of compromise and consensus. Not every provision can fully please every advocate. But, taken as a whole, this proposal represents a major step forward for our nation. In addition to this child care legislation, we believe other measures to strengthen and support family life including family and medical leave legislation, more generous earned income tax credit and other tax measures that assist families with children regardless of whether they work at home or in the marketplace should be adopted by this Congress.

We strongly oppose any attempt to eliminate the ABC provisions which now affirm parental choice in the use of child care certificates and which offer essential assistance to families in need of safe and affordable child care.

Mr. DODD. Again briefly here for the edification of my colleagues, the letter says:

We urge you to support the child care proposal offered by the Senate Leadership. The Catholic Conference has urged that the nation's political leadership work to bring together the best elements of the various ap-

proaches to child care legislation. The Senate child care package is a major step forward in this effort.

The Senate's legislative combination of direct assistance to families and child care providers and tax provisions that help low income families will serve our nation well. It recognizes the pluralism and diversity of child care in our country, including home care and care offered by community and religious groups. It makes a major investment in our children and supports parental choice.

For these reasons, the U.S. Catholic Conference joins with many others in urging strong, bi-partisan support of this vital child care legislation as an important part of our nation's commitment to our families and our future.

Sincerely,

FR. ROBERT LYNCH,
General Secretary, USCC.

Mr. President, the letter goes on and says:

This proposal now strongly affirms parental choice with the incorporation of the Ford-Durenberger amendment. It offers vital and practical assistance to families in securing safe, quality child care through the current provisions of the Act for Better Child Care. And it now also includes important tax provisions helping low income families with children. Every piece of legislation is a combination of compromise and consensus. Not every provision can fully please every advocate. But, taken as a whole, this proposal represents a major step forward for our nation.

The letter concludes. It says:

We strongly oppose any attempt to eliminate the ABC provisions which now affirm parental choice in the use of child care certificates and which offer essential assistance to families in need of safe and affordable child care.

The Senate's legislative combination of direct assistance to families and child care providers and tax provisions that help low income families will serve our nation well. It recognizes the pluralism and diversity of child care in our country, including home care and care offered by community and religious groups. It makes a major investment in our children and supports parental choice.

For these reasons, the U.S. Catholic Conference joins with many others in urging strong, bi-partisan support of this vital child care legislation as an important part of our nation's commitment to our families and our future.

Again, Mr. President, to have correspondence, editorial comments, the Catholic Conference, the notion somehow we have heard it said we are denying parental choice, we think the Catholic Conference of Bishops made it clear that in fact our legislation does just the opposite; it expands choice.

Again, I regret that I have to spend time answering charges that do not relate to this legislation, but that seems to be our plight.

My distinguished friend from Utah and I have spent the last 2 days arguing about myths, and we welcome the opportunity when amendments may be offered later today to address some of the specifics of the legislation in front of us.

Mr. President, at a later time I will offer some additional editorial comments that have been offered, but in the meantime at this point I yield the floor.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Mr. President, I notice that the distinguished Senator from Kansas is here. I have some comments to make about this, but I think I will defer until after she makes her statement and then I will make some comments.

Let me just make 1 minute of comment and that is this: look, I think that everybody in this body has some idea of how child care should or should not be. There are all kinds of bills, 19 that I last counted in the U.S. Senate. Most of them have merit. In fact all of them have merit and all do some good. None do all the good that needs to be done.

But it is really irritating to see the disinformation and the downright false information that is being spread around this body by I know people who think they are doing good, and I do not think some of them even think that, but the misinformation, disinformation and downright twisting of what the ABC bill today currently really is.

I can tell you right now the minority leader is going to bring his amendment to the floor. It is a nice amendment. There is a lot to be said for it. It is something that a number of us have basically prepared and filed before. It has been refined. I think many may want to support it, and bless them if they do.

But it does not do everything that needs to be done for child care. There is an awful lot done in the ABC bill that that amendment will not do. Now that amendment has some advantages that we, by necessity—because it is a direct grant program—cannot do with the ABC bill. But there is room for direct grant just as there is room for an indirect grant.

I get a little tired of seeing the partisanship and seeing people playing with this issue as though it is an issue that basically deserves partisan treatment. We ought to all get together and do the best we can to come up with a child-care bill.

Whatever passes, in the final analysis, I hope I will be able to support, because I do not care who gets credit for the child-care bill that comes out of the Senate. That is the last thing on my mind. I care that we do something about these problems. They are serious.

I can tell you that the distinguished Senator from Connecticut has tried to accommodate everybody and is still standing on the floor saying, "If you don't like aspects of this bill, let us know what you have. If you have a better idea, we will adopt it."

I do not know what else you can do. One thing we can do is stop these outside groups from influencing Senators with false information.

I was really offended when I walked into my caucus and hear that they passed out a sheet that nobody tells where it came from that is filled with false information, disinformation, downright, deliberate deceit, as though that is the way it should be. Why, we even have in one of our telephone call-ins for our party, we even have them describing this bill, the ABC bill, as the bureaucratic approach to the child care, while the Dole approach is the family approach to child care.

Now, I know that the distinguished head of the Policy Committee would not countenance that if he looked at both sides. But some do-gooder there, some partisan has put that in that way. I think both are family approaches and both do a lot of good and neither does everything that the other can do. Now, that is the point I am trying to make. I would like to see this debate on a higher level than that.

Let me tell you something: Ideally it would be wonderful if we could merge the tax credit approach with the ABC approach. We would really do something for families. We would really help millions of people out there who need help.

If you pass one or the other without the other, you are only doing what could be done in a limited fashion. And, frankly, it is up to anybody to make a determination which one is the better of the two. But, put together, they both become very, very good and families will benefit. That is what I hope we can ultimately do.

If the Dole amendment passes, then that will be the child care bill for this year. And I will say God bless them, because those are ideas that every one of us have had anyway. If the ABC bill passes, I think we both agreed we do not want it to pass solely by itself. We would like to have a tax credit approach as well because of the good ideas that come through that, that, by necessity, we cannot put into the ABC bill without adopting that.

That is what the distinguished Senator from Texas tried to do. There is some aspects of his amendment that are now part of the Mitchell amendment that I do not like. But the fact of the matter is the tax credit part is as good as anybody's.

So let me just end with that and just say that I hope that today we could talk about the issues. When the distinguished minority leader brings his amendment to the floor, we will be glad to chat about it and to talk about what is right or wrong with that in conjunction with what is right or wrong with what is presently the amendment before the Senate.

So with that, I am delighted to yield the floor and listen to the distinguished Senator from Kansas.

Mrs. KASSEBAUM. Mr. President, I guess as a mother of four children, now grown, I am grateful that they are the age they are because certainly there are pressures in society today for young families that did not exist when my own children were growing up.

I would say, thanks largely to the Act for Better Child Care, a national debate regarding child care and the quality of child care is taking place. It is an important issue for us today in our society.

It has been a constructive debate, I think, that has led us and should lead us to ask fundamental questions about our society's attitude toward children and families and about the appropriate use of the Government in meeting their needs. Because both the decisions to have children and to use child care involve at least some degree of personal choice, some of these questions have focussed on the proper role of the Federal Government in addressing such needs.

I believe that the ABC bill before us this week is a much improved bill. I am grateful to the sponsors for the examples that they have set in the art of political compromise.

I think it is unfortunate—and I would agree with the Senator from Utah [Mr. HATCH] that misinformation can cause fear, it can distort debate and that it does not really serve a useful function to engage in those tactics.

Most of us agree that church-based centers should participate in any child care program to the greatest extent allowable under the Constitution and this bill, the ABC bill, I believe attempts to accomplish that.

Most of us insist that parents should have the greatest range of choices in selecting care for their children. I believe this legislation achieves that goal by making funds available for providers ranging from grandmothers to neighbors to child-care centers.

In addition, while my own State of Kansas has some of the highest child-care standards in the country and would have little trouble meeting the Federal standards in this area, I share many of my colleagues' reluctance to mandate Federal standards and I am pleased that only model ones are now recommended under the ABC bill.

However, other provisions of the ABC bill still concern me. And they are not myth. It is not misinformation. It is something that is very real that has troubled me from the beginning.

A major concern is that 70 percent of its funds are dedicated to the direct payment of child-care services. I fully recognize the important role of quality care in early childhood development.

As a realist, I know that obtaining adequate and convenient care is a vital prerequisite for parents who work. But as a lawmaker, I am deeply concerned about our tendency to be swept away by the vivid, emotional details of a societal need and to rush to address that need without considering it in its proper budgetary and social policy context.

Mr. President, part of the context missing from this debate is the present Government commitment to child care. I think many forget that billions of dollars already are spent on child care through the dependent care tax credit, through Head Start, through the Child Care Food Program, State dependent care development grants, social services block grants, and job training programs.

Another part of that context is our current budget deficit of more than $100 billion. Our resources are, to say the least, limited.

It is for these reasons that the child care subsidy portion of ABC troubles me. By initiating a program of direct payment for child-care services, we will be establishing a new permanent structure in the Federal Government that will carry its own constituency, pressuring ever more generous funding.

We will be institutionalizing yet another expectation.

This expectation, Mr. President, and the costs of meeting it, has the potential to expand dramatically. Much has been made of the fact that fewer than 1 million of the 18 million eligible children will receive slots funded under ABC. Do we really think that the families of the remaining 17 million will remain silent? We will have to address the needs of those remaining children who would be eligible under the ABC bill.

Much also has been made of the fact that the average day-care cost is nationally $3,000 a year. Do we really expect that to remain steady? What will our response be when the national average rises to $4,000, $5,000 or $6,000 a year? These are hard questions that should be analyzed in the broad context of budget priorities and welfare reform. Instead we are debating the issue in a vacuum, as though the only relevant factors are our concern for children and their fulfillment. That is very important. But, Mr. President, I really question whether we are being realistic.

In considering these conflicting concerns I have concluded that the Republican leadership package which will be offered this afternoon is our best option for helping the greatest number of people within responsible budget constraints. Clearly, it is not as generous as we would like. It is, however, as generous as we can afford to be. In my view it would be a mistake, at this point, to establish a self-sufficient and self-perpetuating Federal system of child care without first making the States and the private sector creative partners in our efforts to find effective solutions.

The efforts begun under this proposal can help us start making child care more plentiful and affordable, establishing priorities and identifying the next step. I think, as an alternative to ABC, that is a practical, realistic approach.

The fourth portion of this package would provide a $400 million block grant to the States to be used to improve the quality and supply of child-care services. This is similar to legislation I introduced earlier this year. The block grant approach begins a framework of child-care services, tailored to the specific needs of each State, without establishing a new Federal presence with all the administrative demands that that would entail.

I personally think that alone is a good approach.

These funds, under the block grant, could be used to increase the supply of child-care providers through recruitment and training; to provide loans and grants to help providers meet health and safety standards; to establish or expand resource and referral systems, and to help schools, businesses, and other groups establish programs including innovative ones, helping special populations like handicapped, sick, and latchkey children.

This approach relies heavily on the creativity and flexibility of States and communities who are in the best positon to identify and meet the various needs of their own neighborhoods, families, and work force. All who need child-care services would benefit from these efforts.

The second portion of this package modifies the existing dependent care tax credit to ensure that even low-income working families can take advantage of the credit. Under current law, all families who have employment-related child-care expenses may reduce their tax liabilities by claiming a portion of those expenses. Because the credit has not been refundable, however, many low-income families with little or no tax liability have been unable to benefit. By making the credit refundable, this package ensures that all working families with employment-related child-care expenses receive assistance.

The final piece of this proposal expands the current earned income tax credit to provide low-income families an additional credit of up to $500 for one child and $250 for the second child under age 4. It would be available to all low-income families with at least one worker, whether they use child-care services or not. Like most, I admire and respect those women who choose to stay home with their chil-

dren. While they do so at a financial sacrifice, the nonmonetary rewards for their families are considerable. At the same time, we all recognize that two-thirds of the mothers who work do so because they are the sole support of their families or because their husbands earn under $15,000 a year. For the most part, these women do not choose to work—they are compelled to work by financial necessity.

I have not been as supportive of the expansion of the tax credit portion as some. I am under no illusion that this credit will be enough to help many low-income women stay at home with their children. The Government cannot protect its citizens from realities and choices that are very difficult to make. The decision to work or not to work cannot be made revenue neutral.

Any such grandiose attempts on the part of Government would create overwhelming expectations, and we would be assured of failure. In all honesty, an expansion of the earned income tax credit is not child-care legislation, and I would prefer that this proposal were debated separately. Nevertheless, it is clear that the child-care debate has heightened awareness of the difficulties that low-income families with children are having in making ends meet.

At a time when the rate of child poverty is 20 percent and concern is growing about the health, education, and social well-being of children, it is important that we act to ensure that the lowest income working families are supported in their efforts to take responsibility for their lives.

Expanding the earned income tax credit can help target our limited funds to those in need. As with most problems of national scope, any real solution requires a coalition of parents, communities, employers, and government at the local, State, and Federal level. We should try to avoid our usual habit of short-circuiting this process by immediately moving all the action to Washington.

The private sector in particular has a major role to play, and I think they are more and more recognizing this responsibility. Because of a shrinking labor pool, employer competition over workers is expected to intensify in the 1990's. Two-thirds of these workers will be women. Faced with the necessity of attracting new employees, companies will need to be more innovative than ever in offering people-oriented benefits like flex-time, job sharing, cafeteria plans, part-time parental leave, and child-care benefits.

Already, businesses are beginning to adapt to these changes. A proposed AT&T contract with the Communications and Electrical Workers currently offers to seed child and elder care projects with a fund of $5 million.

Pizza Hut, headquartered in Wichita, KS, offers its employees a discount off the cost at a national chain of day-care centers.

In recent weeks I have also learned of a community college in my State that has begun efforts to establish a center in order to attract students and businesses that is adding also a day-care center in the hope that attracting new workers will eliminate the need to move to a larger community. Those are creative approaches that I think offer great opportunities for us to address these needs that exist in our communities.

Mr. President, despite its good intentions, the ABC bill creates a Federal program that very generously subsidizes child care for only a fraction of those in need of help. Fulfilling the high promise of this bill for all eligible families would require the addition of billions more in Federal dollars, funds that will simply not be available.

The Republican leadership's package, on the other hand, will provide at least some assistance for all who are most in need.

Further, its block grants provision begins a responsible effort toward addressing the shortage of quality care that most working parents face.

This package does not promise a full Federal solution. What it does promise, I think, is a realistic opportunity for committed parents, communities, employers, and governments to put their heads and their resources together in an effort to address their common needs.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. DODD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DIXON. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Ms. MIKULSKI). Without objection, it is so ordered.

Mr. DIXON. Madam President, what is the order of business before the Senate?

The PRESIDING OFFICER. The pending business is amendment No. 196 on S. 5.

Mr. DIXON. I thank the Chair.

Madam President, for some time now the Senate has discussed at great length the so-called ABC bill, which I think by now all Senators understand has been substantially modified by the amendment that has been offered by the distinguished majority leader, largely through cooperation with the principal sponsor, the distinguished senior Senator from Connecticut, and others. I guess it is safe to say by this time that what we are now considering is considerably different than the original concept of the ABC bill.

As I understand the bill now, the basic concern that many had with tough Federal standards has been completely altered and so substantially modified that in fact, beyond the concept of a model, there really are no further Federal standards.

It would be up to the good judgment of the respective States as to what the standards should be. I think that is good. For a long time, Madam President, there was a concern because in many States, such as my own State, there was a good deal of child care services of quality being offered by religious institutions, be they Protestant, Catholic, or Jewish denomination. My understanding of the amendment offered by the distinguished majority leader, in cooperation with the distinguished senior Senator from Connecticut, is that problem has been essentially resolved. I am familiar with its resolution. I find that again to be a desirable step in the right direction.

What I have said to the sponsors of this bill and others I would simply like to say on the floor of the U.S. Senate because my perception of what I think is still a problem with this bill is one which some Members of the Senate, both of Democratic and Republican persuasion, also see with respect to the question of child care in America.

I would like to begin it in this way. I think the reason we are talking so much about child care now is that things have changed a lot in this country in the last several decades.

When I was a very young man just out of law school in the 1950's, I kept company with a lot of good friends of that era. One was a printer. One was a meatcutter. I happened to have been a lawyer at that time. But all of us had some kind of job, whether it was a professional, in the trades, or some other job. Our wives did not work, and we were starting our little families. That was the norm.

That is the point I want to make, Madam President. In the early fifties as I recall and all through the fifties and the sixties when I was in my twenties, thirties, and early forties in that era, in most situations of that time—I do not say altogether—in most cases it was the man who worked, and the woman stayed home. She was a homemaker, and raised your children.

So the problem before our society in those days was not the same as it is now because mother was home to take care of the kids.

Madam President, what is the situation now as I stand on the floor of the U.S. Senate in June of 1989? I stand before you as a father of three children with seven grandchildren. Each of those children, of course, is married, each of their families has children and in every one of the three families, Madam President, all of

them, both spouses work. Is that unusual? No. That is the interesting part.

That is the massive change that has taken place in our society in the last several decades. Now in most young families that have the kids—and we are talking about child care here—both work. So you have a situation where you have to have child care. We are not talking necessarily about the one-parent home now. We are talking about the two-parent home, both work, and you need child care.

That is our society today. So it is a grand problem out there in the country. My friend from Connecticut who has labored in the vineyards for several years in connection with this problem, way in front of the curve—may I congratulate him. He has seen the problem. The problem is there. In most families both parents work. They have children, and they have to have care for those children.

Let me say to that extent this bill that my friend from Connecticut has sponsored, with the amendment of the majority leader on it, addresses the problem. It is a good bill in my view. I say this, and I may be involved in the debate later. I do not know if I will be. I might be and I might not. But to the extent that my friend, the minority leader, suggests that he is improving on the bill, I must say I do not see any particular improvement in what is being offered on the other side to what my friend from Connecticut has laboriously produced over a period of years by virtue of a great many amendments and accommodations.

Here is where I think the problem presently presents itself to the Senator, and some other like-minded Senators. This bill is OK for the very, very poor. I want to make it absolutely clear so nobody ever later says DIXON said he does not want to help the poor. I want to help the poor. We should be doing more to help them in connection with this problem. This bill does a good job for the poor.

What I want to argue in a moment is that it does not do much for people of moderate income, working people of moderate income. So far as the Federal tax credit is concerned in this bill, let me tell you what it does. The Federal tax credit in this bill we are talking about does this: it increases the maximum percentage of allowable expenses from child care from 30 to 32 percent. You might say that is not bad, 2 percent. But listen to this: for families with income between $8,000 and $10,000 a year, then it increases it to 34 percent. You might say that is pretty good. It is a 4-percent jump. But listen to this 34 percent for families with income below $8,000 a year?

My friends, when you are talking about a family of $10,000 per year, I presume, let us talk about two working people making $10,000 a year. Two working people making $10,000 a year are a man and woman, quite probably, very, very young, both working flipping hamburgers at McDonald's or Wendy's for minimum wage. That is $10,000 a year.

That is pretty de minimis as an income. Some of my friends suggest—and I respect their views—they say, "Wait. The solution to this is we also deal with other people at a higher standard because we give this money to the respective States. Look at Illinois. It does pretty good in the bill."

Incidentally, Illinois does not do badly in this bill from the standpoint of money sent back there. But when you take $1.75 billion and you put it across this great Nation of ours and 50 States, and you spend some of it to upgrade care, which I am for, that is a good, very strong part of this bill. What you have left to give the people to help them with child care is very little in the pot, and you are not going to give it to ordinary working people because you are going to put some kind of means test on it. When you put that means test on it, you are again talking about the working, very, very poor.

So what is my point? My point is you ought to take care of the poor. My friend from Connecticut has done a whale of a job in this bill of taking care of the really poor working folks, $10,000 a year and less. I would argue that beyond that, this bill will not do much except to strengthen care centers, upgrade quality, and do a lot of other things that are important that I am for. I am for that.

However, what we end up with in my view is a bill which does not talk about all of these families in America, all over Illinois, all over every State of the Union where both parents are working, hard workers, work 40 hours a week, maybe some overtime sometimes, and they bring home the two of them working together, let us say $25,000 to $35,000 a year. That is not big money when you both work awfully hard. You put a couple of kids in a day care center where I'm told the average cost in America is $3,000 for one child, it's a tremendous expense. I know what you pay out here because I have a daughter who works out here. They pay more than $100 a week for one child 2½ years old. Again, Madam President, it is a tremendous expense.

So ordinary working folks have a problem. America is full of these folks, white, black, all religions, all ethnic groups, everything in America, a mix, people working, both of them and working hard, and yet not making a lot of money.

They have needs; they have to take care of these kids. It is a cost of working, I would argue. But they are not being addressed in this bill, in my opinion. I do not say that critically.

I see my friend rising, and I want to answer any questions he might have. I do not speak critically of this bill. I feel, when comparing the two alternative bills, this one more forcefully addresses the problem in America than what my friend on the other side is going to offer shortly. But neither, in my view, addresses the real problem of ordinary working people where both work and get up and say, Senator, I work and my wife works, and we have three kids and it is busting us. We cannot make the payments on the car and the house, and take care of the kids in a day-care center. What are you doing for us?

In this bill we do not do anything for them. Now, that bothers me a lot, and I am going to conclude in a moment, because I see my good friend standing.

Mr. DODD. Will the Senator yield?

Mr. DIXON. Sure, I will yield.

Mr. DODD. This is a very important point, one that there is a great deal of interest in, and I first of all want to thank him for his very generous comments about the pending matter before the Senate and his classmate's efforts; the distinguished Senator from Illinois, and the senior Senator from Connecticut and I arrived together on January 3, 1981, as new Senators in our respective States, 9 years ago.

First of all, his concern about working people, this is a very important element. The ABC part of the bill, not the tax part of the bill, allows for each of the States, respective States, to distribute those direct payments to families, based on income, median income, 100 percent of median income in those States.

For instance, in the State of New Jersey, 100 percent of median income would allow a family that made $47,000 to potentially get assistance under this bill. The national average is around $33,000, 100 percent of median income. It does not mean that they will, because each State will have to decide where it wants to target those resources.

The State legislature and your Governor may make a decision different than my Governor in Connecticut. I do not want to mislead my colleague by suggesting that that family that makes $47,000 in New Jersey is going to get the assistance, but if New Jersey, the people in New Jersey, through their elected representatives, decide they would like that income group to receive assistance under this bill, they can.

So we have left the door open, rather than try and say here in Washington that we are going to mandate exactly what each person ought to get and each family ought to get in each State. We have left great flexibility, up to 100 percent of median income in the respective 50 States. So there is a potential, I suggest, that working families, beyond what they would receive under the tax credit, as presently

drafted, would actually qualify for additional assistance.

Quickly, let me add this: Under existing law, not included in this bill, already there are $4 billion in dependent or child-care tax credits, which are available today for American families, with almost no income caps at all. So even a family that made $80,000 or $90,000 qualifies under the Internal Revenue Code for some child-care assistance; it may not be as much—and one would argue that it probably should not be as much as a very low-income family, given their income in a given year—but under existing law, there are child-care credits available to working families without any income caps and, additionally, in the bill that allows the States flexibility, there is an opportunity. I appreciate what my colleague from Illinois is suggesting, that too often we talk about legislation like this, and we fail to recognize that while the working poor need help, working families need help, and they may not be destitute, but they have found that they need two incomes in order to provide for their family needs.

I want my colleague to know that this Senator feels very strongly about that issue. As he has pointed out, I have tried to deal with all of my colleagues here and put together a piece of legislation that reflects the broad thinking of this institution. To that extent, this bill reflects those goals as represented to me by my colleagues. I thank my colleague for yielding in order for me to make those two points. I will be glad to respond to any questions he may have about those two elements.

Mr. DIXON. May I say, Madam President, that what my colleague says is very, very valuable. I wish to respond to it and to continue to show my concerns for the general nature of this legislation, but may I say first that I have the highest personal regard for the senior Senator from Connecticut. He and I are the sole survivors of the 1980 landslide, Reagan landslide, who came to the Senate, and so I find in him a sense of kinship that is very valuable. I think it is his year to be chairman of our 1980 freshman class. I take that into account. I recognize his seniority in that regard.

Let me say this: I cannot be persuaded, no matter how eloquently he may state it, that the respective States with the very small amount of money they will get under the State assistance program, that is the ABC component of this bill, are going to be able to do anything for those working families I have discussed. They are going to be compelled, I believe, to say, "Wait, we do not have much money here; to whom shall we give it?" Almost without exception—I think there could be some exceptions in a few States—but almost without exception, I would see the average State legislature, particularly in the big States, New York, California, Illinois, Ohio, Michigan, Florida, Texas, and others, saying, wait, we will put on a means test. We better give it to people who need it the most first.

Incidentally, I did not come here to argue against that concept. I can understand that concept. What I am arguing about is this: In the bill we recognize the existence of the present law. Essentially, if you make more than $10,000 in a family, very little help is provided. For instance, if you are making $28,000 a year, Madam President, and for the two of you working, I argue that is a modest income for two working people in America today, particularly in the big cities of our country, with the cost of living what it is. I am talking about Baltimore, Washington, and Chicago, and other cities. At $28,000 for two working people, the deduction now, ladies and gentlemen—I wonder how many in the Senate know this—is 20 percent of the incurred cost up to a maximum amount. If it is $3,000 for one child, which they say is a national average—I have to believe it is more in most big cities in America—that is $600, and we are not doing anything at all about it. I do understand the cost factors in this. I understand what we are dealing with here. Whenever you talk about less revenue, you are talking about a cost like an appropriated sum.

My friend from Connecticut, I know, has that problem with this bill, as well. That is why this bill is scaled down now. But I have to suggest that we really cannot go home and represent that we passed a child care bill for working young men and women in America with families with either of these bills, either this one or the one that my friend on the other side shortly intends to offer.

I thought at first, for instance, that my friend, the minority leader, had suggested something worthwhile. He had suggested, provide families with children 4 years old and under an additional credit of 8 percent for one child and an additional 4 percent for two or more children, which could be a total of 12 percent, but not more than $500 for the first child and $250 for the second. That would be $750.

Now, that appealed to me, until I found out that they are now circulating the latest explanation of their package, and I understand that this apparently was June 15, and their latest one is not out yet. But the explanation says that the additional credit would initially phase out between $8,000 and $13,000. Do you hear me? Nobody is addressing the problem. The other side is saying they are going to do this through tax credits, making it sound like this is going to be great for everybody. Theirs does not do anything either, unless you are an absolutely working poor person. That is the critical concern some of us have.

I say that perhaps my friends on the other side are not unlike me, but I represented earlier that maybe they had an idea here; but now that I have looked at it, I say to them I do not think they have an idea at all. As I look at the comparison of the two bills now, I have to say that I see the work product of the Senator from Connecticut as being, in my view, superior, from the standpoint of what it will do in the respective States to what is done on the other side.

But I want to return to an issue. I want to return to the fact that I think something ought to be done, however modest, for ordinary working people, ordinary working people of moderate income in America. You know, they always say to us, "What about us poor folks in the middle class, what about us?" I am not even talking about the average middle class. I am talking about low, modest-income middle class people who are not in any way treated in either of the proposed solutions to the child-care problem.

So, Madam President, I will not belabor this longer. I sense that some on that side of the aisle and some on this side feel that the composite effort of both sides has produced something that, when America sees it later, it will not be very valuable for the absolutely ordinary working people of America, all over America, in every town and village and hamlet and big city of this country in the 50 States.

For me this says that we need to find a further solution to the child care problem while this vehicle is before us.

I think we ought to take what we have here and see what we can do to improve it. I know enough about my colleague from Connecticut to know in time the White House and others are going to want to talk to him about a final product, because the President has said that child care is one of the initiatives about which he is concerned.

I say to the President of the United States and I say to the majority party and I say to the minority party, let us work at this problem some more to find a further solution that broadens what we do throughout this land to make it meaningful to ordinary working people.

That would be my final comment beyond saying that I am going to stay with what is being done on this side for now, not just because I am a Democrat, frankly—I am one certainly—but because I look at this as a better beginning effort. I want to further say that I do not see this as the final product that this Senator would want to support.

I say that in candor now and unless there is something further done to it to address the remarks that I have made here that I think are shared by some others, then I would ultimately have some reservations about the final product. I would urge my colleagues to think about these concerns as we go through the exercise we will go through in the next several days.

I thank the Chair, and I yield the floor.

The PRESIDING OFFICER. The Senator from Texas.

Mr. BENTSEN. Madam President, of course we do have a credit now of 20 percent for taxpayers with adjusted gross income in excess of $28,000. It goes to families with incomes to $500,000, $5 million, $50 million.

So we have that already in the law, and what we are now trying to do is this.

With respect to health care, we have stretched out Medicaid to try to help those of very low income. But in this particular piece of legislation we are talking about people who are working, earning an income, but it is a modest income.

The provision that we have from the Finance Committee under title II will give a $500 maximum credit for the purchase of health insurance. The credit will apply to expenditures up to $1,000. This is a credit for low-income working people, and the 20-percent credit on child care is for those people in excess of $28,000.

I have listened to some people around here say that the bill we have before us is not the President's bill. No, it is not the President's bill. But many of the things the President wanted are in this piece of legislation.

The realities are that the President is not going to write this bill and neither is the chairman of the Finance Committee and neither is the chairman of the Labor and Human Resources Committee, nor the chairman of any of the subcommittees, or any of the ranking minority members. It is going to be a compromise, all of us working together, listening to all the groups representing children as to what they think should be done to address the problems of child care and child health.

I recall the writings of Santayana, the Spanish philosopher who once wrote, "Compromise is odious to passionate natures because it seems a surrender and to intellectual natures because it seems confusion."

Which shows you that even philosophers do not get all of the truth on these things because in the Senate we have both passionate and intellectual natures, and we have brought about a compromise to try to address the concerns of each of them. We in the Senate understand the need for compromise very well.

Certainly those of us do who worked on the Finance Committee bill now incorporated in the substitute amendment before the Senate as title II, a bill that represents what we think is the best information we could get, the best ideas we could get from all of those who have testified before our committee.

Certainly, Senator DODD from Connecticut, and Senators KENNEDY and HATCH understand the nature of compromise, and they have done an extraordinary job and worked for months to find mutually acceptable ways of improving the supply of safe, wholesome child care, and the result is we have a better child care bill here before us than we started out with.

S. 5 is now essentially a compromise bill, and many of the points the President wanted are really in it.

The President has emphasized helping children. That is what this bill does. The President has said that we should address both the child care and child health, and again that is what this bill does.

Moreover, while the bill does not include 100 percent of what the President wanted, it incorporates a big chunk of his proposal.

Let me give you an example of that.

The President proposed a refundable credit for child care, and that is in this piece of legislation.

The President wanted assistance to go directly to the parents, rather than to the Government, and that is in this bill.

The President wanted Federal policy to increase, not decrease, the range of choices available to parents, and that, too, is in this bill.

The President wanted Federal support targeted to those most in need, low- and moderate-income families, and that is in this bill, too.

All of the health insurance credit provided under the Finance Committee provisions will go to families with incomes of $21,000 or less. All of the child-care credit will go to families with incomes of $28,000 or less. A nonearmarked proposal offered in the Finance Committee last week lost by a vote of 13 to 7.

All the ABC funds must be used for families at or below median State incomes.

The President did not ask for a refundable credit for health insurance for children. That is true. But this credit, too, is consistent with his goal of not discriminating against families in which one parent stays home to take care of the kids.

There are others more qualified to speak to the part of the bill reported by the Committee on Labor and Human Resources, and the distinguished Senator from Connecticut has spoken at length on it, gone into all of the details, substantiating the product they have worked out. But I would note that the considerable compromise that has been made there involved work with the Governors to establish a procedure for setting model child-care standards. And the National Governors Association supports those standards.

Senators FORD and DURENBERGER worked on the church-state issue. There has been compromise there, too.

In other words, we have worked out our differences to bring about what we think is the best piece of legislation possible. Now it is time for the President to compromise, too. I urge him to review the legislation and how it was designed and accept it for what it is—an effort to help low-income children. Because that is exactly what it will do.

There are those who think the health insurance credit will not increase the supply of health insurance.

But it will. There is a clear economic incentive for families to buy this coverage for their kids. What is happening now, the premiums have increased so much that families just cannot afford it, and they say, "Let's sweat it out. Let's take the risk that none of the kids are going to get sick this year," but they do, and then the parents decide to delay going to the doctor because they just do not have the means to pay for it and they do not have health insurance coverage. I think you are going to see States, hospitals, schools or even churches responding to this credit by creative affordable insurance packages for children.

There is a group in Florida right now putting together a demonstration project where they would provide insurance through the school system and make it available to the kids who are in school and their brothers and their sisters at home, and their parents as well.

We had representatives of insurers testifying before the committee that the industry would respond to this credit, and that they would design products for low income children.

Out in California Blue Cross & Blue Shield have now designed a product there for children that varies by age costing as little as $250 apiece for younger children, and for older children about $300 apiece. The actuarial value of the child portion of the Blue Cross/Blue Shield standard option for Federal employees is about $1,000. It gives you unlimited hospital care, and well-child services—a substantial package of benefits.

Now, I think that this bill will bring about something that is really worthwhile in increasing health insurance coverage for children.

The Health Insurance Association of America certainly agrees with that. They concluded this would make a dramatic difference in the proportion

of low-income families who would buy insurance for their dependents.

George Farr, president of the Children's Medical Center of Dallas, in testimony before the Finance Committee today, spoke of the need for reforms that build a public-private partnership to provide access to health care for children in low income families. He told us that children's hospitals know from firsthand experience that declines in employer-paid dependent coverage increase the numbers of uninsured children, and they support the tax credit in this bill that will increase health insurance coverage for children.

When the Joint Tax Committee estimated the cost of the credit, they concluded it would help a lot of people already insured, but struggling to pay the premiums. But I would be surprised if there are not families who need children's coverage that now decide to buy insurance.

Remember, what you see out of the joint committee is a static analysis: that is without the incentives added, that is without that carrot put out there, that is without the specially designed product to take advantage of this kind of a market. That's the way they estimated the child care credit, too. So the charge that there will be no increase in the supply, if you want to use that kind of a charge, is equally applicable to the President's proposal. If for some reason you think you are going to vote against the health credit on that ground, remember that same charge can be made against the President's program.

Madam President, in my part of the country it used to be the custom for families to stitch together quilts from whatever scraps of cloth they could find around the house. They were not made with the uncompromising singleness of vision that comes from one bolt of cloth, but they had a beauty all of their own.

With our combination of Medicaid, maternal and child health, and other programs, we, too, are creating a kind of quilt. It is a quilt that incorporates a variety of strategies, complementary strategies, that help each other.

Madam President, over the last few weeks, we in the Finance Committee have heard about the serious problems of those without health insurance. We have heard about rising premiums. And we have heard about those employed in small businesses who do not get the plans offered routinely to employees working in companies that are in the Fortune 500.

We have heard about small kids left in the house alone while their parents go to work. We heard just the other day of a young mother here in the Washington area who asked her husband for money for a babysitter so she could go to her job. He did not give it to her, so she took the baby with her. She went in to clean the house for the people that she had been employed by, and she thought she had no option but to leave the baby in the car. She locked the car. It was a very hot day. That child died.

Now, I cannot tell you that this piece of legislation that the Senator from Connecticut has designed would see that that did not happen, but it would sure help, and it would lessen the odds that it would happen.

So I call on the President of the United States to approach these problems with the urgency that I think they deserve. Compromise may be odious to some, but it is necessary to us in a congressional body and it is necessary to the millions of uninsured American children.

I heard some comments the other day on the floor of the Senate that somehow the chairman of the Finance Committee had rammed this bill through. I am not above that, but it did not happen in this situation. Because as we put this package together, I turned to the members of the committee and said, "I will give you a chance to vote on each of these provisions, if you like them or you don't like them. And when we get through, we will vote on the package because it is complementary. One part of it helps the other part and gives a more complete answer to the concerns and the problems of young children today and what should be done to try to help them insofar as appropriate child care and better health care are concerned."

I think that is the only way that this quilt can be finished and begin shielding those children.

Mr. DODD. Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. CHAFEE. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CHAFEE. Madam President, I have been involved in addressing the needs for better child care for many years. In the past few weeks, as I have watched the debate on child care continue and the different proposals involved—and I might say the evolution is not yet completed apparently—I have become increasingly concerned. It seems to me that our original goal—providing parents with child care—has become somewhat obscured.

Let me take a moment to outline what I think we are trying to accomplish. First and foremost, our goal is to ensure that the parents have access to decent child-care services for their children. More specifically, we want to make sure that parents, especially single low-income parents, can afford child care and that they have some peace of mind that their children are being well cared for at child-care centers or in child-care homes.

To achieve this goal, it seems to me we must address three important aspects of child care: Affordability, availability and quality. This involves assisting parents in purchasing care, encouraging people to become care givers, providing opportunities for private and public partnerships in day care, developing new day-care facilities, and enhancing the quality of the care provided.

Given these goals—affordability, quality, accessibility—how do these bills before us size up? The ABC package includes an authorization for $1.75 billion, that is the authorization level. The appropriation level could be less than that. In any event, it provides for a direct grant to States to enhance and encourage child-care services. One hundred percent of this funding would go directly to the States. It is then split up into the following four categories. Seventy percent must be used for direct assistance to the families. That is 70 percent. Twelve percent must be used to increase the availability of care. Ten percent must be used to improve the quality of care—for example, better training for the providers. Finally, 8 percent is provided for State administrative costs. Let us review the numbers: 70 percent for direct assistance to families, through vouchers, through contracts, through grants; the method of funding is left up to the States. Twelve percent of the funding goes toward increasing the availability of the care. For example, the State may choose to offer low-interest loans or grants to potential providers to provide the setting for day care centers. Ten percent must be used to improve the quality of care, and finally 8 percent is allotted for the State administrative costs.

Direct assistance means a direct subsidy to poor families. Quality and availability means encouraging expansion of facilities, resource and referral programs through which parents can learn of child-care services, public-private partnerships, training, and grants or loans to care-givers, among other things.

To receive the funding, a State must establish its own child-care standards, and put up a 20-percent match. This is 80-20; 80 percent Federal, 20 percent match from the States. Again, it is then up to the States to decide just how the assistance is distributed. But the States' distribution scale must focus on families with the lowest income, so that in the case of the very poor, they could receive fully-subsidized day-care services.

The ABC package also includes a tax credit. During tax reform in 1986, millions of poor families were taken off the tax rolls. By this action, we inad-

vertently disqualified those same families from receiving the dependent care tax credit. The ABC package corrects that inequity by making refundable, and slightly increasing, the existing dependent care credit for the lowest-income individuals. This will make it possible for low-income families to receive a credit of 30 to 34 percent of their child care expenses of up to $2,400 for one child or $4,800 for two or more children.

These are the basic child-care provisions ABC package before us.

Now let us examine the proposed substitute. Like ABC, the substitute makes refundable the existing dependent care tax credit so that poor families might benefit. Again, these poor families will be eligible to receive a credit, in their weekly paycheck, toward their child-care expenses whether or not they earn enough to owe the Federal Government any tax.

The substitute proposal also has a direct grant, of which 100 percent is given to the States to enhance child-care services. The proposal would provide $400 million per year to the States for this purpose, and require the States to provide a 15-percent match. Seven percent of these funds would be reserved for administrative costs. The remaining amounts could be used at the State's discretion for activities such as encouraging the expansion of facilities. It might be used for what is known as resource and referral programs, where a parent could call to find out about local child-care services. Some of it could also be used for public-private partnerships or training or grants or loans to care givers, loans for safety and health purposes.

This part of the substitute is quite similar to the ABC proposal, but there is a major difference. The substitute package would not allow the funds to be used to directly subsidize child-care services. Neither could funds be used to pay for the construction of new child-care facilities, or to satisfy the matching requirements for another Federal grant.

In addition, the substitute proposal creates a young child supplement to the existing earned income tax credit. The earned income tax credit would be changed so that the low-income families could receive an additional amount of credit if they have a child under age 5. For the first child, the family may receive another 8-percent credit. For two or more children under the age of 5, the family receives an additional 4-percent credit. As with the existing earned income tax credit, both spouses do not have to work in order to receive the credit.

There is no question that both of these measures—the substitute proposal and the ABC package—attempt to reach our goal: access to decent child care for parents and for their children. I am not at all convinced, however, that either bill sticks to this goal. Both include provisions that seem to me to be ineffective or just plain unrelated to our child-care goal. As a result, in both proposals we have provisions which, in my view, are incorrectly labeled as child-care provisions.

The ABC package, known as a child-care package, contains a new health credit and a revision of section 89. It is difficult to fathom how either health credits or section 89 directly relates to child care. I hope that the section 89 revision will ultimately be separated from any child-care package. While it is clear that section 89 has no business being included in this package, the inclusion of the proposed health-care credit is less clear. This proposal was developed under the rubric of child care, but it has little to do with child-care matters. I am distressed that it has been added to the ABC bill.

For the past 8 years, many of us—particularly those in the Finance Committee—have worked tirelessly to improve the health care status of low-income children and their families by improving and expanding the Medicaid Program. We have struggled every year to find small amounts of money to pay for limited expansions in the coverage.

But today we are talking about a $1.5 billion proposal that does not expand health-care coverage at all, but rather subsidizes those families already receiving health-care coverage. The estimate of this provision does not recognize any increased number of individuals who will be covered by it. In other words, the $1.5 billion is solely for those already paying for health insurance. We would be relieving them of the burden of paying for their current level of health insurance coverage.

If we used this same amount of money to pay for an expansion of Medicaid, we could assist up to four times as many individuals who are currently without any health-care coverage. In a time of limited funding, it seems to me wasteful to consider a proposal which does not address increased access to care.

The substitute also has its flaws. It includes an expansion of the earned income tax credit that carries a cost initially estimated at around $1.5 billion.

The funding that it would provide for low-income families falls far short of truly helping those families pay for structured and reliable child-care services. The small additional credits that would go to those families could not make significant dents in $2,500 worth of annual child-care expenses. Indeed, the money is not tied to child-care expenses. Child care for many low-income families is a cost that can nearly equal the cost of rent. An additional 8 percent credit is not the answer to paying for child care.

In addition, the substitute provides a block grant program which precludes States from using funds to subsidize the cost of child care for low-income families.

If we are here to address child care, why are we choosing between two packages that are cluttered with other matters? All of these other things—section 89, the expansion of the earned income tax credit, health credits—have substantial price tags literally in the billions of dollars. And yet we are not debating any of those provisions, most of which were drafted and brought to the floor in a matter of days. If those provisions were singled out and debated on their merits, I have grave doubts they would receive as much support.

We have a tremendous national budget deficit, and we must ensure that we reserve our spending for our priorities. We are looking at some very difficult times ahead, hard times that will be felt by our children and our grandchildren. But here we are considering provisions with huge price tags that have very little to do with the matter at hand: child care.

I, for one, have been one of the most consistent and outspoken proponents of improved health care services for children in low-income families. The health care tax credit will not achieve that goal. At a later date I may well propose an amendment to strike this health-care provision because, as one deeply involved in these issues, I strongly believe we can find a more effective way to spend that $1.5 billion. I would rather see the money spent on the Medicaid Program, on which I and other Senators on the Finance Committee have been working for many years.

I also feel strongly about expansion of the earned income tax credit. Given our goal of child care, it right now seems to me to be an inappropriate use of limited funds.

It seems to me that we ought to spend our time right now considering child care and child care alone.

(Mr. KERREY assumed the chair.)

Mr. CHAFEE. ABC and the substitute proposal have very similar bases: a refundable dependent care credit matched with a block grant to States for use as they see fit.

It seems to me that the pivotal points—and I have listened to arguments on both sides of this, and look forward to hearing more discussion on it—is how parents, low-income parents in particular, will be assisted in finding and paying for child-care services. That should be one of the most fundamental goals of any child-care package we adopt.

In the ABC package, using a best-case analysis, low-income parents

could be fully subsidized. Since the State must target the bulk of the funds to low-income families, it is possible that families with very low income could be fully subsidized for the cost of child-care services.

In the substitute proposal, low-income parents could receive, as I see it, using a best-case analysis perhaps 30 to 40 percent of that money they need for child care. That means that they will still have to pay a substantial portion of their child-care expenses.

Those in favor of the substitute will argue that far more children will be assisted under that program than under ABC. And that greater options are offered by the substitute. The problem I face, however, is when considering the low-income individual. For example, an unmarried mother with two children who is trying to get off welfare by working. Any tax credit she receives, refundable though it may be, is not going to cover her child-care services.

It therefore seems to me that so far the ABC answer seems the preferable answer. There may be better answers floating around this floor that may come up as debate continues. But ABC seems to me to be a very, very important measure, and one on which I will be listening to arguments as we proceed in the ensuing days.

I thank the Chair.

Mr. DODD addressed the Chair.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. DODD. Mr. President, very briefly, I want to take a moment to thank our colleague from Rhode Island. He has been of tremendous assistance over the last couple of years on this legislation. He has on numerous occasions made suggestions. In fact a good part of this legislation reflects some of the concerns that the distinguished junior Senator from Rhode Island has raised. I want to take this moment to thank him for that. He has pointed up again some of the concerns that many people have.

I have lived with this now for so many months it is impossible almost to draft a piece of legislation that satisfies every one because so many different people here have different views as to what our focus of attention ought to be.

We try to put together something here that reflected at least some consensus on some ideas, and to no small extent JOHN CHAFEE of Rhode Island has contributed significantly to that product. I do not want the moment to pass without thanking him for that contribution.

As we all know, I have said this, and Senator HATCH has said this as well. I would prefer that we were dealing with maybe some amendments to this proposal rather than trying to come up with totally different alternatives to it. That is normally the way to do a legislative product. I have not shut the door to ideas. I do not believe anyone has cornered the market on the best ideas in this area. We are more than willing to listen to ideas on which ways we can make this a better piece of legislation. I certainly would not want to suggest that is impossible at all. I think it always can be improved with good people of common intent working together.

So I join with the Senator from Rhode Island in expressing the view that as this debate unfolds over the next 24 hours or so maybe some additional ideas will emerge here that will help us improve that product. It seems to me that is a better way to be approaching this. Given the hours and days that have been spent by the Senator from Rhode Island, by the Senator from Utah, and by many others who have worked on this, that is the way I would prefer we go.

But I thank him for his comments, commend him for his activities. He has been a real friend to children and families over these last several years.

Again, in no small measure we are here, and this product really reflects a lot of his ideas and thoughts as we have moved along that road.

I thank him.

Mr. CHAFEE. Yes. I want the principal sponsor of the legislation to realize that I am not very happy about that child health care provision because, as he mentioned, in coming up with this legislation he had to accept some things that perhaps he would not have, had he had the choice.

But that health-care provision seems to me to be unfortunate. Everybody is for health care for children. There is no problem over that. The problem is that if you are spending $1.5 billion, but are only taking care of those people who are already receiving the health insurance, you are not making any progress. It makes even less sense when we realize we have other vehicles out there, such as Medicaid. Extension of the Medicaid program, which we have all worked on, would provide far greater coverage for far more children. In direct contrast, this proposal targets individuals who are currently covered. That is one of my great difficulties with this provision.

I want to thank the distinguished Senator from Connecticut who has put so much time in this, and has given excellent leadership.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. PRYOR. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 200

Mr. PRYOR. Mr. President, I have an amendment that I send to the desk at this time, and I ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Arkansas [Mr. PRYOR], for himself and Mr. BUMPERS, proposes an amendment numbered 200.

On page 8, line 15, delete "16" and insert in lieu thereof "13".

Mr. PRYOR. Mr. President, this amendment is very simple. Mr. President, may we have order in the Chamber?

The PRESIDING OFFICER. The Senate will come to order.

Mr. PRYOR. I thank the Chair.

Mr. President, this amendment is very simple. Under the legislation now pending on the Senate floor offered by the distinguished Senator from Connecticut, that legislation, as I understand it, says that children will be eligible for the child care program, basically, up until the age of 16; I believe this is correct. To my way of thinking, this age should be limited to those who are up to the age of 13.

On behalf of myself and Senator BUMPERS, my fine colleague from Arkansas, we are proposing this amendment at this time to reduce the age of children eligible under the ABC grant program from 16 to 13 years of age.

We think that this change will allow the funds to be more carefully targeted to the circumstances where the need is greatest. The funds provided through the Act for Better Child Care will be very critical to enabling the States, respective States out there, that will ultimately set the rules and the policy of the program, to meet the needs of families.

However, even at the authorization level of $1.75 billion, these funds cannot take care of every existing need. I believe that rather than spreading funds too thin, that they should be better targeted and more targeted, Mr. President, to those in the younger or earlier age category. This is why Senator BUMPERS and I join together in this amendment.

It is a proposal that we think is sound, and it is also a proposal that keeps in mind the dependent care tax credit and coincides with the same age in the dependent care tax credit, as we see it in our tax laws today.

It also makes the two child care components of the Mitchell amendment, which will ultimately be considered in this Chamber, coincide and consistent with each other. We think that a great deal of work has gone into putting together, compromising, negotiating a comprehensive bill, and this is one of those elements of this legislation, hopefully carefully crafted, that will

make this legislation stronger and more acceptable.

Mr. DODD. Will my colleague yield?

Mr. PRYOR. I will be glad to yield.

Mr. DODD. Let me commend our colleague from Arkansas, along with his colleague, Senator BUMPERS, for offering this amendment. We have discussed it, and the Senator has very accurately described what this amendment would accomplish.

Reducing the eligible age to under 13 and making the two parts of the bill consistent so the dependent care credit, which is the age to qualify, now the ABC part, would be exactly the same age. It also would have the effect of making it possible for the States, under the ABC part of this bill, to allocate a greater percentage of funds to families that are poor or are higher income, depending upon what each State wants to do, because the age limits will be reduced; therefore, there is potential for greater concentration of resources to go to needy families.

The whole question of latchkey children—there are 7 million latchkey children in the United States. We can hardly pick up a newspaper any day and not read where some child has been terribly injured, or worse, because they are not supervised. I always found it interesting—if people want to engage in a little test, particularly in smaller towns in America. because it is harder to get this reading in a large city, but in smaller towns in America, to try and make a phone call about 3:15 or 4 o'clock in the afternoon—and I am assuming schools get out about that hour most places—there is a delay between the time you dial the last digit and when that phone number actually rings in.

The reason for it is very simple: that mothers and fathers across that community are calling home to find out whether or not their children are home safe and sound. They will then spend the 2 or 3 hours, of course, home alone, in many cases. One out of every six fires in Newark, NJ, is caused by a latchkey child. Numerous statistics indicate the potential for harm that exists with minor children going unsupervised.

My colleague is guaranteeing that these children will get supervision. So he is lowering that number, but not so low as to fall out of the middle school or intermediate school category. I support his amendment. I think it adds to the bill and puts us in a system of harmony. I strongly support this amendment.

Mr. HATCH. Will the Senator yield?

Mr. PRYOR. I will be glad to.

Mr. HATCH. I compliment the distinguished Senator from Arkansas, as well. It has bothered me a little bit that there is only limited funding that we can do in this Congress, with the budgetary constraints that we have upon us, and I think that once we reach the age of 13, we will have to make adjustments there. So the Senator's amendment helps this budgetary problem, while recognizing that there is only so much we can do.

It is certainly better than just taking care of those stages, 1 to 4, which is what many in this body would like to do. Now, that is important. To me, it is extremely important, but they are not the only people who need care. What about a 5-year-old? What about a 6-, 7-, 8-, 9-, 10-year-old? And 11 and 12, is an appropriate cutoff.

I want to commend the distinguished Senator for this amendment, and on this side we are certainly going to take this amendment. I think it is a good amendment. It is just one of those refining amendments that we have asked for. We have asked for intelligent refinements to this bill that will help us to make it a better bill, and both of us are open to that; and we appreciate the distinguished Senator and his amendment, as well as Senator BUMPERS, on this matter, and I commend you for it. We will be willing to accept it, as well.

Mr. PRYOR. Mr. President, I want to thank both of the distinguished Senators, from Utah and Connecticut. I think this demonstrates the willingness of these two fine Senators, who have worked so long and hard on this legislation, to deal with accommodating those various needs that each of us have.

As we have gone to you during this last year, year and a half, 2 years, you have been most accommodating, not only to listen to some of the concerns that we have offered, but also to attempt to deal with those concerns in a proper and constructive manner.

Mr. President, before I yield the floor, my good friend from Connecticut was talking about the latchkey children, and he was talking about the busy signals that you get about 3:15. I have to, if I might—if the Senate will allow me for a personal reference, I guess I was a latchkey child, and I did not realize it. We did not have what you call day-care centers during that period, but I remember every afternoon—and I see that the Senator from South Carolina began to laugh. He probably went through the same thing. He and I are in the upper-age category around here, but Senator DODD and Senator HATCH, they will not remember this. But I remember every afternoon when I got in from school, the first thing I would do when my mother was not home, I would pick up the phone—and this was even before the dial system; that shows you how old I am—and on the other end of the line would come Lucy Mae Phillips. Lucy Mae Phillips, in our little town, was the only telephone operator in town, and I would pick up the phone and she says "David, is that you?" I would say, "Yes, it is, Lucy Mae; where is mother?" She might say, "She is over Miss Harriet's playing bridge this afternoon. She will be back around 5 o'clock." I would say, "Fine." If I did not get home, my mother would call central, and Lucy Mae would answer the phone, and Lucy Mae always knew where I was in town, whether I was playing football, or at practice or wherever; but I think that demonstrates how times have changed. That no longer exists. We see it work for us today.

As Senators DODD and HATCH have said, 57 percent of the couples that have two jobs and have children—and this is an attempt, I think a refining attempt, and I can assure the two distinguished authors of this legislation that it is a good-faith effort on our part, Senator BUMPERS and myself, to correct something.

Mr. DODD. Let me say that even though this gray head of mine does not recall Lucy Mae, living in Lebanon, CT, where I grew up in a rural town, I wish, in a way, that America had a lot more Lucy Maes around. I think it is sad, in a sense, that we do not live in a country like that any more, where people watched out for one another and cared for one another. I am saddened, in a sense, that we have to go through this, and I do not like that; I must tell you that.

I wish we had a different kind of a country that made it possible for parents to spend more time with their children. So it is not with a sense of glee that I proposed this bill.

I would say those days that my colleague lived in were the same for many of us to some degree. I never remember a day when I ever came home from school that my mother was not there. I did not recall a day when I walked through the door that I did not bellow in that house, and bellow if she were home.

That is the way my five brothers and sisters and I grew up.

Today, unfortunately, only 1 in 10 families in America have dad at work and mom at home, and that number is shrinking. But I do not know how you legislate that. All you are trying to do is at least approximate for some of these children an environment where they can get some proper education, to relieve parents of that anxiety that they feel about wondering where their children are and who is watching out for them.

So I commend my colleague for his amendment. I think his story about Lucy Mae is an appropriate one, and I am sure there are many of our colleagues here who could tell that story about their own community in which they grew up, but I thank the Senator for it.

Mr. PRYOR. I thank my distinguished colleague.

I ask unanimous consent that the Senator from Illinois [Mr. DIXON] be added as an original cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PRYOR. As a final bit of trivia about Lucy Mae Phillips, I was the ringbearer in her wedding at age 5, and I will be glad to show to the distinguished Senator from Connecticut a picture of me when I was 5 years old in a white satin suit carrying the wedding ring for Lucy Mae Phillips.

Mr. DIXON. I would like to see it.

Mr. DODD. If my colleague will yield, I might suggest that he try to find one of those today. There was a day in the Senate where they wore white satin suits.

Mr. PRYOR. I will tell my friend, I think it would be right in style. Who knows, I might try to get one made up one of these days.

I thank the very distinguished Senator.

The PRESIDING OFFICER. Is there further debate on the amendment? If not the question is on agreeing to the amendment of the Senator from Arkansas.

The amendment (No. 200) was agreed to.

Mr. DODD. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. PRYOR. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. HOLLINGS. Mr. President, I rise in vigorous support of this important bill. Incidentally I wish the RECORD to show, since we are talking about Lucy Mae and the reference was made that at my age I could appreciate Lucy Mae, that I am fully 20 years younger than the senior Senator from South Carolina. Nonetheless, I do remember Lucy Mae. The Senator is right.

Mr. President, this bill has the potential to change this Congress and this Government, change our approach to problems. Heretofore, we have had a rather crass political approach, Mr. President. As a former Governor, I know that you are someone who has had the hard experience of actually governing. The majority of this body has not.

The fact is that we in this Congress have become a bunch of pollster politicians, worrying about how our voting record will be used against us. In fact, a record is a deterrent to reelection, contrary to what we hear about the advantages of incumbancy. You commission a poll. You get a consultant. You learn how to frame a 20-second sound bite.

The admonition time and again by all the campaign consultants is, for goodness sake, don't say anything about what you actually intend to do. That will cost you votes. All you need to say in the 20-second sound bite is "I am concerned." As a result, we do nothing in this Congress.

We do nothing for the needs of Government on the one hand, and the needs of the young, the needs for the future of this country, on the other.

We have a poor track record already this year. When it came to the matter of Central America and the Contras, we finessed that off to the OAS, the Organization of American States. The OAS has not done anything yet and they are not going to do anything, and we know it, but that sounded responsible at the time. That satisfied the pollster. We identified the problem. We expressed concern about Central America, but we did nothing about it.

When we got to the savings and loan, we identified the problem, but we put it off budget. In fact, it has almost reached the point where we put the budget off budget. And of course when we considered the catastrophic illness tax, we said we will put that off until September.

Now, for once we are beginning to really face up to an urgent need by offering this landmark child-care bill.

Mr. President, I can take you back 30 years, and show you examples of how poor people have scrambled to piece together child care to free themselves to work. I remember visiting a black church on Spartanburg Avenue in Greenville. I remember seeing some 67 infants in the cellar of that church with three of the volunteer mothers minding the 67 children so the other mothers could work. Yet I would have to go to the civil club and hear the know-nothing remarks about, "If you feed them, they will never work." I was working at that time, of course, on a hunger bill.

But I could see the commonsensical approach of those who were trying to break out of that welfare syndrome. You do not have to worry about the poorest of the poor pulling their weight, because where there is the least amount of ability they are trying their deadlevel best to break out of poverty.

In my campaign in 1984 I was campaigning on the famous highway 128 going out of Boston up into New Hampshire, at the Wang facility there. It so happened that a young lad whom I knew was an executive to Mr. Wang running that operation. I was taken through the plant and was impressed by the finest child-care center I have ever seen. It had everything.

I wish I could put an amendment that would triple the funding for this bill. To those who are saying we are spending too much, I wish I could show them what a quality child-care center consists of. Of course, those first-class child-care facilities were an inducement by Wang, Inc. to attract the best of the best employees.

If you had a choice of working with Wang or another corporate enterprise, in that area, and they have the best of America out on that highway, you would say, "Look, I can go to work at Wang and my child care, my No. 1 problem at home, is now going to work with me because when I get a break at lunch or if something happens of an emergency nature, all I have to do is take the elevator down to the child-care facility and I can see how my child is being cared for."

So the richest of the rich and the enlightened corporate management are all in favor of quality child care.

I have seen the demand for child care in the middle-income or less-than-middle-income groups. We are about 39th nationally in per capita income in my State of South Carolina. We have a program to develop the industrial arts and skills for workers in high-tech industries. They now have included a course and curriculum at Greenville Tech to train those who would work, whether for churches or for corporations, for schools or otherwise, in child-care facilities funded by this bill; we are now training the directors and supervisors of these new child-care centers.

And, of course, the statistical information presented by Senator DODD and Senator HATCH is overwhelming. Sixty percent of working mothers have a child-care problem and 100 percent, including this Senator, whose children are now grown and having grandchildren, have this problem.

And so this is really a national approach in tune with the sensitivities and sensibilities of the local community and the individual parent. Those considerations have been foremost in the minds of the drafters of this legislation.

I would like to digress briefly to commend Senator DODD and Senator HATCH on this bipartisan approach. I hear there is a partisan amendment coming. I hope nobody is trying to get the high ground or seek partisan advantage on this bill.

I put in a bill, tried to get one through 6 years ago, 7 years ago. I worked with Senator HATFIELD. You will see our child-care bill that we put in last year gained support under title XX of the social services block grant.

Having labored for years in this particular field, I can tell you now that these gentlemen win the award for the most deliberate and thorough and sensitive and commonsensical approach to a problem I have seen up here in many a year. There is an old saying that you should never watch how sausage is made or how laws are made. But this bill is the great exception. We have worked on bills and passed a billion in funding here and 2 billion there, in-

serting a little phrase here or there without any hearings, without any consideration.

But in a bipartsan fashion, these gentlemen and those on the Labor, Health and Human Resources Committee have worked with the Children's Defense Fund and gained support and consulted with Governors, legislators, the Catholic Church, the Christian action groups, and right on down the list to try to fashion a childcare bill with the concerns of these particular groups in mind.

It is a very, very complex and controversial subject. I was present in the early 1970's when some were saying that the child-care bill would be like communism and take over the family. Now we know how silly that was.

The family is not being taken care of except by that working parent. The working parent has got to take care of that child, and we are not now making any provision to aid that beleaguered parent.

So when it comes to the working poor, when it comes to the facilities, this bill is a bellwether. It is a bellwether, Mr. President, in the context of changing the direction of Government here that has been purely political in its preoccupation with gaining votes. We have been buying the votes of our senior citizens with the fruits of the next generation. We do not put a tourniquet on the deficit hemorrhage because we are going to continue to spend on those who can vote. After all, the polls tell you that posterity can do nothing for you, so there is no need to do anything for posterity. So to heck with the next generation. The consultants say that if you want to get the votes, you have got to be professional about this and forget about taking any pride in providing for the future.

Not long ago, I attended an annual dinner of the chamber of commerce, and our friend Charles Kuralt was the speaker. He was summing up his 40 years of writing and observing in America. The one thing that stuck out in his mind and conscience was the lack of concern today for the children in America, for the next generation.

But if you go back to the earliest days of Jefferson, Madison, and Hamilton, you will find that all of Government was focused on providing for the future. They were thinking of that next generation.

In the Civil War and in the darkest days of the Depression, Kuralt reminded us, the rhetoric was always focused on the next generation and the future. But not for the last 10 to 15 years in this National Government. Yes we provided abundantly for Social Security, we did not hesitate. Everybody is for that. We spent $16 billion more and fixed Social Security. Likewise with Medicare; Medicaid. You look at Medicaid funds, 75 percent go to the senior citizens, only 25 percent to the young of America.

But we voted in the Older Americans Act, lower energy income assistance, elderly housing, and so on. As a result, we reduced the senior citizen's percentage in poverty from some 27 percent in 1959 to some 12 percent today. We have done well. I voted for those bills. I support them. I am not pitting one generation against another.

But I have resented the idea that we could not do anything for the children, until the Dodd-Hatch bill came along here. And now, let us examine how we have been denying the children and why we finally need this bill, and, indeed, how it saves us money.

What we have done in the last 6 or 7 years, I say to the Senator, is that we have cut the WIC Program—Women, Infants, and Children—so that it now reaches on 40 percent of those eligible.

You have 13 billion brain cells and I have 13 billion brain cells. And 10 billion of the 13 billion develop during the first 5 months in the mother's womb. Due to lack of nutrition, the lack of protein, there occurs as much as 20-percent less cellular development in the human brain during that first 5 months. And that child comes into this world with what is called generalized or organic brain damage.

It is like taking a television set off the desk here and dropping it on the floor. You put it back on the desk, you turn it on, the hundreds of wires in the TV do not come together. Likewise, the billions of cells in the human mind do not connect if the brain is malnourished. That child is uneducable. It cannot concentrate.

It gets into the first grade, the second grade, it gets a promotion socially. But it cannot read. It drops out, turns to crime, and so on.

The Presiding Officer, and I, as Governor, have learned long since that it is cheaper to feed that child than to jail that man. But this Congress will not do wake up. I would save $3 for every dollar spent on WIC. There are 4 million eligible poor out there who have been dropped from the rolls. We could save billions if we could extend Womens, Infants, and Children out, not to mention the other health costs that have come along, the penal costs and everything else. We cannot save money because we do not understand the economics of human development.

What did we do with respect to Aid for Families with Dependent Children? In 1973 to 1984 we served 84 out of 100 eligible under AFDC. Now we serve less than 60 of 100. What we have done is kicked millions of those children who need AFDC off the rolls. But we all claim to be economizing. We are complying with Gramm-Rudman-Hollings.

Well, baloney. We are not complying. I am one of the authors and I can tell my colleagues that is a phony claim, to say we are complying with it. I stood on the floor when Senators said they brought our budget deficit down to $100 billion, and I dared them to bet me that it would end up nearer $150 billion. Nobody wants to take me up on the bet.

But do not talk about economics and the budgetary restraints and constrictions. In the Head Start Program, 2.5 million are eligible, but only 18 percent are covered: 450,000. We had 25 percent covered in 1978. So we kicked off 175,000 during the last several years, saying we are governing up here. But we are providing $300 billion for a bunch of rascals in the savings and loans. We can find that money.

The bankers, they have to be kept whole. But the youngsters, the infants, the next generation, they cannot vote. To heck with them. Let us look to the next election.

Syracuse University made a study: We save $6 for every $1 we spend in Head Start. We ought to be spending much more. It saves in the dropouts. I will never forget, I had a dropout at 87 percent in high-risk groups. With the combination of Head Start and title I beginning in the 1960's, we cut that rate down to around 30-percent dropouts. If we really want to do something and save money, we ought to be doing that. Instead, we cut half a billion from title I for the disadvantaged. We used to have 75 out of 100 eligible who were served. We reached them. We are now only reaching only 54 out of 100, in the disadvantaged, or title I.

The School Lunch Program has also become a disaster. Between 1981 and 1984 we cut $1 billion out of the program. As a result, there are 3 million fewer kids getting lunch, and there are 500,000 fewer getting breakfast. Again, we are back to trying to keep their concentration in the classroom. We are trying to cut back on illness. This is the only solid meal they get.

Ask LLOYD BENTSEN, from Texas. I will never forget, we studied down there on the Mexican border, these little Mexican kids down there in Texas. Their alertness and their attendance and their truancy. The truancy dropped, the alertness increased as a result of that hot breakfast. We even extended it down there.

But, oh no, we are very fiscally responsible because we cut 3 million off that lunch program, and then another 500,000 off the breakfast program.

I could talk further on drugs, on the penal costs, on education. These are all related to the child-care crisis.

My point here is that we are taking a positive step toward responsibility with the Dodd-Hatch ABC bill. It is a bipartisan initiative. I will debate the merits of this bill with anybody who wants to discuss it. As I am trying to persuade my colleagues here in the U.S. Senate: This is the one bill we can

29-059 O-90-29 (Pt. 9)

finally hold our heads high about and say: for Heaven's sake, now we are going to provide for the next generation. It is economically not only feasible but desirable. I am going to save literally billions in every regard, from penal costs to health costs, reeducation costs. We can start here with this child-care bill and make a proper start. That is the word to emphasize.

This is just a start. Senator DODD and Senator HATCH have pared back, trimmed their sails in order to get a good start in a deliberate fashion. And that is a healthy way to do it: Working with the local communities finding out how they handle it in Connecticut and in South Carolina; giving discretion to the Governors, and so on. I do not know of a better thought-out measure in my time in the U.S. Senate than this ABC bill. It deserves the enthusiastic support of all of us.

Maybe there are a few other amendments, I do not know. But let us not just pair off and see whose bill is going to kill the next Senator's bill or vote on party lines. This has been the bipartisan bill. There has been no intent to make it a partisan measure. I hope we do not get partisan amendments up here. But if we do, we will have to come back and debate them and call them for what they are. We will fight to keep this excellent bill intact.

Mr. DODD. Will my colleague yield?

Mr. HOLLINGS. Yes.

Mr. DODD. I know my colleague from Nebraska has a comment he wanted to make but I did want to commend our colleague from South Carolina for his remarks. I do not know of a person in this Chamber, Republican or Democrat, who has been a better champion of the nutritional needs of children.

Over the past 20 years or more, long before anybody was talking about it, the Senator from South Carolina was talking about the relationship between adequate nutrition a child gets and that child's potential for performance; that when you deny the nutrition you almost guarantee that even a child coming from the best of families with all of the other tools available is not going to, likely, reach his or her maximum potential. So the nutritional aspects of what children receive in hot lunch programs at every public school in this country today, when women and children receive under the WIC Program and a host of other programs, they can thank the Senator from South Carolina that is available today.

Regrettably, Head Start, another one he mentioned, we only served 19 percent of Head Start Program. There is a program that is 25 years old. If you go back and take a child, Mr. President, out of a Head Start Program and a child not in a Head Start Program from the same neighborhood and compare statistically what has happened to those children, you find the Head Start kid, more than likely, finished high school, more than likely will not end up in the juvenile justice system, more than likely was not a teenage parent, more than likely is a productive citizen raising a family today. Regrettably, that other child has fallen into problems with the juvenile justice system, dropout, teenage parent and the like. We now know that program has worked, and many of the same criticisms being raised about the ABC bill, I might suggest, were raised about the Head Start Program when it was started.

My colleague from South Carolina deserves a tremendous amount of credit for what he has done over the years. We have, of course, increased the Head Start Program in our bill as well by $250 million as part of the ABC bill because we recognize the value of a proven product. As well, of course, we include the standards that adequate nutrition be part of the program of the child-care centers so they are not eating junk food and carbonated drinks and calling it food during the day; that there be some nutritional guidelines there so each State will decide what they are and insist upon them. We are told that is denying choice to parents because we want to see some basic minimum health and safety standards in place.

I cannot thank my colleague enough. He has been a sponsor of this bill. He stood with me a few feet from where I am standing today 2 years ago and stood before the press and said, "I support this legislation. You get the authorization and I am going to help you get the appropriations for the ABC bill." I will never forget that statement. He has been unflinching in his support over the last 2 years. The children of America owe him a debt of gratitude. I thank him.

Several Senators addressed the Chair.

The PRESIDING OFFICER. (Mr. LIEBERMAN). The Chair recognizes the Senator from Nebraska [Mr. EXON].

Mr. EXON. Mr. President, I rise today in support of S. 5, the act for better child care. I am pleased to join Senator DODD and Senator HATCH as cosponsors of this very important piece of legislation.

I want to say that I would like to be associated with all of the remarks that have just been so eloquently given by my great friend and colleague from South Carolina. Yes, he has been the leader in this area for a long, long time, I say to the Senator from Connecticut, and I thought your remarks were also appropriate. I also know in our close association over the years on the Budget Committee, it has been Senator HOLLINGS who has led time and time again in the WIC Program, Women's, Infant and Children, and the school lunch programs and others. Of course, I include Head Start.

The first time I ever heard of the Head Start Program must have been 20 years or so ago when Mrs. Frank Morrison, then First Lady of the State of Nebraska, was talking informally with a group of us one day and was telling us about the Head Start Program. We had just gotten it started in Nebraska at that time. She was active in it. She said, "Today I saw an amazing thing. I saw a 7-year-old girl that had ridden in an automobile for the first time in her life today in Lincoln, NE." That was a part of the Head Start Program.

I think it brings home what Senator DODD has just said with regard to how important it is that we give our young people, especially our underprivileged young people, a chance. This is a very, very important piece of legislation, and I suggest, Mr. President, that it is the family legislation of the 101st Congress and will so be so remembered as long as we do remember.

As we all remember, the Senate had a tough time on this bill last year.

In light of the concerns expressed last year, S. 5, as reintroduced by Senators DODD and HATCH, has undergone considerable revision. I salute them for their patience and dedication. I, for one, am pleased to see these revisions. I think these changes make a much stronger bill with a broader base of support. I did not agree to cosponsor the ABC bill until many of these improvements were made. These important changes take care of many of the objections I heard from Nebraskans last year and earlier this year.

The wise incorporation in the bill of language to meet the Ford-Durenberger concerns, which I shared, cleared the last major objection from this Senator.

One of the most important additions to the ABC bill this year has been the establishment of risk retention pools to help with liability insurance for day-care providers, thereby making it more financially feasible for family day care providers to become licensed according to State and I emphasize State, requirements. I have a longstanding interest in the area of liability insurance dating back to my days as Governor of Nebraska. Inclusion of the risk retention pools is a positive step in getting a handle on the ever-increasing problems associated with liability.

I also support the new agreement between the sponsors of this bill and the National Governors Association and other State and local associations. Under that agreement, the earlier section requiring that States adopt minimum standards will be deleted. Instead, a national commission will set recommended health and safety standards. These recommended standards

cannot be more or less rigorous than the most or least rigorous standards that exist in any State at the time these recommendations are submitted.

The States must adopt standards for each general health and safety category listed in the legislation; however, the States will have the discretion to determine what the actual standards will be within each category. The bill establishes financial incentives for States to meet these recommended standards. There will also be grant money available to help States move their standards up to the recommended level. I have heard personally from two Nebraska families who lost children while in the custody of a day care provider.

Both were in unlicensed situations. To me, that is two too many deaths. If we have adequate regulation and incentives toward State licensure, we may in the future be able to prevent these types of situations from occurring.

Another major change from last year's bill is that S. 5 now explicity allows ABC funding for grandparents, aunts, and uncles who care for their relatives, provided, of course, that the caregivers are at least 18 years old and meet applicable State regulations.

As my State of Nebraska currently exempts grandparents from State licensure procedures this section will expand the choice for parents.

This year the ABC bill also includes provisions to encourage businesses and communities to become involved in providing child care services, again providing more options for day care facilities from which parents may choose.

In trying to expand options, the bill also includes provisions establishing resource and referral services to provide additional information to parents seeking child care services. Along with this, the bill provides for grants and loans to help family day-care and nonprofit providers establish and/or expand child-care programs.

In a 1987 study, it was estimated that in Nebraska, my home State, there are 72,500 children age 5 and under whose mothers work outside the home. This does not include children whose mother is in school or a job-training program, so the numbers would be slightly higher. According to a 1988 Nebraska study, 68 percent of working parents with primary responsibility for child care, usually mothers, work full time.

In Nebraska, approximately 20 percent of the child-care services for children under age 6 are provided at home by one of the child's parents. Approximately 70 percent of the rest of the care is provided outside the child's home.

Let me state that again, if I may, Mr. President. Approximately 70 percent of the rest of the care in Nebraska is provided outside of the child's home.

To me, those numbers indicate that there is a need even in rural States such as Nebraska for child care services. I believe that reference and referral provisions in this bill, as well as the provisions on training and technical assistance, will be extremely beneficial to the rural areas in helping to establish services where none previously existed or upgrading existing services to meet the State standards, if they do not already do so, of course.

As my colleagues are aware, there is currently very little Federal assistance available for child care. The Head Start Program, which has been mentioned, which is an excellent program serving disadvantaged children, only has funding to help about 18 percent of the eligible population. Title XX of the social services block grant currently provides $2.7 billion per year for a variety of social service activities, including child care. However, only about 15 to 18 percent of the funds are used for child care alone. Also, the reimbursement rates are so low, in some instances as much as 50-percent below market rate, that many providers will not accept title XX children. Under the ABC bill, payments to providers must be comparable to payments child care providers receive for services provided to children not covered under this legislation. We need to increase the number of available providers and this bill will do the job. One way of doing this is by making it an attractive position. Higher reimbursement rates are one such incentive.

Approximately 65 percent of the mothers with children under age 18 are in jobs outside the home. This is a result of the increasing numbers of single parent households as well as the economic necessity of having two incomes to provide a decent standard of living. Two-thirds of the mothers in the work force are either the sole supporter of their family or have husbands who earn less than $15,000 per year, Mr. President.

Today less than 1 in 10 families represent the "traditional" family where the mother stays home while the father works. Yes, that was the way it was when I was growing up. That was the way it was when a majority of the Members of this body were growing up. That is not the way it is today. We live in different times, and when we live in different times, that is the time for leaders who care about kids to stand up and say the old formula may have been good, the old formula may have been better than what we have today, but the old formula is gone, Mr. President, in the society in which we live today. I suggest to all, it is time that we get up to date in the Senate, and we are doing so with this bill.

I ask unanimous consent, Mr. President, that an article entitled "Child Day Care Policy Issues in Nebraska," originally printed in the Nebraska Policy Choices: 1988, be printed following my remarks, with an appropriate letter attached thereto.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. EXON. Mr. President, in closing, I just want to point out that this article suggests that, based on evidence collected, three policy strategies for improving the quality of home day care in Nebraska are necessary: strengthening and expanding family day-care rules; subsidizing quality day care for the working poor; and expanding specialized training for home day-care providers.

This is exactly what the ABC bill attempts to do. For that reason, I lend my strong support to this measure and urge my colleagues to do the same.

Mr. President, the bottom line is not whether parents should use outside child care but, rather, whether, when it is used, it is provided in a situation that is affordable as well as providing a safe and healthy environment that promotes positive development for our most precious asset—our children. This legislation goes a long way toward answering that question, and I urge swift passage. It is not perfect legislation, Mr. President. We seldom pass that kind here, but it is absolutely necessary.

There will be reasons invented to vote against it, but that does not justify its failure to pass. If we can take care of our military needs, bail out every defunct financial institution in America, grant billions in foreign aid, meet our concerns for our seniors, then I suggest, Mr. President, we can find the savings for a minimum protection, to provide for our most important possession, our kids.

Mr. President, I yield the floor.

[EXHIBIT 1]

UNIVERSITY OF NEBRASKA AT OMAHA,
Omaha, NE, May 12, 1989.

ROBIN HENDERSON,
Senator JAMES EXON,
U.S. Senate, Washington, DC

DEAR MS. HENDERSON: This is in response to your request to reprint "Child Day Care Policy Issues in Nebraska." I understand you plan to publish it in the Congressional Record. You do have our permission to do so, provided you include our credit line: "Reprinted with permission from 'Nebraska Policy Choices: 1988,' copyright 1989 by Center for Applied Urban Research, University of Nebraska at Omaha."

We appreciate your interest in our work. Please let me know if there is anything else we can do for you.

Sincerely,
MARGARET MCDONALD RASMUSSEN,
Editor.

CHILD DAY CARE POLICY ISSUES IN NEBRASKA

(By Christine M. Reed)

This chapter looks at the Nebraska child day care market. A review of the day care

arrangements made by working parents for their preschoolers indicated that the majority used home day care—in the home of a relative, friend, neighbor, or family day care home proprietor. This predominance, together with evidence that sixty percent of all day care is informal, unregulated care, suggests three policy strategies for improving the quality of home day care in Nebraska: strengthening and expanding family day care rules; subsidizing quality home day care for the working poor; and expanding specialized training for home day care providers.

INTRODUCTION

Why is child day care suddenly receiving so much attention? An unusual combination of social and demographic trends and research in child developmental psychology has focused the attention of Nebraska legislators, professionals and parents on this important issue. This chapter provides comprehensive information about the child care market in Nebraska and policy strategies to address that need.

In 1987 there were an estimated 72,500 preschool-age children (five years and under) whose mothers were in the Nebraska labor force, and who therefore needed some kind of day care arrangement. Including mothers in school and in job training programs in this estimate would report an even higher number of children in day care. According to a Nebraska survey conducted by the Center for Applied Urban Research (CAUR) during the summer of 1988, sixty-eight percent of working parents with primary responsibility for child care (usually mothers) work full time. Moreover, 80.7 percent use their regular child care for more than six hours a day.

At the national level, statistics point to a fundamental restructuring of work and family responsibilities. The national labor force participation rate of married women with their youngest child under six years old has risen dramatically, from 30.3 percent in 1970 to 53.7 percent in 1985 (figure 1).

[Figure 1 not reproducible in RECORD.]

Labor force participation increases with the age of the child; however, nearly half of all married women with a child one year old or older were in the labor force in 1985 (figure 2). In 1986, two-paycheck couples comprised sixty-one percent of all husband/wife families; one quarter of all families with children were single-parent families, headed mostly by women. Full-time, continuous employment has now become a reality for many women, married and single alike.

[Figure 2 not reproducible in RECORD.]

The centrality of employment is one reason for heightened interest in child day care. A second factor is increased awareness of how the quality of child day care affects cognitive, emotional and social development. Our society has traditionally been, and continues to be, ambivalent about nonmaternal care. However, the question is not whether parents should use outside child care, but rather when it is used, what conditions promote positive development and minimize harm to young children. Research consistently demonstrates that licensing standards regulating group size, staff-to-child ratio, and training of day care providers have a positive influence on children's daycare experiences and, in turn, tend to make children more cooperative, more intellectually capable, and more emotionally secure (Belsky 1985).

Like all states, Nebraska has experienced a sudden, rapid increase in the need for child day care; however, as the following section will show, certain features of the state's child day care market are unique to Nebraska. This chapter contributes four major findings about Nebraska's child day care market. First, compared to the nation as a whole, a higher percentage of Nebraska children are in home day care—in the homes of relatives, friends, neighbors, and family day care home (FDCH) proprietors. A second feature distinguishing the Nebraska child day care market is the high percentage of preschool-age children in registered day care homes compared to the percentage in licensed day care centers. Third, the lower the family income, the more likely working parents are to use informal, unregulated day care in private homes. Finally, compared to other states, Nebraska has relatively lenient home day care regulations, especially in the number of children allowed before providers are required to register. The following section describes the features of the child day care market in more detail.

THE CHILD DAY CARE MARKET IN NEBRASKA

The term child day care refers to the daily care arrangements during the hours that the primary caregiver of the child (usually the mother) is at work, looking for employment, in a job training program, or in school. The child care market includes a variety of arrangements. Care can be in the child's own home by the parents, who arrange their work schedules so that one spouse is always with the child; or by a relative or nanny. Arrangements can also be made in the home of a relative, friend, neighbor, or proprietor of an FDCH. Finally, care can be in a specially designated structure devoted to child care, such as a center or preschool. While day care arrangements can be made for any age child, this chapter examines only the day care arrangements for preschool-age children.

The distribution of primary child day care arrangements in Nebraska, for the youngest child under six years old of working parents, is shown in table 1. About one-fifth of these children are cared for in day care centers and preschools. Over half are in home day care. The rest, almost twenty-eight percent, are being cared for in their own homes, primarily by their fathers, or by their mothers while self-employed at home.

TABLE 1.—*Distribution of Primary Child Care Arrangements in Nebraska for the Youngest Child Under Six Years Old of Working Parents, 1988*

Primary child care arrangements	*Percent*
Care in child's home	27.8
By spouse	11.1
By other relative	3.3
By nonrelative	4.6
By mother self-employed at home	8.8
Care in another home	53.4
By relative	6.6
By nonrelative	46.8
Organized child care	17.4
Day/group care center	15.1
Preschool/special program	2.3
Other	1.0
Total[1]	99.6

[1] Total does not equal 100 percent due to the effect of rounding.

Source: "*Survey of Child Care Arrangements in Nebraska.*" Center for Applied Urban Research, College of Public Affairs and Community Service, University of Nebraska at Omaha.

The national distribution of child care arrangements over the past ten years is shown in table 2. Compared with the country as a whole, more preschool-age children in Nebraska are in home day care—fifty-three percent of Nebraska children compared to about forty percent nationwide. (These figures do not reflect what percentage of private homes are registered or licensed, because the census does not collect this information.) Approximately the same percentage of children in Nebraska as nationally are in day care centers.

A survey of child care in Kearney, Nebraska, conducted in the summer of 1987 by the Bureau of Sociological Research at the University of Nebraska-Lincoln, found a distribution of child care arrangements similar to the 1988 Nebraska statewide survey. Fifty-one percent of respondents (full-time working parents with preschool-age children) said they used home day care. Twenty-two percent had an adult at home (immediate family member), and fourteen percent used child care centers or preschools (Booth, Amoloza, and Funk 1987).

TABLE 2.—NATIONAL DISTRIBUTION OF PRIMARY CHILD CARE ARRANGEMENTS FOR CHILDREN UNDER FIVE YEARS OLD: 1977, 1982, 1984–85[1]

Primary child care arrangements	1977	1982	1984–85
Care in child's home	42.6	39.7	39.1
By father	13.5	13.9	15.7
By other relative	12.1	11.2	9.4
By nonrelative	6.3	5.5	5.9
By mother self-employed at home	10.7	9.1	8.1
Care in another home	40.4	40.2	37.0
By relative	18.0	18.2	14.7
By nonrelative	22.4	22.0	22.3
Organized child care facility	12.5	14.8	23.1
Day/group care center	12.5	14.8	14.0
Preschool	NA	NA	9.1
Other/don't know/no answer	4.4	5.3	.7
Total[2]	99.9	100.0	99.9

[1] The 1977 and 1982 census surveys covered the child care arrangements for the youngest child under five years old; the 1984–85 special census study covered all preschool-age children in families with working mothers.

[2] Totals may not equal 100 percent due to the effect of rounding.

Sources: "Child Care Arrangements of Working Mothers: June 1982," U.S. Department of Commerce Bureau of the Census, Series P–23, No. 129. "Who's Minding the Kids? Child Care Arrangements: Winter 1984–85," U.S. Department of Commerce Bureau of the Census, Series P–70, No. 9.

There are 2,205 private homes in Nebraska that are registered with the Nebraska Department of Social Services (NDSS) as family day care homes. Nebraska law requires that a private home providing care for four or more children from different families self-certify that the provider has complied with Rules for Family Day Care, issued by the NDSS (NDSS 1986). Family day care home regulations contain rules on health and sanitation, fire safety, physical space, transportation, and other areas, as well as limits on the number of infants and children in a home.

Registered homes, together with licensed day care centers and preschools, make up the formal child day care market in Nebraska—care arrangements purchased in the open market but regulated by the government (see table 3). The remainder of child care arrangements purchased in the open market are considered to be informal: care by relatives or nannies in children's own homes, plus care in private homes by relatives, friends, neighbors, and proprietors of FDCHs who are not registered with the state. (Unregistered homes are distinguished from illegally operated or *underground* homes; many providers are not required to register because they care for fewer than four children or for children from only one family.) Finally, arrangements with members of the immediate

family (for example, spouses dividing work schedules and child care responsibilities) are not subject to conditions of an economic market and are classified as non-market care (Robins and Spiegelman 1978).

TABLE 3.—COMPONENTS OF THE CHILD DAY CARE MARKET

Formal market	Informal market	Nonmarket
Registered home day care:	In child's home by relative	In child's home by parent.
Relative	In child's home by nanny	In child's home by sibling.
Friend	Unregistered home day care.	In child's home by mother who is self-employed at home.
Neighbor		
FDCH proprietor	Relative	
Licensed day care center.	Friend	
	Neighbor	
Licensed preschool	FDCH proprietor	
Licensed special program.		

As shown in figure 3, roughly two-fifths of Nebraska's preschool-age children with working parents are in formal care arrangements. Somewhat less than that—38.6 percent—are being cared for informally. The rest are in the care of their immediate families, though both parents work, the majority of them full time. The size of the formal market in Douglas County is slightly larger than in the state as a whole, because of the higher percentage of preschool-age children in day care centers; however, when all metropolitan counties (Douglas, Sarpy, Washington, Lancaster and Dakota) are compared to all nonmetropolitan counties in Nebraska, child care arrangements across the formal, informal and nonmarket sectors are much the same.

[Figure 3 not reproducible in Record.]

Nebraska not only has a higher percentage of home day care (both registered and unregistered) than the nation as a whole; but compared to other states, Nebraska ranks sixth in the percentage of preschool-age children in formal market care who are in registered homes—48.1 percent (see table 4).

When Nebraska is compared with the six other states in the West North Central Region plus the two contiguous states outside the region, the state ranks fourth, behind North Dakota, Kansas and Minnesota, in registered home care (see table 5). In fact, six of the top ten states, as ranked in the last column of table 4, are from this region. Day care in private homes is apparently characteristic of this part of the country.

The number of registered private homes in Nebraska has more than doubled this decade, from 1,079 homes in 1980 to 2,205 in 1988. The total number of registered FDCH slots is now estimated to be 15,500 (NDSS 1988). Even more significant is the apparent increase in the percentage of home day care providers who have registered with the state, growing from an estimated fifteen percent (Public Health and Welfare Committee 1980) to the forty percent reported in CAUR's survey during the same period FDCHs are more likely than homes of relatives, friends and neighbors to be registered (see figure 4).

[Figure 4 not reproducible in Record.]

Home day care is a distinctive feature of the state's child care market. This fact must be taken into account when formulating policy to address the unmet need for child care and quality standards for day care providers. The following section explores different perspectives on the issues of need and quality. A subsequent section proposes three policy strategies to improve the quality of home day care in Nebraska.

TABLE 4.—CHARACTERISTICS OF THE FORMAL CHILD DAY CARE MARKET IN THE UNITED STATES

State:	Total number preschool children in child care	Number in centers	Number in licensed registered homes	Percent in centers	Percent in licensed registered homes	Percent in formal market care (center and home combined)	Percent in formal market care in registered homes	Rank order of percent in formal market care in registered homes
Alabama	149,000	[1] 45,000	[1] 17,550	30.2	11.8	42.0	28.1	19
Alaska	30,000	8,571	2,329	28.6	7.8	36.3	21.4	25
Arizona	135,000	65,000	6,000	48.1	4.4	52.6	8.5	37
Arkansas	87,500	43,209	4,159	49.4	4.8	54.1	8.8	35
California	1,072,000	391,804	225,821	36.5	21.1	57.6	36.6	12
Colorado	133,500	45,270	29,408	33.9	22.0	55.9	39.4	9
Connecticut	101,500	55,216	16,357	54.4	16.1	70.5	22.9	24
Delaware	22,000	9,632	4,320	43.8	19.6	63.4	31.0	17
Florida	373,500	300,000	14,000	80.3	3.7	84.1	4.5	41
Georgia	228,000	111,580	34,368	48.9	15.1	64.0	23.5	22
Hawaii	46,000	21,924	1,006	47.7	2.2	49.8	4.4	42
Idaho	47,000	13,121	379	27.9	0.8	28.7	2.8	45
Illinois	444,500	111,295	33,747	25.0	7.6	32.6	23.3	23
Indiana	201,500	39,727	8,944	19.7	4.4	24.2	18.4	28
Iowa	107,500	20,271	11,176	18.9	10.4	29.3	35.5	13
Kansas	101,500	[1] 23,850	[1] 43,011	23.5	42.4	65.9	64.3	2
Kentucky	136,000	48,110	2,173	35.4	1.6	37.0	4.3	43
Louisiana	NA	NA	NA	NA	NA	NA	NA	NA
Maine	41,000	7,881	7,782	19.2	19.0	38.2	49.7	4
Maryland	156,000	55,000	30,000	35.3	19.2	54.5	35.3	14
Massachusetts	188,000	68,618	43,165	36.5	23.0	59.5	38.6	10
Michigan	329,000	106,067	48,064	32.2	14.6	46.8	31.2	16
Minnesota	167,000	42,032	66,955	25.2	40.1	65.3	61.4	3
Mississippi	NA	NA	NA	NA	NA	NA	NA	NA
Missouri	194,000	46,507	12,436	24.0	6.4	30.4	21.1	26
Montana	35,000	4,300	1,800	12.3	5.1	17.4	29.5	18
Nebraska	66,500	13,680	12,660	20.6	19.0	39.6	48.1	6
Nevada	33,500	[1] 9,900	[1] 1,866	29.6	5.6	35.1	15.9	30
New Hampshire	34,500	20,121	3,247	58.3	9.4	67.7	13.9	31
New Jersey	NA	NA	NA	NA	NA	NA	NA	NA
New Mexico	69,000	18,005	2,162	26.1	3.1	29.2	10.7	33
New York	604,000	185,325	27,804	30.7	4.6	35.3	13.0	32
North Carolina	209,000	132,692	33,145	63.5	15.9	79.3	20.0	27
North Dakota	30,500	1,696	6,937	5.6	22.7	28.3	80.4	1
Ohio	393,000	120,000	12,000	30.5	3.1	33.6	9.1	34
Oklahoma	139,500	60,652	5,744	43.5	4.1	47.6	8.7	36
Oregon	101,000	26,544	9,078	26.3	9.0	35.3	25.5	21
Pennsylvania	388,500	110,595	23,130	28.5	6.0	34.4	17.3	29
Rhode Island	31,000	[1] 5,490	[1] 3,575	17.7	11.5	29.2	39.4	8
South Carolina	126,000	71,308	5,330	56.6	4.2	60.8	7.0	40
South Dakota	31,500	4,076	2,947	12.9	9.4	22.3	42.0	7
Tennessee	161,500	98,511	2,771	61.0	1.4	62.4	2.3	46
Texas	731,000	426,328	165,282	58.3	22.6	80.9	27.9	20
Utah	97,500	17,175	10,500	17.6	10.8	28.4	37.9	11
Vermont	19,500	5,000	400	25.6	2.1	27.7	7.4	39
Virginia	202,500	68,739	2,235	33.9	1.1	35.0	3.1	44
Washington	174,000	[1] 41,625	[1] 39,436	23.9	22.7	46.6	48.6	5
West Virginia	NA	NA	NA	NA	NA	NA	NA	NA
Wisconsin	180,500	51,542	4,312	28.6	2.4	30.9	7.7	38
Wyoming	25,500	10,256	4,890	40.2	19.2	59.4	32.3	15
U.S. Average				38.0	12.5			

[1] Estimated by multiplying the number of centers by 45 children per center, and the number of homes by 6.5 children per home.

Sources: Compiled by the author from "State Child Care Fact Book 1987," Children's Defense Fund; and "Statistical Abstract of the United States 1987", U.S. Department of Commerce, Bureau of the Census.

TABLE 5.—*National Rank Order of Nebraska and Neighboring States of Percent in Formal Market Care Who Are in Registered Homes*

[National rank order (from table 4)]

State:	
North Dakota	1
Kansas	2
Minnesota	3
Nebraska	6
South Dakota	7
Colorado	9
Iowa	13
Wyoming	15
Missouri	26

Sources: Compiled by the author from the "State Child Care Fact Book 1987," Children's Defense Fund; and "Statistical Abstract of the United States 1987," U.S. Department of Commerce, Bureau of the Census.

CHILD DAY CARE POLICY ISSUES IN NEBRASKA

The sudden and rapid expansion of the child day care market in Nebraska is a trend of concern to legislators, professionals and parents for two reasons. First, there is the issue of whether the market has responded efficiently to the increased demand for child day care—whether the existing quantity and mix of arrangements meet the needs of working parents. Second is the concern about whether Nebraska laws adequately protect the health, safety and welfare of the estimated 72,500 young children who are now in continuous out-of-home care.

MEASURING THE UNMET NEED FOR CHILD DAY CARE

There are multiple views of Nebraska's need for child day care, each with a different set of policy implications. The first perspective asserts that all existing child day care needs are met by the distribution of arrangements in table 1; if unmet needs exist, they will be met by formal and informal market service providers. This represents a laissez-faire approach to child day care. Stating that the unmet need is zero implies that there is only a minimal role for state government to play in regulating the health, safety and welfare of young children. This role would include subsidizing child day care services and training child day care providers to operate with professional standards.

A second perspective is that existing child day care arrangements meet the needs of most working parents, but that targeted subgroups should be identified for selective government assistance. Evidence from the 1988 Nebraska statewide survey indicates that the vast majority of respondents are satisfied with their current arrangements; however, low-income working parents are heavy users of informal market care (see figure 5). Survey respondents who cited affordability as a "most important" criterion in their choice of arrangements are more likely than others to split work shifts and child day care responsibilities (use nonmarket care); however, these were as likely to be middle-income as low-income families. The working poor, on the other hand, appear to be limited primarily to unregistered private homes, where their children are at greater risk for low quality day care due to large numbers of children and providers with little or no formal training in child care. These findings suggest a strategy of selective government assistance to the working poor.

[Figure 5 not reproducible in Record.]

A third perspective argues that only a fraction of Nebraska's real need for child care has been met, and that a large gap continues to exist between the number of preschool-age children with working parents and the number of licensed and registered center and home day care slots. This gap can be expressed in terms of either the number of children in both nonmarket and informal market care, just the number in informal market care, or somewhere in between. There were an estimated 72,500 Nebraska preschool-age children in day care in 1987; roughly two-fifths were in licensed and registered center and home day care slots. According to this perspective, then, the unmet need is somewhere between the approximately forty percent in informal market care and the sixty percent in both nonmarket and informal market care (see figure 3). These percentages represent between 29,000 and 43,500 children. Active government regulation of all or most day care arrangements, subsidies to help families afford the higher costs associated with licensing and registration standards, and programs to foster professional child care standards are all policy strategies implied by this approach.

Unfortunately, there is no simple answer to the question of whether the child day care market addresses the needs of working parents. Empirical evidence presented in this chapter indicates that the market is fairly efficient at producing an adequate supply of child care—*adequate* as measured by the satisfaction of parents. While incomes clearly limit some families to unregistered home day care arrangements, other factors, such as preference for family atmosphere and a desire to maintain child care within the immediate family, also affect market demand. Studies have shown that demand for formal market care is price elastic; demand increases only as prices drop. This tendency applies to all income groups.

State government intervention is justified by the unmet child day care needs of working parents. However, as the previous discussion has shown, there are multiple perspectives on unmet need, each of them based upon a different philosophy about the proper role of government in family life. However, one of the major rationales for active government involvement is not parental need but the fact that a large number of Nebraska childen are now exposed to nonmaternal daily care, in large groups, by providers who often lack any formal training in early childhood development or day care management. Regardless of what working parents are able or willing to pay for child care, state government has a responsibility to protect the health, safety and welfare of these children through quality day care services.

MEASURING QUALITY CHILD DAY CARE

Although child development specialists continue to disagree about the desirability of nonmaternal child care, particularly for infants, they do agree that the higher the quality of substitute day care the less likely will long-term, negative effects occur. The positive outcomes associated with child day care are different for various age groups. For infants and toddlers the concern is that full-time day care should not affect the mother-child relationship, so critical for healthy development. Studies have found that nurturing and stimulating care by the same provider over a period of time helped the infant adjust to being separated from his or her mother and does not disrupt the bonding process. For preschool-age children, quality of child care received is measured by how cooperatively children play with their agemates and how responsive they are to their caregivers (social development), and by how well they perform on tests of cognitive and linguistic development (Belsky 1985).

It is clear from these studies that quality is a function of group size, staff-to-child ratios, and specialized training of day care providers. Preschool-age children tend to become confused and withdrawn in large groups, and caregivers have fewer opportunties to give young children individualized attention. Favorable ratios mean relief for caregivers from constant interaction with children; less need for strict rules to control children's behavior; and less exposure to physical danger for infants and toddlers. Finally, providers with specialized training in early childhood education, child development, and day care are more likely than others to give children appropriate cognitive and social stimulation. Significantly, studies indicate that formal education is less important in this regard than specialized training (Ruopp and Travers 1982).

POLICY STRATEGIES FOR IMPROVING CHILD DAY CARE

Three policy strategies potentially affect the quality of child day care: Regulation of quality standards in home day care; subsidies to improve the quality of home day care for low-income working parents; and specialized training in early childhood education, child development, and day care in order to increase home day care provider competence and skill.

STRENGTHEN AND EXPAND THE SCOPE OF FAMILY DAY CARE RULES

Presently, any provider caring for four or more children from different families is subject to Nebraska's family day care home regulations. Nebraska rules: Establish a ceiling of eight children of mixed ages (infants, preschool, school age); set a minimum age of 19 years for the caregiver; require providers to submit statements about their health and criminal records, including child abuse and neglect; reference state health and sanitation and fire safety rules; and establish guidelines for nutrition, immunization records, first aid supplies, medication, transportation of children, and physical space and safety.

As discussed previously, approximately forty percent of all home day care providers are self-registered with the Nebraska Department of Social Services, up from an estimated fifteen percent in 1980. The other sixty percent fall into three general categories: 1) homes providing care to three or fewer children or to children of one family; 2) homes operating illegally (underground operations); and 3) homes exempt from the rules because care is provided without compensation (provided by grandparents to their grandchildren, and so forth). The penalties for failure to comply are denial, suspension or revocation of a license, and a civil penalty of five dollars per child for each day in violation, after a finding by the NDSS director or district court. NDSS staff have primary responsibility for monitoring compliance with these rules (NDSS 1986).

Compared to other states, Nebraska has a somewhat lenient set of family day care home regulations (see table 6). Nebraska law permits self-registration, but many states require government inspection before granting a license to operate. Nebraska's threshold for registration is higher (more lenient) than average, and its ceiling on the number of preschool-age children per home is higher than the national average. Nebras-

ka rules do not require training, and they permit a self-reported statement regarding prior arrests and convictions. Some states provide for a criminal record and fingerprint check.

TABLE 6.—SELECTED REQUIREMENTS OF FAMILY DAY CARE RULES BY STATE

	License of registration required	Threshold [1]	Ceiling [2]	Limits on infants	Training requirements	Physical exam required	Criminal check required
New England Region							
Connecticut	License	2	6	Yes	No	Yes	Yes
Maine	do	4	7	Yes	No	Yes	Yes
Massachusetts	do	2	6	Yes	No	No	Yes
New Hampshire	do	7	6	Yes	No	Yes	Yes
Rhode Island	do	5	6	Yes	Yes	Yes	Yes
Vermont	do	7	7	Yes	No	Yes	Yes
Middle Atlantic Region							
New Jersey	Registration	2	8	Yes	Yes	Yes	No
New York	License	4	6	Yes	No	Yes	No
Pennsylvania	Registration	5	7	Yes	No	Yes	Yes
East North Central Region							
Illinois	License	4	8	Yes	No	Yes	Yes
Indiana	do	7	10	No	No	No	No
Michigan	Registration	2	6	No	No	Yes	Yes
Ohio	License	2	6	Yes	No	No	No
Wisconsin	do	5	9	No	Yes	Yes	No
West North Central Region							
Iowa	Registration	6	6	No	Yes	Yes	Yes
Kansas	do	1	6	No	No	Yes	Yes
Minnesota	License	6	6	Yes	Yes	Yes	Yes
Missouri	do	5	11	Yes	No	Yes	No
Nebraska	Registration	5	8	Yes	No	Yes	No
North Dakota	License	6	7	Yes	No	No	Yes
South Dakota	Registration	12	12	No	No	No	No
South Atlantic Region							
Delaware	do	2	6	Yes	Yes	Yes	Yes
Florida	do	10	10	No	No	No	Yes
Georgia	do	5	7	No	Yes	No	Yes
Maryland	License	2	6	Yes	No	Yes	Yes
North Carolina	do	3	8	No	No	Yes	No
South Carolina	Registration	2	6	No	No	No	No
Virginia	License	7	10	Yes	No	No	No
West Virginia	Registration	6	6	Yes	No	No	No
East South Central Region							
Alabama	License	2	7	No	Yes	Yes	No
Kentucky	do	5	6	Yes	Yes	No	Yes
Mississippi	do	7	14	Yes	No	Yes	No
Tennessee	do	2	7	Yes	Yes	Yes	No
West South Central Region							
Arkansas	do	7	7	Yes	No	Yes	No
Louisiana	do	1	6	Yes	Yes	Yes	No
Oklahoma	do	2	5	No	No	Yes	No
Texas	Registration	4	6	Yes	No	No	Yes
Mountain Region							
Arizona	License	6	11	No	No	Yes	Yes
Colorado	do	5	6	No	Yes	Yes	Yes
Idaho	Registration	6	6	Yes	No	Yes	Yes
Montana	do	3	6	No	No	No	No
Nevada	License	6	7	Yes	Yes	No	Yes
New Mexico	do	6	6	Yes	Yes	No	Yes
Utah	do	5	6	Yes	Yes	Yes	Yes
Wyoming	do	4	6	No	Yes	Yes	No
Pacific Region							
Alaska	do	6	7	Yes	Yes	Yes	No
California	do	4	6	Yes	No	No	Yes
Hawaii	do	3	5	Yes	No	Yes	Yes
Oregon	Registration	11	11	Yes	No	No	No
Washington	do	2	6	Yes	No	No	Yes
National average		4.7	6.2				

[1] Threshold is the number of preschool-age children for which licensing or registration is required. Methods for counting children against the threshold requirement vary; some states specify number of children, while others refer to number of families. Some states count the providers' own children in the thresholds. Family thresholds were standardized by assuming an average of two children per family. Thus, California's required licensing of providers caring for two or more families was converted to a child threshold of four. Similarly each provider was assumed to have an average of one child of her own in addition to children from other families. Thus, Nebraska's threshold is counted as five, although the rules specify registration is required if the provider cares for four or more children from different families besides her own.

[2] Ceiling is the maximum number of preschool-age children permitted by the license. As with the threshold, providers' own children may or may not be counted, depending on state rules. Ceilings were increased by one child in states where providers' children are not counted against the ceiling.

Source: "Survey of State Child Day Care Home Licensing Agencies." Center for Applied Urban Research, College of Public Affairs and Community Service, University of Nebraska at Omaha.

Unfortunately, plans to upgrade family day care rules have focused primarily on physical condition, provider training and group size, but have not addressed the threshold requirement. Unless the threshold is lowered simultaneously, existing registered home day care providers will be forced to pass along to the parents the higher costs associated with improved quality standards, and unregistered homes will operate with a competitive advantage. The percentage of children in the formal market is likely to decline unless virtually all homes are required to meet the same standards.

Although the data are not shown, an analysis of the relationship between family day care rules in different states and the percentage of children in licensed/registered homes shows that the more stringent the state rules, the higher the percentage of children in formal market home day care, *if* the threshold is also stringent (low). This finding contradicts the conventional belief that regulation is a barrier to providers entering the formal child day care market.

SUBSIDIZE QUALITY HOME DAY CARE FOR THE WORKING POOR

Because a small, but significant, group of working parents are forced by low incomes to use informal market arrangements, and because their children are at greater risk for low quality day care, subsidies are one strategy for selectively improving the home day care market. However, subsidies must be large enough to make it financially feasible for providers to offer quality child care.

At the present time, the major child care subsidy program is Title XX. Nebraska Title XX income eligibility requirements target primarily low-income working parents and recipients of Aid to Dependent Children (ADC). In addition, single parents who are ADC recipients in Nebraska are required to register for the Job Support Program after their children are over six months old. Currently, 3,298 participants use child care support services under the Job Support Program; 1,686 while in job training programs

and 1,612 while searching for employment or during the first 30 days after employment begins (NDSS). Funding for transitional child care will be extended to 90 days in January, 1989. When the new federal welfare reform law goes into effect, Nebraska will be required to provide child care services on a sliding fee scale to Job Support participants for one year after initial employment.

Registered day care home providers tend to avoid taking Title XX children, because NDSS payments are lower than the market rate for registered child day care. Only thirty-six percent of the 236 homes in Omaha under contract with NDSS were registered in February, 1988; the other sixty-four percent were approved for Title XX contracts by NDSS using a procedure similar to, but somewhat less rigorous than, registration (United Way of the Midlands 1988).

Title XX subsidies make adequate child day care affordable for many low-income parents; however, changes are needed in the way the program operates in Nebraska in order to improve the quality of home day care available to the working poor. Two strategies currently under discussion are increasing Title XX contract payments to registered homes and targeting certain payments to providers willing to upgrade the quality of their services through specialized training.

EXPAND SPECIALIZED TRAINING FOR HOME PROVIDERS

Programs to train home day care providers represent a third approach to improving the quality of child care. Training seeks to raise the overall quality of caregiving activities through support services, such as newsletters and peer networks; workshops and courses in childhood growth and development, age-appropriate activites, positive discipline, and behavior management; and training in small business management. Typically, training programs do not receive as much political support as subsidy programs, because the payoffs are longer term and less tangible. Research has clearly demonstrated, however, that training leads to higher quality child day care, both in centers and in homes.

There are several reasons to use training as a strategy to improve the quality of child day care. First, although Nebraska ranks sixth in the nation in the percentage of preschool-age children in formal market care who are in registered day care homes, the state also has a substantial informal market. Voluntary training programs available across Nebraska would potentially benefit an estimated 28,000 preschool-age children in unregistered homes, in addition to the approximately 13,750 in registered homes. Second, research indicates that professional support networks and training, newsletters, and other forms of information exchange among service providers are more effective motivators to improve performance than are rules mandating specific conditions and behaviors. Therefore, licensing standards and training programs ought to be viewed as complementary strategies. Finally, while income subsidies are more appropriately targeted to families in need, provider training is a way to improve the overall quality of day care for all children in Nebraska.

Summary and Conclusions

It is important to remember that widespread interest and concern about child day care is a very recent phenomenon. Until the 1980s, only a fraction of mothers with young children were in the labor force. Government-funded child day care was primarily a social welfare service to families in crisis, and victims of child abuse and neglect were its main beneficiaries. The idea of day care for children from "normal" families is one that has yet to be completely accepted by parents, policy makers, and even child development psychologists. Yet Nebraska legislators are faced with the reality of 72,500 children under six years of age in continuous nonmaternal day care. The question for law makers is how best to serve their constituents' needs for affordable and adequate day care, while at the same time ensuring that costly quality standards are met by child day care providers.

What Nebraska policy makers are addressing the question of government's role in day care, employers must also adapt to the restructuring of work and family responsibilities between mothers and fathers. Research indicates that family stress generated by employment and child care scheduling conflicts will itself have long-term, negative effects on children. Thus, a state policy to address child day care needs to be followed by a longer term strategy to reduce the stress and enhance the quality of life for Nebraska families.

ENDNOTE

1. The number of Nebraska preschool-age children in day care calculated using the "County Superintendents' School District Census Report" (Nebraska Department of Education) and the 1985 national labor force participation rates for wives with husbands present, by the age of the youngest child:

Age (years)	Number of children	Labor force participation rate (percent)	Number of children needing day care
Under 1	15,905	49.4	7,857
1	20,062	49.4	9,911
2	22,140	54.0	11,956
3	22,708	55.1	12,512
4	24,131	59.7	14,406
5	25,537	62.1	15,858
Total			72,500

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Mr. COATS. Mr. President, I thought I would take this time to address a specific issue of the bill now before us that has raised some confusion and raised some questions and some doubts about the application of it, the changes that have occurred, and just where we stand on the whole issue of church-state relations, how this bill impacts on church-provided or synagogue-provided day care.

As we know, a significant percentage of day care today is provided by religious organizations, various denominations, various faiths. In fact, some of the very best child care is provided by religious organizations. The estimate is that up to 30 percent or so of all child availability is through some type of religious-oriented child-care facility. And so it is an important part of this debate that we understand how the ABC bill would impact on that and whether it would foster an acknowledged basis of child-care provision that is important to the child care system or whether it might tend to diminish that.

Questions have been raised relative to the ABC bill in terms of the prohibition of Federal funds or any funds

appropriated under this act going toward the use of child care provided by religious organizations.

An amendment has been proposed, and then accepted, and now is part of the ABC bill, which many think supplies the answer and resolves the question and removes the doubt as to the impact on religious institutions. The Durenberger-Ford amendment exempts sectarian providers that receive certificates as payment for the child care provision, and that supposedly exempts those providers from the conflicts that might result in terms of use of Federal funds.

Section 121 of the bill—I believe it is on page 88 of ABC—states:

No financial assistance provided under this title shall be expended for any sectarian purpose or activity, including sectarian worship and instruction, except that this subsection shall not apply to funds received by any eligible provider resulting from the distribution of a child care certificate to a parent under section 108(a)(1)(C).

And then the provision was added that "Financial assistance provided under this title shall not be expended in a manner inconsistent with the Constitution," which I submit throws that open to a lot of legal interpretation, and a lot of court involvement involving the question of whether or not the Ford-Durenberger amendment providing for the exemption actually does provide for the exemption.

Having said that, let me illustrate a few reasons why I do not believe that this section now incorporated in the bill before us resolves the issue, and perhaps even a larger and darker cloud of doubt exist relative to the impact on religious-provided child care.

Under the ABC bill as it is now before us parents do not have the absolute right to use a certificate if they want to place their children in sectarian or religious day care.

On page 46, section 108, entitled "Special Rules of the Use of State Allotments," that section provides that State allotments are to be provided by contracts and grants or by distributing child certificates to parents of eligible children to conform to the earlier section that I just read.

S. 5, the ABC bill, gives the States flexibility in determining for themselves what funding mechanisms to use to the point that a State could use a certificate exclusively if it so desires or not at all. The very fact that a State has this option means that the use of certificates in the ABC bill is not a parential option but still a government option, albeit not a Federal option but a government option. Therefore, those who say the choice now under the amended ABC approach rests with the parents, that is not a correct analysis because clearly under the language as it is now written that choice does not rest with the parents; the choice rests with the State.

That has been one of the most significant if not the most significant differences of opinion between those who support ABC and those who support a different approach to providing child care, hopefully to avoid the problems that I have just been talking about.

Second, those providers who apply for and receive grants or contracts in the State rather than the certificate reimbursement, as provided in the alternative proposal, would still be severely limited in the free exercise of their religion, and might be prohibited from receiving a grant at all. This includes relatives and small family providers which might apply for grants or contracts as well. They, too, would be subject to section 121's prohibitions, and we have to, according to the bill and as we interpret it, sanitize their homes to make sure that no religious pictures, objects, or artifacts are on the walls, and that no prayers are said or Christmas carols or religious songs are sung. Otherwise, they are not eligible to receive a grant or a contract from the State to provide child care.

That, then, leads us to the conclusion that ABC, as well-intended as it might be, does not expand the choice of options, but actually might constrict the options and the available slots for child care simply because there are a number of providers that will not be able to meet the test or will not want to meet the test because they provide in their homes child care or on an informal or formal basis because they provide child care on a small provider basis, but would like to be eligible for the grant or contract from the State which would be prohibited now because it must not include any sectarian activity.

Third, quite a number of States—in fact 13 is our count—exempt church providers from licensing and regulatory requirements. I would like to name those States: Alabama, Florida, Illinois, Indiana, Maryland, Mississippi, Missouri, New Jersey, North Carolina, North Dakota, Pennsylvania, South Carolina, and Virginia. All 13 of those States exempt church providers from licensing and regulatory requirements.

ABC requires, on page 9, and I want to read that provision because I think it is important to this debate. ABC provides that the term "eligible child-care provider" means (a) a center-based child-care provider, a group home child care provider, a family child-care provider, or other provider of child-care services for compensation that is licensed or regulated under State law, satisfies the Federal requirements and the State and local requirements applicable to the child-care services it provides.

Under ABC, many current child-care programs will not be eligible, not because of the church-state restrictions but because of the licensing requirements. Church providers in those 13 States which are exempt from licensure would be unable to qualify as eligible child-care providers, and parents in those States would not be able to choose those providers because the State had decided not to license or regulate them.

The effect of ABC then will be either to force those States to license church providers for the first time, which they have already decided not to do, or to severely limit parental choice in child care. Neither of those provisions I suggest is acceptable. It is clear that a tax-credit approach to parents with young children is the only way to make sure that parents have the maximum choice.

Again, that is the point of those of us who support the alternative proposal. We think it is a superior way to deliver help to families in need, to provide it through the tax credit system because we avoid the licensure problems. We avoid the nonlicensure church exemption problems. We avoid the certificate questions that may or may not qualify someone for religious day care.

In order to provide full religious freedom, these States and others should be able to exempt religious child-care providers from the licensing requirements of ABC and give parents the option to use child-care certificates in those centers even though they are not licensed. Even if a State that currently licenses and regulates church-sponsored care wanted to remove them from that category of licensure, they would be prevented from doing so, if they as a State wanted to continue to receive assistance under ABC. As you can see we are winding our way down here through a myriad of problems that exist in this more than 100-page bill which has regulations which are attempting to be fixed but the more you tinker and the more you fix the more problems you create.

Page 29 of ABC contains a requirement that the State will not reduce the categories of child-care providers licensed or regulated by the State on the date of enactment of this title. This provision prevents States which currently license or regulate large categories of providers from ever reducing that category if they want to continue to receive ABC funds.

So here they are in a Pandora's box again. If they want to reduce churches in the category of licensed or regulated day care, they are prohibited in the bill from doing that if they want to receive the funds to provide other day care. So again we are faced with a situation not of expending child-care opportunities but actually restricting them.

Even church-sponsored care, which is currently licensed and regulated by the State, and that church-sponsored provider which has no intention of ever applying for funds under ABC could be affectd by this bill merely because their State is a recipient of ABC funds.

On page 28, section 107(C)(3)(b), it states, in fact requires, that in order for a State to receive assistance under this act they must submit an application and plan. The plan shall set forth policies and procedures designed to ensure that all providers of child-care services for which assistance is provided under this title comply with all licensing or regulatory requirements, including registration requirements applicable under State and local law, and that such requirements are imposed and enforced by the State uniformly on all licensed and regulated child-care providers within the same category of care.

That sets up the situation where all sectarian providers in that State that are licensed and regulated will have to meet the federally mandated categories of State standards, and be subject to federally mandated annual inspections even though they receive no assistance for ABC.

So the church-sponsored day-care providers get it coming or going. If they are licensed, they have problems with the act. If they are not licensed, they have problems with the act. If they are regulated by the State, they have problems. If they are not regulated, they have problems. The State has problems in terms of adjusting its laws to either exempt them or include them because it runs into other conflicts within the act.

Even if that same sectarian provider was unlicensed and unregulated by the State, had no intention of applying for grants or contracts under ABC or using certificates, it would still have to comply with the federally mandated categories of State standards and be subject to annual inspections, if it received even a dollar of public assistance. That is, even if that borrower did not receive a dime under ABC, but received money from another Federal, local, or State program, it would be subject to the requirements of ABC because of section 107(C)(3)(c), which provided that:

> Procedures will be established to ensure that child care providers receiving assistance under this title or other publically assisted child care programs comply not later than 3 years after the date of enactment of this title, with State child care standards in each of the categories described in section 118(d) that are applicable to the child care services that are provided by such providers.

Now, if my colleagues are confused by all this, I understand. It is a morass of intricate regulation that, in the end, does nothing but make it more difficult for religious-based child-care providers to provide essential child care services. It is clear that the choice of parents in nearly 30 percent of the cases is to use some form of religious-based child-care provision. If they feel comfortable with that provision, if they want their children to receive religious instruction, and even if they do not, and they find that the child-care center provided by the church or the synagogue is of superior quality, provides the kind of staff ratio, provides the kind of convenience or cost to the parents that the parents choose, for that reason, it is incumbent on all of us, as we look to how we are going to provide essential child care for mothers in need, that we include and encourage religious-based, church-based, synagogue-based child-care provision.

I visited a number of these centers, and they are excellent, superior centers, often staffed by people, not because they simply are there to earn fees, but because they feel that as part of their contribution or service to the church, that they want to add their time and talent, often at rates lower than the going rate, to provide essential services for the children of their congregation or the neighborhood, or the city in which the church is located. And it is child care that is, as I said, the choice of many parents.

I keep coming back to the word "choice" because it is choice that the President and many of us here in the Senate and in Congress are attempting to make essential, the essential core part of any child-care bill that passes this body. It is the choice that ought to reside with parents and not be restricted by the State. That is so critical, as we move forward on this bill.

It is not fair to characterize those that do not support ABC as being opposed to helping children or opposed to providing assistance for children in need. Those of us who have spent years involved in the legislative process, in attempting to strengthen families, support children and youth in this country, have brought forward a number of our own proposals on child care—and a number reside on this side of the aisle—do not accept the characterization that we simply are opposed to helping children, opposed to the needs of children, simply because we do not choose to support the ABC bill, which has been floundering for 2 years, trying to garner a majority to pass in this body. It was introduced a couple years ago and cannot receive majority assistance, and that is help in getting passed through this Congress. It has been changed so dramatically, in order to try to garner more than 50 votes in this body, that we can hardly keep up with the changes that are being made.

I suggest, though, that I am standing here to address one specific issue, and that is the issue of religious-based day care and the implications of the ABC bill, if passed, on the provision of that care. ABC may affect religious-based care in ways that we would never imagine.

I asked the American Law Division whether ABC would require States to regulate religious-based child care, even if no public funds were received. Their conclusion was that:

> It does not appear to be entirely clear, whether the bill would require the States to regulate the provision of child care apart from the receipt of public funds. Some further exploration of this issue in the legislative history of the bill may be needed to clarify the matter.

I would suggest that those who have said that it is now clarified by the inclusion of the Ford-Durenberger amendment, read carefully the material that I have introduced today, to suggest that there is a considerable doubt and considerable confusion as to whether or not this has been clarified and, in fact, I do not believe that it has.

ABC, I believe, in my opinion, is bad public policy, because it does not provide real choices for parents, as they exercise their constitutionally protected right to select the type of child care they deem most appropriate for their children, including services provided by religious organizations. Prohibiting or discouraging the participation of religious providers will simply decrease the availability of child-care services, particularly, for those low- and middle-income parents who use them.

Since ABC has one of its stated goals, the expansion of child-care services, it should fashion legislation to utilize existing services provided by religious providers, rather than excluding or discouraging them, as the current bill does.

So I urge my fellow Senators to carefully look at what the impact of this bill, S. 5, before us now, ABC, would have on the provision of religious day-care services. I do not believe it would expand the opportunities for that provision of services. I think it would restrict it. I think it places some significant limitation, possible court challenges, and other restrictions, on the provision of care, which is the choice of many mothers and fathers in this country.

It is an important resource that we ought to be nurturing, not discouraging, and I urge my colleagues to look carefully at this, because I do not believe that ABC addresses the question. The coalition bill that has been put together, which if you can characterize ABC as bipartisan, we can certainly characterize Senator DOLE's bill as bipartisan, because there is support from the other side of the aisle. That provision, which will be before this body, removes the doubts and problems relative to the religious-based day care, because it provides tax credits to families directly, leaves the choice with them, and removes this entire

question about the impact on religious-provided day care.

That is an important distinction, a distinction that we ought to remember. It is an important distinction for the parents who choose that care, for the religious providers who provide that care; and it takes us away from this gray, nebulous, complicated, legally confused, difficult area, of involving church and State-appropriated funds. It removes that entirely.

I suggest that the Dole bill, which will be before us, is a much more appropriate way to go, as we seek to reach out, provide the help, and address those very real needs of the children that we are trying to serve.

Mr. President, I yield the floor.

Mr. HATCH addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Utah [Mr. HATCH].

Mr. HATCH. Mr. President, I appreciated hearing all of the comments that have been made this afternoon on the floor, and I intend to speak a little bit on this religious issue myself, as someone who has spent a certain amount of time studying the Constitution of our country. And I also make the point that without both of these bills, without merging them and marrying them, yes, you will not solve every problem, and you will not, even if you merge them.

What I really want to spend a few minutes on, at this late hour in the day, is something that I need to spend some time on. That is the point I have been making, that there is a lot of disinformation, a lot of misinformation, and a lot of downright deceit, unfortunately, mostly by those who are conservatives, with regard to the Mitchell amendment, or the bill that is before us at this time, sometimes referred to on the floor as the ABC bill.

Now, I am a conservative, and I am very proud of it. I came from the liberal side of the spectrum, and I used to be a Democrat. I changed only after a lot of reflection and only after a lot of thought, and I am proud to be a conservative.

One reason why I like the conservative point of view is that I thought it was for the most part very honest, very straightforward, and very understandable.

I have never seen an issue where the conservative side of the equation has distorted a bill more than this bill. I am personally very offended by it, because I think we have an obligation to tell the truth and let the chips fall where they may, and if we do not like a bill we have a right to stand up and say we do not like it; there are the reasons why.

There is enough for everybody here that you can find some reasons why you might not like the ABC bill and there are legitimate reasons why people might not like to.

Today when I went to our Republican caucus or policy meeting they passed out a blue set of working papers and on the top is "the Mitchell substitute" on the left side and on the right side "the Dole substitute."

This was not prepared by our leadership on the Republican side, nor was it prepared by anyone affiliated with this body as far as I know. It came apparently from some outside groups.

I think when they try to pass something like this off to Senators, they ought to at least put their names on it. To this minute, I do not know who prepared this piece of junk, but let me tell you something: It was clearly prepared by people who feel they are conservatives, but I think there is a higher obligation for conservatives. I think the higher obligation is that you should tell the truth regardless of how deeply partisan or how deeply you feel about any particular given piece of legislation. I am absolutely ashamed of this type of stuff.

I have looked at materials put out by the Eagle Forum across this country. I know they try to do a sincere and decent job, and I commend them for it. I read their literature through the years, and many times it is very good.

But on this bill it is distorted, it is not appropriate, it is a shameful thing, and it is generally done by people who do not have the facts on their side, do not have the knowledge on their side, do not understand the issue to begin with, and are bigoted and close-minded, all of which applies to some of these pieces of, if you want to call it literature, put out I have to say by conservatives.

My attitude is that it is tougher to be conservative. First of all, the media generally is more moderate-to-liberal than we conservatives are.

So we have a higher burden on every case to try to make out our conservative point of view. But we win on a lot of issues because the people are with us, and we do not need to fabricate, we do not need to deceive, we do not need to use misinformation and disinformation to make our points.

So I would just like to take a few minutes here today just to go through this document which has been given to every Republican Senator as though it is some sort of factual sheet comparing the two amendments. I am not going to spend a minute on the Dole substitute because I happen to like the Dole substitute. Merged with this bill, I will vote for it. I happen to like it, I think it has a lot of good for it. But if anybody thinks it is a panacea for child care, they have another thought coming.

First of all it only takes care of 1- to 4-year-old children and then only to a very limited degree.

If you really look at it, there is very little money going to go to offset the cost of child care. The average cost of child care is $3,000 per child in our society.

At best the Dole bill is probably going to save, if a family has two children and they have to be helped with child care and they qualify, $2,000 of the $6,000; it is probably more like $750 of the $6,000. That is helpful but it is not a solution.

Now, our ABC bill is not the total solution either. No matter what we do here today there is not enough money to resolve all the problems involved in child care here today.

But let us not look upon either of these as a total solution to the problem. What we are trying to do is set up a structure whereby we can work toward solution of these problems through the years.

Let me just take a few minutes here and go through how they describe the Mitchell substitute. It is very offensive to anybody who is fair.

They start off:

> Child-care portion of the bill is entirely grant-based, allocating money and authority to States rather than parents, while most conservatives fight their guts out to get State and local government control over the moneys that come from here. We do exactly that and now they want it to go directly to parents.

The problem with sending it directly to parents, as the Dole substitute will do, is that, yes, it gives them more money.

I am for that. I think that is great. Any time we can help the poor with more money I am for it as long as we have enough money to do it, and I am for that type of an approach. But it does not necessarily mean that money goes for child care and it certainly does nothing for quality of child care. It does not really create any new child care slots or availability of child care, and it certainly does not help very much on the cost or affordability problem of child care.

Then it says, "This Mitchell substitute biases choice in care toward institutional care." That is pure and unmitigated bunk, and it is offensive. That is what the original ABC bill did. It did bias everything in favor of institutional child care. This bill is a completely changed bill.

Yes, institutions are part of child care delivery systems that will benefit from the ABC bill, but they are only part of it.

We encourage through the ABC bill every institution in society capable of helping with child care to help with it.

So it is a far cry from what this says. It says, "biases choice in care toward institutional care rather than parental, relative or informal care arrangements." That may be true of last year's ABC bill. It is certainly not true of this bill here on the floor today. We encourage all of those forms of child care.

I will not spend an inordinate amount of time on any of this.

We can question almost every line in this piece of junk that is being passed off as though it is reality.

Under church-state it says, "Leaves constitutional problems unresolved and subject to clear court challenge."

Come on.

What program in our society today which allows churches and other religious institutions to participate will not be subject to a court challenge?

The fact is we take it into consideration that, yes, there are constitutional rules and laws to forbid certain things. That does not mean we do not try to do what we can within those limitations.

Let me restate that. What program that allows churches and other religious institutions to participate will not be subject to court challenge from organizations representing another point of view?

Any resolution of this issue may be challenged. That is just a matter of fact.

I believe this legislation is consistent with established Supreme Court constitutional law.

If you want to say, will the tax credit approach, by giving the money directly to the parents and letting them make whatever choices they want to do with the money, including buying cigarettes, beer, whatever else they want to do, will that violate the Constitution? No, it does not.

If they want to give that money that they receive through that tax credit to a religious institution that teaches religious doctrine during the child-care time, can they do it? Yes, they can, but that does not make it any less viable or valid for the ABC bill to follow the law that says that if you directly grant to the American families help and you directly pay for some of these things, you cannot directly subsidize religious instructions.

It is just that simple. That does not make the gift or grant any less viable or effective, and it does not negate the fact that we have a good approach here as well. It just makes it clear that you have to live within constitutional constraints.

And then this goes on to say that the Mitchell substitute deters the State from issuing any certificates based on expected legal challenges. As far as deterring the use of certificates, 26 States already use child-care certificates. Why would the language in this bill, language that clearly allows the use of such certificates by parents for child care in religious settings, suddenly cause States to stop these programs? The fact is it will not. It will augment the already existent 26 States child-care certificate programs and it probably will include another 24 States. It will probably include another 24 States in the process. It is a step in the right direction. The very thing that they are criticizing goes toward doing what they say cannot be done religiously.

If they have child-care certificates, and the child-care certificates are given to the parents and that is indirect aid that they then give to the religious institutions, there is, I think, a real reasonable argument that they can do that without violating church-state constitutional prohibitions.

Now, let me just go to targeting to low income. This says, makes eligible families with incomes of 100 percent of the State median income, well above the poverty level.

Well, let us talk about the eligibility criteria. It is 100 percent of the State median income. OK, $47,000 in the State of New Jersey does seem to be high. But then, again, child care is more expensive in New Jersey. Instead of the average of $3,000, it goes up to $5,000 and $6,000 per child. The fact of the matter is, everything is relative.

Further, the bill clearly states that—once again a conservative principle—the States have control, have complete, unalterable control and can give priority to those who they think are most in need.

New Jersey obviously is going to establish a secondary income criteria.

But let us take my home State of Utah where the average median income is $17,600. I want all of those people to be eligible for child-care assistance in my State. And that is the situation with most States. I do not think there is any question about it.

You could go on and on. Let me give you another one in this targeting to low income. This blurb says, "Most lower-income families do not have documentable child care expenses. Thus, expanding the dependent care tax credit does nothing to help target assistance."

Now, let us stop and think about that. I agree that low-income families do not always have documented child care expenses in order to take advantage of the dependent care tax credit. That is why we need the ABC bill. We need it not only because, thanks to the Finance Committee, it contains provisions which make the dependent care tax credit refundable, but also because it provides some help for low-income families above and beyond the dependent care tax credit. So it clearly, clearly is a misstatement here again.

(Mr. BRYAN assumed the chair.)

Mr. HATCH. I know the distinguished Senator from Montana wants to speak, but let me just finish my remarks. I will try and do them as quickly as I can.

Let me take another one. Under a paragraph entitled, "Bureaucracy," it says: "The Mitchell amendment would allocate up to 30 percent of States' grant money off the top because the funds specified are usable within the bill for administrative overhead, inspections, increasing child care workers' salaries, training, and other purposes."

Now, where do the opponents of the ABC bill get the idea that parents have no role? In situations in which a State has contracted with providers for prepaid slots, parents get their choice of providers insofar as the slots are available.

Look what it says here under "Policies and Procedures." This is right out of the ABC bill.

> The plan shall set forth policies and procedures designed to ensure all of the following: that, to the maximum extent practicable, the parents of each eligible child who will receive child care services for which assistance is provided under paragraph 4 are permitted to select the eligible child care provider that will provide such services to such child, and if the State places such child into the methods provided in section 108A(1) (a) or (b), the State will attempt to place such child with eligible child care provider selected by such parents.

Obviously, there is a choice when a parent has a certificate.

Additionally, one of the six required categories for States to set standards is parental involvement. So the parents will have a choice there, as well.

There is also the caveat that nothing in this act should be construed to limit parental rights and responsibilities. So we take care of that in the act.

Then there is the ultimate authority; that is, parents do not need to accept assistance if they are eligible.

Let me say this: When it says here "would allocate up to 30 percent of the State's grant money off the top because the funds specified are usable within the bill for administrative overhead," basically only 8 percent of the ABC bill as defined in the bill can go for overhead. The rest has to go to help increase the availability of child care and the quality of child care. So that is a misstatement if there ever was one. It just burns me up to see something like that, as though it is an important thing.

I might say, it depends on your definition of bureaucracy. Personally, it makes little sense to me for a State to have health regulations for restaurants if inspections are not performed enforcing those regulations. And, more important, inspections are not done to reassure those of us who occasionally eat out that the kitchen is sanitary. It is a perfectly logical use of funds under the bill to have an inspection. That is a service to the parents. So it is giving grants to community organizations to start up new child-care projects with full specific local needs.

But, then again, let us go back to what ABC does. It gives this responsibility to the States. The States can make the determinations. There is nothing in this bill that allows the Federal Government to make the de-

terminations for them. And, yes, some argue, "Well, my goodness, the minute they get this bill locked into place they are going to then come back and make everything Federal."

Not as long as I am a cosponsor of this bill they are not. And I do not think most people in this Senate would vote to do that.

Well, you could take every word in this piece of junk that they call a—they do not even call it anything, but are trying to make a comparison between the two and, of course, tear it to shreds.

Now, that is just one illustration. I would like to bring some others to the floor, but I do not want to waste my colleagues' time, nor do I want to bore people with what clearly is disinformation and falsehoods and some of it out and out downright deceitful falsehoods. I hate to admit that that is coming from conservatives in this country.

I also look at some of the great intellectual institutions that conservatives rely so much on. They take the position, that, unless you agree with them, there is absolutely nothing worth considering. There is absolutely no other idea but theirs. We all know individual people, both on the far left and far right, who feel that way. As a matter of fact, I have been meeting my share of them lately. They are the only ones who have any ideas. As a matter of fact, they are the only ones who can think, I guess, in society. They have no tolerance for anybody else's ideas and anybody else that comes up with an idea is berated and distorted and slammed in unceremonious ways.

Let me tell you, I do not mind that kind of stuff. We can put up with that. We get that all the time. What I do mind is the deceitfulness and the falsehood. I mind people trying to win their case with falsehood.

If I was going to attack the ABC bill, I surely would come up with better blurbs than that piece of junk and any number of other pieces of literature that I have received from conservatives. It is a tremendous disappointment to me, a tremendous disappointment to me.

If I am not going to stand here as a conservative and put up with it. If they want to beat the ABC bill, let them do it fairly and let them do it on the record and let them do it on the words of the bill that is presently before this Senate. If they think that handling child care for only 1- to 4-year-old kids is the last answer, boy, they have an argument from me. Because I have seen too many single heads of households, mostly women, making the minimum wage, or a little bit better, working day in and day out with three and four and five kids with no way to take care of them.

I have seen husbands leave their wives, when I practiced law, and they go off and make better incomes and refuse to support their wives. Their wives are left there in some ghetto with all these kids. If they have any kind of desire to have self-respect they try and go out and work. When they do, their kids suffer. Then the husbands come in and say, "She is not a good mother". I have seen that happen, too. I have seen it happen time after time after time.

I have seen the State let the husbands get away with it. I have seen the courts let the husbands get away with it. I have seen women who have had to give their children back to the husband because they love the children so much and they knew they could not put food in their mouths. And, as much as they knew they could raise the children better than that husband who left them, the husband had more income and could at least feed them. And, because of their love, would allow them to live with husband and give them up and go through that anguish and pain.

Let me tell my colleagues something, I have seen it all. I can tell them. Those who do not look at this issue completely and who do not understand that kids less than 13 years of age have troubles controlling their lives and have troubles resolving their conflicts and their problems and are put in danger by being left all alone most of each day are not looking at this issue. As much as my colleagues on this side want to take care of the 1- to 4-year-olds, and I do, too—it is a tragedy in this country—what about the 5-year-olds? What about the 6-year-olds? What about the 7-year-olds?

Well, the reason my colleagues do not want to expand the credits for them is because they know the costs go up exponentially and yet they are the same people who are criticizing the ABC bill as something that is going to cost more money down the line. Of course, it is. And it is money well spent because it is money for families. I cannot tell the Presiding Officer the hundreds of billions of dollars that go down the drain in this country that could be used to help families.

I think it is conservative to argue for families. I think it is conservative to worry about mothers and children. I think it is conservative to worry about whether or not a women can take care of her children and keep them close to her and nurture them and be with them once in a while.

I think it is conservative to acknowledge that those who cannot take care of themselves, we ought to try to help.

The problem in this country is we are helping too many people who can care for themselves and we are letting problems like this go down the drain, and we are doing it because we are fighting over partisan politics. This should not be a partisan political issue.

My colleagues on that side of the floor cannot think that ABC is the only way to go. My colleagues on this side of the floor cannot think that a tax credit that only takes care of 1- to 4-year-olds is the only way to go. We need to do more. And this is clearly one of the issues in our country today that we clearly need to do more about. I do not know anybody who does not look at it that way.

The problem is 3 years ago, nobody was concerned about this issue. Thanks to the distinguished Senator from Connecticut and others like him, it has now become one of the paramount issues in this country. But if we asked the average single head of household 3 years ago if this was important and she would tell you it was the No. 1 thing she was concerned about. But she did not have voice because society does not pay much attention to single heads of households.

When we do, we always do it in a welfare mode rather than trying to help them be self-sufficient and to have the self-esteem that comes from self-sufficiency.

I am ashamed when I hear some of the arguments that I have heard on this floor. And I am deeply ashamed and offended by some of this junk that is put out as factual information about child care. When I think that some of these so-called leading conservatives think that they are the only ones who have any ideas with regard to child care, it just makes me mad.

I do not think the Senator from Connecticut takes that attitude. It is apparent he has not. He has worked like a dog over the last 3 or 4 years to try to put something together, trying to accommodate every good idea there is. And let me tell Senators, at one time there were over 100 child care bills, once it started to become a good political issue.

I do not think it should be a political issue. I think it should be a bipartisan issue that helps to solve family problems. And we all ought to be working to try to do it. And I think both ideas are crucial to this bill.

I have come a long way to understand that direct grants really can help, especially when State and local governments have total control over them. But I also know that tax credits can help, too, especially when they are refundable, for the especially needy poor.

When we add them both together we might have something here that would really work. What are we fighting about? Let us give some credibility to ABC, and let us, those of us who support ABC, give some credibility to this other side. But if we have to have only a tax credit approach, let us just be honest about it.

If the Dole substitute passes, it completely subsumes and does away with

all these other good ideas that have been worked on for years now: hundreds and hundreds of hours. And they will work. And we all know that that bill will not go through the Congress. We all know it.

If ABC passes solely, by itself, it is going to be vetoed and we all know that. Not because it is not a good bill now, but because it has been called ABC, and it has been a symbol of a bad bill because at one point it did not do all the good things that it does now.

So, either of these standing alone are meaningless. If we put them together, then I think this President, who wants a kinder, softer, gentler Nation—and that is overused, I know, but I know George Bush and he means it—I think he will look at it and say: You have given me some credit, you have given me some credibility, you have gone a certain distance to try to help me get my ideas out there. I think I will go a certain distance to help you with yours. Because this is a big problem.

Let me tell my colleagues, any man married to Barbara Bush, it seems to me, would have that attitude. And I think he will, if we do not take the attitude that all one or all the other has to pass.

The Senator from Connecticut and myself, we are willing to do whatever it takes to get a child care bill and we do not care who gets the credit for it. We hope everybody here feels like they can take credit for it. What we hope is that it will work and help families in America; it will help the woman I read about the other day who had everything going for her. She had three beautiful children, a wonderful husband, they had just gotten a new home, they could afford to eat, they had a decent car and then one day her husband did not come home any more. And the income was cut off. And she was not educated. And she lived in a community that did not have a ready job for her. And all of a sudden she is sitting there with all this beauty just crumbling around her with three kids to feed and not any way in the world to even get a job to feed them, except by traveling to another town a distance away.

This is what we are facing. We are facing reality here. And we ought to face it like it is reality.

I have talked long enough but I would like to spend more time on this church-State issue because I think it is ridiculous to come in here and say I cannot support the ABC bill because the Constitution is going to be enforced on part of it.

I have to tell my colleagues there is another side to that. The ACLU and others, they are mad because we have the Durenberger-Ford amendment in here which makes it clear that nothing in this bill will violate the Constitution. Can my colleagues believe that? That is the other extreme. The fact of the matter is there is nothing wrong with abiding by the Constitution.

Well, let me say I will talk more about church-State issues later and I will show again why merging these bills makes sense from that standpoint; both ways. I apologize to my distinguished friend from Montana but I have been sitting here all day wanting to make these remarks, ever since our policy meeting.

I just hope the conservatives throughout this country start wising up and saying: Look, we do not like what you are doing, Senator HATCH, we do not agree with you and here are the reasons why and they are factually honest. I can accept that and I will respect them for it. But I have no respect for people who distort the facts, who distort the law, who just tell everything from their own perspective and knowing that it is different—or at least should have known it is different. That is what is going on here and it is making me darned mad. I will tell my colleagues, it is about time it stopped.

Make the case, fight against us legitimately every way Senators can and we will do our best to pass this legislation no matter what happens. But quit distorting the record. That is what my challenge is to my conservative friends.

I yield the floor.

The PRESIDING OFFICER. The Senator from Connecticut is recognized.

Mr. DODD. Mr. President, once again, it hardly needs words from this Senator to recognize the contribution the Senator from Utah has once again made to this debate. His words speak for themselves.

I recall going back 2 years ago, Mr. President, when I approached the Senator from Utah with the ABC bill then, if you will. He looked and said: "Absolutely not. I am not going to support that bill."

He said: "If you are willing to sit down and talk about this legislation, talk about some changes that need to be made, maybe we can come to some agreement." So we began a process with the Senator from Maryland [Ms. MIKULSKI] and the Senator from Utah appropriately recognized her for her contribution as well.

We began a process that almost every other Member of this body has gone through at one time or another with a legislative body, two people walked into a room and each said I disagree—they disagreed with each other. But let us sit down and see if we cannot come together with a product here that our colleagues will support.

In a sense, that is what has happened. No one deserves more credit for where we are today than the Senator from Utah. He has done a Herculean effort, not to come up with an ABC bill or not to come up with a particular amendment but to do something for American children to make it possible for a generation of American children to have the best possible futures that we can give them as adults. That is really what the bottom line is here. He is absolutely correct when he says if we had spent as much time over the last 6 months or so trying to work on a bill together that some people have over the last 4 days trying to craft an alternative merely to win the hour, we could have left here 2 days ago with a child-care bill passed. That has not been the case.

We have been criticized because this bill has changed over the last 2 years. We now have had a bill before the Senate for 4 days, since last Thursday. I do not even know yet what the alternative looks like. It is still being written somewhere around here, and yet I am being criticized because we have changed our bill over the last 2 years.

This is Tuesday at 6:30 at night. We began last Thursday about 2 o'clock, and we patiently went all day Thursday, all day Friday, all day yesterday, all day today. I hope we will come up with some amendments here. If people are not happy about this product, let us talk about some changes if they want to make them, but let us get on with it. It is beginning to look like delaying tactics for the sake of delay. I hope that is not the case. I think my colleagues would like to vote on these matters and move the legislation along. So I hope at some point here we will get a product that we can look at. In the meantime, I again emphasize the tremendous effort that my colleague from Utah has waged and the tremendous efforts he has expended, and his staff as well. They have done a remarkably good job, Mr. President.

I can count on one hand the times that ORRIN HATCH and I have voted alike in the 9 years I have been here. He has not lost his conservative credentials. I have not lost my progressive ones. I am proud of them. He is proud of his conservative credentials. What you are looking at is two Members of this body who care about children and care about working parents and mothers who stay at home, who are struggling with all of these issues, and we decided to drop our ideology, drop our party labels because we cared about something in common to see if we could not work out a legislative product that reflected our respective points of view. After 2 years what we have come up with is the product that is before us today.

ORRIN HATCH is no less a conservative today than he was 2 years ago when he started. I am no less proud to be associated with progressive credentials today than I was 2 years ago. That is not the issue here. It is not a

debate between liberals and conservatives or progressives and conservatives or Republicans and Democrats. It is an effort of good people in this country who care about its future and want to do something about children. It is not complicated.

We tried to do that. I am confident we will. I believe most of our colleagues sincerely want us to do the right thing in child care and I believe before this week is out that we will do that. And the Senate will go on record for the first time in years supporting a child-care program that will be meaningful to working families in this country and meaningful to children.

We spent a lot of time this year on other issues. We have had lengthy debates involving pay increases and Cabinet appointees and other issues. We very expeditiously dealt with the budget issue to the great credit of the Senator from Tennessee. We dealt here with the FSLIC problem, the Senator from Michigan, and the Senator from Utah [Mr. GARN], those are high points here in trying to move legislative product. We have yet to deal with minimum wage. That has been vetoed and the veto is not overridden, but I am confident that we will ultimately work on a product as well to the satisfaction of Members on both sides of the aisle.

What we are trying to do here now is something involving families, profamily legislation. I am confident that we will be successful in this effort as we have been in those others that I mentioned.

Mr. President, I yield the floor.

Mr. GORTON. I say to my friend from Connecticut, I am waiting to speak on another subject when the debate of this issue is over for the day.

Mr. DODD. I apologize to my colleague. I did not mean to go on so long. Mr. President, I suggest the absence of a quorum unless my colleague wishes to be heard.

Mr. GORTON. Does the Senator from Connecticut believe the debate on this issue is completed for the day?

Mr. DODD. I am not totally convinced of that, but if the Senator would like to make a unanimous-consent request to go into morning business, then I am sure we can accommodate him. I think there is a meeting between the leaders at this point. I will have an answer to his question shortly. In the meantime, if you want to discuss another matter, there will be no objection.

Mr. GORTON. Mr. President, I ask unanimous consent that I be permitted to proceed as in morning business and that, if there is further debate on S. 5, that my remarks appear in the RECORD after the conclusion of that debate.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator from Washington is recognized.

Mr. GORTON. I thank the Chair.

(The remarks of Mr. GORTON pertaining to the introduction of S. 1209 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. MATSUNAGA. Mr. President, as an original cosponsor of the Act for Better Child Care Services of 1989, I rise to urge my colleagues to vote for this essential initiative. We must not lose this opportunity to improve the quality, availability, and affordability of child care in our Nation.

It has been nearly two decades since Congress seriously considered a major piece of legislation addressing the availability, affordability, and quality of child care. It was in 1971 that President Nixon vetoed the Mondale-Brademas antipoverty bill which included a $2 billion program to provide educational, nutritional, and health services for preschool children. Since that time, proposals to create a comprehensive Federal Child-care Program have been introduced but have never cleared the floor of either Chamber.

We cannot continue to ignore the needs of our youngest segment of our population and their families, despite our concerns about establishing new Federal programs. The gap between the demand for child care and the supply of quality care is growing. The Welfare Reform Act adopted in the 100th Congress requires mothers of children as young as age 3 to enroll in work, training, or education programs, further heightening the demand on the already limited supply of care for affordable care.

The number of women, many of them single parents returning to the work force while their babies are less than a year old has increased by 95 percent between 1970 and 1986. As of March 1987, 52 percent of mothers with infants of this age were in the work force. In 1986, 60 percent of mothers whose youngest child was 3 to 5 years old were employed—up from 45 percent a decade earlier.

Economic survival is the driving force behind these working mothers. Two-thirds of women in the labor force with preschool children are either the family's sole wage earner or are supplementing a family income of $15,000 or less. This situation is particularly acute in Hawaii, where the cost of living is much higher than the national average—62 percent of families in my State of Hawaii are comprised of two or more workers—the highest percentage in the Nation. We are fourth in the Nation with regard to the percentage of women in the work force which is now 59 percent.

Many parents have difficulty finding child care providers. On our most populous island of Oahu, there are fewer than 500 licensed spaces available for the approximately 9,300 infants, up to 2 years old, who need care. Those who do find a provider often have difficulty maintaining adequate arrangements. Turnover of staff in child-care centers averages over 50 percent a year, and the rate is even higher among family day-care providers.

Furthermore, no Federal guidelines exist to assist States in providing adequate protection for children in child-care settings. Some State child-care standards are so minimal that children's health and safety are threatened. It is estimated that 75 to 90 percent of family child care, one of the most popular and available options, remains unlicensed and unregistered.

While some Federal programs subsidize families' child-care costs, these funds have either been frozen at current levels or have decreased over the past 8 years, despite increased need. The largest source of direct Federal support for State child-care programs is title XX of the Social Security Act. Child care is one of many social services supported by title XX. Parents with incomes below a State-established level can qualify for title XX-subsidized child care. However, with inflation factored in, 35 States spent less title XX funds for child care services in 1985 than in 1981 when services under title XX were folded into a block grant, according to the children's defense fund.

In 1976, Congress enacted a dependent care tax credit. Indirect funding of this tax credit provides the most extensive Government support for child care. Under current law, families may claim up to $2,400 for the cost of care for one child and $4,800 for two or more children. The deduction is based on a percentage of that claim, according to the taxpayer's income. Credits range from $270 for one child for parents with income below $10,000—30 percent of expenses—to $480 for parents with income above $28,000—20 percent of expenses. For two or more children, credits range from $1,440 to $960.

The Tax Credit also includes 1981 provisions designed to stimulate employer-assisted child care.

On June 13, 1989, the Finance Committee approved by a vote of 17 to 3 a "children initiative" package that includes some changes to expand and improve the dependent care credit. First, the credit would be refundable. Taxpayers without sufficient taxable income to offset the credit would be entitled to receive the amount of the credit not offset against tax liability in cash. The dependent care credit would be increased to 35 percent for taxpayers with adjusted gross income [AGI] less than $8,000 and to 32 percent for taxpayers with AGI of between $8,000 and $10,000. The Finance Committee package is part of the Mitchell amend-

ment and provides an important supplement to S. 5.

S. 5, the ABC bill would provide much-needed new funds to make child care more affordable for low- and moderate-income families. It would also increase the accessibility and supply of quality child care for all families and coordinate the patchwork of child-care resources. In the legislation as reported out from the Labor and Human Resources Committee, $2.5 billion would be authorized for fiscal year 1990 as a matching grant program to the States.

Seventy percent of the ABC funds must be used to provide direct assistance to low-income families on a sliding fee scale, with priority given to very low families. Eligible children are those up to age 15 whose family income does not exceed 100 percent of State median income. Ten percent of the seventy percent would be reserved for direct assistance to expand from part-day to full-day low-income programs such as Head Start, State-subsidized preschool, chapter I preschool, and preschool for handicapped children. Of the remainder of the ABC funds, 22 percent would go to improve quality and supply, and 8 percent for State administration.

States would have to ensure that parents have discretion to choose the form of care for their children. Child-care sources may include nonprofit and for-profit child-care centers, family day care home, relative care, school-based care, and nonsectarian school-based care.

An impressive and broad coalition of more than 100 national groups including children's advocates, labor unions, and religious organizations have been working assiduously with Senator DODD, Senator KENNEDY, Senator HATCH, and other cosponsors and their staffs in crafting this legislation for over 3 years.

Mr. President, left to itself, this situation of a growing demand for affordable, quality child care, coupled with its inadequate supply, can only hurt our most precious resource—our children. We must invest in our future now. I strongly urge my colleagues to vote for the revised Act for Better Child Care.

Mr. GORTON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The absence of a quorum having been suggested, the clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

MORNING BUSINESS

Mr. MITCHELL. Mr. President, I ask unanimous consent that there now be a period for morning business with Senators permitted to speak therein.

The PRESIDING OFFICER. Without objection, it is so ordered.

MESSAGES FROM THE HOUSE

At 11:34 a.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House agreed to the resolution (H. Res. 177), stating that the bill of the Senate (S. 774) to reform, recapitalize, and consolidate the Federal deposit insurance system, to enhance the regulatory and enforcement powers of Federal financial institutions regulatory agencies, and for other purposes, in the opinion of this House, contravenes the first clause of the seventh section of the first article of the Constitution of the United States and is an infringement of the privileges of this House and that such bill be respectfully returned to the Senate with a message communicating this resolution.

The message also announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 1278. An act to reform, recapitalize, and consolidate the Federal deposit insurance system, to enhance the regulatory and enforcement powers of Federal financial institutions regulatory agencies, and for other purposes.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. HOLLINGS, from the Committee on Commerce, Science, and Transportation, without amendment:

S. 1077. A bill to authorize the President to appoint Admiral James B. Busey to the Office of Administrator of the Federal Aviation Administration (Rept. No. 101-56).

S. 1180. A bill to authorize the President to appoint Rear Admiral Richard Harrison Truly to the Office of Administrator of the National Aeronautics and Space Administration (Rept. No. 101-57).

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. HOLLINGS, from the Committee on Commerce, Science, and Transportation:

James Buchanan Busey IV, of Illinois, to be Administrator of the Federal Aviation Administration;

Jeffrey Neil Shane, of the District of Columbia, to be an Assistant Secretary of Transportation;

Kate Leader Moore, of the District of Columbia, to be an Assistant Secretary of Transportation;

Pursuant to the provisions of 14 U.S.C. 729, the following-named captain of the Coast Guard Reserve to be a permanent commissioned officer in the Coast Guard Reserve in the grade of rear admiral (lower half): Fred S. Golove.

Richard Harrison Truly, of Texas, to be Administrator of the National Aeronautics and Space Administration;

James R. Thompson, Jr., of Alabama, to be Deputy Administrator of the National Aeronautics and Space Administration;

Thomas Joseph Murrin, of Pennsylvania, to be Deputy Secretary of Commerce; and

Susan Carol Schwab, of Maryland, to be Assistant Secretary of Commerce and Director General of the United States and Foreign Commerce Service.

Mr. HOLLINGS. Mr. President, for the Committee on Commerce, Science, and Transportation, I report favorably a nomination list in the Coast Guard which was printed in full in the CONGRESSIONAL RECORD of June 6, 1989, and ask unanimous consent, to save the expense of reprinting on the Executive Calendar, that these nominations lie at the Secretary's desk for the information of Senators.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The above nominations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

By Mr. INOUYE, from the Select Committee on Indian Affairs:

Eddie F. Brown, of Arizona, to be an Assistant Secretary of the Interior.

By Mr. PELL, from the Committee on Foreign Relations:

Melvyn Levitsky, of Maryland, to be Assistant Secretary of State for International Narcotics Matters;

Richard H. Solomon, of the District of Columbia, to be an Assistant Secretary of State;

Fred M. Zeder II, of New York, to be President of the Overseas Private Investment Corporation;

Mark L. Edelman, of Missouri, to be Deputy Administrator of the Agency for International Development;

E. Patrick Coady, of Virginia, to be United States Executive Director of the International Bank for Reconstruction and Development for a term of two years;

Donald Phinney Gregg, of Maryland, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Korea.

(Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination.)

Nominee: Donald P. Gregg.

Post: Ambassador to Korea.

Nominated: January 6, 1989.

Contributions, amount, date, and donee:

1. Self, no contributions made.

2. Spouse, no contributions made.

3. Children and spouses names: Lucy Gregg Buckley and husband Christopher; John Phinney Gregg; Margaret Alison Gregg. No contributions made by any person listed.

4. Parents names: Both deceased. Father died 1944. Mother, Lucy P. Gregg. Died 1988. Made no contributions that I know of. I was handling her finances prior to her death, so I would have known.

5. Grandparents names: All deceased prior to 1970.
6. Brothers and spouses, no brothers.
7. Sisters and spouses, no sisters.

Morton I. Abramowitz, of the District of Columbia, a Career Member of the Senior Foreign Service, Class of Career Minister, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Turkey.

(Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination.)

Nominee: Morton I Abramowitz.
Post: Turkey.
Contributions, amount, date, and donee:
Self, none
Spouse (Sheppie), $100, 1986, Cong. Solarz campaign; $100, 1986, Cong. M. Barnes campaign; $150, 1988, Joel Pritchard campaign.
Children and spouses, Michael and Rachel, none.
Parents, Mendel and Dora—deceased more than 5 years ago.
Grandparents, Abraham and Sarah—deceased more than 5 years ago.
Brothers and spouses, William Irving and Harry—deceased more than 5 years ago.
Sister and Spouses, Molly Tatel, none; Mrs. William Epstein, none; Eleanor Sreb; $25, 1986, Democratic National Committee.

Thomas Michael Tolliver Niles, of the District of Columbia, a Career Member of the Senior Foreign Service, Class of Career Minister, to be the Representative of the United States of America to the European Communities, with the rank and status of Ambassador Extraordinary and Plenipotentiary.

(Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination.)

Nominee: Thomas Michael Tolliver Niles.
Post: USEC Brussels.
Contributions, amounts, date, and donee:
1. Self, none.
2. Spouse, none.
3. Children and spouses, John Thomas, none; Mary Chapman, none.
4. Parents, Mrs. J.J. Niles (mother), none; father, deceased.
5. Grandparents, deceased.
6. Brothers and spouses, John E. Niles, none.
7. Sisters and spouses, none.

Jewel S. Lafontant, of Illinois, to be United States Coordinator for Refugee Affairs and Ambassador-at-Large while serving in this position, vice Jonathan Moore, resigned.

(Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination.)

Nominee: Jewel S. Lafontant.
Post: Ambassador-at-Large and U.S. Coordinator for Refugee Affairs.
Nominated: May 5, 1989.
Contributions, amount, date, and donee:
Self, $1,000*, 1986, Reagan/Thompson luncheon. $2,000* (raised from individuals), November 1987, George Bush for President. $6,000 (raised from individuals), 1988, National Finance Committee for George Bush. $10,000* (raised from individuals), 1988, Victory '88 Event with President Reagan.
2. Spouse, (deceased).
3. Children and spouses, John W. Rogers (son), $1,000, November 1987, George Bush; $1,000, April 1988, George Bush. Desiree Rogers (daughter-in-law), $1,000 April 1988, George Bush.
4. Parents, (deceased).
5. Grandparents, (deceased).
6. Brothers and spouses (deceased).
7. Sisters and spouse, (no sisters).

* Approximately.

Edward N. Ney, of New York, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Canada.

(Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination.)

Nominee: Edward N. Ney.
Post: Ambassador to Canada.
Contributions, amount, date, and donee:
1. Self:

1988

The Senator Lloyd Bentsen Election Committee	$500
BiPartisan Budget Appeal	250
Bush—The Presidential Trust	10,000
Bush—Victory 1988	2,000
Friends of Senator D'Amato for Senate	1,000
Dole for President Committee	1,000
Bill Green, Republican Committee for Bill Green	250
Committee for Senator Roy M. Goodman, Friends of Senator Roy M. Goodman	250
People for John Heinz Committee	250
Citizens for Morganthau and Morganthau 1989	1,000
M&N Committee	1,000
Bob McMillan for U.S. Senate	250
NYS Republican State Committee and Finance Committee	2,500
NYS Republican County Committee	100
PaineWebber Fund for Better Government	1,000
Republican National Committee	1,040
Ned Regan Support Committee	500
Republican Congressional Leadership Council	500
Robb for Senate	100

1987

George Bush, The Vice President's Exploratory Account	$250
The Senator Lloyd Bentsen Election Committee	250
Friends of Senator D'Amato for Senate	250
Danforth for Senate	250
Dante Fascell Campaign Committee	250
Committee for Senator Roy M. Goodman, Friends of Senator Roy M. Goodman	250
NYS Republican State Committee and Finance Committee	500
People for the American Way	100
PaineWebber Fund for Better Government	1,000
Republican National Committee	40
Republican Congressional Leadership Council and Booster Club	200
Citizens for Vignola	100
John William Ward Fund	200

1986

George Bush, The Vice President's Exploratory Account	$750
Missourians for Kit Bond	1,000
Victory 1986 (D'Amato)	1,000
Fund for America's Future (Bush)	10,000
Friends of Andy O'Rourke	1,500
New York Salute to President Reagan	1,000
People for O'Rourke	1,500
People for the American Way (Bush)	250
New York Republican State Finance Committee	1,000
Republican Congressional Leadership Council	2,500
Conservative Party	250
Dante Fascell Campaign Committee	250
Bill Green, Republican Committee for Bill Green	500
Committee for Senator Roy M. Goodman, Friends of Senator Roy M. Goodman	250
Haughton for Congress Committee	500
Ken Kramer for Senate Committee	500
Republican National Committee	150
Ned Regan Support Committee	750
Arlene Specter for MS Committee	250
Snelling 1986 Committee	250
Sanford G. Weiner	100

1985

Citizens for Morgenthau	$2,125
D'Amato for Senate	1,000
Empire Club	1,000
Fund for Americas Future (Bush)	5,000
New Yorkers for Koch	1,000
BiPartisan Budget Appeal	250
Dante Fascell Campaign Committee	200
Bill Green, Republican Committee for Bill Green	100
1985 GOP Victory Fund	650
Committee for Senator Charles Grossly	100
Hatch Election Committee	500
New York for Koch 1985	1,250
Re-Elect Representative Jack Kemp	500
The President's Dinner	250
People for the American Way (Bush)	500
Republican National Committee	40
Arlene Specter for MS Committee	100

2. Spouse, Judith L. Ney:
$250, 1987, George Bush, The Vice President's Exploratory Account.
$750, 1986, George Bush, The Vice President's Exploratory Account.
$5,000, 1985, Fund for Americas Future (Bush).
3. Children and spouses names, Hilary Ney, Nicholas H. Ney, Michelle Ney Kilduff (John), none.
4. Parents names, John Ney (deceased); Marie Ney, none.
5. Grandparents names, (deceased).
6. Brothers and spouses names, John and Marion Ney, none.
7. Sisters and spouses names, none.

Robert D. Orr, of Indiana, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Singapore.

Nominee: Robert D. Orr.
Post: Ambassador to Singapore
(Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination.)
Contributions, amount, date, and donee:
1. Self: See attached sheet.
1. Self, $50, 1985, Republican National Committee; $100, 1986, Quayle for Senate; $200, 1986, McIntyre for Congress; $150, 1987, Citizens for Lugar; $100, 1987, Republican National Committee; $100, 1988, Republican National Committee; $401, 1988, Quayle for Vice President (before convention); $250, 1989, Dan Heath for Congress.
2. Spouse, none.
3. Children and spouses, none.

4. Parents, Samuel L. Orr and Louise D. Orr, deceased.

5. Grandparents, James L. Orr and Kate H. Orr, deceased.

6. Brothers and spouses, Samuel and Jane Orr, $30 each 1985-86-87-88; Republican National Committee; $100, 1988, Bush for President.

7. Sisters and spouses, Mrs. Albert Trostel $100, 1986, Kasten for Senator; $1,000, 1988, Susan Engelbiter for Senate.

Albert Trostel, deceased.

C. Howard Wilkins, Jr., of Kansas, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Kingdom of the Netherlands.

(Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination.)

Nominee: Calvin Howard Wilkins, Jr.

Post: Ambassador to the Netherlands.

Contributions, amount, date, and donee:

1. Self:

$5,000, February 23, 1988, National Republican Senatorial Committee;

$10,000, May 6, 1988, Presidential Trust;

$200, June 14, 1988, Dave Crocket for Senate;

$1,000, June 20, 1988, Karnes for Senate;

$1,000, June 20, 1988, Heinz for Senate;

$1,000, June 23, 1988, Trent Lott for Mississippi.

$1,000, July 8, 1988, Strinden for Senate;

$1,000, July 8, 1988, Burns for Senate;

$500, July 8, 1988, Thompson for Congress;

$500, October 14, 1988, Lee Thompson for Congress;

$5,000, February 23, 1987, Campaign America;

$1,000, February 26, 1986, Campaign America;

$1,000, March 24, 1986, Knight for Congress;

$4,000, April 25, 1986, Campaign America;

$1,000, May 1, 1986, Jim Santini for Senate;

$1,000, May 15, 1986, Kit Bond for Senate;

$400, May 15, 1986, Jan Myers for Congress;

$1,000, May 15, 1986, Henson Moore for Senate;

$1,000, May 15, 1986, Dick Snelling for Senate;

$1,000, July 16, 1986, Re-elect Frank Murkowski;

$1,000, August 29, 1986, Ed Zschau for Senate;

$1,000, August 29, 1986, Ken Kramer for Senate;

$1,000, August 29, 1986, Mack Mattingly for Senate;

$1,000, August 29, 1986, Jim Broyhill for Senate;

$1,000, August 29, 1986, James Abdnor for Senate;

$500, September 29, 1986, Knight for Congress;

$2,000, February 12, 1985, Republican Majority Fund;

$3,000, April 23, 1985, President's Dinner;

$10,000, June 4, 1985, Senatorial Trust;

$500, July 29, 1985, Arlen Specter for Senate;

$1,000, September 11, 1985, Symms for Senate;

$300, September 16, 1985, Republicans Abroad;

$1,000, October 17, 1975, Friends of Senator Nickles;

$2,000, November 21, 1985, Fund for America's Future;

$1,000, January 27, 1984, Domenici for Senate;

$1,000, January 27, 1984, Domenici for Senate;

$1,000, January 27, 1974, McClure for Senate;

$1,000, January 27, 1984, McClure for Senate;

$1,000, January 27, 1984, Warner for Senate;

$250, February 20, 1984, Duperier for Congress;

$1,000, February 23, 1984, Cochran for Senate;

$1,000, February 23, 1984, Humphrey for Senate;

$1,000, April 5, 1984, Schultz for Congress;

$1,000, June 20, 1984, Uhlmann for Congress;

$500, July 17, 1984, Myer for Congress;

$10,000, September 4, 1984, Presidential Trust;

$1,000, September 18, 1984, Richardson for Senate;

$1,350, December 20, 1984, Republican National Committee;

$200, May 18, 1984, Allen for Senate; and

$1,000, May 23, 1984, Boschwitz for Senate.

2. Spouse, divorced, none.

3. Children and spouses, Wendy P. Wilkins, C. Howard Wilkins III, Garth B. Wilkins, Jason T. Wilkins, Tyler A. Wilkins, none.

4. Parents, Jane Austin Wilkins, deceased. C. Howard Wilkins:

$100, July 10, 1988, Jim Burgess for Congress;

$100, October 10, 1988, Libertarian Party;

$100, May 29, 1987, George Bush for President;

$100, September 21, 1987, George Bush for President;

$100, July 6, 1987, Libertarian Party;

$100, October 14, 1987, George Bush for President;

$100, March 3, 1986, Libertarian Party;

$250, May 8, 1986, Larry Jones for Governor;

$100, June 23, 1986, Larry Jones for Governor;

$100, July 5, 1986, Bicknell for Governor;

$400, October 9, 1986, Knight for Congress;

$100, December 30, 1986, Libertarian Party;

$50, July 23, 1985, Libertarian Party;

$1,000, August 1, 1984, Republican Majority Fund; and

$75, December 2, 1984, Libertarian Party.

5. Grandparents, deceased.

6. Brothers and spouses, Robert A. Wilkins, Karen Wilkins, none.

7. Sisters and spouses, Jane W. Gifford and Paul Gifford, none.

(The above nominations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. ROTH:

S. 1202. A bill to amend title 10, United States Code, to provide for the centralized planning and conduct of major defense acquisition programs of the Department of Defense, to establish in the Department of Defense a Defense Acquisition Agency, and for other purposes; to the Committee on Armed Services.

By Mr. McCAIN (for himself, Mr. INOUYE, Mr. DECONCINI, Mr. GORTON, Mr. COCHRAN, and Mr. BURDICK):

S. 1203. A bill to encourage Indian economic development; to the Committee on Finance.

By Mr. HOLLINGS:

S. 1204. A bill to improve the enforcement of the trade laws of the United States, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. MATSUNAGA (for himself, Mr. PRYOR, Mr. CONRAD, Mr. COCHRAN, Mr. SYMMS, Mr. MCCLURE, Mr. BUMPERS, and Mr. COATS):

S. 1205. A bill to amend the Agriculture Trade Development and Assistance Act of 1954 to permit foreign currency proceeds derived from the sale of commodities to be used to support research and development programs in agriculture and aquaculture, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. HELMS:

S. 1206. A bill to amend the Immigration and Nationality Act to change the level, and preference system for admission, of immigrants to the United States, and for other purposes; to the Committee on the Judiciary.

By Mr. PACKWOOD:

S. 1207. A bill to amend the Communications Act of 1934 to reform the radio broadcast license renewal process and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. HEINZ:

S. 1208. A bill to temporarily suspend the duty on certain fine woolen fabrics; to the Committee on Finance.

By Mr. GORTON (for himself, Mr. MCCAIN, Mr. BOSCHWITZ, Mr. GRAMM, Mr. MCCLURE, Mr. LOTT, Mr. KASTEN, Mr. MCCONNELL, Mr. DOMENICI, Mr. WILSON, and Mr. BRYAN):

S. 1209. A bill to grant permanent residence status to certain nonimmigrant natives of the People's Republic of China; to the Committee on the Judiciary.

By Mr. MOYNIHAN (for himself, Mr. BURDICK, Mr. MITCHELL, Mr. LAUTENBERG, Mr. CHAFEE, and Mr. DURENBERGER):

S. 1210. A bill to conduct a comprehensive national assessment of the nature and extent of aquatic sediment contamination; to the Committee on Environment and Public Works.

By Mr. CRANSTON (for himself, Mr. MATSUNAGA, Mr. DECONCINI, and Mr. MITCHELL):

S. 1211. A bill to require the Secretary of Veterans' Affairs to pay the maximum amount of special pay authorized for Department of Veterans' Affairs physicians and dentists; to the Committee on Veterans' Affairs.

By Mr. GORE (for himself, Mr. MITCHELL, Mr. CHAFEE, Mr. WIRTH, Mr. HEINZ, and Mr. KERRY):

S.J. Res. 159. Joint resolution to designate April 22, 1990 as "Earth Day," and to set aside the day for public activities promoting preservation of the global environment; to the Committee on the Judiciary.

By Mr. LAUTENBERG (for himself, Mr. CRANSTON, Mr. MURKOWSKI, Mr. PELL, Mr. CONRAD, Mr. MATSUNAGA, Mr. ROBB, Mr. BUMPERS, Mr. DIXON, Mr. JEFFORDS, Mr. BOREN, Mr. HOLLINGS, Mr. GORE, Mr. HEFLIN, Mr. COCHRAN, Mr. INOUYE, Mr. DOLE, Mr. SIMPSON, Mr. DECONCINI, Mr. KERRY, Mr. SIMON, Mr. LIEBERMAN, Mr. HATCH, Mr. MITCHELL, Mr. GRAHAM, Mr. SASSER, Mr. PRYOR, Mr. RIEGLE, Mr. BOSCHWITZ, and Mr. BENTSEN):

S.J. Res. 160. Joint resolution to designate December 7, 1989, as "National Pearl Harbor Remembrance Day" on the occasion of the anniversary of the attack on Pearl Harbor; to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. ROTH:

S. 1202. A bill to amend title 10, United States Code, to provide for the centralized planning and conduct of major defense acquisition programs of the Department of Defense, to establish in the Department of Defense Acquisition Agency, and for other purposes; to the Committee on Armed Services.

DEPARTMENT OF DEFENSE ACQUISITION REORGANIZATION ACT

Mr. ROTH. Mr. President, I am pleased to introduce today legislation to create a civilian acquisition agency within the department of defense, which is a revised and improved version of my earlier bill—S. 433. This proposal would amend title 10, of the United States Code, to establish a defense acquisition agency to perform most weapons acquisition functions within DOD.

This agency, staffed by well-trained, experienced, career experts, would assume responsibility for the management of major weapon acquisition programs from the military services. I firmly defend that this approach will result in more effectively managed and less costly weapons programs.

When I first proposed this idea about 4 years ago, it received little attention because it was considered too radical an approach. However, the continuing problems with DOD's process for acquiring weapons point to the need for basic change in how things are done.

The report of the joint project on monitoring defense reorganization, sponsored by the Johns Hopkins Foreign Policy Institute and the Center for Strategic and International studies and cochaired by Mr. Harold Brown and Mr. James Schlesinger, said that little progress has been made in the area of weapons acquisition. Clearly the time is right to take a serious look at a new approach.

In his message to the joint session of Congress on February 9, 1989, President Bush directed the Secretary of Defense to improve the defense procurement process. The Secretary was to develop a plan to implement the spirit as well as the letter of the Packard Commission Report and the Goldwater-Nichols Act.

The drafters of both the Packard Commission Report and the Goldwater-Nichols legislation concluded that the current procedures through which military requirements were established could be improved by: First, strengthening the links between strategy and decisions on the numbers and characteristics of military forces; second, strengthening the role of the chairman and commander in chief in developing joint military needs; and third, by emphasizing affordability in all divisions on military strategy, forces, and weapon characteristics. There has been some progress made in the first two areas but little has been made regarding affordability. Hopefully the DOD review currently under the direction of Mr. Atwood will recognize the need for a new approach to the way we acquire weapons. I welcome the opportunity to work with President Bush and Secretary Cheney in reforming our defense procurement process.

Mr. President, my bill would complement the legislation which sought to implement the intent of the Packard Commission Report and the Goldwater-Nichols reforms. The news Under Secretary of Defense for Acquisition would be the head of the Defense Acquisition Agency and the military services would continue to determine the needs and performance requirements for weapons systems.

Once the decisions are made on what weapons to buy and how many resources will be expended, the Under Secretary would have full authority over the actual implementation. The military services would no longer be in charge of weapons acquisition, but would continue to serve to provide the military user's viewpoint to test the weapons, and work with the buyers throughout the life of a weapons system.

The work force for the Defense Acquisition Agency will be highly professional, with required degrees in science, engineering, business, financial management, or related disciplines. I envision a corps of acquisition professionals comparable to the specialized corps for military engineers or medical personnel who would be career arms designers and buyers trained to understand both the mechanics of weapons systems acquisition and the need for operational realities and valid individual service interests.

Mr. President, I would point out that in creating such an agency, we should be fully prepared to establish a separate personnel system to ensure that the Secretary has the full authority to create, compensate, and train the acquisition work force. This is why the bill would set up a special salary scale and bonus system based on achievement to permit the Secretary to recruit and retain the professional work force that such an agency will attract. Personnel in the agency would be eligible for higher compensation and agency managers would be granted greater flexibility in personnel matters. The bill also requires continued training and development in their assigned fields.

The purpose of my bill is to make a fundamental change in the way the United States acquires its weapon systems.

I am proposing that acquisition authority be removed from the military services and given to a civilian acquisition corps headed by the Under Secretary of Defense for Acquisition. The Defense Acquisition Agency would provide for the centralized planning and conduct of all major defense acquisition programs.

The Under Secretary would have full authority to implement the Secretary of Defense's decisions on what weapons to acquire and how many resources would be devoted to acquisition. As the full-time Defense Acquisition Executive, the Under Secretary would actively assist the Secretary in making these decisions and as required by law would have specific authority to direct the Secretaries of the military services.

Under my proposal, the Under Secretary of Defense for Acquisition would work closely with the Vice Chairman of the Joint Chiefs of Staff to ensure that the feasibility of common-use and/or joint solutions to military service requirements is adequately considered. To foster commonalty and avoid redundant efforts, all major defense acquisition programs should be reviewed by the Under Secretary of Defense for Acquistion and the Vice Chairman for potential common-use and/or joint solutions from very early in the concept exploration/definition phase of a weapon system.

Consideration should also be given to determining the extent to which there is commonalty of parts or components among the weapon systems to be acquired for the military services.

Mission-need statements for major defense acquisition programs are to include a cooperative opportunities assessment to indicate whether or not a program addressing a similar need as in development or production by one of our allies. If so, the assessment should address whether a cooperative program could possibly satisfy the military requirement of the United States.

The Under Secretary of Defense for Acquisition working together with the Vice Chairman needs to ensure that this requirement is fulfilled and that proper consideration is given to

weapon systems available from our Allies which might meet U.S. needs. Such consideration would assist in efforts to seek standardization and interoperability of weapons within U.S. military alliances.

My bill is designed to focus on the basic causes of the continuing problems with the defense acquisition process and to seek long-term solutions which will make some of the critically needed changes in how we go about selecting, developing, and producing the weapons that are used to defend this country. My bill is focused on major defense acquisition programs and will not change any of the existing processes for acquisition of common supply items such as those currently procured by the defense logistics agency.

It is important to note that my proposal will not separate the military user from the acquisition process. The military services would continue to perform several major roles in the acquisition of weapon systems. First, they would continue to be responsible for determining deficiencies in mission capability and for presenting the difference between the threat and the mission.

The need for a new capability is approved by the Secretary of Defense during the development of the military service Program Objective Memorandums. After approval of the need, the Under Secretary of Defense for Acquisition would be tasked to direct the exploration of alternative ways of developing the new capability. The military service would concentrate on developing a statement of need and performance requirements for use by the Under Secretary of Defense for Acquisition in concept exploration and definition activities.

The military service would then turn their attention to the preparation of a test and evaluation master plan which would guide the Under Secretary of Defense for Acquisition during subsequent phases of the acquisition process.

Completion of full-scale development would be marked by acceptance of the weapon by the military services. Once the service agrees that the selected weapon is operationally feasible and will meet the mission deficiency, the decision for full-rate production can be made. The Under Secretary of Defense for Acquisition would also work closely with the military services to achieve operational readiness for the deployed system and to resolve concerns with fielding and supporting the system.

My proposal would permit interaction between the Under Secretary of Defense for Acquisition and the military services throughout the life of a weapon system. Military personnel can serve in the proposed Defense Acquisition Agency. The only fundamental change is removing the authority of the military services for acquiring weapons. This should free the military to perform its primary roles of strategic and tactical planning, serving in operational commands, and training the forces to fight.

Mr. President, I would be the first to acknowledge that it is no simple task to manage the development and production of a major weapon system and to keep the program on schedule and within cost. If it were, the dozens and dozens of acquisition improvement efforts which have been initiated by virtually every administration would certainly by now have given us a more efficient and well-managed acquisition process.

Unfortunately, the reform goals have not been achieved. In fact, the problems continue and the acquisition process today may actually be in worse shape than it was only a few years ago.

The public has the perception that we do not really know how to build dependable, reasonably priced weapons. The fact is that the public's view of defense matters is greatly influenced by their perceptions of the way our weapon systems programs are managed.

I am concerned, as are other Senators, that the public is convinced the current process used to buy weapons is broke and cannot be repaired without some type of fundamental change. The growing disillusionment with the management of the acquisition process is a very serious matter and one that I, as a strong proponent of a revitalized defense, am anxious to see reversed.

In these times of declining budgets, we need to strive to get the most out of every dollar that we spend for national defense. In today's climate of declining budgets and public mistrust, we need to consider changes which will get the job of acquiring weapons done and done well. This will restore the public's confidence that real improvements have been made. This is why I have offered my proposal for the establishment of the defense acquisition agency.

In considering the causes of the continuing problems we have experienced with the defense acquisition process and the many reform proposals that have been made, it becomes apparent to me that a fundamental change is needed. I believe we should consider more comprehensive and far-reaching changes than the ones considered to date. My proposal would clearly change the status quo, but I believe it would set us on the path to real and long lasting improvement.

Our current military service dominated acquisition process results in a confusing morass of different procurement organizations and policies, prevents attention from being given to the cost of weapons in setting requirements, cuts off real consideration of potential joint developments, uses improperly trained or experienced military officers, allows high turnover of personnel in key acquisition positions, and affords no accountability for the success or failure of a weapon program.

For military officers, managing an acquisition program is not often a career or procurement official.

A centralized civilian weapons acquisition agency with the streamlined management structure envisioned by the Packard Commission and others would help to ensure the continuity of key personnel and to establish a direct line of command and communication.

Less people would be involved and there would be a more cost-effective organization. Acquisition is a business function, not a military one. Taking responsibility from the military returns valuable military personnel to their primary job of operating and commanding military forces.

I urge my colleagues to review this proposal, to weigh it against our current process in DOD, and to join with me as the debate begins on how best to create a more effective and efficient approach to developing and producing the weapons needed for our national security.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1202

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Department of Defense Acquisition Reorganization Act of 1989".

SEC. 2. CENTRALIZATION OF MAJOR DEFENSE ACQUISITION PROGRAM AUTHORITY IN THE UNDER SECRETARY OF DEFENSE FOR ACQUISITION.

(a) AUTHORITY FOR MAJOR DEFENSE ACQUISITION PROGRAMS.—Section 133(b) of title 10, United States Code, is amended by striking out clause (1) and inserting in lieu thereof the following:

"(1) planning and conducting, subject to section 2439 of this title, all major defense acquisition programs and supervising all other Department of Defense acquisitions;".

(b) CONDUCT OF MAJOR DEFENSE ACQUISITION PROGRAMS.—(1) Chapter 144 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 2439. Conduct of major defense acquisition programs

"(a) RESPONSIBILITY OF THE UNDER SECRETARY OF DEFENSE FOR ACQUISITION.—Subject to the authority, direction, and control of the Secretary of Defense, the Under Secretary of Defense for Acquisition shall plan and conduct all major defense acquisition programs in accordance with funding priorities established by the Secretary of Defense.

"(b) DEVELOPMENT OF NEEDS AND PERFORMANCE STANDARDS.—(1) The Secretary of each military department, with respect to a

major defense acquisition program for such department, and the head of each Defense Agency, with respect to a major defense acquisition program for such agency, shall—

"(A) determine and define the procurement needs of that department or agency for such program;

"(B) determine and define the performance standards for the system or systems to be acquired under the program; and

"(C) report such needs and standards to the Under Secretary of Defense for Acquisition.

"(2) During the determination and definition of procurement needs and performance standards for a major defense acquisition program, the Secretary of a military department or the head of a Defense Agency, as the case may be, shall consult with the Under Secretary of Defense for Acquisition regarding the likely availability of resources for the acquisition of a system or systems that meets the proposed needs in accordance with the proposed performance standards.

"(3) Performance standards must be realistic and must relate to a specific defined need.

"(4) Procurement needs and performance standards determined and defined by the Secretary of a military department or the head of a Defense Agency for purposes of this subsection may be revised by the Secretary of Defense.

"(c) SELECTION OF SPECIFIC SYSTEM.—(1) The Secretary of Defense, acting through the Under Secretary of Defense for Acquisition, shall select the system concept for design under a major defense acquisition program, taking into consideration the acceptable level of risk for a system under such program.

"(2) The Secretary of Defense, after consultation with the Joint Chiefs of Staff, the Under Secretary of Defense for Acquisition, and other appropriate staff officials in the office of the Secretary, shall determine and define what level of risk is acceptable for a system to be acquired under a major defense acquisition program.

"(3) In this subsection, the term 'level of risk', with respect to a system, means the extent to which the system lacks the capability to meet a specific threat to national security or to meet another specific national security need, taking into consideration the availability or anticipated availability of other systems to meet such threat or need.

"(d) ACCEPTANCE OF A SPECIFIC SYSTEM.—The Secretary of a military department or the head of a Defense Agency for which a major defense acquisition program is conducted shall determine whether the system acquired under such program meets the needs of such department or agency.

"(e) DUTIES OF THE UNDER SECRETARY OF DEFENSE FOR ACQUISITION.—In planning for and conducting a major defense acquisition program for the acquisition of a system, the Under Secretary of Defense for Acquisition—

"(1) shall consult with and receive information, evaluations, analyses, and advice from the Secretaries of the military departments and the heads of appropriate Defense Agencies with regard to the need and justification for, and any modification of, such system;

"(2) shall consider whether the acquisition of a system from any allied government would meet the need of each military department for which the system is to be acquired;

"(3) shall consult with the Joint Chiefs of Staff and the Vice Chairman of the Joint Chiefs of Staff regarding—

"(A) the potential for two or more military departments to use the system to be acquired under such major defense acquisition program; and

"(B) potential alternative systems suitable for common use by two or more military departments;

"(4) in the case of a program for the acquisition of a system for two or more military departments, shall determine the extent to which there is a commonality of parts and components among the systems to be acquired for such military departments;

"(5) shall carry out functions, consistent with the provisions of this title and applicable acquisition regulations, relating to the research for, development of, and production of the system under such major defense acquisition program, including—

"(A) determining the feasibility of conducting research for, development of, and production of such system;

"(B) preparing cost estimates, requests for appropriations under section 1108 of title 31 (reflecting the funding priorities established by the Secretary of Defense), and other budget materials;

"(C) preparing Selected Acquisition Reports for the Secretary of Defense, as directed by the Secretary, for purposes of section 2432 of this title;

"(D) preparing baseline reports and descriptions;

"(E) preparing solicitations;

"(F) evaluating bids and proposals;

"(G) selecting contractors;

"(H) establishing and improving programs and methods that foster maximum cost control and enhance productivity and manufacturing operations;

"(I) establishing schedule goals and determining compliance with such goals;

"(J) making contract payments;

"(K) making contract changes; and

"(L) terminating contracts;

"(6) during the conduct of the major defense acquisition program for a military department or a Defense Agency, shall consult on a continuing basis with the Secretary of such department or the head of such agency, as the case may be, and shall request the advice and comments of such Secretary or agency head on the conduct of the program; and

"(7) shall be the sole representative of the Department of Defense in negotiating with representatives of the private sector in connection with the major defense acquisition program.

"(f) UNDER SECRETARY OF DEFENSE FOR ACQUISITION NOT TO BE RESPONSIBLE FOR OPERATIONAL TEST AND EVALUATION.—The Under Secretary of Defense for Acquisition is not responsible for conducting, monitoring, or reviewing operational test and evaluation under a major defense acquisition program.

"(g) DEFINITION.—In this section, the term 'system' includes a subsystem and any component related to the system.".

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 2438 the following:

"2439. Conduct of major defense acquisition programs.".

(c) REVISION OF PROCUREMENT AUTHORITY OF MILITARY DEPARTMENTS.—Section 2302(1) of title 10, United States Code, is amended to read as follows:

"(1) The term 'head of an agency' means the Secretary of Defense (acting through the Under Secretary of Defense for Acquisition in the case of major defense acquisition programs, as defined in section 2430 of this title), the Secretary of the Army (except in the case of a major defense acquisition program), the Secretary of the Navy (except in the case of a major defense acquisition program), the Secretary of the Air Force (except in the case of a major defense acquisition program), the Secretary of Transportation, and the Administrator of the National Aeronautics and Space Administration.".

SEC. 3. DEFENSE ACQUISITION AGENCY

(a) ESTABLISHMENT.—(1) Part IV of subtitle A of title 10, United States Code, is amended by inserting after chapter 135 the following new chapter:

"CHAPTER 136—DEFENSE ACQUISITION AGENCY

"Sec.
"2281. Establishment.
"2282. Duties.
"2283. Civilian personnel.
"2284. Members of the armed forces.
"2285. Definition.

"§ 2281. Establishment

"There is a Defense Acquisition Agency in the Department of Defense. The Under Secretary of Defense for Acquisition is the head of the Defense Acquisition Agency.

"§ 2282. Duties

"The Under Secretary of Defense for Acquisition shall plan and conduct major defense acquisition programs through the Defense Acquisition Agency.

"§ 2283. Civilian personnel

"(a) CIVILIAN PERSONNEL SYSTEM.—(1) The Secretary of Defense shall establish by regulation a special personnel system for civilian employees of the Defense Acquisition Agency. The regulations establishing such system shall—

"(A) establish the rates of pay for employees of the Defense Acquisition Agency not to exceed the maximum rate of basic pay payable for the Senior Executive Service under section 5382 of title 5;

"(B) provide for removal of an employee of the Defense Acquisition Agency to a position outside the Defense Acquisition Agency consistent with the terms, conditions, and procedures provided in section 3592 of such title for removal of a career appointee in the Senior Executive Service to a position outside the Senior Executive Service, except that any hearing or appeal to which an employee of the Defense Acquisition Agency is entitled shall be held and decided pursuant to procedures prescribed by the Secretary of Defense in such regulations;

"(C) provide for removal or suspension of an employee of the Defense Acquisition Agency for a period of more than 14 days consistent with subsections (a), (b), and (c) of section 7543 of title 5 (relating to the removal or suspension for such a period of a career appointee in the Senior Executive Service), except that any hearing or appeal to which an employee of the Defense Acquisition Agency is entitled shall be held and decided pursuant to procedures prescribed by the Secretary of Defense in such regulations;

"(D) permit the payment of performance awards to employees of the Defense Acquisition Agency consistent with the provisions applicable to performance awards under section 5384 of title 5; and

"(E) establish career recruiting and training (including high-technology training) programs for the Defense Acquisition Agency that promote (i) the recruitment of personnel capable of attaining expertise in a broad range of acquisition functions, (ii) the attainment of such expertise by each acquisition employee of the agency, and (iii) the retention of employees who attain such expertise.

"(2) Subject to paragraph (1), the Secretary of Defense—

"(A) may make applicable to employees of the Defense Acquisition Agency any of the provisions of title 5 that are applicable to applicants for or members of the Senior Executive Service; and

"(B) acting through the Under Secretary of Defense for Acquisition, may appoint, promote, and assign employees of the Defense Acquisition Agency to acquisition positions in the Defense Acquisition Agency without regard to the provisions of such title governing appointments, promotions, and assignments for personnel in the competitive service.

"(b) QUALIFICATIONS FOR APPOINTMENT.—The Secretary of Defense shall—

"(1) prescribe the qualifications for appointment of personnel to acquisition positions in the Defense Acquisition Agency; and

"(2) make appointments to such positions from among applicants who, by reason of education, experience, training, and performance on relevant examinations, are best qualified to perform the duties of that agency.

"(c) PERFORMANCE MANAGEMENT AND RECOGNITION.—The Secretary of Defense may establish and administer a performance management and recognition system for such employees of the Defense Acquisition Agency as the Secretary considers appropriate. Such system shall be consistent with the purposes set out in section 5401 of title 5 and with subsection (a)(1)(D) of this section.

"(d) ASSIGNMENTS.—The Secretary of Defense may assign and reassign an employee of the Defense Acquisition Agency to any position in that agency in which such employee is qualified to serve, as determined by the Secretary taking into consideration the needs of the agency.

"(e) INAPPLICABILITY OF OTHER PERSONNEL LAW.—The provisions of the personnel system established for civilian employees of the Defense Acquisition Agency pursuant to this subsection shall apply to such employees in lieu of the provisions of any personnel system relating to pay, removal to another position, adverse personnel actions, payment of performance awards, appointments, performance management and recognition, and assignments that, except for this subsection, would otherwise apply to such employees.

"§ 2284. Members of the armed forces

"(a) ASSIGNMENT TO THE DEFENSE ACQUISITION AGENCY.—The Secretary of Defense shall ensure that members of the armed forces are assigned to duty in the Defense Acquisition Agency in order to furnish the agency advice and assistance on the use of systems to be acquired under major defense acquisition programs. Subject to subsection (b), the Under Secretary shall determine the specific duties of each member assigned to duty in such agency.

"(b) DUTY LIMITATIONS.—A member of the armed forces may not serve as a major defense acquisition program manager or perform supervisory duties in the conduct of such a program.

"(c) PROMOTION POLICY.—(1) The Secretary of Defense shall ensure that the qualifications of members of the armed forces who are serving in, or have served in, assignments in the Defense Acquisition Agency are such that those members are expected, as a group, to be promoted at a rate not less than the promotion rate for all members of the same armed force in the same grade and competitive category.

"(2) The Secretary of Defense shall periodically (and not less often than every six months) report to Congress on the promotion rates of members of the armed forces who are serving in, or have served in, assignments in the Defense Acquisition Agency, especially with respect to the record of promotion selection boards in meeting the objective in paragraph (1). If such promotion rates fail to meet such objective, the Secretary shall immediately notify the Committees of Armed Services of the Senate and the House of Representatives of such failure and of what action the Secretary has taken or plans to take to prevent further failures.

"(3) The Under Secretary of Defense for Acquisition is not authorized to appoint, promote, or reduce to any grade any member of the armed forces assigned to duty in the Defense Acquisition Agency.

"§ 2285. Definition

"In this chapter, the term 'major defense acquisition program' has the same meaning as provided in section 2430 of this title.".

(2) The tables of chapters at the beginning of subtitle A of title 10, United States Code, and at the beginning of part IV of such subtitle, are each amended by inserting after the item relating to chapter 135 the following new item:

"136. Defense Acquisition Agency..... 2281".

(b) TRANSITION PROVISION.—To the extent practicable, the Secretary of Defense shall make appointments to acquisition positions in the Defense Acquisition Agency in accordance with section 2283 of title 10, United States Code (as added by subsection (a)) from among the best qualified civilians serving in acquisition positions in the Department of Defense during the implementation of the provisions of this Act and the amendments made by this Act.

SEC. 4. SAVINGS PROVISIONS

(a) CONTINUED EFFECTIVENESS OF ADMINISTRATIVE ACTIONS.—All contracts, orders, determinations, rules, regulations, permits, grants, certificates, licenses, and privileges—

(1) which have been issued, made, granted, or allowed to become effective by the Secretary or other officer or employee of a military department, or by the head or other officer or employee of a Defense Agency of the Department of Defense, or by a court of competent jurisdiction, in connection with any major defense acquisition program conducted by a military department or a Defense Agency, and

(2) which are in effect on the effective date of this Act,

shall continue in effect according to their terms until modified, terminated, superseded, set aside, or revoked in accordance with law by the Secretary of Defense, the Under Secretary of Defense for Acquisition, or another authorized official, by a court of competent jurisdiction, or by operation of law.

(b) PROCEEDINGS AND APPLICATIONS.—(1)(A) The provisions of this Act shall not affect any proceeding, including any proceeding involving a claim or application, in connection with any major defense acquisition program of a military department or a Defense Agency that is pending before any military department or Defense Agency on the effective date of this Act.

(B) Orders may be issued in any such proceeding, appeals may be taken therefrom, and payments may be made pursuant to such orders, as if this Act had not been enacted. An order issued in any such proceeding shall continue in effect until modified, terminated, superseded, or revoked by the Secretary of Defense or the Under Secretary of Defense for Acquisition, by a court of competent jurisdiction, or by operation of law.

(C) Nothing in this paragraph prohibits the discontinuance or modification of any such proceeding under the same terms and conditions and to the same extent that such proceeding could have been discontinued or modified if this Act had not been enacted.

(2) The Secretary of Defense may prescribe regulations providing for the orderly transfer of proceedings continued under paragraph (1) to the Secretary of Defense or to the Under Secretary of Defense for Acquisition.

(c) DEFINITION.—In this section, the term "major defense acquisition program" has the same meaning as provided in section 2430 of title 10, United States Code.

SEC. 5. CONFORMING AMENDMENTS

Title 10, United States Code, is amended as follows:

(1) Section 1584 is amended by inserting "or whose employment in connection with research and development activities under a major defense acquisition program is determined to be necessary by the Secretary of Defense" before the period at the end.

(2) Section 1621(1) is amended by striking out "or member of the armed forces assigned by the Secretary of a military department" and inserting in lieu thereof "assigned by the Under Secretary of Defense for Acquisition".

(3) Section 1622 is amended—

(A) in subsection (a)—

(i) by striking out "The Secretary of each military department" and inserting in lieu thereof "The Secretary of Defense"; and

(ii) by striking out the last sentence; and

(B) in subsection (d), by striking out "the Secretary concerned" and inserting in lieu thereof "the Secretary of Defense".

(4) Section 1623 is amended—

(A) in subsection (a)—

(i) by striking out "The Secretary of each military department" and inserting in lieu thereof "The Secretary of Defense"; and

(ii) by striking out the last sentence; and

(B) in subsection (c), by striking out "The Secretary concerned" and inserting in lieu thereof "The Secretary of Defense".

(5) Section 2329 is amended—

(A) in subsection (b), by striking out "the Secretary of a military department" and inserting in lieu thereof "the head of an agency";

(B) in subsection (c), by striking out "the Secretary concerned" each place it appears and inserting in lieu thereof "the head of an agency awarding such contract"; and

(C) by adding at the end the following new subsection:

"(d) APPLICABILITY.—This section does not apply to the Coast Guard or the National Aeronautics and Space Administration.".

(6) Section 2352 is amended by striking out "a military department" and inserting in lieu thereof "the Department of Defense".

(7) Section 2353 is amended—

(A) in the first sentence of subsection (a)—

(i) by striking out "a military department" and inserting in lieu thereof "the Department of Defense"; and

(ii) by inserting "(in the case of a contract of a military department) or the Secretary of Defense (in the case of a contract under a major defense acquisition program") after "the Secretary of the military department concerned"; and

(B) in subsection (b)(3), by inserting "or the Secretary of Defense, as the case may be," after "the Secretary concerned"

(8) Section 2354 is amended—

(A) in subsection (a), by striking out ", any contract of a military department" and inserting in lieu thereof "(in the case of a contract of a military department) or with the approval of the Secretary of Defense (in the case of a contract under a major defense acquisition program),";

(B) in subsection (c)—

(i) by inserting "or the Secretary of Defense, as the case may be" after "the Secretary of the department concerned"; and

(ii) by striking out "of his department"; and

(C) in subsection (d), by inserting "or the Secretary of Defense, as the case may be" after "the Secretary concerned".

(9) Section 2356(a) is amended by inserting "of his" in the first sentence after "may delegate any".

(10) Section 2357 is amended by inserting "(in the case of research and development contracts of such department) and the Secretary of Defense (in the case of research and development contracts under major defense acquisition programs)" after "The Secretary of each military department".

(11) Section 2393 is amended—

(A) in subsection (a)(1), by inserting "and, in the case of a major defense acquisition program, the Secretary of Defense" after "the Secretary of a military department"; and

(B) by adding at the end of subsection (c) the following:

"(3) The term 'Secretary concerned' includes the Secretary of Defense with respect to a major defense acquisition program.

"(4) The term 'major defense acquisition program' has the same meaning as provided in section 2430 of this title.".

(12) Section 2405(a) is amended by striking out "The Secretary of a military department" and inserting in lieu thereof "The Secretary of Defense".

(13) Section 2406 is amended—

(A) in subsection (a)—

(i) by striking out "head of an agency" and inserting in lieu thereof "Secretary of Defense (acting through the Under Secretary of Defense for Acquisition)";

(ii) by striking out "head of the agency" and inserting in lieu thereof "Secretary" each place it appears; and

(iii) by striking out "that agency" and inserting in lieu thereof "the Department of Defense"; and

(B) in subsection (f)—

(i) by striking out paragraph (1);

(ii) by redesignating paragraphs (2), (3), and (4) as paragraphs (1), (2), and (3), respectively;

(iii) by striking out "2432(a)" in paragraph (1) (as redesignated by clause (ii)) and inserting in lieu thereof "2430"; and

(iv) by striking out "the head of an agency" in paragraph (3) (as redesignated by clause (ii)) and inserting in lieu thereof "the Secretary of Defense".

(14) Section 2433 is amended by striking out "Secretary concerned" each place it appears and inserting in lieu thereof "Secretary of Defense".

(15) Section 2435 is amended—

(A) by striking out "Secretary of the military department concerned" each place it appears and inserting in lieu thereof "Secretary of Defense";

(B) in subsection (a)(1), by striking out the matter before clause (A) and inserting in lieu thereof the following "The Secretary of Defense (acting through the Under Secretary of Defense for Acquisition) shall establish a baseline description for a major defense acquisition program—";

(C) in subsection (b)—

(i) in paragraph (1), by striking out "and to the senior procurement executive of such military department (designated pursuant to section 16(3) of the Office of Federal Procurement Policy Act (41 U.S.C. 414(3)))" and inserting in lieu thereof "the Under Secretary of Defense for Acquisition"; and

(ii) in paragraph (2), by striking out "will be missed by more than 90 days—" and all that follows and inserting in lieu thereof "will be missed by more than 90 days, establish a review panel—

"(A) to review such program; and

"(B) to submit the results of such review to the Secretary before the end of the 45-day period beginning on the date that the program deviation report is submitted under paragraph (1).."; and

(D) by adding at the end the following new subsection:

"(d) DELEGATION OF AUTHORITY TO THE UNDER SECRETARY OF DEFENSE FOR ACQUISITION.—The Under Secretary of Defense for Acquisition shall perform the duties of the Secretary of Defense under this section.".

(16) Section 2437(a)(1)(A) is amended by striking out "in each military department (as designated by the Secretary of the military department" and inserting in lieu thereof "(as designated by the Secretary".

(17) Section 2502(c)(1) is amended to read as follows:

"(c) ASSESSMENTS.—(1) the Secretary of Defense shall ensure that, for each major defense acquisition program, the Under Secretary of Defense for Acquisition has made an assessment of the following matters:

"(A) The capability of the domestic defense industrial base to meet requirements for that program.

"(B) The capability of the domestic defense industrial base to meet the aggregate requirements for all such programs.".

SEC. 6. EFFECTIVE DATE

This Act and the amendments made by this Act shall take effect 180 days after the date of the enactment of this Act.

By Mr. McCAIN (for himself, Mr. INOUYE, Mr. DECONCINI, Mr. GORTON, Mr. COCHRAN, and Mr. BURDICK):

S. 1203. A bill to encourage Indian economic development; to the Select Committee on Indian Affairs.

INDIAN ECONOMIC DEVELOPMENT ACT

Mr. McCAIN. Mr. President, one of the highest priorities of the Select Committee on Indian Affairs, and one of my personal priorities, in the 101st Congress is to promote the development of Indian reservation economies. In the 100th Congress the committee held numerous hearings to solicit comments on ways to improve current programs as well as to explore new ideas which would better assist tribes in alleviating the harsh economic conditions found on Indian reservations.

There is no doubt in my mind that bold and innovative measures will be required to overcome the years of poverty, despair and neglect afflicting native American communities. Many Indian people at this moment are living in conditions that rival those found in Third World countries. Unemployment is often three times the national average and for some tribes the levels regularly reach eighty and ninety percent. Health conditions are deplorable. Young Indian people are committing suicide at three times the national average; others are turning to alcohol and substance abuse. According to the 1980 census, 41 percent of reservation Indians were living in households with incomes below the poverty level, as compared to 12 percent for the United States as a whole. Tragically, the 1990 census will probably reveal another decade gone by with no discernible improvement in the socioeconomic status of reservation Indians.

Mr. President, it is time to end this tragedy. Over the years we have taken dramatic steps to economically revitalize countries and continents the world over. In Europe it was the Marshall Plan. In Puerto Rico it was "Operation Bootstrap." And each year the Congress appropriates funds for various types of foreign aid to a host of developing countries. It is time we made a similar commitment to Native Americans.

Unlike past Federal approaches toward Indian policy, however, tribal governments must be closely involved in the development and implementation of programs intended for their assistance and well-being. Under our constitutional system of government, the right of tribes to be self-governing and to share in our Federal system must not be diminished.

Previous attempts to encourage the development of reservation economies have invariably involved Federal agencies providing grants, subsidized loans, loan guarantees, and interest subsidies. There have been some success stories, but more often than not, the above programs have fallen short as a result of deficiencies in administration, lack of technical assistance, lack of project review and monitoring, and decreases in program funding.

One of the ideas I have twice proposed is the creation of Indian enterprise zones. As the name suggests, the bills were closely patterned after the more general enterprise zone proposals designed for the benefit of urban and rural areas, and included both tax and regulatory relief at the Federal and tribal levels. In reviewing previous efforts, I have earnestly solicited the

input of Indian leaders from around the country. Their input has been invaluable to me in taking another look at tax incentive legislation.

The bill I am introducing today, along with Senators INOUYE, DECONCINI, GORTON, COCHRAN, and BURDICK is a scaled down version of the legislation I introduced in the 99th and 100th Congresses. The emphasis is placed on direct investment incentives for reservation based economic activity. The underlying concept recognizes that most reservations already resemble enterprise zones in the sense that there is little or no regulation or taxation of economic activity.

Simply put, my bill provides tax incentives for tribes to use if they choose to do so. Some tribes will elect to use these incentives, other tribes will adopt a wait and see attitude. For some tribes, a wholly different approach will be necessary. If there is one thing I have learned during my 7 years of working on Indian issues, it is the fact that you cannot treat all tribes alike. What may work for the Navajo Nation, whose reservation is the size of West Virginia, does not necessarily apply to the Havasupai Tribe whose people live at the bottom of the Grand Canyon.

The four principal provisions in the Indian Economic Development Act of 1989 include:

First, investment tax credits. A 5-percent credit would be allowed for personal property. A credit of 20 percent would be allowed for new construction property. Investment in infrastructure would be allowed a 10 percent credit;

Second, nonrecognition of gain on the sale of reservation property would be allowed where reinvestment is made on an Indian reservation within 1 year;

Third, economically disadvantaged members of a federally recognized Indian tribe are classified as a targeted group for purposes of the Targeted Jobs Tax Credit. The credit amount is generally equal to 40 percent of the first $6,000 of wages paid to an eligible recipient in the first year of employment; and

Fourth, the bill adapts the "possessions tax credit" (also known as the "section 936" provisions, after the relevant section in the Internal Revenue Code) to apply to businesses operating on the reservation of a federally recognized Indian tribe. Under the credit's current provisions, income U.S. firms earn from business operations in the possessions (Puerto Rico, American Samoa, Guam, Commonwealth of the Northern Mariana Islands, and the Virgin Islands) is exempt from the Federal corporate income tax. This bill will extend that exemption to Indian reservations.

The bill does not mandate regulatory or tax incentives at the tribal level. This is a policy matter that, I believe, is best left for tribes to decide—keeping in mind that the level of regulation and taxation will be guided by market forces. Each tribe has to determine for itself the type of business climate they wish to create for private sector businesses.

Many business leaders have shared with me their concerns about doing business on Indian reservations. One fear is the lack of adequate recourse in civil and contract disputes. While the private sector's concerns need to be addressed, I believe a legislative solution is unnecessary. Indian tribes and businesses are fully capable of working through this area of concern as well as other maters that may arise. There are several examples in my home State of Arizona where large corporations and tribes have fashioned agreements which address all reasonable concerns of both the corporation's and the tribe's, including conflict resolution and complex jurisdictional issues.

Mr. President, it is my hope that the introduction of this bill will serve as a focal point for further discussion of these and other incentives. I have already communicated to President Bush and Secretary Kemp the need to include Indian tribes within their overall effort to pass enterprise zone legislation. I have received assurances that these incentives, and others that may be developed, will receive serious considerations.

Mr. President, last year the Congress vigorously debated the issue of Indian gaming. It remains clear to me that the reason so many tribes have turned to that form of economic development is that we have failed to adequately assist them in their efforts to pursue more traditional business opportunities. At the conclusion of that debate, I challenged the Members of Congress involved to focus their energies on finding ways to develop stronger reservation economies. I repeat that challenge.

Let us debate. Let us examine alternatives. But let us not ignore the very real suffering that has been plaguing native American communities for too long. The renowned Indian law scholar, Felix Cohen, perhaps said it best:

> Like the miner's canary, the Indian marks the shift from fresh air to poison air in our political atmosphere; and our treatment of Indians, even more than our treatment of other minorities, reflects the rise and fall of our political faith.

Mr. President, I ask unanimous consent that a copy of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1203

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; AMENDMENT OF 1986 CODE.

(a) SHORT TITLE.—This Act may be cited as the "Indian Economic Development Act of 1989".

(b) AMENDMENT OF 1986 CODE.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

SEC. 2. PURPOSE.

It is the purpose of this Act to provide for the establishment of incentives in order to stimulate the creation of new jobs and employment training, to assist the development of reservation infrastructure, and to promote revitalization of economically distressed Indian reservations primarily by providing or encouraging tax relief at the Federal level.

SEC. 3. INVESTMENT TAX CREDIT FOR PROPERTY ON INDIAN RESERVATION.

(a) SECTION 38 PROPERTY.—Paragraph (1) of section 48(a) (defining section 38 property) is amended by striking "or" at the end of subparagraph (F), by striking the period at the end of subparagraph (G) and inserting "; or", and by adding after subparagraph (G) the following new subparagraph:

"(H) qualified Indian reservation property (within the meaning of subsection (t)) which is not otherwise section 38 property."

(b) AMOUNT OF CREDIT.—

(1) IN GENERAL.—Subsection (a) of section 46 (relating to amount of investment tax credit) is amended by striking "and" at the end of paragraph (2), by striking the period at the end of paragraph (3) and inserting ", and", and by adding at the end thereof the following new paragraph:

"(4) in the case of qualified Indian reservation property, the Indian reservation percentage."

(2) INDIAN RESERVATION PERCENTAGE DEFINED.—Subsection (b) of section 46 is amended by adding at the end thereof the following new paragraph:

"(5) INDIAN RESERVATION PERCENTAGE.—For purposes of this subsection—

"In the case of qualified Indian reservation property which is:	The Indian reservation percentage is:
Reservation personal property (within the meaning of section 48(t)(2))	5
New reservation construction property (within the meaning of section 48(t)(3))	20
Reservation infrastructure investment (within the meaning of section 48(t)(4))	10."

(3) CONFORMING AMENDMENT.—Section 48(o) (defining certain credits) is amended by adding at the end thereof the following new paragraph:

"(4) INDIAN RESERVATION CREDIT.—The term 'Indian reservation credit' means that portion of the credit allowed by section 38 which is attributable to the Indian reservation percentage."

(c) DEFINITIONS AND TRANSITIONAL RULES.—Section 48 (relating to definitions and special rules) is amended by redesignating subsection (t) as subsection (u) and by inserting after subsection (s) the following new subsection:

"(t) QUALIFIED INDIAN RESERVATION PROPERTY.—

"(1) IN GENERAL.—The term 'qualified Indian reservation property' means property—

"(A) which is—

"(i) reservation personal property,

"(ii) new reservation construction property, or

"(iii) reservation infrastructure investment, and

"(B) not acquired (directly or indirectly) by the taxpayer from a person who is related to the taxpayer (within the meaning of section 465(b)(3)(C)).

"(2) RESERVATION PERSONAL PROPERTY DEFINED.—The term 'reservation personal property' means property—

"(A) for which depreciation is allowable under section 168,

"(B) which is not—

"(i) nonresidential real property,

"(ii) residential rental real property, or

"(iii) real property which has a class life of more than 12.5 years, and

"(C) which is used by the taxpayer predominantly in the active conduct of a trade or business within an Indian reservation.

Property shall not be treated as 'reservation personal property' if it is used or located outside the Indian reservation on any regular basis.

"(3) NEW RESERVATION CONSTRUCTION PROPERTY DEFINED.—The term 'reservation construction property' means property described in clause (i), (ii), or (iii) of paragraph (2)(B)—

"(A) which is located in an Indian reservation,

"(B) which is used by the taxpayer predominantly in the active conduct of a trade or business within an Indian reservation, and

"(C) which is originally placed in service by the taxpayer.

"(4) RESERVATION INFRASTRUCTURE INVESTMENT DEFINED.—

"(A) IN GENERAL.—The term 'reservation infrastructure investment' means reservation personal property which—

"(i) benefits the tribal infrastructure, and

"(ii) is available to the general public.

"(B) PROPERTY MAY BE LOCATED OUTSIDE THE RESERVATION.—For purposes of this paragraph, the term 'reservation personal property' includes property which would (but for its location outside the reservation) be Indian reservation property, but only if its purpose is to connect to existing tribal infrastructure in the reservation. Examples of property which may be described in this paragraph include roads, power lines, water systems, railroad spurs, and communication facilities.

"(5) REAL ESTATE RENTAL.—For purposes of this section, ownership (or leaseholding) of residential, commercial, or industrial real property within an Indian reservation for rental shall be treated as the active conduct of a trade or business in an Indian reservation.".

(d) LODGING TO QUALIFY.—Paragraph (3) of section 48(a) (relating to property used for lodging) is amended—

(1) by striking "and" at the end of subparagraph (C),

(2) by striking the period at the end of subparagraph (D) and inserting ", and," and

(3) by adding at the end thereof the following new subparagraph:

"(E) new reservation construction property."

(e) RECAPTURE.—Subsection (a) of section 47 (relating to certain dispositions, etc., of section 38 property) is amended by adding at the end thereof the following new paragraph:

"(10) SPECIAL RULES FOR INDIAN RESERVATION PROPERTY.—

"(A) IN GENERAL.—If, during any taxable year, property with respect to which the taxpayer claimed an Indian reservation credit—

"(i) is disposed of, or

"(ii) in the case of reservation personal property—

"(I) otherwise ceases to be section 38 property with respect to the taxpayer, or

"(II) is removed from the Indian reservation, converted, or otherwise ceases to be Indian reservation property,

the tax under this chapter for such taxable year shall be increased by the amount described in subparagraph (B).

"(B) AMOUNT OF INCREASE.—The increase in tax under subparagraph (A) shall equal the aggregate decrease in the credits allowed under section 38 by reason of section 46(a)(4) for all prior taxable years which would have resulted solely from reducing the expenditures taken into account with respect to the property by an amount which bears the same ratio to such expenditures as the number of taxable years that the property was held by the taxpayer bears to the applicable recovery period under section 168(g)."

(f) BASIS ADJUSTMENT TO REFLECT INVESTMENT CREDIT.—Paragraph (3) of section 48(q) (relating to basis adjustment to section 38 property) is amended to read as follows:

"(3) SPECIAL RULE FOR QUALIFIED REHABILITATION AND INDIAN RESERVATION EXPENDITURES.—In the case of any credit determined under section 46(a) for—

"(A) any qualified rehabilitation expenditure in connection with a qualified rehabilitated building, or

"(B) any expenditure in connection with new reservation construction property (within the meaning of section 48(t)(3)),

paragraphs (1) and (2) of this subsection and paragraph (5) of subsection (d) shall be applied without regard to the phrase '50 percent of'."

(g) EFFECTIVE DATE.—The amendments made by this section shall apply to periods after December 31, 1988, under rules similar to the rules of section 48(m) of the Internal Revenue Code of 1986.

SEC. 1. NONRECOGNITION OF GAIN ON THE SALE OF INDIAN RESERVATION PROPERTY WHERE REINVESTMENT IN SUCH PROPERTY OCCURS WITHIN 1 YEAR.

(a) IN GENERAL.—Part III of subchapter O of chapter 1 (relating to common nontaxable exchanges) is amended by adding at the end thereof the following new section:

"SEC. 1043. NONRECOGNITION OF GAIN ON THE SALE OF INDIAN RESERVATION PROPERTY WHERE REINVESTMENT IN SUCH PROPERTY OCCURS WITHIN 1 YEAR.

"(a) IN GENERAL.—No gain shall be recognized on the sale or exchange of Indian reservation property of the taxpayer if the proceeds realized from such sale or exchange are used by the taxpayer to acquire Indian reservation property within the qualified period.

"(b) INDIAN RESERVATION PROPERTY.—For purposes of this section—

"(1) IN GENERAL.—The term 'Indian reservation property' means—

"(A) any tangible personal property which is acquired and placed in service by the taxpayer in an Indian reservation and which is used predominately by the taxpayer in the active conduct of an Indian reservation business within such reservation, and

"(B) any real property located in an Indian reservation which is acquired by the taxpayer and which is used predominately by the taxpayer in the active conduct of an Indian reservation business.

"(2) INDIAN RESERVATION BUSINESS.—The term 'Indian reservation business' means any person—

"(A) which is actively engaged in the conduct of a trade or business during the taxable year,

"(B) with respect to which at least 80 percent of such person's gross receipts for such taxable year are attributable to the active conduct of a trade or business which produces goods or provides services within an Indian reservation, and

"(C) with respect to which substantially all the tangible assets of such person are located within an Indian reservation.

"(c) QUALIFIED PERIOD.—For purposes of this section, the term 'qualified period' means the period which ends 12 months after the date of the sale or exchange of Indian reservation property.

"(d) BASIS OF ACQUIRED INDIAN RESERVATION PROPERTY.—If the acquisition of Indian reservation property by a taxpayer results in nonrecognition of any gain or loss on the sale or exchange of other Indian reservation property of such taxpayer under subsection (a), the basis of such taxpayer in the acquired Indian reservation property shall be the cost of such property—

"(1) decreased by the amount of gain which was not so recognized, or

"(2) increased by the amount of loss which was not so recognized.

If such acquired Indian reservation property consists of more than 1 item of property, the basis determined under the preceding sentence shall be allocated among such items in proportion to their respective costs.

"(e) STATUTE OF LIMITATIONS.—If the taxpayer during a taxable year sells or exchanges Indian reservation property at a gain, then—

"(1) the statutory period for the assessment of any deficiency attributable to any part of such gain shall not expire before the expiration of 3 years from the date the Secretary is notified by the taxpayer (in such manner as the Secretary may by regulations prescribe) of—

"(A) the taxpayer's intention not to acquire any Indian reservation property within the qualified period, or

"(B) a failure to make such purchase within the qualified period, and

"(2) such deficiency may be assessed before the expiration of such 3-year period notwithstanding the provisions of any other law or rule of law which would otherwise prevent such assessment.".

(b) CONFORMING AMENDMENTS.—

(1) Subsection (c) of section 381 (relating to carryovers in certain corporate acquisitions) is amended by inserting at the end thereof the following new paragraph:

"(27) INDIAN RESERVATION PROPERTY.—The acquiring corporation shall be treated as the distributor or transferor corporation after the date of distribution or transfer for purposes of applying section 1043.".

(2) Subsection (a) of section 1016 (relating to adjustments to basis) is amended by striking "and" at the end of paragraph (23), by striking the period at the end of paragraph (24) and inserting "; and", and by adding at

the end thereof the following new paragraph:

"(25) to the extent provided in section 1043(d) in the case of the property the acquisition of which resulted in nonrecognition of gain or loss in other property under section 1043(a).".

(3) Section 1223 (relating to holding period of property) is amended by redesignating paragraph (14) as paragraph (15) and by inserting after paragraph (13) the following new paragraph:

"(14) In determining the period for which the taxpayer has held property, the acquisition of which resulted under section 1043 in nonrecognition of the gain or loss on the sale or exchange of any other property, there shall be included the period during which such other property was held by such taxpayer prior to such sale or exchange.".

(4) Paragraph (4) of section 1245(b) (relating to limitations on gain from disposition of certain depreciable assets) is amended by striking "or 1033" and inserting ", 1033, or 1043".

(5) Paragraph (4) of section 1250(d) (relating to limitations on gain from disposition of certain depreciable realty) is amended—

(A) by striking out "or 1033" in subparagraphs (A) and (E) and inserting in lieu thereof ", 1033, or 1043", and

(B) by inserting "or 1043(a)" after "section 1033(a)(2)" in subparagraph (C)(ii).

(6) Paragraph (2) of section 6212(c) (relating to further deficiency letters restricted) is amended by inserting after subparagraph (E) the following new subparagraph:

"(F) Deficiency attributable to gain on sale of property, see section 1043(e).".

(7) Section 6504 (relating to cross references) is amended by adding at the end thereof the following new paragraph:

"(13) Gain on the sale or exchange of property, see section 1043(e).".

(c) CLERICAL AMENDMENT.—The table of sections for part III of subchapter C of chapter 1 is amended by inserting after the item relating to section 1042 the following new item:

"Sec. 1043. Nonrecognition of gain or loss on the sale of Indian reservation property where reinvestment in such property occurs within 1 year.".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to sales or exchanges after December 31, 1988.

SEC. 5. TARGETED JOBS CREDIT.

(a) MEMBERS OF INDIAN TRIBES ELIGIBLE FOR CREDIT.—Paragraph (1) of section 51(d) (defining members of targeted groups) is amended by striking "or" at the end of subparagraph (II), by striking the period at the end of subparagraph (J) and inserting ", or" and by adding at the end thereof the following new subparagraph:

"(K) a member of an Indian tribe (as defined in section 103(b) of the Indian Self-Determination Act (25 U.S.C. 450b)) who is living in an area of an Indian reservation with respect to which the Secretary of the Interior accepts the certification of the tribal government with jurisdiction over such area that—

"(i) the area is one of pervasive poverty, unemployment, and general duties, and

"(ii) either—

"(I) the unemployment rate for such area, as determined by appropriate available data, was at least 2 times the national unemployment rate for the same period, or

"(II) at least 70 percent of the households living in the area have incomes below 80 percent of the median income of households of the political subdivision in which such area is located."

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1988.

SEC. 6. INDIAN RESERVATION TAX CREDIT.

(a) IN GENERAL.—Subpart B of part IV of subchapter A of chapter 1 (relating to foreign tax credit, etc.) is amended by adding at the end thereof the following new section:

"SEC. 30. INDIAN RESERVATION TAX CREDIT.

"(a) ALLOWANCE OF CREDIT.—

"(1) IN GENERAL.—Except as provided in paragraph (2), there shall be allowed as a credit against the tax imposed by this chapter an amount equal to the portion of the tax which is attributable to the taxable income from the active conduct of an Indian reservation business.

"(2) CREDIT NOT ALLOWED AGAINST CERTAIN TAXES.—The credit allowed under paragraph (1) shall not be allowed against the tax imposed by section 59A, 531, or 541.

"(b) AMOUNTS RECEIVED OUTSIDE THE RESERVATION.—In determining taxable income for purposes of subsection (a), income shall not be treated as attributable to the active conduct of an Indian reservation business if it is received outside of the Indian reservation. The preceding sentence shall not apply to amounts received from a person who is not a related person.

"(c) INDIAN RESERVATION BUSINESS.—For purposes of this section—

"(1) IN GENERAL.—The term 'Indian reservation business' means any person—

"(A) which is actively engaged in the conduct of a trade or business on an Indian reservation during the taxable year,

"(B) with respect to which the income requirements of paragraph (2) are met, and

"(C) substantially all of the assets of which are located within the Indian reservation.

"(2) INCOME ELIGIBILITY REQUIREMENTS.—The requirements of this paragraph are met if:

"(A) 80 PERCENT TEST.—80 percent or more of the gross income of the trade or business for the 3-year period immediately preceding the close of the taxable year (or such portion of such period as may be applicable) was derived from sources within an Indian reservation.

"(B) 75 PERCENT TEST.—75 percent or more of the gross income for the period described in subparagraph (A) was derived from the active conduct of a trade or business within an Indian reservation."

(b) CONFORMING AMENDMENT.—The table of sections for subpart B of part IV of subchapter A of chapter 1 is amended by adding at the end thereof the following new item:

"Sec. 30. Indian reservation tax credit."

"(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1989.

● Mr. INOUYE. Mr. President, it gives me great pleasure to express my support for this legislation which has been introduced by my esteemed colleague, Senator JOHN MCCAIN. The Indian Economic Development Act of 1989 authorizes investment incentives for private firms who establish and operate business enterprises on Indian reservations. Taken together with the other economic development initiatives which the Select Committee on Indian Affairs has put on its agenda, Senator MCCAIN's bill will allow us to make available to Indian tribes a comprehensive program for economic self-sufficiency. Moreover, while not detracting in the least from the other components of our program, I believe that the combination of tax credits and investment incentives included in this bill will be the single most powerful force to stimulate private sector development on Indian reservations of anything that we might possibly consider.

The Senate Select Committee on Indian Affairs, of which Senator JOHN MCCAIN is vice chairman, has regarded economic development for Indian country as a most urgent need and high-priority goal. In doing so we are clearly responding to the overwhelming consensus of Indian leaders from every sector of the Indian world. The terrible social problems resulting from deep-seated, endemic poverty which afflicts nearly every Indian community across the country is tearing apart the fabric of their societies and is a situation which we must respond to with every resource at our disposal. As we have learned through many hours of hearings both here in Washington and on many reservations, the problems of poverty cannot be solved simply by throwing money into Government grant and financial assistance programs. Rather, we must learn from the lessons of past Government efforts and design resources which can be used by local Indian leaders and entrepreneurs to meet the unique conditions of each community.

Mr. President, I believe that Senator MCCAIN's bill is a tremendous contribution to our work in the Congress precisely because it is based on the wisdom gained from experience. The business leadership of each Indian community is provided an effective arsenal of tools in the form of powerful investment incentives with which to negotiate with individual businesses to create enterprises that stand the best chance of long-term success. This bill greatly complements the others parts of our committee program which are designed to make investment capital available and significantly enhance Indian access to Government procurement opportunities. With the Indian Economic Development Act of 1989, we have a comprehensive program that offers great promise for Indian Country.●

By Mr. HOLLINGS:

S. 1204. A bill to improve the enforcement of the trade laws of the United States, and for other purposes; to the Committee on Finance.

TRADE ENFORCEMENT ACT

Mr. HOLLINGS. Mr. President, the threat posed by our gigantic trade

deficits is now staring us straight in the eye. We are in such bad shape that we call it "good news" when we have a year like 1988—when the United States runs up only a $126 billion merchandise trade deficit, and only a $154 billion current account deficit.

Just as surely as $200 billion budget deficits have busted the Federal Government, you can count on these tremendous trade deficits to further erode our position in the world economy. This Nation, once the beneficiary of large trade surpluses, has become the international poor relation. The United States is the largest debtor nation, in hock to countries we used to loan money to. We are at the mercy of the rest of the world, for if investing countries were to pull the plug on America and take their billions home, we would be in economic chaos.

All around us, countries are throwing their resources into taking over the American market and American jobs. Governments everywhere are working hand-in-hand with business people to give them an advantage. They continue to erect tariff and nontariff barriers to keep our products out of their market. The recently released "National Trade Estimates" report compiled by the United States Trade Representative Office, is just as big and fat as ever. We have pages upon pages of Government-backed tax rebates on exports, licensing requirements, inspection practices, direct and indirect subsidies, Government-backed loans, Government-backed research—you name it and it is being used against us.

And what is the U.S. Government doing? I believe we took a small first step with the Omnibus Trade Act passed last year. That bill gave the administration greater options to remedy unfair foreign trade practices. Yet, the lesson we have learned time and time again is that administrations—this one as the ones before it—are wilting daisies when it comes to using the trade laws.

Trade police initiatives have again been sacrificed to foreign policy goals. Under the new Super 301 provision, Mrs. Hills named Japan, India, and Brazil as countries that have maintained a pattern of unfair trade barriers that are harmful to the United States. She even circulated a press release to announce that. To American entrepreneurs working to export products, her findings are yesterday's news. Mrs. Hills also announced her intention to enter into a "structural dialogue" with Japan.

So, once again, while other governments are protecting home markets and invading ours, the United States is negotiating. This country is not in the business of negotiating, we are in the business of creating, developing, manufacturing, and selling. We don't need new laws and new negotiations. We simply need active enforcement of our trade laws.

For these reasons, I am introducing the Trade Enforcement Act of 1989. My legislation is designed to strengthen existing trade law and require action where discretion has bred inaction. Let me highlight some significant features of this bill:

Eliminate the exporters sales price offset and profit deduction: The Commerce Department will have to stop acting by administrative fiat and quit making it more difficult for petitioners to prove dumping. In making these changes, the bill will make the Commerce Department track the existing statute more accurately and bring our practice in line with our trading partners.

Countervailing duty laws: This bill makes several changes to the countervailing duty laws including making natural resource subsidies and nonmarket economies subject to countervailing duty laws.

Changes to section 201: My bill will improve section 201 by expanding the scope of the law to encompass a broad range of related products and clarifying the definition of injury to ensure that during a recession other causes of injury may be considered.

National Trade Council: I have included a provision that I have backed for many years—to institute a National Trade Council fashioned directly after the National Security Council. We need a National Trade Adviser with the same status as the National Security Adviser to give trade the high priority it demands.

Other provisions: Additionally, the bill has many provisions crafted to get our Government working on the side of our industry. The bill includes a private right of action for dumping and subsidies, a scofflaw provision, changes in the law governing foreign trade subzones, and provisions to prevent circumvention.

I have just touched upon some of the major features of my bill. I hope my colleagues will examine the Trade Enforcement Act of 1989. If we allow ourselves to let our energies wane and focus drift from the trade issue now, we will be essentially closing the show after the first act.

I am committed to continuing to fight in this trade war on the side of our workers and our companies that started a long, long time ago.

Mr. President, I ask unanimous consent that a section-by-section analysis of the bill be printed in the RECORD.

There being no objection, the analysis was ordered to be printed in the RECORD, as follows:

SECTION-BY-SECTION EXPLANATION OF THE TRADE BILL

Section 1.—Title.

Section 2 (a) and (b).—Eliminates the Exporter's Sale Price Offset. The Commerce Department will continue to reduce the exporter's sales price by the amount of selling expenses incurred by a related party. However, the Department will no longer be able to reduce the home market price by an amount equal to that. Section 101(b) requires the deduction of profit earned by a related party from the Exporter's Sales Price. Both of these changes reflect adjustments made to Exporter's Sales Price by our trading partners.

Section 3.—Restores the statute to pre-1988 status-increases protection of proprietary information.

Section 4.—Extends the coverage of the antidumping laws to major components of a product already subject to an antidumping order.

Section 5.—Makes natural resources subsidies subject to the countervailing duty laws.

Section 6.—Brings non-market economy countries within the scope of the countervailing duty laws.

Section 7(a).—Requires cross-cumulation of imports under investigation and for products already subject to an antidumping or countervailing duty order if the marketing of such products is reasonably coincident.

Section 7(b).—Requires the International Trade Commission (ITC) when determining injury to consider potential declines in output, sales, employment, etc., which may be temporarily buoyed by an economic recovery.

Section 7(c).—Provides the ITC cannot make a finding of "no injury" based on any factors not listed in the statute.

Section 8.—Gives interested parties the right to petition the Commerce Department to commence a circumvention investigation.

Section 9.—Makes two changes in section 201 of the Trade Act of 1974. The scope of 201 would be changed to encompass a broad range of related products and the definition of injury is clarified to ensure that during a recession other causes of injury may be considered.

Section 10.—Makes some changes in the current procedures of the textile and apparel import program for issuing a "call" for consultations on a quota and negotiating a quota. A time limit is established for actions on petitions alleging market disruption; when market disruption is found, temporary quotas are imposed based on current levels of trade until an agreement is reached.

Section 11.—Establish a National Trade Council at the White House with a National Trade Advisor to the President to coordinate trade policy.

Section 12-14.—Establish a private right of action for domestic industries injured by dumped or subsidized imports or by customs violations.

Section 15.—Provides that persons convicted of three or more customs violations within seven years are barred from importing.

Section 16.—Decisions on manufacturing subzones must be made by the Secretary and must be based on "clear & convincing" evidence that the subzone will be beneficial to the U.S.

Section 17.—Changes the transaction value of customs duties from a F.O.B. (free on board) to a C.I.F. (cost, insurance, and freight) basis.

By Mr. MATSUNAGA (for himself, Mr. PRYOR, Mr. CONRAD, Mr. COCHRAN, Mr. COATS, Mr. SYMMS, Mr. MCCLURE, and Mr. BUMPERS):

S. 1205. A bill to amend the Agricultural Trade Development and Assistance Act of 1954 to permit foreign currency proceeds derived from the sale of commodities to be used to support research and development programs in agriculture and aquaculture, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

FOREIGN CURRENCY AGRICULTURAL RESEARCH COMPETITIVENESS ACT

● Mr. MATSUNAGA. Mr. President, for myself and Senators PRYOR, COCHRAN, CONRAD, COATS, SYMMS, MCCLURE, and BUMPERS, I am today introducing legislation that, if enacted, would help maintain American leadership in agricultural science, research, and technology. This bill, entitled "The Foreign Currency Agricultural Research Competitiveness Act", would amend Public Law 480, the Agricultural Trade Development and Assistance Act of 1954, in order to reestablish the funding base and expand the scope and direction of the Department of Agriculture's little-known but important Foreign Currency Agricultural Research [FCAR] program.

In today's globalized agricultural economy, America's farmers must be able to take advantage of expanding overseas markets for raw or processed products in order to maintain their preeminent position. To improve competitiveness in these areas, U.S. farmers must maintain leadership in both basic and applied agricultural research; unfortunately, through inattention and complacency, we may well be on the verge of relinquishing that leadership. Our bill would directly address this problem by modifying the funding basis and charter of the FCAR program, which has already played a pivotal, if unheralded, role in agricultural research.

Mr. President, the FCAR program, first established in 1958, differs from other agricultural research programs in several important ways. First, it is financed by using U.S.-owned foreign currencies acquired through sales of surplus agricultural commodities under Public Law 480. Second, the actual research project is carried out in foreign research institutions in collaboration with American scientists, and is selected for support because it provides mutual benefits to both countries.

This unique funding mechanism has enabled important research to be undertaken that would otherwise have been impossible to conduct in the United States because of biological, environmental, or financial constraints. More than 2,000 cooperative research projects have been carried out under the FCAR program in a vast number of countries and in every region of the world, from Sri Lanka to Taiwan, from Finland to Spain, from Morocco to Peru. Mutually beneficial FCAR research has been undertaken in such broad-ranging subjects as plant science, entomology, animal science, veterinary science, soil and water conservation, market analyses, and agricultural engineering. Consider the following examples:

SUNFLOWER PRODUCTION

In 1966 only about 6,000 acres of sunflower seeds were grown in the United States; however, FCAR research in Yugoslavia contributed important information and genetic material regarding oilseed sunflower production which has revolutionized U.S. production. As a direct consequence, sunflower seed production has increased 45 percent annually since that time.

RUSSIAN WHEAT APHID

This pest first appeared in the United States in 1986; since then, it has spread into 15 western States causing losses estimated at more than $150 million to wheat and barley growers. Insecticides have been tried with limited success; the key to control appears to be in biological enemies. The aphid is native to a region stretching from Turkey to China but is rarely recorded as a pest there because it is controlled by its natural enemies. FCAR grants are enabling foreign scientists and their cooperating U.S. counterparts to collect and evaluate these biological control agents for potential use in controlling the destructive insect here.

AQUACULTURE

A number of FCAR projects are in progress dealing with aquaculture in Taiwan, a country ahead of the United States in almost all phases of the new science. Research projects there deal with nutrition of shrimp and fish, finfish diseases, and intensive production systems. The nutrition research is promising because the potential for substituting soybean protein for fish meal in feeds could lower aquaculture feed costs for United States producers and further expand the use of soybeans in fish seed worldwide. Likewise, research studying diseases, vaccines, and production practices of Chinese carp could yield important information for the nascent American carp industry. Projections indicate that the 4 year-old, $6 million industry could expand to $70 million in the near future.

BLUE TONGUE DISEASE

Blue tongue is a viral disease of livestock that is a major barrier to international cattle movement. Research in this area could have significant implications for the export of United States livestock and embryos. FCAR research conducted in the Caribbean and Latin American tropics is aimed at studying the distribution and behavior of the disease. Progress during the first 2 years has included sampling of sentinel herds, initiating attempts to isolate the viruses, collecting possible insect vectors, and establishing a data management system.

SOYBEAN OIL

Soybean oil is unstable at high temperatures because it contains linolenic acid, which causes oxidation and flavor deterioration. FCAR research in Taiwan is attempting to improve stability by blending it with other oils or chemical additives. Solving this problem so that the oil can be used by oil processors and industry could open significant markets, particularly in the fast-food industry which is experiencing rapid world-wide growth.

DEFICIENCY DISEASES IN CHILDREN

The Warsaw Child's Health Center in Poland is investigating calcium and phosphate absorption in children through an FCAR grant. Low phosphate absorption, for example, leads to a form of rickets and researchers believe there is a connection between vitamin B-6 deficiency and phosphate deficiency. Investigations into these areas could help solve child health problems throughout the world.

These are but a fraction of the types of research conducted under the aegis of the FCAR program. Despite its obvious success, however, the program is threatened by two serious problems, funding shortfalls, and changing research needs.

When Public Law 480 was first enacted in 1954, recipient countries paid the United States exclusively in foreign currencies. During this period, the U.S. Treasury acquired foreign currencies in excess of normal needs. Subsequently, the sales authorities were changed in 1962 to require repayment in hard currencies. In 1966 the law was amended to authorize that a portion of payments be made in local currencies. These became known as currency use payment [CUP] funds.

The funding for FCAR has declined rapidly in recent years, however, because of budget limitations and a curious Congressional Budget Office [CBO] accounting practice which results in double scoring of FCAR appropriations. Dollars appropriated to the Commodity Credit Corporation to make commodities available to Public Law 480 programs are scored as part of the U.S. Department of Agriculture [USDA] appropriation. Then, instead of permitting the local currencies generated by the sale of these commodities to be used for agricultural research, dollars must again be appropriated by Congress to permit USDA to buy these local currencies from Treasury, resulting in a second scoring within the USDA budget. Since 1987, funding for the program has dropped from an annual average of $5 million to $1 million today. In fact, if it were not for the wisdom of congressional appropriators, the program would have been eliminated several years ago.

Our bill would resolve the funding crisis by reestablishing the program's source of funds. Specifically, it would underscore the authority for so-called CUP funds to be used to pay for FCAR projects. CUP funds, established in a 1966 revision of Public Law 480, permits the United States to negotiate new commodity sales agreements in order to allow partial repayment in local currencies. The provision was adopted in recognition of the fact that the United States would continue to need foreign currencies in countries with no history of previous local currency sales or in those who repayments under the old commodity sales program are completed or nearly completed. Among current uses of CUP funds are the operation and maintenance of embassies abroad.

By making the FCAR program an integral consideration in CUP-negotiated agreements, Congress would at once establish a stable funding base and expand the pool of potential cooperating nations—and thus the type and number of research projects in which U.S. agricultural scientists cooperate with their foreign counterparts on activities having a definite benefit to U.S. agriculture.

At the same time, the bill would assure that foreign currencies reserved for any USDA program authorized by section 104(b) of section 406 of Public Law 480 would not be subject to the double counting. Such programs would, however, continue to receive spending limit guidelines from the appropriate congressional committees.

Mr. President, our legislation also would authorize expansion of FCAR programs to include research with which to identify and develop new or approved products and technologies that will enable U.S. producers and exporters to compete better in world markets. New uses are expected to include food consumption items, livestock and aquaculture needs, industrial uses, and construction materials. Also, the bill would specifically authorize research directed at the sustainability of agriculture, forestry, and aquaculture through improved understanding and management of natural resources and the environment. In addition, the measure clarifies and expands the authority of the Secretary of Agriculture to establish and administer agriculture, forestry, aquaculture, and farmer-to-farmer programs mentioned in section 406 of Public Law 480. Finally, the Secretary is empowered to determine the foreign currency needs for the foregoing purposes, and is required to consult with land grant colleges and State universities in planning and carrying out research programs directed as improving the competitiveness of U.S. agriculture.

Mr. President, I urge my colleagues to support this legislation. The FCAR program has repeatedly proven its worth. It is cost effective—similar research conducted in the United States would cost five times as much; it is a source of invaluable scientific, technical, and marketing knowledge as well as a source of vital germ plasm and other plant and animal materials not available elsewhere; and, it provides opportunities to learn from and cooperate with foreign agricultural experts to the benefit of U.S. agriculture. This bill would save the FCAR program from extinction and elevate it to its proper place at the vanguard of America's last economic bastion, agriculture. By supporting this bill, my colleagues would be supporting America's future agricultural competitiveness. For without adequate investment in research, competitive agriculture is an impossibility. To a large extent, the vitality of the FCAR program will determine whether the United States becomes a colonial nation limited to producing inferior farm commodities or whether it maintains and enhances its position as the world's premier producer of high quality raw and processed agricultural products.

Mr. President, in developing this legislation over the last year, I have not come across a single negative comment regarding the Foreign Currency Agricultural Research Program. It is one of the few Government programs which receives near-universal acclaim from those who are aware of the program's activities. I close by quoting the world of Ms. Jeanne Edwards, vice chairman of the National Agricultural Research and Extension Users Advisory Board, and one of the most respected voices in American agriculture:

> The foreign currencies owned by the United States could not be invested more wisely than in cooperative agricultural research. * * * I am enthusiastic about the * * * program, for I believe it is as close as we will ever come to a "goose that lays golden eggs."●

● Mr. COCHRAN. Mr. President, I am pleased to join Senator MATSUNAGA today in introducing the Foreign Currency Agricultural Research Competitiveness Act. This bill amends the Agriculture Trade and Assistance Act of 1954 to permit foreign currency proceeds derived from the sale of commodities to be used to support research and development programs in agriculture, aquaculture, and forestry.

U.S. farmers and agribusinesses have long enjoyed a competitive edge because of the preeminence of our agricultural research system. If the United States is to take full advantage of expanding global markets for agricultural commodities and value-added products, we must maintain our historical leadership role in basic and applied agricultural science, research, and technology.

This bill expands foreign agricultural research in ways that will enhance U.S. agricultural productivity, product development, and competitiveness. I hope other Senators will join us in this effort by cosponsoring this bill.●

● Mr. CONRAD. Mr. President, today I am pleased to cosponsor the Foreign Currency Agricultural Research Competitiveness Act. Agriculture is becoming increasingly global, and similar challenges are facing all nations today. These challenges range from the international spread of crop pests and livestock diseases by rapid transport, to rising population pressures, to threats of global climate change, to rapidly changing market demands. International cooperative research is an important tool for American preparedness. This bill will increase our ability to respond to the changing demands of this global agriculture.

Cooperative research with other nations enables us to track closely the spread of serious animal diseases throughout the world such as the African cattle disease "heartwater" now identified in our neighboring Caribbean. Such research facilitates the identification of insect predators like the Australian vedalia beetle which can be used to control crop damage in many countries, including our own.

Experience has also proven that international cooperative research is cost-effective, costing only one-fifth as much as similar projects funded in the United States. And finally, Mr. President, we should not underestimate the importance of the goodwill that joint research generates between countries.

Examples in my own State of North Dakota have proven to me that cooperative research clearly benefits the United States as well as the participating foreign nation. North Dakota enjoys preeminence as the world's center of origin for sunflower germplasm. Our scientists participate in Public Law 480-funded cooperative projects with Yugoslavia in both sugar beet and sunflower hybrid research. In addition to the many potential proposals for international cooperation in germplasm evaluation and breeding research, there are also proposals to evaluate crop predators, including Hungarian predatory insects which may be effective against the American sunflower moth.

In addition to sunflower and sugar beet capabilities, North Dakota has one of the Nation's major Durum wheat breeding programs and has become a major developer of varieties of edible beans and potatoes. Twelve of the sixteen most commonly grown potato varieties in this country originated in my State. These food crops are tremendously important throughout the world, and I see this bill as an opportunity to increase the world's food supply, just from the work being done in my State alone.

Mr. President, international cooperative research can also help us recognize shifting trends, new markets, and new uses for agricultural commodities and value-added products in a timely, competitively advantageous manner. This bill will expand and emphasize these much-needed new directions for our Nation's agricultural research, and apply them internationally through Public Law 480 funding. I am pleased to support this bill today, because it addresses many of the needs in agricultural research and development that have concerned me for several years.

On March 16, I reintroduced a bill to establish the Agricultural Research Commercialization Corporation [ARCC] which would speed the commercialization of new industrial uses for agricultural commodities. ARCC would establish a vital partnership between the Federal Government, private industry, universities, and State and local governments to overcome the financial and technical barriers to commercialize these new products. Just as I believe that the development and commercialization of new agricultural products requires cooperative efforts between the public and the private sector, so do I believe that global agricultural problems can best be solved by cooperative research efforts between countries. The Foreign Currency Agricultural Research Competitiveness Act will make an important contribution to the competitive future of U.S. agriculture.●

By Mr. HELMS:

S. 1206. A bill to amend the Immigration and Nationality Act to change the level and preference system for admission of immigrants to the United States, and for other purposes; to the Committee on the Judiciary.

IMMIGRATION REFORM ACT

Mr. HELMS. Mr. President, I am today introducing the Immigration Reform Act of 1989, thereby emphasizing that a reevaluation of our legal immigration policy is long overdue. This Nation has always had a very generous immigration policy, admitting more immigrants each year than all other nations combined.

There are three principal aspects to the bill I am introducing. First, it alleviates the future shortage of skilled workers by increasing employer-sponsored visas—the third and sixth preferences—by 42,200. The third preference allows an employer to bring in professionals who are in short supply, or people with "exceptional abilities." Under the sixth preference, an employer can bring in skilled workers who are in short supply.

Second, my bill provides a more modest increase in the national level of immigration.

Third, my legislation keeps a limited definition of the fifth preference. The fifth preference presently allows a citizen to bring in his brothers, his sisters, and their families. My bill limits the fifth to never married brothers and sisters—the same definition set forth in the Kennedy-Simpson bill which passed overwhelmingly last year.

Mr. President, Senator KENNEDY and Senator SIMPSON have provided commendable leadership over the years on the immigration issue. Last year, they introduced a comprehensive bill to reform legal immigration. Many of the provisions of the 1988 Kennedy-Simpson bill appealed to me: it provided a national level, it limited the fifth preference to never married brothers and sisters, and created a new category for new seed immigrants. However, I could not vote for that bill because it increased the level of immigration by more than 100,000 visas.

Nonetheless, the 1988 bill was viewed as a consensus compromise position on legal immigration reform. However, the consensus position was thrown out of kilter by a further compromise made this month with Senator SIMON. The Kennedy-Simpson-Simon compromise dropped the limited definition of the fifth preference and increased the national level to 600,000.

So, Mr. President, the bill I offer today works within the framework of the 1988 Kennedy-Simpson bill. It will restore the consensus compromise, while at the same time, addressing the concerns of the business community.

Mr. President, I agree with Senators KENNEDY and SIMPSON that we must strive for an immigration policy that is based on "he needs of the country." A recent Department of Labor study entitled "Workforce 2000" made a detailed assessment of what our labor needs will be over the next two decades. The report concluded that we will experience a shortage in skilled workers and that we need policies that facilitate the immigration of skilled workers.

My bill addresses the needs of our country in several ways. First, it deals with the shortage of skilled workers by increasing employer-sponsored visas by 42,200. The third preference, for professionals and people with exceptional abilities, increases to 52,000, and the sixth preference, skilled workers, increases to 44,200.

Mr. President, I think we need a policy that encourages people with skills and exceptional abilities to come to our country. Unfortunately, our present system discourages them from immigrating because there is a 1- to 3-year wait to get a third or sixth preference visa. If there is a shortage of skilled workers in a particular profession, the business loses the competitive edge waiting 3 years to bring in someone to fill the slot.

Mr. President, skill-based employer-sponsored visas only account for a small percentage of the overall number of visas. Under our current immigration system, only 10 percent of visas are based on skills, whereas 90 percent are based on family relations.

In case there is any doubt, I state emphatically that American jobs will not be displaced by these increases because there are several safeguards. For example, before a person can be admitted under a third or sixth preference visa, the Department of Labor must determine that there is a labor shortage in the particular field and that the business cannot find an American skilled worker to fill the slot. In the alternative, under the third preference, they must determine that the potential immigrant is a member of a profession with "exceptional abilities."

The additional numbers for employer-sponsored visas in my bill will help reduce the delays for immigrants with skills or exceptional ability. This will allow businesses to find enough skilled workers and thereby maintain a competitive position in international markets.

The second way my bill addresses the needs of the country is by providing a more modest increase in the national level of immigration. Most of the polls that I have seen indicate that the majority of the American people do not want any increase in the level of immigration. In 1986, a CBS/New York Times poll found that 84 percent of the American people felt immigration should be decreased or kept at the same level. In a 1986 poll of U.S. News & World Report readers, 74.9 percent stated that they wanted immigration numbers further restricted. A recent Tarrance & Associates poll found that only 9 percent of Californians and 5 percent of Texans were in favor of increasing the level of immigration.

I ask unanimous consent that copies of these polls be included in the record at the conclusion of my remarks.

Mr. President, what does the Kennedy-Simpson-Simon bill do in response to the desire of the American people? It increases the national level by more than 100,000 visas. The studies do not support the notion that we must increase our level of immigration by 100,000. My bill addresses the concerns of the American people by only increasing the national level by 45,000.

Finally, my bill keeps a limited definition of the fifth preference. The fifth preference presently allows a citizen to bring in his brothers, his sisters, his brothers-in-law, his sisters-in-law, his nieces and his nephews. This causes a chain migration problem. One famous example is the man in New York who brought in 64 relatives under the fifth preference category.

My bill simply limits the fifth preference to never married brothers and sisters. As I stated earlier, this is exactly the same definition set forth in the Kennedy-Simpson bill which passed 88 to 4 last year.

Mr. President, almost everyone agrees that something must be done to deal with the fifth preference. On one occasion this Senate passed a bill to completely eliminate the fifth preference, and quite frankly I would prefer that approach. Since I try to stay within the framework of the 1988 Kennedy-Simpson bill, I stick with merely a limited definition of the fifth preference. This limited definition also passed the Senate in 1983.

These measures passed because Senators realized that we must set priorities. As Senators KENNEDY and SIMPSON have stated on several occasions, we should give priority to those immigrants who are the closest family members to American citizens. I agree, for example, that spouses and children of permanent residents should be given priority over brothers-in-law. That is why my bill keeps a limited definition of the fifth preference.

Another reason to limit the fifth preference is because there are tremendous backlogs of immigrants in this category. This causes long delays—up to 20 years in some cases. As Senator KENNEDY correctly states, this creates "an illusory and false hope of family reunification." These delays also foster illegal immigration.

Mr. President, these are the major points of my bill. I ask unanimous consent that two summaries of the bill be included in the RECORD at the conclusion of my remarks.

Mr. President, as we debate the issue of legal immigration, we must keep one fundamental concept in mind—for America to remain a great country, we must have an immigration policy based on the needs of our country and focused on what is in the best interest of the Nation as a whole.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

	Current law limits	Actual 1987 numbers	Kennedy, Simpson, 1988	Kennedy, Simpson, Simon, 1989	Helms proposal	Percent
National level of immigration	none	[1] 500,000	590,000	600,000	550,000	
Immediate relatives spouses, (children and parents of citizens)	([2])	218,500	[2] 220,000	[2] 220,000	[2] 220,000	
I. Family preferences:						
1st preference (unmarried adult sons, daughters of citizens)	54,000	11,382	33,000	33,000	13,600	8
2d preference (spouses and children of residents)	70,200	110,758	143,000	145,000	115,600	68
4th preference (married sons and daughters of U.S. citizens)	27,000	20,703	22,000	22,000	20,400	12
5th preference (never married brothers and sisters)	64,800	23,517	22,000	65,000	20,400	12
Reduction of 5th preference backlog	none		30,000		30,000	
Total family preference	216,000		470,000	480,000	420,000	
II. Independent:						
Special Immigrants	([2])	3,646	6,000	6,000	3,900	3
3d preference (members of profession exceptional ability)	27,000	26,921	27,600	27,600	52,000	40
6th preference (skilled workers)	27,000	26,952	27,600	27,600	44,200	34
Employment generating investors	None	35	4,800	4,800	3,900	3
Select immigrants (point system)	None	NA	54,000	54,000	26,000	20
Total independent	54,000		120,000	120,000	130,000	
Total immigrants			590,000	600,000	550,000	

[1] Approximately [2] No limit

SUMMARY OF DIFFERENCES BETWEEN HELMS AND KENNEDY/SIMPSON/SIMON

1. The Helms bill only increases the level of immigration by 50,000 instead of 100,000 per Kennedy/Simpson/Simon.

2. It increases employer-sponsored visas 42,000, compared to 1,200 under Kennedy/Simpson/Simon. It only provides 26,000 for the skills/points based category instead of 54,000. An additional 22,200 will go to employer-sponsored categories when the 30,000 visas for the 5th preference backlog reduction reverts over to the independent category.

3. It increases over the independent category by 10,000 over Kennedy/Simpson/Simon.

4. It keeps a limited definiton of 5th preference per original Kennedy/Simpson bill of 1988, instead of the expanded definition in Kennedy/Simpson/Simon.

5. The number of immediate relatives per country would not exceed the per country level for family immigrants.

6. It adjusts limits on preference categories to be close to actual numbers coming in under each category.

7. Does not provide an automatic increase in the level of immigration based on Attorney General's report. But keeps the report by the Attorney General.

8. It eliminates the "advanced degree" requirement in the 3d preference.

9. It retains points for english language proficiency in the point system.

SUMMARY OF IMMIGRATION REFORM ACT OF 1989

I. NATIONAL LEVEL OF IMMIGRATION

A. Immigration Levels—

Establishes a national level of immigration of 550,000: 390,000 family immigrants per year and 160,000 independent immigrants per year (except during the first three years).

During each of the first three years, 30,000 visas are subtracted from the independent immigrant category and distributed to the visa category with the largest number of backlogged applicants: the fifth preference.

B. Classes of Immigrants—

Refugees, asylees, and recipients of legalization under the Immigration Reform and Control Act of 1986 are admitted in addition to the national level of immigration described above.

The number of immigrants granted visas in the family connection preference category (described in part II. A of this summary) is calculated by subtracting the number of immediate relatives who immigrate in the prior year from 390,000.

If the total number of visas in either category (390,000 for family; 160,000 for independent) are not used in a year, the unused visas may be allocated to immigrants in the other category.

C. Review of Numerical Levels—

Beginning in FY 1994, and each year thereafter, the Attorney General, and the Secretary of Labor, in consultation with the Secretaries of HHS, HUD, and State, and the EPA, shall issue a report on the impact of immigration on the United States.

D. Per-Country Limits—

No foreign country may receive more than seven percent of the family-connection preference visas available worldwide (390,000 minus the number of immediate relatives), nor may it receive more than seven percent of the independent immigrant visas available worldwide (160,000; 130,000 during first three years.)

No dependent area (colony) may receive more than two percent of the family-connection or independent visas available worldwide.

However, if immediate relative immigration from a particular foreign country exceeds either: 1) the maximum number of family connection preference visas available to that state, or 2) the level of immediate relative immigration from that country in the year prior to enactment of this bill, whichever level is greater, the amount of the excess shall be subtracted from the number of family connection preference visas otherwise available to that country.

II. PREFERENCE SYSTEM FOR IMMIGRANT ADMISSIONS

A. Allocation of Family Connection Visas—

The number of family connection preference visas available is the number remaining after subtracting from 390,000 the number of visas granted to immediate relatives of U.S. citizens in the previous fiscal years.

The family connection visas are allocated to four preferences by the following percentages:

1. Unmarried adult sons and daughters of U.S. citizens, 8% of the numbers available.

2. Spouse and unmarried sons and daughters under 26 of legal permanent residents, plus any pending approved petitions of unmarried sons and daughters over 26 (included in current law), 68%.

3. Married sons and daughters of U.S. citizens, 12%.

4. Never-married brothers and sisters of adult U.S. citizens, plus pending approved petitions for married brothers and sisters (included in current law), 12%.

Any unused visas from a higher preference may be used by the next preference, e.g. visas not issued in first preference may be used for second preference, unused second preference visas fall to third, etc.

B. Allocation of Independent Immigrant Visas—

160,000 visas are available to independent immigrants (except for the first three years when there are 130,000 visas).

The independent immigrant visas are allocated to five categories by the following percentages:

1. Special immigrants (ministers of religion, former employees of U.S. embassies, etc.), 3% of independent visas.

2. Members of the professions or aliens of exceptional ability in the sciences, arts, or business, 40%.

3. Skilled workers and members of the professions holding bachelor's degrees, 34%. (Any visa not used by the second category is available for this category)

4. Employment-generating investors, 3%. Immigrants under this category must invest $1 million in a new commercial enterprise benefiting the U.S. Economy and creating employment for 10 U.S. citizens or legal permanent residents.

5. Any visas not required or used by the first four independent categories are available to "selected" immigrants (at least 20%). Immigrants in this category must first qualify to register for these visas by attaining a minimum score of 50 in a point system with 95 possible points. The point system is based on level of education, occupation and occupational training or work experience, and English language skills. (See Subsection (b)(5) of Amended Section 203 for a detailed description of the criteria and the number of points given for each category.)

C. Order of Issuance of Visas—

With the exception of the category for selected immigrants, visas are issued in chronological order (by date of filing of the petition). In the category of selected immigrants 20% of the visas available are reserved for registrants scoring 80 points or more; the remaining visas will be available to these registrants scoring 50 points or more. If there are more registrants than visas available, then the selected immigrants will be chosen on a random basis from the pool of qualified applicants.

D. Petitioning Procedures for Selected Immigrant Visas—

The Secretary of Labor is authorized to establish regulations for the filing of selected immigrant petitions and will determine the place and time of filing. Applicants must be physically outside of the U.S. at the time of filing.

E. Revision of Labor Certification—

Labor certification provisions are revised to streamline the process and to allow general instead of job specific determinations to be made unless the petitioner request otherwise.

This section also requires a study of the labor certification process within three years to determine whether the changes in the law have actually resulted in a streamlined process.

III. PROVISIONS TO DETER FRAUD IN THE EMPLOYMENT-GENERATING INVESTOR VISA CATEGORY

Aliens and their dependents benefiting from the employment-generating investor visa are given a conditional status for two years. After that period in order to acquire permanent resident status the investor must demonstrate compliance with the requirements of the statute.

IV. USER FEES

User-fees are required for all categories of immigrant visas and the Department of State is credited with $20 million of those funds to pay for automation improvements and for the additional expenses estimate to be created by this Act.

CBS News/New York Times Survey Poll on Preferred Level of Immigration

"Should immigration be kept at its present level, increased or decreased?"

	Percent
Kept same	35
Increased	7
Decreased	49
Don't know/No answer	9

The results of the survey are based on telephone interviews with a national sample of 1,618 adults, 18 and older, contacted during the period June 19-23, 1986.

According to the release, "The error due to sampling could be plus or minus three percentage points for results based on the entire sample."

[From the FAIR Immigration Report, May 1989]

Results of FAIR's California Poll

The FAIR California poll was conducted by Tarrance & Associates of Houston, Texas, from April 6-9, 1989. It asked the following questions of 800 registered voters statewide, plus an extra 200 registered voters in San Diego County. The margins of error plus or minus 3.5 points for statewide responses and plus or minus points for San Diego County responses.

[In percent]

Response	State	San Diego
Question 1: As you may know, the United States accepts a number of legal immigrants from foreign countries each year. In your opinion, does the United States presently accept—too few immigrants, too many immigrants, or about the right number of immigrants—each year?		
Too few	9	10
Too many	51	49
About right	27	28
Unsure	14	13
Question 2: Currently, there is no absolute limit on the total number of legal immigrants who may enter the United States each year. Regardless of how many or how few immigrants you think the United States should accept, do you think Congress should—place a firm limit on the total number of immigrants who enter each year, or leave immigration policy as it presently stands with no limit on the number of immigrants who may enter each year?		
Limit	69	67
Unsure	6	7
No limit	26	26
Question 3: In selecting which people are allowed to enter the United States through immigration, should the government place more emphasis on—an immigrant's education and skills, or on an immigrant's family ties and connections inside the United States?		
Skill/education	46	47
Unsure	26	20
Family/connections	28	33
Question 4: Do you feel that illegal immigration into California is—		
A very serious problem	63	65
A somewhat serious problem	21	21
Only a slight problem	8	9
No problem at all	5	4
Unsure	3	0.4
Question 5: How would you rate the job that elected officials are doing to fight illegal immigration?		
An excellent job	1	1
A good job	8	0
Only a fair job	43	45
A poor job	41	40
Unsure	7	3
Question 6: Recently, a private non-profit group released a study concluding that illegal immigration could be reduced by (1) secure fences and other barriers along the border south of San Diego, and (2) strict enforcement of the laws against employers hiring illegal aliens. Let's consider these proposals one at a time. Do you—approve, or disapprove—of the proposal to erect secure fences and barriers along the border south of San Diego?		
Approve/strongly	36	47
Approve	16	12
Unsure	9	4
Disapprove	14	10
Disapprove/strongly	26	27
Question 7: Do you—approve, or disapprove—of the proposal to strictly enforce against employers hiring illegal aliens?		
Approve/strongly	62	73
Approve	17	11
Unsure	3	4
Disapprove	7	4
Disapprove/strongly	11	9
Question 8: There has been some discussion about border security and drug smuggling into the United States. Do you think—increased border security is necessary for the war on drugs, or increased border security should not be a priority in the war on drugs?		
Necessary/strongly	68	73
Necessary	13	7
Unsure	5	4
Not priority	5	6
Not a priority/strongly	9	10
Quesiton 9: Recently, there have been proposals to charge a border toll of between $1-$2 per person to help finance increased manpower to speed traffic at border inspection points and to increase immigration and drug enforcement patrols. Do you approve or disapprove—of this border toll to pay for increased manpower, immigration and drug enforcement?		
Approve/strongly	49	48
Approve	22	18
Unsure	5	5
Disapprove	8	5
Disapprove/strongly	16	24
Question 10: The border fence south of San Diego installed some years ago is now torn and tattered. Assuming the fence can be replaced with a fence that cannot be easily climbed or destroyed would you—support, or oppose—rebuilding the fence south of San Diego?		
Support	67	69
Unsure	10	5
Oppose	23	26
Question 11: The U.S government has recently proposed construction of a four-mile drainage ditch at the border south of San Diego that would also stop vehicles smuggling illegal aliens and drugs. From everything you know about smuggling and illegal immigration, would you—support, or oppose—construction of the four-mile ditch south of San Diego?		
Support/strongly	41	46
Support	19	11
Unsure	12	12
Oppose	9	6
Oppose/strongly	19	25

[From V. Lance and Associates, May 15-21, 1989]

Texas State Poll on Border Security and Immigration

Question 1. As you may know, the United States accepts a number of legal immigrants from foreign countries each year. In your opinion, does the United States presently accept (1) too few legal immigrants, (2) too many legal immigrants, or (3) about the right number of legal immigrants—each year?

Response:

Too few	4.8
Too many	59.3
About right amount	27.0
Unsure	8.9

Question 2. Although there are limits on certain categories of immigrants, there is currently no limit on the total number of

legal immigrants who may enter the United States each year. Regardless of how many or how few immigrants you think the United States should accept, do you think Congress should (1) place a firm limit on the total number of legal immigrants who enter each year, or (2) leave immigration policy as it presently stands with no limit on the number of legal immigrants who may enter each year?

Response:

Limit	76.8
Unsure	5.5
No limit	17.7

Question 3. In selecting which people should be allowed to enter the United States through immigration, should the government place more emphasis on (1) an immigrant's education and skills, or (2) on an immigrant's family ties and connections inside the United States?

Response:

Skill/education	45.0
Unsure	21.6
Family/connections	33.4

Question 4. Do you feel that illegal immigration into Texas is—

Response:

Very serious problem	67.8
Somewhat serious	19.2
Slight problem	7.7
No problem at all	3.6
Unsure	1.7

Question 5. How would you rate the job that elected officials are doing to fight illegal immigration?

Response:

An excellent job	1.5
A good job	12.9
Only a fair job	45.5
A poor job	35.1
Unsure	5.0

[From U.S. News & World Report, February 1986]

WHAT OUR READERS HAVE TO SAY

U.S. News readers have always shown a strong interest in what's going on in the nation and the world. They got their chance to express their views in the readers' survey included in the year-end Outlook '86 issue.

More than 36,000 readers took the trouble to tear out the questionnaire, mark their choices and mail it back. The results that follow—while not a true cross section of our readership—are a statistically reliable sample of the reader group that responded to the survey.

Our readers stood firm on the immigration question, with 74.9 percent urging further restrictions on the influx. Said one: "I don't believe that everyone born into the world is an American who just hasn't gotten here yet, nor do I believe that everyone has a 'right' to come if they want to."

How should immigration policy be changed?	*Percent*
Restrict immigration further	74.9
Grant amnesty to illegal aliens already here	17.4
Let more immigrants come	6.1

By Mr. PACKWOOD:

S. 1207. A bill to amend the Communications Act of 1934 to reform the radio broadcast license renewal process, and for other purposes; to the Committee on Commerce, Science, and Transportation.

RADIO LICENSE RENEWAL AND IMPROVEMENTS ACT OF 1989

● Mr. PACKWOOD. Mr. President, today I am introducing the Radio License Renewal Reform and Improvements Act of 1989. This legislation is a companion bill to H.R. 1136, sponsored by Representative RINALDO of New Jersey, which already has close to 100 cosponsors.

For years, Congress, the courts, and the Federal Communications Commission have struggled with the broadcast license renewal process. The Communications Act of 1934 requires broadcasters to operate in the public interest in serving their local communities, in return for their licenses. The intent of the license renewal process was to further these public interest goals. In reality, however, the renewal process fails to achieve these ends. Instead, it has led to abuse of the FCC's procedures. The bill I am introducing today is designed to reform the renewal process.

The problems with renewal flow from the tension between ensuring that the public is protected by denying renewal to broadcasters who fail to meet their obligations, while providing a reasonable expectancy of renewal for the vast majority of broadcasters who do an excellent job in serving their communities. Policymakers and the courts have long recognized that an expectation of renewal is desirable, because it encourages licensees to invest the energy and money in improving their service to communities with better programming and facilities.

Under the act, when a broadcast license is up for renewal, any member of the public may file a competing application for that license. This automatically places the existing broadcaster into the comparative renewal process at the Commission. The FCC then must compare the merits of the incumbent broadcaster with the challenger, and decide which will best serve the public interest.

Unfortunately, the present comparative renewal process has proven virtually impossible for the FCC and the courts to administer in a rational, legally consistent manner. As a result, neither the legitimate interests of the public nor of the broadcasters are served. The FCC's dilemma is that it must weigh the actual record of the incumbent against the paper promises of the challenger, which is an extremely subjective, "apples versus oranges" comparison at best. Despite the fact that an incumbent broadcaster may have served its community admirably, challengers know that they can tailor, on paper, their applications to correspond to whatever ownership, programming, and technical criteria will favor them under the FCC's standards of the day.

Over the years, the comparative process has ceased to serve the public interest goals of the Communications Act, and has become subject to significant abuses. Few comparative challenges actually result in the denial of renewal to an existing broadcaster. However, the process opens up all broadcasters to a form of "greenmail." Comparative challenges can run for years. The legal and personnel costs of these comparative renewal challenges can be staggering, not only for licensees, but for the FCC as well.

As a result, a challenger who has no real interest in operating under a license may file a challenge to its renewal—or even merely threaten to file a challenge—with the expectation that it can be paid off, either directly or indirectly, to withdraw or withhold its filing. Stations who are confident of winning renewal at the FCC still may find it less expensive to pay off challengers than to spend even more money and time in legal proceedings.

Clearly, none of this serves the public or responsible broadcasters. The FCC recently has acted to curb renewal abuses by banning such payoffs of challengers, except for legitimate and prudent legal, engineering, and related expenses by valid challengers. However, the FCC does not have the authority to fix the core problem of the renewal process.

For nearly 20 years, communications policy experts going back to Senator John Pastore of Rhode Island, the former chairman of the Communications Subcommittee, have recommended legislation to replace this existing renewal process with a two-step process. Under this new renewal procedure, the FCC first would examine the record of the incumbent licensee and its renewal application. If the FCC determined that the licensee had served the public interest and operated under its statutory and regulatory obligations, the licensee would be eligible for renewal. If the licensee failed this test, its renewal would be denied. The FCC then would consider the applications for a replacement to the incumbent in the second of the two steps.

This is the basic premise of the legislation I am introducing today. The bill would do the following:

First, implement a two-step renewal for radio. A station will be eligible for renewal if it demonstrated: that it has broadcast material responsible to issues of concern to its community; it has not committed any serious violation of the Communications Act or FCC rules; and, it has not demonstrated a "pattern of abuse" of the Act and the rules.

Second, ban "payoffs." Except for legitimate and prudent expenses, no payments may be made for the withdrawal, or withholding from filing, of a competing application, petition to deny, or informal complaint.

29-059 O-90-30 (Pt. 9)

Third. Create an informal complaint process. for the first time, the FCC would establish a procedure to consider and resolve informal citizen complaints against licensees prior to the completion of the license term.

With respect to the implementation of a two-step process as perceived by this bill, it is very similar to the broadcast legislation that the Senate has passed on numerous occasions, including bills I sponsored in the 97th and 98th Congresses. However, this bill differs from earlier legislation in that it would apply only to renewals of AM and FM licenses. I hope that a radio-only approach will avoid some of the subsidiary issues that caused the demise of earlier all-industry efforts as they moved through the legislative process in the House.

Furthermore, a radio-only approach makes sense from a policy standpoint. Radio and television are different industries in many respects. Our Nation is served by more than 10,300 radio stations, making it perhaps our most diverse, locally-oriented medium. If any communications medium is subject to regulation by a highly competitive market, it is radio. The most recent listening surveys available show that on average, even the least populated counties of our Nation—those with 1,000 or fewer people above the age of 12—can receive more than 10 radio stations. The most populated counties—with 500,000 or more people above the age of 12—can receive more than 80 radio stations. As a result, radio stations have evolved into niche-types of programming much like our print media has. This legislation reflects the competitive forces that have shaped the radio industry over time.

This bill would eliminate the abuses, delays, and high legal and administrative costs inherent in the present comparative renewal process and provide solid radio broadcasters with a reasonable expectation that they can win renewal if they serve the public interest. However, this is by no means a one-sided bill. The newly created informal complaint process will ensure that citizen concerns about broadcasters' performance can be resolved prior to the completion of a license term. Futhermore, the public will retain its ability under the existing petition-to-deny process to fully participate in the FCC's decisionmaking at renewal time. In addition, this bill leaves intact the panoply of existing FCC powers to sanction or remove broadcasters who do violate the public interest.

Mr. President, most members of the Senate are aware of my views on broadcast regulation. I have long supported the elimination of unwise or unneeded Government regulation of our electronic press, wherever possible. At the same time, I want to ensure that the public interest is protected, whether by competitive forces in functioning markets or by narrowly crafted Government oversight. This legislation accomplishes both goals, and I look forward to its early consideration.

I ask unanimous consent that the complete text of this bill be printed in the RECORD at this point.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1207

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Radio License Renewal and Improvements Act of 1989".

SEC. 2. FINDINGS.

The Congress finds that—

(1) the public interest is best served by policies and regulations that foster the concept of broadcast localism, in terms of station allocation, station licensing and the practicable reception of locally oriented and interference free radio service;

(2) the Federal Communications Commission should adopt and enforce station allocation and interference protection rules and policies that guard against any increase in, and work toward a diminution of, interference levels currently experienced in the AM and FM broadcast bands;

(3) radio broadcasters should consider the variety and types of programming available in the radio marketplace in exercising the wide editorial discretion necessary to meet the needs and interests of their local listening audience; and

(4) radio broadcasters should enjoy a renewal expectancy, on the condition that they have provided issue-responsive programming to their local audiences, and have neither demonstrated a pattern of abuse nor have committed serious violations of the Communications Act of 1934 or Federal Communications Commission rules and regulations.

SEC. 3. RADIO BROADCAST RENEWAL PROCEDURE.

(a) IN GENERAL.—Section 309 of the Communications Act of 1934 (47 U.S.C. 309) is amended by adding at the end thereof the following new subsection:

"(k)(1)(A) In any case in which a radio broadcast station licensee submits an application to the Commission for renewal of a license, the Commission shall grant the application if it finds that with respect to that station, during the preceding term of its license—

"(i) the licensee has broadcast material responsive to issues of concern to the residents of its service area;

"(ii) there have been no serious violations by the licensee of this Act or the rules or regulations of the Commission; and

"(iii) there have been no other violations by the licensee of this Act, or the rules and regulations of the Commission, which taken together would constitute a pattern of abuse.

"(B) In the case of any radio licensee which fails to meet the requirements of this subsection, the Commission may deny the renewal application in accordance with paragraph (2), or grant such application on terms and conditions as are appropriate, including renewal for a term less than the maximum otherwise permitted.

"(C)(i) For purposes of subparagraph (A)(i), in determining which matters to address and what responsive material to broadcast, the radio licensee has wide discretion in providing issue responsive programming and may consider the composition of its audience, the number of other radio or television stations serving its community of license and service area, and the material broadcast by those stations.

"(ii) In evaluating the performance of a radio broadcast licensee under the standard of subparagraph (A)(i), the Commission shall not establish or apply any requirement respecting the radio broadcast of any specific subject, categories, or quantity of material. The Commission shall accept the licensee's judgment concerning the matters addressed, and the nature and quantity of responsive material presented, unless the Commission finds that the judgments were unreasonable in the particular circumstances and were not made in good faith. For purposes of this clause, the term 'quantity', when used with respect to responsive radio broadcast material, means the aggregate amount, individual unit duration, frequency, and scheduling of that broadcast material.

"(2) If the Commission determines, after notice and opportunity for a hearing as provided in subsection (e), that a radio licensee specified in paragraph (1)(A) has failed to meet the requirements established in that paragraph and that no mitigating factors justify the imposition of lesser sanctions, the Commission shall—

"(A) issue an order denying the application of renewal filed by such licensee under section 308; and

"(B) only thereafter accept and consider such applications for a construction permit as may be filed under section 308 for the broadcasting facilities of the former licensee.

"(3) In making the determinations under paragraph (1) or (2)(A), the Commission shall not consider whether the public interest, convenience, and necessity might be served by the grant of a license to a competing applicant for the facilities involved.".

(b) TECHNICAL AMENDMENT.—Section 309(d) of the Communications Act of 1934 is amended by inserting the following after "with subsection (a)" each place such term appears: "(or subsection (k), in the case of renewal of any radio broadcast station license)".

SEC. 4. LIMITATION ON FINANCIAL SETTLEMENTS.

Section 309 of the Communications Act of 1934 is further amended by adding at the end thereof the following new subsection:

"(l) If there is pending before the Commission a radio broadcast application under subsection (a) or (k), it shall be unlawful for the applicant and any other party or person to effectuate an agreement whereby the other party or person withdraws or withholds the filing of a competing application or a petition to deny (or informal objection) in exchange for the payment or promise of money or any other thing of value by or on behalf of the applicant. Under regulations which the Commission shall prescribe, the preceding sentence shall not apply to amounts legitimately and prudently expended or to be expended in connection with preparing, filing, or advocating the petition to deny or informal objection. For purposes of this subsection, an application shall be deemed to be pending before the Commission until an order of the Commission granting or denying it is no longer subject to rehearing by the Commission or to review by any court.".

SEC. 5. INFORMAL COMPLAINTS.

(a) Section 309 of the Communications Act of 1934, as amended by this Act, is further amended by adding at the end thereof the following new subsection:

"(m)(1) The Commission shall by rule establish a procedure by which informal complaints received by the Commission may be reviewed during the license term of a radio licensee. The Commission shall, by rule, ensure that the licensee has received notice of such informal complaints in sufficient time to respond to these complaints prior to Commission review. The Commission shall also ensure that such rules do not impose an undue burden on the complainant or on the licensee.

"(2) After final resolution of an informal complaint by the Commission, the Commission may, at the time of license renewal, consider the complaint or its resolution—

"(A) if the complaint, together with other complaints filed throughout the license term or at renewal constitute evidence of a pattern of abuse for purposes of subsection (k)(1)(A)(iii) of this section; or

"(B) if the resolutions constitute evidence of the licensee's effort to serve the public interest.

"(3) The restrictions concerning financial settlements contained in subsection (l) shall apply to actions under this subsection.".

SEC. 6. DEFINITIONS.

Section 309 of the Communications Act of 1934 is further amended by adding at the end thereof the following new subsection:

"(n) For the purposes of subsections (k) through (m) only, the term 'radio' means those aural services available to the general public on the amplitude modulation or frequency modulation bands.".●

By Mr. GORTON (for himself, Mr. MCCAIN, Mr. BOSCHWITZ, Mr. GRAMM, Mr. MCCLURE, Mr. LOTT, Mr. KASTEN, Mr. MCCONNELL, Mr. DOMENICI, Mr. WILSON, and Mr. BRYAN):

S. 1209. A bill to grant permanent residence status to certain nonimmigrant natives of the People's Republic of China; to the Committee on the Judiciary.

CHINESE FOREIGN STUDENT AND EXCHANGE VISITOR RELIEF ACT

Mr. GORTON. Mr. President, in reaction to the savage June 4, 1989, massacre in Beijing's Tiananmen Square, people around the world have raised their voices in support of the ideal of democracy and freedom for which the peaceful protesters died. As the current Chinese leaders intensify efforts to arrest and convict student demonstrators, the task of keeping the democracy movement alive is increasingly borne by its supporters outside of China. In the State of Washington, for example, the Associated Chinese Students and Scholars established the June Fourth Foundation to provide financial assistance to families of the victims of the Tiananmen Square massacre, and to foster in the American public a greater understanding of the continuing events in China.

Today, I am thoroughly pleased to introduce a bill for myself and for Senators MCCAIN, BOSCHWITZ, GRAMM, MCCLURE, LOTT, KASTEN, MCCONNELL, DOMENICI, WILSON, and BRYAN. This bill will allow Chinese foreign students and exchange visitors immediately to apply for, and, if otherwise eligible, receive permanent resident status in our country. This bill is designed for more than humanitarian and compassionate treatment for Chinese students who justifiably fear returning at this time to their besieged homeland. It also serves to encourage to the current Chinese leaders to adopt positive measures in order to attract back to China this pool of talented individuals, almost all of whom strongly believe in the virtues of freedom and democracy.

As Americans, we cannot force Chinese students or exchange visitors to return to a land in which their personal liberty and safety would be at risk. In the past few days, the Chinese Government has arrested more than 1,300 so-called counterrevolutionaries in a sustained effort to eradicate the last traces of the democracy movement and to prevent its resurgence. By advocating sympathetic review of visa extension requests and suspending until June 5, 1990 deportation of any Chinese national in the United States, President Bush and Attorney General Thornburgh have taken steps to ensure the temporary safety of our Chinese visitors.

In keeping with the spirit underlying these measures, I believe that we should allow those Chinese visitors who wish to do so the opportunity to continue their studies and to build their careers in the United States. The lives of Chinese students and scholars currently in our country are in limbo. They can neither safely return to China nor plan for the future. Without this legislation, they will be forced to return to China upon the expiration of their visas or the termination of the deferred departure program.

Selected from a system in which only the very top high school students have the opportunity for a college education, and only the most outstanding graduates may qualify for study abroad, these students represent the best and brightest youth of China. They most certainly will make significant contributions to any country in which they choose to reside—be it China or the United States.

The majority of Chinese students with whom I have spoken wish to return home if conditions permit. Their patriotic love for their country has not diminished, but, rather, has increased. They still desired to contribute their considerable talents to the economic and political modernization of China.

Depending on the length and severity of the Chinese Government's repression, however, many of the students may choose to make new lives in the United States. Those who make that choice will contribute to our economy and will enrich our culture. We should welcome warmly the Chinese students who wish to adopt this country as their new home. They will become fine, loyal, contributing Americans.

By allowing Chinese students and exchange visitors to remain as residents of our country, we also will provide initiatives to the current Chinese leaders to take steps to encourage rather than to try to force these talented individuals to return. China can ill afford to forego these valuable human resources.

As these students further their education and practical training in the United States, they will continue to experience first hand the virtues of democracy and freedom. Those who choose to return to China will take with them a heightened sense of our fundamental values of free governance, and one by one, will replant the seeds of political reform.

The bill that I and my colleagues are introducing today give Chinese students and exchange visitors the option to return to the country of their birth or build their lives in the United States. Wherever they may choose to live, these individuals will continue to play important roles to promote greater democracy and freedom in China. Until these goals are reached, however, the Chinese students and exchange visitors may choose to live in our country where democracy and freedom already exist, and we welcome them.

Mr. President, I ask unanimous consent that both the entire text of the bill I am introducing today, and a detailed summary of that bill, be printed in the RECORD at the conclusion of my remarks.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1209

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Chinese Foreign Student and Exchange Visitor Relief Act".

SEC. 2. On or before June 5, 1990, such nonimmigrant natives of the People's Republic of China as are eligible under section 3 shall be held and considered to be lawfully admitted to the United States for purposes of the Immigration and Nationality Act upon the payment of the required visa fees.

SEC. 3. An alien entitled to the status granted by section 2 is a native of the People's Republic of China—

(1) who was admitted to the United States as a nonimmigrant alien before June 6, 1989, under subparagraph (F) (relating to students) or subparagraph (J) (relating to exchange visitors) of section 101(a)(5) of the Immigration and Nationality Act, and who held a valid visa under either such subparagraph as of that date;

(2) who has resided continously in the United States from the date of admission until payment of the required fee except for—

(A) brief, casual, and innocent absences; or

(B) travel abroad (other than travel after June 6, 1989, to the People's Republic of China) permitted by the Immigration and Naturalization Service; and

(3) who is otherwise admissible to the United States for permanent residence.

SEC. 4. The provisions of this Act supersede—

(1) section 201 of the Immigration and Nationality Act (relating to numerical limitations);

(2) Section 202 of that Act (relating to numerical limitations for any single foreign state);

(3) section 245 of that Act (relating to the adjustment of status of nonimmigrants to that of persons admitted for permanent residence);

(4) subparagraphs (C) and (D) of section 212(a)(28) of that Act (relating to membership in the Communist party or advocation of communism); and

(5) where applicable to nonimmigrants under section 101(a)(15)(J), the two-year foreign residence requirement contained in section 212(e) of that Act.

SEC. 5. Notwithstanding any other provision of law, any visa which is described in section 3(1) and which is valid as of June 6, 1989, shall be deemed to be valid through June 5, 1990.

SUMMARY OF THE CHINESE FOREIGN STUDENT AND EXCHANGE VISITORS RELIEF ACT OF 1989

PURPOSE

An Act to provide foreign students and exchange visitors from the People's Republic of China, and their resident spouses and children, with the right to apply immediately for and be granted permanent residence status in the United States.

SCOPE

Except as set forth below, the Act shall apply to any national of the People's Republic of China who as of June 6, 1989 held a valid and current F-1, F-2, J-1 or J-2 visa, and either (i) was physcially present in the United States on June 6, 1989, or (ii) was temporally absent from the United States on June 6, 1989, but whose departure from an subsequent return to the United States was or would be in accordance with the requirements of such national's visa (each, a "Subject Chinese National").

The Act shall not apply to a PRC national (i) who is a resident of a third country, (ii) who after June 6, 1989 has departed from the United States and travels to the People's Republic of China, or (ii) who is considered to be within one or more general classes of deportable aliens set forth in 8 USC Sec. 1251, provided however, mere past or present membership in the Communist Party of the People's Republic of China shall not of itself constitute a ground for deportation.

WAIVER OF WAITING PERIOD OR FOREIGN RESIDENCE REQUIREMENT

Notwithstanding any waiting period or foreign residence requirement otherwise required by the Immigration and Nationality Act, a Subject Chinese National shall have the right to apply immediately for and be granted permanent residence status in the United States.

APPLICATION PROCEDURE

A Subject Chinese National shall submit a substantially completed application form to the Immigration and Naturalization Service on or before June 5, 1990, and shall provide thereafter such supporting documentation as the Attorney General may reasonably prescribe.

AUTOMATIC VISA EXTENSION

Any F-1, F-2, J-1, or J-2 visa held by a Subject Chinese National which would otherwise expire prior to June 5, 1990, shall be extended to June 5, 1990 without further action by such Subject Chinese National.

WORK AUTHORIZATION

All Subject Chinese Nationals shall be granted employment authorization upon submission of a substantially completed application form by such Subject Chinese National.

By Mr. MOYNIHAN (for himself, Mr. BURDICK, Mr. MITCHELL, Mr. LAUTENBERG, Mr. CHAFEE, and Mr. DURENBERGER):

S. 1210. A bill to conduct a comprehensive national assessment of the nature and extent of aquatic sediment contamination; to the Committee on Environment and Public Works.

NATIONAL SEDIMENT CONTAMINATION SURVEY ACT

● Mr. MOYNIHAN. Mr. President, I rise today along with my Environment and Public Works Committee colleagues Mr. BURDICK, Mr. MITCHELL, Mr. LAUTENBERG, Mr. CHAFEE, and Mr. DURENBERGER, to introduce the National Sediment Contamination Survey Act of 1989.

If enacted, this legislation will require a determination of the extent to which sediment pollution problems are present and may be affecting water quality in the Nation's lakes, rivers, harbors, and other water bodies. To date, there has been no comprehensive survey of contaminated aquatic sediments. Not until these wounds of the industrial revolution are fully catalogued can we begin healing them in a systematic and comprehensive manner.

The potential scope of this problem is staggering given the historic use of our waterways as disposal areas. The United States has 39.4 million acres of lakes, 1.8 million miles of rivers, 32,000 square miles of estuaries, 23,000 ocean coastline miles, and hundreds of thousands of square miles of near-shore, continental shelf habitat. Even if only a small percentage of these have polluted sediments, it will represent a very significant problem.

We have made some progress toward the understanding of toxic waste sites on land. But we have precious little knowledge of where and how much toxic waste there is under water. With the start of industrialization, the simplest and most common method of disposal for any particular industrial waste product was to dump it into the nearest body of water. Out of sight was truly out of mind, and this has left us with an unknown number of underwater slag heaps.

The Clean Water Act has set standards for ongoing toxic pollution discharge into our waters. The Superfund program and its site designation system has focused on direct human health hazards on land. Unfortunately, neither deals directly with the problems caused by contaminated sediments, and neither helps to document or mitigate them. Many standards exist for acceptable water quality, but none are in place to define unacceptable sediment quality.

The legislation we are proposing today is a rather simple undertaking—we only ask that existing information be compiled. Once this comprehensive national survey of bottom sediments in all of the lakes, rivers, harbors, estuaries, and streams of the United States is complete, we will have the information to determine how best to proceed. I think it not only necessary but prudent that we take the first step of what will be many in the process of locating and solving contaminated water sediment problems.

Mr. President, William K. Reilly, Administrator of the Environmental Protection Agency, has expressed his willingness to direct this project. We are fortunate that in Mr. Reilly, we have a leader capable of seeing the benefits and necessity for such a survey. Mr. Reilly is interested in how these contaminated sediments affect our Nation's water resources as are my cosponsors and I. And I hope this legislation can be considered expeditiously so that the work can begin.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1210

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "National Sediment Contamination Survey act of 1989".

SEC. 2. GENERAL PROVISIONS.—

(a) Title I of the Federal Water Pollution Control Act is hereby amended by adding a new section 119, as follows:

"SEC. 119. STUDY BY THE ENVIRONMENTAL PROTECTION AGENCY.—

"(a) STUDY.—The Administrator of the Environmental Protection Agency shall conduct a comprehensive national survey of bottom sediment contamination in all lakes, rivers, harbors, estuaries, and streams of the United States. The Administrator in each instance shall compile all existing information on the quantity, chemical and physical make-up, geographic location, and source of such contaminated sediments.

"(b) REPORT.—Not later than twelve months after the date of enactment of this section, the Administrator of the Environmental Protection Agency shall report to Congress the findings of the study pursuant to subsection (a).

"(c) AUTHORIZATION OF APPROPRIATIONS.—There are hereby authorized to be appropriated such sums as are necessary to carry out the study authorized by this section."●

By Mr. CRANSTON (for himself, Mr. MATSUNAGA, Mr. DECONCINI, and Mr. MITCHELL):

S. 1211. A bill to require the Secretary of Veterans' Affairs to pay the maximum amount of special pay authorized for Department of Veterans' Affairs physicians and dentists; to the Committee on Veterans' Affairs.

PHYSICIAN AND DENTIST SPECIAL PAY OFFSET

Mr. CRANSTON. Mr. President, as the chairman of the Committee on Veterans' Affairs, I am today introducing S. 1211, a measure which would reverse an action taken by then-Administrator of Veterans' Affairs Robert Nimmo in 1982 to limit the amount of special pay paid to VA physicians and dentists and would prevent such an action form occurring in the future. Joining with me as a cosponsor of this measure are committee members MATSUNAGA, DECONCINI, and MITCHELL.

From various reports, I believe it is clear that VA is having considerable difficulty recruiting and retaining certain physicians because, among other reasons, their salaries are not competitive with those earned by their peers working elsewhere. Although the bill we are introducing today does not offer a comprehensive solution to that problem, it does, I believe, propose a useful interim step.

Mr. President, a congressionally mandated report entitled the "Quadrennial Report to the President on Special Pay for Physicians and Dentists" was due to be submitted to the President and both committees on Veterans' Affairs on December 31, 1988. However, that report, which is to contain detailed comparative salary information and VA-specific recruitment and retention data, has been delayed until at least June 30. I believe it is important for physicians and dentists currently working in the Veterans' Health Services and Research Administration [VHS&RA] to know that Congress is aware of and concerned about their situation. It is my view that, even though physicians and dentists would not receive a significant salary increase under this bill, the knowledge that there is interest in their problems and that more comprehensive solutions are in the works should be helpful in holding the line on physician retention for a short time.

The information contained in the Quadrennial Report is essential to crafting any long-term solution but, because of the delay in its submission and the complexity of the issues involved, I do not see how Congress will have the time necessary to enact legislation this session. Rather than do nothing, however, I believe it is important to take reasonable action at this time. Specifically, this bill would require the Secretary, effective April 1, 1990, to reimburse physicians and dentists at the maximum rate allowable under section 4118 of title 38—a total of $22,500 for both primary and incentive special pay of which $15,000 could be comprised of incentive special pay alone. Although the financial impact on any one physician or dentist would not be great—from $391 to $2,756 per year although for the vast majority of full-time VA physicians and dentists, the increase would be about $2700 per year—I believe the impact on retention and morale would be quite positive. VA estimates that the first full-year cost of the bill would be about $25 million. The effective date is deferred for 6 months into fiscal year 1990 in order to reduce the amount that VA would have to absorb next fiscal year in order to make the payments called for by this measure.

BACKGROUND

On August 26, 1980, in response to difficulties with the recruitment and retention of qualified physicians within VA, the Congress enacted Public Law 96-330 over the President's veto. This law made permanent previously enacted special pay authority and increased the rates of such pay. Under this law, for pay periods beginning on or after December 31, 1980, the administrator—now Secretary—was given the authority to pay special pay to physicians and dentists in an amount not to exceed $22,500 per year. Of this amount, the Secretary is required to pay primary special pay of $7,000 to eligible full-time physicians—$2,500 to eligible full-time dentists—prorated for part-time service and has the discretion to pay an amount not to exceed $15,500 in incentive special pay of varying amounts for certain attributes such as full-time status, tenure, board-certification, and position held.

In October 1981, 9 months after this law was enacted, a 4.8-percent general pay increase took effect for Federal employees. Because of the Executive Schedule Level V pay limitation in section 5308 of title 5—then set at $50,112.50—physicians and dentists who were at that limit, or close to it, did not receive any, or the full benefit, of this increase. In January 1982, 3 months after the general pay increase, the pay cap was raised to $57,500 According to VA documents, then-Administrator Nimmo made the decision that, in view of this increase in basic pay, the amount of incentive special pay provided for VA doctors should be offset in response to this increase. He based this action on his belief that Congress had intended the increase in special pay to be a relief from the Executive level pay limitation. When certain relief was provided by raising the basic pay cap, he believed that incentive special pay should be adjusted downward. The offset was devised in such a way so as to assure that physicians and dentists received the 4.8-percent basic pay increase received by all Federal employees in October 1981, but their special pay was reduced by a commensurate amount.

In October 1982, a 4-percent general pay increase took effect for Federal employees. Even though the Executive Schedule Level V pay cap had been extended the previous year, many VA physicians were at that limit and it was not possible to grant the full basic-pay increase to all VA physicians and dentists. Therefore, the incentive special pay offset was revised upward in an amount that would provide a combined total of a full 4-percent increase.

Today, the Executive level pay limitation is $75,500; however, the amount of the incentive pay offset has not been changed since 1982. As I previously mentioned, these pay offsets affect physicians and dentists in certain grades and steps differently. Mr. President, I ask unanimous consent that a table depicting the various grades, steps, and reduction amounts be printed in the RECORD at the end of my statement.

EFFECT OF ELIMINATING OFFSET

Mr. President, currently 7,694 full-time physicians and dentists are recipients of special pay and 6,989—90.8 percent—are experiencing some reduction in incentive special pay. Of 3,616 part-time physicians and dentists receiving special pay, virtually all—3,610—are at Chief grade, step 5 or above and are experiencing reductions ranging from $391 to $2,756. The remaining 6 part-time employees are below Chief grade step 5 and are unaffected by the offset. The vast bulk of full-time physicians and dentists, 6,788 or 85 percent, are in Chief grade, steps 8-10, and receive an incentive special pay reduction of $2,682 yearly. Additionally, 164 full-time physicians and dentists are in Executive grade and are subject to a reduction of from $1,411 to $2,688 yearly; 7 fall within the Director grade and are subject to a reduction of from $2,237 to $2,682; and 30 fall within the Executive Schedule and receive a $2,682 yearly reduction.

Care provided to our Nation's veterans is only as good as the health-care professionals furnishing it. This relationship was recognized in the mid-1940's when VA forged affiliations with medical schools, and its is this understanding and relationship which have maintained the quality of care within VA medical centers throughout the years. Although recruitment and retention of VA physicians and dentists relate to more than their salaries—research and education opportunities and patient mix also attract highly qualified professionals to VA—it is difficult to find fault with these VA professionals leaving, or not joining, VA ranks when they can easily

double or triple their earnings in private practice.

Additionally, Mr. President, we are all aware of the extremely serious funding problems occurring within VA that are affecting the availability of research funds and patient-care supplies and equipment. These factors detract further from the attractiveness of VA employment for physicians and dentists. Until such time as a comprehensive solution to the salary structure for these VA doctors can be developed and implemented, I believe it is highly desirable that we offer them some form of recognition and encouragement.

Mr. President, one other potential complication relating to physician staffing is looming which could have a substantial adverse effect upon the quality of care in VA hospitals. Pursuant to Public Law 96-330, as of October 1, 1990, 100 percent of primary and incentive special pay paid to physicians and dentists will be treated as base-pay earnings for retirement purposes. Prior to October 1, 1985, special pay had not been been included for retirement purposes and from that date until 1990 only 50 percent of special pay was included. This approach was specifically intended by Congress to encourage longevity within the VA system.

In a March 3, 1989, letter, Dr. John Gronvall, VA's CMD, in response to my inquiry regarding the probability of physician staff shortages in the 1990's stated:

> The Department is particularly concerned that 45 percent of our current Chiefs of Staff will be eligible to take advantage of the retirement change as of October 1990. If a signficant number of these individuals elect to retire at that time, we would experience a critical shortage of clinical management at our facilities.

In this letter, Dr. Gronvall also notes that 16 percent of VA physicians will be eligible to retire in 1990. Although the additional amount which they would receive if the incentive special pay cap were as our bill provides is not great, this amount may be enough to entice a number of VA physicians to remain longer than they otherwise might.

CONCLUSION

Mr. President, I am anxiously awaiting the results of the Quadrennial Report so that more permament and comprehensive action can be taken to resolve VA physician and dentist pay problems. I plan to develop further legislation at that time.

I ask unanimous consent that the text of the bill we are introducing today be printed in the RECORD at this point together with the pay table mentioned earlier in my remarks.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 1211

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. PAYMENT OF PHYSICIANS' AND DENTISTS' SPECIAL PAY.

Notwithstanding any other law, effective with respect to pay periods beginning on or after April 1, 1990, the Secretary of Veterans Affairs shall pay the maximum amounts of special pay and incentive special pay then authorized for physicians and dentists in section 4118 of title 38, United States Code.

Incentive special pay offsets on and after October 3, 1982

[Reduction amount]

Grade/Step:	
Chief/5	$391
Chief/6	1,947
Chief/7	2,742
Chief/8-10	2,682
Executive/3	1,411
Executive/4	2,756
Executive/5	2,688
Executive/6-10	2,682
Director/1	2,237
Director/2	2,719
Director/3-10	2,682
All others limited to base pay at Executive Schedule Level V	2,682

By Mr. GORE (for himself, Mr. MITCHELL, Mr. CHAFEE, Mr. WIRTH, Mr. HEINZ, and Mr. KERRY):

S.J. Res. 159. Joint resolution to designate April 22, 1990, as Earth Day, and to set aside the day for public activities promoting preservation of the global environment; to the Committee on the Judiciary.

EARTH DAY

Mr. GORE. Mr. President, almost 20 years ago, this Nation stopped on a single day to think deeply about the environment. Ten thousand schools, two thousand colleges and universities, and virtually every community in the United States took part in the day we called Earth Day.

The U.S. Congress stood in recess so that its Members could devote Earth Day to focus on environmental concerns in their States and districts. All three networks devoted substantial coverage to events around the country, and the Public Broadcasting System devoted its entire daytime programming to Earth Day coverage.

In the end, more than 20 million people made known their concerns for the environment on Earth Day. The wave of support for environmental legislation that resulted from that first Earth Day resulted in the creation of the Environmental Protection Agency, the Clean Air Act, and the Clean Water Act.

With these major initiatives, we did more than increase awareness of the fragility of our global environmental—we reduced the amount of pollutants we were dumping into our environment. We instituted tougher controls on emissions and better safeguards for our resources. New technologies emerged to meet new challenges.

The environmental issues addressed by that first Earth Day were mostly local and national in scope. Today, we still face those original environmental problems, but we also recognize new, global challenges that few could foresee 20 years ago. Global climate change and destruction of the stratospheric ozone layer will require unprecedented cooperation among the nations of the world.

Next year, on April 22, 1990, we will again stop to think about the environmental challenges that we face, as we celebrate the 20th anniversary of Earth Day. But now, pausing to think must also mean we are ready to act, not only as a nation, but as neighbors in a global environment facing unprecedented threats.

The 1990's must be the decade of decisive action. If major national and international effort are not pursued during this period, irreparable damage will be done to the environment and the resources on which our economy, our security, and the future of life as we know it depend. These problems will not disappear of their own accord. They will only prove increasingly intractable and expensive, demanding crisis management.

In the developing nations, where more than 90 percent of all the people in the world will be born in coming decades, growing populations and debts intensify the pressures on natural resources every day. Deserts expand while the forest—home to such a wide range of life forms—continue to retreat. Hundreds of millions of people in the Third World live in abject proverty, and end up destroying the resources on which their future depends because no alternative is open to them.

Earth Day 1990 is being organized to overcome the sense of helplessness that many people feel in the face of these global challenges. It is rooted in a belief that people—working together—can indeed accomplish extraordinary things.

Earth Day 1990 will span nations, economies, and cultures. It will address scores of important issues. Decisions about how to best participate must be made at the national, regional, local, family, and personal levels. But we must all take part to show our common concern for our common future.

We know what to do. The task before us may seem immense, but Earth Day 1990 will remind us that it is manageable, that working together, we can protect our planet, the future of our children and all children around the globe. It will mark the beginning of a new decade of the environment and a critical resolve to make basic changes that will bring big re-

sults: reducing ozone-depleting chemicals and carbon dioxide emissions; preserving forests and endangered species; reducing our waste load and our energy consumption; coming to grips with explosive population growth and forging, once and for all, the path of sustainable development toward a sustainable future.

Mr. President, these issues are important to every American, and to every resident of this planet.

Mr. President, I am introducing a joint resolution today declaring April 22, 1990, to be Earth Day. This joint resolution has been drafted in close cooperation with the private sector organizers of this event. It is being introduced in the House of Representitives by Congressman UDALL. My cosponsors on this joint resolution include the majority leader, Senator MITCHELL; the ranking Republican member of the Environment Committee, Senator CHAFEE; my colleague from Colorado and partner in many such efforts, Senator WIRTH; my colleague from Pennsylvania, a key player in these matters, Senator HEINZ; and my friend and colleague from Massachusetts, Senator KERRY.

I am looking forward to Earth Day 1990, when together with millions of others around the world, we will gather again to illustrate our environmental solidarity clearly and convincingly.

● Mr. KERRY. Mr. President, I rise today as an original cosponsor of the joint resolution commemorating Earth Day 1990. Next April, one of the greatest demonstrations in history will take place across this Nation—and the world—Earth Day 1990, which will demonstrate around the globe that citizens need and want to save our shared planet Earth.

I helped organize the first Earth Day 20 years ago, and as a board member of Earth Day 1990, know that the renaissance in public interest in protecting our environment is bigger than ever. We've come a long way from the days of the early 1970's when supporters of the first Earth Day were contemptuously referred to as "tree huggers" or "bunny lovers" who weren't to be taken seriously. Today the environment and its critical state is being taken very seriously by Americans, from every walk of life, every income, every age, and every region of the land.

Earth Day 1970 brought us new laws and policies like the first Clean Air Act and Clean Water Act. Through massive educational efforts Earth Day 1990 will both teach citizens what they can do as well as put pressure on governments to enact necessary policies. The celebration will highlight the greenhouse effect and the need to lessen our dependence on fossil fuels and encourage strategies that promote energy efficiency, alternative energy sources and mass transportation. It will raise the ante and put pressure on governments to ban chlorofluorocarbons; as well as enact policies that slow down deforestation by preserving old growth forests, and promote sustainable development in agriculture. Another major area that will be addressed is waste management by focusing attention and the need for recycling efforts in the home, at school and in the work place as well as major litter campaigns to clean up our beaches and parks.

The first Earth Day is credited with raising people's consciousness about the environment. Today however, far too many citizens the world over have gotten far too complacent about the environment which we inhabit. Grassroots activity needs to be reborn, and so today by introducing this resolution on Earth Day 1990 we ask for a new call to action to all people to get involved to help save our planet Earth.

A century ago, a few Americans had begun to recognize that the environment—in all its greatness and grandeur—was not indestructible. As John Muir one of our first environmentalists wrote 100 years ago:

> Any fool can destroy trees * * * it took more than three thousand years to make some of the trees. * * * God has cared for these trees, saved them from drought, disease, avalanches, and a thousand straining leveling tempests and floods; but he cannot save them from fools—only Uncle Sam can do that.

The John Muir of today would include not only Uncle Sam, but Secretary Gorbachev, Margaret Thatcher, Gro Harlem Bruntland of Norway, Oscar Arias of Costa Rica, as well as, the many other leaders throughout the world.

Because today the issue of man threatening the environment has grown far beyond national borders—it has reached a point where it must be addressed on a global scale. Alone, no country can stem the tide of ocean pollution, put an end to acid rain or protect the Earth's ozone layer. Leaders of the international community and citizens of countries throughout the world must act in consort to sustain our planet. Earth Day 1990 will by necessity involve not just the United States, but as many nations as possible.

For example, recently, I participated in a televised global classroom project with Soviet and American students and environmental experts. The Soviets openly discussed how flawed irrigation projects have caused the Aral Sea to disappear, how major fish kills have occurred in Lake Baikal and the Volga River.

Other international examples of a strained environment can be seen in Poland where a quarter of the nation's soil is now believed to be too contaminated to farm safely, and the possibility that their tap water may be contaminated in the next decade is very real.

In Europe I have personally visited lakes which once provided a home to fish and plants—which are now completely lifeless from acid rain, and scientists are concerned that these lakes may never be restored. In Germany I witnessed first hand the destruction of that nation's heritage—the Black Forest—by acid deposition.

In Greece, we've observed the Parthenon literally melting from the deleterious effects of air pollution. In South America and Africa, we've helplessly watched as widespread tropical deforestation at the frightening rate of 54 acres a minute, has increased the amount of carbon dioxide in the atmosphere by as much as 20 percent adding to the greenhouse effect. And across the globe in China, soil erosion has damaged the Yellow River—ruining drinking water supplies, and causing flooding, economic havoc and dislocation for millions.

Mr. President, in America we must recognize that we cannot tell other nations what to do without realizing that we too have a road to travel. We have an air pollution problem that needs immediate national attention and I applaud the President for bringing this issue forward for debate. A few months ago 11 million gallons of oil was dumped into the once pristine Prince William Sound by a U.S. vessel and fortunately legislation to prevent such a future disaster and to help the cleanup effort is quickly moving through the Congress. In addition, lead has contaminated the tap water of an estimated 42 million Americans—with dire consequences to our children; and we have failed to take a lead in recycling or energy conservation. Furthermore, for years radioactive waste and toxics have polluted grounds surrounding nuclear production plants run by the Department of Energy.

The United States alone cannot save the world's environment, but we can be a model starting at home and taking the advice of Renee Dubos by "thinking globally and acting locally"; and we must act now.

Mr. President, Earth Day 1990 offers us an opportunity to launch this necessary national and worldwide coordinated effort. Unless all agree to take action together, many will fail to act at all. We can learn from the positive experience of the Montreal protocol in which nations agreed to reduce their production of chlorofluorocarbons. This model must be extended to address other critical issues, including global warming, through carbon dioxide emission reductions, ending deforestation, protecting biological diversity, as well as, keeping our oceans and beaches litter free, and promoting al-

ternative energy sources. Earth Day 1990 gives us the forum to get serious about the commitment.

Through introducing this resolution we are helping kick off an important awareness and education campaign that is urgently needed to avert the pending global environmental crisis. The need today for an environmental grassroots effort is more important than ever. Like the grassroots efforts that halted the Vietnam war we need a new grassroots effort to halt the toxic war, the air pollutants war and the global warming war. It is my hope that every citizen in every community in every State will be touched by the Earth Day 1990 message.

Policymakers react to their constituencies and now is the time for constituents to stand together and demand to be heard. I sound the alarm and ask for a new call to action to all people to get involved to help save our planet Earth, and urge citizens to participate and help make Earth Day 1990 the success it should be.●

By Mr. LAUTENBERG (for himself, Mr. CRANSTON, Mr. MURKOWSKI, Mr. PELL, Mr. CONRAD, Mr. MATSUNAGA, Mr. ROBB, Mr. BUMPERS, Mr. DIXON, Mr. JEFFORDS, Mr. BOREN, Mr. HOLLINGS, Mr. GORE, Mr. HEFLIN, Mr. COCHRAN, Mr. INOUYE, Mr. DOLE, Mr. SIMPSON, Mr. DECONCINI, Mr. KERRY, Mr. SIMON, Mr. LIEBERMAN, Mr. HATCH, Mr. MITCHELL, Mr. GRAHAM, Mr. SASSER, Mr. PRYOR, Mr. REIGLE, Mr. BOSCHWITZ, and Mr. BENTSEN):

S.J. Res. 160. Joint resolution to designate December 7, 1989, as "National Pearl Harbor Remembrance Day" on the occasion of the anniversary of the attack on Pearl Harbor; to the Committee on the Judiciary.

NATIONAL PEARL HARBOR REMEMBRANCE DAY

● Mr. LAUTENBERG. Mr. President, today I am introducing a joint resolution to designate December 7, 1989, the 48th anniversary of the attack on Pearl Harbor, as "National Pearl Harbor Remembrance Day."

This joint resolution also authorizes and requests the President to issue a proclamation calling upon the people of the United States to observe this solemn occasion with appropriate ceremonies and activities, and to pledge our strong resolve to defend this Nation and its allies from all future aggression.

I would like to commend the New Jersey members of the Pearl Harbor Survivors Association, particularly Lee Goldfarb, the State chairman, and the approximately 10,000 members throughout the country, for their active interest and support in commemorating this 48th anniversary through a Presidential Proclamation of National Pearl Harbor Remembrance Day.

On December 7, 1941, "A date which will live in infamy," while talks between Japanese and American diplomats were going on in Washington, the United States was attacked by the Imperial Japanese Navy and Air Force. Pearl Harbor was caught totally unprepared. The blow was deliberately planned for Sunday morning, when the ships of the Pacific Fleet were moored in perfect alignment, and their crews were ashore, having breakfast or relaxing on board. There was no advance warning.

About 360 Japanese planes attacked the Pacific Fleet units at the naval base, and Army aircraft at Hickam Field and other nearby military installations. The surprise attack, launched entirely without provocation, took the lives of 2,403 Americans, and wounded 1,178. Some of those lost were civilians.

Fortunately, no aircraft carriers were tied up at the base during the attack. When the assault ended nearly 2 hours later, the Pacific Fleet had lost eight battleships, three light cruisers, three destroyers and four other vessels. The attack also destroyed about 170 U.S. planes. The Japanese had concentrated on ships and planes, leaving repair facilities, the submarine base, and fuel oil shortage facilities relatively undamaged.

In short, the attack had dealt the Pacific Fleet, and Hawaii's air defense a devastating blow. In less than 2 hours, the Japanese had crippled the Pacific Fleet and undermined America's strategic position in the Pacific.

The unification of the country under the impact was swift. It was the first time in U.S. history that we had been attacked first, and it wiped away the last vestige of isolationist sentiment. The entire country stood behind the President and gave him wholehearted support. The attack united U.S. public opinion, and propelled the United States into World War II. On 4:10 p.m., Monday, December 8, 1941, the United States declared war on the Japanese.

As "Remember Pearl Harbor" became the American war cry throughout World War II, so today we must "Remember Pearl Harbor." We must recall and pay tribute to those who died in that tragedy, and we must remember so that we will never be caught short or unprepared again.

I ask unanimous consent that a copy of the joint resolution be printed in the RECORD, and I urge my colleagues to support this joint resolution.

There being no objection, the joint resolution was ordered to be printed in the RECORD, as follows:

S.J. RES. 160

Whereas on the morning of December 7, 1941, the Imperial Japanese Navy and Air Force launched an unprovoked surprise attack upon units of the Armed Forces of the United States stationed at Pearl Harbor, Hawaii;

Whereas over two thousand four hundred citizens of the United States were killed in action and one thousand one hundred and seventy-eight were wounded in this attack;

Whereas President Franklin Delano Roosevelt referred to the date of the attack as "a date that will live in infamy";

Whereas the attack on Pearl Harbor marked the entry of this Nation into World War II;

Whereas the people of the United States owe a tremendous debt of gratitude to all members of our Armed Forces who served at Pearl Harbor, in the Pacific Theater of World War II, and in all other theaters of action of that war; and

Whereas the veterans of World War II and all other people of the United States will commemorate December 7, 1989, in remembrance of this tragic attack on Pearl Harbor: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That December 7, 1989, the anniversary of the attack on Pearl Harbor, is designated as "National Pearl Harbor Remembrance Day" and the President of the United States is authorized and requested to issue a proclamation calling upon the people of the United States—

(1) to observe this solemn occasion with appropriate ceremonies and activities; and

(2) to pledge eternal vigilance and strong resolve to defend this Nation and its allies from all future aggression.●

ADDITIONAL COSPONSORS

S. 122

At the request of Mr. INOUYE, the name of the Senator from North Dakota [Mr. BURDICK] was added as a cosponsor of S. 122, a bill to amend title XVIII of the Social Security Act to provide coverage for social worker services furnished at rural health clinics.

S. 135

At the request of Mr. GLENN, the name of the Senator from Illinois [Mr. DIXON] was added as a cosponsor of S. 135, a bill to amend title 5, United States Code, to restore to Federal civilian employees their right to participate voluntarily, as private citizens, in the political processes of the Nation, to protect such employees from improper political solicitations, and for other purposes.

S. 276

At the request of Mr. DURENBERGER, the name of the Senator from Georgia [Mr. FOWLER] was added as a cosponsor of S. 276, a bill to establish a Department of Environmental Protection.

S. 494

At the request of Mr. DURENBERGER, the name of the Senator from North Dakota [Mr. CONRAD] was added as a cosponsor of S. 494, a bill to amend the Internal Revenue Code of 1986 to extend for 5 years, and increase the amount of, the deduction for health

insurance for self-employed individuals.

S. 507

At the request of Mr. SIMON, the names of the Senator from Ohio [Mr. METZENBAUM] and the Senator from Iowa [Mr. HARKIN] were added as cosponsors of S. 507, a bill to prohibit investments in, and certain other activities with respect to, South Africa, and for other purposes.

S. 563

At the request of Mr. MATSUNAGA, the name of the Senator from Arizona [Mr. DECONCINI] was added as a cosponsor of S. 563, a bill to amend section 3104 of title 38, United States Code, to permit certain service connected disabled veterans who are retired members of the Armed Forces to receive retired pay concurrently with disability compensation after a reduction in the amount of retired pay.

S. 570

At the request of Mr. DANFORTH, the names of the Senator from Vermont [Mr. LEAHY], the Senator from Alabama [Mr. HEFLIN], the Senator from Mississippi [Mr. COCHRAN], and the Senator from Ohio [Mr. GLENN] were added as cosponsors of S. 570, a bill to amend the Internal Revenue Code of 1986 to enhance the incentive for increasing research activities.

S. 618

At the request of Mr. SARBANES, the name of the Senator from Tennessee [Mr. GORE] was added as a cosponsor of S. 618, a bill to authorize the Indian American Forum for Political Education to establish a memorial to Mahatma Gandhi in the District of Columbia.

S. 640

At the request of Mrs. KASSEBAUM, the name of the Senator from Pennsylvania [Mr. SPECTER] was added as a cosponsor of S. 640, a bill to regulate interstate commerce by providing for uniform standards of liability for harm arising out of general aviation accidents.

S. 659

At the request of Mr. SYMMS, the names of the Senator from Utah (Mr. GARN] and the Senator from Minnesota [Mr. BOSCHWITZ] were added as cosponsors of S. 659, a bill to repeal the estate tax inclusion related to valuation freezes.

S. 686

At the request of Mr. MITCHELL, the name of the Senator from California [Mr. CRANSTON] was added as a cosponsor of S. 686, a bill to consolidate and improve laws providing compensation and establishing liability for oil spills.

S. 724

At the request of Mr. GRAHAM, the name of the Senator from Colorado [Mr. WIRTH] was added as a cosponsor of S. 724, a bill to modify the boundaries of the Everglades National Park and to provide for the protection of lands, water, and natural resources within the park, and for other purposes.

S. 805

At the request of Mr. MCCLURE, the name of the Senator from Washington [Mr. ADAMS] was added as a cosponsor of S. 805, a bill to amend the Food Security Act of 1985 to permit certain school districts to receive assistance to carry out the school lunch program in the form of all cash assistance or all commodity letters of credit assistance.

S. 896

At the request of Mr. SPECTER, the names of the Senator from Connecticut [Mr. DODD], the Senator from California [Mr. WILSON], the Senator from Ohio [Mr. METZENBAUM], the Senator from Ohio [Mr. GLENN], and the Senator from Hawaii [Mr. INOUYE] were added as cosponsors of S. 896, a bill to amend the Public Health Service Act to aid in the planning, development, establishment and ongoing support of Pediatric AIDS Resource Centers, to provide for coordinated health care, social services, research and other services targeted to HIV infected individuals, and for other purposes.

S. 933

At the request of Mr. HARKIN, the name of the Senator from Illinois [Mr. DIXON] was added as a cosponsor of S. 933, a bill to establish a clear and comprehensive prohibition of discrimination on the basis of disability.

SENATE JOINT RESOLUTION 106

At the request of Mr. BOND, the names of the Senator from Indiana [Mr. COATS], the Senator from New York [Mr. D'AMATO], the Senator from Kansas [Mr. DOLE], the Senator from Utah [Mr. GARN], the Senator from Washington [Mr. GORTON], the Senator from Utah [Mr. HATCH], the Senator from Connecticut [Mr. LIEBERMAN], the Senator from Hawaii [Mr. MATSUNAGA], the Senator from Georgia [Mr. NUNN], the Senator from South Dakota [Mr. PRESSLER], the Senator from Virginia [Mr. ROBB], the Senator from Illinois [Mr. SIMON], and the Senator from South Carolina [Mr. THURMOND] were added as cosponsors of Senate Joint Resolution 106, a joint resolution to authorize a commemorative stamp to be issued on January 18, 1991, to honor Doctor Thomas Anthony Dooley III, and commemorate the 30th anniversary of his death.

SENATE JOINT RESOLUTION 124

At the request of Mr. GORTON, the name of the Senator from Massachusetts [Mr. KERRY] was added as a cosponsor of Senate Joint Resolution 124, a joint resolution to designate October as "National Quality Month."

SENATE JOINT RESOLUTION 127

At the request of Mr. SIMON, the names of the Senator from Missouri [Mr. BOND], the Senator from Oregon [Mr. PACKWOOD], the Senator from Washington [Mr. GORTON], the Senator from Rhode Island [Mr. PELL], the Senator from Maryland [Ms. MIKULSKI], the Senator from Indiana [Mr. LUGAR], the Senator from Michigan [Mr. LEVIN], the Senator from Connecticut [Mr. LIEBERMAN], the Senator from Utah [Mr. GARN], the Senator from Montana [Mr. BURNS], the Senator from Idaho [Mr. MCCLURE], the Senator from Pennsylvania [Mr. HEINZ], the Senator from Ohio [Mr. GLENN], and the Senator from South Carolina [Mr. THURMOND] were added as cosponsors of Senate Joint Resolution 127, a joint resolution to designate Labor Day Weekend, September 2-4, 1989, as "National Drive for Life Weekend."

SENATE JOINT RESOLUTION 147

At the request of Mr. LAUTENBERG, the names of the Senator from Idaho [Mr. SYMMS] and the Senator from California [Mr. CRANSTON] were added as cosponsors of Senate Joint Resolution 147, a joint resolution to designate the week beginning June 11, 1989, as "National Scleroderma Awareness Week."

SENATE CONCURRENT RESOLUTION 47

At the request of Mr. SIMON, the name of the Senator from Massachusetts [Mr. KENNEDY] was added as a cosponsor of Senate Concurrent Resolution 47, a concurrent resolution expressing the sense of the Congress on multilateral sanctions against South Africa.

AMENDMENT NO. 196

At the request of Mr. MITCHELL, the name of the Senator from Vermont [Mr. LEAHY] was added as a cosponsor of amendment No. 196 proposed to S. 5, a bill to provide for a Federal program for the improvement of child care, and for other purposes.

S. 963

At the request of Mr. DOMENICI, the name of the Senator from Kansas [Mr. DOLE] was added as a cosponsor of S. 963, a bill to authorize a study on methods to commemorate the nationally significant highway known as Route 66, and for other purposes.

S. 979

At the request of Mr. DASCHLE, the name of the Senator from South Carolina [Mr. HOLLINGS] was added as a cosponsor of S. 979, a bill to provide grants for designating rural hospitals as medical assistance facilities.

S. 1020

At the request of Mr. BRADLEY, the names of the Senator from North Dakota [Mr. BURDICK] and the Senator from New Mexico [Mr. BINGAMAN] were added as cosponsors of S. 1020, a bill to amend the Foreign Assistance Act of 1961 to authorize appropriations for the Child Survival Fund and for other health and disease assistance programs.

S. 1036

At the request of Mr. LEAHY, the names of the Senator from Ohio [Mr. METZENBAUM] and the Senator from New Mexico [Mr. BINGAMAN] were added as cosponsors of S. 1036, a bill to improve the economic, community, and educational well-being of rural America, and for other purposes.

S. 1129

At the request of Mr. BENTSEN, the names of the Senator from Nebraska [Mr. EXON] and the Senator from New Jersey [Mr. LAUTENBERG] were added as cosponsors of S. 1129, a bill to amend the Internal Revenue Code of 1986 to simplify the antidiscrimination rules applicable to certain employee benefit plans.

S. 1179

At the request of Mr. LAUTENBERG, the name of the Senator from California [Mr. CRANSTON] was added as a cosponsor of S. 1179, a bill to establish a comprehensive marine pollution restoration program, to amend the Federal Water Pollution Control Act and the Marine Protection, Research, and Sanctuaries Act, and for other purposes.

SENATE JOINT RESOLUTION 93

At the request of Mr. DIXON, the name of the Senator from Alabama [Mr. HEFLIN] was added as a cosponsor of Senate Joint Resolution 93, a joint resolution to designate October 1989 as "Polish American Heritage Month."

At the request of Mr. SIMON, the names of the Senator from California [Mr. CRANSTON], the Senator from Ohio [Mr. GLENN], the Senator from Connecticut [Mr. LIEBERMAN], the Senator from Ohio [Mr. METZENBAUM], the Senator from Hawaii [Mr. INOUYE], the Senator from Washington [Mr. ADAMS], the Senator from Oklahoma [Mr. BOREN], the Senator from Tennessee [Mr. GORE], the Senator from Virginia [Mr. ROBB], the Senator from Maryland [Ms. MIKULSKI], the Senator from Alabama [Mr. SHELBY], the Senator from New York [Mr. MOYNIHAN], the Senator from Hawaii [Mr. MATSUNAGA], the Senator from Wisconsin [Mr. KOHL], the Senator from Massachusetts [Mr. KERRY], the Senator from North Dakota [Mr. CONRAD], the Senator from Arkansas [Mr. BUMPERS], the Senator from Massachusetts [Mr. KENNEDY], the Senator from Kansas [Mr. DOLE], the Senator from Minnesota [Mr. BOSCHWITZ], the Senator from Alaska [Mr. MURKOWSKI], the Senator from Rhode Island [Mr. CHAFEE], the Senator from Iowa [Mr. GRASSLEY], the Senator from Pennsylvania [Mr. HEINZ], the Senator from South Dakota [Mr. PRESSLER], the Senator from Alaska [Mr. STEVENS], the Senator from California [Mr. WILSON], the Senator from Florida [Mr. MACK], the Senator from Wyoming [Mr. SIMPSON], the Senator from Pennsylvania [Mr. SPECTER], the Senator from Vermont [Mr. JEFFORDS], the Senator from New York [Mr. D'AMATO], the Senator from Utah [Mr. HATCH], the Senator from Virginia [Mr. WARNER], and the Senator from Kansas [Mrs. KASSEBAUM] were added as cosponsors of Senate Joint Resolution 93, supra.

AMENDMENTS SUBMITTED

ACT FOR BETTER CHILD CARE

ROTH (AND OTHERS) AMENDMENT NO. 199

(Ordered to lie on the table.)

Mr. ROTH (for himself, Mr. ARMSTRONG, Mr. WILSON, Mr. EXON, Mr. D'AMATO, Mr. COATS, Mr. GORTON, Mr. CHAFEE, Mr. MACK, Mr. BOSCHWITZ, Mr. MCCAIN, and Mr. GRASSLEY) submitted an amendment intended to be proposed by them to the bill (S. 5) to provide for a Federal program for the improvement of child care, and for other purposes, as follows:

At the appropriate place, insert the following new section:

SEC. . CHILD CARE EARNINGS EXCLUDED FROM WAGES AND SELF-EMPLOYMENT INCOME FOR EXCESS EARNINGS TEST.

(a) WAGES.—Section 203(f)(5)(C) of the Social Security Act (42 U.S.C. 403(f)(5)(C)) is amended—

(1) by striking out "or" at the end of clause (i),

(2) by striking out the period at the end of clause (ii) and inserting in lieu thereof ", or", and

(3) by adding at the end thereof the following new clause:

"(iii) the amount of any payment made to an employee who has attained retirement age (as defined in section 216(1)) by an employer for child care services (including indirect services) performed by such employee after the month in which such employee initially becomes entitled to insurance benefits under this title.".

(b) SELF-EMPLOYMENT INCOME.—Section 203(f)(5)(D) of such Act (42 U.S.C. 403(f)(5)(D)) is amended—

(1) by striking out "or" at the end of clause (i),

(2) by adding "or" at the end of clause (ii),

(3) by inserting immediately after clause (ii) the following new clause:

"(iii) an individual who has attained retirement age (as defined in section 216(1)) who has become entitled to insurance benefits under this title, any income attributable to child care services (including indirect services) performed after the month in which such individual becomes entitled to such benefits,", and

(4) by striking out "royalties or other income" and inserting in lieu thereof "royalties or income".

(c) PAYMENTS OF CERTAIN RECOMPUTED BENEFITS DELAYED.—Section 215(f)(2) of the Social Security Act (42 U.S.C. 415(f)(2)) is amended by adding at the end thereof the following new subparagraph:

"(E) Under regulations of the Secretary, monthly benefits increased as a result of a recomputation under this paragraph shall be further increased on an actuarial basis to include such benefits which would have otherwise been paid in a lump sum (determined from the recomputation date to the effective date of such recomputation as provided under subparagraph (D)) as exceed an amount equal to such additional benefits determined for a thirteen month period beginning from such recomputation date.".

(c) EFFECTIVE DATES.—

(1) The amendments made by subsections (a) and (b) shall apply to wages or income earned after the date of the enactment of this Act.

(2) The amendment made by subsection (c) shall apply to recomputations made after the date of enactment of this Act.

PRYOR (AND OTHERS) AMENDMENT NO. 200

Mr. PRYOR (for himself, Mr. BUMPERS, and Mr. DIXON) proposed an amendment to amendment No. 196 proposed by Mr. MITCHELL (and others) to the bill S. 5, supra, as follows:

On page 8, line 15, delete "16" and insert in lieu thereof "13".

NOTICES OF HEARINGS

PERMANENT SUBCOMMITTEE ON INVESTIGATIONS

Mr. NUNN. Mr. President, I would like to announce for the information of the Senate and the public that the Permanent Subcommittee on Investigations of the Committee on Governmental Affairs, will hold field hearings on "Drugs and Violence: The Criminal Justice System in Crisis."

These hearings will take place on Monday, June 26, 1989, in Macon, GA, and on Wednesday, June 28, 1989 in Atlanta, GA. For further information, please contact Eleanore Hill of the subcommittee staff at 224-3721.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. WIRTH. Mr. President, I would like to announce for the public that a hearing has been scheduled before the full Committee on Energy and Natural Resources to receive testimony on a national energy policy. Secretary of Energy, Adm. James D. Watkins, and Deputy Secretary of Energy, W. Henson Moore, are scheduled to testify.

The hearing to receive testimony on domestic and international CO_2 emissions has been postponed.

The national energy policy hearing will take place Thursday, June 22, 1989, at 2 p.m. in room SD-366 of the Dirksen Senate Office Building in Washington, DC.

Because of the limited time available for the hearing, witnesses may testify by invitation only. However, anyone wishing to submit written testimony to be included in the hearing record is welcome to do so. Those wishing to submit written testimony should send two copies to the full committee, SD-306, Washington, DC 20510.

For further information, please contact Leslie Black of the committee

staff at (202) 224-9607 or David Harwood, legislative assistant with Senator WIRTH, at (202) 224-5852.

AUTHORITY FOR COMMITTEES TO MEET

SELECT COMMITTEE ON INDIAN AFFAIRS

Mr. DODD. Mr. President, I ask unanimous consent that the Select Committee on Indian Affairs be authorized to meet on June 20, 1989, beginning at 11 a.m., in 485 Russell Senate Office Building, to consider the nomination of Dr. Eddie Brown for the position of Assistant Secretary for Indian Affairs, Department of the Interior.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. DODD. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be authorized to meet during the session of the Senate on June 20, 1989, at 9:30 a.m. to consider pending committee business.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON PATENTS, TRADEMARKS, AND COPYRIGHTS

Mr. DODD. Mr. President, I ask unanimous consent that the Subcommittee on Patents, Trademarks, and Copyrights of the Committee on the Judiciary be authorized to meet during the session of the Senate on Tuesday, June 20, 1989, at 10:30 a.m., to hold a hearing on moral rights; visual artists.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. DODD. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Tuesday, June 20, 1989, at 3:30 p.m., to hold a business meeting to vote on pending nominations.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. DODD. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Tuesday, June 20, 1989, at 2 p.m., to hold the final hearing in their series on the future of United States-Soviet relations with Secretary of State Baker as a witness.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON AGRICULTURE RESEARCH

Mr. DODD. Mr. President, I ask unanimous consent that the Subcommittee on Agricultural Research of the Committee on Agriculture, Nutrition, and Forestry be authorized to meet during the session of the Senate on Tuesday, June 20, 1989, at 9:30 a.m., to hold a hearing on the mechanisms for establishing priorities in agricultural research programs.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ARMED SERVICES

Mr. DODD. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet during the session of the Senate on Tuesday, June 20, 1989, at 2 p.m., in open session to receive testimony on the Department of Defense University Research Program in review of S. 1085, the Department of Defense authorization bill for fiscal years 1990-91.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FINANCE

Mr. DODD. Mr. President, I ask unanimous consent that the Committee on Finance be authorized to meet during the session of the Senate on Tuesday, June 20, 1989, at 10 a.m., to hold a hearing on proposals to improve health care coverage for children under the Medicaid and Maternal Child Health Services Block Grant Programs.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON PUBLIC LANDS, NATIONAL PARKS AND FORESTS

Mr. DODD. Mr. President, I ask unanimous consent that the Subcommittee on Public Lands, National Parks and Forests of the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate on Tuesday, June 20, 1989, at 9:30 a.m., to receive testimony on S. 724, a bill to modify the boundaries of the Everglades National Park and to provide for the protection of lands, waters, and natural resources within the park, and for other purposes.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON HOUSING AND URBAN AFFAIRS

Mr. DODD. Mr. President, I ask unanimous consent that the Subcommittee on Housing and Urban Affairs of the Committee on Banking, Housing, and Urban Affairs be allowed to meet during the session of the Senate on Tuesday, June 20, 1989, at 10 a.m., to conduct hearings on S. 566, the National Affordable Housing Act.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

WEST VIRGINIA'S BIRTHDAY

● Mr. ROCKEFELLER. Mr. President, today I rise to recognize the great State of West Virginia on its 126th birthday.

On June 20, 1863, the area that is now home to 2 million proud Mountaineers became the 35th State to join the Union.

I am personally celebrating my silver anniversary of service to the fine people of West Virginia. I am enormously proud of my State and our determination to build a strong and bright future. The word is quickly getting out on "America's best kept secret." White-water rafting on West Virginia's rivers attracts thousands of visitors annually. Countless others come to enjoy skiing, camping, hunting, fishing, and the majestic beauty of the Mountain State that generations have enjoyed.

West Virginia was formed out of the long and embittered battles of the Civil War, earning her statehood through great bloodshed. Though recent times have brought some hardship, the dedicated citizens of West Virginia are determined to secure the future of their proud State for the generations yet to come.

Mr. President, today I ask you and my other colleagues to join me in saluting not only the State of West Virginia, but its proud citizens as well.●

A TRIBUTE TO CARL SAWICKI

● Mr. D'AMATO, I rise today to relate to my colleagues the bold determination of one of my constituents, Mr. Carl Sawicki.

Mr. Sawicki will turn 40 this July, and plans to do something special for his birthday. Carl is an avid bicyclist, and is planning to ride across the country in 21 days. In those 21 days he will cover 3,200 miles between San Francisco and Atlantic City, followed by his wife, Sara, who will follow in a van with supplies.

The Sawicki's will pay for the expenses of the trip themselves, and plan to raise $3,200 through pledges from sponsors. This money will then be donated to the Catskill Area Hospice, Inc., which cares for terminally ill patients. Carl's father died 10 years ago when the hospice was not in existence and Carl is riding so that others might live with dignity.

I would like to ask my colleagues to join me in applauding Carl Sawicki for his noble venture. May God be with him on his journey.●

A TRIBUTE TO NORMAN FAGAN

● Mr. ROCKEFELLER. Mr. President, I rise in honor of an outstanding West Virginian Norman Fagan who began employment with West Virginia's nationally acclaimed cultural center when it opened in July 1976.

As the commissioner of culture and history, Norman Fagan founded several events that have become annual traditions in West Virginia. They include the Vandalia Festival; the Jazz Festival; the Dance Festival; the High

School Drama Festival; the Community Theater Festival; the Young Arts Festival; the Black Cultural Festival; and the Summer Film Festival.

Fagan, a native of Pittsburgh, was manager for the Pittsburgh Playhouse before he spent a summer working in Beckley, WV, at the Grandview State Park. He was then employed by former Govs. Okey Patterson and Hulett Smith. From 1968 to 1971, Fagan was the director of the arts council in Charleston and then served as director of education at the Kennedy Center in Washington, DC. In 1972, he became chairman of the Endowment for the Arts in Washington, DC, and then returned to West Virginia as director of the arts council, chairman of the State's bicentennial commission and director of the cultural center in 1974.

Mr. Fagan will be retiring as commissioner of culture and history on June 30 after 15 years of service. I would like to commend Mr. Fagan on his years of dedicated service to the people of West Virginia. All West Virginians are grateful and proud of him and his many accomplishments. He is truly an outstanding person and citizen.●

BUDGET SCOREKEEPING REPORT

● Mr. SASSER. Mr. President, I hereby submit to the Senate the latest budget scorekeeping report for fiscal year 1989, prepared by the Congressional Budget Office in response to section 308(b) of the Congressional Budget Act of 1974, as amended. This report was prepared consistent with standard scorekeeping conventions. This report also serves as the scorekeeping report for the purposes of section 311 of the Budget Act.

This report shows that current level spending is over the budget resolution by $0.9 billion in budget authority, and over the budget resolution by $0.4 billion in outlays. Current level is under the revenue floor by $0.3 billion.

The current estimate of the deficit for purposes of calculating the maximum deficit amount under section 311(a) of the Budget Act is $135.7 billion, $0.3 billion below the maximum deficit amount for 1988 of $136 billion.

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC., June 19, 1989.

Hon. JIM SASSER,
Chairman, Committee on the Budget, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: The attached report shows the effects of Congressional action on the budget for fiscal year 1989 and is current through June 16, 1989. The estimates of budget authority, outlays, and revenues are consistent with the technical and economic assumptions of the most recent budget resolution, for fiscal year 1989, House Concurrent Resolution 268. This report is submitted under section 308(b) and in aid of section 311 of the Congressional Budget Act, as amended, and meets the requirements for Senate scorekeeping of section 5 of Senate Concurrent Resolution 32, the 1986 first concurrent resolution on the budget.

Since my last report, Congress has taken no action that affects the current level of spending or revenues.

Sincerely,

ROBERT D. REISCHAUER,
Director.

CBO WEEKLY SCOREKEEPING REPORT FOR THE U.S. SENATE, 101ST CONG., 1ST SESS., AS OF JUNE 16, 1989

[In billions of dollars]

	Current level [1]	Budget resolution, H. Con. Res. 268 [2]	Current level + / - resolution
FISCAL YEAR 1989			
Budget authority	1,233.0	1,232.1	0.9
Outlays	1,100.1	1,099.8	.4
Revenues	964.4	964.7	.3
Debt subject to limit	2,767.1	[3] 2,824.7	57.6
Direct loan obligations	24.4	28.3	3.9
Guaranteed loan commitments	111.0	111.0	
Deficit	135.7	[4] 136.0	[5] .3

[1] The current level represents the estimated revenue and direct spending effects (budget authority and outlays) of all legislation that Congress has enacted in this or previous sessions or sent to the President for his approval and is consistent with the technical and economic assumptions of H. Con. Res. 268. In addition, estimates are included of the direct spending effects for all entitlement or other mandatory programs requiring annual appropriations under current law, even though the appropriations have not been made. The current level of debt subject to limit reflects the latest U.S. Treasury information on public debt transactions.

[2] In accordance with sec. 5(a)(b) of the levels of budget authority, outlays, and revenues have been revised for Catastrophic Health Care (Public Law 100-360).

[3] The permanent statutory debt limit is $2,800.0 billion.

[4] Maximum deficit amount (MDA) in accordance with section 3(7)(D) of the Congressional Budget Act, as amended.

[5] Current level plus or minus MDA.

PARLIAMENTARIAN STATUS REPORT 101ST CONG. 1ST SESS. SENATE SUPPORTING DETAIL, FISCAL YEAR 1989 AS OF CLOSE OF BUSINESS JUNE 16, 1989

[In millions of dollars]

	Budget authority	Outlays	Revenues
I. Enacted in previous sessions:			
Revenues			964,434
Permanent appropriations and trust funds	874,205	724,990	
Other appropriations	594,475	609,327	
Offsetting receipts	218,335	218,335	
Total enacted in previous sessions	1,250,345	1,115,982	964,434
II. Enacted this session:			
Adjust the purchase price for Nonfat dry dairy products Public Law 101-7)		10	
Implementation of the Bipartisan Accord on Central America (Public Law 101-14)	11		
Total enacted this session	11	10	
III. Continuing resolution authority			
IV. Conference agreements ratified by both Houses			
V. Entitlement authority and other mandatory items requiring further appropriation action:			
Dairy indemnity program	[2]	[2]	
Special milk	4		
Food Stamp Program	253		
Federal crop insurance corporation fund	144		
Compact of free association	1	1	
Federal unemployment benefits and allowances	31	31	
Worker training	32	32	
Special benefits	37	37	
Payments to the Farm Credit System	35	35	
Payment to the civil service retirement and disability trust fund[1]	(85)	(85)	
Payment to hazardous substance superfund [1]	(99)	(99)	
Supplemental security income	201	201	
Special benefits for disabled coal miners	3		
Medicaid:			
Public Law 100-360	45	45	
Public Law 100-485	10	10	
Family Support Payments to States:			
Previous law	355	355	
Public Law 100-485	63	63	
Veteran's Compensation COLA (Public Law 100-678)	345	311	
Total entitlement authority	1,559	1,121	
VI. Adjustment for Economic and Technical Assumptions	18,925	16,990	
Total current level as of June 16, 1989	1,232,969	1,100,103	964,434
1989 budget resolution H. Con. Res. 268	1,232,050	1,099,750	964,700
Amount remaining:			
Over budget resolution	919	353	
Under budget resolution			266

[1] Interfund transactions do not add to budget totals.

[2] Less than $500 thousand.

Note.—Numbers may not add due to rounding.●

TRIBUTE TO THE 50TH ANNIVERSARY OF THE AMERICAN COLLECTORS ASSOCIATION

● Mr. DURENBERGER. Mr. President, Minnesota is proud to be the home State to many corporations of national and international stature. And, through civic dedication, we claim great honor in being the center of great theater and music. At the core of our boasting is the promise of hard work, and the drive toward accomplishment.

For the last 40 years, Minnesota has been the hard-working home of the American Collectors Association. This national professional association, now celebrating its 50th anniversary, is the body charged with the responsibility to ensure professionalism and fair play in a field of business most of us hope we will never have to encounter.

Today, the American Collectors Association [ACA], located in Edina, MN, employs a dynamic staff of 50 to perform pertinent service functions to an international constituency of folks involved in the collection business. They provide professional operations insurance as well as access to health plans, promotional and administrative assistance to smaller operations, field complaints from member firms and private citizens.

Seasoned veterans of the field can gain from the continuing education opportunities offered by ACA. Workshops today address concerns relative to such topics as financial counseling, operations diversification and the characteristics of consumers who fall behind in paying off debt. This is a prime indication of the level of sophis-

tication the debt collection field enjoys today.

ACA is responsible for monitoring legislation as it affects members on State and Federal levels. Internationally, they represent operations on every continent but Antarctica, bringing together those who perform an essential service to a number of cultures and economies.

ACA shares a rich tradition of hard work, and is looking to the nineties to continue serving the debt collection professionals of the world. Minnesota is proud to welcome the associations's convention goers to the annual convention to be held this summer in Minneapolis. The theme of "golden opportunity" appropriately fits the proud celebration of ACA's golden anniversary.●

INVESTMENT IN EDUCATION AND TECHNOLOGY

● Mr. SIMON. Mr. President, I read a commentary that appeared in the Washington Post by Colby Chandler, chairman of Eastman Kodak Co., that is absolutely sound. It calls for greater American investment in education and technology.

There is wisdom in what he has to say, so much wisdom that we dare not ignore his advice.

My colleagues will remember that a few weeks ago, I asked to transfer 1 percent of the defense budget, approximately $3 billion, to education. I lost, though I received a substantially larger vote than many people expected since the leadership of both parties had lined up against me.

However we do it, we must simply make a much greater priority out of education and research in this country.

I ask that the Colby Chandler piece be inserted in the RECORD.

The article follows:

[From the Washington Post, June 7, 1989]

AMERICA'S FUTURE DEPENDS ON ITS INVESTMENT IN EDUCATION AND TECHNOLOGY

(By Colby Chandler)

America, like Britain before, is squandering its world economic leadership role through complacent self-indulgence. The result will be declining American living standards, as we become a nation quarreling over an undersized pie. To avoid this, we must tend to the basic elements of our competitiveness, the dollar, education and technology. At present, we are doing poorly on all three fronts.

First, the dollar. The last thing America manufacturing needs is a rising dollar, yet our currency is at a two-year high and not even economists can come up with a reason. The central banks keep intervening, yet seem unable to bring the dollar down.

American exports had been growing at a good pace and the trade deficit was beginning to fall. Now, export growth is stalling, the trade deficit is stuck at levels near $100 billion and our competitors can start reaping huge profits in the domestic market once again.

American companies that compete with foreign products either at home or abroad are faced with the familiar and unwelcome choice of squeezing profits to maintain market share or losing out to the competition. Either way it spells trouble for the American economy, because manufacturing will invest less in future capacity, when much more is required.

Sometine in the next decade, if other policies are not in place, the dollar will fall enough for us to start running trade surpluses, for the simple reason that no nation, not even ours, can forever continue going deeper into debt. Ultimately, our creditors will demand repayment.

But relying on the dollar alone to create trade surpluses—the most basic definition of competitiveness—must be a last resort, and a highly undesirable one. It means our merchandise goods are so cheap that the world will buy them regardless of quality. And it means that American living standards have taken a dive.

Rebuilding a strong manufacturing sector able to pay high wages and still sell in world markets takes time. According to a newly released study done for Eastman Kodak Co., "Meeting World Challenges: U.S. Manufacturing in the 1990s," manufacturing inevitably will become a larger share of the U.S. economy as we are forced to run trade surpluses, since manufactured goods are mostly what we trade.

But it is by no means assured that this "reindustrialization" will lead to better living standards for Americans. To the contrary, America could end up the low wage producer compared to West Germany and Japan unless we have sharp changes in policy soon.

A first-rate education system and sound technology policy are the foundations upon which we need to rebuild manufacturing. But neither is in place at the moment.

As a manufacturer of high-technology goods, I am alarmed that Kodak will be unable to find adequately educated and trained workers for our plants in the years ahead. Jobs will go begging because the skilled labor will simply not be available.

In Rochester, N.Y., only 2 percent of the jobs that need to be filled can be described as unskilled, yet anywhere from 10 to 15 percent of the work force is below high school equivalency!

As a manufacturer, I can speak with some authority about technology, the third leg of our competitiveness.

Superior technology means a superior product and a successful firm. At the company level, technology is central. So it is for the country. Yet, as a nation we fail to appreciate the critical role that technology plays in our future. To the contrary, we mindlessly pursue policies that undercut our ability to maintain a lead in this critical area.

We undercut technology in four ways. First, our capital markets worship the short term. Investment in research and development of new technologies with potential pay off down the road is anathema to financial markets, which thrive on volatility and judge a company on the basis of a quarter's performance.

Second, economic policies in this country undercut technology development by requiring high real interest rates to keep inflation under control. As long as we run large budget deficits in a fully employed economy, the Federal Reserve will have no choice but to keep interest rates up. A high interest rate environment makes investment in new technologies very expensive. Reducing the budget deficit, even if it means tax increases along with spending cuts, must be a priority if we want to invest in the future adequate rates.

Third, technology is not a priority for the U.S. government. The FSX deal with Japan shows the low regard in which it is held. Other governments view it as a national security matter. We seem prepared to give our technology leadership away, if it helps meet other "higher" national objectives.

The Bush administration's willingness to provide federal seed money for the development of high-definition television technology is a welcome first sign that at the national level development of commercial technologies is recognized as important to our economic future. Whether we end up handling HDTV correctly remains to be seen. The fact that the government is now paying attention is what counts.

Finally, while I have not resolved in my mind the role that government should play in technology development, I believe that we have been too ideologically rigid in the past about government-industry partnerships outside the defense area. After all, American agriculture today is the most productive, technologically advanced in the world, and there is no doubt that the government has played a key role in this success story.

While massive subsidies are not the answer for technology development, there are certainly lessons to be learned from the agriculture experience that do not undermine our free enterprise systems.

It is not inevitable that America declines in the years ahead. But it is also true that without a commitment to excellence in education and investment technology, a sharp fall in the dollar and our living standards will be the answer to America's competitiveness problems.●

ATLANTA JOURNAL AND CONSTITUTION ASSAULT WEAPONS STUDY

● Mr. CHAFEE. Mr. President, as my colleagues know, one of the most highly charged debates in America is the one over whether to ban so-called military-style assault guns. Since last January's tragic killing of schoolchildren in Stockton, CA, by a deranged man with a semiautomatic assault rifle, there has been a torrent of national and State legislative gun control proposals unparalleled since the passage of the 1986 Gun Control Act. Yet a central question in this controversy has remained: Just how serious is the problem of assault guns in America?

In a recent article, reporters Jim Stewart and Andrew Alexander employed a truly innovative method to come up with what is now a highly regarded study on the prevalence of assault guns in crime. For nearly a month, aided by a small clerical staff, they examined 42,758 firearms trace request forms that were sitting in file drawers at the Bureau of Alcohol, Tobacco and Firearms Tracing Center in Landover, MD. Information from the forms was put into computers, creating a base of more than 800,000 pieces

of data from which to make tabulations regarding how often assault guns are used in crimes and what models of these weapons pose the greatest threat to society.

The resulting stories have made a significant contribution to our understanding of this emotional and complex issue. I ask that they be inserted for the RECORD. I also ask that a copy of an editorial entitled "Assault Guns as Crime Weapons" from today's Washington Post be inserted as well.

The material follows:

[From the Atlanta Journal and Constitution, May 21, 1989]

ASSAULT GUNS MUSCLING IN ON FRONT LINES OF CRIME

(By Jim Stewart and Andrew Alexander)

WASHINGTON.—An assault gun is 20 times more likely to be used in crime than a conventional firearm, according to a study by the Atlanta Journal-Constitution Washington Bureau.

While assault guns account for 1 million—or 0.5 percent—of the 200 million privately owned firearms in the United States, they were used in one of every 10 crimes that resulted in a firearms trace last year, the study shows.

The findings appear to document for the first time what police across the nation have asserted for months—that a minute number of semiautomatic guns patterned after military firearms are the favored weapon of a growing number of criminals, especially violence-prone drug gangs that infest larger U.S. cities.

The study further found that two-thirds of the assault guns traced to crime are produced domestically and will not be affected by President Bush's decision to ban the importation of 49 foreign-made assault guns. The import ban is a key element in the administration's crime-fighting program announced last Monday.

"If you're going to do anything to assault weapons, I think you have to do a little more than Mr. Bush has done, and this study demonstrates that very clearly," said Sen. Dennis DeConcini (D-Ariz.), sponsor of one of two Senate bills that would impose new restrictions on assault guns.

A spokesman for the White House, however, said the findings were not at odds with Mr. Bush's plan but in fact "underscore the importance of the president's proposals."

Despite their small numbers, assault guns showed up in nearly 30 percent of all firearms traced to organized crime, gun trafficking and crimes committed by terrorists in the United States in 1988 and the first quarter of 1989, the study found.

And of the thousands of gun models sold in the United States, just 10 of them—all members of the so-called assault gun family—accounted for 12.4 percent of the nation's drug-related crime, the study found.

The findings came from a comprehensive examination of 42,758 gun trace requests submitted to the Federal Bureau of Alcohol, Tobacco and Firearms (ATF) from police departments around the nation. The forms covered the period from Jan. 1, 1988, to March 27, 1989.

With the bureau's approval, The Atlanta Journal-Constitution Washington Bureau entered data from each of the trace requests into computers. The data included the location and nature of the crime, the manufacturer of the gun involved, the weapon model, the magazine capacity and the weapon serial number. Once collated, the information provided a detailed state-by-state picture of the use of firearms in crime that had never before been available.

"These deadly statistics are hardly news to the nation's police officers, who are forced to deal with the carnage every day," said Sen. Howard M. Metzenbaum (D-Ohio). "But this chilling evidence should be enough to convince the rest of us that assault guns must be banned now."

Robert J. Barnes, a former senior federal firearms enforcement officer, said, "What this screams at me is that criminals have gone from using defensive weapons, like small handguns, to offensive weapons. This presents a totally different picture for the policemen of America. Their lives are clearly in much greater danger."

MIAMI, L.A. TOTALS: TWICE THE NATIONAL AVERAGE

For purposes of the study, assault guns were defined as those specifically identified by the Bush Administration's temporary import ban on foreign-manufactured semiautomatic weapons, as well as the domestically produced semiautomatics identified in Senate Bill 386, introduced by Mr. Metzenbaum. The two lists totaled 64 individual weapon models.

Among the study's other chief findings:

The use of assault weapons in crime rose more than 78 percent in 1988 over 1987. Figures for the first three months of 1989 show the trend toward the use of assault guns continues to grow.

Just 10 assault gun models accounted for 90 percent of the crimes involving assault guns. One of every five of those was a weapon known as a TEC-9. The gun, made in Miami, was virtually unknown two years ago.

In Miami, where drug gangs are especially violent and gun laws are lax, assault gun use rose to nearly twice the national average. In Los Angeles, the frequency of assault gun use in crime was also about twice the national average. In that city, a 20-day waiting period is required before a handgun purchases can be completed; assault rifles, however, are not covered and thus are easier to buy.

Some weapons that have figured prominently in congressional debates over assault weapons—notably the Atlanta-made Street Sweeper shotgun—actually cause barely a ripple on the crime scene. During 1988, only one of more than 33,700 guns traced by federal agents was a Street Sweeper.

For the first time since records on firearms used in crimes have been kept in the United States, semiautomatic pistols outnumber revolvers. Overall, the figures reveal a clear tend on the part of criminals to upgrade their arsenals with weapons that fire faster and hold more ammunition.

Most U.S. police departments are still armed with standard six shot revolvers, according to the International association of Chiefs of Police.

ATF LACKS FUNDS TO DO OWN COMPUTER ANALYSIS

The gun trace forms reviewed for this article were submitted to the U.S. Bureau of Alcohol, Tobacco and Firearms Tracing Center in Landover, Md., by city, state and federal police departments from all 50 states; a handful were submitted by foreign agencies. The ATF, an arm of the Treasury Department, is the federal agency responsible for enforcing U.S. firearms regulations. Its Landover center acts as a clearinghouse to aid police by tracing the ownership of guns used in crimes.

The ATF used to have the capability to do computer analysis of gun trace information, but it lost funding for its own computer system in 1985 and has since processed all requests by hand.

"The priorities on money changed, and unfortunately, other things came first," spokesman Richard Pedersen said.

The Atlanta Journal-Constitution Washington Bureau sought access to the forms in February and offered to computerize the data. The ATF agreed.

Summaries of data from the forms are "normally disclosable information that we needed and would have been glad to release, but did not have the manpower or funding to do so," Mr. Pedersen said.

The trace requests on file at Landover do not represent all the crimes committed with firearms in any given year because only a portion result in a trace request. Police departments vary in how frequently they ask for traces, according to Thomas M. Gerrity, the center's director.

The requests do, however, represent a "significant cross section" of firearm-related crime, Mr. Gerrity said. "It is the only national data base of its kind in the nation," he said.

For example, in 1987—the last year for which full records are available, the FBI's Uniform Crime Reporting Section documented 1.3 million crimes reported against individuals. Of those, 361,000 involved a firearm. The same year, the ATF received 35,100 weapons trace requests, about one for every 10 gun crimes reported.

SLAYINGS OF SCHOOLCHILDREN SPUR DEBATE

Assault weapons have been the focus of an increasingly emotional debate since January, when Patrick Edward Purdy killed five schoolchildren and wounded 29 others and a teacher in a Stockton, Calif., schoolyard. Purday fatally shot himself in the head with a semiautomatic pistol before police arrived.

The killings prompted a wave of national and state legislation, unparalleled since the assassinations of Robert F. Kennedy and Martin Luther King Jr. led to passage of the 1968 Gun Control Act. Twenty-three state legislatures are considering bills that would ban or restrict the use of specified assault guns. In Congress, two bills are pending in the Senate Judiciary Committee while four are working their way through the House.

Two problems have hampered advocates of revised gun laws.

The first is the difficulty of defining assault guns. Semiautomatic assault guns have the same kind of "receiver"—the mechanical portion of the gun housing the firing mechanism and to which the barrel is attached—as many popular hunting and sporting weapons not targeted for restriction.

Most current bills attempt to clear that hurdle by naming the weapons to be restricted. They would leave it to the ATF and a board of advisers to revise the list as need be, with congressional approval.

Their second problem deals with the actual number of assault guns owned by Americans and how many of these weapons have been involved in crime—varying estimates have confused the debate.

In testimony before a House subcommittee last month, ATF Associate Director Daniel M. Hartnett estimated that Americans own between 2 million and 3 million

semiautomatic firearms that could be classed as assault guns.

After a review of ATF records, agency spokesman Tom Hill said the number is closer to 1 million. Mr. Hill said the estimate was based on the actual number of imported weapons in the president's ban, combined with estimates of domestically produced weapons.

The number of assault guns traced last year surprised officials because there are so few of them in the general gun population.

Ninety percent of assault gun crime can be attributed to just six rifle models, three pistols styled with submachine-gun looks and one shotgun model, the Italian-made SPAS 12.

Among all types of weapons, the top five criminal guns were:

1. The MP-25, a .25-caliber semiautomatic pistol manufactured by Raven Arms in City of Industry, Calif., with an average reatil price of $85.

2. The Model 60, a stainless-steel .38-caliber revolver produced by Smith & Wesson of Springfield, Mass., priced at $360.

3. The Model 36, a slightly plainer .38-caliber revolver also made by Smith & Wesson and one of the world's most popular handguns. Its estimated retail price is $320.

4. The J22, a .22-caliber semiautomatic pistol made by Calwest Co. of Irvine, Calif., known for its small size, low price and notorious inaccuracy. It sells for $45.

5. The TEC-9, which ranked no better than fifth among assault guns alone in 1986 but is rapidly moving up the sales ladder. It retails for under $380.

In sheer numbers, assault guns were most common in drug-related crime, accounting for 12.4 percent of all narcotics firearms traced. On the West Coast, that frequency jumped to 21 percent, and in Arizona to 38.6 percent.

In addition to the standard crime categories traced, the government also tracks firearms involved in investigations of organized crime. Assault guns amounted to nearly one of every three guns in that category.

THE FICTION, THE FACTS

Fiction: Assault weapons are the same thing as machine guns.

Fact: Assault weapons are semiautomatics. Machine guns and submachine guns are automatics. The 1986 Firearm Owner Protection Act outlawed the production of machine guns for civilian purchase. To buy one today, the purchaser must pay a $200 transfer fee and submit to a background check by the federal government, submit a letter from his local police department and be fingerprinted.

Fiction: Assault weapons fire thousands of rounds a minute.

Fact: No assault gun can fire at such a high rate. That is true whether the weapon is a semiautomatic one, which fires one bullet for each pull of the trigger, or a fully automatic military rifle, which fires continuously when the trigger is depressed. The most a semiautomatic weapon can handle is between 60 and 80 rounds a minute, assuming the firer changes magazines rapidly.

Fiction: "There is simply no evidence that criminals prefer to use semiautomatic rifles, shotguns or pistols for illegal purposes. In fact, data available on criminals' firearms preferences indicates just the opposite." "Semi Auto Firearms," a pamphlet published by the National Rifle Association.

Fact: Whatever past trends may have shown, that's not the case today. For the first time since police began categorizing weapons by type, semiautomatic pistols are outdistancing revolvers and all other firearms as the weapon of choice of criminals. In the 15 months between Jan. 1, 1988, and March 27, 1989, semiautomatic models moved slightly ahead of revolvers, 14,160 to 13,968.

HOW THE STUDY WAS DONE

For purposes of this article, assault guns are defined as all 49 weapons identified in the March 14 and April 5 White House announcements temporarily suspending importation of specified foreign-made semiautomatic weapons. Also included are the 15 additional domestically produced semiautomatics identified in Senate Bill 386 as introduced by Sen. Howard M. Metzenbaum (D-Ohio).

In all, 42,768 Firearms Trace Request forms filed at the U.S. Bureau of Alcohol, Tobacco and Firearms (ATF) Tracing Center in Landover, Md., were examined. The forms cover the period from Jan. 1, 1988, to March 27, 1989.

Information from the forms was entered into computers by Atlanta Journal-Constitution Washington Bureau reporters and clerks and tabulated by Data Tabulating Service Inc. of Atlanta.

The information from each form included the date of the request; the identity of the requesting agency; the state where the request originated; the manufacturer; type of weapon, model, caliber, magazine capacity, serial number and country of origin; the type of crime involved; the presence, if any, of organized crime; and codes for nine major metropolitan areas selected by the reporters. Information on the forms was supplied by the law enforcement officer making the request.

Robert J. Barnes of Texarkana, Ark., served as a technical adviser for this article. A licensed firearms consultant, Mr. Barnes is the ATF's former senior firearms enforcement officer.

[From the Atlanta Journal and Constitution, May 21, 1989]

YOU AIN'T SEEN NOTHING; WAIT UNTIL I START SHOOTING PEOPLE

(By Andrew Alexander and Jim Stewart)

MANASSAS, VA.—Manassas police Sgt. John D. Conner was only about 25 feet away when he spotted the suspect, Roy Bruce Smith, coming out the back of the house.

Smith was drunk, but he still had an unfair advantage. Sergeant Conner was armed with a standard police-issue pistol; Smith had a Colt AR-15 and a full 20-shot clip.

"Drop the rifle! Drop the rifle now!" Sergeant Conner screamed.

Turning, Smith braced the semiautomatic against his hip and opened fire, spraying about 15 shots in the direction of the policeman.

The bullets picked the officer up like a rag doll and jolted him backward. One hit him in his right forearm, blowing out a crater of flesh. A second exploded through his right calf below the knee, leaving blood gushing from a 4-inch-long wound. For several moments the wounded officer thrashed in agony while Smith worked to clear a jammed round from his rifle. Finally, Smith pulled a handgun from his belt and fired once into Sergeant Conner's head.

Smith, 42, was convicted of capital murder in March. He awaits a judge's decision in a few days on the jury's recommendation that he die in Virginia's electric chair.

The AR-15 Smith used is now in a police safe awaiting eventual destruction. It was only one of hundreds of identical rifles traced last year to crime in America. The AR-15, in fact, ranked second among all assault guns in crime last year, according to a study by the Atlanta Journal-Constitution Washington Bureau.

In a recent prison interview here, Roy Smith said he didn't know anything about assault guns when he bought it in April 1979.

"It wasn't called an assault rifle back when I bought it," he said. "It was just an AR-15. I just bought it for target shooting."

The black metal-and-plastic-frame rifle also appealed to him because it was "ugly," the former computer technician said. The gun had come from an Atlanta distributor who sold it to a suburban Washington gun store, where Smith bought it.

"Smith had every weapon imaginable in his house, but he chose this one," said James A. Willett, a prosecutor in the case. "It was his weapon of choice."

According to court records and interviews with Smith, the prosecutor and police, this is what happened that day, one of the hottest and muggiest of the 1988 summer.

Smith had been drinking for hours. He was alone. Carol, his wife, had gone off to a company picnic without him.

There marriage was on the rocks. Nine months before, he had returned from an assignment in Asia and announced that he had fallen in love with a young South Korean woman. He wanted her to come live with them in Manassas. Not surprisingly, Carol objected.

And so when she headed off without him that day, he turned sour and started downing beers.

It was a familiar pattern for Smith. Subsequent testimony by a psychiatrist revealed Smith to have a "borderline personality disorder."

The psychiatrist explained: "Roy falls into a class of people who by definition, relative to normal, are more impulsive, more unstable, more prone to maladaptive action when thoughtful reflection would be helpful."

Indeed, the prosecution discovered a history of arrests, alcohol abuse and violence spanning nearly 20 years. It included misdemeanor convictions for disorderly conduct, assault and battery and indecent exposure. A felony conviction would have made it illegal for him to buy a gun.

During his first marriage, prosecutors said in court papers, Smith had been "abuse and threatening to his wife and members of her family. He frequently drank to excess and occasionally used marijuana. His conduct included, but was not limited to, threats, brandishing firearms, destruction of property and animal cruelty."

The more Smith drank that day, the more distraught he became. After about a dozen beers, he went into his house and got his AR-15. He stuck a .44-caliber Magnum pistol in a cowboy-style holster on his hip. He got another .357-caliber Magnum and tucked it under his belt. Then, as the sun began to set, he perched on the front porch of his brick-and-brown-siding townhouse and fired a few rifle rounds into the air.

Daniel Woods, who lived nearby, wandered by and offered a neighborly warning. "You've got to watch doing that kind of stuff," he told Smith. "You're going to get yourself in some serious trouble."

"You ain't seen nothing," Smith replied. "Wait until I start shooting people."

Then, as Mr. Woods walked away, he added: "All I'm really waiting for is somebody to call the police. First one I see, I'll blow him away."

Within minutes, he had the opportunity. As the police arrived and headed his way, Smith grabbed his AR-15 and retreated through the house and out the back door.

There in the humid dusk, perhaps 20 feet away, he faced Sergeant Conner.

"I got him coming out the back door," the sergeant radioed to fellow police. It was then he ordered, "Drop the rifle! Drop the rifle now!" and Smith turned, his assault rifle bucking in his hands.

In a rambling tape-recorded interrogation by police officers later that evening, Smith said he had become proficient with the military version of the AR-15 years ago in Army training.

"Unfortunately, I'm a good shot," he said. With an AR-15, I could hit you at a hundred meters.

"You don't forget," he said. "It's like riding a bicycle."

For John Conner's widow, Christine, the healing has proved slow. In a letter to the judge last month, she said she has lost more than 30 pounds since the shooting and has been placed on the drug Buspar, a "mood elevator." She distrusts even her friends and has sought counseling.

Her 2-year-old daughter, Elizabeth—unable to grasp the concept of death—occasionally carries a picture of her father and talks to him.

Her 5-year-old, David, refers to Smith as the "bad man."

"He has always been taught that hurting another person is wrong," she wrote. But young David asked her to relay his feelings to the judge in the letter:

"Mom, tell the judge for me that I hate the bad man that killed my daddy. Tell him I want to punch him in the face.

"Then I want him to let you shoot him."

ATLANTA FIRM CHURNS OUT THE MAC-11: A SOLDIER OF FORTUNE LEAVES LOCAL LEGACY

(By Ron Taylor)

The guns that account for the second-highest number of assault weapons linked to crime in the United States evolved from the obsessions of a Marietta mercenary and are the product of a northwest Atlanta manufacturing company that has warred with the U.S. Bureau of Alcohol, Tobacco and Firearms (ATF) for nearly a decade.

By the time ATF decided in 1982 that it had made a mistake in legalizing the semiautomatic MAC-10 and banned the gun, the company—then operating as RPB—had made 33,000 of them. MAC-10s still rank No. 7 among assault weapons in the frequency of trace requests filed with ATF. Under the name SWD Inc., the company continues to make a similar weapon called the MAC-11, which ranks No. 4 among assault weapons traced to crimes, according to the study by The Atlanta Journal-Constitution Washington Bureau. Counted together, the two guns would rank second.

Repeated efforts to interview Sylvia Daniel, the company's current president, or a spokesman for SWD were unsuccessful.

The original MAC-10, a fully automatic version designed by California gunsmith Gordon Ingram, was first manufactured by Military Armament Corp., a company run by Mitch WerBell III, the late Marietta soldier of fortune.

Wayne Daniel, the son of a Ringgold, Ga., minister and John Carpenter, an Atlanta lawyer, acquired the company and the MAC-10 in 1978 when they bought Military Armament's parent company, RPB. Their venture got off to a rocky start.

Carpenter was soon convicted of trying to bribe a Clayton County prosecutor to get him to drop a drug charge against a client. Two other partners in the company were accused of smuggling more than 2 tons of marijuana into Florida. One fled the country; the other was sentenced to 30 years.

Going it alone, Mr. Daniel began manufacturing a semiautomatic version of the MAC-10, which led to his first confrontation with ATF. The agency approved the weapon, then changed its mind as reports mounted that the legal semiautomatic was too easily converted to an illegal automatic.

AFT banned the MAC-10, Mr. Daniel sued but lost.

At the end of the MAC-10 dispute, Mr. Daniel dissolved RPB as a gun manufacturer and created SWD Inc., placing it in the hands of his ex-wife, Sylvia Daniel, who remains as head of SWD, an acronym for Sylvia Wayne Daniel.

The Daniels were indicted in 1985 on 12 charges of illegally selling parts to make silencers for submachine guns.

Shortly before the indictment, ATF agents executed a search warrant at the company. Mr. Daniel fired back with an advertisement in "Shotgun News" accusing ATF of "Gestapo" tactics under a photograph of Adolf Hitler. Seven ATF agents returned the salvo by filing a $7 million libel suit against Mr. Daniel's business and the magazine.

The case proved embarrassing for ATF when prosecutors finally had to admit that they could find no law specifically outlawing the sale of silencer parts. The Daniels wound up being fined $1,400 after pleading no contest to misdemeanor charges of not paying proper taxes on the parts.

A jury awarded the agents $1,000 each in the libel case.

AT TIMES, IT'S EASIER TO BUY AN UZI THAN MILK

Not long after Patrick Purdy killed five children with his AK-47 in Stockton, Calif., last January, a California television reporter conducted an experiment. He found it took him less time to buy an Uzi semiautomatic carbine than the five minutes it took to purchase a quart of milk in a grocery store express line.

In all but five states, assault rifles and shotguns are cash-and-carry items.

A purchaser must prove he is at least 18 years old and sign a form swearing he is not a convicted felon, mentally incompetent or addicted to drugs or alcohol. The form is not verified.

Twenty-three states impose a waiting period for the purchase of all handguns, including assault pistols such as the TEC-9 and MAC-11. Since the Purdy slayings, many cities have implemented additional restrictions.

Atlanta recently added assault rifles to an ordinance requiring a 15-day waiting period on handgun purchases. Also, city and Fulton County officials are considering proposals to outlaw the sale of assault weapons.

In most cities and states, however, buying a semiautomatic AK-47 requires less documentation, less verification and less time than:

Adopting a pet from the Society for the Prevention of Cruelty to Animals. (There is usually a $10 charge, plus a neutering fee and a home visit scheduled one week in advance.)

Obtaining a marriage license. (Most states require a fee, blood tests and an average five-day waiting period.)

Obtaining a library card. (Many city libraries demand a driver's license and recently postmarked mail verifying the applicant's address.)

A "HIGH-SPIRITED" GUN—"MEAN" LOOKS, LOW PRICE TAG ADD TO APPEAL OF TEC-9

(By Andrew Alexander and Jim Stewart)

MIAMI.—Carlos Garcia sees himself as a small-business man who saw a demand and met it.

The market was the "blue collar' gun buyer, he says, a survivalist kind of guy who wanted paramilitary weaponry but was put off by the high price of most guns.

Mr. Garcia's answer was the TEC-9, which has a submachine gun's style but costs less than $380—complete with 36-shot magazine.

Today, the 37-year-old Cuban native can't make the guns fast enough. Production at Mr. Garcia's modern suburban Miami gun plant is up to about 3,000 TEC-9s a month, he said, more than double the 1,200 a month produced little more than a year ago when he took over the family business.

The TEC-9 today is one of the most popular assault guns in the country.

It is also the nation's No. 1 assault weapon of crime: One of every five assault guns traced to crime is a TEC-9, according to a study of weapons traced by The Atlanta Journal-Constitution Washington Bureau.

That his gun is very popular among criminals, said Mr. Garcia, is not his responsibility.

"The only reason it's No. 1 on your list is because mine is the lowest price," said Mr. Garcia. "The next highest-priced gun of the assault weapons is two and a half times my cost.

"I know some of the guns going out of here end up killing people," he said. "But I'm not responsible for that. The ultimate user is you—the public. It is up to you how responsible you are in using that firearm, your car or what have you."

From a business standpoint, Mr. Garcia said in a recent interview, he liked the looks of the TEC-9 the first time he was shown one by a Swedish gunmaker who originally designed the gun for South Africa.

"I liked the fact that it looked paramilitary," he remembers. "The survivalist groups, people of that nature, they like to keep a weapon so that if anything ever happens, a war ever breaks out, they'd like to have it in their house.

"The old technology was all machining, hand polishing . . . very expensive work," said Mr. Garcia. "I felt that if any company was to be successful it would have to go into plastics, automation and that sort of thing."

Advertising for the TEC-9 reflects Mr. Garcia's marketing savvy. This is a "high-spirited" gun, say ads for the TEC-9, a weapon "as tough as your toughest customer."

"It has the intimidation factor," agreed Joseph J. Vince Jr., assistant agent in charge of the Miami ATF office. "Criminals, especially the narcotics people, want intimidation; that's the type of weapon that gives it to them."

Mr. Garcia agreed that his gun's "scary" looks were important in the marketing of the weapon. But price is the biggest factor he said.

He said he sells the TEC-9s to distributors at $210 each. He declined to reveal his profits.

Born in Cuba, Mr. Garcia said he came to the United States with his family in 1962 to escape a worsening political situation under Fidel Castro. His father, a well-to-do grocery store owner, stayed behind and was immediately jailed. He joined them in Miami after his release three months later.

After a stint in the U.S. Marine Corps, Mr. Garcia opened a gun shop in Miami in the spring of 1973.

Today, he is part-owner with his father in three thriving Miami gun shops and owns Baxter Wholesale Inc., a gun distributorship in Blue Ridge, Ga.

He also owns half of Intratec, a company started in 1984 by his father in partnership with a Hong Kong firm. Mr. Garcia bought out his father, Miguel, last year and now shares ownership of Intratec with another Florida businessman.

At Intratec, about 60 workers labor in shifts virtually around the clock to keep up with the booming civilian demand for the gun.

That rising popularity has not been without costs.

The estate of a school janitor in Connecticut, killed in 1985 by a disturbed student who opened fire with his father's TEC-9, has sued Intratec on the grounds that the gun's design and function render it unsafe for distribution to the general public.

The suit charges the TEC-9 "was and is primarily suited for and/or used in criminal activity" and that it "lacks legitimate use, such as sporting, law enforcement or self-protection."

"To me it's like any other gun because that's all it is," Mr. Garcia said. "It's just black. It looks black and it looks mean.

"But it's like looking at an ugly person. It doesn't mean he's mean or going to kill you."

[From the Washington Post, June 20, 1989]

ASSAULT GUNS AS CRIME WEAPONS

What a coincidence: just as lawmakers all around the country are responding to presidential and constituent calls to deal with the scourge of assault guns, along comes a barrage of new baloney from the NRA's propagandists. The word they're trying to spread now is that assault guns are not a popular weapon of criminals, that there's no evidence to support the view. Wrong. Leaving aside for the moment the feelings of those who face criminals most often—men and women of police forces and areas terrorized by drugs and violence—statistics show a steady increase in the use of assault guns in crimes. According to a study by The Atlanta Journal-Constitution Washington bureau, an assault gun is 20 times more likely to be used in crime than a conventional firearm.

This and other findings came from an examination of 42,758 gun-trace requests submitted to the Federal Bureau of Alcohol, Tobacco and Firearms from police departments around the country from Jan. 1, 1988, to March 27, 1989. Though assault guns account for 0.5 percent of the 200 million privately owned firearms in the United States, they were used in one of every 10 crimes that resulted in a firearms trace last year, the study shows. Two-thirds of these assault guns traced to crimes were domestic products—not covered by the federal ban on imports of certain models. Whatever past records may have shown, this analysis also shows that assault guns showed up in nearly 30 percent of all firearms traced to organized crime, gun trafficking and crimes committed by terrorists in this country in 1988 and the first quarter of this year.

As defined by the Bush administration and bills before Congress, there are about 50 guns meeting the description of an assault weapon. Of these there are 10 weapons that account for 90 percent of all the assault-gun crime. While it is true that pistols and revolvers are heavily used in crimes, the assault gun-trace requests as a percentage of all gun-trace request show a steady climb, from 5.6 percent in 1966 to 10.5 percent in the first three months of this year.

Robert J. Barnes, a former senior federal firearms enforcement officer, summarized the findings for Journal-Constitution reporters Jim Stewart and Andrew Alexander: "What this screams at me is that criminals have gone from using defensive weapons, like small handguns, to offensive weapons. This presents a totally different picture for the policemen of America. Their lives are clearly in much greater danger."

The assault guns most used in crimes are weapons that the vast majority of civilian gun owners and users can and do live without. For that matter, all Americans—particularly those most threatened by crime—could live without them very well.●

NORTHERN TELECOM'S RESPONSE TO THE VALDEZ CLEANUP

● Mr. PACKWOOD. Mr. President, in the midst of stories about the tragedy of the *Exxon Valdez* oil spill, an article appeared in Communications Week discussing a more positive aspect of the cleanup effort. This article describes the efforts of Mike Shaver, a Northern Telecom district sales manager based in Portland, to provide essential telecommunications needs for the cleanup operation.

I ask that the article from Communications Week be printed in the RECORD.

The article follows:

[From Communications Week, Apr. 24, 1989]

TELCO, VENDOR AID IN OIL CLEANUP EFFORT

(By Beth Schultz)

VALDEZ, AK.—As crude oil slithers its way up the Alaskan shoreline, workers at command headquarters here can stay on top of the cleanup efforts, thanks to the help of the local telephone company and its major vendor.

Before the Exxon Corp., oil tanker entered Prince William Sound late last month, about 2,500 people occupied this coastal village. By now, the population has almost tripled. And, as would be expected, phone service is in high demand.

As soon as Mike Shaver heard about the oil spill, he knew his company's help would be needed. Shaver, based in *Portland, Ore.*, is a district sales manager for Nashville, Tenn.-based Northern Telecom Inc. He immediately let the local telco, Copper Valley Telephone Cooperative Inc., know that Northern sales and switching engineers would be available on a 24-hour advisory basis.

Within three days of the spill, Copper Valley Tel knew it would be needing Northern's help to upgrade the DMS-10 switch serving Valdez, said Copper Valley Tel general manager Dean Moore. At that time, the telco began adding spare equipment to the switch and placing orders for equipment it did not have on hand.

PROVIDING RELIEF

To the credit of Northern and its suppliers, that process has gone amazingly well, Moore said.

"We are seeing two-day service from the lower 48 into Valdez for deliveries normally taking six to 10 days." he said. "And central office equipment that usually takes six to eight weeks is now coming on the third and fourth days."

In the past month, Copper Valley Tel has added 108 trunks to the switch, a figure more than double the 60 trunks needed to serve the community under normal circumstances.

The trunks, which are all direct-inward-dial (DID) units, are serving the state of Alaska, the Department of Environmental Conservation and Exxon Corp., Moore said.

In order to turn up the last batch of trunks, Copper Valley Tel had to install a new bay, shelf and corresponding equipment, Moore said. That equipment was deloyed early last week by the telco.

"We do all our own installation, due to the adequate training by Northern Telecom," Moore noted.

In addition to the trunks, which Shaver said were primarily plug-in cards, the telco had to equip the switch with five additional line-card drawers. With that addition, the switch jumped from serving 1,800 lines to serving 2,700 lines.

"I think we hit the peak," Moore said. "Our technicians have been working 12- to 18-hour days, seven days a week. We're going to try to settle down this week."

Once the cleanup efforts end, probably this fall, Exxon will have a lot of spare telephone equipment on its hands.

"The equipment will either be sold back or credited to Exxon," Moore said. To date, the company has spent about $300,000 on equipment and $500,000 on phone service. By the end, Moore estimated, Exxon's total bill will be close to $1 million.●

JANE M. SNOWDEN

● Mr. RIEGLE. Mr. President, I rise today to offer congratulations to Jane M. Snowden of the State of Michigan Washington office on her recent appointment as human services adviser to Gov. James J. Blanchard. As she prepares to return to Michigan in this important position, I would like to recognize and commend her years of dedicated service in the Nation's Capital on behalf of the citizens of Michigan.

Jane Snowden is a dedicated professional in her field. Her career began 23 years ago as a caseworker in rural Illinois. For the last 8 years, she has served as Michigan's voice on human service issues in Washington. In 1986 and 1987, Jane also served as director of budget planning and evaluation for Michigan's $4 billion human service budget while retaining her other responsibilities.

Throughout her career, Jane has earned the respect of all those who have worked with her. My staff and I have come to rely on her knowledge and professionalism. She returns to

Michigan as a nationally recognized expert in the area of human services.

I would like to extend appreciation and gratitude for myself and on behalf of the entire Michigan delegation to Jane Snowden for her work representing those Michigan families and individuals who most need help. We wish her well in her new position.●

FOREIGN CURRENCY REPORTS

In accordance with the appropriate provisions of law, the Secretary of the Senate herewith submits the following report(s) of standing committees of the Senate, certain joint committees of the Congress, delegations and groups, and select and special committees of the Senate, relating to expenses incurred in the performance of authorized foreign travel:

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE UNDER AUTHORITY OF SEC. 22, P.L. 95-384—22 U.S.C. 1754(b), COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY, FOR TRAVEL AUG. 13–31, 1988

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Senator Patrick J. Leahy:									
People's Republic of China	Yuan	5,970.03	1,608.00					5,970.03	1,608.00
Hong Kong	Dollar	5,981.80	766.50					5,981.80	766.50
Senator Thomas A. Daschle:									
People's Republic of China	Yuan	5,970.03	1,608.00					5,970.03	1,608.00
Hong Kong	Dollar	5,981.80	766.50					5,981.80	766.50
Georgia Joyal:									
People's Republic of China	Yuan	5,970.03	1,608.00					5,970.03	1,608.00
Hong Kong	Dollar	5,981.80	766.50					5,981.80	766.50
Ellen McCulloch-Lovell:									
People's Republic of China	Yuan	5,970.03	1,608.00					5,970.03	1,608.00
Hong Kong	Dollar	5,981.80	766.50					5,981.80	766.50
Eric Newsom:									
People's Republic of China	Yuan	5,970.03	1,608.00					5,970.03	1,608.00
Hong Kong	Dollar	5,981.80	766.50					5,981.80	766.50
Charles Riemenschneider:									
People's Republic of China	Yuan	5,970.03	1,608.00					5,970.03	1,608.00
Hong Kong	Dollar	5,981.80	766.50					5,981.80	766.50
Robert Sutter:									
People's Republic of China	Yuan	5,970.03	1,608.00					5,970.03	1,608.00
Hong Kong	Dollar	5,981.80	766.50					5,981.80	766.50
Delegation expenses: [1]									
People's Republic of China							4,839.97		4,839.97
Hong Kong							6,916.39		6,916.39
Total			16,621.50				11,756.36		28,377.86

[1] Delegation expenses include direct payments and reimbursements to the Department of State and the Department of Defense under authority of sec. 502(b) of the Mutual Security Act of 1954, as amended by sec. 22 of P.L. 95-384, and S. Res. 179, agreed to May 25, 1977. In addition to those named above, the following individuals accompanied this delegation: Senator Robert T. Stafford and Neal Houston, authorized by the Republican Leader; Walter J. Stewart and Jan Paulk authorized by the Majority Leader.

PATRICK J. LEAHY,
Chairman, Committee on Agriculture, Nutrition and Forestry, May 10, 1989.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE UNDER AUTHORITY OF SEC. 22, P.L. 95-384-22 U.S.C. 1754(b), COMMITTEE ON APPROPRIATIONS, FOR TRAVEL FROM JAN. 1 TO MAR. 31, 1989

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Senator Patrick J. Leahy:									
Israel	Shekel	1,145	640.00					1,145	640.00
Egypt	Pound	1,229.13	444.00					1,229.13	444.00
Eric Newsom:									
Israel	Shekel	1,145	640.00					1,145	640.00
Egypt	Pound	1,229.13	444.00					1,229.13	444.00
James D. Bond:									
Egypt	Pound	1,229.13	444.00					1,229.13	444.00
Senator Barbara A. Mikulski:									
West Germany	Deutsche mark	522.06	283.70					522.06	283.70
Senator Warren B. Rudman:									
West Germany	Deutsche mark	657.87	357.50					657.87	357.50
Richard A. Pierce:									
South Korea	Dollar		1,015.00						1,015.00
Philippines	Dollar		187.50						187.50
United States	Dollar				1,951.00				1,951.00
Senator Wyche Fowler, Jr.:									
Germany	Dollar		91.00						91.00
Iraq	Dollar		609.00						609.00
Bahrain	Dollar		154.00						154.00
United Arab Emirates	Dollar		392.00						392.00
Oman	Dollar		388.00						388.00
Yemen	Dollar		408.00						408.00
Israel	Dollar		308.00						308.00
United States	Dollar				1,023.00				1,023.00
Patricia L. Lynch:									
British West Indies	Dollar		124.20						124.20
Bahamas	Dollar		116.20						116.20
Timothy Rieser:									
Kenya	Dollar		5.00		40.00				45.00
Malawi	Dollar		15.00		20.00				35.00
Zimbabwe	Dollar		130.00		10.00				140.00
Mozambique	Dollar		460.00		20.00				480.00
Rebecca M. Davis:									
British West Indies	Dollar		128.18						128.18
Bahamas	Dollar		120.18						120.18

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE UNDER AUTHORITY OF SEC. 22, P.L. 95-384-22 U.S.C. 1754(b), COMMITTEE ON APPROPRIATIONS, FOR TRAVEL FROM JAN. 1 TO MAR. 31, 1989—Continued

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Total			7,904.46		3,064.00				10,968.46

ROBERT C. BYRD,
Chairman, Committee on Appropriations, Apr. 28, 1989.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE UNDER AUTHORITY OF SEC. 22, P.L. 95-384—22 U.S.C. 1754(b), COMMITTEE ON ARMED SERVICES, FOR TRAVEL FROM JAN. 1 TO MAR. 31, 1989

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Senator Carl Levin:									
Korea	Won	323,740	474.00					323,740	474.00
Japan	Yen	38,500	308.00					38,500	308.00
John J. Hamre:									
Korea	Won	323,740	474.00					323,740	474.00
Japan	Yen	38,500	308.00					38,500	308.00
Senator John Glenn:									
Republic of Germany	Deutsche mark	1,025.80	557.50					1,025.80	557.50
Senator John McCain:									
Republic of Germany	Deutsche mark	199.05	108.18					199.05	108.18
Judith A. Freedman:									
Republic of Germany	Deutsche mark	1,025.80	557.50					1,025.80	557.50
Brian D. Dailey:									
Republic of Germany	Deutsche mark	1,025.80	557.50					1,025.80	557.50
Dale F. Gerry:									
Republic of Germany	Deutsche mark	1,025.80	557.50					1,025.80	557.50
Anthony H. Cordesman:									
Republic of Germany	Deutsche mark	1,025.80	557.50					1,025.80	557.50
Senator Jeff Bingaman:									
Japan	Yen	38,776	296.00					38,776	296.00
Edward McGaffigan, Jr.:									
Japan	Yen	193,880	1,480.00					193,880	1,480.00
United States	Dollar				1,433.00				1,433.00
Total			6,235.68		1,433.00				7,668.68

SAM NUNN,
Chairman, Committee on Armed Services, Apr. 4, 1989.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE UNDER AUTHORITY OF SEC. 22, P.L. 95-384—22 U.S.C. 1754(b), COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS, FOR TRAVEL FROM JAN. 1 TO MAR. 31, 1989

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Martin Gruenberg:									
Netherlands	Guilder	1,771.14	840.00					1,771.14	840.00
United States	Dollar				816.00				816.00
John Walsh:									
Netherlands	Guilder	1,062.68	504.00					1,062.68	504.00
United States	Dollar				985.00				985.00
Total			1,344.00		1,801.00				3,145.00

DONALD W. RIEGLE,
Chairman, Committee on Banking, Housing, and Urban Affairs,
Mar. 31, 1989.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE UNDER AUTHORITY OF SEC. 22, P.L. 95-384—22 U.S.C. 1754(b), COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION, FOR TRAVEL FROM OCT. 1 TO DEC. 31, 1988

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Ralph B. Everett:									
Australia	Dollar	1,555.96	1,333.30					1,555.96	1,333.30
United States	Dollar				4,220.00				4,220.00
Barry I. Kalinsky:									
Switzerland	Franc	1,160.55	775.00					1,160.55	775.00
United States	Dollar				785.00				785.00
Regina M. Keeney:									
Australia	Dollar	3,111.98	2,718.32					3,111.98	2,718.32
United States	Dollar				1,663.00				1,663.00

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE UNDER AUTHORITY OF SEC. 22, P.L. 95-384—22 U.S.C. 1754(b), COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION, FOR TRAVEL FROM OCT. 1 TO DEC. 31, 1988—Continued

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Walter B. McCormick, Jr.:									
Australia	Dollar	1,778.30	1,553.35					1,778.30	1,553.35
United States	Dollar				1,774.73				1,774.73
Bruce L. Need:									
Russia	Dollar		400.00		1,860.00				2,260.00
Patrick H. Windham:									
Japan	Yen	155,000	1,240.00					155,000	1,240.00
New Zealand	Dollar	596.10	374.00	267.08	169.88	336.34	214.16	1,199.52	758.04
United States	Dollar				3,605.00				3,605.00
John D. Windhausen:									
Australia	Dollar	2,457.42	2,137.95	125	108.75	85	73.95	2,667.42	2,320.65
United States	Dollar				1,674.73				1,674.73
Senator Ernest F. Hollings:									
New Zealand	Dollar	363.40	228.00	267.08	169.88	336.34	214.16	966.82	612.04
United States	Dollar				5,378.00				5,378.00
Senator Albert Gore, Jr.:									
England	Pound	114.28	205.00					114.28	205.00
New Zealand	Dollar	363.40	228.00	267.08	169.88	336.34	214.16	966.82	612.04
United States	Dollar				5,001.00				5,001.00
Total			11,192.92		26,579.85		716.43		38,489.20

ERNEST F. HOLLINGS,
Chairman, Committee on Commerce, Science, and Transportation,
Apr. 25, 1989.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE UNDER AUTHORITY OF SEC. 22, P.L. 95-384—22 U.S.C. 1754(b), COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION, FOR TRAVEL FROM JAN. 1 TO MAR. 31, 1989

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Sherman Joyce:									
French Guiana	Dollar		150.00						150.00
Martin P. Kress:									
French Guiana	Dollar		150.00						150.00
Jerold R. Mande:									
Brazil	Cruzado	921,360	698.00					921,360	698.00
Senator Albert Gore, Jr.:									
Brazil	Cruzado	921,360	698.00					921,360	698.00
Senator Ernest F. Hollings:									
Germany	Deutsche mark	998.05	534.00					998.05	534.00
Italy	Lira	808,500	588.00					808,500	588.00
Turkey	Lira	350,136	175.00					350,136	175.00
Bahrain	Dinar	33.993	90.00					33.993	90.00
Egypt	Pound	716.32	296.00					716.32	296.00
Israel	Dollar		498.00						498.00
Spain	Peseta	23,985	205.00					23,985	205.00
Robert D. Sneed:									
Germany	Deutsche mark	998.05	534.00					998.05	534.00
Italy	Lira	808,500	588.00					808,500	588.00
Turkey	Lira	350,136	175.00					350,136	175.00
Bahrain	Dinar	33.993	90.00					33.993	90.00
Egypt	Pound	716.32	296.00					716.32	296.00
Israel	Dollar		498.00						498.00
Spain	Peseta	23,985	205.00					23,985	205.00
Total			6,468.00						6,468.00

ERNEST F. HOLLINGS,
Chairman, Committee on Commerce, Science, and Transportation,
Apr. 25, 1989.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE UNDER AUTHORITY OF SEC. 22, PL 95-384—22 U.S.C. 1754(b), COMMITTEE ON ENERGY AND NATURAL RESOURCES, FOR TRAVEL FROM OCT. 1 TO DEC. 31, 1988

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Mary L. Wagner:									
France	Franc	6,777.02	1,112.81					6,777.02	1,112.81
Germany	Dollar		146.00		62.00				208.00
United States	Dollar				2,380.00				2,380.00
Leslie G. Black:									
France	Franc	5,441.47	900.07					5,441.47	900.07
Germany	Dollar		112.85		62.00				174.85
Switzerland	Franc	923.75	615.00	29	19.94			952.75	634.94
United States	Dollar				2,541.00				2,541.00
Deborah H. Merrick:									
France	Franc	8,991.47	1,476.43					8,991.47	1,476.43
Germany	Dollar		219.00		62.00				281.00
United States	Dollar				2,468.00				2,468.00

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE UNDER AUTHORITY OF SEC. 22, PL 95–384—22 U.S.C. 1754(b), COMMITTEE ON ENERGY AND NATURAL RESOURCES, FOR TRAVEL FROM OCT. 1 TO DEC. 31, 1988—Continued

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
William Conway:									
France	Franc	4,381.47	719.45					4,381.47	719.45
Germany	Dollar		199.00		62.00				261.00
United States	Dollar				2,468.00				2,468.00
Marese Curtin:									
France	Franc	8,991.47	1,476.43					8,991.47	1,476.43
Germany	Dollar		219.00		62.00				281.00
United States	Dollar				2,468.00				2,468.00
Carol G. Craft:									
France	Franc	7,408.07	1,216.43					7,408.07	1,216.43
Germany	Dollar		219.00		62.00				281.00
United States	Dollar				2,468.00				2,468.00
Richard D. Grundy:									
France	Franc	7,529.87	1,236.43					7,529.87	1,236.43
Germany	Dollar		219.00		62.00				281.00
United States	Dollar				2,468.00				2,468.00
Cheryl A. Moss:									
France	Franc	8,991.47	1,476.43					8,991.47	1,476.43
Germany	Dollar		219.00		62.00				281.00
United States	Dollar				1,365.00				1,365.00
Gary Reese:									
Korea	Won	523,180	740.00					523,180	740.00
Hong Kong	Dollar	2,639.80	338.00					2,639.80	338.00
Thailand	Baht	5,407	214.00					5,407.00	214.00
Total			13,074.33		19,141.94				32,216.27

J. BENNETT JOHNSTON,
Chairman, Committee on Energy and Natural Resources, Apr. 21, 1989.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON FINANCE, FOR TRAVEL FROM JAN. 1 TO MAR. 31, 1989

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Senator John D. Rockefeller IV:									
Taiwan	Dollar	11,188	398.00					11,188	398.00
Japan	Yen	124,236	986.00					124,236	986.00
United States	Dollar				4,609.60				4,609.60
Ira Wolf:									
Taiwan	Dollar	11,188	398.00					11,188	398.00
Japan	Yen	124,236	986.00					124,236	986.00
United States	Dollar				2,644.40				2,644.40
Michael Mabile:									
Switzerland	Franc	1,442.36	906.00					1,442.36	906.00
United States	Dollar				1,773.00				1,773.00
Total			3,671.00		9,027.00				12,701.00

LLOYD BENTSEN,
Chairman, Committee on Finance, Apr. 6, 1989.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON FOREIGN RELATIONS, FOR TRAVEL FROM JAN. 1 TO MAR. 31, 1989

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Senator Joseph R. Biden:									
Belgium	Franc	28,511	732.00					28,511	732.00
United States	Dollar				3,498.00				3,498.00
Senator Daniel P. Moynihan:									
India	Rupee	4,500	300.00					4,500	300.00
Pakistan	Rupee	4,145	215.00			2,169.50	112.00	6,314.50	327.00
United States	Dollar				5,486.00				5,486.00
Senator Terry Sanford:									
Guatemala	Quetzal	534	198.00					534	198.00
Costa Rica	Peso	13,956	176.00					13,956	176.00
Senator Paul Simon:									
Zambia	Kwacha	4,809.26	488.25					4,809.26	488.25
Malawi	Kwacha	340	133.00					340	133.00
Zimbabwe	Dollar	256.76	131.00					256.76	131.00
Nigeria	Naira	1,161	135.00					1,161	135.00
Gail Coppage:									
Zambia	Kwacha	4,809.26	488.25					4,809.26	488.25
Malawi	Kwacha	340	133.00					340	133.00
Zimbabwe	Dollar	256.76	131.00					256.76	131.00
Nigeria	Naira	1,161	135.00					1,161	135.00
William L. Green:									
Guatemala	Quetzal	534	198.00					534	198.00
Costa Rica	Peso	13,956	176.00					13,956	176.00

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95-384—22 U.S.C. 1754(b), COMMITTEE ON FOREIGN RELATIONS, FOR TRAVEL FROM JAN. 1 TO MAR. 31, 1989—Continued

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Evelyn Lieberman:									
Belgium	Franc	28,511	732.00					28,511	732.00
United States	Dollar				2,014.00				2,014.00
Janice O'Connell:									
El Salvador	Colon	1,155	231.00					1,155	231.00
Mexico	Peso	948,192	408.00					948,192	408.00
United States	Dollar				871.00				871.00
Lenora Odeku:									
Zambia	Kwacha	4,809.26	488.25					4,809.26	488.25
Malawi	Kwacha	340	133.00					340	133.00
Zimbabwe	Dollar	256.76	131.00					256.76	131.00
Nigeria	Naira	1,161	135.00					1,161	135.00
John B. Ritch:									
Belgium	Franc	28,511	732.00					28,511	732.00
United States	Dollar				2,014.00				2,014.00
Barry Sklar:									
Guatemala	Quetzal	534	198.00					534	198.00
Costa Rica	Peso	13,956	176.00					13,956	176.00
Nancy Stetson:									
Zambia	Kwacha	4,809.26	488.25					4,809.26	488.25
Malawi	Kwacha	340	133.00					340	133.00
Zimbabwe	Dollar	231.68	118.00					231.68	118.00
Nigeria	Naira	1,161	135.00					1,161	135.00
Ted Zukoski:									
India	Rupee	4,500	300.00					4,500	300.00
Pakistan	Rupee	4,145	215.00			2,169.50	112.00	6,314.50	327.00
United States	Dollar				3,471.00				3,471.00
Peter Galbraith:									
Pakistan	Rupee	4,145	215.00			1,446	75.00	5,591	290.00
India	Rupee	7,500	500.00					7,500	500.00
United States	Dollar				5,562.00				5,562.00
Total			9,238.00		22,916.00		299.00		32,453.00

CLAIBORNE PELL,
Chairman, Committee on Foreign Relations, Apr. 18, 1989.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE UNDER AUTHORITY OF SEC. 22, P.L. 95-384—22 U.S.C. 1754(b), COMMITTEE ON LABOR AND HUMAN RESOURCES, FOR TRAVEL FROM JAN. 1 to MAR. 31, 1989

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Sarah A. Flanagan:									
Micronesia	Dollar		200.00						200.00
Marshall Islands	Dollar		200.00						200.00
Robert S. Lockwood:									
Bangladesh	Dollar				2,952.39				2,952.39
Total			400.00		2,952.39				3,352.39

EDWARD M. KENNEDY,
Chairman, Committee on Labor and Human Resources, Apr. 5, 1989.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE UNDER AUTHORITY OF SEC. 22, P.L. 95-384—22 U.S.C. 1754(b), SELECT COMMITTEE ON INTELLIGENCE, FOR TRAVEL FROM JAN. 1 TO MAR. 31, 1989

Name	Per diem		Transportation		Miscellaneous		Total	
	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Charles Battaglia		2,090.75		1,021.00				3,111.75
Senator Arlen Specter		1,788.32		2,042.00				3,830.32
John Despres		143.00		423.00				566.00
Senator Bill Bradley		168.00		423.00				591.00
Christopher Straub		89.65						89.65
Marvin Ott		104.00						104.00
Regina Genton		94.00						94.00
John Nelson		1,532.00		3,811.00				5,343.00
Gerald Montoya		1,532.00		3,811.00				5,343.00
Gregorio Cater		1,532.00		3,811.00				5,343.00
Total		9,073.72		15,342.00				24,415.72

DAVID L. BOREN,
Chairman, Select Committee on Intelligence, Mar. 31, 1989.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON THE JUDICIARY, FOR TRAVEL FROM OCT. 1 TO DEC. 31, 1988

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Senator Charles E. Grassley:									
Denmark	Dollar		406.00		48.00		144.00		598.00
Soviet Union	Dollar		1,000.00						1,000.00
Mary Hawkins:									
Denmark	Dollar		406.00		48.00		144.00		598.00
Soviet Union	Dollar		1,000.00						1,000.00
United States	Dollar				2,211.00				2,211.00
Robert J. Ludwiczak:									
Denmark	Dollar		406.00		48.00		144.00		598.00
Soviet Union	Dollar		1,000.00						1,000.00
United States	Dollar				2,211.00				2,211.00
Melissa B. Patack:									
Denmark	Dollar		406.00		48.00		144.00		598.00
Soviet Union	Dollar		1,000.00						1,000.00
United States	Dollar				2,211.00				2,211.00
Cecilia Swenson:									
Denmark	Dollar		406.00		48.00		144.00		598.00
Soviet Union	Dollar		1,000.00						1,000.00
United States	Dollar				2,211.00				2,211.00
Tara McMahon:									
Switzerland	Franc	220	155.00					220	155.00
Richard Day:									
England	Pound	114.79	150.00					114.79	150.00
Sudan	Dollar		200.00						200.00
Kenya	Shilling	5,631	309.00					5,631	309.00
Switzerland	Franc	469.45	320.00					469.45	320.00
United States	Dollar				5,459.00				5,459.00
David J. Harmer:									
Switzerland	Franc	220	155.00					220	155.00
Jerry Tinker:									
England	Pound	114.79	150.00					114.79	150.00
Sudan	Dollar		200.00						200.00
Kenya	Shilling	5,631	309.00					5,631	309.00
Switzerland	Franc	469.45	320.00					469.45	320.00
United States	Dollar				5,459.00				5,459.00
Total			9,298.00		20,002.00		720.00		30,020.00

JOE BIDEN,
Chairman, Committee on the Judiciary, Apr. 28, 1989.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), JOINT ECONOMIC COMMITTEE, FOR TRAVEL FROM JAN. 1 TO MAR. 31, 1989

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Stephen Quick:									
United States	Dollar				2,137.00				2,137.00
Netherlands	Guilder	1,416.91	672.00					1,416.91	672.00
Total			672.00		2,137.00				2,809.00

LEE H. HAMILTON,
Chairman, Joint Economic Committee, Apr. 13, 1989.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE UNDER AUTHORITY OF SEC. 22. P.L. 95–384—22 U.S.C. 1754(b), COMMISSION ON SECURITY AND COOPERATION IN EUROPE, FOR TRAVEL FROM JAN. 1 TO MAR. 31, 1989

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Jane S. Fisher:									
Austria	Schilling	12,524.40	994.00					12,524.40	994.00
United States	Dollar				2,367.30				2,367.30
Total			994.00		2,367.30				3,361.30

DENNIS DeCONCINI,
Chairman, Commission on Security and Cooperation in Europe,
Apr. 18, 1989.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE UNDER AUTHORITY OF SEC. 22, P.L. 95-384—22 U.S.C. 1754(b), FOR TRAVEL AUTHORIZED BY THE REPUBLICAN LEADER, NOV. 11-23, 1988

Name and Country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Senator Robert J. Dole:									
Philippines	Peso	2,280.65	106.95					2,280.65	106.95
Thailand	Baht	11,855	471.00					11,855	471.00
Singapore	Dollar	458.08	233.00					458.08	233.00
Indonesia	Rupiah	583,611	340.50					583,611	340.50
Senator James A. McClure:									
Philippines	Peso	5,715.10	268.00					5,715.10	268.00
Thailand	Baht	11,855	471.00					11,855	471.00
Singapore	Dollar	566.21	288.00					566.21	288.00
Indonesia	Rupiah	795,290	464.00					795,290	464.00
Senator Frank H. Murkowski:									
Philippines	Peso	5,715.10	268.00					5,715.10	268.00
Thailand	Baht	11,855	471.00					11,855	471.00
Singapore	Dollar	566.21	288.00					566.21	288.00
Indonesia	Rupiah	795,290	464.00					795,290	464.00
Senator Arlen Specter:									
Philippines	Peso	5,715.10	268.00					5,715.10	268.00
Thailand	Baht	11,855	471.00					11,855	471.00
Singapore	Dollar	566.21	288.00					566.21	288.00
Indonesia	Rupiah	795,290	464.00					795,290	464.00
Jo-Anne L. Coe:									
Philippines	Peso	5,715.10	268.00					5,715.10	268.00
Thailand	Baht	11,855	471.00					11,855	471.00
Singapore	Dollar	566.21	288.00					566.21	288.00
Indonesia	Rupiah	795,290	464.00					795,290	464.00
Al Lehn:									
Philippines	Peso	5,715.10	268.00					5,715.10	268.00
Thailand	Baht	11,855	471.00					11,855	471.00
Singapore	Dollar	566.21	288.00					566.21	288.00
Indonesia	Rupiah	795,290	464.00					795,290	464.00
Christina Bolton:									
Philippines	Peso	5,715.10	268.00					5,715.10	268.00
Thailand	Baht	11,855	471.00					11,855	471.00
Singapore	Dollar	566.21	288.00					566.21	288.00
Indonesia	Rupiah	795,290	464.00					795,290	464.00
Walt Riker:									
Philippines	Peso	5,715.10	268.00					5,715.10	268.00
Thailand	Baht	11,855	471.00					11,855	471.00
Singapore	Dollar	566.21	288.00					566.21	288.00
Indonesia	Rupiah	795,290	464.00					795,290	464.00
Jan Paulk:									
Philippines	Peso	5,715.10	268.00					5,715.10	268.00
Thailand	Baht	11,855	471.00					11,855	471.00
Singapore	Dollar	566.21	288.00					566.21	288.00
Indonesia	Rupiah	795,290	464.00					795,290	464.00
Alan Porter:									
Philippines	Peso	5,715.10	268.00					5,715.10	268.00
Thailand	Baht	11,855	471.00					11,855	471.00
Singapore	Dollar	566.21	288.00					566.21	288.00
Indonesia	Rupiah	795,290	464.00					795,290	464.00
Marcie Adler:									
Philippines	Peso	5,715.10	268.00					5,715.10	268.00
Thailand	Baht	11,855	471.00					11,855	471.00
Singapore	Dollar	566.21	288.00					566.21	288.00
Indonesia	Rupiah	795,290	464.00					795,290	464.00
Mike Glassner:									
Philippines	Peso	5,715.10	268.00					5,715.10	268.00
Thailand	Baht	11,855	471.00					11,855	471.00
Singapore	Dollar	566.21	288.00					566.21	288.00
Indonesia	Rupiah	795,290	464.00					795,290	464.00
Jon Lynn Kerchner:									
Philippines	Peso	5,715.10	268.00					5,715.10	268.00
Thailand	Baht	11,855	471.00					11,855	471.00
Singapore	Dollar	566.21	288.00					566.21	288.00
Indonesia	Rupiah	795,290	464.00					795,290	464.00
Delegation expenses: [1]									
Philippines							3,860.02		3,860.02
Thailand							6,690.18		6,690.18
Singapore							7,179.36		7,179.36
Indonesia							5,719.29		5,719.29
Total			19,043.45				23,448.85		42,492.30

[1] Delegation expenses include direct payments and reimbursements to the State Department and the Defense Department under authority of sec. 502(b) of the Mutual Security Act of 1954, as amended by sec. 22 of P.L. 95-384, and S. Res. 179, agreed to May 25, 1977.

ROBERT J. DOLE,
Republican Leader, Apr. 28, 1989.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE UNDER AUTHORITY OF SEC. 22, P.L. 95-384—22 U.S.C. 1754(b), FOR TRAVEL AUTHORIZED BY THE PRESIDENT PRO TEMPORE, JULY 1 TO SEPT. 30, 1988

Name and Country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Senator Christopher S. Bond:									
England	Dollar		1,235.00						1,235.00
Senator Jake Garn:									
England	Dollar		1,190.00						1,190.00
Senator Howell T. Heflin:									
England	Dollar		1,189.90						1,189.90
Senator John W. Warner:									
England	Dollar		1,025.00						1,025.00

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE UNDER AUTHORITY OF SEC. 22, P.L. 95-384—22 U.S.C. 1754(b), FOR TRAVEL AUTHORIZED BY THE PRESIDENT PRO TEMPORE, JULY 1 TO SEPT. 30, 1988—Continued

Name and Country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Barbara Andrews:									
England	Dollar		1,235.00						1,235.00
Greg Chapados:									
England	Dollar		988.00		317.00				1,305.00
Frank Sullivan:									
England	Dollar		1,235.00						1,235.00
Keith Kennedy:									
England	Dollar		1,235.00						1,235.00
Richard Collins:									
England	Dollar		1,235.00						1,235.00
Sean O'Keefe:									
England	Dollar		1,235.00						1,235.00
Howard O. Greene:									
England	Dollar		1,235.00						1,235.00
Jerry Ray:									
England	Dollar		1,235.00						1,235.00
Kathie Bridenbaugh:									
England	Dollar		1,950.00		641.00				2,591.00
Penelope S. German:									
England	Dollar		1,950.00		2,633.00				4,583.00
James D. Bond:									
England	Dollar		1,000.00		1,311.50				2,311.50
Robert S. Lockwood:									
England	Dollar		1,250.00		740.00				1,990.00
Delegation expenses [1]									
England							13,082.22		13,082.22
Total			20,422.90		5,642.50				39,147.62

[1] Delegation expenses include direct payments and reimbursements to the State Department under authority of sec. 502(b) of the Mutual Security Act of 1954, as amended by sec. 22 of P.L. 95-384.

JOHN C. STENNIS,
President Pro Tempore, Apr. 14, 1989.

CONSOLIDATED REPORT OF EXPENDITURES OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE UNDER AUTHORITY OF SEC. 22, P.L. 95-384—U.S.C. 1754(b), FOR TRAVEL AUTHORIZED BY THE PRESIDENT PRO TEMPORE, JAN. 1 TO MAR. 31, 1989

Name and Country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Steve Humphreys:									
Cuba	Dollar		410.00						410.00
United States	Dollar				547.00				547.00
Ellen McCulloch-Lovell:									
Israel	Shekel	1,145	640.00					1,145	640.00
Egypt	Pound	1,044.68	444.00					1,044.68	444.00
Total			1,494.00		547.00				2,041.00

ROBERT C. BYRD,
President Pro Tempore, Apr. 24, 1989.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE UNDER AUTHORITY OF SEC. 22, P.L. 95-384—22 U.S.C. 1754(b), FOR TRAVEL AUTHORIZED BY THE REPUBLICAN LEADER, JAN. 1 TO MAR. 31, 1989

Name and Country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Carl B. Feldbaum:									
Hungary	Forint	22,574	332.00					22,574	332.00
Syria	Dollar		332.00						332.00
Iraq	Dinar	61.46	198.28					61.46	198.28
Egypt	Pound	182.46	77.31					182.46	77.31
Israel	Dollar		528.00						528.00
United States	Dollar				4,107.00				4,107.00
Jordan	Dinar	49.095	91.00					49.095	91.00
Austria	Schilling	2,482.56	192.00					2,482.56	192.00
Senator Alan K. Simpson:									
Australia	Dollar	2,740.54	2,239.00					2,740.54	2,239.00
United States	Dollar				7,416.00				7,416.00
Donald L. Hardy:									
Australia	Dollar	2,740.54	2,239.00					2,740.54	2,239.00
United States	Dollar				4,686.00				4,686.00
Senator Frank H. Murkowski:									
Japan	Yen	167,282	1,290.17	126,475	965.46			293,757	2,255.63
United States	Dollar				3,341.29				3,341.29
Total			7,518.76		20,515.75				28,034.51

ROBERT J. DOLE,
Republican Leader, May 4, 1989.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE UNDER AUTHORITY OF SEC. 22, P.L. 95-384—22 U.S.C. 1754(b), FOR TRAVEL AUTHORIZED BY THE MAJORITY LEADER, JAN. 1 TO MAR. 31, 1989

Name and Country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Sally Walsh:									
Paraguay	Guarani	384,375	375.00					384,375	375.00
Argentina	Austral	2,912.78	177.50					2,912.78	177.00
Chile	Peso	39,476	139.00					39,476	139.00
Brazil	Cruzado	1,593,960	1,252.00					1,593,960	1,252.00
Robert Dockery:									
El Salvador	Colon	1,155	231.00					1,155	231.00
Mexico	Peso	948,192	408.00					948,192	408.00
United States	Dollar				871.00				871.00
Yvonne Hopkins:									
England	Pound	394.17	678.00					394.17	678.00
Belgium	Franc	14,329	366.00					14,329	366.00
Italy	Lire	863,100	630.00					863,100	630.00
Switzerland	Franc	324.66	201.00					324.66	201.00
France	Franc	2,755.90	434.00					2,755.90	434.00
Senator Alan Cranston:									
Japan	Yen	137,282	1,052.07	126,475	965.46			263,757	2,017.53
United States	Dollar				3,341.29				3,341.29
Total			5,943.57		5,177.75				11,121.32

GEORGE J. MITCHELL,
Majority Leader, May 2, 1989

HOST OF THE 1993 SUMMER WORLD UNIVERSITY GAMES

● Mr. MOYNIHAN. Mr. President, I thought the Senate should know that we received word last Friday afternoon that the city of Buffalo was selected by the International University Sports Federation to host its World University Games in the summer of 1993. The Senate added its support to Buffalo's application earlier this month when we agreed to Senate Concurrent Resolution 31, and now we should all be pleased that the World University Games will be coming to this country for the first time 4 years hence.

The World University Games are no small event. They will bring some 7,000 athletes from over 100 countries. over 100,000 spectators will attend competitions in 10 sports, and the events will be televised worldwide. Bringing the games to Buffalo is no small accomplishment, either. Eighteen months of hard work by Mr. Burt Flickenger, chairman of the local organizing committee, Erie County Executive Dennis Gorski, and the other committee members went into Buffalo's selection over Shanghai, China, and Fukuoka, Japan. They deserve our congratulations.

The work of preparing for the games now being in earnest. The preparations will include contacts with many Federal agencies on such matters as security, immigration, customs and trade issues, cultural festival promotion, and many more. I will glady work with the agencies to ensure that they cooperate in making the games a success. Should any of these matters come to the Senate for consideration, I trust my colleagues will choose to support Buffalo in every way possible.

There is also precedent for Federal financial support for events of this type, and when the time comes I will press the Senate to provide the appropriate assistance to the 1993 games. The 1987 Pan Am Games received $3 million for some of its activities. The Pan Am Games also received some $25 million in security-related support from the Department of Defense. The Senate should provide similar support for these games at the level necessary to ensure a safe and secure competition.

I also encourage Buffalo and the organizing committee to avail themselves of the existing Federal programs appropriate to their needs. I will certainly add my support, for this is a major event for Buffalo and the United States. It is an opportunity to provide the world's top college athletes a venue for spirited competition before millions of spectators. We should do our part to ensure the games' success.●

CONGRESSIONAL CALL TO CONSCIENCE

● Mr. BIDEN. Mr. President, I would like to take a few moments to mark the case of Boris Chernobilsky, a Soviet refusenik and former Prisoner of Conscience.

Last week my office received word that Mr. Chernobilsky and his family have been given permission by Soviet authorities to emigrate to Israel.

As Yogi Berra once said, I have a feeling of deja vu all over again. Because Mr. Chernobilsky has received this information twice before, and yet he and his family remain stuck in the Soviet Union. I am hopeful, but still skeptical, that this time the news of his emigration is for real.

Boris Chernobilsky could serve as a case study on the refusenik issue. For over 12 years, Chernobilsky, who is a radio electronics engineer from Moscow, has sought to emigrate to Israel with his wife and children. During this period, he suffered greatly at the hands of Soviet authorities. Over the years, he was fired from his job, served a prison sentence in a labor camp on a trumped-up charge, and was repeatedly harassed by agents of the KGB for his activities on behalf of other refuseniks.

Each of the last 2 years, the Soviet authorities have given their word that Boris Chernobilsky and his family could leave the Soviet Union. In 1987, the Soviet Embassy in Washington even took the trouble to write me a letter to give me the news. Unfortunately, Chernobilsky never received his exist visa, and remains stuck in Moscow.

I remain cautiously optimistic about the fate of Mr. Chernobilsky and his family, and I will not rest until I learn that they have arrived safely in Israel.

As we mark the joyous news of Boris Chernobilsky's release, let us also pause to remember the thousands of Soviet citizens for whom emigration remains but a dream. While the current rate of emigration in the Soviet Union is highly encouraging, it is by no means certain that it will be sustained. And long promised changes of that country's emigration laws have yet to be realized. Americans will be watching closely for these changes, in the hope that they will soon be forthcoming.●

EXECUTIVE SESSION

NOMINATION OF C. HOWARD WILKINS, JR., TO BE AMBASSADOR TO THE NETHERLANDS

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate go into executive session to consider the nomination of C. Howard Wilkins to be Ambassador to the Netherlands reported earlier today by the Foreign Relations Committee; that the nomination be confirmed; that the motion to reconsider be tabled; that the President be immediately notified of the Senate's action; and that the Senate return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nomination considered and confirmed is as follows:

C. Howard Wilkins, Jr., of Kansas, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Kingdom of the Netherlands.

STATEMENT ON NOMINATION OF C. HOWARD WILKINS, JR., TO BE AMBASSADOR TO THE NETHERLANDS

Mr. DOLE. Mr. President, I am very pleased to have the chance to urge unanimous Senate approval of the nomination of Howard Wilkins as Ambassador to the Netherlands.

Howard is an outstanding Kansan—A native, and resident still, of Wichita.

He is the first Kansan that I personally know of who has been nominated to an ambassadorial post. And I hope he will be only the first of several in this administration.

Howard Wilkins' record of personal accomplishment is impressive: he is an extraordinarily successful businessman, active in politics and civic affairs, and a devoted father of five fine children, He is also a good friend, for more than 20 years standing.

As Ambassador in The Hague, Howard will be in the "thick of the action" on issues like U.S.-NATO relations in the Gorbachev era, and U.S.-EEC trade ties as 1992 approaches. In particular, as a Senator representing one of our great agricultural States, I look forward to having "one of our own" as we grapple with the agricultural issues that are so central to our trade problems with Western Europe.

Howard Wilkins is up to the big challenges that he faces. That's why the President has nominated him; why the committee has voted unanimously for his nomination; and why I can so confidently urge all Senators to join in giving him an affirmative vote.

In closing, I want to express my personal thanks, again, to the Chairman of the Committee, Senator PELL, and our Republican ranking member, Senator HELMS, for moving this nomination expeditiously. We were faced with a tight deadline, to get Howard to post, so that he could present his credentials and be ready for the President's planned visit to the Netherlands; and thanks to the great help of Senators PELL and HELMS, we will meet the deadline.

Mr. President, I also wish to thank the majority leader and my colleague on that committee, Senator KASSEBAUM, and Senator SARBANES who had some questions but they were resolved this afternoon in a discussion with Senator KASSEBAUM in the committee.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will now resume legislative session.

REMOVAL OF INJUNCTION OF SECRECY—TREATY DOCUMENT NO. 101-4

Mr. MITCHELL. Mr. President, as in executive session, I ask unanimous consent that the injunction of secrecy be removed from the United Nations Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances (Treaty Document No. 101-4), transmitted to the Senate yesterday, June 19, 1989, by the President.

I also ask that the treaty be considered as having been read the first time; that it be referred, with accompanying papers, to the Committee on Foreign Relations and ordered to be printed; and that the President's message be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The message of the President is as follows:

To the Senate of the United States:

With a view to receiving the advice and consent of the Senate to ratification, I transmit herewith the United Nations Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, done at Vienna on December 20, 1988. I also transmit, for the information of the Senate, the report of the Department of State with respect to the Convention.

The production, trafficking, and consumption of illicit narcotics have become a worldwide menace of unprecedented proportions. Narcotics trafficking and abuse threaten the developing and industrialized nations alike, eroding fragile economies, endangering democratic institutions, and affecting the health and well-being of people everywhere. The profits made from the international drug trade are consolidated in the hands of powerful drug lords who operate with impunity outside the law. The widespread corruption, violence, and human destruction associated with the drug problem imperil all nations and can only be suppressed if all nations cooperate effectively in bringing to justice those who engage in illicit trafficking and abuse.

Patterned after many existing U.S. laws and procedures, the present Convention represents a significant step forward in international efforts to control the illicit traffic in narcotic drugs and psychotropic substances. The Convention obligates states party to the agreement to cooperate in suppressing illicit traffic and to take specific law enforcement measures and enact domestic laws, including those relating to money laundering, confiscation of assets, extradition, mutual legal assistance, and trade in chemicals, materials, and equipment used in the illegal manufacture of controlled substances. These and other provisions seek to establish a comprehensive set of laws and guidelines for a concerted and more effective effort on an international basis to combat illicit trafficking.

Having taken 4 years to complete, working the Convention began in 1984 under United Nations auspices, and it was adopted at an international conference held in Vienna in November and December 1988. The United States and 43 other nations signed the Convention at that time, and 16 others have signed since then. The Vienna Convention is a tribute to the United Nations and represents the broadest and most far-reaching set of laws and agreements ever adopted in this field. It is strongly indicative of the political will of the states that adopted it and puts those who profit from this evil trade on notice that it will no longer be tolerated. It is clear the Convention has enthusiastic support in the international community, and it is expected that all states will unreservedly endorse this major step to unify and internationalize the fight against drugs and to generate universal action.

I recommend, therefore, that the Senate give early and favorable consideration to this Convention and give its advice and consent to ratification.

GEORGE BUSH.

THE WHITE HOUSE, *June 19, 1989.*

THE CALENDAR

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar Order Nos. 128 and 129 en bloc; that the resolutions be deemed agreed to en bloc and that a motion to reconsider the vote by which the resolutions were agreed to en bloc be in order and be laid upon the table. I further ask unanimous consent that the consideration of these items appear individually in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

AUTHORIZING THE DISCHARGE OF CERTAIN FUNCTIONS BY THE SECRETARY OF THE SENATE

The resolution (S. Res. 147) to authorize the Secretary of the Senate to discharge certain functions under chapter 37 of title 31, United States Code (relating to claims of or against the United States Government), was considered, and agreed to; as follows:

S. RES. 147

Resolved, That, for purposes of subchapter I and II of chapter 37 of title 31, United States Code (relating to claims of or against the United States Government), the United States Senate shall be considered to be a legislative agency (as defined in section 3701(a)(4) of such title), and the Secretary of the Senate shall be deemed to be the head of such legislative agency.

SEC. 2. Regulations prescribed by the Secretary pursuant to section 3716 of title 31, United States Code, shall not become effective until they are approved by the Senate Committee on Rules and Administration.

PURCHASE OF CALENDARS

The resolution (S. Res. 148) relating to the purchase of calendars, was considered, and agreed to, as follows:

S. RES. 148

Resolved, That the Committee on Rules and Administration is authorized to expend from the contingent fund of the Senate, upon vouchers approved by the chairman of that committee, not to exceed $72,800 for the purchase of one hundred and four thousand 1990 "We the People" historical calendars. The calendars shall be distributed as prescribed by the committee.

ORDER OF PROCEDURE

Mr. MITCHELL. Mr. President, for the information of Senators, I now have before me a copy of the amendment intended to be proposed by Senator DOLE to the amendment which I previously proposed and which is now pending. I understand that Senator DOLE will address this briefly and that this will be placed in the RECORD for printing. Senators will then have the opportunity to review it tomorrow morning with it being printed in the RECORD.

It is our intention, following discussions throughout the day, that tomorrow morning when we return to the bill, I will propound a unanimous-consent request seeking to establish the process by which the Dole amendment will be considered, following which my amendment will be considered, to include specific items for disposition of those amendments. I now expect the votes on those, if we proceed with the agreement to propound it as now we are considering, to occur on Thursday morning.

Senators should be aware that it is my intention that the Senate will remain in session until we have completed action on the child care bill. I recognize that a recess is to commence at the close of business on Friday and, therefore, it is my hope that we will be able to complete action by that time. But, if not, then we will remain in session for as long and until such time as we do complete action on it. So Senators should be aware of that. It is not my intention to inconvenience any Senators, but this is a very important matter.

There will be pending before the Senate two proposals to deal with it. Following action on the two amendments, the matter will be open, in whatever form it then stands, to further amendment and there may be several amendments offered. So it is very likely, indeed, I think the minority leader would concur that it is almost certain that there will be a lengthy session on Thursday, with a possibility of a very lengthy session on Friday, as well.

In addition, we expect to receive from the House the conference report on the supplemental appropriations bill, possibly sometime late tomorrow. If not, at the latest on Thursday. And we must address ourselves to that important issue.

So we hope that the work we have been doing today in attempting to set forth a process for disposing of this matter will ultimately save time and enable us to reach a final decision on this matter, in a manner that is finally decided on by the Senate. But members should be aware that we are going to have, very clearly, a long session on Thursday, going very late into the evening, and a possibility of a similar session on Friday. And, if we have not by that time concluded action on this matter, we are going to stay here as long as it takes to do so.

This is a very important matter and I believe it is our obligation to complete action on it.

Mr. President, I yield, now, to the distinguished Republican leader.

PROPOSED AMENDMENT

Mr. DOLE. Mr. President, I send to the desk an amendment that I will propose tomorrow morning in the event the agreement is reached. I ask it be printed in the RECORD so all Senators may have notice of the amendment.

The PRESIDING OFFICER. Without objection, the amendment will be received and printed in the RECORD.

The amendment is as follows:

Beginning on page 1, line 3, strike all through page 96, line 25.

Beginning on page 97, after line 4, strike all through page 112, line 6.

On page 158, after line 11, insert the following:

TITLE II—EARNED INCOME CREDIT

SEC. 201. INCREASE IN EARNED INCOME CREDIT.

(a) IN GENERAL.—Subsections (a) and (b) of section 32 of the Internal Revenue Code of 1986 are amended to read as follows:

"(a) ALLOWANCE OF CREDIT.—There is allowed as a credit against the tax imposed by this subtitle for the taxable year an amount equal to the sum of the following amounts:

"(1) GENERAL CREDIT.—In the case of an eligible individual, an amount equal to 14 percent of so much of the earned income for the taxable year as does not exceed $5,714.

"(2) SUPPLEMENT FOR YOUNG CHILDREN.—

"(A) IN GENERAL.—In the case of an eligible individual with 1 or more qualifying children, an amount equal to the lesser of—

"(i) the applicable percentage of so much of the earned income for the taxable year as does not exceed $5,714, or

"(ii) $750 ($500 for an eligible individual with only 1 qualifying child).

"(B) APPLICABLE PERCENTAGE.—The term 'applicable percentage' means 12 percent (8 percent for an eligible individual with only 1 qualifying child).

"(b) LIMITATIONS.—

"(1) GENERAL CREDIT.—The amount of the credit allowable to a taxpayer under subsection (a)(1) for any taxable year shall be reduced (but not below zero) by 10 percent of so much of the adjusted gross income (or, if greater, the earned income) of the taxpayer for the taxable year as exceeds $9,000.

"(2) SUPPLEMENT FOR YOUNG CHILDREN.—The amount of the credit allowable to a taxpayer under subsection (a)(2) for any taxable year shall be reduced (but not below zero) by 15 percent (10 percent for an eligible individual with only 1 qualifying child) of so much of the adjusted gross income (or, if greater, the earned income) of the taxpayer for the taxable year as exceeds $10,000."

(b) QUALIFYING CHILD DEFINED.—Subsection (c) of section 32 of the Internal Revenue Code of 1986 is amended by adding at the end thereof the following new paragraph:

"(3) QUALIFYING CHILD.—The term 'qualifying child' means, for the taxable year, an individual—

"(A) with respect to whom the taxpayer qualifies as an eligible individual, and

"(B) who, as of the end of such taxable year, has not attained the age of 5."

(c) CONFORMING AMENDMENTS.—

(1) Subsection (f)(1) of section 32 of the Internal Revenue Code of 1986 is amended by inserting "(including separate tables for individuals with qualifying children)" after "Secretary".

(2) Subsection (i) of section 32 of such Code is amended—

(1) by inserting "('calendar year 1990' for 'calendar year 1987' in the case of the dollar amount referred to in clause (iii) of paragraph (2)(B))" before the period at the end of paragraph (1)(B), and

(2) by striking paragraph (2) and inserting the following new paragraph:

"(2) DEFINITIONS, ETC.—For purposes of paragraph (1)—

"(A) APPLICABLE CALENDAR YEAR.—The term 'applicable calendar year' means—

"(i) 1986 in the case of the dollar amount referred to in clause (i) of subparagraph (B),

"(ii) 1987 in the case of the dollar amount referred to in clause (ii) of subparagraph (B), and

"(iii) 1991 in the case of the dollar amount referred to in clause (iii) of subparagraph (B).

"(B) DOLLAR AMOUNTS.—The dollar amounts referred to in the subparagraph are—

"(i) the $5,714 amount contained in paragraphs (1) and (2) (A)(i) of subsection (a),

"(ii) the $9,000 amount contained in subsection (b)(1), and

"(iii) the $10,000 amount contained in subsection (b)(2)."

(3) Subsection (b) of section 3507 of such Code is amended by striking "and" at the end of paragraph (2), by striking the period at the end of paragraph (3) and inserting ", and", and by inserting after paragraph (3) the following new paragraph:

"(4) states the number of qualifying children (as defined in section 32(c)(3)) of the employee for the taxable year.".

(4) Paragraph (1) of section 3507(c) of such Code is amended—

(A) by striking "and" at the end of subparagraph (A),

(B) by redesignating subparagraph (B) as subparagraph (C), and

(C) by inserting after subparagraph (A) the following new subparagraph:

"(B) on the basis of the number of qualifying children (as defined in section 32(c)(3)) of the employee for such period, and".

(5) Paragraph (2) of section 3507(c) of such Code is amended—

(A) by striking "paragraph (1)(B)" and inserting "paragraph (1)(C)", and

(B) by striking "14 percent" in subparagraphs (B)(i) and (C)(i) and inserting "the sum of 14 percent and the applicable percentage".

(6) Section 3507 of such Code is amended by adding at the end thereof the following new subsection:

"(f) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to carry out the purposes of this section."

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1990.

TITLE III—DEPENDENT CARE CREDIT

SEC. 301. DEPENDENT CARE CREDIT MADE REFUNDABLE; OTHER CHANGES.

(a) CREDIT MADE REFUNDABLE.—Section 21 of the Internal Revenue Code of 1986 is amended by redesignating subsection (f) as subsection (g) and by inserting after subsection (e) the following new subsection:

"(f) CREDIT REFUNDABLE FOR LOW AND MODERATE INCOME TAXPAYERS.—

"(1) IN GENERAL.—For purposes of this subtitle and section 6401, in the case of an applicable taxpayer, the credit allowable under subsection (a) for any taxable year shall be treated as a credit allowable under subpart C of this part.

"(2) APPLICABLE TAXPAYER.—For purposes of this subsection, the term 'applicable taxpayer' means a taxpayer whose adjusted gross income for the taxable year does not exceed $28,000.

"(3) COORDINATION WITH ADVANCE PAYMENTS AND MINIMUM TAX.—Rules similar to the rules of subsections (g) and (h) of section 32 shall apply with respect to the portion of any credit to which this subsection applies."

(b) ADVANCE PAYMENT OF CREDIT.—

(1) IN GENERAL.—Chapter 25 of the Internal Revenue Code of 1986 is amended by inserting after section 3507 the following new section:

"SEC. 3507A. ADVANCE PAYMENT OF DEPENDENT CARE CREDIT.

"(a) GENERAL RULE.—Except as otherwise provided in this section, every employer making payment of wages with respect to whom a dependent care eligibility certificate is in effect shall, at the time of paying such wages, make an additional payment equal to such employee's dependent care advance amount.

"(b) DEPENDENT CARE ELIGIBILITY CERTIFICATE.—For purposes of this title, a dependent care eligibility certificate is a statement furnished by an employee to the employer which—

"(1) certifies that the employee will be eligible to receive the credit provided by section 21 for the taxable year,

"(2) certifies that the employee reasonably expects to be an applicable taxpayer (within the meaning of section 21(f)(2)) for the taxable year,

"(3) certifies that the employee does not have a dependent care eligibility certificate in effect for the calendar year with respect to the payment of wages by another employer,

"(4) states whether or not the employee's spouse has a dependent care eligibility certificate in effect,

"(5) states the number of qualifying individuals (as defined in section 21(b)(1)) in the household maintained by the employee, and

"(6) estimates the amount of employment-related expenses (as defined in section 21(b)(2)) for the calendar year.

For purposes of this section, a certificate shall be treated as being in effect with respect to a spouse if such a certificate will be in effect on the first status determination date following the date on which the employee furnishes the statement in question.

"(c) DEPENDENT CARE ADVANCE AMOUNT.—

"(1) IN GENERAL.—For purposes of this title, the term 'dependent care advance amount' means, with respect to any payroll period, the amount determined—

"(A) on the basis of the employee's wages from the employer for such period,

"(B) on the basis of the number of qualifying individuals (as defined in section 21(b)(1)) in the household maintained by the employee,

"(C) on the basis of the employee's estimated employment-related expenses included in the dependent care eligibility certificate, and

"(D) in accordance with tables provided by the Secretary.

"(2) ADVANCE AMOUNT TABLES.—The tables referred to in paragraph (1)(D) shall be similar in form to the tables prescribed under section 3402 and, to the maximum extent feasible, shall be coordinated with such tables and the tables prescribed under section 3507(c).

"(d) OTHER RULES.—For purposes of this section, rules similar to the rules of subsections (d) and (e) of section 3507 shall apply.

"(e) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to carry out the purposes of this section."

(2) CONFORMING AMENDMENT.—The table of sections for chapter 25 of such Code is amended by adding after the item relating to section 3507 the following new item:

"Sec. 3507A. Advance payment of dependent care credit."

(c) CERTAIN SUBSIDIZED EXPENSES NOT ELIGIBLE FOR CREDIT.—Section 21(e) of the Internal Revenue Code of 1986 is amended by adding at the end there the following new paragraph:

"(10) SUBSIDIZED EXPENSES.—No expense shall be treated as an employment-related expense to the extent such expense—

"(A) is paid, reimbursed, or subsidized (whether by being disregarded for purposes of another program or otherwise) by the Federal Government, a State or local government, or any agency or instrumentality thereof, and

"(B) is not includible in the gross income of the recipient."

(d) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in this subsection, the amendments made by this section shall apply to taxable years beginning after December 31, 1989.

(2) ADVANCE PAYMENT OF CREDIT.—The amendments made by subsection (b) shall apply to taxable years beginning after December 31, 1991.

(3) ONLY PORTION OF CREDIT REFUNDABLE IN 1990.—In the case of any taxpayer to whom section 21(f) of the Internal Revenue Code of 1986 (as added by subsection (a)) applies for any taxable year beginning in 1990—

(A) 50 percent of the amount of the credit allowable under section 21(a) of such Code for such taxable year shall be treated as a credit allowable under subpart C of part IV of subchapter A of chapter 1 of such Code, and

(B) the remaining 50 percent of the amount of such credit shall be treated as a credit allowable under section 21 of such Code.

SEC. 302. STUDY OF ADVANCE PAYMENTS.

(a) IN GENERAL.—The Comptroller General of the United States shall, in consultation with the Secretary of the Treasury, conduct a study of advance payments required by section 3507A of the Internal Revenue Code of 1986 (as added by section 201(b)(1)) to determine—

(1) the effectiveness of the advance payment system, and

(2) the manner in which such system can be implemented to alleviate administrative complexity, if any, for small business.

(c) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Comptroller shall report the results of the study conducted under subsection (a), together with any recommendations, to the Committee on Finance of the United States Senate and the Committee on Ways and Means of the House of Representatives.

SEC. 303. PROGRAM TO INCREASE PUBLIC AWARENESS.

Not later than the first day of the first calendar year following the date of the enactment of this Act, the Secretary of the Treasury and the Secretary of Labor, or the delegates of the Secretaries, shall establish a taxpayer awareness program to inform the taxpaying public of the availability of the credit for dependent care and the earned income tax credit allowed under sections 21 and 32 of the Internal Revenue Code of 1986, respectively. Such public awareness program shall be designed to assure that individuals who may be eligible are informed of the availability of such credits and filing procedures. The Secretary shall use public service and paid commercial advertising, direct-mail contact, and any other appropriate means of communication to carry out the provisions of this section.

TITLE IV—BLOCK GRANT TO STATES FOR CHILD CARE SERVICES

SEC. 401. ESTABLISHMENT OF BLOCK GRANT.

The State Dependent Care Development Grants Act (42 U.S.C. 9871 et seq.) is amended—

(1) by inserting after the subchapter designation the following:

"PART 1—DEPENDENT CARE PROGRAMS"; and

(2) by adding at the end thereof the following new part:

"PART 2—BLOCK GRANT TO STATES FOR CHILD CARE

"SEC. 670I. AUTHORIZATION OF APPROPRIATIONS.

"For the purpose of making allotments to States to carry out the activities described in section 670L, there are authorized to be appropriated $400,000,000 for each of the fiscal years 1990 through 1994.

"SEC. 670J. ALLOTMENTS.

"(a) FORMULA.—

"(1) IN GENERAL.—The Secretary shall make an allotment to each State for each fiscal year, in an amount that bears the same ratio to the amount appropriated under section 670I for such fiscal year as the allotment figure of paragraph (2) for such State bears to the allotment figure for all States.

"(2) ALLOTMENT FIGURE.—The allotment figure for a State shall be the sum of—

"(A) the number of children who are under the age of 13 who reside in such State divided by the number of children who are under the age of 13 who reside in all States; and

"(B) the relative per capita income of the State multiplied by the factor determined under subparagraph (A) for such State.

"(3) DEFINITION.—For purposes of this section, the term 'relative per capita income' means—

"(A) the quotient of the per capita income of the United States divided by the per capita income of the State; or

"(B) in the case of Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, the Trust Territory of the Pacific Islands, the Commonwealth of Puerto Rico, or the Virgin Islands, the quotient shall be considered to be 1.

"(b) ADDITIONAL ALLOTMENT.—

"(1) METHOD OF ALLOTMENT.—Any amounts not allotted under subsection (a) shall be allotted among each of the States in proportion to the amount otherwise allotted to such States for such fiscal year under subsection (a).

"(2) DEFINITION.—For the purposes of this subsection, the term 'State' does not include Guam, American Samoa, the Virgin Islands, the Commonwealth of the Northern Mariana Islands, and the Trust Territory of the Pacific Islands.

"SEC. 670K. PAYMENTS UNDER ALLOTMENTS TO STATES.

"(a) IN GENERAL.—The Secretary shall make payments from amounts made available for each fiscal year pursuant to section 670I, as provided by section 101 of title 31, United States Code, to each State in an amount (not to exceed its allotment under section 670J for such fiscal year) equal to the Federal share of the aggregate amount to be expended by the State under the State plan for such fiscal year.

"(b) FEDERAL SHARE.—The Federal share for each fiscal year shall be 85 percent.

"(c) STATE SHARE.—The State share shall equal 100 percent minus the Federal share.

"(d) CARRYOVER.—Any amount paid to a State for a fiscal year and remaining unobligated at the end of that year shall remain available, for the next fiscal year, to the State for the purposes for which the payment to the State was made.

"SEC. 670L. USE OF ALLOTMENTS.

"(a) PROJECT GRANTS.—Amounts paid to a State under section 670C shall be used by the State to make grants to eligible entities to enable such entities to conduct activities to improve the quality and availability of child care in such State.

"(b) ACTIVITIES.—Activities described under subsection (a) may include—

"(1) State and local resource and referral systems to provide information on child care services including, information on their availability, types, costs, and location;

"(2) activities to provide consumer education to enable individuals to select high quality child care services;

"(3) activities to improve the development, modification and enforcement of State and local child care standards and requirements;

"(4) training and technical assistance for child care providers and workers to improve their ability—

"(A) to comply with State and local health and safety standards and requirements;

"(B) to detect communicable diseases;

"(C) to detect and to prevent the abuse of children;

"(D) to use effective budget and accounting procedures;

"(E) to take full advantage of beneficial tax laws;

"(F) to reduce liability risks; and

"(G) to take any other actions designed to improve the quality of the child care services provided by such providers;

"(5) recruitment and training programs to increase the number of child care providers and volunteers, including the number of seniors who provide child care services;

"(6) activities to encourage the innovative development of before and after school care;

"(7) loan or grant programs for the renovation or modification of existing structures to meet State and local health and safety standards and requirements;

"(8) activities to reduce barriers to obtaining affordable liability insurance, such as the formation of child care liability risk retention groups;

"(9) activities to encourage the development of employer-assisted child care;

"(10) providing tax credits to low income working families with children, including two parent families in which one parent cares for the children of such family at home;

"(11) activities to increase child care services for children who are sick and temporarily unable to be cared for by their regular child care provider;

"(12) activities to increase the supply of child care services for children of individuals who are employed during non-traditional times of the day or week; and

"(13) activities to increase the supply of child care services to help meet the needs of special populations including children who are homeless, migrant, disabled, abused, neglected, or children of minors.

"(c) LIMITATIONS.—A State shall not use amounts paid to, or on behalf of it under section 670K to—

"(1) make cash payments to, or on behalf of, intended recipients of child care services;

"(2) pay for all or any part of the salaries of child care providers or their employees or staff or otherwise to pay for the operating costs of providing child care services;

"(3) pay for the costs of construction or land acquisition; or

"(4) satisfy any requirements for the expenditures of non-Federal funds as a condition for the receipt of Federal funds.

"(d) TECHNICAL ASSISTANCE.—The Secretary may provide technical assistance to States in planning and operating projects and activities to be carried out under this part.

"(e) STATE ADMINISTRATION.—Not to exceed 7 percent of the total amount paid to a State under section 670K for a fiscal year shall be used for administering the funds made available under such section. The State shall pay from non-Federal sources the remaining costs of administering such funds.

"SEC. 670M. APPLICATION AND STATE PLAN.

"(a) SUBMISSION.—

"(1) IN GENERAL.—To receive an allotment under section 670J, each State shall submit an application to the Secretary in such form, containing such information, and by such date as the Secretary shall require.

"(2) PLAN.—Each application submitted under paragraph (1) shall contain a plan that meets the requirements of subsection (b).

"(b) STATE PLAN.—Not later than 12 months after the date of enactment of this section, each State desiring to participate in the program authorized under this part shall prepare and submit to the Secretary a State plan. Each such plan shall—

"(1) describe the State agency that will administer the programs authorized under this part;

"(2) describe the authorized activities for which assistance is sought under this part;

"(3) provide assurances that the State will not expend in excess of 7 percent of the State allotment under section 670J during each fiscal year for administrative costs;

"(4) provide assurances that the State will give priority to activities that serve low-income areas and populations in accordance with criteria to be determined by the Secretary;

"(5) provide assurances that the State will coordinate the child care activities carried out with funds provided under this part with other Federal and State child care activities undertaken in the State through Federal or State programs;

"(6) provide such fiscal control and accounting procedures as may be necessary—

"(A) to ensure the proper accounting of Federal funds paid to the State under this subchapter; and

"(B) to ensure the verification of reports required under this subchapter; and

"(7) provide such additional assurances as the Secretary may reasonably require.

"SEC. 670N. REPORTING REQUIREMENTS.

"(a) STATE REPORTS.—Not later than 12 months after a State receives funds under this subchapter, and at 12-month intervals thereafter, the chief executive officer of such State shall prepare and submit to the Secretary, in such form as the Secretary shall prescribe, a report describing the States' use of funds received under this part.

"(b) REPORT TO CONGRESS.—Not later than 6 months after the receipt of State reports required under subsection (a), and at 12-month intervals thereafter, the Secretary shall prepare and submit, to the appropriate Committees of Congress, a report containing a summary of the information contained in the State reports submitted under subsection (a), and any additional information the Secretary considers appropriate.

"SEC. 670O. DEFINITIONS.

"As used in this part:

"(1) ELIGIBLE ENTITY—The term 'eligible entity' includes providers of child care services, and would not exclude religiously-affiliated providers.

"(2) SECRETARY.—The term 'Secretary' means the Secretary of Health and Human Services.

"(3) STATE.—The term 'State' means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, the Trust Territory of the Pacific Islands,

and the Commonwealth of the Northern Mariana Islands.".

TITLE IV—TREATMENT OF CHILD CARE EARNINGS

SEC. 401. CHILD CARE EARNINGS EXCLUDED FROM WAGES AND SELF-EMPLOYMENT INCOME FOR EXCESS EARNINGS TEST.

(a) WAGES.—Section 203(f)(5)(C) of the Social Security Act (42 U.S.C. 403(f)(5)(C)) is amended—

(1) by striking out "or" at the end of clause (i),

(2) by striking out the period at the end of clause (ii) and inserting in lieu thereof ", or", and

(3) by adding at the end thereof the following new clause:

"(iii) the amount of any payment made to an employee who has attained retirement age (as defined in section 216(l)) by an employer for child care services (including indirect services) performed by such employee after the month in which such employee initially becomes entitled to insurance benefits under this title.".

(b) SELF-EMPLOYMENT INCOME.—Section 203(f)(5)(D) of such Act (42 U.S.C. 403(f)(5)(D)) is amended—

(1) by striking out "or" at the end of clause (i),

(2) by adding "or" at the end of clause (ii),

(3) by inserting immediately after clause (ii) the following new clause:

"(iii) an individual who has attained retirement age (as defined in section 216(l)) who has become entitled to insurance benefits under this title, any income attributable to child care services (including indirect services) performed after the month in which such individual becomes entitled to such benefits,", and

(4) by striking out "royalties or other income" and inserting in lieu thereof "royalties or income".

(c) PAYMENTS OF CERTAIN RECOMPUTED BENEFITS DELAYED.—Section 215(f)(2) of the Social Security Act (42 U.S.C. 415(f)(2)) is amended by adding at the end thereof the following new subparagraph:

"(E) Under regulations of the Secretary, monthly benefits increased as a result of a recomputation under this paragraph shall be further increased on an actuarial basis to include such benefits which would have otherwise been paid in a lump sum (determined from the recomputation date to the effective date of such recomputation as provided under subparagraph (D)) as exceed an amount equal to such additional benefits determined for a thirteen month period beginning from such recomputation date.".

(d) EFFECTIVE DATES.—

(1) The amendments made by subsections (a) and (b) shall apply to wages or income earned after December 31, 1989.

(2) The amendment made by subsection (c) shall apply to recomputations made after December 31, 1989.

SEC. 402. SHORT TITLE.

This Act may be cited as the "Working Family Child Care Act of 1989".

Mr. DOLE. Let me indicate that this amendment tonight is being reviewed by Treasury, by Labor, by a member of Senator PACKWOOD's staff, to make certain we have no errors. Because under the agreement, once it is offered and an agreement is reached, it cannot be changed.

I believe it is correct, but I would reserve the right, which I have, to offer a slightly different amendment tomorrow if we find mistakes or if we decide to make an addition.

Mr. MITCHELL. No, I understand that in good faith the Republican leader is giving us the amendment as it currently stands and as he intends to offer it, but he reserves the right to make any changes to correct any errors. It is not the Republican leader's intention to make any major substantive changes, is what I understood to be the case. And I am very grateful to him in that regard.

Mr. DOLE. I would also indicate that I hope we can get unanimous consent tomorrow morning to first move ahead on the amendment that I will offer to the pending amendment and then, depending on what happens to that on the Mitchell amendment, the majority leader's amendment. And, depending on what happens there I assume there will be additional amendments. We have not made a check on this side. I am not certain how many; how long it might take.

But I think the message has been clear from the majority leader. Members will be on notice, we will be here late on Thursday night and the same could happen on Friday night and beyond if final action is not concluded.

I do not believe we could get agreement tomorrow for any final vote on whatever may be remaining, but at least this will give us a good start.

Mr. MITCHELL. Right. I agree with the Republican leader. It is not my intention to try to get agreement tomorrow on final disposition because we do not know what or how many amendments will be offered.

Perhaps at some point on Thursday, after we have had an opportunity to proceed for some time and have some sense of where we stand on amendments, it may be appropriate to do so. But I think for now if we can get the agreement we have been talking about today, that will be a significant step toward completing action on this matter.

Mr. DOLE. It would be my hope that tomorrow morning, if we can clear it on this side, that we might dispose of pending nominations of Mr. Secchia and Mr. Reed, and maybe reach some agreement on another pending nomination, Mr. Hecht. I have discussed that with the majority leader.

I understand there are no requests of Mr. Reed and Mr. Secchia for rollcall votes on this side so there could be some agreement. Perhaps we could do that at some lull tomorrow.

Mr. MITCHELL. In accordance with the Republican leader's request, I will ask our staff to determine, on our side, whether there are any requests for rollcall votes or any objection thereto, and I will be pleased to take it up in an effort to move forward on these matters tomorrow.

Mr. DOLE. I thank the majority leader.

APPOINTMENT BY THE REPUBLICAN LEADER

The PRESIDING OFFICER. If the majority leader will suspend for a moment, the Chair would like to make an announcement. On behalf of the Republican leader, pursuant to Public Law 100-204 the Chair announces the appointment of the Senator from Kansas [Mrs. KASSEBAUM] to the U.S. Commission on Improving the Effectiveness of the United Nations.

ORDERS FOR WEDNESDAY, JUNE 21, 1989

RECESS UNTIL 10 A.M. AND MORNING BUSINESS

Mr. MITCHELL. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in recess until 10 a.m. on Wednesday, June 21, and that following the time for the two leaders there be a period for morning business not to extend beyond 11 a.m. with Senators permitted to speak therein for up to 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

RESUME CONSIDERATION OF S. 5 AT 11 A.M.

Mr. MITCHELL. Mr. President, I further ask unanimous consent that at 11 a.m. on tomorrow, the Senate resume consideration of S. 5, the child-care bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS UNTIL 10 A.M. TOMORROW

Mr. MITCHELL. Mr. President, if there be no further business, I ask unanimous consent that the Senate stand in recess under the previous order until 10 a.m. on tomorrow, Wednesday, June 21.

There being no objection, the Senate, at 7:24 p.m., recessed until Wednesday, June 21, 1989, at 10 a.m.

CONFIRMATION

Executive nomination confirmed by the Senate June 20, 1989:

DEPARTMENT OF STATE

C. HOWARD WILKINS, JR., OF KANSAS, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE KINGDOM OF THE NETHERLANDS.

THE ABOVE NOMINATION WAS APPROVED SUBJECT TO THE NOMINEE'S COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.

EXTENSIONS OF REMARKS

WHAT DOES THE FMLN REALLY WANT?

HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 20, 1989

Mr. LAGOMARSINO. Mr. Speaker, in late April, the FMLN guerrillas in El Salvador announced they would step up their military campaign in order to thwart the war-mongering policies of the Government. Surely, that must strike my colleagues as hypocritical. The FMLN continues to resort to terrorist attacks, political assassinations, and sabotage while criticizing the Government for using its military forces to defend itself.

In a recent commentary sponsored by the Independent Human Rights Organization Freedom House, Douglas Payne analyzes the question: "What does the FMLN Really Want?"

I urge my colleagues to read carefully this analysis.

A QUESTION OF EL SALVADOR: WHAT DOES THE FMLN REALLY WANT?

(By Douglas Payne)

"Sudden turnaround" and "abrupt reversal" are phrases most often used to describe the recent peace proposals by El Salvador's Farabundo Marti National Liberation Front (FMLN). Many observers emphasize that the FMLN guerrillas are no longer demanding a share of power. Many say that the offer to participate in elections means the FMLN has finally agreed to recognize the democratic system it's been trying to overthrow.

But a closer examination of internal FMLN documents, and the group's actual behavior while proposing peace, reveals that the FMLN's objective has not changed; it has merely made a strategic adjustment. Secondly, a closer inspection of the organization itself reveals totalitarian methods of internal control that make the avowedly Marxist-Leninist FMLN a highly unlikely participant in a democratic system. After a decade of war, there is a natural desire to pursue any avenue for peace, but there is strong evidence that the FMLN proposals should be approached with extreme caution.

Since 1980, the FMLN has followed a clear pattern. It has consistently 1) over-calculated its strength, both militarily and politically, then 2) bought time to recover from defeat with peace proposals aimed at both domestic and international audiences. The FMLN's failure to foment insurrection in 1988, followed by peace proposals in 1989, appears to fit the pattern.

But the timing of these proposals during an electoral campaign, with a simultaneous increase in the use of violent tactics, signals the offensive nature of the current initiative. The FMLN is not just buying time, it is seeking to effectively coordinate, for the first time, armed action with political deception. The immediate objective is to disrupt the democratic system, cause it to collapse. The endgame is a cutoff of U.S. aid, the only thing that will alter the balance of forces in favor of the FMLN. That is what FMLN commander Joaquin Villalobos really means when he writes, "the problem to be solved is the interference of the United States. Everything else is open to discussion" (Foreign Policy, Spring 1988)

The FMLN's first miscalculation was evident in the failed "final offensive" of January 1981. Regrouping in Havana a month later, FMLN strategists mapped out a plan to "improve our internal military situation" by engaging in "negotiating maneuvers" designed to win time (Freedom At Issue, September-October, 1983). The FMLN document produced at this meeting, entitled "The Negotiations Maneuver," also included a plan for a diplomatic offensive to establish the organization's international standing.

Subsequent offensives in 1982 and 1983 showed that the guerrillas had recovered a significant degree of military capability. However, predicting victory by 1984 was their next miscalculation. Their diplomatic offensive and negotiating maneuvers had helped undermine support for the Salvadoran government in Washington, but a bipartisan Congressional majority remained in favor of continued U.S. aid. U.S. aid led to a stronger, more professional army, and military reversals for the guerrillas. FMLN efforts to disrupt the 1984 elections failed. Guerrilla ranks diminished as fighters left the war to try out the democratic system. And the inauguration of President Jose Napolean Duarte, a lifelong foe of military government, undermined their claim to legitimacy both at home and abroad.

The FMLN therefore quickly accepted Duarte's invitation to negotiate in late 1984. But after two meetings, they rejected his offer to disarm and compete in the democratic system, instead repeating their power-sharing demand. But despite disappointment over the failure of the talks, it was clear that few democratic nations remained willing to back the power-sharing demand.

Having lost the battle for popular support to the democratic system, the FMLN in 1985 set out to destroy the system. Because of its weakened military position, however, it was forced to resort to terror and sabotage. If it had not, it would have ceased to exist as a political entity.

The FMLN began with an attack on the presidency itself. The damage done to the Christian Democratic government, and to Duarte personally, by the kidnapping of his daughter in 1985 cannot be overestimated. The FMLN declared it "our biggest victory so far." Such reveling in what many in the wider world saw as a grotesque act of terrorism showed how marginalized the guerrillas had become. But, if they underestimated the political effects of this on themselves they, were right about the impact it had on the Duarte government.

The drawnout ordeal paralyzed the government. In its wake, Duarte appeared to abdicate leadership to party functionaries. The government lost direction, and electoral promises on social and economic issues were lost amid corruption and infighting. Seizing the opportunity, the FMLN turned to sabotaging the nation's economic infrastructure. The objective was to further undermine the government's ability to meet the needs of the people. The total cost of FMLN sabotage to date is estimated at $1.8 billion. Total U.S. economic aid to El Salvador this decade has been approximately $2.4 billion.

It should be noted that a sustained international outcry forced the Contras to reconsider the use of similar tactics in Nicaragua. However, there has been little international criticism of the FMLN. In fact, many observers cite FMLN sabotage as evidence of its strength, not its weakness, and therefore as a reason why the FMLN should be respected. Few point out that the primary victims are the workers and peasants the FMLN claims to represent.

By 1987, the FMLN took advantage of the openings created by the Esquipulas II Accord and mounting economic discontent in El Salvador to penetrate democratic labor movements, and to rebuild front groups as a cover for urban commando units. With renewed terror and sabotage capability in the cities, FMLN strategists determined in early 1988 that the country was ripe for insurrection. But again they miscalculated.

The new insurrectional strategy was mapped out in an internal document of the FMLN General Command, dated January 1988 and entitled "Strategic Appraisal." The document was captured by the military a month later and subsequently published in the April issue of Analisis, the journal of the New University of San Salvador. It has been acknowledged as authentic by the FMLN.

The document gives evidence that the FMLN once again drifted into its characteristic overconfidence. Its leaders imagined that the Salvadoran people had become so disillusioned with democracy that FMLN "armed propaganda," by provoking increased government repression, would "detonate a social explosion" leading to insurrection. But the scenario didn't pan out; the military and the Salvadoran people refused to assume their projected roles, even during a heated electoral campaign.

The night before the March 1988 municipal and legislative elections, the FMLN set off six bombs in the capital. On election day, they tried to enforce a nationwide traffic shutdown, cut off power to 80 percent of the country by blowing up electoral towers, and declared all polling stations military targets. But while the percentage of eligible voters declined in comparison to the 1985 legislative elections, the total number of voters in 1988 actually increased (Estudios Centroamericanos, University of Central America, San Salvador, March-April 1988).

During the remaining nine months of 1988, the FMLN declared a series of offensives and called for the "masses" to join the "popular rebellion." By the end of the year it was obvious there would be no insurrection. A poll taken by the Jesuit-run University of Central America (UCA) showed that nearly 9 out of 10 Salvadorans surveyed were planning to vote in 1989 (Estudios Centroamericanos, November-December 1988). The UCA rector, Father Ignacio Ellacuria, a man of the left and the former philosophy

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

professor of many of the FMLN commanders, stated that insurrection was impossible, that Salvadorans would continue voting as they had in five previous elections beginning in 1982.

The FMLN fared no better internationally. Guerrilla commanders donned suits in the fall and toured the capitals of Latin America and Western Europe in search of support. Key governments such as Brazil wouldn't even receive their delegations; those that did told them to forget the military path, and to negotiate.

There were also questions about the enthusiasm of Moscow, Havana and Managua for the FMLN's insurrectionary plan. Concrete support from these allies was reduced in mid-decade when preserving Sandinista power in Nicaragua became the Marxist-Leninist priority in the region. In 1988, Moscow appeared hesitant to undermine the new detente with Washington, and unwilling to subsidize another Third World Marxist regime. Cuba was the wild card. Fidel Castro had united El Salvador's fragmented radical left to form the FMLN in Havana in 1980, and remained their staunchest supporter. Currently at odds with Moscow on numerous issues, and always fearful that detente will lead Moscow and Washington to cut a deal over his head, Castro may see insurrection in El Salvador as the perfect opportunity to poke both superpowers in the eye.

Given the FMLN's political isolation both at home and abroad, its strategic adjustment at the beginning of 1989 should have come as no surprise. The 1988 "Strategic Appraisal" document in fact, clearly describes the adjustment the FMLN was considering in case the insurrectionary strategy failed.

After assessing what it believed to be the conditions for insurrection in 1988, the FMLN noted that the resurgence of the right-wing National Republican Alliance (ARENA) and the weakened state of the government were placing increasing stress on the entire political system. The stress was greatest during electoral campaigns. It also noted that past FMLN peace proposals, designed to buy time, had also "delivered shocks" to the political system, exacerbating friction between the military, the government, and the political parties.

In 1988, the FMLN determined that insurrection would provide the decisive blow to the tenuous cohesion of the system. Its strategy document stated, however, in a clear preview of its 1989 initiative, that if the insurrection were slow to advance, it would unleash "our arsenal of proposals." The FMLN said these proposals, linked to dialogue, are the primary instruments of "our conspiratorial capability." While they can be used to "keep the enemy tied to the table," in the future they would be used "offensively," to break the enemy's cohesion and bring down the government.

The recent FMLN peace proposals therefore do not appear to constitute a genuinely conciliatory offer to participate in elections if the government agrees to postpone them. Coordinated with increased terror and sabotage, they seem more likely to be the centerpiece of a combined political and military assault on the democratic system itself.

In particular, this assault is designed to provoke an overreaction from the military and the antidemocratic right. Guillermo Ungo is the presidential candidate of the left-wing Democratic Convergence, who nonetheless remains an ally of the FMLN while campaigning in the current election. At the end of February, he candidly acknowledged that the FMLN did not expect their proposals to be accepted, that the initiative was meant to "corner and isolate the Army" (New York Times, 26 February 1989). By then, it was apparent that the military leadership was unsettled, practically promising a coup if the government agreed to postpone the elections in an unconstitutional manner.

A coup may very well be just what the FMLN has been trying to provoke. The collapse of the democratic system would mean an end to U.S. assistance, and a reversal of the FMLN's political isolation, both domestically and abroad. The history of Latin American revolution shows that leftwing insurgencies have great difficulty in overthrowing democracies, even relatively weak ones. The condition for success is to face off against an authoritarian regime, as in Cuba in 1959 and Nicaragua in 1979. In 1988, the FMLN appears to have decided that it could not overthrow the Salvadoran democracy. In 1989, it turned to strategic political manipulation, in tandem with the tactical use of violence, "to bring the government down." If democracy is brought down, the FMLN can consider a number of options for seizing power, including insurrection.

By March, the FMLN proposals had already succeeded in shaking El Salvador's fledgling democratic system. The war/peace issue moved to the top of the national agenda, usurping the economic and social issues that had been dominating the presidential campaign. Accumulated tension and war-weariness in Salvadoran society were brought into sharper relief. The political parties, knowing that Salvadorans are desperate for peace, strained to avoid being stigmatized as spoilers. The military leadership struggled to keep the armed forces from overreacting, even declaring a unilateral ceasefire in support of President Duarte's counterproposal to delay elections by six weeks instead of six months.

At the same time, the FMLN enhanced the pressure on the political system through escalated terror and sabotage. The guerrillas caused power blackouts throughout the country by blowing up electrical towers on a daily basis. Terrorist attacks were aimed primarily at the military and rightwing politicians. A series of car bombs directed at urban military installations were clearly designed to provoke the army; the only casualties were the deaths of civilians in the vicinity. Bomb attacks were made against the homes of Air Force officers, and one bomb was thrown at the house of Gen. Vides Casanova's mother, an obvious attempt to provoke the defense minister who has been a moderating force within the military. All this was occurring *after* the FMLN issued its peace proposals.

Provoking violent backlash is familiar FMLN procedure. It was used as a tactic to promote insurrection in 1988, and is being used now to sharpen the divisions in the political system brought on by their peace proposals. Thus far, however, the backlash expected by the FMLN has come primarily from remnants of the old death-squad networks. Tutela Legal, the Catholic Church's human rights office, makes a distinction between death-squad murders and the killing of civilians by the military and security forces. In 1988, Tutela Legal reported a nearly 300 percent increase in death-squad killings over 1987, from 24 to 60. But civilian deaths attributable to the military and security forces rose by less than 20 percent, from 72 to 85. And while Tutela Legal currently reports that killings are increasing again, its Director, Maria Julia Hernandez, says that most recent incidents are not sanctioned by the military leadership or the institution as a whole.

Assassinations by the FMLN, according to Tutela Legal, rose from 33 in 1987 to 41 in 1988. Deaths caused by landmines of unknown origin, but widely used by the FMLN, rose to 57, nearly double the total for 1987. And since November, FMLN car bombs have caused the deaths of around a dozen civilians.

The combined political-military assault on El Salvador's democracy that begin in January appeared to catch Washington offguard. If the FMLN's endgame is a cut-off of U.S. aid, as suggested in the *Foreign Policy* article by Joaquin Villalobos, it is instructive to review the FMLN's assessment of U.S. policy as of last year. Its analysis appears not only in the "Strategic Appraisal" document, but also in *Venceremos* (February-March 1988), the official FMLN publication available throughout the hemisphere in both Spanish and English.

The FMLN argued that U.S. foreign policy is in retreat generally and that flagging resolve in Central America could be transformed into a retreat from El Salvador in particular. As evidence of U.S. weakness, the FMLN pointed to 1) the U.S.-Soviet INF accord, 2) the overall reduction in U.S. foreign aid, including to El Salvador, after Gramm-Rudman, 3) the emergence of the Group of Eight Contadora countries parallel to a stagnant Organization of American States, 4) the Central American peace accords and the impending (at that time) Congressional defeat of Contra aid, and 5) growing fissures in bipartisan Congressional support for U.S. aid to El Salvador.

In the "Strategic Appraisal" document, the FMLN stated, "For revolutionary states and the socialist camp, negotiation is an expression of victory." It perceived U.S. willingness to negotiate as evidence of "the weakening of the Yankee administration, the contradictions at its center, the impossibility of its using all its forces, and the international isolation its policies have suffered."

It can be easily argued that in its general analysis the FMLN is again guilty of overconfidence, or "triumphalism" in revolutionary jargon. How the U.S. responds to the latest FMLN initiative during this critical moment, however, will in large part determine whether the FMLN must rethink its assessment of U.S. resolve in El Salvador. Therefore, those still willing to give the FMLN the benefit of the doubt should take a closer look at the organization itself. There are numerous reasons to question its sincerity and stated commitment to democratic principles.

Founded in Havana in 1980 as a Marxist-Leninist guerrilla organization, the FMLN reiterated its ideology at mid-decade with the public announcement that it had started building a Marxist-Leninist party. To date, the FMLN's allegiance to Marxism-Leninism has never been disavowed.

Internally, the FMLN is rigidly structured in pyramidal Leninist fashion. The leadership brooks no deviation from the policy it sets down. Discipline is exacted by force. Those who question or veer from the organizational line are subject to execution in the name of "revolutionary justice."

Since 1975, when Joaquin Villalobos ordered the execution of Roque Dalton, murder has been a traditional means of resolving internal disputes among the FMLN

leadership. In 1983, Commander Salvador Cayetano Carpio ordered the murder of Commander Ana Maria Gomez in Managua. Weeks later, Carpio died, reportedly a suicide. In the most recent case, former Commander Miguel Castellanos, who had left the FMLN in 1985, was murdered just last month by an FMLN urban commando unit. The FMLN General Command issued a triumphant statement that "revolutionary justice" had been applied. There is reason to doubt the FMLN's stated commitment to political pluralism in the light of its ongoing policy of "revolutionary justice" and totalitarian internal control.

The FMLN's totalitarian methods of control also extend beyond the organization itself, into the communities where its influence is dominant. Indoctrination of civilians and the use of intimidation and executions to enforce discipline remains FMLN policy in guerrilla-held territory in northern El Salvador. The FMLN has used similar methods in order to take control of the Salvadoran refugee camps in Honduras ("Fear Rules the Salvadoran Refugees," *New York Times*, 3 March 1989). How does the FMLN explain that despite the fact of continuing war, thousands of refugees have asked the United High Commissioner on Refugees for assistance in leaving these camps to return home?

There is also the question of the actual size of the FMLN and its level of popular support. The current consensus on the number of guerrilla fighters is 6-7,000. That is a decline from approximately 13-15,000 in the early 1980s. After the 1984 election, the FMLN has to resort to forced recruitment to keep its ranks from diminishing further. International organizations that work in war zones report that in recent years guerrilla ranks are increasingly made up of youths fifteen and younger. Leaders of the Democratic Convergence who remain allied to the FMLN concede that outside guerrilla ranks, the social base of the FMLN is no more than 50,000, approximately 1 percent of the total population. Yet the FMLN defends its use of violence with the argument that it is the authentic representative of the Salvadoran people.

If the FMLN is genuinely committed to political pluralism and democratic elections, why does it continue its murderous attacks on the country's 265 democratically elected municipal officials. In the last twelve months, the FMLN has threatened to kill any official who refuses to resign his or her office. It has killed at least eight mayors and one regional governor. Over 100 other officials have either resigned or left the towns they represent. In this regard, the FMLN has far exceeded the rightwing death squads in killing figures from El Salvador's nascent democratic life; no significant leftist politician, student leader, or labor official has been killed in the past year.

In January this year, the Salvadoran Corporation of Municipalities issued a call to its counterparts throughout Latin America for support in denouncing the FMLN assault on municipal government, but to little effect. The FMLN charges that municipal officials are part of military's counterinsurgency program and therefore justifiable military targets. What few observers note, however, is that these officials have been implementing the successful Municipalities-in-Action public improvements program designed by the Salvadoran government and US AID.

In two years, approximately $75 million has been placed in the hands of these officials for road building, bridge repair, schools, etc. Taking these programs out of the central bureaucracy and into the municipal system where they can be more effectively implemented was clearly perceived by the FMLN as a *political* threat. For the first time, the government had created an effective system for providing services in the countryside. To date, the FMLN's policy to destroy this effort continues.

By mid-March, the onus of rebuffing the FMLN's peace proposals fell heavily on the Salvadoran government and political parties. Yet it was the FMLN which was persisting in terrorism and sabotage until its demands were met. In contrast, the Sandinista government in Nicaragua has insisted on the complete disarmament of the Contras before their reintegration into society, and has faced little international pressure to do otherwise.

In El Salvador there exists a constitutional democracy, which allows allies of the FMLN to form political parties and run for president. Yet the FMLN demands that the constitution be changed for the sole purpose of allowing it to participate in elections at a time of its own choosing. Thus far, the FMLN has conceded little to the democratic system beyond rhetoric and promises. As has been shown, there is much evidence for questioning whether the FMLN really seek to participate in Salvador's fragile democracy or actually means to bring that democracy down. While El Salvador desperately needs peace, and while no opportunity for widening the democratic community should be lost, free peoples should be wary of the group's offering.

INTRODUCTION OF BILL—VISUAL ARTISTS RIGHTS ACT OF 1989

HON. ROBERT W. KASTENMEIER

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 20, 1989

Mr. KASTENMEIER. Mr. Speaker, I am pleased today to introduce the Visual Artists Rights Act of 1989, along with my colleague ED MARKEY of Massachusetts. Representative MARKEY has long been a leader in the effort to protect visual arts from mutilation and destruction, and I welcome his continued efforts in this Congress.

Over the past few years, the Judiciary Committee Subcommittee on Courts, Intellectual Property and the Administration of Justice, which I chair, has closely considered the general issue of protection of the creative works of an author. This issue arises in several contexts, perhaps most notably in films and in visual arts. Legislation relating to both kinds of endeavors was introduced in the 100th Congress but, with a limited exception in the film context, no laws were enacted.

This Congress, we will take a new look at these issues. Since the protection of visual arts and films present very distinct issues, the subcommittee will examine each of these issues separately. The subcommittee will hold hearings on the Visual Artists Rights Act in New York City next month. Soon thereafter, we will hold a hearing in Los Angeles on the issue as it arises in the film context.

The eloquent testimony of William Smith before my subcommittee during the 100th Congress persuades me that introduction of this bill is warranted. Mr. Smith's critically praised historical mural was mutilated when the wall on which it was painted was reconstructed. Though Mr. Smith was available to repair the work, the building owners requested that another artist do so. The result was a great diminution in both the aesthetic and monetary value of Mr. Smith's fine work. Mr. Smith's story is a compelling example of the harm that has been done to other visual artists, and as a result, to society's interests as well.

The Visual Artists Rights Act is therefore a pragmatic response to a real problem. It is directed toward development of Federal rights that would enable visual artists to protect the integrity of their works and the fact of their authorship.

The bill is a limited bill, covering only certain types of works and authors, and specifically excluding others. It covers only works of visual art, defined as single copies or limited editions of paintings, drawings, prints, sculptures, and still photographic images produced for exhibition purposes only. It specifically excludes reproductions, motion pictures, books, magazines, and the like; merchandising and advertising materials, works for hire, works not subject to copyright protection under title 17 of the United States Code. Modifications due to the passage of time and to conservation are not proscribed unless they are the result of gross negligence.

Works in existence on the effective date of the law would be covered only if they are not published until after the effective date. Works created after the effective date will be covered in all cases.

An author of a covered work is provided with two rights. The first is a right of attribution, to claim authorship and object to false attribution of authorship. The second is a right of integrity, to prevent and seek redress for destruction, distortion, mutilation, or other modification that is prejudicial to the author's honor or reputation. If the work is one of recognized stature, the bill presumes prejudice to the author's honor or reputation. This right of integrity applies only to the single copy of the work or to additional copies comprising a limited edition.

A violation of these rights would be an infringement of the author's rights, but it would not be a copyright infringement, as the author may not be the copyright holder. However, all of the remedies currently available to copyright holders for infringement would apply to violations of these new rights, except for criminal penalties.

The rights of attribution and integrity would be coterminous with the term of copyright for the work. They may be waived, but they may not be sold.

There are nine State laws that, in one form or another, protect visual arts. In the interest of uniformity and clear rules, these laws would be preempted, but only with regard to rights that are equivalent to those covered by the proposed law.

Finally, the bill directs the Copyright Office to conduct two studies. One relates to whether royalties or similar kinds of compensation should be paid to the author upon the resale

of a work of visual art. The second relates to the practical application of the waiver provision.

We should always remember that the visual arts covered by this bill meet a special societal need, and that their protection and preservation serve an important public interest. It is for this reason that I am pleased to join with my colleague from Massachusetts in introducing this bill.

H.R. —

A bill to amend title 17, United States Code, to provide certain rights of attribution and integrity to authors of works of visual art

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Visual Artists Rights Act of 1989".

SEC. 2. WORK OF VISUAL ART DEFINED.

Section 101 of title 17, United States Code, is amended by inserting after the paragraph defining "widow" the following:

"A 'work of visual art' is a painting, drawing, print, sculpture, or still photographic image produced for exhibition purposes only, existing in a single copy, in a limited edition of 200 copies or fewer, or, in the case of a sculpture, in multiple cast sculptures of 200 or fewer. A work of visual art does not include—

"(1) any version that has been reproduced in other than such limited edition prints or cast sculptures;

"(2)(A) any poster, map, globe, chart, technical drawing, diagram, model, applied art, motion picture or other audio visual work, book, magazine, periodical, or similar publication;

"(B) any merchandising item or advertising, promotional, descriptive, covering, or packaging material or container;

"(C) any portion or part of any item described in subparagraph (A) or (B);

"(3) any work made for hire;

"(4) any reproduction, depiction, portrayal, or other use of a work in, upon, or in any connection with any item described in paragraph (1), (2), or (3); or

"(5) any work not subject to copyright protection under section 102 of this title.".

SEC. 3. RIGHTS OF ATTRIBUTION AND INTEGRITY.

(a) RIGHTS OF ATTRIBUTION AND INTEGRITY.—Chapter 1 of title 17, United States Code, is amended by inserting after section 106 the following new section:

"§ 106A. Rights of certain authors to attribution and integrity

"(a) RIGHTS OF ATTRIBUTION AND INTEGRITY.—Subject to section 107 and independent of the exclusive rights provided in section 106, the author of a work of visual art—

"(1) shall have the right—

"(A) to claim authorship of that work, and

"(B) to prevent the use of his or her name as the author of any work of visual art which he or she did not create;

"(2) shall have the right to prevent the use of his or her name as the author of the work of visual art in the event of a distortion, mutilation, or other modification of the work as described in paragraph (3); and

"(3) subject to the limitations set forth in section 113(d), shall have the right to prevent any destruction, distortion, mutilation, or other modification of that work which would be prejudicial to his or her honor or reputation, and any such destruction, distortion, mutilation, or modification of that work is a violation of that right.

For purposes of this subsection, the destruction, distortion, mutilation, or other modification of a work of recognized stature shall constitute prejudice to the honor and reputation of the author of that work. In determining whether a work is of recognized stature, a court or other trier of fact may take into account the opinions of artists, art dealers, collectors of fine art, curators of art museums, conservators, and other persons involved with the creation, appreciation, history, or marketing of works of visual art. Evidence of commercial exploitation of a work as a whole, or of particular copies, does not preclude a finding that the work is a work of recognized stature.

"(b) SCOPE AND EXERCISE OF RIGHTS.—The author of a work of visual art has the rights conferred by subsection (a), whether or not the author is the copyright owner, and whether or not the work qualifies for protection under section 104. Where the author if not the copyright owner, only the author shall have the right during his or her lifetime to exercise the rights set forth in subsection (a).

"(c) EXCEPTIONS.—(1) The modification of a work of visual art which is a result of the passage of time or the inherent nature of the materials is not a destruction, distortion, mutilation, or other modification described in subsection (a)(3) unless the modification was the result of gross negligence in maintaining or protecting the work.

"(2) The modification of a work of visual art which is the result of conservation is not a destruction, distortion, mutilation, or other modification described in subsection (a)(3) unless the modification is caused by gross negligence.

"(d) DURATION OF RIGHTS.—(1) With respect to works of visual art created on or after the effective date set forth in section 10(a) of the Visual Artists Rights Act of 1989, the rights conferred by subsection (a) shall endure for a term consisting of the life of the author and fifty years after the author's death.

"(2) With respect to works of visual art created before the effective date set forth in section 10(a) of the Visual Artists Rights Act of 1989, but not published before such effective date, the rights conferred by subsection (a) shall be coextensive with, and shall expire at the same time as, the rights conferred by section 106.

"(3) All terms of the rights conferred by subsection (a) run to the end of the calendar year in which they would otherwise expire.

"(e) TRANSFER AND WAIVER.—(1) Except as provided in paragraph (2), the rights conferred by subsection (a) may not be transferred, but those rights may be waived if the author expressly agrees to such waiver in a written instrument signed by the author. Such instrument shall specifically identify the work, and uses of that work, to which the waiver applies, and the waiver shall apply only to the work and uses so identified.

"(2) After the death of an author, the rights conferred by subsection (a) on the author may be exercised by the person to whom such rights pass by bequest of the author or the applicable laws of interstate succession.

"(3) Ownership of the rights conferred by subsection (a) with respect to a work of visual art is distinct from ownership of any fixation of that work, or of a copyright or any exclusive right under a copyright in that work. Transfer of ownership of any fixation of a work of visual art, or of a copyright or any exclusive right under a copyright, shall not constitute a waiver of the rights conferred by subsection (a). Except as may otherwise be agreed by the author in a written instrument signed by the author, a waiver of the rights conferred by subsection (a) with respect to a work of visual art shall not constitute a transfer of ownership of any fixation of that work, or of ownership of a copyright or any exclusive right under a copyright in that work.".

(b) CONFORMING AMENDMENT.—The table of sections at the beginning of chapter 1 of title 17, United States Code, is amended by inserting after the item relating to section 106 the following new item:

"106A. Rights of certain authors to attribution and integrity.".

SEC. 4. REMOVAL OF WORKS OF VISUAL ART FROM BUILDINGS.

Section 113 of title 17, United States Code, is amended by adding at the end thereof the following:

"(d)(1)(A) Where—

"(i) a work of visual art has been incorporated in or made part of a building in such a way that removing the work from the building will cause the destruction, distortion, mutilation, or other modification of the work as described in section 106A(a)(3), and

"(ii) the author or, if the author is deceased, the person described in section 106A(e)(2), consented to the installation of the work in the building in a written instrument signed by the owner of the building and the author or such person,

then the rights conferred by paragraphs (2) and (3) of section 106A(a) shall not apply, except as may otherwise be agreed in a written instrument signed by such owner and the author of such person.

"(B) An agreement described in subparagraph (A) that the rights conferred by paragraphs (2) and (3) of section 106A(a) shall apply shall not be binding on any subsequent owner of the building except where such subsequent owner had actual notice of the agreement or where the instrument evidencing the agreement was properly recorded, before the transfer of the building to the subsequent owner, in the applicable State real property registry for such building.

"(2) If the owner of a building wishes to remove a work of visual art which is a part of such building and which can be removed from the building without the destruction, distortion, mutilation, or other modification of the work as described in section 106A(a)(3), the author's rights under paragraphs (2) and (3) of section 106A(a) shall apply unless—

"(A) the owner has made a diligent, good faith attempt without success to notify the author or, if the author is deceased, the person described in section 106A(e)(2), of the owner's intended action affecting the work of visual art, or

"(B) the owner did provide such notice by registered mail and the person so notified failed, within 90 days after receiving such notice, either to remove the work or to pay for its removal.

If the work is removed at the expense of the author or the person described in section 106A(e)(2), title to that fixation of the work shall be deemed to be in the author or such person, as the case may be. For purposes of subparagraph (A), an owner shall be presumed to have made a diligent, good faith

attempt to send notice if the owner sent such notice by registered mail to the last known address of the author or, if the author is deceased, to the person described in section 106A(e)(2).

"(3) The Register of Copyrights shall establish a system of records whereby any author of a work of visual art that has been incorporated in or made part of a building, or persons described in section 106A(e)(2) with respect to that work, may record their identities and addresses with the Copyright Office. The Register shall also establish procedures under which such authors or persons may update the information so recorded, and procedures under which owners of buildings may record with the Copyright Office evidence of their efforts to comply with this subsection.".

SEC. 5. PREEMPTION.

Section 301 of title 17, United States Code, is amended by adding at the end the following:

"(f)(1) On or after the effective date set forth in section 10(a) of the Visual Artists Rights Act of 1989, all legal or equitable rights that are equivalent to any of the rights conferred by section 106A with respect to works of visual art to which the rights conferred by section 106A apply are governed exclusively by sections 106A and section 113(d) and the provisions of this title relating to such sections. Thereafter, no person is entitled to any such right or equivalent right in any work of visual art under the common law or statutes of any State.

"(2) Nothing in paragraph (1) annuls or limits any rights or remedies under the common law or statutes of any State with respect to—

"(A) any cause of action from undertakings commenced before the effective date set forth in section 10(a) of the Visual Artists Rights Act of 1989; or

"(B) activities violating the legal or equitable rights that are not equivalent to any of the rights conferred by section 106A with respect to works of visual art.".

SEC. 6. INFRINGEMENT ACTIONS.

(a) IN GENERAL.—Section 501(a) of title 17, United States Code, is amended—

(1) by inserting after "118"; the following: "or of the author as provided in section 106A(a)"; and

(2) by striking out "copyright." and inserting in lieu thereof "copyright or right of the author, as the case may be. For purposes of this chapter (other than section 506), any reference to copyright shall be deemed to include the rights conferred by section 106A(a).".

(b) EXCLUSION OF CRIMINAL PENALTIES.—Section 506 of title 17, United States Code, is amended by adding at the end thereof the following:

"(f) RIGHTS OF ATTRIBUTION AND INTEGRITY.—Nothing in this section applies to infringement of the rights conferred by section 106A(a).".

(c) REGISTRATION NOT A PREREQUISITE TO SUIT AND CERTAIN REMEDIES.—(1) Section 411(a) of title 17, United States Code, is amended in the first sentence by inserting after "United States" the following: "and an action brought for a violation of the rights of the author under section 106A(a)".

(2) Section 412 of title 17, United States Code, is amended by inserting "an action brought for a violation of the rights of the author under section 106A(a) or" after "other than".

SEC. 7. STATUTE OF LIMITATIONS.

Section 507(b) of title 17, United States Code, is amended by adding at the end the following: "For purposes of an action brought for infringement of the rights under section 106A(a) of an author of a work of visual art, the claim accrues when the author (or person described in section 106A(e)(2), as the case may be) knew or should have known of the violation of the author's rights under section 106A(a).".

SEC. 8. FAIR USE.

Section 107 of title 17, United States Code, is amended by striking out "section 106" and inserting in lieu thereof "sections 106 and 106A".

SEC. 9. STUDIES BY COPYRIGHT OFFICE.

(a) STUDY ON WAIVER OF RIGHTS PROVISION.—

(1) STUDY.—The Register of Copyrights shall conduct a study on the extent to which rights conferred by subsection (a) of section 106A of title 17, United States Code, have been waived under subsection (e)(1) of such section.

(2) REPORT TO CONGRESS.—Not later than 18 months after the date of the enactment of this Act, the Register of Copyrights shall submit to the Congress a report containing the results of the study conducted under paragraph (1).

(b) STUDY ON RESALE ROYALTIES.—

(1) NATURE OF STUDY.—The Register of Copyrights, in consultation with the Chair of the National Endowment for the Arts, shall conduct a study on the feasibility of implementing—

(A) a requirement that, after the first sale of a work of art, a royalty on any resale of the work, consisting of a percentage of the price, be paid to the author of the work; and

(B) other possible requirements that would achieve the objective of allowing an author of a work of art to share monetarily in the enhanced value of that work.

(2) GROUPS TO BE CONSULTED.—The study under paragraph (1) shall be conducted in consultation with other appropriate departments and agencies of the United States, foreign governments, and groups involved in the creation, exhibition, dissemination, and preservation of works of art, including artists, art dealers, collectors of fine art, and curators of art museums.

(3) REPORT TO CONGRESS.—Not later than 18 months after the date of the enactment of this Act, the Register of Copyrights shall submit to the Congress a report containing the results of the study conducted under this subsection, and any recommendations that the Register may have as a result of the study.

SEC. 10. EFFECTIVE DATE.

(a) IN GENERAL.—Subject to subsection (b) and except as provided in subsection (c), this Act and the amendments made by this Act take effect 6 months after the date of the enactment of this Act.

(b) APPLICABILITY.—The rights created by section 106A of title 17, United States Code, shall apply to works created but not published before the effective date set forth in subsection (a), and to works created on or after such effective date, but shall not apply to any destruction, distortion, mutilation, or other modification (as described in section 106A(3) of such title) of any work which occurred before such effective date.

(c) SECTION 9.—Section 9 takes effect on the date of the enactment of this Act.

TRIBUTE TO THE RISING STAR BAPTIST CHURCH

HON. JAMES A. TRAFICANT, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 20, 1989

Mr. TRAFICANT. Mr. Speaker, I rise today to pay tribute to the Rising Star Baptist Church on the occasion of their renovation of Thornhill Elementary School into a beautiful place of worship.

I had the privilege of attending this blessed event and was tremendously inspired. The theme of this celebration, "You need no skill to destroy or tear down but you need some skill to build," was very fitting seeing that Thornhill Elementary was a condemned building before the completion of its renovation this spring. Pastor Joey Johnson from the House of The Lord in Akron, OH, gave an arousing keynote address giving everyone an opportunity to realize the importance of this great celebration.

The pastor of the Rising Star Baptist Church, Gary Frost, who I have had the pleasure coaching football to at East High School, has done an outstanding job with the church. It was very heartwarming to see people from all over my 17th Congressional District of Ohio come and pay respect to Gary Frost and the congregation who have worked so hard.

Mr. Speaker, people such as the members of Rising Star Baptist Church make this truly "One Nation Under God." I would like to congratulate them on their outstanding job. I am honored to represent such fine people and wish them continued success in the future.

ONE OF THE SPECIAL STUDENTS AT LAWRENCE LIVERMORE NATIONAL LABORATORY: DUBLIN, CA'S CHRISTOPHER JARIN MURRAY

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 20, 1989

Mr. STARK. Mr. Speaker, I would like to take this opportunity to congratulate Christopher Jarin Murray for being selected to participate in the High School Science Student Honors Program in supercomputing. This program is sponsored by the Department of Energy to encourage scientific study among high school students.

The program was implemented in 1985, because as the President stated, "America's future success in science and technology rests with students * * * who have the talent, curiosity, and desire to learn mathematics, physics, chemistry, biology, and engineering. To make progress in these and other fields of advanced study, you will need to become familiar with supercomputers, which are among the most powerful tools we use to understand the technologically based world in which we live."

The program involves a 2-week session at the National Magnetic Fusion Energy Computer Center [NMFECC] at the Lawrence Livermore National Laboratory in Livermore, CA. The NMFECC houses some of the most powerful supercomputers in the world.

During their 2 weeks at the NMFECC, the students receive extensive hands-on experience working with supercomputers. They are paired with a facility scientist and given an advanced programming project to complete. In addition, the students attend presentations and informal discussions given by the staff at NMFECC, many of whom are world renowned in their fields.

The students are a highly select group, of only 60 students. They represent the 50 States and 9 countries. These young men and women represent the best and brightest among high school science students.

Clearly, Jarin's achievement is very impressive. He represents the best of American youth, for he is extremely well-rounded. In addition to writing database and graphics programs, he is an active participant in his youth group. Jarin enjoys music composition, plays baseball, and is an avid skier, Jarin recently graduated from Dublin High School in Dublin, CA, and plans to attend the California Polytechnic University, majoring in physics.

Mr. Speaker, I am honored to congratulate Jarin Murray on his achievement.

CONGRATULATIONS TO SHERRI CURRIA

HON. RONALD K. MACHTLEY

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 20, 1989

Mr. MACHTLEY. Mr. Speaker, it is my distinct pleasure to congratulate Sherri Curria, of Warren, RI, this year's recipient of the first annual Ronald K. Machtley Award for Warren High School in Warren, RI.

This award is presented to the student, chosen by Warren High School, who demonstrates a mature blend of academic achievement, community involvement, and leadership qualities.

Sherri has clearly met this criteria by being a member of the Rhode Island Honor Society and the National Honor Society. Sherri has also been involved in student government, as a class president and recently as a member of the student council. She has been active in the school band, math team, athletics, and as a cheerleader. Last year, Sherri also received the URI Distinguished Faculty Award.

I commend Sherri for her achievements and wish her all the best in her future endeavors.

ST. FRANCIS HOSPITAL, JERSEY CITY, CELEBRATES 125TH ANNIVERSARY

HON. FRANK J. GUARINI

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 20, 1989

Mr. GUARINI. Mr. Speaker, a dedicated medical facility in my district is celebrating its 125th year of service. Their record is one of outstanding accomplishment covering the years from a most dramatic portion of America's history, treating veterans and their families of the Civil War era to the present time.

St. Francis Hospital, Jersey City, and St. Mary Hospital, Hoboken, which is also in my district, are part of the Franciscan Health System of New Jersey, whose president is Thomas A. Schember, and have combined their goal of intensive caring here in the Garden State.

According to Joan Quigley, corporate vice president of planning and marketing at the facility, located in downtown Jersey City, just two blocks from the Hudson River, the following information is provided:

St. Francis Hospital celebrates its 125th anniversary this year. Some of the memorable events which have taken place here over two centuries are captured on newspaper clippings, now yellowed with age. Yet, perhaps our most cherished memories—the ones which seem most real to us—are those recalled by our senior employees.

"I remember how every inch of this hospital was covered with people. They were out the windows and on the front steps when we used to have them," says retired employee Brunhilde Rautenberg of that day in the 1960's when the late President John F. Kennedy and his wife passed by the hospital in a motorcade. "Children from a local school waved little American flags as we all cheered. I can picture it as if it happened yesterday."

St. Francis first opened its doors to help the poor and sick on April 5, 1864. The hospital has survived two World Wars and a Depression and grown from a two-story frame house into a thriving complex with 254 beds.

And we've cared for generations.

"During the war years, the nuns used to get big trays of food and give them out to the poor who came to the hospital hungry," says Paul Ross, a maintenance mechanic who has been with St. Francis for 40 years. "At that time, this place was run by Franciscan sisters. When Christmas came, they would give every employee a new calendar and a bag of candy."

Mother Francis Schervier, the founder of the Franciscan Sisters of the Poor, had already established two hospitals in the United States when she sent a small group of sisters to set up St. Francis, the first hospital in Jersey City.

With the help of Father Pierre Louis Dominique Senez, who was the pastor of St. Mary Church in Jersey City, the nuns were able to minister to the poor and sick from a house on the intersection of Fourth and Coles Streets. The hospital had 12 beds and a dormitory for homeless girls in the basement.

In 1871, the site for the hospital was moved to a three-story brick house located on Pavonia Avenue and East Hamilton Place, the hospital's current address. That same year, the administration gathered its first medical staff of four physicians and four surgeons. Today's medical staff includes over 268 physicians who have a variety of specialties. Dr. John Imhoff came to St. Francis in 1934. He recalls how he used to ride in the ambulances with his patients on the way to the hospital. Dr. Imhoff also made daily rounds in wards—large rooms filled with 10 to 12 patients.

"I think I've been here longer than any doctor still practicing. The changes I've seen have been breathtaking," says Dr. Imhoff from his office in the hospital.

"When I first became a doctor, we still used maggots to eat away the dead tissue of an ulcerated leg. That sounds like something right out of the dark ages. That's how far we've come."

Today, St. Francis is part of the Franciscan Health System of New Jersey. Our hospital consists of a six-story main building (1974), a 10-story Franciscan Pavilion (1930) and St. Francis School of Nursing (established 1930) is housed in Mother Tarsicia Hall (1960). A parking garage was also built in 1975.

Two years ago, the FHSNJ purchased the old grain mill on Tenth and Grove Streets. After renovations, it will become the administration headquarters for the hospital corporations.

Along with expanding in size, we've also grown to keep pace with advances in modern medicine. For example, in a joint effort with St. Mary, the hospital purchased one CAT-Scan three years ago. An arthroscope and advance C-Arm were also added to the emergency room.

"I remember when cataract patients had to be kept in a hospital for seven days after an operation because they couldn't be moved," says nurse Louise Fallon, the director of materials management who has worked at the hospital for 32 years. "We used to put sand bags on either side of their heads to keep them still. Now they are up, around, and out of here in a day."

The faces at our hospital have also changed. Sr. Loretta Kirby, a patient representative, is one of the few Franciscan Sisters who still works here on a daily basis. She was also here back in 1980 when Thomas A. Schember—the first lay president of the hospital—came to St. Francis.

"The Franciscan sisters have always worked very closely with lay people to care for the sick," said Sr. Loretta. "I don't intend to be a nun when I first started working here while still in high school. But St. Francis enthralled me. And each day that I come here I am reminded of my vocation and our mission."

Truly, as part of the Franciscan health systems nationally, which is located in Brooklyn under the direction of Sister Joanne Schuster, S.F.P., president, St. Francis Hospital is continuing their tradition of caring for generations, working with all phases from handling acute illness to those needing long-term care. The parent body operates outstanding facilities such as the Frances Schervier Home for the Aged in Riverdale, NY.

Today, 364 men and women in need of long-term care reside in the home's geriatric unit. The elderly who are able to care for themselves live in a rent-stabilized project with 155 apartments. There is also a residence for nurses, a retirement center for priests, and the Schervier Gallery, which showcases the talents of local artists.

The Frances Schervier Home is the only member of the Franciscan health system which is named after the founding Mother of the Franciscan Sisters of the Poor. Sr. Rita Kerry is the president of the home.

Located in the Bronx, the home sits on nine acres of land overlooking the Hudson River. The surrounding neighborhood combines both urban and suburban lifestyles. "Ten years ago, healthy seniors would have come here just to retire comfortably without having to

deal with all the pressures of living independently," according to Chris Watson, public information officer of the facility. "Now we are getting a lot of seniors only when they are too sick to care for themselves."

In addition to providing medical services and shelter for the elderly, employees encourage the residents to participate in activities and to cultivate relationships in—and outside—the home.

Always on the alert for new ways to reach the public, St. Francis Hospital in Jersey City is heavily involved in providing community programs on health.

The Franciscan Health System of New Jersey takes to the air waves as it introduces residents of Jersey City to a new monthly cable television program entitled "House-Calls."

The show, which will deal with a variety of consumer health-care issues, started in February on Jersey City Cablevision. All filming for the program will be done on location at St. Mary and St. Francis Hospitals.

"We are the only hospitals in the area at the present time to offer such a health-care program to county residents," said Thomas Schember. "Instead of having a panel/discussion format, the program will be conducted in a documentary style which should make for interesting viewing."

Joan Quigley will host the show which is scheduled to air on channel 3. Topics to be covered include: same-day surgery, cardiology, ophthalmology, plastic surgery, infectious diseases, mental health, child abuse, substance abuse, breast cancer, allergies, dermatology, obstetrics and gynecology, and physical rehabilitation.

According to Thomas Schember, "Hopefully, once we get a couple of segments under our belt we will be able to expand to the cable stations in Hoboken and Bayonne. We feel that this program will provide residents of Hudson County with useful information concerning health care."

St. Francis Hospital and the Franciscan Health Systems of New Jersey has scheduled various events to help celebrate the 125th anniversary of St. Francis Hospital. The most immediate functions they planned are:

An outdoor Mass for all employees, medical staff, and board members in Hamilton Park on June 24 at 10:30 a.m. The event will be followed by a continental breakfast in the nursing school calssroom;

A birthday party/ice cream social for employees and their children on June 24 from noon to 2 p.m. at Hamilton Park;

Two health fairs, both scheduled to take place in Jersey City, one will be at Midlantic Bank at Harborside II and the other is slated for the Hudson Mall.

I am sure that my colleagues here in the House of Representatives want to join me in this grand salute to an excellent medical facility which is providing first-class service to the people of New Jersey.

HONORING THE GOLDEN JUBILEE OF SISTER M. TERESITA

HON. DENNIS M. HERTEL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 20, 1989

Mr. HERTEL. Mr. Speaker, on Sunday, July 9, 1989, Sister M. Teresita of the Carmelite D.C.J. Congregation will celebrate the golden jubilee of her religious profession. It is with great esteem that I rise today to mark this occasion.

Throughout these 50 years, Sister Teresita has selflessly devoted herself to the service of other people, especially children and the aged.

Sister Teresita began her religious life with the Carmelite Congregation in San Antonio, TX, where she served children at the St. Joseph's Home for Boys. After this service, she relocated to Central America. Once there, she spent her time with the missions in Nicaragua.

Her culinary expertise was nurtured in Grand Rapids, MI, where she was reassigned after her service in Nicaragua. Following her time in Grand Rapids, she was relocated to Kenosha, WI, where she remained for 25 years. In Kenosha, she served as the dietary supervisor for all the facilities run by the Carmelite Sisters in that area. Throughout those years, she was able to rely on her natural abilities and warm heart to direct her service.

In 1985, Sister Teresita earned the position of superior and was relocated to Detroit, MI. During the last 4 years in Detroit, she has served at the St. Joseph's Home for the Aged, where she will be celebrating her jubilee. At the home, she is responsible for the religious well-being of all the Carmelite Sisters serving at this center. She is also responsible for the care and organization of the convent, the preparation of special meals, and other various functions in the community.

This testimonial could not possibly contain all of Sister Teresita's admirable accomplishments. This women has reached beyond simply performing a job; she has improved the lives of many people and enhanced many communities. Sister Teresita's life has defined the true meaning of the word service.

I would like to extend my warmest congratulations and thanks to Sister Teresita for all she has accomplished in these 50 years. I would also like to ask all of my colleagues to join me in honoring this remarkable woman, who has devoted her entire life to the service of people in need.

PANAMA CANAL EMPLOYEES

HON. WILLIAM O. LIPINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 20, 1989

Mr. LIPINSKI. Mr. Speaker, this body has, through the years, consistently shown a commitment to working men and women here and abroad. American success stories time and time again begin with an individual's hard work and the opportunities that work provided for him and his family. Although today's newspapers are filled with stories of greedy men and women who tried to make a quick buck, we continue to recognize and appreciate the vital role which labor plays in supporting this Nation's economy and prosperity. It is because of this appreciation that I and many others are concerned with the current conditions that exist in Panama.

Because of developments in other countries, Panama no longer commands the attention of newspaper covers. Although this is understandable it does not mean that we should no longer continue to cover the effects of the situation on American and Panamanian employees alike. It is these people, the canal's most vital parts, that have had to face the consequences of the Panamanian actions and our reaction. Because of our commitment to workers everywhere and our concern for the continued and efficient operation of the canal, I feel it is time for this administration to re-evaluate the effectiveness of its actions.

Before we can begin to address the problems the canal workers face we must first recognize the unique position they are in. The canal workers operate in one country while being governed and directed by another. Thus the host country does not always separate the actions of the foreign country and the efforts of the canal workers. This seems to be at the root of many of the current problems the workers face. It is important to remember that the work force is neither a military group nor a diplomatic one. This country already has in place standard procedures for military and diplomatic personnel in all types of political climates. However, these procedures are inappropriate for the Panamanian work force.

For many years proper and sufficient health and education facilities have been available to canal and military employees in Panama. Because of the heightened tensions that currently exist, many military dependents are not accompanying soldiers to Panama. This has resulted in diminishing the base of people that support these vital services. As a result schools are closed early and canal employees must use Panamanian hospitals if they wish medical treatment. The schools that the canal families use have also begun to fail. This year school was let out early and the workers still do not have any assurances that next year will be different. The mission the canal employees have been asked to carry out under the Panama Canal Treaty is just as important as any current military mission. They deserve similar support from this country.

Employees of the canal have also seen a drastic increase in the crime rate. Those few who have not yet been the victim of a crime are victims of fear, for the current Government is not providing proper protection. Whether this is because the Noriega government is trying to hurt the United States by terrorizing its workers or not, we must take steps to ensure that the employees do not continue to live in fear of losing property or physical violence. Every day we look for ways to slow crime in this country, shouldn't we do the same for canal employees?

Concerns such as crime, education and health are problems we must solve for canal employees because we can. The Department

of Defense has many of the facilities and the manpower necessary to provide these basic necessities to both its own and to canal employees. In a government of our size, bureaucracy is necessary, but it cannot be allowed to stand in the way of helping the canal employees.

Other problems the employees face are founded in recent political developments. On March 11, 1988, President Reagan announced he would not allow U.S. payments to the Noriega government. Because of this action monthly payments to Panama for such things as toll receipts, public services, withholdings of income and education taxes of Panamanian employees have been put into escrow accounts in the United States. I am not here to question the necessity of taking steps against Panama. What I would like to see is what steps could be taken to take the canal and employees out of the middle of the confrontation. Because of our Government's withholding of taxes due the Panamanian Government on behalf of Panamanian nationals who work for the canal, these employees are considered tax evaders in the eyes of the current regime. The resulting actions by the Noriega forces has led to the constant harassment of these Panamanians and has affected the ability of these individuals to properly carry out their responsibilities. I certainly do not recommend giving in to Noriega and returning the withheld funds without stipulation but I do say that the importance of the Panamanian workers in the canal is such that a reevaluation is necessary.

Since the beginning of the sanction, Noriega has survived. He has tried to show the international community that all he has to do is survive in the face of the American sanctions. To Noriega, survival, in the face of our economic crunch, is equal to succeeding. A different approach may be to publicly return some of the money, say that which would go toward education and public services, and place upon him the responsibility of fixing the education and health systems. This would put the burden on him, and make his success incumbent upon his achieving results. A move like this would also put this country on the moral high ground, since the Panamanian church and the Organization of American States have called for an end to sanctions. I am confident that Noriega will prove true to form and fail at his attempts to put down the machete and govern.

The most unfortunate aspect of the current political crisis is that it is occuring during the very delicate process of transferring the canal over to the Panamanian Government. If this had happened 20 years ago we could have supported the employees and weathered the storm out. However, we are currently trying to train Panamanian citizens to take over responsibility for all aspects of the canal's operation. In fact, Panamanians currently make up about 85 percent of the canal work force. There should be no doubt about the abilities of these current Panamanian workers. They have, time and time again, demonstrated that they can operate the canal as well as it was operated before. They have learned and carried out their trade in the face of very trying circumstances. I commend all of them. No, my fear is that they will be driven away from the canal by the trying conditions. Already, many employees are taking advantage of the retirement options open to them and leaving the canal. This is not because the work is so demanding but because of the fear and worry caused by the current situation.

The canal work force, Americans and Panamanians alike, have demonstrated that hard work, for a cause you believe in, is healthy. You can hardly place more upon a man than he can bear. Worry and fear are proving to be like the rust upon a blade. It is not the revolution that will destroy the canal machinery, but the friction. The current exodus of talent and experience from the canal can not be replaced, and this, combined with the trying conditions that now exist, threaten the vitality of this crucial waterway. I wish we could solve all of the issues that make up this crisis one issue at a time. But it can not be broken down into a political matter, a military matter, and a canal matter. No, these are all interconnected and the solutions must take this into account.

THE 250TH BIRTHDAY OF THE TOWN OF STOCKBRIDGE

HON. SILVIO O. CONTE

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 20, 1989

Mr. CONTE. Mr. Speaker, I rise to commemorate the sesquibicentennial of the town of Stockbridge, MA. Although 1989 is the official date of the 250th birthday of Stockbridge, its history can be researched as far back as 1724. It began as the Mahican Indian village of "Wnahktakook," Mahican for "great meadow," and was sold for 460 English pounds to the Parsons family acting as proprietors on behalf of the Colonial Commonwealth of Massachusetts.

In the 1730's Rev. John Sergeant from Yale came to Stockbridge and began proselytizing and educating the Mahicans. In 1739 he built Mission House and from Mission House, which is still standing today, he learned their language and earned their respect through his moral uprightness. Reverend Sergeant firmly set the foundation for Stockbridge. When Rev. Jonathan Edwards, famed for spurring the religious revival known as the "Great Awakening," came to Stockbridge in 1751, the town had already begun its ascension toward the landmark it is today. In Stockbridge in 1754, Reverend Edwards wrote the first book written in the Berkshires, "Freedom of the Will."

In 1774, with the "Stockbridge Non-Intercourse Articles," Stockbridge played a large role in American independence. By the articles we voiced our discontent with the British Government taxation of us and use of our money without our consent. Furthermore, we decided not to import, purchase, or consume more British goods until they gave us more say in what was being done with our tax money. In 1781, Stockbridge again was a leader in the fight for what are now considered basic constitutional rights. Theodore Sedgwick, known for serving in both Houses of Congress, represented and won freedom for Mum Bett, the first American slave freed by law. More than 80 years before Abraham Lincoln spread the feeling across the Nation, Stockbridge knew the idea of people belonging to others as possessions was wrong.

Today, Stockbridge remains a leader in theater, in entertainment, and in recreation. The Berkshire Theater Festival has attracted to the area such talented actors and actresses as Frank Langela, Dustin Hoffman, Katharine Hepburn, James Cagney, Shelly Winters, Al Pacino, and Maureen Stapleton, to name a few. Chesterwood, the former studio of Daniel Chester French, the sculptor of the statue of Lincoln at the Lincoln Memorial, is a designated Massachusetts historic landmark rich with the history of our great Nation. The Berkshire Garden Center is exemplary of the serenity and relaxed beauty common to those who have experienced Stockbridge. Stockbridge has so much to offer.

Stockbridge is a warm community in the heart of the Berkshires exemplifying the deep, rich traditions of scenic New England. Although Stockbridge's meaningful past is captured by landmarks like Naumkeag, Ambassador Choate's mansion, the Norman Rockwell Museum, and the Red Lion Inn, it is those people who have made Stockbridge what it is today whom I have known and befriended over the years. Most towns the size of Stockbridge can only boast of one famous resident, Stockbridge has borne excellence as the rule rather than the exception. Past citizens such as the late Norman Rockwell and former Congressman Allen Treadway are rare geniuses and personalities not often witnessed anywhere and at any time in America. Not only were these two men close friends, but they exemplified the excellence found in the residents of Stockbridge. That excellence is carried forward in such present residents and friends as the Honorable John and Jane Fitzpatrick. Like Rockwell and Treadway, the Fitzpatricks are tireless workers who are loyal to the town of Stockbridge and its residents whom they dearly love.

Stockbridge continues to maintain its colorful, past traditions and legends which help it face the realities of today. The genuine warmth displayed by the people of Stockbridge during the celebration of their 250th birthday has been born from its rich heritage. Mr. Speaker, on June 24 I will be fortunate to have the opportunity to march in the parade celebrating Stockbridge's 250th. I also expect to be among those at the front of the line to receive a piece of the 250th anniversary cake. I commend the people of Stockbridge for their respect of traditions and their accomplishments of today. I am honored to extend my sincerest congratulations to all the residents of Stockbridge on this most festive and historic occasion.

CREDIT MARKETING

HON. C. CHRISTOPHER COX

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 20, 1989

Mr. COX. Mr. Speaker, a recurring question in America is, "Why should there be poverty in

the midst of plenty?" We know that the U.S. Government stores crops that the farmer doesn't sell, while at the same time, people go hungry. What is the cause of such absurdity?

Two of the Nation's leading economists, Dr. Arthur B. Laffer and Dr. Victor A. Canto, have reviewed an analysis of this problem by an Englishman now living in America, who has been studying the matter for over 50 years. Mr. James F. Huson's analysis is that one of the main reasons for the problem is a lack of money—that without money, nothing happens.

Mr. Huson has proposed that a credit system, not based on money, would enable the exchange of goods and services that otherwise might remain unproduced or unrendered. A person would work, get paid in credits, and purchase goods with credits. This, he believes, could break the "money" deadlock, at least in severely impoverished areas.

Given the apparent inability of government programs to revive chronically depressed pockets of the economy, Dr. Laffer and Dr. Canto began formal economic research into the credit marketing idea. Based on their initial research, they believe that credit marketing has the capability of acting as a catalyst to create employment in chronically depressed pockets of poverty in the United States and around the world. As a member of the House Economic Development Subcommittee, I am particularly intrigued by the authors' conclusion that credit marketing can bring jobs and a good life to the areas of deep, deep poverty in the Appalachians, to the rural areas of the Southern States, to the barrios and the ghettos, and even to middle-class areas hit so hard by changing times.

The following brief synopsis, written jointly by Dr. Laffer, Dr. Canto, and Mr. Huson, explains how and why.

CREDIT MARKETING

(By James F. Huson, Dr. Arthur B. Laffer, and Dr. Victor A. Canto)

THE PROBLEM: THE PERSISTENCE OF UNEMPLOYMENT

The unemployed cannot increase their purchases of goods and services until they find employment and increase their income level. Unfortunately, employers cannot provide the unemployed with jobs until they start selling more of their products. A market failure is said to occur, one in which employers are waiting for more sales so they can hire more help as needed, while workers are waiting for jobs before they can increase their purchases. In this situation, higher levels of employment and production cannot be attained.

A catalyst is needed to start and speed the process that will result in higher output and employment. A credit marketing system could be one such catalyst. Credit marketing offers a way to eliminate this market failure.

THE SOLUTION: CREDIT MARKETING

The credit marketing program is designed to link increased employment directly with incremental sales to the employer. This is guaranteed through the credit system. Paying new employees with credits that return to the employers as additional sales will insure that the employer would be able to sell the incremental production. Thus, the feature of the credit marketing program that links the new employment to incremental sales is a way to eliminate the market failure that prevents employers from hiring additional workers.

The credit marketing program will act as a catalyst that eliminates the previously identified market failure. The credit marketing program directly links increased sales to increased production, and accelerates the process toward a fully employed economy. In return for active management and marketing, a transaction fee will be charged to the participants in the program. These charges are analogous to credit card fees and will vary according to the type of membership, volume of the transaction, and nature of the product. The percentage need not be the same across different industries. The revenue generated by the transaction fees will be used to fund the program.

AN INITIAL PROGRAM

In order to maximize the gains of trade, the program must initially match two economically deprived and diverse areas. Likely candidates for a pilot project are a depressed urban area and a depressed rural area. The proximity of the two areas gently reduces possible transportation and transaction costs.

The urban participants will be employed in the production of manufactured goods. In turn, the rural participants will be employed in the production of agricultural products. In order to maximize the employment effects of the program, the credit marketing system should focus on the production of labor-intensive goods and services.

A mechanism for linking the rural and urban segments of the program would be developed. This objective may be achieved through the inclusion of local supermarkets and retail stores in the program. The supermarkets and other retail stores will play a key role in bringing the two communities together. The centralized nature of supermarkets provides an adequate distribution network, and a source of cash from nonmember customers. Supermarkets and retail stores would be practical for medium-sized and large regional credit exchanges; very small credit exchanges would probably have to settle for neighborhood retail food outlets.

Supermarkets and retail stores face a very competitive market: low prices, convenient locations, high quality, and large selections all play a key role in attracting customers. One possible way that exchange-affiliated supermarkets may compete for cash customers is through price: credit products may be offered for cash sales at a discount. Over time, as the program grows and the quality of the product increases, the flow of noncredit customers may increase and the discount factor may be reduced.

As the program becomes successful, new areas will be identified and local credit marketing organizations will be started. In turn, as these organizations become successful, they may be linked to a regional and then a national credit marketing organization. The national exchange will maintain a credit account to insure that the balance of goods sold to the local exchanges matches the goods bought from the other exchanges. The integration of the local credit marketing exchange into a national exchange system will unambiguously increase the diversity of goods and services offered by the organization. Initially, we envision the program participants manufacturing and producing easily marketable, labor-intensive goods and services. Sales will occur within a closed circuit "mini-economy" with the means of exchange being a credit account system for the members. In time, as the program becomes successful and expands, program participants may take advantage of economies of scale in the production process and more sophisticated goods and services will be produced. In principle, the credit marketing participants may effect purchases at any participating exchange. This full-scale credit marketing program will afford the convenience, choice, and selection of the market economy.

Given the nature of the credit marketing program, it is unlikely that wholesalers and other distributors will choose to participate in the credit marketing program and get paid in credits while they purchase their goods in cash. The obvious solution is to develop a fully-integrated system where the credit marketing organization assumes the role of middleman for wholesale distribution. Under a credit marketing system as outlined in this proposal, the risk of default is minimal if the rules governing the functioning of the system are adhered to. This suggests that the credit marketing operation will be able to capture the returns ordinarily generated by wholesalers and distributors without significantly altering the cash-equivalent credit price of inputs paid by credit marketing participants.

CONCLUSIONS

Our studies suggest that the credit marketing system is a viable solution to chronic unemployment and uneven prosperity. In an analytical study using a model with only 400 participants, we found that the credit marketing system can be self-financing, can achieve a balance of goods, and can meet the cash needs of both employers and employees. Even in a very small scale model of the system, sufficient revenues will be generated to fund the day-to-day operations of the program and to provide an appropriate rate of return on invested capital. The results of our studies also indicate that a fully-developed regional exchange with 4,000 employees would generate sufficient revenues to yield a positive rate of return on the original invested capital.

This scenario substantially underestimates possible dynamic effects in the work effort of program participants. The availability of steady employment will yield higher productivity and, in all likelihood, a higher labor supply than we estimated. Similarly, as unemployed teenagers participate in the program, their skill level will steadily rise, their increased productivity will result in higher output per worker while on the program, and they will ultimately leave the credit marketing program in favor of the cash economy.

The results reported clearly indicate that implemented on a limited scale, the credit marketing system can alleviate high unemployment in pockets of the economy. Fully implemented, the credit marketing system may once and for all extend to all Americans true economic opportunity as it loosens the tightening grip of the poverty trap.

H.R. 2651, MATERNAL AND CHILD HEALTH BLOCK GRANT AMENDMENTS OF 1989

HON. HENRY A. WAXMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 20, 1989

Mr. WAXMAN. Mr. Speaker, last Wednesday, June 14, I, along with Congressmen

MADIGAN, ROY ROWLAND, TAUKE, SYNAR, and LELAND of the Health and Environment Subcommittee, and Congressman GEORGE MILLER, chairman of the Select Committee on Children, Youth, and Families, introduced H.R. 2651, the Maternal and Child Health [MCH] Block Grant Amendments of 1989. These amendments are designed to improve and strengthen the MCH block grant program by first, redefining program goals and objectives; second, increasing the authorization level; third, targeting specified resources; and fourth, improving program accountability.

These reforms reflect both the Nation's experience with the block grant as well as the views and recommendations of recent maternal and child health expert panels, including the National Commission to Prevent Infant Mortality and the Institute of Medicine of the National Academy of Sciences.

They reflect too, the work of Department of Health and Human Services which will soon release its report on health goals and objectives for the Nation for the year 2000. Included on the Secretary's agenda are a number of goals and objectives relating to the health status of mothers and children. These targets provide a framework upon which State MCH block grant programs should be structured and operated. H.R. 2651 will help move the States in that direction and, in turn, will help the Nation reach the Secretary's goals.

I would also note that the higher authorization level provided for under this legislation conforms with both the recommendation proposed in the House leadership children's budget package as well as the position adopted by the entire House in its fiscal year 1990 budget resolution—House Concurrent Resolution 106. That resolution assumed an increase in fiscal year 1990 appropriations for the MCH block grant in excess of $100 million above last year's appropriations figure of $554 million. In order to accommodate this rise, the block grant's current authorization level must also be increased. As is described in more detail below, H.R. 2651 is designed to follow through with MCH block grant proposal set forth in House Concurrent Resolution 106 by increasing the program's authorization level by $100 million to $661 million.

All of the sponsors of this legislation have worked long and hard to develop a proposal that will enhance the MCH block grant program and advance the health of those mothers and children that it serves. What follows is a brief description of the program and a summary of the legislation that was introduced last week. I urge my colleagues to support H.R. 2651.

SUMMARY OF H.R. 2651, MATERNAL AND CHILD HEALTH BLOCK GRANT AMENDMENTS OF 1989

BACKGROUND

Established in 1981, the Maternal and Child Health (MCH) Block Grant represents a consolidation of seven previous formula and categorical programs designed to serve mothers, pregnant women, infants, and children. Under the Block Grant, Federal funds are available to the States for the provision or the purchase of a broad range of maternal and child health services that will help States in (1) reducing infant mortality; (2) increasing the availability of prenatal, delivery, and postpartum care to low-income women; (3) reducing the incidence of preventable and handicapping conditions among low-income children; (4) increasing the number of children immunized against disease and receiving health assessments; and (5) providing medically necessary services to children with handicaps or "children with special health care needs."

Eligibility criteria under the Block Grant are set by the States themselves. States may elect to charge for services provided. No charges may be imposed, however, for services provided to mothers and children whose incomes fall below the Federal poverty level.

Funds are allocated among the States based on their proportional share of 1981 outlays for the various programs consolidated into the Block Grant. In order to receive their allocation, however, States must meet a matching requirement: for every $4.00 in Federal funds a State receives under the Block Grant, the State must spend $3.00 of its own monies on maternal and child health services.

The MCH Block Grant law provides that between 10 and 15 percent of the amounts appropriated in each fiscal year are to be withheld from the States and administered by the Secretary of HHS. Known as the Federal "set-aside", these funds support a variety of designated activities. An additional amount of funds has been withheld through FY 1989 to establish and operate projects for the screening of sickle-cell anemia and other genetic disorders.

The current authorization level for the Block Grant is set at $561 million. Appropriations for the program for FY 1989 are $554.3 million.

OVERVIEW OF H.R. 2651

The purpose of H.R. 2651 is to strengthen and improve the MCH Block Grant program by (1) redefining program goals and objectives; (2) increasing the authorization level; (3) targeting specified resources and (4) improving program accountability.

H.R. 2651 would increase the authorization level for the MCH Block Grant for FY 1990 and each year thereafter from its current level of $561 million to $661 million. The Federal "set-aside" would be fixed at 15 percent of the amounts appropriated in each fiscal year. An additional 12¾ percent of such amounts would be retained by the Secretary to support infant mortality programs, newborn genetic screening projects, and service programs for mothers and children living in rural areas.

With respect to monies that are allocated directly to the States, H.R. 2651 would require, effective for funds made available as of FY 1991, that States submit a standardized application to the Secretary in which specified mandates would have to met. Among other requirements, States would have to set, for the forthcoming fiscal year, their maternal and child health goals and objectives as they relate to those established by the Secretary of HHS for the Nation as a whole for the year 2000.

In addition, States would have to provide in their applications that at least 30 percent of their funds would be used for services for pregnant women, mothers, and infants up to age one; at least 30 percent would be used for services for children; and at least 30 percent would be used for services for children with special health care needs. The remaining 10 percent of the appropriated funds would be allocated at the States' discretion. States would have discretion, too, in determining what types of services could be provided to each to these population groups. States are authorized to request a waiver of this formula in their application. Waivers could be granted by the Secretary, however, only under extraordinary circumstances and only for the fiscal year for which the application has been submitted.

H.R. 2651 also specifies the types of data and information that States would have to provide to the Secretary in their annual reports that are currently mandated under the MCH Block Grant statute. Based upon this material, the Secretary would be required to include in its annual report to Congress, information on various measures of maternal and child health as well as an assessment of the Nation's progress in meeting the Secretary's maternal and health goals and objectives for the year 2000. Like the revised application process, these reporting requirements would become effective with funds that are provided as of FY 1991.

In addition to amending the MCH Block Grant program, H.R. 2651 would require that the Secretary of HHS develop a model application form that could be used by pregnant women and children under age six in applying, simultaneously, for assistance under a variety of Federal maternal and child health programs. Among these are the MCH Block Grant, Medicaid, WIC, and Head Start programs.

TO AMEND THE FOREIGN AGENTS REGISTRATION ACT OF 1938

HON. ROBERT W. KASTENMEIER

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 20, 1989

Mr. KASTENMEIER. Mr. Speaker, today I am introducing legislation to amend the Foreign Agents Registration Act of 1938 (as amended, 22 U.S.C. 611 et seq.) [FARA], to eliminate provisions that interfere unnecessarily with the freedom of expression guaranteed by the first amendment to the U.S. Constitution.

Under FARA as it is currently written, films, books, newspapers, and other forms of expression are designated "political propaganda" by the Department of Justice, if they are disseminated in the United States by an agent acting on behalf of a foreign country, organization, party or individual, and if they are intended to influence recipients on matters of public policy. As "political propaganda," the films, books, or other communications must bear a stigmatizing label: First, the label must state the connection between the communication and the foreign agent; second, the label must state that reports concerning dissemination of the communications are filed with the Department of Justice; and third, the label must contain a disclaimer of approval by the United States.

The consequences of branding speech as political propaganda, and saddling it with the disclaimer that the U.S. Government does not approve of what the speaker has to say, are obvious and intolerable: Speakers are discouraged from disseminating their ideas, because they know that if their speech is labeled "political propaganda," it is likely to be prejudged and rejected as unreliable by the audience. At the same time, the audience is deprived of

speech never disseminated, and is encouraged by the disclaimer to disregard speech that is disseminated, on the grounds that it is contrary to the interests of the United States.

In 1987, the Supreme Court determined that FARA did not contravene the first amendment. That case—*Keene* v. *Meese*, 481 U.S. 465 (1987)—involved three Canadian films: "If You Love This Planet;" "Acid Rain: Requiem or Recovery;" and "Acid from Heaven." Those films are clearly identified as produced by the Canadian Film Board, but under current law that is not enough. Rather, they are political propaganda and must bear the onerous three part label. A majority of the Supreme Court was of the view that "people who have a sufficient understanding of the law" would recognize that the phrase "political propaganda," as defined in FARA, was neutral in its connotation and application. Therefore, the court determined that FARA did not impose an unreasonable burden on first amendment freedoms.

Regardless of whether people with a sufficient understanding of FARA would regard the phrase "political propaganda" as neutral, the first amendment was intended to protect more than just those who are well versed in the law. As the dissent in Keene correctly pointed out, "even if the statutory definition is neutral, it is the common understanding of the government's action that determines the effect on discourse protected by the first amendment." (481 U.S. at 489 (Blackmun, J., dissenting).) The common understanding that the general public ascribes to the label "political propaganda" is pejorative, not neutral. Speakers will inevitably be discouraged from disseminating speech that must be identified as propaganda, for the simple reason that it will fall on the deaf ears of an audience that understands propaganda to mean that the speech is untrustworthy.

My bill would not disturb the requirement under current law that agents engaging in certain activities in the United States under the direction or control of a foreign principal must register with the Department of Justice. What this bill would do is eliminate the role of the Justice Department in reviewing, labeling, and keeping track of films and other materials merely because the source of those materials is registered under FARA. To ensure that audiences are informed as to the identity of the speaker, and so that they may better evaluate hidden biases the speaker may have, my bill provides that any communication or prints originating in a foreign country and publicly disseminated by a person who is required to register under FARA must bear a conspicuous statement of country of origin.

My bill leaves intact all other requirements under the Act. It will simply end what I view as unwarranted Goverment activities that violate the spirit if not the letter of the first amendment. The health of our democratic process depends upon the encouragement of robust and unrestricted debate in the marketplace of ideas, and it is anathema to that process for an arm of the Government to engage in the censorship of films and other speech by designating such speech "political propaganda." I invite my colleagues to join me in cosponsoring this bill.

H.R. —

A bill to amend the Foreign Agents Registration Act of 1938, as amended, to eliminate potential infringements on freedom of communication

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Foreign Communications Free Trade Act of 1989".

SEC. 2. REFERENCES TO FOREIGN AGENTS REGISTRATION ACT OF 1938, AS AMENDED.

In this Act, except as otherwise expressly provided, an amendment or repeal expressed in terms of an amendment to, or repeal of, a section or provision, is made to that section or provision of the Foreign Agents Registration Act of 1938, as amended (22 U.S.C. 611 et seq.).

SEC. 3. SUBSTITUTION OF COUNTRY OR ORIGIN LABELING FOR REQUIREMENTS RELATING TO COMMUNICATIONS.

(a) IN GENERAL.—Section 4 is amended to read as follows:

"LABELING REQUIREMENT

"SEC. 4. (a) It shall be unlawful for any person within the United States who is an agent of a foreign principal and required to register under this Act to transmit or cause to be transmitted—

"(1) in the course of acting as such agent; and

"(2) in the United States mails or by any means or instrumentality of interstate or foreign commerce;

any communication or prints that originate in a country outside the United States without placing in such communication or prints a conspicuous statement of the country of origin.

"(b) The Attorney General may by rule define what constitutes a conspicuous statement for the purposes of this section.".

(b) CONFORMING AMENDMENTS.—(1) Section 1 is amended—

(A) by striking subsection (j); and

(B) in subsection (o), by striking "the dissemination of political propaganda and any other" and inserting "any".

(2) Section 6(a) is amended by striking "and all statements concerning the distribution of political propaganda".

(3) Section 6(b) is amended by striking ", and one copy of every item of political propaganda".

(4) Section 6(c) is amended by striking "copies of political propaganda,".

(5) Section 8(a)(2) is amended—

(A) by striking "or in any statement under section 4(a) hereof concerning the distribution of political propaganda"; and

(B) by striking "subsection (b), (e), or (f) of".

(5) Section 8 is amended by striking subsection (d).

SEC. 4. UNRELATED TECHNICAL AMENDMENTS.

(a) CORRECTION OF TYPOGRAPHICAL ERROR.—Section 1(c) is amended by striking "Expect" and inserting "Except".

(b) CORRECTION OF ERRONEOUS CROSS REFERENCE.—Section 1(d) is amended by striking "section 3611" and inserting "section 3685".

(c) REPEAL OF SUPERFLUOUS REPORTING REQUIREMENT.—Section 11 is repealed.

FAIRMONT HOSPITAL: 125 YEARS OF SERVICE TO ALAMEDA COUNTY

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 20, 1989

Mr. STARK. Mr. Speaker, I'd like to submit for the RECORD a celebration of an exceptional institution on this, its 125th year. Fairmont Hospital in Alameda County, CA, is a testimonial to perserverance and growth and I am pleased to honor its longstanding commitment to health care.

In 1864, the Alameda County Board of Supervisors established Fairmont Hospital on its present day location in the middle of Rancho San Lorenzo land. Although it was originally intended to be strictly an infirmary, the responsibilities and size of the hospital grew quickly.

The first patient was admitted to Fairmont on August 16, 1864, and the hospital soon took on added responsibility as the region's almshouse where the indigent aged were cared for.

In 1875, four new wings were added to the original building. Still the hospital soon filled to capacity. Around the turn of the century, the State Board of Charities reported Fairmont as "having a good central building, but poor smaller buildings plus a total of 17 tents, unheated, and containing from 2 to 14 beds." The board recommended new construction. In fact, Fairmont has historically struggled under the burden of space limitations and outdated buildings. Through the 1930's and 1940's, most of its buildings were wood and remained a constant fire hazard, prompting the need for a volunteer fire department on the grounds. The wooden buildings were not replaced until 1947. Still Fairmont's responsibilities grew throughout the early part of the 20th century.

In 1929 a school for nursing attendants, later to become a school for vocational nurses, began at Fairmont. In July 1938, the combined clinics of Hayward and San Leandro set up shop in Fairmont's refurbished basement ward. Each month 1,500 to 2,000 outpatients are treated in the Fairmont clinics. In 1953, a new emergency department opened at the hospital which continues to treat thousands of people each year. In 1961, after building a new rehabilitation wing, Fairmont Hospital began the first rehabilitation unit In Alameda County.

Currently Fairmont Hospital provides medical care for inpatients requiring rehabilitation or suffering from acute illness, such as AIDS, Alzheimer's disease, and cancer. In addition, the ambulatory care department includes urgent care, medical, and preventative screening clinics.

And yes, once again the Fairmont Hospital is suffering from old age. Most of the buildings are nearly 50 years old and in need of repair. A master plan has been developed to provide the hospital staff better access, more space, and more flexibility for future changes. Fairmont is also one of two hospitals in the county earmarked to fall under the jurisdiction

of a new special commission intended to administer the hospital with improved efficiency.

Fairmont Hospital remains a bastion in a sea of turbulent health care. Alameda County is the first in the Nation to hire an ethicist to help prioritize health care to the poor. Without major Federal or State aid or changes in tax policy, rationing seems to be the only option left to the county, which is overburdened with crack-related illness, and high infant mortality. Delays for medical treatment can range in weeks rather than days. Several Alameda clinics are closing their doors entirely.

One hospital neighboring Fairmont may not renew its commitment to accept MediCal patients when its contract with the State expires next year. Since MediCal pays for only 67 cents out of every dollar cost of treatment, other area hospitals are abandoning service to the poor. In addition, Schuman-Liles Clinic, the largest, privately owned clinic in Alameda County for the severely mentally ill, is in danger of permanently shutting down because of similar MediCal-based financial difficulties. Recently a major HMO closed down its MediCal in the area. The officials cited MediCal's inability to match treatment costs and the drug-related health burden as grounds for their Bay Area pullout. Currently, 21 percent of the nonelderly in California are uninsured, a figure which outstrips the national average. Many of these uninsured desperately rely on the county hospitals.

Despite these discouraging trends in Bay Area health care, Fairmont Hospital stands firm in its commitment to treating the poor. It remains one of the precious few in the area. By providing quality treatment to patients regardless of their economic standing, Fairmont Hospital delivers a valuable service to the people of Alameda County. I am pleased to honor the fortitude and history of Fairmont Hospital on its 125th anniversary.

CONGRATULATIONS TO ANTHONY SANDERS

HON. RONALD K. MACHTLEY

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 20, 1989

Mr. MACHTLEY. Mr. Speaker, it is my distinct pleasure to congratulate Anthony Sanders, of Providence, RI, this year's recipient of the first annual Ronald K. Machtley Award for Hope High School in Providence, RI.

This award is presented to the student, chosen by Hope High School, who demonstrates a mature blend of academic achievement, community involvement, and leadership qualities.

Anthony has clearly met this criteria by being an honor roll student. He has been involved in athletics as a member of the basketball and football teams. Anthony is also a Providence Journal Scholarship Award recipient.

I comment Anthony for his achievements and wish him all the best in his future endeavors.

ST. ANTHONY'S HIGH SCHOOL BASKETBALL TEAM NO. 1 IN THE NATION

HON. FRANK J. GUARINI

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 20, 1989

Mr. GUARINI. Mr. Speaker, I would like my colleagues to join in this salute to a Jersey City high school, small in size, but giants in ability. The school I speak of is St. Anthony's High School which a few weeks ago won the USA Today's No. 1 rank for high school boys' basketball teams in the entire nation.

Housed in a 70-year-old three-story walk-up building which was taken over by the Catholic education system after the building was abandoned as Public School No. 4 in 1952, this fine institution of learning is setting an outstanding example of how grit and determination can cause young Americans to excel despite difficult circumstances.

The school, whose faculty is staffed by Felician Sisters, Marist Brothers, laymen, laywomen and Diocesan priests has 320 students in a 10 classroom structure which has absolutely no recreation facilities.

Despite this fact, St. Anthony's High School team, under the direction of Robert Hurley, Sr., a Hudson County probation officer, who is their part-time coach, and Sister Mary Felicia, as principal, and Sister Mary Alan, director of development and athletics, stands out truly as a diamond on rough edges of our society.

At a time when our Nation is being besieged with the terrible statistics concerning antisocial behavior, drug and alcohol addition, St. Anthony's team has traveled to 10 States winning 50 straight games including a perfect 32 this year, setting a State record for victories in one season, all with no home court to practice or play games.

It has been necessary for this determined group to use an 80-year-old building, known as White Eagle Hall, which is about 10 blocks from the school. Each day when they go in to practice they must first move the bingo tables in a very cramped facility which does not meet the official measurements for basketball competition.

I believe the magnitude of their accomplishments is best related in the following newspaper accounts.

From USA Today:

Perfect Season: Jersey City (NJ) St. Anthony, USA Today's No. 1-ranked high school boys basketball team, finishes its season with a 32-0 record.

ST. ANTHONY ADDS TITLE TO PERFECT YEAR

(By Peter Brewington)

EAST RUTHERFORD, N.J., March 20, 1989.—Jersey City St. Anthony High capped a 32-0 season Sunday with one of its most difficult victories, 62-55 against Elizabeth in the championship game of the first state Tournament of Champions.

The Friars defended the top spot in the USA Today Super 25 they have held all season. Their 56th consecutive victory secured that spot.

In the New York Times of March 20:

ST. ANTHONY TAKES TITLE TO END AT 32-0

EAST RUTHERFORD, N.J., March 19.—St. Anthony High School of Jersey City, with one of the smallest enrollments in New Jersey, ended a superb season and made state basketball history today with a 62-55 victory over Elizabeth in the first Tournament of Champions. The triumph came before a crowd of 8,514 at Byrne Meadowlands Arena.

This year was the first time New Jersey held a tournament to crown overall champions in boys' and girls' basketball. In previous seasons, the state recognized titleholders in four size classifications for public schools and two for parochial schools.

In the Hudson Dispatch:

PERFECT FRIARS WIN TITLE

(By Brian Heyman)

EAST RUTHERFORD.—Coach Bob Hurley of St. Anthony High School and the Friars' cocaptains his son Bobby, and Jerry Walker, stood near midcourt posing for the cameras.

Together, they were holding a huge championship trophy, crowned with a golden basketball. It looked rather heavy, but it probably didn't feel that way. After all, these three were walking on air at the time.

Or so it seemed.

"We did it," an ecstatic Bob Hurley said a short while later. "Coast-to-coast, we're the best there was this year in the United States."

Hurley and his fabulous Friars had just beaten Elizabeth 62-55, yesterday in front of 8,514 fans at Meadowlands Arena in the title game of New Jersey's inaugural Tournament of Champions.

It was the conclusion to the greatest high school basketball season this state have ever known. St. Anthony, the tiny Jersey City school with an enrollment of 310 students and with no home court, finished 32-0 setting a state record for victories in one season.

But most impressively, the Friars clinched the national championship—the final No. 1 ranking in USA Today's high school hoop poll.

"This is going to be 'Our Championship Season,'" said Coach Hurley, whose team earlier had captured its New Jersey record seventh straight Parochial B state title and has now won 50 consecutive games over two seasons. "This is the Broadway play for St. Anthony High School. Nothing before this—or nothing after this—will ever be the same as the first of everything that we did."

From the Jersey Journal:

HURLEY, WALKER, EARN ALL-STATE HONORS

(By Tom Canavan)

Bob Hurley and Jerry Walker, the centerpieces who carried St. Anthony to an undefeated season and the first undisputed state title, headline The Associated Press' 1988-1989 New Jersey All State high school basketball team.

In addition to the leadership we must give credit and our thanks to the following teenage members of the team:

Bob Hurley, Jr., premier guard in New Jersey. He has won a scholarship to Duke University;

Jerry Walker, one of the top power forwards in the country. He will be attending Seton Hall;

Terry Dehere, developed into a top-notch guard in his senior season, his first as a starter. He also is bound for Seton Hall;

Jose Ortiz, moved to Jersey City from native Puerto Rico in off-season.

Rodrick Rhodes, called the best ninth grader in the country;

Sean Rooney, missed most of the season since suffering a severe ligament injury, ankle, against All Hallows—worked hard to get back in condition for the tournament of champions;

Danny Hurley, Bobby's younger brother, a sophomore, has great long-range shooting ability;

Woodrow Williams, sophomore forward with great potential;

Mark Harris, defensive sparkplug—outstanding on the ball defender;

Darren Savino, outstanding open court shooter—a smart defensive player;

Lamont Street, a junior—promoted to varsity in early January;

George Dunbar, senior, hard-working player in the limited time he received, has potential to be a good small college player;

James Wright, led junior varsity in scoring;

Michael Goines, only a freshman, was called up from junior varsity when Friars suffered a number of injuries; has good potential.

In my long period of community service, I have never witnessed the enthusiasm not only in our Hudson County community but the entire State of New Jersey regarding this school without a gymnasium. In addition to outstanding athletic ability, the good nuns and other members of the faculty have adopted as their challenge: "Be the best that you can be."

They teach, "It is not a matter of reaching the top, but of going a little higher * * * sharing oneself * * * unending energy means unending enthusiasm."

The faculty aims to offer intellectually stimulating classes. These classes allow each student to understand the workings of the world around them, to become aware of their own potential, and to realize that with education comes a moral responsibility to use knowledge as a tool to benefit the community.

The students are urged to accept the lessons offered in the classroom and to put them into practice, not only within the school, but also in the larger community.

The administration aims to provide the necessary atmosphere in the school which allows for the growth of each individual student in the context of a caring, Christian environment.

What impresses me the most is the feeling of the students and faculty members who reflect their feelings in the following:

There is a family spirit here which motivates everyone—it's a driving force in the school.—Brother Ralph Dinielli.

Teachers understand you, believe in you and care for you. The upperclassmen look out for you.—Morris Cuadra '90.

It's exciting! I've learned to program a computer to do everything but dance.—John Randall '88.

Here at St. Anthony's we are given the freedom to become responsible and independent young people. * * *—Yesenia Rodriguez '90.

St. Anthony's is a special place to me. Knowing that students appreciate what you do for them makes me feel very good about teaching.—Francis Kochanski.

St. Anthony High School is open to all qualified students regardless of race, religion, handicap, or ethnic origin.

Students are described by Sr. Mary Angelica, "Friar effort is untiring, spirit is unmatched. SAHS students are super."

The team has been receiving many accolades with visits being arranged by the New York Stock Exchange and the New York Mercantile Exchange.

Those in the community while expressing a tremendous sense of pride have now been given a challenge of responsibility in assisting this determined school and the students to finally have a presentable gymnasium in which to practice. I am pleased that a nucleus of civic-minded community leaders, including Superior Court Judge Kevin Callahan, are taking a deep interest in the just cause to assist this young group which has done so much with so little, proving that some young people can do more and more with less and less and are deserving of our support.

It is with this view in mind that I have contacted Maj. Gen. Francis Gerard, director of the New Jersey Department of Defense, to allow them to use the Armory for practice sessions.

In addition, a salute by Governor Thomas Kean has been scheduled, and I have asked President George Bush to greet the team at the White House. It will be an everlasting honor for these youngsters, who are No. 1 in the entire nation, to be received and congratulated by our Nation's No. 1 citizen.

I am certain that my colleagues here in the House of Representatives wish to join me in this salute and success story for this high school team whose time of need has indeed arrived.

RECOGNITION OF BRIHAN MAHARASHTRA MANDAL INDEPENDENCE DAY

HON. DENNIS M. HERTEL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 20, 1989

Mr. HERTEL. Mr. Speaker, I rise today to recognize the Independence Day celebration of the Brihan Maharashtra Mandal of North America. This celebration is being held in conjunction with their convention in Troy, MI.

The chief Minister of Maharashtra State in India, Hon. Mr. Sharad Pawar, will be the chief speaker at the convention. There will also be various literary figures, artists, industrialists, and prominent people of the political scene from India in attendance. This convention will be devoted to the role of Indians in North American politics.

My dear colleagues, please join me in recognizing the Brihan Maharashtra Mandal of North America Independence Day celebration. I would also ask you to congratulate these new immigrants for their interest in what they can contribute to our great democratic process.

DEMOCRATIC MOVEMENT IN POLAND GARNERS POPULAR UNITED STATES SUPPORT

HON. WILLIAM O. LIPINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 20, 1989

Mr. LIPINSKI. Mr. Speaker, with the runoff elections completed in Poland, I rise today with a sense of pride in what has been accomplished across the Iron Curtain, an awareness of the difficulties yet to come, and a feeling of great anticipation of what can yet be achieved. A new government, however imperfect, has been set up in Poland; though we who love liberty must suffer the fact that the Communists are still in control, we celebrate the victories that Solidarity has achieved. History has shown us that the pursuit of freedom is always treacherous, but it can never be destroyed. One need look no further for evidence than the Polish people, who have endured the hardships of a government they never requested or approved, and who will surely endure more in the months ahead.

Yet, Mr. Speaker, the Polish people must know that they do not stand alone in their ideals. Rather, they enjoy widespread support among Americans, especially among millions of Polish immigrants. Thousands of Polish-Americans in my district alone have consistently reminded me of their dream to see their homeland free. As a Polish-American myself, I share this dream with them. Proof of widespread American congressional support can be seen in legislation introduced in late May in the spirit of helping the Polish people regain control of their own land. This bill, known as the Democracy in Eastern Europe Act of 1989, proposes several initiatives to aid the Poles and their Hungarian neighbors.

In the area of trade, it will make Poland eligible for GSP status, and in the economic realm it will foster private initiative and competition by admitting Poland to programs of the Overseas Private Investment Corporation. There will be continued implementation of the 1987 United States-Polish Science and Technology Agreement, and the appropriation of $2 million each of the next 2 fiscal years for the provision of medical supplies and hospital equipment. There will also be additional financial assistance provided to democratic institutions in Poland totaling not less than $2 million over the next 2 years. Finally, educational and cultural exchanges will be further encouraged between two nations.

American support for Polish ideals will be highlighted next month by the trip President Bush will be making to Poland. This will be an extremely important trip for our President and for the Polish people. It is essential that President Bush deliver a message to Poles, and indeed to all those locked behind the Iron Curtain, that they will have unwavering American allegiance in their quest for self-determination. President Bush will have the opportunity to make that pledge, and he must deliver in the strongest terms possible. The United States must not lose this important opportunity to show once again our support for the democratic initiative in Poland.

Support in this country for Polish democracy goes beyond the American Government, however. It extends to the grassroots of American organizations. Recently I have been reminded in my community of one such organization, known as the Committee for Free Elections in Poland. This committee, which raises campaign funds for the opposition in Poland, in February began circulating a petition which has gained 30,000 signatures. Fifteen thousand were from my district. Out of respect and appreciation for the work this organization has done, I would like to include their petition in the record. It reads:

Whereas since 1938 the Polish nation has had no opportunity to free and democratic parliamentary elections and

Whereas the Yalta agreement of Feb. 11, 1946, signed by President Franklin D. Roosevelt, guaranteed the Polish nation the right to free and democratic elections and

Whereas the U.S. Congress stated that "it is appropriate for the United States to reject any interpretation or application that, as a result of the signing of the 1946 Yalta executive agreements, the United States accepts and recognizes in any way Soviet hegemony over the countries of Eastern Europe" (H.R. 2068) and

Whereas until today these basic rights of every democratic nation to free and unfettered elections of the highest authority in Poland have not been executed and

Whereas, as the result of such a situation, there is an economic catastrophy and permanent political crisis in Poland which threatens a social explosion in all of Central-East Europe.

Therefore, we the undersigned taxpayers of the United States of America demand from the United States Congress to pass a resolution to oblige the U.S. Government to execute, together with other guarantors of the Yalta agreement—i.e. Great Britain and the Soviet Union—the promise of free and democratic elections in Poland.

Mr. Speaker, it is everyone's hope that the promise of such elections will be fulfilled in 1993 according to the April roundtable agreements, and in 1995 when a new Polish President is to be popularly elected. In the meantime, however, it will be essential that the United States keep Poland at the front of its agenda and at the heart of its deepest commitments. The Polish people surely face great difficulties ahead, with a foreign debt already at $39 billion and inflation at 100 percent. The unity of solidarity itself will be tested as it shares the problems of coming months and tries to get Poland back on the road to economic recovery. Just as the Poles must retain their common vision, the unity of Americans who support Polish aspirations to freedom must and will remain intact.

TRIBUTE TO SHQIPONJA SHQIPTARE (THE ALBANIAN EAGLE)

HON. JAMES A. TRAFICANT, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 20, 1989

Mr. TRAFICANT. Mr. Speaker, I rise today to pay tribute to the Albanian Eagle, the official publication of the Albanian American Civic League.

The first issue of this newsletter condemned Slobodon Milosovic for stripping the ethnic Albanians in Kosova of the few rights they previously shared. The founder and now current president of the Albanian American Civic League, former Congressman Joe DioGuardi, continues to make sure the voice of Albanians in Yugoslavia is being heard throughout Congress. This voice could easily be heard during the Albanian American rally in Washington, DC, this past June 14, 1989.

The pages of the Albanian Eagle are filled with stories and articles sending and recording the message of the many accomplishments of the Albanian American Civic League. These achievements range from the State Department's communique of dissatisfaction with the recent activities of the Yugoslavian Government concerning Kosova, to the purchase of radio time on a major ethnic Albanian station in hopes of exposing the violent crimes committed against ethnic Albanians in Kosova. The news letter also informs of upcoming events and information on how one can help the cause.

Mr. Speaker, publications such as the Albanian Eagle allow the voice of the oppressed ethnic Albanians in Kosova and their Albanian American relatives to be heard. I salute all those involved with this organization, because it is only through their constant perseverance that the cries of those struggling in Kosova will be heard and answered.

A TRIBUTE TO PEGGY DICK

HON. HOWARD L. BERMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 20, 1989

Mr. BERMAN. Mr. Speaker, I rise today to honor a respected and distinguished member of the community, Peggy Dick, chair of the North Valley YWCA. During her term as chair, she has enhanced the lives of many as she has strived to provide opportunity and resources for all.

Peggy's special concern is youth services. She has encouraged program development for disabled teens, identifying participants and project resources through her job as a special education assistant at Sylmar High School. She has been instrumental in introducing a new generation to the YWCA, personally providing membership scholarships for young people.

Under Peggy's guidance the YWCA has expanded its membership and continued its growth. Peggy has secured business contributions as well as in-kind services. She has turned the Club 100 reception into an annual event, attracting both funding and new members. She is a tireless representative of the organization whether at the chamber of commerce, the United Way or civic group installations. She is also a powerful spokesperson for YWCA causes such as the San Fernando High School Health Clinic.

Mr. Speaker, I am proud to have Peggy Dick as a constituent. She is a leader in the community, an elder in her church, an advocate for the homeless, a promoter of cultural pride and diversity and has been active in the PTA, 4-H Clubs and the Girl Scouts. In recognition of her achievements and her abilities, the YWCA has nominated her for a third term as center chair. I ask my colleagues to join me in saluting Peggy Dick—an exemplary role model for all Americans.

ADAT SHALOM SYNAGOGUE IN WEST LOS ANGELES

HON. MEL LEVINE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 20, 1989

Mr. LEVINE of California. Mr. Speaker, I rise today to ask my colleagues in the U.S. House of Representatives to join me in recognizing the Adat Shalom congregation in the 27th Congressional District as it's members gather to celebrate ground breaking ceremonies on Sunday, June 25, 1989. On this day, with the first shovel of earth, the chance to dedicate a major new facility for the present and future generations of the Adat Shalom congregation will occur.

The Adat Shalom congregation has worked hard to build a strong place of learning and worship for its many members and friends who will be joining with many community leaders and elected public officials.

Adat Shalom started in 1945, amid the bean fields west of Los Angeles. At that time, the post-war housing tract was being built and the community was taking its first steps toward development. In time, Adat Shalom provided a school for Jewish education and spiritual guidance for the children. The social hall has provided housing for many community functions and the sanctuary for Jewish rituals and worship.

I would like to congratulate the members of Adat Shalom, and their spiritual leader, my friend Rabbi Morton A. Wallack, as they gather on this festive and significant occasion.

A TRIBUTE TO THE OCCUPANT PROTECTION HONORS PROGRAM FOR GOVERNORS

HON. JOHN D. DINGELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 20, 1989

Mr. DINGELL. Mr. Speaker, in recent years, safety belt usage has greatly increased thoughout our Nation. During the past decade, user rates have quadrupled. Thirty-three States and the District of Columbia have implemented safety belt use legislation, and child safety seat laws exist in all 50 States.

These increases in safety belt legislation and usage have led to many lives saved and injuries avoided on our Nation's highways. The National Highway Safety Administration estimates that over 15,000 lives have been saved by safety belts since 1983. However, just passing a law is not enough. Drivers and passengers must be made aware of the laws, and the laws must be strictly enforced. Programs need to be implemented informing the public of the importance of safety belt use, and polit-

ical leaders must provide strong support for the issue.

One step in this direction is a new program sponsored by the American Coalition for Traffic Safety [ACTS] and the National Safety Council [NSC]. Together, these organizations launched the 1988 Occupant Protection Honors Program for Governors, which aims to highlight the importance of the role Governors perform in boosting safety belt use to higher, more effective levels. The awards program was established in support of the national "70 by 90" campaign, an effort supported by over 300 key national, State, and local safety groups aimed at raising safety belt and correct child safety use to at least 70 percent by 1990.

In its initial year, the Occupant Protection Honors Program recognized 13 Governors for their effective safety belt programs. Recognition was awarded in three categories: Highest occupant protection, most improved occupant protection, and commendation for excellence. The winners of the 1988 Governors Honors Program are:

Highest occupant protection use:

Outstanding achievement—Hawaii; distinguished achievement—Maryland, North Carolina, and Texas.

Most improved occupant protection use:

Outstanding achievement—Montana and Virginia; distinguished achievement—California and Wisconsin.

Commendation for excellence: Illinois, Iowa, Missouri, New York, and Washington.

Events are being held in honor of the Governors of the winning States, thereby highlighting the political leadership shown and providing opportunities for further publicity about the importance of buckling up and achieving higher levels of safety belt use throughout the State.

I wish, to commend ACTS and the NSC for furthering this important cause. I would also like to extend my congratulations to the Governors from the winning States, with the hope that their accomplishments will inspire their fellow Governors to strive for the same level of success. I hope that every Governor will participate in the Occupant Protection Honors Program, and I encourage them to do so. Finally, I hope my home State of Michigan will be among the States honored next year. The fight to promote safety belt usage is a long and difficult one. I hope every Governor is willing to rise to the challenge and work to reduce the unnecessary fatalities and injuries on the roadways of our great Nation. Let all of us, too, be inspired to do the same.

THE STEVEN McDONALD STORY

HON. THOMAS J. MANTON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 20, 1989

Mr. MANTON. Mr. Speaker, today I direct my colleague's attention to parts four and five in the Newsday series on Steven McDonald. In these excerpts from Steven and Patti Ann's book, the article discusses the couple's trials and tribulations of striving to achieve some semblance of normalcy in their lives under the most difficult circumstances. This is a story of continued hope and faith. A story of human kindness, generosity, and caring. This also is a story of recurring disappointment, but it is not a story of defeat.

Mr. Speaker, I commend these articles to my colleagues:

GETTING READY FOR THE REST OF MY LIFE

(By Steven McDonald and Patti McDonald with E.J. Kahn III)

BELLEVUE, April, 1987.—We decided to leave New York two days after Easter.

Patti Ann was frightened. She didn't like to fly, and she'd never been separated from Conor, who'd stay behind in Malverne while she spent four days at Craig Hospital, becoming oriented. The hospital room had been a cocoon, a womb sheltering us from the rest of the world. Leaving it on the morning of April 21, 1987—a windy, cold, thoroughly miserable day—seemed as filled with risk as with reward.

Several attendants lifted me out of the chair, wrapped me in a long white blanket that looked like a body bag, and strapped me onto a gurney. Bellevue's nursing supervisor pushed me through the emergency room entrance. Photographers crowded around, and I tried to stay calm.

Medical Emergency Room Vehicle 578—the same buslike ambulance that took me from Metropolitan Hospital to Bellevue nine months earlier—drove me to the 34th Street heliport, on the edge of the East River. A five-minute flight on the police helicopter took us to LaGuardia Airport, where I was wheeled onto Craig's private jet for the flight west.

At the Denver airport, I was loaded into another ambulance, and a police escort took us to Craig. My bed was one of four in a room that had a curved, rotunda-like window with views of the Rockies. What a change.

Emotionally, I was running the gamut: Everything was new and exciting, but my family and baby were back in New York; Craig promised some hope, but the cops I'd been relying on for support weren't around. The staffers introduced themselves. I tried to settle in.

CRAIG HOSPITAL, ENGLEWOOD, COLO., April, 1987.—Steven was going to be just one of 60 spinal cord patients and would have his own team of therapists and doctors. We could sense there wasn't going to be any warehousing of patients here, nor any hands-off approach because of Steven's status as a public figure with powerful friends. Steven was just Steven McDonald, on the same level as everybody else.

Which meant Steven was about to become more independent. There would be no night nurse on duty by his bedside, or anyone else watching over him. Instead, hanging above the pillow he'd sleep on was a small rubber ball. Inside the ball was a mercury switch. If Steven needed a nurse, or any other kind of attention, he'd have to tap the wall with his head. That would send a signal to the nurse's station on the floor.

My first afternoon, when I'd been dressed and put into a chair, Gail Galinsky and Sharon Blackburn introduced themselves.

Sharon's job was to exercise my arms and legs, to stretch and loosen all my joints, and to encourage me to use my neck muscles. I'd need the strength in my neck to move my head so I could reach the controls of my motorized wheelchair.

The wheelchair was crucial to any independence. In New York, an order had been placed for a sophisticated $17,000 model that would be shipped to Colorado to arrive when I did. The chair could be maneuvered by "sipping" and "puffing" into a pair of flexible plastic tubes that curved up from the computerized motor behind the backrest. The sips and puffs controlled the chair's direction, its speed and whether or not the back reclined or stayed upright. (Alternating those positions, I learned, lessened the chances of body sores developing). But this chair, we discovered, operated on a timing mechanism. Inhale a second too long, and I went right instead of left.

Gail set up orange rubber cones in Craig's gymnasium and I was to steer around them and between them, like driving test cars. I'd go veering off in one direction, Gail running after me, Patti Ann and Conor sitting on the sidelines, watching and trying not to laugh too hard. The timing was impossible, and even Patti Ann and Gail couldn't figure it out. After a couple of days, we gave up. Gail ordered a new chair, with a sip-and-puff system that operated on the amount of pressure I used rather than its duration.

Besides learning to drive a wheelchair, occupational therapy for a high quad was limited. Dr. Daniel Lammertse headed the team responsible for my case. He was a calm realist, discouraging us from hoping for a research breakthrough or unanticipated "cure" but encouraging us to believe my Craig stay could improve the quality of my life. "One immediate issue," Dr. Lammertse would say later, "was to give Steve a voice. He wasn't a bad lip speaker, but he was frustrated he couldn't communicate better. Another was eating. Bellevue thought he needed a feeding tube, but he didn't. We wanted him to develop an appetite. And the third was education. There were so many things for Steve, Patti and their families to learn: the bowel program, bladder maintenance, suctioning, and how to respond if the ventilator goes haywire."

Within a couple of days, my feeding tube had been pulled. The hospital ran another series of phrenic nerve conduction tests. There was so little nerve activity, my diaphragm couldn't be stimulated. And without my diaphragm moving downward and creating suction to draw in air and expand the lungs, I couldn't breate on my own.

Getting off the respirator completely, I now knew for certain, would never happen.

Three weeks into my stay, Dr. Lammertse ordered my trache changed. The cuff trache would be replaced with a Jackson trache, one that let air pass by my vocal cords. Where at Bellvue replacing the cuff trache had been painful and frightening, Craig handled the operation with assurance. I stayed calm and felt little discomfort. Patti Ann was waiting for me in my room when I was brought back.

"I love you," I told her. In my own voice, not the froggy croak I'd managed to say at Bellevue.

"I love you, too," she said, tears forming in her eyes.

I'd been waiting almost a year to say those words. When I'd left the apartment that July afternoon, we'd been struggling in our marriage. Our work days were out of synch, I was grabbing overtime, Patti was pregnant and needed my attention . . . the problems of a police marriage, the ones we were so sure wouldn't apply to us, had been hitting home.

"I love you," I said. "I love you. I love you."

Patti Ann put her face next to mine and held me.

MALVERNE, L.I., May, 1987.—Michel Court, the one-block street my parents had lived on since they'd moved to Malverne, was a dead end. Mom and Dad lived at the corner nearest Drake, the cross street, and earlier that spring, one of their neighbors had passed away. That house, across Michel Court and at the far end of the street, was a small cape.

Even before Steven left Bellevue, I'd raised the subject with him. He knew the house—he'd seen the outside often enough when he was visiting me—and also understood its proximity to my parents.

I decided to tell my mother what I'd been thinking. Would they want us that near them?

My mother had been hoping I'd ask.

I'd contacted the son of the former owner. Yes, he'd sell, he told me. The asking price was $225,000.

CRAIG HOSPITAL, June, 1987.—While Patti Ann was in New York, Sharon Blackburn and other Craig staffers continued to get me ready for the rest of my life. Before my injury, I was a manic sports fan, I was a huge rock fan and I loved good food. When I'd go on outings from the hospital, Sharon would indulge me in all three. She'd talk sports and make sure the radio was tuned to the right station. "You're the only person I know," she'd say, "who'd order lobster in Denver."

The outings were recreational therapy. I had to get used to the preparations involved. Someone had to wash me. Someone had to dress me. Someone had to get a pass for me and pack my medicine.

The dependency would depress me some days, particulary those when Patti Ann was away. The more I learned about myself, the more I realized how much I'd always have to rely on others.

The bowel program was the worst.

At Bellevue, where there was no commode chair, I'd wait days. Then they'd use an enema. They had no concept of how to set up a program. At Craig, and later at home I'd be lifted into a commode chair every other day. The regularity, the gravity, and the lack of an enema tidied the process up. But when the doctors at Craig tried to teach Patti Ann the program, she got sick. She couldn't do it.

I vowed then that she'd never be in a situation where she had to. Our medical insurance would provide me with 24-hour nursing, and I'd insist the agency maintain that schedule once we got home. Absences and illnesses have to be covered.

When I got home—Patti and I would not be nurse and patient. We were husband and wife. And I'd do whatever I could to make certain we remained husband and wife.

THE PURSUIT OF NORMALCY

(By Steven McDonald and Patti Ann McDonald with E.J. Kahn III)

MALVERNE, L.I., August, 1987.—For a month, the architect and the builders researched what Steven's needs would be. Craig doctors reminded them that the furnace, air conditioning and humidity level would have to be electronically monitored to give him true independence. He would need a bathroom accessible to a wheelchair, counters that he could fit underneath while seated in his chair and—ideally—access ramps that wouldn't ice over in winter.

The amount of building seemed staggering, and I wondered if it could possibly be finished by Christmas. Steven was ready right now to leave Colorado. He could stay off the respirator for ninety minutes at a time, and the Craig therapists had told me there wasn't much chance of improving on that. He'd rather be on the respirator. His voice—growing stronger every day as he got used to exercising his vocal cords again—had no strength when he was taking in air on his own. But he couldn't come home until there was a place for him to return to.

MALVERNE, November, 1987.—I'm not sure what I expected, coming home. I'd seen the pictures on the construction, heard Patti Ann's descriptions, but as we turned onto Michael Court, the anticipation frightened me as much as it cheered. I could hear the sirens of police vehicles and more softly, the bagpipe strains of "The Minstrel Boy" and "The Wearin' of the Green." Then, I saw the crowds. Hundreds of neighbors and friends. Scores of cops, more than a hundred, lined both sides of the street.

And the house! What had been a modest brick cape now stood as a beautiful two-story colonial. The crowd parted to make way for us, and the mayor [Koch] handed us a gold key and, thankfully from what I could see of the frozen onlookers, said, "It's too cold for a speech. God bless this house."

The door to the house slid open, and Patti Ann and I turned and went inside. Patti Ann screamed with joy and surprise, so much had been done. Oh my God, I thought, as I took in the living room, the stairway to the second floor, the kitchen and dining area, and the sliding glass door to the rear deck. There was no hint of hospital about it, nothing suggesting the institutions I'd spent the last 15 months of my life in.

MALVERNE, November, 1987.—Normalcy was coming with difficulty to Patti Ann and me, and—it seemed to me—in odd ways.

Requests for us to appear at breakfasts, church groups, fundraisers poured into the house. Behind many of the invitations, I began to sense, was the presumption I'd improved, that my injuries were no longer serious.

But I was as seriously hurt as the moment after Shavod Jones's bullet cut into my spine. There had been no neurological improvement, although there was improvement in my overall medical condition. And that shattered piece of lead could stil be seen on the X-rays, lodged below the second vertebra: I wanted to go back to work in some capacity, to counsel and advise other officers, but it would have to be on my own schedule.

MALVERNE, March, 1988.—On Christmas Eve, I'd gotten to Midnight Mass and been awed by the beauty of the celebration. I'd said a prayer for improvement, some sign that my body was getting better. There'd been nothing. On Sundays at Mass, I'd say the same prayer. And every evening at home, when a Eucharistic minister would stop by to give Patti Ann and me holy communion, I'd pray some more.

Let me move my hands. My toes. Anything.

Now it was another Ash Wednesday, and Patti and I were going to Mass at St. Agnes, the Rockville Centre church I'd attended as a kid. A few friends came up, said hello, touched my hands.

Idly, I looked at my left hand. Its fingers were stretched out, suspended above the chair's arm, like a diver's about to enter the water. Not unusual. As I'd tried so many times before, I willed my fingers to close.

Amazingly, they did. I watched as I made a loose fist. Had Patti Ann seen? I looked up. No, she was preoccupied with Conor. Could I unfold the fist? No. I have to wait for another spasm. Would I be able to do it again? I didn't know, but for a moment I'd gotten something back.

It wasn't until that evening that Patti Ann and I were finally alone, and I could show her. "Look at my left hand," I said. Then I made my fist.

"You did that? she said. "You made that happen?"

She held the closed fist, gently caressing the fingers. "Thank God," she said.

MALVERNE, April, 1988.—As I watched Steven close his hand, I knew something was still going on inside him, that my prayers to the Blessed Mother had been heard. I'd called Craig and spoken to Dr. Lammertse. How much more can we hope for? I'd asked.

"Sometimes people get better," he'd answered, "but that little function isn't a likely omen."

That stung.

Two weeks later, Steven could move the toes of his left foot. Since then, there's been nothing.

I can't give up, I'd tell myself. It's not easy. But I can't.

MALVERNE, June, 1988.—Every day's mail would bring more invitations and awards. Both Steven and I would be honored as one of the national Fathers and Mothers of the Year: Schools, police groups, and Sunday school classes wanted us to speak. I was feeling distant from my old friends, Steven's and my lives had accelerated—for all the wrong reasons—into a whirl of black-tie invitations, celebrity events, and influential friends. A girlfriend I hadn't seen for months would call, and I felt as if we lived in different countries.

"You know," another friend told me one afternoon, "some people are jealous of you."

How could anyone understand our lives without living them? The press had suggested, for one, that our house would be a technological marvel, that a computer named HAL would be programmed to respond to Steven's voice and would be controlled by a wireless microphone mounted on his chair.

HAL didn't help us. The keyboard and monitor were on a table, but the plugs and connectors were on the floor. Within a couple of days, Conor had crawled underneath and pulled everything apart. I had no idea how to put it back together and neither did anyone else around the house. "Don't bother," Steven told me, "don't worry about it. I'm always going to have someone with me."

Conor would scramble up on the chair, kiss and touch his daddy's face and play with Steven's trache, occasionally pulling it out. Or he'd punch the buttons on the respirator, setting off its alarm. But I'd never keep Conor away. I wanted him to love his father, to understand that when he wanted to share his cookie with Steven, he'd have to feed it to him, and when he wanted to go for a ride, he'd have to climb into his father's lap himself.

One afternoon, I was making the beds and Conor and Steven were watching television. As I tucked in a blanket, I heard Conor scream, a cry of terror. I ran to him and saw he'd gotten behind Steven, out of his sight. As Steven had tried to turn the chair around to see what Conor was doing, Conor's hand caught in one of the wheels and was squeezed against the metal platform holding Steven's vent. I tried to pull it out. No way. It was jammed, already turning red.

"Oh, no," I cried, "Steven. His hand's pinned. Move forward! Move forward!"

The chair's motor was powerful enough to sever Conor's hand. If Steven blew the wrong way into his tube, the damage might be permanent. He grabbed the plastic straw with his lips, and puffed. The chair inched forward, and I scooped our baby up and rushed downstairs to Pat Dillon, the nurse on duty. Conor was all right, she said. The hand was bruised, but the skin was not broken and he could move it. Then I realized I'd left Steven. I went upstairs to tell him, and he was crying.

"I'm sorry," he said, "I didn't know he was there. I'm sorry."

"It's all right," I told him, wiping my own tears. "Everything's okay."

NEW YORK CITY, August, 1988.—When I was at Craig, I decided that contacting him [Shavod Jones] was a priority.

I knew I needed a go-between. I decided on Mike Koleniak, A New York Post reporter.

Koleniak called the prosecutor in the case, Dave Drucker, to get Jones's lawyer's number. "Peter Zeiler still represents Jones, doesn't he?" Koleniak had asked. No, Drucker told him. Zeiler had drowned in an accident in Brazil. Zeiler's wife, Regina Darby, was now representing Jones. Koleniak called her and they agreed some kind of meeting might be possible. Perhaps I could meet with Jones's mother, she suggested. I agreed. It was a first step.

Regina Darby was waiting for us with Jones's mother, an attractive, plainly dressed middle-aged woman named Sharon Harris whose face was an unexpressive mask. She showed no emotion as we introduced ourselves. And she had no response to our hellos. Occasionally, her eyes would glance towards me. For the most part, she looked at the wall or at the top of Regina Darby's desk.

I decided to talk to his mother directly.

"Something good can be made out of something bad," I told her. "Shavod can start over and make something out of his life."

Her face tightened, but still there was no response. Then Darby's phone rang. The call was for Mrs. Harris and, her back turned to us, she spoke in a quiet, stern voice.

The Regina Darby thanked us for coming. On the street, Koleniak turned to me and said, "The way her face was set, it was as if she thought it's your fault her son is in jail."

CONGRESS IS THE "PEOPLE'S HOUSE"—THE MYTH OF A "PERMANENT CONGRESS"

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 20, 1989

Mr. LANTOS. Mr. Speaker, lately we have witnessed a great deal of rhetoric—with little substance—to the effect that our Nation has a "permanent" Congress in which incumbents are perpetually reelected and in which challengers have little or no chance to win a seat.

As I am sure many of my colleagues have found, this rhetoric is far removed from reality. As with many of my colleagues, I defeated an incumbent to take my seat in this House. In the 8 years that I have served in this body, I have had three colleagues in each of the districts that are adjacent to my own district. I hardly interpret this as evidence of a permanent Congress.

Mr. Speaker, our distinguished colleague from the State of Washington, Congressman AL SWIFT, who chairs the Subcommittee on Elections of the Committee on House Administration, has written an excellent article which deals factually and accurately with this topic. Mr. Speaker, I ask that Congressman SWIFT's article, "The 'Permanent Congress' Is a Myth," which was published in the Washington Post, placed in the RECORD.

THE "PERMANENT CONGRESS" IS A MYTH

(By Al Swift)

On the mountaintop from which the conventional wisdom emanates, it is said that our nation has a "permanent Congress"—insulated from the winds of political change and perpetually reelected. An institution of, by and for incumbents, it is said.

Suppose instead that we had a Congress in which a majority of the current members had been elected during the current decade—say, since the beginning of the Reagan era. Suppose it included a House with turnover equal to or greater than the Senate's. Would such a body not be far more representative of the people than the "permanent Congress"?

If this sounds like a far-fetched goal, it is not: it is exactly what we have today in the House of Representatives of the 101st Congress. Fewer than half of the House members serving now were present at the beginning of the decade. Not only has a majority of the House's membership been replaced during the 1980s, but its turnover rate has actually been higher than that of the Senate, which has undergone two changes in party control during that period.

Of the 435 House members serving at the time of the 1980 election, 190—fewer than half—are still in office, while 244 have been replaced. Of the 100 senators serving in 1980, 56 are still in office, and 44 have been replaced. In other words, there has been a 44 percent turnover in the Senate, and a 56.1 percent turnover in the House.

If this is a jolt to the conventional wisdom, then maybe it's about time. We should take care that the temptation to see ominous trends in the smallest specks of evidence does not deter us from a comprehensive reading of facts that support a different conclusion.

It is true that 1988 was unusually kind to House incumbents. But from that isolated historical fragment it is an unwarranted leap to the conclusion that the deck was stacked. In 1988, the voters also elevated a sitting vice president to the presidency for the first time in more than 150 years—and this as a president was completing two full terms for the first time since Eisenhower did.

Viewed in that light, it should not be surprising that the voters retained more incumbents than usual. Whether they were expressing approval of the relative peace and prosperity over which a divided-party government presided in recent years or wariness at entrusting the nation's uncertain future solely to either party, the voters may (as Post reporter David Broder has suggested) have consciously chosen to continue split-party control as a way of maintaining additional checks and balances on the executive and legislative branches. This is a far more plausible interpretation of the electorate's choices than the prevailing array of presumptions.

Still, we have heard much lately to imply that the elected Democratic House majority is illegitimate—maintained only through abuse of the powers and perquisites of office. But if the advantages of incumbency truly were the reason that Democrats control the House, then one would expect the Democratic margin to disappear when the incumbent does. It doesn't. Democrats, for example, vacated a dozen House seats in 1988. With no incumbent running in these open seat races, the Republicans still won only one out of 12.

We should look at the entire political landscape before rushing to the conclusion that the House is but an island of Democratic dominance. Consider that 28 states have Democratic governors; 22 have Republicans. The voters in 28 states have elected Democratic majorities to both houses of their legislatures; in only eight states have Republicans won both houses. It is obvious that Democratic strength in Congress is no political anomaly.

We should also recognize the significant effect that major political forces have had on the present makeup of the House. In years when there are no overriding national issues that sharpen distinctions between the parties, the turnover of seats tends not to be as great. But in 1980, when a strong conservative trend helped turn a president out of office, 74 freshman members were elected to the House. In 1982, which was dominated by an economic recession and fears of a Social Security cutback, 81 freshmen were elected. Nearly half the new members chosen in these two pivotal elections—76 in all—had defeated incumbents.

Even when heated issues have faded, the turnover continues. After the past three elections, 45, 51 and 33 new members, respectively, joined the House. Members elected since 1980 now have more votes than members elected before 1980.

This is not idle number crunching; it is solid evidence challenging the recent view that the House of Representatives no longer reflects changing political sentiment and has somehow lost its historical distinction as the "people's house." These claims ring hollow against the fact that a clear majority of the nation's citizens have chosen a new congressman or congresswoman at least once during the 1980s.

What we have is far from a "permanent Congress." We have exactly what we should expect of the "people's house": a regular infusion of new faces, reflecting the current mood of the voters they represent and renewing the vitality of the institution in which they serve.

SALUTE TO EDDY JASON—THE PARTY LINE LEGEND

HON. TOBY ROTH

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 20, 1989

Mr. ROTH. Mr. Speaker, I am pleased to salute one of Wisconsin's living legends—Eddy Jason. Eddy was a talk radio host before such a term even existed. Now at 89, he is clearly one of the most energetic and highly regarded radio talk show hosts in the country.

For 40 years, Eddy's weekday "Party Line" program has been a mainstay on Northeast Wisconsin airwaves. Eddy's wit and charm have brightened many a morning for Wiscon-

sinites. I am proud to call Eddy my friend and wish him all the best as he continues to entertain Wisconsinites on "Party Line."

FOREVER RIDING THE AIR WAVES—EDDY JASON'S SHOW STILL STRONG AT 40

(By Ferdinand De Leon)

GREEN BAY, WI.—Long before the dawn of the information age, before Dr. Ruth and her minions began keeping truck drivers awake on their lonely cross-country treks, before talk radio was called talk radio, Eddy Jason was there.

And at 89, after seeing a format he pioneered copied and mutated, he is still there.

Jason, possibly the oldest working radio announcer in the country, and "Party Line," his hour-long show on WGEE-AM in Green Bay, have been a fixture of northern Wisconsin airwaves for four decades.

"Eddy's an institution up here," said Bucky Albright, WGEE's program director. "Whenever we have write-in contests, people write 'Say hi to Eddy' on their cards. He's very popular."

The show, which is on from 9 to 10 a.m. weekdays, has changed little over the years. In the past there had been a brief foray into television, and experiments with a longer time slot, but essentially the show remains the same.

The format for the weekday show is simple. "Party Line" is a public information show, where for an hour, guests answer questions from callers. Through the years, Jason and an on-the-air sidekick, currently Mike Austin, have jointly moderated the show.

Austin handles the monitors and the callers, while Jason supplements the program with playful announcements about community events. Even when reading commercials Jason's voice rises and falls, infusing the script with life.

"I really enjoy doing this," Jason said. "This is my hobby now, it's not my work, and I like being able to fool around a little bit. It's more like the theater."

In a typical week, guests range from local home economists to doctors, attorneys and bankers. The thrust of the show is to provide information, and it intentionally avoids controversial areas like politics and religion, Jason said.

After 40 years, the show remains a popular draw for the country-and-western station, which is the second-highest ranking station in the Green Bay market. Because of its longevity and popularity, "Party Line" is also the most expensive air time for advertisers, Albright said.

Jason has a simple explanation for his popularity.

"If you've been talking on the air for 40 years, then people are bound to hear you sometime," he said modestly.

Jason, who grew up in New York, got his start in the theater.

During the 1920s and early '30s, he toured with various theater groups in the Midwest, where he was usually cast in supporting roles in now-obscure plays that were all the rage then.

He also worked as an extra in the last of the silent films and later was a contract player in Hollywood in the early 1930s. But when the contract expired, he jumped at the opportunity to work with a touring theater company.

From the bright lights of theater, his career soon segued into the early days of radio.

"That was back in the days of live radio," Jason said. Those last two words were spoken with animation, hinting at the magic of a distant era. "Everything that we did was live and it was exciting. It was like the theater."

Jason still dabbles in the theater.

A few seasons ago he was in the Green Bay Community Theater's production of Tennessee Williams' "The Night of the Iguana." He still smiles when he recalls playing a 97-year-old man who fits between senility and poetry and dies at the end of the play after reciting the final lines of a sonnet.

"It was one of my favorite of the contemporary plays," he said.

Although Jason said he regarded the "Party Line" show as a hobby, he said he had no intentions of slowing down.

"I feel healthier now than I did when I was 60," he said. "That's because I was under a lot of strain then. But now I feel relaxed and healthy. Everything is taken care of for me. I hope, though, that they keep doing the show when I start feeling old."

CONGRATULATIONS ADAM FISCHMAN

HON. RONALD K. MACHTLEY

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 20, 1989

Mr. MACHTLEY. Mr. Speaker, it is my distinct pleasure to congratulate Adam Fischman of Providence, RI, this year's recipient of the first annual Ronald K. Machtley Award for Hope High School in Providence, RI.

This award is presented to the student, chosen by Hope High School, who demonstrates a mature blend of academic achievement, community involvement and leadership qualities.

Adam has clearly met this criteria by being an honor roll student. He is also vice president of the senior class and is active in community service.

I commend Adam for his achievements and wish him all the best in his future endeavors.

RECOGNIZING THE DEDICATION OF BETHESDA CHRISTIAN CHURCH

HON. DENNIS M. HERTEL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 20, 1989

Mr. HERTEL. Mr. Speaker, I would like my colleagues to join me in recognizing the dedication of Bethesda Christian Church on June 25, 1989.

Bethesda Christian Church was founded on June 14, 1934 by Pastor M.D. Beall. The church started as a Sunday school for neighborhood children in the area of Van Dyke Ave. and Nevada in the city of Detroit. The church eventually grew and expanded as a result of the faithfulness and dedication of the congregation. Today the congregation numbers in excess of 3,500 members and has areas of ministry that reach to all segments of the community. The church helps the sick, the poor, the elderly, as well as families, singles, and young people.

The church's private school has also served the community well. The school has been honored by educators from around Michigan and the nation for innovative programs and a dedication to excellence.

In 1982 the Bethesda congregation purchased 92 acres in the city of Sterling Heights. The church then began the task of planning and developing a new home for the Bethesda congregation. On Sunday, June 25, 1989, the Bethesda Christian Church will dedicate their new facility which encompasses 190,000 square feet.

My dear colleagues, I ask that you join me in congratulating the Bethesda congregation for its excellent work. I also ask that you join me in recognizing the dedication of the Bethesda congregation's new church.

THE 50TH WEDDING ANNIVERSARY OF GERTRUDE AND JOHN O'CONNOR, JULY 8, 1989

HON. SILVIO O. CONTE

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 20, 1989

Mr. CONTE. Mr. Speaker, 5 years ago on April 30, I stood in this well to pay tribute to Gertrude and John O'Connor on the event of their 45th wedding anniversary. Now, for the occasion of their 50th anniversary on July 8, it is with great joy that I make this presentation once again. John and Gert are dear friends of mine and of my wife, Corinne, and I am honored to take part in a commemoration of the milestone reached by this wonderful couple.

In American history, the past 50 years have been marked by war and peace, prosperity and want, good times and bad. However, there have been institutions fundamental to the government and our society which have survived unchanged. John and Gert's marriage, in its warmth, its vivacity, and its devotion has remained a constant in a fast-paced, ever-changing world. My association with John and Gert goes back many years, so I know first hand when I speak of the joy and happiness they have generated for so long.

The O'Connors have been blessed with a wonderful family, countless friends, and an attitude which remains as youthful as the one Gert and John had when they were married. One of their many ways of keeping young is through travel. They have explored their roots in trips to Ireland and at home are also determined to be active elements of their community of South Hadley, MA. Retired in name only, the O'Connors continue on in their special relationship, fully expecting to remain together for the next 50 years.

I want to extend all of my best wishes and warmest regards to John and Gert. They have been exceptional friends and I feel privileged to usher in the next half-century in which John and Gert will live and love in happiness.

A TRIBUTE TO PETER TAYLOR

HON. HOWARD L. BERMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 20, 1989

Mr. BERMAN. Mr. Speaker, it is with particular pleasure that I rise today to honor an outstanding young man who has already distinguished himself as a community leader and a model citizen. Peter Taylor is executive director of the Coro Foundation, an organization at the vanguard of leadership training which, under Peter's guiding hand, has moved to establish itself as the premier proving ground for the men and women who will lead us into the next century.

Peter himself is an exemplary representative of the inititave, drive and talent of which I speak. Besides his work at Coro—setting policy and defining goals for a high-profile leadership board—Peter worked for 6 years for the California State Assembly speaker pro tem, Mike Roos as a legislative assistant, press secretary, and chief deputy in the Los Angeles office.

Peter is an extremely active member of the community. Through his voluntary commitments he works tirelessly to improve the quality of life for all citizens of Los Angeles. He is a director of El Centro del Pueblo, Big Brothers of Los Angeles, Silverlake Homeowners Association and the Mount Hollywood Congregational Church. He is also vice president of the UCLA Alumni Board of Directors.

Mr. Speaker, few people have given their time and energy as selflessly as Peter. It is my distinct honor to ask my colleagues to join me in saluting Peter Taylor, a community leader, an exceptional individual and a role model for future generations.

ANTARCTICA MINING TREATY REJECTED

HON. BRUCE F. VENTO

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 20, 1989

Mr. VENTO. Mr. Speaker, I understand that the Department of State is working diligently to complete its report so as to forward a 33-nation agreement to regulate mining in Antarctica to the Congress. This proposed "Convention on the Regulation of Antarctic Minerals Resource Activities" will require ratification by the Senate and will require conforming legislation to be enacted by the Congress.

In the April 26, 1989 CONGRESSIONAL RECORD I advised Members of a report just completed by the Congressional Research Service that raised serious questions about environmental degradation in Antarctica and which pointed out that in spite of good intentions there is no way to enforce the rules or conventions previously agreed to among member nations. The result is a heavily impacted decimated fishery in the Antarctic seas, oil spills from a cruise ship that ran aground near Palmer Station, so-called, protected areas that are identified on maps but not on the ground, water and air pollution and other problems.

If there is at least one place left on this Earth where we can yet protect the land, the water and the air from the worst of man's depredations it should be Antarctica. The ratification of this Convention on Antarctica would put in place the necessary international law to allow mining activities to occur which will doom any chance we have to protect Antarctica and preserve it for the kind of fundamental research we need to measure the health of our world.

I am very pleased to see the Prime Minister of Australia has announced that they will not sign the convention and will pursue a program for a comprehensive environmental convention for Antarctica. I urge the President to reconsider the mining convention and to open a dialog with Australia regarding an environmental convention for Antarctica.

An article by David Clark Scott in the Christian Science Monitor describing the action by Australia follows:

AUSTRALIA ADVOCATES "WILDERNESS" STATUS FOR ANTARCTICA

(By David Clark Scott)

In a major boost to environmentalists, the leaders of Australia and France have signaled their opposition to mining in Antarctica.

Last year, a 33-nation agreement was reached to regulate mining in the world's last untapped continent. Beneath its icy surface, Antarctica harbors unknown quantities of oil, gold, platinum, and other strategic metals.

But it now appears the existing Convention on the Regulation of Antarctic Minerals Resource Activities (CRAMRA) won't become law. All seven nations with Antarctic territorial claims must sign and ratify CRAMRA. Five—Britain, Argentina, Chile, Norway and New Zealand—have signed.

On Monday, Prime Minister Bob Hawke said Australia would not sign CRAMRA.

Last month, on French television, French Prime Minister Michel Rocard expressed reservations about the CRAMRA and raised the possibility of renegotiation. Last week, Mr. Hawke phoned Mr. Rocard to discuss their mutual reservations.

Now, Australia plans to "pursue the urgent negotiation of a comprehensive environmental protection convention," according to a statement by Hawke. In short, Hawke wants Antarctica to be reserved as a wilderness park—off limits to all mining, including oil drilling.

It's a concept New Zealand pushed in 1975 with little success. More recently, Greenpeace and other environmental groups have promoted the idea.

"I think Hawke wants Australia to be seen as leading the world in conservation," says Michael Bland of Greenpeace Australia. "The Antarctic mining convention could be used as a springboard into the international limelight. And if he benefits, that's OK, because it's going to save Antarctica."

Environmental campaigns and catastrophes are capturing public attention at home and abroad. As a result, some analysts say, it's time Hawke's liberal Australian labor Party donned a policy coat of greener hue.

Oil spills in Antarctica and Alaska have received a lot of publicity here. Last week, the "Green" Independents made nationwide headlines here. They won five seats in the Australian state of Tasmania—enough to control the balance of power in the local parliament.

On the heels of that win, 20 of Australia's leading conservation groups said they would unite to make the environment a key issue in the next federal election. Indeed, Australian government and industry officials are working toward an agreement on banning the use of CFC's (chloroflourocarbons), which may set a world standard.

In France, Rocard's Antarctic position may also be a response to a greening of the populace. The Socialist government has made several recent concessions to environmentalists. And polls show as much as 17 percent of French voters plan to cast ballots for Green candidates in the June European Parliament elections.

But Hawke's Antarctic mining stance may not be motivated entirely by environmental concerns. His treasurer, Paul Keating, has said the CRAMRA will undermine sovereignty claims and deny Australia royalties from minerals from its claimed Antarctic territory.

Hawke will visit Paris in June. Discussion on how Australia and France can coordinate and sell their Antarctic anti-mining positions will be a top priority.

If France joins Australia in renegotiating CRAMRA, it can expect stiff opposition from the United States, Japan, West Germany, the Soviet Union, and New Zealand—which all support the mineral convention. Australian officials say it won't be easy to persuade other territorial claimants to join in the wilderness park concept.

CRAMRA supporters say the current unofficial, voluntary ban on mining won't hold forever. Mining will eventually occur, with or without an agreement. It's better to have the strict regulations this pact provides than throw out the CRAMRA agreement and leave Antarctica open to unregulated exploitation, supporters say. It took more than six years of arduous negotiations for 33 nations to agree on these guidelines, notes one New Zealand diplomat.

Critics of the wilderness-park concept say the idea has been floated before and sunk. Politically, the major industrial nations won't support it, they say.

But a Hawke aide responds: "It got very little support in 1975. World opinion may have changed sufficiently since then to make the concept viable."

STILL THE PROMISED LAND

HON. JAMES J. FLORIO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 20, 1989

Mr. FLORIO. Mr. Speaker, recently the Washington Post featured an article written by Natwar M. Gandhi. The article provides an insight into the meaning of America, and what it symbolizes to the many millions of people who yearn to come here.

Nat Gandhi is one of those who did come here. He is a senior tax policy analyst with the General Accounting Office who has worked closely with Congress on important policy analysis.

Mr. Speaker, Nat's article is recommended reading for anyone who needs to be reminded of how bright the promise of America is to millions of people in this world. It's because of people like Nat Gandhi that the promise of America burns so brightly.

Mr. Speaker, the article follows:

STILL THE PROMISED LAND

Recently, Atlantic magazine carried excerpts from the diaries of George F. Kennan, diplomat, historian and a major architect of postwar American foreign policy, in which Kennan views "the United States of these last few years of the 20th century as essentially a tragic country." This is a serious indictment and one that all concerned Americans should take note of. Kennan, the last of America's wise old men, possesses one of the finest intellects in America today. He does find some solace in America's magnificent natural resources and some of its people, but too much of his diaries contain, by his own admission, "bleakness of impressions of my own country."

Nearly 30 years ago, Edmund Wilson, the great literary critic and another Princetonian, had similar observations. As he was approaching old age, Wilson wrote, "I have finally come to feel that this country, whether or not I live in it, is no longer, any place for me. . . . . When, for example, I look through Life magazine, I feel that I do not belong to the country depicted there, that I do not even live in that country."

These statements are neither the rhetorical outbursts of frustrated old men nor the diatribes of modern-day revolutionaries. They are the thoughtful comments of two of America's most distinguished public men after long lives of study and contemplation.

Millions of immigrants like me, however, would find these comments a bit incomprehensible. As immigrants, we made a deliberate choice to come to America. Personally, I find these comments hard to believe and yet disturbing because I greatly admire both Kennan and Wilson. To me they represent all that is best in American thought. I always listen to what they have to say and nearly always find merit in their words. Yet I believe that their harsh judgments on America are unwarranted.

Why would such thoughtful people give up on America? I believe it is a matter of perspective. Wilson and Kennan belong to what Wilson himself calls a "pocket of the past." They represent the old professional class, which provided America its dedicated doctors, diplomats, lawyers, professors, clergymen and writers. They have a vision of America that is not easily reconciled with what one reads in daily newspapers or sees on television.

They are deeply patriotic men. Their idea of patriotism, as once expressed by Albert Camus, is the devotion to the ideal of what their country might be. And this is the problem. They compare American reality with the America of their dreams and bemoan the gap. They lament what has not been done and miss what has. Mesmerized by a dream, they cannot be happy with reality. Their concept of America is Utopian.

What matters, however, is not that America falls short of its promise, but that it continually strives toward that promise. That is the American genius. There is something to be said for the American belief, some would call it naivete, that if you keep trying, things will get better.

I can say that even in the short two decades that I have been here America has indeed changed for the better. Take, for example, the progress made on the issue of race relations, which seemed to tear the country apart during the '60's. Who would have thought then in the midst of all the acrimonious debate, the agitated demonstrations and the exploding cities that within just two decades Jesse Jackson would carry Virginia and be a credible candidate for the Democratic nomination for the president? Or that thousands of blacks would be elected officials throughout the country, particularly in the South?

America never ceases to evolve. It is an ever-improvising, ever-improvising process. Mostly, it is muddling through. Things are never really neat and orderly, but always changing. No other country changes as fast and as much as America. Even the complexion of its own people changes. The French and the Japanese essentially have remained French and Japanese throughout their histories. So have the Indians and Chinese. Not so with Americans. They let people of all kinds and colors come to their shores. Just imagine: in a mere half-century, America will no longer be a country of white majority.

And the melting pot not only remakes the immigrant, it also reshapes the country. New generations of immigrants bring vitality. The fresh new stream keeps the old water from stagnating. That is America's unique strength. No other country attracts the best and the brightest from all over the world. What's more, even the wretched, tired and poor—those who come risking their lives—gratefully repay this country with their hard work and dedication.

Currently the Asians are remaking the country much the same way that the Europeans once did. I look to them and their offspring—those who populate spelling bees and win Westinghouse Science Scholarships—when I envision America's future greatness. In their zeal to reshape their lives in this land of opportunity, these immigrants are reshaping American destiny far beyond the comprehension of most Americans. They have come here endowed with cultural heritages and traditions that date back thousands of years. These Asians may come empty-handed, but not empty-headed. They value entrepreneurship, hard work, family solidarity and community—traits we particularly need in these troubled times when, we are told, America is in decline.

Despite all of its ills—the crime, the drugs, the social promiscuity and the homeless—I do not see contemporary America as a tragic country. On the contrary, I see it as a triumphant nation that has provided an unprecedentedly high standard of living and freedom of expression to the majority of its heterogeneous people. No other country has done it on the vast American scale. It has made the "good life" possible even for the common man. It gives him a chance to make something of his life by liberating him from the crushing burden of poverty plaguing most of the world. Any country that can do that within just 200 years of its formation should not be called tragic. Most Americans take their good fortune for granted. I don't. I know better. I am from the old world, where they still see America as the promised land.

IN HONOR OF PASTOR JAMES FRESH

HON. MICHAEL BILIRAKIS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 20, 1989

Mr. BILIRAKIS. Mr. Speaker, one of the privileges of being a Congressman is the opportunity to honor individuals who have continuously given of themselves to the betterment of their fellow man and their community.

Today, I have the personal satisfaction of knowing one of the most special and dedicated of these individuals. I have the privilege of knowing a man of ceaseless energy and unending commitment to helping those in need. I have the pleasure of honoring a man whose hard work has greatly benefited his community and his congregation, a man who has seen a greater good flow from his tireless and unselfish efforts.

Our President referred to such individuals as "a thousand points of light" scattered across the landscape of our country. I do not believe that I could construct an image which more fittingly describes this great man. Indeed, if there are many points of light, then Rev. James Fresh of Dunedin, FL, shines brightly in this constellation of hope and caring.

On July 1, Reverend Fresh will be retiring after 23 years of service as senior pastor of St. Mark Lutheran Church in Dunedin. He is the only pastor ever to serve St. Mark and his efforts have been instrumental in the growth of this remarkable religious institution.

When Reverend Fresh began his service in 1966, St. Mark had 80 charter members. Today, the church has grown to over 2,700 members, making it Florida's largest congregation of the Evangelical Lutheran Church in America.

Reverend Fresh was also instrumental in the establishment of St. Mark Village. This facility in Palm Harbor, FL, provides vital retirement, living, and health care assistance to hundreds of people on a not-for-profit basis.

From a formless idea and vision of Reverend Fresh, St. Mark Village now has a staff of 185 people and a $7.5 million budget. The facility has 324 apartments, a 60-bed nursing home, 34 assisted living apartments, and a 51-bed specialized care center for victims of Alzheimer's disease.

As large an undertaking as St. Mark Village presented for Reverend Fresh, however, the energy of this man would not allow the pastor to rest on this great accomplishment. Instead, in addition to St. Mark Village, Reverend Fresh has orchestrated a Christian Day School for preschool through fifth grade students, supervised the construction of a sanctuary, and secured a two-story office/Christian education complex.

Mr. Speaker, I have only the highest regard for Pastor Fresh. I believe he exemplifies the values of God, community, family, and caring that have made this country great. His past work proves—indeed sets in concrete—his unyielding effort in service of his fellow man.

CONGRATULATIONS COLLEEN ANNE MANIGAN

HON. RONALD K. MACHTLEY

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 20, 1989

Mr. MACHTLEY. Mr. Speaker, it is my distinct pleasure to congratulate Colleen Anne

Manigan, of Woonsocket, RI, this year's recipient of the first annual Ronald K. Machtley Award for Woonsocket High School in Woonsocket, RI.

This award is presented to the student, chosen by Woonsocket High School, who demonstrates a mature blend of academic achievement, community involvement, and leadership qualities.

Colleen has clearly met this criteria by being a high academic achiever, finishing in the top 10 percent in her class. This is quite an accomplishment in light of the fact that she is enrolled in the most challenging academic program her school has to offer.

I commend Colleen for her achievements and wish her all the best in her future endeavors.

NICARAGUA AND PANAMA: A CENTRAL AMERICAN DISGRACE

HON. DOUG BEREUTER

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 20, 1989

Mr. BEREUTER. Mr. Speaker, the recent events in China have pushed the crisis in Panama from the forefront of our minds. We should remember, however, that Gen. Noriega remains in control of that beleaguered nation. The arrogance of the Panamanian leader and his junta repeatedly has been demonstrated. The delegation of the Organization of American States has been rebuffed, with the best efforts of this crisis resolution team meeting stony silence. Clearly, Noriega is convinced that he does not have to surrender power.

It is worthy to note, Mr. Speaker, that Nicaragua was the only nation to come to General Noriega's defense during the OAS emergency foreign ministers meeting. The OAS approved a resolution of condemnation of the electoral violence by a vote of 20 to 2, with only Panama and Nicaragua voting in opposition. In addition, Nicaragua voted against having an OAS delegation to mediate between the junta and the opposition coalition party that had won the election.

Now many reports indicate that Nicaragua is doing more than merely voicing diplomatic support for Manuel Noriega and his thugs. Nicaragua may be in economic chaos, but they still have sufficient resources to provide military assistance to Panama. Nicaragua, which has by far the most overpowering military machine in Central America, has demonstrated its willingness to expand its power and influence throughout the region. In providing military assistance to the outlaw dictator Noriega, Nicaragua shows that it will make any deal, no matter how reprehensible, to change the balance of forces in Latin America against democracy and the United States.

The Nicaraguan military support for the Noriega regime raises a number of questions, Mr. Speaker. How will this dangerous liaison affect the security of the Panama Canal? Also, given that the Nicaraguan Army is peppered with Soviet, Cuban, and other communist-bloc advisers, what light does this shed on Soviet claims of a new nonoffensive defense policy? And what will be the impact of this unhealthy alliance upon U.S. friends in the region?

Mr. Speaker, a recent editorial in the Omaha World-Herald examined the Sandinista-Noriega connection. The editorial concludes that "Now that the fact that Nicaragua is openly sharing its Soviet-stocked arsenal with the likes of Manuel Noriega has come to light, the true character of Nicaragua's rulers moves into sharper focus." Mr. Speaker, this Member would commend the editorial of the June 11, 1989 edition of the Omaha World-Herald to his colleagues. This editorial indeed brings into sharper focus the Nicaraguan complicity in further destabilizing Central America.

[From the Sunday World-Herald, June 11, 1989]

SANDINISTAS' TRUE COLORS REFLECT IN AID TO NORIEGA

How awkward for the American congressmen, religious leaders and others who have maintained that the Nicaraguan government poses no threat to democracy in other Central American countries. Nicaragua, although its economy is a shambles, is providing military aid to Panamanian dictator Manuel Noriega.

The disclosure by U.S. and Sandinista sources strengthens the impression, long-held in the U.S. State Department, that Nicaragua's military build-up, aided by Soviet arms and Cuban advisers, is a threat to Central America's fragile democracies.

A close relationship between the Sandinistas and Noriega also raises concern about a possible Nicaragua-Panama-Cuba axis. In view of the U.S. agreement to hand over control of the Panama Canal to the Panamanian government, such an alliance could give U.S. adversaries an opportunity to curtail U.S. commercial and defense shipments between the East Coast and the Pacific.

Nicaragua has emerged as Noriega's main ally, although Cuban leader Fidel Castro has reportedly had quiet contacts with the Panamanian strongman.

Other Central American leaders have condemned Noriega's brazen theft of last month's presidential elections. The organization of American States is trying to negotiate an arrangement by which Noriega would give up power. The Nicaraguan minister recently voted against an extension of the effort on the grounds that Noriega opposes it.

The Sandinistas deny arming Marxist rebels in El Salvador and elsewhere, although the State Department says it has evidence to the contrary.

Most of the aid to Panama is going to Noriega's Dignity Battalions, a private force of thugs that helps Noriega stay in power by harassing his political enemies, including the apparent winners of the May election.

For a long time, the Sandinistas were able to pass themselves off as a party of priests, poets and populists who were committed to agrarian reform and a just, peaceful society. A lot of people in the United States and Western Europe bought the image. Now that the fact that Nicaragua is openly sharing its Soviet-stocked arsenal with the likes of Manuel Noriega has come to light, the true character of Nicaragua's rulers moves into sharper focus.

SUPPORT NEEDED FOR COLONIAS LEGISLATION

HON. MICKEY LELAND

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 20, 1989

Mr. LELAND. Mr. Speaker, this past weekend, in my home State of Texas, legislation was enacted which provides $30 million in general appropriations and clears the way for bond sales of more than $100 million to build water and sewer systems along rural unincorporated subdivisions located along the United States-Mexico border, better known as colonias.

Colonias are characterized by substandard housing, inadequate plumbing and sewage disposal systems and poor access to clean water. These areas are highly concentrated poverty pockets that are physically and legally isolated from neighboring cities. It is only in these highly unregulated areas that the poor inhabitants can lay claim to home ownership, which on the surface appears affordable. However, homes in the colonias are affordable only because these communities lack the basic necessities that other Americans are accustomed to: Water, sewage, paved streets, education, access to health care, drainage and fire and police protection. The problems in the colonias have existed since the 1960's but have worsened in the last 10 years as their populations have increased dramatically. The constantly shrinking stock of affordable housing has left many of the residents in South Texas with no alternative other than living in a colonia.

Last month, the Select Committee on Hunger, which I chair, held a field hearing in Eagle Pass, TX, to examine the problems prevailing in the colonias. During the hearing we visited a colonia site and heard testimony from experts that have studied the area. The human suffering caused by the bleak conditions of the area were astonishing to all the members which attended the hearing. However, the suffering can be ceased and the conditions can be improved if assistance is granted to the area residents. By enacting the State colonia legislation, the Texas Legislature has taken the first steps toward achieving these goals. It is now Congress' turn to lend its assistance to these impoverished areas. Both Representatives RONALD COLEMAN and SOLOMON ORTIZ have introduced legislation targetting assistance to colonia sites all along the United States-Mexico border. I urge all my colleagues to support the passage of this legislation.

Attached is a copy of an article on, the Texas colonia legislation which was published in today's Washington Post:

RELIEF FINALLY COMING TO BORDER SLUMS: TEXAS BILL PROVIDES CLEAN WATER, SEWERS

(By David Maraniss)

AUSTIN, TX, June 19.—In makeshift communities—known as colonias—lining the Texas border with Mexico from Brownsville to El Paso, hundreds of thousands of poor Hispanics continue to live without sewer systems or drinking water.

For the last decade, their plight ranked among the state's most intractable social

problems, one that politicians in Austin and Washington seemed either unwilling or unable to resolve. A solution finally may be at hand.

Last weekend, Gov. Bill Clements (R) signed into law a colonias bill that provides $30 million in general appropriations and clears the way for bond sales of more than $100 million.

The money will be used to build water and sewer systems in border neighborhoods that lack them and to subsidize hookup costs for residents, who are to be charged based on their ability to pay. Federal lawmakers, who had been waiting for the Texas government to act, are expected to pass legislation in Congress that would match the state effort.

The colonias have been described as pockets of the Third World inside the U.S. border. As many as 1,000 of them are in Texas, ranging in size from 40 to 5,000 residents each.

In the Rio Grande Valley of south Texas, 90 percent of the colonias have water that is fit to drink but no sewer systems. In the El Paso area, at least 30,000 colonias residents live without drinking water.

Lack of sewer and water services have created severe health problems in the colonias, where residents—especially children—suffer from high rates of dysentery, hepatitis, lice and skin rashes.

Christine Stephens of Valley Interfaith, a church-based organizing group in the Rio Grande Valley, said the group hopes to break ground by September for a sewer system in Cameron Park, the largest colonia outside Brownsville.

"Things are just beginning to look up in the valley now," Stephens said. "And this is sure to help. People need the basic services before they can pull themselves out of the cycle of poverty."

Pearl Ceaser, Stephens' counterpart at the El Paso Interreligious Sponsoring Organization (EPISO), said she hoped most of the 30,000 people in El Paso without water could be hooked up to drinking water within four years.

"It was a tremendous victory," said Ernesto Cortes, director of the Texas Industrial Areas Foundation, the state's leading organizer for the powerless and dispossessed.

When the Texas House members passed the colonias bill in the final hours of the 1989 session, a tear was seen rolling down the cheek of tough, practical Cortes. His friends said the tear would be transformed into the first drop of clean water running through the pipes to the colonias.

CONGRATULATIONS LORI DUQUETTE

HON. RONALD K. MACHTLEY

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 20, 1989

Mr. MACHTLEY. Mr. Speaker, it is my distinct pleasure to congratulate Lori Duquette, of Cumberland, RI, this year's recipient of the first annual Ronald K. Machtley Award for Central Falls Junior-Senior High School in Central Falls, RI.

This award is presented to the student, chosen by Central Falls Junior-Senior High School, who demonstrates a mature blend of academic achievement, community involvement and leadership qualities.

Lori has clearly met this criteria by being a member of the National Honor Society. Lori is also a member of the Governor's Committee on Youth, Alcohol and Substance Abuse and the Health Advisory Committee. Her extracurricular activities also include being a student council representative and a member of the Senior Buddy Program. Lori was recently the recipient of the Attorney General's Outstanding Student Award.

I commend Lori for her achievements and wish her all the best in her future endeavors.

ESSAY CONTEST WINNERS

HON. HENRY J. HYDE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 20, 1989

Mr. HYDE. Mr. Speaker, it is my privilege annually to honor young writers from northern Illinois, representing both high school and junior high school age groups, who submit winning essays in a contest sponsored jointly by my office, and schools in the Sixth Congressional District.

Wood Dale, IL. resident Cash Casey, a graduating senior at Fenton High School in Bensenville, IL., won first place among high school participants for his essay entitled, "Your Vote: A Catalyst."

Eighth grader Daniel Graham, a Chicago resident and student at Mary Seat of Wisdom School in Park Ridge, IL., placed first in the junior division with his essay entitled, "Why is the Pledge of Allegiance to the Flag Important?"

Jeanette Hurt, a Lombard, IL. resident and senior at Willowbrook High School, placed second in the senior division with her essay, "Is Your Vote Important?" Bridget Ford of Park Ridge, a student at Mary Seat of Wisdom School, placed second in the junior division with her essay, "That Which We are Capable of Feeling, We are Capable of Saying."

I congratulate these and other participants who took the time to research, write, and edit their papers. It is through programs such as this one that students develop an appreciation for the traditions of this great and enduring representative democracy.

A special note of thanks also to Mrs. Vivian Turner, former principal of Blackhawk Junior High School, who coordinates this event.

I commend the following winning essays to my colleagues for their consideration:

YOUR VOTE: A CATALYST

(By Cash Casey)

John Smith, a mayoral candidate, is determined to get all of his ideas across to the people of his city. John is less experienced than his rival in some aspects; and as a result, he is ten points behind the leader in the polls. Consequently, he prepares to present a picture of his true character which has been absent from any pre-election publicity. As he paces the backstage of Forest Hall's auditorium, he formulates the way he will best narrate his ideas to the public. Even if he loses the election, he wishes to acquire and retain support for his party's needed ideas. As the lights glare strikes his lowered head, he walks out to the podium. Finally, he looks up to his left and is stunned. The chairs are empty! He looks closer at one of the chairs. On the chair is a sign declaring, "My vote doesn't count!" The next chair reads, "My vote doesn't matter!" He reluctantly pans his view across the auditorium. Every chair mutters the same message. As he scans to his right, his vision abandons him. All he senses are the hundreds of voices: "My vote doesn't count!" "My vote is not important!" "My vote doesn't matter!" The shouting overwhelms his head and he leaves in dismay. Although this is an exaggerated incident, it illustrates the voter turnout problem in our country. The people who feel elections do not need them could fill hundreds of these auditoriums (or keep them empty like Forest Hall). Everyone's vote is important whether it is the ultimate deciding factor, a marginal factor, or decisive in principle.

In the past, many instances have put the ultimate importance on one vote. For instance, one vote caused Charles I of England and Louis XVI of France to be executed in 1645 and 1793 respectively. Also, in the year of our independence, America adopted the English language over German by one vote. It would be hard to imagine Americans not predominantly speaking English. Without one vote in 1845, the lone star state, Texas, probably would be part of Mexico. Later, one vote both elected Marcus Morton Governor of Massachusetts and saved President Andrew Johnson from impeachment in 1839 and 1876 respectively. Unfortunately, in 1923 one vote brought Adolph Hitler into leadership of the Nazi party. One of the most critical single votes in American history saved the Selective Service, just twelve weeks before the attack on Pearl Harbor; without this vital vote, Pearl Harbor could have been a worse situation than it was. Although many people might not get to vote in the legislative elections, these incidents illustrate how some votes have made the ultimate decision.

In more recent years, some elections have made the vote decisively influential in the victory of a candidate. For example, in 1976, of eighty million votes cast for Carter and Ford less than two million delivered Carter the presidency. In the Nixon-Humphrey election of 1968, the individual vote possessed even more influence than in 1976. Nixon won by less than half a million votes. Furthermore, the closest presidential election of this century was between Kennedy and Nixon in 1960. Every vote in this election was vital to the outcome. Kennedy won by less than 120,000 votes, less than one vote per precinct. Therefore, when considering one individual in any precinct, their vote carried the ultimate importance. In addition, there are many instances of mayoral and congressional races being decided by a fraction of a percent. For instance, in 1986 one hundred and fifty thousand votes were cast for the Indiana congressional race, and Representative Jack Hiler won by only forty-seven votes. These examples do not repeat themselves in most elections, but the voter should realize that they happen often enough to be anticipated. Therefore, the citizen's vote should be cast, in light of such elections as these, to help a potential slight margin grow or diminish, giving his vote great significance.

In an election that may not be easily changed, the vote is left bare to display its true meaning. Many times in our history, the vote, on the surface, has carried great significance because of the close margin of the results. However, in principle, the common vote upholds the most importance because of the values behind it. Neverthe-

less, whether the candidate wins or loses, the vote helps decide the future. The vote is communication between citizen and politician. The vote is a seed to be planted in our government garden gradually to sprout long-range change. While one vote alone may not choose the winner, it can counter reactionary inertia and initiate progress. Putting aside the winners and the losers, the single vote carries its greatest importance as a messenger to the government lobbying for the citizens views. For the most part, the single vote cannot cause immediate change, but it becomes more consequential as a seed creating a lasting impact on America's destiny.

Even if an election is not decided by one vote or a small majority, each vote counts for freedom, democracy, responsibility, and the country's well-being and future. Freedom and democracy, two words that most Americans take for granted, are practically embodied in the vote. Unlike most other countries, America's future lies in the votes of its citizens. John Smith cannot govern our country by the will of the people if he does not hear the voice of their vote. Because each citizen's vote is such a major influence on government's future policies, your privilege to vote should not be taken lightly. Understanding the basic principle of a vote's impact and all of its capabilities is the key to fully appreciating its significance. By understanding our country's past fights for liberties and the results gained, you may better perceive how the vote you cast now shapes our country's future. Thus, realizing that John Smith needs your vote to initiate your ideas and that the country needs your vote to decide its destiny is the key to fully comprehending and appreciating your vote's importance.

WHY IS THE PLEDGE OF ALLEGIANCE TO THE FLAG IMPORTANT?

(By Daniel Graham)

I pledge allegiance to the flag of the United States of America and to the Republic for which it stands, one Nation under God, indivisible, with liberty and justice for all.

Some might think that our patriotism is deteriorating, but I think that it is near its peak. The Pledge of Allegiance was emphasized when I was little, and I didn't know what it meant. Now I understand its full meaning, and recite the Pledge with pride.

The Pledge of Allegiance means something special to me because it is a symbol of patriotism and of what the United States is all about. It defines our freedom and justice. The words of the Pledge hold the ideals of all the settlers who, over the years, came to this continent in order to have some opportunity to live under freedom and liberty. The Pledge is important because it reflects our democratic government and our free lifestyle.

The Pledge of Allegiance is a summary of America. It represents the struggle from the very birth of this striving nation. The Pledge of Allegiance makes us different than other nations. It specifically describes the United States of America. No other country on earth fits that Pledge like ours does. It is an oath we take—a pledge of our allegiance to God, this country, and everyone who lives for liberty and patriotism.

I think the Pledge of Allegiance should be introduced when one is young. Then, when memorized, it should be explained. This way our country would be made up of people proud to be Americans. I believe that everyone should think the Pledge is important, no matter what his or her age. I can remember reciting the Pledge of Allegiance, my hand on my chest and my eyes glued to the flag, knowing that our country was something of which to be proud. I feel the same way now but to a higher degree. I feel proud knowing that I live in the United States of America, and I am fortunate compared to others in second and third world countries.

My opportunities here are great. I can be anything I want. I can choose my occupation; it is not chosen for me. In other countries the way one lives is chosen for him. The Pledge is a statement of our freedom to choose.

We take this country for granted much too often and don't think enough about what it would be like to live in a third world country. The Pledge of Allegiance is our identification. It defines us as Americans. We should be proud of this Pledge, recite it often, and try to live it. For all these reasons, the Pledge of Allegiance is important to me and should be to others.

IS YOUR VOTE IMPORTANT?

(By Jeanette Hurt)

Eleanor got up at 6 a.m. today. In past years she had always walked to the polls a little later in the day. This year because of a broken leg, she had to rely on her nephew to drive her before he went to work.

Tom slept in. He wanted to make sure he was rested enough for the big game Friday. Oh, his vote? Voting in general was too much of a nuisance—he had more important things to worry about. Obviously Eleanor and Tom disagree about whether or not their vote is important.

As sad as this may seem, Tom is a rather typical example of many young American nonvoters. While only a few short decades ago, many people under 21 rebelled, petitioned, and fought to get the right to vote, today statistics show that 18 to 24-year-olds vote the least out of any age group. Just 45 percent of them are even registered, while only 36 percent of them actually vote.

While the youngest voters are the most negligent, Americans on the whole do not fare very well in the voting statistics. As difficult as it may be to believe, Jimmy Carter was elected president in 1976 by only 27 percent of all Americans qualified to vote. Ronald Reagan was elected in 1980 by only 28 percent of all eligible voters.

Abstaining from voting doesn't necessarily mean abstaining from complaining. The complainers do not seem to realize that they have elected officials—they have elected them by default. Travis Ketterman, a senior at Fort Atkinson High School couldn't vote this year. He wasn't 18, but he still felt that he could make a difference. That's why he was out campaigning during the past election. He gave over 30 speeches before November 8 rolled around.

"The people who complain the most about our government most often are the ones who didn't vote. My personal feelings are that you don't have the right to complain if you don't vote, Ketterman said.

Ketterman is in good company. Many great Americans have extolled the freedom of voting. "The most important step that a person can take is that short walk to the ballot box, "said Dr. Martin Luther King, Jr. Abraham Lincoln put it another way when he said. "The ballot is a lot stronger than the bullet." Unfortunately many Americans do not feel this way. Have you ever heard of President Charles Evan Hughes? He would have been elected president in 1916 instead of Woodrow Wilson if just one more voter in each California district had voted. John F. Kennedy was sent to the White House by less than a single vote per election precinct. But does your vote count?

Maybe some people don't vote because the polls show that their candidate is far behind or far ahead. They mistakenly think that their vote doesn't count. Six years ago, the polls predicted that Jim Thompson would win the Illinois governorship by a three to two margin. In actuality, he won by only 5,000 votes or less than one half a vote per precinct. Those votes didn't count, right?

While some people just seem to throw away the precious right to vote, others are well aware of the power of free elections. If one vote doesn't count, why do precinct captains in cities all over this country make an effort to get every single voter to the polls?

If one single vote doesn't matter, why do people in Chile and the Philippines risk gunfire on the way to vote? I really couldn't blame them for not voting, but the funny thing is, they still keep coming back to vote. They're willing to endanger their lives to use their one, single vote.

About 95 percent of all eligible European voters vote. In Australia, non-voters are fined; voting is considered not only a right, but also a citizens's duty.

Why do so many Americans abstain from voting? Perhaps they are not convinced that their vote can make a difference. Perhaps they feel uninformed or powerless. Perhaps they do not appreciate the fact that the big difference between a totalitarian state and a democracy is one little vote. As Winston Churchill said in a speech before the House of Commons in 1944, "At the bottom of all the tributes paid to democracy is the little man, walking into the little booth, with a little pencil, making a little cross on a little bit of paper—no amount of rhetoric or voluminous discussion can possibly diminish the overwhelming importance of the point."

WHY IS THE PLEDGE OF ALLEGIANCE TO THE FLAG IMPORTANT?

(By Bridget Ford)

"That which we are capable of feeling, we are capable of saying."—Cervantes.

On October 12, 1892, school children across the nation said the Pledge of Allegiance to the Flag for the very first time during a Columbus Day observance. Modern day students are still encouraged by their teachers to face the American flag, hold their hands over their hearts, and recite the Pledge of Allegiance. They are taught to say these thirty-one words, but are they told what these words mean? We are proud to be able to rattle off these syllables when we are very young. Hopefully, however, older students should be able to do more than "rattle off" the words. Ideally, older students should be able to say the words with feeling or at least with understanding.

The Pledge of Allegiance gives us the opportunity to verbalize our loyalty to our country. This recitation should be taken seriously and should be made freely. Why should it be necessary for anyone—young or old—to verbalize their loyalty to America? Why is it ever important to express our feelings to others—devotion to another in the ceremony of marriage, oaths of office by our government officials, or promises made by witnesses in courts of law to tell the truth?

Some people find it difficult to let their feelings show by verbalizing them because they are unsure about them. People who

choose to believe that the Pledge of Allegiance is unnecessary are probably unsure about their feeling of loyalty or level of commitment to their country.

America is a very unique country in that the government doesn't force anyone to openly pledge loyalty. We have freedom of speech and freedom of choice. No one is forced to recite the simple sentence that tells the world that America is a great nation that sticks together and guarantees freedoms and justice for all its citizens.

Citizens who are aware of the blessings that America provides for them are willing and proud to verbalize their respect, allegiance, and feelings for their nation. They realize that the freedoms that America guarantees to all people didn't come easily. Americans who take the Pledge of Allegiance to heart are "putting themselves on the line" by telling the world they are also committed to democracy.

The school children in the classrooms on that October 12th in 1892 who first recited our Pledge of Allegiance went on to fight in World Wars or sent their children and grandchildren to defend democracy in the Korean Conflict and in Viet Nam. These school children grew into adults who knew what the words of the Pledge of Allegiance meant and took the words to heart. Their children and grandchildren who defended the flag of the United States of America by serving in the Armed Forces also recite the Pledge of Allegiance without reservation because they know the price of freedom isn't cheap. They paid their dues to keep this country strong—this country—"one nation, under God, indivisible, with liberty and justice for all."

FEMINISTS FOR LIFE

HON. ROBERT K. DORNAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 20, 1989

Mr. DORNAN of California. Mr. Speaker, I want to call your attention to the following excerpts from an article written by Melissa Simmons Tulin, president of Feminists for Life of Pennsylvania which is a State chapter of the national organization, Feminists for Life of America. Feminists for Life are women who are disaffected by so-called "women's rights" groups, such as National Organization of Women, because of their view that preborn babies deserve equal rights—most importantly, the right to life. Today, the American tragedy of abortion destroys this most basis human right. "By encouraging fatal discrimination against preborn children—half of whom are women"—Ms. Tulin writes, "the feminist movement has made a tragic error that has actually set women back."

Feminists for Life is one example of the many groups of women coming forward and stating that supporting women's rights today does not have to mean supporting abortion, since abortion is an act which takes the lives of their innocent preborn children and ultimately exploits women themselves.

I urge my colleagues to read these excerpts which debunk the myth that holding the pro-life position is to be against women's rights.

PRO-LIFE FEMINISM: AN IDEA WHOSE TIME HAS COME

To most people, the term "pro-life feminist" is a contradiction in terms. While Gloria Steinem and Jerry Falwell agree on very little, both have stated that it is impossible to support womens' rights without being in favor of abortion-on-demand as well. Indeed, the focus of the modern women's movement has been the securing of abortion rights, and when the Roe v. Wade decision was handed down, some feminists literally danced in the streets.

Feminism can be defined as a philosophy that allows each individual to reach his or her fullest potential, unhindered by sexism or racism. But by encouraging fatal discrimination against preborn children (half of whom are women), the feminist movement has made a tragic error that has actually set women back.

Since 1973, a growing number of men and women have been challenging the assumption that in order to be "equal" with men, women must be able to destroy their own children at will. Feminists for Life was formed by two women who were unofficially excommunicated from the National Organization for Women because they would not "shut up" about the abortion issue. With chapters in all fifty states and several countries, including Canada and New Zealand, Feminists For Life provides an increasingly active voice for those of us who believe in both fetal and women's rights.

Who are pro-life feminists? We are doctors and lawyers, secretaries, scientists, and homemakers, mothers and others, but first and foremost, we are radicals—people who get to the roots of the problems that face women in society.

We realize that abortion is a cry for help: a symptom of the many problems affecting women. Many undergo abortions not because of "choice", but because of a lack of it. The single woman on public assistance who must decide between feeding the children around her table and killing the one growing inside her does not have a real choice. Neither does the teenager who must either abort her child or face a life where she has a 50/50 chance of ending up an impoverished single mother. It comes as no surprise that 18- and 19-year-olds have the highest abortion rate of any age group, as this is a time when important decisions affecting one's whole life are made. How can women make life-affirming choices in a society that penalizes us for having children and treats an unplanned pregnancy as a "disease" to be "cured" with curette and suction aspirator? The best way to end abortion is to eliminate the problems that lead to it.

Pro-abortion feminists reason that in order to be equal with men, women must be able to make themselves "unpregnant" at will. However, by making abortion-on-demand the rallying point of the women's movement, they have not only alienated millions of potential supporters, they have shifted attention away from the many crucial issues that affect women's lives.

With the review of the Webster case, NOW president Molly Yard has declared a "state of emergency" for American women. But millions of women live each day of their lives in a "state of emergency" for reasons that have nothing to do with abortion. With all the focus on the right to kill, pro-choice feminists have forgotten that, at some time in their lives, eighty percent of American women will have children, often without the societal support that is necessary to experience pregnancy, childbirth, and parenting with dignity.

Planned Parenthood, which claims to be concerned with the health of women, sees more than 2 million women a year—most of them low income—and is the nation's leading purveyor of abortion services, but provides prenatal care to only 12% of its clients. Why must it be up to the pro-life movement—us wild-eyed, "anti-choice fanatics"—to offer these women emotional and financial support? Perhaps it is because the only "choice" Molly Yard and her ilk recognize is the one to abort.

Much of the support for abortion-on-demand comes from allegations that prior to legalization, thousands of women died from illegal abortions performed by "back-alley butchers."

However, according to the U.S. Center for Disease Control, in 1972—before Roe v. Wade—only 35 women died from abortion-related complications—a far cry from the 5,000 plus figure that is often quoted.

And women are still being maimed and killed by "safe, legal abortions." One reputable study, undertaken in 1981 by Thomas W. Hilgers, M.D. and Dennis O'Hare, found that while maternal deaths due to criminal abortion have decreased, they have been placed, almost one for one, by maternal deaths due to legal abortion. Indeed, the only difference between the "back-alley butcher" and today's abortionist is that the latter plies his murderous trade in the open, with the sanction of the law and the applause of the women's movement.

True "reproductive rights" entail the right of every woman to quality pre-natal care, to support through difficult pregnancies, and to full educational, social and economic opportunity for her offspring. They do not include the right to kill children already conceived.

Pro-life feminists are part of the women's movement, and we will no longer be content to stay at the back of the bus. Our goal is to create a world where no woman must have an abortion, and we hope that someday our pro-choice sisters will realize that women will never climb to equality over the dead bodies of their children.

BUILDING BRIDGES

HON. DUNCAN HUNTER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 20, 1989

Mr. HUNTER. Mr. Speaker, at the end of last month a friend of mine, Ambassador Ted Gildred, departed Buenos Aires after almost 3 years of service there. Those who worked for Ted consider him a superb leader and a fantastic person. I thought the Members of the House might like to know what the Argentines think of him as a diplomat.

The following is the farewell editorial published by the Buenos Aires Herald, a local English language paper:

BUILDING BRIDGES

In the next couple of days the current US ambassador to Argentina will be returning home after completing his tour of duty in this country, an event about which much has been said in the press. What is not so easily understood about the time Theodore Gildred spent as chief of the US mission in this country is just how complex a posting it

was when he first took it on and, perhaps more importantly, how much has been achieved since that happened. Much of the credit must be given to Ambassador Gildred himself, who, with a diplomatic skill belying his inexperience in the field, both ably and actively participated in all manner of events around the country, making him arguably the best-known US ambassador ever to serve in Buenos Aires who, unlike some of whose predecessors, departs as an immensely popular man in this country.

In the aftermath of the tragic Malvinas War and following the repeated clashes between the last military government and the US administration, bilateral relations hit an all-time low, an unfortunate situation which was further compounded by a whole range of matters such as the extremist anti-Americanism found within some local political circles, the foreign debt crisis and a sometimes less than clear support for the democratic régimes of the world coming out of Washington. With the return of democracy to Argentina a whole new range of opportunities opened up, a situation which created an enormous amount of uncertainty in both countries about the future. Common ground was rapidly established and both countries were able to iron out most existing differences and, in hindsight, it must be said that the current relationship with the United States has rarely been so good.

It is always hard to define just how much of a good understanding between governments is a result of correct policies being carried out and how much flows from the rapport established between those representing each side. Nevertheless, there can be little doubt that both Argentina and Washington have taken substantial steps towards dovetailing their policies towards one another, a course of action which, it is hoped, will continue, despite the respective recent changes of government. Enormous difficulties still exist, mainly the unresolved problem of the foreign debt, and in days to come representatives of both countries will have to thrash out mutually acceptable, meaningful solutions to these outstanding problems. It is to be hoped that when doing so, they will find that the good work carried out by Gildred will serve as a solid basis for the building of a new era in US-Argentine relations. It would be the best tribute possible to one man's contribution to the better understanding between the peoples of both countries.

CONGRATULATIONS ELIZABETH FARIAS

HON. RONALD K. MACHTLEY

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 20, 1989

Mr. MACHTLEY. Mr. Speaker, it is my distinct pleasure to congratulate Elizabeth Farias, of Tiverton, RI, this year's recipient of the First Annual Ronald K. Machtley Award for Tiverton High School in Tiverton, RI.

This award is presented to the student, chosen by Tiverton High School, who demonstrates a mature blend of academic achievement, community involvement and leadership qualities.

Elizabeth has clearly met this criteria by being a high academic achiever as a member of the National Honor Society. Her extracurricular activities include being treasurer of the student council.

I commend Elizabeth for her achievements and wish her all the best in her future endeavors.

ETHICS

HON. JAN MEYERS

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 20, 1989

Mrs. MEYERS of Kansas. Mr. Speaker, I would like to bring to your attention, and to our colleagues, the fact that a young woman from my district won the Time Education Program Student Writing and Art Competition. Her name is Aimee Claire Wittman, of Leawood, KS. The subject of her essay is entitled "Ethics."

In light of the ethics problems that have plagued our House, I thought it would be enlightening to look at how a 16-year-old views the subject of ethics.

ETHICS

(By Aimee C. Wittman)

As part of his or her official duties, the Mayor of Exchange City hangs the laws of the day on the bulletin board outside of City Hall. Exchange City, located in Kansas City, Missouri, is a miniaturized city where sixth grade kids spend a day operating and owning small shops and businesses. The city is self-sufficient with a Bank, Snack Bar, and City Hall. There is even green carpeting in the center to resemble a grassy square.

The Mayor's decrees usually run something like this. "No Exchange Citian will lie, or cheat, or steal—and no one will walk on the grass." The city then opens, and about eighty pre-pubescent children disperse to shops such as the Radio Station, the Ad Agency, and the Flower Shop. As the kids take on the roles of workers and employers, they try to pay off loans, uphold law and order, and balance checkbooks in an attempt to succeed at modern free enterprise. As the day goes on, the kids find it isn't necessary to lie, or cheat, or steal, in order to survive in the adult business world. At Exchange City, kids learn that fairness and honesty in business transactions are just as important as not walking on the grass.

American children, the future business men and women of the country, are being taught that success can be achieved using ethical tactics. Through programs such as Exchange City, kids learn the value of a person's word, the meaning of a handshake, and the rewards of quality and pride in one's work. These old-world attributes are not obsolete; they have just been overshadowed by twentieth century shortcuts and distrust in one's fellow man. As Americans enter the Bush era, we are urged to be a "kinder, gentler nation." By reinstating ethical negotiations through the younger generation, perhaps we can build a kinder, gentler business world too.

In 1692, long before Donald Trump and monopolies, an unidentified monk wrote an essay called *Desiderata*. In it he said, "Exercise caution in your business affairs; for the world is full of trickery. But let this not blind you to what virtue there is; many persons strive for high ideals; and everywhere life is full of heroism." This could be Exchange City's motto: to create trust and high ideals for the future by teaching these qualities to potential heroes—the children of today.

It will not be long before the child citizens have grown up and send Exchange City second generation kids. By that time the products may be different, but the business world will be the same. Supply and demand, consumer and producer, owner and worker, hopefully kinder and gentler. Someday, a New York executive will find the turtle necklace she bought while working at the Jewelry Store in Exchange City. It will remind her of trust and high ideals for her fellow man, and not to lie, steal, or cheat herself. She will know what is important and what business really means. Most of all, she will remember the unwritten laws of Exchange City—to be fair and honest, and never walk on the grass.

TRIBUTE TO DAVID MAKARECHIAN

HON. CURT WELDON

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 20, 1989

Mr. WELDON. Mr. Speaker, in light of Congress' inability to pass an emergency supplemental appropriations bill, I would like to submit the attached essay for the RECORD. In the essay, David Makarechian of Citizens for a Sound Economy sums up the basic reforms that are necessary to make the budget process more responsible and efficient. These reforms would go a long way toward reducing the Nation's chronic budget deficits.

[From Issues and Answers, May 22, 1989]

BUDGET REFORM OPTIONS

(By David Makarechian)

Since 1980, the national debt has increased by more than $1.6 trillion. Interest on the debt is now the government's third highest expenditure. Some lawmakers believe that the budget process may be the cause and have called for budget process reform to help reduce the deficit. This update of recent reform proposals and explanation of budget reform terms is intended as an aid for those who wish to understand and evaluate proposals to improve the federal budget process.

Balanced Budget Amendment. The balanced budget amendment introduced by Reps. Charles Stenholm (D-TX), Larry Craig (R-ID), Thomas Carper (D-DE) and Bob Smith (R-OR) is expected to receive more than the 240 endorsements from other congressmen it received last year. The measure amends the constitution to limit government spending to no more than total revenue, and it prevents any increases in the national debt unless approved by a three-fifths majority of both houses of Congress. The amendment would be waived during a declared war.

In his budget proposal submitted to Congress in February, President Bush called the balanced budget amendment the "most fundamental change needed" in the budget process. Until the 1960s, the government seemed to follow an unwritten rule that generally kept spending in line with revenues, except during wars or other national emergencies. Since then, the government has consistently spent more than it has taken in. Excessive spending reached its highest point in the 1980s, with the deficit

averaging $140 billion per year. A balanced budget amendment offered by Rep. Jon Kyl (R-AZ) specifically addresses runaway spending by limiting government spending to 19 percent of the previous year's gross national product.

A number of the proposals contain provisions to restrain tax increases. Sen. Dennis DeConcini's (D-AZ) balanced budget proposal requires a two-thirds majority and a roll call vote in both houses of Congress to enact a tax increase. The Stenholm version of the amendment requires a roll call vote and a majority of all 535 members of Congress to raise taxes. The full majority of Congress requirement means that a lawmaker's refusal to vote will reduce the chances of enacting a tax increase.

Line-Item Veto. The bloated national debt and public outrage at "pork barrel" spending have also renewed calls for a line-item veto. This reform permits the president to eliminate or reduce specific portions of appropriations bills, which spend the money decided on in each year's budget resolution. Congress could override item vetoes with a two-thirds majority in each house. There have been at least 10 different line-item veto plans introduced so far this year. The plans differ in the definitions of an "item," the actions Congress can take to restore vetoed funding, and the time frame for enacting the reform. Some proposals call for a line-item veto law, but most require a constitutional amendment.

Enhanced Rescission. This reform is similar to the line-item veto, but it affords Congress more power to restore funding and the president more flexibility to reduce spending. Enhanced rescission allows the president to permanently or temporarily disapprove individual parts of appropriations bills. Most proposals require Congress to vote on the president's action.

Before 1974, every president enjoyed rescission power. The 1974 Impoundment Control Act removed the authority by allowing Congress to ignore rescissions. Enhanced rescission has become a politically popular substitute for the item veto because it would not require a constitutional amendment, and it limits the spending a president can disapprove. A study by Citizens for a Sound Economy Chairman and former OMB Director James C. Miller III found that in state governments, measures that permit a governor to reduce spending cut outlays by 2.7 percent between 1966 and 1979.

Congress has introduced at least 10 separate enhanced rescission measures this year. These measures contain varying provisions in three areas: the item and amounts eligible for rescission, the time the rescission remains valid, and the action required of Congress upon receiving a rescission.

Elimination of the Current Services Budget. Present law requires Congress to compare the budget proposal to a planning tool called the "current services budget," rather than to the actual amount spent in the previous year. The current services budget increases spending across the board every year for predicted inflation, demographic changes, and previous commitments to spend money. If a proposed budget increases spending below the current services level, some politicians call the increase a "spending cut," confusing both policymakers and the public. Sen. Rudy Boschwitz (R-MN) and Rep. Bill Frenzel (R-MN) have introduced legislation that requires Congress and the administration to compare each year's budget to the actual amounts spent in the previous year, rather than to the current services budget.

Budget Baseline Reform. Congress now considers at least four baselines, or starting points, when it begins planning each year's budget: the Gramm-Rudman-Hollings baseline, which only adjusts for inflation; the Office of Management and Budget's baseline; the Congressional Budget Office's baseline; and the current services baseline. Each may include different assumptions about the performance of the economy, changes in population, and the effects of past and future legislation. Thus, lawmakers can base policy decisions on at least four different perceptions of the budget. This reform proposal requires policymakers to use consistent assumptions to increase uniformity among the various baselines.

Gramm-Rudman-Hollings Deficit Target Reform. The Gramm-Rudman-Hollings law defines each year's deficit target. Congress can increase spending by raising taxes and still meet Gramm-Rudman-Hollings deficit levels at a higher level of spending. With bipartisan support, Rep. Jack Buechner (R-MO) has introduced a reform that lowers the deficit target by the amount of a tax increase. This ensures that new taxes go toward deficit reduction and recognizes that unless Congress controls spending now, future deficit reductions may be more difficult.

Automatic Continuing Resolution. Continuing resolutions provide temporary funding for government programs when Congress cannot approve regular appropriations bills by October 1, the beginning of the fiscal year. The 1974 Budget Reform Act intended that Congress pass 13 separate appropriations bills and submit them to the president individually. Because of disagreements over how much to spend and the October 1 deadline, Congress has often grouped separate appropriations bills together. In 1987, Congress grouped appropriations for the entire government into one last-minute, $660 billion continuing resolution. The massive continuing resolution forced the president to accept the entire package because a veto would have shut down the government.

With an automatic continuing resolution, Congress must accept a pre-specified level of spending if it cannot agree on the amount to spend next year. Proposals by Sens. Pete Domenici (R-NM) and J. Bennett Johnston (D-LA), and Reps. Bill Schuette (R-MI), Tim Penny (D-MN), and Chris Cox (R-CA) limit the automatic continuing resolution to the actual amount spent in the previous year. This reform would insulate continuing resolutions from new spending and would prevent the threat of costly and embarrassing government shutdowns from stampeding legislators into approving unwise spending proposals.

Enrollment of Separate Appropriations Bills. This reform proposal also seeks to eliminate unnecessary spending in large appropriations bills. In 1987, President Reagan signed a 1300-page spending bill introduced on the House floor after 9:00 p.m. the night before the government would have to shut down for lack of funding. Neither the members nor the committees could adequately analyze the proposal. Sen. Gordon Humphrey (R-NH) has introduced legislation that would prevent Congress from combining appropriations bills into single pieces of legislation.

Streamlining Appropriations Bills. Domenici and Schuette also favor a different approach to securing passage of appropriations bills. Rather than forcing Congress to submit 13 separate bills by the beginning of the fiscal year, Congress would submit only three: one for defense, one for domestic spending, and one for international spending. Domenici claims that the present budget resolution contains too much detail, and decisions on individual spending proposals often obscure the larger objectives of passing appropriations bills on time and reducing the deficit.

Statutory Budget Resolution. Under current law, Congress passes a non-binding budget resolution in the middle of April to guide appropriations and spending. However, Congress can now approve spending greater than it specifies in the budget resolution without penalty. The proposed reform would make it illegal for Congress to spend more than it originally planned, and it provides procedural rules or enhanced rescission for enforcement. The president's role in the budget process would increase because he could veto unacceptable budgets. Domenici, Schuette, and Cox have included the statutory budget resolution in their budget reform proposals.

Biennial Budget. This reform, introduced by Reps. Jerry Huckaby (D-LA) and Sonny Callahan (R-AL), would place the budget on a two-year cycle. In the first year, Congress would determine the spending levels for the entire "biennium". Rather than repeating the entire budgeting process in the second year, Congress would only have to pass the appropriations bills already agreed to in the first year. Reps. Ralph Regula (R-OH) and Jim Slattery (D-KS) favor a biennial budget that includes two-year appropriations bills. The Defense Department now operates on a two-year budget schedule because its high appropriations levels and long-term contracts require increased planning. In 1987, Congress and the president agreed to a two-year budget plan for fiscal years 1988 and 1989. The plan allowed Congress to pass all 13 appropriations bills without continuing resolutions for the first time since 1977.

Proponents argue that biennial budgeting would reduce the amount of time Congress spends on the budget. They also argue that policymakers could better plan programs if they knew funding levels two years in advance. Opponents argue that the reform may lock in unwise spending for two years. Some have argued that a two-year budget cycle may neutralize the political pressure from tax increases that occur the year before mid-term elections. They also fear that under a biennial cycle, government spending could not adapt to changes in the economy and policy objectives.

Eliminations of Trust Funds from Budget Totals. Some federal programs contain built-in funding provisions. Upon receipt of the funds, Congress places them in "trust funds" and appropriates them only for their corresponding program. For example, the government places receipts from the federal gas tax in a special highway users trust fund. If Congress fails to spend the entire trust fund on highway programs, the budget applies the unspent funds against the rest of the budget deficit, even though the government has set the funds aside for other spending. A "unified budget" includes trust funds with the rest of the budget. Policymakers refer to separating trust funds from budget totals as "off-budget financing".

Supporters of off-budget financing argue that the reform would prevent trust-fund surpluses from disguising the actual deficit. Opponents point out that Congress adopted the unified approach because off-budget fi-

nancing made analyses of overall federal spending difficult. They also argue that off-budget financing encourages growth in federal spending by making specific programs immune from revenue constraints in the rest of the budget.

Automatic Adjustments to the Debt Ceiling. Every year, Congress must raise the limit on the national debt. The House can delay a vote on the issue by tying the limit on the debt to the deficit contained in the budget resolution. The Senate must vote separately to increase the size of the national debt. Supporters argue that since failure to approve the measure would shut down the government, debt-limit bills have often included controversial legislation. Opponents state that automatic increases would make lawmakers less accountable for spending growth in the national debt. Sen. James Exon (D-NE) has introduced a reform that would automatically raise the limit on the national debt only by the amount of the annual deficit estimated by the Congressional Budget Office.

Reform of the Committee Structure. The 1974 Congressional Budget Act splits revenue, spending, and management of the budget resolution among six committees: the Senate and House Budget committees, and the Senate and House Appropriations committees. This reform, advocated by Domenici and Johnston, would bring the functions of all the committees together in one, 18 member joint committee. This proposal attempts to speed the budget process by minimizing the channels the budget must go through in each house of Congress.

Continued increase in spending despite a $163 billion deficit have renewed calls for budget reform this year. As in 1987 and 1988, the administration and Congress bypassed the usual process and negotiated a budget agreement in closed door sessions. Some demand a statutory budget resolution and changes in the committee structure to open the process to more participants. Elimination of the current services baseline is gathering public support because it will clarify Congress's spending decisions. Continued grassroots pressure may force congressional action. Enhanced rescission is also gaining support since Congress increased President Bush's supplemental funding request in April 1989.

Most of the budget reform proposals described above have been introduced in the past but have stalled in Congress. Implementing budget reform will require continued pressure from the public. The last major budget reform, the Gramm-Rudman-Hollings deficit reduction law, passed only after the national debt swelled to $2 trillion. If not spurred into action by constituents, Congress might wait until some major event forces budget reform.

H.R. 1278, THE FINANCIAL INSTITUTIONS REFORM, RECOVERY, AND ENFORCEMENT ACT

HON. CASS BALLENGER

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 20, 1989

Mr. BALLENGER. Mr. Speaker, I supported H.R. 1278, the Financial Institutions Reform, Recovery, and Enforcement Act, recently approved by the House. In addition, I supported the President's 3 percent capital standards requirement, and off-budget financing mechanism. I believe these are key factors in truly reforming the current system, and hopefully ensuring that we will not face this crisis again.

We must demand strict capital requirements, and abolish the use of so-called supervisory goodwill. If we continue to let institutions count supervisory goodwill toward their capital requirements, we are doing nothing but perpetuating the current problems. Supervisory goodwill is phantom capital. It cannot be converted into tangible assets, and it provides no protection to investors. In addition, the use of supervisory goodwill provides no incentive for thrift managers to practice sound operations. Institutions will continue to make speculative investments as long as they know they have nothing to lose. Thrift managers would behave more carefully knowing their own money was on the line. Regulatory accounting procedures such as supervisory goodwill led to the problems we are trying to solve today. If we are going to make reforms, we have to take the necessary steps to effect real changes in the system.

The other key aspect of this legislation is the recovery of the already failed thrifts. It is estimated that approximately $100 billion is needed to bailout these institutions. I supported the administration's proposal to create an off-budget Resolution Funding Corporation [REFCORP] to raise $50 billion from the private sector. I believe this plan preserves the budget discipline of the Gramm-Rudman-Hollings Act [G-R-H], and is therefore the best method of financing.

Unfortunately, the House passed an amendment to H.R. 1278 that would place the financing mechanism on-budget. Under this plan, the Treasury Department would sell $50 billion in bonds, and waive the cost from G-R-H deficit reduction targets. I believe G-R-H is our best check against big government spending. Congress has showed little budget discipline, and to waive G-R-H would send the wrong signal to world financial markets.

Proponents argue that on-budget financing would save the taxpayer money because Treasury bonds would have lower interest rates. I believe the implications of waiving G-R-H would have economic repercussions far outweighing any savings borne by putting REFCORP on-budget.

It is a travesty that this bill must go to conference. Failing thrifts continue to lose $12 million a day, and at that price, we cannot afford to delay any longer.

CONGRATULATIONS, BRYAN J. RODRIGUES

HON. RONALD K. MACHTLEY

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 20, 1989

Mr. MACHTLEY. Mr. Speaker, it is my distinct pleasure to congratulate Bryan J. Rodrigues, of Bristol, RI, this year's recipient of the First Annual Ronald K. Machtley Award for Bristol High School in Bristol, RI.

This award is presented to the student, chosen by Bristol High School, who demonstrates a mature blend of academic achievement, community involvement, and leadership qualities.

Bryan has clearly met this criterion by being a high academic achiever. His extracurricular activities include being a member of the academic decathlon team. He was a participant in the Bicentennial Constitutional Competition, Model Legislature and Close Up in Washington, D.C.

I commend Bryan for his achievements and wish him all the best in his future endeavors.

THE 25TH ANNIVERSARY OF THE DEATH OF THREE DEDICATED CIVIL RIGHTS WORKERS

HON. DON EDWARDS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 20, 1989

Mr. EDWARDS of California. Mr. Speaker, I am proud to have introduced, along with the minority leader, Mr. MICHEL, Mr. FISH, Mr. ESPY, and former majority whip Mr. Coelho, a resolution commemorating on June 21, 1989, the 25th anniversary of the deaths of the three dedicated civil rights workers, James Chaney, Andrew Goodman, and Michael Schwerner.

These three men made the ultimate sacrifice to seek equal rights and opportunities for all. They traveled south to Mississippi, risking their lives, aware that their attempts to empower African Americans through voter registration would be met with hostility. Their sacrifice fueled a movement which led to the adoption of such crucial legislation as the Civil Rights Act of 1964, the Voting Rights Act of 1965, and the Fair Housing Act of 1968.

We have come far in establishing our commitment to routing unconstitutional bias, but we have not yet attained our goal of complete equality of opportunity. In recognizing the contributions of Chaney, Goodman, and Schwerner, we reaffirm our commitment to breaking down the remaining barriers of apathy and discrimination against those outside the mainstream of our society. We honor these men by pledging our continued support for the cause of civil rights. Their example still serves as inspiration to all those continuing to fight for human rights within the United States.

PROPOSED AMENDMENT TO THE WOODROW WILSON MEMORIAL ACT OF 1968

HON. MARY ROSE OAKAR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 20, 1989

Ms. OAKAR. Mr. Speaker, today I am introducing a proposed amendment of the Woodrow Wilson Memorial Act of 1968 (Public Law 90-637) which will allow the Wilson Center to add the Secretary of Education to the Center's Board and to increase by two the number of appointed Board members.

The Woodrow Wilson International Center for Scholars is a Presidential memorial that fosters scholarship and dialog in the humanities and the social sciences. As the director,

Charles Blitzer eloquently stated at their 20th anniversary dinner, one of the Center's guiding principles is that "* * * in everything we do we shall continue to be scrupulously nonpartisan, offering a forum for the widest diversity of views and encouraging free and lively debate among them." The Center enriches the quality of knowledge and debate in the Nation's Capital and throughout the world by bringing fellows from around the world to Washington, DC, encouraging discourse among disciplines and professions, and publishing the results of these activities.

In passing the Woodrow Wilson Memorial Act of 1968 (Public Law 90-637), the Congress intentionally established a Board of Trustees on which the number of appointed members would exceed the number of ex officio members. Since that time, two things have happened that affect this balance:

First. When the educational and cultural programs of the Department of State (CU) were transferred to the U.S. Information Agency, the Director of USIA was added to the Center's Board.

Second. When the Department of Health and Human Services was established, the Secretary of HHS was designated a member of our Board rather than the Secretary of Education.

In view of these developments, it is now proposed that Public Law 90-637 be amended (a) to add the Secretary of Education to the Center's Board and (b) to increase by two the number of appointed board members.

The addition of the Secretary of Education is proposed because of the close connection between his Department's interests and activities and those of the Center. The addition of two new private members is proposed primarily to reestablish the original balance between appointed and ex officio members created by the Congress in 1968. In addition, the presence of these two new members will enable the Board to carry out more effectively its legislated responsibilities. The number of Board members to whom the Center can turn for service on its various committees has proved over the years to be limited by the weighty commitments of its ex officio members. The addition of two new appointed members, while still keeping the board small (19), would enable it better to carry out its duties.

CONGRATULATIONS DAVID SANFORD

HON. BARNEY FRANK

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 20, 1989

Mr. FRANK. Mr. Speaker, I was very pleased to learn that David Sanford, who lives in my district in the town of Brookline, was selected as a winner of the 1989 BMI Student Composer Award. The awards are presented by the BMI Foundation which was established 5 years ago to help individuals who are pursuing a musical education.

Mr. Sanford won the award for his "Woodwind Quintet No. 2" for flute, oboe, clarinet, bassoon, and French horn. He is a student at the New England Conservatory in Boston. I very much appreciate the willingness of the BMI Foundation to support the sort of creative work that Mr. Sanford and the other winners are doing. And I join many others in congratulating Mr. Sanford for his outstanding work.

MEDICAID REHABILITATION

HON. OLYMPIA J. SNOWE

OF MAINE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 20, 1989

Ms. SNOWE. Mr. Speaker, hundreds of mentally retarded individuals and their families are facing an uncertain future today due to the arbitrary decisionmaking of HCFA, including 700 people in my own State of Maine.

In 19 States HCFA has approved freestanding day habilitation programs. These services allow individuals not living in institutional or residential centers to participate in daytime programs aimed at helping them live more independent lives. HCFA has deferred funding in two States, is actively auditing another, and can be expected to go through the rest of the States, as well. In Maine's case, HCFA deferred the funding which left the State with two choices, pick up the funding in the middle of the fiscal year to the tune of $4 million or drop the program.

Therefore, I am introducing legislation today to prevent HCFA from disrupting these important services until they have promulgated regulations which clearly define what habilitation services are reimbursable. The bill also gives the States the option of transferring their programs to the Home and Community Based Waiver System after the regulations are promulgated without regard to the availability of beds in intermediate care facilities for the mentally retarded.

Great strides have been taken in the last 10 years away from the institutionalization of the mentally retarded. Community-based residency programs and daytime habilitation programs have allowed these individuals to live full lives in the mainstream of society.

I urge my colleagues to join me in support of this bill in order to prevent HCFA from slamming the door shut on this progress and these individuals.

CONGRATULATIONS ERNEST ISAACSON

HON. RONALD K. MACHTLEY

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 20, 1989

Mr. MACHTLEY. Mr. Speaker, it is my distinct pleasure to congratulate Ernest Isaacson, of Marblehead, MA, this year's recipient of the First Annual Ronald K. Machtley Award for Providence Hebrew Day School in Providence, RI.

This award is presented to the student, chosen by Providence Hebrew Day School, who demonstrates a mature blend of academic achievement, community involvement and leadership qualities.

Ernest has clearly met this criteria by being a high academic achiever. He is a diligent student who has demonstrated his noble sense of compassion by being involved in community service for the past few years as a volunteer at Miriam Hospital.

I commend Ernest for his achievements and wish him all the best in his future endeavors.

MIAMI COUNTRY DAY SCHOOL SELECTED FOR SPECIAL RECOGNITION BY U.S. DEPARTMENT OF EDUCATION

HON. WILLIAM LEHMAN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 20, 1989

Mr. LEHMAN of Florida. Mr. Speaker, Miami Country Day School in our 17th Congressional District has been selected as one of the 218 outstanding secondary schools in the Nation by the U.S. Department of Education.

The purpose of the School Recognition Program is to identify and call special attention to outstanding public and private secondary schools that are unusually effective in educating their students. Of the 629 schools nominated, 263 were selected to receive an on-site visit by a departmental review panel and 218 of these received recognition.

I want to congratulate the students and faculty at Miami Country Day School for a job well done. Keep up the good work.

ANNUAL CAPITAL CONTRIBUTION

HON. BUTLER DERRICK

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 20, 1989

Mr. DERRICK. Mr. Speaker, although many have criticized the regulatory functions of the Federal Home Loan Bank System, and even the relationship between these regulatory functions and the home loan banks, this criticism does not extend to the credit functions of the home loan banks. In fact, the home loan banks, frequently referred as the "crown jewels" of the Federal Home Loan Bank System, have an outstanding record in carrying out their banking activities and in generating the funds necessary to support housing finance. Even on the regulatory side, the banks have been able to attract outstanding personnel during the past few years. The present legislation, however, threatens to destroy the viability of these banks.

Since the introduction of this legislation, it has been clear that the Federal home loan banks would bear a significant portion of the costs imposed on the savings and loan industry. As the legislation has evolved, however, Congress has determined to impose additional expenses which not only reduce the earnings of the banks, but threaten their very exist-

ence. First, the banks would be required to contribute all of their retained earnings accumulated during the past 50 years, an amount equalling nearly $2.1 billion.

In addition, the banks are expected to contribute $300 million a year indefinitely. The House bill would also require the banks to contribute at least $75 million annually upon enactment, and at least $150 million annually beginning in 1995, to subsidize low and moderate income building. The banks would also be required by the House bill to pay the issuance costs of the REFCORP bonds, representing an additional $150 million if the funding of REFCORP is off budget. Moreover, the banks would be required to pay the operating costs of REFCORP, FICO and the new Federal Housing Finance Board. In addition, it has been suggested that the banks should be required to pay the expenses of the new thrift regulatory agency during a transitional period, which could cost the banks an additional $150 million a year.

With respect to the $300 million annual contribution, the Ways and Means Committee voted to amend the House bill to index this contribution to changes in the Consumer Price Index. Recognizing that the income of the Federal home loan banks may actually decline in future years without regard to increase in the Consumer Price Index, the technical "cross-committee" amendments would adjust the dollar amount of this contribution beginning in 1993. More specifically, the annual contribution of the banks would be adjusted upward or downward depending upon the lower of the Consumer Price Index adjustment or the change in the net earnings of the banks during the preceding calendar year. In any event, the adjusted dollar amount for any calendar year cannot exceed $600 million. Thus, if the Consumer Price Index increases by 5 percent during 1992, but the net earnings of the banks during 1992 show no increase from 1991, there would be no increase in the annual capital contribution of the banks for 1993. Similarly, if the future years the income of the banks were to decrease, the adjusted annual contribution of the Federal home loan banks would be reduced accordingly. Therefore, although the annual contribution could increase above $300 million after 1993, the annual contribution in future years could be reduced back to $300 million, or even below this amount.

Notwithstanding this compromise with respect to the CPI indexing provision, substantial concern remains regarding the viability of the Federal home loan banks as a result of all of the assessments described above. The Federal Home Loan Bank System currently pays out about 80 percent of its annual earnings in dividends to its members. In 1988, these dividends accounted for more than 30 percent of the earnings of solvent savings institutions. At a time when these institutions will be required to meet substantially increased capital requirements, it is shortsighted to threaten the viability of the most important single source of this new capital—the Federal home loan banks.

A TRIBUTE TO RABBI IRVING J. BLOCK

HON. BILL GREEN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 20, 1989

Mr. GREEN. Mr. Speaker, I rise today to pay tribute to Rabbi Irving J. Block, founder of the Brotherhood Synagogue, located at 28 Gramercy Park South, in New York City. This year marks the 35th anniversary of the synagogue's founding, and as Rabbi Block has been responsible for so many of the synagogue's benevolent functions it is only fitting that we take this time to honor him.

Rabbi Block has served on the board of directors of the Clergyman's Advisory Committee of the New York City Youth Board; as a national director of Religion in American Life; as grand chaplain of the New York State Masonic Order; as a director of the New York Family Court's Home Advisory and Service Council; with the anti-drug addiction rehabilitative Training for Living organization; and with the New York State Human Rights Commission Clergymen's Advisory Committee.

I am especially pleased to note the rabbi's achievements in the area of community service. The Brotherhood Synagogue was the first of the New York congregations to provide a homeless shelter. Fortunately many of the city's other synagogues have followed Rabbi Block's lead in this area. Rabbi Block has also been active in the fight against drug abuse, and he now serves as the cochairman of the Federation Task Force on Addiction. His efforts have been recognized by many notable service organizations, and he was also the first recipient of the Rabbi Israel and Libby Mowshowitz Award for Outstanding Community Service.

Rabbi Block has devoted his life to spreading the concept of religious brotherhood. His altruism serves as inspiration to us all, and I am pleased to congratulate him publicly on the 35th anniversary of the Brotherhood Synagogue's founding.

CONGRATULATIONS ELIZABETH CROHAN

HON. RONALD K. MACHTLEY

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 20, 1989

Mr. MACHTLEY. Mr. Speaker, it is my distinct pleasure to congratulate Elizabeth Crohan, of Lincoln, RI, this year's recipient of the first annual Ronald K. Machtley Award for Lincoln Junior-Senior High School in Lincoln, RI.

This award is presented to the student, chosen by Lincoln Junior-Senior High School, who demonstrates a mature blend of academic achievement, community involvement, and leadership qualities.

Elizabeth has clearly met this criteria by being a member of the Rhode Island Honor Society and the National Honor Society. She is a recipient of the President's Academic Fitness Award and president of the senior class. She was also a closeup and insight participant and captain of the varsity field hockey team in her senior year.

I commend Elizabeth for her achievements and wish her all the best in her future endeavors.

THE VISUAL ARTISTS' RIGHTS ACT OF 1989

HON. EDWARD J. MARKEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 20, 1989

Mr. MARKEY. Mr. Speaker, today I join my colleague, the Honorable ROBERT KASTENMEIER, in introducing the Visual Artists' Rights Act of 1989, establishing the rights of attribution and integrity for American artists. Artists in this country play a very important role in capturing the essence of culture and recording it for future generations. It is often through art that we are able to see truths, both beautiful and ugly.

Therefore, I believe it is paramount to the integrity of our culture that we preserve the integrity of our artworks as expressions of the creativity of the artist. John Ruskin, a famous historian and philosopher once said, "All great art is the work of the whole living creature, body and soul, and chiefly of the soul."

Our legislation would provide visual artists with protection for their works which has been sorely lacking in U.S. copyright law. Unlike the works of literary or performing artists, artworks created by visual artists are treated more as physical objects than as expressions of the artistic creativity of their authors.

The bill would recognize the artist's interest in maintaining the integrity of his or her work. The artist would be given the right to claim authorship of his or her work, to disclaim authorship of a distorted or mutilated work, and to bring a civil copyright claim for willful destruction or mutilation of his or her work.

I would like to stress that we have gone to extreme lengths to very narrowly define the works of art that will be covered. While we are sensitive to the concerns of industries that wish to maintain their rights of editing and reproduction, I must take this opportunity to emphasize that this legislation covers only a very select group of artists whose works have been allowed to fall through the existing gaps in our copyright law.

I would also like to point out that the law would be applicable only to works created on or after the effective date of the act, or to works created but not published before the effective date. In this way, we avoid diminishing the value of works of art which a person has already purchased.

Finally, we have included in this bill a provision calling for a study on the feasibility of implementing a resale royalty for certain works of art as well as other possible means of promoting opportunities for artists to share in some of the wealth as the value of that work increases. If we are to be serious about promoting art in this country, we need to recognize that with all the money being made in the

art world, very little of its gets back to the artist. Once again, it is a question of acknowledging the lasting relationship between the artist and his or her creation. This relationship is not severed the first time the work is sold.

Take, for instance, the atrocity which occurred with Picasso's "Trois Femmes" when two Australian entrepreneurs chopped up that great masterpiece into 500 "original Picasso pieces." The absence of legal protection for the artist paved the way for this great work to be brutally mutilated and then allowed Picasso's name to be exploited for the financial gain of the two profiteers.

I believe that the Visual Artists' Rights Act would encourage and promote the arts in our society. American culture thrives on the artistic expression of talented individuals, and American artists deserve no less than the protections offered in this legislation.

SEVENTY-FIVE YEARS YOUNG—AMPCO METAL CELEBRATES DIAMOND JUBILEE

HON. GERALD D. KLECZKA

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 20, 1989

Mr. KLECZKA. Mr. Speaker, in June 1914, a small group of men formed the American Metal Products Co. in Milwaukee, WI. This month, 75 years later, that company, now known as Ampco Metal, Inc., is celebrating its Diamond Jubilee.

What's unique about this celebration is not only the fact that the company has been headquartered in the south side of Milwaukee for 75 years, but the celebration also includes the return to local ownership after 17 years as a subsidiary of a Pittsburgh-based company. Corporate news reports lately have been filled with stories about leveraged buyouts—companies being swallowed up by out-of-State or even foreign firms. In the wake of these reports, Ampco's return to local ownership is a welcome calm in the corporate buyout storm.

As a steady employer in my district, Ampco Metal has provided quality metal products to the United States and the world for 75 years. A quality product, effective management, and a commitment to innovative research are what has kept Ampco Metal alive in the fickle metal fabrication industry. Welcome back to the 4th Congressional District of Wisconsin, and let's look forward to another 75 years of continued growth and success.

FINANCIAL INSTITUTIONS REFORM, RECOVERY, AND ENFORCEMENT ACT

HON. TOM LEWIS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 20, 1989

Mr. LEWIS of Florida. Mr. Speaker, last week the House passed H.R. 1278, the Financial Institutions Reform, Recovery, and Enforcement Act. While I understand the urgency of the current savings and loan situation, I could not in good conscience vote for this bill.

Many of the problems of these institutions were caused by mismanagement and irresponsibility. Therefore, I have yet to be convinced that any taxpayer's money should be used to bail out these institutions.

I agree ordinary depositors who placed money in these federally insured institutions deserve their money back. However, this bill is too expensive and uses accounting gimmicks to divert money to issues unrelated to banking.

Of particular concern is the fact that this measure will be exempted from the Gramm-Rudman deficit-reduction targets. If we are truly serious about cutting the deficit, we must be honest about the size of the problem. By exempting this huge amount from Gramm-Rudman, we are only avoiding the issue once again. In addition, if we can exempt this multibillion dollar expenditure, just imagine how easy it will be to start exempting other programs.

Another concern is the fact that this bill will serve to create major Federal housing initiatives. While this may be a laudable goal, this was meant to be a banking bill, not a housing bill. If Congress feels the Nation can afford housing, we should debate that issue by itself and fund it separately.

Mr. Speaker, we need to address this issue honestly. Any bill to correct the thrift problems must be funded honestly and kept free of addons that do not conform with its original purpose. Until that happens, I will be forced to continue to oppose this package.

AN INSPIRATION TO WOMEN IN BUSINESS

HON. CLAUDINE SCHNEIDER

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 20, 1989

Ms. SCHNEIDER. Mr. Speaker, today I would like to take a moment to recognize a very special Rhode Island woman, Rose Berger. Rose Berger is being honored this week in Rhode Island by the Rhode Island Women's Partnership in Business for her outstanding courage and perseverance against incredible adversity.

Let me share with you a little bit about why Rose is not only an example of the true pioneer spirit for women in business, but also an inspiration to all people. Rose Berger has been a single woman business owner of Ber-Tex Fabrics in Rhode Island for 33 years. Mrs. Berger is a survivor of the infamous Nazi concentration camps at Bergen-Belsen and Auschwitz, surviving sickness and grief that we can only imagine. Rose's courage and optimism told her that she would survive and she shared her strength, talking to the other women when they would get depressed, telling them never to give up hope.

In 1949 Rose and her husband, Oscar, immigrated to the United States, with their 3-year-old son, Henry. In 1955, the Bergers opened Ber-Tex Fabrics with just a few pieces of fabric. But just after a year in business, Rose was widowed. Through many difficult years, having the responsbilities of single motherhood, sole business ownership, and being a woman alone, Rose persevered. Not only did Rose survive, she also kept her spirit of optimism.

Rose Berger's philosophy has been to "put people before pocketbook" and if you are lucky enough to know Rose or be one of her customers, you know that she lives by her beliefs. I am personally honored to know Rose Berger. To be involved with the Rhode Island Women's Partnership in Business in giving recognition to such a fine woman gives me great pride. On behalf of Rhode Islanders everywhere, we would like to express our deep gratitude to Rose Berger for her wonderfully inspiring spirit and for her service as a role model for other women business owners.

IN HONOR OF WHITE OAK INTERMEDIATE SCHOOL

HON. CONSTANCE A. MORELLA

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 20, 1989

Mrs. MORELLA. Mr. Speaker, I take great pleasure in commending White Oak Intermediate School in Silver Spring, MD, for being honored as an outstanding school in the U.S. Department of Education National School Recognition Program. The program each year honors outstanding schools on the quality of teaching, school climate, and parent and community involvement. This year's emphasis was also placed on schools with especially high academic standards and strong programs in geography.

I congratulate Dr. John R. Schneider, principal of White Oak, and the students and staff, on this public recognition of their fine school. Clearly, White Oak fulfills its motto, "We expect, we believe, we achieve." I commend White Oak for the many staff members and students who volunteer for service in the community. The success of this Montgomery County public school can be attributed to the strong leadership of Dr. Schneider, the outstanding commitment of the staff and teachers, and enthusiastic support from the community. Maryland State Superintendent of Schools Joseph Shilling called White Oak an example "of the excellence that is possible when a principal with strong instructional leadership skills, teachers committed to reaching each student, and a caring community join together in building a learning environment for young people."

Let me take this opportunity to thank White Oak Intermediate School for its outstanding service to the community of Montgomery County, MD, and to wish them all the best in the years to come.

A TRIBUTE TO TEX WEINER

HON. FRANK PALLONE, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 20, 1989

Mr. PALLONE. Mr. Speaker, I rise today to pay tribute to a man of unusual talent, a man

who has made a tremendous contribution to our community. On Tuesday, June 27, 1989, Tex Weiner will be awarded the Israel Peace Medal—among the highest and most distinguished commendations presented by the State of Israel. This occasion gives me the opportunity to express my sincere appreciation for his many years of hard work and unending commitment. The award is a great honor and is reflective of Tex's impressive achievements and accomplishments.

Tex Weiner is a man who worked his way through school, attending the prestigious Central High School of Philadelphia, Temple University, and the George Washington National School of Law. Upon his graduation from law school, he began to write for the theater. Tex rapidly gained recognition as a radio and television dramatist and later wrote and directed such shows as "Gangbusters", "Rogues' Gallery", and the "Thin Man". His work was very impressive, as was demonstrated by the receipt of the highly prized Award of Distinguished Merit from the National Conference of Christians and Jews in 1943 and the prestigious Peabody Award for outstanding shows.

Tex moved to New Jersey in the 1950's and channeled his talents to the home building industry. His hard work and enthusiasm led to the birth of the Weiner Homes Corp., which has grown to a position of distinction and importance. Weiner Homes Corp. presently operates in New Jersey, Florida, and Pennsylvania under the management of Tex and his two sons, Joshua and David. The corporation, like all of Tex's efforts, is very successful.

Tex Weiner's involvement in the cause of Israel began in the spring of 1947 when he and Teddy Kolleck, who had been sent to the United States by David Ben-Gurion, began gathering equipment for the Hagannah. Tex and Peggy's home soon became a focal point for the gathering of Palestinian Jews. Tex's present work on behalf of Israel consists of his chairmanship of the Senate Club of AIPAC, his service as national vice president of Israel Bonds, and his trusteeship in both the Graden State and Washington PAC's. Tex is also a major contributor to the United Jewish Appeal and the Jerusalem Foundation.

Tex Weiner's hard work and success is an inspiration to all of us in the House of Representatives. His commitment and devotion to the State of Israel is unyielding and worthy of distinction. Tex's efforts in the theater, in home building, and on behalf of the State of Israel are without equal. He has left a lasting influence on our community. Tex Weiner is a truly remarkable individual who has devoted his talents and energies to enriching the lives of so many other people. On behalf of the citizens of New Jersey's Third Congressional District I wish to extend our tremendous gratitude and best wishes to Tex Weiner and his family on this momentous occasion.

THE GOVERNMENT FLEET SAVINGS ACT

HON. ROBERT W. DAVIS

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 20, 1989

Mr. DAVIS. Mr. Speaker, today I have introduced a bill which directs the President, before spending funds to purchase or lease a new vessel for the Federal Government, to examine the inventory of ships acquired by the Maritime Administration and the National Oceanic and Atmospheric Administration by loan defaults under title XI of the Merchant Marine Act, 1936.

This practice should save the taxpayers money, as many of these stockpiled vessels could be modified to meet mission requirements at a lesser cost than purchasing or leasing new vessels. In addition, we would save the additional costs of keeping the vessels in storage.

These vessels may not be suitable in every case, but I believe that it would be a sound practice to examine our own cupboards before purchasing more food.

JOHN AND CONSTANCE MITCHELL: A COUPLE THAT MADE A DIFFERENCE

HON. FRANK HORTON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 20, 1989

Mr. HORTON. Mr. Speaker, I rise today to pay tribute to an outstanding couple in my district. One of the greatest accolades that any human can receive is to be recognized for making a difference during his or her life. John and Constance Mitchell have earned this distinction, both individually and as a couple.

On June 11, 1989, I was honored to have been invited to help pay tribute to these two Rochestarians by the Concerned Citizens Committee which is a membership group of African-Americans dedicated to progress for African people. The committee hosted the celebration in honor of John and Connie's 40 years of public service.

Connie and John have been friends of mine for close to 30 years. I came to know the couple before I came to Congress in 1963. Throughout the years we have remained close friends. During this period, I haven't come across a pair that is so dedicated to the advancement of the community as these two. The list of organizations which each has served runs for pages and pages and includes a wide variety of businesses, clubs, and projects. None of these organizations would have been as successful if it were not for John and Connie's efforts.

Judging from their backgrounds, it would have been impossible to predict how well these two would complement each other. He was born and raised in the rural South, she grew up in the urban North. They met at a USO dance 41 years ago at Fort Slocum, NY. Ever since this time, they contributed as a team wherever they were located.

Despite their differing backgrounds, they have lead similar lives. Deeply religious, each set and lived up to strict moral codes. Both worked hard to ensure that all Americans, regardless of race, could be proud of themselves and their country, despite the injustices which confronted them. Both are inspirations to all Americans, indeed, all people.

Perhaps the greatest highlight of their distinguished public lives was their appointment as Goodwill Ambassadors of the United States. In 1964, they travelled abroad speaking to various groups in this capacity. When asked about the personal significance of the trip, they replied.

> For the first time in our lives we felt like true Americans, we found ourselves defending the same country that had provided us with so many injustices. This trip signified to us just how deeply committed we were to this country and to the elimination of any injustices that would prevent us from being true Americans.

This reflection guided them through many challenges in the years that followed. It is a thought that gives everyone a goal to strive for.

Rochester has been blessed to have had two faithful servants for so many years. John and Connie have touched thousands of lives during this time. It is my sincere desire that many of those whom they have influenced will heed their call, take up their cause, and carry on with their success for if being known for making a difference is a great accolade, inspiring others to follow in your footsteps is a great accomplishment.

CONGRESSIONAL SALUTE TO JANET BOUSKA

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 20, 1989

Mr. ANDERSON. Mr. Speaker, it gives me great pleasure today to rise and pay tribute to Janet Bouska, a constituent and friend of mine, who is ending her tenure as an educator in the Los Angeles Unified School District.

Janet is concluding a 35-year career of service to our Nation's youth. Although a native of Los Angeles, Janet began her service in Denver, teaching physical education from 1954 until 1957. After her stay in the Rockies, she returned to her native southern California and took a position within the very school district from which she is now retiring.

While at Los Angeles Unified, Janet began a march up the ladder, first from physical education teacher at Banning and Carson High Schools, up to assistant principal at Roosevelt, Washington, and Narbonne High Schools, then on to serve as principal at Fleming Junior High School, and culminating as principal at Narbonne High School.

While serving as principal at Narbonne, her school earned the honor of being recognized as a 1988 California Distinguished School, and a 1989 National Distinguished School finalist, bringing honor to the teachers, commu-

nity, and school district. This award is testimony to the confidence, commitment, compassion, wisdom, and leadership she has displayed in her years of devoted service to the youth of southern California.

Janet's influence on the young people of our area will be felt for many years to come. Her guidance and integrity have assured us that our future is in good hands, being left to students who have received a good start toward meeting the challenges and responsibilities of adulthood.

My wife Lee joins me in extending our most sincere thanks and congratulations to Janet Bouska, for her years of dedication and commitment to the citizens, and especially the young people, of southern California. We wish her all the best in the years to come.

MARCH TODAY TO THE CHINESE EMBASSY

HON. JOHN MILLER

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 20, 1989

Mr. MILLER of Washington. Mr. Speaker, I want to thank all my colleagues who joined DAVID SKAGGS and myself on a march today to the Chinese Embassy.

We marched to show our solidarity with the students of China. They are unable to march, so we continued the march for them.

Last month, in the agony of their struggle, the Chinese students remembered the Statue of Liberty. For years to come, we in America, where the statue resides, will remember the students of China.

In 1989, the students of China stood before tanks to show their dedication to democracy. For years to come, whenever people stand up for democracy, they will remember the students of China.

The flame of freedom may only be flickering in China today. But, the flame will not go out. It is in the soul of the Chinese people—in the soul of people everywhere—and it cannot be ignored.

We marched to the Chinese Embassy to tell the Chinese Government that we desire good relations; we marched to tell that government that the students' anguish is our anguish; we marched to show their struggle for freedom is our struggle; we marched to urge the Chinese Government to resume its march toward—not away from—democracy.

IMPROVING EMERGENCY RESPONSE: RESTORING THE SPILL EQUIPMENT INVENTORY

HON. DOUG WALGREN

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 20, 1989

Mr. WALGREN. Mr. Speaker, today I am introducing a bill to restore the comprehensive response equipment inventory previously administered by the Coast Guard, but eliminated because of budget pressures. This inventory could be used by response personnel to determine the location and capability of equipment and other resources which could contain the spread of a discharge and prevent further environmental damage.

The oil spill in Prince William Sound, AK, has once again focused attention on the problems this country has responding quickly to environmentally dangerous spills. Before the spill, Alyeska, the trans-Alaska pipeline company, estimated that skimmers, pumps, and containment and sorbent booms would have to be in place 5 hours after the start of a major spill in order to effectively contain it. According to a Coast Guard chronology, however, nearly 12 hours elapsed before response crews located and transported the first equipment to Bligh Reef. Over 35 hours passed before containment booms completely encircled the ship.

Similarly, the rupture of an Ashland Oil Co. tank in my Pittsburgh district in January 1988, demonstrated the importance of rapid response in containing a massive spill near populated inland waterways. Although officials of Ashland, the Coast Guard, and the Environmental Protection Agency were in communication soon after the accident spilled nearly 1 million gallons of diesel fuel into the Monongahela River, it was several hours and sometimes days before cleanup crews could locate and correctly position equipment which was effective in the swift, cold, and turbulent water.

For example, response officials decided shortly after the spill to use numerous fluorometers for oil-in-water monitoring and analysis. Unfortunately, no information on suppliers of this valuable instrument was available. As a result, response coordinators had to waste crucial time and resources scanning manufacturer's sales records to locate additional fluorometers. Eventually, more instruments were located, but by then, several days' worth of valuable data had been lost and the cleanup set back significantly. In the few days before this equipment was in place, thousands of gallons of diesel fuel slipped under booms which were placed according to faulty data. This unmonitored fuel disrupted water service and fouled riverbanks for miles downstream.

THE PROBLEM

When asked to cite the factor most responsible for the delays in prompt response to these two spills, numerous witnesses have pointed to the difficulty in obtaining adequate and appropriate response equipment locally. Clearly, it would be both prohibitively expensive and technically infeasible to stock every potential spill site with enough resources to combat a worst-case scenario spill. However, in today's high technology information age, it should be possible to have access to centralized information listing the location and capabilities of all response equipment available nationwide. Until recently, this was the case.

In the early 1980's, the Coast Guard, as part of its responsibilities as a member of the National Response Team [NRT], administered a national inventory listing available emergency response equipment. However, as a result of budgetary constraints and a shift in budgetary emphasis, the Coast Guard eliminated this inventory system in 1985. Today, each of the 13 regional response centers is expected to maintain a listing of the equipment available in that region, but the National Response Center currently administers no comprehensive inventory of emergency response equipment.

The present system may be sufficient to respond to small or slowly developing chemical releases. However, containing a spill the magnitude of the Ashland tank collapse or the Prince William Sound disaster often requires the resources of more than one region and equipment of a size and nature that is not stored locally. In my view, the most efficient way to locate specialized equipment, contractors, and experts would be through a comprehensive, accurate national equipment inventory.

THE BILL

My bill would require the National Response Center [NRC], in coordination with State and regional emergency response officials, to establish, maintain, and annually revise a computerized listing of all oilspill emergency response resources available nationwide. This listing would include all Federal, State, local and private equipment and chemical agents necessary to respond to a release of oil or hazardous substances on land, river, harbor or sea. The inventory would also list all public agencies, private equipment contractors, and experts trained to respond to environmentally hazardous spills.

The NRC would also be required to ensure that all public officials responding to a spill have access to the geographic, hydrologic, oceanographic, and meteorologic data necessary to begin an effective cleanup. This data has already been compiled by the various member agencies of the NRT.

My bill also requires that the NRC make this listing accessible 24-hours per day to all public officials responsible for and responding to hazardous discharges. Finally, my bill would direct the President to pursue the establishment of an international hazardous spill equipment inventory. An international inventory might have prevented some of the delays which surrounded the deployment of highly specialized French and Soviet equipment during the Alaska cleanup.

I offer this legislation as an option to address the need for a comprehensive, nationwide inventory of the resources necessary to protect the populations and environments threatened by hazardous spills. I hope my colleagues will join me in support.

SENATE *Wednesday, June 21, 1989*

(Legislative day of Tuesday, January 3, 1989)

The Senate met at 10 a.m., on the expiration of the recess, and was called to order by the Honorable KENT CONRAD, a Senator from the State of North Dakota.

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray:

* * * *Jesus said, "Suffer little children, and forbid them not, to come unto me: for of such is the kingdom of heaven."*—Matthew 19:14.

Gracious God, eternal Father, thank Thee for public servants whose hearts are compassionate toward little children. Give special grace to the Senators inasmuch as this very concern expresses itself in such diverse ways that agreement as to how to respond to the need is difficult.

Loving Father, as Thou dost know our hearts, may Thy Spirit guide the Senate to a decision that will provide adequate benefits for the greatest number of children and their families in a just and equitable way. Thy will be done in this place among all of us as it is in Heaven. In His name whose love for little children drew them to Him. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore [Mr. BYRD].

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, June 21, 1989.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable KENT CONRAD, a Senator from the State of North Dakota, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

Mr. CONRAD thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The majority leader is recognized.

THE JOURNAL

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Journal of the proceedings be approved to date.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ORDER OF PROCEDURE

Mr. MITCHELL. Mr. President, following the time for the two leaders this morning, there will be a period for morning business not to extend beyond 11 a.m. with Senators permitted to speak therein for up to 5 minutes each.

The Senate will resume debate on S. 5, the child-care bill, at 11 a.m. In order for the Senate to complete action on the child-care bill and the emergency supplemental appropriations bill, which we may receive from the House later today, Senators should be on notice that late night sessions will occur for the remainder of this week. I hope that it is not necessary to impinge upon Senators' travel plans with respect to the forthcoming Fourth of July recess. However, I have said publicly on many occasions, and I repeat again now, the Senate will complete action on the child-care legislation before we go into recess. I hope that can be done expeditiously but, if not, it will be done.

EXECUTIONS IN CHINA

Mr. MITCHELL. Mr. President, this morning the Associated Press reports the following: And I quote the first few sentences of this story:

Shanghai authorities today executed 3 men convicted of setting a train on fire, the first executions announced since the military crackdown that has crushed the pro-democracy movement.

The executions were carried out a day after the United States and other governments had appealed for clemency for the 11 people sentenced to death since the June 3-4 army assault on Beijing.

The 3 were shot to death at a public gathering, a spokesman at the Shanghai foreign affairs office said, 2 weeks after the train was set ablaze. They were convicted on Thursday and had appeals rejected on Tuesday. The train was set on fire June 6 after it ran through a barricade set up by protesters, killing 6 people.

Mr. President, this is a deeply disturbing and distressing report. Taking into full allowance the differences in judicial systems between ours and that of China and other countries of the world and making full allowance for cultural and social differences, there cannot be even a pretense of fair consideration and due process when persons are executed 2 weeks after the crime with respect to which they are charged has occurred. This is a barbarous act. It is one which should shock and deeply disturb all Americans; indeed, all peoples. It is a turn toward darkness, an unwelcomed course and one which I believe will eventually lead to a result that the Chinese authorities are attempting to forestall.

I support the statement of the decisions made yesterday by the President, limited as they were, but I now suggest that in view of the barbarous action which I just described, in view of the intransigence of the Chinese Government, in view of its total disregard of the prudence which the President has displayed until now, that the President must and should consider taking further steps, particularly with respect to trade because, as he himself has said in an earlier context in this controversy, there cannot be business as usual with a government that takes actions like these. I say that in full awareness that we benefit from trade with China; we benefit from a stable, normal relationship with China, as they do. But there are times when our ideals must be vindicated. There are times when what America stands for and believes in is more important than an economic benefit to be derived from a trade relationship.

I am not suggesting specific sanctions at this time. I am not suggesting that we immediately terminate trade.

What I am suggesting is that the President must in light of these actions make a complete review of our relationship with China, including our economic relationship, and determine whether or not further steps are necessary. I think all Americans understand the President's desire to express American outrage at the events that have occurred and are occurring in China, while at the same time leaving open the prospect of a continuing relationship with the Government of China.

I support that objective, and I believe that to be an appropriate policy. It is, however, a policy that may be overtaken by events in China itself, by actions of the Chinese Government such as the executions reported today.

Accordingly, Mr. President, I wish to express on behalf of all Americans again my deepest concern and revulsion at this barbarous act, urge Chi-

nese authorities to consider the consequences of the course of action they have embarked upon, and encourage the President to carefully consider whether and which additional measures by the United States may now be appropriate.

Mr. President, I reserve the remainder of my time and yield to the Republican leader.

A SECOND MESSAGE TO BEIJING

Mr. DOLE. Mr. President, a "graveyard calm" prevails in China, but the human toll for this phony stability continues to grow and grow. Yesterday's public execution of three Chinese dissidents represents another tragic episode in what I earlier termed China's "great leap backward."

The administration has responded swiftly, by canceling all senior level political contacts with the Chinese regime, and suspending United States support for China's application for more than a billion dollars in loans from multilateral banks.

I commend the President and Secretary Baker for taking that action. I cannot honestly say I am optimistic that the Chinese authorities will get the message. But it is important that we let Beijing know there will be no "business as usual" as long as the crackdown continues; and that we are prepared to use the leverage available to us—in incremental stages—to signal our outrage over China's actions.

Frankly, unless there is a quick turnaround in China, the pressure for much more dramatic steps is going to grow quickly. I hope the Chinese authorities understand that. And I hope they remain cool-headed and wise enough to weigh the consequences—in terms of their relations with us; in terms of their standing in the international community—of continuing on their present reckless course.

Having said that, it is difficult at best to have any real impact. We cannot have much of an impact on Noriega. We talk about Noriega for example and our problems in that small country, in Panama. China is much further away, a billion people, but I do believe that the President has acted promptly and responsibly and yet sending additional signals to the Chinese leadership that it cannot be business as usual.

So I hope the Chinese understand that their actions are contrary to every belief every American has about freedom and justice and fair play, and we will insist, on a nonpartisan basis, that we continue to put pressure on China and the Chinese leadership in hopes they might suspend the outrageous conduct presently occurring in that country.

THE CHILD CARE BILL

Mr. DOLE. Mr. President, also I listened to the majority leader indicate that it is his hope to complete the child care bill this week. I hope we can do it, too, but I am not certain of that, and if that is the case we are prepared to be here next week or the next 2 weeks, whatever may be necessary, if that is the wish of the majority.

I must say I do not know if there is any great urgency. The House has not moved at all on child care legislation. This is important legislation. There are deep philosophical differences in how we approach child care.

It is an important issue. It is important to many who do not support the ABC bill, sort of the bureaucratic approach. We support the parents' approach to child care, not the bureaucratic approach that the ABC will foster where you will have bureaucrats making decisions rather then parents. The ABC bill has numerous shortcomings which will be discussed in detail today.

It is our hope that we will lay down an amendment to the pending amendment which will be a tax credit approach where the parents will make the choice, the parents are going to make the choice. The President is going to veto any ABC bill, and I will have that letter later on today.

So there should not be any illusion here that we are going to let this roll along and everybody is going to vote for the ABC bill. That is not the case. There are very sharp differences between the two approaches.

I believe if you gave the parents a vote—they should have; it is their children we are talking about—they would offer credits, tax credits, refundable credits where the families would make the choice on what kind of day care they would provide for their children. Whether it is family care, institutional care, whatever it may be, they would make the choice, not some State agency being prodded by some Federal agency, and we hope to make that case today.

It may be that neither bill will pass. That thought has occurred to me. I know a lot of people may not want to vote for the Republican proposal because it is a Republican proposal, some of my colleagues on the other side, but on the other hand they may not want to vote for this disastrous ABC bill which has become in my view the XYZ bill. It has been changed so often they have gone from one end of the alphabet to the other.

We do not know what the bill is. We pick up the committee report and we know that when we do almost all of it has been changed in an effort to persuade enough Members to get on board the ABC train for more bureaucracy for American families, American children, American business, whatever.

So we are going to offer the amendment hopefully about 11 o'clock today and we want to debate it. We have not had our opportunity to debate our bill. Senator HATCH and Senator DODD, the chief sponsors of the bureaucratic XYZ proposal, have had 3 days and we believe we may want some time on ours, maybe even more than we originally suggested to the majority leader.

NOMINATION OF CHIC HECHT

Mr. DOLE. Mr. President, in addition, we would like to confirm the nomination of our former colleague, Chic Hecht, who is being held for some reason that nobody will admit to at this point. We are going to find it very difficult to get any unanimous-consent agreements until we reach some agreement on that nomination.

I have colleagues on this side who say, "Here is another former colleague getting the John Tower treatment, and if he is going to get the John Tower treatment, let us find out right now so that we can gage our conduct accordingly."

So I would hope we could resolve that issue, too. It may not be important to many people. It is important to Mr. Hecht, and he is entitled to have a vote in this Chamber where he served for 6 years. He is entitled to the same treatment we would give anyone else who had served in this Chamber for 6 years. And so I hope that we could resolve that issue today because that may have an impact on how long it takes to get a unanimous-consent agreement on child care.

Mr. President, I reserve the remainder of my time.

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of morning business not to extend beyond the hour of 11 a.m., with Senators permitted to speak therein for not to exceed 5 minutes each.

The ACTING PRESIDENT pro tempore. The Senator from Maine is recognized.

Mr. COHEN. I thank the Chair.

(The remarks of Mr. COHEN pertaining to the introduction of S. 1213 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

DON LARRABEE

Mr. COHEN. Mr. President, one of the most able representatives the people of Maine have ever had in the Nation's Capital is retiring at the end of this month. He is Don Larrabee, a long time journalist and, for the past 13 years, director of the State of Maine's Washington office.

29-059 O-90-32 (Pt. 9)

Don was born in Portland but has spent most of his working life here in Washington. As a reporter and later owner of the Griffin-Larrabee News Bureau, he has watched over a long series of Presidents, Senators, Representatives, and Maine Governors, describing and explaining their work in the Capital to readers at home. He is a respected veteran of the Senate Press Gallery and a former president of the National Press Club.

I have deeply appreciated the opportunity to benefit from Don's kind friendship and wise counsel during my years in Washington. He has always set a fine example of hard work and dedicated service on behalf of the people of Maine. There is no question that our State is losing one of the finest boosters it has ever had in the Nation's Capital.

Bill Caldwell, in his column in the Maine Sunday Telegram, paid a special tribute to this institution of Maine politics. Headlined "Some Reporters Can Be Nice Guys," this piece captures the personality and legacy of a man to whom my State will always be very grateful.

I ask unanimous consent that the article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Maine Sunday Telegram, June 18, 1989]

DON LARRABEE

(By Bill Caldwell)

How long can a good Washington reporter stay a nice guy? Can he still like politicians and bureaucrats after seeing them close up every day for more than four decades? Not often. But newsman Don Larrabee does.

Larrabee wrote his first news item for the Portland Press Herald when he was 11. He's 65 now. All told, he's written some 2 million words reporting on Washington politics and politicians, focusing on those from Maine.

He's retiring in 10 days after 43 years on the Washington beat, 30 of them as newsman and the last 13 as lobbyist—some say ambassador—for the state of Maine. He's still sane, still a nice guy, still smiling, still looking as fresh as though he just stepped out of a shower and as immaculate as though his suit had been pressed six minutes ago.

Larrabee, a Portland-born boy and graduate of Deering High, has been a Washington transplant all his working life. He has survived generations of presidents, senators, representatives and Maine governors, reported on their foibles and fame, yet somehow stayed friends with all.

There's so much Washington mileage on Larrabee that he seems to have an inside track to every office in town, and the welcome mat is always out for him. Why? Partly because this bizarre city is always putting a new clown, a new donkey, a new elephant, a new ringmaster, a new high-wire artist into the Washington three-ring circus which never stops.

In this cruel kaleidoscope of revolving politics and switching loyalties, longevity, survivability, amiability and the sweet discretion not to always kiss-and-tell are the most prized virtues, because they are the most rare.

They are Larrabee's stock-in-trade. He's known every House and Senate doorkeeper, as well as every president since Truman. Yet, big names have seldom been his big sources. His best sources were loyal secretaries, medium-level, anonymous confidential assistants, people whom he always treasured and always treated as respectfully and courteously as their big bosses—even when their boss was president of the United States.

Larrabee, though he has been president of the National Press Club, member of the Gridiron and senior man in the Senate press gallery, seems to have acquired no arrogance and no enemies, unlike most of the Washington press corps and the politicians they cover.

Perhaps the major reason reporter Larrabee is quitting after 43 years without knives in his back is that he always reported Washington with a rather courtly, old-fashioned mannerliness, in comparison to the brash confrontational journalistic style currently in vogue.

"My work creed was simple," he wrote in a memoir earlier this year. "Private lives, even of public figures, were to be respected unless private foibles impacted on public policy. I make no apologies for what may be perceived as a naive approach to reporting by those who are caught up in electronic journalism. As the song goes, I did it my way."

His mention of a song is an echo of very early Larrabee. "I squandered my Air Corps mustering-out pay on a dance band venture in the West," he said, remembering how broke he was in 1946 when he rode a plane from Salt Lake City on the 16-hour flight to Washington to take a "leg-man's" job at $40 a week with a news bureau serving New England papers.

Twenty years later, he bought that Griffin-Larrabee News Bureau and serviced 20 papers from Alaska to Maine, including the Telegram, Press Herald and Bangor Daily News. In 1977 he sold his bureau to staff members in order to open a Washington office for the governor of Maine.

The Governor was James B. Longley, an independent politician without a political party in the nation's capital, who needed Larrabee to show him the slippery Washington ropes. Every governor since has kept Larrabee as Maine's man in Washington.

Larrabee has a friendly elephant's memory for political stories. He remembers his early days as a 23-year-old reporter for Maine papers. He first went to the White House with Maine Rep. Frank Fellows to present Harry Truman with the traditional first Atlantic salmon caught each spring.

"How did it go?" asked cub reporter Larrabee. "Oh, fine," said the Republican congressman. "You know Truman and I didn't have much to say to each other, so they called a photographer into the Oval Office. The president smiled. I smiled. But you should have seen the expression on that fish!"

Fellows, a curmudgeon who represented northern Maine, is largely forgotten today. But Larrabee still remembers him for a splendid quote after the congressman came home from his first junket to Europe. Larrabee asked Fellows how he liked France. "Fine," said the congressman, "but just between us, I think they ought to harden their currency and soften their toilet paper."

In the late 1960s, Larrabee bought the Griffin-Larrabee News Bureau. He also headed the Washington operations of these newspapers following the retirement of May Craig. She was the idiosyncratic lady of the hats who had become a national TV personality and a favorite at President Kennedy's news conferences and who had long been the Washington correspondent for the Guy Gannett newspapers.

During the '60s and '70s, Larrabee wrote a Washington column for the editorial pages of the Telegram, which I was handling at the time, and consequently we were in regular contact every week.

His stature in the Washington press corps was conspicuously recognized when his colleagues elected him president of the National Press Club in 1973. As president, Larrabee introduced and questioned more than 60 world newsmakers at the famous press club luncheons and interviews, including heads of state such as Israel's Golda Meir, Britain's Edward Heath and West Germany's Willy Brandt.

But Larrabee had a lighter side, too. He presented to the Washington press corps stage star Carol Channing and stripper Sally Rand, who swapped one of her fans for one of his press club scarves.

Maine politicians were the focus of much of Larrabee's work. In his memoir, he gives many backstage glimpses of them.

Here are two:

On Sen. Edmund S. Muskie: "The Indian land claims battle was settled during the Carter administration with an $80 million payment and turnover of some 300,000 acres to the Maine tribes. . . . Gov. Longley; the attorney general of Maine, then Joseph Brennan, and other political figures were convinced the Indians did not have a legitimate claim to the Maine lands. Sen. Muskie led the way with the Carter White House in seeking a compromise. . . . I can't prove it but I always felt that Jimmy Carter made a deal with Sen. Muskie to settle the land claims case if Muskie would leave his Senate seat to become secretary of state, replacing Cyrus Vance. . . . When the time came, it wasn't a bad deal for Carter, for Muskie and for Maine."

On Sen. Margaret Chase Smith: "The telephone rang on my desk in the Senate Press Gallery around 3:30 p.m. in mid-December 1971. The voice at the other end said, 'This is Margaret Smith.' It was a startling call because I had been trying to reach the senator for days. . . . No one in her office could explain why Mrs. Smith had missed a string of roll calls. 'I'm at Walter Reed Hospital,' she said. 'Bill Lewis (her long-time close aide) has had a heart attack and I want to be near him. . . . I know you have been trying to reach me but you don't understand. Bill needs me and I need him. I don't know what I'd do if anything happened to him.'"

Larrabee then asked Smith, "Are you speaking to me as a friend or do you want to be quoted?" "I don't care," she replied. "Nothing matters if Bill doesn't live."

Larrabee says the senator seemed close to tears. "I ended the conversation as quickly as I could. I not only had a scoop but the ingredients of one of the greatest love stories on Capitol Hill."

Larrabee stayed a nice guy and a caring man in spite of witnessing Washington politics and players close up and daily for 43 years. And that takes a warm and forgiving heart.

ROGER MARSHALL

Mr. COHEN. Mr. President, I would like to call the attention of my colleagues to a newspaper article describing the wonderful work of one of my constituents, Roger Marshall, of East Corinth, ME.

Mr. Marshall, a prosthetist working at Eastern Maine Medical Center in Bangor, went to Vietnam 20 years ago with the desire to help end the suffering in that war-torn country. In the 3½ years he spent with an Anglo-American relief team in the town of Quang Nghai, he shared his knowledge of artificial limbs and braces with 20 Vietnamese students and trained them to better serve their fellow country men and women.

Originally from Great Britain, Mr. Marshall settled in Maine 11 years ago. This past year he returned to Vietnam to visit four major prosthetic centers and to assess the needs of those requiring prosthetic devices from war-related and other injuries. He met with his former students and worked with many amputees.

Mr. Marshall has shown a great dedication and caring through his work with the people of Vietnam and in his own community. He has demonstrated sensitivity to the needs and concerns of patients in both countries.

I think many of you will find this an impressive story.

I ask unanimous consent that the article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Bangor Daily News, June 7, 1989]

PROSTHETIST SEES NEEDS IN VIETNAM

(By Jeanne Curran)

In 1968, Roger Marshall, a British-trained prosthetist, found himself called to South Vietnam, where he served for several years in a war-torn town creating artificial limbs and braces for civilians and sharing his skills with 20 Vietnamese students.

Twenty-one years later, Marshall was back in Vietnam to assess the medical needs of war-related amputees and other people requiring prosthetic services.

Traveling on behalf of the American Friends Service Committee, Marshall, who lives in East Corinth, returned in April from a trip that required him to visit four major prosthetic centers in Vietnam and report on their needs. The medical specialist found, as might be expected, "a great deal of poverty" throughout the southeast Asian country, but he also discovered a less expected characteristic.

"One thing that struck me more than anything was the friendliness toward us," said Marshall, during an interview this week. "They knew we were Americans . . . It was most apparent that the Vietnamese do not hate Americans as people. In fact, I got the strong impression they would like to see us come back and trade."

Born in Birmingham, England, and raised in England and Scotland, Marshall served in the Royal Air Force for 2½ years. He was trained as a certified prosthetist in his native country, later receiving American certification after completing additional training at New York University and Northwestern University in Chicago. Marshall, who works at Eastern Maine Medical Center in Bangor, and his wife, a Brewer reading specialist, have lived in East Corinth for 11 years.

"I've always been interested in the peace movement," said Marshall. "I came into prosthetics because I was a medic in the Air Force. I'm not a 100 percent pacifist."

Marshall said he felt compelled to go to Vietnam during the war because he knew of the suffering there.

"Some people would interpret that as a call from my conscience—I'm not really sure," he said. "Something seemed to call me in that direction. I knew it would be bad. I didn't realize it would be as bad as it was."

Marshall said he spent 3½ years working with an Anglo-American relief team in the town of Quang Nghai, a "hotly contested area" south of Da Nang. He said his job was to help the civilian population, amputees and paraplegics "who got caught between the warring factions."

The 20-member team was often in danger, said the prothetist. One time, six members were captured by the Viet Cong, but were released unharmed "as soon as they found what (the team members) were doing," he said.

Supplies were limited and difficult to get. "We relied entirely on private donations," recalled Marshall. "I used to get plexiglass from the American helicopters and heat that up and use that for splints and certain kinds of braces." Once, he even salvaged the wing of a shot-down American airplane, using the aluminum to make artificial limbs.

"It's worlds apart from what I'm doing now, but the basic principles were the same" in terms of taking casts, measuring patients, and making prosthetic alignments, he said.

Marshall left Vietnam in 1972 after his students took their exams and graduated. "It was time to leave and time for them to take over," he said.

The Vietnamese staff took over the center and relocated it to the town of Quin Nhon. The AFSC continued to supply equipment until funds ran out in 1981, and the organization became involved in other aid projects of higher priority, said David Elder, AFSC co-coordinator for Asian programs.

Last year, President Ronald Reagan sent an envoy led by retired Gen. John W. Vessey Jr. to Hanoi to discuss humanitarian issues. Out of those discussions came the recommendation and encouragement that private aid be raised for rehabilitation efforts.

Elder said his organization, which has worked informally with several other groups on rehabilitation, recently received a major grant, almost $300,000, from two Dutch and American organizations to support that rehabilitative work.

"Our primary method is to provide tools, equipment, and supplies both for prosthetics and physical therapy," said Elder, during a telephone interview from the AFSC office in Philadelphia.

The AFSC official said there were 60,000 amputees in Vietnam, which has a population of 60 million to 65 million people. "Actually, that's very high in terms of amputations," said Elder. "You don't usually find that rate."

The six government-run prosthetic centers in Vietnam provide about 10,000 prosthetic devices and orthotic appliances, including braces, crutches, and shoes, each year, said Elder. Most Vietnamese amputees are veterans, though at least 10,000 people, including women and children, have been injured since the war ended in their attempts to clear existing minefields, he said.

Other people in need of prosthetic and physical therapy are children suffering from polio ("still a major problem"), accident victims, and people suffering from cerebral palsy, spinal-cord injuires, and congenital malformations, said Elder.

The AFSC official said Marshall's report would be used to help make purchases for the centers. After the report is reviewed, "we'll begin shopping and shipping," said Elder, adding that he expected to have the equipment "on the high seas" by the end of the summer.

Marshall visited four centers, traveling from the Mekong Delta to Hanoi, and staying in small hotels. He saw his former students and met Professor Bai Thung, director of the Hanoi prosthetic center.

The East Corinth man also saw a lot of amputees, saying that "most of them have to beg or have their families help them support themselves.

"No, they're not bitter," continued Marshall. "They're poor, very hard working, but the ones I met were not bitter. They're looking for the better times ahead."

While he was treated very well and found "no animosity at all," Marshall nonetheless was struck by the lack of supplies at the centers. "They're desperately in need of equipment and have been making a lot of limbs themselves," he said.

Impressed by the country and hoping to return some day, Marshall said he thought Vietnam potentially was "a very good investment."

THE CHILD CARE BILL

Mr. BURNS. Mr. President, I rise today to make a few comments on the pending legislation that is before this body this week. I realize there has been a lot of comment made about child care and the need for it and there is no doubt that we are looking at one of the major problems that faces this American society.

A look at history and a real look at the fabric that has held this country together for over 200 years shows that the single most important component in that fabric is the family structure. It is the strength of America.

We are now debating, for the first time in 20 years, what our first step will be toward meeting the child care needs of today's families and their children for the next 20 years and beyond. The most important factor for me in taking this first step is whether or not our family structure is protected.

In looking at the two approaches we could take in passing child-care legislation—the so-called ABC bill, that is on the floor now, and the tax credit approach—these two questions come to mind. Which approach highlights parental choice and leaves parents with the most options to choose from? And which approach does not discriminate against the family where one parent chooses to stay at home?

The answer for me on both counts is the tax credit approach.

If we go with the tax-credit approach, I believe that we will meet the changing needs of the American family—I shall lay a basis for that argument in just a little bit—and preserve the parents' right to choose who raises their children. We also will leave parents with a full array of child-care options to choose from—whether it be a licensed day-care center, a group home, a church or synagogue, a neighbor, a relative, or the mother or father. The tax-credit approach as outlined in the Dole substitute also includes grants to States to enhance their ability to help meet child-care needs.

On the other hand, the compromise ABC bill, if passed, will be the first step toward enactment of ABC in its original form. I know that Senator DODD and Senator HATCH disagree with me on that point, and they have done hours of work trying to make what I consider a bad piece of legislation a little more palatable to the rest of us. However, we are setting a course here. I believe the emphasis on standards, and they are still in the bill, will lead to more regulation now; State and Federal will come later. Once the regulations are in place, they must be enforced. The enforcement of those regulations will lead to a situation where we can only allow State or federally licensed day centers to receive State or Federal funds.

I have heard it argued that these regulations and licensing procedures will actually expand parental choice. I fail to understand that logic. I think that if asked to comply with burdensome and costly licensing procedures, most grandmothers, grandfathers, neighbors, aunts, and uncles who are providing informal care will opt out.

I may be wrong, and only time will tell, but I see the end result of this child care approach being the growth of more institutional child care at the expense of the more personal types of care.

I can not support an approach which I feel lead to that type of child care environment. I agree that there is a need to address the needs of families today, but I do not think that any of us want to do that at the expense of our children. A quote which I read in an article called "Is Day Care Ruining Our Kids" brings this point home. The article was written by Mr. Karl Zinsmeister, a research assistant at the American Enterprise Institute. He says:

> The mass surrender of child-rearing responsibilities to non-relatives and state-regulated institutions marks a profound change in human history. It represents the final victory of the Industrial Revolution: the industrialization of the family. In essence, we are attempting to make childrearing—the original social imperative—into a branch of the modern service economy. But when someone buys day care, they are buying much more than a service which permits them to work. They are buying an environment which determines much of what their children—what this society—will become.

I have heard a lot of discussion about the importance of health and safety standards, and I do not argue with that. However, we must remember that above all we are dealing with children—small infants and toddlers in the most formative years of their lives. There is no question in my mind that the single most important quality that a child-care provider should have is affection. It is very hard for government to regulate affection.

In fact, Senator PACKWOOD told us about his conversation with one woman who had just completed a study on what prerequisites could ensure a quality day-care center staff. What type of education they should have and all that. This woman, an educated professional on the subject, said that the one most important qualification would be grandmothers. I would imagine that it would be very difficult for either the State or Federal Government to mandate that all child-care providers be grandmothers.

Finally, I would like to emphasize my belief that it is critical that we maintain the option for one parent to stay home and care for his or her own child. I have heard over and over again that being a parent is no longer affordable—economic realities are forcing both parents to work in order to survive—therefore, we need to make child care more affordable.

Well, I disagree I say let us make parenting more affordable. In the last 40 years, this country has instituted policy after policy that is antifamily.

The worst antifamily policy is the Federal Tax Code. In 1948, a family of four paid 2 percent of its income in Federal taxes. Today they pay 24 percent.

It is important to note that this twelvefold tax increase is not a uniform increase, but is an increase targeted against families. Mr. Eugene Steurel, a Treasury Department tax specialist, notes that between 1960 and 1984 the average tax rate for single persons and married couples with no children did not increase, but for a married couple with two children it climbed 43 percent, for a family with four children, tax rates increased 233 percent. Then we wonder why we cannot take care of our kids. We have taxed the very people who are raising them.

The main cause for the antifamily bent in the Tax Code is the eroding value of the personal exemption. According to a Heritage Foundation report of April 6, 1988, in order for the personal exemption to have the same value relative to income it held in 1948, today's personal exemption would have to be raised to $6,468.

So there is no wonder why we have a problem in taking care of our kids. We have taxed that biggest segment of our society to death. It is time we took a look at that. The Tax Reform Act of 1986 begins to address this inequity, but it is only a small first step.

This trend is only perpetuated by setting up a system which appropriates more Federal dollars for child care. More Federal dollars, means more tax dollars of which families bear an unproportional burden. In many instances, we will be taking money out of a family's right pocket and putting it—minus a few layers of Government administration—back into the left pocket and earmarking it for child care.

There are a lot of measures we could consider here in the Congress to make being a parent affordable, such as changing the tax laws to remove the bias against families. But that is not what we are undertaking today.

I think what we can do today to help the American family is to pass child-care legislation which gives them a tax break. The tax credit approach puts money directly in the hands of parents, especially those who need it most, with no strings attached. It says to them, "You know best, if you aren't in a position to care for your own children, we'll help you pay for the care of your choice."

The legislation we may pass this week is monumental and historical. I hope that the step we take will further a government policy which will do nothing to mettle or mess with our family structure. We need to do all we can as policymakers to preserve and encourage that structure. I hope that my colleagues will join me in supporting a policy which helps families, but keeps the hand of Government as far away as possible. Being a parent is a highly personal individual responsibility, and I hope we will keep it that way.

I yield the remainder of my time.

The ACTING PRESIDENT pro tempore. The Senator from North Carolina is recognized.

Mr. SANFORD. I thank the Chair.

(The remarks of Mr. SANFORD pertaining to the introduction of S. 1212 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolution.")

RURAL PARTNERSHIPS ACT OF 1989

Mr. LEAHY. Mr. President, I am going to speak briefly about rural America and I do it with pleasure, seeing such leaders as the distinguished Presiding Officer, Senator CONRAD; the distinguished Senator from Nebraska, Senator KERREY; the distinguished Senator from North Carolina, Senator SANFORD, its former Governor—leaders, all, in rural development.

Rural America today is in trouble. Compared to the Nation as a whole, rural unemployment and poverty are higher and economic opportunities are deteriorating. We cannot have two Americas—one, a land of opportunity and a second, rural America left behind.

That is why last Wednesday, the Senate Committee on Agriculture, Nutrition, and Forestry, on a unanimous vote, reported out S. 1036, the Rural Partnerships Act of 1989. This landmark legislation gives my State, Vermont, and the rest of rural America the tools needed to prosper for the 21st century.

Our commitment to rural America has got to be more than 60 second sound bites in campaign commercials. It has to be more than floats on the Fourth of July extolling the virtues of rural living. We have to do more if rural America is going to have a real future.

Those who believe in the intrinsic values and basic values of rural America now have the responsibility of making sure that those values are available for the next generation. When considering this legislation, the committee went beyond the slogans and the sound bites. We took three basic steps in developing a new agenda for rural America.

First, we are investing in economic growth by creating new businesses and jobs.

The current economic picture in rural America is bleak. In 1988, rural unemployment rates were 28 percent higher than rates in urban areas. Because rural areas are highly dependent on resource-based economies—agriculture, forestry, mining—they are uniquely vulnerable to swings in the global economy. Poverty rates in rural America are a third higher than in nonrural areas.

While agriculture is very important, we often forget that rural America is less and less dependent on agriculture—only 10 percent of rural Americans live and work on farms. That is why we must not only look at agriculture—we must look beyond and provide new and struggling businesses with the needed capital to create jobs, opportunity and economic growth.

Let me give you a real life example of how this works. In 1968, Rozelle Britton had an idea. In northern Vermont, she and her husband wanted to set up a small cosmetics manufacturing business to run out of her home. After the banks turned her down, she went to the Economic Development Fund of Northern Vermont which lent her money to start her business. Today, Rozelle Cosmetics is a million-dollar-a-year enterprise, employing 30 people. With the rural development bill, this sort of success story can be repeated nationwide.

This bill contains $300 million over 5 years for local revolving funds to make loans to stimulate local businesses. Loans must be matched dollar for dollar by local banks. This partnership program is not Government driven; it's locally driven.

This bill also contains $50 million over 5 years for business incubators—facilities that house and aid startup businesses. Incubators lower startup costs through shared resources—shared secretarial support, phones and copying machines—and flexible leases.

Second, we are investing in human resources by improving schools and health care.

Students in rural America want to learn, but too often they do not have the same educational resources that students in the big cities have. This bill invests $110 million over 5 years through REA for "star schools." That means the student attending a school in a very small school district in northern Vermont has the chance to use telecommunications to take a math, science or foreign language course not offered at his or her school.

One beneficiary in Vermont would be the Vermont State College which has four telecommunications sites—Newport, Lyndon, Waterbury, and Springfield—and plans to expand its star schools network to 16 sites.

Health care is also a problem in rural America. In 1988, more than half of hospital closures were in rural areas. Since 1980, 190 rural community hospitals have closed and another 600 are in danger of closing. This means that rural residents often must travel hundreds of miles for specialized health care.

This bill contains $90 million over 5 years through REA to link rural hospitals in Vermont and other States to modern medical centers. This means that a physician in a small town in Vermont, wanting a second opinion when treating a patient with a heart attack, could send the patient's EKG by satellite and consult with doctors in Boston. This means state-of-the-art health care in rural communities.

Third, we are investing in quality of life by helping rural communities provide safe drinking water and waste disposal.

A 1986 EPA survey found that 70 percent of our Nation's substandard wastewater facilities were in rural areas. In 1984, EPA found that two-thirds of rural water supplies violated Federal drinking water standards.

If we followed current EPA and USDA spending, it would take 66 years to bring clean water to rural America. That's not good enough. That is simply unacceptable.

This bill contains $315 million over the next 5 years for loans and grants to rural communities to meet Federal clean water standards. Funds are allocated through the Farmers Home Administration.

As chairman of this committee, I have traveled across the country and talked to people living in rural America. I am pleased to report that they are not a despondent and depressed group; they are hopeful and optimistic. They are a tough breed, with a strong work ethic and the determination to succeed. What we must do here—and what this bill begins to accomplish—is give rural America the tools it needs to build for the future.

At latest count, 37 Senators have joined me in cosponsoring this bill. I hope that when it reaches the floor next month, it will have the support of all Senators.

This is our chance and it will be the chance for the U.S. Senate to stand up and say: We believe in rural America. We will not turn our back on rural America. And we will not have a situation, in this country, where we are really faced with two Americas, one of opportunity and the other not. We are saying, for all Americans, we believe in you.

Mr. President, I yield the remainder of my time to the distinguished Senator from Nebraska, who can also seek time in his own right.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

RURAL PARTNERSHIP ACT OF 1989

Mr. KERREY. Mr. President, I rise today to speak on a different matter. Before I do, I would simply say that the Senator from Vermont, as well as the Senator from North Dakota, the Presiding Officer, have brought us to a point now, I think, with rural development where we are on the edge of passing legislation that will, in fact, give rural communities a whole range of tools that they need to increase employment opportunity, to improve their schools, to improve communications with other communities. It will enable them to help themselves far more than they are currently doing.

It is a piece of legislation that I know has been resisted in the past. I know how much work it has taken for my colleagues to bring it to this point. I applaud them. Having been a Governor during tough economic times in agriculture, I am very much aware of how difficult it is to do rural economic development. This piece of legislation will, I believe, help an awful lot of rural communities who are trying to provide opportunities for their people, and I thank both the Presiding Officer and the Senator from Vermont and chairman of the Agriculture Committee for giving us this chance.

The ACTING PRESIDENT pro tempore. The Senator from Nebraska is recognized.

Mr. KERREY. I thank the Chair.

(The further remarks of Mr. KERREY pertaining to the introduction of S. 1036 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

EXTENSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore. The time for morning business has expired.

Mr. FOWLER. Mr. President, I ask unanimous consent that the period of morning business be extended for 10 minutes.

The ACTING PRESIDENT pro tempore. Is there objection? Without objection, it is so ordered.

RURAL PARTNERSHIPS ACT OF 1989

Mr. FOWLER. Mr. President, I rise today to speak in support, along with my colleague from Nebraska and others, of the Rural Partnerships Act of 1989. I am proud to join our chairman, the Senator from Vermont [Mr. LEAHY], the distinguished Presiding Officer, whose leadership has been genuine and thorough and exemplary in making the case from the hills of North Dakota all the way to the swamps of Georgia that we have neglected a national asset of our country that is essential not only to the supply of food and raw materials for our Nation, but also to the national security of our country, for unless all of our land is strong, unless all of our people have opportunities and jobs and health and education, then we cannot make the case that we are a strong country capable of not only defending ourselves and our materials but assuming the leadership of the Western World which is so often asked of us.

We have worked hard on this piece of legislation. There have been many participants. We have been working on it almost nonstop now for 2 years. I am hoping that when we return in July that we will see the beginnings of a package that can do the job that we know needs to be done in our smaller towns and our rural areas.

There are two or three things included in this bill I would like to highlight quickly. We need to strengthen the network of people dedicated to creating jobs in distressed rural areas for, as we have seen, the market does not naturally flow that way. These are the individuals who can identify business opportunities, find markets and working capital, provide the business knowhow to new and growing enterprises. This bill includes the greatest bastion of rural development, our land grant research universities, in these efforts.

We also emphasize in this legislation rural educational opportunities in general. This bill authorizes grants to telecommunications partnerships to provide satellite video uplinks to make the most of limited teaching resources in rural areas. There is simply no excuse in this computer, satellite and telecommunications age for having an important segment of our population isolated from knowledge and information, information that they need to develop careers and economic opportunities for themselves.

Agriculture, of course, is and must remain the mainstay of rural America, considering the importance of reliable food supply to our national economy and, as I have mentioned, our national security. To help our farmers, we have included some incentives for crop diversification, because a more diverse market is a healthy market. However, we have to broaden the concept of rural development beyond the needs simply of our farms and our farmers, for they also depend upon the services provided by small town merchants and other professionals.

In other words, we have to strengthen the whole interdependent community. That means we need opportunities for young people in and out of farming so they have a real choice of living and raising their families where they were born, where they grew up, in the smaller towns and countryside of our land.

This package, Mr. President, does offer a good beginning. It is a start at developing the infrastructure of credit and education that are essential to develop a healthy and well-rounded rural economy. It will advance our national interests, and it will uphold our national values by strengthening rural communities.

I am grateful for the help of so many people in my State of Georgia on making the recommendations that should go into a strengthened legislation on rural development. Like the Senator from North Dakota, I have had over 159 town meetings in all 159 counties since my election to the U.S. Senate. I can tell you that we have willing hands, willing workers, people crying for the latest techniques and education. If they just get a little help in putting together the kind of private and public partnerships that will make things happen in the small communities of our Nation, it can be done, and with the passage of this legislation, there are beginnings that give real hope that it will be done. I thank the President and yield the floor.

SENATOR DENNIS DECONCINI HONORED

Mr. HEFLIN. Mr. President, recently, our colleague Senator DECONCINI was honored by the American Bankruptcy Institute [ABI] for his work and interest in the bankruptcy field over the past dozen years. This commendation is well deserved. Senator DECONCINI has played a major role in virtually every piece of bankruptcy-related legislation in the past decade. I join with the ABI in extending my congratulations and appreciation to Senator DECONCINI.

Senator DECONCINI has played a critical role in most of the bankruptcy legislation that has been before Congress. In 1978, he was the Senate sponsor and floor manager of the bill which serves as the present Bankruptcy Code—title XI of the United States Code. In subsequent years he has continued to influence the bankruptcy field. During the 100th Congress he was involved in legislation concerning intellectual property rights in bankruptcy, municipal bankruptcies, and retirement benefits for bankruptcy judges and magistrates. This Congress, Senator DECONCINI has again introduced bills dealing with important features of the Bankruptcy Code.

The American Bankruptcy Institute, the group which honored Senator DECONCINI, was in large part founded by the Senator and Congressman Caldwell Butler of Virginia in 1982. It was formed in response to the crisis facing the bankruptcy system resulting from the Northern Pipeline decision of the Supreme Court. Since its founding, it has grown to be the largest organization in the country devoted to the improvement of the bankruptcy system. Its members include judges, leading bankruptcy attorneys, accountants, trustees, and other professionals associated with the bankruptcy field. The institute is frequently called upon by Congress for its input into bankruptcy matters. It has conducted studies and provided witnesses for numerous bankruptcy-related hearings. Senator DECONCINI has served as the institute's honorary national chairman since its founding, and can take personal credit for many of the contributions of the ABI.

Throughout his tenure, Senator DECONCINI has represented a thoughtful, knowledgeable voice in the Senate on bankruptcy matters. In many ways, he has become our institutional memory on this subject. To have earned the respect of the members of the bench and bar who bestowed this honor, involving one of the most controversial and convoluted areas in which we legislate, is indeed a noteworthy feat.

I personally congratulate Senator DECONCINI on this distinction. He is a deserving honoree, and I look forward to his continued and vital service to the U.S. Senate and our Nation.

TRIBUTE TO REV. PAUL S. TIPTON

Mr. HEFLIN. Mr. President, I rise today to pay tribute to an outstanding Alabamian who has risen to the top of his field in higher education. The Reverend Paul S. Tipton has gained the respect of his peers and the community through his outstanding leadership as the president of Spring Hill College in Mobile, AL.

Father Tipton currently serves as the outgoing president of Spring Hill College and will be sorely missed when he departs. His 17 years as president have seen the college grow and prosper. Recently his leadership was recognized when he was elected as the president of the Association of Jesuit Colleges and Universities [AJCU].

As president of the AJCU, Paul Tipton will serve as the spokesman and leader of the 28 Jesuit institutions of higher learning which are members of the association. These institutions cover the spectrum of higher education from liberal arts colleges like Spring Hill to doctoral granting institutions like Georgetown University. I am confident that his guidance should help these member Jesuit institutions continue to provide a quality education for thousands of students.

The Association of Jesuit Colleges and Universities is fortunate to have someone of Reverend Tipton's caliber providing guidance in Washington. In addition to his years as a college president, Father Tipton has also served on Capitol Hill on the staff of Congressman Richard C. White of Texas. His experience as a college president and in Washington should allow him to excel as a representative and leader of these Jesuit institutions.

During Reverend Tiption's 17 years at Spring Hill College, the school's endowment increased substantially and they operated in the black for 12 out of 13 years. As a Spring Hill graduate, Paul Tipton has a keen interest in the academic success of the college. Through his leadership, the school established masters programs in theology, business administration, and teacher education, as well as a semester abroad program in Venice, Italy.

In my judgment, the Association of Jesuit Colleges and Universities made an outstanding selection when they elected Rev. Paul Tipton as president. I am confident that he will continue to stress faculty excellence and student scholarship while bringing the association the same success he brought to Spring Hill College. I wish him the best of luck in his new endeavor.

Mr. President, I ask unanimous consent that an article telling of Reverend Tipton's election and accomplishments by printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Mobile (AL) Press Register, June 14, 1989]

REVEREND TIPTON TO HEAD JESUIT ASSOCIATION

The Rev. Paul S. Tipton, S.J., outgoing president of Spring Hill College, has been elected the new president of the Association of Jesuit Colleges and Universities, according to the Rev. Joseph A. O'Hare, S.J., chairman of the board of the AJCU at Georgetown University.

The appointment is effective in the late fall.

The association is made up of the 28 institutions of higher education under the sponsorship of the Jesuits in the United States. The purpose of AJCU is to represent the interests of the 28 Jesuit institutions and to serve as their voice at the national level.

Among the members of the organization are such institutions as Georgetown University, Fordham University, University of San Francisco, Boston College and Spring Hill College.

The membership is made up of diverse institutions which range from research, doctoral granting institutions to liberal arts colleges spread throughout the United States with significant international involvement.

Tipton succeeds the Rev. William C. McInnes, S.J., who has served as president of the association since 1977.

The AJCU offices are located in Washington, D.C., jointly with the Office of the United States Jesuit Conference.

On accepting the presidency, Tipton said, "I look forward to the challenge of serving the interests of the institutions of higher education sponsored by the Jesuits in the United States and to making a contribution in the field of independent higher education at the Washington level.

"One interesting historical fact is that the late Rev. William Crandall, S.J., a former president of Spring Hill, was the founding president of AJCU in 1967," Tipton said.

O'Hare said Tipton "brings special expertise to this position from his successful 17 years as a president joined with his prior experience in Washington congressional activity.

"We believe he is uniquely qualified to serve the best interest of our association at this time in the life of American independent higher education," O'Hare said.

Tipton came to Spring Hill in 1972 from Washington, where he worked on the congressional staff of Congressman Richard C. White of Texas.

He was educated in public and parochial schools in Birmingham and graduated from Georgetown Preparatory School. He graduated from Spring Hill in 1961.

During his tenure at Spring Hill, he has significantly strengthened the college's endowment with the school operating in the black 12 of the past 13 years.

In academic areas, he has given a high priority to faculty excellence and student scholarship. He also has established masters programs in theology, business administration and teacher education. He has overseen the development of the semester abroad program in Venice, Italy, which began in January 1987.

TRIBUTE TO COL. E. KIRBY LAWSON III

Mr. HEFLIN. Mr. President, it is a pleasure for me to recognize the widely respected Col. E. Kirby Lawson III who retires this month from his position as garrison commander at Fort Rucker, AL.

Although not an Alabama native, we Alabamians hold him as one of our own. Not only are both his children attending Alabama colleges, but his wife Barbara was born and raised in Enterprise, AL.

Colonel Lawson's exceptional history within the U.S. Army began with his graduation as a distinguished military graduate from Bucknell and continues through his present assignment in Alabama. Before coming to Fort Rucker, Colonel Lawson held numerous positions around the world. During this time, he commanded the 2d Basic Training Brigade at Fort Jackson and served in the Pentagon as staff member under the Deputy Chief of Staff for Operations and Plans.

Colonel Lawson valiantly served his country during two stints in the Vietnam war, first as an assistant S-3 operations officer and aviation officer with the 3d brigade of the 1st Infantry Division and later as the executive officer of the 227th Combat Aviation Battalion and commander of the C Company during the Cambodian incursion in May 1970.

During his service to this country, Colonel Lawson has been decorated and recognized far too many times to list here, but some awards merit noting. To distinguish his bravery, the United States decorated Colonel Lawson with the prestigious Silver Star Award, and the Legion of Merit for his expertise. He was three times honored with the Bronze Star, four times the Meritorious Service Medal, and three times the Distinguished Flying Cross.

Colonel Lawson has spent his adult life working to ensure that our defense and national security remain sound. He has always put his country ahead of his personal accomplishments and for this we owe him a huge debt of gratitude. Over the years, he has been a good personal friend of mine and an invaluable help to members of my staff. I join his family and many friends in congratulating him and wishing him an enjoyable retirement.

TRIBUTE TO LEONARD BEARD

Mr. HEFLIN. Mr. President, in the hearts of many Alabamians, May 31, 1989, will stand out as a very sad day, for on this day, Charles Leonard Beard passed away. Leonard was from my hometown of Sheffield, AL, and a personal friend of mine.

Leonard Beard provides us with an excellent example of a man who excelled as a leader in civic affairs, politics, and business. He was not a man who could be easily classified or labeled. His interests spanned the spectrum and he always rose to the top no matter what the endeavor. He never

took his success for granted and earned all that he achieved.

Mr. Beard was very active in community affairs and served on the University of North Alabama Board of Trustees for 9 years. His contributions to that institution are legend. He also offered his service to numerous other local organizations including the Tennessee Valley Art Center, the Methodist Children's Home, the Sheffield Kiwanis Club, and the YMCA.

He served as director of the Alabama Department of Planning and Industrial Development for 6 years and, as such, he was the chief industry recruiter for Alabama. He did much for the business growth of Alabama during these important years when he served in the cabinet of Gov. George Wallace.

Besides being active in community affairs, Beard served as mayor of Sheffield for 13 years. That city made remarkable progress under his leadership. He came to be identified as one of the political leaders of Alabama.

Besides his involvement in community affairs and politics, Beard was a leader in the business community. He owned the Royal Crown Bottling Co. for 50 years before selling it in 1984. These are not many individuals that I have met in my life that have been so dedicated and successful in so many things. I will miss him.

Mr. President, I ask unanimous consent that an article about Mayor Leonard's life be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

EX-MAYOR REMEMBERED FOR HIS SERVICE, TENACITY

The funeral for C. Leonard Beard, former Sheffield mayor, political leader, area businessman and community leader, will be at 10 a.m. Saturday at First United Methodist Church, Sheffield, with Dr. Joe Moore officiating. Burial will be in Sheffield Oakwood Cemetery, Spry Funeral Home, Sheffield, directing.

Beard, 84, died Wednesday at Shoals Nursing Home in Tuscumbia.

"He was a very public person. He was very civic minded and very helpful to our area," said Dr. Roy Stevens, executive vice president of the University of North Alabama and a personal friend of Beard's. "He was also supportive of the university and the things we wanted to do to serve the students of this area."

Beard served on the UNA board of trustees for nine years. He also served on the board of directors of several other local organizations, including the YMCA, the Tennessee Valley Art Center, the Methodist Children's Home and the Sheffield Kiwanis Club.

He was owner of Royal Crown Bottling Co. from 1934 until he sold the company in 1984. He served as mayor of Sheffield from 1948 to 1963. In 1963 he was appointed director of the State Department of Planning and Industrial Development by Gov. George Wallace. He served in that position for six years.

Beard was strong willed but was also fair and honest, according to F.E. "Buddy" Draper, a friend and former mayor of Sheffield.

"He was outspoken," Draper said. "If he believed in something he would follow through with it regardless of whether or not other people thought it was good. He just lived day to day until he got something he wanted to get done, done. Then he would get started on something else. You couldn't help but admire his tenacity."

Beard was highly respected by both his constituents and friends, according to Draper.

"He was the kind of fellow that stood out in a crowd," Draper said. "You knew he was knowledgeable about things. Even up until the time he became ill he was very active in so many things."

Despite his active involvement in community affairs, Beard was also a dedicated family man, according to Draper.

"His wife didn't drive and there have been times I've seen him leave very important engagements or meetings because he said he had to take his wife somewhere or he had to pick her up," he said. "You don't see much of that kind of person anymore. There are very few people left like him."

The family will receive friends from 6 p.m. to 8 p.m. today at the funeral home. The body will be placed in the church half an hour before the service.

Bearers will be Ernest Penn, William Howard, Buddy Draper, Frank Walters, Ted Zickos and Bill Sibley.

TRIBUTE TO CONGRESSMAN KENNETH ROBERTS

Mr. HEFLIN. Mr. President, I rise today to pay tribute to former Alabama Congressman Kenneth A. Roberts who recently passed away due to congestive heart failure.

Kenneth Roberts was born in Piedmont, AL, and spent his childhood there. After attending Howard College and the University of Alabama Law School, he practiced law in Talledega, AL. His service to his country began with his term as a lieutenant in the Navy during World War II and later as a lieutenant commander in the Navy Reserves.

Mr. Roberts was an Alabamian undoubtedly concerned about the welfare and progress of this country, and his commendable record as a Representative from 1951 to 1965 exemplifies his concern. He served as chairman of the House Commerce Health and Safety Subcommittee and the Interstate and Foreign Commerce Subcommittee on Safety. In addition, he sponsored legislation in 1953 to allow mothers working outside their homes to deduct the cost of child care for children under the age of 16 if they made less than $6,000 a year.

Congressman Roberts will also be remembered as the sponsor of legislation for air pollution controls and Federal seat belt safety standards in the early 1960's. In addition, he also sponsored legislation on refrigerator safety, hazardous substance labeling, educational television, nursing, migrant workers, child health, and Indian health.

After leaving Congress in 1965, Kenneth Roberts stayed active in Washington. He served as a member of the National Highway Safety Advisory Committee until 1970. He was also general counsel to the Vehicle Equipment Safety Commission from 1965 to 1972.

Many people may remember Congressman Roberts as a party to one of the most memorable incidents to have taken place in the House of Representatives. On March 1, 1954, Congressman Roberts was the victim of a gunshot wound to the leg when four fanatical members of the Puerto Rican Nationalist Party opened fire from the House Gallery. Congressman Roberts and four other Representatives were injured in the shooting.

I am proud that Congressman Roberts represented Alabama in Washington. He was a true patriot and a staunch advocate of improved safety standards.

Mr. President, I ask unanimous consent that an article concerning Mr. Roberts be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Washington Post, May 11, 1989]

FORMER ALABAMA REPRESENTATIVE KENNETH A. ROBERTS, 76, DIES

(By Eric Charles May)

Kenneth A. Roberts, 76, an Alabama congressman from 1951 to 1965 who sponsored auto safety and air pollution legislation, and who in 1954 was among five representatives wounded in a shooting on the House floor, died May 9 of congestive heart failure at his daughter's home in Potomac.

He lived in Anniston, Ala.

Mr. Roberts, a Democrat, was chairman of the House Commerce health and safety subcommittee and the Interstate and Foreign Commerce subcommittee on safety.

In 1953, he sponsored legislation to allow mothers working outside their homes and making less than $6,000 a year to deduct the cost of child care for children under the age of 16.

In the early 1960s, he sponsored legislation for air pollution controls and federal seat belt safety standards. During his congressional carreer he also sponsored legislation on refrigerator safety, hazardous substance labeling, educational television, nursing, migrant workers, child health and Indian health.

He was wounded in the leg on March 1, 1954, during a roll call vote when four members of the Puerto Rican Nationalist Party opened fire with pistols from the House Gallery.

Mr. Roberts was born and reared in Piedmont, Ala. He attended Howard College and the University of Alabama law school.

He practiced law in Anniston and Talladega, Ala. He was elected to the Alabama State Senate in 1941.

During World War II he served in the Navy in the Atlantic and Pacific theaters as a lieutenant. He later served in the Navy reserves as a lieutenant commander.

After serving on the Alabama State Board of Veteran Affairs and as city attorney for

Piedmont, Mr. Roberts won election to Congress from Alabama's 4th District in 1950.

In 1962 he and the eight other congressional representatives from Alabama ran in a statewide primary after Alabama lost a congressional seat after the 1960 census. He was defeated for reelection in 1964.

After leaving Congress, Mr. Roberts practiced law in Brewton, Ala., and Washington with the firm of Harter, Calhoun, Williams & Roberts.

He served as a member of the National Safety Advisory Committee from 1965 to 1970, and as general counsel to the Vehicle Equipment Safety Commission from 1965 to 1972. He retired as a lawyer in 1979.

Mr. Roberts received awards from the Allstate Foundation, Physicians for Automotive Safety and American Nurses Association.

He was a member of the American Legion and the Veterans of Foreign Wars. He was a member of the Lions Club, the Congressional Country Club and the Mason-Order of the Eastern Star.

His marriage to Margaret H. Roberts ended in divorce.

Surviors include two daughters, Margaret H. Roberts of Brewton and Allison R. Sinrod of Potomac; a brother, Luther E. Roberts of Anniston; and three grandchildren.

TRIBUTE TO DON HOLT

Mr. HEFLIN. Mr. President, recently Postmaster Don Holt of Florence, AL, retired after 36 years of commendable work with the U.S. Postal Service. He is one of the last few remaining Presidentially appointed postmasters, and a close personal friend of mine.

Mr. Don Holt was first appointed acting postmaster in 1953 and became postmaster in 1954. He was only 28 when he was appointed to the job, and at that time there was a rule prohibiting postmasters from being below the age of 30, unless they had previously served in the military, which Mr. Holt did.

Don scored well on a competitive civil service exam and offered extensive help to the Eisenhower campaign, both of which helped secure his appointment as postmaster in 1954. Under the new system, postmasters are no longer appointed by the President. Although the selection of postmasters is now based solely on merit, Don Holt shows that the people under the old system were just as outstanding as those under the new system.

The use of the five-digit ZIP code is perhaps one of the biggest improvements the Postal Service has ever made to speed up mail delivery. However, Mr. Holt's post office on Seminary Street still operates much the way it did years ago. The only change is that the system has grown. Mail is still sorted manually at the old post office, and people can still find the postmaster upon a friendly request.

The staff has grown over the years, but so has the historic post office building that was built in 1913. Through the years, additions have been made and the office is now listed on the National Historic Register. Mr. Holt was there to oversee all the changes that have occurred over a period of 36 years.

Before becoming postmaster, Don served in World War II for 3 years and attended the University of Alabama for 1 year. After the war he attended Florence State Teachers College, where he received a bachelor of arts degree majoring in English and history. He also met his wife, Sarah Morris, there, and they have one daughter who now works in Birmingham.

Before he took the civil service exam, Don Holt was a partner with his father in the family's hardware business. The civil service exam led him to his career in the Postal Service, a career he is now leaving for retirement.

Don Holt certainly loved his work and is filled with mixed emotions as he retires after 36 years of hard work and dedication. He does not hunt, fish, or golf, but he will continue to stay busy during his retirement. I wish him the best of luck in the future, and thank him for his 36 years of service with the Postal Service. More importantly though, I thank him for his friendship.

Mr. President, I ask unanimous consent that a newspaper article containing further information about Mr. Holt be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

RETIRING POSTMASTER LEAVES BIG SHOES TO FILL

(By Jennifer Oakley)

FLORENCE.—A photograph of President Dwight D. Eisenhower hangs prominently on the wall of Florence Postmaster Don Holt's office, a reminder to Holt of how his 36-year postal career began.

Holt, one of the last few presidentially appointed postmasters left in the nation, plans to retire on Friday, leaving behind lots of memories and big shoes to fill.

"I remember my first day on the job. There was so much to learn," Holt said, leaning back in the big chair behind his desk. "I applied for the job when A.W. Darby retired, and I was accepted. I had no idea before that that I would even be interested in becoming a postmaster. But I loved it, I was only 28."

Under the old system, postmasters were appointed with political recommendations and based on performance on a competitive civil service examination.

Holt's scores were impressive, and along with campaign work he had done for Eisenhower, Holt was first appointed acting postmaster in 1953 and became postmaster in 1954. His commission certificate, signed by the president, still hangs in Holt's office.

"The system completely changed in 1971," Holt said. "It had been the U.S. Post Office Department, and it was changed to the U.S. Post Service, under President Nixon. Then, they did away with the presidential appointments and based it on merit alone. The people they had under the old system were just as outstanding as the ones they have now. The only difference is that they're now real career postal people."

With his term in office drawing to a close, Holt took some time out from his schedule to reflect on the changes that have taken place during this years of service.

"When I started out, stamps cost three cents each, "Holt said. "But (the price of stamps) hasn't gone up above the general rate of inflation," Holt said. "Nobody likes it, but they tolerate it, let's say."

Another big change that took place when the system was revamped in 1971 was that the post office was mandated to operate on a break-even basis, Holt said.

"Some years we lose money and other years we've made money, but it all evens out," Holt said, explaining that revenue is generated through the sale of postage, collector's stamps, and other postal items and services. "Before that, all of the money we took in from selling stamps went into the "big pot"—the U.S. Treasury. We didn't pay our bills with the revenue. We were appropriated for that."

One of the biggest improvements made by the postal service is the use of the five-digit zip code, implemented in the '60s to help speed up mail service.

"Now they have the zip-plus-four, and big towns can use high speed optical readers, bar codes, to sort mail even faster," Holt explained. "They have that in places like Nashville and Birmingham, but we still sort mail manually here. One of the objectives of the postal service is to have a bar code system in use for every city by 1995. It's going to be a high-tech business."

But in the meantime, Holt said the main office on Seminary Street still operates much the same as it did years ago, only "everything has grown," Holt said. There are now 116 postal employees for Florence, compared with 66 that were employed when Holt took over his duties. Only four government-owned vehicles delivered the mail in the '50s, compared to today's fleet of 31. The number of city deliveries has more than doubled, from 9,000 to 18,300, and rural deliveries have almost tripled to around 8,200.

Even the building itself has grown with additions built throughout the years. The office is listed on the National Historic Register, Holt said, so cosmetic changes have been limited for several years, in order to preserve the structure's beauty.

"The walls are made of limestone, Twenty-two inches thick," Holt said, running his hand along the side of the wall. "The lobby is marble. It was remodeled in 1963."

Rumors have circulated that the post office was intended to be built in Florence, S.C., and that a mix-up gave Florence, Ala., a bigger and grander post office than plans prescribed. But Holt doesn't believe the tale and attributes it to overactive imaginations of storytellers.

"I just don't belive that would possibly be true, and I have my reasons to back it up," Holt said. "The building construction was started in 1911 and was completed in 1913. The lot was bought in 1903 for $10,000, and in those days Congress had to appropriate money for post offices to be built. That part is true. Some people say that Congress started out appropriating $25,000, and it made a lot of people mad that we weren't going to get more money than that.

"Anyway, we ended up getting $125,000 to build it. And all this, in 1912, 1913, cost $99,000 to build. It had gas lights in the lobby and all that", Holt said. "But around 1950 I happened to be in Florence, S.C., and I saw their post office. It did look plain, but knowing the system of checks and balances

the government had, I just don't think it could have slipped past that many people. Sure, it's a beautiful city. I've traveled to other parts of the state and when I tell them I'm from Florence they always comment that Florence is a pretty town. We're lucky to be able to live here."

Many people recognize Holt as he walks down the street, and sometimes they'll stop him and let him know about their mail service, whether it's compliments or complaints.

"My policy is that if they want to talk to the postmaster, they get to talk to the postmaster. One lady I knew came up to me with a letter that had been returned to her for insufficient address, and she said, 'Don, don't you know where old so-and-so lives?' and I said 'Sure I do, but that doesn't mean those folks sorting the mail back there do.' She didn't even have a street address or everything written on it. Just his name and the city. But if we know how to deliver it, we'll deliver it."

Before becoming postmaster, Holt went to the University of Alabama for a year before fighting in World War II for three years. When he returned, he went to Florence State Teachers College where he received one of the first two bachelor of arts degrees offered, majoring in English and history. It was at Florence State where Holt met the woman that would later be his wife, Sarah Morris. "I became infatuated with her," Holt said, with a steady smile. They have one daughter, Winnie, who works in Birmingham.

Holt was a partner with his father, J. Ben Holt, in the family business, Holt Hardware, before taking the civil service exam that led him into the postal service. Although there was a rule that postmasters had to be at least 30 years old, those who had served in the military were exempt from the rule, and Holt became postmaster in his twenties.

"When I leave here, I'll definitely had mixed emotions," Holt said. "There's been a lot of frustration at times, but the way I look at it is this: If you don't have frustrations you don't have much of a job.

"I've enjoyed my work thoroughly, but I don't want to go out feet first. I don't hunt, fish, or play golf, I have things I'd like to do. I'm going to retire with a positive attitude. And I'm going to stay busy, just like I've done all these years."

TERRY ANDERSON'S 1,588TH DAY OF CAPTIVITY

Mr. MOYNIHAN. Mr. President, Terry Anderson has now been held in captivity for 1,558 days in Beirut. As has been done each day that we have been in session in this body this year, I rise to alert my colleagues to this fact.

On March 17, 1989, the editorial board of the Los Angeles Times succinctly and pointedly spoke of fellow journalist Terry Anderson's situation and the absolute inhumanity of hostage taking.

I ask unanimous consent that the editorial be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

[From the Los Angeles Times, March 17, 1989]

FREE THE HOSTAGES

This week, our colleague Terry Anderson, chief Middle East correspondent of the Associated Press, began his fifth year of captivity in Lebanon. His barbarous imprisonment is the longest endured by any of the 16 Western hostages still being held in that tragically ravaged land.

Anderson's kidnapers are Shite Muslim extremists under the influence of Iran.

Like all other forms of terrorism, the taking of hostages is at root and totalitarian act in that it cruelly denies the distinction between the guilty and the innocent. But holding hostages is particularly repellent because of the prolonged torment it inflicts on its victims and their families.

No grievance real or imagined, no injustice immediate or historic, no cause however selfless, no end however noble justifies the employment of such means.

We call on the kidnapers of Terry Anderson and the other 15 hostages to release them all immediately and without condition.

We call on the government of Iran to do what it can to bring this crime to an end.

We call on the Bush Administration to do everything prudence and decency will allow to set Terry Anderson and his fellow captives free.

CONCLUSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Morning business is now closed.

CHILD CARE IMPROVEMENT ACT

The ACTING PRESIDENT pro tempore. The Senate will now resume consideration of S. 5, which the clerk will report.

The legislative clerk read as follows:

A bill (S. 5) to provide for a Federal program for the improvement of child care and for other purposes.

The Senate resumed consideration of the bill.

Pending:

Mitchell amendment No. 196, in the nature of a substitute.

Mr. DODD. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DOLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. GRAHAM). Without objection, it is so ordered.

AMENDMENT NO. 201 TO AMENDMENT NO. 196

(Purpose: To provide for a perfecting amendment)

Mr. DOLE. Mr. President, I send an amendment to the desk to the Mitchell amendment.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Kansas [Mr. DOLE], for himself, Mr. PACKWOOD, Mr. DOMENICI, Mr. WILSON, Mr. DANFORTH, Mr. THURMOND, Mr. MCCONNELL, Mr. KASTEN, Mr. BOSCHWITZ, Mr. HEINZ, Mr. WARNER, Mr. GRASSLEY, Mr. GORTON, Mr. LUGAR, Mr. COATS, Mr. MURKOWSKI, Mr. LOTT, Mrs. KASSEBAUM, Mr. MCCLURE, Mr. MCCAIN, and Mr. GRAMM, proposes an amendment numbered 201.

Mr. DOLE. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Beginning on page 1, line 3, strike all through page 96, line 25, and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Working Family Child Care Act of 1989".

TITLE I—HEAD START ACT AUTHORIZATION

On page 97, line 1, strike "125" and insert "101".

Beginning on page 97, after line 4, strike all through page 112, line 6.

On page 158, after line 11, insert the following:

TITLE II—EARNED INCOME CREDIT

SEC. 201. INCREASE IN EARNED INCOME CREDIT.

(a) IN GENERAL.—Subsections (a) and (b) of section 32 of the Internal Revenue Code of 1986 are amended to read as follows:

"(a) ALLOWANCE OF CREDIT.—There is allowed as a credit against the tax imposed by this subtitle for the taxable year an amount equal to the sum of the following amounts:

"(1) GENERAL CREDIT.—In the case of an eligible individual, an amount equal to 14 percent of so much of the earned income for the taxable year as does not exceed $5,714.

"(2) SUPPLEMENT FOR YOUNG CHILDREN.—

"(A) IN GENERAL.—In the case of an eligible individual with 1 or more qualifying children, an amount equal to the lesser of—

"(i) the applicable percentage of so much of the earned income for the taxable year as does not exceed $5,714, or

"(ii) $750 ($500 for an eligible individual with only 1 qualifying child).

"(B) APPLICABLE PERCENTAGE.—The term 'applicable percentage' means 12 percent (8 percent for an eligible individual with only 1 qualifying child).

"(b) LIMITATIONS.—

"(1) GENERAL CREDIT.—The amount of the credit allowable to a taxpayer under subsection (a)(1) for any taxable year shall be reduced (but not below zero) by 10 percent of so much of the adjusted gross income (or, if greater, the earned income) of the taxpayer for the taxable year as exceeds $9,000.

"(2) SUPPLEMENT FOR YOUNG CHILDREN.—The amount of the credit allowable to a taxpayer under subsection (a)(2) for any taxable year shall be reduced (but not below zero) by 15 percent (10 percent for an eligible individual with only 1 qualifying child) of so much of the adjusted gross income (or, if greater, the earned income) of the taxpayer for the taxable year as exceeds $10,000."

(b) QUALIFYING CHILD DEFINED.—Subsection (c) of section 32 of the Internal Revenue Code of 1986 is amended by adding at the end thereof the following new paragraph:

"(3) QUALIFYING CHILD.—The term 'qualifying child' means, for the taxable year, an individual—

"(A) with respect to whom the taxpayer qualifies as an eligible individual, and

"(B) who, as of the end of such taxable year, has not attained the age of 5."

(c) CONFORMING AMENDMENTS.—

(1) Subsection (f)(1) of section 32 of the Internal Revenue Code of 1986 is amended by inserting "(including separate tables for

individuals with qualifying children)" after "Secretary".

(2) Subsection (i) of section 32 of such Code is amended—

(1) by inserting "('calendar year 1990' for 'calendar year 1987' in the case of the dollar amount referred to in clause (iii) of paragraph (2)(B))" before the period at the end of paragraph (1)(B), and

(2) by striking paragraph (2) and inserting the following new paragraph:

"(2) DEFINITIONS, ETC.—For purposes of paragraph (1)—

"(A) APPLICABLE CALENDAR YEAR.—The term 'applicable calendar year' means—

"(i) 1986 in the case of the dollar amount referred to in clause (i) of subparagraph (B),

"(ii) 1987 in the case of the dollar amount referred to in clause (ii) of subparagraph (B), and

"(iii) 1991 in the case of the dollar amount referred to in clause (iii) of subparagraph (B).

"(B) DOLLAR AMOUNTS.—The dollar amounts referred to in the subparagraph are—

"(i) the $5,714 amount contained in paragraphs (1) and (2)(A)(i) of subsection (a),

"(ii) the $9,000 amount contained in subsection (b)(1), and

"(iii) the $10,000 amount contained in subsection (b)(2)."

(3) Subsection (b) of section 3507 of such Code is amended by striking "and" at the end of paragraph (2), by striking the period at the end of paragraph (3) and inserting ", and", and by inserting after paragraph (3) the following new paragraph:

"(4) states the number of qualifying children (as defined in section 32(c)(3)) of the employee for the taxable year.".

(4) Paragraph (1) of section 3507(c) of such Code is amended—

(A) by striking "and" at the end of subparagraph (A),

(B) by redesignating subparagraph (B) as subparagraph (C), and

(C) by inserting after subparagraph (A) the following new subparagraph:

"(B) on the basis of the number of qualifying children (as defined in section 32(c)(3)) of the employee for such period, and".

(5) Paragraph (2) of section 3507(c) of such Code is amended—

(A) by striking "paragraph (1)(B)" and inserting "paragraph (1)(C)", and

(B) by striking "14 percent" in subparagraphs (B)(i) and (C)(i) and inserting "the sum of 14 percent and the applicable percentage".

(6) Section 3507 of such Code is amended by adding at the end thereof the following new subsection:

"(f) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to carry out the purposes of this section."

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1990.

TITLE III—DEPENDENT CARE CREDIT

SEC. 301. DEPENDENT CARE CREDIT MADE REFUNDABLE; OTHER CHANGES.

(a) CREDIT MADE REFUNDABLE.—Section 21 of the Internal Revenue Code of 1986 is amended by redesignating subsection (f) as subsection (g) and by inserting after subsection (e) the following new subsection:

"(f) CREDIT REFUNDABLE FOR LOW AND MODERATE INCOME TAXPAYERS.—

"(1) IN GENERAL.—For purposes of this subtitle and section 6401, in the case of an applicable taxpayer, the credit allowable under subsection (a) for any taxable year shall be treated as a credit allowable under subpart C of this part.

"(2) APPLICABLE TAXPAYER.—For purposes of this subsection, the term 'applicable taxpayer' means a taxpayer whose adjusted gross income for the taxable year does not exceed $28,000.

"(3) COORDINATION WITH ADVANCE PAYMENTS AND MINIMUM TAX.—Rules similar to the rules of subsections (g) and (h) of section 32 shall apply with respect to the portion of any credit to which this subsection applies."

(b) ADVANCE PAYMENT OF CREDIT.—

(1) IN GENERAL.—Chapter 25 of the Internal Revenue Code of 1986 is amended by inserting after section 3507 the following new section:

"SEC. 3507A. ADVANCE PAYMENT OF DEPENDENT CARE CREDIT.

"(a) GENERAL RULE.—Except as otherwise provided in this section, every employer making payment of wages with respect to whom a dependent care eligibility certificate is in effect shall, at the time of paying such wages, make an additional payment equal to such employee's dependent care advance amount.

"(b) DEPENDENT CARE ELIGIBILITY CERTIFICATE.—For purposes of this title, a dependent care eligibility certificate is a statement furnished by an employee to the employer which—

"(1) certifies that the employee will be eligible to receive the credit provided by section 21 for the taxable year,

"(2) certifies that the employee reasonably expects to be an applicable taxpayer (within the meaning of section 21(f)(2)) for the taxable year,

"(3) certifies that the employee does not have a dependent care eligibility certificate in effect for the calendar year with respect to the payment of wages by another employer,

"(4) states whether or not the employee's spouse has a dependent care eligibility certificate in effect,

"(5) states the number of qualifying individuals (as defined in section 21(b)(1)) in the household maintained by the employee, and

"(6) estimates the amount of employment-related expenses (as defined in section 21(b)(2)) for the calendar year.

For purposes of this section, a certificate shall be treated as being in effect with respect to a spouse if such a certificate will be in effect on the first status determination date following the date on which the employee furnishes the statement in question.

"(c) DEPENDENT CARE ADVANCE AMOUNT.—

"(1) IN GENERAL.—For purposes of this title, the term 'dependent care advance amount' means, with respect to any payroll period, the amount determined—

"(A) on the basis of the employee's wages from the employer for such period,

"(B) on the basis of the number of qualifying individuals (as defined in section 21(b)(1)) in the household maintained by the employee,

"(C) on the basis of the employee's estimated employment-related expenses included in the dependent care eligibility certificate, and

"(D) in accordance with tables provided by the Secretary.

"(2) ADVANCE AMOUNT TABLES.—The tables referred to in paragraph (1)(D) shall be similar in form to the tables prescribed under section 3402 and, to the maximum extent feasible, shall be coordinated with such tables and the tables prescribed under section 3507(c).

"(d) OTHER RULES.—For purposes of this section, rules similar to the rules of subsections (d) and (e) of section 3507 shall apply.

"(e) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to carry out the purposes of this section."

(2) CONFORMING AMENDMENT.—The table of sections for chapter 25 of such Code is amended by adding after the item relating to section 3507 the following new item:

"Sec. 3507A. Advance payment of dependent care credit."

(c) CERTAIN SUBSIDIZED EXPENSES NOT ELIGIBLE FOR CREDIT.—Section 21(e) of the Internal Revenue Code of 1986 is amended by adding at the end thereof the following new paragraph:

"(10) SUBSIDIZED EXPENSES.—No expense shall be treated as an employment-related expense to the extent such expense—

"(A) is paid, reimbursed, or subsidized (whether by being disregarded for purposes of another program or otherwise) by the Federal Government, a State or local government, or any agency or instrumentality thereof, and

"(B) is not includable in the gross income of the recipient."

(d) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in this subsection, the amendments made by this section shall apply to taxable years beginning after December 31, 1989.

(2) ADVANCE PAYMENT OF CREDIT.—The amendments made by subsection (b) shall apply to taxable years beginning after December 31, 1991.

(3) ONLY PORTION OF CREDIT REFUNDABLE IN 1990.—In the case of any taxpayer to whom section 21(f) of the Internal Revenue Code of 1986 (as added by subsection (a)) applies for any taxable year beginning in 1990—

(A) 50 percent of the amount of the credit allowable under section 21(a) of such Code for such taxable year shall be treated as a credit allowable under subpart C of part IV of subchapter A of chapter 1 of such Code, and

(B) the remaining 50 percent of the amount of such credit shall be treated as a credit allowable under section 21 of such Code.

SEC. 302. STUDY OF ADVANCE PAYMENTS.

(a) IN GENERAL.—The Comptroller General of the United States shall, in consultation with the Secretary of the Treasury, conduct a study of advance payments required by section 3507A of the Internal Revenue Code of 1986 (as added by section 201(b)(1)) to determine—

(1) the effectiveness of the advance payment system, and

(2) the manner in which such system can be implemented to alleviate administrative complexity, if any, for small business.

(c) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Comptroller shall report the results of the study conducted under subsection (a), together with any recommendations, to the Committee on Finance of the United States Senate and the Committee on Ways and Means of the House of Representatives.

SEC. 303. PROGRAM TO INCREASE PUBLIC AWARENESS.

Not later than the first day of the first calendar year following the date of the enactment of this Act, the Secretary of the Treasury and the Secretary of Labor, or the

delegates of the Secretaries, shall establish a taxpayer awareness program to inform the taxpaying public of the availability of the credit for dependent care and the earned income tax credit allowed under sections 21 and 32 of the Internal Revenue Code of 1986, respectively. Such public awareness program shall be designed to assure that individuals who may be eligible are informed of the availability of such credits and filing procedures. The Secretary shall use public service and paid commercial advertising, direct-mail contact, and any other appropriate means of communication to carry out the provisions of this section.

TITLE IV—BLOCK GRANT TO STATES FOR CHILD CARE SERVICES

SEC. 401. ESTABLISHMENT OF BLOCK GRANT.

The State Dependent Care Development Grants Act (42 U.S.C. 9871 et seq.) is amended—

(1) by inserting after the subchapter designation the following:

"PART 1—DEPENDENT CARE PROGRAMS"; AND

(2) by adding at the end thereof the following new part:

"PART 2—BLOCK GRANT TO STATES FOR CHILD CARE

"SEC. 670I. AUTHORIZATION OF APPROPRIATIONS.

"For the purpose of making allotments to States to carry out the activities described in section 670L, there are authorized to be appropriated $400,000,000 for each of the fiscal years 1990 through 1994.

"SEC. 670J. ALLOTMENTS.

"(a) FORMULA.—

"(1) IN GENERAL.—The Secretary shall make an allotment to each State for each fiscal year, in an amount that bears the same ratio to the amount appropriated under section 670I for such fiscal year as the allotment figure of paragraph (2) for such State bears to the allotment figure for all States.

"(2) ALLOTMENT FIGURE.—The allotment figure for a State shall be the sum of—

"(A) the number of children who are under the age of 13 who reside in such State divided by the number of children who are under the age of 13 who reside in all States; and

"(B) the relative per capita income of the State multiplied by the factor determined under subparagraph (A) for such State.

"(3) DEFINITION.—For purposes of this section, the term 'relative per capita income' means—

"(A) the quotient of the per capita income of the United States divided by the per capita income of the State; or

"(B) in the case of Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, the Trust Territory of the Pacific Islands, the Commonwealth of Puerto Rico, or the Virgin Islands, the quotient shall be considered to be 1.

"(b) ADDITIONAL ALLOTMENT.—

"(1) METHOD OF ALLOTMENT.—Any amounts not allotted under subsection (a) shall be allotted among each of the States in proportion to the amount otherwise allotted to such States for such fiscal year under subsection (a).

"(2) DEFINITION.—For the purposes of this subsection, the term 'State' does not include Guam, American Samoa, the Virgin Islands, the Commonwealth of the Northern Mariana Islands, and the Trust Territory of the Pacific Islands.

"SEC. 670K. PAYMENTS UNDER ALLOTMENTS TO STATES.

"(a) IN GENERAL.—The Secretary shall make payments from amounts made available for each fiscal year pursuant to section 670I, as provided by section 101 of title 31, United States Code, to each State in an amount (not to exceed its allotment under section 670J for such fiscal year) equal to the Federal share of the aggregate amount to be expended by the State under the State plan for such fiscal year.

"(b) FEDERAL SHARE.—The Federal share for each fiscal year shall be 85 percent.

"(c) STATE SHARE.—The State share shall equal 100 percent minus the Federal share.

"(d) CARRYOVER.—Any amount paid to a State for a fiscal year and remaining unobligated at the end of that year shall remain available, for the next fiscal year, to the State for the purposes for which the payment to the State was made.

"SEC. 670L. USE OF ALLOTMENTS.

"(a) PROJECT GRANTS.—Amounts paid to a State under section 670C shall be used by the State to make grants to eligible entities to enable such entities to conduct activities to improve the quality and availability of child care in such State.

"(b) ACTIVITIES.—Activities described under subsection (a) may include—

"(1) State and local resource and referral systems to provide information on child care services including, information on their availability, types, costs, and location;

"(2) activities to provide consumer education to enable individuals to select high quality child care services;

"(3) activities to improve the development, modification and enforcement of State and local child care standards and requirements;

"(4) training and technical assistance for child care providers and workers to improve their ability—

"(A) to comply with State and local health and safety standards and requirements;

"(B) to detect communicable diseases;

"(C) to detect and to prevent the abuse of children;

"(D) to use effective budget and accounting procedures;

"(E) to take full advantage of beneficial tax laws;

"(F) to reduce liability risks; and

"(G) to take any other actions designed to improve the quality of the child care services provided by such providers;

"(5) recruitment and training programs to increase the number of child care providers and volunteers, including the number of seniors who provide child care services;

"(6) activities to encourage the innovative development of before and after school care;

"(7) loan or grant programs for the renovation or modification of existing structures to meet State and local health and safety standards and requirements;

"(8) activities to reduce barriers to obtaining affordable liability insurance, such as the formation of child care liability risk retention groups;

"(9) activities to encourage the development of employer-assisted child care;

"(10) providing tax credits to low income working families with children, including two parent families in which one parent cares for the children of such family at home;

"(11) activities to increase child care services for children who are sick and temporarily unable to be cared for by their regular child care provider;

"(12) activities to increase the supply of child care services for children of individuals who are employed during non-traditional times of the day or week; and

"(13) activities to increase the supply of child care services to help meet the needs of special populations including children who are homeless, migrant, disabled, abused, neglected, or children of minors.

"(c) LIMITATIONS.—A State shall not use amounts paid to, or on behalf of it under section 670K to—

"(1) make cash payments to, or on behalf of, intended recipients of child care services;

"(2) pay for all or any part of the salaries of child care providers or their employees or staff or otherwise to pay for the operating costs of providing child care services;

"(3) pay for the costs of construction or land acquisition; or

"(4) satisfy any requirements for the expenditures of non-Federal funds as a condition for the receipt of Federal funds.

"(d) TECHNICAL ASSISTANCE.—The Secretary may provide technical assistance to States in planning and operating projects and activities to be carried out under this part.

"(e) STATE ADMINISTRATION.—Not to exceed 7 percent of the total amount paid to a State under section 670K for a fiscal year shall be used for administering the funds made available under such section. The State shall pay from non-Federal sources the remaining costs of administering such funds.

"SEC. 670M. APPLICATION AND STATE PLAN.

"(a) SUBMISSION.—

"(1) IN GENERAL.—To receive an allotment under section 670J, each State shall submit an application to the Secretary in such form, containing such information, and by such date as the Secretary shall require.

"(2) PLAN.—Each application submitted under paragraph (1) shall contain a plan that meets the requirements of subsection (b).

"(b) STATE PLAN.—Not later than 12 months after the date of enactment of this section, each State desiring to participate in the program authorized under this part shall prepare and submit to the Secretary a State plan. Each such plan shall—

"(1) describe the State agency that will administer the programs authorized under this part;

"(2) describe the authorized activities for which assistance is sought under this part;

"(3) provide assurances that the State will not expend in excess of 7 percent of the State allotment under section 670J during each fiscal year for administrative costs;

"(4) provide assurances that the State will give priority to activities that serve low-income areas and populations in accordance with criteria to be determined by the Secretary;

"(5) provide assurances that the State will coordinate the child care activities carried out with funds provided under this part with other Federal and State child care activities undertaken in the State through Federal or State programs;

"(6) provide such fiscal control and accounting procedures as may be necessary—

"(A) to ensure the proper accounting of Federal funds paid to the State under this subchapter; and

"(B) to ensure the verification of reports required under this subchapter; and

"(7) provide such additional assurances as the Secretary may reasonably require.

"SEC. 670N. REPORTING REQUIREMENTS.

"(a) STATE REPORTS.—Not later than 12 months after a State receives funds under this subchapter, and at 12-month intervals thereafter, the chief executive officer of such State shall prepare and submit to the Secretary, in such form as the Secretary

shall prescribe, a report describing the States' use of funds received under this part.

"(b) REPORT TO CONGRESS.—Not later than 6 months after the receipt of State reports required under subsection (a), and at 12-month intervals thereafter, the Secretary shall prepare and submit, to the appropriate Committees of Congress, a report containing a summary of the information contained in the State reports submitted under subsection (a), and any additional information the Secretary considers appropriate.

"SEC. 670O. DEFINITIONS.

"As used in this part:

"(1) ELIGIBLE ENTITY.—The term 'eligible entity' includes providers of child care services, and would not exclude religiously-affiliated providers.

"(2) SECRETARY.—The term 'Secretary' means the Secretary of Health and Human Services.

"(3) STATE.—The term 'State' means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, the Trust Territory of the Pacific Islands, and the Commonwealth of the Northern Mariana Islands.".

TITLE V—TREATMENT OF CHILD CARE EARNINGS

SEC. 501. CHILD CARE EARNINGS EXCLUDED FROM WAGES AND SELF-EMPLOYMENT INCOME FOR EXCESS EARNINGS TEST.

(a) WAGES.—Section 203(f)(5)(C) of the Social Security Act (42 U.S.C. 403(f)(5)(C)) is amended—

(1) by striking out "or" at the end of clause (i),

(2) by striking out the period at the end of clause (ii) and inserting in lieu thereof ", or", and

(3) by adding at the end thereof the following new clause:

"(iii) the amount of any payment made to an employee who has attained retirement age (as defined in section 216(l)) by an employer for child care services (including indirect services) performed by such employee after the month in which such employee initially becomes entitled to insurance benefits under this title.".

(b) SELF-EMPLOYMENT INCOME.—Section 203(f)(5)(D) of such Act (42 U.S.C. 403(f)(5)(D)) is amended—

(1) by striking out "or" at the end of clause (i),

(2) by adding "or" at the end of clause (ii),

(3) by inserting immediately after clause (ii) the following new clause:

"(iii) an individual who has attained retirement age (as defined in section 216(l)) who has become entitled to insurance benefits under this title, any income attributable to child care services (including indirect services) performed after the month in which such individual becomes entitled to such benefits,", and

(4) by striking out "royalties or other income" and inserting in lieu thereof "royalties or income".

(c) PAYMENTS OF CERTAIN RECOMPUTED BENEFITS DELAYED.—Section 215(f)(2) of the Social Security Act (42 U.S.C. 415(f)(2)) is amended by adding at the end thereof the following new subparagraph:

"(E) Under regulations of the Secretary, monthly benefits increased as a result of a recomputation under this paragraph shall be further increased on an actuarial basis to include such benefits which would have otherwise been paid in a lump sum (determined from the recomputation date to the effective date of such recomputation as provided under subparagraph (D)) as exceed an amount equal to such additional benefits determined for a thirteen month period beginning from such recomputation date.".

(d) EFFECTIVE DATES.—

(1) The amendments made by subsections (a) and (b) shall apply to wages or income earned after December 31, 1989.

(2) The amendment made by subsection (c) shall apply to recomputations made after December 31, 1989.

Mr. DOLE. Mr. President, this is the amendment that we have been discussing indirectly for the past couple of days and may discuss for a couple days, today and tomorrow, at least part of tomorrow.

I would add, in addition to myself, the cosponsors: Senators PACKWOOD, DOMENICI, WILSON, DANFORTH, THURMOND, MCCONNELL, KASTEN, BOSCHWITZ, HEINZ, WARNER, GRASSLEY, GORTON, LUGAR, COATS, MCCLURE, MURKOWSKI, LOTT, KASSEBAUM, and MCCAIN. There will be additional cosponsors, and we invite our colleagues on both sides of the aisle to take a look at this proposal and hopefully cosponsor the proposal.

I think first of all we have to ask ourselves what do the American families want, what do American parents want for their children.

I think we can say without any disagreement they want commonsense solutions to the very real child-care challenge.

We can argue over some of the technical details, and we can differ on some of the facts and figures, but I believe the American people are absolutely convinced of what they want and what they do not want.

When it comes to deciding who is going to watch their children, the last thing they want is the Federal Government with some lead State agency sticking its nose into their lives.

American families are demanding maximum choice and flexibility without Washington or their State legislatures telling them what they have to do, and they do not want big Government telling them their children cannot stay with grandma because she does not meet certain standards or that their local church or synagogue is off limits because it flunked some bureaucrat's test on some religious standard.

I think it is just very simple. The American people do not want mandates. They want flexibility. They do not want more red tape. They do not want another bureaucracy. We are about to create a super one here that starts off with $7 million, if the report is accurate, although the report has been totally rewritten, I guess. They do not want another penny of their hard-earned tax dollars going down another money-eating bureaucratic sinkhole.

I believe working Americans can smell Government bureaucracy a mile away and they are starting to smell a whopper in the making right here on Capitol Hill, the brand name big time bureaucracy that will grow and grow and grow and grow from the ABC child-care proposal, which has been watered down; some will say it is so watered down they cannot support it any more.

I think the Senator from Indiana [Mr. COATS] put a letter in the RECORD yesterday of former groups that supported the ABC bill which now are withdrawing their support. If that has not been made a part of the RECORD, we will see that that happens.

Let us face it, the ABC bill does not stand for Act for Better Child Care, it stands for Act for Bureaucratic Control. And we want to make that case and we intend to make that case today, tomorrow, next week. This is important. We are talking about our children. And we are talking about which way do we want to go.

Do we want parents to make the choice or do we want somebody else to make the choice, somebody else to ration child care? Whatever it may be. I think the record is clear as far as families served, there will be many times more families served under our proposal than under the so-called ABC proposal, at $1.75 billion.

We can try to mandate how Americans drive their cars and how they run their businesses. But we had better not try to tell them how to take care of their children.

On another point, I am not about to sign on to some bill that says, yes, working parents, yes, you deserve tax credits, tax refunds and a pat on the back. But you, the mother who is staying at home with the kids, sorry, you do not deserve a penny's worth of assistance. And they do not get any under the other bill. That is discrimination in my book, and we hear a lot about it on the Senate floor from some who will oppose what we propose to do today.

It seems to me that we have to make a choice. We have to determine who we are trying to help. Are we trying to help some powerful special interest lobbying group inside the Beltway? Big labor unions inside the Beltway, who have a lot of muscle? The so-called children's defense fund?

I do not know how many people in my State knew much about the children's defense fund; they do not know about the power they have—the hypnotic power, in some cases, they have over what we do on some of these issues.

My view is we ought to try to help as many people as we can, families, children, and they ought to be low income. That is the goal of our legislation.

According to experts, in excess of 5 million American families benefit from the kind of flexibility and wide range

of family options this child-care package provides. I would say at the outset, I would hope, Senator HATCH and Senator KENNEDY, Senator DODD, and others, somehow we can bring all this together and find a child-care proposal. It is important legislation. We debated this last year. It became part of a big political package with a whole number of issues in it and it was said we ought to pass all this before we adjourn.

Obviously, we were not going to do that. We did not do that. I said at that time that both Presidential candidiates had taken a position on child care. We ought to watch debate. We ought to see who wins the election.

The last time I checked, George Bush was the winner. And George Bush stated his position on child care very clearly. He did not like the ABC bill. He wanted credits; he wanted flexibility; he wanted parents to make the choice.

So our amendment is pretty simple and straightforward. It addresses the concerns about the ABC substitute which have been expressed on the floor of this Senate in the last few days.

No. 1, I do not know how many child care bills there are, but nearly every one that deals with credits has this feature. We provide for refundability of the existing dependent care credit. That is not unique to our bill. It is in the other bill. It is in the so-called Bentsen substitute. It is in a lot of other bills introduced by Republicans and Democrats.

We create a young child supplement to the earned income tax credit. That is the second portion of our bill. And those are the two big areas. It is that simple. We have two big areas. Then we also add $40 million to the existing dependent care block grant. And we incorporate an amendment authored by Senators ARMSTRONG and ROTH to exempt earnings from providing child care from the Social Security earnings limit. That is also in our package.

What is unique about this package? This package provides assistance to all poor families with young children, not just those families who use professional day-care services or have access to employer-subsidized health care. Because the majority of our assistance is provided to families and not to States or institutions; to poor parents—let us underline that—poor parents. I have heard a lot of rhetoric from the other side about the minimum wage and working poor and poor parents. Under our bill, poor parents will have the same rights as wealthy parents to decide which child-care option best meets their family needs without foregoing needed Federal support.

Unlike the Mitchell substitute, this amendment does not discourage parents from entrusting their children to the care of a relative, trusted friend, or neighbor, or from providing that care themselves. I recognize the distinguished Senator from Connecticut [Mr. DODD], along with others who support his proposal, have made a limited exemption for grandparents, aunts, and uncles age 18 and over in providing child care by making them eligible for reimbursement.

But under the ABC language, they could only be reimbursed for that care through a contract grant or certificate. To use other informal providers would be even more difficult. And when we start dealing with a contract grant or certificate, we are dealing with somebody in the bureaucracy.

Where are we going to get the grant? Where are we going to get the contract? Where are we going to get the certificate? From some State agency? Some "lead agency" designated by the State? Some bureaucrat who is going to decide whether this grandparents or this aunt or this uncle qualifies?

Let us face it, they are not going to cover but a fraction under their bill, a fraction of the children, who ought to have some attention.

To use other informal providers would be even more difficult. ABC still precludes the use of other relatives, friends, neighbors, other informal providers unless the State rules—the State rules. Here we are again, the bureaucracy, the State—rules on each individual case that the person is an eligible child-care provider.

So, in my hometown of Russell, KS, I assume, if this bill passed we would have to go to Topeka, KS, or somebody do it for us, to get somebody's permission for some friends or relative to provide day care for someone. And, in many cases, we are dealing with people who would not know what to do, they would not know how to proceed and they would not do anything. There would not be anybody there to help them either unless we are going to send out more bueaucrats to Russell, KS, and every other little town in America to make certain everybody undersands their rights under the ABC bill.

Then we have to be certain that his or her home meets the standards. What standards? Who is going to set the standards? The parents? Oh, no, not the parents. Forget about the parents. They are going to turn them over to the State or some other bureaucracy.

The person submits to Government grant contract or other paperwork requirements.

Again, we are not dealing with Philadelphia lawyers or people who in many cases have finished a college education. We are dealing with poor people with children who are very important to them and to society. And that is why child care is important. The process for using informal providers is so burdensome and time consuming that the States hardly seem likely to encourage their use. Are many parents likely to be able to wade through the process or many informal providers likely to accede to it?

So in effect we are saying: Well, we have this in there but you have to do all this, you have to go through all this red tape. And it is red tape. Before you can benefit.

So, it seems likely, then, that most parents who receive assistance from the State under ABC will be faced with selecting a caretaker from a list of providers already approved by the State and that these providers are likely to be institutional rather than family based care providers.

If that is the goal of the ABC legislation, institutional care, let us say so.

There is another very important feature about our compromise and I hope many of my colleagues on the other side, particularly those from the South, are listening. We also avoid the very serious church-state problem that has been discussed with respect to the ABC bill. The provision included in the Mitchell substitute designed to address the church-state controversy still leaves the issue largely unresolved and clearly subject to court challenge. This provision offers absolutely no guidance to religiously based child care centers who provide services through the certificate program. It leaves religiously based centers entirely in the dark when it comes to resolving the difficult first amendment issues involved here.

It does not specify the types of activities and arrangements that are permissible and the type of activities and arrangements that are impermissible. So that is just all fuzzed up in the ABC bill.

This lack of guidance is an open invitation to litigation. And litigation, often expensive litigation, will force many religiously based centers to spend more time and more resources defending lawsuits than providing child care services. Is that what we want? Do we want the church or the synagogue to be in court or providing child care? Let us talk about what is going to happen in the real world, not on the Senate floor, but in somebody's home somewhere in America if the ABC bill passes. In this case, the cure would be worse than the disease.

The Mitchell amendment is also seriously flawed in another way. While the amendment claims, and there are a lot of claims in the amendment and a lot of claims on the amendment made on the floor, while the amendment claims to expand the child-care choices available to families, it would be available only in those States that specifically authorize the certificate option. But the amendment contains no provision requiring States to authorize a certificate option and such

requirement is particularly important since some 13 States, and I will include those States for the RECORD, now exclude religious centers from the child-care center licensure laws.

(Mr. KERREY assumed the chair.)

Mr. DOLE. So what are we going to do? I know that the Senator from Connecticut and the Senator from Massachusetts and the Senator from Utah have spent hours, weeks, and months and they have retreated, retreated, and retreated on one provision after another trying to come together with enough votes to get this out of the Senate Chamber. The House, as I understand it, is adopting maybe a little different approach, several approaches, Kiddie Care, and Smart Start and other programs, in addition to some support for the ABC approach, and a lot of support, I might say, on the House side for credits.

If we are interested in child care, it is not enough to stand up here and criticize the other product or criticize the competition. If we believe we have a better product and if we are serious about child care—I might add parenthetically, some of these child-care lobbyists are not interested in child care unless you are for their bill. You cannot have any interest for children unless you are for the ABC bill. That is not the case. There are a lot of Members on both sides who have reservations about any child-care bill. I could add that, too.

So we have tried to come up with a responsible alternative. The Senator from New Mexico, the Senator from Oregon, the Senator from California, a number of Senators who had child-care proposals and who have their own ideas and I believe they are the best features of the child-care initiative that have been discussed and debated, I believe those are included in our alternative.

First, in making the current dependent care tax credit refundable, many working poor families with documentable child-care expenses can finally take advantage of the dependent care tax credit, even if their tax liability does not exceed the amount of the credit allowable to them.

Keep in mind, though, dependent care tax credit, a lot of poor people do not keep records. I do not know how many have been estimated—maybe we can find out—how many families will not even get the dependent care tax credit refund even though it is going to be refundable because they do not keep records. This will help some. Even though they do not pay taxes, they are going to get a refundable tax credit. Moreover, these families will receive their dependent care credits in each paycheck. You do not have to wait until the end of the year or file a tax return: They are going to get it in each paycheck when they need it rather than the following year when their tax returns would be filed.

Second, the supplement to the earned income tax credit which would be available to all working poor families with children under age 5, very young children, pose special child-care burdens on parents, and this is also the time when some experts argue that the constancy and quality of child care are most critical. Accordingly, some parents remain at home during these formative years by choice. I know the majority of women are now in the workplace. Does that mean we have to discriminate against those who want to stay home and care for their children either by choice or by necessity?

The earned income tax credit does help the poor. There are a good many parents in this country who are themselves disabled or have a child with disability who stays at home. The so-called ABC bill does nothing for the family whose child stays at home nor does the existing DCTC dependent tax credit.

So we say, what can we do to help that family? What can we do to provide some relief? Not as much as some would like, but we are starting. The comparison of the ABC bill, is like day and night. Our amendment provides assistance to all such families—all such families—with incomes less than $15,000 per year if at least one parent works along with approximately 55 percent of poor families where both parents work, or there is a single parent. That is a big, big difference. If you want to reach the poor people and poor families with children, with annual incomes under $15,000 who do not have documentable child-care expenses because their child care is provided by a neighbor, friend, or relative including perhaps a parent, the earned income income tax approach is the right one. It makes certain, in fact it is one we ought to look at if we talk about doing something on minimum wage, if we want to help the working poor, let us help the working poor.

Yesterday the distinguished Senator from Utah cited examples on the Senate floor which demonstrate many working poor families cannot afford professional child care. I think those examples explain graphically why the majority of these poor families cannot take advantage of the dependent care tax credit. Institutional day care, the type relied upon the Mitchell substitute as the predominant means of providing child-care assistance to these families, will likely remain out of their reach. How many are going to be available? I think the figure is 18 million children who might be eligible. How many is the ABC bill going to take care of 1 million. Seven hundred thousand? That leaves quite a few.

The President of the United States has indicated his interest, and it was not a partisan interest. It was an approach that he believed, based on his experience, was the right way to go. The President's bottom line is we are going to give assistance to families with no strings attached. And all the critics say, how do you know they are going to spend it on child care? They might go out and buy something else with it. And that might happen in some cases. We have seen it happen. We have seen the families fall apart; we have seen the drug problems; we have seen a lot of things where the family distintegrated. But what percent? I do know. But the President is willing to take the risk rather than to create another bureaucracy. He is willing to take the risk for the parents and the children. So he decided there ought to be some kind of a credit that should not be tied to anything, should not be tied to documentable expenses for either child care or health care.

Our supplement to the earned income tax credit replaces the Bentsen child health credit which benefits only parents who specifically pay for family health insurance.

This thing just cropped up last week and now we are out here saying, "Oh, what a great idea this is to reimburse parents who have already bought health insurance." Who is it going to help? Nobody, or very few.

The Bentsen credit does little or nothing for those poor families who may not be able to afford the $2,000, $3,000 for coverage. Our proposal provides a credit that parents can use for any purpose including health insurance, allowing them to make the choice as to what is most important.

Frankly, one of the major concerns with the proposed Bentsen child health care credit is that it completely excludes many poor families without access to employer-based or otherwise inexpensive health care.

There is a provision. We had a hearing that lasted a couple of hours. And it is not a small proposal, about a billion and a half dollars. Just float it out there. That is plenty for a billion and a half.

If we are going to spend money, we will have a hearing. So we had a hearing. We were not even going to have a hearing until somebody requested it. They rammed it through the Senate Finance Committee in about 45 minutes on a party line vote and nobody knows, nobody can tell us what will happen. We hope to tell you later in this debate.

I might say to my colleagues we are going to take quite a bit of time to discuss our proposal today. Then we will be happy to get debate on the merits of the two. We want to lay out the framework for ours today if we can.

We want to show you what we can buy in Maine or Iowa or Massachusetts or Kansas or Utah or Connecti-

cut or Nebraska with this health care subsidy. In most cases the cost of family health coverage is prohibitive to poor families whose employers do not subsidize their coverage. For example, a young family in Kansas can obtain basic health care insurance from Blue Cross and Blue Shield with a minimum deductible of $500 for approximately $110 per month or $1,320 per year. With a $500 deductible, this comes to about $1,820 per year. If that family earns $8,000 per year, their health insurance cost would consume 23 percent of their income.

Think about it. Are they going to take 23 percent of their income and buy health care insurance because they are going to get a little subsidy from the Federal Government? The child health care credit would reduce this cost to 17½ percent so they get that little credit. Instead of spending 23 percent, they are going to spend 17½ percent of their total income. I do not consider this insurance affordable. It is not affordable.

I might also add that Kansas is a low-cost area. We will have other examples from around the country to show you even more clearly how ridiculous this approach would be. If true affordable coverage becomes available in the private market, as the chairman of the Finance Committee believes it will, these poor families will have a $500 credit with which to purchase it. If it does not, these families will still have a $500 credit with which to purchase child care, indeed, medical services. We will not be betting their needed Federal dollars on the insurance industry. This is the difference. You have to get insurance.

The insurance people love it. Why not? They did not even have to testify. We are not going to bet on the insurance industry and hope they will come up with some program. I have a lot of confidence in the chairman of the Finance Committee but not in this particular amendment.

So our bill is easily understood and not very easily picked apart, unless you want to say that parents should not have the choice. I guess there are some who are going to stand up and say that; they are going to say this is not going to work; you are crazy to give money to the parents. It is only their children you are talking about. Why trust them? We have to go through this convoluted process, create a new Assistant Secretary for Day Care, give them a $7 million budget to start off, then get a leadoff agency in every State created. Oh, boy, give this 10 or 15 years and they will be bigger than the Federal Elections Commission or HHS itself.

There is one other provision that I think is worthy of noting. We have $400 million a year for the State Dependent Care Block Grant Program to assist States in meeting their particular child-care needs. There are not going to be a lot of bells and whistles. We are just going to make these funds available to the States. We do not set up any new office in HHS. We do not require the States to do the same. We also leave it entirely to the States as to what they want to do with respect to the standards. The funds from the block grant can be used for a wide variety of programs including resource referral and consumer education, recruitment and training and technical assistance of providers, establishing liability risk pools, which was a concern of the distinguished Senator from Missouri [Mr. BOND] and many others on both sides of the aisle, and other incentives for employer assistance care, developing programs for children with special needs, and establishment and enforcement of State standards, and this list does not include all permissible uses of these funds.

But I will tell you what they cannot be used for. They cannot be used to build institutional day-care facilities or directly subsidize the provision of day-care services. In contrast to the Mitchell substitute, however, most families without access to centralized day-care facilities or maybe do not choose to use them will not be out of luck.

Finally, we are going to seek to tap a special resource when it comes to taking care of children. In fact, I watched a program just this past week on one of the networks—I cannot remember which one—about the resource of senior citizens and adults and their relationship and their rapport with young children and what a resource it is we have not tapped in America in many cases. So we are going to try to tap this special resource, retired adults aged 65 to 69 for child care.

The amendment exempts earnings from the providing of child-care services from the Social Security earnings limit and those senior citizens who choose to continue in the work force will not be subject to penalty taxes of 50 percent to 100 percent or more if they devote their energies to children. Not a bad idea. I wish I had thought of it. Senator ARMSTRONG of Colorado and Senator ROTH of Delaware believed this would be the way to go. I believe that this incentive will prove beneficial to both the children and the adults.

Mr. President, before yielding to the Senator from New Mexico and others who want to speak, our amendment does meet the basic criteria for federally supported child care which were made by the President and which are important to many of us in the Chamber. It targets child-care assistance to all poor parents regardless of their particular family circumstances, and it allows those parents to choose from an expanded array of child-care options. I believe this is the best use of our Federal dollars.

I indicated early a list of 13 States with reference to the religious question. Alabama, Florida, Georgia, Illinois, Indiana, Maryland, Mississippi, Missouri, New Jersey, North Carolina, North Dakota, South Dakota, and Virginia.

I am advised the Bentsen credit was not a straight party-line vote. There were some Republicans.

I ask unanimous consent to include in the RECORD, and then I will yield the floor, an excellent op-ed piece in today's Washington Post by Senator PACKWOOD, "Keeping Parental Choice in Child Care."

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

[From the Washington Post, June 21, 1989]

KEEPING PARENTAL CHOICE IN CHILD CARE

(By Bob Packwood)

A heated philosophical debate is going on in the Senate over the question of child care. It is not about the need for child care in this country. Nor is it about whether the federal government has a role to play. We crossed that threshold long ago; in fact, last year federal funding of child care reached almost $7 billion. The current controversy focuses on how to expand the federal government's role in child care.

There are two approaches under consideration, and they are as different as night and day. The approach taken in the Act for Better Child Care (ABC) would give federal funds to states to subsidize child care. The other, bipartisan, approach, to be introduced this week by myself and others, maximizes parental choice by providing tax credits to parents. The differences between these two approaches are most striking in four areas;

Standards: One of the primary goals of ABC proponents is to set national standards that states would be required to meet to receive federal funds. Supporters of the bill have temporarily backed away from federal standards and instead have agreed to set up a national commission to develop "model standards" on everything from the educational background of a care-giver to the size of the yard in which children may play.

Federally mandated standards on child care are the wrong approach. States, not the federal government, are in the best position to know what kind of standards are appropriate for their own needs. Different parts of the country have different child-care needs based on economic, geographical, cultural and other factors. Our alternative has no federally mandated child-care standards, model or otherwise. Instead, states would have maximum latitude to set their own standards. A $400 million annual increase in State Dependent Care Development Grants would be provided to help states improve the quality and availability of child care.

Treatment of religious day care: Many parents send their children to day care sponsored by their church, synagogue or other religious institution. Some religious teaching may be involved. The ABC bill, which has as its cornerstone the direct payment of federal funds to care-givers, has a constitutional problem because the First

Amendment prohibits direct support of religion by the government.

The original ABC bill included a provision that no ABC money can be used for any religious purpose. This created a new problem: What about relatives who provide child care and have religious pictures on the wall or read the Bible to their grandchild or niece? To address this concern, the ABC bill was modified to exempt relatives from religious care restrictions. In addition, to gather more support, the ABC bill was changed to let other types of religious care receive ABC funds indirectly through certificates. No one knows whether these exceptions are constitutional. The harsh reality is that parents could well be foreclosed from choosing religiously oriented care for their children. Although proponents of the ABC bill have partially addressed these problems by adding a tax-credit component to their bill, the fundamental constitutional issue is unresolved.

Our alternative raises no constitutional issues because it subsidizes child care only through tax credits to parents. Parents can pay the provider of their choice, religious or otherwise.

How to fund child care: The ABC bill sets up a new program to be administered by the federal government. Federal funds would flow through the states to child-care providers. Up to 30 percent of the ABC funds could go to administering the system. Parents may or may not get their first choice of a care-giver; this would be determined by the state government.

Under our alternative, federal funds would go directly to low-income families by making the dependent-care tax credit refundable and adding a refundable young-child supplement to the present earned income tax credit. Refundable credits allow the government to give tax refunds to families with modest means that owe no federal income taxes.

The young-child supplement would apply to families with modest incomes having at least one child under age 5. The supplement would equal $500 for one child and $750 for two or more children under that age. Both tax credits would be paid in advance in the parent's paycheck, thereby making the money immediately available for child care bills when they come due.

Benefits provided bo homemakers: Frequently we are asked by our constituents why federal child-care benefits should not also go to families that have modest incomes and young children but may not have work-related child-care expense because a parent or other relative cares for the children. Our alternative would assist these families through the young-child supplement.

The question boils down to this: Do we want to spend child-care funds in the least obtrusive way possible, with the fewest regulations, tilting toward parental choice, neutral toward religious child care and that helps both homemakers and non-homemakers? Or do we want to approve legislation that is regulatory, antireligious and bureaucratic? When you compare the flexibility and benefits provided by our alternative, there is no question in my mind.

Mr. DOLE. I would also include in the RECORD at this point the statement of administration policy which was made available this morning and should be available to everyone. I would just highlight what the statement says and ask it be made a part of the RECORD.

The administration supports child care legislation that is consistent with the following principles established by the President: Assistance should go directly to the parents who are best able to make decisions about their children. Parents and not the Government should choose the child care they consider best. Federal policy should increase, not decrease, the range of choices available to parents.

That is what we do with the credit.

New Federal support for child care should be targeted to families most in need, and that is what we do with the earned income tax credit.

Federal policy should not discriminate against two-parent families, and we do not do that either in our proposal. If you have a stay-at-home mother, that is fine. It may be a necessity. Maybe it is because she wants to. Are you going to discriminate against her because she is not in the work force? That is not the President's idea of sound legislation.

The administration also indicates that S. 5, the modified, remodified, and remodified S. 5.

* * * puts its trust in government, not parents. Assistance does not go directly to parents. It is provided to States, which have the ultimate decision-making power on the care children will receive—whether the care is provided under contracts, grants, or certificates.

S. 5 provides assistance to two-parent families only when both parents are employed, perpetuating the current discrimination against those families which sacrifice income so that one parent can work at home to care for their children.

I did not know there was anything wrong with that. Apparently there is. A lot of those stay-at-home mothers feel strongly about this provision.

S. 5 decreases the range of child care choices available to parents.

S. 5 is not well targeted and would serve only a fraction of families most in need. One million children, at most, would receive subsidies in 1990, and they could be from families with incomes more than four times the poverty level.

I thought we were supposed to help those who could not afford it.

In addition, S. 5 sets up a huge bureaucracy with significant administrative overhead costs that will reduce the monies available to parents.

I will just highlight what the administration considers to be flaws in the so-called Mitchell substitute.

It provides direct assistance through tax credits only to families who pay for child care and health insurance.

That is DCTC and the Bentsen proposal.

It does not resolve the Church-state problem.

They may say it does, but it does not.

The substitute retains the requirement that care be non-sectarian in nature and content. New language indicates that care subsidized through State-issued certificates is not subject to this requirement if it comports with constitutional law. The Mitchell substitute merely states a truism: that no government monies may be awarded in violation of the Establishment Clause of the First Amendment of the Constitution. The new language does not eliminate the bill's fundamental problem—that religiously affiliated child care providers participating in a certificate program will be subjected to expensive, intrusive and invasive litigation and government regulation.

The Mitchell substitute "retains the biases in favor of institutional care and against care provided by informal providers, such as friends and neighbors."

What is wrong with friends and neighbors? Some of us may need more friends. Most of our neighbors are men and women of good will. They have a hard time providing any day care under the ABC bill unless they make some contract or get some certificate from somebody in Des Moines, Topeka, or some State capital.

The tax credit and grant funds earmarked for child care services benefit only those two parent families in which both parents work outside the home.

This is the same question on discrimination.

The administration does in its wisdom support the Dole-Packwood substitute because in effect, though modified some and not precisely what the President said, it has that same result.

I ask unanimous consent that the President's proposal and the comments on our substitute be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 5—ACT FOR BETTER CHILD CARE SERVICES OF 1989, THE MITCHELL SUBSTITUTE, AND THE DOLE-PACKWOOD AMENDMENT

The Administration supports child care legislation that is consistent with the following principles established by the President:

Assistance should go directly to parents, who are best able to make decisions about their children. Parents, and not the government, should choose the child care they consider best.

Federal policy should increase, not decrease, the range of choices available to parents.

New Federal support for child care should be targeted to families most in need.

Federal policy should not discriminate against two parent families in which one parent works at home to care for their children.

S. 5 violates all of the President's principles:

S. 5 puts its trust in government, not parents. Assistance does not go directly to parents. It is provided to States, which have the ultimate decision-making power on the care children will receive—whether the care is provided under contracts, grants, or certificates.

S. 5 provides assistance to two parent families only when both parents are employed,

perpetuating the current discrimination against those families which sacrifice income so that one parent can work at home to care for their children.

S. 5 decreases the range of child care choices available to parents. All care subsidized by S. 5, including care provided by relatives, must be totally non-sectarian in nature and content—a significant limitation on parental choice. S. 5 also mandates Federal standards that will limit the supply of providers and drive up prices, further diminishing parental choice.

S. 5 is not well targeted and would serve only a fraction of families most in need. One million children, at most, would receive subsidies in 1990, and they could be from families with incomes more than four times the poverty level.

In addition, S. 5 sets up a huge bureaucracy with significant administrative overhead costs that will reduce the monies available to parents.

FLAWED ALTERNATIVE (THE "MITCHELL SUBSTITUTE")

The alternative advanced by the Majority Leader—the "Mitchell substitute"—is an attempt to ameliorate the highly objectionable features of S. 5. Although it includes a tax credit that is not inconsistent with the President's principles, it is fundamentally flawed because:

It provides direct assistance through tax credits only to families who pay for child care and health insurance. These conditions constrain parental choice and deny assistance to families who are in as great or greater need than those who receive the credits.

It does not resolve the Church-State problem. The substitute retains the requirement that care be non-sectarian in nature and content. New language indicates that care subsidized through State-issued certificates is not subject to this requirement if it comports with constitutional law. The Mitchell substitute merely states a truism: that no government monies may be awarded in violation of the Establishment Clause of the First Amendment of the Constitution. The new language does not eliminate the bill's fundamental problem—that religiously affiliated child care providers participating in a certificate program will be subjected to expensive, intrusive and invasive litigation and government regulation. These problems consequently will deter use of certificates and encourage the use of grants and contracts, which are subject to the non-sectarian requirement.

It retains the biases in favor of institutional care and against care provided by informal providers, such as friends and neighbors. Only providers who are licensed or regulated, who are determined by the State to be "eligible providers," and who comply with government paperwork requirements can be paid for care under the substitute. The uncertainty about what constitutes acceptable practice when child care subsidies are provided through certificates only compounds this bias.

The tax credit and grant funds earmarked for child care services benefit only those two parent families in which both parents work outside the home. This perpetuates the discrimination against two parent families in which one parent works at home to care for the children. Because two-earner families have higher incomes than "traditional" families, and because the substitute discriminates against "traditional" families, it is not only unfair; it is also poorly targeted with respect to those in need.

PRESIDENT'S PROPOSAL

The President's tax-based proposal (S. 601) is clearly superior to S. 5 and the Mitchell substitute. It provides all assistance directly to parents, allowing them to decide for themselves how best to meet their children's needs. Assistance is targeted to low-income families, and 100% of the families who meet income and family composition requirements receive assistance. Two parent families in which one parent works at home to care for the children are eligible for the Child Tax Credit, which is not conditioned upon their making expenditures specified by the government.

The President has indicated that he is firm in his devotion to the principles underlying his proposal, but that he is flexible on how best to achieve them. As the Senate acts on child care legislation, the Administration seeks to advance a bill that best reflects the President's principles and prevents the S. 5—Mitchell approach.

DOLE-PACKWOOD SUBSTITUTE

We understand that Senators Dole and Packwood will propose an amendment to perfect the Mitchell substitute that does the following. It emphasizes direct assistance to parents by providing tax credits to low-income families with children. It includes an Earned Income Tax Credit (EITC) supplement for young children, which benefits two parent families in which one parent cares for the children at home. This supplement, which is similar to the President's Child Credit, could be used for, but is not conditioned upon, the purchase of health insurance. The amendment also makes the current Dependent and Child Care Tax Credit refundable, as proposed by the President. It retains the Head Start authorization increase and revenue measures in the Mitchell substitute.

This amendment clearly is far more consistent with the President's principles than S. 5 or the Mitchell substitute. It provides for greater parental choice and better targeting of those in need; it reduces discrimination against mothers who work at home; and it does not discriminate against parents who favor sectarian child care. Accordingly, the Administration favors Senate passage of the Dole-Packwood Amendment.

If S. 5 or the Mitchell child care bill were presented to the President, his senior advisors would recommend that he veto it.

[From the Washington Post, June 21, 1989]

KEEPING PARENTAL CHOICE IN CHILD CARE

(By Bob Packwood)

A heated philosophical debate is going on in the Senate over the question of child care. It is not about the need for child care in this country. Nor is it about whether the federal government has a role to play. We crossed that threshold long ago; in fact, last year federal funding of child care reached almost $7 billion. The current controversy focuses on how to expand the federal government's role in child care.

There are two approaches under consideration, and they are as different as night and day. The approach taken in the Act for Better Child Care (ABC) would give federal funds to states to subsidize child care. The other, bipartisan, approach, to be introduced this week by myself and others, maximizes parental choice by providing tax credits to parents. The differences between these two approaches are most striking in four areas:

Standards: One of the primary goals of ABC proponents is to set national standards that states would be required to meet to receive federal funds. Supporters of the bill have temporarily backed away from federal standards and instead have agreed to set up a national commission to develop "model standards" on everything from the educational background of a care-giver to the size of the yard in which children may play.

Federally mandated standards on child care are the wrong approach. States, not the federal government, are in the best position to know what kind of standards are appropriate for their own needs. Different parts of the country have different child-care needs based on economic, geographical, cultural and other factors. Our alternative has no federally mandated child-care standards, model or otherwise. Instead, states would have maximum latitude to set their own standards. A $400 million annual increase in State Dependent Care Development Grants would be provided to help states improve the quality and availability of child care.

Treatment of religious day care: Many parents send their children to day care sponsored by their church, synagogue or other religious institution. Some religious teaching may be involved. The ABC bill, which has as its cornerstone the direct payment of federal funds to care-givers, has a constitutional problem because the First Amendment prohibits direct support of religion by the government.

The original ABC bill included a provision that no ABC money can be used for any religious purpose. This created a new problem: What about relatives who provide child care and have religious pictures on the wall or read the Bible to their grandchild or niece? To address this concern, the ABC bill was modified to exempt relatives from religious care restrictions. In addition, to gather more support, the ABC bill was changed to let other types of religious care receive ABC funds indirectly through certificates. No one knows whether these exceptions are constitutional. The harsh reality is that parents could well be foreclosed from choosing religiously oriented care for their chilren. Although proponents of the ABC bill have partially addressed these problems by adding a tax-credit component to their bill, the fundamental constitutional issue is unresolved.

Our alternative raises no constitutional issues because it subsidizes child care only through tax credits to parents. Parents can pay the provider of their choice, religious or otherwise.

How to fund child care: The ABC bill sets up a new program to be administered by the federal government. Federal funds would flow through the states to child-care providers. Up to 30 percent of the ABC funds could go to administering the system. Parents may or may not get their first choice of a care-giver; this would be determined by the state government.

Under our alternative, federal funds would go directly to low-income families by making the dependent-care tax credit refundable and adding a refundable young-child supplement to the present earned income tax credit. Refundable credits allow the government to give tax refunds to families with modest means that owe no federal income taxes.

The young-child supplement would apply to families with modest incomes having at least one child under age 5. The supplement would equal $500 for one child and $750 for two or more children under that age. Both tax credits would be paid in advance in the

parent's paycheck, thereby making the money immediately available for child care bills when they come due.

Benefits provided to homemakers: Frequently we are asked by our constituents why federal child-care benefits should not also go to families that have modest incomes and young children but may not have work-related child-care expense because a parent or other relative cares for the children. Our alternative would assist these families through the young-child supplement.

The question boils down to this: Do we want to spend child-care funds in the least obtrusive way possible, with the fewest regulations, tilting toward parental choice, neutral toward religious child care and that helps both homemakers and non-homemakers? Or do we want to approve legislation that is regulatory, antireligious and bureaucratic? When you compare the flexibility and benefits provided by our alternative, there is no question in my mind.

Mr. DOLE. Mr. President, I said earlier this morning that the President was going to get a letter up here saying he would veto S. 5. A letter may not be necessary now because in this administration's policy statement paper which I have just received it says very clearly, if S. 5 or the Mitchell child-care bill were presented, the President's senior advisors would recommend that he veto it. I am advised that he would veto it, but we can still have the letter. I am not certain whether that will add anything to the debate at this point.

But I want to make the point that this is a very serious issue. I do not criticize those who have a different point of view. But I believe the President and a number of the agencies in the Government have looked at it carefully, and they have decided even with the modifications they cannot support S. 5 or the Mitchell substitute.

So we have tried. There has not been any secret that we have been working with colleagues, hopefully some on both sides of the aisle, trying to come up with an approach that could be understood.

We can look the parent in the eye and say you are going to get a tax credit under our proposal. If you are a low-income family, you are going to get that money. You do not have to go to anybody. You do not have to sign any contract. You do not have to get any certificate. You are going to be able to decide what you want to do for your child as far as child care.

It is not enough to cover someone's child care which might average $3,000 a year, but it is a start. It is as much or more as you are going to get under the other proposal. But you do it on your own.

So I hope as this debate unfolds the other side will give us 2 or 3 hours to make our case. Then we will be happy to come back and exchange a number of questions.

I now yield the floor.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, I say to my friend from Connecticut I am not going to speak very long here at this particular time. I know he wants to address this issue.

I will later in the afternoon come back with some more detail.

But I too want to join the distinguished Republican leader in praising the op-ed piece editorial page, that Senator PACKWOOD prepared for the Washington Post. I think it summarizes the issues as well as we can.

I am going to try to, in just a few minutes, address what I have found in talking to fellow Senators from both sides of the aisle is the most significant issue about his debate. Some say—and perhaps it is a way to say it—that this is an issue of keeping parental choice in child care, as my good friend from Oregon [Mr. PACKWOOD] has said.

I believe there is a gnawing issue, and that when Senators on both sides of the aisle finally understand the full ramifications they cannot conceivably support the reformed, amended ABC bill, which we will now call the Mitchell substitute.

Mr. President, we cannot have it both ways. Either we are trying in that bill, those who propose it, to take care of some of the poor children in this country, some but not all, or they intend to take care of a tiny fraction of the poor children in this country, and some but not all of the middle-income children in this country. You just cannot spread 70 percent of $1.7 billion any other way.

So let me tell you, and I hope fellow Senators who know their States, know their State governments, know the counties, know the politics, know the State welfare offices, know how tough it is to get anything done when you have to make disclosure to State bureaucrats in order to be entitled to a benefit. I hope they will listen carefully as those who propose the ABC bill, as modified, explain how and who is going to make the choice for those little poor children in one of my counties in northern New Mexico.

Who is going to make the decision for the Mormon parents of little children in Utah and whether or not they get an allocated slot in the health care, child-care program, either totally subsidized or partially.

Let me just talk to the occupant of the chair, a Governor. A State is going to be given a quantity of money. They are going to have to set up—and I do not like the word—people think we are down here betting up on bureaucrats, but, Mr. President, they are going to set up a bureaucracy to which the parents of little children must apply, disclose their finances because obviously if they are very poor they are going to get more help than if they are middle income. Who is going to decide that? There will be a whole new range of State employees. We used to say Federal bureaucracy. It will be State bureaucracy.

These parents are going to have to run down there, hat in hand, and say, "My little child is entitled to some day-care subsidy," and somebody is going to decide yea or nay, and how much.

Now, Mr. President, you know what is going to happen. First of all, it has to be rationed. I do not like the word, but the facts seem to be unequivocal that you cannot cover but a small fraction of those who want assistance. Somebody is going to ration the child care subsidy or the child care slots.

Mr. or Mrs. Jones or Mama and Papa Jones are going to show up by the thousands, by the millions, saying, "Can you not cover my child with this subsidy?" Sometimes they are going to say yes, and sometimes they are going to say no, and I ask, would it not be fair to put a little money in every such parent's pocket and let them choose how they spend it?

Can you imagine the in-fighting for whose child is going to be covered, when we know under this bill that you will only cover a small fraction? Can you imagine the pressure on this U.S. Congress when next year and the year after and the year after, we find that 70 percent of $1.7 billion—which is the funding here, Senators should note, and in the out years it is such funds as are necessary—can you imagine the pressure up here to turn that $1.7 billion appropriated each year into $2.7 billion and $5.7 billion, perhaps as much as $10.7 billion, because a tiny group of people are going to be screened and rationed, this child-care assistance, by some so-called lead State agency?

Mr. President, I believe there are parents in this country that, when they find out that they are going to have to go down to one of those State agencies and disclose their finances to see how much their little child is going to get, and will this bureaucrat give them the best slot, and will he even consider the church slot? How much are they going to go through in order to say the little neighborhood center where a mother is taking care of five children, that is where we would like them? They are going to tell the Senate that might work, we might clear them.

How long is it going to take the State agencies to clear that kind of center for allocation? My hunch is, so long, that it will be never. Then they will say, we can work out the church part, because you can determine that it is sectarian and not religious, and they can assign that little Catholic

child to that Catholic center. Do you believe that?

First of all, it will be in court with somebody suing them for about 8 or 9 years. Second, the bureaucrat, given the choice, is going down to one run by some State-approved agency, and under the guise of "We will treat them all fair." They have now created a situation in this approach where everybody thinks they are going to get something out of this, and only a small fraction is going to get anything out of it. Who is going to decide? There is no way to escape the creation of a huge, new regulatory process in each of our States, in exchange for this block grant we are going to give them; and then they are going to be behind the 8-ball from day one, because they can only cover a few kids.

Everyone is going to say, "We were mistreated," and they will be seeing their State legislator about the politics of it; and lo and behold, you are going to find that in some States, Governors with their political apparatus, will be talking about, "Be sure you take care of my friend Joe's little baby, Johnny." Frankly, I think it is a tremendous step in the wrong direction. I honestly believe, if we open this door to this way of providing our people with child care assistance, we are biting off the biggest bureaucracy and boondoggle potential out there in our Southern States of any of the bills we have approved in recent times.

So today, in my brief remarks, I merely want to say to Senators who are worried about either the religious aspect, who is going to decide what center they go to, what slots are allotted, and whether their constituents' children are covered or not, I am here to urge that they seriously consider the ramifications of opening this door. I stand on my statements before, that it could be $15 to $20 billion before we are finished, appropriated, if you are going to cover enough of the children to live up to the expectations created here on the floor, which go well beyond the poor.

In fact, they are going to criticize our bill, because it is only for the poor children, and they are going to say theirs covers middle-income people. Well, it might; it might cover 1 percent of them, if they are lucky enough to get chosen. What is the sliding scale for the subsidy going to be? Maybe you can give them each $10, and you will say that we are covering all of the middle-income children with something.

So it seems to me, those who are worried about who is going to make those kinds of decisions ought to understand that they do not have to make those kinds of decisions. You can let mothers and fathers make that kind of decision, and you do not have to discriminate if one chooses not to work either. You can choose the Dole-Packwood-Domenici-and-others approach, and both will get that, and you will not set yourself on a path of even implied discrimination against a mother who decides that she will stay home.

Incidentally, later today, when I talk in more detail, I have evidence that in the poverty level families, there are mothers who are choosing not to work, in large numbers. Someone of the floor said that was a misstatement, a misunderstanding, that obviously in the poor families, they are both working, so why worry about the stay-at-home? The evidence is to the contrary; $15,000 wage earner families, many of them, the mother is making the choice not to work. In fact, a very large percentage are left out. They are not left out under ours.

So there will be more opportunity for give-and-take, but I wanted those Senators that I have talked to—their must be 8 or 10 who are very leary, they are on the fence, they are worried. I hope they will take a real look at this ABC approach of appropriating money, so that somebody in each State can determine who is entitled to some child-care help and how much and where. I believe that is a move in the wrong direction.

I think we ought to go with something defined, put money in—everyone that has children, that are poor, put money in the pockets, and let them decide. I think that is what we do, and I am pleased to join the Senator from Oregon with this approach.

Mr. DODD addressed the Chair.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. DODD. Mr. President, I have enjoyed the last 20 minutes or so, listening to the distinguished minority leader and my good friend from New Mexico [Mr. DOMENICI]. I am so mystified, because I hear them talking, but I am not sure if we are talking about the same piece of legislation. I have never seen, in the last number of months, so many speeches given about a piece of legislation with which I am totally unfamiliar. They are talking about a bill that does not even remotely exist. It is talking about something that may have existed in the minds of someone a long time ago, but is not now before the Senate.

Yet, I must also quickly say that I am flattered. If imitation is the sincerest form of flattery, then I suppose I should be somewhat flattered, as well, as I listen to the proposal from the minority leader in terms of an alternative, because we are looking at some features in that bill which the distinguished Senator from Utah and I have been advocating, and that, frankly, I do not think ever would be advocated were we not in this position.

Second, Mr. President, that substitute, the Mitchell substitute, has been on this floor for almost a week. Today is Wednesday. It was proposed a week ago tomorrow.

I have been on this floor all day Thursday, all day Friday, all day Monday, all day yesterday, and now half of today. We have had two amendments adopted by voice vote. And that amount of time has been given frankly, the truth be known, to the minority leader and others to see if they could shop around to come up with an alternative.

Let there be no illusion in anyone's mind. What we have in the form of an alternative is a political alternative. It is not an alternative or a substitute for child care. It is a political alternative.

The bill is being crafted to produce votes, not to deal with the problem that now most people recognize is deep and troublesome to most American families, and that is the issue of adequate, affordable quality child care for their infants.

But they do this rather than come forward and say, "Listen, we do not agree with you in every aspect of your bill, but we would like to make some suggestions, let's see if we can't work something out."

I sat in the White House almost 4 months ago just a few short hours after the Committee on Labor and Education had passed out a child-care bill. My first reaction was to go to the White House to see if we could not work out a compromise on child care so that we might have a Democratic-Republican-executive branch-legislative branch proposal on child care.

I sat in the office with the President's chief advisers and said, "Let's work this out." My colleague from Utah was sitting in the room with me. And personnel at the White House know it.

I said, "Can our staffs get together to try and resolve these differences? Will you get back to me when we can sit down and work this out?"

Mr. President, that was the last time I have heard from the White House, despite repeated efforts to try and sit down and reach a compromise.

I have sat with other of my colleagues here, and they know who they are, on the other side, the authors of these alternatives, weeks ago, in phone calls, in their office, any time, night or day, weekends, "How can we put a bill together?" They know who they are. I reached to the White House, to my colleagues on the other side, day after day, week after week, and the answer, Mr. President, every single time was "No." "No, we don't even want to talk to you."

Now I am being told that, "You would not sit down, you would not try to put something together. You will not try to work something out."

Let the record be clear and unequivocal, this Senator has tried for months to put together a compromise

proposal, and my colleagues on the other side know it. They know it.

I have sat here for 6 days and finally sometime this morning I get an alternative, and I am going to go into the specifics of that alternative, because I have listened for the last 20 minutes to idle chatter about bureaucracy and choice of parents and our legislation is a bureaucratic proposal that does not care about infants and families.

They know better than that. They know better.

Our bill is not perfect at all. Of course, there are ways to improve it.

But to suggest somehow that our goals and desires are to create some bureaucracy, some evil-headed monster to deprive people of their choice, that is how weak, that is how shallow, that is how empty their arguments are.

Rather than to address the issue of child care, what needs to be done, they get into a mindless, senseless, foolish criticism of a bill that years have been spent in drafting.

Is the Catholic church foolish? Is the National Governors' Association foolish? Are the League of Cities, National Association of State Legislatures, 139 other organizations, the National Association of Pediatrics—you can go down the long list of people who work in early childhood development foolish. People who know about children and their families have helped put this together. Is everybody a fool that has been involved in this?

And who supports an alternative, who? You did not hear the minority leader mention anyone.

Talk about not knowing what is in a bill that has been put before us.

But let us just take a look at it, if you will, based on what I have been able to read here, and let us separate fact from fiction on who really cares about minimizing bureaucracy, who really cares about getting resources to families, who really cares about maximum flexibility in choice. Let us look at these alternatives.

Who cares about seeing that resources be available to as broad a range of our citizens as possible? Yes, we do try to help people who are not just in the poverty level. I am not ashamed of saying that. There are middle-income families in this country that have child-care needs, not just the very poor, although our bill is focused on the poor.

Are we terribly wrong because we at least allow States some flexibility and maybe providing some assistance to some middle-income families? God forbid. Middle-income families, all they do is pay taxes and fight the wars. Rarely do they get a chance to be the beneficiary of anything that this Government does.

Yes, we try to do that. I am guilty. I plead guilty, Mr. President, I tried to do something here occasionally for a middle-income family. God, what a terrible thing to have done, what a terrible thing to have done.

I am not ashamed of that at all.

The alternative proposal—they suggest here a huge bureaucracy. Seventy percent of our funds go to families directly under the ABC bill. Not one penny of the alternative proposal in their block grant goes to a family. It just goes to States. Out of $400 million, not a penny to a family or a child.

Which is the bureaucratic program? Four hundred million dollars to the States, none of it going to parents.

In the proposal of the Senator from Utah and I, 70 percent of our fundings go directly to parents, to defray the cost of child care.

Which is the bureaucracy program, which of the two I ask you?

We provide funds to families; they do not provide a nickel to them under their block grant proposal.

I might say it is the first time they have ever even offered a block grant proposal. I commend them for that.

But parents deserve some help and they are not providing it in their proposal.

No strings attached, the minority leader said. God help you if you have a kid who is 4; if today your child celebrated his fourth birthday in America and you are working, a family or a single parent trying to raise that child, you are out. The Republican alternative says, "no" to you. Under 4—let me tell you, Mr. President, there are families in this country who have children who are older than 4 who need child care and under the alternative proposal they are out.

Under our proposal you can be 12 years old and move up. So we reach up into higher age groups because we realize that latchkey children and others need help as well. That is not a string. That does not deprive parents of choice, if they restrain, who can take advantage or benefit of that.

We set out some ideal standards, some goals, but we do not mandate them. We let the States decide to do that.

Is that so dreadful to say set some standards in your own State so that when parents are trying to make choices about with whom to leave not their car, not their car—we have standards for mechanics in America. You cannot just leave your car with anybody. If you are going to be a mechanic, you have to get licensed in most States in this country. If you want to be an elevator operator, you have to get licensed in most States in this country. If you want to be someone who runs a pet shop, you have to be licensed in most States in this country. If you want to give a haircut, you have to get licensed in America. But God forbid we should ask any State or anyone to have some criteria, some licensing to watch your infant child.

How ludicrous can you be?

We set standards for nursing homes, top standards. My colleagues on this side were the strong supporters of that, Medicaid, Medicare—strong standards. Elderly people ought not to be placed in an institution where the people watching them do not meet some minimum standards. I agree.

But should a 4-year-old child be placed in a child-care center and not set some minimum standards, a person who cannot speak for himself or herself? When they come home at night and their parents pick them up, they look them over to see if they have any bruises on them because a child cannot say, "The food was bad today, that person you are leaving me with is not treating me well."

But, no, I am a dreadful, onerous advocate of bureaucracy because I say that children deserve the same thing as your automobile, your pet, your elevator operator, or the guy who gives you a haircut.

Yet, those who advocate this are antiparent and antichild. There is nothing in the alternative. It does not even speak to the question of whether or not we ought to at least encourage something in this regard. Which of the two alternatives does more for children and more for the American family?

From every survey I have seen done, parents worry about the quality of the care. They spend a good part of their day on the job wondering about that unknown person they interviewed, they talked to. When they examined that child-care center: Is it everything I hoped it would be? They go by at night. They take the calls during the day. They try to stop by for lunch, if they can.

One of the things in our bill, we say parents ought to have the right—we do not mandate it—but they ought to have a right to make an unannounced visit to a child-care center. A number of States in this country do not permit that. The alternative does not speak to that. Talk about parental choice and rights; whether or not you can walk in and say: How is my child being treated at 9 or 10 or 11 or 2 in the afternoon—that is the best way I know to make a child-care center or someone who is watching a child be conscious of the fact that someone may be checking. And who is a better checker than a parent?

There is a long list of these things we talk about here, that we encourage the States to adopt: sanitation, electricity, checking the background of a person.

How is a person to know when she walks in? What are they supposed to say, "Have you ever been a felon"? What are they going to say?

"Did you ever beat up a kid?" And yet one of the things we require is that States do background checks on people.

This side does not even talk about it. What? Is the parent supposed to do the background check on each one of these people? That is what their alternative proposes. And that is to help parents? That is to improve the quality of child care in this country? At least we try to make this a more sane system for people.

Yes, we are proud of the fact that we provide assistance to grandmother or grandfather, aunt or uncle, or the adult sibling, to provide child care. We recognize those people can provide good child care.

I will tell the Presiding Officer quickly, as well, that in very few cases in this country is grandma and grandpa, or brother or sister or aunt or uncle, around 5 days a week, 8 hours a day, week after week, month after month, to watch the child. Babysit on a Saturday night; sure. Weekends when parents want to get away because they are tired of the kids; absolutely.

But if they think grandma or grandpa are going to become the child-care providers for our kids for the next 3 or 4 or 5 years, they have something else coming. They have not talked to many grandparents lately. But, to the extent they do, we say, absolutely. Our bill says absolutely reimburse them if they want to pay grandma and grandpa for watching our children.

I do not know how many grandparents necessarily insist that they get paid by their children to watch their grandchildren. Most grandparents would like doing that. But nonetheless, if parents want to pay them, we say pay them. The alternative: Not a nickel. Not a nickel, not a nickel will go to them.

Which side cares more about parents and families, I ask, under those circumstances?

So, on standards we do not mandate. We say: If parents want to use the church, use the church. If St. Aloysius has a great child-care program, go for it. Senator FORD, Senator DURENBERGER worked on that language, worked with other organizations. My colleague said very clearly to me, the Senator from Utah, who felt very strongly about it as well: let us not get into this here. I know my colleague is saying church-based programs can be involved but make sure it is clear and unequivocal. So I did what I think a good legislator is supposed to do. I listened to colleagues and we put it in. Now listen to the alternative. They are angry about it. They are sad I did that; upset that I did that, in a sense. They wished that I had not, so then they could go and try to build a political reason for rejecting this bill that has been worked on by so many people for so long.

I listen to some of them talk about mothers at home and I am terribly sympathetic to that. I think it is an important question. I would point out we do things under the Tax Code already to help. Maybe not enough. I would not disagree with that at all. Under the dependent care credits, we can get for our homes, or not, $4 billion of them exist in our Tax Code today. People say why are they not part of the bill. If we have $4 billion already in there, maybe we ought to put a cap or income limitation on them, make more available to middle-income people or below. I am all for considering that. But I am told most people would not support that. But I am told there are credits people can take advantage of if they are home today.

There are people on my staff who have wives who stay at home and raise children. They take advantage of those credits. I applaud them for that. So we have taken that crowd into consideration. Maybe we have not done enough and I accept that point. But if they say we are not doing anything, they are wrong; we do. And I think we ought to be proud of that.

But I find it somewhat—almost amusing, Mr. President, to hear some people here talk about mothers at home when the same Members have stood on this floor explaining about the AFDC mother, the welfare mother. In fact, last year we passed a welfare reform package and one of the great arguments that brought the broad base of support for that legislation in this Chamber was we were going to get those women back to work. We should not be dishing out $16 billion a year in AFDC payments. These people ought to be productive taxpaying citizens.

One of the ways in which we encourage them to go back to work is job training and child care during the training period. That was part of the welfare reform package last year. Get that AFDC mother out of the house and get her back to work.

But then I turn around and that same Senator says: But on the other hand, we want to keep them at home and not go to work. So I find myself somewhat confused about who we are talking about here. I think what we try to do is encourage—I, do—people who can afford to do so to stay at home and raise their children. Regrettably, that is a shrinking number in our society. Two out of every three women are the sole providers of their families; sole providers. There is no choice there, Mr. President. If someone is the sole provider of their kids—I do not know who my colleagues are talking about, but that woman has no choice. She needs help. Unless she wants to go on welfare. Is that what they are suggesting? She wants to be a good worker and a good mother and she needs help. That is all we are trying to do here.

I am being criticized because it is not enough. That is an interesting argument. We have only $1.75 billion in here, Senator. This program is going to need to serve a lot more.

Well, so scuttle the whole thing because I do not do enough. Am I to believe that theirs is a better alternative because they do nothing in this regard? I understand fiscal restraints. What did I do? I went to the Budget Committee. I said I would like to get a child-care bill passed this year but I know it has to be part of the budget. And the budget signed by the President of the United States includes the funds for this child-care bill. In fact, in the House of Representatives, the other body, there is a provision that specifically fences the money for child care. And the President of this country signed that budget resolution. The language could not be clearer in the report: For affordable, available, quality child care. So it is in the budget.

There are only 1 million children that can benefit by this. I know there may be more. But I am hopeful, Mr. President, that we may start an idea working here, you see, with this. Maybe, by starting to help 1 million children in our society, and their families get back to work, maybe the business sector—one of the things we include in our bill that is not in the alternative at all, the private-public partnerships—maybe they will start to do more in this area. Maybe we can promote more activity. That is the way we ought to be doing it if we are going to be successful with this legislation.

The alternative does not even refer at all to any of those kinds of activities to try to promote more activity by the private sector.

Of course, the proposal included by the distinguished chairman of the Finance Committee for health credit, that applies to mothers at home. They can collect that credit, whether or not they are working or staying at home, to defer the cost of a health insurance policy, and that is related to child care.

Insurance premiums are expensive. Thirty-seven million Americans have no health insurance, and 13 million of that number are children. The Senator from Texas rightly is trying to address that problem here. Children without health insurance. And that is available to mothers at home or mothers in the work force. So we do provide assistance in that area.

Mr. President, let me suggest to you that when we are talking about the alternative, as it has been described here, let us look at it in a careful way. It is a block grant, money only to the

States; no money to families. The tax sides of the bill, if you will, the tax credit sides are almost equal. Both include refundability. Ours goes a little bit further and tries to deal with the health issue as well. The difference is we also try to provide some assistance in a direct way allowing the States to run it. No Federal bureaucracy, and that has been said over and over again.

The Congressional Budget Office has suggested that to the extent there may be any Federal expenditures—may be—it may amount to 0.3 of 1 percent, 99.7 percent under the worst conditions of this legislation go to States and 70 percent of that goes directly to parents. So rather than take to what we are trying to do here directly, I find the authors of the alternative trying to create this mystique about a huge bureaucracy. It just does not exist. I do not know how often I can say that. I invite everybody to read the legislation.

One Federal job is provided for in this bill, a Federal administrator, and that person can be presently employed by the Department of Health and Human Services. That is it. That is it, Mr. President. I do not know whether I have to stand on the top of this building to say that, but if I hear one more time from someone coming over here about a huge Federal bureaucracy that we create, I am fearful that is what I may have to do to get people's attention. One job, Congressional Budget Office, maybe 0.3 of 1 percent. Maybe. I want to be honest, there may be a couple of bucks involved here, but 99.7 percent of this bill goes directly to the States and directly to families. That is the difference.

We provide care to children up through young adulthood. Our colleagues, only up until you are 3, and that is a pretty heavy burden to bear. They provide maybe $500 for a child. Average child care costs $3,000. With a cap on those earnings, you have to be very poor, roughly earning about $10,000 or $12,000 a year. Let me ask as a practical matter, is there anybody in this Chamber who believes that a person making a gross income of $10,000 a year with 2 children when the average cost of child care is $3,000 per child per year, if you are making $10,000 and you are looking at a $6,000 child-care bill, it is $750 under my dear colleague's alternative, is going to mean anything? Do you really believe that if you have a $6,000 child-care cost looking you in the face that $750 is going to cause you to go to work, or are you going to stay home and continue to collect that AFDC check? I will take that bet any day of the week, Mr. President, what is going to happen.

Unfortunately, it is not enough. If you have a $6,000 bill and you are getting $750 in refundable credits and you are making $10,000 a year, you are not going to use this money. It is not enough to defray that cost. So to try to lure the person off welfare, which is what we are trying to do here, get them trained, get them to work the poorest here, I suggest the alternative does not come remotely close to that.

Our ABC bill says you can. The State of Arkansas, the State of Nebraska, the State of Connecticut can go in and say we are going to take the AFDC recipient and make it a meaningful contribution. On the average, it is $35 million in assistance in our bill. Under the alternative, it is $8 million, the average. I just happen to be walking around, Mr. President, with the list of the States: Arkansas, under our bill, the State would receive $23.3 million, 70 percent of which would go directly to families, must go directly to families, to reduce the cost of child care, and Arkansas will decide who gets that money within that range, either to provide 50 percent or 75 percent or 10 percent, but Arkansas decides it, not this body.

Nebraska: Under our bill $11.3 million would go to the State of Nebraska. Under the alternative, $2.5 million. And by the way, in Arkansas, of the $3.9 million, not one penny of that goes to families in Arkansas. Not one penny. It just goes to your State bureaucracy. Under our bill, of the $23 million, 70 percent of it goes to the people of Arkansas, the citizens, the parents and the children of Arkansas.

If you want to stand up and support an alternative, you better look at the numbers and see who is advocating a bureaucracy here rather than providing assistance to children. I am very proud of the fact we have the support of the Governors' Association and other groups who have worked hard with us on this. Do you think the Governors of this country are going to support a bill that is nothing more than a bueaucratic boondoggle that does not mean anything to their citizenry, their constituents? I doubt it. Is the Catholic Conference going to support a bill that does not really eliminate the discrimination against religious based child care? I doubt it.

I do not really believe the Senator from New Mexico or the distinguished minority leader even believe their own words, but I think they are desperately looking for votes around here. Any speech that will bring them a vote, any comment, any way to characterize this is OK, as long as it produces a vote or two, and that is what I am up against. Not once in 5 days has anybody over here walked over and said, "How can we work together, Senator? Let's you and I put a bill together." Not once, Mr. President, since last Thursday. Now that ought to tell you something. Not once since March has anyone at the White House picked up the phone and called me. I have called them and said, "How can we get together on this?" Not once. Not once. The Senator from Utah and I have. We have not cornered the wisdom on the best child-care programs in the world. We know that. But when the authors of the alternative refuse to even really sit down and work out something together, I think their motives, frankly, with all due respect, have to be suspect.

So I urge my colleagues when they look at these alternatives to keep in mind the kind of work that has gone into the ABC bill. They are not Republicans, Democrats, liberals, conservatives. Pediatricians, teachers, parents, child-care workers, all these people involved in these things do not care if the Democrats get credit or the Republicans or George Bush or the Senator from Utah; they could care less. They could care less about who runs the 30-second political spot in the next campaign saying we got child care done. All they want, Mr. President, is a decent, available, affordable, quality child-care program in this country, and we are sitting here for 6 days fighting over a vote here and there to see who can claim credit come Friday, who gets to issue the press release. The American people ought to know that. American families ought to know that.

This is not a debate about child care; it is a debate about the 15- or 30-second spot on television. That is what it is about, otherwise, they would be sitting down and negotiating and talking about putting together a compromise. They have not and they have refused to. I have not said that before, Mr. President, because I thought if I remain quiet and did not express what I felt after all those conversations that maybe it would happen. Maybe someone might pick up that phone. Maybe someone might knock on my door and say, "How do we work this out?" It has never, never happened, and now the truth ought to be known.

So if you are interested, Mr. President, and I say to my colleagues, in seeing us come out with something here that will make sense to get some dollars to folks at home, try and provide some relief in the cost of this need—I said yesterday and will repeat again, Mr. President: I do not take pleasure in talking about a child-care bill. The Senator from Arkansas and I talked about this briefly. He was describing what it was like growing up as a child in a small town in Arkansas. In a way, it is tragic we are talking about child care, how this country has changed since the time I was a child, which is not that many years ago, when my mother was at home. The people I went to school with, their mothers were at home. I knew very few kids growing up who did not have one parent at home, usually a mother. And in a generation, we have reached a point where only 1 in 10 American

families have dad at work and mom at home—1 in 10 in that category.

I do not know how you legislate or turn that all around. I do not like the idea that we are sitting here talking about how do we provide some relief for single-parent families or how do we provide some relief for the overwhelming majority of Americans where two parents must work to make ends meet, must work not because they want a second TV or a second Volvo or a summer vacation in some fancy resort; they have to to make ends meet. I regret we are engaged in that debate. I think it is tragic and sad we are engaged in that debate.

(Mr. ROBB assumed the chair.)

Mr. DODD. Mr. President, the realities are that too many people in this country are in that situation, through no fault of their own. And all we are trying to do is to see if we cannot be a constructive, positive force to provide some help. That is all this is all about—so that the American child might benefit.

This bill is called child care, not parental care. A 4-year-old child cannot get a voucher or get a tax credit. Only their parents can. So what we are trying to do is to invest in that child, to improve the opportunities and the chances for that child, who, through no fault of its own, is living in a single parent home, through no fault of its own both parents must work to make ends meet. The parents want that child to have good care. That child, if he or she could speak to us, I presume, would tell us they would like somebody who cared about them, maybe not as much as their mother or father but someone who cared about them and loved them as a person, who would feed them properly, maybe not give them the same educational advice as mother or father would but at least try and make that day a meaningful day for them. We as adults in this generation bear the burden of seeing to it that that generation be given the very best that we can afford to give them as their parents would if they could.

That is all this is about. It is child care. We want those children to be bright, good citizens, who will support our Constitution, who will support our values and our principles as a Nation. To do that they have to have the tools to do it. They have to have that education. They have to have that ability to learn. All we are trying to do is to see to it that in that situation they will be given that opportunity. Someday they are going to tell us how they feel about it, I suppose, when they are adults and can express themselves more articulately than you can when you are 4 years old and you can understand what is going on. But I suspect at some point they might look back and say, "My God what were you thinking?"

My God, we passed the bailout for the savings and loan institutions in 2 days here. What is it, $150 billion? We had a 2-day debate. I have been here for 5 days over $1 billion for child care. President Bush said I need help to bail out the savings and loan institutions. I sit on the Banking Committee, Mr. President. I went to bat for him. I did not like it, but I understand you have to support those savings and loan institutions. We worked together. We did it in 2 days on the floor here, and I think it passed 92 to 8 or something like that.

I am involved in a 6-day debate over $1 billion to provide some assistance to families and children in child care. I can bail out a thief in Texas, but I cannot provide a nickel to a family in Virginia or Connecticut or Utah. What are the priorities of the Nation when it finds no trouble asking the American taxpayer to subsidize some crooks or some incompetents in the savings and loan institutions but is not willing to recognize the needs of the average American family, people who are trying to get off welfare and back to work or working families that need some assistance. The one we do very easily, hardly bat an eye, and on this one, my God, you would have thought that we had invited Marx or Lenin into the Halls of the U.S. Senate, to listen to some of the speeches around here this morning. They ought to be ashamed of themselves, some of the rhetoric I have heard.

So, Mr. President, we will go into the specifics later in the day, and I know my colleagues are not going to be lured by the sort of threadbare, worn out rhetoric that is used regardless of the program. Every time they cannot come up with a decent argument on why it ought to be opposed, just reach into that old bag and bring out the old standard argument, regardless of what it is, and see if we cannot get people frightened about the word bureaucracy when they actually have more of it than we do.

Parental choice, we provide a lot more of it than they do. We have a broad based program that says you do not have to be just 3 years old to get help from the Government. You could be 5 and 6 and 7 years old. Our bill says to a 7-year-old or a 5-year-old, we recognize you may need some child care. The alternative says no, at 4 you are done.

So we think we do provide broader choice, broader flexibility. We involve the States. We encourage greater participation. We try to promote the availability. We try to at least encourage quality in these programs. And it is not a perfect bill, Mr. President, and it is not the end-all of child care.

I would still hope, even at this late hour, that the other side might come forward and say let us try to work this thing out. I might get that phone call yet, Mr. President. I have not in 4 months. I am still open—despite what they have said, I am still open. My phones are open. The lines are open. If someone at the White House wants to pick up that phone and call me and say how can we sit down and work it out, I am ready. If the minority leader or others would just walk across this little space right here—it is not big—and say, Senator, how do we work this out—I have been here for 5 days. Nobody has walked across that little space and asked me about how we can work it out. All I have seen is people running around with papers in their hands in hushed corners trying to pick up a vote here or there to defeat the ABC bill, this dreadful monster that has been created. If they had spent as much time talking with me about how we could work it out, we would have been out of here days ago. We would have a child-care program that would serve the American public and we would not have had to worry about people taking out spots in newspaper ads or on television claiming credit for one party or another or some candidate or another.

So the lines are open. The doors are open. Unfortunately, no one wants to make that effort, so unfortunately I guess we will have to go through this process and hope in the end we will get something that will serve the people in this country. They want something done. They really are hoping that we will have the good wisdom and judgment to step in and at least provide some help in this arena.

Mr. President, I am confident that will happen. Unfortunately, it may take a little more time than it should, but I honestly believe that before this process is all over with we will come out with a decent program in this country. I believe that in the final analysis it will be one that is worked out between the President and the Congress. I am glad the President did not send up, despite the efforts of some to get it, a letter up here saying I am going to guarantee a veto. That does not serve anyone's interest at this point when it is only working its way through one House of the Congress. So at least I thank the President for not having been lured by that bait which would not exacerbate this problem, make it more difficult for us to try to work together. So I hope we could put the partisan differences aside to the extent they exist.

I want to tell you again, Mr. President, I have said it so many times here again today, my admiration for my colleague from Utah has grown by leaps and bounds over the last 4 or 5 days, in fact going back weeks and months as he has worked with me on this. He has been under a lot of pressure. He has been called a lot of names because he will not get partisan on

this issue, because he believes in trying to work something out here which is what we are sent here to do when we can. Occasionally you cannot. Occasionally principles get in the way and you will not be able to reach agreement. We have. And now he is being abused because he did it, because he worked at that. I just want my colleagues to know how much I admire him for having taken the steps, fought as hard as he did, and improved the quality of that product substantially. It would not be as good a bill had he not been involved at all.

So we look forward this afternoon to a continuing debate and discussion. But let me invite my colleagues on the other side to have a good, intelligent, healthy discussion and not a name calling one where you label bills things they do not deserve to be labeled. There is legitimate ground for some disagreement on some of these things. It is a matter of which thing you think may work better. But neither of these proposals deserve to be blasted in terms that they do not deserve, certainly this one does not. The alternative was worked on last night. This is 2 years, 2 years, of conservatives, progressives, outside groups, teachers, parents, Governors, State legislators, working on this bill.

I am proud of this product, Mr. President. It is the way a bill ought to emerge here. The alternative is one that has been kind of pasted and glued together over the last few hours, to try to beat this one politically.

So I hope, and I am confident, that we will finally get to a debate and vote on these matters in the next few hours.

I have not run out of patience. It has been a long few years working at this. I am prepared to stay here for however long it takes to try to resolve this issue. I am confident again that with the support of our colleagues, as they recognize what efforts have gone into this, the thoughts that have gone into this, the careful crafting that has gone into this, that when we get over this problem that faces us we will all come together behind an intelligent, thoughtful child care program that includes quality and availability, and reducing the cost to American families. Those are our goals.

Our bill at least tries to deal with each one of those questions in an intelligent way, not in a completely comprehensive way at all. But we start down that road. I think the American public will thank us for that.

Mr. President, I note the absence of a quorum.

The PRESIDING OFFICER. Thank you, Senator DODD.

The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BOREN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BOREN. Mr. President, I want to commend the two leaders on this bill, the Senator from Utah, and the Senator from Connecticut, for the fine work which they have done on this piece of legislation.

This is a very difficult area of legislation. Crafting a package and a proposal that will please everyone is almost impossible. But it is absolutely essential that we make progress in this area. Millions of people across our country have no choice but to leave children at home in the care of others in order to have jobs to support their families. I have looked at the various proposals before us, and I intend to support the package offered by the Senator from Connecticut, and the Senator from Utah when this matter comes to a vote.

I think they have struck a fair balance in this piece of legislation between the need to provide additional child-care opportunities in the country, and I am convinced that this particular proposal will do more to expand the availability of facilities, far more than simply giving additional block grants to the States where they might or might not be used effectively for this purpose.

In addition, I have very strong feelings that those who wish to have their children cared for in institutions that are operated by religious denominations should have an opportunity to do so.

In my home State, the pioneers in offering day-care facilities were really churches across the State. Especially this is true in smaller communities where other commercial day-care facilities are not available. These day-care centers were not established to provide some sort of sectarian indoctrination. They were simply established to provide a loving and secure atmosphere in which children could be kept for working parents.

Churches have provided a tremendous service to the community, a tremendous service to families and the maintenance of the family unit, in making available these services.

I am pleased that a compromise has been reached, which would make it very, very clear that those day-care facilities that are operated by religious institutions would be eligible to receive assistance under this bill. It is still my hope that before all is said and done, we will be able to take a proposal made by the President to expand the tax credit for all children, which would provide benefits for those mothers who stay at home with their children, rather than going into the job market and into the work force.

I think it would be an ideal package if, in addition to the items which are offered in the Dodd-Hatch package, after consideration of it, we could add the addition of the tax credit proposal made by the President. The tax credit proposal voted out of the Finance Committee is an excellent one. It gives direct tax credits to offset the costs of day care for those working mothers who are forced to place their children in day-care facilities. I think in order to also encourage those mothers who are making financial sacrifice to stay out of the job market, where that is possible, and keep their children at home, we should also add to this proposal the additional tax credit supported by the President.

Mr. President, this should not be a partisan matter. We should not try to seek partisan advantage, as we grapple with this important problem facing our country.

It is an American problem that we are dealing with, not a Republican problem or a Democratic problem. I am not concerned about which party's stamp is left on this bill, in terms of which party gets credit for it. I am concerned that we solve a critical problem facing this country. Parents who have to work should have the assurance that there is quality day care available for their children, so that they can have the confidence that their children will receive the kind of treatment they are entitled to receive, while those mothers and those fathers are in the workplace earning a living. It is often a necessity for parents to make this decision, and that is why we have a responsibility to do everything that we can to assure that quality and safe care is available.

The Senator from Connecticut and the Senator from Utah have spent many, many hours working to craft a proposal that will meet these goals. In my opinion, they have done an excellent job. They have achieved a result, I think, that, on balance, will be of great benefit to millions of people across this country, and especially of great benefit to the children of this country.

It is not a perfect package. No package of this kind worked out with an aim toward balancing an interest of all sections of the work force will ever be a perfect package. As I say, I hope that we will be able to add some amendments to this proposal, before it is finally adopted, that would add the President's tax credit proposal, as well. But having carefully studied the various proposals before us, it is my intention to vote against substitutes offered for this package, to vote for this package, and to vote for some amendments, particularly, with the addition of the President's proposed tax credits to it, before we go to final passage.

I want to commend the Senator from Utah, who is on the floor, and also the Senator from Connecticut, who has long had a deep interest in this subject, a sincere concern, for the well-being of children in this country. I commend him for never losing interest, for persevering, for struggling through to try to put together a legislative package that will be of great benefit to this country. I think that has happened, and I intend to support its final passage.

Mr. GORE. Mr. President, I want to speak briefly on the substitute amendment offered by the minority leader because I have been a strong proponent of two of the key provisions of his substitute package, those being the earned income tax credit and the dependent-care tax credit. In fact, I have a bill pending in the Finance Committee, titled the Employment Incentives Act, which would seek to assist working poor families by expanding and improving EITC—and I must say to a much greater extent than does the proposal before us. My bill also would improve the dependent-care tax credit. I fully agree with the minority leader that we need to expand the EITC and adjust it for family size. And I believe just about everyone supports the effort to make the dependent-care tax credit refundable so that low-income families can benefit from this credit as do wealthier families. I am extremely pleased that the amendments offered by both the distinguished majority and minority leaders included provisions on the dependent-care tax credit.

Now I would like to support ABC and also support EITC expansion. I see them as separate initiatives to address different parts of the same problem. And I am hard pressed to vote against either one, because I believe we need to do both. But I believe, as do the sponsors of ABC, that the various tax credit proposals will not adequately respond to the pressing child care needs that American families are facing. Tax credits are not child care. Families of low and modest income need safe and affordable child care that can only come about if States have the resources and the incentives to increase the supply of child-care providers and improve their child-care standards. And poor families need help in paying for this care.

I regret that I was unable to support the minority leader's amendment. I wish that it had not been offered as a substitute amendment. I am hopeful that we still can take steps to both improve child care and also provide tax relief to the working poor through the earned income tax credit. And I look forward to working with my colleagues toward that goal.

Mr. PACKWOOD addressed the Chair.

The PRESIDING OFFICER. The Senator from Oregon Mr. PACKWOOD.

Mr. PACKWOOD. Before I make the main gist of my remarks, I want to indicate something on section 89. The amendment Senator DOLE and others and I have offered does not touch the section 89 that is in the majority leader's substitute; it stays there. For those who like it, it is still there; for those who do not like it, it is still there. We have to deal with it. But if our amendment is adopted or not, it will still be there and will have to be dealt with in the same way. That should not be a factor in anybody's thinking, one way or the other. Whichever amendment passes, the majority leader's or our, it is still there.

Mr. President, I want to touch on only a few points, if I might. Again, I want to appeal to the common sense, if I can, of the public, as to how this bill works and who it may help. One, assuming that you are going to spend equal amounts of money, which approach would help more, the approach that Senator DOLE and Senator DOMENICI and I and others suggest, or the ABC bill, assuming you want to spend equal amounts of money?

If you have a plan that would spend $100 million, and I have one that spends $5 million, no matter how you spend your money, you could probably help more with your $100 million than I could with $5 million. Assuming you are going to spend roughly the same amount of money, pose this question to the average citizen: In your mind, which makes more sense, tax you, the Federal Government will tax you, whether you live in Oregon, Virginia, Iowa, or Nebraska, and we will bring the money to Washington, DC, in the form of taxes. We will then pass laws—if the bill passes, this will be the law—telling how the money should be spent. In this case, a fair portion goes back to the States. And we then give the money to the States, and we say to the States, "You can use up to 30 percent of your money for administration or qualification, and only 70 percent really has to be used for day care," but it goes to the States, and they, in one fashion or another, then provide it. That is the approach of the ABC bill that is offered by the Senator from Connecticut and the principal amendment of the majority leader.

The way we propose to do it is simply this: You are a parent, and you have a child, and you put the child in day care. It costs you a certain amount of money; you get to take a certain percentage of that off your income tax. That is all. It does not take any additional IRS agents. No State or Federal Government has to approve where you send your child.

Just from a common sense standpoint, assuming you were spending a given amount of money, equal amount, on our proposal or theirs, which would more likely result in more money being available to the parents to spend on their child for day care? I think it is obvious. If there is no cost of administration, no Federal bureaucracy, State bureaucracy, standards that the State has to administer, no training they have to give, if all the money goes to the parent, can you not probably provide more child care than in the other approach? I think so.

Second, is the parent too dumb or too poor—and sometimes people equate those two terms; they say, "Oh, that poor, dumb person"—are they too inept to be able to make a decision for themselves as to where they would like to place their child, and they need the State to help them or the Federal Government to help them, not with money, but with where that child should be placed, and what kind of qualifications should the person who runs it have? Should they have a master's degree in child education? Or if you are a parent, you and your spouse are making $16,000 to $17,000 a year—frankly, in many of the small towns of Oregon that would not be an excessively high family income—and say you are spending $100 a month for child care, and suddenly, along comes a bill that enables you to spend $140 a month for child care, do you think the parent is qualified enough, with the extra $40, to spend it on child care that is slightly better than the parent got for $100, or would the parent not know any difference, and might spend it, but not get any better child care.

I think people are reasonably smart. If they are leaving their child with a neighbor or if they are leaving their child in the basement of a local Baptist church because a community group is running the day-care center there, my hunch is that the parent probably knows whether or not they are getting value for the amount of money that they can afford to pay.

If they get more money, they get a little better value. I think it demeans the parent to say that they would not know how to spend the money.

Next, Mr. President, I want to talk about religion because this is not a settled issue, even with the adoption of the so-called Ford-Durenberger amendment.

In the bill as it is before us now is this provision:

> No financial assistance provided under this Act shall be expended for any sectarian purpose or activity, including sectarian worship or instruction.

So that clause is obviously more expansive than just "sectarian worship or instruction" or you would not need that clause.

I say it again:

> No financial assistance provided under this Act shall be expended for any sectarian purpose or activity.

We are going to have lawsuits if this language is in the bill as to whether or

not a State can given money to a sectarian organization, a nonreligious organization that rents the basement of the Baptist church and on the walls of the Baptist church are crosses, pictures of christ, and there are Bibles. It is very hard to make a church look not like a church.

I think it is going to be very difficult for the proponents of the ABC bill to sit here and say we can give money to that day-care center, but I will tell you the one they cannot give it to, Mr. President. They cannot give it to what is a genuine sectarian day-care center. I do not mean a secular, a nonreligious organization that rents the Baptist church basement. I mean a sectarian religious day-care center that intends that the children there learn the Torah or learn the New Testament as part of their day-care training. The ABC bill cannot give money to that kind of a center. It violates the Constitution. No question it does.

However, parents can send their child there and take a tax credit which is an approach we take, take a tax credit against their income tax for sending their child to the sectarian religious day care center, and that is constitutional. It has gone through the court process. It has been tested. There is no question it is constitutional. It is not only more efficient, it is constitutional.

Now, to attempt to get around this, the ABC bill now has a provision in it that says this limitation will not apply to certificates, whatever that is. I think I understand what they mean. I think they mean sort of like a voucher, sort of like a food stamp. You give a certificate to the parent and the parent takes their child down to the day-care center and they give the certificate to the provider and the provider turns it in to the Government and the Government gives them money.

Apart from the fact that it is questionable as to whether or not even that is constitutional, we are unable to find very many States that even have certificates, and there is nothing in this bill that requires them to have certificates, and it runs contra to normal bureaucratic functioning to like certificates. The natural nature of people who work for Government—I do not mean this critically, any of us in our own businesses have the same attitude—the natural nature of people who work for Government as a career, full-time, lifetime occupation is for Government to run something. If you give a parent a voucher, a certificate, and say to the parent, "Take your child where you want," the Government sort of loses control. They do not like that.

So, first, any State that does not have a certificate program, this exculpatory clause that is put in does you no good anyway.

Second, my question is, and I think it is probably a genuine constitutional question, as to whether or not a certificate that is presented to the religious day-care center and they turn it in to the Government and get money, whether or not that is constitutional.

There is no problem if we have tax credits. The parent takes junior down to the B'nai B'rith day-care center where junior is going to learn the Torah, pays them $100 a month, $200 a month, takes the money off their income tax, clearly constitutional, even though junior is learning to speak Hebrew and read it from right to left, it is OK.

The opposition says that our bill only helps children under 4. Wrong. Because our bill makes the present tax credit what we call refundable, it helps all children up to age 13, and here is what refundability means. The term "refundable" in the tax law means you are entitled to get some money back even if you owe no taxes.

The present tax credit law, and we have a tax credit law now for people who put their children in day care, whether you do it with the neighbor, a day care center or someplace else, the Federal Government spends almost $5 billion on that now letting people take credits against their income tax. But in order to take a credit under the current law against your income tax, in other words, you make $15,000, you owe $2,000 in taxes, you paid $1,000 for day care, and the law says you can take half of the $1,000 off your income tax, instead of paying $2,000, you pay $1,500, but if you owe no taxes at all under the current law you have nothing to subtract the $500 from and it does not do you any good. You paid it out, but you do not get anything for it.

Currently—this is a generalization—currently, if you are a single parent with a couple children, making about $12,000 or $13,000 a year, you pay no Federal income tax. If you are married with a couple children making $15,000 or $16,000 a year, you pay no Federal income tax. You do not owe any.

I will say again in small towns in Oregon, a woman, 23, two children, working at Woolworth, working at the local retail store, if she is making $1,000 a month, that is a high salary in that town, $12,000 a year. So she owes no tax. The day care credit does her no good.

Our bill makes it refundable. By refundable it means if you owe no tax but you still have this $500 credit, the Government sends you $500. And that helps everybody, every child of any age up to 13, and it applies from the moment the child is born until the child is 13 years of age.

The Senator from Connecticut said that the $400 million block grant in our proposal out of a total proposal of about $3 billion, of which almost $2.5 billion is tax credits, the $400 million block grant is bureaucratic because not 1 penny of the $400 million goes to kids, it goes all to the States.

He does not acknowledge in his comments that all of his money, every penny of it is administered by the bureaucracy. It all goes to the State. There is no guarantee that any of it goes to any child. At least we can guarantee with a tax credit that every single penny that a parent spends on day care, if they fit into the eligibility requirements, and that is basically an income requirement, the parent gets it.

That guarantee cannot be made and, in fact, I would almost make the guarantee the other way around. Knowing States, and again I do not mean that maliciously, they are very unlikely to have a program that gives money to parents. They may purchase a slot, as we call it, in the day-care center, and they will say, "Now we have purchased 10 slots in the Jones Day-Care Center, we are now going to select 10 children for the day-care center."

And they will talk with parents and see if the parents are eligible in terms of income limits and put the child in the Jones Day-Care Center.

That is by and large the way the ABC Program is going to work.

The maximum amount of children that the ABC Program is likely to help, likely, is someplace between 500,000 and 700,000.

The program that we have, although it is spread, the money is not far enough from being the same, we spread it over more people, is in excess of 5 million children, and I say the reason in excess, it is slightly over 5 million families with children. If every family only had one child, it would help 5 million children. But as we do not know how many it will help who have two children, three children, I will just say in excess of 5 million.

Then the issue of homemakers. The homemaker is the person who stays home to take care of their child rather than going into the work force and putting their child in day care, whether it is with a neighbor or a day-care center or someplace else.

An argument is made that if a person thinks that the best care they can give their child is to stay home with the child, that is going to be better than being in the Baptist day-care center or next door or at B'nai B'rith, if that person wants to stay home and says, "This is the best parenting I can give my child, why can't I get a credit also?"

The ABC bill prohibits it; cannot do it. It will not go to those homemakers. Our bill allows it to go to the homemakers.

So, for a whole variety of reasons: The religious issue, the homemakers, whether or not it is a more efficient way to use a tax credit where the

parent sends their child and takes part of the money off their income tax or to go the other route of appropriations, bring the money to Washington, appropriate it, spend it, give it to a Federal agency who is turn gives it to the States who in turn spend it for day care—which of those is the better approach, we think ours is—those are all legitimate philosphical issues. This is the first bill that we have had since the Senator from Maine has been majority leader that is a genuine philosophical difference of opinion. It has been a good debate.

I would like to think that parents are smart enough to spend the extra money if they are entitled to take it on their income tax or have it paid to them if they do not owe any income tax; that they are smart enough to know whether they would like to have their child in a religious day-care center or not and parents of strongly religious persuasion might like to have their child in a religious day-care center of that persuasion.

I think they are smart enough to get the best day care they can get for the money they have. Be serious. If somebody is making $100,000 a year and can afford to pay $10,000 a year for day care, they will probably get better day care than somebody making $10,000 a year who is lucky if they can afford to pay two of it in day care.

I will say it again. The person making $10,000, $15,000 paying $2,000 a year for day care, if they suddenly have a bill that will allow them to pay $2,500, if they have $500 extra, they will know how to spend it and they will know how to get slightly better day care than they got for $500 less. These are not dumb, uncaring people.

So, for all of these reasons, Mr. President, I would hope the amendment offered by Senator DOLE, Senator DOMENICI, myself, and many others, would be adopted. I think it is a more caring, more efficient, more religious way to spend the money that the Federal Government is willing to spend.

And, in conclusion, let us make it very clear. This is not a debate any longer about should we have day care. We are past that issue. The Federal Government already has provided us funding for day care. The issue is should we do it through a bureaucracy, Federal and State, or should we let the parent decide how, when, where they want the child to be placed in day care and take some portion of that cost off their income tax?

I think the latter is a much better proposal.

I thank the Chair.

Mr. DOLE. Mr. President, would the Senator yield?

Mr. PACKOOD. Yes, I would be happy to.

Mr. DOLE. I want to touch, again, on the religious question. I know there are Senators on the floor who are interested in that. One Senator just made a statement, the Senator from Oklahoma made a statement, that was taken care of in the modified, remodified, remodified ABC bill.

As I listened to the language read from the pending Mitchell substitute, it is still an issue.

Mr. PACKWOOD. It is still in the bill.

Mr. DOLE. Still in the bill?

Mr. PACKWOOD. Let me read it once more:

> No financial assistance provided under this act shall be expended for any sectarian purpose or activity including sectarian worship or instruction.

That is still in the bill. It is pretty clear language.

Mr. DOLE. So it is the conclusion of the Senator from Oregon and I think the conclusion of many others that we still have the problem?

Mr. PACKWOOD. I think we still have the problem almost as much as we had it before. First because we do not know how many States even have certificates, but we cannot find very many. Two, unless the certificate absolutely went to the parent—and even this is not sure—went to the parent and the parent took it to a day care center and the day care center got it reimbursed from the Government, maybe that is constitutional, maybe not. Most States do not appear to have any certificate program anyway so we do not need to worry about constitutionality. We will never get that far. They will never have the certificates.

Mr. HATCH. Will the Senator yield on that point just for a correction? There are 26 States that have child care certificates.

Mr. PACKWOOD. Can I ask my colleague, we tried to get that list yesterday.

Mr. HATCH. I will try to get it provided.

Mr. PACKWOOD. We called both the principal proponent of this bill, who we thought had this information, and the Library of Congress. Neither could give us a list of the 26 States.

Mr. HATCH. I will do my best to provide it.

Mr. PACKWOOD. Let me ask a second question. I want to know what they mean by a certificate. Oregon is counted as a certificate State. I will get back to the Senator from Kansas. Oregon is counted as a certificate State but here is the way it works in Oregon. A parent has day-care expenses. At the end of the month they fill out a form as to what they paid for day care and they send it off to the State and the State sends them a check. That is hardly a certificate. That is much more like a tax credit. But we call it a certificate.

So, first I would like to see the list. Second, I am curious how many are really certificates.

Mr. HATCH. If the State sends the money directly to the parents, the parents can, in turn, use that money for the purchase of child care. They have the right to choose.

Mr. PACKWOOD. What it really amounts to is Oregon does not have a certificate program even if it is counted as a certificate State.

Mr. HATCH. The point is that it is not that different from the States that do have certificate programs.

I am not saying all 26 States have exactly the same type of program that they call certificate program but they have some aspect of a certificate program that, basically, allows the parent to make the choice with regard to the religious decision.

I do not mean to interrupt the distinguished Senator from Kansas but let me just say this. There is no question that the tax credit approach allows the parent to choose the child care that that parent desires. And there is no question in my mind, constitutionally, that parent can choose a religious day-care center where religion is pervasively taught, to use constitutional language. There is no question that that can be done, in my opinion, through the ABC approach of child-care certificates.

Mr. PACKWOOD. What if a State does not have a certificate program?

Mr. HATCH. Well, then, we encourage through that—it is up to the State to do that and they can make the determination. There is no question, though, if they do, in my opinion they can, as parents, get tax credits; use those moneys to send their children to child-care centers, religious-care centers where religion may be pervasively taught.

Now, there is also no question—and the Senator makes a good point—that with regard to direct grants under the ABC program, that those moneys cannot be used in a similar fashion; that, literally, we have to be bound when we make direct grants to not use those moneys to teach pervasively religious or sectarian teachings in that day-care center. That is just meeting constitutional law. It is the difference between a direct grant and the other. And I have to say I think that is one reason why I do like the tax credit approach as an approach.

That is why I would like it to be a comprehensive bill. It is a good point but I think it is an irrelevant point. Because what we are saying is that we can do much more through direct grants in some ways than we can through indirect grants which are tax credits and, yes, we are not as good with regard to sending children to pervasively religious teaching organizations involving child care as tax credit approaches are. That is why I would like to merge them both together and

I have been trying to talk to colleagues on both sides.

I think, if the distinguished Senator from Oregon is really interested in getting a child-care bill, he knows that if his approach passes, there will never be a child-care bill. We know if the ABC solely passes, the President probably—he has indicated he is going to veto it. We think if we put them both together, it brings a lot of people together who like one or more aspects of each program and we will have a child-care bill that might do something to help with child-care prcblems in this country.

To me, I do not see any problem with that. I do see problems with the amendment of the distinguished Senator from Kansas, which is a substitute amendment, which would wipe away all the work that has been done for child care by our committee and by the distinguished Senator from Connecticut and myself.

That is a right the Senator has. He can do that. That is fine. But it is one reason why I think it is a mistake. If my colleague wants to get together and do the other, I think we will have a child-care bill everybody will benefit from in our country. And his point of view will be brought to the surface, the good points on the ABC bill will be brought to the surface. If one is better than the other, I think we can choose down the line which one is better. If they both work well together, then, my goodness, we are doing an awful lot of good for everybody in our society.

Mr. PACKWOOD. I hear what the Senator from Utah says. I know deep in his heart he knows we are right.

Mr. HATCH. Deep in my heart I like the approach of my colleague, but I like the other approach, too, because they both offer benefits. Each of them offers certain benefits that the other one does not have and I think any honest person has to admit that.

Mr. DOLE. Would the Senator yield?

Mr. PACKWOOD. I do.

Mr. DOLE. I listened to the Senator from Oregon very carefully. He made an excellent statement as he normally does. As I look at it, there are two things in the statement that I think need to be emphasized. One is sort of rationing of child care.

There is no one who supports the ABC approach who will stand up and say it is going to cover 1 million children. Maybe 700,000.

Mr. PACKWOOD. At the most.

Mr. DOLE. At the most. Maybe 500,000. That is the point the Senator from Oregon made.

On the other hand, the approach we are offering would cover over 5 million families. That could be, probably—I do not know what, 10 million, 11 million children.

Mr. PACKWOOD. They all have to have at least one child so it is minimum 5 million to start with.

Mr. DOLE. Another point that the Senator from Oregon made; I think those who rush to embrace the ABC bill, they had better figure out the ultimate cost of that bill. The Senator from New Mexico said maybe 20 million. This is a foot in the door, $1.75 billion is a foot in the door, but it only covers 500,000 of the 18 million eligible children.

You can calculate that.

Second, the Senator from Connecticut, who was here earlier, was saying that our bill was directed at the poor and that he properly felt we ought to pay some attention to middle-income Americans. He may be right. If you are covering that many children, who is going to be served first? Probably about 4 to 1, four middle-income versus one low-income. In some of the States, Connecticut, for example, you are eligible for ABC benefits even though a family of four can have income of $48,000 a year. That is another reason we went to the earned income tax credit approach. We want to help the families who need the help.

Mr. PACKWOOD. Ours at the most goes up $28,000 and the bulk of it goes to those families of $10,000 and under income.

Mr. DOLE. I again congratulate the Senator from Oregon for his statement, and I assume that other side has whipped everybody into shape, with a little help from our side, and they probably have the votes to defeat our approach. But the President did not make any bones about it, he is going to veto S. 5. It is bad legislation. It does create standards. They can argue all day long about no standards, but the States have to meet six different standards, six standards. Who is going to issue these certificates? You cannot get people in my home town of Russell, KS, running around looking for certificates. Give me the money, let the parent decide. I cannot understand why the Senator from Utah would desert the parents of the United States in favor of some new bureaucracy.

Mr. PACKWOOD. Mr. President, do I still have the floor? Mr. President, I yield the floor.

The PRESIDING OFFICER (Mr. WIRTH). The Senator from Utah.

Mr. HATCH. Mr. President, I have been very interested in my distinguished colleague's remarks. Let me say this. There is not a more profound spokesman on the floor of the U.S. Senate than the distinguished Senator from Oregon, and he makes a lot of good points. That is why I think both the distinguished Senator from Connecticut and myself are very intrigued and interested and even authors of similar legislation as his tax credit approach.

I think I make a pretty good point that it would be a lot better for us to get together and merge these two different concepts and see which works the best or if they work well together, but to get something done here that might help families in this country. That is what the distinguished Senator from Texas has tried to do.

I have to admit I have trouble with his amendment that is part of the Mitchell amendment. I wish we could go to something like this. But the problem is it is all or nothing, and they know we cannot get a pure tax credit approach through the whole Congress. They know that, so it is as much as saying we do not want a child-care bill. I believe if we merge them together, we could get a child-care bill through both houses of Congress, which the President would sign, which would go out there and do some good for families.

To answer the question of the distinguished Senator from Oregon about what are the States that provide for child-care certificates or vouchers, let me read them off. These figures come from the children's defense fund which is eminent on working on children's issues across this country. And the States which have vouchers are 29. I stand corrected. I said 26. Let me read them off, and they may differ, or course, but they have some form of voucher now that could easily be adapted under the ABC bill. The States are: Alaska, Arizona, California, Connecticut, the District of Columbia, Hawaii, Idaho, Illinois, Iowa, Kansas, Kentucky, Louisiana, Maine, Massachusetts, Minnesota, Missouri, New Hampshire, New Jersey, New Mexico, Ohio, Oklahoma, Oregon, Pennsylvania, Tennessee, Texas, Vermont, Virginia, Washington, and Wisconsin.

I notice that most of the prime sponsors of the Dole amendment have State where vouchers are allowed. It seems to me their States will benefit from the ABC bill and child-care certificates and maybe even from their leadership in encouraging the leaders in their State to take advantage of the child-care certificates. If that is so, them maybe they can even resolve some of these religious issues and problems that they seem to find with the ABC bill.

There has been considerable discussion in recent months and, of course, particularly in the last few days, regarding, one, the extent to which under the ABC bill you can and should make available moneys to sectarian institutions; and two, what limitations, if any, would apply to the religious activities and practices of providers under this bill.

I have a lot of comments about this matter. I see the distinguished Sena-

tor from California is on the floor and I know that he wants to ask some questions of the Senator from Oregon.

Let me just say one other thing. I think this is a big red herring, and I am a little bit perplexed that my colleagues on this side of the floor keep raising it because we all know that if you directly fund something from the Federal Government, there are certain constitutional limitations or restraints with regard to religious activity. That is what the Constitution says. It provides for a separation between church and State, and there is no one who fights harder for religious rights than the Senator from Utah does. I think I am known for that. I think I am known for at least understanding the constitutional implications.

The fact of the matter is that we are providing for direct grants here to go directly to help these families with child care, and there will be limitations when you make direct grants that have constitutional limitations. We have limited those limitations as much as we can in the bill. I have been interested that the distinguished Senator from Oregon keeps reading out of the bill, but only part of the sentence. He reads: "No financial assistance provided under this title shall be expended for any sectarian purpose or activity, including sectarian worship and instruction * * *." But he does not always read the "except" that this subsection shall not apply to funds received by any eligible provider resulting from the distribution of a child-care certificates to a parent under section 108(a)(1)(C)." That is the Ford-Durenberger language, in part.

The fact of the matter is that when we make direct grants to people or to organizations for people, we are bound by the Constitution. I think my colleagues would have to say that is the way it is. But we are not bound by those same limitations or restraints when it comes to child-care certificates which 29 States have some form of.

I think what I am trying to say is that, yes, if all you are interested in is getting around the religious limitations and all you are interested in is getting maybe $750 in refundable tax credits to help families with two children under the age of 5 pay for their child care, then the tax credit approach is a good way of doing it, and they can use that money if it is paid directly to the parents. They can use it for the most pervasive religious based organization in the world, if they want to. The fact of the matter is that all they do under their bill is take care of two children with $750 when the average cost of child care for those two children is $6,000.

That family still has to come up with $5,250. I think that is a good approach. I think that is something that can help but it is not the only approach. If we merge that approach with the ABC bill, we would have an approach that would really help people and at the same time compare two different approaches over the years in a way that might cause us to go to one or the other or beef up both. I would suspect we would be beefing up both.

Let me just end with that and turn the time over to the distinguished Senator from California because I know that our side has dominated this debate primarily because we have been really the only ones on the floor for the last number of days, but I want to make sure that those who are opposed to our particular approach here have every opportunity to express themselves about their beliefs and about their feelings and about what they think is a better approach.

If I could just say one thing about yesterday, I do not think I said—one of the papers printed that I was criticizing my Republican colleagues. I was not doing that. I was criticizing whoever made that blue sheet, and I was criticizing outside groups that are misrepresenting and using disinformation and misinformation and downright deceit and trying to malign what the distinguished Senator from Connecticut and I have tried to do here. I resent that.

Now, if there are colleagues who have done that, I have to say I resent that even more. But I do not know of any colleagues who have done that except for many of the mistatements on the floor, and I know those are sincere misconstructions of what our bill really says. If they were not sincere, then they deserve great condemnation and I think even those who are for their view would agree with that particular statement.

I am upset at the outside groups who are using misinformation, disinformation, downright deceit and fraud to try to defeat what the Senator from Connecticut and I are doing. Now, they can use every effort they want to defeat us, but they ought to play fair; they ought to hit above the belt. That is all I am asking. That is all I am saying.

As far as my colleagues, they have a legitimate proposal here. It is not that different from the one that is called the Hatch-Dodd-Mikulski bill. As a matter of fact, most of these ideas have been driven because of the debate that has been created in our committee, and I have to give them credit for doing it, but it is not the only way to go. If it is the only way to go, it will not go through the Congress and we will go another year or another 2 years without doing anything about the significant problems in our society.

So what I am saying is, I am reaching out to my colleagues saying let us merge them, let us put them together. Let us kind of swallow hard and say maybe we can accept the other person's point of view. Certainly Senator DODD and I are willing to do that. Why not do that and get something that will help families in America. If we cannot do it, then let us have it out, let us fight it, let us see who wins and let us hope that if one side wins, the other will at least have the good grace to accept it and do what we can to help families in this country.

Mr. WILSON. Will the Senator from Utah yield for a question or two?

Mr. HATCH. I will be glad to. I will be glad to turn the time over to the Senator, too.

Mr. WILSON. I thank the Senator. He is well aware of the high esteem and affection in which I hold him.

Mr. HATCH. And vice versa.

Mr. WILSON. He has worked very long and diligently to craft child care legislation that will respond to the real needs of American people, but I think that because there has been a spirit of accommodation and changes there is some honest confusion about the provisions of the current ABC bill as amended with the Mitchell substitute, so if I might take the opportunity with him on the floor to ask some questions, perhaps we can contribute to clarify the understanding of all Senators.

First, there has been much made on both sides of the necessity for parental choice, and there seems to be agreement that the parent as the ultimate consumer should be the one who has a choice in what kind of child care he or she will commit his child to.

There is less understanding, or at least less consensus apparently on whether or not the Dole substitute and the Mitchell substitute both provide that. So let me just ask my friend this question. As I read the Mitchell substitute, the States will receive funding and 70 percent of that funding must be used to provide child care of different sorts—school-based child care, perhaps center based child care of a proprietary type or of a nonprofit type or family based child care, but there is a requirement stated in the law that there must be an equitable distribution. Perhaps there is a definition of "equitable distribution." I have not found it. But it had raised the question as to whether or not the equitable distribution either, one, requires and equal distribution between those different kinds of care or leaves that in the discretion of the States.

Mr. HATCH. As a matter of fact, we do leave it to the discretion of the States. What we do acknowledge in the bill is that there may be differing forms of provided child care that may be very valid in the eyes of the State leaders.

Mr. WILSON. The problem that I see arising from that is that I think actually, though I will discuss vouchers in due course and some problems I

see with that approach—to achieve the maximum parental choice it would seem to me that the bill as it was originally introduced, before it was amended by the Mitchell substitute, afforded far more parental choice in the sense that the money which was allocated, 70 percent of all the money that was allocated to the States was required to be used by them to provide parents with vouchers.

Now, as I understand the change under the Mitchell substitute, whatever "equitable distribution" means to the individual States, it is necessarily going to shrink the amount that is allowed for vouchers, or at least certainly can if a State decides in the exercise of its discretion that 40 percent of the money should go to center based child care and 35 percent to school based child care. Then if, for example, 50 percent of the people in that State really wanted a family-based situation, they would not be able to get it.

Mr. HATCH. Let me just answer the distinguished Senator. Equitable distribution, I think, is more concerned with geography within States than it is with forms of child care.

Mr. WILSON. Let us stipulate that there would be geographic equity.

Mr. HATCH. For instance, we do not want to see all of the moneys ignore the rural parts of the States or go to just certain cities in the State. So each State has its right to equitably distribute. I think it would also include reasonable equity among different providers of child care including home child care.

One of the things that we are trying to do, and the whole purpose of the $400 million block grant—that idea came from the first child-care bill that was filed. And that bill was called the Hatch-Johnston bill and virtually everybody has adopted that $400 million block grant that does all of these things to help create child care, to help provide quality child care and to help make child care affordable.

Mr. WILSON. I agree, and we are not talking about the block grant. We are talking about the amount apart from the block grant, the major amount.

Mr. HATCH. The point I am making is that the whole purpose of that block grant is to help create available affordable quality child care, and we made the point during the arguments on that block grant initially that there are all kinds of valid forms of child care including home care that the original ABC bill could not take care of, and that is one thing that we have tried to do within this current draft of the bill.

Mr. WILSON. I understand that. But I think that perhaps in an effort to be accommodating the Mitchell substitute has, ironically, created a situation where there is in fact less parental choice. There may be a greater variety of forms of child care offered, but it seems to me that it will be at the expense of parental choice, which was maximized at the point that 70 percent of those moneys were given in the form of vouchers to the parents rather than indirectly given, either by the State or by some local government, to a contractor who would then provide in kind the child care.

Mr. HATCH. Let me say this. I have never been for total vouchering system and neither was the original ABC bill or any subsequent draft thereof. The original ABC bill did, it seems to me, have a bias in favor of institutional child care providers. That is one of the things that certainly this Senator has worked very hard to change. Another thing we have tried to do is make it clear that States need the flexibility because different types of child care may have different importance in certain States. But in any event, we feel that all forms of child care that are basically meeting certain standards have validity. I do not think that parental choice is narrowed by helping to create more forms of child care. I think that widens the choice for parents.

Mr. WILSON. Obviously, if you can encourage the creation of new child-care providers that will allow for a wider range of choices. But what you are doing, if you give the money not to the parent but instead to the State or to a local government and it is their decision in the exercise of their discretion under the ABC bill to contract directly with the child-care provider, they are in effect making the decision for the parent.

They are obliged by some rhetoric in the act to seek to accommodate the first choice of the parent insofar as they can. I think it would be difficult to argue that there is the same freedom of choice that is afforded under the tax credit, a refundable tax credit, which puts cash in the hand of the parent, allows the parent to go into the marketplace and take advantage of whatever forms are available.

Mr. HATCH. Let me just answer that. I have to say that in some areas, in most of the States, there is only one form of child care. So it is not really a great choice anyway. No. 2, I cannot dispute that fact that I like that concept of the tax credit bill that gives the money to the parents, and recognizes the mother at home or the father at home, whichever parent is at home. I would like to see that adopted, before this debate is over for the ABC bill as well. I like that. I believe that those are good provisions. I think that gives a wide variety of choice. But they are going to choose whatever available child care is in their area, and in some areas there are only one or two forms available.

Third, and I think this is important, I believe that it is important to point out there is a defect to that approach, too. I think it is only fair to point that out. If you turn the money over to the parent, and you give them the choice to make, that is good. They may not make the choice to pay for any child care at all for their children. They may choose to use that money for something else. I think that is good, too. But do not tell me that gets quality child care, and do not tell me that helps with available child care, two of the most important aspects of the whole child-care debate.

Mr. WILSON. I think we could debate the wisdom of allowing the individual to make that choice because some will undoubtedly abuse it. But most will not. I think most people are very much concerned about their children, and about the quality of the care.

Mr. HATCH. Some are, and some are not.

If the Senator will yield for a second question.

Mr. WILSON. Yes.

Mr. HATCH. I have to go to the White House. I will try to get Senator DODD here so he can answer any further questions. But I would love to spend the rest of the time. I do have to go down there.

Mr. WILSON. My regret exceeds the Senator's own.

Mr. HATCH. Let me yield the floor to the Senator. I will be back in about an hour. I will be happy to answer any questions then. I will in the meantime try to get Senator DODD.

The PRESIDING OFFICER. The Senator from California.

Mr. WILSON. Mr. President, I thank my friend from Utah. He has, as always, been graciously generous. The reason I wish to ask him questions is because of his deep involvement in the crafting of the ABC bill, and because of his well-known concern about child care.

The next question that I had intended to ask really related to the fact that as he has observed there is the need to create additional facilities, additional providers insofar as that can be encouraged. But it is also questionable in my mind that one of the provisions in the ABC bill will permit that to occur other than in a very narrow fashion. That is the requirement that there be in effect sort of a Davis-Bacon standard applied to child care, and that even where vouchers are given not to mention the situation where a State or a local government directs the kind of care that will be provided through a contractor with whom they have dealt directly rather than providing vouchers or some other form of direct cash assistance to the parent to make that choice themselves in the marketplace.

That is the requirement found in section 107 of the ABC bill relating to payments. Section 107 provides that

whatever plan the State submits it shall provide for child-care services for which assistance is provided under this title, and an eligible child-care provider shall have a right to payment at the same rate charged by providers in the State or substate area for comparable services to children of comparable agencies and special needs.

Mr. President, I submit that while there is an effort at fairness to providers, it will inevitably work to the detriment of the children whom we are attempting to provide for because it is an invitation for the inflation of the charge made for the child care. It will inevitably lead to the subsidizing of a fixed number of slots at market rate and market rate as we know in certain areas is a very expensive proposition, which raised the other question; that is, the mechanism of how the State or, if it is delegated, that responsibility is delegated to a local government or some other unit of government, how they will in fact assign to deserving consumers the right to Federal assistance in the provision of child care.

The amount of money that is provided under this legislation for that purpose is now $1.75 billion. It was reduced under the Mitchell substitute. In the old ABC bill, more money was provided but even under that version only about a billion children could actually be provided for. That was the estimate made by the committee staff. It is reported in the committee report.

But of course the universe of need is far greater than that. It is at least five times that great if we are talking about poor children under the age of 5. And now with the Mitchell substitute, the estimate by a little simple arithmetic, is that the amount of funding available at market rate taking an average of market rate across the Nation would result in that amount of money accommodating about 3 or maybe 4 percent of the entire universe of need.

Mr. President, how is that money going to be allocated? Who is going to decide and how are they going to decide which parents get the money? There are something like 14 million families eligible under the Dole substitute; 14 million families under the ABC bill; with the Mitchell substitute half a million children can be reached by the amount of money that is available.

So, yes, there is an enormous difference between these two approaches, and one of the most significant differences is how many children can be reached by essentially the same amount of money. Under the ABC bill you have a very rich program for a very few children, and the lucky half million children who would be served by that would be lucky indeed by comparison with the 4.5 million who would not be served.

How is that going to be done? Where is the equity in that situation? Is it to be done by lottery? That is a sincere question. I really do not understand the mechanism for the selection of the fortunate parent. I do not think it is clear from the legislation. Indeed, it is not clear even if we were talking about vouchers that provided direct assistance.

The other points that I was going to touch on with my friend from Utah had to do with the statement he made that he liked, he admitted, the tax credit approach. He particularly was concerned about the situation of parents who were not required but who chose to remain at home. He saw in the use of the tax credit a means available to give financial assistance to the so-called at-home mom.

Now, a word on the quality of child care before we address a particular point. I will not even bother to hold them up, but I have three or four very interesting works on child psychology.

Mr. DODD. Can I ask my colleague to yield on a point I need to clarify?

Mr. WILSON. Surely.

Mr. DODD. Correct me if I am wrong, but as I understand it, the provisions of the Bentsen, if you will, tax credit proposals, the refundable dependent child-care credits, are the same as the Dole refundable dependent child-care credits. On those two provisions there is no difference. Am I correct in that?

Mr. WILSON. I do not believe you are, but——

Mr. DODD. I think they are exactly the same.

Mr. WILSON. That is a point that we will pursue, because I think there is a difference.

Mr. DODD. We serve the same number of children, the same amount.

Mr. WILSON. I think there is a basic disagreement, in that the Bentsen provisions relate to health care.

Mr. DODD. That is another provision of the bill, but under dependent care credits, the refundability, there is no distinction between the Dole proposal and the Bentsen proposal on those two matters. That is exactly the same.

Mr. WILSON. Then the amendments or changes are moving faster than the speed of sound.

Mr. DODD. That has been there for a long time. For the purpose of debate, those two matters are exactly alike. There is a difference between the block grant approach and the ABC approach. We give 70 percent of our funds to families. The block grant approach provides no assistance to families. That is a legitimate difference.

Mr. WILSON. If we are going to compare apples and apples, we are talking on the one hand about a block grant in yours and a block grant in ours, but what I am talking about is tax credits.

Mr. DODD. Tax credits.

Mr. WILSON. Tax credits versus the system under yours, whereby a decision is made by the State as to whether or not it will be allocated through the provision of a tax credit for services.

Mr. DODD. No State gets involved with tax credits. We are not debating that.

Mr. WILSON. I think that is one of the faults of the legislation.

The basic point really is that these various works—and I will hold them up, now that my able assistant has found them—are part of a vast collection that you will find lining the shelves of bookstores all across the land, in growing number.

There is, and quite properly, quite rightly, a growing concern on the part of parents—it is not new; it dates back to Dr. Spock's book about how to raise infants, how to raise children—but there is increasing, in the literature of child psychology and child rearing, testimonial from one after another so-called experts, that it is of particular importance during the first 3 years of life, and indeed in the first few weeks of life, that a mother and her child be together in order to bring about the kind of bonding, the kind of attachment, to use the terms the psychologists use, that give that child capability in later life for empathy, for conscience, remorse, and for understanding the plight of others.

It is the kind of thing which, if not given to a child, it seems very clear, almost universally among these writings, leads to a very different kind of adult, one far more subject to feelings of alienation, one far more likely to not being capable of the kind of citizenship that we would hope is the legacy and the responsibility of all citizens.

Now, I mention that because of the increasing emphasis that is placed upon the job done by the so-called homemaker, in these times of equal rights and these times of active feminism, we have said, and rightly, that there should be equal pay for equal work; there should be equal opportunity in the marketplace. That is, sexual discrimination is wrong and there should be no limit to opportunity, based upon sex. I think there would be no dissenters on this floor to any of those propositions.

But what has happened, it seems, is that a great many young women, who do seek a career as a means of fulfilling and expressing their talents, are also experiencing the kind of pain and remorse and guilt in many instances that comes from not being with their children. Well, there are many who cannot make the choice, because they are single heads of households. They work not for fulfillment, but out of economic necessity. That is a problem

that I must tell you will have to concern us.

I would like to address it in this bill, but if not, we must do it soon, and the fact of the matter is, a great many young women have been made to feel that there is something inadequate in being a homemaker, that somehow there is something to apologize for if they are not out in the marketplace. There seems to be a countertrend, and this is not a philosophical judgment, but rather, it is an observation that there seems to be, among even young women interested in a career, a determination to take time out to spend time with their children in those first critical weeks, months, and years, in order to assure that the child does have the bonding, the attachment, the best possible break that can be given. And, of course, that has to come at the expense of time spent earning one's credentials and increasing one's earning capacity in a law office, in a real estate brokerage, in whatever form of endeavor the mother of that child intends subsequently to be engaged or was engaged before her pregnancy.

Now, the point is simply this: We need to assure that that at-home mom, to use the current phrase, receives equal treatment under the law in terms of Federal assistance being made available, and we are not talking about taking care of everyone. We cannot afford to do that. There is no need, I submit, for the Federal Government, for taxpayers, to subsidize upper-income familes.

What we need to do with the funds that are available, considering the vast number of children that already fall into this category, is to target the moneys to low-income families. Under the existing dependent care, an at-home mom, who chooses not to provide the second career for the family and the second income, cannot receive the kind of tax assistance, unless she is either a full-time student or she is disabled.

And if, in fact, you do wish, as a couple, to take advantage of the existing dependent tax credit, assuming your income limits are sufficient so that you are eligible, in order to get the credit, you have to submit documentation that you have expended funds for child care.

Now, I submit to you that, clearly, under those requirements, the at-home mom is going to get nothing from the dependent care tax credit. She cannot qualify. She does not submit a bill to herself for her services as a child-care provider. And in order to qualify, she has to document that she spent money on child care with a child-care provider, and also that she is either in the category of the full-time student, or else is, herself, disabled.

Now, that is wrong. Without intending to, we have discriminated against the very form of child care that many of these psychologists think to be the most desirable. And, again, I agree, there are some women who might love to do that, who simply cannot because they are the sole source of their own support and that of their children. They do not have that luxury. But to the extent that married couples decide not to have a second income, but to allow the mother to stay home with the child, we ought to be encouraging that, or at least we ought to be encouraging them to be able to make the choice, without the discrimination that presently Federal tax law imposes upon them.

We are discriminating under present day tax law against the at-home mom.

My question to my friend from Utah would have been essentially a rhetorical question. Does the Senator not think we ought to change the law to end that discrimination? And in light of his feelings about the value of that kind of child care, should we not instead be encouraging women to make that choice because they have the opportunity to do so without suffering discrimination under the Federal tax laws?

And I am sure his answer would have been, yes. There seems to be some dispute about it, but there is no dispute that the Dole amendment provides that under the earned income tax credit which is targeted to the working poor, which is targeted to those who really are not able to take advantage of existing law, and it is the way using the process of a refundable tax credit which the Dole bill does under both the dependent care credit, if that is chosen, and under the supplemental to the earned income tax credit, it makes cash available at the time of need in the paycheck. It makes it available as well to the at-home mom.

It is a situation that is devoutly to be wished for, this change that is offered by the Dole substitute.

So I will just say that I listened for several days as my friend from Connecticut and my friend from Utah took umbrage at the suggestions to change their legislation as amended, and I commend them—they have certainly sought to accommodate changes that have been argued by those of us on the other side to the point where my friend from Kansas, the witty Republican leader is now referring to it as the XYZ bill. It is true they have made changes, but there are still basic differences and differences that go to the most fundamental principles that should be foremost in our minds as we seek to enact child-care legislation.

We do wish to encourage women to make the choice to remain at home if in fact they can by removing the discrimination of Federal law and providing them equal access to Federal assistance.

We also provide, through the tax credit, not a rich program for a very, very few consumers, not for 3 or 4 percent, because of a requirement that market rate be added hereto; instead, we provide what is admittedly a modest tax credit on a refundable basis that is available to all eligible families, and those eligible families are targeted. They are the low income, the working poor, and that is as it should be.

A final point, Mr. President, and it has to do with this lovely chart here, a thing of beauty, but clearly visible. Let me read what is not legible at a distance.

This chart has to do with the increased child-care costs to parents of 5-year-olds in the event that all other States were to rise, that is, were to meet as a model standard the standard offered by the State of New York having to do with child-care ratios.

New York has what many would say are the most stringent standards. Others would say they are the highest standards. Some would argue they are the best standards, though I think my friend from Oregon, Senator PACKWOOD, threw some skepticism on that, ironically using the New York Human Resources Administration report that suggested that the best quality child-care is not necessarily that given by those who are best paid or presumably most educated.

But under this chart we would see that those States in green presently are those States which would involve about a $400 per child average annual increase to parents whose 5-year-olds would be enrolled in a center with 5-year-olds based upon current State standards, in other words, in Washington, Oregon, California, Nevada, Arizona, Montana, the Dakotas, Minnesota, Nebraska, Kansas, Michigan, Pennsylvania, Virginia, Vermont, Connecticut, and Maine.

It would require that those parents pay about $400 per child more annually than they now would be required to do if all met the New York standard.

Now in those States that are in this absolutely irresistible magenta color, Idaho, Wyoming, Utah, Colorado, New Mexico—I might say on behalf of those States they did not choose the color—Oklahoma, Louisiana, Arkansas, Missouri, Wisconsin, Illinois, Indiana, Ohio, West Virginia, Kentucky, Tennessee, Mississippi, Alabama, Georgia, Florida, North and South Carolina, Delaware, Rhode Island, Massachusetts, and New Hampshire, there would be an even greater dislocation. Parents in those States would suffer about an $800 per child on the average increase in what they have to pay annually for child care.

Now why go through all this? The reason is that there is an incentive offered in the Mitchell substitute. Much

has been heard that there is no discrimination between States, that there is a floor and all States will receive under an equitable formula proportionately the same amount after funding, but there is, of course, a national advisory council whose responsibility under the ABC bill is to devise standards, recommend standards, they are not mandatory as they were initially, but in order to encourage States to meet those standards, to come up to them, those recommended national standards, there is an incentive and the incentive is cash.

Well, as my friend from Oregon said, rare has it been that we have seen States able to resist the blandishment, the great temptation of such cash incentives.

So these recommended standards may very likely become virtually mandatory. Yes, it is true the States can choose. But if they do choose and if in fact they do come up to that highest national standard, if we were to take New York, with its existing standard and have to increase everybody else—the other yellow State, by the way, is Iowa, which is not regulated at all—then there would be a substantial increase in the cost of child care for all parents.

Now, it might now hurt those at the upper end of the income scale. But it certainly would hurt the middle class, and it might very well go a long way toward erasing a considerable portion of what is now intended to be used to purchase child care, shrinking even further the number of children who could be dealt with under the ABC bill.

Mr. President, you have to ask yourself whether that good intention will really result in the welfare of those children. Clearly it will not result in the welfare of the children who will not receive care because the Federal assistance provided by this legislation will not reach them.

Good intentions are not enough and we need to be very careful in this legislation not to provide a rich program to a very few, not to provide disincentives to at-home moms. We need to be very careful to include all eligible families, those meaning low-income working families, poor working families, those who really need assistance, and in our concern for quality we need not, we must not ironically discriminate as present tax law does, against those who according to the psychological experts, the child-rearing experts, are the great hope that America has of turning around a trend toward a different kind of citizen, one who does not empathize or feel obligation.

Mr. President, that is about enough for now. That really literally flows from the questions that I intended to ask my good friend from Utah and, of course, he had to go to the White House, so I thank him for his courtesy and I thank my colleagues for their courtesy and I yield the floor at this point.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. DODD. I see my good friend from Texas on the floor and he has been here for some time and I am going to make this very quick so I can give him an opportunity to speak. But I did not want the moment to pass here because there is some confusion, I can see, coming from those who are advocating the alternative proposal.

Basically, what we are looking at here is, if you will, Mr. President, three parts to the two bills.

First of all, there is the ABC portion, if you will, of the bill that is included in the Mitchell substitute. The response to the ABC part of the Mitchell substitute is the alternative block grant. Those two are comparable. We can like one or dislike the other, or whatever, but it is legitimate to have a debate comparing those two pieces of the two proposals: The substitute which is before us and the alternative which has been offered as an amendment.

Then we get to the tax part of the substitute and the tax part of the alternative. There are two parts of the tax proposal. The substitute offered by Senator MITCHELL includes a provision that allows for a refundable dependent child-care credit under the Bentsen proposal.

The Packwood-Dole proposal also has a refundable dependent child-care credit. Those two proposals are absolutely——

Mr. WILSON. Will the Senator yield for a question?

Mr. DODD. Let me just finish the thought. Those two proposals are equal. They serve the same numbers of families. The same kinds of families are served under both those dependent refundable tax credit proposals.

What is going on, and I understand why, is the advocates of the alternative want to compare the parts of the tax proposal to block grant proposal or the ABC part of the proposal. But, unfortunately there is no difference in those two parts.

There is a difference between the block grant, which is advocated by the advocates of the alternative, and the ABC proposal. There is a difference.

There is one other difference in the tax side. Senator BENTSEN offers a health care credit to all families, whether they be working parents, nonworking parents, to defray the cost of health insurance premiums. The alternative proposal offers an earned-income tax credit which families can use for whatever purpose they want. That is a legitimate point of distinction on that part of the tax credit proposal.

But the dependent refundable tax credit, there is no difference there. The suggestion somehow that they are serving more families or less families or different kinds of families—in fact, the Bentsen proposal serves, under that part of the proposal, actually poorer families because of the formula.

But nonetheless, there is not much difference there at all. The earned-income tax credit and the health-care credit, there is a difference. The health care credit goes to all families, but only for health-care premium costs. The earned-income tax credit goes for everything. You can buy beer, you can go out and buy hotdogs, radios, television sets. You do not have to spend it on child care.

LLOYD BENTSEN, in the Finance Committee, by a vote of 17 to 3 says you should spend that money on the child's health costs. The alternative says spend it on anything you want. That is a choice people would make.

But on the dependent care credit, the refundability, on that there is no distinction. Let us have a debate, if we want, on ABC, if you will, and the clock grant. Under the alternative block grant proposal, it is $400 million. It can only be spent in the States. In fact, there is a provision in there which specifically excludes—it mandates that not a nickle of that money can be spent on families and children. The law in the alternative says categorically none of these funds can be spent as direct assistance to families and children. It can only go to the States and State agencies and bureaucracies.

If my colleague wants to talk about a bureaucratic proposal, there it is. The ABC proposal says 70 percent of those funds must be spent on families and children and 30 percent, if you will, on availability and the State administration of that program.

That is a debate we can have. But to compare the refundable dependent care credit with the ABC bill, it is totally to miss the point. There is no distinction between those two parts of the packages before us. I want my colleagues to be clear on that point.

Mr. WILSON. Will my colleague yield?

Mr. DODD. I will be glad to yield.

Mr. WILSON. I thank my friend from Connecticut. The point is that there is no distinction between the refundable dependent care tax credits but there is an enormous difference between those and the earned income tax credit and the difference, the most significant difference is that the supplement to the earned income tax credit does allow the at-home mom to receive financial assistance that she cannot get under either the Dole or the Mitchell.

Mr. DODD. One point of distinction—if I can just reclaim the time from my colleague from California?

Mr. WILSON. The reason for that, very simply, is there still has to be documentation of the purchase.

The PRESIDING OFFICER. The Senator from Connecticut has the floor.

Mr. DODD. Under the health care credit——

Mr. WILSON. We are not talking about the health care credit.

Mr. DODD. I would just say to my friend, if he would listen for a second——

The PRESIDING OFFICER. The Senator from Connecticut has the floor.

Mr. DODD. I would say, the earned income tax credit, he is accurate on. That is the credit that people can use for whatever purpose they want, whatever their status is: working, nonworking, parents at home, parents on the job. They can get that earned income tax credit and as my colleague knows, they can then spend that on anything they want.

I must say, George McGovern ought to be here. I never thought I would see the day. When George McGovern, as candidate for President 17 years ago advocated $1,000 for every family in America to be spent on anything they want—I think we can go back and find the comments of my colleagues on the other side about that idea and how they reacted to it. Now I find in this alternative, we have sort of George McGovern's plan revisited 17 years later. That is fine. A lot of people supported that. I do not argue with that.

But Senator BENTSEN on the Finance Committee has advocated and has included here a health-care credit to go to all families regardless of the working condition, if you will, of either of the parents. That, again, is legitimate debate. But on the refundable dependent-care credit there is no distinction. There is no distinction on those two points at all.

Mr. WILSON. The point, I would say to my friend from Connecticut, Mr. President, is that the supplement to the earned income tax credit that is proposed under the Dole substitute is a young child supplement.

It is easy to say it can be used for beer, for movies, video games. It will be used for child care. But the most important thing——

Mr. DODD. May I ask my colleague up to what age? Up to what age?

Mr. WILSON. Under age 5. This is a very targeted credit and that is exactly the point. It reaches a need that neither the dependent tax care credit, refundable though they may be in your bill or our bill, reaches. That is why this is necessary. It is more the at-home mother.

Mr. DODD. I ask my colleague a question. If you are over 5, if you have a family, a child that is age 5 or 6 or 7, regardless of that child's needs, child-care needs, they get no help under that provision; is that correct?

Mr. WILSON. From that provision.

Mr. DODD. So you get no help.

Under the health-care credit proposed by Senator BENTSEN in the Finance Committee——

Mr. WILSON. Let me point out to my friend in answer to the question——

Mr. DODD. Is there any distinction in age?

Mr. WILSON. I gave an incomplete answer. What is true is that it does not reach children over the age of 5 but it reaches all of those under the age of 5 and includes those who are in the care of an at-home mother who otherwise would receive nothing because under the dependent care credit she has to document it.

Mr. DODD. There is an income cap under $15,000.

Mr. WILSON. Yes, of course. We are talking about the working poor.

Mr. DODD. If she made $16,000 a year and had a child age 5, she is out.

Mr. WILSON. We are targeting it to the working poor. There is no question about that.

Mr. DODD. Whereas under our proposal, the ABC proposal for a second, we allow the States to provide child-care assistance up to some, up to the median income, 100 percent. In your State of California, for instance, under our bill, just to make a point, under our bill California would receive $168.4 million. Under what you are advocating it is $46.6 million. The $46.8 million, not a nickel of that money under your proposal—correct me if I am wrong—in fact tell me that I am wrong—that you prohibit, specifically, one penny of that $46 million from going directly to families or their children? Is that not correct?

Mr. WILSON. No, that is not correct. That is not correct. Under the block grant provision——

Mr. DODD. Wait, wait. Let us not move off this point. Let me read the legislation to my colleague because I think it is extremely important that you read exact text of the bill.

Mr. WILSON. But the Senator——

Mr. DODD. Whoa. Whoa. Whoa. Whoa. Let me just finish this thought.

Mr. WILSON. The Senator is speaking about block grants, not the earned income tax credit.

The PRESIDING OFFICER. The Senator from Connecticut has the floor.

Mr. DODD. Let me read clearly, on page 19 of the alternative, paragraph C, line 15:

> A State shall not use amounts paid to or on behalf of it under section 670(k) to, one, make cash payments to or on behalf of intended recipients of child care services.

You prohibit specifically, in your own alternative.

Mr. WILSON. The Senator is reading from the block grant section and it does not have anything to do with income.

Mr. DODD. That is what we are talking about.

Mr. WILSON. It does not. I keep making the point to you. You are talking about block grant and we are not, and the reason for that provision, by the way, in the block grant section in ours is because through the tax credit provisions——

The PRESIDING OFFICER. The Senator from Connecticut has the floor.

Mr. WILSON. Would the Senator yield the floor?

Mr. DODD. I will. Let me finish the thought and I will be glad to yield to my colleague. I enjoy his comments. California loses that approximately $120 million that my colleague from California unfortunately does not want to see his State get, 70 percent of which would be going to the residents of that State to pay for their child care.

Under the block grant which is what we are talking about here, he specifically supports legislation that categorically prohibits any of that money going to the people of California to defer the costs of child care.

That is the distinction. We say that 70 percent of the funds of the $168 million must go to the residents and citizens of California. And also, we said, let California decide who within that range of zero to 100 percent of median income should get it. So under our proposal, middle-income folks in California, if the Governor of California, and my colleague could end up in that position, if the Governor of California and the State legislature want to provide that assistance to middle-income people in his home State, then he can do so.

We do not apologize for that, Mr. President. We think the States ought to have the right to make that decision. Under the proposals being offered as an alternative, there is nothing in there that provides any opportunity for middle-income people or people who approach middle-income status to receive a nickel, whether it be under the tax credits or under the direct block grant program. They exclude entirely working people who are not desperately poor. I think that is a fundamental flaw of the approach being offered by the alternative. I will be glad to yield to my colleague.

Mr. WILSON. I thank my colleague. In the first place, he is talking about the block grant section and the significant moneys in this legislation of his version and mine is that other than the block grant moneys. That is clear, I think. The other thing is that he says not a nickel goes to individual parents. The whole point of those of us who are continuing to oppose the ABC bill is that it allows parental

choice through a tax credit and it even allows assistance to go to those who are at-home mothers who cannot now, under either existing law or under either the ABC bill or another provision of the Dole substitute, claim that money because obviously a mother at home does not bill herself for her child care services. I also would not take kindly to it.

So instead, what we have done to reach that poor mother in a working family who chooses to stay home rather than earn a second income for her poor family in order that she can provide child care, we provide a refundable tax credit as a supplement to the earned income tax credit, and it is a child-care supplement. I am not very much concerned that it is going to be abused. I think that people will use it for the intended purpose. I trust them, and as the future Governor of California, which I hope I will be, I would say—I thank my friend—that I would be delighted——

Mr. DODD. This is not an endorsement, I want you to know.

Mr. WILSON. That is not why I was pressing you. You can be certain that I or I would hope any other Governor of California would prefer to see the choice not made by a State bureaucracy assigning parents to child care providers, but through the use of a tax credit. Let the parents themselves make that choice. But we are not talking about the block grant section. What we are talking about is the earned income tax credit supplement which the ABC does not have. Therefore, an at-home mom does not receive assistance under the ABC bill.

Mr. DODD. I thank my colleague. Just quickly, on the ABC bill, there is a tax credit for health care. It goes to parents at home or parents working. That is in the ABC proposal. Second, on the refundable dependent care credit, there is no distinction between the two bills. There is a distinction between the block grant proposal and the ABC proposal. I think we ought to be talking about the comparisons on those levels rather than trying to compare the tax credit side, where there is some distinction, and the block grant approach.

Under the block grant approach, the fundamental distinction is we provide direct assistance to families, including the option to provide assistance up to middle-income folks in some cases. Let me finish the thought. That is totally excluded, in fact, categorically prohibited under the block grant section of the alternative being offered by Senators PACKWOOD and DOLE.

On the tax side, there is no distinction on the refundable dependent care credits. There is distinction on the EITC and the health-care credit. There is debate on that.

I would suggest what may happen, I presume it may at some point here in this debate if we can come back to the Mitchell substitute, someone may offer an amendment to deal with that particular function. I do not know why we are not doing that and debating that distinction rather than going through this process. Nonetheless, I think it is important to keep things clear as to where the legitimate distinctions between the two bills are. I yield the floor at this point.

Mr. WILSON. May I ask a couple questions? How much is provided under the ABC block grant?

Mr. DODD. Under our entire bill, we provide $1.75 bilion, 70 percent of which is mandated—it is not a choice—it is mandated and must go directly to parents and children. And there is 22 percent which goes for supply to increase the availability, and 8 percent——

Mr. WILSON. That is what you are talking about in block grants, 22 percent?

Mr. DODD. Eight percent goes for State administration.

Mr. WILSON. So you are talking about the 22 percent plus 8 percent for administration; is that what you are referring to? I thought the block grant referred to just 22 percent. Thirty percent, so that is not all of the bill, it is just 30 percent of it. We have been talking about block grant, or rather you have been talking about block grant.

Mr. DODD. What percent of your block grant goes directly to parents and children?

Mr. WILSON. All except the block grant to the State, which is just $400 million.

Mr. DODD. No; of the $400 million, do you mandate or prohibit direct payments to families with children?

Mr. WILSON. Not under the block grant proposal because all of the rest of it goes to the parents to make that choice under the tax credit proposal.

Mr. DODD. I will just ask my colleague a question. Do you not prohibit the expenditure of any of your block grant funds directly to families?

Mr. WILSON. The block grant portion is essentially the same percentage as in yours.

Mr. DODD. I am asking whether or not——

Mr. WILSON. All the rest of it goes to the parents in the form of tax credits and that——

Mr. DODD. I am asking a simple question. Do you or do you not prohibit any of your block grant funds——

Mr. WILSON. In the block grant, which is the minor portion of the money, and it is prohibited there for the very simple reason that all of the rest of it goes directly to the parents in the form of a refundable tax credit, not under the ABC bill to a governmental entity that will make that choice for them.

(Ms. MIKULSKI assumed the chair.)

Mr. DODD. Let me make that point here. You do not allow the parents discretion in your alternative. You say categorically shall not use these amounts to make cash payments to or on behalf of intended recipients of child-care services. You absolutely prohibit, you do not even give the States discretion to decide whether they want to help out families. You say categorically you cannot use any of that money to defer the costs of child care. That is the only point I was trying to make in the comparison between the two.

Madam President, I know my colleague from Texas has been anxious to speak.

Mr. WILSON. Madam President, before my friend from Texas is recognized——

The PRESIDING OFFICER. Does the Senator from California seek recognition?

Mr. WILSON. Yes, I do, Madam President.

The point very simply is this. The Senator from Connecticut is talking about block grant. Block grant is a minor portion of his legislation. It is a minor portion of our legislation. The 70 percent that provides the funding directly for child care under the Dole substitute is provided to the parents through the form of a refundable tax credit which means cash, which means they go into the marketplace and they make the choice with the 70 percent. Whereas under the ABC bill, they may get some that way through a voucher, but there is a very good chance that the State government or some other unit of local government will decide that they know better and that they will choose for the parent the kind of child care that their child should have and they will essentially assign that child provider to that parent.

That is not maximum parental choice however you try to frame it, and that is the point. And speaking of flat prohibitions, there is an implicit, an unspoken prohibition in the ABC bill against Federal assistance to the at-home mom who cannot qualify under existing law or under what is proposed for a dependent care tax credit. It is no good to talk of a refundable tax credit to her because she cannot get it because she will not qualify because she is at home rather than purchasing that child care through a provider. She is not going to bill herself, or if she does, IRS is not going to give her a credit. That is precisely what the child supplement to the earned income tax credit under the Dole substitute does provide, so we do have a situation where there is equity and the at-home mother can receive Federal assistance.

I yield the floor to my friend from Texas, and I remark upon his uncharacteristic but commendable patience.

Mr. GRAMM addressed the Chair.

The PRESIDING OFFICER. The Senator from Texas.

Mr. GRAMM. Madam President, I was highly educated by that exchange.

Madam President, I am not going to get into a great debate here about what color this lizard is because it is going to change colors. In fact, I think the plain truth is that this ABC proposal has changed so often that very few, if any, people in the Senate really know what the proposal intends.

Instead, Madam President, I want to debate the fundamental issue, which is not how many hundreds of millions of dollars are going here and there, but the issue underlying the proposal that we have before us.

I want then to discuss our alternatives.

Madam President, I never cease to be amazed at the arrogance of Government. We have a proposal before us today that says, in essence, that both the family and free enterprise have failed, and therefore Government is going to step in and solve our child-care problem with guidelines, with regulations, and with programs.

Now, Madam President, let me first note the fact that this is the same Government that has for 50 years stepped in to solve all of these problems that face our society. This is the same Government which is now going to solve our child-care problem that fought and lost the war on poverty with a welfare program that has destroyed the poverty home, increased dependency, crushed incentive, and made poverty a profession. This is the same Government that has spent billions of dollars on housing projects that have become the center for drug trafficking, and have become the home for the destructive forces that prey on the very people we are trying to help. This is the same Government, through increasing intervention at the Federal level in the last quarter century, that has created an education system that produces results in terms of hard achievement that lag far behind the results being produced in countries that are poor by comparison to America and that invest relatively small amounts of resources to achieve significant results.

Suddenly, miraculously, with this track record of failure, we are now telling the people of America that the family has failed, that free enterprise has failed, but that we will step in and solve the problem of child care.

The paradox of this proposal we are debating is that this movement toward intervention is exactly counter to the movement that is going on elsewhere in the world. All over the world we hear words like "perestroika" and "incentive" and "restructuring," and yet here we are in the Senate talking about expanding the power of the Federal Government into something as fundamental to democracy, and as fundamental to the basic structure of our society as child care. It is a great paradox, Madam President, because the whole world is moving in the opposite direction. In fact, if the Federal Government is the solution to the child-care problem, if something so fundamental as the care and raising of our children can be done better with Federal regulations and Federal guidelines and Federal programs, why are there not protesters in the streets of Washington demanding more Government instead of demonstrations in China demanding less. Why is there not a hew and cry in America for us to expand Government and its miracles into more areas of our lives. I submit that the concept of perestroika has yet to permeate the thick walls of this great historic Capitol in which we serve. It is a paradox that we are debating extending Government power. We are so out of step with what is happening in the world around us that we are, in a country that is the envy of the world, attempting to imitate a system that is failing and being replaced throughout much of the rest of the world.

Madam President, there is an alternative to all of these new guidelines and all of these new Federal directions. I would like to just touch on briefly what I think that alternative is.

First of all, let me note that 115 million Americans are working. That is a larger percentage than can be found in any other nation in the world. Americans are working more productively than any other people in the world. There are 245 million Americans, so that means 130 million Americans are not employed. There are 130 million people in this country who are not employed in the direct production of goods and services in the marketplace for which they are being paid a wage. It is obvious, Madam President, how our Nation takes care of the 115 million people who are employed. They are earning a paycheck and they have the best welfare program that has ever been known; a job. They have the best housing program in the world; they have bought, or will buy, their own homes with their own money. They have the best education program in the world; they save enough money to send their children off to the University of Maryland and University of Texas and Texas A&M and to Johns Hopkins University.

But how do these other 130 million people make it? What happens to them? Well, the vast majority of them, Madam President, are cared for by the 115 million people who are employed. If fact, over 100 million of them are not the direct beneficiary of any Federal or State program that is aimed at taking care of them; 100 of the 130 million people who are not employed in the economy are cared for by the 115 million who are, and they are cared for in the most efficient system that has ever been known in history. The primary driving force behind that system is one of the most powerful forces in the world, and that force is love. The institution that makes it possible is the family. In fact, the great majority of the 130 million Americans who are not employed outside the home are cared for by people who love them who are employed. They need no Government program to induce them to take care of their own families. They do it because they care about their people, and they do it with an efficiency and with sharing and with love that can never be matched by a Government program.

Madam President, it seems to me, having seen the best and the most efficient program that has ever evolved in history, the family, and that miracles are at work in our society and what we need to do if we believe there is a child-care problem is to try to find ways to make it possible for this great and powerful institution that we know as the American family to address the problem.

I think there is still a great fundamental difference in this bill, a fundamental difference between what is left of this ABC bill and the alternative which has been offered by Senator DOLE. I think the difference basically boils down to the parts of the bill that have to do with how we are going to help familes help themselves. Both bills offer tax credits. Both bills have Government programs. The Dole substitute has $400 million worth of programs, basically assistance going to the States. I am under no delusion; most of that money will be squandered. But there is still a fundamental difference, and the difference has to do with the earned income tax credit as opposed to a roughly comparable amount of $1.2 billion that is going to be given to the States and which the States are, in turn, going to give to people.

Now, our dear colleague from Connecticut said, well, all of it is going to the families, or the great preponderance of it is going to go to families, and that is right. All of the earned income tax credit is going to families. Is it more effective to let families keep more of what they earn, and for those who are working and below the threshold we set, to give them additional funds, and let them decide what to do to help their children or is it better to have a Government program brimming with guidelines, whether they are set by the Federal Government or by some commission, whether

we have States set them within Federal guidelines?

Is it better to let families decide how to spend the $1.2 billion, which, after all, they have earned, or is it better to have Government set the directions and the guildelines under which that money is going to be spent? Now, it seems to me, Madam President, that that is the fundamental issue. The issue is, do we know better what is in the interest of the American family than the people who make up that family? One of our colleagues pointed out that if you have an earned-income tax credit and you let the family keep more of what it earns, you have no guarantees that they are going to spend it on education or health care or child care.

Well, Madam President, does Government love America's children more than the parents do? Do we have greater wisdom than is possessed by the 100 million households in our Nation? Are we somehow given wisdom which is lacking in every household in our country?

The fundamental difference here is the difference of approach. One approach emphasizes freedom, and the other approach emphasizes Government. Now, you can point to ways that the bills are similar; you can try to take definitional differences, but when you get down to the bottom line, despite all the effort to change the ABC bill, it is still a bill that, when you reduce it down to the differences, as compared to the alternative being offered, the difference boils down to the Government making decisions, based on guidelines and objectives set at the Federal level, at the State level, by great intellectuals, but not set by the mothers and fathers of this Nation. It is a question of whether you have more faith in the families of America or in the Government of America.

Let me tell you, Madam President, when I have to choose between the American family and government at the Federal, State, and local levels—in fact, all combined—put me down as a guy who long ago decided that there was more wisdom in the collective thinking of families than there is in the thinking of the Federal Government.

Madam President, I am opposed to this ABC bill. It is not as bad as it once was, but it is still poor policy, which, paradoxically, is moving in the direction from which even the Soviet Union is retreating. It is a great paradox, and I conclude on that point, that when the rest of the world is deciding that freedom is the answer, we are in the process of assaulting the greatest institution ever created, the greatest institution that ever evolved, which is the family, and we are placing our reliance not in the family for the care of our children, not in the family for future generations, but in the Government.

Now, Madam President, is there so much more wisdom, at least with the people in China, and even the leadership in the Soviet Union, than there is in the United States Senate, that suddenly we discover in an era of new thinking and perestroika and new ideas that we want to go back and have the Government make decisions that have historically been left to the American family?

I am not saying that there are no child-care problems, but I am saying that the one institution that has consistently done the best job in providing child care is the family. Those nations that have turned their backs on the family have done so at their great peril. When we have to make a choice here, I am going to come down on the side of the American family.

If there is a problem in child care, it is not that the families do not want it; it is because the Government absorbs so much of available income that they cannot pay for it. If we are going to deal with this problem, let us let families keep more of what they earn, so that they may spend it on child care. After all, every dollar we are going to spend here, is a dollar that we will take, ultimately, away from American families.

Now, Madam President, are we to believe that if we take money away from parents and spend it through Government programs on child care, that we could spend it better than the family could spend it, if they kept the money in the first place? I think not.

I know there are many who are hoping that if we reject this substitute, that we can go ahead and vote up the ABC bill, as amended, and then we can go through and amend it a hundred and one times and end up basically with the Dole substitute. That may not happen. I submit that we may end up with a bill that we do not want, a bill that will do harm to the greatest institution of our society, which is the family. I think we should be very careful in these areas, that when in doubt, we ought not be tampering with the greatest institution in our society.

I yield the floor.

Mr. ROTH addressed the Chair.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. ROTH. Madam President, there is nothing so promising as bringing together the wisdom of age and the future of youth. This chamber often turns its attention to these two important segments of our society—calling our older Americans our Nation's most important resource and our children our hope for the future.

Today I rise to support a provision of the republican package that facilitates the interaction of the two through child care. It is a provision to exempt child-care earnings from the Social Security earnings test for Americans age 65 and older.

As many of your may remember, I first proposed a version of this provision last Congress in my own child-care initiative, and now I'm delighted that with the efforts of my distinguished colleagues, Senators ARMSTRONG, WILSON, and a number of other cosponsors, we have successfully included this important provision in the Republican child-care package.

Among the other cosponsors of this provision, as an independent measure, have been Senators COATS, D'AMATO, GORTON, MACK, BOSCHWITZ, MCCAIN, GRASSLEY, as well as Senators ARMSTRONG, WILSON, and myself.

The concern for quality child care has become an important issue in recent years—and with good reason. As the demand for quality and affordable child care grows, there is a corresponding increase in the need for qualified providers. And of course, among those most qualified are our older Americans—those vital members of our society who have raised their own children and helped raise their grandchildren—two, sometime three, generations of Americans.

Fortunately some of these Social Security recipients have already joined the much needed child-care force, moving into a second career in this area. To these people we are grateful—especially grateful that they have chosen to do so even when it proves detrimental to their Social Security status.

However, there are many more who are reluctant to enter this rewarding field because of the sacrifices demanded by the earnings test under current law—a test that requires Americans between the ages of 65 and 69 to sacrifice $1 in Social Security benefits for each $2 in earnings that exceeds a specified earnings limit. Although the penalty next year is scheduled to decrease to $1 in benefits for each $3 earned above the limit, the disincentive will remain unless we change it.

Madam President, this is the purpose of our provision.

Simply put, the Roth-Armstrong-Wilson plan will remove the disincentive under current law and allow our seniors, 65 and older, to work as child-care providers without sacrificing any of their Social Security benefits. Fortunately for those families depending on them, there are a number of seniors already working in child care. My provision would doubtless encourage many more to become involved.

At the same time as it helps respond to the need for qualified child-care workers, our plan will enrich the lives of both senior citizens and children, promoting a valuable interaction between the generations.

I emphasize that there is a shortage of qualified child-care workers, and

what my amendment would do is to permit us to tap a tremendous resource. Madam President, there was a time in this country when a typical child grew up in the same house, or at least close by, to his or her grandparents. Sadly, those days have passed. Society has truly lost something when the young and old are separated. The Roth-Armstrong-Wilson provision is one way to bring children and seniors together again.

And what is even more attractive about our plan is that for all it accomplishes, its cost is relatively modest. The CBO has estimated that exempting senior child care workers from the earnings test would cost $15 million in fiscal year 1990 and eventually rise to $20 million in 1994. What's more, Senator ARMSTRONG has identified a mechanism to offset the entire cost of the provision, simply by slightly changing the system for repaying Social Security recipients for underpayments. Here alone, enough money can be saved to finance the earnings test exemption for child-care providers.

As you can see, this plan is good. It is good for our older Americans, good for our children, and good for a Nation that is presently crying out for quality care in this most important area. It will remove disincentives. It will provide solid alternatives for parents. And perhaps most importantly if will span the gap between two American generations with a bridge of insight and understanding that will long benefit our country.

Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Ms. MIKULSKI. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. DODD). Without objection, it is so ordered.

Ms. MIKULSKI. Mr. President, I would like to talk a little bit about the ABC child-care bill and share with my colleagues in the Senate an interesting experience I had this morning.

As many Members of the Senate know, I live in Maryland and I commute every day. It is indeed a blessing because that way I can be right there with my constituents and be able to hear their day-to-day needs and their concerns about what we are doing.

This morning I got up early and I was taking a walk around my neighborhood in Baltimore called Fells Point. It was about a quarter of 7. Fells Point is a neighborhood down by the waterfront.

I came upon the area where they are doing some remodeling. A construction crew was out there working and they were yelling "Hi, Barb," and so on.

One of the construction workers, a black man, said: "Senator, Senator, I want to talk to you a minute."

"Sure," I said. "What can I do for you?"

He said, "I want to talk to you about the ABC bill."

Let me tell you I was absolutely surprised. Many of my constituents say "I want to talk to you about care for the elderly." Very few people talk about a specific bill. So I was absolutely surprised.

I said, "Sure. What do you want to know about the ABC bill?"

"Well," he said, "I have been listening to those talk shows and I am scared to death. Is Government going to tell me how to raise my children?"

And I said, "Absolutely not. Where did you hear it?"

Well, it seems he has been listening to some of the late night talk shows and you would not believe, Mr. President, what that man's picture of what the ABC bill, was, full of myth, full of misguided information. He thought that Government was going to tell him how to raise the kids, and that we would tell them where they had to take their kids.

And I said to him:

First of all, thanks for stopping me, and it is our position, Senator DODD, Senator HATCH, your Senator here, BARB MIKULSKI, Senator PAUL SARBANES, we happen to believe that the best child care is what a mom and dad gives you and that moms and dads are the ones to say what kind of child care kids should have, what kinds of things they should be taught in the home, what kinds of prayers they should say. That comes from moms and dads.

And he said, "Well, the way they talk about it on the talk show, it sounded like some kind of communism to me."

I said, "Sir, the ABC bill is not kiddie-care communism. Far from it. In fact, what it is, is the ability to provide for an opportunity."

I talked to him a little bit more and I found out, yes, indeed, his wife works and they do need child care, and they turn to a grandmother. I assured him that under our legislation of the ABC bill family members qualify for the program, that if he chose to use his church, the AME church, he could certainly use that or if there was a private sector facility, he could do that.

We talked for about 10 minutes, Mr. President, and at the end he shook my hand, went off to pick up his hammer and his shovel and he said, "Senator MIKULSKI, thanks for setting the record straight."

Well, I thanked him for asking the questions.

And in the conversation, now, I would like to set a little bit more of the record straight because if that man did not get the facts straight, I believe a lot of my other constituents in Maryland and this country also do not have it straight.

One of the things that I want to get straight is not only what our bill does but what the Dole substitute does.

First of all, very few people realize that the substitute that is being offered only cares for children up until the time they are 5 years old.

Mr. President, I do not know about the kids in other States, but my 5-year-olds cannot make it on their own. They do not get up in the morning, pick up their briefcases, get out there on the Baltimore Beltway and go to work. They are little kids. You need day care when you are 5, you need day care when you are 7, you need after school supervision when you are 10 or 11.

That is why something that only helps a kid up to 4 leaves an age gap of about 10 years.

The other thing that the substitute does not deal with is safety and supply. I am not going to get into the supply issue, but I do want to focus on safety, Mr. President.

Parents wonder and worry about safety. Everywhere I go parents talk to me about safety. They are worried about Alar in apples. They are worried about radon and asbestos in school. They are worried about drug dealers and porno predators on the street. They are worried about the safety of their children.

They want safety. They demand safety, and they want us to do something about it. They want us to do something in cooperation with that.

Mr. President, what are we talking about when we talk about safety standards under your bill, the bill that you worked on so carefuly over many months, working on a bipartisan basis with our colleague, Senator HATCH?

First of all, we agree we do not want kiddie-care communism and we sure did not want kiddie-care OSHA, but we did want safety standards.

We are talking about building safety. We are talking about staff ratios. But we are talking about commonsense approaches.

We do not want to see our kids falling down wells like little Jessica McClure.

We do not want to see 20 kids in a basement with no windows and no supervision. And time after time I have listened to the debate now about Government intervention.

Well, Mr. President, Government is already involved in safety. When a child's dad goes to work there are safety standards in his factory. When a mom goes to work in a nursing home or a hospital, there are safety standards for the workers and for the patients. Certainly when a child walks into a day-care center there should be the same kind of safety standards for the child as there are in a factory.

Our children have the right to the same kind of protection as a worker in factory.

Mr. President, just like I said to a gentleman this morning when I walked around Fells Point in my own home neighborhood: I want to set the record straight. We have a real good bill here and what we are talking about is not some new Government program but really a Government opportunity, an opportunity so that when people go out there and work, put on their socks every day and just get out there and try, that they do not have to wonder what is going to happen to their children.

We have come up with a modest approach that provides day care in a way that makes it available, affordable, competent and safe. I would like to congratulate the architects of this bill, Senator DODD, Senator HATCH of Utah, and or colleagues, Senators BENTSEN and MITCHELL.

I am happy to support this bill. As we try to set the record straight, I would really caution people very carefully about the negative consequences of the Dole substitute.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Colorado.

Mr. ARMSTRONG. Mr. President, I rise to join my colleague from Delaware [Mr. ROTH] in pointing out a provision of the pending Dole et al., substitute that is especially close to my heart. It is, in substance, a proposal which was introduced first by Senator ROTH and Senators JIM EXON, PETE WILSON, AL D'AMATO, and I and some others, which really goes right to the heart of this whole child care issue, but also brings into perspective another very closely related matter which I hope will be the subject of thought and consideration in this Chamber, not only today but over the next several months, and that is the question of the Social Security earnings limit.

Mr. President, I have spoken about the earnings limit on a number of occasions. I guess it will come as no surprise to a number of my colleagues that I think the Social Security earnings limit is about the most anachronistic, unfair, burdensome provision of the Social Security law. I think probably every Senator knows how it works, but just to recap it briefly: If you are in the affected age bracket, that is from age 65 to age 69, you have to give back $1 for every $2 that you receive in earnings above $8,800 per year. That amount is scheduled to go up slightly and the formula, the match is scheduled to change from 2 to 1 to 3 to 1, so it will become less burdensome in the future.

But at the present, as it now stands, it means that if someone is retired, drawing Social Security, and holds a part-time job or maybe even desires to hold more than a part-time job, that they literally are subject to a tax burden of upward, in many cases, of 80 percent.

Here is how that works. First, they have to give back 50 cents of every dollar they receive as a give-back on their Social Security. Then they pay their Federal income tax which might be 15 percent. It might be up to 28 percent. Then they have State income tax, payroll taxes, and then of course the cost of performing their employment, transportation, and other things. They very easily could face disincentives upwards of 100 percent and in some cases we know that happens.

Obviously this is unfair. What does it have to do with child care? Well, the Roth-Armstrong-Wilson-Exon-D'Amato amendment which has been incorporated by Senator DOLE into the proposal which he is advancing simply provides that the Social Security earnings limit will not apply to those earnings which are derived from the provision of child care. It is a neat solution not only to an injustice for a certain group of people under the Social Security earnings limit but it will also make available child care that would not otherwise be available from a group of people who are well positioned both by experience and time to do so.

Mr. President, I will send to the desk and ask that we have printed in the RECORD just for the reference of Members a brief description of the Roth-Armstrong-Exon-Wilson-D'Amato-Gorton amendment which has been incorporated by the Republican leader into his amendment. My fact sheet discusses in greater detail why we think this concept is good soicial policy, why it will be helpful in providing high-quality child care for people around the country, and gives the detail about the earnings limit as it now exists.

I now ask unanimous consent the material be printed at this point in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

THE ROTH-ARMSTRONG-WILSON AMENDMENT

CURRENT LAW

Under current law, senior citizens between age 65 and 69 who wish to earn income as child care providers (or in any other field) face sharp reductions in their monthly benefits if their earnings exceed a specified amount. For 1989, the exempt amount is $8,880. Those earnings above this limit will receive a cut in Social Security benefits of $1 for each $2 of earnings above the limit. Although in 1990 the ratio improves slightly to a cut of $1 in benefits for every $3 they earn above the limit, for many seniors, a loss of benefits would offer little incentive to pursue employment opportunities. The earnings limit poses a particularly strong work disincentive to those interested in typically low-wage fields such as child care.

THE AMENDMENT

The amendment would exempt child care earnings from the Social Security earnings test for workers age 65 and older. For the purposes of the amendment, the definition of child care services includes direct services on a person-to-person basis and indirect services to assist parents such as resource and referral providers.

According to the Congressional Budget Office, the cost of this amendment would be $15 million in the first year (FY 1990) and $85 million over five years.

WHY THIS AMENDMENT SHOULD BE ADOPTED

It provides a solution to two serious problems. Within the last several decades, the trend away from the extended family and an age-integrated society and toward the nuclear family and an age-segregated society has been significant. With the increasing prevalence of this nuclear family, opportunities for frequent interaction between the young and old have diminished. Most would agree that we need to alleviate both this separation among the generations and the unfair burden placed on the elderly by the earnings limit.

CBO estimates that the amendment will immediately help 14,000 senior child care providers. This amendment will help ease the shortage of quality childcare providers in the industry, and reward those who offer their important talents to the child care industry.

The amendment is good social policy. The earnings limit imposes a strong disincentive on elderly who want to continue working. By removing the earnings penalty for elderly in professions that perform child care services, we encourage the marriage of two of our nation's most valuable resources, our children and our elderly. In this action, everyone benefits.

The exemption from the earnings limit would be targeted at a traditionally low-wage profession. According to the Department of Labor, the average child care service provider earns between $8,000 and $12,000 annually. Although every profession can benefit from the expertise and talents of elderly workers, it is hard to imagine a field better suited to our nation's seniors than child care.

The mechanisms for administering this change in policy are already in place. Currently, employers provide to the Social Security Administration information on the wage earnings of Social Security eligible employees. Wages earned in providing child care services could be easily reported separately on the same form. These earnings, then, would be simply excluded from the calculation of total wage income for the purposes of the earnings test.

The earnings test, itself, is bad labor policy. Many of our elderly are caught in the earnings test trap; faced with 50 percent benefit cuts if they continue working, they have been driven out of the workplace. Currently, 83 percent of all men and 92 percent of all women age 65 and over are completely retired. Between 1970 and 1985, the retirement rate among those 65 years old has increased by 40 percent. In the face of the labor shortages economists are now predicting for the United States, this problem takes on new dimensions.

The earnings test is outdated. Many elderly citizens, while ready to reduce their work activity, either cannot afford or do not wish to withdraw completely from the workforce. Many desire to remain active. Some need additional earnings to meet living and

health care expenses at a time when their principal sources of income are fixed. By exempting those in a specific field from the earnings test penalty, we are saving at least some of our seniors from an anachronistic, negative social policy. By targeting the child care profession in particular, we are doing much more—we are taking one step forward.

Mr. ARMSTRONG. Mr. President, I am not here to belabor the issue. I hope it will be adopted as part of this amendment and then on another occasion I will be back to disucss the broader implications of the Social Security earnings limit in the hope we can amend or lift or at some point even abolish it as it relates to the other occupations as well.

I thank the Chair.

Mr. KASTEN. Madam President, I rise today in support of the Dole amendment because I believe that this approach will provide quality care for the children of America.

Madam President, the Dole amendment will incorporate the three basic principles that I feel are important in ensuring quality child care. Those principles are: First, broadened parental choice; second, nondiscrimination against stay-at-home parents; and third, targeting of assistance to the families that need it most.

First, we have to maximize parental choice. Parents are, after all, the best judges of the quality of child care, and of the interests of their children. A refundable tax credit targeted toward lower income families provides the greatest direct benefit to families most in need, while assuring flexibility and parental choice.

Churches, neighbors, friends, and family members play a vital role in providing child care. Federal policy should expand the range of choices available to parents, and not funnel them through a biased Federal support system toward a particular kind of care. Regrettably, the ABC bill minimizes parental choice by requiring Federal and State bureaucracies to decide the type of child care that will be provided, where it should be provided, and which families ought to receive assistance.

The ABC bill also requires training programs for child care providers, even for family members. Grandmothers would actually be required to undergo training to care for their own grandchildren.

The Dole amendment expands upon the current Social Services Block Grant Program. In fiscal year 1988 States spent more than $500 million of their SSBC funds on child-care programs. Under the SSBC Program, States may use their grants for such child-care programs as consumer education, enhanced enforcement of standards, as well as training and technical assistance to providers.

Second, we should not discriminate against parents who choose to stay at home—those families that have chosen to sacrifice a second income in order to permit one parent to stay at home to care for the children. The ABC bill would not give assistance to any of the approximately 56 percent of children in this country under the age of 4 whose mothers stay at home to care for them.

The Dole amendment takes into account the sacrifices of these mothers and provide an earned income tax credit for them.

Third, those families most in need should be targeted for assistance. While the rhetoric surrounding the ABC bill is raising the expectations of families with some 18 million children, a mere 1 million children—at best—will get assistance under the ABC bill. Parents with the lowest incomes will thus have the fewest options for child care.

The shortage of quality child care is one of the most important problems facing America. That's why I support a refundable tax credit approach that embodies the three major principles I have mentioned, principles that will help us deal with this problem in an adequate and effective way. Because the ABC bill is fundamentally flawed, simply adding a tax component to it is not sufficient.

Madam President, I urge my colleagues to join me in supporting the minority leaders' amendment.

Mr. DODD. Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Ms. MIKULSKI). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. COCHRAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. SANFORD). Without objection, it is so ordered.

Mr. COCHRAN. Mr. President, I am here on the floor to express my support for child-care assistance for our Nation's low-income families. But I am also here to suggest that there is a better way to provide such assistance than S. 5.

I say that because I believe this debate should focus on two fundamental propositions. The first is that parents know what best meets their child-care needs, and whatever we do at the Federal level ought to enhance their choices. Second, the States are competent to license and regulate child care and do not need Federal guidelines that in any way complicate their efforts.

If we agree that our approach ought to be consistent with these fundamental points of view, we are led to conclude that the alternative now before the Senate is the best bill the Senate could enact to help those who need Federal financial assistance to pay for dependent care services for family members.

I think we should all agree that parents understand, better than the Government, their own family needs, their schedules, their financial situation. Many have access to neighbors and relatives who can and do provide child care assistance in ways that provide flexibility for parents and more intimacy in the relationship between care givers and children.

Other parents prefer local child-care centers, where there is more diversity and structure for the child and, perhaps, specialized child development education programs. Others prefer religious day-care programs, where children are exposed to religious values and teachings.

Many mothers choose to stay home and care for their children themselves. This choice is not easy for low-income families, but it is being made by a greater number than many realize, and families making that decision should not be left out.

These diverse child-care preferences cannot be placed in carefully defined, neatly categorized compartments and dealt with in a one-size-fits-all piece of legislation. There has to be flexibility in any program we enact.

Some studies, for example, suggest that what is best in these modern times are state-of-the-art child-care centers that provide so-called scientific child care. Other studies have concluded the best day care requires large doses of custom-made love that can come best from mothers, fathers, grandparents, and other relatives.

These differences of preference lead me to believe that the Federal Government should be very cautious as it attempts to help families with their child-care needs. It seems to me that the most effective and least obtrusive help would be more money for individual families to address their own particular child-care needs as they see fit, not as we see fit here in Washington.

The simplest way to do this would be through the Tax Code. Working families are trying as best they can to live on the income they earn each week. Why not simply decrease their Federal tax liability so they will have more income to spend on child care? If they do not earn enough to pay Federal income taxes, why not approve a tax credit that is refundable, so they will have additional funds to obtain assistance in dealing with their dependent care needs in the way that they choose, perhaps to help pay the costs incurred by a relative or to compensate a mother who decides to forego a job and deal with this problem on a personal basis, maybe by taking in neighborhood children?

Mr. President, I think that is a better way to get real help to the people who need it most. Why does the Federal Government need to collect taxes from all of these families,

and then give it back to some of them? I think that is what the committee bill would really do. The committee bill would not generate enough money for everybody who needs assistance. Many of the same families who could be helped through the Tax Code would not be reached by the tax-supported direct services contemplated in the bill reported from the committees.

The committee bill could be a needless complication and a less effective way to help most needy families. In the alternative legislation, however, tax credits, expanded earned income tax credits, and a refundable dependent care tax credit would allow families to keep more of their income and to enhance their child-care choices. That, Mr. President, is very appealing to me. That is why I am supporting the alternative now before the Senate.

I am also concerned, as I mentioned at the outset, with the fundamental value this Senator places on the power of the States to do the things they do best. I am not convinced the Federal Government would do a better job of regulating existing day-care facilities than State governments. I know the revised bill replaces mandated Federal standards with so-called model standards. If the States have to compare themselves with these standards on a continuing basis, however, it is only a matter of time before the model standards become mandated standards.

Are we telling our States that they are not up to the job of supervising what is best for the children who live in their States?

My State of Mississippi has had child-care licensing standards since 1972, and revisions have been made from time to time. In light of the growing child-care problem, a Governor's task force on child care was created to study our State's needs and to recommend policies on accessibility, employer support, and service quality.

Many long hours of work and study resulted in a long list of recommendations, and implementation efforts are now underway in Mississippi to put these in place, through improved legislation, administrative modifications, and attractive incentives for employers.

Federal Government guidelines contemplated by the committee bill may conflict with recommendations by the Mississippi task force. What if the guidelines complicate and unnecessarily burden the efforts already underway? They may lessen the availability of services and facilities, and they are the wrong signals for the Federal Government to give at this time.

In closing, Mr. President, I think that, given the fact that we do not need a new program, we need to expand the dependent-care block grant program. The alternative legislation expands this $11 million program to a $400 million program, and that would be an important positive step.

Such an expansion would enable States to establish low-interest-rate loan programs for day-care service providers. Such loan programs would enable providers to improve, upgrade, or expand their facilities.

I think that is an important part of this alternative, and it would be an important improvement over the current situation. Additional funds in my State could create resource and referral services to help parents in all parts of the State to locate appropriate quality child-care assistance. They could be used to develop a comprehensive plan for determining the need for child-care services or for the delivery of those services.

Mr. President, I think I have illustrated my points. First, parents know what is best for their own children, and they know best what their own child-care needs are. Our program should enhance those parental choices.

Second, the States are competent to regulate child care. We should not impose cumbersome regulations on the States as they work to address the need for improved child care for their children.

The PRESIDING OFFICER. The Senator from Nebraska is recognized.

Mr. KERREY. Mr. President, I have listened to my distinguished colleague, the Senator from Mississippi, on the points raised by him and earlier, by the Senator from New Mexico. I acknowledge most of the observations that both individuals make.

We should be concerned about imposing a mandate upon States.

Having lived and served as a Governor in the past, living with Federal mandates in the past, I am very much concerned about imposing upon States additional costs for which we provide no resources.

In the 100th Congress, this Congress passed a bill called welfare reform. It imposed costs upon the States. Congress also passed a bill to regulate nursing homes. It imposed costs upon the States.

And in my discussions with Governors in referencing the original ABC bill, there was a considerable amount of concern. The Governor of New Jersey, the Governor of Arkansas, the Governor of Iowa, and the Governor of Virginia were very much concerned about the original ABC bill that it was doing exactly what the nursing home regulation bill did, what the welfare reform bill did, and that is to essentially impose additional costs upon those States.

I would simply say that the individuals who are now standing and expressing that kind of concern about the ABC bill expressed similar concern about the welfare reform bill and nusing home bill, and if they did not get those concerns resolved last year they voted against that legislation because they imposed costs upon the States, considerable amount of costs. Because of our concerns for people in the nursing homes and because of our concern for people on welfare, trying to help them get off the welfare rolls, we imposed costs upon each and every one of the States.

I talked with the Senator from Connecticut and the Senator from Utah about the concerns that the States had because they asked me as someone who had indicated I was going to support ABC to try to see if I could get the NGA support, and they were concerned about this imposed standard, and the Senators from Connecticut and Utah made that change.

I find this concern for the States to be a legitimate and reasonable concern, but I am fearful that in this particular argument it is being thrown up almost as a red herring and not consistently applied to other legislation and not consistently applied in looking at what the distinguished Senator from Connecticut has done to make this bill work.

I am comfortable that it will work, that it gives governors a considerable amount of flexibility that they need to raise the child-care issue up. It does not cut across the State's authority to establish regulations at all, particularly in those States where regulations exist and even in those States where regulations do not exist. The State of New Jersey has 43,000 unlicensed child-care facilities. I will guarantee you the Governor of New Jersey would not be in support of this legislation if he felt it was going to impose an unbearable cost upon his people.

He, in fact, I am sure has done quite the same as I and a number of other people have done, seeing the urgency to be so great that they overcome many minor reservations that they had.

In addition, Mr. President, another thing that I would point out to I know many of my colleagues who are still uncertain as to how to vote, and that is it seems to me that what we are trying to do with this legislation is essentially reinforce what the people themselves are doing.

At home, I have a couple of rather unusual groups that are criticizing me, saying I am trying to take away the choice of parents, that I am trying to bring Government into families and break up families. Nothing could be further from the truth. In fact, it is just the opposite.

This is what families are doing. They are choosing child care already, long before we ever considered this legislation. They are out there today in the United States of America loving, caring parents. I agree with the Senator from Mississippi. The parents'

love is primary. That is the best care that we could provide—loving, caring parents, who are choosing to work, both parents choosing work, are looking for care for their child while they are working. That is the reason that we are acting on this particular legislation.

We are not trying to impose something here.

Over the past 10 years there has been an enormous acceleration of the movement of women into the workplace, from 30 to 50 percent, not because the Senator from Connecticut or the Senator from Utah imposed something with this legislation. They are doing it on their own. They are making choices for a variety of reasons, some of them altogether good, some them uncomfortably bad, some of them that make us uncomfortable in fact.

There are an awful lot of us who supported an increase in the minimum wage precisely because we are concerned that individuals are having to make a choice to work because the minimum wage does not provide a sufficient reimbursement to enable them to care for their children and without both mother and father out in the workplace. The people are already doing this. This is government trying to catch up with the people, not government trying to get ahead.

The people of the United States of America are already choosing to put their children in care.

I would finally point out something that I think the Senator from Connecticut did awfully well but cannot be stated enough. There is concern and I have heard the concern expressed again by the Senator from Mississippi that we ought not to provide legislation that would unnecessarily regulate the behavior of Americans. I agree with that. We ought to apply I think the same standards that we put when we are concerned about people getting haircuts, going into business, getting their dogs taken care of, going to select nursing home care for their parents. The same level of concern and the same response in those instances ought to be applied for child care. Parents are very much concerned about the quality of care and they do, in fact, have a difficult time measuring whether or not that care is good, and most of the States have already responded.

The Senator from Mississippi says Mississippi having acted in 1972 is likely to be ahead of most of the States, and Nebraska had no difficulty with the earlier standards that were in the earlier ABC bill.

I was in full support of it at this point because of that. Most of the States have already applied regulatory standards so as to be able to address concerns, again not concerns that are directed top down from Washington, trying to figure out what the quality ought to be inside of the nursing home, but from the people themselves who are making that choice who are already out there.

We are not splitting up families. In my judgment, we are helping families stay together. Families are already looking for care in this particular way.

This bill is urgently needed. It will not solve all the problems. It does not provide all the money. It is insufficiently funded much the same way many other things that we do around here are insufficiently funded.

I have told many of the advocates of child care in my State that they would be better off incorporating as a savings and loan today and going out and taking some $100,000 brokered CD's and then go out and get the Government to pick up the tab for them. It is much easier to get funded that way today than it is coming in and saying all we are trying to do is come in and take care of our children.

I believe this particular piece of legislation needs to be passed and passed quickly. And then we need to work with the States to make sure we take the next steps and work with out Governors that we charge with responsibility of assigning the legislation to the Department of Social Services, the Department of Education—setting up a new board so as to elevate this issue even further; work with the Governors, establish those links that will enable us to respond with what the people themselves are doing now.

It is not us imposing. It is us trying to catch up. And we have a long way to go, it seems to me, Mr. President, if we are going to catch up with what the people of the United States of America are trying to do with their children. I yield the floor.

The PRESIDING OFFICER. The majority leader.

UNANIMOUS-CONSENT AGREEMENT

Mr. MITCHELL. Mr. President, after extensive consultation with the distinguished Republican leader and the several interested participants in the underlying legislation and the various amendments that have been considered, I am prepared to propound a unanimous-consent request regarding the disposition of the pending amendments and of the nomination of Chic Hecht, to be Ambassador to the Bahamas.

Accordingly, Mr. President, the distinguished Republican leader now being present, and the manager of the bill, I ask unanimous consent that when the Senate recesses today, it stand in recess until 10 a.m. on Thursday, June 22; and that following the time for the two leaders, there be a period for the transaction of morning business not to extend beyond 10:30 a.m. with Senators permitted to speak therein up to 5 minutes each; and that at 10:30, the Senate resume the consideration of S. 5, the child-care bill and the Dole amendment to the Mitchell substitute amendment for 1½ hours of debate, with 1 hour under the control of Senator DOLE and 30 minutes under the control of Senator DODD, or their designees; and that a vote occur on the Dole, and others, perfecting amendment to the Mitchell substitute amendment No. 196, as amended, at 12 noon on Thursday, June 22. I further ask unanimous consent that no intervening amendment, modification, motions, or divisions of the amendment be in order prior to the vote on the Dole amendment.

I further ask unanimous consent that if the Dole amendment is defeated, that the Mitchell amendment be voted on immediately thereafter with no intervening amendments, modifications, or motions in order prior to that vote; and that if the Mitchell substitute is adopted, it be considered as original text for the purpose of further amendments.

I further ask unanimous consent that if the Dole amendment is agreed to, it be in order for the majority leader to offer the text of his amendment No. 196, as amended prior to the adoption of the Dole amendment, as a substitute amendment for the Mitchell substitute as amended by the Dole perfecting amendment; that it be considered and voted on at 2 p.m. Thursday without any intervening amendment, modification, or motion with the time prior to the vote being equally divided; and that, if this substitute is adopted, the Mitchell amendment No. 196, as amended be voted on immediately, without any intervening action, and that if it is then agreed to it be considered original text for the purpose of further amendment.

I further ask unanimous consent that any remaining debate for today, between now and 7 p.m. be divided with Senator DOLE controlling two-thirds of the time and Senator DODD controlling one-third of the available time.

I further ask unanimous consent that no points of order lie against any of the amendments covered by this consent agreement.

I further ask unanimous consent, as if in executive session, that the Senate proceed in executive session on Tuesday, July 11, at 9 a.m., to consider the nomination of Chic Hecht to be the United States Ambassador to the Commonwealth of the Bahamas, and that a vote on the confirmation of the nomination occur on Tuesday not later than 7 p.m.

The PRESIDING OFFICER. Is there objection?

Mr. DOLE. Mr. President, reserving the right to object, and I shall not

object, I have no problem with the agreement. It is one we have been working on. I must say, as a matter of fact, that I would hope we could dispose of the Hecht nomination prior to our recess. If that is not possible—I have discussed it a number of times with the majority leader, with Senator REID from Nevada—I have just spoken again with Senator Hecht by telephone. He understands we are now entering into this agreement and he has no objection. If he had one, it is probably not material but from my standpoint I know he is going to be just in limbo for 2 more weeks for no real good reason, but I have no objection to the agreement.

Mr. MITCHELL. Mr. President, I will review my request and then I will comment.

The PRESIDING OFFICER. Is there objection? If not, it is so ordered.

The text of the agreement is as follows:

Ordered, That at 10:30 a.m. on Thursday, June 22, 1989, the Senate resume consideration of S. 5, a bill to provide for a Federal program for the improvement of child care, and for other purposes, and that debate on the DOLE, et al., perfecting amendment to the Mitchell substitute amendment No. 196, as amended, be limited to 1½ hours, with 1 hour to be under the control of the Senator from Kansas [Mr. DOLE], and 30 minutes to be under the control of the Senator from Connecticut [Mr. DODD], or their designees, with the vote on the Dole perfecting amendment to the Mitchell substitute amendment No. 196, as amended, to occur at 12 noon, Thursday, June 22, 1989, with no intervening amendment, modification, motion, or division of the amendment to be in order prior to the vote on the Dole amendment.

Ordered further, That if the Dole amendment is defeated, the Mitchell amendment be voted on immediately thereafter, with no intervening amendments, modifications, or motions in order prior to that vote: *Provided,* That if the Mitchell substitute is adopted, it be considered as original text for the purpose of further amendments.

Ordered further, That if the Dole amendment is agreed to, it be in order for the majority leader to offer the text of his amendment, No. 196, as amended prior to the adoption of the Dole amendment, as a substitute amendment for the Mitchell substitute as amended by the Dole perfecting amendment, and that it be considered and voted on at 2 p.m. on Thursday, June 22, 1989, without any intervening amendment, modification, or motion, and with the time prior to the vote to be equally divided: *Provided,* That if this substitute is adopted, the Mitchell amendment, No. 196, as amended, be voted on immediately, without any intervening action, and that if it is then agreed to, it be considered original text for the purpose of further amendment.

Ordered further, That no points of order lie against any of the amendments covered by this consent agreement. (June 21, 1989)

Mr. MITCHELL. Mr. President, I thank the distinguished Republican leader. As he indicated, we have been discussing these matters, now, for some time, culminating in this agreement. One of the matters which we have discussed at some length has been the pending nomination of former Senator Hecht.

Senators BRYAN and REID, the two Senators from Nevada, have been actively engaged in urging prompt consideration and approval of Senator Hecht's nomination. They have discussed the matter with me several times. Senator REID spoke by telephone with former Senator Hecht and I believe that Senator REID also spoke with Senator DOLE and myself. In an effort to accommodate their concern for prompt approval of the Hecht nomination, we have reached this agreement.

I have been able to obtain approval to begin consideration of the Hecht nomination this week, after completion of action on the child-care vote, but could not obtain approval for final disposition of it until the Tuesday following the recess. Under those circumstances, it was determined by agreement between the distinguished Republican leader and myself that it was best to simply put the entire matter over until then and vote on it on that day. So I am pleased that we have reached an understanding and that nomination of former Senator Hecht will be disposed of on Tuesday, July 11. And we hope it will be not later than 7 p.m. on that day.

I want to thank Senator DOLE for his consideration of this matter as well as Senators REID and BRYAN, who have been actively pursuing getting this matter disposed of favorably as soon as possible.

Mr. DOLE. I want to confirm, at least as far as Senator REID is concerned, we have had a number of conversations. We have been very diligent. He has been doing the best he could, and I thank him for his cooperation, and I am certain Senator BRYAN has, too. I just talked to him. I know they both support the nomination and both speak in behalf of the nomination. The nomination will be confirmed. I assume it will not take 10 hours on that Tuesday but it says no later than 7, and I would assume if we complete action earlier, we could probably go on to some other business.

So, I thank the majority leader.

Mr. MITCHELL. I thank the distinguished Republican leader.

Will the distinguished Senator from New Jersey withhold for one moment so we can proceed to two other nominations, to their confirmation, which have also been unfortunately delayed for a lenghty period of time?

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate go into executive session to consider Calendar item 112, nomination of Joseph V. Reed, to be Chief of Protocol, and Calendar item 140, the nomination of Peter Secchia, to be Ambassador to Italy.

There being no objection, the Senate proceeded to the consideration of Executive business.

The PRESIDING OFFICER. The nominations will be stated.

AMBASSADOR

The assistant legislative clerk read the nomination of Joseph Verner Reed, of Connecticut, for the rank of Ambassador during his tenure of service as Chief of Protocol for the White House.

The PRESIDING OFFICER. Without objection, the nomination is considered and confirmed.

Mr. MITCHELL. Mr. President, I move to reconsider the vote by which the nomination was confirmed.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the President be immediately notified of the confirmation of this nomination.

The PRESIDING OFFICER. Without objection, it is so ordered.

DEPARTMENT OF STATE

The legislative clerk read the nomination of Peter F. Secchia, of Michigan, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Italy.

The PRESIDING OFFICER. Without objection, the nomination is considered and confirmed.

Mr. MITCHELL. Mr. President, I move to reconsider the vote by which the nomination was confirmed.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the President be immediately notified of the confirmation of this nomination.

The PRESIDING OFFICER. Without objection, it is so ordered.

LEGISLATIVE SESSION

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

CHILD CARE IMPROVEMENT ACT

The Senate continued with the consideration of the bill.

Mr. BRADLEY addressed the Chair.

The PRESIDING OFFICER. Who yields?

Mr. BRADLEY. Will the distinguished Senator from Connecticut yield time?

Mr. DODD. How much time does the Senator need?

Mr. BRADLEY. No more than 10 minutes.

Mr. DODD. I will be glad to yield 10 minutes.

Mr. MITCHELL. Mr. President, will the distinguished Senator yield briefly for an announcement?

Mr. BRADLEY. I will be pleased to yield to the majority leader at any time if he requests such a courtesy.

(Mr. KOHL assumed the chair.)

ORDER OF PROCEDURE

Mr. MITCHELL. Mr. President, in view of the agreement which has just been entered into regarding votes on the pending amendments, there will be no rollcall votes this evening. The Senate will continue in session until 7 o'clock for debate on the pending matter. We will return to this bill at 10:30 in the morning and voting will commence at noon. So Senators should be aware that beginning at noon tomorrow and continuing possibly very late tomorrow and Friday, there will be rollcall votes.

I repeat what I have said publicly many times so that Senators will be well aware and on notice of my intentions. It is my intention to remain in session until we complete action on the child-care bill. I hope we are able to do so by Friday close of business, which is the scheduled time for the commencement of the Fourth of July recess. However, if we are not finished by that time, we will stay here until we finish—Friday night, Saturday, Sunday, Monday, Tuesday. For however long it takes, the Senate is going to remain in session until we complete action on this child-care legislation.

I urge Senators to be present, to be prepared to offer their amendments, to be prepared to cast rollcall votes and I hope cooperate in enabling us to both complete action on this important legislation and leave for the Fourth of July recess as scheduled. I thank the Chair, and I especially thank my distinguished colleague.

Mr. BRADLEY. Mr. President, I rise today in support of the leadership amendment and in opposition to the amendment offered by my colleague from Kansas.

I have long been a supporter of expanding the earned income tax credit so that low-income working families are not living below the poverty line. I continue to favor expansion of this tax credit and will continue to work for it in the future.

The amendment proposed by my colleague from Kansas is forcing me to choose between two initiatives that I care about deeply. On balance, I conclude that the earned income tax credit is not child-care legislation. The leadership package, which includes the Act for Better Child Care and a refundable dependent care credit, is the more comprehensive, workable, and effective approach to improving the quality, supply, and accessibility of child-care.

The coalition that developed the Act for Better Child Care worked hard to develop a bill that will not only help parents to pay for care but will also provide parents with real choices and improve the quality of child-care.

The sponsors of the Act for Better Child Care negotiated tirelessly with State and local organizations, prominently represented by the National Governors' Association, to develop an approach to standard and to the quality of care that represent an innovative way to blend the knowledge and resources available at the national level with the experience, pragmatism, and response to local conditions that is possible only at the State level.

This agreement, in my view, is not a compromise. It is an optimal result; a result that is better than the starting positions of any of the parties to the negotiation because it will encourage both Federal and State governments to contribute their best efforts to the development of quality child-care.

The work of the coalition, the sponsors and the majority leader have resulted in other agreements that also improve the original child-care bill. One example is the addition, through a bipartisan consensus and the leadership of the distinguished chairman of the Finance Committee, of a refundable dependent care tax credit. This credit will ensure that low-income working families can benefit from the existing credit, thereby receiving reimbursement for a significant portion of their child-care expenditure.

The long, hard work of many who care about children, families, and particularly low-income working families, has resulted in a compromise bill that, in my opinion, is better than the sum of its parts. The substitute amendment proposed by the distinguished Senator from Kansas has, in my view, a number of shortcomings.

First, the substitute amendment does not provide direct assistance to poor families. It ignores a major principle of child-care policy that is well-recognized by the States. Tax credits can provide help to poor families in meeting child-care costs, but tax credits do not provide enough assistance to pay the full cost of care. Over half the States already have dependent care tax credits or deductions. However, no State makes tax credits the centerpiece of its child-care program. States realize that if a poor family receives a $500 tax credit, even on an advance funded basis, it will not be enough money to purchase quality child care, which costs an average of $3,000 per year in low-income urban areas like Newark, NJ. $500 is not enough. A poor family does not have a real choice if it cannot afford to choose quality child care.

The substitute amendment also does nothing to improve the quality of child care. Neither the earned income tax credit nor block grants require development of health and safety standards or provide recommendations to guide States that would like to improve the quality of their child-care services. Health and safety standards and guidelines for the improvement of child care are not addressed by the substitute amendment of the Senator from Kansas.

S. 5, by comparison, targets funds to help States to improve the quality of child care and assurances that they have standards in critical areas, such as child immunizations. It also helps States to improve enforcement of their child-care standards by reserving funds for this purpose, and it assures that parents will have unlimited access to their children's programs, a right not guaranteed in about 30 States in this country.

Mr. President, I recognize that the distinguished Senator from Connecticut has fought long and hard for children's issues and particularly for this bill. I also commend the majority leader, distinguished chairman of the Finance Committee, distinguished Senators from Massachusetts and Utah, their staffs, and many others who have labored long and hard to create a well-balanced, pragmatic approach to improving and expanding available child care and making it more accessible to low-income families. My enthusiasm for the outcome of their efforts leads to a firm conviction that low-income working families with children will benefit more if we enact the leadership amendment and return to the earned income tax credit on another day in the near future.

I yield the floor.

Mr. BENTSEN addressed the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. BENTSEN. Will the distinguished manager of the bill yield 15 minutes to the Senator from Texas?

Mr. DODD. I will be happy to yield whatever time the distinguished chairman of the Finance Committee needs.

The PRESIDING OFFICER. The Senator is recognized.

Mr. BENTSEN. Mr. President, I would like to respond for a moment to some fairly harsh criticism that was leveled against me by my good friend from Kansas, the Republican leader, and that concerns the procedures of the Committee on Finance and the health credit that is part of this bill now.

Twice it has been suggested on the floor of this body that the action by

the Finance Committee and its procedures were improper; that the hearing on the health insurance proposal was inadequate and that the bill was rammed through the commitee without due consideration. Mr. President, I am not above trying to ram a bill through the committee, but I did not have to. The facts supported it, the justification was there, and the Members voted for it. Let us talk about the hearing that was referred to earlier today.

That hearing included testimony by the following organizations representing some of the most knowledgeable experts in America when it comes to health care: The Health Insurance Association of America, they testified. Blue Cross and Blue Shield; the American Academy of Pediatrics; the National Association of Children's Hospitals; the Washington Business Group on Health; the Children's Defense Fund; the National Women's Law Center; Dr. Steve Freedman of the University of Florida Institute for Child Health Policy, a very knowledgeable person on this subject; Mr. Robert Greenstein, the director of the Center on Budget and Policy Priorities; and the National Federation of Independent Business sent a letter for the record. So the record is full, and the other side may regret that the only voice at that hearing that did not support the health credit was the administration's, but that was the way it was.

Now, about the committee markup. When the markup began, I made it clear to the members of the committee, and nearly all of them were there—Democrats and Republicans—that I wanted to report out the child care and the child health credits and section 89 as one bill, and that I would give Members a chance to vote on the different portions of the bill—one who wanted a vote would get it—and that section 89 would be a part of a combined package. I asked the Members, if anyone objected. I turned to the Republicans and I turned to the Democrats. No one objected. And then I turned to the representative of the adminstration and asked whether the administration objected. They did not.

The vote was not even close—17 to 3, a bipartisan vote—to report the package. The Republican leader was there for the vote. He made no objection at that time to any procedures. Neither did any member of the committee. It is not as if they did not have time. I am a fellow from the South, and I speak slowly. I waited to give everyone a chance to react. We were there for over 2 hours, and I took roll call votes on every issue any Senator raised.

The statement has been made that the health credit will not stimulate the purchase of new health insurance coverage, that all it will do is offset payments that are already being made for such coverage. Presumably that statement was made on the basis of the revenue estimate prepared by the Joint Tax Committee. As I pointed out in my remarks yesterday, that analysis of the impact of the child-care credit draws exactly the same conclusion—no new child care will be made available through the tax credit. So then why enact either credit?

Mr. President, the issue here is one of helping families meet the high costs of providing high priority care for their children, both child care and health care, whether they currently purchase that care or not.

I find it interesting, Mr. President, that no one who opposes this package has tried to make the case that improving support for health coverage is unimportant. In fact, the opposite is true. Before the Finance Committee completed action on its portion of this package, the Republican leader suggested I join him in a compromise that included an unearmarked tax credit—a credit for the purchase of health insurance. When I declined, on the basis that a majority of the members on the Finance Committee did not support an unearmarked credit, the Republican leader began to focus his criticism on the health portion of the bill approved by the committee.

I understand that. If the other side is successful in knocking out the child health component of this package, there will be a billion and a half dollars available to offset the costs of an unearmarked credit along the lines of what the administration proposed originally.

When I think about what they are proposing, money for everyone, no strings attached, George McGovern ought to be up there in that gallery; 17 years ago, Senator McGovern proposed $1,000 for everybody, no strings attached, and was ridiculed for his proposal.

Mr. President, in my view, the deletion of the child health care credit would be a tragedy. Right now there are 13 million children, one in five in this Nation, without any public or private health insurance coverage. Nearly two-thirds of them are in families with incomes below 185 percent of poverty, the very families that would be helped by this credit. The costs of health insurance premiums continue to go up, and coverage is dropping. Last year premiums increased by an average of 17 percent. Only 32 percent of employees in medium- and large-sized firms had wholly paid dependent health coverage in 1988, nearly a 20-percent drop since 1980. We must find a way to staunch that erosion. We must try to increase health insurance coverage. But what are parents doing today, with premiums going up? They just pray the kids do not get sick. They hope they can get by without having to go to the hospital. When one of the children gets sick, they say, "Well, maybe he will get over it. Maybe this fever will go away." But finally they take the child in for treatment and then they don't have the money to pay the bill.

Let me respond to the criticism the credit is not sufficiently generous to be of value to a low income worker. The Health Insurance Association of America made a national survey last year of 1,665 randomly selected employers who offer health insurance benefits to their employees. That survey showed the average employee share of premium costs for family coverage, inflated to 1989 dollars, is about $800. The tax credit in this bill would give a family with income of $12,000 or less a credit of $400 toward that cost. If you buy $1,000 in premium, you could get up to 50 percent credit or $500. Thus the cost to the employee for family coverage would be reduced in half, to about $33 a month.

Do you not think cutting that cost in half helps a low-income family? We are talking about working families. The problem in this country today is that a person who works and has low income is finding he has less access to health care than a person on welfare. That is what we are trying to address with this credit. We are trying to make private insurance more affordable to working families.

I should add that at the committee's hearing the Health Insurance Association of America stated that this credit should make a dramatic difference in the proportion of low income employees choosing to extend health care coverage to their children.

Blue Cross/Blue Shield told us that they believe the private health insurance market will respond to the incentives provided by this credit by making available low cost products, and that they would work at creating new policies aimed at that specific market, to reach out to these children and their families. They told us about a program in California that reduces significantly the cost of health insurance for children by establishing special rates. The rates are based on two age categories. Coverage for a preschool child is $320 a year, and coverage for an older child is $252.

Another example, a program that is being set up in Florida. This will be a school based insurance program for children in families whose incomes are low, but above the Medicaid eligibility level. The insurance will be portable, with the only requirement being that the child remain within the school district covered by the program.

Now let us talk about the administration's proposal. Although both the administration's credit and health insurance credit go to low-income families with children, whether the parents work or not, the health insurance

credit is targeted at a priority need, the need for health protection for children. It will encourage and help working families to invest in health protection for their children. More than three-fourths of the money will go to families with incomes below $15,000 a year. The administration's credit is not targeted on child care, child health or any other specific purpose.

It comes down to a question of priorities: Should you try to target funds carefully at a specific urgent need, or have an income transfer that can be used for any purpose whatsoever? I think the American people would say that health protection for children is an important priority.

The Republican amendment would add $1.3 billion to the cost of the earned income tax credit in 1992. That is a credit that has tripled in the period 1986-90 from $2 to $5.9 billion, made in the 1986 Tax Reform Act.

Let us talk about another important aspect of this debate. I hear complaints that we are not doing anything on dependent care for people earning $40,000, $50,000, $70,000. Not true. Under current law, there is a provision to provide tax relief for dependent care. If someone is making $10,000 a year, they get a 30 percent dependent care credit against a $2,400 cap for one child or $4,800 for two or more children. The credit phases down at $28,000 to 20 percent. Then you can have a 20 percent credit against that $2,400 for one child or $4,800 for two or more children. Twenty percent of that, 20 percent on the $2,400 would be $480. Well, if you make $100,000, you still get the credit. If you make a half million, you still get it. If you make $5 million, you still get it. If you make $50 million, you still get it. Costs to the Treasury last year? $3.3 billion. You bet we have support for middle- and upper-income families.

What we are proposing here is for the Joe that makes $10,000, $15,000, $20,000 who is having a tough time paying the premium to cover the cost of health insurance for his kids. That is why this health credit is important to this piece of legislation. We have already taken care of those with substantial incomes. Through Medicaid, we have expanded coverage for the very poor. Who gets caught in between? The guy who wants to work and does not want to be on welfare, but loves his kids just as much as the guy who makes a million a year, or the fellow whose family is on welfare. That is why this legislation is important.

I yield back the remainder of my time.

Mr. DODD addressed the Chair.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. DODD. Mr. President, first of all, let me commend two of our colleagues, the Senator from New Jersey and, once again, the Senator from Texas, who has once again eloquently taken on the charges that have been raised by the authors of the alternative.

I can empathize with his frustration. We get the same arguments day in and day out, despite what we say. Once again, we have heard those arguments today regarding the substitute, what is included in it, what its effect is, particularly on the health credit. The Senator from Texas pointed out it is available to both working mothers and mothers at home. It is equal to that amount included in the earned income tax credit. It is targeted to the health of children, 13 million, I think, the Senator from Texas accurately pointed out.

The children in this country have no coverage whatsoever, of the 37 or 40 million Americans who are lacking health care coverage. Clearly, we know there is a relationship between that care of children. So I commend him, once again, and appreciate his willingness to engage in the debate and raise the facts as they are, the substitute, so that our colleagues can be fully aware of them.

Mr. President, how much time remains?

The PRESIDING OFFICER. The Senator from Connecticut has 13 minutes left.

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from New Mexico.

Mr. DOMENICI. Mr. President, I understand that there may be others who want to speak and, clearly, I would like them to know that while we have a lot of time, two-thirds of the remaining time on this side, I certainly will be prepared to yield, if they want to be heard. I have been heard once today, and I do not need a lot of time. I would like to make a few points at this time.

Mr. President, first, let me say that it has been said that we are really down here debating a side issue. Some say it is about who gets credit for this bill. I hope that everyone understands that we can get ourselves all tied up in which provision of which bill came from whence, but, frankly, there is a very big philosophical difference in the amended ABC that is before us, which we are now calling the Mitchell proposal, and the Dole-Packwood-Domenici-and-others substitute for it, a very big difference.

I hope everyone knows that that difference essentially has to do with whether money is refunded on a regular basis, or paid on a regular basis to parents, and then they decide how to spend the money or whether we give money to States and have them set up a system, whereby State employees determine who is entitled, and to how much, and parents never even see the money. If you read it carefully, even with the so-called church certificate provision, the money goes to the provider from the State. Parents are hardly even involved. That is just the framework and the distinction between the two bills.

I would like to take about four or five points that were made today by some of the proponents that I think are not quite accurate, or that I have a different assessment of. Let me start by making the first one: In response to our notion that State employees are going to ration child care among a very large pool of youngsters; that we can only take care of a small number, our position is that employees of the States in the Union are going to have to make bureaucratic decisions, based upon financial disclosures and are going to end up assigning the resources of the U.S. Government to various providers on behalf of kids, and on behalf of parents.

So when we said that this is a bureaucratic bill as compared with a parent's choice bill, it has been said, and I paraphrase, ABC is not a bureaucratic bill. States run things. ABC just does what is needed. After all, 70 percent of ABC's funds go directly to parents. Now, that is not a direct quote, but it is very near what is contended. Let me suggest, no funds go to parents. Assistance goes directly from the Government to providers. Even for parents who might be lucky enough to get a voucher, nowhere in the ABC bill is any parent guaranteed that their child will be cared for where the parent wants. States make the final decisions.

Now, obviously, we know States do not make decisions. So a whole new group of State employees called "lead agency employees" are going to make these decisions for us. When it comes to helping families afford care, why do we have to have a new group of State employees at all, State or Federal, making choices for parents?

Point No. 2: It is contended that tax credits are not child care. Tax credits go to parents. ABC invests in children directly. Well, let me talk about that paraphrased contention. What is really being said is that parents do not want to help their children, and if you give them money to help their children, put it directly in their pockets, they cannot be entrusted with the assistance. Only Government can be trusted to buy—and I use this word in quotes—"appropriate" care for their kids. What we say is that parents should be the center of child care decisionmaking and the center of child-care policy.

Third point: Paraphrasing again, says the principal proponent on the floor, ABC does not "lure"—and I use that word in quotation marks, because

it was used—parents into the work force and day care. ABC is about helping families who have no choice, single moms and two-worker families who must work to make ends meet. That is the end of my summary of the contention.

Let me suggest that ABC helps families with incomes up to State median income. On average, that is about $34,000. In some States it goes up to about $47,000. The bill we propose concentrates the same funds through one tax credit that is different than this bill, on the truly low-income parents, up to $15,000.

ABC is only for working families, who put their kids in child care, presuming that parents who stay at home are "rich enough to do so." I submit, Mr. President, that ignores a great need, aside from the part from it being extremely discriminatory, by creating an incentive against staying at home and taking care of your children.

Stay-at-home parents are disadvantaged. The median income of two-parent, two-earner families, is about 50 percent higher than that of a one-earner family. Stay-at-home parents can expect to lose on average about $13,000 in income, because they have made the choice to take care of their own children—far more expensive to that family than day care.

It is contended, if not stated directly, that stay-at-home parents must be rich. Mr. President, stay-at-home parents are not rich. In fact, there are more, and I repeat, there are more two-parent, one-earner families with incomes under $15,000 than there are families headed by employed single mothers.

I believe those $15,000 a year one-earner families, are the people confronting Senators when we go home. When Senators go home and visit and talk, they are walking up and confronting us and saying to us, "Do not prejudice us, because we made a decision to stay home. We may stay home only for 1, 2, or 3 years because we are losing a lot of income."

But I submit if this U.S. Senate assumes that they are rich and making the choice to stay home because they do not need any help, we are making a big mistake. There are more of those families than the working-poor, single heads of families in this country, who are a formidable group of people with very difficult problems.

One of the worst social problems we have is the deterioration in income for the single heads of household parents in this country.

As a matter of fact, just as an aside, during this economic recovery time much is being said about who is helped and who is hurt, and I am not going to get into a big argument about how much or how little income has progressed during this recovery other than to say if you take the recession in mind, almost everybody has been helped by the economic recovery any way you look at it, except for single heads of households.

The welfare bill of last year will help just a few. We have not found an American policy to affect that very significant and serious social economic group.

At-home parents do not stay at home because they are rich. They choose to do so often at considerable price, and I submit we should not consciously or unconsciously penalize them for that choice.

ABC can only be used by parents—both parents if there are two—who are working or trying to get work. There is clearly and unequivocally a bias against those who choose to stay at home. I submit there is a bias toward institutional care, and those who propose the ABC bill will cite language saying it is not just for institutions, but I have just cited the definitions that make that pretty much a reality. And then when you add to it the bureaucratic choicemaking in the course of rationing these allotments or slots, mark my word if this were ever law, the institutional bias will show in those who have to make the allotment decisions in behalf of the children of this country.

So I think we are going to take billions away from stay-at-home parents to pay for the day care of other parents, who have incomes up to $47,000. Is this not a tremendous penalty to the stay-at-home parents?

Frankly, as I look at the tremendous income levels allowed the so-called median income is the top, and I have just given you some States of $47,000; on average in the Nation, it is $34,000. A literal reading of the bill will give you the conclusion I just arrived at, that the ABC bill imposes a tremendous penalty to the parents in the $15,000, $16,000, $17,000 bracket who are making the choice to stay at home. I also believe that ABC's claims of serving median income and poor parents is somewhat of a hoax because essentially that pool of youngsters is so big that 70 percent of $1.7 billion is going to create a dramatic case for rationing the allotments. I cannot give you the numbers. I cannot tell the Senate the percent, but I would be surprised if in that entire pool you could take care of 10 percent; somebody is going to decide which.

I submit the pressure is going to be political, and enormous. The pressure is going to be for institutional care, not neighborhood care. It is going to be against grandparents and aunts and uncles; even if it said here you can get that kind of assistance, the little caveat is: So long as they are approved.

Mr. President, put yourself in the State that is having to make these plans and implement them and see if this bias that I allege will occur is not inevitable. I believe it is.

Next point: It is said by those who are proponents on the floor of the ABC bill, sure ABC gives States the flexibility to help middle-income parents. Why not help those taxpayers? I have talked about that a bit. I think when you look at the numbers and the total demographics, the expectation is going to be high and the delivery is going to be low if you go to that high of income level.

I would have preferred that we go higher in income, that we have only one kind of credit, that we could have gone up to $28,000, or $30,000, but clearly there are those who want the refundable Dependent Care Tax Credit [DCTC] too, and it is a good idea. The DCTC does not go to stay-at-home parents, but making it refundable would indeed help many in the lower brackets who must have care, so I have joined in what I think is a very fair compromise to take care of them and also provide for the low-income parents who are not necesarily paying for care but will get money in their pockets to make their own decisions.

So I believe, and I feel very comfortable saying, that with limited resources we ought to be focusing on parents most in need whose children obviously are most in need because their parents are. Why should we allow, as the ABC proponents say, States the flexibility to help people with incomes up to $47,000 unless we really intend to do that. Unless we really intend to do that, it seems to me that we ought to tell the truth and say there will be very few of them helped unless we want to do that at the expense of the low-income people of this Nation. That is just the way the money splits out.

If you are going to help substantial portions of the high-middle income, median-income parents, you might as well stand up and be honest and say you are not going to help the poor very much. You cannot have it both ways. There is not enough money to go around unless you want to give resources for a huge number of slot allocations.

You cannot give exactly the same to the poorest that you would give to those with $30,000 or $40,000 incomes, and yet it is being said we give the States the flexibility.

We prefer to say we do not because we are not having the States manage the money. We are sending it to the parents in regular, refundable credits in their paycheck—either through earned income tax refunds or refundable dependent-care tax credits—building on the current dependent child care law which is in existence. It will be regular; it will not be at the end of the year as some have indicated. The experience of the earned income tax

credit, which is expanded in our proposal is a regular delivery and as we expect it will be in the checks, be they weekly, bimonthly or monthly.

If we have money left over, if we have more money then extend the assistance to others. This is not an argument against using tax credits to help families afford the care.

The next point, it is said by the proponents that the ABC grant gives 70 percent to parents and that our substitute program gives nothing to parents.

I hope everybody understands that we do not have a grant program in the proposal we made that is supposed to subsidize care. We have a $400 million grant program that is supposed to help States in their ability to improve child care options for citizens. It is not even intended to go to parents. We did not even draft it that way.

If you match our $400 million grant with the ABC bill, it is not a substitute for the $1.7 billion in the ABC bill. We use most of "ABC's" $1.7 billion for tax credits. In addition to our tax credits we have the $400 million block grant. We get to about the $3 billion mark while the Mitchell package is $4.7 billion total; $3 billion of the Mitchell package is in tax credit, one of which was discussed by the distinguished Finance Committee chairman and that we would get rid of. The other is the dependent care refundability provision which is in both bills.

So it is apples and oranges to compare our grant program with anything in the ABC bill that helps families afford care. There is nothing to compare. They are not even intended to do the same thing. So to try to compare them is to distort the bill, comparing one block grant with the entire thrust of the ABC provisions.

Our tax credit is the replacement for the portion of the ABC Grant Program helping parents to afford care. That is what you should compare and that is the interesting one because all of ours goes to parents and none of the ABC part goes to parents, as I have just discussed. The State decides to distribute it to the institution, or center, or whatever qualifies.

Next point that is made is that the Dole-Packwood-Domenici proposal is haphazardly put together at the last minute and this is the first time the block grant has ever been offered. Well, this proposal is drawn from a series of bills that have been around for well over a year, including one that I offered, and ones the President, Senator DOLE, Senator PACKWOOD, and yes, even Senator HATCH offered. It is from these, and other bills, that the $400 million block grant is drafted. That grant goes to States to help them by giving them a very flexible series of options, such as beefing up training, and providing a pool for liability insurance. They can even have a State tax credit if they would like and reimburse their State treasury. That is up to them.

None of this alternative package is new. In fact, it was one of the main issues in the Presidential campaign. The block grant is not new. It has been in a bill that the Senator from New Mexico has had in for months, and it has been in other bills, if not for years, at least for significant numbers of months.

The next point that has been made is that the ABC standards are State standards. The Federal ones are only models, and they are needed to get States thinking about where they should head.

Recall the history. ABC was put together as a $5 billion package building its thrust around national standards. Now they say it establishes no Federal standards.

The State chose the standards, but the Federal Government tells you that you have to have them in six categories. I believe that is effectively, no matter what Senators say, a minimum Federal standard.

I note that my friend from California is on the floor. I indicated, perhaps when he was not here, that I can stop at almost any point and yield if he desires time.

I will just finish the point on minimal standards and, if he is prepared, we have ample time, I would yield the floor to him.

Mr. WILSON. Mr. President, I thank my distinguished friend from New Mexico. I would be grateful if he would simply yield for some questions.

Mr. DOMENICI. Could I just finish the notion on model standards because I think you are very familiar with the history of national standards.

Mr. WILSON. Please.

Mr. DOMENICI. I have been down there at the mayor's level. I have not been a Governor. But let me tell my colleague that when we have model standards, that implies that States should adopt them. It should be our policy to let the States evaluate the very best balance between regulation and availability. And what we are really doing is adopting national standards under the guise of model standards.

National standards do not mean quality. There is no evidence that heavily regulated care is any safer or better than any other care. We do not know that heavily regulated care will deliver better care. But we do know that it will deliver more costly care.

So, I conclude these remarks by refuting just one last point that was made by the principal proponents. Tax credits, it was said, are not useful, since you only get them at the end of the year. I have alluded to that. I hope nobody thinks that is what is in the bill we propose. Both of the tax credits that are in the bill that we introduced provide for advanced refundability. They can get it in the paycheck. It is already current law, in terms of the earned income tax credit—it is going on right now. We simply expand on it with full knowledge it can be implemented.

I would be pleased to yield for a question or yield the floor, whichever the Senator from California prefers.

Mr. WILSON. Mr. President, if the Senator would yield for a question.

First, let me thank my friend from New Mexico. I think perhaps, with his characteristic succinctness, he has made clear what I, in an earlier extended debate with my friend from Connecticut, one that I enjoyed and I think that he enjoyed—undertook in order to bring some clarity to some points that I think have become confused.

But in the interests of further clarity, let me just ask my friend. He made the point that he has been a mayor and perhaps that is an additional bond between us. So have I. So has our distinguished colleague from Utah, who has just come on the floor.

Has my colleague known very many mayors, or for that matter very many Governors, or local or State officials, who could resist the temptation if an "incentive" in terms of cash were offered? Has my colleague known very many that would not seek to meet the standard that would reward them with that cash bonus?

Mr. DOMENICI. It would if there is a cash bonus in the ABC bill, and at one point there was. I am not sure there still is.

Mr. WILSON. Well, what there is, if a State meets the so-called national recommended standards.

Mr. DOMENICI. The model standards.

Mr. WILSON. The model standards, there is incentive to do so. At least unless that has been taken out as recently as today.

Mr. DOMENICI. I think, Senator, that the very point you are making was made and, as this bill evolved and was changed, it is no longer in.

So your point was well taken and it is clear that as it moved away from national standards those who did not want national standards said: Well, this bill still has national standards because you are urging them with an incentive.

So, let me say it surely is not that, it was taken out. But I submit to you that you do not include model standards and say we expect the States to adopt six of them and that we will not have the Federal Government saying you are not doing enough. That is what standards are and that is what is going to happen.

Mr. WILSON. Well, I thank my friend. Let me just ask this question. Has my colleague noticed that in the Mitchell substitute for the ABC bill, it

is States that retain the right to fundamentally make the decision as to how child care will be provided? It is stated in the bill that, to a certain extent—and that is unclear what the extent is—vouchers will be offered. That is the direct assistance that is available to participants. But, essentially, it is the States that retain the authority, indeed the responsibility to determine what kind of care shall be provided, whether it will be school-based, center-based, family-based. And, although there is a requirement that there be an equitable distribution as between those different kinds of care, it is the State that has to exercise discretion to define what is an equitable distribution.

Mr. DOMENICI. I say to my friend from California, in a series of refutations I have just made to contentions made by ABC proponents, I addressed this point. And I am pleased to make this point again in response to your very specific question, that the proponents of the ABC bill contend that these subsidies go to parents. There could not be anything further from the truth. Not even the voucher money goes to the parents.

If you read it, the decision is made by the State as to where the child is going and the money, goes from the State to the provider. The parents are not even in that, even on the church-state issue in this bill. Nowhere.

Mr. WILSON. I thank my friend from New Mexico, and I think he makes, with abundant clarity, the point that the approach that has been favored by those on the ABC bill's side is to give to government—in this case State government, or if they choose to delegate it, I gather they can to local governments—the decision as to what kind of child care shall be provided.

In contrast, Mr. President, the approach taken under the dole substitute, where that decision is made by the parents who are free to make that choice because the Federal assistance that they receive is cash in the form of a refundable tax credit. It does not go to a local government or to the State government. It comes to them as individuals so that they may exercise their discretion in making the choice as to what kind of child care the child should have.

That is all the difference in the world. And several of the proponents of the ABC bill have seemed to express great umbrage at the suggestion that many of us have made that parental choice is, in fact, quite limited under the ABC approach, under the Mitchell substitute. And, indeed, I think more so under the Mitchell substitute than before it was amended.

As the bill came to the floor, I think there was more parental choice than there is now. Because now the focus, ironically, has come to be on State government. Well, in many instances we think that is a good thing, but here we think there is a better thing. We think that parents can be trusted to make the right choice for their own children. But, instead, the responsibility and the resources are in the hands of the State government, and I think that was part of a scheme that evidently has now been changed.

Mr. DOMENICI. Yes.

Mr. WILSON. The change is the States were going to be encouraged to seek still more money through the incentive that now has been taken away. It may, in future years, return. And I suggest that it is not paranoid or conspiratorial to suggest that the people who wanted it that way in the first place, now understanding that they need to settle for half a loaf, may just decide to be patient, but, in some future years, return with their good intentions and with the incentive restored that will make a national, recommended model standard not recommended standard at all but, in effect, virtual mandates upon the States.

And, frankly, I think even now, even with that change having occurred, it is still true that the States may now apply for incentive grants to improve their standards. I believe that remains true. But the essential point, Mr. President—and I do thank the Senator from New Mexico for making it—is that if you are of the mind that parents should make the choice, then you have a choice between the Dole and the Mitchell substitutes. But if you think that parents ought to make the choice, then you really do not have much choice, because the Dole amendment is the one that provides it through the mechanism of a refundable tax credit.

And, if you think further, that the choice ought to be made in a way that permits a mother in a poor working family to decide, at the sacrifice of her family of a second income, that she will forgo that and instead stay home so that she can rear her child in those critical first days and months and years, then it is the Dole substitute, the Dole amendment that offers the only Federal assistance to at-home moms because under existing law and under the proposal contained in the Mitchell substitute and, indeed, in the Dole substitute that insofar as it deals with a dependent care tax credit, the at-home mother cannot qualify because she has not purchased services and that is available only to someone who has. She is providing it. She cannot bill herself and turn that bill into IRS for a refund.

I thank my friend as well as for the point he made that we are not talking about a credit in the traditional sense of the word as something you obtain at the time you file your income tax. We are talking about a refundable tax credit. We are talking, in effect, about cash in a paycheck that is available at the time of need.

Mr. DOMENICI. Will the Senator yield for just one observation and then I clearly intend to yield the floor?

I know that my good friend from California has a genuine interest in State government. I think it would be an interesting exercise to get the demographics of California and find out how many millions of preschool children live in just the State of California. Then it would be interesting to just hypothesize how many millions is that State going to get out of the ABC bill under that 70 percent to provide allocated slots and pay the provider. I submit that it is going to be a very small portion of those children.

Why do I raise that point? I raise that point because somebody under this ABC bill—the somebody will be State employees—under some kind of State plan are going to have to decide which of them get what and how much. What about the poorest of the poor? If you want to take care of all of them, like we try, there will not be any left over for anyone else, and yet it is being said that whoever is running California has a bill that is sending money and that you ought to be able to provide in California for median income families. In California, the median income is probably a high one. There will not be enough money for 10 percent of them, and somebody is going to ration it.

I submit that before we get around to letting people do that and everything that goes with it, we ought to try to help all of the poor families in this country—whether one is staying home or not—with cash in the pocket, and let them make the choice, mother or father or single head of household. That is the big difference.

Can you imagine the nightmare to be the rationer, I say to my friend from California, when it is now being said if you help only the poor, you have left out the middle income and we said you could help the middle income? Nobody did the arithmetic. If you want to help them all you can probably give all of them about $20, each child; $25. Not very much.

I am pleased to yield the floor, and I thank the Senator for his contributions on this bill, and I hope we have success.

Mr. WILSON. Mr. President, before my colleague leaves the floor, let me just say that once again in his question, not quite rhetorical question, he has demonstrated how perceptive he is. The answer to his question is exactly as he supposes. Indeed, earlier today in debate with my friend from Connecticut, he raised the very point you just have. In his view, one of the distinct assets of the ABC bill is that it will be available to parents who have the median income. He is right; under

the ABC bill that would be true. The result is what he would have is a very rich program for a very few recipients, and that is not good enough.

The question that the Senator from New Mexico proposes as it applies specifically to my State I must tell you vindicates his worst fears because the answer is that in California, we need about a million of those slots. That is the number of eligible children that we would have. And yet under the ABC bill, the amount of money that is provided which the Senator from Connecticut took great pleasure in saying was $146 million does not reach very many people. It, frankly, would reach about 40,000. That is not good enough.

It is a much better thing, Mr. President, I submit, to target the assistance to those who need it, the working poor, and, in addition, to do so in a way that all eligible families can receive some assistance rather than having an unrealistically rich program for a very few that, in the words of my friend from New Mexico, would require rationing. How is it going to be done? He is right, I have an interest in State government. I am eager to accept responsibilities. That is not one I would relish. I think it much better that that decision be made by a parent whom I am perfectly willing to trust with the kind of tax credit that will put cash in his or her hand to go out into the marketplace and decide what for his or her child is the best form of child care.

But at market rates, as required under the ABC bill, this rich program will not begin to reach nearly enough recipients.

I see my friend from Arizona is on the floor and he has been waiting patiently. I do not wish to cause him to wait further. I will yield the floor to him with the observation, Mr. President, that the Senator from New Mexico is correct. He is correct on the score of parental choice; he is correct on the score of the costs of the program and the number of people it would reach, and I think those are critical elements. I thank the Chair.

The PRESIDING OFFICER (Mr. LIEBERMAN). Who yields time?

Mr. DECONCINI. I ask the Senator from Connecticut to yield me enough time to give a tremendous statement.

Mr. DODD. Mr. President, I have no doubts whatsoever. Every time the Senator from Arizona speaks it is a tremendous statement. There should be no exception to that. If the Senator will yield me 1 minute to respond, because once again my good friend from California, with his southern California chart, these bright irridescent colors representing our country here, I want to once again go back and correct two elements that seems to be part of a disinformation campaign about this bill. We are still confronted with these comments.

First, there is no penalty or awards for States to reach recommended standards. That has been taken out of the bill. The State match is the same for all States. All States are eligible for incentive grants and no State has to do anything in relation to recommended standards unless it wishes. The earlier versions of this bill, in fact, did have incentive grants that applied, or differential in the grants. That was taken out.

Today, whether you have the standards or you meet the model standards or you do not meet the model standards, you get the same. Despite the fact it is in the bill, it has been before this body for 6 days, we still have Members coming over here making the argument that there is some distinction in this bill. I really wish they would read it before they make statements. There is no differential whatsoever between States that have the model standards and States that do not. That is No. 1.

No. 2, the State does not decide where the children go. In fact, the bill explicitly and specifically says that children must be placed where the parents want to place them. Certainly my colleague would never cosponsor a bill, my colleague from Arizona would never be associated with a bill that said the State of Arizona and the State of Connecticut will tell your child where they are going to go to a child-care center. I would have nothing to do with a piece of legislation that allowed a State agency in my State, no matter how much I respect the Governor, the State agencies, no commissioner in my State will tell me where my child is going to go to a child center. To suggest here on the floor that that is included in this bill is just tripe.

Let us get the record straight. Argue about it if you will, but at least let us be honest about what is in this bill. To suggest that the Senator from Connecticut and the Senator from Utah and almost 50 cosponsors of this legislation on the floor would be associated with a piece of legislation that allowed any agency of any government in this country to mandate to a family where their children will be in a child-care center is patently false.

I am tired of hearing those statements being made on the floor. I apologize to my colleague from Arizona for interrupting. I have sat here for the last 6 days and listened. No matter how often the Senator from Utah and I take the floor to debunk these statements, it is falling on deaf ears, obviously. That is the best I can hope for here. They come back, Member after Member, to the floor making these arguments that we are mandating where children go, that we differentiate between States, and that is not the case at all. So I would urge my colleagues to read the legislation or call and ask questions ahead of time if they are incapable of taking the time to look at the bill, and we will be glad to answer the question about what is in it. Again, I thank my colleague for yielding.

Mr. DECONCINI addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Arizona.

Mr. DECONCINI. Mr. President, I join my colleague from Connecticut. I have been listening to some of the debate. It borders on absurdity. I do not know where they are finding this. I am afraid maybe they are reading last year's bill because there was some possible interpretation of and certainly reference to the standards in the bill in the last Congress. This is a different bill. It happens to be called ABC. It is a different bill, and it is significantly different.

Now, yesterday, Mr. President, Senator HATCH held up a blue sheet, and this one is not blue because it is just a xerox copy of it, of gross misstatements regarding the ABC bill. I read it and I said, well, nobody is going to believe that stuff. It is so wrong and so out of sort, is it really worth coming here and talking about it. Senator HATCH spoke very powerfully against the distortions and what I consider lies that are being spread about the ABC bill. Yesterday at the Republican caucus every Republican Senator, so I am told—and I was not there—was given this workpaper that compared the Mitchell substitute to the Dole substitute. I have seen the material. I have looked at it. There is something wrong here. And it does not say who put it out. It does not say Policy Committee or any Senator's name, so I do not know who put it out. But I have seen that material. I have looked at it. There are no names on the paper, no identification. Nobody claims credit, that I know, for it. But as Senator HATCH pointed out, this was clearly prepared by people who feel that they are conservatives and are addressing a conservative-liberal issue of whether or not the Mitchell substitute to the ABC bill is the right way to go or the Dole substitute.

Now, listen, Senator DOLE is a well-respected leader and former majority leader. He has every right to submit a substitute. Those who want to argue on behalf of that substitute, have every right—that is what this is all about. But let us argue on the facts.

Senator HATCH did an outstanding job in clarifying what is true about the Mitchell substitute and what are lies and distortions which this material passes off as true.

I am not going to repeat what the Senator from Utah said so well. But I want to cite one or two examples that really need reemphasizing in my opinion.

This document, the one that Senator HATCH used yesterday, says that the Mitchell substitute "biases choice in child care toward institutional care." That statement, Mr. President, is not true. It is a distortion. It is a lie. There is nothing in this bill which says that, and I challenge anybody to point that out and argue it on the floor of the Senate.

It may have been true in the original ABC bill of the last Congress, but it is not true of the legislation we are debating today and this week. The bill we are debating today has been changed. It has been said over and over again that this bill has been modified. This bill maximizes parental choice. Parents can choose center-based care. But they can also choose home-based care. It is a decision for them. They can choose child care provided in schools, synagogues, and in churches. They can choose care provided by neighbors or grandparents or aunts and uncles if they want. So the argument that the bill favors center-based care is a bogus argument.

The argument—and again I quote—that ABC is "against care provided by informal providers such as friends and neighbors" is simply not the case. It is not true. It is not what is in the bill.

Mr. President, I want to talk about another section in this document entitled "Bureaucracy." Everybody lights up when they see that: Look out, here comes Uncle Sam knocking on your door; "I am from Internal Revenue or some other agency of the Federal Government and I am here because I work for the bureaucracy." "Bureaucracy" is spelled out in big bold letters.

I do not have to tell you what that word means to our constituents. It is a big red flag that is named "big brother," "red tape," "no parental choice." This section on "Bureaucracy" goes on to say that the Mitchell substitute to the ABC bill "would allocate up to 30 percent of a State's grant money off the top for administrative overhead, inspections, increasing child-care worker salaries, training, and other purposes."

The ABC bill does not allocate 30 percent of funds for overhead. It allocates 8 percent—8 percent and only 8 percent—for overhead. The rest of the 30 percent would go to increase the supply and quality of child care, not overhead. So again, this is an outright misstatement.

Mark Twain once said to "get your facts first, and then you can distort them as much as you please." Well the unnamed persons who drafted this document didn't bother with facts at all. They just moved right on to distortions. I hope we do not see any more of this kind of trash, as I consider it, put out in total disregard of the truth. There are many people I respect who disagree with this bill and are going to vote against it, and that is their right. They have some good arguments. I may not be convinced, but they have some good arguments. Let us talk about the facts of this bill. The facts did not matter here.

In my judgment Senator DODD has argued here long and well to look at the facts of the bill. Call us, call any of us who are involved in it, certainly the Dodd staff and the Hatch staff and the Senators themselves. They will be glad to tell you the pros and cons. They will even be glad to admit there are other sides to the issue.

My colleagues should debate the ABC bill that is before them, not what is in their minds or what they wish were here so they could throw it up as a strawman to knock it down. Do not bring up a bill that no longer exists. Let this bill rise or fall on what is really in the bill. Let the debate center on the facts of the bill, not the lies or distortions that are put out. What we are debating here is far too important for that.

I am concerned. I am concerned because the misinformation that I have been talking about is not just limited to the blue sheet that was put out yesterday and the workpaper passed out at the Republican caucus. I have heard a lot of misinformation on the ABC bill in this very Chamber. I have read distortions that are printed in newspapers and other periodicals. I have heard from my constituents who talk about these distortions as if they were the Gospel truth. It is like a bad disease that spreads until it can no longer be controlled.

Who is responsible, Mr. President? I submit we are—you and I and our colleagues in this room. All of us have a responsibility—whether we support the legislation or we oppose this legislation. We are the ones who should know what is in the Mitchell substitute and what is in the Dole substitute and talk about those issues. Mr. President, we have an obligation to tell the truth about what we are debating.

I received a call from a constituent yesterday who said that 80 percent of the ABC bill, he understands, is overhead—not 30 percent but 80 percent. He dared me to show him anything in print that says that only 8 percent of the ABC funds go to administration. This is what happens when you spread misinformation.

This week there was an editorial in one of our major Arizona newspapers that said grandmothers have to run "through hoops and hurdles" to get ABC funds. It said that ABC allows funding of church day care so long as there are no prayers. This is what happens when you spread lies.

Do you know how the editorial ended, Mr. President? Let me read how it ended.

The ABC bill is big brother government at its meddling, family-wrecking worst. It is no Act of Better Child Care. It is a misguided waste of $12.5 billion spent on Anything But Children.

In case my colleagues missed that last figure—its $12.5 billion. Where did they get that figure? It is a new one that I have come across. But if you want to not tell the truth about something, you might as well really blow it up. That is what has happened.

I sound like I am mad, and I am mad. I hate to see things distorted when there is no need to it. I am a cosponsor of the ABC bill because I believe in it. I will fight with all I have to see that it is passed. I'll fight because I believe in this bill.

Do you know what some of my constituents in Arizona will say about me when this is all over? They are going to say "DECONCINI voted for this bill. He must be antiparental choice. He must be antifamily. He must be for 'big brother government at its meddling, family-wrecking worst.' " This is what happens when you fight with lies. You are damn right—I am mad.

I happen to know Senator HATCH quite well. He and I came here at the same time. I know he is being accused of being antifamily. The Senator from Utah, the junior Senator from Utah, is being accused of being antifamily. I have read some of the things that have been written about him. I do not know anyone, on either side of the aisle, who has been more profamily than ORRIN HATCH. He is fighting for a bill because he is fighting for families. He understands what it is all about. He has shown a great deal of courage on the floor of this Chamber, and in the process he has come in for some unjust criticism. I repeat. This is what can happen when you fight with lies.

In closing, I want to say a word about standards. Our friend from Connecticut has gone over this again and again. I think there has been more misinformation and distortion about standards than anything else in the bill.

After all that has been said, we still hear that standards in the ABC are mandated Federal standards. We still hear that grandparents have to meet Federal requirements to get ABC funding. There are also more subtle distortions. "Once the bill is locked into law," some contend, "its supporters will return and make everything under this bill Federal." I have heard Senator HATCH say here he is not going to vote for that. Neither am I. I do not believe that most people in the Senate would vote to do this.

I want to say loud and clear that when we are talking about standards in the ABC bill we are really talking about the quality in child care. Some of the opponents of this bill have uttered the word "standards" as though there was something to be ashamed of, as though it was simply another bad word like "bureaucracy." Make no mis-

take, when we are talking about standards, we are talking about recommended standards in critical areas of health, safety, and quality. The ABC bill, like other child-care bills in this Congress, seeks to address the pocketbook concerns of parents. But the ABC bill is the only bill on the table, the only one, that seeks to ensure that child care will not increase the risks of injury and illness for our children.

To those who continue to criticize the notion of standards, let me remind them of a poll taken just 2 months ago. In that poll, parents listed "quality" as their top concern—their No. 1 concern—with regard to child care.

Two days ago I talked on the floor about a 10-month-old baby who died in the home of a day-care provider. The provider had given Ashley massive doses of antidepressant drugs to keep her quiet. After Ashley died, it was discovered that the provider had previously been convicted of abusing her own children.

Is it antifamily to say that States must pay some attention to the background and training of the child-care providers? I do not think so.

In Brooklyn, a fire broke out in an unlicensed child-care center. The provider was looking after more children than the State standards allowed and could not get them all to safety. A 2-year-old and 4-year-old died as a result.

Is it antifamily to say that States must pay some attention to the number of children one child-care provider can look after? That is common sense. Is it antifamily to say that providers must have adequate safety exits in case of a fire?

This is a fact, Mr. President. Half of the women in America have to leave their babies in child care programs that they do not trust. Is it antifamily to give parents some assurance that their children are with adults who know first aid or who can recognize measles or who have passed a criminal record check?

What the ABC bill strives to do is give us accountability in caring for the most important resource we have. Accountability is what we should be concerned with here—in this debate—on this critical issue of child care.

The American people have the right to know what is in the Mitchell substitute and what is in the Dole substitute. The public has the right to know. It is our responsibility to ensure that they know the truth.

Mr. President, I want to go back to something I mentioned a couple of days ago. I know the Senator from Connecticut followed up on it. The history of this bill—and this, believe me, takes nothing away from the tremendous work the Senator from Connecticut and the Senator from Utah have put into this—goes back to, I believe, about 6 years ago when I first came across a major effort here. It was put together by Senator CRANSTON, the Senator from California, and a lady by the name of Susanne Martinez, who was then doing a survey nationally to try to find out what the child-care needs were. What a very positive approach that was.

This is not something that Senator DODD and Senator HATCH began 2 days ago or even 2 years ago. Senator DODD and Senator HATCH have spent years putting together a bill. They started pretty far apart, I remember. And what we have now is a compromise bill.

I just want the record to show that there is a long history here. And the work we are doing today deserves many, many applauds for the Senator from Connecticut—for his steadfastness, for being out here and constantly knocking down these bogus arguments. He must be a little tired of it. I certainly get tired of it. I just turn on the television in my office for an hour or so and listen to what is going on here. I am darned tired of it.

I think it is time that we debate the facts that are in the ABC bill. Maybe everybody ought to take a 2-hour break here, and maybe the majority leader would like to do that this evening, and everybody sit down and read the bill. You can do it in less than an hour. I think we can all learn something about what is actually in that bill.

Mr. President, I want to thank the Senator from Connecticut for his tremendous leadership on this issue. He showed some frustration at some of the bogus arguments that were made here a few minutes ago, and I do not blame him. He must be absolutely burned out, having to get up here time and time again, and explain time and time again, what is in the bill and what is not. If you want to be against this bill, fine, be against it, but let us not distort the facts and the truths that are in this ABC bill.

Let us have the courage here to stand up for the children, to stand up for the family, and to do something that is really right. Nobody is going to get hurt by this bill. I am not sure it goes far enough. But the old saying is that "you have to crawl before you can walk, and you have to walk before you can run." And I think we have begun a good effort here toward better child care for America's families.

The PRESIDING OFFICER. The Chair informs the Senator from Connecticut that the time allocated to him under the previous order has expired.

Mr. DODD. I thank the Chair.

Mr. President, I ask unanimous consent that I be allocated an additional 5 minutes and that the time allocated to Senator DOLE be reserved. I may not even need all 5 minutes here.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DODD. Mr. President, first of all, let me thank the Senator from Arizona. He has been one of those people who has been actively involved in this issue from the very first hours we began this discussion, going back a number of years ago, and has proved to be an invaluable ally in the discussion of child care.

Before my colleague leaves the floor, I would take a second, because I know he will be interested as a student of history, and I know how much he loves history. Of course, it was 21 years ago that our former colleague, Fritz Mondale, proposed and succeeded in adopting a child-care bill here on the floor of the Senate. It was vetoed by President Nixon, and although the vote was overridden in the House, it was not here in the Senate, so the child-care proposal of 1968 failed.

What my colleague may not be aware of, even prior to 1968, this body, 46 years ago this month, on June 29, 1943, the Senate, after a 2-day debate, passed by voice vote, a national child-care program. It was called the War Area Child Care Act of 1943. The author of the bill was the Senator from Utah. His name was Albert Duncan Thomas. He had been a Mormon missionary in Japan and a professor of political science at the University of Utah before entering the Senate in 1933. It was as chairman of the Committee on Education and Labor that Senator Thomas brought a $20 million a year child-care measure to the floor of the U.S. Senate.

I remind my colleagues of the year, 1943, June, in the middle of World War II, and $20 million in 1943 was a lot of money. This body, by a voice vote, a voice vote, said we need a national child-care program, because young men were fighting in the European-Pacific theaters. Their wives were at home raising children and also working, war production.

Some of our people around the country who may be watching and listening to this debate may have been involved in that, may have been mothers back in the forties and know what I am talking about and remember those days. There is one child-care center left in the United States that was authorized under this War Area Child Care Act of 1943, and it is in Santa Monica, CA, and still is running. All the rest, after the war, ended up being disbanded, because families came home and dad was there, and dad went off to work, and mom stayed home with the children.

It was fascinating when you go back over the debate—and I invite my colleagues, if they enjoy history and revisiting arguments, to read the CONGRESSIONAL RECORD of June 29, 1943, and listen to some of the arguments on the floor about the child-care proposal of Senator Thomas of Utah.

By the way, Senator Danaher, of Connecticut, who is still alive, was one of those Senators who was raising a lot of questions about the child-care bill, whether or not we were going to set up some huge bureaucracy and how much flexibility parents would have. It seems you go back and you can read a debate of 46 years ago, and you could change the date on it, and you would almost think it occurred this afternoon.

Let me quickly share just a couple of the statements, some of the speeches made in defense of the Thomas bill. Senator Thomas said, and I quote him here:

I agree that mothers should not be in industry. I agree with all my heart and soul that they should not be in industry. I wish they did not have to be in industry, but they are in industry, and children are being neglected as a result. Because children are being neglected and mothers are not being taken care of, the Government has stepped in to try to do some good. No one objects to that.

June 30, 1943. Listen to Robert Taft, of Ohio, whose portrait is only a few feet from this Chamber, chosen by the Members of this body as one of the five most distinguished Members ever to serve in this body in the 200-year history of this great institution. Again, not unlike my colleague from Utah today, Senator HATCH, who hardly needs his Republican credentials to be endorsed by this Democrat. He has a long history of being associated with the Republican Party, and being a proud and constructive member of it, and certainly Robert Taft, of Ohio, fell into that category. Listen to his comments:

I think that if women are to work in defense industries, they are to be called upon to work, we must make some provision for taking care of the children, particularly the young ones, when women are working in the factories. Otherwise, mothers will not work, we will not have the woman power necessary to fill the vacancies in the war production plants.

June 29, 1943. I hate to remind my colleagues, but here were two conservative Members of the Senate, Robert Taft of Ohio, and Senator Thomas of Utah, in 1943 addressing the argument raised by some about the need for child care in the middle of World War II. Thank God we are not in the middle of a world conflict.

But just as women were involved out of necessity in 1943, in industry, away from the home, we find today many women, for other reasons, are faced with the same situation. As single parents, they must work, in order to provide for the economic needs of their families. As spouses whose husbands make less than $15,000 a year, they must work, in order to provide for the economic needs of their families.

Just as Senator Thomas, and just as Robert Taft said 46 years ago this month, "I do not like that, I wish that were not the case." But the fact of the matter is, it is the case. As long as that is the case, "there is nothing wrong with Government trying to step in to do a little good," to quote Senator Thomas of Utah, 46 years ago.

That is all that Senator HATCH and myself and a number of Republicans and many Democrats are trying to do with the Act for Better Child Care. They can mimic us and make fun of the name and try and choose other letters to describe it, but all we are trying to do is to ease the burden of some American families who are caught between having to make terrible choices, the love of their family and the necessity to work. It is not a choice they willed upon themselves. It is not a choice that they like to meet every day.

When that mother and father get up in the morning and take that infant child, the most precious possession that they have, and load them into that car and drop them off with some people they may have only met a few days ago or a few weeks back, and leave that infant for 8 hours a day, 5 days a week, month after month, I do not think it is asking too much that we in this Congress step forward and try and lighten the burden financially, to increase the availability of choice for those parents, and to be able to say to them that we are going to do our best to see to it that that place where you leave the most precious possession in your life is going to be a safe place for them.

We cannot guarantee that. No law can. Unfortunately, there will be those who will take advantage of a situation. But we can try and we can at least try to put into place some suggested ideas on how to minimize the risk of the most vulnerable part of our population, infant children. And that is all we are trying to do here, no different than what this body did on a voice vote 46 years ago, for different reasons then, circumstances were different, but the net effect was the same, and I am confident that this body and I am confident that this President who represents us all today are interested in seeing us step forward to try and help in the area of child care.

Mr. President, before this debate is concluded in the next several days or weeks I am confident that we will provide for the American people a child-care program that at least reduces the cost for many, not all, but some, that will expand the availability, not for everybody, but for some, and that will improve the quality of that child care, not guarantee it absolutely any more than we can with any bill or law we ever pass but to at least listen to the arguments of some that this is a bureaucratic monster that is imposing standards and denying parental choice and mandating where children go, I would invite them to read the RECORD of 46 years ago and to look at what good Republicans and good Democrats could do in the middle of a war. Not once in that debate did I find a single Senator stand up and say, "We can't afford to do this; we need to put that $20 million to work in Europe and the Pacific theater to defeat the enemy."

I found no single reference to a Member of the Senate making that argument. They understood the importance that a strong nation not only depended on our ability to defeat the outside aggressor, in that case Japan and Germany, but our strength in no small measure depended as well upon our investments in a generation of children of which I am one.

I was born 11 months after that legislation was passed. I am a child of that generation. And I think our parents did a pretty good job of raising a generation because they cared about us. Not all of our parents could have been home or were home in World War II or the Korean conflict, but this country and the adult population of that generation did not forget us as children, and I would like to think today that they would be proud of what we are doing or trying to do.

I would like to think as well that 46 years from today that some Senator, maybe from Connecticut, maybe from Indiana, would be sitting or standing on this floor talking about what they might be able to do for the children of their generation. We can only imagine what the problems might be just as certainly our own parents could not even imagine maybe what the world would look like in 1989. But I would like to think they can have that debate, they could discuss what the priorities ought to be and would look back and be able to say about us what we can say about our parents, that even in the middle of a conflict like a war they took time out to worry about the children of their generation, that even in a time of fiscal crisis, limited budgets, difficult questions, we can take out the time to worry about our children, to make it a safer and a better world in which they can grow and become productive, constructive adults.

That is all this is really all about. That is all we are trying to do here.

As the Senator from Arizona has said, there is nothing perfect about this bill. I would be the last person as the author of it to tell any of my colleagues that there are no flaws here. Like most of us who write legislation, you guess a little bit, you hope you are right. Time will tell. If we are wrong, we will come back and change it a little bit and make it right.

But the idea that we are trying to provide some direct assistance to families, that somehow that is unacceptable, Bob Taft did not think so in 1943, to provide direct assistance to

families, if that child needed a good child care setting. Senator Thomas, of Utah, did not think so. They did not argue about those sorts of things, whether it was a tax credit or a direct subsidy, let us help them, let us weigh in, let us do a good job, instead of getting into some mindless, ideological debate about some meaningless political philosophy, that wanders out there in the upper reaches of the atmosphere that does not mean much to most people who are trying to make ends meet today.

So, Mr. President, I invite my colleagues to read that debate. It is not a lengthy debate, those 2 days in June of 1943. But it is an enlightening debate.

We always like to think we are doing things for the first time here, we are inventing the wheel. But we are not in most cases.

And that debate indicated exactly what the priorities of a nation ought to be even in the middle of a great world conflict.

Tomorrow we will have an opportunity to vote and get underway, and I am very confident and hopeful that we will all be able to go home for our Fourth of July recess, that whatever amendments Members have to offer, they will offer them in good faith, make positive, constructive suggestions on how to improve the legislation, but let us get about the business. Let us not drag this out. Let us not go through a process where we play games with one another for the next 2 or 3 days in order to gain, as I said earlier today, some upper hand politically about who is the author of child care.

Let us do something that we can all go home, Republican and Democrat, conservative and liberal, and say to our constituents we have done something here. We do not know if it is perfect. It does not take care of everybody, but it gets us on track now that we understand the problem.

I think we will all do well politically if we take that position instead of going home and trying to pretend we defeated one side or the other in this battle. The American people could care less about our political battles. What they care about is what we might do in a positive and constructive way for them.

Mr. President, I have exceeded the time that I have asked for, and I see my good friend from Indiana is over here on the floor and I apologize for going on a few more minutes. Let me yield the floor.

The PRESIDING OFFICER. Does the Senator from Indiana yield himself time from the time allocated to Senator DOLE?

Mr. COATS. I do. I yield myself 15 minutes, Mr. President.

The PRESIDING OFFICER. The Chair recognizes the Senator from Indiana [Mr. COATS].

Mr. COATS. Mr. President, I say to my colleague from Connecticut that I do not question his motives in bringing forth this legislation before the Senate. He is a passionate and articulate advocate on behalf of children of this country and he has articulated his position very well and very passionately in the last few days.

I have worked with him on a number of issues, and we have not agreed necessarily on each of those. Some we have; some we have not.

I disagree with him on this particular issue because I think a different approach ought to be used, but I do not question his motives in bringing forth the bill and in sincerely attempting to provide additional child care for children of this country.

As I said, we have a decidedly different approach to what is a very real problem, a problem that exists today because our work force is changing. Mothers are moving into the work force in record numbers. Child care is an important component of that.

I have raised over the past several years a number of questions about the impact of this on our society, the impact on children, the effect that it might have on the next generation. Those are questions that psychologists, psychiatrists, medical experts, policymakers, and others are debating, and we can find advocates for both sides of the equation.

Researchers will come forward and present statistical evidence indicating that infant child care potentially is harmful. Others will say, no it is not; it depends on the quality of care.

Those of us who believes that there is no substitute for a mother's care, that you simply cannot begin to provide the kind of care and love and concern that a mother can give want to argue for a system that does not discriminate against that mother that chooses, often at considerable financial sacrifice, to stay at home.

Therefore, we are supportive of the Dole bill which recognizes the mother who chooses to stay at home and the importance of that decision.

Now we also recognize that there are plenty of mothers who have no option. They are single parent mothers. They are mothers from low-income, two-parent families. They are mothers for whatever reason of necessity have to be in the workplace and therefore need some form of child care, and for those certainly providing assistance in achieving child care is a desirable goal because often the only alternative is welfare and we ought to be encouraging, not discouraging families and mothers from staying out of that system.

And that is why Republicans have supported over the years a system of credits for dependent care which now totals about $7 billion. It is wrong to characterize this debate as for child care or against child care, or we are now putting into place a child-care system. That is already in place.

Our Tax Code, to the tune of $7 billion, allows for dependent care credits. I think it ought to be changed so it retargets the assistance to those who really need it because there really is no debate over those single mothers, those mothers in low-income families, in financial situations, who have no choice but to enter the workplace. There is no debate over whether or not they need assistance in meeting their child care needs.

The debate is whether we ought to put in place a new system, a system that is designed to funnel money into an existing child care delivery system that is State controlled, in one fashion or another; whether we ought to funnel the money through that system or whether we ought to take a broader approach and try to reach out to all those families in America who have children at home, recognizing the difficulties they have in meeting their financial needs in raising their children, in a way that gives them the choice as to how they raise those children and how they provide that care.

The Dole bill, the bill that is proposed as an alternative to ABC, is an attempt—again, not perfect—but an attempt to reach out and recognize the broader policy implications and the broader needs of helping all families. We do so by expanding the earned income tax credit so we give the parents at home additional funds with which to provide for family expenses.

If they choose to use it for child care purposes, that is their choice. But if they choose to use it to help supplement or help with the income of that mother who chooses to stay at home or the family who chooses to have the mother staying at home in those crucial early child-rearing years, then they can use it for that choice. And the word "choice" is the critical distinction between the two.

I suggest it is a distinction that cannot be merged or married in a successful way between the two bills. That is why there is such division here about the approach we ought to take.

Yesterday I talked about the fact that the ABC approach does not resolve the question of provision of assistance to religious day-care providers. I indicated what an important segment of day-care provision that is. That up to a third of parents choose to have their child cared for in some form of religious institution or in care that incorporates some form of religious instruction or in a church or synagogue-type of facility.

That that is a very important component of the child care that is provided to today's young children and it is the choice of many, many parents. It is, in fact, a superior choice because it

does provide quality care at often much lower prices. Because the church is doing this as a mission, as a service. It utilizes people from the congregation as assistants. They often work for less or volunteer. And, in many instances we find a very acceptable and often superior form of child care.

I detail, by going through the bill section by section, the problems and the limitations that I thought would occur if we passed ABC. And the fact is that it would shrink up and drive out of the business those very essential components of child care provision that are being provided by some type of religiously oriented child care. That is a part of the record. We did that yesterday.

Today, I would like to focus on the question of mothers at home that I talked about earlier. ABC proponents believe that families should be rewarded based on their child care decisions. And that families which choose to place their children in out-of-home care deserve Federal assistance but those who sacrifice income to remain at home do not deserve Federal assistance.

They argue that, given the choice, most mothers would rather pursue a career than care for their very young children at home. And we hear this argument over and over.

"Wake up. Move into the 20th century. Mothers want to work. They want to be in the workplace. They want child care. They do not want to stay at home to raise their children and therefore, we need to assist them and recognize that decision and assist them with financial assistance."

Well, I do not think those who make that argument know the American family very well.

True, there are American mothers who make the choice to be a part of the American workplace and that is their choice. No one is trying to dictate that for them. What we are saying is those that choose not to ought not to be discriminated against as we direct Federal assistance only to those who choose to do so.

As I said, we have not correctly identified today's American family. According to the most recent survey of child-care arrangements by the Census Bureau, more than 9.7 million, that is 54 percent of the nearly 18 million children under the age of 5, are primarily cared for by a mother who stays at home with her children. Fifty-four percent of the children under the age of 5 are primarily cared for by a mother who stays at home with her children.

An additional 7 percent have tag-team parents who share child rearing responsibilities. And an additional 4 percent have double-time mothers who care for their children while they babysit other children or earn income in some other way at home.

Thus, the primary care arrangement for 65 percent of all preschool children is by one or both parents. When we add the 11-percent primarily cared for by a grandmother or other relative, we see that nearly three-fourths of all the children under the age of 5 are primarily cared for by one or more family members.

Is care at home the choice of most families? According to a recent survey by Glamour magazine, 84 percent of mothers who worked full time or part time said:

If I could afford it, I would rather be at home with my children.

The Dole-Packwood amendment goes a long way in letting these families keep more of their income. It may not result in massive numbers of families deciding suddenly to take a mother out of the workplace and have her stay at home. But it sends a very important signal and helps establish tax fairness for families. And most importantly it allows the choice to be made by the parents, by the mother; and it does not bias the choice by government.

I recently received a brochure entitled "Mothers Speak Out on Child Care."

Mr. President, I ask unanimous consent that this brochure be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. COATS. Allow me to read some excerpts from it that I found particularly enlightening. I quote from this pamphlet:

Legislators under pressure to end the Nation's child woes may be rushing to give America's mothers precisely what they do not want. The fact is, as political cries for "more quality day care" reach a near-deafening level, millions of women are quietly looking toward another kind of solution to the child care crisis: They are looking for creative work options that allow them to rear their own children. Whether they choose to pull back from full-time work to part-time, to open a home-based business, or to quit work altogether while their children are young, the motivation for most mothers remains the same—to keep their children out of day care.

Yet, political leaders, perhaps unaware of this trend, are ready to provide mothers with exactly the kind of care they are trying to avoid. Sought out by various day care advocates—representing business, labor, social services, and education—many legislators have considered the advice of everyone except the very group whose interests they seek to promote: the nation's mothers.

When the child care crisis is viewed from the eyes of today's mothers, it becomes evident that political leaders have fallen prey to the following misconceptions:

Misconception No. 1: The belief that most mothers today need substitute child care.

Misconception No. 2: The belief that the needs and desires of mothers and children are accurately portrayed in the media.

Misconception No. 3: The belief that providing more "quality care" is our only realistic option.

These misconceptions, which have led to a serious misunderstanding about who today's mothers are and what they need, demand closer examination.

And then a second from that brochure ensuring our children's best possible care:

Mothers across the country are watching the national child care debate with growing alarm. They have seen it evolve from a rational and sensitive discussion of the plight of America's mothers into a frightening political battle between forces that have long since forgotten what is really at stake. They fear that in the end the "solutions" it yields may compromise what is good for them and what is best for their children.

Most mothers today do not believe that loving care can be created by legislative mandate, or bought with generous salaries and top-of-the-line play equipment. When they demand "quality care" for their children, they are not referring to adequate fire exits and adult-to-child ratio. They are referring to genuine love, to personal and immediate attention to individual need. They are referring to that care which teaches a child that he comes first to somebody—in short, the kind of care that has never been for sale.

These mothers do not make their child care decisions based on scientific studies or the findings of Congressional committees and Presidential commisions. In the final analysis, when a mother makes that hard choice, she consults the dictates of her conscience, the inclinations of her heart, and the commonsense evidence of her own two eyes.

For most mothers today, that evidence suggests that their children need them. So, while legislators consider child care programs which no one knows how to fund or staff or regulate—programs which even proponents cannot confidently predict will do an "adequate" job—millions of mothers are pioneering their own real-life solutions to the child care dilemma. These mothers, who have ignored conventional wisdom in order to pursue uniquely personal strategies and options tailored to the needs of their individual families, may well be providing the very leadership that will finally steer us toward a sound public policy on child care.

One thing is certain: the children of this nation deserve to be raised in the best way rather than in the most expedient way. Let us work together to ensure that all parents can freely choose the best possible care for their children.

Mr. President, I think what has been so eloquently stated by this organization, Mothers at Home, is that there is no substitute for care at home by a child's mother. As I said earlier, I recognize the reality of the fact that there are many mothers who simply have no choice, and for those mothers we ought to be compassionate and reach out and find ways of assisting legitimate child-care needs. We ought to recognize also that there are mothers who want to have the choice, want to have the option, staying home and raising their children especially in early years, adjusting work schedules through flextime or work-at-home

procedures whereby they can perform work at home and provide child care for their children, working out informal child-care arrangements with neighbors, relatives, or friends, sharing child-care arrangements with fellow workers—a whole range of options that ought to be open to mothers who make their choice to be with their children and want to avoid institutional care.

We are now attempting to put into our child-care delivery system a bias which simply says if you work, we will help you, but if you as a mother make the choice, you as a family make the financial sacrifice to stay at home and raise your children, then we will not help you at all; you are on your own; do the best you can but do not expect any help from us. And so as we bias a system toward only providing help for those who work, we discriminate against those who make a very important choice, often at financial sacrifice, to stay at home.

Now we have talked on the floor about the problems of ABC and how as you attempt to devise a system to deliver child care services to families you run into a whole myriad complex of questions and problems and interpretations and potential court battles and potential discrimination and establishing of standards that throws the whole system into chaos and drives out many of those who are working on an informal arrangement, they throw up their hands and simply say, "I cannot, I won't; it is impossible to comply with the standards that are put before us."

Yes, the ABC bill has been changed to remove the Federal standards but, as I indicated in earlier testimony, there are a number of instances in the bill whereby the standards will be imposed and be part of the delivery system or the providers will not qualify for the care. So grandmothers who are exempt or in-laws or step-parents or those who do not qualify under the exemptions will find that meeting the standards or coming under the guise of a State regulation will simply not be worth the trouble and they will either go underground or get out of the child-care provider business, thereby shrinking the slots available for child care.

One of the local papers here just this week detailed the discussions that are underway with the country board of supervisors over the child-care delivery system in Fairfax County and how people came before the supervisors to testify as to how complicated, how burdensome, how unwittingly some of these regulations were causing problems in delivering child care and how they were prepared to go out of the child-care business if they could not find some adjustment. So we are constantly faced with a situation where the State is attempting to determine the standards and, as such, creating problems that it never could have conceived. One of these standards in a Fairfax County governmental unit was that no child should be spanked during child-care hours. The mother was asking the supervisor, "Well, along with the children that I care for, I also care for my own child, and are you telling me that if my kid comes up and kicks me in the shins I cannot reach down and spank him or discipline him?" The supervisor said, "Well, under the provision"—in fact, it was the supervisor who asked the question—"Under the provision," the supervisor said, "that is not what we intended." But someone else jumped up and said, "Well, yes, that is what the standard says because we do not want to send a signal to the other children that spanking is permissible, and if you cannot spank them all, we do not want you to spank any of them." The mother said, "How do I discipline my own child?" "You have to do it outside the child-care hours. You cannot discipline your children when you are caring for other children."

I do not think I have to quote a psychologist that whatever discipline there is between a parent and a child needs to occur as close to the incident as possible. A child's attention span and memory is quite short. Something a child does that needs immediate attention or discipline ought to be attended to immediately by the parent. You cannot wait 6 hours later until the mothers pick the kids up and they go home and then apply whatever form of discipline you as a parent think is appropriate for that situation.

I just raise that as one example of a situation that you get into when you have a State or government unit imposing standards that apply to child care providers. You lose the flexibility, you lose the ability of the system to adapt to the changing needs of working mothers and stay-at-home mothers.

I could go on and on, and many have discussed on this floor the problems that exist with ABC. There is a better approach; there is a simpler approach; there is an approach that I believe most parents want, and that is the approach of giving them the choice, the choice of who provides care for their children, who is in a better position to determine who should care for their children than the parents themselves. No State can better determine the child care needs of a particular child and the provisions of a particular provider better than the parents. They are the ones who walk in the door and say, "Is this where I want my child to be?"

The religious question, the question of the religious providers being eliminated or at least reduced significantly under ABC, the fact that mothers at home should not be discriminated against, we have gone on and on here for the last several days about the problems of ABC and how these can be solved by the Dole substitute which provides income to parents for them to choose the best way to deliver those services to their children.

So I urge my colleagues to carefully read the bill, as has been urged by the Senator from Connecticut, because if you do, you will see the long winding road to complicated State delivered child care and the tortuous things you have to do in order to meet the requirements to satisfy the demand and yet fall short. I urge them to read the bill and urge them to look at the simplicity of the Dole substitute and go home and ask their constituents, what do you prefer? Do you want us to put some funds in your hands so you can make a determination about raising your children or do you want us to fuel a child care delivery system that is controlled by the State and that has all kinds of limitations in it? Do you want us to deliver the services that way? I think the overwhelming majority would respond, "Give us the choice; give us the flexibility; let us make the determination as to who is best qualified to care for our children and what service arrangements we can make in order to care for the children."

Mr. President, I think I have overindulged the time of the minority leader. I yield the floor at this time.

EXHIBIT 1

MOTHERS SPEAK OUT ON CHILD CARE

MOTHERS-AT-HOME

Mothers-At-Home is a non-profit (501C3) organization devoted to the support of mothers who choose (or would like to choose) to stay home to nurture their families. It was founded in 1984 with a three-fold purpose in mind:

To help mothers at home realize they have made a great choice—one made by many smart women today;

To help mothers excel at a job for which no one feels fully prepared;

To correct society's many misconceptions about mothering today.

Mothers-At-Home accomplishes these goals by:

Publishing "Welcome Home," a monthly newsletter that puts mothers at home across the country in touch with each other;

Researching, writing, and speaking on topics of interest to today's mothers;

Speaking out everywhere from the popular talk shows to the major news networks, and sharing everything from advice at parenting conferences to testimony on Capitol Hill.

PREFACE

Mothers-at-Home is concerned that the current clamor for more and "better" child care will push legislators into adopting policies that most parents do not want. We are convinced, after five years of hearing from thousands of mothers on this very topic, that the true nature of today's child care crisis is sorely misunderstood; and that leaders who have been quick to listen to the ideas of special interest groups have over-

looked the thoughts and feelings of the most important group of all—the nation's parents.

In hopes of giving a voice to mothers in particular, we have prepared Mothers Speak Out on Child Care—a concept paper which describes the child care crisis as we understand it. In the course of compiling this paper, we have studied various legislative proposals, reviewed conservative and liberal policy papers, examined widely-acknowledged studies, and kept abreast of related media coverage. However, the conclusions outlined here are not dependent on these sources; rather, our assessment of the child care crisis and our suggestions for solving it have grown out of firsthand experience with the mothers who are living it. In fact, the paper itself is the result of a year's work by a host of volunteers, many of whom have personally experienced the heart-wrenching decisions discussed in the following pages.

We challenge those who read Mothers Speak Out on Child Care to consciously seek out mothers and listen to their views on those timely issues, then judge for themselves the accuracy of this report.

MOTHERS SPEAK OUT ON CHILD CARE

Legislators under pressure to end the nation's child care woes may be rushing to give America's mothers precisely what they do not want. The fact is, as political cries for "more quality day care" reach a near-deafening level, millions of women are quietly looking toward another kind of solution to the child care crisis: They are looking for creative work options that allow them to rear their own children. Whether they choose to pull back from full-time work to part-time, to open a home-based business, or to quit work altogether while their children are young, the motivation for most mothers remains the same—to keep their children out of day care.

Yet, political leaders, perhaps unaware of this trend, are ready to provide mothers with exactly the kind of care they are trying to avoid. Sought out by various day care advocates—representing business, labor, social services, and education—many legislators have considered the advice of everyone except the very group whose interests they seek to promote: the nation's mothers.

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These misconceptions, which have led to a serious misunderstanding about who today's mothers are and what they need, demand closer examination.

MISCONCEPTION NO. 1—THE BELIEF THAT MOST MOTHERS TODAY NEED SUBSTITUTE CHILD CARE

For the past twenty-five years, almost the only news the American public has heard about mothers is that they are leaving home for the workplace. At the basis of every discussion of the subject are government statistics—indisputable evidence that the number of mothers in the labor force has risen dramatically over the years. However, a general misunderstanding of what these figures actually measure has led to inaccurate and potentially dangerous conclusions about society's need for more child care.

Statistics On Working Mothers Do Not Measure Child Care Needs

Everywhere from Congressional hearings to local meetings of the PTA, the same cry is heard: Mothers are working, and there is a critical shortage of child care for their children. Leaders from every sector of society are urging immediate action, backing their pleas with government statistics that have become so well known and widely accepted that hardly a reference to motherhood escapes mention of them.

"Those who decry the trend for children to be placed in out-of-home care must accept the fact that American society has changed," stated the American Academy of Pediatrics last year in testimony before Congress. "More than 50% of mothers with children under one year of age are in the out-of-home workforce. Greater than 60% of mothers with children under three are similarly employed."

At the same hearing before the Housing Committee on Education and Labor (February 25, 1988), the YWCA reported: "Our country is faced with a major child care crisis because the number of children with working mothers has grown tremendously. By 1995, two-thirds of all preschool children will have mothers in the workforce; and four out of five school-age children will have working mothers."

Most likely, the representatives of these organizations based their use of the statistics quoted above on media reports, which invariably combine announcements of the latest government figures with stories of mothers struggling to manage full-time jobs while searching for "quality" child care. Media presentations of this nature give most people the impression that every mother who joins the workforce needs a child care provider or access to child care facilities.

This perception simply is not true. Millions of mothers who are considered by the government to be an active part of the labor force do not need or want substitute care for their children. In fact, a close look at the statistics reveals that a large number of these so-called "working mothers" actually consider themselves "at home."

The U.S. Department of Labor Definition of "Work"

Almost every reference to the number of mothers in the workforce, including the three quoted above, can be traced back to the statistics on women and employment released annually by the U.S. Department of Labor (DOL). These statistics are based on a survey of 60,000 "scientifically selected" households, conducted each March by the Bureau of the Census. Because the objective of the survey is to identify trends by comparing labor force participation from year to year, the DOL has had to devise a standardized definition of "employment." This definition reads: "Employed persons are those who, during the survey week: (a) did any work at all as paid civilians; (b) worked in their own business or profession or on their own farms; or (c) worked fifteen hours or more as an unpaid worker in a family-operated enterprise. Also included are those who were temporarily absent from their jobs for such reasons as illness, vacation, bad weather, or labor-management disputes."

This definition clearly encompasses more than the full-time working mothers most people have imagined. According to spokespersons at the DOL, the 65% of mothers who are usually described as "working outside the home" also includes:

1. Mothers who work part-time, as little as one hour per week and up.—In a Newsweek-commissioned Gallup Poll of 1,009 women (reported in the March 31, 1986, issue of Newsweek), over half the mothers interviewed who were working part-time or flexible hours "said they had cut back or changed jobs to be with their kids." In other words, mothers who choose part-time work often do so just to avoid the need for substitute child care.

Such is certainly the case for the part-time workers who write to our organization. For instance, Diane Gates from Essex Junction, Vermont, writes: "When [my boys] started school, I went out and got a job working with special education children. I see my children off in the morning, and I'm home when they get home from school. I would give no one else the privilege of watching my children grow. What a beautiful career, being a mother."

According to the DOL, 16.5% of all mothers worked part-time in 1988. Only 44.4% of the nation's mothers were actually employed full-time.

2. Mothers who work seasonally, as little as one week out of the year.—Many mothers who work do so while their children attend school and avoid employment during their children's summer vacations. Other mothers work only occasionally during the year, perhaps substitute teaching, selling handcrafts, or helping a business during a high-volume period. These mothers who work seasonally are also calculated into the DOL statistics, although some work as little as one week out of the year. According to DOL tabulations, only 33.1% of all mothers with children under the age of 18 work full-time year round. That figure drops to 25.9% for mothers whose youngest child is under six years of age.

3. Mothers who work from their homes.—Whether working for employers or running their own home businesses, many mothers avoid child care by working from home. From Ann Arbor, Michigan, Diane Spears, a single mother with three children, writes, "I am doing some work in my home to help make ends meet. Money is tight, but I feel my responsibility is in the home with my children. I don't know of anyone better qualified than myself to raise my children." Another single mother, raising two boys in Piedmont, California, tells us: "I've been working at home as the primary provider for seven years. I didn't want to miss any of the rewards being a mother at home brings."

The DOL, however, makes no distinction between women who work at an office or factory or some other facility and those who work in their own homes. Therefore, an unknown percentage of the DOL's mothers who supposedly "work outside the home" refer to mothers who work with their children around them, literally inside the home.

4. Mothers who provide child care for other mothers.—Both full-time family day care providers and mothers who collect a check for watching a neighbor's child a few hours each day after school are counted in the DOL figures. Typical is Cindy Guzman, from Sacramento, California, who speaks of the days when she was working outside the home herself as opposed to her current situation as a family day care provider. She writes: "When my first son was four weeks old, I had to start a new job. It was a hard separation for me, [but] as time went on, we both adjusted. When my second son was born, I was once again faced with returning to work. [Instead] I checked out doing li-

censed child care. . . I have been home for two years now and looking back am proud of my thriving day-care business, my steady income, and my two boys growing up at home."

5. Mothers who work without pay for a "family-operated enterprise" at least fifteen hours per week.—Some mothers at home who write us mention participating in a family business. Whether or not they are paid for their work, these women are within the national definition of "working mothers." Yet, most of them are able to do their work from home or to perform their work during hours that allow their children full-time access to "Mom." Writes a former insurance agent, now the mother of one in Fort Lauderdale, Florida: "I do not have an income, but I am my husband's bookkeeper for his business, and I do many jobs that are his when I have time at home, so we can spend more time together as a family."

6. Mothers who work full-time but have flexible hours.—Even mothers who are employed full-time can defy the media image of the working mother. By arranging flexible work hours or by having their husbands do so, many women go to great lengths to avoid leaving their children in a day-care center or with a sitter. Although they definitely consider themselves working mothers, they are usually home when their children are home. An example is Linda Hayes, a mother of two from Vienna, Virginia, who works the so-called "mother trip" as an airline stewardess. An especially grueling assignment, which condenses a week's worth of work hours into back-to-back flights that can be completed in two days, it is nevertheless so popular that only women with nearly twenty years of seniority are able to request it. Says Linda, "It's just not in me to leave [my girls] so much of the time."

In some families where both parents are employed full-time, the husband and wife have a "tag team" arrangement: They plan their work schedules so that one of them gets home as the other is leaving for work. Thus, one parent is always available to care for the children. The DOL figures do not include information about child care arrangements; however, the Bureau of the Census (Who's Minding the Kids? 1984-85) reports that 7% of the nation's children under age five have "tag team" parental care.

7. Mothers who are on maternity leave, whether or not they return to their jobs.—Women on maternity leave also are numbered among the working population. This would include mothers like Camille Globerman, who later decided not to return to work. From New City, New York, she writes: "I have been on maternity leave for the past sixteen months, and now I am faced with the decision to either resign my job of $35,000 or leave my precious to another person for a ten-hour day! Even though the money is tempting, my husband and I feel that raising our daughter is more important; therefore, I'm going to resign." During her first sixteen months at home, the DOL presumably would have termed Camille a "working mother."

8. Mothers who are unemployed, but who are looking for work.—Since women who are job-seeking generally do not remain unemployed for long, they are considered an active part of the labor force and are counted as such. In 1988, 6.5% of the DOL's "working mothers" were unemployed.

Inaccurate Estimates of the Demand for Child Care

Thus, the Department of Labor's statistics on working mothers include women who participate in the workforce in a variety of ways—not just full-time employed mothers or those whose job circumstances dictate the need for child care. In fact, the Current Population Survey, from which the statistics are drawn, does not (at this writing) ask respondents any questions about child care; nor can a respondent's need or desire for child care be inferred from answers to other questions.

Yet, the notion persists that every mother who participates in the labor force needs substitute care for her children. This mistaken assumption has led many well-intentioned people—from community leaders to reporters to Congressional Aides—to routinely misuse the DOL statistics as "proof" of the need for more day care. It has even led researchers to project how many children will need day care in the near future by devising formulas based on the faulty premise of how many working mothers have been "counted" by the DOL. In reality, as explained above, many mothers who are considered an active part of the labor force do not need any child care services at all. Therefore, estimates of child care needs based on the DOL's employment statistics on women are both inaccurate and misleading.

Unfortunately, other methods of measuring child care needs either do not exist or have not been widely publicized. Possibly the most reliable indicator of child care trends across the nation is the aforementioned Bureau of the Census report, Who's Minding the Kids? It summarizes the results of a 1984-85 survey in which working parents were asked to describe primary and secondary child care arrangements for their three youngest children. According to this report, most children over age six are actually in school the entire time their mothers are at work. Children who require secondary (before and after school) arrangements or whose parents work during non-school hours are mostly cared for in their own homes and/or by relatives or friends.

The majority of preschool children (under five years of age) are cared for by their own parents: 54% have a mother at home, 7% have "tag team" parents, and 4% accompany their mothers to work or are cared for by mothers who earn income from home. Of those preschoolers who do have substitute caregivers, 11% are in the care of a relative, 10% go to a family day care home, 3% have a babysitter, and 11% are enrolled in center-based care.

This report indicates that the number of children under the age of fifteen in need of non-parental child care may be far from the majority. However, even a survey of how children are cared for today is only a measurement of current use, not a statement of need. Until further research is done, no one can provide an accurate assessment of how many of the nation's women who are described as "working mothers" really need or want substitute child care for their children.

MISCONCEPTION NO. 2—THE BELIEF THAT THE NEEDS AND DESIRES OF MOTHERS AND CHILDREN ARE ACCURATELY PORTRAYED IN THE MEDIA

It is clear that more mothers than ever before are participating in the workforce in someway. It is equally clear that these mothers are experiencing a deeply emotional crisis concerning the care of their children. Yet, in spite of considerable media coverage, the true nature of this crisis remains largely misunderstood.

The truth is that most people's understanding of the child care crisis is based on the media's perception of the problem. That perception—as portrayed in news stories, on talk shows, in books, on television, and in the movies—is far from what mothers really want and children really need.

Today's Mothers Defy Media Stereotypes

Media coverage for the past three decades has almost universally divided mothers into two distinct camps: mothers who are home with their children (pictured as a shrinking minority) and mothers who "work outside the home" (identified as the growing majority). Mothers at home are supposedly politically conservative, married to a high wage earner, and ideologically committed to the view that women belong in the home. "Working mothers," on the other hand, are depicted as educated women pursuing self-fulfillment in the workplace and mothers forced to work for economic reasons.

The outpouring of letters we have received over the past five years, from mothers of nearly every political, religious, and socio-economic background, completely contradicts this picture.[1] We have heard from single mothers who have managed to stay home, wealthy women who feel they "must" work, political conservatives who have balanced career and family for years, and ardent feminists who quit work as soon as their first child was born. Thus we have learned that mothers simply cannot be categorized by their work/home choice.

If anything unites mother today, it is not the choices they make concerning the care of their children; it is the exhausting inner turmoil they suffer as they weigh the alternatives. Pulled one way by an intense social and economic pressure to work and pushed another by a dawning realization that they are truly needed by their children, most mothers feel hopelessly torn. In fact, many of them wander in and out of the workforce—seeking from society support at work, then at home—only to find it severely lacking in either place.

A Generation of Women Unprepared for Children

In spite of the depth of their internal battles, over one third of the nation's mothers choose to forgo any labor force participation at all in order to devote the full-time efforts to nurturing their families; many others are employed only part-time or make creative arrangements that limit the amount of time their children spend in substitute care. Meanwhile, the child care needs of the remaining mothers extend far beyond the search for "quality care" so urgently depicted in the media. Rather, the media's "typical" mother—a woman whose preschoolers are subjected to a nightmare of inferior child care arrangements while on the waiting list for a "good" day-care center—is a mere glimpse of a much larger, much more poignant story.

It is the story of a generation of women who were led to believe that motherhood could be "hired out," and that life with children need not differ much from life without them. It is the story of women who had no real idea of what caring for a child would feel like or of the sophisticated skills and the sacrifice of time it would require. It is the story of women like Kathy Miller Rindock from Allentown, Pennsylvania, who writes: "I have always strongly supported the women's movement and consequently was totally unprepared for the depth and

[1] See Appendix A: What You Need to Know About Today's Mothers.

strength of emotional commitment I felt for my daughter. I never even considered not returning to work, so I wasn't prepared financially when I didn't want to resume my job. I am angry and frustrated and hurt."

Women like Kathy, influenced by the "have it all" hype of the seventies and early eighties, expected a relatively simple adjustment to motherhood. Supposing that caring for a child somehow "comes naturally," and consists of fairly straightforward tasks, they rarely thought beyond feeding, bathing, and cuddling an infant. Hiring someone to do these things for them while they were at work seemed perfectly reasonable, as did spending "quality time" with a child each evening.

However, these women have discovered that the kind of nurturing they want for their children requires more than custodial care; it demands the full-time attention and untiring efforts of someone who has a vision of what their children can become. Sometimes only days after childbirth, many women begin to feel reluctant to return to work, even desirous of quitting work altogether to stay home. Confides a mother from Franklin, Tennessee: "My husband and I both thought I would return to work after my year of maternity leave, but I never knew the feelings I would experience after I held [my baby] in my arms."

Explains Pam Svoboda, of McCook, Nebraska: "I had no doubt I would go back to work. Throughout all nine months of pregnancy I assured everyone that I was not a 'homebody,' that I'd be bored at home. Then she was born. I had no idea she would be so special." Writes a mother from Kingwood, Texas: "I believed all the magazines—I intended to go back to work after a three-month maternity leave. In reality, I found an overwhelming love for my child and child care options that made me cry."

If mothers like those quoted here could simply change their minds overnight to be home with their children, there might not be a child care crisis. However, many—perhaps most young women today—are totally unprepared financially, professionally, or even socially and emotionally to stay home with a baby. In fact, full-time mothering is currently so low in prestige, so economically difficult, and viewed as such a threat to professional advancement that even women who want to quit work find the obstacles insurmountable.

Writes a discouraged mother from New Paltz, New York: "I've been a career woman since I was seventeen. I just assumed that after the birth of my son I would return to work and life would go on as before. . . . I finally had the career position I had worked for all my life, a beautiful healthy child, nice home—and I was miserable. No one ever told me how I was going to feel about that little boy . . . After much soul-searching, I decided that what was important to me was not supporting a life-style, but living life, so my husband and I decided that we would sell our very expensive home in a very expensive neighborhood and move 'down.' My problem now is that I can't seem to make that final decision to leave work completely."

And so, many first-time mothers return to work, uncertain of their decision to do so, but assured by popular literature, media stereotypes, and well-meaning friends that they will "adjust" as soon as they locate "quality child care."

The Search for "Quality Care"

Thus it is with certain misgivings that many, if not most mothers begin the search for substitute child care. Although their individual stories vary widely, most are merely variations on a theme: Try as they might, these mothers cannot find a sitter or day-care center they feel comfortable with. Together their combined experiences create an incredible portrait of a generation of mothers who want day care to work; who try hard to ignore symptoms that it might not be going according to plan; yet who, after numerous trials with every available kind of care, discover that day care is not the way they really want to rear their children.

These mothers describe how, in the midst of the highest expectations, when they are least likely to look for something wrong with a child care situation, they feel the first vague stirrings that all is not well. They speak of observing small, everyday exchanges between their children and caregivers that bother them in a way they can neither explain nor forget; until inevitably, these stirrings evolve into questions, and the questions lead to investigations, which in turn initiate yet another series of disappointing child care arrangements. Then, for many of these mothers, come sleepless nights, as they reluctantly acknowledge that a child's feelings about himself and his place in the world are not molded in the few hours a mother has after work; rather a child is formed in the midst of the most common interactions during the course of a thoroughly ordinary day.[2]

After weeks, months, sometimes years of unsatisfactory child care experiences, many mothers do indeed become the media's familiar anguished mother desperately trying to locate a "better" sitter or a "more loving" day-care center. The critically important question, then, is: Why? Why is it that mothers who apparently have access to a multitude of child care providers cannot find one that satisfies them? And why, when they have been repeatedly warned that children in day care have an urgent need for consistency, do they jeopardize fulfillment of that need to try "one more" promising child care arrangement? Is their inability to find adequate care really an indication that there aren't enough clean, safe, and well-regulated day-care spaces to choose from? Or could it be that cleanliness and safety are not all these mothers are looking for?

We believe that most mothers who cannot find satisfactory child care are not suffering from a lack of "quality" options. In fact, many of them feel they have already experienced the best there can be. We believe these mothers go from sitter to sitter and center to center because they are continually looking for something that no substitute caregiver can ever provide: the same love and care each mother would give her own child in her own home.

What Children Need

Of course, not all mothers struggling with child care problems share identical feelings and situations. However, it is significant that so many women who feel compelled to speak out about the conflicts they feel are describing the same surprising conclusion: there is no adequate replacement in the life of a child for the intimate, full-time guidance of a loving parent.

This "discovery" is not what today's mothers were taught, nor what they expected when the first embarked on motherhood for themselves. They have learned it from their own experience:

Explains a mother from Wisconsin: "I was extremely confused by the negative behavior my daughter was exhibiting while being cared for by a relative, and it became more intense when I placed her in a day-care center at the age of three. Neither her pediatrician nor the day-care center agreed with me that my daughter's behaivor was caused by day care. Therefore, I was shocked and angered to realize exactly what my daughter was missing when I did quit my job. I honestly didn't realize my presence and interaction with my daughter were essential to her growth and development."

From Ann Arbor, Michigan, a former teacher with extensive training in child development writes: "When I first became a mother, I continued to work outside the home for several years, but found myself increasingly disturbed and dissatisfied with the care our children were getting, even in 'good' day-care centers. It was a sacrifice for me to quit my job, but my husband and I felt it was a greater sacrifice to put the kids in day care."

A full-time clerical worker and mother of two preschoolers from Tallahassee, Florida, says simply: "Sometimes I worry that I will not be able to reverse the damage done to my children when I am finally able to stay home."

With unusual conviction, mothers tell us that children need a full-time parent because only someone as devoted as a mother or father has the perspective needed and will put forth the effort required to nurture a child to his or her full potential.

From Milwaukee, Wisconsin, Mary Brauer comments: ". . . The most important thing we can do for mankind [is] raise the future generation with 'custom-made love' as only a child's own parents can give."

Diane E. Poliseno, a mother from Lake View, New York, tells us: "I became a teacher because I do love children. I wanted to be a part of influencing the future of our country . . . but my child (and future children) are even more important, and I wanted to be responsible for building their characters and shaping their personalities on a day-to-day, moment-by-moment basis—something that can only be done with me being at home during the day."

Writes Lora Rinker from Arlington, Virginia: "I feel that I am a very privileged and very fortunate person to be having this beautiful experience of really knowing my children, sharing and helping them with their plans and dreams, and just being there when needed. The events of each day may not seem so big and important, but when you add them all up, they are life itself."

Interestingly, those who work with children on a regular basis, especially those who provide substitute child care, express especially strong opinions about the importance of having one parent always available to a child:

From Honolulu, Hawaii, a 20-year-old, unmarried day care worker writes: "I am so concerned for children whose mothers work full-time. You see, I've been working in a nursery school and after school program for the past five years. Those kids need individual attention so badly, but they don't get it. Most kids want to go home to be with mommy right after school. They want to hug and kiss their moms . . . talk and show off for their parents. But all they get is me. I try my best, and I love those kids so; but I'm not mommy."

A teacher from California, and former nanny for a White House Aide, explains: "I was the best they could hire, and they were

[2] See Appendix B: "A Search for Child Care—One Mother's Story."

the ideal employers. They paid me as much as I could have made teaching, and I got along well with both the mother and the children. Still, after that experience I am certain that when I have my own children, I will not work outside the home. There is no one who is going to raise your kids like you would."

A mother of four from Canton, Ohio, comments: "When I worked at a day-care center shortly after graduating from college, it was more like babysitting than childrearing. I simply dealt with children from moment to moment, going around putting fires out. Although I considered myself a sympathetic and caring person. I really was more interested in my coffee break and visiting with friends than in the children at the center. I didn't have the feelings for those children that I have for my own. When I talk to my children, I consider their self-esteem. I try to enrich them in many ways to make them everything they can be. I'm concerned with the whole child and the end product because I have such a vested interest in what they'll become."

The realizations voiced by these mothers are perhaps best summed up by Arlene Cardozo in her most recent book, Sequencing. After interviewing hundreds of women who chose to leave substantial careers for full-time motherhood, she concludes: ". . . [A]s we come to value our children as our most important natural resource, we see the necessity for them to receive the best possible care. We are coming to recognize that care means much more than supervision and stimulation. It also means the day-in, day-out, consistent involvement of the child with someone who truly loves her and cares deeply for her future."

What Mothers Want

What, then, do mothers want? Recent studies and surveys are making it increasingly clear: Mothers want more time at home.

In the 1986 Gallup Poll for Newsweek mentioned earlier, 1,009 women were asked whether they thought "a mother who works full-time or part-time can adequately fulfill her responsibilities to her child." Only 50% of the respondents felt a full-time employed mother could do so, while an overwhelming 86% thought a mother working part-time hours could. Of those same respondents, 52% identified themselves as full-time employed mothers with regular hours. However, when asked whether they would prefer full-time regular hours, full-time flexible hours, part-time work, work from home, or unemployment, more women wanted to quit work completely (16%) than wanted to continue regular full-time employment (13%). The highest preference by far was part-time work (34%), with flexible hours emerging as the second choice (23%).

In *The Motherhood Report*, a book reporting the results of a 1985 study of 1,100 mothers, authors Louis Genevie, Ph.D., and Eva Margolus found that ". . . the majority [of working mothers], 55%, experienced moderate to very strong conflict about the fact that they had to leave their children every day to go to work. . . . [T]he only background characteristic that reduced a woman's feelings of conflict about going to work was money. The more money a woman earned, the less conflicted she was likely to feel. . . . Most women, however, do not earn professional salaries; nor is their work intrinsically interesting. And when these women compare their responsibilities at work to their responsibility to their children, it is little wonder that work comes in a distant second."

More recent surveys indicate that the number of mothers expressing a desire to be home with their children is increasing. In the October 20, 1987, issue of Family Circle, the results of a survey to which nearly 50,000 women responded were published. When asked to respond yes or no to the following statement: "If it were possible, I would quit my job to stay home with my children," 67.6% said yes. The July/August 1988 issue of Public Opinion reported that a survey conducted during the summer of 1987 by Mark Clements Research found that 88% of the mothers polled who worked either full- or part-time agree with this statement: "If I could afford it, I would rather be home with my children."

The exceptionally candid letters we receive from mothers across the nation confirm the results of such polls. Our letters indicate that most mothers today either do not need or do not want substitute child care. Firsthand experience with day care has shown mothers that it doesn't do the job; that no matter how "quality" it becomes, it will never do the job. Letter after letter, from mother after mother, expresses a single heartfelt longing:

From a mother in Pennsylvania: "I got a surge of hope and energy after reading about your group. I'm a working mother, albeit a very, very reluctant one. My daughter will be six months old tomorrow and not a day goes by without me grieving over losing these precious days with her. I have to work, but my husband and I are doing everything possible to get ourselves on our feet financially so I can work part-time by autumn."

From a mother in Haymarket, Virginia: "I am, unfortunately, a working mother who commutes 50 miles each way. It's hard to have a young child and leave for work at 5:45 a.m. I do feel very frustrated concerning my need to work. I would like to be a full-time mom, until school age anyway."

From a mother in Madison, Wisconsin: "Although I returned to work after a year's maternity leave—and only work half-time—I still am seriously considering being a full-time mother at home. But I need support! It seems that most literature today supports the woman who 'does it all.'"

From a mother in Grand Rapids, Michigan: "I am writing in response to a recent Phil Donahue show I saw on mothers who stay at home. The comment was made about hoping to provide an economical way for mothers who are forced to work to be able to stay home more with their children. I was very interested in this because I am in that situation."

From a mother in High Falls, New York: "I'm a single parent supporting two children and I've been working outside my home for years. I've always held the hope that I could be an at-home mom, but as time goes by and my children get older, the prospect seems more distant than ever. I just want you to know that I support your efforts to make full-time motherhood an real alternative."

What most mothers want today is the chance to rear their own children in their own homes without jeopardizing the opportunity for fair and equal participation in the labor force in the future. They want flexibility in the workplace so they can have time at home when their children most need them.

Accepting What Mothers Want and Children Need

Unfortunately, neither the media nor political leaders welcome the thought that helping mothers spend more time at home might be a significant step towards averting a looming child care crisis. To many, such a contention appears to contradict hard-earned liberation and enlightenment. Yet, the truth is that the mothers decrying day care today are the product of that enlightenment. If anything, it is their very awareness of their rights, especially in the workforce, that drives them to speak out about their desire to be with their children.

From Houston, Texas, a mother writes: "I am an attorney who became de-liberated by my daughter who is now fourteen months old. Gloria Steinem can no longer be my role model. As I was a pathbreaker ten years ago in the professional arena, I now find myself again a pathbreaker as a professional who chooses to shelve a career, temporarily, to commit myself to raising a family in the best manner possible."

A single mother from Illinois, reflects: "Although I grew up in the rural Midwest, in a home that preached and practiced equality, the choice to work at home was somehow less than equal—at least in my mind. Ironically, it has taken all of my feminism and activism to find the place where I can parent and be content with my decision—that place is home."

As a society, we have long equated women's progress in the workplace with the struggles of the working mother. In fact, there is fear that giving childrearing a place of importance in a woman's life will somehow forsake the gains in equality that have been made. Yet, women who feel forced to work when they would rather be home are every bit as unliberated as women who feel forced to stay home when they would rather work. It is critical that we move forward by acknowledging that helping mothers put their children first does not have to threaten the full and equal participation of all women in the labor force.

Accurately Assessing Child Care Needs

Before any "solutions" are rushed through Congress, it is imperative that the true needs of families be accurately assessed. To date, almost no systematic research has been done to determine what child care arrangements parents most prefer or how to make their top preference readily available. Rather, most studies simply assume that institutional day care (which can be easily regulated for safety and affordability) will become the favored option of the future, and their survey questions reflect that assumption.

The open and deeply moving expression of feelings we have received from parents across the nation reveals a need to ask questions few researchers seem to have considered: What do parents believe is best for their children? What do they feel their ideal child care arrangement would be? What would have to happen to make that arrangement possible? What kinds of child care options have parents tried in the past and how did they feel about each one? Are there arrangements that parents recognize as "good" for them, but harmful for their children? What requests have parents made of employers in hopes of preventing or reducing the need for substitute child care, and how were those requests received? Would changing a spouse's work situation (i.e. flexibility at work or the ability to work from home) make it possible for a number

of families to avoid child care altogether? Would parents prefer this flexibility over "good" substitute care?

There seems to be a significant difference between what the media say about mothers and what mothers say about themselves. Unfortunately, policy makers who depend on and trust the media to provide accurate information may be tempted to take the word of newspaper columnists and televison news anchors over the personal experiences of a mother in Kansas City or a factory worker in Baltimore. It is time to carefully and openly review the facts surrounding the child care crisis, and to demand an accurate assessment of the nation's child care needs, as expressed by the mothers and fathers of the nation's children.

MISCONCEPTION NO. 3—THE BELIEF THAT PROVIDING MORE "QUALITY CARE" IS OUR ONLY REALISTIC OPTION

Almost everyone agrees that full-time substitute care of any kind is not the optimal way to raise a child. Yet, the full-time care of a loving parent—once thought to be every child's birthright—is now being dismissed as a Utopian dream. Day care may indeed be a "second choice" way to raise children, assert the "experts," but we should nonetheless be prepared to face reality. Because women "must" work, day care is unavoidable—a necessity we must learn to live with, like root canals and taxes.

What experts do not take into account, however, is that where rearing their children is concerned, most mothers believe they should have more than second choice. Why, these mothers want to know, are we rigidly heading toward a clear second best solution to the current child care crisis in a country that has always pledged that its children desereve the best? Why arent't we investigating alternatives that could guarantee mothers a true choice of how their children will be raised?

There Are Many Creative Alternatives to More Day Care

We believe the child care crisis can be solved without spending billions of dollars annually and without encouraging the kind of child care that mothers do not want. Suggestions have poured into our organization from parents across the country—parents who know firsthand the sorrow of having to leave their children, parents who have thought deeply about what is best for their families, parents who are not afraid of innovation and creativity when it comes to solving a national problem of serious proportions.

We have divided these suggestions into six categories, each of which assumes that parents should have the right and the choice to spend as much time as they desire nurturing, guiding, and protecting their children. Mothers-At-Home presents as many of these ideas as possible, in hopes of stimulating discussion that could lead to other, perhaps even better ideas.

1. Encourage "Family-Friendly" Employment Practices

Legislators might be surprised at the number of women who say that a more flexible workplace would virtually eliminate their need for child care. If these women are right, perhaps the most cost-effective approach to the child care dilemma would be to reduce the need for substitute care by instituting certain helpful business practices. Government should not be afraid to initiate research and discussion on suggestions such as these:

A. Government could create a commission to encourage family-friendly employment practices in the private sector.—Writes a California mother of one child who works part-time as an administrative assistant: "[Government can help by] encouraging, not legislating, that private companies provide attractive child care arrangements to their employees, such as one year maternity leave, job sharing, reduced hours, flexible hours—basically being cooperative to work it out with the parents of children." A father of nine children from Bethesda, Maryland agrees. He feels that mandating family-oriented business policies might encourage discrimination against men and women in their child-bearing years; he suggests, therefore, that the government set up an institution similar to the Equal Employment Opportunity Commission to motivate, rather than force, employers to adopt better policies. For instance, qualified businesses could display a "Friend of the Family Employer" logo, to attract capable employees who value a family-friendly atmosphere at work. Companies might qualify for the FFE designation by instituting a minimum number of family-friendly practices from an approved list of benefits and work options.

Family-friendly employment policies might include:

1. Increased availability of part-time positions.—According to U.S. News and World Report (June 20, 1988), in a 1988 survey of the child care needs of Du Pont Corporation employees, 33% of fathers said they were interested in part-time work to accommodate children, compared to 18% who had been interested in part-time work in 1985. Meanwhile, 55% of the women surveyed were interested in part-time work both survey years.

From Vallejo, California, a mother of one preschooler writes: "My only complaint is that usually twice a year my boss pesters me a lot to work more hours. He doesn't see the value of having a happy, part-time worker compared to an unhappy full-time employee. [We need] availability of flexible part-time work at a reasonable wage (i.e. being well-compensated for expert work even though it is part-time)."

From Neola, Iowa, a mother of four comments: "I would sure like to have the opportunity to work a part-time job that would be flexible enough [for me] to be home with the children when they are at home."

From Washington, a former electrical engineer and mother of one says: "I am concerned that since my field is traditionally a man's, part-time work will be nearly impossible to find."

From Brookfield, Wisconsin, a mother of two who works part-time as a financial planner/CPA explains: "I am dissatisfied with the fact that there are not good part-time opportunities at my career level that provide job satisfaction and adequate compensation."

2. Flexible hours, especially full-time hours based on local school hours.—A 7 a.m.-3 p.m. shift for one parent in a home where the spouse works the traditional "nine to five" can keep children out of day care altogether. (One parent sees children off to school in the morning, the other is there for them in the afternoon.) This is only one example of flextime options, which are already increasing in popularity in both the private sector and in government.

3. Job-sharing opportunities.—We have heard from mothers who share jobs in everything from teaching aerobics to editing for a publishing firm. A mother from Maryland, who once worked as a "telephone emergency (911) dispatcher," told us she and another mother lobbied unsuccessfully for a job sharing situation. The employer threatened to fire them if they refused to work full-time, citing the expense and trouble he would incur in training a new dispatcher. The mothers were bullied into working full-time, but within the year both quit completely—leaving the employer with not one, but two dispatchers to hire and train.

The logistics of job sharing vary from one office to another. Employers are experimenting with every conceivable method of dividing hours and responsibilities. Some jobs are shared between mothers and retired persons or mothers and students. We have been told of one particularly novel form of job sharing: Mothers who can afford unpaid leave hand their jobs over to college students for the summer, then return to work after their children begin school again in the fall.

4. Better benefits for employees with reduced hours.—States a part-time librarian and mother of two from Fredericksburg, Virginia: "[We need] availability of part-time work with decent benefits! Often part-time jobs have minimal benefits and this is discriminatory." From Hudson, Wisconsin, a mother of three suggests: "Have companies provide one half of benefits for part-time workers instead of nothing for part-time and everything for full-time."

5. Allowing children to accompany parents "on the job," when reasonable.—Many parents find that they prefer to have their children with them while they work in small businesses, stores, medical practices, nursery schools, farms, and in various other work environments. Even more parents would like to explore this option. A postal carrier and single mother of a seven-year-old son, from the Washington, D.C. area, describes her ideal child care situation as "taking him with me on the last run of the day. But insurance regulations won't allow it." Recognizing that there may be reasonable limits to the presence of children in some workplaces, the potential for including children in their parents' work lives should be further explored.

6. Dependent Sick Leave.—An issue of great concern to all parents is the ability to take off work to care for a sick child or to care for preschool children when a stay-at-home spouse is sick. The Chamber of Commerce in St. Paul, Minnesota, has researched this issue extensively. Among the findings were strong indications that employee absenteeism and low productivity is directly related to employee concern about sick children. In one study, both improved dramatically when employers instituted policies such as dependent sick leave or vouchers to pay for child care at special "sick child" day-care centers. A part-time social worker and mother of two from Maryland suggests a "compensatory time" arrangement for salaried employees where overtime hours "can be counted later as regular work hours for things like staying home with sick children." (Such flexibility is also critical for employees who need to care for sick or elderly relatives.)

7. Parental leave plans.—Many employers are recognizing the benefits of good parental leave policies for both mothers and fathers of new babies. Ideally, parents who want to quit work temporarily to care for their children full-time would be able to choose a longer, "open-ended" parental leave. In such cases, companies would not be

expected to guarantee the same job back. Instead, they would retain "open" personnel files on these employees, and would perhaps even offer them minimal continuing education programs, occasional temporary assignments, or other flexible work options. Later, when these same parents apply for reentry, their prior experience would help them qualify for a job approximately equal to the one they left. A mother from Arlington, Virginia, explains "The stereotype of the 50's mother at home troubles me. I see myself as on an extended leave from the paid workforce. I fully expect that the education and skills I acquired before I had children as well as those I've gained as a mother at home will be valuable to a future employer."

B. Government should serve as a model family-friendly employer.—Writes a part-time attorney and mother of two from York, Pennsylvania: "The higher status occupations still require a 50-60 hour work week, thereby dooming mothers to trade their kids' needs for their career. There are few jobs inbetween and pay is always lousy in 'women's fields.' Flex-time and part-time jobs must be found in the professions of women—starting with the federal government."

C. Government could help employers establish family-friendly employment practices.—Increasing numbers of employers, both large and small, are already instituting various family-oriented benefits and policies. Government should support this workforce trend by helping employers learn from each other. Suggests a Wisconsin mother of two: "Offer incentives or educate industry as to the untapped potential in offering flexibility/part-time work (compensated fairly) to mothers of young children—to retain them over longer periods, i.e., when they return to work full-time." Such incentives could take the form of tax benefits for employers who establish certain prescribed practices, special awards or other recognition for model family-friendly employers, and priority grants to those exploring alternatives to day care. The government might educate employers about the benefits of family-friendly employment policies by distributing literature or by offering special courses and consulting services.

2. Make the Federal Tax Code Career-Neutral

Of all the suggestions received by our organization, tax relief is mentioned most often by far. Some specifics include:

A. Reduce the tax burden on families in general.—A mother of three from Butler, Pennsylvania, writes: "Parents should not be taxed to a degree that they cannot provide for children. The government should stop spending and lower taxes." Comments a mother of three from Lynchburg, Virginia: "Taxation takes more and more money from families, making it harder for them to choose how many children to have." Although federal tax rates have declined slightly as a result of recent changes in the tax code, social security payroll taxes have risen, and are scheduled to rise again, with the net result that many families with dependent children still feel burdened by taxes.

B. Increase the amount of the personal exemption.—When Congress first instituted an income tax, great care was taken not to overburden families with children. The work of nurturing and educating the next generation was considered vital, and the financial commitments it entailed were respected. Thus, taxes on young families were offset by the then-substantial personal exemption for each dependent. In fact, in 1948, a personal exemption of $600 represented 42% of the average personal, per capita income. Over the years, this reverence for the economic hardships of preserving the nation's future through its children completely disappeared, and the amount of the personal exemption did not keep pace with inflation and other tax demands. Between 1960 and 1984, the tax burden increased 43% for married couples with two children, and 223% for families with four children, while corporate taxes went down and taxes for singles and childless couples remained stable. While the 1986 tax reform is raising the value of the exemption to $2,000, this only partially offsets the erosion suffered since the 1940s. According to some researchers, to have the same value relative to income it held in 1948, today's personal exemption would have to be raised to $6,468.

Writes a mother from Rexburg, Idaho: "By increasing the dependent exemption this gives every family a financial boost. Then the mother can afford to choose to stay home and raise her own children or a family can afford to pay for day care of their choice. No center or type of care should receive government money. "Families" should receive the tax break."

A mother of three preschoolers in Jonesboro, Arkansas explains: "One option to consider would be to increase the dollar value for personal exemption of children by the child care tax credit amount. This money would be understood as [a] child care tax credit. Then the person(s) directly responsible for the child's care would have the responsibility to find and provide adequate care. It may be enough economic incentive for some persons, who have not been economically able, to remove themselves from the workforce to be an at-home parent."

C. Establish tax advantages for families where a parent stays home to care for his or her own children.—A mother of one in Sacramento, California, writes: "Through the tax system, government should reward families in which either mother or father stays home to raise their children." Another mother agrees: "Helping those parents who truly need day care is fine, but helping parents find a way to allow one parent to remain at home with his or her children is even better. Maybe there could be tax benefits to those mothers who stay at home full-time." An even stronger comment comes from a mother of three in Chatham, New York: "Instead of funneling tax dollars to day-care centers, provide good benefits for mothers who stay home (like better deductions). As a counselor, I work with too many women who return to work but don't want to."

D. Institute an additional tax credit or deduction for each preschool child, regardless of the parents' work status.—Such a policy woud give parents additional income which they could then apply toward the kind of child care they prefer—whether parental or some kind of substitute care. Asks a mother from Elgin, Texas, "What about an increased exemption for children from birth to seven years to at least encourage a parent to stay home during the 'formative' years?" Writes a mother of two preschoolers from Wisconsin: "Perhaps there could be a tax credit for every child I claim as a dependent. This tax credit could possibly diminish as children proceed through school."

E. Make the child care tax credit more equitable.—Opinions on how to do this vary. Some mothers feel the child care tax credit should apply only to families with below poverty-level incomes. Others believe it is discriminatory toward mothers who choose to care for their children at home (often at great financial sacrifice) and should therefore either be abolished completely or expanded to include one-income families where a parent stays home. A former registered nurse, now home with an infant in Wisconsin, expresses it this way: "If they allow tax credit for child care outside of the home, I think it only fair for mothers in the home to receive the same because they forfeit earning potential to stay home."

It has been brought to our attention that the median income (1986 statistics) for "traditional" two-parent, one-income families ($25,803) is nearly 50% less than the median income for two-earner families ($38,346). Are children's needs really well-served when two-earner families making more than $200,000 a year can claim an average child care tax credit of $528, while two-parent, one-income families making $25,000 receive nothing at all?

F. Institute a tax credit for those providing child care, rather than for those paying for it.—This interesting idea comes from a mother in Veradale, Washington: "The current incentive (Child Care Tax Credit) encourages people to send their children to day care. A better goal would be to encourage people to care for children. Society has given no monetary value for people to care for their own children and little (witness the low wages of child care workers) to care for the children of others. I would propose eliminating the Child Care Tax Credit and replacing it with a new Child Care Workers Tax Credit, which would apply to people who care for children full-time, whether paid or not. People who are part-time workers could be eligible for half the credit. I would suggest a decreasing incentive for increasing numbers of children."

A similar idea was described by an Iowa mother of five who is also a family day care provider: "Child care income could be nontaxable, since most child care providers make less than the minimum wage."

3. Strengthen Family Economic Security

As a nation, we need to investigate the economic forces that are combining to make it nearly impossible to raise a family on one income. Many women who write to us express fear that they will not be able to meet the financial challenges inherent in rearing a child from birth through a college education. Not only do we hear from mothers in the workforce who want desperately to come home (as quoted earlier); we hear from just as many mothers now at home who express genuine fear that they will be forced back into the labor force before they would choose it.

Writes a New York mother and day care provider: "I'm afraid that societal pressure and financial pressure may force me to return to work when my youngest is school age." A mother of three from Virginia agrees: "Sometimes I worry that I will be forced to work because government is more interested in my money than what is best for my family."

There are three areas, of the many that merit special attention and analysis, in which we have received comments:

A. Affordable housing must become more readily available to young families.—Writes one mother: "Financially we can manage pretty well, yet we may never have a single family home (the American dream). [We]

have made compromises in our dreams so that I can be with my children while they are young." Many parents indicate that paying a mortgage or even paying rent on an adequate home is their families' biggest financial worry, and the factor that may push many of them into the paid labor force before their families are ready.

B. Insurance packages should be created that recognize the needs of young families who prefer that one parent remain home with the children.—For example, a parent at home cannot buy disability insurance, because the job of caring for one's own children has no monetary value. A mother of two from the Washington, D.C. area complains, "I feel that my family is vulnerable because although I have purchased life insurance, my insurance agent tells me that I cannot get disability insurance since it is based on a percentage of one's earnings. Yet, if I were to become disabled, who would care for my children? We could not afford to pay someone else to do my job. The insurance agent has no answer for me."

C. Tax free savings plans (similar to IRAs) could be instituted to help young families save in advance for the expenses of rearing children.—Explains the Virginia mother of two who thought of the idea: "They would be able to draw on it after birth or adoption of a child, either to offset the cost of a lost income for parental care, or to apply towards alternative care, or to apply toward the purchase of a home."

4. Promote Community Services That Better Support the Family

Parents seeking advice or information within their communities are encountering many government, non-profit, or other services that still focus on "women's" issues that are nearly three decades old. It is time for communities to address the family issues of the eighties and nineties. Services that would be heartily welcomed include the following:

A. Better preparation of the younger generation for the reality of family responsibilities and better training in the skills needed to fulfill those responsibilities successfully.—Since most people do eventually become parents, educational curricula should acknowledge that fact and help prepare everyone for the possibility of parenthood. Students could receive a basic foundation in the principles of early childhood development and an understanding of some aspects of the job of parenting. This knowledge would be valuable whether or not an individual student later chooses to become a parent, for it would encourage a desperately needed appreciation of and respect for children and families. Furthermore, a thorough discussion of family financial planning and career development, including the personal impact of family responsibilities, could help young people to better plan their lives. Many mothers tell us that no one ever tried to explain to them the emotional impact of parenthood; therefore, they made financial and career commitments before bearing children without regard to what they and their children might truly need later.

B. Better resources for parents to help improve parenting skills and other skills related to family life.—The field of educational psychology, and especially early childhood development, has grown immensely in the past fifteen to twenty years. Valuable research information about the needs of infants and young children has been gained as the result of such projects as The Harvard-Lilly Pre-School Project, The Beethoven Project in Chicago, and the Missouri Parents as Teachers Program. Some of the most effective programs have concentrated on parent education, providing opportunities for parents to learn about children's social, psychological, and cognitive development. Such parent education programs, as well as other family-related information and resources, should be made more widely available through family centers, community centers, classes, workshops, pediatric offices, health clinics, and schools. Public service announcements, such as those that have targeted certain health and safety issues (smoking, heart disease, and seat belt use, etc.), have been seen as a worthwhile investment in educating the general public; similary, an information campaign which increased society's understanding about the developmental needs of children could prove enormously beneficial to us all.

C. Resources for women seeking advice on how to live on one income, how to make money from home, how to arrange flexible work hours, and other ways to care for their own children.—We hear from many mothers asking for advice on how to manage on one income and/or how to run a business from home. While there is an abundance of information available to parents about "how to choose good day care" there is very little information or support offered to parents trying to care for their own children on limited incomes. Community support services should address this need.

D. Businesses, shopping centers, government facilities, and other public places better equipped to handle children who accompany parents on outings or errands.—Although public places are gradually becoming more sensitive to parents with young children, many more accommodations could be made which would be a welcome sign of caring to all families. For example: infant changing facilities and toilets for young children that both mothers and fathers could use; lounges for nursing mothers; a small table and chairs with books, a chalkboard, or other simple diversions in the sterile places where parents struggle to wait with children (such as bank lobbies, clinic waiting rooms, government offices).

5. Establish Better Opportunities for Home-Based Work

Home-based business is on the upswing, and many mothers know why. The Washington Post, in a Business Section article entitled "New Domestic Workers Run Businesses From Home" (May 21, 1984, page 5) stated, "For many [home workers], the decision to start an in-home business was sparked by a desire to take child-raising out of the hands of day-care workers." Mail received by Mothers-At-Home not only supports this assessment, it indicates that many more mothers would work from home if they knew how to begin.

Writes a mother from Bryan, Ohio: "I work as a bank secretary, and am very grateful to have a job in such a good environment. I work out of economic necessity, however, and have always longed to be at home. Do you perhaps have a pamphlet suggesting ways a family can get along on one income and/or how I could stay at home and still earn money?"

Writes a mother from Gloucester, New Jersey: "I do not want to go back to work because I feel there is no one that could give my baby the love I can give him. Even though I want to raise my child at home, my husband and I cannot afford it unless I find work I can do in my own home. I am an electronic assembler and have seven years of experience. I heard some companies let you do work at home, but I do not know where to find the information."

Writes a women who has raised her family, but must now care for a disabled husband: "I would really like to quit work and be home with my husband as he really should not be left alone, but I have no other choice. If you could help me to be at home and still earn money, I would appreciate it very much."

Government could help parents earn money from home, and thus avoid the need for substitute child care, in several ways:

A. Repeal prohibitions and cut the red tape for home-based employment.—Outdated and arbitrary laws at the national, state, and local level currently prohibit various kinds of home-based employment. In addition, zoning laws in many neighborhoods exclude even simply at-home work that would not disrupt residential living. Perhaps a federal commission could be appointed to study the impact of tax procedures, zoning and commercial regulations, local licensing practices, and other laws that affect home businesses. Recommendations could be made to state, county, and local governments regarding outdated regulations or laws that discourage cottage industry.

B. Educate employers as to the many ways in which they can use home workers.—Encourage employers to create positions where work can be done mostly at home or to contract with independent home businesses to perform work or provide business services.

C. Encourage banks to help new home businesses.—With loans, advice, and other services.—Writes a single mother from Baltimore, Maryland: "I receive no child support, but I was determined to stay with my daughter. With the help of my father-in-law, I got a lease on a word processor, and for almost three years I have been working from my home and taking care of my daughter. But the business will not survive unless I can expand, and I can't get any credit or find an investor. I don't want to leave home."

D. Create job banks and other community resources for individuals interested in earning an income at home.—Job banks already exist in many communities which could easily expand to include information about home-based employment opportunities. Other local organizations could distribute information about how to maintain job skills or develop new ones while at home, how to start a home business, or how to find a company that employs home workers. These services would not only benefit parents seeking home employment opportunities but many other individuals as well, such as those whose physical handicap and financial situations limit their mobility and employment choices.

E. Encourage the formation of home business cooperatives or networks.—Home businesses could be given opportunities to join together to purchase supplies, hire consultants, use administrative and computer services, participate in group insurance and other benefit plans, share marketing and advertising expenses, and enjoy other advantages that are often too expensive for a single home businessperson.

6. Improve Homemaker Security and Opportunity

A major disincentive for mothers to care for their own children for any amount of time is the incredibly low value placed on their work in this society, both socially and financially. Everywhere they turn, it is clear that the time they spend rearing their chil-

dren is considered of no consequence. Writes a mother from Portland, Oregon: "Give more encouragement for at-home mothers publicly. I wish the at-home mothers would be the 'heroes' for a change."

An American mother now living in West Germany with her five-year-old son and one-year-old twin daughters writes: "We moved [from Washington, D.C.] to a village of 350 people, so the change was huge. So was the thinking on motherhood. Almost all the 'smart' women I know here are home with their kids and are supported for their choice—not just by society but also by the government. Some have an extended maternity leave of up to six years, at which time they can return to government jobs of equal seniority and pay as those they left. All mothers get paid 600 Deutsch marks per month for one year (soon to be two) after the birth of their child and a monthly child allowance until the kids are twenty-one. At first, I wondered why there were so few day-care centers, nannies, etc. here, but now I see that the mothers and fathers have worked for the right to stay home."

Ideas include:

A. Increase the amount of tax-deductible money a homemaker can contribute to an IRA.—Comments a mother of one from Illinois: "I am appalled that since I have no personal income I cannot contribute more than $250 to my IRA. Legislation should be drafted and passed immediately by Congress so that I can make a full $2000/IRA contribution each year. Does the government think my retirement will be any cheaper than my husband's? And statistically I may outlive him!!!" Other forms of homemaker pension plans should also be explored.

B. Offer government-backed, low interest loans and other support for homemakers seeking further education.—For example, establish a system of "credits" extended to parents for each year spent at home full-time with the children. These could be "cashed in" later for college tuition or other benefits. Writes a mother from Elkhart, Indiana, "Give education tax credits for mothers staying at home so we can learn new skills or develop the ones we have."

C. Encourage businesses to recognize skills that are developed outside of paid employment.—The maturity of a person who has had the daily responsibility of caring for children should be viewed as a "plus." Human resource and personnel administrators could show creative initiative by instituting a means of evaluating and crediting men and women for skills developed in managing a home as well as skills developed in volunteer service in the community. Such unpaid experience could then be recognized later by potential employers.

These suggestions represent only a partial list of those we have heard from parents across the country. We cannot be certain which measures will work and which will not; however, we believe that variations of a number of them in concert would significantly improve the chances of the most children possible receiving the care their parents most prefer. We offer these ideas as a springboard for further action, in hopes they will open new doors of possibility.

Ensuring Our Children the Best Possible Care

Mothers across the country are watching the national child care debate with growing alarm. They have seen it evolve from a rational and sensitive discussion of the plight of America's mothers into a frightening political battle between forces that have long since forgotten what is really at stake. They fear that in the end the "solutions" it yields may compromise what is good for them and what is best for their children.

Most mothers today do not believe that loving care can be created by legislative mandate, or bought with generous salaries and top-of-the-line play equipment. When they demand "quality care" for their children, they are not referring to adequate fire exits and adult-to-child ratio. They are referring to genuine love, to personal and immediate attention to individual need. They are referring to that care which teaches a child that he comes first to somebody—in short, the kind of care that has never been for sale.

These mothers do not make their child care decisions based on scientific studies or the findings of Congressional committees and Presidential commissions. In the final analysis, when a mother makes that hard choice, she consults the dictates of her conscience, the inclinations of her heart, and the commonsense evidence of her own two eyes.

For most mothers today, that evidence suggests that their children need them. So, while legislators consider child care programs which no one knows how to fund or staff or regulate—programs which even proponents cannot confidently predict will do an "adequate" job—millions of mothers are pioneering their own real-life solutions to the child care dilemma. These mothers, who have ignored conventional wisdom in order to pursue uniquely personal strategies and options tailored to the needs of their individual families, may well be providing the very leadership that will finally steer us toward a sound public policy on child care.

One thing is certain: the children of this nation deserve to be raised in the best way rather than in the most expedient way. Let us work together to ensure that all parents can freely choose the best possible care for their children.

APPENDIX A—WHAT YOU NEED TO KNOW ABOUT TODAY'S MOTHERS

1. Most mothers completely defy the media stereotypes.—Both women who choose to remain home full-time and women who are in the workforce cross every political, religious, and socioeconomic line. We have heard from single mothers on small incomes who manage to stay home, working moms married to high wage-earners who still feel they "must" work, self-described conservatives who have balanced job and motherhood for years, pro-ERA feminists who quit high-powered careers as soon as their first child was born. Many mothers now at home could easily walk into their choice of enviable jobs, while many mothers employed full-time would give anything to say home. Mothers simply cannot be categorized by their work/home choice.

2. All of these mothers feel tremendous pressure to return to the workplace.—No matter how a woman feels about her children or her career, she faces a powerful image of just who qualifies as a "smart woman" today. Our society clearly admires the woman who is in the workplace—doing something "important" for herself and the community. Thus all women face a variety of subtle pressures (as well as some amazingly overt ones) to combine career and motherhood. Writes an attorney who now works part-time: "I witnessed exactly how 'valueless' being an at-home mother is. . . . When I quit being a trial lawyer, the colleagues I left considered me crazy and proof that women couldn't really cut it. My status dropped instantly. Receptionists condescend to women in jeans with a baby in arms, men have trouble finding a topic to talk about besides babies, and my presence makes some women uncomfortable because it's a tough issue for all mothers." A professional psychologist from Madison, Wisconsin, found advising others did not help her face the same pressures: "It seems most literature today respects and supports the woman who 'does it all.' Even though I have a master's degree in counseling and have worked in the field for six years, I find it impossible to counsel myself and difficult to re-frame my self-concept to exclude work outside the home where so many people put the value." A mother from Salt Lake City, Utah, describes pressures on her husband as well: "The pressure to 'toss in the apron' can get heavy when all of your friends and relatives work and think you are nuts for staying home. [My husband] gets pressure at work to have me work—with statements like, 'How can you let her just sit around and live off you?"

In addition to social pressures, there are forceful economic ones as well. The high cost of housing is an important factor, as is society's consumer orientation, which encourages young couples to overextend financially. They become dependent on two incomes well before they think about bearing children; thus, when children come along, both parents "must" work. A mother of three teenagers from Wisconsin who works part-time explains: "My husband has been supportive most of the time except on occasion when most other wives worked and those families had so much more money and its advantages. Believe me, there is pressure on husbands to have 'productive' wives who help achieve a higher lifestyle!" A mother of two preschoolers from New York observes: "I think our culture has tricked us into believing we must drive new cars, own home computers, wear designer jeans, buy the latest toys (for our children and ourselves) and maintain a certain level of affluence in order to be considered successful. We send a message that being able to buy 'things' is more important than the time we spend with [our children]."

3. Many of today's mothers drift in and out of the workplace.—Because of intense pressure to remain in the workplace, mothers do not easily make the choice to stay home with their newborns—even when they want to. It is a rare mother today who hasn't gone in and out of the labor force; first going back to her full-time job, then dropping to part time, next quitting completely; perhaps trying a home business, then part-time work again, etc. The fact is, a mother feels a complete lack of support from society no matter what option she chooses. Many mothers spend years of trial and error before they find a job/home balance that is comfortable. Typical is a 35-year-old mother from New York, who writes: "I'm walking that thin line between working and staying home, having tried all the alternatives and still coming up with the desire and ache to be with my son."

4. This generation of mothers was reared with serious misconceptions about child-rearing.—A predominant theme in our letters is resentment that so much of what young women are led to believe about motherhood is simply not true. Today's mothers were raised with the belief that "liberation" meant the freedom to pursue fulfillment in the workplace. Children, they were told, could be turned over to child care givers trained to help children reach their full potential at each development stage. These

mothers have been shocked to discover that nurturing is a sophisticated one-on-one process, which not only requires a great deal of intelligence and skill, but also a lot of time. There is open concern about the false expectations still taught to young women today. Indeed, unless the situation is corrected, women will continue to make decisions in their pre-childbearing years that make it extremely difficult (financially and/or professionally) to choose to stay home when they do have children.

APPENDIX B—A SEARCH FOR CHILD CARE—ONE MOTHER'S STORY

(By Linda Burton)

I hadn't intended to stay at home. I wasn't born for it. Having my first child at the age of thirty-three created an upheaval in my life unlike anything I had experienced.

Before the birth of my first child, I had been a professional full-time fundraiser for a public-interest law firm. It was a harrowing job, sometimes, but it was fun and made good use of my energies. At the end of the day, I used to look forward to meeting my husband and friends somewhere in town. We would relax, catch up on the day's events, and generally enjoy each other.

After the birth of my first child, I found myself feeling less convivial at the end of the day than I had in years. Walking the floor with my child, knowing that he was keeping me from doing much that I really wanted to do, made me angry.

When my husband and I first discussed having children, we had no real idea how radically they would constrict our lifestyle. Like many other modern young couples, we had followed the dictates of Lamaze and LeBoyer. We had our baby by natural childbirth, spent hours "bonding" with our newborn, and never let him cry without picking him up. According to the new "parenting" books, we were teaching our son that his needs would be met, first thing in life.

But while my child didn't cry, I did. I missed my job and my friends; I felt poverty-stricken, and I looked awful. So, like many young women faced with the same predicament, I decided to go back to work.

Without too much trouble, I found a job writing for a public television station—and happily set out to enjoy life once again. I assumed that I would simply give my child good "quality" time in the evenings and on weekends and, in the meantime, I would use all my energies to find an absolutely sterling person to care for him during the day.

I researched child care with a vengeance. Luckily, I did find someone to care for my son who seemed fine. She lasted a month. During that brief return to the office, however, I made some remarkable discoveries.

I discovered that I had no "quality" time for my child in the evening; indeed, I felt like I had no time at all. I was tired. Although I loved my son, and knew that he needed attention from me, somehow I was unable to give much of it after a day at the office.

I also discovered, to my surprise, that I missed my child when I was gone. I worried about how he was being dressed, fed, cared for. I worried that his bright inquisitiveness was being dulled by the housekeeper who, while a kind and decent person, lacked a certain intellectual vitality.

I was almost relieved when my housekeeper quit. I came back home to attend to my son and, again, searched for child care. Diligently, and over what came to be a period of two years, I searched for child care everywhere, from the local town newspaper to the best nanny schools in London.

Yet everywhere I looked, it always seemed like a long waiting list of mothers had been there before me. We commiserated with each other. Trying to find the "right" kind of full-time child care, we discovered, was a lot like trying to handicap a horse race or beat the roulette wheel at Las Vegas. No matter how many setbacks we had, we kept on giving it one more try, holding out for what we knew was the intoxicating probability of an imminent lucky break. Whether the spoils of victory were unimaginable amounts of personal wealth or the babysitter popularized in legend who was kind, intelligent, put our children first, and never got sick, we fervently believed that there, but for a simple key to the right system, went us.

I remember the zeal with which a few mothers at work would guard their child-care sources, passing on names of favored sitters to a select friend or two, with all the covert machinations of a Mata Hari. But no matter how closely kept were the names of the "really good" sitters which some mothers managed to stumble on, there always came the inevitable day when they lost them. Maybe one of them moved, maybe the sitter just got tired and decided to give up sitting for a while. Or maybe the mother simply decided that the "really good" sitter wasn't so "really good" after all. Whatever the reason, we all learned to pick ourselves up and begin searching again.

When I was looking hard for child care, I spent literally hours on the telephone, every day, trying to scout out the best available care. Other more broken-in mothers shared their allegedly fool-proof "Lists of What to Ask Potential Housekeepers" who telephoned me in response to the many advertisements I placed. They suggested nefarious ways to tap into the market of illegal aliens (remarking that it would be nice to have someone who spoke English, but concluding that we couldn't have everything) and passed on whispered directions toward certain population groups who were rumored to "be wonderful with children."

Nannies and Housekeepers

At the beginning, I confined my search for child care to housekeepers and nannies. However, no matter how much I wanted my child to have personal, one-on-one care and attention, provided in his own home, I always semed to come up against one of the same three obstacles. First of all, nannies and housekeepers were very expensive, and their wages would have eaten up a major chunk of my salary. I soon learned that in conjunction with the other expenses of working outside the home—clothing, transportation, lunches, and the convenience foods which became almost essential for cooking—the expense of one-on-one care was something my husband and I could not reasonably handle.

Second, if the tedious progression of interviews which I conducted with the aspiring housekeepers who answered my ads was any indication of the sort of care givers available for hire in the nanny market, even the people able to afford full-time, one-on-one care were rarely getting what they bargained for. The truth of the matter was that an overwhelming percentage of the people who came to my door, ready and willing to care for my children, were clearly unqualified for the job.

Finally, I learned that nanny-housekeepers—no matter how good or how qualified—rarely stay around very long. A job, after all, is still a job, and even the most capable of nannies is not in the job for the longrun. For some reason, many of us nanny-seekers must have acquired vastly sentimentalized notions from old English history books or PBS television series that a typical nanny came to change the diapers and stayed on for the weddings. The truth was that few modern-day nannies stuck around long enough to see a baby move into toddlerhood. Even the most congenial and affluent of employers, who gave their nannies multiple gifts, lavish vacations, free cars, high wages, and desirable working conditions, frequently complained about the eternal search for "yet another" nanny.

The Child-Care Merry-Go-Round

This last problem, especially, seemed almost indigenous to every available kind of child care I located. Nannies seemed to come and go, as did family day-care providers, almost constantly; even the staffs of most day-care institutions, I learned, have a notoriously high turnover rate, while the outward, serene appearance of the facility itself remains constant.

Although I would find myself joking about the on-again, off-again nature of the child-care merry-go-round, I soon realized I was becoming uneasy about what this process was doing to my by-this-time two children. I knew there were people murmuring about how good all this upheaval must be for the children; I read about one women who laughed that her daughter was "being raised by a committee." But she told herself that her daughter was getting to know a lot of people and was learning how to make rapid social adjustments.

Yet there was something else that I could see my own children learning, along with rapid social adjustment, which frightened me, no matter how lightly I dismissed its implications. I could see that it was unsettling and traumatic for them, once they had anchored their love, confidence and trust in someone, to experience abandonment by them; and I feared that they were learning, in their own self-interest, not to invest too many of their feelings in other people, or to be willing to commit themselves to future long-term emotional relationships.

I wanted my children to learn that the people who cared for them would not leave them. While I knew my husband and I would not leave them, the fact remained that we were away at an office all day. We were not our children's primary care givers, no matter how much we liked to think of ourselves that way, and we could not in truth be relied upon to respond to their needs for the great majority of their waking hours. I was beginning to see that I wanted my children to have a reliable, consistent, loving person upon whom they could depend for guidance, who was available to them during much of their day—and that the status quo of musical babysitters wasn't going to give it to them.

Family Day Care

When the problems with hiring a nanny-housekeeper appeared insurmountable, I decided to go ahead and give family-centered day care a try. Initially, this home-based care seemed like an attractive option to me because I assumed that my children would be in a cozy, homey atmosphere during the day, placed with a relatively small group of children, who could be nice playmates for them. And family day care had the added happy bonus of being much more affordable than one-on-one care. Yet my high hopes

rose—and predictably fell again—with each successive experience in home-based care.

It seemed that one of the biggest and most consistent problems I encountered with family care was rampant overcrowding. Although I noticed that local governments were frequently trying to regulate the numbers of children allowed in any one day-care home at the same time, I could also see that those regulations were increasingly caving in to public pressure for "more child care." And the regulations were very difficult to enforce. Time and again, I left my children in the care of a sitter who assure me she cared for "very few" children, only to return on an impromptu visit to find staggering numbers of "drop-ins" had joined the "very few."

Another problem I found with family day-care homes was that the care givers generally were women who wanted very much to stay home with their own children but who took in extra children to help supplement the family income. I found that it was next to impossible, in a situation like that, to expect the sitter to put the needs of my children first. Naturally, even the kindest and best-intentioned person in the world would respond to her own children more quickly and more sensitively than to the children of a relative stranger. And I would frequently see my children, no matter how subtly, come to perceive themselves in an inferior, less-favored position than "Johnny and Rachel" or "Mary Beth."

Third, on visits to family day-care homes, I was surprised at the number of times I observed a sitter relating to my children differently from the way I would have done—from how she responded to a request for an apple to where she put them down for a nap to attempt to deal with (or ignore) conflicts and questions. Too frequently, I found myself observing a sitter and uneasily reflecting, "I wouldn't do it that way!" This is not to say, please understand, that I always believed my way was the "right" way; not at all. But I was surprised at the large number of clear opinions I appeared to have about some of the smallest things that were a part of my children's everyday lives.

I came to see that the raising of a child did not represent simple custodial upkeep. Rather, my children were learning lessons, making choices, and being guided by the repetition of small human interchanges. The largest decisions about the direction of their future, I was learning, were made in the course of these apparently inconsequential daily interchanges. Here, they would most indelibly implant information about their perceived place in the world, their relation to other people, and the value they placed in themselves, in their own potential, and their own goodness.

Last, I discovered that family day care by its very "cozy" nature is invisible and anonymous—and therefore subject to astonishing abuse. When I was at the office, I did not in fact ever really KNOW what went on with my children during the day. Oh, I could draw certain inferences, based on the way my children behaved when I picked them up at day's end, but my inferences were incorect on enough occasions to warrant my pulling the children out of family day care altogether. While at first I had naively relieved on my children for correct information about their experiences during the day, I soon began to understand the significance of the fact that my youngest, like many children left in family day care, couldn't talk at all; and I suspected his older brother might be easily intimidated or bullied into not talking. Given an unhappy day-care situation, I could see how my children might well have assumed—since they had no reference point—that their unhappiness was a simple part of their existence.

Also, I am embarrased to say, that there were far too many days when I just did not want to HEAR about what my children did during the day, how they were treated, and so on. I would leave work harassed, tired, frustrated, and eager to put dinner on the table, and I did not want additional "problems" from my children. It became easy to overlook an unpleasant or unacceptable day-care situation simply because it became one burden too many to handle.

In actual practice, I never found an accurate way to evaluate the merit of a day-care situation. Despite my most painstaking investigations, many environments that appeared loving and constructive on initial (and sometimes repeated) examination turned out later to be something quite different.

In one instance, I found the "absolutely marvelous" family day-care provider, recommended by trusted friends, sleeping on her sofa while eleven children (she had informed me that she only cared for five children) wandered aimlessly around in front of the blaring TV. Another time, on an unannounced visit, I found that the "highly recommended" licensed day-care provider confined seven preschoolers to her tiny dining room. I found them huddled together, leaning over a barricade to watch a TV program showing in the adjacent room.

Such disappointing—sometimes horrifying—child care stories clearly differed from mother to mother, but the general theme, I learned, remained the same. It seemed that no matter how many checklists I consulted, visits I made, or references I checked, my conclusion never varied. There was no one to whom I could pay enough money to love my child.

Institutional Day Care

At one point, in spite of a prejudice against it, I even investigated institutional day care for my children. I talked to a number of mothers who regularly used day care, and I read the literature of many of the new day-care chains located near my home. I was offended by much of the public relations language in the day-care brochures which came my way—language which attempted to sooth my anxieties and dispel my guilt at the notion of leaving my children in institutional care—but language which also denied the instincts of my heart and my down-home common sense. Many of the brochures even seemed to claim that they could do a better, more "educated" and professional job of raising my children than I could.

So when I checked out the possibilities of institutional care for my own children, I was dismayed at what I found: The people staffing many child-care institutions certainly weren't the superior, kind and loving, multiply-degreed maternal paragons which the day-care brochures had touted. Many of the people I saw on the staffs of our child-care institutions, on the contrary, were underpaid, under-educated, and under-interested.

This is not to say, of course, that I did not find some superb, dedicated day-care directors. During my search for child care, I spoke with some of them at great length. In fact, it was they who urged me not to come to them at all. Surprisingly, two of the six day-care directors with whom I spoke pleaded with me to "Please only use us as a very last resort. Please do everything you can to try and stay home with your children." In fact, I became somewhat irritated as they tried, with great feeling, both to convince me that they were not the best thing for my children and to help me come up with ways to work from home so I could be with my children. At the end of one phone conservation with a day-care director, I was rather taken aback to hear her finally sigh, "If you really must have some other kind of care for your children, I suppose we're the best; but your care would be the best of all."

I disagreed. I still believed that there was a babysitter out there with my name on her and all I had to do was beat the right bush—find the right system—that would bring her out of hiding. In time, however, my exhaustive and intense search for child care taught me this critical lesson: No matter how many licenses we issue or inspections we require, no matter how rigid the guidelines we establish or how much money we pay, we must one day face the fact that it is impossible to have quality controls over the capacity of one human being to love and care for another.

All of a sudden, the notion occurred to me that perhaps the elusive, almost mystical "she" was not out there. After all, here we were, millions of women trying to hire someone warm, wonderful, motherly, and loving. All of a sudden, common sense told that there simply weren't enough warm, wonderful, motherly, and loving people to go around. And even if they *were* out there, it was clear that they didn't want to give priority attention to *my* children. They wanted to take care of their own children.

While I—and most of my friends—were saying our minds were "too good" to stay at home and raise our children, none of us ever asked the question, "Then what sort of minds *should* be raising our children—minds that were *not* very good?"

My carefully worded advertisements for child care literally came back to haunt me. I was looking for someone "loving, tender, reliable, responsible, nurturing, intelligent, and resourceful." I had wanted someone with a driver's license, good English, a sense of fun, and an alert, lively manner. I wanted someone who would encourage my children's creativity, take them on interesting outings, answer all their little questions, and rock them to sleep. I wanted someone who would be a "part of the family."

Slowly, painfully, after really thinking about what I wanted for my children and rewriting advertisment after advertisement, I came to the stunning realization that the person I was looking for was right under my nose. I had been desperately trying to hire me.

(Used by permission. Acropolis Books, Ltd., "*What's A Smart Woman Like You Doing At Home?*) by Linda Burton, Janet Dittmar, and Cheri Loveless; 1986.)

Mr. COATS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The Senator has noted the absence of a quorum. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

FINANCIAL INSTITUTIONS REFORM, RECOVERY AND ENFORCEMENT ACT

Mr. MITCHELL. Mr. President, having consulted with the Republican leader, I now ask the Chair to lay before the Senate the House savings and loan bill, H.R. 1278.

The PRESIDING OFFICER. The bill will be stated by title.

The legislative clerk read as follows:

A bill (H.R. 1278) To reform, recapitalize, and consolidate the Federal deposit insurance system, to enhance the regulatory and enforcement powers of Federal financial institutions regulatory agencies, and for other purposes.

The PRESIDING OFFICER. Under the previous order, all after the enacting clause is stricken and the text of S. 774, as amended, is substituted.

The bill was ordered to a third reading, was read a third time, and passed.

The PRESIDING OFFICER. The Chair appoints the following conferees: Senators RIEGLE, CRANSTON, SARBANES, GARN, and HEINZ of the Committee on Banking, Housing, and Urban Affairs are appointed conferees to reconcile all provisions of H.R. 1278 and of the Senate amendment to H.R. 1278, except those in sections 1401 and 1402 of H.R. 1278.

Senators BENTSEN, MATSUNAGA, and PACKWOOD of the Finance Committee are appointed as additional conferees solely for the consideration of reconciling:

First, sections 1401 and 1402 of H.R. 1278, and the specific disagreeing provisions of sections 501 and 502 of the Senate amendment to H.R. 1278 relating to the tax-exempt status of the Resolution Trust Corporation and the Resolution Funding Corporation (new paragraphs 21A(k) and 21B(f)(7) of the Federal Home Loan Bank Act), and

Second, sections 1403 and 1404 of H.R. 1278.

Mr. GARN. Mr. President, if the leader will yield for comment at this point, we have no objection, and as the ranking Republican on the Banking Committee I have agreed to these conferees. I would comment, however, that it has been somewhat difficult to arrive at this point during the day. Senator RIEGLE and I have talked at great length, because of the small number of conferees, only three Demcrats and two Republicans, and then the possible addition of three Finance Committee members, who have not had jurisdiction over the bill.

I am happy to report that that difficulty was resolved by the way the agreement is written, and that the three conferees will be on the conference committee, but solely for the purpose of the sections that are enumerated, which are tax sections added by the House of Representatives, and we are not part of and were not part of the Senate bill, as we passed it. So I think this is a good resolution to the problem, and they will not in effect be conferees on the Senate bill but on those tax provisions added by the House, which certainly are under the jurisdiction of the Senate Finance Committee.

I thank the leader and the Chair for that intervention.

MORNING BUSINESS

Mr. MITCHELL. Mr. President, I ask unanimous consent that there be a period for morning business with Senators permitted to speak therein.

The PRESIDING OFFICER. Without objection, it is so ordered

AMERICAN TASK FORCE FOR LEBANON POLICY

Mr. DOLE. Mr. President, last month both the distinguished majority leader and I spoke to a meeting of the American Task Force for Lebanon here on Capitol Hill. Our statements to that group have already been put in the RECORD.

One concrete result of the task force meeting was the drafting of a paper, with prescriptions for American policy in Lebanon. While noting that there are a couple of points that I might have stated differently—overall the paper is an outstanding piece of work, and provides very thoughtful and constructive guidelines for American policy.

The task force has given me permission to have their policy statement printed in the RECORD, and I ask unanimous consent to do so.

I urge all Senators and appropriate staff to read this document carefully, as part of what I hope will be an ongoing, high priority consideration of the issue of Lebanon here in the Senate.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

A PLAN FOR ACHIEVING A LASTING CEASE-FIRE AND PEACE IN LEBANON

(Prepared by the American Task Force for Lebanon)

The apparent American indifference to the destruction and suffering presently being endured by the Lebanese people is a profound mystery to many observers who care deeply, both about the fate of the Lebanese and the application of American moral values. As Flora Lewis put it in her syndicated column entitled "Dead Silence on Lebanon, ". . . the Lebanese deserve attention because international indignation is probably the only way to bring a pause in the massacre and kindle some kind of hope for the future." American officials refute the charge that the United States has been indifferent, citing numerous communiques and statements calling for the end of hostilities and withdrawal of all foreign forces. What, then, should the United States do to help?

In the first instance, the question that needs to be addressed is: should the United States become involved at all? Peace in Lebanon means the end to the unsettling drama that is unfolding and which risks embroiling Lebanon's neighbors in a wider and more dangerous conflict. Peace in Lebanon cannot wait for a comprehensive peace in the Middle East. Peace in Lebanon means an end to the use of Lebanon's territory for acts of terrorism, hostage taking, and the exportation of illegal drugs. Peace in Lebanon means the disengagement of the two principal Middle East players, Israel and Syria.

In addition to the compelling diplomatic reasons to save Lebanon, the enormous human suffering cries out for the humanitarian assistance for which Americans have always been known. The United States sets the standard for "super power" behavior and nowhere is that power better used than in helping relieve the suffering of innocent people. That is why the Lebanese cry out for help from the United States, and our national sense of right and decency demands that we respond.

Mild statements of concern and support, delivered to low ranking functionaries will command the respect they deserve . . . very little. The United States must display a strong position transmitted from the highest level of our government to the highest levels of Syria, Israel and other involved and interested parties. The message these leaders have received to date is "low priority" and, to them, this means that they can do as they will with impunity. The first step to stopping the death, violence and wanton destruction in Lebanon is for the world to understand that the United States cares—really cares—about saving Lebanon and the Lebanese people. Our American voice will be heard only when we choose to raise it.

In this document, we present a plan devised by a select committee of members of The American Task Force for Lebanon representing all faiths. The plan is designed to be specific, realistic, and sensitive to the needs of all the Lebanese people regardless of their faith or political affiliations. We are confident that this plan can be supported enthusiastically by the great majority of the more than two and a half million Americans of Lebanese origin.

The purpose of the plan is to achieve an effective cease-fire—observed by all sides and their agents throughout Lebanon—and to set in motion a series of steps to solve the present crisis and to move Lebanon toward national dialogue and reconciliation taking into account the interests of all sides. The goal is an independent, sovereign, democratic Lebanon, free of the presence of all foreign forces.

Summary:

I. The United States must show leadership and a great resolve in bringing the issue of Lebanon to the forefront as a first vital step toward a comprehensive Middle East peace.

II. The United States must find an effective way to influence all those involved in the crisis in Lebanon.

III. In cooperation with the U.S.S.R., France and other interested powers the United States should seek to stimulate the committee for Lebanon formed by the Arab League to move energetically and effectively to deal with the crisis. In addition the United States should be prepared to take the issue to the Security Council of the United Nations for international action.

I. UNITED STATES LEADERSHIP ROLE

The proliferation of statements calling for a "cease-fire and withdrawal of all foreign forces" which has come from the United

States and others, will be ineffective unless followed by positive actions. The United States, particularly, having properly abandoned the military option, has only one alternative if these pleas are ignored, as they most certainly will be . . . economic and diplomatic pressures and sanctions that will make its position unambiguous and effective.

The participants in the Lebanese problem, both foreign and domestic, must be convinced of the United States' resolve, at the highest levels, to aid Lebanon.

Above all, the United States must show a leadership role, since our benign neglect of Lebanon belies our super power status and demeans our reputation for humanity and sympathy for the suffering.

II. A JOINT EFFORT

In view of the recent joint statement on Lebanon by the United States and the U.S.S.R., it is an opportune time for the United States to move forward on Lebanon in concert with the U.S.S.R., the United Nations, the Arab League, France, and others to set a plan in motion to successfully resolve the "Lebanon piece" of the Mideast problem.

This joint effort should include: Support for the Arab League initiative. Consultation with Lebanese, Syrian, Israeli and other regional leaders who are involved or interested in resolving the crisis in Lebanon. Setting the groundwork for taking the issue to the United Nations Security Council to seek a binding resolution.

Success in this endeavor by the United States, the U.S.S.R. and others would set the tone for solution to other problems in the Middle East and serve as a precedent for global cooperation. They each would gain individual and joint respect and influence in the region.

III. SPECIFIC PROPOSALS

Bring about an effective cease-fire supported by a peace-keeping force in greater Beirut. Convening a meeting of representative Lebanese leaders to arrange for the reestablishment of Lebanese authority throughout Lebanon. This could include reconvening Parliament and establishing an interim government charged with developing a plan for reconciliation and reform. This effort must not be encumbered again with the historical divisions based on religious and family interests. If such a plan can be agreed upon it will become possible for Lebanon to arrange for its own internal security, disarm all militias, secure the withdrawal of all external forces and be governed by the desires of its own people.

SELECT COMMITTEE,
The American Task Force for Lebanon.

Committee Members: Joseph T. Abdo, William Bazzy, Michael Berry, Esq., Mounzer Chaarani, Joseph J. Jacobs, Ph.D., Casey Kasem, Elias T. Saadi, M.D., Peter J. Tanous.

Chairman: The Honorable Philip C. Habib.

MICHAEL CHANG: MOVING UP FAST

Mr. CRANSTON. Mr. President, Californians are, I believe, justifiably proud of their State and all it has to offer. Any Californian will tell you, for example, that the Golden State is without exception the most beautiful State, and that it is populated with the most beautiful, most intelligent, most talented people.

This being the case, even Californians unfamiliar with the names of today's major tennis players were not surprised to hear that a Californian became the first American to win the men's singles event at the French Open in 34 years. Some people probably were, however, a little startled to hear that the victor, Michael Chang, was only 17 years old.

A resident of Placentia, CA—home as well to Janet Evans, winner of three gold medals in swimming at the Olympics in Seoul last year—Michael Chang beat the top-ranked tennis player in the world, Ivan Lendl, in a display of grit and determination seldom seen in one so young. Although hampered physically by severe cramps, Michael succeeded mentally by dint of his perseverance and commitment to excellence.

Today, Mr. President, just about all Californians—most Americans and probably most of the French as well—know Michael Chang's name. Californians are proud of their neighbor and wish him the very best luck in the upcoming Wimbledon tournament. He's a fine addition to the long tradition of Californians who take the world by storm.

DRUG ADDICTION IS A DISEASE OF THE BRAIN

Mr. MOYNIHAN. Mr. President, on December 31, 1985 a short article appeared in the Atlanta Journal in which a public health officer told us something that we needed to know. The United States was about to be struck by an epidemic as fierce as a tropical hurricane.

The physician in question was David Allen, a Bahamian epidemiologist and chairman of the Bahamian National Drug Council. The epidemic was crack. It was already devastating the Bahamas. It would soon, he warned, reach the United States. In point of fact, the New York City Police Department first began to notice this mutant of cocaine in August 1985. It began recording crack arrests in January 1986 weeks after Dr. Allen's warning.

We would have done well to heed his warnings. To wit:

> What we have [in the Bahamas] is the world's first free-basing epidemic, which could be preceding an epidemic in the industrialized states. Anywhere there is readily available high-quality cocaine, there is this potential.

But we did not. We ignored the warning because we did not understand it. We did not think we were dealing with a public health problem. We thought we were dealing simply with a problem of law enforcement. We were wrong.

For some months now, Mr. President, I have shared with other Senators a feeling ranging between disappointment and frustration that there seems to be so little interest in what was new in the Anti-Drug Abuse Act of 1988. One of the problems is that the bill passed at about 2 a.m. on the morning of the 22d of October. The 100th Congress adjourned sine die at about 3 a.m. In that last minute rush a lot gets lost.

I believe our drug bill got lost.

That is to say the bill that actually passed. The bill that was drawn up in the summer of 1988.

As you know, the legislation on the Senate side was the product of the Substance Abuse Working Group, appointed, respectively, by the majority leader and the Republican leader. It may be useful at this point to record the membership.

SENATE SUBSTANCE ABUSE WORKING GROUP

Democratic Senators: SAM NUNN, co-Chair; DANIEL P. MOYNIHAN, co-Chair; ROBERT BYRD, DENNIS DECONCINI, ALAN CRANSTON, JOHN GLENN, EDWARD KENNEDY, CLAIBORNE PELL, BOB GRAHAM, JOHN KERRY, FRANK LAUTENBERG, JAMES SASSER, DALE BUMPERS, ERNEST HOLLINGS, JOE BIDEN, and LAWTON CHILES.

Republican Senators: WARREN RUDMAN, co-Chair; PHIL GRAMM, co-CHAIR; PETE DOMENICI, co-Chair; ALFONSE D'AMATO, co-Chair; PETE WILSON, co-Chair; JOHN CHAFEE, ROBERT DOLE, ORRIN HATCH, ARLEN SPECTER, STROM THURMOND, and JOHN DANFORTH.

I believe it is not wrong to state that the bill the working group finally put together was in large measure a response to legislation that had earlier passed the House. The term "response" may not be sufficiently blunt. Ours was in fact a reaction. We felt the House measure was almost exclusively directed to issues of crime and punishment. We had no quarrel on the Senate side with the proposition that drugs present a problem of law enforcement. It is simply that we had listened to the police; listened to the Federal agents; perhaps most interestingly, listened to the economists. Their judgment was nigh universal. Law enforcement can only affect the current drug epidemic at the margin. Our Attorney General, Richard Thornburgh, has, happily, come to the same conclusion. "If you want to lose the war on drugs," he told a hearing of the Senate Caucus on International Drug Control this past Monday, "leave it to law enforcement.

I use the term "epidemic;" we used that term. You might suppose we were using it as an analogy. That would be wrong. For my part at least the term was used in its precise medical connotation. That is to say, a communicable disease affecting many persons in an area or region. Our specific reference was to the substance called crack, a

form of cocaine which appeared in the Bahamas in 1983, reached New York City and the west coast by 1985 and has spread widely since then.

Our understanding was that this particular debilitating condition—drug addiction—is a disease of the brain induced by the ingestion of particular substances. Thus, treatment drugs, in the words of Dr. Marvin Snyder of the National Institute on Drug Abuse, "ultimately seek to restore the balance and equilibrium of normal brain activity." In this way, for example, malarial parasites infect the body—the most deadly form infects the brain—through injection into the blood by an infected anophelese mosquito, or through infusion of blood from an infected donor, or, finally, as the Merck manual tells us, "by use of common syringe by drug addicts."

Drug use is passed from person to person, child to child, through social interaction. So are most communicable diseases. But the behavior associated with drug use is more difficult to control, and less responsive to education, because it is addictive.

Drug addiction is not only passed from person to person. It is passed from generation to generation. This can be environmental; it can be genetic; it can be biological, as in the case of babies born to addicted mothers. We cannot say how much these factors affect behavior, but we do know that behavioral patterns are associated with addiction. According to Dr. Fred Goodwin, the head of the Alcohol, Drug Abuse, and Mental Health Administration, a diagnosis of clinical depression or anxiety in older adolescents doubles the likelihood of a subsequent substance abuse problem.

Where the heroin epidemic of the 1960's gave us the one-parent family, the crack epidemic of the 1980's will give us the no parent child; 51 percent of young addicts admitted to treatment in New York are female. Dr. Sheldon Landesman estimates that 15 percent of women giving birth at one municipal hospital in Brooklyn, NY, used crack during pregnancy.

And we would do well to note what the mothers and fathers of these children do to get the money they use to buy crack. They resort to ancient and ugly techniques. It can be said that for the most part the men steal. Thus, the men go to jail. At any given moment one in nine black men in Washington between the ages of 18 and 35 is in jail or prison. And the women contract AIDS through sexual commerce or promiscuity. Dr. Landesman estimates there are 35,000 infected women in New York City, each with, on average, two uninfected children. These 70,000 children will lose their mothers. These 70,000 children will be left to what? To whom? To orphanages and to insane asylums, institutions thought to have been abandoned in the 19th century.

Clearly, we have to find a cost-effective treatment. Clearly, this effort needs to follow an epidemiological mode, addressing the environment as well as the individual. Law enforcement, for example, effects the environment, much as draining away stagnant water affects the presence of anophelese mosquitoes. But the sick person must also be treated if the epidemic is not to continue.

Thus, section 2012 of the drug bill, entitled "Purposes," calls for treatment upon request. To wit:

It is the purpose of this subtitle * * * to increase to the greatest extent possible, the availability and quality of treatment services so that treatment on request may be provided to all individuals desiring to rid themselves of their substance abuse problem.

May I emphasize that those of us working on the Anti-Drug Abuse Act of 1988 knew full well that there was then no cost-effective treatment for the cocaine disease, a disease that becomes incredibly acute in its crack form. We assumed we were just at the beginning of an effort to develop such a treatment; we knew well enough the long and difficult task involved in the development of methadone, a form of treatment for heroin abuse. We knew well enough that most of what we call drugs begin as medicines. I suppose that is why they are called drugs. In consequence, the medical profession seems to have trouble getting involved with the problem of the abuse of their own treatments, as you might say. The current Merck Manual, for example, that singular aid to professional and layman alike, more or less explicitly states that cocaine is not addictive, and does not even mention crack cocaine (15th edition, 1987). We were also aware that it costs a lot to develop a new drug and bring it to the market: hence not much interest in the pharmaceutical industry. Thus, one of the few cocaine treatment agents that has emerged is carbamazepine, an existing anticonvulsant drug used in persons suffering from convulsive seizures.

Indeed, of the tens of thousands of pharmaceutical drugs now available for sale in American pharmacies, exactly two—methadone and naxeltrone—are widely available to help treat drug addiction. Is it any wonder then, that the epidemic surges?

The National Institute on Drug Abuse knows this. I rise today to remind the Senate, and just possibly to engage the interest of assorted commentators, that we also knew it when we crafted our legislation with its emphasis on at minimum a parity between outlays on supply and demand.

I read the editorials that followed our bill. In the main, they stated that nothing much had happened. After having taken up much of the century with a law enforcement approach to drug abuse, Congress finally—with precious little help from the executive branch, if I may add—finally turned to the issue of treatment. This fact has been nearly ignored in the press. As a result it is now being slighted in budgeting and funding.

A problem here is that there is no record of what we did. This is to say that the Anti-Drug Abuse Act of 1988 was drafted wholly by informal groups appointed by the respective Democratic and Republican leaders. There were no hearings—there was no committee of jurisdiction, although we can take great relief at Senator BIDEN's determination that Judiciary will now take on this task. There was relatively little debate. This no doubt accounts for much of the understanding in the press. In the hopes of establishing a record of some sorts, Mr. Tom Malinowski of my office has undertaken a prodigious labor of accumulating six volumes of the often fragile and fugitive records of our deliberations. But I would say to those who care about this subject that they do this cause precious little good by acting as if the Congress did nothing new in its 100th session. In fact we thought we were moving the subject in hugely important new directions. If no one else thinks, so, the effort will have been wasted. And not likely to be repeated.

In closing, may I return to the Attorney General's remarks of this past Monday.

If you want to lose the war on drugs, leave it to law enforcement.

We are in complete agreement. The Attorney General is not calling for less law enforcement. Less attention to the supply side of the question. He is calling for more attention to the demand side. We, for our part, do not dismiss drug addiction with sociological sophistications. The victims have only themselves to blame. But they are victims even so. The same may be said of the great plagues of venereal disease. In the end they needed both changes in behavior and treatment. That is our position with respect to drug addiction.

Mr. President, I ask that the Atlanta Journal article on the Bahamian crack epidemic, a recent National Institute on Drug Abuse publication summarizing recent research in this field, and an abstract summarizing a study on the use of carbamazepine in cocaine treatment be printed in the RECORD at this time.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Atlanta Journal, Dec. 31, 1985]

BAHAMAS "FREE-BASING EPIDEMIC" CITED

NASSAU, BAHAMAS.—A highly addictive practice of smoking cocaine "rocks" has swept this chain of islands off the coast of Florida, a side effect of the South American-based drug trade that uses the islands

as steppingstones for the journey to the United States.

In a country of 230,000 people, the number of cocaine users treated at mental health clinics has zoomed from zero in 1982 to 209 in 1984, according to Dr. David Allen, a Harvard-trained psychiatrist who heads the National Drug Council.

"What we have is the world's first free-basing epidemic (which) could be preceding an epidemic in the industrialized states" Allen said. "Anywhere there is readily available high-quality cocaine, there is this potential."

Dr. Henri Podlewski, director of the Sandilands Hospital where a special unit was created this year to treat free-basers, said free-based cocaine may be the most addictive drug known.

[From the National Institute on Drug Abuse, Winter 1988-89]

NIDA LAUNCHES $20 MILLION PROGRAM TO DEVELOP ADDICTION TREATMENT DRUGS

Thousands of pharmaceutical drugs line the shelves of apothecaries across the Nation. They're designed to treat a host of diseases and ailments—such as heart disease, diabetes, allergies, and strep throat. But, of all these drugs, only two are available to treat drug addiction.

Except for methadone and naltrexone, used for heroin addiction, today's pharmacy is barren of addiction treatment drugs. Unfortunately, the development of pharmacotherapies for the treatment of drug addiction has not received the full support of the drug industry.

"There are many reasons for this," says Dr. Marvin Snyder, director of NIDA's Division of Preclinical Research. "Chief among them are that drug abusers represent a special group of sick people who do not necessarily seek treatment and that the potential profits of developing new drug abuse treatments have not been significant."

However, Dr. Snyder notes, the cocaine epidemic of the last few years coupled with the spread of AIDS in the drug abusing population make the development of effective treatments for drug addiction more critical than ever before.

Data from NIDA's Drug Abuse Warning Network, which collects information on the health consequences of drug abuse from regularly reporting emergency rooms in about 2 dozen cities across the Nation, show that the number of people experiencing medical problems associated with cocaine use is rising sharply. Emergency room visits by cocaine users more than tripled from 1985 to 1987, rising from about 12,000 to more than 39,000.

During the same time period, according to a study of State-funded treatment programs conducted by the National Association of State Alcohol and Drug Abuse Directors, the number of people seeking help for their problems with cocaine rose from about 40,000 to more than 84,000. "Clearly, cocaine addiction is a major problem in this country, but there is no standardized therapy for treating it," Dr. Snyder says.

Heroin users also are seeking treatment for their addiction in greater numbers, Dr. Snyder notes. Many treatment programs have waiting lists of several months, he says. Since most heroin users inject the drug and many share needles to do it, they are at increased risk for getting AIDS. Nearly 30 percent of all new AIDS cases are linked to intravenous drug use.

To respond to these crises, NIDA is heading an aggressive Federal effort to develop much needed treatment drugs. In fact, developing new pharmaceutical approaches to drug addiction will be among NIDA's top priorities during the next several years. This year, the Institute plans to spend $20 million to identify and develop new addiction treatment drugs—not just for opiate addiction, but also for addiction to cocaine, phencyclidine (PCP), and other drugs.

NIDA recently formed a 10-member Drug Development Task Force to enlist the support of the pharmaceutical industry, administer grants to investigators, and oversee toxicity tests, clinical trials, and computer-assisted screenings of hundreds of potentially helpful drugs.

The task force, headed by Dr. Snyder, will work closely with Food and Drug Administration (FDA) representatives and scientists from the National Institutes of Health to expedite development of new addiction treatments that:

Can serve as replacement therapies for abused drugs, like nicotine gum does for cigarettes.

Block the effects of abused drugs.

Reduce craving for abused drugs.

Temper or eliminate the drug withdrawal process.

Block or reverse the toxic effects of abused drugs.

Prevent addiction from taking hold in the first place.

The drug industry has been slow to develop addiction treatment drugs for various reasons.

The Pharmaceutical Manufacturers Association says it takes more than $120 million to develop a new drug, a process that often takes 7 to 11 years. To recover these costs, large quantities of the drugs must be prescribed and sold.

Although fear of AIDS has motivated more people addicted to drugs to pursue treatment than ever before, many still do not seek help.

And the stereotype of the potential patient as a "bottomed-out" addict finally ready to seek treatment can be a turn-off to some drug companies, fearful their products will be tainted by association.

Naltrexone, approved by the FDA in 1985, treats narcotic addiction by blocking the effects of heroin. The drug is used to maintain abstinence in patients who have been detoxified from opiates. Although there are about 500,000 people addicted to heroin in this country, Dr. Snyder says this drug may presently be useful for only a small proportion of them.

Methadone, first developed as an analgesic, acts as a replacement for heroin. In contrast to heroin, which is usually injected and lasts only 4 to 6 hours, methadone can be taken orally and is active for more than 24 hours. Patients maintained on methadone stabilized—they no longer seek heroin and are therefore able to put their energies into caring for themselves and their families and developing their job skills.

Some people criticize the use of drugs to treat drug addiction. However, Dr. Snyder says, drug addiction is a disease of the brain. Drugs such as heroin and cocaine cause a disruption of normal brain chemistry. "Treatment drugs ultimately seek to restore the balance and equilibrium of normal brain activity and behavior," he says.

Substituting someone's addiction to heroin with chronic administration of a treatment drug may not be ideal, says Dr. David Friedman, deputy director of the Division of Preclinical Research and a task force member, but it's still helpful. "As long as people aren't shooting up drugs, they're not going to get AIDS from sharing needles," he says.

Patients maintained on methadone are significantly healthier than those using illegal drugs. And treatment clients often receive valuable skill-building therapies to help them become more independent members of society. No treatment drug, given alone, is gong to be a "magic bullet," Dr. Snyder says. Counseling, therapy, and training are essential parts of a comprehensive treatment program.

But methadone and naltrexone cannot fill every treatment need. Even if they could, says Dr. Snyder, it's desirable to have alternative treatment drugs to choose from—like having acetaminophen as an alternative to aspirin for pain relief, or giving tetracycline to people allergic to penicillin for strep throat. Because drugs that work well for some people may not work for others, NIDA hopes to develop a "cafeteria plan"—a variety of addiction-treatment options for doctors and patients to choose from. "The goal is to have specific therapies available to specific patients at specific times in their treatment," Dr. Snyder says.

NIDA's most immediate priority is making the "orphan" drug LAAM (L-Alpha-Acetyl-Methadol) available to treat intravenous heroin addicts.

Developed as a potential painkiller in Germany, the drug has been around too long to patent. With no patent and no subsequent profits, there is no pharmaceutical company willing to sponsor the drug through the FDA-approval process.

LAAM, sometimes called "long-acting methadone," lasts 2 to 3 days between oral administrations. Because LAAM's effects do not start for several hours after it is taken, there's no sought-after "rush," and less risk that the drug will be stolen or diverted and sold illegally. "It's not likely to be a popular drug on the street," says Dr. Snyder.

But LAAM may be popular with addiction treatment professionals, says Dr. Friedman. With methadone serving as the only addiction-treatment drug on hand for many years, treatment personnel may have felt like carpenters with nothing on hand but hammers. "There's been only methadone for so long, anything else will boost their morale."

Scientific, legal, political, and economic problems derailed LAAM when NIDA tried to get it developed in the 1970's. But says Dr. Richard L. Hawks, chief of NIDA's Research Technology Branch and a member of the Drug Development Task Force, "LAAM held promise 15 years ago and it still does."

NIDA is searching now for a drug company to sponsor LAAM through the FDA-approved process. "LAAM will have a useful niche," Dr. Hawks says, "by it's not going to be a miracle drug."

LAAM isn't the only addiction-treatment drug on NIDA's agenda. Currently, the Institute is overseeing 28 other drugs in various stages of development, including drugs to treat cocaine and PCP addictions.

Developing new and effective drugs is a long and arduous task. First, a proposed substance must demonstrate some therapeutic potential in animal models. Then, it must be proven nontoxic for human consumption. Finally, the drug's effectiveness must be studied in human clinical trials.

Because few alternatives are available, drugs approved as safe and effective for other medical conditions are sometimes prescribed for addiction treatment, says Dr. Friedman. The antihypertension drug cloni-

dine is not FDA-approved for the treatment of drug addiction, yet is sometimes used to ease the symptoms of opiate and nicotine withdrawal. But with a limited repertoire to choose from, and with so many drug-dependent people in need, it's hardly surprising that clonidine is being used this way, he says.

NIDA hopes, with FDA approval, to establish a special drug distribution system, similar to the one used by NIH's National Cancer Institute, to allow physicians to prescribe addiction treatment drugs prior to completion of the formal FDA drug approval process.

The Orphan Drug Act of 1983, which gives drug companies exclusive rights to market a drug in lieu of a patent, provides some incentive to private companies to invest in new treatment drugs. NIDA is also attempting to identify incentives that will encourage pharmaceutical companies to begin drug development.

"The Institute is committed to providing the needed leadership and direction to develop a wide variety of useful addiction-treatment drugs," says Dr. Snyder.

NATIONAL INSTITUTE ON DRUG ABUSE DRUG DEVELOPMENT PROGRAM

Drug	Therapeutic indication	Sponsor	Status	Owner
Opiate treatment agents:				
Methadone plus naloxone	Opiate maintenance therapy, lower abuse potential		Approved but not marketed	Bristol.
Depot naltrexone	Long-term opiate blockade	NIDA	Standard drug approved	Dupont.
LAAM	Opiate maintenance therapy	NIDA	Phase III completed	Public.
Clonidine	Opiate detoxification	None	Currently in use in open trials	Boehringer.
Buprenophine	Opiate detoxification, opiate maintenance and blockade	NIDA	Phase II	Norwich Eaton.
Metkephamid	Opiate maintenance therapy	NIDA	Phase I	Lilly.
Acetorphan	do	NIDA	Animal testing	
Cocaine treatment agents:				
Desipramine	do	NIDA	Phase II	Merrell Dow.
Sertraline	do	NIDA	do	Pfizer.
Imipramine	do	NIDA	do	Geigy.
Carbamazepine	do	NIDA	Phase I	Do.
Mazindol	do	NIDA	do	Sandoz.
Flupenthixol	do	NIDA	Clinical evaluation	Merrell Dow.
Fluoxetine	Treat cocaine and PCP withdrawal	NIDA	do	Dista/Lilly.
Niedipine	Block euphoria	NIDA	Phase II	Pfizer.
Buprenorphine	do	NIDA	Clinical evaluation	Norwich Eaton.
Verapamil	do	NIDA	Animal testing	Seale.
Diltiazem	do	NIDA	do	Marion.
Sulpiride	do	NIDA	do	Delegrange.
SCH23390	do	NIDA	do	Schering.
L-tryptophan	Functional antagonism	NIDA	Phase II	Public.
Amantadine	Maintenance therapy	NIDA	Phase I	Endo.
Bromocriptine	do	Sandoz	do	Sandoz.
Methyiphenidate	do	NIDA	do	CIBA.
L-DOPA	Replacement therapy	NIDA	Clinical evaluation	Roche.
Toxic overdose treatment agents:				
Nifedipine	Cocaine cardiotoxity	NIDA	Animal testing	Pfizer.
Verapamil	do	NIDA	do	Searle.
Diltiazem	do	NIDA	do	Marion.

Does Carbamazepine Cure Cocaine Craving?

First author: James A. Halikas, M.D.

Address: Box 393 University of Minnesota Hospitals, Harvard Street at East River Road, Minneapolis, MN 55455.

Other authors and affiliations: Kenneth Kemp, M.D., Kenneth Kuhn, M.D., Gregory Carlson, B.A., Frederick Crea, Paula Clayton, M.D.

The most difficult, and currently unmanageable component of cocaine dependent treatment is the overwhelming craving for cocaine. Because of this consisent craving, it is estimated that 80-100% of cocaine dependent patients relapse within the first 12 months no matter how high their motivation. We have begun using carbamazepine in an attempt to treat cocaine craving in an open trial as an adjunct to other standard rehabilitation efforts. 16 patients to date have been offered carbamazepine. All patients had long histories of substance abuse: with an average of 16 years of illicit abuse, more than 7 years of cocaine use, and repeated unsuccessful treatment attempts (x=4.9) Of the 16 patients, 6 patients refused, and 1 took it less than 3 days. Of the 9 patients who have taken carbamazepine, 1 was a clear failure with almost immediate return to frequent use and discontinuance of the medication; 4 of the 9 have been at least partial successes with intermittent use of carbamazepine and progressive periods of cocaine abstinence during its use; 4 patients have had clear success, with abstinence ranging from 1 to 6 months. Both the successful and partially successful patients agree that cocaine craving is significantly reduced even while in high risk situations. The dose range for these 4 patients is 200-400mg per day. A ratio of days of cocaine use per 100 patient days has been derived in an effort to assess comparability of results. The 4 successful patients, as of August 24, had decreased their use from 63.5 days per 100 days pretreatment to 0 days posttreatment with 227 patient days. The 4 with intermediate success have had a reduction from 71.3 days pretreatment to 14.3 days posttreatment. The 6 cocaine users who refused treatments have had virtually no change in their use (77/100 to 73.3/100.) Originally, 9 of the 16 were referred from a methadone maintenance program because of cocaine use which threatened their continuation on methadone. Only 1 of the successes and 2 of the partial successes are methadone patients. The methadone users have consistently reported the appearance of early opiate withdrawal symptoms (18-24 hours post methadone dose.) Based on the liver enzyme induction effect of carbamazepine, this clinical observation is likely accurate. There are several theoretorical reasons why carbamazepine might be useful. Carbamazepine reverses cocaine-induced-kindling, the facilitation of focal neuronal firing induced by repeated pharmacologic exposure, in the animal research model.

HARVARD COMMENCEMENT ADDRESS BY PRIME MINISTER BHUTTO

Mr. MOYNIHAN. Mr. President, I rise to share with my colleagues the commencement address given by Prime Minister Mohtarma Benazir Bhutto at Harvard University on June 8, 1989.

The Senate is already acquainted with Mrs. Bhutto's eloquence. Indeed, the day before her speech at Harvard, she gave a historic address to a joint session of the Congress. The echoes of that address still ring through our Halls.

At Harvard, Mrs. Bhutto elaborated on the themes she shared with us, particularly the democratization of Pakistan. I ask unanimous consent that the text of this commencement address be printed in the Record.

There being no objection, the address was ordered to be printed in the Record, as follows:

Harvard Commencement Address, June 8, 1989, Prime Minister Mohtarma Benazir Bhutto

President Bok, Governor Dukakis, Members of the Board of Overseas, new graduates, and distinguished alumni,

I am honored to have been asked to make this commencement address to the Class of 1989. First let me congratulate all those who have been awarded degrees at today's commencement.

Not too long ago, I sat where you now sit. I can vividly recall the effort your degrees represent—tramping to class in sub-arctic temperatures, fighting for reserve books at Hilles Library, cramming for exams, and the occasional all-nighter to complete a term paper.

Today is the day of celebration and I am privileged to share it with you. I am also greatly honored by the degree you have conferred on me. I am grateful, President Bok, for the kind words in your citation. However, I regard this honor as more than a personal recognition.

I consider it an affirmation of your abiding belief in the university of the principles

of democracy, liberty, and human rights. Events two centuries ago earned Cambridge, Boston, and the surrounding region the sobriquet "the cradle of liberty." It was here that the first successful struggle against European imperialism began. It was here—under the banner "no taxation without representation"—that the idea of government by the consent of the governed first gained currency.

Cambridge and Harvard were my cradle of liberty, too. I arrived from a country that, in my lifetime, had not known democracy or political freedom. As an undergraduate I was constantly reminded of the value of democracy by the history of freedom that permeates this place. It was not just the history of democracy that inspired me at Harvard. It was, above all, the concrete expression of it.

My Harvard years, 1969 to 1973, coincided with growing frustration over U.S. policy in Southeast Asia. This was particularly true in the campuses where students were in the forefront of those protesting the Vietnam War. For me, there were demonstrations on Boston Common and in Washington; mass meetings at Harvard Stadium. Some American commentators argued that the division over Vietnam signalled American weakness. I saw it as a measure of America's greatness—a reflection of democracy in action—of an open society, which, because it is open has the means of regeneration and revitalization. In the Pakistan of those days, the press did not criticize the government—because the government controlled the press.

While I was a junior at Harvard, Pakistan initiated an experiment in democracy. The experience is instructive. As 1971 ended, our country was in ruins. A third of the territory and more than one-half of the population was gone, the result of a military defeat precipitated by military repression in what was then East Pakistan. War and mismanagement had left our treasury empty and our economy in shambles. Ninety-three thousand Pakistani soldiers were prisoners of war, threatened by their captors with trial and punishment. Internal discord in West Pakistan threatened the survival of what was left of our country. A protracted period of military rule produced this catastrophe.

It was a disaster resulting from rule without accountability, brought about by the arrogance of a self-imposed mission to save the country from its own people. In the face of catastrophe, what did our military leaders do? They turned power over to the civilians, to an elected Prime Minister.

In a pattern repeated by the Greek colonels and Argentine junta, our military said, in essence, "we have created a hopeless situation; we now wash our hands of the responsibility to resolve it." But resolve it we did. The elected Prime Minister negotiated an honorable peace with the victor. He secured the return of the prisoners of war. He put the economy back on its feet. And he initiated a program of social and economic reform to benefit the poor and dispossessed, who are the majority in our land.

All this was done, I might add, at a time of global economic recession brought about by the oil shocks of the 1970s. What then happened? As is the case in democracies, the political process again became rambunctious. Opposition politicans challenged the elected government in the press, at the polls, and in the streets.

The military whose dignity was restored by the elected government moved in "to end the squabbling among politicians." The new dictatorship proved more brutal, more determined to stay in power than any of its predecessors. Elections were promised and summarily cancelled. The elected Prime Minister was arrested and then under the cloak of a judicial proceeding, murdered. Flogging, imprisonment, and execution became the staple of political life in our land. Under the circumstances that were as remarkable as they were unexpected, Pakistan last fall got a second chance at democracy. It is an opportunity we must not lose.

In our first act, I am happy to say, our government freed all political prisoners and commuted all death sentences. We have restored freedom of speech, freedom of association, and freedom of the press. In the National Assembly there is a lively opposition and, for the first time in our history, the State-owned television provides full coverage of their activities. Senator Daniel Patrick Moynihan, who recently visited me in Islamabad, once wrote that "if you are in a country where the newspapers are filled with good news, you can be sure that the jails are filled with good men."

Even a casual review of our press would serve to confirm the obverse of the Senator's statement. Around the world democracy is on the march. In the last decade Pakistan is only the more recent country to change course from dictatorship to democracy.

But we must be realistic. We must recognize that democracy, particularly emerging democracy, can be fragile.

I have already cited the experience of our last democratic government. The example is not confined to Pakistan. In the Philippines, Corazon Aquino's three-year-old democracy has already endured several coup attempts. In Argentina, there have been half a dozen military rebellions. In Peru, terrorism and narcotics threaten a 15-year-old experiment in democracy.

Democracy needs support and the best support for democracy comes from other democracies. Already there is an informal network to support democracy. Annually, the United States prepares a report on human rights in every country.

In prison, I was heartened to learn that the Congress had linked U.S. assistance to Pakistan, in the Pell Amendment, to the "restoration of full civil liberties and representative government in Pakistan."

Friends of democracy in other countries, including Britain, Canada, and Germany, sent delegations to investigate human rights abuses in Pakistan. Our elections last November 16 were made easier by the presence of observers sponsored by the Democratic Party of the United States, the British Parliament, and the South Asian Association for Regional Cooperation.

This informal network for democracy can and should be strengthened. Democratic nations should forge a consensus around the most powerful political idea in the world today: the right of people to freely choose their government.

Having created a bond through evolving such a consensus, democratic nations should then come together in an association designed to help each other and promote what is a universal value—democracy.

Not every democracy organizes itself in the same way; nor does every democracy express itself in the same way. But there are two elements I consider essential to all democracies. These are:

(1) the holding of elections at regular intervals, open to the participation of all significant political parties, that are fairly administered and where the franchise is broad or universal; and

(2) respect for fundamental human rights including freedom of expression, freedom of conscience, and freedom of association.

There are several ways in which members of an Association of Democratic Nations can help each other. One way is to ensure the impartiality of elections. After all, democracy as a system of government can only work when all participants in the political process accept the verdict of the people.

For the verdict to be accepted as legitimate, elections must not only be fair, but they must also be seen to be fair. International observer missions have already played critical roles in ensuring fair outcomes to elections in several countries, including mine.

The presence of observers is a deterrent to fraud. The observers' report can help legitimize an election in an emerging democracy where popular skepticism can be rife (as in South Korea), or it can validate local perceptions of fraud, as in the Philippines and Panama.

Observers also bring television with them. It is harder to steal an election if the whole world is watching, and, as the experience of the Philippines suggests, attempted fraud under the glare of televison lights can help galvanize a popular uprising.

There are other ways in which an Association of Democratic Nations can provide some protection for democratic governments in the Association. In countries without established traditions of representative government, democracy is always at risk. All too often, there is the overly ambitious general, the all too determined fanatic, or the all too avaricious politician. The Association of Democratic Nations can help change the calculus for each of these potential coup plotters by adding the element of international opprobrium.

The Association can mobilize international opinion against the leaders of any coup. Ultimately, I believe, the door should be open to stronger steps, including economic sanctions. Democracy depends on our ability to deliver to the people.

Many new democracies find that dictatorship has left them with empty treasuries—because of reckless spending and no accountability under dictatorship. As was true for new democracies in other lands—notably Argentina and Brazil—we in Pakistan also found that dictatorship had left the state coffers empty. Our situation is not unique. Other new democracies have come to power to find the cupboard bare.

The Association could promote the idea that foreign aid should be channeled to democracies. There is nothing wrong with rewarding an idea in which the donors believe. The prospects for democracy may depend on it. Some may object that the Association I am proposing will have primarily moral force.

I acknowledge this, but I would urge that morality has a larger power in international relations than commonly recognized. Democratic nations can also cooperate in building an international machinery to protect human rights and principles of justice and due process of law.

National efforts to strengthen institutions that protect people from human rights abuses and guarantee their political freedoms need to be reinforced at the international level.

Dictatorships will always seek ways and means to clothe their crime in the garb of legality—always seek to settle political

scores and eliminate opponents in the name of justice, law, and due process.

The instrument that they use is as old as political history, as old as the trial of Socrates. It is the instrument of the Political Trial—a most pernicious and destructive weapon, which in the hands of skillful manipulators is extremely effective in suppressing dissent and in destroying opponents. I believe it is time that the international community makes a concerted effort to put an end to such practices.

In my country many of those who resisted dictatorship—the heroes of our democratic struggle—were young men and women of your age. Many of them endured long periods of incarceration, and faced charges on political trials that were a travesty of truth and justice.

Many suffered the worst forms of torture and the humiliation of the physical punishment of flogging. Indeed, many had to make the supreme sacrifice with their young lives.

I can never forget what they endured. I can only strive with all my strength to give meaning to what they sought—those simple but priceless freedoms that you here, perhaps, take for granted.

But it is faith that inspired and provided sustenance to our democratic struggle—faith in the righteousness of our cause, faith in the Islamic teaching that "tyranny cannot long endure." How wrong therefore is the picture that is often painted about Pakistan as a country that cannot be democratic because it is Muslim. I have often heard the argument that a Muslim country as such cannot have or work democracy.

But I stand before you, a Muslim woman, the elected Prime Minister of a hundred million Muslims, a living refutation of such arguments and notions. This has not happened as an isolated phenomenon.

It has happened because the people of Pakistan have demonstrated, time and again, that their faith in their inherent right to fundamental freedoms is irrepressible, that they will always fight against dictatorship.

This love for freedom and human rights may owe a considerable deal to the colonial legacy and to the example of Western democratic institutions. But it arises fundamentally from the strong egalitarian spirit that pervades Islamic traditions. The Holy Quran calls upon Muslims to resist tyranny. Dictatorships in Pakistan, however long, have therefore always collapsed in the face of this spirit.

Islam, in fact, has a very strong democratic ethos. With its emphasis on justice, on equality and brotherhood of men and women, on government by consultation and consensus, Islam's essence is democratic.

Pakistan is heir to an intellectual tradition of which the illustrious exponent was the poet and philosopher Muhammad Iqbal. He saw the future course for Islamic societies in a synthesis between adherence to the faith and adjustment to the modern age.

It is this tradition which continues to inspire the people of Pakistan in their search for their own way of life amidst competing ideologies and political doctrines. Tolerance, open-mindedness, pursuit of social justice, emphasis on the values of equality and social concord and encouragement of scientific inquiry are some of its hallmarks.

It drew strength from the fact that Islam admits no priesthood and that Muslim culture, in its most vital and creative periods, accommodated and advanced what was best in other cultures. Intensely devoted as the pioneers of this tradition were to the Islamic spirit, they were also strongly opposed to bigotry and obscurantism in all their forms.

Xenophobia or prejudice against other civilizations, western or non-western, was repugnant to their outlook. I am indeed proud of this heritage. It is this heritage that has enabled me to take on the awesome responsibilities of the Prime Ministership of my country.

As my country stands on the threshold of greater freedom and sets the priorities that it will take into the 21st century, we draw our inspiration from what the poet-philospher Iqbal said—and what is universally applicable:

"Life is reduced to a rivulet under dictatorship. But in freedom it becomes a boundless ocean." This is true in Pakistan, and on every continent on earth. Let all of us who believe in freedom join together for the preservation of liberty.

Democratic nations unite.

Thank you very much.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Kalbaugh, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

ENROLLED BILL SIGNED

At 10:10 a.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the Speaker has signed the following enrolled bill:

H.R. 881. An act to provide for restoration of the Federal trust relationship with, and assistance to, the Coquille Tribe of Indians and the individual members consisting of the Coquille Tribe of Indians, and for other purposes.

The enrolled bill was subsequently signed by the Acting President pro tempore (Mr. CONRAD).

At 3:14 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House has agreed to the following concurrent resolution, without amendment:

S. Con. Res. 40. Concurrent resolution to designate June 21, 1989, as Chaney, Goodman, and Schwerner Day.

ENROLLED BILL SIGNED

The message also announced that the Speaker has signed the following enrolled bill:

H.R. 2344. An act to authorize the transfer to the Republic of the Philippines of two excess naval vessels.

At 5:34 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House insists upon its disagreement to the amendments of the Senate to the bill (H.R. 2072) making dire emergency supplemental appropriations and transfers, urgent supplementals, and correcting enrollment errors for the fiscal year ending September 30, 1989, and for other purposes; it asks a further conference with the Senate on the disagreeing votes of the two Houses thereon, and appoints Mr. WHITTEN, Mr. NATCHER, Mr. SMITH of Iowa, Mr. YATES, Mr. OBEY, Mr. ROYBAL, Mr. BEVILL, Mr. MURTHA, Mr. TRAXLER, Mr. LEHMAN of Florida, Mr. DIXON, Mr. FAZIO, Mr. HEFNER, Mr. CONTE, Mr. MCDADE, Mr. COUGHLIN, Mr. REGULA, Mrs. SMITH of Nebraska, Mr. EDWARDS of Oklahoma, Mr. GREEN, and Mr. ROGERS as managers of the conference on the part of the House.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-1311. A communication from the Director of the Defense Security Assistance Agency, transmitting, pursuant to law, a report concerning the Department of the Army's proposed letter of offer to Bahrain for defense articles estimated to cost in excess of $50 million; to the Committee on Armed Services.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. KENNEDY, from the Committee on Labor and Human Resources:

Report to accompany the bill (S. 123) to provide assistance to States and localities for high quality early childhood development programs for prekindergarten children, and for other purposes (with minority views) (Rept. No. 101-58).

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. JOHNSTON, from the Committee on Energy and Natural Resources:

Frank A. Bracken, of Indiana, to be Under Secretary of the Interior; and

Delos Cy Jamison, of Montana, to be Director of the Bureau of Land Management.

(The above nominations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. SANFORD (for himself, Mr. CHAFEE, Mr. PELL, Mr. LUGAR, Ms. MIKULSKI, Mr. PRESSLER, Mr. KASTEN, Mr. HARKIN, Mr. SHELBY, Mr. FORD, Mr. DECONCINI, Mr. GRASSLEY, and Mr. METZENBAUM):

S. 1212. A bill to amend title II of the Social Security Act to provide for a more gradual period of transition (and a new alternative formula with respect to such transition) to the changes in benefit computation rules enacted in the Social Security Amendments of 1977 as such changes apply to workers born in years after 1916 and before 1927 (and related beneficiaries) and to provide for increases in such workers' benefits accordingly, and for other purposes; to the Committee on Finance.

By Mr. COHEN:

S. 1213. A bill to establish a presumption of eligibility for asylum in the United States for certain natives of the People's Republic of China; to the Committee on the Judiciary.

By Mr. DECONCINI:

S. 1214. A bill to provide that ZIP code boundaries may be redrawn so that they do not cross the boundaries of any unit of general local government; to the Committee on Governmental Affairs.

By Mr. WIRTH (for himself, Mr. METZENBAUM and Mr. LAUTENBERG):

S. 1215. A bill to require the Federal Communications Commission to reinstate restrictions on advertising during children's television, to enforce the obligation of broadcasters to meet the educational and informational needs of the child audience, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. SIMON:

S. 1216. A bill to amend the National Labor Relations Act to give employers and performers in the live performing arts, rights given by section 8(e) of such Act to employers and employees in similarily situated industries, to give to such employers and performers the same rights given by sections 8(f) of such Act to employers and employees in the construction industry, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. HEINZ (for himself, Mr. GARN, Mr. BOND, Mr. CRANSTON, Mr. KERRY, Mrs. KASSEBAUM, and Mr. SANFORD):

S. 1217. A bill to amend the Export-Import Bank Act of 1945; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. KOHL (for himself and Mr. CRANSTON):

S. 1218. A bill to facilitate the adjustment or change of status of Chinese nationals in the United States by waiving the 2-year foreign residency requirement for "J" nonimmigrants and by treating nonimmigrants whose departure has been deferred by the Attorney General as remaining in legal nonimmigrant status for purposes of adjustment or change of status; to the Committee on the Judiciary.

By Mr. MACK:

S. 1219. A bill to repeal medicare catastrophic coverage provisions effective in years after 1989 and the supplemental medicare premiums, and for other purposes; to the Committee on Finance.

By Mr. KERREY (for himself, Mr. LUGAR, Mr. HARKIN, Mr. DASCHLE, Mr. EXON, and Mr. BOSCHWITZ):

S. 1220. A bill to amend the Food Security Act of 1985 to improve the program under which the Secretary of Agriculture may settle certain loans, and for other purposes; to the Committee on Agriculture, Nutrition, and Foresty.

By Mr. PRYOR (for himself, Mr. ADAMS, Mr. BENTSEN, Mr. BOSCHWITZ, Mr. BRADLEY, Mr. BRYAN, Mr. BUMPERS, Mr. BURDICK, Mr. CHAFEE, Mr. COCHRAN, Mr. COHEN, Mr. CONRAD, Mr. CRANSTON, Mr. D'AMATO, Mr. DIXON, Mr. DODD, Mr. DOLE, Mr. DURENBERGER, Mr. GARN, Mr. GLENN, Mr. GORE, Mr. GRASSLEY, Mr. HEINZ, Mr. INOUYE, Mr. JOHNSTON, Mrs. KASSEBAUM, Mr. KERRY, Mr. LAUTENBERG, Mr. LEVIN, Mr. LIEBERMAN, Mr. LUGAR, Mr. MITCHELL, Mr. MOYNIHAN, Mr. MURKOWSKI, Mr. NUNN, Mr. PACKWOOD, Mr. PELL, Mr. PRESSLER, Mr. REID, Mr. ROBB, Mr. ROCKEFELLER, Mr. SASSER, Mr. SHELBY, Mr. SIMPSON, Mr. STEVENS, Mr. THURMOND, Mr. WARNER, Mr. WILSON, and Mr. WIRTH):

S.J. Res. 161. Joint resolution to designate the week of October 22, 1989, through October 28, 1989, and the week of October 21, 1990, through October 27, 1990, as "National Adult Immunization Awareness Week"; to the Committee on the Judiciary.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. MITCHELL (for himself, Mr. DOLE, Mr. BYRD, Mr. PELL, Mr. LUGAR, Mr. NUNN, Mr. STEVENS, and Mr. CHAFEE):

S. Res. 149. Resolution concerning the resumption of strategic arms reduction negotiations with the Soviet Union; considered and agreed to.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. SANFORD (for himself, Mr. CHAFEE, Mr. PELL, Mr. LUGAR, Ms. MIKULSKI, Mr. PRESSLER, Mr. KASTEN, Mr. HARKIN, Mr. SHELBY, Mr. FORD, Mr. DECONCINI, Mr. GRASSLEY, and Mr. METZENBAUM):

S. 1212. A bill to amend title II of the Social Security Act to provide for a more gradual period of transition—and a new alternative formula with respect to such transition—to the changes in benefit computation rules enacted in the Social Security Amendments of 1977 as such changes apply to workers born in years after 1916 and before 1927—and related beneficiaries—and to provide for increases in such workers' benefits accordingly, and for other purposes; to the Committee on Finance.

SOCIAL SECURITY NOTCH ADJUSTMENT ACT

Mr. SANFORD. Mr. President, today I am introducing legislation to correct the injustice of the Social Security notch. Similar legislation that I introduced 2 years ago, during the 100th Congress, was a compromise proposal that I felt was both fair and reasonable. The proposal that I introduce here today offers a greater compromise, yet continues to be a fair and reasonable approach—and affordable.

Mr. President, I think we all understand how this notch issue came about. An automatic benefit increase adopted in 1972 proved to be too generous. It allowed Social Security benefits to rise to unintended high levels because the benefit change overcompensated for inflation. I think we all agree with this. There is no question that these projected high benefit levels were a real threat to the solvency of the Social Security trust funds. Clearly something had to be done to prevent this, and the Social Security Amendments of 1977 provided the fix. However, in attempting to fix one problem, another one was created—the notch problem. Some of my colleagues do not agree that the notch is a problem, but it is, and it is one we can easily afford to fix. The 1977 amendments did create a notch, and individuals within that notch are receiving lower benefits than those born before or after them. Those individuals now known as notch babies are understandably enraged by this benefit inequity, and I cannot blame them. The notch inequity has been gathering cobwebs for the past 12 years, and correcting it can be put off no longer. Notch babies deserve a fair settlement, and I am prepared to give them one.

The legislation I offer today should impact more than 10 million retired workers by increasing their annual Social Security benefits an average of $550 per year for those retiring at age 65, and an average of $144 annually for those retiring at age 62. Including a modest, one time, limited retroactive payment not to exceed $1,000 per family, this bill achieves benefit equity at a much smaller cost than other proposals. The annual cost will peak at $4.6 billion during the mid 1990's and gradually diminish in cost thereafter.

Some of my colleagues who oppose correcting the notch have said it will bankrupt the Social Security system, but that is just not so. The average increase per year until the years 2000 is about 2 percent, less than half of last year's Social Security COLA. That is an affordable amount, and a small amount when measured against fairness to retired citizens. Even with passage of this proposal, the total trust fund reserves should exceed $1.3 trillion at the turn of the century.

Another popular argument for opposing efforts to correct the notch is that it will just create another notch and another problem. This legislation does not create an "after-the-notch" problem. It deliberately covers individuals born beyond the traditional notch

years (1917-21), extending benefit increases to those born through 1926. Using a longer transition period avoids the creation of another pothole. In fact, I think we could have avoided this notch problem altogether had the 1977 amendments included a longer transition period.

Mr. President, I am pleased that companion legislation is also being introduced today in the House of Representatives by my good friend and colleague from North Carolina, Representative BILL HEFNER.

In offering this legislation today, I am pleased to be joined by many of my distinguished colleagues; Senators CHAFEE, PELL, LUGAR, MIKULSKI, PRESSLER, KASTEN, DECONCINI, HARKIN, SHELBY, GRASSLEY, FORD, and METZENBAUM.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD to be followed by a brief summary and statements by my distinguished colleagues, Senator KASTEN, Senator PRESSLER, and Senator CHAFEE.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 1212

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Social Security Notch Adjustment Act".

SEC. 2. EXPANSION OF PERIOD OF TRANSITION; NEW ALTERNATIVE FORMULA WITH RESPECT TO SUCH PERIOD.

(a) EXPANSION OF PERIOD OF TRANSITION.—Section 215(a)(4)(B)(i) of the Social Security Act (42 U.S.C. 415(a)(4)(B)(i)) is amended by striking "1984" and inserting in lieu thereof "1989".

(b) ESTABLISHMENT OF NEW TRANSITIONAL FORMULA.—Section 215(a) of such Act (42 U.S.C. 415(a)) is amended by adding at the end thereof the following new paragraph:

"(8)(A) Paragraphs (1) (except for subparagraph (C)(i) thereof) and (4) do not apply to the computation or recomputation of a primary insurance amount for an individual who had wages or self-employment income credited for one or more years prior to 1979, and who was not eligible for an old-age or disability insurance benefit, and did not die, prior to January 1979, if in the year for which the computation or recomputation would be made the individual's primary insurance amount would be greater if computed or recomputed under subparagraph (B).

"(B) The primary insurance amount computed or recomputed under this subparagraph is equal to—

"(i) the excess of—

"(I) the amount computed or recomputed under this subsection as in effect in December 1978 (for purposes of old-age insurance benefits in the case of an individual who becomes eligible for such benefits prior to 1989) or under subsection (d) (in the case of an individual to whom such subsection applies), over

"(II) the amount computed under this subsection as in effect on the date of enactment of the Social Security Notch Adjustment Act, multiplied by

"(ii) 40 percent, reduced by the sum of—

"(I) 4.0 percent times the number of years between 1979 and the year of first eligibility, plus

"(II) ⅓ of 1 percent for each month beginning before the month in which the individual attains the age of 65 and with respect to which the individual is entitled to old-age insurance benefits.".

(c) APPLICABILITY OF OLD PROVISIONS.—Section 215(a)(5) of such Act (42 U.S.C. 415(a)(5)) is amended—

(1) by inserting "(A)" after "(5)";

(2) by striking "For" and inserting in lieu thereof "Except as provided in subparagraph (B), for";

(3) by striking "effect," and all that follows through "after 1978" and inserting in lieu thereof "effect"; and

(4) by adding at the end thereof the following new subparagraph:

"(B) In applying this section as in effect December 1978 as provided in subparagraph (A)—

"(i) effective for January 1979, the dollar amount specified in paragraph (3) of subsection (a) shall be increased to $11.50;

"(ii) the table for determining primary insurance amounts and maximum family benefits contained in this section in December 1978 shall be revised as provided by subsection (i) for each year after 1978; and

"(iii) in the case of an individual to whom paragraph (1) does not apply by reason of paragraph (8)—

"(I) subsection (b)(2)(C) shall be deemed to provide that an individual's 'computation base years' may include only calendar years in the period after 1950 (or 1936 if applicable) and ending with the calendar year in which such individual attains age 65; and

"(II) the 'contribution and benefit base' (under section 230) with respect to remuneration paid in (and taxable years beginning in) any calendar year after 1981 shall be deemed to be $29,700.".

(d) CONFORMING AMENDMENT.—Section 215(a)(3)(A) of such Act (42 U.S.C. 415(a)(3)(A)) is amended in the matter following clause (iii) by striking "(4)" and inserting in lieu thereof "(4) or (8)".

(e) EFFECTIVE DATE AND RELATED RULES.—

(1) Except as provided in paragraph (2), the amendments made by this section shall be effective as if included in the amendments made by section 201 of the Social Security Amendments of 1977.

(2)(A) In any case in which an individual (under title II of the Social Security Act) is entitled on the date of enactment of this Act to monthly insurance benefits under such title which were computed—

(i) under section 215 of the Social Security Act as in effect (by reason of the Social Security Amendments of 1977) after December 1978, or

(ii) under section 215 of such Act as in effect prior to January 1979 by reason of subsection (a)(4)(B) of such section (as amended by the Social Security Amendments of 1977),

the Secretary of Health and Human Services (notwithstanding section 215(f)(1)) of the Social Security Act) shall recompute such individual's primary insurance amount so as to take into account the amendments made by this section and shall pay to such individual in a lump sum the amount specified in subparagraph (B).

(B)(i) Except as provided in clause (ii), the amount specified in this subparagraph is any additional amount to which such individual is entitled (for the period beginning with the first month for which such individual was entitled to such benefits and ending with the month preceding the first month with respect to which recomputation under subparagraph (A) is effective) by reason of such amendments.

(ii)(I) In the case of a primary insurance amount applicable to monthly insurance benefits payable for months before January 1990, the total amount payable to any individual under subparagraph (A) on the basis of such primary insurance amount is $1,000.

(II) If the amount payable under subparagraph (A) on the basis of such primary insurance amount would (except for subclause (I)) exceed $1,000, any individual receiving monthly insurance benefits on the basis of such amount shall receive such benefits in the same proportion as the benefits would be received in January 1990 (except that no such individual shall receive less than $300).

(C) In the case of any individual who—

(i) is entitled on the date of enactment of this Act to monthly insurance benefits under title II of the Social Security Act,

(ii) dies after such date and before the date on which payment is made under subparagraph (A), and

(iii) is an individual with respect to whom monthly insurance benefits under title II of the Social Security Act are payable on the basis of such individual's primary insurance amount;

the amount payable to such individual under paragraph (A) shall be paid (on an equal basis) to individuals who (for any month beginning with the month of entitlement and ending with the month such individual dies) are entitled or eligible to receive such benefits on the basis of the deceased individual's primary insurance amount. If there is no individual for whom payment can be made under the preceding sentence, a lump sum not to exceed $300 may be paid (in accordance with this title) to cover the funeral expenses of such deceased individual.

THE SANFORD SOLUTION

BENEFIT INCREASES

Fulfills original Congressional intent by gradually phasing-in a stable level of benefits more comparable to the benefits paid to those born before them. This legislation increases average benefits for those retiring at age 65 by $550 per year. For those retiring at age 62, the average benefit increase would be $144 annually.

WHO QUALIFIES?

(1) Retired workers born after January 1, 1917 and prior to January 2, 1927.

(2) Survivors of workers born after January 1, 1917 and prior to January 2, 1927 if the worker died in or after the year of his/her 62nd birthday.

(3) Disability beneficiaries born after January 1, 1917 and before January 2, 1927, upon reclassification as a retired worker (at age 65).

COST

Achieves benefit equity at substantially less cost than other proposals, with annual cost reaching $4.5 billion during the mid 1990s and gradually diminishing thereafter. Total Trust Fund reserves should still exceed $1.3 trillion by the turn of the century after passage of this bill.

Includes a modest retroactive payment, not to exceed $1,000 per family at a total cost of $8.2 billion paid during the first year of enactment.

Calendar year	Additional benefit payments due to new transition
1990	$12.2
1991	4.2
1992	4.4
1993	4.4
1994	4.5
1995	4.5
1996	4.5
1997	4.4
Total: 1990–1997	43.1

[1] Includes one time lump sum payment for retroactive benefits totalling $8.2 billion.

BENEFITS UNDER PRESENT LAW COMPARED TO BENEFITS UNDER THE SANFORD SOLUTION FOR WORKERS WHO ALWAYS HAD AVERAGE EARNINGS

[In 1989 dollars]

Year of birth	Retirement at age 62		Retirement at age 65	
	Present law	Proposal	Present law	Proposal
Pre-1977 Amendment Law [1]				
1910	$497	N/A	$638	N/A
1911	500	N/A	661	N/A
1912	513	N/A	683	N/A
1913	521	N/A	710	N/A
1914	526	N/A	728	N/A
1915	531	N/A	746	N/A
1916	546	N/A	771	N/A
Post-1977 Amendment Law [2]				
1917	557	[3] 557	696	737
1918	523	535	670	726
1919	497	515	635	706
1920	487	506	620	692
1921	499	514	632	695
1922	508	520	643	696
1923	515	521	651	696
1924	529	[3] 529	668	701
1925	545	[3] 545	689	710
1926	538	[3] 538	683	694
1927	550	[3] 550	698	[3] 698

[1] The transitional computation provided under the proposal guarantees a percentage of the benefit computed under a modified pre-1977 computation method. Since the age at which a person retires affects the percentage of the pre-1977 benefit which is guaranteed, benefits are shown for retirement at age 62 and age 65. (Also, the age-62 figures for both present law and the proposal have been reduced to take account of early retirement.)

[2] Benefits for workers entitled after 1989 are computed using the alternative II–B economic assumptions in the 1988 Trustees Report.

[3] No change from present law benefit.

Note.—Figures based on Social Security Administration estimates prior to 1989 Trustee's Report.

Mr. KASTEN. Mr. President, I rise today to express my support of legislation being introduced by the distinguished junior Senator from North Carolina regarding Social Security benefits for those retirees born between 1917 and 1921—the so-called notch babies.

The notch is the consequence of a law Congress passed in 1977 to preserve the solvency of the Social Security System. When this law was drafted, a 5-year phase-in of benefits was provided for—which continues to discriminate against a group of some 7 million retirees.

Fundamental fairness requires that we correct the inequity Congress mistakenly created over a decade ago. This legislation would provide an average annual increase of approximately $550 for those individuals retiring at age 65, and approximately $144 for those retring at age 62—without creating another notch. This legislation would also give the notch babies a grant of up to $1,000 each to help compensate for their unfair level of benefits in the past. These provisions would be financed from the surplus in the Social Security Trust Fund—at a cost of approximately 3 percent over 10 years, an amount that will not do damage to the Fund.

I commend my colleagues for introducing this legislation, and I am proud to be an original cosponsor. It is my hope that the Finance Committee will move quickly on this legislation. We have the opportunity to do the right thing by those retirees who receive less in benefits than they should merely because they happen to have the misfortune to have been born in the wrong year.

Mr. PRESSLER. Mr. President, the Social Security notch problem is very important to me because it affects 9 million retired Americans, among which are some 15,000 South Dakotans. My constituents continue to address this injustice in their mail to me. I am pleased to join my distinguished colleague, Senator SANFORD, in sponsoring legislation to address this matter.

The notch problem dates to 1972, when Congress amended the Social Security Act to provide for an annual Social Security cost-of-living adjustment. That decision resulted in larger future benefits for current workers through a general benefits increase and a cost-of-living adjustment based on the current rate of inflation. As a result of the 1972 amendment, some individuals retiring prior to the year 2000 could receive monthly Social Security benefits greater than their working salaries.

Following that 1972 amendment to the Social Security Act, Social Security benefits were increasing at a rate faster than revenues were coming in. The cost-of-living formula caused an over-compensation in benefits. Therefore, in 1977 Congress approved a plan to eliminate the over-adjustment for inflation by providing a new benefit formula for workers born after 1916. The 1977 amendment included a transition formula to protect people from an abrupt change in benefits. The transition formula divided Social Security beneficiaries into three categories: those born before 1917, those born between 1917 and 1921—the notch years—and those born after 1921.

The new formula failed to provide some retirees with a fair inflation adjustment. Workers with the same earnings record, retiring at age 65, and born only a few days apart, one in 1916 and the other in 1917, experienced up to $1,300 per year difference in received benefits.

A major reason that formula failed was the high rate of inflation in the late 1970's. An even more important reason is that the post-age 82 earnings of the people born after 1916 are excluded when calculating the benefits for workers born in the notch years.

The notch babies feel discrimination and inequity every time they receive their monthly Social Security checks. A change is needed to increase notch baby payments to a level equal to what other Social Security retirees receive. I support such a change and am pleased to support legislation that could solve this problem.

● Mr. CHAFEE. Mr. President, I am joining Senator SANFORD in sponsoring the Social Security Notch Adjustment Act of 1989, legislation to correct the Social Security notch inequity. I commend my colleague from North Carolina for his continued commitment to solving the notch problem.

I have been concerned about those affected by the notch for many years. Congress made changes to the Social Security System in 1977 to ensure the long-term stability of the trust funds. While I believe these changes were necessary to guarantee benefits to current and future recipients, what resulted was a transition formula that has not been smooth.

I do not believe our intention was to adversely affect Social Security recipients born between 1917 and 1921, the "notch years." Yet, it is clear to me that the transition formula inadvertently provided individuals with similar work histories, but born only a year apart, inequitable benefits.

In the last Congress I joined Senator SANFORD in sponsoring the Notch Adjustment Act, S. 1830. The Senate Finance Subcommittee on Social Security and Family Policy held a hearing on this issue last January. It was an informative discussion that proved valuable during the development of the legislation we are introducing today.

The Social Security Notch Adjustment Act of 1989 is a modified version of S. 1830. It would implement a smoother transition formula for those affected by the notch. Social Security recipients whose benefits are currently calculated by the notch formula would be able to opt to have their benefits recalculated by our new formula. Retirees who have been adversely affected by the faulty transition formula would receive an increase in monthly benefits as well as up to $1,000 in retroactive benefits.

The Social Security Notch Adjustment Act fairly addresses the concerns of those affected by the notch. While I will never support any changes to Social Security that would endanger the solvency of the trust funds, I believe this is a responsible solution to the notch problem.

I am hopeful that we will be able to enact this measure this year. Individuals born in the notch years have been penalized for over a decade. It is time that we provide them with all the benefits to which they are entitled.●

By Mr. COHEN:

S. 1213. A bill to establish a presumption of eligibility for asylum in the United States for certain natives of the People's Republic of China; to the Committee on the Judiciary.

PRESUMPTION OF ELIGIBILITY FOR ASYLUM FOR CERTAIN CHINESE NATIONALS

Mr. COHEN. Mr. President, while men and women the world over yearn for freedom, the vast majority of them are still shackled to the ball and chain of political and personal oppression. For a few short days, the fires of freedom burned bright in the People's Republic of China but the flames are now being systematically extinguished by the repressive tactics of the Chinese Government.

The killing and wounding of thousands of Chinese students and workers, the imposition of martial law, and the ongoing nationwide roundup of pro-democracy demonstrators is part of a brutal campaign of persecution against student leaders and others who have bravely demonstrated their peaceful commitment to democracy and human rights. As stated in Senate Resolution 142, unanimously approved on June 6, the "authorities of the People's Republic of China have behaved in a manner inconsistent with the civilized norms of the world's nations."

Thousands of Chinese students in the United States have spoken out and demonstrated in support of the pro-democracy forces in China. As a result, they would be in imminent danger of arrest or persecution upon their return to their native country. Humanitarian concerns require that we ensure that these individuals be permitted to remain in this country and not be forced to return to China.

President Bush has taken an important first step in protecting Chinese nationals in the United States from being forced to return to China. I commend him for authorizing a "deferral of enforced departure," a special immigration status that will allow Chinese citizens to remain in the United States through June 5, 1990.

The President's action, however, is only a temporary solution for the Chinese students who fear the fate that awaits them upon their return to their native land. And, because it is only temporary in nature it does not send a sufficiently strong message to the Chinese Government—a message that if they continue the current repressive campaign they will not see the return of thousands of their best and brightest students, scholars, and others who may choose to remain in the United States.

Under the legislation I am introducing today, Chinese students and exchange visitors would be presumed to qualify for asylum status. In other words, these individuals will not have to provide additional or independent evidence of a well-founded fear of persecution. While the bill does create a presumption that these individuals have a well-founded fear of persecution and, therefore, are eligible for asylum, it does not eliminate the requirement for a case-by-case review of asylum applications.

This legislation is needed for a number of reasons. If the President does not extend the "deferment of enforced departure" beyond June 5, 1990, and if conditions in China have not drastically improved by that time, and there is no reason to believe now that they will, Chinese students in the United States without valid visas face the possibility of being deported. Forcing these individuals back into the hands of the Chinese Government would be both cruel and inhumane, and would violate our country's sacred tradition of offering protection to people persecuted in their native countries.

Of more immediate concern to Chinese students and exchange visitors in the United States may be the decision of whether or not to apply for the deferment of deportation authorized by the President. If they do so and are eventually required to return to China, what awaits them upon their return? Will they automatically be labeled as counterrevolutionaries or pro-democracy sympathizers by the Chinese Government for seeking to avoid or delay their return to the People's Republic of China?

Many Chinese may be afraid to request deferment of enforced departure because of the retribution they will face from Chinese officials for taking advantage of the opportunity to remain longer in the United States. For the very same reason, many Chinese students may be afraid to apply for asylum because, if they fail to qualify, they could be deported and, if deported, will face reprisals for what their government may consider an act of treason. The legislation I am introducing is an attempt to calm those fears, and to provide a greater degree of certainty that the Chinese students and exchange visitors who fear returning to China and wish to remain in the United States will be permitted to do so.

Mr. President, I offered a lengthy statement last Friday on my reaction to what is taking place in China today.

I will not take the time this morning to repeat those comments, but a final word about today's news that three men have been executed in Shanghai, and at least eight more executions will occur shortly. These, of course, are in addition to the hundreds if not thousands of students and others who have been executed without the benefit of the phony trials in a kangaroo court that are taking place.

Monstrous lies are being told by the Chinese Government. The Chinese Government continues to tell the monstrous lie that no student demonstrations ever occurred, no blood was shed by any student, that there were no student fatalities who after all were not even demonstrating, and that the only people who were killed were soldiers who valiantly were defending the People's Republic of China against these unarmed counterrevolutionaries.

We cannot afford to participate in this monstrous lie. Other countries are turning away from the truth. They are turning away in that they are ignoring the reality of what occurred, what is on film, and what was captured by photographers.

While we are eager many times to criticize the press for being too aggressive and too inquisitive, we should take time to commend the members of the press, the international press, who were in China who risked their lives to take those memorable photographs to record for history the acts of courage and bravery that were demonstrated by the Chinese students.

But let us not play the role that some of our allies are now doing by saying, well, it is only an internal matter within China. It is none of our business. Some countries are now reinvesting, sending business men and women back into China to take advantage of those economic opportunities that await them.

Let the United States not follow suit. Let the United States not fall victim to what Alvin Toffler talked about in terms of "Future Shock," that our values, customs, and principles are being caught up in the hurricane winds of change, that events are being accelerated to the point that the world is spinning faster and faster on the finger of science. The image of the massacre may fade quickly from our consciousness. Hopefully we will continue to remind the American people and the world of what took place.

Mr. President, it is my hope that through actions such as the President announced today, while they may not be sufficient to deter the Chinese from engaging in the kinds of persecution that are taking place with respect to the execution of those who simply wanted to express their support for the forces of freedom, that they will help us recognize in the future when we see those smiling faces of the Chinese Government spokesmen, that behind those smiling faces we will find a gun barrel. That we remember the exercise of free speech in China can get you a bullet in the brain or a bayonet in the heart.

The mask of communism has been exposed for exactly what it is, a mask. Behind the smiling face lurks a brutality that will crush and oppose any effort to seek change on behalf of people of China.

I hope we do not fall victim to this tactic that is now being employed by the Chinese Government simply forc-

ing us to air brush away the images that so mesmorized the world.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1213

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. PRESUMPTION OF ELIGIBILITY FOR ASYLUM.

There shall be a presumption that any native of the People's Republic of China described in section 3 shall be eligible for asylum in the United States upon application to the Attorney General.

SEC. 2. APPLICABILITY OF IMMIGRATION AND NATIONALITY ACT.

Except as provided in this Act, all the terms and conditions applicable under the Immigration and Nationality Act to the granting and termination of asylum, including the provisions of section 207(c)(3) of such Act regarding the authority to exclude refugees, shall apply to aliens eligible for asylum under this Act.

SEC. 3. ELIGIBILITY.

A native of the People's Republic of China referred to in section 1 is such a native who—

(1) as of June 5, 1989, was admitted to the United States as a nonimmigrant alien described in subparagraph (F) or (J) of section 101(a)(15) of the Immigration and Nationality Act; or

(2) any other individual within such other class of aliens as may be designated by the Attorney General.

By Mr. DECONCINI:

S. 1214. A bill to provide that ZIP code boundaries may be redrawn so that they do not cross the boundaries of any unit of general local government; to the Committee on Governmental Affairs.

CHANGING OF ZIP CODE BOUNDARIES

Mr. DECONCINI. Mr. President, today I am introducing legislation designed to rectify a serious problem facing communities in my State of Arizona and other communities around the Nation. I am speaking about the problem of ZIP Codes and community identities.

This legislation requires the Postal Service to establish procedures that, upon the written request of the head of any unit of general local government, would allow the Postal Service to ensure that the boundaries marking any ZIP Code area do not cross the boundaries of the unit of general local government. This means that a town with a particular ZIP Code will not face the situation, frequent in many communities today, of having the ZIP Code of one or more additional communities.

There are a number of communities in Arizona which face this problem. The city of Avondale has been engaged in a long running battle with the Postal Service over whether Avondale can be allowed to have a ZIP Code which conforms to its city limits without also having parts of the community with Phoenix and Tolleson ZIP Codes as well. My staff and I have worked with the Postal Service in Arizona and here in Washington to resolve this issue, but to no avail. Postal officials have simply dug in their heels on this issue.

Similarly, the city of Glendale has residents within its city limits who have either Peoria or Phoenix mailing addresses.

This has resulted in great confusion for community developers and others who want to expand the economic base of their communities. It has also had a negative impact in some communities on mail delivery, tax collection, and even the provision of emergency services to people in one community who are served by the ZIP Code of another.

There are dozens of communities nationwide who face comparable situations. It has reached the point where this was a major issue addressed by the National League of Cities when they met in Washington earlier this year. I have a partial list of those communities which have been identified as having problem ZIP Codes. I ask unanimous consent that this list be printed at the conclusion of my remarks.

The legislation I am introducing will require the Postal Service to be more responsive to the needs of the communities which it serves. It will assist the Postal Service in establishing a set of administrative guidelines which can be implemented at the local level. The legislation has been endorsed by the National League of Cities and is a companion to legislation introduced in the House by Representatives STUMP and DYMALLY. I urge my colleagues to join me by cosponsoring this bill because, in the final analysis, service should be more than just a name for the Postal Service.

Mr. President, I ask unanimous consent that the text of the bill also be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 1214

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) within 180 days after the date of enactment of this Act, the United States Postal Service shall establish procedures to provide that, upon written request of the head of any unit of general local government, the Postal Service shall ensure that the boundaries delimiting any area included within any particular ZIP code do not cross any of the boundaries of such unit of general local government.

(b) In order to apply this Act with respect to areas in which ZIP codes of more than 5 digits are used, areas having the same first 5 digits shall be considered to have the same ZIP code.

(c) For purposes of this Act—

(1) the term "unit of general local government" means a county, township, city, or political subdivision of a county, township, or city, that is a unit of general local government as determined by the Secretary of Commerce for general statistical purposes; and

(2) the term "township" includes an equivalent political subdivision having different designations as determined on the same basis used by the Secretary of Commerce for general statistical purposes.

List of Communities Having ZIP Code Problems

	Population
Alabama:	
Cullman	13,084
Gardendale	8,005
Rainbow City	6,299
Vestavia Hills	15,733
Arizona:	
Avondale	8,134
Glendale	96,988
Peoria	12,307
Phoenix	764,911
Arkansas:	
Sherwood	10,423
Shannon Hills	
California:	
Arcata	12,849
Compton	81,230
Fontana	36,804
Garden Grove	123,351
Gardena	45,165
Hawthorne	56,437
Petaluma	33,834
Rancho Palos Verdes	35,227
Rohnert Park	22,965
Signal Hill	5,734
Colorado:	
Arvada	84,576
Englewood	30,021
Estes Park	2,703
Fort Collins	64,632
Grand Junction	27,956
Lakewood	113,808
Steamboat Springs	6,000
Sterling	11,385
Westminster	50,211
Wheat Ridge	30,293
Connecticut:	
Stonington	16,220
West Haven	53,184
Florida:	
Atlantic Beach	7,847
Dunedin	30,203
Hialeah	145,254
Hialeah Gardens	5,454
North Miami Beach	36,481
Palm Beach	20,515
Pembroke Pines	35,776
Pinellas Park	32,811
Safety Harbor	14,500
Sarasota	48,868
Sweetwater	9,515
Winter Springs	10,475
Georgia:	
Athens	42,549
East Point	37,486
Idaho: Pocatello	46,340
Illinois:	
Addison	29,826
Bolingbrook	37,261
Champaign	50,267
Countryside	6,242
Hanover Park	28,719
Harwood Heights	8,228
Lincolnwood	11,921
Lombard	36,879
Loves Park	13,192
Palatine	32,176
Paris	9,885
Schaumburg	52,319

Skokie	60,278
Springfield	100,054
Streamwood	23,456
Urbana	35,978
Marwood Heights	.....
Indiana: Valparaiso	22,247
Iowa:	
Des Moines	191,003
Ottumwa	27,381
Kansas:	
Leawood	13,360
Lenexa	18,639
Merriam	10,794
Shawnee	29,653
Kentucky:	
Erlanger	14,466
Florence	15,586
Louisiana: Mandeville	6,076
Maryland:	
District Heights	6,799
Greenbelt	16,000
Hyattsville	12,709
Seat Pleasant	5,217
Massachusetts: Agawam	26,271
Michigan:	
Birmingham	21,276
Farmington	14,355
Farmington Hills	58,056
Huntington Woods	6,937
Norton Shores	22,025
Novi	22,525
Ferndale	.....
Minnesota:	
Brooklyn Park	43,332
Inver Grove Hgts.	17,171
Oakdale	12,123
Mississippi:	
Batesville	5,162
Grenada	12,641
Morton	3,303
Missouri:	
Ballwin	12,750
Berkeley	15,922
Crestwood	12,815
Hazelwood	13,098
Independence	111,797
Maryland Heights	26,214
Richmond Heights	11,516
Rock Hill	5,702
St. Louis	452,801
St. Peters	15,700
Nebraska:	
Bellevue	21,813
Papillion	.....
Nevada: Bellevue	.....
New Jersey: Plainfield	45,555
New York: Rochester	241,741
North Carolina:	
Kannapolis	31,713
Lenoir	13,748
Ohio:	
Blue Ash	9,510
Recksville	10,132
Brook Park	26,195
Centerville	18,886
Cincinnati	385,409
Elyria	57,504
Garfield Heights	33,380
Kettering	61,186
Mayfield Heights	21,550
Moraine	5,325
Reynoldsburg	20,661
Shaker Heights	32,487
University Heights	15,401
Upper Arlington	35,648
Willoughby	19,329
Oklahoma:	
McAlester	17,255
The Village	11,114
Oregon:	
Gresham	33,005
Hermitage	.....
South Carolina:	
Hilton Head Island	17,622
North Charleston	62,504
Tega Cay	2,181
Waltersboro	6,036
Tennessee:	
Bartlett	22,000
Farragut	6,355
Knoxville	175,045
Memphis	646,174
Texas:	
Arlington	160,123
League City	16,578
Missouri City	24,423
Seabrook	4,670
Utah:	
Sandy City	52,210
South Ogden	11,366
Virginia: Salem	23,958
Washington:	
Goldendale	3,414
Lacey	13,940
Lynnwood	21,937
Tukwila	3,578
Wisconsin:	
Greenfield	31,353
West Allis	63,982
Little Chute	.....
Wyoming: Gillette	12,134

By Mr. WIRTH (for himself, Mr. METZENBAUM, and Mr. LAUTENBERG):

S. 1215. A bill to require the Federal Communications Commission to reinstate restrictions on advertising during children's television, to enforce the obligation of broadcasters to meet the educational and informational needs of the child audience, and for other purposes; to the Committee on Commerce, Science, and Transportation.

CHILDREN'S TELEVISION EDUCATION ACT

Mr. WIRTH. Mr. President, something is deeply wrong with the state of children's television in the United States. I made that same statement less than a year ago when this body voted, in the final hours of the 100th Congress, to approve legislation concerning this issue. That measure was a very modest effort and had the tacit approval of the broadcast industry. Even so, that legislation was vetoed by a President whose adherence to the ideology of deregulation apparently blinded him to what is so obvious to the American public and Congress: That something needs to be done about children's television—we can no longer afford to ignore the problem.

The approval of the children's television legislation last year demonstrates that the Congress is ready to address this longstanding problem. That is a welcome development. But it has been a frustrating one as well.

The central focus of the legislation passed last Congress was a children's educational programming requirement. That provision, however, due to its ambiguous wording, would allow a broadcaster to fulfill its obligation to children without ever offering a single educational program specifically designed for children.

We can and must do better than that. If we hope to truly accomplish meaningful change in children's television, we must do more. This is too important for us to attempt yet another superficial solution that will, in essence, lock in the status quo.

Everyone of us has heard the consistent and very accurate complaints about commercial television's failure to serve the child audience—and we've heard the same story for the last several decades. During that time, the Federal Communications Commission [FCC] has, for the most part, ignored the problem, or at best paid only lipservice to it. Our only alternative is congressional action and now is the time for that action. But just as important as timing is the form of the action we take.

We have an education crisis in this country, Mr. President, and we all know it. This country's failings in educating its young are well documented by a number of studies and reports.

Also well documented is the potential of television to convey educational and informational programming that stimulates children's minds and enhances their interest in learning. Study after study shows us the enormous power of television to educate our children. Yet the tragic paradox is that the more we know about the power of television and its capacity to teach our children, the less we use it. Why? Because the FCC has, over the years, placed the commercial broadcast industry and their bottom line concerns far ahead of the interests of children. This shortsighted perspective cannot be allowed to prevail.

What needs to be done? First, the Congress needs to understand exactly why this problem exists. Our system of commercial broadcasting now, more than ever before, operates without any clear regulatory guidelines about how the interests of children must be served. Indeed, the current FCC policy in this area is so vague and ambiguous that it is tantamount to no policy at all.

In the absence of any guidelines, broadcasters have relied almost exclusively on competitive considerations to determine the programs they deliver. Without doubt, there are some important benefits associated with allowing marketplace factors to guide many aspects of broadcasting policy. The problem is that a reliance on marketplace factors also has its limitations. None is more striking than in the realm of children's television. In terms of basic broadcast economics, child audiences simply are not as valuable as are audiences of adults. If this is the case, it shouldn't be surprising that in an era of deregulation, children's needs are consistently overlooked in favor of more profitable programming ventures.

Children's programming on commercial stations today consists mostly of cartoons—that is, if any children's programs are provided at all. Most sta-

tions offer no regularly scheduled weekly educational programming for youth. In fact, there is not one regularly scheduled educational program for children on the three major networks. Of the shows that are on the air, many are of the well-known program-length commercial variety, serving little purpose other than to promote products to child viewers. And even if an educational program was to be found, its impact would be limited by the fact that 20 percent or more of the time devoted to most children's programming actually consists of commercials. This figure far exceeds the amount of commercialization found in programs for adults.

I'm confident we can all agree this situation needs to be fixed. The approval of the children's television legislation last Congress indicates that is the case. But the best way to ensure stations will provide educational programs of value for children is to enact a specific obligation that requires broadcasters to do just that. This is what the legislation I introduced today, along with Senators METZENBAUM and LAUTENBERG, would accomplish.

This legislation enjoys the strong support of a number of organizations, including the American Academy of Child Adolescent Psychiatry, the American Academy of Pediatrics, the American Psychological Association, the Consumer Federation of America, the National Education Association, the National PTA, and the National Association of Better Broadcasting. it has also been endorsed by a group of leading scholars in the area of children's television.

My legislation, the Children's Television Education Act of 1989, contains four key elements that, when implemented, will transform the state of children's television from a field that has too long lied fallow into a rich harvest of program efforts that will be of great benefit to America's youth. My proposal includes: First, a firm and precise educational children's program requirement; second, reasonable limitations on the amount of advertising to children; third, a restriction on program-length commercial directed to children; and fourth, a requirement that each station provide public notice of the educational programs it provides for children.

CHILDREN'S EDUCATIONAL PROGRAMMING REQUIREMENT

Like the measure approved by the Senate less than a year ago, my proposal would incorporate an evaluation of each station's service to the child audience as an essential part of the license renewal process. The similarity ends there, however, and an extremely important distinction emerges. My legislation requires that each station provide educational programming specifically designed for children. This is what the public interest requires, and what the broadcast industry has consistently failed to deliver.

In contrast, the House measure could be met without a single educational program specifically designed for children. Rather, it stipulates that each station shall serve the educational and information needs of children through their overall programming. One needn't be a broadcast executive to recognize the size of the loophole in the language of this requirement.

Many family-oriented programs could certainly be argued to provide lessons of benefit for children. For that matter, a station could present a "National Geographic" nature documentary and make an unassailable claim that such content fulfilled its commitment under the legislation we passed last Congress. Such programs may have some value for children, but they do not accomplish the goal of providing what we currently lack and what we need to promote—educational and informational programs specifically tailored for kids,

Why is this consideration so crucial? Imagine a third grader trying to learn from a textbook intended for adults and the answer is easy to see. Young children have limited cognitive capabilities that require special attention and consideration if the goal is to help them learn. The most effective learning occurs when children's unique needs, interests, and capabilities are taken into account. We have a handful of models, such as "Sesame Street," that demonstrate how much can be accomplished when these factors are considered in developing children's programming. There is no question that broadcasters can do this, and do it effectively. The only question is whether they actually will do it. The language of the programming requirement in the measure I propose leaves no room for doubt about what must be done. My proposal simply makes clear what all parties have said they intend.

I sincerely hope and anticipate my children's program requirement will be embraced by the industry.

ADVERTISING LIMITATIONS

In this area, my legislation would limit advertising during children's programs to no more than 9.5 minutes per hour on weekends and 12 minutes per hour on weekdays. This proposal is identical to a policy first established by the FCC in 1974, when research findings initially established that young children lacked the cognitive ability to distinguish programs from commercials and to effectively valuate advertising claims and appeals. These inherent limitations in children's processing of advertising content render them uniquely susceptible to commercial persuasion.

Nevertheless, in 1984, the FCC acted to deregulate its children's advertising restrictions, ignoring the evidence upon which its policy had initially been based. That decision, like many others the FCC has recently rendered in the children's area, was obviously grounded in ideology rather than reason.

In deregulating this policy, the FCC claimed that the marketplace could limit advertising to children as effectively as government regulations. The Commission argued that when viewers are subjected to an excessive amount of commercials, they will become annoyed and turn the channel, thus creating an incentive for broadcasters to limit their level of advertising. But such logic can hardly be applied to young children who are not yet capable of recognizing the difference between a program and a commercial.

This fundamental flaw in logic was the basis for the U.S. Court of Appeals decision ordering the FCC to reconsider its deregulation of the children's advertising limits. That order was issued in the summer of 1987. Now, 2 years later, the agency has yet to issue a response. The Commission has not reinstated the children's advertising limits it improperly rescinded, or even explained what course it intends to pursue. Once again, the agency is stonewalling, refusing to act to protect the interests of children because to do so would conflict with its deregulatory ideology.

In the meantime, broadcasters have taken advantage of this freedom to increase commercial pitches to child viewers. They have increased the amount of advertising time during commercial breaks in children's programs, in many cases exceeding the 9.5- and 12-minute limits that were maintained from 1974 to 1984. Clearly, there are no marketplace incentives to limit advertising to children.

Like my proposal, the House legislation would reinstate limits on advertising to children. However, not at the same level as the previous FCC policy. The House measure would reward the broadcast industry for the FCC's incompetence in rescinding the ad limits, allowing stations to present an additional minute per hour on weekends above and beyond the previous limit. Why? The only reason I have heard is that this would accommodate the current level of advertising on Saturday morning network shows.

I see no valid reason to countenance this increase in advertising to children. Broadcasters have presented no compelling evidence that such commercialization is either necessary or appropriate. The 9.5-minute limit proved workable for more than a decade. I continue to believe those limits remain the most desirable benchmark for protecting children from excessive commercial persuasion.

PROGRAM-LENGTH COMMERCIALS

Another important distinction between the House legislation and the measure I introduce today is how each treats another aspect of the commercialization of children's television: the issue of children's product-related programming, better known as program-length commercials [PLC's]. My proposal would reestablish a policy restricting such programs, a public interest protection the FCC maintained until 1984. In contrast, the House bill would allow the FCC's recent deregulation of children's program-length commercials to stand.

One of the most troublesome forms of advertising to children is the use of programs themselves as surrogate advertising. That is the technique known as a program-length commerical. The FCC discarded its restriction on such programs at the same time that it lifted its limits on the amount of children's advertising. Unfortunately, the Commission offered not a single word to justify its decision allowing such crass commercialism. In fact, I have yet to hear anyone, either from the FCC, the broadcast industry, or anywhere else, explain to me how the public interest is served by allowing such programs to be used to promote products to children.

Once such shows were first allowed on the airwaves, it appeared for a time that they would monopolize the limited market for children's programming. PLC's threatened to squeeze off of the commercial airwaves any educational shows or other competing programs that lacked the backing of a major toy manufacturer. Today, program-length commercials have diminished in number only because the competition among these toy-based shows grew too stiff. But the fact that children's program-length commercials are now found in somewhat fewer numbers should not affect the disdain with which they are viewed.

Entertaining or not, these programs designed to promote toy products are nothing more than 30-minute commercials. Commercials masquerading as programs would never be tolerated by adults, but these shows are popular with children only because youngsters cannot yet recognize the commercial aspect of the content. Rather than serving the public interest by conveying any messages of value to child viewers, such programs are principally designed to manipulate children's desires for others' economic gain.

America's children deserve better from a medium designated to serve the public interest, both in terms of protection from excessive commercial persuasion and also in terms of having access to more worthwhile programs. Serving the public interest means providing children's programming that is designed to stimulate a young viewer's mind rather than pad a toy manufacturer's profit margin.

My measure would put an end to program-length commercials by categorizing such content as advertising, which indeed it is, and subjecting it to the relevant limits on children's advertising time. As such programs would clearly exceed either the 9.5- or 12-minute limit on advertising, they would effectively be removed from the airwaves.

The Communication Act's basic definition of commercial content, embodied in section 317 of that statute, has survived the tests of time for more than 50 years. This section of the act states that any content for which a broadcaster receives either payment or any other form of valuable consideration shall be considered commercial in nature. My legislation utilizes this same definition of commercial matter in defining the content that will be subject to the children's advertising limitations.

Applying this definition to children's product-related programs will categorize many such shows as advertising because toy manufacturers typically offer broadcasters a number of valuable considerations in order to entice them to air their program. In some cases, broadcasters receive a portion of the profits from the sales of toys related to the programs they air. In others, the programs are sold to stations at substantially reduced terms, with the discount borne by the toy manufacturer as the equivalent of an advertising budget. Who needs to buy 30 second ads when they can rely on 30 minute commercials instead? These and similar arrangements place more worthwhile, non-product-related programming at a huge disadvantage in competing with program length commercials for the limited number of children's program slots available on the airwaves.

My measure would put an end to these practices. It would help stop the use of programs initially designed to promote products to children. Decisions regarding the children's shows stations choose to air could then be made according to the actual merits of the content and its value for children, rather than the number of products a program is likely to sell.

PUBLIC NOTICE FOR EDUCATIONAL CHILDREN'S PROGRAMS

A final aspect of my legislative proposal centers on helping parents and others to identify the educational programs that broadcasters would begin to provide in response to the new children's programming requirement. These programs should be the finest content on television for children and, as such, most parents would want to encourage their children to view them. To help parents identify the programs designed to educate and inform children, my proposal would require broadcasters to share that information with the public in a timely fashion.

The specific mechanism to accomplish this would be left entirely up to the discretion of the broadcasters. One model that has been used successfully in other countries such as Australia is to assign a "C" code to all programs designed to educate children. This designation can easily be understood by the public and included in daily television program listings in newspapers and other periodicals, in program promotions, and also presented on air before the beginning of any educational children's programming. Parents who wish to direct their children's television viewing to these educational programs can then rely upon the simple coding designation to guide their choices.

Realistically, it is impossible to expect parents to survey every available children's program and evaluate their relative merits at providing educational and informational content. The use of a simple coding scheme would allow parents and other child caretakers to be confident that programming receiving this designation would be worthwhile content for child viewers.

The determination of which shows are considered educational children's content would also be left entirely up to the broadcaster's discretion. No formal review or evaluation of the content by any outside source would be involved. All that this provision involves is sharing a judgment that must already be made by broadcasters prior to airing a program—that a given show is serving the educational or informational needs of children—and conveying that judgment to the public.

This approach poses no undue burden on the broadcaster. Each station will already be required to provide a list of the programs that serve the educational and informational needs of children to the FCC as a part of demonstrating their compliance with the programming obligations designated in this act. All this additional provision entails is that each station make that information public in a timely fashion. That information will allow these program efforts to be clearly identified by parents and others who might wish to guide children's viewing toward such content, and hopefully increase the audience for such programs.

Educational programming is only useful to the extent that it is watched. This aspect of my proposal will help ensure that those who wish to supervise their children's television watching in a responsible fashion can do so effectively.

In closing, Mr. President, it is clear that the problems with children's television can no longer be ignored, as the FCC has tried so hard to do. Broadcasters remain public trustees and it is

essential that children, our most valuable resource, be considered an integral part of any public service equation.

It's time we return to a responsible and commonsense approach to the regulation of children's television. That's what my legislation would accomplish. By adopting this legislation, we have the opportunity to send a clear message that the educational interests of children are paramount.

Mr. President, I ask unanimous consent that letters in support of this legislation be printed in the RECORD.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

UNIVERSITY OF CALIFORNIA,
SANTA BARBARA,
DEPARTMENT OF PSYCHOLOGY,
Santa Barbara, CA, June 15, 1989.

Hon. Timothy Wirth,
U.S. Senate, Washington, DC.

DEAR SENATOR WIRTH: We are scholars at different universities across the country who conduct research on children and television issues. We all have extensive familiarity with the public policy landscape in this area and each of us has previously provided invited testimony to Congress and/or the Federal Communications Commission on the policy implications of our research. We wish to register our strong support for your legislative proposal, The Children's Television Education Act of 1989.

Throughout the last 20 years, consistent complaints have been voiced about television's failure to provide educational or informational programming to meet the needs of America's children. From time to time during this period, the Congress and the FCC have elicited "firm" commitments from the broadcast industry that improvements would be forthcoming, both in the quality and quantity of children's programming. Those promises, unfortunately, have never been kept. Today, none of the three major broadcast networks offers a single regularly-scheduled educational program for children. Research indicates clearly that commercial broadcasters, whether network affiliates or independents, provide almost no children's programs that can be classified as educational in nature.

This situation results from the FCC's consistent deference to the broadcast industry to determine what, if any, children's programming will be provided. Clearly, this hands-off approach has failed to generate many programs of value for children. To reverse this chronic shortage of worthwhile children's content, we believe a firm and precise children's educational programming requirement that applies to every television broadcaster must be implemented.

We endorse your legislative proposal and are confident it will generate meaningful improvements in educational programming for children. Your measure states clearly and unequivocally that each station must provide programs specifically designed to educate and inform child-viewers. Given the history of past efforts by broadcasters (or rather, the lack thereof), we feel this is an essential component of any sound policy to improve children's television.

We are aware of alternative proposals addressing this issue that would require broadcasters to serve children's needs through their "overall programming," rather than by requiring content specifically designed for children. We are concerned that, under this model, stations may claim to have served the child audience with programs primarily intended for adults, and little will have been accomplished. We believe your alternative offers a much more effective approach to regulation in this area. Children learn best from content that is carefully tailored to their level of comprehension and cognitive capabilities. If one's goal is to generate educational children's programs, it seems most appropriate to us to stipulate that obligation clearly, rather than rely once again on the "good-faith" efforts of broadcasters. Such efforts have consistently fallen short in the past.

We also support the additional provision of your proposal, especially the protections afforded children from excessive television advertising and program-length commercials. These actions represent a significant improvement over the current situation where virtually "anything goes" in advertising directed to child audiences. The FCC's deregulations of similar policies has placed the economic interests of broadcasters and advertisers ahead of the interests of America's children. Research indicates clearly that young children lack the ability to effectively recognize and defend against televised commercial persuasion. Thus, we believe that policies restricting children's advertising are essential to the public interest.

Finally, we wish to endorse your bill's concept of requiring stations to identify their educational children's programs in advance of their broadcast. Many parents who would like to direct their children's viewing to educational programs have a difficult time sampling every show to evaluate its merits. By providing a simple mechanism for identifying content with educational value, parents who choose to can play a more active and informed role in guiding their children's television viewing.

We believe the children's television legislation you have proposed will generate programming improvements of benefit to every child in this country. We enthusiastically support this measure and urge its adoption by the Senate.

Sincerely yours,

DALE KUNKEL, PH.D.,
UCSB;
ELLEN WARTELLA, PH.D.,
University of Illinois;
AIMEE DORR, PH.D.,
UCLA;
BRUCE WATKINS, PH.D.,
University of Michigan;
ALETHA HUSTON, PH.D.,
University of Kansas;
JOHN WRIGHT, PH.D.,
University of Kansas.

AMERICAN PSYCHOLOGICAL ASSOCIATION,
Washington, DC.

Hon. Timothy Wirth,
U.S. Senate, Washington, DC.

DEAR SENATOR WIRTH: The undersigned organizations wish to express our appreciation and gratitude for your efforts to improve the quality of children's television through the introduction of the Children's Television Education Act of 1989.

This legislation represents a significant yet reasonable response to the problems associated with children's television programming and advertising. As you know, this legislation is necessitated by the Federal Communication Commission's (FCC) abdication of responsibility for protecting the interests of children. In 1984, the Commission rescinded its policy limiting advertising during children's programs to 9.5 minutes per hour on weekends and 12 minutes per hour on weekdays. The Commission also rescinded its prohibition on program-length commercials (programs created for the primary purpose of marketing new products). Finally, and most incredibly, the Commission stated that broadcasters need no longer provide education or informational programming for children if such programming is available through alternate sources, such as PBS, cable, videocassettes, etc. Despite criticism from many members of Congress and a District Court of Appeals decision requiring them to reconsider these new policies (*Action for Children's Television* v. *F.C.C.*), the Commission has failed to act.

Your legislation addresses each of these issues. First, the bill would reestablish the pre-1984 limits on the duration of commercial matter within children's programming. Second, the bill would respond to the problem of program-length commercials by defining such programs as commercial matter consistent with Section 317 of the Communication Act. Also, the bill responds to the dearth of educational programming available for children by making the provision of programming "specifically designed to serve the educational and informational needs of both preschool and school-aged children" a consideration in broadcast license renewal. This wording is critically important. It would preclude reliance on prime-time entertainment programming to meet this obligation. Finally, broadcasters would be required to provide public notice identifying programs meeting this obligation. This requirement would greatly assist parents in helping their children select quality programs for viewing.

It is clear that children's television programming has suffered over the past five years. Cartoon shows based on toys now dominate the cartoon market. The economics associated with these programs, which are frequently given to broadcasters without charge in exchange for limited advertising, has helped squeeze more expensive educational and informational programs out of the marketplace. While other options may be available (PBS, cable), many families cannot afford such options. Further, the availability of other options does not release broadcasters from their obligation to serve the public interest as described in the Communications Act. Finally, studies indicate that the average number of minutes of advertising directed at children has increased substantially since deregulation.

Collectively, we wish to thank you for your longstanding and unyielding interest in quality television and the wellbeing of the Nation's children. We hope that your colleagues in the Senate will join you in support of this most important legislation.

American Academy of Child and Adolescent Psychiatry,
American Academy of Pediatrics,
American Psychological Association,
Consumer Federation of America,
National Association for Better Broadcasting,
National Education Association,
National PTA.

By Mr. SIMON:

S. 1216. A bill to amend the National Labor Relations Act to give employers

and performers in the live performing arts, rights given by section 8(e) of such Act to employers and employees in similarly situated industries, to give to such employers and performers the same rights given by section 8(f) of such act to employers and employees in the construction industry, and for other purposes; to the Committee on Labor and Human Resources.

LIVE PERFORMING ARTS LABOR RELATIONS AMENDMENTS

● Mr. SIMON. Mr. President, today I am introducing legislation, the Live Performing Arts Labor Relations Amendments of 1989, to correct several longstanding inequities in our Nation's labor laws relating to performing artists. These inequities have effectively denied to hundreds of live performing artists the right to organize and engage in collective bargaining over their working conditions and wages.

Like the construction and garment industries, the entertainment industry is characterized by short-term, episodic employment. Long ago, Congress recognized the special circumstances facing construction and garment workers and enacted provisions in the National Labor Relations Act [NLRA] to make it possible to extend the protection of labor laws to those workers. Musicians and entertainers, even though they face employment patterns similar to those in the construction and garment industries, still do not enjoy a right to union representation of their own choosing or to bargain with their true employers. This unfair situation has existed for over 20 years. Corrective action is long overdue to recognize the special problems faced by performers in the entertainment industry.

The Live Performing Arts Labor Relations Amendments of 1989 is identical to S. 1346, introduced in the 100th Congress, except that the bill pertains only to performing artists who work in live entertainment. This legislation would amend the National Labor Relations Act in three additional and important ways.

First, the bill would grant employee status to certain individuals who perform musical services. Because only individuals who are defined as employees under the NLRA are afforded a protected right to collective bargaining, a clear definition of the terms "employee" and "employer," and a clear understanding of the employer relationship, is a necessary first step toward providing live performers access to the collective-bargaining process. Under this legislation, an "employer" would be defined for the purposes of the NLRA to include "any person who is the purchaser of live musical performance services regardless of whether the performer of such services is an independent contractor, employer, or employee of another employer." The bill also states that independent contractors who are engaged to perform live musical services, other than an employer of persons performing musical services, shall be included in the term "employee" under the NLRA.

Second, the bill would extend the current exemption for the construction industry under section 8(f) of the NLRA to permit, but not require, employers of performing artists, other than employers in the broadcasting or motion picture industries, to enter into prehire agreements with unions representing such performers. This exemption recognizes the short-term nature of the work in the entertainment industry where a performer is often hired for a brief engagement, sometimes lasting just a day or two. By allowing prehire agreements, the exemption accommodates the performer's right to organize and bargain collectively despite the peculiar nature of the entertainment industry, which makes union representation difficult if not impossible.

Third, the bill would provide an exemption under section 8(e) under the NLRA from the prohibition against the so-called hot cargo clauses for certain persons in the entertainment industry. Like the existing exemption under the NLRA for the garment industry, the proposed exemption would allow employers and unions in the performing arts industry to enter into agreements under which employers would hire union subcontractors. The bill would also remove some of the statutory restrictions that limit performing arts union activity related to strikes and secondary boycotts.

Mr. President, the fragmented, casual and unstable nature of the entertainment industry contributes to poor wages, poor working conditions, long periods of unemployment, and just general economic uncertainty for thousands of musicians and performing artists in Illinois and across the country. A 1980 survey of performing artists found that 31 percent of all actors and 25 percent of all musicians and their families were working at or below the poverty level as determined by eligibility for the CETA Program. Performing artists need and deserve effective representation and fair collective bargaining to improve their economic well-being and overall quality of life.

The 101st Congress has an opprotunity to make the changes in our labor laws that are needed and justified to address the unusual problems faced by live performing artists—just as we have already done for workers in the construction and garment industries who face similar problems. The Live Performing Artists Labor Relations Amendments of 1989 is necessary to make union representation and collective bargaining a meaningful right for musicians and other live performing artists.

I ask unanimous consent that the full text of the bill be entered into the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1216

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Live Performing Arts Labor Relations Amendments".

SEC. 2. EXTENDING SECTION 8(e) TO THE LIVE PERFORMING ARTS INDUSTRY.

Section 8(e) of the National Labor Relations Act (29 U.S.C. 158(e)) is amended by striking *"Provided further"* in the second proviso and all that follows and inserting the following: *"Provided further,* That for the purposes of this subsection and section 8(b)(4)B), the terms 'any employer', 'any person engaged in commerce or in industry affecting commerce', and 'any person', when used in relation to the terms 'any other producer, processor, or manufacturer', 'any other employer', or 'any other person' shall not include persons in the relation of a jobber, manufacturer, contractor, or subcontractor working on the goods or premises of the jobber or manufacturer or performing parts of an integrated process of production in the apparel and clothing industry or persons in the relation of a leader, contractor, purchaser of live entertainment or live music, promoter, producer, or persons similarly engaged or involved in an integrated production or performance of any kind in the live entertainment industry: *Provided further,* That nothing in this Act shall prohibit the enforcement of any contract or agreement, expressed or implied, which is within the foregoing exception.".

SEC. 3. EXTENDING SECTION 8(f) TO THE LIVE PERFORMING ARTS INDUSTRY.

Section 8(f) of the National Labor Relations Act (29 U.S.C. 158(f)) is amended by inserting "(1)" after "(f)", and by adding at the end the following:

"(2) It shall not be an unfair labor practice under subsections (a) and (b) of this section for an employer who hires persons or contracts for the services of persons engaged in the live performing arts to make an agreement covering such persons who are engaged (or who, upon their employment, will be engaged) in the live performing arts with a labor organization of which performing artists are members (not established, maintained, or assisted by an action defined in section 8(a) of this Act as an unfair labor practice) because (A) the majority status of such labor organization has not been established under the provisions of section 9 of this Act before the making of such agreement; or (B) such agreement requires as a condition of employment membership in such labor organization after the seventh day following the beginning of such employment or the effective date of the agreement, whichever is later: *Provided,* That nothing in this subsection shall set aside the final proviso of section 8(a)(3) of this Act: *Provided further,* That any agreement which would be invalid, but for clause (A) of this paragraph, shall not be a bar to a petition filed pursuant to section 9(c) or 9(e).".

SEC. 4. TECHNICAL AND CONFORMING AMENDMENTS.

(a) DEFINITION OF "EMPLOYER".—Section 2(2) of the National Labor Relations Act (29 U.S.C. 152(2)) is amended by inserting after "directly or indirectly" the following: "and includes any person who is the purchaser of live musical performance services regardless of whether the performer of such services is an independent contractor, employer, or employee of another employer,".

(b) DEFINITION OF "EMPLOYEE".—Section 2(3) of the Act (29 U.S.C. 152(3)) is amended by inserting after "independent contractor" the following: "except that any individual having such status who is engaged to perform live musical services (other than an employer of persons performing musical services) shall be included in the term 'employee',".●

By Mr. HEINZ (for himself, Mr. GARN, Mr. BOND, Mr. CRANSTON, Mr. KERRY, Mrs. KASSEBAUM, and Mr. SANFORD):

EXPORT FINANCE EXPANSION ACT OF 1989

● Mr. HEINZ. Mr. President, I rise today to introduce legislation intended to assist U.S. business in meeting the export challenge facing our economy. Our challenge is to sustain the unprecedented period of economic growth during the 1980's while eliminating unsustainable external payments in imbalances. Five successive trade deficits over $100 billion have left us the world's largest debtor and walking a tightrope of economic management. We cannot continue to run our Government and our economy on credit and hope to control our own destiny.

Achieving the $150 billion turnaround in trade necessary to balance our external account is going to require a substantial reorientation of our economy toward exporting and a sustained period of export-led growth. The last 2 years have produced dramatic progress, with exports in the first quarter of 1989 fully 50 percent above the level in the same quarter of 1987. However, it is far from clear that this phenomenal rate of improvement can be maintained for the 2 to 3 years it would take to restore external balance.

What is clear is that the adjustment must come, one way or another. It can come through an economic recession that turns off the import tap, or it can come through a partnership of public policy and private initiative that expands foreign sales.

The trade figures show that our exporters are doing their part. The record speaks less well of the efforts of Government. Eliminating budget deficits, ensuring stable and competitive exchange rates, pursuing an aggressive trade policy, helping to restore the economic health of heavily indebted LDC markets, ensuring access to competitive trade financing, neutralizing predatory export subsidies and mixed credits, and removing regulatory impediments to exports like our outmoded export control system are all items yet to be addressed on the Government agenda.

The bill I am introducing today focuses on the problem of competitive export financing in LDC markets. Many of these markets are now shunned by U.S. banks burned by the LDC debt crisis, and are dominated by foreign governments prepared to make unlimited use of official credit and aid programs to win sales. As a result, U.S. trade with the developing world, once a major growth area, is declining as a share of total trade. In heavily indebted markets in Latin America, United States exports are no higher today than they were in 1981. The administration's tied aid credit report, as weak and watered down a statement as it was, documented $400 to $800 million of annual sales lost to mixed credits and $4 to $6 billion of aid-funded capital projects closed to U.S. businessmen.

My bill addresses these problems by amending the charter of the U.S. program charged with supporting U.S. sales to riskier markets and with battling foreign subsidies, the Export-Import Bank. The Export Finance Expansion Act of 1989 would expand permissible Bank lending activities and give Bank management greater discretion to use its resources to maximize U.S. exports. It would do this by permitting the Bank to offer interest subsidies in lieu of direct credits, to make mixed credit offers at its own discretion, and to set the terms and conditions of its guarantee program at levels sufficient to keep commercial banks operating in markets where the Eximbank is open for business.

Interest subsidies were first proposed by the Reagan administration in 1985 as a substitute for direct credit. The Congress objected to the proposal because it would have eliminated all direct credit, regardless of the effectiveness of the interest subsidy experiment, and because subsidies are more expensive than direct credit. Given current and projected budget constraints, I believe it is time to encourage the Bank to experiment with this mechanism and take advantage of its 10-to-1 leverage on appropriated funds. My bill would provide this option.

At present, the Bank can make mixed credit offers pursuant to the warchest authority in its charter. I created the warchest concept to combat the practice by our trade competitors of mixing aid and export credit funding to win sales. Unfortunately, mixed credit offers require approval by the Treasury and are tied to OECD negotiations intended to end mixed credits that have now ended without reducing the practice. Furthermore, the warchest has never been funded and the few mixed credit offers made have been funded from the direct credit program. My bill would repeal the warchest and give full authority to make mixed credit offers to Bank management.

The one resource that the Bank does have in abundance is guarantee and insurance authority. However, the Bank has been thwarted in its attempts to set interest cover policies that would make the guarantee attractive to banks and speed development of a secondary market in guaranteed loans as directed by Congress in 1986. The Bank has been barred from making a 25 to 50 basis point adjustment in interest coverage because Treasury believes the resulting paper would compete with Treasury bills and OMB argues the enhanced guarantee, with an effective subsidy of 2 percent, should be fully scored in the budget as a direct substitute for direct credit.

My bill would give Bank management full discretion to set the terms of its guarantees. It would also permit them to extend coverage of the guarantee to timely payment of participations in securitized Bank-guaranteed loans in order to encourage creation of a secondary market. These steps should make the Bank guarantee a much stronger basis of support of U.S. exports.

I believe the expanded flexibility provided by my bill would maximize the export potential of the Bank's programs at any level of financing. For example, at a $600 million direct credit level, the Bank could support well over $1 billion of exports if interest subsidies prove workable and provide $100 million or more of mixed credit grants in the bargain. While this leveraging is helpful, there is clearly no substitute for higher levels of funding and the Bank will not begin to compete effectively with foreign subsidized financing unless larger appropriations are provided. However, if higher funding is achieved in the future, the provisions of my bill would provide the same leverage for those funds.

It is time the U.S. Government got behind our exporters and the Export-Import Bank. The Reagan administration, the Congress and the business community have all collaborated in the decline of Eximbank funding. The Bush administration promise a review of export credit and mixed credit policy but is supporting only a $500 million direct credit program and $100 million for mixed credits in the crucial fiscal year 1990 budget negotiations.

Hopefully, the realization that sales and jobs are being lost for lack of funding will change the attitudes that have brought the Bank low. I urge the President and the Congress to join me in supporting this legislation. We need an export policy, we need a strong Export-Import Bank, and we need them now.

I ask unanimous consent that the text of my legislation and a brief de-

scription of the bill be included in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 1217

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Export Finance Expansion Act of 1989".

SEC. 2. FINDINGS.

The Congress finds that—

(1) expansion of United States exports to developing countries is essential if the United States is to correct its external payments imbalance;

(2) export expansion is being limited by withdrawal of commercial banks from lending to countries experiencing debt servicing difficulties and by extensive use of aid budgets by major United States trade competitors to finance capital projects directly and to offer so-called mixed credits to promote capital goods exports;

(3) negotiations intended to ameliorate the mixed credit problem were completed in 1987 and have resulted in increasing the cost of mixed credits and making their use more transparent but expansion of mixed credit financing continues nonetheless;

(4) the Export-Import Bank of the United States is the agency charged with extending export credits to support sales in less creditworthy markets, with combating use of predatory mixed credits by United States trade competitors, and, since announcement of the Brady debt proposals, with preserving access of major debtors to necessary exports from the United States;

(5) the Export-Import Bank of the United States is in a weak position to play these varied roles because—

(A) its direct credit authority has suffered repeated budget reductions to the point that it is nearly 90 percent below the levels of the early 1980s;

(B) Export-Import Bank guarantee and insurance programs are not sufficiently attractive to bring commercial banks back into the market; and

(C) the mixed credit warchest authorized in 1986 has never been adequately funded or aggressively used to combat predatory financing; and

(6) these conditions will not change unless new negotiations succeed in limiting use of mixed credits and the Export-Import Bank of the United States is provided both expanded funding and the necessary flexibility in use of its funds to meet the growing export challenge of the 1990s.

SEC. 3. SUBSIDY AND MIXED CREDIT AUTHORITY.

Section 2(f) of the Export-Import Bank Act of 1945 is amended—

(1) by striking "INTEREST SUBSIDY PAYMENTS.—" and inserting "SUBSIDY AND MIXED CREDIT PAYMENTS.—";

(2) by inserting "subsidy" before "payments" in paragraph (1);

(3) by striking paragraph (2) and inserting the following:

"(2) MIXED CREDIT PAYMENTS.—The Bank may make mixed credit payments, in combination with any other payments, loans, or loan guarantees extended by the Bank, in such amounts as the Bank may determine to be necessary to be fully competitive with mixed credit terms of other countries when such financing is required in order to respond to specific mixed credit offers by foreign governments or export credit agencies.";

(4) in paragraph (3) by inserting "and (2)" after "(1)" and by striking "1986" and inserting "1989"; and

(5) by striking paragraphs (4) and (5).

SEC. 4. EXPANDED UTILIZATION OF BANK GUARANTEES.

Section 2(c)(3) of the Export-Import Bank Act of 1945 is amended by inserting "(A)" before "With" and by adding at the end of the following new subparagraphs:

"(B) For the guarantee and insurance programs covered by this subsection, the Bank shall provide up to 100 percent coverage of the interest and principal where determined necessary by the Board to ensure acceptance of Bank guarantees by United States financial institutions for transactions in all markets in which the Bank is open for business.

"(C) To encourage the free transfer of such Bank obligations, the Bank may guarantee the timely payment of principal and interest on pool certificates representing ownership of part of or all of any loan or loans guaranteed by the Bank under this Act. Such certificates shall be based on a pool approved by the Bank and shall be managed by agents approved by the Bank.".

SEC. 5. APPROPRIATION OF ANNUAL SUBSIDIES.

Section 7(a)(3) of the Export-Import Bank Act of 1945 is amended to read as follows:

"(3) AUTHORIZATION FOR SUBSIDIES.—There are authorized to be appropriated such sums as may be necessary, to cover any subsidy associated with any direct loan, subsidy payment, or mixed credit payment made by the Bank on or after October 1, 1989. Of amounts made available for Bank operations in annual appropriation acts, the portion representing any subsidy referred to in the preceding sentence shall be a permanent addition to the capital and reserves of the Bank. For purposes of this paragraph, the term 'subsidy' has the same meaning as in section 2(g)(1).".

SEC. 6. DEFINITIONS.

Section 2 of the Export-Import Bank Act of 1945 is amended by adding at the end the following:

"(g) DEFINITIONS.—As used in this section:

"(1) The term 'subsidy' means the estimated long-term cost to the Bank of a loan, subsidy, or mixed credit payment, calculated on a net present value basis. Subsidy estimates shall take into account direct outlays and delay in, or loss of, repayments of principal or interest, less any fee or premiums received.

"(2) The term 'subsidy payment' means a payment to a commercial lending institution or other lender provided by the Bank in order to ensure a sufficient rate of return to the lender, as determined by the Bank, for provision of export financing at less than market rates.

"(3) The term 'mixed credit payment' means a grant made in combination with any other payments, loans, or loan guarantees by the Bank or private sources which, together with associated financing, has a grant element greater than zero percent, as determined by the Development Assistance Committee of the Organization for Economic Cooperation and Development and which is provided by the Bank in order to neutralize the impact of credits provided by other governments that are tied to the procurement of goods or services from the donor country or a restricted number of countries.".

SEC. 7. REPEALER.

Section 15 of the Export-Import Bank Act of 1945 is repealed.

SUMMARY OF THE EXPORT FINANCE EXPANSION ACT OF 1989

SEC. 2. FINDINGS.—This section discusses the need for expanded exports to LDC markets, the continuing problem of subsidized and mixed credit financing by U.S. trade competitors, and the need for a stronger Export-Import Bank to combat these practices.

SEC. 3. SUBSIDY AND MIXED CREDIT AUTHORITY.—This provision removes restrictions in the Bank charter on use of interest subsidies to finance exports and adds new authority for the Bank to offer mixed credits at its own discretion. The effect of this provision is to expand Bank control over use of budgeted resources and encourage additional exports through use of alternative export finance mechanisms.

SEC. 4. EXPANDED UTILIZATION OF BANK GUARANTEES.—This section expands Bank discretion to set the terms and conditions of its guarantee and insurance programs in order to ensure acceptance of Bank guarantees by U.S. banks in any market where the Bank is open for business. Past Bank efforts to enhance its guarantees, and increase their acceptance as an alternative to direct credit have been blocked within the Executive Branch. The provision also permits the Bank to extend its guarantee to cover secondary marketing of pooled loans carrying an Eximbank guarantee.

SEC. 5. AUTHORIZATION OF APPROPRIATIONS.—Direct appropriations are authorized for interest subsidies, mixed credits and the subsidy element of Bank direct loans in lieu of the current appropriations limitation on direct loans. This will ensure that resources are available to fund subsidies and mixed credit grants. It would also prevent their cost from reducing the Bank's already depleted reserves.

SEC. 6. Definitions are added for new terms in the Charter.

SEC. 7. REPEALER.—The "tied aid credit warchest" in section 15 of the Charter is repealed in favor of the broader discretionary authority for the Bank to offer mixed credits in section 3 above. This is done in recognition of the fact that use of "warchest" funds was tied to pursuit of negotiations that have now been completed without reducing use of mixed credits.●

● Mr. GARN. Mr. President, today I join my colleague Senator HEINZ in introducing the Export Financing Expansion Act of 1989. This legislation will increase the effectiveness of the Export-Import Bank in meeting the needs of U.S. exporters. An effective export credit program is essential if we are to grow our way out of current payments imbalances and ensure that our exporters can compete in world markets.

The Bush administration has documented the growing use of mixed credits by our trade competitors. Other governments will spare no expense in subsidizing foreign sales and capturing foreign markets for their companies. This is a challenge that cannot be met without a much stronger Eximbank.

A stronger Eximbank will require both greater funding and broader

lending authority. Higher levels of funding, of course, will have to be worked out in the appropriations process. Our bill addresses the second issue and strengthens the Bank by providing maximum flexibility in the use of whatever level of resources are provided to the Bank. The bill does this through expansion of permissible activities from the current direct loans, guarantees and insurance to include interest subsidy payments and mixed credit grants as the situation warrants. It also permits the Bank to adjust the terms and conditions of its guarantee program without a veto by OMB and Treasury. These changes should maximize the export impact of the Bank program at any level of resources.

I believe these changes are needed to make the Bank more effective and urge the support of my colleagues for this legislation.●

● Mr. BOND. Mr. President, I am pleased today to join my colleague, Senator HEINZ, in introducing this important bill—the Export Finance Enhancement Act of 1989.

Hardly a day goes by that someone in Washington fails to talk about trade policy or the importance of the world market. We in Congress are constantly telling American businesses that they must look overseas, that they must do more exporting. Yet year after year we fail to provide any leadership or support in this area. In the past few years we have cut the resources of the agencies which exist to help companies that want to expand their overseas sales—particularly the United States and Foreign Commercial Service and the Export-Import Bank. We cannot expect business to believe our rhetoric on exporting if we continue to follow it up with action.

This bill will allow us to take some action. It takes some strong first steps toward addressing the crisis we now face in export financing. Specifically, it allows the Eximbank the flexibility to be more competitive with other nations' financing agencies. By giving bank officials the ability to offer competitive guarantees and mixed credit packages we will be able to make some progress in our effort to expand our share of the world market and keep American jobs from going overseas.

It is important to note that this bill alone will not solve our exporting problems. To be truly competitive in the export arena will take action on other fronts as well. First, we must fund the Export-Import Bank at a competitive level at least as high as last year's amount. We in Congress must realize that it is extremely shortsighted to attempt to balance the budget by cutting programs such as the Exim Direct Credit Program which pays for itself by creating jobs and GNP growth.

Second, we must provide businesses with the counseling and trade leads they need to succeed in the international marketplace. This requires a properly funded United States and Foreign Commercial Service. Few businesses have the resources to collect trade leads by themselves—the United States and FCS is critical in this area for providing leads as well as counseling.

Third, we must eliminate barriers to U.S. overseas sales—burdensome laws and regulations which make our products uncompetitive overseas must go. Laws such as cargo preference rules for agriculture or burdensome export controls for some high technology products must be removed.

Finally, we must take steps to ensure that all Americans become more aware of the world in which they live. This will take leadership from the top level of government. However, it also will require new programs in schools aimed at teaching foreign languages and cultures, as well as economics and geography.

Recently I introduced S. 1156, the Export Promotion and Market Development Act of 1989, which takes some initial steps to address these concerns. When taken in combination with the bill we are introducing today, it would be a strong showing of Congress' resolve to support American exporters.

I am hopeful this bill will attract widespread support and that we will soon see it enacted into law. I praise my colleague from Pennsylvania for drafting it and I look forward to working with him to see it is enacted.●

By Mr. KOHL (for himself and Mr. CRANSTON):

S. 1218. A bill to facilitate the adjustment or change of status of Chinese nationals in the United States by waiving the 2-year foreign residency requirement for "J" nonimmigrants and by treating nonimmigrants whose departure has been deferred by the Attorney General as remaining in legal nonimmigrant status for purposes of adjustment or change of status; to the Committee on the Judiciary.

EMERGENCY CHINESE VISITOR IMMIGRATION ACT

● Mr. KOHL. Mr. President, the blood in Tiananmen Square has stopped flowing—for now—but China's crackdown on dissent is intensifying. Eleven persons have so far been condemned to death by courts in Beijing and Shanghai, and it appears that the repression will get worse.

For this reason, the Chinese students in the United States need our help. We must allow them to remain here until they can return home safely. President Bush has taken an admirable and compassionate step by staying departures for 1 year, but more needs to be done.

That is why Senator CRANSTON and I are today introducing the Emergency Chinese Visitor Immigration Act of 1989. It is very similar to a bill being introduced in the House by Representative NANCY PELOSI. The measure would do what Chinese students have asked for: It would give each visitor the flexibility to seek an immigration status that suits his or her individual needs.

Our bill would permit the students to petition for changes in their nonimmigrant visa status and allow them to apply for permanent residency. It affords them the opportunity to seek visa types for which they may be eligible—something they cannot do if they choose to accept the "legal limbo" of President Bush's grace period.

Under President Bush's plan, Chinese students here on nonimmigrant visas—as most are—will not have to depart upon expiration of their visas—at least not until next June—if they seek protection under the administration's "deferred departure" program. But a student seeking such protection can suffer two consequences. First, the Chinese Government might learn about the student's request for protection and label that student as a counterrevolutionary. This would expose the student to grave danger upon return. Second, acceptance of "deferred departure" status means the student cannot petition for changes in immigration status, even if it would be beneficial in terms of extending the student's stay here.

The Emergency Chinese Visitor Immigration Act would provide that Chinese nationals in this country illegally remain here during the period in which the Attorney General defers their departure. This provision would permit them to change their status if they qualify. In addition, the bill would waive the 2-year foreign residency requirement for Chinese nationals. The residency requirement says that holders of "J" exchange visitor visas must return home for 2 years before they can be eligible to obtain another work or immigrant visa from the United States. Two years in China can be deadly to an individual who supports the prodemocracy movement, so the bill would let Chinese visitors petition for new visas without first having to go home and wait.

This bill will, of course, send a strong message to the Chinese Government. But more than that, it will help alleviate the fear that now grips our Chinese guests. Some 70 percent of the 40,000 Chinese students in the United States are on "J" visas. In petitions, faxes, and letters to my office, they have communicated their anxiety and their desire for adjustments in the immigration laws. Now, especially, we should respond with humanitarian legislation.

Mr. President, I have a very strong interest in this legislation. With more than 500 visiting students and schol-

ars, the University of Wisconsin-Madison boasts the largest single Chinese exchange program in the United States. I have been in close contact with officials in the university's office of international students and scholars. They believe this bill will provide the necessary relief for Chinese students nationwide. I urge my colleagues to join with Senator CRANSTON and me in sheltering our distinguished and vulnerable guests.

Let me close with a quotation, Mr. President. It is from a speech that Chinese leader Deng Xiaoping made on June 14, 1989. His speech was translated from a Chinese newspaper and sent to me by visiting Chinese scholars in Madison. "We must cut the weeds and dig up the roots," said Deng Xiaoping. "Otherwise, in 3 or 5 years, or even in 10 months, they could do it again."

The forces of democracy are not weeds, Mr. President. They are—to borrow a phrase from Mao Zedong—"flowers." And they deserve our protection. I intend to make sure that the Senate takes up my bill at the earliest possible opportunity.●

By Mr. KERREY (for himself, Mr. LUGAR, Mr. HARKIN, Mr. DASCHLE, Mr. EXON, and Mr. BOSCHWITZ):

S. 1220. A bill to amend the Food Security Act of 1985 to improve the program under which the Secretary of Agriculture may settle certain loans, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

FOOD SECURITY ACT AMENDMENTS

Mr. KERREY. Mr. President, today I am introducing legislation to grant additional flexibility to the Secretary of Agriculture so that our agricultural price support programs may be operated in a way that is friendlier to both the farmer and the taxpayer.

Under our commodity price support programs, farmers may obtain a loan by pledging their harvested grain as collateral. Current law allows the Secretary to waive interest due on maturing loans if such a waiver would benefit the Government by encouraging the farmer to market the grain rather than forfeit this collateral to the Government.

The forfeiture of grain is generally undesirable because the Government loses all principal and interest due on the loan and incurs substantial costs for handling and storing the grain. In addition, no one—especially farmers—likes to see the Government acquire huge stocks of grain because of the certainty that one day the Government will dump that grain back on the market and weaken prices.

Although current law allows the Secretary to waive some or all of the interest due on a loan in order to avoid forfeitures, this authority is critically deficient, in my view, because it does not allow the Secretary to waive a portion of the loan principal in order to avoid forfeiture. My bill would correct that deficiency.

My proposal, quite simply, would give the Secretary the option to waive some of the principal due on a regular or reserve price support loan if the Secretary determines that such a waiver would avoid forfeitures and otherwise be beneficial.

I had originally intended to offer this proposal during debate on a new farm bill. My schedule was accelerated, however, by the administration's decision last week not to extend some maturing Farmer-Owned Reserve [FOR] loans. That decision will almost certainly result in hundreds of millions of bushels of corn being forfeited to the Government, at needless cost to the taxpayer. Moreover, the Department of Agriculture has made clear its intention simply to take the forfeited grain and turn around and make it available to the market through grain catalogs issued by the Commodity Credit Corporation.

I would assert, Mr. President, that there is a better way to serve the needs of the farmer, the marketplace, and the taxpayer.

Prior to the Secretary's decision with respect to the expiring FOR loans, I met with USDA officials to urge them to consider alternate means of handling maturing loans that would make additional grain available to the market but would do so by providing incentives for farmers to market the grain directly and avoid the costly and cumbersome forfeiture and cataloging procedure. I specifically suggested use of a bid system that would allow producers to redeem their loans, look for available marketing opportunities, and market their grain as they fit. Unfortunately, USDA opted simply to extend some loans for 6 months while letting others mature, with additional forfeitures the likely result.

The bill I am introducing today will give the Secretary a new marketing tool when the possibility of grain forfeitures threatens again, as is certain to happen. I do not believe this authority should be used in all cases where forfeitures are likely, but it should be an available option, especially when the Government intends to acquire the grain only to turn around and put the grain back on the market.

Historically the commodity loan rate provided a floor under market prices because the loan allows farmers to obtain financing and store their grain rather than sell their crop at prevailing prices. In this role the loan did much to promote orderly marketing by farmers. Some people may contend, Mr. President, that my legislation will undermine this basic function or provide a giveaway to farmers. It will do neither.

In the first place, the loan's price support mechanism has already been compromised by the proliferation of new farm policy devices—for example, generic certificates, posted county prices [PCP's], CCC catalogs, et cetera—that have been used to permit the steady flow of grain to the market.

On the second point, this waiver authority, if properly used, should save taxpayer money by encouraging farmers to repay most of their loan principal and avoiding the handling and storage costs associated with grain forfeitures. And, this new tool should actually restore the original intent of the loan program to provide farmers—and not grain companies—the opportunity to market grain in an orderly fashion.

As concern grows about the adequacy of CCC stocks used to back the issuance of generic certificates, it is also time, I believe, for farm policymakers to examine new options to protect farm income, ensure that the market has ready access to needed grain, and even simplify our grain marketing schemes. These new options should preserve for the farmer a central role in offering grain to the market—a role that the present forfeiture-cataloging game does not provide.

Others may view the new authority I am proposing as a simple extension of the marketing loan concept. Like the marketing loan, the authority to waive principal would help to keep commodities moving to the market. Unlike the marketing loan, however, this waiver authority would provide the Secretary with greater flexibility to adjust loan redemption levels as necessary to meet temporary, localized, or other specific conditions where grain forfeitures threaten or where the Secretary determines that producers should have access to grain under loan.

Finally, Mr. President, let me emphasize that this new authority would provide full opportunity for farmers, and not just the commercial grain industry, to benefit from future efforts to entice grain from storage to the market. This option will leave the ultimate marketing decision with the farmer, while allowing him to benefit from the market's demand for grain and relieving the taxpayer of the additional costs inherent in acquiring, storing, and disposing of forfeited grain.

I have shared this proposal with appropriate administration officials and I am hopeful of winning their support for this simple but common sense change in farm policy.

Mr. President, on Friday of this week, the U.S. Department of Agriculture made a decision with regard to the farmer-held reserve. The U.S. Department of Agriculture calculated they need additional corn to go to market. They calculated they need about 700 million bushels of corn to go

to market. They found themselves up against a constraint in the law that enables them to forgive interest rate—interest that has accumulated on the farmer—but they are not able to make any principal reduction.

As a consequence of that, they are not able to do something that I believe we, in fact, ought to be trying to do with our policy. We ought to be trying to minimize the cost to the taxpayer and we ought to be trying to maximize the extent to which the farmer himself is making decisions about when and how to go to market.

The U.S. Department of Agriculture was, in my judgment, forced into a policy that required them, in fact, to put into effect something that will have farmers forfeiting grain to the U.S. Government, adding costs to the taxpayer, adding cost at a time when it is going to be difficult for us, anyway, to put together needed programs for agriculture, and will surrender instead to them the decision on marketing, will surrender to commercial grain facilities those marketing decisions.

We will see, instead of farmers making decisions about when to go to market, we will be seeing the U.S. Department of Agriculture making those decisions. I think neither the farmer nor the USDA wants that to be done.

Mr. President, under our commodity price support programs, farmers, as you know, obtain a loan, they pledge their harvest of grain as collateral, and the current law allows the Secretary to waive interest due on maturing loans if such a waiver would benefit the Government and the taxpayer by encouraging the farmer to market the grain rather than forfeit this collateral to the Government.

My bill would simply correct what I believe is a deficiency and what I hope the USDA themselves will observe as a deficiency. I have sent this piece of legislation to the administration hoping to get a favorable judgment from them. This will correct a deficiency and enable them to take similar action with principal on that loan. Quite simply, what this gives the Secretary an opportunity to do is to select one more option, an option to weigh the principal that is due on a regular or reserve support loan if the Secretary determines that such a waiver would avoid forfeitures and otherwise be beneficial.

Mr. President, historically the commodity loan rate provided a floor under the market price because the loan allows farmers to obtain financing and store their grain rather than sell their crop at prevailing prices. In this role, the loan did much to promote not only orderly marketing by farmers but it stabilized, in my judgment, the price the consumer has to pay as well.

This piece of legislation will prevent an undermining that I think is currently in place as a consequence of the current language of law. This new authority would provide full opportunity for farmers, and not just the commercial grain industry, to benefit from future efforts to entice grain from the storage to the market. This option will leave the ultimate marketing decision to the farmer and allow him to benefit from the market of grain and relieving the taxpayer of additional costs in storing and disposing of forfeited grain. I have shared this proposal with the administration officials and hope to win their support for this as well. I believe it is a simple and a commonsense change in our farm policy.

ADDITIONAL COSPONSORS

S. 16

At the request of Mr. CRANSTON the name of the Senator from Delaware [Mr. BIDEN] was added as a cosponsor of S. 16, a bill to require the executive branch to gather and disseminate information regarding, and to promote techniques to eliminate, discriminatory wage-setting practices and discriminatory wage disparities which are based on sex, race, or national origin.

S. 247

At the request of Mr. METZENBAUM, the names, of the Senator from North Dakota [Mr. CONRAD], the Senator from South Dakota [Mr. DASCHLE], the Senator from New Jersey [Mr. LAUTENBERG], and the Senator from California [Mr. CRANSTON] were added as cosponsors of S. 247, a bill to amend the Energy Policy and Conservation Act to increase the efficiency and effectiveness of State energy conservation programs carried out pursuant to such act, and for other purposes.

S. 335

At the request of Mr. MCCAIN, the name of the Senator from Minnesota [Mr. BOSCHWITZ] was added as a cosponsor of S. 335, a bill to amend title XVIII of the Social Security Act and other provisions of law to delay for 1 year the effective dates of the supplemental Medicare premium and additional benefits under Part B of the Medicare Program, with the exception of the spousal impoverishment benefit.

S. 355

At the request of Mr. RIEGLE, the names of the Senator from Wyoming [Mr. SIMPSON], the Senator from Wisconsin [Mr. KOHL], and the Senator from Delaware [Mr. BIDEN] were added as cosponsors of S. 355, a bill to amend the Internal Revenue Code of 1986 to extend through 1992 the period during which qualified mortgage bonds and mortgage credit certificates may be issued.

S. 454

At the request of Mr. ROCKEFELLER the name of the Senator from Pennsylvania [Mr. HEINZ] was added as a cosponsor of S. 454, a bill to provide additional funding for the Appalachian development highway system.

S. 455

At the request of Mr. ROCKEFELLER the name of the Senator from Pennsylvania [Mr. HEINZ] was added as a cosponsor of S. 455, a bill to extend the Appalachian Regional Development Act of 1965 and to provide authorizations for the Appalachian Highway and Appalachian Area Development Programs.

S. 494

At the request of Mr. DURENBERGER, the name of the Senator from Mississippi [Mr. COCHRAN] was added as a cosponsor of S. 494, a bill to amend the Internal Revenue Code of 1986 to extend for 5 years, and increase the amount of, the deduction for health insurance for self-employed individuals.

S. 537

At the request of Mr. RIEGLE, the name of the Senator from Louisiana [Mr. JOHNSTON] was added as a cosponsor of S. 537, a bill to require that any calculation of the Federal deficit made as a part of the Federal budget process include a calculation of the Federal deficit minus the Social Security reserves.

S. 552

At the request of Mr. BRADLEY the name of the Senator from Maine [Mr. COHEN] was added as a cosponsor of S. 552, a bill to restore balance among sources of supply for the Nation's sweetener needs, and for other purposes.

S. 893

At the request of Mr. LAUTENBERG, the name of the Senator from Ohio [Mr. METZENBAUM] was added as a cosponsor of S. 893, a bill to establish certain categories of Soviet and Vietnamese nationals presumed to be subject to persecution and to provide for adjustment to refugee status of certain Soviet and Vietnamese parolees.

S. 933

At the request of Mr. HARKIN, the name of the Senator from Nebraska [Mr. KERREY] was added as a cosponsor of S. 933, a bill to establish a clear and comprehensive prohibition of discrimination on the basis of disability.

S. 949

At the request of Mr. RIEGLE, the name of the Senator from West Virginia [Mr. ROCKEFELLER] was added as a cosponsor of S. 949, a bill to amend title XIX of the Social Security Act to provide States additional authority and flexibility under Medicaid to improve children's access to health care services, to assure sufficient payment levels for certain providers and to pro-

vide funds for demonstration projects, and for other purposes.

S. 972

At the request of Mr. WIRTH, the name of the Senator from Washington [Mr. ADAMS] was added as a cosponsor of S. 972, a bill to transfer to the Secretary of Health and Human Services the authority of the Secretary of Energy to conduct epidemiological studies of the effects of radiation, and for other purposes.

S. 1047

At the request of Mr. KENNEDY, the names of the Senator from Rhode Island [Mr. PELL], the Senator from Vermont [Mr. LEAHY], and the Senator from Connecticut [Mr. LIEBERMAN] were added as cosponsors of S. 1047, a bill to encourage negotiations between the United States and the Soviet Union to establish mutual and verifiable restrictions on the production of plutonium and highly enriched uranium for nuclear weapons purposes.

S. 1053

At the request of Mr. RIEGLE, the name of the Senator from North Dakota [Mr. BURDICK] was added as a cosponsor of S. 1053, a bill to amend title V of the Social Security Act to provide for supplemental resources to enhance the delivery of health services to pregnant women and infants.

S. 1092

At the request of Mr. CRANSTON, the name of the Senator from West Virginia [Mr. ROCKEFELLER] was added as a cosponsor of S. 1092, a bill to amend title 38, United States Code, to implement certain recommendations of the Commission of Veterans' Education Policy for veterans' education policy improvements concerning work-study allowances, institutional reporting fees, and distinctions in degree and nondegree training; and for other purposes.

S. 1107

At the request of Mr. SIMON, the name of the Senator from Alabama [Mr. HEFLIN] was added as a cosponsor of S. 1107, a bill to provide education, training, employment, and related services to displaced homemakers, and for other purposes.

SENATE JOINT RESOLUTION 86

At the request of Mr. RIEGLE, the names of the Senator from Massachusetts [Mr. KERRY] and the Senator from Louisiana [Mr. JOHNSTON] were added as cosponsors of Senate Joint Resolution 86, a joint resolution designating November 17, 1989, as "National Philanthropy Day."

SENATE JOINT RESOLUTION 127

At the request of Mr. SIMON, the names of the Senator from Minnesota [Mr. BOSCHWITZ] and the Senator from New York [Mr. MOYNIHAN] were added as cosponsors of Senate Joint Resolution 127, a joint resolution designating Labor Day Weekend, September 2-4, 1989, as "National Drive for Life Weekend."

SENATE JOINT RESOLUTION 134

At the request of Mr. LEAHY, the names of the Senator from Texas [Mr. BENTSEN], the Senator from Minnesota [Mr. BOSCHWITZ], the Senator from Arkansas [Mr. BUMPERS], the Senator from North Dakota [Mr. BURDICK], the Senator from Mississippi [Mr. COCHRAN], the Senator from North Dakota [Mr. CONRAD], the Senator from California [Mr. CRANSTON], the Senator from New York [Mr. D'AMATO], the Senator from Illinois [Mr. DIXON], the Senator from Connecticut [Mr. DODD], the Senator from Kansas [Mr. DOLE], the Senator from Minnesota [Mr. DURENBERGER], the Senator from Tennessee [Mr. GORE], the Senator from Washington [Mr. GORTON], the Senator from Utah [Mr. HATCH], the Senator from Alabama [Mr. HEFLIN], the Senator from Hawaii [Mr. INOUYE], the Senator from Vermont [Mr. JEFFORDS], the Senator from Louisiana [Mr. JOHNSTON], the Senator from Wisconsin [Mr. KASTEN], the Senator from Massachusetts [Mr. KENNEDY], the Senator from Nebraska [Mr. KERREY], the Senator from Massachusetts [Mr. KERRY], the Senator from Wisconsin [Mr. KOHL], the Senator from New Jersey [Mr. LAUTENBERG], the Senator from Michigan [Mr. LEVIN], the Senator from Connecticut [Mr. LIEBERMAN], the Senator from Florida [Mr. MACK], the Senator from Hawaii [Mr. MATSUNAGA], the Senator from Idaho [Mr. MCCLURE], the Senator from Ohio [Mr. METZENBAUM], the Senator from Maryland [Ms. MIKULSKI], the Senator from Maine [Mr. MITCHELL], the Senator from Alaska [Mr. MURKOWSKI], the Senator from Georgia [Mr. NUNN], the Senator from Oregon [Mr. PACKWOOD], the Senator from Rhode Island [Mr. PELL], the Senator from South Dakota [Mr. PRESSLER], the Senator from Arkansas [Mr. PRYOR], the Senator from Michigan [Mr. RIEGLE], the Senator from Virginia [Mr. ROBB], the Senator from Alabama [Mr. SHELBY], the Senator from Illinois [Mr. SIMON], the Senator from Wyoming [Mr. SIMPSON], the Senator from Alaska [Mr. STEVENS], the Senator from South Carolina [Mr. THURMOND], the Senator from Virginia [Mr. WARNER], the Senator from California [Mr. WILSON], and the Senator from Colorado [Mr. WIRTH] were added as cosponsors of Senate Joint Resolution 134, a joint resolution to designate the week of October 1, 1989, through October 7, 1989, as "National Disability Awareness Week."

SENATE JOINT RESOLUTION 155

At the request of Ms. MIKULSKI, the names of the Senator from Washington [Mr. ADAMS], the Senator from Idaho [Mr. MCCLURE], the Senator from Kansas [Mr. DOLE], the Senator from South Carolina [Mr. THURMOND], the Senator from Michigan [Mr. RIEGLE], the Senator from Wisconsin [Mr. KOHL], the Senator from North Dakota [Mr. BURDICK], the Senator from Mississippi [Mr. COCHRAN], the Senator from Utah [Mr. HATCH], the Senator from Oregon [Mr. PACKWOOD], the Senator from Nebraska [Mr. EXON], the Senator from Tennessee [Mr. GORE], the Senator from Rhode Island [Mr. PELL], the Senator from South Carolina [Mr. HOLLINGS], the Senator from North Dakota [Mr. CONRAD], the Senator from Hawaii [Mr. MATSUNAGA], the Senator from Massachusetts [Mr. KERRY], the Senator from Georgia [Mr. FOWLER], the Senator from Louisiana [Mr. JOHNSTON], the Senator from Georgia [Mr. NUNN], the Senator from Illinois [Mr. DIXON], the Senator from New York [Mr. MOYNIHAN], the Senator from Michigan [Mr. LEVIN], the Senator from North Carolina [Mr. SANFORD], the Senator from Texas [Mr. BENTSEN], the Senator from Maryland [Mr. SARBANES], the Senator from Arkansas [Mr. BUMPERS], the Senator from Connecticut [Mr. LIEBERMAN], the Senator from Ohio [Mr. METZENBAUM], the Senator from Indiana [Mr. COATS], the Senator from Wisconsin [Mr. KASTEN], the Senator from Minnesota [Mr. DURENBERGER], the Senator from Minnesota [Mr. BOSCHWITZ], the Senator from Utah [Mr. GARN], the Senator from New Mexico [Mr. DOMENICI], the Senator from Florida [Mr. MACK], the Senator from New York [Mr. D'AMATO], the Senator from Alaska [Mr. STEVENS], the Senator from Maine [Mr. COHEN], the Senator from West Virginia [Mr. ROCKEFELLER], the Senator from Connecticut [Mr. DODD], the Senator from Alabama [Mr. HEFLIN], and the Senator from Kansas [Mrs. KASSEBAUM] were added as cosponsors of Senate Joint Resolution 155, a joint resolution designating June 23, 1989, as "United States Coast Guard Auxiliary Day."

SENATE CONCURRENT RESOLUTION 40

At the request of Mr. CRANSTON, the name of the Senator from Alabama [Mr. SHELBY] was added as a cosponsor of Senate Concurrent Resolution 40, a concurrent resolution to designate June 21, 1989, as "Chaney, Goodman, and Schwerner Day."

SENATE CONCURRENT RESOLUTION 47

At the request of Mr. SIMON, the name of the Senator from California [Mr. CRANSTON] was added as a cosponsor of Senate Concurrent Resolution 47, a concurrent resolution expressing the sense of the Congress on multilateral sanctions against South Africa.

SENATE RESOLUTION 149—RELATING TO THE RESUMPTION OF START TALKS

Mr. MITCHELL (for himself, Mr. DOLE, Mr. BYRD, Mr. PELL, Mr. LUGAR, Mr. NUNN, Mr. STEVENS, and Mr. CHAFEE); submitted the following resolution which was considered and agreed to.

S. RES. 149.

Whereas reductions of strategic nuclear weapons which stabilize the nuclear balance through mutual and verifiable arms control treaties would enhance the national security of the United States and are a matter of the highest priority;

Whereas significant progress has been made in the strategic arms reduction (START) talks;

Whereas the successful conclusion of the intermediate nuclear forces (INF) negotiations, the ratification in 1988 of the INF Treaty, and recent initiatives regarding conventional forces in Europe indicate a favorable climate for further progress in arms control negotiations;

Whereas President Bush repeatedly has expressed his desire to pursue vigorously a strategic arms reduction agreement;

Whereas the Congress, the American people, and America's allies and friends overwhelmingly support the efforts of President Bush to make progress in all areas of negotiation with the Soviet Union; and

Whereas the START talks resumed in Geneva, Switzerland, on June 19, 1989: Now, therefore, be it

Resolved, That the Senate hereby—

(1) expresses its full support for the commitment of the President to achieving a verifiable and stabilizing strategic nuclear arms reduction treaty with the Soviet Union in order to advance the national security interests of the United States and its allies;

(2) encourages the United States and the Soviet Union to use vigorous diplomatic efforts to resolve the outstanding issues impeding progress toward successful conclusion of a START treaty;

(3) declares that an important obstacle to the conclusion of new arms control agreements with the Soviet Union has been its violation of existing treaties, and calls upon the Soviet Union to take steps to rectify its violations of such treaties, in particular, to dismantle the radar site at Krasnoyarsk, Union of Soviet Socialist Republics, since it is a clear violation of the terms of the Anti-Ballistic Missile Treaty; and

(4) urges the President to consult closely with the Senate and with America's allies as he proceeds with the START negotiations, recognizing that consensus and unity are essential to a successful conclusion, including ratification, of a strategic arms reduction treaty.

SEC. 2. For purposes of this resolution—

(1) the term "Anti-Ballistic Missile Treaty" means the Treaty Between the United States of America and the Union of Soviet Socialist Republics on the Limitation of Anti-Ballistic Missile Systems, done at Moscow on May 26, 1972; and

(2) the term "INF Treaty" means the Treaty Between the United States of America and the Union of Soviet Socialist Republics on the Elimination of Their Intermediate-Range and Shorter-Range Missiles, together with the memorandum of understanding and the two protocols thereto, done at Washington on December 8, 1987.

SEC. 3. The Secretary of State shall transmit a copy of this resolution to the President.

AMENDMENTS SUBMITTED

ACT FOR BETTER CHILD CARE

DOLE (AND OTHERS) AMENDMENT NO. 201

Mr. DOLE (for himself, Mr. PACKWOOD, Mr. DOMENICI, Mr. WILSON, Mr. DANFORTH, Mr. THURMOND, Mr. MCCONNELL, Mr. KASTEN, Mr. BOSCHWITZ, Mr. HEINZ, Mr. WARNER, Mr. GRASSLEY, Mr. GORTON, Mr. LUGAR, Mr. COATS, Mr. MURKOWSKI, Mr. LOTT, Mrs. KASSEBAUM, Mr. MCCLURE, Mr. MCCAIN, and Mr. GRAMM) proposed an amendment to amendment No. 196 proposed by Mr. MITCHELL (and others) to the bill (S. 5) to provide for a Federal program for the improvement of child care, and for other purposes, as follows:

Beginning on page 1, line 3, strike all through page 96, line 25, and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Working Family Child Care Act of 1989".

TITLE I—HEAD START ACT AUTHORIZATION

On page 97, line 1, strike "125" and insert "101".

Beginning on page 97, after line 4, strike all through page 112, line 6.

On page 158, after line 11, insert the following:

TITLE II—EARNED INCOME CREDIT

SEC. 201. INCREASE IN EARNED INCOME CREDIT.

(a) IN GENERAL.—Subsections (a) and (b) of section 32 of the Internal Revenue Code of 1986 are amended to read as follows:

"(a) ALLOWANCE OF CREDIT.—There is allowed as a credit against the tax imposed by this subtitle for the taxable year an amount equal to the sum of the following amounts:

"(1) GENERAL CREDIT.—In the case of an eligible individual, an amount equal to 14 percent of so much of the earned income for the taxable year as does not exceed $5,714.

"(2) SUPPLEMENT FOR YOUNG CHILDREN.—

"(A) IN GENERAL.—In the case of an eligible individual with 1 or more qualifying children, an amount equal to the lesser of—

"(i) the applicable percentage of so much of the earned income for the taxable year as does not exceed $5,714, or

"(ii) $750 ($500 for an eligible individual with only 1 qualifying child).

"(B) APPLICABLE PERCENTAGE.—The term 'applicable percentage' means 12 percent (8 percent for an eligible individual with only 1 qualifying child).

"(b) LIMITATIONS.—

"(1) GENERAL CREDIT.—The amount of the credit allowable to a taxpayer under subsection (a)(1) for any taxable year shall be reduced (but not below zero) by 10 percent of so much of the adjusted gross income (or, if greater, the earned income) of the taxpayer for the taxable year as exceeds $9,000.

"(2) SUPPLEMENT FOR YOUNG CHILDREN.—The amount of the credit allowable to a taxpayer under subsection (a)(2) for any taxable year shall be reduced (but not below zero) by 15 percent (10 percent for an eligible individual with only 1 qualifying child) of so much of the adjusted gross income (or, if greater, the earned income) of the taxpayer for the taxable year as exceeds $10,000."

(b) QUALIFYING CHILD DEFINED.—Subsection (c) of section 32 of the Internal Revenue Code of 1986 is amended by adding at the end thereof the following new paragraph:

"(3) QUALIFYING CHILD.—The term 'qualifying child' means, for the taxable year, an individual—

"(A) with respect to whom the taxpayer qualifies as an eligible individual, and

"(B) who, as of the end of such taxable year, has not attained the age of 5."

(c) CONFORMING AMENDMENTS.—

(1) Subsection (f)(1) of section 32 of the Internal Revenue Code of 1986 is amended by inserting "(including separate tables for individuals with qualifying children)" after "Secretary".

(2) Subsection (i) of section 32 of such Code is amended—

(1) by inserting "('calendar year 1990' for 'calendar year 1987' in the case of the dollar amount referred to in clause (iii) of paragraph (2)(B))" before the period at the end of paragraph (1)(B), and

(2) by striking paragraph (2) and inserting the following new paragraph:

"(2) DEFINITIONS, ETC.—For purposes of paragraph (1)—

"(A) APPLICABLE CALENDAR YEAR.—The term 'applicable calendar year' means—

"(i) 1986 in the case of the dollar amount referred to in clause (i) of subparagraph (B),

"(ii) 1987 in the case of the dollar amount referred to in clause (ii) of subparagraph (B), and

"(iii) 1991 in the case of the dollar amount referred to in clause (iii) of subparagraph (B).

"(B) DOLLAR AMOUNTS.—The dollar amounts referred to in the subparagraph are—

"(i) the $5,714 amount contained in paragraphs (1) and (2)(A)(i) of subsection (a),

"(ii) the $9,000 amount contained in subsection (b)(1), and

"(iii) the $10,000 amount contained in subsection (b)(2)."

(3) Subsection (b) of section 3507 of such Code is amended by striking "and" at the end of paragraph (2), by striking the period at the end of paragraph (3) and inserting ", and", and by inserting after paragraph (3) the following new paragraph:

"(4) states the number of qualifying children (as defined in section 32(c)(3)) of the employee for the taxable year.".

(4) Paragraph (1) of section 3507(c) of such Code is amended—

(A) by striking "and" at the end of subparagraph (A),

(B) by redesignating subparagraph (B) as subparagraph (C), and

(C) by inserting after subparagraph (A) the following new subparagraph:

"(B) on the basis of the number of qualifying children (as defined in section 32(c)(3)) of the employee for such period, and".

(5) Paragraph (2) of section 3507(c) of such Code is amended—

(A) by striking "paragraph (1)(B)" and inserting "paragraph (1)(C)", and

(B) by striking "14 percent" in subparagraphs (B)(i) and (C)(i) and inserting "the sum of 14 percent and the applicable percentage".

(6) Section 3507 of such Code is amended by adding at the end thereof the following new subsection:

"(f) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to carry out the purposes of this section."

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1990.

TITLE III—DEPENDENT CARE CREDIT

SEC. 301. DEPENDENT CARE CREDIT MADE REFUNDABLE; OTHER CHANGES.

(a) CREDIT MADE REFUNDABLE.—Section 21 of the Internal Revenue Code of 1986 is amended by redesignating subsection (f) as subsection (g) and by inserting after subsection (e) the following new subsection:

"(f) CREDIT REFUNDABLE FOR LOW AND MODERATE INCOME TAXPAYERS.—

"(1) IN GENERAL.—For purposes of this subtitle and section 6401, in the case of an applicable taxpayer, the credit allowable under subsection (a) for any taxable year shall be treated as a credit allowable under subpart C of this part.

"(2) APPLICABLE TAXPAYER.—For purposes of this subsection, the term 'applicable taxpayer' means a taxpayer whose adjusted gross income for the taxable year does not exceed $28,000.

"(3) COORDINATION WITH ADVANCE PAYMENTS AND MINIMUM TAX.—Rules similar to the rules of subsections (g) and (h) of section 32 shall apply with respect to the portion of any credit to which this subsection applies."

(b) ADVANCE PAYMENT OF CREDIT.—

(1) IN GENERAL.—Chapter 25 of the Internal Revenue Code of 1986 is amended by inserting after section 3507 the following new section:

"SEC. 3507A. ADVANCE PAYMENT OF DEPENDENT CARE CREDIT.

"(a) GENERAL RULE.—Except as otherwise provided in this section, every employer making payment of wages with respect to whom a dependent care eligibility certificate is in effect shall, at the time of paying such wages, make an additional payment equal to such employee's dependent care advance amount.

"(b) DEPENDENT CARE ELIGIBILITY CERTIFICATE.—For purposes of this title, a dependent care eligibility certificate is a statement furnished by an employee to the employer which—

"(1) certifies that the employee will be eligible to receive the credit provided by section 21 for the taxable year,

"(2) certifies that the employee reasonably expects to be an applicable taxpayer (within the meaning of section 21(f)(2)) for the taxable year,

"(3) certifies that the employee does not have a dependent care eligibility certificate in effect for the calendar year with respect to the payment of wages by another employer,

"(4) states whether or not the employee's spouse has a dependent care eligibility certificate in effect,

"(5) states the number of qualifying individuals (as defined in section 21(b)(1)) in the household maintained by the employee, and

"(6) estimates the amount of employment-related expenses (as defined in section 21(b)(2)) for the calendar year.

For purposes of this section, a certificate shall be treated as being in effect with respect to a spouse if such a certificate will be in effect on the first status determination date following the date on which the employee furnishes the statement in question.

"(c) DEPENDENT CARE ADVANCE AMOUNT.—

"(1) IN GENERAL.—For purposes of this title, the term 'dependent care advance amount' means, with respect to any payroll period, the amount determined—

"(A) on the basis of the employee's wages from the employer for such period,

"(B) on the basis of the number of qualifying individuals (as defined in section 21(b)(1)) in the household maintained by the employee,

"(C) on the basis of the employee's estimated employment-related expenses included in the dependent care eligibility certificate, and

"(D) in accordance with tables provided by the Secretary.

"(2) ADVANCE AMOUNT TABLES.—The tables referred to in paragraph (1)(D) shall be similar in form to the tables prescribed under section 3402 and, to the maximum extent feasible, shall be coordinated with such tables and the tables prescribed under section 3507(c).

"(d) OTHER RULES.—For purposes of this section, rules similar to the rules of subsections (d) and (e) of section 3507 shall apply.

"(e) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to carry out the purposes of this section."

(2) CONFORMING AMENDMENT.—The table of sections for chapter 25 of such Code is amended by adding after the item relating to section 3507 the following new item:

"Sec. 3507A. Advance payment of dependent care credit."

(c) CERTAIN SUBSIDIZED EXPENSES NOT ELIGIBLE FOR CREDIT.—Section 21(e) of the Internal Revenue Code of 1986 is amended by adding at the end of the following new paragraph:

"(10) SUBSIDIZED EXPENSES.—No expense shall be treated as an employment-related expense to the extent such expense—

"(A) is paid, reimbursed, or subsidized (whether by being disregarded for purposes of another program or otherwise) by the Federal Government, a State or local government, or any agency or instrumentality thereof, and

"(B) is not includible in the gross income of the recipient."

(d) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in this subsection, the amendments made by this section shall apply to taxable years beginning after December 31, 1989.

(2) ADVANCE PAYMENT OF CREDIT.—The amendments made by subsection (b) shall apply to taxable years beginning after December 31, 1991.

(3) ONLY PORTION OF CREDIT REFUNDABLE IN 1990.—In the case of any taxpayer to whom section 21(f) of the Internal Revenue Code of 1986 (as added by subsection (a)) applies for any taxable year beginning in 1990—

(A) 50 percent of the amount of the credit allowable under section 21(a) of such Code for such taxable year shall be treated as a credit allowable under subpart C of part IV of subchapter A of chapter 1 of such Code, and

(B) the remaining 50 percent of the amount of such credit shall be treated as a credit allowable under section 21 of such Code.

SEC. 302. STUDY OF ADVANCE PAYMENTS.

(a) IN GENERAL.—The Comptroller General of the United States shall, in consultation with the Secretary of the Treasury, conduct a study of advance payments required by section 3507A of the Internal Revenue Code of 1986 (as added by section 201(b)(1)) to determine—

(1) the effectiveness of the advance payment system, and

(2) the manner in which such system can be implemented to alleviate administrative complexity, if any, for small business.

(c) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Comptroller shall report the results of the study conducted under subsection (a), together with any recommendations, to the Committee on Finance of the United States Senate and the Committee on Ways and Means of the House of Representatives.

SEC. 303. PROGRAM TO INCREASE PUBLIC AWARENESS.

Not later than the first day of the first calendar year following the date of the enactment of this Act, the Secretary of the Treasury and the Secretary of Labor, or the delegates of the Secretaries, shall establish a taxpayer awareness program to inform the taxpaying public of the availability of the credit for dependent care and the earned income tax credit allowed under sections 21 and 32 of the Internal Revenue Code of 1986, respectively. Such public awareness program shall be designed to assure that individuals who may be eligible are informed of the availability of such credits and filing procedures. The Secretary shall use public service and paid commercial advertising, direct-mail contact, and any other appropriate means of communication to carry out the provisions of this section.

TITLE IV—BLOCK GRANT TO STATES FOR CHILD CARE SERVICES

SEC. 401. ESTABLISHMENT OF BLOCK GRANT.

The State Dependent Care Development Grants Act (42 U.S.C. 9871 et seq.) is amended—

(1) by inserting after the subchapter designation the following:

"PART 1—DEPENDENT CARE PROGRAMS"; AND

(2) by adding at the end thereof the following new part:

"PART 2—BLOCK GRANT TO STATES FOR CHILD CARE

"SEC. 670I. AUTHORIZATION OF APPROPRIATIONS.

"For the purpose of making allotments to States to carry out the activities described in section 670L, there are authorized to be appropriated $400,000,000 for each of the fiscal years 1990 through 1994.

"SEC. 670J. ALLOTMENTS.

"(a) FORMULA.—

"(1) IN GENERAL.—The Secretary shall make an allotment to each State for each fiscal year, in an amount that bears the same ratio to the amount appropriated under section 670I for such fiscal year as the allotment figure of paragraph (2) for such State bears to the allotment figure for all States.

"(2) ALLOTMENT FIGURE.—The allotment figure for a State shall be the sum of—

"(A) the number of children who are under the age of 13 who reside in such State divided by the number of children who are under the age of 13 who reside in all States; and

"(B) the relative per capita income of the State multiplied by the factor determined under subparagraph (A) for such State.

"(3) DEFINITION.—For purposes of this section, the term 'relative per capita income' means—

"(A) the quotient of the per capita income of the United States divided by the per capita income of the State; or

"(B) in the case of Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, the Trust Territory of the Pacific Islands, the Commonwealth of Puerto Rico, or the Virgin Islands, the quotient shall be considered to be 1.

"(b) ADDITIONAL ALLOTMENT.—

"(1) METHOD OF ALLOTMENT.—Any amounts not allotted under subsection (a) shall be allotted among each of the States in proportion to the amount otherwise allotted to such States for such fiscal year under subsection (a).

"(2) DEFINITION.—For the purposes of this subsection, the term 'State' does not include Guam, American Samoa, the Virgin Islands, the Commonwealth of the Northern Mariana Islands, and the Trust Territory of the Pacific Islands.

"SEC. 670K. PAYMENTS UNDER ALLOTMENTS TO STATES.

"(a) IN GENERAL.—The Secretary shall make payments from amounts made available for each fiscal year pursuant to section 6701, as provided by section 101 of title 31, United States Code, to each State in an amount (not to exceed its allotment under section 670J for such fiscal year) equal to the Federal share of the aggregate amount to be expended by the State under the State plan for such fiscal year.

"(b) FEDERAL SHARE.—The Federal share for each fiscal year shall be 85 percent.

"(c) STATE SHARE.—The State share shall equal 100 percent minus the Federal share.

"(d) CARRYOVER.—Any amount paid to a State for a fiscal year and remaining unobligated at the end of that year shall remain available, for the next fiscal year, to the State for the purposes for which the payment to the State was made.

"SEC. 670L. USE OF ALLOTMENTS.

"(a) PROJECT GRANTS.—Amounts paid to a State under section 670C shall be used by the State to make grants to eligible entities to enable such entities to conduct activities to improve the quality and availability of child care in such State.

"(b) ACTIVITIES.—Activities described under subsection (a) may include—

"(1) State and local resource and referral systems to provide information on child care services including, information on their availability, types, costs, and location;

"(2) activities to provide consumer education to enable individuals to select high quality child care services;

"(3) activities to improve the development, modification and enforcement of State and local child care standards and requirements;

"(4) training and technical assistance for child care providers and workers to improve their ability—

"(A) to comply with State and local health and safety standards and requirements;

"(B) to detect communicable diseases;

"(C) to detect and to prevent the abuse of children;

"(D) to use effective budget and accounting procedures;

"(E) to take full advantage of beneficial tax laws;

"(F) to reduce liability risks; and

"(G) to take any other actions designed to improve the quality of the child care services provided by such providers;

"(5) recruitment and training programs to increase the number of child care providers and volunteers, including the number of seniors who provide child care services;

"(6) activities to encourage the innovative development of before and after school care;

"(7) loan or grant programs for the renovation or modification of existing structures to meet State and local health and safety standards and requirements;

"(8) activities to reduce barriers to obtaining affordable liability insurance, such as the formation of child care liability risk retention groups;

"(9) activities to encourage the development of employer-assisted child care;

"(10) providing tax credits to low income working families with children, including two parent families in which one parent cares for the children of such family at home;

"(11) activities to increase child care services for children who are sick and temporarily unable to be cared for by their regular child care provider;

"(12) activities to increase the supply of child care services for children of individuals who are employed during non-traditional times of the day or week; and

"(13) activities to increase the supply of child care services to help meet the needs of special populations including children who are homeless, migrant, disabled, abused, neglected, or children of minors.

"(c) LIMITATIONS.—A State shall not use amounts paid to, or on behalf of it under section 670K to—

"(1) make cash payments to, or on behalf of, intended recipients of child care services;

"(2) pay for all or any part of the salaries of child care providers or their employees or staff or otherwise to pay for the operating costs of providing child care services;

"(3) pay for the costs of construction or land acquisition; or

"(4) satisfy any requirements for the expenditures of non-Federal funds as a condition for the receipt of Federal funds.

"(d) TECHNICAL ASSISTANCE.—The Secretary may provide technical assistance to States in planning and operating projects and activities to be carried out under this part.

"(e) STATE ADMINISTRATION.—Not to exceed 7 percent of the total amount paid to a State under section 670K for a fiscal year shall be used for administering the funds made available under such section. The State shall pay from non-Federal sources the remaining costs of administering such funds.

"SEC. 670M. APPLICATION AND STATE PLAN.

"(a) SUBMISSION.—

"(1) IN GENERAL.—To receive an allotment under section 670J, each State shall submit an application to the Secretary in such form, containing such information, and by such date as the Secretary shall require.

"(2) PLAN.—Each application submitted under paragraph (1) shall contain a plan that meets the requirements of subsection (b).

"(b) STATE PLAN.—Not later than 12 months after the date of enactment of this section, each State desiring to participate in the program authorized under this part shall prepare and submit to the Secretary a State plan. Each such plan shall—

"(1) describe the State agency that will administer the programs authorized under this part;

"(2) describe the authorized activities for which assistance is sought under this part;

"(3) provide assurances that the State will not expend in excess of 7 percent of the State allotment under section 670J during each fiscal year for administrative costs;

"(4) provide assurances that the State will give priority to activities that serve low-income areas and populations in accordance with criteria to be determined by the Secretary;

"(5) provide assurances that the State will coordinate the child care activities carried out with funds provided under this part with other Federal and State child care activities undertaken in the State through Federal or State programs;

"(6) provide such fiscal control and accounting procedures as may be necessary—

"(A) to ensure the proper accounting of Federal funds paid to the State under this subchapter; and

"(B) to ensure the verification of reports required under this subchapter; and

"(7) provide such additional assurances as the Secretary may reasonably require.

"SEC. 670N. REPORTING REQUIREMENTS.

"(a) STATE REPORTS.—Not later than 12 months after a State receives funds under this subchapter, and at 12-month intervals thereafter, the chief executive officer of such State shall prepare and submit to the Secretary, in such form as the Secretary shall prescribe, a report describing the States' use of funds received under this part.

"(b) REPORT TO CONGRESS.—Not later than 6 months after the receipt of State reports required under subsection (a), and at 12-month intervals thereafter, the Secretary shall prepare and submit, to the appropriate Committees of Congress, a report containing a summary of the information contained in the State reports submitted under subsection (a), and any additional information the Secretary considers appropriate.

"SEC. 670O. DEFINITIONS.

"As used in this part:

"(1) ELIGIBLE ENTITY—The term 'eligible entity' includes providers of child care services, and would not exclude religiously-affiliated providers.

"(2) SECRETARY.—The term 'Secretary' means the Secretary of Health and Human Services.

"(3) STATE.—The term 'State' means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, the Trust Territory of the Pacific Islands, and the Commonwealth of the Northern Mariana Islands.".

TITLE V—TREATMENT OF CHILD CARE EARNINGS

SEC. 501. CHILD CARE EARNINGS EXCLUDED FROM WAGES AND SELF-EMPLOYMENT INCOME FOR EXCESS EARNINGS TEST.

(a) WAGES.—Section 203(f)(5)(C) of the Social Security Act (42 U.S.C. 403(f)(5)(C)) is amended—

(1) by striking out "or" at the end of clause (i),

(2) by striking out the period at the end of clause (ii) and inserting in lieu thereof ", or", and

(3) by adding at the end thereof the following new clause:

"(iii) the amount of any payment made to an employee who has attained retirement age (as defined in section 216(l)) by an employer for child care services (including indirect services) performed by such employee after the month in which such employee initially becomes entitled to insurance benefits under this title.".

(b) SELF-EMPLOYMENT INCOME.—Section 203(f)(5)(D) of such Act (42 U.S.C. 403(f)(5)(D)) is amended—

(1) by striking out "or" at the end of clause (i),

(2) by adding "or" at the end of clause (ii),

(3) by inserting immediately after clause (ii) the following new clause:

"(iii) an individual who has attained retirement age (as defined in section 216(l)) who has become entitled to insurance benefits under this title, any income attributable to child care services (including indirect services) performed after the month in which such individual becomes entitled to such benefits,", and

(4) by striking out "royalties or other income" and inserting in lieu thereof "royalties or income".

(c) PAYMENTS OF CERTAIN RECOMPUTED BENEFITS DELAYED.—Section 215(f)(2) of the Social Security Act (42 U.S.C. 415(f)(2)) is amended by adding at the end thereof the following new subparagraph:

"(E) Under regulations of the Secretary, monthly benefits increased as a result of a recomputation under this paragraph shall be further increased on an actuarial basis to include such benefits which would have otherwise been paid in a lump sum (determined from the recomputation date to the effective date of such recomputation as provided under subparagraph (D)) as exceed an amount equal to such additional benefits determined for a thirteen month period beginning from such recomputation date.".

(d) EFFECTIVE DATES.—

(1) The amendments made by subsections (a) and (b) shall apply to wages or income earned after December 31, 1989.

(2) The amendment made by subsection (c) shall apply to recomputations made after December 31, 1989.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON FINANCE

Mr. DODD. Mr. President, I ask unanimous consent that the Committee on Finance be authorized to meet during the session of the Senate on June 21, 1989, at 10 a.m. to hold a hearing on two bills dealing with oil-spill cleanup costs, S. 771 and S. 1066.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON COMMUNICATIONS

Mr. DODD. Mr. President, I ask unanimous consent that the Communications Subcommittee, of the Committee on Commerce, Science, and Transportation, be authorized to meet during the session of the Senate on June 21, 1989, at 9 a.m. to hold a hearing on media ownership: diversity and concentration which will focus on ownership in the cable television industry.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON SCIENCE, TECHNOLOGY, AND SPACE

Mr. DODD. Mr. President, I ask unanimous consent that the Subcommittee on Science, Technology, and Space, of the Committee on Commerce, Science, and Transportation, be authorized to meet during the session of the Senate on June 21, 1989, at 2 p.m. to hold hearings on S. 1067, the National High-Performance Computer Technology Act of 1989.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON AVIATION

Mr. DODD. Mr. President, I ask unanimous consent that the Aviation Subcommittee of the Committee on Commerce, Science, and Transportation, be authorized to meet during the session of the Senate on June 21, 1989, at 9:30 a.m. to hold a hearing on S. 640, the General Aviation Accident Liability Standards Act of 1989.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON HOUSING AND URBAN AFFAIRS

Mr. DODD. Mr. President, I ask unanimous consent that the Subcommittee on Housing and Urban Affairs of the Committee on Banking, Housing, and Urban Affairs, be authorized to meet during the session of the Senate on Wednesday, June 21, 1989, at 10 a.m. to conduct hearings on S. 566, the National Affordable Housing Act.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON CONSERVATION AND FORESTRY

Mr. DODD. Mr. President, I ask unanimous consent that the Subcommittee on Conservation and Forestry of the Committee on Agriculture, Nutrition, and Forestry, be authorized to meet during the session of the Senate on Wednesday, June 21, 1989, at 1:30 p.m. to hold a hearing on the sustainability of forest resources.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON SMALL BUSINESS

Mr. DODD. Mr. President, I ask unanimous consent that the Small Business Committee be authorized to meet during the session of the Senate on Wednesday, June 21, 1989, at 9:30 a.m. The committee will hold a hearing to examine the Enterprise Zone Program and its impact on small business growth and development.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ARMED SERVICES

Mr. DODD. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet on Wednesday, June 21, 1989, at 9:30 a.m. in open session to receive testimony on the ICBM modernization program in review of S. 1085, the Department of Defense authorization bill for fiscal years 1990–91.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON ENVIRONMENTAL PROTECTION

Mr. DODD. Mr. President, I ask unanimous consent that the Subcommittee on Environmental Protection, Committee on Environment and Public Works, be authorized to meet during the session of the Senate on Wednesday, June 21, beginning at 10 a.m., to conduct a hearing on S. 1113, the Waste Minimization and Control Act of 1989; and S. 1112 the Municipal Solid Waste and Source Reduction and Recycling Act of 1989.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON IMMIGRATION AND REFUGEE AFFAIRS

Mr. DODD. Mr. President, I ask unanimous consent that the Subcommittee on Immigration and Refugee Affairs, of the Committee on the Judiciary, be authorized to meet during the session of the Senate on Wednesday, June 21, 1989, at 10:30 a.m., to hold a hearing on Central American migration to the United States.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. DODD. Mr. President, I ask unanimous consent that the Committee on Governmental Affairs be authorized to meet on Wednesday, June 21, at 9:30 a.m., on the subject of "averting alcohol abuse," new directions in prevention policy.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON PUBLIC LANDS, NATIONAL PARKS, AND FORESTS

Mr. DODD. Mr. President, I ask unanimous consent that the Subcommittee on Public Lands, National Parks and Forests of the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate on June 21, 1989, at 2 p.m. for a hearing to receive testimony on S. 558, to authorize a study on methods to protect and interpret the internationally significant Lechuguilla Cave at Carlsbad Caverns National Park in the State of New Mexico; S. 560, to direct the Secretary of the Interior to conduct a study of certain historic military forts in the State of New Mexico; S. 818, to authorize a study on methods to pay tribute to the late Senator Clinton P. Anderson of New Mexico for his significant contributions to the establishment of a National Wilderness System; S. 855, to direct the Secretary of the Interior to establish a Cave Research Institute at Carlsbad Caverns National Park; S. 940, to designate segments of the East Fork of the Jemez River and of the Pecos River as components of the National Wild and Scenic Rivers System; and S. 963, to authorize a study on methods to commemorate the nationally significant highway know as route 66, and for other purposes

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

NOTICE OF DETERMINATION BY THE SELECT COMMITTEE ON ETHICS UNDER RULE 35, PARAGRAPH 4, PERMITTING ACCEPTANCE OF A GIFT OF EDUCATIONAL TRAVEL FROM A FOREIGN ORGANIZATION

● Mr. HEFLIN. Mr. President, it is required by paragraph 4 of rule 35 that I place in the CONGRESSIONAL RECORD notices of Senate employees who participate in programs, the principal objective of which is educational, sponsored by a foreign government or a foreign educational or charitable organization involving travel to a foreign country paid for by that foreign government or organization.

The select committee has received a request for a determination under rule 35 for Charles G. Pearcy, a member of the staff of Senator LOTT, to participate in a program in West Germany, sponsored by the Hanns Seidel Foundation, from June 27 to July 5, 1989.

The committee has determined that participation by Mr. Pearcy in the program in West Germany, at the expense of the Hanns Seidel Foundation, is in the interest of the Senate and the United States.

The select committee has received a request for a determination under rule 35 for Ms. Sally Susman, a member of the staff of the Committee on Commerce, Science, and Transportation, chaired by Senator HOLLINGS, to participate in a program in the People's Republic of China, sponsored by the Chinese People's Institute of Foreign Affairs, from June 23 through July 8, 1989.

The committee has determined that participation by Ms. Susman in the program in China, at the expense of the Chinese People's Institute of Foreign Affairs, is in the interest of the Senate and the United States.

The select committee has received a request for a determination under rule 35 for Robert Soofer, a member of the staff of Senator GORTON, to participate in a program in West Germany, sponsored by the Hanns Seidel Foundation, from June 27 to July 5, 1989.

The committee has determined that participation by Mr. Soofer in the program in West Germany, at the expense of the Hanns Seidel Foundation, is in the interest of the Senate and the United States.

The select committee has received a request for a determination under rule 35 for Lawrence M. Lesser, a member of the staff of Senator LOTT, to participate in a program in Taiwan, sponsored by Soochow University, from July 1 to 9, 1989.

The committee has determined that participation by Mr. Lesser in the program in Taiwan, at the expense of Soochow University, is in the interest of the Senate and the United States.●

MINOR LEAGUE FOOTBALL HALL OF FAME

● Mr. DURENBERGER. Mr. President, last week in Elmhurst, IL, the American Football Association inducted 1988 and 1989 members into the Minor League Football Hall of Fame, saluting 23 men who quietly, in their own way, gave their energy, spirit and enthusiasm to communities across the country. While not in the limelight, these men contributed significantly to the building of character and represent others across the country who many never appear on the front page of any newspaper. Yet, they play a most important role.

As my colleagues may know, I understand the value of sports in the development of many fine men and women through my father—who served as a university athletic director for many years.

I feel fortunate to be personally acquainted with one inductee—Sol Rosen—whose family I have known for many years. I am aware of the significant contribution he made through his work as a player, coach, general manager and commissioner. His 45 years of effort left a lasting impact on thousands of people.

I salute his commitment and efforts and congratulate the entire 1988 and 1989 class for their accomplishments. Mr. President, I submit for the RECORD the list of all inductees.

The list of inductees follows:

HALL OF FAME CLASS OF 1988

Terry Judkins,
Dick Suess,
Mike Herr,
Barry Walters,
Joseph Mason,
Jim Nugent,
Ed O'Reilly,
Bob Herstine,
Stu McLean,
Bob Engle,
Sol Rosen,
Cal Lepore,
Bob Oats, Jr.,
Kurt Kampendahl,
John Olenchalk,
Bill Walsh,
Averril Harris,
John Smith,
Garo Yepreiam,
Sam Wyche, and
Fank Bonk.

HALL OF FAME CLASS OF 1989

Lou Policastro, Jr.,
Farnk Yanik,
Pearce Johnston,
Lee Albrecht,
Joe Cronin,
Rudy Nebel,
Rod "Lung" McKinzie,
Tom Anthony,
Greg Johnston, and
Woody Peoples.●

COMMENDING TRUMBULL AND SOUTHINGTON HIGH SCHOOLS RELATIVE TO NATIONAL BICENTENNIAL COMPETITION

● Mr. DODD. Mr. President, it gives me great pleasure to extend my congratulations to two Connecticut schools, Trumbull and Southington High, for their outstanding performances in the National Bicentennial Competition on the Constitution and the Bill of Rights.

The National Bicentennial Competition provides high school students with a 6-week instructional program designed to cultivate an understanding of the fundamental principles of our constitutional democracy and the history of its development. Following this instruction, a competition takes place in which entire classes compete as teams to determine congressional district, State, and national winners.

Following weeks of intensive study and preparation, the students of Trumbull High School placed among the top 10 schools in the Nation at last year's competition. That event was especially exciting because it was the first national level competition. This year, Southington High School was curriculum unit winner, bringing national distinction to Connecticut schools for the second year in a row. The consistent hard work and dedication of these students, their teachers, and program coordinators is a source of great pride and inspiration.

I ask my colleagues to join me in applauding both Trumbull and Southington High Schools for their superlative efforts.●

THE CHINESE EXECUTIONS

● Mr. KERRY. Mr. President, the tragic events in China have captured the attention of the world. Everyone who values freedom and democracy has been shocked and dismayed as the Chinese Government rounds up its citizens, expels journalists, and in statements reminiscent of George Orwell's novel, "1984," informs the world that no one was killed in Tiananmen Square.

I am particularly outraged by the recent Government executions of three student leaders, who were guilty of nothing more than working for a more open and just society. The Chinese Government has committed a barbarous act and must be held accountable for its actions. I am hopeful that the United States and other democratic governments will join together in strongly condemning these killings.

I also believe that the President must convey to the Chinese leaders that the future of United States-Chinese relations has been thrown into jeopardy by these despicable deeds. Despite our desire for close relations

with the Chinese people, we can no longer maintain a close economic relationship with a nation whose government lacks respect for such fundamental human rights. The leaders of the Chinese Government, old, tired, and out of touch with their own people's vision of the future, have in a matter of weeks, destroyed the steady progress toward a sound relationship between our countries that had been building over the last two decades.

Mr. President, no one has suffered more than the Chinese people during these past 3 weeks. But the American people have also suffered two great tragedies as a result of the events in Tiananmen Square: First, the loss of life of young people who sought to be free and who we had come to greatly admire; and second, a heartbreaking halt in the march toward a close, cooperative, and peaceful relationship between the people of China and the people of the United States.●

CHALLENGER ELEMENTARY SCHOOL

● Mr. RIEGLE. Mr. President, I rise today to pay tribute to the Kentwood Public School system in Grand Rapids, MI. The school system is celebrating the ground breaking of their newest school, the Challenger Elementary School. This is the first school in the Nation to be named after the space shuttle *Challenger.*

During my 22 years in Congress, I have witnessed many historical events, but few have touched me as deeply as the events surrounding the accident of the space shuttle *Challenger.* The memory of that terrible moment is indelibly etched in my mind. Together with the shock and sadness of that event however, there is also inspiration. We have all been moved by the courage and vision of the astronauts who gave so much of themselves to advance science and those who continue to carry our Space Program forward.

As the chairman of the Senate Science, Technology and Space Subcommittee, which has jurisdiction over NASA programs, I had the opportunity to see, firsthand, the challenges faced by the U.S. Space Program. Today, more than ever before, it is important that America has a strong and visible presence in space. The *Challenger* accident has taught us that we cannot take our space program for granted. We must be committed as a nation to move forward with aggressive exploration and program development, while taking every step needed to protect the safety of our astronauts.

Our Space Program has, for more than 20 years now, been a vital element in increasing the breadth of our knowledge and understanding. Generations of children have been inspired by space flight and exploration. Many have gone on to become the pioneers in space technology. The children of today deserve to share that inspiration; to dream about flying to the Moon, or to the planets. Teachers, who have always had a special bond with space exploration, help fuel the students' desire for learning, just as Christa McAuliffe challenged her students to learn more about the world we live in. Her special memory will live on in the hearts and minds of all of us. I know she would tell us to continue to push forward in our quest for knowledge.

There are many signs that the spirit of the *Challenger* lives on across the country. The dedication of the Challenger Elementary School is a fitting tribute, not only to the seven *Challenger* crew members, but to the entire U.S. Space Program.

As community leaders, administrators, teachers, parents, and students gather to mark this special occasion and embark on their new mission, let it encourage all of us to dare to reach for the stars.●

A RAY OF HOPE IN THE WEST BANK

● Mr. DECONCINI. Mr. President, during my meetings with Arab leaders on my recent trip to the Middle East, May 19-30, where I visited Syria, Saudi Arabia, Bahrain, Oman, Kuwait, Egypt, and Israel, I was repeatedly told that in renouncing terrorism and recognizing Israel's right to exist, PLO Chairman Yassir Arafat had taken 10 steps forward to the 1 step Prime Minister Shamir had taken with his peace initiative for the West Bank and Gaza Strip. Israeli officials with whom I met, however, characterized Shamir's proposal as a dramatic action, surpassing many of the efforts of previous leaders. Regardless of the number of steps taken in the eyes of one group or another, the journey of a thousand miles—achieving peace in this troubled region of the world—has begun.

This journey, however, will be a long and arduous one. As I traveled throughout the countries of the Middle East, I was encouraged by the words I heard and by the glimpses I caught of ingredients for a potential peace. At the same time, I continued to be dismayed by the posturing and lack of vision displayed by the leaders of various Arab countries. I heard many say that their countries had "implicitly" recognized Israel and acknowledged its existence. But no one was willing to say that he would "say the words" publicly.

Why is it unreasonable to ask Arab countries to recognize Israel? Of the leaders I spoke with all but one acknowledges that Israel is going to remain where it is. There may be disagreements as to boundaries but, surely, no one really believes Israel is going to disappear, or for that matter be defeated militarily. I think the latter point has been made very clear by past military engagements.

Leadership involves taking bold initiatives and sometimes means taking risks to achieve a visionary goal. Menachem Begin and Anwar Sadat were two of the region's most visionary leaders. These longtime enemies desired peace for their countries and took the risks to achieve it. Ultimately, Mr. Sadat paid with his life by gambling for peace, but his country and the region have been the better for his actions.

President Mubarak and subsequent Israeli leaders have maintained their commitment to the Camp David agreement. President Mubarak has had to withstand great pressure from his Arab League associates and only recently was he accepted back into the league after 10 years of exile. He gave up nothing in return and was able to hold his head high with pride for his country and with peace for his people.

Similarly, Prime Minister Yitzhak Shamir has taken a domestic political risk in coming forth with his peace initiative. As I told the leaders with whom I met, when the Prime Minister was in Washington earlier this year, a number of my colleagues and I, all of us strong friends of Israel, told him that he had to do something about the violence in the territories and the human rights violations by the Israeli Government in attempting to stem the Intifada. He did not take kindly to these comments. In the past, he has vowed that he would never allow elections in the occupied territories. Yet, he ultimately proposed an initiative in April which calls for elections as well as three other proposals.

Charitably, one could even say that Yasser Arafat has taken some risks by his recent actions. I have strongly opposed Mr. Arafat. He is a proven terrorist with the blood of Americans on his hands. I do not trust what he says and I abhor the tactics he has used in attempting to achieve his goals.

In December, however, after many protracted negotiations, Mr. Arafat said the words that the United States had been urging him to say for years. He renounced terrorism. He recognized the State of Israel and its right to exist. While I had doubts, he met the conditions established by the United States. I supported the Reagan administration when it began the U.S. dialog with him.

Has Palestinian Liberation Organization terrorism ceased? No. Has the Intifada stopped now that the United States has entered into a dialog with Mr. Arafat? Unfortunately, no. When I met with various Palestinians in the occupied territories last month, I asked them who they felt was their representative. They responded that

the PLO and Yasser Arafat represented their views.

It is understandable for a group of people to want a person they can point to and say that "he represents me." This is especially true if the group has few opportunities for representation among other groups. It is another matter, however, when that representative is not in control of the situation which he or she claims to control or represent. Just as Jesse Jackson and Ronald Reagan are not the "sole, legitimate" representatives of the Democratic and Republican Parties, respectively, so Yasser Arafat and the PLO cannot be the "sole, legitimate representatives of the Palestinian people." If he were the one, true representative, Mr. Arafat could bring an end to the Intifada as a demonstration of his sincerity in desiring peace with Israel.

If the terrorist activities against Israel continue, the statements regarding a cessation of terrorism by the "sole representative" notwithstanding, at what point will the United States say enough is enough and call for an end to the U.S.-PLO dialog?

At best, Mr. Arafat represents but one of many factions which in their entirety encompass the Palestinian people. The Intifada, however, arose from within the Palestinians in the occupied territories. It is only wholly controlled by the PLO. Rather, it is fed from the frustrations of a voiceless people and is guided and financed by many outside sources. I am, therefore, in agreement with Prime Minister Shamir and others in Israel who say that the PLO, the perpetrator of violence and death in the Middle East and around the world, should be excluded from the elections process unless and until it renounces terrorism and violence within the borders of Israel and beyond in deed as well as word.

The Shamir peace initiative, however, deserves further exploration and support. The initiative is not an end in and of itself, but is the beginning of the process from which peace for the region may be achieved.

It is a four-point initiative, only one point of which involves elections in the occupied territories. The initiative deserves to be viewed in its entirety. The first point calls for a continuation and strengthening of the Camp David peace accord with Egypt and an expansion of relations between Israel and Egypt.

The second point restates the need for Arab nations to recognize Israel's right to exist as an independent country which will remain in the region. This would naturally include an end to the attempts by Arab countries to expel Israel from the United Nations and an end to the Arab economic boycott of Israel.

The third point involves the humanitarian need to obtain international financial assistance to rehabilitate and properly house the thousands of people in the refugee camps in the occupied territories.

The final point in the initiative is the call for elections among the Palestinians in the occupied territories to begin municipal self-representation and to determine who will act as negotiators with the Israeli Government for a permanent settlement for the area.

The fact that a man who has strenuously opposed elections for many years, and who voted against the Camp David agreement, has now come forward with a proposal in the face of political pressure and severe dissent from certain elements in his own party is a fact not to be taken lightly. Many legitimate questions remain to be fleshed out by the Israeli Government before the residents of the occupied territories will accede to the election strategy. However, for "meat" to be put on the "bones" of the initiative, the Palestinians must step forward with their own suggestions or counterproposal. Again, Mr. Arafat alone cannot be the sole negotiator for the Palestinians.

It is understandable that the Palestinians hesitate to respond. Many remember the outcome of the last elections in 1976. After electing people to represent the Palestinians in the West Bank and Gaza, many mayors and other officials were forced out of office, jailed, or otherwise removed from their positions. Many who have attempted to enter into discussions with Israeli authorities have been branded and accused of being collaborators; some have been assassinated and many others were being intimidated. If Mr. Arafat really represents the PLO, let him stop such actions. Let him or his representatives offer to come forward with Palestinians from the West Bank and Gaza to discuss the election process as set out by Shamir.

There is an overwhelming sense of distrust on both sides about the intentions of the other. The Israelis feel threatened by the Intifada and the violence against the settlers in the territories. The Palestinians, frustrated by what they feel is the excessive use of force by an occupying entity, are deeply suspicious of anything proposed by the Israel Government. Added to this explosive mix is the increase in vigilante activity on the part of the Israeli settlers in the territories. They have begun taking the law into their own hands because they feel their own Government is not doing enough to protect them. The result is many innocent dead, and many more injured and crippled, Palestinian and Israeli men, women, and children.

If the Arab States really want to help their Palestinian brothers, they will stop their financial support for the Intifada and will recognize Israel's right to exist—that is a subject which must be decided over time—but they must publicly state that Israel is a nation which will remain in the region. Also, both sides can do more to stem the increase in human rights violations and violence in the West Bank and Gaza. Self-patrol of one's actions can do much to protect violence.

For its part, Israel should begin defining what it means by free, democratic, and secret elections. Some of the Palestinians with whom I spoke said they would like to see the elections run like those in the United States. They would like to be able to run under whatever party or affiliation they chose and to be able to choose their own colors, flags, and banners. Israel, However, will not allow the PLO—its colors, flag, or name—to be shown in the occupied territories. I think Israel must rethink these positions if they are really talking about free and fair elections. Means must be found for the Palestinians to express themselves and their identity.

I understand their desire for expression and I support free and fair elections. I would caution, however, that when one speaks of U.S.-style elections, one speaks of a pluralistic system. In this country, we allow many parties and voices to be heard. This would mean that voices other than the PLO's would have to be heard in the West Bank and Gaza. This would also mean that the threats and intimidation used against those Palestinians who work for peace independent of the PLO must cease. This would mean that Palestinians other than just the PLO would be able to run in the elections. If the PLO is so powerful, maybe it can guarantee a pluralistic election in which any and all can participate.

I support the Shamir peace initiative. I recognize that it is a first step, but it is a significant step. I recognize the enormous domestic political difficulties which face Prime Minister Sharmir, his party, and his country. As a democratic nation, however, Israel has the resilience to undergo these stresses and emerge stronger for the process.

I challenge the Palestinians and the Arab nations to respond to the peace initiative. While not accepting the proposal, I am pleased that the Arab League, meeting in Casablanca, did not reject it outright. It is my strong impression that Egypt's President Mubarak took the lead in getting the league not to reject the proposal. He deserves the credit and support of the United States and Israel for his efforts. I feel the Arab nations can go

29-059 O-90-35 (Pt. 9)

further by adding to the dialog and bringing forth proposals of their own.

Egypt has already demonstrated a willingness to act as an interlocutor and to begin the search for common ground. I share the views expressed to me by Prime Minister Shamir that now may be the ideal time for Jordan to become reengaged in the peace process. Positive movement on the part of Egypt and Jordan would perhaps bring other Arab States into the process and help facilitate the dialog.

The Palestinians in the occupied territories can do the same by working amongst themselves to develop their own proposals. The stakes are high, but if the Palestinian people are sincere in their desire for independence, they must make their bid without the full knowledge or approval of other key players. The Israeli Government has anted up, now the Palestinians must do the same.

As for Mr. Arafat and the PLO, they are also players in this game. They do not and should not, however, hold all of the Palestinian cards. They have voiced some things that the West has long waited to hear. The violence, however, continues, as does the intimidation and the Intifada. While it was an indigenous movement on the part of the Palestinians within the occupied territories, the PLO has attempted to claim the Intifada as its own. If it truly were the PLO's, then Mr. Arafat could call a halt to it and demonstrate through his actions his desire for peace. If he were the "sole, legitimate representative of the Palestinian people," then he could end the violence. This is obviously not the case; he is a player with whom the United States and others must contend until the Palestinian people come forward with their suggestions on how Israel can flesh out its initiative and work together with them for a permanent solution to the situation in this troubled part of the world.

Change is difficult. Compromise between enemies of long standing may seem impossible; however, I believe a ray of hope exists and if the leaders of the Arab States, the Palestinian leaders, and the leaders of Israel work toward the long-term needs of their peoples, they will begin the task of seeking peace for the well-being of their peoples. Let us begin to travel the difficult road toward reconciliation.●

CAMP ARROWHEAD TO CELEBRATE 65TH ANNIVERSARY

● Mr. DANFORTH. Mr. President, I am pleased to pay tribute to an organization that has prepared young men for leadership and service for more than six decades. Camp Arrowhead near Marshfield, MO, is the oldest Boy Scout Council camp west of the Mississippi River. On June 24, Camp Arrowhead will celebrate its 65th anniversary of service to young people.

My colleagues are aware of the good work done by Boy Scout camps such as Camp Arrowhead. Scouting teaches skills that young men would be unable to acquire anywhere else. The benefits provided by Scout camps go far beyond learning to build a campfire or pitch a tent. Camping also teaches self-reliance, leadership, and group effort and instills character. As our Nation moves into the future, institutions such as the Boy Scouts will be working to assure that tomorrow's leaders are ready to meet the challenge of moving America in the right direction.

Of particular interest, on the 65th anniversary of Camp Arrowhead, is the decision of the Ozarks Council of the Boy Scouts to honor Dr. Durward G. Hall, former Member of the House of Representatives, with the Distinguished Citizen Award. Dr. Hall, long a champion of Scouting, is recognized for his contributions as a civic leader, Member of Congress, physician, and a key figure in the development of Camp Arrowhead. Dr. Hall has given freely of his time over many years, including service as a camp director at Camp Arrowhead. Today, Dr. Hall serves as honorary chairman of the capital campaign to refurbish Camp Arrowhead and is a member of the board of regents of the National Eagle Scout Association.

It is a special pleasure to extend congratulations to a friend, Durward Hall, and to express appreciation for his efforts on behalf of the young men who have gained so much from being Boy Scouts. I recognize and commend the good work of Camp Arrowhead as it completes 65 years of service, and begins its next 65 years of helping Boy Scouts to become responsible adults and good citizens of this great Nation.●

CHILD CARE IMPROVEMENT ACT

● Mr. COATS. Mr. President, I ask to have printed in the RECORD a letter opposing the Mitchell substitute from the National Association of Evangelicals and an article by Phyllis Schafly entitled "Will Congress Wipe Out Religious Day Care."

Provisions in the ABC discriminate against day-care centers which provide religious values and instruction. Legislation should not limit the right of parents to select the type of child care they deem most appropriate for their children, including services provided by religious organizations. Discrimination against parents with religious commitments, whose faith compels them to choose religious day care, is not the intent of the Constitution. The Government should not dictate where our children receive care and should not discourage religious organizations from providing quality child care.

The material follows:

[From the National Association of Evangelicals]

PROBLEMS FOR RELIGIOUS CHILD CARE IN THE REVISED ABC BILL OR "MITCHELL AMENDMENT"

The "ABC" child care bill (S.5) now nearing a vote in the Senate, originally excluded from assistance families who choose day care with religious activity. The revised bill (Mitchell Amendment) prohibits assistance to "sectarian activity" except where the means of assistance may be "child care certificates to parents", redeemable with "eligible child care providers". This exception is heralded as solving the problems of discrimination against parents who choose religious care. It does not. In particular:

1. "Eligible child care providers" must be licensed or regulated under state law". In quite a number of states, church-based day care is exempt from regulation. Parents in these states would be denied the religious choice in using certificates under ABC.

2. The dismayingly complex and ambiguous provisions appear to require that a state, to participate in the federal funding, must impose regulation on all day care providers—thus tending to coerce state regulation of church-based child care centers in states where they are now exempt, whether or not such centers receive any assistance.

3. According to the Department of Justice, as a consequence of child care certificate use (or other aid) "all child care centers . . . and any affiliated religious organizations like churches and synagogues, would be subject to the strictures of the Civil Rights Restoration Act of 1988." Any selectivity in employment practice or dealing with children based on religious or moral considerations could subject day care center and church to both the CCRA (Grove City Bill) and a number of additional discrimination strictures which appear in the ABC bill or might be added by HHS regulations. The Department foresees "officious government intervention in the private affairs of churches."

4. The ABC bill does not provide working guides of permissible use of child care certificates in religious day care, but instead literally invites court litigation to provide the working rules with a declaration that "assistance . . . shall not be expended in a manner inconsistent with the Constitution," and the addition of a severability clause to keep the rest of the bill moving if the certificate process is held up in litigation.

5. There is no requirement that any of the billions authorized be channeled to the "child care certificate" process where the choice of religious day care is to be available to parents. The states are free to limit or omit this channel, and the litigation potential will increase their past reluctance to use such vouchers or certificates.

The vast regime of subsidies and regulation in the ABC bill must be avoided, and replaced by a non-discriminatory tax credit approach, using the principles of the Administration proposal.

WILL CONGRESS WIPE OUT RELIGIOUS DAYCARE?

(By Phyllis Schlafly)

It is difficult to escape the conclusion that one major purpose of most of the daycare bills pending in Congress is to prevent all preschool children from being subject to

any religious influence. Any federal legislation that would give grants for daycare would have that effect, and there is no way to "fix" the religious daycare problem so long as grants of federal money are involved.

The original Dodd ABC daycare bill last year in Sections 20 and 21 contained some of the most virulently anti-religious language ever seen in any proposed legislation. The bill's advocates softened some of the language this year, but they did not diminish the problem at all.

The problem is explained in a 12-page Department of Justice opinion dated May 4, 1989 which concludes that the ABC bill would impose on all religious daycare "clear litigation risks" and "oppressive government oversight." If a church ever receives any benefit from the bill, it would suffer "far-reaching, officious government intervention in the private affairs of churches," and if it rejects all benefits, the religious daycare facility will be regulated anyway.

Translated into laymen's usage, this means, "Little church offering daycare, beware! If the daycare bill passes, your church will be inspected, regulated and harassed regardless of whether or not you get any benefits."

While the Justice Department's opinion was addressed specifically to the Dodd ABC bill, all the other pending bills that would give any "grants" or "certificates" for daycare would have the same effect. There is just no way out of the religious daycare dilemma.

Church-run daycare would most likely be barred from all benefits under the bills because, if the facility does anything at all religious (such as saying grace before milk and cookies), it would be deemed "pervasively sectarian" by the bureaucracy and the courts. Even if the church-based daycare were not ruled "pervasively sectarian," it probably would be barred from participation because the courts would hold that the continual monitoring of the center would result in an unacceptable church-state "entanglement."

Even if the church-based daycare sanitized itself of everything religious (i.e., prohibited Bible stories and grace before meals, covered up the cross on the wall, and stopped hiring caretakers of its own denomination) and accepted government monitoring to assure that it remained scrupulously secular, the acceptance of one dollar of federal money under any form (including "certificates") would make the daycare facility AND its affiliated church or synagogue subject to the Civil Rights Restoration Act (the Grove City Act). This would bring the church under the full force of Section 504 of the Rehabilitation Act of 1973, Section 309 of the Age Discrimination Act of 1975, Title VI of the Civil Rights Act of 1964, and Title IX of the Education Amendments of 1972.

Even more significant, regardless of how faithfully the church-based daycare center purged itself of everything religious, the Justice Department predicts that these centers "would probably be the targets of endless litigation in which their policies and practices would be questioned and second guessed." In defending themselves against such suits, church daycare would be forced to produce personnel records, expense records, and memoranda on private conversations between daycare personnel and church officials.

No wonder the Justice Department concluded that "whatever benefits religiously affiliated child care providers might receive could well be far outweighed by the financial costs and administrative burdens of compliance." But that's still not the worst of it.

Many states (especially in the south) now exempt church-operated daycare from state regulation and licensure, under the theory that religious daycare is a kind of Sunday school on weekdays. The Dodd ABC bill, however, would require state governments to impose all licensing and regulatory requirements (including registration requirements) "uniformly on all child care providers."

So, religious daycare which is now exempt from licensing would be ferreted out and forced into the government's regulatory scheme. Since religious daycare predominantly serves the poor in urban areas, the net result of these bills would be to reduce services and raise costs for those least able to afford them, as well as massively discriminate against those who choose to have some religious influences on their preschool children.

There is only one approach to the child care problem that avoids all these issues: Don't give any federal "grants" or "certificates"; instead give every preschool child a tax credit on his parents' income tax so that the parents can spend their own money in their sole discretion just like an income tax refund.

Then parents will be able to choose religious or secular, family or institutional child care, as they wish.●

DEFENSE SPENDING

● Mr. BOSCHWITZ. Mr. President, I would like to draw my colleagues' attention to some very welcome and encouraging news about defense spending. Today's Washington Post reports that the House Armed Services Subcommittee on Procurement voted yesterday to approve Defense Secretary Richard B. Cheney's $69 billion weapon procurement budget intact, breaking with the unfortunate political custom of "porking out" the budget with billions of dollars' worth of so-called add-ons and plus-ups.

The importance of this vote cannot be underestimated. I pointed to the magnitude of defense spending waste when I offered an amendment to the 1989 Defense appropriations bill, which would have cut $1.7 billion in add-ons—items which the Pentagon did not even ask for. In addition, Congress appropriated some $4.8 billion more than the Defense Department requested for certain programs. I know that Minnesotans are concerned that—given our current budget situation—we get the most bang for the buck out of our defense budget. We must resist the urge to micromanage the Pentagon or to trade national security for pork barrel politics. This subcommittee vote is a first step toward meeting those challenges.

Of course, the process is a long one. The procurement budget has yet to go before the full House Armed Services Committee, and it will be a long journey through the authorization and appropriations process. The narrowness of the House Subcommittee vote, 10 to 9, demonstrates what a perilous journey it will be.

I commend the House Subcommittee on Procurement on its efforts to keep the Defense budget from looking like, to quote the Post, "a Christmas tree decorated with projects dear to various congressional districts." In a time of tightening budgets, we can no longer afford defense spending to be ruled by parochial interests. It is time for Congress to fashion a defense budget based on our national security needs, not our local political interests.●

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate go into executive session to consider the following nominations:

Calendar 180. Jeffrey N. Shane to be an Assistant Secretary of Transportation;

Calendar 181. Kate L. Moore to be an Assistant Secretary of Transportation;

Calendar 182. Fred S. Golove to be a permanent commissioned officer in the Coast Guard Reserve;

Calendar 185. Thomas J. Murrin to be Deputy Secretary of Commerce;

Calendar 186. Susan C. Schwab to be an Assistant Secretary of Commerce and Director General of the United States and Foreign Commercial Service;

Calendar 187. Eddie F. Brown to be an Assistant Secretary of the Interior;

Calendar 189. Morton I. Abramowitz to be Ambassador to Turkey;

Calendar 190. Melvyn Levitsky to be an Assistant Secretary of State for International Narcotics Matters;

Calendar 191. Thomas Niles to be the Representative of the United States of America to the European Communities;

Calendar 192. Richard H. Solomon to be an Assistant Secretary of State;

Calendar 193. Jewel S. Lafontant to be U.S. Coordinator for Refugee Affairs;

Calendar 194. Edward N. Ney to be Ambassador to Canada;

Calendar 195. Robert D. Orr to be Ambassador to the Republic of Singapore;

Calendar 197. Fred M. Zeder II, to be President of the Overseas Private Investment Corporation;

Calendar 198. Mark L. Edelman to be Deputy Administrator of the Agency for International Development;

Calendar 199. E. Patrick Coady to be United States Executive Director of

the International Bank for Reconstruction and Development; and

Nominations placed on the Secretary's desk in the Coast Guard and Public Health Service.

I further ask unanimous consent that the nominees be confirmed, en bloc, that any statements appear as if read in the RECORD, that the motions to reconsider be tabled, en bloc, that the President be notified of the Senate's action, and that the Senate return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nominations considered and confirmed en bloc are as follows:

DEPARTMENT OF TRANSPORTATION

Jeffrey Neil Shane, of the District of Columbia, to be an Assistant Secretary of Transportation.

Kate Leader Moore, of the District of Columbia, to be an Assistant Secretary of Transportation.

IN THE COAST GUARD

Pursuant to the provisions of 14 U.S.C. 729, the following-named captain of the Coast Guard Reserve to be a permanent commissioned officer in the Coast Guard Reserve in the grade of rear admiral (lower half): Fred S. Golove.

DEPARTMENT OF COMMERCE

Thomas Joseph Murrin, of Pennsylvania, to be Deputy Secretary of Commerce.

Susan Carol Schwab, of Maryland, to be Assistant Secretary of Commerce and Director General of the United States and Foreign Commercial Service.

DEPARTMENT OF THE INTERIOR

Eddie F. Brown, of Arizona, to be an Assistant Secretary of the Interior.

DEPARTMENT OF STATE

Morton I. Abramowitz, of the District of Columbia, a career member of the Senior Foreign Service, class of Career Minister, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Turkey.

Melvyn Levitsky, of Maryland, to be Assistant Secretary of State for International Narcotics Matters.

Thomas Michael Tolliver Niles, of the District of Columbia, a career member of the Senior Foreign Service, class of Career Minister, to be the Representative of the United States of America to the European Communities, with the rank and status of Ambassador Extraordinary and Plenipotentiary.

Richard H. Solomon, of the District of Columbia, to be an Assistant Secretary of State.

Jewel S. Lafontant, of Illinois, to be United States Coordinator for Refugee Affairs and Ambassador-at-Large while serving in this position.

Edward N. Ney, of New York, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Canada.

Robert D. Orr, of Indiana, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Singapore.

U.S. INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

Fred M. Zeder II, of New York, to be President of the Overseas Private Investment Corporation.

Mark L. Edelman, of Missouri, to be Deputy Administrator of the Agency for International Development.

INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT

E. Patrick Coady, of Virginia, to be U.S. Executive Director of the International Bank for Reconstruction and Development for a term of 2 years.

NOMINATIONS PLACED ON THE SECRETARY'S DESK IN THE COAST GUARD, PUBLIC HEALTH SERVICE

Coast Guard nominations beginning Cyrus J. Scott, and ending Lucille T. Laliberte, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of June 6, 1989.

Public Health Service nominations beginning Kenneth L. Brooks, and ending Andrew L. Olnes, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of March 9, 1989.

Public Health Service nominations beginning Bruce A. Chabner, and ending Gary W. Blair, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of May 17, 1989.

Public Health Service nominations beginning Thomas R. Bender, and ending George E. Foley III, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of May 17, 1989.

STATEMENT ON THE NOMINATION OF DR. EDDIE F. BROWN

Mr. INOUYE. Mr. President, I rise today in support of Senate confirmation of the nomination of Dr. Eddie F. Brown as Assistant Secretary for Indian Affairs, U.S. Department of the Interior. As chairman of the Select Committee on Indian Affairs, I was pleased to conduct a hearing yesterday on Dr. Brown's nomination and to receive testimony from the nominee regarding his interest and concern for Indian people.

Dr. Brown was born in Ajo, AZ, in 1945, and received degrees from Brigham Young University and the University of Utah, including a doctorate in social work. He served as director of the United Council on Urban Affairs in Salt Lake City in 1972 and was appointed that same year to the faculty of the University of Utah. From there, Dr. Brown went to the Arizona State University where he was associate professor in the Graduate School of Social Work.

In 1979, Dr. Brown became assistant director of the Office of Intergovernmental Operations for the Arizona Department of Economic Security. From February 1985 to August 1988, Dr. Brown was chief of the Division of Social Services for the Bureau of Indian Affairs at the U.S. Department of the Interior. In January 1987, Dr. Brown was appointed director of the Arizona Department of Economic Security, that State's largest government agency, with 7,000 employees, 125 field offices, and an annual budget of over $1 billion. As an enrolled member of the Pascua Yaqui Indian Tribe of Arizona, Dr. Brown was the first American Indian to head a major department in the State of Arizona.

Because of his Indian heritage and unique qualifications, Dr. Brown will be an excellent Assistant Secretary to direct the work of the Bureau of Indian Affairs and other agencies in the Department of the Interior. I ask that Dr. Brown's oral testimony, transcribed from yesterday's hearing, be printed in the RECORD immediately following my remarks. I believe this testimony shows the sincere concern and unique understanding that Dr. Brown will bring to this very important position. Dr. Brown speaks of self-determination, the trust responsibility, the sovereignty of Indian tribes, and the government-to-government relationship that we in the Congress and those in the executive branch of the Federal Government need to appreciate and comprehend in order to meet our trust obligations to the American Indian people.

I respectfully request that my Senate colleagues join me in supporting the confirmation of Dr. Eddie F. Brown to be the Government's leading spokesperson for Indian issues as we move into the last decade of this century.

PRESENTATION OF STATEMENT BEFORE THE SENATE SELECT COMMITTEE ON INDIAN AFFAIRS, JUNE 20, 1989

Mr. Chairman, Mr. Vice Chairman, and Members of the Committee, I have submitted my written formal statement to be entered into the record and to request that I be allowed at this time to review the major sections of my statement.

As stated, my name is Eddie F. Brown and I am an enrolled member of the Pascua Yaqui Tribe.

I am the son of Julia Valenzuela, a Yaqui-Tohono O'Odham Indian, who in 1914, at a very young age, officially entered into this country with her family in back of a buck board wagon drawn by horses in search of an environment free from persecution and discrimination. She was a courageous, self-educated woman who instilled in me a strong sense of ethical values and the importance of working hard for those things I believe in. Although she is no longer living, I want it to be recorded that I share with her all honors and credit for my being here today.

I greatly appreciate the opportunity to appear before this committee, and I am particularly honored to have been asked to serve President Bush and Secretary Lujan in the capacity of Assistant Secretary of the Department of the Interior for Indian Affairs.

I am honored to have Senator John McCain, Senator Dennis DeConcini, Representative John Rhodes and my Tribal Chairman, Mr. Arcadio Gatelum to speak on my behalf. As a native Arizonan, I can think of no greater honor than that which their presence has bestowed upon me here today. I am also thankful for the support of my friends and the prayers of my home community.

I have accepted this nomination with a profound sense of the challenges that lay ahead.

Tribal governments are going through a period of dynamic and exciting change. They are developing more control over their resources, engaging in important and successful economic development efforts and making positive choices, in developing pro-

grams to address serious needs in their communities.

At the same time, the Federal government is facing critical challenges. The hearings that were held by the Special Committee on Investigations have created a greater national awareness of the human and economic needs on Indian lands. These investigations and hearings have also demonstrated a greater need for more efficient and effective use of federal financial, staff, and institutional resources on Indian lands.

My nomination must be viewed in the perspective of these changes in Tribal governments and the heightened awareness of challenges which I am accepting. Because of these changes and challenges let me briefly state my philosophy and approach in working with Tribal governments:

It has been stated that there are certain moments in history when change is particularly possible. It is my belief, as well as the belief of many others involved in Indian Affairs, that we are living in one of these moments.

But unlike the past, this opportunity for change will not be brought about by a single great hero or heroine, but will be the work of many people, both Indian and non-Indian, who feel the need for a different approach in working with Tribes, and who will join together, as we are already doing, to create that change.

In this light, I believe that an essential role of the Department of the Interior is to actively work with Tribal officials and members of Indian communities to support the positive efforts of Tribal governments.

Too often, Indian tribes are discussed in terms of overwhelming needs and failures. Indeed, there are many serious problems. However, it is essential to recognize that one of the basic precepts of this Administration is that the governments closest to the people are the most responsive to the desires of their citizens. Therefore, it follows that improvements of tribal communities and economies can be most successful when they are directed and controlled by tribes themselves.

Let me take a minute to briefly provide a few specific examples of what I'm talking about.

In the area of economic development, many tribes are successfully supporting economic venture on Indian lands. These range from attracting manufacturing industries to encouraging grocery stores, retail stores and gas stations. We can point to many tribes such as the White Mountain Apache Tribe in Arizona that has developed an outstanding ski recreation complex and a game and fish program that serves as a national model for natural resouce management. We can look at the Mississippi Band of Choctaw Indians that has attracted manufacturing industries to tribal lands and has provided employment for tribal members.

In the area of natural resources management, a number of tribes with natural resources have developed comprehensive land use and natural resource planning and management systems. An example is the Confederated Salish and Kootenai Tribes of the Flathead Reservation in Montana. These tribes have established professional capabilities in the areas of wildlife management and land and realty functions.

In the area of human services, where there have been many highly publicized cases of child abuse on Indian lands, what is not so apparent, however, are the responses of tribal governments to these troubling problems. In Arizona, for instance, 15 of the 20 tribal governments have enacted mandatory child abuse and neglect reporting laws. A number of these tribes have implemented specialized programs for child protective services. The tribes have also organized a professional-level child protective services training academy that is equivalent to the State's child protective services academy. The tribal academy has already trained over 60 tribal social workers, court judges and law enforcement officers from throughout the West. I am proud to say that as Director of the State's Department of Economic Security, I supported these Indian child welfare projects.

Tribal governments, like State and County governments, are continuing to evolve as governments. Like other governments, tribes have faced the challenges of fulfilling their jurisdictional responsibilities and providing services for their citizens. At the same time, tribes have been developing procedures for resource allocation, designing methods for citizen participation in decision-making, struggling with changes in their constitutions and implementing efficient management system.

In carrying out the Bureau's role in recognizing and supporting these positive efforts of tribal governments I will be guided by the following principles:

(1) Tribal Self-Government. I will fully support the policy of tribal self-determination by supporting and further strengthening effective and meaningful participation by tribal governments in the planning, conduct and administration of Bureau of Indian Affairs programs and services.

(2) Government-to-Government Relationships with Indian Tribes. I will develop stronger intergovernmental relationships between the Federal government and tribal governments. The relationships between the tribes and the Bureau will be based upon intergovernmental communication; mutual accountability in the areas of program operation and federal financial resources; and joint planning for more effective and efficient utilization of federal staff and institutional resources on Indian lands.

(3) Trust Responsibility. I will provide leadership for the Department in fulfilling the Federal government's trust responsibilities at the highest degree of fiduciary standards in securing and protecting the rights of Indian tribes and people. I will also serve as an advocate for tribes in seeking to promote a greater understanding by other Federal agencies of their responsibilities towards Indian tribes.

Keeping these positive trends of tribal governments and guiding principles in mind, I will provide leadership in developing clear directions for the bureau of Indian Affairs. Let me address for a moment what I mean in regards to leadership.

It is a fact that the need for leadership is constant, but it is also true that the "style" of leadership must change to meet the challenges of the times.

One of the greatest challenges in leadership today is how to cope with diversity.

And one of the greatest needs is for leaders who are able to bring diverse groups and views together around a table and through cooperative approaches, identify problems and jointly develop plans of action to address those problems which all are committed to work toward.

Therefore, the initial days of my administration will be spent visiting and talking with elected tribal government officials regarding their tribal directions and their recommendations for improving tribal and federal intergovernmental relationships. In this way, we can jointly set the future direction on Indian affairs for the years ahead.

Now based on my philosophy and approach to working with tribal governments, there are five areas that will receive considerable emphasis under my administration, given the changes in tribal governments and the heightened awareness of human and economic needs on Indian lands. These areas are Indian education, economic development, tribal community infrastructure, trust responsibility and natural resources management and administrative accountability.

In conclusion, I accept the nomination with the full awareness that this is a difficult and challenging time for Indian affairs.

I have strong faith in the ability of tribal leaders to work cooperatively with the Department in developing solutions to these problems.

In addition, I have met many conscientious, dedicated and capable Bureau of Indian Affairs employees, both in Washington, D.C. as well as in the field. My past association with the Bureau has led me to believe that Bureau of Indian Affairs employees can be most effective in their jobs when they are informed of policy decisions and when an environment is created that enables them to perform their duties. I plan to communicate closely with Bureau employees at all levels so that we can develop a team spirit and move ahead with a common purpose.

Let me also say at this time that I am very encouraged by the leadership in the field of Indian affairs that has been provided by Chairman Daniel Inouye. Senator Inouye is to be commended for his vigorous dedication to improving federal policies towards tribes and for his efforts to educate the American public about the federal obligation towards Indians. I believe that the nonpartisan approach taken by this committee serves as a model for cooperation in addressing Indian needs.

Given my experience in state and federal government, I believe that this nonpartisan approach is most effective.

If confirmed by the Senate, I will work closely with President Bush, Secretary Lujan, and the Congress, as well as the tribal government officials, to carry forward the commitment to making the ideals of tribal self-government and self-determination a reality.

STATEMENT ON THE NOMINATION OF EDDIE F. BROWN

Mr. McCAIN. Mr. President, I congratulate Eddie Brown on his confirmation by the United States Senate to the position of Assistant Secretary of the Interior for Indian Affairs.

Eddie Brown has exemplified himself as a strong and proven manager, a creative thinker, a compassionate public servant, and an individual of unquestioned integrity.

Eddie Brown served Arizona well as the director of the Department of Economic Security, an agency with 7,000 employees and an annual budget of over $1 billion dollars. He was instrumental in promoting the use of intergovernmental agreements between the State and several of Arizona's twenty Indian tribes for administration of Federal and State funds for programs which more effectively met the needs

of Indian tribes. Not only were these agreements more effective in the delivery of services, but they have become a model for other Federal, State and local government agencies to imitate. More importantly, the agreements recognize tribes on an equal basis with the state, which, to me, is a strong signal of the value Eddie places on the government to government relationship between the Federal Government and Indian tribes.

Mr. President, Indian Affairs is filled with great problems but also with great opportunities. Those opportunities are best realized when the Congress, the Bureau of Indian Affairs and the Tribes work together in a spirit of cooperation. In that regard, Eddie Brown earns high praise from Federal, State, local and tribal officials and private individuals for his ability to approach issues on a nonpartisan basis.

During his confirmation hearing before the Select Committee on Indian Affairs, Eddie emphasized his commitment to tribal self-government, fulfillment of the trust responsibility, and stronger intergovernmental relationships between the tribes, the States, and the Federal Government. He also indicated that his administration would emphasize improved education, greater opportunity for economic development, improved tribal community infrastructure, the trust responsibility, natural resources management and greater accountability at all levels of government. Eddie clearly understands the needs of the tribes and the appropriate role of the Federal Government in relationship to the tribes. Both Chairman INOUYE and I strongly support Eddie's views and wish him every success.

I extend my thanks and appreciation to Senator INOUYE for his outstanding efforts in moving this nomination promptly and fairly. As always, his leadership has been indispensible.

Mr. President, Eddie Brown has served Arizona well, and I know he will make an outstanding Assistant Secretary for Indian Affairs. This is a proud day for all Arizonans, and I know they join me in congratulating him, his wife, Barbara, and their six children: Aaron, Jared, Amber, Rachel, Gabriel, and Eddie, Jr.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will now resume legislative session.

STRATEGIC ARMS REDUCTION NEGOTIATIONS

Mr. MITCHELL. Mr. President, on behalf of myself, Mr. DOLE, Mr. BYRD, Mr. PELL, Mr. LUGAR, Mr. NUNN, Mr. STEVENS, and Mr. CHAFEE, I sent a resolution to the desk concerning the resumption of strategic arms reduction negotiations with the Soviet Union, and I ask for its immediate consideration.

The PRESIDING OFFICER. The resolution will be stated by title.

The legislative clerk read as follows:

A resolution (S. Res. 149) concerning the resumption of strategic arms reduction negotiations with the Soviet Union.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

Mr. MITCHELL. Mr. President, I join with my distinguished colleagues today in submitting this resolution in support of the resumption of the strategic arms reduction talks. With this resolution, the Senate encourages the United States and the Soviet Union to use vigorous diplomatic efforts to resolve the outstanding issues impeding progress toward the conclusion of a START Treaty. The resolution states the Senate's support for a verifiable and stabilizing START agreement and urges the President to consult closely with the Senate and America's allies as he works toward a treaty.

The successful negotiation of a START Treaty that is verifiable and stabilizing must remain a high priority of the United States and I offer my full support to the Bush administration as it works to conclude such a treaty.

I welcome President Bush's interest in exploring improved verification techniques and confidence building measures in conjunction with the START negotiations. I support efforts to increase confidence in our ability to verify arms control agreements and to enhance the prospects for enthusiastic Senate consent to a negotiated treaty.

I am pleased by Secretary Baker's statement that the administration intends its inspection initiative to facilitate the process of resolving outstanding issues within the negotiations. It is my hope that the focus on verification will not delay the policy decisions that are necessary for concrete progress toward an actual arms control agreement.

We all understand that there are several areas of disagreement between the United States and the Soviet Union in the START talks. I am hopeful that the administration will devote its energies to resolving such isues as whether to ban mobile missiles and sea-launched nuclear cruise missiles and devising counting rules for missiles carried on bombers. There is a clear need to forge a unified and creative approach to these issues at the START negotiations.

I also believe that we must be realistic about the Strategic Defense Initiative and the relationship of missile defenses to strategic arms. The Joint Chiefs of Staff reportedly has suggested several options that recognize the technological and fiscal constraints upon the SDI program and the short-term Soviet advantage in the absence of the ABM Treaty. The proposed changes were not dramatic, but they would have helped to bridge the gap between the United States and Soviet positions at the Space and Defense Talks. I hope that President Bush will consider these proposals objectively. It would be unfortunate if ideology overrode common sense and unnecessarily jeopardized the prospects for a START agreement. I urge President Bush to clarify his position on the ABM Treaty and reevaluate the current United States position at the space talks.

The United States now has a great opportunity to make significant progress in several arms control negotiations. The INF Treaty laid the groundwork for START by establishing important precedents for actual reductions of nuclear weapons and intrusive on-site inspection verification procedures. The political momentum of arms control carried over into the START negotiations, in which the Reagan administration made significant progress. It would be tragic if the current administration failed to seize the opportunity to conclude a strategic arms reduction treaty to enhance the security of the United States.

President Bush has demonstrated his ability to move forward forcefully in the area of conventional arms control. I am hopeful that he will demonstrate the same creativity and commitment to the pursuit of strategic arms reductions and I look forward to working in support of the Bush administration's efforts to move forward in the START negotiations.

I am pleased that a senior delegation of the Senate Arms Control Observer Group will soon depart for Geneva and Vienna to consult with the United States arms control negotiators and to meet with delegations from Allied countries and the Soviet Union. This is an important step in an ongoing process of dialog and consultation between the Senate and the Executive branch regarding arms control and related strategic issues. I look forward to a strengthening of this consultative process in the best interests of the Nation.

Mr. DOLE. Mr. President, this week the United States and the Soviet Union resume the strategic arms reduction talks in Geneva. If a START agreement is reached, it will have immense consequences for our national security. Therefore, as I have said before, it is essential that we take the time to do it right.

Our negotiators need to be patient, and we here in the Senate need to be patient. We in the Senate also need to be aware that our actions in this body

can affect the United States negotiating posture in Geneva. This is especially true as we near consideration of the defense authorization bill.

We must be careful not to undermine our negotiators through unilateral cuts or other restrictions which could make it difficult for our negotiators to carry out their instructions from the President. President Bush has demonstrated his commitment to serious arms control. In order for these negotiations to be successful, this body must support him in that commitment.

I believe we must also keep in mind what success means in these negotiations—namely enhanced stability and security. Our goal is not, and should not be just to make cuts. Our goal is—and should remain—to make 50-percent cuts in a way which enhances the stability of the strategic balance.

Reductions should be achieved in the context of a comprehensive and forward-looking approach to our force structure. That is why the distinguished President pro tempore Senator BYRD, the distinguished Senator from California, Mr. WILSON, and I cosponsored a resolution to last year's defense authorization bill calling for a comprehensive report on the implications a START agreement may have on our strategic force posture during the 1990's.

The Bush administration has approached our section 908 report seriously and I expect we will receive it this week.

We may not all agree on every element of a post-START force structure, but the section 908 report should provide a good basis for discussion.

In my view the U.S. approach toward a post-START environment should include an ever-increasing role for strategic defenses. America's SDI Program shows great promise for our goals of enhanced stability and security. SDI offers us the best insurance against any gaps in a START verification regime.

Furthermore, strategic defense will also be our best insurance against mobile missiles.

In view of SDI's great potential, it is critical that the United States continue to protect and promote strategic defenses at the defense and space talks. In fact, I believe that a transition to greater reliance on strategic defenses will complement our efforts in the area of strategic offensive reductions in START.

I wish the best of luck to our Ambassadors Richard Burt and Hank Cooper in Geneva. The Senate observers will be travelling to Geneva next week and will be meeting with our negotiators. I will not be able to make this trip, but I look forward to hearing their report upon their return.

I am pleased to join the distinguished majority leader in cosponsoring this resolution supporting the President and his negotiators in their efforts at the nuclear and space talks.

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The resolution (S. Res. 149) was agreed to.

The preamble was agreed to.

The resolution, in its preamble, reads as follows:

S. RES. 149

Whereas reductions of strategic nuclear weapons which stabilize the nuclear balance through mutual and verifiable arms control treaties would enhance the national security of the United States and are a matter of the highest priority;

Whereas significant progress has been made in the strategic arms reduction (START) talks;

Whereas the successful conclusion of the intermediate nuclear forces (INF) negotiations, the ratification in 1988 of the INF Treaty, and recent initiatives regarding conventional forces in Europe indicate a favorable climate for further progress in arms control negotiations;

Whereas President Bush repeatedly has expressed his desire to pursue vigorously a strategic arms reduction agreement;

Whereas the Congress, the American people, and America's allies and friends overwhelmingly support the efforts of President Bush to make progress in all areas of negotiation with the Soviet Union; and

Whereas the START talks resumed in Geneva, Switzerland, on June 19, 1989: Now, therefore, be it

Resolved, That the Senate hereby—

(1) expresses its full support for the commitment of the President to achieving a verifiable and stabilizing strategic nuclear arms reduction treaty with the Soviet Union in order to advance the national security interests of the United States and its allies;

(2) encourages the United States and the Soviet Union to use vigorous diplomatic efforts to resolve the outstanding issues impeding progress toward successful conclusion of a START treaty;

(3) declares that an important obstacle to the conclusion of new arms control agreements with the Soviet Union has been its violation of existing treaties, and calls upon the Soviet Union to take steps to rectify its violations of such treaties, in particular, to dismantle the radar site at Krasnoyarsk, Union of Soviet Socialist Republics, since it is a clear violation of the terms of the Anti-Ballistic Missile Treaty; and

(4) urges the President to consult closely with the Senate and with America's allies as he proceeds with the START negotiations, recognizing that consensus and unity are essential to a successful conclusion, including ratification, of a strategic arms reduction treaty.

SEC. 2. For purposes of this resolution—

(1) the term "Anti-Ballistic Missile Treaty" means the Treaty Between the United States of America and the Union of Soviet Socialist Republics on the Limitation of Anti-Ballistic Missile Systems, done at Moscow on May 26, 1972; and

(2) the term "INF Treaty" means the Treaty Between the United States of America and the Union of Soviet Socialist Republics on the Elimination of Their Intermediate-Range and Shorter-Range Missiles, together with the memorandum of understanding and the two protocols thereto, done at Washington on December 8, 1987.

SEC. 3. The Secretary of State shall transmit a copy of this resolution to the President.

Mr. MITCHELL. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. GARN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

THE CALENDAR

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar Orders numbered 131 and 132, en bloc, that the bills be deemed read a third time and passed, and that a motion to reconsider the passage of the bills en bloc be in order and be laid upon the table; I further ask unanimous consent that the consideration of these items appear individually in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

AUTHORIZING THE APPOINTMENT OF THE ADMINISTRATOR OF THE FEDERAL AVIATION ADMINISTRATION

The bill (S. 1077) to authorize the President to appoint Adm. James B. Busey to the Office of Administrator of the Federal Aviation Administration, was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

S. 1077

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That notwithstanding the provisions of section 106 of title 49, United States Code, or any other provision of law, the President, acting by and with the advice and consent of the Senate, is authorized to appoint Admiral James B. Busey to the Office of Administrator of the Federal Aviation Administration. Admiral Busey's appointment to, acceptance of, and service in that Office shall in no way affect the status, rank, and grade which he shall hold as an officer on the retired list of the United States Navy, or any emolument, perquisite, right, privilege, or benefits incident to or arising out of any such status, office, rank, or grade, except to the extent that subchapter IV of chapter 55 of title 5, United States Code, affects the amount of retired pay to which he is entitled by law during his service as Administrator. So long as he serves as Administrator, Admiral Busey shall receive the compensation of that Office at the rate which would be applicable if he were not an officer on the retired list of the United States Navy, shall retain the status, rank, and grade which he now holds as an officer on the retired list of the United States Navy, shall retain all emoluments, perquisites, rights, privileges, and benefits incident to or arising out of such status, office, rank, or grade, and shall in addition continue to receive the retired pay to which he is entitled by law, subject to the provisions of subchapter IV of chapter 55 of title 5, United States Code.

SEC. 2. In the performance of his duties as Administrator of the Federal Aviation Administration, Admiral Busey shall be subject to no supervision, control, restriction, or prohibition (military or otherwise) other than would be operative with respect to him if he were not an officer on the retired list of the United States Navy.

SEC. 3. Nothing in this Act shall be construed as approval by the Congress of any future appointments of military persons to the Office of Administrator of the Federal Aviation Administration.

AUTHORIZING THE APPOINTMENT OF THE ADMINISTRATOR OF THE NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

The bill (S. 1180) to authorize the President to appoint Rear Adm. Richard Harrison Truly to the Office of Administrator of the National Aeronautics and Space Administration, was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

S. 1180

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That notwithstanding the provisions of section 202(a) of the National Aeronautics and Space Act of 1958 (42 U.S.C. 2472(a)), or any other provision of law, the President, acting by and with the advice and consent of the Senate, is authorized to appoint Rear Admiral Richard Harrison Truly to the Office of Administrator of the National Aeronautics and Space Administration. Admiral Truly's appointment to, acceptance of, and service in that Office shall in no way affect the status, rank, and grade which he holds as an officer on the retired list of the United States Navy, or any emolument, perquisite, right, privilege, or benefit incident to or arising out of any such status, office, rank, or grade, except to the extent that subchapter IV of chapter 55 of title 5, United States Code, affects the amount of retired pay to which he is entitled by law during his service as Administrator. So long as he serves as Administrator, Admiral Truly shall receive the compensation of that Office at the rate which would be applicable if he were not an officer on the retired list of the United States Navy, shall retain the status, rank, and grade which he now holds as an officer on the retired list of the United States Navy, shall retain all emoluments, perquisites, rights, privileges, and benefits incident to or arising out of such status, office, rank, or grade, and shall in addition continue to receive the retired pay to which he is entitled by law, subject to the provisions of subchapter IV of chapter 55 of title 5, United States Code.

SEC. 2. In the performance of his duties as Administrator of the National Aeronautics and Space Administration, Admiral Truly shall be subject to no supervision, control, restriction, or prohibition (military or otherwise) other than would be operative with respect to him if he were not an officer on the retired list of the United States Navy.

SEC. 3. Nothing in this Act shall be construed as approval by the Congress of any future appointments of military persons to the Offices of Administrator and Deputy Administrator of the National Aeronautics and Space Administration.

CLOSED CAPTION BROADCASTING OF SENATE FLOOR PROCEEDINGS

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 127, Senate Resolution 13, a resolution providing for close-captioned broadcasting of Senate floor proceedings.

The PRESIDING OFFICER. The resolution will be stated by title.

The legislative clerk read as follows:

A resolution (S. Res. 13) to amend Senate Resolution 28 to implement closed caption broadcasting for hearing-impaired individuals of floor proceedings of the Senate.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Maine?

There being no objection, the Senate proceeded to consider the resolution, which had been reported from the Committee on Rules and Administration, with an amendment.

The PRESIDING OFFICER. The question is on agreeing to the committee amendment.

The committee amendment was agreed to.

The PRESIDING OFFICER. The question is on agreeing to the resolution, as amended.

The resolution, as amended, was agreed to.

The resolution, as amended, is as follows:

S. RES. 13

Resolved, That Senate Resolution 28, agreed to February 27, 1986, is amended by adding at the end thereof the following new section:

"SEC. 17. The Secretary of the Senate shall, subject to the approval of the Senate Committee on Rules and Administration, contract with the Secretary of Education to provide closed captioning of the Senate floor proceedings. The Senate authorizes the Secretary of Education to have access to the audio and video broadcast of the Senate floor proceeding for the purpose of captioning. Such funds as may be necessary to carry out the purposes of this section are authorized to be paid from the contingent fund of the Senate.".

Mr. MITCHELL. Mr. President, I move to reconsider the vote by which the resolution, as amended, was agreed to.

Mr. GARN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ORDERS FOR THURSDAY, JUNE 22, 1989

RECESS UNTIL 9:30 A.M. AND MORNING BUSINESS

Mr. MITCHELL. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until 9:30 a.m., Thursday, June 22; and that following the time for the two leaders, there be a period for morning business not to extend beyond 10:30 a.m. with Senators permitted to speak therein for up to 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS UNTIL 9:30 A.M. TOMORROW

Mr. MITCHELL. Mr. President, if the distinguished acting Republican leader has no further business, and if no other Senator is seeking recognition, I now ask unanimous consent that the Senate stand in recess under the previous order until 9:30 a.m. on Thursday, June 22, 1989.

There being no objection, the Senate, at 7:37 p.m., recessed until Thursday, June 22, 1989, at 9:30 a.m.

NOMINATIONS

Executive nominations received by the Senate June 21, 1989:

DEPARTMENT OF VETERANS' AFFAIRS

S. Anthony McCann, of Maryland, to be an Assistant Secretary of Veterans' Affairs (Finance and Planning). (New position.)

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Wade F. Horn, of Maryland, to be Chief of the Children's Bureau, Department of Health and Human Services, vice Dodie Truman Livingston, resigned.

NATIONAL TRANSPORTATION SAFETY BOARD

Susan M. Coughlin, of Pennsylvania, to be a Member of the National Transportation Safety Board for the term expiring December 31, 1993, vice Lemoine V. Dickinson, Jr., term expired.

U.S. INFORMATION AGENCY

Henry E. Hockeimer, of Michigan, to be an Associate Director, of the U.S. Information Agency, vice Woodward Kingman, resigned, to which position he was appointed during the recess of the Senate from October 22, 1988, to January 3, 1989.

IN THE NAVY

The following named officer to be placed on the retired list in the grade indicated under the provisions of Article II, Section 2, Clause 2, U.S. Constitution.

To be vice admiral

Rear Adm. Richard H. Truly, [redacted]/1310, U.S. Navy.

CONFIRMATIONS

Executive nominations confirmed by the Senate June 21, 1989:

AMBASSADOR

JOSEPH VERNER REED, OF CONNECTICUT, FOR THE RANK OF AMBASSADOR DURING HIS TENURE OF SERVICE AS CHIEF OF PROTOCOL FOR THE WHITE HOUSE.

DEPARTMENT OF STATE

PETER F. SECCHIA, OF MICHIGAN, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO ITALY.

DEPARTMENT OF TRANSPORTATION

JEFFREY NEIL SHANE, OF THE DISTRICT OF COLUMBIA, TO BE AN ASSISTANT SECRETARY OF TRANSPORTATION.

KATE LEADER MOORE, OF THE DISTRICT OF COLUMBIA, TO BE AN ASSISTANT SECRETARY OF TRANSPORTATION.

IN THE COAST GUARD

PURSUANT TO THE PROVISIONS OF 14 USC 729, THE FOLLOWING NAMED CAPTAIN OF THE COAST GUARD

RESERVE TO BE A PERMANENT COMMISSIONED OFFICER IN THE COAST GUARD RESERVE IN THE GRADE OF REAR ADMIRAL (LOWER HALF).

FRED S. GOLOVE

DEPARTMENT OF COMMERCE

THOMAS JOSEPH MURRIN, OF PENNSYLVANIA, TO BE DEPUTY SECRETARY OF COMMERCE.

SUSAN CAROL SCHWAB, OF MARYLAND, TO BE ASSISTANT SECRETARY OF COMMERCE AND DIRECTOR GENERAL OF THE UNITED STATES AND FOREIGN COMMERCIAL SERVICE.

DEPARTMENT OF STATE

MORTON I. ABRAMOWITZ, OF THE DISTRICT OF COLUMBIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF CAREER MINISTER, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO TURKEY.

MELVYN LEVITSKY, OF MARYLAND, TO BE ASSISTANT SECRETARY OF STATE FOR INTERNATIONAL NARCOTICS MATTERS.

THOMAS MICHAEL TOLLIVER NILES, OF THE DISTRICT OF COLUMBIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF CAREER MINISTER, TO BE THE REPRESENTATIVE OF THE UNITED STATES OF AMERICA TO THE EUROPEAN COMMUNITIES, WITH THE RANK AND STATUS OF AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY.

RICHARD H. SOLOMON, OF THE DISTRICT OF COLUMBIA, TO BE AN ASSISTANT SECRETARY OF STATE.

JEWEL S. LAFONTANT, OF ILLINOIS, TO BE U.S. COORDINATOR FOR REFUGEE AFFAIRS AND AMBASSADOR-AT-LARGE WHILE SERVING IN THIS POSITION.

EDWARD N. NEY, OF NEW YORK, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO CANADA.

ROBERT D. ORR, OF INDIANA, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF SINGAPORE.

U.S. INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

FRED M. ZEDER II, OF NEW YORK, TO BE PRESIDENT OF THE OVERSEAS PRIVATE INVESTMENT CORPORATION.

MARK L. EDELMAN, OF MISSOURI, TO BE DEPUTY ADMINISTRATOR OF THE AGENCY FOR INTERNATIONAL DEVELOPMENT.

INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT

E. PATRICK COADY, OF VIRGINIA, TO BE U.S. EXECUTIVE DIRECTOR OF THE INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT FOR A TERM OF TWO YEARS.

THE ABOVE NOMINATIONS WERE APPROVED SUBJECT TO THE NOMINEES' COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.

DEPARTMENT OF THE INTERIOR

EDDIE F. BROWN, OF ARIZONA, TO BE AN ASSISTANT SECRETARY OF THE INTERIOR.

IN THE COAST GUARD

COAST GUARD NOMINATIONS BEGINNING CYRUS J. SCOTT, AND ENDING LUCILLE T. LALIBERTE, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JUNE 6, 1989.

PUBLIC HEALTH SERVICE

PUBLIC HEALTH SERVICE NOMINATIONS BEGINNING KENNETH L. BROOKS, AND ENDING ANDREW L. OLNES, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON MARCH 9, 1989.

PUBLIC HEALTH SERVICE NOMINATIONS BEGINNING BRUCE A. CHABNER, AND ENDING GARY W. BLAIR, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON MAY 17, 1989.

PUBLIC HEALTH SERVICE NOMINATIONS BEGINNING THOMAS R. BENDER, AND ENDING GEORGE E FOLEY III, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON MAY 17, 1989.

WITHDRAWAL

Executive nomination withdrawn by the President from further Senate consideration, June 21, 1989:

U.S. INFORMATION AGENCY

HENRY E. HOCKEIMER, OF MICHIGAN, TO BE AN ASSOCIATE DIRECTOR OF THE U.S. INFORMATION AGENCY, VICE WOODWARD KINGMAN, RESIGNED, WHICH WAS SENT TO THE SENATE ON JANUARY 3, 1989.

HOUSE OF REPRESENTATIVES *Wednesday, June 21, 1989*

The House met at 12 noon.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

We remember, gracious God, in this our prayer, those people who do not share the freedoms we enjoy, the hostages and all those who yearn for liberty and the rights of human dignity. We pray that oppressors will come to know the benefits of allowing people from all of Your creation the opportunity to be free and to share in the community of family and friends. Specially, we pray for the families of those captive that Your good spirit that transcends all time and place will give comfort and encouragement and allow for that peace that passes all human understanding. In Your name, we pray. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

Mr. HANCOCK. Mr. Speaker, pursuant to clause 1, rule I, I demand a vote on agreeing to the Speaker's approval of the Journal.

The SPEAKER. The question is on the Chair's approval of the Journal.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. HANCOCK. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently, a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 305, nays 102, answered "present" 1, not voting 24, as follows:

[Roll No. 96]

YEAS—305

Ackerman	Beilenson	Brown (CA)
Akaka	Bennett	Bruce
Alexander	Bereuter	Bryant
Anderson	Bevill	Bustamante
Andrews	Bilbray	Byron
Annunzio	Boggs	Callahan
Anthony	Bonior	Campbell (CA)
Applegate	Borski	Cardin
Archer	Bosco	Carper
Aspin	Boucher	Carr
Atkins	Boxer	Chapman
Barnard	Brennan	Clarke
Bartlett	Brooks	Clement
Bateman	Broomfield	Coleman (TX)
Bates	Browder	Combest
Conte	Kastenmeier	Pursell
Conyers	Kennedy	Quillen
Cooper	Kennelly	Rahall
Costello	Kildee	Rangel
Coyne	Kleczka	Ravenel
Crockett	Kolter	Ray
Darden	Kostmayer	Regula
Davis	LaFalce	Richardson
DeFazio	Lancaster	Rinaldo
Dellums	Lantos	Ritter
Derrick	Laughlin	Robinson
Dicks	Leath (TX)	Roe
Dixon	Lehman (CA)	Rohrabacher
Donnelly	Lehman (FL)	Rose
Dorgan (ND)	Leland	Rostenkowski
Downey	Lent	Roth
Dreier	Levin (MI)	Rowland (CT)
Duncan	Levine (CA)	Rowland (GA)
Durbin	Lewis (GA)	Roybal
Dwyer	Lipinski	Russo
Dymally	Livingston	Sabo
Dyson	Lloyd	Saiki
Early	Long	Sangmeister
Eckart	Lowey (NY)	Sarpalius
Edwards (CA)	Luken, Thomas	Savage
Engel	Manton	Sawyer
English	Markey	Saxton
Erdreich	Martin (NY)	Scheuer
Espy	Martinez	Schiff
Evans	Matsui	Schneider
Fascell	Mavroules	Schulze
Fawell	Mazzoli	Sharp
Fazio	McCloskey	Shaw
Feighan	McCollum	Shumway
Fish	McCurdy	Shuster
Flake	McDade	Sisisky
Flippo	McEwen	Skaggs
Florio	McHugh	Skeen
Foglietta	McMillan (NC)	Skelton
Ford (MI)	McMillen (MD)	Slattery
Ford (TN)	McNulty	Slaughter (NY)
Frank	Meyers	Smith (FL)
Frost	Mfume	Smith (IA)
Gallo	Michel	Smith (NE)
Gejdenson	Miller (CA)	Smith (NJ)
Gephardt	Miller (WA)	Smith (VT)
Gibbons	Mineta	Snowe
Gilman	Moakley	Solarz
Gingrich	Mollohan	Spence
Glickman	Montgomery	Spratt
Gonzalez	Moody	Staggers
Gordon	Morella	Stallings
Gradison	Morrison (CT)	Stark
Grant	Morrison (WA)	Stenholm
Green	Mrazek	Stokes
Guarini	Murtha	Studds
Gunderson	Myers	Swift
Hall (OH)	Nagle	Synar
Hall (TX)	Natcher	Tallon
Hamilton	Neal (MA)	Tanner
Hammerschmidt	Neal (NC)	Tauzin
Harris	Nelson	Thomas (GA)
Hatcher	Nielson	Thomas (WY)
Hawkins	Nowak	Torricelli
Hayes (IL)	Oakar	Towns
Hayes (LA)	Oberstar	Traficant
Hefner	Obey	Traxler
Henry	Olin	Unsoeld
Hertel	Ortiz	Valentine
Hoagland	Owens (NY)	Vander Jagt
Hochbrueckner	Packard	Vento
Horton	Pallone	Visclosky
Houghton	Panetta	Volkmer
Hoyer	Parker	Walgren
Hubbard	Patterson	Walsh
Huckaby	Payne (NJ)	Watkins
Hughes	Payne (VA)	Waxman
Hutto	Pease	Weiss
Jenkins	Pelosi	Weldon
Johnson (CT)	Penny	Whitten
Johnson (SD)	Perkins	Wise
Johnston	Petri	Wolpe
Jones (GA)	Pickett	Wyden
Jontz	Pickle	Wylie
Kanjorski	Porter	Yates
Kaptur	Poshard	Yatron
Kasich	Price	

NAYS—102

Armey	Hancock	Ridge
AuCoin	Hansen	Roberts
Baker	Hastert	Rogers
Ballenger	Hefley	Roukema
Barton	Herger	Schaefer
Bentley	Hiler	Schroeder
Bilirakis	Holloway	Schuette
Bliley	Hopkins	Sensenbrenner
Boehlert	Hyde	Shays
Brown (CO)	Inhofe	Sikorski
Buechner	Ireland	Slaughter (VA)
Bunning	Jacobs	Smith (MS)
Burton	James	Smith (TX)
Chandler	Kolbe	Smith, Denny (OR)
Clay	Kyl	Smith, Robert (NH)
Clinger	Lagomarsino	Smith, Robert (OR)
Coble	Lewis (CA)	Solomon
Coleman (MO)	Lewis (FL)	Stangeland
Coughlin	Lightfoot	Stearns
Craig	Lukens, Donald	Stump
Crane	Machtley	Sundquist
Dannemeyer	Madigan	Tauke
DeLay	Marlenee	Thomas (CA)
DeWine	McCandless	Upton
Dickinson	McCrery	Vucanovich
Douglas	McGrath	Walker
Edwards (OK)	Miller (OH)	Weber
Emerson	Molinari	Wheat
Fields	Moorhead	Whittaker
Frenzel	Murphy	Wolf
Gallegly	Oxley	Young (AK)
Gekas	Parris	Young (FL)
Goodling	Pashayan	
Goss	Paxon	
Grandy	Rhodes	

ANSWERED "PRESENT"—1

Campbell (CO)

NOT VOTING—24

Berman	Gaydos	McDermott
Collins	Gillmor	Owens (UT)
Courter	Gray	Schumer
Cox	Hunter	Torres
de la Garza	Jones (NC)	Udall
Dingell	Leach (IA)	Williams
Dornan (CA)	Lowery (CA)	Wilson
Garcia	Martin (IL)	Wright

□ 1228

So the Journal was approved.

The result of the vote was announced as above recorded.

PLEDGE OF ALLEGIANCE

The SPEAKER. The Chair will ask the gentlewoman from New Jersey [Mrs. ROUKEMA] to lead the Members in the Pledge of Allegiance.

Mrs. ROUKEMA led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate agrees to the amendments of the House to the concurrent resolution (S. Con. Res. 19) "Concurrent resolution to authorize printing

of a collection of the inaugural addresses of the Presidents of the United States."

The message also announced that pursuant to Public Law 100-204, the Chair on behalf of the Republican leader, announces the appointment of Mrs. KASSEBAUM, to the U.S. Commission on Improving the Effectiveness of the United Nations.

PROTESTING CHINESE BRUTALITY

(Mr. LEVINE of California asked and was given permission to address the House for 1 minute, and to revise and extend his remarks.)

Mr. LEVINE of California. Mr. Speaker, earlier today three young Chinese students were put to death. Their only crime was having the courage to speak out for democracy and freedom.

It is a universal human tragedy, Mr. Speaker, when old men feel compelled to kill children in a desperate attempt to maintain their power and authority. Yesterday several of us met with the Chinese Ambassador and protested these impending executions and the brutal Chinese Government policy.

□ 1230

Mr. Speaker, the Chinese Ambassador told us that in his words that any country in the same situation would respond similarly, that the Chinese Government exercised the utmost restraint and that no other country would be as responsible, as had been the Chinese.

Mr. Speaker, I fear that our President's restraint might be read by the Chinese Government as a mild American response to its outrageous behavior. Let there be no mistaking the broad and deep American revulsion at Chinese Government brutality and our support for the heroic Chinese students and people.

Mr. Speaker, let us take action today, both in terms of a resolution and in terms of the foreign aid bill that will let the Chinese Government know in no uncertain terms how distressed and horrified this Congress and this country are as we stand together in protesting this outrageous and brutal behavior.

FOREST USERS' PROTECTION ACT

(Mr. PASHAYAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PASHAYAN. Mr. Speaker, today I am introducing legislation that will amend the Federal Criminal Code to provide criminal penalties for the spiking of any tree on land owned by the Federal Government.

Tree spiking is the act of driving a long hard spike into the trunk of a tree to prevent a logger from harvesting the tree. The spike is designed to wreak havoc with the logger's chain saw, at least causing severe property damage. But because the spike may not be visible, grave personal injury can and does occur as well. For example, a 23-year-old sawmill worker in northern California was nearly killed in a spiking incident. A jagged section of a bandsaw struck him in the face, after it ripped into a 11-inch metal spike that had been driven into a tree.

This is environmental warfare, conducted by a small band of extremists determined to stop the harvesting of any trees whatsoever. No legitimate environmentalist, regardless of how passionate, supports such conduct. Tree spiking has been going on for years, but when the physical well-being of innocent persons is threatened, there is a dire need for congressional action.

My legislation creates sanctions against the willful insertion of spikes, the causing of physical injury, and the damaging of trees or personal property. It will penalize subsequent violations with increasing fines and jail terms. Finally, the bill establishes a reward for any person who furnishes information leading to the arrest or conviction of these criminals.

I urge my colleagues to fight back against tree spiking—a new form of domestic terrorism. This can be done by supporting my bill through cosponsorship and support in the final vote.

THE SEIZURE OF TONY O'BRIEN

(Mr. RICHARDSON asked and was given permission to address the House for 1 minute.)

Mr. RICHARDSON. Mr. Speaker, last week the Government of Afghanistan, taking action both brazen and unprovoked, seized Photo-Journalist Tony O'Brien while he was traveling on assignment in Kabul. Tony O'Brien, a resident of Santa Fe, NM, is an excellent photographer whose work has been displayed in major publications across this country. He has now been held by the Afghan secret police for a week. Yesterday, the Afghan regime finally admitted to this callous act—going as far as claiming that O'Brien may be a spy.

Mr. Speaker, the Afghan regime is clearly acting out of desperation. In hopes of forcing the United States to reopen diplomatic relations with their country, the Afghan regime is using Tony O'Brien as a pawn, a bargaining chip. Such action is abhorrent, repugnant, and should be denounced in the strongest terms.

Yesterday, I contacted the Afghan Charge D'Affaires to register my objection to his country's actions. I also cabled President Najibullah directly, requesting his personal attention on this matter—and urging Tony O'Brien's safe and immediate release.

Mr. Speaker, it is cowardly for nations to exploit innocent civilians to further their own interests. I call on the Government of Afghanistan to immediately release Tony O'Brien. I ask my colleagues' support to maintain pressure on the Afghan Government.

EXPANDING THE ANIMAL WELFARE ACT NOT A PRESSING ISSUE

(Mr. HANCOCK asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HANCOCK. Mr. Speaker, fellow dog breeders in my district have been voicing their opposition to a proposed rule that would expand the Animal Welfare Act. When I read the part of the rule which they objected to, I could not believe what the Federal Government was telling these people to do. First of all, anyone raising dogs for sale is going to take good care to see that they are treated well and properly nourished in order to bring the highest price for their product. But again, the Federal Government doesn't think that the public is capable of taking care of its own affairs.

One section of the rule sets standards for the exercise and socialization of dogs. This section mandates that all dogs be able to see and hear other dogs. If they cannot, there must be at least 1 hour of "positive physical contact" by humans once a day. This contact must come in the form of petting, stroking, or other touching. Thank God it doesn't have to be all at one time, and I don't think it has to be simultaneously. Also, the dogs must be exercised at least 30 minutes each day. Only they cannot be forced to do so. It was Congress' intent that dogs be given the opportunity to exercise, if they choose to only socialize. I guess that is OK.

This rule also requires the breeder to keep records of each dog's release for exercise that would be subject to Government inspection. I guess the next step is for the Department of Agriculture to commission a crack team of petting police to enforce these new regulations.

Wouldn't it be nice if these same rules pertained to Congress? We would have much happier staffs and a lot of slim colleagues. Or if it was applied to our children and spouses, we may not have the problems that plague our Nation's families.

In this dog eat dog world, is this one of the pressing issues that our Government should be addressing? I think not. One thing is for sure, if this rule is implemented, being put in the dog

house will not be such a bad thing anymore.

FLORIDA LEARNED THE HARD WAY

(Mr. TRIFICANT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TRIFICANT. Mr. Speaker, I ask my colleagues if they recall that Florida passed the most lenient gun law in America which says, "You can even carry a gun in an open holster."

Evidently now Florida has become both the O.K. Corral and the cemetery for seven children, all of whom were accidentally shot by other children. Florida is now grieving, and in the Florida Legislature they want a new law imposing jail terms for anyone whose gun is involved in a child's death. I guess Florida learned the hard way.

Mr. Speaker, the truth of the matter is, the Constitution guarantees the American citizen the right to bear arms, but not the right to tote cannons, and Congress must begin to deal with society and its reckless use of weapons.

I say to my colleagues, "You don't need Uzis to hunt rabbits and pheasants, and it shouldn't be the State of Florida and State legislatures micromanaging a policy that should come down from Washington with a Federal initiative to straighten the shooting galleries of America out."

WHY WE MUST HURRY AND PASS THE SUPPLEMENTAL APPROPRIATIONS FOR VETERANS

(Mr. GUNDERSON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GUNDERSON. Mr. Speaker and Members, once again the veterans of this land are waiting for us to clean up that supplemental appropriations bill and pass a supplemental appropriation for veterans.

Let us face the facts. Already there are some 4,000 medical personnel staff shortages, already there are reductions in outpatient capacity amounting to 20,000 visits per week, already there is a freeze on accepting new patients whose eligibility depends on available VA resources, already a freeze on capital accounts used to purchase replacement equipment, already a halt on activation of 96 recently completed medical facility projects.

Secretary Derwinski said that, if by June 15 we had not completed the dire supplemental funding appropriation bill for veterans, additional steps would be necessary including the closure of some specialized medical programs, staffing problems, and veterans benefits administration and reductions in ground maintenance at the DVA's 113 national cemeteries.

Mr. Speaker, the July 4 recess is upon us, and I say to my colleagues that we missed the Memorial Day recess; are we so insensitive to veterans that we will miss the July 4 one as well?

SLAUGHTER INTRODUCES DOMESTIC VIOLENCE LEGISLATION

(Ms. SLAUGHTER of New York asked and was given permission to address the House for 1 minute.)

Ms. SLAUGHTER of New York. Mr. Speaker, today I am introducing legislation that would designate October 1989 as "National Domestic Violence Awareness Month."

Domestic violence is the single largest cause of injury to women in the United States. Cutting across racial, social, and economic lines, this silent crime affects every part of our society. Domestic violence strikes at the heart of our Nation's families, because when the mother is being beaten, there is a 50-percent chance that her children are being abused as well.

Mr. Speaker, it is time that we recognize the victims who have persevered and survived this daily violence. We also need to commend the hard work and invaluable achievements that have been made through programs to combat domestic violence. But, we cannot stop here because there is more work that needs to be done. We must also expand these programs and give more women the help and support they need to break the cycle of violence. It is a tragedy in the country that for every battered woman receiving shelter, two other women must be turned away for lack of space.

Domestic Violence Awareness Month has been commemorated by those who work with victims of domestic violence for 10 years now. It is time for all of us to do the same. I invite my fellow colleagues to join with me, Representative MILLER and 26 other original cosponsors in bringing much needed attention to this tragic problem and to those who are working to alleviate it.

CHILD CARE LEGISLATION

(Mrs. ROUKEMA asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. ROUKEMA. Mr. Speaker, yesterday I spoke about a model child-care program established in my hometown of Ridgewood, NJ, by Mrs. Cathy Marino and how that child development center thrives today without the benefit of Federal funds. Today I would turn your attention to a similar program in Independence, MO. In fact, this Child-Care Program was the centerpiece of an ABC news report last Wednesday.

Like the program in New Jersey, the Independence, MO, program is the result of the combined efforts of the community, business, the school system, and parents. By using the already available school facility, child-care providers and parents have entered into a partnership that provides child care at an affordable price while still giving quality and parent involvement top priority.

As we mark up child-care legislation tomorrow in the Education and Labor Committee, I urge my colleagues to keep in mind the successes of the Independence, MO, and Ridgewood, NJ, programs. In our effort to help working parents pay for quality child care, we must not destroy the very kind of child-care programs that we want to encourage. With broad Federal controls and regulations that supplant State and local codes and standards, we will do just that.

Again, I stress that we should encourage child-care programs in States and communities across the country that have responded to the needs of working parents. The best way to do this is through block grants to the States as seed money to expand and build on these successful programs.

Any child-care legislation that Congress passes should do four important things:

First, keep direction and choice as close to home as possible—with State, community, school, and business—rather than a federally directed bureaucracy.

Second, inspire and invest in innovation suitable for local needs.

Third, give flexibility to integrate existing programs in the public schools as well as church-sponsored programs.

Fourth, and, given our enormous budget deficit, child-care legislation must propose fiscally prudent expenditures.

My bill, H.R. 1708, will do just these things and I ask for your support.

FOREIGN AID PRIORITIES

(Mr. ROTH asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ROTH. Mr. Speaker, today the Congress will take up two very important pieces of legislation: One, the supplemental, and the other the foreign aid bill. I think these two bills essentially show how out of kilter the Congress can become. Let me tell you why I say that.

In one bill we are going to tell the American people that we do not have enough money for veterans, we do not have enough money for Medicare, we do not have enough money for senior

programs. In the other bill, we are shoveling billions of dollars overseas.

Now, we all want, for example, democracy to succeed in the Philippines. And we are giving the Philippines a good deal of money—about $1.3 billion since 1986. But in this piece of legislation under title IX, you will find that we are giving an additional $1 billion. Why? Among the goals listed are these: To pay for Philippine debts, as if we did not have enough of our own; to promote exports to the United States in textiles and the like, as though we did not have enough compeition already; and to promote American jobs over in the Philippines.

This is not, in my opinion, a wise policy. It is really shortchanging the people of the United States, and I ask the Congress to take a look at this section. Under the rule, I do not know how much time we are going to have to debate this section, but take a look at it and see how you are affected under title IX of this bill.

OUR CHINA POLICY

(Mrs. SCHROEDER asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. SCHROEDER. Mr. Speaker, during the Reagan administration many times publicly I debated other officials of the administration, saying that it was not advisable to sell weapons to China.

They said, "Oh, no, no. These are our Communists and any weapons that we sell to China will make the Russians nervous." It was like their old standby strongman, be it Marcos, be it China, be it anything.

Well, now we have seen what has happened. Those weapons that we sold to China did not make the Russians nervous. It made the Chinese nervous, and as we now see them assassinating more and more young people for attempting to join the free world's privileges, and then sending the bill for the bullet they used to shoot that child to the family, this is an absolute outrage. It shows you where the Reagan administration policy went.

I think we have to act much more firmly. The Chinese think they can have it both ways. They think they can both trade with us and get all the benefits of our technology, but absolutely deny any of the privileges we give our citizens.

No, they cannot, and the President must be very firm about that and we in the Congress must send that message very clearly, that we cannot tolerate this anymore and that the assassinations this morning are just one more black mark on China's record.

THE STEEL IMPORT STABILIZATION IMPROVEMENT ACT

(Mrs. JOHNSON of Connecticut asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. JOHNSON of Connecticut. Mr. Speaker, 5 years of the voluntary restraint program has helped our domestic steel industry make great strides toward becoming internationally competitive. As we move toward extending the VRA's and assuring the vitality of a critical American industry, we must ensure that the program does not impede economic growth in other industries by limiting availability of steel.

Last week I introduced H.R. 2640 to extend the program for 3 years and to improve the process for allowing steel customers to gain access to steel when domestic sources cannot meet the supply demand.

Many steel users have felt the pinch of longer delivery times and some have even been put on allocation by steel suppliers. Companies have lost orders while the Government deliberated on whether to approve a short-supply request.

My bill would require the Department of Commerce to act on any short-supply request within 30 days, or within 15 days if the industry is at capacity.

Mr. Speaker, we still need a VRA program to keep the domestic steel industry on pace; but with American steelmakers near full capacity, shortages of some products occurring, and export opportunities for manufacturers expanding, we must ensure that steel customers can get steel from other sources when Americans cannot deliver it. We cannot jeopardize American jobs and expansion in one industry to protect jobs in another.

Extending VRA's for 3 more years, but without the current program's red tape, will ensure a first-class domestic steel industry and continued growth among small- and medium-sized steel users.

NATIONAL PLEBISCITE IN CUBA

(Mr. DOUGLAS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DOUGLAS. Mr. Speaker, Fidel Castro gets first prize. With the recent overthrow of General Stroessner in Paraguay, Castro is now the largest reigning dictator in the Western Hemisphere. He marked his 30th year in power in January of this year, and it is time that the Cuban people have a chance to vote in a fair and open plebiscite as to whether they want Castro to continue running their country.

□ 1250

Just as the people of Chile, after 15 years of rule by Pinochet, were allowed to give a voice in their future, it is time for Castro to do the same thing. It is urgently needed, because the United Nations has recently concluded that Cuba, along with Romania and North Korea, ranks as the worst of the human-rights violators among our nations.

President Bush and 170 intellectuals and writers have called for a national plebiscite in Cuba, and this body 2 weeks ago voted to support democracy in China.

Members are going to have a chance, because there is an amendment printed at page H2912 of the RECORD calling for a Cuban plebiscite. It is an amendment to the foreign aid bill. I intend to request a rollcall vote on the Cuban plebiscite, and I am just placing everyone on notice that when we get to that part of the bill, Members will have a chance to say whether they believe democracy should come to Cuba as they have in China.

ACID RAIN BILL WOULD TEAR THE HEART OUT OF APPALACHIAN COMMUNITIES

(Mr. APPLEGATE asked and was given permission to address the House for 1 minute.)

Mr. APPLEGATE. Mr. Speaker, President Bush's acid rain legislation is all one-sided. I am not saying that maybe something need not to be done, but if his bill is passed, it is going to tear the heart out of the many Appalachian communities, many of which are in my district. There is no consideration given to the economic impact of this measure.

What we need to do is to produce more coal, using clean-coal technology and allowing Americans to continue to have cheap electricity.

If Members come into my district, they can see in the coal communities hungry children, unclothed children, unsheltered children. We do not want to continue to see that happen.

He wants to have all of the Ohio electric users pay all of the bills, and yet, at the same time, he asks all Americans to bail out the failed S&L's in Texas and Colorado and all those places.

Let us have all America come in and help to take care of this problem. Let us be fair, and if there is anything that is going to be passed, it has got to be fair, and it will be fair, because I am going to have my voice in it.

I am saying, Mr. President, help us. Do not kill us. You depended on us for 200 years; now is the time that we need you.

RESERVATIONS ABOUT THE U.S. DIALOG WITH THE PLO

(Mr. ENGEL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ENGEL. Mr. Speaker, I rise to voice serious concern about the failure of the PLO to uphold commitments made in initiating its dialog with the United States. Last December, Yasir Arafat made a statement purporting to recognize Israel, renounce terrorism, and accept U.N. resolutions 242 and 338. Six short months later it appears that the PLO is unable or unwilling to uphold these basic commitments. Since Arafat's pledge, there have been no less than eight PLO terrorist acts against Israel with Arafat refusing to denounce any of them.

The Palestine National Charter remains in place, advocating armed struggle and calling for the destruction of Israel. Arafat has made no effort to change this document which remains the official operational manifesto of the PLO.

Furthermore, many top PLO officials have directly and repeatedly contradicted the explicit pledges made by the PLO last December. This calls into question the integrity of the PLO in conducting even the most basic of discussions.

Mr. Speaker, the PLO clearly has trouble living up to its commitments. There is a limit to the contradictions and violations which the U.S. should tolerate in this dialog.

I have authored a letter to Secretary of State Baker, cosigned by 53 of my colleagues, urging him to closely monitor the PLO.

TODAY WE HAVE A CHANCE TO PASS A CLEAN SUPPLEMENTAL

(Mr. GINGRICH asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GINGRICH. Mr. Speaker, I just want to rise and point out to the House that we will have a chance again today to send to the President a supplemental appropriation to help the veterans. We are going to have one vote on some very unnecessary money which has been set aside for one particular subcommittee.

Let me point out that the Democrats in the other body have consistently voted against that money, that both the Republicans and Democrats in the other body are opposed to it, that the President has said he will veto the bill if that extra money is put in there, and that, therefore, if Members will vote today to help us clean up the appropriations bill to help the veterans, we are going to be able to go home. On the other hand, if we insist on continuing to negotiate with the Senate, it is very likely we will be here Friday continuing to negotiate.

I think it is very likely that if we send this bill down to the President with unnecessary money in it, he will veto it. If we want to help the veterans, we have a chance today to pass a clean supplemental that helps the veterans, and I hope Members will join us in voting to take out the unnecessary money.

THE SITUATION IN CHINA

(Mr. WEISS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WEISS. Mr. Speaker, first the Chinese Government used tanks and troops to silence the pro-democracy movement. Then they used deception and lies in an attempt to erase the memory of the bloody massacre on Tiananmen Square.

Today marks the beginning of a new phase in crackdown—today the executions began. In a public event in Shanghai, three young men were shot to death for their participation in the demonstrations against the Chinese Government.

Yesterday President Bush announced plans to step up the American response to the brutal suppression of the democratic aspirations of the Chinese people.

Consistent with those efforts, I plan to offer an amendment to the foreign assistance bill tomorrow, on my behalf and that of the distinguished subcommittee chairmen, the gentleman from Pennsylvania [Mr. YATRON] and the gentleman from New York [Mr. SOLARZ], that would prohibit the participation of the Overseas Private Investment Corporation in China on any further investments there.

The continuing suppression of the pro-democracy movement clearly makes China ineligible for the benefits associated with OPIC coverage. The United States must not encourage additional private investment in a country whose government is so full of political violence.

Mr. Speaker, Congress and the American people are outraged at the recent events in China, and our response to these events must be as strong and as clear as that public outrage.

CONGRATULATIONS TO PRESIDENT ON DECISIVE ACTION CONCERNING CHINA

(Mr. DREIER of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DREIER of California. Mr. Speaker, I rise to extend congratulations to the President of the United States for the very firm and decisive action which he announced yesterday in dealing with this crisis about which so many of our colleagues are speaking.

There is a sense of outrage not just in the United States but throughout the free world that we are not going to stand by and tolerate this massacre which we saw in Tiananmen Square.

For President Bush to make it clear that he wants to see a delay in International Monetary Fund and World Bank action is a positive step, and for him to announce ceasing the planned visit of Commerce Secretary Mosbacher is one again a very clear step, because we have to send that message to the Chinese that we cannot have business as usual.

MEDICARE EXPENDITURE TARGETS

(Mr. LAUGHLIN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LAUGHLIN. Mr. Speaker, as a result of past attempts to balance the budget by cutting Medicare, we have managed to shut down numerous hospitals across the country. In my State alone approximately 160 hospitals have closed down and the effects are devastating. Now some folks want to ration physician services to the elderly through so-called expenditure targets.

We need only look at Canada's medical services to see that expenditure targets have only created huge waiting lines for sorely needed surgery, degraded conditions for elderly hospital patients, and, in some cases, added unnecessary and premature deaths while patients wait for treatment by surgeons constrained by "the target" from operating in time.

Expenditure targets can only force a physician to limit, restrict or postpone access to services. I am not willing to tell our elderly they must suffer a little bit longer so we can straighten out our budget problems. Their lives are at stake and we must therefore oppose any proposals to establish expenditure targets for the Medicare Program.

□ 1300

A BAD DAY FOR VETERANS?

(Mr. WALKER asked and was given permission to address the House for 1 minute.)

Mr. WALKER. Mr. Speaker, today would end up being a bad day for the Nation's veterans. The flag they fought under and died for was said by the Supreme Court to be something that can be burned as a legitimate form of protest. How appalling.

In this House later on today we may vote to sacrifice the veterans' legitimate needs to pork and politics. The

supplemental appropriation bill that began as an attempt to meet legitimate needs of the veterans of this country has been loaded up with at least $200 million worth of pork. We may or may not vote to pull that pork out of there and get back to a clean supplemental bill.

One of the items that is in there is over $800 million that goes to one subcommittee in this House, supposedly for drugs. The President pro tempore of the Senate has told us flatly that the money is needed, and I quote him when he said "that this is not the place to provide for drug funding," talking about the supplemental bill. We agree with him. We ought to strip that money out. We ought to strip it out too because in a way it represents all that is wrong with this Congress.

That subcommittee has not provided sufficient drug funding in the past. In fact, that subcommittee has consistently underfunded the programs based upon what the President asked for.

We ought to vote down this particular drug funding. Vote for the veterans.

RESPONSES TO OLIVER NORTH QUESTIONNAIRE

(Mr. HUBBARD asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HUBBARD. Mr. Speaker, on May 4, Lt. Col. Oliver North was found guilty here in Washington, DC, by a Federal district court jury of obstruction of Congress, destroying or mutilating official documents, and accepting an illegal gratuity.

Sentencing, which was to occur this coming Friday, has been postponed by U.S. District Judge Gerhard Gesell until July 5.

Earlier this month, I sent to my constituents in western Kentucky my 15th annual congressional questionnaire. A large number of these questionnaires have already been completed by my constituents and returned to my office. In fact, at this point, I have received some 16,500 responses, a larger number than normal so soon after the questionnaire was received by my constituents. Of these, my staff and I have tabulated 9,000.

Two of the questions on my 1989 questionnaire pertain to Oliver North, and I believe the responses are noteworthy.

Question four asks: "Do you believe President Bush should grant a presidential pardon to Oliver North?"

Of the 9,000 western Kentuckians whose responses have been tabulated, 6,496 responded that President Bush should pardon Oliver North whereas 2,312 responded that the President should not pardon him.

Question five, Mr. Speaker, asks which one of the following best describes Oliver North.

Of the 9,000 responses tabulated thus far:

a. An American hero, 1,051.

b. A well-informed operations officer acting on orders from his superiors, 5,463.

c. A naive scapegoat who was the fall guy for his superiors, 1,850.

d. A shrewd, zealous Marine Corps colonel acting on his own initiative, 608.

e. A violator of the law deserving of the guilty verdict handed him by a federal district court jury, 940.

EXPENDITURE TARGETS FOR PHYSICIANS' SERVICES UNDER MEDICARE

(Mr. BRUCE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BRUCE. Mr. Speaker, no matter how the proposal calling for expenditure targets for physicians' services under Medicare is couched, the bottom line is that it is nothing more than a system of rationing health care to elderly and disabled Americans.

The recommendation of the Physician Payment Review Commission calling for Medicare expenditure targets constitutes a radical departure from our Nation's commitment to creating a Medicare Program that provides the elderly with all necessary medical and other acute health care. It would replace that commitment with a system of economic incentives to withhold services to meet the expenditure targets. In effect, it calls upon physicians to make the rationing decisions for society on a case-by-case, encounter-by-encounter basis.

There is a better way. Imposition of expenditure targets is not necessary to control part B volume increases. In a recent report to Congress, this same commission indicated that effectiveness research, practice guidelines, and more comprehensive utilization review and quality review could play a rational role in volume constraints. Aggressive activities in these areas would totally negate the need for expenditure targets and provide the care needed by the elderly of our country without rationing. Continued research will benefit patients and will enable the Medicare Program to continue to meet its commitment to the elderly.

ADDITIONAL UNITED STATES SANCTIONS AGAINST THE PEOPLE'S REPUBLIC OF CHINA

(Mr. McMILLEN of Maryland asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. McMILLEN of Maryland. Mr. Speaker, congratulations are clearly in order for the President, who yesterday indicated his willingness to withdraw United States support for international bank loans to China. However, the reach of the sanction should be enlarged to be truly effective in sending a strong message to the Chinese Government.

To this end, President Bush needs to seriously consider abrogating the previously negotiated arrangement that permits the Chinese to use their Long March booster rocket to launch United States satellites. This contract was an important American gesture of support for the trend toward modernization and democratization in China. Since it is clearly not the case, we must tighten the vice tighter around the Chinese and send a clear message that we will not tolerate the continued repression in that country. We must cancel the contract, which will translate into many more jobs for Americans in this country.

I ask my colleagues in this House and urge them to join me in urging the State Department to consistently suspend all satellite exports under the Munitions Control Act. Only by being consistent in our selection of sanctions can we be assured that we have a chance of effecting positive change in the troubled People's Republic of China.

PROVIDING FOR CONSIDERATION OF H.R. 2655, INTERNATIONAL COOPERATION ACT OF 1989

Mr. HALL of Ohio. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 179 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 179

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 1(b) of rule XXIII, declare the House resolved into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 2655) to amend the Foreign Assistance Act of 1961 to rewrite the authorities of that Act in order to establish more effective assistance programs and eliminate obsolete and inconsistent provisions, to amend the Arms Export Control Act and redesignate that Act as the Defense Trade and Export Control Act, to authorize appropriations for foreign assistance programs for fiscal years 1990 and 1991 and for other purposes, and the first reading of the bill shall be dispensed with. All points of order against consideration of the bill for failure to comply with the provisions of clause 2(l)(6) of rule XI and clause 3 of rule XIII are hereby waived. After general debate, which shall be confined to the bill and which shall not exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Foreign Affairs, the bill shall be considered for amendment under the five-minute rule by titles instead of by sections, each title shall be considered as having been read, and all points of order against the bill for failure to comply with the provisions of clause 5(a) of

rule XXI are hereby waived except against the provisions beginning on page 514, line 7 through page 515, line 16; beginning on page 521, lines 4 through 19; and beginning on page 525, lines 1 through 15. Subject to clause 6 of rule XXIII, debate on all amendments, except as provided in the next three sentences, to the bill shall not exceed eight hours. It shall be in order to consider amendments en bloc, if offered by Representative Fascell of Florida, after consultation with the minority, said amendments en bloc shall be considered as having been read, shall each be debatable for not to exceed twenty minutes, equally divided and controlled by the chairman and the ranking minority member of the Committee on Foreign Affairs, and may amend portions of the bill not yet read for amendment. It shall be in order to consider an amendment, if offered by Representative McHugh of New York, or his designee, said amendment shall be considered as having been read, and shall be debatable for not to exceed forty minutes, equally divided and controlled by the proponent and a Member opposed thereto, said amendment shall not be subject to amendment or to a demand for a division of the question in the House or in the Committee of the Whole, and all points of order against said amendment are hereby waived. At the conclusion of consideration of the bill for amendment, it shall be in order to consider an amendment in the nature of a substitute, if offered by Representative Broomfield of Michigan, or his designee, said substitute shall be considered as having been read, and debate on said substitute and all amendments thereto shall not exceed forty minutes. If the amendment offered by Representative McHugh is adopted, no amendment, except the Broomfield amendment in the nature of a substitute, shall be in order in the House or in the Committee of the Whole which amends or affects the subject matter of the amendment offered by Representative McHugh. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit which may not contain instructions that amend or affect the subject matter of the amendment offered by Representative McHugh and previously adopted by the House.

□ 1310

The SPEAKER pro tempore (Mr. GEJDENSON). The gentleman from Ohio [Mr. HALL] is recognized for 1 hour.

Mr. HALL of Ohio. Mr. Speaker, I yield the customary 30 minutes to the gentleman from New York [Mr. SOLOMON], for purposes of debate only, pending which I yield myself such time as I may consume.

Mr. HALL of Ohio. Mr. Speaker, House Resolution 179 is a modified open rule providing for the consideration of H.R. 2655, the International Cooperation Act of 1989.

The rule provides for 1 hour of general debate to be equally divided and controlled by the chairman and ranking minority member of the Committee on Foreign Affairs. The bill shall be considered for amendment by titles, instead of by sections, and each title shall be considered as having been read.

The rule waives points of order against the bill for failure to comply with the provisions of clause 2(l)(6) of rule XI, relating to the 3-day layover, and of clause 3 of rule XIII, the "Ramseyer Rule."

It also should be noted that the rule waives all points of order against the bill for failure to comply with the provisions of clause 5(a) of rule XXI, the prohibition against appropriations in a legislative bill. This general waiver was granted to cover technical violations of this rule in view of the scope of this bill in rewriting the Foreign Assistance Act. However, after consultations between the Subcommittee on Foreign Operations and the Foreign Affairs Committee, waivers of this prohibition were not granted with respect to three specific sections of the bill.

Subject to clause 6 of rule XXIII, debate on all amendments to the bill, except as noted in the rule, shall not exceed 8 hours.

The rule permits Chairman FASCELL, after consultation with the minority, to offer amendments en bloc. The en bloc amendments shall be considered as having been read and may amend portions of the bill not yet read for amendment. These amendments shall be debatable for not to exceed 20 minutes, equally divided and controlled by the chairman and ranking minority member of the Committee on Foreign Affairs.

The rule also makes in order an amendment relating to El Salvador by Representative MCHUGH of New York, or his designee. This amendment shall be considered as having been read, and shall be debatable for not to exceed 40 minutes, equally divided and controlled by the proponent and a Member oppose thereto. This amendment shall not be subject to amendment or to a demand for a division of the question in the House or in the Committee of the Whole, and all points of order against it are waived.

At the conclusion of consideration of the bill for amendment, it shall be in order to consider an amendment in the nature of a substitute, if offered by Representative BROOMFIELD of Michigan, or his designee. This substitute shall be considered as having been read, and debate on it and all amendments to it shall not exceed 40 minutes.

If the McHugh amendment is adopted, no amendment, except the Broomfield substitute, shall be in order either in the House or in the Committee of the Whole which amends or affects the subject matter of the McHugh amendment.

Finally, the rule provides for one motion to recommit, which may not contain instructions that amend or affect the subject matter of the McHugh amendment if this amendment has been previously adopted by the House.

Mr. Speaker, H.R. 2655, the International Cooperation Act of 1989, seeks to rewrite certain authorities under the Foreign Assistance Act of 1961 in order to establish more effective aid programs and to eliminate outdated and inconsistent provisions of the current law. The bill also authorizes foreign aid programs for fiscal years 1990 and 1991.

I would like to express my strong support for section 1204(a) of this bill which earmarks $245 million in each of fiscal years and 1990 and 1991 in development assistance and economic support assistance to carry out child survival and international health activities. This provision of the bill reflects H.R. 2312, which I introduced with the gentleman from New Jersey [Mr. SMITH]. I commend my colleague from New Jersey for his leadership on this issue in committee, and I thank the Foreign Affairs Committee for voting to add this important earmark to H.R. 2655.

I also appreciate the action taken by the committee to add human rights provisions in section 603 relating to monitoring, reporting, and making policy recommendations for assistance under title I with respect to human rights matters regarding civilians and noncombatants in situations of armed conflict. As stated clearly in the committee report, these rights include respect for the basic dignity of the person, free and safe passage of relief supplies, access of impartial humanitarian organizations providing relief assistance, and protection of objects indispensable to the survival of the civilian population including foodstuffs and drinking water. It is my hope that this section of the bill, which is similar to H.R. 1616 which I introduced, will encourage renewed attention to the rights of civilians and noncombatants in situations of armed conflict.

Mr. Speaker, this is a bipartisan rule designed to facilitate House consideration of important foreign aid and foreign policy issues. I urge my colleagues to adopt it.

Mr. SOLOMON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, may I first of all commend the chairman of the Rules Committee, Mr. MOAKLEY, for his diligent work in seeing to it that a fairly fair rule was brought forward. There was extensive bipartisan consultation in the writing of this rule, and I believe that fact should be duly noted.

As the gentleman has indicated, the rule provides for 1 hour of general debate, to be followed by 8 hours of debate under the 5-minute rule. It is, thus, an open rule. The rule also provides for 40 minutes of debate on an amendment to be offered by Mr.

MCHUGH. Mr. MOAKLEY, as well as 40 minutes of debate on an amendment in the form of a substitute to be offered by Mr. BROOMFIELD of Michigan. Finally, there is permitted a motion to recommit, with or without instructions.

My one criticism of this rule concerns the unusual protection that is afforded to the McHugh amendment. It is regrettable that this particular amendment is given preferential treatment, dealing as it does with only one country, El Salvador. I regret that this one beleagured country is singled out for critical scrutiny on a year-to-year basis, particularly given the 2-year nature of the bill.

But the rule goes on to protect the McHugh amendment from being amended, and it prohibits the instructions that could accompany the motion to recommit from affecting the McHugh amendment. These are serious and potentially dangerous precedents that I hope will not be repeated in the future.

Mr. Speaker, before concluding, I would like to make a couple of other comments.

There has been some discussion, and perhaps confusion, among Members about the necessity of having amendments to this bill pre-printed in the RECORD. I hope everyone will pay attention to this, especially those Members who may be listening in their offices.

Having your amendments pre-printed in the RECORD does not relieve you of the obligation for being here, when the title your amendment deals with is open. Once a title has been completed and closed, we will not go back to it. If, however, when the 8 hours of debate under the 5-minute rule are completed and some titles have not yet been considered, you will have the right to offer any pre-printed amendments you may have concerning these remaining titles. I hope this explanation will help clear up any confusion that may exist on this point.

Finally, Mr. Speaker, I would just make a comment about H.R. 265 itself. This is an extraordinarily complex piece of legislation. Not only does it authorize over $11 billion worth of programs; it also will have a substantial impact on the conduct of U.S. foreign policy. But it does even more: it completely rewrites the core legislation governing foreign aid. This is a task that had not been done for 28 years. And so I salute Chairman FASCELL and the Foreign Affairs Committee for their yeoman work in bringing this bill before us today. But I would also caution Members about what is or is not in the bill.

I must say that nobody will be completely happy with how the core legislation was rewritten, and I will have some amendments on that subject, myself. I am particularly concerned about the section 620(f) Communist countries list. You will hear more about this later.

For the time being, Mr. Speaker, I reserve the balance of my time.

□ 1320

Mr. HALL of Ohio. Mr. Speaker, for purposes of debate only, I yield 5 minutes to the gentleman from Ohio [Mr. TRAFICANT].

Mr. TRAFICANT. Mr. Speaker, today I will support the rule on the foreign aid bill, but I am not going to support the bill. I personally cannot see paying your neighbor's rent bill while the bank is foreclosing on your own family home.

I also believe that America is not really buying friends, and this money, while it is well-intended, is in many cases not getting to the people who really need it. Case in point, look at Marcos. The biggest debate now is, if Marcos did anything at all for the people with that money. Now we all heard about the shoes, but who really benefited from the policy of America in providing foreign aid? Who is talking down here about domestic aid for America?

Now, let Members take a look at the last 8 years and talk about what has been cut. We cut education. We cut housing. We cut research and development, for America. We also cut school nutrition. We cut child lunch programs. We also cut public works projects, roads, bridges. We also had taken away revenue sharing money for the cities. Some said that was pure pork. Members stood up here on the floor and said that was pure pork, that money going to American cities. We also cut Urban Development Action Grants, grants designed to get cities, areas, and communities high in unemployment rates, back into the mainstream. No, no, that was pork. We had to cut it.

What I am saying today is, the foreign aid bill in my opinion is pure pork, we could take an axe to it, and we would hurt nobody, and we might help our country. No one is taking a look at the situation that is occurring right before our eyes. Everybody is talking about this great economic boom and how great everything is going. In my district, people have lost pensions and they are worried about losing more of those pensions. Senior citizens have lost their medical and life insurance benefits through contracts that companies dropped and pulled out from. The Justice Department is letting them get away with it.

We have just presided over a Chapter 11 proceeding here, by bailing out a savings and loan industry. Members might laugh, but the signals and the flags are quite clear to me. We have an average of $150 billion worth of deficits, and no one is going to stand up today and holler deficit. I am hollering deficit today, and I am saying now is the time for all the conscientious Members of Congress who want to cut the deficit, to get out their knives, now. The two top banks in the world, 6 years ago, were American. Today, in the top five banks, America is not even represented. Foreign countries are coming in, buying America right before our eyes, renting it back to Americans. We are over here sitting, presiding over the greatest free trade giveaway in world history. Our jobs are going overseas, and they are continuing to ship the products back, and we are doing nothing about it. Nothing.

So today, I doubt if there will be many people in this House listening to me, I would like to see all Members vote this turkey down. However, if Members do not, I will be offering amendments, if there is not some technicality yet that will not allow them to be brought. I am hoping that the intent of the gentleman from New York, Mr. SOLOMON'S amendments, and I agree with him 100 percent, that we might join forces. I do not know what the time restraints are. My amendments would cut it 10 percent across-the-board. Everybody is treated alike in my amendment. If that fails, Members of Congress could vote on a 6-percent, then a 3-percent across-the-board cut. I would hope that while our Congress supported protecting that oil in the Persian Gulf, Japan's oil, basically, so they could ship us more Toyotas, that we would look at America today and take care of our country first, and if we could spend $11 billion overseas, we could put a little more money into Cleveland, Youngstown, Pittsburgh, New York, and Los Angeles.

That is all I am saying. I wish all Members well and hope we can come together, and make a cut, and I commend the gentleman from New York [Mr. SOLOMON]. I commend many of the things the gentleman has been doing. Congratulations on your seat on the committee, and I hope that people vote for my amendments, and I hope we get a chance to bring them together.

Mr. SOLOMON. Mr. Speaker, I yield 5 minutes to the distinguished ranking member of the Committee on Foreign Affairs, the gentleman from Michigan [Mr. BROOMFIELD].

Mr. BROOMFIELD. Mr. Speaker, I support this rule for consideration of the foreign aid bill. However, I have strong reservations about one element of the rule. This could create a likelihood that the House would vote to unravel the foundations of the bipartisan accord on Central America that was reached between President Bush and congressional leaders earlier this year.

The rule makes in order an amendment to be offered by Congressman

MCHUGH. The McHugh amendment would limit the authorization of assistance to El Salvador. The McHugh amendment would require Congress to pass a resolution of approval in order to free funds for El Salvador during the second half of the coming fiscal year.

Mr. Speaker, the Committee on Foreign Affairs worked long and hard to reach an agreement on the issue of aid to El Salvador in fighting the Communist insurgency in that country. The compromise reached in Committee would provide for traunching of the funds to El Salvador every 6 months with a 2-year authority.

The bipartisan accord on Central America between the Bush administration and Congress was supposed to result in bipartisan cooperation on how to confront the political and military problems in that part of the world. The administration, the majority and minority worker in good faith to reach a compromise on El Salvador.

The McHugh amendment that is given special status under this rule would help to unravel the bipartisan accord on Central America that was reached between the administration and Congress. It could open up a new era of partisan warfare on Central America. This is something that has been very counterproductive in the past.

I also wish to highlight one other provision of equal, if not greater concern, contained in the bill on Central America. This is the section 707(b) policy language on Nicaragua. This provision directly threatens the bipartisan accord on Central America. It would make it impossible for the President to discuss steps on how to implement that agreement with countries which receive U.S. assistance. It prevents the President from entering into any agreement with such countries concerning the Nicaraguan resistance.

Mr. Speaker, while I have these reservations, I am hopeful that we will be able to work under this rule to improve the bill so that it can have wide support. I call upon the majority leadership to seriously consider efforts to modify these two provisions in title VII.

Finally, let me point out that debate on the various titles could be closed as we go on. Therefore, Members who have amendments to a title should come to the floor at an appropriate time to ensure that their amendments are considered. In addition, it is advisable for Members to preprint their amendments in the RECORD by the close of business Thursday for consideration on the floor, in which case they will be guaranteed 5 minutes of debate under House rule XXIII.

Mr. Speaker, it is difficult to bring a foreign aid bill successfully to the floor at any time. I commend Chairman FASCELL for his perseverance in shepherding this bill through Committee and to the floor of the House. I would also like to commend the gentleman from Indiana [Mr. HAMILTON] and the gentleman from New York [Mr. GILMAN] for chairing the task force to rewrite the Foreign Assistance Act of 1961.

I believe that the rule permits us to make the improvements necessary in this bill in order to obtain not only broad support in the House but also the approval of the administration. While the debate will undoubtedly be hectic, no Member will be denied his right to offer an amendment at the appropriate time. However, Members must be present to do so.

□ 1330

Mr. Speaker, I would also like to thank the gentleman from New York [Mr. SOLOMON], a former member of the Committee on Foreign Affairs, for his efforts in handling this particular rule.

Basically, I think if we can clean up those two areas I mentioned, we will receive the full support of the administration, and if not, I think we have some serious problems as far as a veto is concerned.

Again, Mr. Speaker, I urge the support of the Members for this rule.

Mr. SOLOMON. Mr. Speaker, I yield 5 minutes to the gentleman from New York [Mr. GILMAN], a member of the Committee on Foreign Affairs.

Mr. GILMAN. Mr. Speaker, I am pleased to rise to express my support for H.R. 2655, a bill to amend the Foreign Assistance Act of 1961.

It has been almost 30 years since Congress and the President wrote the basic law governing U.S. foreign assistance programs. During that time, the political, economic and military conditions in the world have changed considerably. With that in mind, almost 2 years ago, Chairman FASCELL requested the distinguished chairman of the Subcommittee on Europe and the Middle East, the gentleman from Indiana [Mr. HAMILTON] and me to cochair a task force charged with evaluating the direction our foreign assistance program must follow, over the next several years.

Our task force reached several important conclusions. First, that U.S. foreign assistance is essential to preserve our national security interests, by providing crucial support to our allies, both economically and militarily. Second, it performs a critical humanitarian role by helping to alleviate poverty, as well as suffering from natural disasters.

While the foreign aid task force recognized the necessity for foreign aid, it also illuminated the need to reduce the legislative restrictions in the bill, to reduce reporting requirements, reduce earmarks and, in general, to give the President more flexibility to implement the Foreign Aid Program as an important foreign policy tool.

The bill before us today makes some progress in achieving those goals. It deletes many unnecessary and outdated provisions and consolidates many of the goals and objectives of our economic and military assistance programs. The bill calls for new, centralized accounting systems for the Foreign Military Sales Program. This would prevent countries from illegally selling U.S. technology to third countries.

These are all positive changes. Our report also called for the elimination of all earmarks. This has proven to be impossible. The Committee on Foreign Affairs feels very strongly that earmarks must be used to secure adequate funding for our most resolute allies.

Some Members of this body are not happy with every provision of the bill. Nor is the administration 100 percent pleased with every provision of the bill. However, it is important to bear in mind that this bill represents compromise. Our Foreign Affairs Committee has consulted with the executive branch every step of the way, and the end product may not be a perfect piece of legislation, but it is a good one.

I want to commend the distinguished chairman of the Committee on Foreign Affairs, Mr. FASCELL, for his expeditious handling of this bill and for his outstanding leadership throughout the markup process.

Permit me also to take this opportunity to thank and commend the staff members of the foreign aid task force for the outstanding job they did, both in preparation of the report, and throughout the markup.

Mr. Speaker, I strongly believe that a properly functioning foreign assistance program is vital for U.S. strategic interests.

Accordingly, I urge my colleagues to fully support this rule and its accompanying important legislation.

Mr. SOLOMON. Mr. Speaker, I yield 4 minutes to the gentleman from Pennsylvania [Mr. WALKER].

Mr. WALKER. Mr. Speaker, I thank the gentleman for yielding this time to me.

Mr. Speaker, I rise in opposition to rule, and I want to offer an explanation as to why I oppose it. It is based upon the talk that we have heard around the House over the last several weeks about bipartisanship.

We have heard a lot of talk that what we need in this body is to have the kind of bipartisanship that offers a chance for open debate where partisan differences are voiced but where it is done in a way that is fair and honest and open. I think that that is really the essence of what this body should be all about. We should have open and

free debate on the matters that come before us.

This bill, the foreign aid bill, has numerous opportunities for some differences among us. There is nothing wrong with that. As long as we have an opportunity to debate those things, it is to the advantage of the House to have those kinds of debates and resolve them in what the majority of us believe is in the national interest. That is what this body is all about.

For the most part, this rule attempts to do that, so from that standpoint it probably deserves some support. However, fair, open, and honest bipartisanship also means that the rights of the minority must be protected fully at all times. We cannot have bipartisanship around here if we begin to always chip away at the basic rights of the minority party as it affects this body.

Bipartisanship cannot be a part-time thing. It cannot be pursued only when it is convenient. It has to be a full-time thing, reflected each day in the rules that come before us that define the terms of the debate.

Mr. Speaker, that is the reason why I am concerned about the rule we are adopting here. When I go to page 4 of the rule, beginning with line 12, I find an interesting little addition to this rule that I have not seen before. This language says we are allowed a motion to recommit, which has always been a basic right of the minority, "which may not contain instructions that amend or affect the subject matter of the amendment offered by Representative MCHUGH."

In other words, now for the first time, the minority is being told that it can offer the motion to recommit, but we cannot do certain things in the motion to recommit.

That is terribly wrong. That is exactly what many of us complain about as impinging upon the rights of the minority, because when we look beyond it, we recall that just the other day we had the savings and loan bill out here and we used the motion to recommit to do something that was very positive from our point of view. We used our legitimate right in order to win in a fair fight. Now, in the very next rule that we get back, we find that the majority on the Rules Committee has now decided that in their rule they are going to limit our right to use the motion to recommit in the debate. That strikes us as a little strange and not out of context.

I would suggest to my colleagues on the minority side that we would do ourselves a disservice and we would do bipartisanship a disservice to adopt a rule that suggests that bipartisanship in the use of the rules around here is just a part-time thing, that we do not have to always be bipartisan, and that we do not always have to guard the rights of the minority.

Mr. Speaker, in this particular instance I think the rights of the minority have again been impinged upon, that the basic fundamental idea of free and open debate is being undermined and that we ought to defeat the rule.

Mr. SOLOMON. Mr. Speaker, I yield 3 minutes to the gentleman from Florida [Mr. MCCOLLUM].

Mr. MCCOLLUM. Mr. Speaker, I thank the gentleman for yielding time to me on this point.

Mr. Speaker, I join the gentleman from Pennsylvania [Mr. WALKER] in opposition to this rule. I think that the one provision the gentleman is most concerned about that is protected under the rule for the motion to recommit, interestingly enough, applies to El Salvador.

□ 1340

Mr. Speaker, that in my judgment will be a primary focus in the debate in the Foreign Assistance Act of many of us in the next couple of days.

It was just 4 years ago this week that four U.S. marines lost their lives in El Salvador. They lost their lives in large measure because the police forces in the city did not have any training, were not there to respond, had no radios to talk to each other, and those who did the dirty deed basically got away. There have been recent apprehensions just this year that may allow some hope for someone being brought to justice for those four marines' deaths.

But as a result of that, a very primary precipitating factor: As a result of that we put into the foreign assistance bill in 1985 a waiver of a prohibition on training police for our military to train police in various parts of the world, and for a couple of years after that the U.S. military did train the police in El Salvador, an there are numerous reports on the books from the ambassador down there and from those involved at what a great success this really was. We not only were able to train the officers of the police cadres, we trained 16,000 individual police officers with the Salvadoran police primarily in the city of San Salvador. We trained them in riot control, we trained them in human rights, we trained them in basic law-and-order things. We also trained them in counterinsurgency, and how to have caches of arms and how to handle things in an investigation in a police way to protect evidence, and so on, in many, many ways. In addition, under that program we provided them with radios they never had before. We provided them with cars and all other kinds of equipment.

Mr. Speaker, unfortunately that proviso expired some time ago, and on this bill I am going to offer an amendment to allow the waiver to be renewed.

There have been numerous assassinations in the last few weeks in El Salvador. Our own American personnel feel threatened down there right now. It is very important, according to everyone with whom I have spoken, including our own Vice President who was just down there last week, that we renew the opportunity for our U.S. military advisers and those who are professionals in this training to go into El Salvador, into the country, and once again resume the training of the police in that city, to give them the equipment they need to have, to provide them with a day-to-day training and allow them to do things that they otherwise would not have the ability to do as those forces turn over.

Just this past week the largest arms cache ever found in that country was discovered by these police, and a cable from our ambassador said:

> That in large measure is due to the training we gave them that they were able to unearth this through very good police practices.

This is just one example of what can be done if we will provide the kind of assistance necessary to do that. Unfortunately the bill in its present form does not do that, so I would urge my colleagues to allow this amendment when it comes up and to pass it as a part of this bill.

Mr. HALL of Ohio. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, before I make a motion I would just like to take a few moments and try to answer the gentleman from Pennsylvania [Mr. WALKER] relative to his questions and his statement.

I have been carrying as a member of the Committee on Rules the foreign authorization bill for a number of years, and I believe that this is probably one of the fairest rules that we have had in a long time. It is a very, very open rule, and, if I must say, I think the minority has ample opportunity to really go after the McHugh amendment, if they want to.

First off, Mr. Speaker, they can defeat it right off the bat, an up or down vote. No. 2, the amendment of the gentleman from Michigan [Mr. BROOMFIELD], if offered by Mr. BROOMFIELD, has the ability in it to amend the McHugh amendment or delete it if they see fit.

Mr. Speaker, I think this is a very fair rule. It received no opposition in the Committee on Rules, and it received unanimous approval in the Committee on Rules. As a matter of fact, this question was not even raised.

Mr. WALKER. Mr. Speaker, will the gentleman yield?

Mr. HALL of Ohio. I yield to the gentleman from Pennsylvania.

Mr. WALKER. Mr. Speaker, I thank the gentleman from Ohio [Mr. HALL] for yielding.

Mr. Speaker, the point I am making, and I hope I made it well, was that I do think that on the face of it the rule is a pretty fair rule, but it really strikes some of us who watch these things, when all of a sudden what is regarded as a fundamental right of the minority, the motion to recommit is narrowed, and that is my complaint, is that I do not know why we had to in a very fair rule just narrow the right of the minority because I have to assume, based upon everything I have seen and heard for the last several years, that once that is done, then we are going to find another rule just down the pike a ways where we also have a narrowing of the right of the minority to offer a motion to recommit in the form that we wanted.

Mr. Speaker, I am just saying to the gentleman from Ohio [Mr. HALL] that I do not like the precedent, and it seems to me it is totally unnecessary here given the fact that we will have had a couple of cracks at the McHugh amendment, that the chances of that would be put in the motion to recommit are not very good anyway, and I do not understand why at this juncture we had to have that narrowing of that right in this rule.

Mr. Speaker, I thank the gentleman from Ohio [Mr. HALL] for yielding.

Mr. HALL of Ohio. Mr. Speaker, I must say that I do not think this is precedent setting. We have done this a number of times on bills with motions to recommit with instructions. We have protected certain titles. I can think, for example, of a number of bills that we have had on the floor.

Mr. WALKER. Mr. Speaker, will the gentleman yield?

Mr. HALL of Ohio. I yield to the gentleman from Pennsylvania.

Mr. WALKER. However, Mr. Speaker, some of us run to the assumption that we are operating under a new era around here where exactly those kinds of things were supposed to stop, that where the rights of the minority were going to be protected and that this is one of the first chinks we see in that particular assurance, and I got to say to the gentleman from Ohio [Mr. HALL] that I am concerned, and I think a number of other Members on our side are concerned about it.

Mr. HALL of Ohio. Mr. Speaker, I simply must say that we did not receive this kind of opposition in the Committee on Rules yesterday from the minority.

As a matter of fact, Mr. Speaker, there was a very good feeling about it, and we feel that we have been very, very open about this rule. As a matter of fact, it is the most open rule that I have been part of relative to foreign authorization in probably the last 5 or 6 years.

With that, Mr. Speaker, I would ask the gentleman from New York [Mr. SOLOMON] if he has any more requests for time.

Mr. SOLOMON. Yes, Mr. Speaker, we do.

Mr. Speaker, I yield myself just 1 minute to respond.

Mr. Speaker, I say to the gentleman from Ohio [Mr. HALL] that in my opening remarks I said that this was in my opinion a fairly fair rule, and I did appreciate all of the bipartisan consultation that the majority did give us. They were, I think, quite fair.

However, Mr. Speaker, I did state in exactly the same terms that the gentleman from Pennsylvania [Mr. WALKER] did, that I hoped that the limitations on amending the McHugh amendment and limiting the motion to recommit without bipartisan agreement, would not happen again.

Mr. Speaker, I yield 3 minutes to the gentleman from California [Mr. HUNTER].

Mr. HUNTER. Mr. Speaker, I thank the gentleman from New York [Mr. SOLOMON] for yielding this time to me, and I thank him for the opportunity to come out and speak during this time on the rule about a provision in the language that I find to be very offensive to this Nation's undertaking of promotion of democracies around the world and that specifically section 707B, the restriction on agreements and understandings with regard to Nicaragua.

Let me just read to my colleagues on both sides of the aisle the language. The United States, and I quote:

> Shall make no agreement, either direct or indirect, and shall enter into no understanding, either formal or informal, under which a recipient of United States economic or military assistance or a purchaser of United States military equipment shall provide assistance of any kind to persons or groups engaging in an insurgency or other act of rebellion against the government of Nicaragua.

My colleagues, if we have this language in effect with regard to America's operations around the world, the Soviets would still be in Afghanistan. We would have absolutely no recourse with regard to China. Presumably the students who are being crushed under tank treads in China and now being executed are rebellious. They are members of an insurgency, at least according to the Chinese communist leadership, and the United States would have absolutely no right in an attempt to persuade another nation to help those so-called insurgents.

Mr. Speaker, I would suggest that there is a very strong similarity between those lovers of freedom and democracy, those people in the opposition parties who march in Nandaime and the young people who are killed in Beijing. They were brutalized by the police. Many people who have resisted repression in Nicaragua have been executed, and it does not accrue to the benefit of democracy anywhere in the world to so limit the United States in our attempt to promote democracy.

It appears to me that we are taking another step on the way toward criminalizing foreign policy and further tying the hands of President Bush. I think it is absolutely wrong, and I think it flies further in the face of the so-called bipartisanship that we undertook early this year with regard to the Central American agreement.

Mr. Speaker, I hope that the body finds the will to move this provision out of this bill. Let me just say that in theory, at least, this means that, if Radio Catolica in Nicaragua is shut down and we provide help to Radio Catolica, we provide parts to get that radio going, then we are helping insurgents, and we are helping a rebellion.

□ 1350

It means that if La Prensa is outlawed by the Sandinista government and we persuade another nation to help supply newsprint, for example, to La Prensa so Mrs. Chamorro can print uncensored statements in Nicaragua, then we are fostering the rebellion and we are violating this provision.

Mr. SOLOMON. Mr. Speaker, I yield 2 minutes to the gentleman from California [Mr. DREIER].

Mr. DREIER of California. Mr. Speaker, I thank my friend for yielding me this time.

I rise to voice my concern, too, about this rule, because of the specific treatment of the McHugh amendment. It clearly is a violation of this tremendous bipartisan accord which has been brought about in dealing with the crisis in Central America.

I also want to say while I have this time, Mr. Speaker, that I am going to be joining my colleague, the gentleman from Florida [Mr. MCCOLLUM] in offering this very important amendment which deals specifically with the training of police in El Salvador.

In 1985, this waiver was put into place and the success has been unbelievable. I made several trips to El Salvador and on June 1st when I had the privilege of representing the President at the inauguration of the newly elected president, the first democratic transition from one elected president to another, the night before that inauguration, on June 1, we saw the largest cache of weapons ever seized. That would not have taken place had it not been for the training which we had provided the police forces in El Salvador.

Mr. Speaker, 283 Soviet-made AK-47's were seized. I went around and looked at this cache of weapons, and when the debate is up we will have a photograph of some of those weapons. It is unbelievable, Hungarian-made guns, a wide range of weapons which

were seized simply because of this exception.

It is very important that the McCollum amendment be included in this bill, Mr. Speaker.

Mr. SOLOMON. Mr. Speaker, I yield the balance of our 4 minutes to the gentleman from Georgia [Mr. GINGRICH], the whip of the Republican Party.

Mr. GINGRICH. Mr. Speaker, I thank the gentleman from New York for yielding me this time. The gentleman is doing a very able job in the Rules Committee.

I think the point I want to make particularly to our friends in the Democratic Party is that we are very interested on the Republican side in getting to honest, fair bipartisanship. We have talked about this a great deal. We were very delighted when the new Speaker of the House said in his opening:

> I will do what I can every day that I serve in this office to insure that the rights and privileges of each Member of the House are respected and to insure that the procedure is fair to all.

I think what we are trying to say on this particular rule is that in our judgment, from our side as we see it, it is not fair for you to restrict the rights of the minority party to offer a motion to recommit.

Now, you can argue historical precedent and say, yes, in the past that the Democrats have been partisan about how they wrote the rule, and that is true; but the point is that Speaker FOLEY said we are going to have a more bipartisan effort, we are going to have a fairer approach, we are going to have more openness, we are going to ensure not only that Members have a fair break, but we are also going to work harder to make sure that the Republican Party as a party gets a fair break.

Now, this particular rule is not, in my judgment, fair. It basically protects the McHugh amendment on behalf of the left wing of the Democratic caucus, and we understand that the left wing of the Democratic caucus is very important, but they are not more important than the Republican Party. They are not more important than 175 Members of the House having a fair chance for a fair vote.

We do not ask that the Democrats guarantee that we win a vote. All we ask is that they allow the vote to be in order in a fair way.

We are making this much focus on this particular rule, frankly, to send a signal to our friends on the Rules Committee that if your interest is in more comity, in more cooperation, and a better sense of bipartisanship, then all we ask is that you be fair about it. If you will procedurally allow us to make our amendments in order and offer them, even if we lose, we have had a fair shot. If you will allow us to have control of a motion to recommit, we will have a fair shot.

What frightens us is very simple. Last week on the savings and loan bill, the gentleman from Iowa [Mr. LEACH], the second ranking Republican on the Banking Committee, offered a motion to recommit that worked. It worked so well that of the 60 Members who had voted no, with about 8 minutes left, only 17 or so were still voting no at the end. It worked so well that it passed in what may have been the largest vote for a motion to recommit, at least in my 11 years here.

Our fear is that we are playing a downward spiral where every time we find a procedure to get a fair vote on a popular issue, the Democratic majority then finds a new way to rewrite the procedures to block us from having a fair vote.

I would simply hope that after today that it would be a very, very long time, before the Rules Committee makes in order another rule which has in it a restriction on the Republican Party's right to offer a motion to recommit with instructions.

So I would urge Members on the Republican side—last week I asked for a yes vote on the rule on the savings and loan bill because it was fair, and today I will ask the Republicans to vote no, simply to send a signal to the Rules Committee that we do not think it is legitimate to intrude on the right of the minority party to have an open motion to recommit with instructions. I hope the Rules Committee will take that to heart and that future rules will not trample upon the right of the minority to offer a fair motion.

Mr. HALL of Ohio. Mr. Speaker, I have no further requests for time, and I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. HALL of Ohio. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 273, nays 146, not voting 13, as follows:

[Roll No. 97]

YEAS—273

Ackerman	Atkins	Bilbray
Akaka	AuCoin	Boehlert
Alexander	Barnard	Boggs
Anderson	Bateman	Bonior
Andrews	Bates	Borski
Annunzio	Beilenson	Bosco
Anthony	Bennett	Boucher
Applegate	Berman	Boxer
Aspin	Bevill	Brennan
Brooks	Houghton	Pashayan
Broomfield	Hoyer	Patterson
Browder	Hubbard	Payne (NJ)
Brown (CA)	Huckaby	Payne (VA)
Brown (CO)	Hughes	Pease
Bruce	Hutto	Pelosi
Bryant	Jacobs	Perkins
Bustamante	Johnson (CT)	Pickett
Byron	Johnson (SD)	Pickle
Campbell (CO)	Johnston	Poshard
Cardin	Jones (GA)	Price
Carper	Jones (NC)	Quillen
Carr	Jontz	Rangel
Chapman	Kanjorski	Ray
Clarke	Kaptur	Richardson
Clay	Kastenmeier	Rinaldo
Clement	Kennedy	Robinson
Coleman (TX)	Kennelly	Roe
Conte	Kildee	Rose
Conyers	Kleczka	Rostenkowski
Cooper	Kolter	Rowland (GA)
Costello	Kostmayer	Roybal
Crockett	LaFalce	Russo
Darden	Lagomarsino	Sabo
de la Garza	Lancaster	Saiki
DeFazio	Lantos	Sangmeister
Dellums	Laughlin	Sarpalius
Derrick	Lehman (CA)	Savage
Dicks	Lehman (FL)	Sawyer
Dingell	Leland	Scheuer
Dixon	Levin (MI)	Schneider
Donnelly	Levine (CA)	Schroeder
Dorgan (ND)	Lewis (GA)	Schuette
Downey	Lipinski	Sharp
Durbin	Lloyd	Shays
Dwyer	Long	Sikorski
Dymally	Lowey (NY)	Sisisky
Dyson	Luken, Thomas	Skaggs
Early	Manton	Skelton
Eckart	Markey	Slattery
Edwards (CA)	Martinez	Slaughter (NY)
Engel	Matsui	Smith (FL)
Erdreich	Mavroules	Smith (IA)
Espy	Mazzoli	Smith (NJ)
Evans	McCloskey	Solarz
Fascell	McCurdy	Solomon
Fazio	McDermott	Spratt
Feighan	McHugh	Staggers
Fish	McMillen (MD)	Stallings
Flippo	McNulty	Stark
Florio	Meyers	Stenholm
Foglietta	Mfume	Stokes
Ford (MI)	Michel	Studds
Ford (TN)	Miller (CA)	Swift
Frank	Miller (OH)	Synar
Frost	Miller (WA)	Tallon
Gaydos	Mineta	Tanner
Gejdenson	Moakley	Tauzin
Gephardt	Molinari	Thomas (GA)
Gibbons	Mollohan	Torricelli
Gilman	Montgomery	Towns
Glickman	Moody	Traficant
Gonzalez	Morella	Traxler
Gordon	Morrison (CT)	Unsoeld
Goss	Mrazek	Upton
Gradison	Murphy	Valentine
Gray	Murtha	Vento
Green	Natcher	Visclosky
Guarini	Neal (MA)	Volkmer
Hall (OH)	Neal (NC)	Walgren
Hall (TX)	Nelson	Watkins
Hamilton	Nowak	Waxman
Harris	Oakar	Weiss
Hatcher	Oberstar	Weldon
Hawkins	Obey	Wheat
Hayes (IL)	Olin	Whitten
Hayes (LA)	Ortiz	Williams
Hefner	Owens (NY)	Wise
Henry	Owens (UT)	Wolpe
Hertel	Pallone	Wyden
Hoagland	Panetta	Yates
Hochbrueckner	Parker	Yatron

NAYS—146

Archer	Bunning	Craig
Armey	Burton	Crane
Baker	Callahan	Dannemeyer
Ballenger	Campbell (CA)	Davis
Bartlett	Chandler	DeLay
Barton	Clinger	DeWine
Bentley	Coble	Dickinson
Bereuter	Coleman (MO)	Dornan (CA)
Bilirakis	Combest	Douglas
Bliley	Coughlin	Dreier
Buechner	Cox	Duncan

Edwards (OK)	Lowery (CA)	Schaefer
Emerson	Lukens, Donald	Schiff
English	Machtley	Schulze
Fawell	Madigan	Sensenbrenner
Fields	Marlenee	Shaw
Frenzel	Martin (IL)	Shumway
Gallegly	Martin (NY)	Shuster
Gallo	McCandless	Skeen
Gekas	McCollum	Slaughter (VA)
Gillmor	McCrery	Smith (MS)
Gingrich	McDade	Smith (NE)
Goodling	McEwen	Smith (TX)
Grandy	McGrath	Smith (VT)
Grant	McMillan (NC)	Smith, Denny (OR)
Gunderson	Moorhead	Smith, Robert (NH)
Hammerschmidt	Morrison (WA)	Smith, Robert (OR)
Hancock	Myers	Snowe
Hansen	Nielson	Spence
Hastert	Oxley	Stangeland
Hefley	Packard	Stearns
Herger	Parris	Stump
Hiler	Paxon	Sundquist
Holloway	Penny	Tauke
Hopkins	Petri	Thomas (CA)
Horton	Porter	Thomas (WY)
Hunter	Pursell	Vander Jagt
Hyde	Rahall	Vucanovich
Inhofe	Ravenel	Walker
Ireland	Regula	Walsh
James	Rhodes	Weber
Jenkins	Ridge	Whittaker
Kasich	Ritter	Wolf
Kolbe	Roberts	Wylie
Kyl	Rogers	Young (AK)
Lent	Rohrabacher	Young (FL)
Lewis (CA)	Roth	
Lewis (FL)	Roukema	
Lightfoot	Rowland (CT)	
Livingston	Saxton	

NOT VOTING—13

Collins	Leach (IA)	Udall
Courter	Leath (TX)	Wilson
Coyne	Nagle	Wright
Flake	Schumer	
Garcia	Torres	

□ 1416

Mr. PARRIS, Mrs. ROUKEMA, Mr. LOWERY of California, and Mr. HORTON changed their vote from "yea" to "nay."

Ms. SCHNEIDER and Mr. WILLIAMS changed their vote from "nay" to "yea."

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

RESTRICTING ADDITIONAL AMENDMENTS TO H.R. 2655, INTERNATIONAL COOPERATION ACT OF 1989, TO AMENDMENTS PRINTED IN THE RECORD BY JUNE 22, 1989, AND GERMANE MODIFICATIONS NOT PRINTED IN THE RECORD

Mr. FASCELL. Mr. Speaker, I have a unanimous, consent request that I believe both the majority and minority will agree to.

I ask unanimous consent that, notwithstanding the provisions of House Resolution 179, the resolution we just considered, no amendment other than those described in the following sentence may be in order in the Committee of the Whole to the bill H.R. 2655 unless printed in the portion of the CONGRESSIONAL RECORD designated for that purpose not later than June 22, 1989, that is tomorrow.

The amendments specified in House Resolution 179 to be offered by Representative MCHUGH of New York and Representative BROOMFIELD of Michigan; and amendments en bloc offered by Representative FASCELL of Florida after consultation with the minority pursuant to the authority provided in House Resolution 179, and consisting only of one amendments printed in the RECORD not later than June 22, 1989, and two germane modifications thereof, may be in order whether or not printed in the RECORD. Time for debate on such Broomfield and McHugh amendments shall be equally divided and controlled by the proponents and opponents.

The SPEAKER pro tempore (Mr. KILDEE). Is there objection to the request of the gentleman from Florida?

Mr. SOLOMON. Mr. Speaker, reserving the right to object, I will not object, but I just want to say to the gentleman from Florida, after reading his unanimous-consent request, that Members on both sides of the aisle have had more than a week to read the bill and they have had a week to find out what amendments they might want to offer. For myself, I think it is fair request, and I would hope that Members on both sides of the aisle would grant his wishes.

□ 1420

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore (Mr. KILDEE). Is there objection to the request of the gentleman from Florida?

Mr. BROOMFIELD. Mr. Speaker, reserving the right to object, I am in full accord with what the chairman of the Committee on Foreign Affairs has just said.

I would like to indicate to Members of the House that there are already more than 100 amendments printed in the RECORD. So we can see what kind of a job we have ahead of us.

Mr. FASCELL. Mr. Speaker, will the gentleman yield?

Mr. BROOMFIELD. I yield to the gentleman from Florida.

Mr. FASCELL. I thank the gentleman for yielding.

Mr. Speaker, I thank both gentlemen for this. We have agreed to this proposal, this request, as is obvious to the Members here, for the more orderly consideration of the many amendments. Everybody has had ample time and still has ample time, but certainly for the managers of the bill on both sides it is a tremendous help to know the extent of what we are going to be confronted with over the next several days, and I thank both gentlemen.

Mr. BROOMFIELD. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

CONFERENCE REPORT ON H.R. 2072, DIRE EMERGENCY SUPPLEMENTAL APPROPRIATION, FISCAL YEAR 1989

Mr. BEILENSON. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 180 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 180

Resolved, That upon the adoption of this resolution it shall be in order, sections 302(f) and 311(a) of the Congressional Budget Act of 1974 (Public Law 93-344, as amended by Public Law 99-177) to the contrary notwithstanding, to consider the conference report and motions to dispose of amendments reported from conference in disagreement on the bill (H.R. 2072) making dire emergency supplemental appropriations and transfers, urgent supplementals, and correcting enrollment errors for the fiscal year ending September 30, 1989, and for other purposes. Motions to dispose of amendments reported from conference in disagreement printed in the joint explanatory statement of the Committee of Conference shall be considered as having been read when offered.

The SPEAKER pro tempore. The gentleman from California [Mr. BEILENSON] is recognized for 1 hour.

Mr. BEILENSON. Mr. Speaker, I yield the customary 30 minutes, for the purpose of debate only, to the gentleman from Tennessee [Mr. QUILLEN], pending which I yield myself such time as I may consume.

Mr. Speaker, House Resolution 180 is the rule providing for consideration of the conference report on H.R. 2072, making dire, emergency, supplemental, appropriations for fiscal year 1989.

The rule waives two sections of the Congressional Budget Act against consideration of the conference report, and against motions to dispose of amendments reported from conference in disagreement. These two sections are: 302(f), which prohibits consideration of measures that would cause the appropriate subcommittee or program level ceilings to be exceeded, and 311(a), which prohibits consideration of measures which would cause total new budget authority or total outlay ceilings to be exceeded.

These two Budget Act waivers are needed because the Appropriations Committee's section 302 allocation of new discretionary budget authority for fiscal year 1989 has been exceeded, and because the ceilings for total new budget authority and total outlays for the current fiscal year have also been exceeded. Any additional appropriations for this year would require these waivers.

When H.R. 2072 was first considered by the House in April, we adopted a rule providing these same two necessary waivers in recognition of the fact that this bill was needed to fulfill some very important government com-

mitments for the rest of this fiscal year. Now that we are at the end of the legislative process on this bill, the Rules Committee is recommending these same waivers to allow the House to give final consideration of this measure.

The rule before us also provides that motions to dispose of amendments reported from conference in disagreement, printed in the joint explanatory statement, are considered as having been read. This provision will allow the House to consider this measure more expeditiously.

Mr. Speaker, as all of the Members know, H.R. 2072 contains a number of appropriations which have been urgently needed for some time now. During the course of consideration of this conference report, we will have a separate vote on the funding for drug abuse programs, which has been a contentious issue from the beginning of this bill's consideration. I urge adoption of this rule so that the House can proceed to consideration of this important measure.

Mr. QUILLEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, we must move a dire emergency supplemental appropriations bill soon in order to ensure that our Nation's veterans receive the health care that they need.

I heard a report recently of a veteran who sought medical help after experiencing the symptoms of a heart attack. He was told that because of the current funding shortage, he could not be accommodated immediately. But that he would have to come back in 10 days. Unfortunately, he died that night. The VA medical assistance program failed to help him in his hour of need. Mr. Speaker, the veterans of our armed forces did not fail to help their country in its hour of need, and we should not fail to help them now. They were promised medical care, and we should live up to that commitment.

Mr. Speaker, there has been a lot of political game-playing going on with this dire emergency supplemental appropriation. At one point the House passed a stripped down version of the bill designed only to provide veterans the funds that are needed immediately, but the other body has not seen fit to act on it. Instead, they sent back this bill which is loaded down with a large number of other items. Some of these are pure pork, and there are others that are worthwhile. But all the add-ons have served to make the bill more expensive and they have caused a large amount of delay. Mr. Speaker, our veterans are being used by some to carry along projects which could not stand on their own. The denial of care to veterans who need it is unconscionable.

Mr. Speaker, at the time of the Rules Committee meeting on this conference report yesterday, the administration sent a position paper saying they could accept the legislation if three major problems included in the amendments in disagreement were eliminated.

The first item which the administration wants to eliminate is $822 million in drug funding which is not needed at this time. Mr. Speaker, we all want to do everything we can to stop drugs, but a large drug supplemental increase was enacted only half a year ago—much of which is still unobligated. We need to make certain we are prepared to make effective use of the funds before we throw money at the problem.

Mr. Speaker, this rule will allow a separate vote on the amendment in disagreement dealing with extra drug money.

The second item opposed by the administration, Mr. Speaker, is the shift of the first pay date in fiscal year 1990 into fiscal year 1989 for three agencies. This shift would result in the addition of $354 million in fiscal year 1989 outlays. It would ultimately increase the deficit, because it would make room for additional spending next year.

Under this rule, the proposed disposition of this amendment in disagreement is left subject to a point of order.

Finally, Mr. Speaker, the administration strongly opposed the provision that would direct that the proceeds of certain Department of Housing and Urban Development loan sales be treated as offsets for domestic discretionary spending. This requirement violates the bipartisan budget agreement, Mr. Speaker.

Under the rule before us now, the proposed disposition of this amendment in disagreement is also left subject to a point of order.

Mr. Speaker, I should note that this rule includes two waivers of the Budget Act. The problem is that we are already over the budget ceiling for fiscal year 1989, the even 1 penny of spending for veterans or anybody else requires the waiver of the Budget Act.

Mr. Speaker, because I feel so strongly that we need to provide the health care that has been promised our veterans, I will support this rule, in order to move the veterans funding as quickly as possible.

□ 1430

Mr. Speaker, I yield 5 minutes to the gentleman from Massachusetts [Mr. CONTE].

Mr. CONTE. Mr. Speaker, this rule, if approved, will bring the omnibus supplemental appropriations bill, H.R. 2072 back on the House floor. In a word, Mr. Speaker, H.R. 2072 is a mess. It was a mess when we beat the across-the-board cut amendment on April 26.

It was a mess when we couldn't get consent to bring the bill up on May 17, and instead passed a clean veterans supplemental on May 18.

It was a mess when we passed the bill on May 27, after extracting $1 billion in reductions.

And it is still a mess now, as we bring the conference report and 80 amendments in technical disagreement back to the House.

In its present incarnation, this supplemental should be entitled, "Nightmare on Elm Street, Part 6." It is truly a horror story.

Mr. Speaker, on June 13, this House, by a vote of 395 to 0, instructed the conferees on the part of the House to take care of our veterans first. This was the second time the House voted unanimously to say "Enough of these shenanigans."

"Enough of holding the Veterans hostage to all the other cats and dogs in this bill. Let's break veterans medical care out of this bill and pass it separately."

Well, guess what, Mr. Speaker. Here we go again. Veterans medical care is right back in the middle of this monster bill.

Here's one more attempt to hold veterans medical care, the one true emergency, hostage to less needed funds—drugs, projects, buy more apples.

How many times do we have to say it? How many ways do we have to say it?

This rule, if approved, will put us on the wrong track. We will be debating everything under the sun but veterans. We will be debating drugs. We will be debating Legal Services Corporation. We will be discussing nonrecourse loans, and moving pay dates.

And if we do not get the votes exactly right, we will be bouncing this bill back and forth between the House and the Senate, or worse, sending the bill down for a veto. And then what happens to the veterans?

Well, some might say, it is inevitable. There is no way around it. Sooner or later, we have to slog our way through.

Wrong. I asked the Rules Committee not to make in order a Budget Act waiver for amendment 2, the drug money. If that amendment were not protected, then it would be dropped, and most of our problems would be solved.

This rule before us sets us going down the wrong track. We ought to be trying to expedite funding for veterans medical care, not holding it hostage. Right now the rule is part of the problem, not part of the solution. For that reason, I am constrained to oppose it.

Mr. QUILLEN. Mr. Speaker, I yield 2 minutes to the gentleman from Michigan [Mr. HENRY].

Mr. HENRY. Mr. Speaker, when we adopted the so-called budget resolution for the coming fiscal year, there

was a lot of patting on the back that once again we had somehow squeezed our numbers for fiscal year 1990 into the Gramm-Rudman deficit targets. Of course, we all know it was a sham—and the best which could be said of this year's budget resolution by its defenders is that "We did the best we could."

There were, of course, those of us who believed we could have and should have done better. For when the bottom line figures are counted at the end of the fiscal 1990 budget year, the Congressional Budget Office already estimates that we will be off the Gramm-Rudman mark by some $23 billion if we count the various gimmicks and cost-shifting employed to cook the books.

Now we approach the so-called Dire Emergency Supplemental Appropriation Act for fiscal year 1989. And once again, we face another instance of cookbook bookkeeping. First of all, we must ask ourselves whether all that is in the bill before us truly represents dire emergencies. I think the answer to that question is self-evident. Second, and more importantly, is the fact that our votes on this measure determine whether or not we are going to initiate yet another way of cookbook bookkeeping, since these so-called dire emergency designations do not consistently count against the Gramm-Rudman numbers.

If we callously disregard the discipline we committed ourselves to in the adoption of the Gramm-Rudman Act by passing this bill, we open the floodgates for more budget chicanery in coming years. Future budget resolutons will be even more dishonest than that adopted earlier this year for the simple reason that we will have deliberately created a mammoth budgetary loophole. For we will simply move more and more of the budget into the category of dire emergency supplemental spending, and less and less of the budget will appear in the annual budget resolution.

Mr. Speaker, for all the talk of ethics in the Congress, where are our ethics in terms of honest public policymaking? How long can we continue using rubber numbers?

If I, as a private citizen trying to balance my own household budget, knew that each and every June I could spend whatever I wanted on free credit, I would simply postpone all my spending until that month. That is exactly what we are doing with this bill, in terms of cooking the books and bouncing the rubber numbers back and forth between the House and Senate and the Office of Management and Budget.

We wring our hands publicly over the irregular bookkeeping which created the crisis in the thrift industry, Mr. Speaker, but we wink and pat ourselves on the back when we do exactly the same thing. Mr. Speaker, the time has come to stop this farce—and for that reason, I vote no on the so-called Dire Emergency Supplemental Appropriations Act, and on the rule before us.

Mr. QUILLEN. Mr. Speaker, I yield 1 minute to the gentleman from New York [Mr. SOLOMON].

Mr. SOLOMON. Mr. Speaker, I want to rise in support of the rule and to thank the Committee on Rules, the gentleman from Massachusetts [Mr. MOAKLEY], and the other members for the rule that they put out. I think it is a fair rule, and certainly we should all be supporting it. I hope this rule does lead to successful passage of the supplemental that will be acceptable to the President, that can be signed, because we badly need that support.

I want to thank the gentleman from Mississippi, Chairman WHITTEN and his Committee on Appropriations and the staff for all the work they have done. Mr. WHITTEN, I sure hope we can get this thing moving over there and get it signed into law. We need it badly.

Mr. QUILLEN. Mr. Speaker, I yield such time as he may consume to the gentleman from Virginia [Mr. PARRIS].

Mr. PARRIS. Mr. Speaker, I am sorry to see that it is business as usual here in the House of Representatives. Yes, today we are considering the so-called dire emergency supplemental appropriations bill that is chock-full of special interest spending provisions and other drains on the Federal budget that are anything but dire emergency appropriations.

As usual, the Democratic leadership is playing games with an appropriations bill and the use of nonexistent taxpayer dollars. It's a simple game that is best described this way—in order for the patient to get a new kidney, it must give up a liver—leaving the patient even more critical than before. Put more specifically to fit this conference report—in order for Members to help veterans, we must also help certain Members enact special interest provisions that they have tucked away in this legislation.

But I will not support such shenanigans, and I fully intend to oppose any conference report that so blatantly and recklessly abuses the integrity of the appropriations process.

The conference report appropriates $3.2 billion in new budget authority for fiscal year 1989. I wholeheartedly support the $1.2 billion that is appropriated for veterans programs because this funding is badly needed to support various veterans medical programs. Unlike many of the spending provisions in this conference report, the funds appropriated for veterans is of an emergency nature.

But in order for the veterans to get these emergency funds, we must also approve billions of taxpayer dollars for special interest spending like $75 million to rebuild a radio astronomy telescope in West Virginia for a member of the Democratic leadership in the other body. And if we aren't being asked to support special interest spending, we're being asked to support innocuous budget scoring gimmickry like the provision in the report to increase the proceeds of HUD asset sales.

Furthermore, the conference report calls for $822 million in antidrug funding. Now, it should be brought out that this money is recommended even though the last increase in Federal dollars has not yet been used. So why is it in the bill, you might ask? Well, we all know that the answer to that question is politics. The Democratic majority is pressuring Members through this provision by saying, "If you vote against this appropriations bill and our special interest spending provisions, then you are soft on fighting drugs." The fact is, nothing could be farther from the truth.

All of us in this body abhor the drug scourge that has fallen upon our society like a deadly cancer. No one wants to fight drugs more than I, and I am committed to doing so.

But this type of pressuring and hasty expenditure is not the responsible way to fight the war on drugs. We need an effective drug program, and I challenge the Democratic majority to bring a separate, comprehensive drug bill to the floor. Not a hastily and poorly written appropriations provision that is motivated not by efforts to fight drugs but by partisan political gamesmanship. The war against drugs is too serious. Let's not demean its importance in this way.

Why can we not get a clean, straightforward supplemental appropriations report? Just last week, the House voted to spend billions of taxpayers dollars to resolve the S&L crisis. Now more than ever, we need to enact responsible appropriations bills and vote against unnecessary or special interest provisions which hastily expend the funds of the already drained resources of the Federal Treasury.

I would urge a no vote on the conference report until a clean emergency supplemental appropriations bill is brought to the floor.

Mr. QUILLEN. Mr. Speaker, I yield 5 minutes to the gentleman from Minnesota [Mr. FRENZEL].

Mr. FRENZEL. Mr. Speaker, I rise in opposition to the rule for the simple fact that it waives the Budget Act. This bill contains violations of a number of sections of the Budget Act: 302 and 311; and it also violates the 1987 summit agreement and the 1989 summit agreement.

As the gentleman from Massachusetts correctly pointed out, the most important amendment that needs to be taken care of is amendment No. 2, and I hope that the House will follow his lead in that regard.

The chairman of the Committee on the Budget, the gentleman from California [Mr. PANETTA] and I intend to raise points of order against a number of items: that is, amendments Nos. 87, 93, 95, and 131 on points of germaneness. Even though those points of order are potentially available to Members, it is a great disappointment to me that the Committee on Rules would waive the Budget Act in this instance. I hope that this is a temporary and one-time aberration in that kind of work.

There are plenty of items in this conference report with which we might all disagree, and we will have a chance to vote on them as the various amendments come up. However, violations of the Budget Act should never be brought to this floor under a waiver of the rule. I urge a vote against the role.

Mr. QUILLEN. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. BEILENSON. Mr. Speaker, I yield 5 minutes to the gentleman from Mississippi [Mr. WHITTEN], the distinguished chairman of the Committee on Appropriations.

□ 1440

Mr. WHITTEN. Mr. Speaker, I am glad to take this time to point out that no one could make a better effort or a stronger effort than we have made to take care of veterans. Not only do we have it in this bill but I notified the Speaker today that we had a bill pending that could be brought up at anytime that would allow the Department to use fourth quarter money now so they could not hold us up at future times.

But may I say that over here we passed H.R. 2402, which takes care of the veterans, separately, which is pending in the Senate. All they have to do is bring it up and pass it anytime they wish to.

I also want to say here that at this time we have provided funds to take care of the drug problem. The problem involved there is not additional money, the problem is that we make it available now so we can get 3 or 4 months lead time. I have had so many folks talk to me who believe that the drug money is a problem, that it makes me feel that the White House realizes they are going to have to sign this bill if it is passed with drug funds included. So I say again, with those 3 or 4 months we save in getting ahead with money everybody agrees we have to spend, we should do it.

May I repeat again that we take care of the veterans here. The gentleman from Massachusetts had a motion to instruct the conferees. We voted for it unanimously. They have H.R. 2402 pending in the Senate. All they have to do is bring it up and pass it. We have it in this bill, and we have another one in reserve. So there are three ways we have taken care of it.

All the problems are on the other side of the Capitol. May I say again that is the situation, we are just as interested as anybody else. I do not want anything in this RECORD to indicate that we have not been in the lead in being sure the veterans have been taken care of with all the problems they have under the law.

Mr. BEILENSON. Mr. Speaker, I thank the gentleman from Mississippi for his remarks.

Mr. Speaker, I yield back the balance of my time, and I move the previous question on the conference report.

The previous question was ordered.

The conference report was agreed to.

A motion to reconsider was laid on the table.

Mr. WHITTEN. Mr. Speaker, pursuant to the rule just adopted, I call up the conference report on the bill (H.R. 2072) making dire emergency supplemental appropriations and transfers, urgent supplementals, and correcting enrollment errors for the fiscal year ending September 30, 1989, and for other purposes.

The Clerk read the title of the bill.

The SPEAKER pro tempore (Mr. KILDEE). Pursuant to the rule, the conference report is considered as having been read.

(For conference report and statement, see proceedings of the House of June 16, 1989.)

The SPEAKER pro tempore. The gentleman from Mississippi [Mr. WHITTEN] will be recognized for 30 minutes, and the gentleman from Massachusetts [Mr. CONTE] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Mississippi [Mr. WHITTEN].

GENERAL LEAVE

Mr. WHITTEN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the consideration of the conference report on the bill (H.R. 2072) making dire emergency supplemental appropriations and transfers, urgent supplementals, and correcting enrollment errors for the fiscal year ending September 30, 1989, and for other purposes, and that I may include extraneous and tabular matter.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

Mr. WHITTEN. Mr. Speaker, I yield myself such time as I may require.

Mr. Speaker, the conferees completed consideration of the dire emergency supplemental on Thursday afternoon. The conference agreement provides $2,823,896,500 for mandatory items and $1,603,774,941 in discretionary items, of which $1,212,402,941 are offset. The principal items that are not offset are the veterans' medical care and $100 million for migration and refugee assistance. However, the latter item gives the option of a direct appropriation or a transfer.

The agreement includes funds for veterans which have passed the House twice.

May I point out again that on these veterans' programs, we on this side of the aisle have consistently, with the support of our colleagues, taken care of the veterans in every way possible. There is pending in the Senate now a bill which they could bring up and pass anytime they wish to.

With regard to the other items here, as I pointed out, the big controversy has to do with drugs. There again, I think, and I have every reason to believe, that law enforcement is breaking down throughout the country. Not only with the Federal courts where they do not have prosecutors and do not have juries and do not have places to put them and do not have jails, but in the State courts. Due to drugs, we are just having many, many cases where there is a breakdown in local law enforcement.

Involved in this is not the amount of money, but when they get it. It is true that the Justice Department today has money to carry on what they are carrying on at this time, but they do not have the money to do the additional things they ought to be doing.

For a long time we have advocated a czar because there are 41 agencies, plus 50 States, that want money to carry out the work that would help. But the czar, as I understand it, does not have any authority except to act as the Justice Department tells him. He can issue news releases and he can make speeches.

So I just say that as serious as the situation is, we need to go ahead and act today to include the money on drugs, to save this 2 or 3 months time between now and October 1.

The money is for the following areas:

Legal activities	$8,686,000
U.S. Marshals Service	7,900,000
Support of U.S. prisoners	26,900,000
Federal Bureau of Investigation	36,691,000
Drug Enforcement Administration	70,409,000
Immigration & Naturalization Service	26,000,000
Federal Prison System	27,183,000
National Institute of Corrections	14,000,000
Buildings and facilities	205,370,000
Office of Justice Programs, Justice assistance:	
Anti-Drug Abuse Grants	125,000,000
RISS	2,000,000
Professional safety officers benefits	4,000,000
Prevention and Treatment Programs relating to juvenile gangs	15,000,000
National Institute of Justice	9,000,000
Bureau of Justice Statistics	10,000,000
Subtotal Office of Justice Programs	165,000,000
Administration of Foreign Affairs	4,000,000
Courts of Appeals, District Courts, and other judicial services	99,200,000
Defender services	13,700,000
Fees of jurors and commissioners	8,800,000
Court security	5,900,000

Administrative Office of the U.S. Courts	1,820,000
State Justice Institute	4,020,000
Bureau of Alcohol, Tobacco and Firearms	4,000,000
U.S. Customs Service	86,000,000
Federal Law Enforcement Training Center	6,000,000
Total	821,579,000

They agree they are going to do it. The President's speeches show they are going to do it. They recognize they must do it, but they cannot see the value of doing it now instead of waiting until October 1 or after October 1, because that means next year, and it could mean a lot longer than just until October 1.

Other dire emergencies agreed upon include:

Guaranteed student loans	$892,428,000
Food stamps	224,624,000
Reimbursement to States for Foster Care and adoption services	423,345,000
Trade adjustment assistance	90,648,000
International Peacekeeping	125,000,000
Migration and refugee assistance	100,000,000
Forest fire fighting reimbursement	341,669,000

Conferees did not agree on the drug related crime package which is in true disagreement.

A major factor which caused the supplemental was the last minute demand by the Senate last year for an additional $1,900 million reduction in outlays.

Outlays as required by the Senate rules, can be limited by Congress but are actually controlled by the executive branch. The Senate demands that the House agree to Senate rules on outlays—which it ignores.

So without question, I do recommend this bill so that we might proceed and take care of these various problems that we have, including the matter of drugs.

I repeat again that we have been in the forefront, three or four different ways, to make sure that we take care of the veterans' problems. It is the Senate which amended H.R. 2402. We did not do it. It is our colleagues on the other side that linked it to June 15 and tied strings on it at the instance, I am told, of the Office and Management and Budget. They are the ones that brought up the present situation, not our colleagues on this side, not our colleagues on either side of the aisle on this side. The problem is with our colleagues on the other side.

Mr. Speaker, I reserve the balance of my time.

Mr. CONTE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, it is with great reluctance that I rise to oppose the conference report. There are not many times in my career when I have taken a similar position in opposition to my chairman, the gentleman from Mississippi, for whom I have the greatest respect. I want to say at the outset that it is a privilege and an honor to work with the chairman, and all the members of the committee on both sides of the aisle.

But, Mr. Speaker, despite a long history of turmoil, disdain and even rejection, this supplemental comes to the floor largely unreformed and unrepentant.

At a time when fiscal restraint is the password, when deficit reduction is the key, the Appropriations Committee originally reported a bill that was loaded to the gills with unrequested, non-dire spending. At that time it had $5 billion in it, compared with the President's request of $2.2 billion. I predicted at the first Rules Committee meeting we had, the first of many as it turned out, that it would be an embarrassment if this bill made it out to the House floor. It was. An amendment, a valiant effort to pay for the $5 billion by reducing every program in the Federal Government by half a percent, went down to defeat.

It took nearly a month for the Committee to pull itself out of disarray and get the bill back on the House floor. That bill cut $1 billion out, a good step, a necessary step. But the proponents would not reduce by a penny the $822 million in the bill for law enforcement programs that are part of the war on drugs.

We have spoken about this $822 million innumerable times. It is double what the Drug Bill passed last fall calls for. It explicitly includes hundreds of millions of dollars that have been requested for 1990, that were rejected by the Congress in 1989, or that have not been requested by anyone at anytime. Little, if any, of that money can be spent this year. The programs are not running out of money.

True, unlike other drug programs—like the programs in HHS, education, and defense—the Justice programs are not choking on the money we've already appropriated. They are managing to spend the 35-percent increase we already gave them in an orderly fashion. They have sufficient funds for the rest of the year.

Maybe that is what the problem is. They are not choking on the money yet. Maybe we will not be satisfied until we give them so much money so fast they cannot spend it.

The Senate saw what the issue was. They voted four times to delete the drug money from this supplemental. They being the Democrats, in case anyone thought this issue is partisan.

Add into the equation the fact that the Office of Management and Budget will recommend a veto if this additional spending is included, and you'd think the writing was on the wall. But no, we will be debating drugs again today, Member trying to put Member into a sticky political wicket, for no apparent purpose.

And the other body, using the opening to put into the bill pet projects, large and small, does not come off looking much better.

All this would be bad enough, but what is worse is that true injury is taking place during the 3 months while these shenanigans are going on. There is one truly dire emergency—veterans medical care.

Because of a shortage in funding for medical care, whole categories of veterans are being turned away from VA hospitals. On June 2, Secretary Derwinski directed VA medical hospitals to suspend treatments for category B and C veterans and to reduce total employment by 8,000 slots.

The VA is losing 200 to 300 medical personnel per week, and as much as 800 total employment a week; 20,000 outpatient treatments are being denied each week that the supplemental is held up. VA medical center capital accounts were frozen on May 24. No more equipment purchases, operation and maintenance cutbacks, and by all means do not bring on line any new facilities.

The House has heard the cry of the veterans. On May 18, the day after I introduced my bill to separate the veterans in a clean mini-supplemental, the House raised such a hue and cry that the leadership brought out a clean bill, H.R. 2402, and we passed it by voice vote.

We passed it again, unanimously, 409 to 0, on May 24, after the Senate tried to play games. But the Senate will not let the veterans go. They could resolve this in a minute, if they wanted.

And last Tuesday, June 13, we unanimously instructed the conferees by a vote of 395 to 0 not to deal with other issues until the veterans were taken care of first.

Well here we are. And the veterans are not taken care of. Obviously, the unanimous opinion of the House was not taken seriously by its own conferees.

Bringing this supplemental conference report to the floor is not one of the prouder moments of my career. There are many other worthy programs waiting, too: student loans, foster care, Soviet refugees, and peacekeeping. But the conferees insist on trying to force unneeeded spending, on making the bill a Christmas tree, on holding the veterans hostage, while those veterans are being denied medical care.

I cannot support this conference report.

□ 1450

Mr. CONTE. Mr. Speaker, I yield 5 minutes to my leader, the gentleman from Illinois [Mr. MICHEL].

Mr. MICHEL. Mr. Speaker, this conference report is a shameful example of what is wrong with the Congress. It is late on arrival, mislabeled, overloaded, overpriced and an insult to the American veterans, and that is just a short list of its drawbacks.

Mr. Speaker, this is supposed to be a dire emergency supplemental. Is this the way that we respond to emergencies? People should be thankful we are not a fire department. We have been dawdling with this dire emergency since the President submitted his request in March.

This was supposed to have provided badly needed funding for the Veterans' Administration's health care services. I guess, so much for the veterans. They have been used and abused, pummelled and politicized.

Mr. Speaker, there is a veteran in my own district waiting for a liver transplant, and because it is not service related he cannot get help, and his dilemma is directly the fault of what we are not doing here in this House and the silly games that are being played at veterans' expense.

Look at the games we play: moving a government pay day from 1 fiscal year into another, redirecting revenue from asset sales, piling on the pork barrel projects, playing politics with drug programs. There are more games played on this floor, I guess, than in the nearby Capital Center just down the road.

This package we will vote on today contains some of the very best, most innovative, most creative, and most deceptive sliderule sleight of hand we have seen on the floor.

I want to address myself to the specifics of the drug language which is really the killer provision here. No Member of Congress wants to be in the position of having to vote against drug funds for drug programs, I guess, but the fact is that this language badly damages our antidrug effort because it appropriates money for drug programs that is not needed, cannot be spent, and is fiscally irresponsible, and it threatens the integrity of our deficit reduction effort and makes a mockery of all that we have done to put together a sound strategy to fight drug abuse. This is the kind of language which turns good programs into bad by causing excessive waste in spending by encouraging fraud and abuse and by fostering mismanagement.

It is interesting to note, I think, incidentally, that since 1986, the regular appropriation bills have been underfunding drug programs and reducing the President's requests for funds. Regardless of the motivations for those reductions that were made during the past number of years and maybe some attempt now to make up for deficiencies of the past, we now know three-fourths of the way through this fiscal year the administration does not need more program money, and it cannot spend more wisely, and it does not want more money.

One need not take my word for it if we simply turn to the other body where the distinguished chairman of the Appropriations Committee in that body made quite a compelling case.

He said on the floor over there:

> Mr. Darman has provided information to the committee which shows that of the $5.2 billion in drug funding already appropriated in fiscal year 1989, approximately 56 percent, more than half, was unobligated as of March 31 of this year, and since it is clear that the agencies involved in the war on drugs will not run out of funding between now and September 30, since the fiscal year 1990 budget contains $6 billion more for drug funding, Mr. Darman indicated that he will recommend a veto.

Mr. Speaker, there have been four votes, all in the other body, overwhelmingly turning down the drug money, and I want to expand for the RECORD on who those Members were, but all my colleagues know who is in control of the other body and with overwhelming votes who it was voting against the drug money over there on the other side of the Capitol.

The fact is that the total antidrug funding increased by 39 percent in the last fiscal year. It is one thing to appropriate money. It is another thing to spend it wisely.

Mr. Speaker, we are violating the rights and endangering the very lives of our Nation's veterans so we can play partisan political games with drug funding. Is that the new cleaner, kinder, gentler image of the House there has been so much written about lately? Well, spare me that.

Let us conclude this nonsense today, pass a responsible dire emergency supplemental with no frills, no pork, no politics. Let us do the work of the House the way it ought to be done.

Mr. WHITTEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am quite surprised at the tone of the speech that the gentleman from Illinois [Mr. MICHEL], my good friend, just made, as well as my collegues on the committee. In this bill are funds for the veterans. They will be voting against the veterans' program that is here. There is only one basis that I can see why they oppose it here, and that is to try to make the Senate pass the bill we sent them some weeks ago taking care of the veterans' programs.

□ 1500

It is pending over there. All they have got to do is take it up and pass it.

Let me say what they are opposing here: guaranteed student loans, food stamps, reimbursement to States for foster care and adoption services, trade adjustment assistance, international peace keeping, immigration and refugee assistance, forest firefighting funds.

May I say that your Committee on Appropriations since 1945 has been $187 billion below the total recommended by Presidents.

Let me tell you that under President Reagan the Appropriations Committee bills, a total of $16 billion below the recommendations of President Reagan.

May I say that all this talk about voting against this bill, you are voting against the veterans' program because it is in here. Not only that, but they have another bill pending in the Senate they will not bring out. They are the ones that voted to limit it to June 15, and the instruction to the conferees that my colleague, the gentleman from Massachusetts offered, had to do with only certain items for veterans. The whole picture is in the bill we have here, and anybody who fights it is delaying it, to say the least, unless they have hopes that by defeating this, the Senate will take up the bill they have pending and pass it, which is all they have to do.

Mr. Speaker, I yield 3 minutes to the gentleman from Florida [Mr. SMITH].

Mr. SMITH of Florida. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, I am frankly amazed at what I heard just a few moments ago when the minority leader spoke. The gentleman, for whom I have great respect, talked as if somehow it is the fault of the House, the fault of the Congress, that the problems that are being addressed in this bill arose in the first place, and that could not be further from the truth.

If you want to know why we are here today with this supplemental bill addressing these dire emergencies, it is because we had a President for 8 years that the Democrats consistently criticized for crippling programs, and people did not believe us. Maybe it was our fault because we did not get the message across and maybe it was because he was so popular, but there have been those of us on this side and even those on that side as recently as Jack Kemp just 2 days ago who finally have been vindicated.

Do you want to know why we need money in this bill for veterans who are being turned away, as the minority leader has indicated, and what he said is true without question. I have got about as many veterans in my district as anybody in the United States, and a very aging population.

During the Reagan years they consistently cut the budget that we tried to restore. The quality of care deteriorated in that 8-year period faster than any period in the history of the United States. More veterans were turned away from hospitals in that 8-year period of time than any period in

the history of this country. That is why we are addressing it in this bill, not because of what we did not do. What we did was only to stave off what was being done worse by the Reagan administration.

Do you want to know why there is Guaranteed Student Loan money in here? Because for 8 years the Reagan administration cut, cut, cut, until only those who could afford to go to school had the capability to go to school.

We told people, who out there somehow did not believe us, and now we are beginning to reap the whirlwind. This money is necessary to correct major cracks in the basic fabric of our society that people came to expect, and rightfully so, that the Reagan administration and the Republicans did not care about.

Firefighting. What was the Reagan administration's best effort in firefighting? You saw it last year in Yosemite. "Let them burn." They have already discarded that theory this year, even under the Bush administration.

The SPEAKER pro tempore. The time of the gentleman from Florida [Mr. SMITH] has expired.

Mr. WHITTEN. Mr. Speaker, I yield 2 additional minutes to the gentleman.

Mr. SMITH of Florida. Mr. Speaker, I thank the gentleman for the additional time.

Mr. Speaker, the gentleman from Illinois, the minority leader, talked about unobligated funds, that there is money there not spent. Do you know why it is not spent? They did not choose to spend it, not because it cannot be spent.

Is there anyone out there anywhere in this country who does not believe that more could be done in the fight against drugs? The need is overwhelming. Do not tell us that you cannot spend that money. They do not want to spend that money. The drug fight is one of the most important fights that we have in this country at this time. It creates most of the crime, most of the misery, and you are telling me that we have too much money because there is money left unspent? The money left unspent is cruel treatment for the people who need it. That money is there and they will not let it go. There is more of a need and that is why there is more money in this bill.

When are they going to take responsibility? When is the administration going to own up that you create problems and eventually they catch up to you and you have to spend money to cure them for people problems, drug problems, veterans' problems, the problem at HUD. There is a good one. Privatization, a perfect answer to everything.

We wasted so much money that now it is coming home to roost in the ideology of the Reagan administration.

You had better believe what we say, because it is the truth. It has been proven. It is there for you now and this bill seeks to correct the damage, the injustice, the anti-people attitude of the Reagan administration.

Once and for all, we have pulled the mask off of what was 8 years of neglect, 8 years of malignancy in their attitude toward what most people in this country are entitled to. That is the simple truth and that is why this bill is on the floor and that is why it is important to vote for it. If you want to change what has happened in 8 years, now is your chance to start on the road back to helping Americans, instead of helping fat cats.

Mr. CONTE. Mr. Speaker, I yield 1 minute to the gentleman from California [Mr. COX].

Mr. COX. Mr. Speaker, with all due respect for the rhetorical energy and enthusiasm of my colleague, the gentleman from Florida, I would like to attack, If I might, the logic.

The Reagan administration in which I served did not cut a penny from the Federal budget, because the Congress appropriates funds in our system.

Eight years of the Reagan administration may be something with which some here are concerned, but anything that happened over the last 8 years by definition is not a dire emergency. What we are here to do is to address the lean dire emergency of veterans' medical services. It is the rest of the budget-busting that is incorporated in this measure as it comes to us today to which we on this side of the aisle object.

There are emergencies of all sorts that we must address in our Federal budget, but those things ought to be addressed through the normal budget process, and to waive the process through the Dire Emergency, we ought not to go back and rehash all those election issues, which by the way, Ronald Reagan and George Bush have won resoundingly three times in a row.

Mr. CONTE. Mr. Speaker, I yield 3 minutes to the gentleman from Louisiana [Mr. LIVINGSTON].

Mr. DELAY. Mr. Speaker, will the gentleman yield?

Mr. LIVINGSTON. I yield to the gentleman from Texas.

Mr. DELAY. Mr. Speaker, I rise in strong opposition to a Senate amendment that will essentially end accountability for the Legal Services Corporation and allow the continued waste of taxpayer dollars for legal services outside of the original scope of the Corporation.

It is my understanding that the Legal Services Corporation was established to provide adequate legal representation to those not able to afford private legal assistance. If my understanding is correct, which I believe it is, how can we possibly consider an amendment that will allow hard earned tax dollars for legal services to be used for lawyers involved in redistricting litigation? How can we possibly support an amendment that would allow lawyers—directly supported by the taxpayer—to pursue lawsuits that private sector attorneys are willing to take at no cost to the taxpayer? How can we allow this mismanagement to continue?

If these factors are not enough to oppose this amendment, we may want to inquire about the dire emergency need for this legislation on an appropriations bill. The intent of the Senate amendment is to quote: " Making Dire Emergency Supplemental Appropriations and correcting enrollment errors * * *". Mr. Speaker, I believe that this amendment is an error and I hope we will vote down this Senate provision.

We should respect the hard working American taxpayer and require the Legal Services Corporation to stick to activities they were orginally intended to do—provide basic day-today legal services to eligible poor individuals.

Mr. LIVINGSTON. Mr. Speaker, I would like to engage in a colloquy with the distinguished chairman of the Subcommittee on Foreign Operations, Mr. OBEY.

Mr. Speaker, it is my understanding that amendment No. 18 as agreed upon by the conferees provides $3 million for the promotion of democracy in Nicaragua, and that of this amount, $1.5 million is designated for the Organization of American States [OAS] to carry out election monitoring activities in Nicaragua under the El Salvador accords. The distribution of the remaining amount would be left up to the State Department. Is that correct?

Mr. OBEY. Mr. Speaker, if the gentleman will yield, the answer is yes.

Mr. LIVINGSTON. It is also my understanding that although not explicitly stated in the conference report, it would be consistent with the conferees' intentions for at least some of the remaining $1.5 million to be allotted to the Center for Democracy for election monitoring activities. Is that correct?

Mr. OBEY. Mr. Speaker, if the gentleman will yield further, that is correct.

Mr. LIVINGSTON. I would just like to point out to the Members of this body that the Center for Democracy has a proven track record in this area, having monitored the 1986 Philippine election and the 1989 Panamanian election. Furthermore, it has a head start in the area of election monitoring.

In April, it was invited by the "Group of 15" opposition parties—as well as the Sandinista government—to monitor the entire 10-month process leading up to the elections next February.

The center has been working diligently for the past 3 months to lay the groundwork for these activities, maintaining daily contact with key leaders on both sides, including meetings with the opposition and Daniel Ortega.

The center is working closely with the leaders of the Central American governments, as well as with the OAS, to encourage the adoption of fair electoral groundrules by the Sandinistas. It has established a cooperative relationship with the Council of Europe and the European Parliament, and the center's monitoring group in Nicaragua will include a number of Latin American and European observers.

Among the many projects planned, the center has begun work on an authoritative "Guide to the 1990 Nicaraguan Elections" which will be printed and distributed this summer internationally. It will also host a series of meetings on Capitol Hill with the Nicaraguan Supreme Electoral Council at which time its members can respond to questions and criticisms.

Mr. Speaker, given this outstanding list of credentials and activities, I think we must strongly urge the State Department to give serious consideration to the Center for Democracy when it determines how it will allocate the $1.5 million in discretionary funds provided by this legislation for the promotion of democracy in Nicaragua.

□ 1510

Mr. OBEY. Will the gentleman yield?

Mr. LIVINGSTON. I am happy to yield to the gentleman from Wisconsin.

Mr. OBEY. Mr. Chairman, I simply say I agree with him.

Mr. LIVINGSTON. Reclaiming my time, I thank the gentleman for his comments.

I have to tell this body that I am less than sanguine about the outcome of the election or the results in Nicaragua, but I have to say that it has been my observation that the Center for Democracy has done an outstanding job so far and will do as good a job as possible or as can be had in Nicaragua.

Mr. CONTE. Mr. Speaker, I yield 2 minutes to the gentleman from New York [Mr. SOLOMON].

Mr. SOLOMON. Mr. Chairman, I could not believe the words I heard coming out of the mouth of the gentleman from Florida a few minutes ago when he said that it was all Ronald Reagan's fault; Ronald Reagan did not spend enough money.

I say to you appropriators sitting here and to you authorizers sitting there, only the U.S. Congress can authorize, only the U.S. Congress can appropriate. Therefore, if there was not enough money spent on all of these programs, it was not Ronald Reagan's fault. It was yours.

Where is that gentleman from Florida? It was your fault. Ronald Reagan did not veto one bill. You did not override one bill for spending. Therefore, that means you did not appropriate the money. You did not authorize it.

Therefore, whose fault is it? That gentleman down here that ranted and raved in the well, it was his fault.

Mr. WHITTEN. Mr. Chairman, will the gentleman yield?

Mr. SOLOMON. I am happy to yield to the gentleman from Mississippi.

Mr. WHITTEN. Mr. Chairman, being chairman of the Committee on Appropriations, I must set the record straight, that most of the problem was caused by bypassing the Committee on Appropriations. Since 1945 we have been $187 billion below the recommendations of the President, and we were $16 billion below the recommendation of President Reagan.

What has happened is we passed laws saying they are entitled to it, and we passed laws entering into contracts, and the Congress has to pay for it.

I do not know who did it. The Committee on Appropriations which you mentioned did not do it.

Mr. SOLOMON. Mr. Chairman, reclaiming my time from the chairman, I agree; this Congress took Richard Nixon to court to make him spend the money they appropriated and authorized. That brought about these rescission laws we have now where any President of the United States cannot withhold the spending that you authorize and that you appropriate.

The President now has to come on his hands and knees and say, "Congress, we don't need to spend the money. May I please not spend it?" And usually you say, "No, you have got to spend it, Mr. President." So let us not pass the buck. It is you, Congress; it is your fault.

Long live Ronald Reagan.

Mr. WHITTEN. Mr. Speaker, I yield 7 minutes to the gentleman from Michigan [Mr. TRAXLER].

Mr. TRAXLER. Mr. Chairman, as chairman of the VA, HUD, and Independent Agencies Subcommittee, let me commend my good friend from New York. Incidentally, he is truly a friend of the veteran, and it has been my pleasure to follow his lead in several of these areas over the years. I am very grateful. I think I speak on behalf of all Americans, and especially veterans, for all of the good work that he has done, and also that of my good friend, the gentleman from Mississippi [Mr. MONTGOMERY], who chairs the Committee on Veterans' Affairs.

Let me set forth, starting with fiscal year 1981, what the President's request to the Congress was, and what the Congress gave by way of employee years. Members must draw their own conclusions.

In 1981, the employment request for the VA medical account was 184,672. We gave him, the VA, 185,869. In 1982, it was 181,106 requested; we gave 186,287, a significant increase, because as Members all know, the veteran population is aging. There is a greater demand for services, a greater need there. I hope we will be able to meet that need in the forthcoming 1990 budget. The 1983 request from the President was for 187,546 employees. We provided, the Congress, 188,238. The 1984 request was for 190,544, and this was good news. He was up to the area where we believed he ought to be, and it was 190,574 that the Congress provided. He had a good year that year. The request was 193,321 in 1985, 193,941 for the Congress. Those 2 years were good years. In 1986, he requested 192,048 employees, a reduction from the previous year of a thousand or so, and then the Congress provided the same number as the year before, 193,941.

Where we are running into trouble is in 1987. From that point on it is downhill for the President. He requested, in 1987, 185,192, a dramatic cut. We provided an increase over the previous year, and we brought him up to 194,140, almost 9,000 additional FTE's that the Congress provided for the VA medical services, with an aging and ever increasing demand. In 1988, the President's request was 190,330, some 4,000 under the previous year. We provided 194,140, the same as the year before. Difficult, tight-budget times—we cannot increase the military dramatically, we cannot slash taxes and think we are going to be able to do what we had been doing.

In 1989, he requested 192,358, with the Congress providing 194,720.

That brings us to fiscal year 1990. Incidentally, this supplemental will, in my judgment, very adequately fund the VA medical account, and it is important that we do this.

I want to tell the Members that we are in deep trouble for 1990, because the President's request for the next year, starting October 1, is 186,194 employees, which is way under the 194,720 that we have in last year's bill. I am going to call upon each and every one of the Members who have demonstrated a concern in this area to work with us and to support an appropriation which is going to assure adequate VA medical funding. We are coming up to the moment of truth.

I was up to the Committee on Rules yesterday and did not fare well. They are making it awfully difficult for us. We were opposed by the Committee on the Budget, and it is going to be tough in 1990.

I think this is one of the Nation's top priorities as I have listened to the Members on this floor over the last several months. There are going to be hard choices. I want to tell the Members that, and some of the Members are going to suggest that Peter got robbed to pay Paul, but as I have heard the priorities of this body in these months as we have debated the supplemental back and forth, and it has been like a ping-pong ball, it seems

to me, what I have heard is that the people in this Congress representing the people of the United States want the VA medical account adequately, fully funded. That is what I have heard.

I want to assure the Members, as one Member who will have a minor voice in how that is going to be done, that I will labor, and I am committed to anybody and everybody who will work with me to achieve that result in the 1990 bill.

When that bill comes to the floor, the Members are all going to be put to the test, and I will guarantee them that, and we will see who is a friend of the veteran.

□ 1520

Mr. SOLOMON. Mr. Speaker, will the gentleman yield at that point?

Mr. TRAXLER. I am delighted to yield to the gentleman from New York.

Mr. SOLOMON. Mr. Speaker, I just want to say to the gentleman from Michigan that he certainly makes a great deal of sense, and what he says is absolutely true. Because of previous veterans' administrators and the leadership in the Veterans' Administration, they marched to the orders of OMB, not to what the real needs of the veterans were, and that is one of the reasons we got ourselves in this mess we are in now. Such things as a 1 percent cost-saving productivity increase. We cannot do that in hospitals. That is how we got in this mess.

I just want to say to the gentleman that he is one of the great friends of the veterans, and he has done a tremendous job in his capacity, and we look forward to working with him to try to correct these inequities.

Mr. TRAXLER. I thank the gentleman.

Mr. SMITH of Florida. Mr. Speaker, will the gentleman yield,

Mr. TRAXLER. I am delighted to yield to the gentleman from Florida.

Mr. SMITH of Florida. Mr. Speaker, I want to thank the gentleman from Michigan for these statistics, which are revealing, and which, if I am not mistaken, indicate that what I said in the well was correct, that it was not the Congress of the United States, but it was the President of the United States who kept cutting back on the numbers of people, and we either funded or exceeded what he wanted. Is that correct?

Mr. TRAXLER. That is a fair statement. I might say that the total that the Congress appropriated over the President's recommendations over the last 5 years, what Members have done in support of the veterans health care account has been $1 billion over what the President recommended. The Congress cannot be faulted, in my judgment, for making a superb effort under extremely trying budget conditions.

Mr. SMITH of Florida. Would the gentleman also agree, however, that the need out there is so much greater even than what we are able to do above what the President wanted, and we are now coming back to address this issue? And would not the gentleman say, because I know the gentleman is aware of this, that in the other areas that are addressed in this bill the same kind of statistics actually do exist?

Mr. TRAXLER. I would say that one could draw those conclusions.

Mr. SMITH of Florida. I thank the gentleman and commend him for his interest and his work on this issue.

Mr. TRAXLER. I thank the gentleman for his contribution, and I yield back the balance of my time.

Mr. CONTE. Mr. Speaker, I yield myself as much time as I may consume.

Mr. Speaker, first of all, I do not know what my good friend from Florida [Mr. SMITH] had for lunch today, but something got him going. He is a dear friend of mine, but he is wrong on this one, because no one fought the Reagan administration on appropriations more than I did. I think Mr. TRAXLER handled it beautifully by listing all additional money that his subcommittee put in for the veterans. The President signed every one of those bills, and Mr. SMITH of Florida is down here in the well blaming the President for this supplemental. He signed the bill that Mr. TRAXLER put all of the money in. Maybe Mr. TRAXLER did not put in enough.

No, he put in plenty, Mr. TRAXLER put in plenty, and I am going to be with him this year, too, as I have been in the past. I am going to be with you

So the gentleman from Florida is all wrong on that point.

Then the chairman of the full committee goes up before the Rules Committee, comes here to the floor, and we have heard it now like a broken record, he has cut $16 billion from the Reagan budget, $16 billion cut from the Reagan budget. You cannot have it both ways. You cannot get up on the one hand and say the President shorted us on the money, and then on the other hand we cut him $16 billion.

Who is at fault here? Somebody is at fault here.

Mr. SMITH of Florida. Mr. Speaker, will the gentleman yield?

Mr. CONTE. I yield to the gentleman from Florida.

Mr. SMITH of Florida. Mr. Speaker, I appreciate the gentleman yielding. I only want to tell the gentleman, with the best of friendship, and in the spirit of being open and honest on this floor, I had the same thing for lunch obviously that you did.

Mr. CONTE. I had a beautiful mango that my friend from Florida brought up, the chairman of the transportation subcommittee, and it did not give me the same effect.

Mr. OBEY. Mr. Speaker, will the gentleman yield?

Mr. CONTE. I yield to the gentleman from Wisconsin.

Mr. OBEY. Mr. Speaker, would the gentleman mind telling us where he bought that incredible coat?

Mr. CONTE. I got it at Filene's bargain basement where I get all of my clothes.

Now I lost my train of thought.

Let met tell my colleagues the big issue here that we keep losing in this supplemental debate, is that in 1987 we had a stock market crash in this country, and as a result, the leadership of both the House and the Senate, and the administration, formed a budget summit. We met for 25 days over in the Senate. Then-Majority Leader Tom Foley was chairman of that budget summit group. And we came out of that meeting with an agreement, which capped our expenditures. That is what this is all about. Everyone is forgetting the 1987 budget summit agreement.

What are we arguing about? We are not arguing about drugs. Heck, if the gentleman from Iowa wants to put $10 billion in there, we are going to debate that later on. Let him put $10 billion. But I say live up to your responsibility and give us $10 billion in offsets.

Here again, he wants to have his cake and eat it too, and I do not blame him.

Mr. SMITH of Iowa. Mr. Speaker, will the gentleman yield?

Mr. CONTE. I yield to the gentleman from Iowa.

Mr. SMITH of Iowa. Mr. Speaker, I would ask the gentleman from Massachusetts, who signed that agreement he is talking about? I never saw it on the floor here.

Mr. CONTE. The gentleman from Iowa was not a part of it. He was not a part of it. The leadership was part of it, JAMIE WHITTEN was part of it, DANNY ROSTENKOWSKI was part of it, BOB MICHEL was part of it, I was part of it, the Senate leaders were part of it, OMB. You were not there. That is too bad. You stick around long enough and you will get a chance.

Mr. SMITH of Iowa. If the gentleman will yield, he got his clock cleaned, and now he wants us to pay the bill.

Mr. CONTE. They keep blaming the President. I remember my good friend from Monroe, LA. The gentleman from Mississippi, the chairman of the committee, remembers him. You remember him, Mr. Chairman? He used to say when the foreign aid bill came up that the administration proposes and the Congress disposes. Do you remember that? He used to say that all of the time, and that is true. The

President can send up any budget he wants, but we have that final say on that budget, and we have the final say here today on the supplemental where some Members believe that we have to live within that budget summit agreement of 1987.

There are some things in here where a point of order can be raised, and I understand the gentleman from California [Mr. PANETTA] is going to raise points of order because the provisions violate the Budget Act.

However, when it comes to the drug money, they insulate it, they protect it. They do not live up to their fiscal responsibility. They do not put any offsets in here, and then they get up and they control the Rules Committee, and they waive points of order on the budget so that we cannot raise a point of order.

We could be out of here in 5 minutes. But the thing that gores me more than anything as a disabled veteran. Why, why use the veterans as the hostage?

If we want to debate and want to put telescopes in here, and want to sell more apples, and want to do all of these things, it is all right with me, do it, but let the veterans go free. Let them go down to the White House, sign the bill, and then let us debate these other issues. Let us debate the drug issue for the next 3 or 4 weeks, but do not do it on the backs of the veterans.

Mr. WHITTEN. Mr. Speaker, I yield myself such time as I may require.

Mr. Speaker, may I point out some details about this so-called summit? I was not in the group that went to the White House. I was in the group that met over here, and what is supposed to have happened at the White House is opposite to what we agreed to in the meeting over here.

I ask the Rules Committee for a copy of the agreement. They said there is none; it is not written. Those are the facts.

What they did was agree with the increases for military and foreign aid which the President requested and cut domestic some more. I was not down there, I did not agree, and that agreement such as it was, and I presume was oral, was opposite to what we agreed to in the meetings over here, and those are the facts.

Mr. CONTE. Mr. Speaker, I yield 2 minutes to my good friend, the gentleman from Pennsylvania [Mr. CLINGER] for the purposes of a colloquy.

Mr. CLINGER. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, first of all, I would like to thank the conferees for coming up with the $6.6 million needed to save the Essential Air Service Program. Those of us who represent small communities and rural areas certainly appreciate your efforts in this area.

However, we are concerned about a provision that is attached to that $6.6 million. That provision states that "no subsidy shall be paid for any service * * * for which the per passenger subsidy exceeds $300."

We are concerned about this provision because of the discretion that it leaves to DOT. There are so many ways that this $300 cap could be implemented that might affect which communities lose their air service. It could be done on a calendar year basis or a fiscal year basis, I could use negotiated subsidy rates or actual subsidy rates, or it could combine routes, points, or hubs in a way that would have consequences that are difficult to foresee at this time.

It is my understanding that DOT currently has a method for determining which communities exceed the $300 cap. Under this method, DOT had identified six communities that will lose their air service because of this $300 cap.

We do not want to be surprised in the future by finding that DOT has changed its method with the result that a small community that expected to keep it service is now going to lose it.

Is it the conferees intention that DOT should continue to use the same methodology it used to identify the six communities?

Mr. LEHMAN of Florida. Mr. Speaker, if the gentleman will yield, yes, the gentleman's understanding of the conference is correct.

Mr. CLINGER. Mr. Speaker, I thank the gentleman for that information.

Mr. LAGOMARSINO. Mr. Speaker, I rise in support of the provision to provide funding of $1,500,000 for the three political parties in Puerto Rico to participate in the legislative process with the Congress involving the future political status of Puerto Rico. President George Bush, in his February 9, 1989, address to the jont session of Congress, expressed his strong personal support of Puerto Rico statehood and asked the Congress to authorize a referendum in order for the people of Puerto Rico to decide on their future relationship with the United States.

Puerto Rico has the closest relationship with the United States of all the territories. The people have been U.S. citizens for over 71 years. Puerto Rico alone among the territories lies within U.S. Customs Zone. The U.S. Constitution applies in part. Puerto Rico has set the pace among U.S. territories in the development of democratic self-government like that of the United States. Puerto Rico was authorized a representative in Washington at the beginning of this century. It wasn't until 1980 that three other territories were represented in Congress. The newest member of the American family, the Commonwealth of the Northern Marianas, do not yet have a delegate in Congress although the residents gained U.S. citizenship in 1986.

Puerto Rico was the first territory to be authorized to elect their own Governor after World War II in the late 1940's. In fact, the territories of Alaska and Hawaii were not authorized to elect their own Governors until they became States in 1959.

In 1950, the Congress enacted the Puerto Rico Federal Relations Act authorizing the people to formulate a local constitution. Congress approved the developed constitution with certain required changes in 1952. With the Puerto Rico Constitution in effect, the local legislative and executive branches lead by popular vote, and an elected Representative in Congress (albeit a non-voting), Puerto Rico enjoyed unprecedented local self-government among U.S. territories.

Puerto Rico's advanced local self-government was often examined as a possible model for Alaska and Hawaii. However, the people of those areas chose to wait for full integration into the United States. Through statehood the people of Alaska and Hawaii would gain full participation in the American system, the right to vote for President and Vice President and full voting representation in the House and Senate. There were uncertainties regarding the economic impact of the responsibilities of statehood. However, the determination to fully participate and faith in the American system lead the people to seek statehood. Their desires and faith proved correct as evidenced by the strong economies of both States.

Puerto Rico's economy has developed over the years and the per capita income has risen to a point nearly unparalleled among the islands of the Caribbean. The people are now faced with the choice of their future relationship with the United States. Should they go it alone through independence? Should they be satisfied with the unincorporated commonwealth/territory relationship with the United States which could be improved but would leave them disenfranchised and without voting representation? Or should they pursue the inevitable culmination of integration with the United States through statehood to achieve a full endowment of their constitutional rights?

I believe the people of Puerto Rico will choose the best relationship with the United States. It is critical that they make a well-informed choice, so that there are no misconceptions or allusions regarding any of the three relationships.

The administration supports the Senate initiative to provide $500,000 to each of the three political parties to allow participation in our legislative process. It is essential to have the involvement of the political parties through the legislative process. However, the voter education regarding the different relationship options should be provided in a nonpartisan manner. The origin of this political status initiative actually began with direct requests by the people of Puerto Rico for congressional action on a referendum.

During the 99th and 100th Congresses, the people of Puerto Rico submitted 350,000 individually signed petitions for Puerto Rico statehood. These petitions were delivered by Dr. Miriam Ramirez de Ferrer, the president of a nonprofit grassroots civic organization, Puerto Ricans in Civic Action. The sheer magnitude of the petitions from the people of Puerto Rico was a large part of the reason which I introduced legislation in the last Congress to

provide for a referendum on Puerto Rico statehood.

Each of the political parties in Puerto Rico supports a particular future relationship with the United States, the people should make their choice according to the merits of a relationship, not for partisan reasons.

I urge my colleagues to support this measure which affects the lives of nearly 3½ million U.S. citizens in Puerto Rico. It is needed to assure equal participation in the legislative process by all parties, not just those currently in office.

A recent article in the Washington Post entitled "Puerto Rico's Monumental Question" highlighted the intense involvement of the people of Puerto Rico in the debate on their future relationship with the United States. While the article noted that "Political Status Is a White-Hot Issue on Island, Almost Invisible on Hill", our action today demonstrates the Congress' active consideration of this monumental question. I am submitting the entire article as it explains the importance of this issue and why it warrants consideration in this appropriation bill.

PUERTO RICO'S "MONUMENTAL" QUESTION—POLITICAL STATUS IS WHITE-HOT ISSUE ON ISLAND, ALMOST INVISIBLE ON HILL

(By Judith Havemann)

There was President Bush's support for statehood for Puerto Rico, then a Senate committee's push for a referendum in 1991 on whether Puerto Ricans want independence, statehood or an "enhanced" commonwealth status, all of which has raised expectations on the island.

In Puerto Rico, recent Senate hearings preempted popular daytime television programs and attracted phenomenal numbers of viewers, including crowds outside store windows who watched sets tuned to the proceedings.

For now, it is an issue of surpassing importance far away that is almost invisible in Washington.

Few members of Congress have focused on the issue. The president's task force on Puerto Rico met for the first time last Friday. Difficult political and technical issues remain to be resolved about the conditions under which any of the three forms of government might be granted.

In an attempt to define the terms of statehood, independence and enhanced commonwealth status, Sen. J. Bennett Johnston (D-La.) has begun a breakneck schedule of hearings.

In Puerto Rico, the last referendum on the issue in 1967 was dismissed by many as a mere popularity contest because it was not clear whether statehood meant losing Puerto Rico's special tax status, among other issues.

Commonwealth supporters won 60.4 percent of the vote compared with 38.9 percent for statehood and .6 percent for independence. Independence supporters largely boycotted the plebiscite and some statehood partisans joined them.

Turnout was only 66 percent of registered voters, compared with more than 80 percent normally, according to the Congressional Research Service.

Fervor on the island over the issue is already white-hot, judging by the Puerto Rican press, and this may foreshadow trouble if the process fizzles out.

"These are monumental matters for us and for the mainland as well," said Resident Commissioner Jaime B. Fuster, a non-voting delegate in Congress and a leader of the commonwealth party. But, based partly on a survey of the House and partly on his general knowledge about Congress, he said he believes there is relatively little awareness in Congress of the issue.

"I believe that Puerto Rico is walking down a road, has already walked down the road, that has changed the nature of politics and perceptions" about the relationship with the United States, he said.

The White House Task Force on Puerto Rico began an "objective analysis" of legislation pending before Johnston that details what the three parties in Puerto Rico are seeking, according to presidential spokesman Steven Hart.

The task force is headed by Andrew Card, deputy chief of staff, and includes representatives of the departments of Health and Human Services, Treasury, State, Interior, Justice, Housing and Urban Development, Commerce, Defense, and the offices of the U.S. Trade Representative and Management and Budget.

The administration has been asked to present its position on the complicated legislation next month. Hart said that the White House would be stepping up the schedule of meetings on the issue to prepare for the hearings.

According to an aide to Johnston, the participation of the White House is crucial at this stage. Although the Senate Energy and Natural Resources Committee, which has oversight over the commonwealth, has committed itself to resolving the issues necessary to secure a referendum, Congress has many competing urgent issues, and many of the key "status" issues involve numerous committees such as Armed Services, Finance and Judiciary.

No one knows which status Puerto Ricans might choose in a national referendum.

But the mere fact that Bush endorsed statehood in his first State of the Union message gives new impetus to its supporters on the island.

The most recent states to be admitted to the union were Hawaii and Alaska, which joined in 1959.

Although the possible admission of Puerto Rico as the 51st state seems to pose challenges because of its Hispanic culture, Spanish language, relative poverty and distance from the mainland, all have historical precedents, according to testimony before the energy committee.

Sen. James A. McClure (R-Idaho) said in the Senate on April 5 "We do have antecedents, including Hawaii, but the best analogy would probably be that of Louisiana. The territory of Orleans presented a novel problem for the United States. It was almost exclusively French-speaking, followed the Napoleonic Code and was Catholic."

"Needless to say, in 1812, the territory of Orleans became the State of Louisiana and as any lawyer can attest, there is the common law and then there is Louisiana. There is the Uniform Commercial Code and then there is Louisiana's version. There is general admiralty law and then there is Louisiana. I hope that we will not get distracted into fruitless exercises on this issue either by the proponents or opponents of statehood," he said.

Mr. COMBEST. Mr. Speaker, today during consideration of the dire emergency supplemental, we will vote to accept an amendment offered by the other body regarding the Legal Services Corporation. House conferees refused to accept this amendment and I believe that we should affirm the House position.

This amendment will wipe out months of background work that the Legal Services Board has done to facilitate the implementation of a competitive grant system. This system is to be set up by a new Board, which has yet to be appointed by the President. Supporters of the amendment contend that the background work done by the current LSC Board violates the conference agreement on last year's LSC appropriations bill.

I question the intent of the Senate amendment. As I see it, the actions of the LSC do not violate the existing conference agreement. The preliminary background work that the current LSC Board is doing will be necessary if a new Board is to implement a competitive grant system in the near future as intended in the current LSC appropriation. I can only construe that the supporters of this measure are not really interested in creating a responsible and fair competitive grant system.

The other body's amendment is ill-conceived. Not only would it stop LSC from further study of a competitive grant system, it would also nullify all regulations that have been put into effect during this fiscal year.

For example, the Senate amendment will also cancel a new regulation that requires grantees to speedily notify the Board regarding the possible illegal use of LSC funds. Only in effect since the beginning of the year, this requirement has already led to the disclosure of three cases which are currently being investigated. One case involves the alleged fraudulent misappropriation of $130,000. In another, the former executive director of a grantee from my State of Texas is being investigated for the alleged misappropriation of nearly $70,000. Regulations such as these make for a more responsible Legal Services Corporation and lead to a better accounting of the taxpayers' dollars. But the Senate amendment kills these reforms in their tracks.

The Senate language is not necessary and actually works against the interest of good government. I urge my colleagues to oppose any measure to recede in the amendment concerning the Legal Services Corporation.

Mr. FRENZEL. Mr. Speaker, in the movies the good guys almost always win. Here on the floor of the House, the outcome is never quite that certain.

If you are having trouble following supplemental action, just check the CONGRESSIONAL RECORD of May 18. Very little has changed since then.

The main similarity between May 18 and now is that delay and tactics on this legislation are producing some very serious problems. The most urgent, of course, is the need to get money to the veterans' hospitals before their currently desperate condition becomes truly calamitous. The necessity of funding medical services for our veterans provided the initial impetus for this supplemental bill. That is what we ought to be addressing today. Veterans medical services are, in fact, a dire emergency.

Several other mandatory programs are also running short of funds and cannot make it through the end of the fiscal year, although their condition has not yet become as severe

as that of veterans' hospitals. We ought to appropriate money to cover fire fighting costs, food stamps, foster care, and guaranteed student loans, to name the principal items.

Unfortunately, this central purpose has been nearly forgotten in the on-going scramble to attach less urgent or even wholly discretionary wish list items to this so-called dire emergency supplemental.

The President's request was for a little under $2.3 billion. Frankly, some of us who are focused on reducing the deficit thought even that amount was a little rich. Counting the antidrug amendment, the bill before us today stands at nearly $5 billion, more than double the initial request. Doubling a bill does not mean just adding a little fluff or padding here or there. It requires a complete disregard for the budget problem to which we all pay so much lip service but evidence so little discipline.

The budget problem led us twice to the summit conference table with the President, once in the fall of 1987 and again this past spring. Both times we reached an agreement which involved setting tough but achievable spending targets and then sticking to them throughout the stipulated period with no exceptions whatsoever, except in the case of dire emergencies.

While the veterans' medical situation has become what anyone would deem to be a dire emergency, most of the rest of the items provided in this bill are far from dire in their questionable necessity. If we pass this supplemental, bloated with unneeded but politically popular spending and sleight-of-hand budgetary manipulations, we might as well repudiate the past two budget summits as well as the one for fiscal year 1991 yet to come.

Ground work is already underway for early bargaining on the fiscal year 1991 budget so that we can round out a strong 2-year budget package for the 101st Congress. But frankly, a House vote for nearly $5 billion in largely unneeded and unjustified spending sends the negotiators a signal that they are wasting their time. It means that the House only wants to adopt bold plans, but it doesn't want to live up to them.

Living up to budgets is a lot tougher than drafting them. This supplemental bill contains several truly ingenious devices which achieve surface conformity to the budget summit agreement and the follow-up budget resolution but which clearly violate both the budget agreement and scoring agreement that accompanied it.

The pay dates of three Federal agencies—Veterans, EPA, and NASA—are shifted from the first Tuesday in October 1989 to the last Friday in September. The clever scribes at the Appropriations Committee were careful to state in their report that pursuant to Gramm-Rudman, "this action is a necessary (but secondary) result of a significant policy change." They hope that this will force OMB to score the $354 million involved as fiscal year 1989 outlays rather than fiscal year 1990 spending to minimize the chance of a sequester. Let me observe that if OMB pulled a stunt like this, there would be an immediate chorus of howls from the Hill.

The appropriators' real intent is to give themselves more room under the budget agreement and their 302 allocation for fiscal year 1990. By scoring this $354 million in outlays on the 1989 books, they can then free up the same amount of outlays for other purposes in fiscal year 1990. This is a terrible precedent. There is no significant policy change that merits shifting the pay date. Unlike the military situation where payday this year falls on a Sunday, no one can concoct even a cover story to explain why paychecks for DVA, EPA, and NASA must be issued on Friday instead of Tuesday. The House should reject this blatant budget gimmick.

Another run at the integrity of the budget process takes the form of specific instructions in the supplemental to score HUD asset sales proceeds as offsets to outlays. Again, this is an attempt to get more room for outlays in fiscal year 1990 so that the budget agreement will not pinch so hard.

The 1989 budget negotiators spent many long hours reaching agreement between the executive branch and the legislative branch on how to score various programs and transactions. We had to do this because scoring the budget agreement is crucial to keeping the agreement.

The provision to score asset sale proceeds against programmatic outlays violates both the letter and the spirit of this agreement.

It also violates the separate targets set out in the agreement for discretionary spending and for asset sales. Like the pay date shifts, this budget gimmick should be rejected.

Finally, I want to reiterate my opposition to the $822 million in antidrug funding that some are seeking to attach to this bill. The vote on adding this money will not be a test of Members' commitment to the war on drugs. It will be a test of their commitment to reducing the deficit and to responsible budgeting instead of emotional budgeting.

Much of the $500 million passed in last fall's supplemental for antidrug efforts has not yet been obligated, much less spent. So why should we rush to add another $822 million?

We have set up a study commission on antidrug strategy to develop an optimum plan. That report from Bill Bennett is not even due until September. So why the rush to add another $822 million before we have even received their recommendations?

The administration has requested over $5.2 billion in antidrug funding for fiscal year 1990. This request is currently under active consideration in the Appropriations Committee and will be brought to the floor later this summer. Antidrug funding is important. Other programs are also important. The Appropriations Committee has the responsibility to weigh all of our priorities and bring out a bill that places antidrug spending in the proper perspective. Rushing to add another $822 million now preempts their deliberations.

Our colleagues in the other body rejected this emotion-laden antidrug add-on three separate times. The House should not allow itself to be manipulated into agreeing to funds that will not be spent before the end of September.

If we add the antidrug funds to this bill, the bill will be delayed, probably in the other Chamber, and certainly at the President's desk. Veterans' medical services will not get their needed funding.

The supplemental appropriations bill ought to be reserved for dire emergencies. I urge my colleagues to join me in voting against lower priority spending, against evasive budget gimmicks, and against drug funding that can wait a few weeks until the regular appropriations bills are brought out.

Mr. BORSKI. Mr. Speaker, I rise today in strong support of funding for veterans health care in H.R. 2072, the dire emergency supplemental appropriations.

Mr. Speaker, due to shortfalls in the fiscal year 1989 budget, there has been a dangerous reduction in medical care to America's veterans. Basic health care services are being denied to eligible veterans. Staff levels at veterans facilities are dangerously low and veterans are being turned away.

There are now 4,000 fewer medical personnel available to treat veterans than directed by Congress. This has reduced the number of outpatients to be treated this year at veterans hospitals and clinics by 600,000.

Vital equipment at veterans facilities is not being replaced and medical supplies are in short stock. Many prescription orders are not being filled.

Our veterans deserve better. These are the men and women who served their country in its time of need. Reductions in medical care default on the promises made to veterans to provide for their health and well-being in exchange for the essential service they provided for our Nation.

The emergency funding in H.R. 2072 will enable veterans facilities to avoid even deeper employee and service cuts. This emergency funding will not restore veterans medical care to the level necessary. The $340 million provided to alleviate the funding shortfall is the bare minimum required to maintain adequate veterans health services this year. However, this bill is a step toward better health care for veterans and will allow us to deliver essential medical services to veterans who are in immediate need.

Mr. Speaker, it has been months since the magnitude of the emergency in the veterans health system became clear. Precious time has already been lost while veterans continue to be refused medical care, turned away from hospitals, and denied medication. This situation must be corrected.

It is vital that these emergency funds be approved—without delay—to prevent further decay in the VA medical system. I urge my colleagues to support H.R. 2072 and finally give America's veterans their due.

Mr. CONTE. Mr. Speaker, I have no further requests for time.

Mr. WHITTEN. Mr. Speaker, I have no further requests for time, and I move the previous question on the conference report.

The previous question was ordered.

The SPEAKER pro tempore (Mr. ACKERMAN). The question is on the conference report.

MOTION TO RECOMMIT OFFERED BY MR. CONTE

Mr. CONTE. Mr. Speaker, I offer a motion to recommit.

The SPEAKER pro tempore. Is the gentleman opposed to the conference report?

29-059 O-90-36 (Pt. 9)

Mr. CONTE. I am, Mr. Speaker, in its present form.

The SPEAKER pro tempore. The Clerk will report the motion to recommit.

The Clerk read as following:

Mr. CONTE moves to recommit the conference report on H.R. 2072 to the Committee on Conference.

The SPEAKER pro tempore. Without objection, the previous question is ordered on the motion to recommit

There was no objection.

The SPEAKER pro tempore. The question is on the motion to recommit.

The motion to recommit was rejected.

The SPEAKER pro tempore. The question is on the conference report.

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

Mr. WHITTEN. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently, a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device and there were—yeas 201, nays 218, not voting 13, as follows:

[Roll No. 98]

YEAS—201

Ackerman	Downey	Kildee
Akaka	Durbin	Kleczka
Alexander	Dwyer	Kolter
Anderson	Dymally	Kostmayer
Annunzio	Dyson	LaFalce
Applegate	Early	Lantos
Aspin	Eckart	Lehman (CA)
Atkins	Edwards (CA)	Lehman (FL)
AuCoin	Engel	Leland
Beilenson	Espy	Levin (MI)
Bennett	Evans	Levine (CA)
Berman	Fascell	Lewis (GA)
Bevill	Fazio	Lipinski
Bilbray	Feighan	Lowey (NY)
Boggs	Florio	Luken, Thomas
Bonior	Foglietta	Manton
Borski	Ford (MI)	Markey
Bosco	Ford (TN)	Martinez
Boucher	Frank	Matsui
Boxer	Frost	Mavroules
Brennan	Garcia	Mazzoli
Brooks	Gaydos	McCloskey
Brown (CA)	Gejdenson	McDermott
Bruce	Gephardt	McHugh
Bryant	Gibbons	McMillen (MD)
Bustamante	Gilman	McNulty
Campbell (CO)	Glickman	Mfume
Cardin	Gonzalez	Miller (CA)
Carper	Gordon	Mineta
Carr	Gray	Moakley
Chapman	Guarini	Molinari
Clarke	Hamilton	Mollohan
Clay	Hatcher	Montgomery
Clement	Hawkins	Moody
Coleman (TX)	Hayes (IL)	Morrison (CT)
Conyers	Hefner	Mrazek
Costello	Hertel	Murtha
Coyne	Hochbrueckner	Natcher
Crockett	Hoyer	Neal (MA)
de la Garza	Johnston	Nelson
DeFazio	Jones (GA)	Nowak
Dellums	Jones (NC)	Oakar
Derrick	Jontz	Oberstar
Dicks	Kanjorski	Obey
Dingell	Kaptur	Ortiz
Dixon	Kastenmeier	Owens (NY)
Donnelly	Kennedy	Pallone
Dorgan (ND)	Kennelly	Panetta
Pease	Savage	Torricelli
Pelosi	Sawyer	Towns
Perkins	Scheuer	Traficant
Pickett	Sikorski	Traxler
Pickle	Slattery	Unsoeld
Porter	Slaughter (NY)	Vento
Poshard	Smith (FL)	Visclosky
Rahall	Smith (IA)	Volkmer
Rangel	Smith (NE)	Walgren
Richardson	Solarz	Waxman
Rinaldo	Spratt	Weiss
Roe	Staggers	Wheat
Rose	Stark	Whitten
Rostenkowski	Stokes	Williams
Rowland (GA)	Studds	Wise
Roybal	Swift	Wolpe
Russo	Synar	Wyden
Sabo	Tanner	Yates
Sangmeister	Thomas (GA)	Yatron

NAYS—218

Andrews	Henry	Pursell
Anthony	Herger	Quillen
Archer	Hiler	Ravenel
Armey	Hoagland	Ray
Baker	Holloway	Regula
Ballenger	Hopkins	Rhodes
Barnard	Horton	Ridge
Bartlett	Houghton	Ritter
Barton	Hubbard	Roberts
Bateman	Huckaby	Robinson
Bates	Hughes	Rogers
Bentley	Hunter	Rohrabacher
Bereuter	Hutto	Roth
Bilirakis	Hyde	Roukema
Boehlert	Inhofe	Rowland (CT)
Broomfield	Ireland	Saiki
Browder	Jacobs	Sarpalius
Brown (CO)	James	Saxton
Buechner	Jenkins	Schaefer
Bunning	Johnson (CT)	Schiff
Burton	Johnson (SD)	Schneider
Byron	Kasich	Schroeder
Callahan	Kolbe	Schuette
Campbell (CA)	Kyl	Schulze
Chandler	Lagomarsino	Sensenbrenner
Clinger	Lancaster	Sharp
Coble	Laughlin	Shaw
Coleman (MO)	Leath (TX)	Shays
Combest	Lent	Shumway
Conte	Lewis (CA)	Shuster
Cooper	Lewis (FL)	Sisisky
Cox	Lightfoot	Skaggs
Craig	Livingston	Skeen
Crane	Lloyd	Skelton
Dannemeyer	Long	Slaughter (VA)
Darden	Lowery (CA)	Smith (MS)
Davis	Lukens, Donald	Smith (NJ)
DeLay	Machtley	Smith (TX)
DeWine	Madigan	Smith (VT)
Dickinson	Marlenee	Smith, Denny (OR)
Dornan (CA)	Martin (IL)	
Douglas	Martin (NY)	Smith, Robert (NH)
Dreier	McCandless	
Duncan	McCollum	Smith, Robert (OR)
Edwards (OK)	McCrery	
Emerson	McCurdy	Snowe
English	McDade	Solomon
Erdreich	McEwen	Spence
Fawell	McGrath	Stallings
Fields	McMillan (NC)	Stangeland
Fish	Meyers	Stearns
Flippo	Michel	Stenholm
Frenzel	Miller (OH)	Stump
Gallegly	Miller (WA)	Sundquist
Gallo	Moorhead	Tallon
Gekas	Morella	Tauke
Gillmor	Morrison (WA)	Tauzin
Gingrich	Murphy	Thomas (CA)
Goodling	Myers	Thomas (WY)
Goss	Neal (NC)	Upton
Gradison	Nielson	Valentine
Grandy	Olin	Vander Jagt
Grant	Owens (UT)	Vucanovich
Green	Oxley	Walker
Gunderson	Packard	Walsh
Hall (OH)	Parker	Watkins
Hall (TX)	Parris	Weber
Hammerschmidt	Pashayan	Weldon
Hancock	Patterson	Whittaker
Hansen	Paxon	Wolf
Harris	Payne (VA)	Wylie
Hastert	Penny	Young (AK)
Hayes (LA)	Petri	Young (FL)
Hefley	Price	

NOT VOTING—13

Bliley	Leach (IA)	Udall
Collins	Nagle	Wilson
Coughlin	Payne (NJ)	Wright
Courter	Schumer	
Flake	Torres	

□ 1555

The Clerk announced the following pairs:

On this vote:

Mrs. Collins for, with Mr. Coughlin against.

Mr. Nagle for, with Mr. Bliley against.

Messrs. PURSELL, HUGHES, HOAGLAND, WATKINS, and HUBBARD changed their vote from "yea" to "nay."

Ms. KAPTUR and Messrs. THOMAS of Georgia, PORTER, GLICKMAN, SLATTERY, and APPLEGATE changed their vote from "nay" to "yea."

So the conference report was not agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

AUTHORIZING A FURTHER CONFERENCE ON H.R. 2072

Mr. WHITTEN. Mr. Speaker, I ask unanimous consent that the House insist on its disagreement to the amendments of the Senate and request a further conference.

The SPEAKER pro tempore (Mr. ACKERMAN). Is there objection to the request of the gentleman from Mississippi?

Mr. CONTE. Mr. Speaker, reserving the right to object, I do not intend to object. I merely reserve the right to object so that I can get some indication from the chairman of the committee as to what our plans are from here on in.

Mr. WHITTEN. Mr. Speaker, if the gentleman will yield, my unanimous request was that the House insist on its disagreement to the amendments of the Senate and request a further conference.

Mr. CONTE. And ask for a further conference?

Mr. WHITTEN. Yes, a further conference.

Mr. CONTE. Mr. Speaker, I certainly have no objection to that. I hope that if we do have a further conference—and I hope that we do—we understand that we have two avenues. One is that the veterans' bill, H.R. 2402, is waiting over in the Senate, the one that we passed here unanimously, and they can ship that down to the President tonight; or if we do go back to conference, I hope now what we realize this last vote sends a message that we cannot have a great deal of money in this bill, such as the $822 million, without any offsets.

Mr. GINGRICH. Mr. Speaker, will the gentleman yield?

Mr. CONTE. I yield to the gentleman from Georgia.

Mr. GINGRICH. Mr. Speaker, I just want to emphasize for all our colleagues that it seems to me we should be prepared, if necessary, to be here on Friday. I understand that the Senate will be leaving for 2 weeks and will not be back, as I understand it, until July 10, and what was discussed in May as a serious problem with veterans' hospitals will clearly by mid-July be a fairly dramatic problem. I think we need to send a signal to the Senate and, hopefully, to our own conferees that it will be very useful by the end of today or tomorrow to produce a clean, signable supplemental appropriation, emphasizing the veterans.

Mr. Speaker, I want to congratulate the gentleman from Massachusetts [Mr. CONTE] for his leadership.

Mr. SMITH of Iowa. Mr. Speaker, will the gentleman yield?

Mr. CONTE. I yield to my good friend, the gentleman from Iowa.

Mr. SMITH of Iowa. Mr. Speaker, I would point out that there is $822 million for the war on drugs in the bill that is not offset, however, there is an additional $666 million in the bill that is not offset and the administration has said they would approve of all of that. That is part of the deal they made, as we know, with some of the Senators so they could get them to help in opposing the additional funds for the war on drugs.

Mr. CONTE. Mr. Speaker, the gentleman is right.

Mr. SMITH of Iowa. The list that is put out on the Republican alert sheet is an accurate list. Those are the things that were added in the Senate that the administration agreed to. This list that people are complaining about was not a House list. Those were things the administration agreed to with the Senate to get them to go along.

Mr. CONTE. Mr. Speaker, the gentleman is partially right. A good part of the $600 million was the veterans' money.

Mr. SMITH of Iowa. That is $340 million.

Mr. CONTE. We got an agreement, as the gentleman recalls, and I had gone to the White House and gotten an agreement that we would not need the money to offset the veterans' medical care because that was a dire, dire emergency, and we would not have to have an offset on the Soviet refugee money because that also was a dire, dire emergency.

□ 1600

Mr. SMITH of Iowa. Also most of the funds for international peacekeeping activities—$107 million—and also the money for the White House—$1.5 million—those amounts are not offset.

Mr. CONTE. Mr. Speaker, the other big item, I believe, was $250 million for the firefighters at the Yosemite or Yellowstone.

Mr. SMITH of Iowa. Mr. Speaker, it totals $666 million.

Mr. CONTE. And the U.N. money is offset.

Mr. SMITH of Iowa. No, $107 million of outlays is not offset.

Mr. CONTE. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

APPOINTMENT OF CONFEREES ON H.R. 2072, DIRE EMERGENCY SUPPLEMENTAL APPROPRIATIONS, FISCAL YEAR 1989

The SPEAKER. The Chair appoints the following conferees: Mr. WHITTEN, Mr. NATCHER, Mr. SMITH of Iowa, Mr. YATES, Mr. OBEY, Mr. ROYBAL, Mr. BEVILL, Mr. MURTHA, Mr. TRAXLER, Mr. LEHMAN of Florida, Mr. DIXON, Mr. FAZIO, Mr. HEFNER, Mr. CONTE, Mr. MCDADE, Mr. COUGHLIN, Mr. REGULA, Mrs. SMITH of Nebraska, Mr. EDWARDS of Oklahoma, Mr. GREEN, and Mr. ROGERS.

CONGRESSMAN NATCHER'S RECORD VOTING STREAK

(Mr. BROOMFIELD asked and was given permission to address the House for 1 minute.)

Mr. BROOMFIELD. Mr. Speaker, I would like to bring an important milestone to the attention of my colleagues.

With this rollcall, our good friend, BILL NATCHER, has voted on the floor of the House 16,000 straight times.

This historic record may not be an item on tonight's network news, but it is worth mentioning at a time when the House has been the focus of so many stories on political wrongdoing.

BILL NATCHER has never missed a day or a vote. He was elected in August 1953 and was sworn in as a Member on January 6, 1954.

BILL has made a total 11,837 rollcall votes and 4,163 quorum calls since then. That makes a total of 16,000.

BILL is a man of many virtues. His honesty, his industry, and his independence are just some of the virtues described in an article in the June 26 issue of People magazine.

BILL's voting streak brings up another of his virtues. Stepping up to the plate and taking a swing without flinching at 16,000 assorted curve balls, sliders, and not a few spitballs—takes a great deal of courage.

BILL has said that he made up his mind as a teenager that if he was ever elected to the House or Senate, he was going to do it right. He has, and I believe his career is an example of the American system of representative government at its best.

The SPEAKER. The Chair recognizes the distinguished gentleman from Kentucky [Mr. NATCHER].

Mr. NATCHER. Mr. Speaker, I want to thank my good friend, the distinguished gentleman from Michigan [Mr. BROOMFIELD], a man that I have respected and known all down through the years for the statement he just made.

I want all of the Members of the House of Representatives to know that one of the nicest things that has happened to me during my lifetime is the honor and the privilege that I have had of serving with each of these ladies and gentlemen in the House. The House of Representatives is the most powerful legislative body in the world, and it is a privilege and an honor to serve in this House.

I say to the gentleman from Michigan [Mr. BROOMFIELD], my good friend, "I want you to know this: I made 16,000. I do not know whether I can make 16,000 more or not, but I'm going to try."

HOUR OF MEETING ON TOMORROW

Mr. GEPHARDT. Mr. Speaker, I ask unanimous consent that when the House adjourns today, it adjourns to meet at noon on tomorrow.

The SPEAKER. Is there objection to the request of the gentleman from Missouri?

There was no objection.

LEGISLATIVE PROGRAM

(Mr. GEPHARDT asked and was given permission to address the House for 1 minute.)

Mr. GEPHARDT. Mr. Speaker, It would be my intention to announce to the House the program for the rest of the day.

Mr. Speaker, it is our intention to proceed now to the bill on foreign operations. We will proceed with general debate. There will be one amendment en bloc offered this evening, but there will not be a vote on that amendment.

Tomorrow, Mr. Speaker, we will proceed with consideration of that bill as well, and we will try to determine the next steps on the urgent supplemental appropriation.

INTERNATIONAL COOPERATION ACT OF 1989

The SPEAKER. Pursuant to House Resolution 179 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 2655.

□ 1607

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the

Whole House on the State of the Union for the consideration of the bill (H.R. 2655) providing for the consideration of the bill (H.R. 2655) to amend the Foreign Assistance Act of 1961 to rewrite the authorities of that act in order to establish more effective assistance programs and eliminate obsolete and inconsistent provisions, to amend the Arms Export Control Act and redesignate that act as the Defense Trade and Export Control Act, to authorize appropriations for foreign assistance programs for fiscal years 1990 and 1991, and for other purposes, with Mr. AUCOIN in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the bill is considered as having been read the first time.

Under the rule, the gentleman from Florida [Mr. FASCELL] will be recognized for 30 minutes, and the gentleman from Michigan [Mr. BROOMFIELD] will be recognized for 30 minutes.

□ 1610

The Chair recognizes the gentleman from Florida [Mr. FASCELL].

Mr. FASCELL. Mr. Chairman, I yield myself 8 minutes.

Mr. Chairman, we are considering H.R. 2655, the International Cooperation Act of 1969. As our distinguished leader on the majority side has pointed out, it will be our intention to complete debate on this bill tonight, which is 1 hour of general debate under the rule. We will finish the general debate and go to the designation of title I. The gentleman from Michigan [Mr. BROOMFIELD] and I then have an en bloc amendment for technical and other purposes which we would expect to adopt, and that would complete our business for this evening.

We will not—and I want to repeat this again—we will not be considering amendments to title I tonight, other than the en bloc agreed-upon amendment, so that any debate on amendments or any vote on amendments will not occur tonight.

The bill that is before us is a comprehensive foreign assistance authorization measure for 2 fiscal years, in the same fashion that we in this body adopted 2 years ago when we authorized legislation for foreign assistance.

First let me point out a major difference, Mr. Chairman. The major difference in this one is that over a year ago the ranking minority member, the gentleman from Michigan [Mr. BROOMFIELD], and I felt it was time to take a comprehensive look at the entire foreign aid program and give some consideration to concerns and complaints coming from people who were working in the field organizations of one kind or another and the administration with regard to the difficulty being encountered in trying to implement the foreign aid law.

The distinguished gentleman from Indiana [Mr. HAMILTON], who is No. 2 on the majority side, was appointed as chairman of the task force. The gentleman from Michigan [Mr. BROOMFIELD] appointed the gentleman from New York [Mr. GILMAN], who is the ranking member on the Republican side, the No. 2 man on the Republican side, and they spent the better part of the year with staff reviewing the entire panoply of the Foreign Assistance Act of 1961. We were able in the course of that review to obtain the views of many individuals and organizations who either were contractors or otherwise interested in the whole field of development and the implementation of the Foreign Assistance Act.

We were fortunate also that several major institutions were at the same time independently taking a look at the act also, particularly the University of Michigan.

Suffice it to say that as a result of these meetings, dialog, and hearings that we had in the task force concept, we developed a broad base of opinion and recommendations with regard to the legislation.

It then became the job of taking the task force report and recommendations and folding them into the legislation.

In the meantime, a new administration took office. They had to work overtime, because all their people were not in place yet, in order to get together to have an understanding of what it was we were trying to do and to reach agreement on legislation.

Suffice it to say that I am proud, very proud of the work of the task force, the staff, and the members of the administration who worked beyond comprehension in putting the legislation together to the point where it is today. It took a tremendous amount of work and effort, almost constantly since February 1 when this new Congress was organized. We have been in almost constant markup in order to get the bill to this point. It is only because a lot of people with good will worked extremely hard that we could accomplish the renovation that we sought, to clean up the legislation, both in an aesthetic sense, but also in a sense that would be helpful to the administration in clarifying the guidelines by which they had to implement and to try to give them more flexibility. It was not an easy task because of the reservations, suspicions, and fears that existed.

I do not say that in this bill we have reached 100 percent accommodation. The distinguished gentleman from Michigan in his remarks on the rule pointed out those areas where the administration still has heartburn and we are still working, Mr. Chairman, I will say, to continue to resolve differences of opinion that exist in the hope that we can get a bill enacted.

We come to you with a bill that is within the executive branch budget request. I will say that the gentleman from Michigan [Mr. BROOMFIELD] and I at the end of the bill will offer an amendment in order to bring the money amount in this bill to the level allocated and agreed upon by the two parties and the administration in the budget resolution, so we will be meeting our responsibility and obligation with respect to the budget.

Now, this will occur later, but I might as well raise it right now. Amendments which would seek to cut this bill below that figure are not only cutting the administration's request, but would be destructive of the bipartisan budget agreement. There would be absolutely no guarantee—I want to repeat that—there would be no guarantee that the reductions thus obtained in opposition to the budget agreement would be made available for any other program. All it means is that the agreement which the administration and the two parties have so valiantly struggled and finally got would be distorted and upset and voided if an amendment is adopted in the Committee of the Whole which reduces the amounts below those which the committee in a bipartisan way will offer to bring the bill in conformity with the budget resolution. So do not let anybody get the notion that there is a freebie here and that you can vent your spleen simply by voting a cut.

The bill is fiscally responsible, therefore, Mr. Chairman, and it deserves support. It is absolutely necessary.

I wish we did not have to spend money on military assistance and economic development and humanitarian reasons around the world, but the truth of the matter is that the United States cannot build a fence high enough to isolate ourselves from the rest of the world. We cannot deny the administration, or the American people, the tools whereby we say to the rest of the world that we are part of the world, we are interested in your development, we know that economic development is a two-way street, we know that if you get the money we will at least have a chance that you will trade with us and buy from us. We know, however, that if you do not have the wherewithal, that we will not even be in the ball game. We know as Americans that we have the greatest compassion in the world for people who are starving and hungry and ill and we are going to do our share to try to help those folks.

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We also know that we have a responsibility in our own national security to help finance mutual national-security requirements with other countries which redound to our benefit as well. A vote against the bill does not help a

single soul. Mr. Chairman, simply put, a vote for the bill helps America.

Mr. Chairman, this bill provides a total authorization for foreign assistance of $11.5 billion for fiscal year 1990 and of $11.6 billion for fiscal year 1991. Because the Congressional Budget Office cost estimate for this bill was not ready in time to be printed in the report on H.R. 2655, I would like to insert it in the RECORD at this point.

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, June 20, 1989.

Hon. DANTE B. FASCELL,
Chairman, Committee on Foreign Affairs, House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the attached cost estimate on H.R. 2655, International Cooperation Act of 1989, as ordered reported by the House Committee on Foreign Affairs on June 14, 1989.

Should the Committee so desire, we would be pleased to provide further details.

Sincerely,

ROBERT D. REISCHAUER.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

1. Bill number: H.R. 2655.

2. Bill title: International Cooperation Act of 1989.

3. Bill status: As ordered reported by the House Committee on Foreign Affairs on June 15, 1989.

4. Bill purpose: This legislation rewrites the Foreign Assistance Act of 1961, the Arms Export Control Act, and other legislation regarding foreign assistance. The bill provides authorization for fiscal years 1990 and 1991 for most bilateral development and military assistance programs and multi-year authorizations for the African and Philippine assistance programs.

5. Estimated cost to the Federal Government:

[By fiscal year, in millions of dollars]

	1990	1991	1992	1993	1994
Direct Spending					
Budget function 050:					
Military personnel: Estimated outlays	60	63	66	69	72
Offsetting receipts:					
Budget authority	0	99	102	104	106
Estimated outlays	0	99	102	104	106
Budget function 150:					
FMS Trust Fund: Estimated outlays	−60	−98	−102	−106	−110
Trade and Development Agency: Estimated outlays	1	3	3	2	1
Total direct spending:					
Budget authority	0	99	102	104	106
Estimated outlays	1	67	69	69	69
Authorization of Appropriations					
Budget function 150:					
Estimated authorization level	11,736	11,836	1,023	867	900
Estimated direct loans	589	608	150	0	0
Estimated loan guarantees	52	54	0	0	0
Estimated secondary loan guarantees	200	200	200	0	0
Estimated outlays	4,904	7,136	5,436	4,142	1,569
Reclassification of Revenues as Offsetting Collections					
Revenues	−.5	−.5	−.5	−.5	−.5

Basis for estimate: The estimate assumes enactment of this legislation and subsequent appropriation of the authorized amount in the years specified in the bill.

The bill contains two provisions that affect spending directly, and a provision dealing with debt cancellation that could affect future receipts.

Change in pricing policy for arms exports: Section 230 of the bill amends the pricing of exports of military equipment and services by waiving the collection of certain charges for non-recurring research and development (R&D) and use of assets for sales financed by all-grant foreign military sales (FMS) financing. The section also drops salaries of the Armed Forces and unfunded estimated costs of civilian retirement and other benefits from the calculation of the administrative surcharge on all government-to-government sales through the FMS Trust Fund. The DoD does not plan to reduce the surcharge on government-to-government sales, rather the change in the cost calculation for administrative services is to avoid raising the administrative surcharge to fully recover costs as required by existing law.

The Department of Defense estimated $60 million in forgone collections to military personnel accounts and lower receipts of $34 million for unfunded civilian retirement and other benefits and $62 million for non-recurring R&D and asset use charges in fiscal year 1990. Fiscal years 1991 through 1994 were estimated using the CBO baseline estimate of sales through the FMS Trust Fund and military pay raises assumed in the budget resolution.

Trade and development transfers: Section 1527 of the Foreign Assistance Act, as amended by this bill, requires the transfer of $5 million per year for fiscal years 1990 and 1991 from the Private Sector Revolving Fund (PSRF) to the Trade and Development Agency. The PSRF has sufficient unobligated balances to effect the transfer under the authority provided in this section. Outlays from the transfer were estimated using historical spendout rates for the trade and development program.

Debt relief for aerial eradication of coca: Section 3246 of the Foreign Assistance Act, as amended by this bill, gives the President discretionary authority to waive, on an annual basis, principal and interest repayments due from major coca producing countries on outstanding loans authorized under that act and FMS direct loans if the countries undertake a program of aerial eradication of illicit coca crops. There are repayments of $38 million to $66 million per year from coca producing countries that could be affected. However, there are no herbicides approved for coca eradication and no country has agreed to a program of aerial spraying. It is impracticable to estimate whether the authority provided by this section will ever be used.

Estimates of open-ended authorizations and outlays for new and modified programs are discussed below. Outlays for other authorized accounts were estimated using historical spendout rates. Except where specified in the bill, credit authority is estimated at baseline levels.

Economic support assistance: Section 1302 of the Foreign Assistance Act, as amended by this bill, authorizes $2,374.1 billion per year for fiscal years 1990 and 1991. Over $1 billion of project assistance that in the past was provided within the economic support fund is authorized under the development assistance chapter of this bill. Outlays for this project assistance was estimated using development assistance spendout rates. The outlay rate for the remaining assistance authorized under the economic support assistance section was raised proportionally to reflect the fast disbursing nature of the remaining balance-of-payment and commodity-import assistance.

Foreign military sales financing: The bill authorizes $4,968.9 billion per year for fiscal years 1990 and 1991 for a single foreign military sales financing program to replace the grant military assistance program and foreign military sales (FMS) credits under the Arms Export Control Act. Administrative costs for the program are included within the authorization, but are not specifically limited. The outlay estimate assumed administrative costs at the level of the President's request. Outlays for country programs were estimated using the country earmarks contained in the bill, and rates extrapolated from baseline rates for predecessor programs.

Multilateral assistance initiative for the Philippines: The $1 billion authorized in section 905 for the multilateral assistance initiative for the Philippines is assumed to be appropriated at the rate of $200 million per year for 5 years as requested by the President. Outlays were estimated at the same rate used for the CBO reestimate for the President's request.

Housing guarantees: The Housing and Urban Development Guarantee Program in section 1722 of the Foreign Assistance Act, as amended by this bill, authorizes the President to issue guarantees of 100 percent of principal and interest of loans for shelter and other urban services in developing countries. The program replaces the Housing Investment Guarantee program and increases the authorized outstanding balance of credits for the two programs by $342 million and increases the authorized borrowing authority for reserves by $100 million.

Federal credit policy as promulgated in the OMB Circular A-70 requires new or amended credit programs with guarantees of the timely payment of 100 percent of principal and interest to be purchased by the Federal Financing Bank (FFB) as the most efficient manner of financing the credits. The estimate assumes the program will be administered in compliance with the credit policy. The credits authorized by the section are assumed to be direct loans financed by the FFB and are included in the authorization amount at the fiscal year 1984 level of $150 million as specified in the bill. To make timely payments on claims on guarantees contracted under predecessor authority, $20 million of the authorized borrowing authority is estimated to be used in fiscal years 1990 and the balance in fiscal years 1991 and 1992 at baseline levels.

Trade credit insurance program: The Trade Credit Insurance Program in section 1721 of the Foreign Assistance Act, as amended by this bill, authorizes the President to provide secondary loan guarantees to the Eximbank for short term guarantees and insurance to the private sector in Central American countries. The Agency for International Development is required to create a reserve fund to discharge liabilities under the guarantees. The Eximbank must pay into the reserve fund fee income in excess of costs of administering the primary guarantees. The Bank plans to make no changes to its existing fee structure for the credits provided. The Bank estimates the required payments will lower fee income from $1 to $5 million per year, thus raising their indefinite borrowing authority. The bill makes no provision for disposing of the reserve upon the expiration of the program. The estimate assumes the reserves will be returned to the Treasury as offsetting receipts.

Retroactive adjustment of terms for loans to the Philippines: Section 904 authorizes, to the extent provided in advance in appropriations acts, that uncommitted balances of FMS direct loans may be disbursed without requirement for repayment of principal and interest. The Philippines has $29.355 million in uncommitted concessional FMS loans provided in fiscal years 1985 and 1986. The DoD has been using "special billing" procedures for the Philippines, i.e., they have been using grants instead of loans whenever possible to minimize the repayment burden on the Philippines. The baseline estimates assume that the concessional loans will never disburse. The retroactive terms adjustment for these loans is estimated to release these balances. Disbursements for these loans are included in the outlay estimate.

Other authorizing provisions: The bill amends the existing authorization to accept repayments on economic assistance loans in local currencies or to forgive the repayments. Section 572 of the Foreign Operations Appropriations Act of 1989, P.L. 100-461, provides a more restrictive authority to use foreign currency or cancel debt for fiscal years 1990 and 1991. A decision by the Administration on using the existing authority is pending. To the extent the authority is used, it would lower proprietary offsetting receipts. Consequently, it is impracticable to estimate the additional authorization provided by this section.

Section 222 requires the creation of another FMS Trust Fund for new sales. The new trust fund is not an expansion of federal activity and has no net budget impact.

Section 203 amends provisions of current law by eliminating the requirement that recipient countries return to the U.S. military equipment supplied under the authority of the old military assistance program or the proceeds from the equipment's disposition. Enactment of this section is estimated to lower offsetting collections by $1 million per year. The lower collections will be offset by lower obligations and are estimated to have no significant net budget impact.

Section 4104 of the Foreign Assistance Act, as amended by this bill, provides reappropriation authority for termination expenses of contractors whose contracts with developing countries were funded by development assistance, if the assistance to the country is terminated by the United States. The authority would allow the same orderly settlement of termination claims as if the contract was directly with the United States. No significant budget impact is estimated from this contingent authority.

Reclassification of Revenues as Offsetting Collections: Section 228 authorizes the State Department to use fees collected by the Office of Munitions Control for expenses associated with the office. Section 228 permanently reclassifies $500,000 per year from miscellaneous receipts (revenues) to offsetting collections. The section is the same as section 124 of H.R. 1487, Foreign Relations Authorization Act, as passed the House on April 12, 1989. Use of the offsetting collections by the State Department is subject to appropriations action, thus the net effect of spending the annual $500,000 in offsetting collections is included in the authorization table.

6. Estimated cost to State and local governments: None.

7. Estimate comparison: None.

8. Previous CBO estimate: None.

9. Estimate prepared by: Joseph C. Whitehill.

10. Estimate approved by: C.G. Nuckols (for James L. Blum, Assistant Director for Budget Analysis).

Mr. Speaker, some of the principal provisions of this bill are:

HIGHLIGHTS OF H.R. 2655, INTERNATIONAL COOPERATION ACT OF 1989

REVISION OF FOREIGN ASSISTANCE ACT OF 1961

Pursuant to the recommendations of the bipartisan Committee Task Force on Foreign Assistance, the bill rewrites the Foreign Assistance Act in order to: eliminate out-dated, redundant, and conflicting provisions; remove unnecessary reporting requirements; consolidate conditions and restrictions; require greater accountability of the use of U.S. assistance; permit flexibility in responding to the needs of individual countries.

ECONOMIC ASSISTANCE

Identifies the overall goal of U.S. development assistance as "broad-based, sustainable, participatory development, with particular focus on the poor".

That goal is to be pursued by working toward four principal objectives: broad-based economic growth; environmentally and economically sustainable resource management; poverty alleviation; and, democracy and political, social, and economic pluralism.

Identifies certain elements which must be a part of any U.S. development assistance program, including participation of local groups; emphasis on integration of women; U.S. science and technology capabilities; appropriate technology; private voluntary organizations; human rights.

Transfer $1 billion from projectized economic support assistance to development assistance.

Earmarks funds for population and for health and child survival.

Creates specific authorities for the promotion of human rights and democratic initiatives.

Earmarks funds for the training of South Africans.

Requires environmental impact analysis of U.S. development assistance projects;

Earmarks $111 million for the UNDP and $60 million for UNICEF.

Conditions funds to the IAEA on Israel not being removed as a member.

Withholds U.S. funding for an international organization to the extent an organization funds projects which benefits the PLO, SWAPO, Libya, Iran, Cuba, or the PLO.

Raises the priority of and authorizes an additional $5 million for the Trade and Development Agency.

Earmarks $45 million for the American Schools and Hospitals Abroad program.

Expands the Housing Guaranty Program to urban infrastructure other than housing.

Expands the authority for loan repayments by the least developed and sub-Saharan African countries to be redirected to development activities in those countries.

Authorizes a program of debt-for-development.

Imposes more specific requirements for evaluation and accountability of the impact of U.S. assistance.

Creates a PVO Center and a Center for University Cooperation.

MILITARY ASSISTANCE

Creates a consolidated military assistance account, merging the two current law accounts for MAP and FMS into a single new FMFP account.

Establishes comprehensive policy objectives for the military assistance program.

Establishes a new Defense Trade and Export Control Act for military sales, with comprehensive policy objectives to enhance U.S. security and congressional oversight.

Authorizes $4,968,932,000 for FMFP, $54,500,000 for international military education and training (IMET) and $33,377,000 for peacekeeping operations (PKO).

Includes anti-corruption provisions including tightening controls over U.S. government access to foreign bank records and requiring forfeiture of profits and assets obtained from violations of arms export law.

Establishes tougher sanctions against foreign countries for illicit third-country transfers of U.S.-origin defense articles and services generated from coproduction and licensed production agreements.

Requires the Department of Defense to centralize its accounting systems for foreign military sales to eliminate fiscal discrepancies.

Establishment of a reserve fund of 2% of FMFP funds for contingency purposes.

Provides additional funding and personnel provisions to expedite processing of arms export license applications.

Maintains levels for key allies while requiring greater accountability for U.S. military assistance and sales.

Authorizes grants of excess defense articles to cooperative major drug-producing countries to combat the international flow of narcotics into the United States.

Reduces obsolete and unnecessary reports.

Standardizes reporting to Congress on arms transfers.

NARCOTICS CONTROL ASSISTANCE

Consolidates, streamlines and reorganizes current narcotics law.

Fully funds President's request for international narcotics control.

Carries forward provisions from 1988 omnibus drug bill.

Maintains stiff penalties for noncooperating countries, but provides positive new incentives as follows, without increased budget costs:

Permits President to forgive official U.S. government debt repayment from countries using aerial coca herbicide;

Sets aside $14 million as "pot of gold" incentive for Latin American drug countries, if they take significant steps to curb cocaine production/trafficking;

Waives "Brooke/Alexander" requirements (suspend aid to countries more than a year behind in debt repayment) for countries which achieve a net reduction in coca production.

LATIN AMERICA AND THE CARIBBEAN

El Salvador: caps military assistance at current levels ($85 million). $12 million below the President's request, and tranches that assistance at six-month intervals; places conditions on military and economic assistance and allows that assistance to flow only after a Presidential determination and a 30-day period for consideration of a resolution of disapproval, with expedited procedures; withholds administration of justice funds pending Committee review.

Guatemala: caps military assistance at $9 million; imposes certain conditions which must be met before military assistance can be provided, with period for Committee review; imposes certain conditions on economic assistance; authorizes funding of the office of the human rights ombudsman.

Prohibits use of military assistance for police training in El Salvador, Guatemala, and Honduras.

Earmarks $90 million of economic support assistance for Costa Rica.

Prohibits use of funds in this Act for the Nicaraguan democratic resistance.

Encourages the U.S. to finance a proportionate share of OAS and UN role in verification of peace accords and monitoring elections in Nicaragua.

Creates a separate fund and priorities for economic assistance to the Caribbean.

Expresses support for the democratic transition in Chile and permits IMET under certain conditions and with Committee review.

Imposes conditions on military assistance for Paraguay.

Authorizes funding for the Inter-American Foundation.

Suspends assistance if an elected president is deposed by coup.

Requires report on human rights abuses in countries with civilian regimes.

Authorizes program of law enforcement assistance under specific conditions.

EUROPE AND THE MIDDLE EAST

Middle East Peace Process: continues to promote long-standing U.S. policy interest in securing a just and lasting peace in the Middle East by sustaining current levels of FMFP financing for Israel ($1.8 billion) and Egypt ($1.3 billion); permits FMFP financing for Jordan ($48 million) provided that Jordan enters into negotiations with Israel based on U.N. Resolutions 242 and 338; earmarks economic supports assistance for Israel ($1.2 billion) and Egypt ($315 million); and earmarks developmental assistance for Egypt ($500 million) and Jordan ($17 million). These funding levels are aimed at enhancing regional stability and security, and promoting greater peace in the Middle East.

Lebanon: recommends economic support assistance for Lebanon ($2 million for fiscal year 1990 and $4 million for fiscal year 1991) to maintain U.S. commitment to the restoration of Lebanon's unity, sovereignty, and territorial integrity.

Limiting Arms Sales to the Middle East: requires the President to provide Congress with additional information with respect to arms sales throughout the region including those of other nations; and encourages the President to seek multilateral talks to discourage the continued proliferation of arms transfers to that region.

Stingers in the Persian Gulf: allows Bahrain to maintain Stingers previously supplied by the United States and permits Oman to acquire a limited number of Stingers (10 launchers with a ceiling of 30 missiles) provided that such systems are needed by both Bahrain and Oman to counter an immediate air threat or contribute to the protection of U.S. personnel, facilities, operations or equipment; that no other appropriate system is available from the United States; that both Bahrain and Oman agree to U.S. safeguards to protect against the diversion of such systems; and that both Bahrain and Oman have agreed to return such systems to the United States at any time the United States so determines.

Requires the President to submit an annual accounting for all Stingers made available to Bahrain and Oman by the United States including a description of the security procedures applicable to those systems.

Prohibits the President from providing defense articles or services to Qatar until such time that Qatar has returned all Stingers to the United States which Qatar illegally acquired.

Ballistic Missile Proliferation: permits the President to submit a proposed arms transfer to any country in the Middle East that has acquired intermediate range ballistic missiles from the People's Republic of China in conjunction with a Presidential determination that such countries do not possess chemical, biological or nuclear warheads for those systems.

Encourages arms defense cooperation with European allies and discourages the proliferation of arms in the Middle East.

Eastern Mediterranean: maintains current U.S. policy toward finding a just and lasting settlement to the situation on Cyprus based upon negotiations; requires the President to constantly review the progress toward such an agreement; and to report to Congress on such progress and review every 120 days.

Earmarks $15 million in developmental assistance for Cyprus. Earmarks not less than $350 million in FMFP financing for Greece and no more than $500 million in FMFP financing for Turkey.

Other Provisions: earmarks $20 million in economic support assistance for the Anglo-Irish International Fund provided the International Fund is distributing these monies in accordance with the principles of equality of opportunity and nondiscrimination, and addressing the needs of both communities in Northern Ireland.

AFRICA

Contains a new, more cost effective, and efficient approach to support sub-Saharan Africa's own efforts to achieve equitable, sustainable, participatory, and self-reliant economic growth.

Earmarks minimum levels of assistance for natural resources, health, and voluntary family planning activities but Administration would have flexibility to spend 70 percent of funds within broad legislative authorities.

Provides long-term five year commitment to economic development in Africa with $550 million provided for fiscal year 1990 increasing by $30 million annually through fiscal year 1994.

Provides $50 million for development assistance to the Southern Africa Development Coordination Conference (SADCC).

Assistance to 7 countries, Burundi, Kenya, Liberia, Mozambique, Somalia, Sudan, and Zaire, is related to long-term U.S. political interest in encouraging respect for human rights.

ASIA

Places conditions with respect to democracy and human rights on assistance to Burma, Fiji, Bangladesh.

Authorizes economic and military assistance to the non-Communist resistance in Cambodia.

Authorizes relief assistance for Afghanistan and Cambodia.

Authorizes U.S. participation in a Multilateral Assistance Initiative for the Philippines; a total of $1 billion is authorized for the five-year program, with $200 million for fiscal year 1990. Contributions from other countries and private investment are expected to total $10 billion over five years.

Authorizes $626 million total assistance to Pakistan for fiscal year 1990 under the same conditions and certification requirements as currently apply.

MISCELLANEOUS PROVISIONS

Authorizes funding for the Peace Corps.

Creates a U.S. Commission on Southern Africa to promote the training of South Africans.

Establishes a minority set-aside.

Requires a report on the compliance of other countries with foreign boycotts.

Mr. BROOMFIELD. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, it has been nearly 30 years since Congress and the President wrote the basic law governing U.S. Foreign assistance programs. During this period, the world has changed a great deal. In response, Congress has periodically added provisions, requirements, conditions, and restrictions into the law that in the aggregate seriously hinder the ability of the President to implement foreign assistance programs.

During the course of the last year, the House Foreign Affairs Committee has conducted a detailed review of U.S. foreign assistance programs. The review reached several important conclusions. U.S. foreign assistance programs support our national security interests by helping allies maintain adequate defense capabilities and stable economies. They can serve U.S. economic interests by stimulating economic policy reform and growth overseas. They are a manifestation of U.S. humanitarian concerns, helping to alleviate suffering from poverty and from natural and manmade disasters.

The review recommended rewriting the Foreign Assistance Act of 1961 in an effort to remove dated, redundant, and unnecessary provisions. It urged a streamlining of the law and a simplified legislative mandate for the 1990's, and beyond. It argued for providing greater flexibility to the executive branch in the implementation of foreign assistance programs, for improved coordination with other U.S. international economic policies and with other donors, and for more attention to the impact and effectiveness of our programs.

In several important respects, the bill reported by the committee makes some progress in achieving these goals. It deletes from existing law many dated and unnecessary provisions and consolidates the goals and objectives of our economic assistance and military assistance programs. It establishes an important new accountability mechanism in the economic assistance programs.

The programmatic changes in the administration of U.S. military assistance programs in the Foreign Assistance Act of 1961 and the Arms Export Control Act of 1968 are a significant accomplishment by the committee in responding to long standing administration criticism of certain military assistance and arms transfer provisions of both acts. The bill shifts foreign military assistance programs to the Foreign Assistance Act while retaining

the sales programs in the rewritten Arms Export Control Act which has been renamed the Defense Trade and Export Control Act. The new Defense Trade and Export Control Act deals exclusively with the U.S. arms sales program making U.S. security assistance programs distinct from U.S. arms sales policy.

The new act will emphasize and support specific goals and objectives designed to significantly improve the military capabilities of friendly and allied country recipients of U.S. military assistance. There are also new provisions in the Foreign Assistance Act which provide support to friendly countries to combat the flow of illicit narcotics and to combat international terrorism.

In other important respects, however, the bill fails to make necessary improvements in current law and further complicates the administration's ability to implement foreign assistance programs that effectively support U.S. interests abroad. Policy language for economic assistance programs is unnecessarily lengthy and yet does not adequately emphasize the essential role of the private sector in achieving sustainable development.

Earmarking the majority of funds in most accounts continues to pose a major constraint upon the administration's ability to respond to changing world events. While there are several traditional core earmarks that have sustained bipartisan support and should be maintained, the committee could not restrain itself from additional excessive earmarking throughout the bill. Eight-five percent of economic support assistance is earmarked and at least 65 percent of foreign military financing is earmarked. In the development assistance account, over half of all funds are earmarked. Of the funds provided for international organizations and programs, 75 percent of all funding is earmarked. The combined effects of often different and conflicting earmarking in both the authorization and appropriations processes, as well as the 2 year duration of earmarks in an unpredictable and ever changing world, does not give the administration the flexibility necessary for protecting our interests abroad.

Of particular concern to us and the administration are certain provisions of the Western Hemisphere title of the bill. Republican Members and the administration had hoped that the spirit of cooperation exhibited during negotiations on the bipartisan accord on Central America would be repeated during consideration of title VII. As reflected in the bipartisan accord, a commitment was made by the administration to carry out continuous consultation in return for the Congress allowing the executive branch greater flexibility in implementing its foreign policy initiatives. Unfortunately, majority Members were not inclined to provide the new administration with a chance to demonstrate its commitment to the same goals and objectives as the Congress on United States policy in Central America.

Restrictions on funding such as ceilings, conditions, determinations, reports, reprogramming requirements and other provisions which reduce the President's latitude in responding to constantly changing circumstances create difficulties for the administration and Republican Members in supporting title VII of the bill. In particular, the language on Nicaragua contained in section 707 is in direct contradiction to the bipartisan accord as it would make illegal the continuation of humanitarian aid to the Democratic Resistance. This language remains deeply troublesome to us and to the administration.

I also am very concerned about the constantly changing position on the other side of the aisle on the issue of El Salvador. Our support for the democratically elected Government of El Salvador is being undermined and I believe that the compromise reached on El Salvador in the Foreign Affairs Committee should not be altered to impose additional constraints on our support for that country.

Expanding drug production in foreign countries is a serious threat to the United States and a serious commitment of our Nation's resources is absolutely essential if America is to triumph over the scourge of narcotics abuse. On balance, this bill makes a positive contribution to our Nation's overall antidrug efforts. However, shortcomings are nonetheless evident. The bill contains extremely specific policy language which is designed to control U.S. Government implementation of our international antinarcotics effort. While these provisions are well-intentioned, we share the administration's concern that the U.S. Government will not have adequate flexibility to effectively administer all aspects of our antidrug program if they become law.

We believe that an overhaul of the Foreign Assistance Act is long overdue. However, we must be careful not to repeat the mistakes of the past. In order to protect our interests abroad, Congress must provide the President with authority and at the same time attach so many conditions and restraints on his ability to exercise that authority as to negate its usefulness. Our foreign aid programs are designed primarily to support U.S. foreign policy interests. In an era of declining Federal budgets, it is essential to provide the President with increased flexibility in order to ensure that our Nation's interests are protected.

Those Western Hemisphere proposals that violate the bipartisan accord on Central America may bring the bipartisan progress on this bill to a screaming halt. However, with a few minor but important changes, this bill will be deserving of our support. I will join other Members working diligently to make those changes.

Mr. FASCELL. Mr. Chairman, I yield 4½ minutes to the gentleman from Michigan [Mr. WOLPE].

Mr. WOLPE. Mr. Chairman, title X contains an innovative United States response to Africa's serious economic and political problems. Furthermore, it is the result of a major bipartisan effort to streamline the Foreign Assistance Act and deal with major administration concerns. I strongly believe that it provides a sound basis for congressional-executive cooperation in the Foreign Aid Program.

Title X includes:

First. The Africa Famine Recovery and Development Act which has been cosponsored by approximately 100 of our colleagues. This represents a major step toward a more cost-effective and efficient foreign aid program in sub-Saharan Africa, one which supports Africans' own efforts to achieve equitable, environmentally sustainable, participatory and self-reliant economic growth. Among the key features of this legislation are: Close consultation with the poor majority, through African and other private and voluntary organizations, in the planning of assistance; expanded participation by African women in development activities; criteria for policy reform assistance to enhance productivity without jeopardizing the vulnerable poor and long-term environmental interests; 10 percent earmarks for environmental, health and voluntary family planning activities; and increased funding for development assistance—a $580 million earmark in fiscal year 1990, to be increased thereafter by $30 million a year through fiscal 1994.

Second. Earmarking of $50 million for the Southern Africa Development Coordination Conference [SADCC] to bolster the regional self-sufficiency of South Africa's nine black-ruled neighbors, and $53 million for the Economic Support Fund for Africa.

Third. Advance notifications to Congress of security assistance for Somalia, and Sudan, Liberia, and all assistance for Burundi, to ensure that congressional concerns for human rights, political stability, and proper use of United States tax dollars are met.

Fourth. A ceiling of $3 million for military aid to Zaire—the same as the last 2 years' administration allocations—to underline congressional concern about widely acknowledged human rights violations and corruption. Development assistance is authorized to be provided, to the maximimum extent practicable, through private and voluntary organizations,

Fifth. Security assistance for Kenya and Mozambique is related to steps by those countries to increase respect for internationally recognized human rights. Recent improvements in both countries are recognized.

Sixth. Encouragement for increased funding of research into the treatment of AIDS in Africa.

The Africa Subcommittee also contributed to Africa-related provisions in other titles. The bill continues existing aid and human rights programs in South Africa, which go through nongovernmental, antiapartheid organizations. It also maintains existing restrictions on the number of permanent military personnel in security assistance management in Africa. And it gives the President authority to receive debt payments from sub-Saharan African countries in local currencies or to forgive debt, provided such countries are pursuing economic reforms.

In conclusion, I would just like to thank all those on the subcommittee, full committee and in the administration with whom we have worked to come up with these recommendations. I want to particularly thank BEN GILMAN who has worked so closely with me on the Africa famine recovery and development bill these last 3 years, Chairman DANTE FASCELL whose supportive role was critical during the negotiations with the administration, and my ranking minority member, DAN BURTON. While we continue to disagree on a number of issues, we do agree on some. And his useful amendments and constructive criticism have contributed to our recommendations.

□ 1630

Mr. BROOMFIELD. Mr. Chairman, I yield 4 minutes to the distinguished gentleman from California [Mr. LAGOMARSINO].

Mr. LAGOMARSINO. Mr. Chairman, I rise to describe for my colleague the background leading to the agreement reached in the Foreign Affairs Committee on title VII—Western Hemisphere—of this foreign aid authorization bill.

The spirit of cooperation exhibited by the administration and the Congress in achieving the bipartisan accord on Central America and Nicaragua seemed to served as an inspiration to the members of the Subcommittee of Western Hemisphere Affairs as we began our deliberation of the foreign aid authorization bill. Members on both sides of the aisle attempted to engage the administration, through the State Department, in a comprehensive discussion that would lead to a mutually acceptable approach to U.S. foreign aid policy for Central America.

Representatives from State met with us and with the majority members of the subcommittee, but it soon became apparent that between the majority and State, it was not going to be possible to resolve all the differences in approach on issues like El Salvador, Guatemala and Nicaragua. The minority on the subcommittee then took the initiative to see if we could reach some type of agreement that represented an improvement from our perspective even if it did not achieve everything the administration had hoped for.

Our hope had been to develop the Western Hemisphere section of this bill in a way that would garner the support both of Republicans and the administration. Obviously, that has not happened. What some people apparently fail to recognize, however, is that what we have achieved in the compromise title VII is a considerable improvement over what was reported out of subcommittee and what we likely could expect if we had relied only on trying to change the title through amendments. With all the complaints from one side that we did not achieve enough, it's amusing to hear that the other side is complaining that we achieved too much.

There can be no misunderstanding about the Republican commitment to protecting human rights and promoting democratic governments. Our support for tough but achievable and practical provisions in the foreign aid bill reflect directly our commitment to promoting democratic institutions which, in turn, provide the best protection for human rights.

It is also important to allow the new administration an opportunity to demonstrate its commitment to these principles and to extend to it greater flexibility in implementing our foreign policy objectives. I would like to see even greater flexibility than that provided in the compromise on issues relating to El Salvador, Guatemala and Nicaragua. But, I am concerned that efforts to improve those provisions from our perspective will lead to renewed efforts to make the language even more restrictive, and we will end up in a worse position than when we started.

It is for that reason, I am sticking by the agreement we reached in committees as the most realistic language we could hope to achieve at this time. I hope my colleagues will resist the attempts to change these provisions so that we don't wind up with something even more restrictive.

The compromise while far from perfect does provide a means to assist El Salvador while insisting on tough but reponsible conditions.

Mr. FASCELL. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I want to thank the gentleman from California. [Mr. LAGOMARSINO]. He indeed was a leader in the effort with regard to title VII in this bill to get cooperation and get a position that would have a broad base of support. It is because of that effort, in my judgment, that there was a good faith effort on the part of the administration. But I think the Chairman will recognize that we had a wide divergence here on a very difficult subject in which there are sincerely held and deeply felt differences of opinion, and sometimes we cannot bridge all of those.

But nevertheless, the effort was made, and I thank the gentleman from California [Mr. LAGOMARSINO], and his colleagues for that effort. I am prepared, accordingly, therefore, to support the position that we agreed on. I will support the bill. That is my job. It came out of committee 37 to 4. We will do our best.

I will tell my distinguished colleague who has a right in the rule to offer an amendment at the appropriate time that I regretfully cannot support that amendment. I believe that the position we have in the bill is a better position.

For the same reason, I must say with regard to the announcement by my colleague from Florida earlier with regard to police training, I cannot support that amendment. It is not part of the agreement that we reached, and while he has a perfect right to do it, and there are strong differences of opinion, nevertheless I feel constrained because of the honest, sincere effort that was made to reach an accord, a broad-based accord in this bill, I cannot support that amendment either.

There may be others as we go along that I can support, especially those of course on which the minority and majority reach agreement in the en bloc amendments, and we hope that on many of the amendments that are now pending, Mr. Chairman, we can do that. We will certainly try our best to do it.

Mr. Chairman, I yield 3 minutes to the distinguished gentleman from Pennsylvania [Mr. YATRON], chairman of the Subcommittee on Human Rights and International Organizations.

Mr. YATRON. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, I rise in strong support of H.R. 2655. I first want to commend Chairman FASCELL and Congressman BROOMFIELD for fashioning a bipartisan bill. Over the years they have consistently demonstrated their commitment to work in a spirit of bipartisan cooperation which serves the House well. I would also commend Congressmen HAMILTON and GILMAN for taking the lead in seeking to improve the effectiveness of our foreign aid program.

Mr. Chairman, H.R. 2655 is one of the most important pieces of legislation we will consider in this session of Congress. Consistent with its constitutional responsibilities, the committee's

bill sets forth the guidelines, authorities, and funding levels for the conduct of American foreign policy.

If you believe that American foreign policy should promote human rights and democratic institutions, you should vote for this bill.

If you support UNICEF's mandate to save the lives of literally thousands of children who are dying daily of preventable diseases, you should vote for this bill.

If you support environmentally sustainable programs and a strong international environmental policy, you should vote for this bill.

And if you believe that our foreign policy should create opportunities for American exports, you should vote for this bill.

Mr. Chairman, we live in an interdependent world in which our security, economic, and humanitarian interests are linked to developments around the globe. H.R. 2655 seeks to ensure that U.S. leadership in the international community remains strong and based on the principles of freedom and democracy.

I urge our colleagues to vote for H.R. 2655 and support Chairman FASCELL on all amendments.

□ 1640

Mr. BROOMFIELD. Mr. Chairman, I yield 5 minutes to the gentleman from Wisconsin [Mr. ROTH], a member of the committee.

Mr. ROTH. I thank the gentleman for yielding.

Mr. Chairman, I want to begin by congratulating our chairman, the gentleman from Florida [Mr. FASCELL], and the ranking member, the gentleman from Michigan [Mr. BROOMFIELD], and my colleagues on the Committee on Foreign Affairs for the amount of work that they put into this committee. No committee, in my opinion, works harder.

Now I do not always agree with our chairman or with the ranking member, but I do not think they would expect me to. A diversity of views is healthy and beneficial. I appreciate them giving the time to me this afternoon.

As a member of the Committee on Foreign Affairs I have taken more than a passing interest in the development of our foreign aid bill. I have participated in formal committee and subcommittee meetings as the bill has been drawn up and I have met informally with Members and various experts from the development community to discuss this bill.

I came away from these meetings many times with the nagging thought that the committee is creating another Edsel. It is not that the experts are not well versed in the facts and the figures; it is not that my fellow Members are not caring, they are; it is just that for all the work put into this bill it just does not add up to a program that will solve the problems of the modern world in a realistic way.

The world has changed a lot since 1961. I am glad that we had a chance to give this legislation a thorough review ths time. But basically we have not changed any of the philosophy underlying our approach to foreign aid. We still have the same number of chairs in the living room and we have just shifted them around a little bit. But all the tinkering with the foreign aid bill in the years since 1961 has not really corrected, in my opinion, the fundamental defect. The bill does not focus on the conditions for economic growth.

Now as I see it the only cure to poverty around the world is a willingness to experiment with free markets and with laws that respect individual rights and private property.

Is it not interesting that in this legislation we are told many times that we have to back this legislation in order to promote democracy? But where in the world today are the strongest forces for democracy?

They are in China. China does not receive a single cent in foreign aid from us.

They are in Hungary; yet Hungarians do not receive a single penny of foreign aid from us.

But in other countries and other areas of the world where a great deal of American aid dollars are spent, I do not see democracy being promoted.

For example, Peru, Brazil, and Argentina are all countries we work very closely with. But would you say there are strong forces for democracy there?

There is a lot of chaos in those countries, but there are not strong democratic forces in those countries. And I feel that by propping up inefficient economic structures we do more than waste our foreign aid dollar. We insure that those countries will not really have a chance to break out of the cycle of poverty. And we do worse, as I see it. We provide a bad example to the world for we finance many programs that we would never dream of supporting here in our own country. It tells the world that either we do not believe really in the political and economic freedoms that built this country or that we have considerably lower expectations for the rest of the world.

When Mikhail Gorbachev begins to speak like an American at a chamber of commerce meeting, it is certainly time for us to review the philosophical assumptions on which the old programs are built.

In a word, I think that our foreign aid program could also use a little perestroika.

Now there is a particular title of the foreign aid bill that I would like to have the Members of Congress look at: title 9.

The reason I say that is this: All of us in the Congress are very much concerned about democracy in the Philippines. Ever since the Philippine people received full independence on July 4, 1946, indeed ever since Admiral Dewey sailed into Manila Bay, we have been interested in and have had close ties with the Philippines.

In title 9, above and beyond all the bilateral aid that we have given the Philippines and are giving—$311 million this year, $455 million next year, and a total of $1.3 billion since Mrs. Aquino has become President—there is an additional $1 billion set aside for a multilateral aid program known as the Multilateral Assistance Initiative.

Now this is going to come out of the pockets of our American taxpayers. When we have the huge deficits that are facing us today; when we need additional dollars for our infrastructure; and when we have huge trade deficits, then I think it behooves us to take a look at how this legislation will affect the American taxpayer.

A speaker here this afternoon said that the foreign aid bill will not adversely affect any American, but it certainly will, because the money is going to be taken from veterans, from seniors and from taxpayers.

I am introducing an amendment to title 9 that will accomplish three things. First, instead of authorizing $1 billion for the MAI, it authorizes $400 million—saving the taxpayers $600 million. Second, the amendment eliminates the authority to transfer funds from other foreign aid accounts to the MAI. This protects the appropriations process, and provides an additional safeguarding to the taxpayer. Third, the amendment eliminates the authority to use taxpayer dollars to pay off Philippine debt, promote Philippine exports, and transfer American business to the Philippines.

I believe this is a prudent and reasonable compromise that protects the interests of all concerned—especially the interests of the taxpayer. I urge my colleagues to support it.

Mr. FASCELL. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from New York [Mr. ACKERMAN], a member of the committee.

Mr. ACKERMAN. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, I rise in strong support of H.R. 2655, the International Cooperation Act of 1989. It is evident that international politics are changing before our eyes—from the massacre in China, to elections in the Soviet Union and religious fundamentalism in the Middle East. This foreign aid bill is our chance to make a statement about some of these and other momentous events.

Mr. Chairman, brilliant skilled leadership of the Foreign Affairs Commit-

tee under Chairman FASCELL and Mr. BROOMFIELD has produced a bill that enjoys true bipartisan support, a bill that streamlines previous legislation and also saves money. H.R. 2655 comes out $3 million less than the adminstration's request. We worked hard in our committee to fashion a compromise that meets needs in the Middle East, in Central America and in Africa. Some of the highlights of the bill are: $550 million for long-term development in the sub-Sahara, language condemning the devastating man-made famine in Sudan, funding for such crucial programs as family planning, child survival and health, and a significant continuing contribution to the International Fund for Ireland.

Mr. Chairman, we spend only 1 percent of our total budget on foreign aid—that ranks us behind all other developed nations in percentage of GNP devoted to foreign economic assistance. Let's reassert our position as the leader of the free world by demonstrating our commitment to foreign aid by passing this bill. I urge all of my colleagues to support H.R. 2655.

Mr. BROOMFIELD. Mr. Chairman, I yield 4 minutes to the gentlewoman from Kansas [Mrs. MEYERS], a member of the Committee on Foreign Affairs.

□ 1650

Mrs. MEYERS of Kansas. Mr. Chairman, I rise in support of H.R. 2655 to reauthorize our foreign assistance programs for fiscal years 1990 and 1991.

This legislation is the product of many long hours of work. The chairman of the committee, DANTE FASCELL, and the committee's ranking Republican, BILL BROOMFIELD, are to be commended for their fine work in moving this bill through committee and to the House floor.

Most of us here in Congress realize that our foreign assistance programs are in need of dire reform. A bipartisan task force of the Foreign Affairs Committee earlier this year released a report concluding that "accountability of U.S. foreign assistance is extensive but ineffective." The task force determined that there are at least 288 separate reporting requirements on foreign aid, and that 92 percent of military and economic aid is earmarked. The bipartisan report recommended a complete rewrite of the foreign assistance and arms export measures.

Although H.R. 2655 is not a complete rewrite of the foreign assistance programs, it is a step in the right direction.

I support this bill although there are some parts of it I do not like—and I believe this is true of all members of the Foreign Affairs Committee. We will have the opportunity to address these portions when we debate and vote on the amendments.

Foreign assistance is hard to love—sometimes constituents characterize it as a "give away" to foreign countries—and it is unquestionably costly—$115 billion—about 1 percent of the Federal budget.

But through this bill we assist our friends and allies in their self defense; through development money we help poorer nations to help themselves; and increasingly we are working with other countries in preserving the world's fragile environment.

The bill attempts with some success to get away from the rigidity of the past—to grant more flexibility to this country to respond to problems as they arise.

Now, more than ever, other countries are expressing their yearnings for freedom and democracy—and are perceiving that the American way is a better way. We must respond to this call for leadership.

Mr. FASCELL. Mr. Chairman, I yield 3 minutes to the distinguished gentleman from New York [Mr. MCHUGH], a member of the Subcommittee on Foreign Operations, Export Financing and Related Programs.

Mr. MCHUGH. Mr. Chairman, I thank the distinguished gentleman from Florida for yielding time to me.

I take this time to alert my colleagues to an amendment that I will be offering when we get to title VII of the bill, relating to military assistance to El Salvador. My amendment does not cut military aid to El Salvador, and I certainly hope during the course of the debate, it will not be characterized as a cutting amendment.

However, it is important because it would reserve to Congress, including the authorizing committees of the House and Senate, the opportunity to review our policy in Central America next year, and if appropriate, to modify the military assistance program.

Under the bill as it is now written, the authorization for El Salvador is for 2 years. It is a total of $170 million. Every 6 months, the President is required, under the bill, to certify that certain conditions in El Salvador are being met, conditions which relate to human rights and to political efforts to resolve the war there. These are important conditions. However, if the committee determined that the certification was incorrect, if, for example, the committee determined that human rights had really deteriorated in El Salvador, or that no efforts were being made to politically resolve the war, but at the same time the President certified that these things were taking place, the only recourse the committee would have under the bill is to report a resolution of disapproval of the next 6 months of military assistance. That resolution, even if enacted by the House and Senate could be vetoed by the President.

In effect, therefore, whatever the Congress says about human rights or political negotiations, whatever the Congress determines with respect to the conditions in this bill, would have no meaningful effect on the Government of El Salvador. They know that aid would flow regardless of what Congress decided.

I think it is important, for that reason, that my amendment be adopted, because my amendment would do one simple thing: It would say that April 1, after Mr. Cristiani has been in office for a 10-month period, and therefore, we have had a realistic opportunity to determine what his policies really are, we would have the opportunity, after that 10-month period, next April 1990, to affirmatively vote on whether the military assistance for the last 6 months of 1990 should go forward.

Why is this important? It is important because as of this moment, we do not know what is going to happen in El Salvador over the next 2 years. To authorize $170 million without any meaningful opportunity to stop that military assistance if conditions in El Salvador deteriorate is simply to give the government in El Salvador a blank check. I think Congress has the responsibility to review policy in El Salvador, to determine what really is going to happen there after a reasonable period of time.

My amendment would afford the Congress the opportunity, after a 10-month period of Cristiani rule, to determine what has happened, and if necessary, to withhold further military assistance, if conditions are warranted.

Mr. BROOMFIELD. Mr. Chairman, I yield such time as he may consume to the gentleman from Washington [Mr. MILLER].

Mr. MILLER of Washington. Mr. Chairman, I would like to speak to one part of this bill which I feel is very important. This is the provision taken from the Global Poverty Reduction Act, which Mr. LEVINE and I introduced.

The provision calls for U.S. foreign development aid to contribute measurably to eradicating absolute poverty in the developing world by advancing specific antipoverty goals:

Reduction of 1980 under-five-mortality rates by at least a half or to 70 per thousand live births, whichever achieves the greater reduction.

Achievement of universal primary education and 80 percent female literacy.

Reducing by 50 percent the proportion of the population living in absolute poverty in the period 1980-2000.

Also, the provision calls on the President to develop other goals in addition to these goals as part of a plan to

eradicate the worst aspects of poverty by the year 2000.

This would establish standards by which we can measure the effectivenes of our foreign aid programs. That is good news for the American taxpayer who foots the bill for these programs and good news for the world's poorest people who will benefit from this increased effectiveness.

This provision simply puts in place results-oriented accountability. It does not measure methods, but only results.

This is not impractical, utopian feel good policy. These are attainable goals. For example, according to UNICEF, in 1960, 74 countries had an under-five-mortality rate above 170 per 1000 people. Today, that figure is down to 33 countries. This will focus our attention on what we are doing right, so we can do more of it.

There is no greater goal, no better use of our development aid dollars than helping to lift the world's children out of the life-threatening morass of poverty and illiteracy that engulfs much of the developing world.

Mr. FASCELL. Mr. Chairman, I yield 2 minutes to the gentleman from Texas [Mr. DE LA GARZA].

Mr. DE LA GARZA. Mr. Chairman, I appreciate the distinguished colleague, chairman of the Committee on Foreign Affairs, yielding time to me.

Mr. Chairman, the en bloc amendment that the distinguished chairman will introduce, has an amendment that has been agreed to by the committee. I appreciate the chairman and ranking member and other members agreeing.

□ 1700

What this amendment would do is it would exclude the provision for export promotion by the Department of Agriculture from the definition of "United States assistance" in the drug enforcement part of the legislation. The reason for this is that these export promotion programs provide benefits for U.S. producers and exporters of domestic agricultural commodities and products in order to make our commodities competitive in the world market. It is not assistance to the country; it is not assistance to anybody that would enhance the position of a foreign country, but, rather, it will enhance the position of the producers in the United States.

Mr. Chairman, we appreciate the cooperation of the committee and its distinguished chairman.

Mr. BROOMFIELD. Mr. Chairman, I yield 1 minute to the gentleman from Colorado [Mr. BROWN].

Mr. BROWN of Colorado. Mr. Chairman, I thank the chairman of the committee and I thank the gentleman from Michigan for yielding me this time.

Mr. Chairman, I rise in support of H.R. 2655, the Foreign Assistance Authorization Act for fiscal year 1990-91. The bill contains a number of provisions which will further this country's national security interests and continue our leadership around the world.

I would like to specifically draw attention to new provisions in the bill intended to limit the destabalizing proliferation of sophisticated weapons to the Middle East. As many of my colleagues know, I have been concerned about the dangerous arms race in the Middle East for many years.

Israel, our only reliable, democratic ally in the Middle East, faces a growing threat from Arab States who refuse to accept her existence. The acquisition and use of sophisticated missiles and chemical weapons by enemies of Israel poses a new and grave threat to Israel's security.

Unless we take a strong leadership roll now, and limit the availability of high technology lethal weapons, Israel's qualitative edge will be even further eroded. It is in America's interests to see that Israel survives and that is its citizen army is able to meet the many threats confronting it.

This authorization bill contains provisions which attempt to deal with the massive arms buildup in the Middle East. First, the President must submit an annual report to Congress analyzing the arms balance in the region and indicating how the United States will maintain the qualitative edge of democratic countries such as Israel. Second, there is a prohibition on the sale of Stinger missiles to Persian Gulf countries except Bahrain and Oman, which will be able to purchase Stingers on a limited basis. The Stinger missile, also known as the terrorist delight because of its size and effectiveness, is perhaps the best portable antiaircraft missiles in the world.

Third, before proceeding with any arms sale to Saudi Arabia, the President must determine that the Saudis have not acquired chemical, biological, or nuclear warheads for the Chinese intermediate range ballistic missiles it acquired. Saudi Arabia acquired the CSS-2 missiles covertly from the Chinese 2 years ago. The CSS-2 missile has a range of over 1,450 miles and could easily reach Israel.

Mr. Chairman, there is now hope to end the Arab-Israeli conflict. Israel has presented serious plans to reach a settlement with the Palestinians and Arab States. This plan is predicated on holding free and democratic elections to elect local Palestinians to negotiate with Israel. In a world where democratic elections are either a hope or a joke, Israel is presenting the Palestinains with an opportunity that no citizen in any Arab country has—a chance to elect their leaders in meaningful elections.

But Israel needs our help. Israel faces many challenges and many difficult choices. Israel has a history of taking risks for peace while many of her adversaries have a history of saying no and derailing initiatives which may result in peace. Democracy and Israel need a reliable and active America. America needs a strong and secure Israel.

The United States has a moral and strategic interest in the survival of Israel and the aid package before us is a cost-effective means of promoting these interests. The benefits the United States receives from Israel are enormous. Israel enhances the strength of what is commonly referred to as the "soft underbelly" of NATO. Israel has been designated a major non-NATO ally, a special designation that demonstrates the close and mutually beneficial strategic relationship between the United States and Israel. Additionally, Israel votes with the United States at the United Nations 80 percent of the time—more than any other country in the world, compared with 14.4 percent for Egypt, 13.3 for Jordan and 12.4 for Saudi Arabia.

During these times of fiscal austerity, we have the responsibility to watch carefully how the taxpayers dollars are being utilized. Mindful of this responsibility, I will support the Foreign Affairs Committee amendment, which will ensure that the foreign aid bill conforms with the budget agreement. Mr. Chairman, with this amendment, this bill upholds this fiscal responsibility and is a cost-effective way of safeguarding United States interests in the geopolitically vital Middle East and assisting our friend and ally, Israel.

Mr. FAUNTROY. Mr. Chairman, I rise in support of H.R. 2655, the International Cooperation Act of 1989, which authorizes $11.5 billion in fiscal year 1990 and $11.6 billion in fiscal year 1991 for foreign aid programs.

I am especially pleased with this legislation in that it begins to make significant improvements both qualitatively and quantitatively in our foreign assistance programs with respect to two regions of the world that have been historically neglected, the Caribbean and Africa. In that regard, I wish to commend the chairman of the Committee on Foreign Affairs, DANTE FASCELL and the chairmen of the respective subcommittees, Chairman GEORGE W. CROCKETT, Jr., of the Subcommittee on Western Hemisphere Affairs, and Chairman HAROLD WOLPE of the Subcommittee on Africa.

Mr. Chairman, Chairman GEORGE W. CROCKETT, Jr., has provided extraordinary leadership in fashioning section 721, which incorporates into H.R. 2655 the language of Chairman CROCKETT's landmark bill, the Caribbean Development Act of 1989. Section 721 represents a new chapter and departure point for our assistance to the Caribbean region. It is a product of two historic consultations held in 1987 and 1988 between Members of Congress and a broad range of Caribbean leadership. The consultations demonstrated an acute need for a reorientation of U.S. assistance to foster self-reliance and bottom-up de-

velopment that can better promote equitable and just development within the Caribbean.

This legislation which is intended as a companion to CBI-II legislation, H.R. 1233, the Caribbean Basin Economic Recovery Expansion Act of 1989, states that it shall be the policy of the United States, in providing assistance to the Caribbean, to promote: equitable economic growth; environmental sustainability; Caribbean self-reliance; food production for national and regional consumption; diversification of industrial and agricultural production; regional economic integration; protection of the poor from the burden of economic adjustment; employment generation that avoids displacement of traditional jobs; and preservation of Caribbean culture.

Section 721 places a correct emphasis on the importance of consulting with the intended beneficiaries of U.S. assistance in designing and implementing these programs.

Another provision that is most needed and noteworthy deals with the protection of worker rights. Specifically, section 721 would prohibit all but narcotics control and development assistance to any government in the Caribbean that does not extend, protect, and enforce internationally recognized workers rights, unless that government is taking steps to adopt and implement laws that demonstrate significant, tangible, and measurable overall advancements in worker rights.

In my capacity as chairman of the Congressional Task Force on Haiti, I want to express my appreciation to Chairmen FASCELL and CROCKETT and to the ranking member of the Subcommittee on Western Hemisphere Affairs, Congressman ROBERT LAGOMARSINO, for their continued work for a free Haiti. Their longstanding bipartisan efforts toward improving United States policy toward Haiti is magnificently demonstrated in section 722, which states congressional policy declarations with respect to Haiti. I also want to thank the staff working with the Congressional Task Force on Haiti for their diligent work in crafting section 722.

Under the authorizing language contained in section 722, United States assistance to Haiti with certain exceptions, will be prohibited unless the Government of Haiti has embarked on a credible transition to democracy. The exceptions to this prohibition will be: assistance, provided through private voluntary organizations or other nongovernmental organizations, to meet humanitarian and developmental needs or to promote respect for human rights and the transition to democracy; assistance to enable the continuation of migrant and narcotics interdiction operations; assistance necessary for the financing of education for Haitians in the United States; and assistance to a genuinely independent electoral commission that is responsible for the holding of elections consistent with the 1987 Constitution.

Section 722 also continues present United States policy by stating that while a credible transition to democracy is in progress in Haiti, United States assistance should be provided only on a step-by-step basis, in response to specific actions by the Government of Haiti to implement the transition and to foster a free and democratic society in which the Haitian people can prosper. These specific actions should include steps to: restore the 1987 Constitution; appoint a genuinely independent electoral commission to conduct free, fair, and open elections as soon as possible at all levels, and give that commission adequate support; provide electoral security; disarm and restrain the remnants of Duvalier's private army, the Tonton Macoutes; reform the Haitian Armed Forces, especially with regard to the system of rural section chiefs; improve the observance of internationally recognized human rights, and institute a judicial process whereby human rights violations will be vigorously prosecuted and violaters brought to justice; and reform the bureaucracy to reduce corruption; and promote economic development that will benefit the Haitian people and provide the security and freedom of association necessary for grassroots development.

If a civilian government comes to power in Haiti through free, fair, and open elections consistent with the 1987 Constitution, and if the armed forces have demonstrated a willingness to submit to legally constituted civilian authority, then not less than $20 million in fiscal year 1990 and $40 million in fiscal year 1991 in economic support funds would be available for Haiti. This earmark is in addition to funds which may be available under funding for Caribbean regional development. Should the conditions specified be unmet, these funds would be available for other countries.

Section 722 also makes clear the intent of Congress that the President undertake a regular and ongoing process of consultation with the Congress on a plan for the obligation and disbursement of assistance to Haiti, and on the specific steps that the Government of Haiti will be expected to take to receive such assistance.

Title X of H.R. 2655, which authorizes assistance to Africa, also is deserving of support and commendation. Title X authorizes $550 million in fiscal year 1990 for long-term development assistance to sub-Saharan Africa, and increases the authorization by $30 million for each year until fiscal year 1994. In addition, title X provides an earmark of $83 million in economic support funds in fiscal years 1990 and 1991 for the region. The title also speaks to the same qualitative concerns as are cited in section 721 dealing with the Caribbean. Title X-Africa, chapter 1, entitled "Africa Famine Recovery and Development," states that the purpose of assistance under this section shall be to help the poor majority of men and women in sub-Saharan Africa to participate in a process of long-term development through economic growth that is: Equitable, in that it enables the poor to increase their incomes and their access to productive resources and services to satisfy basic needs and lead lives of decency, dignity, and hope; participatory, in that it enables the poor to contribute knowledge and other resources and to make and influence decisions affecting their lives; environmentally sustainable; and self-reliant, based upon indigenous institutions, private and public, local and national.

Importantly, title X states the sense of the Congress that a special effort should be made to reduce trade barriers and promote economic interchange between the United States and the countries of sub-Saharan Africa.

The need to assist the Southern Africa Development Coordination Conference is addressed. An earmark of $50 million in development assistance is to be provided for each of fiscal years 1990 and 1991.

I am also pleased that this legislation seeks through its authorizing language to assist in promoting respect for human rights on the African continent. Conditions and restrictions are placed on assistance to a number of nations of Africa with records of severe human rights abuse. Somalia, Liberia, Burundi, Sudan, Zaire, and Kenya are among the countries whose receipt of United States assistance will be subject to conditionality and/or restriction because of human rights violations.

In closing, I want to salute my colleague Congressman MERVYN M. DYMALLY, the chairman of the Subcommittee on International Operations, for his role in structuring important provisions of H.R. 2655.

First, Chairman DYMALLY proposed the establishment of a United States Commission on Southern Africa. This proposal is contained in title XIII of H.R. 2655. The purpose of this commission is to solicit private funds to conduct programs to train disadvantaged South Africans and Namibians for positions in business and government primarily in the fields of education, health care, law, and housing.

Second, Chairman DYMALLY was instrumental in providing language that will reestablish a minority set-aside revising the minority set-aside provision in existing law and extending the mandate for fiscal years 1990 and 1991.

Finally, Chairman DYMALLY has provided leadership in placing into H.R. 2655 title VII language expressing concern and alarm over the banning of 86 books by the Government of Grenada.

These are some of the outstanding provisions of H.R. 2655. There are many more, but time and space today require that I limit my remarks to the provisions focusing on the Caribbean and Africa.

H.R. 2655 is a good bill for those of us in the Congress concerned with U.S. policy toward the long neglected but vital regions of the Caribbean and Africa. I urge my colleagues to approve H.R. 2655.

Mr. FASCELL. Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

Mr. BROOMFIELD. Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

The CHAIRMAN. All time has expired.

Pursuant to the rule, the bill is considered under the 5-minute rule by titles and each title shall be considered as having been read.

Subject to clause 6 of rule XXIII, debate on all amendments shall not exceed 8 hours, except as provided for in House Resolution 179.

It is in order for the chairman of the Committee on Foreign Affairs, or his designee, to offer en bloc amendments. Said amendments en bloc are considered as having been read, may amend portions of the bill not yet read for amendment, and are debatable for 20 minutes, equally divided and controlled by the chairman and ranking

minority member of the committee on foreign affairs.

It is in order to consider an amendment offered by the gentleman from New York [Mr. McHUGH], or his designee. Said amendment is considered as having been read, is not subject to amendment or to a demand of a division of the question, and is debatable for 40 minutes, equally divided and controlled by the proponent of the amendment and a member opposed thereto.

At the conclusion of consideration of the bill for amendment, it is in order to consider an amendment in the nature of a substitute offered by the gentleman from Michigan [Mr. BROOMFIELD] or his designee. Said amendment is considered as having been read and is debatable for 40 minutes, equally divided and controlled by the proponent of the amendment and a member opposed thereto.

If the amendment offered by the gentleman from New York [Mr. McHUGH] is adopted, no amendment is in order in the House or in the committee of the whole which amends or affects the subject matter of said amendment, except the amendment in the nature of substitute offered in the committee of the whole by the gentleman from Michigan [Mr. BROOMFIELD].

There are three sections that precede title I.

The clerk will designate section 1.

The text of section 1 is as follows:

H.R. 2655

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "International Cooperation Act of 1989".

AMENDMENTS EN BLOC OFFERED BY MR. FASCELL

Mr. FASCELL. Mr. Chairman, I offer amendments en bloc.

The CHAIRMAN. The Chair will state to the gentleman that the Clerk has designated section 1. Are there amendments to section 1?

Mr. FASCELL. Mr. Chairman, pursuant to the rule, these are en bloc amendments offered on behalf of the distinguished minority member and myself.

The CHAIRMAN. The Chair would ask the gentleman, is his amendment to section 1 or title I of the bill?

Mr. FASCELL. It is to the entire bill, Mr. Chairman.

The CHAIRMAN. The Clerk will designate the amendments en bloc.

The text of the amendments en bloc is as follows:

Amendments en bloc offered by Mr. FASCELL: Page 66, line 10, after "thereafter" insert "(A)" and after "or" insert "(B)".

Page 78, line 21, strike out "AND VICE CHAIR".

Page 82, line 1, strike out "of" the second place it appears and insert in lieu thereof "or".

Page 100, line 18, strike out "paragraphs (2) through (4) of".

Page 120, beginning in line 1, strike out "ANNUAL REPORT.—The annual report required under section 8E(h)(2)" and insert in lieu thereof "SEMIANNUAL REPORT.—The semiannual report required under section 5".

Page 121, line 22, strike out "paragraphs (2) through (4) of".

Page 130, line 7, strike out "of" the second place it appears and insert in lieu thereof "or".

Page 132, beginning in line 14, strike out "ANNUAL REPORT.—The annual report required under section 8E(h)(2)" and insert in lieu thereof "SEMIANNUAL REPORT.—The semiannual report required under section 5".

Page 132, line 19, strike out "(a) AUTHORIZATION OF APPROPRIATIONS.—"; line 22, strike out "$25,000,000" both places it appears and insert in lieu thereof "$30,000,000"; and strike out line 24 and all that follows through line 4 on page 133.

Page 143, beginning in line 18, strike out "in appropriation Acts" and insert in lieu thereof "subject to subsection (j)"; after line 19, insert the following:

"(j) APPROPRIATIONS ACTING REQUIRED.—New credit authority provided for in this section may be exercised only to such extent or in such amount as is provided in advance in an appropriation Act.

Pages 143 through 148, redesignate subsections (j) through (t) of section 1722 as subsections (k) through (u), respectively; page 145, line 19, strike out "(1)" and insert in lieu thereof "(m)"; page 146, line (1), strike out "(1)" and insert in lieu thereof "(m)"; and line 10 strike out "(p) or (q)" and insert in lieu thereof "(q) or (r)"; page 147, line 1, strike out "(o)" and insert in lieu thereof "(p)".

Page 154, line 2, after "ment" insert "in a manner otherwise permitted by law (or Office of Management and Budget Circular A-76 or any successor circular)".

Page 182, line 18, strike out "24" and insert in lieu thereof "23".

Page 241, line 23, strike out "and"; line 26, strike out the period and insert in lieu thereof "; and"; and after line 26, insert the following:

(3) by adding at the end the following:

"(4) Charges for defense articles that are not major defense equipment that are sold under this Act or licensed or approved for export under section 38 of this Act may not include any nonrecurring costs of research on or development or production of those articles.".

Page 242, line 13, before the period insert the following: "; and paragraph (4) of section 21(e) of the Defense Trade and Export Control Act (as added by subsection (a)(3) of this section) applies with respect to defense articles sold after September 30, 1990"; and beginning in line 14, strike out "The Defense Trade and Export Control" and insert in lieu thereof "that".

Page 267, beginning in line 22, strike out "a country, which is a major illicit drug producing country because of its coca production," and insert in lieu thereof "Bolivia, Colombia, and Peru".

Page 290, line 4, insert "and" after the semicolon; strike out lines 5 through 7; line 8, strike out "(v)" and insert in lieu thereof "(iv)"; page 291, line 9, strike out "or"; line 14, strike out all that follows "12333" and insert in lieu thereof "; or"; and after line 14, insert the following:

"(ix) commercial export promotion activities of the Department of Agriculture, including the Commodity Credit Corporation.".

Page 303, line 17, strike out "subsection (b)" and insert in lieu thereof "subsections (b) and (c)"; and page 305, after line 2, insert the following:

"(c) NOTIFICATION TO CONGRESS.—The authority of subsection (a) may be exercised only if the Committee on Foreign Affairs and the Committee on Appropriations of the House of Representatives and the Committee on Foreign Relations and the Committee on Appropriations of the Senate are notified at least 15 days in advance of the exercise of that authority in accordance with the procedures applicable to reprogramming notifications under section 4304.

Page 359, line 18, strike out "this Act may extend for not more than 10 years" and insert in lieu thereof "chapter 2 or chapter 3 of title I, section 1701, title II, or chapter 2 or chapter 3 of title VI may, subject to any future action of the Congress, extend at any time for not more than 5 years".

Page 370, strike out line 18 and all that follows through line 8 on page 371 (section 5303); and redesignate section 5304 as section 5303.

Page 371, line 13, strike out ", or" and all that follows through the comma in line 16; and page 372, beginning in line 1, strike out ", or available in the event of sequestration,".

Page 378, line 4, strike out "Notwithstanding any other provision of" and insert in lieu thereof "Except as otherwise provided by"; page 378, line 22, after "encourage" insert "full and open"; and page 379, strike out lines 23 through 25.

Page 386, strike out line 12 and all that follows through line 20 on page 390 (sections 5406 and 5407).

Page 390, strike out line 21 and all that follows through line 4 on page 391 and insert in lieu thereof the following:

"SEC. 5406. LAWS RELATING TO CONTRACTS AND GOVERNMENT EXPENDITURES.

"Whenever the President determines it to be in furtherance of the purposes of this Act, the making, performance, amendment, or modification of contracts may be made pursuant to section 474(2) of title 40, United States Code. Except as provided in the preceding sentence, any reference in this Act to exemptions from existing laws shall be deemed not to apply to laws regarding the procurement of real or personal property or services (including construction) by agencies of the United States Government.

Page 392, line 4, strike out "of" the second place it appears and insert in lieu thereof "or".

Page 500, line 4, strike out "6304" and insert in lieu thereof "4304".

Page 509, strike out lines 4 through 10 and insert in lieu thereof the following:

(a) FUNDING.—Section 3 of the Anglo-Irish Agreement Support Act of 1986 is amended by striking out subsections (a) and (b) and inserting in lieu thereof the following:

"(a) AUTHORIZATIONS OF APPROPRIATIONS.—There are authorized to be appropriated for United States contributions to the International Fund $20,000,000 for fiscal year 1990 and $20,000,000 for fiscal year 1991.

"(b) FUNDS DEEMED TO BE FOREIGN ASSISTANCE ACT FUNDS.—Funds authorized to be appropriated by this section shall be deemed to be funds authorized to be appropriated to carry out title I of the Foreign Assistance Act of 1961.".

Page 521, line 12, strike out "and"; line 19, strike out the period and insert in lieu

thereof "; and"; and after line 19, insert the following:

(3) funds appropriated before the date of enactment of the International Cooperation Act of 1989 may not be transferred for use under this chapter.

Page 525, beginning in line 3, strike out "each of the fiscal years 1990 and 1991" and insert in lieu thereof "fiscal year 1991"; and line 12, strike out "years 1990 and 1991" and insert in lieu thereof "year 1991".

Page 588, after line 7, insert the following:

SEC. 1404. CLARIFICATION OF CERTAIN TERMINOLOGY.

Any reference in this Act to funds made available for fiscal year 1990 or fiscal year 1991 under the Foreign Assistance Act of 1961 shall not be construed to be applicable to funds appropriated before the date of enactment of this Act.

The CHAIRMAN. Pursuant to the rule, the chairman of the committee, the gentleman from Florida [Mr. FASCELL], will be recognized for 10 minutes, and a Member opposed will be recognized for 10 minutes.

The Chair recognizes the gentleman from Florida [Mr. FASCELL].

Mr. FASCELL. Mr. Chairman, as I said earlier, this amendment which I offer is by agreement with the gentleman from Michigan [Mr. BROOMFIELD] who is the ranking minority member, and it is offered pursuant to the rule.

It is an en bloc amendment to correct a potential ambiguity in the bill with respect to the effect of clause 5 of rule XXI on certain provisions in the bill, and it is offered to make the necessary changes in certain provisions in the bill to resolve jurisdictional questions in the reported bill.

So, Mr. Chairman, it is purely a technical and conforming amendment.

Mr. BROOMFIELD. Mr. Chairman, will the gentleman yield?

Mr. FASCELL. I yield to the gentleman from Michigan.

Mr. BROOMFIELD. Mr. Chairman, I am in complete accord with the gentleman's request.

The CHAIRMAN. The question is on the amendments en bloc offered by the gentleman from Florida [Mr. FASCELL].

The amendments en bloc were agreed to.

The CHAIRMAN. The Clerk will designate section 2.

The text of section 2 is as follows:

SEC. 2. TABLE OF CONTENTS FOR THIS ACT.

The table of contents for this Act is as follows:

Sec. 1. Short title.
Sec. 2. Table of contents for this Act.
Sec. 3. Table of contents for amended Foreign Assistance Act.

TITLE I—ECONOMIC ASSISTANCE

Sec. 101. Revision of economic assistance programs.

TITLE II—MILITARY ASSISTANCE AND SALES PROGRAMS

Chapter 1—Consolidation of Military Assistance Accounts

Sec. 201. Establishment of foreign military financing program.
Sec. 202. Conforming amendments to Arms Export Control Act.
Sec. 203. Transition rule concerning disposition of certain previously provided military equipment.

Chapter 2—Foreign Military Sales Program

Sec. 221. Arms transfer policy.
Sec. 222. Improved accounting for foreign military sales.
Sec. 223. Designation of major non-NATO allies.
Sec. 224. Standardizing congressional review procedures for arms transfers.
Sec. 225. Foreign availability.
Sec. 226. Economic impact on United States of arms sales.
Sec. 227. Coproduction agreements.
Sec. 228. Enforcement and processing of arms export licensing requirements.
Sec. 229. Biennial review of the international traffic in arms regulations.
Sec. 230. Fair pricing.
Sec. 231. Prohibition on sales of antitank shells containing depleted uranium.
Sec. 232. Amendments to eliminate obsolete and inconsistent provisions.
Sec. 233. Technical corrections.

TITLE III—ASSISTANCE TO COMBAT INTERNATIONAL TERRORISM AND NARCOTICS TRAFFICKING

Chapter 1—Permanent Authorities, Requirements, and Restrictions

Sec. 301. Creation of new title of Act for antiterrorism assistance and international narcotics control assistance.

Chapter 2—Assistance for Narcotics-Related Purposes

Sec. 321. Herbicides for aerial coca eradication.
Sec. 322. Procurement of weapons to defend aircraft involved in narcotics control efforts.
Sec. 323. Training for narcotics control activities.
Sec. 324. Military assistance for antinarcotics efforts.

Chapter 3—Provisions Relating to Assistance Recipients

Sec. 341. Assistance for Bolivia.
Sec. 342. Assistance for Peru.
Sec. 343. Assistance for Mexico.
Sec. 344. Nonapplicability of certification procedures to certain major drug-transit countries.
Sec. 345. Additional assistance for cooperating major coca-producing countries.

TITLE IV—SPECIAL AUTHORITIES, RESTRICTIONS ON ASSISTANCE, AND REPORTS

Sec. 401. Consolidation and revision of special authorities, restrictions, and reporting requirements; elimination of obsolete provisions.

TITLE V—GENERAL PROVISIONS

Sec. 501. Consolidation and revision of administrative authorities and elimination of obsolete provisions.

TITLE VI—TECHNICAL AND CONFORMING PROVISIONS

Sec. 601. Effective date of revisions.
Sec. 602. Savings provisions.
Sec. 603. Retention of certain provisions formerly in the Foreign Assistance Act.
Sec. 604. Renaming of Trade and Development Program; conforming changes.
Sec. 605. Conforming amendments.
Sec. 606. Repeal of obsolete provisions.

TITLE VII—LATIN AMERICA AND THE CARIBBEAN

Chapter 1—Central America

Sec. 701. Promoting Central American recovery and development and regional cooperation.
Sec. 702. Military aircraft transfers.
Sec. 703. Assistance for El Salvador.
Sec. 704. Assistance for Guatemala.
Sec. 705. Restrictions on assistance to police in El Salvador, Guatemala, and Honduras.
Sec. 706. Assistance for Costa Rica.
Sec. 707. Nicaragua.
Sec. 708. Monitoring compliance with Central American peace accords.

Chapter 2—The Caribbean

Sec. 721. Caribbean Regional Development Act of 1989.
Sec. 722. Assistance for Haiti.

Chapter 3—South America

Sec. 741. Military education and training for Chile.
Sec. 742. Military assistance for Paraguay.
Sec. 743. Assistance for Peru.

Chapter 4—Other Provisions Relating to the Region

Sec. 761. Inter-American Foundation.
Sec. 762. Suspension of assistance if a military coup occurs.
Sec. 763. Human rights under civilian regimes.
Sec. 764. Assistance for law enforcement.

TITLE VIII—EUROPE AND THE MIDDLE EAST

Chapter 1—Assistance to Further Middle East Peace

Sec. 801. Middle East funds.
Sec. 802. Assistance for Israel.
Sec. 803. Assistance for Egypt.
Sec. 804. Assistance for Jordan.
Sec. 805. Assistance for the West Bank and Gaza.
Sec. 806. Assistance for Middle East cooperative projects.
Sec. 807. Scholarship program for Israeli Arabs.

Chapter 2—Other Provisions Relating to the Middle East

Sec. 821. Conventional arms transfers to the Middle East.
Sec. 822. Foreign military sales for Jordan.
Sec. 823. Stingers in the Persian Gulf region.
Sec. 824. Stingers for Bahrain.
Sec. 825. Stingers for Oman.
Sec. 826. Annual reports on Stingers provided to Bahrain and Oman.
Sec. 827. Illegal acquisition of stingers by Qatar.
Sec. 828. Cooperative development projects.
Sec. 829. Sales to certain countries in the Middle East.

Chapter 3—Eastern Mediterranean

Sec. 841. United States policy regarding the Eastern Mediterranean.
Sec. 842. Assistance for Cyprus.
Sec. 843. Extradition of Mohammed Rashid.
Sec. 844. Foreign military financing for Greece and Turkey.

Chapter 4—Other Provisions

Sec. 861. Contributions to Anglo-Irish International Fund.

TITLE IX—ASIA AND THE PACIFIC
Chapter 1—East Asia and the Pacific
Sec. 901. Burma.
Sec. 902. Cambodia.
Sec. 903. Prohibition on military assistance to Fiji.
Sec. 904. Uncommitted FMS credits for the Philippines.
Sec. 905. Multilateral assistance initiative for the Philippines.
Sec. 906. Scholarships under South Pacific regional program.
Sec. 907. Transfer of funds for Assistant Secretary of State for South Asian Affairs.
Sec. 908. Cooperation on POW/MIA issue.
Sec. 909. Admission of Asian countries into the OECD.
Chapter 2—South Asia
Sec. 921. Assistance for Afghanistan.
Sec. 922. United States policy toward Bangladesh.
Sec. 923. India and Nepal.
Sec. 924. Assistance for Pakistan.
TITLE X—AFRICA
Chapter 1—Africa Famine Recovery and Development
Sec. 1001. Short title.
Sec. 1002. Africa famine recovery and development.
Sec. 1003. Reports to Congress.
Sec. 1004. Conforming amendments to Public Law 480.
Sec. 1005. African Development Foundation.
Sec. 1006. United States trade restrictions on products from sub-Saharan Africa.
Chapter 2—Other Provisions Relating to Sub-Saharan Africa
Sec. 1021. Economic support assistance for sub-Saharan Africa.
Sec. 1022. Support for the Southern Africa Development Coordination Conference.
Sec. 1023. Assistance for Burundi.
Sec. 1024. Assistance for Kenya.
Sec. 1025. Assistance for Liberia.
Sec. 1026. Assistance for Mozambique.
Sec. 1027. Assistance for Somalia.
Sec. 1028. Assistance for Sudan.
Sec. 1029. Assistance for Zaire.
Sec. 1030. AIDS in Africa.
Chapter 3—Other Provisions Relating to Africa
Sec. 1041. Factors considered in furnishing assistance to countries in Africa.
TITLE XI—AGRICULTURAL TRADE AND DEVELOPMENT ASSISTANCE
Sec. 1101. Private sector development activities.
TITLE XII—PEACE CORPS
Sec. 1201. Authorization of appropriations.
Sec. 1202. Technical publications.
TITLE XIII—UNITED STATES COMMISSION ON SOUTHERN AFRICA
Sec. 1301. Short title.
Sec. 1302. Findings.
Sec. 1303. Establishment.
Sec. 1304. Purpose of Commission.
Sec. 1305. Membership; chairperson.
Sec. 1306. President and staff of Commission.
Sec. 1307. Powers of Commission.
Sec. 1308. Requirements.
Sec. 1309. Report.
Sec. 1310. Funds from Department of State.
TITLE XIV—MISCELLANEOUS PROVISIONS
Sec. 1401. Certain uses of excess foreign currencies.
Sec. 1402. Minority set-aside.
Sec. 1403. Report on compliance with foreign boycotts.

The CHAIRMAN. Are there amendments to section 2?

If not, the Clerk will designate section 3.

The text of section 3 is as follows:

SEC. 3. TABLE OF CONTENTS FOR AMENDED FOREIGN ASSISTANCE ACT.

The Foreign Assistance Act of 1961 is amended by inserting the following new section after the first section:

"SEC. 2. TABLE OF CONTENTS.

"The table of contents for this Act is as follows:

"Sec. 1. Short title.
"Sec. 2. Table of contents.
"TITLE I—ECONOMIC ASSISTANCE
"Chapter 1—Economic Assistance Policies
"Sec. 1101. Findings and declarations of policy concerning economic assistance programs generally.
"Sec. 1102. Basic objectives of economic assistance programs and United States development cooperation policy.
"Chapter 2—Development Assistance
"SUBCHAPTER A—DEVELOPMENT ASSISTANCE AUTHORITIES
"Sec. 1201. Assistance for long-term development needs.
"Sec. 1202. Authorizations of appropriations.
"Sec. 1203. Assistance for population planning.
"Sec. 1204. Assistance for child survival activities and health.
"SUBCHAPTER B—SPECIAL FOCUS PROGRAMS AND ACTIVITIES
"Sec. 1221. Assistance for human rights and democratic initiatives.
"Sec. 1222. South Africa.
"Sec. 1223. Development and illicit narcotics production.
"Sec. 1224. Private Sector Revolving Fund.
"Sec. 1225. Regional integration.
"Sec. 1226. Development education.
"Sec. 1227. Strengthening the capacity of research and educational institutions.
"SUBCHAPTER C—OTHER AUTHORITIES AND REQUIREMENTS
"Sec. 1241. Impact of development assistance on environment and natural resources.
"Sec. 1242. Cost sharing.
"Sec. 1243. Transportation charges incurred by the Red Cross or private voluntary organizations.
"Sec. 1244. Assistance limited to economic programs.
"Chapter 3—Economic Support Assistance
"Sec. 1301. Assistance under special economic, political, and security conditions.
"Sec. 1302. Authorizations of appropriations.
"Sec. 1303. Purchase of United States goods and services.
"Chapter 4—Voluntary Contributions to International Organizations and Programs
"Sec. 1401. Authority to provide assistance.
"Sec. 1402. Authorization of appropriations.
"Sec. 1403. Contributions to International Fund for Agricultural Development.
"Sec. 1404. Condition on contributions to the International Atomic Energy Agency.
"Sec. 1405. Withholding of United States proportionate share for certain programs of international organizations.
"Sec. 1406. Restriction on contributions to United Nations Relief and Works Agency.
"Sec. 1407. Reports on international organizations.
"Sec. 1408. Auditing of accounts of international organizations.
"Sec. 1409. Integration of women.
"Sec. 1410. United Nations Development Program.
"Sec. 1411. Assessment of activities of international organizations by country missions.
"Chapter 5—Assistance for Private Sector Involvement in Development
"SUBCHAPTER A—OVERSEAS PRIVATE INVESTMENT CORPORATION
"Sec. 1501. Purpose and policy.
"Sec. 1502. Stock of the corporation.
"Sec. 1503. Organization and management.
"Sec. 1504. Investment insurance, guarantees, financing, and other programs.
"Sec. 1505. Enhancing private political risk insurance industry.
"Sec. 1506. Guidelines and requirements for OPIC support.
"Sec. 1507. Issuing authority, direct investment fund, equity fund, and reserves.
"Sec. 1508. Income and revenues.
"Sec. 1509. General provisions relating to insurance, guaranty, and financing program.
"Sec. 1510. General provisions and powers.
"Sec. 1511. Annual report; maintenance of information.
"Sec. 1512. Definitions.
"SUBCHAPTER B—TRADE AND DEVELOPMENT AGENCY
"Sec. 1521. Purpose.
"Sec. 1522. Authority to provide assistance.
"Sec. 1523. Director and personnel.
"Sec. 1524. Annual report.
"Sec. 1525. Advisory board.
"Sec. 1526. Inspector General.
"Sec. 1527. Funding.
"Chapter 6—International Disaster Assistance
"Sec. 1601. Statement of policies.
"Sec. 1602. Authority to provide assistance.
"Sec. 1603. Authorizations of appropriations.
"Sec. 1604. Borrowing authority.
"Sec. 1605. Special Coordinator For International Disaster Assistance.
"Chapter 7—Other Economic Assistance Programs
"SUBCHAPTER A—AMERICAN SCHOOLS AND HOSPITALS
"Sec. 1701. Authority to provide assistance.
"Sec. 1702. Authorizations of appropriations.
"SUBCHAPTER B—GUARANTEE PROGRAMS
"Sec. 1721. Trade credit insurance program for Central America.
"Sec. 1722. Housing and urban development guarantee program.
"SUBCHAPTER C—DEBT FOR DEVELOPMENT
"Sec. 1741. Generation of local currency for development activities.
"Sec. 1742. Debt exchange.
"Sec. 1743. Ineligible countries.
"Chapter 8—Reimbursable Programs
"Sec. 1801. Authority to conduct reimbursable programs.

"Sec. 1802. Use of payments.
"Chapter 9—Administration of Economic Assistance Programs
"SUBCHAPTER A—OPERATING EXPENSES
"Sec. 1901. Authorizations of appropriations for operating expenses generally.
"Sec. 1902. Authorizations of appropriations for operating expenses of the Inspector General.
"Sec. 1903. Additional funds for operating expenses.
"SUBCHAPTER B—EVALUATION
"Sec. 1921. Evaluation and accountability.
"SUBCHAPTER C—COOPERATION WITH NONGOVERNMENTAL SECTOR
"Sec. 1941. Coordination of advisory boards.
"Sec. 1942. Center for University Cooperation in Development.
"Sec. 1943. Center for Voluntary Cooperation in Development.
"Sec. 1944. Private sector advisory board.
"TITLE II—MILITARY ASSISTANCE PROGRAMS
"Chapter 1—Policies Regarding Military Assistance
"Sec. 2101. Findings and statements of policies regarding military assistance.
"Sec. 2102. Objectives of military assistance.
"Chapter 2—Foreign Military Financing Program
"Sec. 2201. Authority to furnish assistance.
"Sec. 2202. Terms of assistance.
"Sec. 2203. Eligibility.
"Sec. 2204. Approval of third country transfers.
"Sec. 2205. Special drawdown authority.
"Sec. 2206. Modernization of military capabilities of certain countries.
"Sec. 2207. Annual ceiling and reports on transfers of excess defense articles.
"Sec. 2208. Improved accountability with respect to financed commercial arms sales.
"Sec. 2209. Considerations in furnishing assistance.
"Sec. 2210. Authorizations of appropriations.
"Sec. 2211. Financing for FMS sales.
"Sec. 2212. Reserve fund for certain countries.
"Chapter 3—Stockpiling of Defense Articles For Foreign Countries
"Sec. 2301. Restrictions on stockpiling.
"Sec. 2302. Location of stockpiles.
"Sec. 2303. Additions to war reserve stocks.
"Chapter 4—Overseas Management of Assistance and Sales Programs
"Sec. 2401. Authorized functions.
"Sec. 2402. Limit on size of groups.
"Sec. 2403. Costs.
"Sec. 2404. Role of chief of mission.
"Chapter 5—International Military Education and Training
"Sec. 2501. General authority.
"Sec. 2502. Terms of assistance.
"Sec. 2503. Exchange training.
"Sec. 2504. Training in maritime skills.
"Sec. 2505. Authorizations of appropriations.
"Chapter 6—Peacekeeping Operations
"Sec. 2601. General authority.
"Sec. 2602. Special transfer and drawdown authorities.
"Sec. 2603. Administrative authorities.
"Sec. 2604. Authorization of appropriations.
"TITLE III—COMBATING INTERNATIONAL TERRORISM AND NARCOTICS TRAFFICKING
"Chapter 1—International Terrorism
"Sec. 3101. Coordination of all United States terrorism-related assistance to foreign countries.
"Sec. 3102. Authority to provide antiterrorism assistance.
"Sec. 3103. Purposes of antiterrorism assistance.
"Sec. 3104. Authorities and limitations.
"Sec. 3105. Reports to Congress.
"Sec. 3106. Administrative authorities.
"Sec. 3107. Authorizations of appropriations.
"Sec. 3108. Prohibition on assistance to countries supporting international terrorism.
"Chapter 2—International Narcotics Control
"SUBCHAPTER A—GENERAL POLICIES
"Sec. 3201. Findings and statements of policy.
"Sec. 3202. Coordination of all United States anti-narcotics assistance to foreign countries.
"SUBCHAPTER B—NARCOTICS CONTROL ASSISTANCE
"Sec. 3221. Authority to enter into agreements and provide assistance.
"Sec. 3222. Authorizations of appropriations.
"Sec. 3223. Contribution by recipient country.
"Sec. 3224. Use of herbicides for aerial eradication.
"Sec. 3225. Prohibition on procurement of weapons and ammunition.
"Sec. 3226. Permissible uses of aircraft and other equipment.
"Sec. 3227. Retention of title to aircraft.
"Sec. 3228. Records of aircraft use.
"Sec. 3229. Prohibition on use of narcotics control assistance to acquire real property.
"SUBCHAPTER C—FOREIGN ASSISTANCE GENERALLY AND NARCOTICS CONTROL
"Sec. 3241. Prohibition on use of foreign assistance for reimbursements for drug crop eradications.
"Sec. 3242. Prohibition on assistance to drug traffickers.
"Sec. 3243. Reallocation of funds withheld from countries which fail to take adequate steps to halt illicit drug production or trafficking.
"Sec. 3244. Waiver of certain restrictions on assistance for countries reducing illicit drug production.
"Sec. 3245. Assistance for crop substitution activities.
"Sec. 3246. Debt forgiveness for major coca producing countries participating in aerial eradication programs.
"SUBCHAPTER D—REPORTS AND ANNUAL CERTIFICATION PROCESS
"Sec. 3261. Reports.
"Sec. 3262. Annual certification procedures.
"Sec. 3263. Determining major drug-transit and major illicit drug producing countries.
"SUBCHAPTER E—MISCELLANEOUS PROVISIONS
"Sec. 3281. Participation in foreign police actions.
"Sec. 3282. Definitions.
"TITLE IV—SPECIAL AUTHORITIES, RESTRICTIONS ON ASSISTANCE, AND REPORTS
"Chapter 1—Special Authorities
"Sec. 4101. Authority to transfer between accounts.
"Sec. 4102. Special waiver authority.
"Sec. 4103. Contingencies involving nonmilitary assistance.
"Sec. 4104. Termination expenses.
"Sec. 4105. Exemption of assistance through nongovernmental organizations from restrictions.
"Sec. 4106. Exemption of training activities from prohibitions.
"Sec. 4107. Nonapplicability to military assistance of certain Neutrality Act provisions.
"Chapter 2—Restrictions on Assistance
"Sec. 4201. Ineligible countries and projects.
"Sec. 4202. Police training.
"Sec. 4203. Intelligence activities.
"Sec. 4204. Abortions and involuntary sterilizations.
"Sec. 4205. Nuclear enrichment transfers.
"Sec. 4206. Nuclear reprocessing transfers and illegal exports for nuclear explosive devices.
"Sec. 4207. Nuclear detonations and transfers of nuclear explosive devices.
"Sec. 4208. Countries which seize United States fishing vessels.
"Sec. 4209. Countries in arrears on assistance repayments.
"Sec. 4210. Assistance for Cuba.
"Sec. 4211. Assistance to Pakistan.
"Chapter 3—Reports and Notifications to Congress
"Sec. 4301. Congressional presentation documents for economic assistance.
"Sec. 4302. Human rights policy and reports.
"Sec. 4303. Annual allocation report.
"Sec. 4304. Notification of program changes.
"Sec. 4305. Quarterly reports on obligations for development assistance and economic support assistance.
"Sec. 4306. Notice of exercise of certain special authorities.
"Sec. 4307. Furnishing information requested by the Congress or the GAO.
"Sec. 4308. Annual reports regarding recipient expenditures for military purposes.
"Sec. 4309. Annual reports on gifts received.
"Sec. 4310. Reports on foreign countries that tax economic assistance funds furnished to PVOs and NGOs.
"TITLE V—GENERAL PROVISIONS
"Chapter 1—Exercise and Coordination of Functions
"Sec. 5101. Delegations by the President.
"Sec. 5102. Secretary of State.
"Sec. 5103. Secretary of Defense.
"Sec. 5104. Designation of administering agency for title I.
"Sec. 5105. Coordination of United States policies and programs affecting development.
"Sec. 5106. Security assistance coordination.
"Sec. 5107. Authority to establish missions abroad.

"Sec. 5108. Presidential findings and determinations.

"Chapter 2—Administrative Authorities

"Sec. 5201. Allocation of funds and reimbursement among agencies.
"Sec. 5202. General authorities.
"Sec. 5203. Authorized administrative uses of funds.

"Chapter 3—Special Requirements and Authorities Relating to Appropriations and Local Currencies

"SUBCHAPTER A—PROVISIONS RELATING TO APPROPRIATIONS

"Sec. 5301. Requirement for specific authorization of appropriations.
"Sec. 5302. Authority for extended period of availability of appropriations.
"Sec. 5303. Deobligation/reobligation authority.
"Sec. 5304. Reduction of authorization earmarks if appropriations are less than authorizations.

"SUBCHAPTER B—LOCAL CURRENCIES

"Sec. 5321. Special accounts for and use of host-country owned local currencies.
"Sec. 5322. Use of certain foreign currencies owned by the United States.
"Sec. 5323. Interest on foreign currency proceeds.
"Sec. 5324. Use of local currencies.
"Sec. 5325. Interest on local currency accruing to nongovernmental organizations.

"Chapter 4—Procurement and Disposition of Commodities and Defense Articles

"Sec. 5401. Use of private enterprise.
"Sec. 5402. Procurement standards and procedures.
"Sec. 5403. Shipping on United States vessels.
"Sec. 5404. Excess and other available property.
"Sec. 5405. Retention and use of certain items and funds.
"Sec. 5406. Eligibility and debarment.
"Sec. 5407. False claims and ineligible commodities.
"Sec. 5408. Waivers of certain laws relating to contracts and government expenditures.

"Chapter 5—Personnel

"Sec. 5501. Statutory officers in economic assistance agency.
"Sec. 5502. Employment of personnel.
"Sec. 5503. Experts, consultants, and retired officers.
"Sec. 5504. Detail of personnel to foreign governments and international organizations.
"Sec. 5505. Chief of economic assistance mission abroad.
"Sec. 5506. Chairman of OECD Development Assistance Committee.
"Sec. 5507. Assignment of DOD personnel to civil offices.
"Sec. 5508. Discrimination against United States personnel providing assistance.

"Chapter 6—Definitions and Miscellaneous Provisions

"Sec. 5601. Definitions.
"Sec. 5602. Activities under certain other laws not affected.
"Sec. 5603. Commitments to use United States Armed Forces.
"Sec. 5604. Economic sanctions against Cuba.

"TITLE VI—REGION AND COUNTRY SPECIFIC PROVISIONS

"Chapter 1—Caribbean Regional Development

"Sec. 6101. Short title.
"Sec. 6102. United States policies.
"Sec. 6103. Priority areas for assistance.
"Sec. 6104. Protection of worker rights.
"Sec. 6105. Protection of public health.
"Sec. 6106. Support for women's role in development.
"Sec. 6107. Consultation, monitoring, evaluation, and reporting.
"Sec. 6108. Funding.
"Sec. 6109. Definition.

"Chapter 2—Multilateral Assistance Initiative for the Philippines

"Sec. 6201. Findings and statement of policy.
"Sec. 6202. Assistance.
"Sec. 6203. Report to Congress.
"Sec. 6204. Authorization of appropriations.
"Sec. 6205. Limitations on use of funds.
"Sec. 6206. Donor coordination.
"Sec. 6207. Administrative authorities.

"Chapter 3—Africa Famine Recovery and Development

"Sec. 6301. Long-term development assistance for sub-Saharan Africa.
"Sec. 6302. Authorizations of appropriations for assistance for sub-Saharan Africa.
"Sec. 6303. Organizational changes.".

The CHAIRMAN. Are there amendments to section 3 of the bill?

If not, the Clerk will designate title I.

The text of title I is as follows:

TITLE I—ECONOMIC ASSISTANCE

SEC. 101. REVISION OF ECONOMIC ASSISTANCE PROGRAMS.

The Foreign Assistance Act of 1961 is amended by striking out part I and inserting in lieu thereof the following:

"TITLE I—ECONOMIC ASSISTANCE

"CHAPTER 1—ECONOMIC ASSISTANCE POLICIES

"SEC. 1101. FINDINGS AND DECLARATIONS OF POLICY CONCERNING ECONOMIC ASSISTANCE PROGRAMS GENERALLY.

"(a) REASONS FOR ECONOMIC ASSISTANCE.—The Congress finds and declares as follows:

"(1) Fundamental and pervasive economic, political, and technological changes have resulted in the growing interdependence of countries and have created an increasing awareness in the United States and around the world of the need for all countries to participate in efforts to promote broad based, sustainable development.

"(2) The economic prosperity and security of the people of the United States and of the world are best maintained and enhanced in an international community which respects individual civil and political rights and economic freedoms, provides for fundamental human needs, works to use wisely the world's limited resources in a sustainable manner, and works toward the achievement of economic well-being for all people.

"(3) Economic assistance authorized by this title reflects the traditional humanitarian ideals of the American people and a commitment—

"(A) to assist in the elimination of hunger, poverty, illness, and ignorance in developing countries, and

"(B) to help alleviate the suffering brought about by natural and manmade disasters.

"(4) The efforts of developing countries to build and maintain the social and economic institutions necessary to achieve self-sustaining growth and to provide opportunities to improve the quality of life for their people depend primarily upon successfully marshalling their own economic and human resources. The Congress recognizes that the magnitude of these efforts exceeds the resources of developing countries and therefore accepts that there will be a long-term need for wealthy countries to contribute additional resources for development purposes. The United States should take the lead in concert with other nations to mobilize such resources from public and private sources.

"(b) NEED FOR COORDINATED APPLICATION OF UNITED STATES RESOURCES.—The Congress recognizes that successful achievement of the four basic objectives specified in section 1102 depends on the coordinated application of United States resources. Accordingly, the President should—

"(1) develop and implement a coordinated international economic and development policy and program of action designed to make progress toward the achievement of those objectives, bringing to bear all relevant activities of the United States Government, including policies concerning international trade and debt, contributions to multilateral development banks, policies concerning international monetary issues, and policies in such areas as agriculture, the environment, and health; and

"(2) facilitate greater mutual awareness within the United States public and private sectors of activities in developing countries, in order to use all available resources effectively and efficiently toward the achievement of those objectives.

"(c) NEED FOR COLLABORATIVE EFFORTS.—The Congress further finds and declares—

"(1) the reduction of threats to global economic, political, environmental, and social well-being requires collaborative efforts by all countries;

"(2) the United States and other developed countries, having benefited in their own development from the talents, capital, and knowledge of other countries and peoples, should help developing countries to grow and develop in a broad-based and sustainable manner;

"(3) it shall be the policy of the United States to assist in building institutions which permit developing countries to be more effective participants in international collaborative efforts;

"(4) United States participation in the international, multilateral, and regional organizations and programs is an important aspect of United States support for international collaborative efforts in pursuit of the four basic objectives set forth in section 1102; and

"(5) the pursuit of the four basic objectives set forth in section 1102 may require United States collaborative efforts with advanced developing countries.

"SEC. 1102. BASIC OBJECTIVES OF ECONOMIC ASSISTANCE PROGRAMS AND UNITED STATES DEVELOPMENT COOPERATION POLICY.

"(a) FOUR BASIC OBJECTIVES.—The primary purpose of United States economic assistance is the promotion of broad based, sustainable, participatory development, with particular focus on the poor. In pursuit of that purpose, economic assistance programs to the extent specified in this Act, and United States economic cooperation policy generally, shall have the following

four basic objectives, which are interrelated and mutually reinforcing:

"(1) ECONOMIC GROWTH.—Promotion of broad based economic growth.

"(2) RESOURCE-SUSTAINABLE DEVELOPMENT.—Improvement of resource management designed to bring about environmentally and economically sustainable patterns of development.

"(3) POVERTY ALLEVIATION.—Alleviation of the worst manifestations of poverty through the development of human resource capacity.

"(4) PLURALISM.—Promotion of democracy and political, social, and economic pluralism.

"(b) ECONOMIC GROWTH.—

"(1) RATIONALE.—Broad based, sustainable economic growth is in the interest of the United States because it permits countries to progress toward economic self-reliance, to improve the living standards of their citizens, and to increase international markets for trade and investment. Successful long term development cannot occur without broad based, sustainable economic growth which enables the poor to increase their incomes and access to productive resources and services so that they can satisfy their basic needs and lead lives of decency, dignity, and hope.

"(2) ELABORATION ON OBJECTIVE.—(A) Implementation of the objective of promoting broad based economic growth should recognize that economic, social, political, and environmental conditions vary among countries. While taking account of such differences, the economic assistance programs carried out in furtherance of the four basic objectives set forth in this section shall emphasize the following principles:

"(i) Security of economic rights for all citizens without regard to sex, race, religion, language, or social status, including the right to own property, the right to fair return to labor, and the right to engage in productive use of available assets.

"(ii) Economic policies based on free market principles as a means for establishing prices and for allocating goods and services.

"(iii) Government involvement in the economy to promote economic rights, fair and open markets, and the fulfillment of basic human needs.

"(iv) Adherence by governments to international economic agreements, particularly those relating to free and fair trade practices and to respect for worker rights.

"(B) A primary test of the effectiveness of economic assistance programs designed to promote broad based economic growth is the extent to which the poor and disenfranchised participate in and benefit from these programs and are thereby brought into the development process.

"(c) RESOURCE-SUSTAINABLE DEVELOPMENT.—

"(1) RATIONALE.—The economic and social well-being and the security of the United States and other countries is affected by how the world's environment and physical resource base are managed. Consumption patterns, systems of industrial and agricultural production, and the manner of use of natural resources all impact on the opportunities for long-term development and growth and survival for all countries. Both developed and developing countries share responsibility for the rational and sustainable management of natural resources. Responsible management of physical resources is necessary to insure the availability of resources for future generations and to assure that the burdens of improved resource management do not fall disproportionately on the poor.

"(2) ELABORATION OF OBJECTIVE.—(A) Sustainable development is development that meets the needs of the present without compromising the ability of future generations to meet their own needs. Economic assistance programs authorized by this title should assist countries to adopt policies and programs that promote ecologically sound patterns of growth. Improved resource management tailored to the conditions and capabilities of the particular developing countries should be an integral part of all planning, programming, and reporting activities with respect to economic assistance under this title.

"(B) Resource sustainable development should be promoted through the establishment and implementation of public policies and programs that provide incentives for better long-term management of resources and private and public investment toward resource conserving technologies of production in energy, agricultural, and industrial production. To achieve this objective will entail, among other things—

"(i) more efficient and resource conserving systems of sustainable agricultural production, with special emphasis on rain-fed agriculture;

"(ii) greater attention to forestry management for sustainable yields, agroforestry, reforestation, and watershed conservation, including better resource monitoring and assessment systems;

"(iii) improved water use management, including watershed protection, sustainable and efficient irrigation projects, and efforts to reduce costs and improve delivery of potable water and sanitation systems for both urban and rural areas;

"(iv) more systematic collection, preservation, and sharing of original and evolved plant and animal genetic material, including preservation of ecosystems and natural habitats;

"(v) attention to more efficient management of existing energy systems, to the promotion of increased use of least-cost energy resource planning procedures, and to the development of economically viable and more efficient systems of energy production and consumption which seek to maximize resource conservation;

"(vi) attention to resource conserving systems of urban development and industrialization which make efficient use of energy and natural resources, minimize the adverse effects of air and water pollution, facilitate safe waste disposal, including toxic wastes, and provide for improved environmental health and safety of the urban and surrounding rural populations; and

"(vii) efforts to analyze and to reduce man-made contributions to changes in the global climate, including factors which may be contributing to global warming in the Earth's atmosphere.

"(C) Growth which is not environmentally sustainable cannot be economically sustainable in the long run. Improved resource management is a critical element of a balanced pattern of development.

"(d) POVERTY ALLEVIATION.—

"(1) RATIONALE.—It is in the United States interest to assist developing countries to achieve patterns of growth and development which will measurably alleviate the worst manifestations of poverty in rural and urban areas and allow all people, especially those with low incomes, to lead economically and socially productive lives. As a people endowed with a spirit of humanitarian generosity, United States citizens have long demonstrated a moral imperative to help those in need. Further, peace and stability in the world cannot be achieved without economic development which also alleviates the worst manifestations of poverty.

"(2) ELABORATION OF OBJECTIVE.—(A) Broad based economic growth is necessary for the alleviation of the worst manifestations of poverty. Conversely, neither growth nor the alleviation of poverty can be sustained unless all people, especially the poor, have the basic assets and capabilities which foster the exercise of choice and participation in the economic, social, and political life of the country. Women, female children, and children of poor people have been especially disadvantaged in their access to these assets. Governments, together with nongovernmental organizations and international and multilateral organizations, should give special attention to alleviating the worst manifestations of poverty among these groups. Long-term poverty alleviation cannot be attained solely through direct government programs, but depends on patterns of broad based economic growth and the productivity generated by investments in the expansion of human well-being, capacity, and choice.

"(B) Poverty alleviation should be promoted through conscious public policies and through careful monitoring of the effects of macroeconomic growth strategies on the worst manifestations of poverty. It is the policy of the United States to assist those nations and peoples which demonstrate commitment to the objective of poverty alleviation through their development of national poverty alleviation plans and the deployment of resources to meet the goals of such plans. Such plans should include measurable target levels by specific dates for specific social indicators of the worst manifestations of poverty, such as child mortality rates, female literacy, child nutrition, and access to safe water. The United States through bilateral or international assistance, should seek to help governments develop appropriate statistical measures for use in the development and implementation of national poverty alleviation plans. Poverty alleviation effort should be a subject for bilateral policy dialogue and a factor in determining assistance allocations, recognizing that conditions and appropriate targets will vary by country and over time.

"(C) To achieve the objective of alleviating the worst manifestations of poverty will entail, among other things—

"(i) the expansion of education to all segments of the society, with particular attention to universal access to basic education, to sustainable improvement in the quality and diversity of educational opportunity, and to female education at all age levels;

"(ii) improvement in coverage, quality, and sustainability of health services, with special emphasis on universal access to primary health care, epidemiological detection and prevention programs, and sustainable systems of health care for mothers and children;

"(iii) a consistent program of support for systematic expansion of voluntary family planning services, with special emphasis on the role of the private voluntary and commercial sectors as providers of such services and on the development of more effective, acceptable family planning technologies appropriate to the conditions of developing countries;

"(iv) support for activities which enhance secure access of all to adequate food and nutrition derived from sustainable agricultural production, including the effectiveness and development contribution of food assistance made available under the Agricultural Trade Development and Assistance Act of 1954 and other food assistance programs; and

"(v) support for activities which enhance universal access to safe drinking water, basic sanitation, and basic shelter necessary for health.

"(e) PLURALISM.—

"(1) RATIONALE.—The promotion of democracy throughout the world is in the basic interest of the United States. Democratic development, political pluralism, and respect for internationally recognized human rights are intrinsically linked to economic and social progress. It is in the United States interest and in keeping with our democratic traditions to foster the spread of democratic values and aspirations and universal respect for civil and political liberties.

"(2) ELABORATION ON OBJECTIVE.—(A) Furtherance of the basic objective of pluralism requires that the United States promote—

"(i) the ability of all citizens of a country to organize and associate freely and independently of the government;

"(ii) respect for the diversity among the citizens of a country;

"(iii) the right to freely choose one's government, to hold that government accountable, and to participate in political life; and

"(iv) increased observance of internationally recognized human rights.

"(B) An essential element of democratic development is the growth of indigenous nongovernmental organizations which are committed to democratic values and active in the promotion of pluralism. United States efforts to foster democratic pluralism and build democratic institutions are most likely to create enduring bonds of democratic cooperation when United States nongovernmental organizations are involved in strengthening the capacity of nongovernmental organizations in other countries.

"(C) United States economic assistance to promote democratic development and pluralism should also support multilateral and governmental efforts to foster democracy and build democratic institutions.

"(D) Another essential element of democratic development is the acceptance of and respect for civilian authority by all elements of society.

"(f) CROSS-CUTTING ELEMENTS.—The following key elements are applicable to the design and implementation of economic assistance programs to promote the four basic objectives set forth in subsection (a):

"(1) PARTICIPATION AND CONSULTATION.—Development is a process of change which requires the best possible information and judgment about the needs, capabilities, and aspirations of those most affected, either as participants in the delivery of assistance or as beneficiaries of assistance. For development to be broad based and sustainable, it is necessary to consult with and fully engage in the policy and program planning process the governmental and nongovernmental organizations representative of and knowledgeable about local people and their interests. It is critical to involve beneficiaries in the assessment of the social, economic, and environmental impact of development projects and programs. Use of local nongovernmental organizations can be an effective means to accomplish this.

"(2) WOMEN IN DEVELOPMENT.—The expansion of women's economic opportunities is essential to alleviate poverty and to bring about effective broad based, sustainable development. Women must be an integral part of all aspects of any development program. The active involvement of women in economic, political, and social activities is necessary to promote pluralism and to assure sustainable development. Women must participate in development as agents of change, not merely as recipients and beneficiaries of change. Women should, therefore, be integrally involved in policies, programs, and projects undertaken to achieve the four basic objectives set forth in subsection (a).

"(3) SCIENCE AND TECHNOLOGY FOR DEVELOPMENT.—The capabilities of the United States in science and technology must be utilized to contribute to progress on critical development problems. The President should ensure that United States scientific talent is engaged in research on issues relevant to the four basic objectives set forth in subsection (a), by involving United States public and private institutions and by promoting collaboration with scientists and science and technology institutions in developing countries. Collaborative research programs and other means should be used to help maintain and strengthen the institutional capacity of science and technology organizations in other countries. Programs of scientific and technological research and development supported under this title should focus on adaptive and applied research, should encourage research which is relevant to overcoming constraints to broad based, sustainable development, and should promote commercialization and utilization of technology in developing countries.

"(4) EDUCATION AND TRAINING.—(A) Access to education and training in United States colleges, universities, and technical training facilities constitutes a major aspect of United States comparative advantage in the provision of development assistance. These institutions are already training large numbers of students from developing countries. Training and education programs are a cost effective method for furthering the four basic objectives set forth in subsection (a). Advanced training and education programs should be available at levels appropriate to the needs of particular countries. They should be monitored to ensure that access to training and educational opportunities in the United States is available for women and for the poor.

"(B) Development efforts have greatly expanded the range and capacity of education and training institutions in developing countries. These can serve as effective facilities to support the four basic objectives set forth in subsection (a). Recognizing the mutual benefits that can be derived, long-term collaborative relationships between educational and training institutions in developing countries and those in the United States are strongly encouraged and should be supported under this title.

"(5) APPROPRIATE TECHNOLOGY.—The United States can make a significant contribution to development through the application of its vast array of technology. The President must ensure that such technology is appropriate for the level of development and factors of production prevalent in a particular country. In promoting such appropriate technology, the President should focus particularly on the capabilities of the private sector.

"(6) TECHNICAL ASSISTANCE.—Well focused, high quality technical assistance is an important element in the delivery of effective United States economic assistance programs. The growing technical capacity of institutions in many developing countries has increased their ability to participate in the furnishing of technical assistance. United States economic assistance programs should seek to utilize technical capabilities available in developing countries and should find ways to involve United States technical capability through collaborative programs. The results of such involvement will benefit all collaborating partners. United States Government entities, the United States higher education community, nongovernmental organizations, and the private sector offer a rich source of technical expertise. Emphasis should be placed on promoting host and third country professional capabilities for providing technical assistance in programs supported by the United States.

"(7) NONGOVERNMENTAL COOPERATION IN DEVELOPMENT.—(A) Nongovernmental organizations (including private voluntary organizations, cooperatives, and credit unions) provide important mechanisms to increase the participation of rural and urban poor people in broad based sustainable development efforts and in the building of more pluralistic and open societies. The contributions of United States and indigenous nongovernmental organizations that represent and involve indigenous groups and communities should be fully utilized in meeting the four basic objectives.

"(B) Nongovernmental organizations participating in the furnishing of assistance under this title should have a grassroots base and receive a significant portion of their financial support from other than government sources.

"(8) HUMAN RIGHTS.—United States economic assistance programs and policies, while encompassing due respect for differences in cultural values and national histories, should reflect the United States commitment, in keeping with its constitutional heritage and traditions and in accordance with its international obligations as set forth in the Charter of the United Nations, to promote and encourage increased respect for human rights and fundamental freedoms (as set forth in the Universal Declaration of Human Rights) throughout the world without regard to sex, race, language, religion, or social status.

"(g) EFFECTIVE USES OF ASSISTANCE.—

"(1) BENEFICIARY COUNTRIES.—Assistance furnished under this title should be concentrated in countries which will make the most effective use of that assistance in promoting the four basic objectives set forth in subsection (a).

"(2) UNFAVORABLE SECTOR AND NATIONAL ECONOMIC POLICIES.—Assistance should not be provided for a program or project in a country if the relevant sector or national economic policies of that country are clearly unfavorable to the sustainability or broadest possible impact of the assisted program or project.

"(3) RURAL AND URBAN AREAS.—Implementation projects and programs in furtherance of the four basic objectives set forth in subsection (a) should be undertaken in those rural and urban areas of a country which offer potential for successful development.

"CHAPTER 2—DEVELOPMENT ASSISTANCE

"Subchapter A—Development Assistance Authorities

"SEC. 1201. ASSISTANCE FOR LONG-TERM DEVELOPMENT NEEDS.

"(a) AUTHORIZATION.—The President shall use the authorities of this section to provide assistance, in furtherance of the basic objectives set forth in section 1102, to meet long term development needs in developing countries.

"(b) FORMS OF ASSISTANCE.—The assistance authorized by this section shall be furnished as project and program assistance.

"(c) PURPOSE OF ASSISTANCE.—The authorities provided in subsection (d) shall be used in furnishing development assistance under this chapter to support a process of long-term development and economic growth in urban and rural areas of developing countries that is broad-based, participatory, and sustainable, with particular focus on the poor.

"(d) GENERAL AUTHORITIES.—The President is authorized to provide development assistance to promote the following:

"(1) Economic policies that advance the four basic objectives set forth in section 1102, taking into account the need to protect vulnerable groups.

"(2) Increased agricultural productivity, especially food production and processing.

"(3) Improved health conditions, preventive care programs, and self-sustaining primary health care systems, with special emphasis on meeting the needs of mothers and children, including increased access to maternal, prenatal, and neonatal health care initiatives.

"(4) Activities utilizing simple, available technologies which can reduce childhood morbidity and mortality, such as improved and expanded immunization programs, oral rehydration to combat diarrheal diseases, and education programs aimed at improving nutrition and sanitation and at promoting child spacing.

"(5) Voluntary family planning, including increased access to voluntary family planning services.

"(6) Improved quality and increased availability of educational opportunities, through both formal and informal mechanisms, especially universal access to basic education.

"(7) Environmentally sound, sustainable resource management, including projects in agricultural production and processing, forestry management, land and water management, and preservation of biological diversity.

"(8) Increased respect for internationally recognized human rights and the rule of law.

"(9) Improved performance of institutions of democratic governance, and the growth of independent associations.

"(10) The maintenance and improvement of basic transportation and communication networks.

"(11) More efficient energy systems, including energy efficiency improvements and the use of small-scale renewable energy technologies, and the use of least-cost energy resource planning to minimize total system costs, including costs to the environment.

"(12) Expanded availability and improvements in the quality of basic infrastructure, such as shelter, water, and electricity.

"(13) The development of income-generating opportunities, with special emphasis on the promotion of small and micro-enterprises.

"(14) The advancement of institutional capacity in the public and private sector through improved management.

"(15) Basic and applied research relevant to overcoming constraints to broad based, sustainable development.

"(16) Other means of promoting a process of long-term development and economic growth that is broad-based, participatory, and sustainable, with particular focus on the poor.

"(e) PLAN TO ERADICATE WORST ASPECTS OF POVERTY.—

"(1) DEVELOPMENT OF PLAN.—The President shall—

"(A) in consultation with host country governments, international organizations, and other organizations described in section 1102(f)(1), develop a plan to ensure that United States development assistance contributes measurably to eradicating the worst aspects of absolute poverty by the year 2000; and

"(B) seek international cooperation in achieving the goals developed in the plan.

"(2) GOALS OF PLAN.—The plan developed pursuant to paragraph (1) shall include specific quantifiable poverty-alleviating goals and the target dates for reaching these goals, including the following goals for the year 2000:

"(A) UNDER-FIVE-MORTALITY-RATE.—Reduction of under-five-mortality rates by at least 50 percent of the 1980 mortality rates or to not more than 70 per thousand live births, whichever achieves the greater reduction.

"(B) EDUCATION.—Achievement of universal primary education, and at least 80 percent female literacy for those age groups defined by each country.

"(C) ABSOLUTE POVERTY LEVEL.—Reduction of the proportion of the population living in absolute poverty by at least 50 percent of that proportion in 1980.

"(D) OTHER GOALS.—Such other specific quantifiable goals, consistent with the achievement of the basic objectives set forth in section 1102, as the President determines to be crucial to measurably eliminating the worst aspects of absolute poverty.

"(4) SUBMISSION OF PLAN TO CONGRESS.—The President shall submit the plan developed pursuant to this subsection to the Congress not later than 6 months after the date of the enactment of the International Cooperation Act of 1989. This plan, once adopted, shall be used by the administering agency in planning and providing funds for development assistance projects under this chapter and chapter 3 of title VI.

"SEC. 1202. AUTHORIZATIONS OF APPROPRIATIONS.

"There are authorized to be appropriated to the President to carry out this chapter $2,036,431,000 for fiscal year 1990 and $2,032,431,000 for fiscal year 1991.

"SEC. 1203. ASSISTANCE FOR VOLUNTARY POPULATION PLANNING.

"(a) POPULATION PLANNING ASSISTANCE.—In order to increase the opportunities and motivation for family planning and to reduce the rate of population growth, assistance under this chapter shall include assistance for voluntary population planning.

"(b) AUTHORIZATIONS OF APPROPRIATIONS.—There are authorized to be appropriated to the President to carry out this section $202,000,000 for fiscal year 1990 and $206,040,000 for fiscal year 1991, in addition to any other amounts made available under this Act for such purpose.

"(c) FAMILY PLANNING PROJECTS.—In order to reduce reliance on abortion in developing countries, funds allocated under this section or other provisions of this title or chapter 2 and chapter 3 of title VI for voluntary family planning projects shall be available only for projects which offer, either directly or through referral to or information about access to, a broad range of family planning methods and services. In using such funds to award grants for natural family planning, no applicant shall be discriminated against because of such applicant's religious or conscientious commitment to offer only natural family planning; and, additionally, all such applicants shall comply with the requirements of the first sentence of this subsection.

"SEC. 1204. ASSISTANCE FOR CHILD SURVIVAL ACTIVITIES AND HEALTH.

"(a) EARMARKING OF FUNDS.—Of the aggregate amounts made available for development assistance and economic support assistance, not less than $245,000,000 for fiscal year 1990 and not less than $245,000,000 for fiscal year 1991 shall be available only to carry out paragraphs (3) and (4) of section 1201(d), relating to health and child survival.

"(b) CHILD SURVIVAL AND AIDS ACTIVITIES.—

"(1) REQUIREMENT THAT ASSISTANCE BE PROVIDED.—The President shall use funds made available for development assistance, economic support assistance, and assistance for famine recovery and development in Africa—

"(A) for activities which deal directly with the special health needs of children and mothers, and

"(B) for activities which relate to research on and the treatment and control of acquired immune deficiency syndrome (AIDS).

"(2) CERTAIN RESTRICTIONS NOT APPLICABLE.—Funds used pursuant to paragraph (1) may be used notwithstanding any other provision of this Act (other than section 3108 and section 4201(a)(1)) or any provision of any other law.

"Subchapter B—Special Focus Programs and Activities

"SEC. 1221. ASSISTANCE FOR HUMAN RIGHTS AND DEMOCRATIC INITIATIVES.

"(a) AUTHORIZATION AND GENERAL PURPOSES OF ASSISTANCE.—The President may use funds made available for development assistance, economic support assistance, and assistance for famine recovery and development in Africa to furnish assistance to support the programs and activities described in subsection (b) in order to—

"(1) promote increased adherence to internationally recognized human rights, as set forth in the Universal Declaration of Human Rights;

"(2) improve the performance of institutions of democracy; and

"(3) otherwise promote pluralism pursuant to section 1102.

"(b) PROGRAMS AND ACTIVITIES WHICH MAY BE SUPPORTED.—Funds made available under this section shall be available to support the following:

"(1) Programs and activities to enhance the independence and performance of institutions of democratic governance, including support for judicial, electoral, and legislative processes.

"(2) Programs and activities—

"(A) to encourage the growth of independent associations by strengthening professional, civic, trade union, business, community, and other organizations, and

"(B) to enhance the organizational and leadership skills of the members of such or-

ganizations in order to increase citizen participation in democratic processes.

"(3) Programs and activities to increase awareness of internationally recognized human rights (including by increasing the availability of information concerning the status of respect for internationally recognized human rights), improve the effective exercise of those rights, and strengthen respect for the rule of law.

"(4) Programs and activities—

"(A) to support victims of abuses of internationally recognized human rights, including the direct provision of legal services, and

"(B) to support organizations and institutions seeking to bring to justice those responsible for perpetrating such abuses.

"(5) Programs and activities to support a free and independent press.

"(6) Programs and activities to—

"(A) provide specialized professional training, scholarships, and exchanges for continuing legal education;

"(B) promote the role of the bar in judicial selection, enforcement of ethical standards, and legal reform; and

"(C) increase the availability of legal materials and publications.

"(7) Programs and activities to support the revision and modernization of legal codes and procedures, including support for legislative bodies to assist them in accomplishing those ends.

"(c) ELIGIBLE RECIPIENTS OF ASSISTANCE.—Assistance under this section may be furnished to countries and organizations, both public and nongovernmental, including national, regional, and international organizations. A substantial portion of the funds made available each fiscal year to carry out this section shall be used for assistance provided to nongovernmental organizations.

"(d) PROHIBITION RELATING TO ELECTIONS.—Assistance under this section may not be used to influence the outcome of any election in any country.

"(e) ANNUAL REPORT.—As part of the annual presentation documents on economic assistance submitted pursuant to section 4301, the President shall describe in detail, for each country, the assistance under this section that was provided during the preceding year, that is underway or planned for the current fiscal year, and that is proposed for the coming fiscal year.

"(f) LIMITATION ON USE OF CERTAIN FUNDS.—Funds made available for assistance for famine recovery and development in Africa may be used under this section only with respect to countries in sub-Saharan Africa.

"SEC. 1222. SOUTH AFRICA.

"(a) FOSTERING A JUST SOCIETY AND HELPING VICTIMS OF APARTHEID IN SOUTH AFRICA.—

"(1) EARMARK OF FUNDS.—Of the amounts made available to carry out section 1221, $1,500,000 each fiscal year shall be used for grants to nongovernmental organizations in South Africa promoting political, economic, social, juridical, and humanitarian efforts to foster a just society and to help victims of apartheid.

"(2) PRIORITIES.—In making grants under this subsection, priority should be given to those organizations or activities which contribute, directly or indirectly, to promoting a just society, to aiding victims of official discrimination, and to the nonviolent elimination of apartheid. Priority should also be given to those organizations whose programs and activities evidence community support.

"(3) POLITICAL PRISONERS; NONVIOLENT RESISTANCE TO APARTHEID.—Of the funds made available to carry out this subsection each fiscal year, not less than $500,000 shall be used for—

"(A) direct legal and other assistance to political detainees and prisoners and their families, including the investigation of the killing of protesters and prisoners; and

"(B) support for actions of black-led community organizations to resist, through nonviolent means, the enforcement of apartheid policies.

"(4) LIMITATIONS.—(A) Grants may be made under this subsection only for organizations whose character and membership reflect the objective of a majority of South Africans for an end to the apartheid system of separate development and for interracial cooperation and justice. Grants may not be made under this subsection to governmental institutions or organizations or to organizations financed or controlled by the Government of South Africa.

"(B) A grant under this subsection may not exceed $100,000.

"(C) The average of all grants under this subsection each fiscal year may not exceed $25,000.

"(b) ASSISTANCE FOR DISADVANTAGED SOUTH AFRICANS.—

"(1) ASSISTANCE AUTHORIZED.—Up to $40,000,000 of the funds made available each fiscal year for economic support assistance, assistance for famine recovery and development in Africa, and development assistance shall be available for assistance for disadvantaged South Africans, notwithstanding any other provision of law.

"(2) ACTIVITIES TO BE SUPPORTED.—Assistance under this subsection shall be provided for activities that are consistent with the objective of a majority of South Africans for an end to the apartheid system and the establishment of a society based on nonracial principles. Such activities may include scholarships, assistance to promote the participation of disadvantaged South Africans in trade unions and private enterprise and alternative education and community development programs.

"(3) LIMITATION.—Assistance furnished pursuant to this subsection may not be used to provide support to organizations or groups which are financed or controlled by the Government of South Africa. This paragraph does not prohibit programs which award scholarships to students who choose to attend South African-supported institutions and which are otherwise consistent with this subsection.

"(c) SOUTH AFRICAN NONGOVERNMENTAL ORGANIZATIONS.—

"(1) CERTAIN ORGANIZATIONS TO BE GIVEN PRIORITY.—In providing assistance described in paragraph (2) for disadvantaged South Africans, priority shall be given to working with and through South African nongovernmental organizations whose leadership and staff are selected on a nonracial basis, and which have the support of the disadvantaged communities being served.

"(2) ASSISTANCE PROGRAMS COVERED.—Paragraph (1) applies with respect to economic support assistance, assistance for famine recovery and recovery in Africa, and development assistance, including assistance under this section or section 1221.

"SEC. 1223. DEVELOPMENT AND ILLICIT NARCOTICS PRODUCTION.

"(a) AUTHORITY TO USE FUNDS.—The President may use funds available for development assistance, economic support assistance, or assistance for famine recovery and development in Africa to furnish assistance—

"(1) to support programs and activities which would help reduce illicit cultivation of narcotic and psychotropic drugs and other controlled substances by stimulating broader development opportunities, and

"(2) for activities aimed at increasing awareness of the effects of production and trafficking of illicit narcotic and psychotropic drugs and other controlled substances on source and transit countries.

In the case of countries in which there is illicit narcotics cultivation, the President shall ensure that priority consideration is given under this section to programs which promote the availability of alternative economic opportunities for individuals employed in the cultivation of illicit narcotic and psychotropic drugs and other controlled substances.

"(b) INTER-AGENCY COOPERATION.—The President shall ensure that the administering agency cooperates fully, and shares its expertise in development matters, with other agencies of the United States Government involved in narcotics control activities abroad.

"SEC. 1224. PRIVATE SECTOR REVOLVING FUND.

"(a) FINDINGS AND POLICY.—The Congress finds and declares that—

"(1) the development of private enterprise, including cooperatives, is a vital factor in the stable growth of developing countries and in the development and stability of a free, open, and equitable international economic system; and

"(2) it is, therefore, in the best interests of the United States to assist the development of the private sector in developing countries and to engage the United States private sector in that process.

"(b) REVOLVING FUND ACCOUNT.—

"(1) ESTABLISHMENT.—In order to promote such private sector development, the President is authorized to establish a revolving fund account in the United States Treasury.

"(2) FISCAL YEAR LIMITATIONS NOT APPLICABLE.—All funds deposited in the Revolving Fund shall, notwithstanding any provision in an appropriation Act to the contrary, be free from fiscal year limitations.

"(3) AUTHORITY TO DEPOSIT CERTAIN FUNDS.—Of the funds made available for development assistance and assistance for famine recovery and development in Africa, up to $5,000,000 in fiscal year 1990 and up to $5,000,000 in fiscal year 1991 may be deposited in the Revolving Fund.

"(4) REFLOWS AND INCOME.—Any reflows and income arising from activities carried out pursuant to this section, including loan repayments and fee income (as provided in subsection (e)), shall be deposited into the Revolving Fund and remain available to carry out this section.

"(5) INVESTMENT OF FUNDS IN THE REVOLVING FUND.—All funds in the Revolving Fund may be invested in obligations of the United States.

"(6) APPROPRIATIONS ACTION REQUIRED.—Amounts in the Revolving Fund shall be available for obligation for assistance under this section only to such extent as may be provided in advance in appropriation Acts.

"(c) USE OF FUNDS IN REVOLVING FUND.—

"(1) AUTHORITY TO FURNISH ASSISTANCE.—The President is authorized to use the funds maintained in the Revolving Fund to furnish assistance in furtherance of the policy of subsection (a).

"(2) PRIVATE SECTOR ACTIVITIES WHICH MAY BE SUPPORTED.—Assistance under this section

may be provided only to support private sector activities which—

"(A) are consistent with the four basic objectives set forth in section 1102 and with the development priorities of the host country;

"(B) are the types of activities for which development assistance may be provided;

"(C) will have a demonstration effect;

"(D) will be innovative;

"(E) are financially viable;

"(F) will maximize the development impact appropriate to the host country, particularly in employment and the use of appropriate technology; and

"(G) are primarily directed to making available to small business enterprises and cooperatives necessary support and services which are not otherwise generally available.

"(3) RESTRICTIONS.—(A) Not more than $3,000,000 may be made available under this section to support any one project.

"(B) Not more than 50 percent of the financial support for any project may be provided under this section. A substantial portion of the financial support for a project assisted under this section must be provided by sources within the host country.

"(C) Not more than 20 percent of the assets of the Revolving Fund may be used to support projects in any one country.

"(4) USE OF INTERMEDIARIES.—In order to maximize the impact on institution building, loans under this section shall be made primarily to intermediary entities which provide necessary support and services for private sector activities.

"(5) INTEREST RATES.—Loans under this section shall be at or near the interest rate otherwise available to the recipient.

"(d) SIZE OF REVOLVING FUND.—

"(1) DOLLAR LIMITATION.—If at any time the assets of the Revolving Fund exceeds $100,000,000, the President shall remit the amount in excess of $100,000,000 to the United States Treasury.

"(2) REIMBURSEMENT OF CAPITALIZATION.—In addition to the requirement of paragraph (1), at the end of any fiscal year, the Administrator may determine that amounts in the Revolving Fund are sufficient to permit the remittance to the United States Treasury of an amount equal to a portion or the total amount of appropriated funds deposited in the Revolving Fund. Any such remittance shall be deemed to be a decrease in the appropriated funds in the Revolving Fund. After remittance has been made of an amount equal to the total amount of appropriated funds, the Revolving Fund shall consist and be deemed to consist entirely of nonappropriated funds.

"(e) FEES.—A fee may be charged, where appropriate, in carrying out activities with funds from the Revolving Fund. The amount of any such fee shall be determined by the Administrator.

"(f) TERMINATION OF REVOLVING FUND.—In the event the Revolving Fund is terminated, all unobligated money in the Revolving Fund at the time of such termination shall be transferred to and become part of the miscellaneous receipts account of the Treasury.

"(g) ANNUAL REPORT.—Not later than December 31 of each year, the President shall submit a comprehensive report which details—

"(1) all projects funded under this section during the previous fiscal year,

"(2) all reflows to the Revolving Fund, and

"(3) the status of all projects currently contained in the fund's portfolio.

Such reports shall include information regarding numbers and kinds of beneficiaries reached, amounts and kinds of benefits provided by the funded projects to targeted populations, and a justification for projects within the context of the goals and objectives of the United States development assistance program.

"(h) GUARANTEE AUTHORITY.—

"(1) AUTHORITY.—To carry out the policy expressed in subsection (a), in addition to the other authorities set forth in this section, the President is authorized to issue guarantees assuring against losses incurred in connection with loans made to projects that meet the criteria set forth in subsection (c). The full faith and credit of the United States is hereby pledged for the full payment and performance of such guarantees.

"(2) TERMS AND CONDITIONS.—Loans guaranteed under this subsection shall be on such terms and conditions as the President may prescribe, except for the following:

"(A) The President shall issue guarantees only when it is necessary to alleviate a credit market imperfection.

"(B) Loans guaranteed shall provide for complete amortization within a period not to exceed 10 years or, if the principal purpose of the guaranteed loan is to finance the construction or purchase of a physical asset with a useful life of less than 10 years, within a period not to exceed such useful life.

"(C) No loan guarantee to any one borrower may exceed 50 percent of the cost of the activity to be financed or $3,000,000, whichever is less, as determined by the Administrator.

"(D) No loan may be guaranteed unless the Administrator determines that the lender is responsible and that adequate provision is made for servicing the loan on reasonable terms and protecting the financial interest of the United States.

"(E) The fees earned from the loan guarantees issued under this subsection shall be deposited in the Revolving Fund as part of the guarantee reserve established under paragraph (5). Fees shall be assessed at a level such that the fees received, plus the funds from the Revolving Fund placed in the guarantee reserve, satisfy the requirements of paragraph (5). Fees shall be reviewed every 12 months to ensure that the fees assessed on new loan guarantees are at the required level.

"(F) Any guarantee shall be conclusive evidence that such guarantee has been properly obtained, and that the underlying loan as contracted qualifies for such guarantee. Except for fraud or material misrepresentation for which the parties seeking payment under such guarantee are responsible, such guarantee shall be presumed to be valid, legal, and enforceable.

"(G) The Administrator shall determine that the standards used by the lender for assessing the credit risk of new and existing guaranteed loans are reasonable. The Administrator shall require that there be a reasonable assurance of repayment before credit assistance is extended.

"(H) Commitments to guarantee loans may be made under this section only to the extent that the total loan principal, any part of which is guaranteed, will not exceed the amount specified in annual appropriations Acts.

"(3) AUTHORIZATION OF APPROPRIATIONS.—To the extent that fees are not sufficient as specified under paragraph (2)(E) to cover expected future liabilities, appropriations are hereby authorized to maintain an appropriate reserve.

"(4) DENOMINATION OF LIABILITY.—The losses guaranteed under this subsection may be in dollars or in other currencies. In the case of loans in currencies other than dollars, the guarantees issued shall be subject to an overall payment limitation expressed in dollars.

"(5) GUARANTY RESERVE.—The President shall segregate in the Revolving Fund, and hold as a reserve, an amount estimated to be sufficient to cover the expected net liabilities on the loan guarantees outstanding under this subsection. Any payments made to discharge liabilities arising from the loan guarantees shall be paid first out of the assets in the Revolving Fund and next out of other funds made available for this purpose.

"(i) DEFINITIONS.—As used in this section—

"(1) the term 'assets' includes amounts in the Revolving Fund plus the value of investments made with amounts from the fund plus the current value of outstanding obligations under loans under this section; and

"(2) the term 'Revolving Fund' means the revolving fund account established pursuant subsection (b)(1).

"SEC. 1225. REGIONAL INTEGRATION.

"Funds made available for development assistance, economic support assistance, and assistance for famine recovery and development in Africa may be used to support regional governmental and nongovernmental institutions which contribute to the economic and social development of the countries of the region by facilitating cooperation and integration.

"SEC. 1226. DEVELOPMENT EDUCATION.

"The President may use funds made available for development assistance, economic support assistance, or assistance for famine recovery and development in Africa, to support development education programs, with emphasis on those conducted by private voluntary organizations and cooperatives, in order to assist in the education of United States citizens about developing countries, the development process, and the importance to the United States of developing countries.

"SEC. 1227. STRENGTHENING THE CAPACITY OF RESEARCH AND EDUCATIONAL INSTITUTIONS.

"The President may use funds made available for development assistance, economic support assistance, or assistance for famine recovery and development in Africa, to furnish assistance to research and educational institutions in the United States for the purpose of strengthening their capacity to develop and carry out programs concerned with the economic and social development of developing countries.

"Subchapter C—Other Authorities and Requirements

"SEC. 1241. IMPACT OF DEVELOPMENT ASSISTANCE ON ENVIRONMENT AND NATURAL RESOURCES.

"(a) IMPACT ASSESSMENT.—The President, in implementing programs and projects under this chapter and under chapter 3 of title VI (relating to assistance for famine recovery and development in Africa), shall take fully into account the impact of such programs and projects upon the environment and natural resources of developing countries. Subject to such procedures as the President considers appropriate, the President shall require all agencies and officials responsible for such programs or projects—

"(1) to prepare and take fully into account an initial environmental examination of every program or project to ensure that environmental considerations are integrated as early as possible into project conception and design and to ensure that each project is environmentally sustainable;

"(2) to prepare and take fully into account an environmental impact statement for any program or project significantly affecting the environment of the global commons outside the jurisdiction of any country, the environment of the United States, or other aspects of the environment which the President may specify; and

"(3) to prepare and take fully into account an environmental assessment of any proposed program or project significantly affecting the environment of any foreign country.

Such agencies and officials should, where appropriate, use local technical resources in preparing environmental impact statements and environmental assessments pursuant to this section.

"(b) EXCEPTIONS.—The President may establish exceptions from the requirements of this section for emergency conditions and for cases in which compliance with those requirements would be seriously detrimental to the foreign policy interests of the United States.

"SEC. 1242. COST SHARING.

"To ensure local commitment to, and the sustainability of development activities assisted under this chapter and under chapter 3 of title VI, the beneficiary country should bear an appropriate share of the costs of the entire program or project with respect to which the assistance is to be furnished. A country may bear such costs on an 'in kind' basis.

"SEC. 1243. TRANSPORTATION CHARGES INCURRED BY THE RED CROSS OR PRIVATE VOLUNTARY ORGANIZATIONS.

"In order to further the efficient use of United States voluntary contributions for development and for the relief and rehabilitation of people in friendly countries, the President may use funds made available for development assistance and assistance for famine recovery and development in Africa to pay transportation charges on shipments by the American National Red Cross and by United States private voluntary organizations registered with the administering agency.

"SEC. 1244. ASSISTANCE LIMITED TO ECONOMIC PROGRAMS.

"Development assistance, economic support assistance, and assistance for famine recovery and development in Africa shall be available for economic programs and may not be used for military or paramilitary purposes.

"CHAPTER 3—ECONOMIC SUPPORT ASSISTANCE

"SEC. 1301. ASSISTANCE UNDER SPECIAL ECONOMIC, POLITICAL, AND SECURITY CONDITIONS.

"Under special economic, political, or security conditions, the national interest of the United States may require economic support for countries in amounts which could not be justified under section 1201. In such cases, the President is authorized to furnish assistance to countries and organizations in order to promote economic or political stability. Such assistance shall be furnished, to the maximum extent feasible, consistent with the four basic objectives set forth in section 1102 and the purpose and authorities specified in sections 1201 (c) and (d).

"SEC. 1302. AUTHORIZATIONS OF APPROPRIATIONS.

"There are authorized to be appropriated to the President to carry out section 1301 $2,374,100,000 for fiscal year 1990 and $2,374,100,000 for fiscal year 1991.

"SEC. 1303. PURCHASE OF UNITED STATES GOODS AND SERVICES.

"(a) GENERAL POLICY REGARDING FORMS OF ASSISTANCE.—Assistance under this chapter should be provided principally through commodity import programs, project assistance, sector programs, or the provision of United States goods and services.

"(b) USE OF CASH TRANSFERS FOR UNITED STATES GOODS AND SERVICES.—Assistance may be provided to a country under this chapter as a cash transfer only pursuant to an agreement requiring that the country spend an amount equal to the amount of the cash transfer to purchase United States goods and services. Nothing in this section, however, shall prevent a country from purchasing, with United States cash transfer assistance, goods or services produced in that country. United States goods purchased pursuant to such an agreement shall be deemed to have been furnished in connection with funds advanced by the United States. The President shall ensure that purchases of United States goods pursuant to such agreements, and the ports of departure for those goods, are distributed equitably throughout the United States. The United States goods purchased pursuant to such agreements shall be United States goods which are available in the United States at fair prices for such goods.

"(c) GAO AUDITS.—Each agreement pursuant to which cash transfer assistance is provided under this chapter shall include provisions to ensure that representatives of the Comptroller General have the access to records and personnel necessary to carry out such monitoring and auditing as the Comptroller General deems appropriate.

"(d) EXEMPTIONS.—This section shall not apply to any country—

"(1) which receives cash transfer assistance under this chapter of less than $10,000,000 for a fiscal year;

"(2) which, as of April 1, 1989, was receiving cash transfer assistance under the former authorities of chapter 4 of part II of this Act and has an agreement with the United States under which the country agrees—

"(A) to spend an amount equal to the amount of the cash transfer on the purchase of United States goods and services, and

"(B) to carry 50 percent of all bulk shipments of United States grain on 'privately owned United States-flag commercial vessels', to the extent such vessels are available at fair and reasonable rates for such vessels except that a country shall be exempted pursuant to this paragraph only so long as that country continues to agree to those conditions; or

"(3) which, as of the effective date of this section, has an agreement with the United States requiring that the country spend an amount equal to the amount of any cash transfer assistance under this chapter to purchase United States goods and services, except that a country shall be exempted pursuant to this paragraph only so long as that country continues to agree to that condition.

United States goods purchased pursuant to an agreement described in paragraph (3) shall be deemed to have been furnished in connection with funds advanced by the United States, and the last sentence of subsection (a) shall apply with respect to such goods.

"(e) WAIVER.—The President may waive the provisions of this section with respect to a country to the extent the President determines that it is important to the national interest to do so. Any such waiver shall be reported to the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate.

"(f) DEFINITION OF UNITED STATES GOODS.—For purposes of this section, the term 'United States goods' means goods (including components) and commodities (including agricultural commodities) grown, processed, produced, or manufactured in the United States.

"CHAPTER 4—VOLUNTARY CONTRIBUTIONS TO INTERNATIONAL ORGANIZATIONS AND PROGRAMS

"SEC. 1401. AUTHORITY TO PROVIDE ASSISTANCE.

"The President is authorized to make voluntary contributions on a grant basis to international organizations and to programs administered by international organizations in order to promote the four basic objectives set forth in section 1102 or to otherwise support such organizations and programs.

"SEC. 1402. AUTHORIZATION OF APPROPRIATIONS.

"(a) AUTHORIZATIONS.—There are authorized to be appropriated to the President to carry out this chapter, in addition to funds otherwise available for such purposes, $226,115,000 for fiscal year 1990 and $227,115,000 for fiscal year 1991.

"(b) EARMARKINGS.—Of the amounts authorized under subsection (a)—

"(1) $111,000,000 for each of the fiscal years 1990 and 1991 shall be for the United Nations Development Program;

"(2) $60,400,000 for each of the fiscal years 1990 and 1991 shall be for the United Nations Children's Fund; and

"(3) $1,000,000 for fiscal year 1991 shall be for the United Nations University.

"SEC. 1403. CONTRIBUTIONS TO INTERNATIONAL FUND FOR AGRICULTURAL DEVELOPMENT.

"(a) AUTHORITY TO USE FUNDS.—Up to $40,000,000 of the funds described in subsection (b) may be used for United States contributions to the International Fund for Agricultural Development.

"(b) FUNDS WHICH MAY BE USED.—The funds which may be used pursuant to subsection (a) are any funds that—

"(1) are made available for fiscal year 1990 or any fiscal year thereafter to carry out this chapter or for development assistance, economic support assistance, or assistance for famine recovery and development in Africa; and

"(2) are not earmarked for a specific country, organization, or purpose.

"SEC. 1404. CONDITION ON CONTRIBUTIONS TO THE INTERNATIONAL ATOMIC ENERGY AGENCY.

"Funds authorized to be appropriated by section 1402(a) may be contributed to the International Atomic Energy Agency only if the Secretary of State determines (and so reports to the Congress) that Israel is not being denied its right to participate in the activities of that Agency.

"SEC. 1405. WITHHOLDING OF UNITED STATES PROPORTIONATE SHARE FOR CERTAIN PROGRAMS OF INTERNATIONAL ORGANIZATIONS.

"(a) REQUIREMENT TO WITHHOLD.—Notwithstanding any other provision of law, funds authorized to be appropriated by this chapter shall not be available for the United

States proportionate share for programs for the South-West Africa People's Organization, Libya, Iran, Cuba, or the Palestine Liberation Organization or for projects whose purpose is to provide benefits to the Palestine Liberation Organization or entities associated with it.

"(b) USE OF FUNDS WITHHELD.—Funds returned or not made available for programs or projects pursuant to subsection (a) shall remain available for use under this chapter.

"(c) OBLIGATIONS OF SECRETARY OF STATE.—The Secretary of State—

"(1) shall review, at least annually, the budgets and accounts of all international organizations receiving payments of any funds authorized to be appropriated by this chapter; and

"(2) shall report to the appropriate committees of the Congress the amounts of funds expended by each such organization for the purposes described in subsection (a) and the amount contributed by the United States to each such organization.

"SEC. 1406. RESTRICTION ON CONTRIBUTIONS TO UNITED NATIONS RELIEF AND WORKS AGENCY.

"The United States may not make any contribution to the United Nations Relief and Works Agency for Palestine Refugees in the Near East except on the condition that that Agency take all possible measures to assure that no part of the United States contribution is used to furnish assistance to any refugee—

"(1) who is receiving military training as a member of the Palestine Liberation Organization or any other guerrilla type organization; or

"(2) who has engaged in any act of terrorism.

"SEC. 1407. REPORTS ON INTERNATIONAL ORGANIZATIONS.

"(a) SUBMISSION DATE FOR ANNUAL REPORT.—The annual reports to the Congress under section 2 of the Act of September 21, 1950 (22 U.S.C. 262a), shall be submitted within 9 months after the end of the fiscal year to which they relate.

"(b) ANNUAL REPORTS ON VOLUNTARY CONTRIBUTIONS TO INTERNATIONAL ORGANIZATIONS BY ALL UNITED STATES GOVERNMENT AGENCIES.—

"(1) REQUIREMENT FOR REPORTS.—Not later than January 31 each year, the President shall submit a report to the Congress listing all voluntary contributions by the United States Government to international organizations during the preceding fiscal year.

"(2) INFORMATION TO BE INCLUDED.—Each such report shall specify the Government agency making the voluntary contribution, the international organization to which the contribution was made, the amount and form of the contribution, and the purpose of the contribution. Contributions shall be listed on both an agency-by-agency basis and an organization-by-organization basis.

"(3) OBLIGATION OF EACH AGENCY.—In order to facilitate the preparation of the report required by paragraph (1), the head of any Government agency which makes a voluntary contribution to any international organization shall promptly report that contribution to the Director of the Office of Management and Budget.

"(4) DEFINITION.—As used in this subsection, the term 'contribution' means any contribution of any kind, including the furnishing of funds or other financial support, services of any kind (including the use of experts or other personnel) or commodities, equipment, supplies, or other material.

"SEC. 1408. AUDITING OF ACCOUNTS OF INTERNATIONAL ORGANIZATIONS.

"(a) ACCOUNTS CONTAINING ONLY UNITED STATES CONTRIBUTIONS.—

"(1) GAO AUDITS.—In any case in which a fund established solely by United States contributions under this or any other Act is administered by an international organization under the terms of an agreement between the United States and such international organization, such agreement shall provide that the Comptroller General of the United States shall conduct such audits as are necessary to assure that such fund is administered in accordance with such agreement. The President shall undertake to modify any existing agreement to conform to the requirements of the preceding sentence.

"(2) REPORTS ON AUDITS.—The Comptroller General shall report simultaneously to the Congress and the President the results of the audit conducted under this subsection.

"(b) INDEPENDENT AUDITS OF INTERNATIONAL ORGANIZATIONS.—

"(1) UNITED NATIONS ORGANIZATIONS.—In the case of the United Nations and its affiliated organizations, including the International Atomic Energy Agency, the President shall (acting through the United States representatives to such organizations), propose and actively seek the establishment by the governing authorities of such organizations of external, professionally qualified groups of appropriate size for the purpose of providing an independent and continuous program of selective examinations, review, evaluation, and audits of the programs and activities of such organizations. Such proposal shall provide that these groups shall be established in accordance with such terms of reference as the governing authority may prescribe and that the reports of such groups on each examination, review, evaluation or audits shall be submitted directly to the governing authority for transmittal to the representative of each individual member nation. Such proposal shall further include a statement of auditing and reporting standards, as prepared by the Comptroller General of the United States, for the consideration of the governing authority of the international organization concerned to assist in formulating terms of reference for such review and evaluation groups.

"(2) MULTILATERAL DEVELOPMENT BANKS.—(A) In the case of each of the organizations specified in subparagraph (B), the President shall, acting through the United States representative to such organization, propose and actively seek the establishment by the governing authorities of that organization professionally qualified groups of appropriate size for the purpose of providing an independent and continuous program of selective examination, review, evaluation, and audits of the programs and activities of that organization. Such proposal shall provide that these groups shall be established in accordance with such terms of reference as such governing authorities may prescribe, and that the reports of such groups on each examination, review, evaluation, or audit shall be submitted directly to such governing authority for transmittal to the representative of each individual member nation. Such proposal shall further include a statement of auditing and reporting standards, as prepared by the Comptroller General of the United States, for the consideration of the governing authority of the international organization concerned to assist in formulating terms of reference for such review and evaluation groups.

"(B) The organizations to which subparagraph (A) applies are the International Bank for Reconstruction and Development, the International Development Association, the International Finance Corporation, the Multilateral Investment Guarantee Agency, the Inter-American Development Bank, the Inter-American Investment Corporation, the African Development Bank, the African Development Fund, the Asian Development Fund, and the Asian Development Bank.

"SEC. 1409. INTEGRATION OF WOMEN.

"The President is requested to instruct each representative of the United States to each international organization of which the United States is a member to carry out his or her duties with respect to such organization in such a manner as to encourage and promote the integration of women into the national economies of member and recipient countries and into professional and policy-making positions within such organization, thereby improving the status of women.

"SEC. 1410. UNITED NATIONS DEVELOPMENT PROGRAM.

"(a) SENSE OF CONGRESS.—It is the sense of the Congress that—

"(1) the United Nations Development Program should allocate not less than $8,000,000 in each fiscal year (beginning in fiscal year 1990) for purposes of developing and implementing minimum critical area management plans to ensure, to the extent practicable, the protection of existing national parks and reserves of global biological significance which are under immediate threat of the loss of biological diversity; and

"(2) consideration be given to providing some support for this purpose in the form of grants to nongovernmental organizations to undertake activities for the development and implementation of permanent conservation management programs by indigenous nongovernmental organizations, in cooperation with the national governments of the countries in which such programs are implemented and international conservation organizations, when the nongovernmental organizations to which such grants are made provide cash contributions from private sources for the same purpose.

"(b) INSTRUCTION OF PERMANENT REPRESENTATIVE TO THE UNITED NATIONS.—The President is requested to instruct the United States Permanent Representative to the United Nations to convey to the Administration and Governing Committee of the United Nations Development Program the sense of Congress set forth in subsection (a).

"SEC. 1411. ASSESSMENT OF ACTIVITIES OF INTERNATIONAL ORGANIZATIONS BY COUNTRY MISSIONS.

"In each of the fiscal years 1990 and 1991, the President shall designate not less than 5 countries in which development assistance or assistance for famine recovery and development in Africa is furnished, for the purpose of conducting an examination, review, and evaluation of the programs and activities in each such country, during that fiscal year, of the United Nations and its affiliated organizations to which voluntary contributions are made under section 1401. Such examination, review, and evaluation in each country shall be conducted by the mission of the administering agency in that country. A summary of the results of each such examination, review, and evaluation shall be included in the congressional presentation documents transmitted under section 4301 in the fiscal year following the fiscal year in

which such examination, review, and evaluation is conducted.

"CHAPTER 5—ASSISTANCE FOR PRIVATE SECTOR INVOLVEMENT IN DEVELOPMENT

"Subchapter A—Overseas Private Investment Corporation

"SEC. 1501. PURPOSE AND POLICY.

"(a) PURPOSE.—The Overseas Private Investment Corporation shall be an agency of the United States under the foreign policy guidance of the Secretary of State. The purpose of the Corporation is to mobilize and facilitate the participation of United States private capital and skills in the economic and social development of less developed friendly countries and areas, thereby complementing the development assistance objectives of the United States.

"(b) DEVELOPMENT AND PER CAPITA INCOME CRITERIA.—The Corporation, in determining whether to provide insurance, reinsurance, guarantees, or financing for a project, shall especially—

"(1) be guided by the economic and social development impact and benefits of such a project and the ways in which such a project complements, or is compatible with, other development assistance programs or projects of the United States or other donors; and

"(2) give preferential consideration to investment projects in less developed countries that have per capita incomes of $984 or less in 1986 United States dollars, and restrict its activities with respect to investment projects in less developed countries that have per capita incomes of $4,269 or more in 1986 United States dollars (other than countries designated as beneficiary countries under section 212 of the Caribbean Basin Economic Recovery Act (19 U.S.C. 2702)).

"(c) GUIDELINES FOR ACTIVITIES OF OPIC.—In carrying out its purpose, the Corporation, utilizing broad criteria, shall undertake—

"(1) to conduct insurance, reinsurance, guarantee, and financing operations on a self-sustaining basis, taking into account in its guarantee and financing operations the economic and financial soundness of projects;

"(2) to utilize private credit and investment institutions and the Corporation's guarantee authority as the principal means of mobilizing capital investment funds;

"(3) to broaden private participation and revolve its funds through selling its direct investments to private investors whenever it can appropriately do so on satisfactory terms;

"(4) to conduct its insurance operations with due regard to principles of risk management, including efforts to share its insurance risks and reinsurance risks;

"(5) to consider in the conduct of its operations the extent to which the governments of less developed countries are receptive to private enterprise, domestic and foreign, and their willingness and ability to maintain conditions which enable private enterprise to make its full contribution to the development process;

"(6) to foster private initiative and competition and discourage monopolistic practices;

"(7) to further to the greatest degree possible, in a manner consistent with its goals, the balance-of-payments and employment objectives of the United States;

"(8) to conduct its activities in consonance with the activities of the administering agency and the international trade, investment, and financial policies of the United States Government, and to seek to support those developmental projects having positive trade benefits for the United States; and

"(9) to advise and assist, within its field of competence, interested agencies of the United States and other organizations, both public and private, national and international, with respect to projects and programs relating to the development of private enterprise in less developed countries and areas.

"SEC. 1502. STOCK OF THE CORPORATION.

"The Secretary of the Treasury shall hold the capital stock of the Corporation issued before the enactment of the International Cooperation Act of 1989.

"SEC. 1503. ORGANIZATION AND MANAGEMENT.

"(a) STRUCTURE OF THE CORPORATION.—The Corporation shall have a Board of Directors, a President, an Executive Vice President, and such other officers and staff as the Board of Directors may determine.

"(b) BOARD OF DIRECTORS.—

"(1) IN GENERAL.—All powers of the Corporation shall vest in and be exercised by or under the authority of its Board of Directors (hereafter in this subchapter referred to as 'the Board') which shall consist of 15 Directors (including the Chair, Vice Chair, and the President of the Corporation), with 8 Directors constituting a quorum for the transaction of business.

"(2) COMPOSITION OF THE BOARD.—

"(A) CHAIR AND VICE CHAIR.—The Chair of the Board shall be the Administrator, ex officio.

"(B) VICE CHAIR.—The Vice Chair of the Board shall be the United States Trade Representative, ex officio, or, if so designated by the United States Trade Representative, the Deputy United States Trade Representative.

"(C) PRESIDENT OF THE CORPORATION.—The President of the Corporation shall serve as a Director, ex officio.

"(D) PUBLIC SECTOR DIRECTORS.—(i) In addition to the directors provided for in subparagraphs (A), (B), and (C), four Directors who are officers or employees of the Government of the United States, including an officer or employee of the Department of Labor, shall be designated by and shall serve at the pleasure of the President of the United States.

"(ii) The Directors designated under this subparagraph shall receive no additional compensation by virtue of their service as such a Director.

"(E) PRIVATE SECTOR DIRECTORS.—(i) Eight Directors who are not officers or employees of the Government of the United States shall be appointed by the President of the United States, by and with the advice and consent of the Senate. Of these, at least—

"(I) two shall be experienced in small business,

"(II) one shall be experienced in organized labor, and

"(III) one shall be experienced in cooperatives.

"(ii) Each Director appointed under this subparagraph shall be appointed for a term of not more than 3 years. The terms of not more than 3 such Directors shall expire in any 1 year. Such Directors shall serve until their successors are appointed and qualified and may be reappointed to subsequent terms.

"(iii) Each Director appointed under this subparagraph shall be compensated at the daily equivalent of the annual rate of pay in effect for level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day (including travel time) during which such Director is actually engaged in the business of the Corporation, and may be paid travel or transportation expenses to the extent authorized for employees serving intermittently in the Government service under section 5703 of title 5, United States Code.

"(c) APPOINTMENT OF THE PRESIDENT.—The President of the Corporation shall be appointed by the President of the United States, by and with the advice and consent of the Senate, and shall serve at the pleasure of the President. In making such appointment, the President shall take into account the private business experience of the appointee. The President of the Corporation shall be its Chief Executive Officer and shall be responsible for the operations and management of the Corporation, subject to bylaws and policies established by the Board.

"(d) OFFICERS AND STAFF.—

"(1) EXECUTIVE VICE PRESIDENT.—The Executive Vice President of the Corporation shall be appointed by the President of the United States, by and with the advice and consent of the Senate, and shall serve at the pleasure of the President.

"(2) OTHER OFFICERS AND STAFF.—(A) The Corporation may appoint such other officers and such employees (including attorneys) and agents as the Corporation considers appropriate.

"(B) The officers, employees, and agents appointed under this subsection shall have such functions as the Corporation may determine.

"(C) Of the officers, employees, and agents appointed under this paragraph, 20 may be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and may be compensated without regard to the provisions of chapter 51 of subchapter III of chapter 53 of such title.

"(D) Under such regulations as the President may prescribe, any individual appointed under subparagraph (C) may be entitled, upon removal (except for cause) from the position to which the appointment was made, to reinstatement to the position occupied by that individual at the time of appointment or to a position of comparable grade and pay.

"SEC. 1504. INVESTMENT INSURANCE, GUARANTEES, FINANCING, AND OTHER PROGRAMS.

"(a) INVESTMENT INSURANCE.—

"(1) RISKS FOR WHICH INSURANCE ISSUED.—The Corporation is authorized to issue insurance, upon such terms and conditions as the Corporation may determine, to eligible investors assuring protection in whole or in part against any or all of the following risks with respect to projects which the Corporation has approved:

"(A) Inability to convert into United States dollars other currencies, or credits in such currencies, received as earnings or profits from the approved project, as repayment or return of the investment in the project, in whole or in part, or as compensation for the sale or disposition of all or any part of the investment.

"(B) Loss of investment, in whole or in part, in the approved project due to expropriation or confiscation by action of a foreign government.

"(C) Loss due to war, revolution, insurrection, or civil strife.

"(D) Loss due to business interruption caused by any of the risks set forth in subparagraphs (A), (B), and (C).

"(2) RISK SHARING ARRANGEMENTS WITH FOREIGN GOVERNMENTS AND MULTILATERAL OR-

GANIZATIONS.—Recognizing that major private investments in less developed friendly countries or areas are often made by enterprises in which there is multinational participation, including significant United States private participation, the Corporation may make arrangements with foreign governments (including agencies, instrumentalities, and political subdivisions thereof) and with multilateral organizations and institutions for sharing liabilities assumed under investment insurance for such investments and may, in connection with such arrangements, issue insurance to investors not otherwise eligible for insurance under this subchapter, except that—

"(A) liabilities assumed by the Corporation under the authority of this paragraph shall be consistent with the purposes of this subchapter, and

"(B) the maximum share of liabilities so assumed shall not exceed the proportionate participation by eligible investors in the project.

"(3) MAXIMUM CONTINGENT LIABILITY WITH RESPECT TO SINGLE INVESTOR.—Not more than 10 percent of the maximum contingent liability of investment insurance which the Corporation is permitted to have outstanding under section 1507(a)(1) shall be issued to a single investor.

"(4) REPORTS ON INSURANCE ISSUED FOR BUSINESS INTERRUPTION OR CIVIL STRIFE.—(A) In each instance in which a significant expansion is proposed in the type of risk to be insured under the definition of 'civil strife' or 'business interruption', the Corporation shall, at least 60 days before such insurance is issued, submit to the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives a report with respect to such insurance.

"(B) Each such report shall include a thorough analysis of the risks to be covered, anticipated losses, and proposed rates and reserves and, in the case of insurance for loss due to business interruption, an explanation of the underwriting basis upon which the insurance is to be offered.

"(C) Any such report with respect to insurance for loss due to business interruption shall be considered in accordance with the procedures applicable to reprogramming notifications pursuant to section 4304.

"(b) INVESTMENT GUARANTEES.—

"(1) AUTHORITY.—The Corporation is authorized to issue to eligible investors guarantees of loans and other investments made by such investors assuring against loss due to such risks and upon such terms and conditions as the Corporation may determine, subject to paragraphs (2), (3), and (4).

"(2) GUARANTEES ON OTHER THAN LOAN INVESTMENTS.—A guarantee issued under paragraph (1) on other than a loan investment may not exceed 75 percent of such investment.

"(3) LIMIT ON AMOUNT OF INVESTMENT GUARANTEED.—Except for loan investments for credit unions made by eligible credit unions or credit union associations, the aggregate amount of investment (exclusive of interest and earnings) for which guarantees are issued under paragraph (1) with respect to any project shall not exceed, at the time of issuance of any such guarantee, 75 percent of the total investment committed to any such project as determined by the Corporation. Such determination by the Corporation shall be conclusive for purposes of the Corporation's authority to issue any such guarantee.

"(4) MAXIMUM CONTINGENT LIABILITY WITH RESPECT TO SINGLE INVESTOR.—Not more than 15 percent of the maximum contingent liability of investment guarantees which the Corporation is permitted to have outstanding under section 1507(a)(2) may be issued to a single investor.

"(c) DIRECT INVESTMENT.—

"(1) IN GENERAL.—The Corporation is authorized to make loans in United States dollars, repayable in dollars, and to make loans in foreign currencies, to firms privately owned or of mixed private and public ownership, upon such terms and conditions as the Corporation may determine. Loans may be made under this subsection only for projects that are sponsored by or significantly involve United States small business or cooperatives.

"(2) USE OF LOAN FOR NEW TECHNOLOGIES, PRODUCTS, OR SERVICES.—The Corporation may designate up to 25 percent of any loan under this subsection for use in the development or adaptation in the United States of new technologies or new products or services that are to be used in the project for which the loan is made and are likely to contribute to the economic or social development of less developed countries.

"(3) RESTRICTIONS ON LOANS FOR MINERAL EXTRACTION.—No loan may be made under this subsection to finance any operation for the extraction of oil or gas. The aggregate amount of loans under this subsection to finance operations for the mining or other extraction of any deposit of ore or other nonfuel minerals may not in any fiscal year exceed $4,000,000.

"(d) INVESTMENT ENCOURAGEMENT.—The Corporation is authorized to initiate and support through financial participation, incentive grant, or otherwise, and on such terms and conditions as the Corporation may determine, the identification, assessment, surveying, and promotion of private investment opportunities, using wherever feasible and effective the facilities of private investors, except that—

"(1) the Corporation shall not finance any survey to ascertain the existence, location, extent, or quality of, or to determine the feasibility of undertaking operations for the extraction of, oil or gas; and

"(2) expenditures financed by the Corporation during any fiscal year on surveys to ascertain the existence, location, extent, or quality of, or to determine the feasibility of undertaking operations for the extraction of, nonfuel minerals may not exceed $200,000.

"(e) SPECIAL ACTIVITIES.—The Corporation is authorized to administer and manage special projects and programs, including programs of financial and advisory support, which provide private technical, professional, or managerial assistance in the development of human resources, skills, technology, capital savings, intermediate financial and investment institutions, and cooperatives. The funds for these projects and programs may, with the Corporation's concurrence, be transferred to it for such purposes under the authority of section 5201(a) or from other sources, public or private.

"(f) OTHER INSURANCE FUNCTIONS.—

"(1) IN GENERAL.—The Corporation is authorized—

"(A) to make and carry out contracts of insurance or reinsurance, or agreements to associate or share risks, with insurance companies, financial institutions, any other persons, or groups thereof, and

"(B) to employ such insurance companies, financial institutions, other persons, or groups, where appropriate, as its agent, or to act as their agent, in the issuance and servicing of insurance, the adjustment of claims, the exercise of subrogation rights, the ceding and accepting of reinsurance, and in any other matter incident to an insurance business,

except that such agreements and contracts shall be consistent with the purposes of the Corporation set forth in section 1501 and shall be on equitable terms.

"(2) RISK-SHARING AGREEMENTS.—The Corporation is authorized to enter into pooling or other risk-sharing agreements with multinational insurance or financing agencies or groups of such agencies.

"(3) OWNERSHIP INTEREST IN RISK-SHARING ENTITIES.—The Corporation is authorized to hold an ownership interest in any association or other entity established for the purposes of sharing risks under investment insurance.

"(4) REINSURANCE OF CERTAIN LIABILITIES.—The Corporation is authorized to issue, upon such terms and conditions as it may determine, reinsurance of liabilities assumed by other insurers or groups thereof in respect of risks referred to in subsection (a)(1).

"(5) LIMITATION ON REINSURANCE.—The amount of reinsurance of liabilities under this subchapter which the Corporation may issue shall not in the aggregate exceed at any one time an amount equal to the amount authorized for the maximum contingent liability outstanding at any one time under section 1507(a)(1). All reinsurance issued by the Corporation under this subsection shall require that the reinsured party retain for his or her own account specified portions of liability, whether first loss or otherwise.

"(g) PILOT EQUITY FINANCE PROGRAM.—

"(1) AUTHORITY FOR PILOT PROGRAM.—In order to study the feasibility and desirability of a program of equity financing, the Corporation is authorized to establish a 4-year pilot program under which it may, on the limited basis prescribed in paragraphs (2) through (5), purchase, invest in, or otherwise acquire equity or quasi-equity securities of any firm or entity, upon such terms and conditions as the Corporation may determine, for the purpose of providing capital for any project which is consistent with the provisions of this subchapter, except that—

"(A) the aggregate amount of the Corporation's equity investment with respect to any project shall not exceed 30 percent of the aggregate amount of all equity investment made with respect to such project at the time that the Corporation's equity investment is made, except for securities acquired through the enforcement of any lien, pledge, or contractual arrangement as a result of a default by any party under any agreement relating to the terms of the Corporation's investment; and

"(B) the Corporation's equity investment under this subsection with respect to any project, when added to any other investments made or guaranteed by the Corporation under subsection (b) or (c) with respect to such project, shall not cause the aggregate amount of all such investment to exceed, at the time any such investment is made or guaranteed by the Corporation, 75 percent of the total investment committed to such project as determined by the Corporation.

The determination of the Corporation under subparagraph (B) shall be conclusive for purposes of the Corporation's authority to make or guarantee any such investment.

"(2) LIMITATION TO PROJECTS IN SUB-SAHARAN AFRICA AND CARIBBEAN BASIN.—Equity investments may be made under this subsection only in projects in countries eligible for financing under this subchapter that are countries in sub-Saharan Africa or countries designated as beneficiary countries under section 212 of the Caribbean Basin Economy Recovery Act.

"(3) ADDITIONAL CRITERIA.—In making investment decisions under this subsection, the Corporation shall give preferential consideration to projects sponsored by or significantly involving United States small business or cooperatives. The Corporation shall also consider the extent to which the Corporation's equity investment will assist in obtaining the financing required for the project.

"(4) DISPOSITION OF EQUITY INTEREST.—Taking into consideration, among other things, the Corporation's financial interests and the desirability of fostering the development of local capital markets in less developed countries, the Corporation shall endeavor to dispose of any equity interest it may acquire under this subsection within a period of 10 years from the date of acquisition of such interest.

"(5) CONSULTATIONS WITH CONGRESS.—The Corporation shall consult annually with the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate on the implementation of the pilot equity finance program established under this subsection.

"SEC. 1505. ENHANCING PRIVATE POLITICAL RISK INSURANCE INDUSTRY.

"(a) COOPERATIVE PROGRAMS.—In order to encourage greater availability of political risk insurance for eligible investors by enhancing the private political risk insurance industry in the United States, and to the extent consistent with this subchapter, the Corporation shall undertake programs of cooperation with such industry, and in connection with such programs may engage in the following activities:

"(1) Utilizing its statutory authorities, encourage the development of associations, pools, or consortia of United States private political risk insurers.

"(2) Share insurance risks (through coinsurance, contingent insurance, or other means) in a manner that is conducive to the growth and development of the private political risk insurance industry in the United States.

"(3) Notwithstanding section 1509(e), upon the expiration of insurance provided by the Corporation for an investment, enter into risk-sharing agreements with United States private political risk insurers to insure any such investment; except that, in cooperating in the offering of insurance under this paragraph, the Corporation shall not assume responsibility for more than 50 percent of the insurance being offered in each separate transaction.

"(b) ADVISORY GROUP.—

"(1) ESTABLISHMENT AND MEMBERSHIP.—The Corporation shall establish a group to advise the Corporation on the development and implementation of the cooperative programs under this section. The group shall be appointed by the Board and shall be composed of up to 12 members, including the following:

"(A) Up to 7 persons from the private political risk insurance industry, of whom no fewer than 2 shall represent private political risk insurers, 1 shall represent private political risk reinsurers, and 1 shall represent insurance or reinsurance brokerage firms.

"(B) Up to 4 persons, other than persons described in subparagraph (A), who are purchasers of political risk insurance.

"(2) FUNCTIONS.—The Corporation shall call upon members of the advisory group, either collectively or individually, to advise it regarding the capability of the private political risk insurance industry to meet the political risk insurance needs of United States investors, and regarding the development of cooperative programs to enhance such capability.

"(3) MEETINGS.—The advisory group shall meet not later than September 30, 1989, and at least annually thereafter. The Corporation may from time to time convene meetings of selected members of the advisory group to address particular questions requiring their specialized knowledge.

"(4) FEDERAL ADVISORY COMMITTEE ACT.—The advisory group shall not be subject to the Federal Advisory Committee Act (5 U.S.C. App.).

"SEC. 1506. GUIDELINES AND REQUIREMENTS FOR OPIC SUPPORT.

"(a) DEVELOPMENT IMPACT PROFILE.—In order to carry out the policy set forth in section 1501(b)(1), the Corporation shall prepare and maintain for each investment project it insures, finances, or reinsures, a development impact profile consisting of data appropriate to measure the projected and actual effects of such project on development. Criteria for evaluating projects shall be developed in consultation with the administering agency.

"(b) SMALL BUSINESS DEVELOPMENT.—

"(1) BROADENED PARTICIPATION BY SMALL BUSINESSES.—The Corporation shall undertake, in cooperation with appropriate departments, agencies, and instrumentalities of the United States as well as private entities and others, to broaden the participation of United States small business, cooperatives, and other small United States investors in the development of small private enterprise in less developed friendly countries or areas.

"(2) PREFERENTIAL CONSIDERATION.—The Corporation shall undertake, to the maximum degree possible consistent with its purposes—

"(A) to give preferential consideration in its investment insurance, reinsurance, and guarantee activities to investment projects sponsored by or involving United States small business; and

"(B) to maintain the proportion of projects sponsored by or significantly involving United States small business at not less than 30 percent of all projects insured, reinsured, or guaranteed by the Corporation.

"(3) ALLOCATION OF INCOME.—The Corporation shall allocate up to 50 percent of its annual net income, after making suitable provision for transfers and additions to reserves, to assist and facilitate the development of projects consistent with the provisions of this subsection. Such funds may be expended notwithstanding the requirements of section 1501(c)(1), on such terms and conditions as the Corporation may determine through loans, grants, or other programs authorized by sections 1504 and 1505.

"(c) ENVIRONMENTAL CONSIDERATIONS.—

"(1) ENVIRONMENTAL, HEALTH, OR SAFETY HAZARD.—The Corporation shall refuse to insure, reinsure, guarantee, or finance any investment in connection with a project which the Corporation determines will pose an unreasonable or major environmental, health, or safety hazard, or will result in the significant degradation of national parks or similar protected areas.

"(2) RESOURCE SUSTAINABLE DEVELOPMENT.—The Corporation, in determining whether to provide insurance, reinsurance, guarantees, or financing for a project, shall ensure that the project is consistent with the objectives set forth in section 1102(a)(2) of resource sustainable development.

"(3) ENVIRONMENTAL IMPACT STATEMENTS AND ASSESSMENTS.—The requirements of section 1241 relating to environmental impact statements and environmental assessments shall apply to any investment which the Corporation insures, reinsures, guarantees, or finances under this subchapter in connection with a project in a country.

"(4) NOTIFICATION OF FOREIGN GOVERNMENTS.—Before finally providing insurance, reinsurance, guarantees, or financing under this subchapter for any environmentally sensitive investment in connection with a project in a country, the Corporation shall notify appropriate government officials of that country of—

"(A) all guidelines and other standards adopted by the International Bank for Reconstruction and Development and any other international organization relating to the public health or safety or the environment which are applicable to the project; and

"(B) to the maximum extent practicable, any restriction under any law of the United States relating to public health or safety or the environment that would apply to the project if the project were undertaken in the United States.

The notification under the preceding sentence shall include a summary of the guidelines, standards, and restrictions referred to in subparagraphs (A) and (B), and may include any environmental impact statement, assessment, review, or study prepared with respect to the investment pursuant to paragraph (3).

"(5) CONSIDERATION OF COMMENTS RECEIVED.—Before finally providing insurance, reinsurance, guarantees, or financing for any investment subject to paragraph (4), the Corporation shall take into account any comments it receives on the project involved.

"(d) WORKER RIGHTS.—

"(1) LIMITATION ON OPIC ACTIVITIES.—The Corporation may insure, reinsure, guarantee, or finance a project only if the country in which the project is to be undertaken is taking steps to adopt and implement laws that extend internationally recognized worker rights, as defined in section 502(a)(4) of the Trade Act of 1974 (19 U.S.C. 2462(a)(4)), to workers in that country (including any designated zone in that country).

"(2) USE OF ANNUAL REPORTS ON WORKERS RIGHTS.—The Corporation shall, in making its determinations under paragraph (1), use the reports submitted to the Congress pursuant to section 505(c) of the Trade Act of 1974 (19 U.S.C. 2465(c)).

"(3) WAIVER.—Paragraph (1) shall not prohibit the Corporation from providing any insurance, reinsurance, guarantee, or financing with respect to a country if the President determines that such activities by the Corporation would be in the national economic interests of the United States. Any such determination shall be reported in writing to the Congress, together with the reasons for the determination.

"(4) PEOPLE'S REPUBLIC OF CHINA.—In making a determination under this subsection for the People's Republic of China, the Corporation shall discuss fully and completely the justification for making such determination with respect to each item set forth in subparagraphs (A) through (E) of section 502(a)(4) of the Trade Act of 1974.

"(e) HUMAN RIGHTS.—The Corporation shall take into account in the conduct of its programs in a country, in consultation with the Secretary of State, all available information about observance of and respect for human rights and fundamental freedoms in such country and the effect the operation of such programs will have on human rights and fundamental freedoms in such country. The provisions of section 4201(a)(2) shall apply to any insurance, reinsurance, guarantee, or financing provided by the Corporation for projects in a country, except that in addition to the exceptions set forth in paragraphs (2) through (4) of section 4201(b), the Corporation may support a project if the national security interest so requires.

"(f) HARM TO EMPLOYMENT IN THE UNITED STATES.—

"(1) REPLACEMENT OF UNITED STATES PRODUCTION.—(A) The Corporation shall refuse to insure, reinsure, guarantee, or finance an investment if the Corporation determines that such investment is likely to cause such investor (or the sponsor of an investment project in which such investor is involved) significantly to reduce the number of the investor's or sponsor's employees in the United States because the investor or sponsor is replacing his or her United States production with production from such investment, and the production from such investment involves substantially the same product for substantially the same market as the investor's or sponsor's United States production.

"(B) If the Corporation determines that an investment is not likely to have the effects described in subparagraph (A), the Corporation shall monitor conformance with the representations made by the investor on which the Corporation relied in making that determination.

"(2) REDUCTION OF EMPLOYEES IN THE UNITED STATES.—The Corporation shall refuse to insure, reinsure, guarantee, or finance an investment if the Corporation determines that such investment is likely to cause a significant reduction in the number of employees in the United States.

"(g) PERFORMANCE REQUIREMENTS.—The Corporation shall refuse to insure, reinsure, guarantee, or finance an investment which is subject to performance requirements which would reduce substantially the positive trade benefits likely to accrue to the United States from the investment.

"(h) PROHIBITED TRADE PRACTICES.—

"(1) PAYMENTS TO VIOLATORS BARRED.—No payment may be made under any insurance or reinsurance which is issued under this subchapter on or after April 24, 1978, for any loss occurring with respect to a project, if the preponderant cause of such loss was an act by the investor seeking payment under this subchapter, by a person possessing majority ownership and control of the investor at the time of the act, or by any agent of such investor or controlling person, and a court of the United States has entered a final judgment that such act constituted a violation of section 30A of the Securities Exchange Act of 1934 or section 104 of the Foreign Corrupt Practices Act of 1977.

"(2) REGULATIONS.—The Corporation shall have in effect regulations setting forth appropriate conditions under which any person who has been finally determined by a court of the United States to have violated section 30A of the Securities Exchange Act of 1934 or section 104 of the Foreign Corrupt Practices Act of 1977 shall be suspended, for a period of not more than 5 years, from eligibility to receive any insurance, reinsurance, guarantee, financing, or other financial support authorized by this subchapter, if that violation related to a project insured, reinsured, guaranteed, financed, or otherwise supported by the Corporation under this subchapter.

"(i) FRAUD OR MISREPRESENTATION.—No payment may be made under any guarantee, insurance, or reinsurance issued under this subchapter for any loss arising out of fraud or misrepresentation for which the party seeking payment is responsible.

"(j) PUBLIC HEARINGS.—The Board shall hold at least 1 public hearing each year in order to afford an opportunity for any person to present views as to whether the Corporation is carrying out its activities in accordance with section 1501 and this section or whether any investment in a particular country should have been or should be extended insurance, reinsurance, guarantees, or financing under this subchapter.

"SEC. 1507. ISSUING AUTHORITY, DIRECT INVESTMENT FUND, EQUITY FUND, AND RESERVES.

"(a) ISSUING AUTHORITY.—

"(1) INSURANCE.—The maximum contingent liability outstanding at any one time pursuant to insurance issued under section 1504(a) shall not exceed in the aggregate $7,500,000,000.

"(2) GUARANTEES.—(A) The maximum contingent liability outstanding at any one time pursuant to guarantees issued under section 1504(b) shall not exceed in the aggregate $1,500,000,000. Commitments to guarantee loans are authorized for any fiscal year only to such extent or in such amounts as are provided in appropriation Acts.

"(B) The Corporation shall not make any commitment to issue any guarantee which would result in a reserve less than 25 percent of the maximum contingent liability then outstanding against guarantees issued or commitments made pursuant to section 1504(b) or similar predecessor guarantee authority.

"(C) Subject to subparagraphs (A) and (B) and to paragraph (3), the Corporation shall issue guarantees under section 1504(b) having an aggregate contingent liability with respect to principal of not less than $200,000,000 in each fiscal year, to the extent that there are eligible projects which meet the Corporation's criteria for such guarantees.

"(3) ACTION BY CONGRESS.—The Congress, in considering the budget programs transmitted by the President for the Corporation, pursuant to section 9103 of title 31, United States Code, may limit the obligations and contingent liabilities to be undertaken under subsections (a) and (b) of section 1504 as well as the use of funds for operating and administrative expenses.

"(4) TERMINATION OF AUTHORITY.—The authority of subsections (a) and (b) of section 1504 shall continue until September 30, 1992.

"(b) DIRECT INVESTMENT FUND.—

"(1) AMOUNTS AND PURPOSES.—The Corporation shall hold a revolving fund, known as the Direct Investment Fund. Such fund shall consist of amounts in the fund on the effective date of the International Cooperation Act of 1989, shall be available for the purposes authorized under section 1504(c), shall be charged with realized losses and credited with realized gains, and shall be credited with such additional sums as may be transferred to it under the provisions of section 1508. The Corporation shall transfer to the Fund in each fiscal year—

"(A) at least 10 percent of the net income of the Corporation for the preceding fiscal year, and

"(B) all amounts received by the Corporation during the preceding fiscal year as repayment of principal and interest on loans made under section 1504(c).

"(2) MINIMUM LEVEL OF LOANS.—The Corporation shall make loans under section 1504(c) in an aggregate amount of not less than $25,000,000 in each fiscal year, to the extent that there are eligible projects which meet the Corporation's criteria for such loans, except that loans from the Direct Investment Fund are authorized for any fiscal year only to the extent or in such amounts as are provided in advance in appropriation Acts.

"(c) CREATION OF FUND FOR ACQUISITION OF EQUITY.—The Corporation is authorized to establish a revolving fund to be available solely for the purposes specified in section 1504(g) and to make a one-time transfer to the fund of $10,000,000 from its income and revenues. The Corporation shall transfer to the fund in each fiscal year all amounts received by the Corporation during the preceding fiscal year as income on securities acquired under section 1504(g), and from the proceeds on the disposition of such securities. Purchases of, investments in, and other acquisitions of equity from the fund are authorized for any fiscal year only to the extent or in such amounts as are provided in advance in appropriations Acts.

"(d) INSURANCE AND GUARANTEE RESERVES.—

"(1) MAINTENANCE AND PURPOSES.—The Corporation shall maintain insurance and guarantee reserves. Such reserves shall be available for the discharge of liabilities, as provided in subsection (e), until such time as all such liabilities have been discharged or have expired or until all such reserves have been expended in accordance with the provisions of this section.

"(2) FUNDING.—The insurance and guarantee reserves shall consist of—

"(A) any funds in the insurance and guarantee reserves of the Corporation on the effective date of the International Cooperation Act of 1989,

"(B) amounts transferred to the fund pursuant to section 1508, and

"(C) such sums as are appropriated pursuant to subsection (f) of this section for such purposes.

"(e) ORDER OF PAYMENTS TO DISCHARGE LIABILITIES.—Any payment made to discharge liabilities under investment insurance or reinsurance issued under section 1504, under similar predecessor guarantee authority, or under section 1505, shall be paid first out of the insurance reserve, as long as such reserve remains available, and thereafter out of funds made available pursuant to subsection (f) of this section. Any payments made to discharge liabilities under guarantees issued under section 1504(b) or under similar predecessor guarantee authority shall be paid first out of the guarantee reserve as long as such reserve remains available, and thereafter out of funds made available pursuant to subsection (f) of this section.

"(f) AUTHORIZATION OF APPROPRIATIONS.—

"(1) AUTHORIZATION.—Subject to paragraph (2), there are authorized to be appro-

priated to the Corporation, to remain available until expended, such amounts as may be necessary from time to time to replenish or increase the insurance and guarantee reserves, to discharge the liabilities under insurance, reinsurance, and guarantees issued by the Corporation or issued under predecessor guarantee authority, or to discharge obligations of the Corporation purchased by the Secretary of the Treasury pursuant to subsection (g).

"(2) LIMITATION ON APPROPRIATIONS.—No appropriation shall be made under paragraph (1) to augment the insurance reserve until the amount of funds in the insurance reserve is less than $25,000,000. Any appropriations to augment the insurance reserve shall then only be made either pursuant to specific authorization enacted after the date of enactment of the Overseas Private Investment Corporation Amendments Act of 1974, or to satisfy the full faith and credit provision of section 1509(c).

"(g) ISSUANCE OF OBLIGATIONS.—In order to discharge liabilities under investment insurance or reinsurance, the Corporation is authorized to issue from time to time for purchase by the Secretary of the Treasury its notes, debentures, bonds, or other obligations; except that the aggregate amount of such obligations outstanding at any one time may not exceed $100,000,000. Any such obligation shall be repaid to the Treasury within 1 year after the date of issue of such obligation. Any such obligation shall bear interest at a rate determined by the Secretary of the Treasury, taking into consideration the current average market yield on outstanding marketable obligations of the United States of comparable maturities during the month preceding the issuance of any obligation authorized by this subsection. The Secretary of the Treasury shall purchase any obligation of the Corporation issued under this subsection, and for such purchase the Secretary may use as a public debt transaction the proceeds of the sale of any securities issued under chapter 31 of title 31, United States Code. The purpose for which securities may be issued under chapter 31 of title 31, United States Code, shall include any such purchase.

"SEC. 1508. INCOME AND REVENUES.

"In order to carry out the purposes of the Corporation, all revenues and income transferred to or earned by the Corporation, from whatever source derived, shall be held by the Corporation and shall be available to carry out its purposes, including without limitation—

"(1) payment of all expenses of the Corporation, including investment promotion expenses;

"(2) transfers and additions to the insurance and guarantee reserves maintained under section 1507(d), the Direct Investment Fund held pursuant to section 1507(b), and such other funds or reserves as the Corporation may establish, at such time and in such amounts as the Board may determine; and

"(3) payment of dividends, on capital stock, which shall consist of and be paid from net earnings of the Corporation after payments, transfers, and additions under paragraphs (1) and (2).

"SEC. 1509. GENERAL PROVISIONS RELATING TO INSURANCE, GUARANTY, AND FINANCING PROGRAM.

"(a) AGREEMENTS WITH COUNTRIES.—Insurance, guarantees, and reinsurance issued under this subchapter shall cover investment made in connection with projects in any less developed friendly country or area with the government of which the President of the United States has agreed to institute a program for such insurance, guarantees, or reinsurance.

"(b) PROTECTION OF INTERESTS OF THE CORPORATION.—The Corporation shall determine that suitable arrangements exist for protecting the interest of the Corporation in connection with any insurance, reinsurance, or guarantee issued under this subchapter, including arrangements concerning ownership, use, and disposition of the currency, credits, assets, or investments on account of which payment under such insurance, guarantee, or reinsurance is to be made, and any right, title, claim, or cause of action existing in connection therewith.

"(c) FULL FAITH AND CREDIT PLEDGED.—All guarantees issued pursuant to predecessor guarantee authority, and all insurance, reinsurance, and guarantees issued pursuant to this subchapter shall constitute obligations, in accordance with the terms of such insurance, reinsurance, or guarantees, of the United States of America, and the full faith and credit of the United States of America is hereby pledged for the full payment and performance of such obligations.

"(d) FEES.—Fees may be charged for providing insurance, reinsurance, guarantees, financing, and other services under this subchapter in amounts to be determined by the Corporation. In the event fees charged for insurance, reinsurance, guarantees, financing, or other services are reduced, fees to be paid under existing contracts for the same type of insurance, reinsurance, guarantees, financing, or services and for similar guarantees issued under predecessor guarantee authority may be reduced.

"(e) INSURANCE, GUARANTEES, AND REINSURANCE LIMITED TO 20 YEARS.—No insurance, reinsurance, or guarantee of any equity investment under this subchapter shall extend beyond 20 years from the date on which such insurance, reinsurance, or guarantee is issued.

"(f) AMOUNT OF COMPENSATION PAID ON CLAIMS.—Compensation for any insurance, reinsurance, or guarantee issued under this subchapter shall not exceed the dollar value, as of the date of the investment, of the investment made in the project with the approval of the Corporation plus interest, earnings, or profits actually accrued on such investment to the extent provided by such insurance, reinsurance, or guarantee, except that the Corporation may provide that—

"(1) appropriate adjustments in the insured dollar value be made to reflect the replacement cost of project assets;

"(2) compensation for a claim of loss under insurance of an equity investment may be computed on the basis of the net book value attributable to such equity investment on the date of loss; and

"(3) compensation for loss due to business interruption may be computed on a basis to be determined by the Corporation which reflects amounts lost.

Notwithstanding the preceding sentence, the Corporation shall limit the amount of direct insurance and reinsurance issued under section 1504 or 1505 so that risk of loss as to at least 10 percent of the total investment of the insured and its affiliates in the project is borne by the insured and such affiliates, except that this limitation shall not apply to direct insurance or reinsurance of loans by banks or other financial institutions to unrelated parties.

"(g) LIMITATION WITH RESPECT TO FOREIGN CREDIT INSTITUTIONS.—Insurance, guarantees, or reinsurance of a loan or equity investment of an eligible investor in a foreign bank, finance company, or other credit institution shall extend only to such loan or equity investment and not to any individual loan or equity investment made by such foreign bank, finance company, or other credit institution.

"(h) SETTLEMENT AND ARBITRATION OF CLAIMS.—Claims arising as a result of insurance, reinsurance, or guarantee operations under this subchapter or under predecessor guarantee authority may be settled, and disputes arising as a result thereof may be arbitrated with the consent of the parties, on such terms and conditions as the Corporation may determine. Payment made pursuant to any such settlement, or as a result of an arbitration award, shall be final and conclusive notwithstanding any other provision of law.

"(i) CONTRACTS PRESUMED TO COMPLY WITH ACT.—Each guarantee contract executed by such officer or officers as may be designated by the Board shall be conclusively presumed to be issued in compliance with the requirements of this Act.

"(j) OPERATIONS IN CERTAIN COUNTRIES.—Except for the provisions of this subchapter, no other provision of this or any other law shall be construed to prohibit the operation in Yugoslavia, Poland, Hungary, or the People's Republic of China of any program authorized by this subchapter, if the President determines that the operation of such program in such country is important to the national interest.

"SEC. 1510. GENERAL PROVISIONS AND POWERS.

"(a) PRINCIPAL OFFICE.—The Corporation shall have its principal office in the District of Columbia and shall be deemed, for purposes of venue in civil actions, to be a resident of the District of Columbia.

"(b) AUDITS.—

"(1) IN GENERAL.—The Corporation shall be subject to the applicable provisions of chapter 91 of title 31, United States Code, except as otherwise provided in this subchapter.

"(2) INDEPENDENT AUDIT.—An independent certified public accountant shall perform a financial and compliance audit of the financial statements of the Corporation at least once every 3 years, in accordance with generally accepted Government auditing standards for a financial and compliance audit, taking into consideration any standards recommended by the Comptroller General. The independent certified public accountant shall report the results of such audit to the Board. The financial statements of the Corporation shall be presented in accordance with generally accepted accounting principles. These financial statements and the report of the accountant shall be included in a report which contains, to the extent applicable, the information identified in section 9106 of title 31, United States Code, and which the Corporation shall submit to the Congress not later than 6½ months after the end of the last fiscal year covered by the audit. The Comptroller General may review the audit conducted by the accountant and the report to the Congress in the manner and at such times as the Comptroller General considers necessary.

"(3) AUDIT BY COMPTROLLER GENERAL.—In lieu of the financial and compliance audit required by paragraph (2), the Comptroller General shall, if the Comptroller General considers it necessary or upon the request of the Congress, audit the financial statements of the Corporation in the manner provided in paragraph (2). The Corporation shall re-

imburse the General Accounting Office for the full cost of any audit conducted under this paragraph.

"(4) AVAILABILITY OF INFORMATION.—All books, accounts, financial records, reports, files, workpapers, and property belonging to or in use by the Corporation and the accountant who conducts the audit under paragraph (2), which are necessary for purposes of this subsection, shall be made available to the representatives of the General Accounting Office designated by the Comptroller General.

"(c) POWERS.—To carry out the purposes of this subchapter, the Corporation is authorized—

"(1) to adopt and use a corporate seal, which shall be judicially noticed;

"(2) to sue and be sued in its corporate name;

"(3) to adopt, amend, and repeal bylaws governing the conduct of its business and the performance of the powers and duties granted to or imposed upon it by law;

"(4) to acquire, hold, or dispose of, upon such terms and conditions as the Corporation may determine, any property, real, personal, or mixed, tangible or intangible, or any interest therein;

"(5) to invest funds derived from fees and other revenues in obligations of the United States and to use the proceeds therefrom, including earnings and profits, as it considers appropriate;

"(6) to indemnify directors, officers, employees, and agents of the Corporation for liabilities and expenses incurred in connection with their Corporation activities;

"(7) to require bonds of officers, employees, and agents and to pay the premiums therefor;

"(8) notwithstanding any other provision of law, to represent itself or to contract for representation in all legal and arbitral proceedings;

"(9) to purchase, discount, rediscount, sell, and negotiate, with or without its endorsement or guarantee, and guarantee notes, participation certificates, and other evidence of indebtedness (except that the Corporation shall not issue its own securities, except participation certificates for the purpose of carrying out section 1501(c)(3) or participation certificates as evidence of indebtedness held by the Corporation in connection with settlement of claims under section 1509(h));

"(10) to make and carry out such contracts and agreements as are necessary and advisable in the conduct of its business;

"(11) to exercise any priority of the Government of the United States in collecting debts from the estates of bankrupt, insolvent, or decedent parties;

"(12) to determine the character of and the necessity for its obligations and expenditures, and the manner in which they shall be incurred, allowed, and paid, subject to provisions of law specifically applicable to Government corporations;

"(13) to collect or compromise any obligations assigned to or held by the Corporation, including any legal or equitable rights accruing to the Corporation; and

"(14) to take such actions as may be necessary or appropriate to carry out the powers of the Corporation.

"(d) INSPECTOR GENERAL.—

"(1) AUTHORITY.—The Inspector General of the administering agency—

"(A) shall have full and independent authority to conduct audits, investigations, and inspections of all phases of the Corporation's programs and operations for the purpose of promoting economy, efficiency, and effectiveness, and detecting and preventing fraud and abuse; and

"(B) shall conduct all security activities of the Corporation relating to personnel and the control of classified material.

"(2) RELATION TO PRESIDENT OF CORPORATION.—The Inspector General shall report to and be under the general supervision of the President of the Corporation with respect to activities undertaken pursuant to this subsection, except that the President of the Corporation shall not prevent or prohibit the Inspector General from initiating, carrying out, or completing any such activity in accordance with the duties, authorities, and responsibilities contained in the Inspector General Act of 1978 and any other applicable law or regulation.

"(3) EXPENSES.—The Inspector General shall be reimbursed by the Corporation for all expenses incurred by the Inspector General in connection with the Inspector General's responsibilities under this subsection.

"(4) INSPECTOR GENERAL ACT.—For purposes of the Inspector General Act of 1978, the Corporation shall continue to be considered a Federal entity and the President of the Corporation shall be considered the head of the Federal entity.

"(5) ANNUAL REPORT.—The annual report required under section 8E(h)(2) of the Inspector General Act of 1978 shall include information relating to activities of the Inspector General undertaken pursuant to this subsection.

"(e) EXEMPTION FROM STATE AND LOCAL TAXATION.—The Corporation (including its franchise, capital, reserves, surplus, advances, intangible property, and income) shall be exempt from all taxation at any time imposed by any State, the District of Columbia, or any county, municipality, or local taxing authority.

"(f) CORPORATE OPERATIONAL GUIDELINES.—The Corporation—

"(1) shall establish and publish guidelines for its programs and operations consistent with the provisions of this subchapter, which provisions shall be controlling with respect to the Corporation's programs and operations, and

"(2) shall make such guidelines available to applicants for insurance, reinsurance, guarantees, financing, or other assistance provided by the Corporation.

"SEC. 1511. ANNUAL REPORT; MAINTENANCE OF INFORMATION.

"(a) ANNUAL REPORT.—After the end of each fiscal year, the Corporation shall submit to the Congress a complete and detailed report of its operations during such fiscal year. Such report shall include—

"(1) an assessment, based upon the development impact profiles required by section 1506(a), of the economic and social development impact and benefits of the projects with respect to which such profiles are prepared, and of the extent to which the operations of the Corporation complement or are compatible with the development assistance programs of the United States and other donors; and

"(2) a description of any project for which the Corporation—

"(A) refused to provide any insurance, reinsurance, guarantee, financing, or other financial support, on account of violations of human rights referred to in section 1506(e); or

"(B) notwithstanding such violations, provided such insurance, reinsurance, guarantee, financing, or financial support, on the basis of a determination that—

"(i) the project meets one of the criteria set forth in paragraphs (2) through (4) of section 4201(b), or

"(ii) the national security interest so requires.

"(b) PROJECTIONS OF EFFECTS ON EMPLOYMENT.—

"(1) IN GENERAL.—Each annual report required by subsection (a) shall contain projections of the effects on employment in the United States of all projects for which, during the fiscal year covered by the report, the Corporation initially issued any insurance, reinsurance, or guarantee or provided financing. Each such report shall include projections of—

"(A) the amount of United States exports to be generated by those projects, both during the start-up phase and over a period of years;

"(B) the final destination of the products to be produced as a result of those projects; and

"(C) the impact such production will have on the production of similar products in the United States with regard to both domestic sales and exports.

"(2) INFORMATION IN AGGREGATE FORM.—The projections required by this subsection shall be based on an analysis of each of the projects described in paragraph (1). Such projections may, however, present information and analysis in aggregate form, but only if—

"(A) those projects which are projected to have a positive effect on employment in the United States and those projects which are projected to have a negative effect on employment in the United States are grouped separately; and

"(B) there is set forth for each such grouping the key characteristics of the projects within that grouping, including the number of projects in each economic sector, the countries in which the projects in each economic sector are located, and the projected level of the impact of the projects in each economic sector on employment in the United States and on United States trade.

"(c) MAINTENANCE OF INFORMATION.—The Corporation shall maintain as part of its records—

"(1) all information collected in preparing the report required by section 240A(c) of the Foreign Assistance Act of 1961 (as in effect before the enactment of the Overseas Private Investment Corporation Amendments Act of 1988), whether the information was collected by the Corporation itself or by a contractor; and

"(2) a copy of the analysis of each project analyzed in preparing the projections required by subsection (b) of this section or the report required by section 240A(c) of this Act (as in effect before the enactment of the Overseas Private Investment Corporation Amendments Act of 1988).

"(d) PROGRAMS OF COOPERATION WITH PRIVATE INDUSTRY.—Each annual report required by subsection (a) shall include an assessment of programs implemented by the Corporation under section 1505(a), including the following information, to the extent such information is available to the Corporation:

"(1) The nature and dollar value of political risk insurance provided by private insurers in conjunction with the Corporation, which the Corporation was not permitted to provide under this subchapter.

"(2) The nature and dollar value of political risk insurance provided by private insurers in conjunction with the Corporation,

which the Corporation was permitted to provide under this subchapter.

"(3) The manner in which such private insurers and the Corporation cooperated in recovery efforts and claims management.

"(e) PROTECTION OF CERTAIN INFORMATION.—Subsections (b) and (d) do not require the inclusion in any information submitted pursuant to those subsections of any information which would not be required to be made available to the public pursuant to section 552 of title 5, United States Code (relating to freedom of information).

"SEC. 1512. DEFINITIONS.

"As used in this subchapter, the following terms have the following meanings:

"(1) BOARD.—The term 'Board' means the Board of Directors of the Overseas Private Investment Corporation.

"(2) CORPORATION.—The term 'Corporation' means the Overseas Private Investment Corporation.

"(3) ELIGIBLE INVESTOR.—(A) The term 'eligible investor' means—

"(i) a United States citizen;

"(ii) a corporation, partnership, or other association, including a nonprofit association, which is created under the laws of the United States, any State, the District of Columbia, or any commonwealth, territory, or possession of the United States, and which is substantially beneficially owned by United States citizens; and

"(iii) a foreign corporation, partnership, or other association which is wholly owned by one or more United States citizens or corporations, partnerships, or other associations described in clause (ii), except that the eligibility of any such foreign corporation shall be determined without regard to any shares held by other than United States citizens or corporations, partnerships, or other associations described in clause (ii) if, in the aggregate, such shares equal less than 5 percent of the total issued and subscribed share capital of such foreign corporation.

"(B) For purposes of this subchapter—

"(i) in the case of insurance or a guarantee for any loan investment, a final determination of whether a person is an eligible investor may be made at the time the insurance or guarantee is issued; and

"(ii) in the case of insurance or a guarantee for any other investment, an investor must be an eligible investor at the time a claim arises as well as the time the insurance or guarantee is issued.

"(4) EXPROPRIATION.—The term 'expropriation' includes any abrogation, repudiation, or impairment by a foreign government of its own contract with an investor with respect to a project, where such abrogation, repudiation, or impairment is not caused by the investor's own fault or misconduct, and materially adversely affects the continued operation of the project.

"(5) INVESTMENT.—The term 'investment' includes any contribution or commitment of funds, commodities, services, patents, processes, or techniques, in the form of—

"(A) a loan or loans to an approved project,

"(B) the purchase of a share of ownership in any such project,

"(C) participation in royalties, earnings, or profits of any such project, and

"(D) the furnishing of commodities or services pursuant to a lease or other contract.

"(6) PREDECESSOR GUARANTEE AUTHORITY.—The term 'predecessor guarantee authority' means prior guarantee authorities (other than housing guarantee authorities) repealed by the Foreign Assistance Act of 1969, section 202(b) and 413(b) of the Mutual Security Act of 1954, and section 111(b)(3) of the Economic Cooperation Act of 1948, (exclusive of authority relating to informational media guarantees).

"Subchapter B—Trade and Development Agency

"SEC. 1521. PURPOSE.

The Trade and Development Agency shall be a separate component agency of the International Development Cooperation Agency, and shall not be an agency within the administering agency or any other component agency of the International Development Cooperation Agency. The purpose of the Trade and Development Agency is to promote United States private sector participation in development projects in friendly developing and middle-income countries, in order to promote the four basic objectives set forth in section 1102.

"SEC. 1522. AUTHORITY TO PROVIDE ASSISTANCE.

"(a) AUTHORITY.—The Director of the Trade and Development Agency is authorized to work with friendly countries, including those in which the United States development programs have been concluded or those not receiving assistance under this title, to carry out the purpose of this subchapter by providing funds for feasibility studies and other activities related to development projects which provide opportunities for the use of United States exports.

"(b) USE OF FUNDS.—Funds under this subchapter may be used to provide support for feasibility studies for the planning of, development of, management of, and procurement for, bilateral and multilateral development projects, including training activities undertaken in connection with a project, for the purpose of promoting the use of United States goods and services in such projects.

"(c) INFORMATION DISSEMINATION.—

"(1) IN GENERAL.—The Trade and Development Agency shall disseminate information about its project activities to the private sector.

"(2) OFFICE OF INTERNATIONAL MAJOR PROJECTS OF THE DEPARTMENT OF COMMERCE.—The Trade and Development Agency shall cooperate with the Office of International Major Projects of the Department of Commerce in order to provide information to persons in the private sector concerning trade development and export promotion related to multilateral development projects.

"(3) OTHER AGENCIES.—Other Federal departments and agencies shall cooperate with the Trade and Development Agency in order for the Agency to more effectively provide informational services in accordance with this subsection.

"(d) NONAPPLICABILITY OF OTHER PROVISIONS.—Any funds used for purposes of this subchapter may be used notwithstanding any other provision of law.

"SEC. 1523. DIRECTOR AND PERSONNEL.

"(a) DIRECTOR.—The Director of the Trade and Development Agency shall be the head of the agency. The Director shall be appointed by the President, by and with the advice and consent of the Senate.

"(b) OFFICERS AND EMPLOYEES.—

"(1) APPOINTMENT.—The Director may appoint such officers and employees as the Director considers appropriate.

"(2) FUNCTIONS.—The officers and employees appointed under this subsection shall have such functions as the Director may determine.

"(3) APPOINTMENTS WITHOUT REGARD TO CERTAIN CIVIL SERVICE LAWS.—Of the officers and employees appointed under this subsection, 2 may be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and may be compensated without regard to the provisions of chapter 51 of subchapter III of chapter 53 of such title.

"(4) REINSTATEMENT RIGHTS.—Under such regulations as the President may prescribe, any individual appointed under paragraph (3) may be entitled, upon removal (except for cause) from the position to which the appointment was made, to reinstatement to the position occupied by that individual at the time of appointment or to a position of comparable grade and pay.

"SEC. 1524. ANNUAL REPORT.

"The Director of the Trade and Development Agency shall, not later than December 31 of each year, submit to the Committee on Foreign Affairs of the House of Representatives and the Committee on Relations of the Senate a report on the activities of the Trade and Development Agency in the preceding fiscal year.

"SEC. 1525. ADVISORY BOARD.

"(a) ESTABLISHMENT.—The Director of the Trade and Development Agency shall, by regulation, establish an advisory board which shall include representatives of the private sector.

"(b) PURPOSE.—The purpose of the advisory board shall be to make recommendations to the Director with respect to the Trade and Development Agency.

"SEC. 1526. INSPECTOR GENERAL.

"(a) AUTHORITY.—The Inspector General of the administering agency—

"(1) shall have full and independent authority to conduct audits, investigations, and inspections of all phases of the program and operations of the Trade and Development Agency for the purpose of promoting economy, efficiency, and effectiveness, and detecting and preventing fraud and abuse; and

"(2) shall conduct all security activities of the Trade and Development Program relating to personnel and the control of classified material.

"(b) RELATION TO DIRECTOR OF THE TRADE AND DEVELOPMENT AGENCY.—The Inspector General shall report to and be under the general supervision of the Director of the Trade and Development Agency with respect to activities undertaken pursuant to this section, except that the Director shall not prevent or prohibit the Inspector General from initiating, carrying out, or completing any such activity in accordance with the duties, authorities, and responsibilities contained in the Inspector General Act of 1978, and any other applicable laws and regulations.

"(c) EXPENSES.—The Inspector General shall be reimbursed by the Trade and Development Agency for all expenses incurred by the Inspector General in connection with the Inspector General's responsibilities under this subsection.

"(d) INSPECTOR GENERAL ACT.—For purposes of the Inspector General Act of 1978, the Trade and Development Agency shall continue to be considered a Federal entity and the Director of the Trade and Development Agency shall be considered the head of the Federal entity.

"(e) ANNUAL REPORT.—The annual report required under section 8E(h)(2) of the Inspector General Act of 1978 shall include information relating to activities of the Inspector General undertaken pursuant to this subsection.

"SEC. 1527. FUNDING.

"(a) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for purposes of this subchapter, in addition to funds otherwise available for such purposes, $25,000,000 for fiscal year 1990 and $25,000,000 for fiscal year 1991.

"(b) ADDITIONAL FUNDS.—In addition to funds otherwise available to the President for purposes of this subchapter, $5,000,000 for each of the fiscal years 1990 and 1991 shall be made available for such purposes from amounts available to carry out section 1224 (relating to the Private Sector Revolving Fund).

"CHAPTER 6—INTERNATIONAL DISASTER ASSISTANCE

"SEC. 1601. STATEMENT OF POLICIES.

"(a) HUMANITARIAN CONCERNS AND TRADITIONS OF THE AMERICAN PEOPLE.—The Congress, recognizing that prompt United States assistance to alleviate human suffering caused by natural and manmade disasters is a longstanding tradition and an important expression of the humanitarian interest of the people of the United States, affirms the willingness of the United States to provide assistance for the relief and rehabilitation of people and countries affected by such disasters.

"(b) REACHING THOSE MOST IN NEED.—In carrying out this chapter, the President shall insure that, to the greatest extent possible, the assistance provided by the United States reaches those most in need of relief and rehabilitation as a result of natural and manmade disasters.

"SEC. 1602. AUTHORITY TO PROVIDE ASSISTANCE.

"(a) IN GENERAL.—The President is authorized to furnish assistance to any foreign country, international organization, or private voluntary organization for international disaster relief and rehabilitation. Such assistance may include assistance relating to disaster preparedness and to the prediction of, and contingency planning for, natural disasters abroad.

"(b) NONAPPLICABILITY OF OTHER PROVISIONS.—Assistance may be furnished under this chapter notwithstanding any other provision of this or any other Act.

"SEC. 1603. AUTHORIZATIONS OF APPROPRIATIONS.

"There are authorized to be appropriated to the President to carry out this chapter, $25,000,000 for fiscal year 1990 and $25,000,000 for fiscal year 1991.

"SEC. 1604. BORROWING AUTHORITY.

"(a) AUTHORITY.—In addition to amounts otherwise available to carry out this chapter, up to $50,000,000 in any fiscal year may be obligated against appropriations described in subsection (b) for use in providing assistance in accordance with the authorities and general policies of this chapter.

"(b) SOURCES OF FUNDS.—The appropriations referred to in subsection (a) are any appropriations to carry out this title (other than this chapter), chapter 1 or chapter 2 of title III, or chapter 2 or 3 of title VI, without regard to whether the funds are earmarked in this or any other Act.

"(c) REIMBURSEMENT.—Amounts subsequently appropriated to carry out this chapter with respect to a disaster may be used to reimburse any appropriation account against which obligations were incurred under this section with respect to that disaster.

"SEC. 1605. SPECIAL COORDINATOR FOR INTERNATIONAL DISASTER ASSISTANCE.

"(a) APPOINTMENT.—The President is authorized to appoint a Special Coordinator for International Disaster Assistance whose responsibility shall be to promote maximum effectiveness and coordination in responses to foreign disasters by United States agencies and between the United States and other donors.

"(b) CONTINGENCY PLANS.—The Special Coordinator's responsibilities shall include the formulation and updating of contingency plans for providing disaster relief.

"CHAPTER 7—OTHER ECONOMIC ASSISTANCE PROGRAMS

"Subchapter A—American Schools and Hospitals

"SEC. 1701. AUTHORITY TO PROVIDE ASSISTANCE.

"The President is authorized to furnish assistance to—

"(1) schools and libraries, outside the United States, that are founded or sponsored by United States citizens and serve as study and demonstration centers for ideas and practices of the United States, and

"(2) hospital centers for medical education and research, outside the United States, that are founded or sponsored by United States citizens,

in order to promote the four basic objectives set forth in section 1102.

"SEC. 1702. AUTHORIZATIONS OF APPROPRIATIONS.

"To carry out section 1701, there are authorized to be appropriated to the President $45,000,000 for fiscal year 1990 and $45,000,000 for fiscal year 1991.

"Subchapter B—Guarantee Programs

"SEC. 1721. TRADE CREDIT INSURANCE PROGRAM FOR CENTRAL AMERICA.

"(a) GENERAL AUTHORITY.—

"(1) ASSURANCE TO EXPORT-IMPORT BANK OF REPAYMENT.—The President is authorized to provide guarantees to the Bank for liabilities described in paragraph (2) in order to satisfy the requirement of section 2(b)(1)(B) of the Export-Import Bank Act of 1945 that the Bank have reasonable assurance of repayment.

"(2) LIABILITIES WHICH MAY BE GUARANTEED.—The liabilities that may be guaranteed under paragraph (1) are liabilities incurred by the Bank in connection with guarantees or insurance provided under the Export-Import Bank Act of 1945 for financing for transactions involving the export of goods and services for the use of the private sector in Central American countries in order to promote the four basic objectives set forth in section 1102.

"(b) GUARANTEES AVAILABLE ONLY FOR SHORT-TERM GUARANTEES AND INSURANCE.—Guarantees provided under subsection (a) shall be for short-term guarantees and insurance extended by the Bank which shall be repayable within a period not to exceed one year from the date of arrival at the port of importation of the goods and services covered by such guarantees or insurance.

"(c) AGREEMENT ON CRITERIA AND PROCEDURES.—Guarantees or insurance extended by the Bank and guaranteed pursuant to subsection (a) shall be provided by the Bank in accordance with criteria and procedures agreed to by the Administrator and the Bank.

"(d) RESERVE FUND.—The agreement referred to in subsection (c) shall also provide for the establishment of a reserve fund by the administering agency, with such funds made available to the reserve as the Administrator deems necessary to discharge liabilities under guarantees provided under subsection (a).

"(e) DISCHARGE OF LIABILITIES.—

"(1) FUNDS WHICH MAY BE USED.—Such amounts of the funds made available for economic support assistance as the President determines are necessary may be made available to discharge liabilities under guarantees entered into under subsection (a).

"(2) CREDITING OF SUBSEQUENT PAYMENTS.—To the extent that any of the funds made available pursuant to paragraph (1) are paid out for a claim arising out of liabilities guaranteed under subsection (a), amounts received after the date of such payment, with respect to such claim, shall be credited to the reserve fund established pursuant to subsection (d), shall be merged with the funds in such reserve, and shall be available for the purpose of payments by the Administrator to the Bank for guarantees under subsection (a).

"(f) APPROPRIATIONS ACTION REQUIRED.—Commitments to guarantee under subsection (a) are authorized only to the extent and in the amounts provided in appropriations Acts.

"(g) LIMITATION ON OUTSTANDING COMMITMENTS.—The aggregate amount of outstanding commitments under subsection (a) may not exceed $200,000,000 of contingent liability for loan principal during any fiscal year.

"(h) BIANNUAL REPORTS TO CONGRESS.—Every 6 months, the Administrator and the President of the Bank shall prepare and transmit to the Speaker of the House of Representatives and the Chairman of the Committee on Foreign Relations of the Senate a report on the amount and extension of guarantees and insurance provided by the Bank and guaranteed under this section during the preceding 6-month period.

"(i) ADMINISTRATIVE AND TECHNICAL ASSISTANCE.—The Bank shall provide, without reimbursement, such administrative and technical assistance to the administering agency as the Bank and the Administrator determine appropriate to assist the administering agency in carrying out this section.

"(j) FEES AND PREMIUMS.—The Bank is authorized to charge fees and premiums, in connection with guarantees or insurance guaranteed by the Agency under subsection (a), that are commensurate (in the judgment of the Bank) with the Bank's administrative costs and the risks covered by the Agency's guarantees. Any amounts received by the Bank in excess of the estimated costs incurred by the Bank in administering such guarantees or insurance—

"(1) shall be credited to the reserve fund established pursuant to subsection (d),

"(2) shall be merged with the funds in such reserve, and

"(3) shall be available for the purpose of payments by the Agency to the Bank for guarantees under subsection (a).

"(k) EXPIRATION OF AUTHORITY.—The President may not enter into any commitments to guarantee under subsection (a) after September 30, 1992.

"(l) DEFINITION.—For purposes of this section, the term 'Bank' means the Export-Import Bank of the United States.

"SEC. 1722. HOUSING AND URBAN DEVELOPMENT GUARANTEE PROGRAM.

"(a) FINDINGS AND POLICY.—The Congress finds that—

"(1) shelter and other essential urban development services are among the most fundamental of human needs;

"(2) while most financing for urban services must come from domestic resources, carefully designed programs involving United States capital and expertise can increase the availability of domestic financing for improved shelter and related services for low-income people by demonstrating to local entrepreneurs and institutions that providing urban services can be financially viable;

"(3) particular attention should be given to programs which will support pilot projects for low-cost shelter and other urban services or which will have a maximum demonstration impact on local institutions and national policy; and

"(4) the long run goal of all such programs should be to develop domestic capabilities and to stimulate local credit institutions to make available domestic capital and other management and technological resources required for effective programs and policies relating to low-cost shelter and other urban services.

"(b) GUARANTEE AUTHORITY.—To carry out the policies expressed in subsection (a), the President is authorized to issue guarantees to eligible investors assuring against losses incurred in connection with loans made for projects that meet the criteria set forth in subsection (a) and that promote the four basic objectives set forth in section 1102. Each guarantee issued under this subsection shall guarantee 100 percent of the principal and interest payable on such loans.

"(c) TERMS AND CONDITIONS.—The President may issue regulations from time to time with regard to—

"(1) the terms and conditions on which guarantees will be issued under this section; and

"(2) the eligibility of lenders.

"(d) FOCUS OF ACTIVITIES.—Activities carried out under this section shall be directed to the shelter and urban services needs of the poor, including—

"(1) projects which provide—

"(A) improved home sites to poor families on which to build shelter, and

"(B) related services;

"(2) projects comprised of expandable core shelter units on serviced sites;

"(3) slum upgrading projects designed to conserve and improve existing shelter;

"(4) shelter projects for low income people designed for demonstration or institution building purposes;

"(5) community facilities and services in support of projects authorized under this section to improve urban services; and

"(6) other urban services of particular importance to the needs of the poor.

"(e) INTEREST RATE ON GUARANTEED INVESTMENTS.—In the case of any loan investment guaranteed under this section, the President shall prescribe the maximum rate of interest allowable to the eligible investor. The maximum allowable rate of interest under this subsection shall be prescribed by the President as of the date the project covered by the investment is officially authorized and, prior to the execution of the contract, the President may amend such rate at his discretion, consistent with the provisions of this subsection.

"(f) LIMITATION ON GUARANTEES FOR EACH COUNTRY.—The face value of guarantees issued under this section in any fiscal year with respect to any country may not exceed $50,000,000.

"(g) CEILING ON AVERAGE FACE VALUE.—The average face value of guarantees issued under this section in any fiscal year may not exceed $25,000,000.

"(h) GUARANTEE CEILING.—The total principal amount of guarantees issued under this section (or under the former guarantee authority of section 222 of this Act or predecessor housing guarantee authorities) which are outstanding at any one time may not exceed $2,500,000,000.

"(i) MAINTENANCE OF PROGRAM LEVEL.—The principal amount of guarantees issued under this section for each fiscal year shall be comparable to the total principal amount of such guarantees issued for fiscal year 1984, subject to dollar limitations on the issuance of guarantees under this section which are contained in subsection (h) and in appropriation Acts.

"(j) CERTAIN LOSSES NOT COVERED BY GUARANTEES.—No payment may be made under any guarantee issued under this section (or the former guarantee authorities of section 222 or 222A of this Act or predecessor guarantee authorities) for any loss arising out of fraud or misrepresentation for which the party seeking payment is responsible.

"(k) FEES TO BE CHARGED.—A fee shall be charged for each guarantee issued under this section in an amount to be determined by the Administrator. In the event the fee to be charged for such type guarantee is reduced, fees to be paid under existing contracts for the same type of guarantee may be similarly reduced.

"(l) USE OF FEES.—All fees collected in connection with guarantees issued under this section (or under the former guarantee authorities of section 222 or 222A of this Act or predecessor guarantee authorities) shall be available for—

"(1) meeting necessary administrative and operating expenses of carrying out this section (and administering guarantees issued under the former guarantee authorities of section 222 or 222A of this Act or predecessor guarantee authorities) including expenses pertaining to personnel, supplies, and printing, subject to such limitations as may be imposed in annual appropriation Acts;

"(2) for meeting management and custodial costs incurred with respect to currencies or other assets acquired under guarantees issued under this section (or under the former guarantee authorities of section 222 or 222A of this Act or predecessor guarantee authorities); and

"(3) to pay the cost of investigating and adjusting (including costs of arbitration) claims under such guarantees; and

"(4) for expenditure in discharge of liabilities under such guarantees until such time as all such property has been disposed of and all such liabilities have been discharged or have expired, or until all such fees have been expended in accordance with this subsection.

"(m) REVOLVING FUND.—All of the fees referred to in this section, together with earnings on those fees and other income arising from guarantee operations under this section (or under the former guarantee authorities of section 222 or 222A of this Act or predecessor guarantee authorities), shall be held in a revolving fund account maintained in the Treasury of the United States. All funds in such account may be invested in obligations of the United States. Any interest or other receipts derived from such investments shall be credited to such account and may be used for the purposes specified in subsection (l).

"(n) DISCHARGE OF LIABILITIES.—Any payments made to discharge liabilities under guarantees issued under this section (or under the former guarantee authorities of section 222 or 222A of this Act or predecessor guarantee authorities) shall be paid—

"(1) first, out of fees referred to in subsection (l), excluding amounts required for purposes other than the discharge of liabilities under guarantees, as long as such fees are available;

"(2) then, out of any funds realized from the sale of currencies or other assets acquired in connection with any payment made to discharge liabilities under such guarantees as long as funds are available; and

"(3) finally, out of funds made available pursuant to subsection (p) or (q).

"(o) FULL FAITH AND CREDIT.—All guarantees issued under this section (or under the former guarantee authorities of section 222 or 222A of this Act or predecessor guarantee authorities) shall constitute obligations, in accordance with the terms of such guarantees, of the United States of America and the full faith and credit of the United States of America is hereby pledged for the full payment and performance of such obligations.

"(p) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the President such amounts as may be necessary from time to time to carry out this section.

"(q) BORROWING AUTHORITY.—

"(1) AUTHORITY.—In order to meet obligations incurred for the payment of claims pursuant to loan guarantees described in subsection (o), the President may, to the extent that reserves are not sufficient, borrow from time to time from the Treasury except that—

"(A) the President may exercise the authority to borrow under this paragraph only to such extent or in such amounts as are provided in advance in appropriation Acts; and

"(B) the amount borrowed under this paragraph which is outstanding at any one time may not exceed $200,000,000.

"(2) INTEREST RATE.—Any such borrowing shall bear interest at a rate determined by the Secretary of the Treasury, taking into account the current average market yield on outstanding marketable obligations of the United States of comparable maturities.

"(3) AUTHORITY OF TREASURY.—The Secretary of the Treasury shall make loans under this subsection and, for such purpose, may borrow on the credit of the United States in accordance with subchapter I of chapter 31 of title 31, United States Code.

"(r) ELIGIBLE INVESTORS.—As used in this section, the term 'eligible investor' has the same meaning that term is given in section 1512.

"(s) EXPIRATION OF AUTHORITY.—The authority of this section shall continue through September 30, 1993.

"(t) GUARANTEES UNDER FORMER AUTHORITIES.—Guarantees committed, authorized, or outstanding under the guarantee authorities formerly contained in section 222 or 222A of this Act (or predecessor guarantee authorities) shall continue subject to provisions of law originally applicable to those guarantees.

"Subchapter C—Debt for Development

"SEC. 1711. GENERATION OF LOCAL CURRENCY FOR DEVELOPMENT ACTIVITIES.

"(a) LOCAL CURRENCY FOR DEVELOPMENT.—

"(1) DEPOSITS IN SPECIAL ACCOUNT.—Subsection (c) applies with respect to payments that would otherwise be made to the United States Government by an eligible developing country on account of economic assistance loans if that country, with the approval of the President, deposits equivalent amounts of local currencies into a local currency account for use under paragraph (2).

"(2) USE OF DEPOSITED LOCAL CURRENCIES.—Amounts paid into a local currency account pursuant to paragraph (1) shall be used, with the concurrence of the President, for

any purpose for which assistance could be furnished under—

"(A) chapter 3 of title VI in the case of countries in sub-Saharan Africa; or

"(B) any chapter of this title in order to promote the four basic objectives set forth in section 1102 in the case of any relatively least developed country which is not in sub-Saharan Africa.

"(b) WAIVER OF DEPOSIT REQUIREMENT.—Subsection (c) also applies with respect to payments that would otherwise be made to the United States Government by an eligible developing country on account of economic assistance loans if the President waives the requirement of subsection (a) that equivalent amounts of local currencies be deposited into a local currency account upon a determination that—

"(1) sufficient local currencies are otherwise available in that country to promote long-term development; or

"(2) the availability of local currencies so deposited would be contrary to the long-term development of the country.

"(c) CERTAIN PAYMENTS DEEMED MADE.—Amounts of local currency—

"(1) deposited in local currency accounts in accordance with subsection (a), or

"(2) with respect to which the President waives the requirement for such deposit under subsection (b),

shall be deemed to satisfy the requirement for such payments as the President may designate of equivalent amounts that would otherwise be made to the United States Government during the current or any subsequent fiscal year on account of economic assistance loans.

"(d) ELIGIBLE DEVELOPING COUNTRIES.—A country is an eligible developing country for purposes of this section if it is any country in sub-Saharan Africa, or is a relatively least developed country, and—

"(1) an International Monetary Fund standby agreement is in effect with respect to that country;

"(2) a structural adjustment program of the International Bank for Reconstruction and Development or of the International Development Association is in effect with respect to that country; or

"(3) even though such an agreement or program is not in effect, the country is pursuing national economic policy reforms which would be consistent with such an agreement or program and with—

"(A) section 6301(g)(2)(B) and (C) in the case of a country in sub-Saharan Africa; or

"(B) section 1102 in the case of a relatively least developed country which is not in sub-Saharan Africa.

"(e) NOTICE TO CONGRESS.—The President shall notify the Committee on Foreign Affairs and the Committee on Appropriations of the House of Representatives and the Committee on Foreign Relations and the Committee on Appropriations of the Senate of any debt relief granted in accordance with this section within 15 days after the relief is approved.

"(f) APPROPRIATIONS ACTION REQUIRED.—The authorities of this section may be exercised only to such extent or in such amounts as are provided in advance in appropriation Acts.

"(g) DEFINITIONS.—For purposes of this section—

"(1) the term 'economic assistance loan' means any loan made under this title or chapter 3 of title VI (or any predecessor economic assistance legislation);

"(2) the term 'equivalent amount' means the amount of principal and interest that is equal to the amount of local currency deposited under subsection (a) or for which the deposit requirement is waived under subsection (b), as determined by the official rate of exchange at the time of deposit or waiver (as the case may be);

"(3) the term 'long-term development' means development in accordance with—

"(A) section 6301(b) in the case of countries in sub-Saharan Africa; or

"(B) section 1102 in the case of a relatively least developed country which is not in sub-Saharan Africa; and

"(4) the term 'relatively least developed country' means a country which (as determined on the basis of criteria comparable to those used for the United Nations General Assembly list of 'least developed countries') is characterized by extreme poverty, very limited infrastructure, and limited administrative capacity to implement policies to promote long-term development.

"SEC. 1742. DEBT EXCHANGE.

"In order to promote the four basic objectives set in section 1102, the President may use funds made available for development assistance, economic support assistance, or assistance for famine recovery and development in Africa for grants to nongovernmental organizations to enable those organizations to—

"(1) purchase debt obligations owed by a developing country to any commercial lending institution or other private party; and

"(2) cancel such debt obligation, subject to the approval of the President, to the extent that such country makes available assets or policy commitments to promote the four basic objectives set forth in section 1102.

"SEC. 1743. INELIGIBLE COUNTRIES.

"The authority of this subchapter may not be exercised with respect to a country which is prohibited by law from receiving development assistance or economic support assistance.

"CHAPTER 8—REIMBURSABLE PROGRAMS

"SEC. 1801. AUTHORITY TO CONDUCT REIMBURSABLE PROGRAMS.

"(a) GENERAL AUTHORITY.—Whenever the President considers it consistent with and within the limitations of this Act, any agency of the United States Government is authorized to furnish services and commodities on an advance-of-funds or reimbursement basis to friendly countries, international organizations, the American Red Cross, and private voluntary organizations registered with and approved by the administering agency (including private voluntary organizations so registered and approved when no United States private voluntary organization is available).

"(b) PERSONAL SERVICE CONTRACTS.—When any agency of the United States Government provides services on an advance-of-funds or reimbursable basis under this section, such agency may contract with individuals for personal service abroad or in the United States to perform such services or to replace officers or employees of the United States Government who are assigned by the agency to provide such services. Such individuals shall not be regarded as employees of the United States Government for the purpose of any law administered by the Office of Personnel Management.

"(c) LIMITATIONS ON ASSISTANCE NOT APPLICABLE.—Limitations in this or any other Act on assistance do not apply with respect to this section.

"SEC. 1802. USE OF PAYMENTS.

"Advances and reimbursements received under section 1801 may be credited to the currently applicable appropriation, account, or fund of the agency concerned and shall be available until expended.

"CHAPTER 9—ADMINISTRATION OF ECONOMIC ASSISTANCE PROGRAMS

"Subchapter A—Operating Expenses

"SEC. 1901. AUTHORIZATIONS OF APPROPRIATIONS FOR OPERATING EXPENSES GENERALLY.

"There are authorized to be appropriated to the President, in addition to funds otherwise available for such purposes—

"(1) $447,684,000 for fiscal year 1990 and $476,783,000 for fiscal year 1991 for necessary operating expenses of the administering agency for this title; and

"(2) such additional amounts as may be necessary for increases in salary, pay, retirement, and other employee benefits authorized by law, and for other nondiscretionary costs of such agency.

"SEC. 1902. AUTHORIZATIONS OF APPROPRIATIONS FOR THE OPERATING EXPENSES OF THE INSPECTOR GENERAL.

"There are authorized to be appropriated to the President, in addition to funds otherwise available for such purposes—

"(1) $31,194,000 for fiscal year 1990 and $33,222,000 for fiscal year 1991 for necessary operating expenses of Office of the Inspector General of the administering agency for this title; and

"(2) such additional amounts as may be necessary for increases in salary, pay, retirement, and other employee benefits authorized by law, and for other nondiscretionary costs of such office.

"SEC. 1903. ADDITIONAL FUNDS FOR OPERATING EXPENSES.

"(a) AUTHORITY TO USE PROGRAM FUNDS.—Amounts authorized to be appropriated for any fiscal year for development assistance, economic support assistance, or assistance for famine recovery and development in Africa may be used to carry out section 1901 and section 1902.

"(b) ADDITIONAL FUNDS FOR THE INSPECTOR GENERAL.—The Administrator may make available to the Inspector General of the administering agency, upon the request of the Inspector General, funds made available pursuant to section 1901 or subsection (a) for payment of expenses described in paragraph (1) of section 1902.

"(c) LIMITATION.—The authorities of this section may not be used to increase the amount available for a fiscal year to carry out section 1901 or section 1902 by more than 5 percent of the amount appropriated to carry out that section for that fiscal year.

"Subchapter B—Evaluation

"SEC. 1921. EVALUATION AND ACCOUNTABILITY.

"(a) NEED FOR EVALUATION.—In order to determine the impact and effectiveness of economic assistance programs under this title, the administering agency must have a capacity to produce objective, strategically focused evaluations of the agency's progress toward the achievement of specific results.

"(b) ACTIONS TO BE TAKEN.—In furtherance of subsection (a), the Administrator shall—

"(1) in consultation with the Congress and other appropriate government and nongovernmental organizations, establish a system of quantitative and qualitative indicators of country, regional, and centrally funded program and development achievement;

"(2) create and support systems of data collection and analysis to produce objective and timely reports;

"(3) strengthen, through training and other means, the linkage between evaluation findings and policy and program formulation by the agency;

"(4) assure the widest possible distribution of formal evaluation findings; and

"(5) develop with the Inspector General of the administering agency an appropriate division of responsibility, and a system of coordination, which reflects—

"(A) the primary responsibility of the Administrator for programs, program management, and policy evaluation; and

"(B) the primary responsibility of the Inspector General for assessment and audit of financial management and administrative systems.

"(c) CENTER FOR DEVELOPMENT INFORMATION AND EVALUATION.—

"(1) ESTABLISHMENT.—To assist in carrying out subsection (b), the Administrator shall establish, within the administering agency, a Center for Development Information and Evaluation (hereafter in this section referred to as the 'Center').

"(2) DIRECTOR; RESPONSIBILITIES.—The Center shall be headed by a Director who, under the guidance of the Administrator, shall be responsible within the administering agency for—

"(A) planning, funding, implementing, and disseminating programmatic evaluations of the economic assistance programs under this title that are administered by the agency;

"(B) maintaining the integrity and quality of all project monitoring and evaluation systems of the agency;

"(C) preserving and making accessible all agency data bases relevant to program implementation and achievement; and

"(D) coordinating evaluation reporting activities by the agency with the economic assistance evaluation reporting activities of other donor countries and organizations.

"(3) USE OF OUTSIDE SOURCES OF EXPERTISE.—In developing the Center's evaluation procedures, the Director shall use the services of other governmental and nongovernmental sources with development expertise.

"(d) ACCOUNTABILITY.—The Director of the Center shall prepare an annual report, which shall be submitted to the Congress as a separate part of the annual congressional presentation documents required by section 4301. This report shall include the following:

"(1) An assessment of progress toward the achievement of the four basic objectives set forth in section 1102, based on the findings of evaluation studies conducted by the administering agency and on such other empirical analyses as may be appropriate.

"(2) An analysis, on a country-by-country basis (with each country receiving economic assistance being included at least once every 5 years), of the impact on economic development in each country during the preceding 3 to 5 fiscal years of United States economic assistance programs, with a discussion of the United States interests that were served by the assistance. For each such country, the analysis shall—

"(A) be done on a sector-by-sector basis to the extent possible;

"(B) identify any economic policy reforms which were promoted by the assistance;

"(C) describe, in quantified terms to the extent practicable, the specific objectives the United States sought to achieve in providing economic assistance;

"(D) specify the extent to which those objectives were not achieved, with an explanation of why they were not achieved;

"(E) describe the amount and nature of economic assistance provided by other major donors during the preceding 3 to 5 fiscal years, set forth by the development sector to the extent possible;

"(F) discuss the commitment of the host government to addressing the country's needs in each development sector, including, to the extent possible, a description of the resources devoted by that government to each development sector during the preceding 3 to 5 fiscal years;

"(G) describe the trends, both favorable and unfavorable, in each development sector;

"(H) present statistical and other information necessary to evaluate the impact and effectiveness of United States economic assistance on development in the country;

"(I) compare the analysis provided in the report with relevant analysis by international financial institutions, other international organizations, other donor countries, and nongovernmental organizations; and

"(J) describe the nature and results of consultations with organizations representing local populations and the impact of such consultations on the design, implementation, and assessment of economic assistance programs.

"Subchapter C—Cooperation with Nongovernmental Sector

"SEC. 1941. COORDINATION OF ADVISORY BOARDS.

"The Administrator, after consultation with the chairs of the advisory boards established pursuant to section 1942(e), 1943(e), and 1944, shall establish procedures to ensure coordination of the activities and recommendations of those advisory boards. These procedures shall include—

"(1) periodic meetings with the Administrator; and

"(2) an annual report to the Administrator, prepared jointly by those advisory boards and submitted to the Administrator not later than December 31 each year, setting forth the principal findings and recommendations made by those advisory boards during the preceding year and any additional recommendations those advisory boards may jointly agree to.

A copy of each report pursuant to paragraph (2) shall be provided to the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate.

"SEC. 1942. CENTER FOR UNIVERSITY COOPERATION IN DEVELOPMENT.

"(a) ESTABLISHMENT.—The Administrator shall establish, within the administering agency, a Center for University Cooperation in Development (hereafter in this section referred to as the 'Center').

"(b) PURPOSE.—The purpose of the Center shall be to strengthen the partnership for development among the United States Government and United States public and private institutions of higher education that are engaged in education, research, and public service programs that are relevant to the development needs of developing countries and to the attainment of the four basic objectives set forth in section 1102.

"(c) FUNCTIONS.—The Center shall—

"(1) participate in the planning, development, and implementation of programs of the administering agency that involve institutions of higher education;

"(2) develop basic policies, procedures, and criteria for and administer education, research, and development programs involving United States institutions of higher education and developing country institutions; and

"(3) develop and administer collaborative education, research, and development programs of mutual interest and benefit to the United States and advanced developing countries.

"(d) DIRECTOR.—The Center shall be headed by a Director, appointed by the Administrator.

"(e) ADVISORY BOARD.—

"(1) ESTABLISHMENT.—There shall be an advisory board for the Center (hereafter in this subsection referred to as the 'advisory board').

"(2) FUNCTIONS.—The advisory board shall advise the Director and the Administrator with respect to the functions of the Center and the administering agency in facilitating the involvement of United States institutions of higher education in international development. In particular, the advisory board shall—

"(A) develop policy and procedural recommendations for the administration of the programs of the Center;

"(B) assess the effectiveness and impact of programs undertaken by institutions of higher education working in partnership with the United States Government under this title; and

"(C) encourage and facilitate support for institutions of higher education through programs of the administering agency at the regional and country level.

"(3) SUBGROUPS.—The advisory board may establish such subgroups as the advisory board and the Director find appropriate.

"(4) MEMBERSHIP.—The advisory board shall have 10 members, appointed by the President from among individuals who—

"(A) are from institutions of higher education eligible to participate in programs under this title, and

"(B) have expertise and administrative experience in education, research, and public service relevant to the development needs of developing countries and to the attainment of the four basic objectives set forth in section 1102.

"(5) TERMS OF MEMBERS.—The members of the advisory board shall be appointed for a term of 3 years, except that—

"(A) the initial members of the Board shall be appointed for a term of 1, 2, or 3 years, as determined by the President at the time of appointment, so that the term of at least 3 but not more than 4 members expires each year; and

"(B) a member appointed to fill a vacancy occurring before the expiration of the term for which his or her predecessor was appointed shall be appointed only for the remainder of that term.

"(6) LIMITATION ON REAPPOINTMENT.—An individual who has been appointed to 2 consecutive terms as a member of the advisory board may not be appointed to another such term until at least 3 years after the end of the second such term.

"(7) CHAIR.—The chair of the advisory board shall be appointed by the President. The chair shall be appointed for a term of 3 years, unless that member's term on the advisory board expires sooner and that member is not reappointed to the advisory board.

"(8) COMPENSATION AND EXPENSES OF MEMBERS OF ADVISORY BOARD.—A member of the advisory board shall not receive any compensation on account of membership on the advisory board but shall be entitled to reimbursement for travel and transportation expenses while away from his or her home or regular place of business to the extent authorized for employees serving intermittent-

ly in the Government service under section 5703 of title 5, United States Code.

"(9) STAFF.—The Center shall provide necessary staff and administrative support for the advisory board.

"(10) FUNDING.—Expenses of the advisory board shall be paid by the Administrator with funds made available for the operating expenses of the administering agency.

"(11) TERMINATION PROVISION OF ADVISORY COMMITTEE ACT NOT APPLICABLE.—Section 14(a)(2) of the Federal Advisory Committee Act (5 U.S.C. app.) shall not apply to the advisory board.

"SEC. 1913. CENTER FOR VOLUNTARY COOPERATION IN DEVELOPMENT.

"(a) ESTABLISHMENT.—The Administrator shall establish, within the administering agency, a Center for Voluntary Cooperation in Development (hereafter in this section referred to as the 'Center').

"(b) PURPOSE.—The purpose of the Center shall be to strengthen the partnership for development among the United States Government and United States private voluntary organizations, cooperatives, and credit unions that are engaged in activities that are relevant to the development needs of developing countries and to the attainment of the four basic objectives set forth in section 1102.

"(c) FUNCTIONS.—The Center shall—

"(1) participate in the development of policies, procedures, and criteria for all programs of the administering agency that involve private voluntary organizations, cooperatives, and credit unions;

"(2) under the general policy guidance of the Administrator, develop program policies, procedures, and funding criteria for support by the administering agency of worldwide activities of such entities; and

"(3) administer comprehensive grant programs in support of long term, worldwide programs of such entities.

"(d) DIRECTOR.—The Center shall be headed by a Director, appointed by the Administrator.

"(e) ADVISORY BOARD.—

"(1) ESTABLISHMENT.—There shall be an advisory board for the Center (hereafter in this subsection referred to as the 'advisory board').

"(2) FUNCTIONS.—The advisory board shall advise the Director and the Administrator with respect to the functions of the Center and the administering agency in facilitating the role of private voluntary organizations, cooperatives, and credit unions in development activities. In particular, the advisory board shall—

"(A) develop policy and procedural recommendations for the administration of the programs of the Center;

"(B) assess the effectiveness and impact of private voluntary organizations, cooperatives, and credit unions working in partnership with the United States Government under this title; and

"(C) encourage and facilitate support for such entities through programs of the administering agency at the regional and country level.

"(3) SUBGROUPS.—The advisory board may establish such subgroups as the advisory board and the Director find appropriate.

"(4) MEMBERSHIP.—The advisory board shall have 10 members, appointed by the President from among individuals who—

"(A) are from private voluntary organizations, cooperatives, and credit unions eligible to participate in programs under this title; and

"(B) have expertise and experience in programs of private voluntary organizations, cooperatives, and credit unions that are relevant to the development needs of developing countries and to the attainment of the four basic objectives set forth in section 1102.

"(5) TERMS OF MEMBERS.—Members of the advisory board shall be appointed for a term of 3 years, except that—

"(A) the initial members of the Board shall be appointed for a term of 1, 2, or 3 years, as determined by the President at the time of appointment, so that the term of at least 3 but not more than 4 members expires each year; and

"(B) a member appointed to fill a vacancy occurring before the expiration of the term for which his or her predecessor was appointed shall be appointed only for the remainder of that term.

"(6) LIMITATION ON REAPPOINTMENT.—An individual who has been appointed to 2 consecutive terms as a member of the advisory board may not be appointed to another such term until at least 3 years after the end of the second such term.

"(7) CHAIR.—The chair of the advisory board shall be appointed by the President. The chair shall be appointed for a term of 3 years, unless that member's term on the advisory board expires sooner and that member is not reappointed to the advisory board.

"(8) COMPENSATION AND EXPENSES OF MEMBERS OF ADVISORY BOARD.—A member of the advisory board shall not receive any compensation on account of membership on the advisory board but shall be entitled to reimbursement for travel and transportation expenses while away from his or her home or regular place of business to the extent authorized for employees serving intermittently in the Government service under section 5703 of title 5, United States Code.

"(9) STAFF.—The Center shall provide necessary staff and administrative support for the advisory board.

"(10) FUNDING.—Expenses of the advisory board shall be paid by the Administrator with funds made available for the operating expenses of the administering agency.

"(11) TERMINATION PROVISION OF ADVISORY COMMITTEE ACT NOT APPLICABLE.—Section 14(a)(2) of the Federal Advisory Committee Act (5 U.S.C. app.) shall not apply to the advisory board.

"SEC. 1914. PRIVATE SECTOR ADVISORY BOARD.

"(a) ESTABLISHMENT.—There shall be a private sector advisory board for the administering agency (hereafter in this section referred to as the 'advisory board').

"(b) FUNCTIONS.—The advisory board shall advise the Administrator on the policies and programs of the administering agency with respect to the role of the private sector in development activities. In particular, the advisory board shall—

"(1) assess the effectiveness and impact of the administering agency's policies and programs to promote the private sector in developing countries; and

"(2) encourage and facilitate participation of the United States and indigenous private sector in activities of the administering agency.

"(c) SUBGROUPS.—The advisory board may establish such subgroups as the advisory board and the Administrator find appropriate.

"(d) MEMBERSHIP.—The advisory board shall have 10 members, appointed by the President from among individuals who are representative of United States private sector entities experienced in conducting activities in developing countries which are relevant to the development needs of those countries.

"(e) TERMS OF MEMBERS.—Members of the advisory board shall be appointed for a term of 3 years, except that—

"(1) the initial members of the Board shall be appointed for a term of 1, 2, or 3 years, as determined by the President at the time of appointment, so that the term of at least 3 but not more than 4 members expires each year; and

"(2) a member appointed to fill a vacancy occurring before the expiration of the term for which his or her predecessor was appointed shall be appointed only for the remainder of that term.

"(f) LIMITATION ON REAPPOINTMENT.—An individual who has been appointed to 2 consecutive terms as a member of the advisory board may not be appointed to another such term until at least 3 years after the end of the second such term.

"(g) CHAIR.—The chair of the advisory board shall be appointed by the President. The chair shall be appointed for a term of 3 years, unless that member's term on the advisory board expires sooner and that member is not reappointed to the advisory board.

"(h) COMPENSATION AND EXPENSES OF MEMBERS OF ADVISORY BOARD.—A member of the advisory board shall not receive any compensation on account of membership on the advisory board but shall be entitled to reimbursement for travel and transportation expenses while away from his or her home or regular place of business to the extent authorized for employees serving intermittently in the Government service under section 5703 of title 5, United States Code.

"(i) STAFF.—The Administrator shall provide necessary staff and administrative support for the advisory board.

"(j) FUNDING.—Expenses of the advisory board shall be paid by the Administrator with funds made available for the operating expenses of the administering agency.

"(k) TERMINATION PROVISION OF ADVISORY COMMITTEE ACT NOT APPLICABLE.—Section 14(a)(2) of the Federal Advisory Committee Act (5 U.S.C. app.) shall not apply to the advisory board.".

Mr. FASCELL. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. GONZALEZ) having assumed the chair, Mr. AUCOIN, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 2655) to amend the Foreign Assistance Act of 1961 to rewrite the authorities of that Act in order to establish more effective assistance programs and eliminate obsolete and inconsistent provisions, to amend the Arms Export Control Act and redesignate that Act as the Defense Trade and Export Control Act, to authorize appropriations for foreign assistance programs for fiscal years 1990 and 1991, and for other purposes, had come to no resolution thereon.

COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER pro tempore laid before the House the following communication from the Clerk of the House of Representatives:

WASHINGTON, DC,
June 7, 1989.

Hon. THOMAS S. FOLEY,
Speaker, House of Representatives, Washington, DC.

DEAR MR. SPEAKER: This is to notify you pursuant to rule L(50) of the Rules of the House that I have been served with a trial subpoena issued by the U.S. Tax Court.

After consultation with my general counsel, I have determined that compliance with the subpoena is consistent with the privileges and precedents of the House.

With great respect, I am

Sincerely yours,

DONNALD K. ANDERSON,
Clerk, House of Representatives.

COMMUNICATION FROM THE HONORABLE PORTER GOSS, MEMBER OF CONGRESS

The SPEAKER pro tempore laid before the House the following communication from the Honorable PORTER GOSS, a Representative from the State of Florida:

WASHINGTON, DC,
June 19, 1989.

Hon. THOMAS S. FOLEY,
Speaker, House of Representatives, Washington, DC.

DEAR MR. SPEAKER: This is to notify you pursuant to rule L(50) of the Rules of the House that a member of my staff has been served with a trial subpoena issued by the Circuit Court for the State of Florida.

After consultation with the general counsel to the Clerk, I have determined that compliance with the subpoena is consistent with the privileges and precedents of the House.

Sincerely,

PORTER GOSS,
Member of Congress.

COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER pro tempore laid before the House the following communication from the Clerk of the House of Representatives:

WASHINGTON, DC,
June 21, 1989.

Hon. THOMAS S. FOLEY,
Speaker, House of Representatives, Washington, DC.

DEAR MR. SPEAKER: This is to notify you pursuant to rule L(50) of the Rules of the House that I have been served with a subpoena *duces tecum* issued by the U.S. District Court for the District of Columbia.

After consultation with my general counsel, I have determined that compliance with the subpoena is consistent with the privileges and precedents of the House.

With great respect, I am

Sincerely, yours,

DONNALD K. ANDERSON,
Clerk, House of Representatives.

□ 1240

THE SANFORD/HEFNER NOTCH SOLUTION

(Mr. HEFNER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HEFNER. Mr. Speaker, today my good friend and colleague, Senator TERRY SANFORD, and I are introducing legislation in our respective Chambers that we believe offers a responsible solution to the Social Security "notch," a problem very familiar to all of us which affects millions of Americans born between 1917 and 1921.

Our bill, which is patterned after the Sanford bill from the last Congress, fulfills Congress' original intent to gradually phase in a stable level of benefits for all retirees by instituting a new 10-year transition formula. The 10-year formula would not only bring the benefits for "notch babies" up to an equitable level, but it extends benefit increases to those born through 1926 to completely fill in the benefit "pothole" and avoid the creation of another notch. Had we used a 10-year transition period and a more equitable formula, instead of the 5-year transition formula we used in the 1977 Social Security Amendments, we could have avoided the notch altogether.

The Sanford/Hefner proposal would increase Social Security benefits for the average 65-year-old retiree born between 1917 and 1921 by about $725 per year, and will increase benefits for the entire period, 1917 through 1926, by about $555 per year. Benefits for those who retire at 62 will increase by an average of $144 a year.

Our bill also includes a one-time retroactive payment of at least $300 with a maximum payment per family of $1,000.

Numerous notch solutions have been proposed over the years but the chief objection has always been the excessive cost to the Social Security System. Let me assure my colleagues that this will not jeopardize the health of the Social Security System. The fact is that with the passage of our bill the trust fund surplus during the 1990's will still exceed $115 billion a year compared with $121.1 billion under current law, and will exceed $1.3 trillion by the turn of the century. The estimated 8-year cost of our bill, including the retroactive lump sum payment, will be approximately $43.1 billion—less than most other major notch proposals.

Mr. Speaker, our Nation has always stood for the principle of fairness and it is high time that we extend that to victims of the notch. The yearly cost of this proposal amounts to about 2 percent of all the benefits paid out annually under Social Security. So in this instance being fair doesn't cost us a great deal, but I can assure my colleagues that to those affected by the notch inequity it makes a tremendous difference.

I am pleased to have the gentleman from New Jersey [Mr. RINALDO] as an original cosponsor of this legislation, and I urge my colleagues to join us.

The bill follows:

H.R. 2707

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act my be cited as the "Social Security Notch Adjustment Act".

SEC. 2. EXPANSION OF PERIOD OF TRANSITION; NEW ALTERNATIVE FORMULA WITH RESPECT TO SUCH PERIOD.

(a) EXPANSION OF PERIOD OF TRANSITION.—Section 215(a)(4)(B)(i) of the Social Security Act (42 U.S.C. 415(a)(4)(B)(i)) is amended by striking "1984" and inserting in lieu thereof "1989".

(b) ESTABLISHMENT OF NEW TRANSITIONAL FORMULA.—Section 215(a) of such Act (42 U.S.C. 415(a)) is amended by adding at the end thereof the following new paragraph:

"(8)(A) Paragraphs (1) (except for subparagraph (C)(i) thereof) and (4) do not apply to the computation or recomputation of a primary insurance amount for an individual who had wages or self-employment income credited for one or more years prior to 1979, and who was not eligible for an old-age or disability insurance benefit, and did not die, prior to Janaury 1979, if in the year for which the computation or recomputation would be made for the individual's primary insurance amount would be greater if computed or recomputed under subparagraph (B).

"(B) The primary insurance amount computed or recomputed under this subparagraph is equal to—

"(i) the excess of—

"(I) the amount computed or recomputed under this subsection as in effect in December 1978 (for purposes of old-age insurance benefits in the case of an individual who becomes eligible for such benefits prior to 1989) or under subsection (d) (in the case of an individual to whom such subsection applies), over

"(II) the amount computed under this subsection as in effect on the date of enactment of the Social Security Notch Adjustment Act, multiplied by

"(ii) 40 percent, reduced by the sum of—

"(I) 4.0 percent times the number of years between 1979 and the year of first eligibility, plus

"(II) ⅛ of 1 percent for each month beginning before the month in which the individual attains the age of 65 and with respect to which the individual is entitled to old-age insurance benefits.".

(c) APPLICABILITY OF OLD PROVISIONS.—Section 215(a)(5) of such Act (42 U.S.C. 415(a)(5)) is amended—

(1) by inserting "(A)" after "(5)";

(2) by striking "For" and inserting in lieu thereof "Except as provided in subparagraph (B), for";

(3) by striking "effect," and all that follows through "after 1978" and inserting in lieu thereof "effect"; and

(4) by adding at the end thereof the following new subparagraph:

"(B) In applying this section as in effect December 1978 as provided in subparagraph (A)—

"(i) effective for January 1979, the dollar amount specified in paragraph (3) of subsection (a) shall be increased to $11.50;

"(ii) the table for determining primary insurance amounts and maximum family benefits contained in this section in December 1978 shall be revised as provided by subsection (i) for each year after 1978; and

"(iii) in the case of an individual to whom paragraph (1) does not apply by reason of paragraph (8)—

"(I) subsection (b)(2)(C) shall be deemed to provide that an individual's 'computation base years' may include only calendar years in the period after 1950 (or 1936 if applicable) and ending with the calendar year in which such individual attains age 65; and

"(II) the 'contribution and benefit base' (under section 230) with respect to remuneration paid in (and taxable years beginning in) any calendar year after 1981 shall be deemed to be $29,700.".

(d) CONFORMING AMENDMENT.—Section 215(a)(3)(A) of such Act (42 U.S.C. 415(a)(3)(A)) is amended in the matter following clause (iii) by striking "(4)" and inserting in lieu thereof "(4) or (8)".

(e) EFFECTIVE DATE AND RELATED RULES.—

(1) Except as provided in paragraph (2), the amendments made by this section shall be effective as if included in the amendments made by section 201 of the Social Security Amendments of 1977.

(2)(A) In any case in which an individual (under title II of the Social Security Act) is entitled on the date of enactment of this Act to monthly insurance benefits under such title which were computed—

(i) under section 215 of the Social Security Act as in effect (by reason of the Social Security Amendments of 1977) after December 1978, or

(ii) under section 215 of such Act as in effect prior to January 1979 by reason of subsection (a)(4)(B) of such section (as amended by the Social Security Amendments of 1977),

the Secretary of Health and Human Services (notwithstanding section 215(f)(1)) of the Social Security Act) shall recompute such individual's primary insurance amount so as to take into account the amendments made by this section and shall pay to such individual in a lump sum the amount specified in subparagraph (B).

(B)(i) Except as provided in clause (ii), the amount specified in this subparagraph is any additional amount to which such individual is entitled (for the period beginning with the first month for which such individual was entitled to such benefits and ending with the month preceding the first month with respect to which recomputation under subparagraph (A) is effective) by reason of such amendments.

(ii)(I) In the case of a primary insurance amount applicable to monthly insurance benefits payable for months before January 1990, the total amount payable to any individual under subparagraph (A) on the basis of such primary insurance amount is $1,000.

(II) If the amount payable under subparagraph (A) on the basis of such primary insurance amount would (except for subclause (I)) exceed $1,000, any individual receiving monthly insurance benefits on the basis of such amount shall receive such benefits in the same proportion as the benefits would be received in January 1990 (except that no such individual shall receive less than $300).

(C) In the case of any individual who—

(i) is entitled on the date of enactment of this Act to monthly insurance benefits under title II of the Social Security Act,

(ii) dies after such date and before the date on which payment is made under subparagraph (A), and

(iii) is an individual with respect to whom monthly insurance benefits under title II of the Social Security Act are payable on the basis of such individual's primary insurance amount;

the amount payable to such individual under paragraph (A) shall be paid (on an equal basis) to individuals who (for any month beginning with the month of entitlement and ending with the month such individual dies) are entitled or eligible to receive such benefits on the basis of the deceased individual's primary insurance amount. If there is no individual for whom payment can be made under the preceding sentence, a lump sum not to exceed $300 may be paid (in accordance with this title) to cover the funeral expenses of such deceased individual.

INTRODUCTION OF EMERGENCY CHINESE ADJUSTMENT OF STATUS FACILITATION ACT OF 1989

(Ms. PELOSI asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. PELOSI. Mr. Speaker, today I am introducing a bill to protect Chinese students from being forced to leave the United States. This measure, the Emergency Chinese Visa Adjustment Act of 1989, will enable Chinese nationals to remain here without jeopardizing their eligibility for permanent resident status.

News reports have stated that Chinese officials in the United States are keeping black lists of Chinese students in the United States involved in peaceful protests against the violence in China. Given these circumstances, it is not the time to reduce options for Chinese students in America. We must protect these Chinese nationals from retribution in the future.

On June 6, the Attorney General authorized the Extended Deferred Departure [EDD] Program, which allows Chinese nationals to stay in the United States until June 5, 1990. However, acceptance of EDD status makes individuals, even those who are otherwise eligible, ineligible for visa adjustment or application for permanent resident status. My bill would clarify the "automatic 1-year extension" authorized by EDD, and provide a blanket waiver of the J-1 visa's 2-year return residence requirement for Chinese nationals.

Mr. Speaker, if one lone student can stand up against a tank, then we should be able to stand up against a bureaucracy.

I urge my colleagues on both sides of the aisle to join me as a cosponsor of this important legislation.

Mr. Speaker, a copy of the bill follows:

H.R. 2712

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Emergency Chinese Adjustment of Status Facilitation Act of 1989".

SEC. 2. WAIVER OF 2-YEAR FOREIGN RESIDENCE REQUIREMENT FOR CHINESE "J" NONIMMIGRANTS IN THE UNITED STATES.

The 2-year home country residency and physical presence period requirement under section 212(e) of the Immigration and Nationality Act (8 U.S.C. 1182(e)) shall not apply in the case of any national of the People's Republic of China who is present in the United States on the date of the enactment of this Act and who would otherwise be subject to that 2-year home residence requirement because of having had the status of a nonimmigrant described in section 101(a)(15)(J) of such Act (8 U.S.C. 1101(a)(15)(J)).

SEC. 3. CONTINUATION OF LEGAL STATUS FOR PURPOSES OF ADJUSTMENT OR CHANGE OF STATUS OF CHINESE NATIONALS WHO ARE NONIMMIGRANTS IN THE UNITED STATES.

For purposes of adjustment of status under section 245 of the Immigration and Nationality Act (8 U.S.C. 1225) and change of status under section 248 of such Act (8 U.S.C. 1228) in the case of an alien who is a national of the People's Republic of China and who, as of June 5, 1989, was present in the United States in the lawful status of a nonimmigrant, such an alien shall be considered as having continued to maintain lawful status as such a nonimmigrant (and to have maintained continuously a lawful status) on and after such date during any continuous period in which nationals of the People's Republic of China are granted deferral of departure by the Attorney General.

WHAT IS HAPPENING TO THE CULTURE OF THIS COUNTRY?

(Mr. DORNAN of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DORNAN of California. Mr. Speaker, what in heaven's name is happening to our popular culture? The American flag is laid on the floor of a Chicago museum and people encouraged to walk on it. The crucifix of Christ with a corpus on it is put in a jar that the so-called artist urinates into. It is then photographed and subsidized with funds from the National Endowment for the Arts. Today the Supreme Court, in a tight 5 to 4 decision, says that one can burn the American flag as a statement of free speech, but if it starts a riot, then the person responsible can be arrested. And then we have Robert Mapplethorp's homoerotic exhibit, or more accurately "glossy pornography," that was almost shown at the Corcoran Gallery.

Here is another one.

Mr. Speaker, do you remember the movie "Miracle on 34th Street?" A lawyer tries to prove that his client, Kris Kringle, is really Santa Claus.

Against all odds, he wins the case after the Post Office delivers to his client thousands of letters addressed to "Santa Claus." The judge, citing the wisdom of the Postal Service as a Federal entity, states that if the Post Office recognizes Kris Kringle as Santa Claus, then the State of New York is not going to argue.

Times sure have changed, and with it what passes for wisdom at the U.S. Postal Service.

On Saturday, June 24, postal patrons in New York City will be able to go to the corner of West Fourth and Christopher Streets and have stamps canceled with a pictorial commemorating a riot and something called lesbian and gay pride. I suppose that is better than "I'm a pervert and proud of it."

At the request of the Gay & Lesbian Alliance Against Defamation, Inc., the Postal Service has agreed to offer at a temporary station a pictorial cancellation that will read: "Stonewall Station, 20 Years, 1969-1989, Lesbian and Gay Pride."

For those of you who don't know, Stonewall Station is named for the Stonewall Inn, a homosexual bar in Greenwich Village. In June of 1969, the Stonewall Inn was raided by the New York City police, sparking street riots. This incident has been cited as the beginning of the homosexual rights movement.

The Postal Service has tried to downplay the significance of this decision. They say it was made locally and point out that the cancellation will be available on a request only basis. And after all, according to the Postmaster General, Tony Frank, the pictorial does reflect the "interests and attitudes of those in the area." This criteria would make for other interesting pictorial cancellations, including perhaps one for drug infested areas featuring a syringe and the slogan "20 Years of Getting High."

Interests and attitudes? In this case the interest is in sodomy and the attitude is that sodomy is OK. I hope the Postal Services realizes that sodomy is still illegal in most States, indeed, the Supreme Court has ruled that State laws against sodomy are perfectly constitutional.

I think American taxpayers will be outraged to learn that their tax dollars will be used to set up a temporary postal station for the express purpose of glorifying and legitimizing the homosexual lifestyle, especially coming on the heels of revelations that $30,000 of their money was used to subsidize an art exhibit featuring so-called homo-erotic photographs, what the rest of us would call pornography, slick and glossy, but still pornography.

The Postmaster General assures me that his lawyers have determined the request falls within the regulations. I have my serious doubts. The regulations state that, "Pictorial cancellations which endorse the ideals, policies, programs, products, campaigns, or candidates of religious, antireligious, commercial, political, fraternal, trade, labor, public-interest, or special-interest organizations will not be approved." Also subject to disapproval are "symbols, or illustrations referring to ideals, policies, products, campaigns, or candidates."

Clearly the approved pictorial cancellation will endorse the ideals of the Gay and Lesbian Alliance Against Defamation, Inc., which by almost any definition is a public-interest or special-interest organization, indeed, I suppose a case could be made that it is antireligious as well. Moreover, the alliance's logo will appear on the pictorial, which is a symbol referring to an ideal, and is thus subject to disapproval. This should give the Postal Service grounds for reversing the decision made by some local official in New York and reverse this decision. If the taxpayer funded U.S. Postal Service will not reverse this squandering of money, then I will introduce legislation to change the regulations to ensure that this type of situation does not arise ever again.

The Federal Government has an obligation to the taxpayer to see to it that their hard-earned money is not wasted on promoting ideas that the vast majority of people find offensive, if not downright immoral and destructive to society, whether it be a homoerotic art exhibit or a Post Office pictorial cancellation. As a public institution, the Postal Service should show some appreciation for the sensibilities of those it serves. It should not help sanction the homosexual movement or the riot that spawned its current activism.

Don't get me wrong. The U.S. Postal Service is a fine organization. It has done a heroic job in arresting child pornographers who use the mails to pollute our culture and corrupt our children. But on this issue the Postmaster General has not sufficiently thought through the moral aspects of his action. I therefore ask him to please reconsider the obvious consequences of going through with this decision.

The Postal Service should close the Stonewall Station before it even opens. I have a feeling Kris Kringle would agree.

□ 1710

WHAT REALLY HAPPENED IN NAMIBIA?

The SPEAKER pro tempore (Mr. GONZALEZ), Under a previous order of the House, the gentleman from Nebraska [Mr. BEREUTER] is recognized for 5 minutes.

Mr. BEREUTER. Mr. Speaker, at first glance, the news that came out of Namibia the first days of April defied belief. Just as the international plan for independence began to take effect, the wire services brought news of the infiltration of large numbers of South West Africa People's Organization [SWAPO] guerrillas along the border with Angola. These reports inevitably were followed by rumors of swift and brutal retribution by South African forces. Overnight, the Angola-Namibia border that had been relatively peaceful since last summer erupted in violence.

Since that date, Mr. Speaker, this Member has been attempting to learn the facts while using strictly unclassified resources and information. Here is what can be reported.

This body closely monitored the negotiations that accord on peace for Namibia and Angola. And this body has a responsibility to learn how the carefully crafted package on self-determination for Namibia could come so close to unraveling. If the violence was perpetrated by South African agents, then they should rightfully be condemned for interference in the U.N.-sponsored independence timetable. But if South Africa was not responsible, then that too, should be revealed.

The transition to independence in Namibia has been a long time in coming. U.N. Resolution 435 and the Geneva protocol of last August finally began the movement toward self-determination and free elections. Building from this base, a tripartite peace treaty between South Africa, Angola, and Cuba was signed on December 22, 1988. Mediated by the United States, this treaty establishes a framework for Namibian peace, as well as for the eventual withdrawal of all Cuban troops from Angola.

Within this framework SWAPO had agreed to remain well within Angola, almost 100 miles from the Namibian border. But on April 1, 1989, the first official day of the Namibia's transition to independence, it became clear that things were not going according to plan. In the midst of celebration, hundreds of SWAPO guerrillas began crossing the border from Angola, heading for the towns and villages of Ovamboland that form SWAPO's power base in Namibia. Within 3 days their numbers had grown to 1,200 to 1,600. Moreover, these troops were heavily armed, carrying modern machine guns, rocket-propelled grenades, and Soviet-manufactured anti-aircraft missiles. It is by no means clear that the invaders sought battle, but whatever was on the mind of SWAPO's leader Sam Nujoma, it was not to allow tired refugees to visit home.

The sudden influx of armed guerrillas caught the U.N. forces unprepared, with only a small portion of the agreed peacekeeping force in place. The U.N. originally had planned to station 7,500 troops in Namibia to

monitor the transition, but this had been cut to 4,650 for budgetary reasons. Yet, when the fighting began, scarcely 100 U.N. soldiers were in place. Clearly, the U.N. representatives monitoring the independence process had expected Mr. Nujoma to honor his pledge to keep SWAPO troops above the 16th parallel. Faced with the sudden influx of heavily armed guerrillas, the peacekeeping force proved helpless.

Unable to contain the violence and uncertain of SWAPO's objectives, the U.N. Secretary-General went to South Africa for assistance. The U.N. was not comfortable in this decision, but in the final analysis it had no other choice. Namibia had been invaded, the peace process was at risk, and only South Africa had the military forces capable of turning back the SWAPO incursion. As a result, several crack counterguerrilla battalions were authorized to temporarily leave their garrisons and break up the SWAPO forces. In addition, units of South Africa's Namibian Army, the South West Africa Territorial Force, were permitted to leave their camps. Under the peace plan, these units had been due to be disbanded, but SWAPO's actions gave them a new lease on life.

The results, Mr. Speaker, were predictable. The South African troops released by the U.N. Secretary-General were well-armed professionals, specifically trained to combat SWAPO. In a series of swift, one-sided engagements, almost 300 of the guerrillas were killed. The rebel forces broke into small groups and tried to escape to the relative safety of Angola. The South African and Territorial forces gave chase, picking up suspected guerrillas and rebel sympathizers along the way.

It was only after the fighting had subsided that the U.N. representatives were able to reassert themselves. The U.N. peacekeepers were able to arrange safe passage back to Angola for some of the SWAPO troops who had surrendered. And, as additional U.N. forces reached the region, the South Africans were returned to their bases.

Did South Africa use more force than necessary in responding to the infiltration? Undoubtedly, the answer is yes. Reports from eye witnesses indicate that the South African forces showed little mercy on the guerrillas, and that interrogation of the local citizenry was at times quite brutal.

But focusing on the excesses of South Africa overlooks the crucial questions: Why did Sam Nujoma order his heavily armed forces to conduct this massive incursion into Namibia in the first place? What prompted the SWAPO leadership to disregard the U.N. Resolution 435 and the Geneva protocol? Why was it necessary to send troops carrying grenade launchers and anti-aircraft missiles into Namibia during the first week of the new peace? All SWAPO had to do was wait until the upcoming November elections, yet it violated the peace agreement and suffered severe losses as a result. Why should Nujoma act in a fashion that snatched defeat from the jaws of victory?

The best information available seems to suggest that the SWAPO leadership hoped to set up permanent bases in Namibia before the peace went into effect. Once established, they might have been able to place themselves under the protection of the United Nations. From such bases SWAPO would have been able to exert a much greater influence over the upcoming elections, and would have ensured Nujoma's image as a military hero.

Whatever its intent, it is clear SWAPO did not expect the reception that it received. SWAPO's crossing into Angola in violation of the treaty was, as one U.N. official stated, "either a colossal bungle or one of the most callous orders ever issued in guerrilla warfare. They blindly walked into a turkey shoot thinking we U.N. troops were going to be there to take care of them."

Since Nujoma isn't explaining his motives, the true cause of the recent fighting may remain a secret. Ultimately, however, all involved were losers. The SWAPO leadership has been shown to have a disturbing contempt for its international commitments, and a lethal disregard for the soldiers who serve that cause. South Africa was drawn back into a conflict from which it had all but disengaged. The U.N. peacekeeping force, flushed with the recent Nobel Peace Prize, has demonstrated that its moral authority is in fact quite limited.

Most serious, however, is the fact that the Namibian peace process has been placed in jeopardy. The parties distrust each other more than ever, and that makes a lasting solution to Namibia even more difficult to attain. For that, SWAPO rightly deserves to be condemned.

Mr. Speaker, if the United States is to exert a positive influence in Namibia, it must insist that all parties to the peace accord rigidly adhere to their commitments. If this body is to continue to act as a force for peace, it should not ignore or apologize for SWAPO's misbehavior. Were this body to romanticize SWAPO and ignore its misdeeds, it would be encouraging a repetition of the bloody days of April.

Mr. Speaker, I am inserting into the RECORD a news analysis by William Claiborne of the Washington Post entitled "SWAPO Incursion Into Namibia Seen as Major Blunder by Nujoma." Mr. Claiborne reviews the events surrounding the SWAPO incursion, and provides illuminating insights into the Namibia peace process. This Member would commend it to his colleagues.

SWAPO INCURSION INTO NAMIBIA SEEN AS MAJOR BLUNDER BY NUJOMA

(By William Claiborne)

WINDHOEK, NAMIBIA, April 6—A week ago, skeptics were wondering what treachery South Africa would employ to renege on its promise to end 74 years of control of mineral-rich South-West Africa now that Cuban troops have begun withdrawing from Angola.

Sam Nujoma, leader of the South West Africa People's Organization (SWAPO), was poised to return to Namibia—as it is now known—as a liberation hero after 30 years in exile and lead his party to victory in independence elections on Nov. 1.

The U.N. peace-keeping force was basking in the glow of a Nobel Peace Prize, busy with the bureaucratic details of setting up an infrastructure for monitoring free and fair elections in Namibia in what will be the largest peace-keeping task in U.N. history.

Today, not even a week after the much-heralded start-up of the process of making "Africa's last colony" independent, the major players in the historic drama have had their world turned upside down.

The South Africans, stung by a massive cross-border incursion by 1,200 heavily armed SWAPO guerrillas in the early morning hours last Saturday, are viewed in much of the world as an aggrieved party, boisterously shouting "foul" but nonetheless showing some restraint in the face of a flagrant violation of the Dec. 22 regional peace agreement that it signed at considerable strategic and political risk.

Nujoma has been widely criticized as snatching defeat from the jaws of victory and imperiling a U.S.-brokered peace agreement that took eight years to hammer out with unprecedented mutual cooperation by the superpowers. The U.S. State Department has accused SWAPO of a "clear violation" of the agreement.

In 1973, the U.N. General Assembly recognized Nujoma's movement as "the sole and authentic representatives of the Namibian people." Now it is being asked whether he can survive the blunder of launching a military invasion just six weeks before he and his guerrillas could have legally walked across the border and won almost certain political victory at the ballot box.

Assessments by diplomats and U.N. officials accuse Nujoma of an appalling ignorance of the provisions of the treaty that was supposed to have set his homeland free and of making a tactical miscalculation unparalleled in liberation politics.

The events of the past week have also not been kind to the blue-bereted U.N. peace keepers, who have been ridiculed as ineffective in the face of the unexpected SWAPO onslaught and whose administrators have been accused of being unprepared.

But with only about 120 troops so far to monitor more than 185 miles of bush country along the Angolan border, the tiny vanguard of the U.N. Transition Assistance Group could hardly be expected, analysts say, to monitor much more than the South African army bases in which they are billeted.

Because of budget haggling in the U.N. Security Council, the peace-keeping force's funding was trimmed from $700 million to $416 million, and its troop strength from 7,500 to 4,650. More importantly, its lead time for setting up an operation here was cut from six weeks to a month.

Like others, the U.N. force was caught unaware by the SWAPO incursion, and its inadequate force—just 15 percent of the intended troop strength—is bearing the brunt of the recriminations over how the incursion was handled.

Namibians see smartly dressed U.N. soldiers from Denmark and Finland shopping for African curios along Windhoek's Kaiser Street or drinking beer in the hotel bars and wonder why they are not up north, stopping the fighting that already has claimed more than 230 lives.

At the main entrance to the territorial army base at Oshakati, 30 miles south of the Angolan border, a Pakistani U.N. officer occasionally interrupts the thriller novel he is reading to jot down the registration numbers of passing cars. Observers question why he has not been deployed to monitor the search-and-destroy missions of the feared counterinsurgency policemen.

The police and their army backup have been accused by human rights monitoring groups of waging a take-no-prisoners pogrom against fleeing SWAPO guerrilla squads and of indiscriminately firing into villages and wounding numerous civilians.

But it is SWAPO and Nujoma whose images stand to suffer most after the cross-border incursion on the morning of what was supposed to be a historic day in the annals of African decolonization.

Nujoma is an enigma to many observers of African politics, and his motives for first ordering and now defending the incursion continue to baffle the people who negotiated the agreement that was virtually certain to have made him president of independent Namibia.

The SWAPO leader insists that his guerrillas were already inside Namibia before Saturday and that he merely ordered them to assemble in makeshift bases and await the protection of the U.N. peace keepers. Since he was not a signatory to the Dec. 22 agreement and since the accord makes no specific provision for SWAPO guerrillas inside the territory on April 1, he was within his rights to issue the orders, Nujoma says.

But U.N. Secretary General Javier Perez de Cuellar, in a closed-door report to the Security Council on Monday, said there was a SWAPO infiltration of the border, even though it may not have had an "offensive intent." This view was reinforced by SWAPO guerrillas captured in the first day of fighting and interviewed by U.N. officials, Namibian church leaders and journalists.

The guerrillas said they were ordered to cross the border with their weapons—AK-47 assault rifles, mortars, machine guns, rocket-propelled grenades and Soviet-made, shoulder-launched antiaircraft missiles—and establish bases under the protection of the U.N. force.

Their leaders apparently did not tell them that the U.N. peace-keeping force in the border area was virtually nonexistent, that their incursion was likely to be viewed as a hostile act by the South African-led troops and that under the Dec. 22 peace accord, they were supposed to be moving north to SWAPO bases above the 16th Parallel in Angola, up to 200 miles from the Namibian border.

"It was either a colossal bungle or one of the most callous orders ever issued in guerrilla warfare. They blindly walked into a turkey shoot thinking we were going to be there to take care of them," one U.N. official said.

Even more surprising, U.N. observers said, is the fact that instead of slipping across the border in groups of four or five, thereby frustrating tracking efforts of the South African security forces, the guerrillas made themselves easy targets by going across in groups of 50 or more.

Nujoma's goal, according to diplomats who know him well, is to establish a SWAPO military presence in Namibia before the election process gets under way to buttress his movement's claim of responsibility for achieving independence and polishing his own image as a military hero.

The challenge to the peace makers now, U.N. officials who are involved in cease-fire negotiations said, is to persuade Nujoma that he should abandon such dreams, while still giving him a face-saving concession.

The concession, U.N. officials said, could be a surrender of SWAPO forces in Namibia to hastily flown-in U.N. units and internment of the guerrillas in U.N.-supervised camps until repatriation of exiled Namibian refugees begins in mid-May.

Meanwhile, an emergency meeting was set for this weekend to seek an end to the border fighting as the death toll rose to at least 210 guerrillas and 24 security force members. Senior diplomats from the United States, the Soviet Union, Cuba, Angola and South Africa are to take part, with Chester A. Crocker, outgoing assistant secretary of state for African affairs, heading the U.S. delgation, diplomatic sources said.

The sources noted, however, that leaders of SWAPO's military wing will not be present and that any decisions would have to be approved by Nujoma.

□ 1720

COMMEMORATING THE DATE OF THE DEATHS OF THREE VOLUNTEERS WHICH FOCUSED LIGHT ON THE CIVIL RIGHTS STRUGGLE

The SPEAKER pro tempore. Under a previous order of the House the gentlewoman from Maryland [Mrs. MORELLA] is recognized for 5 minutes.

Mrs. MORELLA. Mr. Speaker, I am very pleased to be a cosponsor of House Concurrent Resolution 141 to designate June 21, 1989, as "James Chaney, Andrew Goodman, and Michael Schwerner Day." Twenty-five years ago today, Chaney, Goodman, and Schwerner were slain in Philadelphia, MS as they participated in the Freedom Summer of 1964. These brave young men were among the thousands of volunteers who had gone to the South that summer to help in voting and human rights struggles. On June 21, 1964, the three men left to inspect a church that had been burned by the Ku Klux Klan. Forty-four days later, their bodies were discovered in an earthen dam. They had been shot to death.

The brutal murders of these three compassionate and committed volunteers stunned this country and drew national attention to the struggle for civil rights. Their murders demonstrated anew the lethal potential of racism and helped to spark the movement which led to the passage of the Civil Rights Act of 1964 and the Voting Rights Act of 1965.

Mr. Speaker, Chaney, Goodman, and Schwerner Day will commemorate the sacrifices that these men made to the civil rights movement a quarter of a century ago and will bring into the consciousness of the country the need for a continuing commitment to civil rights. In the name of justice for which they died, I urge my colleagues to continue perpetuating the work of James Chaney, Andrew Goodman, and Michael Schwerner by striving to pursue equality for all, regardless of race, religion, or sex.

Mr. RANGEL. Mr. Speaker, I rise today to join my colleagues in remembering that fateful day 25 years ago that stands out as one of the blotches on this country's history. On June 21, 1964, three young, idealistic civil rights workers were brutally murdered and their bodies buried in a levee. It took 6 weeks to discover the place where the bodies had been buried. The three martyrs were Mickey Schwerner, Andrew Goodman, and James E. Chaney. They were cut down in the prime of their lives while trying to register Mississippi blacks to vote and helping to lead the fight for equal opportunity.

We should take this occasion to educate the youth of today and to reeducate the older of us who may have become complacent and who may have forgotten about the others who gave their lives for the struggle. We need to rededicate ourselves to human rights, civil rights, and equal opportunity for all citizens.

It is ironic that this anniversary is commemorated at a time when we have seen several recent Supreme Court decisions that undercut many of the affirmative action programs that were an offshoot of the civil rights struggle of the 1960's. Like the Supreme Court decisions, other events are occurring that attempt to turn back the hands on the civil rights clock. These events teach us that we must be ever vigilant because we cannot rely on past victories to be sustained without continued struggle. We cannot let the deaths of Chaney, Goodman, and Schwerner be in vain. Unlike these young men, racial hatred and prejudice are not dead. It may not be as blatant and as open as it was in 1964 and prior but it is nonetheless still an insidious part of our society.

EXPENDITURE TARGETS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York [Mr. TOWNS] is recognized for 5 minutes.

Mr. TOWNS. Mr. Speaker, I would be the first to admit that the Federal deficit is still a problem. However, I do not believe that we can or should balance the budget on the backs of America's elderly by restricting health care. There is no question about it; expenditure targets, while designed to reduce health care costs, will actually result in a reduction in the quality of health care for our seniors. The elimination of unnecessary services will only force a physician to limit, restrict, or postpone access to services.

Are you willing to sanction a policy which will mean that your elderly constituents must struggle along with that bad hip or cloudy vision? Are you willing to tell them to use a cane or a wheelchair until Congress can get its priorities straight? Well, I am not. I am not willing to tell my seniors to "suffer a little bit longer" so that we can pretend to reduce the deficit. Expenditure targets are not the answer for our seniors or for our budget deficit.

INTRODUCTION OF H.R. 2697, SPECIAL TREATMENT OF INTEREST ON CERTAIN FOREIGN LOANS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois [Mr. ROSTENKOWSKI] is recognized for 5 mintues.

Mr. ROSTENKOWSKI. Mr. Speaker, today I am introducing H.R. 2697, a bill to repeal the special treatment of interest on certain foreign loans included in the Tax Reform Act of 1986 to facilitate the Baker plan relating to Third World debt.

The Tax Reform Act of 1986 established a new separate basket for high withholding tax interest within the foreign tax credit system so that the foreign taxes on high withholding tax interest cannot be used to offset U.S. tax on other types of foreign passive income that typically are taxed at a low rate by foreign governments. Section 1201(e)(2) of the 1986 act provided a transitional rule which stated that the new separate basket would not apply to interest received or accrued after 1986 and prior to 1990 on qualified pre-1990 loans, and for the 5-year period beginning after 1989, the new rule would be phased in at a rate of 20 percent per year. Qualified loans are those made by a taxpayer to any of the so-called Baker 33 countries.

This transitional rule was included in the 1986 act in order to facilitate the success of the Baker plan, which was announced in October 1985 by then Secretary of Treasury, James Baker. The Baker plan promised new loans from commercial banks and the multilateral development banks to debtor nations if they implemented economic reforms, and thus grew their way out of their problems. This plan, however, did not stop the accumulation of debt or the net outflow of financial resources from the debtor countries, nor were the commercial bank and multilateral bank funds produced in the amounts contemplated.

On March 10, 1989, Secretary of the Treasury Nicholas Brady announced a new plan to address the growing international debt crisis of some $340 billion owed by developing countries to commercial creditors. The Brady plan is designed to induce the commercial banks to voluntarily forgive some loans to the less developed countries in return for guarantees through international funding agencies that the reduced debts will be paid and paid on time. The guarantees are to be provided by the International Monetary Fund and the World Bank by means of set-aside pools of cash. To qualify for participation in the Brady plan, the debtor nations would be expected to implement further economic reforms that will lead them to greater and more rational economic growth.

The Brady plan requires no direct congressional authorization or appropriation. The International Monetary Fund and the World Bank have both recently indicated that they will take action to support implementation of the Brady plan.

We have been looking for a way to solve the international debt problem for years. In the inflationary environment of the 1970's many developing countries borrowed heavily to finance oil imports and economic development. In 1982, many developing countries found themselves unable to service their debt, while economic conditions in those countries have deteriorated. The U.S. trade deficit has been severely affected by the international debt problem, and U.S. commercial banks have remained at risk for enormous outstanding loans.

The lending policies of the commercial banks in the 1970's certainly contributed to this crisis. At the same time, some of the fears present when the Baker plan was formulated no longer seem so pressing. All of the major lending banks posted strong profits in 1988, and the risk of insolvency should significant losses on the loans be realized now seems unlikely.

Since announcement of the Brady plan earlier this year, talks between the banks and debtor nations seem to have slowed with the idea that delaying negotiations will somehow induce governments to increase their contribution to resolving the debt problem. This policy is undermining the administration's new strategy for attacking this crisis in an effective and expeditious manner.

The favorable treatment accorded this existing international debt by the transitional rule in the 1986 act discourages the commercial banks from abandoning their old strategy for repayment of the debt and cooperating with Secretary Brady's new plan. Therefore, it is appropriate to terminate the transitional rule which only serves to encourage the banks to continue lending rather than to reduce bank debt and interest payments.

The administration has adopted a bold and ambitious plan to address this serious international debt issue. By introducing this legislation today, I am proposing repeal of the special transition rule contained in the 1986 act which was designed to facilitate the Baker plan—a plan that has been replaced by the Brady plan as the official policy of the new administration. I strongly believe that Congress should do all that it can to support the administration's policy which offers hope for economic revival among debtor countries.

I submit a copy of H.R. 2697 to be printed in the RECORD.

H.R. 2697

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. REPEAL OF SPECIAL TREATMENT OF INTEREST ON CERTAIN FOREIGN LOANS.

(a) GENERAL RULE.—Paragraph (2) of section 1201(e) of the Tax Reform Act of 1986 is hereby repealed.

(b) EFFECTIVE DATE.—The repeal made by subsection (a) shall apply to taxable years beginning after December 31, 1989.

PERSONAL EXPLANATION

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Connecticut [Mrs. KENNELLY] is recognized for 5 minutes.

Mrs. KENNELLY. Mr. Speaker, I regret that I inadvertently failed to record my vote on final passage of H.R. 1278, the Financial Institutions Reform, Recovery, and Enforcement Act. Had I been recorded, I would have voted nay.

THE SAME OLD STORY

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Maryland [Mrs. BENTLEY] is recognized for 60 minutes.

Mrs. BENTLEY. Mr. Speaker, when Congress passed the trade bill, there was optimism there would be a new day in our trade relations with Japan. At least some of my colleagues in Congress felt progress was being made.

Recent newspaper stories echoed that feeling, but it appears we are hearing the same old story with the reactions to the announcement earlier this spring of the unfair trader list under the super 301 provisions of the 1988 Trade Act.

The same old patterns of behavior by the United States and Japan are being repeated as they have been in the past. It is the same old story.

Our U.S. Trade Representative, Carla Hills, has been doing an admirable job—but how the talks about their standing on the unfair trader list are handled is important.

Any talks with the Japanese about their status on the list must be under the super 301 provisions should be for the record.

According to the Wall Street Journal story on May 31, Ambassador Hill stated after lunch with the Japanese that "it would be 'irrelevant' to announce publicly whether talks are occuring under section 301 of the trade law."

The reason for the statement according to the article is to allow the Japanese to save face. What about our American companies and the American people?

We are all too familiar with the Japanese secret agreements and side letters of agreements.

My friend Clyde Prestowitz wrote an article recently in the New York Times, pointing out that side letters of agreement are not worth the paper they are printed on—because they are unpublished and we cannot hold the country accountable for their actions.

These proposed talks are no different. They must be for the record—and U.S. Trade Representative, Mrs. Hill, should understand that. They must be held accountable for their actions and agreements.

Japan is courted as our ally and the holder of our debt—but this does not mean we should have a double standard for them in upholding our law. They fully earned the right to be listed under the super 301 provisions.

Ambassador Hill pointed out that Japan had opened up its beef market and its citrus market.

Sure they opened up the beef market by first buying processing plants and ranches in the United States before they signed the much heralded beef agreement.

They point to that agreement as evidence of their intention to be a fair-trading partner. That agreement was signed for American beef—not for Japanese beef sold into the Japanese market.

They have also been purchasing citrus groves so they can sell into the Japanese market.

Some people may say this is just business. But I was under the impression that we served in Congress to represent our constituents and the government exists for the American people and to govern this country.

The perversion of the intention of the beef agreement by setting themselves up in business before signing the agreement makes a travesty of why it was signed—or a travesty on the side letters on the semiconductor agreement which they did not honor.

Is this their true color—is this why they do not want talks on the record under the super 301 provisions?

An article in Time magazine suggested our trade problems were all centered around Motorola not getting clearances for their cellular telephones in Tokyo.

The reporter, Mr. Rheingold, who has spent many years in Japan and is a, quote, "Japanese expert," stated the Japanese felt the greivance over Motorola and the phones was too small to justify the hubbub surrounding it.

Let me repeat—our trading problems are not centered on whether or not Motorola has cellular phones in Tokyo.

I do, however, believe it is important that they be allowed to compete. What better way for Japan to show their intentions and true colors?

He also explained that Japan is opening up its markets and they are trying to play fair. One of the evidences to support that statement was the fact that IBM, the "biggest United States business in Japan, posted sales of $9.3 billion there last year, up 12 percent over fiscal 1987."

It happens that IBM has been in Japan since, or before, World War II. They have signed an agreement with MITI so the Japanese have access to their patents, and IBM has access to the Japanese patents. To obtain their market share, IBM went on a crash program and sent 500 people to Japan to really push for business. All this effort—for the giant in the world—has gotten IBM just 1 percent of the Japanese market.

They did increase their sales—but their market share is still miniscule.

There was something in Mr. Rheingold's article in the June 5 Time magazine that intrigued me. In discussing our trade problem he stated:

A fundamental problem in United States-Japanese relations is that the two countries have different concepts of how an economy should work. Americans and Europeans continually tell Tokyo that they want fair trade, which at its simplest means equal access to the market.

The notion carries moral overtones that do not necessarily jibe with the Japanese view of the world. Kyoto University history professor Yuji Aida recently wrote that "the American predisposition to view things in simplistic black-and-white terms is antithetical to our mind-set."

Whereas the United States was founded by a people convinced of a single, revealed truth, Japan's long history has taught us that in the realm of human behavior there is no absolute right or wrong.

By a single revealed truth, I assume he is referring to our Judeo-Christian heritage. Well, we do have a sense of right and wrong. It was not living up to their business agreements that earned Japan the right to be listed on the unfair trader list—which to us does mean there is a sense of right and wrong—and not just business as usual.

They are having a hard time of convincing the American people otherwise. Time also reported a poll that nearly 6 out of 10 Americans believe that Japan is unfairly restricting the sale of United States products in Japan.

Proof of their restrictions in business dealings was recently brought home to T. Boone Pickens, that Texan who has become a legend in his operations—and who recently has been on television in Texas talking about the threat Japan poses to the United States.

What Mr. Pickens discovered in becoming the largest single stockholder of a Japanese auto parts manufacturer is that the Japanese play by their own rules.

They want to play by their rules in Japan and by Japanese rules in the United States—and we are supposed to understand that.

He found out that Japanese companies own each other for a purpose—and that is to do business.

Before reading his article from the Sunday Washington Post—I want to point out that this behavior toward him—or any other foreign businessman—is discussed in detail in Marvin Wolf's book "The Japanese Conspiracy." Mr. Wolf explained the coordination of government and business to attain an industrial strategy, and I have read sections of his book on this floor in an effort to alert my colleagues and Americans of what is happening to their industry.

The article by Mr. Pickens in the Post reads as follows:

[From the Washington Post, June 4, 1989]

T. Boone Takes on Tokyo—How a Corporate Dealmaker Learned That Japan Doesn't Play by Texas Rules

(By T. Boone Pickens)

Maybe I should have been worried when I got off the bullet train in Tokyo on April 16 and picked up a newspaper. I was amazed to read that the Japanese press was comparing my recent investment in a Japanese manufacturing firm and my trip to Japan with the historic "Black Ships in the Harbor" visit by another American, Commodore Matthew Perry, in 1853. Perry's visit forced Japan's economy to open to the outside world.

I'm not trying to sell the idea that T. Boone Pickens was so naive as not to have considered cultural and symbolic issues before acquiring, in March of this year, almost a billion dollars' worth of stock in Koito Manufacturing Co., a Japanese supplier of automobile lighting. Still, I had observed how over the past decade the Japanese, with relative ease, invested billions of dollars in the American economy, and I took it almost for granted that our investment in Japan would be received similarly.

After all, I have been giving speeches since the early 1980s about the emerging global economy and the opportunities it would offer for U.S. as well as foreign investors. I can hear myself now. I would say that American executives should quit whining for protection and get back to the workbench and compete. I said I was skeptical about claims that countries like Japan played by two sets of rules, one for their home companies and another for ours. I said that with the right corporate leadership, all you would have to do is show us the court, tell us the rules, and Americans could win most of the time.

It was always a popular speech. I gave it, for example, to a middle management seminar at Harvard in 1986. There were about 30 managers from Japanese companies in the class. They grinned broadly throughout the speech and came up to me afterward to register their complete agreement. I think I understand better now what it was they were smiling about. The reason for my new understanding is this: When I visited Japan back in April, I got a first-hand introduction to what it is like to do business—wait a minute—to *try* to do business in Japan.

After my unexpected welcome in the press, my second tip-off to the fact that it wouldn't be business-as-usual came when I walked into a luncheon to deliver a speech to the American Chamber of Commerce at Tokyo's New Otani Hotel. The crowd was so large that they had to change rooms to accommodate it. I learned later from the Japanese press that the press conference that followed was the largest in Japanese business history.

What amazed me most, however, were the quizzical looks we received when my wife Bea accompanied me to the table from which my partner Sidney Tassin and I would answer the media's questions. It's well known that women are not included in Japanese business circles, but I didn't realize that a woman's presence in today's world would draw such attention. After all, it seemed natural that Bea would be by my side. She was there in 1976 when Mesa tested its discovery well of the coast of Scotland in the North Sea. She was there when I addressed Gulf Oil's shareholders in 1983. In fact, Bea has been at my side at every major juncture in my career since our marriage in 1972.

This reaction struck home not just because it ran contrary to American instincts, but because I was involved in one of the largest business transactions of my career. And I was quickly coming to realize that it involved conflicts of culture and custom the likes of which I had never experienced—and I have experienced some pretty good clashes of culture with entrenched management in this country.

Though shares in Japanese companies are ostensibly traded freely on world markets, a clubby system of interlocking ownership governed by an unwritten corporate code ensures that control of these companies will remain in Japanese hands. It also ensures that stocks on the Tokyo Stock Exchange trade at unusually high multiples of share price to earnings because only a small per-

centage of a company's shares actually trades freely.

In a typical Japanese public company, 60 to 80 percent of its shares are held by what is known as a kieretsu—a web of "stable" stockholders, most of whom either do business directly with the company or with one of the company's major holders. Koito is a classic case. Toyota Motor Corp. owns 19 percent of Koito's shares—and at the same time is Koito's largest customer, buying almost half of its products. Another 40 percent is held by Koito's other customers, banks, insurance companies and suppliers. These stockholders do not expect to make money through the stock, but through the business relationships that come with being a member of the club.

The opportunity to purchase a 20 percent interest in Koito was unique: It was the first time in history that a major block of shares in a Japanese company had become available to an outsider without the approval of the kieretsu. We purchased the stock from a Japanese investor who had accumulated it from various sources, including disgruntled members of Koito's founding family.

The press reports that the Japanese markets were "stunned" by our investment caught me by surprise. I saw it as an unusual, but fairly straightforward, transaction posing no threat to Koito management. Our intention was to obtain representation on the company's board and to play a constructive role in planning Koito's future, especially in expanding its customer and operating base in America and Europe. We had no thoughts of taking over the company—that would be impossible given the structure of Koito's ownership. Nor did we have any plans for accepting greenmail, despite rumors to the contrary. In an April 19 letter, we expressed all these assurances, and requested a meeting with Koito's management.

The first roadblock we came up to was Koito's concern about the completeness of our filings. We had consulted the Japanese Ministry of Finance and Ministry of International Trade and Industry on our transaction and had been assured that our filings were complete. Still, by March 31, the last day on which ownership entitled us to vote at the June stockholders meeting, Koito had not registered our stock. When we got to the bottom of the matter, it rested on Koito's complaint that we had failed to note that Koito did business with a "sensitive" national security-related industry because it produced interior lighting for aircraft. Sensitive? Maybe they don't realize that American planes have interior lights too.

By the time we left for Japan on April 15 for my speech to the Chamber of Commerce, Koito had still not registered our stock or agreed to a meeting. Finally, on the day of the speech, Koito—having failed to convince the Japanese government that our filings were incomplete or inaccurate—agreed to register the stock in the name of Boone Co., a private company through which the investment was made. After the press conference, our Japanese lawyer received word that Koito would meet with us.

The next morning we met with Takao Matsuura, Koito's president, and other Koito representatives. After exchanging pleasantries, and briefly discussing Koito's U.S. operations, Matsuura stated that he was glad to have this first meeting but he did not want to address any "difficult" questions. He explained that in Japan, a first meeting was often just an exchange of business cards. But, objected my partner, Sidney Tassin, we had come a long way, and none of our few questions seemed to us particularly difficult.

We asked for the date and time of Koito's annual shareholders meeting, and we asked to be allowed to send observers to their next board of directors meeting. Finally, we asked for representation on Koito's board of directors equal to that of their other large shareholder, Toyota which has three representatives.

With this last question Matsuura stiffened. The Koito managers did a lot of talking and exchanged disdainful looks. In the end, all we got was the date and time of the shareholders meeting—10 a.m. on June 29.

As to the other questions, we were told that we didn't understand Japan's prevailing custom and practice."In the future," said Matsuura, "we [Koito] would consider thinking about whether you [Boone Co. representatives] could be on the board. But we are not saying you could be."

To this I responded, "I am hearing that you do not consider us owners. That we have to work our way in. I understand your custom but not the logic."

Matsuura replied, "We have a different system. This will take time, trust must be built, logic is hard to explain * * *."

They asked that we send a formal letter requesting representation on the board for "full consideration." I was about to learn that the Japanese notion of trust isn't much like the one we know in Texas.

Finally, Matsuura asked that we not discuss with the press what went on in the meeting—that we honor the Japanese custom of portraying the first meeting as cordial and introductory. We were not trying to put Koito's management in an uncomfortable position, so we agreed; and when I was later met by the press, I honored Matsuura's request.

We went directly from the meeting to Tokyo's Narita airport for the 10-hour flight back home. Upon arriving in Texas, we learned that Koito had held a press conference shortly after our meeting to announce that we had requested board representation and that our request had been turned down. So much for the required portrayal of first meeting—or for giving our request "full consideration."

Nevertheless, we went ahead and sent a formal request on April 21. We also asked that four representatives of Boone Co., including an interpreter, be allowed to attend the June 29 shareholdings meeting. The first response we received was that Koito management was using its "best efforts" to accommodate the request—at the same time that Tokyo's financial press was reporting that our requests have been rejected. Then on May 23, we got a letter saying that it would be all right if I came to the stockholders meeting with an interpreter—but no one else!

I wonder what Matsuura meant by "building trust,"

At the same time, Koito denied our request for representation on their board. Yet at the very same meeting where that decision was made, Koito directors voted to add a new director to represent Matsushita Corp., a Japanese company with only a 5 percent holding in Koito stock compared with Boone Co.'s 20.2 percent holding.

It's becoming very clear that Koito's management does not want me or any Boone Co. representatives on the inside. But why? We are requesting three seats, With Koito's 20-member board, we couldn't be a threat. What could we do to disrupt the company, and why would we want to? With a 20 percent investment, our interests are the same as all the shareholders and Koito's managers—to maximize Koito's potential.

Admittedly, I'm a four-day wonder on the subject of Japan (though negotiation of the purchase agreement did involve 10 lengthy meetings over four months), but I have come to the conclusion that investment between our two countries is not a two-way street. Every day we read about a Japanese company or investor making a major investment in American real estate or taking over an American corporation. I see that as healthy—but only if Americans have the same opportunities to invest with full rights in Japan. What makes this problems tough to deal with is that the most powerful impediments are not legal restrictions but silent barriers produced by nationalistic custom and practice.

As the world's second largest economy, Japan wants to live by a double standard. It wants open markets in which to sell and invest, but it doesn't want to provide the openness at home on which stable global trading relationships must depend in the long run. In fact, after getting a glimpse of their financial structure, I don't buy all the rhetoric about how the Japanese are long-term thinkers. Their policy of exclusion is the shortest of short-term strategies. If Japan expects to go into the next century with a closed system., it's not going to work—especially when the rest of the world is headed in another direction.

I am convinced that Japan will never be a meaningful market for our products, and our $55 billion trade imbalance will not be reduced, until its financial markets—along with its whole approach to trade—are restructured. That's why I was delighted to read the week before last that, in deciding to list Japan as an "unfair trader" under Sec. 301 of the Trade Act, President Bush has also proposed undertaking wide-ranging talks with Japan aimed at altering "structural impediments to trade." This means truly free markets where shares are not locked up to facilitate clubby economic relationships but are bought and sold freely based on an underlying system of risks and rewards.

We plan to do our part by pressing on until we receive full and equal treatment commensurate with Koito's Japanese shareholders. I am looking forward to attending Koito's annual shareholders meeting on June 29 with my interpreter to let me know what's going on. And, I expect that Bea will join me.

Mr. Speaker, I applaud Mr. Pickens and his efforts—and the other undaunted American businessmen like Robert Galvan, CEO of Motorola, who believe Americans should be given a fair shake.

Being given a fair shake does not include, as was reported in the May 30 issue of the Christian Science Monitor, Japan bargaining on 301, by discussing or telling Ambassador Hills how much we should save and invest.

Their internal distribution system is the problem in question—not our lifestyle.

If they would quit running the asking price up on property and companies, maybe we would invest more. In Hawaii they are driving Hawaiians out of home ownership. Home prices

have increased at least by 50 percent, and in many instances as much as 300 to 500 percent.

Home ownership is the principal source of capital generation for the U.S. middle class—a source that has been used to start many small businesses in America. And since small business generates 70 percent of the business in this county—it truly is the commerce of the United States. So home ownership is important to us.

The American people are a generous and compassionate people with a finely tuned sense of fair play—of right and wrong. Step over the line and there is a price to pay.

I believe Japan has repeatedly crossed that line in sidestepping their agreements and they certainly are stepping over the line if they start dictating our life style to us.

In our country—they must play by our rules. The American people will be waiting and watching to see what they do.

□ 1750

THE SOUTH HAS CHANGED CONSIDERABLY IN 25 YEARS

The SPEAKER pro tempore (Mr. GONZALEZ). Under a previous order of the House, the gentleman from Georgia [Mr. JONES] is recognized for 60 minutes.

Mr. JONES of Georgia. Mr. Speaker, it was the first day of summer—freedom summer. Has it been 25 years?—A quarter of a century? James Chaney was 21 years old. Andy Goodman, 21. Michael Schwerner was 24.

"Ask what you can do for your country," said a young President.

"I have a dream," said a young black minister.

The South, my South, was a different place then—it was a different time. Oh the pine trees were the same and the ageless live oaks and the canebrakes along the easy rivers were the same and the moonlight on the spanish moss and the magnolias were the same—all that is timeless.

But the soul of the South was different—the hearts of many were shackled by hate.

On June 21, 1964, James Chaney, Andy Goodman, and Michael Schwerner, three young idealistic Americans were exercising their rights under the Constitution of the United States—they died that day, brutally murdered in an act of blind prejudice and unspeakable cowardice.

It was a day of shame. But perhaps it was the beginning of a time of hope.

We deplore now as then this insane act of violence and all the cancerous hatred it stood for, but let us reflect further on those times and what has taken place in the years since.

In one generation, we have seen a major political and cultural revolution in the South and in the rest of America involving attitudes about race, brotherhood, and civil rights.

In the blink of time's eye, the old South of strict segregation and rigid intolerance has become the progressive sunbelt of limitless potential, making giant strides in development, industry, and education.

Those cultural historians who contend that white superiority was the controlling force defining southern culture for more than 200 years take a simplistic outlook, I believe.

There can be no doubt that endemic racism was deeply engrained in a way of life. But this social sickness victimized whites as much as blacks. Poor whites were slaves to those attitudes that kept blacks from equal opportunities in our society. And the demagogues kept power by playing race against race. It held us all down.

We were stunted and held back by the poison on bigotry. But we as a people have faced up to this evil and begun steps to overcome it. No, we are not there yet * * * but no longer does a black child face the indignity of seeing "white only" signs wherever he or she may turn. No longer are blacks humiliated by riding in the backs of buses. No longer are black citizens denied the right to vote, the right to an education.

This remarkable transition, this revolution, took place for the most part between the years of 1955 to 1965.

There was murder then. Goodman. Chaney. Schwerner. Mrs. Liuzzo. Medgar Evers * * * outrages against our society's basic sense of decency.

It is remarkable that such violence was not more common than it was. As a young man in the South at that time I knew that feelings were boiling, that the old ways would not go gently—you could see it in folk's eyes: people were on the violent edge.

Looking back, I believe that in those times, the South would have been subjected to unbelievable bloodshed had it not been for the courageous example set by men like the Rev. Martin Luther King, Jr. and my distinguished colleague JOHN LEWIS.

They knew the dangers they faced and they knew that violence could explode at any step of the way. But rather than confront force with force; they chose the non-violent path of passive resistance, practiced by Ghandi, taught by Jesus Christ.

It was a path that changed American history. One can only imagine how pleased Chaney, Goodman, and Schwerner would be if they could see the extraordinary changes that have taken place in the South in the past 25 years.

As we pause today to remember the sacrifice of three young men who were victims of the worst nature of the old South, I hope we will also note that there have always been those southerners, black and white, who knew that in the breast of each of us, there beats the same kind of heart. As Thomas Wolfe of North Carolina put it: "This, seeker, is the promise of America: the right to every man his chance * * *"

The new unity of southern blacks and whites is a testament to the lure of the region. We have shared a special country—we are of the southern Earth. We are bonded together like the red clay sticks to a plowshare after a spring rain. We are brothers and sisters of the soul, sons and daughters of the South, and we share an ancient heritage of sounds, of smells, of weather and work, of deep laughter on hot summer nights—the births and deaths—the comings and goings, the pride in each other's accomplishments. We have always lived down the road from each other * * * now we walk together * * * and there will be no turning back.

This anniversary reminds us that we need as a Nation what we have always needed.

We need a generation of selfless idealists—an army of goodhearted young Americans undaunted by the complexity of the difficult problems facing our Nation and our planet.

We need volunteers for the same old wars—against poverty, hunger, crime, injustice, and repression.

We need to rattle the cage of apathy and complacency, and to replace those two old enemies with an ever insistent demand upon ourselves to be involved, concerned, and committed to ideals. We need a generation like Chaney, Schwerner, and Goodman.

There could be no greater tribute to their memory than this: That their spirit live on in a new generation of young people sick and tired of selfishness and self-seeking, that their faith in the full fruition of the American dream live on in the hearts of young men and women living as they lived: dedicating their lives to others.

May you rest in peace, Andrew Goodman, James Chaney, and Michael Schwerner. You did not die in vain.

□ 1800

Mr. Speaker, I yield to the distinguished gentleman from Georgia [Mr. LEWIS].

Mr. LEWIS of Georgia. Mr. Speaker, I rise this evening to urge every American to pay tribute to three brave young men James Chaney, Michael Schwerner, and Andrew Goodman, who gave their lives during Freedom Summer 1964.

As many of you know, I served as the national chairman of the Student Nonviolent Coordinating Committee [SNCC] during the 1964 Freedom Summer campaign. Twenty-five years later, I stand before you today as a Member of this great body, to reflect on the events of this violent time in

our Nation's history. We have come a long way, but, we still have a long way to go.

Twenty-five years ago today, Chaney, Schwerner, and Goodman were brutally slain near Philadelphia, MI. This tragic incident focused the world's attention on the racial injustice that existed in Mississippi, and the South.

It was 1964, when a call went out from a coalition of national and Mississippi based civil rights organizations for all people of conscience to come South to register blacks to vote. And there was a tremendous response from students from all over the country. Students of all ethnic backgrounds volunteered to participate with a sense of dedication and commitment.

However, before any student was permitted to go south to register voters, each was required to train for the tasks which they were about to take on. I had known Mickey Schwerner from his involvement with the Congress for Racial Equality [CORE]. And, it was in Oxford, OH, at a training session, where I encountered the other brave young men who lost their lives shortly after they arrived in Mississippi.

James Chaney, Michael Schwerner, and Andrew Goodman's names will be forever engraved in our minds. For they shed their blood and gave their lives so that blacks in the State of Mississippi would be able to participate in the democratic process. The deaths of these brave young men gave those of us involved in the movement a dogged determination to register thousands of new voters. We also put on a full court press for congresssional approval of the Civil Rights Act of 1964 and later the Voting Rights Act of 1965.

Twenty-four years ago, Mississippi had less than 18,000 registered black voters, out of a black voting age population of more than 450,000. Today, in the State of Mississippi are more than 300,000 registered black voters. Today, the State of Mississippi has more than 600 black elected officials, the most black elected officials of any State in the country. Twenty-four years ago, there were less than 100 elected officials in the South. Today, the South has 6,000 black elected officials, the most black elected officials of any region in the country. As one who led SNCC and the voter education project, I am proud of this great progress.

While we have come a long way in race relations, we must keep the course, for we are still confronting the ugly face of racial bigotry. Today, racial hate and bigotry have a different face and we must confront it with all of our vigor at every turn.

The deaths of Cheney, Schwerner, and Goodman should inspire all of us to continue the journey toward the building of a true interracial democracy in America. America must not be allowed to forget these three young men. They helped to sow the seeds of freedom and liberty for millions of Americans. America will be forever grateful for the price that these young men paid in order that all Americans of color could be free.

Finally, Mr. Speaker, yes we must not be allowed to forget the contributions of these young men. For they must be looked upon as the founding fathers of the new South and the new America. They shed their blood, they gave their lives, in their own land, not on foreign soil, to create a true interracial democracy.

Mr. JONES of Georgia. Mr. Speaker, I thank the gentleman from the 5th District of Georgia and thank him not just for those remarks which I would like to be associated with, but I also thank him for his participation in that Freedom Summer, because I have a feeling, Congressman LEWIS, that had you not been there then, you and I would not be here now as sons of the South, a region that we love. I know we share the deep pride that we have in our region and our people, for the strength we have found in the unity and great tremendous progress we have made together in this last quarter of a century.

I yield to the gentleman from New York [Mr. WEISS].

Mr. WEISS. Mr. Speaker, I thank my friend from Georgia for having taken this special order and for yielding.

Mr. Speaker, it is with a mixture of sadness and hope that I reflect upon the sacrifice made by the three young civil rights workers who were murdered in Mississippi 25 years ago today. The deaths of James Chaney, Andrew Goodman, and Michael Schwerner serve as a symbol of the courage of the civil rights movement in this country. At the same time, the slaying of these young men is a jarring reminder of the powerful hatred and violent repercussions often associated with prejudice and bigotry.

The story of Chaney, Goodman, and Schwerner represents an important chapter in the history of the struggle against racism. Goodman and Schwerner were white civil rights workers from the New York City area, and Chaney was an African-American from Meridian, MS. The three were working together on an interracial voter registration compaign in Mississippi. On June 21, 1964, they were followed and shot to death on a lonely country road in Neshoba County, MS.

These murders, and the attempted cover-up by the local officials, outraged the Nation. The recognition of the dismal state of race relations and civil rights enforcement helped lay the foundation for some of the significant gains in the protection of equal rights and equal treatment under the law which occurred in the mid- to late sixties.

The idealism and spirit of Chaney, Goodman, and Schwerner live on as inspiration in the fight for equality and justice. Unfortunately, the shameful legacy of bigotry that motivated their murder lives on as well. The recent Supreme Court decisions to narrow certain civil rights statutes underscore the need for vigorous efforts at all levels to oppose our stepping backward in the struggle forward.

In my home city of New York, for example, the police department recorded 550 incidents motivated by race, religion, ethnic background or sexual orientation in 1988, a 100-percent increase in 2 years. Frighteningly, these types of bias-related incidents are a common occurrence in the lives of many young people. According to recent surveys conducted by the National Institute Against Prejudice and Violence, incidents of bias-related harrassment have been reported on 174 different college campuses. If we are to put an end to bigotry, we must ensure that younger generations are well versed in the horrible ramifications of discrimination, both past and present.

The 25th anniversary of the deaths of Chaney, Goodman, and Schwerner is an occasion not only for honoring and remembering their efforts, but for recommitting ourselves to the struggle to which they were dedicated. Last September, the families, representatives and supporters of these civil rights workers met for the first time in my district office to begin forming what is now the Chaney-Goodman-Schwerner Memorial Coalition. The Coalition has organized the commemorative activities underway this week, and aims to enlist the support of all Americans to continue to work for the values, aspirations, and accomplishments of the civil rights movement.

Mississippi, the site of the murders, and other parts of the country have taken great strides in improving human relations and providing opportunities for minorities since 1964. Yet racial, ethnic, and religious intolerance continue to be a serious threat to the stability of our society. The efforts and dedication of men and women of all colors and all religions to the civil rights movement is as important now as it was in 1964.

□ 1810

Mr. JONES of Georgia. Mr. Speaker, I thank the gentleman from New York [Mr. WEISS], and I thank him also for his long-standing commitment to human rights and civil rights in this country and abroad. It is a reputation which the gentleman has earned and one of which we are all very proud.

Mr. FISH. Mr. Speaker, will the gentleman yield?

Mr. JONES of Georgia. I yield to my distinguished colleague, the gentleman from New York.

Mr. FISH. Mr. Speaker, I thank my colleague very much for yielding to me, and I appreciate his taking this special order in which we can participate.

Mr. Speaker, 25 years ago, three courageous young men—James Chaney, Andrew Goodman, and Michael Schwerner—gave their lives in the civil rights struggle. They sought racial justice in Mississippi—recognizing that the disenfranchisement of black citizens was a pernicious evil. Americans everywhere reacted with outrage at the murders of Chaney, Goodman, and Schwerner—victims of senseless racial hatred.

We remember Chaney, Goodman, and Schwerner when we reflect on the cruel indignities suffered by black Americans that seared our Nation's conscience.

We remember Chaney, Goodman, and Schwerner when we seek to root out the vestiges of racial intimidation and discrimination and devote our best efforts to the promotion of racial harmony.

We remember Chaney, Goodman, and Schwerner when we continue their efforts to remove voting barriers and encourage greater participation in the electoral process.

"No right is more precious in a free country," the Supreme Court has observed, "than that of having a voice in the election of those who make the laws under which, as good citizens, we must live. Other rights, even the most basic, are illusory if the right to vote is undermined." Too many Americans tend to forget that the right to vote is the foundation of our system of government and an essential safeguard for our liberties. The examples of Chaney, Goodman, and Schwerner inspire us to help ensure that wider participation in government becomes more of a reality in late twentieth century America.

When we succeed in expanding the voting rolls, we reduce the risks that special interests will exercise undue influence over governance.

When we inspire others to vote, we reduce the level of public apathy, stimulate discussion of public policy, and make government more accountable to the people.

When we seek the participation by Americans everywhere in the electoral process, we recognize that the vitality of our democracy depends on the success of our efforts.

Today, as we celebrate the lives of Chaney, Goodman, and Schwerner, we honor the Constitution.

Mr. JONES of Georgia. Mr. Speaker, I thank the gentleman from New York [Mr. FISH]. With the continued commitment and concern of men and women like the gentleman from New York, who has had such a distinguished career, we can only strengthen this effort as we continue on this path.

Mr. OWENS of New York. Mr. Speaker, will the gentleman yield?

Mr. JONES of Georgia. I yield to the gentleman from New York.

Mr. OWENS of New York. Mr. Speaker, first I would like to congratulate the gentleman from Georgia [Mr. JONES] for taking this special order which relates to the fact that there is a civil rights caravan organized to honor the memories of Chaney, Goodman, and Schwerner. That caravan will, I think, along with its representatives, arrive here on Friday. I think it is very important that we be reminded of this unfortunate chapter in our history. As unfortunate and sad as it may be, it is important, I think, for young people, as well as the rest of us, to realize that idealism among young people did not begin in China at Tiananmen Square. It has been here for a long time. Young people in this country were the forerunners of the kind of idealism shown in that square in China.

There was a call that went out for a Mississippi "freedom summer," a call for young people to come to Mississippi and join in an effort to take part in what was pretty much a very conservative kind of activity, to register people to vote. That ought to have been a conservative activity, to just register people to exercise their right to vote.

There was a great response from young people from all over the country. Goodman and Schwerner were among those young people who responded. James Chaney, who was a native of Mississippi, of course, probably had to wrestle with himself about his involvement in this activity far more than these two idealistic young white men from the North. James Chaney had lived all his life in a system which had sought to brainwash him, to convince him that he was inferior and to convince him that things never change. So the joining of Chaney with these idealistic young people from outside of Mississippi was a sort of a miracle unto itself.

I saw the movie, "Mississippi Burning." I would just like to make a brief comment about that. It was entertaining to some degree, but I kept thinking as it progressed, when are they going to show the agony of the situation from the point of view of the black people in Mississippi who were experiencing these things? Sure, there were some black people in the movie, but they were treated sort of as things or as objects. You never got inside their minds, you never got inside their community and saw what was going on from their point of view. As far as the agony of the blacks in Mississippi and the agony of those young students like Goodman and Schwerner are concerned, you never saw that in the film.

Another interesting thing that happened to me in doing some background reading to prepare for this is that I happened to run across a report that said there were numerous other people murdered in Mississippi. They were mostly black people who were murdered in Mississippi, and during the time when the FBI was supervising the dragging of the canals and the ditches to find Chaney, Schwerner, and Goodman, they found many of the bodies, quite a number of other bodies of blacks who had been killed and dumped in those swamps and rivers.

The movie does not show any of this, and history itself has sort of blotted it out. Not too much has ever been stated about the fact that during the time they were dragging those swamps they found numerous other human bodies. To me, it was a shocking fact to discover this.

I hope that the caravan will succeed in its objectives.

One of its objectives is to wake us all up and remind us that this terrible thing did happen and we ought to be sophisticated enough to learn from history and not repeat what happened before. I hope this message gets to the Supreme Court, because we must recall that the civil rights movements came from the streets, from sit-ins to wait-ins and to marches and all the other kinds of confrontations which my colleague, the gentleman from Georgia [Mr. LEWIS] participated in quite frequently. Those very dramatic, dangerous, bloody confrontations were moved from the streets into the courts because that was considered a better way to do it. We all agreed that to proceed through the legal system and to get legislation and have reason take over and begin to fulfill the promise of the American Constitution for everybody was the way to go.

□ 1820

Mr. Speaker, the Supreme Court with its obsession with rolling back the clock, this ideological Supreme Court, this political Supreme Court, threatens to go take us back to the days of Chaney, Schwerner, and Goodman when there may be no other way to address our grievance except go in again into the streets with confrontation which breeds the backlash and violence on one side or the other, but certainly a kind of painful, agonizing approach to change that we would all like to see never happen again. We may have no choice.

Mr. Speaker, I hope that this caravan does remind the people who influenced the Supreme Court and the Supreme Court Justices themselves that what they are doing is destroying all hope, destroying an avenue and ap-

proach which we would all agree was fully acquiesced to. We were happy to get out of the streets. We were happy to avoid confrontation. We were happy to have no more sit-ins and marches in order to get change. I hope that they do not close their ears and their eyes to what is happening and will understand that, if they challenge us, if they throw down the gauntlet, that this generation of young people will respond also, and, just as we had Chinese in Tiananmen Square in Beijing, we can have in Washington, as my colleagues know, thousands and thousands of people who are again demanding that the Constitution be fulfilled for everyone, and we are not getting to play ideological games, as the Supreme Court seems to want to do.

Mr. Speaker, I hope also that the caravan will wake us up to take a look at situations and understand that there is a subtle denial of human rights. There is still suffering and agony going on which is not as traumatic and may not be within the purview of the Constitution as obviously as the denial of the right to vote.

For instance, Mississippi has had racial progress, considerable racial progress, since Chaney, Goodman, and Schwerner were murdered years ago, but there have been steps backward. According to a New York Times article of April 2, 1985, Mississippi still ranks second in the Nation; I mean Mississippi in terms of positive things that have happened, it ranks second in the Nation in terms of African-Americans who hold public office, and many of these same individuals who hold public office now were former civil rights officers and came out of the civil rights movement. However, African-Americans do not head executive departments of the various commissions or boards.

Accordingly, the 1980 census, the median African-American family income in Mississippi is $9,013 compared with $12,000 for African-Americans nationally, and $17,264 for white Mississippians. The white Mississippian makes almost twice as much as the African-American Mississippian. Two of every five African-Americans in the State live below the poverty line, while 1 in 10 whites live above the poverty line. Many African-Americans in Mississippi live in two- to four-room wooden shacks with tin roofs and cardboard or plastic-covering windows which have no panes, and one of Mississippi's poorest areas, Tunica, MS, which calls itself the Gateway to the Delta, only 14 percent of the town's African-American residents over the age of 25 have high school educations while 90 percent of the Mississippi school children go to public schools. The private schools there, segregated, private schools, are thriving, particularly the academies which were established by whites in defiance of civil rights legislation in the 1954 Supreme Court ruling which desegregated public schools nationally.

The years of the Reagan-Bush administration saw a worsening of race relations in Mississippi, due to weak or nonexistent enforcement of civil rights laws by the Justice Department. Joan Brown of the Greenville, Mississippi-based activist organization, Mississippi Action for Community Education, was quoted in the 1985 New York Times article as saying, "Whites are not afraid because they're not under any Federal pressure. It used to be Federal this and Federal that, but where's the Federal Government now? We're slowly going back to where we were." Undoubtedly the recent Supreme Court decisions rolling back gains in affirmative action and set-aside programs will further encourage white racists to rear their heads again in Mississippi.

The Nation as a whole has yet to confront the racism that underlies the American fabric and gave rise to the murders of Schwerner, Chaney, and Goodman. In too many ways it still rears its head and does not receive enough attention from those of us who are in positions of power and decisionmaking positions. Countless African-Americans in Mississippi, State residents who were the backbone of the movement, had been murdered, and many of those bodies were found in the process of dragging the river and lagoons for the bodies of Schwerner, Chaney, and Goodman.

If there is a lesson to be learned from the Schwerner, Chaney, and Goodman tragedy, and indeed from the deaths of numerous civil rights workers in the sixties whose names we may never know, it is that they believed so much in racists' capacity to change that they were willing to put their lives on the line to prove it.

Mr. Speaker, I would like to submit for the RECORD the excerpt from "Three Lives for Mississippi" in its entirety.

The excerpt is as follows:

THREE LIVES FOR MISSISSIPPI

(By William Bradford Huie)

When the three were ordered or pulled from the station wagon, I think they must have been placed in handcuffs, though I was told that they were not. "They were still following orders," I was told, "and Schwerner and Goodman still didn't think they were going to be killed. They thought they were going to be whipped."

I was told that James Chaney recognized one of the men from Meridian, called him by name, and asked him for help.

The murder was done in the "cut" on Rock Cut Road, less than a mile from Highway 19, about four miles from where the three were taken from the station wagon. It was before midnight, and the moon was still high. Three cars were in the cut. I was told that the three victims said nothing, but that they were jeered by the murderers. Several of the murderers chanted in unison, as though they had practiced it:

"Ashes to ashes, Dust to dust, If you'd stayed where you belonged, You wouldn't be here with us."

Another said: "So you wanted to come to Mississippi? Well, now we're gonna let you stay here. We're not even gonna run you out. We're gonna let you stay here with us."

When Schwerner was pulled from the car and stood up to be shot, I was told that the man with the pistol asked him: "You still think a nigger's as good as I am?" No time was allowed for a reply. He was shot straight through the heart and fell to the ground.

Goodman was next, with nothing said. Apparently he stood as still as Schwerner did, facing his executioner, for the shot that killed him was the same precise shot. I was told that another man fired the shot, using the same pistol, but my opinion remains that one man fired both shots. I also still believe that both Schwerner and Goodman were in handcuffs, and that the cuffs were removed after they were dead.

Chaney was last, and the only difference was that he struggled while the others had not. He didn't stand still; he tried to pull and duck away from his executioner. So he wasn't shot with the same precision, and he was shot three times instead of once.

Because Chaney's wrist, shoulder, and skull were crushed, a reputable New York doctor who examined Chaney's body said that he had been beaten, perhaps with a chain. Certainly the murderers were capable of it: they were capable of anything. But I would guess that it didn't happen, though he certainly could have been badly hurt in the struggle. All three bodies were buried in darkness with a bulldozer. They were also uncovered, forty-four days later, with a bulldozer. The bulldozers could easily have done additional bone damage to Chaney.

The federal indictment concerned with these murders charges that the three were let out of jail about 10:30 p.m., and that they were murdered on June 21, 1964. This means that federal agents are convinced that the murder was done before midnight. So these murders were committed with dispatch. There was no horsing around, or "interrogation," or torture, as in the case of Edward Aaron. When white-supremacy terrorists are bent on murder they seldom pause to torture. And they usually hate "nigger-lovers" more than they hate "niggers." Which is why I think that—if they were going to single out a victim and beat him—Schwerner, not Chaney, would have been the preferred choice.

The three bodies were tossed into the station wagon and drove along dirt roads to a farm about six miles southwest of Philadelphia. A "cattle pond" was under construction on this farm. There are scores of such ponds in Neshoba County. A pond is created by erecting an earthen dam in a proper spot. To begin building a dam you generally dig a ditch maybe 30 feet wide and 5 feet deep and 100 or more feet long. Into this ditch you pack red clay; it hardens, and creates a base for the dam under which water will not seep. Onto this base you then pile dirt, sloping the sides, to whatever height is needed. You plant grass along the sides. A finished dam may be 30 feet wide at the base, 10 feet wide at the top, 20 feet high, and 100 feet long, all erected on the red-clay base.

Such a dam is a perfect place in which to hide bodies. On June 21 only the red-clay base had been built, and a bulldozer was parked at the scene. One of the conspirators operated the bulldozer. He was supposed to be waiting for the murderers, but he was

late. They arrived before he did, and they had to wait almost two hours for him. The moon went down behind the trees. This wait must have been unpleasant, even for such patriots proud of their courage, and I was told that a gallon of corn whiskey was delivered to them to help them through their bloody wake. Many good stories must have been told, to cackling and thigh-slapping, during that two hours of drinking and waiting at a lonely construction site.

During the Second World War I remember seeing dead soldiers buried temporarily with bulldozers. We did this at Omaha Beach. Many Americans saw this done, and I suspect it was one such old veteran who thought of playing hide-and-seek with the agents of the United States by burying these bodies with a bulldozer.

When the bulldozer operator arrived, he dug a trench in the red clay along the length of the dam. The bodies, fully clothed, were tossed into this trench, face down, side by side. Goodman and Schwerner were head to head and feet to feet; Chaney, on the outside, was in the opposite position: his feet were at Schwerner's head. The two white men's arms were above their heads, indicating that they were dropped into the dirt by one man holding wrists and another holding ankles. Chaney's arms were at his sides, probably because his wrist was broken, so he would have been carried or dragged by his armpits. The bodies were then covered with two feet of dirt, and in subsequent weeks the dam was built to a height of eighteen feet. Heavy rains fell during July; so by August first the dam was massive and grassed over—a permanent tomb for three bodies if nobody ever talked.

After the burial the station wagon was driven to a point fifteen miles northeast of Philadelphia, to the edge of the Bogue Chitto swamp. There it was doused with diesel fuel and burned. The murderers thought this was clever, almost as clever as burying the bodies in the dam. They knew that only federal agents—no one else—would ever search for the bodies; so each move they made was part of a fascinating game they thought they were playing with the FBI.

Traditionally in race murders bodies have been thrown into rivers and swamps in Mississippi. So the murderers, by burning the station wagon on the edge of Bogue Chitto swamp, were leading the "federals" to begin by dragging the rivers and swamps. And the murderers thought this was funny because it was hot summertime and the swamps and rivers were teeming with snakes, chiggers, and mosquitoes.

"It tickles the hell out of me," one of the murderers said, "just to think of old J. Edgar's boys sweatin' out there in that swamp, with all them chiggers, water moccasins and skeeters."

Since the bodies were buried six miles southwest of Philadelphia, and the station wagon was burned fifteen miles northeast of Philadelphia, this meant that the search would begin twenty-one miles from where the bodies were; and by the time all the rivers and swamps were searched, the dam would be completed and grassed over.

Shortly before the early dawn, the murderers had finished all their chores tidily, and the last group of them gathered on the courthouse square in Philadelphia to shake hands and congratulate one another. They all had been drinking though none could be called drunk. There they were met by an official of the state of Mississippi.

"Well, boys," he said, "you've done a good job. You've struck a blow for the White Man. Mississippi can be proud of you. You've let these agitatin' Outsiders know where this state stands. Go home now and forget it. Before you go, I'm looking each one of you in the eye and telling you this: the first man who talks is dead! If anybody who knows anything about this ever opens his mouth to any Outsider about it, then the rest of us are going to kill him just as dead as we killed those three sons of bitches tonight.

"Does everybody understand what I'm saying? The man who talks is dead, dead, dead!"

Momentarily, I comforted one of the murderers, then left him confused.

I said: "Well, you were correct on one point. You killed Schwerner because you said he was an 'agitating, troublemaking, nigger-loving, Communist, atheistic, Jew outsider.' It's true that he called himself an atheist."

"He did, huh? He didn't believe in nothing?"

"Oh, yes," I said, "he believed in something. He believed devoutly."

"What'd he believe in?"

"He believed in you!"

"In me! What the hell!"

"Yeah," I said. "He believed in you. He believed love could conquer hate. He believed love could change even you. He didn't think you were hopeless. That's what got him killed."

As I say, that left him somewhat confused.

Mr. Speaker, in closing I would like to say that none of us want to see history relived again. This dramatization, as I said, has many benefits, but the benefit greatest of all is that it plays out a segment of history that none of us want to see relived again. None of us want to see us go in that same circle. None of us want to have to go into confrontation, demonstrations, and a whole set of challenges that need not be. We would like to take on challenges in some other area. We do not want to fight the civil rights struggle again. We do not want to have young people with idealism use their idealism in this way, have to have it used up. We do not want them to face situations which threaten their very existence as these young people are willing to do.

Mr. Speaker, we would like to see reason prevail. We would like to see leadership in this Congress. We would like to see leadership in the executive branch of government. We would like to see the Surpeme Court give up its mission, its ideological mission, and accept the consensus that has been built over the years, built on the precedents that are already there and go forward.

Mr. Speaker, let us never turn back the clock and force young people like Chaney, Goodman, and Schwerner to have to go to the front lines and give their lives again.

I again congratulate the gentleman from Georgia [Mr. JONES] for taking out this special order.

Mr. JONES of Georgia. Mr. Speaker, I thank the gentleman from New York [Mr. OWENS] for joining us in these special orders, and I thank him also for bringing to our attention this caravan. I think this is a fine way to bring a focus to how far we have come since 1964, and he pointed out how far we have still got to go.

Mr. Speaker, I think it should be noted, too, that this event was marked and this caravan was supported by the Governor of Mississippi who, I think, represents a new breed of politician in the South who has said that Mississippi will never be last in anything again. That is a mark of how far we have come and where, I hope, we are going, and I thank the gentleman from New York [Mr. OWENS] for his remarks.

Mr. Speaker, I yield to the gentleman from California [Mr. BERMAN].

□ 1830

Mr. BERMAN. Mr. Speaker, I thank the gentleman for yielding to me.

I join with my other colleagues in congratulating and expressing my appreciation to the gentleman from Georgia for taking out this special order. My guess is that the gentleman's predecessor of 25 years ago, whoever he may have been, might not have done that, and that in itself is a statement of what has happened in the past 25 years.

Twenty five years ago Andrew Goodman, James Chaney, and Michael Schwerner were shot to death because they believed that all Americans deserve justice. Having offered themselves against racism and intolerance in its strongest bastion, their commitment to the ideals of democracy could have been no deeper.

Thousands of victims died at the hands of racists before Chaney, Goodman, and Schwerner. But the murder of these three marked a turning point for our Nation. We looked inward, and found attitudes about race that could not bear scrutiny. These courageous victims helped us realize that the fight for tolerance and equality was a fight for each of us, white and black together.

Goodman, Chaney, and Schwerner were traveling a highway when they were stopped and murdered. In the 25 years since they were cut down, we have traveled a great deal farther. But the road still stretches in the distance. There is still much in our society and our hearts that will not stand scrutiny.

The disenfranchisement and poverty that civil right workers struggled against is no longer sanctioned by law. But all too often racism flourishes in practice. Equal opportunity and racial harmony remain an unfulfilled promise.

Even in the area that I represent, Los Angeles, an area that for more than 16 years has elected a black mayor in a distinct minority black city, the report came out yesterday which received front page attention in the

Los Angeles Times that referred to Los Angeles as one of the most segregated cities in the country in terms of its own housing patterns.

On this great and tragic anniversary, I urge my colleagues to redouble our efforts to ensure fairness and equity throughout America. James Chaney, Andrew Goodman, and Michael Schwerner died so that everyone could participate in the democratic process. As these men realized, it remains our greatest hope for justice.

Mr. Speaker, I thank the gentleman for bringing our attention to this important anniversary.

Mr. JONES of Georgia. Mr. Speaker, I thank my colleague for those very sensitive remarks.

As I thought about this occasion, I could not help but think that perhaps had Andy Goodman, Michael Schwerner, and James Chaney lived, that they would perhaps be serving among us here in this body today, but because of their example, because of their courage, and because of their ultimate sacrifice, they have made this a better country for us to serve.

Mr. Speaker, I would like to thank everyone who participated in this special order today. I thank my colleague, the gentleman from Georgia [Mr. LEWIS] for taking this special order with me.

Mr. DELLUMS. Mr. Speaker, I rise today, Mr. Speaker, to reflect on the 25 years that have elapsed since the tragic slayings of James Chaney, Andrew Goodman, and Michael Schwerner.

These young persons, the offspring of a nation that cherishes liberty and the rule of law above all, were murdered for the noble sin of standing up for those ideals. Their deaths in the muddy backwater of a Mississippi swamp electrified a nation, and in a majestic irony, resulted in the participation of thousands of young people in civil rights marches throughout the South.

I stand here today as a testament to the legacy of these heroes, Mr. Speaker, for their deaths were not in vain. The notion that the civil rights movement could be silenced through brutal acts of intimidation died with these fine young people, and born from their sacrifice were the incredible gains which we today struggle to preserve. The very existence of a substantial minority representation in Congress, in the courts, in our workplaces and military, all these, Mr. Speaker, were yet to be achieved in 1965. Some of you may recall that Chaney, Goodman, and Schwerner were killed for the simple act of helping to register disenfranchised black voters—yes, even voting, the backbone of our system of elected representation, was unheard of for minorities in 1965.

Twenty-five years is but a blink in the eye of eternity, but I can assure this body that the memories of these civil rights martyrs, and those colleagues who joined them in martyrdom—Medgar Evers, Martin Luther King, Jr., and too many countless others to detail here and now—their sacrifice will be remembered for generations to come as the ultimate act of giving. It is a shame, Mr. Speaker, that they had to give so much.

Mr. HOYER. Mr. Speaker, today I rise in support of the resolution to pay homage to three courageous young idealists on the 25th anniversary of their brutal, racially motivated murders.

On June 21, 1964, three young civil rights workers participating in the Mississippi "Freedom Summer" civil rights campaign to register black voters, were abducted and fatally shot outside Philadelphia, MS. James Chaney, Andrew Goodman, and Michael Schwerner volunteered to spend the summer in Mississippi to work toward increasing black voter registration in a volatile climate of racial tension. These young men gave their lives in affirmation that all in our society should be treated equal and allowed to participate in our greatest demonstration of democracy—the right to vote.

In recognizing the achievements and accomplishments that Chaney, Goodman, and Schwerner made in such a short period of time, we must also be cognizant of the achievements that we as a people, and as a country have made since that tragic period in our Nation's history. How ironic that the most historic legislation to be written, the Civil Rights Act of 1964, was enacted during the months following the murders, and the Voting Rights Act of 1965 approved the next year.

During this tumultuous period of human rights abuses in the quest for democracy, we must not forget that just a short while ago in our own country, people such as Chaney, Goodman, and Schwerner were denied their civil liberties in a brutal and inhumane manner. We cannot look upon these good and dedicated young men as mere sacrificial lambs but as a symbol of the rivers of blood and tears, shed by all who fought for the right for every American to be recognized as an equal citizen.

The sadness felt by those who knew, loved and respected Chaney, Goodman, and Schwerner can extended to the grief expressed for the many other nameless black men found dead in the rivers of Mississippi and elsewhere during the search for their bodies. Ugly, unnecessary and unforgivable deaths that symbolized the poison of racism.

Yes, we have come a long way, but have a long way yet to go. Recent Supreme Court decisions reversing five affirmative action cases give credence to this sentiment. The progress that we have made to ensure that everyone has an equal opportunity to be hired and promoted without regard to race has been nullified by these decisions. Regressive action does not befit a progressive nation. We must not allow the course of action that we have taken in the pursuit of equality and opportunity to be detoured.

Mr. Speaker, as we spend time sympathizing with the Chinese students who have lost their lives, and those who fear for their lives in the pursuit of democracy, let us remember their predecessors whose accomplishments should be an inspiration to all of us. James Chaney, Andrew Goodman, and Michael Schwerner did not die in vain, but died believing in the principle of equality and gave others the courage to follow their lead.

Mrs. BOXER. Mr. Speaker, today marks the 25th anniversary of one of the most shameful events in modern American history—the murders of three young civil rights workers, James Chaney, Andrew Goodman, and Michael Schwerner, by the Ku Klux Klan.

These three young men were heroes in the truest sense of the word. Chaney, Goodman, and Schwerner met in Philadelphia, MS, as colleagues in a crusade to register minority voters. Registering voters is tedious work, the grunt work of civil rights and responsible citizenship.

On the face of it, this is not the stuff of heroism. It is work that attracts not those seeking glamour, but those with a deep implacable commitment to democratic ideals. Worst of all, these young men had to carry out their work in the midst of hostile citizens who relentlessly resisted any change in the status quo.

If terrible tragedy had not befallen them, the names Chaney, Schwerner, and Goodman might never have been known to us. But the idealism and perseverance that defined their heroism attracted the attention of racists who could not abide by any improvement in the status of the black men and women they had kept down for so long.

Despite the daily threats and constant prospect of violence, Schwerner, Chaney, Goodman, and their fellow students and activists never wavered from the principle of peaceful, lawful action. They sought only to enjoy the rights and privileges guaranteed by the Constitution.

But a band of racists cut down Chaney, Schwerner, and Goodman in the bloom of youth.

It is tempting to dismiss the killers of Chaney, Schwerner, and Goodman as monsters, creatures of pure evil, but if we do we let ourselves off too easy. These killers were products of the dark side of American society, a dark side that, although in retreat for most of the last 25 years, is slowly reemerging. It falls to us to ensure that the light cast by the young civil rights workers is never extinguished.

A few months ago, one of the leaders of the Ku Klux Klan was elected as a Republican representative to a State legislature. Hate crimes are on the rise across the country. There are still those in our society who respond to differences of skin color, of sex, of religion, of national origin, of sexual orientation, by lashing out in hate.

Washington, DC, has been the site of recent setbacks in the long march toward equality. The Supreme Court has begun an incremental but profound retrenchment on civil rights. Recent decisions threaten to undo the modest but hard-earned progress of recent years.

So as we mark this somber anniversary, let us recognize and take heart from the heroism of James Chaney, Andrew Goodman, and Michael Schwerner—three young martyrs. But at the same time, let us not forget that the work they undertook is not done, and that we can build no more enduring monument to their heroism than to dedicate ourselves to the fulfillment of their vision of America as a nation of equal laws and equal justice.

Mr. DIXON. Mr. Speaker, today marks the 25th anniversary of the tragic murders of James Earl Chaney, Andrew Goodman, and Michael Schwerner, three civil rights workers who lost their lives in the struggle for racial equality and voting rights. As we remember the courage and dedication of these young men, we must also rekindle the spirit of civil rights activists of all races and religions who put personal considerations aside to work together toward the common goal of social justice and equality for all.

The shock of the murders of these innocent victims of racial hatred focused the Nation's attention on the courageous efforts of volunteers who traveled to Mississippi during Freedom Summer to participate in a voter registration campaign. The campaign to register blacks in Mississippi that summer added thousands to the voting rolls and was a turning point for black empowerment and voter registration. Today Mississippi boasts more black elected officials than any other State. There are currently over 500,000 blacks registered in Mississippi today compared to only 5,000 registered in 1964.

The tragic murders of these young men and the ethical challenge presented to the Nation by the Mississippi freedom project were part of a movement that paved the way to significant legislative achievements such as the Voting Rights Act and the Civil Rights Acts. The number of blacks registered to vote increased by over 50 percent within 1 year of passage of the Voting Rights Act, changing the balance of political power in this country.

Twenty-five years later this Nation is a very different place. The barriers to full voting have been eliminated. There are over 6,000 black elected officials across the Nation. Twenty-four black Americans serve in this Congress, several of whom hold leadership positions by virtue of their seniority in the House. We have indeed made much progress in making ours a more tolerant just society in which all of our citizens have an opportunity to participate in the mainstream of economic, social, and political life of this country.

Although the deaths of these three young men represent a milestone in the journey toward racial justice, their work is unfinished. Let us not forget that the struggle continues. There are still goals to achieve. The hard fought advances of the civil rights movement have been threatened by the assault on civil rights laws begun during the Reagan administration and by a conservative majority on the Supreme Court which appears hostile to the aspirations of minorities and women.

Racial and ethnic intolerance continues to pose a threat to the stability of our society. Hate motivated violence is on the rise. The election of David Duke, a former KKK leader to the Louisiana Legislature and the recent Court decisions on affirmative action are further evidence of the need to rekindle the spirit of a movement dedicated to the principles of justice and equality.

Most of our young people have never experienced or even witnessed the type of racial hatred which confronted Chaney, Goodman, and Schwerner during the summer of 1964. The indifference to racial injustice of many of our Nation's youth today is alarming. It is important for us to inform them of the moral courage and conviction of men and women, like Chaney, Goodman, and Schwerner, who waged the war against bigotry and hatred. Their example should inspire a generation of young people who were not yet born when these young men died. For this generation cannot afford to remain silent while the weapons in the civil rights arsenal are under attack by a conservative minority.

Today we honor the memory of James Earl Chaney, Andrew Goodman, Michael Schwerner, and all of the courageous civil rights workers who struggled to advance the cause of freedom, justice and equality for all Americans. I am proud to join my colleagues in this rededication to the ideals for racial, social, and economic justice. We must strive to be more vigilant in our efforts to insure that the principles of justice and equality for which they fought are realized in our society.

Mr. MFUME. Mr. Speaker, 25 years ago, James Chaney, Andrew Goodman, and Michael Schwerner lost their lives violently at the hands of southern segregationist who refused to remove their blinders and view our great Nation from the pluralistic perspective that these three young men envisioned.

Chaney, Goodman, and Schwerner have since come to symbolize how cruel and violent the State of Mississippi was throughout the civil rights era. Mississippi was perhaps the most violent and resistent to change than any other State in the Deep South. When the civil rights movement decided to embark on its bold "Freedom Summer" campaign to register black voters within one of our Nation's poorest States, they knew that Mississippi would be challenging and very tense.

In January 1964, Michael Schwerner and his wife Rita came to Mississippi to help mobilize and register black voters, establish community centers and eventually became the advance guard for students arriving later that summer. Schwerner worked closely with James Chaney, a native Mississippian and a trusted member of Meridian Mississippi's civil rights movement.

Andrew Goodman's first assignment upon arriving in Mississippi was to investigate the burning of a black church near Philadelphia MS. The date, June 20, 1964, was the last day that these three men were seen alive. Forty-four days later the bodies of James Chaney, Andrew Goodman, and Michael Schwerner were discovered in an earthen damn.

Mr. Speaker, the Chaney, Goodman, and Schwerner assassinations demonstrated to all America the importance of standing up for what you believe in and confront brutal repression wherever it rears its ugly head. Chaney, Goodman, and Schwerner brought national attention to Mississippi's unique problem and let all the world know that even in the land of the free and the home of the brave, segregation and racism threatened the tenets of our great democracy and almost devoured this Nation from the belly out.

We can ill afford to forget James Chaney, Andrew Goodman, and Michael Schwerner because their story provided the fuel for the fire that inspired thousands of civil rights workers and volunteers of all races to resist the hard-line resilience and bigotry of the South with more vigor and determination than ever before.

The hot summer of 1964 saw many long dark and difficult days. Days in which the very strength and heart of the movement was severely tested. The bond of unity that ensued the slaying of these three young men is an inspiration to those of us who are still involved in the struggle for equality for minorities and women. It serves as an inspiration for those of us who continue to fight against antisemitism, racism, and other social ills which test our Nation's moral fiber.

I am proud of the fact that our two colleagues from Georgia Representatives JOHN LEWIS, himself a legendary civil rights warrior, and BEN JONES, a freshman Member who has already demonstrated his sincerity and commitment to social justice, have reserved the time for this special order.

Mr. Speaker, the State of Mississippi and our Nation has made great strides in the 25 years since Chaney, Goodman, and Schwerner, but we need to continue to keep our eyes on the prize and march together side by side toward our final goal of a better America.

Mr. MINETA. Mr. Speaker, I am proud to join with my colleagues to mark this solemn anniversary.

I remember the events of 25 years ago. I remember the summer of 1964. I remember when we heard the first reports that three brave, dedicated civil rights workers were missing. And yes, I remember the shock and horror when we learned that they had been murdered.

Our entire Nation was moved to tears—and to action—when we learned the details of how these three young men had lost their lives.

In the 25 years since, much has happened to give meaning to their ultimate sacrifice.

As a nation, we forced ourselves to confront the difference between the high-flown rhetoric of our laws and the sad reality of the lives so many Americans lead.

Perhaps the ultimate irony of the murders of Andrew Goodman, James Earl Chaney, and Michael Henry Schwerner is that the injustices they suffered helped fuel a movement which led to greater and lasting justice for all Americans.

Their dedication and the dedication of countless other civil rights workers forced many Americans to take a long, hard look at the codified, institutionalized discrimination in which many of our citizens lived—solely because of their race, creed, or ethnic origin.

We were all grieved by the murders of Schwerner, Goodman, and Chaney. Their deaths brought home the attacks on dignity and the affronts to human decency which had denied too many Americans their just rights despite the guarantees of our great Constitution.

We have struggled to correct many injustices since the summer of 1964, Freedom summer. And yes, we have made great progress.

Here in 1989—as we mark Chaney, Goodman, Schwerner Day—we can only hope that they would have been proud of our efforts to build upon their work and ideals. I hope that

they would be as proud of us as we are of them.

These three brave young Americans were willing to fight—and die—for the civil rights of us all. They felt deeply the pain of discrimination. And their pain, sacrifice, and murder brought our lives the very real inhumanity of prejudice, discrimination, and hate.

As a result of the murders, many other dedicated Americans entered into the struggle for civil rights.

Can we find words strong enough to ease the pain and loss of the Goodman, Schwerner, and Chaney families?

We cannot.

Can we compose an elegy powerful enough to bring their sons back?

We cannot.

Can we offer an adequate salute which could somehow lessen the sting of the atrocities which cost Andrew, Michael, and James their lives?

We cannot.

But today, in this small recognition, we can help ensure that their deaths were not without meaning.

I believe they would be proud at the progress our Nation has made since that hot summer night 25 years ago.

I also believe that they would be surprised that we have thought to mark their deaths as we have. After all, they certainly never sought to become martyrs and heroes.

So today, Mr. Speaker, let us remember Goodman, Schwerner, and Chaney.

Let us reaffirm our commitment to civil rights.

Let us acknowledge the progress we have yet to make toward genuine equality for all Americans.

Let us vow to fight the erosion of the success we have struggled so long and hard to achieve.

But most of all, let us commit ourselves to realizing the dream of true freedom and true equality for all.

And let us honor the memory of three brave men—three young men whose dedication and ideals made a true difference in our lives and in the life of our Nation.

Let us remember Andrew Goodman, James Earl Chaney, and Michael Henry Schwerner.

Thank you very much.

Mr. TOWNS. Mr. Speaker, today we honor three brave young men who worked in the Deep South 25 years ago to advance the ideals of freedom and justice for all citizens. They, and thousands like them, taught black children who had been denied a basic education. They helped register black voters, who dared go to the polls only at the risk of life and limb. Twenty-five years ago today, James Earl Chaney, Michael Henry Schwerner, and Andrew Goodman became victims of the racial violence and injustice they were working to conquer.

In memory of the ultimate sacrifice these young men made for the cause of equality, a caravan departs today from Philadelphia, MS, where they were slain, traveling north through Washington, Philadelphia, and New York. A quarter of a century after their deaths, we can celebrate the participation of others who worked toward the cause of racial justice, like the former chairman of the Congress of Racial Equality, James Farmer. We can celebrate the caravan's sponsorship by freedom summer education and voter registration project organizers, like our colleague, Congressman JOHN LEWIS of Georgia. And we celebrate the involvement of State officials who are committed to equal rights for all citizens, like Mississippi Gov. Ray Mabus.

As we celebrate the advancement of freedom and justice in the 25 years since the deaths of Goodman, Chaney, and Schwerner, we must remember and declare our solidarity with those who still must risk their lives for these ideals. The university students in China, like the three young men we honor today, have met with violent resistance to their struggle for democracy. Their commitment to nonviolent protest, their insistence on protest at the risk of their lives, and their systematic persecution by the highest Government officials, closely parallel the experiences of the young men we honor today.

I encourage my colleagues to join me in celebrating the Nation's advances in equal rights since the passing of Goodman, Chaney, and Schwerner, remembering that we must reaffirm our commitment to advancement of equal rights for our own citizens and for people around the globe who seek true democracy.

Mr. GREEN. Mr. Speaker, I rise today to commemorate the brutal murders of three young civil rights workers. James Chaney, Andrew Goodman, and Michael Schwerner were instrumental in drawing the Nation's attention to the struggle for racial justice. These three men symbolized part of a national movement that helped to achieve the passage of the Civil Rights of 1964 and the Voting Rights Act of 1965. Chaney, Goodman, and Schwerner gave their lives in the battle for justice and equality and were leaders in the protest against bigotry and racial discrimination. Their spirit of goodwill lives today because we as a nation have benefited tremendously from the civil rights movement. However, part of their work remains unfinished. While their struggle and sacrifice was dedicated to the ideals of equality and justice our Nation is still plagued by discrimination. It is unfortunate that the Ku Klux KLan and white supremacist groups are still active in placing roadblocks in America's journey toward racial equality. It is unfortunate that hate motivated crimes are still a part of the lives of many Americans. Tragically, hundreds of incidents are documented each and every year. Racial, religious, and antigay violence must stop. And so, let us remember the struggle of James Chaney, Andrew Goodman, and Michael Schwerner and pledge to continue their fight to eliminate all remaining barriers to the ideals of justice, equality, citizenship, and community.

Mr. DELLUMS. Mr. Speaker, I rise today, Mr. Speaker, to reflect on the 25 years that have elapsed since the tragic slayings of James Chaney, Andrew Goodman, and Michael Schwerner.

These young persons, the offspring of a Nation that cherishes liberty and the rule of law above all, were murdered for the noble sin of standing up for those ideals. Their deaths in the muddy backwater of a Mississippi swamp electrified a Nation, and in a majestic irony, resulted in the participation of thousands of young people in civil rights marches throughout the South.

I stand here today as a testament to the legacy of these heroes, Mr. Speaker, for their deaths were not in vain. The notion that the civil rights movement could be silenced through brutal acts of intimidation died with these fine young people, and born from their sacrifice were the incredible gains which we today struggle to preserve. The very existence of a substantial minority representation in Congress, in the courts, in our workplaces and military, all these Mr. Speaker, were yet to be achieved in 1964. Some of you may recall that Chaney, Goodman and Schwerner were killed for the simple act of helping to register disenfranchised black voters—yes, even voting, the backbone of our system of elected representation, was unheard of for minorities in 1964.

Twenty-five years is but a blink in the eye of eternity, but I can assure this body that the memories of these civil rights martyrs, and those colleagues who joined them in martyrdom—Medgar Evers, Martin Luther King, Jr., and too many countless others to detail here and now—their sacrifice will be remembered for generations to come as the ultimate act of giving. It is a shame, Mr. Speaker, that they had to give so much.

GENERAL LEAVE

Mr. JONES of Georgia. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and to include therein extraneous material on the subject of my special order tonight.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Georgia?

There was no objection.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. LEACH of Iowa (at the request of Mr. MICHEL), for today and the balance of the week, on account of a death in the family.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. BEREUTER) to revise and extend their remarks and include extraneous material:)

Mr. BEREUTER, for 5 minutes, today.

Mrs. MORELLA, for 5 minutes, today.

(The following Members (at the request of Mr. AUCOIN) to revise and extend their remarks and include extraneous material:)

Mr. ANNUNZIO, for 5 minutes, today.

Mr. TOWNS, for 5 minutes, today.

Mr. ROSTENKOWSKI, for 5 minutes, today.

Mr. KENNELLY, for 5 minutes, today.
Mr. LIPINSKI, for 5 minutes, on June 27.
Mr. LIPINSKI, for 60 minutes each day, on June 28, and July 12 and 19.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. BEREUTER) and to include extraneous matter:)

Mr. BROOMFIELD.
Mr. HYDE.
Mr. BARTON of Texas.
Mr. CAMPBELL of California.
Mr. SUNDQUIST.
Mr. WHITTAKER.
Mr. BEREUTER.
Mr. GOODLING.
Mr. FIELDS.
Mrs. BENTLEY in two instances.
Mr. BUECHNER.
Mr. DORNAN of California.

(The following Members (at the request of Mr. AUCOIN) and to include extraneous matter:)

Mr. DYMALLY.
Mr. RANGEL.
Mr. THOMAS A. LUKEN.
Mr. SYNAR.
Mr. GAYDOS.
Mr. DERRICK.
Mr. FASCELL in three instances.
Mr. STOKES in two instances.
Mr. DONNELLY.
Mr. MILLER of California in two instances.
Mr. HAMILTON in two instances.
Mr. FRANK.
Mr. APPLEGATE in two instances.
Mr. LEVINE of California.
Mr. STARK.
Mr. DINGELL.
Mr. ROSTENKOWSKI.
Mr. YATRON.
Mrs. BOGGS.
Mr. ACKERMAN.
Mr. MANTON.
Mr. BILBRAY.
Mr. WAXMAN.
Mr. BORSKI.
Mr. BATES.
Mr. TOWNS.
Mr. MFUME.

ENROLLED BILL SIGNED

Mr. ANNUNZIO from the Committee on House Administration, reported that that committee had examined and found truly enrolled a bill of the House of the following title, which was thereupon signed by the Speaker:

H.R. 2344. An act to authorize the transfer to the Republic of the Philippines of two excess naval vessels.

ADJOURNMENT

Mr. LEWIS of Georgia. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 6 o'clock and 35 minutes p.m.), under its previous order, the House adjourned until tomorrow, Thursday, June 22, 1989, at 12 noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

1370. A letter from the Assistant Secretary, Legislative Affairs, Department of State, transmitting a supplemental report on the status of secondment within the United Nations by the Soviet Union and Soviet-bloc member nations, pursuant to Public Law 100-204, section 701(b)(2)(F); to the Committee on Foreign Affairs.

1371. A letter from the Clerk, U.S. House of Representatives, transmitting the annual compilation of personal financial disclosure statements and amendments thereto filed with the Clerk of the House of Representatives, pursuant to 2 U.S.C. 703(d)(1) and rule XLIV, clause 1 of House rules (H. Doc. No. 101-75); to the Committee on Standards of Official Conduct and ordered to be printed.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. WHITTEN: Committee on Appropriations. Report on subdivision of the allocation of budget totals for fiscal year 1990 pursuant to section 302(b) of the Congressional Budget Act of 1974, as amended (Rept. 101-97). Referred to the Committee of the Whole House on the State of the Union.

Mr. DELLUMS: Committee on the District of Columbia. H.R. 2136. A bill to amend the District of Columbia Code to limit the length of time for which an individual may be incarcerated for civil contempt in a child custody case in the Superior Court of the District of Columbia and to provide for expedited appeal procedures to the District of Columbia Court of Appeals for individuals found in civil contempt in such a case; with amendments (Rept. 101-98). Referred to the Committee of the Whole House on the State of the Union.

Mr. ROSTENKOWSKI: Committee on Ways and Means. H.R. 1594. A bill to extend nondiscriminatory treatment to the products of the Peoples' Republic of Hungary for 5 years; with an amendment (Rept. 101-99). Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. ROSTENKOWSKI:

H.R. 2697. A bill to repeal the special treatment of interest on certain foreign loans contained in section 1201(e) of the Tax Reform Act of 1986; to the Committee on Ways and Means.

By Mr. ANNUNZIO (for himself, Mr. SWIFT, and Mr. JOHNSON of South Dakota):

H.R. 2698. A bill to amend the Federal Election Campaign Act of 1971 to restrict the practice of "bundling" of contributions to Federal office candidates; to the Committee on House Administration.

By Mr. BATES (for himself, Ms. SCHNEIDER, Mr. WAXMAN, Mr. GEPHARDT, Mrs. MORELLA, Mr. STARK, Mr. FISH, Mr. EDWARDS of California, Mr. SCHEUER, Mr. DOWNEY, Mr. PANETTA, Mr. GEJDENSON, Mr. MILLER of California, Mrs. SCHROEDER, Mr. STOKES, Mr. KENNEDY, Mr. RAVENEL, Mr. LEVIN of Michigan, Mr. LELAND, Mr. HEFNER, Mrs. BOXER, Mr. MRAZEK, Mr. BUSTAMANTE, Mr. BOSCO, Mr. COOPER, Mr. RICHARDSON, Mr. KASTENMEIER, Mr. COYNE, Mr. FAZIO, Mr. DORGAN of North Dakota, Mr. GAYDOS, Mr. KANJORSKI, Mr. KLECZKA, Mr. LEWIS of Georgia, Mr. KOLTER, Mr. MATSUI, Mr. MCHUGH, Mr. MURPHY, Mr. MARKEY, Mr. ORTIZ, Mr. TOWNS, Mr. FLAKE, Mr. VENTO, Mr. WYDEN, Mr. WILSON, Mr. SIKORSKI, Mr. STUDDS, Mrs. ROUKEMA, Mr. ROE, Mr. OWENS of New York, Mr. OBERSTAR, Ms. PELOSI, Mr. PEASE, Mr. OWENS of Utah, Mr. PALLONE, Mr. MORRISON of Connecticut, Mr. MFUME, Mr. ATKINS, Mr. AUCOIN, Mr. ACKERMAN, Mr. BENNETT, Mrs. COLLINS, Mr. CLAY, Mr. CONYERS, Mr. BERMAN, Mr. BEILENSON, Mr. BILBRAY, Mr. CROCKETT, Mr. DELLUMS, Mr. MCCLOSKEY, Mr. WEISS, Mr. TORRES, Mr. TRAFICANT, Mr. SHAYS, Mr. FAUNTROY, Mr. SAVAGE, Mr. SABO, Mr. LIPINSKI, Mr. LEVINE of California, Mr. HOCHBRUECKNER, Mr. LANTOS, Mr. GARCIA, Mr. FRANK, Mr. DIXON, Mr. DURBIN, Mr. DWYER of New Jersey, Mr. FALEOMAVAEGA, Mr. EVANS, Mr. DYMALLY, Mr. FOGLIETTA, Mr. ENGEL, Mr. PAYNE of New Jersey, Mr. KOSTMAYER, Mr. WOLPE, and Mr. RANGEL):

H.R. 2699. A bill to amend the Clean Air Act to require the Environmental Protection Agency to take certain steps to protect the stratospheric ozone layer from depletion resulting from chlorofluorocarbons, and for other purposes; jointly, to the Committees on Energy and Commerce and Ways and Means.

By Mr. THOMAS A. LUKEN (for himself, Mr. GLICKMAN, Mr. SLATTERY, and Mr. SYNAR):

H.R. 2700. A bill to establish uniform liability standards; jointly, to the Committees on Energy and Commerce and the Judiciary.

By Mr. BUECHNER:

H.R. 2701. A bill to extend the existing suspension of duty on triphenyl phosphate; to the Committee on Ways and Means.

By Mr. CLEMENT:

H.R. 2702. A bill to authorize the Secretary of the Army to provide flood protection for the Mill Creek basin in the vicinity of Nashville, TN; to the Committee on Public Works and Transportation.

By Mr. COX (for himself, Mr. CALLAHAN, Mr. LEWIS of California, Mr. UPTON, Mrs. MARTIN of Illinois, Mr. KOLBE, Mr. ARMEY, Mr. GALLO, Mr. CRAIG, Mr. MCGRATH, Mr. DENNY SMITH, Mr. HERGER, Mrs. MEYERS of Kansas, Mr. INHOFE, Mr. BURTON of

Indiana, Mr. LIGHTFOOT, Mr. GALLEGLY, Mr. DANNEMEYER, Mr. IRELAND, Mr. WHITTAKER, Mr. LAGOMARSINO, Mr. HENRY, Mr. NIELSON of Utah, Mr. SHAYS, Mr. BUECHNER, Mr. HASTERT, Mr. DONALD E. LUKENS, Mr. GRANT, Mr. HANCOCK, Mr. HILER, Mr. STUMP, Mr. ROGERS, Mr. BLAZ, Mr. DUNCAN, Mr. BUNNING, Mr. PAXON, Mr. ROHRABACHER, Mr. PACKARD, Mr. MCCRERY, Mr. MCMILLAN of North Carolina, Mr. PARRIS, Mr. SOLOMON, and Mrs. JOHNSON of Connecticut:

H.R. 2703. A bill to amend the Congressional Budget and Impoundment Control Act of 1974 to grant the power to the President to reduce appropriated funds within 10 days after the date of enactment of a bill appropriating such funds; jointly, to the Committees on Government Operations and Rules.

By Mr. DOUGLAS (for himself, Mr. SMITH of Mississippi, Mr. LAGOMARSINO, Mr. SMITH of New Jersey, Mr. BARTON of Texas, Mr. SCHAEFER, Mr. SMITH of New Hampshire, and Mr. SCHIFF):

H.R. 2704. A bill to amend the Juvenile Justice and Delinquency Prevention Act of 1974 to require, as a condition for receiving grants, that States treat all juveniles who are 15 years of age or older as adults for purposes of determining criminal liability for certain violent crimes; to the Committee on Education and Labor.

By Mr. FORD of Michigan (for himself, Mr. ACKERMAN, Mr. GILMAN, and Mr. MYERS of Indiana):

H.R. 2705. A bill relating to the method by which Government contributions to the Federal employees health benefits program shall be computed for 1990 or 1991 if no Government-wide indemnity benefit plan participates in that year; to the Committee on Post Office and Civil Service.

By Mr. GLICKMAN (for himself, Mr. PENNY, and Mr. NAGLE):

H.R. 2706. A bill to amend the Food Security Act of 1985 to improve the program under which the Secretary of Agriculture may settle certain loans, and for other purposes; to the Committee on Agriculture.

By Mr. HEFNER (for himself and Mr. RINALDO):

H.R. 2707. A bill to amend title II of the Social Security Act to provide for a more gradual period of transition (and a new alternative formula with respect to such transition) to the changes in benefit computation rules enacted in the Social Security Amendments of 1977 as such changes apply to workers born in years after 1916 and before 1927 (and related beneficiaries) and to provide for increases in such workers' benefits accordingly, and for other purposes; to the Committee on Ways and Means.

By Mr. THOMAS A. LUKEN:

H.R. 2708. A bill to amend the Solid Waste Disposal Act to clarify the regulation of certain Federal facility waste under subtitle C of that act, and for other purposes; to the Committee on Energy and Commerce.

By Mr. MICHEL:

H.R. 2709. A bill to amend title 18, United States Code, to make improvements in criminal law and procedure, and for other purposes; to the Committee on the Judiciary.

By Mr. MURPHY:

H.R. 2710. A bill to amend the Fair Labor Standards Act of 1938 to increase the minimum wage, and for other purposes; to the Committee on Education and Labor.

By Mr. PASHAYAN (for himself, Mr. BOSCO, Mr. HERGER, Mr. YOUNG of Alaska, Mr. MARLENEE, Mr. STUMP, Mr. CRAIG, Mr. STALLINGS, Mr. ROBERT F. SMITH, Mr. NIELSON of Utah, Mr. SHUMWAY, Mr. OLIN, Mr. CLINGER, Mrs. VUCANOVICH, Mr. SWIFT, and Mr. WYDEN):

H.R. 2711. A bill to amend section 1853 of the act of June 25, 1948; to the Committee on the Judiciary.

By Ms. PELOSI (for herself, Mr. AUCOIN, Mr. GARCIA, Mrs. BOXER, Mr. SCHEUER, Mr. DELLUMS, Mr. LELAND, Mr. LAFALCE, Mr. MATSUI, Mr. BROWN of California, Mr. SKAGGS, Mrs. SCHROEDER, Mr. FOGLIETTA, Mr. LENT, Mr. MCHUGH, Mr. ACKERMAN, Mr. GILMAN, Mr. BENNETT, Mr. LANTOS, Mr. DONALD E. LUKENS, Mr. COYNE, Mr. HOYER, Mr. CONTE, Mr. LEWIS of Georgia, Mr. JONES of Georgia, Mr. LANCASTER, Ms. SLAUGHTER of New York, Mr. OWENS of Utah, Mr. MILLER of Washington, Mrs. LOWEY of New York, Mr. BILBRAY, Mr. LEVINE of California, Mr. MANTON, Mr. CROCKETT, Mr. TAUZIN, Mr. BORSKI, Mr. VENTO, Mr. COLEMAN of Texas, Mr. SIKORSKI, Mr. VALENTINE, Mr. EVANS, Mr. MCNULTY, Mr. WEISS, Mr. STOKES, Mr. SANGMEISTER, Mr. FALEOMAVAEGA, Mr. KENNEDY, Mr. JONTZ, Mr. HOCHBRUECKNER, Mr. AKAKA, Mr. KLECZKA, Mr. FLAKE, Mr. TORRES, Mr. PETRI, Mr. LIPINSKI, Mr. ATKINS, and Mr. PAYNE of Virginia):

H.R. 2712. A bill to facilitate the adjustment or change of status of Chinese nationals in the United States by waiving the 2-year foreign residence requirement for "J" nonimmigrants and by treating nonimmigrants, whose departure has been deferred by the Attorney General, as remaining in legal nonimmigrant status for purposes of adjustment or change of status; to the Committee on the Judiciary.

By Mr. RANGEL:

H.R. 2713. A bill to amend title XVI of the Social Security Act to exclude from income for purposes of the Supplemental Security Income Program amounts paid by a public housing agency to certain elderly residents of public housing for providing supervisory services for voluntary tenant patrols of public housing owned and operated by such agency; to the Committee on Ways and Means.

By Mr. RINALDO:

H.R. 2714. A bill to amend the Communications Act of 1934 to improve the quality of reception of radio broadcast services, and for other purposes; to the Committee on Energy and Commerce.

By Mr. SCHUMER:

H.R. 2715. A bill to require the Consumer Product Safety Commission to require manufacturers of liquid consumer products which present a hazard to children to include denatonium benzoate in the products; to the Committee on Energy and Commerce.

By Mr. HAMMERSCHMIDT:

H.J. Res. 299. Joint resolution to designate the week of July 24 to July 30, 1989, as the "National Week of Recognition and Remembrance for Those Who Served in the Korean War"; to the Committee on Post Office and Civil Service.

By Mr. HEFLEY:

H.J. Res. 300. Joint resolution proposing an amendment to the Constitution of the United States to provide for 4-year terms for Representatives and to limit the number of consecutive terms Senators and Representatives may serve; to the Committee on the Judiciary.

By Mr. SOLOMON:

H.J. Res. 301. Joint resolution providing authority for accelerated use of fiscal year 1989 appropriations by the Department of Veterans' Affairs; to the Committee on Appropriations.

By Mr. WALKER (for himself, Mr. MARLENEE, Mr. GEKAS, Mr. FIELDS, Mr. SOLOMON, Mr. BUNNING, Mr. BLILEY, Mr. BURTON of Indiana, Mr. BALLENGER, Mr. ROBINSON, Mr. STUMP, Mr. HUCKABY, Mr. PARRIS, Mr. DANNEMEYER, Mr. NEAL of North Carolina, Mr. HERGER, Mr. ARMEY, Mr. SMITH of Mississippi, Mr. KYL, and Mrs. BENTLEY):

H. Res. 181. Resolution expressing the concern of the House of Representatives regarding the future security of the Panama Canal; jointly, to the Committees on Foreign Affairs and Merchant Marine and Fisheries.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 8: Mr. DURBIN.

H.R. 24: Mr. SPRATT, Mr. KOLTER, and Mr. HARRIS.

H.R. 45: Mr. ROYBAL.

H.R. 71: Mr. BEREUTER.

H.R. 101: Mr. BUSTAMANTE and Mr. KENNEDY.

H.R. 173: Mrs. JOHNSON of Connecticut and Mr. SUNDQUIST.

H.R. 239: Mr. DINGELL, Mr. BOEHLERT, Mrs. VUCANOVICH, and Mr. SKELTON.

H.R. 283: Mr. STENHOLM and Mrs. LLOYD.

H.R. 293: Mr. ANDREWS and Mr. BOEHLERT.

H.R. 488: Mr. WALSH, Mr. GLICKMAN, Mr. CRAIG, Mr. GEJDENSON, Mr. LEVINE of California, and Mr. CAMPBELL of Colorado.

H.R. 572: Mr. MCEWEN.

H.R. 578: Mr. SMITH of Florida and Mr. VALENTINE.

H.R. 579: Mrs. SAIKI.

H.R. 594: Mr. BRYANT, Mr. WILSON, and Mr. MILLER of Ohio.

H.R. 634: Mr. HYDE and Mr. THOMAS of Wyoming.

H.R. 694: Mrs. UNSOELD, Mr. SMITH of Mississippi, Mr. GOSS, Mr. HUNTER, Mr. JONTZ, Mr. HOLLOWAY, Mr. SMITH of New Hampshire, Mr. SMITH of Texas, Mr. VUCANOVICH, and Mr. SKAGGS.

H.R. 725: Mr. MINETA, Mr. ROWLAND of Connecticut, and Mr. ROYBAL.

H.R. 819: Mr. MAVROULES.

H.R. 854: Mr. COSTELLO, Ms. SNOWE, Mr. JOHNSON of South Dakota, Mr. ENGEL, and Mr. TORRICELLI.

H.R. 919: Mr. BUSTAMANTE and Mr. ANDREWS.

H.R. 939: Mr. KLECZKA.

H.R. 993: Mr. KASTENMEIER and Mr. MILLER of California.

H.R. 995: Mr. OLIN and Mr. WATKINS.

H.R. 1028: Mr. GARCIA, Mr. ARMEY, Mr. MCEWEN, Mr. TORRICELLI, Mr. AKAKA, Mr. MCGRATH, Mr. GINGRICH, Mr. BILIRAKIS, Mr. MURPHY, Mr. SABO, Mr. SMITH of Texas, Mr. MCMILLAN of North Carolina, Mr. WISE, Mr. TAUZIN, Mr. WILLIAMS, Mr. SIKORSKI, Mr. KOLTER, Mr. GONZALEZ, Mr. PRICE, Mr. CLINGER, Mr. ESPY, Mr. WOLF, Mr. MURTHA, Mrs. BOXER, Mr. JONES of North Carolina, Mr. WHEAT, and Mrs. MEYERS of Kansas.

H.R. 1029: Mr. ROBINSON, Mr. NIELSON of Utah, Mr. WHITTAKER, and Mr. ATKINS.

H.R. 1083: Mrs. BENTLEY, Mr. JONES of North Carolina, Mr. BILBRAY, Mr. ERDREICH, Mrs. BOXER, Mr. WYDEN, and Mr. NIELSON of Utah.

H.R. 1095: Mr. SYNAR.

H.R. 1110: Mr. ESPY.

H.R. 1136: Mr. MCCURDY, Mr. BLILEY, Mr. HARRIS, Mr. SHUSTER, Mr. WATKINS, Mr. SMITH of Mississippi, Mr. GLICKMAN, Mr. NIELSON of Utah, Mr. FIELDS, and Mr. BRUCE.

H.R. 1243: Mr. RAY.

H.R. 1296: Mr. COURTER, Mr. CHAPMAN, Mr. FOGLIETTA, Mr. MFUME, Mr. EMERSON, Mr. SMITH of Mississippi, Mr. OWENS of New York, Mr. HALL of Texas, Mr. BLAZ, Mr. HOCHBRUECKNER, Mr. LAGOMARSINO, Mr. DAVIS, Mr. ESPY, Mr. YOUNG of Florida, Mr. EVANS, Mr. MARLENEE, and Mr. WYDEN.

H.R. 1317: Mr. TALLON, Mr. SLATTERY, Mr. HUCKABY, and Mr. GEJDENSON.

H.R. 1365: Mr. BOEHLERT.

H.R. 1416: Mr. DUNCAN, Mr. HUNTER, Mr. GALLO, Mr. HARRIS, Mrs. BOXER, Mrs. MARTIN of Illinois, Mr. KANJORSKI, Mr. PORTER, Mr. SHAW, Mr. DANNEMEYER, Mr. LIVINGSTON, Mr. COLEMAN of Texas, Mr. ROHRABACHER, Mr. FROST, and Mr. MOORHEAD.

H.R. 1532: Ms. KAPTUR.

H.R. 1556: Mr. OWENS of Utah.

H.R. 1564: Mr. HUBBARD, Mr. HOAGLAND, Mr. BATES, Mr. SAXTON, and Mr. GINGRICH.

H.R. 1613: Mr. SCHIFF, Mr. DELAY, Mr. PARKER, Mr. STENHOLM, Mr. SUNDQUIST, Mr. INHOFE, Mr. MYERS of Indiana, and Mr. BALLENGER.

H.R. 1725: Mr. WALGREN and Mr. DIXON.

H.R. 1836: Mr. BUSTAMANTE.

H.R. 1860: Mr. HOYER, Mrs. MORELLA, Ms. OAKAR, and Mr. MYERS of Indiana.

H.R. 1879: Mr. DWYER of New Jersey and Ms. KAPTUR.

H.R. 1952: Mr. ROSE.

H.R. 2140: Mr. TAUZIN.

H.R. 2217: Mr. CHAPMAN and Mr. THOMAS A. LUKEN.

H.R. 2228: Mr. GEKAS and Mr. ATKINS.

H.R. 2277: Mr. MCEWEN.

H.R. 2288: Ms. PELOSI, Mr. AUCOIN, Mr. BILBRAY, Mr. PAYNE of New Jersey, Mr. BUSTAMANTE, Mr. KLECZKA, Mr. MCGRATH, Mr. DYMALLY, Mrs. BOXER, Mr. FOGLIETTA, Mr. JONTZ, Mr. FAUNTROY, Mr. BONIOR, Mrs. COLLINS, Mr. OWENS of New York, Mr. FAZIO, Mr. MCDERMOTT, Mr. PANETTA, and Mr. DIXON.

H.R. 2300: Mr. MCEWEN.

H.R. 2403: Mr. LANTOS, Mr. PRICE, Mr. JACOBS, Mr. YATRON, Mrs. JOHNSON of Connecticut, Mr. CAMPBELL of Colorado, Mr. TORRICELLI, Mr. FORD of Michigan, Mr. ESPY, Mr. CARR, Mr. WISE, Mr. THOMAS A. LUKEN, Mr. SYNAR, Mr. VISCLOSKY, Mr. ECKART, Mr. DORGAN of North Dakota, Mr. SABO, Mr. JOHNSTON of Florida, Mr. VENTO, Mr. SAWYER, Mr. BONIOR, Mr. COYNE, Mr. PERKINS, Mr. CLAY, Mr. NEAL of Massachusetts, Mr. ORTIZ, Mr. LEWIS of Georgia, Mr. BENNETT, Mr. FROST, Mr. SCHEUER, Mr. RAHALL, Mr. STAGGERS, Mr. ALEXANDER, Mr. BORSKI, Ms. OAKAR, Mr. NAGLE, Mr. BEILENSON, Mr. CARDIN, Mrs. COLLINS, Mr. DIXON, Mr. FAZIO, Mr. GLICKMAN, Mr. JOHNSON of South Dakota, Mr. JONTZ, Mr. MARTINEZ, Mr. MILLER of California, Mr. SIKORSKI, Mr. WALGREN, Mr. WAXMAN, and Mr. WEISS.

H.R. 2437: Mr. ATKINS and Mr. HASTERT.

H.R. 2466: Ms. SLAUGHTER of New York.

H.R. 2522: Mr. DYMALLY, Ms. KAPTUR, Mr. WALSH, and Mr. BOEHLERT.

H.R. 2532: Mr. PENNY, Mr. SHARP, Mr. EDWARDS of California, Mr. YATES, Mr. EVANS, Mr. HALL of Ohio, Mr. DE LUGO, Mr. KANJORSKI, Mr. ATKINS, Mr. WALSH, Mr. ENGEL, Mr. DURBIN, Mr. DELLUMS, Mr. AKAKA, Ms. LONG, Mr. MFUME, and Mr. VALENTINE.

H.R. 2538: Mr. MATSUI, Mr. CROCKETT, Mr. PICKETT, Mr. BARNARD, and Mrs. BENTLEY.

H.R. 2584: Mr. RINALDO.

H.R. 2596: Mr. COURTER and Mr. SOLOMON.

H.R. 2613: Mrs. BENTLEY, Mr. RANGEL, Mr. LIGHTFOOT, Mr. DELLUMS, Mr. FLIPPO, Mr. APPLEGATE, Mr. CONTE, Mr. ACKERMAN, Mr. WOLF, Mr. HENRY, Mr. MCCLOSKEY, Mr. BURTON of Indiana, Mr. SCHUMER, Mr. ATKINS, Mrs. BOXER, Mr. WALKER, Mr. SMITH of New Jersey, Mrs. COLLINS, Mr. MORRISON of Connecticut, Mr. DANNEMEYER, Mr. LIPINSKI, Mr. CHAPMAN, Mr. LEWIS of Georgia, Mr. SHAYS, and Mr. MARTINEZ.

H.R. 2654: Mr. WILSON.

H.R. 2681: Mr. GEJDENSON, Mr. WALSH, Mrs. BENTLEY, Mr. HERTEL, Mr. DWYER of New Jersey, and Mr. GARCIA.

H.J. Res. 111: Mr. ROHRABACHER, Mr. DEWINE, Mr. YOUNG of Florida, Mr. HAMMERSCHMIDT, Mr. BUNNING, Mr. KOSTMAYER, Mr. LEHMAN of California, Mr. KENNEDY, Mr. LAUGHLIN, Mr. JOHNSON of South Dakota, Mr. JENKINS, Mr. PAYNE of Virginia, Mr. COLEMAN of Texas, Mr. GONZALEZ, Mr. HALL of Texas, Mr. NIELSON of Utah, Mr. MCNULTY, Mr. PRICE, Mr. SARPALIUS, Mr. STALLINGS, Mr. RHODES, Mr. SISISKY, Mr. SLAUGHTER of Virginia, Mr. SUNDQUIST, Mr. STENHOLM, Mr. WHEAT, Mr. WYDEN, Mr. WYLIE, Mr. VALENTINE, Mr. WHITTAKER, and Mr. BROWDER.

H.J. Res. 147: Mr. LAGOMARSINO, Mr. BONIOR, Mr. MATSUI, and Ms. SLAUGHTER of New York.

H.J. Res. 221: Mr. COX, Mr. FLIPPO, Mr. GOSS, Mr. JACOBS, Mr. LANCASTER, Mr. LIVINGSTON, Mr. MARTIN of New York, Mr. MCEWEN, Mr. PASHAYAN, Mr. ROSE, Mr. SIKORSKI, Mr. SPRATT, and Mr. VOLKMER.

H.J. Res. 225: Mr. CONYERS, Mr. PAYNE of New Jersey, Mr. FASCELL, Mr. LEVIN of Michigan, Mr. FROST, Mr. GILMAN, Mr. MRAZEK, Mr. BLILEY, Mr. DYSON, Ms. KAPTUR, Mr. TOWNS, Mr. SKAGGS, Mr. BILIRAKIS, Mr. MCDERMOTT, Mr. YATRON, Mr. SCHAEFER, Mr. FISH, Mr. LEHMAN of Florida, Mr. FOGLIETTA, Mr. DICKS, Mr. BEVILL, Mr. RUSSO, Mr. BENNETT, Mr. PICKETT, Mr. HENRY, Mr. SAWYER, Mr. OWENS of Utah, Mrs. PATTERSON, Mr. HORTON, Mr. GALLO, Mr. DWYER of New Jersey, Mr. LELAND, Mr. EMERSON, Mr. MCEWEN, Mr. SHAW, Mr. EVANS, Mr. DEWINE, Mr. CLEMENT, and Mr. THOMAS A. LUKEN.

H.J. Res. 264: Mr. WELDON.

H. Con. Res. 72: Mr. BILIRAKIS.

H. Con. Res. 124: Mr. FAWELL, Mr. CAMPBELL of California, Mr. HUBBARD, Mr. MORRISON of Washington, Mr. SOLOMON, Mr. HAYES of Illinois, Ms. OAKAR, and Mr. BONIOR.

H. Con. Res. 152: Mr. LAFALCE, Mr. UPTON, Mr. SIKORSKI, Mr. DYMALLY, Mr. BROWN of California, Mr. WOLF, Mr. DEFAZIO, Mr. MANTON, Mr. ACKERMAN, Mr. FOGLIETTA, Mr. OWENS of Utah, Mr. SMITH of New Jersey, Mr. COURTER, Mr. WAXMAN, Mr. BUSTAMANTE, Mr. TOWNS, Mr. FUSTER, and Mr. GALLEGLY.

H. Res. 25: Ms. SNOWE.

H. Res. 149: Mrs. PATTERSON and Mr. ROWLAND of Connecticut.

H. Res. 157: Mr. DELLUMS, Mr. WAXMAN, and Mrs. SAIKI.

H. Res. 176: Mr. HUNTER and Mr. DONALD E. LUKENS.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 2655

By Mr. BERMAN:

—Page 63, line 22, strike out "or"; and after line 22 insert the following:

"(3) which meets the poverty criteria established by the International Development Association;

"(4) which has an agreement with the United States pursuant to which the United States is given access to military facilities in that country;

"(5) which is a party to the Camp David Accords; or".

—Page 63, line 23, strike out "(3)" and insert in lieu thereof "(6)"; and page 64, line 7, strike out "(3)" and insert in lieu thereof "(6)".

—Page 63, line 22, strike out "or"; and after line 22 insert the following:

"(3) which meets the poverty criteria established by the International Development Association; or".

—Page 63, line 23, strike out "(3)" and insert in lieu thereof "(4)"; and page 64, line 7, strike out "(3)" and insert in lieu thereof "(4)".

By Mr. BROWN of Colorado:

—Page 525, insert the following after line 16:

(a) FINDINGS.—The Congress finds that—

(1) there are still over 2,300 Americans unaccounted for in Southeast Asia;

(2) by not knowing the fates of their loved ones, the families of those unaccounted for in Southeast Asia have suffered tremendous hardship;

(3) the United States made a commitment that resolving the fates of Americans unaccounted for in Southeast Asia was a matter of the highest national priority; and

(4) the United States must reaffirm that commitment and fulfill its promise to the families of our missing Americans.

(b) STATEMENT OF POLICY.—It is the sense of the Congress that the United States should—

(1) continue to give the highest national priority to accounting as fully as possible for Americans still missing in Southeast Asia and to negotiating the return of any Americans still held captive in Southeast Asia; and

(2) heighten public awareness of the Americans still missing in Southeast Asia through the dissemination of factual data, including primary next-of-kin access to records concerning reported live sightings of Americans missing in Southeast Asia, to the extent that the disclosure of such records does not reveal sources and methods of intelligence collection.

—Page 525, line 17, strike out "It is the" and insert in lieu thereof "(c) SUPPORT OF HUMANITARIAN PROJECTS IN LAOS.—It is the further".

By Mr. BUECHNER:

—Page 535, after line 10, insert the following new section:

SEC. 925. REMOVAL OF MINES IN AFGHANISTAN BY THE SOVIET UNION.

(A) FINDINGS.—The Congress makes the following findings:

(1) The Soviet Union has engaged in armed hostilities against the people of Afghanistan for over eight years.

(2) The hostilities in Afghanistan have resulted in extensive loss of life and property

and economic dislocation for large numbers of the Afghan people.

(3) During the course of the conflict in Afghanistan millions of explosive mines, made of both plastic and metal, were planted or scattered throughout the Afghanistan countryside, and these mines have injured or killed thousands of men, women and children.

(4) Many of the mines the Soviet Union has deployed in Afghanistan will remain active for many years, thus posing a significant threat to the lives and security of the Afghan people.

(5) One of the terms of the agreement governing the withdrawal of Soviet troops from Afghanistan quarantees the safe passage and return of Afghan refugees to their homeland.

(b) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) the Soviet Union should continue to agree to abide by the letter and spirit of the agreement governing the withdrawal of its armed forces from Afghanistan;

(2) the Soviet Union should make available all information regarding the location of all minefields as well as information regarding areas in which mines were scattered by means of artillery or aircraft, or other means, and this information should be widely disseminated by all available methods to the Afghan people both in Afghanistan and in refugee camps outside the country;

(3) the Soviet Union should provide generous support to the efforts of the United Nations to remove mines in Afghanistan and to continue to do so until such time as it has been established that all reasonable steps for the identification, location, and removal of mines have been taken;

(4) the Soviet Union should also provide generous and long-term support for United Nations efforts toward the reconstruction in Afghanistan including medical care and assistance to those Afghan people injured as a result of Soviet and Afghan government placement of mines.

By Mr. DORNAN of California:

—Page 454, sec. 707(b), strike lines 9-24.

—Page 454, add the following after line 24:

Whereas the Soviet Union and its allies have provided a cumulative total of over $2,745,000,000 in direct military assistance, and between $350,000,000 and $500,000,000 in assistance for military infrastructure development, to the Republic of Nicaragua since 1979;

Whereas military assistance to the Republic of Nicaragua from the Soviet Union and its allies exceeds $590,000,000 since the signing of the Esquipulas II Accords on August 7, 1987, which are designed to foster regional peace and national reconciliation in Nicaragua;

Whereas all authority for the United States Government to provide or deliver military assistance to the Nicaraguan Resistance expired on February 29, 1988;

Whereas the February 14, 1989, Joint Declaration of the five Central American Presidents envisions a total demobilization of the Nicaraguan Resistance, a force which has failed to present any credible threat to the Nicaraguan Government for over one year;

Whereas Soviet bloc military assistance to the Republic of Nicaragua includes at least 152 light and medium tanks, 237 additional armored vehicles, 961 heavy guns/howitzers/surface-to-surface rocket launchers, at least 36 122mm multiple rocket launchers, 549 SA-7/SA-14/SA-16 surface-to-air missile launchers (SAMs), 772 air defense guns, 12 Mi-25 Hind D helicopter gunships, and 45 Mi-8 and Mi-17 medium-lift helicopters and 20 fixed wing aircraft including AN-22 and AN-26 transports, as well as sophisticated radars and communications equipment servicing an active-duty military force in excess of 80,000 troops;

Whereas the Soviet Union, Cuba, and East European nations currently have between 1,100 and 1,600 military and security advisors in Nicaragua, as well as an unknown number of support personnel for the internal security apparatus in Nicaragua;

Whereas the Republic of Nicaragua now has the largest and most sophisticated armed force in Central American history, with an active duty military force more than double that of the next largest active duty military force, which is that of El Salvador;

Whereas The military forces of the Republic of Nicaragua are the armed element of a partisan political party known as the Sandinista National Liberation Front or the FSLN;

Whereas the military equipment provided by the Soviet Union and its allies enables the Republic of Nicaragua to maintain an overwhelming military advantage over all of its neighbors; and

Whereas military assistance provided to the Republic of Nicaragua by the Soviet Union and its allies is inconsistent with the goals of the Esquipulas II Accords and the February 14, 1989, Joint Declaration by the Central American Presidents: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That in the interest of regional peace and stability, the Congress—

(1) calls on the Soviet Union, other Warsaw Pact nations, and other Soviet allies, including Cuba, Vietnam, Libya, and Algeria, to withhold further military assistance to the Republic of Nicaragua;

(2) calls on the Republic of Nicaragua to reverse significantly the growth of its armed forces, in both manpower and material;

(3) calls on the Republic of Nicaragua to work toward a stabilization of the regional military balance and to prevent the introduction of advanced weapon systems that would qualitatively upgrade current capabilities;

(4) calls on the Soviet Union, Cuba, and East European nations to immediately remove from Nicaragua their military and security advisors, as well as their support personnel for the Nicaraguan internal security apparatus; and

(5) calls on the Republic of Nicaragua to separate the armed forces from the Sandinista political party, the Sandinista National Liberation Front.

—Page 511, add the following after line 25:

SEC. 862. IMPORTATION OF CERTAIN DEFENSE ARTICLES FROM POLAND AND HUNGARY.

(a) PERMISSIBLE IMPORTS.—The authorities under section 38 of the Defense Trade and Export Control Act may not be used to prohibit the importation into the United States, by a museum or educational institution described in subsection (b), of any defense article from Hungary or Poland if the defense article—

(1) was manufactured at least 25 years before its importation into the United States;

(2) has been disabled so that no weapon or weapons system is functional; and

(3) is used only for display to the public, by the museum or educational institution, for educational purposes.

(b) QUALIFIED MUSEUMS AND EDUCATIONAL INSTITUTIONS.—Subsection (a) applies only to a museum or educational institution that is described in section 501(c)(3) of the Internal Revenue Code of 1986 and exempt from tax under section 501(a) of such Code.

(c) DEFINITION.—For purposes of this section, the term "defense article" means a defense article designated under section 38(a) of the Arms Export Control Act (22 U.S.C. 2778(a)).

(d) EFFECTIVE DATE.—This section applies to defense articles imported before, on, or after the date of enactment of this Act.

—Page 514, sec. 902(c), after line 21 insert the following:

Sec. 902. (c).—Linkage of American Technology Transfer to PRC to Lethal Assistance for the Khmer Rouge.—

(1) the United States condemns assistance provided by the People's Republic of China to the National Army of Democratic Kampuchea;

(2) the United States will take into account the degree to which the People's Republic of China has reduced its assistance to the Khmer Rouge when considering requests for transfers of high technology to the People's Republic of China;

(3) the President should reiterate his support for Public Law 100-502, which calls for blocking the return to power of the Khmer Rouge; and

(4) the President will report to the Congress within 90 days after the date of adoption of this resolution regarding the degree to which the People's Republic of China is decreasing its assistance to the Khmer Rouge.

—Page 524, sec. 907, after line 24 insert the following.

Purpose: To require an annual certification regarding arms transfers by the People's Republic of China to Iran, Iraq, Libya, and Syria.

"No sale may be made or license issued under the Arms Export Control Act to the People's Republic of China of any item on the United States Munitions List in any calendar year unless the President has certified to Congress that, in the previous calendar year, no United States defense article or technology has been used in any cruise missiles, ballistic missiles, missile technology, advanced fighter aircraft, or major components or technology thereof incorporating United States licensed technology, transferred by China, directly or indirectly, to Iran, Iraq, Syria, or Libya in contravention of the provisions of the Arms Export Control Act, and that no chemical weapons or materials, equipment or technology intended for use in a nuclear program have been transferred, directly or indirectly, by China to Iran, Iraq, Syria, or Libya."

By Mr. DURBIN:

—Page 530, strike out line 15 and all that follows through line 7 on page 531 and insert in lieu thereof the following:

(b) SENSE OF CONGRESS.—It is the sense of the Congress that—

(1) India and Nepal, building on the offer of negotiations that the Government of Nepal has made and India has apparently responded to, should schedule without delay a time and place for talks by the two governments to resolve, on an urgent basis, issues relating to trade and transit between the two countries, recognizing that an expeditious and amicable resolution is in their mutual self-interest;

(2) India, as a gesture of good will befitting a responsible regional power, should consider resuming the sale of petroleum

products to Nepal and encourage the normal passage of people and goods into and out of Nepal; and

(3) the Secretary of State, or his designee, should provide regular briefings to the Congress regarding the effects of the Indian-Nepalese dispute on the two countries and on the interests of the United States with respect to both countries and in South Asia in general.

—Page 588, after line 7 insert the following:

TITLE XV—OTHER PROVISIONS

SEC. 1501. AMENDMENT RELATING TO INDIA AND NEPAL.

Section 923(b) of this Act is amended to read as follows:

"(b) SENSE OF CONGRESS.—It is the sense of the Congress that—

"(1) India and Nepal, building on the offer of negotiations that the Government of Nepal has made and India has apparently responded to, should schedule without delay a time and place for talks by the two governments to resolve, on an urgent basis, issues relating to trade and transit between the two countries, recognizing that an expeditious and amicable resolution is in their mutual self-interest;

"(2) India, as a gesture of good will befitting a responsible regional power, should consider resuming the sale of petroleum products to Nepal and encourage the normal passage of people and goods into and out of Nepal; and

"(3) the Secretary of State, or his designee, should provide regular briefings to the Congress regarding the effects of the Indian-Nepalese dispute on the two countries and on the interests of the United States with respect to both countries and in South Asia in general.".

By Mr. GOSS:

—Page 454, after line 24, add the following subsection:

(d) ELECTORAL REFORM.—It is the sense of the Congress that the electoral reform laws and media laws regulating political broadcasts adopted by the Sandinista Government as well as the appointment of members of the supreme electoral council fail to fulfill the minimum standards required by the Tesoro Beach agreement to ensure free and fair elections in Nicaragua in February 1990.

By Mr. GUNDERSON:

—Page 588, after line 7, insert the following new title:

TITLE XV—TASK FORCE ON STUDENTS AND EXCHANGE VISITORS FROM THE PEOPLE'S REPUBLIC OF CHINA IN THE UNITED STATES

SEC. 1501. TASK FORCE ON STUDENTS AND EXCHANGE VISITORS FROM THE PEOPLE'S REPUBLIC OF CHINA IN THE UNITED STATES.

(a) ESTABLISHMENT.—There is established a task force to be known as the Task Force on Students and Exchange Visitors from the People's Republic of China in the United States (in this section referred to as the "Task Force") which shall be composed as follows:

(1) One member appointed by the President who shall chair the Task Force.

(2) Four members shall be the heads of each of the following departments or agencies (or their designees):

(A) Immigration and Naturalization Service.

(B) Department of State.

(C) Department of Education.

(D) Department of Justice.

(b) DUTIES AND RESPONSIBILITIES.—The Task Force shall carry out the following duties and responsibilities:

(1) Taking into consideration the situation in the People's Republic of China, the Task Force shall assess the specific needs and status of citizens of the People's Repubic of China who were admitted under student visas for study in the United States.

(2) The Task Force shall formulate and recommend to the Congress and the President policies and programs to address the needs determined under paragraph (1).

(3) The Task Force shall establish, directly or indirectly, a clearinghouse to provide Chinese students, exchange visitors, and institutions of higher education with appropriate information, including—

(A) public and private sources of financial assistance available to such students and exchange visitors;

(B) information and assistance regarding visas and immigration status; and

(C) such other information as the Task Force considers feasible and appropriate.

(c) REPORTS.—Beginning 180 days after the date of the enactment of this Act, and every 90 days thereafter, the Task Force shall submit a report to the appropriate committees of the Congress and the President which shall include—

(1) recommendations under subsection (b)(2); and

(2) a comprehensive summary of the programs and activities of the Task Force.

(d) TERMINATION.—The Task Force shall cease to exist 2 years after the date of the enactment of this Act.

By Mr. LEVINE of California:

—Page 514, strike out lines 8 through 13.

—Page 514, line 14, strike out "(b)" and insert in lieu thereof "(a)".

—Page 514, lines 16 and 17, strike out "section" and insert in lieu thereof "Act".

—Page 514, strike out line 22 and all that follows through page 515, line 8.

—Page 515, line 9, strike out "(d)" and insert in lieu thereof "(b)".

—Page 582, insert the following after line 8 and redesignate the succeeding title accordingly:

TITLE XIV—PEOPLE'S REPUBLIC OF CHINA

SEC. 1401. EXPORTS TO PEOPLE'S REPUBLIC OF CHINA.

(a) ITEMS ON MUNITIONS CONTROL LIST.—No license may be issued for the export to the People's Republic of China of any item on the Munitions Control List.

(b) ITEMS ON CONTROL LIST.—No license may be issued for the export of the People's Republic of China of any goods or technology on that part of the control list maintained pursuant to section 5(c)(1) of the Export Administration Act of 1979.

(c) APPLICABILITY.—Subsections (a) and (b) shall apply during the period beginning on the date of enactment of this Act and ending 6 months after that date.

By Mr. LEWIS of California:

—Page 41, after line 5, insert the following:

"SEC. 1205. INDEX OF ECONOMIC FREEDOM.

"(a) DEVELOPMENT OF INDEX.—The Administrator for this title, in consultation with the Secretary of the Treasury and indigenous nongovernmental organizations in developing countries, shall develop a system for evaluating, on a country-by-country basis, the economic freedom and opportunities of individuals in countries eligible for development assistance and assistance for famine recovery and development in Africa. This system shall be referred to as the 'Index of Economic Freedom' (hereafter in this section referred to as the 'Index').

"(b) DEADLINE FOR DEVELOPMENT OF INDEX.—The Index shall be developed not later than 6 months after the effective date of this section, except that the President may extend that period by an additional 3 months if the President determines that 6 months is an inadequate period for the development of the Index.

"(c) FACTORS EVALUATED BY THE INDEX.—The Index shall assign a numerical rating for each of the following factors based on the degree to which each such factor reflects the degree of economic freedom and opportunity in a country, and other economic factors:

"(1) PROPERTY RIGHTS.—The extent to which poor or landless individuals are legally or otherwise artificially constrained from acquiring land or other forms of property or are unable to gain secure legal title to land, the degree to which laws and an independent judiciary protect private property and enforce contracts for individuals against the government, the extent of nationalization of property and the state's power to nationalize private property, and the degree of access of private parties to the judicial system.

"(2) REGULATIONS.—The difficulty and costliness of securing a business license, and the extent to which regulations inherently favor established business at the expense of newcomers, limit the freedom and ability of citizens to establish businesses, or add prohibitive costs or additional risks to maintaining such businesses.

"(3) INFORMAL SECTOR.—The extent to which government policies force economic activity into nominally illegal informal sectors where otherwise legal activities are conducted outside of government regulations and requirements, and the extent to which those policies discourage the development of locally controlled nongovernmental institutions.

"(4) WAGE AND PRICE CONTROLS.—The identity of industries or goods which are subject to government mandated wages or prices, the value of goods sold wholesale and retail subject to price controls, the degree to which private farmers are forced to sell produce at government established prices, and the degree to which farmers are not allowed to profit from the real market price of their products.

"(5) TAXATION.—The highest rate of taxation, the income level at which this rate takes effect, the relationship between per-capita income and the level at which the highest rate of taxation takes effect, the rate of any value tax (VAT), the level of taxation on assets, and the rate of monetary inflation.

"(6) TRADE POLICY.—Customs duty rates, quantitative restrictions on imports, import quotas, import prohibitions, foreign exchange availability for those engaged in international trade, export taxes, restrictive export practices, market-distorting export incentives such as subsidies, import licenses, and country-of-origin restrictions.

"(7) RESTRICTIONS ON INVESTMENT AND CAPITAL FLOWS.—Limits on foreign investment and foreign ownership, limits on repatriation of principal and profits for foreign investors, and restrictions on removal of foreign or domestic capital from the country.

"(8) SIZE OF STATE SECTOR.—Value of industries owned by the government, percentage of Gross National Product produced by state-owned industries, prohibitions on pri-

vate economic activities in certain sectors, and the value of the state sector assets.

"(9) BANKING.—Degree of government ownership of the banking sector, private citizens rights to own and operate banks, and citizens' access to private sources of credit.

"(d) EVALUATION AND REPORTS.—

"(1) EVALUATION AND ANNUAL REPORTS.—Beginning two years after the effective date of this section and every 12 months thereafter, the Adminstrator—

"(A) shall apply the Index to each country which is eligible on that date for development assistance or assistance for famine recovery and development in Africa; and

"(B) based upon such evaluation, shall submit to the Congress a report setting forth the findings of that evaluation.

In making the evaluation required by subparagraph (A), the Administrator shall rely, to the maximum extent practicable, on data supplied by indigenous nongovernmental in developing countries.

"(2) CONGRESSIONAL PRESENTATION DOCUMENTS.—The annual congressional presentation documents pursuant to section 4301 shall include, for each country for which development assistance or assistance for famine recovery and development in Africa is proposed, the corresponding data from the latest report submitted under paragraph (1).

"(e) CONSIDERATION OF ELIGIBILITY FOR DEVELOPMENT ASSISTANCE.—Effective two years after the effective date of this section, development assistance and assistance for famine recovery and development in Africa may be furnished for a foreign country only if the advisability of furnishing such assistance for that country has been considered in light of the data on that country contained in the latest report submitted under subsection (d)(1).

"(f) USE OF INDEX TO EVALUATE COUNTRIES RECEIVING DEVELOPMENT ASSISTANCE.—In furnishing development assistance and assistance for famine recovery and development in Africa, the Administrator shall use the Index to promote improvements in the underlying economic conditions evaluated by the Index while retaining flexibility in designing and implementing development programs and projects. The Administrator shall use the Index as a basis for evaluating the direction of policy changes in developing countries and as basis for evaluating specific projects and programs assisted by the administering agency.

"(g) ELIGIBILITY OF COUNTRIES FOR FINANCIAL ASSISTANCE FROM INTERNATIONAL FINANCIAL INSTITUTIONS.—The Secretary of the Treasury shall direct the United States Executive Directors to the International Monetary Fund, the International Bank for Reconstruction and Development, the International Development Association, the Inter-American Development Bank, the African Development Bank, the African Development Fund, the Asian Development Bank, and the Asian Development Fund to consider the advisability of opposing the extension of any loan or other financial assistance to countries which the Secretary determines have rated poorly under the latest report submitted under subsection (d)(1).".

By Mr. McCOLLUM:

—Page 447, add the following after line 24:

(e) POLICE TRAINING FOR EL SALVADOR.—Notwithstanding the prohibition contained in section 4202 of the Foreign Assistance Act of 1961, and without regard to any requirement or limitation contained in subsection (b) of this section, assistance otherwise prohibited by section 4202 of the Foreign Assistance Act of 1961 may be provided to El Salvador for fiscal years 1990 and 1991 if, at least 30 day before providing such assistance, the President notifies the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate that he has determined that the Government of El Salvador has made significant progress, during the preceding 6 months, in eliminating any human rights violations including torture, incommunicado detention, detention of persons solely for the nonviolent expression of their political views, or prolonged detention without a trial. Any such notification shall include a full description of the assistance which is proposed to be provided and of the purposes to which it is to be directed.

—Page 453, lines 5 and 6, strike out "EL SALVADOR, GUATEMALA," and insert in lieu thereof "GUATEMALA".

—Page 453, lines 10 and 11, strike out "El Salvador, Guatemala," and insert in lieu thereof "Guatemala".

—Page 453, strike out lines 12 through 19 and insert in lieu thereof the following:

(b) DEFINITION.—As used in this section, the term "police forces" includes all members of security forces other than the regular uniformed armed forces.

By Mr. MARKEY:

—Page 582, insert the following after line 8 and redesignate the succeeding title accordingly:

TITLE XIV—NUCLEAR COOPERATION WITH THE PEOPLE'S REPUBLIC OF CHINA

SEC. 1401. LIMITATION ON NUCLEAR COOPERATION WITH THE PEOPLE'S REPUBLIC OF CHINA.

(a) NUCLEAR EXPORTS.—Notwithstanding any other provision of law—

(1) no license may be issued under the Export Administration Act of 1979 for the export to the People's Republic of China for use in a nuclear production or utilization facility of any goods or technology which, as determined under section 309(c) of the Nuclear NonProliferation Act of 1978, could be of significance for nuclear explosive purposes, or which, in the judgment of the President, is likely to be diverted for use in such a facility, for any nuclear explosive device, or for research on or development of any nuclear explosive device,

(2) no license may be issued under the Atomic Energy Act of 1954—

(A) for the export to the People's Republic of China of any production or utilization facility or any source material or special nuclear material, or

(B) for the export to the People's Republic of China of any component part, item, or substance which has been determined, under section 109b. of the Atomic Energy Act of 1954, to be especially relevant from the standpoint of export control because of its significance for nuclear explosive purposes,

(3) no retransfer may be approved to the People's Republic of China of any goods, technology, facility, material, component part, item, or substance referred to in paragraph (1) or (2), and

(4) no person may, under section 57b. of the Atomic Energy Act of 1954, be given a specific authorization to engage, directly or indirectly, in the production of special nuclear material in the People's Republic of China,

until the requirements of subsection (b) have been met.

(b) REQUIREMENTS.—The requirements referred to in subsection (a) are that—

(1) the President has made the certifications and submitted the report required by Public Law 99-183;

(2) the President has certified to the Congress that the Government of the People's Republic of China has ended its state of martial law and that the human rights situation in the People's Republic of China has significantly improved; and

(3) the President has certified to the Congress that the Government of the People's Republic of China has provided the United States with a written declaration that it is not directly or indirectly assisting any nation in testing, developing, or acquiring nuclear explosive devices or the materials and components for such devices.

By Mr. MILLER of Ohio:

—Page 372, line 3, strike out "Subsection" and insert in lieu thereof "Except in the event of a sequestration, subsection".

By Mr. MRAZEK:

—Page 514, beginning in line 8, strike out "Notwithstanding any other provision of law, the" and insert in lieu thereof "The".

—Page 514, line 23, strike out "Notwithstanding any other provision of law, the" and insert in lieu thereof "The".

—Page 514, line 25, strike out "development assistance and".

—Page 515, line 10, strike out "Notwithstanding any other provision of law, the" and insert in lieu thereof "The."

—Page 515, at the end of line 16, insert the following: Funds may be obligated pursuant to this subsection only if the Committee on Foreign Affairs and the Committee on Appropriations of the House of Representatives and the Committee on Foreign Relations and the Committee on Appropriations of the Senate are notified at least 15 days in advance in accordance with the procedures applicable to reprogramming notifications under section 4303 of the Foreign Assistance Act of 1961.

By Ms. OAKAR:

—Under Title VIII, Chapter 1, Section 808. Assistance to Lebanon: "Of the amount made available for each of the fiscal years 1990 and 1991, for economic support assistance, under the Foreign Assistance Act of 1966, not less than $7.5 million shall be made available for each fiscal year for Lebanon."

Section 808 earmarks $7.5 million in each of the fiscal years 1990 and 1991 in economic support assistance for humanitarian aid for the people of Lebanon. The United States has consistently played a leadership role in Lebanon through our efforts to support democracy and to preserve her unity, freedom, sovereignty and independence. The continued availability of assistance to Lebanon is an important symbol of support and a signal to that strife-torn country and her people that the United States is willing and prepared to help. The $7.5 million, in each fiscal year, of United States humanitarian assistance to Lebanon shall be administered by the appropriate international organizations. Several U.S. and Lebanese NGOs are able to supply assistance to those in need and carry out effective programs in humanitarian and relief and rehabilitation assistance as well as in vocational training and other economic programs.

The appropriate international organizations include Private Voluntary Organizations who have traditionally played a prominent role in aiding the people of Lebanon include Catholic Relief Services, Save the Children, the World Rehabilitation Fund,

and the Lebanese Red Cross, etc. In addition, American University in Beirut and Beirut University College have played an important role in training and educating the Lebanese people, and the American University in Beirut hospital, the nation's preeminent teaching hospital, has provided medical care to almost half of the victims during the fighting in the last three months.

By Mr. OBEY:

—Page 62, line 12, strike out "United States" and all that follows through "States." on line 14.

—Page 64, strike out lines 6 through 10.

By Mr. PARRIS:

—Page 272, line 7, before the period insert "and a rationale of the basis for such calculation".

—Page 275, lines 1 and 2, strike "Fifty percent of the" and insert "All".

—Page 276, line 24, strike "and".

—Page 277, line 7, strike "or".

—Page 277, after line 7, insert the following:

"(v) in refusing to protect or give haven to drug traffickers and in expeditiously processing extradition request of other countries relating to narcotics trafficking, and

"(vi) in negotiating acceptable extradition agreements with the United States; or"

By Mr. ROTH:

—Page 517, beginning in line 10, strike out ", including voluntary debt reduction programs under appropriate circumstances,"; beginning in line 19, strike out "and alleviate its debt service"; page 518, beginning in line 4, strike out ", including voluntary debt reduction programs,"; page 519, line 11, strike out ", and voluntary debt reduction programs,"; beginning in line 13, strike out "export growth and diversification,"; beginning in line 18, strike out "including promoting greater participation of the United States private sector in the development of the Philippines"; line 23, before the period insert ", except that assistance under this chapter may not include support for voluntary debt reduction programs"; and page 522, beginning in line 5, strike out ", and voluntary debt reduction programs,".

—Page 521, strike out lines 2 through 19 and insert in lieu thereof the following: "$200,000,000 for fiscal year 1990 and $200,000,000 for fiscal year 1991."

"(b) USE OF SPECIAL AUTHORITIES PROHIBITED.—The authorities of sections 4101, 4102, and 4103 may not be used to make funds available for use under this chapter. The references to this chapter in sections 4102 and 4103 shall not be construed to supersede the limitation contained in the preceding sentence.".

By Mr. SOLOMON:

—Page 173, after line 4, insert the following new Section:

"SEC. 1945. DEFINITION OF PRIVATE VOLUNTARY ORGANIZATION.

"(a) FINDINGS.—The Congress finds that—

"(1) Private voluntary organizations are frequently used by the Agency for International Development as vehicles for delivering and administering United States assistance to other countries:

"(2) in facilitating the delivery and administration of development assistance and humanitarian relief, private voluntary organizations perform a vital function that might otherwise be more difficult to achieve;

"(3) the integrity of private voluntary organizations needs to be protected, particularly because some countries are more willing to provide access to private groups than they are to official United States government agencies and personnel; and

"(4) at the present time, a private voluntary organization can receive as much as 80 percent of its funding from the United States government and still be classified as a "private" organization.

"(b) SENSE OF CONGRESS.—It is the sense of the Congress that—

"(1) The integrity of private voluntary organizations needs to be protected and, indeed, strengthened; and

"(2) funds made available to carry out this title should not be made available to any private voluntary organization (other than a cooperative development organization) which obtains less than 25 percent of its total annual funding for international activities from sources other than the United States government.

"(c) FURTHER QUALIFICATION.—In calculating the amount of government support received by an organization, there should be excluded the value of commodities (and related transportation) made available for overseas distribution and the value of contracts for services, grants, and other activities initiated primarily by the agency chiefly responsible for administering this title.".

—Page 482, after line 8, add the following new section:

"SEC. 765. THE PANAMA CANAL COMMISSION.

"(a) FINDINGS.—The Congress finds that—

"(1) there has been a continual erosion of the democratic freedoms of Panamanian citizens and a consolidation of dictatorial power by the government of Panama led by General Manuel Noriega;

"(2) the United States has not recognized the government of Panama led by General Manuel Noreiga since his refusal to accept the resignation orders from President Eric Arturo Delvalle;

"(3) there has been an increasing number of incidents of harassment and intimidation of American citizens in Panama by members of the Panamanian Defense Forces;

"(4) on May 7, 1989, the Panamanian people participated in an election in which the government led by General Manuel Noriega engaged in systemic and massive electoral fraud;

"(5) under the terms of the Panama Canal Treaty, the President of the United States must appoint, by January 1, 1990, a Panamanian national to serve as Administrator of the Panama Canal Commission;

"(6) the Administrator of the Panama Canal Commission will have a significant degree of control over the operations and maintenance of the Panama Canal; and

"(7) the transference of control over the operations and maintenance of the Panama Canal to the government of Panama controlled by General Manuel Noriega would permit even greater economic, political, and military oppression of the Panamanian people.

"(b) SENSE OF CONGRESS.—It is the sense of Congress that the President should not appoint a new Administrator of the Panama Canal Commission unless and until he certifies to Congress that the ruling government of Panama is democratically-elected according to procedures specified in the Constitution of Panama providing for a civilian government in control of all Panamanian military and paramilitary forces.".

—Page 485, line 4, strike out "$315,000,000" and insert in lieu thereof "$313,000,000"; and line 5, strike out "$315,000,000" and insert in lieu thereof "$313,000,000".

—Page 482, line 24, strike out "$1,538,000,000" and insert in lieu thereof "$1,536,000,000"; and page 483, line 1, strike out "$1,533,000,000" and insert in lieu thereof "$1,531,000,000".

—Page 515, after line 16 add the following:

"(e) APPLICATION OF FUNDS FOR PURPOSES PURSUANT TO SECTION 4203.—Of the funds made available to carry out the purposes of subsection (a), the President is authorized to apply such sums as he deems necessary for activities in Cambodia that would require a Presidential finding under section 4203 of the Foreign Assistance Act."

—Page 526, after line 24, insert the following:

SEC. 910. PROHIBITION ON EXPORT OF SATELLITES FOR LAUNCH BY THE PEOPLE'S REPUBLIC OF CHINA.

A satellite of United States origin that is intended for launch from a launch vehicle owned by the People's Republic of China (specifically including the Hughes Aircraft Model HS-601 Spacecraft (commercial communications statellites) whose export is described in the certification transmitted to the Congress pursuant to section 36(c) of the Arms Export Control Act on September 12, 1988) may not be exported from the United States. Any license for such an export that was issued before the enactment of this Act shall be invalid.

By Mr. STALLINGS:

—Page 377, line 14, after "housing," insert "engineering, surveying, mapping".

By Mr. WEISS:

—Page 526, after line 24, insert the following:

SEC. 910. OPIC PROGRAMS IN THE PEOPLE'S REPUBLIC OF CHINA.

(a) SUPPRESSION OF DEMOCRATIC REFORM MOVEMENT.—The Congress deplores the brutal suppression by the Government of the People's Republic of China of the student-led democratic reform movement in June 1989.

(b) PROHIBITION.—Therefore, the Overseas Private Investment Corporation may not provide any insurance, reinsurance, guarantee, financing, or other financial support with respect to the People's Republic of China after the date of enactment of this Act until the requirement of subsection (c) is met.

(c) TERMINATION OF PROHIBITION.—Subsection (b) shall remain in effect until the President determines and reports to the Congress that the Government of the People's Republic of China has embarked on a program of significant political reform which includes—

(1) increased freedom of expression, freedom of the press, freedom of assembly, and freedom of association;

(2) the release of political prisoners, particularly those individuals incarcerated in the wake of the massacre of June 4 and 5, 1989; and

(3) freer flow of information, including an end to the jamming of the Voice of America.

By Mr. WELDON:

—Page 135, line 18, after the quotation marks insert "(a) GENERAL AUTHORITY.—"; and page 136, after line 2, insert the following:

"(b) DEFINITION OF SCHOOL.—For purposes of subsection (a)(1), the term 'school' includes any facility which provides activities of daily life training, vocation education, and related services to the mentally retarded.

EXTENSIONS OF REMARKS

TRIBUTE TO REV. JOSEPH A. SELLINGER, S.J.

HON. HELEN DELICH BENTLEY

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 21, 1989

Mrs. BENTLEY. Mr. Speaker, this month we in Maryland shall have the opportunity to salute a truly special individual. For on June 29, Rev. Joseph A. Sellinger, S.J., president of Loyola College in Maryland, shall celebrate his 50th anniversary as a Jesuit priest as well as his 25th year at Loyola. Hundreds of people—friends of Father Sellinger representing the business, religious, and civil communities of Balitmore and Maryland—will gather at the Stouffer Harborplace Hotel to honor this fine man for his many accomplishments. In fact, Bob Hope himself is coming to Baltimore to serve as master of ceremonies.

Devoted priest, excellent administrator, Father Sellinger is these things and much more. During his time at Loyola, enrollment has grown from 2,000 to approximately 6,100 students. The school has also opened several satellite centers as well as a business school that is among the finest in the Nation. He holds numerous trusteeships and directorships and has received honorary degrees from such schools as Georgetown University and the University of Baltimore.

I have known Joseph Sellinger for many years and have found that his kindness of heart is rivaled only by the sharpness of his mind. He is a giant in Maryland education—one whose accomplishments are now the stuff of legends.

Mr. Speaker, I will be in Serbia next week and shall thus be unable to attend this gala event. However, I would like to enter the following statement in the CONGRESSIONAL RECORD. Indeed Father Sellinger is worthy of this honor—and much much more:

ANNIVERSARY GALA HONORING REV. JOSEPH A. SELLINGER, S.J.

For three years Joseph Anthony Sellinger toiled on the third string of the St. Joseph's Preparatory School football team, helping sharpen the tackling and blocking skills of the older and stronger first and second teams. Despite his admitted shortcomings—"I've never been much of an athlete," he says—Sellinger nevertheless made first string lineman his senior year. That same year that he was elected president of the student body, and graduated first in his senior class.

"I remember one game where the opposing quarterback gave away the direction of the play by looking at the hole just before the ball was snapped," he recalled. "I was in there all day, either making the tackle or helping block it off; it was one of the best days I had in football."

As trite and shopworn as it may seem, the traits developed on the football fields of Philadelphia some 50 years ago—discipline, intelligence, competitiveness—remained with Joseph Sellinger throughout his life.

This year, Rev. Joseph A. Sellinger, S.J., celebrates his fiftieth anniversary as a Jesuit and twenty-fifth anniversay as President of Loyola College in Maryland. He is the longest tenured Jesuit college president in the United States, and one of the longest tenured presidents of any college in the country.

As such, he has been both an observer and a key player in the changes that have swept the Jesuit order as it has struggled to meet the challenges of an increasingly liberalized world.

Likewise, his presidency has been sharply defined by one of the principal themes of the Second Vatican Council in the early 1960s: to integrate general culture with Catholic higher education. In large part, Fr. Sellinger has succeeded in that endeavor, Loyola is no longer a small, provincial college educating the sons of Baltimore. It is a thriving comprehensive university that today attracts men and women from around the world to its undergraduate and graduate programs.

Loyola's growth during the Sellinger years bears the mark of Fr. Sellinger's forceful personality, his abiding philosophy that education improves humankind, and his ability to shape a vision of the future from the exigencies of the present.

"I think it is safe to say that Fr. Sellinger's personal qualities have left an indelible mark on Loyola," said Reg Murphy, publisher of The Sunpapers and chairman of the Loyola College Board of Trustees. "He has pushed and prodded the College into the modern age, and he has done it by settling a course and demanding excellence from all those who would follow him along it. I have a great deal of admiration for him."

Fr. Sellinger's ability to establish a vision and act decisively to bring it to reality, his discipline in achieving goals, and his quick wit and sense of compassion have engendered loyalty and respect from the many students, colleagues and peers whose lives he has touched.

"If I've done well here it's because I've been successful in getting very strong people around me," he said. "I believe in building consensus, and I'm willing to listen to those whose expertise exceeds mine."

His management style evolved from that of the corporate world, a world in which he is quite comfortable, but he has tempered the realities of leading a modern college with the precepts of the Jesuit order, which stress the importance of personal care in educational and social missions.

"Even as a sophomore in high school I had almost made up my mind that the one thing I wanted to do with my life was become a priest," he recalled. "I really thought only of wanting to be a Jesuit priest and not a parish priest, as such. I liked the Jesuit life; I thought of this whole life of education, and I'd looked on these men as very, very brilliant and so it was this tremendous ideal that appealed to me."

Born in 1921, the youngest of two sons of German immigrants (his brother Frank later became President of the Schlitz Brewing Co.), Sellinger followed his brother into the academically demanding St. Joseph's, a Philadelphia prep school operated by the Jesuits. After completing the rigorous classics course, he entered the Society of Jesus in 1938 and was assigned to the seminary at Wernersville, PA, for four years.

"Those first four years were probably the happiest years of my life," he said. "There was a tremendous sense of community, and I felt genuinely happy and fortunate to be there." He immersed himself in the ascetic life, learned the spiritual exercises of St. Ignatius Loyola, founder of the Order, and studied classics, philosophy and theology. In 1942, when the need for scientifically-trained Jesuits became apparent, Sellinger was transferred to Spring Hill College in Alabama for three years of chemistry training.

By 1945 he was teaching Chemistry, German, Philosophy and Logic at Loyola College. He found himself, at the age of 24, lecturing to many veterans returning from World War II, a majority of whom were older than the young scholastic, the Jesuit term for a priest-in-training. "I was scared stiff that first week," he said. "So I became a strict disciplinarian. I was like a drill sergeant. And the students called me Antimony Joe, which I considered a wonderful sobriquet until I realized the chemical symbol for Antimony is Sb."

After three years at Loyola, he underwent further training in Woodstock, MD, and in Massachusetts before being sent to the Facultes St. Albert de Louvain in Belgium, where he was ordained in 1951. After two additional years of study in Munster, Germany, he returned to the United States to accept a position with the Theology Department at Georgetown University. He became Dean of the College in 1956, a post he held for seven years before being asked to become the President and Rector of the Jesuit Community at Loyola College.

Founded in 1852 in downtown Baltimore, Loyola in 1964 was a small commuter college with 46 full-time and 58 part-time professors teaching barely 2,000 male students. Its annual operating budget was $1.4 million, and its endowment just over $1 million. A handful of buildings housed the academic and administrative offices. There were no dormitories.

Fr. Sellinger wasted no time in planning Loyola's future. In his November 1964 inaugural address, he signalled his intention to emphasize the humanistic traditions of American higher education while maintaining Loyola's Jesuit traditions. "Education is not for the good of government," he said. "It is for the good of science. It is not for the good of business. It is, primarily at least, for the essential good of man."

A new era had begun, highlighted by three pivotal changes in 1967 which laid the foundation for Loyola's growth in the coming decades. The first was the addition of Hammerman House, Loyola's first dormitory. In the intervening years, the College has expanded its residences—through new construction or the purchase of existing apartment buildings nearby—and has

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

become predominantly residential. That departure from its commuter origins has brought a greater sense of academic community to Loyola, and has enabled it to recruit students from around the country which, in turn, has raised the quality of admitted students.

The second change was the inauguration of a Masters of Business Administration program. Designed to foster economic development in Baltimore and the State of Maryland by providing highly-skilled professionals to the burgeoning business community, the MBA curriculum has established itself as one of the most innovative and respected in the region. Its executive programs offer flexible schedules for working professionals, and by 1983 a separate business school (named the Joseph A. Sellinger, S.J., School of Business and Management by an anonymous donor) was established. In 1988, it became fully-accredited by the American Assembly of Collegiate Schools of Business, a distinction held by fewer than 25 percent of the business schools in the nation.

"I saw the MBA as an opportunity to deal with the ethical implications of management and decision-making," Fr. Sellinger said several years ago. "That was in keeping with the Jesuit tradition, but I also recognized it as an opportunity to tie in with the business community and thus derive substantial financial support for the overall operation."

His prediction came true. Loyola College's endowment has increased from $1.9 million in 1967 to over $25 million in 1988, and several successful capital campaigns (Decade of Decision in 1980, and Fulfilling the Vision in 1984) have allowed the college to undertake large building projects.

The third change began with the appointment of Edward J. Donnelly as the first layman to the Board of Trustees. Vatican II had called for greater participation by laity in Catholic higher education, and many Jesuit colleges in the United States had begun a slow process of opening their doors to the outside influence of lay men and women by including them on the faculty and staff. It soon became apparent at the Evergreen campus that the presence of laity on the governing board of the College would provide greater openness, stricter management procedures, and a higher level of financial support from government, business and foundations.

Today, the Board of Trustees is an independent, self-perpetuating governing body comprised primarily of lay men and women. Donnelly was elected chairman of the board in 1971; since then all his successors have been lay persons.

"The laity brought a new sense of planning and business perspective to operating Loyola," said Fr. Sellinger. "We began five-year planning in 1972, and have been maintaining it since."

Other changes crept in as Fr. Sellinger continued loosening ties to Loyola's provincial past. A joint library was constructed with the neighboring College of Notre Dame. Women were first admitted in 1971, following a merger with Mt. Saint Agnes College, producing a period of gradually increasing enrollments that, by a decision of the Board of Trustees, has recently leveled off.

By 1972, eight years after Fr. Sellinger had assumed office, Loyola College was well on its way to becoming a significant part of the outside world, in keeping with Vatican II, Shedding insularity and isolation, the increasingly diverse administration and faculty had begun the process of integrating the Jesuit emphasis on ethics and cura personalis (a Latin phrase meaning personal care, and one of the cornerstones of Jesuit education) with the humanistic, scholarly traditions of American higher education. The College also was flexing newfound muscles in service to the community, particularly to the business community.

But a suit filed in federal District Court in 1972 by the American Civil Liberties Union and the Americans United for ths Separation of Church and State threatened to slow the progress. The suit, known as *Roemer v. Board of Public Works* charged that a 1971 law to apportion $2 million to Maryland's church-related colleges and universities was in violation of the "no establishment" clause of the First Amendment.

Fr. Sellinger immediately recognized the significance of the suit and what it would mean to small college like Loyola, which was just beginning to implement more aggressive development activities for annual and capital giving; he joined forces with other church-affiliated institutions and began preparing an aggressive defense.

In 1974, the District Court in a 2-1 decision, ruled against the plaintiffs, noting that the defendant institutions were "substantially autonomous" from the churches with which they were affiliated. One week later, the plaintiffs filed an appeal with the U.S. Supreme Court.

In 1976, the nation's highest court, in a 5-4 decision, ruled the Maryland's program of aid to private college's did not violate the First Amendment. Justice Harry Blackmun wrote that Loyola and other colleges were "not pervasively sectarian."

Since then, the greening of Loyola College has proceeded apace. Physical expansion has continued, and a pedestrian bridge now spans Charles Street, linking the two sides of the Evergreen campus; new majors have been added, and an honors program was instituted in 1984; the average SAT scores of entering freshman have crested the 1,100 mark; and development efforts have been enhanced as the alumni population has grown in size and affluence.

Fr. Sellinger, who gives no indication of slowing down at the age of 68, has several specific goals for the future, including the construction of a student retreat center, the addition of international business to the undergraduate and graduate curricula, and computerization of the entire campus.

But he is just as concerned with a philosophical issue that will confront Jesuit higher education in the coming decade: A steady decline in the number of Jesuits entering the order and a resultant lack of manpower on Jesuit campuses.

"I think there still is a Jesuit mystique," he said. "For many people Jesuit education means excellence, it represents humanizing, value-oriented learning. Loyola's challenge in this next era is to maintain the spiritual presence of Jesuits on campus, even as our physical presence is diminished. We must fully embrace the contributions of lay men and women, encourage them to share their experiences with us, and foster in them an understanding of our philosophy."

To Father Sellinger I offer my very best wishes and congratulations upon this happy occasion. May the Lord Bless him with happiness and good health all your days.

A TRIBUTE TO LESTER DALE "RED" McELHANEY, JR.

HON. DOUGLAS APPLEGATE

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 21, 1989

Mr. APPLEGATE. Mr. Speaker, it is an honor for me to bring to the attention of my colleagues in the House of Representatives the June 30, 1989, retirement of a constituent and good friend of mine, Lester "Red" McElhaney, Jr. This event, being marked by a dinner in honor of Red on Saturday, June 24, 1989, brings to an end a 20-year career as a member of the staff of the International Brotherhood of Operative Potters International Union.

A life long resident of East Liverpool, OH, Red began his career as a member of Local Union No. 131 of the International Brotherhood of Operative Potters, working at several potteries in the East Liverpool area, including Taylor, Smith & Taylor and Hall China Cos. Because of his leadership and concern for his fellow workers, Red was elected president of his local in 1952 and served in that capacity until 1965.

Red also served 13 years as vice president of the International Brotherhood of Pottery and Allied Workers and for the past 7 years as an executive officer of the Glass, Molders, Pottery, Plastics and Allied Workers Union.

Prior to joining the Operative Potters International Union, Red served 3 years in the Pacific during World War II while he was in the U.S. Navy. He is currently a member in good standing in the American Legion and the Veterans of Foreign Wars.

Along with his wife of 40 years, Harriet, Red has three children and three grandchildren. He has indicated that his retirement will allow him to not only improve his golf game, but also to do a little farming.

Mr. Speaker, Red McElhaney, Jr. has devoted his life to the advancement of the pottery workers everywhere. He is, indeed, a friend of all labor and deserves this recognition. We commend him for all that he had contributed to the American labor movement over the many years and wish him well in his golden years.

REFUGEE RESPONSIBILITIES

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 21, 1989

Mr. HAMILTON. Mr. Speaker, I would like to insert my Foreign Affairs newsletter for May 1989 into the CONGRESSIONAL RECORD.

REFUGEE RESPONSIBILITIES

Over thirteen million people worldwide—more than double the population of Indiana—are now refugees, persons who have fled their countries because of persecution, war, violence, or natural disaster. This population has tripled in the past decade. During 1988 alone, at least 750,000 Africans sought sanctuary in neighboring countries, 50,000 Vietnamese took to boats to seek asylum,

and 100,000 Kurds fled Iraq. Poor and powerless, displaced people must depend on others for their two major needs: temporary asylum and a permanent solution to their homelessness. But the refugee population is increasing at such a rate that the international community is hard-pressed to find the resources to meet these needs.

Most refugees live in camps in Third World asylum countries. Here the United Nations, individual governments, and voluntary agencies struggle to provide security, food, shelter, and medical attention to frightened and hungry people. Resources are not always equal to the job and conditions in the often overcrowded and demoralized camps are grim.

The United States has always been a leader in providing assistance to displaced people. Given recent budgetary pressures, however, we are less generous today than we once were. Although the U.S. contributed about $231 million for refugee assistance last year, making us the world's largest donor, we are only in 9th place in terms of per capita contributions. We were in 5th place as recently as 1985. The leading per capita donor, Norway, now outspends us 7 to 1. Other well-to-do countries are also giving modestly. Great Britain, Japan, Saudi Arabia, and West Germany provide lower levels of assistance than we do.

In addition to assistance in the asylum camps, refugees need help to re-establish themselves in a permanent environment. The best solution is usually voluntary repatriation to the home country when conditions there improve. This is the solution of choice for the five million Afghan refugees in Iran and Pakistan and for most of the four million displaced Africans. Integration into the country providing asylum is also a good solution in regions where tribal or cultural boundaries spill over national borders. Resettlement in a third country is a much more disruptive and expensive option that is now generally reserved for political refugees. Although very much in demand, this solution is offered to only about 1 percent of the refugee population each year.

Political refugees—defined as people who have fled persecution, or who have a well-founded fear of persecution because of race, religion, nationality, membership in a particular social group, or political opinion—often have little choice but to seek admission from one of the few countries willing to accept the expense and the obligations of refugee resettlement.

The U.S. has welcomed over 2.5 million refugees for permanent resettlement since the end of World War II, an unequaled record. In recent years, we have accepted between 60,000 and 75,000 annually. Refugees represented about 10 percent of our total legal immigration in 1988. Their talent and hard work have made valuable contributions to our economic, social, and cultural life.

The U.S., however, cannot admit all the deserving refugees who want to come here. Unlike regular immigrants, most refugees admitted here receive financial assistance to cover transportation, subsistance, and resettlement costs. At approximately $8000 per refugee, funding is a serious problem. The annual refugee ceiling, established by the administration in consultation with Congress, represents an effort to strike a balance between our compassion and available resources. This spring, the President requested authority to raise the 1989 ceiling to accommodate a surge in Soviet applicants. But it is much easier to authorize higher admissions than to find the money to pay for them.

Recent U.S. admission rates are lower than levels of the early 1980s, reflecting tighter finances. The U.S. is still the world's leading resettlement nation, but when refugee admissions in 1987 are measured against our total population, we rank only 6th in the world, well behind such nations as Sweden, Australia, or Canada.

Resettlement countries must also deal with the issue of which applicants qualify as political refugees. The U.S. and over 100 other nations have agreed to a formal standard to maintain fairness in the admissions system. But it is often hard to distinguish between legitimate political refugees and economic migrants. To discourage the flood of economic migrants, a number of countries, including the U.S., are tightening refugee regulations and applying tougher stanards. The U.S. used to give some groups automatic refugee status, but now requires all applicants to meet the "well-founded fear of persecution" criteria on a case-by-case basis. This policy has closed our doors to most applicants from Central American countries and has cut admissions from Southeast Asia. Other countries are far more strict. Great Britain, which has a quarter the U.S. population, admitted only 813 refugees in 1987.

Rigorous admissions policies in the resettlement countries have had an appalling effect at the other end of the refugee pipeline. Thousands of displaced persons, denied refugee status, are stranded in detention camps. Some of the overburdened asylum countries in Southeast Asia have developed "compassion fatigue," refusing even temporary asylum to applicants who seem unlikely to meet the crtieria for resettlement. The spectacle of border guards pushing boatloads of desperate. Vietnamese back into the sea is an inevitable result.

The U.S. has always felt that richer countries have a responsibility to share the burden of assisting and resettling refugees. While our own record has been good overall, we must try harder to keep up with the current need. The plight of the refugees is very real and we should respond with extra effort and additional resources to keep the situation from getting much worse.

A SALUTE TO DUANE ANDERSON—NATIONAL HISTORY DAY CHAMPION

HON. LOUIS STOKES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 21, 1989

Mr. STOKES. Mr. Speaker, I take great pride in saluting Duane Anderson, a 16-year-old sophomore at John Adams High School in my congressional district, who recently finished first in the National History Day competition. This nationwide contest enables students to exhibit their knowledge of American history in competition with their counterparts from across the country.

Duane's entry, "Garrett Morgan: An American Hero," profiled the accomplishments of the black inventor from Cleveland who developed the first gas mask and the first traffic light. I am pleased to report that Duane won at both regional and State levels of the competition before besting more than 1,000 competitors to win his first place national award.

Mr. Speaker, it is the challenged and ambitious youths of this country that allow for an optimistic and promising future. With youths such as Duane Anderson, we can be assured that our future is in good hands. I am pleased to share with my colleagues an article which recently appeared in the Cleveland Plain Dealer regarding Duane. I hope they will take a moment to read about this outstanding young man.

JOHN ADAMS PUPIL WINS NATIONAL AWARD

(By Laura Yee)

In Duane Anderson's inner-city neighborhood, a lot of kids think their lives can take only a few directions.

Many wind up on the slide down to crime, drugs and despair.

But Duane's a climber.

The latest pinnacle he has conquered is the National History Day competition. The 16-year-old John Adams High School sophomore won one of the first-place awards in the national contest, besting more than 1,000 competitors with his project on Garrett Morgan, a black inventor from Cleveland who developed the first gas mask and the first traffic light.

"This award is for all the people who put me down and didn't think I could do it." Duane said after the awards ceremony at the University of Maryland, in College Park.

"I'm excited, I really am. When I heard them say, 'Duane Anderson from Cleveland, O.,' I jumped up and hollered and I ran down the aisle. I just couldn't believe it was me."

Contest sponsors awarded Duane a $1,000 scholarship, $250 toward college textbooks and a first-place medal. The Phi Alpha Theta history honorary society awarded him a $500 scholarship.

To make it to the national competition, Duane and competitors had to make it through regional and state competitions.

"He was competing against the best of the best," said Jeanne Kish, head of John Adams' social studies department. "I knew he could do it. Kids can do anything they set their minds on. He set his mind to it and won."

Jason Kopack from Gallia Academy in Gallipolis, O., took second place with a project on Edward Maddy, a famous captain during the steamboat era on the Ohio River. Jason won the Ohio competition, and Duane came in second.

Duane's profile, "Garrett Morgan: An American Hero," was done in part with enlarged front-page newspaper reprints of the 1916 Water Works disaster on Lake Erie and essays on his other inventions. Duane said Morgan was not recognized for saving the lives of 32 men trapped more than 100 feet underground in the disaster until years after the inventor's death in 1963.

Morgan also was one of the first black men to run for Cleveland City Council in 1931.

John Adams Principal Charles M. Shaddow said this has been one of the school's best years in recent history. In addition to Duane's accomplishment, the school's chess team placed eighth nationally last month; two teachers, including Kish, won state recognition awards; and the school won the South Senate Division All-Sports Trophy.

"We're showing we can be urban and excellent at the same time," Shaddow said. "It's absolutely a myth that all inner-city

schools are bad. We are proving it wrong. Here we are in the fourth precinct, a bad neighborhood that everyone knows is a high-crime area, and we are excelling."

Duane said he wasn't always on the right path and that he only turned around a few years ago after he saw the ugly side of drugs and crime in his neighborhood.

"I did some things to see the other side that I regret doing now . . . like getting in trouble," he said. "I just didn't want to go along with the crowds. It's easier to get in trouble."

Duane, who wants to be a professional baseball player and wants to study business in college, said he also was motivated by his parents, Hank and Verlaine.

"I want to do things to make my parents proud," he said. "I felt like if I didn't do well, I would have let them down."

INTRODUCTION OF AN AMENDMENT TO THE SOCIAL SECURITY ACT

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 21, 1989

Mr. RANGEL. Mr. Speaker, today, I am introducing a bill to assist elderly tenants who serve as supervisors of tenant patrols in public housing. Specifically, this legislation would amend the Social Security Act to exclude income, received by elderly residents for services rendered as supervisors of public housing tenant patrols, from the calculation of income for the purpose of determining supplemental security income benefits.

Recently, attention has been focused on drug-related crime and violence being perpetrated in public housing. Tenant patrols, with the support of public housing authorities, have been a useful tool in the fight against crime in public housing.

New York City has taken the lead in such programs. Currently, the New York City Housing Authority is assisted by voluntary security patrols of tenants who work with the Housing Authority Police. There are approximately 12,000 such volunteers.

The work of the New York volunteers is overseen by 285 supervisors who are paid $4,000 for their efforts. Approximately 100 of the supervisors are elderly. The problem is that under existing Federal law, the stipends of these individuals are treated as income which has resulted in volunteers losing SSI—supplemental security income—benefits.

This, in turn, has resulted in supervisors resigning, because they could not afford the reduction in SSI benefits. The housing authority wants to retain the services of these individuals. In fact, these senior citizens are performing an important service to the community.

I do not believe that these citizens, or seniors in other cities who may be engaged in such a program, should lose their benefits. For that reason, I have introduced the legislation and I would invite my colleagues to join me as cosponsors.

A TRIBUTE TO THE ATHLETIC ACCOMPLISHMENTS OF SAINT MARY'S COLLEGE

HON. GEORGE MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 21, 1989

Mr. MILLER of California. Mr. Speaker, St. Mary's College of California has a proud tradition for providing students from all walks of life with exceptional academic opportunities. As one of the oldest institutions of higher learning in California, St. Mary's has also been successful in fielding many fine athletic teams that represent her in intercollegiate competition. I have long been a fan of the Galloping Gaels of St. Mary's as my father was a member of the class of 1936.

I would like to draw attention to the athletic accomplishments of St. Mary's College during this 1988–89 academic year. The young men and women of St. Mary's established numerous milestones this year, of which I will mention but a few: an undefeated football season in NCAA division II, NCAA division I tournament bids in men's and women's basketball and best-ever school records in men's soccer and tennis. These achievements are even more noteworthy when you consider that St. Mary's is arguably the smallest division I school in the Nation. The people of the San Francisco Bay Area as well as sports fans from around the country, have taken notice of this small, Christian Brothers school due, in great measure, to the heroics of her student-athletics.

Yet, many times, the men and women who guide young charges to victory go unnoticed and their efforts unappreciated. The coaches of St. Mary's spend their life's work instructing young people and helping them reach their potential without realizing great monetary reward. They are a dedicated group of professionals—teachers in the finest sense of that word. While there is much written in today's press about what's wrong with college athletics, the coaches at St. Mary's give us an example of how sports can enhance life on a college campus and still uphold the integrity of higher education. And for that example I wish to recognize and commend the athletic staff at St. Mary's College for a banner year that brought honor to their school and community.

RULE ON H.R. 1233, THE CARIBBEAN BASIN ECONOMIC RECOVERY EXPANSION ACT OF 1989

HON. DAN ROSTENKOWSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 21, 1989

Mr. ROSTENKOWSKI. Mr. Speaker, pursuant to the rules of the Democratic caucus, I wish to serve notice to my colleagues that I have been instructed by the Committee on Ways and Means to seek less than an open rule for the consideration by the House of Representatives of H.R. 1233, the Caribbean Basin Economic Recovery Expansion Act of 1989.

TRIBUTE TO MAX KAMPELMAN

HON. MICKEY EDWARDS

OF OKLAHOMA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 21, 1989

Mr. EDWARDS of Oklahoma. Mr. Speaker, recently the Jamestown Foundation presented its annual Freedom Award to an outstanding American patriot, Mr. Max Kampelman. I have had the privilege of serving alongside Mr. Kampelman and observing the superb service he has rendered to this country.

Max Kampelman is a man of unusual ability—a man of such talent that he has been called upon repeatedly over the years to handle difficult and critical assignments. President Carter appointed him chairman of the U.S. Delegation to the Madrid Conference on Security and Cooperation in Europe. President Reagan kept him in that job and then appointed him chairman of the U.S. delegation to the Negotiations on Nuclear and Space Arms in Geneva. Finally, President Reagan named him Counselor to the State Department and presented him with the Presidential Citizens Medal.

In introducing Max Kampelman as the recipient of the Jamestown Foundation's high honor, Secretary of Defense Dick Cheney called Kampelman a man with "the strength to stand up for important principles patiently." It's a good description.

Mr. Speaker, I am pleased to present to my colleagues and to the country the remarks of Mr. Kampelman made that evening, on receipt of the Freedom Award. His observation should serve as a good lesson for all of us.

AMERICAN VALUES AND STRENGTH IN A CHANGING WORLD

(Remarks by Max M. Kampelman)

It is an honor to receive your award this evening. I shall cherish it. The Jamestown Foundation represents the essence of the American commitment to freedom and human dignity for all. There are heroic men and women here tonight and large numbers not able to be with us who are living proof of that commitment. Their courage, lives, and accomplishments demonstrate the wisdom and virtue of that commitment. With enthusiasm, I hail Bill Geimer and his leadership.

To share this dais and your honors with my friend, Secretary of Defense Richard Cheney, is a special privilege for me. My wife and I value our friendship with Lynn and Dick Cheney, both of whom represent the best traditions of good citizenship and public service. All Americans have reason to be both proud and enthusiastic as we see the strengths, the experience, the values, the good sense, the superb leadership talents that Dick Cheney brings to his new awesome responsibilities. We also have reason to be optimistic for our future as we note his relative youth and the open vistas ahead for him and for us as he continues to grow toward even greater opportunities for leadership in behalf of a free world.

It has been less than 4 months since I left government service with its different, exciting and enriching challenges. As a tradition-

al Democrat who has served in a Republican Administration, it is useful for me to stand back and evaluate our country's evolving role as a leader in a world that is changing so fast and so dramatically that we can barely see its details let alone its scope.

The pace of change in the world today is so rapid that any statement we make about tomorrow is likely to be obsolete even today. The pace of change between 1900 and today is beyond calculation, probably greater than has taken place in all of mankind's previous history combined. And newer, greater scientific and technological developments on the horizon will probably make all previous discoveries dwarf by comparison.

During my lifetime, medical knowledge available to physicians has increased more than ten-fold. More than 80 percent of all scientists who ever lived are alive today. The average life span is now nearly twice as great as it was when my grandparents were born. The average world standard of living has, by one estimate, quadrupled in the past century. Advanced computers, new materials, new bio-technological processes are altering every phase of our lives, deaths, even reproduction. These developments are stretching our minds and our grasp of reality to the outermost dimensions of our capacity to understand them. Moreover, as we look ahead, we must agree that we have only the minutest glimpse of what our universe really is. Our science is indeed a drop, our ignorance a sea.

We are brought up to believe that necessity is the mother of invention. I suggest the corollary is also true: invention is the mother of necessity. Technology and communication have made the world smaller. There is no escaping the fact that the sound of a whisper or a whimper in one part of the world can immediately be heard in all parts of the world. And yet the world body politic is not keeping pace with those realities.

What we have instead been observing is an intense fractionalization, as large numbers of peoples have had their emotions inflamed by nationality and religious appeals. It is as if a part of us is saying: "Not so fast. Stop the world. We want to get off. We are not ready. We are not prepared for this new world we are being dragged into. We will resist the pressures by holding on tight to the familiar, the traditional; and we will do so with a determined frenzy!"

But the inevitable tomorrow is appearing. Changes in science and technology are producing fundamental changes in our material lives; and in our social and political relationships as well. There are new dominant sounds and among those most clearly and loudly heard are the sounds of freedom and democracy. The striving for human dignity is universal because it is an integral part of our human character. We see it in Burma, Pakistan, Korea, the Philippines, South Africa, China, Chile, Paraguay, the Soviet Union, Poland—different cultures, different parts of the world. A larger part of the world's population is today living in relative freedom than ever before in the history of the world.

This trend is prompted not only by an abstract love of justice—although this is undoubtedly present—but by the growing realization that democracy works best. Governments and societies everywhere are discovering that keeping up with change requires openness to information, new ideas, and the freedom which enables ingenuity to germinate and flourish. State-controlled centralized planning cannot keep up with the pace of change. A closed tightly-controlled society cannot compete in a world experiencing an information explosion that knows no national boundaries.

We are in a time when no society can isolate itself or its people from new ideas and new information anymore than one can escape the winds whose currents affect us all. National boundaries can keep out vaccines, but those boundaries cannot keep out germs or ideas. One essential geo-political consequence of that new reality is that there can be no true security for any one country unless there is security for all. Unilateral security will not come from either withdrawing from the world or attempting national impregnability. Instead, we must learn to accept in each of our countries a mutual responsibility for the peoples in all other countries.

In this world of increasing interdependence, the lessons for the United States and the Soviet Union—the most important security relationship in the present era—are evident. We cannot escape from one another. We are bound together in an equation that makes the security of each of us dependent on that of the other. We must try to learn to live together.

We are told by Soviet leaders that through the process of internal transformation that is demanded by the new technologies, they comprehend that repressive societies in our day cannot achieve inner stability or true security; that it is in their best interest to permit a humanizing process to take place; and that their domestic requirements are their highest priority.

Without doubt, that leadership faces the urgent need for drastic internal changes if the Soviet Union is to be a significant part of the 21st Century we are about to enter. The Soviet economy is working poorly, although it does provide a fully functioning military machine. Massive military power has provided the Soviets with a presence that reaches all parts of the world, but this military superpower cannot hide the fact that its economic and social weaknesses are deep. The Soviet's awesome internal police force has provided continuity to its system of governance, but a Russia which during Czarist days exported food cannot today feed its own people. Productivity is low. With absenteeism, corruption, and alcoholism, internal morale is bad. I recall hearing the quip in Moscow: "We pretend to work and they pretend to pay us."

The new leaders of the Soviet Union are fully aware of its problems. They are also aware of our strengths, reflecting the vitality of our values and the healthy dynamism of our system.

We hear the Soviet words with the hope that the deeds and reality will indeed follow the rhetoric. We hope the time is at hand when Soviet authorities, looking at the energy of the West, comprehend the systemic weakness that corrodes their society. We hope Soviet leadership today realizes that its historic aim of achieving Communism through violence has no place in this nuclear age. We hope Soviet authorities will join us in making the commitment that our survival as a civilization depends on the mutual realization that we must live under rules of responsible international behavior. We hope—and there are encouraging signs to bolster that hope. But as yet, we, regrettably, cannot trust.

But even as we cannot yet trust, we have a responsibility to ourselves to observe developments in the Soviet Union carefully and to do so with open eyes and an open mind. It will not be easy for many of us to change the prism of our comfortable spectacles for clearer viewing. There have been significant developments within the USSR. President Gorbachev has shown himself in a dramatic way willing to reconsider past views. The words glasnost and perestroika have been repeated so extensively that the ideas they represent may well take on a meaning and dynamism of their own which could become internally irreversible.

When I began negotiating with the Soviet Union in 1980, under President Carter, human rights was beginning to be injected as a major item on our country's international agenda. The Soviet Union insisted that the discussion of the subject was an improper interference in their internal affairs. When President Reagan asked me in 1985 to return to government service as head of our nuclear arms reduction negotiating team, an extraordinary change soon became apparent. Under the leadership of the President, the United States enlarged upon what President Carter initiated, and incorporated the concept of human rights as a necessary and ever-present ingredient in the totality of our relations with the Soviet Union.

It does not denigrate the vital importance of arms control for me to assert that if arms reductions are to be real and meaningful, they must be accompanied by attention to the serious problems that cause nations to take up arms. Arms are the symptoms of a disease. Let's treat the disease: aggression, poverty, intense bilateral competitive tensions, and, of course, violence against human dignity. The latter, which undermine the very essence of trust and confidence between nations, has been at the root of much of our historic hostility toward the Soviet system.

In his 1975 Nobel Prize speech that he was not permitted to present in person, Dr. Andrei Sakharov, said: "I am convinced that international trust, mutual understanding, disarmament, and international security are inconceivable without an open society with freedom of information, freedom of conscience, the right to publish, and the right to travel and choose the country in which one wishes to live."

The United States interacts and negotiates with the Soviet Union in that context. We have faith in our principles as we intensify our efforts, through our negotiations, to find a basis for understanding, stability, and peace with dignity. To negotiate is risky. It is, in the words of my dear friend, Hubert Humphrey, something like crossing a river while walking on slippery rocks. The possibility of disaster is on every side, but it is the way to get across. The object of our diplomacy and the supreme achievement of statesmanship is patiently, through negotiation, to pursue the peace with dignity we seek, always recognizing the threat to that peace and always protecting our vital national interests and values.

We have begun a historic process. It may be working. It is in all of our interests to try to make it work. With the nature of our adversary and the complex issues we face, however, coupled with our own internal political stresses we are still much nearer to the very beginning than to the end of that process.

The process, furthermore, is likely to be a difficult and murky one. The USSR is not apt easily or quickly to undergo what Jonathan Edwards called a "great awakening" or see a blinding light on the road to Damascus. Their heavy bureaucratic crust of tradition is thick and not easily cracked. The fundamental nature of their system is the

reality that they and we must still face. During a recent trip to Moscow, I heard it said: "There have been many books written on the transition from Capitalism to Socialism, but not one on the transition from Socialism to Capitalism." The problems are real and at times appear overwhelming.

We are also struck by the depth of ethnic nationalism that has survived the Marxist and Leninist revolutions in the Soviet Union. That nationalism at times appears to be tearing at the fiber of the Soviet empire. There is violence, demonstrations, curfews, and the recurring question: How tolerant can Moscow afford to be? Can glasnost survive this strain and onslaught? Can the Soviet Union, with more than 100 nationalities and widely disparate cultures living in 15 Republics, contain these demands for local sovereignty?

Just as the strains must not blind us to the changes so should the changes not blind us to the difficulties that still remain. Yes, the changes are stunning—Soviet troops out of Afghanistan; Solidarity legally recognized in Poland with free elections on the horizon; the prospect of Cuban troop withdrawal from Angola; Vietnam's agreement to withdraw from Cambodia; Communist Party officials challenged and defeated in Soviet elections; the beginning of a two party system in Hungary; interesting Soviet proposals to reduce conventional arms along lines proposed by the West.

But the basis for skepticism also remains: The Soviets and their allies continue to provide more than half a billion dollars a year in military assistance to Nicaragua; Cuba continues to receive $7 billion in Soviet support annually; the Soviet military budget has still not been reduced; we have still not been able to observe a promised shift in Soviet military philosophy from an offensive to a defensive posture; and, as a dramatic reminder of our need to be wary, the Soviet's sale to Libya of bomber aircraft capable of threatening and further destabilizing the Middle East. We could go on.

The great challenge to our diplomacy is how to adjust to a rapidly changing Soviet Union in a rapidly changing world without endangering our security and our values. As we do so, we must at the same time be sensitive to the judgment of history and take heed, lest future generations condemn us for having missed a decisive opportunity for peace with dignity.

Alexis de Tocqueville wrote in the nineteenth century that "It is especially in the conduct of their foreign relations that democracies appear to be decidedly inferior to other governments." With that observation in mind, our task is to achieve the firm sense of purpose, readiness, steadiness, and strength that is indispensable for effective and timely foreign affairs decision-making. Our political community must resist the temptation of partisian politics and institutional rivalry as we develop the consensus adequate to meet the challenge of de Tocqueville's criticism.

Two hundred years ago this week George Washington took the oath of office as the first President of the United States. Our country, today the oldest democracy in the world, came into being. Our forefathers said that "America is the last great hope of mankind." It still is. Our political values have helped us build the most dynamic and open society in recorded history, a source of inspiration to most of the world. It is a promise of a better tomorrow for the hundreds of millions of people who have never known the gifts of human freedom. The future lies with liberty, human dignity, and democracy. To preserve and expand these values is our special responsibility. We should look upon it as an exciting opportunity.

TRIBUTE TO THE LATE CHARLES CLABAUGH

HON. HELEN DELICH BENTLEY

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 21, 1989

Mrs. BENTLEY. Mr. Speaker, recently we in Maryland lost a very fine gentleman and one of our State's most tireless spokesmen on behalf of the rights of senior citizens. Charles Clabaugh, president of the Maryland Senior Citizens Hall of Fame, died suddenly on May 15, 1989, leaving behind a loving family and a legacy of achievement which shall long serve as an inspiration to others. It is a great honor and a privilege to salute him here.

Charles Clabaugh truly embodied the principle that life does not end with retirement. After a long career as an insurance executive he became very active on behalf of his fellow seniors. He became involved with the local Valley Forge Chapter of the AARP and soon was selected to serve as director of the organization's Maryland State chapter. He was also a past president of the Baltimore County Association of Senior Citizens Organizations. Over the years he was called upon to lend his expertise on senior issues to city, State, and local government on many different occasions.

His most recent efforts, however, were in the area of voluntarism. He was a longtime member of the Governor's Council on Voluntarism and continually stressed the importance of keeping seniors involved in volunteer activites. It was this philosophy which led to the creation of Maryland's Senior Citizens Hall of Fame [MSCHF]. The MSCHF recognizes those seniors who have truly distinguished themselves in humanitarian community service with the "Geri" Award—the senior volunteers' equivalent of the Oscar. Under Charles Clabaugh's leadership the MSCHF annual awards ceremony grew from a little-known occurrence to a large media event attended by seniors all across Maryland.

Mr. Speaker, Charles Clabaugh was indeed a wonderful man, and his passing has left many people with a void that can never be completely filled. Yet we are all better for his having touched our lives, for his example has brought new dimension to the old saying "Anybody can make a difference—and everybody should try."

To his wife, Leona, and his family I extend my deepest sympathies at this sad time. Yet to the memory of Charles Clabaugh I bestow my deepest thanks for a job well done.

A TRIBUTE TO GEORGE BARBAREE

HON. DOUGLAS APPLEGATE

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 21, 1989

Mr. APPLEGATE. Mr. Speaker, it gives me great pleasure to have the opportunity to honor my friend Mr. George Barbaree upon his impending June 30 retirement from the pottery industry.

Mr. Barbaree was born on January 2, 1925, in Richland, GA, to Arthur Lee and Lavia Ann Fussell Barbaree. George graduated from high school at the early age of 16. He entered the U.S. Marine Corps in 1943 and served his country well and with dignity before being honorably discharged as a corporal in 1946. He has received certificates in special courses on labor from the College of the Aleutians, the Ohio State University, and Rutgers University. Mr. Barbaree entered the pottery industry on July 3, 1946, and has a long and distinguished career within its ranks. He has been a member of the National Brotherhood of Operative Potters since 1946 and alternately served as secretary, vice-president and president of his union local 50 of the N.B.O.P. Mr. Barbaree has also been active on a national level; his list of accomplishments includes: Fourth vice-president of the International Brotherhood of Potters, secretary-treasurer of the International Brotherhood of Pottery and Allied Workers, and presently; international auditor of the Glass, Molders, Pottery, Plastics and Allied Workers.

Mr. Barbaree has been a resident of East Liverpool, OH, for 23 years and has been a leader within the community. He serves on the board of directors for Potters Bank and Trust, and the East Liverpool City Hospital Association. He also served on the boards of many pension plans for pottery workers, including the Lenox China Pension Plan and the Buffalo China Pension Plan. He also served on the original committee that organized the Pottery Festival. George Barbaree was wed to Alfreda Rita Mroz in 1946 and together they have three children; Ronald, Susan, and Joyce; and three grandchildren.

As is obvious from the long and distinguished list above, Mr. Barbaree is a civic minded citizen and strong family man. He has been a pillar of his community and area for 23 years and has contributed greatly to the growth and development of East Liverpool and its surrounding area. It gives me great pleasure to have an opportunity to make his name and accomplishments known and to honor him as he justly deserves. I wish him well in the future and hope he finds his golden years of retirement enjoyable and fruitful.

UNDERSTANDING RISK

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 21, 1989

Mr. HAMILTON. Mr. Speaker, I would like to insert my Washington report for Wednesday, June 21, 1989, into the CONGRESSIONAL RECORD.

UNDERSTANDING RISK

Americans have never been safer—at least that is what the statistics say. Yet I find people increasingly worried about reports of public health and safety risk, such as cyanide in Chilean grapes, Alar-treated apples, aging aircraft, and growth hormones in animal feed. One constituent said she got a scare every week from some threat to health and safety, and that she and her family simply did not know any longer what was safe to do or eat. Public concern about risk is posing difficult questions not only for individuals, but for scientists and the government as well.

Risk is relative. In less affluent, less protected societies, people confront daily a wider range of risks—disease, war, limited food supplies, and lack of shelter. Our nation has the luxury of fearing less immediate threats, such as artificial sweeteners and food color dyes. Indeed, Americans have never been healthier. Life expectancy at birth in 1986 was 74.8 years, up four years since 1970. A slew of new risks, of course, accompanies our prosperity and good health. Since World War II, for example, the U.S. has accepted risks posed by pesticides in exchange for the tremendous boost in agricultural productivity they have brought.

Individually and as a nation, we have to determine what level of risk is acceptable. When scientists discuss risk, they assess the magnitude of a danger and the likelihood that it will occur. But most of us do not view risk in purely statistical terms. We tend to fear those threats that are unknown and involuntary (such as living downwind from a nuclear plant) more than those which are known and chosen (such as not wearing a seat belt). We overreact to small risks and underestimate major ones. For example, only two percent of cancer deaths have been linked to involuntary exposure to man-made hazards, while the primary causes of premature death and disease in the U.S. have remained the same for decades: smoking, alcohol abuse, diets rich in fat and lean in fiber, and lack of exercise. We also find it difficult to keep risks in perspective. We cut back our consumption of fresh produce because of pesticide worries. Yet increasing consumption of fruits and vegetables can help reduce the risk of some cancers, with benefits far outweighing possible cancer risks from the pesticides.

It is not surprising that public perceptions about risk do not match scientific assessments. Often, the government offers conflicting guidance. When federal inspectors found two cyanide-laced grapes imported from Chile this past March, the U.S. banned all imports of Chilean fruit, held millions of crates in storage, ordered the destruction of Chilean fruit already distributed, and advised consumers to discard any they had at home. The level of cyanide in those two grapes was not enough to give a toddler a stomachache. When a news program aired a controversial report in March that 6000 preschoolers might eventually get cancer from eating produce such as apples treated with the pesticide Alar, the government responded that a ban was planned within 18 months, but that apples were not dangerous to eat and that Alar was not an imminent hazard to children. Still, apples were removed from many school lunchrooms, markets advertised Alar-free apples, and some families poured apple juice down the drain. To confused and worried consumers in both instances, it was unclear how great the risks were and how safe our food supply was.

Public views of risk may also be out of step with statistics because risk assessments are rarely uniform. There is no single federal policy on cancer, with at least ten laws and four agencies regulating cancer-causing agents. For example, three agencies in 1979, using the same evidence, reached different regulatory decisions about the chemcial substance formaldehyde. Even within the Environmental Protection Agency, different policies govern evaluation of cancer risks, depending on the environmental protection law involved. Some pesticide use regulations balance risks and benefits, while others bar any food additive that has been found to induce cancer in humans or animals.

Government agencies are not the only regulators of risk. Courts and juries are making manufacturers increasingly responsible for injuries caused by their products, frequently resulting in price hikes to help cover companies' future liabilities. These liability fears and increased costs can inhibit development of new, possibly safer and less risky, products. This has apparently occurred in the development of certain vaccinations, birth control devices, and even safer alternative materials for brake linings.

It is the government's responsibility to explain risk in ways that people can understand. Although many tend to distrust experts, the public must depend on them to make judgments in the face of scientific uncertainty and incomplete information. The government faces the difficult task of expanding public information about possible hazards without making us feel that almost everything is dangerous. We need more and better information about risks, perhaps establishing an independent environmental statistics board. We also need to package information better. Knowing that the average smoking habit is 200 times as likely to cause cancer as a daily can of diet cola containing saccharin might be as useful as knowing that the can of cola will on average kill one person in 100,000 each year.

Given the strong demand for a safer food supply, we need stricter, faster, and more consistent controls on pesticides, and we need to encourage production of food with less use of chemicals. The government must also be able to act quickly in response to genuine health threats, and, if it must err, err on the side of protection of health and safety. Caution when first handling new technologies, such as biotechnology, can also help boost public trust in the safety of those new technologies.

There is no such thing as a risk-free environment, even though the public may want one. Unfamiliar and indeterminate risk is the price of progress. Improving the government's ability to understand and control risks, and boosting public confidence and trust in those efforts, is critical to maintaining such growth and prosperity.

TRIBUTE TO WILLIAM J. "BILL" HAMPTON

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 21, 1989

Mr. RANGEL. Mr. Speaker, I rise today to pay special tribute to a committed and dedicated citizen of my district, Mr. William J. "Bill" Hampton, who died May 21 at the age of 70.

Mr. Hampton's service to the 16th Congressional District spanned four decades. As an expert on housing, Mr. Hampton played a key role in the development of more than 4,500 dwelling units for low- and middle-income families in the Harlem and Queens communities of New York. In the private sector, he was a vice president of housing development for the Kelge Construction Co.

He also served as an economic development housing specialist for the South Bronx Community Corp., as an assistant coordinator—housing for Haryou-Act Community Corp., and as vice president and general manager of Harlemco Development Corp.

Earlier in his career, he served as a supervisor for United Service for New Americans and an administrative and fiscal adjudicator for the U.S. War Department—Department of Defense. At his death, he was a principal of Housing Developers Unlimited and Ebony Development Corp., located in Harlem.

Mr. Hampton, who was born in Madison, FL, graduated with honors from New York's Stuyvesant High School in 1938 and the City College of New York in 1943, with a B.S. in social science. He also studied economics at Columbia University. While there in 1944–45, he worked on the computer gunsight system as part of the Manhattan Project. From 1948 to 1966, he served on the staff of the late Congressman Adam Clayton Powell, Jr.

He is survived by his wife, Dorothy; two daughters, Gail McKeller and Glenda Davis, and an aunt, Eleanor Sampson.

Mr. Hampton will be deeply missed by his family, friends, and the Harlem community. I extend my deepest sympathies to Mr. Hampton's family.

WALNUT CREEK—A MOST LIVABLE CITY

HON. GEORGE MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 21, 1989

Mr. MILLER of California. Mr. Speaker, Walnut Creek, CA, will tomorrow be named the most livable small city in the United States by the U.S. Conference of Mayors. I am certain that all Members of the House of Representatives will want to join me in saluting this community, and its residents.

Walnut Creek is the very first city in California to win this designation.

Walnut Creek is in the heart of the Seventh Congressional District, and in recent years has blossomed into a major center of employment

and the arts. Of particular pride to all of us in Contra Costa County is the new, $17.1 million regional center for the arts which will open next year. We are all looking forward to this important center as further evidence of the maturation and improvement of our community.

Arts activities in Walnut Creek—including exhibitions, classes, performance and training workshops—reach more than 160,000 people annually, and we will see these efforts expand under the city's multiyear plan.

The Conference of Mayors recognizes this achievement by Walnut Creek, noting that its level of commitment is comparable to the arts programs of major cities throughout the Nation.

We in Contra Costa already know that our county, and Walnut Creek as a growing city, are outstanding places to live. We appreciate the well-deserved recognition we are receiving from the Conference of Mayors, and I salute the city leaders, and its residents, for receiving this honor.

PERSONAL EXPLANATION

HON. JACK BUECHNER

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 21, 1989

Mr. BUECHNER. Mr. Speaker, I was unavoidably absent from the House during proceedings on Wednesday, June 7, Tuesday, June 13, Wednesday, June 14, and Thursday, June 15. Had I been present, I would have voted "no" on roll No. 77 (FSX rule, H. Res. 165); "no" on roll No. 78 (Solomon substitute on FSX); "no" on roll No. 79 (Bruce substitute on FSX); "yes" on roll No. 80 (recommittal motion on FSX); "no" on roll No. 81 (FSX final passage); "no" on roll No. 82 (H.R. 1502, additional police officers for the District of Columbia); "yes" on roll No. 83 (Conte motion to instruct the conferees for the dire emergency supplemental); "no" on roll No. 84 (Journal); "yes" on roll No. 85 (rule to consider the H.R. 1287); "no" on roll No. 86 (override the veto of H.R. 2); "yes" on roll No. 87 (Hyde amendment to H.R. 1278); "yes" on roll No. 88 (Annunzio amendment to H.R. 1278); "no" on roll No. 89 (LaFalce amendment to H.R. 1278); "no" on roll No. 90 (Rostenkowski amendment to H.R. 1278); "no" on roll No. 91 (Kennedy amendment to H.R. 1278); "yes" on roll No. 92 (Dorgan amendment to H.R. 1278); "yes" on roll No. 93 (Bartlett amendment to H.R. 1278); "yes" on roll No. 94 (Leach motion to recommit H.R. 1278); "yes" on roll No. 95 (final passage of H.R. 1278).

THURMOND INSTITUTE AUDITORIUM DEDICATED

HON. BUTLER DERRICK

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 21, 1989

Mr. DERRICK. Mr. Speaker, on April 21, 1989, my good friend, the senior Senator from South Carolina, STROM THURMOND, delivered remarks dedicating the new auditorium at the Strom Thurmond Institute of Government Affairs at Clemson University.

Clemson University's fine reputation can only be enhanced by this most recent addition to the Strom Thurmond Institute; a point at which the wisdom of the past and modern technology converge to solve today's problems. And as the institute advances its goal of an educated citizenry active in our democracy, the community, the State and the Nation will be enriched as well.

Mr. Speaker, the contributions of this institute—which bears the name of our august colleague—have been numerous and invaluable to local, State, and national governments. Senator THURMOND's remarks, which underscore this fact, merit the attention of my colleagues. I insert Senator THURMOND's speech for the RECORD:

REMARKS BY SENATOR STROM THURMOND

Dr. Lennon, distinguished guests and close friends—and that is what all of you are—my devoted wife, Nancy and my daughter, Nancy Moore. I am very pleased to be here on this auspicious occasion. I am delighted to see so many people who are long time friends of mine; Dr. and Mrs. Robert Edwards, Mr. Walter Cox, Senator and Mrs. Marshall Williams, other members of the S.C. General Assembly, Mr. Louis Batson, Members of the Clemson Board of Trustees, Mr. Buck Mickel, Mr. Walter Brown, Mr. and Mrs. Bill Plowden, Mr. and Mrs. Tony Campbell, Mr. and Mrs. Warren Abernathy, Madam Chennault, Prime Minister Charles, and many others. I cherish the friendship of all of you. A good many members of my family are here this evening, as well, and if you do not mind I am just going to ask my nephews and their children who are here to stand up.

Ladies and gentlemen, it is a pleasure to be here tonight to inaugurate the Strom Thurmond Institute of Government and Public Affairs. Many distinguished people will stand on this stage in the months and years to come. I am pleased that such a fine auditorium will await them on the campus of my alma mater, dear old Clemson.

Thomas Jefferson once said, "I look to the diffusion of * * * education as the resource most to be relied on for ameliorating the condition, promoting the virtue, and advancing the happiness of man." I share Thomas Jefferson's view that education is the key to opening the door of our future. During the lifetime of that great President, our Country underwent tremendous growth and change. Similarly, in its past 100 years, Clemson University has transformed itself from a small land grant college to a dynamic institution of higher learning.

The Clemson legacy began on November 1, 1886, when Thomas Green Clemson willed to the State of South Carolina an 814 acre plantation and more than $80,000 in assets. It was Thomas Clemson's dream to establish an agricultural college for South Carolina. Many of our State's finest leaders worked throughout their lifetimes to ensure that this dream was realized. These great leaders include men like: "Pitchfork Ben" Tillman of Edgefield, a former life trustee of Clemson, Governor and United States Senator, whose dedication to the college was unequalled; and W.L. Mauldin of Greenville, a former Lieutenant Governor of South Carolina, who cast the tie breaking vote more than four times during the General Assembly's debate on the land grant.

However, it was Dr. Robert C. Edwards, the University's eighth president, who was the spark plug that drove the engine of change. Under his leadership, Clemson broadened its curricula, constructed many new buildings and grew from college to university status. The student body, once comprised solely of men's Corp of Cadets, was expanded to include women and minorities.

On this occasion it is my pleasure to recognize another of Clemson's outstanding leaders, Dr. Bill L. Atchley. It was he who convinced me that my alma mater was the proper place to preserve my papers. He initiated the establishment of the Strom Thurmond Center, of which this Institute is just one segment. The other segments include a continuing education building and a performing arts building.

I would also like to express my appreciation to former President Walter Cox who was instrumental in the Institute's groundbreaking efforts. He has been supportive of the Institute since its inception and his contributions have been vital to its development.

Today, under the dynamic leadership of Dr. Max Lennon, Clemson is continuing to evolve to meet the challenges of our ever-changing world. As we move toward the 21st century, Dr. Lennon has charted a path that is progressive and far-reaching. He is nationally recognized as a leader among land grant university presidents, and his expertise and experience are respected by all who know him. Our future bodes well under Dr. Lennon.

Each time I visit this beautiful and historic campus, I marvel at the changes I see. I am proud that throughout its growth and transformation, Clemson has remained loyal to its tradition of being an institution for the people. The Nation's first cooperative extension service was established at Clemson in 1914. The Smith-Lever Act, which authorized the cooperative extension service, was co-authored by the later Frank A. Lever of Lexington County, a South Carolina Congressman and Clemson trustee. Clemson has been at the forefront of emerging technology which the Nation's extension service has successfully transferred to local farmers.

It is important that Clemson's tradition of being a "people's" university not only be preserved, but encouraged and expanded. Indeed, that task will represent our challenge for Clemson as it enters its second century. This is also the challenge for the Strom Thurmond Institute.

Should the Institute successfully fulfill this mission, as I know it will, there will be no one prouder than the members of my family, many of whom are here tonight. I received my degree from Clemson in horticulture 66 years ago this spring—I don't feel like it's been that long, you just have to exercise and watch your diet—and I owe a debt of gratitude to my family and many of the professors who instilled in me the knowledge and determination to work hard and serve my fellow man.

Among these professors were Dr. D.W. Daniel, a nationally respected professor of English and public speaking; Professor J. E. "Little Joe" Hunter, the finest mathematics teacher I have ever known; Professor Mark E. Bradley, an English teacher whose patience and devotion were unequalled; Professor C.C. Newman, a skilled and dedicated teacher of horticulture; and Dr. R.N. "Dickie" Brackett, an expert in organic chemistry. With my Clemson degree in hand, I was fortunate enough to become a teacher, athletic coach and superintendent of education, working in McCormick, Ridge Spring and Edgefield. Clemson taught me

the meaning of ambition and perseverance. I studied law at night under the guidance of my father, the late Judge J. William Thurmond, and passed the South Carolina bar in 1930. The knowledge I gained at Clemson provided the foundation for my career as a lawyer, state senator, circuit court judge, soldier, governor and United States Senator.

When I graduated from Clemson, it was one of the eight distinguished military colleges in the United States. As a member of Clemson's proud corp of cadets, I learned the value of discipline and love of country. These values prompted me to obtain a leave of absence from the circuit court so that I could volunteer for military service the day war was declared against Germany. I continued reserve duty after the war and served for a total of 36 years.

During my 35 years of service in the United States Senate, I have never lost sight of my Clemson heritage. It is for this reason that I am so deeply honored tonight. To stand and view this marvelous building that bears my name, this wonderful Institute that has such promise, is truly one of the greatest honors I have ever received. I cannot believe that a plain, farm boy like me would ever have something like this named for him. It is indeed a dream come true.

Years from now we will take special pride in the Institute's successes, many of which are well under way. During its short life, the Institute has proven to be beneficial not only to Clemson, but to our State and Nation.

In the Institute's first six years, many of today's pressing issues have been addressed. The Institute has initiated efforts to train local officials in dealing with terrorist threats; worked with the Department of Defense to improve state and local energy awareness; and conducted workshops to help local officials and organizations make better use of volunteers. It has also provided technical assistance to local governments in updating growth management and land-use plans. Bringing faculty together from several of Clemson's colleges, the Institute has conducted a well-received assessment study for Anderson County, and has just completed a major, four-year analysis of state water policy needs.

What lies ahead for the Institute will depend in part on the needs of the University, but some obvious avenues will be explored. As the demands on public service increase, local, state and national governments must confront a number of complex issues on a daily basis—all against a backdrop of decreased funding. We must find better ways to help government work efficiently without depending on government for every solution. I believe the programs and seminars at the Strom Thurmond Institute will contribute significantly in answering the difficult questions which face our State and Nation.

Thus far the Institute, which was founded in 1982, has merely scratched the surface of what needs to be done and must be done if we are to have the strong, competent, and far-sighted government our people deserve. This need is as great today as that of the farmers who years ago first sent their sons to Clemson for an education.

Years ago, all mail from Clemson College was postmarked with the slogan, "Clemson leads." From its beginning as a college for farm boys, to the early work of county agents to today's research into super-computers, Clemson has led the way. It is my hope that the Strom Thurmond Institute will strengthen this great university and help to ensure that Clemson and the Fighting Tigers will always take the lead.

This means graduating young men and women who are not only properly trained, but also are inspired and motivated to be leaders and willing to offer for public service. It also means that Clemson must remain true to its tradition of a university in touch with the local communities and the daily lives of free citizens in an ever-changing world.

With this new facility which we are using for the first time tonight, and with the innovative developments already underway, I feel confident that our expectations for Clemson's second century are realistic and within reach. This is truly a people's university.

I believe that when Clemson University celebrates its bicentennial in the year 2089—and by the way I hope you'll join me for that occasion—it will be common knowledge that it is the pre-eminent land grant university of the 21st century, a center of excellence of both undergraduate and graduate studies. Clemson will be renowned as a model of service to the people of South Carolina, our nation, and the world.

It is my hope that the Strom Thurmond Institute will continue to make major contributions to Clemson University by setting standards for excellence in service to those who are charged with the people's business, allowing Americans to continue to enjoy the world's highest standard of living. It is my hope that the Institute will play an integral role in our university's continued quest for educational excellence. It is my hope that the Institute will serve as a catalyst for our university, enabling Clemson to build upon its past success. It is my hope that the Strom Thurmond Institute will be a beacon for the future, one that helps define the course this university will follow for years to come.

We will always be indebted to President George Bush, who while serving as Vice President, broke ground for this Institute. We shall look with great anticipation toward his returning to Clemson University during his eight years of service as President.

We are further indebted to Vice President Dan Quayle for his forthcoming participation in the Institute's dedication ceremony. Vice President Quayle epitomizes the youth of our country, the vitality of the Bush Administration, and the future leadership of this proud Nation. We are honored to have him as tomorrow's keynote speaker.

As we commence the mission of the Institute, I want each of you to join me in paying tribute to the Director of the Strom Thurmond Institute—a gentleman whose character, compassion and capacity have launched this progressive agenda of excellence in government and public service. Dr. Fleming, you are a dedicated educator and a responsive leader. Let's give him a hand of applause.

The Institute will be forever grateful to you and your fine staff which includes: Mrs. Joyce Bridges, Mrs. Julie Craig, Colonel Edward Hamilton, Mrs. Peggy Jenkins, Mrs. Martha Morris, and Mrs. Donna Zimmerman. I would like to further acknowledge the Institute's senior fellows and fellows, as well as our many distinguished lecturers. We wish you all God's speed in meeting the many challenges ahead.

I would like to close with a quote from my good friend and one of Country's greatest leaders, former President Ronald Reagan, who said of education: "To be American means to understand that education is the key that opens the golden door of opportunity and, just as importantly, it has preserved the conscience and the character of our Nation."

Let these be the ideals which the Strom Thurmond Institute serves to protect in the years ahead.

Thank you, God bless you, and good night.

A PRAYER FOR THE PRESIDENT

HON. HENRY J. HYDE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 21, 1989

Mr. HYDE. Mr. Speaker, even though President Bush has been in office 5 months now, two of my constituents, Dr. Glenn Arnold, a professor of journalism at Wheaton College, and his wife Margaret Arnold, composed a beautiful prayer for the President which might appropriately have been recited at his inauguration. I would like to share this prayer with my colleagues:

OFFERING A PRAYER FOR THE NATION'S CHIEF EXECUTIVE

(By Margaret and Glenn Arnold)

A prayer for a new president:

"I do solemnly swear . . . .

Our Heavenly Father, we come before You today on behalf of our new President. We thank You for him and his family. We are encouraged that he is a man of prayer. Our hearts rejoice knowing that he took time to be alone with You specifically on his Inauguration Day.

May he always be known as our praying President by continuing to seek Your face each day of his administration.

We pray that the oath of office that he took will be inscribed on the tablets of his heart. Throughout his term of office, help him to remember that he made this vow in Your presence, before the eyes of the citizens of this blessed land and in the hearing of scores from most of the countries on this earth. May he realize that his oath was observed by that "great cloud of witnesses" of preceding presidents who revered God.

Father, we can still see his left hand that he placed on the Bible and his right hand raised as the vertical symbol of the vows spoken horizontally. We pray that those same hands will reverently hold the Holy Scriptures each day throughout his tenure as our chief servant. May he look to Holy Writ for guidance, insight, encouragement and wisdom and to learn Your eternal perspective in which to place present crises.

Holy Father, help President Bush to follow Your Son's command to "speak the truth in love"—even when the truth hurts. Grant him the fortitude of Isaiah in proclaiming the bad news as well as the messages of hope and celebration.

May his words to us and the world always be pure and seasoned with grace and compassion for those who suffer. Grant that his private conversations have these same qualities.

"That I will faithfully execute the office of President of the United States . . .

Father, give our President the faithfulness and determination of Daniel, an overseer of three presidents. Enable him to

choose Your pathway when all others are hurdling down another road.

O Lord, may he heed Your counsel that a servant, public or private, must be found faithful. Help our leader to be true to himself, to his family, to his country and . . . to You.

Anoint him with wisdom when he asks for it as David's son did when he began his term of office. May our president seek the mind of your Son when he has to make the hard decisions that won't win anyone's vote.

Prove to him and those who serve him that "righteousness exalts a nation."

"And will to the best of my ability. . . .

Dear Lord, we implore You to provide our chief executive the gifts that he needs to lead our nation energetically. Pour into him a droplet of the power You used to create this world.

When he walks out of his office at the end of the day, dear Lord, give him the strength and vitality to enjoy his family and be the support and encouragement that his wife, children, mother and grandchildren need and deserve.

"preserve . . .

May he not only preserve the Constitution of the United States, but all the values of liberty, justice and reverence for God into which our founding fathers dipped their pens when they wrote this unique document.

Supply Mr. Bush with the insights to provide ways of feeding the hungry, housing the abandoned and educating those who can not read.

"protect . . .

Holy Spirit, grant our new president, the stamina and courage to protect the constitution and those living under its shelter. In so doing, may he protect our nation from enemies outside our borders and from one another.

"and defend . . .

Holy Ghost, so instruct him with your Spirit that he will see that he cannot defend our Constitution or anything else without Your help.

May he say with the Psalmist, "Some trust in chariots, and some in horses, but we will remember the name of the Lord our God."

Help our new leader to recognize that the love of God is the most powerful force on the face of this earth. Infuse him with the creativity to use power and position as channels of love.

"The Constitution of the United States."

Father, Son and Holy Spirit, we thank you for providing the founders of this country with the awareness that they desperately needed Your assistance in formulating a lasting document on which to base our new nation.

We stand in awe of the blessings that have been ours because some of the delegates at the Constitutional Congress saturated their sessions in prayer.

O God, may "we the people" be faithful in following the Apostle Paul's exhortation. Quicken our spirits, souls and minds so that we will be faithful in offering to You "supplications, prayers, intercessions and thanksgiving for all men . . . and for all who are in authority that we may lead a quiet and peaceable life in all godliness. For this is good and acceptable in the sight of God our Savior."

"So help us God.

"Amen and Amen."

A TRIBUTE TO LESTER H. "CHIC" NULL

HON. DOUGLAS APPLEGATE

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 21, 1989

Mr. APPLEGATE. Mr. Speaker, I rise today to invite you and my fellow colleagues to join me in congratulating Lester H. "Chic" Null, Sr., upon his retirement from the Glass, Molders, Pottery, Plastics and Allied Workers.

Chic went on the international staff of the International Brotherhood of Operative Potters on March 5, 1959, and retired from the Glass, Molders, Pottery, Plastics and Allied Workers on May 31, 1989, totaling a commendable period of 30 years of service. He became a member of Local Union No. 220 in New Orleans, LA, where he also grew up, in March 1950 while working at American Standard, Inc. In March 1959, he became an international vice president. Chic became international president of the International Brotherhood of Operative Potters in 1969, when Mr. E.L. Wheatley became suddenly ill, where he served until July 1982, when the merger of the International Brotherhood of Pottery and Allied Workers and the Glass, Bottle Blowers Association took place.

Chic exhibited excellent leadership qualities which are quite evident through the many positions that he has held on several boards. Among those boards which he so steadfastly served are the Union Labor Life Insurance Co., board of directors since 1969, the Ohio State AFL–CIO executive board, the Maritimes Trade, the AFL–CIO, the I.U.D. board, the Mental Health board, Columbiana County, and on several local bank boards as well as others.

Being a civic-minded man also, he is a member of Elks Lodge No. 258 of East Liverpool, OH; Masonic Lodge 428 of New Orleans, LA; and Al Koran Shrine of Cleveland, OH, among others.

Born in Missouri, and growing up in New Orleans, LA, Chic married his wife, Helen, in November 1969 and they have six children; Terry, Richard, John, Jimmy, David, and Lester. They also have four grandchildren; Stacey, Lisa, Jake, and Zack. Chic served in the U.S. Navy from 1940 to 1946. Presently Chic serves as secretary-treasurer of Union Labor Life Insurance Co. of Washington, DC. Among his favorite pastimes are golfing and fishing which he plans to enjoy during his retirement along with a bit of traveling.

I ask you again, Mr. Speaker and my fellow colleagues to join me in congratulating "Chic" Null on his retirement and many years of outstanding service.

WHY DENG XIAOPING AND LI PENG REPRESS STUDENTS?

HON. STEVE BARTLETT

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 21, 1989

Mr. BARTLETT. Mr. Speaker, I wish to enter in the RECORD a powerful and dramatic commentary on the situation in China. It was given to me by a Chinese student, studying in America, while I was recently home in the district. The message is powerful and clear: The Chinese people want freedom, and they want democracy. I include it in the RECORD exactly as it is written here by the student:

WHY DENG XIAOPING AND LI PENG REPRESS STUDENTS?

TO ALL THE PEOPLE OF AMERICA

Deng Xiaoping and Li Peng at last shoot the students with the automatic gun and tank, hundreds people died and thousands people injured, the Tiananmen Square has been a blood pool and the whole Beijing, the whole China is crying!

Why Deng Xiaoping and Li Peng repress the students who ask for democracy and freedom? To answer this question, we have to analyze the following questions.

1. Socialist System is an evil to Chinese people.

In China all resources and the most treasure belong to government, actually belong to Communist Party. The party leaders are privileged stratum, they have the power and very respected political status for whole life. They can control people and order them to do what he want to do. Further more, they grasp the party, the army, the government, the legislative, the court and the police together in their hands, they have unlimited power. No one can superintend them. They are above law, above people, above the whole country. This privileged stratum and its so called socialist system is an evil to Chinese people.

2. The Corruption of Communist Party.

Deng's reform had no complete consideration about the whole society. His policy was "Let some people rich first.". This policy allowed some people to be rich, but forbade others to do their business. But, Deng can forbid workers and intelligents to be rich, he can not forbid the party leaders to be rich. From Beijing to every county of China, from this department to that department of the government, every leader has some power to control the people who want to open a company, or get a license, or do something else, so these people have to bribe the leaders. Large amount of money flowed into these leader's pocket in this way. And there is still another way to make the treasure of the country to be the leader's private property. That is to open some companies by their sons, but use father's power to buy into, even just get into some goods from the departments of government (you know, most commodity belong to government), and sold out in much higher price, and so on. Other business men would never have these kinds of benefits. Recent years, this situation has lost control, actually the government had never seriously to control them at all. The holes on the nation's bank are larger and larger. These party leaders are the biggest winner in the economy reform. They can do all of above things because: 1. they have the power to use the resources and treasure of the country, it is very convenient for them to make money. 2. Nobody can limit them, they are the government, they are the law, and they are the police. They take care of each other, no one can beat down them. They can do what ever they want to do. Now they not only have the political power, but also be the richest. And tomorrow they would like to swallow the whole country.

As mentioned above, just small part of the people are allowed to earn money freely (of

course include those party leaders), they become richer and richer, and make the price higher and higher. But, the large part of the people have not the same right to do their own business. First, this is not fair, people should have the same right to compete. Second, when price goes very high, many people met trouble in their everyday life. The people all over the country hate the graft and corruption of the Communist Party! The students on Tiananmen Square are just representing them.

3. The Reactionary Feudal Hereditary Politics.

Only the son of an emperor can be emperor, this is feudal politics. But today, the leaders of Chinese Communist Party are still like this politics. They not only enjoy the privileged status for themselves, but also want their sons and grandsons to have the same right. Their sons and grandsons become the members of Communist party and go up to the higher and higher position quikly. Li Peng in one of them.

Deng Xiaoping and Li Peng are the representatives of these old and young privileged leaders. In the struggle inside the communist party, they fight against those party members like Hu Yiaobong, Zhao Ziyang who really wants to make China better. Deng Xiaoping and Li Peng stand on their class and against the people. They have seriously injured Chinese people. The contradiction between privileged stratum and the people has been very sharp. Deng Ziaoping and Li Peng repress students because they want to keep the privileged status of the Communist party leaders, keep their benefits, keep the power to control the Chinese people. They want to keep all of these from generation to generation! Now, they represent the reactionary force in China.

4. Who is violent.

All can see from TV, radio, or newspapers that the students didn't use the violent means at all, but Deng Xiaoping and Li Peng is the first one to use it. They use the armed police and army to against the students who are still very young and without any weapons! They killed hundreds students and residents. They show their tyrant face completely! China has got into a very dark period.

Down with Deng Xiaoping!

Down with Li Peng!

Down with Chinese Dictators!

5. Chinese People Desire Freedom.

We Chinese People have been ruled by dictators for more than two thousand years. Until now on we haven't ever truely enjoyed the freedom at all. We desire freedom, we need freedom, we should have the same right all of the human beings to live, to have education, to do our own business. All Chinese people should have the same right to live in China!

But to approach this, we would pay painful effort. Everyone knows that there still exists the whole system of dictatorship in China, i.e. the Communist Party with its government, its army, its police, its law and court. All of these are useful for Deng Xiaoping and Li Peng and their class, with which they can easily rule the whole China. But all of that are barriers to the people. We need people's own congress, need the independent legislative body and law, independent court, we should be able to vote our own government and precident, and we don't want the army and police to interfer with the politics. We still have long way to go to get freedom, but we must go!

Support us, all the people of America! Support us, whenever we move forward a single step!

The future must belong to freedom and democracy!

THE PRODUCT LIABILITY REFORM ACT OF 1989

HON. THOMAS A. LUKEN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 21, 1989

Mr. THOMAS A. LUKEN. Mr. Speaker, today I am proud to introduce the Product Liability Reform Act of 1989. The proposal is similar to a bill reported favorably by a strong bipartisan 30 to 12 vote from the Energy and Commerce Committee in our last congressional session. I hope my fellow Democrats and Republicans also will support this measure. Let me tell you why.

First, the bill itself is closely patterned on a product of over 8 days of hearings and 15 days of markup. That product has undergone intense scrutiny with the purpose of balancing the interests of those who sell and those who use products. Just about every relevant interest group, consumers, business, and others were consulted. The net result is a carefully balanced bill that represents sound social policy.

The act recognizes that product liability has become a serious impediment to interstate commerce. State product liability legislation, though helpful, cannot do the job. For example, in my own State, Ohio, which recently enacted product liability legislation, over 70 percent of products manufactured in the State are shipped out of the State. As a practical matter, the Ohio statute will not apply to the overwhelming majority of the products that are manufactured in my State. This same fact is true for each and every Member of this House. The enactment of Federal product liability legislation, however, will implement basic policy that State product liability statutes seek—stability in an area that is in legal ferment.

One result of our current mix of State statutes and everchanging court rules is forum shopping. Both plaintiffs' and defendants' lawyers try to move cases from State to State, like a bunch of ping pong balls, hoping to land in a forum that is most favorable. The losers from all this are the American public who end up paying excessive legal fees that are silently encapsulated in the price of products.

The current hodgepodge system of product liability laws has other disastrous effects.

It deters the introduction of new and useful products. This is particularly true in the pharmaceutical and chemical areas.

It makes actuarial prediction of risk almost impossible—this confronts both those who try to self-insure and those who insure commercially.

It creates confusion and ineffective signals for safety. While the current system creates some incentives for safety, the mixed signals produced from the 51 sets of everchanging rules make it virtually impossible to plan and produce products that will not have some obscure liability exposure.

My colleagues, we have worked on product liability legislation for some time. Early efforts by our committee can be traced as far back as 1979. We began around the same time that countries in the European Economic Community began to develop uniform product liability rules. I am disappointed to relay that the Europeans are ahead of us—the EEC countries will, by the end of 1990, have uniform product liability laws. When our European competitors have uniform laws and we still have the hodgepodge, it will be a commercial disaster for the United States.

My bill is intended to reduce unnecessary legal costs, place sharp and accurate incentives on appropriate parties so there will be fewer accidents, and provide both self and commercial insurers a reasonable basis on which to assess product risk. Let me describe to you the basic provisions of the bill and explain how it will meet the goals that I have outlined.

First, the act establishes standards of liability for manufacturers based on the theories of negligence and strict liability. Under the strict liability theory, the claimant must establish that the product was in a "defective condition unreasonably dangerous." The act sets out four ways in which a product may be in a defective condition unreasonably dangerous:

First, it deviated from the manufacturer's design specifications or performance standards or from otherwise identical units of the same product. This, in effect, is absolute liability—it requires the manufacturers to exercise perfect quality control.

Second, it did not conform to an express warranty made by the manufacturer. This means if the manufacturer makes a promise about the product's safety, it must be true. Under this proposal, there are no excuses if those types of promises are made and the product fails to meet those representations.

Third, it did not contain adequate warnings or instructions.

Fourth, it was designed improperly. In a design claim, State law will govern the requirements for a plaintiff to establish his basic case.

One problem in our current system is that a few States, on occasion, have produced court decisions that require a manufacturer to do the impossible. Yes, that is true, these decisions have said the manufacturer will be liable regardless of what it could have done under modern technology.

My bill will allow a manufacturer to prove that it did not know and could not know that product was in a defective condition unreasonably dangerous. It also will allow a manufacturer to contend that there was not a feasible alternative design that would have prevented the harm without substantially impairing the reasonably anticipated or intended function of the product.

Consumer groups have argued that such a state-of-the-art defense should not always apply because some products should not be made at all. After consulting with both business and consumer groups, Congressman SYNAR developed an approach to meet this concern: The state-of-the-art defense will not apply if "the product is so unsafe compared to its usefulness that it should not have been

marketed." This provision, which most manufacturers felt was not necessary, provides courts with an engine to meet every legitimate consumer group concern about the state-of-the-art defense.

The Product Liability Reform Act of 1989 also deals with product sellers, that is, retailers, wholesaler-distributors. They will be liable for their own negligent acts. On the other hand, they will have strict manufacturer liability if the manufacturer cannot be brought into court or lacks funds to pay the judgment. This provision will create a powerful incentive on retailers and wholesaler-distributors to deal with responsible manufacturers. If they deal with a foreign manufacturer who does not have a place of business in the United States, the product seller will be responsible for the entire damages for harms caused by the manufacturer's defects. We have no such incentive in the product liability system today.

The Product Liability Reform Act also places incentives on product users to engage in safe conduct. In that connection, the act provides a defense to liability if a claimant was intoxicated or under the influence of an illicit drug and that conduct was more than 50 percent responsible for the claimant's harm. Currently, in some States, the product liability system permits liability awards for inebriated persons who fall off ladders. We end up paying for the cost of those awards when we buy a ladder—over 20 percent of the cost of a stepladder is attributed to product liability. That should come to an end.

We also should not pay for the cost of harms when products have been misused or altered. The act will reduce a claimant's damages to the extent the harm was attributed to his alteration or misue of a product.

The act reduces legal costs and addresses the problem of open-ended liability for products that are very old. It establishes an outer time limit of 25 years, called a statute of repose, where a capital good product—that is, industrial machinery—is involved in an accident that results in traumatic injury. If a product has worked for 25 years, an injury after that time is more likely due to alteration of the product, poor maintenance, or wear and tear, rather than to a defect in the product. The statute of repose will only apply, however, if the claimant is entitled to receive workers' compensation benefits for the injury.

The act also addresses one of the most important areas of our law today, punitive damages. In a recent case, called Juzwin versus Amtorg Trading Corp., the honorable and well-respected Judge Sarokin held that our current system of awarding punitive damages violates the due process clause of the 14th amendment to the Constitution of the United States. This act addresses the specific due process concerns raised in Judge Sarokin's opinion. For example, it says that a trial can be bifurcated so that the proceeding on punitive damages will be separate and subsequent to the proceedings on compensatory damages. This prevents the prejudicial use of evidence about punitive damages, that is, of a defendant's wealth, from being introduced in the basic liability stage of the trial. It also would allow a defendant to show that he had already been punished for the same or similar act, a problem specifically of concern to Judge Sarokin in the Juzwin opinion.

The act also establishes a defense to punitive damages for drugs and medical devices that receive premarket approval by the Federal Food and Drug Administration. This defense would not apply if the manufacturer intentionally and wrongfully withheld or misrepresented information required to be submitted to the FDA. It also would not apply if the manufacturer violated the FDA statute or misled the FDA in any relevant way. This provision makes sense—it is unsound public policy to impose what is the equivalent of a criminal penalty on a drug manufacturer who has, in all respects, complied with the Food and Drug Administration's requirements.

The act establishes a proconsumer, 2-year statute of limitations which begins to run at the time a claimant discovered or reasonably would have discovered both his harm, that is, cancer, and its cause, that is, a specific chemical or drug. It will preempt harsh "time of injury" statutes that still exist in a few States. Those statutes cut off the right of a person to sue before they know or have reason to know they have been harmed.

The act places incentives, needed incentives, on employers to keep their workplaces safe. In that regard, it says that employers may not use product liability suits to recapture workers' compensation benefits paid to an employee when the employer's fault has helped bring about an accident. Again, this is another example of the act's placing strong incentives for safety where they will do the most good.

The act also contains some auxiliary provisions that do not create product liability standards, but are intended to facilitate the overall goals of the legislation.

First, as developed by Congressman HALL, the act contains a provision, modeled on rule 11 of the Federal Rules Civil Procedure, that will allow courts to impose appropriate sanctions on persons who sign or verify frivolous pleadings, when such pleadings are groundless and brought in bad faith.

Second, as developed by Congressman SLATTERY, the act establishes a procedure to permit claimants or the Federal Government to go back to the court that tried a product liability action and obtain disclosure of information or documents subject to a protective order or confidentiality agreement. This provision addresses concerns that have been raised in the Washington Post and elsewhere that highly relevant information about product dangers can be covered up through the judicial system. This provision attempts to balance the needs of confidentiality against the public need for relevant information. I look forward to working with the bill's supporters on this important subject.

The act also provides a provision on mediation, the development of which was inspired by Congressman ECKART, intended to assure early resolution of product liability cases. There are changes in the provision from last year so as to make the provision mesh more easily with local court procedures. The provision provides for pretrial mediation in most cases and it creates balanced incentives on both plaintiff and defendant to accept appropriate mediation awards. I look forward to working with Mr. ECKART and the bill's supporters on this important subject also.

Finally, in a provision developed by Mr. SWIFT, the act asks the Secretary of Commerce to monitor how the Federal product liability law works in the practical world. Using information collected from State insurance commissioners, the Secretary of Commerce will develop reports about product liability insurance as well as the effect of this act on product liability litigation, the introduction of new products, and our ability to compete against foreign manufacturers.

Product liability legislation at the State level and some Federal efforts in the past have been criticized as "anticonsumer." As I have indicated, principal consumer concerns have been addressed by the Energy and Commerce Committee. Concerns have also been raised that the product liability problem should be addressed by changes in the insurance system. Such charges miss the point of this legislation. The purpose of this act is not to promise lower insurance rates tomorrow, but to create stability in what today is a chaotic system. It is to bring fairness into product liability. It is to help us compete with our European neighbors in a fair and efficient manner. It is legislation that truly addresses a national interest and I urge Members of the House to give it attention and support.

UNFORTUNATE SITUATION REGARDING LEGAL SERVICES CORPORATION

HON. BARNEY FRANK

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 21, 1989

Mr. FRANK. Mr. Speaker, one of the major problems which President Bush inherited and which he has yet to correct is the extremely unfortunate situation regarding Legal Services Corporation. When the U.S. Senate correctly declined to confirm as members of the Corporation board several Presidential nominees who were fundamentally out of sympathy with the basic purposes of the Corporation, President Reagan responded by withdrawing all of his nominees and by leaving the Corporation in charge of unconfirmed board members.

At this point, 5 months into the Bush administration, we have had no improvement at all in this situation. Sadly, President Bush has continued the policy of President Reagan of leaving the Legal Services Corporation in the hands of people whom he is not prepared to nominate—and whom the Senate might well not confirm. The failure of the President to send to the Senate people who believe in the purposes of the Legal Services Corporation so that the Senate can have a confirmed board in charge of this important entity detracts significantly from our ability to provide legal services for low-income people.

As a testimony to the importance of this issue, five of the most distinguished law school deans in this country—Barbara Black of Columbia, Paul Brest of Stanford, Guido Calabresi of Yale, Geoffrey Stone of Chicago, and James Vorenberg of Harvard—recently

wrote to the President to express their concern over his lack of action here.

I was very pleased to receive a copy of this letter from Dean James Vorenberg of Harvard Law School, who has himself done a great deal to advance the cause of justice in America. I ask that the letter from the five deans be printed here, and I again add my voice and that of many other Members of the Congress to those urging the President to stop tolerating the intolerable and send proper nominees forward to the Senate for confirmation.

JUNE 16, 1989.

The PRESIDENT,
The White House, Washington, DC.

DEAR MR. PRESIDENT: As the deans of five of America's law schools we write to you to express our concern over the continued absence of new appointments of members for the Board of Directors of the Legal Services Corporation.

A central mission of our law school is to prepare students to become responsible and effective professionals. An important element of professional responsibility is a commitment to the provision of equal justice for all Americans, including those who are poor. A critical component in the pursuit of this objective is the provision of legal services to the poor by the Legal Services Corporation and its local grantees.

The current leadership of the Legal Services Corporation, including its group of holdover board members and its top executives, are undermining the proper functions of the Corporation. They have recently promulgated a series of regulations whose apparent purpose is to stop local programs from obtaining resources and providing representation for critical legal problems. They seem bent on an expensive course of hearings and research on competitive grantmaking despite the fact that their current appropriation explicitly reserves such action to the first confirmed Corporation board that you appoint.

In our society there is a high level of concern about the role of lawyers in ensuring justice. We believe law schools have an obligation to teach students that they are personally responsible for helping achieve justice. It is deeply disturbing to us that the current Corporation board is permitted to continue to send a destructive message to our students.

We urge you to promptly appoint a new Board for the Legal Serices Corporation. We make no recommendations of individuals to consider, but we believe that the criteria for Board members adopted by the American Bar Association's House of Delegates at its February Midyear meeting, would lead to excellent selections.

Thank you for your consideration of this matter.

Very truly yours.

JAMES VORENBERG,
Harvard Law School.

BARBARA A. BLACK,
Columbia University School of Law.

PAUL A. BREST,
Stanford Law School

GUIDO CALABRESI,
Yale Law School.

GEOFFREY R. STONE,
University of Chicago Law School.

THE AMERICAN TRAGEDY OF ABORTION AND CIVIL RIGHTS

HON. ROBERT K. DORNAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 21, 1989

Mr. DORNAN of California. Mr. Speaker, yesterday in Atlanta, Judge A.L. Thomas sentenced Mrs. Eva Edl, a survivor of a Nazi death camp, to 1 year in prison because of her efforts to save the lives of preborn children in an Atlanta abortion mill.

More than 300 pro-life demonstrators remained in jails in Connecticut (the Constitution State) and in Pennsylvania yesterday, and were being denied legal counsel. In Pittsburgh, a 17-year-old remained incarcerated in solitary without counsel.

Police brutality against pro-life demonstrators continues across America. More than 260 rescuers and 300 other pro-life supporters witnessed unbelievable police brutality techniques in West Hartford, CT. Injuries included at least one broken wrist, a dislocated shoulder, and a concussion.

Mr. Speaker, I call your attention to a press conference which Congressman GUY MOLINARI and the Chairman of the U.S. Civil Rights Commission, William Allen, will hold in New York City this Friday. They will address the issue of police brutality in West Hartford, Los Angeles, and other cities such as Pittsburgh where women were sexually assaulted in jail on March 11 and 12. Mr. Speaker, isn't it time for our judicial system to honor the civil rights of all our citizens?

HOSPITAL RESPONSIBILITY TO CARE FOR THE POOR

HON. BRIAN J. DONNELLY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 21, 1989

Mr. DONNELLY. Mr. Speaker, I am submitting for the RECORD an excerpt from a Utah State Supreme Court opinion, *Utah County* v. *Intermountain Health Care,* 709 P. 2d 265 (Utah, 1985). This case—and the excerpt which I am submitting—is an excellent illustration on how delivery of health care by hospitals in this country has changed in the last 70 years. It questions the very basis for conferring tax exemptions on organizations which fail to perform charitable functions.

Mr. Speaker, this opinion centers around the revocation of a property tax exemption granted to a hospital group in Utah. The Utah County Board of Equalization has revoked the exemption on the grounds that the hospital was not operating in a charitable manner. Although the hospital argued that the provision of health care traditionally has been sufficient to permit a tax exemption, the court noted that "traditional assumptions bear little relationship to the economics of the medical-industrial complex of the 1980's." The court noted that, "these institutions do not see themselves as being in the business of providing hospital care 'for the poor,' an activity which was certainly at the heart of the original tax exemptions for charitable hospitals."

This opinion highlights, in my view, the need for the legislature to examine closely the benefits of tax exemptions which "confer an indirect subsidy and are usually justified as the QUID PRO QUO for charitable entities undertaking functions and services that the State would otherwise be required to perform."

The court also traced the history of the American hospital system, and noted that "hospitals have been redefined from social welfare to medical treatment institutions; their charitable foundation has been replaced by a business basis; and their orientation shifted to 'professionals' and their patients away from patrons and the poor."

I have introduced legislation which would limit a benefit of Federal income tax exemption for hospitals which provide insufficient service to the poor: the use of tax-exempt bonds. Under the bill, hospital bonds would be subject to an overall limit if the hospital failed to provide sufficient care to low-income individuals. As the Utah Supreme Court correctly noted "an essential element of charity is the act of giving."

The excerpt follows:

The power of state and local governments to levy property taxes has traditionally been limited by constitutional and statutory provisions such as those at issue in this case that exempt certain property from taxation. These exemptions confer an indirect subsidy and are usually justified as the *quid pro quo* for charitable entities undertaking functions and services that the state would otherwise be required to perform. A concurrent rationale, used by some courts, is the assertion that the exemptions are granted not only because charitable entities relieve government of a burden, but also because their activities enhance beneficial community values or goals. Under this theory, the benefits received by the community are believed to offset the revenue lost by reason of the exemption.

A consideration of the reasons for exemption provisions is important in determining the proper standards under which they should be reviewed.

"A liberal construction of exemption provisions results in the loss of a major source of municipal revenue and places a greater burden on nonexempt taxpayers, thus, these provisions have generally been strictly construed. For the same reasons parties seeking an exemption bear the burden of proving their entitlement to it. The doctrine of strict construction and the difficulties taxpayers have in bearing the burden of proof explain why taxation has been the rule and exemption has been the exception. In some jurisdictions, however, the doctrine of strict construction has been eroding. Courts in these jurisdictions pay "lip service" to the doctrine but fail to apply it to exemption provisions."

Comment, *Real Estate Exemption for Federally Subsidized Housing Corporations,* 64 Minn.L.Rev. 1094, 1096-97 (1980).

"Unlike the courts described in the foregoing comment, this Court recently reaffirmed its commitment to the doctrine of strict construction as applied to the charitable exemption provision contained in the Utah Constitution. In *Loyal Order of Moose,* 657 P.2d at 264, we determined that the clause exempting property "used exclusively for * * * charitable purposes" is to be strictly

construed, Utah Const. art. XIII, § 2. *Accord Salt Lake County* v. *Tax Commission ex rel. Laborers Local No. 295*, Utah, 658 P.2d 1192, 1194 (1983)."

[2, 3] An entity may be granted a charitable tax exemption for its property under the Utah Constitution only if it meets the definition of a "charity" or if its property is used exclusively for "charitable" purposes. Essential to this definition is the element of gift to the community.

"Charity is the *contribution* or *dedication* of something of value * * * to the common good. * * * By exempting property used for charitable purposes, the constitutional convention sought to encourage individual or group sacrifice for the welfare of the community. An essential element of charity is an *act of giving.*"

Salt Lake County v. *Tax Commission ex rel. Greater Salt Lake Recreational Facilities*, Utah, 596 P.2d 641, 643 (1979) (emphasis added). A gift to the community can be identified either by a substantial imbalance in the exchange between the charity and the recipient of its services or in the lessening of a government burden through the charity's operation. *Laborers Local No. 295*, 658 P.2d at 1198 (Oaks, J., concurring). In *Friendship Manor Corp.* v. *Tax Commission*, 26 Utah 2d 227, 487 P.2d 1272 (1971), this Court declined to exempt from taxation property used as a home for the elderly because the alleged givers of the charity also constituted its sole beneficiaries. We were unable in that case to find any gift to the general public. We there quoted with approval *United Presbyterian Association* v. *Board of County Commissioners*, 167 Colo. 485, 503, 448 P.2d 967, 976 (1968): "[W]here material reciprocity between alleged recipients and their alleged donor exists—then charity does not." *Friendship Manor*, 26 Utah 2d at 238, 487 P.2d at 1279. Similarly, in *Laborers Local No. 295*, 658 P.2d at 1196, we held that a union was not entitled to a tax exemption for condominium office space because the primary purpose of this use was to benefit union members, and there was no gift to the general public.

[4,5] Given the complexities of institutional organization, financing, and impact on modern community life, there are a number of factors which must be weighed in determining whether a particular institution is in fact using its property "exclusively for * * * charitable purposes." Utah Const. art. XIII, § 2 (1895, amended 1982). These factors are: (1) whether the stated purpose of the entity is to provide a significant service to others without immediate expectation of material reward; (2) whether the entity is supported, and to what extent, by donations and gifts; (3) whether the recipients of the "charity" are required to pay for the assistance received, in whole or in part; (4) whether the income received from all sources (gifts, donations, and payment from recipients) produces a "profit" to the entity in the sense that the income exceeds operating and long-term maintenance expenses; (5) whether the beneficiaries of the "charity" are restricted or unrestricted and, if restricted, whether the restriction bears a reasonable relationship to the entity's charitable objectives; and (6) whether dividends or some other form of financial benefit, or assets upon dissolution, are available to private interests, and whether the entity is organized and operated so that any commercial activities are subordinate or incidental to charitable ones. These factors provide, we believe, useful guidelines for our analysis of whether a charitable purpose or gift exists in any particular case. We emphasize that each case must be decided on its own facts, and the foregoing factors are not all of equal significance, nor must an institution always qualify under all six before it will be eligible for an exemption.

Because the "care of the sick" has traditionally been an activity regarded as charitable in American law, and because the dissenting opinions rely upon decisions from other jurisdictions that in turn incorporate unexamined assumptions about the fundamental nature of hospital-based medical care, we deem it important to scrutinize the contemporary social and economic context of such care. We are convinced that traditional assumptions bear little relationship to the economics of the medical-industrial complex of the 1980's. Nonprofit hospitals were traditionally treated as tax-exempt charitable institutions because, until late in the 19th century, they were true charities providing custodial care for those who were both sick and poor. The hospitals' income was derived largely or entirely from voluntary charitable donations, not government subsidies, taxes, or patient fees. The function and status of hospitals began to change in the late 19th century; the transformation was substantially completed by the 1920's. "From charities, dependent on voluntary gifts, [hospitals] developed into market institutions financed increasingly out of payments from patients." The transformation was multidimensional; hospitals were redefined from social welfare to medical treatment institutions; their charitable foundation was replaced by a business basis; and their orientation shifted to "professionals, and their patients," away from "patrons and the poor."

AMENDMENT TO THE CONSTITUTION CHANGING TERMS OF OFFICE FOR SENATORS AND REPRESENTATIVES

HON. JOEL HEFLEY

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 21, 1989

Mr. HEFLEY. Mr. Speaker, I rise today to introduce an amendment to the Constitution of the United States that would lengthen the term of office for Members of the U.S. House of Representatives to 4 years; require that terms for Members of the House coincide with Presidential elections; limit the length of time any Member of the House may serve to three consecutive 4-year terms; and limit the length of time any Member of the Senate may serve to two consecutive 6-year terms. Representatives and Senators that are in office the full 12 years will be allowed to bid for reelection only after being out of his or her congressional seat for one full term.

When I introduced this bill last year, I pointed out that only five Congresses in the past 120 years had not seen introduction of at least one proposal to change House terms. This year, 11 have been introduced with at least five of those including provisions for 4-year terms. Mine will make it an even dozen.

It's clear that many legislators have given a lot of thought over the years to changing the length of a term dictated by compromise in the first place. At the Constitutional Convention of 1787, the 2-year term was adopted only after a compromise was reached between those who wanted a 1-year term and those who wanted a 3-year term. Just one person, George Mason, spoke in favor of the 2-year term.

Since that, numerous proposals have been made to lengthen House terms and one, in 1906, failed only because a supportive House failed to cast the two-thirds majority needed to amend the Constitution.

Four presidents—Truman, Eisenhower, Johnson and Nixon—have been in favor of the longer term, Nixon favoring staggered terms.

"Members serving for 2-year terms have to spend one out of every 2 years running for reelection, with the result that they serve 1 year and run 1 year," Nixon said. "This not only places an enormous burden on the member himself; it can also work to the disadvantage of his constituents and of the country."

Lately, the debate has expanded beyond the halls of this building. In his best-selling book, "The Power Game," author Hedrick Smith suggested 4-year terms as one means to order a sometimes unruly House and to build greater cohesion between the President and Congress.

Smith based his suggestion on the findings of the 1987 Committee on the Constitutional System, a group of former cabinet officials from four administrations, former and current Senators and Members of Congress, scholars, and private citizens. With fewer elections, the committee reasoned, President and Congress could focus more on the work of Government and on longer-term solutions to major issues, free of the preoccupation of campaigning every 2 years.

Smith shied away from the committee's suggestion of 8-year terms for Senators but believe a 4-year House term might build greater cohesion between the House, the President and political parties. The author argued that more people should vote a straight ticket on the argument that if a voter supports one party's candidate for President, he ought also to give that President the House majority he needs to at least try out his program.

The Founders drafted the Constitution with an eye toward making the House the chamber closest to the people. Times have changed in 200 years. The issues are more complex and the means to travel to our districts is readily available, as many of us know all too well.

Although my bill limits congressional tenure to 12 consecutive years, it does not bar those Members who desire additional terms, provided they sit out one term. In this way, we break up seniority from time to time and allow for greater flexibility of power among the congressional leadership. At the same time, we retain a pool of congressional expertise while, at the same time, we allow that pool the opportunity to view Government from the viewpoint of a private citizen.

Next year will be yet another election year and it's quite possible that some of the important legislation will face further delays while we return home to campaign. Given the seeming consensus on lengthening congressional terms, I would hope that this proposal moves through the proper legislative procedures and

reaches the House and Senate floors for a vote.

As I said, much has changed in the past 200 years. It is time we modify our rules to fit the times and the Nation we govern.

Mr. Speaker, I include the text of the bill to be printed in the RECORD.

The text of the bill follows:

H.J. RES. —

Joint resolution proposing an amendment to the Constitution of the United States to provide for four-year terms for Representatives and to limit the number of consecutive terms Senators and Representatives may serve

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the following article is proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as part of the Constitution when ratified by the legislatures of three-fourths of the several States within seven years from the date of its submission by the Congress:

"ARTICLE —

"SECTION 1. The House of Representatives shall be composed of Members chosen every fourth year by the people of the several States, and the electors of each State shall have the qualifications requisite for electors of the most numerous branch of the State legislature. The four-year term of office of the Members of the House of Representatives shall begin on noon of Janaury 3 of the year in which the term of office of the President begins.

"SECTION 2. No person who has served three consecutive four-year terms in the House of Representatives shall be eligible to serve in the House of Representatives during the term immediately following the third such consecutive term. No person who has served two consecutive six-year terms in the Senate shall be eligible to serve in the Senate during the term immediately following the second such consecutive term.

"SECTION 3. Only terms beginning after the date of the ratification of this article shall be taken into account in determining eligibility for service under section 2.

"SECTION 4. The provisions of this article shall take effect at noon on January 3 of the first calendar year which begins after the date of the ratification of this article and in which the term of office of the President begins.".

THE STEVEN McDONALD STORY: CONGRESS CAN TAKE THE NECESSARY STEP TO AID OUR NATION'S VALIANT PUBLIC SAFETY OFFICERS

HON. THOMAS J. MANTON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 21, 1989

Mr. MANTON. Mr. Speaker, today's is the last in a six-part series by Newsday on Steven McDonald. I ask my colleagues who have not followed this story during the past week to take a moment to read the series which I have included in the RECORD. Steven and his wife Patti Ann have shown tremendous faith and courage since the vicious shooting which left him paralyzed 3 years ago. After reading this tragic story, I am sure my colleagues will want to join me as original cosponsors of the Steven McDonald Public Safety Officers' Compensation Act. This bill is the minimal action the Congress should take to provide needed financial assistance to those public safety officers who have suffered a similar catastrophic injury in the line of duty as Steven.

Mr. Speaker, Congress has seen the wisdom of providing a one-time Federal benefit to the families of public safety officers who are killed in the line of duty. In fact, during the last Congress, we increased this benefit substantially and stated that this payment should keep pace with inflation in the coming years. Yet, we have failed to move on legislation I previously introduced to provide this same benefit to those public safety officers who are seriously and permanently disabled in the line of duty. I believe the time has come to enact such a change in existing law, and I ask my colleagues to join me in sponsoring this much needed legislation:

A PILGRIMAGE STRENGTHENS THEIR FAITH

(By Steven McDonald and Patti Ann McDonald with E.J. Kahn III)

NEW YORK-FATIMA-LOURDES-ROME, October, 1988.—Steven wanted me to go on a pilgrimage. A stranger had called in September to say she'd paid for a place for Steven on an 18-day trip to Europe, a tour that would visit Fatima, in Portugal, Lourdes, in France, the Vatican, in Rome, and Medjugorje, in Yugoslavia.

I believe something was out there for Steven. That was my faith. And I'd always prayed to the Blessed Mother. Steven couldn't go on such a journey but he insisted I could. We asked Father Mychal Judge, whose Franciscan order oversaw the Medjugorje church, to accompany me. And on October 11, 1988, Steven and Conor accompanied us to Kennedy Airport for the first leg of the flight to Lisbon. Thirty-six hours later, Father Mike and I were in the midst of thousands and thousands of candles flickering in the Campanile, lighting Our Lady's statue as tens of thousands of men and women held hands and sang hymns over the gentle tinkle of hanging bells.

I'd thought my faith strong, but the faith here was of a kind I'd never seen.

A 17-hour train ride took us to Lourdes.

Since I was a child, I'd imagined bathing in the waters. But the following afternoon when my opportunity came at last, I felt scared as I waited, together with about 40 other women, to step into one of the five simple tubs. The water was cold, but my prayers quickly made me forget.

Rome. After a stopover in Nice, we reached the first city we'd been in since Lisbon. October 19, 1988, was Audience Day, was what we'd call it. We found ourselves in the front row. At 11:05 a.m., the Pope's car drove in, slowly circling the entire square.

Priests stood at the podium and read the messages John Paul II had for each person in his native tongue. After the greetings were read, the Holy Father walked slowly down our row, shaking hands with everyone in each of the front boxes. As he got closer to us, I lost control of my emotions and began to cry, telling Father Mike to speak for both of us. Then he was in front of me, his eyes taking in my tears, and the picture of Steven, Conor and myself that I held in my arms.

"Holy Father," said Father Mike, "Cardinal O'Connor of New York sent us here. Her husband is sick. . ."

"Yes," I said. "He is a cop. He was shot."

The Pope's expression changed, softening into a sympathetic smile.

"He is a young man," the Holy Father said.

"Please, your Holiness," said Father Mike, "would you touch his ring?" The Pope reached towards Steven's wedding ring, and blessed it. Then he signed me on my forehead, with his thumb, saying, "I will pray for you." I was weak with joy and accomplishment.

That night, Father Mike and I returned to the Trevi Fountain, and threw in three coins each. I would return, I promised myself. But the peace and joy I'd felt that morning was already tempered with sadness. On the telephone, Steven had told me about the latest police tragedy in New York: The night before, in two separate incidents only a few hours apart, two officers had been shot and killed. One had been 26 years old, the other 24.

MEDJUGORJE, YUGOSLAVIA, October, 1988.—We left the hotel in Rome to drive to the ferry that would take us across the Adriatic Sea to Yugoslavia. From the coast, we drove through the mountains at the edges of cliffs a thousand feet high. The mountain road led into a valley, new construction everywhere, mud roads, and then, the twin steeples of St. James, standing over the tiny peasant village.

For two more days, I tried to find my miracle. We climbed the hill, and I stared long and hard at the simple mound of rocks topped with a cross. We walked to the Visionary Marija's house, and she came outside and greeted us taking questions.

Father Mike and I returned to the church. He spoke with Father Philip, and asked the priest if it would be all right for Father Mike to go into the choir loft with the Visionaries that evening. Of course, Father Philip had said, Father Mike was a Friar.

I asked Father Mike to take our ring and picture with him. He agreed. Later, when he rejoined me, he told me what happened.

"The door opened," Father Mike said. "Philip signaled me in. The choir loft was bare except for the bench, a little kneeler at the end of it and a chair sitting against the door opposite the one I'd entered. Then I looked at the wall of apparition. A simple, but beautiful painting of the Gospa, Mary, hung there. Below it was a table. The altar.

"On the floor, leaning against the altar and wall, were the petitions we'd given Marija. I took my bag, opened it, and lay it next to them. Right at Our Lady's feet. Then I put Steven's wedding ring on the altar.

"The Visionaries arrived. The Rosary began. We moved to the second Rosary—it must have been during the third decade as I was kneeling facing the wall, the lights started and I had the feeling of movement. Ivan moved in front of me, an arm's length, then turned to see if Marija was following. She did. They knelt, signed themselves, then Ivan shook his head with a 'yes' three times. Marija nodded 'no' once.

"A scent, flowers, beautiful flowers, filled the loft. I swallowed and tried to exhale, but flowers were everywhere. Downstairs, the church began the Rosary again. Ivan and Marija signed in unison, and began to pray. The night before, Ivan's voice had sounded deep, manly. Now I heard a young boy's. They finished praying, rose and left."

When Father Mike told me, I rejoiced. Steven's ring had been on the altar. Would now be the time the Blessed Mother would respond to our prayers?

After dinner on our last night, Father Mike and I climbed the Hill of Apparition with several thousand other pilgrims. It was a cold and difficult climb, and at the summit we pressed close to the cross, lit by candles, where the Visionaries prayed. At 11:00 p.m., there was a stillness, a presence. We prayed, and Mary's words were translated as they'd been heard by Ivan and Marija. "I am so happy you are here," she said "and I know you are cold so I have touched you all on the shoulder to warm you. My son is delighted with the candles lighting up the cross. Pray for youth, they have so many problems."

I was at peace again. My healing had begun. What Steven and I would get, we would have to earn, I'd realized. For nearly three weeks, I'd been surrounded by men and women who were sick, or disabled, or emotionally wounded. I had no special claim to hardship and trouble. I had Steven and Conor to love, and whatever was worth loving was worth fighting for.

I was ready to go home.

MALVERNE, November-January, 1988.—The night Patti Ann came home we talked for hours about the trip, the shrines, the Visionaries. Before she'd left, I'd hoped she'd be touched over there by the Blessed Mother. So much had been taken from her, maybe something would be given back. And it hadn't, but I could sense she was renewed, that we both now had a stronger commitment to our relationship. I resigned myself that any healing would have to come later, in the days and months to follow.

Another Christmas at home has passed, and Conor is nearly 2. "Daddy," he can say, and he'll climb into my chair, and we'll ride through the living room, or into the therapy room. If he gets me a cookie, he knows he has to feed it to me. He's even trying to throw the football, though it slips off his hand as often as not.

God, how I wish I could throw it with him.

At night, upstairs, long before dawn, he'll call out, call to me, "Daddy, Daddy!" A nightmare, probably. Like mine? I wonder.

"Conor," I say, as soothingly as I can, "it's all right. I'm here."

But am I? Won't Patti Ann wake and take him into the other bedroom with her? Or won't the night nurse come upstairs and settle him down? Whoop-whoosh, the vent reminds me. I am your ball and chain. Whoop-whoosh.

It's a beautiful, sunny early January afternoon. My mechanical chair is broken. Pat Dillion has pushed me out onto our back deck.

The sliding door's open, and I can hear voices. Pat and Patti Ann. And Conor. He sounds so excited. They're putting together his new train set. Conor's shouting with joy. Unintelligible, pure glee.

I'd drive to join them but . . . wrong chair. I'd shout, but then they'd have to stop and come and get me. Choices, bad choices. No, don't get down. We've come too far. We've been given so much.

Whoop-whoosh.

We have to be patient. There will be more.

Whoop-whoosh.

There has to be.

A TRIBUTE TO BILL VINCENT

HON. JAMES H. BILBRAY

OF NEVADA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 21, 1989

Mr. BILBRAY. Mr. Speaker, I rise today to honor an outstanding citizen of Las Vegas, Bill Vincent. Mr. Vincent has been a dedicated journalist and environmentalist in Nevada for the past 23 years. The Nevada Conservation Alliance will plant a grove of trees in Mr. Vincent's honor at Lorenzi Park's Garden Club on June 27, 1989. He is truly deserving of recognition.

Born in Colorado, Mr. Vincent was educated at both Denver University and Columbia University. Upon graduation, he traveled south and northeast organizing workers for the International Ladies Garment Workers Union.

Mr. Vincent's interest in the environment began in the early 1940's while editing the Farmers Union newspaper in Denver where he worked until he enlisted in the Air Force. During the war, he attended officer candidate school and was stationed in England as a major in the intelligence division of the Air Force.

After the war he worked as a news director for a radio station in Fresno then returned to Colorado to resume his position as editor of the Farmers Union. Later, he moved to Seattle where he worked as a freelance writer for many publications, including a medical journal. After several years, he made his home in Las Vegas and joined the staff of the Las Vegas Review Journal.

Mr. Vincent remained with the Review Journal as editor for the paper's Sunday Nevadan magazine for 14 years until his retirement in 1980. He paid great attention to hunting, fishing, wilderness, recreation, and environmental issues as editor for Nevadan magazine, as well as being a vocal critic of the MX missile and the nuclear waste dumps.

In recognition of his great environmental contributions, he was named Conservation Communicator of the Year by the Nevada Wildlife Federation in 1971. He was recognized again in 1980 as the Governor's Conservationist of the Year. He continues to be the southern Nevada representative for Citizen's Alert, director of the Nevada Wildlife Federation, and a member of Friends of the Wilderness.

Mr. Speaker, I urge my colleagues to join me today in honoring Mr. Bill Vincent. His contributions to the wildlife and environment of Nevada have earned him recognition throughout the State as one of Nevada's finest citizens.

U.S. ARMS CONTROL POLICY

HON. DOUG BEREUTER

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 21, 1989

Mr. BEREUTER. Mr. Speaker, the Bush administration has moved swiftly in its first months to put together a competent arms negotiating strategy. In the area of strategic arms limitation, it has endorsed the best components of the Reagan administration's START regime, and has energetically pursued a favorable resolution to the outstanding issues. The administration's enthusiasm for mobile ICBM's as well as its willingness to support the reconnaissance satellites for verification, should be seen as very good signs.

Even more encouraging, both the United States and Soviet Union express willingness to rapidly proceed toward a conventional forces agreement for Europe. After more than a decade-and-a-half of stagnation at the MBFR negotiations the prospect for progress seems to be at hand if action follows rhetoric. The Bush proposal for near-term reductions in conventional forces has met with enthusiasm by Soviet General Secretary Gorbachev. It would appear that the Soviets are willing to negotiate on the basis of the Bush formula. As Mr. Gorbachev stated: "There is more reason to believe now that agreement in Vienna may be reached much earlier than previously thought."

Mr. Speaker, arms control efforts must move forward, but not at the expense of national security. The Western effort to reduce strategic and conventional forces continue to be driven by fundamental security concerns. If the Soviet Union and Warsaw Pact states can be induced to substantially reduce their numerical advantages in conventional forces, then the threat posed to Western Europe will be commensurately lessened. Further, by strictly limiting the possible troop movement toward the central front, the possibility of rapid mobilization and surprise attack is reduced.

Mr. Speaker, the innovative, bold, but carefully crafted efforts by the Bush administration should be commended. We see for the first time a realistic chance for reduced levels of military manpower, and reduced levels of military spending without any diminution of military effectiveness. This Member would recommend to his colleagues an editorial in the Omaha World-Herald of June 14, 1989, entitled "Bush's Arms Proposals Receive a Key Plaudit."

INTRODUCTION OF THE STRATOSPHERIC OZONE PROTECTION ACT OF 1989

HON. HENRY A. WAXMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 21, 1989

Mr. WAXMAN. Mr. Speaker, good morning. It is a pleasure today to join Congressman BATES, Congresswoman SCHNEIDER, and more than 60 colleagues in the introduction of the Stratospheric Ozone Protection Act of 1989.

There is no question that ozone depletion is a very real and very serious problem. There is a clear consensus among leading scientists that the Earth's protective ozone shield is being destroyed at a rate far beyond that predicted by computer models. Researchers now believe that an ozone hole, like the one over the South Pole, is now developing in the Northern Hemisphere as well.

Most troubling, there is scientific agreement that the international cutback in the release of ozone-depleting compounds called for in the Montreal protocol will not be nearly enough to protect the planet. Experts have estimated that concentrations of atmospheric chlorine, the compound responsible for depletion of the ozone layer, will double in the coming decades even with full implementation of the provisions of the Montreal agreement.

We can only begin to evaluate the impacts that the loss of our planet's ozone shield will have on our health, our climate, and the Earth's ecosystems. Experts predict a variety of very serious repercussions that include increased skin cancers, cataracts, immune system suppression, potentially dramatic damage to agriculture and forests, and possible impacts on the food chain that supports much of the Earth's marine life.

We are all very much aware of the international efforts to move beyond the Montreal protocol and put a truly effective international regime in place to save our ozone layer. I strongly support this process, and EPA's announced commitment to achieve a complete phaseout of ozone-depleting substances. I certainly hope we are able to achieve a quick and dramatic success in the international arena.

Unfortunately, the international process is a complex one which can only move very slowly, when it moves at all. It is my strong view that the United States should not continue to release ozone-destroying chemicals into the atmosphere at an unprecedented rate while these negotiations inch forward. We should start immediately to reduce our contribution to the destruction of our ozone layer.

The United States contributes more to this horrifying problem than any other nation. We alone release more than 30 percent of the globe's ozone-depleting substances into the atmosphere each year. This is not the kind of leadership that our Nation should stand for. Instead of being the leading offender, we should move rapidly to be the leading protector of the planet's ozone layer. Unilateral action will not harm the prospects for international action as detractors have claimed, it will instead return our Nation to the vanguard of international environmental leadership that we once occupied.

The Stratospheric Ozone Protection Act would have us do just that, by calling for a prompt phaseout of the use of ozone-destroying chemicals in this country. I commend Congressman BATES for his leadership in working with other Members from both sides of the aisle to put this vitally important bill together.

I look forward to working with my colleagues to move this excellent bill through the Congress as rapidly as possible.

TRIBUTE TO MARISA PERALES

HON. SOLOMON P. ORTIZ

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 21, 1989

Mr. ORTIZ. Mr. Speaker, I rise to commend Marisa Perales, an outstanding young woman from my hometown, Robstown, TX. Marisa recently won a scholarship through a national essay contest on "What it Means to be Hispanic." Marisa, age 17, is a junior at Robstown High School and hopes to attend law school. Her essay details the experience of visiting her grandparents' home. During her visit, she realizes much has changed, but the warmth, love, and basic values such as family respect and education remain constant. This Hispanic heritage remains rich today and these values are the backbone of each generation. Marisa and millions of Hispanic young people throughout America realize that this truly is what it means to be Hispanic.

BEEPER INDUSTRY CAN DO MORE

HON. KWEISI MFUME

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 21, 1989

Mr. MFUME. Mr. Speaker, I applaud the efforts of many companies in the paging industry who have taken the initiative to address the growing problem of drug dealers using beepers to conduct drug transactions. Many of these companies have found that their circuits have been overloaded by the continuous use of the switchboard by drug dealers.

More companies are now turning to the idea of adding surcharges to every call made over a certain number as a way to hinder drug activity, and to channel drug money to drug counseling efforts. Appropriately, the surcharges will not be applied to public safety and emergency medical professions. Though their efforts are gallant in the fight against drugs, I would like to see the industry take a more aggressive posture in this area.

Overall, Mr. Speaker, I am happy to see that many paging companies have taken a positive approach to this problem and are now realizing that we cannot allow the devices to be used to further drug deals. Now, I think that it is time that the industry's association, Telocator, join others in their efforts to stem the flow of drugs in our streets and stop trying to take the lead on this issue from the back of the pack.

While Telocator has claimed time and time again to be fully supportive of the Federal efforts to reduce the distribution of drugs in our country, what I have seen paints a different picture. For instance, this particular industry association has pointed out that the industry already requires a credit check, proof of ownership, and fees. It is quite apparent to me that these are not enough. Despite these policies, more young people have been arrested with the devices than in previous years according to police officers. It is clear to me that this is not enough and we all must do more.

Also, Telocator has consistently and mistakenly made the assertion that the penalties of 3 years imprisonment and heavy fines for individuals who knowingly purchase or rent the devices and distribute them for illicit purposes, which I have proposed in H.R. 1504, is already law. The association should know that there are no laws regulating the sale of beepers on the books. The truth of the matter is that the penalties I have proposed will add to those already available to punish those individuals who use communication devices to commit a felony.

If the association is serious about doing something about drugs and the abuse of paging devices, I say to you—bring forth constructive proposals and put the rhetoric aside so that we may move ahead on this issue.

Mr. Speaker, the bill I have introduced is one of many steps needed to solve the problem of teens misusing beepers. I believe that we can and must do more to turn up the heat on drug dealers. My proposal is not only directed at young people, but also those who operate by using young people to distribute drugs. In my bill, I have put forth a mechanism that will get to the older drug dealer as well as the younger. In the past, older dealers have eluded police investigations by distancing themselves from the actual transaction thus making it more difficult to prosecute and convict them in drug-related crimes. Now we have an opportunity to take decisive steps to combat drug trafficking by regulating the tools of the drug trade. We simply cannot miss this opportunity because of the many young lives at stake, nor can we allow drugs to flow uninhibited into our communities and school grounds.

Although the legislation I have introduced will not solve the drug crisis, I am convinced that it is a good step in the right direction and is indicative of the kind of efforts we must consider if we are serious about this problem of distribution of illicit drugs.

NEW JERSEY'S IRISH CELEBRATE

HON. JAMES J. FLORIO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 21, 1989

Mr. FLORIO. Mr. Speaker, I wanted to call attention to an important event in the life of New Jersey's Irish that will be taking place during this coming weekend. The Irish-American community of New Jersey will host their 19th annual Irish Festival at the Garden State Arts Center. This festival is the culmination of year-long activities by a group of unselfish and dedicated volunteers who will be demonstrating the rich cultural heritage of New Jersey's Irish community.

I, too, am part Irish and feel a special closeness to the events that will take place this weekend. I wanted to share with my colleagues some details about this very important and commendable effort.

Every year, the Garden State Arts Center hosts a number of festivals that are sponsored by the diverse ethnic communities that are represented in the State of New Jersey. The money that is raised by these festivals goes directly to the Cultural Fund which, in turn, sponsors free cultural activities at the Garden States Arts Center. Groups that benefit from these activities include senior citizens and school children, the handicapped and the disabled, the veterans, and the disadvantaged. These activities represent a commendable effort to shine a bright light in the lives of these people.

The 19th annual Irish Festival will feature an Irish piping band competition, cultural displays, historical exhibits, as well as a Gaelic football competition.

In addition, for entertainment, the festival will feature the Fureys, Ireland's finest international folk group and Davey Arthur from Ireland, as well as the Clan from Hoboken—who will feature traditional Irish folk music "with a twist."

The Most Reverend John M. Smith, the Vice General and Auxiliary Bishop for the Archdiocese of Newark, will be the principal celebrant at an 11 a.m. liturgy.

I would like to recognize the efforts of the chair of this festival, Paul H. Reilly of Newark, and his cochair, Greta McHale of Ridgefield, NJ. I hope my colleagues will join me in wishing Paul and Greta success in their efforts and in hoping that the Irish-Americans of New Jersey will have a memorable festival.

A NEW THEME PARK FOR FLORIDA

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 21, 1989

Mr. STARK. Mr. Speaker, alongside Walt Disney World, Epcot Center, MGM/UA, and Universal, it's time to break ground for the newest Florida theme park. We'll call it Referral-for-Profit World and we'll put those other guys out of business.

Our new park will be owned by doctors—they can put up the money through nonrecourse promissory notes—and we'll have high-technology, state-of-the-art attractions like no other theme park on Earth: The Magnificent MRI, the Super CT Scanner, and the Colossal Clinical Lab. If it doesn't sound like anyone would enjoy going to our park, don't worry, because the choice is out of their hands; their doctors—who will own the park just so people have access to this wonderful excitement—will order them to go there.

Unfortunately, Referral-for-Profit World already exists. The Inspector General of HHS determined that, in 1987, over 20 percent of Medicare participating physicians in Florida had an ownership interest in a medical facility to which they referred patients. Not surprisingly, these doctors ordered more tests for their patients at their own medical theme parks than their medical brethren who weren't owners.

I received the following letter from "an honest doctor" in Florida who asked to remain anonymous for fear of professional reprisals:

DEAR CONGRESSMAN STARK,

I am a physician in Jacksonville, Florida writing in support of the proposed legislation on Ethics in Patient Referral (H.R. 939). I hope you will accept this letter even though I am writing anonymously. I must do this in fear of reprisals from other referring physicians who will be affected by the legislation.

I am one of many physicians who have been forced and threatened into cooperating with referral patterns which we do not like and which exist solely to make some doctors and investors rich. Two physicians who are major referring sources to my practice decided to build a building and put in all sorts of "extra services" for patients. This was the idea of a venture capitalist. These doctors threatened to stop all their referrals to me and large number of other doctors if we didn't send our patients to these new facilities. They hired poorly trained doctors to staff their lab, X-ray and emergency walk in facilities. We had to stop using the services of much better pathologists, radiologists and other ancillary services. The "general partner" doctors all ordered more x-rays, lab tests, etc now that they were making big profits at their new facilities.

As you see I am powerless to stop this pattern of physicians beating the system to make large profits while costing patients and the government much more and getting much inferior quality medical care.

I hope this adds some insights on the inside of the problem of self referral.

Good Luck!

Sincerely,

AN HONEST DOCTOR.

Sounds like referral-for-profit is a world of fun, huh? I urge my colleagues to sign on as cosponsors of H.R. 939, the Ethics in Patient Referrals Act of 1989, and put a stop to these scams. This is no Mickey Mouse problem.

DARRYL E. ROBERTS

HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 21, 1989

Mr. TOWNS. Mr. Speaker, I rise today to commend the awe-inspiring accomplishment of Darryl E. Roberts of Brooklyn, NY. Despite suffering severe frostbite which almost claimed his right foot, Mr. Roberts braved ice splits, deep snow, and temperatures between −55 °C and −2 °C, to become the youngest American to walk to the North Pole. At the time of this arduous 2 month long trek, Mr. Roberts had only had two previous encounters with polar travel. This incredible achievement by one with minimal experience is a testament to the bravery and determination of this remarkable 23-year-old man.

Mr. Roberts achievements are not limited to the polar tundra. He currently serves as an Upward Bound instructor in the New York City public schools. By training young people in rock climbing, backpacking, and canoeing, Mr. Roberts indirectly teaches the tenacity and courage necessary to overcome the obstacles and barriers inherently a part of the lives of many inner city students.

It is by reason of these accomplishments that I ask you to join me in paying tribute to this valiant young man.

VOTER REGISTRATION BILL WILL IMPROVE PARTICIPATION

HON. FRANK ANNUNZIO

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 21, 1989

Mr. ANNUNZIO. Mr. Speaker, the Elections Subcommittee of the Committee on House Administration has worked hard this year to develop some campaign financing and voting legislation which would improve the way we elect our Federal officers. One of the bills, H.R. 15, introduced by Mr. SWIFT and me, would simplify registration for voting in Federal elections. I hope to see this bill, or its successor, signed into law by the President before this session ends.

The Congressional Research Service has developed a table which shows the voter participation statistics in most democratic nations. This table reveals a shocking fact. Our voter participation is the lowest among the 26 countries listed. Less than half of all potential voters participate in elections in the United States. In Australia, voting is nearly universal.

There are many reasons why Americans do not vote. Some of us are just not interested. Some of us feel that our vote does not count. Some of us are repelled by the mud slinging and character assassinations which seems to be required in today's campaigns.

But a complicated registration procedure should never be a reason for nonvoting. Government has no business making it any harder for a potential voter to register than is necessary to ensure the integrity of the system. If a person chooses not to vote, that is his business; but if Government makes it burdensome for him to qualify to vote, that is wrong.

Mr. Speaker, there are many points of view about campaign finance reform yet to be resolved; there are big issues of money and power which divide us—but there should be no disagreement about the need to make voting in Federal elections a right of every citizen, and a right that cannot be diminished by complex registration requirements.

Mr. Speaker, I request the voter participation table prepared by the Congressional Research Service be included in these remarks.

VOTER PARTICIPATION STATISTICS BY COUNTRY FROM MOST RECENT NATIONAL ELECTIONS

Rank	Country	Turnout (as percentage of electorate)
1	Australia	94.17
2	New Zealand	93.71
3	Belgium	93.59
4	Austria	92.59
5	Turkey	92.27
6	Sweden	89.85
7	Germany	89.09
8	Italy	89.00
9	Iceland	88.60
10	Denmark	88.44
11	Venezuela	87.75
12	Netherlands	85.70
13	Norway	81.21
14	Luxembourg	80.60
15	Greece	80.19
16	Spain	80.18
17	Israel	78.78
18	France	78.29
19	Finland	75.73
20	Canada	75.66
21	Ireland	72.86
22	Great Britain	72.81
23	Japan	67.94
24	India	63.53
25	Switzerland	48.91
26	United States	48.70

Source: The Congressional Research Service. Election returns from all countries except the United States were obtained from Inter-Parliamentary Union. Chronicle of Parliamentary Elections. International Centre for Parliamentary Documentation, Geneva. Election returns for the United States were compiled by Election Data Services, Inc., Washington, DC.

MEMBERS INCREASE USE OF OWN PACS

HON. CHARLES E. BENNETT

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 21, 1989

Mr. BENNETT. Mr. Speaker, I include herein an article written by Kim Mattingly under the title of "Members Increase Use of Own PACs: Use Them To Gain Edge in Leadership Races" which appeared in a recent edition of Roll Call.

Mr. Speaker, it is clear to me that there is an increasing problem in Congress in that people are raising money for the purpose of giving it to caucus members who will be voting for or against them in leadership positions. This allows money interests who desire to affect legislation to have a powerful force in who is selected for leadership positions in the Congress. Obviously, that is a practice that should come to an end and I have introduced H.R. 83 on this subject matter which I include at the end of the article by Kim Mattingly.

[From the Roll Call]

MEMBERS INCREASE USE OF OWN PACS—USE THEM TO GAIN EDGE IN LEADERSHIP RACES

(By Kim Mattingly)

A new study on leadership PACs warns that aspiring Congressional leaders, are increasingly using Member-to-Member campaign contributions to gain support for top positions and are creating individual power bases that dilute the control of political parties.

Ross Baker, a political science professor at Rutgers University and former consultant for the House Democratic Caucus, said last week that lawmakers with leadership aspirations have little choice but to establish a PAC.

"It's sort of like, don't leave home without it," Baker told a news conference to unveil his Twentieth Century Fund study, The New Fat Cats: Members of Congress as Political Benefactors.

Leadership PACs are a relatively new factor in Congressional races, made possible by reforms in the early 1970s. The PACs, developed toward the end of that decade, are set up by Members to support the campaigns of Congressional colleagues and candidates for Congress.

Lawmakers also use them, according to the report, "to gain votes from Members they have supported to further their own legislative or leadership aspirations."

In the study, Baker points out that even some Members who are philosophically opposed to the PACs have felt compelled to jump on the band wagon.

Rep. David Obey (D-Wis), for example, a longtime critic of leadership PACs, formed his own political action committee in 1985. He was quoted in the report as saying. "You can't play touch while the other guy's playing tackle."

Since 1978, only about 50 leadership PACs have been formed, but their financial impact has been significant. With an average contribution of $2,000, leadership PACs doled out about $70,000 each in 1986, compared to an average of $34,000 each by outside PACs.

And they have collected more than $15 million in every election cycle since 1979–80, with a high of $34.6 million in 1985–86.

"Leadership PACs, especially if they continue to proliferate, will magnify the influence of individual Members," the reprt concluded. "The result is an increasing fragmentation of power and decreasing importance of parties."

While most conventional PACs favor incumbents, the report found that about 50 percent of the contributions from leadership PACs go to Congressional challengers.

One theory offered in the report is that Members who help challengers are hoping to win their support in future leadership races.

The study criticized the practice, if only for its "appearance" of impropriety.

"A citizen who observes a Member of Congress making contributions to colleagues as part of a campaign for a leadership post might well conclude that the donation was part of a quid pro quo for votes," the report said.

The study details the use of leadership PACs in three successful Democratic races. Rep. Henry Waxman (D-Calif) set up the first such PAC in 1978 to contribute to members of the House Energy and Commerce Committee and boost his bid for a subcommittee chairmanship.

In 1986, former Rep. Tony Coelho (D-Calif) disbursed about $570,000 to House candidates' campaigns, and handily won the Majority Whip's race over Rep. Charles Rangel (D-NY), who got into the PAC game late.

And in his 1988 bid for Democratic Caucus chair, Rep. Bill Gray (D-Pa) went so far as to send out a letter requesting "a check for $500 to $1,000 so that I can begin to build the active support within [sic] the Democratic Members of Congress to win this key leadership position."

Rep. Mary Rose Oakar (D-Ohio), who lost to Gray in the Caucus race, called the proliferation of leadership PACs "incestuous." Oakar said last week that she had disbanded two of her own such PACs.

Synar, another Caucus race opponent of Gray's who has always been against the PACs, says they should be eliminated. He introduced legislation at the beginning of this Congress with Coelho and Rep. Jim Leach (R-Iowa) that would ban the PACs.

He told Roll Call that powerhouses like Ways and Means Chairman Dan Rostenkowski (D-Ill) and Energy and Commerce Chairman John Dingell (D-Mich)—and even Waxman—"would like to get out of the business."

"They have [the PACs] because everybody else has them," Synar said. "They have to insure themselves."

Rep. Charles Bennett (D-Fla), defeated for chairmanship of the House Armed Services Committee by a colleague who gave liberally to committee members, has also introduced legislation to eliminate the leadership PACs.

Bennett says in the report: "I don't think any Member of Congress ever said, 'Give me the money and I'll vote for you.' . . . But a hell of a lot of people around here say, 'I'm very happy to receive the money and since you're running for chairman you can count on my vote.'

"That [is] a very narrow line, and I'm not sure that folks on the outside can find the distinction."

Because Baker said intra-colleague contributions can build team spirit, he does not recommend eliminating them all together. Instead, he suggests limiting the amount contributed to any colleague by another to $1,000 and instituting a system to police how contributions are used.

H.R. 83

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. PROHIBITION ON CONTRIBUTIONS BY MEMBERS OF OR CANDIDATES FOR CONGRESS TO CONGRESSIONAL CANDIDATES.

(a) CONTRIBUTIONS FROM CAMPAIGN FUNDS.—Section 313 of the Federal Election Campaign Act of 1971 (2 U.S.C. 439a) is amended—

(1) by inserting '(a)" after the section designation; and

(2) by adding at the end the following new subsection:

"(b) A Senator or Representative in, Delegate or Resident Commissioner to, or candidate for, the Congress, or any authorized committee of such individual, may not make any contribution, either directly or indirectly, to any other Senator or Representative in, or Delegate or Resident Commissioner to, the Congress, or candidate (or any authorized committee for the candidate) for such office, including contributions that are in any way earmarked or otherwise directed through an intermediary or conduit (including any political committee) to the Senator, Representative, Delegate, Resident Commissioner, or candidate.".

(b) CONTRIBUTIONS FROM PERSONAL FUNDS.—Section 315 of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a) is amended by adding at the end the following new subsection:

"(i) A Senator or Representative in, Delegate or Resident Commissioner to, or candidate for, the Congress may not make any contribution from any personal funds (including the personal funds of the immediate family of the Senator, Representative, Delegate, Resident Commissioner, or candidate), either directly or indirectly, to any other Senator or Representative in, or Delegate or Resident Commissioner to, the Congress, or candidate (or any authorized committee for the candidate) for such office, including contributions that are in any way earmarked or otherwise directed through an intermediary or conduit (including any political committee) to the Senator, Representative, Delegate, Resident Commissioner, or candidate.".

SEC. 2. PROHIBITION ON SOLICITATION AND ACCEPTANCE OF CONTRIBUTIONS FOR ELECTION OF CONGRESSIONAL LEADERSHIP OFFICERS.

(a) IN GENERAL.—A Senator or Representative in, or Delegate or Resident Commissioner to, the Congress may not solicit or accept any contribution with respect to any election for or selection of any Congressional leadership officer.

(b) DEFINITIONS.—For purposes of this section:

(1) CONGRESSIONAL LEADERSHIP OFFICER.—The term "Congressional leadership officer" means the President pro tempore of the Senate, Speaker of the House of Representatives, any chairman of any committee or subcommittee, the Majority Leader, Minority Leader, Majority Whip, and Minority Whip, in the Senate and the House of Representatives, and any other officer of a political party who is elected or selected for the office solely by and from among the members of the political party that are Senators or Representatives in, or Delegates or Resident Commissioners to, the Congress.

(2) CONTRIBUTION.—The term "contribution" has the meaning given the term in section 301 of the Federal Election Campaign Act of 1971 (2 U.S.C. 432).

(c) EXERCISE OF RULEMAKING POWERS.—Subsections (a) and (b) are enacted by the Congress as follows:

(1) INCLUSION IN RULES OF EACH HOUSE.—The subsections are enacted as an exercise of the rulemaking power of the House of Representatives and the Senate, respectively, and as such the subsections shall be considered as part of the rules of each House, respectively, and shall supersede other rules only to the extent to which they are inconsistent with the other rules.

(2) POWER TO CHANGE RULES.—The subsections are enacted with full recognition of the constitutional right of either House to change the rules (so far as relate to such House) at any time, in the same manner and to the same extent as in the case of any other rule of such House.

H.R. 2402 THE EMERGENCY SUPPLEMENTAL APPROPRIATIONS FOR VETERANS' PROGRAMS

HON. ROBERT A. BORSKI

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 21, 1989

Mr. BORSKI. Mr. Speaker, I rise today to urge our colleagues in the other body to immediately approve H.R. 2402 the emergency supplemental appropriations for veterans' programs.

Mr. Speaker, due to shortfalls in the fiscal year 1989 budget, there has been a dangerous reduction in medical care to America's veterans. Basic health-care services are being denied to eligible veterans. Staff levels at veterans' facilities are dangerously low and veterans are being turned away.

There are now 4,000 fewer medical personnel available to treat veterans than directed by Congress. This has reduced the number of outpatients to be treated this year at veterans' hospitals and clinics by 600,000.

Vital equipment at veterans' facilities is not being replaced and medical supplies are in short stock. Many prescription orders are not being filled.

Our veterans deserve better. These are the men and women who bravely served their country in its time of need. Reductions in medical care default on the promises made to veterans to provide for their health and well-being in exchange for the essential service they provided for our Nation.

Last month, recognizing the veterans' dire need, the House unanimously passed H.R. 2402 to enable veterans' facilities to avoid even deeper employee and service cuts. However, for whatever reason, the Senate has not acted on this legislation. I believe they must act and act soon.

H.R. 2402 will not restore veterans' medical care to the level really necessary. The $340 million provided to alleviate the funding shortfall is the bare minimum required to maintain adequate veterans' health services this year. However, this bill is a step toward better health care for veterans and will allow us to deliver essential medical services to veterans who are in immediate need.

Mr. Speaker, it has been months since the magnitude of the emergency in the veterans' health system became clear. Precious time has already been lost while veterans continue to be refused medical care, turned away from hospitals, and denied medication. This situation must be corrected.

It is vital that these funds be approved—without delay—to prevent further decay in the VA medical system. I urge my friends in the other body to support H.R. 2402 and give the veterans of this country their due.

INTRODUCTION OF THE BROADCAST RADIO QUALITY IMPROVEMENTS ACT

HON. MATTHEW J. RINALDO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 21, 1989

Mr. RINALDO. Mr. Speaker, today I am introducing the Broadcast Radio Quality Improvements Act of 1989. When introduced the Radio License Reform Act (H.R. 1136) last February, I indicated that there were other technical issues I wished to address that are important to improving the quality of radio service in this country. The legislation I am introducing today would provide solutions to many of these technical issues. I am pleased to say that H.R. 1136 already has attracted over 100 cosponsors; clearly, many in Congress believe that the time has come to address issues relating to the state of the U.S. broadcast radio service.

Today, the AM radio service is in trouble. According to a recent study, AM radio listeners are just 26 percent of the overall radio audience, down from 75 percent in 1972—just 16 years ago. About half of the 5,000 AM stations lost money last year. AM listenership has declined because of the ability to transmit stereo on FM radio, and because the FCC in the past neglected to encourage state-of-the-art performance in AM radio by examining and updating its interference standards. AM radio is the original radio service, and it has provided millions with their first news and entertainment. I don't think any of us want to see the AM band wither away, especially when there are actions that Congress can take to preserve and improve AM radio service. It is my sincere hope that today's legislation, taken together with H.R. 1136, the license renewal reform bill, will produce a meaningful examination of what can be done to promote better radio service in particular for AM radio. This is a process in which the Congress, the industry, and the public all have a stake; all should be prepared to participate.

The cornerstone of the Broadcast Radio Quality Improvements Act is the requirement that AM stereo must be receivable on equipment that is capable of receiving FM stereo. The technology has been available to transmit AM signals in stereo for many years. However, due to the presence of competing systems, the FCC declined in 1981 to specify a standard system, preferring to allow the marketplace to sort this issue. This decision was well-intentioned; unfortunately, it has acted as a barrier to conversion by AM radio stations to AM stereo. Only about 15 to 30 percent of AM stations transmit in stereo, and far fewer AM stereo radios are manufactured than their FM counterparts.

In light of this situation, I believe that the best and most technologically neutral way to promote the use of AM stereo is by requiring the ability to receive AM stereo in the manufacturing of stereo radio receivers. This concept has been used effectively by Congress in the past. In 1962, the Congress passed the All Channel Receiver Act, which mandated that television receivers manufactured after a certain date must be capable of receiving UHF channels 14 to 69, as well as VHF channels 2 to 13. That action by the Congress was a giant step forward in the development of additional television stations transmitting on the UHF band. This bill can serve the identical purpose for AM radio. By placing AM on an equal footing with FM in terms of signal quality, the AM radio licensee can fully compete with its FM counterpart. In the long run, the largest beneficiary of such competition will be the local community and its citizens. The bill also requires that radios manufactured after January 1, 1992, should be capable of receiving all broadcast frequences, AM and FM, thereby ensuring that broadcasters on both bands will be competing for the same audience.

There are other important features in this bill which will result in vastly improved radio service to the Nation. The bill strengthens the congressional directive to the FCC concerning the need to consider local service in the awarding of local frequencies. In addition, it requires that the FCC shall take action in the granting of licenses and in the establishment of rules or policies which would generally increase interference in the AM or FM bands. While the awarding of additional licenses promotes competition, we must not forget that a balance must be struck between the granting of new stations and the need to provide a generally interference-free signal from existing stations.

The bill also mandates FCC rules to permit existing daytime-only AM stations to voluntarily switch their operations to the new expanded AM band (1605–1705 kHz). This action would reduce, where possible, potential interference problems with so-called clear channel broadcasters, and other classes of full-time broadcasters. More importantly, it would provide expanded 24-hour service to communities that heretofore have been served only during part of the day. To further reduce AM interference, the FCC also would be required to study and report to Congress on the nonbroadcast sources of radio interference and identification of other Federal agencies that may or should have jurisdiction to act in this area.

Finally, the bill would take action to correct the widening problem of FM translator abuses. In recent years, there has been an explosion of translators in this country. Translators are "extenders" or "repeaters" of a radio station's signal. The use of translators in the past has been to provide radio service in areas where no radio service was receivable. The growth in FM radio translator usage in the last several years has allowed large market stations to broadcast their signal in smaller communities which already have several radio outlets. This created the unusual situation in which the larger market station can erode the listenership and advertising base of the local

stations without being under any obligation to provide any local service to the smaller community. In the long run, this situation only harms overall radio service to residents of the smaller community. My proposal is a simple one. The FCC would be required to regulate radio translator operations in accordance with the purpose for which Congress first authorized their operation: Translators should be used to provide full service within a station's general local service area and to provide service in "white areas" where no local radio service exists.

I look forward to the coming debates on this bill and its companion, H.R. 1136. I urge my colleagues to join me in support of the Broadcast Radio Quality Improvement Act of 1989.

AMERICAN CHAMBER OF COMMERCE IN JAPAN ESSAY CONTEST WINNERS

HON. LINDY (MRS. HALE) BOGGS

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 21, 1989

Mrs. BOGGS. Mr. Speaker, for the past 4 years, it has been my honor and pleasure to serve as a member of the Commission on the Bicentennial of the U.S. Constitution. During this time, the Commission, chaired by former Chief Justice Warren E. Burger, has sponsored, coordinated, and encouraged many activities on the bicentennial, offering to young people of all ages the opportunity to learn more about our Constitution, and to put that knowledge to work.

Recently, the Commission encouraged an essay contest, sponsored by the American Chamber of Commerce in Japan, for students attending International Schools in eight cities in Japan.

The winning essay was written by Kohki Kubota, a junior at the American School in Japan, Tokyo. His essay, "The Japanese Political Melting Pot," explores the idea that while the United States political system has been a great influence on Japan, it is not the only influence. Kohki has received awards from his school's foreign language and English departments, and will be editor of the school yearbook this year.

Second place went to Kathleen Vaughn, an 1989 graduate of the American School in Japan, Tokyo. She will attend Georgetown University, Washington, DC, this fall. She is from New York and has been in Japan for 2 years. Her essay, "The Influence of the United States Constitution on the Japanese Political System," discusses the writing of the Japanese Constitution during the period of Allied occupancy after World War II. Kathy is active in a wide variety of extracurricular and community activities, including personal commitments to feed homeless Japanese in railroad stations on a regular basis, and she has done volunteer work for 1 week with Mother Theresa in Calcutta.

Others, all foreign students attending international schools in Japan, who performed well in the contest were Prashant Jain, third place; and Sam Sheng, Chris Scott, and Wayne Kawarabayashi, all honorable mention.

The winning essays show insight into the political systems of the United States and Japan. I know my colleagues join me in offering congratulations to these two young leaders of tomorrow.

The first and second place winners were awarded a trip to Washington, DC to visit the institutions that shape our history. Among those institutions was this House where Kohki and Kathleen had the opportunity to observe our deliberations, enjoy lunch in the Members' Dining Room and tour the Capitol Building.

TRIBUTE TO LOUIS PAPPAN

HON. JOE KOLTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 21, 1989

Mr. KOLTER. Mr. Speaker, I rise today to honor a constituent that has proven to be an exemplary person in a vast assortment of ways in both my 4th District of Pennsylvania and the rest of western Pennsylvania.

Louis Pappan, owner of 33 restaurants in six counties in western Pennsylvania, has given more to my area than just "good food, good service or your money back." The contributions he has made both in and outside the restaurant business are activities that I feel deem him very worthy of tribute.

In the early 1950's, Mr. Pappan emigrated to the United States from Greece in search of a new career. In 1961, he opened his first restaurant, the "Sweet Shoppe" in Beaver Falls, PA. Almost 30 years later, Mr. Pappan has expanded his venture to 15 Pappan's Family Restaurants and 18 Roy Rogers fast food restaurants in western Pennsylvania.

The exposure Mr. Pappan has received through his restaurant chain has made him a very recognizable and respected celebrity in my district and the Pittsburgh area.

Mr. Pappan currently serves as president of Pappan's Family Restaurants and Pappan's Enterprises, Inc. and supports many worthy organizations and causes.

This year marks the 15th year Pappan's restaurants will be sponsoring a senior citizens picnic including free food, games, craft contests, entertainmnet and health information. Mr. Pappan does this to repay the generosity these people have given him. Usually about 8,000 people attend.

In a concern for safety, Mr. Pappan also cosponsors a picnic with a Pittsburgh radio station if there are no fatalities during Memorial Day Weekend. Last year more than 8,000 people filled Point State Park in Pittsburgh for this gathering.

Mr. Pappan participates in the Multiple Sclerosis "Backyard Fair" and "Read-a-Thon" every year and sponsors a variety of events of the Arthritis Foundation, the Easter Seals and the March of Dimes.

"Toys for Tots" occupies Mr. Pappan's time at Christmas as he helps raise funds and collect toys for less fortunate children during the Season.

During the summer months, Mr. Pappan gives major support to a variety of events sponsored by Pittsburgh's CitiParks including a "Great Ride" and a "Grand Prix."

Besides all of the activities Mr. Pappan sponsors, he also serves on many boards of directors and contributes to many educational organizations. Annually, he serves as the grand marshal for the Bridgewater Regatta. He is also very active member of the United Greek Orthodox Church.

Due to all of the substantial contributions Lou Pappan has made in my district and the surrounding area, I feel he is very worthy of receiving recognition from this 101st Congress, and that is why I rise to honor him today.

FELICIA MARCUS: AN ENVIRONMENTALIST FOR ALL SEASONS

HON. MEL LEVINE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 21, 1989

Mr. LEVINE of California. Mr. Speaker, I rise today in honor of my friend Felicia Marcus and ask my colleagues to join me in recognizing the achievements of her hard work, commitment and dedication to environmental issues.

I would like to bring to your attention an article which appeared in the June 16, 1989 edition of the Los Angeles Times entitled "An Environmentalist for All Seasons." This article highlights the causes with which Felicia has been and is currently involved and the many successes for which she has been primarily responsible.

Felicia is an extraordinary environmental activist. She belongs to and serves on the boards of a variety of environmental groups, including "Heal the Bay," "Coalition for Clean Air," and "The California League of Conservation Voters."

Felicia is one of the cofounders of "Heal the Bay," an all-volunteer organization responsible for raising the public's consciousness and promoting public education about the pollution which exists in the Santa Monica Bay. As pro bono counsel for "Heal the Bay," Felicia succeeded in defeating the city of Los Angeles' attempts to do less than fully treat its sewage and was successful in attaining friends of the court status of the EPA law suit against the city.

At New York University School of Law, Felicia developed an interest in and ultimately specialized in environmental law. Not only is she committed to the environment and its causes, she has attained a degree of responsibility and integrity which is difficult, if not impossible, to match.

Currently, Felicia serves as director of litigation for Public Counsel, the Los Angeles County and Beverly Hills bar associations' public-interest law firm, which provides legal services to the poor in areas ranging from children's advocacy, immigration, civil rights, and consumer issues, to housing discrimination and homelessness. However, she has just been appointed by the mayor of Los Angeles to serve as a commissioner on the city of Los Angeles Board of Public Works.

Felicia Marcus is truly one of our environment's best friends and I ask that the Speaker and Members of this body join me in saluting

her for her commitment to the protection and preservation of our precious environment.

INTRODUCTION OF MINIMUM WAGE BILL

HON. AUSTIN J. MURPHY

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 21, 1989

Mr. MURPHY. Mr. Speaker, I rise in support of the minimum wage bill that I have just introduced. This new bill represents the second time I have offered compromise minimum wage legislation in the short life of the 101st Congress. Once again I call on the President to end this standoff and join with Congress to assure that a minimum wage increase will be enacted into law.

My bill more than adequately addresses Mr. Bush's many concerns, especially the rate of increase. This bill increases the minimum wage to $4.25 over the next 2 years. While this is certainly not enough to restore the purchasing power of the minimum wage, it is all the pocket change that President Bush is willing to spare for the Nation's working poor.

This bill also contains a 60-day training wage for all inexperienced minimum wage workers. I reject the President's call for a 6-month training wage, because it is excessive. Since most minimum wage jobs are of short duration, the President's plan appears merely to be a way to deny any increase to most minimum wage workers.

As I have stated often in the past, all this bickering is only hurting one group, and that is America's working poor. I would say that we have all reached our limits, they have suffered enough, and we have compromised enough, Mr. President, let's enact this bill.

FARMINGTON UNITED METHODIST CHURCH—160 YEARS OF SERVICE

HON. WM. S. BROOMFIELD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 21, 1989

Mr. BROOMFIELD. Mr. Speaker, during the month of June, the First Methodist Church of Farmington will celebrate its 160th anniversary.

I want to officially recognize this outstanding church and its historic congregation. Farmington United Methodist has kept its doors open for 160 years. Begun in 1829, a full 8 years before Michigan became a State, Farmington United Methodist has been in continuous operation.

As one of the Michigan's oldest Methodist churches, with its first church structure completed in 1844, the present Farmington church has been serving the spiritual needs of the community since 1922. The church contains several historic stained glass windows donated by Hon. Fred Warner, who was our Governor from 1905 to 1910.

As a growing, vibrant part of Michigan, Farmington United Methodist has expanded over the years and conducts many community outreach, educational, and youth programs.

I am very proud to represent Farmington United Methodist and its active congregation. My congratulations on 160 wonderful years of service to the citizens of Farmington.

TRIBUTE TO COUNCILMAN NATE HOLDEN

HON. MERVYN M. DYMALLY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 21, 1989

Mr. DYMALLY. Mr. Speaker, I would like to point out the accomplishments of an outstanding individual with a record of 17 years in public service, Los Angeles councilman Nate Holden.

Councilman Nate Holden won his bid for the Los Angeles City Council seat for the 10th district on June 2, 1987. From 1974 to 1978, he served in the California State Senate representing the 30th senate district. Prior to and after serving in the State senate, he was assistant chief deputy to Los Angeles County supervisor Kenneth Hahn.

Councilman Holden is a U.S. Army veteran and served in the Military Police corps during World War II. He earned a bachelor of science degree in physics and a master of science in systems engineering from West Coast University in Los Angeles. Prior to entering the political arena, he spent 17 years in the aerospace industry. His first important role on the political scene was his election to president of the California Democratic Council in 1970, where he served for two terms—1970 to 1974.

During his term as State senator, he served as chairman of the Senate Standing Committee on Elections and Reapportionment; chairman of the Select Committees on Rapid Transit for Southern California, and Genetic Diseases; vice chairman of the Public Utilities, Transit and Energy Committee; and he served as a member of the Housing and Urban Affairs Committee, the Health and Welfare Committee, the Joint Legislative Audit Committee, and the Local Government Committee.

As State senator, Councilman Holden earned a reputation as a champion of consumer rights, health care for the needy, senior citizen services, full employment programs, and quality education. His legislative accomplishments included measures which addressed the genetically handicapped, antiredlining, the Credit Denial Disclosure Act of 1976, increased funding for inner-city schools, the creation of Baldwin Hills Regional Park, proliferation and control of liquor stores, property tax relief for senior citizens, and memorializing Dr. Martin Luther King's birthday, January 15, as worthy of observance as a State holiday.

He also supported the "Use a Gun, Go to Jail" law, as well as measures which dealt with mandatory jail sentences for anyone convicted of a crime against a senior citizen.

In addition, Holden supported the State's $5.5 billion "bail-out" funds to aid Los Angeles and voted to reduce State income tax by $1 billion. He authored a law ensuring fair treatment for people requiring paramedic attention. He won approval for a tough law to prevent abuses of publicly funded newsletters sent by State and local lawmakers. He has been a proponent of strong campaign disclosure laws.

During his service with the County of Los Angeles, he was a member of the Departmental Transportation Advisory Committee and a member of the board of directors for the Southern California Rapid Transit District for 4 years. He also has been a member of the Los Angeles County Public Social Services Commission and the U.S. Commission on Government Procurement.

To date, Holden's city council committee assignments include chairman of the Transportation and Traffic Committee, vice chairman of the Police, Fire and Public Safety Committee, and member of the Intergovernmental Relations Committee. The councilman also is a member of the National Contract Management Association, NAACP, Urban League, and Crenshaw Neighbors.

I would like to take this opportunity to thank Councilman Nate Holden for his valuable contributions to public service. His leadership and guidance have made a difference for the people of the 10th district. With such a track record of legislative accomplishments, we are grateful for his commitment to public service and look forward to his effective leadership for many years to come.

PERFECT SEASON FOR ECS BASEBALL TEAM

HON. DON SUNDQUIST

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 21, 1989

Mr. SUNDQUIST. Mr. Speaker, success in our national pastime, baseball, is measured in terms of sustained excellence over time. The seasons run longer and excellence is judged in terms of averages. The most successful hitters will fail two-thirds of the time; the best teams may lose 40 percent of their games.

So when a group of young men complete a baseball season, not only as champions, but undefeated, it is worth noting. The baseball team at Evangelical Christian School of Memphis recently became only the third prep baseball team in Tennessee history to complete an undefeated season, capping a 30 to 0 season by capturing the State championship.

All of us who appreciate baseball can appreciate what it takes to prevail both in the long haul of a season and in the unpredictable atmosphere of a short playoff series. I offer these young men and their coaches my congratulations, and I thank the Chair for allowing me a moment to share their accomplishment with my colleagues and fellow baseball fans.

AMERICANS AND CANADIANS RUN 500-MILE FRIENDSHIP RELAY

HON. JOSEPH M. GAYDOS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 21, 1989

Mr. GAYDOS. Mr. Speaker, on Thursday, June 29, 16 youths—8 Americans and 8 Canadians—ranging in age from 20 to 16, will leave Grey County, Canada, on the run. Their destination—Bethel Park, PA, 500 miles away.

It is the Adventure in Friendship Relay and the runners' route will take them through 62 communities before they arrive at Bethel Park High School Stadium amid a spectacular Fourth of July fireworks display.

Jim Pomerantz, coordinator for Team USA, explained that one athlete from the Bethel Park Track Club and one from the Grey County Track Club will be on the road at all times. However, one kilometer from each municipality, the entire 16-member squad will run as a group, carrying the "Friendship Torch," 10-foot American and Canadian flags, and the flag of the Province or State through which they are passing.

Mr. Pomerantz adds that every precaution has been taken to assure the safety of the runners. The relay route has been checked by Ontario Provincial Police, the Pennsylvania State Police, and local police forces along the way. In addition, the Bethel Park Municipal Council has authorized two members of its Police Department, Chief Joseph Kletch and Sgt. John Lee, to accompany the runners along the entire route.

The youths are running for more than just physical exercise. According to Mr. Pomerantz: "They're running to foster a better understanding between the young people of America and Canada * * *. They're running to focus public awareness on the importance of reading in the development of young minds * * *. They're running to make a statement against the use of drugs by teenagers of both countries * * * and they're running to cement the bonds of friendship between the citizens of the United States and Canada."

Upon their arrival at the Bethel Park High School Stadium, the athletes, along with visiting American and Canadian dignitaries, will be introduced to the residents of Bethel Park by Mayor Reno Virgili. The following day, July 5, the runners, their parents, and visitors will be the guests of honor at a dinner hosted by the municipality.

Mr. Speaker, as dean of the Pennsylvania congressional delegation and as Member with strong ties to Bethel Park and a high regard for its people, I take great pleasure in calling the attention of my colleagues to this noteworthy effort on the part of young Americans and Canadians.

Team USA: Erik Hermann, captain; Jerry Hull, Tony Hull, Greg Roguski, Rob MacDonald, Billy Pomerantz, Mark Pomerantz, Lloyd Brewer, and coach Bob Hull.

Team Canada: Brian McKenzie, captain; Paul Morris, Gordy Mitchell, Andy Litt, Kevin McKenzie, Mike Painter, Stephen Young, Chris Whalen, David Gillham, and coach Myles Caskie.

On behalf of the Pennsylvania delegation, I congratulate these young runners as well as the many civic-minded individuals and organizations who joined in putting together this 500-mile Adventure in Friendship between the United States and Canada.

CYPRIOT AMBASSADOR PROMOTED TO POST OF DIRECTOR GENERAL OF CYPRIOT FOREIGN MINISTRY

HON. GUS YATRON

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 21, 1989

Mr. YATRON. Mr. Speaker, in his 10 years as Cypriot Ambassador to the United States—reaching the position of Dean of the Diplomatic Corps—Ambassador Andrew J. Jacovides has left a substantial imprint on the Nation's Capital and has established lasting friendships, especially in Congress, to the benefit of the Republic of Cyprus.

As the senior member of the Cypriot diplomatic service and in light of his effective role in representing his nation in Washington, Ambassador Jacovides has been promoted to Director General of the Foreign Ministry. I congratulate Ambassador Jacovides on his appointment to this prestigious and important post, however, we will all miss his wise and effective counsel regarding United States policy toward Cyprus.

As you know, Cyprus has been partially occupied since Turkey unjustly invaded this eastern Mediterranean island in the summer of 1974. During his tenure, many of our colleagues greatly benefited from his obervations and representations in behalf of his government, especially during those periods of escalating tensions of Cyprus, such as the Turkish Cypriot unilateral declaration of independence in 1983.

Ambassador Jacovides' reputation as a foreign policy expert envoy and astute observer of international events goes beyond the halls of Congress and the corridors of the State Department. Ambassador Jacovides has lectured at numerous and well-known global affairs councils, think tanks, and universities and is widely respected for his expertise in international law, the United Nations, and U.N. peacekeeping operations. He is an honorary citizen of over 20 American cities and is an honorary doctor of laws and of humane letters.

Mr. Speaker, I am confident that in his future capacity as Director General of the Foreign Ministry, Ambassador Jacovides' experience and insights will prove instrumental as the Government of the Republic of Cyprus pursues a settlement to its country's dispute which will result in the withdrawal of Turkish troops. I wish both him and his lovely wife, Pamela, well in their future endeavors.

HONORING HARRIET AND MORTIMER KASHINSKY FOR 50 YEARS OF MARRIAGE

HON. GARY L. ACKERMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 21, 1989

Mr. ACKERMAN. Mr. Speaker, I rise today to pay tribute to a truly wonderful and inspirational couple, Harriet and Mortimer Kashinsky. On July 2, 1989, Harriet and Mortimer will celebrate 50 years of matrimonial bliss. To help mark this joyous occasion, there will be surprise party for them on June 25, 1989, hosted by the Kashinsky's children and grandchildren.

Harriet and Mortimer Kashinsky have lived and raised a family in Flushing for over 40 years. Mortimer is a retired pharmacist and school teacher, and his lovely wife Harriet is still working as a paraprofessional at Junior High 126 in Long Island City, NY.

They have three wonderful children; Janet, who is a teacher at Parsons Junior High School; Cheryl, who has her own real estate firm; and Richard, who is a electrical contractor. They also are proud grandparents of three fine grandchildren, Elissa and Darin Diamond and Joseph Kashinsky.

When they weren't busy raising a family or working, Harriet and Mortimer spent their spare time volunteering for several community organizations. Mortimer worked for over 35 years with the Queens Auxiliary Police Force. He recently retired from the force after serving as chief inspector. Harriet has devoted time to many groups including United Cerebral Palsy.

Mr. Speaker, in this day of high divorce rates it is a real accomplishment to celebrate 50 years of marriage. I ask all of my colleagues in the U.S. House of Representatives to congratulate Harriet and Mortimer in reaching this milestone and wish them continued happiness in the future.

STATEMENT OF CONGRESSMAN TOM CAMPBELL CONCERNING HIS VOTE ON THE SAVINGS AND LOAN LEGISLATION

HON. TOM CAMPBELL

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 21, 1989

Mr. CAMPBELL of California. Mr. Speaker, my sister is married to an officer of a savings and loan association in Illinois, his father was the chairman of the board, and both my brother-in-law and his father are still on the board of directors. While the savings and loan association in question is not directly under the terms of the bailout plan which Congress is considering, it will be affected by those terms, particularly the capital requirements. In voting in favor of the sterner capital requirements, particularly against the Hyde amendment, I have voted against this interest. The interest was not such as to cause me not to vote, because I have an affirmative obligation to represent the people of my district, and to vote on important matters of public policy unless

compelled not to do so. I did wish, however, to put on the public record the full details of this situation.

INTRODUCTION OF THE UNIFORM PRODUCT LIABILITY ACT

HON. MIKE SYNAR

OF OKLAHOMA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 21, 1989

Mr. SYNAR. Mr. Speaker, today I am joining my colleagues in introducing the Uniform Product Liability Act of 1989. Very simply this bill replaces the varying State-to-State standards used to determine a manufacturers' liability with one Federal standard. This uniform standard excuses manufacturers from liability if their product was made as safely as possible but, permits consumers to recover for their injuries if the product was so dangerous it should never have been sold in the first place.

I am convinced that the present system serves neither businesses or consumers well. Nevertheless, I have traditionally opposed tort reform because of my strong reservations against earlier proposals which would have made it virtually impossible for individuals injured by defective products to receive compensation from the manufacturer. I decided to support the legislation being introduced today because it includes compromise language I helped draft in the 100th Congress which balances the interests of consumers and manufacturers to bring predictability and fairness to product liability lawsuits while preserving the rights of injured plaintiffs and maintaining incentives to make safe products.

The need for a uniform standard to reduce the complexity and expense of litigation is supported by considerable evidence. Consumers' ability to recover for injuries has been limited by the time and expense of litigation. According to a 1986 study by the Rand Corp., $19.5 billion was spent in litigation costs with $11 billion of that amount going for attorney's fees and expenses and only $8.2 billion going for compensation to plaintiffs. A 1983 Rand Corp. study on asbestos litigation found that the plaintiffs in asbestos cases received only 37 cents in compensation out of every dollar spent on the litigation.

The ability of some U.S. manufacturers to effectively compete in world and domestic markets has been affected by uncertain liability standards. The Department of Commerce reports that 70 percent of all products produced in a State are consumed outside of the State's boundaries. Under the current system each State has its own standards to litigate claims for injuries arising from defective products. Since a case can be brought in a number of different courts, manufacturers never know in which jurisdiction they may be sued or what standards will apply.

This unpredictability and uncertainty has led some manufacturers to devote less of their resources for research and development of new products and has resulted in some products being pulled off the market altogether. A survey of the impact of product liability on machinery industries found that 13.5 percent of the companies had dropped product lines, while 11.5 percent had decided not to develop a particular new product.

The unpredictability of product liability litigation has also made it difficult for insurers to accurately predict the risk associated with a product's use. This has been cited as one cause of increasing product liability insurance rates and the inability of some companies to obtain adequate coverage at all.

Unlike earlier proposals, the bill introduced today is much fairer in its approach. The bill provides that manufacturers will not be held liable for injuries if at the time their product was manufactured it was "state of the art." The exception to this rule is if the manufacturer should have known that the product was dangerous to consumers or if the product could have been made safer. Even if a product is state of the art consumers will still be able to hold a manufacturer liable for injuries if a judge finds that the product was so dangerous it should not have been marketed. The bill also creates a new obligation for manufacturers. For the first time manufacturers will have to warn consumers about subsequently discovered risks associated with their products. If they fail to do so, consumers injured as a result of a failure to warn has a cause of action against the manufacturer.

This bill is not perfect, but it is a positive step in the right direction. I am not completely satisfied with the provisions in the legislation regarding the treatment of sealed records and mediation. As this bill moves through the legislative process I may discover other issues of concern as well. However, I think it's important to keep this issue before the Congress in order to bring about much more needed reforms. I want to continue to work with consumer groups, trial lawyers, and the business community to draft liability standards that simplify the litigation process, ensure consumers can recover for injuries, and encourage manufacturers to make the safest products possible. The legislation we are introducing today goes far toward meeting these goals.

TRIBUTE TO JAMES W. CLARK, JR.

HON. BOB WHITTAKER

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 21, 1989

Mr. WHITTAKER. Mr. Speaker, I rise today to pay tribute to a dear friend of long standing and a fellow native Kansan, James W. Clark, Jr., who retired as director of the American Optometric Association's Washington office. Jim retired last summer and returned to Kansas after nearly four decades of selfless service, as an educator and then as an administrator.

Jim started his professional career as an educator following his education at Emporia State University, Emporia, KS, where he received his bachelor of science degree in education. This was followed by a master's degree in education from the University of Kansas at Lawrence.

After years of teaching success, Jim embarked in 1957 on a new career as the first administrative director of the Kansas Optometric Association, a post he held for 20 years. During his tenure as administrative director for KOA, Jim contributed his expertise in the academic environment with his appointment to the Southern College of Optometry board of directors from 1968 until 1978. For 2 of these years, Jim was chairman of the board, the first nonoptometrist to serve as chairman of a school of optometry. Jim also holds an honorary doctorate of humane letters from the Southern College of Optometry.

Following a particularly successful career as the administrative head of the Kansas Optometric Association, Jim was called to Washington, DC, to head the American Optometric Association's Washington office. He served in this position with great distinction from 1977 until his retirement last July. Jim Clark built an enviable record of achievement during his 31 years of service to the profession of optometry. I am pleased to honor his outstanding career, and wish both Jim and his wife Pat well in their retirement.

READ ON, EVEN IF YOU DON'T WANT TO BE A POLITICIAN

HON. JACK FIELDS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 21, 1989

Mr. FIELDS. Mr. Speaker, today I am inserting in the RECORD a portion of a commencement speech Chase Untermeyer recently delivered to graduates of the Lyndon B. Johnson School of Public Affairs of the University of Texas at Austin. Chase Untermeyer, who is assistant to President Bush and Director of Presidential Personnel, has achieved a long and distinguished career in public service.

Chase Untermeyer's reflection on what it truly means to be an effective politician is a sobering reminder of why we are here today. As public servants we are sent to Washington to do just that—serve the interests of the American people—not advance our own personal causes. At a time when a protracted ethics battle in the House of Representatives has plunged this great institution into a state of disarray that is unmatched in recent history, Mr. Untermeyer's views on public service are timely and appropriate. I hope that my colleagues will take the time to read the following remarks.

READ ON, EVEN IF YOU DON'T WANT TO BE A POLITICIAN

(By Chase Untermeyer)

Untermeyer, a Houstonian, is assistant to President Bush and director of presidential personnel. A former Chronicle political writer, he served two terms in the Texas Legislature, representing a westside Houston district. This article is adapted from a commencement speech Untermeyer delivered to graduates of the Lyndon B. Johnson School of Public Affairs of the University of Texas at Austin earlier this month.

Now as ever, the noble, if beleaguered, calling to public service deserves a few kind words—and warnings. Fifteen years of service in both elective and appointive office may be too soon to write memoirs, but it's not too soon to offer a few helpful hints.

The first of these is basic, even obvious: Trust the good sense and intelligence of the American people. There are a great many government officials who don't really believe this, who too easily fall into thinking that the people can't really be all that smart because "they don't know what we know." But our democracy is based on the simple premise that the people will know, that they will care, and that they will act if their government fails to reflect their will. Within easy memory are enough examples—local, state and federal—of defeated politicians, and referenda to show that the folks truly are in command. If a public official doesn't in his or her soul believe this, then he/she is in the wrong business.

There is no better way to learn this than to participate in politics. Even if you don't plan to be a politician yourself, then at the very least work in the campaign of somebody running for anything, and the smaller the office—the closer to the people—the better. If you haven't had to undergo the healthy, denuding stare of a skeptical voter on his/her doorstep, with just a few seconds to justify yourself or your cause, then democracy is just a word to you. So, too, are other words that frequently get tossed about: "The voters," "citizens" and "the taxpayers." If you have ever run for public office, then those are not abstractions: They are real faces you can see, real telephone calls you receive in the night, and real sweat in your palms when you are held to account in a public place for something you did or did not do.

President Bush, who began his long and eminent public career as a county party chairman, believes this intensely. He likes to quote the line attributed to Speaker Sam Rayburn in which "Mr. Sam" said he would feel a whole lot better about certain highly praised White House aides and big-time appointees "if just one of them had run for sheriff once."

Even losing has its benefits. It's another reminder of just who is boss. I have known a number of politicians who, defeated and deflated, actually became better persons—and thus much more electable the next time around.

While we're on the subject of getting along with people, something that your mother taught you is just as valid in the loftiest reaches of public life as on the playground: Be kind to people. Be thoughtful and courteous to everyone with whom you come in contact, no matter how tired or upset you may be. Be kind to your colleagues, your staff and especially to the public. Remember that today's 20-year-old intern is tomorrow's state senator or congressman or agency chief. And no one needs to be reminded of the power of those celestial beings, office secretaries. The simple words of greeting or smiles rendered to folks like this will always be remembered, even when you yourself may have forgotten.

There is a noxious notion in a place like Washington (and maybe even in Austin) that the way to be effective in politics and government is to be slick, slippery and conniving—to win by destroying your foes—that the best way to cut a deal is to cut a throat in the process. These are the folks who believe with Machiavelli, that it is always better to be feared than to be loved; those who treat our democratic processes and institutions as playthings for their amusement and gain. It is my observation over time that people who operate like this may succeed for a while—and they may succeed mightily—but eventually the ghosts of their victims will rise to haunt them.

I reject this model of the political operator in favor of another strategy: Come to the field to play the game but not to be a gameplayer.

Perhaps the greatest attribute someone in public life can have is a sense of perspective, a sense of balance. This is what gives one in public office merit in the great days and solace in the grim ones. And this, it seems to me, comes from a handful of very simple things.

The first is to have a sense of humor, to be able to laugh at yourself and at the follies of life. A man who once covered the politics of Austin, Willie Morris, wrote in his memoir, North Toward Home: "Humor was essentially a way of surviving, and it was no coincidence that every good man I knew in the political life of (Texas) had a deep and abiding sense of the absurd."

Another simple way to acquire a sense of perspective in political life is to read history, and especially biography, to expand the lessons of your brief life with the years of accumulated experiences and wisdom of others, to see just how they acted and reacted in moments of decision for themselves and for their country. Robert Frost once defined college as the place to read the books you should have read in high school. If so, think of the rest of your life as the place to read the books you should have read in school.

In acquiring that sense of perspective, always remember that you yourself are not important: Your job may be, your responsibility may be, and your boss may be, but not you. If you don't believe this, drunk with the power and glory of office, just wait until you are out of office or out of favor and see how many of your former admirers still invite you to lunch.

And, perhaps most important of all in having that sense of perspective, remember that one day it will all end. Gone will be the title, the car, the fancy stationery, the flags in the big office, the respectful nods of flunkies. In the meantime, do your job for its own sake and the sake of those you serve. Oh, you can enjoy it all, too, but remember that in a democracy no duke in all his splendor is on his horse forever.

Don't think of your job as a mere way station on the road to greater glory. Whether or not you ever get there, how sad to think of life—especially as exciting a life as one in politics and government—as merely a stitching-together of time segments or tickets to be punched.

As Bill Bennett, the former secretary of education and currently the director of National Drug Policy, likes to say, "In this (game) they're either moving the ball on you or you're moving the ball on them."

Winston Churchill had another way of making this point when he exhorted young people:

"Don't be content with things as they are. 'The Earth is yours and the fullness thereof.' Enter upon your inheritance, accent your responsibilities. Raise the glorious flags again, advance them upon the new enemies who constantly gather upon the front of the human army and have only to be assaulted to be overthrown. Don't take No for an answer. Never submit to failure. Do not be fobbed off for mere personal success or acceptance. You will make all kinds of mistakes; but as long as you are generous and true, and also fierce, you cannot hurt the world or even seriously distress her. She was made to be wooed and won by youth . . ."

Another tip: Do well by doing good. The best politics is doing the people's business the best way you can.

And know when to quit. This applies not just to pursuing a public career—when the times or the issues or the fates may go against you—when you need the restoral and reflection that private life can bring—but to opinion writing as well. So I will follow my own advice.

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Any changes in committee scheduling will be indicated by placement of an asterisk to the left of the name of the unit conducting such meetings.

Meetings scheduled for Thursday, June 22, 1989, may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

JUNE 23

9:30 a.m.
Governmental Affairs
To hold hearings on S. 253, to establish a coordinated National Nutrition Monitoring and Related Research Program.
SD-342

10:00 a.m.
Appropriations
Foreign Operations Subcommittee
To resume hearings on proposed budget estimates for fiscal year 1990 for foreign assistance programs, focusing on Latin America.
SD-138

Labor and Human Resources
To hold hearings on S. 768, to provide basic health benefits for all Americans.
SD-430

11:15 a.m.
Special Impeachment Committee
Closed business meeting to consider pending committee business.
SD-212

2:00 p.m.
Select on Indian Affairs
To hold oversight hearings on administration of Indian programs by the Environmental Protection Agency.
SR-485

JULY 10

1:00 p.m.
Armed Services
Manpower and Personnel Subcommittee
Closed business meeting, to mark up S. 1085, authorizing funds for fiscal years 1990 and 1991 for the Department of Defense, focusing on manpower and personnel programs.
SR-232A

3:00 p.m.
Armed Services
Readiness, Sustainability and Support Subcommittee
Closed business meeting, to mark up S. 1085, authorizing funds for fiscal years 1990 and 1991 for the Department of Defense, focusing on readiness, sustainability and support programs.
SR-222

6:00 p.m.
Armed Services
Defense Industry and Technology Subcommittee
Closed business meeting, to mark up S. 1085, authorizing funds for fiscal years 1990 and 1991 for the Department of Defense, focusing on defense industry and technology programs.
SR-232A

JULY 11

8:30 a.m.
Armed Services
Conventional Forces and Alliance Defense Subcommittee
Closed business meeting, to mark up S. 1085, authorizing funds for fiscal years 1990 and 1991 for the Department of Defense, focusing on conventional forces and alliance defense programs.
SR-222

9:30 a.m.
Energy and Natural Resources
To resume hearings on S. 710, S. 711, and S. 712, bills to provide for a referendum on the political status of Puerto Rico.
SD-366

Governmental Affairs
To resume hearings on the recently released proceedings of the Surgeon General's Workshop on Drunk Driving.
SD-342

10:30 a.m.
Armed Services
Projection Forces and Regional Defense Subcommittee
Closed business meeting, to mark up S. 1085, authorizing funds for fiscal years 1990 and 1991 for the Department of Defense, focusing on projection forces and regional defense programs.
SR-232A

2:00 p.m.
Armed Services
Strategic Forces and Nuclear Deterrence Subcommittee
Closed business meeting, to mark up S. 1085, authorizing funds for fiscal years 1990 and 1991 for the Department of Defense, focusing on strategic forces and nuclear deterrence programs.
SR-232A

2:30 p.m.
Energy and Natural Resources
Energy Research and Development Subcommittee
To resume hearings on S. 964, authorizing funds for fiscal years 1990 and 1991 for civilian energy programs of the Department of Energy, and on fossil energy research and development and the clean coal technology program.
SD-366

JULY 12

9:00 a.m.
Armed Services
Closed business meeting, to mark up S. 1085, authorizing funds for fiscal years 1990 and 1991 for the Department of Defense, and to consider pending nominations.
SR-222

Commerce, Science, and Transportation
To hold hearings on the nomination of Janice Obuchowski, of Virginia, to be Assistant Secretary of Commerce for Communications and Information.
SR-253

10:00 a.m.
Commerce, Science, and Transportation
Communications Subcommittee
To hold hearings on S. 707, to require the Federal Communications Commission to reinstate restrictions on advertising during children's television, to enforce the obligation of broadcasters to meet the educational and informational needs of the child audience.
SR-253

2:00 p.m.
Armed Services
Closed business meeting, to continue mark up of S. 1085, authorizing funds for fiscal years 1990 and 1991 for the Department of Defense, and to consider pending nominations.
SR-222

JULY 13

9:00 a.m.
Armed Services
Closed business meeting, to continue mark up of S. 1085, authorizing funds for fiscal years 1990 and 1991 for the Department of Defense, and to consider pending nominations.
SR-222

9:30 a.m.
Commerce, Science, and Transportation
Merchant Marine Subcommittee
To hold hearings on capabilities and concerns of the national sealift policy.
SR-253

Governmental Affairs
Business meeting, to consider pending calendar business.
SD-342

Veterans' Affairs
Business meeting, to consider pending calendar business.
SR-418

10:00 a.m.
Energy and Natural Resources
To resume hearings on S. 710, S. 711, and S. 712, bills to provide for a referendum on the political status of Puerto Rico.
SD-366

Judiciary
Business meeting, to consider pending calendar business.
SD-226

2:00 p.m.
Armed Services
Closed business meeting, to continue markup of S. 1085, authorizing funds for fiscal years 1990 and 1991 for the Department of Defense, and to consider pending nominations.
SR-222

JULY 14

9:00 a.m.
Armed Services
Closed business meeting, to continue markup of S. 1085, authorizing funds for fiscal years 1990 and 1991 for the Department of Defense, and to consider pending nominations.
SR-222

9:30 a.m.
Select on Indian Affairs
To hold hearings on proposed amendments to the Indian Child Welfare Act (P.L. 95-608).
SR-485

10:00 a.m.
Energy and Natural Resources
To continue hearings on S. 710, S. 711, and S. 712, bills to provide for a referendum on the political status of Puerto Rico.
SD-366

2:00 p.m.
Armed Services
Closed business meeting, to continue markup of S. 1085, authorizing funds for fiscal years 1990 and 1991 for the Department of Defense, and to consider pending nominations.
SR-222

JULY 18

9:00 a.m.
Commerce, Science, and Transportation
To hold hearings in conjunction with the National Ocean Policy Study on tuna management.
SR-253

9:30 a.m.
Energy and Natural Resources
Energy Research and Development Subcommittee
To resume hearings on S. 964, authorizing funds for fiscal years 1990 and 1991 for civilian energy programs of the Department of Energy, focusing on reactor research and development, and on commercial efforts to develop advanced nuclear reactor technologies.
SD-366

Governmental Affairs
To hold hearings on S. 244, to provide for the development and use of plastics derived from certain commodities, and to include such products in the General Services Administration inventory for supply to Federal agencies.
SD-342

JULY 19

9:30 a.m.
Commerce, Science, and Transportation
Communications Subcommittee
To hold hearings on S. 999, relating to the broadcasting of certain material regarding candidates for Federal elective office.
SR-253

Governmental Affairs
To resume hearings on the recently released proceedings of the Surgeon General's Workshop on Drunk Driving.
SD-342

JULY 20

9:30 a.m.
Energy and Natural Resources
Energy Research and Development Subcommittee
To resume hearings on S. 964, authorizing funds for fiscal years 1990 and 1991 for civilian energy programs of

the Department of Energy, focusing on reactor research and development, and on commercial efforts to develop advanced nuclear reactor technologies.
SD-366

Governmental Affairs
To hold hearings on provisions of S. 135, Hatch Act Reform Amendments of 1989.
SD-342

Veterans' Affairs
Business meeting, to mark up proposed legislation to revise certain provisions of VA health care programs, including S. 13, S. 86, S. 165, S. 192, S. 263, S. 405, S. 564, S. 574, S. 748, and S. 846.
SR-418

JULY 21

9:30 a.m.
Select on Indian Affairs
To hold hearings to establish a Tribal Judicial Resources Center.
SR-485

JULY 25

9:30 a.m.
Governmental Affairs
To hold hearings to review U.S. trade and technology issues.
SD-342

JULY 26

9:00 a.m.
Commerce, Science, and Transportation
Communications Subcommittee
To hold hearings on S. 1009, relating to the purchase of broadcasting time by candidates for public office.
SR-253

10:00 a.m.
Governmental Affairs
Business meeting, to consider pending calendar business.
SD-342

JULY 27

9:30 a.m.
Governmental Affairs
To hold hearings on S. 1165, to provide for fair employment practices in the U.S. Senate and U.S. House of Representatives.
SD-342

10:00 a.m.
Judiciary
Business meeting, to consider pending calendar business.
SD-226

CANCELLATIONS

JUNE 22

2:00 p.m.
Energy and Natural Resources
To hold hearings to review the National Energy Policy plan.
SD-366

POSTPONEMENTS

JUNE 22

9:30 a.m.
Special on Aging
To hold hearings to review manufacturers' practices in the pricing of drugs.
SD-562

HOUSE OF REPRESENTATIVES—*Thursday, June 22, 1989*

The House met at 12 noon.

The Reverend Jerry Price, Patterson Baptist Church, Patterson, GA, offered the following prayer:

Our God and Father, we come into Thy presence this day recognizing Thy sovereignty over all mankind and acknowledging that in Thee we live and move and have our being and that from Thee comes every good gift, the gift of life, health and strength, and above all the gift of eternal life.

We thank Thee for our great Nation, for our Founding Fathers who secured for us the right to worship Thee according to the desires of our heart. Keep us spiritually and morally strong and help us not to be blinded to those influences which have the potential to destroy us. Continue, Father, to grant us peace with all nations.

We humbly acknowledge today our need for Thy wisdom and guidance as we fulfill the responsibilities placed upon us. May Thy abundant blessings be upon this great assembly we pray in the name of Him who loved us and gave himself for us, Jesus Christ our Lord. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

Mr. JAMES. Mr. Speaker, pursuant to clause 1, rule I, I demand a vote on agreeing to the Speaker's approval of the Journal.

The SPEAKER. The question is on the Chair's approval of the Journal.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. JAMES. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently, a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 305, nays 98, answered "present" 1, not voting 28, as follows:

[Roll No. 99]

YEAS—305

Ackerman	Anthony	Bartlett
Akaka	Applegate	Bateman
Alexander	Archer	Bates
Anderson	Aspin	Beilenson
Andrews	Atkins	Bennett
Annunzio	Barnard	Bereuter
Berman	Grant	Mrazek
Bevill	Gray	Murtha
Bilbray	Green	Myers
Bliley	Guarini	Natcher
Boggs	Gunderson	Neal (MA)
Bonior	Hall (TX)	Neal (NC)
Borski	Hamilton	Nelson
Bosco	Hammerschmidt	Nowak
Boxer	Hansen	Oakar
Brennan	Harris	Oberstar
Brooks	Hatcher	Obey
Broomfield	Hawkins	Olin
Browder	Hayes (IL)	Ortiz
Brown (CA)	Hayes (LA)	Owens (NY)
Bruce	Hefner	Owens (UT)
Bryant	Henry	Packard
Bustamante	Hertel	Pallone
Byron	Hoagland	Panetta
Callahan	Hochbrueckner	Parker
Campbell (CA)	Holloway	Patterson
Campbell (CO)	Horton	Payne (NJ)
Cardin	Houghton	Payne (VA)
Carper	Hoyer	Pease
Carr	Hubbard	Pelosi
Chandler	Huckaby	Penny
Chapman	Hughes	Perkins
Clarke	Hutto	Pickett
Clement	Jenkins	Pickle
Combest	Johnson (CT)	Porter
Conte	Johnson (SD)	Poshard
Conyers	Johnston	Price
Cooper	Jones (GA)	Pursell
Costello	Jones (NC)	Quillen
Coyne	Jontz	Rahall
Crockett	Kanjorski	Rangel
Darden	Kaptur	Ravenel
Davis	Kasich	Ray
de la Garza	Kastenmeier	Regula
DeFazio	Kennedy	Rhodes
DeLay	Kennelly	Richardson
Derrick	Kildee	Rinaldo
Dicks	Kolter	Ritter
Dingell	Kostmayer	Robinson
Dixon	LaFalce	Roe
Donnelly	Lancaster	Rohrabacher
Dorgan (ND)	Lantos	Rose
Downey	Laughlin	Rostenkowski
Dreier	Lehman (FL)	Rowland (CT)
Duncan	Leland	Rowland (GA)
Durbin	Lent	Roybal
Dymally	Levin (MI)	Russo
Dyson	Levine (CA)	Sabo
Early	Lewis (CA)	Saiki
Eckart	Lewis (GA)	Sangmeister
Edwards (CA)	Lipinski	Sarpalius
Edwards (OK)	Lloyd	Savage
Engel	Long	Sawyer
English	Lowey (NY)	Saxton
Erdreich	Luken, Thomas	Schaefer
Espy	Manton	Scheuer
Evans	Markey	Schiff
Fascell	Martin (NY)	Schulze
Fazio	Matsui	Sharp
Feighan	Mazzoli	Shaw
Fish	McCloskey	Shumway
Flake	McCrery	Shuster
Flippo	McCurdy	Sisisky
Foglietta	McDade	Skaggs
Ford (MI)	McDermott	Skeen
Ford (TN)	McEwen	Skelton
Frank	McHugh	Slattery
Frenzel	McMillan (NC)	Slaughter (NY)
Frost	McMillen (MD)	Smith (FL)
Gallo	McNulty	Smith (IA)
Gaydos	Meyers	Smith (NE)
Gejdenson	Mfume	Smith (NJ)
Gephardt	Miller (CA)	Smith (VT)
Gibbons	Miller (WA)	Snowe
Gillmor	Mineta	Solarz
Gilman	Mollohan	Spence
Gingrich	Montgomery	Spratt
Glickman	Moody	Staggers
Gonzalez	Morella	Stallings
Gordon	Morrison (CT)	Stark
Gradison	Morrison (WA)	Stearns
Stenholm	Towns	Weiss
Stokes	Traficant	Weldon
Studds	Traxler	Whitten
Swift	Unsoeld	Wilson
Synar	Valentine	Wise
Tallon	Vander Jagt	Wolpe
Tanner	Vento	Wyden
Tauzin	Visclosky	Wylie
Thomas (GA)	Walgren	Yates
Thomas (WY)	Walsh	Yatron
Torricelli	Watkins	

NAYS—98

Armey	Herger	Roberts
AuCoin	Hiler	Rogers
Baker	Hopkins	Roth
Ballenger	Hunter	Roukema
Barton	Hyde	Schroeder
Bentley	Inhofe	Schuette
Bilirakis	Ireland	Sensenbrenner
Boehlert	Jacobs	Shays
Brown (CO)	James	Sikorski
Buechner	Kolbe	Slaughter (VA)
Bunning	Kyl	Smith (MS)
Burton	Lagomarsino	Smith (TX)
Clay	Lewis (FL)	Smith, Denny (OR)
Clinger	Lightfoot	
Coble	Lowery (CA)	Smith, Robert (NH)
Coughlin	Lukens, Donald	
Cox	Machtley	Smith, Robert (OR)
Craig	Madigan	
Crane	Marlenee	Solomon
Dannemeyer	Martin (IL)	Stangeland
DeWine	McCandless	Stump
Dickinson	McCollum	Sundquist
Dornan (CA)	McGrath	Tauke
Douglas	Michel	Thomas (CA)
Emerson	Miller (OH)	Upton
Fawell	Molinari	Volkmer
Gallegly	Moorhead	Walker
Gekas	Murphy	Weber
Goodling	Nielson	Wheat
Goss	Oxley	Whittaker
Grandy	Pashayan	Wolf
Hancock	Paxon	Young (AK)
Hastert	Petri	Young (FL)
Hefley	Ridge	

ANSWERED "PRESENT"—1

Dwyer

NOT VOTING—28

Boucher	Kleczka	Schneider
Coleman (MO)	Leach (IA)	Schumer
Coleman (TX)	Leath (TX)	Torres
Collins	Lehman (CA)	Udall
Courter	Livingston	Vucanovich
Dellums	Martinez	Waxman
Fields	Mavroules	Williams
Florio	Moakley	Wright
Garcia	Nagle	
Hall (OH)	Parris	

□ 1227

So the Journal was approved.

The result of the vote was announced as above recorded.

PLEDGE OF ALLEGIANCE

The SPEAKER. The Chair recognizes the gentleman from Georgia [Mr. JONES] to lead the House in the Pledge of Allegiance.

Mr. JONES of Georgia led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under

God, indivisible, with liberty and justice for all.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate had passed with amendments in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 1278. An act to reform, recapitalize, and consolidate the Federal deposit insurance system, to enhance the regulatory and enforcement powers of Federal financial institutions regulatory agencies, and for other purposes.

The message also announced that the Senate insists upon its amendment to the bill (H.R. 1278), "An act to reform, recapitalize, and consolidate the Federal deposit insurance system, to enhance the regulatory and enforcement powers of Federal financial institutions regulatory agencies, and for other purposes," requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. RIEGLE, Mr. CRANSTON, Mr. SARBANES, Mr. GARN, and Mr. HEINZ to reconcile all provisions of H.R. 1278 and of the Senate amendment to H.R. 1278, except those in sections 1401 and 1402 of H.R. 1278, Mr. BENTSEN, Mr. MATSUNAGA, and Mr. PACKWOOD are appointed as additional conferees solely for the consideration of reconciling:

First, sections 1401 and 1402 of H.R. 1278, and the specific disagreeing provisions of sections 501 and 502 of the Senate amendment to H.R. 1278 relating to the tax-exempt status of the Resolution Trust Corporation and the Resolution Funding Corporation—new paragraphs 21A(k) and 21B(f)(7) of the Federal Home Loan Bank Act; and

Second, sections 1403 and 1404 of H.R. 1278 be the conferees on the part of the Senate.

The message also announced that the Senate had passed bills of the following titles, in which the concurrence of the House is requested:

S. 1077. An act to authorize the President to appoint Admiral James B. Busey to the Office of Administrator of the Federal Aviation Administration; and

S. 1180. An act to authorize the President to appoint Rear Admiral Richard Harrison Truly to the Office of Administrator of the National Aeronautics and Space Administration.

THE REVEREND JERRY PRICE

(Mr. THOMAS of Georgia asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. THOMAS of Georgia. Mr. Speaker, I rise simply to say how proud I am to have my hometown minister, Rev. Jerry Price, offer this morning's prayer. He is pastor of the Patterson, GA, Baptist Church, the church home in which I grew up. My mother and father are members of his church today. I therefore put my colleagues on notice that I expect them to put in a good word for me with my hometown preacher today.

Seriously, I want to say how proud I am of the faithful service of Reverend Price as he has led the congregation of Patterson Baptist for the past 9 years. He and his charming wife Sue and their children, Joel and Michel, are dear friends of mine and my entire family.

I feel a special connection to this 102-year-old church because my grandfather donated the land that the church building is located today.

Mr. Speaker, it is citizens such as Reverend Price and his family who are the bedrock of this great democracy. I thank him for his service to my church, my country, and to this body today.

CONFERENCE REPORT ON H.R. 1722, NATURAL GAS WELLHEAD DECONTROL ACT OF 1989

Mr. SHARP submitted the following conference report and statement on the bill (H.R. 1722) to amend the Natural Gas Policy Act of 1978 to eliminate wellhead price and nonprice controls on the first sale of natural gas, and to make technical and conforming amendments to such act:

CONFERENCE REPORT (H. REPT. 101-100)

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 1722) to amend the Natural Gas Policy Act of 1978 to eliminate wellhead price and nonprice controls on the first sale of natural gas, and to make technical and conforming amendments to such Act, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its amendment numbered 1.

That the House recede from its disagreement to the amendment of the Senate numbered 2, and agree to the same with amendments as follows:

Restore the matter proposed to be stricken by the Senate amendment, and on page 3, line 10 of the House engrossed bill, strike "March 23, 1989" and insert in lieu thereof "the date of enactment of the Natural Gas Wellhead Decontrol Act of 1989", and on page 3, lines 12 and 13 of the House engrossed bill, strike "the first day after the date of enactment of the Natural Gas Wellhead Decontrol Act of 1989" and insert in lieu thereof "May 15, 1991".

And the Senate agree to the same.

JOHN D. DINGELL,
PHILIP R. SHARP,
BILLY TAUZIN,
NORMAN F. LENT,
CARLOS MOORHEAD,
Managers on the Part of the House.

J. BENNETT JOHNSTON,
DALE BUMPERS,
WENDELL H. FORD,
JAMES A. MCCLURE,
PETE DOMENICI,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 1722) to amend the Natural Gas Policy Act of 1978 to eliminate wellhead price and nonprice controls on the first sale of natural gas, and to make technical and conforming amendments to such Act, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

With one exception, the provisions of H.R. 1722 as approved by the House and as amended and approved by the Senate are identical.

IDENTICAL PROVISIONS OF BOTH BILLS

Both the Senate and House bills—

Decontrol gas under expired, terminated, or new contracts, effective on the day after enactment;

Decontrol gas under contracts that expire or terminate during the next three and one-half years, as these contracts end;

Decontrol any newly renegotiated contract in accord with its new terms during this same three and one-half year period; and

Decontrol all remaining regulated gas on January 1, 1993.

The purpose and effect of these identical provisions, as detailed in the reports of the Senate and House committees, are jointly endorsed and supported by all conferees.

NEWLY SPUDDED WELLS

The only difference between the Senate and House bills is in their treatment of natural gas from newly spudded wells.

The House-passed bill immediately decontrolled such gas. It provided that the flow of gas from all wells spudded after March 23, 1989, is decontrolled after enactment.

The Senate-passed bill had no special provision that decontrolled gas from newly spudded wells. It thus decontrols such gas on January 1, 1993, or earlier if the gas from the new well is under a new contract or a contract that expired, terminated, or was renegotiated before 1993.

CONFERENCE COMPROMISE

After careful consideration, the conferees have agreed to the following compromise:

Deliveries of natural gas produced from wells spudded after the date of enactment of the Natural Gas Wellhead Decontrol Act of 1989 will be decontrolled on May 15, 1991.

This is a compromise between the House bill which decontrols such gas on enactment (approximately July 1, 1989), and the Senate bill which decontrols such gas on January 1, 1993. This provides a period for transition and equity purposes to both sellers and buyers of gas under existing contracts.

The conferees recognize that by virtue of this provision, some low cost controlled gas may move up in price, and some costly controlled gas may move down. As with all other provisions of the legislation, the conferees intend that no contract for a "first sale" of natural gas be abrogated by this provision; instead, the conferees intend that applicable contracts and contract law shall continue to govern first sales of gas from newly spudded wells.

JOHN D. DINGELL,
PHILIP R. SHARP,
BILLY TAUZIN,

NORMAN F. LENT,
CARLOS MOORHEAD,
Managers on the Part of the House.
J. BENNETT JOHNSTON,
DALE BUMPERS,
WENDELL H. FORD,
JAMES A. MCCLURE,
PETE DOMENICI,
Managers on the Part of the Senate.

□ 1230

CONSTITUTIONAL AMENDMENT TO BRING RESPECT TO THE U.S. FLAG

(Mr. MONTGOMERY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MONTGOMERY. Mr. Speaker, I was really disappointed with the Supreme Court decision that in certain cases one can burn the American flag and is protected under the first amendment rights.

Mr. Speaker, this is the same flag we just gave a Pledge of Allegiance to. It is plain-out unbelievable what this Supreme Court has done.

The American flag is a symbol of freedom and democracy here and throughout the world. More than 1 million Americans have died defending the flag, and millions more have been severely wounded.

Mr. Speaker, I have a bill in the Committee on the Judiciary that would make it illegal to knowingly put the flag on the ground and stand on it. However, Mr. Speaker, we might need a constitutional amendment to bring respect back to the American flag.

JERRY SOLOMON ON FLAG DESECRATION

(Mr. SOLOMON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SOLOMON. Mr. Speaker, the U.S. Supreme Court decision declaring unconstitutional Federal and State laws that would make it illegal to desecrate our American flag was shocking to most Americans. It was, indeed, a sad day for America.

The U.S. flag is the symbol of all that is good about America, not the least of which is our cherished freedom of speech and the rights of minorities.

We Americans are an independent bunch who often argue and fight with each other, as we do right here in this Congress.

But the one symbol that holds us together as friends and as Americans is that symbol of America, Old Glory.

Whether the Supreme Court was right or wrong, and I think they were wrong, we must restore respect for that flag; therefore, next week we will be introducing a constitutional amendment which would uphold a law making it illegal to desecrate the American flag, and I would welcome your original cosponsorship.

OVERTURN TEXAS VERSUS JOHNSON

(Mr. PICKETT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PICKETT. Mr. Speaker, I am today introducing a resolution proposing an amendment to the Constitution to overturn yesterday's Supreme Court decision in the case of Texas versus Johnson.

Since the beginning of our Nation, the flag of the United States has stood as a profound symbol of the liberty and democracy that Americans hold dear. It has inspired our troops in battle, and it has been a beacon of hope to those in distant lands.

With this decision, the Court cloaks the most offensive behavior as political expression. I submit that burning the flag is not expression. It conveys no real ideas, no political thoughts. It is an act that is designed solely to shock the moral sensibilities and patriotic impulses of our people.

We have been told that under our law free speech does not extend to such acts as yelling "fire" in a crowded theater. This amendment will make sure that it does not extend to such acts as setting fire to the American flag.

I urge my colleagues to support this resolution.

PERMISSION FOR COMMITTEE ON PUBLIC WORKS AND TRANSPORTATION TO SIT TODAY DURING 5-MINUTE RULE

Mr. BOSCO. Mr. Speaker, I ask unanimous consent that the Committee on Public Works and Transportation be permitted to sit today, Thursday, June 22, 1989, during the 5-minute rule.

Mr. Speaker, this has been approved by the minority.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

Mr. WALKER. Mr. Speaker, reserving the right to object, I did not quite hear the gentleman from California. Did he say that it has been approved by the minority?

Mr. BOSCO. If the gentleman will yield, the gentleman from Pennsylvania is correct, Mr. Speaker. It has been approved by the minority through the gentleman from Arkansas [Mr. HAMMERSCHMIDT].

Mr. WALKER. Mr. Speaker, does the gentleman from California know exactly who approved it?

Mr. BOSCO. The gentleman from Arkansas [Mr. HAMMERSCHMIDT].

Mr. WALKER. Mr. Speaker, I thank the gentleman from California.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

PERMISSION FOR COMMITTEE ON MERCHANT MARINE AND FISHERIES TO HAVE UNTIL 5 P.M. FRIDAY, JUNE 23, 1989, TO FILE REPORT ON HOUSE JOINT RESOLUTION 281

Mr. BOSCO. Mr. Speaker, I ask unanimous consent that the Committee on Merchant Marine and Fisheries have until 5 p.m. on Friday, June 23, 1989, to file a report on House Joint Resolution 281. This request has been cleared with the minority leadership of the Merchant Marine and Fisheries Committee. To my knowledge, there is no objection.

The SPEAKER pro tempore (Mr. GONZALEZ). Is there objection to the request of the gentleman from California?

There was no objection.

LET THE SUPREME COURT HEAR OUR WORDS

(Mr. SCHUETTE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SCHUETTE. Mr. Speaker, free speech, freedom of expression, the first amendment in our Constitution, 200 years of cherished rights, 200 years of significant responsibility. The Supreme Court has spoken and said, "You can't say 'fire' in a crowded theater," but it says, "You may set fire to the American flag." Forty-eight States' laws up in smoke. I do not like the Supreme Court's words, and, Mr. Speaker, our flag is not just another symbol.

I assume that perhaps as early as today we will introduce an amendment to the Constitution to prohibit the burning, defiling, desecrating, demeaning of our flag.

Let Congress speak, and let the Supreme Court hear our expression about our American flag.

NOW CONGRESS WANTS TO SEE SAUDI ACTION FOR PEACE

(Mr. LEVINE of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LEVINE of California. Mr. Speaker, President Bush just sent to Congress almost $1 billion in new military requests for Saudi Arabia, and Secretary Baker just this morning suggested to the Committee on Foreign Affairs that this may be the tip of the

iceberg. The Secretary also accused Congress in selectively opposing some of these sales of a knee-jerk reaction.

Mr. Speaker, apparently the Secretary forgot that Congress has already approved $30 billion worth of sales to Saudi Arabia, some $24 billion worth of weapon systems.

Now, Mr. Speaker, Congress wants to see Saudi action for peace in the region, and we would like to see administration support for arms reductions, not simply sale upon new sale. If the administration does decide to consult with Congress, Mr. Speaker, it will learn that our opposition is not kneejerk, and it may even learn that some of these lethal sales are fundamentally contrary to American interests in the region. Hopefully, once it learns the facts, it may rethink its misguided policy.

YESTERDAY'S SUPREME COURT RULING ON THE AMERICAN FLAG

(Mr. WOLF asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WOLF. Mr. Speaker, today's Washington Post reports on a Supreme Court ruling yesterday which, in effect, says that the first amendment protects protesters who burn American flags in political demonstrations. The ruling overturned flag desecration statutes in 48 States and a Federal statute as well.

As Justice Rehnquist noted in his dissent, however:

> For more than 200 years, the American flag has occupied a unique position as the symbol of our Nation, a uniqueness that justifies a governmental prohibition against flag burning.

I agree. For that reason, I am introducing today an amendment to the Constitution which would protect our flag. The amendment reads simply, "No person shall publicly mutilate, deface, defile, burn, or trample on the flag of the United States."

As a body, we pledge allegiance to the flag each day. Schoolchildren across the Nation pledge allegiance to the flag each day. Thousands of Americans have lost their lives fighting for the freedom the flag embodies. One only need visit the Iwo Jima Memorial—a few miles from this Chamber—to see valiant marines struggling to raise the American flag.

It is only proper that we protect this symbol of all the United States stands for.

Mr. Speaker, Justice John Paul Stevens, who also dissented from the majority opinion, summed up the situation perfectly:

> * * * if the ideas of liberty and equality * * * are worth fighting for, then it cannot be true that the flag that uniquely symbolizes their power is not itself worthy of protection from unnecessary desecration.

SARPALIUS' FIRST 6 MONTHS

(Mr. SARPALIUS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SARPALIUS. Mr. Speaker, I am amazed at what I have seen in my first 6 months as a Member of this body. Nothing has surprised me more than the action that was taken by our supposedly conservative Supreme Court.

Mr. Speaker, just out those doors is a large Mall, and in the middle of that Mall is a monument to George Washington, behind that, a monument to Abraham Lincoln. But across the Potomac River is Arlington Cemetery.

□ 1240

There lie the remains of thousands and thousands of lives, people who gave their lives so that we could enjoy this symbol. This symbol was placed on their coffins, and here we are today saying that it is legal to burn that symbol that stands for justice, freedom, and opportunity for all people.

I challenge every American citizen to show their flags with pride, show them with pride until we can change that decision hopefully within this body, so that we can show that we do have respect for that symbol that they gave their lives for.

FLAG BURNING

(Mr. MARLENEE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MARLENEE. Mr. Speaker, six brave and grimy men; six extraordinary men; six men from different walks of life—these six men scrambled to the top of Mount Suribachi. They knew in their heart that the sacrifices that they had made had been worth it.

These six battle-weary men knew that the free world would not forget, and with their last ounce of determination they raised for the world to see our beloved flag.

Yesterday, these six brave soldiers were symbolically shot in the back by five men in black robes.

The treasonous nature of the decision on the bench should be remembered every time we say the pledge of allegiance. It should be remembered every time we sing the national anthem. It should be remembered as we pass Arlington National Cemetery or Pearl Harbor.

Six brave men raised the flag and five Supreme Court Justices tore it down. Perhaps another monument with the names of the black-robed Justices cut in stone should be laid like a tombstone at the foot of the Iwo Jima Memorial.

STIFFER SANCTIONS AGAINST CHINA NEEDED

(Mr. BRENNAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BRENNAN. Mr. Speaker, the nightmare in China cries out loudly for our immediate action. Despite pleas from our country and our allies for clemency, China is moving swiftly to execute student protesters.

We must show in a more forceful way our outrage with the brutal treatment of the Chinese Government of their young students. I call on President Bush and Secretary of State Baker to immediately remove most-favored-nation trade status from China. A nation which kills its students who are only expressing a desire for greater freedom, does not deserve nor merit the benefits of favored trading status with the United States of America.

Our words of protest are not enough in the face of China's brutality. America must stand up and say its commitment to freedom is greater than it is to dollars. Should the repression and brutality by the Chinese Government continue, we should move toward additional sanctions. A prohibition on trade with China is our next logical response.

I urge my colleagues to join me in support of H.R. 2613 to remove trade preference from the brutal Chinese Government.

OPPOSITION TO EXPENDITURE TARGETS

(Mrs. SAIKI asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. SAIKI. Mr. Speaker, this body has been struggling with spending cuts to meet budget targets and reduce the deficit. The effects of budget cuts are being felt in all areas.

The Medicare Program is expected to be restrained by billions of dollars. To soften the effects of restraint, it is suggested that the Medicare reimbursement system be refined under the resource based relative value scale [RBRVS].

However, the Ways and Means Subcommittee on Health recently approved a plan which would go far beyond the relative value scale proposal by implementing expenditure targets. This is an extreme way to control the rising cost of health care.

There is a very real concern that by limiting physician services in this fashion, Congress will be forcing rationed health care. Medicare serves millions of elderly and disabled individuals who are too frail or elderly to wait for their number to come up to receive care. The Canadian system currently practices a similar method so we know

how rationing works—or rather doesn't work.

I strongly urge my colleagues to join me in opposing this proposal.

DEBATE THE AMERICAN TAXPAYER ASSISTANCE ACT OF 1989, NOT FOREIGN AID GIVEAWAY BILL

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TRAFICANT. Mr. Speaker, today we will debate the foreign aid bill. It is officially called the International Cooperation Act of 1989. That is a nice name.

This bill will send $11.5 billion overseas next year, and that is an increase of 7 percent from the last year.

Now, think about it, 7 percent more for foreign aid, yet American programs continue to be cut every day in this body.

Now, President Bush went a step further. He wants to be known as the education President and to prove that, he is willing to increase education spending in America by 2 percent. Two percent for education, 7 percent for foreign aid, yet he wants to cut out the Perkins loans and State grants. That says it all.

I say Congress today should be debating the American Taxpayer Assistance Act of 1989, not the foreign aid giveaway bill.

Think about it.

PROTECT OUR FLAG

(Mr. STEARNS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. STEARNS. Mr. Speaker, I share with millions of other Americans the outrage at the decision of the Supreme Court which ruled yesterday that the first amendment protects protesters who burn American flags in political demonstrations.

As far back as I can remember, Americans have fostered reverence and pride for our flag. Its unique position as the symbol of our country cannot be perpetuated if we allow its citizens to desecrate it.

I urge all of my colleagues in the House and Senate to voice their concern on this sad day.

A sad day when you think of the soldiers who scaled the bluff at Omaha Beach, fought inch by inch in the islands of Iwo Jima to further the ideas of liberty and equality, now only to find in their lifetime that the flag itself is now not worthy of protection from unnecessary desecration.

This flag is a living symbol of all our freedoms. Not only must we respect it, we must protect it. Much like we protect the rights and freedoms of our citizens.

QUEENS PROFILE/NATHANIEL E. SINGLETON

(Mr. FLAKE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FLAKE. Mr. Speaker, today I rise to express commendations to a citizen of the Jamaican community, Nathaniel E. Singleton, who is the executive director of the Association of Minority Enterprises, which promotes economic, commercial, and industrial growth for minority businesses; president of Met Con Enterprises, Inc., in Jamaica; director of local business centers for the city department of commerce and industry; founder and board president of the Jamaica Political Action League; board member of the Jamaica branch of the NAACP; member of the St. Albans Chamber of Commerce; who chairs the Alliance of Majority & Minority Contractors of New York State; board member of New York City NASCAP, Inc., and the National Association of Skycaps Inc.

Nat Singleton has demonstrated ability and leadership. Last year alone he was able to bring through AMENY 70 million dollars' worth of contracts for members of the minority community.

At 69 years of age he still has much energy and continues to move forward to do a marvelous job for minorities in this country, and in the light of recent Supreme Court decisions I think he is worthy of our commendation.

U.S. FLAGS SHOULD BE FLOWN AT HALF MAST

(Mrs. BENTLEY asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. BENTLEY. Mr. Speaker, today and for the next 29 days, all Americans should fly the U.S. flag at half staff, as yesterday five Justices of the Supreme Court summarily executed the tradition and honor of the symbol of the United States—the flag.

The Justices decided that burning the flag was constitutionally protected free speech.

This is the symbol for which thousands upon thousands of Americans have died. Jefferson, Madison, and Washington would have been horrified at such a decision. They risked their lives and their fortunes to establish this Nation—of laws, which the Supreme has decided it is the final—and only arbiter.

Today, I am introducing a constitutional amendment that will disallow this Supreme Court protected privilege.

I ask all my colleagues to join in and right this injustice, and I ask all veterans, and all others who have sacrificed for their country to join me in flying their flags at half staff.

□ 1250

SUPREME COURT FLAG-BURNING RULING OFFENSIVE

(Mr. AuCOIN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. AuCOIN. Mr. Speaker, I am a liberal Democrat who served his country for 3 years as a volunteer in the U.S. Army, and I am deeply offended by the Supreme Court's ruling that the burning of the American flag is a permissible form of political debate.

What is so amazing about this is that this ruling comes from the Reagan Court. My constituents told me that they thought electing Republican Presidents would result in a Court that honors basic American values. Imagine their surprise, Mr. Speaker, today. The Reagan Court has given us now constitutional protection for the burning of Old Glory.

This liberal Democrat says for shame.

INTRODUCTION OF THE AMERICAN ECONOMIC OPPORTUNITY ACT

(Mr. LEWIS of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LEWIS of California. Mr. Speaker, this morning I was joined by several of my House and Senate colleagues announcing the American Economic Opportunity Act and to celebrate 79 months of recordbreaking growth in our economy. The AEOA is a comprehensive economic package that presents a Republican economic blueprint for continued positive economic growth through the rest of the century.

It consists of both new and existing legislation that have one thing in common: They empower our citizens by providing economic opportunity. Such opportunity is presented through enterprise zones, a lowered capital gains tax, tenant management, and changes in the earned income tax credit. These are but a few of the proposals made a part of this act.

The AEOA is supported by the Republican leadership and by many in the business and academic community. Several of our colleagues in the other body have plans to introduce a similar package. I plan to introduce the remaining portions of the act here in the House today.

House Republicans have long been a source of major economic proposals—

Kemp-Roth; Gramm-Latta, for example—and we take pride in that fact. But we have a new Speaker and a new opportunity in this House. We want to reach out to our colleagues across the aisle and invite them to work with us in achieving our mutual goal of continued economic growth into the 1990's.

JUDICIARY IN THIS COUNTRY HAS GONE TOO FAR

(Mr. BURTON of Indiana asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BURTON of Indiana. Mr. Speaker, George M. Cohan wrote:

You're a grand old flag,
You're a high flyin' flag
And forever in peace may you wave.
You're the emblem of the land I love
The home of the free and the brave.

Every heart beats true
Under red, white and blue
Where there's never a boast or a brag
But should old acquaintance be forgot
Keep your eyes on the grand old flag.

Mr. Speaker, Mr. Cohan, must be turning in his grave.

Americans have fought and died for that flag all over the world. Many have given their lives just because they did not want it to touch the ground, if you can believe that, during combat.

Yesterday the Supreme Court ruled on a case that involved a Communist, Gregory "Joey" Johnson, a member of the Revolutionary Communist Youth Brigade, who was convicted in August 1984 of burning the American flag. The Supreme Court said, and I quote, "that neither the States nor the Federal Government may criminalize flag desecration intended as a political statement even if it offends onlookers."

What are we coming to in this country?

In addition to that, a municipal judge in Las Cruces, NM, convicted a Navy WWII veteran of flying his flag because it made too much noise.

Mr. Speaker, the judiciary in this country has gone too far. Shame on that judge in New Mexico, and shame on these judges, Justice William Brennan, Justice Harry Blackmun, Justice Anthony Kennedy, Justice Thurgood Marshall, and Justice Antonin Scalia; shame on you, shame on you.

LET US PROVIDE VOLUNTEER SERVICE OPPORTUNITIES FOR ALL YOUNG PEOPLE, NOT JUST THE RICH

(Mr. PANETTA asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PANETTA. Mr. Speaker, President Bush is right today to bring attention to the critical issue of voluntary youth service, but he is wrong, because his proposal focuses mainly on providing these opportunities to the children of the affluent when, in fact, we should be providing national service opportunities for all young people, the dropout, the poor, the unemployed, as well as the affluent.

I agree with the President that volunteer service encourages fortunate young people to give something back to society and makes them better citizens. But it is not only that. For those who have started life with few advantages, it is an opportunity to build self-confidence, to learn the benefits of commitment, and to prepare for school or a career.

I have introduced legislation, with 95 cosponsors, to establish a volunteer youth service and conservation program that makes sense for all young people, regardless of their background. It is not a broad national program. It is a modest, low-cost program which would provide matching grants to States and localities for volunteer programs which meet human, social, and conservation needs at the State or local level.

Unlike the President, we would offer young people working in these programs education and employment benefits which would enable them to move from their volunteer service to new school or career opportunities.

Youth service is not just for one group of citizens. It's for all young people. I look forward to working with the President to achieve a sensible, fair, and equal youth service program.

INTRODUCTION OF LEGISLATION CALLING FOR AMENDMENT TO U.S. CONSTITUTION DECLARING DESECRATION OF THE FLAG ILLEGAL

(Mr. BILIRAKIS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BILIRAKIS. Mr. Speaker, I rise before the House today saddened, shocked, numbed really at yesterday's decision of the Supreme Court upholding the burning of the American flag as free speech.

I am not a man to lightly seek limitations on the right of free speech granted by our Constitution, but at the same time this right does have limitations. After all, no one has the right to shout "fire" in a crowded theater.

Likewise, I do not believe that anyone should have the right to desecrate by any means the sacred symbol of everything our Nation stands for: Freedom, democracy, liberty. I do not accept the argument that the destruction of the Amercian flag is a legitimate form of political protest. The flag is not the symbol of any particular government, it is not the symbol of any particular policy. It is the symbol of the highest, noblest ideals of mankind, that all men should live free in control of their own destinies, and these ideals require, they demand, our protection.

Therefore, I know not what others may do, but today I have already introduced legislation calling for an amendment to the U.S. Constitution giving the Congress and the States the power to declare the desecration of the flag illegal and to set applicable criminal penalties.

RALLY ROUND THE FLAG

(Mr. STENHOLM asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. STENHOLM. Mr. Speaker, today the citizens of the 17th District of Texas join me in a day of grief. Why? Because of the injury inflicted yesterday on a true friend, a true inspiration and leader, by the U.S. Supreme Court. I refer, of course, to the 5 to 4 decision by the Court that burning Old Glory, the flag of the United States of America, is not a violation of law.

Moments ago this body stood to make its daily Pledge of Allegiance to the flag of the United States of Amercia. Perhaps the Supreme Court should begin its days in similar fashion so that it will remember how most Americans feel about the flag. Perhaps the Supreme Court finds no wrongdoing in treating the flag with anything less than full respect. But I'm here to tell you that my constituents in west Texas feel otherwise.

The American flag is no mere cut of colored cloth. It is a symbol of freedom and democracy throughout the world. It signifies all that we cherish and uphold here in this democracy. It flies in noble respect and gratitude for the more than 1 million Americans who have died defending our great land.

Indeed, the freedom of speech which the Supreme Court claims to be upholding by its decision is one of the most precious ones we enjoy in America. But this court decision, in effect, is an insult to all who have ever died, all who have ever fought, all who have ever defended that precious freedom.

Yes, today we in the 17th district are saddened by the insult flung at our flag. But we have no intention of standing quietly by in silent grief. Through legislative action, we intend to let the country know, let the U.S. Supreme Court know, that to us Old Glory is forever grand, forever loved, and forever respected.

□ 1300

FLAG DESECRATION

(Mr. GOSS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GOSS. Mr. Speaker, yesterday the Supreme Court said burning the American flag is an acceptable form of free expression.

That unbelievable decision sent an ominous message to every American citizen, particularly our Nation's veterans and our children—a message that says "the American flag, and everything it represents, does not deserve a special place in our society."

The U.S. flag is the symbol for everything this country holds dear—including our Constitution and the individual liberties our Constitution protects.

Since the beginning of our Nation's history, the flag has been afforded the highest level of respect.

We follow special procedures for flying the flag, carrying the flag, and conferring the flag on our Nation's heroes.

We teach our children that the American flag should be cherished as a testament to this country's history.

And each day the Members of this House pledge allegiance to the flag and, "to the Republic for which it stands."

What are we saying to our children when we tell them it is OK to burn the flag in protest? What are we saying to our Nation's veterans who were willing to give their lives to protect the flag?

In 1979 the American people were horrified by vivid images of Iranian terrorists burning the American flag as they chanted "death to the United States." To think that such images could become commonplace in our own country is a terribly distressing thought.

FESTIVAL OF AMERICAN FOLK LIFE

(Mr. AKAKA asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. AKAKA. Mr. Speaker, I rise today to welcome from my beautiful State of Hawaii participants in the Festival of American Folklife. The Folklife Festival is coordinated by the Smithsonian Institute and the National Park Service to present the folklife of America and the world to visitors of Washington, DC.

This year, Hawaii's participation will exhibit the rich heritage and diverse cultures that make our State so unique, so special, so beautiful. Japanese, Chinese, Filipino, Portuguese, Hawaiian, and other cultures have gathered together to create a place where many cultures have become one family.

Mr. Speaker, I invite my colleagues and the people of this Nation to join us tomorrow, June 23 through July 4, at the Folklife Festival to experience and become part of the Aloha of Hawaii. The people of Hawaii have traveled many miles to share their delicious food and their special talent and skills, and I thank them for their part in bringing our living culture here. I would also like to thank all those who have contributed their time and hard work to make this festival an outstanding success.

As we begin the 23d annual Festival of American Folklife, let us not forget that America like Hawaii is a gathering place where many peoples can continue to strive to live as one family, one ohana.

SUPREME COURT RULING ON FLAG BURNING

(Mr. DUNCAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DUNCAN. Mr. Speaker, the ruling by the U.S. Supreme Court yesterday that flag burning is a constitutionally protected form of free speech is just plain ridiculous.

As a former judge I was very disappointed by this decision.

As Justice Kennedy, who unfortunately voted with the majority said:

> Many including some who have had the singular honor of carrying the flag in battle will be dismayed by our holding.

I would like to be counted as another who is dismayed by this decision.

Chief Justice Rehnquist said:

> For more than 200 years, the American flag has occupied a unique position as the symbol of our Nation, a uniqueness that justifies a government prohibition against flag burning.

Courts that allow obscenity and flag burning under the umbrella of free speech are stretching the Constitution in ways that would shock our Founding Fathers.

There are many other reasonable ways people could be allowed to dissent and show opposition to our Government without desecrating the flag.

It flies in the face of common sense and is just plain wrong to read protection for things like flag burning, pornography, and obscenity into the first amendment.

The Supreme Court has made a terrible and tragic mistake in this decision yesterday.

SUPREME COURT DECISION ON FLAG DESECRATION

(Mr. SANGMEISTER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SANGMEISTER. Mr. Speaker, I join with my colleagues who have spoken here today because I too believe there can be no question that the Supreme Court's decision in Texas versus Johnson, which protects the desecration of the flag of the United States of America under the protection of the first amendment is not only misguided, but an affront to every American.

I believe there can now be no question that as we read this decision that all Federal and State laws pertaining to the display of the American flag have now been emasculated.

If the U.S. Supreme Court feels that the burning of our national symbol is lawful then all of the other violations that we have been so concerned about such as displaying the flag on the floor, walking on the flag, wearing it as personal apparel, or any other display that may come to mind will now be lawful.

Justice Rehnquist, in his dissent said:

> The Government may conscript men into the Armed Forces where they must fight and perhaps die for the flag, but the Government may not prohibit the public burning of the banner under which they fight.

This made no sense to him and it does not make sense to me.

Particularly offended by this decision are our veterans, but no more offended than rank and file Americans.

As a Congressman and a lawyer, I believe in the first amendment and for those people who do not agree with our Government they can, through that amendment, show their dissent by carrying placards, assembling others of their beliefs, speaking out on their beliefs, without the necessity of destroying the one symbol under which this country unites.

As a Democrat there were not many of President Reagan's programs that I supported, but I always give him credit for instilling in this country a renewed sense of patriotism and pride for our country. Because of this I am surprised that two of his nominees, would vote to allow the degradation of this flag, that President Reagan so dearly loved and that President Bush made such an important issue this past campaign.

In any event, this desecration without question declares open war on our flag which will no longer be the sacred symbol we have held it to be these many years.

THE FLAG

(Mr. HOLLOWAY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HOLLOWAY. Mr. Speaker, this time it has gone too far. Freedom of speech is one thing—but to be permitted to burn the flag of the United States of America? Absolutely ludicrous.

Our beloved flag represents the struggle we and our forefathers fought for, and everything we consider good and just in this great country.

As long as I can remember, I've looked up to the flag. It was not something we always consciously thought about—rather a given—a proud feeling. From the days of saying the Pledge of Allegiance we regarded the flag with respect and a sense of awe.

No one should have the right to destroy something that is so dear to our hearts.

To many of us proud Americans this is a direct slap in the face. And we say loudly—this time it has gone too far.

EXPENDITURE TARGETS

(Mr. TOWNS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TOWNS. Mr. Speaker, I would be the first to admit that the Federal deficit—is a serious problem. However, I don't believe—that we should balance the budget on the backs of America's elderly, by restricting health care. Expenditure targets designed to reduce health-care costs, will actually lead to a reduction in the quality of health care for our seniors. The elimination of unnecessary services will only force a physician to limit, restrict, or postpone access to services.

Are you willing to sanction a policy which will mean that your elderly constituents must struggle along with that bad hip or cloudy vision? Are you willing to tell them to use a cane or a wheelchair until Congress can get its priorities straight? Well, I am not. I am not willing to tell my seniors to suffer a little bit longer so we can pretend to reduce the deficit. Expenditure targets are not the answer for our seniors or for our budget deficit.

URGING PRESIDENT BUSH TO BRING RESOLUTION CONDEMNING CHINA BEFORE U.N. SECURITY COUNCIL

(Mr. RITTER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RITTER. Mr. Speaker, the situation inside China today is grave and disturbing.

But the big lie, violent suppression, mass-arrests, and political executions we see in China have another dimension—regional stability.

Regional peace in Asia, and world peace are threatened by recent human rights violations in China. One-fifth of the world's population lies within the borders of the People's Republic of China. When the leaders of a powerful nation trample on the human rights of their people during times of international peace, these leaders are also more likely to provoke international hostilities. The recent brutal human rights violations in China have security implications for countries of that region such as Korea, Tibet, Hong Kong, Taiwan, and others.

Mr. Speaker, regional security and stability in East Asia are important U.S. concerns.

First, I urge my colleagues to join me and nearly 70 of their colleagues, many of whom have been outspoken on human rights, in condemning China's recent acts of violence by signing a letter I am sending to President Bush urging him to bring before the U.N. Security Council a resolution condemning China for its recent actions.

Second, next Tuesday, I will also be offering an amendment to the foreign aid bill expressing the sense of Congress to do the same.

SUPREME COURT HAS ALLOWED DESTRUCTION OF OUR GREATEST AMERICAN SYMBOL

(Mr. APPLEGATE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. APPLEGATE. Mr. Speaker, I am mad as heck. We have witnessed the greatest travesty in the annals of jurisprudence when the U.S. Supreme Court allowed the destruction of our greatest of American symbols. What in God's name is going on?

One and a quarter million of our American veterans fought and died throughout our history to defend this flag and what it stands for.

The flag right here in this Chamber that we pledge to, we can take it down, throw it on the floor, step on it, defecate on it, do anything we want, burn it, as long as we have a message, and the Court is going to say it is all right.

The Court has humiliated the flag and allowed its desecration in the Chicago court case also. America should be outraged.

Are there any limitations? Are they going to allow fornication in Times Square at high noon? If one has a political and social message to make, why not go ahead and do it? I am sure the Supreme Court will probably uphold it.

If we change the Court, we change the decision. What we need is a constitutional amendment.

□ 1310

THE FLAG

(Mr. DONALD E. "BUZ" LUKENS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DONALD E. "BUZ" LUKENS. Mr. Speaker, what does it say to the world that Americans can now legally burn our flag? We are a nation that prides ourselves as loving the freedom for which our forefathers fought so hard. The stars that were to form a new constellation can now be burned as a symbol of protest rather than pride.

The 77th Congress, because of the great significance of the flag, created a special set of rules concerning the flag. Now it seems that all the special time that was taken by our elected Members concerning "flag etiquette" has gone to waste. We even have Presidential proclamations concerning the flag.

For a country such as the United States which has become the symbol of freedom around the world, with the Stars and Stripes symbolizing this freedom, it makes me sick to think that such a symbol can now be legally burned.

It is unthinkable that all the deaths and sacrifices of millions of Americans over two centuries to secure glory and honor of the flag can now be "thrown in the trash" by the decision of five men.

EXPRESSING OUTRAGE OVER THE SUPREME COURT DECISION OF YESTERDAY

(Mr. LAGOMARSINO asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LAGOMARSINO. Mr. Speaker, I join my colleagues who have spoken today in their outrage over the Supreme Court decision yesterday making it legal to burn the American flag. I think it is indeed an outrageous decision.

It is ironic that on the same day we hear of that decision we hear of the prosecution of another individual who is going to be in trouble with the law for flying his flag because apparently the rippling of it offends his neighbors.

You know, one of the proudest memorials in this town is the Iwo Jima Memorial. It shows brave Marines and one Navy hospital corpsman raising the American flag. Everyone who sees that, even if they have never heard the story of how it came about, are proud and humbled by just witnessing that particular monument.

So I am very proud, too, to have joined in sponsoring a constitutional amendment that will do away with the Supreme Court decision and will do what most Americans in this country, the overwhelming number of Americans in this country, want and that is for it to be a crime to burn the American flag.

Mr. BENNETT. Mr. Speaker, mostly as an American but also as a veteran and also as an erstwhile lawyer, I find this decision by the Supreme Court with regard to the flag obnoxious on every point. Actually, the Supreme Court has been making a series of decisions which are not really very logical from the standpoint of an erstwhile lawyer.

A good example is when they said we in Congress could not control by law the amount of money spent in a campaign. That is absolutely ridiculous.

Other things of this nature have been done by them. They ought to make the Constitution work and our Government work together as a team.

Before I close I would like to say that I will not have time to talk later about the China resolution because I will be in writeup on a defense bill today. But I want to talk now briefly about the China situation. I am strongly in favor of the legislation introduced today on that subject. I am strongly in support of the idea that we ought to stand firm for the ideas of freedom in our time.

I also am happy to join with others today in the introduction of a constitutional amendment to protect our flag as well.

SUPPORTING THE PRESIDENT'S EFFORTS TO IMPOSE SANCTIONS AGAINST CHINA

(Mr. OWENS of Utah asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. OWENS of Utah. Mr. Speaker, I rise today in support of the resolution offered today by our distinguished majority leader commending the President of the United States for his actions in imposing sanctions against China.

On Tuesday of this week, with a handful of other Members I marched from this Capitol to the Embassy of China on Connecticut Avenue, to protest the brutal killing of peaceful demonstrators in Tiananmen Square.

We were able to meet with the Chinese Ambassador. We were stonewalled. We were not met with any responsive concerns or answers to our questions about the indiscriminant slaying of so many young peaceful student demonstrators.

We made two proposals to him. We pleaded with him, first to stop the executions, as a show of good faith, and give more time to let the world see what has happened, to see whether in fact the accused young people are criminals or whether they were peaceful demonstrators.

That was answered, as the world knows, with three students executed yesterday and apparently another 10 or 13 today—a gross travesty of human rights.

We made a second request, and that was to allow a congressional delegation to visit China to see what actually happened.

My guess is that a new Great Wall has descended to block communications between China and the free world, and that our second request will be dealt with as unresponsively as was our first.

I support what President Bush has done to demonstrate our displeasure. I wish he had been even stronger.

SUPREME COURT DECISION SENDS A HORRIBLE SIGNAL TO FREEDOM-LOVING PEOPLES THROUGHOUT THE WORLD

(Mr. DREIER of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DREIER of California. Mr. Speaker, on March 14, 1986, I had the thrill of going to Managua, Nicaragua. When we returned from that trip, one of the staff members of the Embassy sent a cable telling us of how a proud Nicaraguan stood on the tarmac at the runway saluting the American flag as the stars and stripes emblazoned on the side of our airplane took off.

Well, Mr. Speaker, what a horrible signal we are sending to freedom-loving peoples throughout the world with this Supreme Court decision.

In just a few moments we are going to be considering this resolution dealing with the situation in China. What kind of signal does the Supreme Court decision offer to those young people who are struggling for freedom? The Stars and Stripes are clearly the symbol throughout the world, the symbol of freedom, democracy and hope.

Mr. Speaker, I hope very much that my colleagues will join in cosponsoring these many resolutions which will rectify this horrible decision.

SUSPEND INTERIOR DEPARTMENT AID TO CHINA

(Mr. DE LUGO asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DE LUGO. Mr. Speaker, the Government of the United States should not provide assistance to governments of countries which engage in a policy of murdering, injuring, or jailing citizens who speak out or peacefully demonstrate in favor of democracy.

The Government of the People's Republic of China is persisting in such a policy of the violent repression of these inalienable human rights.

Agencies of the Department of the Interior are currently assisting the People's Republic with a number of projects.

Because of this, other leaders of the Interior and Insular Affairs Committee and I are calling on the Secretary to direct that no further assistance be provided by the Department for these or other projects until the People's Republic respects the right of its people to express their aspirations for freedom.

The marginal advantages to the United States of providing this assistance are far outweighted by the disadvantages of cynically and hypocritically assisting a government which acts in a manner so reprehensible to the principles to which our Nation is dedicated.

RETARDED INDIVIDUALS SHOULD NOT BE CONSIDERED INELIGIBLE FOR ASHA PROGRAM

(Mr. WELDON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WELDON. Mr. Speaker, I rise today in support of H.R. 2655, the Foreign Assistance Authorization Act. I will, however, offer one amendment dealing with a specific portion of that bill relating to the American Schools and Hospitals Abroad Program.

I am personally outraged that the Agency for International Development does not consider educational facilities for the mentally retarded to be schools. Mentally retarded individuals should not be considered ineligible for the ASHA Program simply because their curriculum is not the traditional mix of English, math, and history.

AID must not be permitted this latitude to designate what is and what is not a school. My amendment would specifically define schools for the purpose of the American Schools and Hospitals Abroad Program to include facilities which provide services for mentally retarded. This action is consistent with the intent of the ASHA Program.

The amendment will not make any significant change to H.R. 2655 and it will not earmark any money for any specific program. In addition, the amendment will have no cost since it does not call for any additional appropriations.

I believe AID needs to be educated. Congress needs to teach AID that being mentally retarded does not indicate second-rate status.

INTRODUCING RESOLUTION FOR CONSTITUTIONAL AMENDMENT TO BAN DESECRATION OF THE AMERICAN FLAG

(Mr. BEVILL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BEVILL. Mr. Speaker, I rise today to introduce a joint resolution calling for an amendment to the U.S. Constitution which would authorize the Congress and the States to prohib-

it the desecration of the American flag and to set criminal penalties for such an act.

I am shocked by the decision of the U.S. Supreme Court that the burning of the American flag is a form of free speech. This is a slap in the face to every American citizen.

Our flag is a symbol which we have always treated with respect. I feel disgusted and sickened that the highest court in our land would allow the American flag to be misused. In this ruling, the Supreme Court has reversed 200 years of tradition in our Nation.

Yesterday's ruling protects demonstrators who burn the American flag and nullifies all the State laws which prohibit flag desecration.

I want to make it part of our Constitution that our national flag is a symbol of our country and cannot be desecrated. I want to overturn this decision by the Supreme Court.

I believe that a constitutional amendment is justified and it is the only way I see to overturn this ridiculous decision. In my opinion, the vast majority of American citizens would support such a constitutional amendment because most people honor and respect the American flag.

I urge my colleagues to join me in cosponsoring this resolution.

□ 1320

SUPREME COURT TRAGEDY

(Mr. DORNAN of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DORNAN of California. Mr. Speaker, I want to commend the prior speaker, our distinguished chairman from the majority, the gentleman from Alabama [Mr. BEVILL].

I am doing precisely the exact same thing he is doing. I predicted on national television last night that our bill hopper over here would be filled with introduced legislation to take away all powers from the Supreme Court which our forefathers gave Members, the people's house, the House of Congress, in any area we choose. This may be the one area where we choose to say, the people's elected representatives will speak to defend the colors, to save the colors, Old Glory, our great Stars and Stripes.

My words, just like the speaker's, simply say in the House joint resolution, an amendment to the Constitution of the United States, authorizing the Congress and the States to prohibit the act of desecration of the flag of the United States and to set criminal penalties for that act. In this bipartisan, patriotic spirit that we have seen here over the last hour and 22 minutes, I hope we can all get together and rectify this tragic mistake of our great Supreme Court. Save the colors, Mr. Speaker, and let Members do it today.

AMENDMENT TO CONSTITUTION FAVORED

(Mr. MARTIN of New York asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MARTIN of New York. Mr. Speaker, I would like to be associated with the remarks of the gentleman from Alabama [Mr. BEVILL], as well as the gentleman from California [Mr. DORNAN].

Unfortunately, the act of the Supreme Court yesterday is going to require not only an act of Congress but an amendment to the U.S. Constitution. It is an absolute outrage. The Constitution provides for separation of powers, each from the others. Unfortunately, I find in this opinion of the Supreme Court a total separation from reality.

We are often accused here within the Beltway of not being in touch with what is going on around America. I do not want to be disrespectful, but I really wonder if the Justices and the majority in that opinion talk to anyone outside of the courthouse.

Again, I want to salute the gentleman from Alabama [Mr. BEVILL] and the gentleman from California [Mr. DORNAN], and would like to join both, in both or either of the resolutions.

REMOVAL OF NAME AND MEMBERS OF COSPONSOR OF H.R. 1676

Mrs. BOXER. Mr. Speaker, I ask unanimous consent that the name of the gentleman from Oregon, Mr. ROBERT F. (BOB) SMITH, be removed as a cosponsor of H.R. 1676.

The SPEAKER pro tempore (Mr. AUCOIN). Is there objection to the request of the gentlewoman of California?

There was no objection.

SUPPORTING THE PRESIDENT'S CALL FOR CLEMENCY FOR PRODEMOCRACY DEMONSTRATORS ARRESTED IN CHINA

Mr. SOLARZ. Mr. Speaker, I offer a resolution (H. Res. 182) supporting the President of the United States in his call for clemency for the prodemocracy demonstrators arrested in China, and calling upon the leadership of the People's Republic of China to stay further executions of those arrested in the crackdown on prodemocracy demonstrators throughout China and I ask unanimous consent for its immediate consideration.

The SPEAKER pro tempore. The Clerk will report the resolution.

The Clerk read the resolution, as follows:

H. RES. 182

Whereas the United States Government is founded on the principle that all people are endowed with certain unalienable rights, among these being life, liberty, and the pursuit of happiness;

Whereas a wide cross-section of Chinese society recognized their own unalienable rights and attempted to exercise their right to free speech by conducting demonstrations for democratic change which adhered to the highest goals of peace and nonviolence;

Whereas the Government of the People's Republic of China responded to such demonstrations by engaging in a murderous crackdown and brutal repression of the prodemocracy movement in Beijing and elsewhere in China;

Whereas the Chinese Government continues to repress its citizens, including the arrest and sentencing to death of student and labor leaders;

Whereas the Government of the People's Republic of China executed three such individuals on June 21, and seven more individuals the following day, despite widespread international opposition; and

Whereas it is the belief of the people of the United States that those Chinese massacred in Tiananmen Square and elsewhere in China and those Chinese subsequently arrested for their pro-democracy activities are martyrs to the cause of democracy that is sweeping the globe; Now therefore be it;

Resolved, That the House of Representatives, on behalf of the people of the United States, supports the President of the United States in his call for clemency for the prodemocracy demonstrators arrested in China, and calls upon the leadership of the People's Republic of China to stay further executions of those arrested in the crackdown on prodemocracy demonstrators throughout China.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

The SPEAKER pro tempore. The gentleman from New York [Mr. SOLARZ] is recognized for 1 hour.

Mr. SOLARZ. Mr. Speaker, for the purpose of debate only, I yield 30 minutes to the gentleman from Michigan [Mr. BROOMFIELD], pending which I yield myself such time as I may consume.

Mr. SOLARZ. Mr. Speaker, this resolution was primarily drafted by the very distinguished majority leader, the gentleman from Missouri [Mr. GEPHARDT], to whom we all owe a debt of gratitude for taking the leadership in helping to bring this resolution before the House.

I want to emphasize, however, that this is a bipartisan initiative, enjoying very strong support from Members on both sides of the aisle and the cosponsorship of several of the most illustrious Members of this institution. In essence, what the resolution does is to express the very strong support of the House of Representatives for President Bush's efforts to prevail upon the leadership of the People's Republic of China to cease and desist from the course on which they have embarked,

of administering the death penalty to those Chinese who have been found guilty of the terrible crime of protesting on behalf of democracy.

Mr. Speaker, the killing machine in China is under way. Already, 20 Chinese have been executed because of their alleged participation in this effort to seek greater freedom in China. As this resolution clearly states, the continued imposition of the death penalty in that country against those Chinese who have been involved in a movement for democracy would not only constitute a violation of the fundamental human rights of Chinese people, but would also have a chilling effect on Sino-American relations.

Mr. Speaker, a few weeks ago we adopted a resolution calling on the leaders of China to resolve the crisis in their country through peaceful means, and in a way which was compatible with the democratic aspirations of their people. They ignored that resolution. After they decided to crack down with force on the demonstrators in Tiananmen Square, resulting in the deaths of perhaps thousands of innocent Chinese, we adopted another resolution condemning the killings and saying very clearly to the Chinese that a deepening of the repression in their country would have adverse conditions for the relations between our two countries.

They now appear to have ignored that resolution as well. Now, in a call from the heart, we call upon the Chinese leadership to at least have the decency to refrain from snuffing out the life of those who wanted nothing more than to live a life somewhat greater than they have in the past enjoyed in the People's Republic. Let no one be under any doubt whatsoever, if the Chinese leaders continue on this course of action, if they continue to execute those who were involved in the democracy movement, and there is every indication that they plan to continue along that path, it will have serious consequences for the relationship between our two countries. Indeed, I expect next week when we resume our deliberations of the foreign aid bill, to offer an amendment, with broad bipartisan support, and I hope the endorsement of the administration as well, making it very clear to China that we will not continue to conduct business as usual, so long as they continue on this course of repression.

Mr. Speaker, in conclusion, let me just say that political assassinations have not been unknown in the history of the People's Republic of China. Over the course of the last four decades, first through the land reform campaign, then through the Great Leap Forward, then in the Cultural Revolution, literally millions of Chinese have lost their lives for political reasons. I think it is very interesting that in some respects the crackdown in Tiananmen Square and these recent executions seemed to have occasioned greater expressions of concern than the previous deprivations of human rights. To some extent that is undoubtedly due to the fact that television cameras were reporting what was going on in China in a way the media did not in the past. However, it also reflects the extent to which international concerns about human rights have been elevated to a much higher plane. So if we despair over what is happening in China today, we can at least take some satisfaction from the fact that this dissent into repression, these brutal executions, have gone neither unnoticed nor unremarked, and that they have occasioned a massive outpouring of protest and concern, not only in our Nation but in other countries throughout the world.

□ 1330

Mr. BROOMFIELD. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I certainly support the resolution that is being offered by the distinguished majority leader, by the gentleman from New York [Mr. SOLARZ], and by many on our side, including the gentleman from Michigan, which calls on China to stay further executions of prodemocracy protesters.

The executions being carried out by the Chinese authorities are truly barbaric behavior, and we must speak out forcefully against it. The resolution is supportive of the measured steps already being taken by the Bush administration.

Secretary Baker appeared before our Foreign Affairs Committee this morning, and he said,

> When America speaks with one voice in foreign affairs, its initiatives are generally successful, and when we speak with many voices, our initiatives have most often failed.

This resolution, Mr. Speaker, is very much in the tradition of speaking with one voice.

There is a need for continued consultation between Congress and the executive branch. The China situation is fast moving and very, very volatile. It is important that the Bush administration have the option to respond quickly to changes should the situation deteriorate, and that the Congress stay continuously informed on administration actions.

I wish not only to indicate my support for this resolution, but to make the observation that during the consideration of the foreign aid bill there will be many amendments offered on China in the Asia title. I hope that we can fashion a comprehensive amendment which would maintain the bipartisan spirit while giving Congress the opportunity to provide policy direction on this important question. I have already discussed this with the gentleman from New York [Mr. SOLARZ], the chairman of the Subcommittee on Asian and Pacific Affairs, and we will be working on such an amendment.

Mr. Speaker, this is a very important action that we are taking today, and I hope that both Republicans and Democrats will give it their fullest support.

Mr. Speaker, I reserve the balance of my time.

Mr. SOLARZ. Mr. Speaker, I yield 4 minutes to the very distinguished majority leader, the gentleman from Missouri [Mr. GEPHARDT] the author of this resolution.

Mr. GEPHARDT. Mr. Speaker, I want to thank the Members of the House for allowing the gentleman from New York [Mr. SOLARZ] and me to present this resolution to condemn the senseless execution of 20 pro-democracy demonstrators in China, and to call on the Chinese Government to stay the execution of any other demonstrators.

I appreciate the willingness of the Members to interrupt our usual business to consider this resolution. I believe it is essential for us to act now to tell the Chinese Government that there can be no "business-as-usual" as long as they continue their brutal repression of their own people.

In the House, we are now considering what stronger measures may be needed within the context of the foreign aid bill to provide a more comprehensive response to the actions of the Chinese Government.

At the same time, it is essential to tell the Chinese Government now, in no uncertain terms, that the U.S. Congress and the American people stand together in condemning this repression.

The murderous crackdown of the Chinese Government fills me with a personal sadness.

Last November, I visited China and had the honor to meet with students and workers who were calling for a new respect for human rights, self-determination, and personal dignity. Their words were hopeful and filled with optimism. But in their faces, I could see their apprehension.

Many of these students had been born in the middle of the Cultural Revolution—they knew that repression and chaos could easily sweep their country. They knew they had a wild tiger by the tail, but they were determined to see if they could tame it.

On Wednesday, I joined other Members of the House, both Democrats and Republicans, in a call on the Chinese Ambassador here in Washington. We explained the outrage the American people felt over the recent events in China, and called on the Chinese Government to stay the executions of those arrested in the aftermath of its bloody crackdown, to allow foreign of-

ficials to observe the current situation, and to abandon the "Big Lie" by acknowledging their actions and taking responsibility for them.

We left the Chinese Embassy angry and frustrated. It was clear to us that either the Chinese Government didn't understand the depth of feeling on this issue, or they just didn't care.

Twelve hours later, the Chinese Government executed three people for their involvement in the prodemocracy movement. This morning, another seven people were put to death. Many more executions are reportedly planned over the coming weeks.

This must stop. Yesterday, I received a letter from a group of Chinese students studying at the University of Missouri at Columbia. I'd like to read you a few sentences from their letter.

These patriotic Chinese citizens wrote,

> We feel pain in our hearts every time we learn of the news from China about the disaster.
>
> These young Chinese students' lives were taken away by their own Government just because they asked for the very fundamental human rights which are granted by God as well as the Chinese constitution.
>
> We believe that the night of evil will not last long. The Chinese Government may win this battle, but we, the Chinese people, with all the other people over the world behind us, will win the war.

Our resolution says that we are behind the forces of democracy in China. To the parents of the brave students whose lives were cut short, it says, "We share your grief. Your children are martyrs to the cause of democracy that is sweeping the globe."

To the students and workers in the prodemocracy movement, especially those in the jails and hospitals in China, our resolution says, "We pledge to stand by you in your titanic struggle for freedom. Be assured that history is on your side."

And to the Government of China, we say, "The world is watching your actions. Your return to the community of nations depends on your reasoned and humane treatment of dissent within your own country. You can muffle the voices of change for now, but you cannot silence them forever. Stop the killing now."

Mr. Speaker, this resolution is about winning the war. We must stop this repression, and today in a united way we ask the Government of China to bring these executions to an end.

Mr. SOLARZ. Mr. Speaker, I yield 1½ minutes to the distinguished chairman of the Committee on Foreign Affairs, the gentleman from Florida [Mr. FASCELL].

Mr. FASCELL. Mr. Speaker, I thank the gentleman for yielding this time to me.

While the majority leader is in the well, let me say that I commend him for his remarks that he made on this resolution and for exercising prompt leadership in formulating a resolution so that we could speak out in a united voice on the horrible situation that confronts the Chinese people, but making clear once again the fundamental principle that is involved here, with the people of the United States and with us as their representatives in the Congress speaking out.

I say to the majority leader that some folks might wonder why he took the lead in formulating this resolution and presenting to the Congress since we had already spoken. This answer is quite clear. It is because the events are such that it requires us to speak whenever the events are such that we cannot remain silent. And it may very well be, Mr. Speaker, that the majority leader will once again have to take the well of the House and exercise the leadership of the Congress to speak out on this issue in the next 2 days, and we should not hesitate in the slightest or have the slightest reservation in speaking out again in a united voice, if that is what it takes.

So, Mr. Speaker, I want to commend our majority leader as he takes this strong initiative.

Mr. GEPHARDT. Mr. Speaker, I thank the chairman of the committee.

Mr. BROOMFIELD. Mr. Speaker, I yield 1 minute to the gentleman from Illinois [Mr. HYDE], a member of the Committee on Foreign Affairs.

Mr. HYDE. Mr. Speaker, I commend the gentleman from New York [Mr. SOLARZ], I commend the majority leader, and I commend the gentleman from Michigan [Mr. BROOMFIELD], who had a hand in the fashioning of this important resolution.

These resolutions are important because this is a statement of strong feeling on the part of the legislative branch of this Government on what is an ongoing atrocity in the People's Republic of China.

I cannot help but comment that years ago, when the Republic of China on Taiwan was sharply differentiated, as it still is, from the mainland Chinese, the so-called People's Republic, many of us used to refer to the People's Republic of China as Red China, and we were somewhat ridiculed as old cold warriors for making this distinction, and Red China was said to be a perjorative term.

But I think we knew instinctively that Communists do things differently from other cultures and other peoples. They hold human life more cheaply. What has happened in Tiananmen Square confirms that and bears that out.

If we study the statistics from the "Great Leap Forward" under Mao Tse-tung from 1958 to 1961, we find that demographers have shown that 30 million Chinese died as a result of Mao Tse-tung's "Great Leap Forward." They died from various causes, not the least of which was starvation.

So I think history is constantly the reference point for proving sadly and tragically that communism views human beings as units of production and consumption and considers them expendable, rather than as human beings with human dignity and rights.

□ 1340

Mr. SOLARZ. Mr. Speaker, I yield 2 minutes to the gentlewoman from California [Mrs. BOXER].

Mrs. BOXER. Mr. Speaker, first, I want to thank the new leadership of the House for responding so quickly to this resolution that was drafted just yesterday.

It shows the deep commitment of this Congress to freedom for all peoples. And, I thank the Republican side for their equal concern.

I rise with pride and dismay in supporting this resolution which asks the People's Republic of China to stop the political executions in their country.

Lives have already been taken—and this Congress must not be silent in the face of a political brutality, in the face of political cruelty, in the face of political barbarism.

I said I am filled with pride and dismay—pride that this Congress cares so deeply about the tragedy unfolding in China—pride because our leadership on both sides is moving aggressively; pride because I was part of a group of Members led by DAVID SKAGGS, NANCY PELOSI, and JOHN MILLER—a delegation that met with the Chinese Ambassador yesterday. Let me tell you about that meeting.

It had the aura of a Salvador Dali painting—the words were real but they were twisted and distorted.

Indeed history was being rewritten and was told to 14 Members of Congress as if we had no eyes with which to see the videos of the bodies of those Chinese students lying next to their mangled bicycles. No students were intentionally killed, said the Ambassador; and 5,000 Army troops were killed, he said, and only 300 civilians, some of these unintentionally.

The Ambassador said there have been no changes in China—China is still moving toward openness he said. They did what any other country would do under the circumstances, he said.

What a shocking meeting that was for all of us. The Ambassador told us to show restraint and take the long view. It will all be fine. He said for us not to be emotional.

Well it is not fine. People are being executed now and it must stop as a signal of conciliation; as a signal that China wants to rejoin the civilized world.

China wants our technology. China wants our know-how.

I went there on a trade trip 2 years ago and was most impressed with their

eagerness to economically join the 20th century at last.

Well, let the message go out from this Congress today to the Chinese Govenment—stop the killings.

Let the message go out today to the Chinese Government—the Congress is united.

Let the message go out today—If you want our technology and our know-how and our help and our friendship—government to government—let basic freedoms come to the Chinese people.

We are the House of the people—the House of Representatives—and we ask for the killings to stop.

Mr. BROOMFIELD. Mr. Speaker, I yield 2 minutes to the gentleman from New York [Mr. GILMAN].

Mr. GILMAN. Mr. Speaker, I rise in support of House Resolution 182, commemorating the student revolt for democracy in China. I would like to commend our colleague from Missouri [Mr. GEPHARDT], the distinguished majority leader; and our House Foreign Affairs Committee chairman [Mr. FASCELL]; the ranking minority member [Mr. BROOMFIELD]; the subcommittee chairman [Mr. SOLARZ] for expeditiously bringing this measure to the floor at this time, enabling us to express our abhorrence with regard to China's violation of human rights.

Mr. Speaker, along with most of my colleagues, I strongly support the efforts of the Chinese students in their quest for a more democratic form of government in China. Through its actions, the Chinese Government has shown its inability to deal with the rising tide of democracy which cannot be stifled. Those valiant students who gave their lives in Tianamen Square so that other Chinese citizens could live a better life should be seen as heroes, not as treasonous criminals as the Chinese Government prefers to depict them.

Even today, still another student has been arrested for passing "rumors" to an American reporter and seven others have been executed. The United States cannot endorse the actions of any nation which treats its citizens as China does. We must rise in condemnation of the human rights atrocities still being committed even as we speak today. Finally, Mr. Speaker, I would like to commend the Presidential decision to suspend high-level United States exchanges with China by the White House as an expression of protest against the widening crackdown and I invite my colleagues to join with me in imposing even further sanctions against China.

As the longest standing democracy in the world, the United States has an obligation to provide a leading example to all nations in supporting basic liberties for all citizens of the world.

Mr. Speaker, I support the gentleman's resolution, and I urge my colleagues to demonstrate that the United States will not stand silent as others across the world are persecuted for their attempts to achieve basic freedoms.

Mr. SOLARZ. Mr. Speaker, I yield 2 minutes to the gentleman from Colorado [Mr. SKAGGS], who organized a little march on the Chinese Embassy the other day.

Mr. SKAGGS. Mr. Speaker, I appreciate the gentleman from New York [Mr. SOLARZ] for yielding this time to me, and I rise in very deep support for this resolution, and I thank the majority leader, the gentleman from Missouri [Mr. GEPHARDT] for bringing it to the House.

Tragedy, Mr. Speaker, now compounds itself in China. It was not enough that hundreds of Chinese patriots were slaughtered earlier this month. Now the regime there seems determined to defame itself further with the execution of men and women who stood up for freedom and democracy. They represent the best in the human spirit, so their acts of courage affect us all, and we must stand up for them and with them. They drew their inspiration in no small part from the ideals and even the symbols, the goddess of democracy, of this country. We can do no less than to stand with them now.

Mr. Speaker, we must declare to their government, "No, you cannot do this. You must not do this." No matter what their supposed crimes under Chinese law, the civilized world must condemn a law and a system that enforces a law that they must pay with their lives.

Mr. Speaker, what appeal can we make to the Chinese Government? To their pragmatic interests perhaps? "Then do not jeopardize your economic progress by alienating the world and this Nation."

To their sense of history? Then do not defile the great name of China to perhaps even their moral compunction.

Then, Mr. Speaker, we ask, "Do you have no shame?"

Truly in the name of humanity these executions must stop.

Mr. BROOMFIELD. Mr. Speaker, I yield 3 minutes to the gentleman from California [Mr. LAGOMARSINO].

Mr. LAGOMARSINO. Mr. Speaker, I rise in support of this bipartisan resolution, and I want to especially commend the new majority leader, the gentleman from Missouri [Mr. GEPHARDT], the gentleman from Florida [Mr. FASCELL], the gentleman from Michigan [Mr. BROOMFIELD], the gentleman from Illinois [Mr. MICHEL], and of course the gentleman from New York [Mr. SOLARZ].

Mr. Speaker, I think it will not go unnoticed that this resolution is the first legislative initiative, one might say, of the new majority leader, Mr. GEPHARDT; I think that is very significant, and the Chinese will take it into account when they hear about it.

My colleagues, the true face of the brutality of the Chinese hard-line Communist leadership has been revealed for all the world to see. It cannot be ignored. We have heard this afternoon about previous brutalities under that Chinese dictatorship, how scores of millions have been killed there, but that was not on TV. People did see on TV the tanks rolling into Tiananmen Square. They did see the students being shot down.

Mr. Speaker, that cannot be ignored. Even with the efforts of the Communist leadership in China to deny that, to put out a completely different story, thanks to Voice of America perhaps even the majority of Chinese people eventually will hear the truth about what happened and what is happening there.

I think the acts of the Chinese leadership in doing what they have done and in continuing to do what they are continuing to do is even worse than it would be because they have ignored the two resolutions previously passed by this House.

The administration has certainly not been silent about this.

I would like to give my colleagues some quotes from the administration:

> The whole world has seen what happened in Tiananmen Square. Large numbers of peaceful demonstrators were killed by army units. Labelling such people counterrevolutionaries and hooligans will do nothing to alter the reality. The persecution of people for the exercise of basic human rights, such as freedom of expression, freedom of association, freedom of the press, is reprehensible and demoralizing. We believe that arrests and show trials are not the route which offers the best hope for a return to civility in China.

Mr. Speaker, I support what the administration has already done about the situation. I hope they are ready to do even more, and I intend, Mr. Speaker and my colleagues, to support the amendment to be offered by the gentleman from New York [Mr. SOLARZ] next week as we go forward on the foreign aid bill.

□ 1350

Mr. SOLARZ. Mr. Speaker, I yield 1½ minutes to my very good friend, the gentleman from Georgia [Mr. LEWIS].

Mr. LEWIS of Georgia. Mr. Speaker, I rise today to call on my colleagues to support this resolution calling for an end to the executions in China. We must send a strong message to the Chinese Government that they may beat, shoot, tear gas, and kill the nonviolent protestors, but the ideas of freedom and democracy cannot and will not be destroyed.

The United States Government and the people of this country are shocked

and appalled by the action the Chinese Government has taken against her own people, who have been involved in a peaceful nonviolent revolution for democracy.

I want to say to the Chinese Government that what affects the people of China affects the people of the United States of America. As nations we may be independent, but as a people and as members of the community of nations, we are interdependent. We are all in the same boat.

The Chinese leaders must realize that a threat to human rights anywhere is a threat to human rights everywhere.

The blood of the young people who have been executed in China are the seeds of freedom. They will sprout and grow for years and generations to come.

Mr. Speaker, I am delighted to voice my support for this resolution and for the people of China who are struggling for freedom and democracy.

Mr. BROOMFIELD. Mr. Speaker, I yield 2 minutes to the gentleman from California [Mr. DORNAN].

Mr. DORNAN of California. Mr. Speaker, the measured bipartisan approach taken today about this ghastly tragedy in China is about as uplifting as the expression of patriotism we say this morning in the well on the desecration of the flag.

I would wish that my President would be stronger in his words on this terrible tragedy to see these Gestapo-type films of young students degraded, heads down, about to be executed, but I know my President cannot be stronger and I respect his judgment, because he is looking at this unspeakable tragedy in the long term of history, hoping that all the dreams and hopes that all freedom-loving people had for China will not be destroyed or set back in terms of years before our eyes in the coming months.

I walked around Tiananmen Square with my younger son just a few months ago last summer. My son is very capable with the hackie sack, a little bean bag that you get on your feet that was developed in China, and we would draw a crowd of 50 to 100 people.

I sent him off to visit the Great Wall to which I had been in several years in the past, and I went to meet with the human rights people. When my son and I joined up again and began a long train trek through Mongolia to Moscow, we both decided that freedom had won in China. It was all over, 16,000 students in Australia, 40,000 Chinese students in America, tens of thousands in Europe, all of them going to take this middle kingdom into the 21st century in lockstep with all the other freedom-loving countries, and to see these Nazi Gestapo-type executions, the slaughter in the square, the statements to stay out of their internal business, that it is none of our business; yes; it is a terrible tortuous path we are weaving our way through, but we hope that we find the key to bring us back on course with the China that we all hope and pray for.

Mr. SOLARZ. Mr. Speaker, I yield 2 minutes to the very distinguished gentleman from California [Mr. LEVINE], a member of the Foreign Affairs Committee.

Mr. LEVINE of California. Mr. Speaker, I thank the gentleman for yielding me this time. I want to commend him and the majority leader and the leadership on both sides of the aisle for their expeditious movement on a bipartisan basis on this important resolution.

It is extremely important that the Government of the Chinese People's Republic be under no illusions whatsoever about the depth and intensity and breadth and bipartisanship in this country with regard to the outrage and revulsion that we feel with regard to the brutality of this Chinese Government in terms of its crackdown on some of the most inspirational student activities that this world has ever seen in many a year.

As was discussed earlier, a number of us went the day before yesterday on a march that was organized by our colleagues, the gentleman from Colorado [Mr. SKAGGS], the gentlewoman from California [Ms. PELOSI], and the gentleman from Washington [Mr. MILLER], from the Capitol steps to the Chinese Embassy where we met with the Chinese Ambassador.

Frankly, I want to tell you that that meeting was one of the most disturbing meetings in which I have ever participated in my life. It was an example of Orwellian 1984 double speak. I would like my colleagues to hear some of the comments of the Chinese Ambassador that I took down verbatim so that we can understand precisely the position of the Chinese Government on this issue.

he said:

Any country in the same situation would respond similarly.

He said:

The Chinese government exercised the utmost restraint.

He said:

No other country can be as responsible as ours.

And he said:

The government took measures only when matters were beyond the limits of forbearance.

I worry that the Government of China perhaps because our President has been forceful, but restrained, is getting the restraint rather than the force of the message.

There should be no doubt of the depth of our concern as shared on both sides of the aisle and the American people, and I strongly support this resolution.

Mr. BROOMFIELD. Mr. Speaker, I yield 1½ minutes to the gentleman from Washington [Mr. MILLER], a member of the committee.

Mr. MILLER of Washington. Mr. Speaker, 2 days ago we marched as one to the Chinese Embassy. Today we speak as one, both parties with the same message to the Chinese Government. Stop the executions, stop the executions, throw away this old tired Communist rhetoric about criminals, bandits, counterrevolutionaries, Socialist democracies, which you have been using, and stop the executions. Understand that you cannot extinguish the flame of freedom. It burns in the souls of men and women.

I say to the Chinese Government, resume your march toward, not away from democracy. Stop the executions.

No matter how hard you try, you cannot kill democracy.

Mr. SOLARZ. Mr. Speaker, I yield 2 minutes to my very good friend, the gentlewoman from California [Ms. PELOSI].

Ms. PELOSI. Mr. Speaker, I thank the gentleman from New York for yielding me this time.

Mr. Speaker, I have the honor of representing in Congress the largest Chinese population outside of Asia. Together with my colleague, the gentlewoman from California [Mrs. BOXER], we represent San Francisco. I want to bring to this floor the sentiments of those people, as well as everyone in our district, and that is everyone in our district, who cares about human rights.

I rise in support of the resolution calling on the People's Republic of China to stay the executions of those citizens who have been sentenced to death as a result of their participation in the prodemocracy movement.

As has been mentioned, we visited the Ambassador the other day and talked to him about the massacre, which shocked us all.

What was as disturbing was what followed, which was repression, secret executions, the ones that we know about. In addition to that, with the denial that these are students and charging them as being criminals, hooligans, et cetera.

□ 1400

This part of the story is where we asked the Ambassador:

If this is the case, let us come. Why do you not agree to a delegation coming to China so that we can see how your story holds up? If you are not afraid of the truth, you will welcome a delegation to China.

Our message to them must be that the human rights of every single person in China are important to us, that human rights are not an internal matter but are the basis for the rela-

tionships among people and that with every death, with every execution, the calls for freedom and democracy are strengthened, and that in the voices that are heard on this floor today and the actions of the students who care about freedom, that those dead students live.

I ask my colleagues to support this resolution unanimously and support also my bill for protecting the students in the United States. Please, let us make this unanimous today on this stay of execution.

Mr. BROOMFIELD. Mr. Speaker, I yield 3 minutes to the gentleman from Ohio [Mr. DONALD E. "BUZ" LUKENS].

Mr. DONALD E. "BUZ" LUKENS. Mr. Speaker, nothing has been more explosive immediately, more generally supported by the people of the United States and the free world and the whole world than the tragedy that took place days ago in Tiananmen Square in Beijing, China. What is doubly distressing to those of us, and I joined my marching friends at the Embassy of the People's Republic of China, was the discussion that we had with the Ambassador, that showed first of all, in my opinion, that he had no authority to do anything; second, he had no line to repeat. They did not know what they could say to a free-world country. Third, he offered absolutely no hope, in my opinion, of solace, moderation, forgiveness, or tolerance for those prodemocracy demonstrators who demonstrated, and some of whom we see in the morning died for their willingness to change a dictatorship into a real democracy.

I am further distressed by the apparent lack of any structure for appeal in the country of mainland China. They apparently do not have a legal system, or at least it has been suspended whenever they feel any threat at all to their dictatorial regime.

It does have the elements of nazism, the worst elements of extreme communism when they were militant, and hopefully they have lost that today, but it is a lesson for the free world that lest we charge too quickly forward to hold hands with those who have an alien philosphy and do not have a history in this century of freedom, do not have a history of democratization, do not have a history of pluralistic democracy or political choice, lest we charge too quickly.

I am sad because I love China. The history of China has been studied by many people. I spent 4½ years of my life in Asia. I have always dreamed of the day when the Chinese would join the free world.

Mr. Speaker, I want to join my colleagues, Republicans and Democrats, who marched and who have spoken today to this resolution. I commend particularly the gentleman from Michigan [Mr. BROOMFIELD] and the gentleman from New York [Mr. SOLARZ], the prime sponsors of this resolution.

The world is witnessing the militant desecration of the prodemocracy demonstration in China at this moment. We cannot speak out too loudly or too forcefully about the injustice and the death being delivered by this regime for which we had so much hope.

Our fondest hopes, our dreams go with the people of China, that they may once again see not the glimmer but the full bright light of democracy restored to that beleaguered mainland. We join hands with people, students, workers, all citizens hoping that China regains its senses and stops this unnecessary death, unnecessary punishment to those who merely want a little bit of what we have so much.

Mr. SOLARZ. Mr. Speaker, I yield 1½ minutes to my very good friend, the gentleman from Nevada [Mr. BILBRAY], a former member of the Committee on Foreign Affairs, now a member of the Committee on Armed Services.

Mr. BILBRAY. Mr. Speaker, today I speak with both sadness and anger concerning yesterday's brutal execution of three prodemocracy demonstrators by the Chinese Government. My heart goes out to the families of the three men whose lives were lost in the struggle to bring democracy to China. I hope that this Congress and the administration will act appropriately to assure the victims' families and friends that these three young men's lives were not given in vain.

Mr. Speaker, any government that engages in the systematic repression and execution of its fellow citizens is no friend of the United States. The actions of the People's Republic of China over the past 3 weeks run contrary to everything our country believes in. When I saw the thousands of student demonstrators in Tiananmen Square peacefully protesting their government's undemocratic policies, I could not help but think how our own Founding Fathers must have felt when confronted with the repressive policies of colonialist England in the 18th century. The Chinese students' desire for freedom and democracy is the same desire that our country's first generation of citizens felt when they fought for their independence.

The nationwide crackdown on prodemocracy demonstrators that is occurring in China flies in the face of our country's longstanding belief in human rights. According to today's Washington Post, there are currently eight other persons on death row in China for violent acts committed during the June 3–4 assault on Tiananmen Square; an assault instigated and perpetrated by government troops.

Mr. Speaker, while I can only speak for myself, I feel that the Congress of the United States, and the President as well, has a moral obligation to condemn the People's Republic of China for the atrocities it has committed against its people, especially yesterday's executions. So far, the President has done little to convince the People's Republic of China that he is willing to take further steps in response to their human rights violations. In fact, I do not believe that he even issued a statement condemning yesterday's executions. This is simply an unacceptable position for the leader of the United States. The policy of constructive engagement hasn't worked in South Africa, and it will not work in China either.

I urge my colleagues to support legislation to eliminate China's most-favored-nation [MFN] trade status and to call on the United States to vote against all World Bank and Asian Development Bank loans to China. I also urge my colleagues to support the majority leader's resolution calling upon the leadership of the People's Republic of China to stay further executions of prodemocracy demonstrators. The United States must stand up for those democratic ideals upon which it was founded; we must stand up against the Government of China.

Mr. BROOMFIELD. Mr. Speaker, I yield 3 minutes to the gentleman from California [Mr. DREIER].

Mr. DREIER of California. Mr. Speaker, tragically throughout history we have seen totalitarian regimes make attempts to rewrite history. It is obvious that that attempt is once again being made, but, Mr. Speaker, it cannot happen. It cannot happen for a number of reasons.

First and foremost, because Democrats and Republicans are standing together behind President George Bush in calling for an end to these executions. We are standing also with the rest of the free world, Mr. Speaker. We have seen very strong statements come from the Federal Republic of Germany, and we have seen statements coming from other leaders throughout the world.

Mr. Speaker, why has this in large part happened? It has happened because of this tremendous informational explosion which we have seen develop over the past few decades. We have seen the advent of fax machines which can send those messages loudly and clearly across any lines which people are attempting to block. We also have seen the advent of satellite television and, because of that, we all got to see that horrible development in Tiananmen Square when we saw the massacre of those young students.

Mr. Speaker, we often talk in this country about our future. We, unfortunately, saw the totalitarian Communist regime of Red China making an attempt to obliterate its enlightened future.

Many of those young people have seen what a great thing freedom is from their visits to the United States of America. Many of those young people wanted to go back and carry that message and, tragically, many of those young people have been killed.

I congratulate our new majority leader; my good friend, the gentleman from New York [Mr. SOLARZ]; and all of those who joined us in that very emotional and hard-hitting meeting with Ambassador Han Xu on Tuesday and, of course, to the distinguished ranking minority member, the gentleman from Michigan [Mr. BROOMFIELD], the gentleman from Washington [Mr. MILLER], and those who organized that important march.

We are standing solidly behind the cause of freedom, and I believe, Mr. Speaker, it is critically important that we, by an overwhelming margin, send this resolution to the President of the United States, and then to the rest of the world and, most important, to the leadership of China.

Mr. BROOMFIELD. Mr. Speaker, I yield 1 minute to the gentleman from Illinois [Mr. PORTER].

Mr. PORTER. Mr. Speaker, I support this resolution and President Bush, but I think we need to go farther.

As cochairman of the Congressional Human Rights Caucus, the gentleman from California [Mr. LANTOS] and I have introduced legislation to deny most-favored-nation status and OPIC privileges to China.

Economic considerations cannot outweigh our commitment to human freedom that makes America the beacon of hope to people all around this world.

Mr. Speaker, the murders continue. It is not just the public ones that we see, those staged by the Chinese Government, but there are hundreds of students being executed quietly with a bullet to the head and an unmarked grave that we do not see.

Mr. Speaker, we cannot deal with the murderous and barbaric Chinese Government, and we cannot allow these students to have died in vain.

□ 1410

Mr. BROOMFIELD. Mr. Speaker, I yield 2 minutes to the gentleman from Florida [Mr. GOSS], a member of the Foreign Affairs Committee.

Mr. GOSS. Mr. Speaker, I am very honored to be here to suggest that what needs to be said on this has been said so well by all of my colleagues on both sides of the aisle. This is an issue that certainly transcends partisanship. This is an issue that goes to what democracy is about and what freedom is about and what we all stand for and are looking for the best way to make sure that it is properly manifest at this time.

Fortunately, we have a Nation that speaks with one voice. The voice in this case is the President of the United States. He called for a measured, steady response. He has said that our Nation speaks with one voice, and it does.

We are showing them what we stand for. We are showing them what is at stake. We are showing them we will not tolerate it, and we are doing it in a proper and reserved way that cannot possibly be misunderstood and stands for all of the values that that symbol, the flag which we have talked about today, represents, which is what we want the Chinese to understand too.

Mr. BROOMFIELD. Mr. Speaker, how much time do I have remaining?

The SPEAKER pro tempore (Mr. AUCOIN). The gentleman from Michigan [Mr. BROOMFIELD] has 9 minutes remaining; and the gentleman from New York [Mr. SOLARZ] has 7½ minutes remaining.

Mr. BROOMFIELD. Mr. Speaker, I yield 2 minutes of my time to the gentleman from New York [Mr. SOLARZ], and I reserve the balance of my time.

Mr. SOLARZ. Mr. Speaker, I thank the gentleman from Michigan for that very generous gesture on his part.

Mr. Speaker, I yield 1½ minutes to the gentleman from Georgia [Mr. JONES].

Mr. JONES of Georgia. Mr. Speaker, I thank the gentleman from New York for yielding time to me.

Mr. Speaker, I rise to speak in favor of this resolution.

The continuing repressive reaction of the hardline Communist government in Beijing against their own people—who have demonstrated peacefully for the most basic reforms—is an action with which the civilized world community can show no cooperation.

We must let the Chinese Government know that our respect for basic human rights outweighs business as usual.

Our moral imperative demands that we be unequivocal.

The whole world is watching the brutal repression in China—but the whole world is watching the United States, too, looking for leadership.

Even as we speak here today, the coldblooded executions of idealistic young people continue.

This resolution sends a strong bipartisan message—it tells the American people that we are willing to go beyond rhetoric, it tells the Chinese Government that their actions have a price, and it tells the Chinese people that we support their courageous efforts for democratic reform.

I urge my colleagues to support this tough and timely resolution.

Mr. SOLARZ. Mr. Speaker, I yield 2 minutes to my good friend, the gentleman from Connecticut [Mr. GEJDENSON].

Mr. GEJDENSON. Mr. Speaker, I thank the gentleman from New York for yielding time to me and commend him for his efforts on this and so many other issues.

It is clear to me that as the leader of the free world this Congress is taking the leadership on the concerns for human rights and civil liberties in China. I hope that President Bush will take the leadership in a world sense, as the United States has before, with economic summits and with military summits with our NATO allies, with economic summits with our friends from Japan and Western Europe to lead a summit for democracy.

It is fundamental for us to be a strong economic Nation and a strong military Nation if we are to lead the world. But what makes us stand out from all the nations on this Earth is our commitment to human rights and civil liberties. The outrages that have occurred in China need to be spoken out against directly here in this Congress and in the Executive, and I would hope that taking the action, led by my friend and colleague, the gentleman from New York, that the President of the United States would call upon our Western allies for a summit so that we in the West could act with one voice in responding to the outrage that the Chinese Government has perpetrated against its own citizens.

Mr. BROOMFIELD. Mr. Speaker, I yield 2 minutes to the gentleman from Nebraska [Mr. BEREUTER].

Mr. BEREUTER. Mr. Speaker, first I would like to commend the majority leader, the gentleman from New York, [Mr. SOLARZ], the distinguished ranking member of the Committee on Foreign Affairs, the gentleman from Michigan [Mr. BROOMFIELD] and others involved in crafting this resolution. We want it to be known, as has been emphasized here already on several occasions, but I want to reiterate it for impact, that this is a bipartisan resolution, that I believe should have and will have the unanimous support of the Congress.

I also would like to speak as a representative of a State that has had a very special, very positive, and close relationship with the People's Republic of China in the area of highest education. At times in recent years there have been more students from the People's Republic of China in my district at the University of Nebraska-Lincoln than at any other U.S. campus. We certainly are ranked in the top three or four during most years. And of course we had the demonstrations by Chinese students in Lincoln, as we did in other States throughout the United States.

We are deeply grieved and outraged by the kind of brutality that has been demonstrated and exercised against the people of the People's Republic of

China. And especially emblazoned in our memories are the images of the Chinese students in the People's Republic of China in the brave demonstrations that they made for democracy and greater freedom.

I want to make it quite clear that this Republican Member, representing a State that he had this special postsecondary education relationship with the People's Republic of China states that the kind of conduct that has been going on in Beijing and elsewhere in the People's Republic of China is totally unacceptable and abhorrent to American citizens. We urge full support for the President's call for a stay of these executions and for clemency. We urge our colleagues in this body to give this resolution our unanimous support.

Mr. BROOMFIELD. Mr. Speaker, I yield such time as he may consume to the gentleman from New York [Mr. SOLOMON].

Mr. SOLOMON. Mr. Speaker, I rise in the strongest possible support and commend the gentleman from New York [Mr. SOLARZ] and the gentleman from Michigan [Mr. BROOMFIELD] for this resolution. I also commend the distinguished majority leader, Mr. GEPHARDT, for bringing this resolution to the floor.

Mr. Speaker, the civilized world has recoiled in horror at the events of these recent days and weeks in China. The massacre of innocent and unarmed civilians has been made worse by the subsequent show trials and executions, on trumped-up charges, of still more innocent people.

It is particularly appropriate that this resolution opens with the immortal words of our own Declaration of Independence. Indeed, the Chinese students and other citizens who were demonstrating peacefully for their God-given rights took Thomas Jefferson and other American heroes as their inspiration for this struggle.

The power of brute force may have prevailed in China for the moment, but the cause of freedom will eventually win. No amount of brutality and repression can quench the moral authority that a just cause confers on its people.

We grieve with the Chinese people today, but we know their sacrifices have not been in vain. Indeed, those who have lost their lives are true martyrs for the freedom of mankind. Their sacrifice will sustain all who come after them in the same struggle.

Mr. BROOMFIELD. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The gentleman from New York [Mr. SOLARZ] has 7 minutes remaining.

Mr. SOLARZ. Mr. Speaker, I yield myself such time as I may consume. In concluding debate on this resolution, I want to pay tribute to my very good friend, the gentleman from Michigan [Mr. BROOMFIELD] for his cooperation in bringing this resolution before the House. The significance of the legislation we are about to adopt is underscored by virtue of the board bipartisan support which it enjoys.

I have always believed that we are most effective abroad when we are united at home, and I am particularly pleased in this instance that the resolution not only has the support of the Members on both sides of the aisle, but that it also constitutes an expression of support on the part of the Congress for a position and an initiative taken by the President of the United States. So here we are speaking in unison, Democrats and Republicans, the administration and the Congress.

Mr. Speaker, I think it may have some additional symbolic significance that at the very same time that these executions are taking place in China, in Budapest a ceremony was being held in which literally tens of thousands of Hungarians participated to provide for the reburial and rehabilitation of Imre Nagy, the leader of Hungary in 1956 who was arrested and executed by the Soviet Union for his role in the uprising that took place in that country during which the people of Hungary sought peacefully to remove themselves from the shackes of Soviet oppression and to establish a truly free and democratic country. It may have taken over 30 years, but at the end of the day, Imre Nagy, who was executed as a so-called counterrevolutionary, was ultimately restored to a place of honor in the history of his nation.

Mr. Speaker, I do not know how long it will take for those who are being executed as we speak as thugs and as counterrevolutionaries in China to be redeemed in the eyes of their own people. It may take a year, it may take 5 years, it may take 10 years, it may take 30 years, it may take 50 years. No one can predict.

□ 1420

But of one thing we can be absolutely certain, and that is that those Chinese who are being executed today as counterrevolutionaries will one day be revealed and rehabilitated in the eyes of their people and will be seen not as thugs and as terrorists but as martyrs in the cause of democracy.

This resolution was designed to make it clear that in the eyes of the U.S. Congress and the American people they already enjoy that status. I can only express the hope, Mr. Speaker, that the leaders of China will come to their sense and bring the killing machine to an end before other innocent lives are lost.

Mr. MICHEL. Mr. Speaker, I am glad to be able to join with our colleagues in supporting President Bush in his call for clemency for the prodemocracy demonstrators in China.

This is a bipartisan resolution. It shows the Government of China that there are not divisions among Americans when it comes to human rights.

What is happening in China may well be one of the major events of this century. We cannot tell what all of its implications may be, for China, for our country and for the world.

But we do know that totalitarian governments can learn the rhetoric of democracy but know nothing of its spirit.

We know that the arrests and executions going on in China are not aberrations, but the usual reaction of totalitarians when they are threatened by their own people's cry for freedom.

Mr. Speaker, as I said, this resolution is bipartisan. I only hope that this same bipartisan spirit of support for the President continues during our discussion of China in the debate on the foreign aid bill.

Mr. SOLARZ. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. AUCOIN). All time has expired.

Without objection, the previous question is ordered on the resolution.

There was no objection.

The SPEAKER pro tempore. The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. BROOMFIELD. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device and there were—yeas 416, nays 0, not voting 16, as follows:

[Roll No. 100]

YEAS—416

Ackerman	Boxer	Courter
Akaka	Brennan	Cox
Alexander	Brooks	Coyne
Anderson	Broomfield	Craig
Andrews	Browder	Crane
Annunzio	Brown (CA)	Dannemeyer
Anthony	Brown (CO)	Darden
Applegate	Bruce	Davis
Archer	Bryant	de la Garza
Armey	Buechner	DeFazio
Aspin	Bunning	DeLay
Atkins	Burton	Dellums
AuCoin	Bustamante	Derrick
Baker	Byron	DeWine
Ballenger	Callahan	Dickinson
Barnard	Campbell (CA)	Dicks
Bartlett	Campbell (CO)	Dingell
Barton	Cardin	Dixon
Bateman	Carper	Donnelly
Bates	Carr	Dorgan (ND)
Beilenson	Chandler	Dornan (CA)
Bennett	Chapman	Douglas
Bentley	Clarke	Downey
Bereuter	Clay	Dreier
Berman	Clement	Duncan
Bevill	Clinger	Durbin
Bilbray	Coble	Dwyer
Bilirakis	Coleman (TX)	Dymally
Bliley	Combest	Dyson
Boehlert	Conte	Early
Boggs	Conyers	Eckart
Bonior	Cooper	Edwards (CA)
Borski	Costello	Edwards (OK)
Bosco	Coughlin	Engel

English
Erdreich
Espy
Evans
Fascell
Fawell
Fazio
Feighan
Fields
Fish
Flake
Flippo
Foglietta
Ford (MI)
Ford (TN)
Frank
Frenzel
Frost
Gallegly
Gallo
Garcia
Gaydos
Gejdenson
Gekas
Gephardt
Gibbons
Gillmor
Gilman
Gingrich
Glickman
Gonzalez
Gordon
Goss
Gradison
Grandy
Grant
Gray
Green
Guarini
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Hammerschmidt
Hancock
Hansen
Harris
Hastert
Hawkins
Hayes (IL)
Hayes (LA)
Hefley
Hefner
Henry
Herger
Hertel
Hiler
Hoagland
Hochbrueckner
Holloway
Hopkins
Horton
Houghton
Hoyer
Hubbard
Huckaby
Hughes
Hunter
Hutto
Hyde
Inhofe
Ireland
Jacobs
James
Jenkins
Johnson (CT)
Johnson (SD)
Johnston
Jones (GA)
Jones (NC)
Jontz
Kanjorski
Kaptur
Kasich
Kastenmeier
Kennedy
Kennelly
Kildee
Kleczka
Kolbe
Kolter
Kostmayer
Kyl
LaFalce
Lagomarsino
Lancaster
Lantos
Laughlin
Lehman (CA)
Lehman (FL)
Leland
Lent
Levin (MI)
Levine (CA)
Lewis (CA)
Lewis (FL)
Lewis (GA)
Lightfoot
Lipinski
Livingston
Lloyd
Long
Lowery (CA)
Lowey (NY)
Luken, Thomas
Lukens, Donald
Machtley
Madigan
Manton
Markey
Marlenee
Martin (IL)
Martin (NY)
Martinez
Matsui
Mavroules
Mazzoli
McCandless
McCloskey
McCollum
McCrery
McCurdy
McDade
McDermott
McEwen
McGrath
McHugh
McMillan (NC)
McMillen (MD)
McNulty
Meyers
Mfume
Michel
Miller (CA)
Miller (OH)
Miller (WA)
Mineta
Moakley
Molinari
Mollohan
Montgomery
Moody
Moorhead
Morella
Morrison (CT)
Morrison (WA)
Mrazek
Murphy
Murtha
Myers
Nagle
Natcher
Neal (MA)
Neal (NC)
Nelson
Nielson
Nowak
Oakar
Oberstar
Obey
Olin
Ortiz
Owens (NY)
Owens (UT)
Oxley
Packard
Pallone
Panetta
Parker
Pashayan
Patterson
Paxon
Payne (NJ)
Payne (VA)
Pease
Pelosi
Penny
Perkins
Petri
Pickett
Pickle
Porter
Poshard
Price
Pursell
Rahall
Rangel
Ravenel
Ray
Regula
Rhodes
Richardson
Ridge
Rinaldo
Ritter
Roberts
Robinson
Roe
Rogers
Rohrabacher
Rose
Rostenkowski
Roth
Roukema
Rowland (CT)
Rowland (GA)
Roybal
Russo
Sabo
Saiki
Sangmeister
Sarpalius
Savage
Sawyer
Saxton
Schaefer
Scheuer
Schiff
Schneider
Schroeder
Schuette
Schulze
Schumer
Sensenbrenner
Sharp
Shaw
Shays
Shumway
Shuster
Sikorski
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter (NY)
Slaughter (VA)
Smith (FL)
Smith (IA)
Smith (MS)
Smith (NE)
Smith (NJ)
Smith (TX)
Smith (VT)
Smith, Denny (OR)
Smith, Robert (NH)
Smith, Robert (OR)
Snowe
Solarz
Solomon
Spence
Spratt
Staggers
Stallings
Stangeland
Stark
Stearns
Stenholm
Stokes
Studds
Stump
Sundquist
Swift
Synar
Tallon
Tanner
Tauke
Tauzin
Thomas (GA)
Thomas (WY)
Torricelli
Towns
Traficant
Traxler
Unsoeld
Upton
Valentine
Vander Jagt
Vento
Visclosky
Volkmer
Vucanovich
Walgren
Walker
Walsh
Watkins
Waxman
Weber
Weiss
Weldon
Wheat
Whittaker
Whitten
Williams
Wilson
Wise
Wolf
Wolpe
Wyden
Wylie
Yates
Yatron
Young (AK)
Young (FL)

NAYS—0

NOT VOTING—16

Boucher
Coleman (MO)
Collins
Crockett
Emerson
Florio
Goodling
Hatcher
Leach (IA)
Leath (TX)
Parris
Quillen
Thomas (CA)
Torres
Udall
Wright

□ 1444

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. GEPHARDT. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on House Resolution 182, the resolution just agreed to.

The SPEAKER pro tempore (Mr. BROWN of California). Is there objection to the request of the gentleman from Missouri?

There was no objection.

LEGISLATIVE PROGRAM

(Mr. MICHEL asked and was given permission to address the House for 1 minute.)

Mr. MICHEL. Mr. Speaker, I have taken this time to inquire of the distinguished majority leader how he perceives the program to develop for the balance of the day and tomorrow.

Mr. GEPHARDT. Mr. Speaker, will the gentleman yield?

Mr. MICHEL. I am happy to yield to the majority leader.

Mr. GEPHARDT. Mr. Speaker, it is our intention to continue now on consideration of the foreign aid bill. There will be amendments and votes this afternoon.

As this is going on, we are, of course, continuing the conference on the urgent supplemental. It is our hope that there can be a resolution of that matter this afternoon, and that can be brought up at anytime. We would hope that this could be done before an early hour this evening so that Members could go on about their business. However, it could come later in the evening, although I doubt that will happen. It could come on tomorrow if we do not get it done today. But our clear effort is to try to get it done as quickly as possible.

Next week we will have on Tuesday 12 or 13 suspensions. On Wednesday and Thursday, we hope to complete the consideration of the foreign aid bill and to also consider the appropriation on Energy and Water. We are not clear yet on whether that can all be done by Thursday night, but that would be our target.

Mr. MICHEL. Mr. Speaker, might I also inquire, if we are going to be around here a little later on this evening, is there any prospect of possibility that on the savings and loan legislation a motion to go to conference would be in order, and that possibly a motion to instruct would be in order? Has that been discussed at all?

Mr. GEPHARDT. Mr. Speaker, that has not been discussed or decided, but as soon as we have information on that, we will obviously discuss it with the gentleman.

Mr. MICHEL. Mr. Speaker, I thank the distinguished majority leader.

So I am assuming that until we get something more definitive with respect to the appropriators and their attempt to reach agreement on the supplemental today, we Members had better have a backup position of being here tomorrow, is that not correct?

Mr. GEPHARDT. That is correct.

Mr. MICHEL. Mr. Speaker, I thank the distinguished majority leader. And even though I have been asked when we will know about this, I think I can anticipate that the gentleman is probably in about the same frame of mind as this gentleman, that it all depends on the outcome of the efforts of those who are currently negotiating?

Mr. GEPHARDT. The gentleman is correct.

Mr. MICHEL. Mr. Speaker, I thank the distinguished gentleman.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 1067

Mr. BRYANT. Mr. Speaker, I ask unanimous consent that my name be removed as a cosponsor of H.R. 1067.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

INTERNATIONAL COOPERATION ACT OF 1989

The SPEAKER pro tempore (Mr. BROWN of California). Pursuant to House Resolution 179 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 2655.

□ 1450

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 2655) to amend the Foreign Assistance Act of 1961 to rewrite

the authorities of that act in order to establish more effective assistance programs and eliminate obsolete and inconsistent provisions, to amend the Arms Export Control Act and redesignate that act as the Defense Trade and Export Control Act, to authorize appropriations for foreign assistance programs for fiscal years 1990 and 1991, and for other purposes, with Mr. AUCOIN in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee of the Whole House rose on Wednesday, June 21, 1989, the amendments en bloc offered by the gentleman from Florida [Mr. FASCELL] had been disposed of, and title I was open for amendment at any point.

Are there any amendments to title I?

AMENDMENT OFFERED BY MR. RICHARDSON

Mr. RICHARDSON. Mr. Chairman, I ask unanimous consent to offer an amendment out of order.

The CHAIRMAN. Is there objection to the request of the gentleman from New Mexico?

There was no objection.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Amendment offered by Mr. RICHARDSON: Page 588, after line 7, insert the following new section:

SEC. 1404. CONCERNING THE SEIZURE OF A UNITED STATES CITIZEN IN AFGHANISTAN.

The Congress—

(1) finds the seizure of a citizen of the United States, Tony O'Brien, by the security forces of the Government of Afghanistan to be a reprehensible act; and

(2) calls upon the Government of Afghanistan to promptly release Tony O'Brien.

Mr. RICHARDSON (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from New Mexico?

There was no objection.

Mr. RICHARDSON. Mr. Chairman, last week the Government of Afghanistan seized photo-journalist Tony O'Brien while he was traveling on assignment in Ka'bul. Tony O'Brien, a resident of Santa Fe, NM, is an excellent photographer whose work has been displayed in major publications across this country. He has now been held by the Afghan secret police for a week.

The Afghan regime is clearly acting out of desperation. In hopes of forcing the United States to reopen diplomatic relations with their country, the Afghan regime is using Tony O'Brien as a pawn, a bargaining chip. Such action is abhorrent, repugnant, and should be denounced in the strongest terms.

Mr. Speaker, today I am offering an amendment to H.R. 2655, the International Cooperation Act of 1989, expressing the sense of Congress that the Afghan Government's apprehension and detention of Tony O'Brien is a repugnant act. Furthermore, it calls on the Government of Afghanistan to release Tony O'Brien safely and immediately. I urge my colleagues to support this important amendment and send a strong signal to the Government of Afghanistan that United States citizens are not to be exploited for their political ends.

Mr. FASCELL. Mr. Chairman, will the gentleman yield?

Mr. RICHARDSON. I yield to the gentleman from Florida.

Mr. FASCELL. Mr. Chairman, we have examined the amendment. We think it is extremely appropriate to be acted upon and fully supported.

Mr. BEREUTER. Mr. Chairman, will the gentleman yield?

Mr. RICHARDSON. I yield to the gentleman from Nebraska.

Mr. BEREUTER. Mr. Chairman, the minority has examined the amendment and approved it, and I thank the gentleman from New Mexico [Mr. RICHARDSON] for offering it.

Mr. BROOMFIELD. Mr. Chairman, I support the amendment of my colleague from New Mexico. America has always prided itself on its record of protecting the rights of its citizens wherever they are in the world.

Other nations watch our actions carefully. If they sense that we are willing to do nothing when one of our citizens is seized abroad, they will be emboldened to do the same—within their own borders.

We must make it clear that America cares deeply about the safety of all of the people who travel with an American passport. This is a good time to show that Congress will not tolerate abuse of the individual rights of American citizens.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New Mexico [Mr. RICHARDSON].

The amendment was agreed to.

AMENDMENT OFFERED BY MR. BEREUTER

Mr. BEREUTER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. BEREUTER: Page 61, strike out line 23 and all that follows through line 21 on page 64, and insert in lieu thereof the following:

"SEC. 1303. SENSE OF CONGRESS ON PURCHASE OF UNITED STATES GOODS AND SERVICES.

"It is the sense of Congress that countries receiving cash transfer assistance from the United States should, to the extent possible, import United States goods and services using a wide variety of United States modes of transportation."

Mr. BEREUTER. Mr. Chairman, I yield to the distinguished chairman of the committee, the gentleman from Florida [Mr. FASCELL]. I understood there may be some arrangement he would like to have on the time for the so-called cargo preference amendment.

Mr. FASCELL. Not yet, Mr. Chairman, but let us see how it goes here. I think we can be reasonably brief on this amendment. It has been before us many times.

Mr. Chairman, I think everybody understands the issues, but let us frame the issues first, and then let us see how the time goes.

Mr. BEREUTER. In other words, Mr. Chairman, are we proceeding under the 5-minute rule?

Mr. FASCELL. The gentleman from Nebraska [Mr. BEREUTER] is correct.

□ 1500

Mr. BEREUTER. Mr. Chairman, this foreign aid authorization bill makes some very needed changes in our foreign assistance programs. I regret, however, that the Foreign Affairs Committee, without hearings and over the strong objections from the administration, most agriculture and exporting groups, and hunger relief organizations, adopted an amendment imposing cargo preference on U.S. commercial exports to the governments of nations receiving U.S. cash transfer assistance under the Economic Support Fund [ESF].

That amendment, offered by the gentleman from New Jersey [Mr. TORRICELLI] in committee, was adopted by a 22-to-15 vote with 9 not present.

The amendment I offer today would strike the so-called Torricelli amendment, or all of section 1303 of title I of the bill and, I emphasize, return as to the status quo and AID objections. It includes a sense of Congress sentence which encourages cost transfer recipient countries, to the extent possible, to import U.S. goods and services using a wide variety of U.S. modes of transportation.

The cargo preference provisions in this bill are unfair and unworkable for several reasons.

The Torricelli amendment is unfair because it effectively takes desperately needed funds away from some of the poorest developing countries in the world. Many of these nations use U.S. cash transfers to solve some of their most pressing human and economic problems. Because Congress provides no funds to AID's budget to pay for the additional cost of U.S.-flagshipping, AID cash transfers are effectively reduced by the additional cost of transporting goods on U.S. ships which is generally 75 percent or more than competitive free market rates.

The amendment is unfair because they take export markets away from U.S. agricultural producers. Because the cost of shipping on U.S. ships adds to the cost of the goods being shipped, U.S. producers of ocean-carried goods who must compete with foreign suppliers will be hurt economically if the amendment remains in this bill. U.S. agricultural exports, most of which go by ship, would be among those most affected. However, other major U.S. product groups exported by sea that

would also be affected include coal, fertilizer, machinery, and iron and steel products.

The amendment is unfair because it creates the impression that the nations who receive U.S. cash transfers will purchase more U.S. products. The fact is that cash transfer nations already purchase 13 times more from the United States than the cash transfer they receive. If anything, total exports to these countries will decrease because in paying for the higher cost of U.S. shipping, the cash transfer countries will have less money remaining to buy U.S. goods and services from us.

The amendment is also unfair because it creates the impression that we will be helping or saving the U.S. maritime industry. The administration has testified that AID-financed cargoes cost an average $58.79 per ton on U.S. ships in 1988, compared with $33.17 per ton on foreign-flagged ships at international rates. Faced with the higher cost of purchasing U.S. goods that must come by ship, the cash transfer countries can be expected to focus their purchases of U.S. goods and services which are transported by sea. And, inevitably, cash transfer countries will shift the procurement of oceanborne items to non-U.S. exporters who do not require higher transportation expenses.

Finally, the cargo preference provisions in the bill are simply unworkable. How can the President "assure" that purchases by cash transfer countries "are distributed equitably throughout the United States"? How can he assure that the ports of departure are likewise distributed? Will sovereign foreign governments allow any "access to records and personnel" desired by the U.S. Comptroller General for his monitoring and auditing under the amendment? All these are part of its requirements—they are unworkable and unrealistic.

In closing, this amendment is not just about "bottoms," it is about "backs." The backs of the U.S. farmers and coal miners and factory workers who will lose exports markets—and even more so—the backs of some of the neediest people in some of the poorest developing countries in the world who will have less funds available to buy food and other essential commodities.

Less than 2 years ago, we debated at great length this same issue. Essentially, the arguments have not changed, but the reasons for defeating the Torricelli cargo preference provisions of this bill are even stronger. Foreign assistance funds are scarcer, and the need for them is greater.

If further expenditures to support the U.S. merchant marine are necessary, then we should address those expenditures separately on their own merits in either transportation, defense, or maritime authorization and appropriation bills. Funds should not be taken from the poorest of the poor, or the neediest of the needy, to keep our U.S. maritime industry afloat.

Support the amendment to strike the Torricelli provisions in this bill.

Mr. FASCELL. Mr. Chairman, I rise in technical opposition to the amendment.

Let me say, Mr. Chairman, that I just wanted to announce at this point that we have a lot of amendments and we have a time constraint. We want to be as open as possible in this process.

I think I have to start out by saying that in all fairness to all the people who have amendments and all the speakers, that I would be constrained to object, and I hope the minority will join me on this, for any request for extension of time. There are ways to handle the matter. We have far more speakers than we can accommodate anyway, so let us start out with the idea that we want to move this along, say what we have to say within the time constraints.

I am not faulting the gentleman from Nebraska at all. I should have made that announcement at the start, but the gentleman certainly brought it to my attention immediately, so I am sure we will have that cooperation. I did not want anybody following the gentleman from Nebraska to be misled on that. I think we need to move along.

I thank the gentleman from Nebraska for his original suggestion. I have been checking among our colleagues to see what it looks like in terms of time here. Maybe we will have four or five speakers and then we can get to a vote on this issue. That is the way it looks as of right now, I hope.

Mr. TORRICELLI. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, if the taxpayers of the United States knew that their dollars through our foreign aid program were being used to purchase Argentinean wheat, corn from Australia, Japanese machine tools, or German trucks, they would be outraged. If they knew that foreign ships from around the world were being chartered that do not fly American flags, do not bring dollars to our shores, nor employ American citizens to transport American foreign aid, they would be livid.

Mr. Chairman, that is the sad reality. The concept of American foreign assistance has never been to take our dollars and simply spread them around the world, hoping that people find in their hearts gratitude for us as a Nation. The great success of the American foreign aid program is that people see the genius of our products, the ingenuity of our designers and our engineers, the quality of our workmanship, the pride of our flag on the rear of an American flagship. That is an American foreign aid program. That is what makes people grateful for what we do, identify with our products and feel an identity with our interests. That was the Marshall plan. That was the rebuilding of Europe and Japan. That is not the American foreign aid program today.

There is no political identity. There is no security concern with a Japanese machine tool arriving on a Monrovian freighter to an Egyptian port. The only people who know what the American taxpayers are doing to help their country are the ministers of the treasury of the assorted nations.

Well, that is what I want to change. I want to end the insult and the injury.

Today the nation of Egypt is buying grain from Argentina and Cuban sugar with American taxpayer dollars.

It is alleged by the Indian press that American foreign aid cash assistance is being used for foreign assistance to turn to Nicaragua.

Perhaps, Mr. Chairman, there was a time when America had such vast resources, such infinite wealth, that she could afford to give her dollars around the globe without caring whether they ever returned to our factories or our farmers or our merchant marine. That time, Mr. Chairman, is gone.

Today, our foreign aid program as certain as every other aspect of American policy, must be relevant to the real concerns of our economy. That is why this year, as last year, the Foreign Affairs Committee on a bipartisan basis is asking this Congress to restrict the use of these funds so that if they are not spent in the recipient country and they are fully allowed to spend them in their own countries, it be spent in the United States, not in a third country, and that those funds not in private contracts, but if they are U.S. Government funds, must well be spent on an American flagship.

You voted that way last year. We ask you to vote that way again. We ask nothing that every other foreign aid donor nation in the world does.

Does anybody in this body genuinely believe that Japanese foreign assistance is coming to America to buy American products, or that German foreign assistance is being sent on American flagship?

The CHAIRMAN. The time of the gentleman from New Jersey [Mr. TORRICELLI] has expired.

Mr. TORRICELLI. Mr. Chairman, I ask unanimous consent to proceed for 1 additional minute.

The CHAIRMAN. Is there objection to the request of the gentleman from New Jersey?

Mr. FASCELL. I have to object, Mr. Chairman.

The CHAIRMAN. Objection is heard.

Mr. FASCELL. Mr. Chairman I move to strike the requisite number of words after casting an objection.

The CHAIRMAN. The gentleman from Florida [Mr. FASCELL] is recognized for 5 minutes.

Mr. FASCELL. Mr. Chairman, I yield to the gentleman from New Jersey [Mr. TORRICELLI].

Mr. TORRICELLI. Mr. Chairman, I thank the gentleman for yielding to me.

Mr. Chairman, simply in conclusion, no matter where you are from in America, this makes sense. This will not cost agricultural sales. It means agricultural sales.

This business is not coming to America. That is why the National Farm Union, the American agricultural movement, the National Farmers Organization representing 400,000 families, have endorsed this amendment.

Support the committee. Support American maritime interests. Support American labor. Bring this money home now. Make this program work. Support the Foreign Affairs Committee. Defeat the Bereuter amendment.

Mr. Chairman, I thank the distinguished chairman for yielding the additional time.

Mr. FASCELL. Mr. Chairman, I use this method in order to equal the time between the first speaker and the second speaker and to be fair about it, but I will continue to object to extensions of time. I think it is the only way to be fair to other speakers.

Mr. Chairman. I yield to the gentleman from Connecticut [Mr. GEJDENSON].

Mr. GEJDENSON. Mr. Chairman, in 1988, the United States had a trade deficit of $137 million. This can be attributed in part to our failure to provide support to U.S. businesses that would like to export.

This bill demonstrates the point:

The Trade and Development Program funds feasibility studies for much needed infrastructure projects such as water purification and power generation plants.

These projects in turn provide good market opportunities for U.S. exporters.

This program generates about $70 in U.S. exports for every dollar spent.

Despite the fact that this program has been fantastically successful in building necessary infrastructure while promoting U.S. exports, we fund it at $25 million per year.

This bill would increase TDP's budget to all of $30 million—still a fraction of what the Japanese spend for the same purpose.

If we are serious about reducing our trade deficit, we must not be shortsighted in funding trade and aid programs. We cannot be serious about dealing with our budget deficit unless we also address our trade deficit.

However, for a number of reasons, this bill is not the appropriate vehicle for providing additional funding. The Subcommittee on International Economic Policy and Trade is in the process of taking a careful look at these programs and determining cost effective approaches for assisting U.S. exporters—while providing important foreign aid.

One issue we are looking at, is tied aid—low interest loans or grants which are tied to procurement of goods and services from the donor country.

The United States is not in the same league as its competitors in providing tied aid.

In 1987, the United States apent about $65 million on tied aid. Japan spent 17 times that amount. Canada spent 4 times what the United States spent.

As a result, the United States is losing $2 to $4 billion in exports each year.

This means about 50,000 to 100,000 American jobs lost each year directly as a result of our unwillingness to compete.

The key is follow-on business. For example, a telecommunications system results in follow-on business 10 times the initial investment.

Part of the problem is the administration's unwillingness to be up front with Congress in recognizing this problem.

In a statutorily mandated report to Congress, they did not include recommendations as was specifically required. Only now are they contemplating how to deal with this situation.

OMB sanitized the report to minimize the magnitude of the problem.

The basic finding of the report—before it was sanitized by OMB—was that tied aid credits are a serious reality of the international environment which can affect the level of the U.S. exports and may be influencing the structure of U.S. industry.

The subcommittee needs to conduct further hearings and obtain additional information to determine the amount of funding that would be appropriate, the source of such funding, and the conditions to be attached to the funding.

I look forward to receiving the administration's recommendations in the next few weeks.

I thank the chairman for this opportunity.

Mr. FASCELL. Mr. Chairman, I yield back the balance of my time.

□ 1510

Mr. OBEY. Mr. Chairman, I rise in support of the Bereuter amendment.

Mr. Chairman, I have great respect for the gentleman who just spoke, but he managed to leave a totally erroneous impression of that the Torricelli amendment and the Bereuter-Obey amendment would do.

The previous speaker would have you believe that this is an issue which relates to the question of whether or not recipients of U.S. aid will buy American products or not. That is not what this issue is about. The fact is that the aid recipients in question already buy 13 times more in American goods than they would be required to buy under the Torricelli amendment, so do not be kidded, do not be fooled, do not be mislead.

The only issue we are dealing with today is whether or not we are going to raise the price of American products to these recipient countries and whether or not, in the process, we are going to hurt the very countries we are trying to help and hurt the American farmer at the same time and hurt every northern-midwestern port in America.

The fact is that the gentleman from Nebraska is absolutely correct. He pointed out that the agreement reached between various committees on the 1985 farm bill established the process under which the Government is operating today. We agreed on the amount of American cargo that would be shipped subject to cargo preference requirements. I support cargo preference. I have a strong record in favor of supporting causes in favor of organized workers in this country.

But it is too much to ask when the Torricelli amendment would, in fact, put Great Lakes ports out of business in terms of AID cargo. It is too much when the Torricelli amendment is trying to raise the cost of shipping American agricultural goods and thereby reduce the amount of goods that we can deliver to Third World countries.

I would simply make this point: If Members do not pass the Bereuter-Obey amendment, they will be crippling American exports. They will be raising the cost of agricultural products to the poorest countries. They will be reducing the value of aid which the United States provides, and they will be opposing the advice of the administration, the Department of Agriculture, the Agency for International Development, and a wide variety of farm groups listed on the sheet which I have available at the desk.

Every major farm organization in this country that understands the impact of this legislation is in support of the Bereuter-Obey amendment in opposition to the Torricelli amendment.

All we are asking the Members to do, by the adoption of the Bereuter amendment, is to keep the status quo. We are asking not to, under the guise of doing something else, not to reduce the amount of American agricultural products which we will be able to export to the Third World. We are asking the Members to stick to the status quo, stick to the agreement that we worked out between the various committees on the 1985 farm bill. We are asking the Members not to be misled by the false assertion that the issue before us is whether or not these countries will buy American or other goods.

Mr. Chairman, these countries are already buying far more American goods than the Torricelli amendment would require.

Mrs. SMITH of Nebraska. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in strong support of the amendment offered by the

gentleman from Nebraska and the gentleman from Wisconsin, which would strike section 1303—including the cargo preference provisions—from this bill.

Mr. Chairman, this bill contains cargo preference provisions that I consider especially objectionable, and if my colleagues support policies that promote U.S. exports and a favorable balance of trade, you will find them equally obnoxious.

Section 1303 in this bill would require the recipients of U.S. foreign trade in the form of cash transfer assistance to spend an amount equal to the aid they receive on U.S. goods and services.

Section 1303 also would extend costly cargo-preference requirements to the commercial purchases of those countries that receive cash transfer assistance.

Now, supporters of this section of the bill say it would increase U.S. exports and increase jobs.

How?

Countries receiving cash transfers already buy more than 13 times in U.S. goods as they receive in cash transfer.

Egypt, for example, will receive an estimated $230 million in United States cash transfer in fiscal 1989.

Egypt bought $2.7 billion in United States goods in fiscal 1988.

Turkey will receive an estimated $60 million in cash transfers in fiscal 1989.

In fiscal year 1988, Turkey purchased $1.9 billion in United States exports.

In fact, the cash transfer recipients affected by this amendment bought $2.6 billion in agricultural exports alone in fiscal year 1988—more than four times what they received in cash transfers in the same fiscal year.

As I understand it, section 1303 has no provision that requires the cash transfer recipients to buy more U.S. goods than they do now.

So why is section 1303 necessary?

Well, it is not.

The underlying purpose of section 1303 is not to increase U.S. exports, but to extend cargo preference requirements to already existing commercial exports to cash transfer countries.

That would be disastrous for agriculture.

Because U.S. flagships charge nearly twice the rates charged by foreign flagships, cargo preference requirements make U.S. agricultural commodities more costly, making it difficult for our producers to compete with foreign suppliers.

Foreign nations faced with these cargo preference requirements will be forced to reduce their volume of U.S. agricultural purchases in order to pay for the more expensive shipping costs.

Or, more likely, they will turn to other nations for agricultural purchases and buy U.S. goods that do not require ocean transportation.

How bad would these cargo preference requirements be for agriculture?

Just ask the major agricultural groups of this country. They oppose these cargo preference requirements and support attempts to exempt agricultural commodities.

I am talking about the American Farm Bureau Federation, the North American Export Grain Association, the American Soybean Association, the National Grange, the National Rural Electric Cooperative Association, the Associated Milk Producers, the National Council of Farmer Cooperatives, and many, many more.

There agricultural groups are joined in their opposition to the section 1303 cargo-preference requirements by other exporting industries, including the National Coal Association.

I ask that complete list of these groups be printed in the RECORD.

In addition, I want to point out that section 1303 flies in the face of the agreement reached between agriculture and maritime interests in the 1985 farm bill.

Section 1303 would smash that agreement by extending cargo preference to USDA commercial programs, the credit guarantee and export enhancement programs, for example, specifically exempted by the farm bill agreement.

I also must question the wisdom of a policy that would, in effect, reduce the amount of cash transfer assistance by requiring a recipient nation to subsidize our merchant marine.

For this reason and others, the administration opposes this section of the bill.

Mr. Chairman, I want to close by saying that U.S. agricultural producers and exporters have worked hard to improve our standing in an incredibly competitive world market.

Section 1303 runs counter to our efforts to increase exports. It actually would discourage countries from buying our agricultural commodities.

I believe this cargo preference requirement is bad for agriculture, bad for our balance of trade, and bad for the countries that receive our foreign aid in the form of cash transfer.

I urge my colleagues to support the Bereuter-Obey amendment.

NORTH AMERICAN EXPORT GRAIN ASSOCIATION INC.

Washington, DC, June 19, 1989.

Hon. VIRGINIA SMITH,

U.S. House of Representatives, Washington, DC.

DEAR CONGRESSWOMAN SMITH: We understand that the Foreign Aid Authorizations bill only recently approved by the Foreign Affairs Committee may be considered on the floor of the House as early as Wednesday of this week.

We, the undersigned, take this opportunity to alert you to Section 1303 of that bill, which contains cargo preference provisions seriously damaging to U.S. agriculture and other U.S. industries reliant on waterborne shipping.

Section 1303, offered as an amendment in the Committee by Mr. Torricelli, purports to promote foreign purchases of U.S. goods by requiring that these countries currently or prospectively receive. In fact, these countries already purchase more than 13 times as much U.S. goods and services as they receive in ESF cash transfer assistance (see attached).

The Torricelli provision is unnecessary if its only purpose is to promote additional U.S. exports. In fact, the real purpose of the provision is to apply cargo preference requirements on the dollar value of ESF cash transfers provided to these countries.

The effect of the Torricelli provision would be particularly damaging to exports of U.S. farm goods and other U.S. products exported by sea, including coal, chemicals and many industrial products. Cargo preference applied to such sales under the terms of the provision would make it impossible for our U.S. exporters to compete with foreign suppliers, and would reduce the amount of money cash transfer recipient countries have to spend on U.S. products. Ironically, these are countries with which the U.S. currently runs a large and favorable trade balance.

The Torricelli provision runs counter to every major effort Congress has taken in recent years to enhance U.S. trade competitiveness. The provision would make U.S. waterborne exports more costly, lower export volumes, and provide incentives to foreign countries to purchase waterborne products from suppliers other than the United States.

The provision would apply cargo preference for the first time to commercial exports previously exempted by Congress from provisions of cargo preference law. In addition, it would expand application of cargo preference to include U.S. commercial credit and enhancement programs specifically exempted from cargo preference by the terms of 1985 Food Security Act.

We urge your strong opposition to this provision. We note that a similar provision offered by Mr. Torricelli to 1987 foreign aid legislation was turned aside by a substantial vote in the House.

We understand that amendments may be offered on the floor to delete or otherwise modify the Torricelli provision to make it less harmful to U.S. agricultural and other industrial interests. We urge you to study such amendments carefully and to support them if, indeed, they are consistent with the best interests of affected U.S. export industries.

U.S. agriculture and industry stand united in opposition to the Torricelli provision. The undersigned represent every segment of Nation's agricultural industry. We are joined by other major groups for whom waterborne shipments are essential for their sales abroad.

With warm regards,

Sincerely,

North American Export Grain Association.

American Farm Bureau Federation.

National Coal Association/Coal Exporters Association.

American Soybean Association.

The Fertilizer Institute.

Shippers for Competitive Ocean Transportation.

National Grange.

American Great Lakes Ports

Millers National Federation

National Soybean Processors Association.
National Grain and Feed Association.
National Cooperative Business Association.
National Grain Trade Council.
Terminal Elevator Grain Merchants Association.
Protein Grain Products International.
U.S. Overseas Cooperative Development Committee.

LIST OF COOPERATIVE AND COOPERATIVELY RELATED ORGANIZATIONS OPPOSING SECTION 1303

U.S. Overseas Cooperative Development Committee.
National Cooperative Business Association.
Credit Union National Association.
Agricultural Cooperative Development International.
World Council of Credit Unions.
National Rural Electric Cooperative Association.
Volunteers in Overseas Cooperative Assistance.
National Farmers Union.
Blue Ridge Electric Cooperative Association.
North Carolina Association of Electric Cooperatives.
Wisconsin Electric Cooperative Association.
Lakes O'Lakes.
Minnesota Association of Cooperatives.
Washington State Council of Farmer Cooperatives.
League Insurance Companies.
CUNA Mutual Insurance Group.
Nationwide Insurance Companies.
Amalgamated Life Insurance Company.
National Cooperative Bank.
American Institute of Cooperation.
Cooperative Housing Foundation.
Housing Assistance Council.
National Association of Housing Cooperatives.
Federation of New York Housing Cooperatives.
National Council of Farmer Cooperatives.
Agway.
Associated Milk Producers.
CENEX
CF Industries.
Countrymark.
Dairylea Cooperative.
Farmland Industries.
Growmark.
Harvest States Cooperative.
Indiana Farm Bureau.
International Cooperative Petroleum Association.
MFA Oil Company.
MCF Services.
Mississippi Chemical Corp.
National Cooperative Refinery Association.
Seald-Sweet Growers.
Southern Farmers Association.
Southern States Cooperatives.
Sunkist Growers.
Tennessee Farmers Cooperative.
Universal Cooperatives.
Farm Credit Bank of Baltimore.
Farm Credit Banks of Louisville.
Farm Credit Services of Omaha.
Farm Credit Bank of Spokane.
Farm Credit Banks of Springfield.
Farm Credit Services of St. Paul.
National Bank for Cooperatives.
Western Farm Credit Bank.
National Grange.
Mutual Services Insurance Company.
Wisconsin Federation of Cooperatives.
Mid-America Dairymen, Inc.
Blooming Prairie Warehouse.
Greenbelt Homes, Inc.
Ag Processing, Inc.
Group Health Cooperative of Puget Sound.
Garden City Cooperative.
Ohio Farm Bureau Federation.
Southern Cooperative Development Fund.

Mr. LENT. Mr. Chairman, I rise in opposition to the amendment.

The Chairman, the legislation before us today is the foreign aid bill. It is proper for the United States to provide assistance to nations less fortunate than ours, but I also believe that it would be desirable to provide that the taxpayers' funds which help other nations should also have a positive benefit to American business. The Torricelli provision would do that by simply requiring a country that receives a cash transfer to spend an amount equal to that cash grant to purchase U.S. goods and services.

We have heard some of the opponents of this section say that this provision will hurt American farmers. Nothing could be further from the truth.

This is not a fight between agricultural interests and maritime interests. This provision does not even impact the U.S. Department of Agriculture. It only affects the way that the Department of State handles cash transfers to foreign countries.

Currently the Department of State gives away over $2 billion in cash annually to other nations and does not require any accounting for the way that the money is spent by the recipient nations. In fact, we do not have any record of where this money has been spent over the years. I believe that section 1303 will benefit many American businesses, including American farmers and the American merchant marine, and since we do not have a "U.S. desk" at our State Department, this provision will ensure that U.S. aid will serve the dual purpose of helping the American economy at the same time it is helping other nations of the world.

It is important for Members of this body to know what the Torricelli provision does not do as well as what it will do.

It does not extend cargo preference to commercial exports.

It will not reduce agricultural exports.

It does not violate the 1985 cargo preference compromise contained in the farm bill of that year.

Section 1303 will ensure that foreign nations who receive U.S. cash aid, will use that aid to purchase American goods, including agricultural commodities, and U.S. services. It also will require that a portion of the goods purchased will be carried on American-flag vessels. This section also gives the President the ability to waive these requirements if it is important to the national interest to do so.

Mr. TORRICELLI's provision could benefit all sorts of American businesses. For example, a nation that is trying to build up its agricultural productivity might buy farm tractors built in Illinois. Another nation might buy schoolbuses built in Michigan or a third nation might want lumber from Washington.

The Torricelli provision would actually help American farmers. Currently, most of the foreign aid cash money given to less fortunate countries is not used to buy any U.S. grain. Members representing agricultural districts should strongly support this provision because it would result in the purchase of American farm products. Without this provision, some of these foreign aid cash grants will continue to end up in countries like Argentina, Canada, or France where less developed countries buy their grain using our American cash.

There is a requirement for shipping half of any goods purchased in the United States on American ships—but it is important to realize that this is half of something that today is zero under the current program because no goods at all are being purchased.

One thing I think ought to be straightened out, I think, because it has been said incorrectly. The proponents of the amendment to delete the Torricelli provision claim that it would reduce exports of American goods to nations that receive cash transfers because the nations import 13 times as much in American goods as they receive in cash grants. That is an interesting bit of information but it is totally unrelated to what this bill is all about. That is a classic example of mixing apples and oranges and using statistics in an attempt to cloud over the facts. Those imports they mention are private commercial transactions that have nothing to do with the receipt of U.S. Government cash grants to foreign governments. The requirements of section 1303 will not affect those private imports at all.

Consequently, I strongly support the provision authored by Mr. TORRICELLI and oppose any effort to delete this provision or to modify it to remove the requirement for shipping some of these goods on American merchant vessels.

1520

Mr. OBEY. Mr. Chairman, will the gentleman yield?

Mr. LENT. I am happy to yield to the gentleman from Wisconsin, if I have time.

Mr. OBEY. Mr. Chairman, I would like to suggest that the gentleman is in error when he suggests that this does not apply to commercial exports.

The language of the Torricelli amendment makes quite clear that it does.

Mr. BERMAN. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

Mr. Chairman, I rise in support of the Bereuter amendment and in opposition to the provision in the bill drafted by my friend and colleague, the gentleman from New Jersey [Mr. TORRICELLI].

It is very important I think for the Members to understand that there are two parts of this amendment that the gentleman from Nebraska [Mr. BEREUTER] seeks to strike. One part has absolutely no effect on anything. That is the part that talks about using cash ESF grants to purchase U.S. products.

These countries that are recipients of this cash assistance who purchase something like 13 tons more in U.S. products have for our purposes and our point of view a favorable balance of trade for us and a negative balance of trade for them.

The real agenda here deals with cargo preference. All I can say with regard to that is when we apply that to the cash ESF, to the foreign assistance program, we are talking that part of this budget which has suffered the most in the wake of Gramm-Rudman-Hollings, which has been cut the most, which is designed to help the poorest of the poor countries, our allies, and to move the peace process in different parts of the world forward. We are deciding to protect the merchant marine industry in this country on that one program.

There is no doubt in my mind that the merchant marine industry has an important and meaningful national security question involved. How do we sustain such an industry? We should not be sustaining it on the backs of an already beleaguered and besieged part of the budget which provides vital assistance to poor countries. We should be coming forth with funds and a system of subsidies or enhancements for protection straightforwardly, through the budget, through the transportation budget, through the Department of Defense budget, but not in the pretense that we are meeting our foreign assistance goals through this amendment.

It is for that reason that I urge my colleagues to look very carefully at this. This is not a buy U.S. products amendment that we are trying to remove from this bill. It is an effort to substantially reduce the impact of an already beleaguered foreign assistance program.

I urge an "aye" vote for the amendment.

Mr. HYDE. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the Bereuter amendment.

Mr. Chairman, I rise in strong support of the Bereuter amendment. I think it is very unfortunate to impose cargo preference on some of the poorest countries in the world which will have the inevitable effect of raising the cost of food that they need.

Really what we are doing is we are subsidizing our merchant marine. That may not be a bad idea, but not on the backs of some of the most malnourished people in the world. To add to the cost of the food that economic support funds will purchase is a serious mistake.

In the Food-for-Peace Program we have this cargo preference system, and what it does in effect is take a bite out of the food that people are getting up to $150 million a year. If we want to subsidize our merchant marine, and I am certainly not against that, let us do that straightforwardly, honestly, by having a subsidy. Let us vote for that and see if we can come up with the money for it. But let us not take money from economic support funds that are going to some of the poorest countries in the world, in Africa, in Asia, in other parts of the world, and say to get this food you have got to ship it in American ships.

That is a fine idea and it has a certain ring to it, but what it means is it is going to cost 75 percent more to get this food. That ought not to be a burden on this program which is dedicated to helping some of the poorest people in the world.

Mr. TORRICELLI. Mr. Chairman, will the gentleman yield?

Mr. HYDE. I yield to my friend, the gentleman from New Jersey, who surprises me that he wants to burden so many malnourished people with subsidizing the merchant marine industry.

Mr. TORRICELLI. Mr. Chairman, I thank the gentleman for yielding, because he may be far less surprised with the explanation. Certainly the gentleman knows first those countries that have the foreign aid program of $10 million or less, many of the poorest nations, include some of those in Africa.

Mr. HYDE. If I may recapture my time on that point, excuse me, but the number of those countries is zero. There are no countries getting cash economic support funds below $10 million, at least that is what I am told by our experts.

So now I yield back to the gentleman to go on to his next point.

Mr. TORRICELLI. If the gentleman will yield, indeed there are several countries, and I will be happy to provide the gentleman with a list of those countries.

Mr. HYDE. Somalia is certainly not one of them.

Mr. TORRICELLI. Is the gentleman yielding?

Mr. HYDE. Yes; I am sorry.

□ 1530

Mr. TORRICELLI. The principal problem, however, with the gentleman's analysis is he suggested that it costs 75 percent more to use an American ship to deliver American foreign aid versus a foreign ship. My information, which I believe the gentleman heard in committee, was confirmed by AID, and it is that indeed in the most recent contracts to Egypt for American grain an American ship costs $35 per ton, a foreign ship costs $33.50 per ton. Indeed the efficiency of the American ship has been increasing by more than 10 percent a year. So the 75-percent figure I think indeed is more like 10 percent.

I thank the gentleman for yielding.

Mr. HYDE. I disagree with the gentleman's percentages, but at least he concedes it costs more to ship in American bottoms than any other that are available and that cost is going to have to be paid for out of the economic support funds, which means less food, I will not say on the table, I will say on the floor of some of the places where these malnourished people are going to eat it.

I am all for a strong merchant marine, but let us do it up front and not take it out of a program that is designed to feed the poor and the hungry.

Mrs. BENTLEY. Mr. Chairman, will the gentleman yield?

Mr. HYDE. I yield to the gentlewoman from Maryland.

Mrs. BENTLEY. I thank the gentleman for yielding.

Mr. Chairman, I hate to call the gentleman to task on this, whom I have great respect for.

Mr. HYDE. So do I.

Mrs. BENTLEY. But when you are talking about $1.50 different on a ton of grain, just think of the differential in your pay and the pay in the Houses of Representatives of those poor countries.

Mr. HYDE. The picture that I get in my mind is of some poor starving families grubbing for some grain that costs more because we are preferring American bottoms to the cheaper ones.

Mr. OBEY. Mr. Chairman, will the gentleman yield?

Mr. HYDE. I yield to the gentleman from Wisconsin.

Mr. OBEY. I thank the gentleman for yielding.

Mr. Chairman, I simply point out that, in fact, the cost differential for cargo preferences is far higher than has been indicated on this floor. In many cases it exceeds 20 and 25 percent. That is a substantial bite to take out of foreign aid.

The other point I would make is that any cargo shipped under cargo preference automatically cannot be shipped out of Upper Midwest Great

Lakes ports, which cuts out entire reaches of the country.

Mr. ACKERMAN. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the Bereuter amendment in support of the Torricelli amendment and the committee bill, and in total confusion of how people could stand up in the well for 1 minute this morning and criticize the decision of the U.S. Supreme Court and then come here on the same day in the afternoon and trash the American flag for the sake of $1.50 a ton or any other price.

Mr. BATEMAN. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the pending amendment.

It is my hope not to consume the entire 5 minutes, but I do rise in opposition to this amendment. I do so regrettably because I represent farmers who produce grain for export; I represent shippers of other commodities that flow through the great port of Hampton Roads, which my district abuts. But I have to rise in opposition to this amendment because of a concern for something with overriding importance to my country and to all of my constituents.

And that thing which requires me to do that is to do something to make it possible for there to be at least a survival of what remains of the American-flag merchant marine. There is precious little of it left.

Within the next 5 to 10 years under present trend lines that have developed over the past 10 or 15 or more years we will have no American-flag merchant marine whatsoever. I have been a Member of the Congress now since January 1983, and I have never heard anyone rise on the floor of this House who did not say that it was important that we maintain an American-flag merchant marine. I have never heard anyone rise and say that they were anything other than for an American-flag merchant marine.

But in the 7 years now I have been here, we have not done a cotton-picking thing to develop an American maritime policy that assures that there will be a continued American-flag merchant marine.

This is one opportunity, not the best way, not the hoped-for way that we would develop, but to this day virtually the only opportunity that I have to try to do something that would shed a little light and a ray of hope for the continuance of some American merchant marine.

Why should there be an American merchant marine? Why is it important? It is important to the national security of the United States of America where the Joint Chiefs of Staff, where our NATO commanders tell us that our most serious shortfall in national security is our lack of sealift in the event of an emerging war and the ability to sustain our troops in the field.

We must have an American-flag merchant marine, but it is disappearing unless we do something as a Government to encourage it.

Why should we fail to support an American merchant marine and be concerned that our shipping costs may be somewhat higher that those of many other flag vessels of other nations? We should not really be concerned if we want an American merchant marine because if you are aware of the fact that there is no maritime power on the face of the Earth that does not subsidize its merchant marine. If we choose not to do thing in this kind of a modest way at least, then reconcile yourselves to the disappearance of American-flag carriers on the oceans of the world. This is the only recourse that we presently or foreseeably have.

Mr. TORRICELLI. Mr. Chairman, will the gentleman yield?

Mr. BATEMAN. I yield to the gentleman from New Jersey.

Mr. TORRICELLI. I thank the gentleman for yielding.

Mr. Chairman, the gentleman from Illinois [Mr. HYDE] asked a legitimate question, whether indeed the provisions to ensure that the poorest of nations were exempted indeed had any meaning. He suggested no nations would be impacted. Indeed he asked for the list and the list is as follows: Kenya, Ecuador, the nations of the South Pacific region, Chad, Thailand, Djibouti, and the Caribbean region.

So indeed some of those poorest of nations, despite the fact that we would like those dollars spent in America, and despite the fact that we lack a merchant marine, have been exempted. I wanted the gentleman to have his answer.

Mr. BEREUTER. Mr. Chairman, will the gentleman yield?

Mr. BATEMAN. I yield to the gentleman from Nebraska.

Mr. BEREUTER. I thank the gentleman for yielding.

Mr. Speaker, I say to the gentleman that presently we subsidize the merchant marine to the tune of $120 million to $150 million a year by the Food for Peace Program. The people of this country do not understand that they are subsidizing the merchant marine, but we are. It is a compromise that we have reached.

I say to the gentleman if there needs to be more subsidy, why do not the people who want that subsidy come directly and put it on before the Congress directly instead of taking it out of the SF funds?

Mr. BATEMAN. Believe me, in response to the gentleman's inquiry, the members of the Committee on Merchant Marine and Fisheries of this House struggle with that virtually every meeting that we have and get nowhere because there has never been a willingness on the part of this body and the other body to come together and enact any comprehensive maritime policy for the United States of America. The gentleman mentioned Food for Peace and the other problems where there is a cargo preference: the merchant marine is disappearing steadily.

Mr. STENHOLM. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the Bereuter amendment.

Mr. Chairman, I remind my colleagues that in 1985 in the farm bill we worked with members of the Committee on Foreign Affairs and the Committee on Merchant Marine and Fisheries to reach a compromise, one that was not satisfactory to either side, I might add, particularly agricultural side, but we reached a compromise that applied cargo preference to food aid but not commercial sales. The Torricelli amendment goes beyond that agreement in a very significant way because it provides that countries receiving cash transfer assistance spend an amount equal to the amount of cash transfer to purchase U.S. goods and services and that includes agricultural commodities.

Under the Torricelli provision the President, and get this, this is in the bill, my colleagues, the President must ensure that the purchases and ports of departure for these purchases are distributed equally, equally, throughout the United States.

□ 1540

It further goes to say that it must make certain that the United States' goods which are available in the United States at fair prices for such goods.

Now, anyone that understands our agricultural marketing system knows that that is going to guarantee a paperwork monstrosity. Tremendous costs will be involved in living up to the letter of those four sentences, on page 62 of the bill; tremendous amount of cost.

Now, up until now, food aid, we agree, has cargo preference. At least 75 percent of the U.S. food aid must now be sent on U.S. ships. There has been a number of problems in obtaining the right number of ships, the right type of ships, and in scheduling the right coastal range so that the commodities could arrive on time. Timing of arrival is crucial. Cargo nations and concessional programs go no further when they arrive during the harvest time of recipients' countries. If they are damaged or destroyed, the matter is litigated. However, the protective nature of our cargo preference law, as it applies to food aid, means that the very same American ships which may continuously damage com-

modities are continuously eligible, guaranteed, to carry future shipments. Now, this would be the case on commercial sales if this amendment does not carry, the Bereuter amendment.

I ask my colleagues to take a good hard look, certainly, when Members bring the flag into question. I sort of resent that remark because we are not talking about a fight between the merchant marine and agriculture. We are talking about how to get the most bang for our buck. I, too, want to say, if we need to do more for our merchant marine, let Members do it openly, honestly, and free debate on the floor of the House. Let Members not do it through the back door.

Mr. Chairman, I yield to my colleague from Wisconsin [Mr. OBEY].

Mr. OBEY. Mr. Chairman, I thank the gentleman for yielding.

I would like to point out some very wrong figures that have been peddled. AID: point out the differential between cargo preference and noncargo preference cargo, for AID, in fiscal year 1988 was $33 per ton versus $58 per ton. That means they are raising the cost of shipping by 70 percent for AID-shipped cargo. That is wrong from the standpoint of farmers, taxpayers, and aid recipients, and we ought not to do it.

Mr. STENHOLM. Mr. Chairman, I totally agree with my colleague's statements. The numbers of cost are significant: 20, 25, 50 percent, whatever the number, it is a significant increase in cost which defeats the purpose of the program we are debating today, and it does so unnecessarily. However, please read the language of the bill, If Members do not think it will be costly, watch and see who will implement some of the language on page 62 of this, without costing ourselves an arm and a leg.

Mr. ROBERTS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of the Bereuter amendment. Mr. Chairman, it is with deep regret and a sense of personal disappointment that I must disagree with my good friends on this side of the aisle, more specially, the gentleman from Virginia [Mr. BATEMAN] whose district I have been to, and in regards to his concern, understandable concern, for the U.S. merchant marine and the need to maintain a viable and strong U.S. fleet.

I know that I am committed to that goal. We tried to work with these folks several years ago to go directly to the Reagan administration and provide those funds up front. That is not the issue. With all due respect to the gentleman from New Jersey [Mr. TORRICELLI], and the well-intentioned folks who represent the maritime industry so well in this body, we have been down this road before. It is a trip we should not be taking again.

It seems as if those who want to expand, and I want to stress expand, cargo preference are somewhat like foggy nights and poltergeist movies, "They're back," regardless of past agreements or counterproductive results to other parts of the economy namely the farmer.

This amendment comes without hearings. It is opposed by the administration, it is opposed by virtually every agricultural organization and export group. We went through this same chapter, same verse, same scenario back in 1987 when we exempted agricultural exports. I thought we struck a compromise.

As a matter of fact, I think if Members will recall, the gentleman from Oklahoma [Mr. ENGLISH] and this gentleman from Kansas during the 1985 farm bill debate, we tried to amend the cargo preference laws. The Congress spoke. We were defeated. We struck a compromise. We said, let the Members work together, and yet here we come again.

My colleagues, the legislative compromise of those earlier debates answered the concerns and wishes of both sides to the extent we could. How many times do we have to go through this exercise? Enough is enough.

Additional exports? Buy American? Most of the countries involved, as has been pointed out by the gentleman from Wisconsin, already purchase U.S. goods and services at a level 13 times greater than the aid that they receive.

The real impact, the real purpose of this amendment will be to impose cargo preference on U.S. sales already being made to these countries. It will not increase those sales. As a matter of fact, it will decrease sales. The countries paying for the higher cost of shipping will have less money remaining to buy U.S. goods.

In fact, I doubt if the amendment would really provide much, if any help to the U.S. merchant marine. The cash transfer of countries will focus on goods and services not transferred by sea.

Who will be affected? I will tell Members who will be affected: U.S. producers of ocean carried goods who must compete with foreign suppliers, meaning agricultural exports, coal, oil, chemicals, machinery.

Mr. Chairman, this amendment breaks the compromise reached by agriculture and maritime interests back in 1985. It expands cargo preference to cover agricultural exports deemed exempt in the 1985 farm bill.

Before Members vote, read the supplemental views by the gentleman from Indiana [Mr. HAMILTON] and the gentleman from Nebraska [Mr. BEREUTER]. Before Members vote, read the figures in regard to the agricultural exports to the 13 countries, and let Members vote for the Bereuter and Obey amendment.

Mr. MILLER of Washington. Mr. Chairman, I move to strike the requisite number of words.

I rise in support of the cargo preference provisions in this bill, and in opposition to the amendment offered by the distinguished gentleman from Nebraska [Mr. BEREUTER] for whom I have the greatest respect.

U.S. cash assistance as a component of foreign aid has grown dramatically in the last decade. I think that is something we have got to understand.

Years ago, decades ago, a high proportion of U.S. economic aid came in the form of equipment with Made in the U.S.A. labels, or food with the U.S.A. label. Today, a higher and higher proportion of our aid comes in the form of a check, a cash transfer payment.

It is time, Mr. Speaker, to encourage recipients of U.S. economic aid to purchase in kind U.S. goods and services, including shipping. With the exception of an agreement with Israel, no such stipulation currently exists.

Our foreign aid has many purposes, one of which is economic self-interest. U.S. aid programs can help underdeveloped nations become our trading partners, providing important markets for American goods and services. The cargo preference provision will help to do exactly that. We want to help our country. At the same time, we want to help ourselves, and I might add, develop a broader base among the American public of support for the foreign aid program. Countries which receive U.S. cash aid should use American-flag vessels to transport a portion of goods, products and agricultural commodities.

I urge Members to oppose the amendment to delete this important provision.

Mr. ROGERS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, let me disabuse those Members who think it is merely an agricultural problem posed by the gentleman from New Jersey [Mr. TORRICELLI's] language.

All Members whose districts produce coal or any sort of bulk product that is sold on the export market are threatened by the language in the bill and should vote for the Bereuter-Obey amendment to remove that language.

I represent a coal district, and I am telling Members, Members are threatened with this language, the coal export business that our Nation has now growing and producing those mine working jobs in the coal mines of America.

□ 1550

I do not want to see those coal miners thrown out of work by lan-

guage which might favor the maritime industry. As has been said, if we want to help the maritime industry, let us bring it on the floor in an honest way, lay it on the table, and then we will debate it, but we should not attempt to take jobs from the agricultural community and from the coal mining community and the fertilizer industry, and so forth, with this kind of an around-the-horn effort.

Any requirement which would cause U.S. coal exports to become confined to the holds of U.S. bulk carriers would seriously harm the competitiveness of the United States in world markets. It is not peanuts, because, for example, Turkey, which would be affected by this language, buys 89 million dollars' worth of coal, Portugal buys $35 million. Egypt buys $19 million, and so on, and so forth. These are countries receiving the ESF funds and which would be affected by the Torricelli language.

The reason is simple, Mr. Chairman, and it is summarized very quickly by citing three interrelated facts. First, it is clear that competition is vigorous among coal producing countries. The need for U.S. coal to increase its competitiveness is aptly illustrated when we realize that in the late 1980's our coal exports have been in the range of about 80 to 90 million tons per year. At the beginning of the decade we were exporting more than 100 million tons annually.

Second, it is obvious that to be more competitive it is imperative that we hold down the delivered price of U.S. coal, a price which has two elements—the mine price and the transportation costs. U.S. coal producers have greatly increased their productivity in the 1980's to the point where coal mining productivity has leaped by 70 percent and prices of coal at the mine have dropped an average of more than 30 percent in this decade.

So our capability to be competitive in regard to coal production is proven and is a reality in today's markets. Consequently, it is critical that we seek to hold down the other components of coal's delivered price, namely transportation costs. If we do not, we will destroy the significant productivity gains in America's mines.

Finally, we know that ocean rates are a key part of the costs of transporting coal to overseas markets. The sure way to hold down those rates is to foster, not to stifle, competition among bulk carriers engaged in coal trade. U.S. shipping is more costly with regard to ocean freight rates. Thus, to require that U.S. coal exports be transported in U.S. vessels would substantially reduce transportation competition, raise the cost of transporting our coal in the world, and impair our competitiveness and lose American jobs.

Mr. Chairman, I urge support of the Bereuter amendment.

Mr. LAGOMARSINO. Mr. Chairman, I move to strike the requisite number of words, and I rise in strong support of the Bereuter amendment.

Mr. Chairman, I would like to emphasize, as has been stated already several times, that the administration strongly opposes the provision in the bill that the Bereuter-Obey amendment would strike.

We already do have a cargo preference rule. It applies to the Food for Peace Program, and as has been pointed out already, it costs us between $100 and $150 million a year, or roughly 10 percent of that entire budget.

The gentleman from Texas [Mr. STENHOLM] talked about getting more bang for our buck, and I can tell the Members that if we do not agree to the Bereuter amendment we will get less bang for our buck, and I would suggest, in more than one way. One way is that it will cost us more to do what the Torricelli language would have us do.

Second, I think that when it becomes known that we are paying through the foreign aid bill to subsidize the merchant marine, as worthy as that is in and of itself, we are going to have less support, not more, for the foreign aid program. I would like to emphasize again, because I think it is very important here, that AID-financed cargoes—and we have had experience in that, because we are doing it, as I have pointed out—cost an average of $58.79 a ton on U.S. ships in 1988, compared to $33.17 per ton on foreign flag ships at international rates. That is 75 percent higher.

The gentleman who just spoke in the well talked about the fact that this would effect the export of coal, and I think that is true. It would not only affect U.S. farm products, but it would affect such things as coal, fertilizer, and other ocean carried goods. Those items would be particularly hard hit.

I would suggest that one of the ways we are going to be able to at least partially offset the cost of imported oil is by exporting coal, and to the extent that this Torricelli language affects that, we are going to be further behind in that effort. It is true, and I would agree with everyone who has spoken on this, that the merchant marine in this country is in bad shape, and I think it is also true that we need to do something about it.

Mr. Chairman, the merchant marine probably does require some kind of subsidization, but let us not do it through the foreign aid bill.

Mrs. UNSOELD. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment and in support of the original Torricelli provision as it occurs in the bill.

Mr. Chairman, many of my constituents look about their districts and they see the homeless, they see our failure to increase the minimum wage, they know we are unable to have long-term health care, we have no family leave and no child care, and they ask: Why should we have any foreign aid.

Indeed, American taxpayers are having difficulty understanding why we want to assist other countries without it also benefiting us. The value of the Torricelli provision is that it restores that balance between both assisting those countries that have less than we do and providing assistance by bringing much of that business back to the United States.

The Maritime Trades Department of the AFL-CIO, representing 43 national and international unions, composed of 8.5 million workers, urges the support of the Torricelli provision. This provision would mandate those countries receiving more than $10 million per year in cash aid to spend an equal amount of those funds on U.S. goods and services. In fact, many U.S. aid recipients today use that cash assistance to purchase goods abroad. That is what our American people cannot understand.

It is too difficult to justify to the American taxpayers, workers, and farmers who see this U.S. assistance sent overseas and see us reaping no benefits here at home.

No longer are there guarantees that the U.S. economy will benefit from the generosity of the American people to our foreign friends. It is time that we reverse this trend and encourage the recipients of U.S. economic aid to purchase in kind U.S. goods and services. Economic assistance should be multipurposed, benefiting those nations less fortunate than the United States, as well as American industries and agriculture here and the many thousands of U.S. citizens working in those manufacturing plants and on those farms.

Mr. Chairman, endorsement of the cash transfer restrictions will restore U.S. economic aid to its original purpose. I urge the Members to oppose this amendment and support the Torricelli provision.

Mr. BROOMFIELD. Mr. Chairman, I rise to see if we may get an agreement to end debate on this particular amendment.

Mr. Chairman, I move that we limit the debate on this amendment to 20 minutes, 10 minutes on each side, to conclude debate on this particular amendment under discussion.

The CHAIRMAN. The Chair will state to the gentleman that the gentleman may not divide time in his motion. The Chair can divide the time.

The question is on the motion to limit debate on this amendment and all amendments thereto to 20 minutes.

Mr. SMITH of Florida. Reserving the right to object, Mr. Chairman, do I understand that this is a motion?

The CHAIRMAN. This is a motion. The Chair will restate the motion.

The motion is to limit debate on this amendment, and all amendments thereto, to 20 minutes.

The question is on the motion offered by the gentleman from Michigan [Mr. BROOMFIELD].

The motion was agreed to.

The CHAIRMAN. The Chair will divide the time, 20 minutes, between the gentleman from Michigan [Mr. BROOMFIELD] and the gentleman from Florida [Mr. SMITH]. The gentleman from Michigan [Mr. BROOMFIELD] will have 10 minutes, and the gentleman from Florida [Mr. SMITH] will have 10 minutes.

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The Chair will state to the gentleman from Michigan [Mr. BROOMFIELD] that he will recognize the gentleman from Nebraska [Mr. BEREUTER], the author of the amendment, for the 10 minutes, if the gentleman from Michigan [Mr. BROOMFIELD] wishes.

Mr. BROOMFIELD. Yes, Mr. Chairman.

The CHAIRMAN. Does the gentleman from Nebraska [Mr. BEREUTER] seek recognition at this point?

Mr. BEREUTER. Mr. Chairman, I yield 2 minutes to the gentleman from Michigan [Mr. SCHUETTE].

Mr. SCHUETTE. Mr. Chairman, I rise in support of the Bereuter-Obey amendment to remove section 1303 from this bill.

Mr. Chairman, I have no quarrel with the maritime industry; just let us not take it out of the hide of American agriculture. I believe in a strong maritime industry for this country, however, if we have problems that need to be solved, let us not do it at the expense of farm families or coal miner families across this land.

Mr. Chairman, we have seen American agriculture come back after tough years, embargoes, droughts. Let us not make American agriculture uncompetitive, and let us not create a tilt of an unlevel playing field for American farmers at a time when farm programs in this country are going down.

As my colleagues know, industries are experiencing an export surge. Let us not expand the trade deficit at a time when we need to bring it down.

I urge my colleagues to support the Bereuter-Obey amendment in support of farm families and coal miner families across this country.

Mr. SMITH of Florida. Mr. Chairman, I yield 1 minute to the gentleman from Texas [Mr. DE LA GARZA].

Mr. DE LA GARZA. Mr. Chairman, I thank my distinguished colleague, the gentleman from Florida [Mr. SMITH] for yielding this time to me.

Mr. Chairman, I rise in support of the Bereuter amendment, and this is a very difficult one for me and those of us who are supportive of the merchant marine that have been on their side and continue to be on their side.

However, Mr. Chairman, this is not the way to legislate. This is really not the way to help our merchant marine off the backs of American producers and American industry, and for that reason I would hope that the Members would continue supporting the agreement that is in place that was reached during the 1985 Agriculture Act and support the Bereuter amendment.

Mr. Chairman, I rise in favor of the Bereuter amendment to exempt agricultural commodities from the provisions contained in the proposed new section 1303 of the Foreign Assistance Act of 1961, as it would be added by section 101 of H.R. 2655, the International Cooperation Act of 1989.

Section 1303's cargo preference requirement for countries receiving cash transfer assistance would make U.S. agricultural exports more expensive for this handful of Third World nations. In the process it would undermine our hard-won efforts to recapture export markets for U.S. farmers that began with the enactment of the Food Security Act of 1985. And finally, section 1030 will in effect encourage—if not force—countries receiving cash transfer assistance to turn to our export competitors for their food purchases.

Mr. Chairman, I would like to take a few minutes now to provide my colleagues with background on this isuse and why we need to exempt agricultural commodities from section 1303.

Congress has dealt with the cargo preference issue before, although in a different context. During the 1985 farm bill conference an ageeement was reached between the House and Senate Committees on Agriculture and the House Committees on Foreign Affairs and Merchant Marine and Fisheries which applied the cargo preference requirement to U.S. food aid shipments but not to commercial sales.

That agreement is current law.

However, section 1303 for the first time makes commercial sales subject to cargo preference. Enactment of this provision would be contrary to the agreement reached in 1985. Commercial agricultural sales financed under U.S. Department of Agriculture credit guarantee programs and other programs designed to make our exports more competitive in the world market were specifically exempted from cargo preference by the terms of the 1985 agreement.

We cannot keep changing our mind over the cargo preference issue. We cannot keep sending mixed signals to our Nation's farmers about our commitment to assist them in exporting their products. And we certainly should not undercut these Third World countries' food buying power or force them to look elsewhere for their food purchase needs.

Since section 1303 would apply to countries receiving economic support fund [ESF] assistance, let's take a look at these countries and how important our agricultural trade is with them. And let's also consider the situation these countries face in terms of their own burdensome foreign debt obligations.

Fifteen countries received $550 million in economic support fund [ESF] assistance in fiscal 1988—Bolivia, Costa Rica, the Dominican Republic, Egypt, El Salvador, Guatemala, Honduras, Ireland, Pakistan, the Philippines, Portugal, Senegal, Somalia, the South Pacific, and Turkey.

U.S. agricultural exports to these same countries—which ESF assistance helps generates—totaled more than $2.6 billion.

Our agricultural exports to most of these countries were significantly higher—overall, five times higher in fiscal 1988—than the ESF cash transfer assistance involved.

These markets are growing. Third World countries—the developing nations of the world—are the largest growing market for U.S. agricultural commodities. For instance, our agricultural sales to Pakistan in fiscal 1989 are expected to increase by more than $200 million; it will be a $55 million increase for the Philippines; and $100 million in additional sales to Egypt.

But while our agricultural trade has improved, we must remember how fragile these countries' economies are due to their burdensome foreign debt obligations. According to the World Bank, the 15 ESF cash transfer countries are holding more than $172 billion of foreign debt.

At a time when many of us here in Congress and the administration are trying to find solutions to the Third World's debt problems, section 1303 would impose an additional burden on these countries—one that is not their fault and over which they would have little control. Section 1303 would impose a burden that hurts literally millions of people.

If we do not approve the Bereuter amendment, we will substantially increase the transportation costs involved in moving agricultural commodities. We will seriously undercut these countries' food buying power. And in the end, the American farmer will lose export markets.

Mr. Chairman, I have become very familiar with the Third World debt issue and its effects on agricultural trade over the past year.

Last month I chaired an Agricultural Committee hearing on the Third World debt issue where the Secretary of Agriculture, Clayton Yeutter, said, "Developing country importers incur additional foreign exchange costs of about $2 billion annually due to the policies of industrial countries."

Let us not add another problem on top of those already before these 15 Third World countries. They are our friends and trading partners. Let us instead work together to ensure that they can continue to purchase competitively priced food and resolve their debt problems. This is what is good, not only for U.S. agriculture, but for the entire United States and world economies.

I urge my colleagues to support the Bereuter amendment to exempt agricultural commodities from the cargo preference clause contained in section 1303 of the bill before us today.

Mr. Chairman, I yield back the balance of my time.

Mr. BEREUTER. Mr. Chairman, I yield 1 minute to the gentleman from Texas [Mr. FIELDS].

Mr. FIELDS. Mr. Chairman, I rise to express my strong opposition to this ill-conceived amendment which will strike the language in section 1303 of H.R. 2655.

Let me briefly address and clarify some of the issues raised during this debate on section 1303.

Mr. Chairman, the purpose of section 1303 is quite simple: it will require a foreign nation receiving United States cash aid to purchase an equal amount of United States commodities and to transport 50 percent—not 100 percent—of those goods on United States flag vessels.

This is not a new or a radical idea. In fact, the Government of Israel has been complying with the spirit of section 1303 since it voluntarily signed an agreement with the United States in 1978.

By enacting section 1303 in its current form, we can tell our constituents, when they ask about foreign aid, that this year we made a difference. We required that there be benefits for not only the recipient nation but also such vital United States industries as agriculture and maritime.

Mr. Chairman, I am also convinced that this language will in the future help build popular support for the foreign aid program.

While I would have supported a cash transfer requirement that applied to all nations, the authors of this modest proposal have already established sufficient exemptions for certain purchases and countries. These include: Allowing a recipient nation to use cash within its own country; exempting any nation receiving less than $10 million in United States cash aid; and giving the President waiver authority when important to the national interests.

In addition, section 1303 stipulates that the cash transfer requirement benefit all four seacoasts by requiring the equitable shipment of goods and services purchased with U.S. cash aid from our East, West, Gulf, and Great Lakes port ranges. In short, this requirement will provide major economic benefits for ports throughout this Nation.

Mr. Chairman, those are just some of the benefits of the cash transfer requirement. Now, I would like to highlight what section 1303 does not do.

First, it does not extend cargo preference to commercial agricultural exports. We are talking about requiring that 50 percent of those goods and services purchased with U.S. tax dollars, which are public not private funds, be transported on U.S.-flag vessels. In no way does section 1303 subject any commercial sales to our U.S. cargo preference requirements.

Second, section 1303 will not reduce agricultural exports. In fact, it will significantly increase them because it will stop foreign nations from taking their United States cash aid and spending it abroad. I would ask my colleagues from the farm States to consider the following:

We give Costa Rica 10 times more aid than Canada does. Yet, they import six times more wheat flour from Canada than from us; and

Similarly, United States aid to the Philippines is almost 200 times what it receives from France, yet the Philippines imports 4 times more wheat flour from France than from the United States.

It is my firm belief that U.S. cash aid—which is the product of the hard work of the men and women of our congressional districts—should be spent in the United States. If you want to increase, not decrease, U.S. agricultural exports, then vote no on this amendment.

Third, section 1303 does not violate the letter or the spirit of the Cargo Preference Compromise of 1985. Cash transfer is not an export program of USDA or the Commodity Credit Corporation and is, therefore, not within the scope of the Cargo Preference Compromise.

As someone who was intimately involved in that 1985 effort, I can categorically state that this language does not change any aspect of that agreement. To suggest otherwise is a gross misstatement of fact.

Fourth, United States shipping rates are not two, three, or five times more expensive than foreign rates. In fact, they are quite competitive. In 1988, United States-flag rates for bulk commodities to Israel were about $25 per ton, while Israeli vessels charged $24 per ton and third country-flag vessels charged $22 per ton. U.S.-flag vessels will transport cash transfer cargo at cost-effective prices.

Finally, every time we debate the issue of cargo preference, we hear opponents argue that this is not the time or the proper vehicle for consideration.

Mr. Chairman, I am tired of those arguments. When is the proper time? When our fleet is down to its last vessel? When one U.S. shipyard remains open? When one lone U.S. maritime worker is prepared to go to sea?

During the past 40 years, our merchant fleet, once the largest in the world, has declined from more than 1,300 ships to fewer than 350 today. By contrast, the Soviet Union's merchant marine fleet is about 3,000 vessels.

And despite the fact that the United States is the largest trading nation in the world, our market share of international trade transported by U.S.-flag vessels has declined dramatically from over 50 percent in 1945 to less than 5 percent today.

Mr. Chairman, this precipitous decline can be further demonstrated by the fact that the Soviet Union carries more of our Nation's cargo overseas than we do. In fact, the Soviet Union even carries nearly 50 percent of all mail postmarked in the United States, while our domestic carriers transport a mere 12 percent of it.

I think that is a national disgrace, and the President's Commission on Merchant Marine and Defense thinks that "there is a clear and growing danger to our Nation's security in the deteriorating condition of America's maritime industries."

Mr. Chairman, the day of decision has arrived. It is time for Members to stop talking and start doing something positive for the U.S. maritime industry. This time our rhetoric must match our vote.

By rejecting this amendment, we will help, not hurt, U.S. farmers, U.S. ports, U.S. taxpayers and, yes, even the U.S. maritime industry.

Today, we have a unique opportunity to assist, at no cost to the U.S. taxpayer, two vital U.S. industries—agriculture and maritime—by rejecting this amendment. Without the cash transfer requirements in section 1302, there won't be any cargo to argue about and, without cargo, there soon will be no U.S. maritime industry. In simple terms, what we are talking about, Mr. Chairman, is a 100-percent requirement for U.S. agricultural products and a 50-percent requirement for U.S. maritime. This vote will be one of the most important we cast this year.

Mr. Chairman, I urge my colleagues to join with me, the National Farmers Union, the National Farmers Organization, the American Agricultural Movement, and the AFL-CIO Maritime Trades Department, which represents 8.5 million workers, by voting no on this ill-conceived amendment.

Mr. SMITH of Florida. Mr. Chairman, I yield 2 minutes to the gentlewoman from California [Mrs. BOXER].

Mrs. BOXER. Mr. Chairman, I thank the gentleman from Florida [Mr. SMITH] for yielding this time to me.

Mr. Chairman, I want to say that I think this amendment is a bad amendment. The Torricelli language is very correct, it is up front, it is very fair.

Why should we once again be the patsies in the eyes of the world? When Japan gives foreign aid, they insist that the country that is the recipient of that aid has to buy those goods either in the country that receives the aid; in other words, they keep the money in that country, or they buy it from Japan and they ship all the aid on Japanese ships. It is the same way with Germany; it is the same way with France.

Mr. Chairman, my colleague from Texas [Mr. FIELDS] made that point. We are the only nation that does not have that requirement, and the Torricelli language at least gets us halfway there.

My colleagues know that I think American taxpayers are very generous. We have been very generous over the years, and I think foreign aid is very important. But what is wrong, what is wrong with making sure that that foreign aid, should it leave that recipient country, helps our businesses, helps our maritime industry? What is wrong with that?

Mr. Chairman, we need a level playing field, and I think the Torricelli language gives us at least the start toward a level playing field.

So, I think it is very important to send a very clear signal to the world that we are not going to be patsies, that we are going to help our businesses in this country, that we are going to, yes, help our maritime industry and those who say they are willing to help our maritime industry, but do it later. I say, "Why wait? We can do it today."

Mr. Chairman, we ought to do it proudly. I think it is the right thing to do, and I hope we defeat this amendment.

Mr. BEREUTER. Mr. Chairman, I yield 1 minute to the gentlewoman from Maryland [Mrs. BENTLEY].

Mrs. BENTLEY. Mr. Chairman, I rise in opposition to the Bereuter-Obey amendment to section 1303 of H.R. 2655, the International Security and Development Cooperation Act of 1989. Section 1303 is a pro-American approach to our foreign aid program.

Opponents charge that section 1303 is an extension of cargo preference to USDA commercial programs—the credit guarantee and export enhancement programs—those programs exempted by the farm bill agreement, and that it takes the dangerous step, for the first time, of extending cargo preference to commercial cargoes.

Mr. Chairman, I want to stress to my colleagues that nothing is farther from the truth. Cash transfer payments are taxpayer dollars provided by our Government to another government. They are not—I repeat—not commercial transactions. Let's not be fooled by misleading statements to the contrary.

Under the current scheme of things, recipient nations are not required to spend those dollars in the United States. They spend them anywhere in the world they so choose, with no accountability whatsoever.

No one knows where those U.S. tax dollars are spent. What is known is that the billions of taxpayers' cash transfer dollars are not spent here in the United States.

Our constituents would be shocked to know that under the current system, United States foreign aid spurs the purchase of Canadian wheat and Japanese machinery.

The American people need to know that all United States aid money granted to foreign nations up until the Vietnam war had to be spent in the United States of America. American industries thrived. Midway during the war that policy was changed in order to allow the Department of Defense to purchase vehicles in Japan for our troops. That was the beginning of the end for America's once mighty industrial base. Our giveaway tax dollars started the mighty Japanese auto industry.

Allowing foreign nations to spread U.S. tax dollars throughout the world has had a devastating cause and effect. It caused United States industries to decline and foreign markets—most notably the Japanese auto manufacturing industry—to prosper.

U.S. tax dollars have been used—and are continuing to be used—to support and build foreign economies, while at the same time, killing the U.S. economy.

The original intent of Congress was for our foreign aid program to help both countries—the recipient nation, as well as the United States. We must return to that basic premise.

Mr. STENHOLM suggested that in eliminating the cargo preference requirements the recipient nation will be able to buy a greater volume of cargo. If that is the gentleman's concern, then we should allow the recipient nations to continue that practice they have been employing all along—let them spend American taxpayers' dollars buying Argentina wheat.

The U.S. agricultural industry receives $13.8 billion in subsidies, while the U.S. merchant marine receives a mere $423 million, less than 2 percent of the amount benefiting agriculture.

Opponents to section 1303 claim that the recipient nations are currently buying from the United States 13 times the amount of the cash transfer program.

Those sales are commercial transactions. Those favorable commercial sales will not be impacted, but I want to warn opponents of section 1303 that those commercial sales will evaporate when the U.S. dollar becomes stronger. Those sales will be lost to American farmers.

Requirements that recipient nations spend those tax dollars on American-made products and American services is completely justified. The American people—including the American farmer—demand it.

American tax dollars should be spent in the United States, whenever possible, to support American industry, to support American businesses, to support American farmers, to support American workers, to support the American merchant marine and other services, and to improve the American trade deficit.

All of this, in turn, will help the American budget deficit, because American industry, American businesses, American farmers, American workers, and American shipping interests all pay taxes to the American Government.

Foreign markets benefiting from the purchases by the recipient nations do not pay taxes to our Government.

A Foreign Aid Program without the requirements of section 1303 is nothing more than an outward bound funnel through which our tax dollars flow to the total benefit of foreign economies. We need to plug that funnel.

We owe it to those hard-working, tax-paying Americans who support this Government—not our foreign competitors.

Those who are asking you, my distinguished colleagues, to oppose section 1303 are asking you to support a lose-lose situation.

The American taxpayer—your constituents—loses, American industry, including agriculture, loses, and the American merchant marine, which the President's Commission on Merchant Marine and Defense acknowledges is the weakest link in our national security, also loses.

Section 1303 is a winning proposition. All America wins and the recipient nations win, because they have benefit of our generosity.

Ports on all four coasts also would benefit under section 1303. The committee report stipulates that additional commodity purchases made pursuant to cash transfer agreements be handled as equitably as possible throughout all four U.S. port ranges.

Mr. SMITH of Florida. Mr. Chairman, I yield 1 minute to the gentleman from California [Mr. ANDERSON].

Mr. ANDERSON. Mr. Chairman, I rise in strong support of section 1303 of H.R. 2655, the foreign assistance authorization, offered by our distinguished colleague, Mr. TORRICELLI. I commend the gentleman from New Jersey for his visible and strong commitment to this issue over the years.

It seems ludicrous to me that the U.S. Government would give foreign governments United States tax dollars and then allow these governments to use this money to buy grain from Argentina and then ship it aboard foreign flagged vessels. Meanwhile, and as a result, the American maritime industry continues to decline and American jobs continue to be lost. It is absolutely ridiculous. Fortunately, we can begin to reverse this trend by supporting section 1303 of this bill as reported by the Foreign Affairs Committee.

Mr. TORRICELLI's provision of this bill is good for America, and most importantly, good for Americans. There

is nothing unjust about trying to take care of other countries while at the same time, taking care of our own. I urge my colleagues to support this provision as reported.

Mr. BEREUTER. Mr. Chairman, I yield such time as she may consume to the gentlewoman from Rhode Island [Ms. SCHNEIDER].

Ms. SCHNEIDER. Mr. Chairman, I rise in support of the Torricelli provision.

Mr. Chairman, I rise in strong opposition to any changes in the committee language in section 1303 of the Foreign Assistance Authorization Act. This section provides important limitations on the use of cash transfers and provides that at least 50 percent of goods purchased through cash economic aid be shipped on U.S. ships.

I support foreign assistance to those nations less fortunate than our own. I am also a strong believer that the American taxpayer should see some return on our foreign aid investment. By ensuring that qualified U.S. supliers of goods, services, and transportation are given a preference for the expenditure of these funds, we provide some immediate return on that investment.

Section 1303 was not developed in isolation. It resulted in the give and take of the committee's deliberations. It provides that the $2.4 billion in cash assistance contained in foreign assistance be spent in the United States and that half of the foreign aid shipment be shipped on U.S.-flagged ships. Section 1303 ensures that our foreign assistance dollars are not going to our economically healthy international competitors—an eminently reasonable constraint.

The bill does not pit various segments of the U.S. economy against one another. It assists all sectors of the economy. Agriculture and manufacturing interests will have more of their goods purchased abroad. American shipping interests will be assured that U.S. carriers are being provided with some much needed assistance in competition with highly subsidized foreign shipping.

Small countries, or those who receive less than $10 million in U.S. aid are not even held to the modest requirements in section 1303. Everyone stands to benefit from this provision—American businesses, the taxpayer, the recipients of U.S. aid, and the often overlooked maritime shipping industry. I urge my colleagues to join me in supporting section 1303 and opposing any amendment that would weaken this provision.

Mr. BEREUTER. Mr. Chairman, I yield 1 minute to the distinguished ranking Republican member of the Committee on Agriculture, the gentleman from Illinois [Mr. MADIGAN].

Mr. MADIGAN. Mr. Chairman, I thank the gentleman from Nebraska [Mr. BEREUTER] for yielding.

Mr. Chairman, I just want to take this minute to unfortunately take issue with the gentleman from California [Mr. ANDERSON] who just spoke in the well in favor of the Torricelli provision and the foreign assistance bill.

Mr. Chairman, the gentleman from California [Mr. ANDERSON] said that it would help America. I do not see how anything that would hurt American exports and increase the exposure of the U.S. Treasury can possibly help America. We have addressed this issue a number of times over the years, and in 1985, in the Agriculture Act of 1985, we reached a compromise.

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The Bereuter amendment would return us to the provisions of that compromise which were worked out very carefully with all the parties interested in this issue. I would urge that the Members of the House support the Bereuter amendment.

Mr. SMITH of Florida. Mr. Chairman, I yield 2 minutes to the gentleman from New York [Mr. SOLOMON], a member of the Foreign Affairs Committee.

Mr. SOLOMON. Mr. Chairman, I thank the gentleman for yielding me this time.

Mr. Chairman, it is not often I stand up here and support amendments offered by the gentleman from New Jersey [Mr. TORRICELLI], but let me tell you something. When a man is right, you support him regardless of the differences you might have with him on other issues.

Let me talk to you hawks over here and you free-traders on my side of the aisle. Thirty years ago we had in the United States of America over 4,000 merchant marine ships ready to go to war in case we needed them; and we had a trade surplus in the millions and billions of dollars 30 years ago. Today we have less than 400 merchant marine ships, and Mr. Chairman, we have trade deficits in the billions.

Ask yourselves why. I will tell you why. Listen to the Defense Digest News:

China had 60 merchant ships 20 years ago.

Do you know how many they have today, according to this article? By requiring more Chinese cargo to be carried in Chinese ships, China has increased its merchant marine fleet to—guess how many—1,200, three times as many as we have; and they carry 70 percent of all Chinese goods.

Where do they carry it to? Where do you think? Right here to our shores in Chinese merchant marine ships.

You know, I for one, believe in free trade, but it has to be fair trade. I believe in a strong national defense.

It is time we stopped turning the other cheek, and it is time we stood up to these people who keep doing it to us. Let us enact this Torricelli amendment today.

With all good respect to my good friend, the gentleman from Nebraska [Mr. BEREUTER], we need this kind of legislation. I expect every one of you on this side of the aisle to support it.

Mr. BEREUTER. Mr. Chairman, I yield 2 minutes to the gentleman from Iowa [Mr. GRANDY].

Mr. GRANDY. Mr. Chairman, I thank the gentleman for yielding me this time.

Mr. Chairman, I do not expect many minds will be changed today. I do not expect that I will change the mind of the gentlewoman from Maryland, anymore than she will change mine on this debate. She represents her constituents. I represent mine.

I have soybean growers. She has sailors, and that is fine.

We have under the 1985 farm bill expended demand for our agricultural products. We have an agricultural surplus now. That is good.

Unfortunately, what we do not have to match that demand, is the supply. We have had drought. We do not have the soybeans, so many of those soybeans will probably come from Argentina and Brazil.

My concern is that if we continue to go along the cargo preference route, we all represent taxpayers and they will be compromised by this kind of legislation, because what we are in a sense doing is saying, well, we are going to reduce our demand, our ability to move agricultural exports around the world, and consequently we will be forced to drive up the price of our own domestic farm programs.

So if you like the idea of more costly protectionist kinds of domestic agricultural programs, then you should support the amendment of the gentleman from New Jersey [Mr. TORRICELLI], and if you want to take away our ability to negotiate multilateral reductions in international agricultural subsidies, whether they are ours or the European communities, then you probably should support the Torricelli amendment as well; but if we want to compete and if we want to continue on the course that the 1985 farm bill began, which by the way has reduced the amount of taxpayer burden on agricultural subsidies in half over three years, then perhaps we ought to think twice. Perhaps we ought to strip out cargo preference and try to pursue an attack which allows those products which we grow to move as quickly and as forcefully as they can around the globe, because I do not think we will get much support for increased farm support programs in this Congress. I hope I do not have to come to this Congress and ask for them; so I hope today we can take a preemptive step and support the amendment of the gentleman from Nebraska.

Mr. BEREUTER. Mr. Chairman, I yield 1 minute to the gentleman from Michigan [Mr. DAVIS].

Mr. DAVIS. Mr. Chairman, I rise in support of H.R. 2655 as reported by the Committee on Foreign Affairs and in opposition to the amendment of-

fered by the gentleman from Nebraska.

This amendment would seek to delete a provision that would require recipient nations of cash foreign aid to spend an amount equal to the cash transfer on U.S. goods and services. This provision would also require that 50 percent of these U.S. products be shipped on U.S.-flag vessels and that these shipments be distributed equitably from ports throughout the United States.

As I said 2 years ago when this issue was last debated on the floor, I am disturbed by the idea of unfettered cash grants. There is simply no good reason why U.S. taxpayers who foot the bill for this foreign aid should not receive some benefit from the aid they are providing to foreign nations. With our trade deficit, there can be no justification in not supporting our U.S. manufacturing facilities.

Second, this amendment allows countries to use these grants to purchase goods in their own country. What it does not do is allow that country to buy a Japanese tractor or automobile instead of a John Deere tractor or a Ford or Chevrolet. By having the money spent here, we will assure that the aid benefits our economy, creating jobs in our country and generate more revenues for our U.S. Treasury.

Last, Mr. Chairman, the shipment of these goods to recipient countries will benefit the U.S. merchant marine and I hope the ports of the Great Lakes. The provision requiring equitable distribution of shipments throughout ports of the United States is specifically designed to assure that the Great Lakes benefits from this preference program. Not only will U.S.-flag service be encouraged to serve the Great Lakes, but it is absolutely essential after the recent, June 9, 1989, decisions by the court of appeals in the case of Milwaukee versus Yeutter. I trust that the language in H.R. 2655 relating specifically to "ports of departure" makes it clear that the preference requirements require equitable distribution at the point of origin and not the destination.

Mr. Chairman, the bill provides in section 1303 and I quote:

> The President shall ensure that purchases of United States goods pursuant to such agreement, and the ports of departure for those goods, are distributed equitably throughout the United States.

I would hope that it is now clear once and for all that the Great Lakes ports must be recognized and, in turn, allocated their equitable share. To do otherwise is to ignore the lakes' position as the forth coastline and its position in the U.S. economy. The Torricelli provision is good for the lakes, good for the United States, and good for U.S. producers and maritime interests alike.

I urge my colleagues to reject the pending amendment.

Mr. BEREUTER. Mr. Chairman, I yield 1 minute to the gentleman from Iowa [Mr. LIGHTFOOT].

Mr. LIGHTFOOT. Mr. Chairman, I would like to rise and voice my support for efforts to eliminate or modify section 1303 in H.R. 2655. Representing an area of the country heavily dependent upon agricultural exports, I have grave concerns about the impact of the requirement in this legislation with respect to U.S. commercial sales to countries receiving economic support funds [ESF].

As it has been pointed out, this cargo preference provision will reduce the amount of funds available for countries receiving ESF funds to purchase U.S. commodities. If these countries are required to pay U.S.-flagship rates for the commercial ESF shipments they purchase with their cash transfer funds, they will have less cash transfer funds to use. As many of my colleagues know, the administration testified that cargoes financed by the Agency for International Development were charged over $58 per ton to be shipped on U.S. flagships. Meanwhile similar cargoes were charged approximately $33 on foreign-flagged ships.

One effect of this provision may be that ESF recipients look to purchase commodities in countries other than the United States in order to reduce their costs. Since these countries already purchase far more from the United States than they are required to do, they likely will not hesitate to reduce their U.S. commercial purchases.

American farmers are just beginning to recover from the economic distress of the early 1980's. They can ill afford to have agricultural exports drop because of increased cost to purchasers. Secretary of Agriculture Clayton Yeutter has expressed his strong opposition to section 1303, as have numerous agricultural organizations. Additionally, AID Administrator Alan Woods, in a letter to Chairman DANTE FASCELL, stated this provision is inconsistent with the purpose of the economic support fund because it reduces the value of cash transfers, and he believes the provision is inappropriate and unnecessary. I join these individuals and groups in opposing the cargo preference provisions of H.R. 2655, and in support of the pending amendment.

Mr. BEREUTER. Mr. Chairman, I yield such time as he may consume to the gentleman from Ohio [Mr. DONALD E. "BUZ" LUKENS].

Mr. DONALD E. "BUZ" LUKENS. Mr. Chairman, I rise in support of the Bereuter-Obey amendment.

Mr. BEREUTER. Mr. Chairman, I yield myself the remaining time.

Mr. Chairman, if you are for increasing our exports, coal, agriculture, all kinds of bulk commodities, you should support the Bereuter amendment. That is the proper step to take, rather than supporting Polish coal, agricultural products from Argentina or from Brazil or from Canada or other places. That is the pitch I am making to you right here. Please support the Bereuter amendment.

Mr. Chairman, I yield to the gentleman from Wisconsin [Mr. OBEY].

Mr. OBEY. Mr. Chairman, I simply say that the Torricelli amendment will not add $1 in sales of American goods because the recipients already purchase 13 times as many U.S. goods as this amendment would provide.

The Torricelli amendment would do just the opposite. It would reduce American exports. It would simply extend cargo preference. It is contrary to every single action we have taken to increase our competitiveness internationally over the past 5 years.

In addition, it would prevent the shipping of American grain or American coal from any Great Lakes port, because American bottoms simply cannot use those ports in order to export internationally.

It is unfair regionally. It is grossly unfair to American agriculture.

Mr. Chairman, I urge you to support the Bereuter-Obey amendment. It is the only amendment that stands up for America.

□ 1620

Mr. SMITH of Florida. Mr. Chairman, I yield myself the remainder of my time.

Mr. Chairman, I am about to do something I have never done before on the floor of this House, put on my glasses so I can see.

Mr. Chairman, we have heard a lot of discussion about this. We have heard a lot of discussion, we have heard a lot of pros and cons. We have heard a lot of pros and cons over the years on this issue, and we have heard a lot of facts and figures bandied about, some of which are true, some of which are slightly inflated.

Let me give the Members, from the State Department AID, the legitimate figures: Just for the year 1987, and let us not make any mistake, in 1987 the United States gave to Egypt economic aid of $815 million. We exported machinery only, just machinery, to Egypt of $349 million Germany, in the same year, gave $157 million in ESF to Egypt, and Germany exported just in machinery only $883 million. Japan gave $94 million in 1987, and Japan exported to Egypt $709 million in that year. In 1987 economic aid to Costa Rica from the United States was $160 million. U.S. exports in tonnage of wheat, 30 tons. Canada, $16 million in economic funds to Costa Rica and exports of wheat to Costa Rica of 180 tons. The list goes on and on.

Ladies and gentlemen, it is time to stop this travesty. They take our money, use other people's ships and then when they take other people's money, they do not use our ships.

Do the Members know that of all of these items I listed not one American ship was used to export the foreign countries' machinery to the recipient country of our aid? We are getting knifed in the back every single day. The flag of this country does not fly on our own ships because people who use our money do not want that ship in their ports.

Mr. Chairman, it is time we stood up for our own people. It is time we stood up for this country. It is time that the playing field was level and we did for ourselves what every other country in the world does for themselves. The taxpayers of this country should get no less for the money that they give to those countries.

Mr. FASCELL. Mr. Chairman, will the gentleman yield?

Mr. SMITH of Florida. I am happy to yield to the gentleman from Florida.

Mr. FASCELL. Mr. Chairman, I want to commend the gentleman for his remarks and making the observations which he has made.

I agree with him thoroughly, and I hope the amendment will be voted down, and that the language in the bill sponsored by the gentleman from New Jersey will be retained.

Mr. TORRICELLI. Mr. Chairman, will the gentleman yield?

Mr. SMITH of Florida. I am happy to yield to the gentleman from New Jersey.

Mr. TORRICELLI. Mr. Chairman, we have heard a lengthy debate from people from agriculture, people from merchant marine States, but I have no merchant marine in my district, and I have no agriculture.

I have offered this provision which was adopted by the Committee on Foreign Affairs and which we hope to retain in the bill on a bipartisan basis for one reason: America's merchant marine is in decline, it has been destroyed, it is a national-security crisis, and because it is not fair to the American worker to take their tax dollars to send them to foreign nations so they can buy German or Japanese or French products.

I ask my colleagues to defeat the Bereuter provision, to stand with the Committee on Foreign Affairs. My friends, every weekend we return to our districts and say that we have a trade crisis. Here, in one vote, by defeating the Bereuter amendment, by standing with the Committee on Foreign Affairs, Democrats and Republicans alike can bring hundreds of millions of dollars' worth of business back to America's shores.

Mr. SCHUETTE. Mr. Chairman, I rise in strong support of the amendment.

Cargo preference is an issue we've all seen before, and no doubt we'll see it again. We're all familiar with the arguments, and I'm not going to pretend that I have any new ones. But I do believe that the arguments that have been advanced in the past to avoid additional cargo preference requirements on American exports are still valid.

The proponents of cargo preference ask to think of the American merchant marine, to think of how important that industry is both for national defense and for the livelihood of those who work at our Nation's great ports. I will not dispute the importance of the merchant marine industry. It is a vital industry, but I submit that the best way to help industry survive is to increase the amount of exports leaving our American ports, not to hinder the growth of exports by imposing unnecessary shipping requirements.

Other supporters refer to the particular nature of the cargo preference clause in the bill before us and ask us to think of fairness. It is only fair, they say, that those countries who benefit from our cash assistance should reciprocate by spending an equal amount of cash on American products. But there is a flaw in this argument. The fact is that those countries which receive the economic support funds authorized by the bill before us already purchase American goods and services, many more goods and services in fact than these countries ever receive in cash assistance.

The opponents of cargo preference, of which I am one, argue that such a policy is no more than a subsidy of the merchant marine industry, and what is more, a subsidy that harms other industries of equal importance. At a time when heavy subsidies from foreign governments make it difficult for our American agricultural producers to compete, when in fact we have been forced to meet foreign subsidies with subsidies of our own, it seems not a little counterproductive to restrict American exporters in their choice of shipping. We will never make much progress in the export market if we give a helping hand 1 day and then impose additional requirements the next.

The amendment offered by the gentlelady from Nebraska will save us from such a fate. Instead of hurting American industry by making it harder to export goods, we can continue to concentrate on promoting exports of manufactured goods and agricultural products and opening up markets for them. Our factory workers will thank us, our farmers will thank us, and our maritime industry will thank us for the opportunity to compete for an increased quantity of shipping.

Mr. EMERSON. Mr. Chairman, I rise today in opposition to the Torricelli amendment. Being a Representative of a predominantly agricultural district, I feel compelled to identify the detrimental effect this measure would have on this Nation's agricultural economy. What this amendment will in fact do is reopen the entire cargo preference debate which many of us had hoped was put to rest with the 1985 farm bill.

Proponents of this amendment claim that it would promote U.S. exports by requiring cash transfer recipients to spend an equal amount of their money on U.S. goods and services. The goods which are purchased would then be made subject to U.S. law requiring transport on American ships.

In actuality, however, the cash-transfer countries already buy far more in American goods and services than they get in cash transfers. In fact, cash transfer recipients spend 13 times as much on U.S. goods as they receive in U.S. aid. The only real impact of this amendment is to impose cargo preference on U.S. sales already being made to these countries. It will not increase those sales. Rather, it will decrease them as the higher cost of U.S. shipping will leave less money for the purchase of U.S. goods and services.

Additionally, domestic producers who must compete with foreign suppliers will be significantly hurt by this amendment. The Torricelli language in this bill will force cash recipient countries to choose between paying for increased shipping costs for goods, or spend their money on products that do not have to be transported on U.S. flag ships. Given this circumstance, it is readily obvious what any cash recipient nation would do, and that is to purchase goods that are not tied to the higher shipping costs associated with U.S. ships that enjoy "cargo preference." Tragically, it is the American farmer that is harmed the most.

Let me reinforce this point by bringing to the attention of my colleagues the extensive opposition to this amendment presently being voiced by numerous agriculture and trade organizations. Among those opposed to this misguided amendment are the North American Export Grain Association, American Farm Bureau Federation, Millers National, National Grain and Feed Association, National Grain Trade Council, American Soybean Association, National Grange, National Soybean Processors Association, and the Terminal Elevator Grain Merchants Association, just to name a few.

Today, U.S. agriculture is one of the few highlights within the U.S. economy that remains internationally competitive and also provides a positive contribution toward the reduction of our Nation's trade deficit. In the best interest of agriculture and U.S. trade, I urge all Members to strike this misconceived language from the bill before us. Let's not handicap the agricultural producers of this Nation who are just beginning to get back on their feet.

Mr. HOCHBRUECKNER. Mr. Chairman, I rise to support H.R. 2655 and call attention to an important provision contained in section 1303 of the bill.

Section 1303 of this legislation stipulates that those countries which receive more than $10 million in annual cash assistance from the United States must spend an equal amount on American goods and services. It also requires that commodities purchased in the United States with such foreign aid funds must be transported pursuant to the U.S.-flag shipping requirements in the Cargo Preference Act of 1954.

This provision, authored by our able colleague from New Jersey [Mr. TORRICELLI] and adopted by the Committee on Foreign Affairs, is designed to increase sales of American-made products and services and boost our merchant marine. The cash-transfer provision

in this legislation is particularly timely and well-conceived.

It only makes sense that, in those cases where the U.S. Government is delivering substantial amounts of cash assistance to a foreign nation, we should take steps to prevent that beneficiary nation from using the assistance to improve another nation's balance of trade while our own trade deficit worsens.

It is also important to seek to revitalize the U.S. merchant marine by requiring that, wherever practicable, U.S. goods given in foreign assistance should be carried on U.S.-flag ships.

Mr. Chairman, I urge the support of all Members for H.R. 2655 as reported by the Committee on Foreign Affairs. I applaud the members of that committee, particularly the gentleman from Florida [Mr. FASCELL] and the gentleman from New Jersey [Mr. TORRICELLI], for their hard work in putting together this legislation.

Mr. DYSON. Mr. Chairman, I rise in support of the gentleman from New York [Mr. SOLOMON].

Mr. Chairman, we are mid-way in the process of transferring administrative control over the Panama Canal to the Republic of Panama.

Ten years ago, the Panama Canal Treaties Act of 1979 set this process in motion. Ten years from now, the process will be complete. According to the treaties, the United States will retain unilateral military control over the Canal, and the Republic of Panama will assume day-to-day responsibility for the Canal's commercial operations.

Today we are at a crucial moment in the transfer process. According to the Treaty, this year President Bush is scheduled to appoint a citizen from the Republic of Panama to serve as Administrator of the Panama Canal Commission.

The problem, Mr. Chairman, is that today there is no Republic of Panama.

Today that tiny little country is ruled by a hired thug. Gen. Manuel Noriega, commander of the Panamanian defense forces and formerly considered a United States intelligence "asset", controls the Panamanian Government as if it were his personal business.

And he is, as we know, in business. His business is to service and provide sanctuary for billionaire drug smugglers. He launders their money, gives them free access and immunity, and takes a piece of the drug action.

He's gotten rich in this business. He's made his friends rich in this business. Along the way, he has allied himself with what ever nations can further his ambitions.

Noriega has cooperated with American drug enforcement agents, but the smugglers he turns in to us are simply his competitors. He has supplied the Contras and supported the Sandinistas, and the Sandinistas are now supporting him.

He is confident enough of his power to presume that he can brutally nullify Panama's national elections and get away with it. He has thrown his county into a 2-year political crisis, and there is no evidence that the end of this crisis is yet in sight.

The Panama Canal Commission is an official United States Government agency, and the administrator is a senior official in the United States Government, appointed by the President and confirmed by the Senate. It is absolutely absurd to imagine that a Noriega henchman will ever hold a position of authority in the Panama Canal Commission, let alone serve as its chief administrative officer.

Mr. Chairman, the administration has assured me that there isn't the slightest chance that a Noriega puppet will be appointed to the administrator's post. The President has no intention of proposing a Noriega candidate for this position, and our Senate colleagues have no intention of confirming any such candidate.

The only issue that needs to be discussed today is whether or not it is a good idea to declare these intentions now. I believe it is, and that is why I support this resolution.

Right now, the administration has perhaps the best opportunity it can hope for in its efforts to dislodge Noriega from his Panama stronghold.

Post-election Panama is a new ball game. It is conceivable that the combined pressure of Noriega's domestic opposition, his Latin American neighbors and the United States, will ultimately break Noriega's hold over Panama.

But until this happens, I believe we should eliminate any uncertainties about transferring administrative control over the Panama Canal to General Noriega.

I have been in touch with administration officials on this matter. They believe we should remain silent on the question of appointing a Panamanian administrator. They believe we should hold our cards, so to speak, pretty close to the vest. They would have us believe that our international position is stronger if we do not declare our refusal to consider a Panamanian appointee to the administrator's post until General Noriega is out of Panama.

As chairman of the House subcommittee with jurisdiction over the Panama Canal Commission, I support President Bush's handling of the Panama crisis. But I disagree with the idea that we are somehow stronger by keeping Panama, and the Latin American community, in doubt about the administrator's post.

I believe we are stronger, in fact, if we let the truth be known in clear and unequivocal terms. We cannot, should not and will not relinquish one iota of administrative control over the Panama Canal to General Noriega. Before the transfer process proceeds, Noriega must go.

I thank the gentleman from New York for his efforts to get this resolution onto the floor today. I support this resolution, and urge Members of this body to say "no" to a Noriega-backed administrator to the Panama Canal Commission.

Mr. RICHARDSON. Mr. Chairman, this amendment represents a moderate approach to a difficult problem. It neither reduces nor cuts off military aid, but simply provides for congressional review of the situation 10 months after the ARENA Party and President Cristiani have taken power.

The amendment only affects the final $34 million of fiscal year 1990 military aid. The McHugh amendment would not affect economic or development aid.

The bill as written authorizes $170 million in military aid for El Salvador over the next 2 years. Those funds would be released in four installments after the President certifies that certain conditions have been met by the ARENA government. While the bill's current language allows the Congress to disapprove the release of aid through a resolution of disapproval—such a resolution would be subject to a Presidential veto.

The McHugh amendment seeks to strengthen the congressional role in this important process by requiring an affirmative vote by the Congress. In April 1990, to release the balance of next year's military funds for El Salvador. The amendment does not cut aid—it merely reserves the Congress' right to reauthorize military aid next year. In April 1990, the Congress will be in a much better position to determine whether the new Salvadoran administration has sustained reform measures, respected human rights, and pursued a negotiated end to the war.

I believe it vitally important for the Congress to send a strong signal to the government of President Cristiani and the ARENA Party that we will watch events in El Salvador closely—that we do not intend to hand El Salvador's Armed Forces a blank check for military aid.

In the last 8 years, the United States has spent $3.5 billion in aid to El Salvador. Unemployment, poverty, war, and human rights abuses by both the right and left, continue unabated. Judicial and economic reforms are at a standstill. Surely as the present situation in El Salvador merits greater congressional scrutiny—the McHugh amendment merits our support and approval.

Mr. LAGOMARSINO. Mr. Chairman, I rise in support of this resolution condemning the brutality of the Soviet Army's use of force to silence the peaceful demonstrations in the Republic of Georgia. Without question, the use of armed soldiers, and armored troop carriers, to crush a peaceful demonstration, gives us clear evidence that the words "glasnost and peristroika" have an entirely different meaning to the captive people in Georgia than they do to many Westerners. Furthermore, it is fair to conclude that the approval for a military action, which may have included the use of chemical weapons, most likely came from the highest levels of the Soviet Government.

I support this resolution, not only because it condemns the oppression of the Soviet Army, but also because it calls on the government of the Soviet Union to honor the wishes of the Georgian people to once again exist as a self-determined, democratic Republic. The Soviet Union should cease, in the spirit of peristroika, its continued hegemony of the Georgians.

The words of the leadership of the Soviet Union have been soothing to many in the West, but the Georgian people and numerous other ethnic groups within the Soviet empire, have yet to realize the allegedly good intentions of the Soviet Government. They still live under repression, apparently tied to a marginally longer leash. They do not have the ability to free themselves from Soviet domination. However, by this resolution, we are able to express our agreement with their stated goal of freedom. It is proper for the United States to be allied with those in the captive Republics of the U.S.S.R. who wish to be free.

Finally, this resolution declares the necessity of the Soviet Union's respect for the human rights of the Georgian people. The first and most fundamental of all human rights is the

right to life. This resolution properly denounces the deaths of 20 Georgians caused by the military action of the Red Army. It is an outrage that those people died because they wanted to be free. Furthermore, their death is an indication that the Soviet Government is willing to kill its own people rather than permit them the second most fundamental human right; the right to freedom from government oppression. I urge my colleagues to support this resolution and to put the U.S. Congress on record as standing resolved with the Georgian people in their struggle to once again be free.

Mr. LAGOMARSINO. Mr. Chairman, I rise in support of the amendment offered by Mr. DORNAN of California permitting the importation of Polish and Hungarian military hardware—like aircraft and tanks—into the United States for historical and educational purposes only.

Basically, this amendment will allow museums, like the Chino Museum in California, to obtain historically significant military hardware for their collections. In order to preserve the historical and educational intent of the legislation, the amendment contains three conditions: first, the military hardware must be at least 25 years old; second, it can only be used for public display; and third, weapons systems must be disabled so that no weapon or weapons system is functional.

The United States has some of the finest military museums in the world. We are fortunate to have been able to acquire historical artifacts from around the globe. However, one area where we are lacking is in significant military equipment from the east bloc. This deficiency decreases the overall quality of our displays.

Acquiring historically significant military equipment from Poland and Hungary will allow us to fill this gap. That directly and positively benefits the American public and historical education in America. These displays are important in helping explain and understand 20th century events like World War II, the Korean war, the Hungarian uprising and the cold war. For example, in the World War II Room at the National Air and Space Museum a visitor's knowledge and experience is enhanced by being able to see famous Japanese, German, and allied aircraft side by side. Similarly, for a Korean war display we should be able to examine the famous American F-86 Sabre side by side with the infamous Soviet MIG-15. Mr. DORNAN's amendment will allow American museums to acquire MIG-15's from Hungary and Poland—both former users of the aircraft.

Establishing cooperative links on military history with Poland and Hungary, the two most progressive countries in the Warsaw Pact, also will help improve our ties with these nations on the eve of President Bush's visit to them.

I urge my colleagues to support the Dornan amendment and provide our military museums with the ability to make their displays and educational programs even better.

Mr. OLIN. Mr. Chairman, I rise in support of the McHugh amendment.

Those of us who are concerned about the continuation of the war in El Salvador are well aware of the fact that El Salvador has a new President, Alfredo Cristiani of the ARENA Party. We want to do everything possible to encourage Mr. Cristiani to take the steps necessary to reestablish peace in his country, to eliminate the high level of human rights violations, and to find a sound and responsible way to bring into the normal political and economic life of the country the dissident elements that have been engaged in revolutionary military activity. We know this will be a difficult task, but without peace, there will be no way to restore health and prosperity to El Salvador.

I support the McHugh amendment because it will provide the opportunity, 10 months after Mr. Cristiani took office, to review the effectiveness of further military aid and modify that aid if appropriate. It does not in any way affect the economic, developmental, or food aid which the country receives.

This amendment will provide an incentive for Mr. Cristiani to attempt, through all the force he can bring to bear, to bring about progress toward peace. It is a signal to the ARENA Party that the United States does not consider a permanent high level of military aid to be a solution to El Salvador's problems. It will put all parties on notice that human rights violations must be brought to a halt.

I urge all my colleagues to vote for the McHugh amendment as an important element in bringing about a much needed change in the war torn country of El Salvador.

Mr. DURBIN. Mr. Chairman, I rise today in support of the McHugh amendment to H.R. 2655, the International Cooperation Act of 1989. At a time when the Bush administration is reviewing and adapting United States foreign policy to the rapidly changing global environment, it is telling that there are no new policy goals or plans for El Salvador. Instead, there is just more of the same—more military aid, more idle talk of human rights reforms, and above all else, more killings. It is as though United States policy toward El Salvador were on autopilot, its practitioners numb to the human costs and to the new political situation in that country and in the region as a whole.

Mr. Chairman, in the absence of any administration policy, it is very important that the Congress review and reflect on United States policy toward El Salvador. We have already spent over $3 billion in economic and military aid in the hope of bringing peace to El Salvador. For 9 years we have watched this aid help escalate, not stop, the violent killing of innocents—men, women, and children—by extremists on both the right and the left. For 9 years, we have waited for Salvadoran authorities to resolve the murder of Archbishop Romero. For 9 years, we listened to the Reagan administration reduce a complicated and bloody civil war to an increasingly meaningless ideological argument.

We need to turn away from this approach to one that emphasizes diplomatic solutions to the problems facing El Salvador. There is hope that such solutions can be found. President Bush has reportedly made progress in gaining a commitment from the Soviet Union to moderate its behavior in the region. The Administration has embarked on a new, more diplomatic policy toward Nicaragua. And in El Salvador itself, newly elected President Cristiani has committed himself to respect human rights and to seek further democratic reforms.

But these positive developments will be undermined if the United States continues to supply, without conditions, lethal military aid to El Salvador. This is especially true at a time when violence is on the rise, and when pressure will be placed on President Cristiani to fight random violence from the opposition with random violence from the Government. It is very important, therefore, to provide President Cristiani with an incentive to resist such pressures and instead seek a negotiated political settlement with the opposition.

The McHugh amendment requires an affirmative vote of the Congress before the second installment of fiscal year 1990 military aid to El Salvador could be dispensed. By requiring further congressional review of military aid, the McHugh amendment will give President Cristiani an incentive to follow through on the promises he has already made. It will also enable him to counter arguments from extremists in his own party, such as D'Aubuisson, that further violence is justified. Finally, the McHugh amendment will serve notice on the Bush administration that it must continue to insist that the Salvadoran Government respect human rights and seek a peaceful solution to the civil war.

At a time when Americans have expressed their outrage at the violence the Chinese Government has committed against its own people, it would be tragic if we did not take a strong stand to prevent the same thing from happening in El Salvador.

Mr. KENNEDY. Mr. Chairman, I rise today to express my deep disappointment with the El Salvador section of H.R. 2655, the foreign assistance authorization bill. I voted for this bill because of my commitment to the overall U.S. development assistance program, but I did so with great reservations.

Mr. Chairman, while we are imposing sanctions on the Chinese Government for its brutal repression of peaceful demonstrators, at the same time we are pumping about $1.5 million per day into El Salvador, to help the ARENA death-squad government terrorize, torture, and murder innocent civilians.

Since the ARENA government has been elected, human rights abuses have been on the upswing. Examples that we in Congress should be monitoring include: Maria Cristiana Gomez, a school teacher, was tortured—they poured battery acid over her—and murdered by a death squad on April 5. On April 22, 75 members of the Christian Committee for Displaced Persons [CRIPDES] were arrested. Six were badly tortured, denied medical treatment, and remain detained. On May 4, 35 people were forcibly repopulated by the Salvadoran armed forces to the village of La Joya. On May 26, the military encircled the offices of 10 labor unions and human rights groups, and entered the offices of two of these groups. They shot at four CRIPDES members. In early June, the military occupied the towns of Arcatao, Las Vueltas, and San Jose las Flores, bombing and shooting houses and property, preventing the villagers from working, and confining them to public buildings. In San Jose las Flores the military accused the nuns of collaborating with the FMLN and threatened

them with rape. On June 15, Salvadoran labor leader Jose Mazariego was abducted by armed men in civilian clothes—a typical death-squad abduction—and it was later disclosed that he was in the custody of the Treasury Police. He was tortured and interrogated during his confinement.

Mr. Chairman, I fear for Jose Mazariego's life, and I fear that we will see many more people like Jose, many more humanitarian relief workers and labor leaders, being abused by the Salvadoran police. By accepting the McCurdy-McCollum amendment to the foreign aid bill, which lifts the ban on police aid, the House of Representatives has encouraged the Salvadoran police to continue its abuse of human rights.

Mr. Chairman, if the pattern continues, and Congress views increased human rights abuses perpetrated by the ARENA government in the next months, we will be helpless to react. Our hands are tied by our failure to enact the McHugh amendment, which would have permitted Congress to review the human rights situation in El Salvador in April 1990 before sending more military aid. As it stands, the administration determines whether or not to release the $170 million in military aid. To the ARENA government, this is a blank check, and I'll tell you why.

The day Mr. Mazariego was kidnaped, Vice President DAN QUAYLE was meeting with Roberto D'Aubisson to express his support for the new government. D'Aubisson, who is leader for life of ARENA, is a self-proclaimed fascist, and implicated in the assassination of Archbishop Romero as well as the assassination attempt of former United States Ambassador to El Salvador, Thomas Pickering. He is described by another former U.S. Ambassador, Robert White, as a "pathological killer." That the administration is meeting with and supporting people like D'Aubisson does not bode well for the human rights situation in El Salvador. Yet Congress has foregone its ability to check the actions of the administration by failing to enact the McHugh amendment.

Despite the major problems with the sections on El Salvador, I felt it was imperative to vote for the foreign aid bill as a whole. The development assistance programs that this bill includes—child survival, health, poor distribution, and family planning programs—help the poorest people on this planet to survive day to day. We must maintain our commitment to Israel and peace in the Middle East, this bill expresses that commitment. The bill steps up the assistance program to southern Africa, an area approximately half the size of the United States with a population at least 13 times larger than that of El Salvador. The bill places tough conditions on countries that violate human rights, especially in Africa and most of Latin America. Finally, it is crucial that China, the most populous country in the world, receives the strong message which the sanctions in the foreign aid authorization bill send.

Mr. Chairman, we have lost just one battle with this bill. I will support amendments to the appropriations bill and other legislation which impose strict conditions on aid to El Salvador. Mr. D'Aubisson and Mr. Cristiani, I want you to know that this congressman will continue to monitor, now even more closely, the human rights behavior of the ARENA government.

The CHAIRMAN. All time has expired.

The question is on the amendent offered by the gentleman from Nebraska [Mr. BEREUTER].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. BEREUTER. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 186, noes 230, not voting 16, as follows:

[Roll No. 101]

AYES—186

Anthony	Hansen	Poshard
Archer	Hastert	Pursell
Armey	Henry	Ray
Aspin	Hiler	Regula
Atkins	Hoagland	Rhodes
Baker	Hopkins	Roberts
Ballenger	Houghton	Robinson
Barnard	Huckaby	Rogers
Bartlett	Hyde	Rohrabacher
Barton	Ireland	Rose
Bates	Jenkins	Roth
Beilenson	Johnson (SD)	Rowland (GA)
Bereuter	Jones (GA)	Sabo
Berman	Jontz	Sarpalius
Bliley	Kaptur	Scheuer
Broomfield	Kasich	Schuette
Brown (CA)	Kastenmeier	Schulze
Brown (CO)	Kleczka	Sensenbrenner
Bruce	Kolbe	Sharp
Buechner	Kyl	Shuster
Burton	LaFalce	Sikorski
Campbell (CA)	Lagomarsino	Skeen
Campbell (CO)	Lancaster	Skelton
Carr	Leath (TX)	Slattery
Chapman	Lehman (CA)	Slaughter (VA)
Coble	Lehman (FL)	Smith (IA)
Combest	Lewis (FL)	Smith (NE)
Conte	Lightfoot	Smith (TX)
Cooper	Long	Smith, Denny (OR)
Costello	Lukens, Donald	Smith, Robert (OR)
Cox	Madigan	Stallings
Craig	Martin (IL)	Stangeland
Crane	Martin (NY)	Stearns
Dannemeyer	Mazzoli	Stenholm
de la Garza	McCloskey	Stump
DeLay	McCollum	Synar
DeWine	McCurdy	Tauke
Dorgan (ND)	McEwen	Thomas (GA)
Dornan (CA)	McHugh	Thomas (WY)
Douglas	McMillan (NC)	Traxler
Dreier	Meyers	Upton
Durbin	Michel	Valentine
Edwards (CA)	Montgomery	Vento
Edwards (OK)	Moody	Visclosky
English	Moorhead	Volkmer
Fawell	Morrison (WA)	Vucanovich
Fazio	Myers	Walker
Frenzel	Natcher	Walsh
Gallegly	Nielson	Watkins
Gekas	Nowak	Waxman
Gibbons	Oberstar	Weber
Gillmor	Obey	Whittaker
Gingrich	Olin	Whitten
Glickman	Oxley	Williams
Gradison	Panetta	Wilson
Grandy	Parker	Wolf
Grant	Paxon	Wolpe
Gunderson	Payne (VA)	Wylie
Hall (OH)	Pease	Yates
Hall (TX)	Penny	Young (FL)
Hamilton	Petri	
Hammerschmidt	Pickle	
Hancock	Porter	

NOES—230

Ackerman	Bateman	Bonior
Akaka	Bennett	Borski
Alexander	Bentley	Bosco
Anderson	Bevill	Boxer
Andrews	Bilbray	Brennan
Annunzio	Bilirakis	Brooks
Applegate	Boehlert	Browder
AuCoin	Boggs	Bryant
Bunning	Holloway	Patterson
Bustamante	Horton	Payne (NJ)
Byron	Hoyer	Pelosi
Callahan	Hubbard	Perkins
Cardin	Hughes	Pickett
Carper	Hunter	Price
Chandler	Hutto	Rahall
Clarke	Inhofe	Rangel
Clay	Jacobs	Ravenel
Clement	James	Richardson
Clinger	Johnson (CT)	Ridge
Coleman (TX)	Johnston	Rinaldo
Conyers	Jones (NC)	Ritter
Coughlin	Kanjorski	Roe
Courter	Kennedy	Rostenkowski
Coyne	Kennelly	Roukema
Crockett	Kildee	Rowland (CT)
Darden	Kolter	Roybal
Davis	Kostmayer	Russo
DeFazio	Lantos	Saiki
Dellums	Laughlin	Sangmeister
Derrick	Leland	Savage
Dickinson	Lent	Sawyer
Dicks	Levin (MI)	Saxton
Dingell	Levine (CA)	Schaefer
Donnelly	Lewis (CA)	Schiff
Downey	Lewis (GA)	Schneider
Duncan	Lipinski	Schroeder
Dwyer	Livingston	Schumer
Dymally	Lloyd	Shaw
Dyson	Lowery (CA)	Shays
Early	Lowey (NY)	Shumway
Eckart	Luken, Thomas	Sisisky
Engel	Machtley	Skaggs
Erdreich	Manton	Slaughter (NY)
Espy	Markey	Smith (FL)
Evans	Martinez	Smith (MS)
Fascell	Matsui	Smith (NJ)
Feighan	Mavroules	Smith (VT)
Fields	McCrery	Smith, Robert (NH)
Fish	McDade	Snowe
Flake	McDermott	Solarz
Flippo	McGrath	Solomon
Foglietta	McMillen (MD)	Spence
Ford (MI)	McNulty	Spratt
Ford (TN)	Mfume	Staggers
Frank	Miller (CA)	Stark
Frost	Miller (OH)	Stokes
Gallo	Miller (WA)	Studds
Garcia	Mineta	Sundquist
Gaydos	Moakley	Swift
Gejdenson	Molinari	Tallon
Gephardt	Mollohan	Tanner
Gilman	Morella	Tauzin
Gonzalez	Morrison (CT)	Torricelli
Goodling	Mrazek	Towns
Gordon	Murphy	Traficant
Goss	Murtha	Unsoeld
Gray	Nagle	Vander Jagt
Green	Neal (MA)	Walgren
Guarini	Neal (NC)	Weiss
Harris	Nelson	Weldon
Hayes (IL)	Oakar	Wheat
Hayes (LA)	Ortiz	Wise
Hefley	Owens (NY)	Wright
Hefner	Owens (UT)	Wyden
Herger	Packard	Yatron
Hertel	Pallone	Young (AK)
Hochbrueckner	Pashayan	

NOT VOTING—16

Boucher	Hatcher	Quillen
Coleman (MO)	Hawkins	Thomas (CA)
Collins	Leach (IA)	Torres
Dixon	Marlenee	Udall
Emerson	McCandless	
Florio	Parris	

□ 1645

The Clerk announced the following pairs:

On this vote:

Mr. Hatcher for, with Mr. Quillen against.

Mr. Thomas of California for, with Mrs. Collins against.

Mrs. BYRON AND Messrs. LANTOS, FLIPPO, HEFNER, GRAY of Pennsylvania, BEVILL, LELAND, GORDON, and PACKARD changed their vote from "aye" to "no".

Messrs. THOMAS of Georgia, PARKER, MOORHEAD, BROWN of California, TRAXLER, STEARNS, COSTELLO, and WAXMAN changed their vote from "no" to "aye'.'

So the amendment was rejected.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. BEREUTER

Mr. BEREUTER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. BEREUTER: Page 64, beginning in line 20, strike out "(including agricultural commodities)"; and line 21, before the period, insert", except that the term does not include agricultural commodities or products derived from agricultural commodities, petroleum and petroleum products, fertilizer, or coal".

□ 1650

Mr. FASCELL. Mr. Chairman, I make a unanimous-consent request on this amendment with regard to time limitation. I ask unanimous request that the time be limited to 10 minutes, 5 minutes on each side.

The CHAIRMAN. Is there objection to the request of the gentleman from Florida?

There was no objection.

Mr. BEREUTER. Mr. Chairman, I yield myself 1 minute.

Mr. BEREUTER. This amendment leaves intact all of the provisions of the language added by the gentleman from New Jersey [Mr. TORRICELLI], except the definitional change, and it would exempt from the definition of commodities and goods, agricultural commodities, petroleum products, fertilizer, or coal. These are essential bulk items.

I think it has been the expressed intent that the provisions would not damage the coal and the agricultural sector, but important provisions the gentleman from New Jersey [Mr. TORRICELLI] and I and others would agree or complement in the previous provisions. It is important that we assure that the exports that are not exports of grain from Argentina or coal from Poland or other fertilizer products from other countries. That is what the essential amendment tries to protect, our coal products will move to these countries that receive ESF fund.

Mr. Chairman, I yield 1 minute to the gentlewoman from Nebraska [Mrs. SMITH].

Mrs. SMITH of Nebraska. We have been through this before.

The last time the House considered a foreign aid authorization, in 1987, the bill contained a nearly identical cargo preference provision.

I offered an amendment then to exempt agricultural commodities from the cargo preference provision, and the House voted to accept my amendment.

So I want to begin the debate on this amendment by pointing out that we have already debated this, and the position of the House was that agricultural exports should be exempted from this expansion of cargo preference.

Now, here we go again.

Let me make the following points:

Section 1303, as it stands now, will have no positive effect on U.S. exports.

The opposite is true.

The countries affected by section 1303's requirements to purchase U.S. goods in an amount equal to the cash transfer aid they receive already buy 13 times as much in U.S. goods as they receive in cash transfer.

The United States already has a favorable balance of trade with these countries.

Imposing cargo-preference requirements on these sales will only hurt our agricultural exports.

Second, section 1303 will not help the U.S. merchant marine.

The Agency for International Development has testified that its cargoes cost an average of $58.79 per ton to ship on U.S. flagships in 1988, compared with $33.17 per ton on a foreign flagship.

If foreign countries are faced with paying higher costs to purchase U.S. goods that must be transported by oceangoing vessel, those countries will simply shift their ocean-borne purchases to non-U.S. exporters who do not have these burdensome cargo-preference requirements.

And again, our agricultural exports, which are transported by oceangoing vessel, will stand to lose—and so will our merchant marine.

Third, if foreign countries are forced to pay more for shipping, they will have less to spend on purchases of U.S. agricultural commodities.

And again, U.S. agricultural loses—and, of course, so do those foreign nations we are trying to help with this bill.

I cannot understand the logic in sending a cash transfer to a poor foreign country, and then reducing the amount of aid by requiring that country to subsidize the U.S. merchant marine.

I believe this cargo-preference requirement is bad for agriculture, bad for our balance of trade, and bad for the countries that receive our foreign aid in the form of cash transfer.

I urge the House to reaffirm its position.

Vote for my amendment to exempt agricultural exports from the expansion of cargo preference requirements in the Torricelli section of this bill.

Mr. SMITH of Florida. Mr. Chairman, I yield 1 minute to the gentleman from New York [Mr. SOLOMON].

Mr. SOLOMON. Mr. Chairman, this amendment is no different than the amendment we just voted on. It is nothing more than a gutting amendment.

Thirty years ago, the United States of America had 4,000 merchant marine ships, and we had huge trade surpluses. Today we have less than 400 merchant marine ships, and Members all know what kind of trade deficits we have.

By contrast, a country, a poor country like China, 20 years ago had 60 merchant marine ships, and to this day they have 1,200, three times as many as we do. They transport 70 percent of their goods into this country on their 1,200 ships. I think that tells the whole story.

We ought to defeat the Bereuter amendment and support the concept of the gentleman from New Jersey [Mr. TORRICELLI].

Mr. ROGERS. Mr. Chairman, my arguments were heard in the earlier debate and the comments I made earlier. Suffice it to say this: As far as the bulk commodity of coal and the other bulk commodities that need to be shipped overseas somehow, unless we allow the free market out there to remain, we are going to lose those sales. That means the coal port roads, New Orleans or wherever, are going to lose the jobs because if we lose those sales because we price ourselves out of the market, the coal market, those railroads will not be hauling the coal in the United States. No ships will haul the coal overseas. No miners will mine the coal in the United States. None of the tipples will operate, and Members will lose those sales.

It does not make any sense to me that Members want to lose the sales of the products we have because that is precisely what Members are going to do because the world price of coal is dependent upon the huge shipping charges.

Mr. BEREUTER. Mr. Chairman, I yield 1 minute to the gentleman from Kentucky [Mr. ROGERS].

Mr. SMITH of Florida. Mr. Chairman, I yield 1 minute to the gentleman from West Virginia [Mr. RAHALL].

Mr. RAHALL. Mr. Chairman, the gentleman from Kentucky [HAL ROGERS] and I have worked together for many years in an effort to promote U.S. coal exports, and I want to commend him for bringing the issue of coal exports before the House today.

However, with all due respect to the gentleman, I must rise in opposition to his amendment.

As I understand the legislation before us, it would require a country that is the recipient of cash aid under the economic support assistance program either to spend that money on purchases within that country itself or on the purchase of U.S. commodities. Further U.S. cargo preference laws would apply.

The gentleman from Kentucky's amendment, however, seeks to exempt coal from the cargo preference re-

quirement. It is my understanding that the countries which currently import United States coal and are also beneficiaries of the economic support assistance program are primarily Turkey, Portugal, Egypt, and the Dominican Republic. In this regard, I would note that these four countries combined only accounted for 3.6 percent of all purchases of U.S.-exported coal last year.

The fact of the matter is that I find it extremely hard to argue against a requirement that causes foreign recipients of U.S. taxpayer dollars to spend those dollars for U.S. commodities. With respect to coal, I think it is outrageous to provide cash assistance to a country so that it could simply turn around and purchase its coal from our coal exporting competitors, being Australia, South Africa, Canada, or Colombia.

Second, if we agree that a recipient country should be required to spend the cash amount it receives from the United States on commodities produced in this country, what adverse effect could there possibly be in causing those commodities to be shipped on U.S. vessels? I see none.

If a country which is the recipient of cash aid under the economic assistance program chooses to buy coal, the bill says that it must purchase U.S. coal and that we will send that coal to them in our own vessels. There is no downside whatsoever to this requirement. There are, however, major benefits.

Taxpayers benefit because their tax dollars are being used to purchase U.S. commodities, in this case, coal. U.S. coal producers and those they employ benefit because their tax dollars are not being spent by recipient countries to bolster their competitors in the international coal market. And, those who work in our domestic transportation sectors benefit as they also share in the opportunities created by exporting U.S. coal. Finally, the U.S. balance of trade benefits, which is a matter of no small concern.

Mr. Chairman, while I appreciate the intentions of the gentleman from Kentucky, I urge my colleagues to oppose his amendment.

Mr. BEREUTER. Mr. Chairman, I yield such time as he may consume to the gentleman from Michigan [Mr. SCHUETTE].

Mr. SCHUETTE. Mr. Chairman, I am in support of the amendment.

Mr. BEREUTER. Mr. Chairman, I yield the remaining 2 minutes to the gentleman from Wisconsin [Mr. OBEY].

Mr. OBEY. Mr. Chairman, the issue is very simple. If Members think it is in the interests of the United States to raise the cost of the coal we export and raise the cost of agricultural products that we export, and hurt our farmers in the process, then Members vote against this amendment. If Members think that is dumb, vote for it.

This is very simply an effort to expand cargo preference, and by doing so, break the agreement which we had in the 1985 farm bill that was an agreement between regions of this country and sectors of the economy. It is unfair to the Midwest. It is unfair to the Great Lakes ports. It is certainly unfair to American farmers.

□ 1700

I have one thing to say to maritime interests in this country. I have supported cargo preference for as long and I have been a Member of this House, but if the maritime interests of this country are going to welsh on the deal which we had on the 1985 farm bill, I will never again vote for cargo preference in any way, shape, or form. I put people on notice on that issue right now. This is double-crossing of the Great Lakes ports of this country, it is a double-crossing of the American farmers, and I have had it.

Mr. OBERSTAR. Mr. Chairman, will the gentleman yield?

Mr. OBEY. I yield to the gentleman from Minnesota.

Mr. OBERSTAR. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, as a member of the Committee on Merchant Marine and Fisheries, for years I have supported cargo preference on the condition that the U.S. flags serve the Great Lakes, and they have refused to serve the Great Lakes. They want to skim the gravy off the top; they want to serve the easy ports. They will not serve the Great Lakes. There are people there who need jobs, too. That is where 45 percent of the agriculture in this country is generated, and if they will not serve them, why should we expand the gravy for the U.S. flags?

They ought to spread it around to all the ports of this country. We ought to support this amendment. It is only fair and only decent. They have not delivered on their commitment in the past to serve the Great Lakes, and they will not deliver in the future.

Mr. OBEY. Mr. Chairman, I will simply say that this amendment has nothing whatsoever to do with expanding American exports. If the Torricelli language stands without this amendment, it will erode American exports and it will weaken the ability of our farmers to compete abroad.

The CHAIRMAN. The Chair recognizes the gentleman from Florida [Mr. SMITH] to close debate on this amendment.

Mr. SMITH of Florida. Mr. Chairman, I yield such time as he may consume to the gentleman from New York [Mr. LENT].

Mr. LENT. Mr. Chairman, I rise in strong opposition to the amendment to eliminate cargo preference requirements for agricultural products acquired in the United States under any foreign aid cash transfer program.

The policy question posed by section 1303 of this legislation is whether or not a nation that receives a U.S. Government cash transfer payment as foreign aid should be required to purchase U.S. goods and services in the United States. As I understand this section, it could result in considerable benefits to many types of American business. A foreign nation might desire to acquire all sorts of American goods with the economic assistance they get from the United States.

American businesses would definitely benefit by this provision and it is eminently logical to provide that these foreign aid cash grants provide benefits to American businesses while, at the same time, providing economic assistance to less fortunate countries.

The amendment before us at this moment would eliminate one form of assistance to one particular sector of our American economy. Specifically, this amendment would eliminate the requirement that part of the agricultural commodities purchased pursuant to the cash transfer program be shipped on American-flag merchant vessels.

It seems to me that this amendment is an example of an effort to have one's cake and eat it too. They want to have U.S. agricultural products purchased pursuant to this program, but the do not want to ship those products on U.S. vessels. I fail to see why one industry should be allowed to benefit but another sector—the American merchant marine—should not.

The U.S. merchant marine represents an integral part of our national security effort. This nation is currently witnessing the most severe decline in the American merchant marine in the last 40 years. We cannot afford to lose any more of our national sealift capability. On January 20, 1989, the latest in a series of Government reports on the status of the merchant marine was sent to the President and Congress. It contains recommendations for rebuilding the American merchant marine, for both commercial trade and military sealift capability. Among other things, that report indicated that one of the best ways to support the private commercial merchant fleet is to provide cargo for the ships to carry.

This amendment would take away from the American merchant fleet a major source of cargo. This is a time when our Government has cut back on construction differential subsidies and operating subsidies to help our merchant fleet. Cargo preference is, really, the only way left. Members should also be aware that the shipments we are talking about are not in any way commercial shipments of grain. These shipments are the direct result of Federal foreign aid programs giving cash to foreign countries.

Mr. Chairman, eliminating the cargo preference requirement for agricultural, coal, fertilizer, or any other types of commodities covered by this legislation is wrong. The legislation would allow export of American agricultural commodities that are available at competitive prices because of the enormous Federal subsidies to our agricultural sector—around $25 billion a year. I think it is fair to keep that fact in mind when Members are complaining about

a subsidy to the American merchant marine in the form of cargo preference.

The actual direct Federal operating-differential subsidy to the American merchant marine for fiscal year 1990 will be in the neighborhood of $226 million. That figure is compared to $25 billion for the agricultural industry.

Simple fairness and equity should dictate that Members should not try to pit one industry against another. Both the agricultural industry and the maritime industry cannot afford to continue this bloodletting because each is in serious trouble and they really should support one another. I urge my colleagues to join me in defeating this amendment.

Mr. SMITH of Florida. Mr. Chairman, I yield the balance of my time to the gentleman from New Jersey [Mr. TORRICELLI].

The CHAIRMAN. The gentleman from New Jersey [Mr. TORRICELLI] is recognized for 3 minutes.

Mr. TORRICELLI. Mr. Chairman, if it appears that this vote is remarkably similar in substance to the vote Members just cast, that is because it is. We will be casting the identical vote for all practical purposes that we cast only a moment ago when this House by a wide margin voted no.

I ask the Members to vote no again because Members cannot go home this weekend and look their constituents in the eye and tell them that they approve using United States taxpayer dollars in foreign aid to buy Japanese machine tools, German automobiles, or Argentinean wheat. They do not have the heart to do so, so I ask them not to do it.

We are the only developed nation in the world with a foreign aid program that would allow its taxpayers' dollars to be used in a third nation to buy its products and then transport that to their country on a third nation's ships.

I ask the Members to vote no and deal with reality. I know that there was a time in America when it did not make any difference whether we would spend money around the world or where we spent it, and it did not matter whose factories were busy or whose farmers produced the goods. What was the difference? We could afford it. But I say to my friends that we cannot afford that anymore. Whose products are bought is important; whose ships are used is important.

The Members should defeat this amendment. That makes economic sense. I say also to my friends that it is important to realize that support for foreign aid in America is collapsing because the American people no longer identify with it. How will they ever identify with a foreign aid program if foreign aid means no more than sending a check to some foreign ministry?

Foreign aid means sending American goods and American farm products on American ships. That is what American foreign aid has always meant. I ask the Members to defeat the amendment so they can restore that identity. That is what the Foreign Affairs Committee has done. That is why we ask the Members to stand with the committee today.

I know there are regional differences. There is no merchant marine in my district, and there is no agriculture. But this is an important national interest. That is why farm groups have stood with us, and that is why labor groups have stood with us. That is why they ask the Members to defeat this amendment today.

Mr. Chairman, I say to my friends that the issue is simple. What the amendment would do is to ask that we not only exempt agriculture from cargo preference, it asks more than that. If we were to vote for this amendment, we would restore the ability of using foreign aid to buy foreign agricultural products. I ask the Members to vote no and stand with the committee.

The CHAIRMAN. All time for debate on this amendment has expired.

AMENDMENT OFFERED BY MR. CRAIG TO THE AMENDMENT OFFERED BY MR. BEREUTER

Mr. CRAIG. Mr. Chairman, I have an amendment in the second degree at the desk, and I offer that amendment.

The Clerk read as follows:

Amendment offered by Mr. CRAIG to the amendment offered by Mr. BEREUTER: After "fertilizer," insert "forest products".

PARLIAMENTARY INQUIRY

Mr. SMITH of Florida. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. SMITH of Florida. Mr. Chairman, do I understand that any debate on this amendment in the second degree would not be covered by the time agreement under the rule; is that correct?

The CHAIRMAN. The gentleman is correct. The debate on this amendment would not be covered by the time limitation.

The Chair recognizes the gentleman from Idaho [Mr. CRAIG].

Mr. SMITH of Florida. Mr. Chairman, in the interest of fairness, I would suggest that we have no copy of this amendment.

The CHAIRMAN. The Chair will state to the gentleman that the Chair recognizes the gentleman from Idaho, who has sent an amendment to the desk. He is recognized for 5 minutes in support of his amendment. If the gentleman wishes a copy of the amendment, the Clerk will provide it.

The Chair recognizes the gentleman from Idaho [Mr. CRAIG]

Mr. SMITH of Florida. Mr. Chairman, will the gentleman yield?

Mr. CRAIG. Mr. Chairman, I am happy to yield to my colleague.

Mr. SMITH of Florida. Mr. Chairman, I appreciate the gentleman's yielding.

Do I understand that the amendment would just read: "after 'fertilizer,' insert 'forest products' "?

Mr. CRAIG. The gentleman is correct.

The CHAIRMAN. The Chair recognizes the gentleman from Idaho [Mr. CRAIG] in support of his amendment.

Mr. CRAIG. Mr. Chairman, that exchange thoroughly explained the extent of this very simple amendment in the second degree, and that is that it concludes the words "forest products."

Mr. Chairman, as I said earlier, this amendment is in fact very simple.

It inserts two words following "fertilizer" in the Bereuter amendments, and those two words are "forest products." One of the difficulties we have faced throughout the United States and in the Pacific Northwest in the movement of our own products within the continental United States is the ability to move them, of course, in an expanded way. This would offer that opportunity because that item would be included in the exemption.

Mr. OBEY. Mr. Chairman, will the gentleman yield?

Mr. CRAIG. I yield to the gentleman from Wisconsin.

Mr. OBEY. Mr. Chairman, I would simply like to say that I support the gentleman's amendment, but I would like to point out, in contrast to the comments made by the gentleman from New Jersey, that if anybody believes this issue is about whether or not some country is going to buy American goods, they are absolutely being misled.

The fact is that Egypt gets $315 million in cash transfer commodity items right now under the AID bill. They buy $800 million in U.S. agricultural products. So the argument that we have to expand the ability of these countries to buy American products by supporting the Torricelli language is a red herring.

The gentleman is correct in trying to add foreign products to the other exemptions we are providing.

So, Mr. Chairman, I would urge support of the amendment and of the Bereuter amendment.

Mr. BEREUTER. Mr. Chairman, will the gentleman yield?

Mr. CRAIG. I yield to the gentleman from Nebraska.

Mr. BEREUTER. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I accept and appreciate the gentleman's amendment. The fact of the matter is that these countries that receive ESF funds, cash transfer funds, have no difficulty in expending that much money on American imports from the United States. They do that by a ratio of 13 to 1, but what they are going to do is shift away from bulk shipped products. They are

going to ship instead by air high-valued products.

So unless we have the gentleman's amendment to the Bereuter-Obey amendment, that will be the effect for forest products as well. This will exempt forest products. I commend the gentleman for offering his amendment, and I thank him for yielding.

Mr. TORRICELLI. Mr. Chairman, will the gentleman yield?

Mr. CRAIG. I yield to the gentleman from New Jersey.

Mr. TORRICELLI. Mr. Chairman, I have no objection to the gentleman's amendment, but the same point remains, that it should be understood we are not simply, by accepting this amendment unopposed, taking forest products out of cargo preference. We are opening a large door where people can use U.S. foreign aid to buy Canadian or other forest products as well. The same point holds.

Mr. Chairman, I have no objection to the amendment, but I hope we can then go on and defeat the Bereuter amendment and keep this important provision in the foreign aid bill.

□ 1710

Mr. CRAIG. Mr. Chairman, I yield to the gentleman from Kentucky [Mr. ROGERS].

Mr. ROGERS. Mr. Chairman, if the gentleman is correct, then the amendment, the amendment of the gentleman from Nebraska [Mr. BEREUTER], now would exclude from the cargo preference agriculture products, coal, fertilizers, and now forest products.

Mr. Chairman, I want to support, reiterate my support, for the Bereuter amendment. I urge an aye vote.

Mr. LENT. Mr. Chairman, will the gentleman yield?

Mr. CRAIG. I yield to the gentleman from New York.

Mr. LENT. Mr. Chairman, this is in partial response to the gentleman from Kentucky [Mr. ROGERS]. He would exclude from the cargo preference, but, more than that, as I read the gentleman's amendment, he would exclude the goods, the lumber, the commodities, the agricultural products that these foreign countries would be required to purchase under the terms of the Torricelli amendment in the United States.

Mr. Chairman, the gentleman is changing the definition of the term "goods." That definition is a word of art because it requires the foreign countries to purchase goods manufactured or produced in the United States with the terms of the foreign cash exchange, so I think the gentleman perhaps inadvertently has gone too far with his amendment. He is not just knocking out cargo preference, but he is also knocking out the earlier portions of the Torricelli amendment which would require the foreign country to buy 100 percent.

Mr. CRAIG. Mr. Chairman, for purposes of explanation I think it is important to understand that "goods" is also defined as "commodities," and that fits the definition that we were attempting to deal with here.

Mr. LENT. Mr. Chairman, will the gentleman yield further?

Mr. CRAIG. I yield to the gentleman from New York.

Mr. LENT. Mr. Chairman, if the gentleman from Idaho [Mr. CRAIG] will turn to page 62 of the bill, it says that assistance may be provided.

Mr. CRAIG. Mr. Chairman, would the gentleman refer to the line?

Mr. LENT. Mr. Chairman, line 5.

The CHAIRMAN. The time of the gentleman from Idaho [Mr. CRAIG] has now expired.

The question is on the amendment offered by the gentleman from Idaho [Mr. CRAIG] to the amendment offered by the gentleman from Nebraska [Mr. BEREUTER].

The question was taken; and on a division (demanded by Mr. BEREUTER) there were—ayes 62, noes 29.

So the amendment to the amendment was agreed to.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Nebraska [Mr. BEREUTER] as amended.

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. BEREUTER. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 188, noes 219, not voting 25, as follows:

[Roll No. 102]

AYES—188

Andrews	DeLay	Houghton
Anthony	DeWine	Hyde
Archer	Dorgan (ND)	Ireland
Armey	Dornan (CA)	Jacobs
Aspin	Douglas	Jenkins
Atkins	Dreier	Johnson (CT)
Baker	Durbin	Johnson (SD)
Ballenger	Edwards (OK)	Jones (GA)
Barnard	English	Jontz
Bartlett	Espy	Kaptur
Barton	Fawell	Kasich
Bates	Fazio	Kastenmeier
Beilenson	Frenzel	Kleczka
Bereuter	Frost	Kolbe
Berman	Gallegly	Kyl
Bliley	Gekas	LaFalce
Broomfield	Gibbons	Lagomarsino
Brown (CA)	Gillmor	Lancaster
Brown (CO)	Gingrich	Leath (TX)
Bruce	Glickman	Lehman (CA)
Buechner	Goodling	Lehman (FL)
Burton	Gradison	Lewis (FL)
Campbell (CA)	Grandy	Lightfoot
Campbell (CO)	Grant	Long
Carr	Gunderson	Lukens, Donald
Chandler	Hall (OH)	Madigan
Chapman	Hall (TX)	Martin (IL)
Coble	Hamilton	Martin (NY)
Cooper	Hammerschmidt	Mazzoli
Costello	Hancock	McCloskey
Cox	Hastert	McCollum
Craig	Henry	McCurdy
Crane	Hiler	McEwen
Dannemeyer	Hoagland	McHugh
de la Garza	Hopkins	McMillan (NC)
Meyers	Roberts	Stearns
Michel	Robinson	Stenholm
Montgomery	Rogers	Stump
Moody	Rohrabacher	Synar
Moorhead	Rose	Tauke
Morrison (WA)	Rostenkowski	Thomas (GA)
Natcher	Roth	Thomas (WY)
Nielson	Rowland (GA)	Traxler
Nowak	Sabo	Upton
Oberstar	Sarpalius	Valentine
Obey	Scheuer	Vento
Olin	Schuette	Visclosky
Oxley	Schulze	Volkmer
Panetta	Sensenbrenner	Vucanovich
Parker	Sharp	Walker
Pashayan	Shuster	Walsh
Paxon	Sikorski	Watkins
Payne (VA)	Skeen	Waxman
Pease	Skelton	Weber
Penny	Slattery	Whittaker
Petri	Slaughter (VA)	Williams
Pickle	Smith (IA)	Wilson
Porter	Smith (NE)	Wolf
Poshard	Smith (TX)	Wolpe
Pursell	Smith, Denny (OR)	Wylie
Ray	Smith, Robert (OR)	Yates
Regula	Stangeland	Young (FL)
Rhodes		
Richardson		

NOES—219

Ackerman	Flippo	McGrath
Akaka	Foglietta	McMillen (MD)
Alexander	Ford (MI)	McNulty
Anderson	Ford (TN)	Mfume
Annunzio	Frank	Miller (CA)
Applegate	Gallo	Miller (OH)
AuCoin	Garcia	Miller (WA)
Bateman	Gaydos	Mineta
Bennett	Gejdenson	Moakley
Bentley	Gephardt	Molinari
Bevill	Gilman	Mollohan
Bilbray	Gonzalez	Morella
Bilirakis	Gordon	Morrison (CT)
Boehlert	Goss	Mrazek
Boggs	Gray	Murphy
Bonior	Green	Murtha
Borski	Guarini	Nagle
Bosco	Harris	Neal (MA)
Boxer	Hayes (IL)	Neal (NC)
Brennan	Hayes (LA)	Nelson
Brooks	Hefley	Oakar
Browder	Hefner	Ortiz
Bryant	Herger	Owens (NY)
Bunning	Hertel	Owens (UT)
Bustamante	Hochbrueckner	Packard
Byron	Holloway	Pallone
Callahan	Horton	Patterson
Cardin	Hoyer	Payne (NJ)
Carper	Hubbard	Pelosi
Clarke	Hughes	Perkins
Clay	Hunter	Pickett
Clement	Hutto	Price
Clinger	Inhofe	Rahall
Coleman (TX)	James	Rangel
Combest	Johnston	Ravenel
Conte	Jones (NC)	Ridge
Conyers	Kanjorski	Rinaldo
Coughlin	Kennedy	Ritter
Courter	Kennelly	Roe
Coyne	Kildee	Rowland (CT)
Crockett	Kostmayer	Roybal
Darden	Lantos	Russo
Davis	Laughlin	Saiki
DeFazio	Leland	Sangmeister
Dellums	Lent	Savage
Derrick	Levin (MI)	Sawyer
Dickinson	Levine (CA)	Saxton
Dicks	Lewis (CA)	Schaefer
Dingell	Lewis (GA)	Schiff
Donnelly	Lipinski	Schneider
Downey	Livingston	Schroeder
Duncan	Lloyd	Schumer
Dwyer	Lowery (CA)	Shaw
Dyson	Lowey (NY)	Shays
Eckart	Luken, Thomas	Shumway
Edwards (CA)	Machtley	Sisisky
Engel	Manton	Skaggs
Erdreich	Markey	Slaughter (NY)
Evans	Martinez	Smith (FL)
Fascell	Matsui	Smith (MS)
Feighan	Mavroules	Smith (NJ)
Fields	McCrery	Smith (VT)
Fish	McDade	Smith, Robert (NH)
Flake	McDermott	

Snowe	Swift	Walgren
Solarz	Tallon	Weiss
Solomon	Tanner	Weldon
Spence	Tauzin	Wheat
Spratt	Torricelli	Wise
Staggers	Towns	Wyden
Stark	Traficant	Yatron
Stokes	Udall	Young (AK)
Studds	Unsoeld	
Sundquist	Vander Jagt	

NOT VOTING—25

Boucher	Hatcher	Quillen
Coleman (MO)	Hawkins	Roukema
Collins	Huckaby	Stallings
Dixon	Kolter	Thomas (CA)
Dymally	Leach (IA)	Torres
Early	Marlenee	Whitten
Emerson	McCandless	Wright
Florio	Myers	
Hansen	Parris	

□ 1733

The Clerk announced the following pairs:

On this vote:

Mr. Emerson for, with Mrs. Collins against.

Mr. Marlenee for, with Mr. Quillen against.

Mr. MATSUI and Mr. FISH changed their vote from "aye" to "no."

Mr. YATES changed his vote from "no" to "aye."

So the amendment, as amended, was rejected.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. LEWIS OF CALIFORNIA

Mr. LEWIS of California. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. LEWIS of California: Page 173, after line 4, insert the following:

SEC. 102. INDEX OF ECONOMIC FREEDOM.

(a) DEVELOPMENT OF INDEX.—The Administrator for title I of the Foreign Assistance Act of 1961, in consultation with indigenous nongovernmental organizations in developing countries, shall study the feasibility of developing and implementing a system, to be referred to as the Index of Economic Freedom, for evaluating the economic freedom and opportunities of individuals in countries which are recipients or proposed recipients of development assistance or assistance for famine recovery and development in Africa. Such a system would include—

(1) consideration of the Index in determining the advisability of furnishing such assistance to each country;

(2) use of the Index to promote improvements in the underlying economic conditions evaluated by the Index;

(3) use of the Index as a basis for evaluating the direction of policy changes in developing countries and as a basis for evaluating specific projects and programs assisted by the administering agency for title I of that Act; and

(4) annual reports to the Congress.

(b) FACTORS EVALUATED BY THE INDEX.—The Index of Economic Freedom would assign a numerical rating for each of the following factors based on the degree to which each such factor reflects the degree of economic freedom and opportunity to a country, and other relevant economic factors:

(1) PROPERTY RIGHTS.—The extent to which poor or landless individuals are legally or otherwise artificially constrained from acquiring land or other forms of property or are unable to gain secure legal title to land, the degree to which laws and an independent judiciary protect private property and enforce contracts for individuals against the government, the extent of nationalization of property and the state's power to nationalize private property, and the degree of access of private parties to the judicial system.

(2) REGULATIONS.—The difficulty and costliness of securing a business license, and the extent to which regulations inherently favor established business at the expense of newcomers, limit the freedom and ability of citizens to establish businesses, or add prohibitive costs or additional risks to maintaining such businesses.

(3) INFORMAL SECTOR.—The extent to which government policies force economic activity into nominally illegal informal sectors where otherwise legal activities are conducted outside of government regulations and requirements, and the extent to which those policies discourage the development of locally controlled nongovernmental institutions.

(4) WAGE AND PRICE CONTROLS.—The identity of industries or goods which are subject to government mandated wages or prices, the value of goods sold wholesale and retail subject to price controls, the degree to which private farmers are forced to sell produce at government established prices, and the degree to which farmers are not allowed to profit from the real market price of their products.

(5) TAXATION.—The highest rate of taxation, the income level at which this rate takes effect, the relationship between per-capita income and the level at which the highest rate of taxation takes effect, the rate of any value added tax (VAT), the level of taxation on assets, and the rate of monetary inflation.

(6) TRADE POLICY.—Customs duty rates, quantitative restrictions on imports, import quotas, import prohibitions, foreign exchange availability for those engaged in international trade, export taxes, restrictive export practices, market-distorting export incentives such as subsidies, import licenses, and country-of-origin restrictions.

(7) RESTRICTIONS ON INVESTMENT AND CAPITAL FLOWS.—Limits on foreign investment and foreign ownership, limits on repatriation of principal and profits for foreign investors, and restrictions on removal of foreign or domestic capital from the country.

(8) SIZE OF STATE SECTOR.—Value of industries owned by the government, percentage of Gross National Product produced by state-owned industries, prohibitions on private economic activities in certain sectors, and the value of the state sector assets.

(9) BANKING.—Degree of government ownership of the banking sector, private citizens rights to own and operate banks, and citizens' access to private sources of credit.

(c) REPORT ON RESULTS OF STUDY.—Not later than 6 months after the date of enactment of this section, the Administrator shall submit a report on the results of the study conducted pursuant to this section to the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate.

Mr. LEWIS of California (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. LEWIS of California. Mr. Chairman, first, I would like to congratulate the members of the Foreign Affairs Committee on their major overhaul of the 1961 Foreign Assistance Act. The four basic objectives of economic growth, resource-sustainable development, poverty alleviation, and pluralism are on target and promise to effectively guide our development-aid decisions well into the future.

What I propose in this amendment is to establish an Index of Economic Freedom.

I should note that a similar measure was offered by our former colleague, now Senator from Florida, CONNIE MACK in the Senate Foreign Relations Committee. It was accepted as part of a noncontroversial en bloc amendment package.

This index is a tool to measure the economic liberalization of nations that receive U.S. development assistance and assistance for famine recovery and development in Africa.

The Index of Economic Freedom would parallel indices of human rights and political freedom that are used in other policymaking decisions. The premise of the amendment is simple: AID should begin to look at recipient countries to see how much they are pursuing self-help economic policies. The index is designed to examine nine aspects of economic liberalization:

First, property rights: To what extent are poor or landless individuals constrained by legal means or government practice from acquiring land and other forms of property?

Second, regulations: What is the personal and/or financial difficulty and risk in obtaining a business license? Does the system limit or prohibit newcomers to private enterprise? Do regulations, by keeping economic activity in the dark, promote the wasteful use and abuse of natural resources and the environment?

Third, informal sector: To what extent do Government policies force economic activity underground and therefore contribute to limited development and unsafe business practices?

Fourth, wage and price controls: Do these types of controls limit the ability of individuals to profit from the true level of their labor? If so, what are the real costs to the society and the individual?

Fifth, taxation: Do the types and levels of taxes detract from or contribute to individual effort, private savings and investment?

Sixth, trade policy: How free are citizens to buy and sell across national boundaries based on mutual consent?

Seventh, capital flows and investment: Do government policies limit

foreign investment that might provide needed capital for small businesses, and do they promote capital flight by limiting potential growth and development?

Eighth, State sector: Does the size and configuration of the government sector force individuals to compete with their own government to be productive?

Ninth, banking: Do individuals have fair access to credit, and the freedom to invest or save based on their own needs and desires?

I urge your support for this amendment. We need this kind of tool to help us carry out the great reforms in U.S. foreign aid that H.R. 2655 represents.

Mr. FASCELL. Mr. Chairman, if the gentleman will yield, we have examined this amendment on the majority side. We think the gentleman has provided a requirement which would be useful, one that ought to be considered.

□ 1740

The CHAIRMAN. The question is on the amendment offered by the gentleman from California [Mr. LEWIS].

The question was taken; and the Chairman announced that the ayes appeared to have it.

Mr. LEWIS of California. Mr. Chairman, I demand a recorded vote, and pending that, I make the point of order that a quorum is not present.

The CHAIRMAN. Evidently a quorum is not present. Pursuant to the provisions of clause 2 of rule XXIII, the Chair announces that he will reduce to a minimum of 5 minutes the period of time which a vote by electronic device, if ordered, will be taken on the pending question following the quorum call. Members will record their presence by electronic device.

The call was taken by electronic device.

The following Members responded to their name:

[Roll No. 103]

ANSWERED "PRESENT"—395

Ackerman	Bevill	Campbell (CO)
Akaka	Bilbray	Cardin
Alexander	Bilirakis	Carper
Anderson	Bliley	Carr
Andrews	Boehlert	Chandler
Annunzio	Boggs	Chapman
Anthony	Borski	Clarke
Applegate	Bosco	Clay
Archer	Boxer	Clement
Armey	Brennan	Clinger
Atkins	Brooks	Coble
AuCoin	Broomfield	Coleman (TX)
Baker	Browder	Combest
Ballenger	Brown (CA)	Conte
Barnard	Brown (CO)	Conyers
Bartlett	Bruce	Cooper
Barton	Bryant	Costello
Bateman	Buechner	Coughlin
Bates	Bunning	Courter
Beilenson	Burton	Cox
Bennett	Bustamante	Coyne
Bentley	Byron	Craig
Bereuter	Callahan	Crane
Berman	Campbell (CA)	Crockett
Dannemeyer	Johnston	Patterson
Darden	Jones (GA)	Paxon
Davis	Jones (NC)	Payne (NJ)
de la Garza	Jontz	Payne (VA)
DeFazio	Kanjorski	Pease
DeLay	Kaptur	Pelosi
Dellums	Kasich	Penny
Derrick	Kastenmeier	Perkins
DeWine	Kennedy	Petri
Dickinson	Kennelly	Pickett
Dicks	Kildee	Pickle
Donnelly	Kleczka	Porter
Dorgan (ND)	Kolbe	Poshard
Dornan (CA)	Kostmayer	Price
Douglas	Kyl	Pursell
Downey	LaFalce	Rahall
Dreier	Lagomarsino	Rangel
Duncan	Lancaster	Ravenel
Durbin	Lantos	Ray
Dwyer	Laughlin	Regula
Dymally	Leath (TX)	Rhodes
Dyson	Lehman (CA)	Richardson
Eckart	Lehman (FL)	Ridge
Edwards (CA)	Leland	Rinaldo
Edwards (OK)	Lent	Ritter
Engel	Levin (MI)	Roberts
English	Levine (CA)	Robinson
Erdreich	Lewis (CA)	Roe
Espy	Lewis (FL)	Rogers
Evans	Lewis (GA)	Rohrabacher
Fascell	Lightfoot	Rose
Fawell	Lipinski	Rostenkowski
Fazio	Livingston	Roth
Feighan	Lloyd	Roukema
Fields	Long	Rowland (CT)
Fish	Lowery (CA)	Rowland (GA)
Flake	Lowey (NY)	Roybal
Flippo	Luken, Thomas	Russo
Foglietta	Lukens, Donald	Sabo
Ford (MI)	Machtley	Saiki
Ford (TN)	Madigan	Sangmeister
Frenzel	Manton	Sarpalius
Gallegly	Markey	Savage
Gallo	Martin (IL)	Sawyer
Gaydos	Martin (NY)	Saxton
Gejdenson	Matsui	Schaefer
Gekas	Mavroules	Schiff
Gephardt	Mazzoli	Schneider
Gibbons	McCloskey	Schroeder
Gillmor	McCollum	Schuette
Gilman	McCrery	Schulze
Gingrich	McCurdy	Schumer
Glickman	McDermott	Sensenbrenner
Gonzalez	McEwen	Sharp
Goodling	McGrath	Shaw
Gordon	McHugh	Shays
Goss	McMillan (NC)	Shumway
Gradison	McMillen (MD)	Shuster
Grandy	McNulty	Sikorski
Grant	Meyers	Sisisky
Green	Mfume	Skaggs
Guarini	Michel	Skeen
Gunderson	Miller (CA)	Skelton
Hall (OH)	Miller (OH)	Slattery
Hall (TX)	Miller (WA)	Slaughter (NY)
Hamilton	Mineta	Slaughter (VA)
Hammerschmidt	Moakley	Smith (FL)
Hancock	Molinari	Smith (IA)
Harris	Mollohan	Smith (MS)
Hastert	Montgomery	Smith (NE)
Hayes (IL)	Moody	Smith (NJ)
Hayes (LA)	Moorhead	Smith (TX)
Hefley	Morella	Smith (VT)
Hefner	Morrison (CT)	Smith, Denny (OR)
Henry	Morrison (WA)	Smith, Robert (NH)
Herger	Mrazek	Smith, Robert (OR)
Hertel	Murphy	Snowe
Hiler	Murtha	Solarz
Hoagland	Nagle	Solomon
Hochbrueckner	Natcher	Spence
Holloway	Neal (MA)	Spratt
Hopkins	Neal (NC)	Staggers
Horton	Nelson	Stangeland
Houghton	Nielson	Stark
Hoyer	Oakar	Stearns
Hubbard	Obey	Stenholm
Hughes	Olin	Stokes
Hunter	Ortiz	Studds
Hutto	Owens (NY)	Stump
Hyde	Owens (UT)	Sundquist
Inhofe	Oxley	Swift
Ireland	Packard	Synar
Jacobs	Pallone	Tallon
James	Panetta	Tanner
Johnson (CT)	Parker	Tauke
Johnson (SD)	Pashayan	Tauzin
Thomas (GA)	Visclosky	Williams
Thomas (WY)	Volkmer	Wilson
Torricelli	Vucanovich	Wise
Towns	Walgren	Wolf
Traficant	Walker	Wolpe
Traxler	Walsh	Wright
Udall	Watkins	Wyden
Unsoeld	Waxman	Wylie
Upton	Weber	Yates
Vander Jagt	Weiss	Yatron
	Weldon	Young (AK)
	Wheat	Young (FL)
	Whittaker	

□ 1800

The CHAIRMAN. Three hundred and ninety-five Members have answered to their names, a quorum is present, and the Committee will resume its business.

RECORDED VOTE

The CHAIRMAN. The pending business is the demand of the gentleman from California [Mr. LEWIS] for a recorded vote. Five minutes will be allowed for the vote.

A recorded vote was ordered.

The vote was taken by electronic device and there were—ayes 206, noes 197, not voting 29, as follows:

[Roll No. 104]

AYES—206

Anderson	Gillmor	McCrery
Andrews	Gilman	McCurdy
Archer	Gingrich	McEwen
Armey	Goodling	McGrath
Baker	Goss	McMillan (NC)
Ballenger	Gradison	Meyers
Bartlett	Grandy	Michel
Barton	Grant	Miller (OH)
Bateman	Green	Miller (WA)
Bennett	Guarini	Molinari
Bentley	Gunderson	Moorhead
Bereuter	Hall (TX)	Morella
Bilbray	Hamilton	Morrison (WA)
Bilirakis	Hammerschmidt	Neal (NC)
Bliley	Hancock	Nelson
Boehlert	Hastert	Nielson
Broomfield	Hayes (LA)	Oxley
Brown (CO)	Hefley	Packard
Buechner	Henry	Pashayan
Bunning	Herger	Paxon
Burton	Hertel	Petri
Callahan	Hiler	Pickle
Campbell (CA)	Holloway	Porter
Carper	Hopkins	Pursell
Carr	Horton	Ravenel
Chandler	Houghton	Ray
Clarke	Hubbard	Regula
Clinger	Hughes	Rhodes
Coble	Hunter	Ridge
Combest	Hutto	Rinaldo
Conte	Hyde	Ritter
Cooper	Inhofe	Roberts
Coughlin	Ireland	Robinson
Courter	Jacobs	Roe
Cox	James	Rogers
Craig	Jenkins	Rohrabacher
Crane	Johnson (CT)	Roth
Dannemeyer	Johnson (SD)	Roukema
Davis	Kasich	Rowland (CT)
DeLay	Kennelly	Saiki
DeWine	Kolbe	Saxton
Dickinson	Kyl	Schaefer
Dorgan (ND)	LaFalce	Schiff
Dornan (CA)	Lagomarsino	Schneider
Douglas	Lent	Schroeder
Dreier	Lewis (CA)	Schuette
Duncan	Lewis (FL)	Schulze
Edwards (OK)	Lightfoot	Sensenbrenner
English	Livingston	Sharp
Fascell	Long	Shaw
Fawell	Lowery (CA)	Shays
Fields	Lukens, Donald	Shumway
Fish	Machtley	Shuster
Frenzel	Madigan	Skeen
Gallegly	Martin (IL)	Skelton
Gallo	Martin (NY)	Slattery
Gekas	McCollum	Slaughter (VA)

Smith (MS)	Spence	Walsh
Smith (NE)	Stangeland	Watkins
Smith (NJ)	Stearns	Waxman
Smith (TX)	Stump	Weber
Smith (VT)	Sundquist	Weldon
Smith, Denny (OR)	Tauke	Whittaker
	Tauzin	Wilson
Smith, Robert (NH)	Thomas (WY)	Wolf
	Traxler	Wolpe
Smith, Robert (OR)	Upton	Wylie
	Vander Jagt	Young (AK)
Snowe	Vucanovich	Young (FL)
Solomon	Walker	

NOES—197

Ackerman	Gephardt	Owens (NY)
Akaka	Gibbons	Owens (UT)
Alexander	Glickman	Pallone
Annunzio	Gonzalez	Panetta
Anthony	Gordon	Parker
Applegate	Hall (OH)	Patterson
Aspin	Harris	Payne (NJ)
Atkins	Hayes (IL)	Payne (VA)
AuCoin	Hefner	Pease
Barnard	Hoagland	Pelosi
Bates	Hochbrueckner	Penny
Beilenson	Hoyer	Perkins
Berman	Johnston	Pickett
Bevill	Jones (GA)	Poshard
Boggs	Jones (NC)	Price
Bonior	Jontz	Rahall
Borski	Kanjorski	Rangel
Bosco	Kaptur	Richardson
Boxer	Kastenmeier	Rose
Brennan	Kennedy	Rostenkowski
Brooks	Kildee	Rowland (GA)
Browder	Kleczka	Roybal
Brown (CA)	Kostmayer	Russo
Bruce	Lancaster	Sabo
Bryant	Lantos	Sangmeister
Bustamante	Laughlin	Sarpalius
Byron	Leath (TX)	Savage
Campbell (CO)	Lehman (CA)	Sawyer
Cardin	Lehman (FL)	Scheuer
Chapman	Leland	Schumer
Clay	Levin (MI)	Sikorski
Clement	Levine (CA)	Sisisky
Coleman (TX)	Lewis (GA)	Skaggs
Conyers	Lipinski	Slaughter (NY)
Costello	Lloyd	Smith (FL)
Coyne	Lowey (NY)	Smith (IA)
Crockett	Luken, Thomas	Solarz
Darden	Manton	Spratt
de la Garza	Markey	Staggers
DeFazio	Martinez	Stark
Dellums	Matsui	Stenholm
Derrick	Mavroules	Stokes
Dicks	Mazzoli	Studds
Dingell	McCloskey	Swift
Donnelly	McDermott	Synar
Downey	McHugh	Tallon
Durbin	McMillen (MD)	Tanner
Dwyer	McNulty	Thomas (GA)
Dymally	Mfume	Torricelli
Dyson	Miller (CA)	Towns
Eckart	Mineta	Traficant
Edwards (CA)	Moakley	Udall
Engel	Mollohan	Unsoeld
Erdreich	Montgomery	Valentine
Espy	Moody	Vento
Evans	Morrison (CT)	Visclosky
Fazio	Mrazek	Volkmer
Feighan	Murtha	Walgren
Flake	Nagle	Weiss
Flippo	Natcher	Wheat
Foglietta	Neal (MA)	Williams
Ford (MI)	Oakar	Wise
Ford (TN)	Oberstar	Wyden
Frank	Obey	Yates
Gaydos	Olin	Yatron
Gejdenson	Ortiz	

NOT VOTING—29

Boucher	Hansen	Myers
Coleman (MO)	Hatcher	Nowak
Collins	Hawkins	Parris
Dixon	Huckaby	Quillen
Early	Kolter	Stallings
Emerson	Leach (IA)	Thomas (CA)
Florio	Marlenee	Torres
Frost	McCandless	Whitten
Garcia	McDade	Wright
Gray	Murphy	

□ 1807

The Clerk announced the following pair:

On this vote:

Mr. McCandless for, with Mrs. Collins against.

Mr. ASPIN changed his vote from "aye" to "no."

Messrs. WILSON, HERTEL, and ROE changed their vote from "no" to "aye."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. BERMAN

Mr. BERMAN. Mr. Chairman, I offer an amendment.

The clerk read as follows:

Amendment offered by Mr. BERMAN: Page 63, line 22, strike out "or"; and after line 22 insert the following:

"(3) which meets the poverty criteria established by the International Development Association;

Page 63, line 23, strike out "(3)" and insert in lieu thereof "(4)"; and page 64, line 7, strike out "(3)" and insert in lieu thereof "(4)".

□ 1818

Mr. BERMAN. Mr. Chairman, this amendment is a far more limited one dealing with the issue of the cargo preference question. It simply exempts from the new provisions that were placed in the bill in committee and that have withstood two challenges so far the poorest of the poor recipients of ESF cash aid by raising the limit from $10 to $25 million, and, second, it provides symmetry for the provision that already exempts Israel by including Egypt.

This amendment was offered in discussion with the author of the language in the Foreign Affairs Committee bill before us now, the gentleman from New Jersey [Mr. TORRICELLI]. I think it is worthy of our support. It retains the essence of the cargo preference provisions, but it says that we should not hammer the poorest of the poor countries and reduce the already small amounts of assistance those few countries are getting. And it also says, let us keep symmetry in the concept of Camp David, as we do in a variety of other provisions.

Mr. OBEY. Mr. Chairman, will the gentleman yield?

Mr. BERMAN. I yield to the gentleman from Wisconsin.

Mr. OBEY. Mr. Chairman, I accept the gentleman's amendment. It would be foolish if we were to raise the cost of our providing assistance to the two largest AID recipients in this bill.

Mr. Chairman, I think the gentleman is correct in offering his amendment.

Mr. BEREUTER. Mr. Chairman, will the gentleman yield?

Mr. BERMAN. I yield to the gentleman from Nebraska.

Mr. BEREUTER. Mr. Chairman, I want to express support for the gentleman's amendment. I think it is an important step forward in assisting the less well-developed countries, and it does provide that symmetry that the gentleman has mentioned. I support the gentleman's amendment.

Mr. FASCELL. Mr. Chairman, will the gentleman yield?

Mr. BERMAN. I yield to the chairman of the committee.

Mr. FASCELL. Mr. Chairman, we are pleased on this side to accept the gentleman's amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman form California [Mr. BERMAN].

The question was taken; and the chairman announced that the ayes appeared to have it.

So the amendment was agreed to.

The CHAIRMAN. The Chair recognizes the majority leader, the gentleman from Missouri [Mr. GEPHARDT].

Mr. KANJORSKI. Mr. Chairman, I requst a rollcall vote, and pending that, I suggest the absence of a quorum.

The CHAIRMAN. The Chair will state to the gentleman from Pennsylvania that his request comes too late. The Chair has recognized the majority leader.

LEGISLATIVE PROGRAM

(By unanimous consent, Mr. GEPHARDT was allowed to speak out of order for 5 minutes.)

Mr. GEPHARDT. Mr. Speaker, I have asked for this time in order to discuss the schedule for the rest of the evening.

It is our intention to try to finish the supplemental appropriations this evening. The conference on the bill is just about completed, although there are one or two small unresolved questions. We hope they will be resolved in the next few moments, and if that is the case, we are told by the staff of the committee that within a matter of 2 or 3 hours the paperwork to complete the bill this evening would be finished.

So it is our intention to press ahead with this bill we are considering now and then try to finish the supplemental appropriations tonight and bring it before the House so we can leave here and not have to come back tomorrow.

The CHAIRMAN. Are there further amendments to title I?

AMENDMENTS EN BLOC OFFERED BY MR. FASCELL

Mr. FASCELL. Mr. Chairman, on behalf of the gentleman from Michigan [Mr. BROOMFIELD], and myself, I offer amendments en bloc.

The CHAIRMAN. The Clerk will designate the amendments en bloc.

The text of the amendments en bloc is as follows:

Amendments en bloc offered by Mr. FASCELL: Page 36, line 7, before the period insert ", including encouragement of a variety of

transportation options, particularly those which are nonmotorized and low cost in nature, as real solutions for the mobility needs of poor people in developing countries".

Page 36, line 15, before the period insert ", making use (as appropriate) of United States technical expertise, primarily in the private sector, to improve pre-project planning and environmental impact assessments of projects".

Page 135, line 18, after the quotation marks insert "(a) GENERAL AUTHORITY.—"; and page 136, after line 2, insert the following:

"(b) DEFINITION OF SCHOOL.—For purposes of subsection (a)(1), the term 'school' includes any institution which provides activities of daily life training, vocation education, and related services to the mentally retarded.".

The CHAIRMAN. The gentleman from Florida [Mr. FASCELL] is recognized for 10 minutes in support of his amendments.

Mr. FASCELL. Mr. Chairman, on the en bloc amendments we have agreed to include the Schneider language on nonmotorized transportation, the Broomfield language with regard to U.S. expertise in planning for infrastructure; and the Weldon and Carper language with regard to schools for the mentally retarded being eligible to compete for certain funds.

Mr. BROOMFIELD. Mr. Chairman, will the gentleman yield?

Mr. FASCELL. I yield to my distinguished colleague, the ranking minority member of the Committee on Foreign Affairs.

Mr. BROOMFIELD. Mr. Chairman, we have reviewed these amendments offered en bloc. I certainly agree that the amendments should be adopted, and I thank the chairman for working these amendments out.

Ms. SCHNEIDER. Mr. Chairman, will the gentleman yield?

Mr. FASCELL. I am delighted to yield to the gentlewoman from Rhode Island.

Ms. SCHNEIDER. Mr. Chairman, I thank the committee chairman for yielding.

My statement is merely complimentary in nature. I would like to compliment the gentleman and our ranking Republican member, the gentleman from Michigan [Mr. BROOMFIELD], for the visionary reform of the foreign aid process we are about.

I would very much personally like to thank both gentlemen for incorporating as one of their four objectives the emphasis on sustainable development biological diversity, and a sensitivity to global warming, as well as all the other foreign policy initiatives.

Mr. GILMAN. Mr. Chairman, will the gentleman yield?

Mr. FASCELL. I yield to the gentleman from New York.

Mr. GILMAN. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I was pleased to work with the gentlewoman from Rhode Island [Ms. SCHNEIDER] on these environmental issues, and I, too, thank the chairman of the committee and the ranking minority member for making certain in this bill that we have important environmental considerations of global warming and biological diversity to try to attack rain forest devastation and acidification. I think it is important that these items be included in the foreign aid measure.

Mr. Chairman, I thank the gentlelady for yielding. I am pleased to rise to note the important provisions which have resulted in the crafting of this legislation with respect to fostering initiatives to protect our environment and to improve resource management.

Unfortunately, Mr. Chairman, the diversity of life on the planet faces a perpetual threat of extinction which is directly related to the increasing growth of human population and our corresponding expansion into previously undeveloped natural preserves. This foreign assistance act takes some important first steps toward recognizing these problems in a number of important areas.

In particular, the explicit recognition of resource sustainable development as one of the four basic objectives for all foreign assistance programs represents a major accomplishment. Furthermore, I am pleased to point out that this section was improved by an amendment I offered in committee which, for the first time, explicitly recognizes reduction of global warming as an important priority in all foreign assistance efforts as we endeavor to promote resource sustainable development.

Despite worldwide concern for the devastating consequences posed by the rapid increase in atmospheric temperature, our original draft had failed to cite the environmental threat posed by global warming, and experts throughout the scientific and environmental communities were concerned that the problem might not receive direct scrutiny. I am pleased that my colleagues in the committee concurred in recognizing global warming as an environmental threat of the severest magnitude.

In addition, my amendment recognized the explicit importance of energy use and the development of new energy services in contributing to the global warming problem. The Gilman language positively states the intent of Congress to implement efficient management practices with respect to existing energy systems and promote the increased use of least-cost energy resource planning in developing new energy sources.

Least-cost planning allows us to identify, evaluate, and rank energy service options in increasing order of cost-effectiveness, ensuring that we consider total system costs, including costs to the environment. Least-cost options promote alternatives such as conservation, improvements in efficiency, and small-scale renewables which are suitable, reliable, readily available, and cost-effective.

Mr. Chairman, it is only through such initiatives that we will achieve the wide scale preservation of the fragile ecosystems which harbor life on Earth. My language, and the overall objective of resource sustainable development, are important not only for protecting the atmosphere from threats such as global warming, but also for preserving our shrinking genetic heritage which we must preserve for the enjoyment of future generations.

In considering this bill, I urge my colleagues to support these significant environmental advancements.

Mr. Chairman, I am pleased to support the amendments, and I thank the gentlewoman for her efforts.

Ms. SCHNEIDER. Mr. Chairman, in addition to the resolution focusing on tropical rain forests and biological diversity, I also would like to thank the chairman of the committee and the gentleman from Michigan [Mr. BROOMFIELD] for incorporating the encouragement of a variety of transportation options particularly those which are nonmotorized and low cost in nature as priority solutions for the mobility needs of poor people in developing countries. These are new ground-breaking directives, and I certainly appreciate that farsightedness.

Mr. FASCELL. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Delaware [Mr. CARPER].

Mr. CARPER. Mr. Chairman, I just want to take this opportunity to thank the committee and the gentleman from Michigan [Mr. BROOMFIELD] for accepting the Weldon-Carper amendment. I think the gentleman from Pennsylvania [Mr. WELDON] is going to be speaking to it in a moment.

The amendment specifically defines schools for the purpose of ASHA [American Schools and Hospitals Abroad] as institutions which provide services to the mentally ill. There is no earmarking that is involved here; there is no favoritism to any one entity or any one institution. All are eligible to bid.

We have said in this body for some time that children who are handicapped have as much right to an education as those who are not. With the acceptance of this amendment, we indicate that that concept and that principle will be part of this legislation.

Mr. WELDON. Mr. Chairman, will the gentleman yield?

Mr. CARPER. I yield to the gentleman from Pennsylvania.

Mr. WELDON. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, please let me extend my thank-yous to my colleague, the gentleman from Delaware [Mr. CARPER], for coauthoring this amendment, to the distinguished chairman of this committee, and to the ranking minority member who worked with us in correcting what I think is a serious deficiency in defining what is in fact a school to the exclusion of those individuals who are mentally handicapped and mentally retarded young people. I thank the gentlemen for their support.

Mr. Chairman, this amendment is a very simple amendment. It is a fair amendment, and it should not be a controversial amendment. Stated simply, it would define schools in the American Schools and Hospitals Abroad [ASHA] Program to include facilities which provide vocational education, activities of daily life training, and related services to the mentally retarded.

It is incredible to me that retarded Americans have fought for decades to enter the educational mainstream, while overseas, programs for the mentally retarded are not even considered to be schools. This, Mr. Chairman, is unfair.

In testimony to the Senate Appropriations Committee just over a year ago, ASHA Director David Santos indicated that ASHA does not believe that "the legislative mandate permits us to have programs specifically for the mentally and physically handicapped." Further, he did not find such facilities to be schools but instead "a humanitarian effort."

Mr. Chairman, try telling your mentally retarded constituents that their daily program of vocational and living skills training is neither productive nor educational. Go see the constructive contributions made by mentally retarded citizens in your district. These highly regarded projects at home should not be viewed as charity when done abroad.

This amendment was brought to my attention by the Elwyn Institutes, a center for mentally retarded individuals based in my district. With 40 facilities in four States, Elwyn serves over 10,400 people daily. Formed in 1852, Elwyn has been cited on numerous occasions for its innovative and successful work to teach and rehabilitate retarded individuals. In 1984, Elwyn began its Jerusalem Program, which now serves nearly 600 students each day on an annual operating budget of $2 million.

What makes Elwyn's program in Jerusalem even more exciting is the fact that the staff is comprised of both Arabs and Jews. Although the facilities are generally divided between a site in west Jerusalem for Jews and east Jerusalem for Arabs, many programs are run jointly by the two sites.

Programs such as this increase the productivity and self-sufficiency of mentally handicapped individuals, thereby reducing future dependence on the welfare system. Elwyn estimates that this can be as much as $1,000,000 over the life of an individual. Further, by bringing Arabs and Jews together in a supportive setting, the Jerusalem Elwyn Program will increase understanding and cooperation between the two groups. It is difficult to fathom how such a facility can be classified as neither productive nor educational.

Mr. Chairman, my amendment does not cost the American taxpayer a single penny. It does not authorize any additional funds above the level described in this bill. Nor does it earmark any of it for any specific program. Grants for AID money would still be given out on a competitive basis.

I am not asking that Congress give anyone a handout. I am asking that you make it clear to the Agency for International Development that facilities for the mentally retarded are schools, they are productive, and they must be treated as such.

This action is consistent with the intent of the ASHA Program and is supported by many associations, including the American Association on Mental Retardation, the National Rehabilitation Association, the Commission on Accreditation of Rehabilitation Facilities, the Association for Retarded Citizens, the National Association of Private Residential Resources, the National Association of Rehabilitation Facilities, the Council for Exceptional Children, B'Nai Zion Foundation, United Synagogue Youth, and the Council of Jewish Federations.

The CHAIRMAN. If there is no Member opposed to the amendments offered en bloc, the Chair will put the question on the amendments offered en bloc.

The question is on the amendments en bloc offered by the gentleman from Florida [Mr. FASCELL].

The amendments en bloc were agreed to.

The CHAIRMAN. Are there further amendments to title I?

If not, the Clerk will designate title II.

The text of title II is as follows:

TITLE II—MILITARY ASSISTANCE AND SALES PROGRAMS

CHAPTER 1—CONSOLIDATION OF MILITARY ASSISTANCE ACCOUNTS

SEC. 201. ESTABLISHMENT OF FOREIGN MILITARY FINANCING PROGRAM.

The Foreign Assistance Act of 1961 is amended by striking out part II and inserting in lieu thereof the following:

"TITLE II—MILITARY ASSISTANCE PROGRAMS

"CHAPTER 1—POLICIES REGARDING MILITARY ASSISTANCE

"SEC. 2101. FINDINGS AND STATEMENTS OF POLICIES REGARDING MILITARY ASSISTANCE.

"(a) FINDINGS.—The Congress finds that—

"(1) the provision of military assistance to friendly foreign countries and international organizations under chapter 2, chapter 5, and chapter 6 of this title is an integral element of United States foreign policy;

"(2) military assistance is one of the principal instruments available to the United States to strengthen alliances in the common defense and help friendly foreign countries meet mutual defense needs;

"(3) together with other assistance provided under this Act, military assistance can contribute to the development of economic and social improvements that enhance the development and maintenance of democratic political systems;

"(4) military assistance facilitates the development of comprehensive political relationships with the leadership of friendly foreign countries and cooperation in meeting threats to international security;

"(5) so long as friendly foreign countries lack the resources to meet their security needs without external assistance, military assistance provided by the United States can contribute to the strengthening of alliances and to the deterrence of aggression and international terrorism, reduce the international scope, direction, and human destructiveness of illicit narcotics trafficking, and promote regional security by enabling countries to negotiate peaceful solutions to conflicts with confidence; and

"(6) assistance under this title can also support multilateral efforts through the United Nations and other international organizations to promote peaceful settlements of disputes.

"(b) MORE EQUITABLE DISTRIBUTION OF COLLECTIVE DEFENSE RESPONSIBILITIES.—The Congress recognizes that the scope of threats facing friendly foreign countries is such that military assistance from the United States will not be sufficient to meet collective defense and security requirements. The Congress, in authorizing military assistance under this title, expects that the President will exert maximum effort in seeking the support of the member countries of the North Atlantic Treaty Organization and other allies in providing enhanced military assistance, in coordination with the United States, to friendly foreign countries so as to bring about a more equitable distribution of the responsibilities of collective defense, particularly with respect to assistance associated with the maintenance of military bases.

"(c) SELF-SUFFICIENCY.—Military assistance provided under this title to friendly foreign countries should serve as a necessary transition to effective self-help measures that will make such assistance unnecessary in the future.

"(d) MULTILATERAL CONTROLS ON TRANSFERS OF DEFENSE ARTICLES AND DEFENSE SERVICES.—The President should continue to seek, through negotiations with the Soviet Union and other countries that supply or receive defense articles and defense services, the establishment of effective multilateral controls on the transfer of defense articles and defense services, including controls on the furnishing of assistance

for the procurement of such articles and services.

"SEC. 2102. OBJECTIVES OF MILITARY ASSISTANCE.

"The authorities to furnish military assistance that are provided in chapter 2, chapter 5, and chapter 6 of this title shall be exercised (subject to the supervision and direction of the Secretary of State pursuant to section 5102) to achieve the following objectives:

"(1) Promoting self-defense and defense cooperation by financing the acquisition by friendly countries of United States major defense equipment and other defense articles and defense services, including acquisition through licensed production and coproduction.

"(2) Promoting the effectiveness of military forces of friendly countries with respect to command, control, communications, intelligence, mobility, training, and logistical support.

"(3) Promoting rationalization, standardization, and interoperability of the military forces of friendly countries with the Armed Forces of the United States.

"(4) Supporting peacekeeping operations and activities, in particular those sponsored by the United Nations or other international organizations.

"(5) Increasing the awareness of nationals of friendly countries of basic issues involving democratic values and institutions, especially respect for internationally recognized human rights.

"(6) Support the establishment in friendly countries of a relationship between civilian and military sectors appropriate to a democratic system of government.

"(7) Providing support for friendly countries to combat the flow of illicit narcotics and to combat international terrorism.

"(8) Enhancing the military capability of friendly countries to meet their security needs.

"(9) Encouraging civic action by improving the capability of the armed forces of friendly countries to carry out activities such as planning and implementing economic development projects that benefit the civilian population and providing health care for the people of the country.

"CHAPTER 2—FOREIGN MILITARY FINANCING PROGRAM

"SEC. 2201. AUTHORITY TO FURNISH ASSISTANCE.

"(a) GENERAL AUTHORITY.—The President is authorized to furnish military assistance to any friendly country or international organization by—

"(1) acquiring from any source and providing any defense article or defense service;

"(2) financing the sale of defense articles or defense services; or

"(3) providing financing under subsection (b).

"(b) FINANCING PROCUREMENT BY COMMERCIAL LEASING.—

"(1) ELIGIBLE COUNTRIES; DETERMINATIONS.—Financing may be provided under this section to any country that is a member of the North Atlantic Treaty Organization or is a major non-NATO ally for the procurement of defense articles by leasing (including leasing with an option to purchase) from United States commercial suppliers if the President determines that there are compelling foreign policy or national security reasons for those defense articles being provided by commercial lease rather than by government-to-government sale under the Defense Trade and Export Control Act.

"(2) NOTIFICATION TO CONGRESS.—Any exercise of the authority of this subsection shall be subject to the regular notification requirements of the Committee on Foreign Affairs and the Committee on Appropriations of the House of Representatives and the Committee on Foreign Relations and the Committee on Appropriations of the Senate under section 4304.

"(c) EXCLUSION OF CERTAIN COSTS FROM CERTAIN SALES.—Sales under the Defense Trade and Export Control Act which are wholly paid from funds—

"(1) which are made available on a grant basis under this chapter, or

"(2) which, prior to the effective date of title II of the International Cooperation Act of 1989, were transferred under the former authority of section 503(a)(3) of this Act or were made available on a nonrepayable basis under the former authority of section 23 of the Defense Trade and Export Control Act,

shall be priced to exclude the costs of salaries of members of the Armed Forces of the United States (other than the Coast Guard).

"(d) MILITARY PERSONNEL LIMITED TO DUTIES OF A NONCOMBATANT NATURE.—Members of the Armed Forces assigned or detailed to provide defense services under this chapter, provide military education and training under chapter 5, or perform functions under chapter 4 may not perform duties of a combatant nature, including any duty related to training and advising that may engage United States personnel in combat activities.

"(e) PROHIBITION RELATING TO OFFSETS.—(1) Funds made available to carry out this chapter may not be used to pay for any research or development activities, manufacturing or production, assembling, or other work performed by a foreign government or foreign firm, pursuant to an offset arrangement with a United States firm, in conjunction with the procurement of defense articles or defense services by a foreign country.

"(2)(A) Paragraph (1) does not apply to the extent that the Congress specifically exempts funds from the application of that paragraph.

"(B) Paragraph (1) does not apply with respect to funds made available for Israel for fiscal years 1990 and 1991.

"(3) As used in this subsection, the term 'foreign firm' means a business entity that does not perform substantially all its manufacturing, production, and research and development activities in the United States.

"(f) FINANCING FOR COPRODUCTION OR LICENSED PRODUCTION.—Assistance may not be furnished under this chapter in any case involving coproduction or licensed production outside the United States of any defense article of United States origin unless the President furnishes full information regarding the proposed transaction to the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate. Such information shall be furnished before the coproduction or license production arrangement is approved by the United States Government or, if the decision to provide assistance is made after the arrangement is approved, before the assistance is furnished. Such information shall include—

"(1) a description of the defense article which would be coproduced or produced under license outside the United States;

"(2) the estimated value of such coproduction or licensed production; and

"(3) an analysis of the economic impact on the United States of furnishing or not furnishing the proposed assistance.

"(g) PROCUREMENT INVOLVING CERTAIN VESSELS OF WAR.—

"(1) PROHIBITION.—Except as provided in paragraph (2), if the President so determines, assistance described in paragraph (3) may not be used for the procurement of—

"(A) any vessel of war built pursuant to a prime contract awarded to a foreign shipyard; or

"(B) any weapons system or other major system or subsystem for any vessel of war built pursuant to a prime contract awarded to foreign shipyard rather than a United States shipyard because of unfair foreign competition (such as subsidization or the provision of financial or material incentives to the foreign country for which the vessel is built).

"(2) EXCEPTIONS.—Paragraph (1) does not apply with respect to a vessel of war which—

"(A) is built in the foreign country which is the recipient of the assistance; or

"(B) is built pursuant to a prime contract signed before the effective date of this subsection.

"(3) ASSISTANCE SUBJECT TO PROHIBITION.—The prohibition in paragraph (1) applies with respect to any obligation of assistance under this section, and any expenditure of MAP or FMS assistance, totaling more than $1,000,000.

"(4) DEFINITIONS.—For the purposes of this subsection—

"(A) the term 'MAP or FMS assistance' means any assistance under the former authorities of chapter 2 of part II of this Act or section 24 of the Arms Export Control Act; and

"(B) the term 'vessel of war' means any vessel of war in Category VI of the United States Munitions List, without regard to whether the vessel is imported into or exported from the United States.

"(h) DEOBLIGATION OF FUNDS AFTER 3 YEARS.—Any agreement to provide assistance under this section shall include a provision expressly granting the United States Government the right to deobligate any funds furnished under the agreement that have not been committed for an approved use by the end of the 3-year period beginning on the date on which that agreement is entered into.

"SEC. 2202. TERMS OF ASSISTANCE.

"(a) GRANTS OR CREDITS.—Assistance may be provided under this chapter on a grant basis or credit basis.

"(b) CRITERIA FOR DETERMINING TERMS OF ASSISTANCE.—In determining whether assistance under this chapter will be provided to a foreign country on a grant or a credit basis, the President shall take into account the following:

"(1) The national security and foreign policy interests of the United States in furnishing such assistance to that country.

"(2) The legitimate national security and self-defense needs of that country, taking into account regional and other threats to its security.

"(3) The economic conditions and circumstances of that country, including its per capita gross national product, debt service ratio, and external debt and rescheduled external debt, and whether the country has been designated as a middle income country by the International Bank for Reconstruction and Development.

"(c) TERMS OF CREDITS.—

"(1) REPAYMENT PERIOD.—In the case of credits provided under this chapter, the President shall require repayment in United

States dollars within a period not to exceed 12 years after the loan agreement with the country or international organization is signed on behalf of the United States Government, unless a longer period is specifically authorized by law for that country or international organization.

"(2) INTEREST RATE.—The President shall charge interest on credits provided under this chapter at such rate as the President considers appropriate, except that such rate may not be less than 5 percent per year.

"(d) FINANCING ASSISTANCE.—Funds used to finance the procurement of defense articles and defense services under section 2201(a)(2) shall be disbursed—

"(1) to suppliers (including the United States military departments) on behalf of the recipient country or organization; or

"(2) to the recipient country or organization as reimbursement upon submission of satisfactory proof of payments to suppliers.

"SEC. 2203. ELIGIBILITY.

"(a) CONDITIONS.—Financing may not be furnished under this chapter for the procurement of defense articles or defense services by a foreign country, and defense articles or defense services may not otherwise be furnished under this chapter to a foreign country, unless that country has agreed to the following (in addition to such other provisions as the President may require):

"(1) The country will not, without the consent of the President—

"(A) permit any use of such articles or services by anyone not an officer, employee, or agent of that country,

"(B) transfer, or permit any officer, employee, or agent of that country to transfer, such articles or services by gift, sale, or otherwise, or

"(C) use or permit the use of such articles or services for purposes other than those for which furnished.

"(2) The country will maintain the security of such articles or services, and will provide substantially the same degree of security protection afforded to such articles or services by the United States Government.

"(3) The country will, as the President may require, permit at any time observation and review by, and furnish necessary information to, representatives of the United States Government with regard to the use of such articles or services.

"(b) INELIGIBILITY.—

"(1) TERMINATION OF ASSISTANCE FOR SUBSTANTIAL VIOLATIONS.—Assistance and deliveries of assistance under this chapter to any country shall be terminated, and new commitments to provide assistance to that country shall not be made, as hereinafter provided if such country uses defense articles or defense services described in paragraph (2) in substantial violation (either in terms of quantities or in terms of the gravity of the consequences regardless of the quantities involved) of any agreement pursuant to which those defense articles or defense services were furnished—

"(A) by using such articles or services for a purpose not specified in paragraph (3) or, if such agreement provides that such articles or services may only be used for purposes more limited than those specified, for a purpose not authorized under such agreement;

"(B) by transferring such articles or services to, or permitting any use of such articles or services by, anyone not an officer, employee, or agent of the recipient country without the consent of the President; or

"(C) by failing to maintain the security of such articles or services.

"(2) DEFENSE ARTICLES AND DEFENSE SERVICES SUBJECT TO REQUIREMENTS.—Paragraph (1) applies with respect to any defense articles or defense services furnished (through financing or otherwise) under this Act, sold or leased under the Defense Trade and Export Control Act, or furnished under any predecessor foreign assistance or military sales legislation.

"(3) USES PERMITTED.—The purposes referred to in paragraph (1) are the following:

"(A) Internal security.

"(B) Legitimate self-defense.

"(C) Participation in regional or collective arrangements or measures consistent with the Charter of the United Nations, or participation in collective measures requested by the United Nations for the purpose of maintaining or restoring international peace and security.

"(D) Construction of public works or other activities which contribute to the economic and social development of the recipient country.

"(4) ACTIONS REQUIRED FOR TERMINATION.—Assistance and deliveries of assistance shall be terminated, and new commitments to provide assistance shall not be made, pursuant to paragraph (1) if—

"(A) the President so determines and states in writing to the Congress, or

"(B) the Congress so finds by joint resolution.

"(5) REPORTS TO CONGRESS.—The President shall report to the Congress promptly upon the receipt of information that a violation described in paragraph (1) may have occurred.

"(6) PERIOD OF TERMINATION.—Assistance to a country shall remain terminated in accordance with paragraph (1) until such time as—

"(A) the President determines that the violation has ceased; and

"(B) the country concerned has given assurances satisfactory to the President that such violation will not recur.

"(7) SPECIAL WAIVER AUTHORITY LIMITED.—The authority contained in section 4102 may not be used to waive the provisions of this section with respect to further assistance under this chapter.

"SEC. 2204. APPROVAL OF THIRD COUNTRY TRANSFERS.

"(a) IN GENERAL.—In considering a request for approval of any transfer of any defense article or defense service to another country, the President shall not give his consent under section 2203(a)(1) to the transfer unless the United States itself would transfer the defense article or defense service under consideration to that country.

"(b) SIGNIFICANT MILITARY EQUIPMENT.—In addition, the President shall not give his consent under section 2203(a)(1) to the transfer of any significant military equipment on the United States Munitions List unless the foreign country requesting consent to transfer agrees to demilitarize such equipment prior to transfer, or the proposed recipient provides a commitment in writing to the United States Government that it will not transfer such equipment if not demilitarized, to any other foreign country or person without first obtaining the consent of the President.

"SEC. 2205. SPECIAL DRAWDOWN AUTHORITY.

"(a) UNFORESEEN EMERGENCIES.—If the President determines and reports to the Congress in accordance with section 4306 of this Act that—

"(1) an unforeseen emergency exists which requires immediate military assistance to a foreign country or international organization, and

"(2) the emergency requirement cannot be met under the authority of the Defense Trade and Export Control Act or any other law except this section,

the President may direct, for the purposes of grant assistance under chapter 2 or chapter 5, the drawdown of defense articles from the stocks of the Department of Defense or the drawdown of defense services of the Department of Defense.

"(b) AGGREGATE ANNUAL CEILING.—The aggregate value of defense articles and defense services made available under this section may not exceed $100,000,000 in any fiscal year.

"(c) NOTICE TO CONGRESS.—

"(1) PRIOR NOTIFICATION.—The authority contained in this section shall be effective for an emergency only upon prior notification to the Committee on Foreign Affairs, the Committee on Armed Services, and the Committee on Appropriations of the House of Representatives and the Committee on Foreign Relations, the Committee on Armed Services, and the Committee on Appropriations of the Senate.

"(2) CONTINUING INFORMATION.—The President shall keep the Congress fully and currently informed of all defense articles and defense services provided under this section.

"(d) NONAPPLICABILITY OF REQUIREMENT FOR REIMBURSEMENT FROM EXISTING ASSISTANCE FUNDS.—Section 5201(d) does not apply with respect to defense articles and defense services made available under this section.

"(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the President such sums as may be necessary to reimburse the applicable appropriation, fund, or account for defense articles and defense services provided under this section.

"SEC. 2206. MODERNIZATION OF MILITARY CAPABILITIES OF CERTAIN COUNTRIES.

"(a) AUTHORITY TO TRANSFER EXCESS DEFENSE ARTICLES.—

"(1) NATO SOUTHERN FLANK COUNTRIES.—The President may transfer—

"(A) to any NATO southern flank country which is eligible for United States security assistance and which is integrated into NATO's military structure, and

"(B) to any major non-NATO ally on the southern and southeastern flank of NATO which is eligible for United States security assistance,

such excess defense articles as may be necessary to help modernize the defense capabilities of such country.

"(2) MAJOR ILLICIT DRUG PRODUCING COUNTRIES.—Subject to subsection (f), the President may transfer to country—

"(A) which is a major illicit drug producing country (as defined in section 3282(2)) in Latin America and the Caribbean,

"(B) which has a democratic government, and

"(C) whose armed forces do not engage in a consistent pattern of gross violations of internationally recognized human rights,

such excess defense articles as may be necessary to carry out subsection (f)(1).

"(3) TERMS OF TRANSFERS.—Excess defense articles may be transferred under this section without cost to the recipient country.

"(b) LIMITATIONS ON TRANSFERS.—The President may transfer excess defense articles under this section only if—

"(1) they are drawn from existing stocks of the Department of Defense;

"(2) funds available to the Department of Defense for the procurement of defense equipment are not expended in connection with the transfer; and

"(3) the President determines that the transfer of the excess defense articles will not have an adverse impact on the military readiness of the United States.

"(c) NOTIFICATION TO CONGRESS.—

"(1) ADVANCE NOTICE.—The President may not transfer excess defense articles under this section until 30 days after the President has provided notice of the proposed transfer to the committees specified in paragraph (2). This notification shall include—

"(A) a certification of the need for the transfer;

"(B) an assessment of the impact of the transfer on the military readiness of the United States; and

"(C) the value of the excess defense articles to be transferred.

"(2) COMMITTEES TO BE NOTIFIED.—Notice shall be provided pursuant to paragraph (1) to the Committee on Armed Services, the Committee on Foreign Affairs, and the Committee on Appropriations of the House of Representatives and the Committee on Armed Services, the Committee on Foreign Relations, and the Committee on Appropriations of the Senate.

"(d) WAIVER OF REQUIREMENT FOR REIMBURSEMENT OF DOD EXPENSES.—Section 5201(d) does not apply with respect to transfers of excess defense articles under this section.

"(e) MAINTENANCE OF MILITARY BALANCE IN EASTERN MEDITERRANEAN.—

"(1) UNITED STATES POLICY.—The Congress intends that excess defense articles be made available under this section consistent with the United States policy, established by section 841 of the International Cooperation Act of 1989, of maintaining the military balance in the Eastern Mediterranean.

"(2) MAINTENANCE OF BALANCE.—Accordingly, the President shall ensure that, over the 3-year period beginning on October 1, 1989, the ratio of—

"(A) the value of excess defense articles made available for Turkey under this section, to

"(B) the value of excess defense articles made available for Greece under this section,

closely approximates the ratio of—

"(i) the amount of foreign military financing provided for Turkey, to

"(ii) the amount of foreign military financing provided for Greece.

"(3) EXCEPTION TO REQUIREMENT.—This subsection shall not apply if either Greece or Turkey ceases to be eligible to receive excess defense articles under subsection (a).

"(f) MAJOR ILLICIT DRUG PRODUCING COUNTRIES IN LATIN AMERICA AND THE CARIBBEAN.—

"(1) PURPOSE.—Excess defense articles shall be transferred under subsection (a)(2) for the purpose of encouraging the military forces of an eligible country in Latin America and the Caribbean to participate with local law enforcement agencies in a comprehensive national antinarcotics program, conceived and developed by the government of that country, by conducting activities within that country and on the high seas to prevent the production, processing, trafficking, transportation, and consumption of illicit narcotic or psychotropic drugs or other controlled substances.

"(2) USES OF EXCESS DEFENSE ARTICLES.—Excess defense articles may be furnished to a country under subsection (a)(2) only if that country ensures that those excess defense articles will be used only in support of antinarcotics activities.

"(3) ROLE OF THE SECRETARY OF STATE.—The Secretary of State shall determine the eligibility of countries to receive excess defense articles under subsection (a)(2). In accordance with section 3202, the Secretary shall ensure that the transfer of excess defense articles under subsection (a)(2) is coordinated with other antinarcotics enforcement programs assisted by the United States Government.

"(4) LIMITATION.—The aggregate value of excess defense articles transferred to a country under subsection (a)(2) in any fiscal year may not exceed $10,000,000.

"(g) DEFINITIONS.—As used in this section—

"(1) the term 'excess defense article' has the meaning given that term by section 5601(d)(5);

"(2) the term 'made available' means that a good faith offer is made by the United States to furnish the excess defense articles to a country;

"(3) the term 'major non-NATO ally' has the meaning given that term by section 5601(d)(7);

"(4) the term 'NATO' means the North Atlantic Treaty Organization; and

"(5) the term 'NATO southern flank countries' means Greece, Italy, Portugal, Spain, and Turkey.

"SEC. 2207. ANNUAL CEILING AND REPORTS ON TRANSFERS OF EXCESS DEFENSE ARTICLES.

"(a) ANNUAL CEILING.—The aggregate acquisition cost to the United States of excess defense articles ordered by the President in any fiscal year for delivery to foreign countries or international organizations under the authority of this chapter or pursuant to sales under the Defense Trade and Export Control Act may not exceed $250,000,000 (exclusive of ships and their onboard stores and supplies transferred in accordance with law).

"(b) REPORTS TO CONGRESS.—

"(1) NOTICE OF GRANTS OF EXCESS MAJOR DEFENSE EQUIPMENT.—The President shall promptly and fully inform the Committee on Foreign Affairs and the Committee on Appropriations of the House of Representatives, and to the Committee on Foreign Relations and the Committee on Appropriations of the Senate, of each decision to furnish on a grant basis to any country excess defense articles which are major defense equipment to the extent that notice of the proposed furnishing of such equipment was not provided in the annual congressional presentation materials on security assistance or pursuant to section 2206(c).

"(2) ANNUAL REPORT.—The annual presentation materials for security assistance programs shall include a table listing by country the total value of all deliveries of excess defense articles, during the preceding fiscal year, under section 2201, under section 2205, under section 2206, or under the Defense Trade and Export Control Act (respectively), disclosing both the aggregate original acquisition cost and the aggregate value at the time of delivery.

"SEC. 2208. IMPROVED ACCOUNTABILITY WITH RESPECT TO FINANCED COMMERCIAL ARMS SALES.

"(a) FINDINGS.—The Congress finds that—

"(1) government-to-government sales of defense articles and defense services that are financed under this chapter are subject to various accountability requirements pursuant to the Federal Acquisition Regulation; but

"(2) comparable accountability requirements have not been applied to commercial sales of defense articles and defense services that are financed by the United States Government; and

"(3) more stringent eligibility standards and fiscal and accounting controls (including improved access to records) need to be established with respect to financed commercial arms sales.

"(b) MONITORING AND AUDITING REQUIREMENTS.—In order to carry out subsection (a)(3), the President shall establish controls providing that financed commercial arms sales shall be subject to monitoring and auditing requirements no less stringent in terms of accountability to those requirements of the Federal Acquisition Regulation that are applicable to sales under the Defense Trade and Export Control Act and that relate to improper business practices and personal conflict of interest, quality assurance, payment, price, and profit.

"(c) DEFINITIONS.—As used in this section—

"(1) the term 'Federal Acquisition Regulation' means the single system of Government-wide procurement regulation referred to in section 6(a) of the Office of Federal Procurement Policy Act (41 U.S.C. 405(a)); and

"(2) the term 'financed commercial arms sales' means any procurement of defense articles or defense services (other than by sale or lease under the Defense Trade and Export Control Act)—

"(A) which is financed in whole or in part with assistance under this chapter, and

"(B) with respect to which an export license is required under section 38 of Defense Trade and Export Control Act.

"(d) EFFECTIVE DATE.—The controls established pursuant this section shall be established not later than one year after the date of enactment of this section.

"SEC. 2209. CONSIDERATIONS IN FURNISHING ASSISTANCE.

"Decisions to furnish assistance under this chapter shall be made in coordination with the Director of the United States Arms Control and Disarmament Agency and shall take into account the Director's opinion as to whether such assistance will—

"(1) contribute to an arms race;

"(2) increase the possibility of outbreak or escalation of conflict; or

"(3) prejudice the development of bilateral or multilateral arms control arrangements.

"SEC. 2210. AUTHORIZATIONS OF APPROPRIATIONS.

"There are authorized to be appropriated to the President to carry out this chapter $4,968,932,000 for fiscal year 1990 and $4,968,932,000 for fiscal year 1991.

"SEC. 2211. FINANCING FOR FMS SALES.

"Of the amounts made available to carry out this chapter, not less than $530,432,000 for fiscal year 1990 and not less than $530,432,000 for fiscal year 1991 shall be available only to finance government-to-government procurement under the Defense Trade and Export Control Act.

"SEC. 2212. RESERVE FUND FOR CERTAIN COUNTRIES.

"(a) FUNDS SET ASIDE FOR CERTAIN COUNTRIES.—Two percent of the amounts made available to carry out this chapter for each of the fiscal years 1990 and 1991 shall be available only for assistance for otherwise eligible countries for which the Congress has not by law specified a minimum or a maximum amount of assistance to be provided under this chapter for that fiscal year.

"(b) NOTICE TO CONGRESS.—At least 15 days before obligating funds for a country under this section, the President shall notify the Committee on Foreign Affairs and the Committee on Appropriations of the House of Representatives and the Committee on Foreign Relations and the Committee on Appropriations of the Senate.

"CHAPTER 3—STOCKPILING OF DEFENSE ARTICLES FOR FOREIGN COUNTRIES

"SEC. 2301. RESTRICTIONS ON STOCKPILING.

"(a) REMOVAL FROM STOCKPILING.—Defense articles in the inventory of the Department of Defense which are set aside, reserved, or in any way earmarked or intended for future use by any foreign country may not be made available to or for use by any foreign country unless—

"(1) such transfer is authorized under this Act or the Defense Trade and Export Control Act; and

"(2) the value of such transfer is charged against funds authorized under this Act or against any limitations which may be established by the Congress, as appropriate, for the fiscal period in which the defense articles are transferred.

"(b) VALUE.—

"(1) DEFINITION.—For purposes of subsection (a), 'value' means acquisition cost plus crating, packing, handling, and transportation costs incurred in carrying out this section.

"(2) LIMITATION.—A defense article transferred from any stockpile which is made available to or for use by any foreign country may not be considered an excess defense article for the purpose of determining the value of that defense article.

"SEC. 2302. LOCATION OF STOCKPILES.

"Except for stockpiles located in the Republic of Korea, Thailand, a country which is a member of the North Atlantic Treaty Organization, or a country which is a major non-NATO ally, no stockpile may be located outside the boundaries of a United States military base or a military base used primarily by the United States.

"SEC. 2303. ADDITIONS TO WAR RESERVE STOCKS.

"(a) LIMITATION.—The value of defense articles to be set aside, earmarked, reserved, or intended for use as war reserve stocks for allied or other foreign countries (other than for purposes of the North Atlantic Treaty Organization) in stockpiles located in foreign countries may not exceed in any fiscal year an amount specified in legislation authorizing military assistance programs for that fiscal year.

"(b) AUTHORIZATION OF ADDITIONS.—The value of such additions to stockpiles in foreign countries shall not exceed $65,000,000 for fiscal year 1990 and $78,000,000 for fiscal year 1991.

"CHAPTER 4—OVERSEAS MANAGEMENT OF ASSISTANCE AND SALES PROGRAMS

"SEC. 2401. AUTHORIZED FUNCTIONS.

"(a) IN GENERAL.—In order to carry out responsibilities for the management of international security assistance and sales programs conducted under chapter 2 and chapter 5 and under the Defense Trade and Export Control Act, the President may assign members of the Armed Forces to a foreign country to perform one or more of the following functions:

"(1) Equipment and services case management.

"(2) Training management.

"(3) Program monitoring.

"(4) Evaluation and planning of the host government's military capabilities and requirements.

"(5) Administrative support.

"(6) Promoting rationalization, standardization, interoperability, and other defense cooperation measures.

"(7) Liaison functions exclusive of advisory and training assistance.

"(b) ADVISORY AND TRAINING ASSISTANCE.—Advisory and training assistance conducted by members of the Armed Forces assigned under this chapter shall be kept to an absolute minimum. Advising and training assistance in countries to which members of the Armed Forces are assigned under this chapter should be provided primarily by other personnel who are not assigned under this chapter and who are detailed for limited periods to perform specific tasks.

"(c) PROGRAM MONITORING.—At least one member of the Armed Forces assigned to each country under this chapter shall be given responsibility primarily for monitoring the international security assistance and sales program in that country.

"SEC. 2402. LIMIT ON SIZE OF GROUPS.

"(a) IN GENERAL.—Subject to the additional limitation in subsection (b)(1) with respect to countries in Africa, the total number of members of the Armed Forces assigned under this chapter to a foreign country in a fiscal year may not exceed the number justified to the Congress for that country in the congressional presentation materials for that fiscal year, unless the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate are notified 30 days in advance of the introduction of the additional military personnel.

"(b) GROUPS IN AFRICAN COUNTRIES.—

"(1) LIMITATION.—Not more than 6 members of the Armed Forces may be assigned under this chapter to a country in Africa, other than a country specified in paragraph (2), unless the President—

"(A) determines that United States interests require that more than 6 members of the Armed Forces be assigned under this chapter to that country; and

"(B) at least 30 days before the introduction of the additional military personnel, reports that determination to the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate.

"(2) COUNTRIES AUTHORIZED TO HAVE LARGER GROUPS.—Paragraph (1) does not apply with respect to Egypt, Morocco, or Tunisia.

"SEC. 2403. COSTS.

"The entire costs (excluding salaries of members of the Armed Forces) of overseas management of international security assistance and sales programs under this chapter shall be charged to or reimbursed from funds made available to carry out chapter 2, other than any such costs which are either—

"(1) paid directly for such defense services under section 21(a) of the Defense Trade and Export Control Act, or

"(2) reimbursed from charges for services collected from foreign governments pursuant to section 21(e) and section 43(b) of that Act.

"SEC. 2404. ROLE OF CHIEF OF MISSION.

"Members of the Armed Forces assigned to a foreign country under this chapter shall serve under the direction and supervision of the Chief of the United States Diplomatic Mission to that country.

"CHAPTER 5—INTERNATIONAL MILITARY EDUCATION AND TRAINING

"SEC. 2501. GENERAL AUTHORITY.

"The President is authorized to furnish military education and training to military and related civilian personnel of foreign countries. Such training and education may be provided through—

"(1) attendance at military educational and training facilities in the United States (other than Service academies) and abroad;

"(2) attendance in special courses of instruction at schools and institutions of learning or research in the United States and abroad; and

"(3) observation and orientation visits to military facilities and related activities in the United States and abroad.

"SEC. 2502. TERMS OF ASSISTANCE.

"(a) GRANT ASSISTANCE.—Military education and training under this chapter shall be furnished on a grant basis.

"(b) ASSISTANCE ON CREDIT TERMS.—Whenever feasible military education and training shall be provided on credit terms under chapter 2.

"SEC. 2503. EXCHANGE TRAINING.

"In carrying out this chapter, the President is authorized to provide for attendance of foreign military personnel at professional military education institutions in the United States (other than service academies) without charge, and without charge to funds available to carry out this chapter (notwithstanding section 5201(d)), if such attendance is pursuant to an agreement providing for the exchange of students on a one-for-one, reciprocal basis each fiscal year between those United States professional military education institutions and comparable institutions of foreign countries and international organizations.

"SEC. 2504. TRAINING IN MARITIME SKILLS.

"The President is encouraged to allocate a portion of the funds made available each fiscal year to carry out this chapter for use in providing education and training in maritime search and rescue, operation and maintenance of aids to navigation, port security, at-sea law enforcement, international maritime law, and general maritime skills.

"SEC. 2505. AUTHORIZATIONS OF APPROPRIATIONS.

"There are authorized to be appropriated to the President to carry out this chapter $54,500,000 for fiscal year 1990 and $54,500,000 for fiscal year 1991.

"CHAPTER 6—PEACEKEEPING OPERATIONS

"SEC. 2601. GENERAL AUTHORITY.

"(a) IN GENERAL.—The President is authorized to furnish assistance to friendly countries and international organizations for peacekeeping operations and other peacekeeping activities.

"(b) REIMBURSEMENT OF DOD.—Assistance under this chapter may include reimbursement to the Department of Defense for expenses incurred pursuant to section 7 of the United Nations Participation Act of 1945. Such reimbursements may not exceed $5,000,000 in any fiscal year unless a greater amount is specified in authorizing legislation.

"(c) OTHER AUTHORITIES.—The authority provided by this chapter to furnish assistance for peacekeeping operations and activities is in addition to any other authority which may be available for that purpose.

"SEC. 2602. SPECIAL TRANSFER AND DRAWDOWN AUTHORITIES.

"(a) UNFORESEEN EMERGENCIES.—If the President determines that, as the result of

an unforeseen emergency, the provision of assistance under this chapter in amounts in excess of funds otherwise available for such assistance is important to the national interests of the United States, the President may—

"(1) exercise the authority of section 4101 of this Act to transfer funds available to carry out chapter 3 of part I (relating to economic support assistance) for use under this chapter without regard to the 20-percent increase limitation contained in such section, except that the total amount so transferred in any fiscal year may not exceed $15,000,000; and

"(2) in the event the President also determines that such unforeseen emergency requires the immediate provision of assistance under this chapter, direct the drawdown of commodities and services, of an aggregate value not to exceed $25,000,000 in any fiscal year, from the inventory and resources of any agency of the United States Government.

"(b) REIMBURSEMENT.—There are authorized to be appropriated to the President such sums as may be necessary to reimburse the applicable appropriation, fund, or account for commodities and services provided under this section.

"SEC. 2603. ADMINISTRATIVE AUTHORITIES.

"Except where expressly provided to the contrary, any reference in any law to title I of this Act shall be deemed to include reference to this chapter and any reference in any law to title II of this Act shall be deemed to exclude reference to this chapter.

"SEC. 2604. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated to the President to carry out this chapter $33,377,000 for fiscal year 1990 and $33,377,000 for fiscal year 1991.".

SEC. 202. CONFORMING AMENDMENTS TO ARMS EXPORT CONTROL ACT.

The Arms Export Control Act is amended as follows:

(1) Section 2(b) is amended—

(A) by striking out "financing," both places it appears; and

(B) by striking out "or financing for" in paragraph (1).

(2) Section 3(c) is amended—

(A) in paragraph (1), by striking out "(1)(A) No" and all that follows through "(B) No" and inserting in lieu thereof "(1) No";

(B) in paragraph (1), as amended by subparagraph (A), by striking out "this Act, or any predecessor Act," and inserting in lieu thereof ", through sale, financing or otherwise, under this Act or the Foreign Assistance Act of 1961 (or under any predecessor military sales or foreign assistance legislation)";

(C) in paragraph (3)(A), by striking out "subparagraph (A)" and all that follows through "such paragraphs," and inserting in lieu thereof "paragraph (1)"; and

(D) in paragraph (3)(B), by striking out "subparagraph (B) of".

(3) Section 3 is amended—

(A) in subsection (d), by striking out "section 505(a)(1) or 505(a)(4)" and inserting in lieu thereof "section 2203(a)(1)"; and

(B) in subsection (e), by striking out "section 505" and inserting in lieu thereof "section 2203(a)(1)".

(4) Section 5(a) is amended by striking out ", and no credits (including participations in credits) or guarantees extended to or for" and inserting in lieu thereof "to".

(5) Section 6 is amended—

(A) by striking out ", no credits or guarantees may be extended,"; and

(B) by inserting "and no foreign military financing may be furnished under the Foreign Assistance Act of 1961" after "this Act".

(6) Section 23 is repealed.

(7) Section 24 is amended—

(A) by amending the section caption to read "PROVISIONS RELATING TO FORMER CREDIT AND GUARANTY AUTHORITIES";

(B) in subsection (a), by striking out "The" in the first sentence and inserting in lieu thereof "To the extent necessary to carry out the provisions under the heading "FOREIGN MILITARY SALES DEBT REFORM" in title III of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1988 (as contained in section 101(e) of Public Law 100-202), the";

(C) in subsection (b) by inserting "before the effective date of part A of title II of the International Cooperation Act of 1989" after "section 23"; and

(D) by striking out subsection (c) and inserting in lieu thereof the following:

"(c) The single reserve established under this section for the payment of claims under guarantees issued under the authority of this section may be referred to as the 'Guaranty Reserve Fund'.

"(d) Any guarantees issued under the authority of this section are backed by the full faith and credit of the United States.".

(8) Section 25(a) is amended—

(A) in paragraph (5)(A) by striking out "military education" and all that follows through "guarantees," and inserting in lieu thereof "and assistance under chapter 2 or chapter 5 of title II of the Foreign Assistance Act of 1961,";

(B) in paragraph (5)(B) by striking out "credits or guaranties under this Act" and inserting in lieu thereof "credits under chapter 2 of title II of the Foreign Assistance Act of 1961"; and

(C) in paragraph (11)—

(i) by striking out "the Arms Export Control Act" and inserting in lieu thereof "section 23 or 24 of this Act"; and

(ii) by inserting before the semicolon at the end of the paragraph the following: ", and the status of each extension of credit for the procurement of defense articles or defense services under chapter 2 of title II of the Foreign Assistance Act of 1961 with respect to which there remains outstanding any unpaid obligation or potential liability".

(9) Section 25(d), as added by 112(b) of the International Security and Development Cooperation Act of 1985, is amended by striking out "section 503(a)(3)" and inserting in lieu thereof "chapter 2 of title II"

(10) Section 31 is repealed.

(11) Section 36(a)(7) is amended by striking out "6, or 8 of part II" and inserting in lieu thereof "or 6 of title II or chapter 1 of title III".

(12) Section 37 is amended—

(A) in the section caption by striking out "RELATING TO FOREIGN MILITARY SALES CREDITS";

(B) in subsection (a), by striking out "section 23" and inserting in lieu thereof "the former authority of section 23 or under the authority of chapter 2 of title II of the Foreign Assistance Act of 1961"; and

(C) in subsection (b), by inserting "the former authority of" after "extended pursuant to".

(13) Section 42 is amended—

(A) in subsection (a) by striking out ", but subject to subsection (b) of this section," in the first sentence;

(B) by repealing subsections (b) and (c) and redesignating subsections (d) through (f) as subsections (b) through (d), respectively; and

(C) in subsection (b)(1), as so redesignated, by striking out "and guaranties under sections 21, 22, 23, 24," and inserting in lieu thereof "under sections 21, 22,".

(14) Chapter 6 is amended as follows:

(A) In section 61(c)—

(i) by striking out "or chapter 2 of part II of the Foreign Assistance Act of 1961, and may not be leased" and inserting in lieu thereof ", and may not be leased or loaned"; and

(ii) by inserting "or the authority of chapter 2 of title II of the Foreign Assistance Act of 1961" after "Code".

(B) In section 62(a)—

(i) by striking out ", or to loan any defense article under chapter 2 of part II of the Foreign Assistance Act of 1961,";

(ii) by striking out "or loaned" in paragraphs (1), (2), and (4); and

(iii) by striking out "or loan" in paragraphs (3) and (4).

(C) In section 62(b) by striking out "or loan".

(D) In section 63(a)—

(i) by striking out ", or the loan under chapter 2 of part II of the Foreign Assistance Act of 1961,"; and

(ii) by striking out "or loan".

SEC. 203. TRANSITION RULE CONCERNING DISPOSITION OF CERTAIN PREVIOUSLY PROVIDED MILITARY EQUIPMENT.

The requirements imposed pursuant to sections 505 (a)(4) and (f) of the Foreign Assistance Act of 1961, as in effect before the effective date of this title, shall cease to apply as of that date with respect to defense articles or related training or other defense services furnished before that date.

CHAPTER 2—FOREIGN MILITARY SALES PROGRAM

SEC. 221. ARMS TRANSFER POLICY.

(a) ESTABLISHMENT OF NEW POLICY.—The Arms Export Control Act is amended by striking out the first section and section 1 and inserting in lieu of section 1 the following:

"SECTION 1. SHORT TITLE AND STATEMENT OF UNITED STATES ARMS TRANSFER POLICY.

"(a) SHORT TITLE.—This Act may be cited as the 'Defense Trade and Export Control Act'.

"(b) POLICY OBJECTIVES.—The policy of the United States in implementing the authorities of this Act relating to sales and other transfers of defense articles, defense services, and design and construction services shall be based upon the following objectives:

"(1) Ensuring that such transfers are fully consistent with the foreign and national security policies of the United States.

"(2) Ensuring that such transfers directly enhance or achieve specific national defense requirements of the recipient country or objectives of mutual concern and contribute directly to the common defense.

"(3) Promoting defense cooperation through the transfer of United States major defense equipment and other defense articles and defense services, including through licensed production and coproduction.

"(4) Promoting rationalization, standardization, and interoperability of foreign military forces with the Armed Forces of the United States.

"(5) Contributing to the deterrence of aggression and promoting regional security by enabling recipient countries to negotiate

peaceful solutions to conflicts with confidence.

"(6) Enabling recipient countries to participate in regional or collective arrangements or other measures consistent with the Charter of the United Nations.

"(7) Enabling recipient countries to participate in collective measures requested by the United Nations.

"(8) Complementing United States efforts to restrain and control the international transfer of defense articles and defense services and to encourage international conventional arms control arrangements.

"(c) MULTILATERAL CONTROLS ON TRANSFERS OF DEFENSE ARTICLES AND DEFENSE SERVICES.—The President should continue to seek, through negotiations with the Soviet Union and other countries that supply or receive defense articles and defense services, the establishment of effective multilateral controls on the transfer of defense articles and defense services.".

(b) CONFORMING AMENDMENTS RELATING TO PURPOSES FOR WHICH DEFENSE ARTICLES MAY BE USED.—

(1) REPEAL OF EXISTING PURPOSE SECTION.—Section 4 of that Act is repealed.

(2) INELIGIBILITY.—Section 3(c) of that Act is amended—

(A) in paragraph (1), as amended by section 202 of this Act, by striking out "authorized under section 4" and inserting in lieu thereof "specified in paragraph (5)"; and

(B) by adding at the end the following:

"(5) The purposes referred to in paragraph (1) are the following:

"(A) Internal security.

"(B) Legitimate self-defense.

"(C) Participation in regional or collective arrangements or measures consistent with the Charter of the United Nations, or participation in collective measures requested by the United Nations for the purpose of maintaining or restoring international peace and security.

"(D) Construction of public works, or other activities which contribute to the economic and social development of the recipient country.".

(c) CONFORMING REFERENCES TO ACT.—Any reference to the Arms Export Control Act shall be deemed to be a reference to the Defense Trade and Export Control Act.

SEC. 222. IMPROVED ACCOUNTING FOR FOREIGN MILITARY SALES.

Section 37 of the Defense Trade and Export Control Act is amended by adding at the end the following:

"(d) FMS FINANCIAL MANAGEMENT.—The President shall take the following steps to address the financial management problems that exist with respect to payments on account of sales under this Act:

"(1) NEW TRUST FUND.—Establish a new account for the deposit of funds with respect to any sale of defense articles, defense services, or design and construction services under section 21, section 22, or section 23 of this Act entered into after September 30, 1990, in order to isolate financial transactions relating to new sales from those relating to previous sales.

"(2) CENTRALIZED ACCOUNTING SYSTEM.—Establish a centralized accounting system with respect to payments received, payments made, and performance pursuant to payments with respect to sales under this Act. This system shall have the necessary access to the relevant accounting and billing systems maintained by each of the military services with respect to such sales. This centralized accounting system shall be fully operational not later than September 30, 1990.

"(3) COORDINATION OF ACCOUNTING AND BILLING SYSTEMS.—Improve coordination and uniformity among the accounting and billing systems maintained by each of the military services with respect to such sales.

"(4) RECONCILIATION OF FMS CASES.—Reconcile the discrepancies between reported disbursements and reported performance with respect to those sales under this Act which are still being implemented and with respect to those sales under this Act which have been completed.".

SEC. 223. DESIGNATION OF MAJOR NON-NATO ALLIES.

(a) DESIGNATION.—

(1) NOTICE TO CONGRESS.—Chapter 4 of the Defense Trade and Export Control Act is amended by adding at the end the following:

"SEC. 48. DESIGNATION OF MAJOR NON-NATO ALLIES.

"(a) NOTICE TO CONGRESS.—The President shall notify the Congress in writing at least 30 days before—

"(1) designating a country as a major non-NATO ally for purposes of this Act and the Foreign Assistance Act of 1961, or

"(2) terminating such a designation.

"(b) INITIAL DESIGNATIONS.—Australia, Egypt, Israel, Japan, and the Republic of Korea shall be deemed to have been so designated by the President as of the effective date of this section, and the President is not required to notify the Congress of such designation of those countries.".

(2) DEFINITION.—Section 47 of that Act is amended—

(A) by striking out "and" at the end of paragraph (7);

(B) by striking out the period at the end of paragraph (8) and inserting in lieu thereof "; and"; and

(C) by adding at the end the following:

"(9) 'major non-NATO ally' means a country which is designated in accordance with section 48 as a major non-NATO ally for purposes of this Act and the Foreign Assistance Act of 1961.".

(3) EXISTING DEFINITIONS.—(A) The last sentence of section 21(g) of that Act is repealed.

(B) Section 65(d) of that Act is amended—

(i) by striking out "or major non-NATO", and

(ii) by striking out "or a" and all that follows through "2767a)".

(b) COOPERATIVE TRAINING AGREEMENTS.—Section 21(g) of that Act is amended in the first sentence by striking out "similar agreements" and all that follows through "other countries" and inserting in lieu thereof "similar agreements with countries".

SEC. 224. STANDARDIZING CONGRESSIONAL REVIEW PROCEDURES FOR ARMS TRANSFERS.

(a) THIRD COUNTRY TRANSFERS UNDER FMS SALES.—Section 3(d)(2) of the Defense Trade and Export Control Act is amended—

(1) in subparagraph (A), by striking out ", as provided for in sections 36(b)(2) and 36(b)(3) of this Act";

(2) in subparagraph (B), by striking out "law" and inserting in lieu thereof "joint resolution"; and

(3) by adding at the end the following:

"(C) If the President states in his certification under subparagraph (A) or (B) that an emergency exists which requires that consent to the proposed transfer become effective immediately in the national security interests of the United States, thus waiving the requirements of that subparagraph, the President shall set forth in the certification a detailed justification for his determination, including a description of the emergency circumstances which necessitate immediate consent to the transfer and a discussion of the national security interests involved.

"(D)(i) Any joint resolution under this paragraph shall be considered in the Senate in accordance with the provisions of section 601(b) of the International Security Assistance and Arms Export Control Act of 1976.

"(ii) For the purpose of expediting the consideration and enactment of joint resolutions under this paragraph, a motion to proceed to the consideration of any such joint resolution after it has been reported by the appropriate committee shall be treated as highly privileged in the House of Representatives.".

(b) THIRD COUNTRY TRANSFERS UNDER COMMERCIAL SALES.—Section 3(d)(3) of that Act is amended—

(1) by inserting "(A)" after "(3)";

(2) in the first sentence—

(A) by striking out "at least 30 calendar days", and

(B) by striking out "report" and inserting in lieu thereof "certification"; and

(3) by striking out the last sentence and inserting in lieu thereof the following: "Such certification shall be submitted—

"(i) at least 15 calendar days before such consent is given in the case of a transfer to a country which is a member of the North Atlantic Treaty Organization or Australia, Japan, or New Zealand (if this clause is applicable to New Zealand pursuant to paragraph (5) of this subsection), and

"(ii) at least 30 calendar days before such consent is given in the case of a transfer to any other country,

unless the President states in his certification that an emergency exists which requires that consent to the proposed transfer become effective immediately in the national security interests of the United States. If the President states in his certification that such an emergency exists (thus waiving the requirements of clause (i) or (ii), as the case may be, and of subparagraph (B)) the President shall set forth in the certification a detailed justification for his determination, including a description of the emergency circumstances which necessitate that consent to the proposed transfer become effective immediately and a discussion of the national security interests involved.

"(B) Consent to a transfer subject to subparagraph (A) shall become effective after the end of the 15-day or 30-day period specified in subparagraph (A)(i) or (ii), as the case may be, only if the Congress does not enact, within that period, a joint resolution prohibiting the proposed transfer.

"(C)(i) Any joint resolution under this paragraph shall be considered in the Senate in accordance with the provisions of section 601(b) of the International Security Assistance and Arms Export Control Act of 1976.

"(ii) For the purpose of expediting the consideration and enactment of joint resolutions under this paragraph, a motion to proceed to the consideration of any such joint resolution after it has been reported by the appropriate committee shall be treated as highly privileged in the House of Representatives.".

(c) DESIGNATION REQUIRED FOR NEW ZEALAND TO RECEIVE ADDITIONAL PREFERENTIAL CONGRESSIONAL REVIEW.—Section 3(d) of that Act is further amended by adding at the end the following:

"(5) Clause (i) of paragraph (3)(A) of this subsection, section 36(c)(2)(A), section 36(d)(2)(A), and section 62(c)(1) apply with respect to New Zealand only if the President has reported to the Congress that he has designated New Zealand as being subject to the shorter congressional review period provided for in those provisions.".

(d) COMMERCIAL SALES.—Section 36(c)(2) of that Act is amended by amending subparagraphs (A) and (B) to read as follows:

"(A) in the case of a license for an export to the North Atlantic Treaty Organization, any member country of that Organization, or Australia, Japan, or New Zealand (if this subparagraph is applicable to New Zealand pursuant to section 3(d)(5)), shall not be issued until at least 15 calendar days after the Congress receives such certification, and shall not be issued then if the Congress, within that 15-day period, enacts a joint resolution prohibiting the proposed export; and

"(B) in the case of any other license, shall not be issued until at least 30 calendar days after the Congress receives such certification, and shall not be issued then if the Congress, within that 30-day period, enacts a joint resolution prohibiting the proposed export.".

(e) COMMERCIAL MANUFACTURING AGREEMENTS.—Section 36(d) of that Act is amended—

(1) by inserting "(1)" after "(d)";

(2) by striking out "for or in a country not a member of the North Atlantic Treaty Organization"; and

(3) by adding at the end the following:

"(2) A certification under this subsection shall be submitted—

"(A) at least 15 days before approval is given in the case of an agreement for or in a country which is a member of the North Atlantic Treaty Organization, Australia, Japan, or New Zealand (if this subparagraph is applicable to New Zealand pursuant to section 3(d)(5)); and

"(B) at least 30 days before approval is given in the case of an agreement for or in any other country;

unless the President states in his certification that an emergency exists which requires the immediate approval of the agreement in the national security interests of the United States.

"(3) If the President states in his certification that an emergency exists which requires the immediate approval of the agreement in the national security interests of the United States, thus waiving the requirements of paragraph (4), he shall set forth in the certification a detailed justification for his determination, including a description of the emergency circumstances which necessitate the immediate approval of the agreement and a discussion of the national security interests involved.

"(4) Approval for an agreement subject to paragraph (1) may not be given under section 38 if the Congress, within the 15-day or 30-day period specified in paragraph (2)(A) or (B), as the case may be, enacts a joint resolution prohibiting such approval.

"(5)(A) Any joint resolution under paragraph (4) shall be considered in the Senate in accordance with the provisions of section 601(b) of the International Security Assistance and Arms Export Control Act of 1976.

"(B) For the purpose of expediting the consideration and enactment of joint resolutions under paragraph (4), a motion to proceed to the consideration of any such joint resolution after it has been reported by the appropriate committee shall be treated as highly privileged in the House of Representatives.".

(f) GOVERNMENT-TO-GOVERNMENT LEASES.—

(1) CONGRESSIONAL REVIEW PERIOD.—Section 62 of that Act is amended—

(A) in subsection (a) by striking out "Not less than 30 days before" and inserting in lieu thereof "Before";

(B) in subsection (b)—

(i) by striking out "determines, and immediately reports to the Congress" and inserting in lieu thereof "states in his certification,"; and

(ii) by adding at the end of the subsection the following: "If the President states in his certification that such an emergency exists, he shall set forth in the certification a detailed justification for his determination, including a description of the emergency circumstances which necessitate that the lease be entered into immediately and a discussion of the national security interests involved."; and

(C) by adding at the end of the section the following:

"(c) The certification required by subsection (a) shall be transmitted—

"(1) not less than 15 calendar days before the agreement is entered into or renewed in the case of an agreement with the North Atlantic Treaty Organization, any member country of that Organization, Australia, Japan, or New Zealand (if this paragraph is applicable to New Zealand pursuant to section 3(d)(5)); and

"(2) not less than 30 calendar days before the agreement is entered into or renewed in the case of an agreement with any other organization or country.".

(2) CONGRESSIONAL VETO.—Section 63(a) of that Act is amended—

(A) by striking out "(a)(1)" and inserting in lieu thereof "(a)";

(B) by striking out the "30 calendar days after receiving the certification with respect to that proposed agreement pursuant to section 62(a)," and inserting in lieu thereof "the 15-day or 30-day period specified in section 62(c)(1) or (2), as the case may be,"; and

(C) by striking out paragraph (2).

(g) EFFECTIVE DATE.—The amendments made by this section apply with respect to certifications submitted on or after the effective date specified in section 601.

SEC. 225. FOREIGN AVAILABILITY.

Section 36 of the Defense Trade and Export Control Act is amended—

(1) in subsection (b)(1)—

(A) by adding after the first sentence the following: "Such certifications shall also contain an analysis of the extent to which comparable kinds and amounts of defense articles, defense services, or design and construction services are available from other countries."; and

(B) by striking out subparagraph (K) and by redesignating subparagraphs (L) through (P) as subparagraphs (K) through (O), respectively; and

(2) in subsection (c)(1), by adding after the first sentence the following: "Each such certification shall also contain an analysis of the extent to which comparable kinds and amounts of defense articles or defense services are available from other countries.".

SEC. 226. ECONOMIC IMPACT ON UNITED STATES OF ARMS SALES.

(a) CONGRESSIONAL PRESENTATION MATERIALS.—Section 25(a) of the Defense Trade and Export Control Act, as amended by section 232 of this Act, is further amended—

(1) by redesignating paragraphs (9) and (10) as paragraphs (10) and (11), respectively; and

(2) by inserting the following new paragraph (9) after paragraph (8):

"(9) an analysis of the economic benefits or disadvantages to the United States of sales and licensed commercial exports under this Act during the preceding fiscal year;".

(b) ARMS SALE NOTIFICATIONS.—Section 36(b)(1) of that Act, as amended by section 225 of this Act, is further amended—

(1) by striking out "and" at the end of subparagraph (N);

(2) by striking out the period at the end of subparagraph (O) and inserting in lieu thereof "; and"; and

(3) by inserting after subparagraph (O) the following:

"(P) an analysis of the economic benefits or disadvantages to the United States of the proposed sale.".

SEC. 227. COPRODUCTION AGREEMENTS.

(a) QUARTERLY REPORTS ON COPRODUCTION AGREEMENTS.—Section 36(a) of the Defense Trade and Export Control Act is amended—

(1) by striking out "and" at the end of paragraph (8);

(2) by striking out the period at the end of paragraph (9) and inserting in lieu thereof "; and"; and

(3) by inserting after paragraph (9) the following:

"(10) a report on all concluded government-to-government agreements governing foreign coproduction of defense articles of United States origin (including coproduction memoranda of understanding or agreement) that have not been previously reported under this paragraph, which shall include—

"(A) the identity of the foreign countries or international organizations involved;

"(B) a description and the estimated value of the articles authorized to be produced, and an estimate of the quantity of the articles authorized to be produced;

"(C) a description of any restrictions on third party transfers of the foreign-manufactured articles; and

"(D) if any such agreement does not provide for United States access to and verification of quantities of articles produced overseas and their disposition in the coproducing country, a description of alternative measures and controls incorporated in the coproduction program to ensure compliance with restrictions in the agreement on production quantities and third party transfers.".

(b) SANCTIONS FOR UNAUTHORIZED THIRD COUNTRY TRANSFERS OF COPRODUCED DEFENSE ARTICLES.—The Defense Trade and Export Control Act, as amended by section 202 of this Act, is amended by inserting the following new section 31 at the beginning of chapter 3:

"SEC. 31. UNAUTHORIZED THIRD COUNTRY TRANSFERS OF DEFENSE ARTICLES COPRODUCED OR MANUFACTURED UNDER LICENSE ABROAD.

"(a) WHEN SANCTIONS REQUIRED.—The sanctions described in subsection (b) shall be applied if—

"(1) the foreign party to a coproduction agreement violates the restrictions in that agreement regarding unauthorized third country or third party transfers or other unauthorized dispositions of—

"(A) defense articles produced under that agreement, or

"(B) technical data or defense services provided under that agreement, and

"(2) that violation is substantial (either in terms of quantities or in terms of the gravity of the consequences regardless of the quantities involved).

"(b) SANCTIONS TO BE APPLIED.—If there is a substantial violation, as described in subsection (a), by a foreign party to a coproduction agreement—

"(1) the authority or license to produce defense articles abroad that is granted by all coproduction agreements to which that foreign party is a party shall be suspended during the sanction period; and

"(2) licenses may not be issued and approval may not be granted under section 38 with respect to that foreign party during the sanction period.

"(c) SANCTION PERIOD.—As used in this section, the term 'sanction period' means the period—

"(1) beginning on the date on which the President determines that the violation described in subsection (a) occurred; and

"(2) ending on the date, which may not be less than 1 year after the date described in paragraph (1), on which the President reports to the Congress that—

"(A) the violation has ceased; and

"(B) the foreign party has given assurances satisfactory to the President that such a violation will not recur.

"(d) REPORT TO CONGRESS.—Upon making a determination under subsection (a), the President shall report to the Congress with respect to that determination.

"(e) DEFINITIONS.—As used in this section—

"(1) the term 'coproduction agreement' means an arrangement for foreign production of United States origin defense articles—

"(A) that is authorized or approved by a memorandum of understanding or a memorandum of agreement between a foreign government and the United States Government, or

"(B) that is pursuant to a manufacturing license agreement approved under section 38 of this Act; and

"(2) the term 'foreign party' means a foreign government or foreign business entity that is granted authority or license to produce defense articles abroad by a coproduction agreement.

"(f) EFFECTIVE DATE.—This section does not apply to violations occurring before the date of enactment of this section, but does apply with respect to all coproduction agreements without regard to whether they were entered into before or after the enactment of this section.".

SEC. 228. ENFORCEMENT AND PROCESSING OF ARMS EXPORT LICENSING REQUIREMENTS.

(a) REGISTRATION FEES FOR MUNITIONS CONTROL LICENSES.—Section 38(b)(3) of the Defense Trade and Export Control Act is amended in the first sentence—

(1) by striking out "of the fiscal years 1988 and 1989, $250,000" and inserting in lieu thereof "fiscal year, up to $500,000"; and

(2) by striking out "shall" and inserting in lieu thereof "may".

(b) VIOLATIONS OF INTERNATIONAL TRAFFIC IN ARMS REGULATIONS.—

(1) DISQUALIFICATION AND FORFEITURE.—Section 38 of that Act is amended by inserting after subsection (c) the following:

"(d)(1) No contract between a foreign government and a person convicted or debarred for a violation of this section or section 39, or any rule or regulation issued under either section, may be approved for financing under chapter 2 of title II of the Foreign Assistance Act of 1961 during the twelve months following the date of such conviction or debarment.

"(2)(A) Any person who is convicted for a violation of this section or section 39, or any rule or regulation issued under either section, shall (in addition to any other penalty) forfeit to the United States—

"(i) any of that person's interest in, security of, claim against, or property or contractual rights of any kind in any defense article or other tangible item that was the subject of the violation;

"(ii) any of that person's interest in, security of, claim against, or property or contractual rights of any kind in any defense article or other tangible item that was used in—

"(I) the export or import or attempt to export or import, or

"(II) the contribution, gift, commission, or fee that was paid or offered or agreed to be paid,

that was the subject of the violation; and

"(iii) any of that person's property constituting, or derived from, any proceeds obtained directly or indirectly as a result of the violation.

"(B) The procedures in any forfeiture under this paragraph, and the duties and authorities of the courts of the United States and the Attorney General with respect to any forfeiture action under this paragraph or with respect to any property that may be subject to forfeiture under this paragraph, shall be governed by section 1963 of title 18, United States Code. Any new budget authority provided by this subparagraph may be exercised only to such extent or in such amounts as are provided in advance in appropriation Acts.".

(2) EFFECTIVE DATE.—Subsection (d) of section 38 of that Act, as enacted by paragraph (1) of this subsection, shall take effect on the date of enactment of this Act or October 1, 1989 (whichever is later), and applies—

(A) in the case of paragraph (1) of subsection (d), with respect to convictions or debarments occurring on or after the effective date of that subsection; and

(B) in the case of paragraph (2) of subsection (d), with respect to convictions based on conduct occurring on or after the effective date of that subsection.

(3) CONFORMING AMENDMENT.—(A) Section 38(e) of that Act is amended by striking out "(e), and (g)" and inserting in lieu thereof "and (e)".

(B) The amendment made by subparagraph (A) does not apply with respect to convictions based on conduct occurring before the date specified in paragraph (2)(B).

(c) MUNITIONS CONTROL ENFORCEMENT PROCEDURES.—Section 38(g) of the Defense Trade and Export Control Act is amended—

(1) in paragraph (4), by inserting before the period at the end "or that foreign policy or national security considerations justify the issuance of the license to that person";

(2) in paragraph (5), by inserting "or international organization" after "foreign government"; and

(3) in paragraph (8)—

(A) by inserting "within 60 days" after "shall"; and

(B) by inserting before the period at the end ", and to assist with the processing of registration statements".

SEC. 229. BIENNIAL REVIEW OF THE INTERNATIONAL TRAFFIC IN ARMS REGULATIONS.

Section 38(f) of the Defense Trade and Export Control Act is amended by striking out the first sentence and inserting in lieu thereof the following: "Not later than one year after the date of enactment of the International Cooperation Act of 1989 and at least once every 2 years thereafter, the President shall review the regulations issued to carry out this section, including the items listed on the United States Munitions List, for the purpose of determining what changes in those regulations are appropriate, including determining what items, if any, no longer warrant export controls under this section. Based on each such review, the President shall revise those regulations as necessary and shall publish a revised compilation of those regulations.".

SEC. 230. FAIR PRICING.

(a) FMS ADMINISTRATIVE SURCHARGE.—Section 21(e) of the Defense Trade and Export Control Act is amended—

(1) in paragraph (1)—

(A) by inserting before the semicolon at the end of subparagraph (A) "as specified in section 43(b) and section 43(c) of this Act";

(B) by inserting before the semicolon at the end of subparagraph (C) "(except for equipment wholly paid for from either (i) funds made available on a grant basis under chapter 2 of title II of the Foreign Assistance Act of 1961, or (ii) funds which, prior to the effective date of title II of the International Cooperation Act of 1989, were transferred under the former authority of section 503(a)(3) of the Foreign Assistance Act of 1961 or were made available on a nonrepayable basis under the former authority of section 23 of this Act)";

(C) by repealing subparagraph (B) and designating subparagraphs (C) and (D) as subparagraphs (B) and (C), respectively; and

(2) in paragraph (2), by striking out "paragraphs (1)(B) and (1)(C)" and inserting in lieu thereof "paragraph (1)(B)".

(b) CHARGES FOR ADMINISTRATIVE SERVICES.—Section 43(b) of that Act is amended—

(1) by striking out "and" at the end of paragraph (1);

(2) by striking out the period at the end of paragraph (2) and inserting in lieu thereof "; and"; and

(3) by adding at the end the following:

"(3) such expenses (A) are not salaries of the Armed Forces of the United States and (B) do not represent unfunded estimated costs of civilian retirement and other benefits.".

(c) EFFECTIVE DATES.—The amendments made by subsection (a) shall take effect on October 1, 1990. Paragraph (3)(A) of section 43(b) of the Defense Trade and Export Control Act (as added by the amendment made by subsection (b)(3) of this section) shall be effective as of October 1, 1989, and paragraph (3)(B) of that section (as added by that amendment) shall be effective as of October 1, 1990.

SEC. 231. PROHIBITION ON SALES OF ANTITANK SHELLS CONTAINING DEPLETED URANIUM.

Chapter 3 of the Defense Trade and Export Control Act, as amended by section 232 of this title, is amended by inserting after section 32 the following:

"SEC. 33. PROHIBITION ON SALES OF ANTITANK SHELLS CONTAINING DEPLETED URANIUM.

"(a) PROHIBITION.—Except for sales to countries described in subsection (b), the President may not use the authority of this Act to sell to any country any M833 antitank shells or any comparable antitank

shells containing a depleted uranium penetrator component.

"(b) COUNTRIES NOT SUBJECT TO PROHIBITION.—Subsection (a) does not apply to sales to—

"(1) a country which is a member of the North Atlantic Treaty Organization,

"(2) a country which is a major non-NATO ally, or

"(3) Pakistan.".

SEC. 232. AMENDMENTS TO ELIMINATE OBSOLETE AND INCONSISTENT PROVISIONS.

The Defense Trade and Export Control Act is amended as follows:

(1) Section 5(d) is repealed.

(2) Section 25 is amended—

(A) in subsection (a), by striking out "Except as provided in subsection (d), no" and inserting in lieu thereof "No";

(B) in paragraph (1) of subsection (a) by striking out "$7,000,000" and "$25,000,000" and inserting in lieu thereof "$14,000,000" and "$50,000,000", respectively;

(C) in subsection (a), by repealing paragraph (4) and paragraph (9), by redesignating paragraphs (5) through (8) as paragraphs (4) through (7), respectively, and by redesignating paragraphs (10) through (12) as paragraphs (8) through (10), respectively; and

(D) by repealing subsection (d), as added by section 113 of the International Security and Development Cooperation Act of 1985.

(3) Section 28 is amended by striking out "$7,000,000" and "$25,000,000" in subsections (a) and (b) and inserting in lieu thereof "$14,000,000" and "$50,000,000", respectively.

(4) Section 33 is repealed.

(5) Section 34 is repealed.

(6) Section 35 is repealed.

(7) Section 36 is amended—

(A) in the text preceding paragraph (1), by striking out "an unclassified report" and all that follows through "containing" and inserting in lieu thereof "a report, which shall be unclassified to the maximum extent possible, containing";

(B) in subsection (a), by striking out paragraphs (3), (5), and (6), by redesignating paragraph (4) as paragraph (3), and by redesignating paragraphs (7) through (9) as paragraphs (4) through (6), respectively; and

(C) in subsection (b)(1), by striking out "(9)" and "(8)" and inserting in lieu thereof "(6)" and "(5)", respectively.

(8) Sections 41, 45, and 46 are repealed.

SEC. 233. TECHNICAL CORRECTIONS.

The Defense Trade and Export Control Act is amended as follows:

(1) CORRECTION OF CROSS REFERENCES TO INTERNATIONAL TRAFFIC IN ARMS REGULATIONS.—(A) Section 3(a) is amended in the second sentence following paragraph (4)—

(i) by striking out "significant defense articles" and inserting in lieu thereof "significant military equipment"; and

(ii) by striking "such defense articles" both places it appears and inserting in lieu "such significant military equipment".

(B) Section 36(d) is amended by striking out "combat" and inserting in lieu thereof "military".

(2) CLERICAL ERRORS IN 1985 AUTHORIZATION ACT.—Subsection (d) of section 25, as added by section 112(b) of the International Security and Development Cooperation Act of 1985, is amended by striking out the semicolon at the end and inserting in lieu thereof a period.

The CHAIRMAN. Are there amendments to title II?

If not, the Clerk will designate title III.

The text of title III is as follows:

TITLE III—ASSISTANCE TO COMBAT INTERNATIONAL TERRORISM AND NARCOTICS TRAFFICKING

CHAPTER 1—PERMANENT AUTHORITIES, REQUIREMENTS, AND RESTRICTIONS

SEC. 301. CREATION OF NEW TITLE OF ACT FOR ANTITERRORISM ASSISTANCE AND INTERNATIONAL NARCOTICS CONTROL ASSISTANCE.

The Foreign Assistance Act of 1961 is amended by inserting the following new title III after title II (as enacted by title II of this Act):

"TITLE III—COMBATING INTERNATIONAL TERRORISM AND NARCOTICS TRAFFICKING

"CHAPTER 1—INTERNATIONAL TERRORISM

"SEC. 3101. COORDINATION OF ALL UNITED STATES TERRORISM-RELATED ASSISTANCE TO FOREIGN COUNTRIES.

"(a) COORDINATION.—The Secretary of State shall be responsible for coordinating all assistance related to international terrorism which is provided by the United States Government.

"(b) REPORTS.—Not later than February 1 each year, the Secretary of State, in consultation with appropriate United States Government agencies, shall report to the appropriate committees of the Congress on the assistance related to international terrorism which was provided by the United States Government during the preceding fiscal year. Such reports may be provided on a classified basis to the extent necessary, and shall specify the amount and nature of the assistance provided.

"(c) RULE OF CONSTRUCTION.—Nothing contained in this section shall be construed to limit or impair the authority or responsibility of any other Federal agency with respect to law enforcement, domestic security operations, or intelligence activities as defined in Executive Order 12333.

"SEC. 3102. AUTHORITY TO PROVIDE ANTITERRORISM ASSISTANCE.

"Subject to the provisions of this chapter, the President is authorized to furnish assistance to foreign countries in order to enhance the ability of their law enforcement personnel to deter terrorists and terrorist groups from engaging in international terrorist acts such as bombing, kidnaping, assassination, hostage taking, and hijacking. Such assistance may include training services and the provision of equipment and other commodities related to bomb detection and disposal, management of hostage situations, physical security, and other matters relating to the detection, deterrence, and prevention of acts of terrorism, the resolution of terrorist incidents, and the apprehension of those involved in such acts.

"SEC. 3103. PURPOSES OF ANTITERRORISM ASSISTANCE.

"Activities conducted under this chapter shall be designed—

"(1) to enhance the antiterrorism skills of friendly countries by providing training and equipment to deter and counter terrorism;

"(2) to strengthen the bilateral ties of the United States with friendly governments by offering concrete assistance in this area of great mutual concern; and

"(3) to increase respect for human rights by sharing with foreign civil authorities modern, humane, and effective antiterrorism techniques.

"SEC. 3104. AUTHORITIES AND LIMITATIONS.

"(a) GRANT ASSISTANCE.—Notwithstanding section 4202, services and commodities may be granted for the purposes of this chapter to eligible foreign countries, subject to reimbursement of the value thereof (within the meaning of section 5601(d)(9)) pursuant to section 5201 of this Act from funds available to carry out this chapter.

"(b) REIMBURSED ASSISTANCE.—

"(1) AUTHORIZATION.—Whenever the President considers it to be consistent with and in furtherance of the purposes of this chapter any agency of the United States Government is authorized to furnish services and commodities, without charge to funds available to carry out this chapter, to an eligible foreign country, subject to payment in advance of the value thereof (within the meaning of section 5601(d)(9)) in United States dollars by the foreign country.

"(2) PROHIBITION ON USE OF FOREIGN MILITARY FINANCING FOR REPAYMENT.—Foreign military financing may not be used for payments under paragraph (1).

"(3) CREDITING OF COLLECTIONS.—Collections under this chapter shall be credited to the currently applicable appropriation, account, or fund of the agency providing such services and commodities and shall be available for the purposes for which such appropriation, account, or fund is authorized to be used.

"(c) HUMAN RIGHTS.—The Assistant Secretary of State for Human Rights and Humanitarian Affairs shall be consulted in the development and implementation of the antiterrorism assistance program under this chapter, including determinations of the foreign countries that will be furnished assistance under this chapter and determinations of the nature of assistance to be furnished to each such country.

"(d) LIMITATIONS.—

"(1) TRAINING SERVICES.—Training services (including short term refresher training) provided pursuant to this chapter may be conducted outside the United States only if—

"(A) the training to be conducted outside the United States will be provided during a period of not more than 30 days;

"(B) such training relates to—

"(i) aviation security;

"(ii) crisis management;

"(iii) document screening techniques;

"(iv) facility security;

"(v) maritime security;

"(vi) VIP protection; or

"(vii) the handling of detector dogs, except that only short term refresher training may be provided under this clause; and

"(C) at least 15 days before such training is to begin, the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate are notified in accordance with the procedures applicable to reprogramming notifications pursuant to section 4304.

"(2) ADVICE OUTSIDE THE UNITED STATES.—Personnel of the United States Government authorized to advise eligible foreign countries on antiterrorism matters shall carry out their responsibilities, to the maximum extent possible, within the United States. Such personnel may provide advice outside the United States on antiterrorism matters to eligible foreign countries for periods not to exceed 30 consecutive calendar days.

"(3) TRAINING BY STATE DEPARTMENT PERSONNEL.—(A) Except as provided in subparagraph (B), employees of the Department of State shall not engage in the training of law enforcement personnel or the provision of services under this chapter.

"(B) Subparagraph (A) does not apply to training (including short term refresher

training) or services provided to law enforcement personnel by employees of the Bureau of Diplomatic Security with regard to crisis management, facility security, or VIP protection.

"(4) MUNITIONS ITEMS.—(A) Articles on the United States Munitions List may be made available under this chapter only if—

"(i) they—

"(I) are small arms in category I (relating to firearms), ammunition in category III (relating to ammunition) for small arms in category I, articles in category IV(c) or VI(c) (relating to detection and handling of explosive devices), articles in category X (relating to protective personnel equipment), or articles in paragraph (b), (c), or (d) of category XIII (relating to speech privacy devices, underwater breathing apparatus and armor plating), and

"(II) are directly related to antiterrorism training under this chapter;

"(ii) the recipient country is not prohibited by law from receiving foreign military financing or international military education and training; and

"(iii) at least 15 days before the articles are made available to the foreign country, the President notifies the Committee on Foreign Affairs of the House of Representatives and Committee on Foreign Relations of the Senate of the proposed transfer, in accordance with the procedures applicable to reprogramming notifications applicable to assistance under this Act.

"(B) No shock batons or similar devices may be provided under this chapter.

"(5) EQUIPMENT TRANSFERS.—The value (in terms of original acquisition cost) of all equipment and commodities provided under subsection (a) in any fiscal year may not exceed 25 percent of the funds made available to carry out this chapter for that fiscal year.

"(6) ASSISTANCE RELATING TO INTELLIGENCE ACTIVITIES.—Assistance under this chapter shall not include activities authorized by the National Security Act of 1947 (50 U.S.C. 401 and following), the Central Intelligence Agency Act of 1949 (50 U.S.C. 403a and following), and Executive Order 12333, other than limited training in the organization of intelligence for antiterrorism purposes under the provisions of this chapter.

"(7) PERSONNEL COMPENSATION OR BENEFITS.—Funds made available to carry out this chapter may not be used for personnel compensation or benefits.

"(e) INFORMATION EXCHANGE ACTIVITIES.—This chapter does not apply to information exchange activities conducted by agencies of the United States Government under other authority for such purposes.

"SEC. 3105. REPORTS TO CONGRESS.

"(a) NOTICE TO CONGRESS.—Not less than 30 days before providing assistance to a foreign country under this chapter, the President shall transmit to the Speaker of the House of Representatives and the chairman of the Committee on Foreign Relations of the Senate a written notification which specifies—

"(1) the country to which such assistance is to be provided;

"(2) the type and value of the assistance to be provided;

"(3) the terms and duration of assistance; and

"(4) an explanation of how the proposed assistance will further the objectives of this chapter to assist eligible foreign countries in deterring terrorism.

"(b) CONGRESSIONAL PRESENTATION DOCUMENTS.—The annual congressional presentation documents shall include—

"(1) a list of the countries which received assistance under this chapter for the preceding fiscal year, a list of the countries which are programmed to receive assistance under this chapter for the current fiscal year, and a list of the countries which are proposed as recipients of assistance under this chapter for the next fiscal year;

"(2) with respect to each country listed pursuant to paragraph (1) and for each such fiscal year, a description of the assistance under this chapter furnished, programmed, or proposed, including—

"(A) the place where training or other services under this chapter were or will be furnished, the duration of such training or other services, and the number of personnel from that country which were or will receive training under this chapter;

"(B) the types of equipment or other commodities which were or will be furnished under this chapter; and

"(C) whether the assistance was furnished on a grant basis, on an advance payment basis, or on some other basis; and

"(3) a description of the ways in which the provision of such assistance has furthered the objective of enhancing the ability of foreign law enforcement authorities to deter acts of terrorism.

"SEC. 3106. ADMINISTRATIVE AUTHORITIES.

"Except where expressly provided to the contrary, any reference in any law to title I of this Act shall be deemed to include reference to this chapter.

"SEC. 3107. AUTHORIZATIONS OF APPROPRIATIONS.

"There are authorized to be appropriated to the President to carry out this chapter $10,017,000 for fiscal year 1990 and $10,017,000 for fiscal year 1991.

"SEC. 3108. PROHIBITION ON ASSISTANCE TO COUNTRIES SUPPORTING INTERNATIONAL TERRORISM.

"(a) PROHIBITION.—The United States shall not provide any assistance under this Act, the Agricultural Trade Development and Assistance Act of 1954, the Peace Corps Act, or the Export-Import Bank Act of 1945 to any country which the President determines—

"(1) grants sanctuary from prosecution to any individual or group which has committed an act of international terrorism, or

"(2) otherwise supports international terrorism.

"(b) WAIVER AUTHORITY.—The President may waive the application of subsection (a) to a country if the President determines that national security or humanitarian reasons justify such waiver. The President shall publish each waiver in the Federal Register and, at least 15 days before the waiver takes effect, shall notify the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate of the waiver (including the justification for the waiver) in accordance with the procedures applicable to reprogramming notifications under section 4304.

"(c) MULTILATERAL SANCTIONS.—If sanctions are imposed on a country pursuant to subsection (a) because of its support for international terrorism, the President should call upon other countries to impose similar sanctions on that country.

"CHAPTER 2—INTERNATIONAL NARCOTICS CONTROL

"Subchapter A—General Policies

"SEC. 3201. FINDINGS AND STATEMENTS OF POLICY.

"(a) FINDINGS.—The Congress finds that—

"(1) under the Single Convention on Narcotic Drugs, 1961, each signatory country has the responsibility of limiting to illicit purposes the cultivation, production, manufacture, sale, and other distribution of scheduled drugs;

"(2) suppression of international narcotics trafficking is among the most important foreign policy objectives of the United States;

"(3) the international community should provide assistance, where appropriate, to those producer and transit countries which require assistance in discharging these primary obligations;

"(4) international narcotics control programs should include, as a priority, the progressive elimination of the illicit cultivation of the crops from which narcotic and psychotropic drugs are derived, and should also include the suppression of the illicit manufacture of and traffic in narcotic and psychotropic drugs; and

"(5) effective international cooperation is necessary to control the illicit cultivation, production, and smuggling of, trafficking in, and abuse of narcotic and psychotropic drugs.

"(b) MULTILATERAL DEVELOPMENT BANKS.—In order to promote international cooperation in combating international trafficking in illicit narcotics, it shall be the policy of the United States to use its voice and vote in multilateral development banks to promote the development and implementation in the major illicit drug producing countries of programs for the reduction and eventual eradication of narcotic drugs and other controlled substances, including appropriate assistance in conjunction with effective programs of illicit crop eradication.

"SEC. 3202. COORDINATION OF ALL UNITED STATES ANTI-NARCOTICS ASSISTANCE TO FOREIGN COUNTRIES.

"(a) RESPONSIBILITY OF SECRETARY OF STATE.—Consistent with subtitle A of title I of the Anti-Drug Abuse Act of 1988, the Secretary of State shall be responsible for coordinating all assistance provided by the United States Government to support international efforts to combat illicit narcotics production or trafficking.

"(b) RULE OF CONSTRUCTION.—Nothing contained in this section or section 3261(c) shall be construed to limit or impair the authority or responsibility of any other Federal agency with respect to law enforcement, domestic security operations, or intelligence activities as defined in Executive Order 12333.

"Subchapter B—Narcotics Control Assistance

"SEC. 3221. AUTHORITY TO ENTER INTO AGREEMENTS AND PROVIDE ASSISTANCE.

"(a) AUTHORITY TO ENTER INTO AGREEMENTS.—In order to promote effective international cooperation, the President is authorized to enter into agreements with other countries to facilitate control of the production, processing, transportation, and distribution of narcotics analgesics, including opium and its derivatives, other narcotic and psychotropic drugs, and other controlled substances.

"(b) AUTHORITY TO FURNISH ASSISTANCE.—Notwithstanding any other provision of law, the President is authorized to furnish assistance to any country or international organi-

zation for the control of narcotic and psychotropic drugs and other controlled substances.

"(c) ADMINISTRATIVE AUTHORITIES.—Except where expressly provided to the contrary, any reference in any law to title I of this Act shall be deemed to include reference to this chapter.

"SEC. 3222. AUTHORIZATIONS OF APPROPRIATIONS.

"To carry out section 3221, there are authorized to be appropriated to the President $115,000,000 for fiscal year 1990 and $115,000,000 for fiscal year 1991.

"SEC. 3223. CONTRIBUTION BY RECIPIENT COUNTRY.

"To ensure local commitment to the activities assisted under this chapter, a country receiving assistance under this chapter should bear an appropriate share of the costs of any narcotics control program, project, or activity for which such assistance is to be provided. A country may bear such costs on an 'in kind' basis.

"SEC. 3224. USE OF HERBICIDES FOR AERIAL ERADICATION.

"(a) MONITORING.—The President, with the assistance of appropriate Federal agencies, shall monitor any use under this chapter of a herbicide for aerial eradication in order to determine the impact of such use on the environment and on the health of individuals.

"(b) ANNUAL REPORTS.—The President shall report on such impact in the annual report required by section 3261(a).

"(c) REPORT UPON DETERMINATION OF HARM TO ENVIRONMENT OR HEALTH.—If the President determines that any such use is harmful to the environment or the health of individuals, the President shall immediately report that determination to the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate, together with such recommendations as the President deems appropriate.

"SEC. 3225. PROHIBITION ON PROCUREMENT OF WEAPONS AND AMMUNITION.

"Funds made available to carry out this chapter shall not be made available for the procurement of weapons or ammunition under this chapter.

"SEC. 3226. PERMISSIBLE USES OF AIRCRAFT AND OTHER EQUIPMENT.

"(a) IN GENERAL.—The President shall take all reasonable steps to ensure that aircraft and other equipment made available to foreign countries under this chapter are used only in ways that are consistent with the purposes for which such equipment was made available.

"(b) REPORTS.—In the reports submitted pursuant to section 3261(a), the President shall discuss—

"(1) any evidence indicating misuse by a foreign country of aircraft or other equipment made available under this chapter, and

"(2) the actions taken by the United States Government to prevent future misuse of such equipment by that foreign country.

"(c) REGULATIONS.—The President shall issue regulations specifying the steps to be taken in carrying out this section.

"(d) CONGRESSIONAL REVIEW OF REGULATIONS.—Regulations issued pursuant to subsection (c) shall be submitted to the Congress before they take effect.

"SEC. 3227. RETENTION OF TITLE TO AIRCRAFT.

"Any aircraft which, at any time after October 27, 1986 (which was the date of enactment of the International Narcotics Control Act of 1986), are made available to a foreign country under this chapter, or are made available to a foreign country primarily for narcotics-related purposes under any other provision of law, shall be provided only on a lease or loan basis.

"SEC. 3228. RECORDS OF AIRCRAFT USE.

"(a) REQUIREMENT TO MAINTAIN RECORDS.—The Secretary of State shall maintain detailed records on the use of any aircraft made available to a foreign country under this chapter, including aircraft made available before the enactment of this section.

"(b) CONGRESSIONAL ACCESS TO RECORDS.—The Secretary of State shall make the records maintained pursuant to subsection (a) available to the Congress upon a request of the Chairman of the Committee on Foreign Affairs of the House of Representatives or the Chairman of the Committee on Foreign Relations of the Senate.

"SEC. 3229. PROHIBITION ON USE OF NARCOTICS CONTROL ASSISTANCE TO ACQUIRE REAL PROPERTY.

"Funds made available to carry out this chapter may not be used to acquire (by purchase, lease, or other means) any real property for use by foreign military, paramilitary, or law enforcement forces.

"Subchapter C—Foreign Assistance Generally and Narcotics Control

"SEC. 3241. PROHIBITION ON USE OF FOREIGN ASSISTANCE FOR REIMBURSEMENTS FOR DRUG CROP ERADICATIONS.

"Funds made available to carry out this Act may not be used to reimburse persons whose illicit drug crops are eradicated.

"SEC. 3242. PROHIBITION ON ASSISTANCE TO DRUG TRAFFICKERS.

"(a) PROHIBITION.—The President shall take all reasonable steps to ensure that assistance under this Act is not provided to or through any individual or entity that the President knows or has reason to believe—

"(1) has been convicted of a violation of, or a conspiracy to violate, any law or regulation of the United States, a State or the District of Columbia, or a foreign country relating narcotic or psychotropic drugs or other controlled substances; or

"(2) is or has been an illicit trafficker in any such controlled substance or is or has been a knowing assistor, abettor, conspirator, or colluder with others in the illicit trafficking in any such substance.

"(b) REGULATIONS.—The President shall issue regulations specifying the steps to be taken in carrying out this section.

"(c) CONGRESSIONAL REVIEW OF REGULATIONS.—Regulations issued pursuant to subsection (b) shall be submitted to the Congress before they take effect.

"SEC. 3243. REALLOCATION OF FUNDS WITHHELD FROM COUNTRIES WHICH FAIL TO TAKE ADEQUATE STEPS TO HALT ILLICIT DRUG PRODUCTION OR TRAFFICKING.

"(a) ADDITIONAL ASSISTANCE FOR COUNTRIES TAKING SIGNIFICANT STEPS.—If any funds made available for any fiscal year for security assistance are not used for assistance for the country for which those funds were allocated because of the requirements of section 3262 or any other provision of law requiring the withholding of assistance for countries that have not taken adequate steps to halt illicit drug production or trafficking, the President shall use those funds for additional assistance for those countries which have met their illicit drug eradication targets or have otherwise taken significant steps to halt illicit drug production or trafficking, as follows:

"(1) INTERNATIONAL NARCOTICS CONTROL ASSISTANCE.—Those funds may be transferred to and consolidated with the funds made available to carry out this chapter in order to provide additional narcotics control assistance for those countries. Funds transferred under this paragraph may only be used to provide increased funding for activities previously justified to the Congress. Transfers may be made under this paragraph without regard to the 20-percent increase limitation contained in section 4101(b)(3).

"(2) SECURITY ASSISTANCE.—Any such funds not used under paragraph (1) shall be reprogrammed within the account for which they were appropriated (subject to the regular reprogramming procedures under section 4304) in order to provide additional security assistance for those countries.

"(b) DEFINITION OF SECURITY ASSISTANCE.—As used in this section, the term 'security assistance' means economic support assistance, foreign military financing, and international military education and training.

"SEC. 3244. WAIVER OF CERTAIN RESTRICTIONS ON ASSISTANCE FOR COUNTRIES REDUCING ILLICIT DRUG PRODUCTION.

"(a) COUNTRIES ELIGIBLE FOR ASSISTANCE.—The provisions of law described in subsection (c) do not apply with respect to a major illicit drug producing country during a fiscal year if that country had a verifiable net reduction during the preceding calendar year in the production within that country of any narcotic or psychotropic drug or other controlled substance whose production exceeds the amounts specified with respect to that substance in the definition of major illicit drug producing country contained in section 3282(2).

"(b) REDUCTION DURING THE PRECEDING CALENDAR YEAR DEFINED.—For purposes of subsection (a), the term 'reduction during the preceding calendar year' means, with respect to a fiscal year, a reduction in production during the last calendar year ending before that fiscal year began as compared to production during the previous calendar year.

"(c) PROVISIONS MADE INAPPLICABLE.—Subsection (a) applies with respect to section 4209 and any provision of any other Act which restricts or prohibits the furnishing of assistance under this Act to a country that is in arrears or default in payment to the United States of principal or interest on a loan made or credits extended to that country under any program for which funds are made available by that Act (or predecessor Acts).

"SEC. 3245. ASSISTANCE FOR CROP SUBSTITUTION ACTIVITIES.

"Section 4201(a)(4) of this Act and sections 106(b)(4)(B) and 108(c)(5) of the Agricultural Trade Development and Assistance Act of 1954 do not apply with respect to assistance for crop substitution activities undertaken in furtherance of narcotics control objectives.

"SEC. 3246. DEBT FORGIVENESS FOR MAJOR COCA PRODUCING COUNTRIES PARTICIPATING IN AERIAL ERADICATION PROGRAMS.

"(a) AUTHORITY.—The President may release a country, which is a major illicit drug producing country because of its coca production, from its obligation to make payments to the United States Government, during a fiscal year, of principal and interest on account of a loan made to that country under this Act or credits extended for that country under the former authorities

of section 23 of the Arms Export Control Act if the President determines that that country has agreed to, and is participating in, a program for the use during that fiscal year of a safe, effective herbicide for the aerial eradication of coca in that country.

"(b) EFFECTIVE DATE.—Subsection (a) applies with respect to fiscal year 1991 and each fiscal year thereafter.

"Subchapter D—Reports and Annual Certification Process

"SEC. 3261. REPORTS.

"(a) INTERNATIONAL NARCOTICS CONTROL STRATEGY REPORT.—

"(1) REQUIREMENT FOR REPORT.—Not later than March 1 of each year, the President shall transmit to the Speaker of the House of Representatives, and to the Committee on Foreign Relations of the Senate, a report on United States policy to establish and encourage an international strategy to prevent the illicit cultivation and manufacture of and traffic in narcotic and psychotropic drugs and other controlled substances.

"(2) CONTENTS.—Each report pursuant to this subsection shall include the following:

"(A) A description of the policies adopted, agreements concluded, and programs implemented by the Department of State in pursuit of its delegated responsibilities for international narcotics control, including policy development, bilateral and multilateral funding and other support for international narcotics control projects, representations of the United States Government to international organizations and agencies concerned with narcotics control, training of foreign enforcement personnel, coordination of the international narcotics control activities of United States Government agencies, and technical assistance to international demand reduction programs.

"(B) A description of the activities of the United States in international financial institutions to combat the entry of illicit narcotic and psychotropic drugs and other controlled substances into the United States for the fiscal year just ended, for the current fiscal year, and for the next fiscal year.

"(C) The identity of those countries which are the significant direct or indirect sources of illicit narcotic and psychotropic drugs and other controlled substances significantly affecting the United States. For each such country, each report shall include the following:

"(i) A detailed status report, with such information as can be reliably obtained, on the illicit narcotic or psychotropic drugs or other controlled substances which are being cultivated, produced, or processed in or transported through such country, noting significant changes in conditions, such as increases or decreases in the illicit cultivation and manufacture of and traffic in such drugs and substances.

"(ii) A description of the assistance under this chapter and the other kinds of United States assistance which such country received in the preceding fiscal year, which are planned for such country for the current fiscal year, and which are proposed for such country for the next fiscal year, with an analysis of the impact that the furnishing of each such kind of assistance has had or is expected to have on the illicit cultivation and manufacture of and traffic in narcotic and psychotropic drugs and other controlled substances in such country.

"(iii) A description of the plans, programs, and timetables adopted by such country for the progressive elimination of the illicit cultivation of narcotic and psychotropic drugs and other controlled substances, and a discussion of the adequacy of the legal and law enforcement measures taken and the accomplishments achieved in accord with these plans.

"(iv) A discussion of the extent to which such country has cooperated with the United States narcotics control efforts through the extradition or prosecution of drug traffickers, and, where appropriate, a description of the status of negotiations with such country to negotiate a new or updated extradition treaty relating to narcotics offenses.

"(D) For each major illicit drug producing country for which the President is proposing to furnish United States assistance for the next fiscal year, a determination by the President of the maximum reductions in illicit drug production which are achievable during the next fiscal year. Each such determination shall be expressed in numerical terms, such as the number of acres of illicitly cultivated controlled substances which can be eradicated.

"(E) For each major illicit drug producing country which received United States assistance for the preceding fiscal year, the actual reductions in illicit drug production achieved by that country during such fiscal year.

"(F) Specific comments and recommendations by appropriate Federal agencies involved in drug enforcement, including the United States Customs Service and the Drug Enforcement Administration, with respect to the degree to which countries listed in the report have, during the preceding year, cooperated fully with such agencies (as described in section 3262(b)).

"(G) A description of the United States assistance for the preceding fiscal year which was denied, pursuant to section 3262, to each major illicit drug producing country and each major drug-transit country.

"(b) MIDYEAR REPORT.—Not later than September 1 of each year, the President shall transmit to the Speaker of the House of Representatives, and to the Committee on Foreign Relations of the Senate, a complete and detailed midyear report on the activities and operations carried out under this chapter prior to such date. Such midyear report shall include the status of each agreement concluded prior to such date with other countries to carry out this chapter.

"(c) ANNUAL REPORTS ON ASSISTANCE.—

"(1) IN GENERAL.—At the time that the report required by subsection (a) is submitted each year, the Secretary of State, in consultation with appropriate United States Government agencies, shall report to the appropriate committees of the Congress on the assistance provided by the United States Government during the preceding fiscal year to support international efforts to combat illicit narcotics production or trafficking.

"(2) INFORMATION TO BE INCLUDED.—Each report pursuant to this subsection shall—

"(A) specify the amount and nature of the assistance provided;

"(B) include, for each country which is a significant direct or indirect source of illicit narcotic and psychotropic drugs and other controlled substances significantly affecting the United States, a section prepared by the Drug Enforcement Administration, a section prepared by the Customs Service, and a section prepared by the Coast Guard, which describes in detail—

"(i) the assistance provided or to be provided (as the case may be) to such country by that agency, and

"(ii) the assistance provided or to be provided (as the case may be) to that agency by such country,

with respect to narcotic control efforts during the preceding fiscal year, the current fiscal year, and the next fiscal year; and

"(C) list all transfers, which were made by the United States Government during the preceding fiscal year, to a foreign country for narcotics control purposes of any property seized by or otherwise forfeited to the United States Government in connection with narcotics-related activity, including an estimate of the fair market value and physical condition of each item of property transferred.

"(3) REPORTS MAY BE CLASSIFIED.—The reports required by this subsection may be provided on a classified basis to the extent necessary.

"SEC. 3262. ANNUAL CERTIFICATION PROCEDURES.

"(a) WITHHOLDING OF BILATERAL ASSISTANCE AND OPPOSITION TO MULTILATERAL DEVELOPMENT ASSISTANCE.—

"(1) BILATERAL ASSISTANCE.—Fifty percent of the United States assistance allocated each fiscal year in the report required by section 4303 for each major illicit drug producing country or major drug-transit country shall be withheld from obligation and expenditure, except as provided in subsection (b).

"(2) MULTILATERAL ASSISTANCE.—The Secretary of the Treasury shall instruct the United States Executive Director of the International Bank for Reconstruction and Development, the United States Executive Director of the International Development Association, the United States Executive Director of the Inter-American Development Bank, and the United States Executive Director of the Asian Development Bank to vote, on and after March 1 of each year, against any loan or other utilization of the funds of their respective institution to or for any major illicit drug producing country or major drug-transit country, except as provided in subsection (b).

"(b) CERTIFICATION PROCEDURE.—

"(1) WHAT MUST BE CERTIFIED.—Subject to subsection (d), the assistance withheld from a country pursuant to subsection (a)(1) may be obligated and expended, and the requirement of subsection (a)(2) to vote against multilateral development bank assistance to a country shall not apply, if the President determines and certifies to the Congress, at the time of the submission of the report required by section 3261(a), that—

"(A) during the previous year the country has cooperated fully with the United States, or has taken adequate steps on its own—

"(i) in satisfying the goals agreed to in an applicable bilateral narcotics agreement with the United States (as described in paragraph (2)) or a multilateral agreement which achieves the objectives of paragraph (2),

"(ii) in preventing narcotic and psychotropic drugs and other controlled substances produced or processed, in whole or in part, in such country or transported through such country, from being sold illegally within the jurisdiction of such country to United States Government personnel or their dependents or from being transported, directly or indirectly, into the United States,

"(iii) in preventing and punishing the laundering in that country of drug-related profits or drug-related moneys, and

"(iv) in preventing and punishing bribery and other forms of public corruption which

facilitate the production, processing, or shipment of narcotic and psychotropic drugs and other controlled substances, or which discourage the investigation and prosecution of such acts; or

"(B) for a country that would not otherwise qualify for certification under subparagraph (A), the vital national interests of the United States require that the assistance withheld pursuant to subsection (a)(1) be provided and that the United States not vote against multilateral development bank assistance for that country pursuant to subsection (a)(2).

"(2) BILATERAL NARCOTICS AGREEMENT.—A bilateral narcotics agreement referred to in paragraph (1)(A)(i) is an agreement between the United States and a foreign country in which the foreign country agrees to take specific activities, including, where applicable, efforts to—

"(A) reduce drug production, drug consumption, and drug trafficking within its territory, including activities to address illicit crop eradication and crop substitution;

"(B) increase drug interdiction and enforcement;

"(C) increase drug treatment;

"(D) increase the identification of and elimination of illicit drug laboratories;

"(E) increase the identification and elimination of the trafficking of essential precursor chemicals for the use in production of illegal drugs;

"(F) increase cooperation with United States drug enforcement officials; and

"(G) where applicable, increase participation in extradition treaties, mutual legal assistance provisions directed at money laundering, sharing of evidence, and other initiatives for cooperative drug enforcement.

"(3) REQUIREMENT FOR NARCOTICS AGREEMENT FOR CERTAIN COUNTRIES.—A country which in the previous year was designated as a major illicit drug producing country or a major drug-transit country may not be determined to be cooperating fully under paragraph (1)(A) unless it has in place a bilateral narcotics agreement with the United States or a multilateral agreement which achieves the objectives of paragraph (2).

"(4) INFORMATION TO BE INCLUDED IN CERTIFICATION.—If the President makes a certification with respect to a country pursuant to paragraph (1)(B), the President shall include in such certification—

"(A) a full and complete description of the vital national interests placed at risk if United States bilateral assistance to that country is terminated pursuant to this section and multilateral development bank assistance is not provided to such country; and

"(B) a statement weighing the risk described in subparagraph (A) against the risks posed to the vital national interests of the United States by the failure of such country to cooperate fully with the United States in combating narcotics or to take adequate steps to combat narcotics on its own.

"(5) LICIT OPIUM PRODUCING COUNTRIES.—The President may make a certification under paragraph (1)(A) with respect to a major illicit drug producing country or major drug-transit country which is also a producer of licit opium only if the President determines that such country has taken steps to prevent significant diversion of its licit cultivation and production into the illicit market, maintains production and stockpiles at levels no higher than those consistent with licit market demand, and prevents illicit cultivation and production.

"(c) MATTERS TO BE CONSIDERED.—In determining whether to make the certification required by subsection (b) with respect to a country, the President shall consider the following:

"(1) Have the actions of the government of that country resulted in the maximum reductions in illicit drug production which were determined to be achievable pursuant to section 3261(a)(2)(D)? In the case of a major illicit drug producing country, the President shall give foremost consideration, in determining whether to make the determination required by subsection (b), to whether the government of that country has taken actions which have resulted in such reductions.

"(2) Has that government taken the legal and law enforcement measures to enforce in its territory, to the maximum extent possible, the elimination of illicit cultivation and the suppression of illicit manufacturing of and trafficking in narcotic and psychotropic drugs and other controlled substances, as evidenced by seizures of such drugs and substances and of illicit laboratories and the arrest and prosecution of violators involved in the traffic in such drugs and substances significantly affecting the United States?

"(3) Has that government taken the legal and law enforcement steps necessary to eliminate, to the maximum extent possible, the laundering in that country of drug-related profits or drug-related moneys, as evidenced by—

"(A) the enactment and enforcement by that government of laws prohibiting such conduct,

"(B) that government entering into, and cooperating under the terms of, mutual legal assistance agreements with the United States governing (but not limited to) money laundering, and

"(C) the degree to which that government otherwise cooperates with United States law enforcement authorities on anti-money laundering efforts?

"(4) Has that government taken the legal and law enforcement steps necessary to eliminate, to the maximum extent possible, bribery and other forms of public corruption which facilitate the production, processing, or shipment of narcotic and psychotropic drugs and other controlled substances, or which discourage the investigation and prosecution of such acts, as evidenced by the enactment and enforcement of laws prohibiting such conduct?

"(5) Has that government, as a matter of government policy, encouraged or facilitated the production or distribution of illicit narcotic and psychotropic drugs and other controlled substances?

"(6) Does any senior official of that government engage in, encourage, or facilitate the production or distribution of illicit narcotic and psychotropic drugs and other controlled substances?

"(7) Has that government investigated aggressively all cases in which any member of an agency of the United States Government engaged in drug enforcement activities since January 1, 1985, has been the victim of acts or threats of violence, inflicted by or with the complicity of any law enforcement or other officer of such country or any political subdivision thereof, and energetically sought to bring the perpetrators of such offense or offenses to justice?

"(8) Having been requested to do so by the United States Government, does that government fail to provide reasonable cooperation to lawful activities of United States drug enforcement agents, including the refusal of permission to such agents engaged in interdiction of aerial smuggling into the United States to pursue suspected aerial smugglers a reasonable distance into the airspace of the requested country?

"(9) Has that government made necessary changes in legal codes in order to enable law enforcement officials to move more effectively against narcotics traffickers, such as new conspiracy laws and new asset seizure laws?

"(10) Has that government expeditiously processed United States extradition requests relating to narcotics trafficking?

"(11) Has that government refused to protect or give haven to any known drug traffickers, and has it expeditiously processed extradition requests relating to narcotics trafficking made by other countries?

"(d) CONGRESSIONAL REVIEW.—Subsection (a) shall apply without regard to subsection (b) if, within 45 days of continuous session (within the meaning of section 601(b)(1) of the International Security Assistance and Arms Export Control Act of 1976) after receipt of a certification under subsection (b), the Congress enacts a joint resolution disapproving the determination of the President contained in such certification.

"(e) DENIAL OF ASSISTANCE FOR COUNTRIES DECERTIFIED.—If the President does not make a certification under subsection (b) with respect to a country or the Congress enacts a joint resolution disapproving such certification, then until such time as the conditions specified in subsection (f)(1) are satisfied—

"(1) funds may not be obligated for United States assistance for that country, and funds previously obligated for United States assistance for that country may not be expended for the purpose of providing assistance for that country; and

"(2) the requirement to vote against multilateral development bank assistance pursuant to subsection (a)(2) shall apply with respect to that country, without regard to the date specified in that subsection.

"(f) RECERTIFICATION.—

"(1) TIME OF RECERTIFICATION; CONGRESSIONAL ACTION.—Subsection (e) shall apply to a country until—

"(A) the President makes a certification under subsection (b) with respect to that country, and the Congress does not enact a joint resolution under subsection (d) disapproving the determination of the President contained in that certification; or

"(B) the President submits at any other time a certification of the matters described in subsection (b) with respect to such country, and the Congress enacts a joint resolution approving the determination of the President contained in that certification.

"(2) CONGRESSIONAL REVIEW PROCEDURES.—(A) Any joint resolution under this subsection shall be considered in the Senate in accordance with the provisions of section 601(b) of the International Security Assistance and Arms Export Control Act of 1976.

"(B) For the purpose of expediting the consideration and enactment of joint resolutions under this subsection, a motion to proceed to the consideration of any such joint resolution after it has been reported by the appropriate committee shall be treated as highly privileged in the House of Representatives.

"SEC. 3263. DETERMINING MAJOR DRUG-TRANSIT AND MAJOR ILLICIT DRUG PRODUCING COUNTRIES.

"(a) ESTABLISHMENT OF GUIDELINES.—For each calendar year, the Secretary of State, after consultation with the appropriate committees of the Congress, shall establish numerical standards and other guidelines

for determining which countries will be considered to be major drug-transit countries under section 3282(3) (A) and (B).

"(b) NOTICE TO CONGRESS OF PRELIMINARY STANDARDS.—Not later than September 1 of each year, the Secretary of State shall make a preliminary determination of the numerical standards and other guidelines to be used pursuant to subsection (a) with respect to that year and shall notify the appropriate committees of the Congress of those standards and guidelines.

"(c) NOTICE TO CONGRESS OF PRELIMINARY DETERMINATIONS.—Not later than October 1 of each year, the Secretary of State shall notify the appropriate committees of the Congress of—

"(1) which countries have been determined to be major drug-transit countries for that year under the numerical standards and other guidelines developed pursuant to this subsection; and

"(2) which countries have been determined to be major illicit drug producing countries for that year.

"Subchapter E—Miscellaneous Provisions

"SEC. 3281. PARTICIPATION IN FOREIGN POLICE ACTIONS.

"(a) PROHIBITION ON EFFECTING AN ARREST.—No officer or employee of the United States may directly effect an arrest in any foreign country as part of any foreign police action with respect to narcotics control efforts, notwithstanding any other provision of law.

"(b) PARTICIPATION IN ARREST ACTIONS.—Subsection (a) does not prohibit an officer or employee of the United States, with the approval of the United States chief of mission, from being present when foreign officers are effecting an arrest or from assisting foreign officers who are effecting an arrest.

"(c) EXCEPTION FOR EXIGENT, THREATENING CIRCUMSTANCES.—Subsection (a) does not prohibit an officer or employee from taking direct action to protect life or safety if exigent circumstances arise which are unanticipated and which pose an immediate threat to United States officers or employees, officers or employees of a foreign government, or members of the public.

"(d) EXCEPTION FOR MARITIME LAW ENFORCEMENT.—With the agreement of a foreign country, subsection (a) does not apply with respect to maritime law enforcement operations in the territorial sea of that country.

"(e) INTERROGATIONS.—No officer or employee of the United States may interrogate or be present during the interrogation of any United States person arrested in any foreign country with respect to narcotics control efforts without the written consent of such person.

"(f) EXCEPTION FOR STATUS OF FORCES ARRANGEMENTS.—This section does not apply to the activities of the United States Armed Forces in carrying out their responsibilities under applicable Status of Forces arrangements.

"SEC. 3282. DEFINITIONS.

"As used in this chapter, the following terms have the following meaning:

"(1) LEGAL AND LAW ENFORCEMENT MEASURES.—The term 'legal and law enforcement measures' means—

"(A) the enactment and implementation of laws and regulations or the implementation of existing laws and regulations to provide for the progressive control, reduction, and gradual elimination of the illicit cultivation, production, processing, transportation, and distribution of narcotic drugs and other controlled substances; and

"(B) the effective organization, staffing, equipping, funding, and activation of those governmental authorities responsible for narcotics control.

"(2) MAJOR ILLICIT DRUG PRODUCING COUNTRY.—The term 'major illicit drug producing country' means a country producing five metric tons or more of opium or opium derivative during a fiscal year or producing five hundred metric tons or more of coca or marijuana (as the case may be) during a fiscal year.

"(3) MAJOR DRUG-TRANSIT COUNTRY.—The term 'major drug-transit country' means a country—

"(A) that is a significant direct source of illicit narcotic or psychotropic drugs or other controlled substances significantly affecting the United States;

"(B) through which are transported such drugs or substances; or

"(C) through which significant sums of drug-related profits or monies are laundered with the knowledge or complicity of the government.

"(4) NARCOTIC AND PSYCHOTROPIC DRUGS AND OTHER CONTROLLED SUBSTANCES.—The term 'narcotic and psychotropic drugs and other controlled substances' has the same meaning as is given by any applicable international narcotics control agreement or domestic law of the country or countries concerned.

"(5) UNITED STATES ASSISTANCE.—(A) Except as provided in subparagraph (B), the term 'United States assistance' means assistance of any kind which is provided by grant, sale, loan, lease, credit, guaranty, or insurance, or by any other means, by any agency or instrumentality of the United States Government to any foreign country, including—

"(i) assistance under this Act (including programs under subchapter A of chapter 5 of title I);

"(ii) sales under the Defense Trade and Export Control Act;

"(iii) sales under title I or III and donations under title II of the Agricultural Trade Development and Assistance Act of 1954 of nonfood commodities;

"(iv) other financing programs of the Commodity Credit Corporation for export sales of nonfood commodities; and

"(v) financing under the Export-Import Bank Act of 1945.

"(B) The term 'United States assistance' does not include—

"(i) narcotics control assistance;

"(ii) disaster relief assistance, including any assistance under chapter 6 of title I;

"(iii) assistance which involves the provision of food or medicine;

"(iv) assistance for refugees;

"(v) assistance under the Inter-American Foundation Act;

"(vi) development assistance, economic support assistance, or assistance for famine recovery and development in Africa that is used for activities which deal directly with the special health needs of children and mothers;

"(vii) development assistance, economic support assistance, or assistance for famine recovery and development in Africa that is used for activities aimed at increasing awareness of the effects of the production and trafficking of illicit narcotics on producing and transit countries (but any such assistance shall be subject to the prior notification procedures applicable to reprogrammings under section 4304); or

"(viii) activities authorized pursuant to the National Security Act of 1947 (50 U.S.C. 410 et seq.), the Central Intelligence Agency Act of 1949 (50 U.S.C. 403a et seq.), or Executive Order 12333.".

CHAPTER 2—ASSISTANCE FOR NARCOTICS-RELATED PURPOSES

SEC. 321. HERBICIDES FOR AERIAL COCA ERADICATION.

The Secretary of State shall use not less than $500,000 of the funds made available for each of the fiscal years 1990 and 1991 for narcotics control assistance under the Foreign Assistance Act of 1961 to finance the testing and use of safe and effective herbicides for use in the aerial eradication of coca.

SEC. 322. PROCUREMENT OF WEAPONS TO DEFEND AIRCRAFT INVOLVED IN NARCOTICS CONTROL EFFORTS.

(a) EARMARKING OF FUNDS.—Of the funds available for foreign military financing under the Foreign Assistance Act of 1961, $1,000,000 for each of the fiscal years 1990 and 1991 shall be made available to arm, for defensive purposes, aircraft used in narcotics control eradication or interdiction efforts. These funds may only be used to arm aircraft already in the inventory of the recipient country, and may not be used for the purchase of new aircraft.

(b) NOTIFICATION TO CONGRESS.—The Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate shall be notified of the use of funds under subsection (a) at least 15 days in advance in accordance with the reprogramming procedures applicable under section 4304 of the Foreign Assistance Act of 1961.

SEC. 323. TRAINING FOR NARCOTICS CONTROL ACTIVITIES.

(a) EARMARKING OF FUNDS.—Not less than $2,000,000 of the funds made available for each of the fiscal years 1990 and 1991 for international military education and training under the Foreign Assistance Act of 1961 shall be available only for—

(1) education and training in the operation and maintenance of equipment used in narcotics control interdiction and eradication efforts of countries in Latin America and the Caribbean which are described in subsection (c); and

(2) the expenses of deploying, upon the request of the government of a foreign country described in subsection (c), Department of Defense mobile training teams in that foreign country to conduct training in military-related individual and collective skills that will enhance that country's ability to conduct tactical operations in narcotics interdiction.

(b) UNITS ELIGIBLE FOR TRAINING.—Education and training may be provided under subsection (a)(1) and training may be provided under subsection (a)(2) only for foreign law enforcement agencies, or other units, that are organized for the specific purpose of narcotics enforcement.

(c) ELIGIBLE COUNTRIES.—Assistance may be provided under this section only for a country—

(1) which is a major illicit drug producing country or a major drug-transit country (as defined in section 3282 of the Foreign Assistance Act of 1961);

(2) which has a democratic government; and

(3) whose law enforcement agencies do not engage in a consistent pattern of gross violations of internationally recognized human rights (as defined in section 5601(b)(3) of the Foreign Assistance Act of 1961).

(d) COORDINATION WITH INTERNATIONAL NARCOTICS CONTROL ASSISTANCE PROGRAM.—Assistance under this section shall be coordinated with narcotics control assistance under the Foreign Assistance Act of 1961.

(e) WAIVER OF POLICE TRAINING PROHIBITION.—Assistance may be provided pursuant to this section notwithstanding the prohibition contained in section 4202 of the Foreign Assistance Act of 1961 (relating to police training).

SEC. 324. MILITARY ASSISTANCE FOR ANTINARCOTICS EFFORTS.

(a) PURPOSES OF ASSISTANCE.—Assistance provided under this section shall be designed to—

(1) enhance the ability of friendly governments to control illicit narcotics production and trafficking;

(2) strengthen the bilateral ties of the United States with friendly governments by offering concrete assistance in this area of great mutual concern; and

(3) strengthen respect for internationally recognized human rights and the rule of law in efforts to control illicit narcotics production and trafficking.

(b) WAIVER OF CERTAIN PROVISIONS.—During fiscal year 1991, section 4202 of the Foreign Assistance Act of 1961 shall not apply with respect to foreign military financing provided under that Act to countries described in subsection (c) for the procurement, for use in narcotics control, eradication, and interdiction efforts, of weapons or ammunition for foreign law enforcement agencies, or other units, that are organized for the specific purpose of narcotics enforcement.

(c) ELIGIBLE COUNTRIES.—Assistance may be provided under this section only for a country—

(1) which is a major illicit drug producing country or a major drug-transit country (as defined in section 3282 of the Foreign Assistance Act of 1961);

(2) which has a democratic government; and

(3) whose law enforcement agencies do not engage in a consistent pattern of gross violations of internationally recognized human rights (as defined in section 5601(b)(3) of the Foreign Assistance Act of 1961).

(d) REPORTS TO CONGRESS.—Not less than 15 days before funds are obligated to provide assistance authorized by this section, the President shall transmit to the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate, in accordance with the procedures applicable under section 4304 of the Foreign Assistance Act of 1961, a written notification which specifies—

(1) the country to which the assistance is to be provided;

(2) the type and value of the assistance to be provided;

(3) the law enforcement agencies or other units that will receive the assistance; and

(4) an explanation of how the proposed assistance will achieve the purposes specified in subsection (a) of this section.

(e) REPORTS ON HUMAN RIGHTS SITUATION.—Section 4302(e) of the Foreign Assistance Act of 1961 (relating to country-specific human rights reports upon the request of the foreign affairs committees) applies with respect to countries for which assistance authorized by this section is proposed or is being provided.

(f) COORDINATION WITH INTERNATIONAL NARCOTICS CONTROL ASSISTANCE PROGRAM.—Assistance under this section shall be coordinated with narcotics control assistance provided under the Foreign Assistance Act of 1961.

(g) EARMARKING FOR LATIN AMERICA AND THE CARIBBEAN.—Of the amounts made available for each of the fiscal years 1990 and 1991 for foreign military financing under the Foreign Assistance Act of 1961, $3,500,000 shall be available only to provide assistance authorized by this section for countries in Latin America or the Caribbean.

(h) FY 1990 ASSISTANCE.—Section 4205 of the International Narcotics Control Act of 1988 authorizes assistance for fiscal year 1990 for the same purposes and subject to the same restrictions as the assistance that is provided for in this section for fiscal year 1991.

CHAPTER 3—PROVISIONS RELATING TO ASSISTANCE RECIPIENTS

SEC. 341. ASSISTANCE FOR BOLIVIA.

(a) SECURITY ASSISTANCE.—For each of the fiscal years 1990 and 1991, economic support assistance, foreign military financing, and international military education and training may be provided for Bolivia under the Foreign Assistance Act of 1961 only if the President certifies to the Congress that the Government of Bolivia is implementing legislation that—

(1) establishes its legal coca requirements;

(2) provides for the licensing of the number of hectares necessary to produce the legal requirement;

(3) makes unlicensed coca production illegal; and

(4) makes possession and distribution of coca leaf illegal (other than possession and distribution for licit purposes).

(b) ANNUAL CERTIFICATION.—For fiscal years 1990 and 1991, the President may make a certification with respect to Bolivia under subparagraph (A) or (B) of section 3262(b)(1) of the Foreign Assistance Act of 1961 only if the Government of Bolivia—

(1) has entered into the narcotics cooperation agreement with the United States specified in section 611(2)(B) of the International Security and Development Cooperation Act of 1985 (as in effect before the effective date specified in section 601 of this Act);

(2) has fully achieved the eradication targets contained in that agreement; and

(3) has begun a program of forced eradication of illicit coca cultivation if the targets for voluntary eradication are not being met or are not continued.

(c) DEVELOPMENT ASSISTANCE.—For fiscal years 1990 and 1991, the project agreement document for a project carried out with development assistance under the Foreign Assistance Act of 1961 shall contain—

(1) in the case of the Chapare Regional Development Project, a clause requiring that project activities be suspended if the Government of Bolivia fails to achieve the coca eradication targets contained in the applicable agreement concerning that project; and

(2) in the case of a project to be carried out in an area in Bolivia in which there is no known illicit coca cultivation as of the date of enactment of this Act, a clause requiring that project activities be suspended if the Government of Bolivia fails to keep the project area free of illicit coca cultivation.

SEC. 342. ASSISTANCE FOR PERU.

(a) DETERMINATIONS REGARDING NARCOTICS CONTROL COOPERATION.—In making determinations with respect to Peru pursuant to section 3262(b)(1)(A) of the Foreign Assistance Act of 1961 for fiscal years 1990 and 1991, the President shall give foremost consideration to whether the Government of Peru made substantial progress in meeting its coca eradication targets during the previous year.

(b) UPPER HUALLAGA VALLEY PROJECT.—Funds made available for fiscal years 1990 and 1991 for development assistance under the Foreign Assistance Act of 1961 may be made available for the project of the Agency for International Development in the Upper Huallaga Valley of Peru only if the Secretary of State determines, and reports to the Congress, that such project continues to be effective in reducing and eradicating coca leaf production, distribution, and marketing in the Upper Huallaga Valley.

SEC. 343. ASSISTANCE FOR MEXICO.

(a) LIMITATION ON ASSISTANCE.—Except as provided in subsection (b), not more than $15,000,000 of the amounts made available for each of the fiscal years 1990 and 1991 for narcotics control assistance under the Foreign Assistance Act of 1961 may be made available for Mexico.

(b) PROCEDURE FOR ADDITIONAL ASSISTANCE.—Assistance in excess of the amount specified in subsection (a) may be made available for Mexico only if the congressional committees specified in section 4304 of the Foreign Assistance Act of 1961 are notified at least 15 days in advance in accordance with the regular reprogramming procedures applicable under that section.

SEC. 344. NONAPPLICABILITY OF CERTIFICATION PROCEDURES TO CERTAIN MAJOR DRUG-TRANSIT COUNTRIES.

Section 3262 of the Foreign Assistance Act of 1961 shall not apply with respect to a major drug-transit country for fiscal year 1990 or fiscal year 1991 if the President certifies to the Congress, during that fiscal year, that—

(1) subparagraph (C) of section 3282(3) of that Act, relating to money laundering, does not apply to that country;

(2) the country previously was a major illicit drug producing country but, during each of the preceding two years, has effectively eliminated illicit drug production; and

(3) the country is cooperating fully with the United States or has taken adequate steps on its own—

(A) in satisfying the goals agreed to in an applicable bilateral narcotics agreement with the United States (as described in section 3262(b)(2) of that Act) or a multilateral agreement which achieves the objectives of that section;

(B) in preventing narcotic and psychotropic drugs and other controlled substances transported through such country from being sold illegally within the jurisdiction of such country to United States Government personnel or their dependents or from being transported, directly or indirectly, into the United States; and

(C) in preventing and punishing bribery and other forms of public corruption which facilitate the production, processing, or shipment of narcotic and psychotropic drugs and other controlled substances, or which discourage the investigation and prosecution of such acts.

SEC. 345. ADDITIONAL ASSISTANCE FOR COOPERATING MAJOR COCA-PRODUCING COUNTRIES.

(a) SET-ASIDE OF FUNDS FOR ADDITIONAL ASSISTANCE.—Of the amounts made available for narcotics control assistance under the Foreign Assistance Act of 1961 for each of the fiscal years 1990 and 1991, $14,000,000 shall be available only for assistance under

subsection (c) for countries described in subsection (b). These funds shall remain available until expended notwithstanding any other provision of law.

(b) ELIGIBLE COUNTRIES.—Assistance may be furnished under this section to any country—

(1) which is a major illicit drug producing country because of its coca production, and

(2) which has met or exceeded its coca eradication targets or has otherwise taken concrete actions which have significantly reduced the amount of cocaine flowing to the United States.

(c) ASSISTANCE WHICH MAY BE FURNISHED.—The funds made available for use under this section may be used to furnish to countries described in subsection (b) such assistance authorized by title I or by chapter 1 or chapter 2 of title III of the Foreign Assistance Act of 1961 as the President may determine, provided the assistance is related to narcotics control.

The CHAIRMAN. Are there amendments to title III?

If not, the Clerk will designate title IV.

The text of title IV is as follows:

TITLE IV—SPECIAL AUTHORITIES, RESTRICTIONS ON ASSISTANCE, AND REPORTS

SEC. 401. CONSOLIDATION AND REVISION OF SPECIAL AUTHORITIES, RESTRICTIONS, AND REPORTING REQUIREMENTS; ELIMINATION OF OBSOLETE PROVISIONS.

The Foreign Assistance Act of 1961 is amended by striking out existing part III (except as provided in section 603(c)) and by adding the following new title IV after new title III (as added by title III of this Act):

"TITLE IV—SPECIAL AUTHORITIES, RESTRICTIONS ON ASSISTANCE, AND REPORTS

"CHAPTER 1—SPECIAL AUTHORITIES

"SEC. 4101. AUTHORITY TO TRANSFER BETWEEN ACCOUNTS.

"(a) GENERAL TRANSFER AUTHORITY.—Subject to subsection (b), whenever the President determines it to be necessary for the purposes of this Act, not to exceed 10 percent of the funds made available to carry out any provision of this Act—

"(1) may be transferred to, and consolidated with, the funds in the account or fund available to carry out any other provision of this Act; and

"(2) may be used for any of the purposes for which funds in that account or fund may be used.

"(b) EXCEPTIONS AND LIMITATIONS.—

"(1) TRANSFERS NOT ALLOWED TO INCREASE FOREIGN MILITARY FINANCING PROGRAM.—The authority of subsection (a) may not be used to transfer funds for use under chapter 2 of title II of this Act.

"(2) CERTAIN FUNDS MAY NOT BE TRANSFERRED.—The authority of subsection (a) may not be used to transfer—

"(A) any funds made available pursuant to subchapter A of chapter 5 of title I (relating to the Overseas Private Investment Corporation);

"(B) any funds allocated under subsection (e) (1) or (2) of section 1721 for the discharge of liabilities under that section (relating to trade credit insurance program);

"(C) any funds made available pursuant to section 1722 (relating to the housing and urban development guarantee program); or

"(D) any funds made available for assistance for famine recovery and development in Africa.

"(3) LIMITATION ON AMOUNT OF INCREASE IN AN ACCOUNT.—The total amount in the account or fund for the benefit of which a transfer is made under subsection (a) may not be increased by more than 20 percent of the amount of funds otherwise made available for such account or fund.

"SEC. 4102. SPECIAL WAIVER AUTHORITY.

"(a) NONMILITARY ASSISTANCE PROGRAMS.—If the President determines that to do so is important to the national interests of the United States, the President may authorize the furnishing of assistance under title I, chapter 6 of title II, chapter 1 or chapter 2 of title III, or chapter 2 or chapter 3 of title VI without regard to any provision described in subsection (c).

"(b) MILITARY ASSISTANCE, SALES, AND LEASES.—If the President determines that to do so is essential to the national security interests of the United States, the President may authorize the furnishing of assistance under chapter 2 or chapter 5 of title II, and may authorize the making of sales or leases under the Defense Trade and Export Control Act, without regard to any provision described in subsection (c).

"(c) LAWS WHICH MAY BE WAIVED.—Subsections (a) and (b) apply with respect to the provisions of this Act, the Defense Trade and Export Control Act, any law relating to receipts and credits accruing to the United States, and any Act authorizing or appropriating funds for use under this Act.

"(d) CONSULTATION WITH CONGRESS.—Before exercising the authority granted in this section, the President shall consult with, and shall provide a written policy justification to, the Committee on Foreign Affairs and the Committee on Appropriations of the House of Representatives and the Committee on Foreign Relations and the Committee on Appropriations of the Senate.

"(e) NOTIFICATION TO CONGRESS.—A determination under subsection (a) or (b) shall be effective only if the President notifies the Speaker of the House of Representatives and the chairman of the Committee on Foreign Relations of the Senate, in writing, of that determination.

"(f) ANNUAL CEILINGS.—

"(1) IN GENERAL.—The authority of this section may not be used in any fiscal year to authorize—

"(A) more than $750,000,000 in sales or leases to be made under the Defense Trade and Export Control Act;

"(B) the use of more than $250,000,000 of funds made available for use under this Act; and

"(C) the use of more than $100,000,000 of foreign currencies accruing under this Act or any other law.

"(2) FINANCED MILITARY SALES.—If the authority of this section is used both to authorize a sale under the Defense Trade and Export Control Act and to authorize funds to be used under chapter 2 of title II of this Act with respect to the financing of that sale, then the use of the funds shall be counted against the limitation in paragraph (1)(B) and the portion, if any, of the sale which is not so financed shall be counted against the limitation in paragraph (1)(A).

"(3) LEASES.—For purposes of paragraph (1)(A), the value of the defense articles authorized to be leased (in terms of their replacement cost less any depreciation in their value) shall be counted against the limitation in that paragraph.

"(4) COUNTRY LIMITS.—(A) Not more than $50,000,000 of the $250,000,000 limitation provided in paragraph (1)(B) may be allocated to any one country in any fiscal year unless that country is a victim of active Communist or Communist-supported aggression.

"(B) Not more than $500,000,000 of the aggregate limitation of $1,000,000,000 provided in paragraphs (1)(A) and (1)(B) may be allocated to any one country in any fiscal year.

"(g) LIMITATION RELATING TO TRANSFER AUTHORITY.—The authority of this section may not be used to waive the limitations on transfers contained in section 4101(a).

"SEC. 4103. CONTINGENCIES INVOLVING NONMILITARY ASSISTANCE.

"(a) AUTHORITY.—

"(1) IN GENERAL.—Notwithstanding any other provision of law, the President is authorized to use funds made available to carry out any provision of this Act (other than the funds described in paragraph (2)) in order to furnish, for any emergency purpose, assistance authorized by any provision specified in paragraph (3) in accordance with the provisions applicable to the furnishing of such assistance.

"(2) DEVELOPMENT ASSISTANCE FUNDS NOT AVAILABLE.—The authority of paragraph (1) may not be exercised in order to use funds made available for development assistance or assistance for famine recovery and development in Africa.

"(3) PURPOSES FOR WHICH FUNDS MAY BE USED.—Funds made available for use under paragraph (1) may be used to furnish assistance under any provision of title I, chapter 6 of title II, chapter 1 or chapter 2 of title III, or chapter 2 or chapter 3 of title VI.

"(b) ANNUAL CEILING.—The authority of this section may not be used to authorize the use of more than $50,000,000 during any fiscal year.

"(c) REPORT TO CONGRESS.—The President shall report promptly to the Speaker of the House of Representatives and to the Committee on Foreign Relations and the Committee on Appropriations of the Senate each time the authority of this section is exercised.

"(d) PROHIBITION ON GIFTS.—Funds used under the authority of this section may not be used to pay for any gifts to any official of any foreign government.

"SEC. 4104. TERMINATION EXPENSES.

"(a) IN GENERAL.—Funds made available under this Act shall remain available, for a period not to exceed 8 months from the date of any termination of assistance under this Act, for the necessary expenses of winding up programs related to such termination. In order to ensure the effectiveness of assistance under this Act, such expenses for orderly termination of programs may include the obligation and expenditure of funds to complete the training or studies outside their countries of origin of students whose course of study or training program began before assistance was terminated.

"(b) LIABILITY TO CONTRACTORS.—For the purpose of making an equitable settlement of termination claims under extraordinary contractual relief standards, the President is authorized, pursuant to the authority of this section, to adopt as a contract or other obligation of the United States Government, and assume (in whole or in part) any liabilities arising thereunder, any contract with a United States or third-country contractor which had been funded with assistance under this Act prior to the termination of assistance.

"(c) TERMINATION EXPENSES.—Amounts certified as having been obligated for assistance subsequently terminated by the Presi-

dent, or pursuant to any provision of law, shall continue to remain available and may be reobligated to meet any necessary expenses pursuant to this section arising from the termination of such assistance.

"(d) RELATION TO OTHER PROVISIONS.—Unless specifically made inapplicable by another provision of law, the provisions of this section shall be applicable to the termination of assistance pursuant to any provision of law.

"SEC. 4105. EXEMPTION OF ASSISTANCE THROUGH NONGOVERNMENTAL ORGANIZATIONS FROM RESTRICTIONS.

"(a) RESTRICTIONS NOT APPLICABLE.—Restrictions contained in this or any other Act with respect to assistance for a country shall not be construed to restrict assistance under title I or chapter 3 of title VI in support of programs of nongovernmental organizations.

"(b) NATIONAL INTEREST CRITERIA.—The President shall take into consideration, in any case in which a restriction on assistance would be applicable but for this section, whether assistance for programs of nongovernmental organizations is in the national interest of the United States.

"(c) NOTICE TO CONGRESS.—Before using the authority of this section to furnish assistance for a program of a nongovernmental organization, the President shall notify the Committee on Foreign Affairs and the Committee on Appropriations of the House of Representatives and the Committee on Foreign Relations and the Committee on Appropriations of the Senate. Such notification shall describe the program to be assisted, the assistance to be provided, and the reasons for furnishing such assistance.

"SEC. 4106. EXEMPTION OF TRAINING ACTIVITIES FROM PROHIBITIONS.

"Provisions of this or any other Act shall not be construed to prohibit assistance for any training activity funded under this Act for a country as long as that country has a democratically elected government and the assistance is otherwise consistent with section 3108, section 4201(a)(1), section 4201(a)(2), and section 4202.

"SEC. 4107. NONAPPLICABLITY TO MILITARY ASSISTANCE OF CERTAIN NEUTRALITY ACT PROVISIONS.

"The functions authorized under title II may be performed without regard to such provisions as the President may specify of the Neutrality Act of 1939 (22 U.S.C. 441 and following).

"CHAPTER 2—RESTRICTIONS ON ASSISTANCE

"SEC. 4201. INELIGIBLE COUNTRIES AND PROJECTS.

"(a) RESTRICTIONS.—Except as provided in subsection (b), assistance under this Act may not be furnished for any of the following:

"(1) COMMUNIST COUNTRIES.—A communist country, as determined under subsection (d).

"(2) HUMAN RIGHTS VIOLATORS.—A country whose government engages in a consistent pattern of gross violations of internationally recognized human rights.

"(3) EXPROPRIATION OF UNITED STATES PROPERTY.—A country whose government—

"(A) has—

"(i) expropriated the property of any United States person,

"(ii) repudiated or nullified any contract with any United States person, or

"(iii) taken any other action (such as discriminatory taxes or other extractions) which has the effect of seizing ownership or control of the property of any United States person, and

"(B) either has not provided adequate and effective compensation or is not engaged in good faith efforts to negotiate a settlement, if the United States person involved has exhausted host country legal or other formal remedies.

"(4) COMPETITION WITH UNITED STATES EXPORTS.—Direct support for any project or activity that is specifically designed to increase exports of any agricultural, textile, or apparel commodity from a developing country if such exports—

"(A) would be in direct competition with United States exports, and

"(B) can reasonably be expected to cause substantial injury to United States exporters of the same or substantially similar commodity.

"(b) EXCEPTIONS.—Assistance restricted by subsection (a) may be furnished under any of the following circumstances:

"(1) ALLEVIATING SUFFERING RESULTING FROM A DISASTER.—The assistance is for the immediate alleviation of suffering resulting from a natural or manmade disaster.

"(2) DIRECTLY BENEFITTING THE POOR.—The assistance will be furnished through nongovernmental organizations to directly benefit poor people of the country.

"(3) PROMOTING HUMAN RIGHTS AND DEMOCRACY.—The assistance will be furnished through nongovernmental organizations to directly promote increased respect for internationally recognized human rights and the development of democracy.

"(c) REPORT TO CONGRESS.—Assistance restricted by subsection (a) may not be provided under subsection (b) during a fiscal year until the President has submitted to the Speaker of the House of Representatives and the chairman of the Committee on Foreign Relations of the Senate, during that fiscal year, a report with respect to such assistance. Any such report shall include a detailed explanation of the assistance to be provided, including the dollar amount of such assistance, and a complete explanation of how the assistance meets the criteria specified in subsection (b).

"(d) COMMUNIST COUNTRY LIST.—

"(1) ESTABLISHMENT.—The President shall maintain a list of those countries which are communist countries for purposes of subsection (a)(1).

"(2) PUBLICATION OF LIST.—The list maintained pursuant to this subsection, and notice of any additions to or deletions from the list, shall be published in the Federal Register and shall be provided to the Congress.

"(3) REMOVAL OF COUNTRIES FROM THE LIST; EXEMPTIONS.—The President may remove a country from the communist country list pursuant to this section, or may exempt a listed country from the application of subsection (a)(1), if the President notifies the Speaker of the House of Representatives and the chairman of the Committee on Foreign Relations of the Senate at least 30 days in advance.

"(e) HUMAN RIGHTS VIOLATORS.—

"(1) MATTERS TO BE CONSIDERED.—In implementing subsection (a)(2), consideration shall be given to the following:

"(A) The relevant findings of appropriate international organizations and nongovernmental organizations.

"(B) The extent of cooperation by the government in question in permitting an unimpeded investigation by indigenous nongovernmental organizations, other nongovernmental organizations, and international organizations (such as the International Committee of the Red Cross), of alleged violations of internationally recognized human rights.

"(C) Specific actions which have been taken by the President or the Congress relating to the human rights practices of the government in question.

"(2) DEFINITION OF ASSISTANCE.—For purposes of subsection (a)(2), the term 'assistance under this Act' means, in addition to any assistance authorized by this Act—

"(A) any sale of defense articles, defense services, or design and construction services under the Defense Trade and Export Control Act;

"(B) any license under section 38 of the Defense Trade and Export Control Act with respect to the export of defense articles or defense services to or for the armed forces, police, intelligence, or other internal security forces of a foreign country; and

"(C) any license required under the Export Administration Act of 1979 for the export of crime control and detection instruments and equipment.

"(f) EXPROPRIATED PROPERTY.—

"(1) VALUATION.—If the President requests such an evaluation, the Foreign Claims Settlement Commission is authorized to evaluate the value of the property which is the subject of an action described in subsection (a)(3) and render an advisory opinion with respect to the value of such property to the President, the owner of the property, and the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate.

"(2) DEFINITION OF UNITED STATES PERSON.—For purposes of subsection (a)(3), the term 'United States person' means a United States citizen or a corporation, partnership, or association at least 50 percent beneficially owned by United States citizens.

"SEC. 4202. POLICE TRAINING.

"(a) PROHIBITION.—None of the funds made available to carry out this Act, and none of the local currencies generated under this Act, shall be used to provide training or advice, or provide any financial support, for police, prisons, or other law enforcement forces for any foreign government or any program of internal intelligence or surveillance on behalf of any foreign government within the United States or abroad.

"(b) EXCEPTIONS.—Subsection (a) of this section shall not apply with respect to—

"(1) narcotics control assistance;

"(2) assistance, including training, in maritime law enforcement and other maritime skills; or

"(3) assistance for a country which has a longstanding democratic tradition, does not have standing armed forces, and does not engage in a consistent pattern of gross violations of internationally recognized human rights.

"SEC. 4203. INTELLIGENCE ACTIVITIES.

"No funds appropriated under the authority of this or any other Act may be expended by or on behalf of the Central Intelligence Agency for operations in foreign countries, other than activities intended solely for obtaining necessary intelligence, unless and until the President finds that each such operation is important to the national security of the United States. Each such operation shall be considered a significant anticipated intelligence activity for the purpose of section 501 of the National Security Act of 1947.

"SEC. 4204. ABORTIONS AND INVOLUNTARY STERILIZATIONS.

"Funds made available to carry out title I or chapter 2 or chapter 3 of title VI may not be used—

"(1) to pay for the performance of abortions as a method of family planning or to motivate or coerce any person to practice abortions;

"(2) to pay for the performance of involuntary sterilizations as a method of family planning or to coerce or provide any financial incentive to any person to undergo sterilizations; or

"(3) to pay for any biomedical research which relates, in whole or in part, to methods of, or the performance of, abortions or involuntary sterilizations as a means of family planning.

"SEC. 4205. NUCLEAR ENRICHMENT TRANSFERS.

"(a) LIMITATION.—Except as provided in subsection (b), no funds authorized to be appropriated by this Act may be used for the purpose of providing economic assistance under title I or chapter 2 or chapter 3 of title VI or providing military assistance under title II to any country which, on or after the date of enactment of the International Security Assistance Act of 1977, delivers nuclear enrichment equipment, materials, or technology to any other country, or receives such equipment, materials, or technology from any other country, unless before such delivery—

"(1) the supplying country and receiving country have reached agreement to place all such equipment, materials, or technology, upon delivery, under multilateral auspices and management when available; and

"(2) the recipient country has entered into an agreement with the International Atomic Energy Agency to place all such equipment, materials, technology, and all nuclear fuel and facilities in such country under the safeguards system of such Agency.

"(b) WAIVER.—(1) Notwithstanding subsection (a) of this section, the President may furnish assistance which would otherwise be prohibited under such subsection if he determines and certifies in writing to the Speaker of the House of Representatives and the Committee on Foreign Relations of the Senate that—

"(A) the termination of such assistance would have a serious adverse effect on vital United States interests; and

"(B) he has received reliable assurances that the country in question will not acquire or develop nuclear weapons or assist other nations in doing so.

Such certification shall set forth the reasons supporting such determination in each particular case.

"(2)(A) A certification under paragraph (1) of this subsection shall take effect on the date on which the certification is received by the Congress. However, if, within 30 calendar days after receiving this certification, the Congress enacts a joint resolution stating in substance that the Congress disapproves the furnishing of assistance pursuant to the certification, then upon the enactment of that resolution the certification shall cease to be effective and all deliveries of assistance furnished under the authority of that certification shall be suspended immediately.

"(B) Any joint resolution under this paragraph shall be considered in the Senate in accordance with the provisions of section 601(b) of the International Security Assistance and Arms Export Control Act of 1976.

"(C) For the purpose of expediting the consideration and adoption of joint resolutions under this paragraph, a motion to proceed to the consideration of any such resolution after it has been reported by the appropriate committee shall be treated as highly privileged in the House of Representatives.

"SEC. 4206. NUCLEAR REPROCESSING TRANSFERS AND ILLEGAL EXPORTS FOR NUCLEAR EXPLOSIVE DEVICES.

"(a) PROHIBITION.—Except as provided in subsection (b), no funds authorized to be appropriated by this Act may be used for the purpose of providing economic assistance under title I or chapter 2 or 3 of title VI or providing military assistance under title II to any country which—

"(1) on or after the date of enactment of the International Security Assistance Act of 1977, delivers nuclear reprocessing equipment, materials, or technology to any other country or receives such equipment, materials, or technology from any other country (except for the transfer of reprocessing technology associated with the investigation, under international evaluation programs in which the United States participates, or technologies which are alternatives to pure plutonium reprocessing); or

"(2) is a nonnuclear-weapon state which, on or after the date of enactment of the International Security and Development Cooperation Act of 1985, exports illegally (or attempts to export illegally) from the United States any material, equipment, or technology which would contribute significantly to the ability of such country to manufacture a nuclear explosive device, if the President determines that the material, equipment, or technology was to be used by such country in the manufacture of a nuclear explosive device.

For purposes of paragraph (2), an export (or attempted export) by a person who is an agent of, or is otherwise acting on behalf of or in the interests of, a country shall be considered to be an export (or attempted export) by that country.

"(b) WAIVER.—(1) Notwithstanding subsection (a), the President may furnish assistance which would otherwise be prohibited under that subsection if the President determines and certifies in writing to the Speaker of the House of Representatives and the Committee on Foreign Relations of the Senate that the termination of such assistance would be seriously prejudicial to the achievement of United States nonproliferation objectives or otherwise jeopardize the common defense and security. The President shall transmit with such certification a statement setting forth the specific reasons therefor.

"(2)(A) A certification under paragraph (1) of this subsection shall take effect on the date on which the certification is received by the Congress. However, if, within 30 calendar days after receiving this certification, the Congress enacts a joint resolution stating in substance that the Congress disapproves the furnishing of assistance pursuant to the certification, then upon the enactment of that resolution the certification shall cease to be effective and all deliveries of assistance furnished under the authority of that certification shall be suspended immediately.

"(B) Any joint resolution under this paragraph shall be considered in the Senate in accordance with the provisions of section 601(b) of the International Security Assistance and Arms Export Control Act of 1976.

"(C) For the purpose of expediting the consideration and adoption of joint resolutions under this paragraph, a motion to proceed to the consideration of any such resolution after it has been reported by the appropriate committee shall be treated as highly privileged in the House of Representatives.

"SEC. 4207. NUCLEAR DETONATIONS AND TRANSFERS OF NUCLEAR EXPLOSIVE DEVICES.

"(a) PROHIBITION.—Except as provided in subsections (b) and (c), no funds authorized to be appropriated by this Act may be used for the purpose of providing economic assistance under title I or chapter 2 or 3 of title VI or providing military assistance under title II to any country which on or after the date of enactment of the International Security Assistance Act of 1977—

"(1) transfers a nuclear explosive device to a nonnuclear-weapon state, or

"(2) is a nonnuclear-weapon state and either—

"(A) receives a nuclear explosive device, or

"(B) detonates a nuclear explosive device.

"(b) INTERIM WAIVER.—(1) Notwithstanding subsection (a), the President may, for a period of not more than 30 days of continuous session, furnish assistance which would otherwise be prohibited under subsection (a) if, before furnishing such assistance, the President transmits to the Speaker of the House of Representatives, and to the Chairman of the Committee on Foreign Relations of the Senate, a certification that he has determined that an immediate termination of assistance to that country would be detrimental to the national security of the United States. Not more than one such certification may be transmitted for a country with respect to the same detonation, transfer, or receipt of a nuclear explosive device.

"(2) If the President transmits a certification to the Congress under paragraph (1), a joint resolution which would permit the President to exercise the waiver authority of subsection (c) of this section shall, if introduced in either House within 30 days of continuous session after the Congress receives this certification, be considered in the Senate and House of Representatives in accordance with paragraph (3)(A) and (B).

"(3)(A) Any joint resolution under this subsection shall be considered in the Senate in accordance with the provisions of section 601(b) of the International Security Assistance and Arms Export Control Act of 1976.

"(B) For the purpose of expediting the consideration and adoption of joint resolution under this subsection, a motion to proceed to the consideration of such a joint resolution after it has been reported by the appropriate committee shall be treated as highly privileged in the House of Representatives.

"(4) For purposes of this subsection, the term 'joint resolution' means a joint resolution the matter after the resolving clause of which is as follows: 'That the Congress having received on a certification by the President under subsection (b) of section 4207 of the Foreign Assistance Act of 1961 with respect to , the Congress hereby authorizes the President to exercise the waiver authority contained in subsection (c) of that section.', with the date of receipt of the certification inserted in the first blank and the name of the country inserted in the second blank.

"(c) CONGRESSIONALLY AUTHORIZED WAIVER.—Notwithstanding subsection (a), if the Congress enacts a joint resolution under subsection (b), the President may furnish

assistance which would otherwise be prohibited under subsection (a) if the President determines and certifies in writing to the Speaker of the House of Representatives and the Committee on Foreign Relations of the Senate that the termination of such assistance would be seriously prejudicial to the achievement of United States nonproliferation objectives or otherwise jeopardize the common defense and security. The President shall transmit with such certification a statement setting forth the specific reasons therefor.

"(d) CONTINUITY OF SESSION DEFINED.—For purposes of this section, continuity of session is broken only by an adjournment of Congress sine die and the days on which either House is not in session because of an adjournment of more than three days to a day certain are excluded in the computation of any period of time in which Congress is in continuous session.

"SEC. 4208. COUNTRIES WHICH SEIZE UNITED STATES FISHING VESSELS.

"(a) IN GENERAL.—In determining whether or not to furnish assistance under this Act, consideration shall be given to excluding from such assistance any country which seizes, or imposes any penalty or sanction against, any United States fishing vessel on account on its fishing activities in international waters.

"(b) INTERNATIONAL AGREEMENT EXCEPTION.—This subsection does not apply in any case governed by international agreement to which the United States is a party.

"SEC. 4209. COUNTRIES IN ARREARS ON ASSISTANCE REPAYMENTS.

"Assistance may not be furnished under this Act to any country which is more than 1 year in arrears to the United States Government on any payment of interest or principal on any loan made or credit extended under this Act or under the former authorities of section 23 or section 24 of the Arms Export Control Act.

"SEC. 4210. ASSISTANCE FOR CUBA.

"(a) PRESENT GOVERNMENT.—Assistance may not be furnished under this Act to the present government of Cuba.

(b) EXPROPRIATION CLAIMS OF UNITED STATES PERSONS.—Except as may be deemed necessary by the President in the interest of the United States, assistance may not be furnished under this Act to any government of Cuba until the President determines that such government has taken appropriate steps, according to international law standards, to return to United States citizens and to entities not less than 50 percent beneficially owned by United States citizens, or to provide equitable compensation to such citizens and entities for, property taken from such citizens and entities on or after January 1, 1959, by the Government of Cuba.

"CHAPTER 3—REPORTS AND NOTIFICATIONS TO CONGRESS

"SEC. 4301. CONGRESSIONAL PRESENTATION DOCUMENTS FOR ECONOMIC ASSISTANCE.

"(a) REQUIREMENT FOR SUBMISSION.—The President shall prepare, and submit to the Congress in a timely manner, annual congressional presentation documents for economic assistance programs under title I and chapters 2 and 3 of title VI.

"(b) MATERIALS FOR DEVELOPMENT AND ECONOMIC SUPPORT ASSISTANCE.—For development assistance, economic support assistance, and assistance for famine recovery and development in Africa, the documents submitted pursuant to subsection (a) shall include the following:

"(1) The rationale for the allocation of assistance to each country, regional program, or centrally funded program. In the case of economic support assistance, this rationale shall include a justification for the provision of economic support assistance and for the particular use of that assistance.

"(2) A brief description of each country program, regional program, and centrally funded program, including—

"(A) in the case of development assistance, a discussion of how each program supports the four basic objectives set forth in section 1102;

"(B) in the case of economic support assistance, a discussion of the extent to which each program supports the four basic objectives set forth in section 1102; and

"(C) in the case of assistance for famine recovery and development in Africa, a discussion of how each program support long-term development in Africa as described in section 6301(b).

"(3) An analysis of how the proposed assistance is consistent with the country or regional development strategy, what program objectives such assistance is designed to address, and what benefits it is expected will be derived from the provision of such assistance.

"(4) A description of all new activities to be undertaken in the coming fiscal year.

"(c) OTHER TITLE I PROGRAMS.—The documents submitted pursuant to subsection (a) shall include for each assistance program under title I (other than development assistance, economic support assistance, the trade credit insurance program under section 1721, and programs of the Overseas Private Investment Corporation and the Trade and Development Agency under chapter 5) or under chapter 2 of title VI—

"(1) a summary of program activities for the previous year; and

"(2) a description of activities anticipated in the current fiscal year and the coming fiscal year.

"(d) ADDITIONAL MATERIALS.—In conjunction with the submission of the documents pursuant subsection (a), the President shall submit to the Congress a report which sets forth the following:

"(1) The dollar value of all foreign assistance, by category and by country, furnished by the United States Government by any means to each foreign country and international organization—

"(A) from 1946 to the fiscal year immediately preceding the fiscal year in which the report is submitted;

"(B) as obligated during the immediately preceding fiscal year;

"(C) as presented for the fiscal year in which the report is submitted; and

"(D) as proposed for the fiscal year following the year in which the report is submitted.

"(2) A summary of the net aid flow from the United States to each country, taking into consideration the repayments to the United States from previous foreign assistance loans and the debt relief granted by the United States.

"(3) The status of the debt servicing capacity of each country receiving assistance under title I or chapter 3 of title VI; and a statement summarizing the debt relief granted to each country by the United States and the purpose for which it was granted.

"SEC. 4302. HUMAN RIGHTS POLICY AND REPORTS.

"(a) PROMOTION OF HUMAN RIGHTS.—The United States shall, in accordance with its international obligations as set forth in the Charter of the United Nations and in keeping with the constitutional heritage and traditions of the United States, promote and encourage increased respect for human rights and fundamental freedoms throughout the world without distinction as to race, sex, language, or religion. Accordingly, a principal goal of the foreign policy of the United States shall be to promote the increased observance of internationally recognized human rights by all countries.

"(b) CONDUCT OF ASSISTANCE AND MILITARY SALES PROGRAMS.—In furtherance of subsection (a), the President shall formulate and conduct United States assistance and military sales programs in a manner which will—

"(1) promote and advance human rights;

"(2) strengthen a relationship between civilian and military sectors appropriate to a democratic system of government; and

"(3) avoid identification of the United States, through these programs, with governments which deny to their people internationally recognized human rights and fundamental freedoms in violation of international law or in contravention of the policy of the United States as expressed in this section or otherwise.

"(c) MATTERS TO BE CONSIDERED.—In carrying out subsection (b) and in preparing the annual reports required by subsection (d) and any special report required by subsection (e), consideration shall be given to the following:

"(1) The relevant findings of appropriate international organizations and nongovernmental organizations.

"(2) The extent of cooperation by the government in question in permitting an unimpeded investigation by indigenous nongovernmental organizations, other nongovernmental organizations, and international organizations (such as the International Committee of the Red Cross), of alleged violations of internationally recognized human rights.

"(d) ANNUAL HUMAN RIGHTS REPORT.—In furtherance of subsections (a) and (b), the Secretary of State shall transmit to the Congress, not later than January 31 each year, a full and complete report with respect to practices regarding the observance of and respect for internationally recognized human rights in every foreign country. Each such report shall be prepared by the Assistant Secretary of State for Human Rights and Humanitarian Affairs. Wherever applicable, such reports shall include information on practices regarding coercion in population control, including coerced abortion and involuntary sterilization.

"(e) SPECIAL REPORTS.—Upon the request of the Committee on Foreign Relations of the Senate or the Committee on Foreign Affairs of the House of Representatives, the Secretary of State shall, within 30 days after receipt of such request, transmit to both committees a special report with respect to the country designated in such request. Any such report shall be prepared by the Assistant Secretary of State for Human Rights and Humanitarian Affairs. The report shall set forth—

"(1) all information, which has become available since submission of the last report under subsection (d), with respect to the matters described in subsections (f) (1) and (2);

"(2) the steps the United States has taken to—

"(A) promote respect for and observance of human rights in the country in question and discourage any practices which are inimical to internationally recognized human rights,

"(B) publicly or privately call attention to such practices, and

"(C) disassociate the United States, and any United States assistance or military sales provided for such country, from such practices;

"(3) such other information as the committee may request.

"(f) INFORMATION TO BE PROVIDED.—Each annual report under subsection (d), and each special report under subsection (e), shall include—

"(1) all information available about observance of and respect for human rights and fundamental freedom in the country in question, and

"(2) a detailed description of practices by the recipient government with respect to human rights and fundamental freedom, including information provided by appropriate organizations, including nongovernmental organizations.

"(g) DEFINITIONS.—For the purposes of this section—

"(1) the term 'assistance' means any assistance authorized by this Act; and

"(2) the term 'military sales' means—

"(A) sales of defense articles, defense services, and design and construction under the Defense Trade and Export Control Act; and

"(B) licenses with respect to the export of defense articles or defense services to or for the armed forces, police, intelligence, or other internal security forces of a foreign country under section 38 of the Defense Trade and Export Control Act.

"SEC. 4303. ANNUAL ALLOCATION REPORT.

"(a) REPORT ON ALLOCATIONS OF ASSISTANCE.—Not later than 30 days after the enactment of any law appropriating funds to carry out any provision of this Act, the President shall notify the Congress of—

"(1) each foreign country and international organization to which the United States Government intends to provide any portion of the funds under such law; and

"(2) the amount of funds under that law, by category of assistance, that the United States Government intends to provide to each such country or organization.

"(b) EXCEPTIONS.—Subsection (a) does not apply with respect to—

"(1) funds appropriated under section 1901 or section 1902 for operating expenses of the administering agency for title I; or

"(2) any law making continuing appropriations for a period of less than 90 days.

"(c) NONWAIVABILITY.—The requirement of subsection (a) may not be waived under the authority of section 4102.

"SEC. 4304. NOTIFICATION OF PROGRAM CHANGES.

"(a) INCREASED ASSISTANCE AND NEW PROGRAMS.—Unless the Committee on Foreign Affairs and the Committee on Appropriations of the House of Representatives and the Committee on Foreign Relations and the Committee on Appropriations of the Senate are notified at least 15 days in advance, funds appropriated for a fiscal year to carry out this Act may not be obligated for the following:

"(1) INCREASE IN ASSISTANCE LEVEL.—Any assistance under any provision of this Act—

"(A) for a country or international organization for which assistance under that provision was not justified in congressional presentation documents for that fiscal year, or

"(B) in excess of the amount allocated pursuant to section 4303 for that country or organization under that provision for that fiscal year.

"(2) NEW ACTIVITIES.—Any assistance for a program, project, or activity under any provision of this Act—

"(A) which was not justified in congressional presentation documents for that fiscal year; and

"(B) for which assistance was not furnished for the preceding fiscal year.

"(b) SIGNIFICANT CHANGES IN PURPOSE OF ASSISTANCE.—Unless the Committee on Foreign Affairs and the Committee on Appropriations of the House of Representatives and the Committee on Foreign Relations and the Committee on Appropriations of the Senate are notified at least 15 days in advance, funds appropriated for assistance under this Act may not be made available for a purpose that is significantly different from the purpose justified in congressional presentation documents.

"(c) CONGRESSIONAL PRESENTATION DOCUMENTS.—For purposes of this section, the term 'congressional presentation documents' means the annual congressional presentation documents for assistance under this Act or the justification documents accompanying a request for supplemental authorizations of appropriations or supplemental appropriations for assistance under this Act.

"(d) APPROPRIATIONS SUBJECT TO REQUIREMENTS.—Subsections (a) and (b) apply with respect to all funds appropriated for assistance under this Act (including narcotics control assistance) other than funds to carry out—

"(1) chapter 5 of title I (relating to the Overseas Private Investment Corporation and the Trade Development Agency),

"(2) section 1721 (relating to the trade credit insurance program for Central America);

"(3) section 1722 (relating to the housing and urban development guarantee program),

"(4) section 4103 (relating to contingencies involving nonmilitary assistance), or

"(5) programs of disaster relief and rehabilitation, including assistance programs under chapter 6 of title I (relating to international disaster assistance).

"(e) ADDITIONAL NOTIFICATION REQUIREMENTS.—The President shall notify the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives concerning any reprogramming of funds in the International Affairs Budget Function, the authorizations of appropriations for which are in their respective jurisdictions, to the same degree and with the same conditions as the President notifies the Committees on Appropriations of each House of Congress. The requirements of this subsection are in addition to, and not in lieu of, other notification requirements.

"SEC. 4305. QUARTERLY REPORTS ON OBLIGATIONS FOR DEVELOPMENT ASSISTANCE AND ECONOMIC SUPPORT ASSISTANCE.

"(a) QUARTERLY REPORTS.—At the end of each quarter of each fiscal year, the President shall submit to the committees specified in subsection (c) a report on the funds obligated during that quarter for development assistance and economic support assistance. These reports shall identify obligations by the beneficiary country, regional program, or international organization and by function.

"(b) CONSULTATIONS.—Within 30 days after the submission of each report pursuant to subsection (a), the administering agency for title I and the committees specified in subsection (c) shall consult with respect to the obligations for assistance reported for the preceding fiscal quarter. These consultations shall include, as necessary, discussions of the most informative and feasible manner of identifying obligations by function.

"(c) RECIPIENT COMMITTEES.—The committees referred to in subsections (a) and (b) are the Committee on Foreign Affairs and the Committee on Appropriations of the House of Representatives and the Committee on Foreign Relations and the Committee on Appropriations of the Senate.

"SEC. 4306. NOTICE OF EXERCISE OF CERTAIN SPECIAL AUTHORITIES.

"The President shall not exercise any special authority granted to him under section 2205(a) (relating to the special military assistance drawdown authority), section 2602(a)(2) (relating to the special peacekeeping operations drawdown authority), or section 4101 (relating to authority to transfer funds between accounts) unless the President, prior to the date on which such authority is exercised, notifies the Speaker of the House of Representatives and the Committee on Foreign Relations of the Senate in writing of—

"(1) the proposed exercise of that authority;

"(2) the section of this Act which provides the authority to be exercised; and

"(3) the justification for, and the extent of, the exercise of that authority.

"SEC. 4307. FURNISHING INFORMATION REQUESTED BY THE CONGRESS OR THE GAO.

"Funds made available to carry out this Act may not be used to carry out any provision of this Act in any country or with respect to any project or activity, after the expiration of the 35-day period which begins on the date the General Accounting Office or any committee of the Congress charged with considering legislation, appropriations, or expenditures under this Act, has delivered to the office or the head of any agency carrying out such provision, a written request that it be furnished any document, paper, communication, audit, review, finding, recommendation, report, or other material in its custody or control relating to the administration of such provision in such country or with respect to such project or activity, unless there has been furnished to the General Accounting Office or to such committee (as the case may be)—

"(1) the material so requested; or

"(2) a certification by the President that has forbidden the furnishing of such material pursuant to request and the President's reason for so doing.

"SEC. 4308. ANNUAL REPORTS REGARDING RECIPIENT EXPENDITURES FOR MILITARY PURPOSES.

"The President shall report annually to the Speaker of the House of Representatives and chairman of the Committee on Foreign Relations of the Senate on—

"(1) the percentage of the budget of each country receiving assistance under title I or chapter 2 or 3 of title VI that is devoted to military purposes; and

"(2) the degree to which that country is using its foreign exchange or other resources to acquire military equipment.

"SEC. 4309. ANNUAL REPORTS ON GIFTS RECEIVED.

"For each fiscal year, the President shall submit to the Congress a report with respect to—

"(1) money, funds, property, and services made available under section 5202(d); and

"(2) gifts accepted under section 25 of the State Department Basic Authorities Act of

1956 with respect to functions under this Act.

"SEC. 4310. REPORTS ON FOREIGN COUNTRIES THAT TAX ECONOMIC ASSISTANCE FUNDS FURNISHED TO PVOS AND NGOS.

"The Administrator for title I shall report to the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate whenever the Administrator finds that a foreign country requires a private voluntary organization or other nonprofit nongovernmental organization to pay taxes on any funds provided to that organization on grant basis under any economic assistance program under this Act.".

REQUEST FOR PERMISSION FOR MEMBER TO OFFER AMENDMENT TO TITLE III

The CHAIRMAN. For what purpose does the gentleman from New York [Mr. GILMAN] rise?

Does the gentleman from New York have an amendment to title IV?

Mr. GILMAN. Mr. Chairman, I have an amendment to title III, and I ask unanimous consent to return to title III?

The CHAIRMAN. Without objection, the gentleman is recognized to offer his amendment to title III. The Clerk will report the amendment.

Will the gentleman send his amendment to the desk?

Mr. GILMAN. Mr. Chairman, the amendment is at the desk, or it is on its way over.

Mr. FASCELL. Just a moment, Mr. Chairman.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

Mr. FASCELL. I do not know, Mr. Chairman. I do not even know what the request was.

The CHAIRMAN. Does the gentleman from Florida [Mr. FASCELL] reserve his right to object?

Mr. FASCELL. I certainly reserve my right to object, Mr. Chairman. I did not hear what the request was.

The CHAIRMAN. The gentleman from New York [Mr. GILMAN] will restate his unanimous-consent request.

Mr. GILMAN. Mr. Chairman, I made a request to come back to title III. The amendment is on its way to the floor.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

Mr. FASCELL. Mr. Chairman, we are past title III, are we not? We are on title IV?

The CHAIRMAN. The Chair will state that we are on title IV. It will take a unanimous-consent request to return to title III.

Is there objection to the request of the gentleman from New York?

Mr. FASCELL. Mr. Chairman, I have not seen the amendment. I do not know what the gentleman is talking about. I am sorry to say that I will have to say that I object.

The CHAIRMAN. Objection is heard.

Are there amendments to title IV?

□ 1820

AMENDMENT OFFERED BY MR. SMITH OF NEW JERSEY

Mr. SMITH of New Jersey. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. SMITH of New Jersey: Page 319, after line 2, insert the following:

"(4) made available to any organization or program which (as determined by the President) supports, or participates in the management of, a program of coercive abortion or involuntary sterilization; or

"(5) made available to any foreign nongovernmental organization which performs or actively promotes abortion as a method of family planning.

Conforming amendments:

Page 318, line 15, strike out "used"; line 16, after "(1)" insert "used"; line 19, after "(2)" insert "used"; line 22, strike out "or"; line 23, after "(3)" insert "used"; and page 319, line 2, strike out the period and insert in lieu thereof a semicolon.

Mr. SMITH of New Jersey. Mr. Chairman, the amendment that I along with the gentleman from Illinois [Mr. HYDE] are offering today codifies current U.S. foreign policy as it relates to abortion and the use of coercion and bullying tactics in population control programs throughout the world.

When the full House last voted on these policies in 1985, a substantial majority voted to approve them. Repeated efforts by pro-abortion Members to repeal these important provisions have failed.

If anything, the case for perpetuating these humane prolife, prohuman rights policies is more compelling today than ever before. Acceptance of our amendment tangibly demonstrates that the Congress stands on the side of the oppressed, the weak, and the vulnerable. And that is as it should be.

Mr. Chairman, it should be abundantly clear to all that the People's Republic of China, through its one-child-per-family policy, continues to employ systematic coercion and brutality in achieving population control. Human life is incredibly cheap to the Deng Xiaopings of this world and babies—especially unborn children—are prime candidates for elimination and abuse in the cause of population control. The same iron fist that brought the prodemocracy students to their knees in Tiananmen Square has, since 1979, been using forced abortion, coercive sterilization and mandatory IUD insertion to control the masses. The simple fact of the matter is the people of China have no rights whatsoever concerning family planning matters. A couple's legitimate desire for a family is of no concern or consequence to the Chinese population planners and their cheerleaders in the population control community.

The result of this cruel and inhumane assault on the family has been nearly 110 million children aborted since 1979—a number equal to the combined population of England and France—and most of these abortions are the result of some degree of government coercion. The result has also been millions of women and men sterilized under government compulsion or threat of punishment and still millions more women who have undergone mandatory IUD insertions.

There's no pretense of choice or freedom in the PRC. The government demands, bullies, and orders—the people obey or are punished.

In their exhaustive 1988 study on population trends in the PRC, China experts, Judith Banister and Karen Hardee-Cleaveland of the U.S. Bureau of the Census conclude: "Today, Chinese couples still are not given a choice about whether they practice family planning, how many children they have, when they have the allowed birth or births, whether or not to sign family planning contracts, or what form of birth control they will use."

Mr. Chairman, I remain deeply disappointed that the international family planning community, including the UN Population Fund [UNFPA] and the International Planned Parenthood Federation of London [IPPF], have not condemned these crimes of forced abortion, infanticide, and mandatory sterilization. I am appalled that these groups have actually applauded China's brutal program which to me is outright obscene and totally indefensible. History indeed will be harsh on those who engaged in one of the worst coverups in history, and that includes the UNFPA and IPPF and other apologists in the population control community.

Mr. Chairman, notwithstanding the compelling evidence of coercion and forced abortion in China, the UNFPA continues—as it has consistently in this decade with its population awards and stream of accolades—to laud the program. According to the Foreign Broadcast Information Service [FBIS], in April the China director of UNFPA called the PRC population program "the most successful in the world." Sure it's successful in the same way the PRC showed itself to be adept at crowd control in Tiananmen Square. I'm sure the millions of Chinese victims would object strongly to considering this tyranny a "success."

These recent statements by the UNFPA China director are part of an ongoing pattern of UNFPA officials lavishing praise on the China program. In 1983, a committee chaired by UNFPA Executive Director Fafael Salas presented the Chinese family planning minister, Qian Xinzhong, with an award for "the most outstanding contribution to the awareness of population questions." A committee member, Nobel Laureate economist,

Theodore W. Schultz, resigned in protest.

In his book "The Crowded Earth" (Norton, 1984)—which was funded in part by a grant from the UNFPA—former New York Times correspondent Pranay Gupte reported on a subsequent interview with Qian Xinzhong, who "immediately launched into an appreciation of what the United Nations award meant to him and to the Chinese. The award had, Qian said, put the imprimatur of the world body on China's family-planning efforts" (p. 156).

In January 1985, the Washington Post ran a three-page expose on the coercion in China's population program. Following this series and other reliable news accounts, the UNFPA's deep involvement in China's program was subjected to critical scrutiny by the United States Congress. The response of UNFPA Executive Director, Rafael Salas, was to travel to China to reassure Chinese officials of the agency's steadfast support. "China should be proud of the achievements it scored in family planning," the April 26, 1985, edition of China Daily quoted Salas as saying.

In a Capitol Hill speech on April 8, 1986, Salas again lauded the Chinese program as "successful." His only critical comments were directed at the U.S. Congress:

> You have to leave the countries to decide for themselves. You are in no position, morally or culturally, to dictate to others what they want! It is the leaders of those countries that know best . . . So do not intervene and place your own moral conditions on other countries. That goes as well for China . . . leave the government to do that for themselves . . .
>
> Each country has its view of what really is free, a free choice . . . We have had no reports, really, of violations in this respect. And if you refer to the case of China, I am sure that the Chinese themselves will say that, within their cultural norms, they are not at all coercive. Maybe from certain Western standards, these might not be totally acceptable. But then, each country must determine that for themselves.

As recently as May 24 of this year, in a speech at the Cannon House Office Building, UNFPA's current Executive Director Nafis Sadik said the Chinese Government is running "a totally voluntary program."

That is unmitigated nonsense. That is coverup.

And let us not kid ourselves that things are easing up in China as some apologists contend. The evidence suggests coercion is actually on the rise. Of course, the Communists in Beijing deny all of this. Just as they denied the massacre in Tiananmen Square and the killings and purges in Tibet. The big lie repeated often enough persuades the gullible and provides plausible cover for the apologist. We should not be fooled, however, nor can we be an accessory to these crimes.

Recently, Dr. John S. Aird, former senior research specialist on China at the U.S. Bureau of the Census, completed an extensive review of China's population control program. He reports that "the trend toward greater compulsion continued throughout 1988 and into 1989." While noting that local compliance with central directives did falter seriously after 1983, he points out that "the central authorities have renewed efforts to force local authorities to resume the enforcement of the program. The coercion issue is still very much alive," he reports.

On Sunday, February 16, the Washington Post carried a report by Blake Kerr which was entitled, "Witness to China's Shame." Dr. Kerr, a physician involved in international human rights activities, recounted numerous interviews with "Tibetan nurses and doctors who had worked in Chinese and Tibetan hospitals, monks and lay Tibetans * * * to develop a sense of how the Chinese birth-control policy is being applied in Tibet." After detailing incidents of coercive abortions and sterilizations and grisly reports of infanticide, Dr. Kerr concluded that "these accounts are both widespread and consistent with accounts from other travelers."

Moreover, the Bush administration has again concluded that the PRC program remains coercive. On June 7, the Agency for International Development announced the United States Government's opposition to a proposal to extend the UNFPA's involvement in China's population control program for an additional 5 years, AID also reported that it was allocating to other family planning agencies $5 million that had originally been budgeted for the UNFPA.

Funds budgeted for UNFPA were first shifted in 1985 after a determination that it participated in the management of a program of coercive abortion and involuntary sterilization through its assistance to the population program of the People's Republic of China. That determination was sustained after a challenge in the Federal courts.

The amendment I am offering says the United States recognizes and respects the integrity of the family in a meaningful way and demands that authentic voluntarism be preserved in family planning programs. The amendment continues our policy of denying funds to any organization or program which, as determined by the President, supports, or participates in the management of, a program of coercive abortion or involuntary sterilization.

Mr. Chairman, the amendment also makes permanent the operative language of the so-called Mexico City policy. First announced at a population conference in Mexico City in 1984, the policy prohibits funds to any foreign nongovernment organization that performs or promotes abortion as a method of family planning. The rationale behind this enlightened policy is to separate abortion—the killing of unborn childen—from family planning.

Over the years, several attempts have been made to reverse this policy—all have failed. In 1985, for example, an attempt was made to overturn the Mexico City policy on this floor. The House, instead, gave it a strong vote of endorsement.

I recall so well that some Members argued during the debates in 1985 that family planning groups would not accept the prolife conditions and would subsequently lose their U.S. AID funding.

That prediction, as I and others suggested at the time, has turned out to be demonstrably false.

Today more than 300 subgrantees are conducting approximately 700 family planning projects in about 70 nations under the terms of the Mexico City policy. That is to say, there are about 300 recipients of AID funds, including several planned parenthood organizations, who have agreed to provide contraceptive services without providing abortion or lobbying or campaigning for the legalization of abortion.

Let me state clearly for the record that the President has the authority to continue these policies, including the Mexico City policy, absent my amendment. As a matter of fact, he may even exceed these provisions. This amendment only intends to provide in law that which is minimally acceptable.

Mr. Chairman, I ask that the following additional documentation—a mere sampling of that which is available on the PRC's using coercion, be included in the RECORD.

COERCIVE ABORTION IN CHINA AND TIBET

". . . The villagers were informed that all women had to report to the tent for abortions or sterilizations or there would be grave consequences . . . The women who refused were taken by force, operated on, and no medical care was given. Women nine months pregnant had their babies taken out . . . We saw many girls crying, heard their screams as they waited for their turn to go into the tent, and saw the growing pile of fetuses build outside the tent, which smelled horrible . . . Since 1987 there has been a tremendous increase in the number and frequency of the teams that move from town to town, and to nomad areas." "Witness to China's Shame", *Washington Post*, Blake Kerr, February 26, 1989, p. C1.

". . . During 1987 and 1988 central demands for strict enforcement of family planning requirements escalated sharply and the escalations have continued into 1989. New measures have been devised to bring pressure on the whole administrative chain of command down to the grassroots level . . . Tactics once condemned as coercive are once again advocated. Mandatory IUD insertions, sterilizations and abortions

continue." "Is China's Birth Control Program Still Coercive?", John S. Aird (former Senior Research Specialist on China at the U.S. Bureau of the Census), February 1989, p. 196."

". . . Many gynecologists and nurses on the mainland are forced to kill the babies against their conscience. Sometimes they have to kill several tens of them in a day. It is a great pressure on them mentally and psychlogically. Several gynecologists whom this writer is acquainted with often had nightmares because of this. Some laboratory technicians, because they had to dissect the bodies for organs to be used as specimens and occasionally when the babies were brought in from the hospitals still crying and breathing and had to be put to death by the same methods [injecting alcohol into the brain, injecting an overdose of ether, or stuffing gauze into the mouth to stop breathing] were also under mental and psychological stress." "Live Babies Are Put to Death Under Communist Chinese One-Child Policy", *Washington China Post*, Ge Hua, January 27, 1989, p. 11.

". . . No government program has cut so deeply into Chinese society nor inspired such strong resistance in 25 years of Communist rule as the struggle to trim China's population . . . Publicly, the claim to rely on the powers of persuasion and education, exercising a policy of voluntary consent . . . But a closer and longer look reveals a very different picture. China, to be sure, is curbing population growth, but its success is rooted in widespread coercion, mass abortion and intrusion by the state into the most intimate of human affairs." "Abortion Policy Tears at China's Society", *Washington Post*, January 7, 1985, Michael Weisskopf, p. 1.

". . . The Chinese program is at present actually becoming more coercive, not because of local deviations from central policies but as a direct, inevitable, and intentional consequence of those policies. Foreign organizations and individuals that indiscriminately laud the Chinese program or provide financial or technical assistance for any aspect of it place themselves in the position of supporting the program as a whole, including its violations of human rights." "Is China's Birth Control Program Still Coercive?", John S. Aird (former Senior Research Specialist on China at the U.S. Bureau of the Census), February 1989, pgs. 106–107.

". . . China's Tibetan birth control policy includes forced abortion, sterilization, and even infanticide . . . A Tibetan woman who desires a second child must wait for four years before becoming pregnant again. Women who violate these rules are forced to have an abortion, often accompanied by sterilization and economic sanctions." "Witness to China's Shame", *Washington Post*, Blake Kerr, February 26, 1989, p. c4.

". . . We should justly and forcefully say that we must punish those who have turned a deaf ear to dissuasion from having additional children and from unscrupulously having additional children and that suitable coercion and control should be implemented in China's family planning . . . Only if the country adopts effective and compulsory policies and at the same time, carries out propaganda and education, can the consciousness of the society be aroused." "There is No Route of Retreat", *JINGJI RIBAO* (Chinese National Economic Newspaper, transcribed by the Foreign Broadcast Information Service), Xie Zhenjiang, January 24, 1989, p. 3.

". . . 'My wife (Ping Hong) is seven months pregnant,' Li told me. 'Even though we are living in the United States, the Chinese government has been trying to force us to return to China for an abortion. We hope that you can help us to stay in the United States, at least until our baby is born' . . . (When Ping Hong failed to respond to the abortion directive, she received a very blunt letter from the Population Control Office at her place of employment in China. The letter in part reads:) . . . The punishment for this kind of violation [having a second child] is very severe, and we strongly advise you not to risk it. If you cannot have this abortion done abroad, then the factory director orders you to return to China immediately. Any further delays, and you will be punished according to the law. There is nothing ambiguous about our order! Make up your mind immediately! To your health!" "The Long Arm of 'One-Child' China", *Washington Post*, Steven W. Mosher, April 10, 1988.

". . . The new Chinese society is not merely displacing Tibet's ancient culture. It is actively destroying it . . . The harsh face of Chinese rule includes thousands of forced abortions and sterilizations of Tibetan women each year. The common method for both procedures . . . is by injection. In Chamdo, Tibet's third largest city, there have been numerous reports of fetuses thrown out in the storm drains and garbage bins of the People's Hospital. In Lhasa, many Tibetan women have heard their newborns cry, only to be told later that the infants died at birth." "The Rape of Tibet", *Washington Post*, John F. Avedon, March 29, 1987, p. C 7.

". . . Some of the provincial governments appear to be unconcerned with the detrimental effects that forced abortion has on women. All that seems to matter, if the press is any guide, is keeping down the number of births each year in the province through any means." *China's Changing Population*, Stanford University Press, Judith Banister, 1987, p. 207.

Mr. FASCELL. Mr. Chairman, I move to strike the requisite number of words just to say that I know the gentleman from New Jersey [Mr. SMITH] is very serious and emotional on this and thinks he has got a victory in his back pocket. He may very well have, but, as my colleagues know, this has been a longstanding matter of considerable dispute.

There has never been, as far as I know, ever any intention or effort until right this second to write that policy decision into law. I do not know any reason for it except an excess determination to make it essential, but we never debated this in the committee. The amendment was never offered, as far as I know, and, as I say, it may be entirely proper.

Mr. Chairman, this is not an amendment that I want to support frankly, certainly not as a legislative mandate with regard to a policy matter.

Having said that, it is all I want to say on the subject because this House has debated this issue a hundred times, as far as I know.

Mr. KOSTMAYER. Mr. Chairman, will the gentleman yield?

Mr. FASCELL. I yield to the gentleman from Pennsylvania.

Mr. KOSTMAYER. Mr. Chairman, if I could have the attention of the gentleman from New Jersey [Mr. SMITH], my friend, to ask him if he would object to us adding the words on line seven, "to the extent that this is consistent with U.S. law."

Mr. SMITH of New Jersey. Mr. Chairman, will the gentleman yield?

Mr. KOSTMAYER. I yield to the gentleman from New Jersey.

Mr. SMITH of New Jersey. Mr. Chairman, I would object, and I would say that because it is my understanding that that language would make or reverse current policy, so while it seems like a friendly amendment, the result of that would be the reverse policy, and I think this is a very clear-cut offering of an amendment that is current policy. We are not suggesting any changes, and I would hope again this body would approve that.

Mr. FASCELL. Mr. Chairman, I can understand the desire of the gentleman from New Jersey [Mr. SMITH] to write into policy a policy which was supported and maintained by the last administration for 8 years and, as far as I know, will be supported by this administration. But the gentleman has a right to his own feelings obviously, and, therefore, he wants to make sure it is canonized.

□ 1830

AMENDMENT OFFERED BY MR. KOSTMAYER TO THE AMENDMENT OFFERED BY MR. SMITH OF NEW JERSEY

Mr. KOSTMAYER. Mr. Chairman, I offer an amendment to the amendment.

The Clerk read as follows:

Amendment offered by Mr. KOSTMAYER to the amendment offered by Mr. SMITH of New Jersey: On line 7 add "to the extent that this is consistent with U.S. law."

Mr. KOSTMAYER. Mr. Chairman, what the gentleman from New Jersey has said is that we are not going to provide any funds to organizations, such as the International Planned Parenthood Federation, who use not those funds which we provide, because there are already strong restrictions preventing those funds from being used for abortion or for the promotion of abortion in any way, but any organization which receives those funds cannot use its own funds collected from separate sources which have nothing to do with those funds received from the United States to perform abortions under any circumstances.

The gentleman is trying to put this policy, which has cut off the UN FTA, cut off IPPF, into law.

Now, what we are saying is that if this doctrine is going to be applied to American foreign policy, it ought to be applied to American domestic policy as

well, and that is what the amendment says.

I hope that the gentleman will support it. I do not know why the gentleman would oppose an amendment which would establish this kind of consistency on groups to which we provide assistance overseas and to which we provide domestic assistance here at home.

Mr. SMITH of New Jersey. Mr. Chairman, will the gentleman yield?

Mr. KOSTMAYER. Of course, I yield to my friend, the gentleman from New Jersey.

Mr. SMITH of New Jersey. Will the result of the gentleman's amendment be to reverse the current policy or to alter that policy?

Mr. KOSTMAYER. The current policy is in effect, as the gentleman knows, because the Bush administration, like its predecessor, has made this policy. This is American policy.

The gentleman has won on this issue. Funds have been cut off to the UN FTA and to the International Planned Parenthood Federation as well, so the gentleman is victorious in his policy. We just want that policy to be consistent with American law.

Mr. SMITH of New Jersey. Again, this language sounds good. It has some surface appeal. Will the result of it be to alter or to reverse the current policy as it exists today?

Mr. KOSTMAYER. Well——

Mr. SMITH of New Jersey. Yes or no?

Mr. KOSTMAYER. Would the gentleman repeat his question? I am sorry. I did not hear it.

Mr. SMITH of New Jersey. Will the result of the gentleman's language result in any alteration of the current policy as it exists today?

Mr. KOSTMAYER. No, I do not believe so. This policy is the administration's policy.

Mr. SMITH of New Jersey. Then I would suggest the gentleman's amendment is superfluous, or there is something disingenuous about it that might not be known to the gentleman.

Mr. KOSTMAYER. The gentleman from New Jersey can suggest anything he likes. I move the amendment.

Mr. SMITH of New Jersey. Mr. Chairman I rise in opposition to the amendment.

Mr. Chairman, first of all, in asking the gentleman from Pennsylvania what the result would be, he told us that he does not think it will change the policy. I have to be at least suspect as to the wording when the gentleman is a notorious ardent foe of that particular Mexico City policy, so I would suggest there is something here that does not meet the eye, and I would hope that the membership would vote down this amendment, quite frankly, because its net result is not known.

To be consistent with U.S. law—will that lead to additional litigation now by several of the population groups because they feel that somehow there has to be an equality between how we treat foreign nongovernmental organizations and domestics? We do not know, so those Members who are pro-life, who believe that abortion is the taking of human life, are well-advised to vote no on the Kostmayer substitute and then aye on the underlying amendment.

Mr. DORNAN of California. Mr. Chairman, will the gentleman yield?

Mr. SMITH of New Jersey. I am happy to yield to the gentleman from California.

Mr. DORNAN of California. Mr. Chairman, I thank the gentleman for yielding to me.

Mr. Chairman, I do not see the gentleman from Illinois [Mr. HYDE] on the floor, so let me as he is wont to do so often and so effectively to clarify an issue here.

I believe we are going to end up with a vote on this.

To my distinguished chairman of the Committee on Foreign Affairs, I admit to being guilty to having that excess determination to canonize this into law, the Smith amendment, so I would say quite simply, loudly and clearly, the pro-life vote is to defeat the Kostmayer amendment.

The pro-abortion, pro-abortion on demand or pro-federal funding for abortion or pro-population control or pro-playing God on Earth by mankind, is to vote for the Kostmayer amendment.

Mr. KOSTMAYER. Mr. Chairman, will the gentleman yield to me?

Mr. SMITH of New Jersey. I yield to the gentleman from Pennsylvania.

Mr. KOSTMAYER. No American taxpayer dollars are used for abortion anywhere in the world. That is the law. The language is tough, it is fundamental, and it is restrictive.

Mr. SMITH of New Jersey. Mr. Chairman, I reclaim my time. That is not the issue before us.

Mr. WALKER. Mr. Chairman, will the gentleman yield to me?

Mr. SMITH of New Jersey. I yield to the gentleman from Pennsylvania.

Mr. WALKER. Mr. Chairman, if I read the amendment of the gentleman from Pennsylvania correctly, he says to the extent this is consistent with U.S. law.

I think the interpretation that could be put on that is that it would have to be to the extent that is consistent with the United States Code. U.S. law is what is codified under the law of the land.

Now, it seems to me that we run into a problem there because as I understand it, we are now operating under executive order, under a regulation which may not be interpreted under this as being specifically U.S. law or United States Code.

Can the gentleman from Pennsylvania clarify for us in any way whether or not his language does in fact mean that it is the law as reflected in the code or whether or not this is law as reflected by Executive order and/or by regulation?

Mr. KOSTMAYER. Mr. Chairman, if the gentleman will yield further, that question remains to be answered. I think domestic policy and foreign policy ought to be consistent. That is all my amendment does. There are strong restrictions already in effect.

Mr. SMITH of New Jersey. Mr. Chairman, I reclaim my time again.

The gentleman who is offering the amendment is uncertain as to its net effect. For that reason, if for no other, not to mention that I believe it could lead to a reversal of policy, Members should reject this amendment. When the operator of the amendment does not know what the result is going to be, I think that raises serious questions about the amendment. I would hope that the membership would vote down the Kostmayer amendment and vote in favor of the underlying amendment, the one that the gentleman from Illinois [Mr. HYDE] and I have offered.

Mr. HYDE. Mr. Chairman, will the gentleman yield?

Mr. SMITH of New Jersey. I am happy to yield to the gentleman from Illinois.

Mr. HYDE. Mr. Chairman, I thank the gentleman for yielding to me.

As I understand, the gentleman is simply seeking to codify what is the policy of our Government and this administration, namely, not to provide taxpayer funds to any agency or organization that councils, refers, or performs abortions; is that correct?

Mr. SMITH of New Jersey. The gentleman is correct, or lobbies in developing countries for abortion.

Mr. HYDE. In developing countries and elsewhere?

Mr. SMITH of New Jersey. That is correct.

Mr. HYDE. Well, this is simply making into law what is the policy of the Government, and I think that is a sound policy, that we should be in favor of human rights and human dignity and exterminating unborn children or contributing to it in any manner, shape, or form, ought to be anathema to our Government and certainly to our taxpayers, so I support the gentleman.

I ask that the amendment of the gentleman from Pennsylvania, which is confusing, incoherent, meaningless, and undoubtedly designed to muddy the waters, and I say that with affection and respect for the author thereof, I hope his amendment is resoundingly defeated and the amendment of the gentleman from New Jersey [Mr. SMITH] is resoundingly affirmed.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Pennsylvania [Mr. KOSTMAYER] to the amendment offered by the gentleman from New Jersey [Mr. SMITH].

The question was taken; and the Chairman announced that the ayes appeared to have it.

RECORDED VOTE

Mr. SMITH of New Jersey. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 163, noes 229, not voting 40, as follows:

[Roll No. 105]

AYES—163

Ackerman	Glickman	Panetta
Akaka	Gonzalez	Payne (NJ)
Alexander	Gordon	Payne (VA)
Anderson	Gray	Pease
Andrews	Green	Pelosi
Anthony	Guarini	Pickett
Aspin	Hayes (IL)	Pickle
Atkins	Herger	Porter
AuCoin	Hoagland	Price
Beilenson	Horton	Rangel
Bennett	Houghton	Ridge
Berman	Hoyer	Rose
Boehlert	Hughes	Roukema
Bosco	Jacobs	Roybal
Boxer	Johnson (CT)	Sabo
Brennan	Johnston	Saiki
Brooks	Jones (GA)	Savage
Brown (CA)	Jones (NC)	Sawyer
Bustamante	Jontz	Scheuer
Campbell (CA)	Kastenmeier	Schiff
Campbell (CO)	Kennedy	Schneider
Cardin	Kennelly	Schroeder
Carper	Kolbe	Schumer
Carr	Kostmayer	Shays
Chandler	Lantos	Sisisky
Clarke	Lehman (CA)	Skaggs
Clay	Lehman (FL)	Slaughter (NY)
Coleman (TX)	Leland	Smith (FL)
Conyers	Levin (MI)	Smith (IA)
Cooper	Levine (CA)	Smith (VT)
Coughlin	Lewis (GA)	Snowe
Coyne	Long	Solarz
Crockett	Lowey (NY)	Stark
DeFazio	Machtley	Stokes
Dellums	Markey	Studds
Dicks	Martin (IL)	Swift
Downey	Matsui	Synar
Dwyer	McCurdy	Torricelli
Eckart	McDermott	Towns
Edwards (CA)	McHugh	Traficant
Engel	McMillen (MD)	Udall
Espy	Meyers	Unsoeld
Evans	Mfume	Valentine
Fascell	Miller (CA)	Visclosky
Fazio	Miller (WA)	Walgren
Feighan	Mineta	Waxman
Foglietta	Moody	Weiss
Ford (MI)	Morella	Wheat
Frank	Morrison (CT)	Williams
Frost	Morrison (WA)	Wilson
Gallo	Mrazek	Wise
Gejdenson	Neal (NC)	Wolpe
Gephardt	Olin	Wyden
Gibbons	Owens (NY)	
Gilman	Owens (UT)	

NOES—229

Annunzio	Bliley	Clement
Applegate	Boggs	Clinger
Archer	Bonior	Coble
Baker	Borski	Combest
Ballenger	Broomfield	Conte
Barnard	Browder	Costello
Bartlett	Brown (CO)	Courter
Barton	Bruce	Cox
Bateman	Buechner	Craig
Bentley	Bunning	Crane
Bereuter	Burton	Dannemeyer
Bevill	Byron	Darden
Bilbray	Callahan	Davis
Bilirakis	Chapman	de la Garza
DeLay	Laughlin	Roth
DeWine	Lent	Rowland (CT)
Dickinson	Lewis (CA)	Rowland (GA)
Dingell	Lewis (FL)	Sangmeister
Donnelly	Lightfoot	Sarpalius
Dorgan (ND)	Livingston	Saxton
Dornan (CA)	Lloyd	Schaefer
Douglas	Lowery (CA)	Schuette
Dreier	Luken, Thomas	Schulze
Duncan	Lukens, Donald	Sensenbrenner
Durbin	Madigan	Shaw
Dyson	Manton	Shumway
Edwards (OK)	Martin (NY)	Shuster
English	Mavroules	Sikorski
Erdreich	Mazzoli	Skeen
Fawell	McCloskey	Skelton
Fields	McCollum	Slattery
Fish	McCrery	Slaughter (VA)
Flake	McEwen	Smith (MS)
Flippo	McGrath	Smith (NE)
Gallegly	McMillan (NC)	Smith (NJ)
Gaydos	McNulty	Smith (TX)
Gekas	Michel	Smith, Denny (OR)
Gillmor	Miller (OH)	Smith, Robert (NH)
Gingrich	Moakley	Smith, Robert (OR)
Goodling	Molinari	Solomon
Goss	Mollohan	Spence
Gradison	Montgomery	Spratt
Grandy	Moorhead	Staggers
Grant	Murtha	Stallings
Gunderson	Natcher	Stangeland
Hall (OH)	Neal (MA)	Stearns
Hall (TX)	Nelson	Stenholm
Hamilton	Nielson	Stump
Hammerschmidt	Nowak	Sundquist
Hancock	Oakar	Tallon
Harris	Oberstar	Tanner
Hastert	Ortiz	Tauke
Hayes (LA)	Oxley	Tauzin
Hefley	Packard	Thomas (GA)
Hefner	Pallone	Thomas (WY)
Henry	Parker	Traxler
Hertel	Pashayan	Upton
Hiler	Patterson	Vander Jagt
Hochbrueckner	Paxon	Vento
Holloway	Penny	Volkmer
Hopkins	Perkins	Vucanovich
Hubbard	Petri	Walker
Hunter	Poshard	Walsh
Hutto	Pursell	Watkins
Hyde	Rahall	Weber
Inhofe	Ravenel	Weldon
James	Ray	Whittaker
Jenkins	Regula	Whitten
Johnson (SD)	Rhodes	Wolf
Kanjorski	Richardson	Wylie
Kaptur	Rinaldo	Yatron
Kasich	Ritter	Young (AK)
Kildee	Roberts	Young (FL)
Kleczka	Robinson	
Kyl	Roe	
LaFalce	Rogers	
Lagomarsino	Rohrabacher	
Lancaster	Rostenkowski	

NOT VOTING—40

Armey	Garcia	Murphy
Bates	Hansen	Myers
Boucher	Hatcher	Nagle
Bryant	Hawkins	Obey
Coleman (MO)	Huckaby	Parris
Collins	Ireland	Quillen
Derrick	Kolter	Russo
Dixon	Leach (IA)	Sharp
Dymally	Leath (TX)	Thomas (CA)
Early	Lipinski	Torres
Emerson	Marlenee	Wright
Florio	Martinez	Yates
Ford (TN)	McCandless	
Frenzel	McDade	

□ 1850

The Clerk announced the following pair:

On this vote:

Mrs. Collins for, with Mr. Armey against.

Messrs. HEFNER, ENGLISH, TRAXLER, WATKINS, SPRATT, DONNELLY, and CLEMENT changed their vote from "aye" to "no."

So the amendment to the amendment was rejected.

The result of the vote was announced as above recorded.

□ 1900

The CHAIRMAN. The question is on the amendment offered by the gentleman from New Jersey [Mr. SMITH].

The amendment was agreed to.

The CHAIRMAN. Are there further amendments to title IV?

MODIFICATION TO THE AMENDMENT OFFERED BY MR. BERMAN

Mr. BERMAN. Mr. Chairman, I ask unanimous consent that the amendment that I earlier offered be modified with the language which I have submitted to the Clerk.

The CHAIRMAN. The Clerk will report the modification.

The Clerk read as follows:

Modification to the amendment offered by Mr. BERMAN: In lieu of the matter contained in the amendment: Page 63, line 6 strike out $10,000,000 and insert $25,000,000, and on line 22 strike out "or" and after line 22 insert the following:

"(3) which is a party to the Camp David Accords; or

Page 63, line 23, strike out "(3)" and insert in lieu thereof "(4)"; and page 64, line 7, strike out "(3)" and insert in lieu thereof "(4)".

Mr. BERMAN (during the reading). Mr. Chairman, I ask unanimous consent that the modification be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

Mr. WALKER. Mr. Chairman, reserving the right to object, before we allow amendments to be modified by unanimous consent, I think it would be worthwhile for the House to hear what the gentleman is doing in terms of the modification so we have some understanding of the process.

Mr. BERMAN. Mr. Chairman, will the gentleman yield?

Mr. WALKER. Further reserving the right to object, Mr. Chairman, I yield to the gentleman from California.

Mr. BERMAN. I thank the gentleman for yielding.

Mr. Chairman, I am happy to take this opportunity to explain the modification: Earlier I offered an amendment relating to the cargo preference issue to exempt countries below $25 million of assistance and Camp David countries from the provisions added in the Committee on Foreign Affairs and that were before us.

The Clerk read an amendment I had submitted earlier that did not have the agreement of the proponents of the cargo preference language instead of the language which I had intended to offer and which I explained to the House at the time and which passed unanimously.

This simply rectifies that error.

Mr. WALKER. Mr. Chairman, further reserving the right to object, I understand what the gentleman is doing. Can the gentleman explain the difference between the two versions?

Mr. BERMAN. Yes. The language that the Clerk read, an earlier amendment that I had proposed but never submitted, would have exempted all countries below the poverty line established by the International Development Association which excluded nearly all of the recipient countries of cash ESF. That was far beyond the agreement that Mr. TORRICELLI and I contemplated when we agreed to a compromise proposal.

Mr. WALKER. So the difference is that you are now saying instead of that language you are substituting the $25 million language.

Mr. BERMAN. The $25 million language and the Camp David language.

Mr. WALKER. Mr. Chairman, I withdraw my objection of reservation.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

The CHAIRMAN. The amendment is modified.

Mr. FASCELL. Mr. Chairman, I move to strike the last word simply to state that we have two amendments pending to this title which we are prepared to accept with the understanding that there would be no request for a call of the roll. Mr. Chairman, that would complete the work on title IV, and we would then designate the next title and rise.

The CHAIRMAN. Are there further amendments to title IV?

AMENDMENTS OFFERED BY MR. SOLOMON

Mr. SOLOMON. Mr. Chairman, I offer two amendments and I ask unanimous consent that the two amendments be considered en bloc, which I understand is agreeable, and that they be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

There was no objection.

The text of the amendments is as follows:

Amendments en bloc offered by Mr. SOLOMON: Page 315, after line 5, add the following new paragraph:

"(4) INITIAL DESIGNATIONS.—The following countries shall be deemed to have been so designated by the President as of the effective date of this Section, and the President is not required to notify the Congress of such designations of these countries:

Czechoslovak Socialist Republic,
Democratic People's Republic of Korea,
Estonia,
German Democratic Republic,
Hungarian People's Republic,
Latvia,
Lithuania,
Mongolian People's Republic,
People's Democratic Republic of Ethiopia,
People's Democratic Republic of Yemen,
People's Republic of Albania,
People's Republic of Angola,
People's Republic of Bulgaria,
People's Republic of China,
People's Republic of Kampuchea,
Polish People's Republic,
Republic of Afghanistan,
Republic of Cuba,
Republic of Nicaragua,
Socialist Federal Republic of Yugoslavia,
Socialist Republic of Romania,
Socialist Republic of Vietnam,
Tibet,
Union of Soviet Socialist Republic (including its captive constituents republics).".

Page 315, after line 5, add the following new paragraph:

"(4) REPORTING REQUIREMENT.—Whenever a country on the communist country list is receiving humanitarian assistance pursuant to the provision contained in subsection (b)(1) of this Section, the President shall report to Congress every three months for as long as such assistance is being provided on what steps the government of the recipient country is taking in order to alleviate the conditions that make such assistance necessary.".

Mr. SOLOMON. I thank the chairman. I thank my colleagues.

I will be as brief as possible.

Mr. Chairman, when the core legislation governing foreign assistance was rewritten in H.R. 2655, for some reason the Communist countries list which exists in current law was dropped. The amendment I am now offering would serve to reinstate that list—to put it back into the core legislation.

The Communist countries list, which appeared in section 620(f) of the Foreign Assistance Act of 1961, was a list maintained by Congress of those countries that should be denied foreign assistance because they are Communist. Under this new rewrite of the core legislation, the Communist countries list is to be kept by the President, and he will have the discretion to move countries on or off at will.

Why it should be that something which has been written into law, and which has also been the traditional preserve of Congress, should now be made a private affair and turned over to the executive branch is a mystery to many of us. And I must add that the committee report accompanying H.R. 2655 doesn't shed any light on the subject either.

But the reason why this issue is important is not a mystery. As much as it pains me to say it as a Republican, it was the Reagan administration in the early 1980's which launched an active effort to take China off the list and to set up a foreign aid program there.

Fortunately, in this instance Congress resisted the administration, and the whole idea eventually came to naught. But what a monstrous mistake would have been made if we hadn't.

I will not press the point, Mr. Chairman, but I do believe the recent events in China should teach us not to get too carried away with optimistic expectations about where all of the ferment in the Communist world is leading up to. The fact remains that Gorbachev is a dictator by every conceivable definition of that word, and not a single Communist party in power anywhere has yet given up that power—unless, of course, they have to share it with the military in order to maintain order.

And so a reinstatement of the Communist countries would, I believe, put America on the side of skepticism, which, quite frankly, is the only safe place we can be right now.

I would just conclude by saying that the Communist countries list would be expanded to include South Yemen, Ethiopia, Angola, Cambodia, Afghanistan, and Nicaragua.

Mr. Chairman, this amendment is, I believe, noncontroversial. When I offered the same language to the foreign aid bill in 1987, the committee accepted it. Essentially what it says is that whenever our country is providing humanitarian assistance to a Communist country, to which normal foreign aid would be prohibited, the President shall report to Congress every 3 months on what steps the government of the recipient country is taking to alleviate the conditions that make the aid necessary.

It is no secret to anybody that natural calamities in Communist countries are usually exploited for political purposes, and this amendment seeks to illuminate that practice.

The most telling recent example is, of course, Ethiopia. Since 1985, the free world has poured more than 2 million metric tons of food and hundreds of millions of dollars' worth of supplies, equipment, and logistical support into Ethiopia. The United States has provided about one-third of this total aid package. All of it is to help rescue the Ethiopian people from famine and starvation.

But what has been the official response of the Mengistu regime to this unprecedented demonstration of international generosity?

I'll tell you what it's been: An increase in military spending; stepped-up military offensives; forced conscription of 12- and 13-year-old boys into the army; collectivized agriculture; and coercive resettlement schemes.

The list goes on and on, but we all get the point. The Mengistu regime has done nothing to alleviate the famine conditions that make humanitarian assistance necessary. And it's high time we started saying so.

So I believe this amendment makes sense, and I urge its adoption.

I understand that the amendments are going to be accepted by the majority.

Mr. FASCELL. Mr. Chairman, if the gentleman will yield, we will accept the amendments. I just want to make one statement, though. The gentle-

man, who was an excellent member of our committee before he went to higher and better places, I thank him for his cooperation, by the way, not only on these amendments but also on the bill; simply to say that the language he wants to amend, we thought the language in the bill was satisfactory. But we do not have any objection to this language. The language of the bill would have left this decision to the President.

What Mr. SOLOMON wants to do with his language is go back to what we had in the old law, which was to legislate and specify these countries.

Frankly, you knonw, we accept that amendment, we just thought the language in the bill was sufficient.

Mr. BROOMFIELD. Mr. Chairman, will the gentleman yield?

Mr. SOLOMON. I yield to the ranking minority member, the gentleman from Michigan [Mr. BROOMFIELD].

Mr. BROOMFIELD. I thank the gentleman for yielding.

Mr. Chairman, we on this side have had a chance to review the amendments and we also accept them.

Mr. SOLOMON. I thank the gentleman for their cooperation and I yield back the balance of my time.

The CHAIRMAN. The question is on the amendments en bloc offered by the gentleman from New York [Mr. SOLOMON].

The amendments en bloc were agreed to.

AMENDMENT OFFERED BY MR. DOUGLAS

Mr. DOUGLAS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. DOUGLAS: Page 328, after line 2 add the following:

"(c) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) after 30 years, Fidel Castro has failed to recognize the basic human rights, aspirations, and freedoms of the Cuban people;

(2) oppressive government policies and economic mismanagement have increased the suffering and hardship on the people of Cuba;

(3) the Cuban people should be allowed to express their view on their country's political future, that the Cuban Communist Party permit a plebiscite, by a secret "yes/no" ballot, of the people's approval or rejection of Castro's continued rule;

(4) in order to guarantee an open and honest plebiscite, the Government of Cuba meet the following conditions—

(A) allow opposition and human rights groups to organize publicly and repeal all laws curtailing freedom of expression and of assembly;

(B) grant all opposition groups equal access to national press, radio, and television media;

(C) release all poltical prisoners; and

(D) invite a neutral, international commission to oversee the voting and ensure the legitmacy of the results;

(5) should the "no" vote on Castro's rule prevail, the regime would respect the will of the people, initiate a period of democratic openness, and hold prompt national elections through which the Cuban people could freely choose their leaders; and

(6) that normalized relations between the Governments of the United States and Cuba should one day be restored, and that a democratic Cuban Government elected by all the people must be an essential condition for such normalization.

Mr. DOUGLAS (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from New Hampshire?

There was no objection.

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Mr. DOUGLAS. Mr. Chairman, this is a very simple amendment. It is cosponsored by 70 Members of this body. It calls as a sense of the Congress on Fidel Castro to do the same thing that Pinochet did in Chile, have a yes-no vote, a free and open vote on whether, after 31 years as the dictator of the island of Cuba, the Cuban people want him to stay in power.

It is supported by the Washington Post, believe it or not, who said why shouldn't Cuba's left wing dictator run and accept the results of a plebiscite. The New York Times said that Cuba, after 30 years, remains poor, unfree, and independent. No wonder this tropical dictator for life fears a real popular judgment.

Supporters include Jack Nicholson, for those Members who are "Joker" fans. I know "Batman" is something we are missing right now. Saul Bellow; and of course, our Ambassador to the U.S. Human Rights Commission.

I urge the House to support the amendment. I believe that the gentleman from Florida, Chairman FASCELL, is able to accept the amendment, and therefore, if so, I would not request a rollcall. Otherwise, I reserve the right.

Mr. FASCELL. Mr. Chairman, we have looked at this amendment and it follows the general guidelines and principles of similar amendments that have been in law, and we have seen the results of those. They have been eminently successful. We are happy to accept the gentleman from New Hampshire, Mr. DOUGLAS' amendment.

Mr. DOUGLAS. Mr. Chairman, I yield to the gentleman from California.

Mr. LAGOMARSINO. Mr. Chairman, I thank the gentleman for yielding. I think the amendment is very good, and I urge the House to pass it.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New Hampshire [Mr. DOUGLAS].

The amendment was agreed to.

The CHAIRMAN. The Clerk will designate title V.

The text of title V is as follows:

TITLE V—GENERAL PROVISIONS

SEC. 501. CONSOLIDATION AND REVISION OF ADMINISTRATIVE AUTHORITIES AND ELIMINATION OF OBSOLETE PROVISIONS.

The Foreign Assistance Act of 1961, as amended by the preceding titles of this Act, is amended by adding the following new title V after new title IV (as enacted by title IV of this Act):

"TITLE V—GENERAL PROVISIONS

"CHAPTER 1—EXERCISE AND COORDINATION OF FUNCTIONS

"SEC. 5101. DELEGATIONS BY THE PRESIDENT.

"(a) IN GENERAL.—The President may exercise any functions conferred upon the President by this Act through such agency or officer of the United States Government as the President shall direct, subject to section 5104.

"(b) AUTHORITY TO ISSUE REGULATIONS AND DELEGATE.—The head of any agency or officer exercising functions under this Act—

"(1) may from time to time promulgate such rules and regulations as may be necessary to carry out such functions; and

"(2) may delegate authority to perform any such functions, including, if he or she shall so specify, the authority successively to redelegate any of such functions to a subordinate.

"SEC. 5102. SECRETARY OF STATE.

"(a) CONSISTENCY WITH FOREIGN POLICY.—Under the direction of the President, the Secretary of State shall be responsible for the continuous supervision and general direction of the assistance programs authorized by this Act to the end that such programs are effectively integrated both at home and abroad and the foreign policy of the United States is best served thereby.

"(b) ECONOMIC SUPPORT ASSISTANCE.—The Secretary's responsibilities under subsection (a) include responsibility for policy decisions and justifications for economic support assistance programs, including decisions of whether there will be an economic support assistance program for a country and the amount of the program for each country. The Secretary shall exercise this responsibility in cooperation with the Administrator for title I.

"(c) MILITARY ASSISTANCE.—The Secretary's responsibilities under subsection (a) include decisions of whether there will be a military assistance program for a country and the amount of such program.

"SEC. 5103. SECRETARY OF DEFENSE.

"(a) GENERAL RESPONSIBILITIES.—In the case of assistance under title II of this Act, the Secretary of Defense shall have primary responsibility for—

"(1) the determination of military end-item requirements;

"(2) the procurement of military equipment in a manner which permits its integration with service programs;

"(3) the supervision of end-item use by the recipient countries;

"(4) the supervision of the training of foreign military and related civilian personnel;

"(5) the movement and delivery of military end-items; and

"(6) within the Department of Defense, the performance of any other functions with respect to the furnishing of military assistance.

"(b) PROCUREMENT, DELIVERY, AND ALLOCATION OF DEFENSE ARTICLES.—The Secretary of Defense shall be responsible for establishing priorities in the procurement, delivery, and allocation of defense articles.

"SEC. 5104. DESIGNATION OF ADMINISTERING AGENCY FOR TITLE I.

"The President shall exercise his functions for administering programs under title I and chapter 2 and 3 of title VI primarily through a single agency, which the President shall designate.

"SEC. 5105. COORDINATION OF UNITED STATES POLICIES AND PROGRAMS AFFECTING DEVELOPMENT.

"(a) COORDINATION.—

"(1) IN GENERAL.—The President shall establish a system for coordination of United States policies and programs which affect United States interests in the development of developing countries.

"(2) COORDINATION ABROAD.—The President shall prescribe appropriate procedures to assure coordination among—

"(A) the various agencies of the United States Government having representatives in diplomatic missions abroad; and

"(B) representatives of the United States Government in each country, under the direction of the chief of the United States diplomatic mission.

"(3) NOTICE TO CONGRESS.—The President shall keep the Congress advised of his actions under paragraph (2).

"(b) ESTABLISHMENT OF COMMITTEE.—To the end specified in subsection (a)(1), the President shall establish a Development Coordination Committee (hereafter in this section referred to as the 'Committee') which shall advise the President with respect to coordination of United States policies and programs affecting the development of the developing countries, including programs of bilateral and multilateral development assistance, and their consistency with the four basic objectives set forth in section 1102.

"(c) MEMBERSHIP.—The Committee shall include—

"(1) the Administrator for title I, who shall be the Chairman of the Committee; and

"(2) representatives of the Department of State, the Department of Treasury, the Department of Commerce, the Department of Agriculture, the Department of Energy, and the Department of Labor, the Executive Office of the President, and other agencies of the United States Government, as the President shall designate.

"(d) SPECIFIC RESPONSIBILITIES.—To carry out the purposes of this section, the Committee shall—

"(1) prepare studies on various development problems;

"(2) devise implementation strategies on developmental problems appropriate to each department or agency represented on the Committee;

"(3) monitor and evaluate the results of the development activities of each such department or agency; and

"(4) arrange for the exchange of information and studies between such agencies and departments.

"(e) STAFF.—The head of any department or agency represented on the Committee may temporarily assign, upon the request of the Chairman of the Committee, any employee from such department or agency to the staff of the Committee.

"SEC. 5106. SECURITY ASSISTANCE COORDINATION.

"(a) SECURITY ASSISTANCE COORDINATOR.—The President shall appoint, by and with the advice and consent of the Senate, one officer for the purpose of coordinating security assistance programs.

"(b) MILITARY ASSISTANCE RECOMMENDATIONS.—The chief of the United States diplomatic mission to a country shall ensure that recommendations pertaining to military assistance programs for that country are coordinated with political and economic considerations.

"SEC. 5107. AUTHORITY TO ESTABLISH MISSIONS ABROAD.

"(a) AUTHORITY.—The President may maintain special missions or staffs outside the United States in such countries and for such periods of time as may be necessary to carry out this Act.

"(b) CHIEF OF MISSION.—Each such special mission or staff shall be under the direction of a chief.

"(c) SMALLER ECONOMIC ASSISTANCE PROGRAMS.—In the case of smaller programs, assistance under title I and chapter 3 of title VI may be administered under the direction of the chief of the United States diplomatic mission by the principal economic officer of the mission.

"SEC. 5108. PRESIDENTIAL FINDINGS AND DETERMINATIONS.

"(a) FINDINGS AND DETERMINATIONS TO BE WRITTEN AND SIGNED.—In any case in which the President is required to make a report by any provision of this Act, the Defense Trade and Export Control Act, annual foreign assistance authorization legislation, or the annual Foreign Operations, Export Financing, and Related Programs Appropriations Act, to the Congress or to any committee or officer of either House of Congress concerning any finding or determination, that finding or determination shall be reduced to writing and signed by the President.

"(b) RESTRICTION.—No action shall be taken pursuant to any such finding or determination prior to the date on which that finding or determination has been reduced to writing and signed by the President.

"(c) PUBLICATION IN FEDERAL REGISTER.—Each such finding or determination shall be published in the Federal Register as soon as practicable after it has been reduced to writing and signed by the President. In any case in which the President concludes that such publication would be harmful to the national security of the United States, only a statement that a determination or finding has been made by the President, including the name and section of the Act under which it was made, shall be published.

"(d) INFORMATION REQUESTED BY CONGRESS.—No committee or officer of either House of Congress shall be denied any requested information relating to any finding or determination which the President is required to report to the Congress, or to any committee or officer of either House of Congress, under any provision of this Act, the Defense Trade and Export Control Act, annual foreign assistance authorization legislation, or the annual Foreign Operations, Export Financing, and Related Programs Appropriations Act, even though such report has not yet been transmitted to the Congress, the appropriate committee, or officer of either House of Congress, as the case may be.

"CHAPTER 2—ADMINISTRATIVE AUTHORITIES

"SEC. 5201. ALLOCATION OF FUNDS AND REIMBURSEMENT AMONG AGENCIES.

"(a) IN GENERAL.—The President may allocate or transfer to any agency of the United States Government any part of any funds available for carrying out this Act, including any advance to the United States Government by any country or international organization for the procurement of commodities, services, defense articles, or defense services. Such funds shall be available for obligation and expenditure for the purposes for which authorized, in accordance with authority granted in this Act or under authority governing the activities of the agency of the United States Government to which such funds are allocated or transferred.

"(b) PROCUREMENT FROM OTHER AGENCIES.—

"(1) AUTHORITY.—Any officer of the United States Government carrying out functions under this Act may utilize the services or defense services and the facilities of, or procure commodities or defense articles from, any agency of the United States Government as the President shall direct, or with the consent of the head of such agency.

"(2) SEPARATE ACCOUNT.—Funds allocated pursuant to this subsection to any such agency may be established in separate appropriation accounts on the books of the Treasury.

"(c) NONMILITARY ASSISTANCE.—

"(1) REIMBURSEMENT TO AGENCIES.—In the case of any commodity, service, or facility procured from any agency of the United States Government to carry out any provision of title I, title III, or chapter 2 or 3 of title VI, reimbursement or repayment shall be made to such agency from funds available to carry out that provision.

"(2) AMOUNT OF REIMBURSEMENT.—Such reimbursement or payment shall be at—

"(A) replacement cost,

"(B) if required by law, actual cost,

"(C) in the case of services procured from the Department of Defense to carry out chapter 2 of title III, the amount of the additional costs incurred by the Department of Defense in providing such services, or

"(D) at any other price authorized by law and agreed to by the owning or disposing agency.

"(3) CREDITING OF REIMBURSEMENT.—The amount of any such reimbursement or payment—

"(A) shall be credited to current applicable appropriations, funds, or accounts, from which there may be procured replacements of similar commodities, services, or facilities; or

"(B) shall be deposited into the Treasury as miscellaneous receipts if such appropriations, funds, or accounts are not reimbursable except by reason of this subsection and if the owning or disposing agency determines that such replacement is not necessary.

"(d) MILITARY ASSISTANCE.—

"(1) REIMBURSEMENT TO AGENCIES.—Except as otherwise provided in section 2205, section 2206, and section 2503, reimbursement shall be made to any agency of the United States Government, from funds available for use under title II, for any assistance furnished under title II from, by, or through such agency.

"(2) AMOUNT OF REIMBURSEMENT.—Such reimbursement shall be—

"(A) in an amount equal to the value of the defense articles, the defense services (excluding salaries of members of the Armed Forces), or other assistance furnished, plus

"(B) expenses arising from or incident to operations under title II (excluding salaries of members of the Armed Forces and, after September 30, 1990, unfunded estimated costs of civilian retirement and other benefits).

"(3) CREDITING TO APPROPRIATION.—The amount of such reimbursement shall be

credited to the current applicable appropriations, funds, or accounts of such agency.

"(e) ESTABLISHMENT OF ACCOUNTS.—

"(1) AUTHORITY TO ESTABLISH; USES.—In furnishing assistance under this Act, accounts may be established on the books of any agency of the United States Government or, on terms and conditions approved by the Secretary of the Treasury, in banking institutions in the United States—

"(A) against which letters of commitment may be issued which shall constitute recordable obligations of the United States Government, and moneys due or to become due under such letters of commitment shall be assignable under the last sentence of section 3727(b) and section 3727(c) of title 31, United States Code, and the second and third paragraphs of section 3737 of the Revised Statutes of the United States (41 U.S.C. 15); and

"(B) from which disbursements may be made to, or withdrawals may be made by, recipient countries or agencies, organizations, or persons upon presentation of contracts, invoices, or other appropriate documentation.

"(2) ACCOUNTING FOR EXPENDITURES.—Expenditure of funds which have been made available through accounts established under paragraph (1) shall be accounted for on standard documentation required for expenditure of funds of the United States Government.

"(f) EXPORT-IMPORT BANK.—Credits made by the Export-Import Bank of the United States with funds allocated to the Bank under subsection (a) of this section shall not be considered in determining whether the Bank has outstanding at any one time loans and guaranties to the extent of the limitation imposed by section 7 of the Export-Import Bank Act of 1945 (12 U.S.C. 635e).

"(g) CHARGING TO APPROPRIATIONS.—

"(1) INITIAL CHARGING.—Any appropriation or account available to carry out provisions of title I may initially be charged in any fiscal year, within the limit of available funds, to finance expenses for which funds are available in other appropriations or accounts under that title.

"(2) FINAL CHARGING.—As of the end of such fiscal year, such expenses shall be finally charged to applicable appropriations or accounts with proper credit to the appropriations or accounts initially utilized for financing purposes.

"(3) REQUIREMENTS APPLICABLE ONLY TO ECONOMIC ASSISTANCE ACCOUNTS.—This subsection does not apply with respect to chapter 6 of title II or to chapter 1 or chapter 2 of title III.

"SEC. 5202. GENERAL AUTHORITIES.

"(a) TERMS OF ASSISTANCE.—Except as otherwise specifically provided in this Act, assistance under this Act may be furnished on a grant basis or on such terms, including cash, credit, or other terms of repayment (including repayment in foreign currencies or by transfer to the United States Government of commodities) as may be determined to be best suited to the achievement of the purposes of this Act.

"(b) TERMS AND CONDITIONS.—The President may furnish assistance under this Act on such terms and conditions (consistent with other provisions of law) as the President deems appropriate.

"(c) ADVANCES, CONTRACTS, ETC.—In furtherance of the purposes and within the limitations of this Act, the President may make loans, advances, and grants to, make and perform agreements and contracts with, or enter into other transactions with any person, any friendly government or government agency, and any international organization.

"(d) GIFTS.—The President may accept and use in furtherance of the purposes of this Act, money, funds, property, and services of any kind made available by gift, devise, bequest, grant, or otherwise for such purpose.

"(e) INSURANCE.—

"(1) FOREIGN PARTICIPANTS.—Any agency of the United States Government is authorized to pay the cost of health and accident insurance for foreign participants in any program of furnishing assistance administered by such agency while such participants are absent from their homes for the purpose of participation in such program.

"(2) FOREIGN EMPLOYEES.—Any agency of the United States Government is authorized to pay the cost of health and accident insurance for foreign employees of that agency while those employees are absent from their places of employment abroad for purposes of training or other official duties.

"(f) ADMISSION TO UNITED STATES.—Alien participants in any program of furnishing assistance under this Act may be admitted to the United States if otherwise qualified as nonimmigrants under section 101(a)(15) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)), for such time and under such conditions as may be prescribed by regulations promulgated by the Secretary of State and the Attorney General.

"(g) ASSISTANCE AUTHORITIES.—In furnishing and administering assistance under this Act, the President—

"(1) may issue letters of credit and letters of commitment;

"(2) may collect or compromise any obligations assigned to, or held by, and any legal or equitable rights accruing to him, and may (as the President deems appropriate) refer any such obligations or rights to the Attorney General for suit or collection;

"(3) may—

"(A) acquire and dispose of (upon such terms and conditions as the President deems appropriate) any property, including any instrument evidencing indebtedness or ownership, except that equity securities may not be directly purchased although such securities may be acquired by other means such as by exercise of conversion rights or through enforcement of liens or pledges or otherwise to satisfy a previously incurred indebtedness, and

"(B) guarantee payment against any such instrument;

"(4) may establish the character of, and decide the necessity for, obligations and expenditures of funds used in making such loans and the manner in which they shall be incurred, allowed, and paid, subject to provisions of law specifically applicable to corporations of the United States Government; and

"(5) shall cause to be maintained an integral set of accounts which shall be audited by the General Accounting Office in accordance with principles and procedures applicable to commercial corporate transactions as provided by chapter 91 of title 31, United States Code.

"(h) CLAIMS RELATING TO GUARANTEES.—Claims arising as a result of any guarantee program authorized by this Act may be settled, and disputes arising as the result thereof may be arbitrated with the consent of the parties, on such terms and conditions as the President may direct. Payment made pursuant to any such settlement, or as a result of an arbitration award, shall be final and conclusive notwithstanding any other provision of law.

"(i) FINANCIAL TRANSACTIONS WITH FOREIGN GOVERNMENTS IN DEFAULT OF OBLIGATIONS TO THE UNITED STATES.—Section 955 of title 18, United States Code, shall not apply to any person—

"(1) who acts for or participates in any operation or transaction arising under this Act, or

"(2) who acquires any obligation issued in connection with any operation or transaction arising under this Act.

"(j) EDUCATIONAL INSTITUTIONS.—Any cost-type contract or agreement (including grants) entered into with an institution of higher education for the purpose of carrying out programs authorized by title I or chapter 2 or 3 of title VI may provide for the payment of the reimbursable indirect costs of that institution on the basis of predetermined fixed-percentage rates applied to the total or an element thereof, of the reimbursable direct costs incurred.

"(k) MULTIYEAR COMMITMENTS.—A contract or agreement which entails commitments for the expenditure of funds under this Act may extend for not more than 10 years.

"SEC. 5203. AUTHORIZED ADMINISTRATIVE USES OF FUNDS.

"(a) PERSONNEL, PRINTING, PROCUREMENT OF SUPPLIES, AND OTHER ADMINISTRATIVE EXPENSES.—Funds made available to carry out this Act may be used for the following:

"(1) Compensation, allowances, and travel of personnel, including Foreign Service personnel, whose services are utilized primarily for the purposes of this Act.

"(2) Printing and binding without regard to the provisions of any other law.

"(3) Expenditures outside the United States for the procurement of supplies and services and for other administrative and operating purposes (other than compensation of personnel) without regard to such laws and regulations governing the obligation and expenditure of funds of the United States Government (other than sections 1341, 1342, and 1517 of title 31, United States Code) as may be necessary to accomplish the purposes of this Act.

"(b) USES OF NONMILITARY ASSISTANCE FUNDS.—

"(1) AUTHORIZED USES.—Funds described in paragraph (2) shall be available for the following:

"(A) Rent of buildings and space in buildings in the United States, and for repair, alteration, and improvements of such leased properties.

"(B) Expenses of attendance at meetings concerned with the purposes of title I, chapter 1 or chapter 2 of title III, or chapter 2 or 3 of title VI, including (notwithstanding section 1346(a) and 1346(c) of title 31, United States Code) expenses in connection with meetings of persons whose employment is authorized by section 5503.

"(C) Contracting with individuals for personal service abroad. Such individuals shall not be regarded as employees of the United States Government for the purpose of any law administered by the Office of Personnel Management.

"(D) Purchase, maintenance, operation, and hire of aircraft, except that aircraft for administrative purposes may be purchased only as specifically provided for in an appropriation or other Act.

"(E)(i) Purchase and hire of passenger motor vehicles, subject to clauses (ii) and (iii).

"(ii) Except as may otherwise be provided in an appropriation or other Act, passenger motor vehicles for administrative purposes outside the United States may be purchased for replacement only. Such vehicles may be exchanged or sold and replaced by an equal number of such vehicles.

"(iii) Passenger motor vehicles other than one for the official use of the Administrator for title I may be purchased for use in the United States only as may be specifically provided in an appropriation or other Act.

"(F) Entertainment.

"(G) Exchange of funds without regard to loss by exchange.

"(H) Expenditures (not to exceed $50,000 in any fiscal year except as may otherwise be provided in an appropriation or other Act) of a confidential character other than entertainment. A certificate of the amount of such expenditure, the nature of which it is considered inadvisable to specify, shall be made by Administrator for title I or such person as the Administrator may designate, and every such certificate shall be deemed a sufficient voucher for the amount therein specified.

"(I) Insurance of official motor vehicles or aircraft acquired for use in foreign countries.

"(J)(i) Rent or lease outside the United States, for not to exceed 10 years (unless a longer period is provided for in advance by an appropriations Act), of offices, buildings, grounds, and quarters, including living quarters to house personnel, and payments therefor in advance.

"(ii) Maintenance, furnishings, necessary repairs, improvements, and alterations to properties owned or rented by the United States Government or made available for use to the United States Government outside the United States.

"(iii) Costs of fuel, water, and utilities for such properties.

"(K) Expenses of—

"(i) preparing and transporting to their former homes (or with respect to foreign participants engaged in any program under title I, title III, or chapter 2 or 3 of title VI to their former homes or places of burial), and

"(ii) caring for and disposing of,

the remains of an individual, or the remains of a member of an individual's family, who may die while such individual is away from home participating in activities carried out with funds described in paragraph (2).

"(L) Purchase of uniforms.

"(M) Payment of per diem in lieu of subsistence to foreign participants engaged in any program under title I, chapter 1 or 2 of title III, or chapter 2 or 3 of title VI while such participants are away from their homes in countries other than the United States, at rates not in excess of those prescribed by the standardized Government travel regulations, notwithstanding any other provision of law.

"(N) Use in accordance with authorities of the Foreign Service Act of 1980 (22 U.S.C. 3901 et seq.) not otherwise provided for.

"(O) Ice and drinking water for use outside the United States.

"(P) Services of commissioned officers of the National Oceanic and Atmospheric Administration. For the purposes of providing such services, the National Oceanic and Atmospheric Administration may appoint not to exceed 20 commissioned officers in addition to those otherwise authorized.

"(Q) Expenses in connection with—

"(i) travel of personnel outside the United States, including travel expenses of dependents (including expenses during necessary stopovers while engaged in such travel);

"(ii) the transportation of personal effects, household goods, and automobiles of such personnel when any part of such travel or transportation begins in one fiscal year pursuant to travel orders issued in that fiscal year, notwithstanding the fact that such travel or transportation may not be completed during the same fiscal year; and

"(iii) the costs of transporting automobiles to and from a place of storage, and the costs of storing automobiles of such personnel, when it is in the public interest or more economical to authorize storage.

"(2) FUNDS WHICH MAY BE USED.—Paragraph (1) applies to—

"(A) appropriations to carry out this Act (other than title II),

"(B) allocations to any agency of the United States Government, from other appropriations, for functions directly related to the purposes of title I, chapter 6 of title II, chapter 1 or chapter 2 of title III, or chapter 2 or 3 of title VI, and

"(C) funds made available for other purposes to the administering agency.

"(c) FACILITIES ABROAD.—

"(1) LIVING QUARTERS, OFFICES, SCHOOLS, AND HOSPITALS.—Notwithstanding any other provision of law, funds available for assistance under this Act may be used in any fiscal year (in addition to funds available for such use under other authorities in this Act)—

"(A) to construct or otherwise acquire outside the United States essential living quarters, office space, and necessary supporting facilities for use of personnel carrying out activities authorized by this Act;

"(B) to construct or otherwise acquire outside the United States schools (including dormitories and boarding facilities) and hospitals for use of personnel carrying out activities authorized by this Act, United States Government personnel, and their dependents; and

"(C) to staff, operate, and maintain such schools and hospitals.

"(2) DISPOSAL.—Overseas property acquired under this subsection (or predecessor provisions of this Act) may be disposed of, and the proceeds of such disposal shall remain available until expended for use for the purposes specified in paragraph (1).

"(d) EDUCATION OF DEPENDENTS.—Funds available for assistance under this Act may be used in any fiscal year to provide assistance to schools established, or to be established, outside the United States whenever it is determined that such action would be more economical or would best serve the interests of the United States in providing for the education of dependents of personnel carrying out activities authorized by this Act and dependents of United States Government personnel, in lieu of acquisition or construction pursuant to subsection (c) of this section.

"(e) TRAINING OF PERSONNEL.—

"(1) PAYMENT OF COSTS.—Funds available under this Act may be used to pay costs of training United States citizen personnel employed or assigned pursuant to section 5502(c), through interchange or otherwise, at any State or local unit of government, public or private nonprofit institution, trade, labor, agricultural, or scientific association or organization, or commercial firm.

"(2) LIMITATION ON DUAL EMPLOYMENT.—Such training shall not be considered employment or holding of office under section 5533 of title 5, United States Code.

"(3) ACCEPTANCE OF CERTAIN PAYMENTS.—Any payments or contributions in connection with such training may, as deemed appropriate by the head of the agency of the United States Government authorizing such training, be made by private or public sources and be accepted by any trainee, or may be accepted by and credited to the current applicable appropriation of such agency. Any such payments or contributions to any employee in the nature of compensation shall be in lieu, or in reduction, of compensation received from the United States Government.

"(f) PERSONNEL DETAILED TO ADMINISTERING AGENCY.—

"(1) REIMBURSEMENT OF COSTS.—Funds made available for development assistance or economic support assistance may be used to reimburse an agency of the United States Government, an agency of a State government, or an institution of higher education for the full costs of any employee which that agency or institution details or assigns to the administering agency for title I to carry out development assistance or economic support assistance programs that require specialized technical skills.

"(2) PERSONNEL CEILINGS.—Employees so detailed or assigned shall not be included within any personnel ceiling applicable to any agency of the United States Government during the period of detail or assignment.

"(g) MILITARY ASSISTANCE FUNDS.—Funds made available for the purposes of title II shall be available for the following:

"(1) Administrative, extraordinary (not to exceed $300,000 in any fiscal year), and operating expenses incurred by the agency primarily responsible for administering title II in furnishing defense articles and defense services under chapter 2 or chapter 5 of title II or on a sales or lease basis under the Defense Trade and Export Control Act.

"(2) Reimbursement of actual expenses of military officers detailed or assigned as tour directors in connection with orientation visits of foreign military and related civilian personnel, in accordance with the provisions of section 5702 of title 5, United States Code, applicable to civilian officers and employees.

"(3) Maintenance, repair, alteration, and furnishing of United States-owned facilities in the District of Columbia or elsewhere for the training of foreign military and related civilian personnel without regard to the provisions of section 3733 of the Revised Statutes (41 U.S.C. 12) or other provision of law requiring a specific authorization or specific appropriation for such public contracts.

"CHAPTER 3—SPECIAL REQUIREMENTS AND AUTHORITIES RELATING TO APPROPRIATIONS AND LOCAL CURRENCIES

"Subchapter A—Provisions Relating to Appropriations

"SEC. 5301. REQUIREMENT FOR SPECIFIC AUTHORIZATION OF APPROPRIATIONS.

"(a) REQUIREMENT FOR AUTHORIZATION.—Funds appropriated for foreign assistance or for the Peace Corps shall not be available for obligation or expenditure—

"(1) unless the appropriation thereof has been specifically authorized by law; or

"(2) in excess of an amount prescribed by law.

"(b) SUBSEQUENT AUTHORIZATIONS.—To the extent that legislation enacted after the making of an appropriation for foreign assistance authorizes the obligation or expenditure thereof, the limitation contained in subsection (a) shall not apply.

"(c) RELATION TO OTHER PROVISIONS.—The provisions of this section shall not be super-

seded except by a provision of law which specifically repeals or modifies the provisions of this section.

"SEC. 5302. AUTHORITY FOR EXTENDED PERIOD OF AVAILABILITY OF APPROPRIATIONS.

"Amounts appropriated to carry out this Act are authorized to be made available, in appropriations Acts, until expended.

"SEC. 5303. DEOBLIGATION/REOBLIGATION AUTHORITY.

"(a) AUTHORITY.—Amounts certified pursuant to section 1501 of title 31, United States Code, as having been obligated against funds made available for any fiscal year to carry out any provision of this Act may, if deobligated after the end of the period of availability of those funds, be reobligated for use under that provision notwithstanding sections 1502 and 1552 of that title or any other provision of law restricting the period of availability of funds.

"(b) NOTICE TO CONGRESS.—Subsections (a)(1)(A), (a)(1)(B), and (b) of section 4304 apply to reobligations of funds under subsection (a).

"(c) EFFECTIVE DATE.—This section does not apply with respect to funds appropriated for fiscal years ending before the effective date of this section.

"SEC. 5304. REDUCTION IN AUTHORIZATION EARMARKS IF APPROPRIATIONS ARE LESS THAN AUTHORIZATIONS.

"(a) PROPORTIONAL REDUCTIONS.—If—

"(1) the amount appropriated, or available in the event of a sequestration order issued pursuant to the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 901 et seq.), for a fiscal year pursuant to any authorization of appropriations provided by this Act is less than the authorization amount, and

"(2) a provision of this Act or the annual authorization legislation provides that a specified amount of the authorization amount for that fiscal year shall be available only for a specified country, organization, or purpose,

then the amount so specified shall be deemed to be reduced to the amount which bear the same ratio to the specified amount as the amount appropriated, or available in the event of sequestration, bears to the authorization amount.

"(b) EXCEPTIONS.—Subsection (a) does not apply with respect to funds specified for Israel or Egypt.

"Subchapter B—Local Currencies

"SEC. 5321. SPECIAL ACCOUNTS FOR AND USE OF HOST-COUNTRY OWNED LOCAL CURRENCY.

"(a) SPECIAL ACCOUNT.—If assistance is furnished to the government of a foreign country under title I or chapter 2 or chapter 3 of title VI under arrangements which will result in the generation of local currencies of that country, the President shall—

"(1) require that local currencies be deposited in a special account established by that government;

"(2) enter into an agreement with that government which sets forth—

"(A) the amount of the local currencies to be so deposited, and

"(B) the terms and conditions under which the currencies so deposited may be utilized, consistent with this section; and

"(3) establish by agreement with that government the responsibilities of the administering agency and that government to monitor and account for deposits into and disbursements from the special account.

"(b) USES OF LOCAL CURRENCIES.—As may be agreed upon with the foreign government, local currencies deposited in a special account pursuant to subsection (a), or an equivalent amount of local currencies, shall be used only—

"(1) to carry out title I or chapter 2 or chapter 3 of title VI (as the case may be), or

"(2) for the administrative requirements of the United States Government.

"(c) PROGRAMMING ACCOUNTABILITY.—The administering agency shall take all appropriate steps to ensure that the equivalent of the local currencies disbursed pursuant to subsection (b)(1) from the special account established pursuant to subsection (a)(1) are used for the purposes agreed upon pursuant to subsection (a)(2).

"(d) TERMINATION OF ASSISTANCE PROGRAMS.—Upon termination of assistance to a country under title I or chapter 2 or chapter 3 of title VI (as the case may be), any unencumbered balances of funds which remain in a special account established pursuant to subsection (a) shall be disposed of for such purposes as may be agreed to by the government of that country and the United States Government.

"(e) REQUIREMENTS APPLICABLE ONLY TO ECONOMIC ASSISTANCE PROGRAMS.—This section does not apply with respect to chapter 6 of title II or to chapter 1 or chapter 2 of title III.

"SEC. 5322. USE OF CERTAIN FOREIGN CURRENCIES OWNED BY THE UNITED STATES.

"(a) AUTHORITY TO USE FOR ASSISTANCE PROGRAMS.—Except as otherwise provided in this Act or other provisions of law, foreign currencies described in subsection (b) may be used in providing assistance under title I and chapter 2 and 3 of title VI.

"(b) FOREIGN CURRENCIES WHICH MAY BE USED FOR ASSISTANCE.—The foreign currencies which may be used under subsection (a) are any foreign currencies received as a result of the furnishing of assistance under title I or chapter 2 or 3 of title VI (or any precessor legislation authorizing nonmilitary assistance) which are in excess of—

"(1) the amounts reserved under authority of section 105(d) of the Mutual Educational and Cultural Exchange Act of 1961 or any other Act relating to educational and cultural exchanges; and

"(2) the amounts required for payment by the agencies of the United States Government of their obligations outside the United States, as such requirements may be established from time to time by the President.

"(c) PAYMENT OF OBLIGATIONS OF GOVERNMENT AGENCIES.—Foreign currencies described in subsection (b) which are in excess of the amounts described in paragraph (1) of that subsection may be sold by the Secretary of the Treasury to agencies of the United States Government for payment of their obligations outside the United States.

"SEC. 5323. INTEREST ON FOREIGN CURRENCY PROCEEDS.

"(a) REQUIREMENT FOR PAYMENT OF INTEREST.—In cases where assistance is to be furnished to any recipient country under this or any other Act on a basis which will result in the accrual of foreign currency proceeds to the United States, the Secretary of the Treasury shall issue regulations requiring that agreements with respect to such assistance include provisions for the receipt of interest income on the foreign currency proceeds deposited in authorized depositories.

"(b) WAIVER OF REQUIREMENT.—The President may waive the requirement for receipt of such income if the President decides it would not be in the national interest to conclude arrangements for the receipt of interest income pursuant to subsection (a).

"SEC. 5324. USE OF LOCAL CURRENCIES.

"In carrying out programs under this Act, the President shall take all appropriate steps to assure that, to the maximum extent possible—

"(1) countries receiving assistance under this Act contribute local currencies to meet the cost of contractual and other services rendered in conjunction with such programs; and

"(2) foreign currencies owned by the United States are utilized to meet the costs of such contractual and other services.

"SEC. 5325. INTEREST ON LOCAL CURRENCY ACCRUING TO NONGOVERNMENTAL ORGANIZATIONS.

"A nongovernmental organization may invest local currencies which accrue to that organization as a result of assistance provided under title I or chapter 2 or chapter 3 of title VI or under the Agricultural Trade Development and Assistance Act of 1954, and any interest earned on such investment may be used for the purpose for which the assistance was provided to that organization.

"CHAPTER 4—PROCUREMENT AND DISPOSITION OF COMMODITIES AND DEFENSE ARTICLES

"SEC. 5401. USE OF PRIVATE ENTERPRISE.

"(a) IN GENERAL.—In order to encourage and facilitate participation by private enterprise to the maximum extent practicable in achieving any of the purposes of this Act, the President shall—

"(1) to the maximum extent practicable carry out programs of assistance through private channels and, to the extent practicable, in conjunction with local private or governmental participation;

"(2) utilize wherever practicable the services of United States private enterprise to provide the necessary skills to develop and operate a specific project or program of assistance in a friendly developing country or area in any case in which direct private investment is not readily encouraged, and provide where appropriate for the transfer of equity ownership in such project or program to private investors at the earliest feasible time.

"(b) TECHNICAL ASSISTANCE.—In providing technical assistance under this Act, the President shall utilize, to the fullest extent practicable, goods and professional and other services from private enterprise on a contract basis. In such fields as education, health, housing, or agriculture, the facilities and resources of Federal agencies, which do not administer programs under this Act, may be utilized when such facilities are particularly or uniquely suitable for technical assistance, are not competitive with private enterprise, and can be made available without interfering unduly with domestic programs.

"(c) MILITARY ASSISTANCE.—The Secretary of Defense shall assure that there is made available to suppliers in the United States, and particularly to small independent enterprises, information with respect to purchases made by the Department of Defense pursuant to title II. Such information shall be furnished as far in advance as possible.

"SEC. 5402. PROCUREMENT STANDARDS AND PROCEDURES.

"(a) ESTABLISHMENT OF STANDARDS AND PROCEDURES.—Notwithstanding any other provision of law, funds made available to carry out this Act (other than funds for antiterrorism assistance) may be used for the procurement of commodities and services or defense articles and defense services (as the case may be), including transportation serv-

ices, pursuant to such standards and procedures as may be established by the President. In establishing such standards and procedures, the President should take into consideration such factors as—

"(1) the need to maximize, to the extent practicable, the financing of—

"(A) commodities and services and defense articles and defense services of United States origin, and

"(B) the participation of United States suppliers and contractors, particularly small and disadvantaged businesses;

"(2) the need to encourage competition;

"(3) the need to coordinate assistance with other donors; and

"(4) the need to ensure the more effective and efficient provision of United States assistance.

"(b) REVISION OF PROCEDURES.—

"(1) IMPROVING EFFECTIVENESS OF ECONOMIC ASSISTANCE.—In exercising the authority of subsection (a) with respect to programs under title I and chapter 2 and chapter 3 of title VI, the Administrator for title I shall revise and streamline, consistent with basic principles of accountability, the procurement and contracting procedures of the administering agency for title I in order to ensure the more effective and efficient provision of United States economic assistance.

"(2) PROCUREMENT METHOD FOR INSTITUTIONS OF HIGHER EDUCATION.—The Administrator for title I may establish separate procurement standards and procedures for projects under title I and chapters 2 and 3 of title VI to limit competition to a selection among institutions of higher education when, under guidelines developed by the Administrator upon recommendations of the advisory board established under section 1942(e), the projects would benefit substantially from the resources and special capabilities of such institutions. The standards and procedures under this subsection may be established notwithstanding any other provision of law.

"(3) IMPROVING EFFECTIVENESS OF NARCOTICS ASSISTANCE.—In exercising the authority of subsection (a) with respect to programs under chapter 2 of title III, the Administrator for that chapter shall revise and streamline, consistent with basic principles of accountability, the procurement and contracting procedures of the administering agency for that chapter in order to ensure the more effective and efficient provision of narcotics control assistance.

"(4) REPORTS TO CONGRESS.—Not later than 9 months after the effective date of this section, the Administrator for title I and the Administrator for chapter 2 of title III shall each submit to the Congress a report detailing the nature of the revised procurement and contracting procedures developed pursuant to this subsection.

"SEC. 5403. SHIPPING ON UNITED STATES VESSELS.

"(a) CERTAIN LAWS NOT APPLICABLE.—The ocean transportation between foreign countries of commodities and defense articles purchased with foreign currencies made available or derived from funds made available under this Act or the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1691 at following), and transfers of fresh fruit and fresh fruit products under this Act, shall not be governed by section 901(b) of the Merchant Marine Act, 1936 (46 U.S.C. app. 1241(b)), or any other law relating to the ocean transportation of commodities on United States flag vessels.

"(b) SHIPPING DIFFERENTIAL.—For purposes of facilitating implementation of section 901(b) of the Merchant Marine Act, 1936 (46 U.S.C. app. 1241(b)), funds made available for development assistance and economic support assistance may be used to make grants to recipients or otherwise pay all or any portion of such differential as is determined by the Secretary of Transportation to exist between United States and foreign-flag vessel charter or freight rates. Grants made under this section shall be paid with United States-owned foreign currencies wherever feasible.

"SEC. 5404. EXCESS AND OTHER AVAILABLE PROPERTY.

"(a) POLICY REGARDING USE OF EXCESS AND OTHER AVAILABLE PROPERTY.—In furnishing assistance under title I, chapter 6 of title II, chapter 1 or chapter 2 of title III, and chapter 2 and chapter 3 of title VI—

"(1) excess personal property, or

"(2) if a substantial savings would occur, other property already owned by an agency of the United States Government,

may be utilized wherever practicable in lieu of or supplementary to the procurement of new items for United States assisted projects and programs.

"(b) SEPARATE ACCOUNT FOR EXPENSES RELATED TO PROPERTY.—

"(1) AUTHORITY TO MAINTAIN ACCOUNT.—The President is authorized to maintain in a separate account funds made available under title I, chapter 6 of title II, chapter 1 or chapter 2 of title III, or chapter 2 or chapter 3 of title VI. Funds in such a separate account shall (notwithstanding section 1535(d) of title 31, United States Code) be free from fiscal year limitations.

"(2) USE OF FUNDS IN THE ACCOUNT.—Funds in the separate account established under paragraph (1) may be used to pay costs (including personnel costs) of acquisition, storage, renovation and rehabilitation, packing, crating, handling transportation, and related costs of—

"(A) property classified as domestic or foreign excess property pursuant to the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 471 and following);

"(B) any property available from an agency of the United States Government; or

"(C) other property,

in advance of known requirements for the use of such property in furtherance of the purposes of title I, chapter 6 of title II, chapter 1 or chapter 2 of title III, or chapter 2 or chapter 3 of title VI (as the case may be).

"(3) USE OF PROPERTY ACQUIRED.—Property acquired pursuant to paragraph (2) may be furnished—

"(A) pursuant to any provision of title I (other than chapter 8 or subchapter A of chapter 9), chapter 6 of title II, chapter 1 or chapter 2 of title III, or chapter 2 or chapter 3 of title VI (as the case may be) for which funds are authorized for the furnishing of assistance, in which case the separate account established pursuant to this section shall be repaid from funds made available for such provision for all costs incurred; or

"(B) pursuant to chapter 8 of title I, in which case the separate account shall be repaid in accordance with section 1802 for all costs incurred.

"(c) CONDITIONS ON USE OF EXCESS PROPERTY.—

"(1) LIMITATION.—Government-owned excess property may not be made available for use under title I (including under chapter 8), chapter 1 or chapter 2 of title III, or chapter 2 or 3 of title VI, unless approval is given and a determination is made in accordance with paragraph (2)—

"(A) before the shipment of such property for use in a specified country, or

"(B) if the property is already in such country, before the transfer of the property.

"(2) DETERMINATION.—A shipment or transfer subject to paragraph (1) may take place only after the Administrator approves the shipment or transfer and makes a written determination—

"(A) that there is a need for such property in the quantity requested and that such property is suitable for the purpose requested;

"(B) as to the status and responsibility of the designated end-user and his ability effectively to use and maintain such property; and

"(C) that the residual value, serviceability, and appearance of such property would not reflect unfavorably on the image of the United States and would justify the costs of packing, crating, handling, transportation, and other accessorial costs, and that the residual value at least equals the total of these costs.

"SEC. 5405. RETENTION AND USE OF CERTAIN ITEMS AND FUNDS.

"(a) RETENTION AND USE OF CERTAIN COMMODITIES AND DEFENSE ARTICLES.—

"(1) AUTHORITY TO RETAIN, TRANSFER, AND USE.—Any commodities or defense articles procured to carry out this Act shall be retained by, or (upon reimbursement) transferred to and for the use of, such agency of the United States Government as the President deems appropriate in lieu of being disposed of to a foreign country or international organization, whenever in the judgment of the President the best interests of the United States will be served thereby.

"(2) LAWS GOVERNING DISPOSAL OF GOVERNMENT PROPERTY.—Any commodities or defense articles so retained may be disposed of without regard to provisions of law relating to the disposal of property owned by the United States Government, when necessary to prevent spoilage or wastage of such commodities or defense articles or to conserve their usefulness.

"(3) PROCEEDS CREDITED TO APPROPRIATIONS.—Funds realized from any disposal or transfer shall revert to the respective appropriation, fund, or account used to procure such commodities or defense articles or to the appropriation, fund, or account currently available for the same general purpose.

"(b) COMMODITIES RECEIVED AS PAYMENT.—Whenever commodities are transferred to the United States Government as repayment of assistance under this Act, such commodities may be used in furtherance of the purposes and within the limitations of this Act.

"(c) FAILED TRANSACTIONS.—Funds realized as a result of any failure of a transaction financed under this Act to conform to the requirements of this Act, to applicable rules and regulations of the United States Government, or to the terms of any agreement or contract entered into under this Act, shall revert to the respective appropriation, fund, or account used to finance such transaction or to the appropriation, fund, or account currently available for the same general purpose.

"SEC. 5406. ELIGIBILITY AND DEBARMENT.

"(a) DETERMINING ELIGIBILITY.—The President shall issue and enforce regulations determining the eligibility of any person to receive funds made available under this Act.

"(b) DEBARMENT.—A person—

"(1) may be suspended under such regulations for a temporary period pending the

completion of an investigation and any resulting judicial or debarment proceedings, upon cause for belief that such person or an affiliate of such person probably has undertaken conduct which constitutes a cause for debarment; and

"(2) after an opportunity has been afforded to such person for a hearing, the person may be debarred for an additional period, not to exceed three years.

"(c) CAUSES OF DEBARMENT.—Among the causes for debarment shall be—

"(1) offering or accepting a bribe or other illegal payment or credit in connection with any transaction financed with funds made available under this Act;

"(2) committing a fraud in the procurement or performance of any contract financed with funds made available under this Act; or

"(3) acting in any other manner which shows a lack of integrity or honesty in connection with any transaction financed with funds made available under this Act.

"(d) REINSTATEMENT.—Reinstatement of eligibility in each particular case shall be subject to such conditions as the President shall direct.

"(e) REVIEW.—Each person whose eligibility is denied or suspended under this section shall, upon request, be entitled to a review of his eligibility not less often than once every 2 years.

"SEC. 5407. FALSE CLAIMS AND INELIGIBLE COMMODITIES.

"(a) PERSONS SUBJECT TO PROVISIONS.—Subsection (b) shall apply to any person—

"(1) who—

"(A) makes or causes to be made or presents or causes to be presented to any bank or other financial institution, or to any officer, agent, or employee of any agency of the United States Government, a claim for payment from funds made available under this Act for the purposes of furnishing assistance; and

"(B) knows the claim to be false, fraudulent, or fictitious or to cover a commodity or commodity-related service, or a defense article or defense service, that has been declared to be ineligible for payment from funds made available under this Act;

"(2) who uses to support that person's claim any certification, statement, or entry on any contract, bill of lading, Government or commercial invoice, or Government form, which that person knows, or in the exercise of prudent business management should know, to contain false, fraudulent, or fictitious information;

"(3) who uses or engages in any other fraudulent trick, scheme, or device for the purpose of securing or obtaining, or aiding to secure or obtain, for any person any benefit or payment from funds made available under this Act in connection with the negotiation, procurement, award, or performance of a contract financed with funds made available under this Act; or

"(4) who enters into an agreement, combination or conspiracy to do any act described in paragraphs (1) through (3).

"(b) PENALTY.—Any person who engages in an act described in subsection (a)—

"(1) shall pay to the United States an amount equal to 25 percent of any amount sought to be wrongfully secured or obtained by that act but not actually received;

"(2) shall forfeit and refund any payment, compensation, loan, commission, or advance received as a result of that act; and

"(3) shall, in addition, pay to the United States for each such act—

"(A) the sum of $2,000 and double the amount of any damage which the United States may have sustained by reason of that act, or

"(B) an amount equal to 50 percent of any such payment, compensation, loan, commission, or advance so received,

whichever is the greater, together with the costs of suit.

"(c) RECOVERY BY THE UNITED STATES.—In order to secure recovery under this section, the President may, as he deems appropriate—

"(1) institute suit in the United States district court for any judicial district in which the person alleged to have performed or participated in an act described in subsection (a) may reside or may be found; and

"(2) upon posting by registered mail to such person a notice of claim describing the basis for such claim and identifying the funds to be withheld, withhold from funds owed by any agency of the United States Government to such person an amount equal to the refund, damages, liquidated damages, and exemplary damages claimed by the United States under this section.

Any such withholding of funds from any person shall constitute a final determination of the rights and liabilities of such person under this section with respect to the amount so withheld, unless within one year of receiving the notice of claim such person brings suit for recovery, which is hereby authorized, against the United States in any United States district court.

"SEC. 5408. WAIVERS OF CERTAIN LAWS RELATING TO CONTRACTS AND GOVERNMENT EXPENDITURES.

"Whenever the President determines it to be in furtherance of the purposes of this Act, the functions authorized under this Act may be performed without regard to such provisions of law regulating the making, performance, amendment, or modification of contracts and the expenditure of funds of the United States Government as the President may specify.

"CHAPTER 5—PERSONNEL

"SEC. 5501. STATUTORY OFFICERS IN ECONOMIC ASSISTANCE AGENCY.

"(a) APPOINTMENT.—The President may appoint, by and with the advice and consent of the Senate, 12 officers in the administering agency for title I.

"(b) TITLE.—The President may designate the title of any officer appointed under subsection (a).

"(c) ORDER OF SUCCESSION.—The President may also fix the order of succession among the officers appointed under subsection (a) of this section in the event of the absence, death, resignation, or disability of one or more of those officers.

"SEC. 5502. EMPLOYMENT OF PERSONNEL.

"(a) ECONOMIC ASSISTANCE FUNCTIONS IN THE UNITED STATES.—

"(1) APPOINTMENTS WITHOUT REGARD TO CERTAIN CIVIL SERVICE LAWS.—Of the personnel employed in the United States to carry out title I and chapter 2 and chapter 3 of title VI or to coordinate titles I and II, 110 may be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and may be compensated without regard to the provisions of chapter 51 of subchapter III of chapter 53 of such title, subject to paragraph (2) of this subsection.

"(2) COMPENSATION.—Of the personnel appointed under paragraph (1), 51 may be compensated at rates higher than those payable for GS-15 of the General Schedule under section 5332 of title 5, United States Code, but not in excess of the highest rate payable for GS-18 of the General Schedule.

"(3) REINSTATEMENT RIGHTS.—Under such regulations as the President may prescribe, any individual employed under paragraph (1) may be entitled, upon removal (except for cause) from the position to which the appointment was made, to reinstatement to the position occupied by that individual at the time of appointment or to a position of comparable grade and pay.

"(4) PROVISIONS NOT APPLICABLE TO OTHER NONMILITARY ASSISTANCE PROGRAMS.—This subsection does not apply with respect to chapter 6 of title II or chapter 1 or chapter 2 of title III.

"(b) MILITARY ASSISTANCE FUNCTIONS IN THE UNITED STATES.—Of the personnel employed in the United States to carry out title II or the Defense Trade and Export Control Act not to exceed 8 may be compensated at rates higher than those payable for GS-15 of the General Schedule under section 5332 of title 5 of the United States Code, but not in excess of the highest rate payable of GS-18 of the General Schedule. Such positions shall be in addition to those authorized by law to be filled by Presidential appointment, and in addition to the number authorized by section 5108 of title 5, United States Code.

"(c) PERFORMANCE OF FUNCTIONS OUTSIDE THE UNITED STATES.—

"(1) AUTHORITY TO EMPLOY OR ASSIGN.—For the purpose of performing functions under this Act outside the United States, the President may—

"(A) employ or assign individuals, or

"(B) authorize the employment or assignment of officers or employees by agencies of the United States Government which are not authorized to utilize the Foreign Service personnel system.

"(2) COMPENSATION.—Individuals employed or assigned under paragraph (1) shall receive compensation at any of the rates provided for under section 402 or section 403 of the Foreign Service Act of 1980, or under chapter 53 of title 5, United States Code, or at any other rate authorized by law, together with allowances and benefits under the Foreign Service Act of 1980.

"(3) REEMPLOYMENT RIGHTS.—Individuals so employed or assigned shall be entitled to the same benefits as are provided by section 310 of that Act for individuals appointed to the Foreign Service, except to the extent that the President may specify otherwise in cases in which the period of employment or assignment exceeds 30 months.

"(d) CERTAIN FUNDS DEEMED OBLIGATED FOR CERTAIN SERVICES.—Funds provided for in agreements with foreign countries for the furnishing of services under this Act with respect to specific projects shall be deemed to be obligated for the services of personnel employed by agencies of the United States Government (other than the agencies primarily responsible for administering title I or title II of this Act) as well as personnel not employed by the United States Government.

"SEC. 5503. EXPERTS, CONSULTANTS, AND RETIRED OFFICERS.

"(a) AUTHORITY TO EMPLOY.—Experts and consultants or organizations thereof may, as authorized by section 3109 of title 5 of the United States Code, be employed for the performance of functions under this Act.

"(b) COMPENSATION AND REIMBURSEMENT FOR EXPENSES.—Individuals employed under subsection (a)—

"(1) may be compensated at rates not in excess of the daily equivalent of the highest rate which may be paid to an employee under the General Schedule under section 5332 of title 5, United States Code; and

"(2) while away from their homes or regular places of business, they may be paid actual travel expenses and per diem in lieu of subsistence in accordance with section 5703 of title 5, United States Code.

"(c) RENEWAL OF CONTRACTS.—The contracts or assignments for employment under subsection (a) may be renewed annually.

"(d) MANDATORY RETIREMENT AGE NOT APPLICABLE.—Service of an individual as an expert or consultant under subsection (a) of this section shall not be considered as employment or holding of office or position bringing such individual within the provisions of section 3323(a) of title 5 of the United States Code.

"(e) EMPLOYMENT OF CERTAIN PERSONS WITHOUT COMPENSATION.—Persons of outstanding experience and ability may be employed without compensation by any agency of the United States Government for the performance of functions under this Act in accordance with the provisions of section 710(b) of the Defense Production Act of 1950 (50 U.S.C. App. 2160(b)), and regulations issued thereunder.

"SEC. 5504. DETAIL OF PERSONNEL TO FOREIGN GOVERNMENTS AND INTERNATIONAL ORGANIZATIONS.

"(a) DETAILS TO FOREIGN GOVERNMENTS.—When consistent with and in furtherance of the purposes of this Act, the head of any agency of the United States Government is authorized to detail or assign any officer or employee of that agency to any office or position with any foreign government or foreign government agency, where acceptance of such office or position does not involve the taking of an oath of allegiance to another government.

"(b) DETAILS TO INTERNATIONAL ORGANIZATIONS.—When consistent with and in furtherance of the purposes of this Act, the head of any agency of the United States Government is authorized to detail, assign, or otherwise make available to any international organization any officer or employee of that agency to serve with, or as a member of, the international staff of such organization, or to render any technical, scientific, or professional advice or service to, or in cooperation with, such organization.

"(c) STATUS OF PERSONNEL DETAILED.—

"(1) RETENTION OF BENEFITS.—Any officer or employee, while assigned or detailed under this section—

"(A) shall be considered an officer or employee of the United States Government and of the agency of the United States Government from which detailed or assigned for the purpose of preserving his or her allowances, privileges, rights, seniority, and other benefits as such; and

"(B) shall continue to receive compensation, allowances, and benefits from funds appropriated to that agency or made available to that agency under this Act, or may be detailed or assigned on a leave without pay status.

"(2) ALLOWANCES.—Any officer or employee assigned, detailed, or appointed under this section, section 5107, section 5505, or section 5506 may receive (under such regulations as the President may prescribe) representation allowances similar to those allowed under section 905 of the Foreign Service Act of 1980. The authorization of such allowances and other benefits and the payment thereof out of any appropriations available therefor shall be considered as meeting all the requirements of section 5536 of title 5, United States Code.

"(d) TERMS OF DETAIL OR ASSIGNMENT.—Details or assignments may be made under this section or section 408 of the Mutual Security Act of 1954 in accordance with any of the following paragraphs:

"(1) Without reimbursement to the United States Government by the foreign government or international organization.

"(2) Upon agreement by the foreign government or international organization to reimburse the United States Government for compensation, travel expenses, benefits, and allowances, or any part thereof, payable to the officer or employee concerned during the period of assignment or detail. Such reimbursements (including foreign currencies) shall be credited to the appropriation, fund, or account utilized for paying such compensation, travel expenses, benefits, or allowances, or to the appropriation, fund, or account currently available for such purposes.

"(3) Upon an advance of funds, property, or services by the foreign government or international organization to the United States Government accepted with the approval of the President for specified uses in furtherance of the purposes of this Act. Funds so advanced may be established as a separate fund in the Treasury of the United States Government, to be available for the specified uses, and to be used for reimbursement of appropriations or direct expenditure subject to the provisions of this Act, any unexpended balance of such account to be returned to the foreign government or international organization.

"(4) Subject to the receipt by the United States Government of a credit to be applied against the payment by the United States Government of its share of the expenses of the international organization to which the officer or employee is detailed or assigned, such credit to be based upon the compensation, travel expenses, benefits and allowances, or any part thereof, payable to such officer or employee during the period of detail or assignment in accordance with subsection (c).

"SEC. 5505. CHIEF OF ECONOMIC ASSISTANCE MISSION ABROAD.

"(a) APPOINTMENT; REMOVAL.—The chief and his deputy of each special mission or staff carrying out title I (including chapter 2 or chapter 3 of title VI)—

"(1) shall be appointed by the President; and

"(2) may, notwithstanding any other law, be removed by the President at his discretion.

"(b) COMPENSATION AND ALLOWANCES.—Such chief shall be entitled to receive such compensation and allowances as are authorized by the Foreign Service Act of 1980, not to exceed those authorized for a chief of mission (as defined in section 102(a)(3) of that Act), as the President deems appropriate.

"SEC. 5506. CHAIRMAN OF OECD DEVELOPMENT ASSISTANCE COMMITTEE.

"(a) APPOINTMENT; TERMINATION OF APPOINTMENT.—The President may—

"(1) appoint any United States citizen who is not an employee of the United States Government, or

"(2) assign any United States citizen who is an employee of the United States Government,

to serve as Chairman of the Development Assistance Committee (or any successor committee) of the Organization for Economic Cooperation and Development, upon election thereto by members of that Committee. The President, in his discretion, may terminate such appointment or assignment, notwithstanding any other provision of law.

"(b) COMPENSATION AND ALLOWANCES.—An individual appointed or assigned under subsection (a) may receive such compensation and allowances as are authorized by the Foreign Service Act of 1980, not to exceed those authorized for a chief of mission (as defined in section 102(a)(3) of that Act), as the President deems appropriate. Such individual, if appointed under subsection (a)(1), shall be deemed to be an employee of the United States Government for purposes of chapters 81, 83, 84, 87, and 89 of title 5, United States Code. Such individual may also, in the President's discretion, receive any other benefits and perquisites available under this Act to chiefs of special missions or staffs outside the United States established under section 5107.

"SEC. 5507. ASSIGNMENT OF DOD PERSONNEL TO CIVIL OFFICES.

"Notwithstanding section 973(b) of title 10, United States Code, personnel of the Department of Defense may be assigned or detailed to any civil office to carry out this Act.

"SEC. 5508. DISCRIMINATION AGAINST UNITED STATES PERSONNEL PROVIDING ASSISTANCE.

"(a) ASSIGNMENT OF UNITED STATES PERSONNEL.—The President shall not take into account, in assigning officers and employees of the United States to carry out any assistance program funded under this Act in any foreign country, the race, religion, national origin, or sex of any such officer or employee. Such assignments shall be made solely on the basis of ability and relevant experience.

"(b) UNITED STATES POLICY.—It is the policy of the United States that assistance under this Act should not be furnished to any foreign country, the laws, regulations, official policies, or governmental practices of which prevent any United States person (as defined in section 7701(a)(30) of the Internal Revenue Code of 1954) from participating in the furnishing of assistance under this Act on the basis of race, religion, national origin, or sex.

"CHAPTER 6—DEFINITIONS AND MISCELLANEOUS PROVISIONS

"SEC. 5601. DEFINITIONS.

"(a) TYPES OF ASSISTANCE.—For purposes of this Act and any other provision of law relating to assistance under this Act, the following terms have the following meanings:

"(1) ANTITERRORISM ASSISTANCE.—The term 'antiterrorism assistance' means assistance under chapter 1 of title III.

"(2) ASSISTANCE FOR FAMINE RECOVERY AND DEVELOPMENT IN AFRICA.—The term 'assistance for famine recovery and development in Africa' means assistance under section 6301.

"(3) DEVELOPMENT ASSISTANCE.—The term 'development assistance' means assistance under subchapter A of chapter 2 of title I.

"(4) ECONOMIC ASSISTANCE.—The term 'economic assistance' means assistance under title I or chapter 2 or chapter 3 of title VI.

"(5) ECONOMIC SUPPORT ASSISTANCE.—The term 'economic support assistance' means assistance under section 1301.

"(6) FOREIGN MILITARY FINANCING.—The term 'foreign military financing' means assistance furnished with funds made available to carry out chapter 2 of title II.

"(7) INTERNATIONAL DISASTER ASSISTANCE.—The term 'international disaster assistance' means assistance under chapter 6 of title I.

"(8) INTERNATIONAL MILITARY EDUCATION AND TRAINING.—The term 'international military education and training' means assistance under chapter 5 of title II, and does not include military education and training under chapter 2 of title II.

"(9) MILITARY ASSISTANCE.—The term 'military assistance' means assistance under title II, except as otherwise provided with respect to assistance under chapter 6 of that title (relating to assistance for peacekeeping operations).

"(10) NARCOTICS CONTROL ASSISTANCE.—The term 'narcotics control assistance' means assistance under chapter 2 of title III.

"(11) NONMILITARY ASSISTANCE.—The term 'nonmilitary assistance' means any assistance under title I, title III, or chapter 2 or chapter 3 of title VI.

"(b) DEFINITIONS APPLICABLE TO THE ACT GENERALLY.—For purposes of this Act and any other provision of law relating to assistance under this Act, the following terms have the following meanings:

"(1) AGENCY OF THE UNITED STATES GOVERNMENT.—The term 'agency of the United States Government' includes any agency, department, board, wholly or partly owned corporation, instrumentality, commission, or establishment of the United States Government.

"(2) FUNCTION.—The term 'function' includes any duty, obligation, power, authority, responsibility, right, privilege, discretion, or activity.

"(3) GROSS VIOLATIONS OF INTERNATIONALLY RECOGNIZED HUMAN RIGHTS.—The term 'gross violations of internationally recognized human rights' includes torture or cruel, inhuman, or degrading treatment or punishment, prolonged detention without charges and trial, arbitrary arrest, incommunicado detention, and other flagrant denial of the right to life, liberty, or the security of person.

"(4) INCLUDES.—The term 'includes' means includes but is not limited to.

"(5) OFFICER OR EMPLOYEE.—The term 'officer or employee' means civilian personnel of the United States Government and members of the Armed Forces.

"(6) NONNUCLEAR-WEAPON STATE.—The term 'nonnuclear-weapon state' means any country which is not a nuclear-weapon state, as defined in article IX(3) of the Treaty on the Non-Proliferation of Nuclear Weapons.

"(7) UNITED STATES.—The term 'United States', when used in the geographic sense, includes the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, Guam, American Samoa, the Virgin Islands, and any other territory or possession of the United States.

"(c) DEFINITIONS APPLICABLE PRIMARILY TO NONMILITARY ASSISTANCE.—For purposes of this Act and any other provision of law relating to assistance under this Act, the following terms have the following meanings:

"(1) ADMINISTERING AGENCY.—The term 'administering agency' means—

"(A) with respect to programs authorized by title I and chapter 2 and 3 of title VI, the agency primarily responsible for administering title I (as designated by the President pursuant to section 5104); and

"(B) with respect to programs authorized by chapter 1 or chapter 2 of title III, means the Department of State (or such other agency of the United States Government as the President may designate to administer programs under that chapter).

"(2) ADMINISTRATOR.—The term 'Administrator' means the head of the administering agency.

"(3) AGRICULTURE.—The term 'agriculture' includes aquaculture and fisheries.

"(4) COMMODITY.—The term 'commodity' includes any material, article, supply, goods, or equipment used for the purposes of furnishing nonmilitary assistance or assistance under chapter 6 of title II.

"(5) FARMERS.—The term 'farmers' includes fishermen and other persons employed in cultivating and harvesting food resources from salt and fresh waters.

"(6) INSTITUTION OF HIGHER EDUCATION.—The term 'institution of higher education' as the same meaning that term is given by section 1201(a) of the Higher Education Act of 1965.

"(7) SERVICES.—The term 'services' include any service, repair, training of personnel, or technical or other assistance or information used for the purposes of furnishing nonmilitary assistance or assistance under chapter 6 of title II.

"(d) DEFINITIONS APPLICABLE PRIMARILY TO MILITARY ASSISTANCE.—For purposes of this Act and any other provision of law relating to assistance under this Act, the following terms have the following meanings:

"(1) ARMED FORCES.—The term 'Armed Forces' means the Army, Navy, Air Force, Marine Corps, and Coast Guard of the United States.

"(2) DEFENSE ARTICLE.—The term 'defense article'—

"(A) includes—

"(i) any weapon, weapons system, munition, aircraft, vessel, boat, or other implement of war;

"(ii) any property, installation, commodity, material, equipment, supply, or goods used for the purposes of furnishing military assistance;

"(iii) any machinery, facility, tool, material, supply, or other item necessary for the manufacture, production, processing, repair, servicing, storage, construction, transportation, operation, or use of any article listed in this paragraph; or

"(iv) any component or part of any article listed in this paragraph; but

"(B) does not include—

"(i) merchant vessels; or

"(ii) as defined by the Atomic Energy Act of 1954 (42 U.S.C. 2011), source material (except uranium depleted in the isotope 235 which is incorporated in defense articles solely to take advantage of high density or pyrophoric characteristics unrelated to radioactivity), byproduct material, special nuclear material, production facilities, utilization facilities, or atomic weapons or articles involving Restricted Data.

"(3) DEFENSE INFORMATION.—The term 'defense information'—

"(A) includes any document, writing, sketch, photograph, plan, model, specification, design, prototype, or other recorded or oral information relating to any defense article or defense service; but

"(B) does not include Restricted Data as defined by the Atomic Energy Act of 1954, and data removed from the Restricted Data category under section 142d of that Act.

"(4) DEFENSE SERVICE.—The term 'defense service' includes any service, test, inspection, repair, publication, or technical or other assistance or defense information used for the purposes of furnishing military assistance, including—

"(A) military education and training, and

"(B) design and construction services (as defined in section 47(8) of the Defense Trade and Export Control Act).

"(5) EXCESS DEFENSE ARTICLES.—The term 'excess defense articles' means the quantity of defense articles owned by the United States Government, and not procured in anticipation of military assistance or sales requirements, or pursuant to a military assistance or sales order, which is in excess of the Approved Force Acquisition Objective and Approved Force Retention Stock of all Department of Defense Components at the time such articles are dropped from inventory by the supplying agency for delivery to countries or international organizations under this Act.

"(6) MAJOR DEFENSE EQUIPMENT.—The term 'major defense equipment' has the same meaning that term has under section 47(6) of the Arms Export Control Act.

"(7) MAJOR NON-NATO ALLY.—The term 'major non-NATO ally' means a country which is designated in accordance with section 48 of the Defense Trade and Export Control Act as a major non-NATO ally for purposes of that Act and this Act.

"(8) MILITARY EDUCATION AND TRAINING.—The term 'military education and training' includes formal or informal instruction of foreign students in the United States or overseas by officers or employees of the United States, contract technicians, contractors (including instruction at civilian institutions), or by correspondence courses, technical, educational, or information publications and media of all kinds, training aids, orientation, and military advice to foreign military units and forces.

"(9) VALUE.—The term 'value' means—

"(A) with respect to an excess defense article, the actual value of the article plus the gross cost incurred by the United States Government in repairing, rehabilitating, or modifying the article, except that for purposes of section 5201(d) such actual value shall not be taken into account;

"(B) with respect to a nonexcess defense article delivered from inventory to a foreign country or international organization under this Act, the acquisition cost to the United States Government, adjusted as appropriate for condition and market value;

"(C) with respect to a nonexcess defense article delivered from new procurement to a foreign country or international organization under this Act, the contract or production costs of such article;

"(D) with respect to a defense service, the cost to the United States Government of such service; and

"(E) with respect to military education and training under chapter 5 of title II or services provided under chapter 2 of title III of this Act, the additional costs that are incurred by the United States Government in furnishing such assistance.

"SEC. 5602. ACTIVITIES UNDER CERTAIN OTHER LAWS NOT AFFECTED.

"Unless expressly provided to the contrary, provisions of this Act and other provisions applicable to foreign assistance shall not be construed to prohibit activities authorized by or conducted under the Peace Corps Act, the Mutual Educational and Cultural Exchange Act of 1961, or the Export-Import Bank Act of 1945.

"SEC. 5603. COMMITMENTS TO USE UNITED STATES ARMED FORCES.

"The furnishing of economic, military, or other assistance under this Act shall not be construed as creating a new commitment or as affecting any existing commitment to use the Armed Forces for the defense of any foreign country.".

Mr. MILLER of Ohio. Mr. Chairman, it was my intention to offer an amendment to title V of H.R. 2655 the Foreign Assistance Act that would have stricken the exemption from the Gramm-Rudman-Hollings law that this bill would have granted to the foreign aid programs for Egypt and Israel. Events, however, have overtaken my plans. I was pleased to find that the "en bloc" amendments approved last night will no longer make my amendment necessary. I commend the chairman of the Foreign Affairs Committee, Mr. FASCELL, for offering this amendment and striking the exemption.

As you will recall, in December, 1985, Congress gave final approval to the Gramm-Rudman-Hollings legislation—Public Law 99-177. At the time, consideration had been given to exempting foreign aid to Israel. In fact, an exemption was actively being offered by some Members, but the Israeli Embassy and pro-Israel lobbyists declined the exemption because they felt it would have been counter-productive to United States-Israeli relations. This judgment was true in 1985, and it is still true today. A Gramm-Rudman exemption for Egypt and Israel would have poisoned the positive relationship we have is with those two nations.

As I see it, the consequences of providing such an exemption are both significant and negative:

First, under this bill, total U.S. foreign aid to these two nations is $5 billion in fiscal year 1990. This amount constitutes 43 percent of all foreign aid dollars. Should sequestration go in effect, other foreign aid and nondefense programs, would be severely and disproportionately impacted.

Second, leaders from other nations receiving U.S. foreign aid would likely feel slighted and take offense at their new second-class status. This would prove awkward and embarrassing to the President and the Secretary of State in their dealings with other countries. Furthermore, you can bet the farm that the nonexempt countries would be all over us and the administration in an effort to gain this privileged status. Where would we draw the line? Are Costa Rica, Turkey, or the Philippines any less deserving?

Additionally, an exemption in this instance would invite further circumvention of the Gramm-Rudman-Hollings law in other areas of the Federal budget. The $64 dollar question again would be, where do we draw the line? Public Law 99-177 exempted the following programs from automatic cuts: First, Social Security; second, interest on the national debt; third, veterans' compensation; fourth, veterans' pensions; fifth, Medicaid; sixth, Aid to Families with Dependent Children [AFDC]; seventh, the Women, Infants, and Children Food Program [WIC]; eighth, Supplemental Security Income [SSI]; ninth, food stamps, tenth, child nutrition; and eleventh, limited cuts in five health programs, including Medicare.

I know that the aid for these two countries is popular within the Congress. But, had we granted this exemption, we would have been opening Pandora's box. Without much effort you can imagine the legions of lobbyists and interest groups who would be saying, "what about us. Where's our exemption." I applaud the restraint and wisdom of the chairman and my colleagues for amending this language.

Mr. FASCELL. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I have heard through the grapevine that we will get back to this bill on Wednesday of next week. I certainly hope so. I want to thank my colleagues for the cooperation in carrying Members this far on this legislation.

Ms. PELOSI. Mr. Chairman, today, as we consider H.R. 2655, the foreign affairs authorization bill, I rise in support of the Torricelli cash transfer provision, section 1303, and in opposition to amendments which would strike or weaken this important language.

The purpose of the Torricelli provision is straightforward. If countries receive cash assistance through our foreign aid programs and they use that assistance to import agricultural and industrial products, they should import those products from us, not from our competitors.

Without this provision, many aid recipients use cash assistance to purchase goods abroad. How do we explain this to American workers who have lost their jobs due to unfair foreign trade practices? Not only are we sending American taxpayer dollars abroad, but also those dollars are benefiting the very countries whose unfair practices are hurting our domestic agriculture, manufacturing, and maritime services sectors. I support the Torricelli provision because it helps our foreign friends and allies at the same time as it helps American workers.

At the end of World War II, the United States had more than 2,000 active American-flag commercial merchant vessels and American ships carried 65 percent of our Nation's foreign waterborne commerce. Today, the United States-flag merchant marine has approximately 400 oceangoing vessels and American ships carry less than 4 percent of our foreign waterborne commerce.

The President's Commission on Merchant Marine and Defense concluded in its 1987 report that there is a "clear and growing danger to the national security in the deteriorating condition of America's maritime industries." One of the Commission's recommendations was to make "U.S. cargoes generated as a result of foreign aid cash transfer programs" subject to U.S.-flag vessel cargo preference requirements. Under the Torricelli provision, commodities purchased in the United States with these foreign aid funds would be transferred according to the American-flag shipping requirements in the Cargo Preference Act of 1954.

Mr. Chairman, the Torricelli provision is reasonable. It would ensure that as we assist people in foreign countries, we make sure that American workers are not harmed. I urge my colleagues to oppose any weakening amendments to section 1303.

Mr. MANTON. Mr. Chairman, I rise in strong support of retaining the provision in the foreign aid bill originally authored by the gentleman from New Jersey [Mr. TORRICELLI]. This provision ensures American businesses and manufacturers, and our domestic merchant marine, will not be discriminated against by nation's receiving valuable U.S. foreign assistance. The Torricelli cash transfer/cargo preference provision makes eminent sense and is good for U.S. business. I believe we must oppose any attempts to weaken it.

The language in the bill is quite simple and straightforward. The bill requires countries receiving U.S. cash aid spend the same amount on the purchase of U.S. goods and services, and transport at least 50 percent of such goods on U.S.-flag vessels. I simply do not understand the position of those opposed to the intent of this language. How can it possibly hurt any one segment of our society, or the Nation as a whole, to require countries receiving our taxpayers' dollars to spend this money on goods and services from the United States?

Mr. Chairman, this body should maintain this meaningful improvement in our Nation's Foreign Aid Program. The Torricelli amendment will provide much needed reform in existing policy. The amendment will serve to strengthen our Foreign Aid Program. The inclusion of the "Buy-American" provision for the cash transfer program will help to increase public support for foreign aid programs in general. This provision is supported by a wide range of the American public. It does not hurt our position internationally, rather it allows the foreign aid process to continue while ensuring a number of benefits for American industry, American agriculture, and American maritime workers.

The maintenance of the Torricelli provision is extremely important to U.S. business. It means jobs and cargo for the maritime industry, which has suffered drastically under the benign neglect of the Reagan administration and continued unfair trading practices of our foreign competitors.

Mr. Chairman, I repeat today what I said on this floor almost 2 years ago: This is a well-thought-out, much-needed aspect of our Foreign Aid Program. It helps put America back on equal footing with the rest of the world. I strongly urge my colleagues to support this provision and oppose any and all amendments which would weaken its intent.

Mr. LELAND. Mr. Chairman, I rise in strong support of the position of the foreign assistance authorization bill dedicated to Africa famine recovery and development.

As chairman of the House Select Committee on Hunger, I am compelled to call attention to the increased proportion of sub-Saharan Africa's population which suffers from chronic malnutrition and the prospect of worsening hunger as this decade draws to a close.

Approximately one-quarter of Africa's population—over 100 million people—are without enough food to lead active, productive lives.

Currently, most at risk among Africa's hungry are millions facing starvation in areas such as Mozambique, Angola, Somalia, Ethiopia, and the Sudan.

During 1988, in the Sudan alone, more than 250,000 men, women, and children starved to death.

It is perhaps the increasing malnutrition and hunger found across Africa during the 1980's, which most dramatically testifies to underlying reversals in the continent's economic, social, and environmental sectors. These reversals have taken a severe toll on the ability of

people to feed themselves and meet basic human needs.

I am speaking of famine, and drought which have occurred with frightening frequency.

I am speaking of environmental abuses which have undermined the future ability to produce food on a continent where per capita food production has declined steadily for 20 years.

Moreover, population growth rates, already the highest in the world, have continued to spiral upward and place more pressure on food supplies and other resources.

The debt crisis, escalating food imports and falling prices for exports have crippled economic growth. Basic human services, such as primary health care and education have deteriorated.

Moreover, economic policy reforms, while necessary, have, nevertheless, exacerbated deprivation among the poor majority in sub-Saharan Africa.

Adoption of the language set forth by the African Famine Recovery and Development Act, would be a major step toward reversing the crisis in sub-Saharan Africa.

By making people, the center of development goals, the act supports Africa's own efforts to achieve economic growth which is equitable, participatory, environmentally sustainable, and self-reliant. Key among the provisions of this act, are earmarks for critical development sector activities, in environmental conservation, health, and voluntary family planning.

Also included in the bill are requirements for protecting vulnerable groups from negative consequences of policy reforms; inclusion of women in development activities; and, consultation with the poor majority in planning development assistance activities.

It is also significant that this act authorizes increased funding for development assistance through fiscal year 1992.

Overall, without this language in the foreign aid bill, we are provided no assurances of the type of development activity which needs to be undertaken in sub-Saharan Africa. With such legislation, the region can begin to extricate itself from its present crisis and realize its considerable potential.

I strongly urge adoption of the language and the step that it represents toward a more effective foreign aid program in sub-Saharan Africa.

Mr. FALEOMAVAEGA. Mr. Chairman, our country's Foreign Assistance Program to the South Pacific region has historicially been extremely low. Thus, a welcome and sorely needed development has been the administration's proposed increase in funding for the countries of the region, which recommendation has been adopted by the House Foreign Affairs Committee in H.R. 2655, the Foreign Assistance Act. Long-neglected, this area of the world can no longer be taken for granted as pro-Western by the United States.

With the Communists continuing to pursue inroads in Oceania, it is no wonder that instability in the region is at an all time high. The Anzus Defense Pact, in light of New Zealand's antinuclear policy, is on the verge of self-destruction; several coups have overthrown democratically elected Government in Fiji; Vanuatu, with the Libyan influence of Colonel Qadhafi, has experienced unprecedented political turmoil incited by street demonstrations; New Caledonia's prominent Kanak leader Jean-Marie Tjibaou was assassinated by political extremists just a short while ago, extending a string of killings in that country; and, violent riots resulting in deaths and sabotage have become commonplace in Papua, New Guinea.

In order to combat the tide of growing instability in the South Pacific, our Nation has a duty and moral obligation to increase its presence in the region. Rather than merely maintaining its past policy of "benign neglect," appreciably greater attentiveness to the needs and concerns of Oceania begs to be demonstrated through expanded foreign aid. That is one of the express findings and strongest recommendations made by the excellent minority staff report on South Pacific security concerns that was submitted recently to the House Foreign Affairs Committee.

A major factor contributing to anti-American sentiment in the region has been the generational shift in leadership. Many of the older leaders that remember the United States fondly from World War II have been replaced over time by a new generation of leaders. These new government officials often have had little contact with our country that is positive.

To that end, a provision which I have introduced through the Subcommittee on Asian and Pacific Affairs—section 906 of the foreign aid bill, the South Pacific Academic Scholarship—shall be a high-profile investment in the most valuable resource that Oceania possesses: her people. Through a relatively modest allocation, $4 million over the next 2 fiscal years, this program shall ensure that the best and brightest students from the South Pacific shall have an opportunity to come to America to study, and to see for themselves what a living democracy is all about.

Upon returning to their Pacific countries, it is expected that they in turn shall accept the mantle of leadership and responsibility. Hopefully, a little piece of America, and all that she stands for, shall always remain in their hearts and minds. One need only look at the thousands of exchange students from the People's Republic of China, that have studied in America and returned home with democratic ideals, for proof of the value of such academic programs.

Mr. Chairman, although this program is a step in the right direction, much more needs to be done by our country in the South Pacific. I would strongly urge my colleagues to support this measure, in addition to other initiatives in the region that are necessary to ensure the maintenance of democratic government and the growth of free market economies.

Hand in hand with the struggle for democracy in the South Pacific, Mr. Chairman, is the fight being waged against communism by our longtime neighbor and ally, the people of the Philippines. Crucial to the defense of freedom in the Philippines is an economy that is healthy, vibrant and productive for all elements of her society. By targeting economic assistance for the lower class in the rural, undeveloped areas of the country, section 905 of the foreign aid bill, the multilateral assistance initiative [MAI], shall materially assist in this endeavor.

The MAI presents the United States with an opportunity to adopt a new approach to foreign assistance for Third World countries. With a relatively modest contribution, the initiative will be able to leverage a multilateral aid program of substantial proportions which will be more comprehensive and effective than any previous U.S. aid program. The MAI will put into effect the concept of "burden sharing" among the United States and her allies that defend freedom. President Bush has requested Congress that our initial share in contribution be $200 million, which shall commit our allies to likewise contribute until the target total of $1 billion per annum is met.

It is vital that the United States follow through with the full $200 million expected of her at the upcoming pledging session to be held in Tokyo, Japan. To do otherwise would clearly be taken as a negative signal, not only to the Philippines but the other potential donor nations. This would surely deter our allies, who look to the United States for leadership, from giving their full financial support to the MAI.

Mr. Chairman, whereas our country along with our allies have sacrificed thousands of lives in the worldwide fight against communism and for democracy, the MAI presents an unique opportunity to assist the Philippines in her time of need, not with guns and bullets, but with an international cooperative strategy of economic assistance. I strongly urge my colleagues, both in the authorization and appropriation processes, to pass intact this vitally important measure.

Mr. FASCELL. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker, having resumed the Chair, Mr. AuCoin, chairman of the Committee of the Whole House on the State of Union, reported that that Committee, having had under consideration the bill (H.R. 2655) to amend the Foreign Assistance Act of 1961 to rewrite the authorities of that act in order to establish more effective assistance programs and eliminate obsolete and inconsistent provisions, to amend the Arms Export Control Act and redesignate that act as the Defense Trade and Export Control Act, to authorize appropriations for foreign assistance programs for fiscal years 1990 and 1991, and for other purposes, had come to no resolution thereon.

APPOINTMENT OF CONFEREES ON H.R. 1278, FINANCIAL INSTITUTIONS REFORM, RECOVERY AND ENFORCEMENT ACT OF 1989

Mr. GONZALEZ. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 1278) to reform, recapitalize, and consolidate the Federal deposit insurance system, to enhance the regulatory and enforcement powers of Federal financial

institutions regulatory agencies, and for other purposes, with Senate amendments thereto, disagree to the Senate amendments, and request a conference with the Senate thereon.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

MOTION TO INSTRUCT OFFERED BY MR. WYLIE

Mr. WYLIE. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. WYLIE moves that the Managers on the part of the House at the conference on the disagreeing vote of the two Houses on the bill H.R. 1278 be instructed to not recede to the other body regarding provisions in H.R. 1278 as passed by the Senate that would single out a specific institution or institutions for unusual or special treatment.

The SPEAKER. The gentleman from Ohio [Mr. WYLIE] will be recognized for 30 minutes and the gentleman from Texas [Mr. GONZALEZ] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Ohio [Mr. WYLIE].

Mr. WYLIE. As Members will recall, last Thursday night the House approved by a vote of 412 to 7 a motion to recommit with instructions by the gentleman from Iowa [Mr. LEACH] which deleted from the savings and loan bill, H.R. 1278, certain special interest provisions, as my colleague [Mr. LEACH] noted, legislation for more than $100 billion to bail out the financial industry and the insurance fund is no place to tack on amendments providing for special treatment of large financial conglomerates.

If Mr. LEACH would have been afforded the privilege to offer this motion to instruct the conferees this evening, but his mother passed away unexpectedly on Monday evening and he needed to be back in Iowa. Certainly, we all extend our heartfelt condolences to him.

What this motion does, in effect, is to instruct the House conferees to insist that we not recede to the other body on provisions found in the Senate bill similar to those taken out on the House motion to recommit the other night. In other words, the motion to instruct House conferees which I have submitted is to support the House position as reflected by the Leach amendment to recommit. The Senate bill also has some other special provisions in their bill, and we would say to the conferees we want Members to reflect the sentiment of the House on the issue of special interest legislation. May I respectfully suggest an aye vote on my motion.

Mr. GONZALEZ. Mr. Chairman, I rise in support of the gentleman from Ohio's [Mr. WYLIE] motion and agree to the general direction that he is seeking be given the conferees, and can assure him that probably there is total consensus here that the House will not recede from the positions it overwhelmingly voted in the full House last week.

I wish to commend Mr. WYLIE because I think we are of the agreement that any superfluous and unnecessary baggage on this extremely important piece of legislation is to be dispensed with every chance we have.

I merely rise to support this motion to instruct.

Mr. WYLIE. Mr. Speaker, I yield 2 minutes to the gentleman from Texas [Mr. BARTLETT].

Mr. BARTLETT. Mr. Speaker, I thank the gentleman for yielding to me.

This is an appropriate motion. We ought to pass it. The House did the right thing to stripping out the special exemptions of those provisions that only apply to individual institutions. All the provisions in legislation such as this should be generic. Occasionally, there are, when we are changing law, there is a need for a transition from one set of laws to another set of laws, but those transitions should be generic in nature and not apply to an individual institution.

I want it known for the record, while it was a member of my party, the gentleman from Iowa [Mr. LEACH] that offered the motion to recommit that stripped out these provisions on the House bill, the original amendment that took out one particular provision was offered by the chairman of the committee, the gentleman from Texas [Mr. GONZALEZ], in an amendment that was made in order on the House floor, and it was for an institution that was in his district.

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It was for an institution that was in his district. So the gentleman from Texas [Mr. GONZALEZ], the chairman of our committee, started the ball rolling along these lines, and now we seek to extend that to the Senate. Both bodies get in the bad habit from time to time of adopting the institution's specific exceptions, exceptions that often appear to be benevolent and fair on their face, but if those exceptions cannot be made as a class or a whole generic kind of exception or transition, then they should not be made at all. Individual exceptions are wrong on policy, and they are wrong on process.

The House has taken the right step to strip them out of our bill, and we call on our brethren in the other body to strip them out of their bill in the conference.

Mr. WYLIE. Mr. Speaker, I yield 2 minutes to the gentleman from Indiana [Mr. HILER].

(Mr. HILER asked and was given permission to revise and extend his remarks.)

Mr. HILER. Mr. Speaker, I rise today with somewhat mixed emotions on the appointment of conferees to H.R. 1278 the Financial Institutions Reform, Recovery and Enforcement Act of 1989.

H.R. 1278 is badly needed legislation. The Federal Savings and Loan Insurance Corporation continues to lose $1 billion per month. Conferees on this legislation must move with deliberate speed to stop this rupturing in the system and to ensure that it never happens again. I fully support the major components of the President's plan as it passed the House last week including, with limited reservations, the capital standard.

I have been involved in sponsoring legislation to reform the S&L industry for the past several years. During the 99th Congress, I supported H.R. 4907, a bill that embodied Treasury's original proposal to recapitalize the FSLIC. That bill was reported out of the Banking Committee on July 17, 1986. The bill then languished until the last day of the Congress when it was passed under suspension. However, no time remained for a House-Senate conference and the legislation died.

In the 100th Congress, I supported and was a cosponsor of H.R. 27, the administration's second attempt to recapitalize the FSLIC. The proposal called for a $15 billion FSLIC recapitalization. During consideration of H.R. 27, I strongly opposed amendments adopted by the Banking Committee and the full House to reduce the funding of the administration's plan. The House reduced the funding of the plan to $5 billion and the Conference eventually reached a compromise level of $10.8 billion. Even so, Congress again had failed to give the FSLIC the resources it needed to do its work.

Later in the 100th Congress, I supported a proposal reported out of the Banking Committee to authorize an additional $5 billion of resources to the FSLIC, so as to fully fund the administration's plan. Again the House leadership failed to permit this legislation to reach the House floor in a timely fashion for consideration and it died.

Additionally, during the 100th Congress, I cosponsored H.R. 3929 a bill designed to increase the financial institution regulatory powers to fight fraud and abuse in the financial services industry. This proposal was incorporated into H.R. 5094 last year, the Banking Committee's financial industry restructuring proposal. This bill received no further action once reported out of committee.

Now in the 101st Congress, I am an original cosponsor of H.R. 1278, the President's proposal to reform the thrift industry. This legislation was unveiled by the President in February and he asked for Congress to pass it in 45 days. Unfortunately, it is now mid-

June and we are just appointing conferees.

I am quite concerned with the manner that the House conferees have been selected. The Senate has appointed 5 Senators as their conferees. However, the House will use a subconference approach and bring all 51 members of the Banking Committee to the conference, along with an unspecified number of conferees from the Ways and Means, Judiciary and Government Operations committees. I believe that this unwieldy approach will unnecessarily delay the work of the conference and cause prolonged debate on many issues.

Given that, the House leadership should do everything possible to pass this legislation in an expeditious manner. While I believe the subconference approach will unnecessarily delay the legislation at the expense of depositors and the American taxpayer, that decision has been made.

Mr. WYLIE. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. GONZALEZ. Mr. Speaker, I yield such time as she may consume to the distinguished gentlewoman from Ohio [Ms. OAKAR], a very distinguished member of the committee.

Ms. OAKAR. Mr. Speaker, I thank my distinguished chairman of the committee, and I want first of all to congratulate him and the ranking minority member for their leadership on this bill.

I want to associate myself with the remarks of the gentleman from Indiana [Mr. HILER]. I have no doubt that we will do what has been suggested because we met today even though formally there has not been a designation of who the conferees will be. But I did want to say that it is very imperative that we deal with this problem expeditiously.

The savings and loan industry, along with the banking industry, is a very fragile industry and a very important industry. It is very important that we tell the American people that indeed the bill that we have passed is a step in the right direction. I believe strongly, of course, that the House bill is by far the better bill. The capital standards are strict, the reforms are adhered to, and we also made room for having equity with respect to the regulators and the personnel. I think the American people should know that. I think the American people want a savings and loan industry. After all, this is the industry that provides access more than any other institution to home mortgages, and it fosters the all-American dream of owning one's own home. I believe that we will indeed now have a stronger system for these financial institutions. I think the American people do have confidence in what we have done, not only on our side, but on both sides of the aisle in a bipartisan spirit, the spirit in which we drafted this bill, providing we do take the tougher bill into account.

So let me say to the chairman of the committee and the ranking minority member that I will be proud to serve under their leadership, hopefully, as one of the conferees. I urge them to be strong about the House position. We did the right thing. It was not done without pain, and it has been a difficult decision.

Our committee had gone on with hearings led by the chairman of the committee since January on this issue, before we even formally organized our committee. We have been working on this reform, and it is our goal to guarantee the confidence that the American people have and should have in our banking industry.

What would happen if we allowed our savings and loan industry to go under? I think it would be terrible to do that. That particular type of institution was founded by this Congress in 1932. It has served many Americans in having access to building their own homes.

Mr. Speaker, I just want to say publicly that I am proud to serve on the Committee on Banking, Housing and Urban Affairs. I want to thank the chairman and thank the ranking minority member and urge them to hang tough, and we will act expeditiously under their leadership.

Mr. GONZALEZ. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER. Without objection, the previous question is ordered on the motion to instruct.

There was no objection.

The SPEAKER. The question is on the motion to instruct offered by the gentleman from Ohio [Mr. WYLIE].

The motion to instruct was agreed to.

A motion to reconsider was laid on the table.

The SPEAKER. The Chair appoints the following conferees, and without objection, reserves the authority to make additional appointments of conferees and to specify particular portions of the House bill and Senate amendment as the subject of the various appointments:

CAPITAL

From the Committee on Banking, Finance and Urban Affairs, for consideration of sections 1, 219(5), 223, 314, and 315 and title I of the House bill, and sections 1, 222(4), 223, that portion of section 301 adding new sections 3(b) and 5 (s) and (t) to the Home Owners' Loan Act of 1933, and 1409, and titles I and XV of the Senate amendment, and modifications committed to conference: Messrs. GONZALEZ, ANNUNZIO, and NEAL of North Carolina, Ms. OAKAR, Messrs. VENTO, BARNARD, GARCIA, SCHUMER, LEHMAN of California, MORRISON of Connecticut, CARPER, KLECZKA, PRICE, WYLIE, and LEACH of Iowa, Mrs. ROUKEMA, Messrs. BEREUTER, ROTH, SAXTON, STEARNS, and GILLMOR.

REGULATORY RESTRUCTURING

From the Committee on Banking, Finance and Urban Affairs, for consideration of sections 501, 505 through 508, 1203, 1204, 1207, 1208, 1211, and 1212 and titles II (except section 219(5)), III (except sections 314 and 315), IV, VI, and VIII of the House bill, and sections 501, 505, 724, 1402 through 1405, 1410, 1413, and 1414 and titles II (except sections 221(b)(2), 222(4), and 223), III (except that portion of section 301 adding new sections 3(b) and 5 (s) and (t) to the Home Owners' Loan Act of 1933), IV, VI, and VIII of the Senate amendment, and modifications committed to conference: Messrs. GONZALEZ, ANNUNZIO, NEAL of North Carolina, and LAFALCE, Ms. OAKAR, Messrs. SCHUMER, FRANK, LEHMAN of California, CARPER, KANJORSKI, MCMILLEN of Maryland, MCDERMOTT, WYLIE, LEACH of Iowa, SHUMWAY, PARRIS, MCCOLLUM, DREIER of California, HILER, and BARTLETT.

ENFORCEMENT

From the Committee on Banking, Finance and Urban Affairs, for consideration of title IX, X, and XI of the House bill, and section 221(b)(2) 1408, and 1411, and titles IX, X, and XIII of the Senate amendment, and modifications committed to conference: Messrs. GONZALEZ, ANNUNZIO, FAUNTROY, HUBBARD, and BARNARD, Ms. KAPTUR, Messrs. ERDREICH, and Nelson, Mrs. PATTERSON, Messrs. FLAKE, HOAGLAND, NEAL of Massachusetts, WYLIE, LEACH of Iowa, SHUMWAY, PARRIS, MCCOLLUM, BEREUTER, RIDGE, and MCCANDLESS.

HOUSING

From the Committee on Banking, Finance and Urban Affairs, for consideration of sections 1201, 1202, 1205, 1206, 1210, 1213 through 1216, and titles VII and XIII of the House bill, and sections 1401, 1406, 1407, and 1415 and titles VII (except section 724), XI and XII of the Senate amendment, and modifications committed to conference: Messrs. GONZALEZ, ANNUNZIO, FAUNTROY, and HUBBARD, Ms. OAKAR, Messrs. VENTO, GARCIA, FRANK, MORRISON of Connecticut, TORRES, KLECZKA, KENNEDY, and MFUME, Ms. PELOSI, Messrs. WYLIE, and LEACH of Iowa, Mrs. ROUKEMA, Messrs. DREIER of California, BARTLETT, ROTH, and RIDGE, Mrs. SAIKI, and Mr. BUNNING.

ON-OFF BUDGET

From the Committee on Banking, Finance and Urban Affairs, for consideration of section 502 through 504 of the House bill, and sections 502 through 504 of the Senate amendment, and modifications committed to conference: Messrs. GONZALEZ, ANNUNZIO, FAUNTROY, NEAL of North Caroli-

na, HUBBARD, LAFALCE, VENTO, SCHUMER, FRANK, MORRISON of Connecticut, TORRES, KLECZKA, WYLIE, LEACH of Iowa, HILER, MCCANDLESS, SAXTON, Mrs. SAIKI, Messrs. BAKER, and PAXON.

From the Committee on Ways and means, for consideration of title XIV of the House bill, and modifications committed to conference: Messrs. ROSTENKOWSKI, GIBBONS, PICKLE, RANGEL, STARK, ARCHER, VANDER JAGT, and CRANE.

From the Committee on Ways and means, for consideration of section 217, such portions of section 502 adding new subsections 21B (b), (c) (1) and (2), (d)(3), (f)(1) (A) and (B), (g)(2)(B), and (j) to the Federal Home Loan Bank Act, section 502 (b) and (c), 504 and 1209 of the House bill and that portion of section 501 adding a new subsection 21A(k) to the Federal Home Loan Bank Act, such portions of section 502 adding new subsections 21B (b), (c) (1) (2) (3) (5) (6) and (8), (d) (1) (2) and (3), (f)(1) and (i) to the Federal Home Loan Bank Act, sections 503 and 504 of the Senate amendment, and modifications committed to conference: Messrs. ROSTENKOWSKI, GIBBONS, PICKLE, RANGEL, STARK, JACOBS, FORD of Tennessee, JENKINS, DOWNEY, GUARINI, RUSSO, PEASE, ARCHER, VANDER JAGT, CRANE, FRENZEL, SCHULZE, GRADISON, THOMAS of California, and MCGRATH.

As additional conferees, for consideration of the remaining portions of section 502 of the House bill, and the remaining portions of section 502 of the Senate amendment, and modifications committed to conference: Messrs. ROSTENKOWSKI, GUARINI, and ARCHER.

As an additional conferee, for consideration of sections 1213 through 1215 of the House bill, and modifications committed to conference: Mr. CONYERS.

As an additional conferee, for consideration of section 223 of the House bill, and that portion of section 223 adding a new subsection 28(d) to the Federal Deposit Insurance Act of the Senate amendment, and modifications committed to conference: Mr. DORGAN.

From the Committee on the Judiciary, for consideration of sections 212 and 219 of the House bill, and sections 212, 214, and 222 of the Senate amendment, and modifications committed to conference: Messrs. KASTENMEIER, CONYERS, HUGHES, GLICKMAN, STAGGERS, SANGMEISTER, FISH, HYDE, GEKAS, and SMITH of Mississippi.

From the Committee on the Judiciary, for consideration of title IX of the House bill, and sections 913, and 981(c), and title X of the Senate amendment, and modifications committed to conference: Messrs. KASTENMEIER, CONYERS, HUGHES, FRANK, SCHUMER, SANGMEISTER, FISH, HYDE, GEKAS, and SMITH of Mississippi.

From the Committee on Government Operations, for consideration of section 502(c) of the House bill, and modifications committed to conference: Mr. CONYERS, and Mrs. COLLINS, Messrs. ENGLISH, SYNAR, WISE, HORTON, CLINGER, and MCCANDLESS.

From the Committee on Rules, for consideration of that portion of section 501 adding a new section 21A(u) to the Federal Home Loan Bank Act, and section 502(c) of the House bill, and modifications committed to conference: Messrs. MOAKLEY, DERRICK, BEILENSON, FROST, BONIOR, QUILLEN, and SOLOMON.

There was no objection.

□ 1930

LEGISLATIVE PROGRAM

(Mr. MICHEL asked and was given permission to address the House for 1 minute.)

Mr. MICHEL. Mr. Speaker, I asked for this 1 minute to inquire of the distinguished majority leader, the gentleman from Missouri [Mr. GEPHARDT], exactly where we are now for the balance of this evening and how we will have to proceed for tomorrow.

Mr. GEPHARDT. Mr. Speaker, will the gentleman yield?

Mr. MICHEL. Mr. Speaker, I am happy to yield to the distinguished majority leader.

Mr. GEPHARDT. Mr. Speaker, it is our intention to, with the exception of two unanimous-consent requests that may be made this evening, one by the gentleman from New Jersey [Mr. ROE] to authorize the President to appoint Rear Adm. Richard Harrison to the office to administrate the National Aeronautics and Space Administration and for a possible unanimous consent request from the gentleman from Minnesota [Mr. OBERSTAR] regarding the appointment of Mr. Busey to the Office of the Administrator of the Federal Aviation Administration.

With the exception of those two possibilities, we intend to have no more consideration of other bills or rollcall votes this evening.

The conference on the appropriations bill is still continuing. The language is being written. We believe that it will not be prepared for some time, so our intent is not to wait for that this evening, but to come back tomorrow morning at 10 a.m. and try to complete that business as quickly as we possibly can.

We will try not and hope not that Members will have to be here beyond 2 or 3 o'clock tomorrow afternoon.

Mr. MICHEL. Mr. Speaker, I thank the gentleman from Missouri [Mr. GEPHARDT].

Mr. Speaker, I think Members ought to be aware that the other body has to consider that conference report before we do, and I think Members recognize what a problem that presents for us on occasion when we never know for sure how long they will go with their interminable rules.

What I would like to inquire of the distinguished majority leader, the gentleman from Missouri [Mr. GEPHARDT] is on the flag resolution because Members would surely want to be here at that time. Does it look now as if that will be put off now until next week?

Mr. GEPHARDT. Mr. Speaker, it is not clear at this point. I do not have a definitive answer. Many Members have put in resolutions or are interested in doing a resolution, but it is obviously not something that can be hastily slapped together.

So, Mr. Speaker, there is work going on on that. I cannot assure the distinguished minority leader, the gentleman from Illinois [Mr. MICHEL] as to exactly when this might come up.

Mr. MICHEL. However, Mr. Speaker, could the gentleman from Missouri [Mr. GEPHARDT] assure us that it would not come up tomorrow?

Mr. GEPHARDT. Mr. Speaker, I cannot assure the gentleman from Illinois [Mr. MICHEL] of that.

Mr. MICHEL. I guess we have got a problem with our Members on that one who would surely want to be here.

Mr. GEPHARDT. If the gentleman from Illinois [Mr. MICHEL] would continue to yield, and, if the distinguished majority leader is asking about this with the thought that it would be preferable to have it next week, we could given an assurance that that could happen so that Members would know they would not have to vote on that tomorrow.

Mr. MICHEL. Mr. Speaker, let me express my appreciation to the gentleman from Missouri [Mr. GEPHARDT].

We were talking earlier about suggested language that was perfectly compatible with this gentleman's views, but it is my understanding that there were some objections by some people that it wanted to refine the particular language, and I have no problem with that whatsoever.

However, as I indicated, since it was of such importance, if we can have that agreement, that it would not come up until next week——

The SPEAKER. The Chair will give the majority leader and the minority leader assurance that the Chair will not recognize the unanimous-consent request tomorrow.

Mr. MICHEL. Mr. Speaker, I thank the majority leader, the gentleman from Missouri [Mr. GEPHARDT]. We would be happy to proceed, as the majority leader outlined, for tomorrow morning.

□ 1940

AUTHORIZING THE PRESIDENT TO APPOINT REAR ADM. RICHARD HARRISON TRULY TO THE OFFICE OF ADMINISTRATOR OF THE NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

Mr. ROE. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 1180) to authorize the President to appoint Rear Adm. Richard Harrison Truly to the Office of Administrator of the National Aeronautics and Space Administration, and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

The SPEAKER. Is there objection to the request of the gentleman from New Jersey?

Mr. WALKER. Reserving the right to object, Mr. Speaker, and I shall not object, but I would like to offer the gentleman from New Jersey a chance to explain the bill to the House, and I yield to the gentleman from New Jersey.

Mr. ROE. Mr. Speaker, S. 1180 is a bill to authorize the President to appoint Adm. Richard H. Truly to the post of NASA Administrator. As of July 1, Admiral Truly will retire from the U.S. Navy. The bill provides a waiver from certain provisions of the National Aeronautics and Space Act that require the Administrator to be drawn from civilian life. Thus, this waiver is necessary in order for the other body to confirm Admiral Truly to the post.

We have considered a companion piece of legislation in the Committee on Science, Space, and Technology and it has strong bipartisan support. Admiral Truly is an outstanding choice for the position of NASA Administrator and there is no question that his experience, leadership, and character will be of great value to our space program at this critical time. Moreover, we are confident that, for all intents and purposes, he will act as a civilian Administrator.

I ask my colleagues to join me in supporting this piece of legislation. The other body now awaits our action and they are prepared to act immediately on his confirmation.

EXPLANATION OF THE BILL

Section 1 waives the requirements of section 2472(a) of title 42, United States Code, that the Administrator of NASA be appointed from civilian life. This section further provides that any service as NASA Administrator shall not affect his retired status or rank or grade nor any benefit he might otherwise receive except to the extent his retired pay is limited by the Dual Compensation Act.

Section 2 makes clear that Mr. Truly, in the performance of his duties as the Administrator will not be subject to any supervision or control or be under the jurisdiction of any military or other authority, except those that are normally applicable to the NASA Administrator. This makes clear that Mr. Truly will function as Administrator in the traditional sense, subject to the same supervisory controls as other Administrators. To ensure this, the applicability of any military or other controls on members of the retired list of the U.S. Navy—for example, potential recall to active duty or conformance to the Uniform Code of Military Justice—is suspended for the duration of his service as NASA Administrator.

Section 3 makes clear that it is the intent of Congress that this action shall not be a precedent for future appointments to the office of the NASA Administrator.

Mr. WALKER. Further reserving the right to object, Mr. Speaker, I do want to commend the gentleman from New Jersey for his statement. He is absolutely right. Admiral Truly will make an outstanding Administrator for NASA.

This legislation is necessary to assure that that appointment moves forward. I urge the House to support its adoption.

Mr. NELSON of Florida. Mr. Speaker, will the gentleman yield?

Mr. WALKER. I am happy to yield to the gentleman from Florida [Mr. NELSON], the distinguished chairman of the Subcommittee on Space Science and Applications of the Committee on Science, Space, and Technology.

Mr. NELSON of Florida. Mr. Speaker, I thank the gentleman for yielding to me.

I just simply want to say that Admiral Truly is recognized up here on the Hill as having been a key in the recovery of our Nation's space program after the disaster of the *Challenger*, and on the basis of his performance, not only as a former astronaut, but his performance as a leader in helping bring the Nation back together and getting our space program back on track, he has certainly deserved—the Nation by President Bush—to lead this agency, the National Aeronautics and Space Administration.

This legislation is a technical compliance so that he as a retired military officer can perform as the Administrator of NASA. It is almost unanimous here on the Hill, and it was certainly unanimous in our committee when we passed the legislation this morning.

Mr. MINETA. Mr. Speaker, today I was proud to join the esteemed chairman of the Space Science and Applications Subcommittee, the gentleman from Florida [Mr. NELSON], in introducing legislation to allow Rear Adm. Richard H. Truly to assume the post of NASA Administrator.

I am confident that in some future year, historians will look back and mark this time as they beginning of a new era for America's space program. They will mark this era as the time when our space program reached a new maturity. Where once we struggled just to escape the ancient limits of our Earth and its atmosphere, the history books will note that in these years we embarked on the road to living and working in space, to exploring our sister planets, and to probing the farthest reaches of our universe.

The hallmarks of this new era are the extraordinary goals we have set for ourselves and our space program.

We are planning to build and maintain in orbit around our Earth a premanently manned space station of unprecedented scale—a space station that will serve as a base from which we will be able to look back and study our Earth from a new perspective, and a platform from which we will look outward and begin sending our astronauts to explore beyond Earth orbit.

We have launched the first of a new series of planetary probes that will form the basis of an unparalleled decade of robotic exploration within our own solar system.

We have built the first of what will be a family of powerful telescopes that, when placed in orbit around the Earth, will enable us to peer for the first time into the farthest reaches of space and time.

These are ambitious goals that pose great challenges for our country. We will need to develop and perfect new technologies, some of which we can only just conceive of as we sit here today. We will need to acquire, examine, and come to understand more scientific data than ever before in history. We will need to effectively manage a program that not only spans our entire country, but that will also entail an unprecedented degree of international cooperation. We will need to learn how to live and work effectively in an environment very different from the warm embrace of Earth.

These challenges, daunting under any circumstances, will be made more difficult by the constraints of limited resources, as we struggle to cope with our current budget crisis.

Meeting these challenges will require leadership by this Congress and our President. Most importantly, though, these challenges will require the leadership of the men and women who make up our space program.

For that reason, I couldn't have been more pleased than with the nomination for Rear Adm. Richard H. Truly for the post of NASA Administrator. I believe that there could have been no better choice for this critical position.

Admiral Truly is one of NASA's own, and his nomination for NASA's top job is a symbol of our space program's maturity. Admiral Truly has served with NASA for two decades, and has a solid record of achievement both as an astronaut and as an administrator, most recently taking responsibility for restoring our shuttle program in the wake of the *Challenger* disaster. With Admiral Truly at the helm, I am confident that NASA will be in good hands as we embark on this new era.

Before Admiral Truly can assume his post, however, it is necessary for Congress to consent to the President's request in this instance to waive the restrictions in the NASA Act

against military officers serving as NASA Administrator.

I don't think that there is any doubt that Congress should and will agree to the needed waiver in the case of Admiral Truly, as has been done in the past from time to time on behalf of other exceptionally qualified military officers who have been asked by the President to assume posts of high responsibility in our government.

I feel strongly however, that as we prepare to approve this waiver, we should reflect for a moment upon the necessity for the restriction that makes this action necessary.

The NASA Act requires that the Administrator come from civilian life, thereby specifically removing military officers from consideration for this important post.

This restriction exists not because military officers would be by nature or training unsuited for this post, or because they are in any way tainted by their service in defense of our country. Our country has a long and proud history of citizen soldiers who have served their country in both the military and the civilian government, going all the way back to founders of our country—people like George Washington who were soldiers first and political leaders after. Indeed, I am proud of my own service as an officer in the U.S. Army, as so many of my colleagues are proud of theirs.

But since the time of the founders of our country, one of our fundamental principles in America has been that the military shall be in every aspect subordinate to civilian authority. This principle arises ultimately from our belief in government by the people.

So it is in this country, that those of our citizens who volunteer to take up the profession of arms in the defense of our country also accept an obligation not to seek or accept political or governmental authority. It is what makes our system work, and what enables us today to live in the world's most stable and longest running democracy.

From time to time, however, the needs of the country require that we set aside this principle, at least in a formal sense, to allow military officers of extraordinary capability to serve their government in a civilian capacity.

I believe that Rear Adm. Richard H. Truly is just such as officer, and that this Congress should grant him the necessary waiver. I believe that there is no doubt in anyone's mind that this is in the best interests of NASA, our space program, and our country.

I am pleased and proud to support this bill, and I call for its immediate passage.

Mr. LEWIS of Florida. Mr. Speaker, Richard H. Truly has done an outstanding job getting the Shuttle Program started again and keeping it on a sound schedule. He headed up a program that had low morale was under attack on all sides and had a bleak future. Within a short time, his leadership resulted in restoring morale within NASA and turned the American opinion of the Shuttle Program from doubt to support.

Moreover, his technical expertise coupled with a "can do" management style, was directly responsible for the resumption of the shuttle flights.

In my opinion, no one is more qualified to be Administrator of NASA at this time. Our space program is at a crossroads, if the programs do not get strong leadership from the Administrator, we could remain in second place in the space race with the Soviets.

Mr. Truly is the person who can provide that strong leadership. It is important that we pass the legislation to clear the way for the President to appoint Richard Truly, Administrator of NASA. I urge my colleagues to support this legislation and to give their support to Richard Truly as Administrator.

Mr. WALKER. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 1180

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That notwithstanding the provisions of section 202(a) of the National Aeronautics and Space Act of 1958 (42 U.S.C. 2472(a)), or any other provision of law, the President, acting by and with the advice and consent of the Senate, is authorized to appoint Rear Admiral Richard Harrison Truly to the Office of Administrator of the National Aeronautics and Space Administration. Admiral Truly's appointment to, acceptance of, and service in that Office shall in no way affect the status, rank, and grade which he holds as an officer on the retired list of the United States Navy, or any emolument, perquisite, right, privilege, or benefit incident to or arising out of any such status, office, rank, or grade, except to the extent that subchapter IV of chapter 55 of title 5, United States Code, affects the amount of retired pay to which he is entitled by law during his service as Administrator. So long as he serves as Administrator, Admiral Truly shall receive the compensation of that Office at the rate which would be applicable if he were not an officer on the retired list of the United States Navy, shall retain the status, rank, and grade which he now holds as an officer on the retired list of the United States Navy, shall retain all emoluments, perquisites, rights, privileges, and benefits incident to or arising out of such status, office, rank, or grade, and shall in addition continue to receive the retired pay to which he is entitled by law, subject to the provisions of subchapter IV of chapter 55 of title 5, United States Code.

SEC. 2. In the performance of his duties as Administrator of the National Aeronautics and Space Administration, Admiral Truly shall be subject to no provision, control, restriction, or prohibition (military or otherwise) other than would be operative with respect to him if he were not an officer on the retired list of the United States Navy.

SEC. 3. Nothing in this Act shall be construed as approval by the Congress of any future appointments of military persons to the Offices of Administrator and Deputy Administrator of the National Aeronautics and Space Administration.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

AUTHORIZING THE PRESIDENT TO APPOINT ADM. JAMES B. BUSEY TO THE OFFICE OF ADMINISTRATOR OF THE FEDERAL AVIATION ADMINISTRATION

Mr. OBERSTAR. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 1077) to authorize the President to appoint Adm. James B. Busey to the Office of Administrator of the Federal Aviation Administration and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

The SPEAKER. Is there objection to the request of the gentleman from Minnesota?

Mr. CLINGER. Reserving the right to object, Mr. Speaker, I will not object, but I do so to inquire of the chairman of the Subcommittee on Aviation of the Committee on Public Works and Transportation the purport of this legislation, and I yield to the gentleman from Minnesota.

Mr. OBERSTAR. Mr. Speaker, I thank the gentleman for yielding to me.

Mr. Speaker, the legislation now before us would allow Adm. James B. Busey to serve as Administrator of the Federal Aviation Administration while remaining on the retired list of the U.S. Navy.

The legislation is necessary because of a provision in the 1958 law establishing the Federal Aviation Administration which requires that the FAA Administrator must be a civilian. The conference report on that legislation stated that the requirement of civilian status for the Administrator is to be interpreted strictly and that the Administrator may not be on either the active or retired list of any of the armed services.

When this provision was added to the law in 1958, there was concern about establishing the supremacy of civilian control of our airspace. That objective has been accomplished and in recent years we have not heard concerns about undue military influence over the FAA.

Because military influence over civil aviation has not been a serious problem in the United States, legislation has been passed to allow three former military officers to serve as FAA Administrator and either retain their pension rights while serving or have those pension rights restored after they left office.

Last week the Aviation Subcommittee held a hearing to consider whether there are any problems in passing this legislation for Admiral Busey. Although at the hearings I expressed my reservations about our continuing policy of selecting former military leaders to administer the FAA, I made it clear that I have no problems with

Admiral Busey. The admiral has had a long and distinguished career of service to his country, first, as a naval aviator, and then in a series of high commands of increasing responsibility, including most recently his service as Vice Chief of Naval Operations and as Commander in Chief of Allied Forces in Southern Europe; a very impressive background.

The admiral's testimony established to my satisfaction that he intends to function as a civilian in his FAA role and that he will not be subject to influence or control by the military. Accordingly, I urge the House to pass this legislation and allow Admiral Busey to begin what I hope will be a long and productive term of service as FAA Administrator.

Mr. CLINGER. Further reserving the right to object, Mr. Speaker, I want to thank the gentleman for that explanation and join with him in applauding the nomination of Admiral Busey as Federal Aviation Administrator. I think it is an excellent choice. He will serve that Administration well.

Admiral Busey brings to the job a lifetime career in aviation. He is not only a skilled pilot in his own right, accustomed to flying high performance aircraft in all types of environments, he is also a proven manager of people and resources, having as the gentleman indicated, served most recently as Chief of Naval Operations in Europe. Thus he brings to the job an appreciation of the demands faced by pilots as well, an understanding of complex systems.

The people of this country, and indeed of this Congress and the House of Representatives, are fortunate that we have a candidate possessing such extraordinary qualifications.

So I heartily endorse the nomination of Admiral Busey and certainly support this legislation.

I do understand from the chairman that by virtue of the fact that the Senate has already acted on this, once we approve this action tonight this bill can go to the President for signature; is that correct?

Mr. OBERSTAR. Mr. Speaker, if the gentleman will yield, our action tonight in taking and passing the Senate bill means that the bill goes directly to the President for his signature and Admiral Busey would be able to be sworn in as FAA Administrator.

Mr. Speaker, if the gentleman will yield further, I would like to thank the gentleman for his partnership and participation in holding the hearings, doing the markup and moving this legislation so expeditiously.

Mr. CLINGER. Mr. Speaker, I thank the gentleman, and I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 1077

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That notwithstanding the provisions of section 106 of title 49, United States Code, or any other provision of law, the President, acting by and with the advice and consent of the Senate, is authorized to appoint Admiral James B. Busey to the Office of Administrator of the Federal Aviation Administration. Admiral Busey's appointment to, acceptance of, and service in that Office shall in no way affect the status, rank, and grade which he shall hold as an officer on the retired list of the United States Navy, or any emolument, perquisite, right, privilege, or benefit incident to or arising out of any such status, office, rank, or grade, except to the extent that subchapter IV of chapter 55 of title 5, United States Code, affects the amount of retired pay to which he is entitled by law during his service as Administrator. So long as he serves as Administrator, Admiral Busey shall receive the compensation of that Office at the rate which would be applicable if he were not an officer on the retired list of the United States Navy, shall retain the status, rank, and grade which he now holds as an officer on the retired list of the United States Navy, shall retain all emoluments, perquisites, rights, privileges, and benefits incident to or arising out of such status, office, rank, or grade, and shall in addition continue to receive the retired pay to which he is entitled by law, subject to the provisions of subchapter IV of chapter 55 of title 5, United States Code.

SEC. 2. In the performance of his duties as Administrator of the Federal Aviation Administration, Admiral Busey shall be subject to no supervision, control, restriction, or prohibition (military or otherwise) other than would be operative with respect to him if he were not an officer on the retired list of the United States Navy.

SEC. 3. Nothing in this Act shall be construed as approval by the Congress of any future appointments of military persons to the Office of Administrator of the Federal Aviation Administration.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

□ 1950

GENERAL LEAVE

Mr. OBERSTAR. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the two Senate bills, S. 1077 and S. 1180, just passed.

The SPEAKER. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

RESIGNATION AS FLOOR ASSISTANT

The Speaker laid before the House the following resignation as Floor Assistant to the Minority:

HOUSE REPUBLICAN POLICY COMMITTEE,
Washington, DC, June 14, 1989.

Hon. THOMAS S. FOLEY,
Speaker, U.S. House of Representatives, Washington, DC.

DEAR MR. SPEAKER: Please accept my resignation as Floor Assistant to the Minority, effective at the close of business, 30 June 1989.

I very much appreciate the opportunity and honor of serving in this position, and I offer my thanks to you, to the Minority Leader, and to all Members of the House for your kindness.

Sincerely,

GORDON S. JONES.

AUTHORIZING COMPENSATION FOR CERTAIN MINORITY EMPLOYEES

Mr. MICHEL. Mr. Speaker, by direction of the Republican Conference, I offer a resolution (H. Res. 183), and I ask unanimous consent for its immediate consideration.

The SPEAKER. The Clerk will report the resolution.

The Clerk read as follows:

H. RES. 183

Resolved, That pursuant to the Legislative Pay Act of 1929, as amended, the fifth and sixth of the minority employees authorized therein shall be Mr. William F. Gavin and Ms. Vicki Love Martyak, effective July 1, 1989, (to fill two existing vacancies) until otherwise ordered by the House, to receive gross compensation pursuant to the provisions of House Resolution 119, Ninety-Fifth Congress, as enacted into permanent law by section 115 of Public Law 95-94.

The SPEAKER. Is there objection to the request of the gentleman from Illinois?

There was no objection.

The SPEAKER. The question is on the resolution.

The resolution was agreed to.

A motion to reconsider was laid on the table.

FURTHER LEGISLATIVE PROGRAM

(Mr. MICHEL asked and was given permission to address the House for 1 minute.)

Mr. MICHEL. Mr. Speaker, I have asked for this time that I might inquire again of the distinguished majority leader clarification of the schedule tomorrow.

Mr. GEPHARDT. Mr. Speaker, will the gentleman yield?

Mr. MICHEL. I am happy to yield to the majority leader.

Mr. GEPHARDT. Mr. Speaker, I thank the gentleman.

In our previous colloquy, it might have been helpful to Members to let them know that on tomorrow when we come in, it is our intention to only have a vote on the supplemental appropriation. There is a possibility of some contest on some of the minor issues, but I doubt that that will be the case.

Mr. Speaker, there then may be a vote on an adjournment resolution, but other than that, we hope to not have any other votes. We will not take up the foreign aid bill. We will not put other votes on the floor, so that Members will not have to look forward to a number of votes.

Mr. MICHEL. I thank the majority leader for that clarification.

UNITED STATES COAST GUARD AUXILIARY DAY

Mr. SAWYER. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the joint resolution (H.J. Res. 111) designating June 23, 1989, as "United States Coast Guard Auxiliary Day," and ask for its immediate consideration.

The Clerk read the title of the joint resolution.

The SPEAKER. Is there objection to the request of the gentleman from Ohio?

Mr. GILMAN. Mr. Speaker, reserving the right to object, and while I do not intend to object, I yield to the gentleman from Florida [Mr. HUTTO], the sponsor of the bill.

Mr. HUTTO. Mr. Speaker, I thank the gentleman, and I thank the chairman of the subcommittee for bringing this resolution to the floor tonight. I also thank the 218 Members who have cosponsored it.

Since June 23, 1939, the U.S. Coast Guard Auxiliary, a civil-voluntary adjunct of the U.S. Coast Guard, has been helping the American boating community. These men and women, located in every State and territory, routinely give much of themselves to help the U.S. Coast Guard. They annually save hundreds of lives on the water and hundreds of millions of dollars in property value. It would therefore be fitting to honor these individuals who have served us so honorably in times of peace and war.

Mr. Speaker, I think it is great that we can proclaim throughout the land tomorrow U.S. Coast Guard Auxiliary Day.

Mr. GILMAN. Mr. Speaker, further reserving the right to object, I want to join the gentleman from Florida [Mr. HUTTO] and thank him for bringing this measure to the floor and for commending the Auxiliary of the Coast Guard, who have done such an outstanding service for our Nation.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Ohio?

The Clerk read the joint resolution, as follows:

H.J. RES. 111

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That June 23, 1989, is designated as "United States Coast Guard Auxiliary Day", and the President is authorized and requested to issue a proclamation—

(1) commemorating the 50 years of service that service volunteers of the Coast Guard have given to enhance the safety of the people of the United States who enjoy water-related activities, and

(2) calling upon the people of the United States to observe such day in schools, Coast Guard units, boat clubs, and other suitable places with appropriate ceremonies, educational activities, and boating safety achievement programs.

The joint resolution was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. SAWYER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the joint resolution just passed.

The SPEAKER. Is there objection to the request of the gentleman from Ohio?

There was no objection.

U.S. ALTERNATIVE FUELS COUNCIL MEMO NO. 62289: NO PLACE SAFE FROM AIR POLLUTION

(Mr. ALEXANDER asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. ALEXANDER. Mr. Speaker, no place on planet Earth is safe from air pollution. This week the New York Times revealed that air pollution has been discovered in the virgin rain forest in Central Africa. This pollution was discovered to contain carbon monoxide, ozone, and carbon dioxide, and it serves to point out that no area in the world appears to be safe from the problems of pollution.

One of the major contributors to this very serious problem is auto emissions, and that is one of the reasons I have worked so hard to increase the availability of clean-burning alternative fuels.

Both humans and plant life on Earth need for Congress to enact a clean-fuel program.

Mr. Speaker, I include in the RECORD a copy of the article for the consideration of the Members.

[From the New York Times, June 6, 1989]

HIGH OZONE AND ACID-RAIN LEVELS FOUND OVER AFRICAN RAIN FORESTS—AMOUNTS COMPARABLE TO THOSE IN INDUSTRIAL AREAS

(By Marlise Simons)

FREIBURG, WEST GERMANY.—High levels of ozone and acid rain, pollution normally associated with industrialization, have been found for the first time over the virgin rain forests of Central Africa.

Scientists who made the discovery said the pollution was particularly alarming because it exists throughout the year and is comparable to levels in Europe and North America.

The findings, which surprised other specialists on the tropics, have created new concerns about the future of Africa's equatorial forests, which are already under siege from a fast-growing population and the work of lumbermen.

The acid and ozone pollution stretches from the Congo basin in the heart of Africa to the west coast and sweeps out over the Atlantic Ocean, the scientists say.

The magnitude of the ozone, carbon monoxide, carbon dioxide and methane released by man-made fires is also raising new questions about their contribution to the greenhouse effect. Those gases and others trap heat from the sun in a process similar to what happens in a greenhouse, and that is expected to raise global temperatures.

The scientists, who belong to separate teams from West Germany and France, said the acid rain and ozone pollution—held to be harmful to plants—are largely caused by man-made fires that rage for months across thousands of miles of African savannas. Farmers and herdsmen set the fires to clear shrubs and to stimulate the growth of crops and grass.

"We don't know yet what this does; the research is too new," said Dr. Meinrat Andreae, who headed the West German team. "We also don't yet know how sensitive the tropical forest is to this. But with a mix like this in Germany or the U.S., we would have to look for damage to the forest."

The pioneering studies were presented at a conference on fire ecology late last month in the University of Feiburg, West Germany, and included the most comprehensive data yet about emissions from fires in Africa.

That and other new research is drawing attention to the little understood but apparently dramatic impact of the African savanna fires on the atmosphere.

In a new study, Dr. Paul Crutzen, a leading atmospheric scientist currently at the Max Planck Institute for Chemistry in Mainz, West Germany, reported that African fires were the world's leading contributor to pollution coming from the burning of vegetation. African savanna fires are so extensive, he said, that they pump three times more gases and particles into the air than all the fires set by farmers and settlers in South America, including the dramatic fires of the Amazon.

BURNINGS AND RAIN FORESTS

Of all the carbon dioxide released by burning or deforestation, he said, at least half comes from Africa. On a global scale, he said, burning and rotting vegetation of newly cut forest accounts for a third of the world's carbon dioxide, while two-thirds come from industrial burning of fossil fuel.

Recent satellite readings have also shown that while Africa's traditional burnings destroy much less rain forest than those in Latin America, the savanna fires cover a greater area, burn a greater volume of the dry grass, shrubs and trees and are more frequent than anywhere else in the tropics. Land clearing through fire is a common among farmers throughout the developing world.

"The forest burns once and it is destroyed, but the savannas and the grasslands become larger and are burned regularly," said Dr. Crutzen, a Dutch meteorologist.

Dr. Crutzen, who was the first scientist to draw attention to the enormous impact of tropical fires on the atmosphere and on the greenhouse effect, also warned that the world must count on increasing pollution from the tropics as the population grows and more forests are turned into fields and grasslands, which are burned with more frequency.

ACIDITY IN CLOUDS AND MIST

"Shrublands used to be burned every three years," he said. "It has now become evident that many are burned every two years and even every year."

In the case of acid rain, two groups of scientists found levels they described as pH 4, or almost 10 times more than normal acidity, in the Congo and the Ivory Coast. Jean Pierre Lacaux, whose French team carried out the most extensive ground and air tests for more than three years, said "the scale of the acidity in Africa is very serious."

It is present in all the forests of equatorial Africa, from the Ivory Coast across Central Africa to Gabon, Congo and Zaire, he said. High acidity has been linked to tree damage in temperate forests. Specialists say that in the soil, high acidity can cause changes in the root system of plants and effect their ability to take up nutrients, while the air or rainwater acidity can damage the leaves.

"We found the high acidity in the fog and mists that hang over the forests and the same high levels in cloud water and rainwater," said Mr. Lacaux, a specialist in cloud physics at the Center of Atmospheric Research in Lannemezan in the French Pyrenees. Part of the acidity, he noted, was natural, given off by living vegetation and decomposing forest litter. But most, he said, were formic and acetic acid as well as nitric acid caused by the fires. Hydrocarbons released by burning in turn created more acidity.

THICK HAZE OF SOIL DUST

"We found fire emissions all year long because the burning goes on all the time," Mr. Lacaux said in a telephone interview. "Part of the year it is above the equator and part of the year below the equator. But the winds move the emissions in such a way that the Congo is affected almost the entire year."

Dr. Andreae, who has also studied the atmosphere over the Amazon, said that fires there produced very high acidity in the air during the dry season. But during the rest of the year, the Amazon clouds returned to their natural, slightly acid levels, he said. Last year Dr. Andreae and his team from the Max Planck Institute rigged a small plane as a laboratory to work over the Congo.

"We found the most serious pollution I have ever seen over primary forest," he said. Flying some 400 miles north of Brazzaville and 200 miles east and west, he said, "there seemed to be no beginning or end to the pollution."

"There was a thick haze of soil dust and smoke and very high acidity reaching a pH level of 3.9," said Dr. Andreae. But most surprising, he said, was the high ozone pollution right above the forest. At night the forest would remove the ozone, but by midday, he said, "the photochemistry would bring it back up to 60 or 70 parts per billion or three times the normal rate."

THE AIR IS LIKE SOUP COOKING

Such findings are regarded as important evidence by scientists who study atmospheric chemistry in the tropical regions. The object of such research is to monitor the contribution by tropical forests to key compounds in the atmosphere that regulate climate and life on earth. The role of the equatorial forests, which is now widely regarded as vital, has only gained recognition in the last decade and is now becoming the object of wider research.

"You set out to study the interactions between the pristine forest and the atmosphere," said Dr. Andreae. "But then the burning forces itself upon you. It's such a dominant influence on the air over the forest that you end up studying it."

The pollution from the savanna fires is now studied because of its effects not only on the forest but also on far-off regions and higher layers of the global atmosphere.

"A lot of the ozone and the dust travel thousands of miles," said Dr. Crutzen, noting that in 1988 German researchers, traveling by ship off Africa, registered high ozone pollution in the middle of the Atlantic Ocean. They were able to trace the ozone to the African fires, he said.

"In the tropics, the air is like soup cooking, it's mixing and moving huge air masses and the north-east wind over Africa moves it west," said Dr. Crutzen. "We don't know yet if the high acidity is a big problem or a small problem for the tropical forest and we don't know whether the high ozone is damaging the forest. But we have to raise the questions because the burnings in the tropics will only increase."

FDIC-RUN THRIFT IS INTEREST RATE LEADER

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois [Mr. ANNUNZIO] is recognized for 5 minutes.

Mr. ANNUNZIO. Mr. Speaker, since the beginning of the year the Federal Deposit Insurance Corporation [FDIC] has been appointed the conservator for over 220 savings and loans across the Nation. By being appointed conservator the FDIC was to run the institutions to keep them from further decline.

One means of reducing costs at a financial institution is to reduce the cost of funds. Reducing the costs of funds requires an institution to lower the rates it pays on its deposits. The lower the rates one pays, the less interest expense the institution incurs.

Unfortunately, the FDIC has become the rate leader in many of its conservatorships. Not only is this harmful to the institutions under its conservatorships, but it also drives up the cost of funds for competing financial institutions. These institutions then must either raise their rates or risk losing deposits to their FDIC-run competitor. Depositors, knowing that an institution is being run by the FDIC, an agency of the United States Government, have no fear of placing their money in those institutions even though they are insolvent. They know that the FDIC will not permit them to lose money on their insured deposits.

The Clearwater, FL, area provides an excellent example of the problems generated by FDIC-operated financial institutions. Gibraltar Savings Bank was placed into conservatorship on March 31. On May 9, Gibraltar, which has a branch in Clearwater, was the rate leader among both savings and loans and banks. Compared to 15 other institutions, it had the highest rates on 90-day, 6 months, and 1-year certificates of deposits [CD].

Ninety-day CD's at FDIC-run Gibraltar were yielding a stunning 3.09 percent more than the identical CD at Chase Bank. Even compared to its nearest competitor, the yield on Gibraltar's 90-day CD's was 81.5 basis points (0.815 percent) higher than its nearest competitor. In an industry where 100 basis points is considered a good return on assets, Gibraltar's pricing is both predatory and economically unsound.

The same kind of difference on yields exists between Gibraltar and its competitors 180-day and 1-year CD's. Gibraltar's yield of 10.753 percent on 6 month CD's is 89 basis points above its nearest competitor, and more than 2 full percentage points above the lowest yielding CD offered by its competitors.

For 1-year CD's, Gibraltar's yield of 10.652 percent, was 52.8 basis points higher than its nearest competitor, and was 165 basis points higher than the lowest yield on a competitive 1-year CD. A chart showing the rates offered by Gibraltar and its competitors in the Clearwater area follows my statement.

Mr. Speaker, when it comes to trade, we often hear about the unfair competition from abroad. In the financial services area, however, we have the FDIC providing the unfair competition against savings and loans and even against banks that it insures.

What chance does its competitors have when the FDIC is paying rates that are far out of line with the prevailing market rates in its area? Such action drives up the ultimate cost to the insurance fund by increasing the costs to the institutions in conservatorship. It also puts a strain on other financial institutions. By driving up their costs, the FDIC may force some of those to fail. At the very least, by driving up their costs it tempts them to make riskier investments, thereby increasing the risk to the deposit insurance system.

Mr. Speaker, I am concerned that the FDIC is acting in a counterproductive manner in its conservatorships, by paying deposit interest rates that are unjustifiably high. As conservator, the FDIC has an obligation to try to reduce costs in institutions under its control, not increase them. The FDIC should be working toward a solution for failing institutions, not adding to the problem.

CLEARWATER, FL, DEPOSIT MARKET RATES

Local competitors	90 day		180 day		1 year	
	Rate	Yield	Rate	Yield	Rate	Yield
Gibralter Savings Bank	9.848	10.345	10.215	10.753	10.123	10.652
Countryside Bankers [1]	8.70	9.09	9.40	9.86	9.25	9.69
Fortune Savings [2]	9.25	([3])	9.50	([3])	9.55	([3])
Pioneer Savings [1]	9.10	9.53	9.35	9.80	9.45	9.91
First Nationwide [4]	8.71	9.00	9.27	9.60	9.45	9.80
California Federal [1]	8.90	9.31	9.40	9.85	9.53	10.00
Amerifirst Federal [3]	8.85	([3])	9.65	([3])	9.85	([3])
Florida Federal [2]	8.41	8.75	([3])	([3])	9.11	9.50
Barnett Bank [3]	9.25	([3])	9.00	([3])	9.00	([3])
Republic Bank [2]	8.40	8.73	8.75	9.11	8.75	9.11
First Florida Bank [3]	8.75	([3])	9.10	([3])	9.20	([3])
Citizens Bank [2]	8.60	8.947	9.20	9.60	9.10	9.48
First Union Bank [3]	8.70	([3])	9.05	([3])	9.10	([3])
First National of Clearwater [3]	NA	([3])	8.75	([3])	8.85	9.148
Gulf Bank of Dunedin [2]	9.00	9.38	9.00	9.16	9.00	9.38
Chase	7.00	7.253	9.40	9.85	9.60	10.07

[1] Compounded daily.
[2] Compounded monthly.
[3] Simple interest.
[4] Compounded quarterly.

Note.—Survey as of May 9, 1989.

VERY SPECIAL CEREMONY IN PHILADELPHIA, MS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Mississippi [Mr. MONTGOMERY] is recognized for 5 minutes.

Mr. MONTGOMERY. Mr. Speaker, there was a very special ceremony Wednesday in my congressional district. In Philadelphia, MS, people from all across the county gathered to commemorate the tragic deaths of three civil rights workers in Neshoba County 25 years ago.

James Chaney, Michael Schwerner, and Andrew Goodman were remembered for their efforts to register black voters in what was called freedom summer.

Philadelphia, MS, is very different today. Blacks and whites respect each other. They work together. They go to school together in an atmosphere of harmony and good will.

We cannot change what happened in Neshoba County in 1964, but the events yesterday prove we have come a long way. Blacks and whites have come together in our State and we share a common goal of trying to improve the lives of all Mississippians. I hope we can continue to build on the successes we have achieved since that troubled time in 1964.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. EMERSON (at the request of Mr. MICHEL) for today on account of illness.

Mr. YATES (at his own request) for the remainder of today on account of personal reasons.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. JAMES) to revise and extend their remarks and include extraneous material:)

Mrs. BENTLEY, for 60 minutes, on July 11, 12, 13, 18, and 19.

Mr. BOEHLERT, for 5 minutes, today.

Mr. DANNEMEYER, for 60 minutes, on June 26, 27, and 28.

(The following Members (at the request of Mr. SAWYER) to revise and extend their remarks and include extraneous material:)

Mr. ANNUNZIO, for 5 minutes, today.

Mr. MONTGOMERY, for 5 minutes, today.

Mr. STARK, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. MICHEL, prior to passage of House Resolution 182 in the House today.

(The following Members (at the request of Mr. JAMES) and to include extraneous matter:)

Mr. MICHEL.
Mr. MACHTLEY.
Mr. GREEN.
Mr. BEREUTER.
Mr. BUNNING.
Mr. BROOMFIELD in two instances.
Mr. ROWLAND of Connecticut.
Mr. RHODES in two instances.
Mr. GUNDERSON.
Mr. CALLAHAN.
Mr. ROBERT SMITH of Oregon.
Mr. YOUNG of Florida in two instances.
Mr. DANNEMEYER in two instances.
Mr. ROHRABACHER.
Mr. FISH.
Mr. DENNY SMITH.
Mr. CLINGER.
Mr. LOWERY of California.
Mr. LEWIS of California.
Mr. HAMMERSCHMIDT.
Mr. GILMAN.
Mr. MILLER of Ohio in two instances.
Mrs. MARTIN of Illinois.

(The following Members (at the request of Mr. SAWYER) and to include extraneous matter:)

Mr. STARK in two instances.
Mr. STOKES.
Mr. CAMPBELL of Colorado.
Mr. FRANK.
Mr. KLECZKA.
Mr. PENNY.
Mr. TAUZIN.
Mr. MONTGOMERY in three instances.
Mr. DONNELLY.
Mr. SOLARZ.
Mr. WOLPE.
Mr. MATSUI in two instances.
Mr. TRAFICANT.
Mr. WILLIAMS.
Mr. HOAGLAND.
Mr. SCHEUER.
Mr. TORRES.
Mr. LANTOS.
Mr. ACKERMAN.
Mr. LIPINSKI.
Mr. WYDEN.

ADJOURNMENT

Mr. SAWYER. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 7 o'clock and 57 minutes p.m.) the House adjourned until tomorrow, Friday, June 23, 1989, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

1372. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 9-45, "Closing of Public Alleys in Square 290, S.O. 88-27, Act of 1989," and report, pursuant to D.C. Code section 1-233(c)(1); to the Committee on the District of Columbia.

1373. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 8-24, "District of Columbia Recordation of Economic Interests in Real Property Tax Amendment Act of 1989," and report, pursuant to D.C. Code section 1-233(c)(1); to the Committee on the District of Columbia.

1374. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 8-43, "Tree Space Beautification Regulation Act of 1989," and report, pursuant to D.C. Code section 1-233(c)(1); to the Committee on the District of Columiba.

1375. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 8-44, "Closing of a Public Alley in Square 627, S.O. 88-52, Act of 1989," and report, pursuant to D.C. Code section 1-233(c)(1); to the Committee on the District of Columbia.

1376. A letter from the Secretary of Health and Human Services, transmitting a copy of a report pertaining to second surgical opinion and preadmission review programs in the Medicaid Program, pursuant to 42 U.S.C. 1396; to the Committee on Energy and Commerce.

1377. A letter from the Deputy Associate Director for Collection and Disbursements, Department of the Interior, transmitting notice of proposed refunds of excess royalty payments in OCS areas, pursuant to 43 U.S.C. 1339(b); to the Committee on Interior and Insular Affairs.

1378. A letter from the Deputy Associate Director for Collection and Disbursements, Department of the Interior, transmitting notice of proposed refunds of excess royalty payments in OCS areas, pursuant to 43 U.S.C. 1339(b); to the Committee on Interor and Insular Affairs.

1379. A letter from the Secretary of Energy, transmitting a draft of proposed legislation to authorize the Secretary of Energy to sell the Government's ownership interest in the naval petroleum reserve Numbered 1 or 3, or both, and to establish the conditions for the sale, to establish the defense petroleum inventory, to assure the timely completion of the strategic petroleum reserve, and for other purposes; jointly, to the Committees on Armed Services and Energy and Commerce.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and referred to the proper calendar, as follows:

Mr. DINGELL: Committee of conference. Conference report on H.R. 1722 (Rept. 101-100). Ordered to be printed.

Mr. ANDERSON: Committee on Public Works and Transportation. Report on subdivision of budget totals agreed to in the concurrent resolution on the budget (H. Con. Res. 268) for fiscal year 1989 pursuant to section 302(b)(2) of the Congressional Budget and Impoundment Control Act of 1974, as amended, and the joint explanatory statement of the committee of conference on House Concurrent Resolution 268 (see also report 100-662) (Rept. 101-101). Referred to the Committee of the Whole House on the State of the Union.

Mr. ANDERSON: Committee on Public Works and Transportation. H.R. 801. A bill to designate the U.S. Court of Appeals

Building at 56 Forsyth Street in Atlanta, GA, as the "Elbert P. Tuttle Court of Appeals Building"; with amendments (Rept. 101-102). Referred to the House Calendar.

Mr. MONTGOMERY: Committee on Veterans' Affairs. H.R. 2557. A bill to designate the outpatient clinic of the Department of Veterans' Affairs to be located on New Jersey State Route 70 in Brick Township, NJ, as the "James J. Howard Veterans' Outpatient Clinic" (Rept. 101-103) Referred to the House Calendar.

Mr. MONTGOMERY: Committee on Veterans' Affairs. H.R. 2569. A bill to designate the Department of Veterans' Affairs medical center in Saginaw, MI, as the "Aleda E. Lutz Department of Veterans' Affairs Medical Center" (Rept. 101-104). Referred to the House Calendar.

Mr. MONTGOMERY: Committee on Veterans' Affairs. H.R. 1334. A bill to amend title 38, United States Code, to remove a limitation relating to the payment of pension to veterans furnished hospital care by the Veterans' Administration on a long-term basis; with amendments (Rept. 101-105). Referred to the Committee of the Whole House on the State of the Union.

Mr. MONTGOMERY: Committee on Veterans' Affairs. H.R. 1199. A bill to amend title 38, United States Code, to improve recruitment and retention of nurses in the Department of Veterans' Affairs by providing greater flexibility in the pay system for those nurses; with amendments (Rept. 101-106). Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of the rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. NELSON of Florida (for himself and Mr. MINETA):

H.R. 2716. A bill to authorize the President to appoint Rear Adm. Richard Harrison Truly to the Office of Administrator of the National Aeronautics and Space Administration; to the Committee on Science, Space, and Technology.

By Mr. BERMAN (for himself, Mr. LEVINE of California, and Mr. WAXMAN):

H.R. 2717. A bill to amend the National Narcotics Leadership Act of 1988 to require that certain areas to be designated as high intensity drug trafficking areas, and for other purposes; jointly, to the Committees on the Judiciary, Merchant Marine and Fisheries, and Ways and Means.

By Mr. CLAY:

H.R. 2718. A bill to amend the National Labor Relations Act with respect to the right to organize of certain security personnel; to the Committee on Education and Labor.

By Mr. CLINGER:

H.R. 2719. A bill to amend titles I, II, IV, and V of the Surface Mining Control and Reclamation Act of 1977, and to add a new title X, to encourage the remining and reclamation of abandoned mined lands by active mining operations, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. GEJDENSON (for himself, Mr. EVANS, Mr. BONIOR, Mr. BUSTAMANTE, Mrs. COLLINS, Mr. FAUNTROY, and Mr. ROE):

H.R. 2720. A bill to require the Secretary of Veterans' Affairs to develop standard criteria for the treatment and diagnosis of veterans suffering from service-connected posttraumatic-stress disorder [PTSD] and the training of those who counsel and treat those veterans, to require the establishment of PTSD treatment teams at Department of Veterans' Affairs medical centers, and for other purposes; to the Committee on Veterans' Affairs.

By Mr. GUARINI:

H.R. 2721. A bill to extend the existing suspension of duty on graphite; to the Committee on Ways and Means.

By Mr. GUNDERSON:

H.R. 2722. A bill to grant permanent residence status to certain nonimmigrant natives of the People's Republic of China; to the Committee on the Judiciary.

By Mr. KANJORSKI (for himself and Mr. YATRON):

H.R. 2723. A bill to amend the Resource Conservation and Recovery Act to improve procedures for the implementation of State compacts providing for the establishment and operation of regional disposal facilities for municipal and industrial solid waste, and for other purposes; to the Committee on Energy and Commerce.

By Mr. LEWIS of California (for himself, Mr. MICHEL, Mr. MCMILLAN of North Carolina, Mr. PAXON, Mr. SOLOMON, Mr. LAGOMARSINO, Mr. HEFLEY, Mr. KOLBE, Mr. PETRI, Mr. ROHRABACHER, Mr. GOSS, Mr. SCHULZE, Mr. SMITH of Mississippi, Mr. IRELAND, Mr. SMITH of New Hampshire, Mr. RITTER, Mr. GINGRICH, Mr. WEBER, Mr. KYL, Mr. HUNTER, Mr. WALKER, Ms. SCHNEIDER, Mr. ARMEY, Mr. NIELSON of Utah, Mrs. JOHNSON of Connecticut, Mr. THOMAS of Wyoming, Mr. EDWARDS of Oklahoma, and Mr. STEARNS):

H.R. 2724. A bill to establish the Commission on the Federal Taxation of Savings and Investment; to the Committee on Ways and Means.

H.R. 2725. A bill to amend the Internal Revenue Code of 1986 to provide a cost-of-living adjustment for the amount of, and the income limits relating to, the deduction for individual retirement account contributions; to the Committee on Ways and Means.

By Mr. MINETA:

H.R. 2726. A bill to treat Hong Kong as a separate foreign state for purposes of applying the numerical limitations on immigration; to the Committee on the Judiciary.

By Mr. MONTGOMERY (for himself and Mr. STUMP):

H.R. 2727. A bill to amend title 38, United States Code, to establish a retirement and survivor benefit program for judges of the new U.S. Court of Veterans Appeals, and for other purposes; to the Committee on Veterans' Affairs.

By Mr. NEAL of North Carolina:

H.R. 2728. A bill to require that the President negotiate with Japan an agreement whereby Japan reimburses the United States for a portion of the costs the United States incurs in providing a military defense of Japan; to the Committee on Foreign Affairs.

By Mr. OBERSTAR:

H.R. 2729. A bill to amend title II of the Social Security Act to provide for a limitation on the reduction in widow's and widower's insurance benefits currently provided in the case of the early retirement of the deceased spouse, and to provide that widow's and widower's insurance benefits, as well as old-age insurance benefits, may be increased by the application of the delayed retirement credit, and to provide for the treatment of such benefits in cases of simultaneous entitlement; to the Committee on Ways and Means.

H.R. 2730. A bill to amend title II of the Social Security Act to provide for improvements in wife's and husband's insurance benefits; to the Committee on Ways and Means.

H.R. 2731. A bill to amend title II of the Social Security Act to provide for improvements in widow's and widower's insurance benefits; jointly, to the Committee on Ways and Means and Energy and Commerce.

By Mr. PENNY (for himself, Mr. FRENZEL, Mr. CARPER, and Mr. STENHOLM):

H.R. 2732. A bill to amend chapter 32 of title 39, United States Code, to limit the number of congressional mass mailings, require public disclosure of the costs of such mailings, and for other purposes; to the Committee on Post Office and Civil Service.

By Mr. SAVAGE:

H.R. 2733. A bill to amend the Surface Transportation and Uniform Relocation Assistance Act of 1987; to the Committee on Public Works and Transportation.

By Mr. SCHEUER (for himself Ms. SCHNEIDER, Mr. ROE, Mr. BROWN of California, Mr. BOEHLERT, Mr. WOLPE, Mr. MORRISON of Washington, Mr. NELSON of Flordia, Mr. SMITH of New Hampshire, Mr. MINETA, Mr. FAWELL, Mr. VALENTINE, Mrs. MORELLA, Mr. STALLINGS, Mr. SHAYS, Mr. HAMILTON, Mr. MCMILLEN of Maryland, Mr. PRICE, Mr. SKAGGS, Mr. TANNER, and Mr. SMITH of Texas):

H.R. 2734. A bill to inaugurate a comprehensive program of environmental research development, and demonstration relating to contamination and depletion of ground water and ground water resources; and to establish an Interagency Ground Water Research Committee to improve coordination among Federal agencies and provide assistance for implementation of State management programs; jointly, to the Committees on Science, Space, and Technology; Agriculture; Energy and Commerce; Interior and Insular Affairs; and Public Works and Transportation.

By Mrs. SMITH of Nebraska:

H.R. 2735. A bill to amend the Rural Electrification Act of 1936 to allow the prepayment of certain loans; to the Committee on Agriculture.

H.R. 2736. A bill to authorize the Secretary of the Interior to construct, operate, and maintain the Prairie Bend unit of the Pick-Sloan Missouri Basin Program for the purpose of recovery and protection of threatened and endangered species and other migratory birds and for the protection and stabilization of ground water; to the Committee on Interior and Insular Affairs.

By Mr. DENNY SMITH (for himself, Mr. YOUNG of Alaska, and Mr. ROBERT F. SMITH):

H.R. 2737. A bill to require the payment of interest on moneys affected by injunctions on Federal timber sales; to the Committee on Agriculture.

H.R. 2738. A bill to provide for awards for information concerning the placement of hazardous or injurious devices on Federal lands, including the spiking of timber resources; to the Committee on the Judiciary.

By Mr. SUNDQUIST:

H.R. 2739. A bill to amend title 4, United States Code, to limit the authority of a State to tax a resident of another State on income derived from Federal employment performed on a Federal area located within the borders of two or more contiguous States; to the Committee on the Judiciary.

By Mr. SYNAR (for himself, Mr. FISH, Mr. MOORHEAD, Mr. MOAKLEY, Mr. MARKEY, Mr. HUGHES, Mr. GLICKMAN, Mr. FRANK, Mr. BERMAN, Mr. BRYANT, Mr. SANGMEISTER, Mr. LEVINE of California, Mr. ATKINS, Mr. KENNEDY, Mr. NEAL of Massachusetts, Mr. MAVROULES, Mr. STUDDS, Mr. MATSUI, Mr. MCDERMOTT, Mrs. UNSOELD, and Mr. SWIFT):

H.R. 2740. A bill to amend title 17, United States Code, to protect certain computer programs; to the Committee on the Judiciary.

By Mr. VANDER JAGT:

H.R. 2741. A bill to amend the Tax Reform Act of 1986 to provide for the treatment of certain generation-skipping transfers; to the Committee on Ways and Means.

By Mr. WILLIAMS (for himself, Mr. FORD of Michigan, Mr. OWENS of New York, Mr. PERKINS, Mr. HAYES of Illinois, Mr. GAYDOS, Mr. MILLER of California, Mrs. LOWEY of New York, Mr. POSHARD, Mr. COLEMAN of Missouri, Mr. GOODLING, Mrs. ROUKEMA, and Mr. TAUKE):

H.R. 2742. A bill to extend and amend the Library Services and Construction Act, and for other purposes; to the Committee on Education and Labor.

By Mr. WYDEN:

H.R. 2743. A bill to increase economic development opportunities and housing opportunities for low- and moderate-income households; to the Committee on Banking, Finance and Urban Affairs.

By Mr. YOUNG of Florida:

H.R. 2744. A bill to amend section 700 of title 18, United States Code, relating to desecration of the flag of the United States; to the Committee on the Judiciary.

By Mr. BILIRAKIS (for himself and Mr. BURTON of Indiana):

H.J. Res. 302. Joint resolution proposing an amendment to the Constitution of the United States authorizing the Congress and the States to prohibit the act of desecration of the flag of the United States and to set criminal penalties for that act; to the Committee on the Judiciary.

By Mr. WYLIE:

H.J. Res. 303. Joint resolution proposing an amendment to the Constitution of the United States authorizing the Congress and the States to prohibit the act of desecration of the flag of the United States and to set criminal penalties for that act; to the Committee on the Judiciary.

By Mrs. BENTLEY (for herself, Mr. WELDON, Mr. CLINGER, Mr. MARLENEE, Mr. HOLLOWAY, Mr. RITTER, Mr. QUILLEN, Mr. HAMMERSCHMIDT, Mr. BENNETT, Mr. INHOFE, Mr. EDWARDS of Oklahoma, Mr. MYERS of Indiana, Mr. SOLOMON, Mr. MCDADE, Mr. BEREUTER, Mr. SPENCE, and Mr. DORNAN of California):

H.J. Res. 304. Joint resolution proposing an amendment to the Constitution of the United States with respect to burning the flag of the United States; to the Committee on the Judiciary.

By Mr. BEVILL:

H.J. Res. 305. Joint resolution proposing an amendment to the Constitution of the United States authorizing the Congress and the States to prohibit the act of desecration of the flag of the United States and to set criminal penalties for that act; to the Committee on the Judiciary.

By Mr. CALLAHAN:

H.J. Res. 306. Joint resolution proposing an amendment to the Constitution of the United States authorizing the Congress and the States to prohibit the act of desecration of the flag of the United States and to set criminal penalties for that act; to the Committee on the Judiciary.

By Mr. DERRICK:

H.J. Res. 307. Joint resolution proposing an amendment to the Constitution of the United States authorizing the Congress to prohibit the act of desecration of the flag of the United States and to set criminal penalties for that act; to the Committee on the Judiciary.

By Mr. DORNAN of California (for himself, Mr. BROOMFIELD, Mr. DREIER of California, Mr. SOLOMON, Mrs. BENTLEY, Mr. MCGRATH, Mr. FIELDS, Mr. MARTIN of New York, Mr. YATRON, Mr. BAKER, Mr. STANGELAND, and Mr. BLILEY):

H.J. Res. 308. Joint resolution proposing an amendment to the Constitution of the United States authorizing the Congress and the States to prohibit the act of desecration of the flag of the United States and to set criminal penalties for that act; to the Committee on the Judiciary.

By Mr. FIELDS:

H.J. Res. 309. Joint resolution proposing an amendment to the Constitution of the United States authorizing the Congress and the States to prohibit the act of desecration of the flag of the United States and to set criminal penalties for that act; to the Committee on the Judiciary.

By Mr. DREIER of California (for himself and Mr. WILSON):

H.J. Res. 310. Joint resolution proposing an amendment to the Constitution of the United States authorizing the Congress and the States to prohibit the act of desecration of the flag of the United States and to set criminal penalties for that act; to the Committee on the Judiciary.

By Mr. GOODLING:

H.J. Res. 311. Joint resolution designating the week of October 22 through 28, 1989, as "National Save Your Back Week"; to the Committee on Post Office and Civil Service.

By Mr. KLECZKA:

H.J. RES. 312. Joint resolution proposing an amendment to the Constitution of the United States to permit Congress to grant power to bodies in the judicial branch to remove judges for cause; to the Committee on the Judiciary.

By Mr. LEWIS of California (for himself, Mr. MICHEL, Mr. MCMILLAN of North Carolina, Mr. PAXON, Mr. SOLOMON, Mr. LAGOMARSINO, Mr. HEFLEY, Mr. KOLBE, Mr. PETRI, Mr. ROHRABACHER, Mr. GOSS, Mr. SCHULZE, Mr. SMITH of Mississippi, Mr. IRELAND, Mr. SMITH of New Hampshire, Mr. RITTER, Mr. GINGRICH, Mr. WEBER, Mr. KYL, Mr. HUNTER, Mr. WALKER, Ms. SCHNEIDER, Mr. ARMEY, Mr. NIELSON of Utah, Mrs. JOHNSON of Connecticut, Mr. THOMAS of Wyoming, Mr. EDWARDS of Oklahoma, and Mr. STEARNS):

H.J. Res. 313. Joint resolution proposing an amendment to the Constitution authorizing the President to disapprove or reduce an item of appropriations; to the Committee on the Judiciary.

By Mrs. MARTIN of Illinois:

H.J. Res. 314. Joint resolution proposing an amendment to the Constitution relating to the flag of the United States; to the Committee on the Judiciary.

By Mr. MILLER of Ohio:

H.J. Res. 315. Joint resolution proposing an amendment to the Constitution of the United States authorizing the Congress and the States to prohibit the act of desecration of the flag of the United States and to set criminal penalties for that act; to the Committee on the Judiciary.

By Mr. MINETA (for himself and Mr. CAMPBELL of California):

H.J. Res. 316. Joint resolution to commemorate the 50th anniversary of the National Aeronautics and Space Administration Ames Research Center; jointly, to the Committees on Science, Space, and Technology and Post Office and Civil Service.

By Mr. PICKETT (for himself, Mr. MONTGOMERY, Mr. JOHNSON of South Dakota, Mr. CAMPBELL of Colorado, Mr. SARPALIUS, and Mr. PAYNE of Virginia):

H.J. Res. 317. Joint resolution proposing an amendment to the Constitution of the United States relative to the desecration of the American flag; to the Committee on the Judiciary.

By Mr. RHODES:

H.J. Res. 318. Joint resolution proposing an amendment to the Constitution of the United States authorizing the Congress and the States to prohibit the acts of physical abuse, destruction, and desecration of the flag of the United States; to the Committee on the Judiciary.

By Mr. SCHUETTE:

H.J. Res. 319. Joint resolution proposing an amendment to the Constitution of the United States authorizing the Congress and the States to prohibit the act of desecration of the flag of the United States; to the Committee on the Judiciary.

By Ms. SLAUGHTER of New York (for herself, Mr. MILLER of California, Mr. DYMALLY, Mr. BERMAN, Mr. CALLAHAN, Mr. WOLF, Mr. WYDEN, Mr. KLECZKA, Mr. CROCKETT, Mr. FAZIO, Mr. LAGOMARSINO, Mr. DEFAZIO, Mr. LELAND, Mr. DE LUGO, Mr. MOODY, Mr. SAWYER, Mr. APPLEGATE, Mr. MATSUI, Mr. HUGHES, Mr. HAYES of Louisiana, Mrs. BOXER, Mr. WATKINS, Mr. LEHMAN of Florida, Mr. FAUNTROY, Mrs. COLLINS, Mr. SCHEUER, Mr. DWYER of New Jersey, and Mr. MINETA):

H.J. Res. 320. Joint resolution designating October 1989, as "National Domestic Violence Awareness Month"; to the Committee on Post Office and Civil Service.

By Mr. VOLKMER:

H.J. Res. 321. Joint resolution proposing an amendment to the Constitution of the United States authorizing the Congress and the States to prohibit the act of desecration of the flag of the United States and to set criminal penalties for that act; to the Committee on the Judiciary.

By Mr. WALKER (for himself, Mr. HASTERT, Mr. DONALD E. "BUZ" LUKENS, and Mr. LENT):

H.J. Res. 322. Joint resolution proposing an amendment to the Constitution of the United States authorizing the Congress and the States to prohibit the act of desecration of the flag of the United States; to the Committee on the Judiciary.

By Mr. WOLF (for himself, Mr. PARRIS, and Mr. SMITH, of New Jersey):

H.R. Res. 323. Joint resolution proposing an amendment to the Constitution of the United States relative to protection of the flag of the United States; to the Committee on the Judiciary.

By Mr. DOWNEY (for himself, Mr. GEJDENSON, Mr. GIBBONS, Mr. FRENZEL Mr. GRADISON, Mr. GEPHARDT, Mr. STARK, Mr. FEIGHAN, and Mr. DE LA GARZA):

H. Con. Res. 155. Concurrent resolution relating to congressional support of a Presidential waiver of the provisions of the Jackson-Vanik amendment with respect to the Soviet Union; to the Committee on Ways and Means.

By Mr. HATCHER (for himself, Mr. CONTE, Mr. RAY, Mr. GINGRICH, Mr. SMITH of Mississippi, Mr. ERDREICH, Mr. MCCLOSKEY, Mr. TALLON, Mr. JONTZ, Mr. RANGEL, Mr. HORTON, Mr. COMBEST, Mr. GEJDENSON, Mr. MARTIN of New York, Mr. SCHUETTE, Mr. LAFALCE, Mr. MARLENEE, Mr. NEAL of Massachusetts, Mr. LANCASTER, Mr. LEWIS of Georgia, Mr. GRANDY, Mr. KASTENMEIER, Mr. LAGOMARSINO, Mr. MCNULTY, Mr. CHAPMAN, Mr. DE LA GARZA, Mrs. JOHNSON of Connecticut, Mr. BARNARD, Mr. ENGLISH, Mr. ROGERS, Mr. LAUGHLIN, Mr. HARRIS, Mr. HAYES of Louisiana, Mr. DARDEN, Mr. ROWLAND of Georgia, Mr. RINALDO, Mr. SUNDQUIST, Mr. EMERSON, Mr. MAVROULES, Mr. VALENTINE, Mr. ESPY, Mr. HILER, Mr. DICKINSON, Mr. BROWDER, Mr. CALLAHAN, Mr. BEVILL, Mr. THOMAS of Georgia, and Mr. JOHNSON of South Dakota):

H. Con. Res. 156. Concurrent resolution expressing the sense of the Congress that the existing authority to issue tax-exempt small issue bonds should be extended 1 year; to the Committee on Ways and Means.

By Mr. LEWIS of California (for himself, Mr. MICHEL, Mr. MCMILLAN of North Carolina Mr. PAXON, Mr. SOLOMON, Mr. LAGOMARSINO, Mr. HEFLEY, Mr. KOLBE, Mr. PETRI, Mr. ROHRABACHER, Mr. GOSS, Mr. SCHULZE, Mr. SMITH of Mississippi, Mr. IRELAND, Mr. SMITH of New Hampshire, Mr. RITTER, Mr. GINGRICH, Mr. WEBER, Mr. KYL, Mr. HUNTER, Mr. WALKER, Ms. SCHNEIDER, Mr. ARMEY, Mr. NIELSON of Utah, Mrs. JOHNSON of Connecticut, Mr. THOMAS of Wyoming, Mr. EDWARDS of Oklahoma, and Mr. STEARNS):

H. Con. Res. 157. Concurrent resolution calling for a flexible freeze budget for the concurrent resolution on the budget of the U.S. Government for fiscal year 1991; to the Committee on Rules.

By Mr. NOWAK:

H. Con. Res. 158. Concurrent resolution relating to a White House conference on water resources; jointly, to the Committees on Agriculture, Interior and Insular Affairs, Public Works and Transportation, Merchant Marine and Fisheries, and Energy and Commerce.

By Ms. OAKAR:

H. Con. Res. 159. Concurrent resolution expressing the sense of the Congress on the desecration of the flag of the United States of America; to the Committee on the Judiciary.

By Mr. SOLARZ (for himself, Mr. GEPHARDT, Mr. MICHEL, Mr. FASCELL, Mr. BROOMFIELD, Mrs. BOXER, Mr. SKAGGS, Mr. LEVINE of California, Ms. PELOSI, Mr. HOYER, Mr. OWENS of Utah, Mr. BENNETT, Mr. KENNEDY, Mr. MILLER of Washington, Mr. BILBRAY, Mr. JONES of Georgia, Mr. LEWIS of Georgia, Mr. DREIER of California, and Mr. DONALD E. LUKENS):

H. Res. 182. Resolution supporting the President of the United States in his call for clemency for the prodemocracy demonstrators arrested in China, and calling upon the leadership of the People's Republic of China to stay further executions of those arrested in the crackdown on prodemocracy demonstrators throughout China; considered and agreed to.

By Mr. MICHEL:

H. Res. 183. Resolution providing for the designation of certain minority employees; considered and agreed to.

By Mr. SCHAEFER:

H. Res. 184. Resolution expressing the sense of the House of Representatives that the Supreme Court decision to overturn statutes that protect the flag from desecration is without merit and, the flag, as a symbol of institutions and traditions that protect basic rights, must be protected from any attempt to mutilate, damage, destroy, or desecrate it in any manner; to the Committee on the Judiciary.

By Mr. STEARNS (for himself, Mr. MICHEL, Mr. GINGRICH, Mr. LEWIS of California, Mr. COBLE, Mr. GILLMOR, Mr. HYDE, Mr. HASTERT, Mr. SMITH of Vermont, Mr. HERGER, Mr. BARTON of Texas, Mr. MYERS of Indiana, Mr. DONALD E. LUKENS, Mr. THOMAS of Wyoming, Mr. PAXON, Mr. DORNAN of California, Mr. IRELAND, Mr. DANNEMEYER, Mr. PORTER, and Mr. DOUGLAS):

H. Res. 185. Resolution expressing the sense of the House of Representatives that the Constitution of the United States allows for a prohibition against acts of desecration against the flag of the United States; to the Committee on the Judiciary.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII,

Mr. OWENS of Utah introduced a bill (H.R. 2745) for the relief of Long Sheng Yu; which was referred to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 6: Mr. SISISKY.

H.R. 8: Mr. OWENS of Utah.

H.R. 84: Mr. GIBBONS, Mr. LEHMAN of California, and Mr. TOWNS.

H.R. 90: Mr. TRAXLER.

H.R. 222: Mr. YATRON.

H.R. 423: Mr. RITTER.

H.R. 458: Mr. HILER.

H.R. 475: Mr. PARKER.

H.R. 496: Mr. GARCIA and Mr. ENGEL.

H.R. 638: Mr. EVANS and Mr. MCDERMOTT.

H.R. 642: Mr. SCHAEFER, Mrs. COLLINS, Mr. HUCKABY, Mr. GILLMOR, Mr. SARPALIUS, Mr. CRANE, Mr. GIBBONS, Mr. SENSENBRENNER, Mr. HALL of Ohio, Mr. HALL of Texas, Mr. MCCRERY, and Mr. BROOKS.

H.R. 682: Mr. SMITH of New Hampshire.

H.R. 806: Mr. GILMAN.

H.R. 813: Mr. PERKINS.

H.R. 844: Mr. HERGER, Mr. JACOBS, and Mr. SHUMWAY.

H.R. 901: Mr. APPLEGATE, Mr. STEARNS, Mrs. PATTERSON, Mr. PAXON, Mr. MORRISON of Connecticut, Mr. SANGMEISTER, Ms. LONG, Mr. SAXTON, and Mr. BROWDER.

H.R. 902: Mr. HYDE.

H.R. 939: Mr. RANGEL.

H.R. 979: Mr. GUNDERSON, Mr. YATRON, Mr. GONZALEZ, and Mr. BOEHLERT.

H.R. 989: Mr. BUSTAMANTE, Mrs. BOXER, Mrs. LLOYD, Mr. HAWKINS, Mr. ROE, Mr. MCCURDY, Mr. CAMPBELL of Colorado, Mr. RAVENEL, Mr. MATSUI, Mr. FAZIO, Mr. HARRIS, Mr. OWENS of New York, Mr. LANCASTER, Mr. DE LUGO, Mr. FROST, Mr. ESPY, Mr. FOGLIETTA, and Mr. SENSENBRENNER.

H.R. 1025: Mr. DORGAN of North Dakota, Mr. DIXON, and Mr. BONIOR.

H.R. 1044: Mr. LEHMAN of California and Mr. LEWIS of Georgia.

H.R. 1060: Mr. DELLUMS.

H.R. 1063: Mr. CARPER.

H.R. 1086: Mr. OLINS, Mrs. UNSOELD, Mr. RAVENEL, and Mr. HARRIS.

H.R. 1161: Mr. DAVIS, Mr. HOLLOWAY, Mr. ESPY, Mr. PACKARD, and Mr. CRAIG.

H.R. 1187: Mr. JONTZ, Mr. ATKINS, Mr. BONIOR, and Mr. HAYES of Illinois.

H.R. 1188: Mr. PAYNE of Virginia and Mrs. SAIKI.

H.R. 1199: Mr. MONTGOMERY, Mr. STUMP, Mr. EDWARDS of California, Mr. WYLIE, Mr. APPLEGATE, Mr. MCEWEN, Mr. PENNY, Mr. SMITH of New Hamsphire, Mr. STENHOLM, Mr. JAMES, Mr. PAYNE of Virginia, Mr. STEARNS, Mr. MORRISON of Connecticut, Mr. PAXON, Mr. SANGMEISTER, Mr. PARKER, Mr. JONES of Georgia, Ms. LONG, Mr. LEATH of Texas, Mr. HEFNER, Mr. JENKINS, Mr. RICHARDSON, Mr. BROWDER, Mr. SAXTON, and Mr. MAVROULES.

H.R. 1292: Mr. DAVIS.

H.R. 1295: Mr. BARNARD.

H.R. 1307: Mr. WELDON, Mr. CAMPBELL of Colorado, Mr. PARKER, Mr. GOODLING, and Mr. MATSUI.

H.R. 1334: Mr. MONTGOMERY, Mr. STUMP, Mr. EDWARDS of California, Mr. HAMMERSCHMIDT, Mr. PENNY, Mr. WYLIE, Mr. ROWLAND of Georgia, Mr. MCEWEN, Mr. ROBINSON, Mr. SMITH of New Jersey, Mr. STENHOLM, Mr. BURTON of Indiana, Mr. HARRIS, Mr. BILIRAKIS, Mr. KENNEDY, Mr. RIDGE, Mrs. PATTERSON, Mr. ROWLAND of Connecticut, Mr. PAYNE of Virginia, Mr. SMITH of New Hampshire, Mr. MORRISON of Connecticut, Mr. JAMES, Mr. SANGMEISTER, Mr. STEARNS, Mr. PARKER, Mr. PAXON, Mr. JONES of Georgia, Ms. LONG, Mr. LEATH of Texas, Mr. HEFNER, Mr. JENKINS, Mr. RICHARDSON, and Mr. BROWDER.

H.R. 1337: Mr. PRICE.

H.R. 1371: Mr. STENHOLM, Mr. VENTO, and Mr. LEWIS of Georgia.

H.R. 1406: Mr. MARTINEZ.

H.R. 1516: Mr. LEHMAN of California and Mr. MACHTLEY.

H.R. 1557: Mr. OWENS of Utah.

H.R. 1602: Mr. JOHNSON of South Dakota and Mr. ROYBAL.

H.R. 1645: Mr. DONALD E. "BUZ" LUKENS.

H.R. 1676: Mr. DIXON and Mrs. BENTLEY.

H.R. 1730: Mr. MOLLOHAN and Mr. SCHAEFER.

H.R. 1746: Mr. RANGEL, Mr. SMITH of Florida, and Mr. RINALDO.

H.R. 1780: Mr. BONIOR.

H.R. 1782: Mrs. VUCANOVICH and Mr. ACKERMAN.

H.R. 1864: Mr. DINGELL and Mr. KILDEE.

H.R. 1870: Mr. MCMILLAN of North Carolina and Mr. COX.

H.R. 2002: Mr. WAXMAN and Mr. SMITH of Florida.

H.R. 2008: Mr. HALL of Texas, Mr. PARKER, Mr. CRANE, Mr. DYSON, and Mr. BLAZ.

H.R. 2022: Mr. ASPIN, Mr. LEWIS of Georgia, and Mrs. MARTIN of Illinois.

H.R. 2023: Mr. LIPINSKI, Mr. HAWKINS, Mr. HEFNER, Mr. DYMALLY, Mr. JONTZ, Mr. ROBINSON, Mr. BILBRAY, Mrs. BENTLEY, Mr. DONNELLY, Mr. EVANS, Mrs. COLLINS, Mr. BATEMAN, and Mr. MADIGAN.

H.R. 2051: Mr. MCNULTY.

H.R. 2076: Mr. FRANK, Mr. KENNEDY, Mr. FASCELL, Mr. ATKINS, Mrs. JOHNSON of Connecticut, and Mr. MILLER of California.

H.R. 2098: Mr. BARNARD, Mr. WYLIE, Mr. MAVROULES, Mr. BONIOR, Mr. HAYES of Illinois, Mr. HOYER, Mr. SMITH of New Jersey, Mr. SCHUETTE, Mrs. MORELLA, Mrs. SAIKI, Ms. SCHNEIDER, Mr. PRICE, Mr. MILLER of Ohio, Mr. DANNEMEYER, Mr. ROBERT F. SMITH, Mr. RITTER, Mr. WOLPE, Mr. BEREUTER, Mr. AKAKA, Mrs. LOWEY of New York, Mr. MILLER of California, Mr. PASHAYAN, Mr. SARPALIUS, Mr. WYDEN, Mrs. BYRON, Mr. PAYNE of Virginia, Mr. CRAIG, Ms. KAPTUR, Mr. SCHEUER, Mr. PAXON, Mr. BUECHNER, Mr. ESPY, Mr. UDALL, Mr. KENNEDY, Mr. ROWLAND of Georgia, Mr. LAGOMARSINO, Mr. JOHNSON of South Dakota, Mr. PICKETT, and Mr. DAVIS.

H.R. 2112: Mrs. BENTLEY.

H.R. 2131: Mr. HERTEL and Mrs. MEYERS of Kansas.

H.R. 2141: Mr. ROWLAND of Georgia, Mr. PORTER, and Mrs. MORELLA.

H.R. 2181: Mr. QUILLEN.

H.R. 2209: Mr. GOODLING, Mr. HILER, and Mrs. MARTIN of Illinois.

H.R. 2212: Mr. HAYES of Louisiana, Mr. LAGOMARSINO, Mr. MCCOLLUM, Mr. BATES, Mr. TRAXLER, and Mr. DYMALLY.

H.R. 2216: Mr. SCHAEFER.

H.R. 2228: Mr. ACKERMAN.

H.R. 2237: Mr. HAYES of Illinois.

H.R. 2258: Mr. CLINGER.

H.R. 2269: Mr. SKAGGS.

H.R. 2282: Mr. RICHARDSON.

H.R. 2318: Ms. KAPTUR, Mr. ATKINS, and Mr. FAUNTROY.

H.R. 2319: Mr. FAUNTROY, Mr. BURTON of Indiana, Mr. HOYER, Ms. LONG, Mr. MCMILLEN of Maryland, Mr. HUGHES, Mr. MARTINEZ, Mrs. SAIKI, Mr. BROOMFIELD, Mr. PAYNE of New Jersey, Mr. FUSTER, Mr. VENTO, Ms. KAPTUR, Mr. RAHALL, Mr. FRENZEL, Mr. HAYES of Illinois, Mr. ALEXANDER, Mr. HAYES of Louisiana, Mr. WOLPE, Mr. VANDER JAGT, Mr. PAYNE of Virginia, Mr. RINALDO, Mr. SCHUETTE, Mr. DE LUGO, Mr. SMITH of Vermont, Mr. MCDADE, and Mr. PENNY.

H.R. 2327: Mr. POSHARD, Ms. KAPTUR, and Mr. HATCHER.

H.R. 2360: Mr. ROWLAND of Connecticut.

H.R. 2395: Mr. CAMPBELL of California.

H.R. 2460: Mr. PASHAYAN.

H.R. 2463: Mr. RAHALL.

H.R. 2464: Mr. SHAYS.

H.R. 2466: Mr. RANGEL.

H.R. 2470: Mr. KILDEE and Mr. SENSENBRENNER.

H.R. 2543: Mr. MAZZOLI.

H.R. 2557: Mr. HUGHES, Mr. WYLIE, Mr. APPLEGATE, Mr. MCEWEN, Mr. EVANS, Mr. BURTON of Indiana, Mr. PENNY, Mr. BILIRAKIS, Mr. STAGGERS, Mr. RIDGE, Mr. ROWLAND of Georgia, Mr. ROWLAND of Connecticut, Mr. ROBINSON, Mr. SMITH of New Hampshire, Mr. STENHOLM, Mr. JAMES, Mr. HARRIS, Mr. STEARNS, Mr. KENNEDY, Mr. PAXON, Mrs. PATTERSON, Mr. JONTZ, Mr. PAYNE of Virginia, Mr. MORRISON of Connecticut, Mr. SANGMEISTER, Mr. PARKER, Mr. JONES of Georgia, Ms. LONG, Mr. LEATH of Texas, Mr. HEFNER, Mr. JENKINS, Mr. RICHARDSON, and Mr. BROWDER.

H.R. 2569: Mr. MONTGOMERY, Mr. STUMP, Mr. EDWARDS of California, Mr. HAMMERSCHMIDT, Mr. APPLEGATE, Mr. WYLIE, Mr. EVANS, Mr. MCEWEN, Mr. PENNY, Mr. SMITH of New Jersey, Mr. STAGGERS, Mr. BURTON of Indiana, Mr. ROWLAND of Georgia, Mr. BILIRAKIS, Mr. ROBINSON, Mr. RIDGE, Mr. STENHOLM, Mr. ROWLAND of Connecticut, Mr. HARRIS, Mr. SMITH of New Hampshire, Mr. KENNEDY, Mr. JAMES, Mrs. PATTERSON, Mr. STEARNS, Mr. JONTZ, Mr. PAXON, Mr. PAYNE of Virginia, Mr. MORRISON of Connecticut, Mr. SANGMEISTER, Mr. PARKER, Mr. JONES of Georgia, Ms. LONG, Mr. LEATH of Texas, Mr. HEFNER, Mr. JENKINS, Mr. RICHARDSON, and Mr. BROWDER.

H.R. 2584: Mr. DOUGLAS.

H.R. 2611: Mr. BORSKI, Mr. SMITH of New Jersey, Mr. APPLEGATE, Mr. ROSE, Mr. CHAPMAN, Mr. WEISS, and Mr. LEWIS of Georgia.

H.R. 2613: Mr. ECKART and Mr. FUSTER.

H.R. 2615: Mr. FAUNTROY, Mrs. SAIKI, Mrs. COLLINS, Mr. ATKINS, and Mr. DYMALLY.

H.R. 2637: Mr. HOLLOWAY, Mr. DONALD E. "BUZ" LUKENS, and Mr. LAGOMARSINO.

H.R. 2654: Mr. SCHULZE, Mr. BARTON of Texas, Mr. ROHRABACHER, Mr. TAUZIN, Mr. MORRISON of Washington, Mr. OXLEY, and Mr. CHANDLER.

H.R. 2693: Mr. MCCLOSKEY and Mr. MADIGAN.

H.R. 2699: Mr. BROWN of California.

H.R. 2705: Mr. DE LUGO, Mr. MCCLOSKEY, Mr. CLAY, and Mr. SAWYER.

H.R. 2706: Mr. HOAGLAND.

H.R. 2712: Mr. BEILENSON, Mr. WISE, Mr. WILLIAMS, Mr. SPRATT, Mr. SHAYS, Mr. OWENS of New York, Mr. SLATTERY, Mr. TOWNS, Mr. MACHTLEY, Ms. SCHNEIDER, Mr. ROE, Mr. PRICE, Mr. MCGRATH, Mr. DEFAZIO, Mr. MARTINEZ, Mr. FAWELL, Mr. GREEN, Mr. ERDREICH, Mr. QUILLEN, Mr. DORNAN of California, Mr. RANGEL, Mr. WEBER, Mrs. JOHNSON of Connecticut, Mr. MOAKLEY, Mr. BATES, Mr. ROWLAND of Connecticut, Mr. HORTON, Mr. PENNY, Mr. PAXON, Mr. STARK, Mr. HILER, Mrs. COLLINS, Mr. RINALDO, Mr. OLIN, Mr. KOLTER, Mr. CAMPBELL of California, Mr. COOPER, Mrs. KENNELLY, Mr. ARMEY, and Mr. DOUGLAS.

H.J. Res. 10: Mr. JOHNSON of South Dakota.

H.J. Res. 54: Mrs. KENNELLY.

H.J. Res. 111: Ms. SNOWE, Mr. ALEXANDER, Mr. ANDREWS, Mr. APPLEGATE, Mr. BARNARD, Mr. BEILENSON, Mr. BOEHLERT, Mr. BOUCHER, Mr. BRENNAN, Mr. BRUCE, Mr. BUECHNER, Mr. CARDIN, Mr. CARR, and Mr. ANNUNZIO.

H.J. Res. 126: Mr. DORNAN of California, Mrs. BYRON, Mr. CLAY, Mrs. JOHNSON of Connecticut, Mr. CARDIN, Mr. ROSE, Mr. STANGELAND, Ms. SLAUGHTER of New York, Mr. SABO, Mr. SPRATT, Mr. BURTON of Indiana, and Mr. AKAKA.

H.J. Res. 138: Mr. SPRATT, Mr. GONZALEZ, Mr. SOLOMON, Mr. TALLON, Mr. POSHARD, Mr. BOEHLERT, Mr. CLINGER, and Mr. LEVINE of California.

H.J. Res. 142: Mr. DE LUGO, Mr. EVANS, Mr. DEWINE, Mr. COUGHLIN, Mr. BILBRAY, Mr. THOMAS A. LUKEN, Mr. KENNEDY, Mr. WEBER, Mrs. MEYERS of Kansas, Mr. DORGAN of North Dakota, Mr. MATSUI, Mr. GORDON, Mr. TANNER, Mr. STARK, Mr. WHITTEN, Mr. SOLOMON, Mr. MURPHY, Mr. LEHMAN of Florida, and Ms. KAPTUR.

H.J. Res. 160: Mr. OLIN and Mr. LEHMAN of Florida.

H.J. Res. 178: Mr. SAXTON, Mr. BARNARD, Mr. MORRISON of Washington, Mr. HENRY, Mrs. MEYERS of Kansas, Mrs. BYRON, and Mr. RAY.

H.J. Res. 180: Mr. WHITTAKER and Ms. KAPTUR.

H.J. Res. 209: Mr. GOODLING, Mr. LEWIS of Florida, Mr. APPLEGATE, Mr. BORSKI, Mr. COSTELLO, Mr. EMERSON, Mr. ESPY, Mr. EVANS, Mr. FUSTER, Mr. DEFAZIO, Mr. TAUZIN, Mr. GARCIA, Mr. HAMILTON, Mr. HYDE, Mr. IRELAND, Mr. HAYES of Louisiana, Mr. DONALD E. "BUZ" LUKENS, Mr. LEACH of Iowa, Mr. LENT, Mr. SMITH of New Jersey, Mr. LEWIS of California, and Mr. MCEWEN.

H.J. Res. 217: Mr. SMITH of Florida, Mr. OWENS, of Utah, Mr. JONTZ, Mr. EMERSON, Mr. MCNULTY, Mr. VENTO, Mr. ENGEL, Mr. SPRATT, Mr. MCDERMOTT, Mr. ENGLISH, Mr. CONYERS, Mr. WALSH, Mr. FORD of Tennessee, Mr. BILIRAKIS, Mr. MATSUI, Mr. VOLKMER, Mr. WHEAT, and Mr. KOSTMAYER.

H.J. Res. 221: Mr. FLAKE, Mr. SCHEUER, Mr. STANGELAND, and Mr. WEISS.

H.J. Res. 227: Mr. NIELSON of Utah, Mr. ORTIZ, Mr. ROBERTS, Mr. SCHIFF, Mr. SISISKY, Mr. TANNER, Mr. TRAFICANT, Mr. ECKART, Ms. SLAUGHTER of New York, Mr. KOSTMAYER, Mr. SHUMWAY, Mr. GUNDERSON, Mr. BOEHLERT, Mr. GORDON, Mr. ESPY, Mr. MINETA, Mr. MCHUGH, Mr. HANSEN, Mr. THOMAS of Georgia, Mr. ROBINSON, Mr. FORD of Tennessee, Mr. WOLPE, Mr. DORNAN of California, Mr. NATCHER, Mr. PARKER, Mr. PACKARD, Mr. SKEEN, Mr. COLEMAN of Texas, Mrs. MEYERS of Kansas, Mr. SHAYS, Mr. BUSTAMANTE, Mr. BRYANT, Mr. CARDIN, Mr. FLIPPO, Mr. HALL of Texas, Mr. HALL of Ohio, Mr. LEHMAN of California, Mr. NELSON of Florida, Mr. PANETTA, Mr. PICKETT, Mr. BOUCHER, Mr. ALEXANDER, Mr. ROBERT F. SMITH, Mr. MORRISON of Washington, Mr. ROWLAND of Connecticut, Mr. BILIRAKIS, Mr. MCNULTY, Mr. ANNUNZIO, Ms. KAPTUR, Mr. BARNARD, Mr. OLIN, Mr. RAY, Mr. HAYES of Illinois, Mr. STEARNS, Mr. LIGHTFOOT, Mr. MILLER of Washington, Mr. SKELTON, Mr. BORSKI, Mr. COOPER, Mr. DICKS, Mr. FLAKE, Mr. GEPHARDT, Mr. HAYES of Louisiana, Mr. HOAGLAND, Mr. LELAND, Mr. MANTON, Mr. MCMILLAN of North Carolina, Mr. OBERSTAR, Ms. OAKAR, Mr. RAHALL, Mr. ROSE, Mr. SABO, Mr. SARPALIUS, Mr. STENHOLM, Mr. VALENTINE, Mr. WISE, Mr. GALLO, Mr. CLEMENT, Mr. COBLE, Mr. LAUGHLIN, Mr. MCCLOSKEY, Mr. BRUCE, Mr. PRICE, Mr. LEWIS of Georgia, Mrs. UNSOELD, Mr. KLECZKA, Mr. CHANDLER, Mr. HUBBARD, Mr. SLATTERY, Mr. HARRIS, Mr. BROWDER, Mr. SPRATT, Mr. MOLLOHAN, Mr. CAMPBELL of Colorado, Mr. CARPER, Mr. STAGGERS, Mr. PICKLE, Mr. BOSCO, Mr. HUCKABY, Mr. GRAY, Mr. LEVIN of Michigan, Mr. ATKINS, Mr. BROWN of Colorado, Mr. FEIGHAN, Mr. STOKES, Mr. PAYNE of Virginia, Mr. AKAKA, Mr. MURPHY, Mr. HOYER, Mr. DURBIN, Mr. FAWELL, Mr. VISCLOSKY, Mr. JONES of Georgia, Mr. CRAIG, Mr. HAMILTON, Mr. LANCASTER, Mrs. PATTERSON, Mr. SYNAR, Mr. SAWYER, Mr. ENGLISH, Mr. ACKERMAN, Mr. ASPIN, Mrs. BENTLEY, Mr. DE LUGO, Mr. FAZIO, Mr. FISH, Mr. GREEN, Mr. IRELAND, Mr. JONES of North Carolina, Mr. KANJORSKI, Mr. LENT, Mrs. LOWEY of New York, Mr. MADIGAN, Mr. MCCOLLUM, Mr. MCEWEN, Mr. MOAKLEY, Mr. NEAL of Massachusetts, Mr. PORTER, Mr. RITTER, Mr. ROGERS, Mr. ROWLAND of Georgia, Mr. SCHEUER, Mr. SOLOMON, Mr. STANGELAND, Mr. BATES, Mr. DARDEN, Mr. DELAY, Mr. GALLEGLY, Mr. ANDERSON, Mr. JOHNSON of South Dakota, Mr. YATRON, Mr. WEISS, Mr. COSTELLO, Mr. JONTZ, Mr. PERKINS, Mr. DYSON, Mr. WYDEN, Mr. DEFAZIO, Mr. SKAGGS, Mr. NAGLE, Mr. RANGEL, Mr. WATKINS, Mr. WHEAT, Mrs. BOXER, Mr. CALLAHAN, Mr. DONNELLY, Mr. ERDREICH, Mr. FAS-

CELL, Mr. HEFNER, Mr. KOLBE, Mr. LEWIS of California, Mr. SCHUETTE, and Mr. SMITH of New Hampshire.

H.J. Res. 267: Mr. LELAND, Mr. STALLINGS, Mr. LANTOS, Mr. MCHUGH, Mr. TAUKE, Mr. DORGAN of North Dakota, Mr. HAWKINS, Mrs. COLLINS, Mr. MRAZEK, Mr. SCHEUER, Mr. MAZZOLI, Mr. ANDREWS, Mr. LIPINSKI, Mr. SAWYER, Mr. DYMALLY, Mr. CARDIN, Mr. CARPER, Mr. MILLER of Washington, Mr. RANGEL, Mr. BEVILL, Mr. AKAKA, Mr. ANDERSON, Mr. BILBRAY, Mr. BOSCO, Mr. JACOBS, Mr. LEHMAN of Florida, Mr. APPLEGATE, Mr. BUSTAMANTE, Mr. BEREUTER, Mr. DE LUGO, Mr. COSTELLO, Mr. DEFAZIO, Mr. CONYERS, Mr. DIXON, Mr. DELLUMS, Mr. LAGOMARSINO, Mr. FOGLIETTA, Mr. LEVIN of Michigan, Mr. KOLTER, Mr. KOSTMAYER, Mr. MINETA, Mrs. BOXER, Mr. CAMPBELL of Colorado, Mr. CROCKETT, Mr. WAXMAN, Mr. TRAXLER, Mr. ENGEL, Mr. EVANS, Mr. FAZIO, Mr. FRANK, Mr. FUSTER, Mr. HUBBARD, and Mr. LEWIS of Georgia.

H.J. Res. 273: Mr. WILSON, Mr. TORRICELLI, Mr. MINETA, Mr. MILLER of Washington, Mr. SCHEUER, Mr. HOYER, Mr. TANNER, Mr. ROBERT F. SMITH, Mr. HAMMERSCHMIDT, Mr. BRENNAN, Mr. DICKINSON, Mr. NEAL of Massachusetts, Mr. MAVROULES, Mr. FRENZEL, Mr. YOUNG of Alaska, Mr. KOSTMAYER, Mr. MCCRERY, Mr. VENTO, Mr. PARRIS, Mr. WOLPE, Mr. MOLINARI, Mr. HAYES of Illinois, Mr. FOGLIETTA, Mr. BOUCHER, Mr. STEARNS, Mr. WELDON, Mr. GEPHARDT, Mr. GALLO, Mrs. SAIKI, Mr. WEBER, Mr. SPENCE, Ms. PELOSI, Mr. SMITH of New Hampshire, Mr. WALGREN, Mr. LEVINE of California, Mr. WAXMAN, and Mr. PASHAYAN.

H. Con. Res. 5: Mr. BORSKI.

H. Con. Res. 66: Mr. BROWN of California.

H. Con. Res. 87: Mr. ENGEL, Mr. HOCHBRUECKNER, Mr. LOWERY of California, Mr. HOYER, Mr. WOLF, Mr. HALL of Ohio, Mr. WILSON, Mr. COOPER, Mrs. MARTIN of Illinois, Mr. CAMPBELL of Colorado, Mr. COUGHLIN, Mr. MILLER of Washington, Mr. LAGOMARSINO, Mr. SCHUMER, Mr. FOGLIETTA, Mr. OWENS of Utah, Mr. WAXMAN, Mr. ROE, Mr. LEWIS of California, Mrs. BOXER, Mr. LEVIN of Michigan, and Mr. WEISS.

H. Con. Res. 92: Mr. LIGHTFOOT, Mr. MOLLOHAN, Mr. BOEHLERT, Mr. KENNEDY, and Mr. BONIOR.

H. Con. Res. 152: Mr. MCEWEN.

H. Res. 141: Mr. WOLF, Mr. FAUNTROY, Mr. THOMAS of Georgia, Mr. MARKEY, Mr. BUECHNER, and Mr. PRICE.

H. Res. 178: Mr. MCMILLEN of Maryland, Mrs. BENTLEY, Mr. NOWAK, Mr. HERTEL, Ms. PELOSI, Mr. PAXON, Mr. SMITH of New Jersey, Mr. DANNEMEYER, Mr. FLAKE, Mr. HUGHES, Mr. INHOFE, Mr. OWENS of New York, Mr. CHAPMAN, Mr. MCCANDLESS, and Mr. ROWLAND of Connecticut.

DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, sponsors were deleted from public bills and resolutions as follows:

H.R. 1067: Mr. BRYANT.

H.R. 1676: Mr. ROBERT F. SMITH.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 2655

By Mr. ACKERMAN:

—Page 473, after line 10, insert the following:

SEC. 723. ASSISTANCE FOR THE DOMINICAN REPUBLIC.

(a) FINDINGS.—The Congress finds that—

(1) on October 18, 1988, Daniel Mirambeaux, having just committed a drug-related robbery, allegedly shot and killed New York City Police Officer Michael Buczek;

(2) Mirambeaux allegedly fled the scene of the shooting and escaped to the Dominican Republic, where he is a citizen and where he is in custody on unrelated charges;

(3) the United States has been unsuccessful in negotiating the return of Mirambeaux to the United States to stand trial; and

(4) this case is a major test of how committed the Dominican Republic is to fighting a real war on drugs.

(b) RESTRICTION ON ASSISTANCE.—Unless the President certifies to the Congress that the Government of the Dominican Republic has extradited or expelled Daniel Mirambeaux to the United States, no United States assistance (including funds appropriated before the date of enactment of this Act) may be furnished for the Dominican Republic.

(c) DEFINITION.—For purposes of this section, the term "United States assistance" means assistance of any kind which is provided by grant, sale, loan, lease, credit, guaranty, or insurance, or by any other means, by any agency or instrumentality of the United States Government, including—

(1) assistance under the Foreign Assistance Act of 1961 (including programs under subchapter A of chapter 5 of title I);

(2) sales under the Defense Trade and Export Control Act; and

(3) sales under title I or III and donations under title II of the Agricultural Trade Development and Assistance Act of 1954 of nonfood commodities;

except that the term "United States assistance" does not include (A) international narcotics control assistance under chapter 2 of title III of the Foreign Assistance Act of 1961, (B) assistance which involves the donations of food or medicine, (C) disaster relief assistance (including any assistance under chapter 6 of title I of the Foreign Assistance Act of 1961), (D) assistance for refugees, (E) activities authorized pursuant to the National Security Act of 1947 (50 U.S.C. 410 et seq.), the Central Intelligence Agency Act of 1949 (50 U.S.C. 403a et seq.), or the Executive Order Number 12333 (December 4, 1981); or (F) commercial export promotion activities of the Department of Agriculture, including the Commodity Credit Corporation.

By Mr. BEREUTER:

—On page 37, line 21, insert ", as appropriate for particular countries," after "including".

By Mr. BROOMFIELD:

—Page 508, after line 21, insert the following:

SEC. 845. TURKISH MILITARY FORCES ON CYPRUS.

Of the amounts allocated for foreign military financing for Turkey under the Foreign Assistance Act of 1961—

(1) $100,000,000 for fiscal year 1990 shall be withheld from obligation for Turkey until the President certifies to the Congress that less than 15,000 Turkish military personnel remain in Cyprus; and

(2) $100,000,000 for fiscal year 1991 shall be withheld from obligation for Turkey until the President certifies to the Congress that less than 10,000 Turkish military personnel remain in Cyprus.

—Page 508, after line 21, insert the following:

SEC. 845. TURKISH MILITARY FORCES ON CYPRUS.

Of the amounts allocated for foreign military financing for Turkey under the Foreign Assistance Act of 1961—

(1) $100,000,000 for fiscal year 1990 shall be withheld from obligation for Turkey until the President certifies to the Congress that less than 15,000 Turkish military personnel remain in Cyprus; and

(2) $100,000,000 for fiscal year 1991 shall be withheld from obligation for Turkey until the President certifies to the Congress that less than 10,000 Turkish military personnel remain in Cyprus.

—Page 588, after line 7 add the following:

TITLE XV—SUSPENSION OF PREFERENTIAL TREATMENT

SEC. 1501. SUSPENSION OF PREFERENTIAL TREATMENT.

(a) SUSPENSION.—The application of the sections specified in subsection (d) to a country described in those sections shall be suspended if that country impedes the ability of United States Armed Forces vessels, aircraft, or vehicles to traverse or land in its national territory by implementing policies or procedures which are inconsistent with the policy of the United States not to confirm or deny the presence of nuclear weapons on such vessels, aircraft, and vehicles.

(b) WAIVER.—The President may waive subsection (a) with respect to a country if the President determines that—

(1) notwithstanding the implementation by that country of policies or procedures which are inconsistent with the policy of the United States not to confirm or deny the presence of nuclear weapons on United States Armed Forces vessels, aircraft, or vehicles, the country is nevertheless substantially fulfilling its responsibilities as a United States ally with respect to visits by such vessels, aircraft, and vehicles; or

(2) such a waiver is otherwise in the national interests of the United States.

(c) REPORT TO CONGRESS.—If the President exercises the authority of subsection (b), he shall promptly submit a written report to the Congress justifying the waiver.

(d) PREFERENCES TO BE SUSPENDED.—Subsection (a) applies with respect to the following:

(1) Section 2401(a)(6) of the Foreign Assistance Act of 1961 (relating to the assignment of United States military personnel to manage defense cooperation measures);

(2) Section 21(e)(2) of the Defense Trade and Export Control Act (relating to charges for certain arms sales costs);

(3) Section 21(g) of the Defense Trade and Export Control Act (relating to cooperative military training agreements); and

(4) Section 3(d)(3)(A)(i), section 36(c)(2)(A), section 36(d)(2)(A), and section 63(c)(1) of the Defense Trade and Control Act (relating to congressional review of arms transfers).

By Mr. COLEMAN of Texas:

—Page 482, after line 8, insert the following:

SEC. 765. ECONOMIC REFORM AND DEBT REDUCTION.

It is the sense of the Congress that—

(1) the government of Mexico should be commended for its recent economic reforms; and

(2) those commercial banks that are creditors of Mexico and other developing countries that adopt responsible economic austerity programs should negotiate debt re-

duction packages to reflect the discounting of their loans on the world's financial markets, provided those countries continue those austerity programs.

By Mr. DORNAN of California:

—Page 508, after line 21, insert the following:

SEC. 845. RECORDS OF THE OTTOMAN EMPIRE.

Of the amounts allocated for Turkey for economic support assistance under the Foreign Assistance Act of 1961, not less than $100,000 for each of the fiscal years 1990 and 1991 shall be used for funding an independent U.S. academic task force to examine the records of the Ottoman Empire with respect to the Armenian population during the period 1890 to 1920. The task force shall include qualified representatives of the principal viewpoints on the treatment of Armeninas by the Ottoman government during the period indicated above. The purpose of such task force shall be to review and evaluate the archival materials recently made available by the Government of Turkey from the point of view of its completeness, authenticity, its relatedness to the U.S. archival material at the U.S. National Archives, as well as the adequacy of the cataloguing process and the procedures of access to these records by the world public. The task force shall give special attention to materials concerning American diplomatic, philanthropic, missionary and relief efforts on the treatment of Armenians in the Turkish Ottoman Empire. The task force shall submit a detailed progress report to Congress about its findings before the end of June 1990 and 1991.

—Page 502, after line 9, insert the following:

SEC. 830. IMPOSITION OF A TRADE EMBARGO ON SYRIA:

SECTION 1. CONGRESSIONAL FINDINGS.

The Congress finds the following:

(1) The 40,000 Syrian troops in Lebanon—

(A) foster paralysis of the Government of Lebanon and promote divisions within the armed forces of the Government of Lebanon; and

(B) are critical in dividing Beirut into Christian and Moslem sections and thereby maintaining the de facto partition of Lebanon between rival governments.

(2) The continuing Syrian artillery bombardment of the Christian sectors of Lebanon that began on March 14, 1989, has resulted in the deaths of several hundred unarmed civilians.

(3) Syria is attempting to achieve the territorial dismemberment of Lebanon through the virual annexation of large portions of that nation by violent means.

(4) 9 American hostages still remain in captivity in Lebanon in areas largely under the control of Syrian military forces.

(5) The headquarters of the Popular Front for the Liberation of Palestine-General Command, which has been implicated in the mid-air bombing of Pan Am flight 103 on Decemer 21, 1988, that killed 270 people, is located in Damascus, Syria.

(6) The Syrian involvement in State-sponsored terrorist activities is well documented and includes the following:

(A) The attack on the Qiryat Shemona township in northern Israel in April 1974 in which 18 were killed and 16 wounded.

(B) The simultaneous machine gun and grenade attacks on the Rome and Vienna airports in December 1985 in which 16 were killed and 80 wounded are attributed to Abu Nidal who at the time was headquartered in Syria and who continues to operate in the Syrian-controlled Bekka valley of Lebanon.

(C) The bombing, attributed to a Syrian national named Hindawi, of the German Arab Friendship Union in Berlin in March 1986.

(D) The attempted bombing of an El Al flight from London to Tel Aviv in April 1986 by a brother of Hindawi.

(E) The bombing of an airport baggage handling area in Madrid, Spain, in June 1986 in which 11 were wounded.

(F) The September 5, 1986, ground hijacking in Karachi of a Pan Am aircraft that resulted in 21 killed and 100 wounded is attributed to Abu Nidal who at the time was still headquartered in Syria.

(G) The attack, also attributed to Abu Nidal, in Instanbul September 1986 of a synagogue that resulted in the death of 22 individuals.

(7) Syria has used other terrorist groups, including Iranian Shiite fundamentalists, in Lebanon as surrogates who are responsible for the deaths of hundreds of American servicemen and Embassy personnel in Beirut.

(8) Syrian involvement in the cultivation, production, and distribution of illegal narcotics, including heroin and hashish, has been so notorious that the United States Government has decertified Syria in regard to cooperation with United States in drug interdiction efforts;

(9) Syria presents the most dangerous and immediate security threat to the Government of Israel in the Mid-East region.

(10) Syria is closest ally in the Mid-East region of the Union of Soviet Socialist Republics.

SEC. 2. EMBARGO.

The President shall immediately implement a full embargo on trade with Syria.

SEC. 3. WORLD BANK ACTIONS.

The President shall instruct the United States Executive Director of the International Bank for Reconstruction and Development not to vote in favor of any action proposed to be taken by the bank that would benefit Syria.

SEC. 4. MULTILATERAL ACTIONS.

(a) UNITED NATIONS.—The Congress calls upon the President—

(1) to bring immediately to the attention of the Secretary General of the United Nations, and to pursue before the Security Council of the United Nations, the matter of the state-sponsored terrorism of Syria; and

(2) to demand that the United Nations undertake appropriate and effective measures against Syria for that terrorism.

(b) OTHER MULTILATERAL EFFORTS.—The Congress calls upon the President to seek multilateral cooperation in imposing sanctions and otherwise bringing pressure on Syria in order to obtain a cessation that nation's sponsorship of terrorism.

SEC. 5. EFFECTIVE PERIOD.

The provisions of this Act shall apply until the Congress is notified by the President that he has determined that Syria is no longer engaged in state-sponsored terrorism and drug trafficking and has withdrawn its military forces from Lebanon.

By Mr. DURBIN:

—Page 558, after line 7 insert the following:

TITLE XV—OTHER PROVISIONS

SEC. 1501. INDIA AND NEPAL.

It is the sense of the Congress that—

(1) India and Nepal, building on the offer of negotiations that the Government of Nepal has made and India has apparently responded to, should schedule without delay a time and place for talks by the two governments to resolve, on an urgent basis, issues relating to trade and transit between the two countries, recognizing that an expeditious and amicable resolution is in their mutual self-interest;

(2) India, as a gesture of good will befitting a responsible regional power, should consider resuming the sale of petroleum products to Nepal and encourage the normal passage of people and goods into and out of Nepal; and

(3) the Secretary of State, or his designee, should provide regular briefings to the Congress regarding the effects of the Indian-Nepalese dispute on the two countries and on the interests of the United States with respect to both countries and in South Asia in general.

By Mr. ENGEL:

—Page 454, at the end of line 17, insert the following:

This subsection does not apply to any agreement or understanding concerning—

(1) deliveries of the assistance provided for in the Act entitled "An Act to implement the Bipartisan Accord on Central America of March 24, 1989", approved April 18, 1989 (Public Law 101-14), or

(2) the continued presence of members of the Nicaraguan Resistance in Honduras pending the conclusion and implementation of a plan for their voluntary reintegration or voluntary regional relocation,

if a description of that agreement or understanding has been provided to the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate.

—Page 454, at the end of line 17, insert the following:

This subsection does not apply to any agreement or understanding with Honduras concerning—

(1) deliveries of the assistance provided for in the Act entitled "An Act to implement the Bipartisan Accord on Central America of March 24, 1989", approved April 18, 1989 (Public Law 101-14), or

(2) the continued presence of members of the Nicaraguan Resistance in Honduras pending the conclusion and implementation of a plan for their voluntary reintegration or voluntary regional relocation,

if a description of that agreement or understanding has been provided to the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate.

By Mr. FASCELL:

—At the end of the bill, insert the following:

TITLE XV—COMPLIANCE WITH BUDGET RESOLUTION

SEC. 1501. REDUCTION OF AGGREGATE AMOUNT AUTHORIZED TO BE APPROPRIATED BY THIS ACT.

Notwithstanding the specific authorizations of appropriations in the preceding provisions of this Act (including the amendments made by this Act), the aggregate amount appropriated for fiscal year 1990 pursuant to those authorizations may not exceed $11,236,407,000.

By Mr. GILMAN:

—In title VII after section 324, insert the following new section:

"SEC. 325. SUPPORT FOR A MULTILATERAL ANTI-NARCOTICS STRIKE FORCE.

"(a) FINDINGS.—The Congress finds that—

"(1) the United States Congress has, in the past, indicated its support for a multilateral, regional approach to anti-narcotics control efforts;

"(2) a proposal to create a multilateral, international anti-narcotics force for the Western Hemisphere, is a plan worthy of praise and strong U.S. support;

"(3) the development of a greater capability to assist the governments of Latin America, including the Caribbean basin nations, is an essential component of efforts to interdict the flow of narcotics to the United States;

"(4) regional leadership in the promotion of a multilateral, paramilitary force to combat the drug cartels is welcomed and encouraged;

"(b) SENSE OF CONGRESS.—It is therefore the sense of the Congress that—

"(1) the proposal for the promotion of a regional multilateral anti-narcotics force for the Western Hemisphere be endorsed; and

"(2) the United States should work through the United Nations, the Organization of American States, and other multilateral organizations to determine the feasibility of such a force and assist in the establishment of this force, if it is found to be feasible."

By Mr. INHOFE:

—Page 477, after line 25, insert the following:

SEC. 744. ASSISTANCE FOR ECUADOR.

(a) CONDITIONAL WITHHOLDING OF PART OF ASSISTANCE.—The funds described in subsection (b) shall be withheld from obligation for Ecuador until the President reports to the Congress that the Government of Ecuador has removed from the mural in Ecuador's Plenary Hall of Congress any reference to the United States Government or any of its agencies or personnel.

(b) FUNDS SUBJECT TO WITHHOLDING.—The funds to be withheld from obligation pursuant to subsection (a) are 40 percent of the aggregate amount of funds allocated for Ecuador for fiscal year 1990 for development assistance, economic support assistance, foreign military financing, and international military education and training.

By Mr. LEVINE of California:

—Page 514, strike out lines 14 through 21 and insert in lieu thereof the following:

(b) PROHIBITION ON CERTAIN ASSISTANCE TO THE KHMER ROUGE OR GROUPS ALLIED WITH THE KHMER ROUGE.—Notwithstanding any other provision of law, none of the funds made available to carry out this Act may be obligated or expended for the purpose or with the effect of promoting, sustaining, or augmenting, directly or indirectly, the capacity of the Khmer Rouge or any of its members, or any group allied with the Khmer Rouge, to conduct military or paramilitary operations in Cambodia or elsewhere in Indochina.

By Mr. MANTON:

—Page 473, after line 10, insert the following:

SEC. 723. ASSISTANCE FOR THE DOMINICAN REPUBLIC.

(a) FINDINGS.—The Congress finds that—

(1) on October 18, 1988, Daniel Mirambeaux, having just committed a drug-related robbery, allegedly shot and killed New York City Police Officer Michael Buczek;

(2) Mirambeaux allegedly fled the scene of the shooting and escaped to the Dominican Republic, where he is a citizen and where he is in custody on unrelated charges;

(3) the United States has been unsuccessful in negotiating the return of Mirambeaux to the United States to stand trial; and

(4) this case is a major test of how committed the Dominican Republic is to fighting a real war on drugs.

(b) RESTRICTION ON ASSISTANCE.—Unless the President certifies to the Congress that the Government of the Dominican Republic has extradited or expelled Daniel Mirambeaux to the United States, no United States assistance (including funds appropriated before the date of enactment of this Act) may be furnished for the Dominican Republic.

(c) DEFINITION.—For purposes of this section, the term "United States assistance" means assistance of any kind which is provided by grant, sale, loan, lease, credit, guaranty, or insurance, or by any other means, by any agency or instrumentality of the United States Government, including—

(1) assistance under the Foreign Assistance Act of 1961 (including programs under subchapter A of chapter 5 of title I);

(2) sales under the Defense Trade and Export Control Act; and

(3) sales under title I or III and donations under title II of the Agricultural Trade Development and Assistance Act of 1954 of nonfood commodities;

except that the term "United States assistance" does not include (A) international narcotics control assistance under chapter 2 of title III of the Foreign Assistance Act of 1961, (B) assistance which involves the donations of food or medicine, (C) disaster relief assistance (including any assistance under chapter 6 of title I of the Foreign Assistance Act of 1961), (D) assistance for refugees, (E) activities authorized pursuant to the National Security Act of 1947 (50 U.S.C. 410 et seq.), the Central Intelligence Agency Act of 1949 (50 U.S.C. 403a et seq.), or the Executive Order Number 12333 (December 4, 1981); or (F) commercial export promotion activities of the Department of Agriculture, including the Commodity Credit Corporation.

By Mr. NIELSON of Utah:

—Page 488, insert the following after line 19:

SEC. 808. REOPENING SCHOOLS IN THE WEST BANK.

(a) FINDINGS.—The Congress finds that—

(1) on January 20, 1989, the civil administration of the Israeli Government announced that all 1,194 primary, preparatory, and secondary schools, as well as kindergartens, in the West Bank would be closed "until further notice";

(2) the Israeli civil administration issued similar closure orders on February 3, 1988, and on July 21, 1988;

(3) universities and community colleges in the West Bank have been closed for over one year;

(4) the closure orders have affected all West Bank schools, including public, private, and United Nations Relief and Works Agency (UNRWA) schools, as well as vocational training centers and universities;

(5) the school closures affect 300,000 school aged children and 18,000 university and community college students, or roughly 40 percent of the population of the West Bank;

(6) the continuation of education in any form, including informal makeup classes outside of school premises or the distribution of homework, is prohibited;

(7) the school closures have the most profound impact on primary-aged schoolchildren in as much as educators believe the denial of instruction to students at certain stages in their education leaves serious gaps in their cognitive development which are very difficult to correct at a later stage;

(8) Article 50 of the Geneva Convention Relative to the Protection of Civilian Persons in Time of War (Convention IV) states that "The Occupying Power shall, with the cooperation of the national and local authorities, facilitate the proper working of all institutions devoted to the care and education of children";

(9) Article 33 of that Convention specifies that "No protected person may be punished for an offense he or she has not personally committed";

(10) reopening the schools on the West Bank would make an important contribution to improving relations between Palestinians and the Government of Israel; and

(11) reestablishing a more normal educational environment on the West Bank would be an important step toward creating a climate in the West Bank and Gaza which is more conducive to progress toward peace and in which mutually acceptable local elections could take place, a proposal put forward by Israeli Prime Minister Shamir during his recent visit to the United States.

(b) SENSE OF CONGRESS.—It is the sense of the Congress that Israel should take immediate steps to reopen schools in the West Bank.

—Page 588, add the following after line 7:

SEC. 1404. REOPENING SCHOOLS IN THE WEST BANK.

(a) FINDINGS.—The Congress finds that—

(1) On January 20, 1989, the civil administration of the Israeli Government announced that all 1,194 primary, preparatory, and secondary schools, as well as kindergartens, in the West Bank would be closed "until further notice";

(2) the Israeli civil administration issued similar closure orders on February 3, 1988, and on July 21, 1988;

(3) universities and community colleges in the West Bank have been closed for over one year;

(4) the closure orders have affected all West Bank schools, including public, private, and United Nations Relief and Works Agency (UNRWA) schools, as well as vocational training centers and universities;

(5) the school closures affect 300,000 school aged children and 18,000 university and community college students, or roughly 40 percent of the population of the West Bank;

(6) the continuation of education in any form, including informal makeup classes outside of school premises or the distribution of homework, is prohibited;

(7) the school closures have the most profound impact on primary-aged schoolchildren in as much as educators believe the denial of instruction to students at certain stages in their education leaves serious gaps in their cognitive development which are very difficult to correct at a later stage;

(8) Article 50 of the Geneva Convention Relative to the Protection of Civilian Persons in Time of War (Convention IV) states that "The Occupying Power shall, with the cooperation of the national and local authorities, facilitate the proper working of all institutions devoted to the care and education of children";

(9) Article 33 of that Convention specifies that "No protected person may be punished for an offense he or she has not personally committed";

(10) reopening the schools on the West Bank would make an important contribution to improving relations between Palestinians and the Government of Israel; and

(11) reestablishing a more normal educational environment on the West Bank would be an important step toward creating a climate in the West Bank and Gaza which is

more conducive to progress toward peace and in which mutually acceptable local elections could take place, a proposal put forward by Israeli Prime Minister Shamir during his recent visit to the United States.

(b) SENSE OF CONGRESS.—It is the sense of the Congress that Israel should take immediate steps to reopen schools in the West Bank.

By Ms. OAKAR:

—Page 502, after line 9, insert the following new section:

SEC. 830. ASSISTANCE FOR LEBANON.

Of the amounts made available for economic support assistance under the Foreign Assistance Act of 1961, not less than $7,500,000 for fiscal year 1990 and not less than $7,500,000 for fiscal year 1991 shall be available only for Lebanon.

By Mr. RITTER:

—Page 526, add the following after line 24:

SEC. 910. PEOPLE'S REPUBLIC OF CHINA.

(a) FINDINGS.—The Congress finds that—

(1) military troops of the Government of the People's Republic of China, on June 4, 1989, used brutal force to attack and kill peaceful demonstators gathered in support of freedom and democracy;

(2) the Government of the People's Republic of China has not respected the human rights of the Chinese people in time of peace, and, since June 4, has continued its campaign of violent repression, propaganda, mass arrests, and executions;

(3) the Government of the People's Republic of China threatens regional security, because governments that have little regard for the human rights of their people are much more likely to provoke war and irrationally exploit and expend their citizens during time of war; and

(4) one fifth of the world's population lies within the borders of the People's Republic of China, and the recent human rights violations and propaganda in that country may have national security implications for Hong Kong, Korea, Vietnam, and Taiwan.

(b) STATEMENT OF THE CONGRESS.—The Congress urges the President to direct the United States Ambassador to the United Nations to bring before the United Nations Security Council, for reasons of regional stability and peace, a resolution condemning the violent repression, mass arrests, and executions of peaceful demonstrators by the Government of the People's Republic of China.

—On page 527, after line 8, insert the following:

It is the sense of the Congress to condemn the Soviet Union for its continued violation of the so-called "Geneva Accords" signed on April 14, 1988. The Soviet Union has, since it announced its complete withdrawal in January, continued to supply the government of the Democratic Republic of Afghanistan. Further, the Soviet Union continues to airlift extensive supplies into the Democratic Republic of Afghanistan at a rate of 65 daily flights.

Resolved, the Congress should state its unqualified and unwavering support for Mujahideen freedom fighters and it should be the policy of the United States to supply the Mujahideen with all weapons necessary, especially advanced anti-aircraft weaponry sufficient to cause the Soviet airlift to cease.

—Page 535, after line 10, insert the following:

SEC. 925. MINES IN AFGHANISTAN.

(a) FINDINGS.—The Congress finds that—

(1) the millions of Afghan refugees living in Pakistan threaten the stability of Pakistan's fledgling democracy; and

(2) these refugees cannot return to Afghanistan or make use of the land in Afghanistan because of the extreme life-threatening danger of mines deployed by the Soviet Union.

(b) UNITED STATES ASSISTANCE TO CLEAR MINES.—The Congress urges the President to provide such assistance as the President deems necessary for the purpose of clearing mines in Afghanistan if the President determines that adequate and timely progress is not being made by the United Nations in clearing those mines.

By Mr. ROHRABACHER:

—On page 37, strike out line 18 and all that follows through line 16 on page 38 and insert in lieu thereof the following:

"(2) GOALS OF PLAN.—The plan developed pursuant to paragraph (1) shall include specific quantifiable poverty-alleviating goals and the target dates for reaching these goals, including, as appropriate for particular countries, the goal of reducing by the year 2000 the proportion of the population living in absolute poverty by at least 50 percent of that proportion in 1980, and such other specific quantifiable goals, consistent with the achievement of the basic objectives set forth in section 1102, as the President determines to be crucial to measurably eliminating the worst aspects of absolute poverty."

—Page 526, after line 24, insert the following:

SEC. 910. ASSISTANCE TO DISPLACED BURMESE ALONG THE THAI-BURMA BORDER.

(a) AUTHORITY TO USE FUNDS.—For each of the fiscal years 1990 and 1991, not less than $3,000,000 of the funds described in subsection (b) shall be used for humanitarian assistance for displaced Burmese on both sides of the Thai-Burma border, including Burmese students who fled to the border after the suppression of popular demonstrations in 1988. Such assistance shall include the provision of food, medicine, medical supplies, medical training, and clothing.

(b) FUNDS WHICH MAY BE USED.—The funds which are to be used pursuant to subsection (a) each fiscal year are any funds that—

(1) are hereafter made available for that fiscal year for development assistance or economic support assistance; and

(2) are not earmarked for a specific country, organization, or purpose.

(c) CERTAIN RESTRICTIONS NOT APPLICABLE.—Section 3262 of the Foreign Assistance Act of 1961 shall not apply with respect to the humanitarian assistance for displaced Burmese provided for in this section.

By Mr. SMITH of New Jersey:

—Page 511, after line 25, add the following:

SEC. 862. UNITED STATES POLICY TOWARDS SOCIALIST REPUBLIC OF ROMANIA.

(a) FINDINGS.—The Congress finds that—

(1) the Government of the Socialist Republic of Romania continues its flagrant abuse of the human rights of its citizens, including the freedom of religion, the freedom of speech and press, and the rights of ethnic minorities;

(2) Romanian President Nicolae Ceausescu has refused to renounce his plan for forced relocation of Romania's populations into "agro-industrial complexes", and has begun to obliterate as many as half of the country's 13,000 rural villages, thereby systematically destroying family homes, churches and synagogues, and private sources of food;

(3) the people of Romania continue to be harassed and arrested for their religious activities, and houses of worship have been destroyed by government authorities, such as the demolition on May 31, 1989, of the Comanesti Baptist Church near Bacau;

(4) Hungarian, German, and other ethnic minorities have been subjected to a campaign of forced assimilation, including severe restrictions on the use of their own languages in education and on other cultural expressions;

(5) President Ceausescu's economic policies have been formulated to greatly accelerate the repayment of Romania's foreign debt by raising Romania's level of exports and sharply curtailing imports, thereby causing severe shortages of basic food staples and items such as meat, fruit, and vegetables, and requiring the strict rationing of household energy; and

(6) the United States imports certain food products from Romania, such as boned pork, grape wine, and cheese.

(b) SENSE OF CONGRESS.—It is the sense of the Congress that—

(1) the United States should impose sanctions against all food and agricultural products of the Socialist Republic of Romania; and

(2) the President should consult with allied countries to develop a coordinated policy to impose sanctions against Romania, particularly sanctions against food and agricultural products of Romania.

—Page 588, after line 7, add the following:

SEC. 1404. UNITED STATES POLICY TOWARDS SOCIALIST REPUBLIC OF ROMANIA.

(a) FINDINGS.—The Congress finds that—

(1) the Government of the Socialist Republic of Romania continues its flagrant abuse of the human rights of its citizens, including the freedom of religion, the freedom of speech and press, and the rights of ethnic minorities;

(2) Romanian President Nicolae Ceausescu has refused to renounce his plan for forced relocation of Romania's populations into "agro-industrial complexes", and has begun to obliterate as many as half of the country's 13,000 rural villages, thereby systematically destroying family homes, churches and synagogues, and private sources of food;

(3) the people of Romania continue to be harassed and arrested for their religious activities, and houses of worship have been destroyed by government authorities, such as the demolition on May 31, 1989, of the Comanesti Baptist Church near Bacau;

(4) Hungarian, German, and other ethnic minorities have been subjected to a campaign of forced assimilation, including severe restrictions on the use of their own languages in education and on other cultural expressions;

(5) President Ceausescu's economic policies have been formulated to greatly accelerate the repayment of Romania's foreign debt by raising Romania's level of exports and sharply curtailing imports, thereby causing severe shortages of basic food staples and items such as meat, fruit, and vegetables, and requiring the strict rationing of household energy; and

(6) the United States imports certain food products from Romania, such as boned pork, grape wine, and cheese.

(b) SENSE OF CONGRESS.—It is the sense of the Congress that—

(1) the United States should impose sanctions against all food and agricultural products of the Socialist Republic of Romania; and

(2) the President should consult with allied countries to develop a coordinated

policy to impose sanctions against Romania, particularly sanctions against food and agricultural products of Romania.

By Ms. SNOWE:

—Page 526, after line 24, insert the following:

SEC. 910. COMMENDATION OF THE PRESIDENT'S DECISION TO GRANT TEMPORARY SANCTUARY TO CHINESE INTELLECTUALS FANG LIZHI AND LI SHUXIAN.

(a) FINDINGS. The Congress finds that—

(1) the Vienna Convention on Diplomatic Privileges and Immunity and traditional international law uphold the rights of diplomatic missions to use their status as diplomatically inviolable to provide temporary sanctuary to individuals who are in imminent personal danger because of their political beliefs;

(2) on June 4, 1989, a day after the massacre of hundreds of unarmed Chinese citizens in the vicinity of Tiananmen Square by Chinese military units, the United States exercised its rights under international law to grant temporary sanctuary at the United States Embassy in Beijing to the noted Chinese intellectuals and advocates of peaceful democratic reform, Fang Lizhi and Li Shuxian; and

(3) actions by the Government of the Peoples Republic of China subsequent to the June 3, 1989 massacre of pro-democracy demonstrators in the vicinity of Tiananmen Square, including mass arrests and summary executions of unarmed demonstrators, underscores the continuing danger to the personal safety of Fang Lizhi and Li Shuxian.

(b) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) the President should be commended for his courageous and appropriate action in swiftly providing temporary sanctuary to Fang Lizhi and Li Shuxian at the United States Embassy in Beijing;

(2) the President should continue to provide temporary sanctuary to Fang Lizhi and Li Shuxian at the United States Embassy in Beijing to ensure their personal safety;

(3) the Government of the Peoples Republic of China should grant amnesty to those who were involved in the pro-democracy demonstrations in China, should release all those being held for their participation in the demonstrations, and should stay any further executions of such individuals; and

(4) the Government of the Peoples Republic of China should end martial law in China and seek a national reconciliation with its citizens who have demonstrated so courageously their yearnings and hopes for democratic reform and greater respect for internationally recognized human rights in the Peoples Republic of China.

By Mr. SOLARZ:

—Page 520, line 25, strike out "(a) AUTHORIZATION.—"; and page 521, strike out lines 4 through 19 (including paragraph (3) as added by the amendments offered en bloc by Mr. Fascell of Florida on June 21, 1989).

By Mr. SOLOMON:

—Page 402, after line 2, insert the following:

"SEC. 5509. DRUG TESTING.

"The President shall require random drug testing of officers and employees of the United States assigned to carry out any assistance program funded under this Act."

—Page 402, after line 2, insert the following:

"SEC. 5509. DRUG TESTING.

"The President shall require random drug testing of officers and employees of Federal agencies assigned to carry out any assistance program funded under this Act."

—Page 454, strike lines 9 through 17.

—Page 482, after line 8, add the following new section;

"SEC. 765. RESTRICTION ON ASSISTANCE TO THE DOMINICAN REPUBLIC.

"(a) FINDINGS.—The Congress finds that—

"(1) on October 18, 1988, Daniel Mirambeaux, having allegedly just committed a drug-related robbery, allegedly shot and killed New York City Police Officer Michael Buczek;

"(2) Mirambeaux fled the scene of the shooting and escaped to the Dominican Republic, where he is a citizen and where he is in custody on unrelated charges;

"(3) the United States has been unsuccessful in negotiating the return of Mirambeaux to the United States to stand trial; and

"(4) this case is a major test of how committed the Dominican Republic is to fighting a real war on drugs.

"(6) RESTRICTION ON ASSISTANCE FOR THE DOMINICAN REPUBLIC.—

"(1) RESTRICTION ON ASSISTANCE.—Unless the President certifies to the Congress that the Government of the Dominican Republic has extradited or expelled Daniel Mirambeaux to the United States, no United States assistance (including funds appropriated before the date of enactment of this Act) may be furnished for the Dominican Republic.

"(2) DEFINITION.—For purposes of this section, the term "United States assistance" means assistance of any kind which is provided by grant, sale, loan, lease, credit, guaranty, or insurance, or by any other means, by any agency or instrumentality of the United States Government to any foreign country, including—

"(A) assistance under the Foreign Assistance Act of 1961 (including programs under title IV of chapter 2 of part I of such Act);

"(B) sales, credits, and guaranties under the Arms Export Control Act;

"(C) sales under title I or III and donations under title II of the Agricultural Trade Development and Assistance Act of 1954 of nonfood commodities;

"(D) other financing programs of the Commodity Credit Corporation for export sales of nonfood commodities; and

"(E) financing under the Export-Import Bank Act of 1945,

except that the term "United States assistance" does not include (A) international narcotics control assistance under chapter 8 of part I of the Foreign Assistance Act of 1961, (B) assistance which involves the donations of food or medicine, (C) disaster relief assistance (including any assistance under chapter 9 of part I of the Foreign Assistance Act of 1961), (D) assistance for refugees, or (E) activities authorized pursuant to the National Security Act of 1947 (50 U.S.C. 410 et seq.), the Central Intelligence Agency Act of 1949 (50 U.S.C. 403a et seq.), or the Executive Order Number 12333 (December 4, 1981).

"(C) SUSPENSION OF MULTILATERAL ASSISTANCE.—Unless the President makes the certification described in subsection (b)(1), the Secretary of the Treasury shall instruct the United States executive directors of the International Bank for Reconstruction and Development, the International Development Association, and the Inter-American Development Bank to vote against any loan or other utilization of the funds of their respective institution to or for the Dominican Republic.

"(d) SUSPENSION OF AIR TRAVEL.—

"(1) IN GENERAL.—Unless the President makes the certification in subsection (b)(1)—

"(A) the President shall direct the Secretary of Transportation to revoke the right of any air carrier designated by the Government of the Dominican Republic under the air transportation agreement between the United States and that country to provide service pursuant to that agreement;

"(B) the Secretary of State shall terminate that agreement in accordance with the provisions of that agreement;

"(C) upon termination of that agreement, the Secretary of Transportation shall prohibit any aircraft of a foreign air carrier owned, directly or indirectly, by the Government of the Dominican Republic or by nationals of that country from engaging in air transportation with respect to the United States; and

"(D) the Secretary of Transportation shall provide for such exceptions from the prohibition contained in paragraph (C) as the Secretary considers necessary to provide for emergencies in which the safety of an aircraft or its crew or passengers is threatened.

"(2) DEFINITION.—For purposes of this subsection, the terms "aircraft", "air transportation", and "foreign air carrier" have the meanings given those terms in section 101 of the Federal Aviation Act of 1958 (49 U.S.C. 1301).

"(e) ELIMINATION OF THE SUGAR QUOTA ALLOCATION OF THE DOMINICAN REPUBLIC.—

"(1) IN GENERAL.—Notwithstanding any other provision of law, no sugars, sirups, or molasses that are products of the Dominican Republic may be imported into the United States after the date of enactment of this Act during any period for which a limitation is imposed by any other law on the total quantity of sugars, sirups, and molasses that may be imported into the United States.

"(2) REALLOCATION OF QUOTA AMOUNTS.—The United States Trade Representative shall reallocate among other foreign countries the quantity of sugar, sirup, and molasses products of the Dominican Republic that could have been imported into the United States before the date of enactment of this Act under any limitation imposed by law on the total quantity of sugars, sirups, and molasses that may be imported into the United States during any period.

"(3) CONFORMING AMENDMENTS TO THE HARMONIZED TARIFF SCHEDULE.—

"(A) Paragraph (c)(i) of headnote 3 of the Additional U.S. Notes to chapter 17 of the Harmonized Tariff Schedule of the United States is amended by striking out the item relating to the Dominican Republic in the table.

"(B) Paragraph (c) of headnote 3 of the Additional U.S. Notes to chapter 17 of the Harmonized Tariff Schedule of the United States is amended by adding at the end thereof the following new subparagraph:

"(iv) Notwithstanding any authority given to the United States Trade Representative under paragraphs (e) and (g) of this headnote, no allocation may be made to the Dominican Republic of any portion of any limitation imposed under any paragraph of this headnote on the quantity of sugars, sirups, and molasses described in the subheadings listed in paragraph (a)(i) of this headnote which may be entered.".

"(4) EFFECTIVE DATE.—

"(A) The provisions of paragraphs (1) and (2), and the amendments made by paragraph (3), shall cease to apply if the President makes the certification described in subsection(b)(1).

"(B) On the day after the date on which the President makes the certification referred to in subparagraph (A), the United States Trade Representative shall allocate to the Dominican Republic at least the same percentage of any limitation imposed by any other law on the total quantity of sugars, sirups, and molasses imported into the United States that was allocated to the Dominican Republic on the day before the date of enactment of this Act.

"(f) DENIAL OF TRADE PREFERENCES AND IMPOSITION OF ADDITIONAL DUTY.—Notwithstanding any other provision of law, unless the President makes the certification described in subsection (b)(1)—

"(1) the President shall terminate, withdraw, or suspend any portion of any trade agreement or treaty to the extent the agreement or treaty requires the provision of nondiscriminatory (most-favored-nation) trade treatment to the Dominican Republic,

"(2) the Dominican Republic shall be denied nondiscriminatory (most-favored-nation) trade treatment by the United States and the products of the Dominican Republic shall be subject to the rates of duty set forth in rate of duty column number 2 of the Harmonized Tariff Schedule of the United States,

"(3) the provisions of title V of the Trade Act of 1974 (19 U.S.C. 2461, et seq.) shall not apply with respect to the products of the Dominican Republic,

"(4) the provisions of the Caribbean Basin Economic Recovery Act (19 U.S.C. 2701, et seq.) shall not apply with respect to the products of the Dominican Republic, and

"(5) the products of the Dominican Republic that do not receive duty-free treatment on the day before the date of enactment of this Act shall be subject to an additional duty at the rate of 50 percent ad valorem.".

By Mr. WOLPE:

—Page 566, after line 25, insert the following:

SEC. 1031. APPLICATION OF PROVISION TO EARMARKED FUNDS FOR SUB-SAHARAN AFRICA.

Section 5303 of the Foreign Assistance Act of 1961 shall not apply with respect to the funds described in sections 1021 and 1022 of this title.

SENATE—*Thursday, June 22, 1989*

(Legislative day of Tuesday, January 3, 1989)

The Senate met at 9:30 a.m., on the expiration of the recess, and was called to order by the Honorable J. ROBERT KERREY, a Senator from the State of Nebraska.

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray:

** * * but whosoever will be great among you, shall be your servant: And whosoever of you will be the chiefest, shall be servant of all.*—Mark 10:43, 44.

Gracious God our Heavenly Father, we thank Thee for all who serve among us, especially those who are rarely seen or heard about, who perform their tasks daily, faithfully behind the scenes. We recognize that without them, the Senate could not function.

May Thy blessing rest upon all of Your servants who maintain property and grounds, who run elevators and subways, who prepare and serve food, for those who provide security, for clerks, and receptionists, for pages and secretaries.

Loving God, keep us mindful of the hundreds of unseen, unsung heroes who keep the machinery of the Senate operating efficiently. In His name who is the servant of all. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore [Mr. BYRD].

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, June 22, 1989.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable J. ROBERT KERREY, a Senator from the State of Nebraska, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

Mr. KERREY thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The majority leader is recognized.

THE JOURNAL

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Journal of the proceedings be approved to date.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

SCHEDULE

Mr. MITCHELL. Mr. President, this morning, following the time for the two leaders, there will be a period for morning business not to extend beyond 10:30 a.m. with Senators permitted to speak therein up to 5 minutes each.

The Senate will resume debate on S. 5 at 10:30 a.m. At that time, under the provisions of the unanimous-consent agreement entered into yesterday, the Senate will begin 90 minutes of debate on the Dole amendment to the Mitchell substitute. Senator DOLE will control 60 minutes of the time and the remaining 30 minutes will be under the control of Senator DODD. Vote on the Dole amendment will occur at 12 noon.

In addition, should the Dole amendment be defeated, another vote will occur immediately on the Mitchell substitute amendment. Senators should be on notice, therefore, that one vote, at least, will occur at noon and the possibility exists of two votes occurring back to back at that time.

Other votes are likely in relation to this legislation during the remainder of the day and into this evening. Senators should be on notice that there will be a late evening today, with the possibility of several rollcall votes.

SEVEN MORE EXECUTIONS IN CHINA

Mr. MITCHELL. Mr. President, yesterday I began my remarks by quoting from an Associated Press report regarding the events in China of the previous day. I do so again today.

Today, this very morning, the Associated Press reports the following:

Seven more "rioters" were executed today, bringing to 27 the number reported put to death in 2 days for their roles in protests against the violent suppression of the pro-democracy movement.

The official Xinhua News Agency said the seven people executed in Beijing today were convicted of setting army trucks on fire, stealing army goods or assaulting soldiers when the military invaded the capital on June 3-4.

The executions were carried out despite international pleas for clemency.

They came a day after three men were executed in Shanghai for setting fire to a train June 6 after it ran through a barricade, striking and killing six protesters.

Mr. President, yesterday I described the three executions reported the previous day as barbarous acts deserving our strongest condemnation. What then can be said of seven more executions yesterday? This is indeed deplorable.

I am saddened by the President's refusal to give outlet to the feelings of the American people about these executions which now have reached the point which can only be described as organized murder—terror by a government against its own people seeking to intimidate them to permit that government to remain in power.

Only the President of the United States speaks for all Americans. Only the President of the United States is the leader of the free world. I understand and appreciate the delicate situation in which the President finds himself, and I support his stated desire to maintain, if possible, some relationship with the Chinese Government.

But, I ask—I urge—the President to condemn these actions personally and in the strongest possible terms, to give voice to the feelings of the overwhelming majority of the American people who are outraged and revolted by these executions in China.

I ask the President to remember that the Chinese Government is an institution that will exist beyond the men now organizing and directing this mass terror. And if we want relations with the Chinese Government—especially because, in my view, this Chinese Government cannot permanently endure, given its brutal acts against its own people—then we must make clear how America feels and where America stands on this issue.

This has become a moral issue of worldwide consequence and proportion. For over a half century the world has looked to the United States as the arsenal of democracy, the beacon of freedom, the voice of self-government and self-determination. We cannot and we must not duck and dodge and refuse to make our views known at such a critical moral point in not only Chinese but in human history.

The recent events in China and the Soviet Union demonstrate clearly for all to see just how universal is the human desire for freedom and eco-

nomic opportunity and how totally communism has failed to provide either.

They represent, in the strongest possible way, a ringing endorsement of American democracy and the concept of self-determination for which we have stood for two centuries.

It is the President of the United States and he alone who can give voice to American ideals; to, in this case, American outrage at what is occurring.

I urge the President to do so. I ask him not to refuse to answer questions about these matters, but to step forward voluntarily to speak out, to give voice to what the American people feel and what the American people think and what the American people want their President to say.

Mr. President, Prime Minister Thatcher, of Britain, said she was utterly appalled by the executions. Australian Prime Minister Hawke called them intolerable. New Zealand Prime Minister Lange expressed his revulsion. The Japanese Government, the French Government, governments the world over expressed the revulsion that their people are feeling.

The United States, as the leader of the world's democracies, as the symbol of freedom throughout the world, should be leading, not following, in this instance. I urge the President to assume the proper role as spokesman for the American people, as leader of the free world, and condemn these actions in the strongest possible terms, conveyed directly to the Chinese leadership, of the disastrous consequences of the course which they are now pursuing.

RESERVATION OF LEADERS' TIME

Mr. MITCHELL. Mr. President, I reserve the remainder of my leader time and I reserve the leader time of the distinguished Republican leader.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of morning business not to extend beyond the hour of 10:30 a.m. with Senators to speak therein for not to exceed 5 minutes each.

The Senator from Iowa.

A PLEA TO THE PRESIDENT

Mr. GRASSLEY. Mr. President, before I speak on an agricultural issue, I want to associate myself fully and completely with the remarks just made by the distinguished majority leader. And, as one Republican Senator, just speaking for myself, I plead with the leader of my party, the President of the United States. He is my President and he is my leader. So many of the things he has done this year as President have shown such outstanding leadership I beg and ask that he take strong action as well as make the statement that the majority leader has just now spoken to. I ask him that as a friend. I ask him that as a member of his party and out of respect for his leadership.

(The further remarks of Mr. GRASSLEY pertaining to the introduction of S. 1221 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

PRIVILEGE OF THE FLOOR

The ACTING PRESIDENT pro tempore. The Senator from New Mexico.

Mr. BINGAMAN. Mr. President, I ask unanimous consent that Vicki Huddleston, who is an APSA congressional fellow working with my staff, be allowed to be on the floor today during my introduction of a bill on missile control technology.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The Senator from South Dakota.

CHINA

Mr. DASCHLE. Mr. President, I just had the good fortune to hear what was, in my view, one of the most compelling speeches yet to be spoken on the Senate floor with regard to China and the need for this Nation to speak out on the tragic situation there.

Our majority leader spoke eloquently and convincingly. I hope the President, and others who are in a position to guide U.S. policy toward China, heard those remarks. For I believe the majority leader speaks for the vast majority of American people who are disappointed and frustrated at the lack of response to what we now see in China.

It is my hope the President will heed those words and that those who have the opportunity to persuade him to do so will urge the President to speak out about what has to be one of the most horrendous examples of fundamental human rights violations that we have seen in a very long time.

Although I did not come to the floor this morning to speak about human rights, I think we could spend the bulk of this morning's business doing so, especially in relation to China. I know this will be the source of a good deal of discussion and debate in the coming days, and I want to echo the majority leader's words of support for the Chinese people who are struggling for freedom and suffering unjustly at the hands of their own Government.

THE RURAL PARTNERSHIPS ACT OF 1989

Mr. DASCHLE. Mr. President, often when we think about America today we think of it in a convenient way, as a unanimous, homogeneous people of 240 million strong. We underestimate the diversity that exists among our people, places, and cultures.

As I look at America today, there are really two Americas. There is the America you see as you drive down Pennsyvlania Avenue, with new construction and bustling activity, representing what is, in a sense, a growing optimism about this economy and future generations. But there is another America, the America that the Presiding Officer and I see each and every time we go home: of people who live in poverty, now some 9 million; of people who are unemployed, now more than 2 million; of tens of thousands of people every day who pack up and leave behind their homes—their homes, their farms, their small communities, and their way of life. We see vibrant communities we knew in our childhood now turning into ghost towns with boarded up buildings and broken glass.

In many respects, it is reminiscent of another time, another desolate period in American rural history—the Great Depression. A time when the fields were dried up by drought and the wind took them away, filling the ditches full of dust and topsoil. A time when people left the land as they do today, and rural America was a place of dirt roads, no electricity, no plumbing.

Fifty years ago, this Senate and our Nation responded to the Great Depression, the deprivation, the unemployment, the poverty, the terrible situation that existed back then. We built roads and bridges. We brought electricity to the farms and the small towns for the first time. We extended credit. We brought programs to rural America that improved their lot, gave them hope and brought generations back to those small communities. And for 50 years that worked well. We did it because we recognized that rural America was a way of life. Rural Americans are hardworking people caught in a different kind of wind, the shifting winds of a global economy, but they love their way of life. They love the values upon which their life is built. They fear that if they give up that way of life, they will lose those values.

Now we are moving into the 21st century, and just as our programs 50 years ago brought an infrastructure and a technology to advance into the 20th century, we now need a new infrastructure, and new technologies to move into the next one. That really is the whole purpose behind the bill passed recently by the Senate Agriculture Committee, the Rural Partnerships Act of 1989, S. 1036. It reaffirms the 50-year-old commitment we have made in rural America. It is only one step up the ladder of recovery—investing in job creation, advanced telecommunications, education, and water and sewer infrastructure. The next step, obviously, is going to be to provide rural hospital legislation, something

the Senate Finance Committee is working on this very day, and the rural housing legislation as well. It is important as we look at these programs that we not reinvent the wheel, that we recognize that there are some programs that already exist that need not be replicated. It is also important that we recognize that the best thing we can do for rural America is to give our farmers a fair price.

The Rural Partnerships Act supplements the basic commodity programs, much as many of us supplement our diets with vitamins to make sure that we have the basic building blocks to stay healthy. We do not need to create a new bureaucracy. We do not need to replace the ideas that have worked well in the past. We need to use local know-how as much as possible. Mostly, we need to stop the bleeding.

And rural America is bleeding. A slow and steady stream of people leave each year. I once visited a school and asked more than 100 schoolchildren if they liked where they lived, if they enjoyed the rural way of life; and all 100-plus kids raised their hand. I then asked, do you expect to be here as adults? Out of that 100-plus body of rural students, four raised their hands. What a prophecy. What a classic demonstration of the bleeding that is taking place, the outflow, the out-migration of our best talent and our best hope for the future. That is what this bill is about. To give people a chance to make a living where they want to live, to stop the bleeding in rural America.

I yield the floor.

The PRESIDING OFFICER (Mr. KOHL). The Senator from New Mexico is recognized.

Mr. BINGAMAN. I thank the Chair.

(The remarks of Mr. BINGAMAN pertaining to the introduction of S. 1227 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

The PRESIDING OFFICER. The Senator from Illinois is recognized.

Mr. DIXON. I thank the Chair.

(The remarks of Mr. DIXON pertaining to the introduction of S. 1222 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

RURAL DEVELOPMENT

Mr. SANFORD. Mr. President, one of my top priorities for this legislative session is the passage of comprehensive rural development legislation. It is time to focus Federal attention on the economic and human resource needs of rural communities throughout the Nation. These communities have often been ignored by Federal assistance efforts and left out of the economic prosperity of the 1980's.

I commend the distinguished majority leader, Senator MITCHELL, on his strong personal support for legislation that benefits rural America. Senator MITCHELL has been instrumental in the development of the Rural Housing Task Force. This task force will continue to coordinate diverse, legislative initiatives on the issues of rural business development, health care, education, infrastructure, telecommunications, and housing—just to name a few. His leadership will also catalyze quick consideration of rural development legislation by the Senate.

I also want to express my deep appreciation to Senator LEAHY, the chairman of the Agriculture Committee, whose tireless efforts have produced legislation that addresses many of the serious problems in rural areas. In addition, I congratulate Senator SASSER for his leadership in including additional funding for rural development in the fiscal year 1990 budget resolution.

The need for rural development legislation is clear. In the last decade, high interest rates, a strong dollar, and a changing national economy contributed to serious declines in agriculture and manufacturing—two staples of rural economic growth. Job displacement and plant closings sustained high rates of rural unemployment and poverty. This economic stagnation has forced almost 500,000 people to migrate from rural communities to the urban centers of the Nation each year.

In my home State, the economic divergence between rural and metropolitan communities has been particularly acute. The unemployment rate in rural North Carolina is 44 percent higher than the rate in urban areas of the State, while job growth remains one-third slower. The proportion of the rural population with less than a ninth grade education is almost twice the percentage in urban areas. In addition, 60 percent more rural residents live in poverty than urban residents. I could go on quoting statistics—and the numbers are deplorable—but simply put: rural counties have fallen behind and the gap is widening. We must improve the quality of rural life and provide the basic tools to make rural communities competitive.

The Federal Government cannot expect the problems in rural America to correct themselves until it addresses the key impediments that limit rural development. Communities that have long been dependent upon agriculture or other resource-based economies must receive incentives to diversify their economic base and develop new industrial opportunities. Essential infrastructure needs must also be met to improve the quality of life in rural communities, to install up to date communication and transportation systems, and to provide decent housing opportunities. The development of leadership in rural communities is equally important, along with the improvement of educational opportunity and quality.

The Rural Partnerships Act of 1989, introduced by Senator LEAHY, provides a comprehensive attack on the stagnation and despair in rural America. This legislation injects capital into rural businesses to encourage economic growth and business diversification. It authorizes and expands Federal infrastructure programs and provides critical technical assistance to rural areas. In addition, it funds advanced technology in rural schools and hospitals to encourage the human resource development necessary to sustain growth. Rural America is not looking for a handout from the Federal Government; it is looking to develop the economic and social base necessary to carry rural communities into the 21st century.

Mr. President, the basic needs of 61 million rural Americans can no longer be ignored by the Federal Government. The Rural Partnerships Act of 1989 invests in the future of our Nation's rural communities in a comprehensive fashion. I strongly support this legislation, and I hope that it will receive immediate consideration by the Senate.

The PRESIDING OFFICER. The Senator from Connecticut [Mr. LIEBERMAN] is recognized.

Mr. LIEBERMAN. I thank the Chair.

(The remarks of Mr. LIEBERMAN pertaining to the introduction of S. 1223 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

PRIVILEGE OF THE FLOOR

Mr. HEFLIN. Mr. President, I ask unanimous consent that Dr. Marvin Konyha, who is serving me as a member of the Senate Agriculture Committee staff, and who is a fellow from the Department of Agriculture, have the privileges of the floor today.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE SUPREME COURT'S AMERICAN FLAG DECISION

Mr. HEFLIN. Mr. President, I want to address two subjects.

First, I want to address the decision yesterday of the U.S. Supreme Court in which it, in effect, authorized the desecration of the American flag. In my judgment, yesterday, June 21, 1989, was a sad day for America. It was a sad day for patriotism, and a sad day for Old Glory.

While I am a strong believer in the first amendment rights, nevertheless, I recognize that first amendment rights are not unlimited. There have been numerous decisions of the Supreme Court that limit freedom of expression. One that is most known to the American people is the case in which the Supreme Court held that you cannot holler "fire" in a crowded theater because of the potential danger to the people who may be there. There is a long line of decisions which, in effect, holds that if there is danger to individuals or danger to society as a

whole that might be created by the expression of certain words, certain labels, or certain things that might occur, then these expressions do not come within the protection of the first amendment rights.

To me, this decision injures the life and soul of America. It injures the heart of America. The heart of America is patriotism, and the muscle of the heart of America is the American flag.

I feel this decision was judiciously wrong. I think the American people will rise up in protest against this decision. I think they have the right to do so.

I feel it was wrong for this country, it was wrong for patriotism, and it was judiciously wrong. The Star Spangled Banner ends by saying, does the "Star Spangled Banner" yet wave over the land of the free and the home of the brave. I think it comes through loud and clear that if we are to be the land of the free, we must first be the home of the brave. And the home of the brave, in my judgment, has been injured by this decision.

Mr. THURMOND. Mr. President, will the Senator yield?

Mr. President, I want to compliment the able Senator from Alabama for the remarks he just made. I think this decision is an improper decision. It is not in thinking at all with the people of America.

I received a call this morning from a radio station in Anderson, SC. They said they have had hundreds of calls about this, and every one of them was against this decision except one—hundreds against one. I think that is the thinking of the American people.

I want to say further that I am now having prepared a constitutional amendment to offset this decision, and I hope we can get quick action by the Congress. I hope the able Senator from Alabama will join on that amendment.

Mr. HEFLIN. I will be delighted to be a cosponsor.

Mr. THURMOND. I thank the Senator very much.

STARS AND STRIPES FOREVER

Mr. PRESSLER. Mr. President, I was very disturbed that the Supreme Court ruled that an American flag could be burned in public, and that it was no violation of law.

As a Vietnam veteran myself, I was outraged at this fact—that our flag can be burned in public. I believe that we should find a legislative way to address this problem. We should be proud of our country and of our flag. However, the Supreme Court has authority to interpret our Constitution.

I am one who has frequently said that we should approve people to the Supreme Court who share the philosophy of the majority of Americans. Certainly, this ruling by our Court is a bad reflection on Washington, and a bad reflection upon the Supreme Court.

I am told by legislative counsel that a bill or a law specifically aimed at this decision theoretically would be unconstitutional. I am exploring with legislative counsel a way of addressing this matter. But, in any event, let us remember this case in our future debates on who should be appointed to the Supreme Court. I remember well the Bork debate. I voted with pride for Judge Bork.

I think the Supreme Court is out of step with the American people, and as one Senator and one citizen I am very distressed over the flag burning decision of yesterday.

I am a Vietnam veteran, and like so many other veterans, the flag has a deep personal meaning for me. I never fail to experience a feeling of pride when I see our flag flying, in front of a military base or on the top of the U.S. Capitol, or elsewhere. The flag is a living symbol of the principles for which our great country stands—liberty and justice for all.

I disagree with the decision made by the Supreme Court yesterday because it does not express the ideals of South Dakotans and other Americans. That is why I am cosponsoring a constitutional amendment to overturn the Court's decision.

Many great writers have written about the "Stars and Stripes." Today, in 1989, this symbol of our Nation has as much great meaning as it did for our forefathers who wrote the Pledge of Allegiance and "The Star Spangled Banner."

Yesterday, Justice Brennan of the Supreme Court said, "We do not consecrate the flag by punishing its desecration, for in doing so we dilute the freedom that this cherished emblem represents." But, let us not forget that the flag also stands for liberty, national unity, and democracy. These values and ideals also must be upheld in the courts of the United States.

All Americans have recited the following words:

I pledge allegiance to the flag of the United States of America and to the Republic for which it stands, one nation, under God, indivisible, with liberty and justice for all.

I join with my colleagues in supporting an amendment to the Constitution that would uphold the ideals and values represented by the American flag by protecting the flag itself from desecration.

RURAL DEVELOPMENT

Mr. HEFLIN. Mr. President, the 1980's have not been good times in much of rural America. Rural problems run much deeper than agriculture, with its well-known income crisis. They include depressed conditions in forestry, mining, and light manufacturing. These rural problems cut a wide swath across our rural communities, and center on issues of jobs, community facilities, and human development.

These rural conditions persist for many reasons not under the control of our rural people. Even though rural poverty is one-third higher than urban poverty, the rural poor are generally the working poor—due to low wages, less than full-time employment, or low skill levels. While 80 percent of waste water treatment systems not in compliance with EPA standards are in rural areas, only 8 percent of EPA Sewage Treatment Grant Program funds have gone to rural communities. And, even though Federal per capita program expenditures have been lower in rural than in urban areas, budget cuts have further reduced these Federal programs nearly 50 percent in the 1980's.

Even in these economic hard times, rural people continue to support public investment in themselves and their communities. They support significant tax efforts, and devote a higher proportion of their income to sales, property, and excise taxes than do their urban and suburban neighbors. Rural people make significant investment in the education of their youth, most of whom have to leave the local rural community to find work, taking this investment with them.

Rural Americans do not want handouts, but they do want a fair share of Federal program expenditures. They are eager to create jobs and improve their communities. Rural people want a renewed partnership with their urban neighbors, with State and Federal governments, and between the public and private sectors.

Although it is only a modest beginning, the Rural Partnership Act will yield significant benefits to the whole Nation as well as to rural people and communities. The act's revolving loan fund will increase rural job opportunities and strengthen public/private partnerships in economic development. The act also strengthens the roles of State and local governments in directing Federal investments to the neediest rural areas. Through improved telecommunications, the act will help improve rural educational and health service systems, leading to a better skilled work force that can be more competitive in world markets. The act will improve water supplies, help diversify forestry dependent counties, and help reduce pressures on urban growth and suburban sprawl. And the act will increase the role and involvement of the research and outreach components of the Nation's land-grant universities in assisting local rural development efforts.

Rural economic development efforts must begin with local initiative and be guided by local leadership in both the public and private sectors. It is essential, however, for the Federal Government to be an active partner in these efforts. The time has come for the Federal Government to reaffirm its role and responsibility regarding our 62 million rural citizens, and to help

provide an environment in which local rural economic development efforts can be most effective.

The Rural Partnership Act is an important first step in reaffirming this Federal role and responsibility.

The PRESIDING OFFICER. The Senator from South Carolina is recognized.

Mr. THURMOND. I thank the Chair.

(The remarks of Mr. THURMOND pertaining to the introduction of S. 1225 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. DOLE. Mr. President, I think I still have my leader's time.

The PRESIDING OFFICER. The Senator has 10 minutes.

Mr. DOLE. I hope we will be able to extend morning business until 10:45 and slip the first vote from 12 to 12:15.

The PRESIDING OFFICER. The Republican Leader is recognized.

Mr. DOLE. I thank the Chair.

(The remarks of Mr. DOLE pertaining to the introduction of S. 1225 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

The PRESIDING OFFICER. The Senator from Arizona is recognized.

Mr. DECONCINI. I thank the Chair.

(The remarks of Mr. DECONCINI pertaining to the introduction of S. 1225 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

FINANCIAL REPORT OF SENATOR DECONCINI

Mr. DECONCINI. Mr. President, under the rules of the Senate, it is the obligation of Senators to fill out forms classifying their income and the property they own. For the most part, Senators do so with the utmost caution and are careful to include all properties in which they have any ownership, beneficial or otherwise.

It has been my practice since coming to the Senate in 1977 to go well beyond Senate requirements and to submit a statement prepared by an accounting firm showing total assets, total liabilities, and the net worth of both my wife and me. I have always made my financial statements available in this manner. Since 1983, I have made my income tax statements available to the press. This is in addition to all the requirements set forth by Senate rules and laws regarding disclosure.

I have elected to do this because I believe close scrutiny should follow public officials. The public must be assured that an official whose assets and wealth increase during public office is fully accountable. Public officials must meet the highest standards.

It should, however, be noted that public officials are citizens like everyone else and have the property ownership rights of all citizens, and are, therefore, entitled to be remunerated for their investments if they are taken by public eminent domain. If they should sell an investment which generates a profit for them, they are entitled to the fruits of their good judgment or, perhaps, just good luck, whichever the case may be.

I am this day putting in the public record my statement regarding all assets which I own, some of which could at some future date be subject to public condemnation. My involuntary participation in condemnation proceedings in the past was examined at my request by both the Justice Department and the Senate Ethics Committee, and both concluded that my participation was proper under Federal law and the Senate rules.

Although my involvement in the condemnation proceedings was completely proper, I am going to take two additional steps in order to remove any possibility of perception problems that might arise in the future. Henceforth, if any property that I own is subject to condemnation by the Federal Government, I will accept compensation only to the extent of the recapture of my original investment plus a reasonable interest, not to exceed that paid on Treasury notes of less than 12 months. Any real profits that would be due me from such condemnation proceedings will be donated to charity.

I do this with no apologies, but only to demonstrate that it is not my intent to profit from public service. With my full financial disclosure, I have gone the extra mile beyond that which is required by law and Senate rules. I want to go again that extra mile and assure my Arizona constituents that in the event condemnation is exercised against property I own or in which I have a beneficial interest, I will not accept any profit except reasonable interest on the value.

Second, to further avoid even the appearance of conflict where the Federal Government might, in the future, take land through eminent domain for public use, I will refrain from any future speculative purchases of vacant land.

I urge all Members of the Senate to continue to make full and exact public disclosure of their assets and income. This is not a pleasant experience for any of us, but it will help build the sense that elected public officials are credible and honest.

Mr. President, I thank the Chamber and the Chair for their indulgence in this matter and ask unanimous consent that the full statement attached hereto be printed in the RECORD as it fully reads.

The PRESIDING OFFICER. Without objection, it is so ordered.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

DENNIS AND SUSAN DECONCINI STATEMENT OF FINANCIAL CONDITION DECEMBER 31, 1988

TIZZARD PLOTKIN, KNUTTINEN & DONNELLY, P.C.,

Certified Public Accountants, Tucson, AZ, 85711, May 8, 1989.

DENNIS and SUSAN DECONCINI,
Washington, DC.

We have reviewed the accompanying statement of financial condition of Dennis and Susan DeConcini as of December 31, 1988, in accordance with standards established by the American Institute of Certified Public Accountants. All information included in this financial statement is the representation of Dennis and Susan DeConcini.

A review of personal financial statements consists principally of inquiries of the individuals whose financial statements are presented and analytical procedures applied to financial data. It is substantially less in scope than an examination in accordance with generally accepted auditing standards, the objective of which is the expression of an opinion regarding the financial statements taken as a whole. Accordingly, we do not express such an opinion.

Based on our review, we are not aware of any material modifications that should be made to the accompanying statement of financial condition in order for it to be in conformity with generally accepted accounting principles.

The historical cost information in the accompanying statement of financial condition is presented only for supplementary analysis purposes and has been subjected to the inquiry and analytical procedures applied in the review of the basic financial statement. We did not become aware of any material modification that should be made to the supplementary information.

DENNIS AND SUSAN DeCONCINI STATEMENT OF FINANCIAL CONDITION DEC. 31, 1988

	Estimated current value	Historical cost
ASSETS		
Cash, checking and savings accounts	$479,485	$479,485
Certificates of deposit	704,670	704,670
Income taxes, net overpayments	6,016	6,016
Miscellaneous receivables arising from rental properties	32,903	32,903
Note receivable, 4–D Properties (Note 2)	44,191	44,191
Investments:		
Marketable securities (Note 3)	125,243	86,168
Real estate (Note 4)	6,745,931	2,838,429
Monterey Water Company (Note 5)	364,366	3,000
Partnerships, closely held (Note 6)	6,423,805	244,408
Partnerships and S-Corporations, not closely held (Note 7)	313,358	139,564
Annuity	40,039	22,573
Vested interest retirement plans:		
Individual retirement accounts (IRA's)	39,383	
Civil service retirement fund	49,049	
Cash value of life insurance (Note 8)	100,178	100,178
Residence (Note 9)	350,000	193,118
Personal property (Note 9)	150,000	65,000
Total	15,968,617	4,959,703
LIABILITIES		
Miscellaneous payables arising from rental properties	13,549	13,549
Line of credit, 4–D Properties, interest at prime + 2%	160,571	160,572
Mortgages:		
Wraparound mortgage (Note 2)	44,191	44,191
Real estate investments (Note 4)	2,323,694	2,323,694
Residence (Note 9)	99,049	99,049
Total	2,641,054	2,641,054
INCOME TAXES		
Estimated on the difference between the estimated current values of the assets and the estimated current amounts of liabilities and their tax bases. (Note 10)	3,632,941	
NET worth	9,694,622	2,312,467
Total	15,968,617	4,953,521

NOTE 1—BASIS OF ACCOUNTING

The accompanying financial statement includes the assets and liabilities of Dennis and Susan DeConcini. Assets are stated at

their estimated current values and liabilities at their estimated current amounts.

NOTE 2—NOTE RECEIVABLE, 4–D PROPERTIES

In 1985 a residential house on Crystall Drive, San Diego, CA. was sold to 4–D Properties with the underlying mortgage being "wrapped around" the note receivable for the same terms. The monthly receivable/payable is $589 per month including interest at 11%.

NOTE 3—MARKETABLE SECURITIES

The estimated current values of marketable securities are either (a) their quoted closing prices or (b) for securities not traded on the financial statement date, amounts that fall within the range of quoted bid and asked prices. Marketable securities consist of the following:

	Number of shares or bonds	Estimated current values
Stocks:		
American Solar King	200	$156
Fidelity Trend Mutual Fund	268	10,036
First National Corporation	1,743	15,850
James Madison Bank	200	1,200
Lasertechnics, Inc	1,000	1,750
Liberty Corporation	100	3,600
National Education Corporation	50	1,163
Pace Membership Warehouses	200	2,100
Pacific Telesis	200	6,175
Southern Arizona Bancorp of Yuma, Inc	3,150	27,563
The Price Co	200	7,500
Valley National Corporation	700	17,150
Total		94,243
Bonds: State of Israel	1	1,000
U.S. Treasury bills	3	30,000
Total marketable securities		125,243

NOTE 4—REAL ESTATE

The estimated current values were determined by use of assessed value for property taxes, inquiries of realtors familiar with similar properties in similar areas, acquisition price on recently acquired properties and appraisals of some properties. Ownership is 100 percent unless otherwise noted.

Property descriptions	Estimated current value	Mortgage balance	Mortgage terms: Monthly payment including interest	Mortgage terms: Interest rate	Mortgage terms: Maturity
Joint Interests:					
Alpha Beta Shopping Center, 44th and Broadway Phoenix, AZ (50 percent interest)	$426,818	$384,446	$7,854	9¾	1995
Avra Valley/Pioneer Trust, Unimproved land Pima Co., AZ (3.125 percent interest)	5,627				
Cave Creek Shopping Center, Cave Creek and Bell Road, Maricopa Co., AZ (50 percent interest)	375,000	326,620	7,996	9.5	1991
Grant/Oracle Circle K, ground lease Pima Co., AZ (10.89 percent interest)	130,575				
St. Mary's and Silverbell Rd., ground lease Pima Co., AZ (66.67 percent interest)	180,000				
"Shopping Centers" Properties DES Building, 1346 N. Stone Ave. Tucson, AZ (25 percent interest)	275,000	144,859	(1)	9.75	1989
Budget Inn ground lease, 3033 S. 6th Ave., Tucson, AZ (25 percent interest)	11,936				
Ft. Lowell and Mountain Apts., 1240 E. Ft. Lowell, Tucson, AZ (25 percent interest)	115,590	123,164	1,219	11.25	2015
Monterey Village Shopping Center, 6202/6290 E. Speedway, Tucson, AZ (25 percent interest)	886,000	403,324	5,050	12.75	2003
Mountain Vista Condo and Pima Wash, Orange Grove Rd., Tucson, AZ (25 percent interest)	103,500				
Wilmot Terrace Apts., 3255 S. Wilmot Tucson, AZ (25 percent interest)		296,564	$2,605	9.875	2017
	346,324	15,680		10	
Investment properties:					
Casas Adobe Vistas, Lots 17 and 18, Vacant land Tucson, AZ	100,000				
1133–1135 S. Russell Tucson, AZ, vacant land (demolished duplex land)	22,000				
1122 S. 6th Tucson, AZ, vacant land (formerly Victory Outreach)	52,013				
Rancho Sin Vaca, Lot 64, vacant land Tucson, AZ	86,000	58,000	(2) 8,000	10	1995
12th and Michigan Tucson, AZ, vacant land (Serrano land)	52,060				
12th and Ajo, Nat'l. City Annex Pima Co., AZ, vacant land	13,200				
Commercial Properties:					
Action Suds and Circle K, 3812/3816 S. 12th, Tucson, AZ	106,442				
Drachman Building, 2345 E. Broadway, Tucson, AZ	150,000				
L & L Furniture, 1140–1150 S. 6th, Tucson, AZ	200,000				
Las Carnitas, 615 S. 6th Tucson, AZ	100,000				
Pizza Hut 12th and Ajo, 605 W. Ajo Tucson, AZ	162,851				
39 cent Hamburger, 625 S. 6th Tucson, AZ	75,000				
Residential Properties:					
Canyon View Apartments, 381 Cedar Lane Sedona, AZ	340,000	339,865	3,602	10.25	2018
Carmel By The Sea House, Carmel, CA	300,000	29,000		12	1991
5686 Dolphin Street, La Jolla, CA (House)	475,000				
1901 N. George Mason Drive, Arlington, VA (House)	132,495	101,502	934	10.5	2117
303 Helopen, Rehobeth Beach, DE (Condo)	200,000	56,674	643	12	2010
Salem Court Apartments, 705 Salem Court, Mission Beach, CA	1,000,000				
Sunset Cliff Apartments, 1961 Sunset Cliff, Ocean Beach, CA	322,500	43,996	554	9	1992
Totals	6,745,931	2,323,694			

[1] LOC on property.
[2] Annual payment plus interest.

NOTE 5—MONTEREY WATER COMPANY

30 shares of a total of 430 shares outstanding (7%) were owned as of December 31, 1988. The Company primarily holds real estate investments. The estimated current value is based upon appraisal. Total net loss for 1988 was $73,965. The unclassified balance sheet of Monterey Water Co. at December 31, 1988 is prepared on the accrual basis and is summarized below:

Cash	$2,346
Other current assets	100
Notes receivable	117,943
Investment, partnership	665,424
Depreciable property	122,777
Accumulated depreciation	(3,994)
Land	423,214
Other assets	16,310
Total assets	1,344,120
Other current liabilities	177,362
Stockholder loans	413,624
Notes payable	270,111
Other liabilities	11,994
Capital stock	43,300
Capital in excess of par	10,750
Retained earnings	418,979
Treasury stock	(2,000)
Total liabilities and equity	1,344,120

NOTE 6—PARTNERSHIPS, CLOSELY HELD

Interests in the listed partnerships are as a general partner. Partnership activities are primarily in the area of real estate. Their estimated current values were based upon their assessed value for property taxes, inquiries of realtors familiar with similar properties in similar areas, acquisition price on recently acquired properties and appraisals of some properties. Following are the condensed historical cost balance sheets and the net income or (loss) for the year ended December 31, 1988 for each partnership. The income tax method of accounting is used by the partnerships.

Partnership name	2–D properties	3–D properties	4–D properties	Dennis DeConcini/ Patrick Hurley	Total
Cash	$23,726	$159,698	$5,738	$60,632	$249,794
Receivables/loans	235,190		1,584,649		1,819,839
Other current assets		111,129			111,129
Investments		109,688	305,824		415,512
Depreciable property	41,524	2,056,996	4,530,649	124,843	6,754,012
Accumulated depreciation	(14,071)	(643,796)	(666,684)	(61,920)	(1,386,471)
Land	21,872	162,710	3,225,007	48,835	3,458,424
Intangibles		42,681	120,006		162,687
Accumulated amortization		(5,845)	(8,882)		(14,727)
Other assets		40,303	6,916		47,219

Partnership name	2-D properties	3-D properties	4-D properties	Dennis DeConcini/ Patrick Hurley	Total
Total assets	308,241	2,033,564	9,103,223	172,390	11,617,418
Other current liabilities	144	4,388	97,031		101,563
Loans		1,313,693	9,415,545		10,729,238
Deferred gains	191,464		80,893		272,357
Capital	116,633	715,483	(490,246)	172,390	514,260
Total liabilities and equity	308,241	2,033,564	9,103,223	172,390	11,617,418
Net income (loss) for the year ended Dec. 31, 1988	112,857	177,918	(785,266)	22,329	(472,162)
Percent ownership of Dennis and Susan DeConcini	50	33	25	50	
Estimated current value of Dennis and Susan DeConcini's partnership interests	$179,874	$525,557	$5,250,923	$467,451	$6,423,805

Note 7—Partnerships and S-Corporations, not closely held

Haras Sonoita, Ltd.—25 percent in an S-Corporation owning a race horse. Managing officer estimated the net realizable value of the horse $2,500

InterIsland Reports Liquidating Partnership—0.005 percent in a limited partnership winding up affairs before cashing out the balances. Estimated current value based upon percent ownership of the cash 139

Pinnacle Peak North Investors—2 percent interest in a real estate general partnership. Estimated current value was based upon the managing partner's estimated value of the undeveloped land 183,600

Roadrunner Radio & Television—4.07 percent interest in a limited partnership collecting a note receivable. Estimated current value based upon percent ownership of the note 10,138

Southwest Radio & Television, Ltd.—2.44 percent interest in a limited partnership collecting a note receivable. Estimated current value based upon percent ownership of the note 24,461

Tonopah Partners I General Partnership—16.67 percent ownership in a real estate general partnership. Estimated current value was based upon a realtor's estimated value of the undeveloped land 66,667

Tonopah Partners II General Partnership—same as Tonopah I 13,209

Twenty-Two Spokane, Ltd.—0.962 percent interest in a limited partnership owning a television station. Due to financial difficulties nothing will probably be realized 0

W. M. Investments Partnership—13.33 percent ownership in a real estate general partnership. Estimated current value was based upon the general partner's estimated value of the apartment and commercial buildings 12,644

Total 313,358

NOTE 8—LIFE INSURANCE

The face value of fourteen whole life policies is $594,107.

NOTE 9—RESIDENCE/PERSONAL PROPERTY

The estimated current value was determined by the good faith estimates of Dennis and Susan DeConcini. The residence mortgage is payable in monthly installments of $906 including interest at 8.5 percent through 2006.

NOTE 10—INCOME TAXES

Estimated income taxes have been provided on the excess of the estimated current values of assets over their tax bases as if the estimated current values of the assets had been realized on the statement date, using applicable tax laws and regulations. The provisions will probably differ from the amounts of income taxes that eventually might be paid because those amounts are determined by the timing and the method of disposal or realization and the tax laws and regulations in effect at the time of disposal or realization.

NOTE 11—OTHER RELATED PARTY DISCLOSURES

Other family members and closely held businesses had the following amounts receivable from or payable to the following entities at December 31, 1988:

	3-D properties	4-D properties
Individuals:		
Receivable	$132,920	$1,329,752
Payable	75,000	1,311,400
Closely held business:		
Receivable		109,443
Payable		108,279

The notes all bear interest at prevailing interest rates.

NOTE 12—FUTURE INTERESTS

Remainder interests in trusts have not been presented because the rights are not fixed or determinable amounts.

EXTENDING MORNING BUSINESS UNTIL 11 A.M.

ORDER OF PROCEDURE

Mr. MITCHELL. Mr. President, I ask unanimous consent that the period for morning business be extended until 11 a.m.; that the vote scheduled under the previous order to occur at 12 noon now occur at 12:15 p.m.; and that the period of time for debate on the pending Dole amendment be reduced from 90 minutes to 75 minutes, with the time to be allocated 45 minutes to Senator DOLE and 30 minutes to Senator DODD.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. SPECTER addressed the Chair.

The PRESIDING OFFICER. The Senator from Pennsylvania is recognized.

Mr. SPECTER. I thank the Chair.

(The remarks of Mr. SPECTER pertaining to the introduction of S. 1225 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

The PRESIDING OFFICER. The Senator from Tennessee is recognized.

Mr. GORE. I thank the Chair.

(The remarks of Mr. GORE pertaining to the introduction of Senate Joint Resolution 162 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. GORE. Mr. President, the day before yesterday, I rose to offer a critique of the President's opening moves at the START negotiations. It was, and it remains, my view that the President has made a disappointing and flawed opening move in START, by failing to define his objectives: particularly in regards to one of the central remaining issues—mobile intercontinental missiles.

Even though the Soviets are deploying mobile ICBM's even though the United States is in the course of developing them, and even though there is general agreement that mobile ICBM's are important for the stability of a reductions agreement, the President has not seen fit to change the United States' demand that all such weapons be banned. But that is not because the President opposes them. It is because he is not sure the Soviets will agree to measures useful in verifying limits upon the number of mobile ICMB's, and it is because he is not sure whether Congress will fund them.

These are legitimate concerns. However, they ought to be dealt with by asserting—rather than hiding—what the United States ultimately would like to do. Certainly we can talk more pursuasively to the Soviets about a verification scheme which relates to a stated, rather than an implicit United States goal. And just as certainly, the President would stand a better chance to get and keep Congress on his side, if he would forthrightly tell us where he wants to go, rather than tell us that he will figure that out later, based on what we do in the meantime.

That was the bad news. Now for the good.

Even though the President has missed the opportunity provided him by the resumption of START in Geneva, I believe that he has made at least one vital, positive decision: and that is, to personally support his ICBM modernization program, and to make sure that his administration rallies behind him in an organized fashion. At least, that is how I interpret the behavior of the Department of Defense over the last several days, culminating in testimony given yesterday before the Senate Armed Services Committee, by Assistant Secretary for

Policy, Paul Wolfowitz, and by Air Force Chief of Staff, General Welch.

To prepare the way for their testimony, the Secretary of Defense had earlier written to Senator NUNN, informing him of his recognition of the need to plan for higher levels of spending on Midgetman, in order to assure that the goal of initial deployment in 1997 could be met. The simple, but rare act of acknowledging that previous funding projections were inadequate helped clear the air, among many of us who doubted the administration's sincerity. Further, the announcement of an intent to spend an additional $950 billion to the development of the Midgetman puts in place a much more serious program. Assuming good faith—and I do—it is now possible to believe that the President is setting in motion a plan whose beginning is redeployment of MX as a rail mobile, and whose end is deployment of Midgetman.

The testimony of Mr. Wolfowitz and General Welch built impressively upon this foundation. It is apparent from their comments that the Department of Defense has been rethinking this issue from the ground up. Let me illustrate by reviewing a few key points for the benefit of interested colleagues.

In the past, the Air Force had consistently asserted that the only kind of attack for which Midgetman might be needed as a deterrent would be the so-called bolt out of the blue. But since, in the Air Force's opinion an unprovoked attack catching us by surprise was entirely incredible, Midgetman was unnecessary, and MX rail mobile would suffice.

Yesterday, however, Mr. Wolfowitz and General Welch testified to the effect that the United States needed to cover both the contingency of a nuclear war growing out of protracted crisis—for which MX rail mobile would suffice—and of a nuclear war launched under conditions designed to assure surprise—for which Midgetman would be important both as deterrent and response.

At an even deeper level of analysis, Mr. Wolfowitz and General Welch also agreed that the fundamental reason to address the first-strike contingency transcends technical considerations, and is, instead grounded in the realm of the behavior of nations.

Few people believe that a first-strike is likely even under very stressed conditions. On the contrary, given the dire consequences for the attacker, of even a fairly successful first strike, initiating nuclear war continues to look like an act of desperation or madness. But it is also true that even the hypothetical ability to carry out a first strike with some kind of net advantage, carries with it immense geopolitical impact. For that reason alone, it is necessary to deal with this contingency—and this fact has always been one of the most important underlying reasons for proceeding with Midgetman.

In the past, the Air Force had consistently testified that, much as it would like to have the Midgetman, it could not afford to procure two mobile missiles at the same time, without causing severe damage to other priorities.

Yesterday, Mr. Wolfowitz and General Welch stressed that the President's plan for sequential deployment of these weapons helped solve the problem of financing them within limited means. General Welch also pointed out that the increasingly hard estimate of acquisition costs for 500 Midgetman missiles is approximately $24 billion, rather than the $40-$50 billion figure which reflected very early and crude estimates, but which lodged in the public mind.

In the past, the Reagan administration proposed to ban all mobile ICBM's on the grounds of a flat assertion that no method could be found to assure the verifiability of any limits upon their numbers in arms control. By the end of that administration, there had been some softening, but no formal change in the U.S. view regarding mobiles and verification.

Yesterday, however, Mr. Wolfowitz made clear the Bush administration's view that verification of mobile limits is not impossible. Rather, he assured the Armed Services Committee that—on the assumption of reasonable cooperation from the Soviets—it should be possible to design verification procedures that make mobiles accountable in peace time, while leaving them survivable in case of the threat of war.

In the past, the Department of Defense has deliberately allowed the mission of SDI to be blurred in such a way that it was impossible to say whether it would exist to protect people or exist to protect missiles. Indeed, former SDIO General Abrahamson left office with an assertion that SDI in its latest form—Brilliant Pebbles—could do the job of protecting U.S. missiles sooner and cheaper than the alternative of deploying mobile ICBM's.

Yesterday, Mr. Wolfowitz and General Welch explicitly said that the fastest, cheapest, and most reliable method for making U.S. ICBM's survivable was mobility, and not SDI, including Brilliant Pebbles. They further asserted that in any event, the purpose of an SDI system, ought not in any case to be missile defense.

These are major clarifications of view. They accomplish what was never done by the Reagan administration, even though that administration first embraced the idea of mobility: they lay out a conceptual framework to support the President's request for continued funding. And in that connection, I was especially encouraged by the positive response offered by the Armed Services Committee's distinguished senior member, Senator THURMOND, who now apparently joins our chairman, Senator NUNN, and our ranking Republican, Senator WARNER, in supporting the President's modernization proposal.

In summary, on the evidence of this testimony, I think we have made an important step toward fundamental consensus on an issue that has divided our counsels for too long. It is disappointing that the President has not acted more boldly to define his purposes in START. Until he does so, he will not be able to make his strongest case either to the Soviets about verification of limits on mobile missiles, or to the Congress about procuring them. Nevertheless, the steps that have been taken—even if too limited—are still intelligent and purposeful. Hopefully, more is to come.

I appreciate my colleagues' courtesy and indulgence.

The PRESIDING OFFICER. The Senator from Idaho is recognized.

Mr. McCLURE. I thank the Chair.

(The remarks of Mr. MCCLURE pertaining to the introduction of S. 1225 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

The PRESIDING OFFICER. The Senator from Kentucky is recognized.

Mr. McCONNELL. I thank the Chair.

(The remarks of Mr. MCCONNELL pertaining to the introduction of S. 1226 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

The PRESIDING OFFICER. The Senator from New York.

RETURN DANIEL MIRAMBEAUX ACCUSED KILLER OF NEW YORK CITY POLICE OFFICER MICHAEL BUCZEK

Mr. D'AMATO. Mr. President, 8 months ago, on October 18, 1988, New York City Police Officer Michael Buczek was murdered. He was 24 years old. Officer Buczek and his wife had married less than a year before.

On April 4, 1989, New York County District Attorney Robert Morgenthau announced the indictment of Daniel Mirambeaux, a citizen of the Dominican Republic, for Michael Buczek's murder.

The indictment states that Daniel Mirambeaux and several of his accomplices had just committed a drug-related robbery when the police arrived on the scene, and that Mirambeaux shot at them, killing officer Buczek.

Mirambeaux then fled the scene, escaping to the Dominican Republic, where he is now in custody on unrelated charges.

For the past 8 months, Mirambeaux's return to New York has been the subject of negotiations between the United States and the Dominican Republic. I ask unanimous consent that a detailed list of these actions be printed in the RECORD immediately following the text of my statement.

The PRESIDING OFFICER. Without objection, is it so ordered.

(See exhibit 1.)

Mr. D'AMATO. Mr. President, the President, the State Department, Justice Department, Marshals Service, DEA, our Embassy in Santo Domingo, the Manhattan District Attorney, and the New York City Police Department have all tried to ensure that Mirambeaux stands trial in the United States.

We have been told to keep quiet, to give "quiet diplomacy" a chance. The district attorney even delayed seeking Mirambeaux's indictment to give the Dominican Government time to return Mirambeaux to the United States quietly. Week after week, month after month, the Dominicans did nothing.

Despite all these efforts—8 months after Michael Buczek was killed, his accused murderer, Daniel Mirambeaux, is still in the Dminican Republic.

This is intolerable. Therefore, I am filing an amendment to the State Department authorization bill—cosponsored by Senators MOYNIHAN, DOLE, MACK, STEVENS, MURKOWSKI, GRAMM of Texas, DOMENICI, HELMS, PRESSLER, THURMOND, NICKLES, SPECTER, MCCONNELL, and WILSON, suspending virtually all nonhumanitarian United States aid to the Dominican Republic until Mirambeaux is returned to this country for prosecution.

A total of $63 million in aid would be affected, including $29.5 million in unobligated 1989 funds and $38.4 million in 1990 funds, including:

UNITED STATES AID TO DOMINICAN REPUBLIC

[In thousands of dollars]

	Development assistance	Economic support funds	Foreign military sales
1989	17,400	12,100	0
1990	16,355	20,000	2,000

This amendment will also cut the Dominican Republic's sugar quota—worth $60 million for the rest of this year and worth over $90 million next year.

The amendment will require the United States to vote against International Development Bank loans; deny the Dominican Republic any preferential tariff treatment it receives; increase duties on Dominican exports to the United States by 50 percent; and curtail tourism and air and sea transportation between the United States and the Dominican Republic.

Mr. President, the Mirambeaux case is not the first time we have had trouble with the Dominican Republic in the area of drug enforcement.

The fact is, the Dominican Republic has become a notorious safe haven for drug dealers and traffickers.

In July 1987, DEA special agents, New York State Police, and New York City Police detectives, dismantled the largest crack distribution organization in the city. This organization, operated by several brothers from the Dominican Republic, distributed between 10,000 and 17,000 vials of crack every day in Manhattan and the Bronx. They also laundered millions of dollars, which they sent back to the Dominican Republic.

Thanks to the efforts of the DEA and police, 29 members of the organization were indicted, and 16 have been arrested.

But six of the defendants are still at liberty in the Dominican Republic. They have been indicted as follows:

Santiago Antonio Polanco-Rodriguez, charged with:

One count conspiracy (count 1);

Two counts interstate and foreign travel in aid of racketeering (counts 6 and 16);

Two counts distribution and possession with intent to distribute cocaine (counts 23 and 28);

One count the racketeering enterprise (count 56); and

One count the racketeering conspiracy (count 57).

Elvis Polanco-Rodriquez, charged with:

One count conspiracy (count 1);

Two counts interstate and foreign travel in aid of racketeering (counts 5 and 15);

Two counts distribution and possession with intent to distribute cocaine (counts 27 and 40);

One count the racketeering enterprise (count 56); and

One count the racketeering conspiracy (count 57).

Dulce Elizabeth Maria Polanco-Rodriguez, charged with:

One count conspiracy (count 1);

One count interstate and foreign travel in aid of racketeering (count 20);

One count distribution and possession with intent to distribute cocaine (count 39);

One count maintaining a place for narcotics use, distribution and storage (count 52);

One count the racketeering enterprise (count 56); and

One count the racketeering conspiracy (count 57).

Luisa Ordanlina Rodriguez, charged with:

One count conspiracy (count 1);

Two counts interstate and foreign travel in aid of racketeering (counts 13 and 19);

One count the racketeering enterprise (count 56); and

One count the racketeering conspiracy (count 57).

Ramon Gonzalez-Brea, charged with:

One count conspiracy (count 1);

Three counts interstate and foreign travel in aid of racketeering (counts 3, 10, and 14);

One count the racketeering enterprise (count 56); and

One count the racketeering conspiracy (count 57).

Jose Cepeda, charged with:

One count conspiracy (count 1);

One count distribution and possession with intent to distribute cocaine (count 26);

One count the racketeering enterprise (count 56); and

One count the racketeering conspiracy (count 57).

If the Dominician Republic is serious about cooperating in drug enforcement, it cannot continue to allow itself to be used as a haven for drug traffickers and killers of police officers. And if the United States is serious, we must not continue to pour millions of taxpayer dollars into countries where fugitives and drug criminals escape justice. It is time for Daniel Mirambeaux to face trial for the murder of Michael Buczek.

EXHIBIT 1

FACTSHEET: THE DANIEL MIRAMBEAUX CASE—CHRONOLOGY OF EVENTS—EFFORTS BY U.S. AUTHORITIES

October 18, 1988: Daniel Mirambeaux, a Dominican national allegedly shot and killed NYC police officer Michael Buczek in NYC.

October 22, 1988: Mirambeaux returned to the Dominican Republic.

November 15, 1988: Four NYPD officers travelled to the Dominican Republic to develop additional evidence against Mirambeaux.

January 12, 1989: NYC Criminal Court issued a warrant for Mirambeaux's arrest on the charge of first degree murder.

January 17, 1989: NYPD officers met in the Dominican Republic with U.S. Ambassador Paul D. Taylor.

Ambassador Taylor has since raised their concerns with President Balaguer on several occasions.

April 4, 1989: The New York District Attorney announced Mirambeaux's indictment for murder.

May 29, 1989: Ambassador Taylor delivered to President Balaguer a letter from President Bush requesting extradition of Mirambeaux.

June 5, 1989: Ambassador Taylor and Department of State officials met in Washington with the family of Buczek, officials from the NYPD and D.A.'s Office and Congressional representatives to discuss the status of the case.

June 13, 1989: District Attorney Morgenthau sent Ambassador Taylor a letter—for delivery to President Balaguer—explaining that the longer this drags out, the harder it is to prosecute.

Yesterday, State Department officials met with the Dominican Ambassador, Eduardo Leon.

THE U.S. SENATE MUST DEFEND THE HONOR OF OUR FLAG

Mr. SANFORD. Mr. President, the Supreme Court follows the law and interprets the Constitution and I honor and respect that institution. When the law and the Constitution need changing, that responsibility falls to the Congress. Now, in light of the Supreme Court's 5-to-4 decision yesterday to nullify the laws in 48 sovereign States which outlaw the desecration of the U.S. flag, the Senate must act to protect our Nation's most treasured symbol. I now call for an immediate examination by my colleagues on the

Judiciary Committee of steps that can be taken to outlaw any desecration of our flag. We must act quickly to resolve the question of how this most important symbol of our Nation, our flag, can be protected without unnecessarily restricting the rights of free speech that we hold dear.

In doing so, Mr. President, I call on my colleagues to heed the words that Justice John Paul Stevens wrote in his dissenting opinion. Justice Stevens said that if—

> The ideas of liberty and equality . . . are worth fighting for, it cannot be true that the flag that uniquely symbolizes their power is not itself worthy of protection from unnecessary desecration.

Indeed, as Justices Rehnquist, White, and O'Connor noted:

> Throughout more than 200 years of our history, [the flag] has come to be the visible symbol embodying our nation . . . Millions and millions of Americans regard it with an almost mystical reverence regardless of what sort of social, political or philosophical beliefs they may have. I cannot agree that the First Amendment invalidates the [federal law] and the laws of 48 of the 50 states, which make criminal the public burning of the flag.

In World War II, when I parachuted into combat, I wore, stitched to my uniform, an American flag. That flag not only identified my Nation, it identified my purpose, my reason for fighting. Many of my best friends died defending that flag. Indeed, over the years, thousands of America's soldiers have fought and died defending the principles of freedom and justice symbolized by the Stars and Stripes. Those veterans, their relatives, and those who honor the memory of those who have fallen in combat, have a right to be disappointed, even outraged that we must permit the desecration of our flag.

I think most Americans feel the same way. I will later today cosponsor legislation to correct this matter.

Thank you, Mr. President.

TRIBUTE TO WARREN MAGNUSON

Mr. JOHNSTON. Mr. President, when I learned of our loss of Warren Magnuson and Claude Pepper, I knew that the age of legislative giants was over. We will probably never again see a time when, out of concern for the public good, through hard work and a masterful command of the political and legislative process, a member of Congress can create the kind of lifetime heritage they bequeathed to us this month.

I first met Warren Magnuson when I came here as a freshman legislator in 1973. In fact, when I came to the Senate, I had the enormous good fortune to serve my apprenticeship under the gold dust twins, Scoop Jackson and Warren Magnuson. Scoop was my mentor on the Interior, later the Energy Committee, and Maggie on Appropriations and Budget. They were a revelation: brilliant, humane, tireless, a credit to their great State and to the democratic principles they believed in.

Maggie's legislative record during his 36 years in the Senate made the lives of all Americans better. Thanks to him, we have truth in packaging and consumer protection, educational television, the public accommodations provisions of the Civil Rights Act, coastal zone management, NIH, and the National Cancer Institute. Those who knew him remember a tolerant, good-humored, compassionate man who was always ready to help people. It was an honor to have served in the Senate with him, and to have had the benefit of his experience and his advice.

TERRY ANDERSON

Mr. MOYNIHAN. Mr. President, today marks the 1,559th day that Terry Anderson has been held in captivity in Beirut.

On Thanksgiving Day, November 24, 1988, Stan Grossfeld of the Boston Globe wrote a horrifying description of Terry Anderson's life in captivity and the nightmarish toll this ordeal has exacted. It is a disturbing piece to read. It is an important piece to read.

I ask unanimous consent that Mr. Grossfeld's piece be printed in the RECORD at this point.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Boston Globe, Nov. 24, 1988]

FREED HOSTAGES TELL OF TERRY ANDERSON'S LIFE-TURNED-NIGHTMARE

(By Stan Grossfeld)

After 1,000 days chained in a windowless room, Terry Anderson hit the wall.

Literally.

He started pounding his forehead against the plaster until blood spurted out and ran down the pale yellow walls of his padlocked cell.

His cellmate, French hostage Marcel Fontaine, tried to stop him. Fontaine hugged him, telling him he had a family that loved him. This had worked in the past when Anderson got upset. But this time the former Marine was too angry, too strong, and would not stop. More blood flowed.

Finally, Fontaine called the guards. They subdued Anderson but did not treat his wound. The blood dried on the wall of the 10-by-10-foot cell they shared with cockroaches. Anderson didn't see it; he is blindfolded whenever the guards are around. He is told that if he so much as peeks at his captors' faces, he will be executed.

There is a chain shackling his left ankle. After three years of sweat, the rusty manacle burns his skin.

Today, Thanksgiving Day for Americans, is Day No. 1,350 of captivity for Terry Anderson, the Middle East bureau chief for the Associated Press.

He has been held longer than any of the 14 foreign hostages in Lebanon. Nine of the 14 are American. This is a portrait of Anderson's life in captivity, drawn from interviews with three Americans and one Frenchman who shared his ordeal but have since been freed, and his sister, Peggy Say, who has been to Damascus and the White House, and logged tens of thousands of miles fighting for his release.

The morning of March 16, 1985, was sunny and crisp in Beirut, Anderson was dropping off AP photographer Don Mell after a spirited tennis match. A green Mercedes pulled in front of their car. Three bearded gunmen jumped out. One dragged Anderson from his car in a bearhug. Mell watched, helpless, a 9mm pistol pointed at his head. "Terry had the look of a man who knew he was doomed," he said.

Later that day, the Islamic Jihad, a pro-Iranian Shiite Moslem group, released a photo of Anderson, warning of "catastrophic consequences" if Kuwait did not free 17 alleged terrorists. Those demands have not been met, and the US government refuses to negotiate with groups holding hostages.

In the past 3½ years, Terry Anderson has seen the moon and the stars but once. He gazed at them while shackled on a Beirut rooftop. He has taken less-pleasant trips, according to CIA information, taped up like a mummy and transported in a sealed coffin hidden in the belly of a truck.

Once, would-be rescuers came to the very door of the house where he and other Americans had been hidden, but their captors diverted the searchers. Today, he apparently feels forgotten by his country, and increasingly bitter. Every morning, said Fontaine, Anderson greets the new day thus: "Another day, another dollar."

He has gone on hunger strikes in an attempt to obtain a newspaper. He defiantly "Heil Hitler"-ed the guards. He is allowed 15 minutes a day to use the crude bathroom, shower, clean his utensils and wash his clothes.

Anderson always eats with his right hand. His left hand is used to clean himself with water because he has no toilet paper. He has learned to speak some Arabic and some French. He has put a Mr. T jigsaw puzzle together umpteen times.

Terry's daughter, Sulome, born during his captivity, had her second birthday party on June 7, 1987. "Where is Daddy?" Sulome asked that day. He received a photo of her in the mail.

Anderson's father and brother have both died of cancer since Terry was kidnapped. But he doesn't know that.

Fontaine filled Anderson in on a lot of news, but omitted the bad things. Why? "I was afraid he might commit suicide."

Less than a month ago, Terry sent his regards to his dad in a videotape.

Several times, his captors promised he would be going home soon. Once he thought he was being freed because they let him feel the sun through the kitchen window, and fed him a hamburger. In April 1987 they took his measurements and gave him new clothes.

"They put him in a suit and he wore it every day," said Fontaine. "A week later they came in and said 'get undressed'." They took the suit back.

In a videotape his captors released Oct. 30, Anderson blamed both President Reagan and President-elect George Bush for blocking his release.

The president's last response to Anderson's charges: "That wasn't Terry speaking . . . I think he had a script that was given to him."

Peggy Say disagrees: "I think I know my brother a hell of a lot better than Ronald Reagan does. This administration has devalued the hostages. That's their word: 'devalued.'"

Fontaine, the French diplomat released May 6, complains that Reagan called "to see how those three whales were doing, but I hear the administration is doing nothing to free the hostages."

The Rev. Lawrence Martin Jenco, Benjamin Weir and David Jacobsen, all former hostages, are doing nothing with their

beards, grown during captivity, until Anderson is free.

On the day Anderson was taken hostage, Father Jenco saw him. "I lifted my blindfolds, and caught a glimpse through a crack in the closet of a blindfolded man chained by his left wrist and left ankle to a bed. He was very depressed and traumatized," said Father Jenco.

For the first 100 days, they spoke not a word. An armed guard watched them constantly. They were given two containers, one for water, the other for urine.

The kidnapped CIA Beirut bureau chief, William Buckley, was brought in and chained to a pillar. American intelligence sources have said Buckley was tortured.

Their cell was filthy. The guards were teen-agers or men in their 20s who were paid $25 to $50 a month, Jacobsen said. The guards made a habit of spitting on the floor.

Buckley caught pneumonia, ran a high fever, became delirious and started hallucinating. They never brought him medication. Anderson, chained to a cot several feet away, heard his death rattles. "He died in our presence," Father Jenco said of Buckley. That was on June 3, 1985, five months before his captors announced Buckley had been "executed."

For the first time in three months the hostages were allowed to wash. Even so, they all had to bathe in the same fetid water. A filthy wet towel was all there was to dry with. The French hostages were imprisoned in another cell in the same building. Michel Seurat had pancreatic cancer. He was treated by a Lebanese Jewish doctor also held captive and later executed.

Seurat then was reduced to crawling on his hands and knees to the bathroom and urinating black fluid. He was last seen on Dec. 28, 1985.

The freed hostages today say they were held in an unfinished building in West Beirut. They can pin it down even closer. It was so near the Beirut airport, says Father Jenco, "you could smell the gas from the planes.

"They thought we were all CIA in the beginning. They thought my silver fillings of cavities were transmitters."

The Americans were held in two cells. They all made the same request: they wanted to pray together.

In one cell, Anderson read the Bible to Jacobsen, whose glasses were broken. In the other Father Jenco and Rev. Weir had a new cellmate: Thomas Sutherland, dean of the School of Agriculture at American University. Father Jenco heard Anderson's confession.

"We were brought blindfolded into a room and placed on the floor," said Rev. Weir. "There were armed guards in the room at either end. Father Martin [Jenco] celebrated Mass blindfolded, and we were allowed at the end to hug each other."

The men called their new religious freedom "The Church of the Locked Door."

For awhile, the five Americans were brought together in one room to exercise. They were forced to wear what they derisively termed their "three-piece hostages suits," jockey shorts, covered by boxer shorts, plus undershirts. Why two pairs of shorts per man? The shiites felt jockey shorts were immodest.

"Terry was like a rabbit in a rage," said Father Jenco.

"He stood in place running and wore out his socks, then sewed beads to the base of his socks." When Father Jenco was released after 564 days, Anderson altered the priest's trousers. Anderson would lead the men on two-hour-long imaginary walks around the room. He would pretend they were climbing up Mt. Fjui, or around Tokyo, where he once worked.

When breakfast came he would hoard tinfoil from the processed cheese to make chess pieces. From boxes he fashioned a deck of cards to play hearts. "He was a vindictive hearts player," recalled one ex-cellmate. He took the string from the floor mats and made rosary beads.

At times the cell walls would shake from shelling. Then guards would force the hostages to don flak jackets, which in the stifling cell made them feel like "a hotdog in a bun," said Father Jenco.

Once, the hostages were almost rescued. "There was heavy fighting and the Amal militia was one block away," said Jacobsen. "They were going house to house looking for me . . . They stopped downstairs. The guards had put three cans of sand in our cell [barrels for protection against shrapnel] and flak jackets on us and were getting ready to fight it out. But the guards convinced the militia nobody was hiding there and they left."

Jacobsen, released Nov. 2, 1986, is the only former hostage who believes that a rescue is possible. "A troop of Boy Scouts could've rescued us," he said sitting in his office in Mercy Medical Center in Durango, Colo., sporting a Ronald Reagan tie clip. He said the captors didn't move the hostages for 28 days after Rev. Weir was released and 91 days after his release.

"What about a rescue?" says former hostage Fontaine back home in a Paris suburb. "You must never do that. He [Anderson] will die right away. We talked with Terry and he completely agreed. No rescue. When there was a knock at the door, the jailer would put us on our knees and hold a gun to our head. Often it was a Kalashnikov in one hand and a hand grenade in the other."

One day the leader of the guards, a man named Haj, came in and said one man will be freed. "We voted on Terry because he had the child he never saw and we felt he would be the best person to promote their case," said Father Weir. But Haj told Weir—the only man to speak Arabic—that he would be free."

On Christmas Day 1985, the guards came in with a cake that had "Happy Birthday Jesus" written on it. They heard on the BBC that Anglican church envoy Terry Waite said negotiations to free them were at a standstill.

For a time, the men had a nine-band short wave radio. "We heard Henry Kissinger on Voice of America say that he could advise the president of many ways of dealing with the hostages, but the best way was for them to use their own resources. "Here we were blindfolded in this hot, sweaty room—I thought 'My God Henry, what resources do we have? There's three armed guards here, a padlock on the door and no windows,'" said Jacobsen.

Father Jenco was released on July 26, 1986. He never forgot the words Anderson left him with: "Promise me one thing. I'm never forgotten."

Last Thanksgiving Anderson was allowed to see a little of the Macy's parade on Lebanese television. Fontaine said there was no special meal, just dried bread and stale cheese. About the time this afternoon that Americans are carving up their turkeys, a rusty chain will be rubbing against the left ankle of Terry Anderson.

Days held hostage

The number of days each American has been held hostage in Lebanon

	Days
Terry Anderson: Bureau manager for Associated Press, 41, from New York. Seized Mar. 16, 1985	1,350
Thomas Sutherland: Dean of agriculture at American University of Beirut, 55, from Colorado. Seized June 9, 1986	900
Frank Reed: 53 years old, from Massachusetts. Seized Sept. 9, 1986	808
Joseph James Cicippio: Deputy comptroller at American University of Beirut. Seized Sept. 12, 1986	805
Edward Austin Tracy: Convert to Islam. Seized Oct. 21, 1986	766
Robert Polhill: Certified public accountant, 52, from Utah. Seized Jan. 24, 1987	664
Alann Steen: Professor of communications, 47, from New York. Seized Jan. 24, 1987	664
Jesse Turner: Professor of mathematics, 39, from Iowa. Seized Jan. 24, 1987	664
William R. Higgins: U.S. Marine Lieutenant Colonel. Seized Feb. 17, 1988	313

AIDS UPDATE

Mr. CRANSTON. Mr. President, according to the Centers for Disease Control, as of May 31, 97,193 Americans have been diagnosed with AIDS; 55,573 Americans have died from AIDS; and 41,620 Americans are currently living with AIDS.

Mr. President, 2,913 more Americans have developed AIDS and 2,029 Americans have died from this horrible disease during the month of May.

Mr. President, of the total number of AIDS cases reported, 1,632 are children under the age of 13. More than half have died. Although the percentages are small today, the number of infants and children with AIDS is growing. Yet, very little is known, relative to what is known about AIDS in adults, about how the human immunodeficiency virus [HIV] affects newborns and children of various ages, how the virus is transmitted from mother to infant, and how effective new and experimental drugs are in treating children.

I would like to let my colleagues know of one California-based organization that is making a difference for children with AIDS. The Pediatric AIDS Foundation has very specific mission—to fund basic and clinical research on how the HIV virus affects children. Last night, the Pediatric AIDS Foundation held an extremely successful fundraiser, and I congratulate the Senator from Ohio [Mr. METZENBAUM] and the Senator from Utah [Mr. HATCH] for putting together such a gala event. I understand the money raised will be in the hands of the scientists and researchers within a very few months. I applaud the work and commitment of the foundation for focusing needed attention and resources on this urgent area.

I would also like to share with my colleagues an article in last Sunday's New York Times, entitled "AIDS: The Youngest Victims." It describes the unique challenges and problems posed by pediatric AIDS. Many children and infants with AIDS are from low-income families and have parents who

may also be infected. These families have difficulty gaining access to basic health care, let alone expensive specialized treatments. These are issues that the Congress must address, and I am committed to that effort.

I ask unanimous consent that the article be printed in the RECORD at this point.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the New York Times Magazine, June 18, 1989]

AIDS: THE YOUNGEST VICTIMS

(By Perri Klass)

There is one question, says the social worker, that comes up with every mother. "The question is always, who is going to die first? And then comes, I wish my child would die first." The social worker is Anita Septimus, pediatric AIDS coordinator at Einstein-Weiler Hospital in the Bronx, and she is talking about the mothers of children born infected with the HIV virus. By definition, these women are infected themselves, and so they must worry about their own health, about the health of their young children, and also, inevitably, about who will outlive whom. Who will care for an ailing child after the mother's death? "I've seen so many mothers who struggle to stay alive until the kid dies—then it doesn't take much for the disease to overcome them," says Septimus.

The AIDS epidemic is changing. The rate of new infections among gay men has dropped remarkably with widespread acceptance of safe sex practices. The nation's blood supply is now as safe as we can make it, and it is expected that few new cases of AIDS will be related to transfusions or to the blood products used to treat hemophilia. The disease has devastated the American gay community and will continue to do so for years to come, as more men who already carry the virus sicken and die.

There is no way to wall off the disease—ultimately, AIDS will affect every segment of the population—but increasingly, it is becoming a disease of poverty, of the inner city, a disease of intravenous drug users and their sexual partners. And as more women are infected with the virus, pediatric cases of AIDS are becoming increasingly common.

At the age of 3½, one little girl with AIDS weighs only 22 pounds, an average weight for a 15-month-old. However, she is proportionately small, not emaciated, and as she sits contentedly in her mother's lap, she seems lively and alert. The pediatric AIDS clinic at Children's Hospital in Newark is obviously familiar territory for her, and she is dressed up for the visit, her hair braided into at least eight braids, each fastened with a different-colored barrette.

The mother thinks she knows how she acquired the HIV infection. "A guy I was going with a long time ago—I found out he was doing drugs, and I cut him off." At the time, she hadn't heard much about the HIV virus. Later, when she knew more about it, she was glad she had stopped seeing this man. She didn't know she was carrying the virus until her daughter was diagnosed, and she herself is still in good health, she says, with no symptoms of HIV infection.

Her daughter, though, was one of those babies who is always sick, always at the doctor, frequently in the hospital. Her illnesses—bad colds, asthma, diarrhea, feeding problems, seizures with fever—wouldn't automatically suggest the diagnosis of AIDS, but the combination of frequent infection with chronic difficulty in gaining weight is highly suggestive nowadays, and the child was ultimately diagnosed at the age of 1½.

"I didn't believe them," says her mother. "I was shocked. Then I was scared. Now I'm living day by day."

The child gets intravenous gamma globulin every month—that's why she is here at the clinic. She also takes prophylactic Bactrim (trimethoprim and sulfamethoxazole), an antibiotic that wards off infections, including pneumocystis carinii pneumonia, which is often associated with AIDS.

She has been hospitalized several times for mysterious fevers, or for diarrhea and dehydration, and she has had to be nourished intravenously. But now, according to her mother and her doctors, she is eating better, gaining weight and making progress developmentally—walking and talking.

I am touring Children's Hospital in Newark with Dr. James M. Oleske, medical director of the children's AIDS program and professor of pediatrics at the New Jersey Medical School. On the day I visit the clinic, there are 30 children due to come in for monthly gamma globulin treatments, meant to boost their immune systems and help them fight off bacterial infections.

The intravenous infusion takes hours, during which time the children are seen by a variety of specialists—a neurologist, a nutritionist, anyone who might be able to help with their problems. Dr. Oleske is teased by the residents as he walks through the hospital, because of a recent television movie that depicted his work with AIDS. Various comments pass back and forth about whether the actor who portrayed him was too good-looking for the part.

Relaxed and informal, he persistently apologizes for being distracted; a child died last night, and he and his group spent the whole night in the hospital. When we pass through the pediatric intensive-care unit, he stops to read a notice on the bulletin board and to write down the time of the funeral.

We pass through the in-patient pediatric wards, where Dr. Oleske knows every AIDS patient. He stops to talk to mothers, and as we move from room to room, he offers a running commentary that reflects both the medical and social factors involved in caring for these children:

She comes in when her weight drops too low, and we give her IV nutrition. . . . That little guy is encephalopathic, always crying for his mother. . . . He lives with his grandmother, who has trouble taking care of him, but he loves her, and to be taken away would hurt him more. . . . This is a boarder baby; she needs high-tech care at home, and it's hard to get foster placement with all that.

When, somewhat hesitantly, I ask the mother of the 3½-year-old girl about the future, she answers by referring to her daughter's most recent hospitalization: "When she got sick, that really scared me. But that time will come. How will I deal with that?"

She turns the child around on her lap, shows me the full cheeks, the plump arms. "Her appetite is very good right now." Silence for a few seconds, then she says very softly: "It scares me if I get sick and can't take care of her. I wouldn't want them to take her from me."

Pediatric AIDS is not the same as adult AIDS. It has different signs and symptoms, a number of different infections, and it requires that different questions be asked and answered. Pediatric AIDS is also unique among the illnesses that afflict children. True, there are many other diseases that regularly kill off young patients today, even in the developed world. Certain childhood cancers have high mortality rates, for example. Some cardiac defects are not usually correctable, and there are inherited conditions, such as muscular dystrophy and cystic fibrosis, which are inexorably fatal. But pediatric AIDS is the only disease that kills off the whole family; if the child is infected from birth, then the mother is infected, and usually the father, too.

Infected mothers pass the virus to their offspring some time during pregnancy or around the time of birth. The details of congenital transmission are not yet well understood, nor is the fact that not all children born to infected mothers contract the virus. Estimates of transmission vary between 30 and 70 percent, depending on the study, and most people I talked to guessed at a transmission rate of 40 to 50 percent.

The first case of congenitally acquired AIDS was described in the medical literature in 1983. To date, the Centers for Disease Control in Atlanta report about 1,500 cases in children under 13, about 1,200 of these congenitally acquired and the rest due to blood products. These numbers don't represent all the children infected with the HIV virus, however, just those comparatively few who have been diagnosed as having AIDS.

To fit the case definition, a child must not only be seropositive—which means having a blood test revealing antibodies to the HIV virus—but must have had specific infections and syndromes that show the virus has severely damaged the immune system.

So far, 824 children who fit the case definition have died. But it is the shape of the future epidemic that looms as truly threatening, in the unknown numbers of children who are carrying the virus, although they have not been diagnosed with the disease, and in the ever larger numbers of seropositive women who will give birth in coming years.

Current data reveal that disproportionate numbers of these women are black or Hispanic. Of the 1,200 cases of congenital AIDS reported by the Centers for Disease Control, about 750 occurred in blacks, about 300 in Hispanics and 200 in whites. Epidemiological studies of pregnant women have yielded seropositivity rates as high as 5 to 8 percent in such high-risk areas as Newark and the Bronx, suggesting that in these communities, the pediatric AIDS epidemic may soon overwhelm all existing medical and social-service resources.

The gay male victims of the epidemic's first wave faced prejudice, hostility and malignant "righteousness," but they were not absolutely barred by social class from access to funds, to political action, to attention by the press. The epidemic is spreading to a segment of society with no voice at all; and most voiceless of all, of course, are the children.

Dr. Arye Rubinstein, director of the Comprehensive AIDS Family Care Center at Einstein's Center for AIDS Research, ticks off on his fingers the cost of caring for his patients. Since 1984, his center has provided care for families, using teams made up of a physician, a nurse and a social worker. For something in the neighborhood of $200,000, he says, he can finance a single team for a year, and that team can deal with 35 to 40 families.

Then he does the other arithmetic problem everyone in this field does over and over: "21,600 deliveries a year in the Bronx; if 4 percent are positive—we are going to have 800 families!" The funds, Dr. Rubinstein says, are simply not there.

Like adults, some children with AIDS remain asymptomatic for years. No one knows the life expectancy of a child born infected with the HIV virus, though doctors

working with these children have noticed that they tend to fall into two groups. There are those who "present"—medical jargon meaning they come to medical attention—before the age of 2; these children are usually quite sick, and many die within a year of diagnosis. And then there are the children who are not diagnosed until later and who may not be sick at all until they are 5 or 6 years old. Some of these children are now 8 or 9, and perhaps with aggressive medial treatment, they will have years ahead of them. One unanswered question is whether there are children born infected with the virus who will never develop the disease.

Adult AIDS is marked by opportunistic infections—infections not seen in immunologically normal adults. Pediatric AIDS patients get some of these opportunistic infections, but they also get the same bacterial diseases that other children get—only more frequently and more severely.

One immunology theory to explain this difference is that adults, before their immune systems are attacked by the virus, have already built an immunology "memory" of antibodies to common bacteria, and are thus able to fight them off. Children, infected from birth with the immuno-suppressive HIV virus, never get to build this "library," and are struck down by every common childhood bug.

Pneumocystis carinii pneumonia, or P.C.P., is an opportunistic infection commonly seen in both children and adults with AIDS. But for children, the picture is complicated by another mysterious lung disease, lymphocytic interstitial pneumonitis, or L.I.P., which seems to be an abnormal immune response of the lung. Both of these syndromes cause progressive difficulty breathing, depletion of oxygen in the blood and chest X-ray abnormalities.

Another sure sign of pediatric AIDS is what pediatricians call failure to thrive; AIDS has now jumped to a place near the top of the long list of diagnoses considered when a child is unable to gain weight and grow normally.

Places such as the Bronx, Newark and Miami are on the front lines, but San Francisco, hit hard by the adult AIDS epidemic, has seen fewer pediatric cases. Yet as the city with the most complete support services for AIDS patients, San Francisco is trying hard to prepare for the next wave of the epidemic. "We're looking carefully at what's been done in Newark, New York, Florida, trying to develop programs in anticipation," says Dr. Diane W. Wara, professor of pediatrics at the University of California at San Francisco and director of the division of pediatric immunology. "We're just beginning; we have some time."

Dr. Wara stresses the unique nature of San Francisco, a city where, she says, AIDS education has been so pervasive that even the underprivileged have a good deal of information, where the special mix of communities and cultures has given the epidemic a somewhat different face.

Rest Stop Support Center is about four blocks east of Castro Street, in San Francisco's gay community. The center is quite homey, with a tank of fish, a profusion of plants and comfortable furniture. The kitchen is stocked with a variety of herbal teas, and the bulletin board is crowded with notices: "PWA in good health seeks apartment"; "HIV positive serum needed for clinical trial."

Paul Steindal, Rest Stop's director, defines it as "a drop-in and support center for people living with HIV concerns." There are support groups based on "attitudinal healing," education groups, classes in nutrition, creative writing. Most of the people sitting around the bright living room are gay men, a couple of them obviously sick, disturbingly thin, one blind.

Larry Benko is a large man with a full beard, conscientiously leaving the building every so often to smoke a cigarette. He has a certain fluency when he talks about his son's illness, which I recognize—the medical vocabulary acquired by the parent of a chronically ill child. Going to medical school the hard way, I have heard it called. He says:

"Joey was diagnosed Oct. 20, 1987. He was in the hospital for six weeks with CMV, which made him anemic, so he had eight red-cell transfusions. Prednisone kept his red-blood-cell level up, and now he's been on gamma globulin and pentamidine treatments for a year. Then his T-cell count dropped to nine, and he started on AZT, and his T-cell count increased. He hasn't been back in the hospital since."

Joey is now 8½ years old. He acquired the HIV virus from a transfusion he received as a newborn. One reason his parents are willing to have his name used, I suspect, is that they can see their son's illness as a horrible medical accident that does not reflect on them in any way. Still, after people in their San Francisco housing project found out what was wrong with Joey, the other children were forbidden to play with him, and the Benko's windows were broken.

Larry Benko feels that his family found a welcome at Rest Stop that was denied them elsewhere. He remembers Joey hearing other children saying that "anyone who has AIDS is a goddamn faggot," and later coming to Larry to ask, "How do I become gay?"

Infected children who, like Joey, remain mentally and developmentally normal are fortunate. As many as 75 percent of children with AIDS experience neurologic damage. Some children suffer from a progressive encephalopathy—they either stop developing or, in some cases, gain developmental milestones only to lose them. Their brain growth is impaired, and they gradually become weak and apathetic. This syndrome implies advanced disease, and so far there is no therapy to reverse the neurologic damage, though some researchers have high hopes that AZT, an antiviral drug, might at least keep the virus from doing further damage to the central nervous system.

Dr. Mark Mintz, a neurologist working with the Newark pediatric AIDS clinic, suggests that any treatment will have to take into account the possibility that the virus may "hide" in the nervous system, escaping the body's immune surveillance. Dr. Mintz does frequent neurologic exams on the children who come to the clinic, looking for evidence of degeneration, delay, weakness.

Neurologic involvement, like opportunistic infection, like frequent bacterial infection, defines a seropositive child as a child with AIDS. This is not just an academic distinction, and it is especially critical during the first year and a half of life because currently there is no reliable test for seropositivity below the age of 15 months.

The test measures antibodies in the blood—their presence reveals exposure to the virus. However, newborns often carry maternal antibodies, so that positive HIV antibodies in the baby of an infected mother may tell you only that some maternal antibody has crossed the placenta; the virus may or may not have crossed as well. These maternal antibodies can persist until the child is 15 months old, so a baby may repeatedly test positive but ultimately may be negative.

On the other hand, a baby exposed to the virus may fail to make antibodies effectively at first, so a negative test in a newborn known to be at risk does not mean the baby is definitely uninfected. Thus, while children of seropositive mothers are tested again and again, nothing definite can be known for 15 months—unless the baby gets sick.

"What we tell the families," says Dr. Ellen R. Cooper, medical director of the pediatric AIDS program at Boston City Hospital, "is that we're left confused. It's not clear till 15 months, unless the child becomes sick. So we tell them that we're happy as long as we're confused, and the longer we remain confused, the happier we are."

In adult AIDS, the patients are often the heroes, facing the destruction of their lives with grace and dignity. In pediatric AIDS, the patients are simply children. Give them any respite from illness and deterioration, and they will promptly act like children—they will fill the hospital playroom with noise and joyfully smear their food into their hair. This is the pleasure of pediatrics, but I'm not sure it's heroism.

If I had to nominate the heroes of this particular epidemic, I would choose the foster parents, who are bearing the unique burden of this disease by taking in children who they know may not have long to live. If not for the foster parents, many of these children would have nowhere to go. "It's the grandmothers who are saving New Jersey," says Dr. Oleske.

One foster child, a 1-year-old girl, has been my patient for the last seven months. She was born prematurely, weighing less than four pounds, to a mother who used intravenous drugs. She was taken away from her mother and placed in foster care because of continuing issues of malnourishment and possible neglect. Her current foster mother was contacted when the baby was 3 months old and hospitalized with a respiratory infection.

Because of the biological mother's history of drug use, doctors had done an HIV test, and when it came back positive, they had informed the infant's original foster family that there was a possibility she might develop AIDS. Those foster parents decided they were not comfortable keeping the child.

The couple who eventually took her in are experienced foster parents. They have cared for more than 100 children in their home, have adopted five and are now trying to adopt this baby. They have never before taken care of a baby who might have AIDS, and their family did not actually fit the agency guidelines, under which such babies are not placed with families who already have children under the age of 2.

Still, "My first reaction was 'sure,'" says the foster mother. "I knew very little about AIDS—I knew enough not to get hysterical, and the nurse came out and talked about universal precautions, always wearing gloves to change diapers, washing my hands a lot." She was not worried that her other children might catch the virus. In fact, her concerns ran in the other direction: "I said, are we exposing this baby to more infections, having her in a home with a lot of kids? I can't have my own children leave if they get sick, but I can be more careful about letting them slobber all over her."

This foster mother calls to mind the somewhat obvious adjective: motherly. A comfortable woman who handles a baby with superlative confidence, she tends to punctuate her remarks about the baby with the phrase, "God love her." When I talk to her on the phone, she is always ready with the child's latest accomplishment. From an obviously delayed and difficult start, the girl had made tremendous progress; she sits

alone, makes all kinds of noises, and most important of all, she is gaining weight.

Although the baby tested HIV positive at 5 months and again at 9 months, there is still no way to be sure whether she is infected with the AIDS virus. The foster parents' older children know that the baby may have AIDS. When the family made the decision to try to adopt her, the mother says, "I discussed with the older kids that we don't know what her life expectancy is. They said, 'Isn't it better she should have a family?' "

People outside the family, however, are not told about the baby's possible diagnosis—"I don't think it's anybody's business," says the mother. "What makes makes me angry is dealing with professional people who are not educated. When she was in the hospital, one nurse wore a mask, gloves and a gown. I mean, really!"

"I give the baby special polio shots made from killed viruses; the regular oral polio vaccine contains live viruses, and might actually cause polio in someone whose immune system is not working well. I worry about whether or not she ought to be getting regular infusions of gamma globulin; she already has been hospitalized once with a bacterial infection. Mostly, like her foster mother, I hope for the next HIV test to come back negative—but I don't really think it will.

"She's so well, it's hard to realize," the foster mother tells me over the phone. "I have real good thoughts about her, but I think in the back of my mind I'm realistic. I can't wait for you to see her, God love her."

Children with cystic fibrosis used to die, routinely, before the age of 10; a number now live on into their 30's. Although a cure for AIDS remains out of reach, there is some reason to hope that with what we learn over the coming years, medicine may be able to prolong these children's lives, too. But we have a lot to learn; because of the peculiarities of pediatric AIDS, much of our understanding of adult AIDS, painfully acquired over the last decade, is only questionably relevant. And meanwhile, the numbers of infected children will keep growing.

In Newark, I watch Dr. Mintz sort through a pile of big black-and-white photographs he has taken of patients. The pictures are wonderful—children smiling, clowning, crying, completely comfortable with the camera:

"She's dead. He's doing O.K.—a little encephalopathy, but a functional kid. This mother got it from a dirtball—a one-shot deal, just bad luck. This is the Christmas party, with Dr. Oleske as Santa Claus. It breaks your heart, because one year they're here—and the next."

He puts down his pictures and wonders aloud what he will ever find to do with them, because he wants to protect the confidentiality of his subjects. But one reason he goes on taking them is because he worries that the victims of this epidemic, the children of the underclass dying in the inner city, may simply disappear without a trace: "I want to record it, to prove it happened."

TRIBUTE TO LT. COL. JOE WHITEHORNE

Mr. WARNER. Mr. President, this month, Lt. Col. Joseph W.A. Whitehorne retires from the Army after 25 years of service. He is the latest of a long line of family members who, since the Revolution, have served their country as military officers.

After graduation from the University of Pennsylvania in 1964, Lieutenant Colonel Whitehorne entered the service as an infantryman. He served in Germany and then Vietnam, where he was awarded the Purple Heart and the Combat Infantryman's Badge. Since 1970 he has served as a historian for the Army: teaching, researching, and providing support to military staffs and the general public.

As a teacher, Colonel Whitehorne developed and presented a well-received academic history course as a part of an innovative ROTC program. He also conceived and led most of the Army general staff battlefield studies and visits. The programs he established have drawn appropriate attention to historically important pieces of ground, contributing to the preservation of lands significant to our national heritage.

Lieutenant Colonel Whitehorne has been a valuable resource to the senior Army leadership. As the historian to the inspector general, Lieutenant Colonel Whitehorne assisted in providing service to soldiers, veterans and other citizens with matters of historical origins, including lost Civil War burial records.

Lieutenant Colonel Whitehorne provided invaluable support to the Secretary of the Army on papers, programs, and ceremonies of historical value. He assisted in the research and presentation of the Secretary's annual themes to the Army as well as in the development of a variety of special briefings.

His research on the important role of the Commonwealth of Virginia in colonial settlement, the Revolution, the War Between the States and the heritage of its National Guard have helped preserve the prominence of the Old Dominion in our national history.

One of his most outstanding achievements was as U.S. historian representing the Army Memorial Affairs Center on a project to document and return the remains of 28 United States soldiers killed in 1814, whose remains were recently discovered in Ontario, Canada. It was Colonel Whitehorne's efforts which permitted speedy determination of the origins and nationality of the remains and their return to the United States.

For 25 years, Lieutenant Colonel Whitehorne has placed the needs of the Army and his country above his own. In so doing, he has contributed greatly to providing the public a greater understanding and appreciation of their Armed Forces. I congratulate him on his successful 25 year military career and wish him continued success as he pursues his involvement in preserving and teaching the history of this great Nation.

THE FREEDOM EPIDEMIC

Mr. SYMMS. Mr. President, our distinguished Republican leader on the 15th of February of this year, at a conference hosted by the National Forum Foundation, gave a speech entitled "The Wonderful Epidemic of Freedom." I urge all my colleagues to read this speech. Our distinguished Republican leader stated the case very well.

It is though he was a prophet with respect to what might be in store in the world when one sees the recent developments in Communist China and the recent developments in the Soviet Union.

I ask unanimous consent that this speech, which I consider to be an outstanding speech, one that is worthy of all Senators and all Americans for that matter, be printed in the RECORD.

There being no objection, the speech was ordered to be printed in the RECORD, as follows:

THE WONDERFUL EPIDEMIC OF FREEDOM

(By Senator Bob Dole)

I want to begin by saying four words to someone not here in person today, but very much here in spirit; four words that I know are deeply felt by everyone sitting before me.

President Reagan, thank you.

Without Ronald Reagan, we might well all be here today, talking about freedom. But our words would be very different, and our spirits very much lower.

Only a few years ago, when Ronald Reagan was sworn in as president, democracy seemed to many a shrinking island, battered by swelling seas of totalitarianism. The Soviet empire was on the move, swallowing up neighbors like Afghanistan and greedily acquiring clients in Southeast Asia, the Middle East, the Horn of Africa. And it was not just Soviet expansion that was the problem. It was our own moral paralysis; our lack of faith in America's will to act and power to do good in the world.

Today such doubts seem far away. Democracy is the watchword all over the globe—from Eastern Europe to Asia, from South America to the Indian subcontinent. Literally and figuratively, people everywhere are dying for democracy.

Thirty years ago Khrushchev boasted that communism would bury us. Today the free world pours out aid to help Gorbachev rescue survivors from the rubble of natural disasters which overwhelm the capacities of the Soviet state.

Just last week, in my office, I heard from a group of Latvian Americans about the tragedy of their homeland—its economic resources have been siphoned off to serve the Soviet state; its citizenry forced to wear gasmasks to escape the pollution of crude industrial development; its new-born babies—40% of them, 40%—afflicted with birth defects, because of the absymal state of the environment, and the inadequacies of socialist health care.

Today we see many things more clearly than we did a few years ago. We see that democracy is not only alive, but well and thriving. We see that the future belongs not to the Bolshevik Revolution but to our own. We see that the true prophets were not Marx and Lenin and Stalin but Washington and Jefferson and Lincoln; and that the true prophecy is summed up in these words: that all men are created equal, and are endowed by their creator with certain inalienable rights—life, liberty, and the pursuit of happiness.

How did we get here? Why was there this amazing turnaround in our attitude toward freedom, and in the fortunes of freedom itself? Those who still deny the power of the American example and the importance of American power would say that we had little to do with this development. For them, history is inertial. Democracy is on

the rise only because of some inexplicable shift in the pendulum; the Soviet empire has ground to a halt only because of the heavy gravity of its own incompetence.

We know better. History is moral rather than mechanical. We have succeeded in exporting freedom precisely because we have recovered our faith in ourselves as a nation founded on principles that apply equally to all human beings.

The recent rollback in totalitarianism has occurred not just because of its own inner contradictions but because we again assumed our responsibility not just to defend our own freedom but to advance its frontiers. As we stopped surrendering to hot flashes of malaise and anxiety, freedom began to flourish once again around the world.

Ten years ago, the Soviets invaded Afghanistan. A third of the Afghan population was driven from its home. More than a million Afghans were killed. Yet now the mighty Casey himself has struck out; it is the mighty Red Army which has packed its bags and gone home. Why? Not because of some irresistible law of "imperial overstretch," but because America finally did something more than pay lip service to rolling back Soviet tyranny.

The repercussions of this day and what led up to it, have only just begun to reverberate. The thing about freedom and independence is they're contagious. The germ is spreading like wildfire; the epidemic is already underway.

Thousands of men and women and children are afflicted in Latvia, Lithuania and Estonia—nations buried for half a century under the permafrost of the Soviet gulag, are just now beginning to sense the possibility of a new spring. The people there again talk of nationhood and sing their national anthems.

The epidemic permeates Eastern Europe, where the spoils of Yalta begin to slip from Soviet hands and the idea of Middle Europe with profound and reciprocal connections to the West is reborn.

The epidemic invades Kampuchea and Ethiopia and Angola—where national liberation movements struggle on, their futures uncertain but their hopes still high, and their spirits unquenchable.

This wonderful epidemic—its germ cultured in the laboratory of Independence Hall in Philadelphia; its disease spread by agents like Radio Free Europe and Radio Marti—This wonderful epidemic spreads relentlessly around the world.

And the most wonderful thing of all is that the Soviet antidote—more tyranny, less freedom—just makes the germ all the more potent, the epidemic all the more pervasive.

That is why we meet today with so much hope. But we meet today, too, at a time of transition. At a time when we must decide, as a nation, whether to continue carrying forward aggressively the torch of freedom; or instead, to set it down for a moment, to contemplate whether the dangers from tyranny are receding in favor of something called glasnost.

Forty-five years ago George Kennan wrote that the United States "had it in its power to increase enormously the strains under which Soviet policy operates" and to promote "either the break up or the gradual mellowing of Soviet power." This strategy, which became known as "containment," was implemented in the Truman Doctrine, the cornerstone of American policy during the darkest days of the Cold War. President Truman made its outlines clear in words that were as simple as they were courageous: "We must assist free peoples to work out their own destinies in their own way."

I remember this statement very well. At the time I was a young man with the marks of my own military service still upon me. I remember how Harry Truman's brave words were condemned—as too strong by those who still saw Joe Stalin as a wartime ally—and as too bold by those who wanted America to close its doors around our democracy and let the rest of the world fend for itself.

But many of my generation, men and women who had defended freedom in Europe and in the Pacific, had learned that strength is the only real security and that idealism about democracy was the truest realism there was. We understood that containment meant vigorously defending freedom, even on the borders of the Soviet empire.

What were the fruits of this commitment? Western Europe—liberated by American armies and then saved from Soviet tyranny by America's presence—prospered while Eastern Europe slipped tragically into darkness and despair. In Asia nations like South Korea, Thailand and Taiwan—among the most backward countries in the world in 1950—developed into some of the most advanced while states like China foundered and others like Vietnam have turned into basket cases.

Were the risks we took, the sacrifices we made—were they worth it? Visit West Berlin, and then cross into East Berlin, and you'll have the answer. Helicopter from Seoul, Korea, up to the DMZ, as I have, and you'll have the answer. Count up the number of requests you get from people behind the Iron Curtain who want to come to America, and then count up those you get from Americans who want to go live somewhere else—and you'll have the answer.

Of course it was worth it. Freedom is worth it.

What we learn from this piece of the past is that those who sell America short also sell the poor and powerless of the world short. We learn too that without an America confident enough to shoulder the burden, the world will witness loud and bloody revolutions that lead to tyranny and backwardness rather than quiet ones that lead to development and fulfillment.

History has many object lessons for us as we talk about the future of democracy. It shows us what can happen when America stands fast. It also shows what happens when we doubt ourselves, as we did after Vietnam and as we continued to do again and again until Ronald Reagan led us back to our own heritage. In the decade of the 80s, as the Reagan Doctrine picked up where the Truman Doctrine left off, we have begun to test both possibilites foreseen by George Kennan 45 years ago—the breakup of Soviet power and the mellowing of the Soviet state.

History, finally, shows us this—or at least it should: that while we have accomplished a great deal, the job is far from done. And if we don't finish it—if we don't live up to our history and rhetoric; if we don't do what is right, in its own right—then it is not just freedom in the broad sense that will lose, but it is America that will lose, too.

The job is far from over.

We cannot abandon the freedom fighters in Angola, until true national reconciliation is accomplished in that country.

We cannot permit the rollback of Vietnamese power in Kampuchea to be replaced by a new growth of the killing fields in Khmer Rouge barbarism.

We cannot turn our backs on the Cuban people, in the interest of reaching some kind of political accommodation with one of the Communist world's last true Stalinists.

And—perhaps most urgent of all—we cannot expect to just pull the plug on the Nicaraguan freedom fighters without paying a profound price. A price not only in the continued repression of millions of Nicaraguns, but a price, too, in American honor, American prestige, and American national security interests in Central America.

Today's headlines tell of a new Peace Plan, cooked up by Ortega and Arias, and signed off on by the other Central American Presidents. Well, I'm all for peace, too. But what I would like to see is not just a Peace Plan but a Peace with Freedom Plan. The kind that would include real elections, to put Ortega out of business; the kind that would really allow the freedom fighters to disband and go home, because their cause was won; the kind that would really deserve a Nobel Prize.

Nicaragua, Angola, Cuba and the rest—they are the challenges of today; there will be more tomorrow. That is the nature of the world; that is the burden of leadership; that is the cost of freedom.

The Reagan Doctrine says, quite simply, that freedom is worth it. I believe that. It is my responsibility and yours to see that American policy always reflects that profound truth.

HELPING FAMILIES MEET THE COST OF QUALITY CHILD CARE

Mr. COHEN. Mr. President, the desire and intent to help families see to the needs of their children is not a partisan issue. Democrats and Republicans alike in the Senate recognize and want to address the problems that have made child care such a prominent and pressing concern. The will of the Senate to provide more help to families in meeting the cost of quality child care is clear. It is the means of doing so that remain at issue.

Demographic and economic changes in our society have led to a greatly increased demand for child-care services. Economic necessity is bringing more mothers into the work force. In 1950, only 18 percent of mothers were in the labor force. The latest figures from the Bureau of Labor Statistics indicate that 65 percent of all women with children under 18—and 56 percent of the mothers of children not yet old enough to go to school—are now in the labor force. The Census Bureau estimates that by 1995, the mothers of two-thirds of children under 6 in this country will be working outside the home.

Although there are not comprehensive data on the need for child-care services in the United States, it is an accepted fact of the public discourse and political debate that the demand for high quality and affordable child care is far from adequately met. The evidence of unmet need includes not only the tremendous increase in the number of working mothers and the relatively small number of regulated child care "slots," but also the need for so many working mothers to resort to whatever temporary, informal, patchwork child-care arrangements they can scrape together.

For too many Americans, lack of affordable quality child care can become

an obstacle to education, employment, or training for employment. This scarcity of affordable quality child-care services can trap individuals, preventing them from realizing their full potential as productive members of our society. And, of course, the cost of child care can take quite a bite out of the paycheck of a parent struggling to make ends meet.

Parents in Maine and all over the Nation have made it clear that good, dependable, and safe child care is a priority—and unfortunately a problem—for them. For families in which both parents must work, it can be next to impossible to find affordable child care. Many families are forced to settle for child care that leaves them worrying and wondering about whether their children are being well cared for. I agree that the Congress ought to act now to provide a measure of relief—and peace of mind—to these families.

CURRENT FEDERAL INVOLVEMENT IN CHILD CARE

The Federal Government already has substantial involvement in the support of child care—some $7.5 billion per year of involvement. While there are some 31 Federal programs that provide some funding for child-care services, there is no Federal program whose sole purpose is to provide financial assistance to help families pay for child care.

The largest Federal program assisting families with children is the child and dependent care tax credit—about $3.9 billion per year. This credit, available to working families with dependent care expenses—including child care—allows these families to deduct between 20 and 30 percent of their dependent care expenses—up to $2,400 for one child and $4,800 for two or more children—from their tax liability. However, because this credit is not refundable, lower income families with little or no tax liability cannot benefit from the credit. Furthermore, the average credit is less than $350 per taxpayer, hardly sufficient to offset child-care costs currently averaging $3,000 per year.

The second largest expenditure on child care is the title XX Social Services Block Grant [SSBG], which provides approximately $2.7 billion per year for a variety of social service activities, including child care. However, only 15 to 18 percent of the funds are used for child care.

The Head Start Program spends about $1 billion to provide social, educational, and nutritional services for disadvantaged children. Most Head Start programs operate on a part-day schedule, however, and therefore cannot meet the child-care needs of mothers who work full time.

EXPANDING FEDERAL ASSISTANCE IN THE FAIREST AND MOST EFFICIENT WAY

As I indicated earlier, it should be clear that our debate today is not about whether the Federal Government ought to expand its assistance to families with children. It is clear that it is the will of the Senate that families need more help with finding and paying for good child care. Rather, our debate today is about the fairest and most efficient way of providing such help.

I prefer expanding Federal assistance with child care in a manner which gives parents the greatest degree of choice in selecting how to care for their children; which directs aid to those families which need it most; and which avoids the pitfalls inherent in a program run by the Federal Government or State governments. That is why I favor providing the bulk of any increased Federal child-care assistance through the ready mechanism of tax relief.

The child-care proposal offered by Senator DOLE would provide assistance directly to low-income families by making the dependent-care tax credit refundable and adding a refundable young-child supplement to the current earned income tax credit. Refundable credits allow the Government to give tax refunds to families of modest means that owe no Federal income tax.

The young-child supplement would apply to families with modest incomes having at least one child under age 5. The supplement would equal $500 for one child and $750 for two or more children under that age. Both tax credits would be available in advance through a parent's paycheck, thereby making the assistance immediately available for child-care bills as they come due.

The child-care proposal put forward by Senator DOLE also provides for a $400 million increase in the existing State Dependent Care Block Grant to help States address a wide array of child care needs. These funds could be used by the States for referral services, consumer education, training and technical assistance to child care providers, recruitment to increase the number of providers, encouraging employers to help with child care, addressing the problem of high liability insurance costs, and other purposes. States would be required to match a portion of these expanded child care grant funds. None of these funds could be used for the direct subsidy of child care services.

This approach directs resources to those families which most need them and gives families freedom of choice as to how best use those resources. It would help families whether a parent chooses to stay home or not and it would benefit families whether their children were cared for by a friend, a relative, in a family day care center, in a church-based program, or in a child-care center. Importantly, this approach would not raise questions regarding the constitutionality of Federal assistance to child-care programs that offer religious instruction. To my mind, the focus and flexibility that this approach offers are great advantages.

Of course, Senator DOLE's proposal is not the only child-care proposal before the Congress. Even if approved by the Senate as presented, this approach could not become law, given the disposition of the House of Representatives. Nor will the Act for Better Child Care—the ABC child-care bill—as currently before the Senate become law because the President feels strongly that a different approach to helping families with children would be more appropriate, more fair, and would better direct help to those who need it most. Therefore, those of us in the Senate who want to see Federal action on child care—whether we prefer tax credits or Federal appropriations—must consider contending child-care proposals with a view toward practicality and in a spirit of compromise. In any case, I remain hopeful that this Congress and President Bush will be able to cooperate on the enactment of comprehensive, fiscally responsible, and genuinely effective child-care legislation.

The PRESIDING OFFICER. The Republican leader.

Mr. DOLE. Mr. President, if there is no objection, I would like to start on the pending amendment. I have 3 remaining minutes.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

CHILD CARE IMPROVEMENT ACT

The PRESIDING OFFICER. The Senate will now resume consideration of S. 5, which the clerk will report.

The legislative clerk read as follows:

A bill (S. 5) to provide for a Federal program for the improvement of child care, and for other purposes.

The Senate resumed the consideration of the bill.

Pending:

(1) Mitchell amendment No. 196, in the nature of a substitute.

(2) Dole amendment No. 201 (to amendment No. 196), of a perfecting nature.

The PRESIDING OFFICER. The time for debate on the pending Dole amendment to the Mitchell amendment is limited to 75 minutes with 45 minutes controlled by the Republican leader and 30 minutes controlled by the Senator from Connecticut [Mr. DODD] or his designees.

Mr. DODD. That is 48 minutes, I gather now.

The PRESIDING OFFICER. Forty-eight minutes.

Mr. DODD. Mr. President, I yield 6 minutes to the distinguished Senator from Massachusetts.

The PRESIDING OFFICER. The Chair recognizes the Senator from Massachusetts.

Mr. KENNEDY. I thank the Senator from Connecticut.

Mr. President, we are in the final moments before the Senate of the United States makes an extremely important decision affecting the futures of millions of children in this country. At the outset of this final phase of the debate, I join in commending my friend and colleague from Connecticut for bringing the Senate and the debate to the point we have now reached.

As he has stated and others have stated, this legislation is a product of 2½ years of field hearings across this Nation, of hours upon hours of markup and consideration of differing views of Members of this body and many others. I commend the extraordinary effort that he has made, and the consensus on this legislation that now has the support of parents and professionals across the Nation who, in many instances, make the issue of good, decent, affordable quality child care their life. They know the importance of it. They have worked on it in communities throughout the Nation. They have come together and today they support the proposal introduced by the Senator from Connecticut which is now represented in the Mitchell amendment.

Those are the facts, Mr. President. The individuals across our Nation who know the most, who have worked on this issue, who have given it the greatest throught and time, who have the greatest experience—they are the ones supporting this proposal, and it is a tribute to the Senator from Connecticut that there has been such uniformity among the many groups who are concerned about this issue and who now support this legislation.

Two alternative child-care bills are before the Senate. Both offer a combination of grants and tax incentives. Both make the dependent-care tax credit refundable. Both offer tax credits unrelated to child care. Both authorize grants to States to increase the supply and quality of child care.

But the two bills part company on the fundamental question at the heart of this debate—do poor families deserve the same chance for safe, affordable child care as their well-off neighbors?

The Democratic ABC bill says yes. If ABC is enacted, more than a million low- and moderate-income families will receive $1.2 billion in child care assistance.

They can choose home-based care provided by relatives or neighbors. Or they can choose center-based child care provided by employers, schools, community agencies, or churches. The choice is up to them.

The Republican alternative includes no comparable provision. In fact, it actually precludes States from using their block grant funds to provide child care.

Theirs is a wonderfully Republican kind of child-care bill. But I ask, what kind of child-care bill says you cannot spend money to pay for child care, even for the poorest of families, where the need for child care is often the greatest?

It is time to expose the Dole bill for what it is not—and it is not a child-care bill.

It is time to expose the Atwater-style lies, half-truths, and gross distortions our opponents have used in a desperate attempt to mislead the Senate and the American people about this legislation.

They would rather talk about what used to be in the ABC bill, than admit that we have addressed every concern they have raised in 2 years of debate on this legislation.

Our opponents invoke the spectre of bureaucratic control over child care in America.

That is patently false. ABC creates a partnership between the Federal Government and State and local governments to encourage child care in all its forms.

ABC is similar to a hundred other Federal programs. Would the Dole bill supporters end the school lunch program? Aid to education? Welfare assistance? Head Start? Aid to the handicapped? Job training?

The Senator from Kansas cannot repeal the 20th century. He cannot turn back the clock to the 1950's. He cannot recreate a type of work force that no longer exists except in the handouts of the Republican National Committee.

Our opponents talk at length about their opposition to Federal standards. This is a straw man. ABC does not require Federal standards—period.

Today, the Federal Government tells schools and neighborhood day care homes what food to serve for lunch. It tells Head Start centers what services they must provide. It tells manufacturers what kind of stuffing they can put in a toy bear. And it should also be able to set minimum standards for safety in child-care centers.

I happen to agree with the 80 percent of the American people who feel that Federal standards for child care are not only appropriate, but essential. I fail to understand why it is acceptable to set minimum Federal standards to protect senior citizens in nursing homes, workers on the job, or drivers on the highway—but not children in child-care centers.

Categorical spending programs involving the Federal Government, States, local governments and families are a long accepted part of public policy. Head Start, for example, involves Federal funds and regulations to ensure that financially disadvantaged young children have a wide array of social services. There are detailed provisions in Head Start about parental participation. Does the distinguished minority leader think that Head Start is too bureaucratic?

Another important program is chapter 1, which provides educational assistance to local schools to help meet the costs of educating disadvantaged students. Once again, this program involves another set of Federal regulations that affect State and local governments. And again, there are extensive requirements mandating parental participation.

When the Senate voted 95 to 1 to reauthorize the chapter 1 program last year, I did not hear any complaints about excessive bureaucracy. Does the distinguished minority leader now think that chapter 1 is too bureaucratic?

The Farmers Home Administration engages in strict supervision of low income farm borrowers. In the past few years, there have been increasing calls for a stronger partnership between Government and the borrowers; a principal criticism has been that the Farmers Home Administration has not been involved enough in the efforts of low-income borrowers to maintain their small farming operations.

All of these considerations indicate that Federal standards are used in a wide variety of areas, many of them involving children, and that such standards are entirely appropriate for child care. But in the interest of compromise to advance this long overdue legislation, we are no longer requiring that Federal standards apply. Instead, we are proposing model standards that all States can consider.

The kind of standards we are talking about are not onerous or burdensome. We are talking about basic first aid in case of emergency. We are talking about immunization to stop the spread of disease. We are talking about enough adults on the premises to supervise the children and ensure their basic safety. It does not take an expert to figure out that the more children per adult in a day-care arrangement, the less care the children are likely to receive and the more danger they are likely to face.

I am sure that no Member of the Senate would want his own child to spend time in any place that did not have these commonsense safeguards and precautions.

Massachusetts has these basic rules, so does Kansas. Working parents in these States know they can be assured of the basic safety of their children.

ABC no longer has minimum standards. It requires only that States set their own standards for staffing, parental involvement, and health and safety. Every State already has some child-care standards, but not all have them in each of these basic categories. ABC's model standards would give parents in every State the assurances that parents in Massachusetts and Kansas have today.

The Democratic alternative also strikes a reasonable balance on the very difficult church-state question. Religious institutions provide a substantial amount of high-quality child care. The Democratic alternative permits States to fund these providers through grants and contracts only if

their child-care programs are nonsectarian. And it permits parents to use child-care certificates to pay any qualified provider, including a sectarian child-care program selected by the parent, if the Constitution permits Federal funds to be used in this way for such care.

I know that some Senators are concerned about the constitutionality of permitting child-care certificates to be used for sectarian care. It is a close and difficult question. Our bill draws a line coextensive with the Constitution's limits. If intervening Supreme Court decisions or other developments were to make it clear that there is a constitutional problem, then the language of the substitute itself would forbid the use of Federal funds for this purpose.

Finally, our opponents suggest that bureaucrats, not parents, will control child-care choices under ABC. Obviously, the opponents have not read the bill, which specificially states that parents, not bureaucrats, will make this fundamental choice.

Above all, I support ABC because 50,000 families in Massachusetts need child care. Because the turnover rate for child-care staff today is an unacceptable 45 percent. Because the average cost of child care is $5,000 a year—far more than the meager assistance the Republican bill provides.

If we enact the Republican substitute, I will have to tell poor families in Boston to go and find the cheapest cutrate fly-by-night child care they can, because we will not help them with more than a tiny fraction of the cost. That is not a message this Congress should send to any mother or any State in America.

ABC is the alternative that gives low-income families their best hope for child care that is available, safe, and affordable.

ABC is the only alternative that increases supply, improves quality, and gives parents a full range of choices.

This legislation has been before the Senate for over 2 years. This issue has been before the Congress for more than 20 years.

It is time to break the impasse, stop the distortions, and finally meet the needs of millions of working families in our society for child care. I urge the Senate to reject the Republican substitute and vote for the bill that does the job—the Democratic ABC bill.

Mr. President, I ask unanimous consent that an opinion letter from Jamie Gorelick, of the Washington law firm of Miller, Cassidy, Larocca and Lewin, be printed in the RECORD. That opinion concludes that section 121(a) of the Mitchell substitute is constitutional.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

JUNE 21, 1989.

Hon. EDWARD M. KENNEDY,
Russell Senate Office Building, Washington, DC.

DEAR SENATOR KENNEDY: You have asked for our opinion regarding the constitutionality of Section 121(a) of the "Mitchell Substitute" to S. 5.[1] We understand that this language would permit eligible child care programs that include sectarian activities to receive funds through child care certificates, if such expenditure would not violate the Constitution. For the reasons stated below, we conclude that Section 121(a) is constitutional.

As you know, the extent to which religious organizations may participate in government programs as the ultimate recipient of government funds has been the subject of considerable debate in the courts. The path cut by *Lemon* v. *Kurtzman*, 403 U.S. 603 (1971), and its progeny, is not easily discerned. The Court in that case acknowledged that even it could "only dimly perceive the lines of demarcation" in this area. 403 U.S. at 612.

The boundaries of the debate are broad. On the one hand, direct payment of public funds to sectarian institutions for sectarian purposes is clearly prohibited. *See Grand Rapids School District* v. *Ball*, 473 U.S. 373, 385 (1985) striking down state programs that paid for teachers to teach in sectarian schools because the Establishment Clause does "absolutely prohibit government-financed or government-sponsored indoctrination into the beliefs of a particular faith"). On the other hand, indirect public funding of sectarian institutions through tax deductions is clearly constitutional. *Mueller* v. *Allen*, 463 U.S. 38 (1983) (upholding tax deduction for tuition, textbooks and transportation expenses of sending children to sectarian schools).

Allowing parents to use child care certificates to pay sectarian providers falls within the range of cases as to which no safe prediction may be made. Three cases are illustrative:

In *Witters* v. *Washington Department of Services for the Blind*, 474 U.S. 481 (1986), the Supreme Court upheld a vocational rehabilitation program for the blind in which the individual student decided which school to attend, even though the program paid for Bible school training of the student for a religious career.

In *Bowen* v. *Kendrick*, 108 S. Ct. 2562 (1988), the Court upheld the language of the Adolescent Family Life Act which provided funding to religious organizations that counselled teenagers on pregnancy and parenthood, but the Court remanded, *inter alia*, for specific findings on whether particular grantees were using the funding for religious activities.

In *Aguilar* v. *Felton*, 473 U.S. 402 (1985), the Court struck down a program which provided aid directly to private schools for the purpose of underwriting remedial education, because ensuring that federal funds were not used for religious purposes would excessively entangle the state in the supervision of sectarian schools.

No Supreme Court decision squarely addresses the constitutionality of permitting child care certificates to be used to pay sectarian providers. It is apparent that the issues that will be considered in evaluating the constitutionality of such a program are, *inter alia*, whether the statute has a principally secular purpose, whether the primary effect of the aid is to advance religion, whether the intervention of individual choice in the use of the certificates alters or eliminates the element of state involvement, whether the statutory scheme excessively entangles the state with the affairs of sectarian schools and whether the institutions aided are pervasively sectarian.

As always—but particularly in these circumstances—the courts will be, and properly are, the ultimate arbiters of constitutionality. Even without specific language barring unconstitutional expeditures of financial assistance, the courts would provide a check on unconstitutional activity. Inclusion of such a provision in the statute itself signals to those implementing the legislation and to the courts both Congress' understanding that difficult issues are raised by the legislation and its inability to predict the judicial outcome of a constitutional challenge to that legislation. The provision expresses Congress' unwillingness to pass legislation transgressing constitutional limitations. Similar language was used in the early 1970's in legislation authorizing busing as a remedy for school segregation. Equal Educational Opportunities Act of 1974 § 203(b), 20 U.S.C. § 1702(b) (1978). In reviewing that legislation, courts have noted the provisions as manifesting Congress' purpose to ensure the constitutionality of its actions. *See, e.g., Morgan* v. *Kerrigan* 530 F.2d 401, 413 (1st cir. 1976); *Newburg Area Council, Inc.* v. *Gordon*, 521 F.2d 578, 581 (6th Cir. 1975). Such a provision is a most appropriate failsafe here to ensure the constitutionality of the measure.

Sincerely yours,

JAMIE S. GORELICK.

Mr. DOLE. Mr. President, I yield 14 minutes to the Senator from Iowa [Mr. GRASSLEY].

Mr. GRASSLEY. Mr. President, I thank the majority leader.

Mr. President, I rise in opposition to the Mitchell amendment and I support the Dole amendment. I take this position, and I want you to know I do recognize that advocates of the ABC bill have compromised greatly their proposal trying to get more support. I believe that the new ABC bill is a good example of how the legislative process works.

It is, of course, an art in this body to negotiate compromise as have the Senator from Connecticut and the Senator from Utah. Having conducted themselves as they have with dignity and honor, their efforts should be applauded by all of us in this Chamber.

I cannot, however, cast a vote based simply upon the appreciation of the hard work of some of our colleagues. I respect their hard work and good intentions. However, it is my duty to use my best judgment in representing the citizens of my State who sent me here. So the conclusions I have reached—and those are to oppose the ABC bill and support the Dole substitute—have been confirmed by the letters and post cards that I have received from so many of my constituents.

[1] Section 121(a) provides:

(a) SECTARIAN PURPOSES AND ACTIVITIES.—No financial assistance provided under this title shall be expended for any sectarian purpose or activity, including sectarian worship and instruction, except that this subsection shall not apply to funds received by an eligible provider resulting from the distribution of a child care certificate to a parent under section 108(a)(1)(C). Financial assistance provided under this title shall not be expended in a manner inconsistent with the Constitution.

In all due respect to the Senators from Utah and Connecticut, who repeatedly admonished this body to examine their new ABC bill, this bill may in fact be a horse of a different color but it is basically the same horse which entered the arena in the 100th Congress, because in spite of the changes in the proposed new bill what we have in these two amendments between DOLE and MITCHELL is a basic distinction in philosophy over just exactly what the role of the Federal Government should be in child care. In a sense, it is not even worth comparing these approaches on a point by point basis as has been laid out in working papers from both camps.

The focus of this debate is not a comparison of the specific and detailed aspects of each amendment. This debate in fact actually centers on the Government's role in child-care policy. In an even broader context, this debate focuses on the issue of the Government role in family policy.

Some in this body complain that the tax credit approach, while sound family policy, does not address the concerns of child care. To that I disagree. This bill addresses child care, but it does not stop there. Families are looking for financial assistance for taking care of their children, no more and no less. They are not asking for Government to tell them how to raise their children. The Congress has no business involving itself in any intricate and specific decisions of the family, whether on child care or something else. The Dole tax credit amendment cleanly and very clearly provides that very needed financial assistance and with no troublesome strings from the Federal Government attached to that help. As well-intentioned as the Mitchell substitute might be, it infringes upon personal family decision-making processes.

I support the Dole proposal in good company because it has been endorsed by the Bush administration, and I bet that it will get bipartisan support. It is not appropriate for the Federal Government to involve itself with the intricate details of family life. It is appropriate for the Federal Government, however, to foster an environment that allows families to support themselves. Such an environment is actually enhanced when the Federal Government offers basic tax credits for working families with small children where they have one wage earner or two.

Where the Federal Government does impose itself on the lives of the families, we only generate more complications, more dilemmas and surely controversy. A prime example is in the heated debate in which we find ourselves regarding how a child-care bill might infringe upon religious liberty. While a program that relies on Federal assistance today cares for the specific purpose of subsidizing the day care profession, we cannot avoid the convoluted issues of church and state.

I spent some time on this issue before this body on last Friday, although in a somewhat different context. I need to clarify my position on the religious exemption provided in the Ford-Durenberger language. I hope that the compromise language will resolve at least part of the problem.

This compromise will enable some families to select day-care providers which include religious activities—without forfeiting much needed Federal assistance.

I appreciate this accommodation. I believe it partially addresses the bill's restrictions on our constitutionally guaranteed right of religious freedom. This modification is no doubt also appreciated by those who are not active in religion.

Why? Because religion teaches good morals and values! Because people active in churches and synagogues generally make good citizens! Because people feel they can trust churches! Because people want to get their children "started on the right track."

On Friday I cited a Biblical passage that I think is appropriate again:

Proverbs 22:6: Train a child in the way he should go, and when he is old, he will not turn from it.

I have been informed, Mr. President, that the modification embodied in the Ford-Durenberger amendment still falls short of providing guarantees against infringement of the religious liberties of families seeking child-care assistance. The junior Senator from Indiana did an excellent job yesterday afternoon delineating these additional concerns dealing with the religious exemption. As he explained to this body, this language applied only to the certificate program. Families which live in States which use a method of reimbursement, other than the certificate program, would not have the option of religious care.

Additionally, certificates are only available to care centers which are licensed. Many States, I believe at least 13, do not regulate church-run child care. Families living in these States will be forced to choose between obtaining needed child-care financial assistance, versus exercising their constitutional right to send their children to a church-run child-care center.

What right do we have to dictate how a family chooses to instill values and morals in their young children?

If the amendment by the Republican leader is not approved by this body, I hope that we will revisit this issue to correct these shortcomings later on in this debate.

It is so tempting for the long arm of the Federal Government to reach its greedy fingers into the personal decisions of families. It is too easy for politicians and bureaucrats to impose their ideas on trusting constituents.

Mr. President, I have become familiar with the experiences of parents as they leave their children for the day at child-care centers. For awhile now, my daughter and son-in-law and her family have lived with Barbara and I in our home in Mount Vernon. Most mornings, I help out my daughter by taking her 4-year-old son, Will, to the child-care center. I know how parents feel when they say good-bye for the whole day. I know what my daughter went through to select this child-care center.

Will is lucky. He has his grandparents, as well as his parents, to help him with this schedule. And even though my daughter and her husband feel the pinch from the costs of child care on their family budget, they would not qualify for the Federal assistance provided in this bill.

But the point is, Mr. President, I know what parents are going through! These decisions and experiences are very personal for families!

As a Federal legislature, we should look for solutions to family needs and concerns through existing community institutions. Churches and synagogues, for example, are the very pillars of community service institutions.

Several years ago, the children's defense fund published "The Child Care Handbook." The very first point raised in this book, as a directive to child-care providers for success and survival, is to "mazimize existing public and private resources." This may be a financial necessity, but the childrens' defense fund promotes this as also an opportunity to build "creative partnerships between service providers and advocates of business, labor unions, universities and public schools, voluntary civic organizations, concerned individuals, and parents." The theme throughout the entire book is that effective and successful child care requires parental involvement, community support, and local control.

Families need support from community institutions in order to cope with this diverse society, especially when many families live hundreds of miles away from their extended families. We in Congress should be especially sensitive to this because so many of us and our staffs have families back in our home States, hundreds, even thousands of miles away from Washington, DC.

Federal Government should encourage, not stifle, support structures in the community. Not only might these support structures provide child-care services, but the more these centers are integrated with the community and businesses, the more they will be able to respond to other family needs.

The most important message that I could deliver this morning is that we must seek creative ways for families, as well as communities, to help themselves. The people of this country uniquely possess traits of cooperation and self-reliance.

A joint effort by the American Enterprise Institute and Marquette University did an indepth study of the effect of Federal programs on the co-

operative and independent spirit of program recipients. This resulted in the 1987 publication of "The New Consensus on Family and Welfare." In particular, I would like to quote a paragraph from that book which exactly depicts my sentiments, and I quote:

> Although in the past two decades all levels of government have assumed increased responsibilities for helping the poor and dependent, nonetheless, the success of public efforts depends crucially upon what major private institutions do, including the media, religious institutions, professional organizations, voluntary associations, and others.
>
> Government can help create an economic and social climate that is conducive to self-reliance, but only private institutions can inculcate the values and habits, and establish the local supports, that enable people to achieve it. Laws and administrative regulations can enforce civic obligations and standards of good conduct, but only the support and encouragement of private institutions can make them a matter of internalized volition. A free people is responsible to moral principles far beyond the reach of government.

Mr. President, I could talk for a very long time about my philosophies about the role of the Federal Government. For most of us, our ideology serves as a basis upon which we make decisions on casting votes.

For most of us, the decision on how to vote on this bill, whether voting for the amendment by the Republican leader or for the amendment by the majority leader, is based on our personal perception of how these approaches to child care fit in our philosophy on the role of Federal Government.

To summarize, the ABC approach embodies far too much Government intervention into the lives and personal decisions of families. I cannot support legislation which involves so much interference in family life.

A tax credit approach, on the other hand, embodies good family policy by providing targeted financial assistance to families most in need at a time when they need it most, with no strings attached. It's that simple and it's that clear.

Mr. President, once again I would like to commend the sponsors of the ABC bill for their sincerity on this matter and their genuine efforts to improve the bill. However, the ABC bill is a lemon. No matter how much sugar you add to sweeten it and no matter how much water you add to dilute it, the best you ever get is lemonade. While lemonade might be a good thirst quencher on a very hot day, it is not the stuff on which children grow to be strong and respectful citizens.

Thank you very much.

Mr. BENTSEN addressed the Chair.

The PRESIDING OFFICER (Mr. GRAHAM). Who yields time?

The Senator from Texas.

Mr. BENTSEN. Mr. President, the distinguished manager of the bill has given time to me.

Mr. President, for the last several years we have listened to the concerns of many here, particularly the elderly and the disabled, and we would like to address those concerns. Now the Social Security system is sound. Now Medicare takes care of more elderly Americans and disabled than ever before. But there is one group that we have not adequately responded to. That is a group without a vote, and without much clout. That is the children of America. It is time we address those concerns.

Last year we created a National Commission on Children, a bipartisan commission, to give us a blueprint of the things that we ought to accomplish for them. There is plenty to do. It is time we get on with that job. We have that kind of a bill before us today.

The bill before us today, S. 5, is an important step on a long road toward meeting two priority needs of children today—for safe and wholesome child care, and for affordable health care.

We know that this bill is not going to solve all of those concerns, but it is a part of fitting it together. It is building that quick. It complements efforts being made by the States and communities to meet those kinds of urgent needs.

Let me tell you why the health insurance credit portion of it is so important. Right now there is one in five children in the country that have no health insurance or public health insurance whatsoever. Nearly two-thirds of those are in families that are receiving less than 185 percent of poverty in income, the very families that this credit helps. Remember that more than three-quarters of the money for this credit goes to families earning less than $15,000.

I have heard some speak that nothing is being done for those of $50,000, $60,000. Oh, yes, it is. We have the legislation there on dependent care that says that we help those people with 20 percent of a tax credit, up to $2,400 payment per child, or $4,800 for two children, or you are talking about $960, and that is whether they are earning $28,000, $50,000, $500,000 or $5 million. Then on the other side, we take care of the people on Medicaid. They have greater access to health care for people on welfare, than you have for someone making $15,000 a year or $20,000 a year. That is what we are trying to address, that group that is trying to stay off welfare, that wants to earn their own way, and yet are having a tough time getting health insurance and paying for it for their children.

What we have seen is an erosion of health insurance for employees of this country. Since 1980 to now, as you look over the medium-size employers, large employers, there has been a 20-percent drop in health insurance coverage for dependents, for children. At the same time, you see an escalation in cost of those premiums. Last year they went up 17 percent. So what happens? Fifteen thousand dollars a year, trying to make ends meet. We just have to bet on the kids not getting sick this year; we are not going to take out the health insurance. We are hoping that it works out. And then the child gets sick. Let us hope that the fever breaks, that it will take care of itself.

We had Mr. Farr, who heads the Association for Children's Hospitals across the country, telling us before the committee that there has been an alarming drop in the number of children that are covered by health insurance that come into these hospitals. What we need is the private sector and the public section working together to try to address that kind of a concern, and that is what we do in this kind of a legislation. We try to take care of that gap and to fill that gap. I heard one of the Members here speaking, saying that it is not enough, it does not take care of it, does not go far enough, it will not increase the amount of health insurance coverage. That is absolutely wrong.

We had a survey taken of what the average premium is for the employees, working for companies, for coverage on health insurance, $800. Now, what this one does, it is a credit that goes up to 50 percent, up to as much as $500, for a premium paid to the extent of $1,000. Here we are talking about an average of $800. So what that means is, for those people, it cuts it in half, instead of their paying $800, they pay $400. Instead of paying $66 a month, they pay $33 a month. It does not make a difference? Of course, that makes a difference.

In the State of the distinguished Presiding Officer today, Florida, what they are doing is taking school systems and putting together a health plan, demonstration plans, to see if we cannot have health insurance coverage on a wholesale basis on a much lesser cost for those children. This will help that program. We are seeing it done in California now where they are saying for a young child, $320. For one up to the age of 19, an older child, $250. This kind of a program will take care of that. That is what we are trying to accomplish. It is a substantial help to them and terribly important.

Blue Cross and Blue Shield, testifying before us, said they expected insurance companies to respond to this kind of incentive, to market toward that kind of product and to try to increase it. Health Insurance Association of America said that credit will make a dramatic difference in the proportion of low-income employees that are taking health insurance for their children.

The National Federation of Independent Business said that credit will make significant strides in helping low-income working families purchase health insurance for their uninsured children. They applaud that kind of credit, because it recognizes the issue

of the uninsured can be tackled by that kind of legislation.

In the area of child care, the ABC bill, sponsored by the distinguished Senator from Connecticut, will go a long way toward improving the supply of safe and affordable child care for families throughout this country. Much has been said here about the Federal standards, and if such standard were actually included in this bill, I would not be up here working for this piece of legislation. That is not what we are talking about. We are talking about model standards, a compromise worked out by the Governors, one which they support to protect the health and safety and well-being of our children.

This bill will help to fill the gap we have today, between those on welfare and those who are well off, who can afford to pay for child care and health insurance.

The administration has proposed a credit, too. But it is not targeted on child care, or child health, or anything else.

So what we have here is a question about setting priorities. And I think the American people would agree that good child care and health protection for children should be given the highest priority.

ABC goes hand in hand with the child care tax credit that was reported by the Finance Committee.

Right now that credit helps mainly middle and upper income families. Of the $3.7 billion now being spent, nearly 45 percent goes to families with incomes above $30,000.

What we are doing in this bill is making Federal tax policy more equitable by increasing the amount of the credit for very low-income families, and making it refundable, so that even families with incomes so low they pay no taxes will be able to benefit, too.

That is what S. 5 is all about. Leveling the playing field a little for low-income children—caring for them when they are well, and when they are sick.

These are priorities for Americans today—for our families, and for our children.

The PRESIDING OFFICER. Who controls time?

Mr. PACKWOOD. I believe I do. I yield 7 minutes to the Senator from Minnesota.

The PRESIDING OFFICER. Seven minutes is yielded to the Senator from Minnesota.

Mr. DURENBERGER. Mr. President, whichever bill we pass on this floor, the Mitchell bill or the Dole bill or the President's bill or the House bill, only makes a dent in the problem of child care in the United States.

I would conservatively estimate that we have a $75 billion problem, against which we are putting about 4 billion new Federal dollars.

So when you have only one bucket of water to throw on a burning house, you had better aim it carefully.

As one of only two Members who marked up both the major pieces of the Mitchell substitute on which we will vote shortly, let me say that this bill is not one for textbooks on Senate procedure.

As a member of Labor Committee, I am somewhat amazed at the difference between the ABC bill we marked up on March 15, and the package we have before us now.

The transformation of all of the nonnegotiable parts of the ABC bill, Federal standards, a tax credit and any form of assistance to church-based child care to the noncontroversial has been astounding.

As to our experience in the Finance Committee, I have gotton used to the amount of money the committee usually has on the table, but our June 15 markup was breathtaking.

With less than a week's notice, we spent $3 billion, and created a new, and poorly understood health credit in about 90 minutes.

Ever since then, the chairman has been, as he just did, trying to justify why we did it. He said here a little while ago that you better hope your kid does not get sick before you pass the Bentsen health care bill. The fact of the matter is that you cannot buy new insurance, and you do not have it today with a $500 tax credit a year, and it is not going to make any difference to employment-based insurance, because the employer does not get the credit.

To say nothing of the fact that we are originating revenue legislation in the Senate without even giving a thought to what always happens in the House when we do that. This is kind of a textbook case.

Second, I would remind my colleagues that the Federal Government does not enter the child-care business with the passage of S. 5 this week. We are already subsidizing child care to the tune of $7.5 billion a year.

Even including the Bentsen health-care tax credit, which has found its way into this child-care bill, we will not even be doubling the Federal financial commitment to child care.

Here is a chart which describes the "wheel of programs" we have already established in this area of child care to everything from the earned income tax credit, title XX, this wide variety of Federal programs that are already in place in America today to provide limited access to child care.

I believe it is significant that we have had very, very little discussion of how well any one of these programs is currently working. Certainly many of these programs are in the Finance Committee and in the June 15 markup on child care there was very little discussion of any of these existing Federal programs. How might we coordinate that wheel a lot better so we have a lot more kids in a lot more care?

The Dole amendment before us builds on this foundation, rather than digging a brand new one.

These programs are well established. They are already integrated into State and local government.

They are working with the network of nonprofit organizations which always do so much to supplement government services.

And it is important to note that they are doing so without the antireligious restriction which has been included in section 19(a) of the ABC bill for the first time in the history of public policy in this country. And it was not put there by child-care advocates. It was put there by those who fear that somehow or other choice in child care is going to lead to choice in other areas of public activity like education.

Third, Mr. President, we need to remind ourselves of the public policy lessons of the last decade.

We have come a long way in this country in the last 9 years on the principle that people spend their own money more efficiently and effectively than government spends for them.

That means it is usually better to cut a tax than to create a new program.

As our resources grow scarcer at the Federal level, we need to appreciate what gives us the most for our money.

That boils down to two principles: Target resources to supplement the income of those who need it most and encourage the private marketplace and the nonprofit sector to do as much as it possibly can.

In a relative comparison, the Dole amendment will provide more parental choice and leverage more private resources than the Mitchell substitute.

We must remember, this is not the beginning of the end on this bill, it is only the end of the beginning.

We still need to go through a difficult conference with the House.

We need to take as much choice into conference as we can, in hopes that we will be able to bring some of it back out.

Fourth and finally, Mr. President, this boils down to 51 votes.

We have had an interesting debate on this floor as to the best means to achieving a bipartisan objective.

There are the natural suspicions on both sides; we each have our own ideal child-care policy.

In the final analysis, the issue is on what basis we can move forward toward a consensus solution to a problem we all perceive.

On balance, I will be supporting Dole amendment here this morning.

I believe it represents a logical extension to the established Federal efforts on child care.

I believe it takes better advantage of parental choice, and is less reliant on governmental decisions at the Federal and State level.

I believe it avoids a serious pitfall contained in ABC—writing the religious wing of the nonprofit sector out of the solution.

It eliminates the Bentsen health-care tax credit. We can find a better way to spend $1.5 billion a year to serve the health needs of poor Americans.

But the most important thing is that we continue to move forward. There has been significant movement by both sides in this debate.

I believe we are converging toward a bill that can gain bipartisan support in the Congress and, with further modification, win the support of the administration.

As long as neither side makes the good the enemy of the best, we will reach a bill which makes a difference for American families who really are in desperate need.

Mr. President, the issue before us today is not a new one. We have what I like to call a $75 billion problem that is currently being met by an estimated $7.5 billion a year effort by the Federal Government for child-care-related services. It is a measure of how far we have come that the issue here on this floor is no longer on whether or not there is a need for improved child care in this country—there clearly is—or even whether or not the Federal Government has an obligation to meet—clearly it does. No, the debate today is over how to expand the Federal role in child care and what foundation we will be laying for future generations and the 21st century.

Most people are surprised to learn that right now, already on the books, are as many as 40 programs contributing to the Federal Government's current involvement in child-care-related services. However, there is no comprehensive child-care policy in this country to address the changing needs of today's families. Current Federal child-care programs include a broad range of services including, day-care services, employment assistance programs, nutrition programs, tax benefits for both employers and employees, child-care training programs and others. The form of assistance under these programs range from direct program funding to indirect tax credits.

It is not difficult to demonstrate the need for improved child care in this country. We are all aware of the increased participation of women in the work force—often because of economic necessity. Children make up the poorest segment of our society, with over one-fifth of today's children living in poverty. We have all heard how we are failing to properly educate and prepare today's children for the challenges of tomorrow. We are reminded of this with grim statistics that show our students tested 13th out of 14 nations in math, that 92 percent of today's teenagers have experimented with alcohol before graduating from high school. And that between 1981 and 1985, the suicide rate for children more than doubled.

There is nothing more important to the future well-being of this country than giving our children the proper care and tools they need to grow, learn, and live healthy, meaningful lives. But, today we are failing to provide children with the start they will need to lead this Nation into the 21st century. Clearly, Mr. President it is time we reaffirm our commitment to the value we place on children and on the well-being of future generations.

Much of the credit for getting child care the kind of national attention it deserves must go the authors and supporters of the Act for Better Child Care [ABC]. Without the efforts of the chief author, my distinguished colleague from Connecticut, and the organizations that make up the ABC coalition, I seriously doubt that we would have raised the national attention to this issue that has lead to this debate here today.

Mr. President, legislation which the Congress passes this year will set the foundation on which child-care policy will be built for a decade or more. I believe we have both the opportunity and the obligation to today's families to build upon this broad foundation to both guide and support future steps we take to address this critical national problem.

As we begin to build this foundation, I believe it is important to start from a set of principles that are essential in child-care policy. And I commend President Bush as well as the distinguished minority leader for the work they have done in developing principles that set the foundation of both the President's child care proposal, S. 601, and the Dole substitute before us today.

Expanding upon these principles, I believe the essence of child care must be to: Maximize parental choice; recognize the financial needs of all low-income parents with children, not simply families with documentable child-care expenses; target resources to those most in need; ensure quality; minimize bureaucracy and maximize coordination between existing programs; avoid discrimination against religious provided care; and encourage employers to take a greater responsibility in meeting the work-family needs of their employees. The above, I believe represent a soild foundation from which we can build child-care policy that will last into the next century.

Given the fact that we can spend only a fraction of what is truly needed to meet the demand, we need to ensure that we respond in a way that maximizes resources and minimizes bureaucracy. We need to leverage as much care as we can for our buck. This means getting as much money directly in the hands of parents to enhance their care options as possible. Everytime we create another exchange, we reduce the dollar value of the original payment.

I have learned from my 10 years serving in this body that more Federal dollars in and of themselves is not the most efficient or best way to solve problems. More government is not always the best solution. Nor is the watering down of various proposals and piggybacking them into one proposal a good one. The result is too often, a package of proposals none of which attain enough of their original proposal to do the job intended. Experience has taught me that giving people the resources and information they need to make wise choices in the marketplace is a more efficient way to expand access and improve quality in public services. In applying these lessons to child care, I have found that we can best meet the needs of today's families by focusing our resources on expanding choices for parents and by assisting low-income parents to better be able to afford those options.

Another way to maximize efficiency is to encourage the private sector to become involved and to assume responsibility for the changing needs of society. No longer can Government be asked to bare the sole responsibility for meeting the needs of this country. The public and private sectors must work together in a coordinated effort to meet the work-family needs of today's workers.

Money spent on improving the well-being of children is an investment in the future of this country. Inadequate child-care affects everything from the future competitiveness of this country to this Nation's basic family values. By ensuring proper care and by reaching children at an early age, we are giving children a solid foundation from which they can build upon in their adult lives. The reponse we sent must both show a true commitment and dedication to this issue as well as recognize the serious financial constraints this Nation is facing.

Mr. President, there is no single solution to the child-care problem, as I think is evident by the various different proposals before the Congress. I believe it is absolutely vital that Federal child-care policy take into consideration the differing needs parents have at different stages of their lives as well as the appropriateness of the different approaches in meeting different populations. Both the Mitchell and the Dole substitutes contain elements that meet parents needs at differing needs. But neither in and of themselves, I believe, offer a complete array of options to parents. Ideally, I would support a toddler tax credit approach for those low-income families with children under the age of three who wish to stay at home with their child during those first critical years of life, expand upon the current DCTC by making it refundable for those with children over the age of 2, and to make direct subsidies available to the lowest income families to help subsidize a broader range of choices that they can afford, and to provide block grants to States to help meet their individual supply and availability needs.

I will vote today for the Dole substitute because I believe that it offers a strong foundation from which to expand these options. The Dole substitute offers a large number of options to parents and reaches a greater number of families than does an approach that focuses primarily on direct subsidies.

I also favor the Dole substitute because it incorporates an important principle advocated by President Bush—that of helping increase the income base of low-income families with young children in which there is no documentable child care expenses. During the debate surrounding another issue before this body—that of parental leave—I have heard from various individuals and constituents groups about the importance of allowing parents to stay at home for those first critical months or years of a child's life. Why then in debating child care do these same groups say that assistance should be given only to those with child-care expenses? I believe it is important that women not be forced back into the labor force simply for economic reasons. For parents who want to go back into the work force right away, that is fine. A common myth is that there are no longer many families where a parent stays at home with a child during the first years of child's life, and that those who do are affluent. But parents who choose to stay home represent the highest form of child care—in the cost of foregone income.

According to the Census Bureau, the median income of two-parent, two-worker family is $38,000, while the median income of a two-parent, one-worker family is $25,000.

According to a Philip-Morris survey, 80 percent of these women would prefer to stay at home during those critical first years. What this says to me is that parents have different needs at different times in their lives. And I believe Federal child-care policy should take into account these differing needs. For these first critical years in a child's life, I believe it is important that child-care policy take into account the needs of parents who decide to care for their child in their home. The Dole substitute addresses this need by expanding the earned income tax credit to acocunt for family size and by targeting children under age 3—the age when most parents would prefer to have the option of staying home and when child-care expenses are the greatest to help out those who would like to work.

I believe the block grant within the Dole substitute will help improve quality, supply and availability of child care. I believe that the block grant which was adopted in part from the Domenici-Durenberger child-care bill will give maximum flexibility to the States to use the $400 million to make substantial changes that meet the individual State needs whether it be improved training and assistance to providers, encouraging employer assisted care, or developing programs for children who are homeless, migrant, disabled, or abused. Under this block grant, there are few restrictions as to what the State can spend this money on.

This point is of particular concern to me as I have spent a considerable amount of time on trying to lift the religious restrictions within the ABC bill. Under the leadership of Senator MITCHELL, we were able to lift the restrictions for the certificate program under ABC. And I thank the Senator from Maine for his sincere efforts in trying to accommodate my concerns.

Because, I think there has been some confusion, I would like to take a moment at this point to clarify exactly what the Ford-Durenberger amendment would and would not do. Given the history of this bill, the Ford-Durenberger amendment was the most we could do without seeming to violate the establishment clause under the Constitution. But I must point out that I was—and still am—concerned about the precedent that is established in the ABC bill for religious provided care. Mr. President, there are over a dozen different Federal programs that currently provide assistance to meet the child-care needs of today's families. None of these programs, which are on the books today, which serve the same population and dealt with the same children and do so through grants, contract and certificate, make a distinction between religious and nonreligious child care. In fact many churches in Minnesota and around the country are currently using the funds under these programs for religious provided care, and this has never been questioned, nor has it resulted in law suits. And, they have not had any negative effect that this Senator can determine. It concerns me then, that this issue ever came to this point where there was even a need for the Ford-Durenberger amendment. Thus, I continue to be concerned about the precedent this bill creates for other child care programs—a precedent that would not exist under a strictly tax-based program.

One aspect of the leadership package that disturbs me greatly is the addition of the health insurance credit. With less than a weeks notice or debate the Finance Committee created and marked up a new, poorly understood health credit. I believe if we had taken our time that we could find a better way to spend the $1.5 billion that the Bentsen health-care credit proposes to better serve the needs of the group I believe the Senator from Texas is trying to target. The maximum credit received under this credit would equal $500. In reality, however, most families would receive much less than that amount. This is hardly enough incentive to get low-income parents to purchase major health-care coverage for their families—basic coverage usually starts at $2,500. Thus, what the Bentsen proposal does is it supplements those who already have health insurance, and does little to help the 37 million uninsured. I think we have other vehicles out there that we have all worked hard and long on including expansion of the Medicaid Program, that would be a better investment into the well-being of our Nation's health.

Again, I want to reiterate that I believe we need to make a wide array of options available to parents in order to meet the diverse and changing needs of today's families. And I think this can be best accomplished by the foundation that will be set by the Dole substitute. I would urge my colleagues to support the Dole substitute amendment.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. DODD. Mr. President, how much time remains on both sides?

The PRESIDING OFFICER. The Senator from Connecticut controls 15 minutes and 52 seconds and the Senator from Oregon controls 25 minutes and 51 seconds.

Mr. PACKWOOD. Mr. President, I yield 2½ minutes to the Senator from South Carolina.

The PRESIDING OFFICER. The Senator from South Carolina is recognized for 2½ minutes.

Mr. THURMOND. Mr. President, I rise in support of the Dole amendment to the Mitchell substitute to S. 5, the Act for Better Child Care. I believe that parents are the most qualified persons to make decisions about the care of their children, not the Government. Child rearing is too personal and this Nation is too diverse, to have families subjected to uniform recommended standards that are formulated by governmental bureaucracies.

With the dramatic changes that have taken place in the work force of our country over the last several decades, a growing demand for child care has developed that spans all socioeconomic levels in our population. The increased participation of women in the labor force has contributed greatly to this demand.

It is becoming commonplace in the United States, for both parents in a nuclear-family to work outside of the home. There has also been a significant rise in the number of households that are being maintained by one adult with children. As a result of these changes, terms such as: "two-paycheck-family," "latchkey children," "day care," "caregiver," and "single-parent" have entered our vocabulary. The traditional family, in which the father works and the mother manages the household and takes care of the children, has been dismissed by detractors as an anachronism.

Furthermore, it has been proclaimed by some sociologists that the days of Ozzie and Harriet Nelson have van-

ished. However, there are many Americans who would disagree with such a view. According to figures published in a Bureau of the Census study entitled, "Who's Minding the Kids?" "More than 9.7 million preschool children, or over half of the preschool children in the United States, are still cared for at home by their mothers."

All parents have not left the home for the workplace. There are many men and women who choose to remain in the home to raise their children. I emphasize the word choose, because I believe that the issue of child care revolves around parental choice. Of course, not every parent in our complex society, for various reasons, has the option of staying at home with his or her children. Primarily, because of economic factors, many two-parent families find that both parents must work, in order to adequately provide for their households. The same is especially true for many single-parent families. However, it is important to recognize that each American family has different needs and preferences concerning the rearing of their children. These individual differences must be respected. Policy should not be adopted, on any level, that would discriminate against families, in which a parent stays at home to care for the children.

Mr. President, it has not been established in my mind that State and local governments have fallen short in their treatment of child care, and therefore, need to be guided by Federal legislation in this area. If further regulation is needed in regard to child care, then the State and local governments are the proper authorities to enact it, without the involvement of the Federal Government. The Founding Fathers of our great country intended that the role of the Federal Government is to be of a limited nature, by providing only those services that the States cannot best perform for themselves.

Proponents of the Mitchell substitute assert that the revised version of the Act for Better Child Care would allow States to "respond to the unique needs and resources of the individual States while moving toward a common set of national goals for quality child care services." They argue that States will be allowed to determine their own priorities and act at their own pace in adhering to recommended national standards. Yet, a key objective of this measure is simply to encourage the States to adopt recommended uniform standards. Such standards would have to be as stringent or more stringent than those that would be established by the Secretary of Health and Human Services, based on the recommendations of a National Advisory Committee, in accordance with the language of this act.

In my State of South Carolina, a Republican Governor, a Democrat Lieutenant Governor, and a legislature that is dominated by Democrats in both houses, have worked together to produce bipartisan legislation entitled, "The South Carolina Initiative for Child Care Act." This initiative, which amends the Code of Laws of South Carolina, of 1976, to address current child care needs in my State, recently passed the South Carolina General Assembly as part of the Fiscal Year 1989-1990 General Appropriations Act. Under the act, provisions are included, "to allow certain tax credits for expenditures made by a taxpayer to establish and operate a child care program for the benefit of his employees." The act also provides tax credits for child-care payments made by a taxpayer directly to licensed or registered independent child-care facilities for the benefit of his employees. Included, as well, is a Latchkey Program, to provide for a schoolage child-care program for children, 5 through 14 years of age. Furthermore, the State Health and Human Services Finance Commission is directed to establish child development services in designated counties and to expand those that are presently operated in other counties. Also, a Public/Private Child Care Council is created to report to the general assembly on child-care issues affecting the public and private sectors in South Carolina.

Provisions are included for the establishment of a Day Care Joint Underwriting Association. This association will consist of all insurers authorized to write within the State, and will provide liability insurance on a self-supporting basis for the protection of day care owners and operators.

Finally, provisions have been made for the inspection and licensing of child-care providers and criminal penalties have been increased for offenders.

Mr. President, I offer the child-care initiative of the State of South Carolina, as an example of the progressive efforts that are being made by State and local governments to ensure that children are cared for in safe environments and that their parents, as well as the employers of their parents, are involved in the process. This effort was made by South Carolina lawmakers without prodding from the Federal Government and without the incentives of Federal grant funds.

I am concerned that the Act for Better Child Care, as embodied in the Mitchell substitute, will lay the foundation for a federally funded child-care system. I caution my colleagues to carefully consider the implications of creating a framework that could lead to the fostering of another entitlement program, which the Federal Government is, in this time of budgetary constraints, unable to support, yet, expected to continue, once established.

The Bush administration has indicated that it is opposed to the Act for Better Child Care, which has been incorporated into the Mitchell substitute amendment. President Bush has stated that the "Act for Better Child Care" places its trust in Government, not parents, and that its provisions are not in accord with his principles. The President has suggested that legislative proposals relating to child care should be based on the following principles:

Maximizing parental choice;

Increasing child-care options;

Nondiscrimination against parents who stay at home to care for their children; and

Targeting assistance to families most in need.

I agree with these principles. I am convinced that expansive Federal involvement is not warranted in the area of child care. The approach that should be taken by Congress is to provide assistance through Federal tax relief to parents and through support of existing programs that have proven to be successful, such as Head Start. This allows parents to make their own choices about the care of their children, and helps those families that most need assistance in this area.

Senator DOLE has offered an amendment to the Mitchell substitute amendment, that would additionally:

Expand the earned income tax credit [EITC] by creating a young child supplement;

Make the dependent care tax credit [DCTC] refundable, as well as subject to advance payment; and

Expand the Dependent Care Block Grant Program, so that the States can use the funds to provide a variety of specified services.

Mr. President, I am pleased to be a cosponsor of the Dole amendment. I believe that this amendment merits support and that it is consistent with my belief in the limited function of the Federal Government in respect to the areas of authority of the individual States. Therefore, I will vote in favor of the Dole amendment to the Mitchell substitute amendment to S. 5, the Act for Better Child Care.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. PACKWOOD. Mr. President, I yield 4½ minutes to the Senator from California.

The PRESIDING OFFICER. The Senator from California is recognized for 4½ minutes.

Mr. WILSON. Mr. President, having spoken at length before, let me use my brief time this morning to try to summarize the real differences that exist between the Dole and the Mitchell substitutes.

The first and perhaps most important has to do with parental choice. We are all agreed rhetorically here on the floor that parents should have the choice. But the fact of the matter is these two bills are very different in their approach. The result is there is a very sharp difference between the actual fact of whether or not parents have choice.

They clearly have under the Dole substitute because the choice is theirs to spend money that is put in their

hand through the device of a refundable tax credit, both a dependent care credit and, for a great many what is much more important, through the young child supplement to the earned income tax credit. The cash is in hand. The parents can make the choice without regard to any restrictions imposed by the State.

In stark contrast to that, Mr. President, under the Mitchell substitute, the so-called ABC bill, the decision is effectively that of the State, because the State must decide what kind of child care will be provided and the funds, the Federal assistance provided to the State, msut be "equitably distributed," whatever that means, in the discretion of those States. And the discretion of the State may not coincide with the discretion of the parent. The parent may find that the States decided that only 20 percent will go to so-called family based child-care centers. And there may be 60 percent of the total market that constitutes demand for that kind of child care but it will not be available. Therefore, parents will not get their choice, as they clearly would if the choice were simply theirs to expend the tax credit moneys as they choose.

The second point is that there is no provision, really no provision, in the Mitchell substitute for the so-called at-home mom; that is to say, the mother in the working poor family that decides to forgo a second income in the interest of staying home to give her child, in those most critical first days and months and years, the kind of personal maternal care for which there is probably no adequate substitute in terms of providing the kind of bonding, the kind of attachment that makes for a very different kind of adult.

There is nothing in the Dodd-Mitchell substitute that provides that. They have a dependent care credit but the dependent care credit does not permit the at-home mom to enjoy Federal assistance. Because, first, she must, in order to receive anything under the dependent care credit, have purchased child care and submit documentation to prove it. Only those parents who work, who are seeking employment, who are enrolled in a job, those are the ones that can qualify.

Finally, the targeted funds in the Dole amendment go to those in need.

The other day the distinguished Senator from Connecticut made the point that under his bill families can receive assistance even if they have the median income in the State. In my State, that can be $47,000. That is not the working poor. It is the earned income tax credit that will go to the working poor and that is where the money should go.

We should not be subsidizing those who are not in need. Instead, we should be making the money go to all eligible families, as it will under a tax credit. But under the market requirement, the market rate requirement of the Mitchell substitute, only 500,000 children of a potential 13 million children will receive the kind of care that we hear all this bleeding about. How much better to not have rich program for a very few but to have a program that allows all eligible families to participate in to some extent.

The PRESIDING OFFICER. The Senator's time has expired.

Who yields time?

The Senator from Connecticut.

Mr. DODD. Mr. President, I yield 3 minutes to the distinguished Senator from Georgia.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. FOWLER. Mr. President, I rise today in support of the bipartisan effort led by Senator ORRIN HATCH and the distinguished Senator from Connecticut in an effort to address a serious need in our society. I have listened very closely to the debate this morning which continues, as it did, with Senator WILSON of California, on the question of choice. And the effort is being made to draw the distinction between the Dole substitute and the leadership amendment on the question of choice.

In this brief time I simply want to say that what we are about are mothers who have no choice, no choice as to whether to stay home or to go into the workplace. All of us who are parents will attest to the need of children to be cared for at the earliest, and at the latest time in their life, if they are to grow to be responsible adults. But many, many mothers in my State and throughout the United States have no choice but to go into the workplace and to try to find a place that they can trust, with people they can trust to care for their young children.

Why do they have no choice? Well, let us be honest. They have no choice because there are no fathers in the home. They have no choice because they are on welfare. And every year we debate how we can move mothers off welfare into the job market so that they become responsible taxpaying citizens. They cannot do that, they cannot work unless somebody looks after the kids.

The Mitchell substitute puts the choice, the priority choice, where the choice is mandatory for people who must work and somebody must look after the children. I was critical of this bill a year ago, 2 years ago, because as a graduate of vacation Bible schools I know that many people choose vacation Bible schools and sectarian institutions because that is the only responsible, safe, and sane place for their children to be kept when they must go into the workplace to provide for those children.

I was initially critical that somehow we were going to make all these Federal standards. But the authors, led by this bipartisan effort, Senator HATCH and Senator DODD, have said the States ought to be the place to set the rules under which we provide the safest quality acceptable care for our children. I applaud their bipartisanship in taking the politics out of one of the most serious questions it faces.

We get a lot of values confused around here sometimes, Mr. President. We have heard a lot this morning about this incredible Supreme Court decision where, apparently, it is a sin to break a window but it is a legitimate form of protest to burn the flag.

That is crazy. Somehow we have confused private property rights with public responsibility and we are going to do everything we can, working in a bipartisan way, to straighten that out.

But there is no question in this approach to child care that the Mitchell substitute goes first to the working mothers that have no choice but to work and that is where our priorities must lie.

(The following occurred subsequently but appears at this point in the RECORD by unanimous consent.)

Mr. DODD. Mr. President, I ask unanimous consent that at the conclusion of the remarks of the Senator from Georgia an editorial from the Atlanta Constitution of June 20, 1989, be printed.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

THE NEW, IMPROVED CHILD-CARE BILL

U.S. Sen. Christopher Dodd's multi-billion-dollar child-care bill has undergone some drastic changes on its way to the Senate floor, owing mostly to President Bush's intransigence.

In place of uniform federal standards, key to upgrading the quality of day-care centers but staunchly opposed by the White House, the Connecticut Democrat's bill now leaves regulation largely up to the states. It also permits the same assistance to church-run centers, provided they do not operate "in a manner inconsistent with the Constitution," which mandates separation of church and state. Those features should make it more palatable to President Bush, who earlier this year sent to Congress a bare-bones, $435 million plan calling for modest increases in Head Start, modest tax credits or refunds for low-income working parents—and nothing else.

As a further inducement to Republicans, the Act for Better Child Care (ABC) also carries an amendment delaying implementation of a law requiring businesses to end disparities in benefit programs for higher- and lower-paid employees.

Tax credits and refunds alone won't cure the nation's child-care problems, as Sen. Orrin Hatch (R-Utah)—ordinarily a staunch White House ally—now argues, taking issue with the simplistic solutions offered by the Bush plan. There are, he insists, "factors that discourage choice in child care which cannot be addressed simply by giving more money to consumers."

Thus, though 70 percent of the ABC funds provided by the Dodd bill would go directly to families to help pay for care (now averaging $3,000 a year), 22 percent would be used to improve the quality and supply of day-care facilities through training grants, start-up loans, resource referrals, public/private partnerships and the like, leaving 8 percent for administrative and enforcement costs. The Dodd bill would provide assistance, on a sliding scale, for

middle-class as well as poor families. It would also make tax refunds and credits, for child health insurance as well as child care, available to poor families.

The changes in the bill are a stiff price to pay for realistic funding levels and incentives for employers and schools to start their own day-care programs—measures that should stand on their own when women constitute nearly half the work force, and two-thirds of women with children under 3 are working. But the price is worth it, if that's what it takes to avoid partisan squabbling and a presidental veto over a measure bringing affordable child care within reach of more families.

No longer the partisan measure proposed several years ago by Mr. Dodd, the bill now bears the stamp of key Republicans including the president. It is closer to the child-care initiative Mr. Bush promised during his campaign than the plan he himself sent to Congress—and it deserves swift bipartisan approval.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. PACKWOOD. I yield 4 minutes to the Senator from Pennsylvania.

The PRESIDING OFFICER. The Senator from Pennsylvania is recognized for 4 minutes.

Mr. SPECTER. Mr. President, there is an agreement on the necessity for child care in this country and there are many good provisions of Senator DODD's bill, now known as the Mitchell substitute. But as I read a critical provision of the Mitchell substitute, there is a very great risk that the bill is unconstitutional and that the unconstitutional provision would bring down the entire bill because it is not severable under the standards of the Supreme Court of the United States.

The Mitchell substitute permits certificates to be used by parents to reimburse pervasively sectarian institutions. It is not an easy matter, but the case which comes the closest to this situation is Committee for Public Education versus Nyquist, where the Court struck down direct tuition reimbursements.

Certain language from the Nyquist opinion is instructive on this issue. On page 780 of 413 U.S. Reports, there appears the following:

> What we have said demonstrates that New York's maintenance and repair provisions violate the Establishment Clause because their effect, inevitably, is to subsidize and advance the religious mission of sectarian schools.

The Court later said at page 784:

> The effect of the aid is unmistakably to provide desired financial support for nonpublic, sectarian institutions.

The prohibition of Nyquist comes into sharper focus in the 1985 decision of the Supreme Court in Grand Rapids School District versus Ball, when the Court points out at page 385, 473 U.S. Reports:

> The programs may provide a crucial symbolic link between government and religion, thereby enlisting—at least in the eyes of impressionable youngsters—the powers of government to the support of the religious denomination operating the school.

Mr. President, the cases which the proponents of the Mitchell substitute rely upon, Mueller versus Allen and Witters versus Washington Department of Services for the Blind, simply do not support the position for which they are cited. And on no day is it clearer than today, when the Supreme Court has just struck down statutes on flag burning, that constitutional mandates are inviolable.

While there are many very favorable provisions in the sweep of Senator DODD's bill, now captioned the Mitchell substitute, we run the very grave and material risk of having the entire effort stricken on these constitutional grounds.

Senator PACKWOOD's bill is more modest and perhaps, absent the constitutional issue, the Dodd provisions would be more desirable than Senator PACKWOOD's provisions. It may be that the bill advanced by Senator PACKWOOD is not going to be successful and then we are going to be faced with an analysis of whether to accept the problems of constitutionality in the Mitchell substitute or to reject the bill entirely.

But the prudent course, I submit, Mr. President, at this time, is to accept the more moderate approach of Senator PACKWOOD which does not raise this grave constitutional issue. And we will have passed important day-care legislation.

I thank the Chair.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. SPECTER. I was about to yield back the remainder of my time, but I need not do so.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. DODD. Mr. President, I ask unanimous consent that an analysis of the very issue raised by our distinguished colleague from Pennsylvania, the church-state issue, be printed in the RECORD in a letter from Jamie Gorelick of the Miller, Cassidy firm in Washington, analyzing the constitutional questions in that particular matter.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

MILLER, CASSIDY, LARROCA & LEWIN,
Washington, DC, June 21, 1989.

Hon. EDWARD M. KENNEDY,
Russell Senate Office Building,
Washington, DC.

DEAR SENATOR KENNEDY: You have asked for our opinion regarding the constitutionality of Section 121(a) of the "Mitchell Substitute" to S. 5.[1] We understand that this language would permit eligible child care programs that include sectarian activities to receive funds through child care certificates, if such expenditure would not violate the Constitution. For the reasons stated below, we conclude that Section 121(a) is constitutional.

As you know, the extent to which religious organizations may participate in government programs as the ultimate recipient of government funds has been the subject of considerable debate in the courts. The path cut by *Lemon v. Kurtzman*, 403 U.S. 603 (1971), and its progeny, is not easily discerned. The Court in that case acknowledged that even it could "only dimly perceive the lines of demarcation" in this area. 403 U.S. at 612.

The boundaries of the debate are broad. On the one hand, direct payment of public funds to sectarian institutions for sectarian purposes is clearly prohibited. *See Grand Rapids School District v. Ball*, 473 U.S. 373, 385 (1985) (striking down state programs that paid for teachers to teach in sectarian schools because the Establishment Clause does "absolutely prohibit government-financed or government-sponsored indoctrination into the beliefs of a particular faith"). On the other hand, indirect public funding of sectarian institutions through tax deductions is clearly constitutional. *Mueller v. Allen*, 463 U.S. 388 (1983) (upholding tax deduction for tuition, textbooks and transportation expenses of sending children to sectarian schools).

Allowing parents to use child care certificates to pay sectarian providers falls within the range of cases as to which no safe prediction may be made. Three cases are illustrative:

In *Witters v. Washington Department of Services for the Blind*, 474 U.S. 481 (1986), the Supreme Court upheld a vocational rehabilitation program for the blind in which the individual student decided which school to attend, even though the program paid for Bible school training of the student for a religious career.

In *Bowen v. Kendrick*, 108 S. Ct. 2562 (1988), the Court upheld the language of the Adolescent Family Life Act which provided funding to religious organizations that counselled teenagers on pregnancy and parenthood, but the Court remanded, *inter alia*, for specific findings on whether particular grantees were using the funding for religious activities.

In *Aguilar v. Felton*, 473 U.S. 402 (1985), the Court struck down a program which provided aid directly to private schools for the purpose of underwriting remedial education, because ensuring that federal funds were not used for religious purposes would excessively entangle the state in the supervision of sectarian schools.

No Supreme Court decisions squarely addresses the constitutionality of permitting child care certificates to be used to pay sectarian providers. It is apparent that the issues that will be considered in evaluating the constitutionality of such a program are, *inter alia*, whether the statute has a principally secular purpose, whether the primary effect of the aid is to advance religion, whether the intervention of individual choice in the use of the certificates alters or eliminates the element of state involvement, whether the statutory scheme excessively entangles the state with the affairs of sectarian schools and whether the institutions aided are pervasively sectarian.

As always—but particularly in these circumstances—the courts will be, and properly are, the ultimate arbiters of constitutionality. Even without specific language barring unconstitutional expenditures of finan-

[1] Section 121(a) provides: "(a) SECTARIAN PURPOSES AND ACTIVITIES.—No financial assistance provided under this title shall be expended for any sectarian purpose or activity, including sectarian worship and instruction, except that this subsection shall not apply to funds received by any eligible provider resulting from the distribution of a child care certificate to a parent under section 108(a)(1)(C). Financial assistance provided under this title shall not be expended in a manner inconsistent with the Constitution."

cial assistance, the courts would provide a check on unconstitutional activity. Inclusion of such a provision in the statute itself signals to those implementing the legislation and to the courts both Congress' understanding that difficult issues are raised by the legislation and its inability to predict the judicial outcome of a constitutional challenge to that legislation. The provision expresses Congress' unwillingness to pass legislation transgressing constitutional limitations. Similar language was used in the early 1970's in legislation authorizing busing as a remedy for school segregation. Equal Educational Opportunities Act of 1974 § 203(b), 20 U.S.C. § 1702(b) (1978). In reviewing that legislation, courts have noted the provision as manifesting Congress' purpose to ensure the constitutionality of its actions. *See, e.g., Morgan v. Kerrigan*, 530 F.2d 401, 413 (1st Cir. 1976); *Newburg Area Council, Inc. v. Gordon*, 521 F.2d 578, 581 (6th Cir. 1975). Such a provision is a most appropriate failsafe here to ensure the constitutionality of the measure.

Sincerely yours,

JAMIE S. GORELICK.

I point out to my distinguished friend and colleague, our colleagues felt very strongly on both sides of the aisle here that there ought to be a provision that allowed for these certificates to be used at religious-based institutions. Most of our colleagues in this Chamber have expressed that view strongly. He and I discussed it. I appreciate his concerns. We have included a severability clause so if this issue is raised in the court, as it may very well be, the courts will at some point decide that issue. I yield the floor.

The PRESIDING OFFICER. Who yields time? The Senator from Oregon.

Mr. PACKWOOD. Mr. President, I yield myself 4 minutes.

The PRESIDING OFFICER. The Senator from Oregon has yielded himself 4 minutes.

Mr. PACKWOOD. Mr. President, very briefly, let us again go over some of the points raised by the opponents to the Dole amendment. The Senator from Massachusetts [Mr. KENNEDY] talked about other bills we have passed at other times. He said nobody here railed about standards in those bills. No, indeed, we did not. In many bills we pass, standards are needed. If you are going to pass a bill related to interstate commerce and railroads, you need a standard width. If you talk about the Federal Aviation Administration and airports, you need standard frequency for safety.

However, there is no need for Federal standards in this bill. And mark my words, Federal standards are what we will get when the original proponents of the ABC bill are back again in 2, 3, 4 years asking us to put Federal standards back into the bill. And they will try. But, these standards are unneeded. There is no need for that section in the bill at all.

Second, on religion, the following provision is still in the bill:

No financial assistance provided under this title shall be expended for any sectarian purpose or activity, including sectarian worship or instruction. * * *

The Senator from Georgia will not have to worry about the vacation Bible school. There will be no money going to that school under this bill.

An argument is raised that a State can have certificates if it wants. However, only half the States at the most have certificates in one form or another. Certificates are like a voucher. You give it to the parent, the parent turns it in to the day-care provider, the day-care provider turns it in to the Government and gets money for it. Some agree that this is constitutional. I think the Senator from Pennsylvania is correct that it is probably actually unconstitutional. But there is no question about the constitutionality of a straight out tax credit where a parent sends their child where they want for child care, religious or nonreligious, pay some money to the institution and gets to take a portion of the child-care expense off their income tax. That is constitutional. No question about it.

In terms of the homemaker, there is an honest difference of opinion. There are some people who think, apparently to the amazement of the opposition, that the best way to take care of their children is to stay home with their children and not go into the work force. The opponents to the Dole amendment made it clear they do not intend for that person to get any child-care money in any way, shape, or form. They have amended their bill and amended their bill and amended their bill to attempt to take care of religious objections and national standard objections. They have never amended their bill to take care of the homemaker.

So under the Mitchell amendment, you can be assured you will get zero Federal assistance for child care if you think the best child care you can give to your child is to stay home.

The underlying bill is called the ABC bill, the Act for Better Child Care. I think it really ought to be called Anything But Choice, because there is going to be no parental choice of any consequence in this bill. There certainly is going to be no children's choice of any consequence in this bill. The States are going to determine which day-care centers get money. They must not be for-profit day-care centers like Kindercare. They cannot be religious day-care centers, like a Seventh Day Adventist or B'nai B'rith day-care centers. And the parents can express a wish as to which of the State-chosen centers they might like their child to go. But it is a wish, it is a hope. There is no guarantee that is where the child will end up. The ABC bill is a bureaucrat's dream.

I fear that the Dole amendment may lose. I think the sides have hardened on this issue. It is unfortunate, because if the ABC bill passes in its current form, we are going to see a bill that uses at least 30 percent of its money for administration, not for child care. We are going to see States attempt to draft standards of one kind or another that will make it very difficult for parents to leave their child with a neighbor who has maybe taken in four or five children herself from around the neighborhood.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. PACKWOOD. How much time is left on our side, Mr. President?

The PRESIDING OFFICER. Nine minutes, 56 seconds.

Mr. PACKWOOD. I will yield myself 2 more minutes.

The PRESIDING OFFICER. The Senator is yielded an additional 2 minutes.

Mr. PACKWOOD. Last, in terms of common sense, I want to talk about whether the approach of the ABC bill or the approach of the Dole amendment in terms of ease of administration is more rational. Under the ABC bill, we tax the citizens, and we bring the money to Washington, DC, then Congress passes bills to appropriate the money. That money goes to a Federal agency, which in turn gives it to the State governments. The State governments in turn purchase day-care slots in different day-care centers. That is the way the ABC bill works.

Under the Dole approach parents send their child where they want. The bill allows them to take a certain portion of that cost off their income tax. Parents know what the tax credit is ahead of time. They know how much they are going to be able to take off their income tax depending on what their income level is and how much they spend on child care. They put their child in the day-care center, of their choice and they take so much off their income tax.

I ask you, Mr. President, which is the simpler approach? Tax the citizen, bring the money, to Washington, DC, appropriate it, give it to a Federal agency which gives it to a State which buys slots in a day-care center, or say to a parent, send your child where you want and take part of the expense off your income tax, no additional bureaucracy, no additional IRS agents, no additional rules or regulations from the Federal Government or from the State government; just a simple choice.

Mr. President, I think it is clear which is the better alternative. Mr. President, I yield the floor.

The PRESIDING OFFICER. Who yields time? The Senator from Connecticut.

Mr. DODD. Mr. President, I yield 1½ minutes to my colleague from Nebraska.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. KERREY. Mr. President, the debate over the Act for Better Child Care, S. 5, is drawing to a close. This Chamber has been filled many times over with the words of arguments made by our colleagues. I concluded

prior to listening to the arguments that this bill was worthy of my support. The current status of our children and the thoughtful, caring way in which Senators DODD and HATCH have conducted themselves when confronted with reasonable objections have solidified my decision to vote "yes."

Mr. President, the careless manner by which this legislative response to America's greatest challenge has been delayed angers me. However, the misrepresentations made by some who oppose this legislation have already been addressed effectively and passionately by the Senator from Connecticut and the Senator from Utah.

The purpose of my comments today is to persuade those still undecided that they should vote for this bill. I urge them to support it. I urge them to consider three things:

First, America has changed; second, our expectations are higher; and third, delivery system of ABC is best.

1. AMERICA HAS CHANGED

On Tuesday, the Senator from Arkansas [Mr. PRYOR] rose to offer a worthy amendment which was accepted by the bill's principle sponsors. Senator PRYOR's amendment and the tax credits already in the bill would help parents care for latchkey children.

After making his argument he digressed into a memory. And it was in that memory, Mr. President, that I was moved.

He began by saying that he was probably a latchkey child when he was growing up. He recalled coming home from school and picking up the phone to find out where his mother was. In those days, the Senator said, there was no dial tone; only a central operator. When he picked up the receiver the operator said, "David, is that you?" He answered "yes," and she answered his question about the location of his mother.

Senator DODD, after accepting the amendment, allowed himself to describe what it was like for him to grow up. He said he never recalled a day coming home from school that he could not enter the front door of his home, holler for his mother, and find her there.

Then, the Senator said the most remarkable thing: "I wish this bill wasn't necessary. It is not with glee that I must propose it. I wish that children today faced the kind of home that I did. But increasing numbers of them do not".

In a dramatic reversal of roles, the details of this deficiency were presented in stirring fashion. Senator HATCH, a conservative Republican, offered the most impressive testimony yet that this legislation meets a sad and critical need.

Mr. President, I do not make these comments to mean that it is lamentable that increasing numbers of women are in the workplace. I believe it altogether good that Americans have acted affirmatively to provide increasing political and economic opportunities for women.

Rather, there is something lamentable in that both men and women in America seem to have lost sight of what they are working for. The impact of all of this upon me is to ask "Why? Why does this condition exist? What have we done to ourselves during the great economic advances of the past 50 years that has produced this?" Our standard of living is higher. We are more free to choose and to do what we want than ever before. The burdens of growing food and of providing shelter, clothing, and fuel have been substantially reduced. And the scourge of many childhood illnesses have been stopped with modern medicine.

Unfortunately, rather than looking out upon a nation of people with more leisure time and more time for reflection with their families, I see a nation scrambling to catch up, stay even or get ahead. Americans seem to be locked into a competitive race with an unseen enemy, and too often the race has become more important than where we are going.

I am not certain, Mr. President, why this is, but I believe one factor can be seen in the opposition to this bill. The attitude of the opponents seems to be that helping the poorest of the working poor is not a worthy enough goal. Rather, there must be something in it for ourselves as well. The opponents either implicitly support a large liberal transfer of Federal dollars to cover every single family in the United States, or their arguments are disingenuous and, therefore, cruel.

Unfortunately, I suspect that in this case it is the latter. I certainly have not heard a convincing argument that low income families do not have the need for the kind of child care this bill makes available. I fear that until we have the courage to help others, even if there is nothing in it for ourselves or the more powerful segments of our constituencies, the divisions in our society will continue to grow.

2. EXPECTATIONS ARE HIGHER: COMPETITION, WORKPLACE CHANGES, VISION OF OURSELVES IS BETTER

Mr. President, we have all come here because we have offered ourselves as leaders. Today, I believe it is increasingly important for us not just to debate what we are going to do to solve a problem, as the ABC bill will do, but to wrestle with questions of purpose. The first step in this pursuit is passage of the ABC bill to help provide families with the means to improve their lives and those of their children.

3. DELIVERY SYSTEM IS BEST

Now, more than ever we need to act according to the title of this bill, for better care, for those most in need. I urge my colleagues to vote for the Mitchell substitute to the ABC bill.

In summary, Mr. President, it seems to me what we are trying to do is design a Federal response to what people in America are already doing, the same way we did in nursing homes many years ago. The people of the United States of America are out purchasing child care as a consequence of all kinds of changes that have occurred. One of the things I have heard over and over is this preference for the woman to stay in the home. I understand that the best care that can be given is given by a mother and a father directly in the home. But I ask those Senators who are objecting to the ABC bill on this basis if they have women who work on their staffs who purchase child care? I suspect that most of us do. I suspect that most of us, in fact, have hired people who are looking at the ABC bill perhaps as a way for them to satisfy their child care needs as well.

Americans are purchasing child care, Mr. President, and what we have attempted to do is design a response consistent with what they are already doing themselves. Yes, we had to make all kinds of amendments and concessions to try to accommodate different interests and different needs but, in the end, our attention has always been focused on those people who are already in the system making those purchases. Instead, I hear in the Dole amendment precisely the opposite. In the Dole amendment, I hear some sort of centralized attempt to say we want to do it this way; we have a preconceived notion of what we think works the best. I do not hear, in fact, an argument that says we are trying to respond to a need out there in America today for increasing numbers of people, radically increasing numbers of people in the last 10 years.

In Nebraska, our first child-care center occurred in 1969, and over the last 20 years, there has been a rapid movement, a rapid change in the workplace for a variety of reasons. One of the things that I center on in my arguments is to say let us not judge that. What do the women think who work for us when we stand up here and say the only kind of real love that you can get is from a woman who stays at home with her child? That is not what we say to our employees. We try to provide an environment in which that care can be given, and it seems to me that what the ABC bill does, in fact, is respond to the needs of America's parents and America's children in the most appropriate, least invasive manner possible. Mr. President, I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. SYMMS. Mr. President, child care is extremely important in our society. It is an issue to which we, as legislators, should give careful consideration. Any bill we pass should be fair to all children and target those who are most in need.

President Bush has laid out four basic principles which he feels are vital to child care in the United States. I support these principles. I believe

they target the essential elements of the issue.

First, the legislation must increase options for parents. The Federal Government should ensure that there are options available to all families with children. Options such as child care from relatives, friends, and neighbors should not be ignored. Church based care should also be taken into consideration. If parents want their children to learn a particular religion or set of values, then the option should be made available to them.

Second, we must maximize parental choice. If the options are made available, parents may choose the type of child care that suits their needs and the needs of their children. These needs are different in every family. Individual priorities should not be dictated by the Government; it is the responsibility of the parents. Congress cannot assume that parents are inept at deciding the type of child care they want. On the contrary, they know best the needs of their children and should be afforded the liberty to choose.

The third principle is nondiscrimination between working mothers and those who stay at home. If a mother decides to stay at home to care for her children, she deserves the same government assistance as a mother who works. Homemakers play a vital role in our society—strengthening the family unit. In the past few decades, society has continuously moved away from the family unit. If parents want to care for their children at home, they should not be punished by Congress. It is not the Federal Government's responsibility.

I am not suggesting that all mothers should quit their jobs, only that they should be able to make this decision on their own. It is not our job to dictate how families raise their children.

The fourth principle is that any legislation passed should go to those most in need—low income families. These families have no options because they cannot afford them. They also have the right to choose the type of child care they want for their children. Any assistance from the Federal Government should not ignore this group.

The Act for Better Child Care does not address even one of these principles. It was intended to increase availability and affordability of licensed child care, however it does just the opposite. If passed, this legislation will result in the closure of many day care centers which do not comply with set standards and, at the same time, drive up costs to the parents to cover the costs of compliance.

In a study conducted by Child Care Review, it was found that the standards mandated in the ABC bill will increase the cost of licensed child care by approximately $1.2 billion a year. This cost will be absorbed by the parents, raising tuition by an average of $351 a year, per child.

According to the Census Bureau, only 11 percent of children under 5 are enrolled in licensed child-care facilities. In view of the additional costs of ABC, the result will undoubtedly be displacement of many children who are currently enrolled in licensed child-care facilities, thus the ABC bill will benefit less than 11 percent of all children under 5.

The ABC bill mandates several requirements for States in order to receive funds. These include development of a child-care plan, which regulates a strategy for regulating all licensed providers and conducting inspections of these centers and homes, where ever child care is provided.

So if a grandmother looks after her grandchildren, she is required to sign a contract with the State and the parents describing in detail the type of care she will provide, and be subject to unannounced inspections to ensure that she complies with the health and safety standards. She would also have to provide daily reports to the State indicating that she met the nutritional standards of the State in feeding her grandchildren. On top of that, grandma, who has undoubtedly had experience in caring for children, must go through training to prove she is competent enough to care for her grandchildren! Given these requirements, it is unlikely that grandmothers will receive funds under ABC.

In the United States, substantially more children are cared for by relatives and friends than day care centers. In view of the strict regulations, these children will not benefit from the ABC bill. This definitely limits parental choice in child care, ruling out the major provider for funding.

Proponents of the ABC bill state that it will provide direct assistance to parents. This assistance is in the form of "child care certificates." If a State chooses to offer these, the certificates do not offer a variety of choices. Parents would have to sign a contract with the State, which would select and approve the type of child care. Therefore, the selection of child care falls under the jurisdiction of the Government. The parents have very little choice in care for their own children.

ABC then establishes a national board, the National Advisory Committee on Child Care, and requires each State to set up a similar board to police child-care providers and ensure that they comply with the Federal standards—to be set at a later time by the national committee.

I am curious as to where parents fit into this plan, if at all. The Federal Government is not in the babysitting business. However if Congress passes the ABC bill, that is what we will be doing.

A tax credit approach to child care would give the responsibility of child care to the parents. In this way, the funds go directly to the family without discriminating against any particular group.

Senator DOLE has offered a substitute amendment to the ABC child-care bill. It is a compromise of the various pending tax credit proposals. This would make the current dependent care tax credit refundable, enabling lower income families who do not file returns or pay little in taxes, to benefit from the credit.

The amendment also provides an expansion of the earned income tax credit for families with one or more children under 5. This will benefit single-income families. This proposal will give families the flexibility to choose what type of child care best suits their individual needs. I believe the tax credit approach is the best solution to this problem and it would benefit the most people.

The PRESIDING OFFICER. Who yields time?

Mr. DODD. Mr. President, how much time remains?

The PRESIDING OFFICER. The Senator from Connecticut controls 7 minutes 53 seconds, the Senator from Oregon 7 minutes 54 seconds.

Mr. DODD. Mr. President, I yield 2 minutes and whatever seconds to myself.

Mr. President, very quickly, it has been a long debate, almost a week long. First of all, there is basically no disagreement on the tax side of the proposals. They are hardly distinguishable given what is included in both the Dole substitute and the Mitchell substitute.

The real differences are the three basic problems that American families face when looking at child-care issues today: The quality of that care, the affordability of that care and the availability of that care.

In the State of Florida there are 30,000 slots that are needed for children in that State; in Alabama, 7,000 to 10,000 slots; in Illinois, 30,000 slots; in Georgia, there are 133,000 children under the age of 5 living in poverty and only 8,000 of those children get any kind of child-care assistance at all. We are trying to increase availability by providing assistance to the States.

On affordability, the average cost is $3,000 per child per year. We try to alleviate some of those cost burdens that families face living in poverty, or who are working families. The ABC bill does that. With all due respect, the Dole substitute says there is really no problem in that area; we are only going to address the poor.

And last, quality, here we try to say that the quality of care ought to be improved. The substitute says quality is fine, do not worry about it, and yet we know in many jurisdictions there are no standards at all. We do not mandate standards, Mr. President, but we believe that your car and your pet are guaranteed certain standards and protection by State licensing agencies. We think your children deserve no less, that if they are going to be in a child-care center, we ought to be able to say the people who are watching them, the room in which they are in,

and the food they eat meets minimum standards. We are told we are wrong to insist upon that. We think we are right, that we are helping American families by trying to improve the quality of their care.

On affordability, on availability, and on quality, the Mitchell substitute addresses what the American family is seeking. With all due respect, the Dole substitute does not address those issues at all.

So, Mr. President, I urge my colleagues today—I am confident we can put together a compromise package. With Senator HATCH working with me, we have put together a bill that addresses the concerns that our colleagues and others have had. We believe it is a bipartisan approach. We look forward to working with the President and our colleagues who take a different point of view. We need to put partisanship aside. We need to deal with the issue on a substantive basis. That is what we have been striving to do for 2 years. We will continue to do that provided that we defeat the Dole substitute and deal with the Mitchell substitute, handle the amendments and work with the White House in putting together a comprehensive child-care program.

Mr. President, I yield back the remainder of my time. I apologize, Mr. President. I yield the floor. I still have approximately 5 minutes remaining.

The PRESIDING OFFICER. The Chair informs the Senator that he has 4 minutes and 40 seconds remaining. Who yields time?

Mr. DOLE. Mr. President, the only time remaining is, I think, my time and I would like to be the last speaker since it is my amendment.

Mr. DODD. As I understand it, I have 4 minutes and 45 seconds remaining. I will be glad to yield to my colleague from Utah the remainder of our time.

Mr. HATCH addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Utah [Mr. HATCH].

Mr. HATCH. Mr. President, over the last number of years as I have looked at this issue I have seen thousands of instances of families in turmoil and trouble that cannot even find adequate child care. I have seen single heads of household who do not know what to do. I have seen waitresses who have split shifts and changed shifts who cannot solve their problems on child care because they only make the minimum wage and the average cost is $3,000 a year.

Yes, they would be helped by a tax credit, if they have two children, of $750. That means they would only have to come up with $5,250 out of the approximately $10,000 or $12,000 income to take care of those two children themselves.

I have seen women who had everything going for them; husband working, loving them, showing them great affection, bringing home the bacon and staying home with the children, and then all of a sudden the husband does not come home one day because he dies. I have seen them faced with the reality of having to go to work without having worried about education or without the requisite skills and having to support those children and pay the house payments knowing that they could do it as long as the husband worked, and not being able to make it and scrambling and scratching and worrying all day long about not being able to have child care because they cannot afford it, so their kids have to go without.

I have heard the stories, and they are true, of kids crawling into the gas dryer and getting killed because they have no supervision. I have heard the stories of little children running across the street and getting killed because there is nobody there to supervise them. I know there are 5 to 15 million latchkey children in this country who do not have adquate support.

Let me tell you something. I believe we should have a comprehensive child-care bill and neither side has the total answer. I would enthusiastically support this Dole amendment if it were not a substitute. I support tax credits. It is a good idea. I believe they can contribute a great deal to a comprehensive child-care bill. But I cannot support the Dole amendment in the form of a substitute because it completely wipes out the ABC bill. I am not for the wiping out of the ABC amendment because I think it adds a great deal.

I think Members on both sides of the aisle recognize the importance of dealing with the child-care issue. I have said and demonstrated in as many ways as I can that I support the tax credits and I would like to see the provisions of the ABC bill broadened to take care of the parent who stays at home as long as the other parent works. I would like to see it. I think we will before this debate is over. But I do not believe the tax credits are the only answer because they leave too many gaps. A tax credit does not adequately address availability or quality concerns which are as much a part of this debate as anything. Let us be realistic. I have said that tax credits do not necessarily solve the problems of cost to those who are in the low income categories such as single heads of household and others who are having a really vicious time getting by.

The ABC bill that has been negotiated over the past couple years is a good bill. It is not perfect. It is a compromise. I give credit to the distinguished Senator from Connecticut and his counterpart, BARBARA MIKULSKI, the distinguished Senator from Maryland. They have worked hard with all of us to try to come up with a bill that would be acceptable to all of us. It is a compromise, but I am comfortable supporting it. If I believed the arguments that were made against it, I, too, would vote against it, but I know they are not true. I believe this bill guards parental choice. It permits participation in all kinds of child care through all kinds of child care providers. It gives the States flexibility, flexibility that they need to design the programs to meet the specific needs of the people.

Actually, the Dole substitute, as I view it, knocks out the entire ABC bill, and although it is a good bill it is not enough. If we put them both together we might have something that could really be worthwhile. I know of the pressure on Senators.

May I ask how much time the Senator has remaining?

The PRESIDING OFFICER. The Chair informs the Senator that there are 7 seconds remaining.

Mr. HATCH. Let me just end with this. I hope my colleagues will vote against the Dole amendment. I do not think it solves the problem, nor do I think it will solve the problem but I hope we can revote on it again as part of a comprehensive package. We will all benefit, and families all over this country will be better off. I think we should support the ABC bill.

The PRESIDING OFFICER. Who yields time?

Mr. DOLE. Mr. President how much time remains?

The PRESIDING OFFICER. There are 7 minutes 8 seconds remaining of the time allocated to the Senator.

Mr. DOLE. I yield 2½ minutes to the Senator from New Mexico.

The PRESIDING OFFICER. The Chair recognizes the Senator from New Mexico, [Mr. DOMENICI].

Mr. DOMENICI. I have had the privilege of speaking on this amendment twice before, and I am delighted to urge the Senate to support the Dole substitute. I wish I had time to do the arithmetic of this bill, but I am just going to do a little bit of speculating.

I want to repeat. I sure would not like to be out there in the States of this Union when they have to ration the child care under this bill.

My best guess is that if the entire profile of young children that this bill says are going to be helped, if you are going to try to help them, then I think you probably are going to help about 7 percent of the children. I do not believe that is the way it is going to turn out because I think there is going to be selective processes out there in the States that favor centralized facilities that find every excuse to fund religious facilities.

I believe out there in all of the counties and parishes across America, politics is going to get involved in that very tiny portion that are going to be privileged enough to get help. I am proud to say that we are going to help the poor children first. We are not trying to convince Americans that we are going to help everybody.

Those who are for ABC say we might even help $47,000 income families. If you really believe that, you are

going to try to take care of 16 million children with about an $800 million grant program. My best guess is that is about $25 a child. That will not work.

So the process of rationing is going to create a new group. Maybe we will call them kiddycrats instead of bureaucrats who are going to have to be out there making decisions on behalf of parents, and are the parents in this country going to be surprised when they find out about that process and that they have been left out.

I thank the leader for yielding to me.

Mr. BOSCHWITZ. Mr. President, I rise in support of the Dole-Packwood substitute, of which I am a cosponsor. This is the right approach to child care, and much of this substitute is similar or identical to provisions in legislation I have authored.

As I stated the other day on the Senate floor, my approach begins with the understanding that most child care originates not in a large institution, but in a home where a mother cares for her own children and those from the neighborhood. It often begins with a mother who wants to stay home with her children but needs to provide a second income for her family. Our efforts to support child care must recognize that reality.

That's why I want an approach to child care that does not burden these providers with a lot of new and complicated regulations. In addition, I want an approach that preserves parental choice in the whole area of child care, and I want to provide this assistance in the most efficient way possible.

The Dole-Packwood substitute is that kind of an approach. It uses tax credits, which are an effective and efficient way to provide assistance. It empowers parents to choose the kind of child care that is best for their family. And it does not add a lot of new government regulation.

My own child-care legislation included a number of tax credits, because I think they are an effective way for the government to provide assistance. Rather than taxing people, bringing the money to Washington, and sending it back to States with plenty of redtape and regulation attached, tax credits provide direct aid to families.

Let me briefly describe the two major tax provisions in this substitute. First, it enhances the existing dependent-care tax credit. That credit is available to everyone who pays for child care, and it is currently the largest form of child-care assistance provided by the Federal Government.

This substitute makes the dependent-care tax credit more useful to families with lower incomes, by making the credit refundable. That means that even if a family does not owe taxes, it would still qualify for the credit. Parents who qualify wouldn't have to wait until the end of the year to receive the credit. They could have it included in their weekly paycheck, making the assistance immediately available.

In addition, we include a credit for those families where one parent remains home with the children. This credit would expand the existing earned income tax credit for families with at least one child under 5. Families with low incomes would receive $500 for one child and $750 for two or more children under that age. This credit would also be refundable, and it would be available to all parents, whether they used child care or not.

Tax credits are not only efficient. They also protect a parent's ability to choose the kind of child care they want for their children. That's important to me.

Quite frankly, I am willing to trust parents who claim this credit to spend it wisely on child care. I don't think it would be wise for the Federal Government to develop a system that compels parents to choose a certain kind of child care. Parents know best what their children need.

Our substitute also provides $400 million in a block grant to the States, to improve their child-care programs. My bill had a similar block grant. As I've noted, most of the assistance in this substitute comes through tax credits, but this grant offers targeted support for important programs States already have underway or may want to establish. Those programs include things like resource and referral systems, loans and grants to providers, and special programs for those with disabilities.

But because it relies principally on tax credits, this substitute child-care bill provides assistance without imposing burdensome new standards. Those who support the ABC approach have emphasized that they have scaled back their regulations. In fact, they have gone so far that some of their original backers have withdrawn their support.

However, the ABC approach still imposes standards on States in six different areas, rather than leaving the choice of those standards to the States themselves.

And make no mistake, the supporters of ABC will not be satisfied with the present level of standards. Next year, its supporters will be back to push for stricter standards. As the Senator from Oregon pointed out last week, those who support the ABC approach believe that standards can guarantee quality child care. If their approach is adopted, they will continue to work for greater regulation of child-care providers and greater Federal involvement in child care.

Mr. President, this debate is making the differences clear. Quite simply, do we want an approach to child care that empowers parents to make choices in caring for their children, or do we want an approach that expands the role of Government in child care?

It is my hope the Senate will choose the approach that empowers parents, limits Government regulation, and provides the most efficient assistance possible. I urge the adoption of the Dole-Packwood substitute.

Mr. ROTH. Mr. President, I am proud to add my name to the list of cosponsors of the child-care package proposed by the distinguished Republican leader, Senator DOLE. I believe that this package represents a well-reasoned and comprehensive approach to the growing need for child care in this country.

The Republican leader's package contains several sensible components. First, it provides that the dependent care tax credit will be refundable. This will ensure that low-income families that pay for child care will be able to benefit fully from the dependent care tax credit, even if the size of that credit exceeds their tax liability. Second, it expands the earned income tax credit for families with children. This expansion will be available to all low-income families with children, whether they pay for child care, or rely on a parent, friend, or relative for this purpose. That means that families in which one parent stays at home to care for the children will not be forgotten under the Dole package. Third, it establishes a grant program to fund State efforts to improve the quality and expand the availability of child care. And fourth, it includes a version of a provision that I first introduced in the 100th Congress, to exempt child-care earnings from the Social Security earnings test.

Mr. President, I would never question the good intentions of the supporters of the child-care package offered by the distinguished majority leader, Senator MITCHELL. But I am concerned that the approach outlined in the Mitchell package, State-administered subsidies, would reach only a fraction of eligible families, despite a substantial cost. In addition, the subsidies called for under the majority leader's package would only be available when an eligible family uses a government regulated and licensed child-care provider. This requirement would effectively exclude many other possible child-care arrangements, including care by relatives or neighbors.

Viewed in this light, the alternative approach embodied in the Republican leader's package, tax credits, presents some distinct advantages. To begin with, tax credits reach more families. In fact, all of the families eligible under the income limits specified in the Dole package could conceivably benefit in the first year. At the same time, tax credits assure that parents themselves will have maximum choice in arranging for the care of their children, whether the care is carried out at a center, by a home-based provider, or by a parent staying at home. In short, tax credits will help make child care more affordable by giving money directly to the families in greatest need. And through this approach, Senator DOLE's package leaves the choice

of child-care arrangements to the families themselves.

I am pleased to see that the Republican leader's package includes a block grant program, because that program is quite similar to a block grant program that I proposed in my own child-care initiative, which I have introduced twice before. In the Dole package, $400 million will be available annually to States for such purposes as resources and referral, training, programs for sick children or latchkey children, and other very worthwhile and important needs associated with the provision of child care.

Finally, as I mentioned yesterday on this floor, I am particularly pleased that the Dole package includes my provision to exempt child-care earnings from the Social Security earnings test for senior citizens age 65 and older. This provision will allow seniors to get involved in child care without risking their Social Security benefits. Thus, it will help respond to the need for qualified child-care providers. At the same time, it will help bring seniors and children together. Surely, that is an outcome with which no one can argue.

Mr. President, the Republican leader's package has a lot to recommend it. It assists low-income working parents who pay for child care. It does not overlook low-income families where one parent forgoes a paycheck to stay at home with the children. Using the mechanism of a tax credit, it reaches more families than the alternative of State-administered subsidies. I am hopeful that the passage of this package will not only help those families most in need, but spur a cooperative effort by other entities—including the State governments, and the private sector—to assist in meeting the full spectrum of child-care needs in this country. I urge my colleagues to support the Republican leader's package.

Mr. CRANSTON. Mr. President, I am pleased to rise today in support of S. 5, the proposed Act for Better Child Care Services of 1989, better known as the ABC bill and in support of the Mitchell substitute. I am proud to be an original cosponsor of this legislation and to have worked closely with the chief sponsor, Senator DODD, in developing and perfecting the measure before us today. Mr. President, I consider this legislation to be one of the most important bills to come before the Senate. I am delighted that we now stand on the threshold of passing this much needed legislation that will help so many of our Nation's families.

Mr. President, as chairman of the Child and Human Development Subcommittee of the Senate Committee on Labor and Human Resources during the 95th and 96th Congresses and as a member of its predecessor, the Subcommittee on Children and Youth, since its creation in the 92d Congress, I have witnessed the escalation of the child-care crisis in this country. A decade ago, it was a growing problem; today it is a national crisis. To put it simply, there is a dire shortage of affordable, quality child care for children whose parents are in the work force.

Mr. President, there is hardly a single community in this country that is untouched by this crisis. Throughout the Nation, there are long waiting lists for admission to existing child-care programs. Countless parents are forced to make-do with unsatisfactory child-care arrangements so that they can continue to work to support their families.

Mr. President, in my State of California, the lack of child-care services constitutes a crisis which threatens the economic survival of many families. The current resources fall well below the existing need for child-care services. In the two areas of infant care and extended child care for school age children, the problems are particularly acute. Waiting lists are commonplace. By some estimates, 1 million more children need child care than can be accomodated by existing licensed facilities. By 1995, it has been projected that 200,000 more California children will need child care. My State, like the rest of the Nation, has simply not been able to keep pace with the escalating demand for services.

The cost of child care is also beyond the reach of many families. A recent study by the League of Women Voters found that most Californians are paying between $3,000 and $4,200 a year for full-time care of a preschool child. Full-time care for two preschool children costs between $7,200 and $8,200 a year. That's a staggering amount for any family and especially for a low-income family. Two parents working full time at the minimum wage would spend 30 percent of their income just on child care. A single parent working at the minimum wage would expend a staggering 60 percent of wages on child care. For millions of families, child-care costs rank at the top of the family budget, next to food and shelter costs.

Mr. President, we can no longer turn our backs on this Nation's children. The reality is that almost two-thirds of all mothers with school-aged children work outside the home. Why are so many mothers in the work force? Economic necessity. Statistics tell us that two-thirds of the women in the work force are either sole providers or have husbands who earn less than $15,000. In 1983, 25 percent of the married women in the work force had husbands earning less than $10,000; 50 percent under $20,000 and nearly 80 percent less than $30,000. The earnings of these women play a critical role in the economic well-being of their families. For the one in six American families headed by a woman, of course, her earnings are a matter of simple survival.

Tremendous demographic changes have taken place in our society during the last decade. Yet, public policies have simply not kept pace with an evolving work force and the changing needs of American families. It is imperative that we now respond to the changing demographics of the workforce by providing a carefully designed, long-range initiative to help meet the ever increasing demand for quality, affordable child care.

NEED FOR A COMPREHENSIVE APPROACH

Mr. President, throughout my service in the Senate, I have been deeply involved in and committed to issues relating to child-care services for working parents. In past Congresses, I have sponsored and cosponsored comprehensive child-care measures, including the 1971 child-care legislation vetoed by President Nixon and comprehensive child-care legislation, which I have introduced in the Senate since 1979. Although we have made some progress in recent years in enacting small measures dealing wiht child-care needs, we have failed to enact a comprehensive child-care initiative. This patchwork, incremental approach has fallen far short of what is truly necessary if we are to deal effectively with meeting the child-care needs of our Nation's working families.

The Act for Better Child Care Services was designed to provide a comprehensive approach to the problem. It deals with the complex problems of affordability, accessibility, and adequacy of child care. Other proposals, such as the various tax credit proposals, standing alone, fail to achieve the comprehensive approach to the problem offered by the ABC bill.

Mr. President, the legislation we are considering today attacks the child-care crisis from a number of different approaches. The bill, as modified by the substitute amendment, authorizes the appropriation of $1.75 billion to be distributed to the States to help low-income families pay for essential child-care services and improve the quality of child care for all families. In order to maximize parental choice, the bill authorizes the States to utilize a variety of funding mechanisms and types of child-care providers, ranging from both nonprofit and profit child care centers to family day-care homes and public schools.

Under this bill the States would be encouraged to use some of the funds to maximize existing resources, establish child-care resource and referral centers, and provide technical assistance to family day care providers. The States would also be authorized to provide grants and low-interest loans to child-care providers seeking to establish or expand child-care programs.

In addition, funding would be made available to assist employers with the startup costs of child-care programs and to help communities establish after-school services and programs. The bill is also designed to help provide liability insurance to child-care providers by helping the States establish shared risk pools.

Mr. President, the legislation we are considering today will go a long, long way in providing affordable child care to the many families that need it. The California Department of Education—the lead agency in California for child care—has estimated that enactment of the ABC bill would double the number of subsidized child-care slots in my State. It obviously will not solve all the problems in the child-care area, nor meet all of the need. The solution to the child-care crisis in this country will require the combined efforts of a wide array of entities, from both the public and the private sector, at all levels. But the ABC bill is a significant commitment from the Federal Government to do its share toward reaching meaningful solutions to this national problem.

Mr. President, the ABC bill was not created in a vacuum. Rather, it reflects the contributions of an extraordinary collaboration between child advocacy groups, religious groups, women's groups, the labor organizations, and many others over the past several years. What binds this talented yet diverse coalition is one concern: That all children have access to safe and adequate child care.

The bill we consider today has been refined, modified, and rewritten to reflect the viewpoints and perspectives of a wide array of interests. The ABC bill represents the consensus of numerous organizations who have been involved in child-care issues at local, State, and national levels. It has won the support of the National Governors' Association, the National Council of State Legislatures, the League of Cities, and other State and local governmental organizations. It is a fair and reasonable bill.

SUBSTITUTE AMENDMENT

Mr. President, I want to focus for a moment on the changes to the original bill which are contained in the substitute amendment offered by the distinguished majority leader, which I have also cosponsored. The substitute amendment represents a very commendable effort to broaden support for this initiative.

The substitute amendment would expand and make refundable the dependent child-care tax credit, create a child health insurance tax credit, and incorporate the agreement reached with the National Governors' Association with respect to State standards for center-based and family child-care services. That agreement shifts the role of the Federal Government from establishing uniform child-care standards to establishing model child-care standards to serve as a guide to the States in reforming their State and local child-care standards.

Mr. President, the compromise provisions are similar to the provisions of S. 18, legislation I have introduced in the 101st Congress which would establish an incentive grant program and model child-care standards to assist States in improving the quality and monitoring of child-care programs. Although I supported the original provisions of S. 5 relating to uniform standards, I believe this alternative approach can also lead to improvements in the quality of child-care programs and is a reasonable compromise which moves us forward in this important area.

The tax credit provisions which have been developed by the Finance Committee, when tied to the framework of the ABC bill, may also provide some additional assistance to low-income families, including those who do not have child-care expenses for whom the child health insurance tax credit will provide a benefit.

Mr. President, the substitute amendment also contains language, the Ford-Durenberger amendment, which would allow child-care vouchers to be used in sectarian programs so long as the funds are expended in a manner consistent with the Constitution.

Mr. President, the eligibility of sectarian-based child care for ABC funding is an issue that has dogged and threatened to divide the supporters of the ABC bill. In my view, the first amendment to the Constitution does not permit Federal funds to be used for religious instruction or worship. The provision in the substitute amendment which requires consistency with the Constitution would not therefore authorize Federal funds to be used in such a manner. At the same time, the legislation clearly allows for child-care funds to be used for programs sponsored by religious organizations so long as the programs themselves are nonsectarian. Indeed, the vast majority of church-sponsored child-care programs are already operated as nonsectarian programs. I recognize that there are conflicting legal opinions regarding this issue and that ultimately the issue may be resolved in the courts. That is not, however, an uncommon result in matters of this nature and an outcome which may well have resulted regardless of what the bill provides.

Finally, Mr. President, I must commend the majority leader, the Senator from Maine [Mr. MITCHELL], the chairman of the Subcommittee on Children, Family, Drugs and Alcoholism [Mr. DODD], and the chairman of the Finance Committee [Mr. BENTSEN], for their superb leadership in putting together this difficult compromise.

DOLE SUBSTITUTE

Mr. President, I would like to address briefly the fundamental inadequacies of the Dole substitute as a child-care initiative.

Let me stress that the flaw in the Dole substitute is in its relationship to the child-care crisis in the country.

The basic problem with the Dole substitute is that it was not designed to focus upon the child-care problem, but rather upon the economic needs of low-income families, regardless of whether they have child-care needs.

There is, of course, nothing inherently wrong with that focus. Indeed, proposals from the Republican side of the aisle which recognize the need of the poor families throughout this Nation are certainly welcome.

As a result, however, the Dole substitute, by moving the focus away from the child-care needs of working families, short changes and fails to address the very real and very critical need for child-care services.

Both the Mitchell substitute and the Dole substitute would make the current dependent care tax credit refundable. The centerpiece of the Dole substitute, however, is a new "young child supplement" designed to reach families who do not have child-care expenses, as well as those who do. In order to reach families without child-care expenses, the new credit would be available only to families with children 4 years of age and younger and then only up to $500 or $750 for families with two or more children. This credit would only be available to very low-income families, with incomes below around $15,000, and only the very poorest would receive the full $500 credit—many would receive far less.

What about a family with a 5-year-old needing child care?

What about a family with two parents working full time with a combined income of $15,000 who will receive no benefit from this new tax credit although they may have child-care costs of an average of $3,000 per preschool child?

Even if they are lucky enough to fall within these restrictions, this new tax credit would do very little to offset the staggering costs of child care this family faces if they want to stay in the work force and off welfare. At the maximum, the new credit would provide a family with less thant $10 a week.

Why is the Republican proposal so limited and so restrictive?

The answer is simple: It was not designed to help families with child-care expenses. It has been so diluted that it would not provide any meaningful assistance to any one, and especially not to families with child-care expenses.

Again, Mr. President, the notion of trying to help low-income families who don't have child-care expenses is not a bad proposal. However, when an attempt is made to disguise it as a child-care proposal, it is a deception on the American public.

How cruel it would be to tell the working families of this Nation that Congress is going to enact a child-care initiative, and instead provide a token tax credit that has little, if anything, to do with addressing the child-care crisis in America.

What is ironic is that we already have on the books programs to help low-income families regardless of whether they have child-care expenses. We have the earned income

tax credit which goes to all working low-income families regardless of whether one parent remains home to take care of a child. We have a dependent deduction in the Tax Code—a deduction we have increased in the past several years, and as a result, have dropped some 6 million Americans off the tax rolls entirely.

If the proponents of the Dole substitute want to help poor families generally, why not do so in a straight forward manner and say that is what they are doing, rather than attempt to masquerade their proposal as a child-care initiative?

The answer is simple—they know, as every Member of this body knows, that the American people want and need a child-care bill.

The Mitchell substitute is a comprehensive child-care bill; the Dole substitute is not.

Finally, Mr. President, let me address the issue of parental choice. The proponents of the Dole substitute contend that their $10 a week tax credit for a very limited number of families promotes parental choice. The reality is, however, Mr. President, that parents don't have any choice unless there are programs from which to choose. The Mitchell substitute will help make those choices available. The Dole substitute will not.

The Dole substitute has equally serious flaws in its grant component which would bar any funds from being used to provide actual services to families or to pay for the operating costs of programs. The ABC bill, of course, has no such restrictions. Indeed, 70 percent of the funds allocated to the States under the ABC bill must be used to provide direct services to children and families.

By every measure, the ABC bill as modified by the Mitchell substitute will do a far better job of addressing the child-care needs of working families than the Dole substitute. And that, Mr. President, is what the American public expects Congress to do—deal with the growing child-care crisis in this country.

CONCLUSION

Mr. President, there is simply no question that the demand and need for child care will continue to grow. If we take steps today to design an efficient and cost-effective mechanism for meeting those needs, the ultimate savings will far outweigh the short-term expenditure.

Indeed, child care itself is both a short-term and a long-term investment in the future. Short-term expenditures may be almost immediately offset by increased tax revenues derived from parent earnings and reductions in governmental subsistence and other expenditures necessitated by the effects of a lack of adequate child-care arrangements. Some longer term social costs, such as juvenile vandalism, delinquency, and child abuse and neglect, may also be reduced by prudent and cost-effective investments in child care today.

Mr. President, I strongly support the Act for Better Child Care. This comprehensive response to our national child-care problem promises to provide a sound and realistic approach to the growing need of American families for high quality, yet affordable, child care. With passage of the ABC bill, the Senate will take a major stride forward on behalf of American children and families.

Mr. President, let me conclude by paying tribute to the Senator from Connecticut [Mr. DODD], the chairman of the subcommittee with jurisdiction over child-care programs, and the Senator from Utah [Mr. HATCH], the ranking Republican member of the full committee, for their tireless efforts to move this legislation forward. They have done a tremendous service in refining and perfecting this measure in the finest bipartisan spirit. I join my colleagues in applauding their tremendous work on this legislation.

Mr. NUNN. Mr. President, I want to begin by expressing appreciation for the tireless efforts of the sponsors of S. 5, to convince the Congress, the administration, and indeed the American people that affordable, quality child care has become a critical need for our society.

I have had serious concerns about S. 5 from the moment it was introduced, and I remain concerned about the revised ABC package we consider today. But we would not be in a position to consider constructive alternatives to S. 5, had not its sponsors so carefully developed the case for greater Federal support for child-care services.

The case for increased Federal support for child care is clear and compelling, and is now generally accepted by Republicans and Democrats, liberals, conservatives and moderates alike.

Child care is not just another worthy social objective that Congress is now getting around to addressing. Economic and social change have made child care a national priority.

We have all heard the statistics about the startling increase in the number of working mothers in recent years, but a few bear repeating. In 1950, 18 percent of mothers in 2-parent families with children at home worked outside the home. In 1987, that percentage had climbed to 64 percent. Even more compelling is the fact that more than half of the mothers in this country with a child under the age of 3 are in the work force.

Altogether, there are about 10 million children under the age of 6 with mothers working outside the home. According to our best estimates, there are about 3 million child-care slots in facilities with some sort of documented minimum quality. More importantly, many of those 3 million slots are beyond the financial means of millions of American families.

At a time when our human capital, our brainpower, has become our most precious national resources, and our most critical need in remaining competitive in a knowledge-based global economy, we cannot afford to give up the brainpower of women who want to work outside the home. As a matter of national economic policy, then, we need more Federal support for child care.

At a time when our most important social objective is to break the cycle of dependency among millions of Americans from deprived backgrounds, from communities blighted by crime and drugs, and from one-parent families where access to meaningful work is but a distant memory, the lack of affordable child care is a tremendous obstacle to welfare reform. We talked about that at enormous length last year, and now it is time to begin removing that obstacle. As a matter of national social policy, then, we need more Federal support for child care.

The case for a Federal child-care initiative is obvious to us all. But there is nothing obvious about the most appropriate type of Federal support for child care.

As a Senator who is not a member of the Labor and Human Resources Committee, or of the Finance Committee, I approach this issue without any prior commitments or preconceived notions about this proposal or that alternative.

There are three overriding considerations that I would offer as a guide to the most appropriate Federal initiative in support of child-care services.

The first is that Government, at the Federal or the State level, simply cannot supply child-care services. The vast majority of child-care facilities are supplied by the private sector, more than half by private nonprofit institutions, especially churches and synagogues.

Any effort by the Federal Government to directly control the supply and quality of child-care facilities, and especially any regulatory action that could run afoul of the first amendment prohibition against subsidizing religious institutions, run the risk of damaging our most valuable providers of child care.

Attempts to establish direct Federal regulation of child-care facilities are even more dangerous when they are combined with an open-ended Federal commitment to meet the outstanding need for child care. This supply-side approach could lead to a situation in which the supply of affordable private day care is actually reduced while the Federal Government and the States are obliged to fill the gap. Mr. President, that would be a social and fiscal disaster.

The second overriding consideration is that we simply must maintain parental choice in child care to the maximum extent possible. After all, placing a child outside the home for many hours of the work week is one of the most difficult, emotional, and personal

decisions any parent can ever make. That is one reason child-care facilities sponsored by religious institutions are so popular in this country. Most parents want a child-care facility that is in some respect an extension of the home, not a substitute. Any effort to control or regulate child-care providers that seeks to reduce parental choice simply will not work, because the final decision will be made by the parent in any event.

The third overriding consideration I would offer is that we understand child care is not an isolated issue. It is one of a wide range of critical needs affecting family life, the care and training of our children, and the development of a highly trained work force.

The Federal Government and the States have more than enough outstanding work to do in addressing our most critical social needs, without directly intervening in controlling the supply or quality of child care. We are engaged in an enormous effort to improve the quality of our public schools, from kindergarten up through college. That is a government responsibility—no one else can do it. We are battling a rising tide of drug and alcohol abuse, and violent crime. To a large extent, that is a government responsibility as well. Together, the Federal Government and the States are far and away the major purchaser of health care services for Americans, and reforming our system of health care supply and financing is yet another responsibility that Government must directly address.

If I was confident that we were making dramatic progress today on any of these inescapable issues, I might agree that we can afford to take on at the Federal and State levels a systematic effort to create millions of new child-care slots while upgrading their quality through national standards. We are not, and I do not.

Federal and State governments should concentrate on what they must do to serve our children, our families, and our economic needs, and let the private sector, overwhelmingly the current provider of child care, continue to serve that function. Federal support for child care should take some other form.

All three of these overriding considerations lead me to conclude that the best form of Federal support is to increase the supply of affordable child care by increasing the ability of parents to pay for it.

We know for a fact that increasing the demand, the ability to pay, for child care will increase the supply. We know that for a fact.

We do not know for sure whether direct Federal or State efforts to create new facilities and establish uniform standards, will in fact increase the supply, or will instead perversely produce the opposite effect.

It makes sense to me, in this our initial foray into substantial Federal involvement in this issue, to stick to those forms of Federal support that we know will produce a benign effect.

In time, we may discover truly effective and predictable ways to stimulate the supply of quality, affordable child care in addition to placing resources in the hands of parents.

Just to cite one possibility, several Senators have been working with me on a national service proposal that might make available to public and private nonprofit child-care facilities hundreds of thousands of volunteers, young people and senior citizens, to perform routine duties.

Of course, both proposals before us today include major provisions to give parents the resources to buy child-care services through a refundable child-care tax credit.

Because some Senators, and some members of the news media, have come to think of the tax credit approach to child care as a Republican idea, or an administration proposal, I would like to note in passing that the refundable child-care credit has been promoted for some time by the senior Senator from New York, Senator MOYNIHAN.

And now, in the revised ABC proposal, the child-care tax credit would be made fully refundable for most low-to-moderate income families.

The major differences between the revised ABC bill and the proposed alternative, are as follows:

First, the revised ABC proposal retains certain provisions of S. 5 that appear to contradict in principle and in operation the tax credit approach that has been grafted onto it.

If you are going to help parents afford child care by creating a refundable tax credit, why retain S. 5's "Child Care Certificates" in the same legislation?

If, as developed even before this bill reached the floor, the provisions establishing national standards for child care have been made virtually voluntary for States, why retain the elaborate procedures for creating those standards?

I greatly appreciate the efforts of the majority leader, the chairman of the Finance Committee, and the original sponsors of S. 5 to accommodate various views and incorporate the tax credit approach, but in all honesty I think we ought to admit that the compromise reached on the issue of standards, and the addition to tax credits, all but eliminate the rationale for most of the remaining provisions of S. 5.

The second difference between the two proposals is that the alternative proposal provides an increase in the earned income tax credit for the working poor with children at home.

This provision targets more resources to the families that most need our help. It also provides help to families that want to keep one parent at home to take care of the children—and we should never forget that is one very legitimate option for child care, and we must not discriminate against parents who make that choice.

The third difference is that the alternative proposal provides the States with flexible assistance to explore ways to improve both supply and quality, while the revised ABC bill provides money to States at a high cost in prescriptive details.

Finally, the alternative proposal is deficit-neutral—it authorizes $3 billion in spending, and raises $3 billion in revenues. The revised ABC bill, while it is within the limits of the fiscal year 1990 budget resolution, does authorize $1.7 billion in spending beyond the revenues raised.

It may seem a quaint point in these days of chronic high budget deficits, but it seems to me that it would set a nice precedent if we could launch this new initiative on a pay-as-you-go basis.

Comparing these two proposals in terms of the considerations I outlined earlier, I cannot help but conclude that the alternative proposal provides the most assistance to the neediest families, in the most direct manner, without interfering with private-sector facilities, and without hurling either the Federal Government or the States down a blind alley of responsibility for supplying child care.

I deeply regret that this choice has taken on such strong partisan implications. I repeat my strong opinion that whatever action we take, the real credit is due to the sponsors of S. 5, who worked so conscientiously to bring us to this point, and tried so hard to accomodate all points of view.

But precisely in terms of what these sponsors originally set out to accomplish when they began work on this legislation in the last Congress, the alternative proposal is superior, and I intend to support it with my vote.

Mr. DURENBERGER. Mr. President, I am very pleased that the majority leadership has chosen to accept the amendment by Senator FORD and myself to broaden the supply and quality of child care in America. Our amendment guarantees that parents will have a genuine choice under the bill's certificate program to secure the kind of child care they feel is most appropriate for their children. This amendment will help achieve the goal shared by Senators on both sides of the aisle: to build on the existing foundation of child care in America, to give parents choice and responsibility and to target help to those who need it most.

I commend the Senator from Kentucky for his leadership in bringing this issue before us, and I believe that a broad majority of our colleagues, on both sides of the aisle will support this amendment. It is our purpose today not to threaten ABC, or to hang excess baggage on ABC, or to jeopardize its implementation. Our purpose is to make a narrow and reasonable adjustment in the bill which will correct a serious oversight and will help this

legislation to fulfill its objectives of improving the quality, affordability, and supply of child care across America.

I think it would be useful to review for my colleagues the extent and nature of Federal assistance to child care under current law, and then discuss how ABC supplements that.

There are over a dozen different Federal programs that currently provide assistance to meet the child care needs of today's families under current law. Among these are the dependent care tax credit [DCTC], the earned income tax credit [EITC], employer assistance under section 129 of the IRC.

In each of these programs, the Tax Code is used to help parents meet their child care needs. As established in both Mueller versus Allen and Walz versus Tax Commission assistance of this kind does not constitute a violation of the establishment clause.

Several other Federal programs including title XX: Social Services Block Grant Program, the Family Support Act Head Start Child Welfare Services, the Child Care Food Program, the Child Care Training Program, and Child Welfare Services, provides a more direct form of assistance funds to States for child care. Under none of these programs is there a prohibition stating that funds under these acts—no matter what method of payment—may not be used for sectarian purposes.

Under these programs, States have the discretion to distribute funding in the most appropriate manner, whether it be contract, grant, certificate, or other method of payment, as long as the child care provider meets State licensing and regulatory requirements. Minnesota, for example, combines both title XX and the Community Development Block Grant Program funds to subsidize salaries, licensing, and the State direct subsidy program. No distinction is made, whether or not these funds are provided to a religious provider. In fact, many churches in Minnesota and around the country currently are using the funds under these programs for religious-provided care, and this has never been questioned as violating the establishment clause.

The point I want my colleagues to recognize is that none of these other programs, which are on the books today, which serve the same population and deal with the same children, make a distinction between religious and nonreligious child care. They have not resulted in lawsuits. They have not brought those programs down. They have not had any negative effect that this Senator can determine.

Now, let us turn our attention to the ABC bill. Under the committee proposal reported to the floor, we are authorizing $1.5 billion in Federal assistance for child care. This program is to be implemented through each of the 50 States devising a child-care plan. The States have three tools available to them:

A grant program: The State uses the Federal funds to make grants to institutions, local levels of government, and other organizations to provide child care;

A contract program: The State can also enter into a contractual relationship with individuals or groups to provide services; and

A certificate program: The State identifies families in need and supplies them with a certificate which finances all or part of their child-care services at any one of a broad number of institutions determined by the States.

The State has the option to put all of its funds into a single option or use a mixed approach, depending on what the State deems is the most appropriate means of providing child care.

There is a important distinction to be made at this point. Grant and contracts are both transactions between government and providers of child care. The certificate program, however, is a transaction between government and families. Under the certificate program, the provider is an indirect recipient of Federal assistance, and receives benefits only after the family has made a private, individual choice.

With that introduction, Mr. President, let me state what the amendment in the bill will do; and then I want to tell my colleagues, in contrast to the misinformation which is circulating about this amendment, what it does not do.

First, the amendment provides a limited exception from the bill's prohibition on assistance to sectarian institutions. It removes the certificate program only for the prohibition of section 19(a). That section reads as follows:

> No financial assistance provided under this Act shall be expended for any sectarian purpose of activity, including sectarian worship and instruction.

It is important to note that this limitation appears in S. 5, but does not appear in title XX, which as I have said, already provides significant child-care assistance. It did not appear in the welfare reform legislation which passed the Senate last year under the leadership of Senator MOYNIHAN, which also provides significant child-care assistance. It does not appear in any of the current tax proposals which were brought out of the Finance Committee. It only appears in ABC. Whether it belongs in this bill is perhaps an issue for another day.

The Ford-Durenberger language before us makes a limited exemption from the prohibition. It leaves the prohibition in force for contracts and grants which the States may choose to utilize under the bill. I would agree with the sponsors of the bill that prohibition is probably constitutionally required in those cases.

The objection that Senator FORD and I have is that the prohibition is applied where it should not be, and does not have to be, and it is done so in a way that compromises the bill's basic objectives. In effect, without our amendment, the bill takes two steps forward and one step back.

The amendment exempts the certificate program from the 19(a) restriction. As a conforming change, it also eliminates the requirement for States to contract with providers who receive certificates. Finally, it adds a severability clause which protects the remainder of the bill should one of its provision be ruled unconstitutional.

What are the objectives of ABC? The Senators from Connecticut and Massachusetts have outlined them in detail. For the sake of brevity, the committee report puts it this way:

> It is the committee's view that the Federal Government's most crucial role is to strengthen the child-care infrastructure in America to improve the quality of services and make them more available and affordable.

Senator FORD and I are enthusiastic supporters of that view. And that is exactly why we have offered this amendment.

Mr. President, I want to draw heavily here on our experience in my home State of Minnesota. I think it is indicative—if not of where most of the States are, but where they want to be—in terms of provision of child-care services. The conclusions of my study were quite significant:

First, about 40 percent of center-based child care in Minnesota is provided in churches;

Second, that such care is the predominant choice of lower income families because their costs are lower, due to subsidies and in-kind contributions from the religious institutions;

Third, that the State of Minnesota, which licenses these church-based institutions and provides direct State subsidies to them, does so without regard to religious instruction or behavior, and to date has done so without objection;

Fourth, that many experienced providers believe that church-based care in Minnesota is among the highest quality and most affordable available in Minnesota; and

Fifth, that in some areas of the State, church-based child care is the only center-based child care available.

This leads me to a central point, Mr. President. The Senators from Massachusetts and Connecticut have brought a bill to this floor to "strengthen the infrastructure of child care in America." Church-based child care is one of the pillars of that infrastructure. While the documentation on the supply of child care in the States is less than comprehensive, it has been conservatively estimated that up to a third of the care nationally is church-based. To pass a bill out of this body which discourages or undermines up to one third of our existing supply, and some of our best quality and low

cost providers, would be ludicrous. At a time when children needing care outnumber child-care spaces by a factor of 4 to 1, we simply cannot afford to ignore one of our best resources available to us.

Would the United States go to war leaving 30 percent of our troops and weapons and leadership behind? Would we enact an environmental program which left a third of the major polluters exempt from controls? Would we create a new entitlement program to meet a serious national need and then make it available to only 34 for our States? Of course not. But that is exactly what we are doing with this bill.

The answer from the opponents of the amendment is apparently that the Ford-Durenberger amendment is unconstitutional and will bring the ABC bill down. That, in my judgment and the judgment of a number of constitutional scholars, is simply incorrect. I hope my colleagues will listen carefully to the following points.

First, I submit for the RECORD at this point, an analysis of this subject prepared by the American Law Division of the Library of Congress.

There being no objection, the analysis was ordered to be printed in the RECORD, as follows:

CONGRESSIONAL RESEARCH SERVICE,
THE LIBRARY OF CONGRESS,
Washington, DC, May 9, 1989.

From: American Law Division.

Subject: Constitutionality of Possible Amendment to S. 5 Removing Certificates From § 19(a).

This is in response to your inquiry regarding a possible amendment to S. 5 to remove child care certificates from the strictures of § 19(a). More specifically, you asked about the constitutionality of an amendment under the establishment of religion clause of the First Amendment. We have not seen the language of the proposed amendment, and so this analysis is necessarily tentative. But an amendment simply excluding certificates from the score of § 19(a) would not seem to violate the establishment clause.

The establishment of religion clause of the First Amendment provides that "Congress shall make no law respecting an establishment of religion. . . ." To guide the determination of whether a particular enactment violates the establishment clause, the Supreme Court has devised and generally employs a tripartitie test: First, the statute must have a secular legislative purpose; second, its principal or primary effect must be one that neither advances nor inhibits religion. . .; finally, the statute must not foster "an excessive entanglement with religion." *Lemon v. Kurtzman*, 403 U.S. 603, 612-13 (1971).

In applying this test to various public aid programs benefiting religious institutions, the Court has drawn two critically important distinctions. First it has drawn a distinction between religious institutions that are pervasively religious, *i.e.*, that are devoted to inculcating religious faith, and those that may have a religious affiliation or identity but are not devoted to religious indoctrination.[1] Second, it has made clear that a distinction can be made between public assistance that flows directly from government to religious institutions and public assistance that flows to religious institutions and indirectly, i.e., that gets there only as the result of an intervening choice by the primary recipient of the assistance.[2]

Direct assistance to religious institutions or programs, it has held, must be limited to "secular, neutral, and nonideological purposes.[3] Where the institution or program has not been pervasively religious, the Court has found aid so limited to be constitutionally permissible.[4] But direct aid to pervasively religious programs or entities the Court has found to be largely precluded by the establishment clause either because the aid would inevitably have a primary effect of advancing religion or because the government monitoring of its use would excessively entangle government with the religious institution.[5]

Indirect assistance such as tax benefits or vouchers, however, the Court has not found necessarily to be so constrained. Four decisions by the Court are particularly pertinent in this regard—*Committee for Public Education v. Nyquist, supra; Sloan v. Lemon*[6] *Mueller v. Allen*[7], *and Witters v. Washington Department of Services for the Blind, supra.* The gravamen of these decisions appears to be that indirect assistance programs will not pass muster under the establishment clause if their design virtually guarantees that the assistance flows largely to pervasively sectarian entities. But where the design of the program is genuinely religiously neutral and does not dictate to the immediate beneficiary (the taxpayer or voucher recipient) where the assistance is to be channeled, the program will be upheld as constitutional notwithstanding the fact that even pervasively religious entities may be benefited.

Nyquist involved, *inter alia*, two complementary programs enacted by New York to help the parents of children attending private elementary and secondary schools. A tuition grant program reimbursed low-income parent earning less than $5000 a year at the rate of $50 for each elementary school child and $100 for each secondary school child attending private school for whom the parents paid tuition. A tax relief program permitted parents not receiving a tuition grant to take a deduction from their gross income for each child attending a private elementary and secondary school in an amount that varied according to income. Parents with incomes of less than $9000 a year could deduct $1000 for each such child, with the deduction gradually declining to $0 for parents earning $25000 or more. The deduction had no relation to the amount of tuition paid but provided an amount of tax savings comparable to the amount of the tuition grants.

The Supreme Court held both programs unconstitutional, 6-3. With respect to the tuition grant program, the Court noted that such aid could not be given directly to sectarian schools, because the aid was not limited to secular use and thus would subsidize and advance the religious mission of the schools.[8] The fact that the aid was disbursed instead to parents, the Court held, was a factor to be considered but was not itself dispositive. More critical were the facts that aid was available only to the parents of nonpublic school children and that more than 85 percent of the private schools attended were pervasively religious in nature. As a consequence, the Court held, "the effect of the aid is unmistakably to provide desired financial support for nonpublic, sectarian institutions."[9] The tax relief program, it said, was no different: "In both instances the money involved represents a charge made upon the state for the purpose of religious education."[10] It made no difference, the Court stated, whether the program was denominated a tax deduction or a tax credit: "Insofar as [special tax] benefits render assistance to parents who send their children to sectarian schools, their purpose and inevitable effect are to aid and advance those religious institutions."[11]

Sloan v. Lemon, supra, involved a similar tuition grant program enacted by the State of Pennsylvania. Parents who paid tuition to nonpublic schools were entitled to receive grants of $75 for each child in a private elementary school and $150 for each child in a private secondary school. The grants were available to all such parents, regardless of income, and more than 90 percent of the private schools attended were religiously affiliated. The Court held the program unconstitutional, 6-3, saying "we find no constitutionally significant distinctions between this law and the one declared invalid today in *Nyquist*."[12]

"The State has singled out a class of its citizens for a special economic benefit. Whether that benefit be viewed as a simply tuition subsidy, as an incentive to parents to send their children to sectarian schools, or as a reward for having done so, at bottom its intended consequence is to preserve and support religion-oriented institutions. . . . We hold that Pennsylvania's tuition grant scheme violates the constitutional mandate against the 'sponsorship' or "financial support" of religion or religious institutions." *Sloan v. Lemon, supra*, at 832-33.

In both *Mueller* and *Witters*, on the other hand, the Court upheld the programs in question as constitutional. *Mueller* involved a tax relief program enacted by the State of Minnesota under which parents could deduct from their gross income a broad variety of expenses incurred in educating their children, including tuition, nonreligious books and instructional materials, transportation, lab fees, gym clothes, and course materials. The deduction was limited to $500 for each elementary school child and $700 for each secondary school child. In holding the program to be constitutional, 5-4, the Court cited three factors. First, it said, the Minnesota scheme was a "genuine tax deduction," and it noted that the courts traditionally give broad deference to legislative classifications in the tax area. Second, and "most importantly," it said, "the deduction is available for educational expenses incurred by *all* parents, including those whose

[1] *Compare, e.g., Committee for Public Education v. Nyquist*, 413 U.S. 756 (1973) *with Roemer v. Maryland Board of Public Works*, 426 U.S. 736 (1976).

[2] *Compare, e.g., Lemon v. Kurtzman, supra, with Witters v. Washington Department of Services for the Blind*, 474 U.S. 481 (1986).

[3] *Committee for Public Education v. Nyquist, supra*, at 780.

[4] *Bradfield v. Roberts*, 175 U.S. 291 (1899); *Tilton v. Richardson*, 403 U.S. 672 (1971); *Roemer v. Maryland Board of Public Works, supra; Bowen v. Kendrick*, 108 S.Ct.— (1988).

[5] *Lemon v. Kurtzman, supra; Committee for Public Education v. Nyquist, supra; Wolman v. Walter* , 433 U.S. 230 (1977); *Grand Rapids School District v. Ball*, 473 U.S. 373 (1985); *Agular v. Felton*, 473 U.S. 402 (1985).

[6] 413 U.S. 825 (1973).

[7] 463 U.S. 388 (1983).

[8] "In the absence of an effective means of guaranteeing that the state aid derived from public funds will be used exclusively for secular, neutral, and nonideological purposes, it is clear from our cases that direct aid in whatever form is invalid." *Committee for Public Education v. Nyquist, supra*, at 780.

[9] *Id.*, at 783.

[10] *Id.*, at 791, quoting from the lower court decision at 350 F.Supp. 655, 675 (1972).

[11] *Id.*, at 793.

[12] *Sloan v. Lemon, supra*, at 830.

children attend public schools and those whose children attend nonsectarian private schools or sectarian private schools. . . . 'The provision of benefits to so broad a spectrum of groups is an important index of secular effect.'" *Mueller v. Allen, supra,* at 397, quoting *Widmar v. Vincent,* 454 U.S. 263, 274 (1981).

Finally, it said, Minnesota reduced possible establishment clause objections "by channeling whatever assistance it may provide to parochial schools through individual parents":

It is true, of course, that financial assistance provided to parents ultimately has an economic effect comparable to that of aid given directly to the schools attended by their children. It is also true, however, that under Minnesota's arrangement public funds become available only as a result of numerous, private choices of individual parents of school-age children. . . . Where, as here, aid to parochial schools is available only as a result of decisions of individual parents no "imprimatur of state approval" can be deemed to have been conferred on any particular religion, or on religion generally. *Id.,* at 399.

The dissenters argued that notwithstanding the facial neutrality of the statutory scheme, most of the benefits would flow to the parents of children attending sectarian schools because the bulk of the deductions would be claimed for tuition at private schools and 96 percent of the children in private schools attended religiously affiliated institutions. But the majority rejected the argument, stating "we would be loath to adopt a rule grounding the constitutionality of a facially neutral law on annual reports reciting the extent to which various classes of private citizens claimed benefits under the law." [13]

Finally, *Witters v. Washington Department of Services for the Blind, supra,* involved the vocational rehabilitation program of the State of Washington. The program provided assistance, *inter alia,* to visually handicapped persons "to overcome vocational handicaps and to obtain the maximum degree of self-support and self-care." An otherwise eligible blind applicant sought assistance to enable him to study at a private Christian college in preparation for a career as a pastor, missionary, or youth director. But the State denied him aid on the grounds it would violate the establishment clause. The Supreme Court unanimously reversed and held that it would not. Two factors, it said, were critical. First, it said, "any aid provided under Washington's program that ultimately flows to religious institutions does so only as a result of the genuinely independent and private choices of aid recipients." [14] The program, it observed, permitted training to be secured at institutions of all kinds, public and private, sectarian and nonsectarian, and it was in no way "skewed" toward religious training. Secondly, it stated, there was no evidence that "any significant portion of the aid expended under the Washington program as a whole will end up flowing to religious education." [15] The program was simply not designed "to provide desired financial support for nonpublic, sectarian institutions." As a consequence, the Court concluded, "we think the Washington program works no state support of religion prohibited by the Establishment Clause." [16]

The Court's opinion in *Witters* made no mention of *Mueller.* But five members of the Court authored concurring opinions to make clear their view that *Mueller* was directly relevant to the case, even though *Witters* involved a grant rather than a tax benefit. As Justice Powell [17] wrote with respect to whether the vocational rehabilitation grant had a primary effect of advancing religion,

"*Mueller* makes the answer clear: state programs that are wholly neutral in offering educational assistance to a class defined without reference to religion do not violate the second part of the *Lemon v. Kurtzman* test, because any aid to religion results from the private choices of individual beneficiaries. . . . Thus, in *Mueller,* we sustained a tax deduction for certain educational expenses, even though the great majority of beneficiaries were parents of children attending sectarian schools. . . . We noted the State's traditionally broad taxing authority . . . , but the decision rested principally on two other factors. First, the deduction was equally available to parents of public school children and parents of children attending private schools. . . . Second, any benefit to religion resulted from the 'numerous private choices of individual parents of schoolage children.' *Witters v. Washington Department of Service for the Blind, supra,* at 490-91 (Powell, J., concurring)."

Thus, the critical element in these decisions does not appear to be whether the program involves a tax benefit or a voucher. Nor do the decisions appear to hinge solely on the fact that the benefits are channeled initially to parents. Instead, the critical issue appears to be whether there is a genuinely independent decisionmaker between the government and the ultimate beneficiary of the assistance. If the design of the program, as in *Nyquist* and *Sloan,* virtually requires that the assistance be channelled by the initial recipient to pervasively sectarian institutions, the program appears likely to be held unconstitutional. If, on the other hand, the design of the program does not dictate that the assistance be employed at pervasively sectarian institutions but provides a genuine choice to the initial recipient, as in *Mueller* and *Witters,* the program appears likely to pass muster under the establishment clause, even though pervasively sectarian institutions may be among the ultimate beneficiaries.

S. 5 would permit States funded under the bill to subsidize a broad variety of child care services either by making grants to, or entering into contracts with, eligible child care providers, or distributing child care certificates to the parents of eligible children. According to the report of the Committee on Labor and Human Resources,[18] providers eligible for assistance would include "nonprofit and for-profit organizations, schools, community-based organizations, units of general purpose local government, employers, close relatives of eligible children . . . , and churches and synagogues that offer nonsectarian services." [19] That nonsectarian requirement derives essentially from § 19(a) of the bill, which provides that "[n]o financial assistance provided under this Act shall be expended for any sectarian purpose or activity, including sectarian worship and instruction." No assistance under the reported version of the bill, including certificates, in other words, could be expended for child care services that were religious in nature.

Under the foregoing interpretation of the pertinent cases, an amendment to S. 5 to remove certificate assistance from the sectarian use prohibitions of § 19(a) would appear to be constitutional, even though pervasively religious child care providers might be among the ultimate beneficiaries of such assistance. If S. 5 dictated to the parents who received the certificates that they be redeemed only at pervasively sectarian child care providers, the amendment likely would not pass muster under the establishment clause. But S. 5 does not appear to so dictate. Estimates suggest that church-related child care comprises no more than a fourth to a third of center/based care, and it seems reasonable to assume that much of that is nonsectarian in nature. Moreover, the universe of choice available to a certificated parent would also include group home providers, family providers, businesses, public educational institutions, and community-based organizations. Thus, the scheme would not seem to have an inherent bias toward religious child care but to be religiously neutral. As a result, "any aid . . . that ultimately flows to religious institutions [would do] so only as a result of the genuinely independent and private choices of aid recipients." [20]

The one constitutional issue that might be raised about the amendment, however, and that is not fully resolved by existing judicial decisions concerns excessive entanglement. S. 5 defines a "child care certificate" as something that is issued only "pursuant to a written agreement between the State and an eligible child care provider" providing for the use and redemption of certificates. In other words, the State would have to enter into a certificate use and redemption contract with providers wanting to participate in the certificate program. In addition, S. 5 would apply to such providers its full regulatory scheme, including applicable State and local licensing and regulatory requirements and the Federal standards to be developed after the bill is enacted. Whether these regulations, as applied to pervasively sectarian child care providers that might participate in the certificate program, might excessively entangle government with the religious institutions is uncertain. Excessive entanglement is a matter of degree and in some instances may implicate the free exercise clause as well as the establishment clause. Generally, the Court has not found it to exist except where there has been a "comprehensive, discriminating, and continuing state surveillance" of publicly funded activities on the premises of pervasively sectarian institutions.[21] Moreover, it has upheld the application of certain kinds of regulations to sectarian institutions.[22] Nonetheless, in the absence of a decision involving the kinds of regulations that might be imposed under S. 5, a question might be said to exist.

I hope the above is responsive to your request. If we may be of additional assistance, please call on us.

DAVID M. ACKERMAN,
Legislative Attorney.

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[13] *Mueller v. Allen, supra,* at 401.

[14] *Witters v. Washington Department of Services for the Blind, supra,* at 487.

[15] *Id.*

[16] *Id.,* at 489.

[17] Justice Powell, it might be noted, authored the Court's opinions in *Nyquist* and *Sloan* but also joined the Court majority in *Mueller.*

[18] S. Rept. 17, 101st Cong., 1st Sess. (1989).

[19] *Id.,* at 42.

[20] *Witters v. Washington Department of Services for the Blind, supra,* at 487.

[21] *See, e.g., Lemon v. Kurtzman, supra; Meek v. Pittenger,* 421 U.S. 349 (1975); *Aguilar v. Felton, supra.*

[22] *See Bob Jones University v. United States,* 461 U.S. 574 (1983) imposition of racial nondiscrimination requirement on tax exemption afforded religious school held not to violate free exercise clause) and *Tony and Susan Alamo Foundation v. Donovan,* 471 U.S. 290 (1985) (application of recordkeeping and reporting requirements of Fair Labor Standards Act to religious foundation held not to precipitate excessive entanglement).

Mr. DURENBERGER. From the four key Supreme Court cases on this subject—Committee for Public Education versus Nyquist; Sloan versus Lemon; Mueller versus Allen and Witters versus Washington, they draw a number of conclusions:

First, direct aid to pervasively religious institutions which is not restricted to "secular, neutral and nonideological purposes" is unconstitutional.

Second, however, indirect aid, such as tax credits and vouchers, which flows to sectarian entities as a result of "genuinely religiously neutral" programs, are constitutionally permissible.

Third, the crucial issue is "whether there is a genuinely independent decisionmaker between the government and the ultimate beneficiary of the assistance."

That decision is based on a case from my own State of Minnesota, Mueller versus Allen. In this 1981 case, the Supreme Court declared a Minnesota tuition tax credit statute constitutional. "By channeling whatever assistance it may provide to parochial schools through individual parents, Minnesota has reduced the establishment clause objections to which its actions is subject." The Court ruled as it did, fully acknowledging that "the ultimate economic effect" of the credit was "comparable to that of aid given directly to the schools attended by the children * * *", which the Court knew to be pervasively sectarian. After reviewing a companion 1986 case, Witters versus Washington, the American Law Division concluded as follows:

Thus, the critical element in these decisions does not appear to be whether the program involves a tax benefit or a voucher. Nor do the decisions appear to hinge solely on the fact that the benefits are channeled initially to parents. Instead, the critical issue appears to be whether there is a genuinely independent decisionmaker between the government and the ultimate beneficiary of the assistance. If the design of the program, as in Nyquist and Sloan, virtually requires that the assistance be channeled by the initial recipient to pervasively sectarian institutions, the program appears likely to be held unconstitutional. If, on the other hand, the design of the program does not dictate that the assistance be employed at pervasively sectarian institutions but provides a genuine choice to the initial recipient, as in Mueller and Witters, the program appears likely to pass muster under the establishment clause, even though pervasively sectarian institutions may be among the ultimate beneficiaries.

Mr. President, I also want to include in the RECORD the following other analyses: a letter by Michael McConnell of the University of Chicago; and a letter from the Christian Legal Society.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

THE UNIVERSITY OF CHICAGO,
THE LAW SCHOOL,
Chicago, IL, June 12, 1989.

Hon. WENDELL H. FORD,
U.S. Senate,
Washington, DC.

DEAR SENATOR FORD: In response to your request, I have reviewed the proposed "Parental Choice Amendment" to S. 5, the Act for Better Child Care, to determine whether it is likely to violate the Establishment Clause of the First Amendment, under current interpretation by the Supreme Court. In my judgment, the proposed amendment fully comports with constitutional standards, and there is little doubt that it would be upheld by the Court.

As presently drafted, the Act would provide federal funding to states for the purpose of supporting various child care services. These services fall into three categories: (1) child care pursuant to contracts between the state and selected child care providers; (2) child care pursuant to contracts between local governmental units and selected child care providers; and (3) child care purchased by parents using "certificates" issued by the state. See S. 5, § 8(a)(1). Section 3(4) of the Act defines the term "certificate" as follows:

"The term "child care certificate" means a certificate that is issued, pursuant to a written agreement between the State and an eligible child care provider, by the State to parents who may use such certificate only as payment for child care services for an eligible child and that provides to an eligible child care provider a right to reimbursement for such services . . ."

Section 19(a) of the Act provides that "[n]o financial assistance provided under this Act shall be expended for any sectarian purpose or activity, including sectarian worship and instruction." According to the report from the Committee on Labor and Human Resources, S. Rep. No. 101-17 (Apr. 12, 1989), this language is interpreted to mean that "an entity receiving any form of financial assistance under this Act shall not include any sectarian activities, worship or instruction in providing child care services under this Act." Id. at 48-49.

The proposed Parental Choice Amendment would exclude from the coverage of Section 19(a) funds "received by any eligible provider resulting from the distribution of a child care certificate to a parent under section 8(a)(1)(C) of this Act." It would also amend Section 3(4) to delete the requirement of a written agreement between the state and the child care provider. In other words, the proposed amendment would allow parents, at their option, to use their federally funded benefits to obtain child care that includes religious training or observance.

The following factual elements are important to this constitutional analysis: (1) the government funds are provided to the parents of eligible children through certificates; (2) the parents may use those certificates to purchase child care services of their choice from among a wide array of eligible providers, including both secular and religious providers; (3) religious child care providers benefit from the program only through the independent choices of the parents; and (4) aid is not skewed in favor of religious child care providers.

The First Amendment of the United States Constitution forbids any law "respecting an establishment of religion, or prohibiting the free exercise thereof." The guiding principle under the Religion Clauses is neutrality, both between religions and between religion and nonreligion. As Justice Blackmun wrote for the Court in *Roemer* v. *Board of Public Works*, 426 U.S. 736, 747 (1976), "Neutrality is what is required. The State must confine itself to secular objectives, and neither advance nor impede religious activity." See also *Grand Rapids School District* v. *Ball*, 473 U.S. 373, 382 (1985) ("the government [must] maintain a course of neutrality among religions, and between religion and nonreligion"); *Everson* v. *Board of Education*, 330 U.S. 1, 18 (1947) (the First Amendment "requires the state to be neutral in its relations with groups of religious believers and nonbelievers; it does not require the state to be their adversary."). There is no constitutional requirement to discriminate against religion or religiously affiliated institutions in the distribution of public benefits. The Establishment Clause is not hostile to religion or religious choice. It is opposed, rather, to the use of the financial resources of the government to favor or encourage religious adherence or to channel religious activity into government-approved forms.

In interpreting the Establishment Clause, the Supreme Court generally looks to a three-part test, first announced in *Lemon* v. *Kurtzman*, 403 U.S. 603, 612-13 (1971) (citations omitted):

"First, the statute must have a secular legislative purpose; second, its principal or primary effect must be one that neither advances nor inhibits religion; finally, the statute must not foster 'an excessive entanglement with religion.' "

Under these criteria, S. 5, as amended by the Parental Choice Amendment, is constitutional.

Purpose. There can be little question that the purpose of the Act for Better Child Care is secular. The congressional findings, summarized in Section 1 of the Act, demonstrate the need for adequate child care services, and the Parental Choice Amendment has the purpose of providing "families . . . a broader range of child care options." S. Rep. No. 101-17, at 42. This will enhance "state flexibility and parental choice." Id. In any event, the Court does not strike statutes down under the purpose criterion unless they are "motivated wholly by an impermissible purpose." Bowen v. Kendrick, 108 S. Ct. 2562, 2570 (1988), citing Lynch v. Donnelly, 465 U.S. 668,680 (1984). Even in the parochial school funding cases, the Court invariably recognized that the legislative purpose was secular and legitimate. See, most recently, Grand Rapids School District v. Ball, 473 U.S. at 383. So also here, a court is likely to find that the purposes of extending federal assistance to needy families for better child care is a permissible purpose.

Primary effect. To be constitutional, a government program must have a primary effect that neither advances nor inhibits religion. This means that government funds must be allocated in ways that do not favor religion. This objective may be accomplished in one of two ways, depending on whether government assistance to recipient institutions is "direct" (meaning that the funds are allocated directly by government officials to the recipient institutions) or "indirect" (meaning that the funds are allocated to private individuals, and that any benefit to institutions is an indirect result of the private choices of individuals).

If aid is direct, then the government has an obligation to ensure that it is not used for "specifically religious activity." Hunt v. McNair, 413 U.S. 734, 743 (1973); Roemer v. Bd. of Public Works, 426 U.S. 736, 759 (1976); see Bowen v. Kendrick, 108 S. Ct. at 2576-77. It follows that direct aid cannot be given to institutions so "pervasively sectarian" that their religious and secular aspects are "inextricably intertwined." Lemon, 403 U.S. at 657; see Roemer, 426 U.S. at 759.

"The reason for this," the Court has explained, "is that there is a risk that direct government funding, even if it is designated for specific secular purposes, may nonetheless advance the pervasively sectarian institution's 'religious mission.'" Kendrick, 108 S. Ct. at 2574.

The Act for Better Child Care, as amended, however, is an instance of "indirect" assistance. Under the certificate program, funds will not be allocated by agents of the state. Rather, the parents of each eligible child will receive a "certificate" and will be free to "purchase" child care services from an eligible provider of their choice, whether secular or religious. Accordingly, the Act must be judged according to the standards the Court has set forth for indirect funding programs. The "direct" funding precedents are simply inapplicable.

The most pertinent case is *Witters* v. *Department of Services for the Blind*, 474 U.S. 481 (1986), a unanimous decision holding that public funds could be used to pay the tuition of a student at a Bible college for training for the ministry, pursuant to a program of vocational assistance for the blind. Justice Marshall's opinion for the Court identified several aspects of the program as "central to our inquiry." *Id.* at 487. First, he noted that funding goes to the recipient institution only through the choice of the individual student. "Any aid provided under Washington's program that ultimately flows to religious institutions does so only as a result of the genuinely independent and private choices of aid recipients." *Id.* The same is true of the Act, as amended. Parents will receive certificates that entitle them to purchase child care of their own choice. Any aid that flows to religious day care providers does so only as the result of the genuinely independent and private choices of the parents.

Second, Justice Marshall noted that "Washington's program is 'made available generally without regard to the sectarian-nonsectarian, or public-nonpublic nature of the institution benefited,' and is in no way skewed toward religion." *Id.* quoting *Committee for Public Education and Religious Liberty* v. *Nyquist*, 413 U.S. 756, 782–83 n.38 (1973). Again, the same is true of the Act, as amended. There is a rich diversity of child care providers. It is estimated that one third to one fourth are religiously affiliated, and many of those provide nonsectarian care. The very purpose of the Parental Choice Amendment is to ensure that certificates under the Act are made available without regard to the sectarian-nonsectarian nature of the child care provider. Far from being problematic under the First Amendment, the Parental Choice Amendment will foster pluralism, diversity, and religious freedom—values that the First Amendment is intended to serve.

Third, Justice Marshall stressed that the Washington program "creates no financial incentive for students to undertake sectarian education." *Id.* at 488. Their benefits are neither "greater nor broader" if they "apply their aid to religious education" than if to secular programs. *Id.* "[T]he fact that aid goes to individuals means that the decision to support religious education is made by the individual, not by the State." *Id.* This is the crux of the matter. The principal purpose of the Religion Clauses is to ensure that decisions about religious practice, including child raising, are reserved to the private realm of individual conscience. The decision to choose religious or secular child care should be made by the individual, not by the State. The government has no legitimate interest in discouraging free religious choices, any more than it may promote religion. Again, the Act, as amended, closely resembles the Washington program upheld in *Witters*. The benefits are the same—neither broader nor greater—for parents who choose religious child care as for those who choose secular. The Act creates no incentive to undertake religious child care; on the contrary, if not amended, the Act would create a significant incentive to forego religious child care.

Finally, Justice Marshall noted that "nothing in the record indicates that . . . any significant portion of the aid expended under the Washington program as a whole will end up flowing to religious education." *Id.* at 488. Similarly, there is no reason to expect that any more than a modest fraction of the aid dispensed under the Act will flow to child care providers who include specifically religious elements in their program. However, it must also be noted that on this point, a majority of the Court rejected Justice Marshall's analysis. Justice Powell, joined in substantial part by four other Justices, expressed the controlling principal as follows: "state programs that are wholly neutral in offering educational assistance to a class defined without reference to religion do not violate the second part of the *Lemon* v *Kurtzman* test." *Id.* at 490–91; accord, *id.* at 490 (White, J., concurring); *Id.* at 493 (O'Connor, J., concurring). Thus, even if a "significant portion" of the aid *did* flow to religious child care providers, it would not present a constitutional problem so long as "any benefit to religion resulted from the 'numerous private choices of individual parents.'" *Id.* at 491 (Powell, J.), quoting *Mueller* v. *Allen*, 463 U.S. 388, 399 (1983).

Witters is only the most recent of a long line of cases in which indirect aid distributed neutrally to religious and nonreligious organizations, through the independent choices of private individuals, has been sustained by the Court. In *Mueller* v. *Allen*, 463 U.S. 388 (1983), the Court upheld a Minnesota program of tax deductions for parents' expenses incurred in obtaining education for their children. The large part of these expenses were tuition payments to private schools, most of which were religious schools. *Id.* at 400–01. As in *Witters*, the decisive consideration was that the allocation of financial assistance was determined through private, decentralized choice. "Most importantly, the deduction is available for educational expenses incurred by *all* parents, including those whose children attend public schools and those whose children attend nonsectarian private schools or sectarian schools." *Id.* at 397 (emphasis in original). The program therefore was consistent with the Establishment Clause, notwithstanding the fact that tuition to parochial schools undoubtedly paid for religious instruction.

Unlike *Witters*, which was unanimous, the Court was closely divided in *Mueller*, but even the position of the dissenters in *Mueller* supports the constitutionality of the Act for Better Child Care, as amended. Justice Marshall's dissenting opinion stressed that the "vast majority of the taxpayers who are eligible to receive the benefit are parents whose children attend religious schools." 463 U.S. at 405. By contrast, those eligible for certificates under the Act include parents whose children use secular as well as religious child care. Indeed, the "vast majority" probably use secular—or at least nonsectarian—child-care. Even the dissenters, in *Mueller*, then, did not take the position that parents must be categorically barred from using their benefits in religious settings. They merely insisted that government programs may not be devised in such a way that the preponderance of the benefit can be expected to go to religious recipients.

In *Widmar* v. *Vincent*, 454 U.S. 263, 270–75 (1981), the Court held that it would not violate the Establishment Clause for a state university to make its facilities available, without payment, to a religious group on the same basis as other university student groups. Free facilities are, of course, a valuable benefit; and the group intended to use this benefit for specifically religious activities, including religious teaching, worship, and prayer. The Court reasoned, however, that when benefits of this sort are open to all on an evenhanded basis, there is no effect of "advanc[ing] religion." *Id.* at 273. "The provision of benefits to so broad a spectrum of groups is an important index of secular effect." *Id.* at 274.

In *Committee for Public Education and Religious Liberty* v. *Nyquist*, 413 U.S. 756 (1973), the Court sharply differentiated between programs in which aid flows to "all schoolchildren" and those in which aid is restricted to those who choose to attend private schools, which are overwhelmingly sectarian. The Court suggested, in dictum, that it would approve of a genuinely neutral aid program like the "G.I. Bill," even though government funds in such a program would go to religious institutions and would presumably support sectarian teaching. Id. at 782 n.38 (emphasis in original). This was followed by two summary affirmances of such programs. *Americans United for Separation of Church and State* v. *Blanton*, 433 F. Supp. 97 (M.D. Tenn.), aff'd 434 U.S. 803 (1877); *Smith* v. *Board of Governors*, 429 F. Supp. 871 (W.D. N.C.), aff'd, 434 U.S. 803 (1977). By contrast, in Nyquist itself, and in *Sloan* v. *Lemon*, 413 U.S. 825 (1973), the Court struck down programs of indirect aid to parochial education because the allocation formula was heavily skewed toward religious schools.

In *Walz* v. *Tax Commision*, 397 U.S. 664 (1970), the Court held, with only one dissent, that state property tax exemptions for religious organizations are permissible, even when the property is used "solely for religious worship." *Id.* at 666. Emphasizing the consitutional principle of "neutrality" (*id.* at 669), the Court noted that the tax benefit was provided to churches "within a broad class of property owned by nonprofit, quasi-public corporations which include hospitals, libraries, playgrounds, scientific, professional, historial, and patriotic groups." *Id.* at 673.

In sum, the key factor under the Supreme Court's indirect aid cases is that "the benefit of government programs and policies [must be] generally available, on the basis of some secular criterion, to a wide class of similarly situated nonreligious beneficiaries." *Marsh* v. *Chambers*, 463 U.S. 783, 809 (1983) (Brennan, J., dissenting). See *Texas Monthly, Inc.* v. *Bullock*, 109 St. Ct. 890, 897–99 (1989) (plurality opinion). When the allocation of aid is determined through individual choice and not government direction, and is not skewed in favor of religion, the program satisfies constitutional structures. In such a program, there is no need to exclude pervasively sectarian recipients, and no need to forbid specifically religious activities. Indeed, in each of the indirect aid cases discussed—*Witters, Mueller, Widmar, Walz,* and the *Nyquist* dictum—the recipients included pervasively sectarian organizations, which engaged in specifically religious activities. Such choices are not forbidden by the First Amendment, provided they are the product of independent decisionmaking.

Under these standards, the "primary effect" of the Act for Better Child Care, as amended, is "one that neither advances nor inhibits religion." *Lemon* v. *Kurtzman*, 403 U.S. at 612.

Excessive entanglement. The Court also holds that a statute is unconstitutional under the Establishment Clause if it "fosters an excessive government entanglement with religion." *Lemon*, 403 U.S. at 612-13; see *Aguilar* v. *Felton*, 473 U.S. 402 (1985). Two possible forms of entanglement must be examined in connection with the Act for Better Child Care.

First, the Court has frequently found the potential for "excessive entanglement" when, in order to avoid the "primary effect" of advancing religion, the government must monitor the conduct of a recipient institution to ensure that it does not engage in "specifically religious activities" within the funded program. The Court stated in *Aguilar:* "though a comprehensive system of supervision might conceivably prevent teachers from having the primary effect of advancing religion, such a system would inevitably lead to an unconstitutional administrative entanglement between church and state." 473 U.S. at 410. See also *Lemon*, 403 U.S. at 619. This form of entanglement is not present in cases of indirect aid, where there is no constitutional requirement that recipients refrain from religious activities. It is therefore not a problem with the Act for Better Child Care.

The second form of entanglement is the more general interaction between officials of religious organizations and agents of the state that can occur in the course of many regulatory programs. See generally Esbeck, Establishment Clause Limits on Governmental Interference with Religious Organizations, 41 Wash. & Lee L. Rev. 347 (1984). Entanglement of this form could conceivably result from the enforcement of state or federal standards for child care envisioned under the Act. See Sections 7(c)(3) (B) and (C), 11(c)(5), 18(e). These standards are, however, unlikely to result in invalidation of the Act under the Establishment Clause.

Unlike the first form of entanglement, the second form is not necessarily connected to financial assistance. It is as likely to arise from assertions of the regulatory or police power as from conditions to financial aid, and the criteria are the same in one context as the other. *Tony & Susan Alamo Foundation* v. *Secretary of Labor*, 471 U.S. 290, 305 (1985); *NLRB* v. *Catholic Bishop*, 440 U.S. 490, 501-04 (1979) (discussing entanglement in context of regulatory programs and citing precedents from aid programs); *Texas Monthly*, 109 S. Ct. at 903 (citing precedents from regulatory programs in context of entanglement from taxation). Until the specific standards are set, it is premature to speculate on their constitutionality. If they lead to excessive entanglement, the proper remedy is to enjoin their enforcement, not to invalidate the Act.

Moreover, regulatory contacts are not generally "excessive" if they pertain solely to secular aspects of the institution's program and do not intrude deeply into matters related to religious doctrine. See, e.g., *Alamo Foundation*, 471 U.S. at 305 (Fair Labor Standards Act recordkeeping would "have no impact on petitioners' own evangelical activities"); *Catholic Bishop*, 440 U.S. at 501-04 (describing the entanglement that would ensue from collective bargaining in religious schools). Assuming that the standards drawn under the Act pertain to legitimate secular matters such as "staff-child ratios, group sizes, provider qualifications, health and safety requirements, and parental involvement and access," as contemplated by Congress (S. Rep. No. 101-17, at 32), enforcement of the standards should not have a serious impact on the religious integrity of recipient organizations.

Some have suggested that the requirement of a "written agreement between the State and an eligible child care provider" (Section 3(4)) might constitute excessive entanglement. I see no reason why this would be true. It is the substance, not the form, of contact between church and state that matters. Whether compliance with the Act's standards is preceded by a written agreement or not appears not to implicate any values or principles under the First Amendment. Nonetheless, it is also true that such a written agreement is unnecessary in the case of certificates. If this provision is thought to raise constitutional problems, the most prudent course would be to delete it, as the proposed Parental Choice Amendment would do.

In conclusion, the Parental Choice Amendment comports fully with constitutional standards as enunciated by the Supreme Court, and would likely be sustained in any litigation that might take place following passage of the Act. The First Amendment exists to guarantee religious freedom to all. An important part of religious freedom is the freedom of the parents to direct and control the early care of a child in accordance with their own faith and conscience—be that secular or religious. This is a freedom exercised by the wealthy, who can afford their own child care. It should be a freedom, no less, for those dependent on the government for assistance.

Many will choose secular child care services. That is their right, and it would be unconstitutional to attempt to channel their children to religious care. But others will choose religious care, if the option is available to them. That, too, should be their right. The government has no legitimate interest in directing this choice, one way or the other. The Supreme Court has repeatedly upheld programs of financial assistance in which the aid flows to a wide spectrum of private organizations, including religious entities, through the independent choices of private individuals. There is no constitutional warrant for excluding religious child care providers from the Act, or for requiring them to stifle religious expression or observance. On the contrary, to open the program up to a diverse set of providers, with different approaches to child care (both religious and secular) will expand, rather than constrict, parental choice, in keeping with the spirit of the First Amendment. As amended, the Act will be consistent with the American constitutional tradition of pluralism and freedom.

If there is any further information or assistance I can provide in connection with this Act, please do not hesitate to ask.

Very truly yours,

MICHAEL W. MCCONNELL,
Professor of Law.

CHRISTIAN LEGAL SOCIETY,
Annandale, VA, June 14, 1989.

Hon. DAVID DURENBERGER,
U.S. Senate,
Washington, DC.

DEAR SENATOR DURENBERGER: We are responding to your request for our opinion on the constitutionality of the proposed Ford-Durenberger amendment to the Act for Better Child Care Services of 1989, or the "ABC Bill." The amendment would allow the certificates for child care assistance provided under section 8(a)(1)(c) to be used at child care centers which include religious instruction or worship among their activities. In our opinion, nothing in the Establishment Clause or the Supreme Court cases thereunder prevents the Congress from enlisting the aid of sectarian institutions to provide child care services. Furthermore, the amendment would substantially further the bill's purpose of providing parents real choices in selecting child care appropriate to their values.

In *Bowen* v. *Kendrick*, 108 S. Ct. 2562 (1988), the Supreme Court upheld a similar statute, the Adolescent Family Life Act (AFLA), against claims that the Act violated the Establishment Clause by involving religious organizations in government-funded family planning research and counseling. The Court applied the three-part test for Establishment Clause violations first announced in *Lemon* v. *Kurtzman*, 403 U.S. 602 (1971): "a court may invalidate a statute only if it is motivated wholly by an impermissible purpose . . . if its primary effect is the advancement of religion . . . or if it requires excessive entanglement between church and state." *Bowen*, at 536 (cites omitted). On the "purpose" part of the test, the Court found "no evidence" that the Congress' actual purpose in passing the AFLA was to endorse religion. *Bowen*, at 537. Addressing the "primary effect" of the Act, the Court rejected the view that expressly enlisting the involvement of religious institutions violated the Establishment Clause. Justice Rehnquist, for the Court, observed:

"[T]he statute reflects[s] at most Congress' considered judgment that religious organizations can help solve the problems to which the AFLA is addressed. . . . Nothing in our previous cases prevents Congress from making such a judgment or from recognizing the important part that religion or religious organizations may play in resolving certain secular problems."

Bowen, at 539. Justice Rehnquist concluded that any effect the statute may have had to advance religion "is at most 'incidental and remote.'" *Bowen*, at 539. The Court also rejected the argument that the receipt of federal funds by religious institutions "advanced" religion: "[T]his Court has never held that religious institutions are disabled by the First Amendment from participating in publicly sponsored social welfare programs." *Bowen*, at 540. Finally, on the question of entanglement between church and state, the Court held that the review and monitoring of programs run by religious institutions under the Act did not amount to excessive entanglement. *Bowen*, at 544.

If the constitutionality of the ABC Bill as amended is called into question in the courts, we believe the *Bowen* case would require upholding the bill. Like the AFLA, the ABC Bill has a clear secular purpose: the provision of child care services to families who would not otherwise be able to afford them. The bill seeks to "promote the availability and diversity of quality child care services to expand child care options available to all families who need such services." S. 5, 101st Cong. 1st Sess. Sec. 2(b)(2) (1989). As in *Bowen*, there is no indication that the Congress' intent is to use the ABC Bill to endorse a particular religion or religious doctrine. Although it may be argued that the proposed amendment is an attempt to promote religious worship or instruction in federally-aided day care facilities, the amendment equally serves the purpose of affording parents real choices in the type of day care services they prefer. A statute will only be struck down under the "secular purpose" part of the test if it is "motivated wholly by an impermissible purpose." *Bowen*, at 536.

After *Bowen*, a federal program that grants aid to religious institutions to achieve secular purposes does not *per se* "advance" religion. In fact, Justice Rehnquist noted in *Bowen* "the *long history of cooperation and interdependency* between governments and charitable or religious or-

ganizations." *Bowen*, at 541 (emphasis added). The Supreme Court has upheld against Establishment Clause attacks the public provision of textbooks in secular subjects for pupils attending church-related schools, *Cochran* v. *Louisiana*, 281 U.S. 370 (1930); tax subsidies for bus transportation for students attending Catholic schools, *Everson* v. *Board of Education*, 330 U.S. 1 (1947); and aid to church-affiliated colleges and universities for secular aspects of education, *Tilton* v. *Richardson*, 401 U.S. 672 (1971), *Hunt* v. *McNair*, 413 U.S. 734 (1973), and *Roemer* v. *Board of Public Works of Maryland*, 49 L.Ed. 2d 179 (1976). As Justice Blackmun stated in *Roemer*, "religious institutions need not be quarantined from public benefits that are neutrally available to all." *Roemer*, at 746.

One of the ways federal aid to religious institutions might "advance" religion, Justice Rehnquist noted in *Bowen*, would be if such aid flowed to "pervasively sectarian institutions." *Bowen*, at 541. However, it is highly questionable that day care centers, even if operated as part of churches or parochial schools, would be considered "pervasively sectarian" in nature, since the Supreme Court has only invalidated statutes on this basis in the context of parochial schools and sectarian colleges. See, e.g., *Committee for Public Education and Religious Liberty* v. *Nyquist*, 413 U.S. 756 (1973); *Roemer* v. *Board of Public Works of Maryland*, 49 L.Ed. 2d 179 (1976). Unlike such institutions, in which "a substantial portion of [the] functions are subsumed in the religious mission," *Hunt* v. *McNair*, 413 U.S. 734, 743 (1973), day care centers typically do not have the purpose of "indoctrination into the beliefs of a particular religious faith," *Grand Rapids School District* v. *Ball*, 473 U.S. 373, 385 (1985). While some ancillary instruction may be incidental to the provision of day care service, the purpose of a day care center is simply to provide supervision and care for infants and small children when their parents are unable to do so.

Even if some day care centers are found to be "pervasively sectarian," it would not require invalidation of the statute. The Court in *Bowen* refused to invalidate the AFLA despite the contention that some aid would inevitably flow to sectarian institutions:

[T]he contention that there is a substantial risk of such institutions receiving direct aid is undercut by the AFLA's facially neutral grant requirements, the wide spectrum of public and private organizations which are capable of meeting the AFLA's requirements, and the fact that, of the eligible religious institutions, many will not deserve the label of "pervasively sectarian." This is not a case like *Grand Rapids*, where the challenged aid flowed almost entirely to parochial schools."

Bowen, at 541. Like the AFLA, the ABC Bill provides for aid to a broad spectrum of groups on a nondiscriminatory basis, many of which could not be considered "pervasively sectarian"; and there is no reasonable basis for concluding that ABC funds would go to advance religious instruction, as they likely would in the case of parochial schools.

The third inquiry of the *Lemon* test, whether the statute fosters "excessive entanglement" between government and religion, also poses no hurdle to the constitutionality of the ABC Bill. The Ford-Durenberger Amendment avoids the most serious potential entanglement difficulties by exempting day care providers from the prohibition against sectarian activities only where they receive aid in the form of child care certificates. The registration and monitoring provisions of the bill, as applied to certificate assistance, are far less "entangling" than those upheld in *Bowen*.

A compelling reason for adopting the Ford-Durenberger amendment is that the ABC Bill as written would seriously threaten the Free Exercise of Religion rights of day care providers and parents. The bill requires under section 19(a) a "secularization" of day care facilities as a condition of receiving ABC funds. This provision runs afoul of the constitutional prohibition against conditioning a government benefit on the foregoing of a constitutional right. *See Sherbert* v. *Verner*, 374 U.S. 398 (1963) (state may not exclude from unemployment compensation a claimant who turned down suitable job on her Sabbath); *Shapiro* v. *Thompson*, 394 U.S. 618 (1969) (state may not deny welfare benefits for one year to those who have exercised their constitutional right to travel into the state); *FCC* v. *League of Women Voters*, 468 U.S. 364 (1984) (invalidated statutory provision preventing noncommercial educational stations which receive public funds from endorsing candidates or editorializing). The proposed amendment would reasonably accommodate the free exercise rights of parents and day care providers to engage in worship and incidental religious instruction (provided such incidental activity is not the "purpose" or "mission" of the center) without violating the Establishment Clause. As Justice White recently wrote for a unanimous Court in *Bishop* v. *Amos*, 483 U.S.—(1987), upholding an exemption from the 1964 Civil Rights Act for religious organizations, "There is ample room for accommodation of religion under the Establishment Clause." *Id., See also Zorach* v. *Clauson*, 343 U.S. 306 (1952) (public school's program of release time for religious instruction off school premises was a permissible accommodation of Free Exercise right).

For reasons discussed above, we believe the Ford-Durenberger amendment meets constitutional standards. The amendment is a reasonable accommodation of the rights of parents and day care centers to secure child care consistent with their religious values. The amendment would effectively further the bill's purpose of "promot[ing] the availability and diversity of quality child care services to expand child care options," without involving the federal government in an unconstitutional entanglement with religious institutions.

Very truly yours,

SAMUEL E. ERICSSON,
Executive Director.

Mr. DURENBERGER. The conclusion is clear, Mr. President. The Supreme Court has made a distinction in matters of assistance which has the economic effect of assisting religious groups with transactions between Government and the groups and Government and individuals who freely choose to utilize their benefits in a religious setting. That is exactly the situation Senator FORD and I are trying to address in the area of child care.

The certificate program under ABC provides assistance to all families in the eligible categories. It requires a genuine choice by a private individual in order to allow assistance to flow. Therefore, there is no establishment clause reason why the certificate program should be restricted by section 19(a).

And Mr. President, as unlikely as this may seem, there is strong support for this argument even in the report of the committee explaining this provision. The report states:

The Committee expresses no view concerning whether the restriction in section 19(a) is constitutionally required by the Establishment Clause.

In other words Mr. President, the committee, which in the person of its chairman and the Senator from Connecticut is objecting to this amendment on constitutional grounds, expressly denied that it included the section we are amending for constitutional reasons. If they can't defend the prohibition on constitutional grounds, how can they oppose an exception from it on those same grounds?

Mr. President, I cannot, as a Member of the Senate, prove to my colleagues that the Supreme Court will approve an unrestricted certificate program. But neither can the opposition to the amendment cite a single case where the Supreme Court has invalidated a certificate program. It is our opinion, based on solid expert research, that such a program would be valid, and on that basis, there is every reason for the Senate to go forward.

I want to deal now with a number of other objections that have been raised, or will be raised with respect to the amendment.

First, there is the argument that the committee bill did not limit "church-based" child care, only "sectarian purposes and activities, including worship and religious instruction. For all practical purposes, the committee has created a distinction without a difference in those terms.

I quote from page 48 of the report:

LIMITATIONS ON USE OF FINANCIAL ASSISTANCE FOR CERTAIN PURPOSES

Section 19(a) prohibits an entity receiving any of the forms of financial assistance provided under this Act (e.g., grants, contracts, or child care certificates) from using such assistance for any sectarian purpose or activity, including sectarian worship and instruction. This section is intended to ensure that all child care programs receiving funds under this Act are non-sectarian, whether or not a sectarian institution operates the program. Under a narrow, technical interpretation of this prohibition, one could argue that sectarian activities are permitted in a child care program funded under this Act, so long as no financial assistance under this Act is used for the sectarian activities. The Committee expressly rejects such a narrow, technical interpretation of Section 19(a). On the contrary, the Committee adopts a broad interpretation of the prohibition in Section 19(a). Under the Committee's broad interpretation, an entity receiving any form of financial assistance under this Act shall not include any sectarian activities, worship or instruction in providing child care services under this Act. Section 19(a) embodies the Committee's intent that all aspects of child care services provided by an entity receiving financial assistance under this Act be completely non-sectarian in nature and in content. The Committee expresses no view concerning whether the restriction in Section 19(a) is constitutionally required by the Establishment Clause.

The committee report emphatically states that a broad interpretation of the language should govern. Without any further explanation of what that means or what a broad definition

would leave out, there is no guidance for the States to differentiate between church-based and sectarian. The result would be that most States, in the interest of avoiding a violation of the act or litigation, would elect one of two undesirable courses of action: providing no certificates in church-based settings, which the committee says it did not intend; or not using the certificate program at all, which was certainly not the committee's intent.

Another argument raised against this amendment is that it violates a compromise early this year on the questioned bill and report language on these issues. If there ever was a compromise, Mr. President, the question is "Who compromised with whom?" As a member of the committee, albeit a new one, I was never consulted on the question of restriction of the certificate program. It is my understanding that 19(a) has been a part of the bill from the very beginning. There was a compromise on section 20 of the bill, which deals with nondiscrimination, but that has no bearing on the issue before us now.

The next argument we may hear is that the Ford-Durenberger amendment will kill the bill, either here on the floor, in conference, or in the courts, let me take those one at a time:

First, Mr. President, I have yet to hear of a single ABC supporter who will vote against this bill if this amendment passes. I recognize that there are strong feelings on and off this floor, but I cannot imagine Members who have invested years in this effort abandoning this struggle over the configuration of the certificate program. To the contrary, Mr. President, I can easily imagine a number of Members who would be far more likely to support S. 5 if the Ford-Durenberger amendment is agreed to. I would number the Senator from Kentucky and myself in that category.

Second, the House has its own means of achieving the goals of child care. They are far less likely than the Senate to include the tax provisions which the President has advocated. But the House is also unlikely to abandon this effort to avoid this fairly narrow amendment. It is important that this amendment be in the Senate, to ensure that it can be given proper consideration in conference.

Third, and perhaps most importantly, we cannot predict how this bill will look in the final analysis. We have a strong statement by the President as to his position on any child-care bill which goes beyond a tax credit approach. It is now likely that the Senate will pass a bill with a combination of ABC and tax credits. I strongly doubt that the Senate bill, as currently drafted, can attract the 67 votes necessary to override a possible veto. No matter how badly some of our colleagues may want ABC to pass, they should give careful consideration to accepting an amendment which broadens support for it.

By this time, I am sure my colleagues may have seen a letter signed by a number of groups in opposition to the Ford-Durenberger amendments. Before my colleagues jump to the conclusion that Senator FORD and I have some antireligious intent, I want to make three points. Almost without exception these groups are part of the original ABC coalition, which was put together 2 years ago. That group has had as its central message that ABC pass without amendment. Naturally, since we have offered a substantive amendment to the bill, those groups oppose it. Those same groups, however, vehemently opposed the tax approach which the leadership of this body has decided to take in this bill as an accommodation to political reality. I believe they will do the same on the Ford-Durenberger amendment.

I have had occasion to review the comments of some of the groups who have signed the letter, and I would vote against the amendment they describe, too. But it is not the amendment we have offered. We are not out to kill ABC. We are not out to get ABC declared unconstitutional. And we are not out to provide direct Federal assistance to religious groups.

A number of child-care provider groups, those who know the importance of church-based child care to our efforts to provide quality, affordable, and available child care. I ask that a letter from these groups appear at this point in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

DEAR SENATOR: We, the undersigned religious organizations and groups representing religious organizations, speak for our members who have been actively involved in providing quality child care services to communities across the United States. We applaud the interest of the Federal government in taking new initiatives to help low and moderate income families find quality child care.

The variety of proposals before Congress and the accompanying debate reveal both the urgency and the complexity of child care legislation. Since the Act for Better Child Care Services of 1989, S. 5, is the proposal to have come the furthest in the Senate at this writing, we wish to bring to your attention our deep concern about it. We believe this concern should be addressed by an amendment which would ensure that parents receiving child care certificates could be free to choose eligible church and synagogue providers of services for their children.

We are pleased that S. 5 gives primary responsibility to parents in choosing their children's child care providers. This should be a touchstone of any new national child care policy. However, the use restrictions in Section 19(a) would severely *limit* parental options, expecially in poor and isolated rural communities. Enactment of the bill with Section 19(a) as interpreted by the Senate Committee Report (101-117) would limit parents' choice to strictly secular child care providers. The current S. 5 discriminates against parents of eligible children who elect child care in religious settings, and would effectively eliminate the much needed services now offered by those religious providers from the available pool. We believe it essential that this unnecessary restriction be removed from child care certificates.

In our experience most religiously sponsored child care, because it is provided within at least a marginally religious context, would not meet the secularization requirements of Section 19(a). (See attached S. Rep. 101-17, pages 48-49.) Congressional committee hearings have revealed that religious organizations currently provide an estimated 30 to 40 percent of the center-based care in the country. It would be a significant policy error to exclude their quality child care programs from new legislation. Religiously sponsored child care centers currently offer their services to low income families in the larger community and will contribute an even greater share if they are included in this bill. We cannot support child care legislation which would effectively exclude many of our own efforts to serve the nation's child care needs, especially among the poor and vulnerable.

Therefore we believe that an amendment to S. 5 is needed to remove this unwarranted statutory restriction on parents' decisions about their children's care. A recent analysis of the Congressional Research Service which deals with the constitutionality of such an amendment clearly supports our views on this matter. A copy is enclosed.

We understand that such a "Parental Choice" amendment will be offered by Senators Ford and Durenberger when S. 5 comes up for consideration on the Senate floor. We urge you to vote in favor of the Ford/Durenburger amendment.

Respectfully yours,

Agudath Israel of America, American Montessori Society Christian Schools International, Council for American Private Education, Evangelical Lutheran Church in America Department of Education, Friends Council on Education, Knights of Columbus, Lutheran Church-Missouri Synod, National Association of Episcopal Schools, National Catholic Educational Association, National Society for Hebrew Day Schools, National Council of Catholic Women, Seventh-Day Adventist Board of Education, and Solomon Schechter Day School Association.

Mr. DURENBERGER. I believe when the facts of the Ford-Durenberger amendment are understood, many religious groups will see the merits of this approach.

Let me summarize, Mr. President. What the Senator from Kentucky is doing here today is designed to fulfill, not destroy the ABC bill. There is strong support for the judgment that we have made that the Constitution permits the States to provide child-care assistance for parents to dispose of as they wish, without running afoul of the establishment clause. Church-based child care is one of the foundations of the service infrastructure in this country. It is available to a large segment of our population. It is affordable. It is high quality. And it is established, not something we need to create. When Americans are crying out for more and better child-care services, when we have less than a fourth of the supply we need, it is critical that we make the most of every resource we have. And this amendment does just that.

THE MITCHELL AMENDMENT

Mr. President, I want to indicate my reasons for opposing the Mitchell substitute before us.

S. 5 has made marked progress since it left the Labor and Human Resources Committee on March 15. Many of the most difficult issues in the markup have been addressed to some degree. This amendment is an obvious improvement in the areas of standards, in the area of tax credits, and in providing the States with additional flexibility in the certificate program. But, Mr. President, I do not believe the Senate is done improving this bill.

The Bentsen health tax credit has been discussed during this debate. I think a very good case can be made that we can help more children and families with a different approach.

The amendment Senator FORD and I have made to section 19(a) has not made that section good policy. It has made it less bad policy. I remain concerned about the precedent we are setting with the passage of section 19(a). Title XX passed without such a restriction. The Welfare Reform Act passed without such a restriction. I have yet to hear a convincing case why S. 5 should be treated differently.

I look forward to working with my colleagues to make further improvements in S. 5, in hopes that we can enact a bill which provides the maximum service for each dollar we expend.

THE ACT FOR BETTER CHILD CARE: A MATTER OF CHOICE

Mr. WARNER. Mr. President, I rise today in support of increased Federal support for the provision of child-care assistance for American families. I believe it could be said that every Member present is supporting this position.

We are, however, being provided with a fundamental choice in this matter—whether to provide child-care assistance directly to families, or to make the assistance available largely through the States and child-care providers. In my view, the debate and our choice should be centered around one of the oldest questions in the quest for good government: How we can do the most good for the most people.

Allow me to share with you the results of a child-care mailing I sent out last summer to 247,000 Virginia households with school age children. Of those responding, 168,000 said yes, Government should play a larger role in the provisions of child care. What was startling to me was that of that figure, only 1,079 preferred the original ABC bill concept of funding the providers. For the tax credit concept 167,000 expressed their support.

I realize that the ABC bill is now greatly changed, but I do not believe the basic public preference for tax relief has been altered. The fact that refundable tax credits are now included in ABC signifies that the ABC leadership has also recognized this public preference.

It should be emphasized that the tax credit concept has such broad appeal mainly because of its universality. Under the Dole-Packwood substitute, as many as 5 million families stand to benefit from the combination of the two tax credits, no matter the makeup, either headed by two parents with one or both in the workplace, or by single parent households. Under ABC, perhaps fewer than 1 million families will be served, and of those, unfortunately, none may be traditional two-parent families with only one in the workplace.

Of equal concern to me has been the debate over the use of child care moneys in religious schools—how to best preserve the separation of church and State, when church-sponsored day-care centers are some of our predominant providers. Under the ABC bill, as amended by Senators FORD and DURENBERGER, it is my understanding that there are now two conditions under which funding may be utilized in a sectarian setting.

First of all, the bricks and mortar can be sectarian, but the child care environment must be secular. I should add that this is not a new development. Our Nation's hugely beneficial Head Start Program has for two decades been offered with careful nonsectarian care and teaching at numerous religious sites. The difference, of course, is that Head Start has always been a publicly funded program, while child-care services, up to this date, anyway, have generally been privately supported.

Second, under the Ford-Durenberger language, the child-care certificates authorized for low-income families are truly intended to be available for child-care facilities with religious activities. If, indeed, the States exercise their option to extend such federally funded certificates for pervasively religious child care, opponents believe their use will ultimately be a matter for the courts to decide.

Again, the tax credit concept appears to be a more workable choice. Why not avoid the regulation of church day care or a possible court fight altogether by the simple provision of tax relief for families?

Central to the Act for Better Child Care has, I believe since its inception, been the creation of Federal standards to direct the States in the provision of quality child care. This central component has now been modified, in accordance with the National Governors Association, to provide instead a Federal model on which the States may or may not base their own child-care regulations.

In this area, as well, we have been presented with a choice in the tax credit substitute package. Why not take the infusion of Federal funding for child care one step further. If we truly wish to free the States from Federal intervention, we can put the reins in the hands of our Governors in the form of expanded dependent care block grants. This is an alternative I believe the Nation's Governors would welcome.

I would like to express my support for the final component of the Dole-Packwood substitute, protection for Social Security retirees from being penalized under the earnings test for the receipt of child-care moneys. I have now joined several times with Senator ARMSTRONG to provide relief from the earnings test, and I commend both him and his fellow sponsor, Senator ROTH, for this initiative.

Mr. President, I would be remiss if I were to end my remarks without paying appropriate tribute to the sponsors of the Act for Better Child Care. We would not be engaged in this debate, setting the stage for committing several billion dollars to providing families with child-care assistance, were it not for the unstinting leadership of Senators CHRISTOPHER DODD and ORRIN HATCH. Together, they have championed the child-care cause through a dramatic evolution.

Now, for their consideration and, indeed, that of the full Senate, is one last alternative, the tax credit package developed by Senators DOLE and PACKWOOD, with the support of President Bush. The tax credit alternative is my choice, and I am pleased to have been an original cosponsor. I strongly believe that it is the choice of American families.

Mr. LEVIN. Mr. President, I rise in support of the Mitchell substitute. I do so because I believe it promotes safe, affordable, and accessible child care, while at the same time maintaining parental choice and involvement in child-care services.

I believe all of us in this Chamber can agree that for many Americans, finding reliable and affordable child care is a constant worry. The rapid growth of participation in the labor force by parents of children under the age of one has resulted in a critical shortage of quality child-care arrangements for infants and toddlers. According to the Children's Defense Fund,

> More and more mothers are working primarily out of economic necessity as the proportion of families headed by single mothers increases and the economic status of two-parent families with children declines. Often a mother's paycheck is all that stands between her family and poverty.

In 1989, the U.S. Census Bureau reported that 51 percent of women go to work or actively seek it within a year of having a child. The availability of child care is, therefore, critical to the self-sufficiency and independence of millions of families. The years from birth to age 6 are critical in the development of a young child. In my own State of Michigan, 42 percent of mothers with children under 6 are working.

Mr. President, high quality childhood development programs are cost

effective. Study after study has shown that quality child care can reduce the chances of juvenile deliquency and adolescent pregnancy and improve the likelihood that young people will finish high school and become gainfully employed.

Unfortunately, only about 1 American company in 10 provides day care for the children of its employees. Fewer than a fifth of preschool children spend their days in proper day nurseries; two-thirds are covered by informal arrangements in their own homes or those of neighbors. Although most are well served by ad-hoc day care groups run by local mothers or shared home helps, there are some horror stories.

Two years ago Jessica McClure, aged 18 months, fell into a well at an unlicensed day nursery in Texas. Other children have died in horrifying accidents while left unattended at home, or with persons whose previous abuse and neglect of children were unknown to the parents. In Virginia last year, 10-month-old Ashley died after being given the prescription drug imipramine to keep her quiet. A criminal background check would have revealed the provider had been convicted in 1968 for neglect of her own two children. Two children were killed and six others injured, some seriously, when a fire broke out in what officials said was an unlicensed day care center in the east New York section of Brooklyn. In early June of this year, a 17-month-old Prince Georges County, MD, boy died after his mother left him in a car for 3 hours outside a residence where she worked as a housekeeper. According to law enforcement officials, the mother did not want to take her child into the house because it was her first day of employment and she was fearful of losing her job. Mr. President, there are too many other tragic stories like these.

I find it difficult to follow the logic of some arguments made in opposition to the Mitchell substitute with respect to the standards issue. In its original form, the ABC bill left it up to the Federal Government to establish standards for child-care facilities receiving assistance in areas such as health and safety. The opponents of that version criticized it for imposing some new Federal bureaucracy on American families. Now, in the Mitchell substitute, the formulation of the standards is left to the States, and some important decisions about financial assistance will be made not by Federal officials or State officials, but by local officials. Still, we hear complaints from the opponents. Mr. President, it is ironic to see some of those who were supporting proposals for New Federalism just a few years ago, now to evidence such distrust of the wisdom of State and local authorities.

Most if not all of the legislation which passes through this body is a combination of consensus and compromise. Therefore, not every provision can or will fully please everyone. For example, I have concerns about the use of certificates for sectarian based child care. This provision should not be interpreted as a precedent for any broad based tuition tax credits. As important as it is to provide adequate child-care assistance, it is also important to maintain the constitutional principle of separation of church and state. It is my hope that the bill's provision that no financial assistance shall be expended in a manner inconsistent with the Constitution will allow this legislation to achieve both goals.

Additionally, I hope that at some point we can do more to provide assistance to middle-income families who are feeling both the economic pressures which require both spouses to work and feeling the economic burdens of paying for quality child care. I think it is important to remember as we talk about the child-care proposals that we are considering on the Senate floor that they do not solve the whole problem. To oversell them would only help breed cynicism among the American people. But, taken as a whole, the Mitchell substitute represents a major step forward for the children of our Nation. I believe the Mitchell substitute is a good beginning. I believe it is a balanced approach to the growing crisis in child care, and I urge my colleagues to join me in supporting it.

The PRESIDING OFFICER. Who yields time?

Mr. DOLE. Mr. President, first I want to thank all of my colleagues on both sides for the debate. I think we have had a good debate.

I do not have any illusions about how the vote is going to come out, particularly in view of the statement of our colleague on this side, Senator HATCH, who I did not think ever would oppose credits. But he has made that choice, and it is his.

Mr. President, I have listened with great interest to the floor debate on child care. I have heard all kinds of characterizations, and all kinds of honest disagreements on the issues.

But there is one fact that cannot be argued; one essential element that cannot be dismissed—child care is a "family issue." Let me say that again—this is a family issue, not a "Government issue."

It's all about parents and their children. And the bottom line here today is which bill before us gives the family the most flexibility, the most options, and the most freedom to do what they believe is best for them.

In other words, what is best for that family. And in my view, the overwhelming number of Americans believe that family and Government go together like oil and water.

When it comes to our children, our families don't want any more Government interference.

So, we can go with a family bill—the Dole-Packwood proposal—or, we can go with the other plan: The act for bureaucratic control. The ABC bill is not a family bill. It is antifamily.

Congress now has a clear choice: our amendment relies on a tax incentive and enhances parental choice. Notwithstanding all the denials we've heard in the last 3 days, the ABC bill relies on massive Government subsidies to the States and enlarges the role of big Government in family decisions.

Our proposal is based on what this Senator believes and many editorials note to be a sound concept; that parents, not the State, should bear prime responsibility for making decisions about whether their children are cared for at home, at grandmother's house, in a public care facility or at a church-run center. Our proposal trusts free people to make the decisions.

I have heard it suggested this morning that the Dole proposal is not a child-care proposal. In fact, the Joint Committee on Taxation tells us that the child-care supplement combined with the refundability of the existing DCTC will help approximately 5 million families, and of course, many of these families have more than one child. The $400 million in block grants to the States will also benefit a good many children so for a cost of about $12 billion over the next 5 years as compared to the $15 or more billion proposed by Senator DODD, we help millions of families provide what they believe their children really need.

Senator DODD said adamantly last night that the Mitchell substitute gives ultimate authority over where a child is cared for to parents, not to States.

Let us read their own bill. In section 107(C)(3)(A) it reads "that, to the maximum extent practicable, the parents of each eligible child who will receive child-care services for which assistance is provided are permitted to select the eligible child-care provider that will provide such services to such child;" and it goes on in the next subsection (ii) to state that: "the State will attempt to place such child with the eligible child-care provider selected by such parents."

Who has ultimate authority over the placement of children. The bill clearly shows, if you read it, that the States do—not parents.

I know my distinguished colleague from Oregon, Senator PACKWOOD, and my distinguished colleague from Indiana, Senator COATS, yesterday made some excellent remarks on the church-state issue. I would just like to take a few minutes now to amplify these remarks.

THE SO-CALLED FIX

Yesterday, Senators DODD and HATCH spoke on this floor and claimed that the revised ABC bill had resolved all the first amendment issues—that all the church-state issues had been fixed.

But let me read you the so-called fix. Let me read you the specific language

that supposedly resolves all our problems:

No financial assistance provided under this title shall be expended for any sectarian purpose or activity, including sectarian worship and instruction, except that this subsection shall not apply to funds received by any eligible provider resulting from the distribution of a child-care certificate. * * *

As you can see—this exception—this language—applies only to those States who have adopted a certificate program. It does not require States to use certificates. And the exception does not apply to those States who may provide child-care services through other mechanisms. In fact, religiously based child-care centers in those States who do not use certificates are subject to the broad proscription against sectarian activity.

Let me also read you another part of the so-called fix. This part states that "financial assistance provided under this title shall not be expended in a manner inconsistent with the Constitution."

This statement is obvious. It is so obvious that it is irrelevant. Of course, funding under the bill should not violate the Constitution. This statement is no fix—as my distinguished colleague from Connecticut suggested yesterday. It is meaningless.

But—on second thought—the statement will have one unfortunate meaning: it will mean that religiously based child-care centers will be subject to expensive litigation. And it will mean that religiously based child-care centers will spend more time and resources defending lawsuits than providing child-care services. As I said yesterday, the cure will be worse than the disease.

HEALTH CREDIT

Finally, with respect to the health credit, no one will disagree that there is a great need to increase access to health-care coverage. Certainly, the chairman of the Finance Committee deserves credit for bringing this to our attention once again. But, Mr. President, this is not the best way to spend $5 billion over the next 5 years. Again in this area, let us give parents the resources they need to make choices. Let us not once again assume that big Government knows best.

CONCLUSION

Again, let me boil it down to one question, who knows best how children should be cared for: parents or an omnipotent State? An enlightened use of tax policy would maximize parental choice. That's what this debate is all about. Choice.

I think we have to make some basic judgments here. We are all for child care. Most everybody has a child-care bill. Maybe there were one or two exceptions who do not want to do something in child care. But I have heard all kinds of characterizations, and all kinds of honest disagreements on the issues. I have heard the Senator from Massachusetts say we are going to repeal the 20th century. There are parts of it I would like to repeal, and other parts are pretty good. But there is one fact that cannot be argued.

One essential element that cannot be dismissed is that child care is a "family issue." Let me say it again. It is a family issue, not a "government issue."

Senator DODD and Senator HATCH want to make this a government issue. That is fine. They can have all the government they want. They will be out here railing against it sooner or later. But myself, Senator PACKWOOD, Senator DOMENICI, Senator WILSON, and others believe it is a family issue. It is all about parents and their children. It is not about more bureaucracy, and new bureaucracy in HHS or new bureaucracy in every State. It is a "lead agency," it is called. That is a bureaucracy. Which bill before us gives the family the most flexibility? There is not any doubt about it.

So to those who want to stand up here and say indirectly I do not trust parents to deal with money, we have to set up a bureaucracy, we have to set up a new government program, and some have never met a program they did not like. They are out trying to push this bill down the throats of American families all across America.

We have to decide what is best for the family and what is best for the family in Russell, KS. They do not live within the beltway. They are not bombarded every day by the Children's Defense Fund and by organized labor. They are out there taking care of their children. Where are they going to go to get their certificate? We have to remember there are people outside the beltway. They do not have any lobbying groups around here. They do not have anyone painting some rosy scenario about how this is going to solve all the problems. I do not think the American people want more government interference.

They had an election out in California, in Fremont, CA. In effect, they had the Dodd bill on the ballot. They wanted all the taxpayers to pay for child care for others. It was defeated on a 3 to 1 margin, 73 percent to 26 percent. Those are real people. They do not live within the beltway. They have not heard Senator HATCH's argument or Senator DODD's. They are wrestling with real problems.

What is wrong with saying to somebody who wants to stay home, raise their family, not go to work every day, we are not going to discriminate against you? I want to hear some of these people explain that vote after it is over. I want to see people all across, Senators all across the South, everybody else in America, saying we do not believe mothers who stay home and raise their children are entitled to anything. Why should they be entitled to anything? That is precisely what the Dodd-Hatch bill says—nothing. If that is what we want to vote for, you are going to get an opportunity here very quickly.

I have heard it suggested here this morning our proposal is not a child-care proposal. In fact, the Joint Committee on Taxation tells us the child-care supplement combined with the refundability of the existing DCTC will help approximately 5 million families, and of course, there is more than one child in most families. I think the average is about 1.9. That is about 10 million children. What is this little group in the other bill going to help, 500,000, maybe 700,000, if you stretch it a little as they have done.

What would it cost to fully fund the Hatch bill? They have already $1.75 billion. So you say that is 500,000 children, and only 18 million eligible. Multiply that quite a few times, and you are up to $40 billion. Nobody has talked about the cost of their bill. They have not talked about it. They do not want us to know. This is a con game going on on the floor. Nobody has talked about the cost. Do not talk about the cost, and say the other side is guilty of deception when you do not have any facts on your side.

I agree with my colleagues. I would like to see a child-care bill we could all support but we cannot have everything. Some people are for everything on this floor. "You name it, I will vote for it." We cannot have it all.

We have a clear choice. Our amendment relies on a tax incentive, and enhances parental choice. Nobody can argue with that. They have, but they cannot do it with any validity. Notwithstanding all the denials we have heard in the last 3 days, the ABC bill relies on massive Government subsidies to the States, and enlarges the role of big government in family decision. They cannot get around it. They can talk about it. They can say the rest of us are guilty of deception, it is true.

I want to have printed in the RECORD a number of editorials which will spell that out, and I so ask unanimous consent.

There being no objection, the editorials were ordered to be printed in the RECORD, as follow:

[From the Indianapolis Star, Feb. 16, 1989]

CHILD CARE CREDITS

President Bush has not—so far, at least—bought into the proposition that concern for the family automatically means support for a massive infusion of government funds into the day care industry.

In his budget message to Congress, he proposed that assistance for working parents be limited to those needing it most: low income families with young children.

"I support a new child care tax credit that will aim our efforts at exactly those families—without discriminating against mothers who chose to stay home," the president said.

"Now, I know there are competing proposals. But remember this: The overwhelming majority of all preschool child care is now provided by relatives and neighbors, churches and community groups. Families who choose these options should remain eligible for help. Parents should have a choice."

There are no such options or choices in much of the day care legislation that has been urged on Congress. Only "licensed" day care facilities would be covered in most proposals. That alone rules out an estimated 90 percent of day care providers and three-fourths of all children cared for.

Moreover 80 percent of the children enrolled in licensed facilities come from middle-income families in which both parents work. The median income for such families—$38,346—is nearly 50 percent higher than the median income for families with a single earner.

Thus such proposed legislation as the 1988 Act for Better Child Care, sponsored by Sen. Christopher J. Dodd, D-Conn., would benefit only a select group of families and they would benefit at the expense of all working families, most of whom earn less and don't use licensed facilities.

Moreover, as President Bush recognized, day care proposals discriminate against families whose mothers stay home to care for the children—often at considerable financial sacrifice. What is often overlooked is that most mothers of children under 5 don't work outside the home and most of those who do are employed part-time or seasonally.

According to a 1987 Census Bureau report, fewer than one child in five has a mother employed full-time year-round.

A tax credit such as that supported by President Bush makes much more sense than proposals that would establish a day-care bureaucracy—with its ever-expanding demands for dollars and personnel.

Parents of young children will benefit most from a tax code that provides direct, genuine tax relief rather a regulated service that may or may not be needed or wanted.

[From the Birmingham News, Mar. 19, 1989]

CHILD CARE QUESTIONS

Should the taxpayers of America subsidize middle-class families in which both parents work but not middle-class families in which one parent stays home? Should the federal government take over from the states the responsibility of regulating child care?

These are just two of the many questions raised in the competition between the Bush administration and the Democrat-controlled Congress to see who gets credit for being the most responsive to family needs.

They point out, though, some of the major differences between George Bush's plan and the approach approved this week by the Senate Labor and Human Resources Committee.

There is little disagreement that low-income families, especially when there is only one parent in the home, can be helped by safe, affordable child care. It helps families stay off welfare rolls and on employment rolls, with all the social as well as economic benefits that entails.

The Bush plan offers assistance in the form of tax credits to families making $13,000 a year or less. The maximum tax credit of $1,000 for each child under age 4 will not pay the full cost of good child care, but it certainly would provide a helping hand to an estimated 2.5 million American families.

It also puts control over spending decisions in the hands of families, rather than a government bureaucracy.

The Congressional plan is much more ambitious, providing $2.5 billion in direct subsidies to families earning up to the median income in their home state.

No doubt such subsidies would be popular. A telephone survey conducted for Kinder-Care found that 88 percent of parents with children under 10 years old believe the federal government should give tax credits or deductions for child care. Forty-one percent favored subsidies for low-income families and 28 percent said they supported subsidies to all income groups.

Of course, those of us who are trying to raise families want any help we can get. We know how difficult it is to make ends meet, and we know that many mothers work out of necessity.

But should that knowledge shift the burden for caring for children off individual families and onto the taxpaying public? We think not.

Federal child care help can be a powerful weapon for fighting poverty and dependence. It is harder to defend as a middleclass entitlement.

And the congressional plan demonstrates once again that whenever we accept federal money, we give up a little of our freedom. It would set up minimum federal standards for day care providers. That is the wrong way to go. As Bush said, "Federal policy should increase, not decrease, the range of choices available to parents."

But by limiting subsidies to those families who choose government-sanctioned child care, the plan would limit the range of choices.

The Bush plan may not go far enough in helping those at the economic margin deal with the dual responsibility of supporting and caring for their families. But it approaches the problem from the right perspective and targets the right families.

It should be the basis for government action on the issue of child care.

[From the Long Island Newsday, Mar. 19, 1989]

A BABY STEP TOWARD FILLING U.S. DAY-CARE NEEDS

Kids are expensive. Forget about the toys and the diapers, just having them skews the family budget. If Mom stays home, the family loses whatever income she might have earned at a job. If she goes to work, a chunk of her paycheck often goes to pay someone else to care for the kids: Full-time licensed day care costs $45-$75 per child a week on average (it can go much, much higher) and can devastate a minimum-wage earners' $134 weekly pay.

So President George Bush's new child-care initiative for low-income families is both wanted and welcome. It may help poor working families resist the temptation to give up and go on welfare. But it falls far short of filling the need for affordable, quality day care.

In fact, it's not really a child-care program at all: It doesn't mandate that the money go for day care. The proposal would give a tax credit of up to $1,000 for each child under age 4 in working families who make up to $13,000 a year. It would be refundable, so that a family with little or no tax liability would get the credit in the form of a government tax refund. Total cost the first year, $187 million.

That's minuscule compared with the $2.5-billion annual price tag on the Act for Better Child Care Services approved by the Senate Labor and Human Resources Committee last week. The ABC bill parcels out child-care subsidies to the states and also sets safety standards for day-care centers, something now handled at the state and local levels.

As much as we'd like to see the issues of quality and affordability solved, we have some problems with the ABC bill. The church-state conflicts that sank it last year—civil libertarians balked at giving government subsidies to church-run day-care centers—have not been satisfactorily resolved. We worry that the small home-based centers that serve half the kids in day care may be forced out of business: Experts say 90 percent of family day care is unlicensed. And, the bill is very costly.

So, the ABC bill needs work. Meanwhile, the president's proposal should be enacted. It's a small helping hand to the American families who need it most, the working poor.

[From the Richmond Times-Dispatch, Mar. 24, 1989]

BIG BROTHERLY CARE

It was "remarkably coincidental," quipped Sen. Christopher J. Dodd, D-Conn., that President Bush sent his child-care legislation to Capitol Hill the same day the Senate Labor and Human Resources Committee was approving by an 11-5 vote Sen. Dodd's $2.6 billion Act for Better Child Care Services (ABC). Coincidental or not, the timing was fortuitous. For the Bush and Dodd proposal on how the federal government should assist working parents in making arrangements for the care of their children differ dramatically.

Congress now has a clear choice: The Bush plan relies on a tax incentive and would enhance parental choice. The ABC bill relies on massive governmental subsidies and enlarges the role of Big Government in family decisions.

The ABC measure would send grants to states for subsidizing child care all the way up to age 15. To be eligible for government assistance, families could earn up to 100 percent of their state's median income, which works out, nationally, to approximately $33,000 a year for a family of four. Additionally, the Dodd plan would establish a new federal entity to set standards for day-care providers receiving ABC funds. States would have up to six years to ensure that their providers met the federal guidelines.

This approach would shift the major responsibility for financing and regulating child care to Washington and away from states, localities and individual families. It has all the earmarks of becoming an entitlement program that starts "small" (if $2.6 billion can be called that) and growing into resource-gobbling monsters like Medicare and Medicaid. Even home-based care—grandparents caring for their own grandchildren—would have to meet federal regulatory criteria if parents were to receive ABC subsidies. Call it the Act for Big-Brotherly Care.

By contrast, the Bush plan seeks to use the tax system to empower low-income families to make their own decisions about child care. It would enable families making less than $13,000 a year to take a tax credit of up to $1,000 for each child under 4. The credit would be "refundable"; that is, families making too little income to owe taxes would receive a refund that they could use toward child-care expenses.

The Bush administration proposal is less expensive than the ABC bill backed by Democratic liberals. It would cost an estimated $187 million in fiscal 1990, rising gradually to $2.5 billion by fiscal 1993. Moreover, note critics, it is less comprehensive, because the benefit stops when children reach 4 and when incomes rise above the poverty level. However, Mr. Bush also is proposing an expansion of Project Head Start, a popular program providing health, nutrition and education to preschoolers from poor homes. That could help fill the needs gap without creating a vast new child-care bureaucracy.

Sen. Dodd has complained that parents might not use the Bush tax credit wisely in

all cases. "They could spend it on beer if they wanted to," he said. Perhaps that's true, though it might be possible to write some safeguards into the law against that happening. Nevertheless, the Bush approach is far more compatible than the Dodd scheme is with the sound concept that parents, not the state, should bear prime responsibility for making decisions about whether their children are cared for at home, at grandmother's house, in a public care facility or at a church-run center. The Bush plan trusts free people to make the decisions. The Dodd plan asks Big Government to call the shots for them.

[From the Richmond Times-Dispatch, May 17, 1989]

THE "PARENTING PENALTY"

If you are a parent and you choose to stay home to care for your preschooler—or if you have a relative or friend do so—the federal government does not like you very much. And it is going to punish you even more harshly if the $2.5 billion Act for Better Child Care (ABCC) being pushed by Sen. Chris Dodd, D-Conn., ever becomes law.

The current U.S. tax code provides a Dependent Care Tax Credit for working parents who use paid child-care services. While the objective of easing the tax burden on those responsible for child-rearing is commendable, the Family Research Council has pointed out that this credit actually redistributes income from families that make little use of paid day care to those that so do extensively.

"Not only does this penalize families in which one parent stays home full time to care for children," declares an FRC report, "but it also shortchanges two-income and single-parent families that seek to minimize their use of paid substitute care by working part time, working different shifts, working from home, or having a grandparent or other relative care for their children."

ABCC, on which the Senate will vote this month, would make the government's preference for those who use group day care even more blatant. According to columnist Warren T. Brookes, the Dodd bill: "excludes 94 percent of children because only 11 percent of children under 5 are in group day-care facilities, and nearly half of those are run by churches, excluded by law." The child-care method of choice in this country, by far, is family-based private care. The ABCC would take tax dollars from those families, many of which are in low-to-moderate income ranges, and transfer them to users of public day care, many of them from higher-income, two-earner families. In short, the bill would create a large disincentive for parents to spend a lot of time with their own children.

The federal government should not be in the business of penalizing parents who choose to care for their children in the home. A fairer approach would provide tax relief to parents and let them make their own decisions. President Bush's proposed Toddler Tax Credit, which would be limited to families with incomes below $20,000, is at least the beginning of such a sound policy. An even more comprehensive approach, proposed by Reps. Clyde Holloway, R-La., and Richard Schulze, R-Pa., would replace the current Dependent Care Tax Credit with a new refundable credit of up to $1,000 per child for families making less than $45,000. The net revenue loss would be comparable to the cost of Sen. Dodd's ABCC, but 100 percent of the benefit would go to parents, whereas a new federal bureaucracy would devour at least one dollar in four of ABCC funds.

The basic question comes down to who knows best how children should be cared for: parents or an omnipotent state? An enlightened use of tax policy would maximize parental choice.

[From the Washington Times, May 17, 1989]

FEDERALLY LICENSED GRANDMAS

Pressure is building for a "compromise" child care bill that could open the door to federal licensing and control of day care. Congress would give low-income parents a child-care taxbreak while passing the Act for Better Child Care, backed by Rep. Dale Kildee, Sens. Orrin Hatch and Chris Dodd and the Children's Defense Fund. The ABC bill would spend $2.6 billion a year to aid secular day-care centers.

Backers of the bill contend their measure enhances parental choice because it provides "child-care certificates" for parents to spend on their children's care. But to use an ABCC certificate, Heritage Foundation policy analyst Robert Rector says, parents would have to enter into a written contract with the state, which would select and approve the child-care arrangement. Day-care providers would have to sign a contract with the government as well. In short, he notes, "bureaucrats and not parents would select the child care."

ABC fans also maintain that the bill could be used to subsidize care provided by grandmothers. But grandma first would have to jump through similar hoops, even filling out daily reports showing that her meals met detailed federal nutrition standards. ABC thus seems destined to drive grandmothers and small-scale day-care centers out of business. When Child Care Review, a leading journal for the industry, analyzed last year's similar version of ABC, it found that the added regulatory burden would shut down over 12,000 day care centers—more than 20 percent of the licensed centers now in operation.

The bill also would discriminate against church-based day care centers, which could receive subsidies only if they kept religion completely out of their program. Thus religious care centers would be faced with a choice: banish religion or compete directly with larger, secular, federally subsidized day care centers.

And state and local governments are already making life miserable for small-scale day care providers. Virginia Postrel details in the most recent issue of Reason magazine several examples of such harassment: A day-care provider in Culver City, Calif. spent three years battling city planners for a zoning permit to operate a day-care center; a bureaucrat in Los Angeles likened a day-care provider to a drug addict and a prostitute after the operator tried to wade through the morass of L.A. zoning laws. The ABC bill would actually force states trying to loosen such regulatory barriers to meet all sorts of federal procedural requirements.

Finally, ABC overlooks the reason that many parents need day care: High taxes have made it mandatory that both parents work. The average couple with two children paid 2 pecent of their income to Uncle Sam in 1948; the comparable couple paid 24 percent in 1988.

If he's serious about helping parents with children, President Bush will veto ABC and tell Congress to provide real child-care help: tax cuts.

[From the Wall Street Journal, Jan. 30, 1989]

LICENSING GRANDMA

The rush is on to define "kinder, gentler," so it's no surprise that the first proposal out of Washington would make government bigger, richer. Senators Christopher Dodd and Orrin Hatch are co-sponsoring a bill that has the potential to do for child care what the Great Society did for public housing.

The Act for Better Child Care Services (ABC) echoes back to what George Bush, in his inaugural address, called "the old solution, the old way * * * to think that money alone" could address social ills. The bill would throw money at state bureaucracies to "expand and improve working parents' child-care options." So a few thousand well-meaning but beleaguered state employees somehow are supposed to regulate and "improve" child rearing in America.

The bill would spend only $2.5 billion the first year, but make no mistake: This is the camel's nose under the tent. Medicare and Medicaid were also first promoted as modest programs, but by now they're rising on autopilot.

Politically, ABCC is cleverly designed to create and finance a permanent constituency for bigger government. Much, if not most, of the bill's $2.5 billion wouldn't go to parents at all, but instead to licensed "child-care providers." It's a good bet that many of these "providers" will be affiliated with the 100 special interests that Senator Dodd advertises as endorsing the bill. ABC also is careful to make the middle class eligible for its subsidies, because that's where the votes are.

The bill does discriminate against at least one group of Americans, however—parents who choose to stay at home to raise children themselves. They of course get nothing from such a program; so ABC effectively taxes those parents in order to subsidize those who work. Senators Dodd and Hatch seem to believe the government should assign a lower social value to a mother or father who chooses to raise children full time.

Senator Dodd claims ABC will expand the supply of child care, but the bill's regulations would only reduce it. Robert Rector, a child-care expert at the Heritage Foundation, cites studies showing the United States has at least 1.65 million unlicensed neighborhood providers. To receive benefits under ABC, these providers would suddenly have to meet OSHA-like standards, including at least 40 hours of health and safety training every two years. Mr. Dodd even wants to license grandmas. No joke.

Then there's the anti-religious provisions. ABC would provide a subsidy to church day-care centers only if they're "nonsectarian." So any day-care center that dared to teach five-year-olds stories from the Bible would appear to be out of luck.

One expects all of this from Senator Dodd, a devoted social engineer. But the mystery is why Senator Hatch would want to be the main Republican co-sponsor. Perhaps Mr. Hatch wants to burnish his compassion credentials. Perhaps he hasn't been spending enough time in Utah. Whatever the reason, someone should tell him that the candidate who supported ABC last year was Michael Dukakis.

President Bush, on the other hand, supported a $1,000 child-care tax credit to reduce the tax burden on the poor and expand parental (not bureaucratic) choice. Mr. Bush also spoke of "a thousand points of light." The Dodd-Hatch ABC bill is merely a single point of light, a beacon for statists.

[From the Boston Herald, May 13, 1989]

NEW DAY CARE PLAN TAXES MOTHERHOOD

(By Warren Brookes)

Tomorrow is Mother's Day, and mothers better watch out, because Congress is cooking up a scheme to subsidize day care for yuppies by taxing average-income spouses who stay at home.

This month, the Senate is expected to pass the act for Better Child Care (ABCC), a $2.5 billion special-interest boondoggle the majority of whose recipients will be upper income, two-earner families—and whose biggest beneficiary will be government subsidized day-care centers and their union bureaucracies.

They will pass this act instead of the better Bush administration proposal, the Toddler Tax Credit, which is explicitly limited to families with incomes below $20,000, in part because the Bush proposal would not create any new federal state bureaucracy.

More importantly, the Bush proposal does not respond to the most noisy child-care constituency (particularly in wealthy Washington): two-earner families with incomes well above the U.S. median—the top 10 to 20 percent of the nation.

The Cenusus Bureau shows that only 29 percent of preschool children have mothers who are employed full time, 17 percent are employed part time, while 54 percent are not employed at all.

Yet those children with full-time mothers are in families whose median income in 1988 was less than $27,000, or substantially below the overall median of $31,000.

By contrast, the median income of all dual-earner families in 1988 was more than $41,000, while the median income of all full-time dual-earner families was nearly $49,000. This means that most of the demand for day care now comes from families whose median income is 30 to 60 percent above the U.S. median.

Thus, any program of federal subsidies to day-care centers will automatically redistribute income from lower wage, intact families to higher-wage, two-earner families as well as single parents. It is also an explicit tax penalty against the majority of single-earner families with mothers who stay at home.

That is why, to get political special interest support for day-care subsidies, the ABCC advocates, including the supposed defenders of the poor, the Children's Defense Fund, had to set the upper-income limit on child-care subsidies at $45,000—within the top 10 percent of all U.S. incomes.

Worse, the bill excludes 94 percent of children because only 11 percent of children under 5 are in group day-care facilities, and nearly half of those are run by churches, excluded by law from getting federal funds. Another 13 percent are in unlicensed informal care with non-relatives while the other 76 percent are in the care either of a parent or other adult family members.

ABCC advocates argue that the reason lower income families do not use group day-care centers is they can't afford to, especially single mothers. This may be true—but that cannot explain why 54 percent of all mothers stay home with their children.

Choice is what this issue is really all about. More than 80 percent of mothers in a 1987 poll said they would prefer to stay at home if they could afford to, and by a 2-to-1 ratio, mothers under the age of 44 do not regard rising enrollment of children in day-care centers as a positive development.

Why then is it happening? Principally because of federal tax policy. In 1948, a family of four at the median income paid only 2 percent of its income in federal taxes (including Social Security). Today that family is paying about 24 percent.

In 1948, the dependent exemption of $600 represented 42 percent of per capita income. Today's $1,950 represents less than 12 percent. So the main reason so many second spouses now need to work is to make up the huge income lost to higher taxes.

So what we have here is not a day-care problem but a tax problem—and the most positive social and tax policy is to cut the tax penalty for parenthood and increase the range of options.

The Bush proposal is very good as far as it goes. There are other better proposals now before Congress, including one offered by Rep. Jerry Lewis (R-Calif.). But the best one, sponsored by Rep. Clyde Holloway (R-La.) and Rep. Richard Schulze (R-Pa.) was designed by Heritage Foundation's expert on child care, Robert Rector.

Under Rector's plan, there would be an explicit refundable tax credit for each child under age 7, of $1,000 for incomes up to $10,000, which would then be gradually phased down, dropping by $150 for every $1,000 in added income over $10,000, ending at $50,000. This would win support from most income groups.

Its first year added cost would be about $1.5 billion, and this would rise to about $5 billion by fiscal year 1994, so it is deliberately "back-loaded" to avoid the current Gramm-Rudman budget crunch.

But the beauty of these "tax cuts for babies" is they promote parenting fairly, instead of taxing it unfairly as ABCC does.

[From the Washington Post, Apr. 26, 1989]

HELP THE WORKING POOR; LIBERALS AND CONSERVATIVES SHOULD BE ABLE TO AGREE ON TAX RELIEF

(By Robert J. Samuelson)

If we have learned anything about curing poverty, it is that the most important kind of help is self-help. Government programs don't pull people out of poverty; people pull themselves out of poverty. That's why the problem of the "underclass" is so stubborn. People in the underclass aren't just poor. They're so unemployable, hopeless or welfare-dependent that they've lost the ability or the will to overcome their poverty.

By that point, the chances of government even helping are slim. What government can best do—but isn't—is to help those who help themselves. It can provide tax relief for the working poor. This is the most straightforward way of aiding many poor parents and their children. The poorest workers deserve to keep all their wages. Taxes simply push them closer to welfare, where their prospects diminish and they become a burden on society. Tax relief is common sense, and fortunately there's a mechanism to provide it: the federal earned income tax credit (EITC).

The credit is refundable, which means that the poorest workers get money from the government. The credit is now 14 percent for workers with children (others aren't eligible) on earnings up to $6,500. The maximum credit of $910 applies until earnings reach $10,240 and then is phased out. This maximum credit should be raised to somewhere between $2,500 and $3,000, with a larger credit for larger families. The credit should also be phased out more gradually, so that working parents with incomes up to about $20,000 would have their federal taxes cut significantly.

What's interesting is that liberal and conservative poverty specialists have reached a striking consensus that expanding the EITC is desirable. "It rewards people for taking responsibility for their own lives," says Robert Rector of the conservative Heritage Foundation. And, writes liberal economist David Ellwood of Harvard in his book, "Poor Support" (Basic Books, 1988): "People are helped without any need of a stigmatizing, invasive, and often degrading welfare system. . . ."

So what are Congress and the president doing? Almost nothing. They want to be seen as helping poor families—without finding the money. It's a cynical political theater.

There are some worthy proposals. Reps. Thomas Petri, Republican of Wisconsin, and Thomas Downey, Democrat of New York, have offered plans to increase the EITC. President Bush's child-care program involves a new tax credit for working parents of children under the age of 4. But these modest proposals aren't going anywhere, and the Bush plan aims mainly to prevent Democrats from stealing the child-care issue. Most Democrats pretend they're helping the working poor by favoring direct child-care subsidies and a higher minimum wage. These measures would aid the poor in haphazard and ineffective ways.

Consider first the minimum wage. The House and Senate have passed legislation raising it to $4.55 an hour by late 1991, up from the current $3.35. Bush, who has supported an increase only to $4.25, is expected to veto the congressional measure. He should. Congress is raising the minimum for only two reasons. First, it's something for nothing; it seems to provide a benefit without requiring Congress to vote for higher spending. And second, more than 70 percent of the public supports a higher minimum.

But this enthusiasm reflects bad information. Minimum-wage workers are not primarily from poor families. Nor are they family heads. Mostly, they are teen-agers and young adults (nearly 60 percent are under 25) or second earners. In 1988, less than one in seven was a family head. The main effects of raising the minimum would be to increase inflation and unemployment slightly. Businesses would react by either boosting prices or providing fewer job opportunities for the least-skilled workers.

Day-care subsidies are an even more dubious exercise. Under legislation approved by the Senate Labor and Human Resources Committee, families could receive subsidies if they place children in paid day-care arrangements. Families with up to a state's median income (almost $33,000 nationally) would be eligible. Government should help needy families, regardless of how they raise their children. It shouldn't subsidize one style of child rearing over another. This bill would do precisely that.

If mom and dad juggle work schedules so one parent is always home, they wouldn't get a subsidy. If grandma takes care of the child free, there would be no subsidy. Even a single mother who uses a day-care center might miss the subsidy because the eligible population dwarfs the likely funding. Perhaps 1 million children out of an eligible population of 18 million could be subsidized with the authorized $2.5 billion. The legislation's popularity is based on its "appearance of generosity" and "false hopes," as Sen. Nancy Kassebaum, Republican of Kansas, notes. It's political grandstanding. The point is to deceive.

Providing extra cash to a whole class of working parents is more honest and effective. Everyone who is eligible gets a benefit. It lets parents decide what their most pressing needs are. It minimizes bureaucratic overhead costs. Because some families receive money from the government, it's easy to see the EITC as a handout. That's wrong. For the poorest workers, even an expanded EITC would only crudely offset all their

nonincome taxes: Social Security, excise and state and local sales taxes. For better-paid workers, it would merely reduce their total tax burden.

In an era of big budget deficits, government need not be paralyzed. Good programs can be financed by ending less worthy spending programs or tax breaks. The expanded EITC outlined here would probably cost about $10 billion. There are ways to raise that money. An existing tax credit for child-care expenses costs the government about $4 billion annually. It should be eliminated. Three quarters of the benefits go to the wealthiest half of families; only 3 percent go to the poorest 30 percent. Another $5.5 billion could be raised by requiring that capital-gains taxes be paid on stocks and bonds when the owner dies.

It should be easy for liberals and conservatives to agree to help the working poor. The only obstacle is hard political work—making choices and upsetting some constituents. Sadly, it's quite an obstacle. Much as the working poor deserve tax relief, they probably won't get it.

Mr. DOLE. Mr. President, I wonder if I might use my remaining leader time.

The PRESIDING OFFICER. Is there objection?

Hearing no objection, it is so ordered.

Mr. DOLE. Our proposal is based on what this Senator believes and many editorials note to be a sound concept, that parents, not the States, should bear prime responsibility for making decisions about whether their children are cared for at home.

What is wrong with having the child stay with grandma? What is wrong with saying to the mother who does not want to work, who wants to take care of the child—maybe she has a disabled child or two disabled children. Why should she be discriminated against as she is in the Dodd-Hatch proposal?

So I hope my colleagues on both sides of the aisle will understand precisely what they are voting for. If you want more government, you have a big chance for it in the Dodd-Hatch bill. If they want to give you more government, even if you do not want it, they are going to help you.

You think about the little town you are born in, where the parents are going to go for all this, and how are they going to raise the case, as the Senator from New Mexico pointed out. How many children? You have five, and one gets to go to a day-care center, or what? Not all five. But if you have a tax credit, you are going to benefit across the board, no discrimination.

So I just say in conclusion that there is a big religious issue here. It has not gone away. I heard people say it has gone away. It is not going to go away because it is still there. The Senator from Pennsylvania pointed out very well and the Washington Post pointed out very well this morning that it is not going to go away.

Another reason you should not vote for more government is I would rather let my parents, my mother and my father, and my grandparents in on taking care of my children than I would some Federal bureaucracy which dictates to the States that you have to meet six different standards. It seems to me it is pretty obvious.

I hope my colleagues on both sides will read our bill carefully and vote for the Dole substitute.

I yield back any time remaining.

The PRESIDING OFFICER. The Chair recognizes the Senate majority leader.

Mr. MITCHELL. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

VOTE ON AMENDMENT NO. 201

The PRESIDING OFFICER. Under the previous order, the question occurs now on the Dole amendment to the Mitchell substitute.

On this question the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

The result was announced—yeas 44, nays 56, as follows:

[Rollcall Vote No. 93 Leg.]

YEAS—44

Armstrong	Gramm	Nickles
Bond	Grassley	Nunn
Boschwitz	Hatfield	Packwood
Burns	Heinz	Pressler
Coats	Helms	Roth
Cochran	Humphrey	Rudman
Cohen	Kassebaum	Simpson
Conrad	Kasten	Specter
D'Amato	Lott	Stevens
Danforth	Lugar	Symms
Dole	Mack	Thurmond
Domenici	McCain	Wallop
Durenberger	McClure	Warner
Garn	McConnell	Wilson
Gorton	Murkowski	

NAYS—56

Adams	Ford	Lieberman
Baucus	Fowler	Matsunaga
Bentsen	Glenn	Metzenbaum
Biden	Gore	Mikulski
Bingaman	Graham	Mitchell
Boren	Harkin	Moynihan
Bradley	Hatch	Pell
Breaux	Heflin	Pryor
Bryan	Hollings	Reid
Bumpers	Inouye	Riegle
Burdick	Jeffords	Robb
Byrd	Johnston	Rockefeller
Chafee	Kennedy	Sanford
Cranston	Kerrey	Sarbanes
Daschle	Kerry	Sasser
DeConcini	Kohl	Shelby
Dixon	Lautenberg	Simon
Dodd	Leahy	Wirth
Exon	Levin	

So the amendment (No. 201) was rejected.

Mr. MITCHELL. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. BENTSEN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. MITCHELL. Mr. President, I ask for the yeas and nays on my amendment.

The VICE PRESIDENT. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

VOTE ON AMENDMENT NO. 196

The VICE PRESIDENT. The question is on agreeing to the amendment of the majority leader. The yeas and nays have been ordered. The clerk will call the roll.

The bill clerk called the roll.

The result was announced—yeas 63, nays 37, as follows:

[Rollcall Vote No. 94 Leg.]

YEAS—63

Adams	Exon	Leahy
Baucus	Ford	Levin
Bentsen	Fowler	Lieberman
Biden	Glenn	Matsunaga
Bingaman	Gore	Metzenbaum
Boren	Graham	Mikulski
Bradley	Harkin	Mitchell
Breaux	Hatch	Moynihan
Bryan	Hatfield	Pell
Bumpers	Heflin	Pryor
Burdick	Heinz	Reid
Byrd	Hollings	Riegle
Chafee	Inouye	Robb
Cohen	Jeffords	Rockefeller
Conrad	Johnston	Sanford
Cranston	Kassebaum	Sarbanes
D'Amato	Kennedy	Sasser
Daschle	Kerrey	Shelby
DeConcini	Kerry	Simon
Dixon	Kohl	Specter
Dodd	Lautenberg	Wirth

NAYS—37

Armstrong	Grassley	Packwood
Bond	Helms	Pressler
Boschwitz	Humphrey	Roth
Burns	Kasten	Rudman
Coats	Lott	Simpson
Cochran	Lugar	Stevens
Danforth	Mack	Symms
Dole	McCain	Thurmond
Domenici	McClure	Wallop
Durenberger	McConnell	Warner
Garn	Murkowski	Wilson
Gorton	Nickles	
Gramm	Nunn	

So the amendment (No. 196) was agreed to.

Mr. MITCHELL. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. MITCHELL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. (Mr. LIEBERMAN). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DOLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 202

(Purpose: To replace the tax credit for health insurance premiums with an increase in the earned income tax credit)

Mr. DOLE. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Kansas [Mr. DOLE] proposes an amendment numbered 202.

Mr. DOLE. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Beginning on page 97, line 10, strike all through page 102, line 11, and insert the following:

Subtitle A—Earned Income Credit and Dependent Care Credit

SEC. 211. INCREASE IN EARNED INCOME CREDIT.

(a) IN GENERAL.—Subsections (a) and (b) of section 32 of the Internal Revenue Code of 1986 are amended to read as follows:

"(a) ALLOWANCE OF CREDIT.—There is allowed as a credit against the tax imposed by this subtitle for the taxable year an amount equal to the sum of the following amounts:

"(1) GENERAL CREDIT.—In the case of an eligible individual, an amount equal to 14 percent of so much of the earned income for the taxable year as does not exceed $5,714.

"(2) SUPPLEMENT FOR YOUNG CHILDREN.—

"(A) IN GENERAL.—In the case of an eligible individual with 1 or more qualifying children, an amount equal to the lesser of—

"(i) the applicable percentage of so much of the earned income for the taxable year as does not exceed $5,714, or

"(ii) $750 ($500 for an eligible individual with only 1 qualifying child).

"(B) APPLICABLE PERCENTAGE.—The term 'applicable percentage' means 12 percent (8 percent for an eligible individual with only 1 qualifying child).

"(b) LIMITATIONS.—

"(1) GENERAL CREDIT.—The amount of the credit allowable to a taxpayer under subsection (a)(1) for any taxable year shall be reduced (but not below zero) by 10 percent of so much of the adjusted gross income, (or, if greater, the earned income) of the taxpayer for the taxable year as exceeds $9,000.

"(2) SUPPLEMENT FOR YOUNG CHILDREN.—The amount of the credit allowable to a taxpayer under subsection (a)(2) for any taxable year shall be reduced (but not below zero) by 15 percent (10 percent for an eligible individual with only 1 qualifying child) of so much of the adjusted gross income (or, if greater, the earned income) of the taxpayer for the taxable year as exceeds $10,000."

"(b) QUALIFYING CHILD DEFINED.—Subsection (c) of section 32 of the Internal Revenue Code of 1986 is amended by adding at the end thereof the following new paragraph:

"(3) QUALIFYING CHILD.—The term 'qualifying child' means, for the taxable year, an individual—

"(A) with respect to whom the taxpayer qualifies as an eligible individual, and

"(B) who, as of the end of such taxable year, has not attained the age of 5."

"(c) CONFORMING AMENDMENTS.—

(1) Subsection (f)(1) of section 32 of the Internal Revenue Code of 1986 is amended by inserting "(including separate tables for individual with qualifying children)" after "Secretary".

"(2) Subsection (i) of section 32 of such Code is amended—

(1) by inserting "('calendar year 1990' for 'calender year 1987' in the case of the dollar amount referred to in clause (iii) of paragraph (2)(B))" before the period at the end of paragraph (2) and inserting the following new paragraph:

"(2) DEFENITIONS, ETC.—For purposes of paragraph (1)—

"(A) APPLICABLE CALENDAR YEAR.—The term 'applicable calendar year' means—

"(i) 1986 in the case of the dollar amount referred to in clause (i) of subparagraph (B),

"(ii) 1987 in the case of the dollar amount referred to in clause (ii) of subparagraph (B), and

"(iii) 1991 in the case of the dollar amount referred to in clause (iii) of subparagraph (B).

"(B) DOLLAR AMOUNTS.—The dollar amounts referred to in the subparagraph are—

"(i) the $5,714 amount contained in paragraphs (1) and (2)(A)(i) of subsection (a),

"(ii) the $9,000 amount contained in subsection (b)(2)."

(3) Subsection (b) of section 3507 of such Code is amended by striking "and" at the end of paragraph (2), by striking the period at the end of paragraph (3) and inserting ", and", and by inserting after paragraph (3) the following new paragraph:

"(4) states the number of qualifying children (as defined in section 32(c)(3)) of the employee for the taxable year.".

(4) Paragraph (1) of section 3507(c) of such Code is amended—

(A) striking "and" at the end of subparagraph (A),

(B) by redesignating subparagraph (B) as subparagraph (C), and

(C) by inserting after subparagraph (A) the following new subparagraph:

"(B) on the basis of the number of qualifying children (as defined in section 32(c)(3)) of the employee for such period, and".

"(5) Paragraph (2) of section 3507(c) of such Code is amended—

"(A) by striking "paragraph (1)(B)" and inserting "paragraph (1)(C)" , and

"(B) by striking "14 percent" in subparagraphs (B)(i) and (C)(i) and inserting "the sum of 14 percent and the applicable percentage".

"(6) Section 3507 of such Code is amended by adding at the end thereof the following new subsection:

"(f) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to carry out the purposes of this section."

"(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1990.

SEC. 212. DEPENDENT CARE CREDIT MADE REFUNDABLE.

On page 104, line 17, strike "and qualified health insurance expenses".

On page 105, lines 2 and 3, strike "and qualified health insurance expenses".

On page 107, lines 19 and 20, strike "or qualifying health insurance expense".

On page 109, line 2, strike "and health insurance premiums".

Mr. DOLE. Mr. President, let me indicate this is not too complicated. It did not knock out the health care credit and put in the earned-income tax credit. And I have agreed with the majority leader simply to lay down the amendment, to make my statement, put in a quorum call, so the rights of the Senator from Texas, who is not available now, will be protected, and we will do that.

Mr. President, let me say first with reference to the entire bill, I think the question now is how many amendments are there, how long will it take, and will it take through the weekend? That is not my hope. My view is we have had the vote on the two major proposals. I am satisfied with that. I think we have made a strong case, and I think that will have an impact on whatever happens. It has been my view for some time that probably ultimately the health care or the child-care bill will be refined in conference working with the administration. But I believe we have demonstrated enough strength with reference to the President's proposition as we will try to do in our amendments. Our amendments will be germane, and they will be relevant. As far as I am concerned, they will be. We are not trying to get off into some other fishing expedition because we know it is Thursday. We are fairly certain it is Thursday. We know tomorrow would be Friday. Many of my colleagues have plans, and some are going to be participating in arms talks in Geneva. It is a very important mission. We do not want to delay anyone beyond tomorrow.

Let me also say that no one is disagreeing with the distinguished chairman of the Finance Committee that it is important to extend health insurance coverage to every child. What I question is the value of the proposed child health credit and increasing the insurance coverage of children. It ssems to me we would be paying about a $1.5 billion subsidy to those fortunate families who already have access to employer-provided insurance.

I wrote to the chairman of the Finance Committee in early June objecting to the speed with which he was intending to report out this proposal. At that time the markup had already been scheduled to take place without the benefit of any hearings. I want to thank the distinguished chairman of the Finance Committee for having 1 day of hearings, and at least giving some insight into what this $1.5 billion proposal would do. To bring it out without any hearings it seemed to me rather straining the process.

I think we have to take this very seriously. Maybe it is a good idea. Maybe it is going to encourage purchase of insurance. Maybe it is going to encourage more health-care coverage for children. But it seems to me without a lot of study and exhaustive hearings we should not just drop it into a package when we only have $3 billion to spend, and take up half of it with this kind of an amendment.

I also object to the inclusion of section 89 in the middle of this bill. This is child-care legislation. We have thought about it. If we want to load this bill up, let us let everybody vote on catastrophic again. I am prepared to change my vote if we want to load this bill up. There is a lot of dissatisfaction among elderly people with the present catastrophic bill. As I think everybody knows, it was a very close vote on Senator MCCAIN's amendment.

If we want to put in 89, why not put catastrophic, earnings limitation, remove from Social Security, and once you have section 89 you invite those kinds of amendments. I say that as a matter of record so nobody will complain if somebody on this side has some amendment that is not related to child care because the precedent was already set. We followed it. Nobody can argue with that.

So we may be here for some time debating amendments. Why are they on the child-care bill? Well, because sec-

tion 89 was added. It was added maybe for a good reason. I do not believe child care is going to move that quickly on the other side. I think we have a number of months to deal with child care, but section 89 must be dealt with before October 1.

I believe the Senator from Wisconsin, Senator KASTEN, will have something further, not only to say, but probably will have amendments to the existing section 89 that is in the Mitchell substitute.

So if that is going to be tied to this bill, then there will be a lot of amendments that I know the original sponsor, Senator DODD, preferred not to see on his bill. So we want to cooperate, but we do not want to overlook an opportunity.

As the distinguished Finance Committee chairman pointed out yesterday, the Joint Tax Committee has assumed that both the refundable dependent care taxpayer credit and the new child health credit will benefit those families who already pay for child care or health care. Keep that in mind. They are going to benefit those who are already paying. I agree with that assessment by the Joint Tax Committee.

That is precisely why we need a credit, such as the earned income tax credit supplement which I have introduced with many of my colleagues which reaches those poor families—in fact, the majority of poor families in the case of child-care expenses—who do not pay for either child care or health care.

That is what this amendment is all about. We have had a lot of debate, a lot of debate about who is going to benefit. The Senator from Connecticut—in his State a family of four can earn up to $47,000 and benefit under the ABC bill. Earned income tax credit—we are talking about poor people, poor families. Why should we spend $1.5 billion for a health care credit when we are not certain what it is going to do? At least I am not certain. The Senator from Texas is certainly an outstanding chairman, friend of mine, and maybe he knows all the answers. But some of us have not even heard of it until this week.

So I believe it is reasonable to assume in the case of health care that those poor families who do not have access to employer-subsidized health insurance will in fact be more needy that those families who do. Their employment situations may be less stable and their employers less understanding of family difficulties should they occur. If a poor family does in fact want our help in paying the employee cost of family health insurance, the credit which I propose will provide that help. The difference is that the earned income supplement also helps the other poor families who are not so lucky.

So even under the earned income tax credit amendment which is pending to replace the health care credit, yes, some families who may already have insurance may benefit. But the big difference is that all the families who do not have insurance may benefit. Maybe they want to buy health care insurance. That is the argument and perhaps a good argument made by the distinguished chairman of the Finance Committee.

The chairman of the Finance Committee apparently indicated yesterday, I did not listen too closely, said I was proposing tax credits for everyone along the lines of the McGovern proposal of 1972. I was here then but I have to confess I do not remember what the proposal was. George McGovern had some good ideas; some. This may have been one of them. My proposal does not help everyone, only families with young children whose incomes do not exceed $15,000 per year. I am proud that it does indeed help every such family.

Mr. President, I believe the issue of health care for children needs more study. I remain covinced that employer-based incentives remain the best method of actually expanding health care coverage to more low-income families. If my amendment is adopted today, I pledge that I will work closely with the distinguished Finance Committee chairman to craft an effective incentive to provide health care to all our children.

I think the issue is very simple in this case. Some of my colleagues say, "Do not offer this, you are going to make the bill acceptable, if it is adopted." I am not immune to making something acceptable. First it has to pass.

I want to acknowledge that this idea is not mine. Several weeks ago, the distinguished Senator from Minnesota, who is not on the floor now, was on the floor with charts, making this same argument about the earned income tax credit. And he, along with the distinguished Senator from California, are the real authors or had the idea behind this approach, not the Senator from Kansas. But as the Senator from Kansas thought there might be a question, who could be recognized, I offered the amendment on their behalf and myself and others.

I say that I do not enjoy offering amendments that would, in effect, take the chairman's proposal out of the package. The chairman of the Finance Committee is very influential—particularly this chairman—and he has done an outstanding job, and I have said so publicly.

I said so a couple of times, when my Republican colleagues said I should not have. So it is not a quarrel with the chairman, just a quarrel with maybe the idea that we have not really had a chance to feel and touch and massage it and look at it and see what really happens.

Again, we will have some statistics later on precisely who gets the benefit. If we are going to have child care, let us make certain—and I do not disagree with the Senator from Connecticut. Middle-income families have problems, too. In fact, they may have more problems than some of the others. The people at the top get taken care of or take care of them themselves. The people at the bottom, we try to take care of, and sometimes those in the middle incomes end up paying all of the bills and most of the taxes.

So we are not opposed to looking at that concept, as is contained in the ABC bill. I do believe that if we are looking at a package, we only have limited funds, we ought to make certain that package contains components that we know are going to work.

Now, some will still oppose the Dodd-Hatch proposal. But in my view, whether I agree or disgree with the final result, we have an obligation to try to improve the bill, because it might end up becoming law sometime—I do not think so, in its present form. Some of my colleagues think we ought to drag out the original ABC bill and vote on that, see how many votes it gets, so we can make a record. Others will probably offer amendments to substitute our $400 million grant for the $1.75 billion and see how many votes that gets. See if we can do piecemeal what we could not do in package. Those are opportunities that we have under the agreement and under the rules.

So it is the hope of this Senator that we can complete action—I would like to complete action on this bill today. I know the Senator from Connecticut would and the majority leader would, also. I urge my colleagues on this side of the aisle, if you have amendments, and if anyone is listening in their offices, and if you are a Senator and have an amendment or amendments, it would be helpful to us in planning the rest of the week and next week, if necessary, to know precisely how many amendments there are and what they are, because we need to notify the Senator from Connecticut, the manager of the bill on that side, of the content of the amendments. He indicated that some might be acceptable or might be able to be worked out.

So it is my hope—and there is no time limit on this amendment, and Senator BENTSEN may have some other ideas on it, and I assume he will have—that we can move as quickly as possible and that we can offer amendments that are relevant, and we can somehow eliminate section 89 from this bill, keep it to child care, or not be surprised if we get a lot of other amendments that do not deal with child care.

In accordance with the agreement I made with the Senator from Connecticut and the majority leader, I now suggest the absence of a quorum. I say, before making that request, that it was the understanding that the quorum would run until Senator BENTSEN came to the floor, unless there is some other agreement with the Senator from Connecticut.

The PRESIDING OFFICER. The absence of a quorum having been suggested, the clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. EXON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. EXON. Mr. President, I ask unanimous consent that I might be allowed to proceed as in morning business to introduce a constitutional amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Nebraska is recognized.

Mr. EXON. I thank the Chair.

(The remarks of Mr. EXON pertaining to the introduction of Senate Joint Resolution 163 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. EXON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

FORMER SENATOR PAULA HAWKINGS

Mr. MITCHELL addressed the Chair.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. MITCHELL. Mr. President, the Senate is graced with the presence of a former colleague, the distinguished former Senator from Florida, Paula Hawkins, who is present on the Senate floor.

On behalf of all the Senators, I welcome here back, and I indicate to the Senators who wish to do so, that she will be present off the Senate floor for a brief period of time for those Senators who wish to greet their former colleague; and I say that we are very pleased and honored to have her presence and that she is looking so well. Thank you, Mr. President.

I yield to my distinguished Republican colleague.

Mr. DOLE. I thank the majority leader for the courtesy extended to our former colleague, Paula Hawkins.

CHILD CARE IMPROVEMENT ACT

The Senate continued with the consideration of the bill.

Mr. DOLE. At this time I want to urge my colleagues on this side, if we have amendments on the child care bill, to come to the floor. I know what happens around here. Tomorrow at this time people will say, "Why are we here?" It is because we do not have amendments. We intend to get Senator BENTSEN to set the present amendment aside for the time being. We are having a discussion about it. The managers indicated to me, as has the majority leader, that there are amendments on this side. Senator BOND has, I understand, three amendments. Senator BOSCHWITZ has two amendments, and probably there are other amendments that I am not aware of.

The managers are here, and they are prepared to do business.

Mr. MITCHELL addressed the Chair.

The PRESIDING OFFICER. The majority leader.

Mr. MITCHELL. I thank my distinguished colleague.

It is my understanding that no Democratic Senators have any amendments to offer. The number of amendments is presently unknown to either the Republican leader, myself, or the managers. We hope there are not going to be very many.

I will say to Senators, as I previously indicated, we are going to remain here until we complete action on this bill. Therefore, the pace at which we proceed, and the time at which we finish, is entirely up to Senators.

We have been on this bill now for over a week, and I hope that Senators who intend to offer amendments are prepared to do so and will come to the Senate floor and offer their amendments, so that they can be fairly and fully debated and disposed of in whatever fashion the Senate determines.

If we do that, Mr. President, it is my intention that upon completion of this bill, whenever that occurs, that the Senate would then go into recess, providing we also deal with the question of the supplemental appropriations bill, which we will be discussing at a later time.

So I thank the distinguished Republican leader for his cooperation, and I encourage those Senators who have amendments to please come to the Senate floor and offer your amendments. The longer we delay today, the longer we will be here prior to completion of this bill. I thank my colleagues.

Mr. President, I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. SIMPSON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Wyoming [Mr. SIMPSON].

Mr. SIMPSON. Mr. President, I ask unanimous consent that I may have 4 minutes, as if it were morning business, to read a tribute to my friend MALCOLM WALLOP.

The PRESIDING OFFICER. Without objection, it is so ordered.

MALCOLM WALLOP'S 5,000TH VOTE

Mr. SIMPSON. Mr. President, I would like to say a few words on behalf of my very close and dear friend MALCOLM WALLOP on this significant occasion of his 5,000th vote in the U.S. Senate.

Interestingly enough, I did not realize he would be here on the floor seeking recognition, and so I have crept in here prior to his remarks.

Let me tell you, Mr. President, that MALCOLM WALLOP and I have known each other for about 40 years. Our parents and our grandparents knew each other. They were pioneers of Wyoming, and my grandparents were also pioneers of that State.

MALCOLM WALLOP was elected to office on a fine vote by the people of Wyoming in 1976. Since then he has served them loyally and tirelessly. It has been a great honor to work with him and learn from him over the years. As the senior member of the Wyoming delegation he has been a wise counsel and an inspiration to myself, and to Dick Cheney, and now Dick's replacement, the new Congressman from Wyoming, my friend Hon. CRAIG THOMAS.

Now in his third term, MALCOLM served for 12 years on the Senate Finance Committee and was recently appointed to the Armed Services Committee. He was the first Senator to serve on the Judiciary Committee without having a law degree. MALCOLM also serves on a committee of the utmost importance to the State of Wyoming—the Energy Committee.

He served with real distinction as chairman of the Ethics Committee when we went through the wrenching experience with our colleague from New Jersey.

There are many accolades I can bestow on MALCOLM WALLOP. The one thing I cannot describe to you easily here is what a good and gracious friend he has been to me—not just since we have served in the Senate together, but before that—in the Wyoming State House, and in life. MALCOLM has always been an outstanding leader for the great State of Wyoming, and he has always been a good friend.

One of the reasons for his success is his remarkable support group that rally around him throughout good and bad. That group is his family. MALCOLM is the father of four wonderful, delightful children, Malcolm, Mathew, Amy, and Paul, and his beautiful wife French is the light of his life. I am sure they all share in my pride and gratitude to MALCOLM for his outstanding service to his State and to his country.

Thanks for his attention to the needs of Wyoming and the Nation—reflected 5,000 times over.

So congratulations to MALCOLM, my friend. He has served us proud. And good luck on the next 5,000.

Mr. DOLE. Mr. President, I wish to add my thanks to the distinguished Senator from Wyoming [Mr. WALLOP] not only for the 5,000 votes he has cast, but for the way he has cast them. There are some who have cast 5,000 votes who would not excite me very much, but in this case he votes right. That makes it doubly important for the leader of either party when you are trying to put things together.

I would say that MALCOLM WALLOP is a very independent person. He makes up his own mind. Nobody makes it up for him. But when he makes up his mind, he is a player, not just a voter, but a player on issues that affect the State of Wyoming and affect all of us here and throughout the world, and on some of the issues MALCOLM has been in the forefront.

So I wish to add my congratulations to Senator WALLOP and also thank Senator SIMPSON for his words.

Mr. WALLOP. Mr. President, I thank both Senator SIMPSON and the minority leader. I had come down here on quite a different purpose and am really pleased and flattered by their words.

As AL said, we have been friends for nearly 40 years. We have legislated together for nearly a quarter of a century. In that time you would think perhaps one would get used to the other. But friendship between us grows and that level of being accustomed is merely comfortable because both of us have horizons and futures which we seek together.

Mr. SIMPSON. Mr. President, I yield the floor.

Mr. WALLOP. Mr. President, I ask unanimous consent that I might proceed as if in morning business. Should it be that a Member would come to the floor with an amendment, I will happily yield the floor. But I wish to introduce today a piece of legislation and invite the attention and cosponsorship of my colleagues.

The PRESIDING OFFICER. Without objection, the Senator may proceed as though in morning business.

The Senator from Wyoming.

(The remarks of Mr. WALLOP pertaining to the introduction of S. 1232 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

The PRESIDING OFFICER. The Senator from Connecticut is recognized.

Mr. DODD. I thank the Chair.

(The remarks of Mr. DODD pertaining to the introduction of S. 1232 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

The PRESIDING OFFICER. The Senator from New Mexico is recognized.

Mr. DOMENICI. I thank the Chair.

(The remarks of Mr. DOMENICI pertaining to the introduction of S. 1232 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. DODD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. WILSON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from California.

Mr. WILSON. Mr. President, I ask further unanimous consent that I may be permitted to proceed, as if in morning business for the purpose of introducing a joint resolution.

The PRESIDING OFFICER. Is there objection? Hearing no objection, it is so ordered.

The PRESIDING OFFICER. The Senator from California is recognized.

Mr. WILSON. I thank the Chair.

(The remarks of Mr. WILSON pertaining to the introduction of Senate Joint Resolution 165 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. WILSON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. GLENN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. WIRTH). Without objection, it is so ordered.

Mr. GLENN. Mr. President, I certainly support the concept of a child-care bill. And I have for a long time. For those who oppose it, I think they only need to note the change of demographics in our Nation, a change in the nature of the work force. The fact that more women and more parents are going to be involved in the work force, indicates the need for a child care bill.

Perhaps we all wish that we lived in simpler days, in days in which we could just go back and say father is the breadwinner, mother stays at home, the children are taken care of and family responsibilities are met. But we are beyond those days in our society. We are into a time period where there is quite often a single breadwinner. That person must go out, even though there may be children in the home, and then what happens? Well, we know all too tragically of what some of the results have been.

So I certainly support the concept of a child care bill. And I supported the ABC bill, as reported by the committee. I voted to place the leadership compromise on the calendar, even though I have serious reservations about parts of it. I would like to take a moment to lay the foundation for some of my concerns. Let me go back when we had votes on the floor regarding vouchers for education.

Those vouchers were supposed to be available to permit people to take the vouchers and whatever money they had and provide for education for their children. This could be accomplished by going out to private schools, by going out to parochial schools, by going out to an educational institution of choice and in effect opting out of the public school system of this country.

What would have been the likely result had that occurred? The PTA, the National Education Association, and the others leading education groups were all opposed to that for this reason: Because they felt this would ruin our system of public education.

I submit the United States has come to its preeminence in this world for two very basic reasons. It was not just great resources. It was not just majestic plains and fruited plains and purple mountain majesties that we sing about. It was not just resources because we had an education system in this country that was not just for the wealthy young people or for those who had some political connections. It was because we set out as a nation to have a public education system that was for everyone, and I will not say we have done a perfect job.

The second reason was because we put more into basic research than others nations. However, today, I want to speak about our educational system. An educational system which does not include vouchers. I think it was to our everlasting credit that this body has voted against vouchers. As I have stated earlier, our public school system would be threatened by vouchers.

What does that have to do with today's consideration of the child-care bill? Child care is different. This is not a basic education bill. This is not a bill that deals with money directly for schools. This is not a bill that says that child care has to automatically lead right into the first grade and there is a sort of sub, subkindergarten if you will in our school system. It is not that at all. I recognize that, and want to make that very clear.

At the same time, however, we set up a child-care program using something we do not call vouchers now because that is sort of forbidden term. We now say we are going to provide certificates. We say those certificates can go to providers to help defray the costs of child care. This certificate system is very close to what I used to call vouchers. We are saying that certificates are OK, and I do not necessarily agree with that. But herein lies the problem.

A fairly high percentage of child-care centers happen to be in religious institutions. They may be in the church basement or on church property. I applaud these organizations for recognizing this need in their community and they have moved to fill it.

Some of those child-care centers have as part of their program religious instruction. This means that our tax dollars would be going to provide for child care that at the same time is also being used for religious indoctrination. I was concerned about that when this legislation was first brought up; concerned enough about it that I talked to the sponsors of the legislation.

I talked to Senator DODD, who has done such a tremendous job in shepherding this legislation along. He has seen the need. He has moved on that need, and to his everlasting credit. I talked to him about this. He did not disagree with my view that we should put in a protection that would assure that this legislation would not be viewed as setting a precedent.

I do not question the right of other people to send their children to whatever school they want as long as they pay for it. That is an option of being a free American parent. But we also say that with our separation of church and state, which is so fundamental in this Nation, that we do not want to see taxpayer dollars subsidizing religious instruction.

In speaking with Senator DODD and the sponsors of this bill about how we could make certain that this was not setting a precedent for future education voucher system, we came with some language. The language was put in during committee markup. The language said very simply, and I will read it. "For sectarian purposes and activities." It said this: "No financial assistance provided under this title shall be expended for any sectarian purpose or activity including sectarian worship and instruction."

Now, I think that is very straightforward. I think that spells it out about as clearly as I can spell it out.

This was not aimed at any one church, was not aimed at the Catholic Church, at my Presbyterian beliefs and my Presbyterian Church, we are protecting against having any religious group which might want to provide day care from using taxpayer dollars.

This includes not only Catholics, and Presbyterians, but also followers of Reverend Moon, the Hare Krishnas, and Buddhists as well.

I would like to read the language one more time:

> No financial assistance provided under this title shall be expended for any sectarian purpose or activity, including sectarian worship and instruction.

That is very, very straightforward, simple, and understandable. The prohibition that we keep the separation of church and state does not mean that you cannot have a child-care facility in the church basement and does not mean it cannot be held on church property. It does mean that if they are on that property, and receiving child-care certificates then they must be nonsectarian. That is about as American as anything I can think of. It has been proven over and over again by the Supreme Court in the separation of church and state.

Now, what happened? That language that I just read, some people did not like that language. I guess it was too specific, because perhaps they wanted to provide for taxpayer dollars for sectarian instruction in child-care centers. So what did they do? They changed that language. At the end of that sentence I just read; they changed the period to a comma, and they added: "except that this subsection shall not apply to funds received by any eligible provider resulting from the distribution of a child-care certificate to a parent under section 108(a)(1)(c), financial assistance provided under this title shall not be expended in a manner inconsistent with the Constitution."

What does this do? What it says is that none of the money will be expended for sectarian purposes, for worship and instruction, except that the above will not apply to any of the certificate holders under this bill. We say we prohibit it, we uphold the Constitution of the United States, and we say that we cannot have worship, sectarian purposes, cannot have religious instruction in a child-care center, except that, if you have a certificate, the above does not apply. Oh, yes, and it will be in accordance with the Constitution. That is fine.

What has happened here? Well, it specifically permits what the first part of the sentence prohibits. The first language that we wanted to use taxpayer dollars for sectarian purposes; you had to require a challenge to the Constitution. Now, with the change that was made it basically provides for sectarian use. It almost invites sectarian use, because it is now permitted. It means if a specific religious organization wants to give sectarian instruction in the child-care program, taxpayer dollars paying for their particular brand of religious instruction, it is now permitted, with that additional language.

I am concerned, very concerned, about the precedent this sets, not only whether it is legal, but what it does further down the road.

So that is a basic part of my concern. I arose in our Democratic caucus the other day and, expressed in an abridged version, the same thoughts I am expressing here today, and I was told we only had about 20-some votes and with the compromise language, Senator GLENN, with that change, we now picked up enough that we can pass this bill.

You know, I have trouble believing this. I do not question the sincerity of the people that tell me this, but I cannot believe that 80 Senators could vote for this provision. Eighty U.S. Senators are willing to say that taxpayer dollars should be used or could be used, or we should encourage their use for sectarian instruction. This is very very difficult for me to believe. As much as I am in favor of this child-care bill, that is pretty tough for me to swallow. I may have to do that. I do not know. I have not quite decided yet.

I want this bill so much, because I see such a need for it all over the country, and in my State of Ohio, where we have a high percentage of working women, and a lot of children who need child care. We need this bill. If I vote for it, it is going to be something I, quite honestly, have to hold my nose and accept some of the provisions that are going to be challenged in the courts—we know that.

Proponents of the bill who do not want to take this part out say, "Well, it will be challenged in the courts." Well, OK, we all know how that goes. It has to be filed and get on a crowded court docket, and it is heard maybe 6 months, a year down the road. It takes a few months to hear the case, and then we could have a delay. So you have eaten a year, a year and a half, maybe more. Then there is the appeal, and it goes to the appellate court and has to have the same problem getting on the docket and has to have the same difficulty getting scheduled and being resolved. That, once again, is appealed to the Supreme Court.

We have passed maybe 2, 3, or 4 years or more in the judiciary of this country, in the judicial process, and meanwhile, your taxpayer dollars, my taxpayer dollars, are being used for religious instruction.

Is it any accident that one Senator said the other day that major opposition to this bill came from one of his religious groups in his State. But when they heard the additional language that I read that permitted sectarian use of funds, they immediately reversed themselves and sent him a message that they were all for the bill now. Can there be any clearer indication of what some of the church groups are intending to do if this bill passes in its current form?

Mr. President, the Washington Post had an editorial on this this morning, and I must say the points that I made in our Democratic caucus are almost identical to those made in the Washington Post lead editorial this morning. I think they state the whole thing very, very well. I think it is important enough that we read into this legislative history the view that the editorial writers took. They said:

> In most respects, the Democrats' child care bill is much improved since last time it was on the Senate floor. It is less prescriptive—in deference to the states there would be no binding national child care standards, and more of the aid would be in the looser form of tax credits—and from a fiscal standpoint more responsible; room has carefully been made for it in the budget.
>
> In another important area the bill has been disfigured, however; to pick up votes, the sponsors have abandoned principles they would otherwise uphold and agreed to give public funds to sectarian programs. Congress would stop defending the Constitution and put that entire burden on the courts. Badly as the sponsors want child

care, they cannot want it this badly; the provision needs to be fixed.

The government already spends some $7 billion a year on child care, the bulk in the careless form of a tax credit for the middle class. The pending legislation would make the federal commitment in this area more explicit, increase the spending by more than half and tilt the increase toward the poor. The Democratic bill would do this mainly through a new program of grants to the states (which would use most of the money either to buy child care directly for eligible parents or to give the parents vouchers to buy the care themselves), and through a change in the tax law making the present child care credit refundable so that families too poor to owe taxes would still get the money in the form of payments from the Treasury.

The Bush administration and most Republicans have advanced a lower-cost alternative that would rely much more on tax credits and less on grants, which they say would implicate the government too deeply in an area—child-rearing—from which it should stand apart. The Republicans also say the Democratic bill is tilted against the traditional family, while theirs would give tax credit to mothers who stay at home as well as to those who work outside. But the poorer working women whom these bills would mainly help have not left home on a social adventure; their families need the income.

The additional argument is made that the grant program, under which money could go only to licensed providers, would end up favoring rigid institutional settings over gentler, older-fashioned neighborhood-based care for children. But (a) it isn't clear it would; each state would decide where to spend its funds and (b) the hypothetical virtue of neighborhood care depends to some extent on the neighborhood. The children both these bills would serve are not exactly living right now in child care heaven.

Church-state remains a major problem, in part lest public aid for more or less sectarian child care open the way to similar aid to sectarian education. A lot of child care is now supplied in churches (just as a lot of good inner-city education is supplied in church schools). But the care itself (as distinct from the setting) is often not religious, and we find we are not the purists on this issue that we used to be. The earlier Democratic bill, though it had some problems, seemed to us to come close to drawing a reasonable line.

And that, I might add, is the legislation that I, working with Senator DODD and others, put in, the first part of that sentence that I said made it very clear. That is what they are referring to.

But the current version, in a bid for votes, would explicitly allow public vouchers to be spent in the most openly sectarian programs, subject only to review by the courts. Why not then vouchers in such schools as well? What limits would exist? Congress should not abdicate its responsibility this way.

A threshold question remains with this entire bill: Is child care the best way to spend the next federal dollar (or several billion federal dollars) on the poor? We have argued in the past that cash (through an increase in the earned-income tax credit), health care and housing were greater needs, and we still think so. But a large increase in housing aid particularly seems a long way off; this bill could be of major help to a part of the population most in need; and most of the overreaching of the earlier drafts and has been removed. Child care is the open door, and if the church-state problem can be resolved, Congress should push on it.

That is the end of the Washington Post editorial.

Mr. President, I want to support a child-care bill. I am a sponsor of this ABC bill as reported out of the Labor and Human Resources Committee. The ABC bill, as it was reported, represents countless hours of hard work and negotiation. It addresses a national need that we have in this country. It provides for a desperately needed national child-care program—the objectives of the ABC bill sets forth goals which I support: The goal to improve the quality, the goal to expand the availability, the goal to ensure the affordability of high quality child care.

I believe the bill as reported achieved the objectives. However, I am afraid that this leadership substitute contains a certain flaw, perhaps a fatal flaw.

I have gone through what happened originally, the original bill, the changes we worked out with the committee, with Senator DODD, and the others who worked on this. We thought it was satisfactory. Now we are told that the only way we can get enough support for this bill is to specifically provide for sectarian use of funds. We leave it up to the years and years it would take for a court decision.

Mr. President, there are several questions I would like to ask. What is the purpose of this compromise language—perhaps the floor manager of the bill would respond to this—what is the purpose of the compromise language if it is not to specifically permit sectarian use of taxpayers' money?

(Mr. BURDICK assumed the chair.)

Mr. DODD. Mr. President, first of all let me commend my colleague and thank him for his generosity in referring to the other matters in the bill.

As my colleague from Ohio knows, there are many here that feel very strongly that certificates and vouchers ought to be able to be used by parents in providing child care for their children, that sectarian-based child care providers. In fact, we recognized the tremendous contribution even prior to this new language, and we recognized the tremendous contribution that churches and synagogues around this country have provided in providing child care.

A tremendous percentage of child care is actually dispensed through our religious institutions in this country and we recognize that. Many of them, most of them, I will tell my colleague from Ohio, do not use the child-care center as a source of religious instruction. It is a community service that may be located in the church basement or the community's center or synagogue, or wherever else.

But the fact of the matter is it is not used necessarily for religious purposes, nor do many discriminate against children of other religions, other than what is being provided by the particular church or synagogue in question.

The point was here that many felt and some cited to me going back to the GI bill where the GI bill passed in the fifties and we allowed people to use the benefits under the GI bill to choose whatever college or university they were going to go to, regardless of whether or not it was a religious institution or not, to use those funds. They cited other examples that are presently in place of funds that are used by parents or individuals at religious-based institutions for other services. So there is some precedent for it.

I have always felt very strongly and have opposed tuition tax credits, for instance, at elementary and secondary schools, and continue to do so, in public education.

But here I have talked virtually, I would say, almost every colleague here on both sides of the aisle about this. It was quite clear that this was a feeling that was held very strongly by many, and that they would not be willing to support a major effort in child care in the absence of some language in here.

Frankly, I would say to my colleague from Ohio, this could have been left, I suppose, to a battle out here on the floor, an amendment fight, which I would say, candidly, those who support the use of certificates and religious-based child-care providers would have prevailed. That is the view of the Senator from Connecticut, I will tell you.

I saw no reason to necessarily get involved in a protracted battle here on the floor when the goal was to try to increase the availability and affordability of child care in the country. In any piece of legislation, there is a give and take along the way.

I would say to my colleague from Ohio that I have my concerns about. We included language here that says that none of the funds can be expended that would, in fact, violate the Constitution. I suspect that there will be a challenge. There would have been no matter how we had written the language, quite frankly. We have included severability clause so the whole act does not come down.

Different Members of Congress and different Members of this body have different opinions on this question. We do not speak to that as such. We recognize and respect the opinions of others in that regard.

So that is the genesis of it, I would say to my good friend. I respect tremendously his strong feelings on this issue, as others have expressed them to me. And they are views held by many Americans in this country. Many organizations and groups with who I have enjoyed a good relationship feel very strongly about this. Many argue not so much against this specifically but it is the nose of the camel under the tent argument. And I understand that, as well.

But I would just say to my good friend from Ohio that, as far as this Senator is concerned, this does not mean that in this case I have changed my view with regard to tuition tax credits in parochial schools or to allow for such vouchers and so forth to be used in that regard. I think that is a separate issue entirely than this one we are talking about with infant children from child-care centers and programs.

Members have already expressed that, while they are concerned about this, in time obviously it will be challenged. But the existence of this particular language would not cause them to vote against the entire program we have here, and that is to provide decent child care.

Mr. GLENN. I thank the distinguished Senator from Connecticut for his comments on this. I know from talking to him privately of his feelings about this bill and how hard he has worked on it over the last couple of years. He really is the father of child-care legislation.

But on this particular section I have been told by others that in all probability if we left the language in that says "No financial assistance provided under this title shall be expended for any sectarian purpose or activity including sectarian worship and instruction," if we leave that language in, freestanding and alone with no other qualifiers, that the chances are that this bill would go down.

Does the distinguished floor manager concur in that? Or does he think if we took the second part that qualifies it, that nullifies that sentence, would this still have a chance of passage? Or does he feel that that freestanding language would be enough to sink this legislation?

Mr. DODD. I think there is a good possibility of that. That was the conclusion we reached after weeks of talking to Members about what was acceptable and unacceptable.

Obviously from day to day the mood of this body can change. But as I tried to take the temperature of the institution along the way it appeared to me quite obviously that there were an overwhelming majority of our colleagues who felt that way.

In the absence of that, they would probably—did not say categorically would oppose the legislation—but there was a good possibility of that.

Mr. GLENN. I thank my distinguished colleague for his comments. I just feel, Mr. President, that we have come to a rather sad pass here when the Senate of the United States has to put language, very plain language, that says we are going to permit taxpayer dollars to be used for sectarian instruction.

The word that the people that work in these areas talk about is "pervasively sectarian." And that word "pervasively" is rather key. Because what it means is that they set up a religious program. It is pervasively sectarian. They make no bones about it. They are going to get into this business, they are going to have child-care centers, religiously-based centers. And they want to be pervasively sectarian.

So I am really torn, Mr. President, how my vote should go on this. I want a child-care bill. I said that starting out. I support the concept and support it wholeheartedly. I think the proposal set out on this side of the aisle is far more effective, has the potential for being far more effective in letting families have a decent standard of living than the one that we just defeated a little while ago with the vote here on this floor.

At the same time, it is very, very hard for me to accept the fact that we are going to permit in law—we are going to vote into law from the U.S. Senate, language that will permit pervasively sectarian activities to occur in child-care centers.

We think of this in terms, normally, of the Catholic Church. I will be quite blunt about it. But that is not the only concern by a long shot. I do not want my Presbyterian beliefs put forward in a pervasively sectarian way in a child-care center in the church basement or church facilities.

Mr. President, I know, there are others waiting to speak on this particular subject who also have views on this. I think I made my views adequately known. This concerns me very much. I have not said yet how I will vote.

My inclination probably is to vote for this bill, but I certainly caution my colleagues and I hope we are not setting up a precedent here that one of these days will come back in the form of educational vouchers and we will then see the demise of our whole public school system.

I still see nothing whatsoever wrong with the very precise language:

No financial assistance provided under this title shall be expended for any sectarian purpose or activity, including sectarian worship and instruction.

When we go beyond that very simple, straightforward, protective statement with language which nullifies it, which in effect says, yes, you can be pervasively sectarian, then I think the Senate of the United States is making a big mistake.

I yield the floor.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. KOHL. Mr. President, I want to commend our colleagues from Connecticut, Massachusetts, and Utah who have done an outstanding job of leading us through this debate under very difficult circumstances. The compromise amendment before us reflects the work of many of our colleagues who are committed to providing quality child care to our Nation's children. But I want to take a moment to join Senator GLENN in expressing concerns with the church-state provisions in the compromise.

When I took the oath of office given to every Senator, I pledged to protect and defend the Constitution of the United States. That commitment imposes on all of us some affirmative obligations, a duty to take certain actions. But it also imposes on us an obligation not to do certain things. Specifically, when we took that oath, we vowed not to pass unconstitutional legislation. That vow, as a matter of common sense and good conscience, implies that we will not pass questionable laws and then hope that the Supreme Court will save us from ourselves. But that, I'm afraid, is what we are doing in the case of the ABC bill.

In that context, Mr. President, I want to express my very real concerns about section 123 of the ABC bill as amended. This section says that Government funds may not be used for religious purposes, except in the case of funds distributed through child-care certificates. As a matter of constitutional law—and as a matter of public policy—that exception troubles me.

I recognize that a good deal of child care is provided in religiously affiliated facilities. Religious groups saw a need and, with the concern for children and the commitment to the future which motivates all religious people, they acted to respond to it. These facilities have done a marvelous job. Many of them have opened their doors to children of all religions and races and put the care of those children above their commitment to a particular set of religious beliefs.

I applaud their work and I want to see it continue. Those institutions have demonstrated what we ought to remember: The issue before us is how we can help our kids. And we ought not let that issue or that interest be sacrificed or lost in this debate.

I think religiously affiliated care facilities are helping kids and I have no problem with funding them as long as they do not use public money for pervasively sectarian purposes or activities. For example, I do not think that a child-care facility located in a church or synagogue should be disqualified from receiving funds under the ABC bill simply because kids will be taken care of in rooms which have a crucifix or a Star of David on the wall. The separation between church and state ought not be a wall which prevents kids from getting care—it ought to be a line which protects all of us from the possibility that the Government will support or endorse pervasively sectarian activities.

At the same time, I am concerned about the language in the bill before us. The fact that we have specifically exempted certificates from normal constraints suggests that child care facilities might be able to use public funds for pervasively sectarian purposes, including such activities as instructing children in particular religious beliefs and practices. That suggestion would, I believe, be incorrect

since the Constitution forbids public funds from being used for such purposes.

Supporters of the exception say it is constitutional and will be upheld by the Supreme Court. They cite two cases in which the Court seemed to bless indirect public funding for religious activities. Those cases, however, involved different situations than the one we confront today. In the Mueller case, the Court said that a State could give a tax deduction to parents who send their children to public or parochial schools. But, as the Court made clear, the deduction for tuition was one of many available tax deductions. By contrast, the ABC bill says "here is a certificate and you can use it for religious instruction if you want to." In the Witters case, the Government's role was so small, in terms of both the number of people affected and the amount of support provided, as to be insignificant. By contrast, child care will involve millions of dollars and thousands of people.

I am bothered, then, by the fact that we may have crafted language which goes too far. I want to make it clear that religiously affiliated facilities can qualify for aid if they are not engaged in pervasively sectarian activities. And, given the committee report on the ABC bill, I understand why some believe we needed to clarify the language of the law. But I am afraid that the broad nature of the language before us may lead to uncertainty and litigation rather than allowing us to deliver aid to those facilities which we all agree ought to receive it.

I want to make it clear that I support the Mitchell amendment, but I do so in the hope and belief that before both Houses of Congress conclude their consideration of this issue, we will be able to develop language that we have confidence in—language that respects the Constitution and recognizes the valuable contribution that religiously affiliated facilities make to our children and to our country. I believe we can develop that language, and I look forward to working with my colleagues to make sure that happens.

I thank the Chair. I yield the floor.

Mr. BENTSEN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. GLENN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GLENN. Mr. President, it has been pointed out to me by one of my colleagues that perhaps I gave a wrong impression a while ago. I want to make certain my earlier remarks are not misconstrued. If I indicated or gave the impression that I felt that permitting the certificates in this legislation somehow made this issue constitutional, that was not the intention of my previous remarks.

The intention of my remarks was that the burden of proof of constitutionality by the change of language had been to, if people had wanted to use these funds for pervasive sectarian purposes, they would have had to challenge, under whatever grounds they wish to challenge, on the statement that no financial assistance provided under this title shall be expended for any sectarian purpose or activity, including sectarian worship or instruction. They would have had to challenge that. And I think there would not have been a possibility of a constitutional challenge to that.

Now with this change in language and what was added, in effect, says the above does not apply, the burden of proof shifts.

I do not want anyone to think that my statement indicated that I felt that if the Senate votes these certificates on child care that that somehow legitimizes certificates under the Constitution of the United States. I still believe that the courts will prove in the future, that it is unconstitutional to permit sectarian use of taxpayer money. I have no doubt there will be such a challenge. I appreciate the opportunity to clarify that. I yield the floor.

Mr. METZENBAUM addressed the Chair.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. METZENBAUM. Mr. President, I rise to commend my colleague from Ohio for his statement on this subject, and I am particularly impressed with his latter statement to the effect this Congress cannot make constitutional that which is unconstitutional. We can write all the words in the world in a piece of legislation, but there are certain constitutional proscriptions that only the court can decide as to whether a piece of legislation is or is not constitutional. We can write in a piece of legislation that, notwithstanding any Supreme Court decision, this legislation is constitutional and that would not make it one with more constitutional.

So the senior Senator from Ohio has addressed himself very eloquently and well to this entire issue because there has been an effort made, obviously, to sort of fancydance around this issue, to try to say that, if we say that: "this does not count;" "this is excepted;" "provided that;" "wherever;" or "however," that somehow it is going to make an unconstitutional provision of the law constitutional or unconstitutional conduct constitutional. We cannot do it. We do not have authority to do that.

I agree with the senior Senator from my State that this is unconstitutional and that all the words in the dictionary cannot possibly make that which is unconstitutional constitutional. I predict the Supreme Court will arrive at that conclusion. I think we are ill-advised to even make that effort. I do not think it behooves us to do so. I think it is inappropriate. I think this is a political addition to the legislation, and I wish that it were not in it. I support the concept of the ABC bill, but I think that this effort to get around the Constitution will be a fruitless one, and I think the courts will determine that this whole effort to use certificates is an unconstitutional effort on the part of the Congress. I yield the floor.

The PRESIDING OFFICER. The Republican leader.

Mr. DOLE. Mr. President, I indicated to the majority leader that I would check on our side to see if there are any amendments. I can now announce there are 54 and climbing. So it looks like we may be here for some time. I hope, as I have said before, that if there are any additional amendments that the leadership be notified no later—we cut it off at 3:30, but they are still coming in absentee ballots.

Whether 54 amendments will be offered, I do not know, but if they are offered and there are no time limits on any of the 54, it could take into the evening next week.

I urge my colleagues not to offer too many of these, in the first place. If they are child-care amendments, fine. I know there are at least half a dozen amendments to section 89. The best way to take care of that is to take section 89 out. It is not a child-care amendment. It has no place in this bill. We have already voted on 89 about six times. That would eliminate, I think, about a dozen of the 54 amendments by just taking section 89 out of the bill.

That is one option. There is another Senator who has 13 amendments, unlisted. I do not believe he will offer 13 amendments. But I hope that somebody would offer something. Since 1 o'clock we have been trying to get an amendment to consider. There is an amendment pending which we will be pleased to lay aside temporarily. I know the manager on the other side would like to have some business. So I urge my colleagues—there are no amendments on the other side. There are 54 on this side—if we are going to complete action on this bill today, tomorrow, or Saturday, then I think we need to start.

UNANIMOUS-CONSENT AGREEMENT

Mr. MITCHELL. Mr. President, I ask unanimous consent that there be 30 minutes equally divided between myself and Senator DOLE on a resolution regarding a recent decision on flag burning, that no amendments or motions be in order, and that immediately upon completion or the yielding back of time, the Senate proceed without any intervening action to vote on the resolution.

The PRESIDING OFFICER (Mr. ROBB). Is there objection? Without objection, it is so ordered.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the pending amendment be laid aside, and that the Senate now proceed to the immediate consideration of the resolution.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

SUPREME COURT RULING ON DESECRATION OF THE FLAG

Mr. MITCHELL. Mr. President, I send a resolution to the desk on behalf of myself, Senator DOLE, Senator DIXON, Senator THURMOND, and Senator SANFORD. I ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the resolution.

The assistant legislative clerk read as follows:

A resolution (S. Res. 151) to express the sense of the Senate on the decision of the United States Supreme Court declaring unconstitutional the Texas statute prohibiting the desecration of the flag.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

Mr. MITCHELL addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the majority leader.

Mr. MITCHELL. Mr. President, I ask unanimous consent that Senator BYRD, Senator PELL, Senator NICKLES, Senator ROTH, Senator SIMPSON, and Senator MCCAIN be added as cosponsors.

The PRESIDING OFFICER. Without objection, it is so ordered.

TEXAS VERSUS JOHNSON

Mr. MITCHELL. Mr. President, I am deeply disappointed that the Texas statute prohibiting the desecration of the American flag has been declared unconstitutional.

In 1919, Justice Oliver Wendell Holmes wrote that:

The character of every act depends on the circumstances in which it is done. The most stringent protection of free speech would not protect a man in falsely shouting fire in a theater and causing a panic.

Those words, a part of the Supreme Court's decision in the case of Schenck versus United States in 1919, represented a commonsense principle of behavior that is essential to preserve a civil society with free speech.

No first amendment rights would protect the claim of an airplane passenger that he was about to explode a bomb on a flight, whether his purpose was to draw attention to a political idea or not.

It is the terrorists of our world who have made the repeated claim that all action asserted for a political purpose must be given the respect due to political speech.

We have never adopted such a perspective in our system. Indeed, it is our proud boast that we seek only to punish actions, not thoughts or ideas.

The facts in Texas versus Johnson are not in dispute.

Gregory L. Johnson, apparently leading a group of demonstrators outside the 1984 Republican Convention, poured kerosene on an American flag and set a match to it, while his group chanted: "America, the red, white and blue, we spit on you."

Those words, offensive as they are to me and to the vast majority of Americans, are protected by the first amendment. The first amendment protects the right of free speech, especially unpopular speech, for what is popular and widely accepted usually needs no protection.

Nobody interfered with this group's right to speak freely. They were not prevented from speaking.

But they did not merely speak. They also acted. It was this action which was punished, not the speech.

The Supreme Court has, on other occasions, held that actions do not universally have the same level of protection as is accorded to speech.

Homeless persons wishing to demonstrate their destitution were refused the right to sleep in the square before the White House, when the Supreme Court ruled that sleeping was not a form of speech protected by the Constitution.

Local statutes barring demonstrations within a certain distance of foreign embassies have been upheld, because they do not unduly burden speech, and they also serve other valuable government purposes.

In my judgment the same principle applies to the actions in this case. The protesters were not denied the right to speak. They chose to burn the flag as an addition to that right, not as a substitute when speech was impossible or endangering.

Indeed, they may well have burned the flag in order to obtain the attention that their speech itself would not have garnered.

The first amendment guarantees the freedom to speak. But it guarantees nobody an audience for his words. If the protestors' purpose was to attract attention that their words alone could not attract, there is no constitutional obligation to provide that attention.

I agree with the dissent of Justice Stevens in this case, when he said "The case has nothing to do with 'disagreeable ideas' * * * it involved disagreeable conduct. * * *" Justice Stevens is right and the majority is wrong.

Justice Stevens made the point succinctly:

Had [respondent] chosen to spray paint * * * his message of dissatisfaction on the facade of the Lincoln Memorial, there would be no question about the power of the government to prohibit his means of expression. The prohibition would be supported by the legitimate interest in preserving the quality of an important national asset.

The flag is also a national asset, albeit, an intangible one.

We need not permit acts that destroy its value for all of us in order to avoid burdening in slight fashion the speech rights of those who seek to be heard in the face of indifference, not persecution.

The Court's ruling may hold out the possibility of enacting constitutional legislation that would bar the misuse of the flag to incite riot or other disturbance.

Now that this ruling has stricken the laws of 48 States and the Federal Government, I intend to consult with the Nation's leading constitutional experts to determine how best to develop such constitutional legislation.

I do not believe that Americans have to see the flag, that symbolizes their freedom to speak, devalued and cheapened in the cause of preserving that freedom. Every American has the right to speak freely and to dissent from the policies of the Government or from the orthodox and accepted views of the day. It is precisely that vast freedom that renders so unnecessary the condoning of the desecration of the flag as a means of expressing dissent. The Court's decision is wrong and it should be corrected.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Republican leader, Senator DOLE.

Mr. DOLE. Mr. President, first, I would like to ask that the distinguished Senator from Virginia, Senator WARNER, be added as a cosponsor to the resolution.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUPREME COURT DECISION ON FLAG-BURNING

Mr. DOLE. Mr. President, I join today with the distinguished majority leader, Senator DIXON, Senator THURMOND, and many other Senators, in submitting a resolution expressing the Senate's profound disappointment with yesterday's Supreme Court decision allowing the burning of the American flag.

TILTING WRONG

Now, I know there has been a lot of talk lately about how the Supreme Court has tilted right. Well, yesterday, the court did not tilt right—it tilted wrong. Dead wrong.

PRECIOUS FREEDOMS

Over the years, the Supreme Court has protected and defended the constitutional rights of our citizens—including the rights guaranteed by the first amendment. That is the Court's job. That is its constitutional role.

But even the Supreme Court has recognized that the freedoms guaranteed by the Constitution are not unlimited—they are not boundless.

The right to bear arms—for example—does not give you the right to shoot someone. The right to free as-

sembly does not mean that people can congregate—uninvited—in your house. And the right to free speech does not—or at least should not—mean that people can desecrate the American flag with impunity. Free speech should not be a free license to desecrate the living symbol of our Nation. And I am confident most Americans would agree with me.

THE SENATE BILL

Last March, the Senate expressed its respect for the flag when it passed a bill prohibiting individuals from displaying the flag on the ground. I introduced the bill—along with Senator DIXON—after some so-called artist invited visitors to a Chicago art museum to trample on Old Glory. That exhibit struck a raw nerve. It infuriated and offended Americans from coast-to-coast.

It seems that my Senate colleagues thought the Dole-Dixon bill was a pretty good idea. It passed by a vote of 97 to 0.

CONCLUSION

This resolution should be adopted by a vote of 100 to 0. It should be unanimous.

This resolution will also send a clear signal to the fragile majority on the Supreme Court who do not seem to understand how sacred the flag is as a symbol of our ideals, our aspirations, and—indeed—our identity as a Nation.

As the resolution indicates, as the majority leader pointed out, we are going to consult with constitutional scholars in an effort to come up with a constitutional amendment. I know Senator WILSON has already proposed one. Senator THURMOND is about to propose one to make certain we can have an impact that will in effect overturn this decision.

Now, maybe those who sit in ivory towers—and there are some around this town, and some around every town, not many, but some towns, maybe they agree with the Supreme Court and maybe as Mr. Johnson said on television, millions of people hate Americans, hate the flag. If they do, they ought to leave the country. If they do not like America, that is fine. Go find something you do like. If they do not like our flag, go find one you do like.

I believe we can speak for the great majority in America in a nonpartisan sense, maybe in a patriotic sense, the average American who served his country understands the meaning, and the American family understands the meaning; the American schoolchild understands the meaning, and it seems to me that this resolution is an appropriate response, until we have in our hands an amendment, perhaps the one introduced by Senator THURMOND or by Senator WILSON or by Senator HEFLIN or someone, that will address this in a final way.

Mr. President, I yield to the Senator from Oklahoma [Mr. NICKLES].

Mr. NICKLES addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Oklahoma.

Mr. NICKLES. Mr. President, I very much appreciate the remarks that were made by Senator DOLE, and also Senator MITCHELL, and I wish to associate myself with those remarks. I, too, am very disappointed and disgusted at the Supreme Court decision that was made yesterday. I think the Supreme Court decision was wrong, and I think it is an affront to American citizens and an affront to people who served our country throughout the centuries, who have fought for and defended our flag.

I think it was a serious mistake and needs to be overturned, maybe by a constitutional amendment, if that is our only remedy at this time. I hope the Supreme Court will reverse itself. Maybe it needs to reverse itself by a change in membership, and maybe they need to consider another decision, but this is a mistake.

Every Member of this body, and I am sure every American, wants to protect freedom of speech, but freedom of speech does not include desecration of the flag. It does not include graffiti on public buildings. It does not include obscene language to other people. It does not include inciting riots, and certainly does not include burning of the American flag. The decision made by the Supreme Court yesterday was a serious mistake, which needs to be changed.

Mr. MITCHELL. Mr. President, I yield 4 minutes to the Senator from Illinois.

The PRESIDING OFFICER. The Senator from Illinois [Mr. DIXON] is recognized for 4 minutes.

Mr. DIXON. Mr. President, I thank the majority leader for the time, and I join my distinguished friends, the majority and minority leaders, as a principal cosponsor of this resolution. I just want to tell my colleagues and the American public what the facts are with this Texas versus Johnson. This was a demonstration in front of the Dallas City Hall where Johnson unfurled the American flag, doused it with kerosene, set it on fire, and while the flame burned, the protestors chanted, "America, the red, white, and blue, we spit on you." We spit on you.

Mr. President, I believe that this closely divided opinion of the Supreme Court is a grevious error, and I want to quote from two dissenting opinions that I think correctly state what the law is in this country, what the law ought to be, and what the American public demands that it be. First, from the dissent by Chief Justice Rehnquist:

> Allowing the broadest scope to the language and purpose of the Fourteenth Amendment, it is well understood that the right of free speech is not absolute at all times and under all circumstances. There are certain well-defined and narrowly limited classes of speech, the prevention and punishment of which have never been thought to raise any Constitutional problem. These include the lewd and obscene, the profane, the libelous, and the insulting or "fighting" words—those which by their very utterance inflict or injure or tend to incite an immediate breach of the peace. It has been well observed that such utterances are no essential part of any exposition of ideas.

That is by Chief Justice Rehnquist. By my fellow Illinoisan, a distinguished jurist, Justice Stevens who says:

> The Court is therefore quite wrong in blandly asserting that respondent "was prosecuted for his expression of dissatisfaction with the policies of this country, expression situated at the core of our First Amendment values."
>
> Respondent was prosecuted because of the method he chose to express his dissatisfaction with those policies. Had he chosen to spray paint—or perhaps convey with a motion picture projector—his message of dissatisfaction on the facade of the Lincoln Memorial, there would be no question about the power of the Government to prohibit his means of expression. The prohibition would be supported by the legitimate interest in preserving the quality of an important national asset. Though the asset at stake in this case is intangible, given its unique value, the same interest supports a prohibition on the desecration of the American flag.

Let me say in conclusion, Mr. President, that the majority leader and the minority leader are exactly right. This flag is the spirit and the symbol of America that countless thousands have died for, and we owe it to the country to call upon the Court to reverse its decision in short order—I do that—or in the alternative, if it will not, to take whatever necessary steps, by amendment or otherwise, to the Constitution which will override that decision.

I yield back the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. DOLE. I yield 3 minutes to Senator WARNER.

The PRESIDING OFFICER. The Chair recognizes the Senator from Virginia [Mr. WARNER] for 3 minutes.

Mr. WARNER. Mr. President, I am privileged to associate myself with the remarks of the leadership of this body, and to be a cosponsor on the pending resolution and on one shortly to be submitted by the distinguished senior Senator from South Carolina. I wish to address my thoughts in a very personal manner.

Every family has that one artifact that it cherishes, above all. My father was a doctor in World War I, and he fought valiantly to save lives in the trenches, for which he was recognized, not only by the United States, but by other governments. And at the conclusion of World War II, when I returned from brief service in the U.S. Navy, I lost my father, and we buried him in Arlington; and on that casket was a flag, which I am privileged to have today and will pass on to my son.

When I heard, with astonishment, about this decision of the Court, I

thought of my father and the many funerals that I have attended because of my close association with the men and women of the Armed Forces of the United States. All I could see, Mr. President, was that flag, Old Glory, resting on the caskets of those who have worn the uniform of the United States of America proudly.

The Presiding Officer—my colleague and the junior Senator from Virginia—has likewise had a long association with the men and women in uniform who have worn this uniform. I ask every Senator who has had similar experiences, to think of those flags on the caskets of those who served this country as we work through this legal entanglement striving to preserve not only the rights of the Constitution, but also to preserve our flag, Old Glory for future generations. I thank the Chair.

Mr. MITCHELL addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the majority leader.

Mr. MITCHELL. I ask unanimous consent that Senators BENTSEN and HEFLIN be added as cosponsors to the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MITCHELL. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. Four minutes, 31 seconds.

Mr. MITCHELL. I yield the remainder of my time to the distinguished Senator from Alabama [Mr. HEFLIN].

The PRESIDING OFFICER. The Chair recognizes the Senator from Alabama [Mr. HEFLIN] for 4 minutes and 30 seconds.

Mr. HEFLIN. Mr. President, this morning at the opening of the session, I spoke on this subject and expressed my disbelief and displeasure at the decision of the U.S. Supreme Court. I have now obtained a copy of that opinion and have glanced over it. I have not read it in detail, but, in my judgment, there was no reason for the Supreme Court to have taken this case and decided it in the manner that they did.

First, the flag was stolen. The decision could have been made on grounds other than the desecration of the American flag.

Also, in reviewing the precedents for this case today, I found that there had been expressions from some of the leading protectors of the first amendment. In the case of Street versus New York, decided in 1969, Hugo Black made this statement:

> It passes my belief that anything in the Federal Constitution bars a State from making the deliberate burning of the American flag an offense.

I do not think anyone can question that Hugo Black was a champion of the first amendment. But he himself recognized that the flag is something different. And he reviewed the Constitution in that case and made that statement.

Chief Justice Warren, another individual who is renowned for his protection of first amendment rights, stated in that same case:

> I believe that the States and the Federal Government do have the power to protect the flag from acts of desecration and disgrace.

In other cases, there have been similar statements by outstanding jurists in the field of civil liberties and by those who have protected the first amendment rights, that there was nothing in the Constitution which would have caused the Supreme Court to have made a decision like it did yesterday.

I would like to quote from the opinion of Justice Stevens in dissent when he says about the flag:

> It is a symbol of freedom, of equal opportunity, of religious tolerance, and of good will for other people who share our aspirations. The symbol carries its message to dissidents both at home and abroad who may have no interest at all in our national unity or survival.

And then I would like to quote again from Justice Stevens when he says:

> The ideas of liberty and equality have been an irresistible force in motivating leaders like Patrick Henry, Susan B. Anthony, and Abraham Lincoln, schoolteachers like Nathan Hale and Booker T. Washington, the Philippine Scouts who fought at Bataan, and the soldiers who scaled the bluff at Omaha Beach. If those ideas are worth fighting for—and our history demonstrates that they are—it cannot be true that the flag that uniquely symbolizes their power is not itself worthy of protection from unnecessary desecration.

It seems to me that in this instance the Supreme Court says that you have a Federal right to burn the flag, but if you attempted to burn the flagstaff, then, in effect, you could have laws passed prohibiting its destruction.

In my judgment, this is a mistake. I hope the Supreme Court will exercise the right that it has for a rehearing and reverse this decision.

The PRESIDING OFFICER. All time allocated to the majority leader has expired. There are 7 minutes and 17 seconds remaining to the Republican leader.

The Chair recognizes the Republican leader, Senator DOLE.

Mr. DOLE. Mr. President, I yield 2 minutes to the Senator from Delaware, 2 minutes to the Senator from Mississippi, and then to close it, 3 minutes to the Senator from South Carolina.

The PRESIDING OFFICER. The Chair recognizes the Senator from Delaware for 2 minutes.

Mr. ROTH. I thank the Republican leader for granting me 2 minutes.

Like most Americans, I was deeply shocked when I heard about the U.S. Supreme Court ruling yesterday in the case of Texas versus Johnson finding unconstitutional a Texas statute prohibiting the desecration of the flag, determining that this conduct was an act of symbolic speech protected by the first amendment.

I think most Americans were shocked because the flag is, of course, the symbol of our great Nation. Millions of Americans have literally fought and died to protect this sacred symbol of nationhood from the beginning of the Republic, of course, through the two World Wars, the Korean conflict, the Vietnam conflict, to the present.

I think an illustration of why so many Americans are concerned is the fact that Congress and 48 States have enacted laws to protect against the desecration of the flag.

As has been pointed out in the Senate resolution, it was only last March 16, 1989, when the Senate, by a unanimous vote—a unanimous vote of 97 to 0—prohibited the displaying of the flag on the floor or ground.

I join my colleagues who have spoken earlier in saying that I think it is critically important that a study be made to determine how and what is the best means of reversing the decision of the Supreme Court yesterday.

All loyal Americans believe in the American flag, honor it, and they find it indeed most distressing that it is a constitutional right to burn it when indeed we should honor it.

The PRESIDING OFFICER. The Senator's time has expired.

The Chair recognizes the Senator from Mississippi [Mr. LOTT] for 2 minutes.

Mr. LOTT. Mr. President, I am astonished at this 5-to-4 ruling by the highest court in the land, a ruling that would legalize the burning of our country's flag.

I have to pose this question here this afternoon to my colleagues in the Senate, and I know the American people all across this country are thinking the same thing: How far will we go in the name of free speech?

Forty-eight States have laws on their books that prohibit the desecration of the flag of the United States of America. The people's representatives in the State legislatures have spoken out very clearly on this matter.

I feel personally repulsed that the highest court in the land would allow the America flag, the most outwardly visible symbol of our country, to be desecrated under the guise of free speech.

Mr. Justice Rehnquist said in his dissent:

> Surely one of the high purposes of a democratic society is to legislate against conduct that is regarded as evil and profoundly offensive to the majority of the people.

A lady from Picayune, MS, called me this morning. She had this to say:

> The flag is not a piece of fabric. It is a part of our country. And when they desecrate it, they are slapping the faces of all who have fought and died for it.

I support a constitutional amendment or whatever is necessary to reverse this decision of the Supreme

Court. I think the American people are rightly outraged.

And for those who wonder why the American people do not support pay raises for the Federal judiciary, perhaps this is an example of why the people are offended by what they get from their judicial system.

The PRESIDING OFFICER. The Senior Senator from South Carolina [Mr. THURMOND] is recognized for 3 minutes and 10 seconds.

Mr. THURMOND. Mr. President, I was terribly disappointed when I learned of the decision of the Supreme Court on this matter. I do now know when I have learned of any decision of the Supreme Court that I felt was more disappointing to the American people.

Our flag represents freedom. It represents justice. It represents equal opportunity. It represents hope. Millions of people want to come to this country. Hardly any want to leave.

Freedom loving people all over the world look at this flag and see hope. They look at our flag and they see the symbol of democracy flag under which Americans have fought and died to defend.

They look at our flag when the soldier has been killed and it is presented to the family because a loved one has given their life in the cause of freedom.

Mr. President, how the Supreme Court ever reached this decision is hard to imagine. It is my belief that they have not acted in accordance with the wishes and desires of the American people and were overreaching in their interpretation of the first amendment.

It is my opinion that this decision should be reversed, and I have prepared a constitutional amendment to accomplish this goal. We have over 40 Senators cosponsoring this proposal already. I am sure many other Senators will want to join to reverse this decision. It ought to be reversed. It does not represent the thinking of the American people.

Earlier this year Senator DOLE offered an amendment which would prohibit our flag from being "knowingly displayed" on the floor or ground. This amendment was unanimously adopted. Unfortunately, this decision would protect even worse treatment of the flag. This decision would allow an American flag to be burned.

So I say to you, we must stand for this flag. We must stand for this flag. We must stand for America. America, forever.

THE SUPREME COURT DECISION ON THE DESECRATION OF THE FLAG

Mr. KENNEDY. Mr. President, I must explain my position on this resolution. Those who have given their lives in battle under our hallowed flag do so to preserve the liberties guaranteed to all Americans by our Constitution. First among those is the right to freedom of expression. If that right is to be meaningful, it must be extended to views that are unpopular; that are mean-spirited; and, that are wrong.

The American flag is the most venerated symbol of all that is great and good about America. To cast contempt upon it is to reject all that we hold dear as a free and civilized people. Anyone who burns an American flag deserves the contempt of every American citizen.

But if the first amendment stands for anything, it means that the Government cannot punish someone for criticizing our society even if that criticism is as nasty and as obnoxious as the conduct at issue in the Johnson case.

The genius of the constitutional democracy symbolized by the American flag is evident in our system of an independent Federal judiciary sworn to uphold the Constitution's bulwarks against the swollen tides of public outrage.

The Supreme Court has the last word on the meaning of the Constitution, and no one envies them the job of protecting the rights of those whose views and whose actions we all so rightly condemn.

They have spoken; and justice is as diverse in views as Justices Brennan, Scalia, and Kennedy recognize that the first amendment required the result the Court reached.

This body ought not to go on record criticizing the Supreme Court for discharging its solemn duty to vindicate the freedoms protected by the Constitution and symbolized by our hallowed flag.

Mr. REID. Mr. President, the American flag is our symbol of the most successful democracy in history. In 2 weeks, we will celebrate our 213th birthday. It is offensive that the Supreme Court ruled yesterday in favor of desecrating the flag. It would be disgusting and disturbing at any time. It is especially cruel and tasteless coming so soon before the Fourth of July.

The heroes of the American Revolution fought for an idea—freedom. Many sacrificed their lives to keep the Revolution strong. The Supreme Court's decision blasphemes their memory and that of everyone who sacrificed or gave their life for this country.

People worldwide who watched the recent tragic events in China saw a powerful symbol of American freedom on their TV sets: a Statute of Liberty that the Chinese students had made by hand. This symbol of freedom was destroyed by the Communist government when it massacred the students. We must not allow the flag to be destroyed on our shores by the enemies of freedom.

This year, 1989, is the bicentennial of the First Congress. In honor of that distinguished history, we must all rise today and condemn the bizarre and disturbing vote of the Court against the flag.

People in Nevada and the United States share these eternal principles: Strong family values; belief in opportunity; guts to fight for change when it's needed; and ingenuity to get the job done. We know that America must be strong throughout the world and fair here at home. The flag, with its 13 stripes and 50 stars on a blue background, is our greatest symbol of these eternal principles.

I join in the resolution to come to the defense of our flag. It has always been there for us. We must now be there in its defense in its hour of need.

Mr. DOLE. Mr. President, if I have any time left I yield it back.

The PRESIDING OFFICER. All time having expired on the resolution, Senate Resolution 151, the question is on the adoption. The Chair recognizes the majority leader.

UNANIMOUS-CONSENT REQUEST

Mr. MITCHELL. Mr. President, I ask unanimous consent that the resolution now be set aside, that the Senate resume consideration of S. 5, that the Dole amendment be temporarily set aside and that the Senate proceed to the consideration of a Bentsen amendment relative to Social Security earnings limitations on which there shall be 20 minutes of debate to be equally divided between Senators BENTSEN and DOLE or their designees; that upon the completion of the debate on the Bentsen amendment the Senate proceed to the consideration of a Roth amendment on Social Security earnings, that there be 20 minutes of debate on the Roth amendment, equally divided between Senators ROTH and BENTSEN; that no amendments or motions be in order relative to either the Bentsen or Roth amendments; that, upon the completion of the debate on the Roth amendment, the Senate proceed to vote on Senate Resolution 151 to be immediately followed by a vote on Senator BENTSEN's amendment to be immediately followed by a vote on the Roth amendment; that the first vote be 15 minutes and that the two succeeding votes be 10 minutes each in duration.

The PRESIDING OFFICER. Is there objection?

Mr. BUMPERS. Mr. President, reserving the right to object.

The PRESIDING OFFICER. The Chair recognizes the Senator from Arkansas [Mr. BUMPERS].

Mr. DOLE. Mr. President, reserving the right to object.

Mr. BUMPERS. Mr. President, I have no objection.

The PRESIDING OFFICER. The Chair recognizes the Republican leader, Senator DOLE.

Mr. MITCHELL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MITCHELL. Mr. President, I withdraw my previous unanimous-consent request and I now ask unanimous consent that the Senate return to the consideration of Senate Resolution 151, that Senator HUMPHREY be recognized for 5 minutes to speak in opposition to the resolution and that immediately upon the conclusion of his remarks, the Senate proceed to a vote on the resolution.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The Senator from New Hampshire is recognized.

Mr. HUMPHREY. Mr. President, I do have a problem with this resolution. I want to make it clear—it should not be necessary, but since some demogogue will probably try to use this against me in the future—that I am opposed to any kind of desecration of our flag.

I served 4 years in the armed services of our country as did many Members of this body, many Americans, and I have as much allegiance to that flag as anyone else.

But just what constitutes desecration? What about these American flag patches we see on the fannies of some people's levis? Is that not a desecration? And are we not, by this legislation, urging the legislatures to ban the use of the American flag as a patch on someone's levis? Are we urging legislatures to pass statutes against making a cap out of a material and pattern that resembles the American flag—the kind of things we see so often—and all kinds of apparel?

What defines desecration?

It seems to me it is an endless riddle. No one likes desecration but this just seems to me an exercise in silliness and even a little bit of hypocrisy, if I may say so.

I am going to vote against it knowing full well that all kinds of things will rain down upon my head. But, frankly, it strikes me as intellectually dishonest and I just cannot live with it. I yield back my remaining time.

Mr. DOLE. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to Senate Resolution 151. The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

The result was announced—yeas 97, nays 3, as follows:

[Rollcall Vote No. 95 Leg.]

YEAS—97

Adams	Bingaman	Breaux
Armstrong	Bond	Bryan
Baucus	Boren	Bumpers
Bentsen	Boschwitz	Burdick
Biden	Bradley	Burns
Byrd	Hatfield	Nickles
Chafee	Heflin	Nunn
Coats	Heinz	Packwood
Cochran	Helms	Pell
Cohen	Hollings	Pressler
Conrad	Inouye	Pryor
Cranston	Jeffords	Reid
D'Amato	Johnston	Riegle
Danforth	Kassebaum	Robb
Daschle	Kasten	Rockefeller
DeConcini	Kerrey	Roth
Dixon	Kerry	Rudman
Dodd	Kohl	Sanford
Dole	Lautenberg	Sarbanes
Domenici	Leahy	Sasser
Durenberger	Levin	Shelby
Exon	Lieberman	Simon
Ford	Lott	Simpson
Fowler	Lugar	Specter
Garn	Mack	Stevens
Glenn	Matsunaga	Symms
Gore	McCain	Thurmond
Gorton	McClure	Wallop
Graham	McConnell	Warner
Gramm	Mikulski	Wilson
Grassley	Mitchell	Wirth
Harkin	Moynihan	
Hatch	Murkowski	

NAYS—3

Humphrey	Kennedy	Metzenbaum

The resolution (S. Res. 151) was agreed to.

The preamble was agreed to.

The resolution, with the preamble, is as follows:

S. RES. 151

Whereas the first amendment to the United States Constitution lies at the core of our Nation's concept of ordered liberty;

Whereas the flag of the United States is the most profound symbol of our ideals, aspirations, and indeed our identity as a nation;

Whereas the flag stands for our very being, including our commitments to freedom, justice, equal oppportunity, and peace;

Whereas Americans have always displayed the flag as a living symbol of our Nation and the values for which it stands;

Whereas the burning of the American flag is an affront to our American heritage and an affront to the American people;

Whereas millions of Americans have fought valiantly, and many thousands have died, to protect this sacred symbol of nationhood, from the beginning of the Republic through the two World Wars, the Korean conflict, the Vietnam conflict, to the present, and that those who risked and gave their lives for our country are profoundly offended by the desecration of this sacred emblem;

Whereas the Congress and forty-eight States have enacted laws to protect against desecration of the flag;

Whereas the Senate expressed its respect for the flag as recently as March 16, 1989, when on a vote of 97-0, it passed S. 607, prohibiting the displaying of the flag on the floor or ground;

Whereas throughout the history of our Nation, the Supreme Court has properly defended and protected the first amendment rights of our Nation's citizens;

Whereas the United States Supreme Court yesterday rendered a decision in the case of *Texas* v. *Johnson*, No. 88-155, finding unconstitutional a Texas statute prohibiting the desecration of the flag, determining that this conduct was an act of "symbolic speech" protected by the first amendment;

Whereas the Congress has believed that the act of desecreting the flag is clearly not "speech" as protected by the first amendment; and that analogous acts, such as desecrating a public monument such as the Lincoln Memorial, would never be tolerated as speech;

Whereas it appears that yesterday's decision may invalidate the Federal and State laws prohibiting desecration of the flag: Therefore, be it

Resolved, That the Senate hereby—

(1) expresses its profound disappointment that the Texas statute prohibiting the desecration of the flag was found to be unconstitutional;

(2) expresses its continued commitment to preserving the honor and integrity of the flag as a living symbol of our Nation and its aspirations and ideals;

(3) intends to make an immediate study of the impact of yesterday's Supreme Court decision on Federal and state laws prohibiting the desecration of the flag, and to seek ways to restore sanctions against such reprehensible conduct; and

(4) urges the American people to continue to display proudly the American flag as a symbol of our Naton and the values for which it stands.

Mr. MITCHELL. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

CHILD CARE IMPROVEMENT ACT

The Senate continued with the consideration of the bill.

AMENDMENT NO. 203

(Purpose: To amend title II of the Social Security Act to increase the retirement test exempt amount to $10,560 in 1990, to lower the reduction factor for certain earnings to 25 percent, and for other purposes)

Mr. BENTSEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Texas.

Mr. BENTSEN. Mr. President, I ask unanimous consent to lay aside——

Mr. KENNEDY. May we have order?

The PRESIDING OFFICER. The Senate is not in order. The Senator will suspend. Senators will please take their conversations to the cloakroom.

The Senator from Texas.

Mr. BENTSEN. Mr. President, I ask unanimous consent that we temporarily lay aside the pending amendment and proceed to the consideration of the amendment I send to the desk on behalf of myself, Senator MOYNIHAN, and Senator ROTH.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered. The clerk will report.

The legislative clerk read as follows:

The Senator from Texas [Mr. BENTSEN], for himself, Mr. MOYNIHAN, and Mr. ROTH, proposes an amendment numbered 203.

Mr. BENTSEN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place, insert the following:

SEC. . RETIREMENT TEST EXEMPT AMOUNT INCREASED TO $10,560 IN 1990.

(a) IN GENERAL.—Subparagraph (D) of section 203(f)(8) of the Social Security Act (42

U.S.C. 403(f)(8)) is amended to read as follows:

"(D) Notwithstanding any other provision of this subsection, the exempt amount which is applicable to an individual who has attained retirement age (as defined in section 216(l)) before the close of the taxable year involved shall be $980 for each month of any taxable year ending after 1989 and before 1991.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1989.

SEC. . REDUCTION FACTOR WITH RESPECT TO CERTAIN EARNINGS LOWERED TO 25 PERCENT.

(a) IN GENERAL.—Paragraph (3) of section 203(f) of the Social Security Act (42 U.S.C. 403(f)) is amended by striking "33⅓ percent" and all that follows through "paragraph (8)" and inserting "equal to the sum of (A) 25 percent of so much of his earnings for such year in excess of the product of the applicable exempt amount as determined under paragraph (8) as does not exceed $5,000, and (B) 33⅓ percent of so much of such earnings in excess of such product as exceeds $5,000,".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1989.

SEC. . PAYMENT OF RECOMPUTED BENEFITS.

(a) IN GENERAL.—Subparagraph (D) of section 215(f)(2) of the Social Security Act (42 U.S.C. 415(f)(2)) is amended by striking subparagraph (D) and inserting the following new subparagraphs:

"(D) A recomputation under this paragraph with respect to any year shall be effective—

"(i) in the case of an individual who did not die in that year, for the earlier of—

"(I) monthly benefits beginning with benefits for the fifteenth month following the end of such year, or

"(II) monthly benefits beginning with benefits for the month in which the individual submits a written request for such recomputation; or

"(ii) in the case of an individual who died in that year, for monthly benefits beginning with benefits for the month in which he died.

"(E) Under regulations of the Secretary, monthly benefits increased as a result of a recomputation under this paragraph which became effective pursuant to subparagraph (D)(i) shall be further increased on an actuarial basis (taking into account the age of the individual) to include the value of benefits which would have otherwise been paid if the recomputation were effective beginning with benefits for January of the year following the year with respect to which the recomputation is made."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to recomputations made after the date of enactment of this Act.

SEC. . PAYMENT OF CERTAIN RETROACTIVE BENEFITS.

(a) IN GENERAL.—Subparagraph (B) of section 202(j)(4) of the Social Security Act (42 U.S.C.(j)(4)) is amended—

(1) by redesignating clause (v) as clause (vi), and

(2) by inserting after clause (iv) the following new clause:

"(v) Any retroactive benefits for which an individual is eligible because of clause (i) or (iv) shall be paid to the individual as an increase in the individual's monthly benefit amounts, determined on an actuarial basis pursuant to regulations prescribed by the Secretary.".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply with respect to applications for benefits made after the date of enactment of this Act.

SEC. . MANDATORY PROVISIONS OF SOCIAL SECURITY ACCOUNT STATEMENT.

(a) IN GENERAL.—Part A of title XI of the Social Security Act (42 U.S.C. 1301-1320b-10) is amended by adding at the end thereof the following new section:

"SOCIAL SECURITY ACCOUNT STATEMENTS

"Provision Upon Request

"SEC. 1141. (a)(1) Beginning not later than October 1, 1990, the Secretary shall provide upon the request of an eligible individual a social security account statement (hereinafter referred to as the 'statement').

"(2) Each statement shall contain—

"(A) the amount of wages paid to and self-employment income derived by the eligible individual as shown by the records of the Secretary at the date of the request;

"(B) an estimate of the employee and self-employment, old age, survivors, and disability insurance contributions of the eligible individual as shown by the records of the Secretary at the date of the request;

"(C) a separate estimate of the employee and self-employment hospital insurance contributions of the eligible individual; and

"(D) an estimate of the potential monthly retirement, disability, survivor, and auxiliary benefits payable on the eligible individual's account together with a description of the benefits payable under the medicare program of title XVIII.

"(3) For purposes of this section, the term 'eligible individual' means an individual who—

"(A) has a social security number,

"(B) has attained age 25 or over, and

"(C) has wages or net earnings from self-employment.

"Notice to Eligible Individuals

"(b) The Secretary shall to the maximum extent practicable take such steps as are necessary to assure that eligible individuals are informed of the availability of the statement described in subsection (a).

"Mandatory Provision of Statements

"(c)(1) By not later than September 30, 1994, the Secretary shall provide a statement to each eligible individual who has attained age 60 by October 1, 1993, and who is not receiving benefits under title II and for whom a current mailing address can be determined through such methods as the Secretary deems appropriate. In fiscal years 1994 through 1999 the Secretary shall provide a statement to each eligible individual who attains age 60 in such fiscal years and who is not receiving benefits under title II and for whom a current mailing address can be determined through such methods as the Secretary deems appropriate. The Secretary shall provide with each statement to an eligible individual notice that such statement is updated annually and is available upon request.

"(2) Beginning not later than October 1, 1999, the Secretary shall provide a statement on a biennial basis to each eligible individual who is not receiving benefits under title II and for whom a mailing address can be determined through such methods as the Secretary deems appropriate. With respect to statements provided to eligible individuals who have not attained age 50 such statements need not include estimates of monthly retirement benefits. However, if such statements provided to eligible individuals who have not attained age 50 do not include estimates of retirement benefit amounts, such statements shall include a description of the benefits (including auxiliary benefits) that are available upon retirement.".

(b) REPORT TO CONGRESS AND STUDY.—Not later than October 1, 1996, the Secretary shall submit to Congress a report on the implementation of the requirements of this Act and on his specific plans for implementing the final requirements contained in such Act, particularly with regard to estimating retirement benefit amounts for individuals who have not attained the age of 60.

(c) DISCLOSURE OF ADDRESS INFORMATION BY INTERNAL REVENUE SERVICE TO SOCIAL SECURITY ADMINISTRATION.—

(1) IN GENERAL.—Section 6103(m) of the Internal Revenue Code of 1986 (relating to disclosure of taxpayer identity information) is amended by adding at the end thereof the following new paragraph:

"(6) SOCIAL SECURITY ACCOUNT SATEMENTS FURNISHED BY SOCIAL SECURITY ADMINISTRATION.—Upon written request by the Commissioner of Social Security, the Secretary may disclose the mailing address of any taxpayer who is entitled to receive a social security account statement pursuant to section 1141(c) of the Social Security Act, for use only by officers, employees, or agents of the Social Security Administration for purposes of mailing such statement to such taxpayer.".

(2) SAFEGUARDS.—The last sentence of section 6103(p)(4) of such Code (relating to safeguards) is amended by striking out "subsection (m)(2) or (4)" and inserting in lieu thereof "paragraphs (2), (4), or (6) of subsection (m)".

(3) UNAUTHORIZED DISCLOSUE PENALTIES.—Paragraph (2) of section 7213(a) of such Code (relating to unauthorized disclosure of returns and return information) is amended by striking out "(m)(2) or (4)" and inserting in lieu thereof "(m) (2), (4), or (6)".

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of enactment of this Act.

The PRESIDING OFFICER. If the Senator will withhold, the Senate is not in order. Please clear the well and take the conversations to the cloakroom. The Senator is entitled to be heard. Please clear the well and suspend the conversations.

The Senator from Texas.

Mr. BENTSEN. Mr. President, the Social Security retirement test reduces the benefits of retirees who have earnings above a specific exempt amount. This year that exempt amount is $8,800. Above that limit every $2 of earnings causes a $1 in benefit losses. Since I first came to the Senate, I have worked to loosen that retirement test so that it will not discourage older citizens from supplementing their Social Security work.

When I first came to the Senate, the test was so tight that beneficiaries would generally lose all benefit earnings over $5,000 or even less.

Mr. President, we are keeping healthy, vigorous older Americans out of the work force. That really means some of our best energies are still left on the bench. I would rather have them in the lineup. They probably will not be the rookie of the year but most of them have some good hits left in them. They are playing for our team.

Today a typical retiree can earn as much as $34,000 and still quality for some benefits.

Mr. FOWLER. Mr. President, can we have order, please?

The PRESIDING OFFICER. The Senator is correct. The Senate is not in order. Will all Senators engaged in conversation please take those conversations to the cloakroom. The Senator is entitled to be heard.

The Senator from Texas.

Mr. BENTSEN. Mr. President, that retirement test still provides too much of a barrier to work for older Americans, and there are things we can do to assist in that regard.

Let me give you an example of a 65-year-old with $15,000 worth of earnings who finds himself in a situation where each additional dollar he earns is worth less than a quarter. After he pays his income and Social Security taxes, pays the Medicare catastrophic premium, and meets the retirement test, there is that benefit reduction. That is what he is faced with.

This amendment would increase the exempt amount, the amount that can be earned with no loss of benefits, to $10,560. We do that next year. That is $1,200 higher than the present law level that would otherwise be in effect.

This amendment would also lower the rate of reduction that applies to those who have earnings above that exempted amount. Earnings above that level and up to $15,560 in benefits, the benefits will be reduced by $1 for every $4 of earnings.

Now, that compares with the law as it is today, where it is $1 for every $2 of earnings, which will go next year to $1 for every $3. We are taking it a step beyond that, so the reduction is 1 for 4.

This amendment is fully paid for, both in the first fiscal year and over the 5-year period for which the estimates are available. In addition, its impact on the long-term actuarial status in the program is classified as negligible.

Although this amendment is paid for, it does not cut benefits for any of the beneficiaries. It is paid for by transforming certain retroactive lump sum payments into higher permanent benefits over the years, rates which are paid out over the lifetime of the recipient.

This amendment will allow Social Security retirees who work to retain more of their benefits. For a typical retiree, if he earns $15,000, the amendment will allow him to keep about $800 more than he can under the present law. For retirees who earn less than $15,060, this amendment will lower the marginal rates faced by older workers. Today such workers keep only 24 cents on each additional dollar earned. Under previously enacted legislation, that will go up to 41 cents next year. This amendment would further increase that to 49 cents.

We have some additional provisions in the amendment, insofar as notification of vesting, of benefits, of accrual, and eligibility, that have been added and have been principally the work of the distinguished senior Senator from New York, who will be addressing that later in the debate.

I would like to comment, too, that the distinguished Senator from Delaware, and the distinguished Senator from Colorado, worked long and hard on comparable amendments in trying to expand those benefits, as many of us have in the years we have been in the U.S. Senate.

I yield the floor.

Mr. ARMSTRONG addressed the Chair.

The PRESIDING OFFICER. The Senator from Colorado is recognized.

Mr. ARMSTRONG. Mr. President, this is a red letter day. The amendment which the Senator from Texas called up and brings before the Senate addresses one of the most important issues that is going to come before the Senate this year and does it in a way which is typical of the Senator from Texas, thoughtful, responsible, aimed like a rifle shot at a serious, major national problem; and I have several things I want to say about it, but I want to start by asking a question: May I ask, would it be agreeable to the Senator from Texas that I be added as a cosponsor to his amendment?

Mr. BENTSEN. I would be delighted to have the distinguished Senator from Colorado, with his long interest in this subject, as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ARMSTRONG. I very much appreciate the opportunity to be added as a cosponsor, because this amendment is significant for many, many reasons, and I agree with what Senator BENTSEN has said about the process by which we have gotten here.

There are a lot of people who have been interested in this for a long time. In fact, I remember as long as a half-dozen years ago, when Senators DOLE and MOYNIHAN and some of the rest of us were working on this; I remember how the Senator from New York [Mr. MOYNIHAN] characterized the earnings limit. He said, in effect, that this was about the worst possible policy that he could imagine. In fact, I made a note of his words at the time. He said, "It is a tax on benefits." That is exactly right, and, "It is an unfair tax." He has spoken up over and over again about the unfairness of that.

I regard this amendment as a very significant amendment, not only because of the way it addresses a crucial subject, but because coming under the sponsorship of the Senate Finance Committee, I think it shows this really is exactly what I characterized it to be a few weeks ago, an idea whose time has come.

When Senator DOLE and I and Senator EXON and others brought up an amendment on this subject a few weeks ago, there were some who were skeptical and thought it was not timely, that we could not afford it, that the budget was tight; it was an issue that would have to wait for another year and so on.

I see the Senator from Nebraska is here, and I remember that he spoke up at the time and made the point that this was too important to be swept under the rug. It is not just a matter of economic policy or tax policy or even of labor or social policy, but a basic problem of human justice. I want to congratulate Senator EXON for taking the lead on this issue at a time when a lot of people did not think somehow we could get anything done.

Mr. President, I am not here to recap the past, except to put it in this perspective: Within the last few weeks, literally during this session of the Congress, an idea which many of us have been concerned about for a long time has begun to come into perspective. We voted, I guess, by about 86 votes here in the Senate a few months ago to increase, by a modest amount, the Social Security earnings limit. And subsequent to that, we incorporated some room in the budget resolution. Both of those were dropped in conference, but they were not in vain, because in the process of raising the issue here in the Senate, we raised the standard to which people in the other body could also repair; and within a matter of weeks, over 100 Members of the House introduced legislation along the same lines as that, which we had been considering here in the Senate.

Indeed, a hearing was held by the House Ways and Means Committee on May 25, and subsequent to that, in a markup by the subcommittee—and I am not sure whether the full committee has received it yet—legislation to increase, not by as large an amount as I would like, but by a significant amount, the Social Security earnings limit was included in the markup.

In fact, I am proud to recall that it was my colleague, HANK BROWN, from Colorado, who is a member of the Ways and Means Committee, and who has been interested in this issue for a long time, who led the charge, among those who advocated this.

Mr. President, the justice of this case is very hard to ignore. In fact, as I pointed out to my colleagues, someone who is in the affected age bracket, 65 to 69, who is a Social Security recipient, and whose earnings at the present time exceed $8,800 a year, finds themselves confronted with several major hurdles, several disincentives to work. They are not technically taxes, but that is what they come down to.

First of all, the retirement earnings test. That means if you are in the affected income bracket, you have to give back $1 ever every $2 you receive in outside income. That is scheduled to go from $1 to $2 in the present law, to $1 to $3 in the law which goes into effect in 1990; and as I understand the proposals Senator BENTSEN has brought before us, that will go for a certain group of people from $1 to $3

to $1 to $4 in the the years beyond 1990. That is a wonderful improvement.

But a person who is working, in this affected age and income bracket, faces the retirement earnings test, the tax on the catastrophic health care, on Social Security benefits, on tax exempt income and, of course, the regular FICA and Federal, State and local taxes. What that means, as a practical matter, is this, Mr. President: If you are a worker in this affected age bracket, you can easily face a marginal tax rate, not a 15 or 18 or 20 percent, but of 80 percent; and in fact, in some cases, which have been brought to my attention, which have been documented in national publications, it would not be impossible for a person in this age group to actually face a tax, a marginal disincentive to work, in excess of 100 percent.

Now, that is so far from economic justice, it is so far from good policy, that it is amazing to me that we have waited until 1989 to deal with this issue. But that, in fact, is exactly what has happened.

One more chart might be of interest to my colleagues. This shows, for different income groups, the extent of the marginal tax disincentive. As my colleagues can see, adding up all of the things I mentioned, Social Security earnings limit, regular tax, FICA, and so on, if you are at $10,000 a year, the marginal effective tax comes to 75 percent; at $22,000, 81 percent; at $25,000, 102 percent. We are not talking about a tax on the wealthy. We are talking about people of modest income.

In fact, Mr. President, one of the most insidious things about the Social Security earnings limit is the very fact that it does not apply, really, to the wealthy. Coupon clippers are not affected, because the Social Security earnings limit is only a tax on work.

If you get dividend income in any amount, rental income in any amount, profits from a business you own in any amount, bond interest, savings account interest, money market interest, you name it, none of that requires a giveback under the Social Security earnings limit; only income earned from work.

So that means people like my friend Joe Flynn who works down at McDonald's—after retiring from a distinguished career in the broadcasting business, he now has a little job down at McDonald's because that is something he wants to do. He wants to be busy—I do not know what his income or circumstances are, but it means people like him are facing these confiscatory marginal tax rates.

Mr. President, that is bad tax policy. Worse than that, it is an injustice to people who need the money. The fact of the matter is it is hard to get along sometimes on Social Security or even Social Security plus $8,800 or $98,000 or $10,000. In many cases this is a real financial issue.

It boils down to some very real hardships. Not the kind of life or death hardships that we think of in extreme poverty, perhaps, but, nonetheless, human hardships of very significant proportions.

I judge that there are some people for whom lack of income means they have to decide sometimes whether or not to send a birthday gift to a grandchild or to have the kind of a dinner that they would like to have on that day, or whether or not they can afford to have money for a long-distance telephone call to a relative on a holiday or birthday or at Christmas or something. We are talking about a human problem of real dimension.

If somebody has a financial problem and wants to go out and work, wants to make their own way in order to supplement their income, I think the last thing we ought to do, for heaven's sake, in discourage that kind of worthy effort.

More important than that, Mr. President, there are a lot of people in this age bracket and older—because this only affects people from 65 to 69; anybody over 70 is already exempt—but there are a lot of people in this age bracket and older who not only may need the income but they need the work. They need the activity. They need the involvement.

Mr. President, I believe I previously cited Jimmy Durante, who once said, when he was asked why he continued to perform well after the age when most people had retired completely and had withdrawn from active life, "Well, I don't need the money, but I need the work."

You know, Jimmy Durante is right about that. The very act of going to the office or going to McDonald's or going to a retail store or taking part in the work world keeps a person engaged in a way that is very, very significant to a lot of people. It is not for everybody. But for a lot of people it is crucial to maintaining their sense of participation, their sense of being in touch with things.

A poet once wrote something to the effect that you work in order to keep pace with the Earth and the seasons of the Earth. And I believe that that is really true to a very significant degree. Work is a blessing. And when we put this kind of a tax on it for people in this age group, we are really denying them something that is very, very important.

More than that, Mr. President, let me make the point that we need the work that people in this age group can produce. A lot of us in this Chamber have grown up in an era where we are accustomed to thinking of having a surplus of workers. Maybe that was true at some time in some era in this country, but it is not true anymore. We are heading into an era when there is going to be a more or less continual shortage of qualified, trained people who want to work. That is a demographic fact of life. So from here on in, from this point forward for the foreseeable future, we ought to encourage people in this age bracket in every way that we can within reason.

So, Mr. President, this is a good amendment based on every standard—on tax policy, on economic justice, on the human values involved, on the social policy that underlies it, on the labor policy that is implicit in this. It is the kind of amendment that really deserves our support for all of those reasons.

Now, I suppose somebody could get up and say, "Well, this is not germane to this bill." I hope nobody will get up and make an argument like that. I have heard that on other occasions, but it did not apply then and it does not apply now.

In fact, the truth is most of the really important work of this Chamber ends up being done when somebody brings up a nongermane amendment. Gramm-Rudman, you will remember, came up as an amendment which was not germane to whatever bill was under consideration.

As I recall, that is the way the GI bill got reenacted, was when it came up as a nongermane amendment to something. That is the way we got the Tax Code index was when it came up as a floor amendment to another bill.

Mr. President, I hope nobody will make that argument. I hope nobody will come forward and say "Well, we haven't had any hearings on this matter." Because we have had hearings on this back over 4 or 5 years ago. The fact that we have not had in the last 3 months or since this legislation was introduced or since I called up an amendment a couple of months ago is really irrelevant. We understand the issue. We know this is a good idea and we ought to go with it.

Mr. President, I want to conclude by summarizing in this way: This is an idea whose time has come.

I just want to share with my colleagues what other people are saying, because it is not just Senators who have realized that this is an important issue, nor is it just senior citizens who are directly affected. It is thoughtful people all over the country.

For example, the Rochester Democrat and Chronicle wrote:

> What's wrong with a limit? For starters, it's an earnings limit, not an income limit. Those who have huge incomes from pensions or investments don't lose a dime in Social Security benefits. Those who earn more than $8,160 a year bagging groceries do.
>
> The limit is a work tax, pure and simple.

The San Jose Mercury News wrote:

> For the working stiffs who need both benefits and wages to get by, or who simply enjoy working and have something to contribute to society, the penalty kicks in at a ridiculously low earnings level $8,160, after which $1 of benefits is lost for every additional $2 earned.

The St. Louis Post-Dispatch wrote:

> Those who have paid into the Social Security Trust Fund for so long should not have

to sharply curtail their income to receive the benefits they are due.

The Washington Times, in part, said:

The message sent to older people is that they have nothing to contribute to the Nation's economy after retirement.

Mr. President, I am going to send to the desk and ask unanimous consent to have printed in the RECORD brief excerpts at this point from what other thoughtful publications are saying, including the Baltimore Sun, St. Petersburg Times; South Bend, IN, Tribune; Dallas Morning News, the San Diego Tribune, Detroit News, Los Angeles Times, Forbes, the Cincinnati Enquirer, Houston Post, the Indianapolis Star; the News Journal, Wilmington, DE; Register Guard of Eugene, OR; Cedar Rapids Gazette; the New York Times; the Orange County Register; the Washington Times; and the Evansville Courier. I ask unanimous consent that excerpts from these editorials be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

"The Social Security landscape is littered with a great irony: While the program is built on the strength of the work ethic, its earnings test actually provides a disincentive to work.

". . . One consequence of this skewed policy is the emergence of a gray, underground economy—a cadre of senior citizens forced to work for extremely low wages or with no benefits in exchange for being paid under the table."—The Baltimore Sun, 10/9/87.

"The earnings cap is an outmoded concept that harks back to Depression-era thinking."—St. Petersburg Times, 12/3/87.

"Unfair? Of course it is. It is also illogical, which perhaps explains why it has had such acceptance in Washington."—South Bend Tribune, 12/2/87.

"Both individual citizens and society as a whole would benefit from a repeal of the law that limits what Social Security recipients may earn before their benefits are reduced.

". . . Now that the leading edge of the big baby boom generation is past age 40, the smaller size of the baby bust generations that are entering the work force will ensure that the shortage of skilled workers will grow . . . Under such conditions, it is economic lunacy to push millions of veteran, willing workers into retirement by effectively taxing them at a higher rate than billionaires pay."—Dallas Morning News, 12/1/87.

"The benefit-reaction law made some economic sense when Social Security was established in the 1930s and the government wanted to encourage the elderly to leave the labor force and open up jobs for younger workers. But with declining birth rates and the nation's need for more, not fewer, experienced workers, the measure is bad for the nation as well as its older workers."—The San Diego Tribune, 12/2/87.

"Work is important to many of the elderly, who are living longer. They shouldn't be faced with a confiscatory tax for remaining productive."—Detroit News, 7/29/87.

"As the senior population expands and the younger population shrinks in the decades ahead, there will be an increasing need to encourage older workers to stay on the job to maintain the nation's productivity."—Los Angeles Times, 1/3/88.

"Moreover, people are living longer; the economy is hurt when artificial barriers block the full use of our most productive asset, people."—Forbes, 12/28/87.

"No American should be discouraged from working, as long as he wants to and is physically able to do so. And as the label 'entitlement' implies, he is entitled to the benefits he invested in over so many work years."—The Cincinnati Enquirer, 12/9/87.

"Equity and common sense demand that this disincentive to work be scrapped."—Houston Post, 12/7/87.

"On the face of it, the game appears rigged in favor of those who stop working at 65 and against those who keep working, in favor of well-to-do retirees and against middle- and low-income retirees who need a part-time job to help with expenses."—The Indianapolis Star, 12/6/87.

"Furthermore, there is no need to change the rules abruptly. The limit on earnings can be removed gradually, say over five years. A phase-in would work well especially since for those 70 years old and older, there is no earnings limit anyway."—The News Journal (Wilmington, DE), 12/5/87.

"Individual seniors lose because they can't be as active and productive as they would like, and society loses by being deprived of experienced, often highly skilled labor.

". . . Discriminating so blatantly in favor of investment income and against wage or salary income would be justified only if the goal of the program were to keep people out of the work force."—Register Guard (Eugene, OR), 12/4/87.

"For medical and nutritional reasons, Americans 65 through 69 do not feel as tired as their counterparts did a generation or two ago. Consequently, many want to keep on working. But disillusioned by that infernal Society Security retirement test, they are tempted to circumvent the restriction by not reporting some income.

". . . The message is clear. When otherwise law-abiding people are tempted to underreport income, it is time to examine the cause. If a law is to blame, then Congress had better consider changing the law."—Cedar Rapids Gazette, 12/3/87.

". . . it is not wrong to encourage willing older adults to remain in the work force."—The New York Times, 12/6/87.

"Indeed, repealing the tax might actually increase revenues. More people would be working, paying more taxes of all kinds, including the Social Security tax. If our government bureaucrats want us to keep paying their salaries, the least they can do is make it possible to work in the first place.

". . . No private retirement system would ever discourage its recipients from working at other jobs."—The Orange County Register, 12/1/87.

"At a time when the nation is facing a rising labor and skills shortage, when the demand for mental, as opposed to physical, skills is accelerating, the nation's rising cohort of men and women over 60 is too valuable a resource to kick away."—The Washington Times, 3/27/89.

"On balance, it seems to us that the overall economy would be healthier if the elderly—poor, rich and in between—could work if they want to without forgoing Social Security benefits."—Evansville Courier, 12/7/87.

Mr. ARMSTRONG. Mr. President, this debate would not be complete if I did not single out for special appreciation and mention the AARP, the American Association of Retired Persons. I send to the desk also a letter of a couple of months ago which was sent to me about this matter by the AARP, which has long been a leader in all kinds of legislation that is of concern to retired persons and those who expect to be retired in the near future, but particularly have been leaders on this issue of the retirement earnings test. I ask unanimous consent that the letter be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

AMERICAN ASSOCIATION
OF RETIRED PERSONS,
Washington, DC, April 6, 1989.

Hon. WILLIAM ARMSTRONG,
U.S. Senate,
Washington, DC.

DEAR SENATOR ARMSTRONG: The American Association of Retired Persons (AARP) has long supported revising the Social Security retirement test. We believe congressional action to liberalize the earnings limit encourages older persons to continue working and represents prudent public policy now and especially in the future.

Under current law beneficiaries age 65 to 70 lose $1 in Social Security benefits for every $2 of earnings over the earnings limit of $8,880 in 1989. Beginning in 1990 this penalty will be reduced to $1 for every $3 in excess earnings. Last year 700,000 retired workers, 115,000 dependents and 40,000 survivors lost some of their Social Security benefit because of the earnings limit. For moderate and middle income workers who want or need to continue working beyond age 65, this penalty is burdensome.

Your amendment would increase the monthly limit by a modest $80. Any liberalization, even a modest one, brings needed financial relief to those who work out of necessity. If enacted, 85,000 lower paid workers who earned between $9,000 and $10,000 would no longer be affected by the retirement test. In addition, the amendment would provide some relief for the more than three-quarters of a million persons now affected by the earnings limit.

For example, a beneficiary with $6,108 annually in Social Security benefits (the average benefit for 1989) and $12,000 in wages would lose $1560 in benefits under current law. The Armstrong amendment would reduce this person's loss by $480, cutting their loss of benefits by about 30 percent.

Given the current budgetary situation and the constraints imposed by Gramm-Rudman-Hollings, the cost of any liberalization must be deficit neutral. In light of these requirements, AARP believes that the offset in your amendment is a reasonable one.

The Association commends you for offering this amendment. We hope your colleagues will support it.

Sincerely,

JOHN ROTHER,
Director, Legislation, Research and Public Policy.

Mr. ARMSTRONG. Mr. President, at a certain moment earlier this year, when the leadership of the AARP sat down around the conference table to try to figure out whether they wanted to get involved in this issue and make it a priority this year, it would have been easy for them to say, "Well, of course, we are for it, but we just haven't got the time to do it. We have a lot of our plate. It doesn't look too promising. It looks like an impossible dream."

But they did not say that. Instead, maybe recalling what I believe it was

Thomas Carlisle said, that every noble idea is first seen to be impossible, the AARP, like Senator EXON and like Senator ROTH and some others, came forward and said, "This is an idea we are prepared to fight for." And one reason why it is moving forward, why we have twice passed it in this Chamber, why it is moving in markup in the House, and why this excellent amendment by Senator BENTSEN is about to pass, is because of the statesmanship and leadership of the AARP.

I have already said, and I want to emphasize again my admiration for Senator BENTSEN for bringing this to our attention. There is no better person in this Chamber to champion our case than LLOYD BENTSEN. The chairman of the Finance Committee and, I trust, the chairman of the Social Security Subcommittee, who will speak in a moment, are the natural leaders of this issue. They will be our conferees when the legislation gets to the conference committee. I just want them to know that there are a lot of us who may or may not be conferees who are going to be their cheering section and we applaud them for what they are doing.

I also want to recall that as long as 5 or 6 years ago BOB DOLE took the lead on this matter. In fact, BOB DOLE and I, and some others, JOHN HEINZ, I believe was involved, actually helped to pass an amendment which would have at that time abolished the Social Security earnings limit. That seems right to the Senate. We passed it and we could not get it through conference, but we made some progress. We raised the earnings limit.

As I close, I just want to say this: Abolishing the Social Security earnings limit still seems right to me. This is an important step in the right direction but it is not the end.

First of all, we have to get something like this approved by conference to increase the earnings limit and then to go from a 1-to-3 penalty to a 1-to-4. And when we do that—and I believe that we are going to do that before this year is over—I hope we will not then rest on our laurels and say well, we have solved that problem, because we have not. We have improved the situation.

But I hope that sometime soon we will be able to celebrate the end to the Social Security earnings limit. And one of these days soon, I am going to be back with an amendment that will call for ending the Social Security earnings limit. If I am not quick enough on the trigger for somebody, I hope they will come to the floor and offer it: tommorrow or next week or a month from now or whatever it looks like we have a good chance to pass it. Because that is the ultimate objective, to abolish this unfair and burdensome provision of the Social Security Act.

Mr. HEINZ. Would the Senator yield?

Mr. ARMSTRONG. I am happy to yield to my distinguished colleague from Pennsylvania.

Mr. HEINZ. I just want to commend the Senator from Colorado on having waged a determined and successful fight over many years. I can remember, as chairman of the Social Security Subcommittee, Mr. ARMSTRONG bringing this issue to the Finance Committee time and again. He got partial satisfaction, some modest improvements in the 1983 amendments, the so-called Social Security solvency bill. He has been one of the most persuasive and articulate spokesmen for not just liberalization but abolishment of the earnings tests as demonstrated by his presentation here today.

I cannot add to the points he has made on why this is bad social policy. It is, indeed, bad social policy to tax the work of our senior citizens because, as BILL ARMSTRONG has pointed out on many occasions, many people work not just for the financial reward but because they need to work psychologically and physically. And, of all the things we could do for our senior citizens to allow them to maintain the same vigorous and independent lifestyle that they typically enjoyed throughout their working years, it is to allow them to continue to work, to be active, to be players, participants, respected members of their community.

All the other things that my friend from Colorado says: That it is bad tax policy, that it is unjust, are absolutely correct. And I, in a sense, feel almost as vindicated today as he does, because he has been the cross-bearer of this amendment.

But I remember, I say to my friend from Colorado, I remember back in 1980 when we were preparing for the White House Conference on Aging, I gave a speech back then that said we need to start preparing now because there will be, as we approach the 1990's, a shortage of workers in our country.

We had anything but a shortage of jobs in Pennsylvania then. We are doing even better right now. But it is true at long last that the predictions of the Senator from Colorado and I and a few others, that we had the temerity—perhaps the courage—to make, that we literally need our people who conventionally retire at age 62 or 65, to stay in the work force and for others to come back. Otherwise, we will not be able to produce what this country needs to be economically strong, self-sufficient. We worry a lot about imports.

You know, one of our biggest problems is we do not have the capacity to produce enough alternatives to those imports and we will not unless we find ways to expand our work force.

So, in addition, Mr. President, to all the other reasons that the Senator from Colorado has given us, I thought he had done a comprehensive job but he has missed one. That is that his amendment will also make this country stronger and more competitive because we need the very people his amendment will help.

I commend him in this long journey and I also submit, as suggested, that it is only a partial step forward. Therefore, I am very pleased to be a cosponsor of the amendment of the Senator from Texas. I support it wholeheartedly. I am delighted that he has offered it. But, most of all, I am delighted that BILL ARMSTRONG, who has worked so hard to bring about this kind of program, can take a considerable amount of satisfaction in what is going to take place, unless I miss my guess, on this Senate floor today.

I thank the Senator from Colorado for yielding.

Mr. ARMSTRONG. Mr. President, I want to yield the floor but not before commenting briefly on what the Senator from Pennsylvania has said. I am grateful for his remarks about my role in this, which are far too generous. But the fact of the matter is that Senator HEINZ has been unusually—really extraordinarily perceptive about the needs of the people in this age bracket, about senior citizens, about the elderly and those who need job opportunities.

I recall his fight to end discrimination against people in this age bracket in the terms of their employment and the successful legislation he put through this Chamber to end that discrimination, or at least to drastically curtail ancient practices which had discriminated against them.

I recall the many times he had spoken up on this issue of the Social Security earnings limit and I recall his leadership on the Select Committee on Aging. So it is his victory as much as it is the victory of the Senator from Texas or the Senator from New York or certainly the Senator from Colorado.

I am just proud to be on the team with him and part of the fight.

Mr. President, I see the Senator from New York has stood and is about to speak. I want to yield the floor because I want to hear what he has to say.

May I just in advance congratulate him for his sponsorship of this amendment and his leadership on this issue over many, many years. For a long time this has been of interest.

In addition to speaking for and favoring this for a long time, most Senators know—there might be one or two who are not aware of this—that Senator MOYNIHAN is one of the foremost authorities in this country not only on this issue but on the whole broad range of Social Security and has been for years. He has written and spoken about it persuasively, so we are all eager to hear what the Senator from New York has to say.

The PRESIDING OFFICER. The Senator from New York.

Mr. MOYNIHAN. The first thing the Senator from New York has to say is to express his appreciation to the Senator from Colorado for his generous remarks, for his tenacity, and for his foresight throughout the consideration of this issue. He is singular in those regards, and this Chamber will know how much we appreciate it on this side of the aisle.

The Senator from Colorado and the Senator from Pennsylvania have explained in great detail the large benefits of the principal provision that the Senator from Texas, the chairman of the Finance Committee, has authored and the chairman of the Subcommittee on Social Security and Family Policy has cosponsored.

Mr. President, I would take a moment of the Senate's time to describe a provision of this amendment which I dare to think in 10 years' time will be seen to have profoundly changed, and changed for the better, the understanding of Social Security in the United States and the sense of participation by individual workers and contributors to the Social Security system.

That is to say that the amendment provides that, commencing in 1994 and phased in over a period to 1999, that is in this decade, the Social Security Administration will begin to send out on a biannual basis to all workers, all Social Security contributors, a statement that tells them how much they have contributed and how much they will receive in benefits for various contingencies. The one that we most think about and most look forward to is the retirement benefit. But there is also the survivors' benefit, payments for spouse and children in the event of the worker's death. This is one of the most important of all the provisions of Social Security. Not everyone—I would dare to say not most persons covered—are aware of it, at least in those early years when people are not as concerned about such matters as, alas, they become with time. But in those early years is when they most need to know things; when a family is formed and wage earners have not accumulated anything in the way of private benefits or personal wealth. It will be nice for them to know they have this protection.

It speaks to the disability benefits. Again, we know the individual does not much like to think about it, but it does happen. The benefits are available but again there is a very limited awareness that disability pensions are there. And, finally, it describes Medicare benefits at the time of retirement.

It is the fact, Mr. President, that Social Security has been in place now for more than half a century, and its benefits have never been, as the Texans say "a day late or a dollar short." It is also the fact that the Social Security Administration is never in touch with individual contributors until they retire.

Or, to put it in graphic terms, until they die prematurely or are disabled. I can speak for myself. I think my Social Security card was issued in 1943, and I have never heard from the Social Security Administration. It happens I went out of my way to find out could I get the earnings statement in the course of a year by sending in cards, and I did finally do that, but as you have to know that is possible.

I never head from them. I do not know that they know my name or if they spelled it right or if they know what my address is or if they kept track of my contributions and, indeed, did they get them right. And the fact that we never hear from Social Security may contribute to the curious lack of public confidence in the program.

I cannot say what we do now know. But public opinion surveys show that the majority of nonretired adults in our country do not think they will get their Social Security retirement benefits. There is a deep skepticism bordering on disbelief. And you have to ask if you do not trust your Government in these matters, what do you trust it in?

In providing these statements we will follow the lead of the Canadians, who have been doing this for a few years now. We will now begin informing individuals on a regular basis what they have been paying in, what current coverage they have—disability, survivors' insurance; and after a point, when a responsible projection can be made at 50, what they will get at retirement at age 62, and then 65.

I would think of my own life of any relevance here. Up until age 35 or 40, these statements are likely to be put aside somewhere and get lost eventually. About age 40, individuals begin thinking about these things, and properly. There is a desk drawer where they get put in and added to and checked each year as to whether entries are accurate, and it will form a kind of bonding between the individual and the system, which is good for the system because people will know they are in it and have an interest in it and when we here in Washington legislate, that legislation will be watched more intelligently, carefully, and we will be more informed.

This will take a few years. It is entirely doable. It will be done and, I dare to say, that by the end of the decade, this would be thought to have been one of the more constructive acts we have taken with regard to Social Security in a very long way. May I say, as there will no doubt be inquiries about the expenses involved, they are very modest. The most expensive thing about this statement would be the stamp, and the benefit would more than outweigh the very modest cost, if not at least in the corrections to Social Security bookkeeping entries, which can become very difficult to do at a distance in time whereas they are easily rectified where there are mistakes in the previous calendar year.

I want to thank the always accommodating and always receptive chairman of our committee. The subcommittee held hearings, we had the benefit of very thoughtful testimony from our Canadian neighbors. It happens American advisers went up to them to help them devise their system which only dates from 1966, and they have come down to help us improve the reliable and widespread understanding of our system. I just want to record my great appreciation to the chairman of the committee for including these provisions in the amendment.

Mr. CHAFEE addressed the Chair.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. CHAFEE. Mr. President, I want to join in the distinguished comments of our chairman of our committee. I also would like to be added as a cosponsor to the Bentsen amendment.

Mr. BENTSEN. I thank the distinguished Senator from Rhode Island for his comments.

Mr. CHAFEE. Mr. President, I also think while we are passing out the kudos around here, we certainly want to praise the senior Senator from Colorado who has labored in this vineyard for many, many years. Indeed, this is very similar, if not a replica, to that which the Senator from Colorado, Senator ARMSTRONG, presented on April 11, along with Senator DOLE, which passed here with a very substantial margin. I was pleased to have been a cosponsor of that also.

There is another point I would like to make, Mr. President, if I might. Several years ago, we passed legislation eliminating the retirement age. Previously, the retirement age had been 65, but we removed that and, therefore, it is against the law to force somebody to retire because of age. But, in effect, we have had breaks on that due to the fact that if somebody stayed working beyond the age of 65, he or she could not collect his or her full Social Security.

So it all looked very nice on the books to have an elimination of the retirement age, nonetheless the fact there is an age limitation on earnings under the Social Security caused people to retire, in many instances, when they would have chosen otherwise. So I think it is important that we recognize this legislation today as a corollary to that prior legislation eliminating the retirement age.

As many have mentioned, this does not go all the way. This does not eliminate all the restraints on earnings under Social Security. There is a period between the ages of 65 to 70 now where there are some limitations that have not been completely removed by this legislation. Nonetheless, it is a tremendous step forward, and I am happy to give it full support and to join as a cosponsor.

Again, I commend those who have been so helpful in all this, the Chairman of the Finance Committee, Sena-

tor BENTSEN; the senior Senator from New York and, of course, as I mentioned, the senior Senator from Colorado and our own leader, our own distinguished Republican leader has worked on this for many years likewise. I want to thank the Chair.

Mr. BENTSEN. Mr. President, we have no more requests for time on this side. If there is no further request for time, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nay were ordered.

Mr. BENTSEN. If the Chair would hold, I promised the distinguished senior Senator from Nebraska time to comment.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. EXON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. EXON. Mr. President, I rise today to again support the amendment to modify the Social Security earnings cap for individuals aged 65 to 70. I have worked for a long time with my friend and colleague from Colorado on this particular measure, and I cannot tell you how pleased I am to join him in cosponsoring, if I might be added as a cosponsor, the amendment offered by the chairman of the Finance Committee.

Mr. President, I think that other individuals have said very adequately the desperate need for this piece of legislation. I believe this is the third or fourth time I have stood in this Chamber suggesting we do this. It looks like there is unanimous agreement now on all sides. I salute the chairman of the Finance Committee for offering this amendment. I thank my friend and colleague from Colorado, with whom I have worked on this for many years.

Mr. President, we have all been expressing our concern about the need for affordable and quality child care; about the need to increase the pool of available providers. What better source to tap for help in this area than our elders. Many of these individuals, themselves parents and grandparents, have ample love, not to mention experience, to share with these children.

In this time when we bemoan the breakdown of the traditional family, here is a way to build the sense of the family unit back up again. Many children have not had the opportunity to know a grandparent or other older adult. This is truly unfortunate as older individuals can contribute so much to a child's sense of belonging, self-esteem, as well as their appreciation for family history, customs, and culture. These older cargivers serve as a wonderful role model and source of love and appreciation to all children.

The amendment we are offering would exempt from the Social Security earnings cap any income earned from employment in the child-care field. This would include direct services on a person-to-person basis as well as indirect services such as provider resource and referral information.

Current law allows a retired Social Security beneficiary to earn up to $8,880 in outside income before any reduction in benefits takes place. At that point, benefits are reduced $1 for every $2 in outside income earned above the limit. In 1990, that changes to $1 reduction in benefits for every $3 in outside income earned above the limit. That is a help, but it is not enough. It is a plain fact of life that many people cannot live on their Social Security benefits alone.

As I understand, the mechanisms to administer this provision are already in place within the Social Security Administration. It would be no added burden to create this exemption. Of course, it would be easier to make this kind of change for all beneficiaries age 65 to 70, but the House has rejected this notion on all our previous attempts. Maybe this way we can get our foot in the door with one exemption and then expand this to other equally deserviing beneficiaries.

The cost of this small amendment is minimal; $15 million in the first year and $85 million over 5 years. There is an appropriate offset.

Mr. President, this issue is not new to the U.S. Senate this year. We all know the arguments; therefore, I won't take up any more of the Senate's time by regaling my colleagues with information which is already familiar to them. I urge passage of this amendment and hope we will be successful in the House this time.

Mr. President, I yield the floor.

Mr. DASCHLE. Mr. President, today's unanimous consent adoption of the amendment by the distinguished chairman of the Finance Committee, Senator BENTSEN, increasing the earnings limitations under Social Security for Social Security beneficiaries from ages 65 through 69, is an historic culmination of Senator BENTSEN's longstanding concern and efforts on behalf of our senior citizens. I commend and thank him for his tireless efforts on their behalf and his leadership on this issue.

Today's vote is a tribute to that leadership and to the efforts of senior citizens' groups to address the Social Security earnings limitations issue. Those groups include the American Association of Retired Persons, the National Committee to Preserve Social Security and Medicare, the National Council of Senior Citizens, and others.

Today we have sent the message to America's senior citizens that we encourage them to stay or get back into the work force in this country, and that we need in our work force those senior citizens willing and able to work.

Mr. D'AMATO. Mr. President, I rise today as an original cosponsor of Senator BENTSEN's amendment to raise the Social Security retirement earnings test to $10,560 in 1990, while reducing the penalty for income earned above this limit.

The current earnings limit unfairly penalizes nearly 1 million older Americans who have chosen to continue working past the age of 65. The limit affects working beneficiaries between the ages of 65 and 70—essentially robbing them of $1 in Social Security benefits for every $2 earned above a specified limit. In 1989, the limit if $8,880.

This policy is blatantly discriminatory to working senior citizens. It subjects them to much higher marginal tax rates than those paid by younger workers with similar incomes. These rates can be as high as 83 percent for certain senior citizens, while younger workers with identical incomes face marginal rates of only 22.5 percent.

Moreover, it places working seniors at an unfair disadvantage when compared to other seniors with income from pensions, investments, and stock dividends—all of which is exempt from the current earnings limit. A recent article in the Rochester Democrat and Chronicle succinctly described this inquity:

> Those who have huge incomes from pensions or investments don't lose a dime in Social Security benefits. Those who earn more than [$8,880] a year bagging groceries do.

The most damaging effect of the earnings limit is obvious: it forces many senior citizens into an all-too-early retirement. Not only does this deprive those over 65 of their basic right to "the pursuit of happiness"; it deprives our economy of an invaluable pool of skills and experience that only senior citizens can provide. To continue this policy at a time when our Nation faces a shortage of qualified labor is nothing less than outrageous.

Clearly, fairness and commonsense call for the elimination of the ill-advised earnings limit. This body has already voted resoundingly, on a previous amendment by my colleague, Senator ARMSTRONG, to express its support for the eventual elimination of the earnings test.

The adoption of this amendment will move us forward toward this critical goal. By eliminating this outdated policy we will add fairness to the Social Security system while expanding horizons for thousands of senior citizens. I encourage my colleagues to join me in cosponsoring this needed amendment, and I urge its immediate passage.

Thank you, Mr. President.

Mr. ARMSTRONG. Mr. President, I wanted to add a footnote to what the Senator from Nebraska has said. He mentioned only in passing how long he has been in support of this issue. I want to note for the record that he has been on the floor over and over

again speaking with vigor and conviction and knowledgeably, it is in large part because of the fact he was willing to carry the ball that it has emerged as an issue of great popularity and great timeliness. So I compliment him not only for his statement today but for his leadership on this issue over a long period of time.

Mr. DODD. Mr. President, I want to again commend our colleague from Texas on this language, and our colleague from Colorado, who has worked a long time on this. I happen to feel this is a very worthwhile addition to the legislation. We in Connecticut are very proud of our hospice program, one of the first in the country. There has been for many years a child program associated with the hospice program.

That may sound strange to some people, but the elderly with terminal illness have benefited tremendously by the presence of young children. Young children learn a great deal while being around adults who are terminally ill. When we combine age groups, both benefit tremendously. The Senator from New York has worked a long time on this. I am delighted this is part of our effort. I think this makes this bill, which is a good bill, an even better bill with its inclusion. I commend him for it.

Mr. BENTSEN. Mr. President, I thank the distinguished Senator from Connecticut for his comments, the Senator from Nebraska, and the Senator from Colorado. I want to comment again how much work the senior Senator from New York has done in this field. He is a real expert in this area. I ask unanimous consent to add as cosponsors Senators DODD, SANFORD, KOHL, HEINZ, BRADLEY, PRYOR, SASSER, DECONCINI, WARNER, THURMOND, ARMSTRONG, CHAFEE, EXON, and RIEGLE.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BENTSEN. Mr. President, I have no further requests on this side.

The PRESIDING OFFICER. The matter before the Senate is amendment No. 203, sponsored by the senior Senator from Texas. Is there further debate on the amendment? If not, the question is on agreeing to the amendment. The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

The result was announced—yeas 100, nays 0, as follows:

[Rollcall Vote No. 96 Leg.]

YEAS—100

Adams	Burns	Dole
Armstrong	Byrd	Domenici
Baucus	Chafee	Durenberger
Bentsen	Coats	Exon
Biden	Cochran	Ford
Bingaman	Cohen	Fowler
Bond	Conrad	Garn
Boren	Cranston	Glenn
Boschwitz	D'Amato	Gore
Bradley	Danforth	Gorton
Breaux	Daschle	Graham
Bryan	DeConcini	Gramm
Bumpers	Dixon	Grassley
Burdick	Dodd	Harkin
Hatch	Lott	Robb
Hatfield	Lugar	Rockefeller
Heflin	Mack	Roth
Heinz	Matsunaga	Rudman
Helms	McCain	Sanford
Hollings	McClure	Sarbanes
Humphrey	McConnell	Sasser
Inouye	Metzenbaum	Shelby
Jeffords	Mikulski	Simon
Johnston	Mitchell	Simpson
Kassebaum	Moynihan	Specter
Kasten	Murkowski	Stevens
Kennedy	Nickles	Symms
Kerrey	Nunn	Thurmond
Kerry	Packwood	Wallop
Kohl	Pell	Warner
Lautenberg	Pressler	Wilson
Leahy	Pryor	Wirth
Levin	Reid	
Lieberman	Riegle	

So the amendment (No. 203) was agreed to.

Mr. MITCHELL addressed the Chair.

The PRESIDING OFFICER (Mr. REID). The majority leader.

Mr. MITCHELL. May we have order, Mr. President.

The PRESIDING OFFICER. The Senate will come to order.

Mr. MITCHELL. I move to reconsider the vote by which the amendment was agreed to.

Mr. HEINZ. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. MITCHELL. Mr. President, we just had a lengthy debate on the subject of Social Security earnings limitation. I understand that Senator ROTH is prepared to offer an amendment on that general subject. Therefore, Mr. President, I am going to propound a unanimous-consent request that we can do that under a time limitation so that we can hopefully proceed on this bill with some dispatch, and I, therefore, ask for the attention of the Senators.

I ask unanimous consent that the Dole amendment be temporarily set aside, that the Senate proceed to the consideration of an amendment by Senator ROTH, that there shall be 20 minutes of debate on the Roth amendment, equally divided between Senators ROTH and BENTSEN; that no amendments or motions be in order relative to the Roth amendment; that upon the completion of debate on the Roth amendment, the Senate proceed to vote immediately on it.

The PRESIDING OFFICER. The Senators have heard the unanimous-consent request of the majority leader. Is there objection?

Mr. ROTH. If I may object, Mr. President, I understand the distinguished senior Senator from Colorado would like 10 minutes. I am not aware of any other requests, but I suggest that we make it a half hour, equally divided, if that would be acceptable. Is that so?

Mr. ARMSTRONG. Yes.

Mr. BUMPERS addressed the Chair.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. BUMPERS. Reserving the right to object, and I shall not object, I have been waiting around several hours to get about 10 minutes in on the bill. I am not going to ask that the majority leader allocate me 10 minutes, but I want to say that I am going to object to any more time agreements, until I get the 10 minutes off my chest.

Mr. MITCHELL. Even though the Senator graciously did not ask, I will make an effort to accommodate him.

Mr. President, before I renew my request, in accordance with the suggestion of the Senator from Delaware, if this request is granted and we proceed with this amendment, we will then have a vote at or about 7 p.m. Between now and then, I hope to discuss with the distinguished Republican leader, more accurately to continue our discussions on this matter, and to be able to indicate to Senators some idea of the schedule on this matter for the remainder of tonight and thereafter. Accordingly, Mr. President, I now renew my unanimous-consent request and amend it to make the time 30 minutes.

The PRESIDING OFFICER. Is there objection?

Mr. THURMOND addressed the Chair.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. THURMOND. Mr. President, I have previously talked to the majority leader and asked for 5 minutes to introduce a constitutional amendment to reverse this decision on the flag matter by the Supreme Court. I will cut that to 2 minutes, if I can have 2 minutes some time in the next day.

Mr. MITCHELL. Yes. I will do my best to accommodate the distinguished chairman after the next vote, as well as Senator BUMPERS and others. Perhaps we can work out a schedule that would give Senators some degree of certainty about how we are going to proceed this evening, and that will give time for everyone who wishes to do so, to speak, and enable Senators who have other engagements or interests, to participate in them.

The PRESIDING OFFICER. Is there objection? Hearing none, it is agreed to.

Mr. MITCHELL addressed the Chair.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. MITCHELL. Mr. President, if I may simply repeat what I have said, many, many times last week and this week. So that Senators can be aware of my intention and plan their schedules accordingly, we are going to complete action on this bill before the recess begins.

Now, we have had a hard time getting going today, because many Senators—we were told that there were 54 amendments. Although there were 54 amendments, it is very hard to find any Senator who will come over here and actually offer an amendment that we can proceed with. When we complete action depends upon the Members of the Senate. I want to repeat, so that there can be no misunderstand-

ing, whether it is tomorrow, Saturday, Sunday, Monday, or whatever, we are going to continue in session until we complete action on this bill.

I thank my colleagues for their courtesy and attention, and I yield to the distinguished Republican leader.

Mr. DOLE. I want to underscore that I think you are serious about that. Some of my fellow Republicans think you are not. They say, "We are not going to stay here Saturday, because all the Democrats are leaving town." I said, "Maybe if they do, we can win a few." It seems you made it very clear that we are going to finish the bill if we have to be here Saturday—we would not be here Sunday—Monday, or whatever.

We have whittled it down to 52 amendments. It took all afternoon, since 1 o'clock, to dispose of two amendments. I think a couple more have been disposed of by agreement. One way to dispose of about 20 is to drop section 89 out of this bill. That would speed up the bill. There are 20 amendments regarding that. Another Senator on this side said, "I just have 13 amendments," unidentified. It would help if he could identify those, so I could have a rational discussion with the majority leader.

My view is that they are not all going to be offered. I urge my colleagues on this side to get down to the bare bones number, and let us see if we cannot get some agreement to have a final vote on this package by, say, 3 o'clock tomorrow afternoon.

Mr. MITCHELL. I thank the distinguished Republican leader.

Mr. ROTH addressed the Chair.

The PRESIDING OFFICER. The Senator from Delaware is recognized by unanimous consent.

Mr. ROTH. Mr. President, I ask unanimous consent to lay aside the pending amendment.

The PRESIDING OFFICER. The Senate will be in order. The Senator from Delaware cannot be heard.

Mr. ROTH. Mr. President, I ask unanimous consent to lay aside the pending amendment.

The PRESIDING OFFICER. The Senator is informed that the amendment is already laid aside. The Senator may proceed.

AMENDMENT NO. 199

(Purpose: To exempt child care earnings from the earnings test under the Social Security Act, and for other purposes)

Mr. ROTH. Mr. President, I call up amendment No. 199 and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Delaware [Mr. ROTH], for himself, Mr. ARMSTRONG, Mr. WILSON, Mr. BENTSEN, Mr. EXON, Mr. D'AMATO, Mr. COATS, Mr. GORTON, Mr. CHAFEE, Mr. MACK, Mr. BOSCHWITZ, Mr. MCCAIN, and Mr. GRASSLEY proposes an amendment numbered 199.

Mr. ROTH. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place, insert the following new section:

SEC. . CHILD CARE EARNINGS EXCLUDED FROM WAGES AND SELF-EMPLOYMENT INCOME FOR EXCESS EARNINGS TEST.

(a) WAGES.—Section 203(f)(5)(C) of the Social Security Act (42 U.S.C. 403(f)(5)(C)) is amended—

(1) by striking out "or" at the end of clause (i),

(2) by striking out the period at the end of clause (ii) and inserting in lieu thereof ", or", and

(3) by adding at the end thereof the following new clause:

"(iii) the amount of any payment made to an employee who has attained retirement age (as defined in section 216(l)) by an employer for child care services (including indirect services) performed by such employee after the month in which such employee initially becomes entitled to insurance benefits under this title.".

(b) SELF-EMPLOYMENT INCOME.—Section 203(f)(5)(D) of such Act (42 U.S.C. 403(f)(5)(D)) is amended—

(1) by striking out "or" at the end of clause (i),

(2) by adding "or" at the end of clause (ii),

(3) by inserting immediately after clause (ii) the following new clause:

"(iii) an individual who has attained retirement age (as defined in section 216(l)) who has become entitled to insurance benefits under this title, any income attributable to child care services (including indirect services) performed after the month in which such individual becomes entitled to such benefits,", and

(4) by striking out "royalties or other income" and inserting in lieu thereof "royalties or income".

(c) PAYMENTS OF CERTAIN RECOMPUTED BENEFITS DELAYED.—Section 215(f)(2) of the Social Security Act (42 U.S.C. 415(f)(2)) is amended by adding at the end thereof the following new subparagraph:

"(E) Under regulations of the Secretary, monthly benefits increased as a result of a recomputation under this paragraph shall be further increased on an actuarial basis to include such benefits which would have otherwise been paid in a lump sum (determined from the recomputation date to the effective date of such recomputation as provided under subparagraph (D)) as exceed an amount equal to such additional benefits determined for a thirteen month period beginning from such recomputation date.".

(c) EFFECTIVE DATES.—

(1) The amendments made by subsections (a) and (b) shall apply to wages or income earned after the date of the enactment of this Act.

(2) The amendment made by subsection (c) shall apply to recomputations made after the date of enactment of this Act.

Mr. ROTH. Mr. President, as I said earlier today, there is nothing so promising as bringing together the wisdom of age and the future of youth. This Chamber often turns its attention to these two important segments of our society—calling our older Americans, our Nation's most important resource, and our children our hope for the future.

Tonight I am proposing an amendment that facilitates the interaction of the two through child care. It is an amendment to exempt child-care earnings from the Social Security earnings test for Americans aged 65 or older.

I am pleased to offer this amendment together, with my colleagues Senator ARMSTRONG, Senator WILSON; the distinguished chairman of the Finance Committee, Senator BENTSEN; as well as nine other cosponsors.

My amendment, as I said, would exempt child-care earnings from the Social Security earnings test for Americans age 65 and older.

As my colleagues are doubtlessly aware, this amendment was included in the minority leader's child-care package. That package failed in a close vote earlier today because of philosophical differences between its proponents and the supporter of the competing package over the principal method of addressing child-care needs.

But this amendment, offered by itself, should not be the subject of any disagreement. Mr. President, this amendment would help respond to the need for qualified child-care providers. It would do so by removing the disincentive that exists under current law for senior citizens to derive additional income caring for children. At the same time, it would facilitate the interaction between seniors and children, which is by itself a very worthy goal.

Here is how the amendment works: Under current law, the Social Security earnings test requires Americans between the ages of 65 and 69 to sacrifice $1 in Social Security Benefits for each $2 in earnings that exceeds a specified earnings limit. Next year, the penalty is scheduled to decrease to $1 in benefits for each $3 earned above the limit, but the disincentive will remain. My amendment would remove that disincentive by exempting income derived from the provision of child care from the Social Security earnings test. As a result, seniors would not be penalized with the loss of their benefits if they choose to enter the child-care profession. The cost of this amendment would be offset by a slight change in the system for repaying Social Security recipients for underpayments.

Mr. President, I think that everyone would agree that senior citizens as a group are naturally among the best qualified to be child-care workers. After all, many seniors have already raised their own children, and helped raise grandchildren as well. Some of these seniors have joined the much needed child care force, despite the penalty exacted by the earnings test. But many more seniors would be involved if we would remove the current disincentive. We can do so by passing this amendment.

Further, the passage of this amendment would enrich the lives of both senior citizens and children, by promoting interaction between their generations. Mr. President, there was a time in this country when children

could count on spending much of their childhood in the company of their grandparents. Sadly, those days have passed. Society has truly lost something when the young and old are separated. The Roth-Armstrong-Wilson amendment is one way to bring children and seniors together again.

Mr. President, my amendment would help meet the growing need for qualified child-care workers in this country. On this basis alone, it deserves to be a part of whatever child-care legislation is approved by this body. If it can help foster contact between the generations, so much the better. The Roth-Armstrong-Wilson amendment is good for our older Americans, good for our children, and good for a Nation that is presently crying out for quality child care. I urge my colleagues to support this amendment.

The PRESIDING OFFICER. Who yield time?

Mr. ARMSTRONG. Mr. President, will the distinguished Senator yield a couple of minutes to me?

Mr. ROTH. I am happy to yield to the Senator from Colorado.

The PRESIDING OFFICER. The Senator from Colorado is recognized for 2 minutes.

Mr. ARMSTRONG. Mr. President, this is a great idea. This is not merely a good idea, this is a wonderful idea. This is a notion, the amendment which the Senator from Delaware has brought to us and which I am proud to cosponsor, which is so sensible it kind of makes one sit up and say, "Gosh, why didn't we think of this a long time ago?" It is clearly germane to the purpose of the bill, which is to provide high-quality child care. And he does so in a way that also advances another very important agenda which is to do away, gradually, with the Social Security earnings limit, which is something we all want to do for reasons we have been discussing.

But in the Senator's amendment, he simply says that to the extent that earnings are derived from providing child care, they are exempted immediately from the Social Security earnings limit. It is fair. It is logical. Most of all, it really is targeted exactly on the main purpose of this bill, which is to encourage child care.

I think most Senators remember that about a decade ago the Senator from Delaware began to advocate the supply-side economics, and it worked. The great Roth-Kemp tax cut, which he began to advocate in the late seventies and which was enacted in the early eighties in this Chamber, has helped to produce, really is largely responsible for producing, the longest period of uninterrupted economic expansion our country has seen.

What this is is supply-side for child care. Because there is a tremendous demand, but there is a shortage, in many cases, of the kind of skilled, talented, experienced personnel to provide child care. And the logical people, in many cases, to provide it are, to put it in a shorthand sense, the grandmothers of America.

This is the Bill Roth supply-side child-care program mothers amendment, and it really is a great idea.

The PRESIDING OFFICER. Who yields time?

Mr. ROTH. I yield the distinguished Senator from California 3 minutes.

The PRESIDING OFFICER. The Senator from California is recognized for 3 minutes.

Mr. WILSON. Thank you, Mr. President.

Mr. President, I agree with the Senator from Colorado. This is a great idea. I commend the Senator from Delaware for having another one.

Let met pick up on the comments of my friend from Colorado. The reason it is such a good idea is because, as he has said, using the phrase "supply side," this will deal not just with supply but with the supply of quality child care. And it is that concern with quality that I think should be first and foremost in our minds. It is what has promoted much of the debate on this floor, much of the disagreement with respect to the best approach for funding.

Many have sought to supplement the earned income tax credit in order to provide assistance, which the law does not now provide, to mothers who choose to stay at home rather than to seek a second income for their families in order to provide quality child care in those critical first days and months and years of a child's life.

Now, more and more those who are writing about child care, those who have spent a career doing so, Burton L. White, those who have written at the Harvard Project for Child Care, Zigler at Yale—any number of people have said the best quality child care, the kind that will most clearly guarantee the bonding, the attachment that is essential to produce the kind of responsible and empathetic human beings that we hope children will become as adults, comes from that kind of care.

It is perfectly true, Mr. President, that not all women who have gone into the marketplace can have the luxury of that choice, even though we were targeting the earned income tax credit at the mothers in a poor, working family. There are single mothers who do not have the option to choose to stay home. They have to go into the marketplace, of necessity.

So the next best care, frankly, are the grandmothers. And not necessarily one's own grandmother. That is certainly the most desirable, I suppose, but senior citizens, those with the wisdom and the experience, the care to be first-class child-care providers are an enormous resource and we ought to do everything possible to induce a greater supply of them. And that is exactly what the Roth amendment will achieve.

It is a superb idea. We should be doing everything possible to, I think, enlarge the possibility for work and earnings of those over 65 in general. But in no area is it quite so obviously a benefit, is the fit so perfect, as between those grandmothers, those senior citizens, and the children who are in need of that kind of quality care.

I wonder if I might have an additional minute. I think my time is about expired.

The PRESIDING OFFICER. The Senator is recognized for an additional 1 minute.

Mr. WILSON. Mr. President, let me indulge in a personal reminiscence. Things have changed since I was a child. Then most mothers were at home. Today, most women of childbearing ages are in the marketplace. But I was one of those fortunate kids to be brought up in an extended family. My grandmother lived with us. Sometimes we were not all convinced it was a great fortune but in fact she was a treasure.

Somehow she taught me to read before I ever got to kindergarten. This was a woman who had barely a grammar school education in Ireland; came over at the age of 16.

I think at her hands I received something, as well as from my own father and mother, that, really, is a great gift. We ought to encourage that kind of thing, whether it be from a child's own grandmother or someone who has, through the time of life, come to the period where she can give that sort of care.

Mr. President, as I yield the floor I do congratulate my friend from Delaware because this is a simple, very, very good idea.

The PRESIDING OFFICER. Who yields time? The Senator from Delaware has 3 minutes and 20 seconds.

Mr. ROTH. In closing, I would like to thank the distinguished Senator from California as well as the senior Senator from Colorado, for their most gracious remarks. I also want to express my appreciation to the distinguished chairman for cosponsoring the amendment.

Mr. President, I am ready to take this to a vote.

Mr. BENTSEN. Mr. President, I wish to thank the distinguished Senator from Delaware for this comments. As he knows, I modified my amendment to make room costwise for his. I think his contribution is a good one and I am delighted to support it.

The PRESIDING OFFICER. Who yields time?

Mr. ROTH. I yield to the Senator from Connecticut.

Mr. DODD. Mr. President, I ask unanimous consent to be listed as a cosponsor as well on the Roth amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DODD. I want to commend the Senator from Delaware and others associated with this. I mentioned the

contribution of the Senator from Texas. These two amendments I think add, again, substantially to the merits of the overall bill; recognizing, of course, the tremendous value that older people can bring to the quality of child care, as I think our colleague from California made note.

I agree with that statement and I urge the adoption of this amendment.

Mr. COATS. Mr. President, I want to compliment Senators ROTH and ARMSTRONG for again raising this important issue concerning the earnings test for our senior citizens. This issue has come before this body on previous occasions, and each time we have responded overwhelmingly and resoundingly with a call for change in the current law. Now we have another opportunity to express our commitment.

So often, not only in this body but across the country, we have said all the right words about the importance and contribution of senior citizens. But our rhetoric is very different then their reality.

We talk of their wisdom, then lock them out of our busy lifestyles as intrusive burdens.

We express concern for their provision, then condemn so many to the lonely isolation and criminal squalor of cut-rate institutional care.

We praise their experience, then hasten their exit from the workplace with impatient finality.

We denounce discrimination on the basis of age, and yet legally treat our seniors as second-class citizens.

But I think this amendment that the Senator from Delaware has offered can go a long way to bridge that gap.

Current law mandates that every senior citizen under 70 lose $1 of their social security benefits for every $2 they earn elsewhere—above a limit of $8,880 set by Congress. It is a stiff, built-in penalty for senior citizens who want to work—a tax of sorts on those who can least afford it. And it sends a simple message: Your time is over. Your contribution has ended.

I remember 20 years ago when my father retired. He was a pharmacist, but had worked for 35 years as a salesman for a drug company. When he retired, he wanted to go back to take up, once again, the job he had been trained for. There was a shortage of registered pharmicists at that time in our town, so he was a welcome addition.

But I remember coming to visit in May of that year, 5 months after he returned to work on a part-time basis. He told me, "Well, this is my last week at the pharmacy." I asked, "What do you mean? I thought you enjoyed the work?"

But he replied, "I am now at the point when I hit the earnings limitation, and so for every $2 I earn at the pharmacy, I have to give back $1 of my Social Security benefits. I didn't work all those years to save my Social Security benfits to hand them back. I want to work, but the law is such that I'm not going to work. I informed the owner of the pharmacy that I'll see him next January to start again."

This is a time when we are sending signals to our young people saying, "Look, don't count on Social Security for all of your retirement earnings. It is a supplement. Don't get yourself into a situation when you retire at age 65 where you only have that Government check to cover all your expenses." I tell my children that. I tell people in town meetings that. Social Security is a supplement, and it won't meet all your needs.

We send people that message, but as soon as they retire we sent them another message: Do not supplement your income over a certain level or we will take away your Social Security benefits.

It just makes no sense. These two provisions are in direct conflict with each other.

The amendment that the Senator from Delaware has proposed is a small but important step. Significantly and appropriately, it is an amendment to the child-care bill which will benefit senior citizens most of all. The Roth amendment, which I am pleased to cosponsor, would exempt all earnings from child-care services, direct and indirect, from the retirement earnings limit.

This would, in effect, recognize an important connection it is our business to encourage—both for the sake of need and compassion. The elderly have the stability and experience that makes them particularly suited to the provision of child care. They have the unique sympathy of long experience for the innocent. Encouraging senior citizens to help meet our child-care needs benefits children, parents, and the elderly themselves. It is part of an innovative solution to a real need.

Let me state three basic contradictions in the current law. First, it unfairly discriminates against the elderly. We have pressed down on the shoulders of senior citizens a marginal tax that is nothing less than confiscatory.

Take, for example, a 65-year-old woman who needs to supplement her Social Security by working as a secretary or bank teller or child-care provider. If she goes over the earnings limit, the Federal Government bleeds her with tax after tax—the 50-percent earnings tests, a 15-percent income tax, 7.51-percent FICA, 7.5 percent on Social Security benefits, and the 3.37-percent catastrophic insurance tax. That adds up to an 83-percent marginal rate on the elderly.

But a younger worker, with the same income, would only be taxed at 22 percent—that is, 15-percent income tax plus 7.51-percent FICA. That is a 61-percent gap—the margin of our indifference.

Second, the current earnings limit is bad labor policy. A 50-percent Social Security cut for senior citizens who works drives most of them out of the labor force—and who can blame them? But we are enforcing this disincentive at a time when many economists are predicting labor shortages—and many businesses are already feeling them.

Businessmen across Indiana are saying that we literally are at full employment. Many people who are looking for jobs have little or no experience. This situation is simply going to get worse as we move into the decade of the nineties. As a result we are going to want to turn to our seniors for the experience they bring, and allow them to be part of the labor force. We should be encouraging, not discouraging, seniors that want to remain productive—not just for their sake, but for ours.

And finally, the present law discriminates against those elderly with "earned" income in favor of those with "unearned" income. The earnings limit does not consider money from pensions, stock dividends, or bond interest. So it's only those who really need to work—those without stocks and bonds—who end up losing Social Security benefits. It is a burden we place not only on the elderly, but on the elderly who can least afford it.

I can't help but note we are considering this amendment just as many senior citizens are about to be hit with a massive new tax for catastrophic insurance. And I'm convinced that this amendment is one way we can help offset that burden. We need to find others. But this is a start—and an important start.

A vote against this amendment is a vote against needed relief for some 855,000 older Americans who currently have their benefits reduced because of the earnings litmus test.

But a vote for the amendment of the senior Senator from Delaware sends a broader message to seniors: We don't underestimate your financial troubles. And we value your work and contribution, especially your contribution in providing loving care for children. You are not just wanted, but needed. You should not just be tolerated, but welcomed—as well as rewarded.

Mr. D'AMATO. Mr. President, I rise today as an original cosponsor of the amendment by Senators ROTH, ARMSTRONG, and WILSON to exempt child-care earnings from the Social Security earnings test for workers aged 65 and older. By freeing older workers from the unfair restrictions of the earnings limit, this amendment will create an important new incentive for older Americans to participate in the care of our children.

The current earnings limit discriminates against all workers aged 65 to 70. Our amendment would remove this burden from those older workers who earn income as child-care providers. According to the Congressional Budget Office, our amendment would immediately help 14,000 senior child-care providers. This amendment af-

fects not only those who provide direct child-care services on a person-to-person basis, but also those—such as resource and referral providers—who provide indirect services to parents.

I believe our amendment will help reverse one of the most harmful effects of the earnings limit: its tendency to force senior citizens into an all-too-early retirement. By removing the earnings penalty for seniors in the child-care professions, we create a new opportunity for seniors who want, or need, to remain active in the work force.

Morever, by encouraging senior citizens to become providers of child care, we foster the marriage of two of our Nation's most valuable resources: our children and our elderly. In a society that is becoming increasingly mobile, both young and old are losing the benefits of the extended family. Our amendment can help reverse the effects of this trend by creating valuable opportunities for interactions between the generations.

It is important to note that our amendment would benefit workers in a traditionally low-wage profession. According to the Department of Labor, the average child-care service provider earns between $8,000 and $12,000 annually. Although every profession can benefit from the expertise and talents of elderly workers, it is hard to imagine a field better suited to our Nation's seniors than child care.

Mr. President, if we truly believe our people are our greatest resource, we will do everything in our power to permit their full participation in society. That is why I strongly support the complete elimination of the earnings test. Until this is done, I am pleased to support an amendment to exempt at least some older workers from this outdated penalty. By passing this amendment, we will take a positive step forward toward greater fairness for all senior citizens.

I encourage my colleagues to join me in supporting this worthy amendment, and I urge its immediate passage.

Thank you, Mr. President.

The PRESIDING OFFICER. Is there further debate?

Mr. ROTH. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. Has the Senator from Texas yielded back his time?

Mr. BENTSEN. Mr. President, I have no more requests for time. I yield back the remainder of my time.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. ROTH. I yield back the remainder of my time.

The PRESIDING OFFICER. There is no further time.

The majority leader is recognized.

Mr. MITCHELL. Mr. President, Senators were earlier under the impression that this vote would occur at about 7 o'clock. I, therefore, intend in just a moment to suggest the absence of a quorum for a few moments. I merely want now to give Senators notice that this vote is going to occur a few minutes earlier than previously anticipated because time has been yielded back.

I also intend, for the benefit of Senators, to seek to obtain an agreement with the distinguished Republican leader which I have been working on that would permit us to have a window for 1½ hours following this next vote during which amendments would be taken up, but the votes on them would be stacked for a few moments.

I am advised by the manager of the bill that he has two amendments by the Senator from Minnesota that could be accepted and completed within a few moments, Mr. President. So, therefore, may I make an inquiry.

Is any change in the pending agreement necessary to permit the manager to now handle amendments by the Senator from Minnesota?

The PRESIDING OFFICER. We are in a nondebatable posture at this time. We need a unanimous-consent request to have a vote at 7 o'clock and to consider the amendments at this time.

Mr. MITCHELL. Accordingly, Mr. President, I ask unanimous consent that the Senator from Minnesota be recognized to offer two amendments and that, upon disposition of those amendments, that the Senate proceed to the vote on the now-pending Roth amendment.

The PRESIDING OFFICER. Is there objection? Hearing none, that is the order.

The Senator from Minnesota is recognized.

AMENDMENT NO. 205

(Purpose: To authorize States to provide funds to local libraries to be used for the provision of services to certain child-care providers)

Mr. BOSCHWITZ. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Minnesota [Mr. BOSCHWITZ] for himself, Mr. HATCH, and Mr. DODD proposes an amendment numbered 205.

Mr. BOSCHWITZ. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 36, between lines 2 and 3, insert the following new subparagraph:

(E) Allow that the State will make grants to local libraries for the purchase and delivery of children's books, videos, tapes, and toys to licensed or certified family-based or group child-care providers, child care centers, or other providers that meet State eligibility requirements.

Mr. BOSCHWITZ. Mr. President, the amendment I have sent to the desk would enable local libraries to deliver books and other educational materials to child care providers. Using a bookmobile, this program would give providers access to things like books, tapes, videos, and educational toys, even if they lived some distance from the closest library.

Mr. President, research indicates that children who are read to and are exposed to books at an early age are more able to learn, more likely to achieve academic success, and more disciplined in the classroom situation. They learn to listen attentively and enter school as better students.

Some providers who live close to a library can already take advantage of these resources. But many of the providers in my State are home providers who live in rural communities. Some are 20 miles or more from the nearest library, and bringing their children to the library during the day becomes quite an undertaking.

Under this program, providers would have another opportunity. A bookmobile would visit local providers, perhaps twice a month, and provide them access to these educational materials. Home providers could make their homes extensions of the local library, and their children would spend more time with books, videos, and tapes.

One of my goals in child care legislation is to provide incentives to become licensed. Often, the Government piles on so much regulation that it drives providers underground. If we limit regulation and provide incentives to become licensed, many of those providers will choose to become licensed.

This amendment includes one of those incentives. The bookmobile program will be available only to licensed providers.

I have worked for years on another program that is perhaps the strongest incentive for providers to become licensed. That program is the Child Care Food Program. In recent years, I have worked to increase the reimbursement for meals under CCFP, and this year I am pushing to provide an additional meal or snack under the program.

Hundreds of providers in Minnesota have written me to say how valuable the program is to them. It helps them provide nutritious meals to their children, and it gives them a tangible benefit for becoming licensed.

Mr. President, if the goal of this legislation is to increase the quality of child care in America, this amendment helps achieve that goal. It improves the variety of material available to children, and it gives providers, especially those in isolated communities, access to valuable materials.

I yield the floor to the Senator from Connecticut.

Mr. DODD. Mr. President, I had a chance to review this amendment. My colleague from Utah, who is not present on the floor right now, has had a chance as well to review this

amendment. We feel it is a good amendment being offered by the Senator from Minnesota.

It would, as he has indicated, permit the States to use funds for grants and local libraries for books, toys, and other materials that would be made available to child care providers. This library outreach program would be designated as one of the activities to improve child care.

Libraries, of course, as we all know, should be encouraged to do this generally, but I want to say that I am especially interested in the improved resources that may be available to family-based providers, not just the center-based or the school-based.

The Senator's amendment calls for family-based providers to also receive these educational materials as a result of his amendment. I think it is an excellent amendment. The Senator from Utah agrees with that conclusion.

Mr. President, we are delighted to accept it as one more feature that we think will improve the quality of child care across this country.

The PRESIDING OFFICER. Is there further debate on the amendment? Hearing none, the question is on agreeing to the amendment.

The amendment (No. 205) was agreed to.

Mr. DODD. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. BOSCHWITZ. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 206

(Purpose: To express the sense of Congress regarding appropriations for subpart 8 of part A of title IV of the Higher Education Act of 1965)

Mr. BOSCHWITZ. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Minnesota [Mr. BOSCHWITZ] proposes an amendment numbered 206.

Mr. BOSCHWITZ. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place, insert the following new section:

SEC. . SENSE OF CONGRESS REGARDING THE HIGHER EDUCATIOIN ACT.

(a) FINDINGS.—Congress finds that—

(1) postsecondary education is an increasingly important element in enhancing the productivity of the work force;

(2) the enrollment of students in colleges, junior colleges and technical institutes continues to increase rapidly;

(3) the most rapidly growing segment in such institutions consists of those students who are 25 years of age or older;

(4) postsecondary education must expand its services to meet the needs of the changing student population;

(5) a barrier to continuing education is the lack of affordable, accessible and quality child care;

(6) students are often economically disadvantaged and child care costs are an additional financial burden;

(7) postsecondary schools have limited resources for traditional student services and do not have additional funding for child care; and

(8) the 100th Congress recognized that such problems exist and authorized, but did not appropriate, $10,000,000 for postsecondary institutions to assist students with child care.

(b) SENSE OF CONGRESS.—It is the sense of Congress that $10,000,000 should be appropriated in fiscal year 1990 to carry out subpart 8 of part A of title IV of the Higher Education Act of 1965 (20 U.S.C. 1070f).

Mr. BOSCHWITZ. Mr. President, the amendment I have offered expresses the sense of the Senate that special child-care assistance for low-income students should be fully funded.

A solid education is the gateway to a better life. As our society becomes more complex, postsecondary education is an increasingly important element in enhancing the productivity of the work force. As technology continues to change at an ever increasing pace, individuals must continue to upgrade their skills. It is not surprising that the enrollment of postsecondary institutions continues to rise.

Most of us think of the students in 4-year colleges, community colleges, and technical colleges, as a young person who has recently graduated from high school. However, this is not the case, especially not in the case of community and technical colleges. The age of students in these postsecondary institutions is increasing, with the average age in Minnesota now approaching 28.

These students have returned to obtain skills to improve their chances in the job market. Some want to obtain job skills that will enable them to move into the work force, others want to win a promotion within their company, and others want to change careers. Whatever their reason, they return to school with needs that are far different from the recent high school graduate.

One of the biggest needs they have is child care. I have visited many campuses in my State, and these schools often find it very difficult to help students find child care.

In the 100th Congress we recognized that problem. As part of the higher education act, we authorized $10 million for postsecondary institutions to help poor students pay for child care. However, we have never appropriated any funds for the program. This amendment puts us on record in support of full funding.

Mr. President, I urge my colleagues to support this amendment and support funding for this important program. Child care assistance can help low-income students get the education that will lead to a brighter future for themselves and their families.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. DODD. Mr. President, this is a good amendment. Again, the Senator from Utah, [Senator HATCH] and I have reviewed this amendment. We believe it is a worthwhile amendment.

As the Senator from Minnesota has indicated, this amendment would allow for low-income students to receive child-care assistance as they go on to postsecondary education.

As the Senator from Minnesota has indicated, many of those people fall into the age bracket of being older students who want to go back to school and complete their education or resume their education. This provision, of course, calls on the Congress to support what we did really in the last Congress. That is, to appropriate some of these moneys that were authorized so these families do have the opportunity to get child care and a better education.

I see my colleague from Utah has arrived. He can speak for himself, but I happen to believe, and he does as well, that this strengthens the legislation.

I wanted to point out earlier in your previous amendment—and I saw our colleague from Illinois, [Mr. SIMON], as well as our colleague from New York [Mr. MOYNIHAN], both of whom have dedicated no small portion of their lives to talk about literacy in this country. The fact that your first amendment addresses library services to be made available to child-care providers I think is something both my colleagues from Illinois and New York would strongly support and would like to be associated with in their interest in improving the literacy of people in this country, making those kind of resources, connecting libraries with child-care providers, exactly the kind of networking that ought to go on to improve the opportunities of young people in this country.

I saw both my colleagues here, and I regret I did not make mention of that.

Mr. MOYNIHAN. I thank the Senator.

Mr. HATCH. Mr. President, I agree with the distinguished Senator from Connecticut. I think it is a good amendment. I would like to be listed as a cosponsor on this and the prior amendment which has been adopted. So we urge the adoption of the amendment.

The PRESIDING OFFICER. Is there further debate on the amendment?

Mr. DODD. Mr. President, I ask unanimous consent to be made a cosponsor of both the amendments of the Senator from Minnesota.

The PRESIDING OFFICER. Without objection, it is so ordered.

There being no further debate, the question is on agreeing to the amendment.

The amendment (No. 206) was agreed to.

Mr. DODD. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. BOSCHWITZ. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. MITCHELL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll. The legislative clerk proceeded to call the roll.

Mr. THURMOND. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senate will be advised the regular order is invoked on the pending amendment.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the distinguished Senator from South Carolina be recognized for 3 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from South Carolina is recognized for a period not to exceed 3 minutes.

Mr. THURMOND. I thank the Chair.

(The remarks of Mr. THURMOND pertaining to the introduction of Senate Joint Resolution 167 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. MITCHELL. Mr. President, for the information of Senators, we are now about to have a vote on the pending amendment. I will make an announcement immediately following the vote as to whether or not we have been successful in getting a proposed agreement to create a window of approximately 90 minutes and stack whatever votes occur during that period for 90 minutes thereafter. I will attempt to have an agreement ready to propound following that vote. We are not yet able to propound that agreement because all interested Senators have not yet been fully consulted, but that is my intention, that we will have approximately 90 minutes after this vote during which there will be a window without any votes for the benefit of Senators.

I thank the distinguished Republican leader for his cooperation.

Mr. President, I yield the floor and understand that the vote on the pending amendment is now in order.

The PRESIDING OFFICER (Mr BAUCUS). That is the regular order. The question now is on agreeing to the amendment of the Senator from Delaware. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

The result was announced—yeas 100, nays 0, as follows:

[Rollcall Vote No. 97 Leg.]

YEAS—100

Adams	Garn	McConnell
Armstrong	Glenn	Metzenbaum
Baucus	Gore	Mikulski
Bentsen	Gorton	Mitchell
Biden	Graham	Moynihan
Bingaman	Gramm	Murkowski
Bond	Grassley	Nickles
Boren	Harkin	Nunn
Boschwitz	Hatch	Packwood
Bradley	Hatfield	Pell
Breaux	Heflin	Pressler
Bryan	Heinz	Pryor
Bumpers	Helms	Reid
Burdick	Hollings	Riegle
Burns	Humphrey	Robb
Byrd	Inouye	Rockefeller
Chafee	Jeffords	Roth
Coats	Johnston	Rudman
Cochran	Kassebaum	Sanford
Cohen	Kasten	Sarbanes
Conrad	Kennedy	Sasser
Cranston	Kerrey	Shelby
D'Amato	Kerry	Simon
Danforth	Kohl	Simpson
Daschle	Lautenberg	Specter
DeConcini	Leahy	Stevens
Dixon	Levin	Symms
Dodd	Lieberman	Thurmond
Dole	Lott	Wallop
Domenici	Lugar	Warner
Durenberger	Mack	Wilson
Exon	Matsunaga	Wirth
Ford	McCain	
Fowler	McClure	

So the amendment (No. 199) was agreed to.

Mr. ROTH. I move to reconsider the vote by which the amendment was agreed to.

Mr. HATFIELD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The question is the pending amendment, No. 202, offered by the Republican leader, Senator DOLE.

Mr. MITCHELL addressed the Chair.

The PRESIDING OFFICER. The majority leader.

Mr. MITCHELL. Mr. President, as I indicated—may we have order, please?

The PRESIDING OFFICER. The Senate is not in order. The majority leader has an important announcement to make.

Mr. MITCHELL. Mr. President, as I indicated prior to this vote, it is my hope that we can reach an agreement that would create a window of approximately 90 minutes, during which there would be debate on the bill, at least one amendment taken up, and a vote on that to occur at approximately 9 p.m. So the Senators, many of whom have asked about the opportunity to attend other functions, at least for a brief period of time, would be protected in that regard.

However, we are still trying to work out the terms of that agreement. I am unable to propound the agreement at this time, because some Senators who have an interest in it are attempting to make a determination in that regard.

If Senators who wish to attend other functions will want to leave and take their beepers with them in the expectation that there will be a window, I can provide them this assurance, that if we cannot get the agreement and we do have a vote during this period of time, we will give everyone sufficient notice prior to the time that the vote begins, so that Senators could be able to return from their functions, providing they are within no more than 20 or 25 minutes from the Senate Chamber.

I hope to be able to propound that agreement in just a few minutes. I am not yet able, because it would be objected to, and I want to wait until I think we can get it clear before propounding it.

Therefore, Senators who wish to leave and attend other functions should be aware that votes are possible during this period, but if they do occur, there will be sufficient notice for Senators to return. We will not just have a vote and go off. We will give notice prior to the time.

Mr. ARMSTRONG. If the leader will yield, that would indicate that maybe we would have a vote around 9 o'clock?

Mr. MITCHELL. That is correct.

Mr. ARMSTRONG. Could the leader disclose his plans beyond that?

Mr. MITCHELL. It is my intention to remain in session, as I said many times before today, all week, into the evening, in the hopes that we can make substantial progress on this bill. The alternative would be to go out and return tomorrow and possibly Saturday, and I think most Senators prefer to continue into the evening, so that we will not have to be here on Saturday or, possibly, tomorrow night.

Mr. ARMSTRONG. Mr. President, whatever the leader wants to do is fine with me, but let me just express this concern: I have a hunch that there is only about one amendment that is ready to be called up in this window, and we may find ourselves using 90 minutes to dispose of something that would otherwise be disposed of in 15 or 20 minutes.

Mr. MITCHELL. If I may comment on that, there will be other matters dealt with during the window. For example, the Republican leader and I will conduct the wrap-up business. We have other Senators who wish to speak.

Mr. ARMSTRONG. I thank the leader. I wanted to be sure we could expedite it.

Mr. COHEN. I do not have any objection to going on into the evening. What I do have objection to is going on into the morning. Frankly, I know that there are other important matters. The "Batman" movie, I am told, is on. Now I certainly am a big fan of the Gotham duo; but I really would have strong objection to going on into the morning hours under this proposal, if that is what the design is.

Mr. MITCHELL. The unanimous-consent request to which the Senator could, of course, object will not deal with any action after 9 p.m. And as my distinguished colleague knows, I try

very hard to accommodate all Senators—none more than my senior Senator—and I will do the very best I can in that regard.

Mr. DOLE. Mr. President, we are down to 50 amendments now. Nobody wants to offer any. I understand that Senator COATS, who had a package of 13, all but 1 or 2 of those may be worked out; there may be some agreement on those. That would eliminate 13. I have just given Senator BENTSEN a sheet with section 89 amendments that we hope something would happen with. I am not certain how many of the other amendments will be offered, but it would certainly be helpful to the leadership and to the request of the senior Senator from Maine, if somebody would come and offer amendments.

We are going to do wrapup, and Senator BUMPERS is going to speak for 10 minutes, and there will be a request for a vote on the gas conference report. Hopefully, by 8:30 we will have people stacked up here willing to offer amendments that we can get time agreements on.

Mr. MITCHELL. If I may comment on the remarks of the distinguished Republican leader, he, of course, got right to the heart of the matter. We have a long list of prospective amendments, but it is extremely difficult to get Senators to come and offer amendments. As a consequence, we spend an enormous, and in my judgment, an inordinate amount of time pleading with people to come and offer amendments, and in the meantime everyone else has to wait. That is the principal problem that we face, and we have faced for a long time, and everybody is aware of it. Everybody deplores it, except those who have the amendment that they want to wait until tomorrow or some other later time to offer.

We have all been in both positions, so I think we all comprehend the problem very well.

Mr. President, I ask unanimous consent that Senator BUMPERS be recognized to address the Senate for 15 minutes.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. BUMPERS. Mr. President, I thank the majority leader.

Mr. President, I feel very strongly about the Act for Better Child-Care Services and did not want it to be debated for this length of time without my expressing my support for it.

The PRESIDING OFFICER. Will the Senator suspend? The Senate is not in order. The Senate will please be in order.

The Senator from Arkansas is recognized.

(Mr. FORD assumed the chair.)

Mr. BUMPERS. There is another reason, Mr. President, that I wanted to speak. The day before yesterday, Heidi Hughes Bumpers, wife of my son Bill, gave birth to our first grandchild.

I hastened down to George Washington University Hospital to have a look at him. He is indeed a fine looking lad—five fingers on each hand, five toes on each foot, good, healthy lungs. As I stood looking at him, in awe that my blood is running in his veins, I was a lot more rhapsodic than I thought I would be. I thought for a long time that Betty was excited enough for both of us.

But I also thought about how lucky that youngster is—devoted and rather affluent parents, grandparents, aunts and uncles all to dote on him. Someday perhaps he will understand just how lucky he is to have been born with all that adoration and love.

And then I thought back to that same son, Bill, who called me the morning after Christmas and said, "Dad, I would like for you to go with me tomorrow."

"Where do you want me to go, Bill?"

"Well, our law firm feeds the homeless periodically and tomorrow morning is our law firm's time to feed at an organization called SOME." S-O-M-E, So Others Might Eat.

"Where is it?"

"Just off North Capitol."

This group is located eight blocks north of the building in which we sit, in full view of the U.S. Capitol.

My daughter Brooke was home for the Christmas holidays, so she and I got in the car and drove down there at 5:30 in the morning. We drove into the parking lot of this place where the homeless are fed. There were roughly 400 men standing out in 26-degree temperature waiting to be fed. My daughter, my son and his wife, and I flipped pancakes for 4 hours until we fed those 400 men and two women.

On the way home, I was talking to my daughter. I said, "You know, Brooke, there was probably not one single person there born in Potomac, MD, where homes start at a million dollars each. There was probably not a single soul there that was born in Bethesda or Chevy Chase, where your mother and father live, where homes start at, say, $400,000 each."

Thirty percent of the homeless, they say, are mentally ill, 30 to 35 percent. Thirty to thirty-five percent of them are drug abusers. The rest are full-time employed. They just do not make enough to afford an apartment or a house in Washington, DC.

I would guess, without doing a poll among those 400 men, that an awful lot of them spent a lot of time at home as children with nobody in attendance. A lot of them came from homes where their parents could not afford day care, and maybe the aunts and uncles and grandparents were working and unable to care for them.

Since 1950, Mr. President, we have done a remarkable thing in this country. We have cut the poverty rate among the elderly from 24 percent to 12 percent. In that same period of time, we have allowed the most helpless among us, namely, our children, to sink deeper into poverty.

The poverty rate among American children is not quite at an alltime high, but it is shamefully high. As many as one-fifth of all children are living in poverty. There are 36, 37, 38 million people without any health care, not even Medicaid, and 11 million of those are children.

Now, how many speeches have the Members of this body made on how precious our children are; how our future is in their hands; how we must protect our children from drugs, from violent television, from violent movies, from child pornographers; how we have got to give them a superior education?

I read the other day—and everybody in this body ought to be alarmed—a poll that is taken every year among high school seniors that asks them, "Who do you admire most?" I cannot name all 10 of them, but here are the ones I can remember of the 10 people most admired by the seniors in America's high schools:

Arnold Schwarzenegger, Patrick Swayze, Larry Bird, Michael Jordan, Mike Tyson, Oprah Winfrey, Jesse Jackson.

Poor Tom Cruise was No. 1 last year and he did not even make the top 10 this year. No Pope, no Gorbachev, no Reagan, no Bush, no Mother Theresa, not even mom and pop made the list.

When I was a country lawyer in Charleston, AR, for 18 years, I guess I tried 500 divorce cases. Finally I quit taking them.

But, you know, I can only remember one man coming into my office wanting a divorce who did not say, "What is the least you think you can get me out for?" Every single man, with one exception in my memory, wanted to know was the very least alimony he could pay his wife and the very least child support he could give his children.

The second thing I remember is 80 percent of all the people who ever came to me with marital troubles came with money troubles.

Some complain that ABC is just another entitlement program for the poor. Well, it is not an entitlement program. But I must say, I do not think we ought to be doing things like this for the rich. If we are concerned about our children, is it not the children from the underclass whom we are trying to help? Have we become so cynical in this country that those of us at the top of the ladder want to step on the hands of those reaching for the first rung? Of course, we want to help the underclass. And that is what this bill is all about.

I will be forever indebted to my distinguished colleague and very dear friend CHRIS DODD for his tenacity in bringing this bill to the Senate. Despite very trying conditions, he has finally brought this bill to the floor.

My grandson is going to get all the care in the world. He does not need this bill. His paternal grandfather and grandmother will do everything in the world to make sure that that child goes to the best schools, and has the best day care. His mother, a brilliant lawyer may or may not stay home with him. But whatever she does, we know he will have the best day care.

But I want you to know that not everybody gets that kind of first-class day care.

I heard the distinguished Senator from Connecticut [Mr. DODD] say the other day his mother was home every day when he came home from school. I say to the Senator, mine was, too. And I can remember on two or three occasions when she was not home—maybe she was over at the neighbor's house—the feeling of apprehension I had because she was not there. Not everybody has the care or the opportunities we had. My brother, sister, and I grew up about as poor as you could get. My brother and sister are both fairly well-to-do. They've made it. They think I am the failure in the family. But I can tell you such success as all three of us have had has been because of a devoted mother and father.

I tell my brother all the time, "You know how you made it? You chose your parents well." But everybody is not that lucky, either.

Well, I am not voting for this bill for my grandson. And I am not suggesting that other parents love their children or grandparents love their grandchildren less. But it is for economic reasons that we are doing this, to help parents who must work. They are working for economic reasons.

I am not going to burden this RECORD with statistics which have been recited time and again. The statistics on women moving into the work force are overwhelming. Fifty-six percent of all women work and 80 to 90 of them say they work because they have to.

Why do they feel they have to? Because they love their children. They want them to be well fed. They want them to be well housed. And they want them to get the best education possible.

Some of the phone calls to my office have suggested that this bill is designed to encourage mothers to leave home and get away from their children. This bill responds to the fact that women have already moved into the work force, primarily for economic reasons.

Women work because they want their children to have things. They work because they love their children. And the most important thing in the world is for mothers and fathers to have the satisfaction of knowing their children are being deposited in good day-care centers.

Mr. President, I also want to say, sometimes I am tempted to vote against this bill because of the lack of standards. As the Senator said, you cannot even get your dog's hair trimmed unless the guy who does it has been licensed. You cannot get a haircut, not in the Senate barber shop or anyplace, unless the guy has been licensed. I am not denigrating the States. I used to be Governor, and I used to fight about these things with the Feds. But shouldn't we require day-care centers to meet minimum health and safety, staffing, and group size standards? Shouldn't we at least make sure our children are in safe centers with qualified staff?

You bet I would have put standard in this bill. I have listened to this debate day after day and I still fail to understand how on Earth anybody could say we ought not to have standards.

Mr. President, in 1985, 67 percent of the 4-year-olds in this country and 54 percent of the 3-year-olds of parents who earned over $35,000 a year were in formal day care.

But if we go down to two parents making the minimum wage, those percentages are cut in half. It is an economic problem. Many more parents would choose formal, quality day care if they could afford it.

Some of the churches in this country have fine day-care centers and they ought to continue to have day-care centers, and they ought to be in this program. The constitutionality of the church-state compromise in ABC—which would allow parents great freedom to use certificates to purchase religious day care—will likely be reviewed by the courts. The argument that is used in support of the Republican alternative—that it will not be subject to consititutional attack—does not persuade me that it compares favorably to ABC. It does not improve the quality of care for all children and does not provide enough assistance to needy parents.

Mr. President, that is about all I have to say on something that I think is so very important. I want to say to the distinguished Senator from Connecticut that this country owes him a deep debt of gratitude. The children of this country, whether they ever know who they are beholden to—will always be indebted to the Senator from Connecticut for his absolutely relentless work on this bill.

I hope the President will not veto this bill. If he wants some partisan advantage out of it, I am for him. Let him have it. It is the substance of this bill that I care about, and it is the substance of the bill the Senator from Connecticut cares about. And I strongly urge my colleagues to vote aye on this bill.

It may not be perfect, but it does give mothers and fathers the peace of mind of knowing that their children, when they have to work to keep body and soul together, are being well cared for.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. DODD. Mr. President, I, first of all, want to thank my distinguished friend and colleague from Arkansas for his very kind comments about our work on this legislation. Senators HATCH and I and many others have worked for countless weeks and months as he pointed out.

Because of the support of the Senator from Arkansas along the way—I mean this—on a lot of things that do not show up on the legislative product, but some phone calls and some messages to some Governors and others around the State, former colleagues of his—I look at the Presiding Officer and he is in the same category—because of that we are able to come up with a product that has the support it does because of those efforts.

I am not being candid with my colleagues or anyone else if I say otherwise, but there are an awful lot of hands that baked this product. One of them is sitting right here next to me, my colleague from Utah, and countless others around this room on both sides of the aisle.

Even some who did not support us today in votes this morning contributed to this product.

So it is an effort that involved an awful lot of people, people who are not Members of this institution. People whose names will never be recorded, I guess, anywhere, but who spent a lot of time giving us their ideas, pediatricians, early childhood development specialists, many others.

The Senator from Arkansas has the God-given talent to be able to express how many of us feel so eloquently and forcefully. He has done in about 10 minutes what I have tried to do I guess over a week, trying to express my views about what this legislation means to an awful lot of families in this country.

He has, once again, provided us with his eloquence, his passion, his thoughtfulness, and the Senator from Connecticut is extremely grateful to him once again for that.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. BUMPERS. Mr. President, before the Senator from Connecticut reminded me, I had already had terrible pangs of conscience about not saying something about Senator HATCH, who has probably taken 10 times more abuse than Senator DODD has taken over this bill. The Senator from Utah has stood steadfast in support of this bill in the face of some really strident criticism. That is the mark of a real statesman.

My colleagues know, we can put our fingers in the air and test the wind or we can take an overnight poll and just vote that way and stay forever. But I can tell you, when a Senator faces the criticism that Senator HATCH has faced on this, his tenacity is most admirable.

My admiration and respect for him have increased during the debate on this bill.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Mr. President, I cannot thank my colleague enough for his kind comments. However, I do agree with the distinguished Senator from Connecticut that there have been many people who have worked very hard on this bill, some of whom still do not yet support it.

But we are hopeful that this evening we can put together the coalition that will bring everybody together. I think it is going to take listening to the President, listening to colleagues on my side of the floor. It is certainly going to take some statesmanship on this side of the floor. And I believe we have the people here who are the statesmen who can put this together in its final form and fashion that will pass both Houses of Congress.

In that regard, I just have to compliment my friend from Arkansas for the work he has done on this bill, and above all, my friend from Connecticut.

I just call on everybody at this particular time to pull together. Here is a chance to pass a landmark bill that will really help families; that will alleviate a lot of pain and distress. We cannot just expect our own individual ideas to carry the day. We have to consider there are good ideas from others here in this body and I think both the distinguished Senator from Connecticut and myself have, throughout this process, tried to look at every idea which has come.

I am going to express my regard and my esteem for this great body and for the way this process works. I just hope before this evening is through that we can have a child-care bill that all of us will be proud of, or at least the vast majority of us will be proud of. We are close to it. It is going to take some statesmanship. It is going to take bipartisanship. It is going to take an acknowledgment, it seems to me, by the President who has played a very significant role in this debate. I think we need to accommodate him because his ideas are very, very good ideas. Standing alone they are not as effective as combining in a comprehensive bill. Then, again, ours standing alone are not as good as combining in a comprehensive bill either, although we have been for the tax credit approach as well.

What we are trying to do here is help families. We are trying to alleviate the distress of some of these parents. We are trying to create a better society by making sure these kids have some supervision during daylight hours.

We are trying to make available to the average single head of household and others child care. We are trying to make it so they can afford to pay for it without bankrupting themselves or cutting back on the necessary nutritional needs that they have, or other needs that they have to have a decent quality of life. And yet we are trying also to have quality child care which is absolutely crucial if we are going to do really a good job in the final analysis anyway. We want to have child care that is quality child care, that does good, that helps children and families. We think we have the makings of doing that.

One thing we did establish today is that the ABC bill, with the tax credit approach, is going to be a pretty darn good approach, and it will be a miraculous thing when we get it passed because we started from a zero opportunity perspective when we started. Today I think we do have a chance of passing a landmark piece of legislation that a vast majority of people in this whole Congress will be proud of. I do not think anybody has the total picture or the total ideas with regard to how to solve these myriad of family problems that presently beset us all. We have come a long way by listening, struggling and working together and, of course, striving together to try and get to the point where we are now where with statesmanship we can solve the problem.

Mr. President, again I am very grateful for the comments of our friend from Arkansas and for many others here on the floor. We just appreciate all the help we can get. I yield the floor.

Mr. DODD addressed the Chair.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. DODD. Mr. President, Senator GRAHAM of Florida had approached Senator HATCH and myself about a technical amendment that he cannot be here for at this time and has asked if I would propose the amendment on his behalf, which I will now do, Mr. President.

The PRESIDING OFFICER. I say to my good friend, there is a Dole amendment pending. Does the Senator want to set it aside?

Mr. DODD. Mr. President, I ask unanimous consent that the pending amendment be temporarily set aside for the purpose of offering a technical amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 207

Mr. DODD. Mr. President, I send an amendment to the desk on behalf of Mr. GRAHAM and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Connecticut [Mr. DODD], for Mr. GRAHAM, proposes an amendment numbered 207.

Mr. DODD. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 16, line 8, in the paragraph entitled "Young Child Factor," insert before the period: "as provided by the most recent annual estimates of population in the States by the Census Bureau."

On page 16, line 16, in the paragraph entitled "School Lunch Factor," insert before the period: "as determined and updated annually by the Department of Agriculture."

Mr. DODD. This is a suggestion offered by the Senator from Florida which Senator HATCH and I feel is a very good one. It would amend the child care legislation by inserting language that says, "as provided by the most recent annual estimates of population in the States by the Census Bureau" when pertaining to the young child factor. And, second, it would, in dealing with the school lunch factor, insert language that says, "as determined and updated annually by the Department of Agriculture."

Why this technical approach? The Senator from Florida was very interested in determining these statistics so we have the most recent and the best data available so we can draw the conclusions about what must be done in the young child factor as well as in the school lunch factor. I found it to be a very worthwhile suggestion. For that reason, I am pleased to be able to offer the amendment on behalf of the Senator from Florida.

Mr. HATCH addressed the Chair.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Mr. President, we agree. We think it is a worthwhile amendment and one we should accept. Therefore, I urge the adoption of the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 207) was agreed to.

Mr. DODD. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. HATCH. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DODD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. COCHRAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Mississippi.

Mr. COCHRAN. I thank the distinguished managers of the bill for agreeing to let me speak out of order. Mr. President, I ask unanimous consent that I may speak as in morning business for up to 5 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Mississippi is recognized.

Mr. COCHRAN. I thank the Chair.

(The remarks of Mr. COCHRAN pertaining to the introduction of S. 1253 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. FORD. Mr. President, we are on the bill?

The PRESIDING OFFICER (Mr. DASCHLE). The Senator is correct.

Mr. FORD. Mr. President, first, let me say I believe America is blessed with two of the finest Senators from Arkansas, with whom I have had the opportunity to work. Both are innovative and have ideas that I at least find myself saying, "I wish I had thought of that," or, "I wish I had said that."

Tonight I think we were blessed with the presence of one of those great Senators, Senator BUMPERS, who, as Governor of Arkansas, I, as Governor of Kentucky, had an opportunity to serve with. I think the attitude that Senator BUMPERS expressed tonight about his feeling for child care comes from a life of understanding that coming home meant mother was there. That was my life. I grew up during the Depression. I ate better then than I do now because mother stayed home, canned everything from rhubarb to tenderloin. I was blessed but not rich. We were not worried about having the best house on the block or the newest car, or being best dressed. She turned my collars because they would wear out. She would turn them over so they would not show. But I had the home life we are all trying to give back to America, where mothers can stay at home. So I compliment Senator BUMPERS on his statement tonight. I think it is ironic, maybe, that his first grandchild just arrived, so he could give additional feeling to the statement he made tonight.

Giving his comments to the distinguished Senators from Connecticut and Utah I think was appropriate. I cannot add anything to it. I wish to endorse what he said as it related to those two fine Senators. From my dealings with the Senator from Connecticut, I can attest to the hard work and effort of Senator DODD that has gone into this bill.

But a little earlier this afternoon, Mr. President, my good friend and distinguished colleague from Ohio, Senator GLENN, made a statement, which I commend him for. I agree with much of what he said, although I disagree with the conclusion. I strongly agree with the Senator that education vouchers will lead to widespread opting out of the public education system. That is why I strongly and consistently oppose the use of vouchers or certificates or anything like them in the public education system.

But I disagree with my distinguished colleague when he says that the only purpose of the Ford-Durenberger language is to allow sectarian care in violation of the Constitution. On Monday I took the floor to explain why I believe the Ford-Durenberger amendment was necessary.

Let me explain that again. I met with the Kentucky Council of Churches, the Kentucky Catholic Conference in Kentucky, to discuss the original section 19(a) provision of the ABC bill. My Kentucky churches told me that as written they could not participate in the ABC bill. Why? Because they took the prohibition against any religious activities very seriously. My Kentucky churches have witnessed firsthand lawsuits which have taken the Ten Commandments off our school walls, and required disclaimers on the nativity scene on our State capital lawn. My Kentucky churches believe that the same groups that brought and won those lawsuits will ensure that churches in Kentucky, in order to participate in the ABC bill, will have to take religious symbols off the wall, will be prohibited from saying grace before meals, and perhaps will even have to ensure that religious garb is not worn before the children.

That is the interpretation of my churches of the original provision of the ABC bill. How could they make such a conclusion?

Let me read to my colleagues the report language of the original bill and I stress the original bill, not the Mitchell substitute, that caused my churches so much concern. I quote from page 48, of the committee report, No. 101-17:

LIMITATIONS ON USE OF FINANCIAL ASSISTANCE FOR CERTAIN PURPOSES

Section 19(a) prohibits an entity receiving any of the forms of financial assistance provided under this Act (e.g., grants, contracts, loans, or child care certificates) from using such assistance for any sectarian purpose or activity, including sectarian worship and instruction. This section is intended to ensure that all child care programs receiving funds under this Act are nonsectarian, whether or not a sectarian institution operates the program.

Under a narrow, technical interpretation of this prohibition, one could argue that sectarian activities are permitted in a child care program funded under this Act, so long as no financial assistance under this Act is used for the sectarian activities. The Committee expressly rejects such a narrow, technical interpretation of section 19(a). On the contrary, the Committee adopts a broad interpretation of the prohibition in section 19(a). Under the Committee's broad interpretation, an entity receiving any form of financial assistance under this Act shall not include any sectarian activities, worship or instruction in providing child care services under this Act. Section 19(a) embodies the Committee's intent that all aspects of child care services provided by an entity receiving financial assistance under this Act be completely non-sectarian in nature and in content. The Committee expresses no view concerning whether the restriction in Section 19(a) is contitutionally required by the Establishment Clause.

What does that broad interpretation mean? It means "completely nonsectarian" means completely. And in Kentucky that means that my churches would not be able to participate in the ABC bill. Churches provide 20 to 35 percent of all slots of child care in Kentucky. If the original prohibition meant jeopardizing almost one-fourth of our slots in Kentucky, then this Senator had to do something about it.

I took the ABC bill as I got it, as sent from the committee. The original provision of the bill, section 19(a) was what we had. We had to come up with a way to allow churches, who believe that they should not have to set up a separate corporation in order to provide child-care services, to participate in the ABC bill. And we had to do it consistent with the Constitution. The Ford-Durenberger compromise in the Mitchell substitute represents that.

I should also point out that the original prohibition in the bill also applied to grandparents, aunts, uncles, and other members of the family.

So the original bill with the original section 19(a) provision would have meant that a grandmother could keep her grandchild in her home, be reimbursed under the bill, but could not say grace before meals, read Bible stories, sing religious songs or perhaps even leave religious objects or symbols uncovered in her home.

Mr. President, that is just not right. If that is what it takes to be constitutional, then I believe that we should forget direct subsidies, and go with the straight tax credits.

This is not the perfect answer. But if we are to have directly appropriated funds—and I supported the Mitchell substitute and this approach—then we must ensure that parents can choose church-based care. If that means purely religious care, and if that is upheld by the courts, then that is what we have.

Is there a constitutional basis for allowing certificates to be used for religious care? I believe there is. On Monday I placed in the RECORD an analysis by the Congressional Research Service that clearly lays out the constitutional basis for the Ford-Durenberger amendment.

At this point, Mr. President, I would like to place in the RECORD a very detailed analysis by Mitchell McConnell, professor of law at the University of Chicago Law School, which clearly sets out the constitutional basis for this provision.

I will assure my colleague from Ohio [Mr. GLENN] that the Ford-Durenberger language does not start down the path of vouchers in education. If that were the case, I would not have offered this amendment.

While I agree that vouchers would jeopardize our entire public education system, there is no public child care system. I believe parents must be the ultimate decisionmakers when it comes to child care. The Ford-Durenberger provisions strike that delicate balance. I urge support of this provision, now contained in the ABC bill before us.

Mr. President, I ask unanimous consent that a letter from Michael McConnell dated June 12, 1989, be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

THE UNIVERSITY OF CHICAGO,
THE LAW SCHOOL,
Chicago, IL, June 12, 1989.

Hon. WENDELL H. FORD,
U.S. Senate, Washington, DC.

DEAR SENATOR FORD: In response to your request, I have reviewed the proposed "Parental Choice Amendment" to S. 5, the Act for Better Child Care, to determine whether it is likely to violate the Establishment Clause of the First Amendment, under current interpretation by the Supreme Court. In my judgment, the proposed amendment fully comports with constitutional standards, and there is little doubt that it would be upheld by the Court.

As presently drafted, the Act would provide federal funding to states for the purpose of supporting various child care services. These services fall into three categories: (1) child care pursuant to contracts between the state and selected child care providers; (2) child care pursuant to contracts between local governmental units and selected child care providers; and (3) child care purchased by parents using "certificates" issued by the state. See S. 5, § 8(a)(1). Section 3(4) of the Act defines the term "certificate" as follows:

"The term child care certificate means a certificate that is issued, pursuant to a written agreement between the State and an eligible child care provider, by the State to parents who may use such certificate only as payment for child care services for an eligible child and that provides to an eligible child care provider a right to reimbursement for such services . . ."

Section 19(a) of the Act provides that "[n]o financial assistance provided under this Act shall be expended for any sectarian purpose or activity, including sectarian worship and instruction." According to the report from the Committee on Labor and Human Resources, S. Rep. No. 101-17 (Apr. 12, 1989), this language is interpreted to mean that "an entity receiving any form of financial assistance under this Act shall not include any sectarian activities, worship or instruction in providing child care services under this Act." *Id.* at 48-49.

The proposed Parental Choice Amendment would exclude from the coverage of Section 19(a) funds "received by any eligible provider resulting from the distribution of a child care certificate to a parent under section 8(a)(1)(C) of this Act." It would also amend Section 3(4) to delete the requirement of a written agreement between the state and the child care provider. In other words, the proposed amendment would allow parents, at their option, to use their federally funded benefits to obtain child care that includes religious training or observance.

The following factual elements are important to this constitutional analysis: (1) the government funds are provided to the parents of eligible children through certificates; (2) the parents may use those certificates to purchase child care services of their choice from among a wide array of eligible providers, including both secular and religious providers; (3) religious child care providers benefit from the program only through the independent choices of the parents; and (4) aid is not skewed in favor of religious child care providers.

The First Amendment of the United States Constitution forbids any law "respecting an establishment of religion, or prohibiting the free exercise thereof." The guiding principle under the Religion Clauses is neutrality, both between religions and between religion and nonreligion. As Justice Blackmun wrote for the Court in *Roemer* v. *Board of Public Works*, 426 U.S. 736, 747 (1976), "Neutrality is what is required. The State must confine itself to secular objectives, and neither advance nor impede religious activity." See also *Grand Rapids School District* v. *Ball*, 473 U.S. 373, 382 (1985) ("the government [must] maintain a course of neutrality among religions, and between religion and nonreligion"); *Everson* v. *Board of Education*, 330 U.S. 1, 18 (1947) (the First Amendment "requires the state to be neutral in its relations with groups of religious believers and nonbelievers; it does not require the state to be their adversary."). There is no constitutional requirement to discriminate against religion or religiously affiliated institutions in the distribution of public benefits. The Establishment Clause is not hostile to religion or religious choice. It is opposed, rather, to the use of the financial resources of the government to favor or encourage religious adherence or to channel religious activity into government-approved forms.

In interpreting the Establishment Clause, the Supreme Court generally looks to a three-part test, first announced in *Lemon* v. *Kurtzman*, 403 U.S. 603, 612-13 (1971) (citations omitted):

"First, the statute must have a secular legislative purpose; second, its principal or primary effect must be one that neither advances nor inhibits religion; finally the statute must not foster 'an excessive entanglement with religion.'"

Under these criteria, S. 5, as amended by the Parental Choice Amendment, is constitutional.

Purpose. There can be little question that the purpose of the Act for Better Child Care is secular. The congressional findings, summarized in Section 1 of the Act, demonstrate the need for adequate child care services, and the Parental Choice Amendment has the purpose of providing "families . . . a broader range of child care options." S. Rep. No. 101-17, at 42. This will enhance "state flexibility and parental choice." *Id.* In any event, the Court does not strike statutes down under the purpose criterion unless they are "motivated wholly by an impermissible purpose." *Bowen* v. *Kendrick*, 108 S. Ct. 2562, 2570 (1988), citing *Lynch* v. *Donnelly*, 465 U.S. 668,680 (1984). Even in the parochial school funding cases, the Court invariably recognized that the legislative purpose was secular and legitimate. See, most recently, *Grand Rapids School District* v. *Ball*, 473 U.S. at 383. So also here, a court is likely to find that the purposes of extending federal assistance to needy families for better child care is a permissible purpose.

Primary effect. To be constitutional, a government program must have a primary effect that neither advances nor inhibits religion. This means that government funds must be allocated in ways that do not favor religion. This objective may be accomplished in one of two ways, depending on whether government assistance to recipient institutions is "direct" (meaning that the funds are allocated directly by government officials to the recipient institutions) or "indirect" (meaning that the funds are allocated to private individuals, and that any benefit to institutions is an indirect result of the private choices of individuals).

If aid is direct, then the government has an obligation to ensure that it is not used for "specifically religious activity." *Hunt* v. *McNair*, 413 U.S. 734, 743 (1973); *Roemer* v. *Bd. of Public Works*, 426 U.S. 736, 759 (1976); see *Bowen* v *Kendrick*, 108 S. Ct. at 2576-77. It follows that direct aid cannot be given to institutions so "pervasively sectarian" that their religious and secular aspects are "inextricably intertwined." *Lemon*, 403 U.S. at 657; see *Romer*, 426 U.S. at 759. "The reason for this," the Court has explained, "is that there is a risk that direct government funding, even if it is designated for specific secular purposes, may nonetheless advance the pervasively sectarian institution's 'religious mission.'" *Kendrick*, 108 S. Ct. at 2574.

The Act for Better Child Care, as amended, however, is an instance of "indirect" assistance. Under the certificate program, funds will not be allocated by agents of the state. Rather, the parents of each eligible child will receive a "certificate" and will be free to "purchase" child care services from an eligible provider of their choice, whether secular or religious. Accordingly, the Act must be judged according to the standards the Court has set forth for indirect funding programs. The "direct" funding precedents are simply inapplicable.

The most pertinent case is *Witters* v. *Department of Services for the Blind*, 474 U.S. 481 (1986), a unanimous decision holding that public funds could be used to pay the tuition of a student at a Bible college for training for the ministry, pursuant to a program of vocational assistance for the blind. Justice Marshall's opinion for the Court identified several aspects of the program as "central to our inquiry." *Id.* at 487. First, he noted that funding goes to the recipient institution only through the choice of the individual student. "Any aid provided under Washington's program that ultimately flows to religious institutions does so only as a result of the genuinely independent and private choices of aid recipients." *Id.* The same is true of the Act, as amended. Parents will receive certificates that entitle them to purchase child care of their own choice. Any aid that flows to religious day care providers does so only as the result of the genuinely independent and private choices of the parents.

Second, Justice Marshall noted that "Washington's program is 'made available generally without regard to the sectarian-nonsectarian, or public-nonpublic nature of the institution benefitted,' and is in no way skewed toward religion." *Id.*, quoting *Committee for Public Education and Religious Liberty* v. *Nyquist*, 413 U.S. 756, 782-83 n.38 (1973). Again, the same is true of the Act, as amended. There is a rich diversity of child care providers. It is estimated that one third to one fourth are religiously affiliated, and many of those provide nonsectarian care. The very purpose of the Parental Choice Amendment is to ensure that certificates under the Act are made available without regard to the sectarian-nonsectarian nature of the child care provider. Far from being problematic under the First Amendment, the Parental Choice Amendment will foster pluralism, diversity, and religious freedom—values that the First Amendment is intended to serve.

Third, Justice Marshall stressed that the Washington program "creates no financial incentive for students to undertake sectarian education." *Id.* at 488. Their benefits are neither "greater nor broader" if they "apply their aid to religious education" than if to secular programs. *Id.* "[T]he fact that aid goes to individuals means that the decision to support religious education is made by the individual, not by the State." *Id.* This is the crux of the matter. The principal purpose of the Religion Clauses is to ensure that decisions about religious practice, in-

cluding child raising, are reserved to the private realm of individual conscience. The decision to choose religious or secular child care should be made by the individual, not by the State. The government has no legitimate interest in discouraging free religious choices, any more than it may promote a religion. Again, the Act, as amended, closely resembles the Washington program upheld in *Witters*. The benefits are the same—neither broader nor greater—for parents who choose religious child care as for those who choose secular. The Act creates no incentive to undertake religious child care; on the contrary, if not amended, the Act would create a significant incentive to forego religious child care.

Finally, Justice Marshall noted that "nothing in the record indicates that . . . any significant portion of the aid expended under the Washington program as a whole will end up flowing to religious education." *Id.* at 488. Similarly, there is no reason to expect that any more than a modest fraction of the aid dispensed under the Act will flow to child care providers who include specifically religious elements in their program. However, it must also be noted that on this point, a majority of the Court rejected Justice Marshall's analysis. Justice Powell, joined in substantial part by four other Justices, expressed the controlling principle as follows: "State programs that are wholly neutral in offering educational assistance to a class defined without reference to religion do not violate the second part of the *Lemon* v. *Kurtzman* test." *Id.* at 490–91; accord, *id.* at 490 (White, J., concurring); *id.* at 493 (O'Connor, J., concurring). Thus, even if a "significant portion" of the aid *did* flow to religious child care providers, it would not present a constitutional problem so long as "any benefit to religion resulted from the 'numerous private choices of individual parents.'" *Id.* at 491 (Powell, J., quoting *Mueller* v. *Allen*, 463, U.S. 388, 399 (1983).

Witters is only the most recent of a long line of cases in which indirect aid distributed neutrally to religious and nonreligious organizations, through the independent choices of private individuals, has been sustained by the Court. In *Mueller* v. *Allen*, 463, U.S. 388 (1983), the Court upheld a Minnesota program of tax deductions for parents' expenses incurred in obtaining education for their children. The large part of these expenses were tuition payments to private schools, most of which were religious schools. *Id.* at 400–01. As in *Witters*, the decisive consideration was that the allocation of financial assistance was determined through private, decentralized choice. "Most importantly, the deduction is available for educational expenses incurred by *all* parents, including those whose children attend public schools and those whose children attend nonsectarian private schools or sectarian schools." *Id.* at 397 (emphasis in original). The program therefore was consistent with the Establishment Clause, notwithstanding the fact that tuition to parochial schools undoubtedly paid for religious instruction.

Unlike *Witters*, which was unanimous, the Court was closely divided in *Mueller*. But even the position of the dissenters in *Mueller* supports the constitutionality of the Act for Better Child Care, as amended. Justice Marshall's dissenting opinion stressed that the "vast majority of the taxpayers who are eligible to receive the benefit are parents whose children attend religious schools." 463 U.S. at 405. By contrast, those eligible for certificates under the Act include parents whose children use secular as well as religious child care. Indeed, the "vast majority" probably use secular—or at least nonsectarian—child care. Even the dissenters in *Mueller*, then, did not take the position that parents must be categorically barred from using their benefits in religious settings. They merely insisted that government programs may not be devised in such a way that the preponderance of the benefit can be expected to go to religious recipients.

In *Widmar* v. *Vincent*, 454 U.S. 263, 270–75 (1981), the Court held that it would not violate the Establishment Clause for a State university to make its facilities available, without payment, to a religious group on the same basis as other university student groups. Free facilities are, of course, a valuable benefit; and the group intended to use this benefit for specifically religious activities, including religious teaching, worship, and prayer. The Court reasoned, however, that when benefits of this sort are open to all on an evenhanded basis, there is no effect of "advanc[ing] religion.," *Id.* at 273. "The provision of benefits to so broad a spectrum of groups is an important index of secular effect." *Id.* at 274.

In *Committee for Public Education and Religious Liberty* v. *Nyquist*, 413 U.S. 756 (1973), the Court sharply differentiated between programs in which aid flows to "*all* schoolchildren" and those in which aid is restricted to those who choose to attend private schools, which are overwhelmingly sectarian. The Court suggested, in dictum, that it would approve of a genuinely neutral aid program like the "G.I. Bill," even though government funds in such a program would go to religious institutions and would presumably support sectarian teaching. *Id.* at 782 n.38 (emphasis in original). This was followed by two summary affirmances of such programs. *Americans United for Separation of Church and State* v. *Blanton*, 433 F. Supp. 97 (M.D. Tenn.), *aff'd*, 434 U.S. 803 (1977); *Smith* v. *Board of Governors*, 429 F. Supp. 871 (W.D. N.C.), *aff'd*, 434 U.S. 803 (1977). By contrast, in *Nyquist* itself, and in *Sloan* v. *Lemon*, 413 U.S. 825 (1973), the Court struck down programs of indirect aid to parochial education because the allocation formula was heavily skewed toward religious schools.

In *Walz* v. *Tax Commission*, 397 U.S. 664 (1970), the Court held, with only one dissent, that state property tax exemptions for religious organizations are permissible, even when the property is used "solely for religious worship." *Id.* at 666. Emphasizing the constitutional principle of "neutrality" (*id.* at 669), the Court noted that the tax benefit was provided to churches "within a broad class of property owned by nonprofit, quasi-public corporations which include hospitals, libraries, playgrounds, scientific, professional, historical, and patriotic groups." *Id.* at 673.

In sum, the key factor under the Supreme Court's indirect aid cases is that "the benefit of government programs and policies [must be] generally available, on the basis of some secular criterion, to a wide class of similarly situated nonreligious beneficiaries." *Marsh* v. *Chambers*, 463 U.S. 783, 809 (1983) (Brennan, J., dissenting). See *Texas Monthly, Inc.* v. *Bullock*, 109 S. Ct. 890, 897–99 (1989) (plurality opinion). When the allocation of aid is determined through individual choice and not government direction, and is not skewed in favor of religion, the program satisfies constitutional strictures. In such a program, there is no need to exclude pervasively sectarian recipients, and no need to forbid specifically religious activities. Indeed, in each of the indirect aid cases discussed—*Witters, Mueller, Widmar, Walz*, and the *Nyquist* dictum—the recipients included pervasively sectarian organizations, which engaged in specifically religious activities. Such choices are not forbidden by the First Amendment, provided they are the product of independent decisionmaking.

Under these standards, the "primary effect" of the Act for Better Child Care, as amended, is "one that neither advances nor inhibits religion." *Lemon* v. *Kurtzman*, 403 U.S. at 612.

Excessive entanglement. The Court also holds that a statute is unconstitutional under the Establishment Clause if it "fosters an excessive government entanglement with religion," *Lemon*, 403 U.S. at 612–13; see *Aguilar* v. *Felton*, 473 U.S. 402 (1985). Two possible forms of entanglement must be examined in connection with the Act for Better Child Care.

First, the Court has frequently found the potential for "excessive entanglement" when, in order to avoid the "primary effect" of advancing religion, the government must monitor the conduct of a recipient institution to ensure that it does not engage in "specifically religious activities" within the funded program. The Court stated in *Aguilar:* "Though a comprehensive system of supervision might conceivably prevent teachers from having the primary effect of advancing religion, such a system would inevitably lead to an unconstitutional administrative entanglement between church and state." 473 U.S. at 410. See also *Lemon*, 403 U.S. at 619. This form of entanglement is not present in cases of indirect aid, where there is no constitutional requirement that recipients refrain from religious activities. It is therefore not a problem with the Act for Better Child Care.

The second form of entanglement is the more general interaction between officials of religious organizations and agents of the state that can occur in the course of many regulatory programs. See generally Esbeck, *Establishment Clause Limits on Governmental Interference with Religious Organizations*, 41 Wash. & Lee L. Rev. 347 (1984). Entanglement of this form could conceivably result from the enforcement of state or federal standards for child care envisioned under the Act. See Sections 7(c)(3) (B) and (C), 11(c)(5), 18(e). These standards are, however, Establishment Clause.

Unlike the first form of entanglement, the second form is not necessarily connected to financial assistance. It is as likely to arise from assertions of the regulatory or police power as from conditions to financial aid, and the criteria are the same in one context as the other. *Tony & Susan Alamo Foundation* v. *Secretary of Labor*, 471 U.S. 290, 305 (1985); *NLRB* v. *Catholic Bishop*, 440 U.S. 490, 501–04 (1979) (discussing entanglement in context of regulatory programs and citing precedents from aid programs); *Texas Monthly*, 109 S. Ct. at 903 (citing precedents from regulatory programs in context of entanglement from taxation). Until the specific standards are set, it is premature to speculate on their constitutionality. If they lead to excessive entanglement, the proper remedy is to enjoin their enforcement, not to invalidate the Act.

Moreover, regulatory contacts are not generally "excessive" if they pertain solely to secular aspects of the institution's program and do not intrude deeply into matters related to religious doctrine. See, *e.g., Alamo Foundation*, 471 U.S. at 305 (Fair Labor Standards Act recordkeeping would "have no impact on petitioners' own evangelical activities"); *Catholic Bishop*, 440 U.S. at 501–04 (describing the entanglement that would ensue from collective bargaining in religious schools). Assuming that the standards drawn under the Act pertain to legitimate secular matters such as "staff-child ratios, group sizes, provider qualifications, health and safety requirements, and paren-

tal involvement and access," as contemplated by Congress (S. Rep. No. 101-17, at 32), enforcement of the standards should not have a serious impact on the religious integrity of recipient organizations.

Some have suggested that the requirement of a "written agreement between the State and an eligible child care provider" (Section 3(4)) might constitute excessive entanglement. I see no reason why this would be true. It is the substance, not the form, of contact between church and state that matters. Whether compliance with the Act's standards is preceded by a written agreement or not appears not to implicate any values or principles under the First Amendment. Nonetheless, it is also true that such a written agreement is unnecessary in the case of certificates. If this provision is thought to raise constitutional problems, the most prudent course would be to delete it, as the proposed Parental Choice Amendment would do.

In conclusion, the Parental Choice Amendment comports fully with constitutional standards as enunciated by the Supreme Court, and would likely be sustained in any litigation that might take place following passage of the Act. The First Amendment exists to guarantee religious freedom to all. An important part of religious freedom is the freedom of the parents to direct and control the early care of a child in accordance with their own faith and conscience—be that secular or religious. This is a freedom exercised by the wealthy, who can afford their own child care. It should be a freedom, no less, for those dependent on the government for assistance.

Many will choose secular child care services. That is their right, and it would be unconstitutional to attempt to channel their children to religious care. But others will choose religious care, if the option is available to them. That, too, should be their right. The government has no legitimate interest in directing this choice, one way or the other. The Supreme Court has repeatedly upheld programs of financial assistance in which the aid flows to a wide spectrum of private organizations, including religious entities, through the independent choices of private individuals. These is no constitutional warrant for excluding religious child care providers from the Act, or for requiring them to stifle religious expression or observance. On the contrary, to open the program up to a diverse set of providers, with different approaches to child care (both religious and secular) will expand, rather than constrict, parental choice, in keeping with the spririt of the First Amendment. As amended, the Act will be consistent with the American constitutional tradition of pluralism and freedom.

If there is any further information or assistance I can provide in connection with this Act, please do not hesitate to ask.

Very truly yours,

MICHAEL W. MCCONNELL,
Professor of Law.

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate proceed to executive session to consider the following nominations reported today by the Committee on Finance, the Committee on the Judiciary and the Committee on Armed Services:

Michael J. Astrue to be general counsel of the Department of Health and Human Services;

Julius L. Katz to be a Deputy U.S. Trade Representative;

Dee V. Benson to be U.S. attorney for the District of Utah;

James F. Rill to be an Assistant Attorney General;

E. Bart Daniel to be U.S. attorney for the District of South Carolina;

Stephen J. Hadley to be an Assistant Secretary of Defense;

Henry S. Rowen to be an Assistant Secretary of Defense, and

Military promotions.

Mr. President, I further ask unanimous consent that the nominees be confirmed en bloc, that any statements appear in the RECORD as if read, that the motions to reconsider be laid upon the table en bloc, that the President be immediately notified of the Senate's action, and that the Senate return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nominations considered and confirmed en bloc are as follows:

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Michael J. Astrue, of Massachusetts, to be general counsel of the Department of Health and Human Services.

EXECUTIVE OFFICE OF THE PRESIDENT

Julius L. Katz, of Maryland, to be a Deputy U.S. Trade Representative, with the rank of Ambassador.

DEPARTMENT OF JUSTICE

James F. Rill, of Maryland, to be an Assistant Attorney General.

DEPARTMENT OF DEFENSE

Stephen J. Hadley, of the District of Columbia, to be an Assistant Secretary of Defense.

Henry S. Rowen, of California, to be an Assistant Secretary of Defense.

DEPARTMENT OF JUSTICE

E. Bart Daniel, of South Carolina, to be U.S. attorney for the District of South Carolina for the term of 4 years.

Dee V. Benson, of Utah, to be U.S. attorney for the District of Utah for the term of 4 years.

IN THE AIR FORCE

The following officers for appointment in the Reserve of the Air Force to the grade indicated, under the provisions of sections 593, 8218, 8373, and 8374, title 10, United States Code:

To be major general

Brig. Gen. Charles R. Driggers, xxx-xx-xxxx xxx-..., Air National Guard of the United States.

Brig. Gen. Joe H. Engle, xxx-xx-xxxx, Air National Guard of the United States.

To be brigadier general

Col. Tandy K. Bozeman, xxx-xx-xxxx, Air National Guard of the United States.

Col. Nelson E. Durgin, xxx-xx-xxxx, Air National Guard of the United States.

Col. Adolph P. Hearon, xxx-xx-xxxx, Air National Guard of the United States.

Col. Fred R. Helms, xxx-xx-xxxx, Air National Guard of the United States.

Col. Johnny J. Hobbs, xxx-xx-xxxx, Air National Guard of the United States.

Col. Thomas W. Napolitan xxx-xx-xxxx, Air National Guard of the United States.

Col. Richard E. Pezzullo, xxx-xx-xxxx, Air National Guard of the United States.

Col. James H. Renschen, xxx-xx-xxxx, Air National Guard of the United States.

Col. David J. Rist, xxx-xx-xxxx Air National Guard of the United States.

Col. Dan A. Robar, xxx-xx-xxxx Air National Guard of the United States.

Col. William J. Stockwell, xxx-xx-xxxx, Air National Guard of the United States.

Col. Terrence P. Woods, xxx-xx-xxxx, Air National Guard of the United States.

IN THE ARMY

The following-named officer to be placed on the retired list in grade indicated under the provisions of title 10, United States Code, section 1370:

To be lieutenant general

Lt. Gen. Charles, W. Bagnal, xxx-xx-xxxx, U.S. Army.

The following-named officer for appointment to the grade indicated, under the provisions of title 10, United States Code, section 601(a), in conjunction with assignment to a position of importance and responsibility designated by the President under title 10, United States Code, section 601(a):

To be lieutenant general

Lt. Gen. Claude M. Kicklighter, xxx-xx-xx... xxx-... U.S. Army.

The following-named officer to be placed on the retired list in grade indicated under the provisions of title 10, United States Code, section 1370:

To be lieutenant general

Lt. Gen. James E. Moore, Jr., xxx-xx-xxxx, U.S. Army.

The following-named officer for appointment to the grade indicated, under the provisions of title 10, United States Code, section 601(a), in conjunction with assignment to a position of importance and responsibility designated by the President under title 10, United States Code, section 601(a):

To be lieutenant general

Lt. Gen. Williams H. Harrison, xxx-xx-xxxx xxx-... U.S. Army.

The following-named officer for appointment to the grade indicated, under the provisions of title 10, United States Code, section 601(a), in conjunction with assignment to a position of importance and responsibility designated by the President under title 10, United States Code, section 601(a):

To be lieutenant general

Maj. Gen. Calvin A. H. Waller, xxx-xx-x... xxx-... U.S. Army.

The following-named officer to be placed on the retired list in grade indicated under the provisions of title 10, United States Code, section 1370:

To be lieutenant general

Lt. Gen. Kenneth E. Lewi xxx-xx-xxxx, U.S. Army.

The following-named officer for appointment to the grade indicated, under the provisions of title 10, United States Code, section 601(a), in conjunction with assignment to a position of importance and responsibility designated by the President under title 10, United States Code, section 601(a):

To be lieutenant general

Maj. Gen. Howard D. Graves, xxx-xx-xxxx, U.S. Army.

The following-named Army Medical Corps officers for appointment in the Regular Army of the United States to the grade indicated under the provisions of title 10, United States Code, section 611(a) and 624(c):

To be permanent major general

Brig. Gen. Frederick N. Bussey, xxx-xx-xx... xxx-... U.S. Army.

To be permanent brigadier general

Col. Leslie M. Burger, xxx-xx-xxxx, U.S. Army.

The following-named officer to be placed on the retired list in grade indicated under the provisions of title 10, United States Code, section 1370:

To be general

Gen. Maxwell R. Thurman, xxx-xx-xxxx, U.S. Army.

The following-named officer for appointment to the grade indicated, under the provisions of title 10, United States Code, section 601(a), in conjunction with assignment to a position of importance and responsibility designated by the President under title 10, United States Code, section 601(a);

To be general

Lt. Gen. John W. Foss, xxx-xx-xxxx, U.S. Army.

The following-named officer for appointment to the grade indicated, in conjunction with assignment to a position of importance and responsibility designated by the President under title 10, United States Code, section 601(a) and to be appointed as senior Army Member of the Military Staff Committee of the United Nations under the provisions of title 10, United States Code, section 711.

To be lieutenant general and Army senior member of the Military Staff Committee on the United Nations

Maj. Gen. Gordon R. Sullvian, xxx-xx-xxxx xxx-..., U.S. Army.

IN THE NAVY

The following-named officer, under the provisions of title 10, United States Code, section 601, to be assigned to a position of importance and responsibility designated by the President under title 10, United States Code, section 601:

To be vice admiral

Rear Adm. Richard C. Gentz, xxx-xx-xxxx xxx-.../1230, U.S. Navy.

IN THE AIR FORCE

Air Force nominations beginning Greg W. Carlson, and ending Robert E. Cruthirds, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on May 16, 1989.

Air Force nominations beginning Edward T. Schwab, and ending John W. Morrison, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on May 31, 1989.

Air Force nominations beginning Raymond T. Barbera, and ending Jeffrey H. Camm, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on May 31, 1989.

Air Force nominations beginning Louis W. Adams III, and ending Garrett R. Tucker III, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on May 31, 1989.

Air Force nominations beginning Stephen W. Andrews, and ending Robert G. Zerull, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on May 31, 1989.

Air Force nominations beginning Dennis M. Anderson, and ending John P. Zubialde, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on May 31, 1989.

IN THE ARMY

Army nominations beginning Ronald W. Byers, and ending Robert J. Kenevan, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on May 17, 1989.

Army nomination of Lawrence C. Mohr, Jr., which nomination was received by the Senate and appeared in the CONGRESSIONAL RECORD on May 31, 1989.

Army nominations beginning Ronald E. Hall, and ending * Michael A. Stanton, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on May 31, 1989.

Army nominations beginning David A. Decker, and ending Irene I. Yevich, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on June 7, 1989.

Army nominations beginning * Billy J. Freeborn, and ending Timothy W. Starck, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on June 7, 1989.

IN THE MARINE CORPS

Marine Corps nominations beginning William E. Acker, and ending James D. Zartman, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on May 16, 1989.

IN THE NAVY

Navy nominations beginning Alan E. Bell, and ending Brian D. Stanford, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on May 31, 1989.

Navy nominations beginning John Craig, and ending Clinton A. Medbery III, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on May 31, 1989.

STATEMENT ON THE NOMINATIONS OF HENRY S. ROWAN TO BE ASSISTANT SECRETARY OF DEFENSE FOR INTERNATIONAL SECURITY AFFAIRS AND STEPHEN J. HADLEY TO BE ASSISTANT SECRETARY OF DEFENSE FOR INTERNATIONAL SECURITY POLICY

Mr. WARNER. Mr. President, I rise today to bring to the attention of my colleagues the outstanding experience and qualifications of two Department of Defense nominees, whose nominations were reported favorably by unanimous vote to the full Senate today by the Senate Armed Services Committee.

Henry S. Rowan has been nominated by the President to be the Assistant Secretary of Defense for International Security Affairs. Mr. Rowan will bring to this position a long and distinguished career of public and private sector experience and accomplishment. Immediately before his nomination Mr. Rowan served as a professor of public policy studies at Stanford University's, Hoover Institution on War, Revolution and Peace. Earlier in his career, Mr. Rowan served in the U.S. Navy during World War II in the Pacific Theater of Operations. He then earned his bachelor's degree from MIT and a master's degree from Oxford University. From 1951 until 1961, he was an economist with the Rand Corp. From 1961 to 1964, he served as the Deputy Secretary of Defense for National Security Affairs, followed by service in 1965 and 1966 as an Assistant Director of the Bureau of the Budget. From 1967 to 1972, he was the president of Rand Corp. Additionally, since 1972 he has served as a member of the Chief of Naval Operations Executive Panel, as well as a consultant to the Department of Defense, the Navy Department, the National Intelligence Council, and the National Security Council. From 1981 to 1983, he served as the Chairman of the National Intelligence Council at the Central Intelligence Agency. Since 1983, he has served as a member of the Defense Science Board.

Mr. Stephen J. Hadley has been nominated to be the Assistant Secretary of Defense for International Security Policy. He received his bachelor's degree—magnum cum laude—from Cornell University and a law degree from Yale Law School. Since graduation from law school, Mr. Hadley has served in the Office of the Assistant Secretary of Defense (Comptroller) for 2 years, served as a staff member of the National Security Council staff for 3 years, and served as a consultant to the Senate Foreign Relations Committee in connection with its consideration of the SALT II Treaty in 1979. Mr. Hadley joined the Washington law firm of Shea and Gardner in 1977 and became a partner in that firm in 1981. During 1986 and 1987 he served as counsel to the President's Review Board investigating United States arms sales to Iran—commonly known as the Tower Commission. Since December of last year, Mr. Hadley has been serving as a senior member of the Department of Defense staff participating in the National Security Review directed by the President.

Mr. President, I take this opportunity to bring to the attention of my colleagues the outstanding records of experience and service of these two defense nominees and urge my colleagues to give their support to these nominations when they are placed before the Senate for action.

Last October, the chairman of the Senate Armed Services Committee, Senator SAM NUNN, and I wrote to the two then-candidates for the Office of the President, the Honorable George Bush and Michael Dukakis, setting forth our views on the general qualifications of persons to be considered for senior positions in the Department of Defense. I ask unanimous consent that a copy of that letter be inserted at this point in the RECORD. I think it is clear that the two individuals whose careers I have just described fall clearly within these qualification guidelines, and I commend the President and the Secretary of Defense for these nominations. It is my hope and expectation that those persons who will be nominated to fill the remaining senior positions in the Department of Defense will bring similar qualifications to their perspective positions.

Also at this time, I note for the record that the nominations of Mr. Hadley and Mr. Rowan were received by the Senate Armed Services Committee on June 16, only 7 days ago. The committee, under the leadership of Senator NUNN, has acted expeditiously on these nominations, as it has on all other nominations sent by the President to the Senate for positions

in the Department of Defense. I thank the chairman, and commend the committee members for the expeditious but thorough manner in which these and all other nominations for the committee have been handled.

Mr. President, it is my hope that the Senate will be able to take up the nominations of Mr. Rowan and Mr. Hadley before the recess so that these highly qualified men can assume their positions and assist the President and Secretary of Defense in carrying out our defense responsibilities. I urge the leaders to place these nominations before the Senate at the earliest possible time.

STATEMENT ON THE NOMINATION OF E. BART DANIEL, OF SOUTH CAROLINA, TO BE U.S. ATTORNEY FOR THE DISTRICT OF SOUTH CAROLINA

Mr. THURMOND. Mr. President, I rise today to voice my strong support for Mr. E. Bart Daniel, President Bush's nominee to be U.S. Attorney for the District of South Carolina.

Mr. Daniel is a native of Charleston, SC. He graduated from the Citadel in 1977, and the University of South Carolina School of Law in 1980. From 1979–82 he served as a law clerk and attorney in the South Carolina Attorney General's Office. From 1982 to 1985 Mr. Daniel served with distinction as an assistant U.S. Attorney for the District of South Carolina. During his tenure with the U.S. Attorney's Office he was known for his aggressive and effective abilities. He was particularly successful in the drug cases that he prosecuted. In 1985, Mr. Daniel entered into the private practice of law, where he remained for several years.

Mr. Daniel brings to this office impressive qualifications and a legal background that has prepared him well for this important position. He is a man of ability, integrity, and dedication. I am certain that he will be committed to the hard work which will be required of him. I was very pleased to recommend Mr. Daniel to President Bush and I am confident that he will be an outstanding U.S. attorney. I urge my colleagues to vote for his confirmation.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will return to legislative session.

EXTENSION OF A CERTAIN LOAN TO THE UNITED STATES HOLOCAUST MEMORIAL COUNCIL

Mr. HATCH. Mr. President, I send a bill to the desk on behalf of Senators DOLE and METZENBAUM and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 1250) to waive the application of chapter 11 of Title 18, United States Code, to the extension of a certain loan to the United States Holocaust Memorial Council.

The PRESIDING OFFICER. Without objection, the bill will be considered as having been read the second time by title and, without objection, the Senate will proceed to its immediate consideration.

The Senate proceeded to consider the bill.

The bill (S. 1250) was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

S. 1250

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the provisions of section 208 of chapter 11 of title 18, United States Code (including any rules, regulations, or orders promulgated thereunder), shall not apply to any member of the United States Holocaust Memorial Council in connection with the extension of a loan in the form of a revolving line of credit in the amount of $50,000,000 to the Council for the purpose of financing the development and construction of the United States Holocaust Memorial Museum.

Mr. HATCH. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. MITCHELL. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

THE CALENDAR

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration en bloc of the following joint resolutions reported from the Judiciary Committee:

H.J. Res. 132, "National Children's Day"; S.J. Res. 19, "Montana Centennial Day"; S.J. Res. 81, "National Health Care Food Service Week"; S.J. Res. 93, "Polish American Heritage Month"; S.J. Res. 115, "National Nursing Home Residents' Week"; H.J. Res. 276, "National D.A.R.E. Day"; S.J. Res. 127, "National Drive for Life Weekend"; S.J. Res. 134, "National Disability Awareness Week"; S.J. Res. 155, "U.S. Coast Guard Auxiliary Week"; and S.J. Res. 161, "National Adult Immunization Week", that they be read a third time and passed and that the motion to reconsider the votes by which they were passed be laid on the table en bloc, and that their preambles, where appropriate, be agreed to en bloc.

The PRESIDING OFFICER. Without objection it is so ordered.

SENATE JOINT RESOLUTION INDEFINITELY POSTPONED

Mr. MITCHELL. Mr. President, I further ask unanimous consent that Senate Joint Resolution 15 "National Children's Day" and Senate Joint Resolution 121, "National D.A.R.E. Day" be indefinitely postponed.

The PRESIDING OFFICER. Without objection, it is so ordered.

NATIONAL CHILDREN'S DAY

The joint resolution (H.J. Res. 132) to designate the second Sunday in October of 1989 as "National Children's Day," was considered, ordered to a third reading, read the third time, and passed.

The preamble was agreed to.

MONTANA CENTENNIAL DAY

The joint resolution (S.J. Res. 19) to designate November 8, 1989, as "Montana Centennial Day," was considered, ordered to be engrossed for a third reading, read the third time, and passed.

The preamble was agreed to.

The joint resolution, and the preamble, are as follows:

S.J. RES. 19

Whereas for a century the people of Montana have made substantial contributions to the economic and social well-being of the United States of America;

Whereas the State of Montana, known as "Big Sky Country", with wide vistas and scenic mountains, is a State of incomparable beauty; and

Whereas the history of Montana is forever intertwined with the history of westward expansion in the United States of America;

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That November 8, 1989, is designated as "Montana Centennial Day", and the President is authorized and requested to issue a proclamation acknowledging the economic, social, and historic contributions of the people of Montana to the United States of America over the past century.

NATIONAL HEALTH CARE FOOD SERVICE WEEK

The joint resolution (S.J. Res. 81) to designate the week of October 1 through 7, 1989, as "National Health Care Food Service Week," was considered, ordered to be engrossed for a third reading, read the third time, and passed.

The preamble was agreed to.

The joint resolution, and the preamble, are as follows:

S.J RES. 81

Whereas health care food service is a vital function of the provision of care and treatment of hospitalized persons;

Whereas health care food service workers, chefs, dietitians, dietary assistants, and administrators work in concert with other health care professionals to provide the best possible patient care; and

Whereas the provision of nutrition and sustenance is an essential component of the care and recovery of hospitalized persons: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week of October 1 through 7, 1989, is designated as "National Health Care Food Service Week", and the President is authorized and requested to issue a proclamation calling on the people of the United States to observe that week with appropriate ceremonies and activities.

POLISH AMERICAN HERITAGE MONTH

The joint resolution (S.J. Res. 93) to designate October 1989, as "Polish American Heritage Month," was considered, ordered to be engrossed for a third reading, read the third time, and passed.

The preamble was agreed to.

The joint resolution, and the preamble, are as follows:

S.J. RES. 93

Whereas the first Polish immigrants to North America were among the settlers of Jamestown, Virginia, in the 17th century;

Whereas Kazimierz Pulaski, Tadeusz Kosciuszko, and other Poles came to the British colonies in America to fight in the Revolutionary War and to risk their lives and fortunes for the creation of the United States;

Whereas Poles and Americans of Polish descent have distinguished themselves by contributing to the development of arts, sciences, government, military service, athletics, and education in the United States;

Whereas the Polish Constitution of May 3, 1791, was directly modeled on the Constitution of the United States, is recognized as the second written constitution in history, and is revered by Poles and Americans of Polish descent;

Whereas Americans of Polish descent and Americans sympathetic to the struggle of the Polish people to regain their freedom remain committed to a free and independent Polish nation;

Whereas Poles and Americans of Polish descent take great pride in and honor the achievements of the greatest son of Poland, His Holiness Pope John Paul II;

Whereas Poles and Americans of Polish descent take great pride in and honor the achievements of Nobel Peace Prize Laureate Lech Walesa, the founder of the Solidarity Labor Federation;

Whereas the Solidarity Labor Federation was founded in August 1980 and is continuing its struggle against oppression by the Government of Poland; and

Whereas the Polish American Congress is observing its 45th anniversary this year and is celebrating October 1989 as Polish American Heritage Month: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That October 1989 is designated as "Polish American Heritage Month", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe that month with appropriate ceremonies and activities.

NATIONAL NURSING HOME RESIDENTS' RIGHTS WEEK

The joint resolution (S.J. Res. 115) to designate the period commencing on September 9 and ending on September 15, 1989, as "National Nursing Home Residents' Week," was considered, ordered to be engrossed for a third reading, read the third time, and passed.

The preamble was agreed to.

The joint resolution, and the preamble, are as follows:

S. J. RES. 115

Whereas over 1,500,000 older Americans reside in nursing homes and one in five older Americans likely will reside in a nursing home at some time;

Whereas nursing home residents have contributed to the growth, development, and progress of the Nation and, as elders, offer a wealth of knowledge and experience;

Whereas Congress recognizes the importance of the continued participation of institutionalized citizens in the life of our Nation;

Whereas, in an effort to foster reintegration of intitutionalized older Americans into their communities, Congress encourages community recognition of and involvement in the lives of nursing home residents;

Whereas nursing home residents want and need community support and involvement for increased understanding of and assistance in meeting such residents' needs;

Whereas the Federal government, through its study by the Institute of Medicine and its new Long Term Care Survey Process, identifies as a priority efforts to improve the quality of life and quality of care for nursing home residents and to safeguard such residents' rights;

Whereas Congress recognizes the importance of listening to nursing home residents' voices in the development and evaluation of public policy; and

Whereas it is appropriate for the American public to join in support of nursing home residents to demonstrate their concern and respect for institutionalized citizens: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the period commencing on September 9, 1989, and ending on September 15, 1989, is designated as "National Nursing Home Residents' Rights Week", a time of renewed recognition, concern, and respect for the Nation's nursing home residents. The President is authorized and requested to issue a proclamation calling on the people of the United States to observe such period with appropriate ceremonies and activities.

NATIONAL D.A.R.E. DAY

The joint resolution (H.J. Res. 276) designating September 14, 1989, as "National D.A.R.E. Day," was considered, ordered to a third reading, read the third time, and passed.

The preamble was agreed to.

NATIONAL DRIVE FOR LIFE WEEKEND

The joint resolution (S.J. Res. 127) designating Labor Day weekend, September 2 through 4, 1989, as "National Drive for Life Weekend," was considered, ordered to be engrossed for a third reading, read the third time, and passed.

The preamble was agreed to.

The joint resolution, and the preamble, are as follows:

S.J. RES. 127

Whereas drunk driving is the most frequently committed crime in the United States, with arrests for driving while intoxicated totaling more than three times the number of arrests for all violent crimes combined;

Whereas one individual in the United States was killed every twenty-two minutes in a drunk-driving-related crash in 1988, an average of sixty-five individuals each day;

Whereas more than twenty-three thousand individuals were killed in the United States in drunk-driving-related crashes in 1988;

Whereas two out of every five individuals in the United States will be involved in a drunk-driving-related crash at some point in their lives;

Whereas the estimates of the economic costs of drunk driving in the United States are as high as $24 billion;

Whereas Drive for Life is a public awareness campaign which asks all Americans to pledge to be responsible by driving sober on the Drive for Life Day and thereby demonstrate a commitment to reduce significantly the tragedies of drunk driving, and which serves to educate the public about the dangers of drunk driving;

Whereas Americans are also asked to turn on their headlights while driving on Drive for Life Day as a remembrance of those killed by drunk driving;

Whereas on the second annual National Drive for Life Day, the toll of individuals killed in drunk-driving-related crashes in the United States was 28.6 per centum lower than the number of deaths due to drunk-driving-related crashes on Labor Day weekend Saturday, in 1987, reflecting the success of this campaign;

Whereas the second annual National Drive for Life campaign featured endorsements from all fifty Governors, more than two hundred and seventy-five mayors, and all fifty State police departments;

Whereas the third annual National Drive for Life Day will occur on September 2, 1989, the Saturday of the Labor Day weekend, when drunk-driving-related crashes are traditionally at their peak: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the Labor Day weekend beginning on September 2, 1989, is designated as "National Drive for Life Weekend". The President is authorized and requested to issue a proclamation calling on the people of the United States to observe that weekend with a pledge to be responsible by driving sober and encouraging others to do the same.

NATIONAL DISABILITY AWARENESS WEEK

The joint resolution (S.J. Res. 134) to designate the week of October 1, 1989, through October 7, 1989, as "National Disability Awareness Week," was considered, ordered to be engrossed for a third reading, read the third time, and passed.

The preamble was agreed to.

The joint resolution, and the preamble, are as follows:

S.J. RES. 134

Whereas 37 million individuals in the United States have disabilities (such individuals are hereinafter referred to as "Americans with disabilities"), and over 25 percent of Americans with disabilities have more than one disability;

Whereas one out of every twelve individuals in the United States copes with some form of disability;

Whereas although nearly three out of every four individuals without a disability in the United States have at least a high-school education, the rate for Americans with disabilities is just slightly more than one in every two;

Whereas an American with a disability is two and one-half times as likely to have an income that falls below the poverty line than is a nondisabled imdividual in the United States;

Whereas the population of Americans with disabilities will increase dramatically over the next two decades as the ability of science of medical technology to prolong human life continually improves;

Whereas disabilities increasingly affect the people of the United States;

Whereas one working-age black American in every seven has a disability;

Whereas 31 million individuals in the United States have some form of activity limitation;

Whereas 8.2 million individuals in the United States have a visual impairment;

Whereas 17 million individuals in the United States have a hearing impairment;

Whereas 18.4 million individuals in the United States have an orthopedic disability;

Whereas 4.2 percent of all children under the age of 21 in the United States have a chronic activity limitation;

Whereas 3 percent of all school-aged children in the United States have a learning disability;

Whereas 50,000 school-aged children under the age of 18 in the United States have an emotional or behaviorial disability;

Whereas 5 percent of American school-aged children in the United States have speech and language disabilities;

Whereas most Americans with disabilities recognize that Federal laws passed since the late 1960's have helped to give better opportunities to Americans with disabilities;

Whereas most Americans with disabilities strongly endorse efforts by the Federal Government to enhance the lives of persons with disabilities;

Whereas Americans with disabilities are not alone in believing that individuals with disabilities should be protected by law from discrimination; and

Whereas the people of the United States can express their concern for all Americans with disabilities by recognizing such Americans' right to participate as integral members of our society; Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week of October 1, 1989, through October 7, 1989, is designated as "National Disability Awareness Week", and the President of the United States is authorized and requested to issue a proclamation calling upon the people of the United States to observe that week with appropriate ceremonies and activities.

UNITED STATES COAST GUARD AUXILIARY DAY

The joint resolution (S.J. Res. 155) designating June 23, 1989, as "United States Coast Guard Auxiliary Day," was considered, ordered to be engrossed for a third reading, read the third time, and passed.

The joint resolution, is as follows:

S.J. RES. 155

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That June 23, 1989, is designated as "United States Coast Guard Auxiliary Day", and the President is authorized and requested to issue a proclamation—

(1) commemorating the 50 years of service that service volunteers of the Coast Guard have given to enhance the safety of the people of the United States who enjoy water-related activities, and

(2) calling upon the people of the United States to observe such day in schools, Coast Guard units, boat clubs, and other suitable places with appropriate ceremonies, educational activities, and boating safety achievement programs.

NATIONAL ADULT IMMUNIZATION AWARENESS WEEK

The joint resolution (S.J. Res. 161) to designate the week of October 22, 1989, through October 28, 1989, and the week of October 21, 1990, through October 27, 1990, as "National Adult Immunization Awareness Week," was considered, ordered to be engrossed for a third reading, read the third time, and passed.

The preamble was agreed to.

The joint resolution, and the preamble, are as follows:

S.J. RES. 161

Whereas the Surgeon General of the United States has declared as a major health initiative the reduction of vaccine-preventable death and disease among adults in the United States;

Whereas the reduction of these infectious diseases could save as many as 70,000 lives annually and more than $1 billion in direct costs annually;

Whereas the Surgeon General has declared the goal of immunizing 60 percent of America's elderly and chronically ill against influenza and pneumococcal pneumonia, yet only 18 percent of susceptible adults are immunized against influenza and 10 percent against pneumococcal pneumonia;

Whereas hepatitis B has grown to epidemic proportions in this country despite the availability of a highly effective vaccine;

Whereas childhood disease like measles and mumps are on the rise among young adults;

Whereas newborn infants in America are at risk of congenital deformities or death because 9 to 15 percent of women of childbearing age are not adequately protected against rubella;

Whereas the Congress has authorized through the Omnibus Reconciliation Act of 1987 a $25 million-a-year demonstration project to prove the cost-effectiveness of influenza vaccinations among Medicare recipients;

Whereas efforts should be made to alert Medicare participants to enroll in this project;

Whereas public awareness in the field of adult immunization has been conducted primarily by the volunteer sector; and

Whereas the Congress and the President have consistently declared the last week of October as "National Adult Immunization Awareness Week": Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week of October 22, 1989, through October 28, 1989, and the week of October 21, 1990, through October 27, 1990, are each designated as "National Adult Immunization Awareness Week", and the President is authorized and requested to issue a proclamation calling upon the people, the Surgeon General, and other Federal health officials of the United States to observe such week with appropriate ceremonies and activities.

NATIONAL DAY TO COMMEMORATE THE BASTILLE DAY BICENTENNIAL

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of House Joint Resolution 298, which commemorates July 14, 1989, as the Bicentennial of Bastille Day, just received from the House.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A joint resolution (H.J. Res. 298) designating July 14, 1989, as "National Day to Commemorate the Bastille Day Bicentennial."

The PRESIDING OFFICER. Is there objection to the present consideration of the joint resolution?

There being no objection, the Senate proceeded to consider the joint resolution.

The PRESIDING OFFICER. The question is on passage of the joint resolution.

The joint resolution was passed.

The preamble was agreed to.

Mr. MITCHELL. Mr. President, I move to reconsider the vote by which the joint resolution was passed.

Mr. HATCH. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

CORRECTING THE ENGROSSMENT OF SENATE RESOLUTION 149

MR. MITCHELL. Mr. President, I ask unanimous consent that the change I now send to the desk be reflected in the engrossment of Senate Resolution 149, regarding the resumption of the START negotiations.

The PRESIDING OFFICER. Without objection, it is so ordered.

NATURAL GAS WELLHEAD DECONTROL ACT

Mr. MITCHELL. Mr. President, on behalf of Senators JOHNSTON and MCCLURE, I present the report of the committee on conference on H.R. 1722, the Natural Gas Wellhead Decontrol Act, and I ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 1722) to amend the Natural Gas Policy Act of 1978 to eliminate wellhead price and nonprice controls on the first sale of natural gas, and to make technical and conforming amendments to such Act having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by all of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report will be printed in the House proceedings of the RECORD on page H2998.)

THE NATURAL GAS WELLHEAD DECONTROL ACT OF 1989, H.R. 1722

Mr. MCCLURE. Mr. President, I rise in strong support of the conference

report on the Natural Gas Wellhead Decontrol Act of 1989, which will eliminate the remaining Federal wellhead price and allocation controls on natural gas.

I firmly believe that returning the wellhead production of natural gas to the discipline of the marketplace will benefit consumers and our economy, both in the short and long run.

Today, as never before, there is near unanimity in support of decontrol. Major and independent gas producers, interstate pipelines, local distribution companies, industrial end users, and consumer groups all agree that decontrol, as formulated in the pending legislation, would be in the overall national interest.

Returning wellhead production to the discipline of the marketplace has already been quietly underway for more than a decade. It began with the enactment of the Natural Gas Policy Act of 1978 which deregulated roughly half our gas supply on January 1, 1985. And it has been further promoted by a host of FERC regulatory actions, most notably the "open access gas transportation program."

Today, only a minority of our gas supply is still subject to Federal wellhead controls, and most of that is controlled in name only; the marketplace has largely made those price ceilings ineffective.

We are now at a crossroads: We can choose to hold on to the last vestiges of Federal wellhead controls engendered nearly four decades ago by the Supreme Court's 1954 Phillips decision or, instead, we can recognize the overwhelming benefits of the marketplace and take the final step to bring about a market-regulated natural gas supply. Bear in mind, however, that we are not eliminating wellhead regulation, we are substituting market discipline for Federal controls.

There are those who would urge Congress not to take this step; they claim that it would hurt consumers. They argue that continued Federal regulation would protect consumers from product shortages and price increases. But if you believe that, you are putting fear over experience. If there is one thing we know for sure from four decades of wellhead natural gas regulation, it is that Federal interference in the marketplace only harms consumers.

Federal wellhead controls have not prevented severe gas shortages from occurring; in fact, the exact reverse is true—Federal controls have instead created shortages. This occurred during the late 1960's and 1970's when Federal controls kept natural gas from entering the interstate gas market at the very time gas producing States were awash in surplus supplies. As a result, there were growing gas shortages and curtailments in the interstate market. And who can forget what happened during the winter of 1976–77 when severe shortages led to school closings and the shutting down of businesses and industry in the Midwest. Clearly, Federal controls did not help consumers in that case, it harmed them.

Nor have Federal controls protected consumers from rising prices. Following the 1978 enactment of the Natural Gas Policy Act, the wellhead price of natural gas increased, on average, 20 percent per year for the next 6 years. It wasn't until the NGPA in 1985 deregulated half our gas supplies that wellhead prices stopped rising, and then actually began to fall. Since partial deregulation on January 1, 1985, wellhead gas prices have fallen by nearly 50 percent. Clearly, partial deregulation has benefited consumers, as will be the case with total deregulation if we pass the pending legislation.

The lesson from our four-decade experience is plain and simple: Federal interference in the operation of the marketplace does not help, it instead causes severe distortions which directly harm consumers. Normal market activity, however imperfect, is far preferable and results in a more rational and efficient allocation of supplies; it matches supply with demand, bringing forth supply when needed at prices that are reasonable. It lets consumers decide what they want to purchase and what price they are willing to pay.

I would like to make clear one thing this legislation does not do; it does not deregulate interstate natural gas pipelines. Pipelines are natural monopolies and their continued regulation is in the public interest. Federal law confers upon the Federal Energy Regulatory Commission the duty and the responsibility to ensure that interstate pipelines operate responsibly as a regulated utility, and this legislation does not alter that.

The conference report resolves the only difference between the House-passed and the Senate-passed bills, the so-called newly spudded issue. The compromise is fair and I support the resolution.

Mr. President, it is for these reasons that I support the conference report and urge my colleagues to adopt it.

THE NATURAL GAS DECONTROL ACT OF 1989

Mr. NICKLES. Mr. President, I rise in support of the conference report on H.R. 1722, the Natural Gas Decontrol Act of 1989. On Tuesday afternoon, a conference agreement was reached with the other body on the single difference between the House and Senate versions of H.R. 1722.

It was a historic moment last Wednesday, when 82 Senators supported passage of the Natural Gas Decontrol Act of 1989. Enactment of the Natural Gas Decontrol Act of 1989 will eliminate the last remaining major legacy of the 1970's era of energy overregulation by the Federal Government. From President Nixon's price controls to President Carter's windfall profit tax and Synthetic Fuels Corporation, it was a dark decade for energy policy. The past few years have seen an end to the Synthetic Fuels Corporation, repeal of the major limitations of the Fuel Use Act, repeal of the windfall profit tax and now, finally, repeal of the many pricing categories of the Natural Gas Policy Act of 1978. Ending this last major vestige of those mistaken attempts to change the law of supply and demand will increase efficiency and use of natural gas production and provide consumers with adequate supplies of gas at reasonable prices.

I introduced the prototype of this natural gas decontrol legislation with Senator FORD on March 16, along with Senators WALLOP, GARN, BREAUX, BOREN, SIMPSON, BINGAMAN, COATS, GRAMM, and COCHRAN. That bill, S. 625, established the principles for the decontrol bills subsequently introduced in this Congress. It provided for decontrol of natural gas on January 1, 1993, with a transition period during which gas subject to contracts that expired or were renegotiated, including new contracts, would be decontrolled.

Decontrolling newly spudded wells would have reached gas subject to existing contracts during the transition period, something that was consciously avoided in S. 625. Similarly, I joined with the Senator from Louisiana, Senator JOHNSTON, in introducing S. 783, because it contained no provision decontrolling gas from newly spudded wells earlier than the date set for the removal of price controls, January 1, 1993.

The principles in S. 625 were incorporated by the House in H.R. 1722, except the House added the provision calling for immediate decontrol of all newly spudded wells drilled after March 23, 1989. The Senate rejected this provision and passed, 82 to 17, H.R. 1722 without newly spudded wells. During conference, the Senate was able to change the House provision of immediate decontrol of all newly spudded wells drilled after March 23, 1989, to a more reasonable provision. The negotiated result would deregulate on May 15, 1991, natural gas from wells spudded after date of enactment.

Thus, this conference agreement provides for a period of time until May 15, 1991, in which the NGPA pricing rules that producers relied on in committing to drill new wells can continue to apply. I believe the conference result is substantially more equitable than the House's original newly spudded provision and should be accepted in the context of this landmark legislation.

Although I am disappointed the Senate's position on newly spudded wells did not prevail, we must not lose sight of the importance of the opportunity before us. Finally, we can eliminate wellhead price controls on natural gas after 35 years of costly distortion and inefficiency caused by Feder-

al controls uder the Natural Gas Act and the NGPA.

All of us can look to future deliberations on energy and environmental policy with confidence that we have removed the NGPA's distortions and inefficiencies from natural gas wellhead sales, thus increasing the ability of our domestic gas industry to provide clean, domestic fuel for our economy. I urge my colleagues to support this conference report.

The PRESIDING OFFICER. Is there further debate on the conference report?

If not, the question is on agreeing to the conference report.

The conference report was agreed to.

Mr. MITCHELL. Mr. President, I move to reconsider the vote by which the conference report was agreed to.

Mr. HATCH. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

BILL PLACED ON CALENDAR—S. 1248

Mr. MITCHELL. Mr. President, I ask unanimous consent that S. 1248, a Kennedy-Simpson bill on refugee assistance, be placed on the calendar.

The PRESIDING OFFICER. Without objection, it is so ordered.

AUTHORIZING RELEASE OF CERTAIN DOCUMENTS BY SELECT COMMITTEE ON INTELLIGENCE

Mr. MITCHELL. Mr. President, on behalf of myself and the distinguished Republican leader, Mr. DOLE, I send to the desk a resolution on authorization for release of certain documents by the Select Committee on Intelligence, and ask for its immediate consideration.

The PRESIDING OFFICER. Without objection. The clerk will report.

The legislative clerk read as follows:

A resolution (S. Res. 152) to authorize the Select Committee on Intelligence to provide to the parties certain committee documents in the case of United States v. Fernandez.

The PRESIDING OFFICER. Is there objection to the present consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

Mr. MITCHELL. Mr. President, counsel for Joseph F. Fernandez has requested the Select Committee on Intelligence to provide copies of certain documents in its custody and control for purposes of pending criminal litigation. Mr. Fernandez is currently scheduled to be tried in the U.S. District Court for the Eastern District of Virginia on June 23, 1989, on criminal charges arising from his role in the Iran-Contra affair.

A search of the committee files has determined that it has certain of the documents requested, and the committee has indicated its willingness to provide them, under appropriate security controls, to the defendant's counsel, as well as to the independent counsel.

This resolution authorizes the chairman and vice chairman of the Select Committee on Intelligence to make copies of those documents available to defendant's counsel and to the independent counsel, under appropriate security procedures, for purposes of this criminal litigation.

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The resolution was agreed to.

The preamble was agreed to.

The resolution, with its preamble, read as follows:

S. RES. 152

Whereas, in the case of *United States* v. *Fernandez*, Criminal No. 89-150-A, pending in the United States District Court for the Eastern District of Virginia, defendant Joseph F. Fernandez has requested certain documents within the custody and control of the Senate Select Committee on Intelligence;

Whereas, by the privileges of the Senate of the United States and Rule XI of the Standing Rules of the Senate, no evidence under the control or in the possession of the Senate can, by the judicial process, be taken from such control or possession but by permission of the Senate;

Whereas, when it appears that evidence under the control or in the possession of the Senate is needed for use in any court for the promotion of justice, the Senate will take such action as will promote the ends of justice consistent with the privileges of the Senate;

Whereas, certain of the documents requested have been classified in the interests of national security: Now, therefore be it

Resolved, That the Chairman and Vice Chairman of the Select Committee on Intelligence are authorized to make available to the parties, under appropriate security controls, copies of documents in the custody and control of the Committee, which are responsive to the request of defendant's counsel, in the case of *United States* v. *Fernandez*, Criminal No. 89-150-A, pending in the United States District Court for the Eastern District of Virginia.

AUTHORITY TO FILE REPORTED LEGISLATIVE AND EXECUTIVE CALENDAR BUSINESS ON THURSDAY, JULY 6

Mr. MITCHELL. Mr. President, I ask unanimous consent that committees may file reported Legislative and Executive Calendar business on Thursday, July 6, from 12 noon to 3 p.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROVIDING FOR RECESS OR ADJOURNMENT OF THE SENATE AND ADJOURNMENT OF THE HOUSE

Mr. MITCHELL. Mr. President, on behalf of myself and Senator DOLE, I send a concurrent resolution to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A concurrent resolution (S. Con. Res. 50) providing for a conditional recess for adjournment of the Senate and a conditional adjournment of the House over the July 4th holiday.

The PRESIDING OFFICER. Is there objection to the present consideration of the concurrent resolution?

There being no objection, the Senate proceeded to consider the concurrent resolution.

The PRESIDING OFFICER. The question is on agreeing to the concurrent resolution.

The concurrent resolution was agreed to as follows:

S. CON. RES. 50

Resolved by the Senate (the House of Representatives concurring), That when the Senate recesses or adjourns at the close of business on Thursday, June 22, 1989, Friday, June 23, 1989, Saturday, June 24, 1989, Sunday, June 25, 1989, Monday, June 26, 1989, Tuesday, June 27, 1989, Wednesday, June 28, 1989, Thursday, June 29, 1989, Friday, June 30, 1989, or Saturday, July 1, 1989, pursuant to a motion made by the majority leader, or his designee, in accordance with this resolution, it stand recessed or adjourned until 8:30 a.m. on Tuesday, July 11, 1989, or until 12 o'clock noon on the second day after Members are notified to reassemble pursuant to section 2 of this resolution, whichever occurs first; and that when the House adjourns on Thursday, June 29, 1989, or Friday, June 30, 1989, pursuant to a motion made by the majority leader, or his designee, in accordance with this resolution, it stand adjourned until 12 o'clock noon on Monday, July 10, 1989, or until 12 o'clock noon on the second day after Members are notified to reassemble pursuant to section 2 of this resolution, whichever occur first.

SEC. 2. The majority leader of the Senate and the Speaker of the House, acting jointly after consultation with the minority leader of the Senate and the minority leader of the House, shall notify the Members of the Senate and the House, respectively, to reassemble whenever, in their opinion, the public interest shall warrant it.

Mr. MITCHELL. Mr. President, I move to reconsider the vote by which the concurrent resolution was agreed to.

Mr. HATCH. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. MITCHELL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of House Joint Resolution 111, just received from the House.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A joint resolution (H.J. Res. 111) designating June 23, 1989, as U.S. Coast Guard Auxiliary Day.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the immediate consideration of the joint resolution.

The Senate proceeded to the consideration of the joint resolution (H.J. Res. 111), which was ordered to a third reading, was read the third time, and passed.

Mr. MITCHELL. Mr. President, I move to reconsider the vote by which the joint resolution was passed.

Mr. HATCH. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. MITCHELL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BOND. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BOND. Mr. President, I ask unanimous consent that the pending amendment be temporarily laid aside.

The PRESIDING OFFICER. Without objection, it is so ordered.

CHILD-CARE IMPROVEMENT ACT

The Senate continued with the consideration of the bill.

AMENDMENT NO. 208

(Purpose: To provide for the establishment of a school-based child care grant program and a comprehensive program of child care projects)

Mr. BOND. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Missouri [Mr. BOND] proposes an amendment numbered 208.

Mr. BOND. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 40, between lines 2 and 3 insert the following new subparagraphs and redesignate subparagraph (I) accordingly:

(I)(i) Making grants to States to enable such States to provide grants to school districts to enable such districts to establish or maintain extended day child care programs.

(ii) In order to use funds under this paragraph for the activity described in this subparagraph, the State shall—

(II)(aa) Administer the allotment provided to the State under this subparagraph shall be administered through the State educational agency; which

(cc) shall establish requirements that school districts must meet in order to receive assistance under this paragraph; and

(iii)(I) use amounts received under this subparagraph to provide grants to school districts to enable such districts to provide extended day child care.

(IV) Ensure that school districts that receive assistance under this subparagraph use such assistance to—

(aa) offset the start-up costs associated with the establishent of extended day child care programs;

(bb) conduct studies to determine the feasibility of establishing extended day child care programs;

(cc) provide for the equipping and staffing of extended day child care programs; and

(dd) offset any other costs that the State determines appropriate.

(V) Ensure that amounts received under this subparagraph are not used for ongoing maintenance or operational costs incurred by school districts.

(VI) Ensure that extended day child care programs that receive, assistance under this subparagraph shall—

(aa) be developmentally appropriate and meet the diverse recreational, social, emotional, cultural, and educational needs of school-aged children; and

(bb) provide parents with the opportunity to participate in such programs;

(vii) Ensure that each school district that receives assistance under this subparagraph coordinates the programs carried out with such assistance with other public entities and private nonprofit community-based organizations that provide before and after-school child care;

(viii) Permit a school district to provide a before and after-school child care program in accordance with the provisions of this subparagraph through grants to or contracts with other public entities and eligible private nonprofit community-based organizations that provide before and after-school child care programs.

(ix) As used in this subparagraph:

(I) The term "school district" means the public authority legally constituted and recognized in a State as the administrative agency for that district or county's public elementary or secondary schools.

(II) The term "State educational agency" means the officer or agency primarily responsible for the State supervision of public elementary and secondary schools.

(J) Providing assistance for comprehensive child care demonstration projects within existing public school buildings that—

(i) ensure that year round, on-site, all day child care for children ages 3 to 5 (or of the age of entering kindergarten) and on-site before and after school child care for children ages 5 through 12, inclusive;

(ii) ensure the establishment of a family support system for parents (including a home visitation program);

(iii) provide support for local family day-care providers (including technical assistance, back-up support in case of illness, and training);

(iv) provide for information and referral and other specialized services;

(v) develop a sliding scale fee payment system for children using the system (based on the parents ability to pay);

(vi) provide for ongoing parental involvement in the planning, implementation, monitoring, and evaluation of such projects;

(vii) provide that such demonstration projects be operated by administrators trained in early childhood development;

(viii) provide for the use of trained child care workers in such demonstration projects, with a priority given to child care workers with credentials in early childhood education or child development, including the child development associate credential;

(ix) provide that salaries paid to child care workers in such demonstration projects shall—

(I) be not less than the rates paid for comparable services provided in the school or surrounding community, whichever is higher; and

(II) be comparable to salaries paid to school employees with equivalent responsibilities, experience and credentials; and

that salary schedules for child care workers encourage child care workers to obtain early childhood credentials;

(x) assure that any child care services provided by such demonstration projects meet, at a minimum, regulatory standards set by the State and local government;

(xi) develop ways to improve the quality of child care services in such demonstrations; and

(xii) describe plans for monitoring and evaluating the effectiveness of such demonstration projects.

Mr. BOND. Mr. President, I express my sincere thanks to the author and manager of this bill for his agreement to work out a portion of the measure that I think is extremely important. He and I share in a very strong commitment to the principles which are embodied in this amendment.

The purpose in offering this amendment is, first, to bring attention to the needs of children ages 5 to 12, schoolage children, because I feel at this point that the needs of those children have not been adequately dealt with.

Second, this amendment should encourage initiatives already being begun on the local and State levels with regard to child care, a role which I have long believed is a much more appropriate one for the Federal Government than that of Government as big brother, or Government as big spender.

The amendment that I have sent to the desk creates a specific program for States who wish to run a latchkey program to help local school districts with start-up funding. Schools could run the program themselves, or could contract with community-based organizations, such as the YMCA, to provide services in the schools. In addition, my amendment would allow States to use their availability funds to set up day care in schools for 3- to 5-year-olds, similar to the legislation sponsored by my friend from Connecticut, and modelled after Dr. Ed Zigler's Schools of the 21st-century program which is underway in Independence, MO.

Schoolage child-care programs have received attention in recent years because of the demonstrated need for before and after school and vacation care for children ages 5 to 12. Due to lack of services, many of these children remain alone at home during critical hours of the day. Often referred to as children in self-care or as latchkey children, these children have been the focus of much concern, stemming from the fact that these children may be exposed to a variety of dangers and are at risk for school absenteeism and other school-related problems as well as for emotional problems caused by

loneliness, fear and lack of opportunities to interact with peers.

Mr. President, I think we would all agree that children aged 5, 6, 7, or even 8 and 9 should not go unsupervised for hours at a time after school. Many who support early childhood efforts speak of the crucial, formative years from infancy to 5. There is much to be said for that. I have said it myself. But what about the 5-, 10-, 11-, and 12-year-olds? I am certain that educators and parents would agree that these years are equally important, and equally "formative." For that matter, a front page article in Tuesday's Washington Post told of the need for improvement to middle schools because of the increased numbers of children aged 10 to 15 who are doing poorly in school and getting into trouble. Dr. Ed Zigler, in a speech on September 18, 1987, said:

> Let us not again fall into the trap of magic periods. We are now hearing so much about the first 5 years of life. While these are truly important years, the next 5 years are also important. We must remember that half the needs for child care is represented by school age children ages 6 to 12.

Teachers around the nation point to children being left at home alone after school as the single most important factor causing poor performance in school. And, if we do not believe that being alone for several hours a day is a dangerous, fearful thing, let us ask the children. Sprint magazine, a language arts magazine for grades 4 to 6, did. And the results surprised them and surprised me.

The children were invited to respond in writing to the theme, "Think of a situation that is very scary to you. How do you handle your fear?" From a readership of 250,000 there were 5,000 letters on being home alone—mostly after school while parents were working. The magazine's editor claimed that the "being home alone" response was "absolutely overwhelming, probably 70 percent of the total."

Says Rich Scofield, editor of School Age Notes, about the results, "The numbers seem particularly significant given the age level of the respondents. In many communities it has been assumed that children are ready for self-care once they get beyond the early primary grades. The methods these 9- to 11-year-olds said they used to combat their fears included talking to friends, playing musical instruments, and video games," all—incidentally—activities that one might expect in an after school program. Says Scofield "While evidence compiled from this kind of exercise cannot be considered scientific, such a spontaneous outpouring of letters should not be overlooked by people who want to know how children really feel about self-care."

Most of us have received letters from constituents worried about the lack of available spaces. While the Labor Department has refused to concede a "general, national shortage of available child care," they do state that "certain types of day care may be in short supply in some communities. These types include infant care, sick child care, and after school care." "One million of the 13.8 million elementary and junior high school students are latchkey children—in unsupervised care before or after school hours. Care of these children may well be the largest shortage in child care." Other groups put the number much higher.

There is a cost-effective way to meet the needs of these children—one that is not now specifically provided for in this bill. The solution is beginning to be implemented on the local level, by educators and parents concerned about the time when the child is not in the care of either party. According to a report by Wellesley College's School-Age Child Care project, about 15 percent of the Nation's local districts either offer their own child-care service, or allow community groups to use their buildings. This grassroots movement is picking up speed, and is becoming very popular. Newsweek, in a May 15, 1989 article asks "Why do our schools sit empty most of the time? Inside are gyms, libraries, and cafeterias. The buildings are child-proof and they're paid for, but unless there's basketball practice or a Friday-night dance, the doors are shut at 3 p.m." Surely they can be utilized more fully, and cost effectively, in meeting the needs of children whose parents work. And I believe a little Federal money here could go a long way toward alleviating the shortage of school-age care, at little or no long-term cost to the Federal Government.

Mr. President, I am pleased to say that Missouri has taken a lead role in this area, not just through the progressive 21st Century Schools Program that is now underway in Independence, but through a number of programs all over the State that have come into existence with the aid of very small start-up grants through the Department of Elementary and Secondary Education; 32 of Missouri's 546 school districts now offer some sort of extended-day program for school-age children. An additional 151 districts have already requested information or technical assistance for school-age child care. To be eligible for funds, a school district must be anticipating establishing, expanding, or improving an extended day program. The director of community education in Missouri tells me that he does not have the money to fund the first half of this year's applicants for establishment of a center, let alone expansion or improvement of existing programs.

Since the program's inception in 1986, just $200,000 have been spent to establish programs in 65 schools, with a capacity of 3,000 students. The total investment works out to about $68 per child. And, perhaps most appealing, this may turn out to be the only Government money that is necessary for this particular child. Because schools have the necessary infrastructure, and do not have to pay for lights, heating, liability insurance, et cetera, the school can operate in the black at very little cost to parents.

In Independence, MO's "state of the art" "top of the line" 21st Century Schools Program, the top expenditure of any parent, with one school-age child, is $25 per week. Independence is not a wealthy area, and poorer familes are assisted through a sliding fee scale. I would envision that even the poorest districts might develop a program like this and with some assistance under the other provisions of this act, could operate in a cost-effective manner.

In a bill which has quite a bit to say about priorities, the latchkey program I have just outlined should certainly be included.

Mr. President, I ask unanimous consent to add Senator McCain of Arizona as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Connecticut.

Mr. DODD. Mr. President, I ask unanimous consent as well to be added as a cosponsor.

Mr. HATCH. Mr. President, I would also make the same request.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DODD. Mr. President, I would commend the Senator from Missouri for his amendment. I think it is an excellent amendment and does contribute significantly to the work product.

Let me just briefly state, as I understand the amendment, what it does. My colleague can correct me if I am wrong.

Basically this amendment creates two new allowable activities under the ABC bill. One, it allows as part of the 12-percent pot that is in the bill for increasing supply and availability of child care, it allows for money to be spent to assist latchkey children, as the Senator from Missouri has indicated.

Second, it establishes a comprehensive school-based demonstration child care program. This is a very important addition to this piece of legislation. As I told my colleague from Missouri in our personal conversation, I should have, frankly, included this as part of the product that had come out of the committee. It was really more of an oversight than anything else.

I am embarrassed to tell you that the author of these ideas, as the Senator from Missouri has very appropriately identified, is Ed Zigler of Connecticut, at Bush Center, my own constituent, who had put together a program dealing with the "schools of the 21st century."

Missouri is the only State in the country that has moved aggressively in that area and has set up programs in their State along the lines that Ed Zigler suggested.

Ed Zigler, I tell my colleagues, is a name that may not be well known to

people not deeply involved in the child care arena but if I said the Program Head Start you would know what I was talking about. Ed Zigler was the founder and originator of the idea of Head Start and worked on the very first program 20 years ago.

He is one of the most highly regarded people in the country in early childhood development and, of course, at Bush Center at Yale University has made significant contribution to the welfare of young people in our Nation and he has been an invaluable asset to Senator HATCH and myself. He works with everyone in this Chamber that I know of who is interested in these issues.

I could not tell you what Ed Zigler's party is. I do not know how he works, I do not know if he is a Democrat, Republican, conservative, liberal. All I know about Ed Zigler is he cares about kids and he talks with everybody and has really made significant contribution.

In fact, an article that recently appeared in the New York Times called "For Architect of Child Care, Small Gains," and it is a story about Dr. Ed Zigler, and I ask unanimous consent to have this article appear at this juncture in my remarks.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

FOR ARCHITECT OF CHILD CARE, SMALL GAINS

(By Carol Lawson)

NEW HAVEN, June 19.—Before he sends his students at Yale University into the world to fight for better lives for the nation's children, Dr. Edward F. Zigler says, he outfits them with the verbal armor of an old warrior: "I tell them, if you're not ready to lose and lose and lose, don't even start."

That spirit has kept the 59-year-old child psychologist, a founder of the Head Start program, in the front lines of the struggle to establish a comprehensive child-care policy in the United States for more than 20 years.

This ought to be a gratifying moment for the professor because, as Dr. Zigler said in an interview, "We're going to get a child-care bill in this session of Congress." But he is far from jubilant because he does not believe the bill will accomplish as much as he had hoped. "It won't be a very good bill," Dr. Zigler said, "but we're going to get one."

This week the Senate has been debating the Act for Better Child Care, sponsored by Senator Christopher J. Dodd, Democrat of Connecticut, and Senator Orrin G. Hatch, Republican of Utah. The bill would provide $1.75 billion to help poor parents pay for child care and to expand the availability of child-care services.

The Senate also began debate yesterday on President Bush's child-care proposal, which would offer tax credits instead of subsidies to low-income families. Senator Dodd's office said votes were expected on both proposals Thursday or Friday. Child-care bills are also pending in the House of Representatives.

Dr. Zigler, who was involved in two doomed attempts at Federal child-care legislation in the 1970's, said he expected that whatever bill is passed by Congress, it will be a "drop in the bucket" for the nation's child-care needs. Even worse, he added, it "will not be a solution to the real problem of America's child-care system, which is simply bad quality."

Despite his pessimism, Dr. Zigler said he had been "busy behind the scenes," working with legislators on a compromise to the bills, adding, "Even Yale professors know that something is better than nothing."

Dr. Zigler said he was looking to the states, not the Federal Government, for solving the child-care problem. "The states are moving on this," he said. "Indiana has just passed a half-cent cigarette tax to provide before- and after-school care for every child in the state."

Dr. Zigler advocates a system of centering child-care programs for children from 3 to 12 years old in neighborhood schools. Critics of the plan which Dr. Zigler calls "the school of the 21st century," say that schools should not become the nation's sole child-care providers and that many are already overcrowded.

"A lot of people dislike it," Dr. Zigler noted, but he said his plan was "catching on." There are two demonstration programs in Missouri, and programs are being planned in Connecticut, Wisconsin and Florida.

Dr. Zigler, who is Sterling Professor of Psychology and director of the Bush Center in Child Development and Social Policy at Yale, which he started to train "the Ed Ziglers of the future," spends much of his life shuttling between here and the halls of Congress. He routinely testifies on legislation involving children and meets privately with influential legislators. He is quick to say he is "not a politician" and "not a partisan," just someone who "cares about children."

After more than two decades of talking on Capitol Hill about the nation's need for a child-care system, Dr. Zigler said he was "frustrated" and "saddened" by the lack of progress. "All over America today," he explained, "we have hundreds of thousands of children in child-care settings that are so bad that their development is being compromised."

The professor was speaking in a wood-paneled library down the hall from his office in a stately white brick building that could be a movie set for an ivory tower. He prefers not to meet visitors in his office, which has a hand-lettered sign on the door announcing "Ed's office," because "it's too messy."

On his frequent travels around the nation, Dr. Zigler makes a point of visiting child-care centers. "I come away feeling really lousy," he said. "We are cannibalizing our children. I know that sounds awful, but when you see 13 babies in cribs and one adult caretaker who can do nothing but change diapers and pop bottles, you see children who are being destroyed right after birth."

In his opinion, the importance of good child care is not properly understood. "Many parents approach child care as though they are buying a service that permits a mother to go to work," Dr. Zigler said. "It should be approached as an environment that determines in a very significant part the growth and development of the child. If the environment is good, a child will develop well. If it is bad, a child's development will be compromised. It's that simple."

Attitudes toward child care changed dramatically in the last few years as economists and a business leaders began to view it as a problem that affects the nation's productivity and future work force. Last year, the Federal Bureau of Labor Statistics said, 52 percent of working women had children under the age of 3. In 1970, by comparison, 27 percent of working women had children under 3.

"Finally, people have begun to see child care not as a welfare mothers' issue, not as a women's issue, but as a genuine national issue," Dr. Zigler said. "A women's productivity as a worker depends on how stable her child care is. And people with vision see that if we don't invest in good child care, workers 20 years from now will not be very productive. We need good child care for the same reasons we need good schools."

Also increasing interest in child care are the sheer numbers of working mothers. "Senator Dodd says that two out of three working mothers are either the sole support of their children or have a husband who makes less than $15,000 a year," Dr. Zigler said. "Women have to work."

Dr. Zigler said he had seen a need for an extensive child-care system as early as 1970, when President Nixon appointed him director of the Office of Child Development. "You didn't have to be brilliant to see what was happening," he said. "The increase of women in the work force has gone up, up, up since the end of the Second World War."

He said he thought the nation was on the road to dealing with the problem when Congress passed the Child Development Act of 1971. Representing the Nixon Administration, he fought hard for the bill, which was primarily meant to provide child care for mothers getting off welfare and going to work. "We won, and we drank champagne," Dr. Zigler said.

But suddenly the President turned against the bill he had supported. "Nixon vetoed the bill because of the outpouring of mail from the evangelicals and the far right," Dr. Zigler said. "They didn't want women to work. They said we were Sovietizing America's children, that children would be raised in centers rather than by their mothers."

After that, he said, child care became "a no-no" on Capitol Hill.

Today, Dr. Zigler is delighted to see a turnabout among some conservatives. "When you have somebody as conservative as Senator Orrin Hatch saying that we have to do something about child care," he observed, "you know we have turned a corner."

Mr. DODD. As I said a minute ago, Missouri is the only State, I believe, to have a program to put in place "schools of the 21st century." And this is extremely important.

It also, of course, as I have said, allows an additional part here that is very important, the second part of this amendment would allow for States to take 5 percent of the 70-percent funds that should go to parents directly, to deal with the affordability, to take 5 percent of those funds and use them for increasing the availability of child-care slots in a State.

Missouri, like many States, has a greater need in increasing available slots for child care than the problem, as they see it, in increasing affordability. What we are permitting with this amendment is that if the State certifies to the Secretary of Health and Human Services that in fact this is the case, then that State can use 5 percent of the 70-percent funds to increase availability and supply. And that is what we are trying to do with this legislation, is to maximize flexibility at the State level.

I see my colleagues from Alabama and Arkansas here. That may be the case—I am not as familiar with it in

their two States—but it is not inconceivable that Alabama could have a greater problem within availability. As a result of the amendment being offered by the Senator from Missouri, Alabama now would be able to use more of those funds for increasing available slots for children on the funds that would have gone exclusively to the parents for reducing the cost of child care.

So, I commend him for these two suggestions as a part of this bill. It is extremely helpful and worthwhile. I think it has made it a better bill as a result of his amendment.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Mr. President, I want to commend also the distinguished Senator from Missouri. It takes a person like the Senator from Missouri, a former Governor who has had extensive and wide experience in these areas, to come up with an amendment that I think has this much merit.

I have to just compliment him on it because this amendment addresses the key issue of availability, which is something both the Senator from Connecticut and I have been very much concerned about. I think, for every family in America who needs child care, certainly those who do not have available child care, it provides additional flexibility to the States, the type of flexibility that would benefit them and help them in ways to implement this bill in an appropriate way, an individual way for the individual States.

It focuses on the important problem of latchkey children, something that I certainly am worried about. There are 5 million to 15 million, nobody knows exactly how many. But there are plenty.

This particular amendment will help with latchkey children. I do not think we should forget them and focus only on infants and toddlers, which is something that I think we were in danger of doing this morning, as important as care is for those groups.

It is important and there is only so much money to go around. But we still need to worry about other kids as well. And it gives flexibility to the schools to participate in this process as they should participate.

It is a very good amendment. I want to compliment the distinguished former Governor of Missouri, now our colleague, for bringing it to our attention and presenting it here today.

I also share the very high esteem that my friend from Connecticut has for Ed Zigler. We on the Labor and Human Resources Committee, both sides, have worked with Dr. Zigler. We tried very, very hard to pick his brain on a whole wide variety of issues.

He has been maligned as far left. He has been maligned as far right. I remember when we were starting with the so-called Hatch-Johnston bill, which was the first bill filed, Ed Zigler was the first to endorse that bill.

That bill has helped a lot in this process because the whole block grant program comes out of that bill. And virtually everybody has suggested that was a very good bill. But it just did not have enough money to it.

We understood that when we filed it, but we wanted people to look at the guts of the bill, how it developed availability and, of course, helped with quality while still working somewhat toward affordability.

But Ed Zigler was the first to endorse that and, as I say, if there is a person who has more knowledge about the needs of children in this society than Ed Zigler, I have not met that person. I just want to personally pay tribute to him on the floor of the U.S. Senate as a personal friend, as one who has always been willing to give time to us and answer our questions and help us with our problems. He is somebody who really has the best interests of children at heart, and I am happy the distinguished Senator from Missouri has recognized this and, of course, has adapted his program, to take some of his ideas into consideration.

But I have a personal feeling, even if Ed Zigler suggested some of these ideas, my friend from Missouri would have done it anyway because of his wide and effective experience as Governor of Missouri.

I want to compliment him and tell him this side certainly wants to accept this amendment and go from there.

The PRESIDING OFFICER. Is there further debate, If not, the question is on agreeing to the amendment.

The amendment (No. 208) was agreed to.

Mr. DODD. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. BOND. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 209

(Purpose: To permit States with child care availability problems to use additional resources to help alleviate)

Mr. BOND. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Missouri [Mr. BOND] proposes an amendment numbered 209.

Mr. BOND. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 34, line 9, strike out "subparagraph (B)" and insert in lieu thereof "subparagraphs (B) and (C)".

On page 34, line 19, strike out "and".

On page 34, line 24, strike out the period and insert in lieu thereof "; and".

On page 34, after line 24, add the following new subparagraph:

"(C) the State, with the approval of the Secretary, may use not to exceed 5 percent of the funds reserved for the purposes specified in subparagraph (A) in any fiscal year for any of the activities described in paragraph (6) if the State certifies that additional funds are needed to increase the availability of child care to meet the demand for such care.".

On page 36, line 4, stike out "The plan" and insert in lieu thereof "Except as provided in paragraph (4)(C), the plan".

Mr. BOND. Mr. President, I would like to say for clarification that this is the second part of the program that we were discussing. For ease of drafting, we had the latchkey amendment in the first provision, and in the second provision it provides flexibility. We found it was much simpler to do that.

I want to express my sincere thanks for the very kind words from the two distinguished leaders on their efforts on the ABC bill. We are very pleased to have them with us and to be able to have the adoption of the latchkey amendment.

The flexibility amendment, I think, is very important as well. This allows the State to petition the Secretary to transfer up to 5 percent of the funds from the affordability allocation to the availability programs.

As you may recall, I have pointed out with some concern that under the allocation system only a maximum of 12 cents could be used at the States' discretion for things like improving availability. This would allow the States to petition an extra 5 percent of the 70 cents, or about a little more than a quarter increase in that fund so that States like Missouri, which have availability problems which are just as great as the affordability problems, can make some change.

I pointed out the other day that the State of Missouri finds itself with 400 children for whom it has funds to subsidize day care, but cannot find a slot. On top of that, there are 1,200 children waiting for assistance. We have to provide assistance to them, but unless we make available 1,600 more slots, the 1,200 children are going to be without assistance. These people are the poorest of the poor. There are waiting lines for infant care throughout the State in rural areas.

According to our Department of Social Services, they regularly receive requests for startup assistance that they cannot meet. The flexibility will be extremely important.

In addition, as I understand from the managers of the bill, States with the 70 cents on the dollar now available under the ABC bill for direct assistance to parents, they would be able to use their other funds. In Missouri, it is the social services block grant funds which could be used to make more slots available.

So there is flexibility which comes about to the extent the direct assistance portion, the 70 cents or even the 70 cents reduced by 5 percent, would

go to the direct assistance supplements to parents.

The additional, the 12-plus cents and other funds, can be made available for providing new spaces, startup costs, anything from latchkey to improving existing facilities or businesses or other employers who qualify under the State program for State assistance in setting up the programs. This is the second part of the amendment.

I appreciate the kind words the managers have said about it. I thank them for their support. I would only join with them in the high praise for Ed Zigler. Clearly, I say to my friend from Utah, I would not have thought up this program. I have had the opportunity to work with Ed Zigler. He is a dynamic and effective spokesman for children. We are very pleased to be able to call attention to his programs and to make sure that this bill, as amended, will permit schools across the Nation to utilize the concepts he has developed.

The PRESIDING OFFICER. Is there further debate?

The Senator from Connecticut.

Mr. DODD. Mr. President, I ask unanimous consent that I be listed as a cosponsor of this amendment as well.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HATCH. Mr. President, we are very happy to accept this amendment as well.

Mr. DODD. Mr. President, I want to apologize to my colleague from Missouri. I got a little ahead of myself. I described in my description of the first amendment not only the first amendment but the second amendment as well. I will see to it that my remarks are reflected as part of the second amendment as offered.

Everything I said at that time certainly pertains to this amendment. It is, again, a very worthwhile effort. It does increase the flexibility I described talking about the situations in West Virginia, Arkansas, Alabama, Utah, Connecticut—wherever.

Again, I commend our colleague from Missouri for his effort and urge the adoption of the amendment.

The PRESIDING OFFICER. If there is no further debate, the question is on agreeing to the amendment offered by the Senator from Missouri.

The amendment (No. 209) was agreed to.

Mr. DODD. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. HATCH. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. ROCKEFELLER. Mr. President, I rise today to express my strong and sincere support for the historic legislation before us, the Act for Better Child Care. As a cosponsor of this bill, in the last Congress and in this one, I remain hopeful that we will indeed accomplish our goal this year—and that is to help American families in desperate need of affordable, accessible, and quality care for their children.

It is extremely unfortunate that we are not acting in unison on the ABC bill. I can think of very few times in which there has been the commitment and labor invested in crafting a reasonable, responsive, and responsible approach to a major problem as we have seen in the case of this legislation. Just the very fact that Senators DODD and HATCH, each true leaders on behalf of America's children and families, have joined together around this effort makes a powerful statement. It underscores the reality that child care is not and should not be a partisan or political issue. As both Senator DODD and Senator HATCH have been saying over and over again, this is a family issue, and it is our collective obligation to start solving it.

Our Majority Leader, Senator MITCHELL, has also done an outstanding job at working with a wide variety of individuals and groups with legitimate concerns and heartfelt ideas on what Federal policy for child care should consist of. It is my belief that he has put together a legislative package that reflects a national consensus on what Americans want if we succeed in making a major new investment in child care.

Yes, child care does not come cheap. It will take substantial public commitment to address the problem adequately and comprehensively. But it is an investment in our work force of today and our work force of tomorrow. When parents must turn to others to care for their children, they know the stakes of the choice they make.

Mothers and fathers know this, in West Virginia and across this country. Some are fortunate to have a relative or a friend nearby, who can be totally trusted to provide a loving, nurturing environment. Some families are also lucky enough to have a child-care program that is accessible and affordable, again providing reliable, dependable care.

But thousands upon thousands of parents, in my State and in all of my colleagues' States, are struggling to find good care for their children and agonizing over the trade-offs between cost and quality, between convenience and reliability.

I have talked with mothers and fathers in West Virginia facing these challenges. That want what is best for their children. But the plain and simple truth is, far too many families currently are unable to find or afford safe and healthy places where they can entrust their children for care and attention while they work. This is a tragedy and is simply intolerable.

Mr. President, West Virginia is proud of its tradition of strong, caring families. But the same economic realities and changing demographics have affected West Virginians that we see nationwide. More and more families with children are made up of two parents who work and who need child care while they work—during the day, at night, sometimes on the weekends, depending on the jobs available to them.

That is precisely why I have received an overwhelming number of letters, calls, and postcards from my constituents in favor of the ABC bill. Earlier this year, the West Virginia State Legislature passed a resolution endorsing the bill.

Thirty-one percent of all mothers in West Virginia with children under the age of 6 are in the work force and 46 percent of all mothers in West Virginia with children between the ages of 6 and 17 are in the work force. These statistics reflect economic reality in West Virginia. Few parents have a meaningful choice between working and staying at home.

In comparison to the demand for child care, West Virginia has only about 16,000 licensed child-care slots. Fourteen of West Virginia's 55 counties do not have a licensed child-care center, and 20 more counties have only one child-care center.

Mr. President, the ABC bill provides the framework for a comprehensive package of child-care initiatives that will go far in addressing 3 key elements of child care: affordability, availability, and quality.

Seventy percent of State ABC funds must be used to help families with lower incomes—who are struggling on extremely tight budgets—to pay for child care. In West Virginia, 31,000 children under age 5 live in poverty, yet only 4,700 received child-care assistance last year.

Under the ABC bill, it is the parents who choose the type of care best for their children and family from a full range of options, including center-based care, family day-care homes, relative care, and church-based care. Parents would have complete discretion.

A carefully crafted provision included in the majority leader's package addresses the concerns of some that the ABC bill would interfere with parents choosing to enroll their child in a church-based child-care center. Church-based child-care centers are a major provider of child-care services. The provision included would allow parents to use financial assistance for religious-based care, so long as it is not provided in any manner inconsistent with the Constitution.

Twelve percent of funds may be used for grants and loans to establish or expand child-care programs. These funds can be used in a variety of innovative and creative ways to improve the availability of child-care centers. The ABC bill allows the States to decide what needs to be done to stimulate the supply of child-care providers in their own communities.

Mr. President, one of the most important aspects of the ABC bill is that

it addresses the quality concerns raised by parents across the country. Parents need peace of mind and assurances that their children will be safe and well cared for while they are at work.

Lack of safe and affordable child-care forces too many families to settle for an inadequate arrangement that neither meets their needs nor protects their children.

The child-care and health insurance tax credit provisions included in the majority leader's package compliment and round out the ABC bill. Providing refundable tax credits to low-income families with children will increase the number of families assisted with child-care and child health expenses. As is true nationwide, children in West Virginia represent one-third of the uninsured in my State. A shocking 96,300 children in West Virginia are not covered by any form of public or private insurance. Many of these children have working parents. The health insurance tax credit proposal will help countless working families buy health insurance for their children.

The ABC bill remains the best, most sensible, and most comprehensive step we can make presently to begin solving our current child-care crisis.

Mr. President, the comprehensive child-care package we are debating today is a giant step forward for American children and their families. Let's not turn our backs by not acting on a child-care bill that would provide crucial assistance to this Nation's children and their families. I plead with the President and my colleagues who are still opposing this legislation to listen to the mothers and fathers in our country struggling in a way they do not deserve to be. We have already taken too long to respond to the crisis, and it is time to start catching up. We have a real opportunity to give families the assistance they deserve and to make the investment in our children that is so fundamental to our Nation's future.

Mr. METZENBAUM. Mr. President, I rise today to discuss S. 5, the Act for Better Child Care Services.

It is no secret that working mothers are now the rule rather than the exception. Child care is no longer a luxury—it is a necessity. Yet the availability of child care has not kept up with the growing numbers of women in the work force. Frankly, the Federal Government has been asleep at the switch.

I have been concerned about this issue for a long time. In 1981, I authored and won passage of an amendment to the Tax Code to help young families cope with the rising cost of day-care services. In the 100th Congress, and again in this Congress, I introduced the Day Care for Working Families Act, to provide affordable, quality day care to low-income families. I am pleased that these issues have been addressed in the ABC bill.

It is high time that the Federal Government took the lead to help working families find quality, affordable day care for their children. For one thing, it makes economic sense. Every dollar invested in child care saves $3 in welfare. The Government will actually save money by investing in child care.

But child care is more than just an economic issue. We cannot put a price tag on the peace of mind that safe and affordable child care will bring to parents across America. The ABC bill will improve the quality of child care by requiring that federally funded child care providers comply with modest State-set standards.

A recent article in the Wall Street Journal detailed the success of my own State of Ohio in instituting child care standards. Despite the dire predictions of opponents, the number of licensed day-care centers in the State has grown, and the quality of care has improved. I will ask unanimous consent that the Wall Street Journal article be printed in the RECORD.

Mr. President, I wish to comment on several aspects of the substitute amendment that was presented to the Senate last Thursday.

The substitute amends the current dependent care tax credit to make it refundable and to increase the size of the credit for very low-income families. I strongly support this measure. It will offer financial assistance to families who have not benefited from the existing tax credit because they do not have enough tax liability to obtain the credit. By linking this tax credit proposal to the ABC bill, we will help greater numbers of families while at the same time improving the overall quality of child care. This linkage is critical. Tax credits alone do nothing to improve the quality of day care. ABC will.

At the same time, Mr. President, I must say that I am troubled by the proposed solution to the church-State problem. I spoke to this issue earlier today, so I will not comment further on this provision at this time.

I also am very troubled by the section 89 changes added to the child care bill last week. I am sympathetic to the need for speedy action to amend section 89, but the Senate has not fully considered the section 89 changes included in the child care bill.

I agree with the business community that section 89 as originally enacted was too complicated. But, I strongly believe that the goal of section 89 must be retained. We must ensure that employers provide tax-deductible health care to their employees in a nondiscriminatory manner. I am sympathetic to the difficult task that Senator BENTSEN faced in seeking to modify section 89. Senator BENTSEN has taken what was a very complicated statute and made it understandable. My concern though is that in the process of making section 89 simple, the Senate is compromising the original intent of the law.

Congress enacted section 89 in 1986 in the belief that employer-provided benefits should not be tax deductible unless they benefit substantially all workers. Congress made it clear that the yearly $30 billion tax subsidy for employer-provided health benefits is only justifiable if the benefits fulfill important social policy objectives. One critical objective was increasing health insurance coverage among those who otherwise could not obtain or afford such coverage.

Unfortunately, the new and simplified section 89 will do little to achieve the goal of the original legislation. Millions of workers are excluded by the new changes. The Finance Committee bill excludes all workers employed for under 30 hours a week. The original section 89 exempted workers employed less than 17½ hours a week. In the name of simplification, 10 million workers employed between 17½ and 30 hours a week are treated as second-class citizens and denied access to health insurance.

The section 89 bill before us contains other troubling provisions. The supporters of the revised section 89 argue that protection for some is better than no protection. But the problems faced by the 37 million uninsured Americans, 24 million of whom are employed or the dependents of an employed worker, will not go away. The Senate's retreat today will only increase the pressure on Congress to return to this issue in the future. We must find a way to assure that adequate and affordable health care is provided to all Americans.

Mr. President, despite these shortcomings, which I believe are major shortcomings in the bill, the Act for Better Child Care Services will help to improve the quality, availability, and affordability of child-care. At the same time, it preserves parental choice and retains the strong role that State governments play in coordinating child-care services. For these reasons, despite my strong reservations about certain provisions of the bill, I will vote to support the legislation.

I ask unanimous consent that the Wall Street Journal article to which I referred be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Wall Street Journal, Apr. 17, 1989]

OHIO DAY-CARE STANDARDS CALLED SUCCESS

(By Cathy Trost)

COLUMBUS, Ohio—Mark Real recalls accompanying state inspectors several years ago when they found child-care centers with people using drugs, no hot water, "back doors nailed shut so there was only one exit, stoves that didn't work so it was tough to serve a hot meal, and houses with roaches."

As documented by Mr. Real's group the Children's Defense Fund, inspectors in 1984 found understaffing, unhealthy diaper-changing practices, unsafe playgrounds and other hazards. Then in 1985, Ohio adopted tougher day-care standards that by most ac-

counts have produced big improvements. Despite some added costs, the changes have been "good for kids" without hurting business, says Thalia Johanssen, co-owner of the Fundamentals Learning Center here, where the soft snores of toddlers asleep on cots whistle through the day-care center.

At the national level, opponents warn there will be dire consequences if Congress imposes federal child-care standards on the states. But some states like Ohio have already instituted requirements very similar to those Washington is considering—with good results.

Backers say this bolsters the case of Sen. Christopher Dodd (D., Conn.), a leading proponent of the $2.5 billion bill to provide day-care subsidies for low and middle-income parents. He argues that the measure's federal standards are needed because "great discrepancies" exist among the states. Ohio's standards and the proposed federal ones, for example, mandate sanitary food-handling at child-care centers, but 18 states lack such requirements.

SIMILAR DEBATE

Critics counter that federal rules would drive out competent child care in many states by making it too costly and cumbersome. But Ohio adopted its regulations after a similar debate, and so far the fears of critics seem to have been unwarranted.

Since the Ohio standards took effect in 1986, the number of licensed day-care centers in the state has grown to 2,561 with a total capacity of 132,297 children from 2,271 centers with 111,825 children. Despite warnings of disaster, "the number of centers continues to increase, plus we have a real healthy percentage of centers which survive on a for-profit basis," says Pauline Hosenfeld, chief of Ohio's bureau of child-care services. "We've not seen a dramatic number of centers fail, and not any that I attribute directly to the [new] regulations."

Ohio officials say the requirements have improved care without causing sharp increases in day-care rates. To help with costs, the state has a new $20 million child-care tax credit, in addition, state funding of child-care services has grown to $11.5 million from $7 million in the last three years. Ms. Johanssen, the day-care center co-owner here, says she had to hire one more person and pay for her teachers to get more training. She attributes a rate rise of about 10% mostly to higher insurance and benefits costs.

Ohio officials say they would have little problem with national standards, and some other states agree. In Maryland, which has tougher standards in some areas than the proposed federal ones, Gov. William Schaefer backs a national bill "because it is already working in my state."

ANOTHER FEDERAL MANDATE

But opponents of national standards say regional economic and geographic differences mean what's good for one state isn't necessarily good for another. "The government should lead by example rather than by the switch," Sen. Daniel Coats (R., Ind.) theorizes. The National Governor's Association supports "model" standards, arguing that a national dictate would probably become "just another federal mandate without the money to carry it forward," an official says.

More federal regulation, these critics say, would only add to enforcement problems in many states. "These people are idiotic!" says Jack Brozman, president of La Petite Academy Inc., the nation's second-largest operator of day-care centers, who advocates state control. "Everybody thinks the solution is let's pass more regulations. . . . What they don't understand is states don't have the resources and the manpower to enforce what they have now."

Advocates of federal standards "are engaging in magic-carpet public policy, ignoring the economic laws governing their policy," charges Robert Rector of the conservative Heritage Foundation in Washington. Hiring more people and paying for more staff training, he argues, means driving up costs and pushing people out of business, or into the lawless underground.

A study last year by Child Care Review, a magazine for day-care owners and directors, predicted that federal standards would increase the national cost of licensed child care for parents by nearly $1.2 billion annually and result in the closing of 20% of all licensed centers. Hardest hit would be 10 Southern states that generally have less stringent standards, the magazine said. Though government subsidies would offset losses in some areas, says David Pierson, the magazine's editor, in the South there will be "an overall displacement of children."

WAITING LISTS

And while the number of licensed day-care centers has continued to grow in Ohio, there are 22,000 children on waiting lists there for such day care, and Gary Bauer, a former Reagan administration official who heads the conservative Family Research Council, suggests that without the new regulations there might have been greater growth in day-care providers.

In Congress, the debate over standards could be the most wrenching skirmish in the larger fight over a national child-care policy. The Democratic-led bill would provide subsidies to parents in states where publicly funded day-care programs meet minimum standards in such areas as group size, staff-to-child ratios, staff training and health and safety.

The bill is competing with President Bush's proposal to give low-income parents a tax credit of up to $1,000 a year for each child under the age of four, regardless of whether one parent stays home or how the money is used. But opponents complain that a tax credit alone does nothing to enhance the development and safety of children in day-care centers.

Both sides agree there is no perfect solution. In Ohio, even though child-care enrollments have increased overall since regulations were tightened, enrollments of poor children haven't kept pace.

Mr. MITCHELL addressed the Chair.

The PRESIDING OFFICER (Mr. SHELBY). The majority leader.

ORDER OF PROCEDURE

Mr. MITCHELL. Mr. President, shortly the chairman and ranking member of the Appropriations Committee will be here to present for consideration by the Senate the supplemental appropriations bill. It is my hope that we will be able to dispose of that matter this evening.

Considerable progress has been made on the child-care bill in the last 2 hours. Several amendments have been disposed of, or agreements made not to offer them. We still have many more to go, and many important matters.

So we will continue to be in session for some time this evening. But the next order of business, and this is following consultation with the distinguished Republican leader, will be the supplemental appropriations bill during which time we hope that the managers and their staffs on the child-care bill will be able to work with other Senators in reaching agreement on the disposition of several additional amendments.

Mr. President, I yield to the distinguished Republican leader.

The PRESIDING OFFICER. The Republican leader.

Mr. DOLE. Mr. President, I just indicate as I have previously that we have been able to dispose of some amendments. There are still a rather large number that we have delivered to Senator BENTSEN, the section 89 amendments, to see whether or not any of those might be acceptable, and whether he might be willing to take section 89 out. There are nine of those, including the one which would be the repeal of section 89. I understand another large group of amendments are in the process of being worked out, packaged, and might be acceptable. That would still leave somewhere between 20, 25 amendments.

So again, I urge my colleagues. I think it is the hope of the majority leader that we might be able to conclude action on this bill following action on the supplemental. I am not certain that is going to be possible. But I alert my colleagues that is the intention of the majority leader to—and see what happens between now and the time the supplemental is finished.

So all Senators who have amendments should come to the floor and let us discuss their amendments so we may make plans for the rest of the evening on this side.

Mr. MITCHELL. I thank the distinguished Republican leader.

Mr. President, while awaiting the arrival of the chairman and ranking member of the Appropriations Committee, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for a quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUPPLEMENTAL APPROPRIATIONS FOR THE DEPARTMENT OF VETERANS' AFFAIRS

Mr. MITCHELL. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on H.R. 2402.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the House disagree to the amendment of the Senate to the bill (H.R. 2402) entitled "An Act making supplemental appropriations for the Department of Veterans Affairs for the fiscal year ending September 30, 1989".

Mr. BYRD addressed the Chair.

The PRESIDING OFFICER. The Senator from West Virginia, the distinguished chairman of the Appropriations Committee.

Mr. BYRD. Mr. President, I ask unanimous consent that I may propose an amendment to the Senate amendment to the bill H.R. 2402.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, yesterday, the House of Representatives failed to complete action on the conference agreement on H.R. 2072, the fiscal year 1989 dire emergency supplemental appropriations bill. The House voted 201 yeas to 218 nays, defeated the conference report, and moved to insist on their position.

There is an urgent need to complete action on this supplemental in a form that will be signed by the President, not only for VA medical care, as critical as that program is, but for many other programs as well. Funding for other VA programs include:

VA compensation and pensions, $701,481,000;

VA readjustment benefits, $22,212,000;

VA loan guaranty revolving fund, $120,100,000; and

VA general operating expenses, $24,900,000.

The agreement includes $6.6 million for the Essential Air Services Program. Secretary Skinner has indicated that if this additional funding is not provided by July 1, he will have to begin notifying the air carriers that provide this service that they are out of money and begin to close down the program. That would mean the end of air service to 155 communities in 38 States.

So that would mean the end of air service to those communities and to those States throughout the rest of this fiscal year. Once service is cut off, Mr. President, it is not easy to get it turned on again.

The bill also includes the funding requested by the President for:

Guaranteed student loans, $892,428,000;

Payments to States for foster care and assistance, $423,345,000;

Reimbursement of firefighting costs, $341,669,000;

Food stamps, $224,624,000;

Federal unemployment benefits and allowances, $56,000,000;

Trade adjustment assistance, $34,648,000;

International peacekeeping, $125,000,000; and

Refugee assistance, $100,000,000.

I think about $9 million of that goes to Russian emigrees.

Mr. President, the agreement provides appropriations totaling $3.5 billion. Of this amount, $2.8 billion, or 80 percent is for mandatory entitlement programs which are beyond the control of the Appropriations Committee.

For discretionary programs, the agreement provides $670 million in new budget authority.

Mr. President, my amendment to H.R. 2402 would insert the bill language that was agreed to by the House and Senate conferees on H.R. 2072, with the exception of:

Amendment 71—This was an amendment in true disagreement with the House, pertaining to the National Center for Toxicological Research. Senator BUMPERS has agreed to the deletion of this amendment and will have a coloquy with Senator BURDICK regarding this item.

Amendments 87, 93, and 95—Language relating to VA, NASA, and EPA pay dates has been deleted from the bill.

Amendment 111—This amendment, which was in true disagreement with the House, pertains to the Legal Services Corporation. An agreement has been reached by the House and Senate conferees, so there is no longer any disagreement on this new language.

This amendment prohibits the current Legal Services Corporation Board from considering, developing and implementing a system for competitive award of grants for local legal services programs except that the current Board and staff of the Corporation may conduct in-house reviews of or hold hearings on proposals for a competitive awards system. In addition, the provision would permit current competitive awards to laws school clinics to remain in effect. It also requires that full-year fiscal year 1989 grants be obligated to Legal Services grantees pursuant to the fiscal year 1989 Appropriations Act. The grants, however, shall not be subject to any amendments to regulations relating to fee generating cases (45 CFR Part 1609) or the use of private funds (45 CFR Parts 1610 and 1611) not in operational effect on October 1, 1988.

Amendment 113—This amendment pertained to certain restrictions on the Department of Justice and the Small Business Administration. The conferees of both Houses have agreed to delete reference to the Small Business Administration.

Amendment 131—This amendment included language relating to the treatment of asset sales. An agreement has been reached to delete the language.

Mr. President, this is an agreement that has been reached through a lot of hard work. It was not easy, and it required many, many long hours.

It is an agreement that will break the logjam over the drug funding included in the House bill.

This pending amendment provides $75,000,000 to strengthen Federal domestic drug law enforcement at the local level for additional assistant U.S. attorneys, deputy U.S. marshals and other agents, including necessary equipment and supplies; fees of jurors; initiate plans to acquire available military facilities for use as prisons or Civilian Conservation Corps type use for drug offenders; speed up planning for not less than three prisons in areas where most needed; and to expedite the purchase of automatic data processing equipment to improve the exchange of information.

In order to accommodate this additional amount of $75 million for these purposes, an agreement was reached by the House and the Senate Appropriations Committees—and I made the proposal—to reduce by $37.5 million the amount provided for fiscal year 1989 in the conference agreement for the National Science Foundation for a replacement telescope. The remaining $37.5 million will not become available unitl October 1, 1989.

It has also been agreed to reduce the amount provided for agricultural credit insurance fund operating loans by $37.5 million.

So, together, Mr. President, these reductions provided the $75 million necessary to fund the Judiciary and Department of Justice programs mentioned earlier. This was done without adding to the total appropriations recommended in the conference agreement.

The Director of the Office of Management and Budget, Mr. Richard Darman, has examined the agreement and will recommend not that it be vetoed by the President, but that it be signed by the President.

Mr. President, to the extent not already noted, the Departments and Agencies affected by the funds included in this measure should be guided by the direction of the statement of managers of the committee of conference set forth in House Conference Report 101-89.

Mr. President, I thank my colleague, Senator HATFIELD, for the consistent and strong support that he has given and for the work that he has contributed to this effort, and it has been an effective performance by him. I count it a privilege and an honor to have as my working partner on this committee representing the minority, the ranking minority member, Senator HATFIELD. He is congenial, he is amiable, he is cooperative, always courteous and as firm as need be for whatever circumstance may obtain at the moment. I am deeply grateful for his efforts.

This effort represents legislative give and take and compromise for the public good. We have taken care of the veterans. Every dollar, every penny that was requested for the dire emergency programs for veterans is in this bill. There never was any doubt—never was any doubt—in this Senator's mind. I have been here long enough to know a good bit about the legislative process and something about the appropriations process. There was never any doubt about the veterans medical care or any of the other veterans programs. The pillars on this Capitol would be allowed to crumble and their gorgeous decorations be all covered with the

dust of the valley before we would see the veterans' programs suffer. We knew that. Senator HATFIELD and I knew that.

But we also knew that there were some other dire emergency programs. We had Members from the other side of the Capitol who came to us asking that we put in essential air service money so that their communities would not be bereft of essential air service. So the Senate put that item in, as the Senate sometimes does, at the behest not only of its own members but there were Members on the other side who want service for their districts. So the essential air service serves all and Members of both bodies are very supportive of it.

We have done the people's business and funded programs in urgent need of funding.

The bipartisan spirit evident in this compromise bodes well for additional funding measures for fiscal year 1990. And I must express my thanks to Chairman JAMIE WHITTEN, who had a tough, tough job on the other side, and also to him for the work that he had to do all day long in contacting his colleagues over there. And SILVIO CONTE, with whom I served in the House, I owe a great deal to him for his cooperation.

So here we have SILVIO CONTE, the ranking Republican member on the other side; JAMIE WHITTEN, the chairman; the ranking member on this side, Senator HATFIELD and I were able to work out an agreement and to bring out of chaos an agreement that I think will not please everybody, probably will not please anyone fully, but it does indicate a bipartisan spirit that bodes well for the Congress.

Politics has taken a backseat to responsible legislation. And that is an encouraging signal to send to the American people.

I know there are those who would like to see a Presidential veto of this bill. What we do not need is a political issue. What we need is a bill. We need to fund these programs. We need to get on with it because we have got 13 appropriations bills.

If the President vetoed this bill, he would not have vetoed it because it did not have drug money in it. He would not have charged that. He would have charged Congress with fiscal irresponsibility. That is what he would have said. He is not going to walk into that kind of trap.

So I think our job was to show ourselves to be fiscally responsible, and that is what we have done.

I take great pride in the workmanship of the committee. I also want to thank the other members of the committee and the other conferees. They worked hard in conference. The conference was not easy, by the way. It went on for 2 days. A lot of Members around here have never served on one of these appropriations conferences. It is something to behold. And it is even more to participate in them. So I thank them.

Now, I yield to my good friend, the ranking member on the Appropriations Committee, Mr. HATFIELD, for any statement he may wish to make.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. HATFIELD. Thank you, Mr. President.

First, Mr. President, I will not repeat the outline of this appropriations supplemental amendment. The chairman of our committee, Senator BYRD, has done a very eloquent job to lay out the detail and the outline of this compromise.

I would just like to underscore one or two points that the chairman has already made. One is that I think when you look at the size of the committee that we have on the Senate side—29 members of the Appropriations Committee, the largest committee of any committee in the Senate—and when you consider there are 60 House Members on the Appropriations Committee of the House, this is a very high percentage of the total Congress. And to get a consensus within each committee in itself is a very difficult task.

I would like to focus a moment upon the staff and the role the staff plays in this very complex procedure. We have outstanding leadership, both in Jim English, on the majority side, and Keith Kennedy, on the minority side, well experienced, well seasoned, but noted for their fairness, their dependability and their credibility in the accuracy of their information, and that has been a great facilitator.

I also want to thank the leadership, the majority leader, Senator MITCHELL, and the minority leader, Senator DOLE. We have proceeded all through this process in very close communication with the Senate leadership. And that Senate leadership has been very helpful and very important to us.

I want to pay special commendation to the chairman. Again, I have emphasized before that this is the first of the bills from the Appropriations Committee that our new chairman has handled. It has been a masterful example of statesmanship, patience, perseverance, and especially the clarity of keeping the goal in mind against all of the detail and all of the complexities and personalities and issues.

Really, this could be a chapter in another volume of the history of the Senate. I want to thank the chairman for his very kind remarks. It is a pleasure to be in tandem with him.

Mr. President, I think we have to understand that there are many items of this bill. I would like to touch on one brief one, to indicate that this bill is something more than funding of programs. Today is the date that the American State Department had as a deadline to repurchase the Stinger missiles from Bahrain. The administration had requested and the committee had worked out a compromise to extend this deadline to October 31.

I received a call today from the State Department, very anxious to know what in the world they should be doing, because of this being the deadline of June 22. So it is an item that helps us in our foreign policy. It is just but an example of the broadness of the depth of the details of this issue within this appropriation, this supplemental. I think it is very important for us to expedite this to get this to the House of Representatives. What happened yesterday I am sure was a surpirse to the leadership on both sides of the aisle and certainly to the leadership of the Appropriations Committee. It is, therefore, all the more incumbent on the Senate to expedite this, as quickly as possible, and get it to the House before the recess.

Mr. President, I just wanted to add one other point of commendation to the process that we have just completed on the appropriations bill and that is to Mr. Dick Darman, Director of the Office of Management and Budget, and to his very efficient staff.

Over the years, we have had, obviously, different styles of leadership in that office, but I want to say for the first time in my 23 years in the Senate, I feel that we have a cooperative relationship that is reflective of President Bush and his desire to work closely with the Congress.

It is an interesting contrast because it replaces kind of the adversarial relationship that we had had predominate in those previous administrations. And in Mr. Darman we not only have a man who understands and grasps the subjects and the scope of the office, but he has a staff who equally is very well-informed and very able.

But the attitude, the spirit of cooperation, the understanding that we are working together and we are achieving the same goal that will benefit the people of this country rather than a game between the Congress and the White House, and so forth and so on, is a refreshing experience. I just wanted to pay that special tribute, in addition to the others I have stated in my previous remarks. I thank the Chair.

The PRESIDING OFFICER. The majority leader.

Mr. MITCHELL. Mr. President, I commend all concerned for their effort in bringing this supplemental appropriation bill to this point: the chairman of the Appropriations Committee, the ranking member of the Appropriations Committee. I want to also especially commend Senator CRANSTON, the chairman of the Veterans' Affairs Committee, who has been insistent throughout this entire period that the concerns of veterans be addressed promptly and thoroughly.

That will occur if this supplemental appropriations bill is enacted. I hope that it will be. I encourage support for it and if we act today, as expected, and

hopefully the House acts tomorrow, this matter, which has consumed so much time and effort, will be behind us and the veterans of this country, in whose obligation we all stand, will be assured of the high quality of health care to which all veterans are entitled.

Mr. CRANSTON addressed the Chair.

The PRESIDING OFFICER. The Senator from California.

Mr. CRANSTON. I wanted to thank the majority leader, Senator MITCHELL, and the chairman of the Appropriations Committee, Senator BYRD, for their kind words of my efforts on this measure and more for their leadership in seeing to it we reach the point where we can pass a matter that presumably will be passed by the House, signed by the President and free up very badly needed money for veterans medical care.

Unfortunately, we have gotten into a situation where money has not been available, or at least the administration has cut back very sharply on money available for needed medical services in assistance to veterans who need that care. We must see to it they get that care. This bill will see to it that they do, and I urge all Senators to support this measure. If it got delayed or killed for any reason whatsoever, we would be doing a great disservice to America's veterans.

REGARDING THE PROVISION IN THE URGENT SUPPLEMENTAL RELATING TO THE LEGAL SERVICES CORPORATION

Mr. RUDMAN. Mr. President, I rise to express my support for this urgent supplemental appropriations bill. It provides critical support for a variety of programs including veterans health care and veterans pensions. However, at this time I would like to discuss a provision relating to the Legal Services Corporation [LSC]. This provision is a modification of language which I offered in the Senate appropriations Committee. My amendment was overwhelmingly adopted by the Appropriations Committee and was subsequently passed by the Senate. The modified provision contained in this measure represents a compromise worked out between all interested parties.

First, the provision states that no funds may be used by LSC to consider, develop or implement any system for the competitive award of grants. This language merely clarifies current law: last year's appropriation bill covering LSC, Public Law 100-549, included a provision which stated that "a Board of Directors of the Legal Services Corporation, composed of individuals nominated by the President after January 20, 1989 and subsequently confirmed by the U.S. Senate, shall develop and implement a system for the competitive award of all grants and contracts, including support centers, to take effect after September 30, 1989." It is evident that the current LSC Board has been actively involved in developing a competitive bidding system in violation of the letter and intent of Public Law 100-459. These activities promoted Senate adoption of my amendment to prohibit LSC from considering, developing or implementing a competitive bidding system until a new Board is appointed.

The original language has been modified to clarify that Corporation Board members, officers, and employees—though not consultants—may engage in in-house study of competitive bidding and may hold hearings on the subject. However, all other activity relating to competitive bidding is prohibited until a new Board is nominated and confirmed. Activities which are prohibited under this language include, but are not limited to, the revision of the proposed competitive bidding regulation or the proposed competition manual, the development or drafting of any competitive bidding procedures or proposals, and any discussion of the subject with individuals who are not Board members, officers, or employees of the Corporation except during public hearings or to individuals to appear at hearings. It is the intention of Congress that if any Corporation Board member, officer, or employee decides to engage in the very limited range of activity relating to competitive bidding permitted under this provision, such person agrees to read the statutory exception narrowly.

The provision also provides that LSC must obligate full-year grants to grantees with fiscal year 1989 appropriated funds. Earlier this year, LSC advised recipients that it was not going to obligate the last quarter of fiscal year 1989 funds, allegedly to allow for the possible implementation of a competitive bidding system. This action is also contrary to the intent of Public Law 100-549. Under this language, therefore, the Corporation is required to fund all grantees for a full 12-month period. Generally, LSC grants are issued on a calendar year basis. A grantee which received financial assistance from the Corporation during the first months of 1989 may not have its funds taken away unless the Corporation goes through a full grant termination procedure to defund a grantee as authorized by section 1011 of the Legal Services Corporation Act as amended by Public Law 100-459.

Finally, the provision prevents the Corporation from implementing its proposed regulation to recapture attorneys' fees awarded to LSC grantees. This regulation was rejected by the Appropriations Committees. However, in hearings earlier this year, LSC indicated that they were likely to implement the regulations regardless of the views expressed by the Appropriations Committees. The provision also prevents LSC from applying other proposed regulations to private funds as opposed to LSC or LSC-derived funds.

It is clear that LSC has a misguided view of its authority to extend the coverage of regulations it promulgates to private funds. Many LSC grantees receive funding from other nonpublic sources which are granted for a variety of purposes. LSC repeatedly has attempted to apply its regulations to private funds as well as LSC and LSC-derived funds. Section 1010(c) of the authorizing statute provides that nonpublic funds received for the provision of legal assistance shall not be used for purposes prohibited by the statute. It does not give LSC the authority to require that all private funds be used in accordance with every regulation promulgated by LSC. Congress has recognized that LSC is overextending its authority to regulate private funds and has rejected regulations which seek to impose restrictions on private funds.

In sum, Mr. President, I believe this provision represents a workable compromise. It does not go as far as the provision I originally proposed, and which was adopted by the Senate, in restricting LSC activities. However, it is my hope that the debate over this issue will foster a better relationship between the Corporation and Congress, and that the conditions that led to the Senate language relating to LSC will not arise in the future.

Mr. SYMMS. Mr. President, I believe it is necessary to provide some legislative history relating to a provision contained in the supplemental appropriations bill with regard to United States contributions to United Nations peacekeeping operations in southern Africa.

I have two areas I believe need to be addressed, the first relates to the inclusion of the Government of Angola in the International Monetary Fund and the World Bank. The provision would allow such if the President certifies to the appropriate congressional committees that progress is being made toward national reconciliation.

It would be my understanding and belief that "progress" would be defined as:

A series of high level meetings culminating in national reconciliation and the formation of a traditional government of national unity leading to free and fair elections.

The second relates to Cuban offensive actions against UNITA, and Cuban troop numbers and the bilateral agreement.

OFFENSIVE ACTION

The State Department, in numerous briefings to congressional staff, described one of the primary benefits accruing to UNITA under the terms of the Tripartite Agreement as the protection against offensive action by the Cuban occupation force in Angola.

Many UNITA supporters had serious reservations about the inequity of the Angola/Namibia agreement, which permits 50 percent of the Cuban forces to remain in Angola on election day in Namibia. Fifty-one Senators signed a letter to President Reagan prior to the consummation of the accords in December, urging that the final agreement, in order to protect UNITA,

maintain simultaneity between an internal settlement in Angola and any internal settlement in Namibia. This recommendation was ignored in the haste to obtain a diplomatic "victory" in the waning days of the Reagan administration.

Yet in the Geneva Protocol, the protection for UNITA against Cuban offensive operations is restricted to the territory lying east of meridian 17 and south of parallel 15 degrees, 30 minutes, and this is only provided UNITA not "harass" the Cubans. Essentially, UNITA is protected only in one small sector of Angola, not in the countryside at large where UNITA's forces are most active. It is evident that the Department misrepresented the agreement in order to garner support for it in the Congress. It is Congress' intent that the Department of State ensure the protection against Cuban offensive action guaranteed UNITA as it stipulated in its representations to the Congress. If the Cuban troops are redeploying north and withdrawing from Angola as they are required to do under the terms of the agreement, they should not be attacking UNITA troops anywhere in Angola.

CUBAN TROOP NUMBERS AND THE BILATERAL AGREEMENT

A report from last summer from a Lisbon paper, Tempo, claims that as many as 10,000 black Cuban soldiers may have been given Angolan citizenship, and that some of these were members of elite, special forces units. It is Congress' expectation that the Department of State, the DIA and the CIA investigate reports of this nature, and that the President's certification of the bilateral agreement includes assurances that the bilateral agreement requires the departure of all Cuban troops, including those that may have entered civilian life and been granted Angolan citizenship under the 1984 Angolan law which allows anyone serving the Revolution to be granted Angolan citizenship.

Mr. HELMS. Mr. President, the supplemental appropriations bill contains $77.9 million for peacekeeping assistance to the United Nations Transition Assistance Group [UNTAG] and the United Nations Angola Verification Mission [UNAVEM]. These sums are intended to implement the U.S. share of the peacekeeping activities in southern Africa resulting from the agreements signed in New York on December 22, 1988 by South Africa, Angola, and Cuba.

There are two of these agreements: the Tripartite Agreement signed by the three countries I just mentioned and relating to the transition of Namibia to an independent state; and the bilateral agreement between Angola and Cuba relating to the withdrawal of Cuba troops from Angola.

Mr. President, these agreements were concluded without the participation of one of the most important and relevant individuals in the conflict in that region of the world, Dr. Jonas Savimbi, President of the National Union for the Total Independence of Angola—which is known by its Portuguese acronym as UNITA. In my judgement, the omission of Dr. Savimbi results in a flawed outcome.

The agreements result in the termination of Dr. Savimbi's main line of logistical support. They propose a stepped withdrawals plan for the Cuban troops that provided the very minimum hope that the Cuban troops would leave, and insufficient assurance that the Cubans would not attack UNITA during the withdrawal period. Also, the negotiating objective of the Communists—indepdence and free elections for Nambia—is achieved early, with elections this year, while the long-standing objective of the United States—the withdrawal of Cuban troops from Angola—has a phased implementation that leaves some troops in Angola until July 1, 1991.

I am especially concerned that Dr. Savimbi and his UNITA forces are at great risk during this transition period of over 2 years during which the Cuban troops are supposed to be withdrawing from Angola.

I think it is important that the Congress have a role in guaranteeing that the agreements are implemented in a fair way that will ensure the best possible outcome in both countries. All too often the State Department has been willing to overlook the shortcomings, including flagrant violations, of supposed peace agreements.

Senators may recall that at the end of the session last year, in October, the State Department attempted to get this body to write a blank check to fund these agreements even before they had been concluded. Obviously, the Senate had not had an opportunity to review the agreements and to assess whether they were, in fact, in the best interest of the United States and supported the cause of freedom in the world.

It was wise that the Senate did await a review of the final agreements. It has become evident that there are ambiguities which need to be clarified. Additionally, we have witnessed a flagrant violation of the agreements in April when armed forces of the South West People's Organization [SWAPO], a Communist terrorist organization, poured across the border into Namibia from their sanctuaries in Communist Angola. Further, we have seen incredibly biased statements from the U.N. official in charge of monitoring in Angola which indicated he would believe whatever the Cubans and Angolans told him about how many Cuban troops had left Angola.

These are some of the reasons why it is necessary to attach conditions on the distribution of U.S. contributions for these peacekeeping activities.

Under the provision in the supplemental appropriations bill, the money for U.N. peacekeeping activities is provided in two phases, or tranches. The first tranch—$38,950,000, half of the total—will take place shortly after enactment when the President certifies three important conditions have been met. The second half of the money can be provided on August 15 after the President certifies five additional conditions which are to have been met by that time.

WITHDRAWAL OF ALL CUBAN TROOPS

The first two conditions have to do with clarifications about the Cuban troop withdrawal. Initial congressional briefings given by the State Department were not decisive as to the Cuban commitment.

The ambiguity stems from discrepancies about the original Cuban troop strength at the time the agreements were signed last year and other factors. Under the bilateral agreements, Cuba promised "the total withdrawal to Cuba of the 50,000 men who constitute Cuban troops contingent stationed in the People's Republic of Angola".

However, it had been reported at times that the United States has estimated Cuban troop strength at more than 50,000. UNITA, which is certainly closest to the situation on the ground, has estimated Cuban troop strength at 60,000 to 65,000.

According to UNITA, these excess troops take the form of: First, unreported Cubans; second, Cuban soldiers who have married in Angola and thus no longer counted as "Cuban", and third, "black Cubans" who are integrated into the black Communist forces and thus become virtually indistinguishable from black Angolans. The situation was further complicated by the apparent interpretation that the agreements allow Cuba to continue "rotating" troops into Cuba during the supposed "withdrawal" period. Keeping track of the departures and new arrivals could prove quite difficult.

Thus the question remained: Were the Cubans committed to withdraw 50,000 troops, or "all" troops—if, in fact, there were more than 50,000 Cuban troops in Angola?

The potential problem was all the more important because Fidel Castro himself has boasted of numbers higher than 50,000 in the the past. Even since the agreements were signed, he has made such claims. In a May 10 item in the Foreign Broadcast Information Service [FBIS], Castro is quoted as admitting that there are 50,000 military and what he termed 10,000 "armed cooperators."

The provision requires that in order for United States funding to go forward, the United States must have "received explicit and reliable assurances from each of the parties to the Bilateral Agreement that all Cuban troops will be withdrawn from Angola by July 1, 1991, and the no Cuban troops will remain in Angola after that date." Similarly, because the United Nations is charged with monitoring the troop withdrawal, the Secretary

General of the United Nations must have assured the United States of his understanding of the total and complete withdrawal of all Cuban troops.

Thus, under the provision, Cuba and Angola will have to assure that all troops of Cuban origin—including those Castro terms "armed cooperators," or by any other name—are to be withdrawn from Angola.

These requirements have already passed the House as an amendment to the State Department authorization bill, further demonstrating the congressional concerns about the 50,000 troop question.

SWAPO'S INVASION OF NAMIBIA

Mr. President, the third condition for the first certification is in response to the irresponsible actions of SWAPO terrorists. Angola has been providing SWAPO, the Marxist revolutionary group trying to take over Namibia, with base camps. SWAPO has failed for years even to establish a military base in Namibia, nor has it obtained support among the numerous black and colored ethnic groups other than the Ovambo tribe of northern Namibia.

Many freedom-loving Namibians have been fearful that SWAPO would try to take advantage of the strong support that the United Nations has given it over the years to establish itself in Namibia by force. That fear came true in April. April 1 marked the date for the beginning of the implementation of U.N. Resolution 435, which established the procedures leading to elections and the independence of Namibia.

However, as that date approached, 1,600 to 2,000 armed SWAPO guerrillas crossed the border into Namibia in an attempt to establish a base of military operations—thus seeking to overturn the agreement that SWAPO would remain north of the 16th parallel in Angola. Only the outraged cries of world opinion and the courageous actions of local and South African troops finally forced SWAPO to withdraw the guerrillas.

However, for weeks after the initial SWAPO invasion, hundreds of guerrillas remained in Namibia, and many more were far south of the 16th parallel within Angola. Indeed, during congressional testimony, Ambassador Hank Cohen, now Assistant Secretary for African Affairs, noted that contrary to the peace agreement, SWAPO forces had never withdrawn north of the 16th parallel prior to the April 1 date, as required.

Frankly, Mr. President, I remain puzzled by a modification insisted upon by the administration during the conference on the supplemental bill. As passed by the Senate, the provision required that "all armed forces of the South West Africa People's Organization [SWAPO] have left Namibia and returned north of the 16th parallel in Angola in compliance with the agreement." The State Department insisted on changing the word "all" to "the."

I do not see the distinction being drawn. The Geneva Protocol specifies that "SWAPO's forces will be deployed to the north of the 16th parallel." Ambassador Cohen stated that "UNTAG forces deployed in Angola are making sure that all SWAPO forces are located north of the 16th parallel as called for in the Geneva Protocol. We will use all the means at our disposal to verify that this takes place."

The conference report specifies:

While a large majority of the individual SWAPO combatants who infiltrated into Namibia have apparently now moved north of the 16th parallel in Angola, the conferees recognize that some individual SWAPO combatants may still remain south of that line. Precise estimates are not possible, given the vast size of the territory and the possibility that individuals may now be sheltered by families or relatives in Namibia. The modified language is intended to account for the possibility that a small number of individual SWAPO combatants may remain south of the 16th parallel when the President certifies that the parties are in compliance with the Tripartite Agreement. The conferees emphasize their intent is only to take account of the fact that the President may not be able to certify that every single SWAPO combatant has withdrawn, and not to create a loophole that would allow any organized SWAPO combatant units to remain in Namibia south of the 16th Parallel.

I see no distinction in the difference that has been drawn by the conferees at the State Department's request. I would emphasize the conferees' intention that the provision is not be used as a loophole. Obviously, the President cannot be held to a standard of every single individual if there is no evidence of the continued activity of SWAPO. However, to the extent that SWAPO guerrilla activities continue in prohibited areas, such activities would demonstrate a continued violation of the peace agreement.

SECOND TRANCH

Mr. President, August 1 represents an important date in the timetable for Cuban withdrawal from Angola. It is by that date that the Cubans are to have withdrawn to north of the 15th parallel in Angola. This will result in the withdrawal of forces from several areas of great military significance and in areas near UNITA-held areas. It is imperative that the Cubans comply totally with these provisions. This will be the first really measurable test of the sincerity of their commitment to the peace accords.

Another significant requirement for the certification is that "the Cubans have not engaged in any offensive military actions against UNITA, including the use of chemical warfare." Mr. President, this is a critical issue and one, frankly, on which the State Department wanted to fudge.

For months, since the December signing of the treaties, it had been stressed by State Department briefers to Senators and congressional staff, that one of the benefits to accrue to Dr. Savimbi's forces was that the Cubans would no longer be engaged in offensive activities. The language of this amendment merely puts that understanding into the conditions which would be binding on the parties.

However, some within the State Department complained that the only written commitment by the Cubans, contained in the Geneva Protocol, related to a promise not to engage in offensive activities against UNITA-held territory in southeast Angola and sought to limit the language to such an interpretation. However, the Department's representatives had to admit that State had briefed the Congress on a broader interpretation and continued to say, in fact, that the Cubans had made such a commitment—albeit perhaps "only verbal"—not to engage in any offensive activities.

At any rate, the provision of the amendment is clear: No offensive activities against UNITA, including the use of chemical warfare. I have outlined my concerns about the apparent introduction of chemical weapons into Angola in earlier discussions, and I shall not repeat them here. Suffice it to say that credible reports continue to suggest that chemical weapons have been used in Angola against UNITA forces.

U.N. SUPPORT FOR SWAPO

Mr. HELMS. Mr. President, one of the most important aspects of the United Nations Plan for Namibian independence deals with the concept of impartiality. The United Nations, with a long history of financial and other support for the South West Africa Peoples Organization [SWAPO], must now exhibit complete impartiality in order to create a climate of trust and fairness in which each political party can participate in the forthcoming elections, scheduled for November.

In 1982, a document which became known as the impartiality package was negotiated by the United Nations and accepted by all parties to the controversy in Namibia. This document, which outlines certain obligations on the part of the Government of South Africa and the United Nations with regard to impartiality, was formally integrated into the U.N. plan for Namibian independence by the Secretary-General in his report of January 23, 1989 (S/20412), which was later ratified by Security Council Resolution 632 (1989).

Mr. President, the United Nations has a long history of support, financial and otherwise, for the terrorist organization SWAPO. The United Nations has declared SWAPO the sole and authentic voice of Namibians. It is thus extremely important that the United Nations now exercise a role of strict neutrality in its role as monitor of the Namibian elections. All funding for SWAPO, and I emphasize all, Mr. President, must be terminated. Additionally, Mr. President, all other support for SWAPO must also be ended.

For instance, the contents of the impartiality package, which were made public by the Secretary-General on May 24, 1989 (S/20635) specify the following with regard to the United Nations:

(10) Consideration of the question of Namibia at the regular General Assembly should be suspended during the transition period.

However, Mr. President, the "question of Namibia" still remains on the provisional agenda of the 44th session of the General Assembly, which will convene in September, thus a violation of the United Nations' impartiality package.

(11) The UN will not provide funds for SWAPO or any other party during the transition period.

But, Mr. President, although certain Members of Congress have been informed by the State Department that SWAPO has "reaffirmed its agreement to forego all direct U.N. funding," and that U.N. funding for SWAPO "ceased effective April 1, 1989," it appears that the United Nations funded the travel of a SWAPO delegation to Vienna after April 1. It should also be noted that the Council for Namibia's 1989 budget includes $562,200 earmarked specifically for SWAPO. Is the unused portion of this figure, which should account for roughly three-quarters of the whole, to be returned by the Council for Namibia to the General Assembly? Was it given to SWAPO as a lump sum before April 1?

(12) The UN Council for Namibia should refrain from engaging in all public activities once the Security Council meets to authorize implementation.

According to this provision, the U.N. Council for Namibia was to have ceased all public activity as of January 16, 1989, the day that the Security Council met to authorize the implementation of the U.N. Peace Plan. However, the Council appears to have continued its activities in violation of the agreement. In a working paper issued on February 28, 1989, the Council for Namibia insisted that because it "was not a party to the agreement" it is allowed to continue with its public activities. The Council further explained that because it derives its mandate from the General Assembly, its "activities related to Namibia may be terminated only by the explicit decision of the General Assembly" (A/AC.131/1989). Almost all of the Council for Namibia's 1989 budget of $3,935,000 is devoted to public activities. Will these funds earmarked for public activities be returned to the General Assembly?

The State Department has informed the Congress that "agreement in principles has been reached which will limit the Council's activities to those permitted by the impartiality package." In light of the aforementioned statements by the Council, Mr. President, I am not at all convinced that this is the case. The Council for Namibia has acted in a grossly partial manner for many years, so much so that for this reason U.S. funding of the Council has been prohibited—starting with Public Law 98-164.

Now the Council for Namibia must simply refrain from engaging in all public activities, as the impartiality package clearly stipulates. It cannot be allowed to carry on with its activities in what it defines as an "impartial manner."

(13) The Commissioner for Namibia and his Office should suspend all political activities during the transition periods.

It is imperative that this requirement be upheld. This includes all grants for political activities.

(14) SWAPO will voluntarily forego the exercise of the special privilege granted to it by the General Assembly, including participation as an official observer in the General Assembly and in other bodies and conferences within the UN system.

While this provision states that SWAPO must voluntarily forgo its privileges granted by the General Assembly, the response by SWAPO has been quite predictable. On April 28, nearly 1 month after SWAPO was to lose its permanent observer status, Helmut Angula, head of SWAPO's Observer Mission at the United Nation, indicated in a letter to The Namibian that he still holds his position at the United Nations. Ironically, in that same letter, Angula implies that the impartiality package, as well as all other agreements and understandings reached since 1978, are not binding, because in their opinion, "no agreement supercedes 435." In the past, the Council for Namibia has earmarked $447,000 for the maintenance of SWAPO's New York offices for 1989. The continued maintenance of these offices would be a blatant violation of the impartiality package.

Because of these concerns that the United Nations was not in complete compliance with the impartiality package, the amendment requires that the President certify that:

(4) the United Nations and its affiliated agencies have terminated all funding and other support, in conformity with the United Nations impartiality package, to the South West Africa People's Organization [SWAPO].

It is to be hoped that the knowledge that this Presidential certification must be made will prompt the United Nations and its affiliated agencies to clean up their act and abide by the agreement, and that certification will not be difficult. However, because of the United Nations' long history of bias toward SWAPO, it is imperative that it take every measure to ensure absolutely no funding or other support for SWAPO during the implementation of United Nations Resolution 435.

Last, Mr. President, the amendment requires that the U.N. Angola Verification Mission is demonstrating diligence, impartiality, and professionalism in verifying the departure of Cuban troops and the recording of any troop rotations.

Many in the Congress were frankly astonished by the remarks earlier this year of the Brazilian General who is to head the U.N. verification team in Angola with respect to the withdrawal of the Cuban troops there.

In an article in the New York Times Sunday, January 8, 1989, General Ferreira indicated that he and other members of the U.N. Angola Verification Mission [UNAVEM] will essentially take Cuba and Angola's word for it when the team is told of Cuban troop withdrawals. "We will trust the information given by both countries [Cuba and Angola]," he said.

A UNITA spokesman rightly countered, "They need to do a little more work than just sitting at the airport counting Cubans."

Secretary Baker, at his confirmation hearing in January, expressed concerns about this obvious bias and indicated that the United States had communicated these concerns to the United Nations. This provision ensures that the United Nations will remain sensitive to the need to keep in check General Ferreira and others who may wish to side with the communists in Angola.

Mr. President, I thank the Senators who have been so actively involved with the Angola Task Force for their assistance and support on this amendment: Senator DECONCINI, the principal sponsor of the amendment and chairman of the task force, as well as Senators GRAHAM of Florida and SYMMS. I am pleased to have been a part of this effort which I think will advance the cause of peace and freedom in southern Africa.

I also thank the distinguished chairman of the Appropriations Committee Senator BYRD, for his assistance and that of his very professional staff. And, Mr. President, I also express my thanks to Senators KASTEN, RUDMAN, and HOLLINGS who were very influential in maintaining the essence of the DECONCINI-HELMS amendment during the disscussions with the House conferees—and to their staffs as well.

Mr. BUMPERS. Mr. President, I am very disappointed that during conference on the fiscal year 1989 supplemental appropriations bill the House and Senate Appropriations Committees were unable to reach an agreement on funding for the national biotechnology demonstration project at the National Center for Toxicological Research. The suggestion was made during conference that funding the biotechnology demonstration project is not a dire emergency and should be delayed until fiscal year 1990. I disagree with the characterization of the project as something that can safely and wisely be delayed and believe it should have been initiated in fiscal year 1989. If I cannot win the fight in fiscal year 1989, however, I will cer-

tainly fight to see that the NCTR project is funded in fiscal year 1990.

The United States is still the world leader in biotechnology, but the leadership position we currently enjoy is being challenged by other nations. Experts from industry, government, and the academy have warned that the United States must guard against complacency and must continue to invest in biotechnology research and development. I believe the U.S. Government can play a key role in supporting biotechnology by encouraging public and private sector cooperation and by facilitating the transfer of biotechnology products from the laboratory to the marketplace. I believe the perfect place for a cooperative venture between the public and private sectors is the National Center for Toxicological Research in Jefferson, AR. There is laboratory space available at the NCTR which could be inexpensively renovated and made available to scientists who lack access to space and state-of-the-art equipment.

This cooperative laboratory venture, which I have been trying to fund for 2 years, enjoys the support of the Food and Drug Administration. I have received strong support from my colleague from North Dakota, the chairman of the Agriculture Appropriations Subcommittee, in funding the project, and I thank him for his unwavering support. Unfortunately, this project has run into a number of roadblocks which have absolutely nothing to do with its merits. At the beginning of fiscal year 1989, the Office of Management and the Budget blocked the expenditure of $3 million on the biotechnology demonstration project, and when I tried to remove any possible opposition from OMB and give FDA the opportunity to move forward with the project, I ran into the argument that this project does not qualify as a dire emergency.

I wanted to take this opportunity to discuss this project with the Senator from North Dakota and to get assurances from him that the subcommittee will make every effort to get this project funded in fiscal year 1990.

Mr. BURDICK. I agree with the Senator from Arkansas and support his efforts to provide funding for feasibility and planning and design studies for the national biotechnology demonstration project. The subcommittee has received assurances from the FDA Commissioner that this project is an FDA priority, yet no work has been completed on the project.

Mr. BUMPERS. The Senator is absolutely correct; this project is an FDA priority, and I hope the subcommittee will be able to provide adequate funds to the FDA to initiate the project in fiscal year 1990. Time is wasting whle other nations rush forward in the biotechnology field. I look forward to working with the Senator from North Dakota during the fiscal year 1990 markup to provide funds to FDA for the NCTR project.

Mr. BURDICK. I will work with the Senator to provide funds to begin the biotechnology demonstration project in fiscal year 1990.

Mr. MURKOWSKI. Mr. President, I am extremely pleased to rise in support of this measure which should, among other things, provide for fiscal year 1989 supplemental appropriations for the Department of Veterans' Affairs. I congratulate and applaud the efforts of the Senate leadership—particularly Senators MITCHELL and DOLE—on this legislation.

Although this bill contains many needed and important provisions, I would like to highlight just one. This bill provides $340 million for veterans' medical care. This money is needed to permit VA to: First, hire new healthcare personnel; second, purchase medical equipment and prosthetic devices; and third, provide needed care and treatment to our Nation's veterans.

President Bush recognized the need for additional VA funding and requested such a medical care supplemental in March. The President, of course, deserves our appreciation as well as the appreciation of America's veterans for sending the request to the Congress.

VA Secretary Derwinski also worked hard on obtaining additional funds for veterans' medical care. Without the Secretary's hard work I don't believe we would have the bill before us tonight.

As ranking Republican on the Veterans' Affairs Committee, I know of the financial difficulties which have faced VA, especially during the last several months. Enactment of this legislation should drastically improve VA's situation. This is certainly good new for veterans.

Thank you, Mr. President.

Mr. BYRD. Mr. President, I ask unanimous consent that the Senate recede from its amendment to H.R. 2402, and pass the bill with an amendment which is at the desk.

The PRESIDING OFFICER. Is there objection? Hearing none, it is so ordered.

(The text of the amendment No. 210 to the bill H.R. 2402 is printed in today's RECORD under "Amendments Submitted.")

Mr. BYRD. Mr. President, I want to take particular note of the efforts of the Senator from California [Mr. CRANSTON], chairman of the Committee on Veterans' Affairs, in working with the joint leadership to ensure that the urgently-needed veterans medical care funding would be provided before the forthcoming recess.

In his role as majority whip and committee chairman, Senator CRANSTON contributed in a major way to moving the process forward to this successful resolution and I thank him for all of his cooperation and his help.

I also wish to thank the majority leader for his cooperation and for his understanding and courtesies that have been accorded. And I thank the Republican leader for his cooperation and equally good understanding and courtesy.

Mr. President, the Appropriations Committee is fortunate to have such a highly professional and dedicated staff. They all worked many, many long hours on this bill. I want the entire staff to know that their efforts are deeply appreciated. Since this was a supplemental appropriations bill the staff of all 13 subcommittees as well as the full committee staff, both majority and minority worked together in a bipartisan way to assist all members of the committee and all Senators on this measure.

I would like to include in the RECORD at this point the name of each member of the committee staff, both majority and minority and the subcommittees on which they serve. I do ask unanimous consent.

There being no objection, the staff list was ordered to be printed in the RECORD, as follows:

Staff director James H. English, Deputy staff director Terrence E. Sauvain, Minority staff director J. Keith Kennedy, and chief clerk Mary S. Dewald; full committee professional staff members Jack Conway, Robert W. Putnam, Marsha Berry, Mark Walker, and Juanita Rilling; staff assistants Janelle Grose, Diana Gourlay, Anita J. Skadden, and Debbie Rieman; from the Subcommittees on Agriculture and Related Agencies Rocky Kuhn, Deborah A. Dawson, Tawanda Sullivan, Irma I. Hanneman, and Judee Klepec; on Commerce, Justice, State, the Judiciary Warren Kane, Dorothy Seder, Liz Blevins, and John Shank; on Defense Richard Collins, Charles J. Houy, Scott B. Gudes, Jay Kimmitt, Peter D. Lennon, C. Richard D'Amato, Jane McMullan, Mary C. Marshall, Mazie R. Mattson, Mavis Masaki, Steven J. Cortese, Eric J. Kammerer, and Dona Pate; on District Columbia B. Timothy Leeth, Lula Joyce, and Rick Pierce; on Energy and Water Development Proctor Jones, W. David Gwaltney, Gloria Butland, and Gary Barbour; on Foreign Operations Eric D. Newsom, Tim Rieser, Rand H. Fishbein, Fred Kenney, and Jim Bond; on Interior and Related Agencies Charles Estes, Rusty Mathews, Sue E. Masica, L. Shannon Skripka, and Jeff Cilek; on Labor-HHS J. Mike Hall, James J. Sourwine, Peter Rogoff, Carol C. Mitchell, Amy J. Schultz, Nancy C. Anderson, Sandra J. Kruhm, Maureen Byrnes, Craig A. Higgins, Santal Manos, and Marva Bickle; on Legislative Jerry Bonham, and Lula Joyce; on Military Construction Mike Walker, and Rick Pierce; on Transportation Patrick J. McCann, Don Knowles, Joyce C. Rose, Anne Miano, and Dorothy Pastis; on Treasury, Postal Service, General Government Patty Lynch, Ursula P. Mauer, and Becky Davies; on VA-HUD Kevin F. Kelly, Carolyn E. Simmons, Stephen Kohashi; in printing and editing area, Richard L. Voelker, Bernard F. Babik, Clarence E. Erney, Richard L. Larson, and Robert Swartz; in the telephone office Rheda Ann Freeman, and Nancy L. Brandel; and the clerical assistants Norman L. Edwards, and Joseph C. Chase.

I also want to thank members of my personal staff who have been a great help to me on many of the specific issues in this supplemental: My chief of staff, Barbara Videnieks, my administrative assistant Joan Drummond, Charlotte Holt, Becki Roberts, Kathy McNally, Melissa Wolford, and Jan Heininger.

Mr. BYRD. Mr. President, I move to reconsider the vote by which the actions were taken and I move to lay that motion on the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. I yield to the distinguished Republican leader.

The PRESIDING OFFICER. The Republican leader.

Mr. DOLE. Mr. President, let me just congratulate the chairman and Senator HATFIELD and all others who participated in this process. It is not easy, as the distinguished chairman pointed out.

I also want to thank Senator MCCAIN who thought about coming in to offer an amendment on catastrophic coverage. He was persuaded that maybe he could do that on child care, something that was not controversial.

He did not do it on the supplemental, though he could have. But I want to congratulate the leadership, and particularly Senator HATFIELD and Senator BYRD for their diligence. I know it is a difficult thing to do. It is done because of their efforts and we thank them.

Mr. BYRD. Mr. President, I publicly thank Senator HOLLINGS and Senator DECONCINI. They made it clear in the conference that they were with those who wished to support the $822 million, and various lesser amounts that came up in the amendments with respect to drug funding. They made it perfectly clear that they supported those efforts but that the Senate had had three votes on the floor and one in committee. It was obviously a very strong position which the Senate took. They recognized it and would recognize the futility of coming back here and making another effort and I think that took courage and I think it is very persuasive to the House conferees.

I also thank Senator RUDMAN and Senator HOLLINGS, for their cooperation on another matter involving the legislation, and I thank Senator SASSER and Senator DOMENICI for their excellent work that they did in the conference, as well as the other subcommittee chairmen and ranking members.

Mr. President, I thank all Senators and I yield the floor.

The PRESIDING OFFICER. The majority leader.

CHILD-CARE IMPROVEMENT ACT

The Senate continued with the consideration of the bill.

Mr. MITCHELL. Mr. President, what is the pending business?

The PRESIDING OFFICER. The pending business is the Dole amendment to S. 5.

Mr. MITCHELL. Mr. President, for the information of Senators I am about to propound a unanimous-consent request regarding an amendment to be offered by Senator WILSON. If agreed upon it will provide for 40 minutes' of debate, maximum on that amendment, followed by a vote. Senators, therefore, should be aware that a vote will occur, if this agreement is accepted as I hope and expect that it will be, not later than 40 minutes from now or at approximately 10:30, or sooner if the time is yielded back.

So I hope that the Senators' staff who are listening will contact all Senators immediately. We will put out a hotline to indicate that on both sides, that there will be a vote upcoming in the near future so that Senators can return for that.

Accordingly, Mr. President, I now ask unanimous consent that the pending Dole amendment be laid aside and that Senator WILSON be recognized to offer an amendment relating to pay rates for child care on which there shall be 40 minutes of debate equally divided between Senators WILSON and DODD.

I further ask unanimous consent that no amendments be in order to the Wilson amendment of the language proposed to be stricken by the Wilson amendment, and that the Senate vote on or in relation to the Wilson amendment without any intervening action at the conclusion or yielding back of time on the amendment.

The PRESIDING OFFICER. Is there objection?

Hearing none, it is so ordered.

Mr. DODD. Mr. President, what is the pending business?

The PRESIDING OFFICER. The Senator from California [Mr. WILSON] is authorized under the unanimous-consent agreement to offer his amendment at this time.

Mr. DODD. Mr. President, I ask that the time run equally against both sides. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. WILSON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 211

(Purpose: To delete provision relating to the rate of payment of child are providers)

Mr. WILSON. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from California [Mr. WILSON] proposes an amendment numbered 211.

Mr. WILSON. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 40, strike out lines 15 through 23.

On page 41, line 1, strike out "(9)" and insert in lieu thereof "(8)".

On page 41, line 18, strike out "(10)" and insert in lieu thereof "(9)".

On page 41, line 24, strike out "(11)" and insert in lieu thereof "(10)".

On page 42, line 3, strike out "(12)" and insert in lieu thereof "(11)".

On page 45, line 5, strike out "(13)" and insert in lieu thereof "(12)".

The PRESIDING OFFICER. The Senator from California is recognized.

Mr. WILSON. Mr. President, this amendment seeks to maximize what money is available for child care in the pending legislation and specifically it seeks to strike that section of the ABC legislation that requires that child-care providers receive the same rate of compensation within the same State or substate area. Specifically, the language says that in the plan that is submitted by the State to the Federal Government for child-care services that "an eligible child care provider shall have a right to payment at the same rate charged by providers in the State or substate area to children whose parents are not eligible for certificates."

What this means, Mr. President, is that a child care provider who is presently in the business of providing care at a lesser rate than the highest in that substate area would, under this legislation, have a right to seek and receive payment at that rate. It means that even though St. Aloysius, for example, is providing child care at a much lesser rate than Kindercare; that under this language they have a right "to payment at the same rate charged by providers in the substate area for comparable services to children of comparable wages and comparable needs."

What that means, Mr. President, is that inevitably there will be a tendency for the costs of child care to rise. What that means is that with x amount of dollars available for child care of all kinds, be it through certificates or be it through contracted services with the State acting as the contracting agent to a child-care provider, the costs will go up from what they are now and less children will be permitted to be cared for. It is a simple matter of arithmetic, because the x dollars, whatever they turn out to be, will, in fact, be divided into fewer larger units, fewer children will be cared for than could be cared for if the market were permitted to operate.

If instead the law simply put surplusage in terms of stating that people can be compensated according to what the market provides, there obviously would neither be a need for that particular provision nor would there be the kind of compulsion that exists when the law says "shall have a right to payment at the same rate."

What we are dealing with here is a situation where under the law eligible families are those within the median income of the State or the substate area. What that means is that in certain areas, those of a reasonably substantial income can be eligible. In those areas, it is virtually guaranteed that costs will be higher because the

cost of living is higher, and what it means is that there will be pressure on those who are serving children at a lesser cost to increase what they charge, and that will not benefit the parents and it certainly will not benefit the children.

Already we have heard on this floor repeatedly concern expressed by my friend, Senator PACKWOOD, from Oregon, by my friend Senator DOMENICI of New Mexico, the other day. I have expressed this concern, and the Senator from Colorado, who is a cosponsor of this amendment, has expressed the concern, that we are going to be faced with a situation where there will be rationing of child care.

This provision simply aggravates it. It does not say "shall be compensated at the prevailing market rate" as it once did. There has been some concession, some softening of the language in that respect. But what it does say is that an eligible child-care provider shall have a right to payment at the same rate that he charges to the parents of children who are not eligible to receive assistance under this title or any other Federal or State program, any other child-care assistance.

Mr. President, good intentions, I repeat, are not enough, and what we are in danger of doing here is saying that it is only fair to providers that they be able to charge what the competition is charging and to receive it. They are able to charge it if they want to, but this says, instead, that they will receive the same rate. I do not know how you would interpret that, but I think it is fairly clear that there will be efforts made to interpret it. There will be court cases that will interpret it as meaning the prevailing market rate. We are in the situation where we have, in effect, a Davis-Bacon not for construction but for the provision of child care.

It will mean that less child care will be available than would otherwise be the case if we simply allow the market to operate.

Now, we do not know yet what the denouement will be in this drama that is slowly unfolding in terms of a negotiation to reach some agreement on what kind of tax credits this legislation will contain beyond the dependent care credit. What I will tell you is that whatever forms we provide in this legislation, the x amount of dollars that we provide for all those purposes will not go as far as it could or should if we simply permitted the market to operate, allowing the parents to choose the kind of care they want and even with assistance feel that they can afford because, admittedly, we are talking about sliding scale, ability to pay in the case of those receiving certificates. Any way you cut it, we are talking about reducing the amount of child care available.

Now, you can speak of fairness to providers. Well, they have been operating in the marketplace charging what they thought they could either get, if they are proprietary, or what they needed to get, if they are nonprofits. Why not simply allow that to continue? Why shrink the amount of child care available? Why lessen the number of children who, under a rationed system of child care, will receive care? Why aggravate that situation needlessly by insisting on a prevailing wage rate? I submit that is essentially what this language does. It may be less specific than those phrases of art about prevailing market rate, but that will be its effect inevitably. And just as inevitably it will reduce the amount of subsidized slots, whatever the form chosen to provide child care, and we will have fewer children cared for.

Mr. President, I suggest to you again, what we need to do with the limited amount of dollars we are allocating to this purpose, less than perhaps anybody would like to see, is to target those to low-income families, to the working poor. I am not sure we do that when we speak of allowing families to be eligible up to the median income in the State or the substate area. In some instances we may, but in others I think we will again by that standard aggravate the shortage. Together, that provision with this one that requires the provider receive payment at what is the prevailing market rate, and that is how it will be interpreted, what we are doing is providing an unnecessarily rich program for fewer children than should be provided. You may argue that it will not be a rich program, and that may be. But it will in fact mean that we are spending more per child than is necessary currently, and it will mean that there will be fewer children cared for.

That really is the bottom line. I think that is a very sad mistake to make.

Mr. President, how much time remains?

The PRESIDING OFFICER (Mr. FOWLER). The Senator from California has 9 minutes remaining.

Mr. WILSON. Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

The Senator from Connecticut controls the time.

Mr. HATCH. I yield such time as I may need.

Mr. DODD. I yield whatever time the Senator from Utah needs.

The PRESIDING OFFICER. The Senator from Utah is recognized for whatever time he needs.

Mr. HATCH. Mr. President, let me say to my friend from California that one of the original provisions of the ABC bill was that providers had to be reimbursed at the "market" rate. I had a problem with that in our negotiations. I do not know precisely what "market" rate is, and neither does anyone else. I did not want to establish an arbitrary fixed rate for reimbursement, and I did not want to preclude parents from choosing qualified providers who charge less than this or that established rate.

I also did not want providers who would otherwise charge less to raise their rates just because the State determined that the acceptable "market" rate was higher.

Now, having stated this, let me point out that the rationale for having this language—and this language in the bill basically says, "The plan shall provide the child care services for which assistance is provided under this title. An eligible child care provider shall have the right to payment at the same rate charged by providers in the State or substate areas for comparable services to children of camparable ages and special needs whose parents are not eligible for services under this title or for child care assistance under any Federal or State program."

Having stated what I have stated, the rationale for putting this language in the bill is to avoid creating disincentives for providers to serve low-income families who are or may be eligible for assistance under this bill. For example, some States currently reimburse only $6 or $7 a day when the true cost is $10 or $12 a day. Kansas in 1987, for instance, paid $8.35 per day for children aged 2½ to 6, even though preschool care averaged in the State $10.33 per day—in fact, just over $9, and the true cost is over $12. Utah has a reimbursement, for instance, of only $7.95 per day when the daily cost for infants and toddlers is actually $14.10 a day. Also, these provisions as a practical matter affect State contracts. Certificates going directly to parents will be assigned values based on a variety of other factors including the income and number of children in the eligible family. So all of these are important reasons why we wrote the language as it is, plus we wanted to avoid some of the political ramifications that could come from the other language.

Now, this language is actually more flexible than the "market" rate language the Senator rightly criticizes. I think he does rightly criticize that. A "market" rate implies that all providers must be reimbursed at the arbitrarily-established rating. This language in the bill says comparable rates for comparable services—toddler programs compared to toddler programs, infant care compared to infant care, et cetera, et cetera. So that means that a State can reimburse two or more infant care programs in the same area at different rates. Clearly there is no incentive under this language for the providers to raise rates.

So as much as I share the concern of the distinguised Senator from California, this language is much more flexible and much better than the other language that has been, for instance, put in the welfare reform bill that passed, as I recall, 96 to 4. And if I do not miss my bet, I think the distinguished Senator from California voted

for it. So we think it is much better language.

Now, it is no secret there are those here who would like to put formal Federal language of "prevailing" rates in here. We would like to avoid that because, first of all, if that were the case, then the arguments of the distinguished Senator from California would have some merit, would have some sting to them. So we have worked very hard to try to come up with language that solves the problem without getting into the "market" rate problem but literally exists in so many other areas of Federal law. Actually, we are for flexibility; it works better; it gives the States a lot of flexibility. I do not think we can really improve upon it unless we just said that there would be no restraints or restrictions whatsoever. I do not think we are going to be able to get away with that on this bill or any other bill, to make a long story short. So this is about as fair a way of stating it as we possibly can under the current laws of our country, and we solve two problems at the same time.

I reserve the remainder of our time.

Mr. WILSON. Mr. President, I thank my friend for his comments, but I think that he has, with all candor, made a compelling argument for the removal of this language because in the examples he cited, he repeatedly gave examples of those providers of child care who have been providing care, presumably comparable care, at a lesser rate who in his words have been in effect subsidizing the care they provide and that now he sees no reason why they should seek reimbursement at a higher rate.

I say the reason is that they have the right under the law, or would if this becomes law because it says "shall have a right to payment at the same rate charged by providers in a State or substate area."

Indeed, that is the announced purpose, the purpose in his words being to remove the disincentive that would otherwise exist for the provision of services to those children who, in fact, cannot afford market rate.

Now, what you have are people who are able to afford expensive care, and expensive care as provided by proprietary firms and you have other firms providing, or other forms of care being provided, good care being provided at a substantially lesser cost because that is what the market will bear with a particular audience they are trying to reach.

I used a fictitious St. Aloysius, meaning a church-based kind of care aimed at families within a parish perhaps in an afterschool program. In any case, what we will see now is that there will be pressure for compensation to be even. There will be in effect an economic egalitarianism in the name of not having distinctions either in the kind of care or no distinctions made between who is receiving it.

That is a nice idea, except that it is going to mean that we spend more on fewer kids. It will benefit not the kids but the providers, and this provision I submit with the best of intentions in the world is a provider's provision, not a consumers' provision, and my concern is that we reach as many children as possible.

Mr. ARMSTRONG. Mr. President, will the Senator yield to me for a moment?

Mr. WILSON. I am pleased to.

Mr. ARMSTRONG. We have been arguing about Davis-Bacon for about 50 years. I suppose we are going to be arguing about it for a while longer, but the reality is every Senator knows Davis-Bacon is a bad deal. CBO has reported that it is costing us hundreds of millions of dollars a year. The General Accounting Office has done numerous studies. If you look at the construction of highways, airports, housing projects, it has been a terrible deal. This is a new Davis-Bacon provision.

I am enough of a realist to know tonight we are not going to repeal the Davis-Bacon Act, but I appeal to my colleagues, let us not start with another reason. Let us not write into this bill a new provision we will be arguing about for the next 50 years.

The Senator from California is absolutely right. In response to the arguments that he has made, we have been told three things. We have been told, first of all, that there is no incentive to raise rates. That flies in the face of human nature for the reasons that Senator WILSON has pointed out.

Second, we have been told it is not as bad as it might have been, that in the original iteration of this thing it was much worse. I have no doubt that is true. But that is scarcely a reason to buy off on this kind of a provision.

If Senators want this provision, they can vote against the Wilson amendment. My view is that the free market works pretty well for most things, and unless there is a compelling showing of why we ought to intervene with this kind of a price-fixing scheme, 10:30 at night is not a good time to embark on a program on that kind that is going to affect a lot of millions of people over the next 10, 20, 30, 40, 50 years if, in fact, this bill is enacted.

Finally, we are told this is the best we could do; "We could not get away with it." I noted when that phrase was used, "We just could not get away with anything," that it was more free market than that.

I am not prepared to accept that. Maybe that is what the votes are going to show. If it does, that is the way it is. My colleagues, this is a terrible provision to put in this bill. Maybe it is not as bad as it is thought to be. But it is a lot worse than it needs to be.

Mr. WILSON. Mr. President, I reserve the balance of my time.

Mr. HATCH addressed the Chair.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. I am told providers for many in the country simply feel it would serve low-income kids. One statistic that comes to mind is in Seattle. Something like 30 percent of the providers will not accept kids on a subsidy. What kind of parental choice is that.

Look, the fact is that the cost of these programs is going to be competitive, and they are going to try to match up. There will be always an attempt to pay more. As a matter of fact, as we try to get quality and reasonable State and local standards in, there will be an attempt to pay people what they should be paid to do child care based on certain areas. But this is unlike Davis-Bacon. This has no relationship to Davis-Bacon, and I think anybody who understands labor laws knows it has no relationship to Davis-Bacon. We provide for a lot of flexibility in here for different rates among different approaches. We give the States a lot of flexibility.

So it is not like we are trying to saddle them with a bunch of rules and regulations. It is trying to get the system to work so certain areas are not underserved.

I like the free market arguments myself. I think they are great. They will work very well under this system. What we have tried to do is come up with a compromise that basically will work well, that will satisfy the broadest number of people on this floor, and that probably will work better than any other system we can possibly have. But it is certainly not Davis-Bacon, does not have any relationship to Davis-Bacon, and it is a red herring. I want to put that one to bed.

Mr. KERREY. Mr. President, will the Senator yield?

Mr. HATCH. Yes.

Mr. KERREY. I appreciate the Senator bringing out the difference between what he and Senator HATCH are doing with this reimbursement system on Davis-Bacon. It seems to me it is much more close to the reimbursement system we have in place for intermediate care facilities.

I observe Senators who are concerned about the funding, and I think the Senator from California has identified one of the serious questions that the committee has gone through as they tried to figure out when you make it market oriented, when you essentially observe that over the past 10 years there has been an acceleration of the development of a new service being offered to individuals because of a change in the workplace known as day care. When you try to reimburse for that kind of service, you are going to get into funding difficulties.

I see the model as being very much comparable to the intermediate care facility.

I urge those Senators who are sort of intrigued by perhaps making this change to understand if you accept this different kind of a funding mech-

anism you are going to have to apply the same kind of standard to the intermediate care facilities. We do in fact have uniform categories for intermediate care facilities. We set up categories within the State, and reimburse accordingly.

In addition to that, I point out something to Senators that I think we are going to discover, not only through this, but as we go more and more into welfare reform there is a terrible dilemma inside of the day-care facilities for working mothers and fathers that have chosen to work, for whatever their reasons. They may work for me, they may work for you, they have chosen to work, and are looking at day care. The dilemma is reimbursement required that is charged to these working mothers and fathers has grown exceedingly expensive and difficult for them to pay.

On the other hand, the reimbursement that provides for the institution that tries to provide the care is so low that most of these facilities in my State, and I would be surprised if it is much different throughout the United States, are unable to hire much more than just minimum-wage people. It is a terrible dilemma.

I suggest one of the things that will happen over time as we look at child care facilities is we are going to begin to ask ourselves what kind of care do we want these children to get? These children that are in there today are toddlers. Twenty years from now, they are going to be in the workforce. The ones that are being provided afterschool care, as the Senator from California has cited, are going to be in our workplace in 10 years. We are going to be asking ourselves what kind of care do we want. I think we are going to begin to discover that the reimbursement that is provided right now is insufficient to be able to hire the kinds of people we want in that child-care facility.

I urge Senators to consider that if you accept the argument that is being offered and change this funding formula, it is going to have an awfully adverse impact upon the way we reimburse for our nursing homes.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. DODD. Mr. President, our colleague from Nebraska, as well as my colleague from Utah, laid out the specifics here. This is an amendment that, if adopted, would change exactly the trend we have been going in in a number of other areas legislatively. Last year the welfare reform package was adopted overwhelmingly, and this body adopted similar provisions. This is not something new and unique that has been suggested here at all. This is the way we have been progressing. Ninety-six to four, our colleagues here in fact chose a system, and arguably would create a little more dislocation than being proposed here.

Second, this is a compromise that came from the Governors of this country. This was not crafted or concocted or created around here. This is part of what the NGA, the National Governors Association, said would work best for them.

So it is coming from the States to us rather than something that is coming out of here.

Third, one of the things we have all been talking about here over the last week or so is trying to do something about particularly children in the poorer families or up into working class families. That is the target group here. As a practical matter, we also know, having listened to our colleague from Missouri offering his amendment on the crisis of availability, on slots. In Missouri, in Alabama, in Illinois, in California, in Nebraska, in Connecticut, in Utah, in Colorado, there is an availability crisis. If we are simultaneously trying to serve a population that is poorer at the same time we have a problem in finding slots for those children, obviously a provider that is not going to be receiving a comparable rate for a poor child is not going to accept it.

So on the one hand we are trying to serve a population, where with this, if you take this out, you are removing the possibility they get served at all.

I know my good friend from California, who faces a unique crisis in his State, would be de facto with this amendment rejecting almost every poor child in his State receiving child care if they do not make it possible for that child, that poor child, in Los Angeles, San Diego, San Francisco, getting from at least that provider the comparable rate from the State. This is where that comes from.

Mr. HATCH. Will the Senator yield?

Mr. DODD. Yes.

Mr. HATCH. If you do not give the comparable rate, you are going to have people not served. That is what is happening in cities all over the country. States are not giving comparable care in some instances.

Mr. ARMSTRONG. Mr. President, will the Senator yield?

Mr. HATCH. Sure.

Mr. ARMSTRONG. The notion which the Senator is expressing, and which the Senator from Connecticut is expressing, is so far removed from any notion of marketplace economics that the very idea that you have to start by freezing the price in order to assure competition is bizarre. If the price is not high enough to encourage someone to provide a needed service, the price will rise to what economists call a "market clearing level."

I do not want to belabor the Senator's patience. But honest to Pete, that does not make sense.

Mr. HATCH. Let me answer the distinguished Senator. In that case, we are having trouble getting reimbursement for providers because the reimbursements are not adequate. All we are trying to do is make sure the system works. The fact of the matter is in some areas of the country poor people cannot get service because the reimbursement rates are not adequate to pay for the service. That is happening all over the country. You can say, well, let the free market care for it. The free market is not handling the problem.

So what we are trying to do here is trying to get adequate child care for people all over this country on a reasonable basis. So we say let us have comparable rates.

Mr. ARMSTRONG. Mr. President, if the Senator will yield further, the point the Senator is making would be applicable, and in fact would be obviously true, if what the Senator from California was suggesting were a ceiling price and if the ceiling price were imposed at some level which was too low to attract providers to render a needed service. That is not what he is saying.

Mr. DODD. I agree with that.

Mr. ARMSTRONG. What he is saying is he wants to strike out of the bill language which sets a floor price. Exactly the opposite.

Mr. DODD. If my colleague would yield, if the Senator would take his argument, that is true when you have demand roughly equalling supply, the market rate applies. But when demand far exceeds supply, when it far exceeds supply, then you either ensure that poor families can pay as much as wealthier families and market rate principles do not work under that kind of a fact situation. That is what we are talking about.

One thing we have all agreed upon here over 7 days debate on this issue—the Republican alternative offered this morning, certainly what we have tried, Senator HATCH and I—is to at least try and serve the poor elements in our society, get them back to work and off welfare and also reach up a bit. I would say on our side we try to do at least a little more than on that side.

If, simultaneously in our effort jointly to to that, you make it almost impossible for that poorer person to be able to get a slot where there is such a waiting list to get in, then you have defeated what we all decided here, choosing different means to arrive at that same result, that is to serve a poorer population, is lost.

So, obviously, you may reject, as I understand it—I mean, my colleague from California does not particularly find appealing the ABC approach, and I respect that. That is fine. But, having moved in that direction, this would just undercut and destroy the ability of these poorer people to take those vouchers and make them workable for them.

Mr. CHAFEE. Could I ask a question of the Senator?

The PRESIDING OFFICER. Who yields time?

Mr. DODD. I am glad to yield to my colleague from Rhode Island.

Mr. CHAFEE. Could I draw an analogy to the medicaid situation, in that you have a provider here who has a host of private, you might say, noneligible children attending there, private patients, if you would. And so the State is going to pay for several poor children to attend that facility. If I understand this provision, it says the State must be prepared to pay what the going rate is at that facility, for example, and if they set a lower rate, the facility is going to say, "We don't want that child."

Mr. DODD. That is basically true.

Mr. CHAFEE. Is this not a repeat of the Medicaid situation, where we have doctors, for example, who have plenty of patients and do not want to take the Medicaid patient because medicaid is not paying an adequate amount of money?

Mr. ARMSTRONG. Mr. President, I do not know who has the floor, but the Senator from Rhode Island is not stating the situation as I understand it.

Mr. President, who controls the time?

The PRESIDING OFFICER. The Senator from Connecticut has the floor. The Senator from Connecticut has 1 minute and 30 seconds remaining. The Senator from California has 4 minutes and 30 seconds.

Mr. DODD. Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from Connecticut reserves the remainder of his time.

The Senator from California.

Mr. WILSON. Mr. President, let me just point out, in this fascinating discussion of market economics, that we are talking about a limited supply of money, a limited supply of money that we are seeking to stretch to serve as many children as possible. We will not achieve that goal if, instead, we reduce the number of units available because we are increasing the cost with that fixed number of dollars available.

Let me point out—I was just handed this interesting information. The National Child Care Association shows that there exists across the Nation today an 18-percent vacancy rate in licensed child-care facilities.

I would suggest that there may be an opportunity for the market to operate to the advantage of those children who I guarantee my friends will wind up on that longer waiting list because fewer of them can be served if we increase the cost of care for each of them. And that is precisely what this makes inevitable.

Now, you may not like analogies to Davis-Bacon, but, frankly, I think they apply. The language is not identical. But you watch. When it is construed in the court, they are going to come down and define these terms as meaning prevailing market rate. What else can it mean when it says the child care provider shall have a right to payment at the same rate charged by providers in the State or substate area for comparable services? What else can it mean?

And what it means, I will tell you, is that we are here in this section providing for the providers and not the children. We should be interested in the consumer more than the provider. We shold be interested in a program that stretches further rather than a rich program for fewer children. It is that simple, unhappily. And it does not really matter. It will probably be aggravated given the ABC approach that does not permit the use of the tax credit, at least not yet, to the extent we would like to see.

But whatever the form of the child care provided, when you have a fixed number of dollars and reduce the number of slots because you have made them more expensive, fewer children are going to be served. That is not the purpose of this legislation. I do not think it is even the purpose to get the nose of the camel under the tent to create a rich program for a few people in the hopes that we can expand the funding in the future.

Mr. President, we ought to be concerned with providing as much care with the dollars in this bill as we possibly can. This approach does not do it.

My friends who are worried about whether or not proprietary care operators will take poor children have made the point compelling. Let us stretch the money as far as it will go.

Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. DODD. Mr. President, how much time remains on both sides?

The PRESIDING OFFICER. The Senator from California has 1 minute and 31 seconds and the Senator from Connecticut has 1 minute and 17 seconds.

Mr. DODD. Mr. President, at the conclusion of the debate, I inform my colleague that when he is completed I will move to table the pending amendment.

I believe the arguments have been made. I can repeat them again for those who care to hear them.

Basicially, as I said in response to our colleague from Colorado who was talking about market rate here, we have got a situation where demand vastly exceeds supply in every State in the country. This has been highlighted by various Members talking about the problem. One of the things we are trying to do is help poor people. And this provision here is designed to do that under the provisions of the bill.

As the Senator from Nebraska has pointed out and the Senator from Rhode Island has pointed out these are things we have done with the elderly in our country, in nursing homes. We did it in the welfare reform bill last year, part of that bill, which passed 96 to 4 when a similar attack was raised on it.

I would suggest that is all we are trying to do here with this legislation and with this particular provision.

Again, the Governors of this country were the ones who insisted that this provision be there.

The PRESIDING OFFICER. The Senator from Connecticut has 10 seconds remaining.

Mr. DODD. I reserve the 10 seconds.

Mr. WILSON. Mr. President, I ask unanimous consent to have printed in the RECORD this sheet from the National Child Care Association that makes the point about the current 18-percent vacancy rate.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

CHILD CARE CENTERS NATIONWIDE HAVE CURRENT 18 PERCENT VACANCY RATE, JUNE 16, 1989

Final results of an 18 State survey of child care center vacancy rates manifest an 18 percent average vacancy rate. The licensed capacity of the proprietary child care centers survey was 38,848, but current total enrollment of 1-5 year olds was only 31,958.

"This definitely puts to rest the unsubstantiated charge of the ABC Coalition and its supporters that there is a massive shortage nationwide in available, quality child care," declared Nick Craft, President of the National Child Care Association as he reviewed the results. "This relates well to the statement of April 15, 1988 by a special Task Force of the United States Department of Labor," he continued, "that denied there was an ongoing national child care availability shortage. Rather, at most, there may be highly localized shortages of day care, especially for infants and toddlers, and these shortages are also keyed to local economic conditions."

The NCCA National survey also revealed that almost 25 percent of center enrollment was by 4 year olds, a group that would be pushed into public schools by the House ABC-like bill, H.R. 3, introduced by Chairman Gus Hawkins, of the House Committee on Education and Labor.

The National Child Care Association represents 18 state Associations and 30,000 proprietary (small business, for-profit) child care centers nationwide in the areas of national and state public and professional issues.

Mr. WILSON. Mr. President, let me conclude with thanks to my friend from Colorado for his eloquent and accurate analysis. Let me say to my friends who are trying hard to do a good thing that I think we ought to be realistic. There is a limited supply of dollars. We are not going to stretch them as far as they can go and ought to go by providing for, in effect, a Davis-Bacon for child-care providers that reduces the number of slots available. That is a mistake. It is a serious mistake.

The fact that we may be applying that approach in other areas is not persuasive. It is not an argument in favor of making the same mistake again. Let us, in fact, have not a providers' provision but one for consumers, not a rich program for fewer, but a market rate program for as many as can be served at the market rate.

Mr. President, I yield back the remainder of my time.

Mr. DODD. Mr. President, I agree. I wish we were doing a bit more here financially. But the fact that we are not doing quite as much as everyone would like is no reason to be against this. We are doing the best we can.

Mr. President, I move to table the amendment and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Connecticut [Mr. DODD] to table the amendment of the Senator from California [Mr. WILSON]. The yeas and nays have been ordered and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. SIMPSON. I announce that the Senator from Mississippi [Mr. LOTT] is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 59, nays 40, as follows:

[Rollcall Vote No. 98 Leg.]

YEAS—59

Adams	Ford	Metzenbaum
Baucus	Glenn	Mikulski
Bentsen	Gore	Mitchell
Biden	Graham	Moynihan
Bingaman	Harkin	Nunn
Boren	Hatch	Pell
Bradley	Heinz	Pryor
Breaux	Hollings	Reid
Bryan	Inouye	Riegle
Bumpers	Jeffords	Robb
Burdick	Johnston	Rockefeller
Byrd	Kennedy	Sanford
Conrad	Kerrey	Sarbanes
Cranston	Kerry	Sasser
D'Amato	Kohl	Shelby
Daschle	Lautenberg	Simon
DeConcini	Leahy	Specter
Dixon	Levin	Stevens
Dodd	Lieberman	Wirth
Exon	Matsunaga	

NAYS—40

Armstrong	Gorton	Murkowski
Bond	Gramm	Nickles
Boschwitz	Grassley	Packwood
Burns	Hatfield	Pressler
Chafee	Heflin	Roth
Coats	Helms	Rudman
Cochran	Humphrey	Simpson
Cohen	Kassebaum	Symms
Danforth	Kasten	Thurmond
Dole	Lugar	Wallop
Domenici	Mack	Warner
Durenberger	McCain	Wilson
Fowler	McClure	
Garn	McConnell	

NOT VOTING—1

Lott

So the motion to lay on the table amendment (No. 211) was agreed to.

The PRESIDING OFFICER. The pending business is amendment No. 202 offered by the Republican leader, Mr. DOLE.

The majority leader.

Mr. MITCHELL. Mr. President, Senator COATS has a series of, at maximum, seven amendments which he is prepared to offer. Five of those have been worked out and I understand will be acceptable to the managers and will take just a few moments once properly cleared. The remaining two, if offered, will be contested and will require rollcall votes.

Senator COATS has indicated that he is going to offer one of the remaining two for certain and possibly a second but has agreed to a 30-minute time limit on each. It is my intention that we proceed to complete action on all of Senator COATS' amendments this evening which, at the very latest, would take us to just prior to midnight and possibly the very earliest about 11:30. It would be my intention to discontinue action this evening and return tomorrow and attempt to complete action on the remaining amendments.

Accordingly, Mr. President, I ask unanimous consent that Senator COATS be recognized for the purpose of offering a maximum of seven amendments, five of which may be accepted by the managers and with respect to two of which votes may be required. With respect to those two, if offered, there would be 30 minutes of debate equally divided under the control of Senators COATS and DODD and that there be no amendments in order to the two Coats amendments.

The PRESIDING OFFICER. Is there an objection?

Mr. COHEN. Reserving the right to object, would it be possible to have a short time period between the votes if we were to have back-to-back votes to those amendments?

Mr. MITCHELL. They are not going to be back-to-back votes. Senator COATS has indicated he is not certain he is going to offer the second amendment that is contested so that there will likely be only one vote. He, of course, has the option to, and I have agreed to reserve his right to offer a second amendment should he so choose. That will not occur until after debate on that amendment.

The PRESIDING OFFICER. Is there objection to the unanimous-consent request? Without objection, it is so ordered.

The Senator from Indiana [Mr. COATS] is recognized.

Mr. MITCHELL. Mr. President, I understand that the Senator from Indiana is prepared to proceed and has been recognized by the Chair for purposes of offering the first of his amendments.

The PRESIDING OFFICER. The Senator from Indiana [Mr. COATS] is recognized.

Mr. COATS. Mr. President, I need to inform the majority leader that apparently one member of the majority has a question on one of the package of five.

I have been assured that there does not appear to be a problem but that needs to be looked at and within the next 2 or 3 minutes we should have the answer on that. So we cannot proceed with the package of five.

Mr. MITCHELL. Accordingly, Mr. President, I am advised that Senator DOMENICI has an amendment that is acceptable to the managers. Accordingly, Mr. President, I ask unanimous consent that Senator DOMENICI be recognized for the purpose of offering an amendment that will be acceptable, and that following disposition of that amendment the previous order be in effect and Senator COATS be recognized.

The PRESIDING OFFICER (Mr. BRYAN). Is there objection? Hearing no objection, it is so ordered.

The Senator from New Mexico [Mr. DOMENICI] is recognized.

AMENDMENT NO. 212

(Purpose: To exempt small employers from section 89)

Mr. DOMENICI. Mr. President, I send to the desk an amendment and ask for its immediate consideration.

The PRESIDING OFFICER. Without objection, the pending amendment is set aside and the clerk will report the amendment of the Senator from New Mexico.

The legislative clerk read as follows:

The Senator from New Mexico [Mr. DOMENICI] proposes an amendment numbered 212.

Mr. DOMENICI. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Beginning on page 112—

Strike section 89(c)(5) of the Internal Revenue Code of 1986 as added by section 222.

Strike section 89(d)(3) of the Internal Revenue Code of 1986 as added by section 222.

Strike section 89(f)(3)(C) of the Internal Revenue Code of 1986 as added by section 222.

Strike the second sentence of section 4980C(c) of the Internal Revenue Code of 1986 as added by section 222.

After section 204 insert the following:

SEC. 205. EXEMPTION FROM SECTION 89 FOR EMPLOYERS WITH FEWER THAN 20 EMPLOYEES.

(a) IN GENERAL.—Section 89(f)(1) of the Internal Revenue Code of 1986, as added by section , is amended to read as follows:

"(1) HEALTH PLAN.—

"(A) IN GENERAL.—The term 'health plan' means an accident or health plan within the meaning of section 105(e).

"(B) EXCEPTION FOR CHURCH PLANS.—The term 'health plan' does not include a plan maintained by a church for church employees. For purposes of the preceding sentence, the term 'church' means any church (as defined in section 3121(w)(3)(A)) or qualified church-controlled organization (as defined in section 3121(w)(3)(B)).

"(C) EXCEPTION FOR PLANS OF EMPLOYERS WITH FEWER THAN 20 EMPLOYEES.—

"(i) IN GENERAL.—The term 'statutory employee benefit plan' does not include a plan maintained by an employer during a testing year if on all days during such year the employer has fewer than 20 employees (determined without regard to employees excluded under subsection (h)).

"(ii) AGGREGATION RULES.—All employers treated as a single employer under section 414 (b), (c), (m), (n), or (o) shall be treated

as a single employer for purposes of subparagraph (A)."

(b) EFFECTIVE DATE; STUDY.—

(1) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in the amendments made by section 1151 of the Tax Reform Act of 1986, and shall remain in effect until taxable years beginning after December 31, 1992.

(2) STUDY AND REPORT.—

(A) STUDY.—The Secretary of the Treasury or the Secretary's delegate shall conduct a study to determine if discrimination occurs in employees benefits provided by small businesses exempted from the application of section 89 of the Internal Revenue Code of 1986.

(B) REPORT.—The Secretary of the Treasury or the Secretary's delegate shall not later than July 1, 1992, report the results of the study conducted under subparagraph (B) to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives.

Mr. DOMENICI. Mr. President, I might indicate that I was one who was very critical of section 89 of the Internal Revenue Code. Section 89, in my view, has to do with a very salutory set of words that essentially say employers in the United States shall not discriminate in the providing of health care. There is great concern about discrimination. The Senator from New Mexico and many others are not at all convinced, especially since we changed the Tax Code from the very high marginal rates of years ago to the modest rate of 28 percent, that there is indeed discrimination by small business people in the United States.

So I am pleased tonight to offer an amendment that I think will be accepted by the chairman and ranking member. Essentially, it is very simple. It builds on the improvements in this bill and, indeed, there are major improvements for section 89 in this bill that came out of the Finance Committee.

My amendment builds on those improvements and says in simple language that 1 year from this January, or essentially 18 months will pass before these provisions in section 89 are applied to businesses with 20 employees or under. So essentially it is about a 1½-year exemption for small business defined as 20 employees or less.

During that exemption period, this amendment mandates that the Secretary of the Treasury conduct a broad-based, thorough investigation and study of small business in the United States, professional businesses, all kinds, and report to the two appropriate committees during that period of exemption as to whether or not there is discrimination in the purchasing of health care insurance by businesses that are taking advantage of the Tax Code and deducting the health insurance as a deductible item.

I think this is a fair compromise. For those of us who do not think there is discrimination, we will get a thorough evaluation well before the expiration of this exemption time. So essentially most small businesses in the United States will be exempt in total from section 89 while this study is being conducted which would be roughly a year from this January or approximately 18 months.

I thank the chairman and the ranking member for their cooperation. I truly believe this will accomplish what we had in mind. This is a huge percentage of American business. We think they deserve this opportunity to prove nondiscrimination rather than to come under the provisions of this bill.

Mr. BENTSEN. Mr. President, what we have done in the plan that has been proposed is to say that in effect small business can go to the insurance company and they will have a plan. So what you are talking about in the way of complexities we have removed.

The next thing we have said is that small business will be given the benefit of the doubt as long as they show good intent and try to carry it out and they offer it to 90 percent of their employees and that affordability is there with 40 percent of the premium paid, that they are going to qualify for that. But what we have done, we have extended it to January 1, 1990. What the Senator from New Mexico has asked for is that it now be extended for an additional year for those with 20 employees or less. That is my understanding of the amendment.

Mr. DOMENICI. Plus the mandated study.

Mr. BENTSEN. That mandated study is just fine because if there is discrimination, we both want to know about that. And if there is discrimination, we want to know the percentage of that discrimination so we can try to deal with it.

Mr. DOMENICI. And if there is not we will know that also, I say to my good friend from Texas.

Mr. BENTSEN. With the understanding we have not yet had time to look at the changes. Subject to that being the limitation of the amendment, then I see no objection to it.

Mr. DOMENICI. Mr. President, while I attempt to conform this amendment to what I intend, let me say that I agree with the distinguished chairman that many of the concerns expressed on the floor of the Senate, in the hearing rooms, and across this country regarding section 89 have been greatly modified and much of the cumbersome nature has been removed. For instance, I testified about what my constituents said. They said, "Well, why don't you just have the insurance companies certify. They know more than we do, and if they certify that it is nondiscriminatory, that ought to be enough to exempt the employer who in good faith purchases it." The statute before us will do that. Nonetheless, it seems to me that we ought not put small business under this program if there is not discrimination, and we are going to find that out in a very objective manner before we put them within the coverage. That is the purpose of my amendment.

I suggest the absence of a quorum.

Mr. BENTSEN. Mr. President, I agree with that because I do not believe that the wording has been changed in the amendment that was submitted. So I suggest the absence of a quorum.

The PRESIDING OFFICER. The absence of a quorum having been suggested, the clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DOMENICI. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOMENICI. Mr. President, I want to say to the distinguished majority leader, and the chairman of the Finance Committee, there are some technical problems with the drafting of the amendment that are being attended to. I do not want to take any more time of the Senate. We will have them ready shortly. But I am amenable to setting aside the pending Domenici amendment which I will have to modify as soon as the staff that are collaborating are sure it meets our intended purpose.

As drafted, it does not meet the commitment I made to the chairman. That is my mistake. I am agreeable to setting it aside with the understanding that we will be ready shortly at the leader's convenience to modify it. Then I assume it will be accepted.

Mr. MITCHELL. I thank the distinguished Senator from New Mexico. As soon as the appropriate modifications are made we will proceed to disposition of that amendment. I understand that will take a few minutes.

We are still awaiting the Senator from Indiana who is currently engaging in discussions regarding his amendment. Accordingly, pending that—if I might have the attention of the distinguished Republican leader.

The PRESIDING OFFICER. Without objection, the request by the senior Senator from New Mexico is agreed to.

Mr. MITCHELL. Mr. President, I understand that Senator DOMENICI's amendment requires some modification which expects to take a few minutes and then will be resolved, and that we are still awaiting discussions regarding the several Coats amendments.

I would like to inquire of the distinguished Republican leader if it is possible now to obtain a list identifying those amendments which remain to be considered which will enable us to have a clear idea of what our course of action will be tomorrow. There was earlier mention of a number of amendments that were pending. I believe once we complete action on Senator COAT'S amendment and Senator DOMENICI'S amendment we will have reduced that number significantly. I

wonder if the Republican leader could comment on that.

Mr. DOLE. I cannot probably accommodate the majority leader right now. We may not be able to do that until morning. We have one Senator who is not available this evening who may or may not offer an amendment that would be significant. It would take some time.

The distinguished Senator from Wisconsin [Mr. KASTEN] has 18 amendments. He is now making some judgments on which way he wants to proceed. I think aside from that, if they work out the amendments of the Senator from Indiana [Mr. COATS], and Senator PACKWOOD I know has at least one amendment.

But I hope we will be in a position tomorrow to come to the majority leader with a list and say this is it. Then we could lock those in, and Members on both sides would then know when we might complete action.

Mr. MITCHELL. I thank the distinguished Republican leader. I look forward to receiving the list tomorrow at his earliest convenience.

Mr. President, pending the discussions now underway between the Senator from Indiana and the Senator from Connecticut, which I hope will be concluded shortly, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DANFORTH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 213

(Purpose: Relating to application of section 89 rule to churches)

Mr. DANFORTH. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Missouri [Mr. DANFORTH] proposes an amendment numbered 213.

Mr. DANFORTH. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 126, strike lines 10 through 17, and insert:

"(1) HEALTH PLAN.—The term 'health plan' means an accident or health plan within the meaning of section 105(e).

On page 134, between lines 11 and 12, insert:

"(11) SPECIAL RULES FOR CHURCH EMPLOYEES.—

"(A) IN GENERAL.—There shall be excluded from consideration under this section church employees covered by a church plan.

"(B) DEFINITIONS.—For purposes of subparagraph (A), the terms 'church employee' and 'church plan' have the meanings given such terms by paragraphs (3)(B) and (1) of section 414(e), respectively, except that—

"(i) section 414(e) shall be applied by substituting 'section 501(c)(3)' for 'section 501' each place it appears, and

"(ii) the term 'church employee' shall not include an employee of—

"(I) an organization described in section 170(b)(1)(A)(ii) above the secondary school level (other than a school for religious training),

"(II) an organization described in section 170(b)(1)(A)(iii), and

"(III) an organization described in section 501(c)(3), the basis of the exemption for which is substantially similar to the basis for exemption of an organization described in subclause (II).

On page 137, strike lines 16 through 18, and insert "Such term shall not include a church plan (within the meaning of section 414(e)).

Mr. DANFORTH. Mr. President, this amendment has been discussed with Senator BENTSEN, and I believe also with the minority staff of the Finance Committee. It relates to section 89, and the definition of "church" for the purpose of section 89.

Section 89 exempts from its coverage churches. However, the way the section is now written it does not include in the exemption many entities within the Catholic Church. And the purpose of this amendment is to simply alter the definition to make it clear that the Catholic Church and its various agencies are covered.

Mr. BENTSEN. Mr. President, the amendment has been examined by the chairman of the Finance Committee. I believe it serves a very worthwhile purpose. It addresses the situation. We have no objection to it.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment of the Senator from Missouri [Mr. DANFORTH].

The amendment (No. 213) was agreed to.

Mr. DANFORTH. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. CHAFEE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. METZENBAUM addressed the Chair.

The PRESIDING OFFICER. The Senator from Ohio is recognized.

Mr. METZENBAUM. Mr. President, would the Senator from Missouri be good enough to yield for a question? My understanding is while we are standing around here some amendment was adopted that changed the definition in the bill. Can the Senator tell us specifically what that was because I did not know? I certainly think I have an interest in what had occurred.

Mr. DANFORTH. Yes. The amendment relates to section 89, the tax purpose, nondiscrimination. In the legislation, and the Internal Revenue Code as it now stands, churches are exempted from the coverage of section 89. However, the way in which churches are defined for the purpose of the existing law, it excludes various entities within the Catholic Church. This amendment which was just accepted by the chairman simply alters the definition, and utilizes an existing definition as a matter of fact within the Internal Revenue Code. But it covers the various ministries of the Catholic Church.

Mr. METZENBAUM. The amendment pertains only to section 89 and not the basic ABC bill?

Mr. DANFORTH. That is right.

Mr. METZENBAUM. I thank the Senator from Missouri.

I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MITCHELL. Mr. President, I am pleased to report to my colleagues that the discussion between Senator COATS and Senator DODD and others have resulted in obviating any necessity for a rollcall vote on the Coats amendments, five of which will now be accepted and the remainder of which will not be offered. Therefore, there will be no further rollcall votes this evening.

I thank the distinguished Senator from Indiana for his cooperation and his consideration of his colleagues in this regard.

The Senate will return to session tomorrow morning. We will be back on this bill early tomorrow morning and we hope, pursuant to my discussions with the distinguished Republican leader, that we will, by approximately midmorning, be able to offer the remaining amendments, I do not think there are that many left, and be able to give Senators some idea when we can except to complete action on this bill which I hope will be during the day tomorrow.

I thank all Senators for their patience over this long day. We have made very substantial progress toward completion of the bill.

The PRESIDING OFFICER. Under the previous order, the Senator from Indiana is recognized.

AMENDMENT NOS. 214–218

Mr. COATS. Mr. President, I send five amendments to the desk and ask for their immediate consideration en bloc.

The PRESIDING OFFICER. The amendments will be stated.

The assistant legislative clerk read as follows:

The Senator from Indiana [Mr. COATS] proposes amendments numbered 214 through 218.

Mr. COATS. Mr. President, I ask unanimous consent that reading of the amendments be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendments are as follows:

AMENDMENT No. 214

On page 89, line 16, strike all after the comma and insert: "except that a sectarian organization may require that employees adhere to the religious tenets and teachings of such organization and further, such organization may require that employees adhere to rules forbidding the use of drugs or alcohol.".

AMENDMENT No. 215

On page 28, line 25, strike the "." and insert in lieu thereof ", which receive public funds.".

AMENDMENT No. 216

On page 29, line 24, strike the ";" and "or" and insert the following: ", unless the State with the concurrence of the State advisory committee established under section 111, requests a waiver of this subparagraph and demonstrates, to the satisfaction of the Secretary, that the proposed reduction is necessary to increase access to and availability of eligible child care providers and will not jeopardize the health and safety of children.".

AMENDMENT No. 217

On page 10, line 1, after "consanguinity" insert "or by decree of court,"

On page 10, line 1, strike "or nephew" and insert "nephew or sibling".

AMENDMENT No. 218

On page 10, line 8, strike "the private residence of such individual" and insert in lieu thereof "a private residence."

Mr. COATS. Mr. President, I have been working this afternoon and evening with my distinguished colleague from Connecticut [Mr. DODD] to correct, what I perceive to be some pervasive problems in the bill before us. I am pleased that we have reached an agreement on many of these items.

First, let me thank my colleague for his willingness to address these issues. Though they do not make the bill perfect by any stretch of the imagination, they do go a long way in addressing concerns that I and many others share.

The first amendment will expand the definition of eligible child care provider to include persons providing care in the home of the child. Left unamended, ABC would have required that family providers provide care in their home. Persons providing care in the home of the child would not have been eligible. I believe this amendment will provide additional choice to parents of very young children and infants who want their children cared for in familiar settings.

The second amendment gives States additional flexibility in being able to regulate child care in the manner they deem most appropriate. Left unamended, ABC would have prevented a State from ever reducing the categories of child care providers it licenses and regulates once that State accepted ABC funds. My amendment gives States the ability to request a waiver to reduce these categories so long as the reduction will not jeopardize the health and safety of children.

The third amendment addresses a concern that States would be forced to impose and enforce on all licensed and regulated child care providers the requirements of ABC. My amendment limits that scope to providers which actually receive public funds.

There was some concern that sectarian providers might be forced under ABC to hire persons who not only disagreed with the provider's tenets and beliefs, but maintained a lifestyle that was contrary to those beliefs. I am adding a provision which provides that "except that, a sectarian organization may require that employees adhere to the religious tenets and teaching of such organization and further, that such organization may require that employees adhere to rules forbidding the use of drugs or alcohol."

Finally, the fifth amendment expands the definition of eligible relative provider to include siblings and persons who become related by court decree. This provision will protect adopted parents and their respective families.

Mr. President, I understand that these amendments are acceptable to the majority.

The PRESIDING OFFICER. Is there further debate?

The Senator from Connecticut is recognized.

Mr. DODD. Mr. President, first of all, I ask unanimous consent the previous time limitations on the other two so-called Coats amendments be vitiated now that they will not be offered.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DODD. Mr. President, I want to commend our colleague from Indiana. I want to thank him as well. The hour is getting late. It has been 7 days or 8 days on this. The fact is that we have been able to take what could have been 13 lengthy debates and they are now down to one discussion and agreement on a consolidated amendment, if you will, including five provisions. This has been a lot of hard work. I commend the Senator from Indiana for his efforts.

I would just like to make it clear, as I understand it, and my colleague can tell me if I am correct in this, but, Mr. President, the amendment relating to the religious question that was raised—this amendment would make it very clear, as I understand it, that religious child care providers may insist that employees do not violate the religious teachings of that particular child care center. But the provider, of course, cannot also require that that prospective employee convert to the religious tenets of that child care center where they are applying for employment or otherwise discriminate against employees because of their religion.

As I understand it, that was certainly the intent, not to do that. So I find that amendment acceptable.

I just wanted to make that particular point clear.

I commend the Senator for his efforts in making it possible for us to move along here and I yield to my colleague.

Mr. HATCH. Mr. President, we accept these amendments and recommend their adoption and compliment our colleague. He has worked long and hard to come up with these amendments. They add to the bill. I think they strengthen the bipartisan approach, and we recommend adoption of these amendments.

The PRESIDING OFFICER. The question is on agreeing to the amendments of the Senator from Indiana en bloc.

The amendments (Nos. 214, 215, 216, 217, and 218) were agreed to.

Mr. DODD. Mr. President, I move to reconsider the vote by which the amendments were agreed to.

Mr. HATCH. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from New Mexico is recognized.

AMENDMENT NO. 219

(Purpose: Relating to the effective date for section 89 qualification rules and guidance for the section 89 nondiscrimination rules)

Mr. DOMENICI. Mr. President, I withdraw my previous amendment and send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The Senator's amendment (No. 212) is withdrawn. The clerk will report.

The legislative clerk read as follows:

The Senator from New Mexico [Mr. DOMENICI] for himself and Mr. SPECTER, proposes an amendment numbered 219.

Mr. DOMENICI. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 148, between lines 2 and 3, insert:

(5) SPECIAL RULES RELATING TO SMALL EMPLOYERS.—

(A) 1-year delay.—In the case of a small employer, section 89 of the Internal Revenue Code of 1986 (as added by subsection (a)) and section 4980C of such Code (as added by subsection (b)) shall apply to years beginning after December 31, 1990.

(B) STUDY.—

(i) IN GENERAL.—The Secretary of the Treasury or his delegate shall conduct a study to determine if discrimination in favor of highly compensated employees occurs in the providing of employee benefits by small employers. Such studies shall consider a broad base of small businesses, including businesses of professionals.

(ii) REPORT.—Not later than July 1, 1990, the Secretary of the Treasury or his delegate shall report the results of such study to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives, including any recommendations. Such committees shall review such report and take appropriate actions with respect to the application of nondiscrimination rules to small employers.

(C) SMALL EMPLOYERS.—For purposes of this subparagraph, the term "small employer" has the meaning given such term by section 89(c)(5)(B) of the Internal Revenue Code of 1986 (as added by subsection (a)).

Mr. DOMENICI. Mr. President, I ask that Senators WILSON and BURNS be made original cosponsors and I ask unanimous consent that any other Senators who want to be original cosponsors of this amendment are allowed to do so.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOMENICI. Mr. President, I state that I had many cosponsors when I had a 3-year exemption period. Since I agreed on a modification, I have not been able to contact those Senators but I assume many of them would like to be on the exemption that is encapsulated in the following amendment that the Finance Committee chairman is going to find acceptable.

Mr. President, this amendment now conforms to what the Senator from New Mexico indicated that the small business exemption would do. I do not think at this hour I need to repeat, but I would like to thank the chairman of the committee and the ranking member, Senator PACKWOOD, who also concurs and state that I firmly believe this is a fair way to treat small businesses.

We are not sure they are violating the discrimination rules. This will give us ample opportunity by exempting them temporarily to get an official, authentic study. If we find there is discrimination, then many of us were wrong. If we find there is not, there will be time to take care of that eventuality also.

I hope the amendment will be adopted and retained in conference.

The PRESIDING OFFICER. The Senator from Texas is recognized.

Mr. BENTSEN. Mr. President, we have examined the amendment, and it is in conformance with what the Senator from New Mexico has stated. I think the study will make a contribution. We have proof of instances where there has been discrimination. That is why we have this rule, and that is why we have section 89. It will be helpful to us as far as further legislation that might be necessary in the future.

I am also quite ready to agree to the extension for 1 year of the qualifications and discrimination rules for those companies that have less than 20 employees.

As the chairman of the Finance Committee, I am quite prepared to accept the amendment if there are no further objections on this side.

The PRESIDING OFFICER. If there are no further objections, the question is on agreeing to the amendment of the Senator from New Mexico.

The amendment (No. 219) was agreed to.

Mr. DOMENICI. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. BENTSEN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mrs. KASSEBAUM. Mr. President, I have voted for the majority leader's child care proposal, but I have done so with reservations. As I outlined in an earlier statement, I have concerns about the eventual cost of the Act for Better Child Care and the expectations it will create.

Given the defeat of Senator DOLE's alternative, however, the majority leader's package is the only viable child care proposal left for us. The sponsors have come a long way in shaping the Act for Better Child Care to address the problems working parents face, and I believe the proposal is worthy of support. I hope that its remaining problems will be addressed as we proceed, and I know that I will do what I can in future years to ensure that any child care program we establish is fiscally realistic and responsible. The important thing, at this point, is for Congress to work out an adequate response to the child care problems that concern us all.

Mr. BRADLEY. Mr. President, I rise as a cosponsor of the amendment offered by the Senator from Texas [Mr. BENTSEN]. This amendment liberalizes the Social Security earnings test, which I strongly support, and modifies most Social Security retroactive retirement benefits.

Mr. President, under current law, Social Security payments are reduced by $1 for each $2 of earnings above the annual retirement test amount—$8,800 for those over age 65 in 1989. The 1983 Social Security reform bill included an earnings test liberalization so that $1 in benefits will be withheld for every $3 earned over the exempt amount for those reaching full retirement age in 1990. The amendment increases the Social Security earnings limit by approximately $1,200 in 1990 and raises the liberalization so that only $1 in earnings would be lost for every $4 earned.

I support this liberalization because almost 1 million persons would be helped by the provision. About 100,000 lower-paid workers who earn between $9,000 and $10,000 would no longer be affected by the retirement test.

The amendment, Mr. President, modifes retroactive benefits in such a way that persons will receive their benefits spread over their lifetimes rather than in lump sum. Therefore no one's benefits will be curtailed. I urge adoption of the amendment.

Mr. GRASSLEY. Mr. President, I have cosponsored this amendment to liberalize the Social Security retirement earnings test. This is a policy change which is long overdue.

It has been national policy since the days of the Great Depression to encourage older workers to leave the work force earlier than they otherwise might. In the years after 1935 we erected an edifice of public law well designed to discourage older people from working.

The cumulative effect of these rules is to face those who work while drawing Social Security with very high-marginal tax rates. Although it is the case that the effective tax rates on the elderly are lower than those on younger working people, it is also true, as Senator ARMSTRONG has clearly shown, that the marginal tax rates on older workers can be as high as 100 percent.

If you believe, as I do, that older workers constitute a wonderful resource for our society, then marginal tax rates at these levels constitute a very effective barrier to the gainful involvement of older people in the work of our country.

One of the policies which helps to accomplish this is the Social Security earnings limitation test, which Senator BENTSEN's amendment would liberalize. That earnings limitation discourages people from working once they begin to receive Social Security retirement benefits. Under current law, when an individual who receives Social Security, but wishes also to work, earns more than $8,800 in wages, Social Security benefits are reduced by $1 for every $2 earned.

Mr. President, $8,800 is not a great deal of money. And a loss of $1 for every $2 earned above that amount constitutes, in my opinion, a powerful disincentive to work.

We have not even begun to tap the potential of older individuals. I believe that surveys of older retired people have found that many of them would like to work in a part-time capacity after they have retired from their major occupation. I believe that the country would benefit greatly were they to do so in greater numbers. Were we to reduce the disincentives of current law which discourage older people from working, many more would work.

This amendment offered by Senator BENTSEN is a solid first step in that direction and I am very pleased to support it.

LEBANON—CONTINUED BLOODSHED CALLS FOR RENEWED U.S. LEADERSHIP

Mr. PELL. Mr. President, Lebanon remains in the throes of a bloody, violent civil war. The mighty cedar, once the proud symbol of this vibrant nation, has been splintered by conflict. During the last 14 years, more than 150,000 have died in the fighting. Within the last several months, we have witnessed an intensification of the violence among the Syrian Army, its Lebanese surrogates, and the Lebanese Army. The senseless and indiscriminate artillery exchanges have resulted in the tragic death of nearly 400

and the injury of more than 1,000 Lebanese.

The presence of foreign forces in Lebanon—most notably more than 40,000 Syrian soldiers—is contributing to the escalating violence and undermining efforts to establish a stable central government. A cease-fire and the withdrawal of all foreign troops are crucial first steps toward reestablishing the peace that this ravaged country so desperately needs.

Regrettably, attempts to bring an end to the fighting and suffering have not met much success to date. A cease-fire, negotiated by the Arab League in April, broke down almost immediately. Recent efforts by Arab foreign ministers to stabilize the cease-fire have failed. The Arab League concluded a 4-day meeting in May without agreeing to a peace plan for Lebanon.

Ultimately, the warring parties in Lebanon must decide for themselves to end their conflict and strive together for peace. However, the international community can be instrumental in helping to bring about an end to violence and the withdrawal of Syrian forces. The Secretary General of the United Nations, as well as other concerned nations such as the United States and France, can play a constructive role in seeking to end this tragic violence.

The new efforts by the heads of state of Saudi Arabia, Morocco, and Algeria may offer a ray of hope for Lebanon. President Bush has stated his support for this committee of three, and I believe that the United States should continue to encourage their attempts to facilitate a settlement to the conflict.

As an old and special friend of Lebanon, the United States has a responsibility to do what it can to promote an end to the fighting. The United States must renew its drive to obtain an immediate cease-fire. We must support international efforts to bring about conditions under which the parties in Lebanon can reconcile their differences and reconstruct their nation.

Mr. President, recently the Senate acted unanimously to pass S. Res. 108, a resolution expressing the sense of the Senate concerning the situation in Lebanon. I was an original sponsor of this bipartisan effort supporting the President's call for a cease-fire in Lebanon and urging renewed U.S. and international action to promote a settlement. I urge the President to give this problem his most urgent attention, and I ask unanimous consent that S. Res. 108 be included in the RECORD.

There being no objection, the resolution was ordered to be printed in the RECORD, as follows:

The resolution, with its preamble, reads as follows:

S. RES. 108

Whereas the recent artillery exchanges between Syrian and Lebanese forces and militias have resulted in the death or injury of nearly one thousand Lebanese;

Whereas in the last several weeks tens of thousands of shells and rockets have fallen in residential areas in and around Beirut;

Whereas the deterioration of conditions in Lebanon further undermines its territorial integrity and sovereignty;

Whereas the presence of paramilitary forces and foreign, particularly Syrian, military forces undermines efforts to reestablish a central government in Lebanon;

Whereas a restoration of central government authority is the only effective means of stopping the use of Lebanese territory controlled by Syrian and militia forces as centers for international terrorism and international narcotics trafficking;

Whereas the League of Arab States has been asked to mediate the dispute and has called for a cease-fire between the forces fighting in Lebanon; and

Whereas the United States supports the restoration of the unity, sovereignty and territorial integrity of Lebanon, the restoration of a central government in Lebanon, and the removal of all foreign forces from and the eventual abolition of militias in, Lebanon: Now, therefore, be it

Resolved, That the Senate hereby—

(1) commends the Bush Administration's call for an immediate cease-fire in Lebanon and condemns those parties unwilling to heed this call;

(2) calls on the President to renew, on an urgent basis, his efforts to obtain an immediate halt to the fighting in Lebanon and his support for international efforts, including those of the United Nations, to secure it;

(3) calls for the withdrawal of all foreign forces, including Syrian forces, from Lebanon and, in the context of a reconstituted central government, for the abolition of all militias within Lebanon; and

(4) calls upon the Lebanese parties to commit themselves to a process of internal reconciliation and free elections, and supports international efforts toward this end.

SEC. 2. The Secretary of the Senate shall transmit a copy of this resolution to the President.

MELISSA NEAL

Mr. PELL. Mr. President, I am delighted to pay tribute today to Melissa Neal, a young woman who has been chosen by the Rhode Island Department of Elementary and Secondary Education and the State Council on Vocational Education as the Outstanding Vocational-Technical Student in our State.

Ms. Neal is currently a senior at the Hanley Vocational School in Providence, where her major concentration is business education. Academically, Ms. Neal has excelled. She has consistently maintained an A average for 3 years, meeting the demanding requirements of the business magnet students, and fulfilling the course components necessary for admission to college. Ms. Neal has been accepted for enrollment at the University of Rhode Island, where she will begin her studies this fall. Ms. Neal is also a member of the Rhode Island Society, and as such recently represented her school at a luncheon hosted by the State treasurer of Rhode Island, Mr. Anthony Solomon.

While Ms. Neal is clearly a superior student, it is her unique interest and ability to succeed in a wide variety of areas that sets her apart from her peers. This past spring, as a member of Junior Achievement, she was awarded a $500 scholarship in conjunction with the Top Salesperson Award. In fulfillment of the Future Business Leaders of America membership, Ms. Neal spends a class period each week at the Nathan Bishop Middle School teaching 5th grade students a course in business basics. She also participates in the Rhode Island Enrichment Program, a program which has taken her to several colleges and universities, including Georgetown, Catholic, and Duke. In addition to all of this, Ms. Neal works at the Hanley School as part of the co-op program.

Ms. Neal is a bright, energetic, and dedicated young woman who holds the potential to make a difference, and to become one of our leaders of tomorrow. Her outstanding character and positive personality have earned the respect of her teachers and her peers, and it is clear that she is both worthy and deserving of this recognition of achievement.

MARTYRS FOR DEMOCRACY IN CHINA

Mr. PELL. Mr. President, today I am submitting for the record a list of members of the Chinese "democracy movement" who have been arrested.

These individuals who have bravely resisted tyranny are now being arrested and in some instances brutally beaten. The full glare of international public attention needs to be focused on at this glaring abuse of basic human rights. Public opinion appears to be a weak sword by which to deflect the bullets of tyranny; but as has been shown elsewhere in the world, few nations can withstand international opprobrium for a prolonged period.

I intend to persist in making the cause of democracy and human rights in China my cause both by submitting the names of those arrested and when possible the identities of their persecutors, providing a rollcall of the honorable as well as dishonorable men and women of China.

I ask unanimous consent that the rollcall of honor be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

ROLLCALL OF HONOR: NAMES OF IMPRISONED CHINESE

ZHOU Fengsuo, 22, of Qinghua University, arrested on June 13 in Xian.

XIONG Yan, 25, a law student at Beijing University, arrested in Datong.

LI Dan, a radio Beijing announcer, arrested on June 4.

LIU Xiaobo, 34, on the faculty of Beijing Normal University, arrested June 4 by plainclothes policemen.

CHEN Ming Yuan, a professor at Beijing's Foreign Languages Institute, arrested while being treated for high blood pressure in a Beijing hospital.

GUO Haifeng, a student leader of the democracy movement.

REN Wanding, a founder of the China Human Rights League, arrested on June 9.

WENG Zhengming, a student leader in Shanghai, arrested on June 11.

XIAO Biu, 42, an unemployed factory worker, arrested on June 10 by the police after being interviewed by ABC News.

YAO Yongzhan, 19, a student from Hong Kong, arrested on June 11.

YANG Fuquian, a leader of the independent workers association in Beijing, arrested and apparently beaten by the police on June 11.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Kalbaugh, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

At 1:18 p.m., a message from the House of Representatives announced that the House has passed the following bills and joint resolution, in which it requests the concurrence of the Senate:

H.R. 1485. An act to direct sale of certain lands in Clark County, Nevada, to meet national defense and other needs; to authorize sale of certain other lands in Clark County, Nevada; to further the ability of the United States to recover for damages to certain marine and other resources of the National Park System; and for other purposes;

H.R. 1529. An act to provide for the establishment of the Ulysses S. Grant National Historic Site in the State of Missouri, and for other purposes;

H.R. 2550. An act to provide for certain forms of assistance to Poland and Hungary to encourage the process of democratic reforms in those countries; and

H.J. Res. 298. Joint resolution designating July 14, 1989, as "National Day To Commemorate the Bastille Day Bicentennial".

At 8:26 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following bills, without amendment:

S. 1077. An act to authorize the President to appoint Admiral James B. Busey to the Office of the Administrator of the Federal Aviation Administration; and

S. 1180. An act to authorize the President to appoint Rear Admiral Richard Harrison Truly to the Office of the Administrator of the National Aeronautics and Space Administration.

The message also announced that the House has passed the following joint resolution, in which it requests the concurrence of the Senate:

H.J. Res. 111. Joint resolution designating June 23, 1989, as "United States Coast Guard Auxiliary Day".

MEASURES REFERRED

The following bills were read the first and second times by unanimous consent, and referred as indicated:

H.R. 1485 An act to direct sale of certain lands in Clark County, Nevada, to meet national defense and other needs; to authorize sale of certain other lands in Clark County, Nevada; to further the ability of the United States to recover for damages to certain marine and other resources of the National Park System; and for other purposes; to the Committee on Energy and Natural Resources.

H.R. 1529 An act to provide for the establishment of the Ulysses S. Grant National Historic Site in the State of Missouri, and for other purposes; to the Committee on Energy and Natural Resources.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. HOLLINGS, from the Committee on Commerce, Science, and Transportation, with amendments:

S. 663. A bill to provide for additional contingent termination liability for the Advanced Solid Rocket Motor program (Rept. No. 101-59).

By Mr. BIDEN, from the Committee on the Judiciary, without amendment and with a preamble:

H.J. Res. 132. Joint resolution to designate the second Sunday in October of 1989 as "National Children's Day".

H.J. Res. 276. Joint resolution designating September 14, 1989, as "National D.A.R.E. Day".

S.J. Res. 15. Joint resolution to designate the second Sunday in October of 1989 as "National Children's Day".

S.J. Res. 19. Joint resolution to designate November 8, 1989, as "Montana Centennial Day".

S.J. Res. 81. Joint resolution to designate the week of October 1 through 7, 1989, as "National Health Care Food Service Week".

S.J. Res. 93. Joint resolution to designate October 1989 as "Polish American Heritage Month".

S.J. Res. 115. Joint resolution to designate the period commencing on September 9 and ending on September 15, 1989, as "National Nursing Home Residents' Rights Week".

S.J. Res. 121. Joint resolution to provide for the designation of September 14, 1989, as "National D.A.R.E. Day".

S.J. Res. 127. Joint resolution designating Labor Day Weekend, September 2-4, 1989, as "National Drive for Life Weekend".

S.J. Res. 134. Joint resolution to designate the week of October 1, 1989, through October 7, 1989, as "National Disability Awareness Week".

By Mr. BIDEN, from the Committee on the Judiciary, without amendment:

S.J. Res. 155. Joint resolution designating June 23, 1989, as "United States Coast Guard Auxiliary Day".

By Mr. BIDEN, from the Committee on the Judiciary, without amendment and with a preamble:

S.J. Res. 161. Joint resolution to designate the week of October 22, 1989, through October 28, 1989, and the week of October 21, 1990, through October 27, 1990, as "National Adult Immunization Awareness Week".

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. BENTSEN, from the Committee on Finance:

Fred T. Goldberg, Jr., of Maryland, to be Commissioner of Internal Revenue;

Michael J. Astrue, of Massachusetts, to be General Counsel of the Department of Health and Human Services; and

Julius L. Katz, of Maryland, to be Deputy United States Trade Representative, with the rank of Ambassador.

(The above nominations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

By Mr. NUNN, from the Committee on Armed Services: Stephen John Hadley, of the District of Columbia, to be an Assistant Secretary of Defense; and

Henry S. Rowen, of California, to be an Assistant Secretary of Defense.

Mr. NUNN. Mr. President, from the Committee on Armed Services, I report favorably the attached listing of nominations.

Those identified with a single asterisk (*) are to be placed on the Executive Calendar. Those identified with a double asterisk (**) are to lie on the Secretary's desk for the information of any Senator since these names have already appeared in the CONGRESSIONAL RECORD and to save the expense of printing again.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The above nominations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

(The nominations ordered to be on the Secretary's desk were printed in the RECORD of May 16, May 17, May 31, and June 7, 1989 at the end of the Senate proceedings.)

*Rear Adm. Richard C. Gentz, USN, to be vice admiral (Reference No. 270).

*Lt. Gen. Charles W. Bagnal, USA, to be placed on the retired list in the grade of lieutenant general (Reference No. 317).

*Lt. Gen. Claude M. Kicklighter, USA, to be reassigned in the grade of lieutenant general (Reference No. 320).

**In the Air Force there are 7 promotions and appointments to the grade of major (list begins with Greg W. Carlson) (Reference No. 367).

**In the Marine Corps there are 475 appointments to the grade of major (list begins with William E. Acker) (Reference No. 368).

*In the Air Force Reserve there are 14 appointments to the grade of major general and below (list begins with Charles R. Driggers) (Reference No. 373).

**In the Army Reserve there are 116 promotions and appointments to the grade of colonel and below (list begins with Ronald W. Byers) (Reference No. 375).

*Lt. Gen. James E. Moore, Jr., USA, to be placed on the retired list in the grade of lieutenant general (Reference No. 377).

*Lt. Gen. William H. Harrison, USA, to be reassigned in the grade of lieutenant general (Reference No. 378).

*Maj. Gen. Calvin A.H. Waller, USA, to be lieutenant general (Reference No. 379).

*Lt. Gen. Kenneth E. Lewi, USA, to be placed on the retired list in the grade of lieutenant general (Reference No. 392).

**In the Air Force there are 9 promotions to the grade of colonel and below (list begins with Edward T. Schwab) (Reference No. 393).

**In the Air Forces there are 4 appointments to the grade of lieutenant colonel (list begins with Raymond T. Barbera) (Reference No. 394).

**In the Army there is one appointment to the grade of colonel (Lawrence C. Mohr, Jr.) (Reference No. 395).

**In the Army there are 7 promotions to the grade of colonel and below (list begins with Ronald E. Hall) (Reference No. 396).

**In the Navy there are 4 appointments to the grade of ensign (list begins with Alan E. Bell) (Reference No. 397).

**In the Navy and Naval Reserve there are 41 appointments to the grade of commander and below (list begins with John Craig) (Reference No. 398).

**In the Air Force there are 81 promotions to the grade of colonel (list begins with Louis W. Adams III) (Reference No. 399).

**In the Air Force there are 227 promotions to the grade of lieutenant colonel (list begins with Stephen W. Andrews) (Reference No. 400).

**In the Air Force there are 494 promotions to the grade of major (list begins with Dennis M. Anderson) (Reference No. 401).

**In the Army there are 7 promotions to the grade of lieutenant colonel and below (list begins with David A. Decker) (Reference No. 430).

**In the Army there are 7 promotions and appointments to the grade of major (list begins with Billy J. Freeborn) (Reference No. 431).

*Maj. Gen. Howard D. Graves, USA, to be lieutenant general (Reference No. 438).

*Brig. Gen. Frederick N. Bussey, USA, to be major general and Colonel Leslie M. Burger, USA, to be brigadier general (Reference No. 439).

*Gen. Maxwell R. Thurman, USA, to be placed on the retired list in the grade of general (Reference No. 449).

*Lt. Gen. John W. Foss, USA, to be general (Reference No. 450).

*Maj. Gen. Gordon R. Sullivan, USA, to be lieutenant general and Army Senior Member of the Military Staff Committee of the United Nations (Reference No. 451).

Total: 1,507.

By Mr. BIDEN, from the Committee on the Judiciary:

James Franklin Rill, of Maryland, to be an Assistant Attorney General.

(The above nomination was reported with the recommendation that it be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

E. Bart Daniel, of South Carolina, to be United States Attorney for the District of South Carolina for the term of four years; and

Dee V. Benson, of Utah, to be United States Attorney for the District of Utah for the term of four years.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. GRASSLEY (for himself, Mr. DIXON, Mr. HARKIN, Mr. DOLE, Mr. SIMON, and Mr. LUGAR):

S. 1221. A bill to amend the Internal Revenue Code of 1986 to provide a permanent extension for the issuance of first-time farmer bonds; to the Committee on Finance.

By Mr. DIXON (for himself, Mr. SIMON, Mr. ADAMS, and Mr. DODD):

S. 1222. A bill to facilitate the adjustment of change of status of Chinese nationals in the United States by waiving the 2 year foreign residence requirement for "J" nonimmigrants and by treating nonimmigrants, whose departure has been deferred by the Attorney General, as remaining in legal nonimmigrant status for purposes of adjustment or change of status; to the Committee on the Judiciary.

By Mr. LIEBERMAN (for himself, Mr. CHAFEE, Mr. REID, Mr. DURENBERGER, and Mr. CRANSTON):

S. 1223. A bill to amend the Clean Water Act, to strengthen and expand for cleanup costs, damages, and penalties resulting from oil spills and to expand enforcement authority; to the Committee on Environment and Public Works.

By Mr. BRYAN (for himself, Mr. HOLLINGS, Mr. GORTON, and Mr. LIEBERMAN):

S. 1224. A bill to amend the Motor Vehicle Information and Cost Savings Act to require new standards for corporate average fuel economy, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. THURMOND (for himself, Mr. DOLE, Mr. SPECTER, Mr. MCCLURE, Mr. DECONCINI, Mr. D'AMATO, Mr. SIMPSON, Mr. WILSON, Mr. MCCONNELL, and Mr. NICKLES):

S. 1225. A bill entitled the "Comprehensive Violent Crime Control Act of 1989"; to the Committee on the Judiciary.

By Mr. MCCONNELL:

S. 1226. A bill to provide a cause of action for victims of sexual abuse, rape, and murder, against producers and distributors of pornographic material; to the Committee on the Judiciary.

By Mr. BINGAMAN (for himself, Mr. MITCHELL, Mr. PELL, Mr. NUNN, Mr. MCCAIN, Mr. BRADLEY, Mr. DECONCINI, Mr. LIEBERMAN, Mr. CONRAD, Mr. LUGAR, Mr. KENNEDY, and Mr. GLENN):

S. 1227. A bill to amend the Arms Control Act and the Export Administration Act of 1979 to restrict proliferation of missiles and missile equipment and technology; to the Committee on Foreign Relations.

By Mr. HATCH:

S. 1228. A bill to provide for changes in the federal firearms laws, to provide for the federal death penalty, to make changes in certain criminal laws, and for other purposes; to the Committee on the Judiciary.

By Mr. FOWLER:

S. 1229. A bill for the relief of Maria Luisa Anderson; to the Committee on the Judiciary.

By Mr. BURDICK:

S. 1230. A bill to authorize the acquisition of additional lands containing Indian burial grounds for inclusion in the Knife River Indian Villages National Historic Site, North Dakota, and to provide additional development funding for the historic site visitor center; to the Committee on Environment and Public Works.

By Mr. BINGAMAN:

S. 1231. A bill to authorize benefits under the Civil Service Retirement System for certain survivors, and for other purposes; to the Committee on Governmental Affairs.

By Mr. WALLOP (for himself, Mr. DOMENICI, Mr. DOLE, Mr. DIXON, Mr. WILSON, Mr. SYMMS, Mr. BURNS, Mrs. KASSEBAUM, Mr. DECONCINI, Mr. DODD, Mr. NICKLES, Mr. HARKIN, Mr. BOSCHWITZ, Mr. SIMON, Mr. COATS, Mr. D'AMATO, Mr. MACK, Mr. ROCKEFELLER, Mr. HUMPHREY, Mr. KENNEDY, and Mr. MITCHELL):

S. 1232. A bill to honor the world's most recent heroes in the universal struggle for freedom and democracy, and to designate the park in the District of Columbia directly across from the Embassy of the People's Republic of China as "Tiananmen Square Park"; to the Committee on Energy and Natural Resources.

By Mr. CRANSTON:

S. 1233. A bill to amend the Public Health Service Act to assist communities in developing coalitions to implement a substance abuse prevention and intervention program, and for other purposes; to the Committee on Labor and Human Resources.

S. 1234. A bill to amend the Anti-Drug Abuse Act of 1988 to require that certain areas be designated as high intensity drug trafficking areas, and for other purposes; to the Committee on the Judiciary.

By Mr. SIMON:

S. 1235. A bill to amend the Civil Rights Act of 1964 to permit States and political subdivisions to establish minority set-asides, and for other purposes; to the Committee on the Judiciary.

By Mr. METZENBAUM (for himself, Mrs. KASSEBAUM, Mr. CHAFEE, Mr. PELL, Mr. LAUTENBERG, Ms. MIKULSKI, Mr. KENNEDY, Mr. SIMON, Mr. MOYNIHAN, Mr. MATSUNAGA, and Mr. KERRY):

S. 1236. A bill to provide for a waiting period before the sale, delivery, or transfer of a handgun; to the Committee on the Judiciary.

By Mr. GLENN:

S. 1237. A bill to require the Administrator of the General Services Administration to encourage the use of plastics derived from certain commodities, and to include such products in the General Services Administration inventory for supply to Federal agencies, and to establish an Interagency Council on Biodegradable Standards for the development of uniform definitions, standards, and testing procedures for degradable plastic products made from certain commodities, and for other purposes; to the Committee on Governmental Affairs.

By Mr. FOWLER:

S. 1238. A bill to amend the Internal Revenue Code of 1986 to restore the capital gains treatment for timber, and for other purposes; to the Committee on Finance.

By Mr. WALLOP:

S. 1239. A bill to amend part B of title XI of the Social Security Act to provide providers and practitioners with a right to reconsideration of a payment denial by a peer review organization before the organization notifies the medicare beneficiary of the denial; to the Committee on Finance.

By Mr. MOYNIHAN:

S. 1240. A bill to extend nondiscriminatory treatment to the products of the Peoples' Republic of Hungary for 5 years; to the Committee on Finance.

S. 1241. A bill to deny the People's Republic of China most-favored-nation trade treatment; to the Committee on Finance.

By Mr. CRANSTON:

S. 1242. A bill to deny the People's Republic of China most-favored-nation trade treatment; to the Committee on Finance.

By Mr. CRANSTON (for himself and Mr. MURKOWSKI):

S. 1243. A bill to amend title 38, United States Code, to establish a retirement and survivor benefit program for judges of the new United States Court of Veterans Appeals, and for other purposes; to the Committee on Veterans' Affairs.

By Mr. METZENBAUM (for himself and Mr. ARMSTRONG):

S. 1244. A bill to amend the Securities Exchange Act of 1934 with respect to tender offers, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. MITCHELL (for himself, Mr. COCHRAN, Mr. LEAHY, Mr. LUGAR, Mr. BREAUX, Mr. DASCHLE, Mr. COHEN, Mr. LOTT, Mr. BOSCHWITZ, Mr. MCCONNELL, Mr. PRYOR, Mr. GRAHAM, and Mr. CHAFEE):

S. 1245. A bill to amend the Federal Meat Inspection Act to expand the meat inspection programs of the United States by establishing a comprehensive inspection program to ensure the quality and wholesomeness of all fish products intended for human consumption in the United States, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. BAUCUS:

S. 1246. A bill to require the Secretary of Agriculture to take certain actions to encourage the production of oats, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. COATS:

S. 1247. A bill to establish certain prohibitions with respect to the provision of sterile hypodermic needles or bleach to intravenous drug abusers and with respect to the medical treatment of narcotics addiction, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. KENNEDY (for himself and Mr. SIMPSON):

S. 1248. A bill to amend the Immigration and Nationality Act to extend for 3 years the authorization of appropriations for refugee assistance, and for other purposes.

By Mr. BRYAN (for himself, Mr. HOLLINGS, Mr. GORE, Mr. BREAUX, and Mr. FORD):

S. 1249. A bill to amend the Federal Trade Commission Act to provide authorization of appropriations, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. HATCH (for Mr. DOLE (for himself, and Mr. METZENBAUM)):

S. 1250. A bill to waive the application of chapter 11 of title 18, United States Code, to the extension of a certain loan to the United States Holocaust Memorial Council; considered and passed.

By Mr. BOREN:

S. 1251. A bill to amend the Internal Revenue Code of 1986 to exempt from current taxation income earned in college savings accounts and to exempt permanently from taxation amounts from college savings accounts and from the redemption of qualified U.S. savings bonds used to pay college educational expenses; to the Committee on Finance.

By Mr. KENNEDY (for himself, Mr. BIDEN, and Mr. SIMON):

S. 1252. A bill to amend the Immigration and Nationality Act with respect to the application of employer sanctions to longshore work; to the Committee on the Judiciary.

By Mr. COCHRAN:

S. 1253. A bill to amend the copyright law regarding work made for hire; to the Committee on the Judiciary.

By Ms. MIKULSKI:

S. 1254. A bill to authorize the Secretary of Labor to make grants to public housing agencies for the provision of literacy training, training in basic and employment skills, and support services, and to establish the Gateway Task Force; to the Committee on Labor and Human Resources.

By Mr. METZENBAUM (for himself and Mr. GRASSLEY):

S. 1255. A bill to provide better services for individuals with Alzheimer's disease and related dementias through improved biomedical research, health services research, and training of health care personnel, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. GORE (for himself, Mr. BOSCHWITZ, Mr. WIRTH, Mr. HEINZ, Mr. CRANSTON, Mr. BUMPERS, Mr. SIMON, Mr. KERRY, Mr. LAUTENBERG, and Mr. PRYOR):

S.J. Res. 162. Joint resolution to urge the Nobel Commission to consider awarding Nobel Prize recognition for achievements in preservation of the world environment; to the Committee on Foreign Relations.

By Mr. EXON (for himself and Mr. PRYOR):

S.J. Res. 163. Joint resolution proposing an amendment to the Constitution relating to the election of the President and Vice President of the United States; to the Committee on the Judiciary.

By Mr. NICKLES (for himself and Mr. ARMSTRONG):

S.J. Res. 164. Joint resolution designating 1990 as the "International Year of Bible Reading"; to the Committee on the Judiciary.

By Mr. WILSON (for himself, Mr. DOLE, Mr. THURMOND, Mr. WALLOP, Mr. HELMS, Mr. HATCH, Mr. GRASSLEY, Mrs. KASSEBAUM, Mr. D'AMATO, and Mr. Dixon):

S.J. Res. 165. Joint resolution proposing an amendment to the Constitution relating to the flag of the United States; to the Committee on the Judiciary.

By Mr. KERRY (for himself, Mr. HOLLINGS, Mr. ROTH, Mr. SANFORD, Mr. PELL, Mr. STEVENS, Mr. KENNEDY, Mr. WILSON, and Mr. BENTSEN):

S.J. Res. 166. Joint resolution to designate the period of September 16 through October 9, 1989, as "Coastweeks '89"; to the Committee on the Judiciary.

By Mr. THURMOND (for himself, Mr. DOLE, Mr. HEFLIN, Mr. MCCLURE, Mr. NICKLES, Mr. MCCONNELL, Mr. WILSON, Mr. MCCAIN, Mr. GRAMM, Mr. SYMMS, Mr. HATCH, Mr. NUNN, Mr. HELMS, Mr. PRESSLER, Mr. WALLOP, Mr. COCHRAN, Mr. LOTT, Mr. MURKOWSKI, Mr. WARNER, Mr. ROBB, Mr. DIXON, Mr. SIMPSON, Mr. BURNS, Mr. ARMSTRONG, Mr. MOYNIHAN, Mr. D'AMATO, Mr. SHELBY, Mrs. KASSEBAUM, Mr. GRASSLEY, Mr. EXON, Mr. GARN, Mr. COATS, Mr. DECONCINI, Mr. BENTSEN, Mr. ROTH, Mr. RUDMAN, Mr. KASTEN, Mr. MACK, Mr. FOWLER, Mr. HEINZ, Mr. JEFFORDS, Mr. BYRD, Mr. HOLLINGS, and Mr. FORD):

S.J. Res. 167. Joint resolution proposing an amendment to the Constitution of the United States to prohibit the desecration of the flag; to the Committee on the Judiciary.

By Mr. MCCLURE (for himself, Mr. SYMMS, Mr. REID, and Mr. BRYAN):

S.J. Res. 168. Joint resolution to designate the week of October 2 through 8, 1989, as "America's Gold Week"; to the Committee on the Judiciary.

By Mr. HATCH (for himself and Mr. THURMOND):

S.J. Res. 169. Joint resolution proposing an amendment to the Constitution of the United States relating to conduct which casts contempt upon the flag of the United States; to the Committee on the Judiciary.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. MACK (for himself, Mr. ARMSTRONG, Mr. DOLE, Mr. GRAMM, Mr. HATCH, Mr. HOLLINGS, Mr. LOTT, Mr. MCCAIN, Mr. SYMMS, and Mr. THURMOND):

S. Res. 150. Resolution expressing the sense of the Senate regarding the increased flow of Nicaraguans into the United States; to the Committee on Foreign Relations.

By Mr. MITCHELL (for himself, Mr. DOLE, Mr. THURMOND, Mr. SANFORD, Mr. BYRD, Mr. PELL, Mr. NICKLES, Mr. ROBB, Mr. SIMPSON, Mr. MCCAIN, Mr. GRAHAM, Mr. WARNER, Mr. BENTSEN, Mr. HEFLIN, Mr. DIXON, Mr. ROTH, Mr. HEINZ, Mr. KASTEN, Mr. ARMSTRONG, Mr. BAUCUS, Mr. BIDEN, Mr. BOSCHWITZ, Mr. BRADLEY, Mr. BRYAN, Mr. BURNS, Mr. CHAFEE, Mr. COATS, Mr. COHEN, Mr. D'AMATO, Mr. DASCHLE, Mr. DECONCINI, Mr. EXON, Mr. FORD, Mr. FOWLER, Mr. GARN, Mr. GORE, Mr. GRAMM, Mr. GRASSLEY, Mr. HARKIN, Mr. HELMS, Mr. HOLLINGS, Mr. JEFFORDS, Mrs. KASSEBAUM, Mr. KERREY, Mr. KERRY, Mr. KOHL, Mr. LEVIN, Mr. LIEBERMAN, Mr. LOTT, Mr. LUGAR, Mr. MCCLURE, Mr. MCCONNELL, Ms. MIKULSKI, Mr. MURKOWSKI, Mr. NUNN, Mr. PRESSLER, Mr. PRYOR, Mr. REID, Mr. ROCKEFELLER, Mr. RUDMAN, Mr. SARBANES, Mr. SASSER, Mr. SHELBY, Mr. SYMMS, Mr. WALLOP, Mr. WILSON, and Mr. WIRTH):

S. Res. 151. Resolution to express the sense of the Senate on the decision of the United States Supreme Court, declaring unconstitutional the Texas statute prohibiting the desecration of the flag; considered and agreed to.

By Mr. MITCHELL (for himself and Mr. DOLE):

S. Res. 152. Resolution to authorize the Select Committee on Intelligence to provide to the parties certain Committee documents in the case of United States v. Fernandez; considered and agreed to.

By Mr. GRASSLEY (for himself, Mr. DOLE, Mr. THURMOND, Mr. SIMON, Mr. SYMMS, Mr. BURNS, Mr. JEFFORDS, Mr. BURDICK, and Mr. BAUCUS):

S. Con. Res. 49. Concurrent resolution to express the sense of the Congress that the States should retain authority to regulate alcohol beverages; to the Committee on Governmental Affairs.

By Mr. MITCHELL (for himself and Mr. DOLE):

S. Con. Res. 50. Concurrent resolution providing for a conditional recess or adjournment of the Senate and conditional adjournment of the House over the July 4th Holiday; considered and agreed to.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. GRASSLEY (for himself, Mr. DIXON, Mr. HARKIN, Mr. DOLE, Mr. SIMON, and Mr. LUGAR):

S. 1221. A bill to amend the Internal Revenue Code of 1986 to provide a permanent extension for the issuance of first-time farmer bonds; to the Committee on Finance.

PERMANENT EXTENSION FOR ISSUANCE OF FIRST-TIME FARMER BONDS

Mr. GRASSLEY. Mr. President, I rise today to introduce legislation to extend permanently the Federal tax exemption for agricultural private activity bonds. These "aggie bonds" are part of a larger package of tax-exempt bonds scheduled to sunset at the end of this year. Joining me in this effort are Senator DIXON, Senator HARKIN, Senator DOLE, Senator SIMON, and Senator LUGAR.

Aggie bonds are used to finance low-interest farm loans targeted to beginning farmers. The borrower must secure a participating private lender, who assumes all of the loan risk. Federal law limits use of the bonds for loans to first time farm purchases and restricts them to a maximum of $250,000 per family per lifetime. State law may impose additional restrictions, such as net worth and residency requirements.

Unfortunately, State programs could be extinguished if the tax-exempt status is lost, since the tax-exempt status is precisely what enables the finance programs to issue low-interest loans to first-time farmers.

As we all know, Mr. President, there has been a steady flow of people and income from rural to urban America, which has had a detrimental effect on the rural economy. Continuation of the Aggie Bond Program could be a real boon for rural development. The program addresses the one problem admitted by the task force on agricultural finance—that of accessible and affordable credit to beginning farmers.

To date, nearly 3,000 loans worth over $220 million have been processed through the Aggie Bond Program nationwide. In my State of Iowa, Aggie bonds were first issued in 1981. Under Iowa's beginning farmer program, over 800 loans worth over $74 million have been approved.

Mr. President, the National Council of State Agricultural Finance Programs, the National Association of Wheat Growers, the National Farmers Union, the National Farmers Organization, and Communicating for Agriculture have all strongly endorsed this legislation because they have seen first hand how the Aggie Bond Progarm provides necessary support to first-time farmers. It is also important to note that there is absolutely no financial risk to the Federal Government in this program and the cost is minimal.

So I urge my colleagues to join me and the cosponsors of this bill by supporting this effort to help America's beginning farmers.

Mr. President, I ask unanimous consent that the bill be printed in full following my statement and I yield the floor.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1221

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. FIRST-TIME FARMER BONDS EXTENDED PERMANENTLY

(a) IN GENERAL.—Section 144(a)(12) of the Internal Revenue Code of 1986 is amended by adding at the end thereof the following new subparagraph:

"(D) FIRST-TIME FARMER BONDS.—Subparagraph (A) shall not apply to any bond issued as part of an issue 95 percent or more of the net proceeds of which are to be used to provide any land or property in accordance with section 147(c)(2)."

(b) CONFORMING AMENDMENT.—Subparagraph (B) of section 144(a)(12) of such Code is amended to read as follows:

"(B) BONDS ISSUED TO FINANCE MANUFACTURING FACILITIES.—In the case of any bond issued as part of an issue 95 percent or more of the net proceeds of which are to be used to provide any manufacturing facility, subparagraph (A) shall be applied by substituting '1989' for '1986'."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to bonds issued after December 31, 1989.

By Mr. DIXON (for himself, Mr. SIMON, Mr. ADAMS, and Mr. DODD):

S. 1222. A bill to facilitate the adjustment or change of status of Chinese nationals in the United States by waiving the 2-year foreign residence requirement for "J" nonimmigrants and by treating nonimmigrants, whose departure has been deferred by the Attorney General, as remaining in legal nonimmigrant status for purposes of adjustment or change of status; to the Committee on the Judiciary.

EMERGENCY CHINESE FACILITATION OF STATUS ADJUSTMENT

Mr. DIXON. Mr. President, with the prosecutions and executions going on in China, its time for us to think about the well-being of the 40,000 Chinese students presently in the United States.

It would be dastardly for us to send these Chinese students back to China at a time when the Chinese Government is committing unconscionable acts against its young people. These Chinese students in America would return to an uncertain fate of arrest, prosecution, prison, and in some instances, death.

For that reason, Mr. President, I rise today to introduce the Emergency Chinese Facilitation of Status Adjustment Act of 1989. My distinguished colleagues, Senators PAUL SIMON and BROCK ADAMS, join me in introducing this legislation.

This bill, Mr. President, based on legislation introduced by Congresswoman NANCY PELOSI, will help thousands of Chinese students in the United States. The bill grants a waiver of the 2-year foreign residency requirement for those Chinese students who are here through the J-1 Visa Program. It also would clarify the scope and application of the automatic 1-year extension of deferred enforced departure [DED] status granted Chinese students by the Attorney General on June 6, 1989.

This bill provides, in effect, a cooling off period so we can see what course events take in China. When cooler heads prevail in China, then we can work out a plan for assisting Chinese students in returning home.

It is clear from the front pages of today's newspapers that the Chinese Government is determined to get rid of all those who actively advocated reforms. Three students were executed yesterday despite pleas from around the world for mercy. I am appalled by the murderous actions of the Chinese Government. It is executing the future of China in a brutal effort to breath some life into a regime of tired ways and outmoded thinking. You can humiliate, maim and torture someone, but you cannot break the spirit of a whole country. The world is watching not only China, Mr. President, but watching us for leadership. We as a nation must take the lead to protect those who believe as we do that freedom should ring from Tiananmen Square.

This bill will assist many Chinese students in the United States. It will allow them, if otherwise eligible, to change status within nonimmigrant categories and to apply for permanent resident status if they qualify. The administration's authorization of an automatic 1-year extension of deferred enforced departure [DED] status created a catch-22.

Should a student accept DED status, he or she would be ineligible for visa adjustment or application for permanent resident status.

This bill corrects that oversight.

It also slightly broadens the criteria of eligibility for the J-1 visa waiver. Under my proposal, the criteria for the foreign residency waiver would extend to those Chinese students who may have allowed their J-1 status to lapse or expire. Many of the Chinese students who have allowed their J-1 visa to lapse have since married someone in this country. Some Chinese students have also changed their nonimmigrant status since arriving in this country, but are still subject to the 2-year foreign residency requirement.

My bill does not create a new category of immigrants, or provide Chinese students special status. Chinese students I have talked to simply want the opportunity to remain in this country until they are able to return without facing the prospect of arrest and imprisonment. These students want to return to their country.

Mr. President, I will never forget the image of a Chinese student standing in front of a convoy of tanks in Tiananmen Square. There is no higher virtue than laying down one's life for democracy. Try as they might, the Chinese Government will never be able to break the spirit of its people. As I said to the Chinese students in Illinois, I believe in my lifetime there will be the new beginnings of democratic institutions in China.

Democracy is a flower, and although its growth may be slowed for now, it will continue to grow. This Senator will do all he can to nurture it.

Mr. President, I ask unanimous consent that a text of the bill appear in the RECORD following my remarks.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1222

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Emergency Chinese Facilitation of Status Adjustment Act of 1989".

SEC. 2. WAIVER OF 2-YEAR FOREIGN RESIDENCE REQUIREMENT FOR CHINESE "J" NONIMMIGRANTS IN THE UNITED STATES.

The 2-year residency and physical presence period requirement under section 212(e) of the Immigration and Nationality Act (8 U.S.C. 1182(e)) shall not apply in the case of any national of the People's Republic of China who is present in the United States on the date of the enactment of this Act, and who could otherwise be subject to that 2-year home residency requirement because of having had the status of nonimmigrant described in section 101(a)(15)(J) of such Act (8 U.S.C. 1101(a)(15)(J)).

SEC. 3. CONTINUATION OF LEGAL STATUS FOR PURPOSES OF ADJUSTMENT OR CHANGE OF STATUS OF CHINESE NATIONALS WHO ARE NONIMMIGRANTS IN THE UNITED STATES.

For purposes of adjustment of status under section 245 of the Immigration and Nationality Act (8 U.S.C. 1225) and change of status under section 248 of such Act (8 U.S.C. 1228) in the case of an alien who is a national of the People's Republic of China and who, as of June 5, 1989, was present in the United States in the lawful status of a nonimmigrant, such an alien shall be considered as having continued to maintain lawful status as such a nonimmigrant (and to have maintained continuously a lawful status) on and after such date during any continuous period in which nationals of the People's Republic of China are granted deferral of departure by the Attorney General.

By Mr. LIEBERMAN (for himself, Mr. CHAFEE, Mr. REID, Mr. DURENBERGER, and Mr. CRANSTON):

S. 1223. A bill to amend the Clean Water Act, to strengthen and expand liability for cleanup costs, damages, and penalties resulting from oil spills and to expand enforcement authority; to the Committee on Environment and Public Works.

OIL SPILL CLEANUP AND ENFORCEMENT ACT

Mr. LIEBERMAN. Mr. President, today I am introducing legislation amending the Clean Water Act to close some serious loopholes that hamper the cleanup of oil spilled in our waterways. These are loopholes that became obvious in the aftermath of the wreck of the *Exxon Valdez* in Prince William Sound off Alaska. I am pleased to be joined in this introduction by original cosponsors Senators CHAFEE, REID, DURENBERGER, and CRANSTON. The aim of the legislation is to make sure that all those who are related to the spilled oil bear the full cost of cleanup and damages resulting from the spill and that they pay substantial civil and criminal penalties where appropriate. While accidents are inevitable, what is particularly galling to people, including me, is the mounting evidence that Exxon's preparedness plans failed to take into account any significant oil spill—let alone one of the magnitude of the Valdez spill.

I was frankly shocked by the contents of the report on the Exxon disaster submitted by EPA Administrator Reilly and Secretary of Transportation Skinner to the President last month. For example, Exxon's plans for cleanup of spills in the waters of the United States from Exxon vessels, including the spills from the *Valdez*, had no details. It contained no information which related in any way to the Prince William Sound or the Valdez Terminal. It had no equipment list other than mention of a van and sampling equipment. It did not even discuss the use of booms, skimmers and dispersants. In short, it was entirely a paper exercise bearing no relationship to reality.

The plan prepared by Alyeska Pipeline Transit Co. was equally surrealistic. For example, the plan relies on the use of dispersants for cleanup of a spill in Prince William Sound. At the same time, the plan states that it would be difficult to apply dispersants effectively because, for some reason, the necessary equipment was far away in Arizona.

The Reilly-Skinner report to the President gets worse. The person in charge of cleanup for Alyeska simply decided it was not necessary to accompany the Coast Guard to the scene of the spill because the plan didn't require it. The arrival of vital equipment was delayed precious days during the early part of the spill. Training of workers did not take place until after the spill had occurred.

The fact that under our current laws Exxon's liability is limited simply adds insult to injury to the American people. The disaster thus leaves us not with one mess to clean up, but two: the one in the water and the one on the books—in the laws and contingency plans that actually failed us and that may prevent us from adequately protecting Alaska's environment and exacting the kind of justice the American public demands.

In my experience—and I speak particularly of my experience as a former attorney general of the State of Connecticut—one way to ensure that companies or individuals will act in a manner which protects our environment is to have laws which clearly spell out the consequences of their failure to do so. Call it deterrence. It is clear that current laws did little to compel Exxon to prepare for an oilspill, nor did they compel Exxon to act responsibly once a spill occurred.

I compared the liability provisions of the Clean Water Act for oilspills with the very strong provisions of the Superfund law concerning the disposal of hazardous substance on land and what I found was surprising because there are some very startling differences between these two laws.

The Superfund law, which was enacted by Congress in 1980 and amended in 1986, contains a strict liability scheme with no cap on the cleanup costs which the Government can collect from the responsible parties. It also gives the Government the power: First, to order polluters to clean up; second, to force them to pay triple the cleanup costs if they do not; and three, to pay, in addition, a penalty of up to $25,000 each day the order is violated.

The older Clean Water Act, which covers oilspills, has none of these protections. The Clean Water Act places a cap on potential liability, and it gives the Government no power to order cleanup of oil from a vessel, no power to issue administrative orders for cleanup of oil, no power to assess triple cleanup costs, and no power to impose a $25,000 per day penalty for violation of an order.

The existing Clean Water Act also does not hold the company which owns the oil or arranged for its shipment liable for the cleanup costs. This means that, if the vessel carrying the oil at Valdez had been owned by a small company with minimal assets, it is possible that there would have been no responsible party to bear the huge cleanup costs, even if the oil itself had been owned by one of the large oil companies. The Superfund law, by comparison, has a broader definition of responsible parties.

The legislation I am introducing today seeks to establish the same strong scheme of liability for the cleanup of oil dumped into water as the Superfund law provides for the cleanup of hazardous substances on land. In some circumstances, where appropriate, it is even stronger than Superfund. Specifically, the proposed legislation:

First, gives the Government authority to issue administrative orders or seek injunctive relief in court ordering the polluter to clean up an oilspill from a vessel or facility;

Second, allows the Government to assess daily penalties of up to $25,000 per day of violation of the order and triple the cleanup costs incurred by the Government if the polluter fails to comply with the order;

Third, extends the class of persons responsible for cleanup costs and dam-

ages to include any entity which owns an interest in the oil, any entity which arranged for the transport of the oil, and any entity which transported the oil; and

Fourth, provides that those responsible parties are liable for all cleanup costs and damages without any limit on the amount of potential liability.

Finally, many provisions of the Clean Water Act provide for large penalties for violations of the act—both civil and criminal. But the penalty provisions of section 311 of the Clean Water Act governing discharges of oil are extremely ambiguous; under one very plausible interpretation, the companies could be let off the hook simply by paying $5,000.

Those penalties are not clearly applicable to companies that are involved in an oilspill.

My proposed legislation clears up this ambiguity—it raises the civil penalties to an amount up to $25,000 per violation per day or $1,000 per barrel of oil discharged, whichever is greater. It sets a minimum penalty of $250,000 where the discharge was caused by willful negligence or violation of a safety rule. It also provides for a range of criminal penalties, including, in the event of knowing violations causing others serious injury, imprisonment of up to 15 years.

The American people are frustrated and angry. They don't like it when they hear that Exxon may only face a civil penalty of up to $5,000 for the spill. They don't like it when they hear that there is a cap on Exxon's cleanup responsibilities. They don't like it when they hear that our laws do not compel companies to prepare for environmental disaster or to clean up after it happens. I know how they feel and I know that now is the time to move forward to change the inadequacies in our laws to protect our environment.

Mr. President, I ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1223

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. This Act may be cited as the "Oil Spill Cleanup and Enforcement Act of 1989".

SEC. 2. Subsection (a) of section 311 of the Clean Water Act (33 U.S.C. 1321(a)) is amended as follows:

(1) paragraph (1) is amended to read as follows:

"(1) 'oil' means petroleum, including crude oil or any fraction or residue therefrom;";

(2) paragraph (2) is amended to read as follows:

"(2) 'discharge' means any emission, intentional or unintentional, into the environment, and includes, but is not limited to, spilling, leaking, pumping, pouring, emitting, emptying, or dumping;";

(3) paragraph (3) is amended by inserting immediately before the semicolon at the end thereof a comma and the following: "and inland oil barges";

(4) paragraph (12) is amended to read as follows:

"(12) 'act of God' means an unanticipated grave natural disaster or other natural phenomenon of an exceptional, inevitable, and irresistible character the effects of which could not have been prevented or avoided by the exercise of due care or foresight;";

(5) at the end of paragraph (17), strike out the period and insert a semicolon and the word "and";

(6) immediately after paragraph (17), add the following:

"(18) 'damages' means damages for economic loss or the loss of or injury to natural resources as specified in section 311(f) of this Act;

"(19) 'environment' means the navigable waters, the waters of the contiguous zone, the ocean waters of which the natural resources are under the exclusive management authority of the United States under the Magnuson Fishery Conservation and Management Act, adjoining shorelines, and the ambient air above such waters and shorelines;

"(20) 'natural resource' includes land, fish, wildlife, biota, air, water, ground water, drinking water supplies, and other such resources belonging to, managed by, held in trust by, appertaining to, or otherwise controlled by the United States (including the resources of the fishery conservation zone established by the Magnuson Fishery Conservation and Management Act), or any State; and

"(21) 'removal costs' means the actual costs of removal taken after a discharge of oil has occurred or, where there was a substantial threat of a discharge of oil, the costs and action taken to prevent, minimize, or mitigate oil pollution from that incident, including all costs of completing removal.".

SEC. 3. (a) Section 311(e) of the Clean Water Act (33 U.S.C. 1321(e)) is amended to read as follows:

"(e) ABATEMENT ACTIONS.—

"(1) MAINTENANCE, JURISDICTION, ETC.—In addition to any other action taken by a State or local government, when the President determines there may be an imminent and substantial threat to the public health or welfare or environment of the United States, including, but not limited to, fish, shellfish, and wildlife and public and private property, shorelines, estuaries, oceans, navigable waters, wetlands, and beaches, because of any actual or threatened discharge of oil or hazardous substance from an onshore or offshore facility or vessel, the President may require the Attorney General of the United States to secure such relief from any person, including but not limited to any responsible party as defined in subsection (f), as may be necessary to abate such endangerment. The district court of the United States in which the threat occurs shall have jurisdiction to grant such relief as the public interest and the equities of the case may require. The President may also, after notice to the affected State, take other action under this section including, but not limited to, issuing such orders as may be necessary to protect public health or welfare or the environment.

"(2) FINES.—Any person who, without sufficient cause, fails to comply with any order of the President under paragraph (1) may, in an action brought in the appropriate United States district court to enforce such order, be fined not more than $25,000 per day of each violation of the order.

"(3) JUDICIAL REVIEW.—A determination of the President, under paragraph (1) as to the nature and scope of relief sought and an order issued by the President under paragraph (1) shall not be subject to judicial review except in a proceeding under this subsection to secure relief or to enforce such order. Judicial review of such orders or determinations shall be limited to the agency administrative record. Otherwise applicable principles of administrative law shall govern whether supplemental materials may be considered by the court. The reviewing court shall uphold the order or determination unless the respondent can demonstrate, on the administrative record, that the order or determination was arbitrary and capricious or otherwise not in accordance with law.

"(4) REIMBURSEMENT.—(A) Any person who receives and complies with the terms of any order issued under paragraph (1) may, within 60 days after completion of the required action, petition the President for reimbursement from the Fund established under this section for the reasonable costs of such action, plus interest. Any interest payable under this subparagraph shall accrue on the amounts expended from the date of expenditure at the same rate as specified for interest on investments of the Fund.

"(B) If the President refuses to grant all or part of a petition made under this paragraph, the petitioner may within 30 days of receipt of such refusal file an action against the President in the appropriate United States district court seeking reimbursement from the Fund established under this section.

"(C) Except as provided in clause (D), to obtain reimbursement, the petitioner shall establish by a preponderance of the evidence that it is not liable for response costs under subsection (f) of this section and that costs for which it seeks reimbursement are reasonable in light of the action required by the relevant order.

"(D) A petitioner who is liable for response costs under subsection (f) of this section may also recover its reasonable costs of response to the extent that it can demonstrate, on the administrative record, that the President's decision in selecting the removal action ordered was arbitrary and capricious or was otherwise not in accordance with law. Reimbursement awarded under this subparagraph shall include all reasonable removal costs incurred by the petitioner pursuant to the portions of the order found to be arbitrary and capricious or otherwise not in accordance with law.

"(E) Reimbursement awarded by a court under clause (C) or (D) may include appropriate costs, fees, and other expenses in accordance with subsections (a) and (d) of section 2412 of title 28, United States Code.

"(5) TREBLE DAMAGES.—If any person who is liable for a discharge or threat of discharge of oil or a hazardous substance from a vessel or onshore or offshore facility fails without sufficient cause to properly provide removal action upon order of the President pursuant to this Act, such person may be liable to the United States for punitive damages in an amount at least equal to three times the amount of any costs incurred by the Fund as a result of such failure to take proper action. The President is authorized to commence a civil action against any such person to recover the punitive damages. Any moneys received by the United States pursuant to this subsection shall be deposited in the Fund.".

(b)(1) Subparagraphs (A) and (B) of paragraph (6) of subsection (b) of section 311 of the Clean Water Act (33 U.S.C. 1321(b)(6)(A) and (B)) are amended to read as follows:

"(A) Any person who violates paragraph (3) (i) or (ii) of this subsection shall be sub-

ject to a civil penalty in an amount up to $25,000 per day for each violation or $1,000 per barrel of oil or hazardous substances discharged in violation of paragraph (3) of this subsection, whichever is greater. Each discharge of oil or hazardous substance (or any fraction thereof) in excess of the quantity determined by the President under paragraph (3) to be harmful to the public health or welfare or the environment shall constitute a separate violation. Each day shall constitute a separate day of violation until the President determines that the removal of the oil or hazardous substance is complete. In determining the amount of the civil penalty under this paragraph and paragraph (4), the court shall consider the seriousness of the violation or violations, the economic benefit to the violator, if any, resulting from the violation, any history of prior violations, the nature, extent, and degree of success of any efforts to minimize or mitigate the effects of such discharge, the economic impact of the penalty on the violator, and any other matters as justice may require. Where the United States can show that such discharge was the result of willful negligence, willful misconduct or a violation of applicable safety, construction, or operating regulations, such penalty shall be no less than $250,000.00.

"(B) The Secretary of the Department in which the Coast Guard is operating or the Administrator of the Environmental Protection Agency may request the Attorney General to commence a civil action to recover civil penalties against any person in the district court in the district in which such person is located, resides, or is doing business, and any such court shall have jurisdiction to assess such civil penalty.".

(2) Subparagraph (E) of paragraph (6) of subsection (b) of section 311 of the Clean Water Act (33 U.S.C. 1321(b)(6)(E)) is repealed.

(3) Paragraph (5) of subsection (b) of section 311 of the Clean Water Act (33 U.S.C. 1321(b)(5)) is amended by inserting immediately prior to the last sentence thereof the following new sentence: "In addition, any such person who knowingly fails to provide the notice required by this subsection shall not be entitled to any of the defenses to liability set out in subsection (f) of this section".

(4) Paragraph (4) of subsection (b) of section 311 of the Clean Water Act (33 U.S.C. 1321(b)(4)) is amended by inserting immediately after "public health or welfare" the following: "or the environment".

(c) Paragraph (1) of subsection (c) of section 311 of the Clean Water Act (33 U.S.C. 1321(c)(1)) is amended by deleting that part of such paragraph following "Magnuson Fishery Conservation and Management Act" and inserting in lieu thereof the following: "the President shall remove or arrange for the removal of such oil or substance. The President is not required to act to remove or arrange for removal of such oil or substance if the President determines that such removal will be done properly and promptly by the owner or operator of the vessel, onshore facility, or offshore facility from which the discharge occurs, or by any other responsible party or by any other entity intended to be selected by such owner or operator or other responsible party to carry out the removal of such oil or substance. In making such determination, the President shall consider whether such owner or operator or other party has the financial and technical capability necessary to effectively remove the oil or hazardous substance. A decision of the President under this subsection is not subject to judicial review.".

(d) Subsection (f) of section 311 of the Clean Water Act (33 U.S.C. 1321(f)) is amended to read as follows:

"Liability for actual costs of removal

"(f)(1) Notwithstanding any other provision or rule of law, and subject only to the exclusive affirmative defenses set forth in paragraph (2) of this subsection, whenever there is a release or threatened release of oil which causes the incurrence of response costs, each responsible party shall be strictly, and jointly and severally, liable for—

"(A)(i) all removal costs actually incurred by the United States Government or a State, including all internal agency costs necessitated by the incident; and

"(ii) any removal costs incurred by any other person, consistent with the National Contingency Plan; and

"(B) all damages for economic loss or loss of natural resources resulting from such a discharge, including—

"(i) any injury to, destruction of, or loss of any real or personal property;

"(ii) any loss of use of real or personal property;

"(iii) any injury to, destruction of, or loss of natural resources, including the costs of assessing such injury, destruction, or loss;

"(iv) any loss of use, including loss of subsistence use, of any natural resources, without regard to the ownership or management of such resources;

"(v) any loss of income or profits or impairment of earning capacity resulting from injury to or destruction of real or personal property or natural resources, without regard to the ownership of such property or resources; and

"(vi) any direct or indirect loss of tax, royalty, rental, or net profits share revenue by the Federal Government or any State or political subdivision thereof, for a period of not to exceed one year.

"(2)(A) There shall be no liability under paragraph (1) of this subsection for a person otherwise liable who can establish by a preponderance of the evidence that the discharge or threat of discharge of oil and the damages resulting therefrom were caused solely by—

"(i) an act of God;

"(ii) an act of war;

"(iii) an act or omission of a third party other than an employee or agent of the defendant, or other than one whose act or omission occurs in connection with a contractual relationship, existing directly or indirectly, with the responsible party, if the responsible party establishes by a preponderance of the evidence that (I) he exercised due care with respect to the oil or hazardous substance concerned, taking into consideration the characteristics of such oil or substance, in light of all relevant facts and circumstances, and (II) he took precautions against foreseeable acts or omissions of any such third party and the consequences that could foreseeably result from such acts or omissions; or

"(iv) any combination of the foregoing paragraphs.

"(B) In any case where a responsible party can establish by a preponderance of the evidence that a discharge and the damages resulting therefrom were caused solely by an act or omission of a third party (or solely by such an act or omission in combination with an act of God or an act of war) in accordance with subsection (f)(2)(A)(iii), such third party shall be liable under this section as if such third party were the responsible party.

"(3) For purposes of this subsection, the term 'responsible party' includes—

"(A) any person who owns or operates an onshore facility, offshore facility, or vessel at the time of a discharge or threatened discharge of oil from the onshore facility, offshore facility, or vessel;

"(B) any person who owns or operates an onshore facility, offshore facility, or vessel at the time any removal cost is incurred in connection with a discharge or threatened discharge of oil from the onshore facility, offshore facility, or vessel;

"(C) any person who owns or operates an onshore facility, offshore facility, or vessel at the time any suit is filed under this section in connection with a discharge or threatened discharge of oil from the onshore facility, offshore facility, or vessel;

"(D) in the case of a discharge or threatened discharge from an abandoned onshore facility, offshore facility, or vessel, any person who owned or operated the onshore facility, offshore facility, or vessel immediately prior to his abandonment;

"(E) any person who owns, or owns any interest in, the oil that has been, is being, or may be discharged;

"(F) any person who by contract, agreement, or otherwise arranged for the handling, storage, treatment, transport, or disposal of the oil by another party or entity, if the discharge or threatened discharge occurs while the oil is in the possession, or under the control, of the other party or entity; and

"(G) any person who accepts or accepted the oil for handling, storage, treatment, transport, or disposal if the discharge or threatened discharge occurs while the oil is in the possession, or under the control, of such person.

"(4) In the case of an injury to, destruction of, or loss of natural resources under subsection (f)(1)(B) of this section, liability shall be (A) to the United States Government for natural resources belonging to, managed by, controlled by, or appertaining to the United States, and (B) to any State for natural resources within the State or belonging to, managed by, controlled by, or appertaining to such State. The President, or the authorized representative of any State, shall act on behalf of the public as trustee of such natural resources to recover for such damages. Sums recovered by the United States Government as trustee under this subsection shall be retained by the trustee, without further appropriation, for use only to restore, replace, or acquire the equivalent of such natural resources. Sums recovered by a State as trustee under this subsection shall be available for use only to restore, replace, or acquire the equivalent of such natural resources by the State. The measure of damages in any action under subsection (f)(1)(B) shall not be limited by the sums which can be used to restore or replace such resources. There shall be no double recovery under this Act for natural resource damages, including the costs of damage assessment or restoration, rehabilitation, or acquisition for the same discharge and natural resource.

"(5) No indemnification, hold harmless, or similar agreement or conveyance shall be effective to transfer the liability imposed by this section from any responsible party to any other person. Nothing in this subsection shall bar any agreement to insure, hold harmless, or indemnify a party to such agreement for any liability under this section.

"(6) Any person may seek contribution from any other responsible party or potentially responsible party during or following any action under this section. Such claim shall be brought in accordance with this section and the Federal Rules of Civil Procedure. Nothing in this subsection shall diminish the right of any person to bring an

action for contribution in the absence of a civil action under this section.

"(7) Nothing in this subsection shall bar a cause of action that any responsible party subject to liability under this section has, by reason of subrogation or otherwise against any person.".

(e) Subsections (g), (h), and (i) of section 311 of the Clean Water Act (33 U.S.C. 1321(g), (h), and (i)) are repealed.

SEC. 4. (a) Subsection (c) of section 309 of the Clean Water Act (33 U.S.C. 1319(c)) is amended by inserting immediately after "308," each time it appears therein the following: "311,".

(b) Paragraph (1) of subsection (g) of section 309 of the Clean Water Act (33 U.S.C. 1319(g)(1)) is amended to read as follows:

"(g) ADMINISTRATIVE PENALTIES.—

"(1) VIOLATIONS.—Whenever on the basis of any information available—

"(A) the Administrator or the Secretary of the Department in which the Coast Guard is operating finds that any person has violated section 301, 302, 306, 307, 308, 311, 318, or 405 of this Act, or has violated any permit condition or limitation implementing any of such sections in a permit issued under section 402 of this Act by the Administrator or by a State, or in a permit issued under section 404 by a State, or

"(B) the Secretary of the Army (hereinafter in this subsection referred to as the 'Secretary') finds that any person who has violated any permit condition or limitation in a permit issued under section 404 of this Act by the Secretary of the Army,

the Administrator, the Secretary of the Department in which the Coast Guard is operating, or the Secretary of the Army, as the case may be, may, after consultation with the State in which the violation occurs, assess a Class I civil penalty or a Class II civil penalty under this subsection.".

(c) Subparagraph (A) of paragraph (6) of subsection (g) of section 309 of the Clean Water Act (33 U.S.C. 1319(g)(6)(A)) is amended by inserting a comma immediately before the period at the end thereof, and the following: "except that any judicial or administrative action by a State under State law shall not affect or limit the authority of the Administrator or the Secretary of the Department under which the Coast Guard is operating with respect to discharges of oil or hazardous substances under subsection (d) of this section or section 311 of this Act".

By Mr. BRYAN (for himself, Mr. HOLLINGS, Mr. GORTON, and Mr. LIEBERMAN):

S. 1224. A bill to amend the Motor Vehicle Information and Cost Savings Act to require new standards for corporate average fuel economy, and for other purposes; to the Committee on Commerce, Science, and Transportation.

MOTOR VEHICLE FUEL EFFICIENCY ACT

Mr. BRYAN. Mr. President, I rise today to introduce legislation that I believe is vitally important to both the Nation's energy security and the environment. This legislation will increase the corporate average fuel economy, or CAFE standards, for automobiles and light trucks, by an equal percentage for all manufacturers who sell these vehicles in the United States. By doing this, we will reduce our dependence on foreign oil, now climbing toward 50 percent of our consumption. We also will recognize, as President Bush recently did with respect to clean air, that while we want and need economic growth, we also must expect and practice environmental responsibility.

I am proud to be joined in this effort by the chairman of the Commerce Committee, Senator HOLLINGS, as well as the ranking member of the Consumer Subcommittee, Senator GORTON, and my friend and fellow member of the class of 1988 in the Senate, Senator LIEBERMAN, as well as our friend and colleague on the Commerce Committee, Senator GORE.

The CAFE standards, originally enacted in 1975 through the leadership of Senator HOLLINGS and others, have been one of the most successful conservation measures in history. Since their enactment, there has been a doubling of the fuel economy of the passenger vehicle fleet in this country. It is estimated that this achievement by the automobile industry has resulted in a savings of 2.5 million barrels of oil per day, and a savings of at least $40 billion per year for consumers in gasoline costs. However, the standards set by statute in 1975 leveled off in 1985, and require no improvement in the future. Indeed, the CAFE levels of some manufacturers have actually begun to decline.

We held hearings last month in the Consumer Subcommittee, which I chair, on the issue of fuel economy, and received considerable information from a wide variety of sources, including the auto industry and environmental groups. This information convinced me that more can be done to improve fuel economy, and that legislation is necessary to encourage this effort.

My bill will continue the progress that has begun, build on the energy savings that have been achieved, and address an additional problem of which we were insufficiently aware in 1975—the greenhouse effect and the threat of global warming. Each gallon of gasoline consumed results in the emission of 19.7 pounds of carbon dioxide, a primary greenhouse gas. By saving fuel, we also reduce carbon dioxide emissions and the threat of global warming.

This legislation will require that each manufacturer improve its average fuel economy at least 20 percent beginning with the 1995 model year, and 40 percent beginning with model year 2001. The same improvement will be required for light trucks, which now constitue one-third of new passenger vehicle sales, and for which no statutory standards have been set in the past.

These increases should result in a fleet fuel economy for passenger cars of about 34 miles per gallon by 1995 and 40 miles per gallon by 2001. There is considerable evidence that these goals can be achieved without any major change in the size of the fleet or any net cost to consumers.

Additionally, by requiring equal improvement by all manufacturers, the bill eliminates an inequity in the current law. Today, there is a single numerical standard for all manufacturers, regardless of the size of the vehicles they build. This has put an undue burden on domestic manufacturers, who build cars in a range of sizes, from small to large, but still have to achieve the same average fuel economy as manufacturers who only build compact or smaller automobiles.

The bill also provides maximum flexibility to manufacturers in reaching the two established fuel economy goals. It contains no interim targets between current standards and the 1995 and 2001 goals, but allows the industry to decide how best to achieve those goals.

Thus, the bill attempts to strike a balance between the economic needs of the automobile industry, America's energy security needs, and the environmental needs of this country and the world.

Indeed, by achieving these fuel economy goals we can save, in just 2 years, a total of 41.3 billion gallons of fuel, and reduce carbon dioxide emissions by a total of 406.7 million tons. These numbers sound astonishing, and the prospect of their achievement is exciting. It also is within our grasp to make fuel economy an important goal, as my legislation attempts to do.

Mr. President, again, I am pleased to be joined in this effort by Senators HOLLINGS, GORTON, LIEBERMAN, and GORE, and ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1224

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Motor Vehicle Fuel Efficiency Act of 1989".

FINDINGS

SEC. 2. The Congress finds and declares the following:

(1) Improved efficiency in the consumption of petroleum is vitally important, not only because the worldwide supply is finite, but because the increasing dependence of the United States on foreign oil is a threat to our national security and adversely affects the trade balance.

(2) The light duty vehicle fleet is a significant user of oil, accounting for about 39 percent of United States oil consumption.

(3) Improvements in vehicle fuel efficiency between 1973 and 1987 amounted to a savings of 1.8 million barrels of oil per day and a savings to drivers of close to $30 billion. Conversely, the rollback of the corporate average fuel economy (CAFE) standard for the 1989 model year, from 27.5 miles per gallon to 26.5 miles per gallon, is expected to result in increased consumption of 900 million gallons of fuel over the life of the vehicles.

(4) Emissions of carbon dioxide, including those from the light duty vehicle fleet, contribute substantially to increased retention of heat in the Earth's atmosphere, and may cause long term global warming and disruption of climate-dependent activities.

(5) The United States, with only 5 percent of the world's population, is responsible for 20 percent of world carbon dioxide emissions. United States carbon dioxide emissions from gasoline alone are greater than the carbon dioxide emissions from all sources in each of the following countries and areas of the world: Latin America, Japan, the Middle East, West Germany, South and Southeast Asia, the United Kingdom, Africa, and France.

(6) The transportation sector is responsible for 31 percent of carbon dioxide emissions in the United States. Each gallon of gasoline burned results in the emission of 19.7 pounds of carbon dioxide.

(7) The rollback of the CAFE standard for the 1989 model year is projected to result in 9 million tons of additional carbon dioxide emissions during the life of the vehicles involved.

(8) Increased numbers of vehicles and vehicle miles traveled in the United States will necessitate a 3 percent annual increase in fuel efficiency merely to hold future carbon dioxide emissions at current levels. Therefore, substantial improvements in vehicle fuel efficiency will be needed to reduce these emissions.

(9) CAFE standards and the successful response of automobile manufacturers to those standards have been very effective in increasing vehicle fuel efficiency, resulting in a doubling of the passenger car fleet fuel economy between 1975 and the present. However, current law does not require improvement above a standard of 27.5 miles per gallon which became effective in 1985.

(10) Light trucks were an insignificant part of the passenger vehicle market when CAFE standards were enacted in 1975, and have not been subjected to strict, legislatively-established, CAFE standards. As a result, there have been few major technological changes related to fuel efficiency in the standard size light trucks since 1982, and fuel economy in some light truck models has actually declined between 1982 and 1986. Light trucks have become increasingly popular for passenger use, and such vehicles now account for approximately one-third of new passenger vehicle sales.

(11) The Office of Technology Assessment and the Department of Energy agree that increased fuel efficiency is possible utilizing currently available technology and without significant changes in the size mix or performance of the fleet. Using conventional technologies, it is estimated that the fuel economy of the entire new car fleet could range from 33 to 38 miles per gallon by 1995.

(12) Over the long term, by utilizing technology currently in production or in prototype, additional increases in fleet fuel economy beyond 1995 estimates are achievable, from 40 miles per gallon to as high as 60 miles per gallon in the next decade.

(13) Gasoline prices currently are lower in real dollars than they have been since the early 1970s. Since there is at least some correlation between gasoline prices and consumer demand for fuel efficient vehicles, it is unlikely that the market alone will achieve significant improvement in fuel economy.

(14) Increased CAFE standards are, therefore, both reasonable and necessary to ensure that improvements in fuel efficiency continue to furtherance of the dual goals of the Nation's energy security and decrease carbon dioxide emissions.

AVERAGE FUEL ECONOMY STANDARDS

SEC. 3. (a) Section 502(a) of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2002(a)) is amended by striking

"1985 and thereafter ..... 27.5."

and inserting in lieu thereof the following:

"1985 through 1994	27.5.
1995 and thereafter	As provided in accordance with section 514 of this Act.".

(p) Section 502(a)(4) of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2002(a)(4)) is amended by striking "The Secretary" and inserting in lieu thereof "Except in the case of standards established by sections 514 and 515, the Secretary".

LIGHT TRUCKS

SEC. 4. Section 502(b) of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 202(b)) is amended by inserting "and which ends before model year 1995" immediately after "after the date of enactment of this title".

EXEMPTIONS FOR LIMITED PRODUCTION

SEC. 5. Section 502(c)(1) of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2002(c)(1)) is amended—

(1) by striking "passenger" each place it appears;

(2) by inserting "or subsection (b) or section 514 or 515" immediately before the period at the end of the first sentence; and

(3) by inserting "subsection (b) of sections 514 and 515" immediately before "is more stringent".

EMERGENCY VEHICLES

SEC. 6. Section 502(g)(1) of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2002(g)(1)) is amended by inserting "or section 514 or 515" immediately before the period at the end of the first sentence.

CONSULTATION

SEC. 7. Section 502(i) of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2002(i)) is amended by inserting "or sections 514 and 515" immediately before the period in the first sentence.

NOTIFICATION

SEC. 8. Section 502(j) of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2002(j)) is amended by inserting "or sections 514 and 515" immediately before "or any modification".

NEW STANDARDS

SEC. 9. (a) Title V of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2001 et seq.) is amended by adding at the end the following new sections:

"PASSENGER AUTOMOBILES

"SEC. 514. Notwithstanding any other provision of this Act, the average fuel economy for passenger automobiles manufactured by any manufacturer in model year 1995 and each model year thereafter shall not be less than the number of miles per gallon established for such model year pursuant to the following:

"Model year:	
"1995 through 2000...	For each such manufacturer, the average fuel economy required shall be an amount determined by the Secretary to be equal to the average fuel economy achieved by that manufacturer for passenger automobiles in model year 1988, plus an amount equal to 20 percent (as measured in miles per gallon) of such average fuel economy achieved for model year 1988; except that such standard shall not be less than 27.5 miles per gallon and shall not exceed 40 miles per gallon.
"2001 and thereafter	For each such manufacturer, the average fuel economy required shall be an amount determined by the Secretary to be equal to the average fuel economy achieved by that manufacturer for passenger automobiles in model year 1988, plus an amount equal to 40 percent (as measured in miles per gallon) of such average fuel economy achieved for model year 1988, unless such standard is modified under section 516; except that such standard shall not be less than 27.5 miles per gallon and shall not exceed 45 miles per gallon.

"AUTOMOBILES OTHER THAN PASSENGER AUTOMOBILES

"SEC. 515. Notwithstanding any other provision of this Act, commencing with model year 1995 and each model year thereafter, the average fuel economy for automobiles other than passenger automobiles manufactured by any manufacturer in any such model year shall not be less than the number of miles per gallon established for such model year pursuant to the following:

"Model year:	
"1995 through 2000	For each such manufacturer, the average fuel economy required shall be an amount determined by the Secretary to be equal to the average fuel economy achieved by that manufacturer for light trucks in model year 1988, plus an amount equal to 20 percent (as measured in miles per gallon) of such average fuel economy achieved for model year 1988; except that such standard shall not be less than 20 miles per gallon and shall not exceed 30 miles per gallon.

"Model year:	
"2001 and thereafter.....	For each such manufacturer, the average fuel economy required shall be an amount determined by the Secretary to be equal to the average fuel economy achieved by that manufacturer in model year 1988, plus an amount equal to 40 percent (as measured in miles per gallon) of such average fuel economy achieved for model year 1988, unless such standard is modified under section 516; except that such standard shall not be less than 20 miles per gallon and shall not exceed 35 miles per gallon.

"MODIFICATIONS OF STANDARDS

"SEC. 516. (a) Any time after the beginning of fiscal year 1995, any person may petition the Secretary to modify any average fuel economy standard established under this Act for model year 2001 and thereafter. In response to such a petition, the Secretary may increase or decrease such standard to the level which the Secretary determines is the maximum feasible average fuel economy for the relevant model year (taking into consideration the factors listed in section 502(e)), except that the Secretary shall not reduce any such standard below a standard equal to a 30 percent increase over the average fuel economy achieved by the manufacturer involved for the applicable type (or class) of vehicles for model year 1988. Any such petition shall be filed at least 12 months in advance of the model year to which it is applicable. Upon receipt of such a petition, the Secretary shall conduct a rulemaking proceeding, which shall be conducted in accordance with the following procedure:

"(1) The Secretary—

"(A) shall publish an advance notice of proposed rulemaking which specifies the type (or class) of vehicles to which the rule may apply;

"(B) shall invite interested persons to submit, within 60 days after the date of publication of such advance notice, written presentations of data, views, and arguments in response to such notice; and

"(C) may identify proposed or amended standards that may be prescribed.

"(2) A proposed rule which prescribes an amended average fuel economy standard, or prescribes no amended standard, for a type (or class) of vehicles shall be published in the Federal Register. In prescribing any such proposed rule with respect to a standard, the Secretary shall consider the 4 factors listed in section 502(e) and shall determine the maximum improvement in energy efficiency or maximum reduction in energy use that is technologically feasible for each type (or class) of vehicles. If such standard is not designed to achieve such maximum improvement or maximum reduction, the Secretary shall state in the proposed rule the reasons therefor.

"(3) After the publication of the proposed rulemaking, the Secretary shall afford interested persons an opportunity, during a period of not less than 60 days, to comment on matters relating to the proposed rule.

"(4) A final rule prescribing an amended average fuel economy standard, or prescribing no amended standard, for a type (or class) of vehicles shall be published as soon as is practicable, but not less than 120 days, after publication of the proposed rule in the Federal Register.

"(b) In determining the maximum feasible average fuel economy during a rulemaking proceeding under this section, the Secretary shall evaluate the economic practicability of the standard, considering—

"(1) the economic impact of the standard on the manufacturers and on the consumers of the vehicles subject to such standard;

"(2) the savings in operating costs throughout the estimated average life of the vehicle in the type (or class) compared to any increase in the price of, or in the initial charges for, or maintenance expenses of, the vehicles which are likely to result from the imposition of the standard;

"(3) the total projected amount of energy savings likely to result directly from the imposition of the standard;

"(4) any lessening of the utility or the performance of the vehicles likely to result from the imposition of the standard;

"(5) the impact of any lessening of competition or any change in foreign trade that is likely to result from the imposition of the standard;

"(6) the need for reducing carbon dioxide emissions to mitigate the global greenhouse warning, as well as reducing other environmentally damaging energy-related pollutants;

"(7) the need for national energy conservation; and

"(8) other factors the Secretary considers relevant.".

FUEL ECONOMY TESTING

SEC. 10. (a) The Administrator of the Environmental Protection Agency shall conduct a study on the accuracy of fuel economy testing of passenger automobiles by the Administrator performed in accordance with procedures in effect as of the date of enactment of this Act, as compared to the actual performance of such automobiles when driven by average drivers under average driving conditions in the United States. In the course of such study, the Administrator shall, for each model type and year—

(1) measure the fuel economy of a sampling of production passenger automobiles during the first month of manufacture for sale; and

(2) repeat, over a period of years to be determined by the Secretary of Transportation, the measurements and calculations under section 503(d)(1) of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2003(d)(1)), for purposes of monitoring automobile performance in use to determine the extent, if any, of decline in fuel economy after such use.

(b) The Administrator shall, within 12 months after the date of enactment of this Act and annually thereafter, submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Energy and Commerce of the House of Representatives a report on the results of the study required by subsection (a) of this section. The report shall include—

(1) a comparison between (A) fuel economy measured, for each model in the applicable model year, through testing procedures in effect as of the date of enactment of this Act and (B) fuel economy measured in accordance with subsection (a)(1) of this section;

(2) a statement on any decline in fuel economy determined through repeated measurements and calculations under subsection (a)(2) of this section; and

(3) any recommendations for legislative or other action.

(c) To the maximum extent practicable, the Administrator shall, in carrying out measurements under subsection (a) (1) and (2) of this section, simulate average drivers and average driving conditions in the United States.

(d) As used in this section, the term "production passenger automobile" means a passenger automobile manufactured for sale.

EXPLANATORY BOOKLET DISTRIBUTED BY SECRETARY OF ENERGY

SEC. 11. (a)(1) Paragraph (1) of section 506(b) of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2006(b)) is amended by adding at the end the following new sentence: "The Secretary of Energy shall distribute no less than 100 booklets each year to each dealer and shall distribute as many in addition to 100 booklet as are reasonably requested by dealers from time to time.".

(2) The amendment made by paragraph (1) of this subsection shall apply to the 12-month period beginning on the first day of the first month after the date of enactment of this Act and corresponding 12-month periods thereafter.

(b) Section 506(e) of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2006(e)) is amended by striking "Federal Energy Administrator" and inserting in lieu thereof "Secretary of Energy".

STUDY

SEC. 12. (a) The Secretary of Transportation shall provide for a review to be undertaken by the National Academy of Sciences, in consultation with vehicle manufacturers, representatives of environmental and consumer groups, appropriate State and local officials, and representatives of labor, of the current state of research and development in light truck fuel economy and passenger automobile fuel economy and an assessment of the remaining potential for improving the fuel efficiency and reducing the energy consumption of passenger automobiles and light trucks. The assessment shall include all aspects of vehicle design, including engines, drive train, component parts, auto body, tires, and any other aspect contributing to the reduction of energy consumption. The National Academy shall, not later than 2 years after the date of enactment of this Act, submit a report to the Congress on the results of the review and assessment and in the report recommend research and development priorities that could result in the commercialization of fuel economy technology through the early years of the next century. The National Academy shall update the report every 5 years, beginning not later than 7 years after the date of enactment of this Act, and shall submit each updated report to Congress.

(b) As used in this section, "passenger automobile" and "light truck" have the meaning given those terms under section 501 of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2001), as amended by this section 4 of this Act.

REPEATED VIOLATIONS OF AVERAGE FUEL ECONOMY STANDARD

SEC. 13. (a) Section 508(b)(1) of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2008(b)(1)) is amended by adding at the end the following new subparagraph:

"(C) Any civil penalty assessed under this subsection for a violation of section 507(a)(1) or (2) in model year 1995 or thereafter against a manufacturer shall be doubled if—

"(1) the manufacturer violated section 507(a) (1) or (2) in the two model years immediately preceding the model year involved in the assessment; and

"(ii) during each of such preceding years and the year involved in the assessment, the applicable average fuel economy standard exceeded the average fuel economy of the vehicles manufactured by such manufactur-

er by five-tenths of a mile per gallon or more.".

(b) Section 507(a)(1) of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2007(a)(1)) is amended by inserting "including sections 514 and 515," immediately after "section 502(b)),".

Mr. HOLLINGS. Mr. President, I am pleased to join as a cosponsor of this legislation addressing the very important issue of fuel economy standards. In 1975, I cosponsored the legislation that became the current CAFE law. At Commerce Committee hearings on the issue in 1975, I made several points which I believe bear repeating today.

I noted then that the automobile has been a dominant influence in 20th century America, shaping our economy and our way of life, and it is now an integral part of most Americans' lives. However, then, as now, the automobile also is a major contributor to air pollution and resource depletion.

The one major change since 1975 is the dramatic increase—an approximate doubling—of the fuel efficiency of the new car fleet. This fact makes me very proud of the work we did to enact the CAFE law in 1975. It makes me very proud of the ingenuity of the automobile industry—a vital component of our economy. It also makes me think that we must continue to look at CAFE standards as at least a partial answer to the serious problems presented by the country's reliance on imported oil and the threat of global warming.

These problems have finally gained some national attention. President Bush recently addressed the importance of addressing environmental issues. Former President Reagan reported to the Congress in January of this year that the current level of oil imports presents a threat to our national security. In addition, experts from many disciplines warn us that we must pay immediate attention to the long-term effect of greenhouse gases on the Earth's climate. I believe that increased energy efficiency can address those problems.

It is clear that we must continue to work hard toward increased fuel economy. However, now, as in 1975, there is increased consumer demand for large cars with higher performance. Thus, now, as then, it may be difficult to achieve significant increases in fuel economy through market forces or voluntary activities by the auto companies. It is for this reason that CAFE standards continue to be important to achieve increased fuel economy.

However, we all recognize that the auto industry is an important contributor to the United States and world economies. We want to work with, not against, the members of that industry in addressing our environmental and energy security concerns. We also want to protect the right of the American consumer to a reasonable choice of products. Many important, and sometimes competing, factors need to be considered in the vital effort to conserve energy.

I compliment Senator BRYAN for his leadership on this issue. He chaired a consumer subcommittee hearing in early May, and has worked hard to produce a bill that I believe will assist America's energy independence and benefit our environment. I urge my colleagues to join with us in this effort.

● Mr. GORE. Mr. President, I rise today as an original cosponsor of Senator BRYAN's bill, S. 1224. I am proud to join my colleague in this effort, which promises to ultimately benefit our Nation's economy, environment, and national security. I will elaborate on this in a moment.

But first, I note that the approach taken in the bill introduced today, a percentage increase in vehicle fuel efficiency on a manufacturer-by-manufacturer basis, is the same approach taken in legislation that I introduced on the first day of this session, title IV of S. 201, the World Environmental Policy Act of 1989. I feel that this is a sound proposal, and am proud to have had Senator BRYAN, Senator HOLLINGS, and other colleagues join me as cosponsor of S. 201. The legislation introduced today calls for each manufacturer to achieve a 40-percent increase in fuel economy over the 1988 model year by 2001. S. 201, on the other hand, calls for a 65-percent increase over the 1989 model year by 2000. I feel that concerns about the environment, the trade balance, and our own ability to compete as a technological world leader demand that the higher goal become the one for which we strive.

As I have examined the subtleties surrounding this complex issue, and heard testimony in recent hearings, I have been intrigued by several ideas for enhancing S. 201's effectiveness in improving not only the efficiency of our vehicle fleet, but also the competitiveness of one of our Nation's most important industries. Consequently, after the break, I will introduce some of these ideas into the debate, and look forward to their inclusion as we work together on this issue. I also look forward to working within the Committee on Commerce, Science, and Transportation to debate these approaches, and to develop a strong proposal that effectively addresses this most important issue.

Mr. President, it has been almost 3 months since our Nation experienced the worst oilspill in its history, a disaster that spoiled the pristine waters of Prince William Sound. Today, we are left once again with apologies for an environmental disaster that did not have to happen.

Many of us have heeded the call to be better stewards of the atmosphere, the water, and the land. We have learned that the environment is not just an infinite void into which we can discharge our pollution. If we continue to do so, we threaten the delicate balance that is the planet's ability to support life.

The oil that killed the wildlife and fish of Prince William Sound, and destroyed the livelihood of the surrounding communities, was probably destined for our vehicles. Once burned, its emissions would have been dumped into our environment in another form, polluting the air in our cities and contributing to changing the climate of our planet.

We have heard calls for global cooperation to protect the world's environment. But that protection must begin here at home. Our cars and trucks are responsible for much of the air pollution choking our cities, and a large portion of the carbon dioxide emissions of our Nation.

Thus, one of the first steps to demonstrate U.S. leadership in protecting the global environment must be to increase the efficiency of our transportation sector. Each American consumes more energy in the single activity of transportation, than a person in almost any other country consumes in all activities combined. We do not need to speed development of environmentally sensitive areas to produce more oil for our vehicles; we can "produce" that oil in an environmentally and economically sound way, through increased vehicle fuel efficiency.

After dramatic improvements in the 1970's, and general stability in the 1980's, average new vehicle efficiency in 1988 was actually lower than the standards set originally for 1985. The average new vehicle produced in the United States got 27 miles per gallon in 1988; the average Asian import got 32 miles per gallon. The trend away from improved vehicle fuel efficiency has been hastened by another trend during the 1980's, back toward higher horsepower; in effect, the fuel efficiency wars of the 1970's have been replaced by the horsepower wars of this decade.

Clearly, improvements in vehicle fuel efficiency are long overdue, and they make sense for a variety of reasons:

Oil imports cost our trade balance $40 billion in 1988; for every 1-mile-per-gallon increase in the efficiency of our Nation's car and light truck fleet, we could reduce oil imports by 320,000 barrels per day—even at only $12 per barrel, that's $1.5 billion of our trade deficit each year.

Our national security is threatened by an overreliance on those oil imports to fuel the majority of the entire U.S. transportation sector.

Our competitiveness in international markets is compromised by energy-inefficient products in a world where continued depletion of finite oil resources can only lead to increased fuel costs.

Our vehicle fleet contributes as much as one-third of U.S. carbon dioxide emissions; overall, our Nation

emits more carbon dioxide than any other Nation in the world.

Last but not least, urban air quality in many cities is not coming into compliance with standards deemed necessary to avoid adverse impacts on human health. Among the major pollutants addressed by the Clean Air Act, the two that have proven most difficult to control—carbon monoxide and ozone—are largely due to our automobiles. Over 100 urban areas are not meeting air quality standards for one or both of these pollutants.

Our addiction to the Middle East's oil is again on the rise. Our trade balance is again on the decline. Our national security is at stake, and the environment demands our stewardship.

Burning less fuel in our vehicles is one sure way to meet all of these demands. And as we address this issue, we must realize that burning less fuel in our vehicles means not only driving more efficient vehicles; it also means stemming growth in the number of miles we drive. The Federal Highway Administration projects that in urban areas, the total number of miles traveled by vehicles will increase 50 percent to 80 percent by the year 2010. New vehicle fuel efficiency standards are the first component of reducing the fuel consumed by our vehicles. But a rethinking of urban and suburban transportation must be the second component.

Just as new commitments to clean up the environment were being sounded around the world, just as new international initiatives were being forged to protect our planet, 11 million gallons of crude oil pierced an ecological treasure. The disaster in Prince William Sound must be a turning point. If we are to leave our children a legacy of care and stewardship, we must take responsibility for the entire planet. Each of us must find within ourselves the foresight and the courage to confront this serious global challenge.●

Mr. GORTON. Mr. President, I am pleased to join with my colleague Senator BRYAN, the chairman of the Consumer Subcommittee of the Senate Commerce Committee, in introducing legislation to increase the current corporate average fuel economy [CAFE] standards for cars and light trucks. The energy and environmental challenges of the next century will be immense. This legislation is one necessary step to begin to reduce the amount of carbon dioxide, a primary greenhouse gas, emitted into the atmosphere and to reduce our dependence on fossil fuels.

The legislation we are introducing today will require each manufacturer by the year 1995 to increase its fleet performance 20 percent over the model year 1988 level. This should give all manufacturers adequate time to plan for fuel saving improvements. By the year 2000, manufacturers must achieve a 40-percent increase from 1988 levels. The bill also brings light trucks, the fastest selling vehicles today, under the new requirements.

In 1988, the overall car fleet average was 28.7 mpg. Our bill would increase the average to 34.4 mpg. The National Highway Transportation Safety Administration estimates that this would reduce carbon dioxide emissions by nearly 90 million tons over the lifetime of the vehicles compared with the current CAFE requirement. A fleet average of 25 mpg for light trucks would reduce carbon dioxide emissions by an additional 63 million tons over the lifetime of the vehicles, compared with the current fleet average. At the same time, over 9 billion gallons of fuel for cars and over 6 billion gallons of fuel for light trucks would be saved over the lifetime of the vehicles.

A recent report by the Office of Technology Assessment shows the need for this legislation. The report cited a "drastic" slowdown in fuel efficiency improvement because of relatively low fuel prices, increasing sales of performance and luxury cars, continued demand for older car models, the popularity of less fuel-efficient light trucks used as passenger vehicles, as well as other factors. In fact, OTA projects that, absent a Government increase in the CAFE standard, new car fleet efficiency may improve only a few miles per gallon by the year 2000.

Mr. President, we cannot allow ourselves to be lulled into a false sense of complacency caused by relatively low gasoline prices and the absence of lines at gas pumps. The need for a comprehensive national energy policy has become so apparent that it can no longer be ignored. In too many instances, the Congress has played a reactive role instead of a proactive role in addressing the environment and our dependence on fossil energy resources. I am encouraged that the proposal introduced today can be a major step in the right direction for the Congress in acknowledging the need for an energy policy and for our Nation's vital need to conserve energy.

Energy can be conserved in several sectors, including industry, buildings, and transportation: More efficient appliances and lights, better insulated buildings, more efficient heating and cooling systems for builidngs, greater use of public transportation and more efficient modes of private transportation. The Congress has considered legislation addressing many of the above. However, the fact remains that more must be done as we work to relieve our Nation's dependence on foreign energy resources.

An important component of this energy independence is that we all must work to become more efficient in our use of fossil fuels. I am encouraged by the administration's recent action to increase fuel efficiency standards—but we must set our sights higher. The administration and Congress have for the past several years battled over opening environmentally sensitive areas to oil and gas leasing. There is the continuing debate over opening the pristine Arctic National Wildlife Refuge Coastal Plain and in my State there are grave concerns over the administration's Outer Continental Shelf [OCS] Oil and Gas Leasing Program currently planned for waters off Oregon and Washington. These waters and coastal areas are some of the Nation's finest and highly sensitive marine environments. The public has correctly become outraged at the thought of oil and gas development as a result of the *Exxon Valdez* oil spill. Present laws, rules, and regulations are outdated and inadequate to allow consideration of imposing our Nation's need for energy resources on these critical areas. Yet our Nation's energy needs remain the same. We must take positive action. Increasing our fuel efficiency standards will constitute an important part of the necessary positive action.

I hope that this needed legislation will have the support of many of my colleagues.

By Mr. THURMOND (for himself, Mr. DOLE, Mr. SPECTER, Mr. MCCLURE, Mr. DECONCINI, Mr. D'AMATO, Mr. SIMPSON, Mr. WILSON, Mr. MCCONNELL, and Mr. NICKLES):

S. 1225. A bill entitled the "Comprehensive Violent Crime Control Act of 1989"; to the Committee on the Judiciary.

COMPREHENSIVE VIOLENT CRIME CONTROL ACT OF 1989

Mr. THURMOND. Mr. President, I rise today to introduce a sweeping anticrime proposal along with Senators DOLE, SPECTER, MCCLURE, DECONCINI, D'AMATO, SIMPSON, and WILSON.

Using some suggestions from a number of our colleagues, President Bush has given the Congress a comprehensive legislative package designed to combat the growing problem of violent crime across our Nation.

The freedoms we cherish today are not simply limited to a freedom from oppressive forms of government. Our citizens deserve to be free from fear of violence as they go about their daily lives. Appropriately, the American public looks to their elected officials to provide law enforcement with sufficient resources to keep our streets and neighborhoods safe. Spelled out so clearly in our Constitution is the Government's responsibility to insure domestic tranquility.

The sweeping crime package introduced today is a direct and forceful response to our obligation—protecting the citizens of this great Nation from the criminal element.

This proposal will provide effective resources for law enforcement as they risk their lives every day going into battle against these thugs and criminals who challenge a peaceful and lawabiding society.

With a strategy to remove violent offenders from the streets, the President has directed the Attorney General and the Treasury Secretary to coordinate efforts with State and local officials. As a part of this plan, the President wants to add 375 new agents at the Bureau of Alcohol, Tobacco, and Firearms, 300 at the FBI, and 150 Deputy U.S. Marshals. These highly trained men and women will be in the field and on the front lines protecting the public.

Another concern addressed in this package would increase the number of prosecutors so that lawbreakers can be vigorously prosecuted to the fullest extent of the law. This proposal calls for an additional 1,600 new prosecutors and staff to handle the increased number of defendants.

I am pleased that there is language to reinstate an enforceable Federal death penalty. This proposal authorizes the death penalty for, among other things, espionage, treason, murder for hire, attempts to assassinate the President, terrorists, and murder of hostages. Enactment of a comprehensive Federal death penalty is critical to deter violent offenders. I would strongly urge the Congress to take this opportunity to consider this important issue and send a death penalty proposal to the President for his signature. The law abiding citizens of this Nation demand action and these demands must be met. We simply cannot delay action on a Federal death penalty while violent offenders are allowed to prey on innocent victims.

Further, language to reform current habeas corpus procedures is included which will minimize Federal judicial interference with State criminal convictions, and deal with common abuses typical of habeas prisoner petitions.

Additionally, this package will codify the good faith exception to the exclusionary rule that has been recognized by the Supreme Court. Provisions in this crime package do not authorize law enforcement officers to disregard the forth amendment. What it does do is address the legal loophole that allows criminals to go free. When a law enforcement officer acts in good faith compliance with the fourth amendment, allowing an offender to go free on a mere technicality does not serve the ends of justice.

Enhanced and mandatory penalties for those who commit, and provide means for others to commit, violent crime are key components of this legislation. It is imperative that we make serious prison time a certainty for the criminals who prey on our society.

With additional agents in the field and more prosecutors using tougher anticrime statutes, our prison capacity, which is now below what is needed, must be increased. This proposal calls for additional prison construction to increase current capacity by 80 percent.

Also, as a direct response to the deadly firepower used by drug kingpins, hired thugs, and other violent offenders, the President is calling for restrictions on clips and magazines that hold more than 15 rounds. Legitimate sportsmen and hunters can still pursue their avocation without undue interference.

President Bush has proposed a comprehensive crime package which will strengthen current laws and give additional needed resources to law enforcement. Also, the important message throughout this proposal is that for lawbreakers, there will soon be a greater certainty of apprehension, prosecution, and punishment along with hard prison time.

The American people deserve our most serious effort in passing this sweeping measure to combat the miscreants and criminals in our society. We have an opportunity to send a clear message that our criminal justice system will ensure swift and certain punishment to those who break the law.

I commend President Bush for his leadership in submitting this important proposal and I urge my colleagues to join as cosponsors.

Mr. President, I ask unanimous consent that the text of the bill and a section-by-section analysis be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 1225

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Comprehensive Violent Crime Control Act of 1989.".

TITLE I—FIREARMS AND RELATED AMENDMENTS

SEC. 101. PROHIBITION AGAINST TRANSFERRING FIREARMS TO NONRESIDENTS.

Section 922(a)(5) of title 18, United States Code, is amended by striking out "resides" and all that follows through "(or other than that in which its place of business is located if the transferor is a corporation or other business entity);" and inserting in lieu thereof "does not reside in (or if the person is a corporation or other business entity, does not maintain a place of business in) the State in which the transferor resides;".

SEC. 102. COMMERCE NEXUS FOR TRAFFICKING IN STOLEN FIREARMS.

(a) Section 922(j) of title 18, United States Code, is amended by striking out "or which constitutes," and inserting in lieu thereof "which constitutes, or which has been shipped or transported in,";

(b) Section 922(k) of title 18, United States Code, is amended by inserting "or to possess or receive any firearm which has had the importer's or manufacturer's serial number removed, obliterated, or altered and has, at any time, been shipped or transported in interstate or foreign commerce" after "altered".

SEC. 103. TECHNICAL AMENDMENTS.

(a) Section 923(d)(1)(B) of title 18, United States Code, is amended by striking out "(h)" and inserting in lieu thereof "(n)";

(b) Section 925(a)(1) of title 18, United States Code, is amended by inserting "possession," before "or importation";

(c) Section 925(c) of title 18, United States Code, is amended by sriking out "conviction" the first and third place such term appears and inserting in lieu thereof "disability" and by striking out "by reason of such a conviction";

(d) Section 924(a) of title 18, United States Code, is amended by striking out ", and shall become eligible for parole as the Parole Commission shall determine" in both places those words appear. This amendment shall be effective with respect to any offense committed after November 1, 1987.

SEC. 104. DISPOSITION OF FORFEITED FIREARMS.

Subsection 5872(b) of title 26, United States Code, is amended to read as follows:

"(b) DISPOSAL.—In the case of the forfeiture of any firearm, where there is no remission or mitigation of forfeiture thereof—

"(1) The Secretary may retain the firearm for official use of the Department of the Treasury or, if not so retained, offer to transfer the weapon without charge to any other executive department or independent establishment of the Government for official use by it and, if the offer is accepted, so transfer the firearm;

"(2) If the firearm is not disposed of pursuant to paragraph (1), is a firearm other than a machinegun or a firearm forfeited for a violation of this chapter, is a firearm that in the opinion of the Secretary is not so defective that its disposition pursuant to this paragraph would create an unreasonable risk of a malfunction likely to result in death or bodily injury, and is a firearm which (in the judgment of the Secretary, taking into consideration evidence of present value and evidence that like firearms are not available except as collector's items, or that the value of like firearms available in ordinary commercial channels is substantially less) derives a substantial part of its monetary value from the fact that it is novel, rare, or because of its association with some historical figure, period, or event the Secretary may sell such firearm, after public notice, at public sale to a dealer licensed under the provisions of chapter 44 of title 18, United States Code;

"(3) If the firearm has not been disposed of pursuant to paragraphs (1) or (2), the Secretary shall transfer the firearm to the Administrator of General Services, General Services Administration, who shall destroy or provide for the destruction of such firearm; and

"(4) No decision or action of the Secretary pursuant to this subsection shall be subject to judicial review.".

SEC. 105. CLARIFICATION OF "BURGLARY" UNDER THE ARMED CAREER CRIMINAL STATUTE.

Section 924(e)(2) of title 18, United States Code, is amended by adding a new subparagraph, as follows:

"(D) the term 'burglary' means any crime punishable by a term of imprisonment exceeding one year and consisting of entering or remaining surreptitiously within a building that is the property of another with intent to engage in conduct constituting a Federal or State offense.".

SEC. 106. SERIOUS DRUG OFFENSES BY JUVENILES AS ARMED CAREER CRIMINAL ACT PREDICATES.

Section 924(e)(2)(A) of title 18, United States Code, is amended—

(1) by striking out "or" at the end of clause (i);

(2) by striking out "and" at the end of clause (ii) and inserting in lieu thereof "or"; and

(3) by adding a new clause (iii), as follows:

"(iii) any act of juvenile delinquency that if committed by an adult would be a serious

drug offense described in this paragraph; and".

SEC. 107. CLARIFICATION OF DEFINITION OF CONVICTION.

Section 921(a)(20) of title 18, United States Code, is amended by adding at the end the following:

"Notwithstanding the previous sentence, if the conviction was for a violent felony involving the threatened or actual use of a firearm or explosive or was for a serious drug offense, as defined in section 924(e) of this title, the person shall be considered convicted for purposes of this chapter irrespective of any pardon, setting aside, expunction or restoration of civil rights.".

SEC. 108. PERMITTING CONSIDERATION OF PRETRIAL DETENTION FOR CERTAIN FIREARMS AND EXPLOSIVES OFFENSES.

Section 3142(f)(1) of title 18, United States Code, is amended by—

(1) striking out "or" before subparagraph (D);

(2) redesignating subparagraph (D) as subparagraph (E); and

(3) inserting a new subparagraph (D) as follows:

"(D) an offense under 18 U.S.C. 844(a) that is a violation of 18 U.S.C. 842 (d), (h), or (i), or an offense under 18 U.S.C. 924(a) that is a violation of 18 U.S.C. 922 (d), (g), (h), (i), (j), or (o); or".

SEC 109. ENHANCED PENALTY FOR USE OF SEMIAUTOMATIC FIREARM DURING A CRIME OF VIOLENCE OF DRUG TRAFFICKING OFFENSE.

(a) Section 924(c) of title 18, United States Code, is amended by inserting "and if the firearm is a semiautomatic firearm, to imprisonment for ten years," after "sentenced to imprisonment for five years,";

(b) Section 921(a) of title 18, United States Code, is amended by adding at the end the following:

"(25) the term 'semiautomatic firearm' means any repeating firearm which utilizes a portion of the energy of a firing cartridge to extract the fired cartridge case and chamber the next round, and which requires a separate pull of the trigger to fire each cartridge.".

SEC. 110. SMUGGLING FIREARMS IN AID OF DRUG TRAFFICKING.

Section 924 of title 18, United States Code, is amended by adding at the end thereof the following:

"(h) Whoever, with the intent to engage in, or to promote, conduct which—

"(1) is punishable under the Controlled Substances Act (21 U.S.C. 801 et seq.), the Controlled Substances Import and Export Act (21 U.S.C. 951 et seq.), or the Maritime Drug Law Enforcement Act (46 U.S.C. App. 1901 et seq.);

"(2) violates any law of a State relating to any controlled substances (as defined in section 102 of the Controlled Substances Act, 21 U.S.C. 802); or

"(3) constitutes a crime of violence (as defined in subsection (c)(3));

smuggles or knowingly brings into the United States a firearm, or attempts to do so, shall be imprisoned for not more than ten years, fined under this title, or both.".

SEC. 111. THEFT OF FIREARMS AND EXPLOSIVES.

(a) Section 924 of title 18, United States Code, is amended by adding at the end the following:

"(i) Whoever steals any firearm which is moving as, or is a part of, or which has moved in, interstate or foreign commerce shall be imprisoned for not less than two or more than ten years, and may be fined under this title.".

(b) Section 844 of title 18, United States Code, is amended by adding at the end the following:

"(k) Whoever steals any explosives materials which are moving as, or are a part of, or which have moved in, interstate or foreign commerce shall be imprisoned for not less than two or more than ten years, and may be fined under this title.".

SEC. 112. BAR ON SALE OF FIREARMS AND EXPLOSIVES TO OR POSSESSION OF FIREARMS AND EXPLOSIVES BY PERSONS CONVICTED OF A VIOLENT OR SERIOUS DRUG MISDEMEANOR.

(a) Sections 842(d)(2) and 922(d)(1) of title 18, United States Code, are each amended by inserting ", or has been convicted in any court of any crime of violence or serious misdemeanor drug or narcotic offense (as defined in section 404(c) of the Controlled Substances Act, 21 U.S.C. 844(c)). It is a bar to a prosecution under this section that the conviction for a serious misdemeanor drug or narcotic offense occurred prior to the date of enactment of this Act" after "crime punishable by imprisonment for a term exceeding one year";

(b) Sections 842(i)(1) and 922(g)(1) of title 18, United States Code, are each amended by inserting "or has been convicted in any court of any crime of violence or serious misdemeanor drug or narcotic offense (as defined in section 404(c) of the Controlled Substances Act, 21 U.S.C. 844(c)). It is a bar to a prosecution under this section that the conviction for a serious misdemeanor drug or narcotic offense occurred prior to the date of enactment of this Act" after "crime punishable by imprisonment for a term exceeding one year";

(c) Section 922 of title 18, United States Code, is amended by adding at the end the following:

"(q) For purposes of this section and section 842 of this title—

"(1) the term 'crime of violence' means an offense that has as an element the use of physical force against the person of another with intent to cause bodily harm to such person; and

"(2) the term 'serious misdemeanor' means an offense for which the maximum term of imprisonment is greater than six months.".

SEC. 113. POSSESSION OF A FIREARM OR AN EXPLOSIVE DURING THE COMMISSION OF A FELONY.

(a) Section 924(c) of title 18, United States Code, is amended by striking out "uses or carries a firearm" and inserting in lieu thereof "uses, carries, or otherwise possesses a firearm".

(b) Section 844(h) of title 18, United States Code, is amended by striking out "carries an explosive during" and inserting in lieu thereof "carries or otherwise possesses an explosive during".

SEC. 114. MANDATORY REVOCATION OF SUPERVISED RELEASE FOR POSSESSION OF A FIREARM.

Section 3583 of title 18, United States Code, is amended by adding at the end thereof the following new subsection:

"(h) MANDATORY REVOCATION FOR POSSESSION OF A FIREARM.—If the court has provided, as a condition of supervised release, that the defendant refrain from possessing a firearm, and if the defendant is in actual possession of a firearm, as that term is defined in section 921 of this title, at any time prior to the expiration or termination of the term of supervised release, the court shall, after a hearing pursuant to the provisions of the Federal Rules of Criminal Procedure that are applicable to probation revocation, revoke the term of supervised release and, subject to the limitations of paragraph (e)(3) of this section, require the defendant to serve in prison all or part of the term of supervised release without credit for time previously served on postrelease supervision.".

SEC. 115. INCREASED PENALTY FOR KNOWINGLY FALSE, MATERIAL STATEMENT IN CONNECTION WITH THE ACQUISITION OF A FIREARM FROM A LICENSED DEALER.

Section 924(a) of title 18, United States Code, is amended—

(1) in paragraph (a)(1)(B), by striking out "(a)(6),"; and

(2) in subsection (a)(2), by inserting "(a)(6)," after "subsections".

SEC. 116. INCREASED PENALTY FOR SECOND OFFENSE OF USING AN EXPLOSIVE TO COMMIT A FEDERAL FELONY.

Section 844(h) of title 18, United States Code, is amended by striking out "ten years" and inserting in lieu thereof "twenty years".

SEC. 117. AMENDMENTS TO 18 U.S.C. CHAPTER 44 RELATING TO THE DOMESTIC ASSEMBLY OF NONIMPORTABLE FIREARMS.

(a) Section 921(a) of title 18, United States Code is amended by adding at the end thereof a new paragraph as follows:

"(26) The term 'semiautomatic rifle' means any repeating rifle which utilizes a portion of the energy of a firing cartridge to extract the fired cartridge case and chamber the next round, and which requires a separate pull of the trigger to fire each cartridge."

(b) Section 922 of title 18, United States Code is amended by adding at the end thereof a new subsection as follows:

"(s) It shall be unlawful for any person to assemble any semiautomatic rifle or any shotgun which is identical to any rifle or shotgun prohibited from importation under section 925(d)(3) of this chapter as not being particularly suitable for or readily adaptable to sporting purposes except that this subsection shall not apply to—

"(1) the assembly of any such rifle or shotgun for sale or distribution by a licensed manufacturer to the United States or any department or agency thereof or to any State or any department, agency, or political subdivision thereof;

"(2) assembly operations for any such rifle or shotgun by a licensed manufacturer that were taking place in the United States before May 15, 1989;

"(3) the assembly of any such rifle or shotgun for the purpose of exportation; or

"(4) the assembly of any such rifle or shotgun for the purposes of testing or experimentation authorized by the Secretary."

(c) Section 924(a)(1)(B) of title 18, United States Code is amended by striking out "or (k)" and inserting in lieu thereof "(k), or (s)".

SEC. 118. INAPPLICABILITY OF ENHANCED PENALTY IN PRESENCE OF MITIGATING CIRCUMSTANCES.

The amendment of section 109(a) of this Act shall not apply in sentencing a defendant who establishes that—

(1) he used the firearm to protect himself or another person from an immediate danger of death or injury arising from the unlawful use or threat of force by the person against whom the firearm was used;

(2) he used the firearm to protect the person or property of himself or another against actually occurring or immediately threatened felonious conduct by the person against whom the firearm was used; or

(3) he used the firearm to effect the arrest or prevent the escape of a person in immediate flight after the commission of a felony.

Notwithstanding the foregoing, this section is not applicable if the defendant engaged or participated in criminal conduct that

gave rise to the occasion for the defendant's use of the firearm.

TITLE II—CAPITAL PUNISHMENT

SEC. 201. SHORT TITLE FOR TITLE II.

This title may be cited as the "Capital Punishment Procedures Act of 1989".

SEC. 202. DEATH PENALTY PROCEDURES.

Title 18 of the Unites States Code is amended—(a) by adding the following new chapter after chapter 227:

"CHAPTER 228—DEATH PENALTY PROCEDURES

"Sec.
"3591. Sentence of death.
"3592. Factors to be considered in determining whether a sentence of death is justified.
"3593. Special hearing to determine whether a sentence of death is justified.
"3594. Imposition of a sentence of death.
"3595. Review of a sentence of death.
"3596. Implementation of sentence of death.
"3597. Use of State facilities.
"3598. Appointment of counsel.

§ 3591. Sentence of death

"A defendant who has been found guilty of—

"(a) an offense described in section 794 or section 2381 of this title;

"(b) an offense described in section 1751(c) of this title if the offense, as determined beyond a reasonable doubt at a hearing under section 3593, constitutes an attempt to murder the President of the United States and results in bodily injury to the President or comes dangerously close to causing the death of the President; or

"(C) any other offense for which a sentence of dealth is provided, if the defendant, as determined beyond a reasonable doubt at a hearing under section 3593 either—

"(1) intentionally killed the victim;

"(2) intentionally participated in an act, contemplating that the life of a person would be taken or intending that lethal force would be used in connection with a person, other than one of the participants in the offense, and the victim died as a direct result of the act; or

"(3) acting with reckless disregard for human life, engaged or substantially participated in conduct which the defendant knew would create a grave risk of death to another person or persons and death resulted from such conduct;

shall be sentenced to death if, after consideration of the factors set forth in section 3592 in the course of a hearing held pursuant to section 3593, it is determined that imposition of a sentence of death is justified: *Provided*, That no person may be sentenced to death who was less than eighteen years of age at the time of the offense.

"§ 3592. Factors to be considered in determining whether a sentence of death is justified

"(a) MITIGATING FACTORS.—In determining whether a sentence of death is justified for any offense, the jury, or if there is no jury, the court, shall consider each of the following mitigating factors and determine which, if any, exist:

"(1) MENTAL CAPACITY.—The defendant's mental capacity to appreciate the wrongfulness of his conduct or to conform his conduct to the requirements of law was significantly impaired, regardless of whether the capacity was so impaired as to constitute a defense to the charge.

"(3) PARTICIPATION IN OFFENSE MINOR.—The defendant is punishable as a principal (as defined in section 2 of title 18 of the United States Code) in the offense, which was committed by another, but the defendant's participation was relatively minor, regardless of whether the participation was so minor as to constitute a defense to the charge.

The jury, of if there is no jury, the court, shall consider whether any other aspect of the defendant's character or record or any other circumstance of the offense that the defendant may proffer as a mitigating factor exists.

"(b) AGGRAVATING FACTORS FOR ESPIONAGE AND TREASON.—In determining whether a sentence of death is justified for an offense described in section 3591(a), the jury, or if there is no jury, the court, shall consider each of the following aggravating factors and determine which, if any, exist:

"(1) PREVIOUS ESPIONAGE OR TREASON CONVICTION.—The defendant has previously been convicted of another offense involving espionage or treason for which a sentence of life imprisonment or death was authorized by statute.

"(2) RISK OF SUBSTANTIAL DANGER TO NATIONAL SECURITY.—In the commission of the offense the defendant knowingly created a grave risk to the national security.

"(3) RISK OF DEATH TO ANOTHER.—In the commission of the offense the defendant knowingly created a grave risk of death to another person.

The jury, or if there is no jury, the court, may consider whether any other aggravating factor exists.

"(c) AGGRAVATING FACTORS FOR HOMICIDE AND FOR ATTEMPTED MURDER OF THE PRESIDENT.—In determining whether a sentence of death is justified for an offense described in section 3591(b) or (c), the jury, or if there is no jury, the court, shall consider each of the following aggravating factors and determine which, if any, exist:

"(1) DEATH OCCURRED DURING COMMISSION OF ANOTHER CRIME.—The death occurred during the commission or attempted commission of, or during the immediate flight from the commission of, an offense under section 751 (prisoners in custody of institution or officer), section 794 (gathering or delivering defense information to aid foreign government), section 844(d) (transportation of explosives in interstate commerce for certain purposes), section 844(f) (destruction of Government property by explosives), section 1118 (prisoners serving life term), section 1201 (kidnapping), or section 2381 (treason) of this title, section 1826 of title 28 (persons in custody as recalcitrant witnesses or hospitalized following a finding of not guilty only by reason of insanity), or section 902 (i) or (n) of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1472 (i) or (n) (aircraft piracy)).

"(2) INVOLVEMENT OF FIREARM OR PREVIOUS CONVICTION OF VIOLENT FELONY INVOLVING FIREARM.—The defendant—

"(A) during and in relation to the commission of the offense or in escaping apprehension used or possessed a firearm as defined in section 921 of this title; or

"(B) has previously been convicted of a Federal or State offense punishable by a term of imprisonment of more than one year, involving the use or attempted or threatened use of a firearm, as defined in section 921 of this title, against another person.

"(3) PREVIOUS CONVICTION OF OFFENSE FOR WHICH A SENTENCE OF DEATH OR LIFE IMPRISONMENT WAS AUTHORIZED.—The defendant has previously been convicted of another Federal or State offense resulting in the death of a person, for which a sentence of life imprisonment or death was authorized by statute.

"(4) PREVIOUS CONVICTION OF OTHER SERIOUS OFFENSES.—The defendant has previously been convicted of two or more Federal or State offenses, each punishable by a term of imprisonment of more than one year, committed on different occasions, involving the distribution of a controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)) or the infliction of, or attempted infliction of, serious bodily injury or death upon another person.

"(5) GRAVE RISK OF DEATH TO ADDITIONAL PERSONS.—The defendant, in the commission of the offense or in escaping apprehension, knowingly created a grave risk of death to one or more persons in addition to the victim of the offense.

"(6) HEINOUS, CRUEL, OR DEPRAVED MANNER OF COMMISSION.—The defendant committed the offense in an especially heinous, cruel, or depraved manner in that it involved torture or serious physical abuse to the victim.

"(7) PROCUREMENT OF OFFENSE BY PAYMENT.—The defendant procured the commission of the offense by payment, or promise of payment, of anything of pecuniary value.

"(8) COMMISSION OF THE OFFENSE FOR PECUNIARY GAIN.—The defendant committed the offense as consideration for the receipt, or in the expectation of the receipt, of anything of pecuniary value.

"(9) SUBSTANTIAL PLANNING AND PREMEDITATION.—The defendant committed the offense after substantial planning and premeditation.

"(10) VULNERABILITY OF VICTIM.—The victim was particularly vulnerable due to old age, youth, or infirmity.

"(11) TYPE OF VICTIM.—The defendant committed the offense against—

"(A) the President of the United States, the President-elect, the Vice President, the Vice President-elect, the Vice President-designate, or, if there is no Vice President, the officer next in order of succession to the office of the President of the United States, or any person who is acting as President under the Constitution and laws of the United States;

"(B) a chief of state, head of government, or the political equivalent, of a foreign nation;

"(C) a foreign official listed in section 1116(b)(3)(A) of this title, if that official is in the United States on official business; or

"(D) a public servant who is a Federal judge, a Federal law enforcement officer, an employee (including a volunteer or contract employee) of a Federal prison, or an official of the Federal Bureau of Prisons—

"(i) while such public servant is engaged in the performance of his official duties;

"(ii) because of the performance of such public servant's official duties; or

"(iii) because of such public servant's status as a public servant.

For purposes of this paragraph, the terms, 'President-elect' and 'Vice President-elect' mean such persons as are the apparent successful candidates for the offices of President and Vice President, respectively, as ascertained from the results of the general elections held to determine the electors of President and Vice President in accordance with title 3, United States Code, sections 1 and 2; a "Federal law enforcement officer' is a public servant authorized by law or by a Government agency or Congress to conduct or engage in the prevention, investigation, or prosecution of an offense; 'Federal prison' means a Federal correctional, detention, or penal facility, Federal community treatment center, or Federal halfway house, or any such prison operated under contract with the Federal Government; and 'Federal judge' means any judicial officer of the United States, and includes a justice of the Supreme Court and a magistrate.

The jury, or if there is no jury, the court, may consider whether any other aggravating factor exists.

"§ 3593. Special hearing to determine whether a sentence of death is justified

"(a) NOTICE BY THE GOVERNMENT.—Whenever the Government intends to seek the death penalty for an offense described in section 3591, the attorney for the government, a reasonable time before the trial, or before acceptance by the court of a plea of guilty, or at such time thereafter as the court may permit upon a showing of good cause, shall sign and file with the court, and serve on the defendant, a notice—

"(1) that the Government in the event of conviction will seek the sentence of death; and

"(2) setting forth the aggravating factor or factors enumerated in section 3592 and any other aggravating factor not specifically enumerated in section 3592, that the Government, if the defendant is convicted, will seek to prove as the basis for the death penalty.

The court may permit the attorney for the government to amend the notice upon a showing of good cause.

"(b) HEARING BEFORE A COURT OR JURY.—When the attorney for the government has filed a notice as required under subsection (a) and the defendant is found guilty of an offense described in section 3591, the judge who presided at the trial or before whom the guilty plea was entered, or another judge if that judge is unavailable, shall conduct a separate sentencing hearing to determine the punishment to be imposed. Prior to such a hearing, no presentence report shall be prepared by the United States Probation Service, notwithstanding the provisions of the Federal Rules of Criminal Procedure. The hearing shall be conducted—

"(1) before the jury that determined the defendant's guilt;

"(2) before a jury impaneled for the purpose of the hearing if—

"(A) the defendant was convicted upon a plea of guilty;

"(B) the defendant was convicted after a trial before the court sitting without a jury;

"(C) the jury that determined the defendant's guilt was discharged for good cause; or

"(D) after initial imposition of a sentence under this section, reconsideration of the sentence under the section is necessary; or

"(3) before the court alone, upon motion of the defendant and with the approval of the attorney for the government.

A jury impaneled pursuant to paragraph (2) shall consist of twelve members, unless, at any time before the conclusion of the hearing, the parties stipulate, with the approval of the court, that it shall consist of a lesser number.

"(c) PROOF OF MITIGATING AND AGGRAVATING FACTORS.—At the hearing, information may be presented as to—

"(1) any matter relating to any mitigating factor listed in section 3592 and any other mitigating factor; and

"(2) any matter relating to any aggravating factor listed in section 3592 for which notice has been provided under subsection (a)(2) and (if information is presented relating to such a listed factor) any other aggravating factor for which notice has been so provided.

Information presented may include the trial transcript and exhibits if the hearing is held before a jury or judge not present during the trial, or at the judge's discretion. Any other information relevant to such mitigating or aggravating factors may be presented by either the government or the defendant, regardless of its admissibility under the rules governing admission of evidence at criminal trials, except that information may be excluded if its probative value is outweighed by the danger of creating unfair prejudice, confusing the issues, or misleading the jury. The attorney for the government and for the defendant shall be permitted to rebut any information received at the hearing, and shall be given fair opportunity to present argument as to the adequacy of the information to establish the existence of any aggravating or mitigating factor, and as to the appropriateness in that case of imposing a sentence of death. The attorney for the government shall open the argument. The defendant shall be permitted to reply. The government shall then be permitted to reply in rebuttal. The burden of establishing the existence of an aggravating factor is on the government, and is not satisfied unless the existence of such a factor is established beyond a reasonable doubt. The burden of establishing the existence of any mitigating factor is on the defendant, and is not satisfied unless the existence of such a factor is established by a preponderance of the evidence.

"(d) RETURN OF SPECIAL FINDING.—The jury, or if there is no jury, the court, shall consider all the information received during the hearing. It shall return special findings identifying any aggravating factor or factors set forth in section 3592 found to exist and any other aggravating factor for which notice has been provided under subsection (a) found to exist. A finding with respect to a mitigating factor may be made by one or more members of the jury, and any member of the jury who finds the existence of a mitigating factor may consider such factor established for purposes of this section regardless of the number of jurors who concur that the factor has been established. A finding with respect to any aggravating factor must be unanimous. If no aggravating factor set forth in section 3592 is found to exist, the court shall impose a sentence other than death authorized by law.

"(e) RETURN OF A FINDING CONCERNING A SENTENCE OF DEATH.—If, in the case of—

"(1) an offense described in section 3591(a), an aggravating factor required to be considered under section 3592(b) is found to exist; or

"(2) an offense described in section 3591 (b) or (c), an aggravating factor required to be considered under section 3592(c) is found to exist; the jury, or if there is no jury, the court, shall then consider whether the aggravating factor or factors found to exist to justify a sentence of death, or, in the absence of a mitigating factor, whether the aggravating factor or factors alone are sufficient to justify a sentence of death. Based upon this consideration, the jury by unanimous vote, or if there is no jury, the court, shall recommend whether a sentence of death shall be imposed rather than some other lesser sentence. The jury or the court, if there is no jury, regardless of its findings with respect to aggravating and mitigating factors, is never required to impose a death sentence, and the jury shall be so instructed.

"(f) SPECIAL PRECAUTION TO ASSURE AGAINST DISCRIMINATION.—In a hearing held before a jury, the court, prior to the return of a finding under subsection (e), shall instruct the jury that, in considering whether a sentence of death is justified, it shall not consider the race, color, religious beliefs, national origin, or sex of the defendant or of any victim and that the jury is not to recommend a sentence of death unless it has concluded that it would recommend a sentence of death for the crime in question no matter what the race, color, religious beliefs, national origin, or sex of the defendant or of any victim may be. The jury, upon return of a finding under subsection (e), shall also return to the court a certificate, signed by each juror, that consideration of the race, color, religious beliefs, national origin, or sex of the defendant or any victim was not involved in reaching his or her individual decision and that the individual juror would have made the same recommendation regarding a sentence for the crime in question no matter what the race, color, religious beliefs, national origin, or sex of the defendant or any victim may be.

"§ 3594. Imposition of a sentence of death

"Upon the recommendation under section 3593(e) that a sentence of death be imposed, the court shall sentence the defendant to death. Otherwise the court shall impose a sentence, other than death, authorized by law. Notwithstanding any other provision of law, if the maximum term of imprisonment for the offense is life imprisonment, the court may impose a sentence of life imprisonment without the possibility of release or furlough.

"§ 3595. Review of a sentence of death

"(a) APPEAL.—In a case in which a sentence of death is imposed, the sentence shall be subject to review by the court of appeals upon appeal by the defendant. Notice of appeal of the sentence must be filed within the time specified for the filing of a notice of appeal of the judgment of conviction. An appeal of the sentence under this section may be consolidated with an appeal of the judgment of conviction and shall have priority over all other cases.

"(b) REVIEW.—The court of appeals shall review the entire record in the case, including—

"(1) the evidence submitted during the trial;

"(2) the information submitted during the sentencing hearing;

"(3) the procedures employed in the sentencing hearing; and

"(4) the special findings returned under section 3593(d).

"(c) DECISION AND DISPOSITION.—

"(1) If the court of appeals determines that—

"(A) the sentence of death was not imposed under the influence of passion, prejudice, or any other arbitrary factor; and

"(B) the evidence and information support the special findings of the existence of an aggravating factor or factors;

it shall affirm the sentence.

"(2) In any other case, the court of appeals shall remand the case for reconsideration under section 3593 or for imposition of another authorized sentence as appropriate.

"(3) The court of appeals shall state in writing the reasons for its disposition of an appeal of sentence of death under this section.

"§ 3596. Implementation of sentence of death

"(a) A person who has been sentenced to death pursuant to the provisions of this chapter shall be committed to the custody of the Attorney General until exhaustion of the procedures for appeal of the judgment of conviction and for review of the sentence. When the sentence is to be implemented, the Attorney General shall release the person sentenced to death to the custody of a United States Marshal, who shall supervise implementation of the sentence in the manner prescribed by the law of the State in which the sentence is imposed. If the law of such State does not provide for implementation of a sentence of death, the court shall designate another State, the law of which does so provide, and the sentence

shall be implemented in the manner prescribed by such law.

"(b) A sentence of death shall not be carried out upon a person who lacks the mental capacity to understand the death penalty and why it was imposed on that person, or upon a woman while she is pregnant.

"(c) No employee of any State department of corrections or the Federal Bureau of Prisons and no employee providing services to that department or bureau under contract shall be required, as a condition of that employment or contractual obligation, to be in attendance at or to participate in any execution carried out under this section if such participation is contrary to the moral or religious convictions of the employee. For purposes of this subsection, the term 'participate in any execution' includes personal preparation of the condemned individual and the apparatus used for the execution, and supervision of the activities of other personnel in carrying out such activities.

"§ 3597. Use of State facilities

"A United States Marshal charged with supervising the implementation of a sentence of death may use appropriate State or local facilities for the purpose, may use the services of an appropriate State or local official or of a person such as an official employed for the purpose, and shall pay the costs thereof in an amount approved by the Attorney General.

"§ 3598. Appointment of counsel

"(a) Notwithstanding any other provision of law—

"(1) in every criminal action brought in a court of the United States in which a defendant is charged with a crime with respect to which a sentence of death is sought, a defendant who is or becomes financially unable to obtain adequate representation shall be entitled to appointment of counsel at trial and upon direct appeal of the judgment and sentence entered at trial.

"(2) After a conviction and sentence entered pursuant to the provisions of this chapter have been affirmed on direct appeal, appointment of counsel for such a person in any other proceeding related to the case shall be in the discretion of the court, except as provided by a rule promulgated by the Supreme Court pursuant to statutory authority.

"(3) Appointment of counsel under this chapter shall be governed by the provisions of section 3006A and (with respect to paragraph (1)) section 3005 of this title.

"(b) The laws of the United States shall not be construed to impose any requirement with respect to the appointment of counsel in any proceeding in a state court or other state proceeding in a capital case, other than any requirement imposed by the Constitution of the United States. In a proceeding under section 2254 of title 28, United States Code, relating to a state capital case, or any subsequent proceeding on review, appointment of counsel for a petitioner who is or becomes financially unable to afford counsel shall be in the discretion of the court, except as provided by a rule promulgated by the Supreme Court pursuant to statutory authority. Such appointment of counsel shall be governed by the provisions of section 3006A of this title."; and

(b) In the chapter analysis of part II, by adding the following new item after the item relating to chapter 227:

"228. Death penalty procedures ..... 3591.".

SEC. 203. CONFORMING AMENDMENT RELATING TO DESTRUCTION OF AIRCRAFT OR AIRCRAFT FACILITIES.

Section 34 of title 18 of the United States Code is amended by changing the comma after the words "imprisonment for life" to a period and deleting the remainder of the section.

SEC. 204. CONFORMING AMENDMENT RELATING TO ESPIONAGE.

Section 794(a) of title 18 of the United States Code is amended by changing the period at the end of the section to a comma and by adding immediately thereafter the words "except that the sentence of death shall not be imposed unless the jury or, if there is no jury, the court, further finds beyond a reasonable doubt at a hearing under section 3593 of this title that the offense directly concerned nuclear weaponry, military spacecraft and satellites, early warning systems, or other means of defense or retaliation against large-scale attack; war plans; communications intelligence or cryptographic information; sources or methods of intelligence or counterintelligence operations; or any other major weapons system or major element of defense strategy.".

SEC. 205. CONFORMING AMENDMENT RELATING TO TRANSPORTING EXPLOSIVES.

Section 844(d) of title 18 of the United States Code is amended by striking the words "as provided in section 34 of this title".

SEC. 206. CONFORMING AMENDMENT RELATING TO MALICIOUS DESTRUCTION OF FEDERAL PROPERTY BY EXPLOSIVES.

Section 844(f) of title 18 of the United States Code is amended by striking the words "as provided in section 34 of this title".

SEC. 207. CONFORMING AMENDMENT RELATING TO MALICIOUS DESTRUCTION OF INTERSTATE PROPERTY BY EXPLOSIVES.

Section 844(i) of title 18 of the United States Code is amended by striking the words "as provided in section 34 of this title".

SEC. 208. CONFORMING AMENDMENT RELATING TO MURDER.

The second paragraph of section 1111(b) of title 18 of the United States Code is amended to read as follows:

"Whoever is guilty of murder in the first degree shall be punished by death or by imprisonment for life;".

SEC. 209. CONFORMING AMENDMENT RELATING TO KILLING OFFICIAL GUESTS OR INTERNATIONALLY PROTECTED PERSONS.

Section 1116(a) of title 18 of the United States Code is amended by striking the words "any such person who is found guilty of murder in the first degree shall be sentenced to imprisonment for life, and".

SEC. 210. MURDER BY FEDERAL PRISONER.

Chapter 51 of title 18 of the United States Code is amended—

(a) by adding at the end thereof the following:

"§ 1118. Murder by a federal prisoner

"(a) Whoever, while confined in a Federal prison under a sentence for a term of life imprisonment, murders another shall be punished by death or by life imprisonment without the possibility of release or furlough.

"(b) For the purposes of this section—

"(1) 'Federal prison' means any Federal correctional, detention, or penal facility, Federal community treatment center, or Federal halfway house, or any such prison operated under contract with the Federal Government;

"(2) 'term of life imprisonment' means a sentence for the term of natural life, a sentence commuted to natural life, an indeterminate term of a minimum of at least fifteen years and a maximum of life, or an unexecuted sentence of death."; and

(b) by amending the section analysis to add:

"1118. Murder by a Federal prisoner.".

SEC. 211. DEATH PENALTY RELATING TO KIDNAPPING.

Section 1201 of title 18 of the United States Code is amended by inserting after the words "or for life" in subsection (a) the words "and, if the death of any person results, shall be punished by death or life imprisonment".

SEC. 212. DEATH PENALTY RELATING TO HOSTAGE TAKING.

Section 1203 of title 18 of the United States Code is amended by inserting after the words "or for life" in subsection (a) the words "and, if the death of any person results, shall be punished by death or life imprisonment".

SEC. 213. CONFORMING AMENDMENTS RELATING TO MAILABILITY OF INJURIOUS ARTICLES.

The last paragraph of section 1716 of title 18 of the United States Code is amended by changing the comma after the words "imprisonment for life" to a period and deleting the remainder of the paragraph.

SEC. 214. CONFORMING AMENDMENT RELATING TO PRESIDENTIAL ASSASSINATION.

Subsection (c) of section 1751 of title 18 of the United States Code is amended to read as follows:

"(c) Whoever attempts to murder or kidnap any individual designated in subsection (a) of this section shall be punished (1) by imprisonment for any term of years or for life, or (2) by death or imprisonment for any term of years or for life, if the conduct constitutes an attempt to murder the President of the United States and results in bodily injury to the President or otherwise comes dangerously close to causing the death of the President.".

SEC. 215. CONFORMING AMENDMENT RELATING TO MURDER FOR HIRE.

Subsection (a) of section 1958 of title 19 of the United States Code is amended by deleting the words "and if death results, shall be subject to imprisonment for any term of years or for life, or shall be fined not more than $50,000, or both" and inserting in lieu thereof "and if death results, shall be punished by death or life imprisonment, or shall be fined in accordance with this title, or both".

SEC. 216. CONFORMING AMENDMENT RELATING TO VIOLENT CRIMES IN AID OF RACKETEERING ACTIVITY.

Paragraph (1) of subsection (a) of section 1959 of title 18 of the United States Code is amended to read as follows: "for murder, by death or life imprisonment, or a fine in accordance with this title, or both; and for kidnapping, by imprisonment for any term of years or for life, or a fine in accordance with this title, or both";

SEC. 217. CONFORMING AMENDMENT RELATING TO WRECKING TRAINS.

The second to the last paragraph of section 1992 of title 18 of the United States Code is amended by changing the comma after the words "imprisonment for life" to a period and deleting the remainder of the section.

SEC. 218. CONFORMING AMENDMENT RELATING TO BANK ROBBERY.

Section 2113(e) of title 18 of the United States Code is amended by striking the words "or punished by death if the verdict of the jury shall so direct" and inserting in lieu thereof the words "or if death results shall be punished by death or life imprisonment".

SEC. 219. CONFORMING AMENDMENT RELATING TO TERRORIST ACTS.

Paragraph (1) of subsection 2331(a) of title 18 of the United States Code is amended to read as follows:

"(1)(A) if the killing is a first degree murder as defined in section 1111(a) of this title, be punished by death or imprisonment for any term of years or for life, or be fined under this title, or both;

"(B) If the killing is a murder other than a first degree murder as defined in section 1111(a) of this title, be fined under this title or imprisoned for any term of years or for life, or both so fined and so imprisoned;"

SEC. 220. CONFORMING AMENDMENT RELATING TO AIRCRAFT HIJACKING.

Section 903 of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1473), is amended by striking subsection (c).

SEC. 221. APPLICATION TO UNIFORM CODE OF MILITARY JUSTICE.

The provisions of chapter 228 of title 18 of the United States Code, as added by this Act, shall not apply to prosecutions under the Uniform Code of Military Justice (10 U.S.C. 801 et seq.).

TITLE III—PROHIBITED GUN CLIPS AND MAGAZINES

SEC. 301. FINDINGS.

The Congress finds that—

(1) Offenses involving firearms equipped with magazines, belts, drums, feed strips, and other similar devices that enable such firearms to fire more than fifteen rounds without reloading, and particularly drug offenses, with their attendant loss of life and the generation of illegal profits, affect interstate and foreign commerce; and

(2) Such devices are themselves sold in interstate and foreign commerce, and are moved in commerce for the purpose of use in violent crimes.

SEC. 302. CERTAIN AMMUNITION CLIPS AND MAGAZINES DEFINED AS FIREARMS.

Section 921(a)(3) of title 18, United States Code, is amended by striking out "or" before "(D)", and by striking out the period after the word "device" and inserting in lieu thereof "; or (E) any ammunition feeding device.".

SEC. 303. DEFINITION OF AMMUNITION FEEDING DEVICE.

Section 921(a) of title 18, United States Code, is amended by adding a new paragraph at the end thereof as follows:

"(27) The term 'ammunition feeding device' means a detachable magazine, belt, drum, feed strip, or similar device which has a capacity of, or which can be readily restored or converted to accept, more than 15 rounds of ammunition. The term also includes any combination of parts from which such a device can be assembled. Notwithstanding the foregoing, such term shall not include any attached, tubular device designed to accept, and capable of operating with only .22 rimfire caliber ammunition.

SEC. 304. PROHIBITIONS APPLICABLE TO AMMUNITION FEEDING DEVICES.

Section 922 of title 18, United States Code, is amended by adding new subsections (t), (u), and (v), as follows:

"(t) It shall be unlawful for any person to import, manufacture, transport, ship, transfer, receive, or possess an ammunition feeding device, except that this subsection shall not apply to—

"(1) any importation or manufacturer of such a device for sale or distribution by a licensed importer or licensed manufacturer to the United States or any department or agency thereof or to any State or any department, agency, or political subdivision thereof;

"(2) any possession, shipment, transportation or transfers (in accordance with the provisions of subsections (u) and (v)) of such a device that was lawfully possessed before this subsection takes effect; or

"(3) any manufacture of such a device for the purpose of exportation.

"(u) The Secretary shall maintain a central registry of all ammunition feeding devices transferred after the effective date of this subsection which, after such transfer, are not in the possession or under the control of the United States, or any department of agency thereof or any State or any department, agency, or political subdivision thereof. This registry shall be known as the National Ammunition Feeding Device Registry. The registry shall include—

"(1) identification of the device;

"(2) date of registration;

"(3) identification and address of the person entitled to possess the device; and

"(4) such other information as may be required by regulations promulgated by the Secretary.

"(v) Each transferor of an ammunition feeding device that was lawfully possessed before the effective date of subsection (t) shall (except in the case of a transfer to the United States, or any department or agency thereof or any State or any department, agency, or political subdivision thereof) register the device to the transferee in accordance with regulations promulgated by the Secretary. Any information or evidence required to be provided in the course of such registration by a natural person shall be subject to the use-restriction provisions of section 5848 of title 26, United States Code. The transferor shall, contemporaneously with the registration of the device, pay a fee of $25 to the Secretary. A transferee of an ammunition feeding device required to be registered as required by this subsection shall retain proof of such registration which shall be made available to the Secretary upon request.".

SEC. 305. IDENTIFICATION MARKINGS FOR AMMUNITION FEEDING DEVICES.

Section 923(i) of title 18, United States Code, is amended by adding at the end thereof a new sentence as follows: "An ammunition feeding device shall be identified by a serial number and such other identification as the Secretary may by regulations prescribe.".

SEC. 306. CRIMINAL PENALTIES.

Subsection 924(a)(2) of title 18, United States Code, is amended by striking out "or (o)" and inserting in lieu thereof "(o), or (t)".

SEC. 307. NONINTERRUPTION OF BUSINESS FOR PERSONS IN THE BUSINESS OF IMPORTING OR MANUFACTURING AMMUNITION FEEDING DEVICES.

Any person engaging in the business of manufacturing or importing ammunition feeding devices requiring a license under the provisions of chapter 44 of title 18, United States Code, who was engaged in such business on the date of enactment of this Act, and who files an application for a license under the provisions of section 923 of title 18, United States Code, within 30 days after the date of enactment, may continue such business pending final action on the application. All provisions of chapter 44 of title 18, United States Code, shall apply to such applicant in the same manner and to the same extent as if the applicant were a holder of a license under chapter 44.

TITLE IV—DRUG TESTING OF DEFENDANTS ON POST-CONVICTION RELEASE

SEC. 401. DRUG TESTING PROGRAM.

(a) Chapter 229 of title 18, United States Code, is amended by adding at the end thereof the following new section:

"§ 3608. Drug testing of defendants on post-conviction release

"The Director of the Administrative Office of the United States Courts shall, as soon as is practicable after the effective date of this section, establish a program of drug testing of criminal defendants on post-conviction release. In each district where it is feasible to do so, the chief probation officer shall arrange for the drug testing of defendants on post-conviction release pursuant to a conviction for a felony or other offense described in section 3563(a)(4) of this title.".

(b) The section analysis for chapter 229 of title 18, United States Code, is amended by adding at the end thereof the following: "3608. Drug testing of defendants on post-conviction release."

SEC. 402. OTHER AMENDMENTS.

(a) Section 3563(a) of title 18, United States Code, is amended—

(1) in paragraph (2), by striking out "and";

(2) in paragraph (3), by striking out the period and inserting in lieu thereof "; and"; and

(3) by adding a new paragraph (4), as follows:

"(4) for a felony, an offense involving a firearm as defined in section 921 of this title, a drug or narcotic offense as defined in section 404(c) of the Controlled Substances Act (21 U.S.C. 844(c)), or a crime of violence as defined in section 16 of this title, that the defendant refrain from any unlawful use of a controlled substance and submit to periodic drug tests (as determined by the court) for use of a controlled substance. This latter condition may be suspended or ameliorated upon request of the Director of the Administrative Office of the United States Court, or the Director's designee. No action may be taken against a defendant pursuant to a drug test administered in accordance with this paragraph or sections 3583(d) or 4209(a) of this title, unless the drug test confirmation is a urine drug test confirmed using gas chromatography techniques or such test as the Director of the Administrative Office of the United States Court after consultation with the Secretary of Health and Human Services may determine to be of equivalent accuracy.".

(b) Section 3583(d) of title 18, United States Code, is amended by inserting after the first sentence the following: "For a defendant convicted of a felony or other offense described in section 3563(a)(4) of this title, the court shall also order, as an explicit condition of supervised release, that the defendant refrain from any unlawful use of a controlled substance and submit to periodic drug tests (as determined by the court) for use of a controlled substance. This latter condition may be suspended or ameliorated as provided in section 3563(a)(4) of this title.".

(c) Section 4209(a) of title 18, United States Code, is amended by inserting after the first sentence the following: "If the parolee has been convicted of a felony or other offense described in section 3563(a)(4) of this title, the Commission shall also impose as a condition of parole that the parolee refrain from any unlawful use of a controlled substance and submit to periodic drug tests (as determined by the Commission) for use of a controlled substance. This latter condition may be suspended or ameliorated as provided in section 3563(a)(4) of this title."

TITLE V—EXCLUSIONARY RULE

SEC. 501. SHORT TITLE FOR TITLE V.

This title may be cited as the "Exclusionary Rule Reform Act of 1989".

SEC. 502. ADMISSIBILITY OF CERTAIN EVIDENCE.

(a) IN GENERAL.—Chapter 223 of title 18, United States Code, is amended by adding at the end the following new section:

"§ 3508. Admissibility of evidence obtained by search or seizure

"(a) EVIDENCE OBTAINED BY OBJECTIVELY REASONABLE SEARCH OR SEIZURE.—Evidence which is obtained as a result of a search or seizure shall not be excluded in a proceeding in a court of the United States on the ground that the search or seizure was in violation of the fourth amendment to the Constitution of the United States, if the search or seizure was carried out in circumstances justifying an objectively reasonable belief that it was in conformity with the fourth amendment. The fact that evidence was obtained pursuant to and within the scope of a warrant constitutes prima facie evidence of the existence of such circumstances.

"(b) EVIDENCE NOT EXCLUDABLE BY STATUTE OR RULE.—Evidence shall not be excluded in a proceeding in a court of the United States on the ground that it was obtained in violation of a statute, an administrative rule or regulation, or a rule of procedure unless exclusion is expressly authorized by statute or by a rule prescribed by the Supreme Court pursuant to statutory authority.

"(c) RULE OF CONSTRUCTION.—This section shall not be construed to require or authorize the exclusion of evidence in any proceeding.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 223 of title 18, United States Code, is amended by adding at the end of the following:

"3508. Admissibility of evidence obtained by search or seizure.".

TITLE VI—HABEAS CORPUS REFORM

SEC. 601. SHORT TITLE FOR TITLE VI.

This title may be cited as the "Reform of Federal Intervention in State Proceedings Act of 1989".

SEC. 602. FAILURE TO RAISE CLAIM; PERIOD OF LIMITATION.

Section 2244 of title 28, United States Code, is amended by adding at the end thereof the following new subsections:

"(d) When a person in custody pursuant to the judgment of a State court fails to raise a claim in State proceedings at the time or in the manner required by State rules of procedure, the claim shall not be entertained in an application for a writ of habeas corpus unless actual prejudice resulted to the applicant from the alleged denial of the Federal right asserted and—

"(1) the failure to raise the claim properly or to have it heard in State proceedings was the result of State action in violation of the Constitution or laws of the United States;

"(2) the Federal right asserted was newly recognized by the Supreme Court subsequent to the procedural default and is retroactively applicable;

"(3) the factual predicate of the claim could not have been discovered through the exercise of reasonable diligence prior to the procedural default; or

"(4) a constitutional violation asserted in the claim probably resulted in a factually erroneous conviction or a sentence predicated on an erroneous factual determination.

"(e) A one-year period of limitation shall apply to an application for a writ of habeas corpus by a person in custody pursuant to the judgment of a State court. The limitation period shall run from the latest of the following times:

"(1) the time at which State remedies are exhausted;

"(2) the time at which the impediment to filing an application created by State action in violation of the Constitution or laws of the United States is removed, where the applicant was prevented from filing by such State action;

"(3) the time at which the Federal right asserted was initially recognized by the Supreme Court, where the right has been newly recognized by the Court and is retroactively applicable; or

"(4) the time at which the factual predicate of the claim or claims presented could have been discovered through the exercise of reasonable diligence.".

SEC. 603. APPEAL.

Section 2253 of title 28, United States Code, is amended to read as follows:

"§ 2253. Appeal

"In a habeas corpus proceeding or a proceeding under section 2255 of this title before a circuit or district judge, the final order shall be subject to review, on appeal, by the court of appeals for the circuit where the proceeding is had.

"There shall be no right of appeal from such an order in a proceeding to test the validity of a warrant to remove, to another district or place for commitment or trial, a person charged with a criminal offense against the United States, or to test the validity of his detention pending removal proceedings.

"An appeal may not be taken to the court of appeals from the final order in a habeas corpus proceeding where the detention complained of arises out of process issued by a State court, or from the final order in a proceeding under section 2255 of this title, unless a circuit justice or judge issues a certificate of probable cause.".

SEC. 604. AMENDMENT TO RULES OF APPELLATE PROCEDURE.

Federal Rule of Appellate Procedure 22 is amended to read as follows:

"RULE 22

"HABEAS CORPUS AND § 2255 PROCEEDINGS

"(a) Application for an Original Writ of Habeas Corpus. An application for a writ of habeas corpus shall be made to the appropriate district court. If application is made to a circuit judge, the application will ordinarily be transferred to the appropriate district court. If an application is made to or transferred to the district court and denied, renewal of the application before a circuit judge is not favored; the proper remedy is by appeal to the court of appeals from the order of the district court denying the writ.

"(b) Necessity of Certificate of Probable Cause for Appeal. In a habeas corpus proceeding in which the detention complained of arises out of process issued by a State court, and in a motion proceeding pursuant to section 2255 of title 28, United States Code, an appeal by the applicant or movant may not proceed unless a circuit judge issues a certificate of probable cause. If a request for a certificate of probable cause is addressed to the court of appeals, it shall be deemed addressed to the judges thereof and shall be considered by a circuit judge or judges as the court deems appropriate. If no express request for a certificate is filed, the notice of appeal shall be deemed to constitute a request addressed to the judges of the court of appeals. If an appeal is taken by a State or the Government or its representative, a certificate of probable cause is not required.".

SEC. 605. SECTION 2254 AMENDMENTS.

Section 2254 of title 28, United States Code, is amended by redesignating subsections "(e)" and "(f)" as subsections "(f)" and "(g)", respectively, and is further amended—

(a) by amending subsection (b) to read as follows:

"(b) An application for a writ of habeas corpus in behalf of a person in custody pursuant to the judgment of a State court shall not be granted unless it appears that the applicant has exhausted the remedies available in the courts of the State, or that their is either an absence of available State corrective process or the existence of circumstances rendering such process ineffective to protect the rights of the applicant. An application may be denied on the merits notwithstanding the failure of the applicant to exhaust the remedies available in the courts of the State.";

(b) by redesignating subsection "(d)" as subsection "(e)", and amending it to read as follows:

"(e) In proceeding instituted by an application for a writ of habeas corpus by a person in custody pursuant to the judgment of a State court, a full and fair determination of a factual issue made in the case by a State court shall be presumed to be correct. The applicant shall have the burden of rebutting this presumption by clear and convincing evidence.";

(c) by adding a new subsection (d) reading as follows:

"(d) An application for a writ of habeas corpus in behalf of a person in custody pursuant to the judgment of a State court shall not be granted with respect to any claim that has been fully and fairly adjudicated in State proceedings."; and

(d) by adding a new subsection (h) reading as follows:

"(h) In all proceedings brought under this section, and any subsequent proceedings on review, appointment of counsel for a petitioner who is or becomes financially unable to afford counsel shall be in the discretion of the court, except as provided by a rule promulgated by the Supreme Court pursuant to statutory authority. Appointment of counsel under this section shall be governed by the provisions of section 3006A of title 18, United States Code.".

SEC. 606. SECTION 2255 AMENDMENTS.

Section 2255 of title 28, United States Code, is amended by deleting the second paragraph and the penultimate paragraph thereof, and by adding at the end thereof the following new paragraphs:

"When a person fails to raise a claim at the time or in the manner required by Federal rules of procedure, the claim shall not be entertained in a motion under this section unless actual prejudice resulted to the movant from the alleged denial of the right asserted and—

"(1) the failure to raise the claim properly, or to have it heard, was the result of governmental action in violation of the Constitution or laws of the United States;

"(2) the right asserted was newly recognized by the Supreme Court subsequent to the procedural default and is retroactively applicable;

"(3) the factual predicate of the claim could not have been discovered through the exercise of reasonable diligence prior to the procedural default; or

"(4) a constitutional violation asserted in the claim probably resulted in a factually erroneous conviction or a sentence predicated on an erroneous factual determination.

"A two-year period of limitation shall apply to a motion under this section. The limitation period shall run from the latest of the following times:

"(1) the time at which the judgment of conviction becomes final;

"(2) the time at which the impediment to making a motion created by governmental action in violation of the Constitution or laws of the United States is removed, where the movant was prevented from making a motion by such governmental action;

"(3) the time at which the right asserted was initially recognized by the Supreme Court, where the right has been newly recognized by the Court and is retroactively applicable; or

"(4) the time at which the factual predicate of the claim or claims presented could have been discovered through the exercise of reasonable diligence.".

"In all proceedings brought under this section, and any subsequent proceedings on review, appointment of counsel for a movant who is or becomes financially unable to afford counsel shall be in the discretion of the court, except as provided by a rule promulgated by the Supreme Court pursuant to statutory authority. Appointment of counsel under this section shall be governed by the provisions of section 3006A of title 18, United States Code."

TITLE VII—1990 FISCAL YEAR AUTHORIZATION

SEC. 701. There are authorized to be appropriated for the fiscal year ending September 30, 1990, to carry out the activities of the Department of Justice (including any bureau, office, board, division, commission, or subdivision thereof) the following sums:

(1) For General Administration, Salaries and Expenses: $100,925,000;

(2) For the Office of Inspector General: $19,433,000;

(3) For the United States Parole Commission: $10,335,000;

(4) For General Legal Activities: $303,967,000; which shall include—

(A) not to exceed $80,000 may be transferred from the "Alien Property Funds, World War II," for the general administrative expenses of alien property activities;

(B) not to exceed $20,000 for expenses necessary in the collection of evidence may be expended under the direction of the Attorney General and accounted for solely on the certificate of the Attorney General;

(C) not to exceed $6,000,000 of those sums appropriated for litigation-support contracts, which shall remain available until September 30, 1991;

(D) not to exceed $12,160,000 of those sums appropriated for office automation systems for legal activities, including legal activities of the Antitrust Division and the United States Attorneys and the activities of offices funded under the General Administration, Salaries and Expenses, appropriation, which amount shall remain available until expended; and

(E) not to exceed $5,751,000 shall be available to fund the activities of the United States National Central Bureau of Interpol;

(5) For the Antitrust Division: $47,222,000;

(6) For the Foreign Claims Settlement Commission: $440,000;

(7) For the United States Attorneys: $520,561,000; and in addition, $5,000,000, which shall remain available until September 30, 1991, for the purposes of (1) providing training of personnel of the Department of Justice in debt collection, (2) providing services pertinent to debt collection, such as title searches, debtor skiptracing, asset searches, credit reports and other investigations related to locating debtors and their property, and (3) paying expenses of cost of sales of property not coverd by the sale proceeds, such as auctioneers' fees and expenses, maintenance and protection of property and businesses, advertising and title search and surveying costs;

(8) For the United States Marshals Service: $240,846,000; *Provided:* That the Director of the United States Marshals Service may collect fees and expenses for the service of civil process, including: complaints, summonses, subpoenas and similar process; and seizures, levies, and sales associated with judicial orders of execution; and notwithstanding the provisions of title 31 U.S.C. 3302, not to exceed $1,000,000 of such fees shall be credited to this appropriation to be used for salaries and other expenses incurred in providing these services;

(9) For the Support of United States Prisoners in non-Federal institutions: $160,034,000; which shall remain available until expended and of which not to exceed $15,000,000 shall be available until expended under the Cooperative Agreement Program for the purpose of renovating, constructing, and equipping state and local correctional facilities;

(10) For Fees and Expenses of Witnesses: $56,784,000; which shall remain available until expended; and which shall include not to exceed $1,690,000 for planning, construction, renovation, maintenance, remodeling, and repair of buildings and the purchase of equipment incident thereto for protected witness safesites;

(11) For the Community Relations Service: $29,609,000 of which not to exceed $21,606,000 shall remain available until expended to make payments in advance for grants, contracts and reimbursable agreements and other expenses necessary under section 501(c) of the Refugee Education Assistance Act of 1980, (P.L. 96-422);

(12) For the United States Trustee System Fund: $62,777,000; to remain available until expended and to be derived from the Fund, provided that deposits to the fund are available in such amounts as may be necessary to pay refunds due depositors;

(13) For the Assets Forfeiture Fund: $100,000,000, to be derived from the Fund, as may be necessary for the payment of expenses as authorized by 28 U.S.C. 524(c)(1)(A)(ii), (B), (C), (F) and (G); provided that of funds otherwise available, not to exceed $237,729,000 is available for expenses otherwise authorized by 28 U.S.C. 524(c)(1);

(14) For Organized Crime Drug Enforcement: $214,921,000; for expenses, not otherwise provided for, for the investigation and prosecution of individuals involved in organized crime drug trafficking;

(15) For the Federal Bureau of Investigation: $1,550,385,000 which shall include—

(A) not to exceed $70,000 to meet unforeseen emergencies of a confidential character to be expended under the direction of the Attorney General and to be accounted for solely on the certificate of the Attorney General or the Deputy Attorney General;

(B) not to exceed $15,100,000 for INF treaty activities which shall remain available until expended;

(C) not to exceed $8,000,000 of those sums appropriated for research and development relating to investigative activities, which amount shall remain available until expended;

(D) not to exceed $25,000,000 of those sums appropriated for automated data processing and telecommunications; and not to exceed $1,000,000 of those sums appropriated for undercover operations, which amounts shall remain available until September 30, 1991;

(E) $7,500,000 for a language translation system shall remain available until expended;

(F) not to exceed $45,000 for official reception and representation expenses;

(16) For the Drug Enforcement Administration: $551,181,000; which shall include—

(A) not to exceed $70,000 to meet unforeseen emergencies of a confidential character to be expended under the direction of the Attorney General and to be accounted for solely on the certificate of the Attorney General or the Deputy Attorney General;

(B) not to exceed $1,200,000 of those sums appropriated for research, which amount shall remain available until expended;

(C) not to exceed $1,700,000 of those sums appropriated for the purchase of evidence and for payments for information, which amount shall remain available until September 30, 1991; and

(D) not to exceed $9,638,000 of those sums appropriated for automatic data processing and telecommunications; and not to exceed $2,000,000 of those sums appropriated for technical and laboratory equipment; which amounts shall remain available until September 30, 1991;

(17) For the Immigration and Naturalization Service: $878,959,000; which shall include—

(A) not to exceed $50,000 to meet unforeseen emergencies of a confidential character to be expended under the direction of the Attorney General and to be accounted for solely on the certificate of the Attorney General or the Deputy Attorney General;

(B) not to exceed $400,000 of those sums appropriated for research, which amount shall remain available until expended; and

(C) funds for the purchase of uniforms without regard to the general purchase price limitation for the current fiscal year;

(18) For the Federal Prison System, including the National Institute of Corrections: $2,563,998,000, which shall include

(A) $1,152,554,000 for salaries and expenses;

(B) $10,112,000 which shall remain available until expended for carrying out the provisions of sections 4351 thru 4353 of title 18, United States Code, which established a National Institute of Corrections;

(C) $1,401,332,000 which shall remain available until expended for planning, acquisition of sites and construction of new facilities; and for the purchase and acquisition of facilities and remodeling and equipping of such facilities for penal and correctional institutions; and for the payment of United States prisoners for work performed in these activities; and that not to exceed 10 per centum of the funds appropriated to "Buildings and Facilities" in this Act or any other Act may be transferred to "Salaries and expenses," Federal Prison System upon notification by the Attorney General to the Committees on Appropriations of both the House and Senate; and

(D) funds for the purchase of uniforms without regard to the general purchase price limitation for the current fiscal year.

(19) For the Office of Justice Programs: $6,000,000, which shall remain available until expended and which shall include such sums as may be necessary to fund additional bonus grants, equal to five percent of the amount of formula grants under the Drug Control and System Improvement Formula Grant Program (Public Law 100-690, § 6091), to be awarded to States that adopt model legislation, as concurred in by the Attorney General, providing mandatory minimum sentences for criminal offenses involving firearms. This amount shall be available notwithstanding any other provisions pertaining to that program contained in the Omnibus Crime Control and Safe Streets Act of 1968, as amended.

SEC. 702. A total of not to exceed $75,000 from funds authorized to be appropriated to the Department of Justice by this title shall be available for official reception and representation expenses in accordance with distributions, procedures, and regulations established by the Attorney General.

SEC. 703. The Attorney General may transfer up to two per centum of any appropriation made to the Department of Justice to any other such appropriation, but no such appropriation shall be increased by more than two per centum by any such transfers.

SECTION-BY-SECTION ANALYSIS OF THE "COMPREHENSIVE VIOLENT CRIME CONTROL ACT OF 1989."

TITLE I—FIREARMS AND RELATED AMENDMENTS

Section 101

This amendment was included in S. 2180 as passed by the Senate in the 100th Congress. Its purpose is to correct a drafting quirk in the existing law (18 U.S.C. 922(a)(5)) under which it is unlawful for a person not a licensed dealer, importer, manufacturer, or collector to transfer a firearm to any person "who resides in any State other than that in which the transfer resides." Read literally, this language may make it impossible to prosecute a nonlicensee who delivers a firearm to an alien or other person, such as a transient, who does not "reside" in any State. The amendment, consistent with the statutory purpose, would modify the provision so as to prohibit the disposition of a firearm to any person who does not reside in the State in which the transfer resides.

Section 102

These amendments were included in S. 2180 as passed by the Senate in the 100th Congress. They would expand federal jurisdiction, consistent with other firearms provisions, to permit prosecution of transactions in stolen firearms and firearms lacking serial numbers in cases in which the firearms have previously moved in interstate or foreign commerce, not only cases in which the firearms are so moving at the time of the offense.

Sections 103

These four amendments of a technical nature were included in S. 2180 as passed by the Senate in the 100th Congress.

The first would correct a misdesignation in section 923(d)(1)(B). From the time this provision was initially enacted until 1986, it is essence disqualified from receiving federal firearms licenses persons under certain disabilities including, by reference to former subsection 922 (g) and (h), persons under indictment for felonies. The 1986 amendments restructured those provisions of the Act relating to persons under firearms disabilities. The disabilities imposed on persons under indictment were removed from 922 (g) and (h) and placed in a new section 922(n). As a result of an apparent oversight, the Congress failed to amend section 923(d)(1)(B) to make reference to 922(n).

The second technical amendment involves 18 U.S.C. 925(a)(1), the provision which states that the provisions of the Act do not apply to any transportation, shipment, receipt, or importation of a firearm for use of a Federal, State or local governmental agency. The amendment makes it clear that the Act also does not apply to the possession of a firearm by an employee of such an agency in connection with his or her official duties. Occasionally government employees are under federal firearms disabilities due to a prior conviction or for other reasons. The amendment clarifies that such persons are not precluded from possessing firearms as required in the course of their employment.

The third change amends 18 U.S.C. 925(c) by striking out the word "conviction" in two places and inserting the word "disability", and by striking out the phrase "by reason of such conviction". This is necessary to carry out the intent of Congress in a portion of the Firearms Owners' Protection Act. Prior to the passage of that Act, only convicted felons could apply to the Secretary of the Treasury for relief from firearms disabilities. The 1986 Act expanded the relief provisions to bring within their scope all categories of disabled persons, not just convicted felons. Yet Congress inadvertently retained in the relief provision a reference only to a disabled person's "conviction".

The final technical amendment eliminates two outmoded references to parole in 18 U.S.C. 924(a). Parole was abolished by the Comprehensive Crime Control Act of 1984, effective November 1, 1987. Thus, the amendment to subsection 924(a) will be effective for offenses committed after that date.

Section 104

This proposal is designed to insure that certain forfeited firearms, if useful or valuable, are not needlessly destroyed. Rather, under the proposal, the forefeited firearms would be offered, first, to a federal agency without cost; and, finally, if the firearm were novel, rare, or historically significant, as determined by the Secretary of the Treasury, offered for sale to a licensed firearms dealer. Only if neither of these alternatives caused the firearms to be accepted or sold would it be destroyed.

Section 105

This amendment would restore to the Armed Career Criminal statute the definition of burglary that was included in the original law which, as enacted, applied only to the offenses of robbery and burglary. The proposed definition, taken without substantive change from Public Law 98-473 and from its reenactment in Public Law 99-308, was deliberately broad and was not limited to common law burglary. Nearly all States and the Federal Government have long ago departed in their criminal codes from the original common law offense of burglary in view of the necessity to punish unlawful entries besides only those into a dwelling, at night, with criminal intent.

In 1986, as Public Law 99-510, the Armed Career Criminal law was expanded to reach all "violent felonies" in addition to the enumeration of burglary and other crimes, but the definition of "burglary" was not carried forward.

The absence of a definition has proved unfortunate in that it has caused some courts to place a narrow construction on the term so as to exclude offenses, not denomiated as burglary under State law, consisting of the unlawful entry into business premises with intent to steal. Those courts, applying the rule of lenity, have reasoned that since the proper interpretation of "burglary" is not clear, the defendant must be afforded the benefit of the doubt, and also that Congress must be deemed to have intended the common law meaning of a common law term such as burglary unless a different meaning is set forth. See, e.g., *United States* v. *Headspeth*, 852 F.2d 753, 756-9 (4th Cir. 1988). But see, rejecting Headspeth, *United States* v. *Hill*, 863 F.2d 1575 (11th Cir. 1989). See also, *United States* v. *Taylor*, 864 F.2d 625 (8th Cir. 1989).

The offense of unlawful entry of structures other than a dwelling, or storehouse breaking as some State laws describe it, is clearly one that poses a serous risk of danger to persons even if the premises entered (like a home when entered) is unoccupied at the time. It is, accordingly, a fit predicate for section 924(e). Indeed, there was, in our view, no intent in 1986 to narrow the scope of "burglary" under 924(e) to exclude these crimes but rather an intent to otherwise enlarge the scope of the Armed Career Criminal statute. Restoration of the original definition of "burglary" would confirm Congress' intent and appropriately end the needless confusion and litigation over the issue.

Section 106

The Anti-Drug Abuse Act of 1988 (§ 6451) added, as a new predicate offense category to the Armed Career Criminal statute, acts of juvenile delinquency that, if committed by an adult, would constitute a crime of violence. In view of the increasing involvement of youthful offenders with serious drug offenses, and the known association of drug crimes with violence, it appears sensible also to enlarge the scope of the Armed Career Criminal Act to include acts of juvenile delinquency that, if committed by an adult, would meet the Act's definition of a "serious drug offense," i.e., those drug felonies that carry a maximum prison term of ten years or more. The Department of Justice informally suggested this change during Congress' consideration of the omnibus drug bills last year, and the change has also been recommended by Los Angeles County Sheriff Sherman Block in a letter to Senator Wilson.

Section 107

Under current law, any conviction for a crime punishable by imprisonment for a term exceeding one year which has been expunged, set aside, or pardoned or with respect to which the convicted person has had civil rights restored is not considered disabling for purposes of the Act unless such expunction, setting aside, pardon, or restoration expressly provides otherwise.

However, the procedures for pardons, expunctions, set-asides and restorations among the various States are far from uniform. Such proceedings do not erase the legal existence of prior convictions nor remove all State disabilities imposed on felons. Neither do they uniformly involve a considered judgment whether the individual deserves the pardon, expunction, set aside or restoration of civil rights. In fact, in some States civil rights are restored automatically merely as a result of a person's completion of or discharge from his sentence, thereby permitting dangerous felons immediately to purchase a firearm upon their release.

In order to strike a better balance that takes into account the federal interest in preserving public safety, the proposed amendment would provide a uniform standard to determine whether a person is under federal firearms disabilities for certain categories of offenses, i.e., violent felonies involving the threatened or actual use of a firearm or explosive, and serious drug offenses. This approach has a statutory precedent which was contained in 18 U.S.C. App. 1203 prior to its repeal.

The amendment would provide that, with respect to the above-referenced categories of serious offenses, the person would be considered convicted under the federal firearms chapter irrespective of any pardon, expunction or restoration of civil rights. This would ensure that dangerous offenders would have to apply to federal authorities in order to have their firearms rights restored. In such instances, a thorough background investigation would be conducted and relief from federal firearms disabilities would not be granted unless it was determined that the applicant would not be likely to act in a manner dangerous to public safety or that the granting of relief would not be contrary to the public interest. This scheme would better protect the public from convicted felons whose receipt and possession of firearms pose a special danger.

Section 108

Section 108 of the bill amends subsection 3142(f)(1) of title 18 to create eligibility for pretrial detention in certain cases involving firearms and explosives. Currently, subsection 3142(f)(1) allows the government to seek a pretrial detention hearing in cases involving crimes of violence, offenses punishable by death or life imprisonment, serious

drug felonies, and any other felony case in which the defendant is a person who has already been convicted of two or more crimes in the preceding three catetories. The constitutionality of preventive detention was upheld by the Supreme Court in *United States* v. *Salerno*, 481 U.S. 739 (1987).

Section 108 would allow the government to seek a pretrial detention hearing in cases in which the defendant is charged with a violation of 18 U.S.C. 842(d) (distribution of explosives by felons and other prohibited persons); 842(h) (knowingly trafficking in stolen explosives); 842(i) (shipping or receiving of explosives by felons and other prohibited persons); 922(d) (sale of firearms to felons and other prohibited persons); 922(g) (possession or receipt of firearms by felons and other prohibited persons); 922(i) (transporting or shipping stolen firearms); 922(j) (trafficking in stolen firearms); or 922(o) (unauthorized possession of a machie gun). All of these crimes are of a type likely to be committed by dangerous individuals such as terrorists or career criminals even though the offenses do not themselves meet the definition of a crime of violence.

Consequently, the government should be allowed to seek pretrial detention in these cases. It should be emphasized, however, that the revision of subsection 3142(f)(1) does not require pretrial detention for anyone charged with a violation of one of the listed offenses. It merely means that the government is given an opportunity to show that no conditions of release will reasonably assure the appearance of the person for trial and the safety of the community or of a specific person.

Section 109

This section would double the current mandatory penalty in 18 U.S.C. 924(c) for persons convicted of using a semiautomatic firearm during and in relation to a felony crime of violence or drug trafficking offense from five to ten years in prison. (The mandatory penalty is thirty years in the case of a machinegun or silenced weapon). The vastly increased danger to innocent victims occasioned by the use of semiautomatic firearms in the course of violent or drug crimes, as illustrated by several recent incidents, warrants this increase. The amendment also provides a definition of the term "semiautomatic firearm" for insertion in 18 U.S.C. 921.

Section 110

Section 110 would create a new offense carrying severe penalties for smuggling firearms into the United States for the purpose of promoting drug trafficking or crimes of violence. At present, 18 U.S.C. 922(1) makes it a five-year offense to import certain firearms into the United States; and 18 U.S.C 924(f) makes it a ten-year felony to travel interstate or from a foreign country to purchase a firearm with intent to engage in conduct constituting a Federal or State drug offense or a crime of violence. The instant proposal is patterned after section 924(f) and would create an offense, similarly punishable by up to ten years' imprisonment, for smuggling or bringing into the United States (or attempting to do so) any firearm with intent to violate or promote conduct in violation of federal or State drug laws or to commit a crime of violence. Clearly, there is no reason to treat traveling to acquire a firearm for illegal drug trafficking purposes any differently from importing or smuggling a firearm into the United States for the same purpose. The proposed offense would thus rectify an anomaly in current firearms statuts.

Section 111

This section would create new offenses, punishable by a mandatory minimum two-year prison term, for stealing a firearm or explosive materials. Currently, 18 U.S.C. 844(h) and 922 (i) and (j) punish the transportation, receipt, or disposition of firearms known to have been stolen; and 18 U.S.C. 659 similarly punishes the theft of any goods, including firearms or explosive materials, from an interstate or foreign shipment. There is, however, at present no offense specifically directed at the theft of firearms or explosives.

The proposed offense would cure that gap by creating crimes of stealing a firearm or explosive materials that are moving as, are part of, or which have moved in, interstate or foreign commerce. It is intended that the term "steals" be interpreted, as elsewhere in the federal criminal code, to include any type of criminal taking accompanied by an intent to deprive the owner of the rights and benefits of ownership. E.g., *United States* v. *Turley*, 352 U.S. 407 (1957). A firearm which had at any time moved in interstate or foreign commerce would be subject to the prohibition in this section. See *Barrett* v. *United States*, 423 U.S. 212 (1976).

Section 112

Section 112 would punish the sale of firearms and explosives to or possession of firearms and explosives by persons who have been convicted of certain violent offenses against another person or a serious misdemeanor drug crime. Currently, 18 U.S.C. 842(d)(2) and (i)(1) and 922 (d) and (g) proscribe the sale to or possession of firearms and explosives by persons who have been convicted in any court of a felony (i.e. a crime punishable by imprisonment for more than one year). "Any court" includes a foreign court. *United States* v. *Atkins*, —— F.2d —— (4th Cir. 1989); *United States* v. *Winson*, 793 F.2d 754 (6th Cir. 1986). Section 212 would extend this bar to persons who have been convicted in any court of certain crimes of violence against another, as defined herein, and any serious misdemeanor drug or narcotic offense (as defined in 21 U.S.C. 844(c)). The prohibition would not, however, extend to a serious misdemeanor drug offense (typically an offense involving simple possession of personal use amounts of a controlled substance) that occurred prior to the date of enactment of this Act. The amendment would add a definition of "crime of violence" for purposes of 18 U.S.C. 842 and 922 that applies to certain crimes against persons, not property, and there is no requirement that the offense be a felony. Section 922 would also be amended to add a definition of the term "serious misdemeanor" as an offense that carries a maximum sentence of more than six months' imprisonment.

Section 113

This section is designed to broaden the prohibitions in 18 U.S.C. 924(c) and 844(h) to reach persons who have a firearm or explosive available during the commission of certain crimes, even if the firearm is not carried or used. Currently, section 924(c) punishes by a mandatory five-year prison sentence the carrying or use of a firearm during and in relation to the commission of a drug or violent felony. The court in *United States* v. *Feliz-Cordero*, 859 F.2d 250 (2d Cir. 1988), held that this statute does not cover a situation in which a loaded firearm was found in the dresser drawer of an apartment which the defendant utilized in connection with his drug dealings. The court noted that "carries" has been interpreted to encompass a case in which the defendant has a firearm "within reach", while "uses" has been construed to extend to a situation in which the defendant planned to use the firearm if a suitable contingency arose or to make his escape; but the court concluded that neither verb was broad enough to proscribe the constructive possession by a defendant of a firearm which is kept available generally in aid of or in relation to the commission of a drug trafficking or violent crime. The proposed amendment, adding the phrase "or otherwise possesses" to the statute, is designed to reverse the result in Feliz-Cordero, and to cover any circumstance in which, for example, a drug trafficker has available a firearm during and in relation to his illegal drug activities. As under the existing provision, the government will still be required to establish a relationship or connection between the drug or violent offense and the defendant's possession of the firearm (e.g., it would not include a gun kept exclusively in a club locker and used only for sporting purposes at the club), but the relationship or connection may be more attenuated than under current law and may apply to a firearm that is possessed by the defendant for potential employment in his illegal activities, even though it is not physically on his person or within reach and even though it is not proved to have been used or planned to be used during the offense.

The possession of firearms by persons who commit serious drug and violent crimes creates a sufficient danger of increased violence and harm so as to justify this extension. This section would make a conforming amendment to the parallel statute, 18 U.S.C. 844(h), which punishes the carrying of an explosive during the commission of any federal felony.

Section 114

Section 6214 of the Anti-Drug Abuse Act of 1988 provided for the mandatory revocation of probation for a defendant found, after a hearing pursuant to the Federal Rules of Criminal Procedure, to be in actual possession of a firearm at any time prior to the expiration or termination of the probation term. Under section 6214, the court was authorized to impose any other sentence that was available under "subchapter A" (that is, primarily a fine or imprisonment; see 18 U.S.C. 3551) at the time of the initial sentence. Section 6214, however, neglected to make a comparable amendment to section 3583 of title 18, dealing with supervised release. (Compare section 7303 of the Anti-Drug Abuse Act of 1988, which provided similarly for mandatory revocation for possession of controlled substances, and which applied to probation and supervised release, as well as parole.)

This amendment effects that conforming change. Unlike with respect to probation, however, Congress has enacted, in 18 U.S.C. 3583(e)(3), a limitation on the number of years of imprisonment that a person violating a condition of supervised release, and who was convicted of a Class B, C, or D felony, may be required to serve. This amendment incorporates those limitations.

In contrast to section 7303 of the Anti-Drug Abuse Act, it is not deemed necessary to extend the provisions here to persons on parole, since the number of persons who would be beginning a term of parole after the date of enactment and for whom a no-firearms possession condition would be appropriate—given that parole is only available for defendants whose offenses were completed before November 1, 1987—will be very small.

It should be noted that this amendment, like that in section 6214 of the Anti-Drug Abuse Act, does not require that the court

impose as a condition of supervised release that the defendant not possess a firearm; it thus is applicable only where the court has chosen to impose that condition and the condition is violated. Section 7303 of the Anti-Drug Abuse Act, by contrast, properly made it a mandatory condition of release that a defendant not possess controlled substances. Since with respect to firearms there may be instances, for example in misdemeanor cases, or in felony cases where the defendant is seeking to have his firearms disability removed, where the court may wish not to restrict the defendant from possessing firearms as a condition of supervised release, the condition is left discretionary with the court.

Section 115

This section would raise the maximum penalty for making a knowingly false, material statement to a licensee in connection with the acquisition of a firearm. Presently, such false statements are made unlawful by 18 U.S.C. 922(a)(6) and are punishable under 18 U.S.C. 924(a)(1)(B) by up to five years' imprisonment. Under the proposed amendment, offenses under section 922(a)(6) would be grouped with more serious offenses punishable under 18 U.S.C. 924(a)(2) by up to ten years in prison. The importance of keeping firearms out of the hands of persons disentitled to possess them makes it appropriate to increase the penalty for violations by which licensed dealers, importers, and collectors are knowingly deceived into selling a firearm to an improper purchaser.

Section 116

Section 6460 of the Anti-Drug Abuse Act of 1988 increased the penalty under 18 U.S.C. 924(c) for a second offense of using a firearm to commit a federal violent or drug felony to twenty years' imprisonment, but failed to make a corresponding change to 18 U.S.C. 844(h), which prohibits the use of an explosive to commit a federal felony. This proposed amendment would effect a conforming increase to twenty years in the penalty for a second offense under section 844(h).

Section 117

If certain rifles or shotguns are determined not to be importable for the purposes of section 925(d)(3), the importation of both complete weapons and the frame or receiver of these weapons is prohibited. The frame or receiver is the major component of a firearm and is treated as a firearm under existing law. Existing law would not prohibit the importation of other parts for banned weapons. Consequently, everything from barrels and bolt carriers to springs and screws could continue to be imported into the United States.

These amendments are designed to prevent the circumvention of the importation restrictions by simply importing the firearms in a dissambled form and assembling them in the United States using domestically manufactured or other frames or receivers capable of accepting the imported parts. The amendment does not impose any new import restriction on parts themselves since there are legitimate reasons to import replacement parts for existing firearms. Moreover, the amendment is not intended to impose any new standard on the types of firearms which can be manufactured domestically.

The anti-circumvention provisions are limited to semiautomatic rifles and shotguns which are not importable under 18 U.S.C. 925(d)(3). The legislation would amend 18 U.S.C. 921(a) to add a new paragraph (26) to define "semiautomatic rifle." The legislation would also amend section 922 by adding a new subsection (s) to prohibit the domestic assembly of these nonimportable rifles and shotguns.

New subsection (s) includes four exceptions. The first exception would allow the assembly of such weapons for sale to a government agency. The second exception is designed to ensure that the anti-circumvention ban is not applied to licensed manufacturers who were manufacturing these firearms in the United States prior to May 15, 1989, the date the President announced the anti-circumvention proposal. The third and fourth exceptions would permit the domestic assembly of these weapons for exportation, and for testing and experimentation.

Finally, the legislation would amend the penalty provision of 18 U.S.C. 924(a)(1)(B) to include a reference to new subsection (s) of section 922. This amendment would make a knowing violation of the assembly prohibition punishable by imprisonment for a term not exceeding five years.

Section 118

This section provides that the mandatory ten-year sentence added by section 109 for use of a semi-automatic firearm does not apply in certain mitigating circumstances, though the circumstances fall short of providing a defense to the underlying charge.

TITLE II—SECTION-BY-SECTION ANALYSIS

Title II of the bill, the Capital Punishment Procedures Act of 1989, would provide procedures to permit the death penalty for certain heinous federal offenses. Although various provisions of the United States Code now authorize the imposition of the sentence of death for crimes of homicide, treason, and espionage, in most instances these sentences have been unenforceable because they fail to incorporate a set of legislated guidelines to guide the sentencer's discretion in coming to a determination whether the sentence of death is merited in a particular case. This requirement was first articulated by the Supreme Court in its decision in *Furman* v. *Georgia*, 408 U.S. 238 (1972). In a series of decisions following *Furman*, the Court has given further guidance on the constitutional requisites of a statute authorizing the imposition of capital punishment. Notable in this series of cases was a group of landmark death penalty decisions—*Gregg* v. *Georgia*, 428 U.S.C. 153 (1976); *Proffitt* v. *Florida*, 428 U.S. 242 (1976); *Jurek* v. *Texas*, 428 U.S. 262 (1976); *Woodson* v. *North Carolina*, 428 U.S. 280 (1976); and *Roberts* v. *Louisiana*, 428 U.S. 325 (1976)—in which the Court held that the death penalty was a constitutionally permitted sanction if imposed under certain procedures and criteria which guarded against the unfettered discretion condemned in *Furman* but which retained sufficient flexibility to allow the consideration of aggravating and mitigating factors in each case.

In the seventeen years since the *Furman* decision, 41 of the 50 states have enacted laws to restore the availability of the death penalty as a sanction for the most serious crimes. During the same period, Congress has on several occasions considered legislation to provide constitutional procedures that would permit the restoration of the death penalty to the federal criminal justice system. Such a provision for murders related to certain drug offenses was passed as part of the Anti-Drug Abuse Act of 1988, P.L. 100-690. The death penalty provision was added as a floor amendment to the House bill by a vote of 299-111 on September 8, 1988. An amendment to strike the death penalty from the Senate bill was defeated 64-25 on October 13, 1988. The Senate also passed S. 2455, a very similar death penalty provision to that contained in the Anti-Drug Abuse Act, by a vote of 65-29 on June 10, 1988.

Although the Anti-Drug Abuse Act of 1988 contained the first federal legislation enacting the death penalty since such a punishment was included in anti-aircraft hijacking legislation in 1974, there has been a great deal of Congressional interest in this important subject for most of the past decade. In the 97th, 98th and 99th Congresses, the Senate Judiciary Committee devoted considerable effort to the development of legislation that would establish constitutional procedures for the imposition of the death penalty at the federal level. In the 98th Congress the Committee reported a bill, S. 1765, which was very similar to the Administration's death penalty proposal of the same vintage (S. 829). It incorporated provisions to comport with the Supreme Court's capital punishment decisions over the past several years and passed the Senate by a vote of 63-32. In the 99th Congress, the Senate Judiciary Committee favorably reported a death penalty bill, S. 239, which closely resembled S. 1765, but no further action was taken on that measure.

The section-by-section analysis below describes the various provisions of this title. These provisions differ in some respects from death penalty bills prepared by the Department of Justice for previous Congresses because they contain many of the provisions in the death penalty procedures in the Anti-Drug Abuse Act of 1988. Nevertheless, since the death penalty provisions in that Act were taken largely from previous Department bills such as S. 1765, the Judiciary Committee's Report on S. 1765 (S. Rep. No. 251, 98th Cong., 1st Sess. (1983)), and S. 239 (S. Rep. No. 282, 99th Cong., 2d Sess. (1986)) in many instances provide a more detailed analysis. These reports also provide a lengthy discussion of many of the policy and constitutional issues addressed in this legislation.

Section 202 adds a new chapter 228 to title 18 of the United States Code consisting of sections 3591 through 3598, and makes necessary technical amendments. These sections provide that the punishment for certain crimes may, in specified circumstances, extend to the death penalty and set forth the procedures for determining whether the death penalty should be imposed in a particular case involving a conviction of such a crime.

Section 3591 sets out the offenses for which the death penalty may be imposed if, after consideration of the mitigating and aggravating factors applicable to the case in a post-verdict hearing (described in subsequent sections), it is determined that the imposition of death is justified. The offenses are treason, espionage, certain types of homicides, and an attempt to kill the President of the United States under specified circumstances. The circumstances justifying are that the attempt resulted in bodily injury to the President or came dangerously close to causing the President's dealth.

The homicides for which the death penalty may be imposed are described in subsection 3591(c). They are those in which the defendant intentionally killed the victim (subsection 3591(c)(1)), those in which the defendant intentionally participated in an act contemplating that life would be taken or intending that lethal force would be used in connection with someone other than a participant in the crime and as a direct result of the act the victim died (subsection 3591(c)(2)), and those in which the defendant "acting with reckless disregard for human life, engaged or substantially participated in conduct which the defendant knew would create a grave risk of death to an-

other person or persons and death resulted from such conduct" (subsection 3591(c)(3)). These threshold criteria limit the death penalty to defendants with a high degree of culpable responsibility for the harm or attempted harm and are designed to meet the constitutional requirements under *Coker* v. *Georgia*, 433 U.S. 584 (1977), *Enmund* v. *Florida*, 458 U.S. 782 (1982), *Gabana* v. *Bullock*, 474 U.S. 376 (1986), and *Tison* v. *Arizona*, ——U.S. ——, 107 S. Ct. 1676 (1987).

The language in subsections 3591(c)(1) and 3591(c)(2) was contained in similar death penalty bills considered in the 98th and 99th Congresses and was also in the Anti-Drug Abuse Act death penalty provisions. The language in subsection 3591(c)(3), which is like that contained in the Anti-Drug Abuse Act capital punishment provisions, reflects the holding in the *Tison* case which further explained the degree of culpability required to justify the death penalty in felony murder cases as set out in the earlier *Enmund* decision. *Tison* allowed the death penalty to be imposed in cases where the defendant was a major participant in the crime that resulted in the homicide and showed a reckless indifference to human life implicit in knowingly engaging in criminal activities known to carry a grave risk of death represents a highly culpable mental state, a mental state that may be taken into account in making a capital sentencing judgment when that conduct causes its natural, though also not inevitable, lethal result." (107 S. Ct. at 1688.) Subsection 3591(c)(3) codifies the *Tison* holding. It does not require that the government prove the defendant knew that his act met the legal criteria for a reckless disregard for human life, merely that his act in fact involved such a disregard.

Section 3591 precludes imposition of the death penalty on a person who was less than eighteen years old at the time of the offense. A plurality of the Supreme Court recently held in *Thompson* v. *Oklahoma*, ——U.S.——, 108 S.Ct. 2687 (1988), that the death penalty is unconstitutional as punishment for persons who committed offenses while under the age of sixteen. While it is still an open question, to be decided this term by the Supreme Court, whether the death penalty may be imposed on one who was sixteen or seventeen at the time of the offense, this bill follows the recently enacted drug death penalty provisions as well as the most recent capital punishment bill approved by the Senate Judiciary Committee and does not allow the imposition of the death penalty on a person who committed the offense when less than eighteen years of age.

Section 3592 sets forth the statutory mitigating and aggravating factors to be considered by the jury or judge in determining whether a sentence of death is justified upon conviction of a crime for which the sentence is authorized. The section also allows, consistent with Supreme Court decisions, for the consideration of any other aggravating or mitigating factor, not listed in the section, which might affect such a determination. See *Skipper* v. *South Carolina*, 476 U.S. 1 (1986); *Lockett* v. *Ohio*, 438 U.S. 586 (1978); *Barclay* v. *Florida*, 463 U.S. 939 (1983); *Zant* v. *Stephens*, 462 U.S. 862 (1983).

Subsection (a) sets forth three mitigating factors which must be considered. They are (1) that the defendant's mental capacity to appreciate the wrongfulness of his conduct or to conform his conduct to the requirements of the law was significantly impaired, although not so impaired as to constitute a defense to the charge; (2) that the defendant was under unusual and substantial duress although not such as to constitute a defense; and (3) that the defendant was an accomplice whose participation in the offense was relatively minor, even though he may still be charged as a principal. Subsection (a) further states that the jury or judge shall also consider any other aspect of the defendant's character, record, or the circumstances of the offense that the defendant may offer in mitigation. While the Supreme Court has held that no limitation may be placed on the defendant's introducing evidence of mitigating factors, some linkage must be established between the evidence offered in mitigation and the defendant's persona or the offense. For example, the catch-all provision in subsection (a) is not intended to allow such evidence as that on the night of the murder in New York City, unusually heavy rain had fallen in Los Angeles.

Subsection (b) sets forth the aggravating factors for treason and espionage. They are that the defendant had previously been convicted of an offense involving espionage or treason for which a sentence of life imprisonment or death was authorized by statute, that the defendant knowingly created a grave risk to the national security, and that the defendant knowingly created a grave risk of death to another person.

Subsection (c) sets forth the aggravating factors for the homicide offenses and for the attempted murder of the President. They are (1) that the death occurred during the commission, attempted commission, or the immediate flight from the commission, of one of several exceptionally dangerous crimes such as escape from prison, a murder by a prisoner serving a life sentence, aircraft hijacking, certain explosive offenses, and espionage; (2) that the defendant used or carried a firearm during and in relation to the offense—an aggravating factor that would typically be established by the defendant using the gun to shoot the victim but which would also be established if the defendant armed himself with a firearm for possible use during the offense but killed the victim in some manner other than shooting—or had previously been convicted of a felony involving the use, attempted use, or threatened use of a firearm against another person; (3) that the defendant had previously been convicted of another federal or State offense resulting in death for which life imprisonment or death was authorized; (4) that the defendant had previously been convicted of two or more federal or State offenses, committed on different occasions, each involving the infliction or attempted infliction of serious bodily injury or the distribution of a controlled substance and each punishable by imprisonment for more than one year; (5) that the defendant in the commission of the offense knowingly created a grave risk of death to one or more persons in addition to the victim; (6) that the defendant committed the offense in an especially heinous, cruel, or depraved manner in that it involved torture or serious physical abuse of the victim; (7) that the defendant procured the commission of the offense by paying or promising to pay anything of pecuniary value; (8) that the defendant committed the offense as consideration for receiving or in the expectation of receiving something of pecuniary value; (9) that the defendant committed the offense after substantial planning and premeditation; (10) that the victim was particularly vulnerable due to old age, youth, or infirmity; and (11) that the defendant committed the offense against certain specified public officials.

It should be noted that subsections (b) and (c) do not define the instances where the death penalty is authorized. This authorization is in the penalty provision for each individual capital offense and generally carries forward the provisions in the current statutes that are or may be unenforceable due to the aforementioned constitutional procedural problems. However, seven offenses in current law are changed to capital offenses by this bill. They are (1) the murders of certain foreign officials under 18 U.S.C. 1116; (2) kidnaping where a death results under 18 U.S.C. 1201; (3) murder for hire under 18 U.S.C. 1958; (4) murder in aid of racketeering under 18 U.S.C. 1959; (5) murder during a hostage taking in violation of 18 U.S.C. 1203; (6) terrorist murders of American nationals abroad in violation of 18 U.S.C. 2331; and (7) attempted assassination of the President in violation of 18 U.S.C. 1751. In addition, section 210 of the bill creates a new federal capital offense of murder committed by a federal prison inmate serving a life sentence. The factors listed in subsections (b) and (c) merely specify the aggravated instances in which the commission of a capital offense will permit a jury to determine whether the death penalty is justified.

Section 3593 sets out the procedure for a special hearing to determine whether a sentence of death is justified. At the conclusion of the hearing the jury (except in those unusual cases where the sentencing hearing is before the judge alone) will return a binding recommendation as to whether the sentence of death is justified. If the jury returns a recommendation of the death penalty as opposed to some lesser punishment, the court must impose a sentence of death.

Subsection 3593(a) provides that if the attorney for the government believes that the circumstances of one of the offenses for which the death penalty is authorized (the offenses set out in section 3591) justify the imposition of the death penalty, he or she must file with the court and serve on the defendant a notice of the conclusion and set forth the aggravating factors (including any not statutorily enumerated) the government proposes to show at the hearing. The notice must be filed and served on the defendant a reasonable time before trial or the accepting of a guilty plea or at such time thereafter as the court may permit upon a showing of good cause. The provision is intended to give adequate notice to the defendant so he can prepare for the post-conviction sentencing hearing and to ensure an appropriate *voir dire* that comports with applicable Supreme Court cases.

Subsection 3593(b) provides that if the attorney for the government has filed the notice required by subsection (a) and if the defendant is found guilty, a sentencing hearing shall be conducted by the judge who presided at trial or accepted the guilty plea or by another judge if the first one is unavailable. No presentence report is to be prepared in such a case inasmuch as the issue at the hearing is the existence of aggravating or mitigating factors and the justifiability of imposing the death sentence, and the issue is to be determined based solely on the information presented at the hearing. The hearing is to be conducted before the jury that determined the defendant's guilt, except that a jury may be impaneled for the purpose of the sentencing hearing in a case in which the defendant was convicted on a trial to the court or on a plea of guilty, in a case in which the original jury was discharged for good cause, or in a case where reconsideration of the sentence is necessary. This subsection also provides that the defendant may move that the sentencing hearing be conducted before the court alone but that the attorney for the government must concur. In the absence of this concurrence by the government, the sentencing hearing is before a jury.

Subsection 3593(d) deals with proof of the aggravating and mitigating factors. Any information relevant to the sentence may be presented. Information concerning any mitigating factor or factors, both those listed in section 3592 and those not so listed, may be introduced. Evidence of at least one aggravating factor listed in section 3592 must be introduced. As explained, the government must give the defendant notice of which aggravating factors it will seek to establish. If evidence of a statutory aggravating factor is introduced, the government may also introduce evidence of any other aggravating factor, again providing the government has given notice as to the nature of such a nonstatutory factor.

The information may include trial transcripts and exhibits or relevant parts thereof. Other evidence relevant to any mitigating or previously identified aggravating factor may be presented regardless of its admissibility under the rules of evidence, except that the court may exclude information if its probative value is outweighed by the danger of its creating unfair prejudice, confusing the issues, or misleading the jury. The burden of establishing an aggravating factor is on government and the standard of proof for such a factor is beyond a reasonable doubt. The defendant has the burden of establishing any mitigating factor but this burden is satisfied if the defendant proves such a factor by a preponderance of the evidence.

Subsection 3593(d) deals with the return of special findings required in the sentencing hearings. It provides that the jury, or if there is no jury, the court, must consider all the information received at the sentencing hearing. The jury, or if there is no jury, the court, must return a special finding identifying each aggravating factor (both statutory and nonstatutory) which it has found. Once again, it can only find the existence of an aggravating factor for which notice was provided. The finding with respect to an aggravating factor must be unanimous. If no aggravating factor is found, the death penalty cannot be imposed and the court must impose some other sentence authorized by statute.

With respect to mitigating factors, subsection 3593(d) reflects the recent holding of the Supreme Court in *Mills* v. *Maryland*, ——U.S.——, 108 S.Ct. 1860 (1988), that individual jurors may not be precluded from considering mitigating evidence regardless of the number of jurors who agree on a particular factor. Consequently, subsection (d) provides that a finding with respect to a mitigating factor may be made by one or more members of the jury. As used throughout section 3593, the term "mitigating factor" is meant to include all mitigating evidence which the sentencer must consider before returning a sentence of death to comport with such cases as *Eddings* v. *Oklahoma*, 455 U.S. 104 (1982). Nevertheless, the jury may only consider evidence presented at trial or at the sentencing hearing. It may not speculate on the existence of some factor completely unsupported by any evidence. See *California* v. *Brown*, 479 U.S. 538 (1987). Any member of the jury who is persuaded by a preponderance of the evidence—the standard set out in subsection (c)—that a particular mitigating factor exists may consider such a factor established. That juror (even if he or she is the only one who believes the evidence and has concluded that such a factor has been established) may then weigh that evidence against any aggravating factors which have been found unanimously beyond a reasonable doubt—again, the requirement of subsection (c)—in deciding, under subsection (e), whether to return a binding recommendation for a sentence of death.

Subsection 3593(e) provides that if one or more of the statutorily required aggravating factors is found to exist (a constitutional requirement under *Zant* v. *Stephens* and *Barclay* v. *Florida, supra*) the jury, or the court if there is no jury, must then consider whether the aggravating factor or factors which it has found outweigh all mitigating factors found by the individual jurors, or, if no mitigating factor has been found, whether the aggravating factor or factors alone are sufficient to justify a sentence of death. It is the intent of this subsection that the jurors be instructed that they are to weigh and balance the aggravating factor or factors found against any mitigating evidence. The word "justify" does not imply that the jurors are free to opt for the death penalty if they are merely convinced that such a penalty could be defended as "justifiable" by some persons. The jurors themselves must engage in a balancing process and determine whether the aggravating factor or factors outweigh any mitigating factors to determine the appropriateness in their own minds of the death penalty. Based on this consideration, the jury by unanimous vote, or if there is no jury, the court, shall return a recommendation as to whether the death penalty should be imposed.

Subsection (e) also provides that "[t]he jury or the court, if there is no jury, regardless of its findings with respect to aggravating and mitigating factors, is never required to impose a death sentence, and the jury shall be so instructed." This means that if even one juror believes that the aggravating factor or factors found do not outweigh any mitigating factor found, or, even if no mitigating factor has been found that the aggravating factor or factors do not justify a sentence of death, the jury may not return a recommendation of the death penalty. As is made explicit by the first sentence in section 3594, the quoted sentence does not mean that the judge is free to ignore a unanimous jury recommendation for the death penalty.

Subsection 3593(f) is designed as a special precaution against discrimination by the jury against the defendant on the basis of the defendant's or the victim's race, color, national orgin, religious beliefs, or gender. It provides that in a sentencing hearing in which the death penalty is sought, the jury shall be specifically instructed that it must not consider these factors and that the jury is not to make its binding recommendation for a sentence of death unless it would recommend such a sentence no matter what the race, color, national orgin, religious beliefs, or sex of the defendant or any victim. Moreover, the jury must return to the court a certificate signed by each juror stating that consideration of these factors was not involved in his or her individual decision, and that he or she would have made the same binding recommendation as to the sentence no matter what these particular characteristics of the defendant or victim might be.

Section 3594 provides that if the jury recommends a sentence of death, the court must sentence the defendant to death. If the court, rather than the jury, is the fact finder at the sentencing hearing, section 3594 requires the court to follow its own recommendation and impose the death penalty. If, however, the jury, or if there is no jury, the court, does not recommend the sentence of death the court shall impose any sentence other than death authorized by law. This section also provides that notwithstanding any other provision of law, life imprisonment without possibility of release or temporary furlough is an authorized sentence for a conviction of an offense punishable by death if the maximum term of imprisonment for such an offense is life.

Section 3595 sets out the rules applicable to appeals from the imposition of the death sentence. Subsection (a) provides that a sentence of death shall be subject to review by the court of appeals upon an appeal of the sentence by the defendant. Notice of appeal of the sentence must be filed within the time specified for filing an appeal of the judgment of conviction and the court may consolidate the appeal of the sentence and the appeal of the conviction. The review of a case in which the death sentence has been imposed must be given priority over all other cases.

Subsection 3595(b) provides that the court of appeals must consider the entire record including the evidence submitted at trial, the information submitted during the sentencing hearing, the procedures employed at the sentencing hearing, and the special findings returned at the sentencing hearing as to the existence of the aggravating factors.

Subsection 3595(c) states that the court of appeals must affirm the sentence if it finds that the sentence of death was not imposed under the influence of passion, prejudice, or any other arbitrary factor, and the evidence and information support the special findings of the existence of an aggravating factor or factors. See *Zant* v. *Stephens, supra* (death sentence valid even if an aggravating factor is invalidated or found inapplicable on appeal, provided at least one valid statutory aggravating factor remains). Proportionality review with other death cases is not a part of the review process. *Pulley* v. *Harris*, 465 U.S. 37 (1984). In all other cases, the court of appeals must remand the case for reconsideration under section 3593 or for imposition of another authorized sentence, as appropriate. The court of appeals must state in writing the reasons for its disposition of an appeal of a sentence of death.

Section 3596 is concerned with the implementation of a sentence of death. Subsection 3596(a) provides that a person sentenced to death shall be committed to the custody of the Attorney General pending completion of the appeal and review process. When the sentence is to be implemented, custody of the person would be given to a United States Marshal who would then supervise the implementation of the penalty in accordance with the law of the State in which the sentence is imposed. If that State has no death penalty, the court would designate another State which does have such a penalty and the execution would be carried out in the manner prescribed in that State. This subsection generally reinstates a portion of the provisions of former section 3566 of title 18 which was repealed as of November 1, 1987, by P.L. 98-473.

Subsection 3596(b) states that a sentence of death shall not be carried out upon a person who lacks the mental capacity to understand the death penalty and why it was imposed, or upon a woman who is pregnant. The latter limitation is to spare the unborn. Following the conclusion of the pregnancy, the sentence of death would be implemented. The former limitation is intended to implement the constitutional bar on execution of a person who is mentally incompetent but who was sane at the time of the offense and who was competent to stand trail. See *Ford* v. *Wainwright*, 477 U.S. 399 (1986). This limitation, too, would normally only postpone the implementation of the sentence of death. See *Ford* v. *Wainwright*, concurring opinion of Justice Powell, 477 U.S. at 425 and footnote 5: "The only question

raised is not *whether* but *when* his execution may take place. [Emphasis in original.] [I]f petitioner is cured of his disease, the State is free to execute him."

Section 3597 reinstitutes other parts of former section 3566 not contained in subsection 3596(a) by authorizing the United States Marshal charged with implementing the sentence of death to use State facilities and to pay the costs thereof.

Section 3598 is concerned with the appointment of counsel for indigent defendants in cases in which the death penalty may be imposed. It applies to death penalty cases under this chapter and to those in which the death penalty may be imposed under the capital punishment provisions in title 21 relating to murders during drug related felonies.

Subsection 3598(a) applies to federal cases and provides that notwithstanding any other provision of law, in any federal criminal case in which the defendant is charged with an offense for which the death penalty is sought, if the defendant is or becomes unable to privately retain adequate representation, the defendant shall be entitled to counsel, both at trial and on direct appeal, pursuant to the provisions of 18 U.S.C. 3005 and 3006A. Section 3005 provides that in capital cases the defendant shall be entitled to be defended by two counsels "learned in the law." Section 3006A provides that each district court shall establish a plan for providing representation to persons unable to afford adequate representation. Subsection 3598(a) also provides that an indigent person convicted of a federal offense and sentenced to death shall be entitled to have counsel provided for him through a direct appeal of the conviction and sentence to the court of appeals. Upon further review, either a petition for certiorari or collateral review pursuant to 28 U.S.C. 2255, counsel will be provided at the discretion of the court or if required by a rule promulgated by the Supreme Court. See, for example, Rule 46.7 of the Rules of the Supreme Court.

Subsection 3598(b) deals with the issue of providing counsel to defendants in State capital punishment cases and any federal review of such cases. It states initially that there is no federal requirement for the appointment of counsel in such cases other than what may be required by the Constitution. It further provides that indigent State defendants seeking federal habeas corpus review under 28 U.S.C. 2254 of their convictions and the imposition of the death penalty under State law shall have counsel appointed at the discretion of the court or as required by a rule promulgated by the Supreme Court.

Section 203 applies the procedures of the new chapter 228 concerning the death penalty to violations of chapter 2 of title 18 dealing with the destruction of or damage to aircraft and motor vehicles where death results. Such violations are punishable by death under current law but the penalty is unavailable due to the previous problems.

Section 204 prescribes the scope of the availability of the death penalty for espionage. In accordance with the view reflected in prior bills that the death penalty is both constitutional and apppropriate for this offense, the penalty is retained as a possible punishment for peacetime espionage where it concerns certain major military matters, such as nuclear weapons or satellites which directly affect national defense. The death penalty, of course, remains applicable under 18 U.S.C. 794(b) to any instance of wartime espionage.

Sections 205, 206, and 207 apply the sentencing procedures of the new chapter 228 to three serious explosive offenses where death results. These sections, all of which deal with deliberate property destruction by explosives or the transportation of explosives in interstate commerce for the purpose of injuring persons or property, currently provide for the death penalty, but the penalty is unenforceable.

Section 208 applies the new death penalty procedure to the offense of first degree murder committed in the special maritime and territorial jurisdiction. Such a crime is presently punishable by the unenforceable death penalty provisions of current law.

Section 209 amends 18 U.S.C. 1116(a) to provide for the death penalty for the first degree murder of a foreign official, an official guest of the United States, or an internationally protected person. This offense was created after the *Furman* decision and so has not previously included the death penalty as a possible punishment. However, this section makes the penalty for this offense the same as for first degree murder in other situations subject to federal jurisdiction.

Section 210 adds a new section 1118 to title 18 to provide that a person serving a life sentence in a federal prison who murders another person will be punished by death or by life imprisonment without the possibility of release or furlough.

Section 211 amends the federal kidnaping statute, 18 U.S.C. 1201, to provide for the imposition of the death penalty, under the sentencing procedures of chapter 228, if death results from the kidnaping.

Section 212 provides for the death penalty under 18 U.S.C. 1203 (enacted in 1984) if death occurs in the course of a hostage-taking, either within the United States or, if the victim is a United States national, outside the United States, such as occurred in the incident a few years ago involving the cruise ship Achille Lauro.

Section 213 applies the new sentencing provisions to section 1716, dealing with the mailing of injurious articles where death results. This merely effectuates the presently unenforceable death penalty provision for this section.

Section 214 of the bill would for the first time provide for the death penalty for an attempt to kill the President if the attempt results in bodily injury to the President or otherwise comes dangerously close to killing the President. The procedures of the new chapter 228 would be applicable to such an offense.

Sections 215 and 216 provide for the death penalty under two related offenses enacted in 1984 and renumbered in 1988 proscribing murders for hire and killings in aid of racketeering activity (18 U.S.C. 1958 and 1959).

Section 217 applies the new sentencing provisions of chapter 228 to violations of 18 U.S.C. 1992 involving the wrecking of trains where death results. This effectuates the presently unenforceable death penalty provision for this offense.

Section 218 restricts the application of the death penalty in cases of bank robbery and incidental crimes in violation of section 2113 of title 18 to cases where death results, and provides for life imprisonment as an alternative penalty in such cases.

Section 219 amends 18 U.S.C. 2331(a)(1), a provision enacted as part of the Omnibus Diplomatic Security and Anti-terrorism Act of 1986 (P.L. 99-399), to provide for the death penalty in certain cases of first degree murder of a United States national while such national is outside the United States.

Section 220 applies the procedures of chapter 228 to aircraft piracy where death results from the commission or attempted commission of the offense by repealing the capital punishment procedures in the Federal Aviation Act of 1958 (49 U.S.C. 1473(c)) while retaining the death penalty for air piracy where death results.

Section 221 provides that the capital punishment procedures of the new chapter 228 shall not apply to prosecutions under the Uniform Code of Military Justice inasmuch as the military code has its own set of death penalty procedures and provisions.

TITLE III—SECTION-BY-SECTION ANALYSIS

Title III is designed to place severe restrictions on certain ammunition clips and other ammunition feeding devices frequently used with "assault weapons" to enable them to fire a large number of rounds without reloading.

Section 301

Section 301 contains congressional findings that the trafficking in and use of magazines, ammunition belts, and other feeding devices that enable a firearm to fire more than fifteen rounds without reloading affect interstate and foreign commerce. Moreover, there is a finding that these devices are sold in interstate and foreign commerce, and are moved in commerce for the purpose of use in violent crimes. Such findings establish a federal jurisdictional nexus under the Interstate Commerce Clause which in turn justifies proscribing certain acts concerning such feeding devices without a showing that the device involved in a case was, or had been, a part of interstate commerce. See *Perez* v. *United States*, 402 U.S. 146 (1971).

Sections 302 and 303

Section 303 defines the term "ammunition feeding device" and inserts that definition in subsection 921(a) of title 18, the part of chapter 44 that sets out definitions pertaining to firearms and firearms offenses in that chapter. Such a device is defined as a detachable magazine, belt, drum, feed strip, or similar device which has a capacity of, or which can be readily converted or restored to hold more than 15 rounds of ammunition. It would also include any combination of parts from which such a device can be assembled. Attached, tubular devices designed to accept, and capable of operating with, only .22 rimfire caliber ammunition are excluded from the definition.

Section 302, in turn, defines "ammunition feeding device" as a firearm. The term "firearm" already includes such things as mufflers and silencers which, like large-capacity ammunition feeding devices, are not necessary for the actual operation of a firearm. Defining ammunition feeding devices as firearms is necessary to enforce the provisions of this title. It will require manufacturers and importers to keep records, allow government inspection of these records to ensure that these devices are not being illegally imported or sold, and generally make applicable the present inspection and enforcement mechanisms that exist for firearms.

Section 304

Section 304 sets out criminal prohibitions that apply to ammunition feeding devices and also important exceptions to those prohibitions. The section sets out a new subsection 922(t) in title 18 which makes it an offense to import, manufacture, transport, ship, transfer, receive, or possess such an ammunition feeding device. Pursuant to section 306 of the bill, the punishment for such an offence is up to ten years' imprisonment and a felony level fine. Section 304, however, provides for three exceptions. First, it is not an offense for a licensed importer or manufacturer to make or import an ammunition feeding device for sale or distribution to an entity of the federal government or of a State or local government. Second, it is

not an offense for a licensee to manufacture such devices for the purpose of exportation.

Third, it is not an offense to possess, transport, or ship an ammunition feeding device which was possessed on the effective date of the new subsection, or to transfer such a device which was possessed on that date provided the conditions of new subsections 922(u) and (v) are met. Subsections 922(u) and (v), which are also set out in section 304 of the bill, establish a registration scheme for these devices which is akin to that already in palce for such firearms as machineguns—frequently called "Title II firearms" in reference to Title II of the Gun Control Act of 1968. See 26 U.S.C. 5801, et seq., especially section 5841 which establishes the registration system. The registration for ammunition feeding devices is much more limited than that for Title II firearms, however, in that only firearms transferred need be registered. A person lawfully in possession of such a device on the effective date of the bill would not have to register it and may retain it in his possession, or even transport or ship the device in interstate commerce, for example in the course of moving to another state.

If, on the other hand, the person in possession of the device on the effective date of the act wishes to transfer it to another person or entity—other than a governmental entity—he must register it to the transferee in accordance with regulations to be promulgated by the Secretary of the Treasury. It is expected that the Secretary will issue regulations, like those applicable to machineguns, requiring proof that the transferee is not under a firearms disability before the device can be registered. It should be noted that an ammunition feeding device once registered to the transferee could be sequentially transferred provided it was registered to each new transferee. This too is like the current law with respect to machineguns.

In addition to the requirement that only ammunition feeding devices transferred must be registered, the registration scheme for these devices differs from that for Title II weapons in other respects. The first is the cost. Registration of ammunition feeding devices will require a payment of a $25.00 fee as compared to a $200.00 tax on machinegun registrations. Second, the more limited registration scheme eliminates the need for a provision like that in 26 U.S.C. 5848 stating that no information contained in the registry of ammunition feeding devices or derived from the registration process may be used as evidence against a person in a criminal proceeding "with respect to a volation of law occurring prior to or concurrently with the filing of the application or registration."

Such a provision is necessary with respect to the machinegun provision where posssession of an unregistered machinegun is itself an offense, only registered weapons may be transferred, and to comply with the registration provision for the purpose of transfer a person would in effect admit that he had not previously registered it. See *United States* v. *Freed*, 401 U.S. 601, 605-607. With respect to an ammunition feeding device, there is no requirement that persons in possession of such a device register it.

Section 305

This section provides that all ammunition feeding devices must be identified with a serial number and such other identification as the Secretary may prescribe by regulation. Such other information would typically include the manufacturer's name and address. Although ammunition feeding devices are included within the definition of the term "firearm" and although a firearm has to be identified by a serial number, the serial number requirement under current law is that it be placed on the frame or receiver. 18 U.S.C. 923(i). Since this specific placing requirement is meaningless with respect to ammunition feeding devices, section 305 imposes the requirement on ammunition feeding devices directly for clarity.

Section 306

This section sets out the criminal penalty for a violation of new subsection 922(t) and has been discussed in connection with section 304.

Section 307

Section 307 permits persons already in the business of manufacturing or importing ammunition feeding devices to continue to do so while their applications for licenses are pending. Since such devices are included in the definition of a firearm, manufacturers and importers will be required to obtain licenses to continue to engage in these activities. Section 307 provides that they may continue to engage in those businesses pending their licensing application provided they make application for a license within 30 days of the enactment of this bill.

TITLE IV—SECTION-BY-SECTION ANALYSIS

This title would create a nationwide program of drug testing for federal offenders on post-conviction release, and would effectively supersede and expand the demonstration program established by section 7304 of the Anti-Drug Abuse Act of 1988 in relation to convicted defendants. Section 7304 created a two-year demonstration program including mandatory drug testing of felons on probation or post-imprisonment supervised release (but not parole) in eight districts to be selected by the Judicial Conference. Based on preliminary data, the Administration has concluded that there is no need to await the final results of that demonstration program. The idea of a program to requiire defendants on post-conviction release to submit to periodic drug tests is so clearly meritorious that it should be implemented across the United States, as soon as practicable and feasible. Since the capacity to implement this program depends on the availability of appropriate personnel and/or contractors necessary to ensure quality control, this section allows a degree of flexibility and grants the Administrative Office of the United States Courts the latitude necessary to phase-in the program in stages as soon as practicable and feasible.

It is estimated that more than 81,000 persons will be on some form of federal supervised release in 1990. Under the proposal, defendants placed on parole, probation or post-imprisonment supervised release will be subject to a mandatory condition that they refrain from illegal use of drugs and submit to periodic drug tests. The class of defendants subject to this mandatory condition—limited to felons under the Anti-Drug Abuse Act demonstration program—would be extended to include as well misdemeanant firearms, drug, and violent offenders. The requirement could be suspended or ameliorated upon request of the Director of the Administrative Office or his designee. No adverse action such as revocation of release could take place for failure of a drug test unless the test was confirmed using gas chromotography techniques or other tests determined to be of equivalent reliability.

TITLE V—SECTION-BY-SECTION ANALYSIS

The Exclusionary Rule Reform Act of 1989 would (1) generally bar the exclusion of evidence obtained in circumstances justifying an objectively reasonable belief that a search or seizure was in conformity with the Fourth Amendment, and (2) clarify that evidence cannot be excluded on the basis of non-constitutional violations unless such exclusion is expressly authorized by law.

The principal reform proposed in the bill—an objective reasonableness standard for the admission of evidence—is very similar to exclusionary rule reform legislation that was passed by the Senate as S. 1764 in the 98th Congress and by the House of Representatives as section 673 of H.R. 5484 in the 99th Congress. A detailed discussion of the policy issues raised by this reform appears in the Senate Judiciary Committee's report on S. 1764 (S. Rep. No. 350, 98th Cong., 2d Sess. (1984)). The ensuing analysis briefly describes and explains the provisions of the bill.

Section 502 of the bill would add a new section 3508 to the federal criminal code. Subsection (a) of proposed section 3508 provides that evidence shall not be excluded in any federal proceeding on the ground that a search or seizure was in violation of the Fourth Amendment if the search or seizure was carried out in circumstances justifying an objectively reasonable belief that it was in conformity with the Fourth Amendment. This would apply the underlying principle of *United States* v. *Leon*, 468 U.S. 897 (1984), so as to bar the exclusion of evidence obtained in such circumstances in cases involving warrantless searches, as well as in cases involving searches pursuant to a warrant. The *Leon* decision specifically barred the suppression of evidence obtained in conformity with a warrant in circumstances justifying an objectively reasonable belief in the warrant's validity, noting that excluding evidence where an officer's conduct is objectively reasonable "will not further the ends of the exclusionary rule in any appreciable way; for it is painfully apparent that . . . the officer is acting as a reasonable officer would and should act in similar circumstances. Excluding the evidence can in no way affect his future conduct unless it is to make him less willing to do his duty." *Leon*, 468 U.S. at 920.

This principle has already been applied for several years by the federal courts in the fifth and Eleventh Circuits in deciding on the admissibility of evidence obtained through searches and seizures in both warrant and non-warrant cases. *See United States* v. *Williams*, 622 F.2d 830 (5th Cir. 1980). The standard of objective reasonableness is also uniformly applied in determining an officer's exposure to civil liability based on an allegedly unlawful search or seizure. *See Anderson* v. *Creighton*, 107 S. Ct. 3034 (1987).

Subsection (a) of proposed section 3508 perpetuates as a special case the specific holding of *United States* v. *Leon, supra*, that evidence is not subject to suppression if obtained in objectively reasonable reliance on a warrant. As in *Leon*, the circumstances relevant to the determination of objective reasonableness in warrant cases under subsection (a) would include the circumstances under which it was executed. *See Leon*, 468 U.S. at 923 n.24.

Subsection (a) also provides specifically that the fact that evidence was obtained pursuant to and within the scope of a warrant constitutes prima facie evidence of the existence of circumstances justifying an objectively reasonable belief that a search or seizure was in conformity with the Fourth Amendment. This reflects the fact that "[i]n the ordinary case, an officer cannot be expected to question the magistrate's probable-cause determination or his judgment that the form of the warrant is technically sufficient." *Leon*, 468 U.S. at 921. Thus, the fact that evidence was obtained in conformity with a warrant would be adequate to establish objective reasonableness in the ab-

sence of rebuttal by the defendant, such as a showing that the issuance of the warrant was predicated on a fraudulent affidavit or that the warrant was so patently deficient on its face that an officer could not reasonably believe it to be valid. *See generally Leon*, 468 U.S. at 922-23.

Subsection (b) of proposed section 3508 would bar the exclusion of evidence on the basis of non-constitutional violations, except as expressly authorized by statute or by a rule promulgated by the Supreme Court pursuant to statutory authority. Given the high price of the exclusionary rule to the truth-finding process, and the fact that the rule is not even applied in relation to all constitutional violations in light of the *Leon* decision and other Supreme Court decisions, it is desirable to codify explicitly the principle that evidence may not be excluded on the basis of non-contitutional violations in the absence of statutory authority for doing so. This restriction on the exclusion of evidence is already implicit in the broader rule of Federal Rule of Evidence 402, which provides that "[a]ll relevant evidence is admissible, except as otherwise provided by the Constitution of the United States, by Act of Congress, by these rules, or by other rules prescribed by the Supreme Court pursuant to statutory authority." Subsection (b) would clarify the import of the principle of Rule 402 in relation to evidence obtained in violation of non-constitutional provisions.

The value of such clarification is illustrated by the case of *United States* v. *Caceres*, 440 U.S. 741 (1979), in which a defendant accused of bribing an IRS agent attempted to secure the exclusion of evidence of his guilt on the ground that procedures specified in IRS regulations had not been complied with in obtaining the evidence. Under the plain terms of Rule 402, this argument should have been rejected summarily as an effort to secure the exclusion of relevant evidence in circumstances in which exclusion was not provided for by "the Constitution . . . by Act of Congress, by [the] rules [of evidence], or by other rules prescribed by the Supreme Court pursuant to statutory authority." The Supreme Court did reject the defendant's effort to create an exclusionary rule for violations of IRS regulations, but declined to address the government's argument that this result was required by Rule 402. *See* 440 U.S. at 755 & n. 22.

While the Supreme Court reached a result consistent with Rule 402 for independent reasons in the *Caceres* decision, it failed to produce any directive to the inferior courts to comply with the terms of that rule. Efforts by defendants to secure the exclusion of relevant and probative evidence of their guilt on the basis of alleged violations of non-constitutional provisions have accordingly continued to be a source of litigation in the lower courts. Subsection (b) would foreclose such litigation in the absence of a decision by Congress or by the Supreme Court pursuant to its statutory rulemaking authority to authorize the use of the exclusionary sanction and would ensure consistent compliance with the principle of Rule 402 in this context in future judicial decisions.

Subsection (c) of proposed section 3508 states that the section shall not be construed to require or authorize the exclusion of evidence in any proceeding. This makes it clear that the section is not to be construed as reflecting legislative approval of the exclusion of evidence as a sanction for official misconduct in any circumstances, and that the section's rules which explicitly bar the exclusion of evidence in certain circumstances should not be understood as implying that the exclusion of evidence is appropriate or permissible in other circumstances. The Supreme Court has recognized a number of important exceptions to the application of the exclusionary rule which are not confined to the "objective reasonableness" situation, including holding that the exclusionary rule is wholly inapplicable in grand jury and deportation proceedings and generally inapplicable in habeas corpus proceedings, *see United States v. Calandra*, 414 U.S. 338 (1974); *INS v. Lopez-Mendoza*, 468 U.S. 1032 (1984); *Stone v. Powell*, 428 U.S. 465 (1976), and that evidence inadmissible at trial in the government's case in chief under the exclusionary rule may nevertheless be used for impeachment, *see Walder v. United States*, 347 U.S. 62 (1954). In light of subsection (c), there would be no basis for arguing that these broader limitations of the exclusionary rule should be restricted or reconsidered in light of proposed section 3508, or that it would be inappropriate for the courts to create other broader limitations on the exclusionary rule in the future.

TITLE VI—SECTION-BY-SECTION ANALYSIS

The Reform of Federal Intervention in State Proceedings Act of 1989 would amend various provisions of title 28, United States Code, and a related Rule of Appellate Procedure, concerning the availability of collateral relief in the federal courts for State and federal prisoners. Among the matters addressed by these amendments are the standard of review in habeas corpus proceedings, the effect of procedural defaults on the subsequent availability of collateral relief, the time within which collateral relief may be sought, the requirement of exhaustion of State remedies, the procedure on appeal, and the appointment of counsel in collateral proceedings.

The proposal is very similar to S. 1763 of the 98th Congress, which was reported by the Senate Judiciary Committee and passed by the full Senate by a vote of 67 to 9 in 1984. The ensuring section-by-section analysis briefly describes the various provisions of the bill. The Senate Judiciary Committee's report on S. 1763 (S. Rep. No. 226, 98th Cong., 1st Sess. (1983)) provides a more detailed explanation as well as extensive analysis of the policy issues addressed in the legislation.

Section 602 of the bill would add two new subsections to section 2244 of title 28, United States Code. Proposed section 2244(d) relates to the effect of a State prisoner's failure to raise a claim properly in State proceedings on the subsequent availability of federal habeas corpus. Proposed subsection (d)(1) of secton 2244 sets out a general standard under which such a procedural default would bar access to federal habeas corpus unless it was the result of State action in violation of federal law. Attorney error or misjudgment in failing to raise a claim properly would excuse a procedural default under this standard if it amounted to constitutionally ineffective assistance of counsel, but lesser degrees of attorney error or misjudgment would not excuse a default. *See Murray v. Carrier*, 477 U.S. 478, 488 (1986). Proposed subsection (d)(2)-(4) of section 2244 further provides for excuse of a procedural default where a claim raised in a habeas corpus proceeding asserts a new, retroactive right subsequently recognized by the Supreme Court, where the factual predicate of the claim could not have been discovered prior to the default through the exercise of reasonable diligence, or where a constitutional violation asserted in the claim has probably resulted in a factually erroneous conviction or a sentence predicated on an erroneous factual determination. Proposed section 2244(d) is generally a codification and clarification of the existing caselaw standards governing the excuse of procedural defaults in collateral proceedings. *See Murray v. Carrier, supra*, 477 U.S. at 485-88, 496-97; *Smith v. Murray*, 477 U.S. 527, 537-38 (1986).

Proposed new section 2244(e) in section 602 of the bill would establish a one year time limit on applications for federal habeas corpus, normally commencing at the time State remedies are exhausted. This would provide State defendants with ample time to seek federal review following the conclusion of State proceedings, but would avoid the acute difficulties of proof that currently arise when federal habeas corpus is sought by a prisoner years or decades after the State trial. The proposed limitation rule may be compared to various existing time limits on seeking review or re-opening of criminal judgments in the federal courts, such as the normal ten day limit on appeals by federal defendants under Fed. R. App. P. 4(b); the normal sixty day limit on a State defendant's application for direct review in the Supreme Court under Sup. Ct. R. 20; and the two year limit on motions for new trials based on newly discovered evidence under Fed. R. Crim. P. 33. Proposed section 2244(e) further provides for deferral of the start of the limitation period in appropriate cases, such as assertion of newly recognized rights or newly discovered claims.

Section 603 of the bill would amend section 2253 of title 28, United States Code, so as to vest in the judges of the courts of appeals exclusive authority to issue certificates of probable cause for appeal in habeas corpus proceedings. It would also create an identical certificate requirement for appeals by federal prisoners in collateral relief proceedings pursuant to section 2255 of title 28, United States Code. This would implement recommendations of Judge Henry Friendly. See Friendly, *Is Innocence Irrelevant? Collateral Attack on Criminal Judgments*, 38 U. Chi. L. Rev. 142, 144 n.9 (1970). The reform would correct inefficiencies of the current system under which an appellate court is obliged to hear an appeal on a district court's certification, though it may believe that the certificate was improvidently granted, and under which a prisoner is afforded duplicative opportunities to persuade first a district judge and then an appellate judge that an appeal is warranted. Section 604 of the bill would amend Fed. R. App. P. 22 to conform it to the amendments of section 603.

Section 605 of the bill would make various changes in section 2254 of title 28, United States Code. Section 605(a) would amend current section 2254(b) to clarify that a habeas corpus petition can be denied on the merits notwithstanding the petitioner's failure to exhaust state remedies. This would implement a recommendation of Professor David Shapiro. See Shapiro, *Federal Habeas Corpus: A Study in Massachusetts*, 87 Harv. L. Rev. 321, 358-59 (1973). It would avoid the waste of State and federal resources that presently results when a prisoner presenting a hopeless petition is sent back to the State courts to exhaust State remedies.

Section 605(c) of the bill would add a new subsection (d) to section 2254, United States Code. Proposed subsection (d) would accord deference to the result of full and fair State adjudications. This may be compared to the standard of review stated by the Supreme Court in the case of *Ex Parte Hawk*, 321 U.S. 114, 118 (1944), prior to the unexplained substitution of the current rules of mandatory re-adjudication by the decision in *Brown v. Allen*, 344 U.S. 443 (1953). To be full and fair in the intended sense the State court determination must be reasonable, and must be arrived at by procedures consistent with applicable federal law, includ-

ing the constitutional requirement of due process. In addition, re-adjudication by the federal habeas court would be allowed in cases in which new evidence of substantial importance came to light or a retroactive change of law of substantial importance occurred after the State proceedings. *See* S. Rep. No. 226, 98th Cong., 1st Sess. 24-27 (1983).

Section 605(b) of the bill would simplify current section 2254(d), which is verbose, confusing, and obscure; redesignate it as section 2254(e); and bring its formulation into conformity with that of proposed new section 2254(d). This provision would be of minor practical significance, coming into play only when the general standard governing deference to State determinations in proposed new section 2254(d) was found by the habeas court to be unsatisfied.

Section 605(d) of the bill would codify the traditional principles governing the appointment of counsel for indigents in federal habeas corpus proceedings. Appointment of counsel in proceedings under section 2254 of Title 28, United States Code, and in any subsequent proceedings on review, would be in the discretion of the court, except as provided by rules promulgated by the Supreme Court. The general rule that appointment of counsel is discretionary would apply regardless of the nature of the offense for which the petitioner was convicted or the sentence imposed. The proviso relating to the Supreme Court's rule-making authority recognizes that the Court may create exceptions to the general principle of discretionary appointment for collateral proceedings and require appointment of counsel in some situations. See, for example, Rule 8(c) of the Rules Governing Section 2254 Cases in the United States District Courts.

Section 606 of the bill would amend section 2255 of title 28, United States Code. It would carry out reforms in the collateral remedy for federal prisoners comparable to the rules proposed in section 602 of the bill governing excuse of procedural defaults and time limitation in habeas corpus proceedings, and would codify the traditional principles governing appointment of counsel in section 2255 proceedings in a manner parallel to the provision for habeas corpus proceedings in section 605(d) of the bill.

TITLE VII—1990 FISCAL YEAR AUTHORIZATION

Section 701

This section of the bill authorizes 1990 fiscal year appropriations for various categories of activities conducted by the Department of Justice. Nineteen separate categories of appropriations are listed. Within certain of these categories additional provisions are made for allowing a portion of an appropriation to be available on a multi-year or a no-year basis. Similar language has been inserted in previous authorization and appropriation legislation. For example, a portion of the funds appropriated for the FBI's automated data processing and telecommunications expenses will be available for two years, and similarly part of the FBI's and DEA's funds for research will be available until expended. Other provisions set maximum amounts which may be used for certain purposes, such as representation expenses, construction of witness safesites, expenses necessary in the collection of evidence, and emergency expenses. Although the activities of the Office of Justice Programs are separately authorized in the Omnibus Crime Control and Safe Streets Act of 1968, as amended, a provision is included in this bill to authorize the special bonus grants proposed by the President as an award to States for adoption of legislation providing mandatory minimum sentences for criminal offenses involving firearms.

Section 702

This section authorizes the Attorney General to expend from monies appropriated to the Department of Justice up to $75,000 for official representation and reception expenses.

Section 703

This section authorizes the Attorney General to transfer a portion of one Department of Justice appropriation to another Department of Justice appropriation. Such a transfer may not diminish an appropriation by more than two percent nor may it increase an appropriation by more than two percent.

Mr. DOLE. Mr. President, today I am joining Senators THURMOND, SPECTER, MCCLURE, DECONCINI, D'AMATO, SIMPSON, and WILSON in introducing the Comprehensive Violent Crime Control Act of 1989, which has been sent to the Congress by President Bush.

PROTECTING THE CONSTITUTION

Make no mistake about it, many Americans—and not just those in low-income neighborhoods or our large cities—are living in fear. They are living as hostages to the thugs who roam our streets and terrorize our communities.

The Preamble of our Constitution, which lays the groundwork upon which all of our constitutional rights rest, states that we are joining together to form this Union to:

Establish justice, insure domestic tranquility, * * * promote the general welfare and secure the blessings of liberty * * *.

Mr. President, it is time that we start taking these words seriously. It is time for us to strike a fair balance between the rights of the innocent victims of crime and the rights of the criminally accused. And it is time for us to focus our attention on the great value underlying our Constitution—protecting the guarantee of justice and liberty for all Americans.

The President's bill accomplishes these important objectives. It takes aim at the domestic terrorists. And it takes aim at those who would exploit the loopholes in our criminal justice system.

PROVISIONS OF THE BILL

Now, we may need to make a few technical changes to some of the firearms provisions contained in the President's bill. I am personally committed to working together with the White House to make sure that these technical changes are written into the President's bill.

But let's take a look at what the bill says now.

The bill says that we will place in pretrial detention those arrested for using firearms in the commission of a violent crime. From now on, we aren't going to let murderers out of jail to kill again simply because they were able to meet bail.

We have all seen some of the tragic press accounts of criminals switching to semiautomatic weapons in order to discharge greater numbers of bullets in their gun battles. The President's bill says "use a semiautomatic and you get 10 years." Quite frankly, we might want to increase this penalty for all criminal uses of firearm.

There is also a small but growing problem of drug smugglers getting into the gun running business. The bill seeks to nip this problem in the bud—it creates a new criminal sanction against those trying to double their illicit profits.

The same is true of firearm thefts. We must remember that 80 percent of firearms used in crimes are not obtained through normal channels—many are stolen, sold by illegal, unlicensed dealers or by smugglers. Stealing or trafficking in stolen guns is also made a separate Federal crime.

The bill punishes those convicts who abuse the privilege of probation and parole—automatic revocation of probation and parole if you flunk new, mandatory drug tests or if you are found in possession of a firearm. Probation and parole are supposed to be a contract between the convict and the people. From now on, break the contract and we will put you behind bars—no ifs, ands, or buts, just jail.

The President has also proposed to expand the Federal death penalty. In the 17 years since *Furman* v. *Georgia*—the Supreme Court decision restricting the use of the death penalty—41 of the 50 States have acted to permit the imposition of the death penalty for the most heinous of crimes. As I've said before, the Federal Government is way behind. We need this ultimate sanction for the crimes of homicide, espionage, treason, and assassination of the President.

There are two other very important provisions included in the President's crime package—the creation of a general good faith exception to the exclusionary rule and reform of habeas corpus procedure. The first provision would help bring criminals to justice by ensuring that evidence—gathered by police officers who believe they are acting in accordance with constitutional standards—will not be mindlessly rejected by the courts. The second provision would reduce the seemingly endless number of appeals that convicts now use to clog our court systems.

Finally, the bill provides some sorely needed Federal funding—$1 billion for the construction of additional Federal prison space, $50 million to hire more assistant U.S. attorneys. Another $40 million to hire more agents for the Bureau of Alcohol, Tobacco, and Firearms and for the FBI's violent crime and major offenders program, and an additional $12 million to beef up the U.S. marshal's program. This money will be money very well spent.

CONCLUSION

If we are going to fight a war, we had better have the weapons and the willpower to win it. The war on drugs and violent crime is no different. Half-measures—well intentioned as they may be—will get us nowhere.

The President's crime package is an important step in the right direction. It is tough—very tough—although I believe that we can make it even tougher. But the bottom line is that it ought to pass Congress by unanimous consent.

Mr. DECONCINI. Mr. President, I rise today to join my distinguished colleague from South Carolina [Mr. THURMOND] in introducing the Comprehensive Violent Crime Control Act of 1989.

I am impressed with the President's anticrime package and I am pleased to be a primary cosponsor of this bill as it goes through the legislative process. As legislators, we are responsible for protecting the public by providing law enforcement with the necessary tools to carry out their mission. Our objective must be to come down hard on violent and drug-related crime. This is an objective I pursued as Pima County attorney in Arizona, and continue to pursue as a U.S. Senator.

The proposed package contains a number of provisions designed to reduce both violent crime and illegal drug use. The seven titles of the legislation cover firearms, the death penalty, ammunition devices, drug testing on postconviction release, exclusionary rule reform, habeas corpus reform, and additional authorization for law enforcement personnel, prosecutors and prison expansion.

Although I am a strong supporter of the vast majority of the package, I do have concerns. My concerns center on the ability to fund this sweeping piece of legislation. Just last year we in the Congress passed the comprehensive drug bill which included many similar provisions in the areas of increased law enforcement personnel, prosecutorial personnel, and prison capacity. Regretfully, the appropriations to fund the drug bill were far below those authorized in the bill. The President's package is a worthwhile proposal. There are a number of sections which are gravely needed. Yet, I can not help but wonder where the money is going to come from. Unless there is some other additional pool of dollars, such as an excise tax on alcohol or tobacco, I for one do not see where we will find the money to fund this proposal.

Despite these concerns, I am nevertheless cosponsoring this bill. The violent and drug-related crime problems are so overwhelming that we must do something. If initiating dialog on the problems by considering this legislation will lead to possible solutions, then I am willing to cosponsor the proposal.

Mr. President, I am particularly pleased to see that the President has included title I—firearms and related amendments—in his crime package. The Atlanta Journal-Constitution recently reported that assault weapons account for only 0.5 percent of the 200 million privately owned firearms in the United States. We are told, however, that assault weapons were used in one of every 10 crimes resulting in a firearms trace in 1988. This is simply unacceptable. It is time to take action—action that will stop this violence that endangers our children and makes our streets unsafe. I have labored to ensure that the rights of the legitimate gun owner are not sacrificed to resolve the problem of firearms abuse. During this Congress I have introduced legislation which seeks to enhance penalties for violations committed with a so-called assault firearm. That legislation also seeks to limit the number of assault firearms available to criminals while protecting the right of legal owners to maintain their ownership. That legislation, however, does not provde the Secretary of the Treasury discretionary authority to identify firearms as assault weapons nor does it create a registration system similar to the current machine gun registration system. I am pleased to see that the President's package seeks similar goals.

The proposed legislation doubles the mandatory penalty for the use of semiautomatic firearms in crimes involving violence or drugs from 5 years to 10 years, a provision also found in my bill. The proposed bill would also create a new offense for smuggling firearms into the country for the purpose of promoting drug trafficking or crimes of violence, and would make these offenses punishable by up to 10 years imprisonment. And if the Bureau of Alcohol, Tobacco, and Firearms [BATF] determines that any of the imported firearms currently under review are not suitable for sporting purposes and thus are prohibited from being imported under existing law, then the President's proposal would prohibit the domestic assembly of these firearms.

Mr. President, I must be honest and say that I have some apprehension about this section because of the large number of imported firearms currently under review by the BATF and temporarily banned by the President. My bill limits the list of firearms which would be affected to only those which, based on BATF and others statistics, are considered blatantly abused. My bill affects only five imported firearms. The President's temporary ban currently in effect covers over a dozen additional types of firearms. If BATF were to rule that all of the firearms currently under temporary ban serve no suitable sporting purpose, and consequently were permanently banned from importation, I might be inclined to consider alternatives to such action by BATF.

Finally, with regard to the proposed firearms legislation, I am uncertain that the section concerning regulation of ammunition feeding devices will be enforceable. Although I am not opposed to this section, I do wonder if it serves a practical purpose. Because of the vast number of magazines and other devices in public use, it appears to this Senator that enforcement of the suggested requirements would be a most difficult assignment for law enforcement, and may take away from more important duties relating to violent and drug-related crime.

Mr. President, if I were to end my statement here, my support of this legislation could be in question. There should be no question. I am strongly behind this package. Since I first entered the halls of this great body I have worked on few issues of more importance than improving our criminal justice system. I have repeatedly sponsored and cosponsored legislation establishing a Federal death penalty, incorporating the court-acknowledged good faith exception to the exclusionary rule, and promoting habeas corpus reform. Seeing these and other strong law enforcement provisions contained in this package are enough to convince me that, although I may have concerns about specific sections, I should lend my strong support to the proposal and work toward its passage.

As President Bush stated,

> When a criminal commits a crime with a gun and someone dies, justice demands something in return—the ultimate penalty, the death penalty.

As a former prosecutor, I am more than familiar with the need for capital punishment. I have introduced legislation on more than one occasion that would allow Federal judges and juries to impose the death penalty as punishment when justified and when in accordance with Supreme Court guidelines.

Title II, entitled "Capital Punishment," establishes statutory procedures permitting the death penalty for certain Federal offenses. The procedures set forth comport with the Supreme Court's capital punishment decisions. Capital punishment is available in cases involving treason, espionage, certain types of homicide, and, under certain circumstances, an attempt to kill the President of the United States.

Mr. President, polls have continually indicated that the vast majority of the public favors a Federal death penalty. Last year the Senate passed a death penalty provision as part of the Anti-Drug Abuse Act of 1988, Public Law 100-690. The Senate Judiciary Committee, of which I am a member, has considered death penalty legislation in nearly every Congress since I was first elected. It is time for the Congress to respond to the people and pass a comprehensive Federal death penalty provision as found in title II of this proposal.

Title V, the Exclusionary Rule Reform Act of 1989, would generally apply the principle of *United States* v. *Leon*, 468 U.S. 897 (1984), where the Court barred the suppression of evidence obtained in conformity with a warrant under circumstances justifying an objectively reasonable belief in the warrant's validity. This is the so-

called good faith exception to the exclusionary rule. This principle has already been applied in the fifth and eleventh circuits in both warrant and nonwarrant cases. By codifying what some courts have already seen fit to apply on occasion, this provision would allow for successful prosecutions on evidence which might otherwise be prohibited for technical reasons. The fine efforts of law enforcement personnel would not be wiped away for reasons beyond their control. In a time when too many criminals are avoiding punishment, this exception to the exclusionary rule is greatly needed. I am convinced that in our quest for the purity of due process of law, we have forgotten the citizen we are obligated to protect. That is why I have repeatedly sponsored legislation to modify the exclusionary rule, and will continue to support such a measure.

The President's proposal also contains a section addressing reforms in the habeas corpus petitioning procedure. I have long been a cosponsor of this type of legislation. There is no question in my mind that there is a dire need for reform of the habeas petitioning procedures. The Federal courts are inundated with habeas petitions, a large number of which are trivial at best. By including this provision in the package, it is my hope that this legislation along with the upcoming Powell Commission report, will promote further discussion of habeas corpus reform and lead to changes in the near future.

I believe that the President's crime package will assist our Nation's law enforcement personnel and prosecutors in combating the escalation of violent and drug-related crime. I look forward to the future passage of the Comprehensive Violent Crime Control Act of 1989.

Mr. SPECTER. Mr. President, I am pleased to join my colleagues, Senator THURMOND, Senator DOLE, and others in introducing the administration's Comprehensive Crime Control Act. This bill has been presented with input from many sources and is very desperately needed in this country to move forward in the war against crime and the war against drugs.

This bill, Mr. President, has already been characterized as a comprehensive crime package. There are many provisions. Some of these provisions, candidly, Mr. President, I think will have to be refined. It is not possible in crafting one bill to obtain agreement from all of those who have participated in the formulation of the bill. But I believe that, under the leadership of President Bush, this is a good bill. As I say, I have certain reservations about some provisions and I reserve the obvious right to offer amendments.

The most important part of this bill, Mr. President, is the very substantial level of expenditure for prisoners—$1,400,000,000. The critical bottleneck in the criminal justice system today is the absence of prison space. Some 20,000 prisoners each year are being released in advance of their sentences. Thousands of defendants are not sentenced because judges know there is insufficient room to hold them in jail. Due to this insufficiency of prison space, criminals go back to the streets and, in record numbers, commit additional crimes.

There are many, many cases—first-degree murder cases involving a firearm—where criminals are not incarcerated because of the insufficiency of jail space. This bill is important because it directly addresses that problem. Without taking the time this morning to discuss the interrelationship between Federal and State prisons, suffice it to conclude that the prison matter is a very, very important one.

The bill similarly makes critical amendments in the Armed Career Criminal Act, which I authored in 1984 and amended in 1986. Since passage of this act, it has proven to be the major weapon for involving the Federal Government in street crime and the war against drugs. That act provides that a career criminal—defined as someone who has committed three or more major felonies—is found in possession of a firearm; that person is triable in the Federal courts under the Speedy Trial Act, with preventative detention where appropriate, and if convicted, receives a mandatory sentence of 15 years to life.

Mr. President, this bill also reenacts the death penalty, which is very important. Since 1972, with the Supreme Court's decision in Furman versus Georgia, there has not been a constitutional Federal death penalty provision until we enacted a death penalty provision for certain drug-related crimes last year. There are many violent offenses—murder, espionage, treason, bank robbery murder, and other offenses which have traditionally called for the death penalty but for the past 17 years have been excluded. The evidence is persuasive that the death penalty is an important deterrent in the war on crime.

Suffice it for another day to argue the details, but this bill would reinstate the death penalty for very serious Federal offenses.

Mr. President, the provisions relating to assault weapons are complicated. Already there have been significant amendments to the Bush administration's proposal crafted by the very distinguished Senator from Idaho, Senator MCCLURE. This is an issue where, candidly, many of us remain unsatisfied with the results up to the present time.

The critical issue, Mr. President, is that we want to take assault weapons out of the hand of drug dealers and dangerous criminals but, at the same time, we do not want to restrict the use of semiautomatic rifles by legitimate gunowners for hunting and other sporting uses. Senator MCCLURE and many of us have been searching for a definition which would separate the semiautomatic rifle which may be used legitimately for sport purposes from the assault weapons. That effort will continue. These provisions of the bill I think must have further refinements.

Similarly, the provisions on search and seizure will require hearings and further analysis. It is one thing to have good faith test, as the Supreme Court handed down in United States versus Leon, where warrants are involved. But where the exception applies to warrantless searches, there must be further analysis and refinement.

Rather than take up any more time, Mr. President, I would identify one other area which has to be considered and that is the provisions related to the use of habeas corpus.

In conclusion, I am pleased to cosponsor this bill. It is a very good first effort, subject to a number of provisions which will have to be refined during the hearing and amendment process.

Mr. MCCLURE. Mr. President, I rise in strong support of the administration's bill on crime that has just been introduced by the distinguished Senator from South Carolina. There is no doubt that the American public has grown tired of being tyrannized by criminals. While we seek to curb the incidence of violent crime in this country, we must at the same time be very careful that we do not infringe upon the second amendment rights of law-abiding citizens across this land.

I support this legislation because, in the main, it does precisely that. I will have to say, however, that there are a couple of areas in which I have reservations and will attempt to make adjustments in the bill as introduced. One is with respect to the treatment of clips under the proposal which the President has submitted to us. It treats clips as machineguns. I think there is a better way of dealing with that question that will accomplish the end without the same kind of result upon the rights of law-abiding citizens.

The second is with respect to the domestic manufacture of semiautomatic firearms. There is an ambiguity or a potential ambiguity in the bill as written, with respect to domestic manufacture. It relies under the prohibition on assembly of guns which are prohibited from importation.

I would remind all of my colleagues that the action taken to prohibit the imports of guns is taken under existing statute which this proposed bill does not and in my judgment cannot affect nor change.

But I think it is possible to define the domestic assembly language in such a way that makes clear what the administration clearly intends to accomplish, without any infringement at all upon domestic manufacture.

I will propose that amendment or support such an amendment at a later date.

Mr. President, there is no doubt that the American public has grown tired of being tyrannized by criminals. The streets have become so dangerous in some areas that honest citizens are prisoners in their own homes. At the same time, criminals terrorize with impunity, secure in the knowledge that the justice system lacks the means and the will to punish. There is no price to pay. We must guarantee a price, and the President's crime package does just this by refining and enhancing the law.

Although I applaud the President's efforts and have agreed to be an original sponsor of this legislation, I must make clear that certain portions of this package, as introduced, are not entirely acceptable to me. Furthermore, I will make every effort to change these provisions at the appropriate time.

These provisions place the focus on firearms instead of crime and criminals. The solution to helping those innocent citizens who are now prisoners in their own homes is not to provide steel bars for their doors and windows. Yet some have adopted such logic when they promote banning guns as a solution to violent crime. Does anyone seriously believe that restricting the constitutional right of our law-abiding citizens is the way to deal with hardened criminals? A 20-year veteran with the U.S. Customs Service summarized it best in response to a question about the potential of smuggling weapons into the United States. He said, "I don't think [they] are going to be adverse to bringing weapons in," referring to those who have profited from smuggling cocaine and heroin.

I have always believed that it is futile to attempt to control crime by restricting the second amendment rights of honest citizens. And even worse, such attempts cloud the real issue of crime and criminals. It is deceptive to tell the American public that we are getting tough on criminals by restricting gunowners' rights. We must deal directly and harshly with criminals. If a gun is used in the commission of a crime, then yes, we should prosecute that person and we should hit him hard for the illegal use of a firearm. However, to restrict the constitutional right of millions of Americans under the guise that we are getting tough with criminals is a red herring and should be exposed as such.

Mr. President, to be more specific, I am concerned about the section in this bill which imposes restrictions on clips and magazines. The President's package treats clips and magazines in excess of 15 rounds—the same as machine guns. While I understand the intent of the President, I believe there is a better way to handle the large clips and magazines and will attempt to modify the President's package accordingly.

Another specific concern is the attempt by the administration to prohibit the domestic assembly of any imports restricted under current law. It is possible to interpret this provision in such a way that it would amount to a domestic ban on the manufacture of a wide range of firearms that are presently in common use by honest citizens. Again, I believe this measure can be corrected to carry out the intent of the administration without impinging on the legitimate owner and manufacturer.

Mr. President, I believe a majority in this body will agree to support these two needed changes to make this an excellent get-tough-on-crime package. I am pleased to point out many of the positive aspects of this package. I am certain that the law-abiding people of this country will applaud the commonsense reforms that will make our streets safe once more.

The President's package restores to the armed career criminal statute a proper definition of burglary. Lacking this definition, some courts have construed the crime of burglary so narrowly that unlawful entry into business premises with intent to steal, or unlawful entry into structures other than a dwelling, are not considered burglary under the career criminal law. Clearly, such crimes are dangerous, and clearly, Congress did not intend to exclude these crimes.

The drug trade has made cynical use of juveniles to commit violent crimes that would be a "serious drug offense" under the armed career criminal statute if committed by an adult. The President's package adds such crimes to the statute as a new predicate offense constituting a crime of violence.

Some criminals present so clear a threat to society that it makes sense to allow the Government to seek pretrial detention. This bill extends this possibility to those charged with certain crimes involving explosives. It also includes felons charged with possession or receipt of firearms, traffickers in stolen guns, or those illegally possessing machineguns.

Mr. President, throughout my career in the Congress, I have fought to protect our firearms rights, rights that have been recently challenged. The enemies of the second amendment have seized upon violent crimes in which firearms have been used as an excuse to deny those rights to law-abiding citizens. If we are to defend our rights, we must curtail the activities of those who make these rights vulnerable—the criminals who use firearms to commit crime.

In this regard, the President's anticrime package doubles the current mandatory penalty for persons convicted of using a semiautomatic firearm during a felony crime of violence or during a drug trafficking offense. Such crimes would carry a 10-year prison penalty. However, those law-abiding citizens who use firearms to protect themselves or their property will not be subject to the minimum mandatory sentence.

Mr. President, we know that drug traffickers have no problem obtaining firearms through illegal means. This bill will create a new offense carrying severe penalties for smuggling firearms into the United States for drug trafficking purposes, or for crimes of violence.

In many cases, criminals obtain firearms by theft. We would punish the theft of either a firearm or explosives with a mandatory minimum 2-year prison term.

We are also concerned that criminals can exploit the system by providing false information to obtain guns through legitimate channels. We would arise the maximum penalty for providing false information. Again, we must protect the rights of the law-abiding gunowner by keeping firearms out of the hands of criminals.

Mr. President, we have seen that vicious criminals do not hesitate to murder. There is no penalty that they fear. When we enacted the Anti-Drug Abuse Act, we provided for the death penalty in certain drug-related crimes. President Bush's bill outlines procedures for determining whether the death penalty should be imposed in cases of treason, espionage, certain types of homicides, and attempts to kill the President of the United States. This sentence cannot be imposed lighlty, and indeed, our consideration is directed toward the most heinous crimes. We also provide stringent safeguards to ensure that every case is painstakingly scrutinized.

Central to the epidemic of violence is the sale and use of illegal drugs. During the last Congress, we addressed this problem in a comprehensive antidrug bill, but we must not fool ourselves into thinking the job is done. We must reexamine practical means to curb both the sale and use of illegal drugs.

President Bush has proposed some common-sense measures that will enable law enforcement to grapple with this problem more successfully. In the comprehensive crime package he has submitted for our consideration, he mandates implementation of a program outlined in the comprehensive drug bill. This program requires mandatory periodic drug tests for felons on probation, those on post-imprisonment supervised release, or those on parole.

It is frustrating to see individuals released on technicalities when it is obvious to anyone with an ounce of common sense that they have committed dangerous crimes. We have all heard horror stories about serious crimes going unpunished because of a narrow interpretation of a complex rule. It is time we return common sense to the courtroom—and the President's package goes a long way toward that end.

First of all, this package will clarify the exclusionary rule. It would bar the exclusion of evidence obtained under a reasonable belief that the search conformed with the fourth amendment. I find it ironic, Mr. President, that the fourth amendment is so interpreted that criminals go free, while the second amendment is so disregarded that honest citizens are deprived of their rights.

Second, we must rethink our actual use of the principle of habeas corpus. Our court system cannot deal with the violent criminals who threaten the safety of our streets, yet it is bogged down with frivolous habeas corpus appeals. Without infringing on the right to legitimate appeal, the proposed change would free our courts from consideration of appeals that have no genuine merit.

Our law enforcement personnel are doing a heroic job of tracking down criminals. As a former prosecuting attorney, I share their frustration that dangerous criminals are free because there is no prison space for them. There is no doubt that we will need to build more prisons, and this bill provides for this very necessary construction.

Mr. President, we have seen the justifiable fear of crime manipulated to achieve dubious remedies. We have listened to emotional appeals to restrict particular firearms, as if such a measure would have the slightest effect on crime. Let us not waste our energy pursuing failed methods of fighting crime. Let us go after the real problem—the criminals who roam our streets. Let us see that they are put where they belong. It is time honest people stopped paying the price. It is time that criminals start paying the price.

Mr. SIMPSON. Mr. President, I am pleased to be an original cosponsor of President Bush's legislation to combat violent crime.

This legislation would bring needed reform to our judicial system and provide for additional law-enforcement personnel, prosecutors, and prisons. I am particularly pleased with the provisions that seek to improve our criminal justice system, since there is no doubt left lingering that the American public wants to live in a society where they and their property are secure and they are willing to commit resources to that good.

I firmly believe that those persons who commit violent crimes must be held accountable for their actions, and that the criminal justice system must provide for swift and certain apprehension, prosecution, and punishment of those who break the law. It is important to send the message that, if you commit a violent crime, you will be caught, prosecuted, and if convicted, you will "do time" in jail.

I am pleased that the President has included provisions for a Federal death penalty. I strongly believe that the death penalty is necessary to deter some of the more heinous and serious crimes that are now committed. This bill would impose the death penalty for treason, espionage, homicides with certain aggravating circumstances, and attempts to kill the President of the United States. Full due process protections, as required by recent Supreme Court decisions, are provided to ensure that the death penalty is properly imposed. However, when the crime is severe and the legal procedures followed are proper, I believe the death penalty is a very important tool for crime prevention that our Government must possess.

Another important provision in this bill would provide an exception to the exclusionary rule when law-enforcement officers were acting in good faith and demonstrating objectively reasonable behavior. Earlier Supreme Court decisions had called for the exclusion of evidence that was discovered through a search based on an invalid search warrant, or that was discovered based on an improper warrantless search. This bill provides for the admission of important evidence in criminal trials that is discovered through objectively reasonable conduct by the police, and I believe it will help to restore the American public's faith in the criminal justice system by reducing the number of cases where serious criminals are acquitted because of legal technicalities—known to the layman as "loopholes".

I also commend the President for including provisions to increase our law enforcement, prosecutor, and prison resources, for doubling many of the penalties that now exist for persons convicted of crimes involving violence, drugs, or illegal use of weapons, and for calling on prosecutors to end plea bargaining for violent Federal firearms offenses. These problems must be addressed head on if crime is to be controlled in our country, and I believe the President's bill does just that.

Some have expressed concern about possible gun control elements in this legislation. However, I feel secure in the knowledge that Senator MCCLURE has cosponsored this legislation, and I know of no other single Senator who is more responsive to the legitimate concerns of the gunowners of our country, and I will be very pleased to assist him if he wishes to make any further changes to the legislation to assure the protection of legitimate gunowners.

Mr. President, one of President Bush's clearest election mandates was to fight violent crime in America. The problem continues to haunt us, and the President has submitted a strong and wise proposal in order to attack the problem, and I am proud to try to be a part of the solution.

By Mr. MCCONNELL:

S. 1226. A bill to provide a cause of action for victims of sexual abuse, rape, and murder, against producers and distributors of pornographic material; to the Committee on the Judiciary.

PORNOGRAPHY VICTIMS COMPENSATION ACT

Mr. MCCONNELL. Mr. President, I am introducing a bill today entitled the Pornography Victims Compensation Act.

Mr. President, more and more experts are telling us that involvement of teenagers in grotesque sexual crimes is the result of exposure to violent material at an earlier and earlier age. My bill would put some of the responsibility for this alarming trend where it belongs: on those who produce, distribute, and sell this kind of vile material. The bill would allow the victim of any sexual offense, whether it be rape or attempted rape or child sexual abuse, to sue the porn producers, distributors, and sellers for damages if they can prove that their sexually explicit material was the cause of the sexual crime committed against them.

Earlier this year, just before serial killer Ted Bundy was executed, Bundy granted a final interview to Dr. James Dobson of Focus on the Family. In this interview, Bundy said he expected to die and did not want to make excuses for the violent crimes he committed.

However, Bundy wanted the world to know that he, as well as numerous other violent criminals he met while in prison, all had one thing in common in their backgrounds—violent pornography. In fact, Mr. President, a 1988 study by the FBI of sexual homicides backs up Bundy's claim. It found that 81 percent of violent sexual offenders regularly used violent pornography—81 percent.

Those who make money from violent pornography and child pornography or simulated child pornography know exactly what they are doing. They know exactly who they are appealing to and what kinds of hideous, destructive feelings their material stimulates. Yet these producers and sellers continue to pump this disgusting slime into our society for one reason and one reason only. Not because they are expressing themselves in accordance with the first amendment, but because they want to turn a profit. The Pornography Victims Compensation Act simply makes these peddlers of pornography responsible for the risk posed by the hazardous materials they deal in—in the same way we make those who handle toxic waste liable if they dispose of such waste carelessly.

So the next time some pornographer wants to run a picture of a woman being tortured or cut up or an explicit sex scene with a child-like model, he will have to think twice about what this vile business is doing to society and how he is putting women and young children at risk. If we can just achieve that, Mr. President, we will be at least halfway along in halting the trend of young sexual violence, and we will be making a major step toward

ending the victimization of women that occurs in pornography and because of pornography in our society. I urge my colleagues to support this legislation. Even with the child care bill we are discussing on the floor today, this bill may be the most important thing we can do for our children.

Mr. President, rape, murder, and torture are usually associated with the ravages of war. For millions of Americans, these terms are synonymous with life in the United States.

Millions of Americans are raped, tortured, and murdered simply because they are female. Millions more suffer the terror of knowing they could be next. Babies, children, teenagers, young women, mothers, wives, sisters, daughters, and grandmothers all have been victims and could be victims. However, all Americans are victims in a society which allows, even actively protects, an industry based on the subjugation and degradation of women. I am speaking of the pornography industry.

The pornography industry trades in the systematic abuse of women. It also trades in the abuse of children. Pornography, particularly violent porn, promotes violence against women, and provides instruction and inspiration for the rape, torture, and murder of women. When efforts are made to protect women from the hostility of pornography, pornographers and their defenders invoke the first amendment guarantee of free speech. We are told that the right of free speech justifies the denigration and abuse of women. What this overlooks, however, is the motivation of pornographers—money. Pornography is commerce, not speech.

Mr. President, pornography fuels the sexual violence that is now pervasive in our society. Studies have shown a correlation between the consumption of pornography and the commission of violent sexual acts. Ted Bundy was a gruesome case in point. Researchers have found that exposure to pornography breeds increased tolerance for violent behavior against women, even among normal men. You have only to read and watch the news to know there is an epidemic of sexual violence in this country, directed primarily at women and children.

We cannot know the terror of women subject to the threat of sexual assault. For women, the fear of rape is a horrible fact of life. This fear accompanies them to the parking lot at night and does not fade until the backseat is checked, the doors are locked, and the car is moving. This fear strikes again with a sudden movement in the dark, the sound of a footstep, or creaking floorboards. Women live with this terror, every day and every night. One hundred and twenty-five million Americans are the victims of this incessant sexual terrorism—simply because they are women or girls.

Americans today have access in their homes, through cable television and video cassette recorders, to explicit sex and violence that Americans could not have imagined 20 years ago. Television is our window on the world, whether it is beamed in, wired in, or through a VCR. Is it any wonder children emulate what they see? Does anyone doubt that some children do emulate what they see?

A 28-year-old woman jogging in Central Park was raped and nearly beaten to death, by a group of boys aged 14 to 16 years old. In New Jersey, five teenage boys sexually assaulted a mentally retarded 17-year-old girl, and then planned a reenactment so that they could videotape it. In Los Angeles, a 12-year-old girl was kidnaped and assaulted over the next 4 days by dozens of teenage boys.

In South Carolina, a 13- and a 14-year-old boy were charged with raping an 11-year-old girl in school. In Houston, three boys, aged 14, 15, and 16, abducted and raped a 26-year-old woman during a 3-day crime spree. In Massachusetts, a 13-year-old girl walking through a park with a girlfriend was attacked by five boys no older than 16. In Detroit, an 11-year-old boy and his 15-year-old companion were charged with the rape of a 2-year-old girl. Afterwards, they left her in a dumpster. Strangers are not the only enemies of women: so-called "date-rape" is now one of the most common sexual crimes.

We are outraged when passengers on an airplane are held hostage, and when we are inconvenienced by security measures to prevent its recurrence. We should be appalled and furious that tens of millions of Americans are held hostage by the fear of sexual assault. We should be horrified that so many are sexually assaulted. And we should do something to stop it.

Last year, over 90,000 rapes were reported in this country, and law enforcment officials say that figure is an understatement. For many rape victims, the justice system is a continuum of the pain, degradation, and humiliation of the rape itself. This ordeal often deters victims from reporting the rape and pressing for conviction; so rapists are free to rape again. The victims are left with physical and emotional pain which they will suffer for the rest of their lives. There is no justice for these Americans. They have no legal recourse other than a justice system which frequently lets criminals free.

The Pornography Victims Compensation Act would give women and other victims of sexual abuse a recourse against its instigators. It provides a cause of action for those who are victims of sexual abuse against pornography distributors, sellers, and exhibitors, if the victim can show a link between the crime and specific pornography.

A study performed by the Michigan State Police, of 48,000 sexual crimes over a 20-year period, found that pornography was used just prior to or during the commission of the offense in 41 percent of those crimes. Some sexual abusers use pornography to plan the offense, the victims, and the setting. Other use it to psyche themselves up for the crime. Pornography is a blueprint for some sexual abusers and an inspiration for others. In such cases, pornographers should be held accountable for their complicity in these sexual crimes. The victims and their guardians and estates should have the right to pursue compensation for their injuries and suffering from those who assisted in the commission of the offense.

I fully expect to hear a lot about the right of free speech in response to this bill. I will in turn respond that my overriding concern is the right of women and children to life and liberity. I will fight for their right to live free of terror and abuse. I will not sacrifice their rights so that pornographers can profit from their victimization.

I implore my colleagues to join me in providing an opportunity for justice for the victims of sexual abuse. All that is necessary for the triumph of evil is for good men and women to do nothing. Let us do something. Let us give Americans the opportunity to do something about the sexual abuse which is inflicted on them.

Mr. President, I would like to thank Catharine MacKinnon, a professor at Yale Law School, for her efforts to stop the sexual abuse of women by pornography. I would also like to thank Page Mellish of Feminists Against Pornography, for her work and dedication to this cause. These women have worked for years to bring attention to the harm caused by violent and abusive pornography. They have braved the verbal barrage of those with a stake in maintaining the status quo. They have persevered in the fact of ignorance, apathy, and special interests.

Mr. President, I ask unanimous consent that the text of the bill and a summary of its provisions be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 1226

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Pornography Victim's Compensation Act of 1989".

FINDINGS AND PURPOSE

SEC. 2. (a) The Congress finds and declares that—

(1) protecting freedom of speech, within the bounds of safety to individuals and society, is essential to the preservation of a just and free society;

(2) consistent with the constitutional protection of freedom of speech, the State has a legitimate interest in restricting explicit material, if there is a danger of harm or actual harm to individuals or society, such as the sexual exploitation of children by child pornography, the invasion of privacy

and the home by indecent broadcasts, or the promotion of rape and sexual homicide by violent sexual material;

(3) the Attorney General's Commission on Pornography in 1986 found clinical and experimental evidence of a casual relationship between exposure to sexually explicit materials and sexual aggression, including the commission of unlawful sexual acts;

(4) the Attorney General's Commission on Pornography also found evidence that sexually explicit material need not be legally obscene to stimulate anti-social and potentially unlawful sexual aggression, if the material presents violent acts in a clear sexual context, or the sexual abuse of children;

(5) behavioral studies of serial murderers conducted by the Federal Bureau of Investigation have revealed a strong correlation between heavy exposure to violent sexual material and violent serial criminality;

(6) investigations conducted by the Child Pornography and Protection Unit of the United States Customs Service have revealed a nearly absolute correlation between heavy consumption of child pornography and child sexual abuse, including the use of child pornograpy to entrap children into the performance of sexual acts;

(7) recent psychological studies indicate a correlation between the growing number of children and youths who commit rape and other violent sexual offenses, and the declining age of first exposure to sexually explicit materials;

(8) sexual crimes such as rape and child abuse usually leave life-long psychological scars that may prevent the victim and his or her family from leading normal, fulfilled lives;

(9) the State has a legitimate interest in protecting its citizens, including children, from sexual crimes and in preventing such crimes through reasonable, effective, and constitutional means; and

(10) the State has a legitimate interest in providing adequate compensation to the victims of sexual xrimes for their physical injuries, complete medical and pyschologial treatemtn, and continuing pain and suffering.

(b) It is the purpose of this Act to require the producers, distributors, exhibitors, and sellers of sexually explicit material to be jointly and severally liable for all damages resulting from any sexual offense that was at least partially caused by the sexual offender's exposure to the sexually explicit material.

CAUSE OF ACTION

SEC. 3. (a) Notwithstanding any other provision of law, a civil action may be instituted in an appropriate United States district court against a producer, distributor, exhibitor, or seller of sexually explicit material, pursuant to the provisions of this Act, by—

(1) a victim of a rape, sexual assault, or sexual crime as described under the relevant State or Federal law, whether or not such rape, assault, or crime has been prosecuted or proven in a separate criminal proceeding,

(2) the estate of such a victim, or

(3) the guardian or survivors of any such victim.

(b) To recover pursuant to the provisions of this Act, the individual bringing such action must prove, by a preponderance of the evidence, that—

(1) the victim was a victim of a rape, sexual assault, or sexual crime, as defined under the relevant State or Federal law, whether or not such rape, assault, or crime has been prosecuted or proven in a separate criminal proceeding;

(2) the material is sexually explicit in nature;

(3) the material was a proximate cause of the offense, by influencing or inciting the sexual offender to commit the offense perpetrated against the victim;

(4) the defendant is a producer or distribution of the material or exhibited or sold the material to the sexual offenders;

(5) the producer, distributor, exhibitor, or seller of the material knew or should have known that such material was sexually explicit.

(c) For purposes of this Act, the finder of fact may reasonably infer that the sexually explicit material was a proximate cause of the offense, by influencing or inciting the offender to commit the offense if any of the following are found—

(1) unusual similarities between the acts described or depicted in such material and the actual offense;

(2) testimony of the offender to the effect that such material influenced or incited the commission of the offense; and

(3) testimony of experts who have examined the offender, to the effect that such material influenced or incited the offender to commit the offense.

(d) Any person who has brought an action pursuant to the provisions of this Act and has met the requirements of the provisions of this Act shall be awarded economic damages and compensation for pain and suffering as well as reasonable attorney's fees and costs of the suit.

(e) In determining whether the sexually explicit material was a proximate cause of the offense, by influencing or inciting the offender to commit the offense, the finder of fact shall consider all relevant information, including but not limited to—

(1) possession by the sexual offender of the material produced, distributed, exhibited, or sold by the defendant;

(2) whether such material depicts or describes violent behavior or acts;

(3) whether such material depicts or describes children or childlike subjects participating in sexual activity; and

(4) whether any language or matter contained in such material would tend to promote violent sexual acts or the sexual abuse of children or others.

(f) Any action commenced under this section shall be forever barred unless the complaint is filed within 6 years after the right of action first accured or, in the case of a person under a legal disability, not later than 3 years after the termination of such disability.

INJUNCTIVE RELIEF

SEC. 4. (a) If an action has been brought pursuant to section 3 and the court in such action found, by a preponderance of the evidence, that the material influenced or incited the sexual offender to commit an offense perpetrated against the victim as described in section 3(b)(4), a proceeding to enjoin, in whole or in part, the production, distribution, exhibition, or sale of any such material may be brought in the appropriate court.

(b) The proceedings for an injunction described in subsection (a) shall be conducted in accordance with the Federal Rules of Civil Procedure.

(c) An order granting an injunction shall set forth the reasons for its issuance; shall be specific in terms; shall describe in reasonable detail, and not by reference to the complaint or other document, the act or acts sought to be restrained; and is binding only upon the parties to the action, their officers, agents, servants, employees, and attorneys, and upon those persons in active concert or participation with them who receive actual notice of the order by personal service or otherwise.

DEFINITIONS

SEC. 5. For the purposes of this Act, the term—

(1) "sexually explicit" describes any material that graphically depicts or describes any of the following acts—

(A) sexual intercourse, including but not limited to genital-genital, oral-genital, anal-genital, or oral-anal, whether between persons of the same or opposite sex;

(B) bestiality;

(C) stimulation or penetration of the genitals by inanimate objects;

(D) masturbation;

(E) lascivious exhibition of the genitals of any person; or

(F) sadistic or masochistic abuse, including but not limited to torture, dismemberment, confinement, bondage, beatings, or bruises or other evidence of physical abuse, which are presented in a sexual context or which appear to stimulate sexual pleasure in the abuser or the recipient of such abuse, however

for the purpose of determining whether material shall give rise to a cause of action under this Act, "sexually explicit" is not meant to describe material that contains a depiction or description of any of the above acts, where such depiction or description is an isolated passage in material that otherwise does not contain sexually explicit matter;

(2) "violent describes any acts or behavior, or any material that depicts or describes such acts or behavior, in which women, children, or men are—

(A) victims of sexual assaults or sexual crimes such as rape, sexual homicide, or child sexual abuse;

(B) penetrated by animals or inanimate objects; or

(C) tortured, dismembered, confined, bound, beaten, or injured, in a context that makes these experiences or indicates that the victims derive sexual pleasure from such experiences.

SUMMARY OF THE PORNOGRAPHY VICTIMS COMPENSATION ACT OF 1989

VICTIMS' RIGHT OF ACTION

The bill would give a private right of action to victims of sexual crimes and their guardians and estates. It would allow them to sue the producers, distributors, exhibitors, and sellers of pornographic material, if the person bringing suit can prove that the defendant's material at least influenced or incited the sexual offender to commit the offense against the victim.

ELEMENTS OF THE CAUSE OF ACTION

In order to recover damages, the person bringing suit would have to prove by a preponderance of the evidence, that:

(1) the victim was a victim of a sexual crime, as defined by state or federal law, whether or not such crime has been prosecuted or proven in a separate criminal proceeding;

(2) the material is sexually explicit;

(3) the defendant knew or should have known that the material is sexually explicit; and

(4) the material was a proximate cause of the offense, by influencing or inciting the sexual offender to commit the offense against the victim.

INFERENCE OF CAUSATION

The finder of fact may reasonably infer that the sexually explicit material influenced the commission of the offense if:

(1) there are unusual similarities between the actual crime and certain acts described or depicted in the material;

(2) the sexual offender testifies that the material did in fact influence or incite him to commit the offense; or

(3) an expert who has examined the offender testifies that the material influenced or incited the commission of the offense.

DAMAGES AND LIABILITY

If the person bringing suit meets the requirements of proof, he or she is entitled to full recovery for economic loss, pain and suffering, and attorneys' fees. The producer, distributor, exhibitor, and seller of the material each shall be held jointly and severally liable for the damages.

STATUTE OF LIMITATIONS

The Act imposes a statute of limitations, barring suits more than six years after the right of action accrued, or three years after the person bringing suit becomes eligible to sue.

By Mr. BINGAMAN (for himself, Mr. MITCHELL, Mr. GLENN, Mr. PELL, Mr. NUNN, Mr. MCCAIN, Mr. BRADLEY, Mr. DECONCINI, Mr. LIEBERMAN, Mr. CONRAD, Mr. LUGAR, and Mr. KENNEDY):

S. 1227. A bill to amend the Arms Export Control Act and the Export Administration Act of 1979 to restrict proliferation of missiles and missile equipment and technology; to the Committee on Foreign Relations.

MISSILE CONTROL ACT OF 1989

Mr. BINGAMAN. Mr. President, I rise today to introduce legislation to control the spread of ballistic and cruise missiles around the globe. The President and the Vice President have correctly identified missile proliferation as one of the gravest threats to international stability. An interagency review is currently underway to try to come up with a policy for strengthening missile nonproliferation.

Simultaneously, the Congress has been undertaking a review of this crucial issue. A congressional research seminar was held in March under the sponsorship of Congressman BERMAN and myself. The Defense Industry and Technology Subcommittee of the Senate Armed Services Committee and the Senate Governmental Affairs Committee held hearings last month. The Foreign Relations and Banking Committees also have focused attention on the proliferation issue. The Senate Appropriations Committee included in the dire emergency supplemental approriations bill a provision, authored by Senator DECONCINI, relating to missile proliferation.

The bill my cosponsors and I introduce today is the culmination of several months of effort and represents our best judgment on how to proceed in this area. I particularly appreciate the assistance that I have received from Vicki Huddleston, an APSA congressional fellow working on my staff. I also want to thank Bob Bell of the Armed Services Committee staff, Randy Rydell of the Governmental Affairs Committee staff, Steve Polanski of the Foreign Relations Committee staff, and Bob Shuey of the Congressional Research Service for their generous support.

Mr. President, I am delighted that Senators MITCHELL, GLENN, LUGAR, PELL, NUNN, MCCAIN, BRADLEY, DECONCINI, LIEBERMAN, KENNEDY, and CONRAD are joining me as original cosponsors of this measure. They and their staffs have worked closely with me in the development of this legislation and I look forward to their continued support as we seek to have this legislation become law.

Mr. President, ever since World War II, we and our allies have sought to prevent future wars of more terrible destruction. Throughout this period the United States has been a leader in this quest. We recognized the terrible threat of nuclear destruction and took strong and effective measures to prevent that threat from becoming a reality. In the 1960's we negotiated the Nuclear Non-Proliferation Treaty. Following the Indian nuclear test of 1974, we initiated the London Nuclear Suppliers Group to augment the NPT controls. The Soviets were a key member of that group. The Congress played a vital role by enacting the Nuclear Non-Proliferation Act of 1978. But with time our defenses against the proliferation of weapons of mass destruction have not kept up with the growing threat. Now, we confront a more dangerous world in which unstable and newly emergent countries deploy the most malevolent of the world's weapons.

If we are concerned about this new world; if we care about peace; if we want a better future for our children then we must once again lead our allies and, indeed, all nations in search for an end to the proliferation of nuclear, chemical, and biological weapons and the missile systems that can most effectively deliver these weapons to their targets. The bill we are introducing today deals with the missile proliferation threat.

Mr. President, we can begin to improve multilateral cooperation by encouraging stricter adherence to the Missile Technology Control Regime [MTCR]. Since its adoption in 1987 by the U.S. and six close allies, some transfers of missile equipment and technology have been denied to unstable regions and countries. But overall Western missile equipment and technology has continued to flow into the Third World.

A major West German firm, Messerschmitt-Boelkow-Bolhm, [MBB] and SNIA-BPD, an Italian firm, both have provided critical technology to Argentina's Condor II ballistic missile program. MBB, according to the West German news magazine Der Spiegel, also supplied missile technology to Iraq and Egypt. A major French company, SAGEM, allegedly supplied Brazil with missile technology.

To their credit, American companies, unlike some of their European counterparts, have not purposefully violated MTCR guidelines. But the failure of U.S. Government agencies to strictly observe MTCR obligations and inadequate referral and cooperation among these agencies has resulted in the transfer of American missile related technology to countries intent upon developing intermediate range ballistic missiles.

Even if the MTCR were strictly observed by its members, missiles and missile equipment and technology would continue to be transferred by Communist countries and other nonadherents. The Soviet Union, China, and North Korea are major suppliers of ballistic missiles to the Middle East. China sold the Saudis intermediate range ballistic missiles, and supplied the Iranians with missiles and other weapons throughout the Iran-Iraq war. More advanced developing countries now seek to develop ballistic missiles for export. In return for funding Argentina's Condor II project, Egypt and Iraq expect to buy the missiles or adapt the technology for their own uses. China is negotiating an agreement to supply Brazil with powerful long-range rockets. Brazil, Argentina, North Korea, and China are all developing missiles for their export markets.

CIA Director William Webster testifying before a congressional committee said, "By the year 2000, at least 15 developing countries will be producing their own ballistic missiles." An unprecedented 20 countries may already be manufacturing chemical weapons, while at least 10 countries may be attempting to develop biological weapons. Over the past 15 years, the number of countries with nuclear weapons capability has almost doubled from the initial five with the addition of India, Israel, South Africa, and Pakistan. Several other countries are attempting to develop nuclear weapons capability.

Consider the current spread of ballistic missiles: An Iraqi ballistic missile, the al-Abbas, is capable of hitting both Jerusalem and Cairo. The Israeli Jericho II missile can strike Soviet territory. Catching the world by surprise, the Saudis last year acquired Chinese East Wind missiles, with the range to reach any target in the Middle East, and even into Southern Europe. India and Pakistan are determined to join the missile capable countries, as are Brazil and Argentina. Yet, barring a preemptive strike, there are no effective defenses against these weapons once launched.

Mr. President, the convergence of missiles and chemical and nuclear weapons in the Third World puts the means of massive destruction not only in more hands, but it puts them into the hands that are most likely to use them. Ironically, while the INF Treaty embodied the desire of the West and the East to reduce the danger of missile attack, the missiles most in demand throughout the Third World are exactly those that will be de-

stroyed under the INF Treaty. For too long we have concentrated solely on the Soviet threat. Now, it is urgent that we expand our security strategy to encompass the Third World.

We should not delude ourselves by thinking that these weapons of mass destruction will not be used. The Iran-Iraq war produced an intensive arms race in the Middle East. The protagonists of that war, as well as Libya, Egypt, and Syria are racing to obtain a poor man's atom bomb, a ballistic missile armed with a chemical warhead. The prospect of the Qadhafis of the world acquiring ballistic missile technology, and mating long-range missiles with a growing chemical capability, is real. Because there is no effective defense against missile attack, governments are increasingly inclined to strike first to prevent a neighbor from developing its own missile capability. In fact, the likelihood that ballistic missiles armed with chemical or biological warheads will be used is directly proportionate to the competition for these weapons.

If the United States does not take the lead in controlling missile proliferation, there will be no limit to the spread of these weapons. China, Argentina, and Brazil will continue to develop and sell their missiles; private companies in the West, attracted by big profits will set up front companies that will circumvent lax export restrictions; and the Soviet bloc will supply their clients. All too soon every major and most intermediate regional powers will have both chemical weapons and ballistic missiles. Unfortunately, these systems will not be connected to elaborate and expensive command, control, communications and intelligence systems which only the superpowers can afford. Such missiles are likely to prove inviting targets in crises with neighbors and in internal revolts. Nothing could be more destabilizing.

Mr. President, the legislation that I and my colleagues are introducing today provides a comprehensive strategy for restricting the transfer of ballistic and cruise missiles. If passed, it will allow the United States to take the lead in restricting the development and transfer of intermediate range ballistic and cruise missiles. If passed, in combination with legislation to control nuclear, chemical and biological weapons, it will restore to the United States the mantle of leadership toward a safer world.

This legislation is modest, but it does what is needed. It improves export controls and enforcement; it takes a global approach to enforcement which will not disadvantage American industry. It provides sanctions calibrated to the degree of violation, which are sufficiently strict to discourage countries and companies from cheating by denying American missile equipment and technology.

It allows the United States to take the lead in seeking international cooperation in restricting the transfer of ballistic and cruise missiles. It re-enforces U.S. adherence to the Missile Technology Control Regime, MTCR, encouraging the administration to seek a common and broader interpretation of MTCR provisions and more adherents to the MTCR.

It mandates cooperation among the executive agencies responsible for missile control, but it does not add layers of bureaucracy or slow the process for review of export licenses.

Specifically, the Missile Control Act of 1989 would:

Outline American policy for restricting the global spread of missiles and missile equipment and technology, including the strengthening and expansion of the Missile Technology Control Regime [MTCR];

Deny for a period of 2 to 5 years export licenses and government contracts for American missile equipment and technology to private firms and to countries that have transferred missile equipment and technology in violation of MTCR guidelines;

Prohibit the sale of American missile equipment and technology to countries which support terrorism and to offensive missile development facilities in countries which transfer these missiles to nonadherents of the MTCR;

Improve cooperation and license referral among the Departments of State, Defense, and Commerce;

Mandate annual reports to Congress on the development and transfer of missiles and missile equipment and technology, diplomatic efforts to stop proliferation, and export licenses issued for missile equipment and technology.

If the administration is serious about the President's commitment to control missile proliferation, this legislation sets the agenda. If the administration is serious about keeping missiles out of the hands of unstable nations and terrorist groups, this legislation will help it do that. If the administration is serious about keeping America safe, this legislation places appropriate restrictions on a set of potentially destabilizing technologies and thereby promotes a more peaceful world.

Nonproliferation of missiles is not a partisan issue. Rather it is an issue of the gravest concern to every one of us. The decision before Congress is not whether we should pass legislation to prevent missile proliferation, but what type of legislation will best ensure the effective implementation of a missile nonproliferation policy.

Mr. President, I submit that this legislation, the Missile Control Act of 1989, is the best strategy for restricting the spread of ballistic and cruise missiles around the globe. I ask unanimous consent that the full text of the legislation be printed in the RECORD following my remarks.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1227

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Missile Control Act of 1989".

SEC. 2. FINDINGS.

The Congress finds that—

(1) the global spread of weapons of mass destruction, accompanied by the proliferation of sophisticated missile delivery systems and missile technology, poses a serious threat to stability and peace in many regions;

(2) the Missile Technology Control Regime (MTCR) was established in 1987 to restrict such proliferation;

(3) notwithstanding the existence of the MTCR, companies situated in countries which are adherents to the MTCR have transferred, in violation of the principles of that agreement, missile equipment and technology to nonadherents;

(4) the MTCR is further weakened as it does not include the Soviet Union, China, Argentina, North Korea, Brazil, and certain Soviet-bloc countries, which have transferred missiles and missile technology to countries without this capability;

(5) missile proliferation could be better controlled if MTCR adherents shared a common interpretation of the MTCR principles and strictly enforced its provisions;

(6) the spread of intermediate range missiles can be effectively restricted only if all countries involved in the transfer of such missiles and technology agree to restrict such transfers;

(7) coordination and cooperation between the agencies charged with responsibility for carrying out United States policy on missile control is inadequate; and

(8) greater consultation between the President and the Congress is needed to ensure that Congress is being kept fully informed about missile proliferation and development, and ongoing diplomacy to halt missile proliferation.

SEC. 3. PURPOSE.

It is the purpose of this Act—

(1) to restrict the transfer and development of missiles and missile equipment and technology;

(2) to encourage greater international participation in and adherence to the Missile Technology Control Regime (MTCR) of 1987;

(3) to seek bilateral and multilateral agreements similar to the MTCR;

(4) to encourage countries without missiles to forego the development or acquisition of these weapons; and

(5) to mandate procedures which would permit the United States to take the lead in restricting the spread of missiles and missile equipment and technology by requiring stricter enforcement procedures and improved cooperation among the responsible agencies.

SEC. 4. AMENDMENT TO THE ARMS EXPORT CONTROL ACT.

The Arms Export Control Act is amended by inserting after chapter 6 (22 U.S.C. 2795b. et seq.) the following new chapter:

"CHAPTER 7—CONTROL OF MISSILES AND MISSILE EQUIPMENT AND TECHNOLOGY.

"SEC. 71. POLICY.—It is the policy of the United States to improve the control and reduce the proliferation of missiles and missile equipment and technology by taking all appropriate measures—

"(1) to improve enforcement and seek a common and broader interpretation among

Missile Technology Control Regime (MTCR) members of MTCR principies;

"(2) to extend MTCR membership to nonadherents and to explore with other nonadherents which export missiles and missile equipment and technology the negotiation of bilateral and multilateral agreements which would support the principles of the MTCR or, at a minimum, not undercut the MTCR;

"(3) to consider the organization of an international conference to review measures which would reduce the proliferation of missiles and missile equipment and technology;

"(4) to consider an international treaty which prohibits the global spread of missiles that are subject to MTCR guidelines; and

"(5) to seek through diplomatic efforts peaceful resolution of regional differences, thereby reducing the perceived need for missile forces.

"SEC. 72. DENIAL OF THE TRANSFER OF MISSILE EQUIPMENT AND TECHNOLOGY.—(a) Except as provided in subsection (b), the following shall apply:

"(1) If the President determines, after consultation with the Secretary of State and the Secretary of Defense, that a domestic firm has transferred, in violation of the MTCR guidelines, after the date of enactment of this Act—

"(A) missile equipment and technology (other than MTCR category I), then the Secretary of State and the Secretary of Defense shall deny, for a period of two years, government contracts relating to missile equipment and technology and export licenses for any transfer of missile equipment and technology to such firm; and

"(B) MTCR category I missile equipment and technology, then the Secretary of State and the Secretary of Defense shall deny, for a period of five years, government contracts relating to missile equipment and technology and export licenses for any transfer of missile equipment and technology to such firm.

"(2) If the President determines, after consultation with the Secretary of State and the Secretary of Defense, that a foreign firm or state entity, in violation of the MTCR guidelines, has transferred, after the date of enactment of this Act—

"(A) missile equipment and technology (other than MTCR category I), then the Secretary of State and the Secretary of Defense shall deny, for a period of two years, government contracts relating to missile equipment and technology and export licenses for any transfer of missile equipment and technology to that foreign firm or State entity; and

"(B) MTCR category I missile equipment and technology, then the Secretary of State and the Secretary of Defense shall deny, for a period of five years, government contracts relating to missile equipment and technology and export licenses for any transfer of missile equipment and technology to that foreign firm or State entity.

"(b) The prohibitions contained in subsection (a) shall not apply if the President, after consultation with the Secretary of State and the Secretary of Defense, determines and so certifies to Congress that the export license or government contract would not be inconsistent with the purpose of the Missile Control Act of 1989.

"SEC. 73. ANNUAL REPORT ON MISSILE CONTROL.—

"(a) CONTENTS OF REPORT.—Not later than February 1 of each year, the Secretary of State shall submit to the Congress a report on transfers of missile equipment and technology to MTCR nonadherents that shall include—

"(1) the status of missile development programs, as defined in the MTCR, of all nonadherents, except the Soviet Union, which have transferred or sold to other countries, or are developing, missile systems and, in the case of the Soviet Union, a description of all missile exports, as defined in the MTCR, to other nonadherents;

"(2) a description of the assistance provided by individual Communist-bloc countries and non-Communist countries and companies, including MTCR adherents, to MTCR nonadherents in the development of missile systems, as defined in the MTCR;

"(3) the number, on a country-by-country basis, of validated export licenses, technical assistance agreements, manufacturing licensing agreements, and letters of offer and acceptance approved for the transfer of missile equipment and technology to MTCR nonadherents;

"(4) a description specifying the type of equipment, the end-user, and the purpose for which it will be used, of missile equipment and technology transfers to MTCR nonadherents which require assurances from the recipient; and

"(5) a description of diplomatic measures that the United States has taken or that other MTCR members have made to the United States with respect to activities of private firms and countries suspected of violating the MTCR.

"(b) TYPE OF REPORT.—The President shall make every effort to submit all of the information required by subsection (a) in unclassified form. Whenever the President submits any such information in classified form, he shall submit such classified information in an addendum and shall also submit simultaneously a detailed summary, in unclassified form, of such classified information.

"(c) CONSTRUCTION.—Nothing in this section—

"(1) requires the disclosure of information in violation of Senate Resolution 400 of the Ninety-fourth Congress or otherwise alters, modifies, or supersedes any of the authorities contained therein; or

"(2) shall be construed as requiring the President to disclose any information which, in his judgment, would seriously—

"(A) jeopardize the national security of the United States;

"(B) undermine existing and effective efforts to meet the policy objectives outlined in section 71 of this Act; or

"(C) compromise sensitive intelligence operations, with resulting grave damage to the national security interests of the United States.

"SEC. 74. DEFINITIONS.—For purposes of this chapter—

"(1) the term 'Missile Technology Control Regime' or 'MTCR' means the agreement, as amended, between the United States, the United Kingdom, the Federal Republic of Germany, France, Italy, Canada, and Japan, announced on April 16, 1987, to restrict sensitive missile-relevant transfers based on an annex of missile equipment and technology; and

"(2) the terms 'missile' and 'missile equipment and technology' mean those items listed in the MTCR Equipment and Technology Annex, as amended.".

SEC. 5. AMENDMENTS TO THE EXPORT ADMINISTRATION ACT OF 1979.

(a) REVIEW OF MTCR LICENSE APPLICATIONS.—Section 6(a)(5) of the Export Administration Act of 1979 (50 U.S.C. App. 2405(a)(5)) is amended—

(1) by inserting "(A)" immediately after "(5)"; and

(2) by adding at the end thereof the following:

"(B)(i) The Secretary shall direct the Office of Export Licensing to refer all license applications for the export of items on the MTCR annex, excluding those directed to MTCR adherents and those that deal with NATO programs of cooperation, to the Secretary of State and, if so requested, to the Secretary of Defense.

"(ii) The Secretary shall, in consultation with the Secretary of State and the Secretary of Defense, establish a procedure that would permit the Secretary of State and the Secretary of Defense to have access to the Office of Export Licensing's computer lists of license applications for missile equipment and technology.".

(b) EXPORT LICENSING OF CERTAIN MISSILE EQUIPMENT AND TECHNOLOGY.—Section 6 of the Export Administration Act of 1979 (50 U.S.C. App. 2405) is amended—

(1) by redesignating subsections (k) through (p) as subsections (l) through (q), respectively; and

(2) by inserting after subsection (j) the following:

"(k) CONTROLS ON EXPORTS OF MISSILE EQUIPMENT AND TECHNOLOGY.—

"(1) IN GENERAL.—Missile equipment and technology, other than missile equipment and technology on the United States Munitions List, may be exported from the United States only pursuant to a validated export license.

"(2) DENIAL REQUIRED.—After enactment of this subsection, the Secretary shall not issue an export license for missile equipment and technology to which this subsection applies—

"(A) if the proposed exporter or recipient of the export has transferred, after the date of enactment of this subsection, and within the 2-year period preceding the application for the license, missile equipment and technology in violation of the MTCR guidelines;

"(B) if the proposed recipient of the transfer is a facility of a MTCR nonadherent that is designed to develop offensive missiles (as defined in the MTCR) for export to MTCR nonadherents; or

"(C) if the proposed recipient or end-user is located in a country which the Secretary of State has determined, for purposes of subsection (j) of this section, has repeatedly provided support for acts of international terrorism.

"(3) EXCEPTIONS.—Notwithstanding paragraph (2), the Secretary may issue a license for an export of missile equipment and technology to which this subsection applies if, after consultation with the Secretary of Defense, the Secretary determines and so certifies to the Congress that the issuance of the export license would not be inconsistent with the purpose of the Missile Control Act of 1989.".

(c) REPORT.—Section 14 of the Export Administration Act of 1979 (50 U.S.C. App. 2413) is amended—

(1) by striking the section heading and inserting in lieu thereof "REPORTS";

(2) in subsection (a), by striking "CONTENTS" and inserting "ANNUAL REPORTS"; and

(3) by adding at the end thereof the following:

"(g) REPORTS ON CONTROLS OF MISSILE EQUIPMENT AND TECHNOLOGY.—Not later than February 1 of each year, the Secretary shall submit to the Congress a report setting forth with respect to the preceding calendar year—

"(1) the number, on a country-by-country basis, of requests for validated export licenses approved for missile equipment and technology to non-MTCR countries;

"(2) a description, specifying the type of equipment, the end-user, and the purposes

for which it will be used of export licenses approved for missile equipment and technology to MTCR nonadherents that required assurances from the recipient; and

"(3) the number, on a country-by-country basis, and description of requests or applications for missile equipment and technology export licenses that were referred to the Department of State and the Department of Defense.".

(d) DEFINITIONS.—Section 16 of the Export Administration Act of 1979 (50 U.S.C. App. 2415) is amended—

(1) by redesignating paragraphs (7) and (8) as paragraphs (8) and (9), respectively; and

(2) by inserting after paragraph (6) the following:

"(7) the terms 'MTCR', 'Missile Technology Control Regime', and 'missile equipment and technology' have the same meanings as in section 74 of the Arms Export Control Act;".

Mr. McCAIN. Mr. President, this bill is an important first step in strengthening our efforts to halt the proliferation of these missiles whose main purpose is the delivery of weapons of mass destruction.

Senator BINGAMAN has already spoken eloquently of the need to strengthen the missile technology control regime, and of the threat such missiles pose to world security. I believe that it is essential that we in the Congress act quickly and firmly to pass this bill, and to create a body of legislation that will deal with all aspects of the proliferation of weapons of mass destruction.

I also believe, however, that we must move beyond first steps. We must go further, and address both the problem of missiles and destabilizing offensive aircraft. Further, I believe we need to broaden the sanctions in this bill, and to establish suitable deterrents to persuade countries from importing such weapons and technology, and to indigenous efforts. I am working closely with Senator GORE and Congressman BERMAN on such legislation, as well as continuing to work with Senator BINGAMAN.

Proliferation is not a partisan issue. It is not a liberal issue of conservative issue. It is not a matter of contention between the President and the Congress.

Proliferation is now the greatest long-term security threat our Nation faces. The progress that East and West are making toward arms control still leaves much to be done, but I have increasing confidence that we will reduce the threats we have faced for nearly the last half century to manageable levels, and economic levels that act as a stimulus to progress, rather than as a threat to mankind's survival.

All of this progress, however, can be lost because of the actions of other states. We face the immediate and continuing risk that less developed states will start a new arms race of their own.

It is bad enough that far too many of the world's poorer states already mortgage their future by spending far more than they can afford on conventional arms. It will be far worse if they indulge in a global arms race in long-range missiles, in long-range bombers, in chemical weapons, in biological weapons, in nuclear weapons, and in the kind of advanced conventional weapons that can be used to cripple national economies and infrastructures.

I cannot believe that a world filled with regional conflicts, and new and ancient hatreds, can survive such proliferation. There simply are too many regimes whose leadership is as indifferent to the fate of other states as it is to the fate of their own people. Given the economic and political pressures on the developing world, even today's most stable regimes may be replaced with tomorrow's extremists.

Today's limited steps toward proliferation may be replaced with a race toward every possible form of proliferation. The end result is virtually certain to be the use of weapons of mass destruction and genocide. If not tomorrow, or next year, during the next decade or the decade after that.

Even if we in the United States, the West, or the first and second worlds, can escape the direct costs of such an arms race, we cannot escape the constant threat it will pose to our strategic interests, our military forces, and eventually to our populations. The world is now a very small place, and every advance in weapons is making it smaller. It would be an unspeakable tragedy if we were to resolve the tensions between East and West only to see them reoccur in the Third World.

This is why I believe we need to act quickly and decisively on this bill, and on the bills that Senators DOLE and PELL have put down relating to chemical and biological weapons. It is why I believe that additional legislation will be needed to expand our efforts to halt the proliferation of missiles and destabilizing aircraft, and why I believe we cannot simply single out a few terrorist or user countries, or ignore the grim reality that this is a problem that primarily affects less developed states. This problem threatens our very future, and we cannot let short term expediency blind us to the fact.

● Mr. GLENN. Mr. President, I rise to announce my support for the Missile Control Act of 1989, a bill that was introduced today by my friend and colleague from New Mexico, Senator BINGAMAN.

Before I address the substance of this bill, I want to commend Senator BINGAMAN for his diligent efforts in recent years to improve national and international controls over the proliferation of missiles that are capable of delivering nuclear, chemical or biological weapons. There is no question in my mind that the problem he is addressing is one that threatens the security of all Americans, and there is also no question that Senator BINGAMAN has some creative ideas on how we can address this problem. I am proud to join his efforts here today.

The Committee on Governmental Affairs, which I chair, has held five hearings so far this year—four of which were held jointly with Senator NUNN's Permanent Subcommittee on Investigations—on the subject of the proliferation of chemical, biological, and nuclear weapons. Throughout these hearings, we heard testimony raising concerns about the proliferation not just of these specific weapons, but of the missile systems that are capable of delivering them. Clearly, existing controls need to be improved both nationally and internationally—and we need to act soon.

I am pleased to report that prospects appear good indeed for progress in this area—especially in light of the shared appreciation in both the Executive and Congress, and in both parties, about the gravity of the problems that are posed by missile proliferation.

On February 22 of this year, Rear Adm. Thomas A. Brooks, the Director of Naval Intelligence, testified before the Seapower Subcommittee of the House Armed Services Committee that, in his words—

> The most significant event in the ballistic missile arena in 1988 was the Saudi purchase of the CSS-2 IRBM system from the PRC . . . In one stroke, Riyadh acquired a system which, when completely installed, could have a range of 1500 nautical miles and potentially will be able to threaten Iran, the Soviet Union, India, and Israel, among others.

Admiral Brooks provided additional details about the proliferation of ballistic missiles, including: Iraq's successful extension of the range of its Soviet-supplied Scud missiles; Israel's test launches of its 800-nautical-mile-range Jericho II missile; India's test of an indigenously produced short range ballistic missile—the "Prithvi"—with a range of 135 nautical miles; Pakistan's recent testing of its own SRBM which could be operational by the early 1990's; and last but certainly not least, China's efforts to market its "M" series of SRBM's, one of which—the M-9—he said "is certain to find clients in a number of Middle Eastern/South Asian states."

Since Admiral Brooks' statement, we witnessed India's test on May 22 of an intermediate range ballistic missile, the Agni, with a range about 10 times that of the Prithvi. And just yesterday I read in the Washington Times an article claiming that South Africa may be preparing to test an intermediate range ballistic missile, allegedly developed with Israeli assistance, that is capable of carrying a nuclear warhead.

I ask unanimous consent to introduce into the RECORD at the end of my remarks the full text of that article.

The Director of Central Intelligence echoed many of Admiral Brooks' concerns in testimony before the Committee on Governmental Affairs on February 9 and May 18. At our May hearing, he chronicled the rapid progress

that many nations in Latin America, the Middle East and South Asia, and concluded with these heavy words:

We believe that the missile proliferation problem will affect every region of the world . . . It will become worse—and may never become better . . . [concluding that] Nuclear proliferation combined with the spread of chemical and biological weapons and the missiles to deliver weapons of mass destruction have the potential to place many regional conflicts on the brink of catastrophy.

We have every reason to take Judge Webster's concerns seriously. Mr. President, I ask unanimous consent to insert at this point in the RECORD a table summarizing some details about 22 ballistic missiles that are now under development or in service in 16 nations in the developing world.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

THE GLOBAL SPREAD OF BALLISTIC MISSILES—1989

Country	Missile	Producer	Status
	MIDDLE EAST AND AFRICA		
Egypt	Scud-B	USSR	In service.
	Badr-2000 (Condor II).	Egypt/Argentina	Under development.
Iran	Scud-B	USSR/N. Korea	In service.
	Unnamed	Iran/China	Uncertain.
Iraq	Scud-B	USSR	In service.
	Scud-B (Al Husayn).	Iraq-modified	Do.
	Scud-B (Al Abbas).	do	Do.
	SS-12	USSR	Do.
	Condor II	Argentina/Egypt with Iraq funding.	Under development.
Syria	Scud-B	USSR	In service.
Libya	do	do	Do.
Saudi Arabia	CSS-2	China	Do.
Israel	Jericho	Israel	Do.
	Jericho II	do	Possibly in service.
South Yemen	Scud-B	USSR	In service.
Afghanistan	do	do	Do.
	ASIA		
India	Prithvi	India	Under development.
	Agni	do	Do.
Pakistan	HATF-2	Pakistan w/China	Do.
Taiwan	Sky Horse	Taiwan	Do.
North Korea	Scud-B	N. Korea/Egypt	In service.
South Korea	NHK (mod.)	S. Korea	Do.
	SOUTH AMERICA		
Argentina	Condor II	Egypt/Iraq/ Argentina.	Under development.
Brazil	MB/EE series	Brazil	Do.
	SS series	do	Do.

Mr. GLENN. Mr. President, I have no doubt whatsoever that enactment of Senator BINGAMAN's bill will enhance our national security and reduce the risk of further proliferation of these nuclear-capable missiles.

The bill expresses strong support for the Missile Technology Control Regime [MTCR], which was negotiated in 1987 between seven nations that export missile technology, and seeks to strengthen this regime by expanded international cooperation.

The bill prohibits the transfer of American missile equipment and technology to private firms and to countries that have violated MTCR guidelines, and to countries that support terrorism or to countries outside the MTCR that pursue offensive missiles development facilities.

The bill reaffirms the leading roles of the Commerce and State Departments in implementing missile export controls, while improving cooperation and coordination between these Departments and the Department of Defense with respect to the sharing of knowledge about missile-related export sales.

The bill offers improved and reasonable executive reporting requirements to enhance Congress' awareness of current proliferation-related developments and our Nation's international diplomacy to halt the spread of these weapons.

Finally, and perhaps most importantly, the bill raises the national priority of our missile nonproliferation efforts, and sends a signal to other nations of our deep national commitment to these efforts.

I look forward to working with Senator BINGAMAN and his distinguished cosponsors to ensure speedy enactment of this legislation.

There being no objection, the article mentioned earlier was ordered to be printed in the RECORD, as follows:

[From the Washington Times, June 20, 1989]

SOUTH AFRICA ON THE BRINK OF BALLISTIC MISSILE TEST

(By Bill Gertz)

The South African government will soon test launch a new intermediate-range ballistic missile developed with the help of Israel, according to U.S. intelligence officials.

The missile is a modified version of Israel's Jericho II IRBM and was detected by U.S. intelligence agencies at Armaston, a test range on the coast of South Africa near Capetown, the officials said.

It is said to be in the final stage of development, and the first test launch could take place in the next several weeks over the Indian Ocean, said the officials, who requested anonymity.

The new missile has been under development since at least 1987 as a joint project of Israel and South Africa, the officials said.

They added that the missile will give South Africa the capability to launch a nuclear warhead against a target at least 900 miles away, the officials said.

Acquisition of the ballistic missile would give the Pretoria government the capability to deliver a nuclear warhead to targets among the so-called front-line states in Africa as far north as Angola and Tanzania.

The pending missile test has increased concern among officials at the CIA and Defense Intelligence Agency over the proliferation of IRBMs in areas of high geopolitical tension.

Both South Africa and Israel are believed to possess nuclear weapons.

Evidence of a South African nuclear bomb dates to Sept. 22, 1979, when a flash of light was picked up by a U.S. satellite and interpreted by many analysts to be a nuclear explosion. A second suspected explosion was recorded a year later.

A spokesman for the U.S. Arms Control and Disarmament Agency declined comment on the expected South African test launch.

A military attache at the South African Embassy said he was unaware of the IRBM project.

Yossi Gal, an Israeli Embassy press spokesman, declined to comment. But Mr. Gal noted that the Israeli government decided in March 1987 not to initiate any new defense contracts with South Africa.

Pressed for a specific response to the pending missile test, Mr. Gal said: "We don't make public comments on defense ties."

Another Israeli source said the U.S. government has been pressing the Israeli government for the past several years to limit its defense cooperation with South Africa because of American opposition to the latter's racial policy of apartheid.

Defense links between Israel and South Africa are said by U.S. officials to be very close on a wide range of military projects, however, despite Israeli promises to end all military cooperation by 1991.

U.S. intelligence agencies believe the new South African IRBM also will be used as a booster for launching photo-reconnaissance satellites into space.

Israel launched its first low-earth surveillance satellite in September and is developing a second generation of satellites scheduled for launch later this year.

The missile test facility in South Africa where the IRBM was spotted is said to be identical to the Israeli launch site where the satellite lift-off occurred in the Negev Desert, the officials said.

The booster for that launch was described in press accounts at the time as a multistage, long-range version of the Jericho II, known as the Shavit, or Comet.

By conducting the missile test in South Africa, the Israelis will be able to monitor their longer-range version of the Jericho II because of the vast adjacent ocean and desert test areas, the officials said.

Previous Israeli IRBM tests were conducted into the Mediterranean Sea, including a test last year of a Jericho II that traveled 510 miles, with a maximum possible range of 900 miles.

U.S. intelligence agencies believe the South African IRBM is either a Jericho II or a Comet and will not know for certain until after the missile is tested, the officials said. The Comet is believed to have a maximum range of more than 2,000 miles.

South Africa is also said to be cooperating with Israel in developing a photo-reconnaissance satellite, the officials said.

The two countries plan to launch the satellites to assist South Africa in monitoring the recently concluded agreement providing for the withdrawal of Cuban forces from Angola, the officials said.

CIA Director William Webster, in a series of speeches over the past several months, has indicated that the increase in ballistic missiles, coupled with the nuclear and chemical weapons programs in several developing countries, poses "new dangers to regional stability and to the interests of the United States."

"Another disturbing development we have seen is the outright transfer of complete missile systems from one country to another," Mr. Webster said in a March 30 speech, without elaborating.

Mr. Webster said the spread of ballistic missiles was a cause of concern for U.S. policymakers and intelligence officials because they increase the possibility that nuclear arms can be used in regional conflicts. At least 15 developing countries he did not identify by name will be producing their own ballistic missiles by the year 2000, he said.

Ronald F. Lehman II, director of the U.S. Arms Control and Disarmament Agency, told the Senate Government Affairs Committee last month that ballistic missiles "may give undue confidence to an aggression"

"Possession of nuclear-armed missiles by additional countries would create a grave threat to international security given the

level of international tension that exists in some regions, the limitations of command and control, and the proximity of the antagonists," Mr. Lehman said.

U.S. officials became increasingly concerned about the spread of IRBMs after Saudi Arabia acquired Chinese-made CSS-2 East Wind missiles last year.●

By Mr. HATCH:

S. 1228. A bill to provide for changes in the Federal firearms laws, to provide for the Federal death penalty, to make changes in certain criminal laws, and for other purposes; to the Committee on the Judiciary.

CRIME REDUCTION ACT

Mr. HATCH. Mr. President, I rise today to introduce the Crime Reduction Act of 1989.

When my colleagues examine my bill, they will discover that it is nearly identical to the President's proposal, the Comprehensive Violent Crime Control Act of 1989, which has recently been introduced. That is because I believe that most of what the President has included in his anticrime bill is good. Indeed, I suggested a number of these approaches when the Subcommittee on the Constitution considered gun control legislation earlier this year. I agree that we need to reinstate the Federal death penalty. We need drug testing of criminal defendants on postconviction release. We need to reform the exclusionary rule and habeas corpus proceedings. We need more prisons, prosecutors, and law enforcement agents. We need tougher measures against those who misuse guns.

I cannot support the President's bill in its current form, however, because I differ with the President with respect to some of his proposals regarding gun control. I believe that two provisions, in particular, do not belong in this legislation. These provisions will only punish law abiding gun owners, and will have little, if any, effect on violent crime. Consequently, I have introduced the Crime Reduction Act to reflect what I beleive to be the better approach to crime control.

Let me explain the changes that I have proposed to the President's bill. In his package, the President has proposed amendments to chapter 44 of title 18, United States Code, the Gun Control Act of 1968, prohibiting the domestic assembly of firearms that the Bureau of Alcohol, Tobacco, and Firearms has banned from importation because they have no "sporting" purpose. According to the administration's section-by-section analysis of the bill:

These amendments are designed to prevent the circumvention of the importation restrictions by simply importing the firearms in a disassembled form and assembling them in the United States using domestically manufactured or other frames or receivers capable of accepting the imported parts. The amendment does not impose any new import restrictions on parts themselves since there are legitimate reasons to import replacement parts for existing firearms. *Moreover, the amendment is not intended to impose any new standard on the types of firearms which can be manufactured domestically.* (Emphasis added.)

I believe, and I think that many would agree, that this section of the President's bill does, in fact, impose a new standard on the types of firearms which can be manufactured domestically. The section-by-section analysis refers to imported parts, but the actual language in the bill says nothing about imported parts. It bans the assembly, regardless of the origin of the parts, of any semiautomatic rifle or any shotgun which is identical to any weapon that has been banned.

I have already gone on record as opposing the reevaluation of imported semiautomatic firearms currently being conducted by the BATF. I believe it was a hasty and ill-informed decision to try and reduce some of the pressure that has been brewing regarding so-called assault weapons. This section of the President's bill only makes a bad decision worse. It imposes a domestic manufacturing ban on any firearm that the Secretary of the Treasury decides is identical to foreign semiautomatic firearms that he or she has also decided has no sporting purpose. And in the case of the current BATF review, these are weapons that at one time were determined to have a sporting purpose. Will the notion of what is a sporting purpose now change from administration to administration?

And finally, with respect to this provision, I suppose if someone wanted to be technical about the President's bill, it could be read to prohibit the reassembly of a gun that had been taken apart for cleaning purposes, even though it had been previously legally imported and is currently legally owned. My bill omits this section of the President's bill.

Title III of the President's bill proposes a prospective ban on the manufacture of ammunition clips and magazines which hold more than 15 rounds for demestic, nongovernment use. That title does permit the continued possession and sale of such clips that were lawfully owned before the bill becomes effective, but in order to transfer them to another party, they must be registered with the Secretary of the Treasury. For all intents and purposes, the President's bill proposes treating large ammunition clips as machineguns. Under this proposal, in order to transfer a large capacity clip, the transferor must obtain an indentification number for the clip; register the number, identification and address of the transferee with the Secretary; and pay a $25 transfer fee. The transferor and transferee may also be required to comply with any other regulations promulgated by the Secretary.

When I first reviewed proposals to limit or ban large capacity clips, I was skeptical as to their effectiveness in addressing violent crime because it takes so little time for a clip to be changed by someone who knows how to operate a gun. I concluded that banning large clips was not an answer to our crime problems. In my view, the President's proposal compounds the problem of focusing on clip size rather than criminals in this provision. Not only would his bill ban future production of these clips, but it requires the registration of existing clips. Now I don't know about most people, but I view such a proposal as a de facto registration of the gun that uses the clip. It seems only reasonable that if the Government knows where a particular clip is located, it will also probably find a corresponding firearm.

If my memory is correct, I believe that we have previously voted down firearm registration proposals at least three times—once during the consideration of the 1968 National Firearms Act, once again in 1978 when Congress rejected BATF's attempt to establish registration by regulation, and finally during the consideration of the Firearms Owners' Protection Act of 1986. I am strongly opposed to this registration requirement and a clip ban. I have also deleted this section of the President's bill from my bill.

Finally, unrelated to firearms, I have substituted S. 379, a bill I introduced earlier this year to eliminate the exclusionary rule in Federal criminal cases, in place of the President's proposal to revise the exclusionary rule. Rather than carving out a good faith exception to the exclusionary rule as the President would do, my proposal would eliminate the exclusionary rule in Federal criminal proceedings. This would permit the introduction of evidence which may have been obtained in violation of fourth amendment rights by Federal law enforcement officials in Federal criminal proceedings. In place of the exclusionary rule, to protect the rights of those charged with crimes, my proposal would provide a private right of action against the United States for actual and punitive damages which result from a search or seizure conducted in violation of the fourth amendment.

I believe this exclusionary rule proposal will more appropriately address the problems that have historically occurred as a result of evidence that has been excluded for what are often technical or good faith mistakes during criminal investigations.

Mr. President, I believe that this crime package is a responsible approach to the problem of violent crime. As I stated at the outset, most of my bill is in complete agreement with the President's legislative package. I do believe, however, that by deleting the two gun provisions and changing the exclusionary rule proposal, this bill will help to reduce violent crime and protect the second amendment rights of law-abiding citizens. I ask my colleagues to give serious consideration to this proposal.

Mr. President, I ask unanimous consent that a copy of this bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1228

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Crime Reduction Act of 1989".

TITLE I—FIREARMS AND RELATED AMENDMENTS

SEC. 101. PROHIBITION AGAINST TRANSFERRING FIREARMS TO NONRESIDENTS.

Section 922(a)(5) of title 18, United States Code, is amended by striking out "resides" and all that follows through "(or other than that in which its place of business is located if the transferor is a corporation or other business entity);" and inserting in lieu thereof "does not reside in (or if the person is a corporation or other business entity, does not maintain a place of business in) the state in which the transferor resides;".

SEC. 102. COMMERCE NEXUS FOR TRAFFICKING IN STOLEN FIREARMS.

(1) Section (1) 922(j) of title 18, United States Code, is amended by striking out "or which constitutes," and inserting in lieu thereof "which constitutes, or which has been shipped or transported in,";

(2) Section 922(k) of title 18, United States Code, is amended by inserting "or to possess or receive any firearm which has had the importer's or manufacturer's serial number removed, obliterated, or altered and has, at any time, been shipped or transported in interstate or foreign commerce" after "altered".

SEC. 103. TECHNICAL AMENDMENTS.

(1) Section 923(d)(1)(B) of title 18, United States Code, is amended by stiking out "(h)" and inserting in lieu there of "(n)";

(2) Section 925(a)(1) of title 18, United States Code, is amended by inserting "possesssion," before "or importation";

(3) Section 925(c) of title 18, United States Code, is amended by striking out "conviction" the first and third place such term appears and inserting in lieu thereof "disability" and by striking out "by reason of such a conviction";

(4) Section 924(a) of title 18, United States Code, is amended by striking out ", and shall become eligible for parole as the Parole Commission shall determine" in both places those words appear. This amendment shall be effective with respect to any offense committed after November 1, 1987.

SEC. 104. DISPOSITION OF FORFEITED FIREARMS.

Subsection 5872(b) of title 26, United States Code, is amended to read as follows:

"(b) DISPOSAL.—In the case of the forfeiture of any firearm, where there is no remission or mitigation for forfeiture thereof—

"(1) the Secretary may retain the firearm for official use of the Department of the Treasury or, if not so retained, offer to transfer the weapon without charge to any other executive department of independent establishment of the Government for official use by it, and, if the offer is accepted, so transfer the firearm;

"(2) if the firearm is not disposed of pursuant to paragraph (1), is a firearm other than a machinegun or a firearm forfeited for a violation of this chapter, is a firearm that in the opinion of the Secretary is not so defective that its disposition pursuant to this paragraph would create an unreasonable risk of a malfunction likely to result in a death or bodily injury, and is a firearm which (in the judgment of the Secretary, taking into consideration evidence of present value and evidence that like firearms are not available except as collector's items, or that the value of like firearms available in ordinary commercial channels is substantially less) derives a substantial part of its monetary value from the fact that it is novel, rare, or because of its association with some historical figure, period, or event the Secretary may sell such firearm, after public notice, at public sale to a dealer licensed under the provisions of chapter 44 of title 18, United States Code;

"(3) if the firearm has not been disposed of pursuant to paragraphs (1) or (2), the Secretary shall transfer the firearm to the Administrator of General Services, General Services Administration, who shall destroy or provide for the destruction of such firearm; and

"(4) no decision or action of the Secretary pursuant to this subsection shall be subject to judical review.".

SEC. 105. CLARIFICATION OF "BURGLARY" UNDER THE ARMED CAREER CRIMINAL STATUTE.

Section 924(e)(2) of title 18, United States Code, is amended by adding a new subparagraph, as follows:

"(D) the term 'burglary' means any crime punishable by a term of imprisonment exceeding one year and consisting of entering or remaining surreptitiously within a building that is the property of another with intent to engage in conduct constituting a Federal or State offense.".

SEC. 106. SERIOUS DRUG OFFENSES BY JUVENILES AS ARMED CAREER CRIMINAL ACT PREDICATES.

Section 924(e)(2)(A) of title 18, United States Code, is amended—

(1) by striking out "or" at the end of clause (i);

(2) by striking out "and" at the end of clause (ii) and inserting in lieu thereof "or"; and

(3) by adding a new clause (iii), as follows:

"(iii) any act of juvenile delinquency that if committed by an adult would be a serious drug offense described in this paragraph; and".

SEC. 107. CLARIFICATION OF DEFINITION OF CONVICTION.

Section 921(a)(20) of title 18, United States Code, is amended by adding at the end the following:

"Notwithstanding the previous sentence, if the conviction was for a violent felony involving the threatened or actual use of a firearm or explosive or was for a serious drug offense, as defined in section 924(e) of this title, the person shall be considered convicted for purposes of this chapter irrespective of any pardon, setting aside, expunction, or restoration of civil rights."

SEC. 108. PERMITTING CONSIDERATION OF PRETRIAL DETENTION FOR CERTAIN FIREARMS AND EXPLOSIVES OFFENSES.

Section 3142(f)(1) of title 18, United States Code, is amended by—

(1) striking out "or" before subparagraph (D);

(2) redesignating subparagraph (D) as subparagraph (E); and

(3) inserting a new subparagraph (D) as follows:

"(D) an offense under 18 U.S.C. 884(a) that is a violation of 18 U.S.C. 842 (d), (h), or (i), or an offense under 18 U.S.C. 924(a) that is a violation of 18 U.S.C. 922 (d), (g), (h), (k), (j), or (o); or".

SEC. 109. ENHANCED PENALTY FOR USE OF SEMIAUTOMATIC FIREARM DURING A CRIME OF VIOLENCE OR DRUG TRAFFICKING OFFENSE.

(a) Section 924(c) of title 18, United States Code, is amended by inserting "and if the firearm is a semiautomatic firearm, to imprisonment for ten years," after "sentenced to imprisonment for five years,";

(b) Section 921(a) of title 18, United States Code, is amended by adding at the end the following:

"(25) the term 'semiautomatic firearm' means any repeating firearm which utilizes a portion of the energy of a firing cartridge to extract the fired cartridge case and chamber the next round, and which requires a separate pull of the trigger to fire each cartridge.".

SEC. 110. SMUGGLING FIREARMS IN AID OF DRUG TRAFFICKING.

Section 924 of title 18, United States Code, is amended by adding at the end thereof the following:

"(h) Whoever, with the intent to engage in, or to promote, conduct which—

"(1) is punishable under the Controlled Substances Act (21 U.S.C. 801 et seq.), the Controlled Substances Import and Export Act (21 U.S.C. 951 et seq.), or the Maritime Drug Law Enforcement Act (46 U.S.C. App. 1901 et seq.);

"(2) violates any law of a State relating to any controlled substance (as defined in section 102 of the Controlled Substances Act, 21 U.S.C. 802); or

"(3) constitutes a crime of violence (as defined in subsection (c)(3));

smuggles or knowingly brings into the United States a firearm, or attempts to do so, shall be imprisoned for not more than ten years, fined under this title, or both.".

SEC. 111. THEFT OF FIREARMS AND EXPLOSIVES.

(1) Section 924 of title 18, United States Code, is amended by adding at the end the following:

"(i) Whoever steals any firearm which is moving as, or is a part of, or which has moved in, interstate or foreign commerce shall be imprisoned for not less than two or more than ten years, and may be fined under this title.".

(2) Section 844 of title 18, United States Code, is amended by adding at the end the following:

"(k) Whoever steals any explosives materials which are moving as, or are a part of, or which have moved in, interstate or foreign commerce shall be imprisoned for not less than two or more than ten years, and may be fined under this title.".

SEC. 112. BAR ON SALE OF FIREARMS AND EXPLOSIVES TO OR POSSESSION OF FIREARMS AND EXPLOSIVES BY PERSONS CONVICTED OF A VIOLENT OR SERIOUS DRUG MISDEMEANOR.

(1) Sections 842(d)(2) and 922(d)(1) of title 18, United States Code, are each amended by inserting ", or has been convicted in any court of any crime of violence or serious misdemeanor drug or narcotic offense (as defined in section 404(c) of the Controlled Substances Act, 21 U.S.C. 844(c)). It is a bar to a prosecution under this section that the conviction for a serious misdemeanor drug or narcotic offense occurred prior to the date of enactment of this Act" after "crime punishable by imprisonment for a term exceeding one year";

(2) Sections 842(i)(1) and 922(g)(1) of title 18, United States Code, are each amended by inserting "or has been convicted in any court of any crime of violence or serious misdemeanor drug or narcotic offense (as defined in section 404(c) of the Controlled Substances Act, 21 U.S.C. 844(c)). It is a bar to a prosecution under this section that the conviction for a serious misdemeanor drug or narcotic offense occurred prior to the date of enactment of this Act" after "crime punishable by imprisonment for a term exceeding one year";

(3) Section 922 of title 18, United States Code, is amended by adding at the end the following:

"(q) For purposes of this section and section 842 of this title—

"(1) the term 'crime of violence' means an offense that has as an element the use of physical force against the person of another with intent to cause bodily harm to such person; and

"(2) the term 'serious misdemeanor' means an offense for which the maximum term of imprisonment is greater than six months.".

SEC. 113. POSSESSION OF A FIREARM OR AN EXPLOSIVE DURING THE COMMISSION OF A FELONY.

(1) Section 924(c) of title 18, United States Code, is amended by striking out "uses or carries a firearm" and inserting in lieu thereof "uses, carries, or otherwise possesses a firearm".

(2) Section 844(h) of title 18, United States Code, is amended by striking out "carries an explosive during" and inserting in lieu thereof "carries or otherwise possesses an explosive during".

SEC. 114. MANDATORY REVOCATION OF SUPERVISED RELEASE FOR POSSESSION OF A FIREARM.

Section 3583 of title 18, United States Code, is amended by adding at the end thereof the following new subsection:

"(h) MANDATORY REVOCATION FOR POSSESSION OF A FIREARM.—If the court has provided, as a condition of supervised release, that the defendant refrain from possessing a firearm, and if the defendant is in actual possession of a firearm, as that term is defined in section 921 of this title, at any time prior to the expiration or termination of the term of supervised release, the court shall, after a hearing pursuant to the provisions of the Federal Rules of Criminal Procedure that are applicable to probation revocation, revoke the term of supervised release and, subject to the limitations of paragraph (e)(3) of this section, require the defendant to serve in prison all or part of the term of supervised release without credit for time previously served on postrelease supervision.".

SEC. 115. INCREASED PENALTY FOR KNOWINGLY FALSE, MATERIAL STATEMENT IN CONNECTION WITH THE ACQUISITION OF A FIREARM FROM A LICENSED DEALER.

Section 924(a) of title 18, United States Code, is amended—

(1) in paragraph (a)(1)(B), by striking out "(a)(6),";

(2) in subsection (a)(2), by inserting "(a)(6)," after "subsections".

SEC. 116. INCREASED PENALTY FOR SECOND OFFENSE OF USING AN EXPLOSIVE TO COMMIT A FEDERAL FELONY.

Section 844(h) of title 18, United States Code, is amended by striking out "ten years" and inserting in lieu thereof "twenty years".

SEC. 117. INAPPLICABILITY OF ENHANCED PENALTY IN PRESENCE OF MITIGATING CIRCUMSTANCES.

The amendment of section 109(a) of this Act shall not apply in sentencing a defendant who establishes that—

(1) he used the firearm to protect himself or another person from an immediate danger of death or injury arising from the unlawful use or threat of force by the person against whom the firearm was used;

(2) he used the firearm to protect the person or property of himself or another against actually occurring or immediately threatened felonious conduct by the person against whom the firearm was used; or

(3) he used the firearm to effect the arrest or prevent the escape of a person in immediate flight after the commission of a felony.

Notwithstanding the foregoing, this section is not applicable if the defendant engaged or participated in criminal conduct that gave rise to the occasion for the defendant's use of the firearm.

TITLE II—CAPITAL PUNISHMENT

SEC. 201. SHORT TITLE FOR TITLE II.

This title may be cited as the "Capital Punishment Procedures Act of 1989".

SEC. 202. DEATH PENALTY PROCEDURES.

Title 18 of the United States Code is amended—

(a) by adding the following new chapter after chapter 227:

"CHAPTER 228—DEATH PENALTY PROCEDURES

"Sec.
"3591. Sentence of death.
"3592. Factors to be considered in determining whether a sentence of death is justified.
"3593. Special hearing to determine whether a sentence of death is justified.
"3594. Imposition of a sentence of death.
"3595. Review of a sentence of death.
"3596. Implementation of a sentence of death.
"3597. Use of State facilities.
"3598. Appointment of counsel.

"§ 3591. Sentence of death

"A defendant who has been found guilty of—

"(a) an offense described in section 794 or section 2381 of this title;

"(b) an offense described in section 1751(c) of this title if the offense, as determined beyond a reasonable doubt at a hearing under section 3593, constitutes an attempt to murder the President of the United States and results in bodily injury to the President or comes dangerously close to causing the death of the President; or

"(c) any other offense for which a sentence of death is provided, if the defendant, as determined beyond a reasonable doubt at a hearing under section 3593 either—

"(1) intentionally killed the victim;

"(2) intentionally participated in an act, contemplating that the life of a person would be taken or intending that lethal force would be used in connection with a person, other than one of the participants in the offense, and the victim died as a direct result of the act; or

"(3) acting with reckless disregard for human life, engaged or substantially participated in conduct which the defendant knew would create a grave risk of death to another person or persons and death resulted from such conduct;

shall be sentenced to death if, after consideration of the factors set forth in section 3592 in the course of a hearing held pursuant to section 3593, it is determined that imposition of a sentence of death is justified: Provided, That no person may be sentenced to death who was less than eighteen years of age at the time of the offense.

"§ 3592. Factors to be considered in determining whether a sentence of death is justified

"(a) MITIGATING FACTORS.—In determining whether a sentence of death is justified for any offense, the jury, or if there is no jury, the court, shall consider each of the following mitigating factors and determine which, if any, exist:

"(1) MENTAL CAPACITY.—The defendant's mental capacity to appreciate the wrongfulness of his conduct or to conform his conduct to the requirements of law was significantly impaired, regardless of whether the capacity was so impaired as to constitute a defense to the charge.

"(2) DURESS.—The defendant was under unusual and subtantial duress, regardless of whether the duress was of such a degree as to constitute a defense to the charge.

"(3) PARTICIPATION IN OFFENSE MINOR.—The defendant is punishable as a principal (as defined in section 2 of title 18 of the United States Code) in the offense, which was committed by another, but the defendant's participation was relatively minor, regardless of whether the participation was so minor as to constitute a defense to the charge.

The jury, or if there is no jury, the court, shall consider whether any other aspect of the defendant's character or record or any other circumstance of the offense that the defendant may proffer as a mitigating factor exists.

"(b) AGGRAVATING FACTORS FOR ESPIONAGE AND TREASON.—In determining whether a sentence of death is justified for an offense described in section 3591(a), the jury, or if there is no jury, the court, shall consider each of the following aggravating factors and determine which, if any, exist:

"(1) PREVIOUS ESPIONAGE OR TREASON CONVICTION.—The defendant has previously been convicted of another offense involving espionage or treason for which a sentence of life imprisonment or death was authorized by statute.

"(2) RISK OF SUBSTANTIAL DANGER TO NATIONAL SECURITY.—In the commission of the offense the defendant knowingly created a grave risk to the national security.

"(3) RISK OF DEATH TO ANOTHER.—In the commission of the offense the defendant knowingly created a grave risk of death to another person.

The jury, or if there is no jury, the court, may consider whether any other aggravating factor exists.

"(c) AGGRAVATING FACTORS FOR HOMICIDE AND FOR ATTEMPTED MURDER OF THE PRESIDENT.—In determining whether a sentence of death is justified for an offense described in section 3591(b) or (c), the jury, or if there is no jury, the court, shall consider each of the following aggravating factors and determine which, if any, exist:

"(1) DEATH OCCURRED DURING COMMISSION OF ANOTHER CRIME.—The death occurred during the commission or attempted commission of, or during the immediate flight from the commission of, an offense under section 751 (prisoners in custody of institution or officer), section 794 (gathering or delivering defense information to aid foreign government), section 844(d) (transportation of explosives in interstate commerce for certain purposes), section 844(f) (destruction of Government property by explosives), section 1118 (prisoners serving life term), section 1201 (kidnapping), or section 2381 (treason) of this title, section 1826 of title 28 (persons in custody as recalcitrant witnesses or hospitalized following a finding of not guilty only by reason of insanity), or section 902(i) or (n) of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1472(i) or (n) (aircraft piracy)).

"(2) INVOLVEMENT OF FIREARM OR PREVIOUS CONVICTION OF VIOLENT FELONY INVOLVING FIREARM.—The defendant—

"(A) during and in relation to the commission of the offense or in escaping apprehension used or possessed a firearm as defined in section 921 of this title; or

"(B) has previously been convicted of a Federal or State offense punishable by a term of imprisonment of more than one year, involving the use or attempted or threatened use of a firearm, as defined in

section 921 of this title, against another person.

"(3) PREVIOUS CONVICTION OF OFFENSE FOR WHICH A SENTENCE OF DEATH OR LIFE IMPRISONMENT WAS AUTHORIZED.—The defendant has previously been convicted of another Federal or State offense resulting in the death of a person, for which a sentence of life imprisonment or death was authorized by statute.

"(4) PREVIOUS CONVICTION OF OTHER SERIOUS OFFENSES.—The defendant has previously been convicted of two or more Federal or State offenses, each punishable by a term of imprisonment of more than one year, committed on different occasions, involving the distribution of a controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)) or the infliction of, or attempted infliction of, serious bodily injury or death upon another person.

"(5) GRAVE RISK OF DEATH TO ADDITIONAL PERSONS.—The defendant, in the commission of the offense or in escaping apprehension, knowingly created a grave risk of death to one or more persons in addition to the victim of the offense.

"(6) HEINOUS, CRUEL, OR DEPRAVED MANNER OF COMMISSION.—The defendant committed the offense in an especially heinous, cruel, or depraved manner in that it involved torture or serious physical abuse to the victim.

"(7) PROCUREMENT OF OFFENSE BY PAYMENT.—The defendant procured the commission of the offense by payment, or promise of payment, of anything of pecuniary value.

"(8) COMMISSION OF THE OFFENSE FOR PECUNIARY GAIN.—The defendant committed the offense as consideration for the receipt, or in the expectation of the receipt, of anything of pecuniary value.

"(9) SUBSTANTIAL PLANNING AND PREMEDITATION.—The defendant committed the offense after substantial planning and premeditation.

"(10) VULNERABILITY OF VICTIM.—The victim was particularly vulnerable due to old age, youth, or infirmity.

"(11) TYPE OF VICTIM.—The defendant committed the offense against—

"(A) the President of the United States, the President-elect, the Vice President, the Vice President-elect, the Vice President-designate, or, if there is no Vice President, the officer next in order of succession to the office of the President of the United States, or any person who is acting as President under the Constitution and laws of the United States;

"(B) a chief of state, head of government, or the political equivalent, of a foreign nation;

"(C) a foreign official listed in section 1116(b)(3)(A) of this title, if that official is in the United States on official business; or

"(D) a public servant who is a Federal judge, a Federal law enforcement officer, an employee (including a volunteer or contract employee) of a Federal prison, or an official of the Federal Bureau of Prisons—

"(i) while such public servant is engaged in the performance of his official duties;

"(ii) because of the performance of such public servant's official duties; or

"(iii) because of such public servant's status as a public servant.

For purposes of this paragraph, the terms 'President-elect' and 'Vice President-elect' mean such persons as are the apparent successful candidates for the offices of President and Vice President, respectively, as ascertained from the results of the general elections held to determine the electors of President and Vice President in accordance with title 3, United States Code, sections 1 and 2; 'Federal law enforcement officer' is a public servant authorized by law or by a Government agency or Congress to conduct or engage in the prevention, investigation, or prosecution of an offense; 'Federal prison' means a Federal correctional, detention, or penal facility, Federal community treatment center, or Federal halfway house, or any such prison operated under contract with the Federal government; and 'Federal judge' means any judicial officer of the United States, and includes a justice of the Supreme Court and a magistrate.

The jury, or if there is no jury, the court, may consider whether any other aggravating factor exists.

"§ 3593. Special hearing to determine whether a sentence of death is justified

"(a) NOTICE BY THE GOVERNMENT.—Whenever the Government intends to seek the death penalty for an offense described in section 3591, the attorney for the government, a reasonable time before the trial, or before acceptance by the court of a plea of guilty, or at such time thereafter as the court may permit upon a showing of good cause, shall sign and file with the court, and serve on the defendant, a notice—

"(1) that the Government in the event of conviction will seek the sentence of death; and

"(2) setting forth the aggravating factor or factors enumerated in section 3592 and any other aggravating factor not specifically enumerated in section 3592, that the Government, if the defendant is convicted, will seek to prove as the basis for the death penalty.

The court may permit the attorney for the government to amend the notice upon a showing of good cause.

"(b) Hearing Before a Court or Jury.—When the attorney for the government has filed a notice as required under subsection (a) and the defendant is found guilty of an offense described in section 3591, the judge who presided at the trial or before whom the guilty plea was entered, or another judge if that judge is unavailable, shall conduct a separate sentencing hearing to determine the punishment to be imposed. Prior to such a hearing, no presentence report shall be prepared by the United States Probation Service, notwithstanding the provisions of the Federal Rules of Criminal Procedure. The hearing shall be conducted—

"(1) before the jury that determined the defendant's guilt;

"(2) before the jury impaneled for the purpose of the hearing if—

"(A) the defendant was convicted upon a plea of guilty;

"(B) the defendant was convicted after a trial before the court sitting without a jury;

"(C) the jury that determined the defendant's guilt was discharged for good cause; or

"(D) after initial imposition of a sentence under this section, reconsideration of the sentence under the section is necessary; or

"(3) before the court alone, upon motion of the defendant and with the approval of the attorney for the government.

A jury impaneled pursuant to paragraph (2) shall consist of twelve members, unless, at any time before the conclusion of the hearing, the parties stipulate, with the approval of the court, that it shall consist of a lesser number.

"(c) PROOF OF MITIGATING AND AGGRAVATING FACTORS.—At the hearing, information may be presented as to—

"(1) any matter relating to any mitigating factor listed in section 3592 and any other mitigating factor; and

"(2) any matter relating to any aggravating factor listed in section 3592 for which notice has been provided under subsection (a)(2) and (if information is presented relating to such a listed factor) any other aggravating factor for which notice has been so provided.

Information presented may include the trial transcript and exhibits if the hearing is held before a jury or judge not present during the trial, or at the judge's discretion. Any other information relevant to such mitigating or aggravating factors may be presented by either the government or the defendant, regardless of its admissibility under the rules governing admission of evidence at criminal trials, except that information may be excluded if its probative value is outweighted by the danger of creating unfair prejudice, confusing the issues or misleading the jury. The attorney for the government and for the defendant shall be permitted to rebut any information received at the hearing, and shall be given fair opportunity to present argument as to the adequacy of the information to establish the existence of any aggravating or mitigating factor, and as to the appropriateness in that case of imposing a sentence of death. The attorney for the government shall open the argument. The defendant shall be permitted to reply. The government shall then be permitted to reply in rebuttal. The burden of establishing the existence of an aggravating factor is on the government, and is not satisfied unless the existence of such a factor is established beyond a reasonable doubt. The burden of establishing the existence of any mitigating factor is on the defendant, and is not satisfied unless the existence of such a factor is established by a preponderance of the evidence.

"(d) RETURN OF SPECIAL FINDINGS.—The jury, or if there is no jury, the court, shall consider all the information received during the hearing. It shall return special findings identifying any aggravating factor or factors set forth in section 3592 found to exist and any other aggravating factor for which notice has been provided under subsection (a) found to exist. A finding with respect to a mitigating factor may be made by one or more members of the jury, and any member of the jury who finds the existence of a mitigating factor may consider such factor established for purposes of this section regardless of the number of jurors who concur that the factor has been established. A finding with respect to any aggravating factor must be unanimous. If no aggravating factor set forth in section 3592 is found to exist, the court shall impose a sentence other than death authorized by law.

"(e) RETURN OF A FINDING CONCERNING A SENTENCE OF DEATH.—If, in the case of—

"(1) an offense described in section 3591(a), an aggravating factor required to be considered under section 3592(b) is found to exist; or

"(2) an offense described in section 3591 (b) or (c), an aggravating factor required to be considered under section 3592(c) is found to exist.

the jury, or if there is no jury, the court, shall then consider whether the aggravating factors or factors found to exist sufficiently outweigh any mitigating factor or factors found to exist to justify a sentence of death, or, in the absence of a mitigating factor, whether the aggravating factor or factors alone are sufficient to justify a sentence of death. Based upon this consideration, the jury by unanimous vote, or if there is no jury, the court, shall recommend whether a sentence of death shall be imposed rather than some other lesser sentence. The jury or the court, if there is no jury, regardless of its findings with respect to aggravating and mitigating factors, is never required to impose a death sentence, and the jury shall be so instructed.

"(f) SPECIAL PRECAUTION TO ASSURE AGAINST DISCRIMINATION.—In a hearing held before a jury, the court, prior to the return of a finding under subsection (e), shall instruct the jury that, in considering whether a sentence of death is justified, it shall not consider the race, color, religious beliefs, national origin, or sex of the defendant or of any victim and that the jury is not to recommend a sentence of death unless it has concluded that it would recommend a sentence of death for the crime in question no matter what the race, color, religious beliefs, national origin, or sex of the defendant or of any victim may be. The jury, upon return of a finding under subsection (e), shall also return to the court a certificate, signed by each juror, that consideration of the race, color, religious beliefs, national origin, or sex of the defendant or any victim was not involved in reaching his or her individual decision and that the individual juror would have made the same recommendation regarding a sentence for the crime in question no matter what the race, color, religious beliefs, national origin, or sex of the defendant or any victim may be.

"§ 3594. Imposition of a sentence of death

"Upon the recommendation under section 3593(e) that a sentence of death be imposed, the court shall sentence the defendant to death. Otherwise the court shall impose a sentence, other than death, authorized by law. Notwithstanding any other provision of law, if the maximum term of imprisonment for the offense is life imprisonment, the court may impose a sentence of life imprisonment without the possiblity of release or furlough.

"§ 3595. Review of a sentence of death

"(a) APPEAL.—In a case in which a sentence of death is imposed, the sentence shall be subject to review by the court of appeals upon appeal by the defendant. Notice of appeal of the sentence must be filed within the time specified for the filing of a notice of appeal of the judgment of conviction. An appeal of the sentence under this section may be consolidated with an appeal of the judgment of conviction and shall have priority over all other cases.

"(b) REVIEW.—The court of appeals shall review the entire record in the case, including—

"(1) the evidence submitted during the trial;

"(2) the information submitted during the sentencing hearing;

"(3) the procedures employed in the sentencing hearing; and

"(4) the special findings returned under section 3593(d).

"(c) DECISION AND DISPOSITION.—

"(1) If the court of appeals determines that—

"(A) the sentence of death was not imposed under the influence of passion, prejudice, or any other arbitrary factor; and

(B) the evidence and information support the special findings of the existence of an aggravating factor or factors;

it shall affirm the sentence.

"(2) In any other case, the court of appeals shall remand the case for reconsideration under section 3593 or for imposition of another authorized sentence as appropriate.

"(3) The court of appeals shall state in writing the reasons for its disposition of an appeal of sentence of death under this section.

"§ 3596. Implementation of sentence of death

"(a) A person who has been sentenced to death pursuant to the provisions of this chapter shall be committed to the custody of the Attorney General until exhaustion of the procedures for appeal of the judgment of conviction and for review of the sentence. When the sentence is to be implemented, the Attorney General shall release the person sentenced to death to the custody of a United States Marshal, who shall suprvise implementation of the sentence is the manner prescribed by the law of the State in which the sentence is imposed. If the law of such State does not provide for implementation of a sentence of death, the court shall designate another State, the law of which does so provide, and the sentence shall be implemented in the manner prescribed by such law.

"(b) A sentence of death shall not be carried out upon a person who lacks the mental capacity to understand the death penalty and why it was imposed on that person, or upon a woman while she is pregnant.

"(c) No employee of any State department of corrections or the Federal Bureau of Prisons and no employee providing services to that department or bureau under contract shall be required, as a condition of that employment or contractual obligation, to be in attendance at or to participate in any execution carried out under this section if such participation is contrary to the moral or religious convictions of the employee. For purposes of this subsection, the term 'participate in any execution' includes personal preparation of the condemned individual and the apparatus used for the execution, and supervision of the activities of other personnel in carrying out such activities.

"§ 3597. Use of State facilities

"A United States Marshal charged with supervising the implementation of a sentence of death may use appropriate States or local facilities for the purpose, may use the services of an appropriate State or local official or of a person such as an official employed for the purpose, and shall pay the costs thereof in an amount approved by the Attorney General.

"§ 3598. Appointment of counsel

"(a) Notwithstanding any other provision of law—

"(1) in every criminal action brought in a court of the United States in which a defendant is charged with a crime with respect to which a sentence of death is sought, a defendant who is or becomes financially unable to obtain adequate representation shall be entitled to appointment of counsel at trial and upon direct appeal of the judgment and sentence entered at trial.

"(2) After a conviction and sentence entered pursuant to the provisions of this chapter have been affirmed on direct appeal, appointment of counsel for such a person in any other proceeding related to the case shall be in the discretion of the court, except as provided by a rule promulgated by the Supreme Court pursuant to statutory authority.

"(3) Appointment of counsel under this chapter shall be governed by the provisions of section 3006A and (with respect to paragraph (1)) section 3005 of this title.

"(b) The laws of the United States shall not be construed to impose any requirement with respect to the appointment of counsel in any proceeding in a state court or other state proceeding in a capital case, other than any requirement imposed by the Constitution of the United States. In a proceeding under section 2254 of title 28, United States Code, relating to a state capital case, or any subsequent proceeding on review, appointment of counsel for a petitioner who is or becomes financially unable to afford counsel shall be in the discretion of the court, except as provided by a rule promulgated by the Supreme Court pursuant to statutory authority. Such appointment of counsel shall be governed by the provisions of section 3306A of this title."; and

(b) In the chapter analysis of part II, by adding the following new item after the item relating to chapter 227:

"228. Death penalty procedures ..... 3591".

SEC. 203. CONFORMING AMENDMENT RELATING TO DESTRUCTION OF AIRCRAFT OR AIRCRAFT FACILITIES.

Section 34 of title 18 of the United States Code is amended by changing the comma after the words "imprisonment for life" to a period and deleting the remainder of the section.

SEC. 204. CONFORMING AMENDMENT RELATING TO ESPIONAGE.

Section 794(a) of title 18 of the United States Code is amended by changing the period at the end of the section to a comma and by adding immediately thereafter the words "except that the sentence of death shall not be imposed unless the jury or, if there is no jury, the court, further finds beyond a reasonable doubt at a hearing under section 3593 of this title that the offense directly concerned nuclear weaponry, military spacecraft and satellites, early warning systems, or other means of defense or retaliation against large-scale attack; war plans; communications intelligence or cryptographic information; sources or methods of intelligence or counterintelligence operations; or any other major weapons system or major element of defense strategy.".

SEC. 205. CONFORMING AMENDMENT RELATING TO TRANSPORTING EXPLOSIVES.

Section 844(d) of title 18 of the United States Code is amended by striking the words "as provided in section 34 of this title".

SEC. 206. CONFORMING AMENDMENT RELATING TO MALICIOUS DESTRUCTION OF FEDERAL PROPERTY BY EXPLOSIVES.

Section 844(f) of title 18 of the United States Code is amended by striking the words "as provided in section 34 of this title".

SEC. 207. CONFORMING AMENDMENT RELATING TO MALICIOUS DESTRUCTION OF INTERSTATE PROPERTY BY EXPLOSIVES.

Section 844(i) of title 18 of the United States Code is amended by striking the words "as provided in section 34 of this title".

SEC. 208. CONFORMING AMENDMENT RELATING TO MURDER.

The second paragraph of section 1111(b) of title 18 of the United States Code is amended to read as follows:

"Whoever is guilty of murder in the first degree shall be punished by death or by imprisonment for life;".

SEC. 209. CONFORMING AMENDMENT RELATING TO KILLING OFFICIAL GUESTS OR INTERNATIONALLY PROTECTED PERSONS.

Section 1116(a) of title 18 of the United States Code is amended by striking the words "any such person who is found guilty of murder in the first degree shall be sentenced to imprisonment for life, and".

SEC. 210. MURDER BY FEDERAL PRISONER.

Chapter 51 of title 18 of the United States Code is amended—

(a) by adding at the end thereof the following:

"§ 1118. Murder by a federal prisoner

"(a) Whoever, while confined in a Federal prison under a sentence for a term of life imprisonment, murders another shall be punished by death or by life imprisonment without the possibility of release or furlough.

"(b) For the purposes of this section—

"(1) 'Federal prison' means any Federal correctional, detention, or penal facility,

Federal community treatment center, or Federal halfway house, or any such prison operated under contract with the Federal Government;

"(2) 'term of life imprisonment' means a sentence for the term of natural life, a sentence commuted to natural life, an indeterminate term of a minimum of at least fifteen years and a maximum of life, or an unexecuted sentence of death."; and

(b) by amending the section analysis to add:

"1118. Murder by a Federal prisoner.".

SEC. 211. DEATH PENALTY RELATING TO KIDNAPPING.

Section 1201 of title 18 of the United States Code is amended by inserting after the words "or for life" in subsection (a) the words "and, if the death of any person results, shall be punished by death or life imprisonment".

SEC. 212. DEATH PENALTY RELATING TO HOSTAGE TAKING.

Section 1203 of title 18 of the United States Code is amended by inserting after the words "or for life" in subsection (a) the words "and, if the death of any person results, shall be punished by death or life imprisonment".

SEC. 213. CONFORMING AMENDMENT RELATING TO MAILABILITY OF INJURIOUS ARTICLES.

The last paragraph of section 1716 of title 18 of the United States Code is amended by changing the comma after the words "imprisonment for life" to a period and deleting the remainder of the paragraph.

SEC. 214. CONFORMING AMENDMENT RELATING TO PRESIDENTIAL ASSASSINATION.

Subsection (c) of section 1751 of title 18 of the United States Code is amended to read as follows:

"(c) Whoever attempts to murder or kidnap any individual designated in subsection (a) of this section shall be punished (1) by imprisonment for any term of years or for life, or (2) by death or imprisonment for any term of years or for life, if the conduct constitutes an attempt to murder the President of the United States and results in bodily injury to the President or otherwise comes dangerously close to causing the death of the President.".

SEC. 215. CONFORMING AMENDMENT RELATING TO MURDER FOR HIRE.

Subsection (a) of section 1958 of title 18 of the United States Code is amended by deleting the words "and if death results, shall be subject to imprisonment for any term of years or for life, or shall be fined not more than $50,000, or both" and inserting in lieu thereof" and if death results, shall be punished by death or life imprisonment, or shall be fined in accordance with this title, or both".

SEC. 216. CONFORMING AMENDMENT RELATING TO VIOLENT CRIMES IN AID OF RACKETEERING ACTIVITY.

Paragraph (1) of subsection (a) of section 1959 of title 18 of the United States Code is amended to read as follows: "for murder, by death or life imprisonment, or a fine in accordance with this title, or both; and for kidnapping, by imprisonment for any term of years or for life, or a fine in accordance with this title, or both";

SEC. 217. CONFORMING AMENDMENT RELATING TO WRECKING TRAINS.

The second to the last paragraph of section 1992 of title 18 of the United States Code is amended by changing the comma after the words "imprisonment for life" to a period and deleting the remainder of the section.

SEC. 218. CONFORMING AMENDMENT RELATING TO BANK ROBBERY.

Section 2113(e) of title 18 of the United States Code is amended by striking the words "or punished by death if the verdict of the jury shall so direct" and inserting in lieu thereof the words "or if death results shall be punished by death or life imprisonment".

SEC. 219. CONFORMING AMENDMENT RELATING TO TERRORIST ACTS.

Paragraph (1) of subsection 2331(a) of title 18 of the United States Code is amended to read as follows:

"(1) (A) if the killing is a first degree murder as defined in section 1111(a) of this title, be punished by death or imprisonment for any term of years or for life, or be fined under this title, or both;

"(B) if the killing is a murder other than a first degree murder as defined in section 1111(a) of this title, be fined under this title or imprisoned for any term of years or for life, or both so fined and so imprisoned;"

SEC. 220. CONFORMING AMENDMENT RELATING TO AIRCRAFT HIJACKING.

Section 903 of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1473), is amended by striking subsection (c).

SEC. 221. APPLICATION TO UNIFORM CODE OF MILITARY JUSTICE.

The provisions of chapter 228 of title 18 of the United States Code, as added by this Act, shall not apply to prosecutions under the Uniform Code of Military Justice (10 U.S.C. 801 et seq.).

TITLE III—DRUG TESTING OF DEFENDANTS ON POST-CONVICTION RELEASE

SEC. 301. DRUG TESTING PROGRAM.

(a) Chapter 229 of title 18, United States Code, is amended by adding at the end thereof the following new section:

"§ 3608. Drug testing of defendants on post-conviction release

"The Director of the Administrative Office of the United States Courts shall, as soon as is practicable after the effective date of this section, establish a program of drug testing of criminal defendants on post-conviction release. In each district where it is feasible to do so, the chief probation officer shall arrange for the drug testing of defendants on post-conviction release pursuant to a conviction for a felony or other offense described in section 3563(a)(4) of this title.".

(b) The section analysis for chapter 229 of title 18, United States Code, is amended by adding at the end thereof the following: "3608. Drug testing of defendants on post-conviction release."

SEC. 302. OTHER AMENDMENTS.

(a) Section 3563(a) of title 18, United States Code, is amended—

(1) in paragraph (2), by striking out "and";

(2) in paragraph (3), by striking out the period and inserting in lieu thereof "; and"; and

(3) by adding a new paragraph (4), as follows:

"(4) for a felony, an offense involving a firearm as defined in section 921 of this title, a drug or narcotic offense as defined in section 404(c) of the Controlled Substances Act (21 U.S.C. 884(c)), or a crime of violence as defined in section 16 of this title, that the defendant refrain from any unlawful use of a controlled substance and submit to periodic drug tests (as determined by the court) for use of a controlled substance. This latter condition may be suspended or ameliorated upon request of the Director of the Administrative Office of the United States Courts, or the Director's designee. No action may be taken against a defendant pursuant to a drug test administered in accordance with this paragraph or sections 3583(d) or 4209(a) of this title, unless the drug test confirmation is a urine drug test confirmed using gas chromatography techniques or such test as the Director of the Administrative Office of the United States Court after consultation with the Secretary of Health and Human Services may determine to be of equivalent accuracy.".

(b) Section 3583(d) of title 18, United States Code, is amended by inserting after the first sentence the following: "For a defendant convicted of a felony or other offense described in section 3563(a)(4) of this title, the court shall also order, as an explicit condition of supervised release, that the defendant refrain from any unlawful use of a controlled substance and submit to periodic drug tests (as determined by the court) for use of a controlled substance. This latter condition may be suspended or ameliorated as provided in section 3563(a)(4) of this title.".

(c) Section 4209(a) of title 18, United States Code, is amended by inserting after the first sentence the following: "If the parolee has been convicted of a felony or other offense described in section 3563(a)(4) of this title, the Commission shall also impose as a condition of parole that the parolee refrain from any unlawful use of a controlled substance and submit to periodic drug tests (as determined by the Commission) for use of a controlled substance. This latter condition may be suspended or ameliorated as provided in section 3563(a)(4) of this title."

TITLE IV—EXCLUSIONARY RULE

SEC. 401. (a) Chapter 223 to title 18, United States Code, is amended by adding at the end thereof the following new section:

"§ 3509. Elimination of exclusionary rule as it pertains to the fourth amendment

"Evidence, otherwise admissible in a Federal criminal proceeding, shall not be excluded on the grounds that such evidence was obtained in violation of the fourth amendment to the United States Constitution.".

(b) The table of sections for chapter 223 to title 18, United States Code, is amended by adding at the end thereof the following new item:

"3509. Elimination of exclusionary rule as it pertains to the fourth amendment.".

SEC. 402. (a) Title 28, United States Code, is amended by adding between after chapter 171 and chapter 173 the following:

"CHAPTER 172—ILLEGAL SEARCH AND SEIZURE

"Sec.
"2691. Definitions.
"2692. Tort claims; illegal search and seizure.
"2693. Sanctions against investigative or law enforcement officers; illegal search and seizure.
"2694. Judgment as a bar.
"2695. Attorney fees and costs.
"2696. Applicability of other tort claims procedures.

"§ 2691. Definitions

"As used in this chapter, and section 1346(g) of this title, the term—

"(1) 'Federal agency' includes the executive departments, military departments, independent establishments of the United States, and corporations primarily acting as instrumentalities or agencies of the United States, but does not include any contractor with the United States; and

"(2) 'investigative or law enforcement officer' means any officer of the United States who is empowered by law to execute searches, to seize evidence, or to make arrests for any violation of Federal law, or any person acting under or at the request of such officer.

"§ 2692. Tort claims; illegal search and seizure

"(a) The United States shall be liable for any damages resulting from a search or seizure conducted by an investigative or law enforcement officer, acting within the scope of his office or employment, in violation of the fourth amendment to the United States Constitution.

"(b) Any person aggrieved by such violation may recover actual damages and such punitive damages as the court may award under subsection (c).

"(c) Punitive damages may be awarded by the court, upon consideration of all of the circumstances of the case, including—

"(1) the extent of the investigative or law enforcement officer's deviation from permissible conduct;

"(2) the extent to which the violation was willful, reckless, or grossly negligent;

"(3) the extent to which the aggrieved person's privacy was invaded;

"(4) the extent of the aggrieved person's personal injury, both physical and mental;

"(5) the extent of any property damage; and

"(6) the effect such an award would have in preventing future violations of the fourth amendment to the United States Constitution.

"(d) Notwithstanding subsections (b) and (c), the recovery of any person who is convicted of any offense for which evidence of such offense was seized in violation of the fourth amendment to the United States Constitution is limited to actual physical personal injury and to actual property damage sustained as a result of the unconstitutional search and seizure.

"(e) No judgment, award, compromise, or settlement of any action brought under this section shall exceed the amount of $25,000, including actual and punitive damages. The United States shall not be liable for interest prior to judgment.

"(f) Any action under this section shall be brought within the period of limitations provided in section 2401(b) of this title.

"§ 2693. Sanctions against investigative or law enforcement officers; illegal search and seizure

"An investigative or law enforcement officer who conducts a search and seizure in violation of the fourth amendment to the United States Constitution shall be subject to appropriate discipline in the discretion of the Federal agency employing such officer, if that agency determines, after notice and hearing, that the officer conducted such search or seizure lacking a good faith belief that such search or seizure was constitontal.

"§ 2694. Judgment as a bar

"The remedy against the United States provided under the chapter shall be the exclusive civil remedy for a violation of the fourth amendment to the United States Constitution by any investigative or law enforcement officer acting within the scope of his office or employment whose act or omission gave rise to the claim.

"§ 2695. Attorney fees and costs

"In any action brought under this chapter, the court may award any claimant who prevails in such action reasonable attorney fees, and other litigation costs reasonably incurred.

"§ 2696. Applicability of other tort claims procedures

"The procedures provided in sections 2672, 2675, 2677, 2678, 2679, and 2680 of this title apply to any action brought under this chapter. For the purposes of such sections, any investigative or law enforcement officer who conducts a search and seizure in violation of the fourth amendment to the Constitution shall be treated as if he were an 'employee of the government'.".

(b) The table of chapters for [title 28, United States Code, and for] part VI of title 28, United States Code is amended by inserting immediately between item relating to chapter 171 and the item relating to chapter 173 the following:

"172. Illegal Search and Seizure ..... 2691".

SEC. 403. Section 1346 of title 28, United States Code, is amended by adding immediately after subsection (f) the following new subsection:

"(g) The district courts, together with the United States District Court for the District of the Canal Zone, the United States District for the Territory of Guam, the District Court for the Northern Mariana Islands, and the District Court of the Virgin Islands, shall have exclusive original jurisdiction of any civil action on a claim against the United States, for money damages, brought under chapter 172 of this title.".

SEC. 404. Section 1402(b) of title 28, United States Code, is amended by inserting after "subsection (b)" the following: "or subsection (g)".

SEC. 405. The amendments to title 28, United States Code, made by this Act shall apply only to claims arising on or after the date of enactment of this Act.

TITLE V—HABEAS CORPUS REFORM

SEC. 501. SHORT TITLE FOR TITLE V.

This title may be cited as the "Reform of Federal Intervention in State Proceedings Act of 1989".

SEC. 502. FAILURE TO RAISE CLAIM; PERIOD OF LIMITATION.

Section 2244 of title 28, United States Code, is amended by adding at the end thereof the following new subsections:

"(d) When a person in custody pursuant to the judgment of a State court fails to raise a claim in State proceedings at the time or in the manner required by State rules of procedure, the claim shall not be entertained in an application for a writ of habeas corpus unless actual prejudice resulted to the applicant from the alleged denial of the Federal right asserted and—

"(1) the failure to raise the claim properly or to have it heard in State proceedings was the result of State action in violation of the Constitution or laws of the United States;

"(2) the Federal right asserted was newly recognized by the Supreme Court subsequent to the procedural default and is retroactively applicable;

"(3) the factual predicate of the claim could not have been discovered through the exercise of reasonable diligence prior to the procedural default; or

"(4) a constitutional violation asserted in the claim probably resulted in a factually erroneous conviction or a sentence predicated on an erroneous factual determination.

"(e) A one-year period of limitation shall apply to an application for a writ of habeas corpus by a person in custody pursuant to the judgment of a State court. The limitation period shall run from the latest of the following times:

"(1) the time at which State remedies are exhausted;

"(2) the time at which the impediment to filing an application created by State action in violation of the Constitution or laws of the United States is removed, where the applicant was prevented from filing by such State action;

"(3) the time at which the Federal right asserted was initially recognized by the Supreme Court, where the right has been newly recognized by the Court and is retroactively applicable; or

"(4) the time at which the factual predicate of the claim or claims presented could have been discovered through the exercise of reasonable diligence.".

SEC. 503. APPEAL.

Section 2253 of title 28, United States Code, is amended to read as follows:

"§ 2253. Appeal

"In a habeas corpus proceeding or a proceeding under section 2255 of this title before a circuit or district judge, the final order shall be subject to review, on appeal, by the court of appeals for the circuit where the proceeding is had.

"There shall be no right of appeal from such an order in a proceeding to test the validity of a warrant to remove, to another district or place for commitment or trial, a person charged with a criminal offense against the United States, or to test the validity of his detention pending removal proceedings.

"An appeal may not be taken to the court of appeals from the final order in a habeas corpus proceeding where the detention complained of arises out of process issued by a State court, or from the final order in a proceeding under section 2255 of this title, unless a circuit justice or judge issues a certificate of probable cause.".

SEC. 504. AMENDMENT TO RULES OF APPELLATE PROCEDURE.

Federal Rule of Appellate Procedure 22 is amended to read as follows:

"RULE 22

"HABEAS CORPUS AND § 2255 PROCEEDINGS

"(a) Application for an Original Writ of Habeas Corpus. An application for a writ of habeas corpus shall be made to the appropriate district court. If application is made to a circuit judge, the application will ordinarily be transferred to the appropriate district court. If an application is made to or transferred to the district court and denied, renewal of the application before a circuit judge is not favored; the proper remedy is by appeal to the court of appeals from the order of the district court denying the writ.

"(b) Necessity of Certificate of Probable Cause for Appeal. In a habeas corpus proceeding in which the detention complained of arises out of process issued by a State court, and in a motion proceeding pursuant to section 2255 of title 28, United States Code, an appeal by the applicant or movant may not proceed unless a circuit judge issues a certificate of probable cause. If a request for a certificate of probable cause is addressed to the court of appeals, it shall be deemed addressed to the judges thereof and shall be considered by a circuit judge or judges as the court deems appropriate. If no express request for a certificate is filed, the notice of appeal shall be deemed to constitute a request addressed to the judges of the court of appeals. If an appeal is taken by a State or the government or its representative, a certificate of probable cause is not required.".

SEC. 505. SECTION 2254 AMENDMENTS.

Section 2254 of title 28, United States Code, is amended by redesignating subsections "(e)" and "(f)" as subsections "(f)" and "(g)", respectively, and is further amended—

(a) by amending subsection (b) to read as follows:

"(b) An application for a writ of habeas corpus in behalf of a person in custody pursuant to the judgment of a State court shall not be granted unless it appears that the applicant has exhausted the remedies available in the courts of the State, or that there is either an absence of available State corrective process or the existence of circumstances rendering such process ineffective to protect the rights of the applicant. An application may be denied on the merits notwithstanding the failure of the applicant to exhaust the remedies available in the courts of the State.";

(b) by redesignating subsection "(d)" as subsection "(e)", and amending it to read as follows:

"(e) In a proceeding instituted by an application for a writ of habeas corpus by a person in custody pursuant to the judgment of a State court, a full and fair determination of a factual issue made in the case by a State court shall be presumed to be correct. The applicant shall have the burden of rebutting this presumption by clear and convincing evidence.";

(c) by adding a new subsection (d) reading as follows:

"(d) An application for a writ of habeas corpus in behalf of a person in custody pursuant to the judgment of a State court shall not be granted with respect to any claim that has been fully and fairly adjudicated in State proceedings."; and

(d) by adding a new subsection (h) reading as follows:

"(h) In all proceedings brought under this section, and any subsequent proceedings on review, appointment of counsel for a petitioner who is or becomes financially unable to afford counsel shall be in the discretion of the court, except as provided by a rule promulgated by the Supreme Court pursuant to statutory authority. Appointment of counsel under this section shall be governed by the provisions of section 3006A of title 18, United States Code.".

SEC. 506. SECTION 2255 AMENDMENTS.

Section 2255 of title 28, Untied States Code, is amended by deleting the second paragraph and the penultimate paragraph thereof, and by adding at the end thereof the following new paragraphs:

"When a person fails to raise a claim at the time or in the manner required by Federal rules of procedure, the claim shall not be entertained in a motion under this section unless actual prejudice resulted to the movant from the alleged denial of the right asserted and—

"(1) the failure to raise the claim properly, or to have it heard, was the result of governmental action in violation of the Constitution or laws of the United States;

"(2) the right asserted was newly recognized by the Supreme Court subsequent to the procedural default and is retroactively applicable;

"(3) the factual predicate of the claim could not have been discovered through the exercise of reasonable diligence prior to the procedural default; or

"(4) a constitutional violation asserted in the claim probably resulted in a factually erroneous conviction or a sentence predicated on an erroneous factual determination.

"A two-year period of limitation shall apply to a motion under this section. The limitation period shall run from the latest of the following times:

"(1) the time at which the judgment of conviction becomes final;

"(2) the time at which the impediment to making a motion created by governmental action in violation of the Constitution or laws of the United States is removed, where the movant was prevented from making a motion by such governmental action;

"(3) the time at which the right asserted was initially recognized by the Supreme Court, where the right has been newly recognized by the Court and is retroactively applicable; or

"(4) the time at which the factual predicate of the claim or claims presented could have been discovered through the exercise of reasonable diligence.".

"In all proceedings brought under this section, and any subsequent proceedings on review, appointment of counsel for a movant who is or becauses financially unable to afford counsel shall be in the discretion of the court, except as provided by a rule promulgated by the Supreme Court pursuant to statutory authority. Appointment of counsel under this section shall be governed by the provisions of section 3006A of title 18, United States Code."

TITLE VI—1990 FISCAL YEAR AUTHORIZATION

SEC. 601. There are authorized to be appropriated for the fiscal year ending September 30, 1990, to carry out the activities of the Department of Justice (including any bureau, office, board, division, commission, or subdivision thereof) the following sums:

(1) For General Administration, Salaries and Expenses: $100,925,000;

(2) For the Office of Inspector General: $19,433,000;

(3) For the United States Parole Commission: $10,335,000;

(4) For General Legal Activities: $303,967,000; which shall include—

(A) not to be exceed $80,000 may be transferred from the "Alien Property Funds, World War II," for the general administrative expenses of alien property activities;

(B) not to exceed $20,000 for expenses necessary in the collection of evidence may be expended under the direction of the Attorney General and accounted for solely on the certificate of the Attorney General;

(C) not to exceed $6,000,000 of those sums appropriated for litigation-support contracts, which shall remain available until September 30, 1991;

(D) not to exceed $12,160,000 of those sums appropriated for office automation systems for legal activities, including legal activities of the Antitrust Division and the United States Attorneys and the activities of offices funded under the General Administration, Salaries and Expenses, appropriation, with amount shall remain available until expended; and

(E) not to exceed $5,751,000 shall be available to fund the activities of the United States National Central Bureau of INTERPOL;

(5) For the Antitrust Division: $47,222,000;

(6) For the Foreign Claims Settlement Commission: $440,000;

(7) For the United States Attorneys: $520,561,000; and in addition, $5,000,000, which shall remain available until September 30, 1991, for the purposes of (1) providing training of personnel of the Department of Justice in debt collection, (2) providing services pertinent to debt collection, such as title searches, debtor skiptracing, asset searches, credit reports and other investigations related to locating debtors and their property, and (3) paying expenses of cost of sales of property not covered by the sale proceeds, such as auctioneers' fees and expenses, maintenance and protection of property and businesses, advertising and title search and surveying costs;

(8) For the United States Marshals Service: $240,846,000; *Provided,* That the Director of the United States Marshals Service may collect fees and expenses for the service of civil process, including: complaints, summonses, subpoenas and similar processes; and seizures, levels, and sales associated with judicial orders of execution; and notwithstanding the provisions of title 31 U.S.C. 3302, not to exceed $1,000,000 of such fees shall be credited to this appropriation to be used for salaries and other expenses incurred in providing these services;

(9) For the Support of United States Prisoners in non-Federal institutions: $160,034,000; which shall remain available until expended and of which not be exceed $15,000,000 shall be available until expended under the Cooperative Agreement Program for the purpose of renovating, constructing, and equipping state and local correctional facilities;

(10) For Fees and Expenses of Witnesses: $56,784,000; which shall remain available until expended; and which shall include not to exceed $1,690,000 for planning, construction, renovation, maintenance, remodeling, and repair of buildings and the purchase of equipment incident thereto for protected witness safesites;

(11) For the Community Relations Service: $29,609,000 of which not to exceed $21,606,000 shall remain available until expended to make payments in advance for grants, contracts and reimbursable agreements and other expenses necessary under section 501(c) of the Refugee Education Assistance Act of 1980 (P.L. 96-422);

(12) For the United States Trustee System Fund: $62,777,000; to remain available until expended and to be derived from the Fund, provided that deposits to the fund are available in such amounts as may be necessary to pay refunds due depositors;

(13) For the Assets Forfeiture Fund: $100,000,000, to be derived from the Fund, as may be necessary for the payment of expenses as authorized by 28 U.S.C. 524(c)(1)(A)(ii), (B), (C), (F), and (G); provided that of funds otherwise available, not to exceed $237,729,000 is available for expenses otherwise authorized by 28 U.S.C. 524 (c)(1);

(14) For Organized Crime Drug Enforcement: $214,921,000; for expenses, not otherwise provided for, for the investigation and prosecution of individuals involved in organized crime drug trafficking;

(15) For the Federal Bureau of Investigation: $1,550,385,000 which shall include—

(A) not to exceed $70,000 to meet unforeseen emergencies of a confidential character to be expended under the direction of the Attorney General and to be accounted for solely on the certificate of the Attorney General or the Deputy Attorney General;

(B) not to exceed $15,100,000 for INF treaty activities which shall remain available until expended;

(C) not to exceed $8,000,000 of those sums appropriated for research and development relating to investigative activities, which amount shall remain available until expended;

(D) not to exceed $25,000,000 of those sums appropriated for automated data processing and telecommunications; and not to exceed $1,000,000 of those sums appropriated for undercover operations, which amounts shall remain available until September 30, 1991;

(E) $7,500,000 for a language translation system shall remain available until expended; and

(F) not to exceed $45,000 for official reception and representation expenses;

(16) For the Drug Enforcement Administration: $551,181,000; which shall include—

(A) not to exceed $70,000 to meet unforeseen emergencies of a confidential character to be expended under the direction of the Attorney General and to be accounted for

solely on the certificate of the Attorney General or the Deputy Attorney General;

(B) not to exceed $1,200,000 of those sums appropriated for research, which amount shall remain available until expended;

(C) not to exceed $1,700,000, of those sums appropriated for the purchase of evidence and for payments for information, which amount shall remain available until September 30, 1991; and

(D) not to exceed $9,638,000 of those sums appropriated for automatic data processing and telecommunications; and not to exceed $2,000,000 of those sums appropriated for technical and laboratory equipment; which amounts shall remain available until September 30, 1991;

(17) For the Immigration and Naturalization Service: $878,959,000; which shall include—

(A) not to exceed $50,000 to meet unforeseen emergencies of a confidential character to be expended under the direction of the Attorney General and to be accounted for solely on the certificate of the Attorney General or the Deputy Attorney General;

(B) not to exceed $400,000 of those sums appropriated for research, which amount shall remain available until expended; and

(C) funds for the purchase of uniforms without regard to the general purchase price limitation for the current fiscal year;

(18) For the Federal Prison System, including the National Institute of Corrections: $2,563,998,000, which shall include—

(A) $1,152,554,000 for salaries and expenses;

(B) $10,112,000 which shall remain available until expended for carrying out the provisions of sections 4351 through 4353 of Title 18, United States Code, which established a National Institute of Corrections;

(C) $1,401,332,000 which shall remain available until expended for planning, acquisition of sites and construction of new facilities; and for the purchase and acquisition of facilities and remodeling and equipping of such facilities for penal and corrections institutions; and for the payment of United States prisoners for work performed in these activities; and that not to exceed 10 per centum of the funds appropriated to "Buildings and Facilities" in this Act or any other Act may be transferred to "Salaries and expenses," Federal Prison System upon notification by the Attorney General to the Committees on Appropriations of both the House and Senate; and

(D) funds for the purchase of uniforms without regard to the general purchase price limitations for the current fiscal year.

(19) For the Office of Justice Programs: $6,000,000, which shall remain available until expended and which shall include such sums as may be necessary to fund additional bonus grants, equal to five percent of the amount of formula grants under the Drug Control and System Improvement Formula Grant Program (Public Law 100-690, § 6091), to be awarded to states that adopt model legislation, as concurred in by the Attorney General, providing mandatory minimum sentences for criminal offenses involving firearms. This amount shall be available notwithstanding any other provisions pertaining to that program contained in the Omnibus Crime Control and Safe Streets Act of 1968, as amended.

SEC. 602. A total of not to exceed $75,000 from funds authorized to be appropriated to the Department of Justice by this title shall be available for official reception and representation expenses in accordance with distributions, procedures, and regulations established by the Attorney General.

SEC. 603. The Attorney General may transfer up to two per centum of any appropriation made to the Department of Justice to any other such appropriation, but no such appropriation shall be increased by more than two per centum by any such transfers.

By Mr. BURDICK:

S. 1230. A bill to authorize the acquisition of additional lands containing Indian burial grounds for inclusion in the Knife River Indian Village National Historic Site, North Dakota, and to provide additional development funding for the historic site visitor center; to the Committee on Environment and Public Works.

ACQUISITION OF ADDITIONAL LANDS FOR THE KNIFE RIVER INDIAN VILLAGES NATIONAL HISTORIC SITE

● Mr. BURDICK. Mr. President, today I am introducing a bill to expand the boundaries of the Knife River Indian Villages Historic Site in North Dakota. The site needs to be expanded to protect a number of Indian burial mounds which were recently discovered there.

Knife River is the only unit of the National Park Service that was created specifically to commemorate the culture and history of the Plains Indians, and to interpret their lifestyle. The Lewis and Clark expedition stopped at this site along the Missouri River in October 1804 and wintered nearby through April 1805. The site represents one of the longest unbroken records of cultural development among an identifiable tribal group anywhere in the world. Scholars say this is perhaps the largest and most important archeological site in the United States.

Knife River is the traditional home of the Three Affiliated Tribes: The Siouan-speaking Hidatsas and Mandans and their Caddoan-speaking neighbors, the Arikaras. Aside from Knife River, very few earth-lodge village sites are intact today and no other sites include the range of prehistoric settlements found at Knife River.

On the high bluffs immediately overlooking the site is Stanton Mounds, a prehistoric burial mound complex from the Woodland Period. The area is on the National Register of Eligible Archeological Sites and should be part of the Knife River Site. Of the original eight burial mounds, only 5½ remain. The current owner once ran a gravel pit on this land. After human remains were found in gravel spread on county roads, the North Dakota attorney general became involved in protecting the mounds. Purchase by the National Park Service is the best way to prevent additional damage in the future. I would like to emphasize that the current owner is a willing seller, and the bill provides that any purchase be on a willing buyer/willing seller basis.

The Park Service's preliminary estimate is that it will cost $398,000 to acquire and develop the land. I believe this is a fair price to pay to protect the graves of these early Americans.

Let me outline several reasons why the preservation of the Stanton Mounds is so important:

1. PRESERVATION OF SACRED BURIAL GROUNDS

The villages and their associated cemeteries are venerated by the living descendants of their original occupants. In 1979, the tribal council of the Three Affiliated Tribes passed a resolution opposing development of any area of the Knife River Indian Villages Site that would disturb Indian graves. The North Dakota Indian Affairs Commission has been working to protect prehistoric sites and preserve ancestral burial places.

2. EVIDENCE OF PREHISTORIC CULTURAL EVOLUTION

When the site was established, the four Mandan and Hidatsa villages were the only archeologically important resources known. Subsequent study revealed evidence of predecessors of the Mandan and Hidatsa and the exciting discovery that these prehistoric Woodland Period villagers represented a different form of adaptation to the rigorous Plains environment. Hardy varieties of corn and beans that are still being grown and marketed were developed by these Indians over the course of centuries of plant husbandry. Crop surpluses permitted extensive trade with nomadic Indian groups east and west of the Missouri River. The villages served as trade centers which attracted Indians and later Euro-Americans. This led to a degree of cultural sophistication and affluence which some anthropologists regard as one of the highest points of Indian culture in North America.

3. CAUSES OF CULTURAL DECLINE

Tools and other materials introduced by contact with Euro-American culture replaced many native industries. With the Europeans came diseases which decimated the tribes. Several smallpox epidemics broke out between 1780 and 1875. At one point, the mortality rate may have reached 60 percent. In 1834, two villages were destroyed in a Dakota Indian raid. In 1845, most of the Mandan and Hidatsa banded together and settled about 40 miles northwest of the Knife River Villages at Fort Berthold, ND, where their descendants still live. They were joined in 1862 by the remaining Arikara.

4. HIDATSA SUBGROUP STUDY

The three Hidatsa subgroups have separate traditional histories and myths.

5. MANDAN-HIDATSA DIFFERENCES

Study of microstylistic variation among artifacts may allow attribution of ethnic identity to village sites. Such distinctions will help trace the arrival of these peoples in the Missouri River area and their subsequent movements in the prehistoric period.

6. ORIGIN OF CROW INDIANS

The Crow apparently split from the Hidatsas, gave up their horticultural pursuits, and adopted the nomadic

lifestyle of classic Plains Indians of the southeastern Montana-northern Wyoming region. The timing and reasons underlying this are poorly understood.

Section 2 of the bill increases the development ceiling for the site to accommodate completion of the new visitor center at the site. Congress has appropriated just over $1 million of planning and preconstruction funds.

I urge my colleagues to support this bill so that we may protect this important piece of history. The Stanton Mounds will be a valuable addition to the study of prehistoric Plains Indian cultural development, change, and impact on other cultures.●

By Mr. BINGAMAN (for himself, Mr. PELL, Mr. NUNN, Mr. DECONCINI, Mr. GLENN, Mr. CONRAD, Mr. LUGAR, Mr. BRADLEY, Mr. MCCAIN, and Mr. LIEBERMAN):

S. 1231. A bill to authorize benefits under the Civil Service Retirement System for certain survivors, and for other purposes; to the Committee on Governmental Affairs.

AUTHORIZATION OF CERTAIN SURVIVORS BENEFITS UNDER CIVIL SERVICE RETIREMENT

● Mr. BINGAMAN. Mr. President, I rise today to introduce a bill which will authorize benefits under the Civil Service Retirement System for certain survivors, and for other purposes.

The basic purpose of the civil service retirement system, the new Federal employment retirement system, or any retirement system for that matter, is to provide some level of income maintenance after retirement. Most retirement systems allow for the extension of these benefits to the survivors of an employee. Millions of Americans depend on these benefits for their existence in their golden years. Our courts have even recognized the legal right to such benefits as a part of an individual estate.

Our Federal retirement laws have been a series of modifications to the civil service system and with each of these modifications have come different effective dates, inconsistent decisions on retroactivity, and other confusing rules involving implementation. With nearly every liberalization some class of survivors has been left out, usually for cost reasons.

The legislation I am introducing today addresses one of these classes of survivor annuitants who have been denied benefits due to an arbitary cutoff date. My legislation would restore benefits to a needy and dwindling class of annuitants who have been denied benefits because they are not allowed to count aggregate marriage time in order to establish entitlement to CSR survivor benefits, occurring before the arbitrary cutoff date, first set in 1985, then later changed to 1984.

This matter was brought to my attention due to the heart rendering case of a constituent of mine, Mrs. Simone Driscoll whose husband was a Federal employee, whom she married, subsequently divorced due to some extremely unusual medical problems, and later remarried.

Myron W. Driscoll, of Alamogordo, NM, was a dedicated employee, husband, and father. Married for over 15 years to Simone Rioux, together they raised six children. Mr. Driscoll was a civil service employee working as an electrical/electronics engineer employed by the Department of Defense (Army) at White Sands Missile Range. He took great pride in his work, always keeping abreast of the latest developments in the industry. As a U.S. naval veteran, Myron served his country in both World War II and the Korean conflict. He was a concerned resident of New Mexico, and his great love for the American Indian enabled him to befriend many of them, with their welfare being uppermost in his mind. He was also a member of the Yucca Council of the Boy Scouts of America reaching the level of Eagle Scout at the early age of 14.

In late 1977 Mr. Driscoll began having problems with a brain tumor that was undiagnosed at the time. It was later found out that the tumor affected his personality and ultimately caused his death. In 1978, due to the change in his personality, Mrs. Driscoll was forced to seek a divorce. On December 23, 1978, when it was discovered that Mr. Driscoll's condition was caused by an organic tumor, Mr. and Mrs. Driscoll were remarried. Major brain surgery was done on January 2, 1979, and Mr. Driscoll unfortunately died shortly thereafter.

After Mr. Driscoll's death, Mrs. Driscoll applied for survivor benefits under Mr. Driscoll's annuity program and was refused by the Office of Personnel Management. The OPM stated that she was not remarried to him for the required 1-year period, nor was she the mother of issue by that remarriage. OPM considers the second marriage as a single entity and fails to recognize the long relationship that had existed from the first marriage to the second. Therefore, Mrs. Driscoll was also denied survivor benefits to help raise her family. Subsequently, the CSR law as amended to solve Mrs. Driscoll's type of problem by allowing aggregate marriage time to count toward survivor benefits. However, that change, as made by Public Law 98-615, applied only in cases of marriages and deaths occuring after May 7, 1985. A subsequent amendment, Public Law 99-251, which authorized the use of new requirements in cases involving marriages occurring on or after November 8, 1984, was also of no help to Mrs. Driscoll, since her remarriage was in 1978 and her husband died in 1979. Mrs. Driscoll did apply but was denied benefits even after lengthy appeal. Therefore, Mrs. Driscoll was denied the much needed funds to help provide for her family and support her children through their college years.

Mr. President, this situation proves that there is a great need for a correction in our civil service retirement law. As the widow of a proud American citizen who served his country throughout his adult life, and someone now is left to raise three children still at home, Mrs. Driscoll deserves better treatment. Mrs. Driscoll is a survivor victim of a system which has failed to recognize, or at least make allowances for, her unique situation.

Mr. President, I ask unanimous consent that the text of my legislation be printed at this point in the RECORD.

I also ask that a copy of the most recent appeal, and OPM's 1980 initial rejection and her May 7, 1989, letter also be made a part of the RECORD.

Mr. President, I truly hope this bill can be considered and passed in the 101st Congress to resolve this important issue.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 1231

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 4(a)(6) of Public Law 98-615, as added by Public Law 99-251, is amended to read as follows:

"(6)(A) The amendment made by section 2(4)(A) of this Act (relating to the definition of a widow or widower) shall apply with respect to any marriage occurring on or after the date of enactment of this Act.

"(B) The amendment made by section 2(4)(G) of this Act (but only to the extent that it amends title 5, United States Code, by adding a new section 8341(i)) shall apply with respect to any individual who, before, on, or after the date of enactment of this Act is married to an employee, Member, or retired employee or Member, who, before, on, or after the date of enactment of this Act dies, except that no annuity payment to which an individual is otherwise entitled by reason of the eanctment of this subparagraph may be paid for any period prior to the date of death of the employee, Member, or retired employee or Member, or the date of enactment of this Act, whichever is later.".

ALAMOGORDO, NM,
January 7, 1989.

Re Myron W. Driscoll, Jr., deceased 1/29/79, civil service employee at White Sands Missile Range, Simone R. Driscoll, widow (denied survivor benefits.). Claim Number: F1234645.

DEAR SENATOR BINGAMAN: Congratulations, Senator, on your re-election! The people whom you serve in the State of New Mexico certainly recognize and appreciate your concern and efforts in their behalf.

As a follow-up to our correspondence and conversations, I wish to resubmit the following information regarding my Civil Service Retirement survivor benefits. I was denied my widow's annuity benefits by the Office of Personnel Management. A subsequent appeal to the Merit Systems Protection Board was to no avail.

My husband, Myron W. Driscoll, Jr., and I were married for over fifteen years (September 29, 1962 to January 4, 1978). Three children were born of this marriage. We were divorced on January 4, 1978 and remarried on December 23rd of the same year. He died of cancer (carcinoma of stomach and esoph-

agus with metastases to brain) on January 29, 1979, a month short of his 54th birthday.

Somehow I feel compelled to tell you, Senator, something about this man I was married to. You see, Mick Driscoll was not just an ordinary man! He was Somebody, Someone I was very proud of, Someone who stood for something . . . He was an electrical/electronics engineer employed by the Department of Defense (Army) at White Sands Missile Range. He took great pride in his work, constantly keeping abreast of new developments in the scientific world. He was ambitious, hard working, extremely capable—a real achiever! Mick was an intensely patriotic American having served in the U.S. Navy for many years, a veteran of WW II and the Korean Conflict. He was a registered voter who believed that voting was his duty as a citizen of this country. His great love for the American Indian enabled him to befriend many of them, their welfare always being uppermost on his mind. Also, the Yucca Council of the Boy Scouts of America greatly benefited from his knowledge and dedication. He himself had made Eagle Scout by the time he was 14 years old. He also was a good father and provider to our children encouraging them always to seek knowledge, to be self-reliant and trustworthy.

Why did I divorce him? The only reason we were divorced is because of the unusual, grievous circumstances, a predicament of such magnitude there seemed to be only one solution. The children and I lived through a virtual nightmare; our very lives were in jeopardy. Mick was no longer the man we once knew! His personality had changed drastically. Later, after the divorce, a brain tumor was discovered. The neurosurgeon who performed the surgery informed me that the tumor was located in the part of the brain that affects one's personality This information can be substantiated by the divorce attorneys and the surgeon, if necessary. When I realized that my husband was suffering from an illness he had no control over, we remarried.

Today our children are all attending college. As you can well imagine, the financial burden is tremendous. Social Security student benefits no longer exist past the age of 18 and Guaranteed Student Loans have gotten increasingly difficult to obtain. Meanwhile, tuition and the cost of books keep going up! Myron will graduate from UNM with two degrees (Political Science and Criminal Justice) in May; Patrick will graduate from the DeVry Institute of Technology with an engineering degree in February and Jocelyne is working towards a degree in business. I would like to attend college too, and upon graduation, I would seek employment as a counselor for an Employee Assistance Program. We have come a long way in overcoming our tragedy. But for the Driscolls, taking the easy way out was never an option!

At this point there appears to be two options to redress this inequity: (1) Introduce legislation in my individual behalf which would make me eligible for all retroactive and future benefits or (2) Introduce legislation as drafted by Director Horner of the Office of Personnel Management that would allow the aggregation of marriage time. While my case is not unique by my not having been married to my husband a full year immediately prior to his death, I do feel that it is unique in that we were married over 15 years prior to our brief divorce. Certainly, I deserve better treatment as the widow of an upstanding, dedicated, proud American citizen who served his country well throughout his adult life. Clearly, one can understand that I am not an opportunist for whom this law was designed to eliminate. However, I am a survivor victim of the system which has failed to recognize, or at least to make allowances for, most unusual grievous circumstances. Obviously, this injustice would be best remedied by adopting the first option. However, I leave it to your discretion to determine which opinion of the two would be likely to be most successful in the Senate.

Senator Bingaman, I appreciate any effort on my behalf you will make in addressing this inequity and bringing about corrective legislation pertaining to my case.

Respectfully yours,

SIMONE R. DRISCOLL.

OFFICE OF PERSONNEL MANAGEMENT,
Washington, DC, June 10, 1988.

Hon. JEFF BINGAMAN,
U.S. Senate,
Washington, DC.

DEAR SENATOR BINGAMAN: This is in response to your letter concerning Civil Service Retirement (CSR) survivor benefits for your constituent, Mrs. Simone B. Driscoll.

We have again reviewed Mrs. Driscoll's case and have concluded, as did the Merit Systems Protection Board in rejecting her appeal, that she was properly denied a survivor annuity under the law in effect at the time of her husband's death. You are correct in noting that, subsequently, the CSR law was amended to solve Mrs. Driscoll's type of problem by authorizing the aggregation of marriage time to satisfy the duration of marriage requirement and thereby allow an individual in circumstances similar to those of Mrs. Driscoll to qualify for a survivor annuity. However, that change, as made by section 2 of Public Law 98-615, applied only in cases of marriages and deaths occurring on or after May 7, 1985. A subsequent amendment, in Public Law 99-251, which authorized the use of the new requirements in cases involving marriages occurring on or after November 8, 1984, was also of no help to Mrs. Driscoll.

Mrs. Driscoll's situation is not unique. Every prospective liberalization of the conditions for entitlement to benefits similarly disadvantages many individuals. Although we cannot take a position on Mrs. Driscoll's case in the absence of specific legislation, our customary position is to recommend against private relief legislation which would single out one such person for preferential treatment.

In accordance with your request, we are enclosing draft language which would permit Mrs. Driscoll, and any other person who is similarly situated, to aggregate marriage time in order to establish entitlement to CSR survivor benefits. Please recognize that this language is provided only as a drafting service and does not constitute our endorsement of such a measure.

I hope this information is helpful to you.

Sincerely,

CONSTANCE HORNER,
Director.●

By Mr. WALLOP (for himself, Mr. DOMENICI, Mr. DOLE, Mr. DIXON, Mr. WILSON, Mr. SYMMS, Mr. BURNS, Mrs. KASSEBAUM, Mr. DECONCINI, Mr. DODD, Mr. NICKLES, Mr. HARKIN, Mr. BOSCHWITZ, Mr. SIMON, Mr. COATS, Mr. D'AMATO, Mr. MACK, Mr. ROCKEFELLER, Mr. KENNEDY, Mr. MITCHELL, and Mr. GRASSLEY):

S. 1232. A bill to honor the world's most recent heros in the universal struggle for freedom and democracy, and to designate the park in the Districk of Columbia directly across from the Embassy of the People's Republic of China as "Tiananmen Square Park"; to the Committee on Energy and Natural Resources.

DESIGNATION OF TIANANMEN SQUARE PARK

Mr. WALLOP. Mr. President, on behalf of myself, Senator DOMENICI, and Senator DIXON as prime cosponsors, together with 14 of our colleagues, I rise to introduce a bill to name the small plot of land located across from the Embassy of the People's Republic of China. In light of the recent events occurring in China, we have chosen the name: Tiananmen Square Memorial Park. It is ironic indeed that you have the name of that country the People's Republic of China, and when the people express their desires for a republic, the government which controls that country repress them.

Apparently, this little island in the middle of Connecticut Avenue is so small as to not yet even warrant a name. It's current designation, according to the National Park Service, is merely "Reservation 303A and reservation 303B." However, this plot was recently the scene of a rather impressive demonstration, one in which several thousand Americans participated.

This protest served to remind the brutal Communist leadership of the People's Republic of China that Americans will never forget the massacre in Tiananmen Square on the 3d of June 1989. The gesture we make today, by introducing this bill, has become quite important considering recent events in China. In vintage Orwellian fashion, the Chinese Communist leadership has embarked on that most sinister of totalitarian practices: To deny or disfigure historical fact.

Mr. President, the Chinese Communist leadership cynically and callously maintains that no mass demonstrations ever took place in their country. They also continue to deny that Chinese troops ever fired into groups of protesters.

Furthermore, Communist leaders of the People's Republic of China continue to maintain the fiction that the only people killed were soldiers and innocent bystanders. Mr. President, this deception, this attempt to delude, is brought to us by the same individuals who reportedly has ordered the burning of the remains of protesters killed during the massacre to prevent an accurate depiction of the extent of the carnage.

Confucius said: "Those who know the truth are not equal to those who love it." The Communist leadership in the People's Republic of China seems intent on perpetuating "the big lie." It is incumbent upon Americans—certainly upon Congress—to make an appropriate gesture of our respect for

and admiration of the bravery exhibited by those students, workers, civil servants, and others who participated in the demonstrations.

Proper tribute to the thousands who may have been slaughtered in an attempt to win for themselves a few of those same liberties which we in free countries ought to more highly cherish is the wish of Americans everywhere.

In discussing options for this symbolic action, my aim was to focus upon the despicable nature of the Chinese Communist leadership's attempt to remove or deny any evidence of what actually took place during the weeks—even months—when hundreds of thousands of Chinese, representing nearly every sector of the population, came together in Tiananmen Square.

Those who demonstrated only wished to express their sincere desire to expand upon the few economic freedoms they have been given and to push for some basic individual and political liberties to increase democratization within their country.

I take this opportunity to express outrage at the recent arrests, convictions, and—in some cases—summary executions of individuals accused of orchestrating the demonstrations that took place in Tiananmen Square—the demonstrations that did not take place, according to the side of Chinese history.

The announcement today that Chinese authorities proceeded with seven more public executions—adding to the three yesterday—reminded me of the famous passage from a Supreme Court opinion authored by Justice Robert Jackson. Justice Jackson stated, "Those who begin coercive elimination of dissent soon find themselves exterminating dissenters. Compulsory unification of opinion achieves only unanimity of the graveyard."

Mr. President, it seems obvious to this Senator that, when the Communist leadership in China sent the tanks rolling over individuals involved in peaceful demonstration, they completely yielded what little legitimacy to govern they may have had.

We should not have been surprised—for that is the behavior of tyrants who rule by force. Any time an oppressive regime—especially one which asserts that mandate to govern—is forced to employ such drastic military measures to coerce or to subdue their populace, the myth of their exalted status in that society ceases to exist.

This "crisis of legitimacy" indicates to the masses that their rulers are not only fallible, but inhumane. This provides those forces working for change within a country not merely the justification but the duty to push forward with their crusade. They see such tragedies as the Tiananmen Square massacre as simply setbacks, not failures of will or purpose. Not surprisingly, most Chinese interviewed after the massacre contended that the current regime is "criminal" or "illegitimate."

The people, aware of the atrocities, believe the government can no longer pretend to operate as though it has the "consent of the governed." That though begs the question: "When have they ever sought it?"

Mr. President, many still argue about what the students in Tiananmen Square truly sought for their nation or whether their concept of "democracy" conforms with our own. Conformation with our system of government is neither our purpose nor our goal—freedom and liberty are, and it is enough. However, the regime currently ruling the People's Republic of China is certainly not now representative of the will of the "people"—if it ever was.

The Chinese people asked to speak freely, without fear of retribution, about the shortcomings of their current government. They requested accountability of the government to the people it is supposed to serve. They asked for continuing economic reforms to rid the country of corruption, inefficiency and provincialism.

The Communist leadership in China not only refused to formally consider these demands legitimate and reasonable, they appear bent on trying to pummel these aspirations into submission, regardless of the number of people killed.

Those are not outrageous demands for a people to make their government. Certainly, these demands were not sufficiently revolutionary to justify the brutal repression the world witnessed in Tiananmen Square. Let us make sure those who died and those who are struggling, will be remembered in our country.

Let us demonstrate to the Chinese leadership here in Washington and in Beijing that they cannot scrub our memory, too. As for the people of China, I am confident that despite the cruel efforts of the Chinese leadership, their heroes may be hidden, they may be vilified, they may be killed, but they will not be forgotten.

I ask my colleagues to lend their support to this measure, and I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1232

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This act may be cited as the "Tiananmen Square Memorial Park Authorization Act."

SEC. 2. FINDINGS.

The Congress finds that—

(1) In April and May of 1989, Chinese students began hunger strikes and peaceful demonstrations in Beijing's Tiananmen Square to commemorate the seventieth anniversary of the May 19, 1919, student movement. These students demanded fundamental civil liberties such as those found in the United States Bill of Rights;

(2) Americans stand for certain timeless values that transcend political and national boundaries; among these principles is our belief in the sanctity of human life and the inviolability of individual rights and freedom;

(3) Hundreds of thousands of Chinese took to the streets throughout China in support of the ideals and aspirations expressed by the students;

(4) The Chinese students erected a version of the Statue of Liberty in Tiananmen Square to express their fervent desire to bring democracy and freedom to their country;

(5) The American people share the aspirations of all those around the world who struggle to win respect for these fundamental principles;

(6) When the pursuit of these ideals results in the shedding of innocent blood and the destruction of young lives, all Americans feel a profound sense of loss and an, equally great sense of outrage;

(7) The Communist regime in Beijing, unjustly and unprovoked, brutally slaughtered thousands of citizens engaged in peaceful demonstrations.

(8) Our nation mourns for the families and loved ones of those killed in China;

(9) Despite the outrageous brutality of elements of the Chinese Army in massacring unarmed, peaceful protestors, the Chinese leadership, including Communist Party leaders Deng Xiaoping and Li Peng, have publicly commended the actions of the Chinese Army;

(10) Since the massacre in Tiananmen Square, the Communist regime in Beijing has been engaged in the systematic arrest and detention of Chinese students and other dissidents allegedly involved in the demonstrations;

(11) There have been dozens of rallies across the United States in support of the Chinese students, including a demonstration held across the street from the Embassy of the People's Republic of China involving over 2,000 protestors;

(12) At this protest a twenty-foot replica of the Statue of Liberty was erected in a small park across the street from the embassy in honor of those students who lost their lives while demonstrating for greater political and economic freedom;

(13) A wreath was placed beneath the bright torch of the original Statute of Liberty to mourn the world's most recent heroes in the universal struggle for freedom and democracy; and

(14) The Communist regime in Beijing continues to deny the existence of any mass demonstrations, deny Chinese troops ever fired into groups of protestors, and deny that anyone other than soldiers and innocent bystanders were killed.

SEC. 3. DESIGNATION.

The park located in front of the Embassy of the People's Republic of China at the northwest corner of Connecticut Avenue and Kalorama Road in the District of Columbia, designated Reservation No. 303A and Reservation No. 303B by the National Park Service, shall be designated and known as the "Tiananmen Square Park".

SEC. 4. LEGAL REFERENCES.

Any reference in any law, regulation, document record, map, or other record of the United States or the District of Columbia to the park referred to in Section 3 is deemed to be reference to the "Tiananmen Square Park."

Mr. DODD. Mr. President, first I want to commend my colleague from Wyoming for his statement but also I am delighted to be a cosponsor of this piece of legislation. I think it is a very

creative idea and one will give us all in this town an opportunity to at least associate ourselves with the young people and workers in the People's Republic of China. We have all watched with a great deal of pride and admiration as they tried to expand their democratic opportunities in that country and then, of course, with horror over the last several days when we heard about 2 or 3 dozen of these young people having lost their lives as a result of their activities.

Naming this small plot of ground in Washington that all of us who have lived in this city for some time, and have driven around hundreds and hundreds of times, never realized did not have a name—now we will all be able to drive by that plot and think of those young people and the efforts in that country.

I commend him for his comments and commend him for this suggestion and while waiting for amendments here on child care legislation I think it is worthwhile to take a moment out to express our horror, as I said, over what has occurred over the last several days in China.

I commend our colleague, by all means, for his 5,000th vote. I suspect we agreed on maybe five of those. We have had some differences of opinion. I am with him on this vote for sure.

Mr. DOMENICI. Mr. President, I am pleased to join Senator WALLOP and Senator DIXON as cosponsors of the bill that will give this Capitol a silent commemorative to China's heroic students.

I have not been able to find any better words to describe our Nation's sorrow and anger over these recent events in China than those of our President, George Bush. They were read by the Secretary of the Interior, Secretary Manuel Lujan, at the Statue of Liberty on June 8. The remarks are brief, but I believe express symbolism that is quite appropriate.

A wreath was laid before the Statue of Liberty. We, today, ask the United States Senate to lay a small parcel of American soil, in a very conspicuous place, across the street from the Embassy of the People's Republic of China. We would dedicate that symbol of open space in commemoration of China's brief and heroic exercise of freedom in this changing world where freedom seems to be afire.

Incidentally, these remarks by President Bush were made June 9, prior to the most recent tragedy of the executions.

The President said the following:

By laying this wreath in memory of those killed during the recent violence in China, we express the heartfelt sorrow and deep sympathy of the people of the United States.

As Americans, we stand for certain timeless values that transcend political and national boundaries. Among these principles is our belief in the sanctity of human life and the inviolability of individual rights and freedom. We share the aspirations of all those around the world who struggle to win respect for these fundamental principles. When the pursuit of these ideals results in the shedding of innocent blood and the destruction of young lives, all Americans feel a profound sense of loss and an equally great sense of outrage. Today, the heart of our Nation mourns for the families and loved ones of those killed in China.

This wreath, placed beneath the bright torch of the Statue of Liberty, honors the world's most recent heroes in the universal struggle for freedom and democracy. These young Chinese students had built their own version of Lady Liberty, expressing a fervent desire to bring her promise of freedom to their country. Even though that tangible symbol of hope has been temporarily suppressed, the dreams it represented live on in the Chinese people.

While we stand beneath the Lady who lifts her lamp "beside the golden door," let us take comfort in knowing that the young men and women we honor today have passed through a far greater one. God bless you all.

Mr. President, this bill, when we came here to the Senate floor, had about 30 Senators as cosponors. I believe we will have many more and I hope the appropriate committee, if it must go to a committee, will report it out quickly. I think the measure loses some of its sysmbolism if we wait too long. It is most appropriate immediately after the executions and after the rather incredible exercise in freedom of the past 5 or 6 weeks by the young in China.

Many are saying: Do something to the Government of China. I think our President is exactly right. We do not want to do something to the people of China that we will regret. With this bill, we are undertaking an internal, proper effort to dedicate an appropriate symbol of the tremendous enthusiasm, led by young people, for the basic exercise of freedom and opportunity in China.

Mr. President, today we also circulated a letter to the President, complimenting him on his efforts in behalf of Prof. Fang Lizhi. We in the Senate support him wholeheartedly in making sure that our American Embassy remains a refuge for those who are trying to escape from the attempt of the leadership in China to impose their will on them and perhaps even take their lives.

I refer specifically to the letter signed by many Senators, saying: Mr. President, keep that Embassy torch alive. If the eminent professor and astrophysicist, Fang Lizhi, wants to stay there until he feels safe, we back you. Do not give in. Make our American Embassy a bastion of freedom for that great professor who seeks temporary asylum there.

I ask unanimous consent to have that printed letter a in the RECORD. Mr. President, I thank all of the cosponsors of the bill that I joined Senator WALLOP in preparing and introducing.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, DC, June 22, 1989.

The PRESIDENT,
The White House, Washington, DC.

DEAR MR. PRESIDENT: We write to commend you, Mr. President, for your actions involving Professor Fang Lizhi.

This brave man, whose life is at risk, has entered our Embassy in Beijing seeking refuge from the Chinese authorities. His only crime is that he has spoken out for democracy—a crime which in present day China can result in imprisonment or even death.

In the name of freedom and democracy, we call on you never to bow to the demands of the Chinese government by turning Fang over to the brutal regime that is now in control in Beijing.

Mr. President, even if it means that Fang must spend months, or even years within our embassy walls, the cause he represents and the courage he has displayed compel us to guarantee his safety by giving him continued sanctuary at our embassy.

The Chinese government has demonstrated to the world that those who speak out for the God-given rights of liberty and freedom will be silenced by the force of oppression.

As we have unfortunately seen so many times before, Communist regimes when threatened by the legitimate aspirations of their people to be free, will bow at nothing if their dictatorial control over their people is challenged.

Professor Fang is an eloquent and courageous spokesman for the many Chinese who yearn to live in democracy and be free. He has repeatedly shown the courage to state his views, even prior to the student movement which sprang into being during those brief and brave days in Tiananmen Square.

And now he, like so many other Chinese who spoke out for democracy, is threatened by imprisonment and death.

Mr. President, in the tradition that has made America the envy and the dream of oppressed people everywhere, do not let Fang go. Our nation owes it to those who died in Tiananmen Square and to those who will live with the silent memories of the brutal massacre forever etched in to their hearts to do all it can to protect this courageous and noble man.

Mr. President, we know you will agree and act to ensure the continued protection of Fang.

Sincerely,

Alan J. Dixon, Patrick J. Leahy, Dennis DeConcini, Terry Sanford, Herb Kohl, J. James Exon, Pete V. Domenici, Conrad Burns, Jesse Helms, Strom Thurmond, William V. Roth, Jr., Jake Garn, John F. Kerry, Joseph I. Lieberman, John B. Breaux, Paul Simon, Howell Heflin, Jeff Bingaman, Spark M. Matsunaga, Richard G. Lugar, Alfonse M. D'Amato, Dan Coats, James M. Jeffords, Larry Pressler, Pete Wilson, Connie Mack, Arlen Specter, Edward M. Kennedy, Malcolm Wallop, Mitch McConnell, John W. Warner.

By Mr. CRANSTON:

S. 1233. A bill to amend the Public Health Service Act to assist communities in developing coalitions to implement a substance abuse prevention and intervention program, and for other purposes; to the Committee on Labor and Human Resources.

COMPREHENSIVE COMMUNITY SUBSTANCE ABUSE PREVENTION ACT

Mr. CRANSTON. Mr. President, today I am introducing legislation to increase Federal support of local drug prevention programs. As my colleagues well know, the American people have stated repeatedly that stopping drug abuse is their No. 1 priority. Drugs are tearing apart families and communities all over America, and they are threatening to steal away a whole generation of young people.

The Federal Government has poured billions of dollars, most of it into drug interdiction and law enforcement efforts, to stop the escalating epidemic. Although there have been some successes, they have been far too few, and Americans are growing increasingly frustrated for more action. We must continue to search for ways to retake the streets from the drug pushers and dealers, but new approaches are needed.

Mr. President, Congress has tried to respond to drug epidemic on many occasions—the most recent being last year through enactment of the comprehensive Anti-Drug Abuse Act of 1988. It addressed the full spectrum of the drug problem—from beefing up drug interdiction to expanding treatment. That law—when it is fully funded and implemented—will help. But I am concerned that not enough focus was placed on one critical aspect of the war on drugs—prevention.

If we as a society are ever going to be successful in stopping drug abuse, and the increasingly violent crime that often goes along with it, we must stop the demand. Our young people must be encouraged to change their views and attitudes about drugs and to find alternatives to the drug culture. We can step up efforts to stop the flow of drugs at our borders and increase law enforcement efforts to crack down on drug trafficking—and I think these activities are important—but they cannot ultimately stop people from using drugs.

Unfortunately, substance abuse prevention programs have traditionally received very little attention or funding. Consequently, we are only beginning to learn what works and what doesn't. We took one step forward in 1986 when we created the Drug-Free Schools Program to help schools develop and implement substance abuse prevention programs. But we haven't done much for community-wide prevention efforts, where, I believe, the real hope lies.

COMMUNITY FORUMS

Mr. President, because I believe that communities represent an untapped resource in our war against drugs, I have been holding community forums throughout California to learn about what they are doing and what needs to be done to stop the scourge of drugs.

I have heard stories repeated over and over again about crack-addicted babies and drug-related violence. One San Diego woman said that "It's like a house that's on fire and we see our children and our sisters and brothers inside the house * * * and the house is burning."

But I also heard from ordinary citizens rising to the challenge of fighting back, and what they said impressed me greatly. Communities rallying together with limited resources and unlimited heart to send a strong and united message that goes beyond urging young people simply to say "no" to drugs.

Community leaders, parents, and school administrators who say "yes" to involving community organizations and businesses in helping youth, who say "yes" to strong leadership in schools, and who say "yes"to high expectations of students at school and at home are making a difference.

They have found that it makes a difference when people open their homes for neighborhood meetings to discuss the warning signs and dangers of drug abuse. It makes a difference when local businesses invest their time and money to "adopt" a school and provide students with positive alternatives to criminal activity. It makes a difference when schools and recreational programs develop after-school projects which expose youth to positive role models and which build their self-esteem. All of these steps can make a difference because they tell young people we care.

Mr. President, the one thing that has struck me after having visited a number of different programs is that there is no one solution, no single answer about how to keep kids from using drugs or from joining drug-trafficking gangs. Each community has to develop its own set of solutions depending on the individual needs, resources, and structures of that community. But communities do use common tools and strategies to put together their programs.

Mr. President, I am taking the message to other towns and cities throughout my State that community activism and old-fashioned grassroots organizing can truly turn around a local drug program. I want to share with them model programs and help facilitate the development of programs tailored to their own unique needs.

At the same time, community representatives have told me that they cannot do it alone. The Federal Government can and should be a partner in these efforts. That's why I recently urged William Bennett, the Director of the Office of Drug Control, who is preparing a national drug control strategy, to meet with and enlist the help of Californians who are working in their own communities. They are truly the foot soldiers in the war on drugs and have much to contribute.

By the same token, the Federal Government, as a full partner in the war on drugs, can supply the heavy artillery by providing communities with much-needed resources, guidance, training, and technical assistance for developing drug prevention programs. That is what my legislation would do.

RESEARCH SUPPORTS COMMUNITY INVOLVEMENT IN PREVENTING DRUG USE

Mr. President, as I have become more convinced that community coalitions are the way to go, so, too, has the research community. Just 2 weeks ago, a study in the Journal of the American Medical Association reported that a comprehensive community program that encourages teenagers to avoid cigarettes, alcohol, and marijuana is far more successful than programs that rely only on the schools.

The study involved 23,500 sixth and seventh graders in 42 schools in the Kansas City area. The schools were randomly assigned to carry out the experimental program, which involved parents and family members, community organizations, and the media, in addition to the schools, or to continue their normal programs. The experimental program included sessions at school, homework assignments that involved role playing with family members and newspaper articles and TV and radio spots on resisting drugs.

One year later, students were asked whether they had used drugs in the last month. Among the students in the experimental group, 17 percent said they had smoked cigarettes, 11 percent said they had drunk alcohol, and 7 percent reported using marijuana. In contrast, 24 percent of the students who were not in the experimental program reported smoking cigarettes, 16 percent reported drinking alcohol, and 10 percent said they used marijuana.

More interestingly, the increase in drug prevalence among the experimental group was half that of the control group during the first year. That is, the number of students who reported using marijuana and who participated in the intervention program increased by 3.4 percent, whereas the number who reported using marijuana and who did not participate increased by 7.1 percent.

I am most encouraged, however, that, according to the author of the study, Dr. Mary Ann Pentz, preliminary data indicate that the program effects have been maintained and may even have improved during the subsequent 2 years.

THE 1988 ANTI-DRUG ABUSE ACT

Mr. President, the Anti-Drug Abuse Act of 1988 placed more emphasis on demand-reduction activities than ever before. In particular, it included a number of provisions to expand substance abuse prevention activities. As a member of the Senate task force that crafted the legislation, I proposed the concept for the Community Youth Activity Program to authorize Federal support to help local community organizations, agencies, and businesses develop drug prevention programs and other activities for youth—including training, education, and recreational

activities—so that they have real alternatives to the drug culture.

Also at my request, the law authorized Federal assistance for communities to develop long-term strategies to combat drug abuse. I was glad to see that President Bush recognized the value of the approach and included $35 million in his budget for that purpose.

SUMMARY OF LEGISLATION

Mr. President, despite these initiatives, only 30 percent of the entire drug budget is focused on ways to reduce the demand for drugs. I believe that much more needs to be done. My legislation would do two things. First, it would formalize a program—in effect, provide a blueprint for spending the money in the President's budget—to assist communities in developing comprehensive substance abuse prevention programs. If there is one thing we learned from the 1986 anti-substance abuse law, it's that a one-time only appropriation when dealing with the drug epidemic does not work. The Federal Government must be willing to make a long-term sustained commitment in partnership with communities. Otherwise, we are destined to fail.

This bill would enable the Federal Government to be much more aggressive in supporting local initiatives and would provide incentives and encouragement for them to organize, plan, and implement long-term strategies. The proposed legislation would specifically authorize for 3 years an initiative, consistent with the $35 million budget request, to assist communities in developing coalitions to identify the nature and extent of the drug and alcohol problem and to plan, develop, and implement a substance abuse prevention and intervention program. This legislation would help ensure that efforts begun with funding proposed by President Bush will be continued.

The second component to the bill concerns training in substance abuse prevention. Over the last 10 years, the emphasis on dealing with the drug epidemic has been on law enforcement and on cutting off supply. Drug prevention has received very little attention. Consequently, there are few individuals trained in the field who can in turn train community participants in a comprehensive prevention program. In my meetings with concerned citizens in California, one message has come through loud and clear. People want to help, they want to feel that they can do something. But most people throughout the Nation don't know how or what to do. They often lack the tools, knowledge, and resources to mount an effective and comprehensive substance abuse prevention program.

The proposed legislation would establish a National Substance Abuse Prevention Training Program and would authorize the Secretary to provide technical assistance and general support for training, including helping communities develop organizing skills, in substance abuse prevention. It would also establish a grant program to help State and local governments as well as community organizations to provide substance abuse prevention training to representatives of those organizations and agencies—in order to "train the trainer"—who can then provide training to parents, coaches, clergy, and other interested members of the community.

CONCLUSION

Mr. President, to wage this war against drugs effectively, we must come down hard on the drug kingpins in Colombia and the crack dealers in our neighborhoods. We need police, guns, nightsticks, and handcuffs to arrest drug pushers and to control drug-related street violence. But the police are the first to admit that handcuffs, nightsticks, and guns alone will not solve the drug problem. Whether the war on drugs will utlimately be won or lost depends on the success of failure of local grassroots efforts to decrease the demand for drugs, and the Federal Government must support these efforts.

I urge all my colleagues to join me in support of this legislation. I ask unanimous consent that the text of this bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1233

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Comprehensive Community Substance Abuse Prevention Act of 1989".

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds that—

(1) preventing substance abuse is the key to reducing the demand for illegal drugs and stopping the drug epidemic;

(2) substance abuse prevention activities have been seriously ignored and underfunded;

(3) successful prevention efforts require the involvement of all segments of the community including those in leadership positions and other concerned individuals and organizations on the grassroots level;

(4) many communities lack the tools, resources, and knowledge to mount an effective and comprehensive substance abuse prevention program; and

(5) the Federal Government should be a partner with local and State governments and community organizations in an effort to prevent substance abuse.

(b) PURPOSE.—It is the purpose of this Act to assist communities in planning, developing, and implementing long-term comprehensive substance abuse prevention strategies and programs—

(1) by developing communicative and cooperative relationships between various organizations, agencies, businesses, clergy, schools, parents, youth, and interested citizens regarding substance abuse prevention activities; and

(2) by assisting communities in training individuals in methods of planning, developing, and implementing substance abuse prevention and intervention programs and activities.

SEC. 3. COMMUNITY PARTNERSHIPS.

Part A of title V of the Public Health Service Act (42 U.S.C. 290aa et seq.) is amended by adding at the end thereof the following new sections:

"SEC. 509H. COMMUNITY COALITIONS ON SUBSTANCE ABUSE.

"(a) DEFINITION. As used in this section, the term 'eligible coalition' means an association, consisting of at least seven organizations, agencies, and individuals that are concerned about preventing substance abuse, that shall include—

"(1) public and private organizations and agencies that represent law enforcement, schools, health and social service agencies, and community-based organizations; and

"(2) at least three representatives of the clergy, academia, business, parents, youth, the media, civic and fraternal groups, and other nongovernmental interested parties.

"(b) GRANT PROGRAM.—The Secretary, acting through the Director of the Office, shall make grants to eligible coalitions in order to—

"(1) plan and implement comprehensive long-term strategies for substance abuse prevention;

"(2) develop a detailed assessment of existing substance abuse prevention programs and activities to determine community resources and to identify major gaps and barriers in such programs and activities;

"(3) identify and solicit funding sources to enable such programs and activities to become self-sustaining;

"(4) develop a consensus regarding the priorities of a community concerning substance abuse;

"(5) develop a plan to implement such priorities; and

"(6) coordinate substance abuse services and activities, including prevention activities in the schools and communities and substance abuse treatment programs.

"(c) COMMUNITY PARTICIPATION.—In developing and implementing a substance abuse prevention program, a coalition receiving funds under paragraph (1) shall—

"(1) emphasize and encourage substantial voluntary participation in the community, especially among individuals involved with youth such as teachers, coaches, parents, and clergy; and

"(2) emphasize and encourage the involvement of businesses, civic groups, and other community organizations and members.

"(d) APPLICATION.—An eligible coalition shall submit an application to the Secretary in order to receive a grant under this section. Such application shall—

"(1) describe and, to the extent possible, document the nature and extent of the substance abuse problem;

"(2) describe the activities needing financial assistance;

"(3) identify participating agencies, organizations, and individuals;

"(4) identify the agency, organization, or individual that has responsibility for leading the coalition, and provide assurances that such agency, organization or individual has previous substance abuse prevention experience;

"(5) describe a mechanism to evaluate the success of the coalition in developing and carrying out the substance abuse prevention plan referred to in subsection (b)(5); and

"(6) contain such additional information and assurances as the Secretary may prescribe.

"(e) PRIORITY.—In awarding grants under this section, the Secretary shall give priority to a community that—

"(1) provides evidence of significant substance abuse;

"(2) proposes a comprehensive and multifaceted approach to eliminating substance abuse;

"(3) encourages the involvement of businesses and community leaders in substance abuse prevention activities;

"(4) demonstrates a commitment and a high priority for preventing substance abuse; and

"(5) demonstrates support from the community and State and local agencies for efforts to eliminate substance abuse.

"(f) AUTHORIZATION OF APPROPRIATION.—

"(1) IN GENERAL.—There are authorized to be appropriated to carry out this section $35,000,000 for fiscal year 1990, $40,000,000 for fiscal year 1991, and $45,000,000 for fiscal year 1992.

"(2) SIZE OF COMMUNITIES.—The Secretary shall allocate at least 35 percent of the amount appropriated under paragraph (1) for a fiscal year to communities, with populations of no more than 250,000 individuals, that have made substance abuse prevention a high priority, as determined by the Secretary.

"SEC. 5091. SUBSTANCE ABUSE PREVENTION TRAINING.

"(a) ESTABLISHMENT.—The Secretary, acting through the Director of the Office, shall establish a National Substance Abuse Prevention Training Program (hereinafter in this section referred to as the 'Program').

"(b) The Program shall be headed by a Director who has extensive experience in substance abuse prevention (hereinafter in this section referred to as the 'Program Director').

"(c) DUTIES.—The Program Director shall—

"(1) develop a substance abuse prevention training curriculum for community groups in organizational development, program operation, prevention concepts, and models;

"(2) provide technical assistance and support for community training on substance abuse prevention, including organizing the community, developing skills, and establishing program goals;

"(3) provide technical assistance and support for advanced prevention and intervention training for the community organizing staff and state and local substance abuse agency staff;

"(4) develop specific training modules for problem areas such as substance abuse, teen pregnancy, and acquired immune deficiency syndrome and for professional groups that work with children and adolescents, such as juvenile court judges, pediatrics, coaches, and counselors;

"(5) provide substance abuse prevention outreach and support to communities with substantial minority populations through workshops and collaborative initiatives with organizations serving such populations;

"(6) disseminate successful curricula and training practices in substance abuse prevention in communities through involvement with parents, civic groups, members of the business community, clergy, law enforcement representatives, and community leaders; and

"(7) evaluate the appropriateness and effectiveness of substance abuse prevention training.

"(d) AUTHORIZATION.—There are authorized to be appropriated to carry out this section $10,000,000 for each of the fiscal years 1990 through 1992.

"SEC. 509J. SPECIALIZED TRAINING PROGRAM.

"(a) GRANT PROGRAM.—The Secretary, acting through the Director of the Office, shall make grants to States, local agencies, and community organizations in order to—

"(1) provide substance abuse prevention training to representatives of such organizations and agencies;

"(2) provide substance abuse prevention training to parents, teachers, clergy, the business community, and civic groups;

"(3) coordinate with other community resources and programs; and

"(4) provide specialized training programs for professional groups that work with children and adolescents, or that are targeted to specific population groups.

"(b) AUTHORIZATION.—There are authorized to be appropriated to carry out this section $20,000,000 for each of the fiscal years 1990 through 1992.".

SEC. 4. OFFICE FOR SUBSTANCE ABUSE PREVENTION.

Section 508(d)(2) of the Public Health Service Act (42 U.S.C. 290aa-6(d)(2)) is amended by striking out "$5,000,000" and inserting in lieu thereof "$4,000,000".

By Mr. CRANSTON:

S. 1234. A bill to amend the Anti-Drug Abuse Act of 1988 to require that certain areas be designated as high intensity drug trafficking areas, and for other purposes; to the Committee on the Judiciary.

AMENDING THE ANTI-DRUG ABUSE ACT OF 1988 RELATING TO DRUG TRAFFICKING AREAS

Mr. CRANSTON. Mr. President, the Anti-Drug Abuse Act we passed last year contains a very important provision that authorizes the new drug czar, William Bennett, to designate certain areas of the country as "high intensity drug trafficking areas" and to provide special Federal assistance to such areas. I was glad to see that the 1988 drug bill contained this provision, Mr. President, because since March 1988 I have been pressuring the administration to send more Federal resources to the Los Angeles area which is a major drug importation and transshipment center for the entire country. I have consistently argued that the problem in Los Angeles is not a local problem. Rather, the scope of the problem has reached national dimensions, and thus clearly demands a Federal response.

With the beginning of the 101st Congress, I joined Congressmen BERMAN and LEVINE in asking the new drug czar to make some commitment to utilize his authority under the 1988 drug law to designate the Los Angeles area as a high intensity drug trafficking area. Mr. President, I ask unanimous consent that a copy of that letter be printed in the RECORD at the conclusion of my remarks. Also, because of the serious problems we face regarding drug trafficking along the southern border, I joined a number of other Senators in asking that that region of the country receive a similar designation. While the drug czar has acknowledged these requests, no commitment has been forthcoming.

Consequently, today I am introducing a bill which goes a step further than the step we took in the 1988 drug law. This bill requires the drug czar to designate certain areas as high intensity drug trafficking areas and, when designating such areas, to include those cities which are now acknowledged as major drug importation, distribution, or manufacturing centers: Los Angeles, San Diego, New York, and Miami. Current law merely authorizes—but does not require—the designation of such areas, and does not name specific areas. I believe this change is necessary, Mr. President, if we indeed are going to make a serious commitment to cut off the supply of drugs into this country. The crisis in these cities is such that we should not delay in making such a commitment.

STOPPING THE DRUG SUPPLY IS A NATIONAL—NOT LOCAL—PROBLEM

Reports of the Drug Enforcement Administration [DEA], the Federal Bureau of Investigation [FBI], and the National Narcotics Intelligence Consumers Committee (known as the NNICC report), indicate that major drug trafficking activity—including either importation, or distribution, or manufacturing, or some combination of these activities—are occurring in Los Angeles, San Diego, New York, and Miami. Certainly there are other cities which might qualify for special Federal assistance, but it is important that we make a commitment now to those areas which we know to be major sources of supply of illegal drugs.

For example, in the case of Los Angeles, local and Federal officers seized over 40,000 pounds of cocaine during 1988—which some officials estimate is only 10 percent of the total amount flowing through the area to the rest of the country. Additionally, as a result of the substantial amount of drug trafficking in Los Angeles, the city is now widely regarded as the drug money laundering capital of the Nation.

Federal officials estimate that several billion dollars a year is being laundered from Los Angeles through Panama and other countries and back to Colombia. Last year, for the first time, Federal and local drug agents seized more assets from drug dealers in Los Angeles—more than $200 million—than anywhere else in the country.

The situation in Miami and New York is just as shocking. Large sums of cocaine profits were laundered in or moved out of these cities. For example, in February 1988, DEA agents in New York seized a record $7.8 million in cash in drug profits from a cocaine distribution network. Subsequent to the seizure it was learned the group was purported to be moving approximately $40 million per month.

In the cities mentioned in my bill, gang conflicts have become a form of urban-guerrilla warfare over drug trafficking.

The Los Angeles gangs—the Bloods and the Crips—have spread their drug trafficking activities up and down the State, into neighboring States, and even attempted to establish operations as far east as York, PA. These two gangs have established a far-reaching drug trafficking network that has made itself known throughout the country. They extend their activities

by recruiting retail-level distributors from the local area and using gang members as couriers for both the drugs and income generated from crack sales.

Dominican gangs are based in New York City and operate in cities in the northeastern United States; Haitian gangs, based in Miami, operate primarily in the southeastern United States. During 1988, there was a substantial increase in violence and homicides as power struggles over drug territory developed among retail-level distribution groups, local inner-city street gangs, and the larger, well-organized gangs attempting to expand their distribution area in a number of cities.

Often these gangs traffic in crack cocaine. Mr. President, at this point in time I think everyone is aware of the particular pernicious dangers associated with this highly addictive and yet relatively low cost drug. The history of this drug is that it was first available in 1981 in Los Angeles, San Diego, and Houston. Later, it became a serious problem in New York. Crack cocaine literally exploded on the drug scene during 1986 and was reported available in 28 States and the District of Columbia. It is currently available in almost every State.

Crack is a problem of epidemic proportions in Los Angeles where the Bloods and the Crips gangs control the manufacture and distribution of the drug. It is available in multikilogram quantities throughout the Los Angeles area, and kilogram quantities can be purchased for $15,500 to $19,500.

In Miami, local authorities estimate that there are over 700 crack houses. DEA Miami has identified two interstate trafficking networks, one which spreads across Florida, Georgia, South Carolina, and Tennessee, and the other involves the east coast to New York, extending west through Texas and Nevada to California.

In New York, several large crack organizations—whose structure approaches that of midlevel cocaine or heroin dealers—have been established. The DEA is investigating several organizations capable of supplying 10,000 vials of crack per week.

In addition to the trafficking in cocaine and crack cocaine in these cities, there is also the problem of trafficking in Southeast or Southwest Asian or Mexican brown heroin. New York City is the primary entry point and distribution center for both Southwest and Southeast Asian heroin. Mexican and Southeast Asian heroin are trafficked through Los Angeles.

As a final example of the need for this legislation I am introducing today, I would like to point out that clandestine laboratory production of methamphetamines and amphetamines is a very serious problem in this country. A significant amount of the production of these drugs is done in the San Diego area. Methamphetamine laboratory seizures in DEA's San Diego field division area have increased significantly during the past several years. DEA's San Diego, Los Angeles, San Francisco, Seattle, and Houston field divisions accounted for over 80 percent of the methamphetamine laboratories seized in 1988.

Mr. President, all of the data I have been able to gather regarding the supply of drugs into this country indicate that the drug trafficking in and through Los Angeles, San Diego, New York, and Miami, affects us all. We can advance the war on drugs significantly by cutting off the supply in these cities.

Los Angeles is a case in point. By some estimates, 40 percent of all the cocaine entering this country is routed via Los Angeles. That is not to count the crack, the heroin, or other illicit drugs, that are distributed from there. The toll this is taking on local governmental resources, plus the tragic toll on human lives, is hard to comprehend. At this point, Mr. President, I ask unanimous consent that the letters and city council resolutions I have received from cities in the Los Angeles area asking for some assistance with this crisis be entered in the RECORD at the conclusion of my remarks. These cities are asking for our help. I think we should answer with some form of commitment to provide Federal assistance to address this crisis situation.

STATEMENT OF PURPOSE AND CONCLUSION

The intent of my legislation is to assure that those cities which are the principal drug supply centers for the rest of the country will have the Federal resources they need to crack down on the drug traffickers. It is not my intent that Federal law enforcement agents supplant or preempt any local law enforcement efforts. Rather, what is clearly needed is for Federal and local law enforcement to join forces in this war on drugs.

Local governments acting alone cannot stem the flow of drugs into our country. I hope that my colleagues will support this legislation. I ask unanimous consent that the text of this bill be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 1234

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. HIGH INTENSITY DRUG TRAFFICKING AREAS.

Section 1005(c)(1) of the Anti-Drug Abuse Act of 1988 (Public Law 100-690) is amended—

(1) in the matter preceding subparagraph (A), by striking out "may designate" and all that follows through "Director may" and inserting in lieu thereof the following: "shall designate specific areas of the United States as high intensity drug trafficking areas, and such areas shall include Los Angeles County, California; San Diego, California; New York, New York; Miami, Florida; and such other areas the Director considers appropriate. After making such a designation and in order to provide federal assistance to the areas so designated, the Director shall"; and

(2) in subparagraph (A), by inserting before the semicolon the following: ", including personnel of the Coast Guard, the United States Customs Service, the Immigration and Naturalization Service, the Drug Enforcement Administration, the office of the United States Attorney for the appropriate district, the Bureau of Alcohol, Tobacco, and Firearms, the Federal Bureau of Investigation, and the United States Marshal Service."

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, DC, April 19, 1989.

Hon. WILLIAM BENNETT,
Director, Office of National Drug Control Policy, Executive Office of the President, Washington, DC.

DEAR MR. BENNETT: We would like to call your attention once again to the terrible drug problem that is savaging the Los Angeles area. We applaud your decision to have the Federal government play a more active role in fighting the war on drugs in Washington, D.C. We feel that the Federal government should put forth an equal effort to help with the drug problem in Los Angeles.

Los Angeles is clearly the center for drug importation and distribution in the United States. It should be designated a "high intensity drug trafficking area," so that it can qualify for more Federal assistance.

L.A. drug gangs, with over 70,000 members, export drugs and violence across the country. Los Angeles based drug traffickers have extended their operations into Washington, D.C., Seattle, Denver, Phoenix, Oklahoma City, Kansas City, Anchorage, Omaha and many other cities in the United States. We believe that by taking action in Los Angeles, the Federal government will be taking a large step toward dealing with the narcotics problem nationwide.

Recently in a drug bust in Washington D.C., Federal and local law enforcement officials broke up the largest and most organized drug ring in the city's history. The organization was responsible for 20-50% of the District's cocaine market. Law enforcement officials believe the drug ring to have received 30 kilograms of cocaine per week from a notorious Los Angeles drug gang known as the "Crips."

Although Los Angeles has been widely acknowledged as the fastest growing drug trafficking area in the country, it has not received an appropriate share of Federal anti-drug resources. Of the $150 million appropriated for fighting the war on drugs in this fiscal year, only $118.8 million went to the states. Of this $118.8 million, the State of California received only $10.7 million. We believe this reflects a grave under-estimate of the true nature of the problem in Southern California.

The Drug Enforcement Agency (DEA) estimated that roughly 40% of all cocaine coming to the United States enters through the Los Angeles area, and that percentage is growing. In 1982, 329 pounds of cocaine was seized. By 1988, more than 15 tons of cocaine with an estimated value of more than $5 billion had been taken off the streets of Los Angeles. In addition to being a major supplier/distributer of crack cocaine, Los Angeles is the nation's major production center for PCP and a major distribution center of heroine.

Cash seizures from the drug trade in Los Angeles totaled over $100 million last year and topped Miami for the first time. The drug money that has flowed into the Los Angeles area has flooded the city's Federal Reserve Bank with a $3.8 billion cash surplus. We believe this to be a clear confirmation that Los Angeles has become the prin-

cipal distribution and money laundering center for the drug trade in the United States.

We urge the Federal Government to fight the problem at the source and wage an all-out war on drugs and gangs in Los Angeles and Southern California. Until significant progress is made to reduce drug trafficking, the situation will continue to deteriorate in Washington and other cities in which L.A. gangs are operating.

The Federal presence in Southern California must be expanded. It is appalling that only 10% of the thousands of drug cases can be brought to trial because of the severe shortage of Federal attorneys. We are hopeful that in your capacity as the "Drug Czar" you will allocate more resources to Los Angeles to help expand the Drug Task Force.

We would greatly appreciate an opportunity to meet with you to discuss the possibility of declaring Los Angeles a "high intensity drug crime area." Thank you for your time and consideration.

Sincerely,

ALAN CRANSTON,
U.S. Senate.
HOWARD L. BERMAN,
House of Representatives.
MEL LEVINE,
House of Representatives.

BOARD OF SUPERVISORS,
COUNTY OF LOS ANGELES,
Los Angeles, CA, April 21, 1989.

Hon. ALAN CRANSTON,
U.S. Senator,
Washington, DC.

DEAR SENATOR CRANSTON: On April 18, 1989, we heard testimony from key officials representing locally based Federal anti-drug investigation and enforcement agencies, as well as our County Sheriff's Office, regarding Federal and local efforts to combat illegal drugs. After presentations by the representatives, it is apparent that we are facing a crisis.

Los Angeles County has become a major drug importation and transshipment center for the United States with massive amounts of cocaine and Mexican heroin flowing into the area. The dramatic rise in drug trafficking and abuse within the County has severely overburdened our justice and health care systems as is evidenced by the growing numbers of arrests, drug seizures, emergency room episodes and deaths.

Within Los Angeles County, we do have excellent cooperation among Federal and local anti-drug enforcement agencies. However, the enclosed chart clearly indicates the disproportionate allocation of Federal resources for drug enforcement. The need for additional resources for the war on drugs in the County is clear, both for locally based Federal agencies and for the County's Sheriff and other justice agencies.

To address this critical problem, we are requesting the Federal Administration to reallocate resources, including personnel, technology and funding, available to Federal anti-drug enforcement agencies to those areas of highest drug abuse and trafficking activity, particularly to those Federal agency offices working in the Los Angeles County area. We are also requesting that Dr. William Bennett, Director of the Office of National Drug Control Policy, expedite implementation of the Anti-Drug Act of 1988, targeting resources made available under the Act to those areas which have demonstrated the greatest need, including Los Angeles County, to assist with local law enforcement, health care, prevention and education efforts.

Therefore, we have requested the President to visit Los Angeles County, and bring Dr. William Bennett, Director of the Office of National Drug Control Policy, and Mr. William Sessions, Director of the Federal Bureau of Investigation, to meet with us and other law enforcement officials, to discuss the dangerous problems of drug trafficking and gang violence that we are facing.

We are also inviting you and Senator Pete Wilson, and the Los Angeles County Delegation in the House of Representatives to meet in Los Angeles County with the Sheriff and other local law enforcement agencies, including locally based Federal agencies, to see first-hand this battleground in the war on drugs.

For your information, enclosed is a transcript of the presentations made, and our discussion on this issue.

Sincerely yours,

Edmund D. Edelman, Chairman, Supervisor, 3rd District; Peter F. Schabarum, Supervisor, 1st District; Deane Dana, Supervisor, 4th District; Kenneth Hahn, Supervisor, 2nd District; Michael D. Antonovich, Supervisor, 5th District.

RESOLUTION NO. 4032—A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF GARDENA, CA

Whereas, drug abuse in the United States as a whole has become rampant and presents critical societal problems; and

Whereas, Los Angeles County is fast becoming a major drug importation and transshipment center for the United States of massive amounts of cocaine and Mexican heroin; and

Whereas, the County of Los Angeles has experienced severe overburdening of our justice and health care systems, which is evidenced by the growing numbers of arrests, drug seizures, emergency room episodes and deaths; and

Whereas, Los Angeles County drug enforcement agencies and officers are not receiving their proportionate share of Federal anti-drug funds;

Now, therefore, be it resolved, by the City Council of the City of Gardena to respectfully urge the Federal government to:

1. Reallocate resources, including personnel, technology and funding available to Federal anti-drug enforcement agencies to those areas of highest drug abuse and trafficking activity, particularly to those Federal agency offices working in the Los Angeles County area; and

2. Expedite implementation of the Anti-Drug Abuse Act of 1988, targeting resources made available under the Act to those areas which have demonstrated the greatest need, including Los Angeles County, to assist with local law enforcement, health care, prevention and education efforts.

Approved, passed and adopted this 23rd day of May, 1989.

RESOLUTION NO. 89-17

Whereas, the City of Cudahy, located in Southeast Los Angeles County, is experiencing escalating drug-related violence, crime, and associated problems which are threatening our community; and

Whereas, Los Angeles County has become the major drug importation and transshipment center for the United States and is known as the cocaine consumption capitol of the country; and

Whereas, in Los Angeles County, 60 percent of all criminal cases in the courts are drug related and it is estimated that 75 to 80 percent of the inmates in the Los Angeles County Jail System are imprisoned directly or indirectly as the result of substance abuse; and

Whereas, in Los Angeles County, an estimated 275 babies are born each month addicted to narcotics; and

Whereas, the drug epidemic has created a major crisis with the dramatic rise in drug trafficking and abuse within Los Angeles County severely overburdening our justice and health care systems; and

Whereas, the allocation of Federal resources the Los Angeles County area receives for drug enforcement is not proportionate to the amount of illegal drug activity in Los Angeles County.

Now, therefore, the City Council of the City of Cudahy does resolve as follows:

Section 1. That it hereby urges the Federal Government to reallocate resources, including personnel, technology and funding, available to Federal anti-drug enforcement agencies to these areas of highest drug abuse and trafficking activity, particularly to those Federal agency offices working in the Los Angeles County area; and to expedite implementation of the Anti-Drug Abuse Act of 1988, targeting resources made available under the Act to those areas which have demonstrated the greatest need, including Los Angeles County, to assist with local law enforcement, health care, prevention and education efforts.

Section 2. That the City Clerk shall certify to the passage and adoption of this resolution and shall transmit copies of this resolution to the President of the United States, Senator Alan Cranston, Senator Pete Wilson, Representative Matthew G. Martinez, Dr. William Bennett, Director of the Office of National Drug Control Policy, and the Los Angeles County Board of Supervisors.

CITY OF MONROVIA, CA,
June 9, 1989.

Senator ALAN CRANSTON,
Hart Office Building, Washington, DC.

DEAR SENATOR CRANSTON: The City of Monrovia is facing a serious drug problem, and we need your support to address this critical societal problem.

Los Angeles County, of which this City is a part, has become a major drug importation and transshipment center for the United States, with massive amounts of cocaine and Mexican heroin flowing into the area. The dramatic rise in drug trafficking and abuse within the County and this City has severely overburdened our justice and health care systems, as is evidenced by the growing number of arrests, drug seizures, emergency room episodes and deaths.

Due to this crisis, the City Council of the City of Monrovia, by unanimous vote, urges the Federal Government to:

1. Reallocate resources, including personnel, technology and funding, available to Federal anti-drug enforcement agencies, to those areas of highest drug abuse and trafficking activity, particularly to those Federal agency offices working in the Los Angeles County area, and

2. Expedite implementation of the Anti-Drug Abuse Act of 1988, targeting resources made available under the Act to those areas which have demonstrated the greatest need, including Los Angeles County, to assist with local law enforcement, health care, prevention and education efforts.

Sincerely,

ROBERT T. BARTLETT,
Mayor of the City of Monrovia.

CITY OF HERMOSA BEACH, CA,
May 23, 1989.

Hon. ALAN CRANSTON,
Senator, Washington, DC.

DEAR SENATOR CRANSTON: The City Council of the City of Hermosa Beach, California wishes to join the Los Angeles County Board of Supervisors and cities throughout Los Angeles County in urging your support

to address the critical societal problem of drug trafficking and abuse.

The dramatic rise in drug and these societal cancers within our County has severely overburdened our justice and health care systems and is evidenced by a growing number of arrests, drug seizures, emergency room episodes and deaths. We urge your assistance in the war on drugs by causing Federal government action to:

(1) Reallocate resources, including personnel, technology, and funding, available to Federal anti-drug enforcement agencies to those areas of highest drug abuse and trafficking activity, particularly to those Federal agency offices working in the Los Angeles County area; and

(2) Expedite implementation of the Anti-Drug Abuse Act of 1988, targeting resources made available under the Act to those areas which have demonstrated the greatest need, including Los Angeles County, to assist with local law enforcement, health care, prevention and education efforts.

If we are to be successful in our war on drugs, we will need high priority efforts at every level of government. We pledge our utmost efforts to this end and most respectfully request your assistance in order to meet the challenges of drug trafficking and abuse.

Sincerely yours,

JUNE WILLIAMS,
Mayor.
JIM ROSENBERGER,
Councilmember.
ETTA SIMPSON,
Councilmember.
ROGER CREIGHTON,
Mayor Pro Tempore.
CHUCK SHELDON,
Councilmember.

CITY OF PARAMOUNT, CA—RESOLUTION NO. 89:019

Whereas, the drug problem and the disproportionate allocation of federal resources overburdens the justice and health care systems; and

Whereas, the City of Paramount desires federal resources to be distributed comparably and relieve such excess burden;

Now, therefore, the City Council of the City of Paramount resolves, determines and finds as follows:

Section 1. The federal government is urged to reallocated resources, including personnel, technology and funding available to Federal anti-drug enforcement agencies to those Federal agency offices working in the Los Angeles County area; and

Expedite implementation of the Anti-Drug Abuse Act of 1988, targeting resources made available under the Act to Los Angeles County, to assist with local law enforcement, health care, prevention and education efforts.

Section 2. The City Clerk shall certify to the adoption of this resolution.

RESOLUTION NO. 89-46 of the City of Santa Clarita, CA

Whereas, Los Angeles County has become a major drug importation and transshipment center for the United States with massive amounts of cocaine and Mexican heroin flowing into the area; and

Whereas, the dramatic rise in drug trafficking and abuse within the County has severely overburdened our justice and health care systems as is evidenced by the growing number of arrests, drug seizures, emergency room episodes and deaths; and

Whereas, Los Angeles County is facing a serious drug problem and needs the support of the Federal government to address this critical societal problem;

Now, therefore be it resolved that the City Council of the City of Santa Clarita urges the Federal government to:

1. Reallocate resources, including personnel, technology and funding, available to Federal anti-drug enforcement agencies to those areas of highest drug abuse and trafficking activity, particularly to those Federal agency offices working in the Los Angeles County area; and

2. Expedite implementation of the Anti-Drug Abuse Act of 1988, targeting resources made available under the Act to those areas which have demonstrated the greatest need including Los Angeles County, to assist with local law enforcement, health care, prevention and education efforts.

RESOLUTION NO. 89-67 OF THE CITY OF MONTEBELLO, CA

Whereas, on April 18, 1989, the Los Angeles County Board of Supervisors heard testimony from key officials representing locally based Federal anti-drug investigation and enforcement agencies, as well as the Los Angeles County Sheriff's Office, regarding the extent of the problem and the inadequate resources for drug enforcement.

Whereas, it was brought out in the testimony that Los Angeles County has become a major drug importation and trans-shipment center for the United States with massive amounts of cocaine and Mexican heroin flowing into the area. the dramatic rise in drug trafficking and abuse within the County has severely overburdened our justice and health care systems as is evidenced by the growing numbers of arrests, drug seizures, emergency room episodes and deaths.

Whereas, it was apparent from the testimony that we are facing a crisis.

Now, therefore, the City Council of the City of Montebello does resolve as follows:

Section 1. That the City Council of the City of Montebello urges the Federal Government to:

Re-allocate resources, including personnel, technology and funding, available to Federal anti-drug enforcement agencies to those areas of highest drug abuse and trafficking activity, particularly to those Federal agency offices working in the Los Angeles County area; and

Expedite implementation of the Anti-Drug Abuse Act of 1988, targeting resources made available under the Act to those areas which have demonstrated the greatest need, including Los Angeles County, to assist with local law enforcement, health care, prevention and education efforts.

Section 2. That the City Clerk shall certify to the adoption of this Resolution and that a copy of this Resolution be directed to the President of the United States, Director William Bennett, Office of the National Drug Control Policy, the Los Angeles County Congressional Delegation, and the Los Angeles County Board of Supervisors.

RESOLUTION NO. 15,927 OF THE CITY COUNCIL OF COMPTON, CA

Whereas, the overburdening of Los Angeles County's criminal justice and health care systems as well as the ever-increasing number of arrests, drug seizures, emergency room episodes and deaths point to the fact that Southern California is now the drug importation and transshipment center for the entire United States; and

Whereas, despite these facts the Congress has consistently allocated resources to New York, Washington, D.C., and Florida; and

Whereas, the Los Angeles County Board of Supervisors is calling on the President and Congress to expedite the implementation of the Anti-Drug Abuse Act of 1988 and to target resources made available under the Act to areas that have demonstrated the greatest need, namely Los Angeles County, to assist with local law enforcement, health care, prevention and education efforts.

Whereas, the reallocation of resources, including personnel, technology and funding must be realized to enable federal anti-drug enforcement agencies operating in areas of highest drug abuse and trafficking activity to effectively combat the crimes that emanate from illegal narcotics.

Now, therefore, the City Council of the City of Compton does hereby resolve as follows:

Section 1. That we support the Los Angeles County Board of Supervisors in its efforts to reallocate federal resources to areas of the highest drug abuse and trafficking.

Section 2. That a certified copy of this Resolution be forwarded to President George Bush.

Section 3. That a certified copy of this Resolution be forwarded to William Bennett, Director of the Office of National Drug Control Policy.

Section 4. That a certified copy of this Resolution be forwarded to Senator Alan Cranston, Senator Pete Wilson, and Congressman Mervyn Dymally.

Section 5. That a copy of this resolution shall be filed in the Offices of the City Manager, City Attorney, Economic and Grants Management Services, and City Clerk.

Section 6. That the Mayor shall sign and the City Clerk shall attest to the adoption of this resolution.

By Mr. SIMON:

S. 1235. A bill to amend the Civil Rights Act of 1964 to permit States and political subdivisions to establish minority set-asides, and for other purposes; to the Committee on Governmental Affairs.

SET-ASIDES FOR STATES AND POLITICAL SUBDIVISIONS

● Mr. SIMON. Mr. President, in January, the Supreme Court delivered the first of four recent decisions which dilute the guarantee of equality for all citizens. In the case of *City of Richmond* v. *Croson*, 109 S.Ct. 706 (1989), the court struck down a minority set-aside program enacted by the city of Richmond, VA. My bill would use Congress' constitutionally granted power to enforce the 14th amendment to authorize States and municipalities to adopt set-aside programs if they so choose.

The Croson decision has had disastrous consequences. In the few short months since that decision, several set-aside plans have been ruled unconstitutional by State and Federal courts. Others have been rescinded by legislatures or failed to win approval as legislators, fearful that these programs may be unconstitutional, voted against them. Set-aside programs in the States of Michigan and Colorado; the cities of Atlanta, GA, and South Bend, IN, and in Guilford County, NC, have been so eliminated. Of the 36 States and 200 local government set-aside laws or policies, many others are now vulnerable.

The Chicago Defender has aptly described the message of Croson:

[The] justices, in effect, are saying: "Look, we know that your opportunities have been

severely restricted by racism in the past, but we can't recommend that anything be done to right that wrong or to make sure that it does not happen again. We realize that you've been severely wronged, but we can't even offer you a small bandaid. And even if you are still being attacked, you are going to have to categorically prove that the assault is taking place before you can even get an aspirin.

We cannot allow this to be the message we send to those who have suffered from discrimination in this country.

Set-aside programs are both an effective and appropriate means of redressing past discrimination, both public and private. Private discrimination takes many forms; for instance, discrimination in lending impedes the formation and growth of minority and women owned businesses. Governmental discrimination in the awarding of public contracts may then exacerbate preexisting private discrimination.

Of course, any set-asides must be reasonable, limited in scope and duration, to ensure that no abuses are taking place, and only those plans which meet these requirements are authorized by my bill. Moreover, my bill does not require State or local governments to enact set-aside programs; it merely authorizes them to do so if they choose.

The Supreme Court has set a daunting hurdle for those State and local governments seeking to remedy past discrimination by enacting a set-aside program. In order to institute a program, States and localities would have to give a detailed confession of their past discrimination or passive participation in private discrimination. Such a requirement would discourage action to redress discrimination. The Court's decision would also tax the resources of those who wish to encourage equality by requiring, in Justice Marshall's words, "unnecessarily duplicative, costly, and time-consuming factfinding."

My bill frees State and local governments of this high evidentiary burden by using Congress' broad remedial powers to redress discrimination, derived from section 5 of the 14th amendment. The Supreme Court affirmed the broad scope of those remedial powers in *Fullilove* v. *Klutznick*, 448 U.S. 448 (1980). The Croson decision did not overrule Fullilove, but reaffirmed it. As Justice O'Connor wrote, section 5 is "a specific constitutional mandate to enforce the dictates of the 14th amendment. The power to enforce; may at times also include the power to determine situations which Congress determines threaten principles of equality and to adopt prophylactic rules to deal with those situations."

Congress has previously determined that discrimination, both by the Government and by private citizens, is an important problem and clearly violates the principles of equality. We have passed several Federal set-aside programs: The Public Works Employment Act of 1977, the Highway Improvement Act of 1982, and the International Security and Development Assistance Authorizations Act of 1961.

But the Federal Government alone cannot effectively remedy discrimination without the assistance of State and local governments. By allowing other government units to enact set-aside programs, Congress will be furthering its goal, and the Nation's goal, of achieving equality.

The civil rights cases decided after Croson demonstrate that this case was not an aberration. Instead, as Justice Marshall warned, Croson "sounds a full-scale retreat from the Court's longstanding solicitude to race conscious remedial efforts. * * *" Congress cannot stand idly by, while the Supreme Court abandons its position as protector of the rights of the disadvantaged. Congress must use its power under the 14th amendment to ensure opportunity for all.

Mr. President, I ask unanimous consent that the Chicago Defender article and the the text of my bill be printed in the RECORD.

There being no objection, the material was ordered to be printed in the Record, as follows:

S. 1235

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SET-ASIDES FOR STATES AND POLITICAL SUBDIVISIONS.

Title VII of the Civil Rights Act of 1964 (42 U.S.C. 2000e et seq.) is amended by adding at the end thereof the following new section:

"SEC. 719. SET-ASIDES FOR STATES AND POLITICAL SUBDIVISIONS.

"(a) FINDINGS.—Congress finds that—

"(1) there has been a long and continual history of discrimination on the basis of race, color, religion, sex, or national origin by private contractors in employment and subcontracting; and

"(2) such discrimination has been exacerbated by States and the political subdivisions of such States in awarding contracts.

"(b) AUTHORIZATION.—Congress, pursuant to its power to enforce the Fourteenth Amendment to the Constitution, determines that States and the political subdivisions of States may enact reasonable provisions setting aside a percentage of funds for spending on contracts to be awarded to firms that have ownership, control, or employment practices which further the goal of remedying the discrimination referred to in subsection (a).

[From the Chicago Defender, Jan. 25, 1989]

HIGH COURT GOOFED ON "SET-ASIDE" RULING

The Supreme Court made a serious error in striking down a law requiring construction companies bidding for city contracts in Richmond, Virginia to set aside a share of the jobs for minority subcontractors. The high court's decision was approved 6-3.

Set-asides are affirmative action programs calling for a percentage of government contracts at all levels to be awarded to minority- or female-owned firms. The ruling was established mainly to stop the traditional exclusion of these groups from such businesses. For years, the set-aside program has worked to correct past injustices and to lessen the economic impact from any present form of racial or sex discrimination.

Justice Sandra Day O'Connor wrote in the majority decision: "While there is no doubt that the sorry history of both private and public discrimination in this country has contributed to a lack of opportunities for Black entrepreneurs, the observation, standing alone, cannot justify a rigid racial quota in the awarding of public contracts in Richmond." In so ruling, O'Connor is exhibiting the same kind of thinking when she served on California's Supreme Court.

But her words are extremely limited, in that they make no reference to the private and public discrimination which for centuries has assailed female entrepreneurs in this country's construction industry. Even though the Richmond case specifically involved African Americans, the ramifications of the ruling will definitely impact negatively on the nation's minorities and women. That should have been taken into consideration and made a part of the court's majority ruling. But perhaps it was but just ignored.

Also, the "observation" of past racial abuse limiting opportunities for Blacks is not, as Justice O'Connor mentioned, "standing alone." It stands right alongside the reality of present racial bias and sexism in the construction industry across America.

It is rather obvious that O'Connor and the five justices who voted with her simply refused to observe or acknowledge that racism and sexism still are potent barriers to minority and female entrepreneurs. The six justices, in effect, are telling these groups: in each and every case, before set-aside levels can be established, you must prove that racism and sexism truly are keeping you out of the construction industry.

Worst of all, those justices, in effect, are saying: "Look, we know that your opportunities have been severely restricted by racism in the past, but we can't recommend that anything be done to right that wrong or to make sure that it does not happen again. We realize that you've been severely wronged, but we can't even offer you a small bandaid. And even if you are still being attacked, you are going to have to categorically prove that the assault is taking place before you can even get an aspirin." And this is coming from the highest court in America, the body that has the prime directive of distributing justice, the organization that is the supreme law of the land.

The Defender thinks Justice Thurgood Marshall, who voted against the ruling, was right when he said it was a "giant step backward" because it discourages local and state governments "from acting to rectify the scourge of past discrimination." The Defender must stress that the Richmond City Council chose to establish the set aside program in 1983. Therefore, Marshall correctly said, "I find deep irony in second-guessing Richmond's judgment on this point. As much as any municipality in the United States, Richmond knows what racial discrimination is . . ." If any one doubts the wisdom of those words, that person should remember that Richmond was the capital of the Confederacy and, according to Marshall, ". . . a century of decisions by this and other federal courts has richly documented the city's disgraceful history of public and private racial discrimination."

What makes O'Connor and company think the situation in Richmond has changed?●

By Mr. METZENBAUM (for himself, Mrs. KASSEBAUM, Mr. CHAFEE, Mr. PELL, Mr. LAUTEN-

BERG, Ms. MIKULSKI, Mr. KENNEDY, Mr. SIMON, Mr. MOYNIHAN, Mr. MATSUNAGA, and Mr. KERRY):

S. 1236. A bill to provide for a waiting period before the sale, delivery, or transfer of a handgun; to the Committee on the Judiciary.

BRADY HANDGUN VIOLENCE PREVENTION ACT

● Mr. METZENBAUM. Mr. President, today, we are pleased to introduce legislation to require a national 7-day waiting poeriod before the sale of a handgun. This simple step will allow local law enforcement to undertake a background check to make sure that a person is legally entitled to make the purchase. In addition, it allows a cooling off period for persons in a violent or suicidal rage before they take possession of a handgun.

I am pleased to be joined in this effort by Senators KASSEBAUM, CHAFEE, PELL, LAUTENBERG, MIKULSKI, KENNEDY, SIMON, MOYNIHAN, MATSUNAGA, and KERRY.

President Reagan, Attorney General Thornburgh, and law enforcement officials across the county have endorsed a national minimum waiting period, which does not undercut State laws that require longer waiting periods. Waiting periods have proven to be highly successful in preventing handguns from falling into the hands of criminals in the 22 States where they are now in effect. In a single year, the State of California prevented 1,500 handguns from falling into the hands of convicted felons. New Jersey stops an average of 500 felons a year from illegally purchasing handguns.

While State laws are extremely useful, it is far too easy for the lax laws in one State to undercut the effectiveness of those of its neighboring State. We know that drug dealers and other criminals are buying weapons in States without waiting periods and transporting them into States which do. For example, law enforcement experts tell us guns purchased in Virginia, Ohio, and Texas are transported by drug gangs into States with waiting periods. Criminals will continue to evade State laws unless Congress acts to ensure that law enforcement officials throughout the Nation have an opportunity to perform a background check.

Federal law already prohibits persons who present a serious risk of criminal use of a gun from purchasing one, including convicted felons, persons adjudicated mentally ill and drug addicts. However, there are no reliable ways of determining who is disqualified from buying a weapon without some background check. Law enforcement officials all over the country report that they can perform a simple computer check if they are given basic information and a limited time before the handgun is transferred.

A waiting period is one of the least expensive and most effective methods of keeping firearms out of the hands of criminals. A General Accounting Office study has estimated that the cost of a waiting period in States which do not have them would amount to $5 to $10 million spread throughout all local law enforcement jurisdictions. Thus, the cost to any single local jurisdiction or to the Federal Government is minimal.

A 7-day wait is a minor inconvenience compared to the enormous benefits of preventing weapons from falling into the hands of drug dealers or persons who are in a psychotic rage. Each year there are tragic cases involving an insane person obtaining a handgun while in a violent rage, then hours later killing innocent persons. My own city of Cleveland was the scene of just such an incident in 1984.

Some persons have claimed this bill is a backdoor registration system. This claim is preposterous. The bill specifically requires that law enforcement destroy records of a firearm purchase, and information obtained from them, within 30 days of receipt unless the information indicates a criminal violation. In addition, the bill contains a number of procedures by which a person could obtain a handgun prior to the expiration of 7 days. A person need not wait 7 days if the chief local law enforcement officer where the buyer lives notifies the dealer that: First, the purchase would not violate Federal or State law; or second, the buyer requires access to a handgun because of a threat to the life of the buyer or his household. A buyer would also be exempt from the 7-day wait if he has applied to the State and received a permit to possess a handgun, provided the law enforcement authorities of the State have verified that the buyer is qualified under law to receive a handgun. States may adopt other programs, discussed below, that would exempt them from the 7-day waiting period requirement.

During the last Congress the House of Representatives narrowly defeated a 7-day waiting period proposal. The House voted to require the Attorney General to develop a point-of-sale verification system, which is capable of determining eligibility to purchase a firearm before it is delivered. The bill we are introducing today provides that a State may choose to implement this option rather than a 7-day waiting period if the verification system meets certain basic requirements.

Under our bill, the Federal 7-day waiting period will not be required in a State if any of the following are in effect in the State:

First, a waiting period of 7 days or longer which is required by State law and which already provides for a background check;

Second, a requirement that a purchaser of a handgun submit to a background check before obtaining a weapon, for example, which require permits; or

Third, a verification system which allows the gun dealer to determine whether the purchaser has a State or Federal criminal record which would disqualify him from purchasing a handgun.

Section 6213 of the Anti-Drug Abuse Act of 1988 provides that the Attorney General "shall develop a system for immediate and accurate identification of felons who attempt to purchase one or more firearms * * *" Further, the section states that the Attorney General shall report a description of this system to Congress 1 year after the enactment of the bill and "shall begin implementation of the system" 30 days after the report to Congress. Thus, the Attorney General is required to put in place a system to identify convicted felons some time this year. The option of a point-of-sale verification system, provided in our bill, is consistent with this approach. At such time that a Federal point-of-sale verification system is established, any State choosing to participate in such a system may at their option be exempt from the 7-day waiting period requirement.

In order to allow time for the Attorney General to develop an identification system, we will not press for Senate consideration of this measure until the Attorney General reports to Congress. We will take into account any recommendations or findings in the report in determining whether to modify the bill.

Law enforcement organizations throughout the Nation are urging Congress to enact responsible legislation which keeps guns out of the hands of criminals without infringing upon the legitimate rights of gunowners. This bill is supported by the Fraternal Order of Police, the Federal Law Enforcement Officers Association, the International Brotherhood of Police Officers, the International Association of Chiefs of Police, the Major Cities Chief Administrators, the National Association of Police Organizations, the National Organization of Black Law Enforcement Executives, the National Troopers Coalition, the Police Executive Research Forum, the Police Foundation, and the Police Management Association.

We have entitled this bill the "Brady Handgun Violence Prevention Act," in honor of James Brady, who was shot in the attack on President Reagan, and Sarah Brady, who has spoken up courageously for sensible and effective firearms legislation. We urge you to join us in the effort to keep guns out of the hands of criminals, drug addicts, and other persons who are not legally entitled to own them.

Mr. President, I ask unanimous consent that the entire text of my bill be included in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1236

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.—This Act may be cited as the "Brady Handgun Violence Presention Act."

SEC. 2. WAITING PERIOD REQUIRED BEFORE PURCHASE OF HANDGUN.—

(a) IN GENERAL.—Section 922 of title 18, United States Code, is amended by adding at the end the following:

"(p)(1) It shall be unlawful for any licensed importer, licensed manufacturer, or licensed dealer to sell, deliver, or transfer a handgun to an individual who is not licensed under section 923 unless—

"(A)(i) before delivery of the handgun and within one business day after the date the transferee possess such transfer, such transferor has delivered or sent, by registered or certified mail (return receipt requested), to the chief law enforcement officer of the place of residence of the transferee a copy of a sworn statement by the transferee as described in paragraph (3); and

"(ii)(I) 7 days have elapsed from the date the requirements of clause (i) are met and the transferor has not received information from the chief law enforcement officer that receipt of possession of the handgun by the transferee would be in violation of Federal law or of a State or local law of the residence of the transferee; or

"(II) at any time after the transferee proposes such transfer, the chief law enforcement officer of the place of residence of the transferee notifies such transferor that receipt or possession of the handun by the transferee would not violate Federal law or State or local law of the residence of the transferee;

"(B) the transferee has presented to the transferor a written statement from the chief law enforcement officer of the place of residence of the transferee which states that the transferee requires access to a handgun because of a threat to the life of the transferee or of any member of the household of the transferee; or

"(C)(i) the transferee has applied to the State in which the transfer is to occure for a permit allowing the transferee to possess a handgun;

"(ii) the transferee has received such permit from the state in which the transfer is to occur;

"(iii) after the transferee applied for such permit and before the State granted such permit, the law enforcement authorities of the State verified that the transferee is qualified under law to receive a handgun; and

"(iv) not more than 365 days have elapsed from the date the transferee received such permit.

"(2) Nothing in this subsection shall be interpreted to require any action by a chief law enforcement officer which is not otherwise required.

"(3) The sworn statement referred to in paragraph (1)(A)(i) shall contain only—

"(A) the name, address, and date of birth of the transferee appearing on a valid identification document which is of the kind referred to in section 1028(d)(1) and which contains a photograph of the transferee;

"(B) description of the identification document used;

"(C) a statement that Federal law does not prohibit the receipt of the handgun by the transferee;

"(D) the date the sworn statement is made; and

"(E) notice that the transferee intends to obtain a handgun from the transferor.

"(4) Any transferor of a handgun who, after such transfer, receives a report from a chief law enforcement officer containing information that receipt or possession of the handgun by the transferee is in violation of Federal law or of State or local law of the residence of the transferee shall immediately communicate all information such transferor has about the transfer and the transferee to—

"(A) the chief law enforcement officer of the place of business of the transferor; and

"(B) the chief law enforcement officer of the place of residence of the transferee.

"(5) Any transferor who receives information, not otherwise available to the public, in a report under this subsection shall not disclose such information except to the transferee, to law enforcement authorities, or pursuant to the direction of a court of law.

"(6)(A) Any transferor who sells, delivers, or otherwise transfers a handgun to a transferee shall retain the copy of the sworn statement of the transferee with respect to the handgun transaction for at least one year after the date the transaction is completed.

"(B) Unless the chief law enforcement officer to whom a copy of such sworn statement is sent determines that a transaction would violate Federal, State, or local law, the officer shall, within 30 days after the date the transferee made such statement, destroy such copy and any record containing information derived from such statement.

"(7) This subsection shall not apply to the transfer of a handgun in a State if the law of such State—

"(A) prohibits any licensed importer, licensed manufacturer, or licensed dealer from transferring a handgun to an individual who is not licensed under section 923, before at least 7 days have elapsed from the date the transferee proposes such transfer; or

"(B) requires that, before any licensed importer, licensed manufacturer, or licensed dealer completes the transfer of a handgun to an individual who is not licensed under section 923, a law enforcement officer of the State verify that the transferee is qualified under law to receive a handgun;

"(C) establishes and operates a qualified verification system which meets the requirements of paragraph (8); or

"(D) participates in a qualified verification system, which meets the requirements of paragraph (8), established and operated by the United States; provided that any State may choose to participate in such a system and, at the option of any State, this subsection shall remain in effect regardless of a State's participation in such a system.

"(8) A qualified verification shall require that—

(A) any prospective transferee of a firearm present to the transferor the sworn statement described in paragraph (3);

(B) prior to the delivery of the firearm, the transferor shall provide by telephone, electronic communication, or delivery of a document, information contained in such sworn statement to an agency of the state of the United States with access to records of criminal convictions in each state and in courts of the United States, and which is capable of verifying on a regular basis such records and the information described in subparagraph (8)(E);

(C) prior to the delivery of the firearm, such agency verifies, if possible within the same business day, that it has no information that receipt or possession of the firearm would be in violation of Federal law or of a State or local law of the residence of the transferee;

(D) within one business day after the date the transferee proposes such transfer, such transferor shall deliver or send a copy of the sworn statement to an agency of the state, as the state shall require;

(E) in the event that such agency is unable to obtain immediate access to complete information regarding possible convictions or the agency has information that the transferee has, within the last year, been arrested for any offense involving (i) use or sale of an unlawful controlled substance (ii) use, purchase or possession, or transfer of a firearm, or (iii) a crime of violence, the transferor shall wait seven days before delivery of the firearm.

"(9)(A) Notwithstanding any other provision of this title, any licensed importer, licensed manufacturer, or licensed dealer who violates this subsection shall be fined not more than $1,000, or imprisoned for not more than one year, or both.

"(B) The penalties provided in this paragraph shall be the only penalties imposed on a licensed importer, licensed manufacturer, or licensed dealer, for a violation of this subsection.

"(10) For purposes of this subsection, 'chief law enforcement officer' means the chief of police, the sheriff, or an equivalent officer, or the designee of any such individual.

"(11) The Secretary shall take necessary action to assure that the provisions of this subsection are published and disseminated to dealers and to the public.".

SEC. 3. DEFINITION OF A HANDGUN.—Section 921(a) of title 18, United States Code, is amended by adding at the end the following new paragraph:

"(25) The term 'handgun' means a firearm which has a short stock and is designed to be held and fired by the use of a single hand or any combination of parts from which a handgun can be assembled.".

SEC. 4. CONFORMING AMENDMENT.—Section 924(a)(1) of title 18, United States Code, is amended by inserting "section 922(p)," after "section," the first place it appears.

SEC. 5. EFFECTIVE DATE.—The amendments made by this section shall take effect 90 days after the date of the enactment of this Act.●

By Mr. GLENN:

S. 1237. A bill to require the Administrator of the General Services Administration to encourage the use of plastics derived from certain commodities, and to include such products in the General Services Administration inventory for supply to Federal agencies, and to establish an Interagency Council on Biodegradable Standards for the development of uniform definitions, standards, and testing procedures for degradable plastic products made from certain commodities, and for other purposes; to the Committee on Governmental Affairs.

DEGRADABLE COMMODITY PLASTICS PROCUREMENT AND STANDARDS ACT

● Mr. GLENN. Mr. President. I rise today to introduce the Degradable Commodity Plastics Procurement Act of 1989. This legislation addresses the need to return our Nation's agricultural sector to prosperity and to address our waste management problems associated with disposal of plastics items.

Earlier this year, I introduced S. 244, the Agricultural Commodity-Based Plastics Development Act of 1989. The legislation I am introducing today encompasses the same principles and goals outlined in S. 244, but expands its focus to include the establishment of standards by which to measure the

effectiveness and impact of degradable products upon the environment. The goal of S. 244 was to promote the development of plastics markets through incentives and preferential procurement of these products by the Federal Government and to authorize funds to pay for the difference in cost of conventional plastics and degradable plastics. This mechanism is necessary to expand the market for product distribution and to demonstrate the Government's support for everyday use.

Last year, I chaired a hearing of the Committee on Governmental Affairs regarding the desirability and feasibility of increasing research efforts and expanding the markets for degradable plastics. At this hearing, the General Accounting Office [GAO] released a report I had requested on the status of Federal research and development efforts pertaining to degradables. I was disappointed to learn that Federal programs in this critical field are quite limited. In fact, we have no uniform definitions for what is degradable item. Virtually no testing has been done and few projects are planned to evaluate product performance or to establish standards for degradable plastics.

Funding for research initiatives remains insufficient. Although most Government and industry officials agree that degradable plastics can provide new uses for agricultural commodities and can diminish the amount of plastics in landfills, this potential cannot be realized until uniform definitions and standards are in place.

Mr. President, our farmers need our help. The U.S. trade market is faltering because our foreign competitors no longer purchase our excess crops. Throughout this decade, the economic plight of our farmers has continued to fester and will continue to decline unless new nonfood uses are developed and made available for their agricultural commodities. Perhaps the most significant barrier hindering such an effort is the lack of uniform standards.

Besides promoting increased development, procurement, and use of these items, this legislation addresses the establishment of uniform definitions, standards, and testing procedures for products derived from commodity-based plastics. These criteria will be developed by a Federal interagency committee, in consultation with private sector organizations, demonstrating an interest in these issues. The council's primary focus will be to ensure the safety of degradable products for consumers and the environment. The council will set the definitions as to what is a biodegradable, photodegradable, chem-biodegradable, environmental degradability, enhanced degradability and biodeterioration. These definitions will take into account the rate and degree of desired degradability as well as the risk degradable plastics pose to human health and the environment.

New nonfood uses for agricultural commodities are possible and feasible today. Cornstarch is already being used to manufacture paper products, building materials, textiles, and adhesives. Today's technology is capable of producing agricultural commodity-based plastics that will degrade when disposed of in the environment. Many are made by combining cornstarch with conventional plastic resins. The cornstarch-resin mix technique has been used to develop plastic packaging materials, plastic bags, agricultural mulch, milk jugs, dairy tubs, meat containers, industrial containers, fast food containers, and pharmaceutical packaging. Children's toys, automobile components, and office supplies can also be made using a durable injection molding technique. Research shows that when the cornstarch based items are disposed of in an ecologically active environment, such as a landfill, microbes will consume the starch causing the items to degrade.

It is estimated that cornstarch-based plastics could replace 30 to 40 percent of the low-density polyethylene plastics used each each, thereby, producing an additional market for approximately 112 million bushels of corn per year. This fact alone will boost the economy and aid our farmers.

I want to emphasize that the problems facing American agriculture and disposal of municipal waste are complex. There is no strategy for quick results. The solution to this problem requires the use of several initiatives, such as recycling, advanced incineration techniques, and modification of our use and disposal of solid waste. A long-range forward-looking methodology must be devised to meet our economic and environmental challenges. I believe that this legislation is an important part of the equation necessary to attain a workable solution.

Mr. President, I would like to share with my colleagues an article which appeared in the New York Times on April 11, 1989, describing the potential degradable plastics have in combating waste disposal problems. It also pinpoints the need for standards to ensure that degradable plastics are environmentally safe. The need for further extensive research and a coordinated Federal effort is obvious. We owe it to the American people, as well as to our next generation, to make maximum and safe use of degradable items. My legislation will further this process.

Mr. President, I know some of my colleagues have proposed similar initiatives recognizing the benefits of developing new nonfood uses for agricultural commodities. I invite their support as cosponsors of this legislation. I ask unanimous consent that the New York Times article, that I referred to earlier, and the text of my bill be printed at this point in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 1237

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Degradable Commodity Plastics Procurement and Standards Act of 1989".

SEC. 2. FINDINGS AND PURPOSE.

(a) FINDINGS.—Congress finds that—

(1) the achievement of long-term health for the agriculture sector of the United States is essential to the vitality of the national economy, the well-being of our citizens and rural communities, and the maintenance of national security;

(2) the development of new nonfood uses for agricultural commodities will reduce crop surpluses, raise farm income, and lower the cost of agricultural subsidies provided by the Federal Government;

(3) the economic security of the United States requires that the Federal Government should promote the development and use of products derived from agricultural commodities through the preferential procurement of such products to reach a threshold level of commercial application at which such products can successfully compete;

(4) more than one-half of the cities in the United States will exhaust their current landfill capacity by 1990, and the management of this growing volume of solid waste is one of the most urgent and fundamental environmental problems facing Federal, State, and local officials;

(5) plastic products comprise a significant amount of the 150,000,000 tons of solid waste produced in the United States and the use of degradable plastics products made from agricultural commodities can provide a positive impact in solving the problem of solid waste disposal;

(6) the technology exists to develop and market degradable agricultural commodity-based plastics for use in packaging, agricultural mulching, and in other applications;

(7) the widespread introduction of the technology referred to in paragraph (6) into the commercial marketplace will provide a new outlet for United States agricultural products;

(8) the use of domestically produced agricultural commodity-based degradable plastics products will reduce the reliance of the United States on imported oil and result in an improved trade balance for the United States and increased employment opportunities for our citizens;

(9) the Federal Government should assist in bringing agricultural commodity-based degradable plastics to a level of commercial application comparable to other alternative products and should provide incentives for the development and adoption of such products;

(10) the potential benefits of degradable plastic products cannot be realized on a commercial scale without the development of uniform standards and testing procedures; and

(11) the adoption of uniform standards and testing procedures will assist Federal, State, and local government officials in developing effective agricultural, environmental, and economic policies.

(b) PURPOSE.—It is the purpose of this Act to provide—

(1) that the Federal Government shall—

(A) promote the continued development of degradable plastics technology by increasing the purchases of degradable plastics products, with special emphasis on agricultural commodity-based products;

(B) assist State and local entities in purchasing degradable plastics products;

(C) provide incentives for further technology development through the preferential procurement of degradable plastics products, with special emphasis on agricultural commodity-based technologies;

(D) promote the manufacture and purchase of degradable plastics products by assisting producers in demonstrating the capability of this technology;

(E) assign agency responsibility for the development of definitions, standards, and testing procedures;

(F) ensure that degradable plastic products meet safety standards for human use, consumption, and environmental concerns;

(G) increase the commercial availability of agricultural commodity-based degradable plastics products;

(H) support existing Federal, State, local, and privately sponsored degradable plastics programs; and

(I) be provided with advice concerning the status of research in new nonfood uses for agricultural commodities; and

(2) for the establishment of an interagency council to develop and coordinate the implementation of this Act.

SEC. 3. DEFINITIONS.

As used in this Act—

(1) AGRICULTURAL COMMODITY-BASED PLASTICS.—The term "agricultural commodity-based plastics" means plastic products that use agricultural commodity products as a constituent component.

(2) DEGRADABLE.—The term "degradable" means the biologically or light induced loss of utilitarian or physical characteristics of a plastic or hybrid material containing plastics as a major component.

(3) GOVERNMENT PURCHASING CATALOG.—The term "government purchasing catalog" means any approved list of items supplied by the General Services Administration to agencies of the Federal Government.

(4) NONFOOD USES FOR AGRICULTURAL COMMODITIES.—The term "nonfood uses for agricultural commodities" means uses for agricultural commodities that do not involve the consumption of the commodities as food.

(5) PREFERENTIAL PROCUREMENT.—The term "preferential procurement" means any procurement practice employed by the Federal Government that gives preference to the selection of an item or service based on any criteria in addition to cost and performance.

(6) SLIDING SCALE RATING METHOD.—The term "sliding scale rating method" means an evaluation method used in Federal procurement procedures that reduces the cost bid for an item according to an established criteria for purposes of determining the effective low bid.

(7) SOLID WASTE.—The term "solid waste" means nonsewage waste which must be disposed of by Federal, State, or local officials through landfills, incineration, or other approved methods.

SEC. 4. ENCOURAGEMENT OF DEVELOPMENT AND USE OF COMMODITY-BASED PLASTICS.

(a) GENERAL SERVICES ADMINISTRATION.—The Administrator of the General Services Administration (hereinafter referred to in this Act as the "Administrator") shall—

(1) identify products in the General Services Administration government purchasing catalogue or in the inventory of the General Services Administration that can be made from degradable plastics technology, and that are environmentally safe, with particular emphasis on agricultural commodity-based products; and

(2) make available in the standard General Services Administration government purchasing catalogue the products identified above through competitive bidding process as prescribed in subsection (c).

(b) REQUESTS.—On the request of the head of any agency of the Federal Government, the Administrator shall ensure that such Federal agency be provided with products acquired under this section to the maximum extent practicable.

(c) COMPETITIVE BIDDING.—

(1) SLIDING SCALE.—In awarding competitive bids for the provision of products, the Administrator shall develop and implement a sliding scale rating method for awarding contracts based on such competitive bids for the acquisition of products under subsection (a).

(2) FACTORS.—The sliding scale developed under paragraph (1) shall consider, in addition to price and performance of the offered products, other factors that make the use of degradable plastics technology advantageous, including—

(A) the increased market for agricultural products;

(B) the benefits to the environment; and

(C) the benefits to the long-term energy independence of the United States.

(d) COST OF PRODUCT.—

(1) IN GENERAL.—Funds appropriated pursuant to the authorization under this section for the acquisition by Federal agencies of products under subsection (a) shall be available for such acquisitions only in an amount which does not exceed 10 percent of that portion of the cost of the product acquired under such subsection that exceeds the cost of comparable conventional products. No manufacturer, or any affiliate thereof, shall receive, in any one fiscal year, an aggregate amount in excess of 20 percent of the funds appropriated for such fiscal year pursuant to this section.

(2) COST TO AGENCY.—The Administrator shall ensure that the cost to any Federal agency receiving products under this section shall not exceed the cost to such agency of a comparable conventional product.

(e) INELIGIBILITY.—Federal agencies are ineligible to receive funds under this section for reimbursement of costs to buy products that such agency is required by law to purchase.

(f) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated for fiscal year 1991 and each of the next following 4 fiscal years the sum of $5,000,000 to carry out the purposes of this section.

SEC. 5. INTERAGENCY COUNCIL.

(a) ESTABLISHMENT.—The Administrator shall establish an Interagency Council to encourage the use and development of agricultural commodity-based plastics, coordinate activities under this Act, and to develop uniform definitions, standards, and testing methods for degradable plastics products.

(b) MEMBERS.—The Council established under subsection (a) shall include the—

(1) Administrator of the General Services Administration;

(2) Secretary of Agriculture;

(3) Secretary of Energy;

(4) Secretary of Defense;

(5) Secretary of the Interior;

(6) Administrator of the Environmental Protection Agency;

(7) Commissioner of the Food and Drug Administration;

(8) Director of the National Institute of Science and Technology;

(9) Director of National Science Foundation;

(10) Director of the Office of Technology Assessment; and

(11) heads of all other Federal departments and agencies as the Council considers appropriate.

(c) ORGANIZATION AND PROCEDURE.—The Council shall be chaired by the Administrator of the General Services Administration. The Administrator of the Environmental Protection Agency, the Director of the National Institute of Standards and Technology, and the Commissioner of Food and Drugs shall act as Vice-Chairpersons of the Council. A Vice-Chair may act as Chair in the absence of the Chair. Any dissenting views of a Vice-Chair from a decision of the Chair in the discretion of the dissenting Vice-Chair, may be described in the report to the Congress required under this section. The Chair shall consult with the Vice-Chairs as to the dates and agendas of meetings.

(d) CONSULTATION AND COOPERATION WITH PUBLIC AND PRIVATE ORGANIZATIONS.—In carrying out its duties, the Council shall seek the participation, through consultation and cooperation, of other public and private organizations, such as the American Society for Testing and Materials and the Society of Plastics Industry, which have a significant interest in the research and development of degradable plastics technology. Reports containing details of meetings, lists of activities and other communications shall be submitted as described in subsection (k).

(e) DUTIES.—The Council shall, prior to the expiration of the 24-month period following the date of the enactment of this Act, establish uniform definitions, standards, and testing methods for degradable plastic products.

(f) DEFINITIONS FOR DEGRADABLE PLASTIC PRODUCTS.—The Council shall establish definitions for degradable plastic products including but not limited to, biodegradability, photodegradability, chem-biodegradability, environmental degradability, biodeterioration, and enhanced degradability.

(g) STANDARDS FOR DEGRADABLE PLASTIC PRODUCTS.—The Council shall establish standards for degradable plastic products. In developing these standards, the Council shall consider—

(1) the initiation and rate of degradation of such products under different environmental and biological conditions, and

(2) the risk, if any, degradable plastics pose to human health and environment, including the effects on ground, water, soil, and air.

(h) TESTING METHODS FOR DEGRADABLE PLASTIC PRODUCTS.—In order to evaluate the performance and suitability of plastic products for degradability, the Council shall establish such uniform methods of testing as may be necessary.

(i) MEETINGS.—The Interagency Council shall meet within 30 days of the date of the enactment of this Act, and shall meet a minimum of 6 times per year.

(j) PERSONNEL.—The detailing of personnel from any Federal agency to the Interagency Council shall be permitted.

(k) REPORT.—Not later than 9 months after the date of the enactment of this Act, the Council shall prepare and submit to the Committee on Governmental Affairs of the Senate and the Government Operations Committee of the House, a report that contains the status of duties under this section. Such report shall include, but not be limited to, a summary of all activities, projects, and programs undertaken by the Council; progress achieved in fulfilling such duties; meetings, activities, and contacts with other Federal agencies and public and private organizations; a list of projects and program objectives to be carried out in the 12-month period following the month in which such report is submitted; and an accounting of agency resources expended in this effort.

SEC. 6. FOOD AND DRUG ADMINISTRATION.

(a) FOOD ADDITIVE ASSESSMENT.—The Commissioner of Food and Drugs, in cooperation and consultation with the Administrator of the Environmental Protection Agency and the Director of the National Institute for Science and Technology, shall perform an assessment of the safety of indirect food additives intended to increase the degradability of plastic food-packaging materials. In performing this assessment, the Commissioner of Food and Drugs shall consider, among other things—

(1) the effect of degradability on the shelf-life of the package; and

(2) the potential migration of the additive from the package to the food.

(b) REPORT TO CONGRESS.—Not later than 12 months after the date of the enactment of this Act into law, and annually thereafter until completion of the food additive assessment, the Commissioner of Food and Drugs shall submit to Congress a report detailing the activities undertaken to conduct the food additive assessment, a project timetable listing overall objectives with planned activities and programs for completion of the food additive assessment, and an accounting of staff resources spent to conduct this assessment.

[From the New York Times, Apr. 11, 1989]

DEGRADABLE PLASTICS SHOW PROMISE IN FIGHT AGAINST TRASH

(By William K. Stevens)

They are everywhere: coffee cups and burger boxes, trash and grocery bags, diapers and margarine tubs and containers for everything from milk to antifreeze—billions of pieces of trash, all made of seemingly indestructible plastic.

As the nation's trash crisis builds, some desperate communities are searching for new disposal sites. Others are turning to the recycling of plastics and other waste items. Some are prohibiting plastics outright. Last month, for instance, Minneapolis banned most plastic food packaging from grocery stores and fast-food restaurants until the city can work out an acceptable way to recycle plastics.

But in a sharply different approach, scientists and entrepreneurs, convinced that plastic waste need not be as indestructible as it seems, are coming up with a variety of ways to make plastics that disintegrate over time. Their success is mixed and in some cases preliminary. It has come, however, at a time when plastics are moving to the fore in the quickening national debate over solid-waste disposal. And it has made degradable plastics one of the most talked-about pollution-control technologies.

Such plastics are already on the market in a limited way, most notably in the yokes for beverage six-packs. Not merely unsightly litter, the conventional yokes entangle, injure and kill wildlife. Sixteen states, including New York, New Jersey and Connecticut, now require that they be degradable.

Spurred in part by this success, officials in Washington are promoting degradable plastics, along with recycling, as the wave of the future. Bills aimed at requiring the use of degradable plastics together with recycling have been introduced in Congress, and many states and localities have approved or proposed similar measures.

But in the debate over the issue, scientists environmentalists and industrialists have all expressed reservations. Some question whether degradables really do degrade as well as claimed. They also wonder about the safety of residues that might be left in the environment by disintegrating plastic.

Even if those questions can be satisfactorily resolved, some fear that degradable plastics might frustrate the recylcing of plastic waste, a strategy that some consider more promising. Making plastics degradable these skeptics say, will make them unfit for recycling.

"People are jumping on this bandwagon," said Ellen Harrison, a spokeswoman for the Waste Management Institute at Cornell University. But, she said, "let's not assume this solves our waste problem; it doesn't."

Few believe that degradables are the final answer, and the degree to which they can be useful hangs largely on fundamental questions of chemistry.

All plastics share an inherent characteristic that is at the root of the degradability problem. Their chemical structure makes them, under most conditions, impervious to disintegration except through oxidation over hundreds of years or through burning.

Plastics are made of polymers, or long chains of repeating hydrocarbon molecules, so tightly bound together that the microscopic fungi and bacteria that dissolve wood and other organic matter cannot penetrate them. This characteristic also gives plastics their strength, and the task for scientists is to weaken the polymers so that they can break apart without sacrificing too much strength.

They attempt to do this in two basic ways. One is to make plastics photodegradable, or vulnerable to breakdown by ultraviolet rays from the sun. The other is to make them biodegradable, or vulnerable to attack by microorganisms.

The photodegradables can be made by mixing light-sensitive chemicals into the plastic resin during production or by incorporating light-sensitive molecules, called carbonyls, into the polymer chains chemically. When exposed to the sun's ultraviolet rays, these chemicals cause the polymers to weaken and break down into shorter units. The plastic becomes brittle and falls apart.

VALUE IN REDUCING LITTER

Packages or containers made of photodegradable plastic do not degrade indoors, since windows block ultraviolet rays. Nor do they degrade if covered up in a landfill.

Experts believe the major value of photodegradables is in reducing litter. Three American companies produce them for beverage yokes, and four others, including one in Canada, are producing them for products like trash bags, grocery bags and plastic film used in agricultural soil to hold nutrients, heat and moisture. Another possible use is in the plastic boxes used to package hamburgers and other fast foods.

"It's very clever stuff," David Wiles, the director of the chemical division of Canada's National Research Council, said in a telephone interview. "Let's go with it. I think it's a real solution."

Dr. Wiles's laboratory, part of a Canadian Government office dealing with standards for materials, has investigated the properties of both kinds of degradable plastics. The research council's counterpart in the United States, the National Institute of Standards and Technology, is just starting to investigate the materials.

Still, some experts say there are better ways to deal with the problem. Ms. Harrison of Cornell said that photodegradable plastic six-pack yokes could take months to disintegrate, depending on climate. "Aren't we better off changing the design in some way?" she said.

The outlook for biodegradable plastics appears less clear than for photodegradables. Some plastics have been produced for medical use—sutures, for example—that break down inside the body. But for other uses, biodegradables, with some exceptions, are in the experimental or developmental stages.

In one technique, pioneered by the chemical company ICI Americas Inc., a biodegradable plastic is produced by breeding bacteria normally found in soil. When fed sugar in a fermentation process, the bacteria produce a natural polymer with all the properties of plastic. Filtered and dried, the resin retains its plastic properties in normal use, according to its manufacturers, but degrades under microbial attack when placed in soil, sewage or the ocean floor. It is still under development, but its makers are optimistic.

Another technique for making biodegradable plastic involves adding natural polymers like cornstarch or cellulose to plastic resin to make it vulnerable to microorganisms. A number of variations on this technique have been tried,

A Canadian company, the St. Lawrence Starch Company, is marketing a plastic to which both cornstarch and an oxidizing agent, simple vegetable oil, have been added. The company says bacteria feed on the cornstarch, exposing more of the material's surface to the oxidizer, which reacts with metal salts in soil to destroy the polymer chains. Eventually, the company says, the fragments become small enough to be eaten by microorganisms. How long that takes depends on factors like heat, moisture and microbial activity, said Peter Campbell, a company engineer.

The company's plastic was introduced in the United States last month in lawn bags manufactured by Petoskey Plastics Inc. of Petoskey, Mich.

Other researchers say they have also solved the problem of maintaning the plastic's strength while making it biodegradable. This involves finding the right proportion of starch, or starch and cellulose, and plastic polymer. But there are skeptics. Dr. Wiles, for instance, said that if enough starch were put into a plastic trash bag to cause it to degrade, it would not be strong enough to hold anything, and that if it did hold, it would not fully degrade.

Environmentalists and scientists are concerned not only about how effective all the techniques are, but also about how much residue remains after degradation takes place and whether any toxic substances would be left. The General Accounting Office, an investigative arm of Congress, reported last fall that no standards for such products existed, that very little independent testing had been done, and that definitions of such terms as biodegradable and photodegradable had not yet even been agreed on. Of particular concern, the agency reported, was uncertainty about "the rate of degradation and the safety of the end products."

Environmentalists like Jeanne Wirka, who has studied the problem for the Environmental Action Foundation, a research and advocacy group, fear that toxic ingredients in plastics, like heavy metals used as pigments and stabilizers, would be released by degradation.

But even if degradable plastics are ultimately proved safe and effective, Ms. Wirka said, they might interfere with recycling.

PROCESS IN ITS INFANCY

Recycling, some say, is a potentially more effective strategy. Even naturally biodegradable materials like paper and food do not break down in many landfills because of lack of moisture, oxygen or warmth. Some scientists say it is not unusual to find 20-year-old newspapers in good condition in excavated landfills. Biodegradable plastics, they say, would not degrade any better.

The recycling of plastics is in its infancy. Plastics differ in their molecular structures, and not all can be successfully melted down and recast. And coloring dyes, once in the plastic, cannot be removed.

One problem, Ms. Wirka said, is that degradable plastics and recyclable plastics "in many ways are competitors."

"Recyclers consider the additives to be contaminants," she said.

"It's a really mixed picture," said Howard Levenson, a senior analyst at the Congressional Office of Technology Assessment, who is working on a study on solid waste. "Everywhere we've turned it comes up, yes, there are problems. But there are problems with everything else, too."●

By Mr. FOWLER:

S. 1238. A bill to amend the Internal Revenue Code of 1986 to restore the capital gains treatment for timber, and for other purposes; to the Committee on Finance.

RESTORING CAPITAL GAINS TREATMENT FOR TIMBER

● Mr. FOWLER. Mr. President, I rise today to introduce the Forestry Management Improvement Act of 1989. This legislation would free the timber industry from onerous restrictions imposed by the Tax Reform Act of 1986. The capital gains and passive loss rules applied to the industry at that time make it harder for our Nation's tree farmers to wisely manage our forest lands—at a time when we need to encourage the best possible management, in every dimension, of these invaluable resources.

In our attempt to root out the tax shelters of the millionaires we have also harmed tree farmers, the majority of whom net less than $20,000 a year. That happened because Congress failed to recognize the major differences between timber and other investments to which capital gains and passive loss rules are applied. The remedy I am proposing is to restore the capital gains exclusion for timber, and establish a standard for management practices that realistically reflects the nature of the industry.

Our tree farmers are locked into a very long-term investment, in which they must bear the risks of fire, disease and insect damage over decades—with no guarantees of a good market by the time their seedlings mature. And a forest that grows on a 30- to -60 year cycle clearly is not managed with the same intensity as more liquid investments.

Our tree farmers also have the responsibility to adhere to the soundest environmental practices in our forests. The former capital gains break helped defray the expenses of sound management practices—such as leaving buffer strips of trees along waterways—that are crucial to the quality of our air and water. The restoration of the capital gains exclusion would allow tree farmers to manage their lands for the good of all resources that depend on our forests, including wildlife.

In the final analysis, we must encourage our tree farmers to wisely manage, harvest, and replant our forests, for economic as well as environmental reasons.

For we cannot ignore in all this the importance of the timber industry to our economy. The value of timber production in the South is over $6.1 billion annually. Forest industries lead all other manufacturing in the number of employees and wages paid. That is added incentive to keep the industry healthy and place it on a sound course for the future.

The short-term effects of the change in tax policy for timber are not encouraging. Already more acres of trees are being harvested than are being planted. This course toward deforestation is not acceptable.

I ask unanimous consent the bill be printed in the RECORD in its entirety.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1238

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. ALTERNATIVE TAX ON GAIN FROM SALE OR EXCHANGE OF TIMBER.

(a) GENERAL.—Part I of subchapter P of chapter 1 of the Internal Revenue Code of 1986 (relating to capital gains and losses) is amended by adding at the end thereof the following new section:

"SEC. 1203. ALTERNATIVE TAX ON GAIN FROM SALE OR EXCHANGE OF TIMBER.

"(a) GENERAL RULE.—If for any taxable year a taxpayer has qualified timber gain, then, in lieu of any tax imposed by section 1, 11, 511, or 831 (a) or (b) (whichever applies), there shall be imposed a tax equal to the sum of—

"(1) a tax computed on taxable income reduced by the amount of the qualified timber gain, at the rates and in the manner as if this subsection had not been enacted, plus

"(2) a tax of 15 percent of the qualified timber gain.

No tax shall be imposed under this subsection unless it is less than the tax which it is in lieu of.

"(b) QUALIFIED TIMBER GAIN.—For purposes of this section—

"(1) IN GENERAL.—The term 'qualified timber gain' means gain from any sale or exchange of timber—

"(A) which, in the hands of the taxpayer, is a capital asset, or

"(B) with respect to which section 631 applies.

"(2) TRANSITION RULE.—In the case of any taxable year which begins before January 1, 1990, and ends on or after such date, qualified timber gain shall be determined by taking into account only gain which is properly taken into account for the portion of the taxable year after December 31, 1989.

"(c) COORDINATION WITH OTHER PROVISIONS.—This section shall be applied after section 1(j) or 1201, whichever applies."

"(b) CONFORMING AMENDMENT.—The table of sections for part I of subchapter P of chapter 1 is amended by adding at the end thereof the following new item:

"Sec. 1203. Alternative tax on gain from sale or exchange of timber."

"(c) EFFECTIVE DATE.—The amendments made by this section shall apply to sales and exchanges after December 31, 1989, in taxable years ending after such date.●

By Mr. WALLOP:

S. 1239. A bill to amend part B of title XI of the Social Security Act to provide providers and practitioners with a right to reconsideration of a payment denial by a peer review organization before the organization notifies the Medicare beneficiary of the denial; to the Committee on Finance.

FAIRNESS IN PHYSICIAN SERVICES REVIEW ACT

● Mr. WALLOP. Mr. President, today I am introducing legislation which will reaffirm our sense of fair play and the rule of law in our society. The current witch hunt and mock trials underway in China certainly demonstrate the necessity for a society based on laws rather than the whim of demagogs and tyrants. The issue I am concerned about may seem narrowly focused, but any erosion of individual rights moves us closer to that slippery slope descending into state totalitarianism.

One of the interesting requirements we have set up as part of the Medicare Program is the physician review organizations. The PRO's are intended to review physician billings to Medicare to ensure that the services are appropriate and necessary. While the Federal Government should ensure that it is paying for appropriate services in any program that it funds, there has at times been an aura of zealotry in oversight of physicians by Medicare. Part of the responsibility, or problem, is with the Health Care Financing Administration, but the source is actually the Congress. And, physicians increasingly feel as if they are part of an organized crime syndicate.

Several years ago, the Congress required physicians to sign attestation statements in order to be paid by Medicare for the services they provided to senior citizens. We had essentially determined that doctors were guilty of something or other, and had to declare that they would not commit illegal acts. Somehow, it was decided that the U.S. Government, with all its resources and manpower, could not prosecute a physician for fraud and abuse if they did not have this signed statement.

There are some of us who thought that it was unnecessary for every doctor in America to sign a statement declaring that they were not crooks. I even introduced legislation to repeal this insulting requirement. But, there are those in Congress who have a great mistrust of doctors, and we have not been able to remove this requirement.

Our most recent adventure in flagellating physicians involves an attempt to uncover substandard care. Some doctors do game the system, and they should be held to account. That is the purpose of the PRO review. However, the new requirements go far beyond ferreting out wrongdoing.

In recent years, I have spent much time discussing with Wyoming physicians, HCFA, and Wyoming's fiscal intermediary the question of appropriate care. Often, physicians have been

denied payment for services which upon investigation are determined to be appropriate rather than substandard. It has been a constant and frustrating problem. Now, physicians face the situation where letters will be sent to their patients whenever an initial denial for substandard care is declared by the PRO. The patients will have the letters even if the decision is later reversed.

I wrote to HCFA earlier this year to express my concern that we were prejudging and sentencing physicians with the substandard care letters. The response from HCFA basically agreed with my arguments. But, I still believe that we need to correct the law. Physicians should have the right to review with the PRO any question about the appropriateness of care. I am therefore introducing legislation to allow a physician to seek a review before any denial letter is sent to a Medicare patient. A similar bill has been introduced in the House of Representatives by Congressman HAMMERSCHMIDT.

I ask unanimous consent that the bill be printed in the RECORD at the conclusion of my remarks along with copies of my correspondence with HCFA on this issue.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 1239

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. PROVIDER AND PRACTITIONER RIGHT TO RECONSIDERATION OF PRO DETERMINATION BEFORE NOTICE TO BENEFICIARY.

(a) IN GENERAL.—Section 1154(a)(3) of the Social Security Act (42 U.S.C. 1320c-3(a)(3)) is amended—

(1) in subparagraph (A), by striking "subparagraph (B)" and inserting "subparagraphs (B) and (C)", and

(2) by adding at the end the following new subparagraph:

"(C) The notification under subparagraph (A) shall not occur in the case of services and items denied for payment by reason of subparagraph (B) of paragraph (1) until after—

"(i) the organization has notified the practitioner or provider involved of the determination and of the practitioner's or provider's right to a formal reconsideration of the determination under section 1155, and

"(ii) if the provider or practitioner requests such a reconsideration, the organization has made such a reconsideration, and

"(iii) such reconsideration, if requested by a practitioner, shall be performed by a physician who specializes in the same field as the physician under review, or a panel of physicians, one of whom specializes in the same field as the physician under review.

If a provider or practitioner is provided a reconsideration, such reconsideration shall be in lieu of any subsequent reconsideration to which the provider or practitioner may be otherwise entitled under section 1155, but shall not affect the right of a beneficiary from seeking reconsideration under such section of the organization's determination (after any reconsideration requested by the provider or physician under clause (ii)).".

(b) CONFORMING AMENDMENT.—Section 1155 of such Act (42 U.S.C. 1320c-4) is amended by inserting ", subject to section 1154(a)(3)(C)," before "any practitioner or provider".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to determinations by utilization and quality control peer review organizations with respect to which preliminary notifications were made under section 1154(a)(3)(B) of the Social Security Act more than 30 days after the date of the enactment of this Act.

U.S. SENATE,
Washington, DC, March 7, 1989.

Mr. TERRY COLEMAN,
Acting Deputy Administrator, Health Care Financing Administration, Department of Health and Human Services, Washington, DC.

DEAR MR. COLEMAN: I am writing in regard to the proposed rules issued by the Health Care Financing Administration on denial of Medicare payment of substandard care.

I am concerned about one aspect of the new procedures which revives a past problem with HCFA procedures. I am referring to the proposed notice to beneficiaries regarding denial of benefit coverage. HCFA is required to implement congressional dictates regarding Medicare coverage. It is often a complicated, controversial process, and I do not envy your task. However, the process sometimes exhibits zeal over common sense.

For instance, HCFA did have a previous letter which was sent to participants when services were denied. The tone of the letter indicated that the services were inappropriate and unnecessary. There was much objection to the letter—it was understandable and correct. Physicians were labeled as incompetent whenever Medicare coverage of services was denied.

In my own State of Wyoming, I received case after case where payment was denied. But, it was denied because the physician was attempting to provide appropriate and necessary care. The problem was the services did not fit HCFA guidelines, and was denied. One example is the situation where a physician made too many patient visits according to HCFA guidelines. But the additional visits resulted from medical emergencies on the part of the patient. The physician would have been guilty of malpractice if he has not made the visits, but Medicare declared the services to be unnecessary since they did not fit the guidelines. That is not only medically wrong, but leaves the doctor open to potential legal challenge.

I am afraid that the letter you are now proposing on substandard care will compound this problem. If coverage of services is denied because the physician had to provide additional services not covered by the guidelines, it appears that this letter, which implies that the care was substandard, will be sent to the patient. It will create mistrust and generate malpractice suits. This is inappropriate. At the very least, any communication from HCFA or its intermediaries to a patient should distinguish between situations where the care is substandard and where the care is necessary, appropriate, but not covered by HCFA guidelines. There is a major difference here, and it must be clearly distinguished in any official communication to patients.

I appreciate your attention to my comments, and look forward to your response.

Sincerely,

MALCOLM WALLOP,
U.S. Senator.

THE SECRETARY OF HEALTH AND HUMAN SERVICES,
Washington, DC, May 16, 1989.

Hon. MALCOLM WALLOP,
U.S. Senate,
Washington, DC.

DEAR SENATOR WALLOP: I am responding to your letters to me and Terry Coleman, former acting Health Care Financing Administrator, concerning the proposed rule on denial of payment for substandard quality care and the carrier refund notice for medical necessity denials. I apologize for the delay in my response.

I can understand your concerns about the proper implementation of this legislative provision. As you know, section 9403 of P.L. 99-272, which amended section 1154(a)(2) of the Social Security Act (the Act) (effective April 7, 1986), gave the Utilization and Quality Control Peer Review Organizations (PROs) the authority to deny medicare payment to a physician or hospital for services furnished that are of substandard quality. The proposed implementation of this provision was outlined in a Notice of Proposed Rulemaking, which was published in the Federal Register on January 18. The public comment period ended on March 20.

As proposed, determinations to deny payment for substandard quality will be made on the basis of written criteria which are consistent with written guidelines established by this Department. Physicians in each PRO will develop the criteria or standards in accordance with professionally recognized standards in that State. In addition to the written criteria, denial determinations are to be based on the reviewing physician's knowledge, expertise and experience.

As is the case with all PRO denial determinations, the physician and/or provider must be given an opportunity to discuss the potential denial for substandard quality with the PRO and provide additional information, if available, before the denial is made. The beneficiary is not notified of this "potential" denial action.

The attending physician's and any involved consulting physician's comments, as well as the patient's condition (as reflected in the medical record), are considered in making the final decision to approve or deny payment for services. If the PRO physician determines, based on this discussion and any additional information, that no quality issue exists, then no denial will be made. In this instance, of course, the beneficiary would receive no notification. Title XI of the Act requires, when a PRO makes a denial determination, that a notice be sent to the beneficiary, physician and provider. Thus, if the severity of the quality issue requires denial of payment, a quality denial letter must be issued. As you point out in your letter, the wording of the denial letter is very important. Therefore, we included model quality denial letters in the proposed regulations for public comment. Also, as proposed, all PROs would be required to use these model notices.

As you note, this provision is being implemented in response to specific legislation. We fully recognize the sensitivity of this provision and have taken steps to ensure broad input to our implementation plans. In developing proposed regulations, we convened a panel of physicians from 16 medical societies (including specialty societies) and PROs to advise us. We have continued to involve the medical profession and beneficiary organizations in the many issues surrounding implementation.

It is also important to note that an adverse outcome (e.g., unnecessarily prolonged stay) must be coupled with confirmed mismanagement for there to be a denial of pay-

ment. Neither element stands alone. Therefore, a denial of payment resulting in notification of such to the beneficiary will only occur for a significant adverse outcome.

The ultimate goal of the PRO program is to improve medical care provided to beneficiaries. The PROs implement interventions other than denials, including: notification, education, intensified review, other actions such as preadmission review or notification to hospital committees, coordination with licensing and certification bodies, and sanction.

When we prepare the final rule, we will consider your comments and all other comments we received during the comment period. This rule will be published in the *Federal Register* at a later date. The preamble to the final rule will contain a summary of the comments received and our responses. We will also consider your comments as we implement the final regulation.

We are continuing our dialogue with the American Association of Retired Persons and the American Medical Association on these and other significant issues impacting the beneficiary and medical communities. Again, I am committed to ensuring that this provision is appropriately implemented.

Your letter also expressed concern about language in the original refund notice sent to physicians and beneficiaries for medical necessity denials on unassigned claims. I appreciate the concern and want to assure you that the Health Care Financing Administration acted expeditiously to improve the tone and content of these notices. We continue to work with representatives of organized medicine to ensure that the notices are appropriately and sensitively worded.

I hope that this information is useful to you.

Sincerely,

LOUIS W. SULLIVAN, M.D.,
Secretary.●

By Mr. MOYNIHAN:

S. 1240. A bill to extend nondiscriminatory treatment to the products of the People's Republic of Hungary for 5 years; to the Committee on Finance;

S. 1241. A bill to deny the People's Republic of China most-favored-nation trade treatment; to the Committee on Finance;

EXTENDING MOST-FAVORED-NATION STATUS FOR HUNGARY AND REVOKING IT FOR CHINA

Mr. MOYNIHAN. Mr. President, I rise today to introduce legislation to extend for 5 years most-favored-nation status for Hungary, and to revoke most-favored-nation status for China. In the one nation the totalitarian state is in retreat. In the other, it is in resurgence. Our response must be simple and swift: to reward the first and punish the second.

Seventeen years ago, Mr. President, Senator Henry Jackson proposed what he termed "an unprecedented measure to bring the blessings of liberty to these brave men and women who have asked only for the chance to find freedom in a new land." The Jackson-Vanik amendment to the Trade Act of 1974 tied the provision of most-favored-nation status to the Soviet Union to that nation's willingness to permit emigration. In doing so, it established a relationship between trade and human rights. Indeed, the purpose of Jackson-Vanik was expressed clearly in its text:

To assure the continued dedication of the United States to fundamental human rights.

The extention of most-favored-nation status has been used since to buttress America's defense of human rights around the world. In 1982, the President suspended Poland's MFN status after its government outlawed Solidarity. In 1987, Poland's MFN status was restored to reward its government for agreeing to political dialog with its people. Similarly, in 1986 the President revoked Afghanistan's MFN status. I do not need to recount to my colleagues the horrors that led to that decision.

The world has changed much since the day Jackson-Vanik passed. But our commitment to defend democratic values has not.

On June 15, 1989, I introduced a joint resolution declaring that Congress is prepared to support the President should he decide to grant most-favored-nation status for the Soviet Union. Hungary has, by practically every measure, made even greater strides toward democracy than has the U.S.S.R. The Hungarian leadership has called for free elections in 1990, and permitted the Hungarian people to organize independent political organizations. Or, rather, it might well be put the other way around. The Hungarian people, I should say, have been kind enough to permit the Hungarian leadership to continue organizing a government.

Perhaps most dramatically, the Hungarian Government this past Friday presided over the unearthing and reburial of the body of Imre Nagy, the Hungarian leader who led the 1956 uprising against Soviet domination. One Hungarian after another eulogized Mr. Nagy as a hero, and declared that Hungary never wanted communism, never ought to have suffered it. "Hungarians around the world prayed for this day," said Sandor Racz, chairman of the Central Workers Council during the 1956 revolution. "It is a day of Hungarian mourning. But it is also a revival of the Hungarian nation." The list of nations not sending their ambassadors to this remarkable ceremony itself says much about the state of freedom around the world: China, North Korea, Albania, Rumania.

Where Hungary is unburying the truth, China is crushing it into the ground with the weight of its tanks. The totalitarian idea is dead. But as we have seen in Beijing, the totalitarian practice is alive and well, stripped of its ideological pretensions, and wielded, now as always, to defend the power of an elite. China's students refused to submit. They have joined the ranks of the martyrs of the 20th century; and their grace has touched us.

Almost 10 years ago, China was opening to the world, and the United States responded by waiving Jackson-Vanik and granting China MFN status. Supporters of the decision, Senator Jackson among them, cited China's progress in the area of human rights. Deputy Secretary of State Christopher Warren told the Ways and Means Committee on November 1, 1979 that "it should be a source of gratification to us that the Chinese Government is determined to develop a legal system that would prevent the unchecked exercise of official authority." Senator Jackson reminded the committee that Deng Xiaoping had told a Chinese-American audience earlier that year of his desire to loosen travel restrictions. To wit:

Many of you have relatives living on the mainland and wish they may come over for a family reunion, and others may wish to go back to China to visit their relatives. This is quite natural and understandable. The Chinese government will treat these legitimate wishes favorably and with sympathy and will adopt effective measures to satisfy these wishes. You may rest assured on this score.

Well, we rested assured. And on June 19, 1989 a Washington Post headline declared: "Chinese Government Issues New Restrictions on Foreign Travel."

The conditions under which China received most-favored-nation status have clearly changed. We would not have offered MFN status to China had the events in Tiananmen Square occurred in 1979, rather than 1989. We would not consider offering it to the Soviet Union were the Red Army to massacre a thousand Russians in Red Square. We cannot ignore what happened in China. And we cannot avoid calling it by its name: an armed revolt by the Chinese Army against what we must recognize to be the legitimate authority of the Chinese people.

The Chinese leadership wants Western capital to resume its follow into Beijing. What is more, it probably expects it to resume. It expects the world to forget. The New York times reported today that Japanese officials have already criticized the United States for imposing sanctions against China. In 1988 Chinese exports to the United States totaled $8.4 billion. These exports represent a treasure the Chinese Government must consider worth preserving. If so, we must consider them worth denying.

Of course, such brutal repression of democratic dissent is not rare in the world. What is rare is that the world has taken note. It is certainly not new to China. Ask any Tibetan. It is not new to Chinese history. I once observed to Alexander Solzhenitsyn how remarkable it was that the greatest literature of our time had been written in and smuggled out of Stalin's Russia. Where would such writing next appear, I asked. Easy, he replied. In China, when they begin to write about Mao's reign. And it is not unique to China. Today in the New York Times, buried under a long article about China was a short article about a lone Burmese demonstrator shot dead while protesting for democracy. Something like 3,000 Burmese have been

murdered before him, fighting for the same cause as the Chinese students, though far from the scrutiny of the world press.

Each time it happens, we must be ready to notice, remember, and react. And each time democracy triumphs, as I am confident it will in China just as it is appearing to do in Hungary, we must be ready to reward. That is the spirit in which I offer these bills, and the spirit in which I ask for my colleagues support. I ask unanimous consent that the full text of these bills be printed in the RECORD at this time.

There being no objection, the bills were ordered to be printed in the RECORD, as follows:

S. 1240

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. EXTENSION OF NONDISCRIMINATORY TREATMENT TO THE PRODUCTS OF HUNGARY.

Subject to section 2, during the 5-year period beginning on July 4, 1989, nondiscriminatory treatment (most-favored-nation treatment) applies to the products of the Peoples' Republic of Hungary.

SEC. 2. REQUIREMENT FOR BILATERAL COMMERCIAL AGREEMENT.

The nondiscriminatory treatment provided for under section 1 shall apply only during such time within the 5-year period referred to in that section that there is in effect between the United States of America and the Peoples' Republic of Hungary a commercial agreement that meets the requirements set forth in section 405(b) of the Trade Act of 1974 (19 U.S.C. 2435(b)).

SEC. 3. COORDINATION WITH JACKSON-VANIK AMENDMENT.

During the 5-year period referred to in section 1, the provisions of section 401, 402, 404, 405 (a) and (c), and 407 of the Trade Act of 1974 are suspended with respect to the Peoples' Republic of Hungary except to the extent necessary for the inclusion of that country within the appropriate waiver procedures of section 402(d) for purposes of extending nondiscriminatory treatment (if the President decides to recommend such extension) to Hungarian products after July 3, 1994.

S. 1241

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DENIAL OF MOST-FAVORED-NATION TRADE TREATMENT TO THE PEOPLE'S REPUBLIC OF CHINA.

Notwithstanding any other provision of law—

(1) the President shall terminate or withdraw any portion of any trade agreement or treaty tht relates to the provision of nondiscriminatory (most-favored-nation) trade treatment to the People's Republic of China,

(2) the People's Republic of China shall be denied nondiscriminatory (most-favored-nation) trade treatment by the United States and the products of the People's Republic of China shall be subject to the rates of duty set forth in column number 2 of the Harmonized Tariff Schedule of the United States, and

(3) the People's Republic of China may not be provided nondiscriminatory (most-favored-nation) trade treatment under any provision of title IV of the Trade Act of 1974 (19 U.S.C. 2431, et seq.).

SEC. 2. EFFECTIVE DATE.

The provisions of this Act shall apply with respect to articles entered, or withdrawn from warehouse, for consumption after the date that is 15 days after the date of enactment of this Act.

By Mr. CRANSTON:

S. 1242. A bill to deny the People's Republic of China most-favored-nation trade treatment; to the Committee on Finance.

DENYING MOST-FAVORED-NATION STATUS TO THE PEOPLE'S REPUBLIC OF CHINA

Mr. CRANSTON. Mr. President, I send to the desk a bill which would deny the People's Republic of China most-favored-nation trade treatment.

I am deeply disturbed about events taking place in China. The Chinese Government appears to believe that it can be "business as usual" with the West even as they execute workers with a single bullet to the head, and hunt down student leaders and brutally beat them.

The Chinese seem to be taunting us daily with their executions while at the same time inviting Western business back. Perhaps they believe that the murders of workers—some of whom according to press reports are mentally impaired—will affect us less than the massacre in Beijing near Tiananmen Square.

Under these conditions, it is difficult to imagine the United States continuing to treat China as a most favored nation.

The legislation which I am now introducing would deny China most-favored-nation trade treatment until the President certifies that the Government of the People's Republic of China has released from detention leaders and members of the Democracy Movement in China and is no longer violating basic human rights of its people.

Denying most-favored-nation status will not cut-off the trading relationship which has clearly encouraged democratic forces in China but will make that trade subject to higher tariffs.

Denying MFN underscores the commitment already made by the President that it will not be "business as usual" with a regime that oppresses its people.

While I commend the President for his decision earlier this week to bar high-level official contacts with China and to suspend indefinitely United States support for multilateral bank loans to China, these important sanctions do not go far enough. I appreciate the need not to shut the door to change in China which has taken so long to open, but the United States needs to draw and maintain the line, not only in China, but elsewhere concerning acceptable behavior.

The United States cannot bear alone the price of upholding liberty. We must ensure a united stance in the free world to all assaults on freedom. I call on the President to raise this issue with our allies during the July economic summit to ensure a coordinated and unified policy in the face of this challenge. It is not enough just to regret actions taken by the Chinese Government. We must take actions of our own.

This measure does so. China cannot be a favored nation while at the same time shooting down its citizens.

By Mr. CRANSTON (for himself and Mr. MURKOWSKI):

S. 1243. A bill to amend title 38, United States Code, to establish a retirement and survivor benefit program for judges of the new U.S. Court of Veterans' Appeals, and for other purposes; to the Committee on Veterans' Affairs.

COURT OF VETERANS' APPEALS JUDGES RETIREMENT ACT

Mr. CRANSTON. Mr. President, as chairman on the Committee on Veterans' Affairs, I have today introduced the proposed Court of Veterans' Appeals Judges Retirement Act. I am pleased to be joined by the committee's ranking minority member, Mr. MURKOWSKI, in proposing this measure, which we developed together with the chairman and ranking minority member of the House of Representatives Committee on Veterans' Affairs, Mr. MONTGOMERY and Mr. STUMP, who are today introducing a companion bill in the House.

This legislation would establish a retirement and survivors annuity program, modeled primarily on the U.S. Tax Court program, for judges serving on the U.S. Court of Veterans' Appeals, the new article I court which was established pursuant to division A of Public Law 100-687, the Veterans' Judicial Review Act. This new court is due to begin operations on September 1, 1989. Other provisions of this bill address issues that we believe should be resolved prior to the beginning of the court's operations, such as initial funding for the court, expedited hiring authority, the rules of procedures which will apply prior to the court's adoption of rules, and certain technical corrections in the law establishing the court. Although other provisions relating to the court's operations and additional technical corrections may be needed in the future, this bill was designed to address those issues with immediate consequences so that the court can begin operations in a timely manner.

SUMMARY OF PROVISIONS

Mr. President, the provisions of this bill relating to the retirement system may be summarized as follows:

First, in order to be eligible for the Court of Veterans' Appeals retirement plan, a judge would be required to make an election to participate. The election could be made at any time while the individual is serving as a judge. Until a judge makes an election to participate in the retirement plan provided by this legislation, the provisions relating to the civil service retire-

ment program—chapters 83 and 84 of title 5, United States Code—would be applicable to his or her service as a judge.

Second, the retirement benefit would be equal to the judge's salary in effect at the time of retirement.

Third, for a nondisabled judge to be eligible to retire, either the judge must have reached age 65 and served on the court at least 15 years, or if the judge is over 65 and has at least 10 and less than 15 years of service, the sum of the judge's years of service and attained age must be 80 or greater. A judge who is not reappointed following the expiration of the term for which appointed and who has served at least 15 years would also be eligible for retirement.

Fourth, a disability retirement benefit would be provided to judges who become permanently disabled and as a result of that disability are unable to perform the duties of a judge. A judge who is disabled to that extent and who has served more than 10 years would receive a benefit equal to the salary in effect at the time of retirement. A judge so disabled who has served less than 10 years would receive a benefit equal to one-half of the rate of pay in effect at the time of retirement.

Fifth, a 1-percent deduction would be made from the salary of a judge who elects to participate in the court retirement plan. This amount would be deposited in the Court of Veterans' Appeals retirement fund—which I will refer to as the "retirement fund"—established by this legislation. In addition, the judge would be required to deposit in the retirement fund an amount equal to 1 percent of the total salary received for any period, up to 15 years of service as a judge prior to the election to participate. Deductions would terminate upon the retirement of the judge or upon the completion of 15 years of service for which deductions or deposits have been made.

Sixth, a judge would not have a vested right to receive benefits—other than disability benefits—until meeting the age and service requirements and, if applicable, making the deposit for prior service.

Seventh, a judge who elects to participate in the court retirement plan would be barred from receiving any payment under the civil service retirement laws, regardless of whether the service on which retirement under those laws could otherwise be based is performed before or after the judge's service on the court. Following the election to participate in the court retirement plan, no further deductions would be made from the judge's salary for purposes of the civil service retirement program and the judge would be entitled to a lump-sum refund of all prior deductions.

Eighth, the retirement pay of a retired judge who receives compensation for any Federal employment would, during the period for which that compensation was received, be reduced by the amount of the compensation.

The principal features of the Court of Veterans' Appeals judges' survivors annuity plan would be as follows:

First, in order for a judge to provide his or her spouse and children with the benefits of the survivors annuity plan, a judge would be required, while serving as a judge, to make an election to do so and to waive all benefits under the civil service retirement laws. However, a surviving spouse who is eligible for an annuity under any law other than this measure based on service not used in the computation of the Court of Veterans' Appeals survivors annuity which includes the judge's Federal civilian service and up to 5 years of the judge's active military service would be entitled to that annuity.

Second, once an election to provide a survivors annuity is made, a deduction of 3.5 percent would be made from the judge's salary and retirement payments. These amounts would be deposited in the retirement fund. In addition, the judge would be required to deposit in the retirement fund with interest a sum equal to 3.5 percent of previous salary earned for service as a judge, for other Federal civilian service, or for service as a member of Congress, for which no deduction had been made under the civil service retirement laws. A judge would be permitted to make deposits in installments during the judges's period of service. If the required deposit were not made, the annuity of the surviving spouse would be reduced by an amount equal to 10 percent of the amount of the unmade deposit, unless the spouse chose to have that period of service disregarded for purposes of calculating the annuity. No deposit would be necessary for any year in which deductions from the judges salary, or a deposit, were actually made and not withdrawn under the civil service retirement laws.

Third, the survivors annuity would be payable only if the judge had rendered at least 5 years of civilian service and only if the deduction I have described—or a comparable deduction under the civil servie retirement laws—had been made for at least the last 5 years of service as a judge or other allowable civilian service.

(d) For purposes of calculating the amount of the annuity for a surviving spouse, civilian service described in section 8332 of title 5—generally, all Federal civilian service, service as a Member of Congress, and up to 5 years service in the Armed Forces would be credited if the judge makes the required contributions—3.5 percent of the compensation received for Federal civilian service and for service as a Member of Congress.

Fifth, a surviving spouse's annuity generally would be calculated by adding the following amounts: 1.5 percent of the judge's average annual pay including both salary and retirement pay times the number of years of judicial service, prior allowable service as a Member of Congress, prior allowable service—up to 5 years—as a member of the Armed Forces, and up to 15 years of prior service as a congressional employee; and 0.75 percent of the judge's average annual pay including both salary and retirement pay times the years of any other allowable Federal civilian service.

However, an annuity could not exceed 50 percent, or be less than 25 percent, of the judge's average annual pay for the three consecutive years in which the judge received the highest average annual pay, regardless of whether the three years were judicial service or retirement or other allowable service.

Sixth, whenever the salaries of Court of Veterans' Appeals judges is increased, the amount of an annuity which is based in whole or in part upon a deceased judge having rendered some portion of his or her final 18 months of allowable service as a judge of the court shall also be increased by an amount equal to 3 percent of the annuity for each full 5 percent by which the salary is increased.

(g) Where there is a surviving spouse and a surviving dependent child or children, the surviving spouse is entitled to an annuity immediately upon the judge's death and an additional annuity of 10 percent of the judge's average annual pay is payable on behalf of a dependent child. If there is more than one dependent child, the additional annuity payable is equal to 20 percent of such pay. Where there is no surviving dependent child, the surviving spouse is not eligible for annuity payments until attaining age 50.

(h) If the judge is not survived by an eligible spouse but is survived by a dependent child or children, an annuity is payable on behalf of each such child. The amount of the annuity would be equal to the lesser of 20 percent of the judge's average annual pay or 40 percent of such pay divided by the number of such children. A child's annuity is payable until the child reaches age 18 or, in the case of a full-time student, age 22. A child who becomes incapable of self-support because of physical or mental disability incurred before age 18 is entitled to an annuity regardless of age.

Ninth, if a judge dies in office before having rendered 5 years of service or without a survivor or survivors entitled to an annuity, the amount contributed by the judge would be paid to beneficiaries designated by the judge, to certain relatives of the judge, or to the estate of the judge.

Mr. President, the Secretary of the Treasury would be required to invest amounts of the retirement fund not immediately required for retirement and annuity payments in interest bearing securities of the United States. Survivors annuities would be exempt from assignment, execution, levy at-

tachment, garnishment, or other legal process.

Subject to the availability of appropriations, an amount equal to the unfunded liability of the retirement fund—defined as the amount by which the present value of benefits payable from the fund exceeds the present value of future contributions to and the current balance of the fund—would be deposited in the retirement fund prior to the end of each fiscal year.

Mr. President, the remaining provisions of this bill would:

First, provide for initial funding for the court by requiring the Secretary of Veterans' Affairs to transfer to the court an amount to be determined by the Chief Judge of the Court of Veterans' Appeals, but not to exceed $3.1 million, from a combination of three VA revolving funds; and require that, upon the appropriation of funds for the operation of the court, the Chief Judge fully reimburse the Secretary and the revolving funds for all funds previously transferred to the court.

Second, direct the Administrator of General Services to set aside appropriate space for the Court of Veterans' Appeals in the Post Office Building adjacent to Union Station in the District of Columbia should the Administrator enter into a long-term lease agreement with the Postal Service under which the Administrator would manage the space.

(c) Extend the time for filing an appeal to the court, as provided for in section 4066 of title 38, United States Code, to provide that a notice of appeal may be filed by the end of the 30-day period beginning on the date the court causes a notice of its commencement of operation to be published in the Federal Register.

(d) Make the Federal Rules of Appellate Procedure applicable to Court of Veterans' Appeals proceedings until the court itself adopts rules of practice and procedure pursuant to section 4064(a) of title 38.

(e) Authorize the court, from the date of enactment to December 31, 1989, to employ up to 35 employees without regard to competitive hiring requirements contained in title 5, United States Code.

(f) Provide for the court permanent authorization to use the authority in section 3109 of title 5 to employ the services of experts and consultants.

(g) Provide, in the event of a vacancy in the office of the chief judge, for the associate judge most senior in terms of service on the court to serve as acting chief judge, unless and until the President designates one of the other associate judges to serve as the acting chief judge.

(h) Make a series of technical corrections in Public Law 100-687.

(i) Make one technical correciton in the Department of Veterans' Affairs Act, Public Law 100-527, so as to provide for certain noncareer appointments to be made in the Department of Veterans Affairs.

BACKGROUND

Mr. President, as the 100th Congress drew to a close, a compromise was reached concerning the previously controversial issue of judicial review of the denial of veterans benefit claims. This compromise, embodied in the Veterans' Judicial Review Act, became possible when, after efforts by the Senate over the proceeding 10 years to grant veterans the right of access to the courts, the House of Representatives, on October 3, 1988, passed a judicial review bill of its own—H.R. 5288. The House and Senate Veterans' Affairs Committees—racing against the clock as the 100th Congress wound down—worked furiously to develop a fair, equitable, and effective compromise. During that process, there was no time to consider fully some of the complexities involved in establishing a retirement system for the judges in the new U.S. Court of Veterans' Appeals. Accordingly, the Court of Veterans' Appeals was created without such a system for its judges other than the civil service retirement system [CSRS] and Federal employees retirement system [FERS] generally applicable to Federal civilian employees. That left the new Court of Veterans' Appeals alone as the only Federal court lacking a separate retirement system.

Thus, soon after the enactment of Public Law 100-687, Chairman MONTGOMERY and I began to develop a Court of Veterans' Appeals judges retirement and survivors annuity bill. My goals in this effort were to design a retirement and annuity program that would place this new court on a comparable footing in this regard in relation to other Federal courts; to help ensure the long-term ability of the court to attract and retain the quality of judges desired and needed to establish and maintain the Court of Veterans' Appeals as a first-class judicial body; and to provide a fair and equitable reward for the service rendered by the judges.

In order to fashion a system that would meet these goals, we have reviewed retirement systems for various article I courts, such as the Court of Military Appeals, the U.S. Tax Court, and the U.S. Claims Court, as well as retirement systems for article III courts, specifically the U.S. district courts and the bankruptcy courts, which operate under the direction of the district courts. As this review progressed, two things became apparent: First, each court had a distinctly different retirement system and, second, every system except that of the Claims Court provides more generous benefits than CSRS/FERS.

We have now developed a proposed retirement system that draws heavily on the features of the Tax Court program, with modifications primarily to address the differences in size and scope of review between the Tax Court and the Court of Veterans' Appeals. For instance, although the Tax Court, as a trial court with jurisdiction over the Federal Government's vast internal revenue enterprise, appears to require a mechanism to recall its retired judges back to the bench for a period of time each year because of its enormous, fluctuating workload, we had no basis to foresee a similar need with respect to the Court of Veterans' Appeals—as a court of up to seven judges reviewing the record of Board of Veterans' Appeals cases—will have such a need. Accordingly, recall and related provisions were not included in this measure.

RETIREMENT AND SURVIVORS ANNUITY SYSTEM

Mr. President, under our legislation, judges on the U.S. Court of Veterans' Appeals who elect to be covered by this system and make the required contributions would be eligible to retire after age 65, upon having served at least 15 years. A judge who is over 65 and has at least 10 years of service would be eligible for retirement if the sum of the judge's years of service and age equals 80 or more. Upon retirement, a judge would receive the equivalent of the salary of the office at the time of the judge's retirement for the rest of his or her life. These retirement benefits are modeled after the U.S. Tax Court judges' retirement plan.

Those judges who serve their full term of 15 years, but who are not reappointed by the President upon the expiration of their term would also be eligible for retirement, regardless of age. This provision protects the judge who served an entire term but for whatever reason is not given a reappointment. Likewise protected is a judge who becomes permanently disabled with a disability that prevents the proper execution of the duties of the office. Regardless of age, if the judge who becomes disabled has served 10 or more years, the judge would receive a retirement equal to the salary of the office at the time of retirement. If the judge who becomes disabled has served less than 10 years, he or she would be entitled to one-half of the salary in effect at the time of retirement. I believe these to be fair protections for judges who either become disabled or are not reappointed.

Although the Court of Veterans' Appeals is much too small to fund its own retirement and survivor's annuity system, and we recognize that appropriations will be necessary to keep the retirement fund solvent, we also believe that it is conceptually sound and prudent to have the judges make a contribution to their own retirement program, as well as to their survivors' annuities. Having followed the Tax Court with regard to most other provisions, we decided to follow it with regard to contributions, with a modification borrowed from the bankruptcy court system, to require a modest contribution by the judges to their own retirement. Tax Court judges make no

contribution to their own retirement, but make a contribution to their survivors' annuity equaling 3.5 percent of their annual salary or retirement pay. Bankruptcy judges contribute 1 percent of their annual salary to their own retirement for their first term of service, and contribute 5 percent to their survivor's annuity. Our legislation would require the judges of the Court of Veterans' Appeals to contribute 1 percent of their annual salary to their own retirement system, for the first 15 years of their service, and 3.5 percent of their annual salary or retirement pay to the survivors annuity system.

As in the case of most other judicial retirement systems, an election to participate in the Court of Veterans' Appeals retirement system must be made by the judge prior to leaving office. Accordingly, someone who has been contributing to CSRS or FERS could continue to participate in that program until enough time has passed to vest in the court's retirement system. This flexibility would allow the judges to tailor their retirement systems to their individual personal circumstances. Once an election is made, the judge's CSRS/FERS contributions would be returned in a lump sum and the judge would be required to contribute to the Court of Veterans' Affairs retirement system the equivalent of 1 percent of the judge's annual salary for each year served, up to 15 years.

If a retired judge accepts compensation for employment by the Federal Government, the retired pay for the period for which the compensation was received would be reduced by the amount of the compensation received. Unlike the Tax Court provision which requires a retired judge who receives compensation for work in the Federal Government to forfeit all retired pay while receiving such compensation, I believe that this offset provision would not unduly discourage judges from serving the Federal Government after retiring from the court.

Mr. President, the survivors annuity plan is modeled directly on the one utilized by the Tax Court. As with the retirement plan, a judge would have to elect to participate in, and make contributions to, the survivors annuity program. Once a judge made an election to provide a survivors annuity, a deduction of 3.5 percent would be made from the judge's salary and retirement payments and the amounts deducted would then be deposited in the retirement fund. In addition, the judge would be required to deposit in the retirement fund, with interest, a sum equal to 3.5 percent of previous salary earned for service as a judge, for other Federal civilian service, and for service as a Member of Congress, for which deductions were not currently on deposit under the civil service retirement laws. A judge could elect to make that deposit in installment payments in such amounts and under such conditions as the Chief Judge determines. A judge could opt not to make such a deposit, in which case those years of service would be counted but the annuity of the surviving spouse would be reduced by an amount equal to 10 percent of the amount of the unmade deposit. The spouse could, however, choose to have that period of service disregarded for purposes of calculating the annuity rather than incur the 10-percent reduction.

The survivors annuity would be payable only after the judge had rendered at least 5 years of countable Federal civilian service or service as a Member of Congress and only if the deduction or deposit, as described above, had been made for the last 5 years of service as a judge or other countable service.

Once a judge has met all of the requirements, eligible spouses and dependent children would receive an annuity pursuant to a computation based on the judge's time of service on the court, and other Federal service, and would not exceed 50 percent, or be less than 25 percent, of the judge's average annual pay, including salary for active service and retirement pay, for the judge's high-3 years. The judge's average annual pay for this purpose would be based on the 3 consecutive years in which the judge received the highest average annual pay, regardless of whether the 3 years were judicial service or retirement or other allowable service, or a combination thereof.

To ensure that children of a judge are provided for, the survivors annuity provisions would entitle a surviving spouse with a surviving dependent child or children to an annuity immediately upon the judge's death. An additional annuity of 10 percent of the judge's average annual pay would be payable on behalf of a dependent child; if there were more than one dependent child, the additional annuity payable would be equal to 20 percent of such pay. If there were no surviving dependent child, however, the surviving spouse would not be eligible for annuity payments until attaining age 50.

The surviving spouse's entitlement to an annuity would terminate upon that spouse's remarriage before reaching age 55.

Recognizing the importance of encouraging a child toward higher education by providing support through his or her years of schooling, this bill would entitle a child to an annuity payment until that child reaches age 18 or, in the case of a full-time student, until age 22. Also recognizing a parent's responsibility toward a child who is incapable of self-support because of physical or mental disability incurred before age 18, this bill would entitle such a child to an annuity regardless of age.

Should a judge die in office before having rendered 5 years of service or without a survivor or survivors entitled to an annuity, the amount contributed by the judge to the annuity program would be paid to beneficiaries designated by the judge, to certain relatives of the judge, or to the estate of the judge. This provision ensures that the contributions made by the judge into the system will be paid out in accordance with the judges wishes. Additionally, survivors annuities would be exempt from assignment, execution, levy attachment, garnishment, or other legal process.

As discussed above, the size of the court makes it highly unlikely that the payments made into the survivor's annuity program will provide enough funding to make payments out of the retirement fund as needed. So as to make the best use of the funds available, the bill also includes provisions requiring the Secretary of the Treasury to invest amounts of the retirement fund, which are not immediately required for payments, in interest bearing securities of the United States. To ensure that the fund has sufficient funds to meet its responsibilities, the unfunded liability of the fund—defined as the amount by which the present value of benefits payable from the fund exceeds the present value of future contributions to and the current balance of the fund—would, subject to the availability of appropriations, be deposited in the retirement fund prior to the end of each fiscal year.

INITIAL FUNDING FOR THE COURT

Mr. President, because of the time constraints involved in passage of the law establishing the Court of Veterans' Appeals—Public Law 100-687, as discussed above, neither the House nor Senate Veterans' Affairs Committee had sufficient time to determine the amount of funding necessary initially to establish and operate the new court. Since the enactment of Public Law 100-687, I have sought the assistance of the General Services Administration [GSA] in preparing a preliminary personnel plan, space assessment, and operating budget for a three-, five-, and seven-judge court. According to these estimates, a seven-judge court would require a total of $3.1 million for fiscal year 1989—$1.9 million increase over the administration budget request of $1.2 million, which would include $1.6 million for initial nonrecurring items. Assuming the fiscal year 1989 funding is obtained, court operations in fiscal year 1990 are estimated to cost a total of $6.3 million, or $4.8 million over the administration's request.

To ensure that the long-sought right Congress recently accorded veterans and other claimants to have their benefit claims reviewed by a judicial entity is a real, not a hollow one, Chairman MONTGOMERY of the House Veterans' Affairs Committee and I have been working closely with the Appropriations Committees to ensure that the Court of Veterans' Appeals has sufficient startup funding, includ-

ing funds for salaries, short-term space, equipment, and commitments for long-term space and renovations. Thus, I am very grateful to Representative ROBERT TRAXLER and Senator MIKULSKI, chairpersons of the House and Senate Appropriations Subcommittees on VA, HUD, and independent agencies, for the inclusion of $3.1 million rather than the $1.2 million requested in the administration's budget, for the new court in the fiscal year 1989 dire emergency supplemental appropriations bill, H.R. 2072.

It is not, however, entirely clear when the measure will be enacted. Accordingly, our bill would provide an initial funding mechanism under which the Secretary of Veterans' Affairs would temporarily fund the court, in an amount to be determined by the Chief Judge of the Court of Veterans' Appeals but not to exceed $3.1 million, from a combination of the following VA revolving funds, in such proportion as the Secretary determines—the canteen service revolving fund, the loan guaranty revolving fund, and the direct loan revolving fund. Upon the appropriation of funds for the operation of the court, the Chief Judge would be required to transfer to the Secretary for reimbursement all funds previously transferred to the court.

This provision is designed to enable the court to begin operations as soon as possible if the enactment of the fiscal year 1989 supplemental appropriations measure is further delayed beyond the enactment date of our bill. Should the supplemental measure be enacted before the final passage of this bill, I would anticipate that this provision would be dropped in the final version of the legislation.

Mr. President, I ask unanimous consent that my March 17, 1989, and April 4, 1989, letters to Senator MIKULSKI and her March 23, 1989, response be printed in the RECORD at this point.

There being no objection, the letters were orderd to be printed in the RECORD, as follows:

U.S. SENATE,
COMMITTEE ON VETERANS' AFFAIRS,
Washington, DC, March 17, 1989.

Hon. BARBARA MIKULSKI,
Chair, Subcommittee on HUD-Independent Agencies, Washington, DC

DEAR BARBARA: I would like to take this opportunity to highlight the need for funding for the creation and the operation of the U.S. Court of Veterans Appeals. The three-to-seven judge Court, which was established under Public Law 100-687 and is to begin hearing cases on September 1, 1989, is the culmination of over 10 years of work in the Senate to ensure that veterans are accorded the fundamental right of judicial review of veterans' benefit claims. Although the Reagan budget request included some funds for the Court for FYs 1989 and 1990 ($1.2 and $1.5 million, respectively), these amounts will not be sufficient to start up and operate the Court.

At this Committee's request, the General Services Administration prepared a preliminary personnel plan, space assessment, and operating budget for a three-, five-, and seven-judge Court. The Committee recently received a new version of these estimates, updated to include funding for public access to the Court files, which is enclosed for your review. According to these estimates, a seven-judge Court will require a total of $3.1 million for FY 1989 (a $1.9 million increase over the Administration budget), which would include $1.6 million for initial non-recurring items. Assuming the FY 1989 funding is obtained, Court operations in FY 1990 are estimated to cost a total of $6.3 million, or $4.8 million over the request.

To ensure that the long-sought right Congress recently accorded veterans and other claimants to have their benefit claims reviewed by a judicial entity is a real not a hollow one, it is imperative that the Court of Veterans Appeals have sufficient start-up funding, including funds for salaries, short-term space, equipment, and commitments for long-term space and renovations. Without very prompt enactment of an FY 1989 supplemental appropriation, or of a temporary funding transfer such as we discussed in our very productive February meeting (which could be made from a non-appropriated account, or a combination of them, such as the Post Fund, the Canteen Fund, or the Direct Loan Revolving Fund), there are absolutely no funds available to pay any salaries or obtain any space or supplies and equipment. The VA's General Counsel has advised that the Department has no authority to transfer or reprogram funds for such purposes since the Court is a totally independent entity, not in any way part of or tied to the Department of Veterans Affairs.

I appreciate your attention to this matter.

With warm regards,

Cordially,

ALAN CRANSTON,
Chairman.

U.S. SENATE,
COMMITTEE ON APPROPRIATIONS,
Washington, DC, March 23, 1989.

Hon. ALAN CRANSTON,
Chairman, Committee on Veterans Affairs, Washington, DC

DEAR ALAN: Thank you for letting me know of the need for funding for the creation and operation of the U.S. Court of Veterans Appeals.

I appreciate the importance of getting the Court up and running. However, the Subcommittee on VA, HUD and Independent Agencies has reached its spending limit for fiscal year 1989. Therefore, a waiver of the Budget Act would be required to pass a supplemental appropriation for the Court of Veterans Appeals. Furthermore, it is not yet clear whether the administration will propose a supplemental appropriation for any discretionary program.

In any event, let me assure you that if the White House does send to the Congress a supplemental appropriation for the Court, I will give it my utmost consideration.

I look forward to working with you on this matter.

Sincerely,

BARBARA A. MIKULSKI,
Chair, VA, HUD, and Independent Agencies Subcommittee.

U.S. SENATE,
COMMITTEE ON VETERANS' AFFAIRS,
Washington, DC, April 4, 1989.

Hon. BARBARA MIKULSKI,
Chair, Subcommittee on VA, HUD and Independent Agencies, Committee on Appropriations, Washington, DC

DEAR BARBARA, Thank you for your March 23 response to my earlier letter highlighting the need for adequate funding for the creation and operation of the U.S. Court of Veterans Appeals. As you well know, the Bush March 24 FY 1989 supplemental request includes funding—albeit not in an adequate amount—for the Court's start-up and operational costs.

There is one point I failed to mention in my earlier letter that needs to be stressed: the vital importance of ensuring that the FY 1989 funding be made available through September 30, 1990. Such a two-fiscal-year provision would accommodate the uncertainty of the Court's obligational schedule, particularly as to non-recurring start-up costs, in its early months of operation.

Thank you for your continued attention to this matter.

With warm regards,

Cordially,

ALAN CRANSTON,
Chairman.

FACILITIES FOR THE COURT

Mr. CRANSTON. Mr. President, section 202 of the bill would direct the Administrator of General Services to set aside appropriate space for the Court of Veterans Appeals in the Post Office Building adjacent to Union Station in the District of Columbia should the Administrator enter into a long-term lease agreement with the Postal Service under which the Administrator would manage the space. Such an agreement is pending. The Post Office Building, with its majestic high ceilings, would provide appropriate space for courtrooms, and this provision would ensure that, if GSA receives the right to manage the building, the Court would have access to permanent offices and courtroom space.

Mr. President, I ask unanimous consent that letters I wrote with House Committee Chairman SONNY MONTGOMERY on this subject to Architect of the Capitol George White and former GSA Regional Administrator Richard Hadsell, and their responses be printed in the RECORD at this point.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

CONGRESS OF THE UNITED STATES,
Washington, DC, January 30, 1989.

Hon. GEORGE M. WHITE,
Architect of the Capitol, Washington, DC.

DEAR GEORGE: As Chairmen of the Senate and House Committees on Veterans' Affairs, we are writing to alert you to the fact that the United States Court of Veterans Appeals, created by Public Law 100-687, will need space in the near future—both on a temporary basis while permanent space is identified and made ready, and then on a permanent basis—in which to conduct its business. Under the law, the Court, which will have from three to seven members, is to begin hearing cases on September 1, 1989, and a Chief Judge is to be nominated between January 21 and April 1.

In this regard, we recently became aware of two possibilities for permanent space—both of which involve you as the Architect of the Capitol—Which appear very promising. The first of these is the Judiciary Office Building, which is to be constructed pursuant to Public Law 100-480, and the other is the Post Office renovation project at Union Station

George, given the likely needs of the new Court for a significant block of space (based on conversations with GSA, we estimate a

need for around 30,000 square feet with provision for expansion), we urge that, as these two projects go forward, you do your utmost to see that decisions are not made about space allocation that would ignore the important long-term need of the new Court for appropriately dignified and effective space. We recognize that any provision for such space in either of these projects will take a minimum of two to three years to effecuate and that the Court will need to secure short-term interim space, a need that we are now addressing with the GSA. Another possibility would be to move activities from another building (the Pension Building may be particularly suitable to the operation of this new Court) into one of the new buildings in order to place the Court in an existing, appropriate building.

It is our plan, working with the Appropriations Committees, to try to provide for a fiscal year 1989 funding transfer to the new Court by April 1 in order to defray its start-up costs (including temporary and permanent space needs) pending the enactment of a fiscal year 1989 supplemental appropriation.

Thank you for your attention to this matter.

Sincerely,

ALAN CRANSTON,
Chairman, Senate Committee of Veterans' Affairs.

G.V. (SONNY) MONTGOMERY,
Chairman, House Committee on Veterans' Affairs.

THE ARCHITECT OF THE CAPITOL,
Washington, DC, February 24, 1989.

Hon. ALAN CRANSTON,
Chairman, Senate Committee on Veterans' Affairs,

Hon. G.V. (SONNY) MONTGOMERY,
Chairman, House Committee on Veterans' Affairs, Congress of the United States, Washington, DC.

DEAR ALAN AND SONNY: With regard to your inquiry concerning the space needs of the U.S. Court of Veterans Appeals, I can report the following information in connection with the status of the two projects that you mentioned:

1. City Post Office Building—Final negotiations are actively taking place between GSA and the Postal Service which, upon completion, will provide that GSA will lease the entire building for the use of several occupants. At the present time, two primary "tenants" have been identified, viz., the Bureau of Labor Statistics and the Legislative Branch, with the latter to have about 150,000 square feet and the former about 420,000 square feet. The total available square footage is not yet capable of accurate determination because of the need to analyze cost-benefits that might be achieved through the creation of mezzanines, precise layouts of known user needs, adjacency requirements, etc. It appears very likely, however, that 30,000 square feet for the Court needs could be made available. The high ceiling heights would make that location particularly useful for courtroom purposes.

2. Judiciary Office Building—This project is now in the negotiation stage with the prospective provisional developer that has been selected. The required space is available in this building, but the ceiling heights are, in general, planned to be of normal office height. Although increased heights in selected areas could be made available, some construction cost increases can be anticipated if that is to be done. A "ripple effect" obviously occurs that can cause space to be lost on two floors rather than merely on one. Nevertheless, it can be accomplished if that is what is desired.

The full rental cost for these buildings has not yet been finally determined, but will be of the order of magnitude of $25 to $30 per square foot, guaranteed for thirty years. It is thus predicted to be substantially below market rates over the lease period.

The proposal to utilize a "temporary" location in the Pension Building is a distinct and attractive possibility provided, of course, that the GSA can provide for that in its planning. It is my understanding that commitments for occupancy may have already been made, but, of course, that is outside my jurisdiction and therefore my information may be inaccurate.

In any case, I shall continue, from my vantage point, to bear the need in mind and to proceed in whatever manner you deem appropriate. As you know, the Judiciary Office Building is under the oversight jurisdiction of a Commission established in the enabling legislation. The GSA-Postal service negotiations have been taking place with the strong involvement of the Senate Committee on Rules and Administration which was originally interested in making the entire Post Office building available to the Legislative Branch. It may therefore be appropriate to apprise those two entities of your interest as well.

I shall be pleased to provide whatever additional information you may find desirable.

Cordially,

GEORGE M. WHITE,
FAIA, Architect of the Capitol.

CONGRESS OF THE UNITED STATES,
Washington, DC, March 3, 1989.

Mr. RICHARD M. HADSELL,
Regional Administrator, National Capital Region, General Services Administration, Washington, DC

DEAR. MR. HADSELL: We are very grateful for the excellent cooperation that you and Mr. Dennis Condie and others in your office have been providing to our Committee Staff Directors/Chief Counsels (Jon Steinberg and Mack Fleming) regarding the preparation of a tentative budget and space plan as well as space allocation for the new United States Court of Veterans Appeals. On February 1, Jon and Mack met with Mr. Condie and Mrs. Peggy Mutton and Mr. Jim Sober of your Real Estate Division to look at space at the Interstate Commerce Commission (ICC) Building at 12th Street and Pennsylvania Avenue, N.W., that might be suitable for short-term temporary space for the Court's initial months of operation.

As you probably know, Mr. Condie last week provided us with a tentative space and budget estimate, and we are very impressed with the thoroughness of his work and deeply grateful to you and him for this invaluable assistance. We will be passing this estimate on to the Appropriations Committee with our endorsement. We are sure that the Chief Judge and Associate Judges of the Court will be enormously grateful for your efforts and that their work will be greatly enhanced by the groundwork you have done.

Jon and Mack have advised us that the space they saw at the ICC Building could be temporarily suitable, with appropriate renovation, for the Court's initial operations. In his space projection, Mr. Condie has estimated a need for approximately 28,000 square feet for the Court at a seven-judge size. The available space at the ICC Building totals 8235 square feet on the first and third floors, including corridors, closets, and toilets and one very large (2800 square feet) hearing room. The large hearing room and the smaller hearing room (1080 square feet) could be suitable, with appropriate renovation, for Court hearing operations for a substantial period of time. The space on the third floor could provide satisfactory space for two judges and their accompanying secretaries, clerks, and assistants. The other space on the first floor could serve temporarily to accommodate the clerk and administrative personnel for a short period of time. (As we understand it, the current GSA-per-square foot charges would be $25.09 for office space and $29.18 for hearing-room space.) We understand that some garage parking could be made available for Court personnel.

This space represents a start, but the office space would plainly not be sufficient after several months, and there would be a need for substantial additional office space for the Court for at least two years during which renovations are being made for permanent space for the Court (which, as you know, we hope will be at the Old Post Office renovation project adjacent to Union Station). Unless some alternative larger interim space can be found, the Court will be faced with having its operations split between two or more locations. We think this is highly undesirable.

Hence, we are making the following requests:

(1) That you hold the 8235 square feet in the ICC Building available for the Court's interim use;

(2) That you make all possible efforts to locate interim space that would accommodate the Court for two or more years at one site; and

(3) That you continue to cooperate with the Architect of the Capitol, George M. White, with respect to appropriate permanent space for the Court, especially the joint Executive Branch—Legislative Branch project at the Old Post Office.

In connection with point (2), above, we would greatly appreciate whatever you could do to reconsider the availability of the 3rd and 4th floors of the Pension Building, which, according to your February 21 letter to Jon Steinberg, you have committed to a variety of short-term commissions or entities. We wish to stress that this new Court is the fulfillment of Congressional efforts and consideration over three decades and is an undertaking of very significant national and historic proportions in our Nation's efforts to provide fairly for its veterans and their families. We hope very much that you could be helpful to the Court on this account and would certainly deem the Pension Building space, once available, a suitable replacement for the temporary space at the ICC Building.

Thank you again for all of the excellent cooperation that you and your staff have extended to us on behalf of the new Court of Veterans Appeals.

With warm regards.

Cordially,

ALAN CRANSTON,
Chairman, Senate Committee on Veterans' Affairs.

G.V. (Sonny) Montgomery,
Chairman, House Committee on Veterans' Affairs.

GENERAL SERVICES ADMINISTRATION,
Washington, DC, March 29, 1989.

Hon. ALAN CRANSTON,
Chairman, Committee on Veterans' Affairs, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: Thank you for your letter of March 3, 1989, regarding the United States Court of Veterans Appeals. It will be our pleasure to work with the Court in filling its space requirements.

At present, we have reserved the 8,235 square feet at the Interstate Commerce Commission Building for the Court. In regards to parking, we are researching its availability and will keep the Court advised.

In addition, we are working with the Court to develop both its short-term and long-term space requirements.

It is our intention to locate interim space which would accommodate the Court for two or more years at one site. To achieve this, we are exploring a variety of possibilities. However, at the Pension Building, firm commitments have been made and no additional space is available.

When the Court is established, we will immediately begin to work to define the long-term space requirements. At that time, we will provide the most appropriate housing for the Court. We are, however, continuing to pursue the availability of space at the City Post Office.

With the cooperation of the Court, we hope to proceed in an expeditious manner. Thank you for your continued interest in this project.

Sincerely,

RICHARD M. HADSELL,
Regional Administrator.

U.S. SENATE,
COMMITTEE ON VETERANS' AFFAIRS,
Washington, DC, April 20, 1989.

Mr. RICHARD M. HADSELL,
Regional Administrator, General Services Administration, National Capital Region, Washington, DC

DEAR MR. HADSELL: Thank you for your March 29 response to my earlier letter in which you outline efforts to develop the short-term and long-term space requirements of the new United States Court of Veterans Appeals.

I want you to know how very grateful I and this Committee are for your help and the help of your associate, Dennis Condie, in reserving temporary space for the Court at the Interstate Commerce Commission (ICC) Building and for your assistance in preparing a budget and personnel plan for the new Court. In addition, I very much appreciate your ongoing interest in and attention to the development of acceptable plans to meet the Courts' longer-term space needs.

Please note that I have sent a copy of your letter on to Judge Frank Q. Nebeker, the President's nominee to be the Chief Judge of the new Court, in order to facilitate continued efforts between the GSA and the Court in connection with the ICC space, longer-term interim space, and permanent space at the old City Post Office Building adjacent to Union Station.

I previously sent you a copy of my April 10, 1989, letter to Judge Nebeker regarding his proceeding with such efforts and related administrative matters during the pendency of his nomination before our Committee, and he has advised me of GSA's cooperation in retaining an expert consultant to work with him.

Thank you again for all of your and Mr. Condie's great help in this matter and for the help I know you will provide directly to Judge Nebeker and the new Court.

With best wishes,

Sincerely,

ALAN CRANSTON,
Chairman.

INTERIM PROVISION FOR FILING NOTICES OF APPEAL

Mr. CRANSTON. Mr. President, section 203 of the bill addresses the concern that, in a case subject to Court of Veterans Appeals review, a decision of the Board of Veterans Appeals could be made more than 120 days prior to the time the Court of Veterans Appeals begins to operate, thereby making it impossible for those claimants to make a timely appeal to the court under section 4066 of title 38, United States Code, under which those claims are denied at the BVA have 120 days to file a notice of appeal.

Although the court is supposed to be operating on September 1, this may not turn out to be the case. So as to deal with such a delay should it occur, section 203 would extend the time in which a notice of appeal must be filed to the end of the 30-day period beginning on the date the court causes a notice of its commencement of operation to be published in the Federal Register.

INITIAL RULES OF THE COURT

In order to ensure that the court has rules under which to operate prior to the court itself having the opportunity to establish its own rules pursuant to section 4064(a) of title 38, section 204 of the bill would make the Federal Rules of Appellate Procedure applicable to Court of Veterans Appeals proceedings until the court itself adopts rules of practice and procedure. By declaring the Federal Appellate Rules to be applicable, this legislation would enable practitioners to prepare for appearances before the court.

AUTHORITY TO EMPLOY PERSONNEL

Mr. President, the Court of Veterans Appeals Chief Judge-designate, Honorable Frank Q. Nebeker, whose nomination was confirmed by the Senate on May 17, 1989, brough to my attention in early May of this year the need for a temporary modification of the court's employment authorities in order to bring employees on board expeditiously as soon as funds are made available to the court. Before the new court begins hearing cases on September 1, 1989, as contemplated by the Veterans' Judicial Review Act, it must be able to hire staff, arrange for court rooms and offices, acquire furnishings and equipment, establish procedures and rules of practices, and complete a multitude of other housekeeping and administrative arrangements.

Section 4081 of title 38, United States Code, as enacted in Public Law 100-687, provides that the court may appoint such employees as may be necessary and that such appointments must be made in accordance with the provisions of title 5 governing appointment in the competitive service, except that the classification of positions may be based on judicial branch classifications. Chief Judge-designate Nebeker pointed out to me that he foresaw very serious practical difficulties arising from the mandate to comply with competitive-service requirements in the initial appointments of certain personnel. He noted that using the civil-service-register process could delay by months the hiring of personnel that will be needed from virtually the very first day that the court receives funding, particularly a clerk, deputy clerk, administrative officer, and certifying officer.

I found his concerns well founded and asked the Chair of the Appropriations Subcommittee on VA, HUD, and Independent Agencies, Senator BARBARA MIKULSKI, to include in H.R. 2072, the fiscal year 1989 dire emergency supplemental appropriations measure, in which the initial funding for the court that Congressman MONTGOMERY and I had recommended based on GSA's survey and plan was being provided, statutory language to provide the court with the authority for making initial appointments, without regard to the title 5 competitive-service requirements, of a clerk, deputy clerk, administrative officer, and certifying—fiscal—officer and of up to 30 other administrative positions, and for filling any vacancies that may occur in those positions, during calendar year 1989.

I am exceedingly grateful to Senator MIKULSKI for her cooperation in including the provision I requested in H.R. 2072 as reported and passed by the Senate on June 7, 1989. In connection with the conference on the appropriations bill I worked with House Chairman MONTGOMERY in developing a proposed modified provision, which was, although more generalized, substantively identical to the Senate provision, except for the period during which the hiring authority would be in effect. That provision has been included in the Appropriations Act conference report with the further modification that it would remain in effect only through the end of fiscal year 1989—rather than calendar year 1989, as we had proposed. Again, I thank Senator MIKULSKI and her House counterpart, Representative ROBERT TRAXLER, for their excellent cooperation in this matter.

Although I sincerely appreciate their assistance, I believe that we should now, in this authorizing measure, make the provision effective for all of calendar year 1989. Thus, section 205 of our bill would provide the court with interim extraordinary authority to employ personnel without regard to certain civil-service-law-competitive requirements, and section 403 would provide the court with the permanent authority, which was inadvertently omitted from the legislation establishing the court, to use the authority in section 3109 of title 5, United States Code, to employ the services of experts and consultants. More specifically, section 205 would authorize the court, during the period from the date of enactment through December 31, 1989, to employ not more than 35 employees without regard to competitive hiring requirements contained in title 5. These employees would be eligible for noncompetitive conversion to a position in the competitive service if they apply for such conversion prior to December 31, 1990, and the Director of the Office of Personnel Management determines that such conversion is in the interest of the government.

In addition, the bill would require observances of the spirit of the veterans' preference provisions in title 5 by requiring that, among equally-qualified applicants, preference be given those who have preference rights under title 5. To further enable the chief judge to set up the court, section 205 also would allow the chief judge to exercise the hiring authority on his own whenever there are not at least two associate judges of the court.

OTHER PROVISIONS

Mr. President, section 301 of the bill would postpone from November 18, 1988, to September 1, 1989, the effective date of the amendment to section 4004 of title 38, relating to the reopening of disallowed BVA cases, made by section 204 of Public Law 100-687. Section 4004 as amended by Public Law 100-687 includes a cross-reference to section 3008 of title 38, which was amended by section 103(a) of that public law effective September 1, 1989. Thus, section 301 would simply make consistent the effective dates of the amendments to those two title 38 sections.

Section 401 of our bill would make a technical correction in the Department of Veterans Affairs Act, Public Law 100-527, so as to provide for certain non-career appointments to be made in the Department of Veterans Affairs as to which section 12(c)(1) of that Act would preclude consideration of political affiliation or activity.

In the event of a vacancy in the office of the chief judge, section 402 of our bill would provide for the most senior associate judge, in terms of service on the court, to serve as acting chief judge, unless and until the President designates one of the other associate judges to serve as the acting chief judge.

CONCLUSION

Mr. President, the provisions in this bill provide Court of Veterans Appeals judges with a fair and equitable retirement program and provide other technical and funding assistance to enable the court—which is the culmination of over 10 years of work to ensure that veterans are accorded the fundamental right of judicial review of VA denials of their claims for veterans' benefits—to begin operations on September 1, 1989, as scheduled.

I will be asking interested witnesses at our committee's June 22 hearing and others to provide supplementary testimony on this measure. Also, together with Chairman MONTGOMERY, I will be asking the Office of Management and Budget, which has already been contacted in this regard, as well as the Department of Veterans Affairs, to provide administration views on the bill on an expedited basis. We will also be asking Chief Judge-designate Nebeker to provide us with his views on the provisions of the bill.

I have scheduled the bill for a markup at the Veterans' Affairs Committee's July 13 meeting and, in light of the collaborative efforts by the chairmen and ranking minority Members of both Veterans' Affairs Committees in the development of this measure, I am anticipating Senate passage and final action on the bill before the August recess.

Mr. President, I urge all of my colleagues to give this bill their careful consideration and support and ask unanimous consent that the text of the bill be printed in the RECORD at this point.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1243

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Court of Veterans Appeals Judges Retirement Act".

TITLE I—JUDGES RETIREMENT AND SURVIVOR ANNUITY PROGRAM

SEC. 101. JUDGES RETIREMENT PROGRAM.

(a) RETIREMENT SYSTEM.—Chapter 72 of title 38, United States Code, is amended by adding at the end of the following new subchapter:

"Subchapter V—Retirement and Survivors Annuities

"§ 4096. Retirement of judges

"(a) For purposes of this section:

(1) The term 'Court' means the United States Court of Veterans Appeals.

"(2) The term 'judge' means the chief judge or an associate judge of the Court.

"(b)(1) A judge who meets the age and service requirements set forth in the following table may retire:

"The judge has attained age:	And the years of service as a judge are at least
65	15
66	14
67	13
68	12
69	11
70	10

"(2) A judge who is not reappointed following the expiration of the term for which appointed may retire upon the completion of that term if the judge has served as a judge of the Court for 15 years or more. In order to retire under this paragraph, a judge must, not earlier than nine months preceding the date of the expiration of the judge's term of office and not later than six months preceding such date, advise the President in writing that the judge is willing to accept reappointment to the Court.

"(3) A judge who becomes permanently disabled and as a result of that disability is unable to perform the duties of the office shall retire.

"(c)(1) An individual who retires under subsection (b) of this section and elects under subsection (d) of this section to receive retired pay under this subsection shall (except as provided in paragraph (2) of this subsection) receive retired pay at the rate of pay in effect at the time of retirement.

"(2) An individual who serves as a judge for less than 10 years and who retires under subsection (b)(3) of this section and elects under subsection (d) of this section to receive retired pay under this subsection shall receive retired pay at a rate equal to one-half of the rate of pay in effect at the time of retirement.

"(3) Retired pay under this subsection shall begin to accrue on the day following the day on which the individual's salary as judge ceases to accrue and shall continue to accrue during the remainder of the individual's life. Retired pay under this subsection shall be paid in the same manner as the salary of a judge.

"(d)(1) A judge may elect to receive retired pay under subsection (c) of this section. Such an election—

"(A) may be made only while an individual is a judge (except that, in the case of an individual who fails to be reappointed as judge at the expiration of a term of office, the election may be made at any time before the date after the day on which the individual's successor takes office); and

"(B) may not be revoked after the retired pay begins to accrue.

"(2) In the case of a judge other than the chief judge, such an election shall be made by filing notice of the election in writing with the chief judge. In the case of the chief judge, such an election shall be made by filing notice of the election in writing with the Director of the Office of Personnel Management.

"(3) The chief judge shall transmit to the Director of the Office of Personnel Management a copy of each notice filed with the chief judge under this subsection.

"(e) If an individual for whom an election to receive retired pay under subsection (c) is in effect accepts compensation for employment with the United States, the individual shall, to the extent of the amount of that compensation, forfeit all rights to retired pay under subsection (c) of this section for the period for which the compensation is received.

"(f)(1) Except as otherwise provided in this subsection, the provisions of the civil service retirement laws (including the provisions relating to the deduction and withholding of amounts from basic pay, salary, and compensation) shall apply with respect to service as a judge as if this section had not been enacted.

"(2) In the case of any individual who has filed an election to receive retired pay under subsection (c) of this section—

"(A) no annuity or other payment shall be payable to any person under the civil service retirement laws with respect to any service performed by such individual (whether performed before or after such election is filed and whether performed as judge or otherwise);

"(B) no deduction for purpoes of the Civil Service Retirement and Disability Fund shall be made from retired pay payable to that individual under subsection (c) of this section or from any other salary, pay, or compensation payable to that individual, for any period beginning after the day on which such election is filed; and

"(C) such individual shall be paid the lump-sum credit computed under section 8331(8) of title 5 upon making application therefore with the Office of Personnel Management.

"(g)(1) A judge who becomes permanently disabled and as a result of that disability is unable to perform the duties of the office shall certify to the President in writing that such permanent disability exists. If the chief judge retires for such a disability, the retirement of the chief judge shall not take effect until concurred in by the President. If any other judge retires for such a disability, the chief judge shall furnish to the President a certificate of disability signed by the chief judge.

"(2) Whenever the President finds that a judge has become permanently disabled and as a result of that disability is unable to perform the duties of the office, the President shall declare that judge to be retired. Before

a judge may be retired under this paragraph, the judge shall be provided with a full specification of the reasons for the retirement and an opportunity to be heard.

"(h)(1) An individual who has filed an election to receive retired pay under subsection (c) of this section may revoke such election at any time before the first day on which retired pay would (but for such revocation) begin to accrue with respect to such individual.

"(2) Any revocation under this subsection shall be made by filing a notice of the election in writing with the Director of the Office of Personnel Management. The Office of Personnel Management shall transmit to the chief judge a copy of each notice filed under this subsection.

"(3) In the case of a revocation under this subsection—

"(A) for purposes of this section, the individual shall be treated as not having filed an election to receive retired pay under subsection (c) of this section;

"(B) for purposes of section 4097 of this title—

"(i) the individual shall be treated as not having filed an election under section 4097(b) of this title, and

"(ii) section 4097(e) of this title shall not apply, and the amount credited to such individual's account (together with interest at 3 percent per year, compounded on December 31 of each year to the date on which the revocation is filed) shall be returned to the individual;

"(C) no credit shall be allowed for any service as a judge of the Court unless with respect to such service either there has been deducted and withheld the amount required by the civil service retirement laws or there has been deposited in the Civil Service Retirement and Disability Fund an amount equal to the amount so required, with interest;

"(D) the Court shall deposit in the Civil Service Retirement and Disability Fund an amount equal to the additional amount it would have contributed to such Fund but for the election under subsection (d); and

"(E) if subparagraph (D) of this paragraph is complied with, service on the Court shall be treated as service with respect to which deductions and contributions had been made during the period of service.

"(i)(1) Beginning with the next pay period after the Director of the Office of Personnel Management receives a notice under subsection (d) of this section that a judge has elected to receive retired pay under this section, the Director shall deduct and withhold 1 percent of the salary of such judge. Amounts shall be so deducted and withheld in a manner determined by the Director. Amounts deducted and withheld under this subsection shall be deposited in the Treasury of the United States to the credit of the Court of Veterans Appeals Judges Retirement Fund. Deductions under this subsection from the salary of a judge shall terminate upon the retirement of the judge or upon the completion of 15 years of service for which either deductions under this subsection or a deposit under subsection (j) of this section has been made, whichever occurs first.

"(2) Each judge who makes an election under subsection (d) of this section shall be considered to agree to the deductions from salary which are made under paragraph (1) of this subsection.

"(j) A judge who makes an election under subsection (d) of this section shall deposit, for service performed before the election for which contributions may be made under this section, an amount equal to 1 percent of the salary received for the first years, not exceeding 15 years, of that service. Retired pay may not be allowed until a deposit required by this subsection has been made.

"(k) The amounts deducted and withheld under subsection (i) of this section, and the amounts deposited under subsection (j) of this section, shall be deposited in the Court of Veterans Appeals Retirement Fund for credit to individual accounts in the name of each judge from whom such amounts are received.

"§ 4097. Survivor annuities

"(a) DEFINITIONS.—For purposes of this section:

"(1) The term 'Court' means the United States Court of Veterans Appeals.

"(2) The term 'judge' means the chief judge or an associate judge of the Court.

"(3) The term 'pay' means salary received under section 4053(e) of this title and retired pay received under section 4096(c) of this title.

"(4) The term 'retirement fund' means the Court of Veterans Appeals Retirement Fund established under section 4098 of this title.

"(5) The term 'surviving spouse' means a surviving spouse of an individual who (A) was married to such individual for at least two years immediately preceding the individual's death, or (B) is a parent of issue by the marriage.

"(6) The term 'dependent child' has the meaning given the term 'child' in section 376(a)(5) of title 28.

"(7) The term 'Member of Congress' means a Representative, a Senator, a Delegate to Congress, or the Resident Commissioner of Puerto Rico.

"(b) A judge may become a participant in the annuity program under this section by filing a written election under this subsection while in office. Any such election shall be made in such manner as may be prescribed by the Court.

"(c) There shall be deducted and withheld each pay period from the pay of a judge who has made an election under subsection (b) of this section a sum equal to 3.5 percent of the judge's pay. Amounts so deducted and withheld shall be deposited in the retirement fund. A judge who makes an election under subsection (b) of this section shall be considered by that election to agree to the deductions from the judge's pay required by this subsection.

"(d) A judge who makes an election under subsection (b) of this section shall deposit, with interest at 3 percent per year compounded on December 31 of each year, to the credit of the retirement fund, an amount equal to 3.5 percent of the judge's pay and of judge's basic salary, pay, or compensation for service as a Member of Congress, and for any other civilian service within the purview of section 8332 of title 5. Each such judge may elect to make such deposits in installments during the judge's period of service in such amount and under such conditions as may be determined in each instance by the chief judge. Notwithstanding the failure of a judge to make such deposit, credit shall be allowed for the service rendered, but the annual annuity of the surviving spouse of such judge shall be reduced by an amount equal to 10 percent of the amount of such deposit, computed as of the date of the death of such judge, unless the surviving spouse elects to eliminate such service entirely from credit under subsection (k) of this section. However, a deposit shall not be required from a judge for any year with respect to which deductions from the judge's pay, or a deposit, were actually made (and not withdrawn) under the civil service retirement laws.

"(e) If the service of a judge who makes an election under subsection (b) of this section terminates other than pursuant to the provisions of section 4096 of this title, or if any judge ceases to be married after making the election under subsection (b) of this section and revokes (in a writing filed as provided in subsection (b) of this section) such election, the amount credited to the judge's individual account (together with interest at 3 percent per year compounded on December 31 of each year to the date of the judge's relinquishment of office) shall be returned to the judge. For the purpose of this section, the service of a judge making an election under subsection (b) of this section shall be considered to have terminated pursuant to section 4096 of this title if—

"(1) the judge is not reappointed following expiration of the term for which appointed; and

"(2) at or before the time of the expiration of that term, the judge is eligible for and elects to receive retired pay under section 4096 of this title.

"(f)(1) If a judge who makes an election under subsection (b) of this section dies after having rendered at least 5 years of civilian service (computed as prescribed in subsection (1) of this section), for the last 5 years of which the salary deductions provided for by subsection (c) of this section or the deposits required by subsection (d) of this section have actually been made (and not withdrawn) or the salary deductions required by the civil service retirement laws have actually been made (and not withdrawn)—

"(A) if the judge is survived by a surviving spouse but not by a dependent child, there shall be paid to the surviving spouse an annuity beginning with the day of the death of the judge or following the surviving spouse's attainment of the age of 50 years, whichever is the later, in an amount computed as provided in subsection (k) of this section; or

"(B) if the judge is survived by a surviving spouse and a dependent child or children, there shall be paid to the surviving spouse an immediate annuity in an amount computed as provided in subsection (k) of this section and there shall also be paid to or on behalf of each such child an immediate annuity equal to the lesser of—

"(i) 10 percent of the average annual pay of such judge (determined in accordance with subsection (k) of this section), or

"(ii) 20 percent of such average annual pay, divided by the number of such children; or

"(C) if the judge is not survived by a surviving spouse but is survived by a dependent child or children, there shall be paid to or on behalf of each such child an immediate annuity equal to the lesser of—

"(i) 20 percent of the average annual pay of such judge (determined in accordance with subsection (k) of this section), or

"(ii) 40 percent of such average annual pay, divided by the number of such children.

"(2) The annuity payable to a surviving spouse under this subsection shall be terminated—

"(A) upon the surviving spouse's death; or

"(B) upon the remarriage of the surviving spouse before age 55.

"(3) The annuity payable to a child under this subsection shall be terminated upon the child's death.

"(4) In case of the death of a surviving spouse of a judge leaving a dependent child or children of the judge surviving the spouse, the annuity of such child or children under paragraph (1)(B) of this subsection shall be recomputed and paid as provided in paragraph (1)(C) of this subsection. In any case in which the annuity of a depend-

ent child is terminated, the annuities of any remaining dependent child or children, based upon the service of the same judge, shall be recomputed and paid as though the child whose annuity was so terminated had not survived the judge.

"(g) Questions of family relationships, dependency, and disability arising under this section shall be determined in the same manner as such questions arising under chapter 84 of title 5 are determined.

"(h)(1) If—

"(A) a judge making an election under subsection (b) of this section dies while in office (i) before having rendered 5 years of civilian service computed as prescribed in subsection (1) of this section, or (ii) after having rendered 5 years of such civilian service but without a survivor entitled to annuity benefits provided by subsection (f) of this section; or

"(B) the right of all persons entitled to an annuity under subsection (f) of this section based on the service of such judge terminates before a claim for such benefits has been established,

the total amount credited to the individual account of such judge (with interest at 3 percent per year, compounded on December 31 of each year, to the date of the death of such judge) shall be paid in the manner specified in paragraph (2) of this subsection.

"(2) An amount payable under paragraph (1) of this subsection shall be paid, upon the establishment of a valid claim therefor, to the person or persons surviving at the date title to the payment arises, in the following order of precedence:

"(A) To the beneficiary or beneficiaries whom the judge designated in writing filed before death with the chief judge (except that in the case of the chief judge such designation shall be filed before death as prescribed by the Court).

"(B) To the surviving spouse of the judge.

"(C) To the child or children of the judge (and the descendants of any deceased children by representation).

"(D) To the parents of the judge or the survivor of them.

"(E) To the executor or administrator of the estate of the judge.

(F) To such other next of kin of the judge as may be determined by the chief judge to be entitled under the laws of the domicile of the judge at the time of the judge's death.

"(3) Determination as to the surviving spouse, child, or parent of a judge for the purposes of paragraph (2) of this subsection shall be made without regard to the definitions in subsection (a) of this section.

"(4) Payment under this subsection in the manner provided in this subsection shall be a bar to recovery by any other person.

"(5) In a case in which the annuities of all persons entitled to annuity based upon the service of a judge terminate before the aggregate amount of annuity paid equals the total amount credited to the individual account of such judge (with interest at 3 percent per year, compounded on December 31 of each year to the date of the death of the judge), the difference shall be paid, upon establishment of a valid claim therefor, in the order of precedence prescribed in paragraph (2) of this subsection.

"(6) Any accrued annuity remaining unpaid upon the termination (other than by death) of the annuity of any individual based upon the service of a judge shall be paid to that individual. Any accrued annuity remaining unpaid upon the death of an individual receiving an annuity based upon the service of a judge shall be paid, upon the establishment of a valid claim therefor, in the following order of precedence:

"(A) To the executor or administrator of the estate of that person.

"(B) After 30 days after the date of the death of such individual, to such individual or individuals as may appear in the judgment of the chief judge to be legally entitled thereto.

Such payment shall be a bar to recovery by any other individual.

"(i) When a payment under this section is to be made to a minor, or to a person mentally incompetent or under other legal disability adjudged by a court of competent jurisdiction, the payment may be made to the person who is constituted guardian or other fiduciary by the law of the State of residence of such claimant or is otherwise legally vested with the care of the claimant or is otherwise legally vested with the care of the claimant or the claimant's estate. If no guardian or other fiduciary of the person under legal disability has been appointed under the laws of the State of residence of the claimant, the chief judge shall determine the person who is otherwise legally vested with the care of the claimant or the claimant's estate.

"(j) Annuities under this section shall accrue monthly and shall be due and payable in monthly installments on the first business day of the month following the month or other period for which the annuity has accrued. An annuity under this section is not assignable, either in law or in equity, or subject to execution, levy, attachment, garnishment, or other legal process.

"(k)(1) The annuity of the surviving spouse of a judge making an election under subsection (b) of this section shall be an amount equal to the sum of the following:

"(A) The product of—

"(i) 1.5 percent of the judge's average annual pay; and

"(ii) the sum of the judge's years of judicial service, the judge's years of prior allowable service as a Member of Congress, the judge's years of prior allowable service performed as a member of the Armed Forces, and the judge's years, not exceeding 15, of prior allowable service performed as a congressional employee (as defined in section 2107 of title 5).

"(B) Three-fourths of 1 percent of the judge's average annual pay multiplied by the judge's years of allowable service not counted under subparagraph (A) of this paragraph.

"(2) An annuity computed under this subsection may not exceed 50 percent of the judge's average annual pay and may not be less than 25 percent of such average annual pay. Such annuity shall be further reduced in accordance with subsection (d) of this section (if applicable).

"(3) For purposes of this subsection, the term 'average annual pay', with respect to a judge, means the average annual pay received by the judge for judicial service (including periods in which the judge received retired pay under section 4096(d) of this title) or for any other prior allowable service during the period of three consecutive years in which the judge received the largest such average annual pay.

"(l) Subject to subsection (d) of this section, the years of service of a judge which are allowable as the basis for calculating the amount of the annuity of the judge's surviving spouse shall include the judge's years of service as a judge of the Court, the judge's years of service as a Member of Congress, the judge's years of active service as a member of the Armed Forces not exceeding 5 years in the aggregate and not including any such service for which credit is allowed for the purposes of retirement or retired pay under any other provision of law, and the judge's years of any other civilian service within the purview of section 8332 of title 5.

"(m) Nothing contained in this section shall be construed to prevent a surviving spouse eligible therefor from simultaneously receiving an annuity under this section and any annuity to which such spouse would otherwise be entitled under any other law without regard to this section, but in computing such other annuity service used in the computation of such spouse's annuity under this section shall not be credited.

"(n) A judge making an election under subsection (b) of this section shall, at the time of such election, waive all benefits under the civil service retirement laws. Such a waiver shall be made in the same manner and shall have the same force and effect as an election filed under section 4096(d) of this title.

"(o) Whever the salaries of judges paid under section 4053(e) of this title are increased, each annuity payable from the retirement fund which is based, in whole or in part, upon a deceased judge having rendered some portion of that judge's final 18 months of service as a judge of the Court, shall also be increased. The amount of the increase in the annuity shall be determined by multiplying the amount of the annuity on the date on which the increase in salaries becomes effective by 3 percent for each full 5 percent by which those salaries were increased.

"§ 4098. Court of Veterans Appeals Retirement Fund

"(a) There is established in the Treasury a fund known as the Court of Veterans Appeals Retirement Fund.

"(b) Amounts in the fund are available for the payment of judges' retired pay under section 4096 of this title and of annuities, refunds, and allowances under section 4097 of this title.

"(c) Amount deposited by or deducted and withheld from the salary of a judge under section 4096 or 4097 of this title shall be deposited in the fund and credited to an individual account of the judge.

"(d) The chief judge of the Court of Veterans Appeals shall submit to the President an annual estimate of the expenditures and appropriations necessary for the maintenance and operation of the fund, and such supplemental and deficiency estimates as may be required from time to time for the same purposes, according to law.

"(e)(1) The chief judge may cause periodic examinations of the retirement fund to be made by an actuary, who may be an actuary employed by another department of the Government temporarily assigned for the purpose.

"(2)(A) Subject to the availability of appropriations, there shall be deposited in the Treasury to the credit of the retirement fund, not later than the close of each fiscal year, such amounts as may be required to reduce to zero the unfunded liability (if any) of the fund. Such deposits shall be taken from sums available for that fiscal year for the payment of the expenses of the Court.

"(B) For purposes of subparagraph (A) of this paragraph, the term 'unfunded liability', with respect to any fiscal year, means the amount estimated by the chief judge to be equal to the excess (as of the close of that fiscal year) of—

"(i) the present value of all benefits payable from the fund (determined on an annual basis in accordance with section 9503 of title 31), over

"(ii) the sum of—

"(I) the present values of future deductions under sections 4096(i) and 4097(c) of this title and future deposits under sections 4096(j) and 4096(d) of this title, and

"(II) the balance in the fund as of the close of the fiscal year.

"(C) Amounts deposited in the retirement fund under this paragraph shall not be credited to the account of any individual.

"(f) The Secretary of the Treasury shall invest from time to time, in interest-bearing securities of the United States, such portions of the retirement fund as in such Secretary's judgment may not be immediately required for payments from the fund. The income derived from such investments shall constitute a part of the fund.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 72 of such title is amended by adding at the end the following:

"Subchapter V—Retirement and Survivors Annuities

"4096. Retirement of judges.
"4097. Survivor annuities.
"4098. Court of Veterans Appeals Retirement Fund.".

SEC. 102. CONFORMING AMENDMENTS.

(a) CIVIL SERVICE RETIREMENT SYSTEM.—Section 8334(i) of title 5, United States Code, is amended by adding at the end the following new paragraph:

(5) Notwithstanding any other provision of law, a judge who is covered by section 4096 of title 38 shall not be subject to deductions and contributions to the Fund, if the judge notifies the Director of the Office of Personnel Management of an election of a retirement annuity under that section. Upon such an election, the judge shall be entitled to a lump-sum credit under section 8342(a) of this title.".

(b) FEDERAL EMPLOYEES RETIREMENT SYSTEM.—Section 8402 of title 5 United States Code, is amended by adding at the end the following new subsection:

"(e) A judge who is covered by section 4096 of title 38 shall be excluded from the operation of this chapter if the judge notifies the Director of the Office of Personnel Management of an election of a retirement annuity under that section. Upon such election, the judge shall be entitled to a lump-sum credit under section 8424 of this title.".

(c) STANDARDS FOR REMOVAL OF JUDGES—Section 4053(f)(1) of title 38, United States Code, is amended in the first sentence—

(1) by inserting "or" before "engaging"; and

(2) by striking out "law," and all that follows in that sentence and inserting in lieu thereof "law.".

TITLE II—PROVISIONS RELATING TO ESTABLISHMENT OF COURT OF VETERANS APPEALS.

SEC. 201. INITIAL FUNDING FOR COURT.

(a) TRANSFERS FROM DEPARTMENT OF VETERANS' AFFAIRS FUNDS.—The Secretary of Veterans' Affairs shall transfer to the United States Court of Veterans Appeals such funds as the Chief Judge of the Court certifies to be required, not to exceed $3,100,000, for the initial startup costs and operation of the Court until funds for the operation of the Court are first appropriated. Such funds shall be derived in equal amounts, or in such other amounts as the Secretary may determine, from the following revolving funds: the Canteen Service Revolving Fund, the Loan Guaranty Revolving Fund, and the Direct Loan Revolving Fund.

(b) REIMBURSEMENT.—Upon the appropriation of funds for the operation of the Court, the Chief Judge of the Court shall immediately transfer to the Secretary of Veterans' Affairs, for reimbursement to the appropriate revolving funds, the total sum transferred to the Court under subsection (a).

SEC. 202. FACILITIES FOR COURT.

If the Administrator of General Services, through a long-term lease arrangement with the Postal Service, acquires the right to operate the space in the Post Office Building adjacent to Union Station in the District of Columbia, the Administrator—

(1) shall provide for approximately 30,000 square feet of such space on the first floor of that building (or in such other area in that building and on the first floor as the chief judge of the Court may specify) to be remodeled for, and to be leased to, the United States Court of Veterans Appeals for use as the Court's principal place of business; and

(2) shall arrange that space adjacent to such 30,000 square feet be leased under such terms and conditions that, with proper notice, it can be made available for the Court in the event of the need for expansion.

SEC. 203. INTERIM PROVISION FOR FILING NOTICES OF APPEAL.

In the case of a person adversely affected by a final decision of the Board of Veterans' Appeals that is made before the date on which the United States Court of Veterans Appeals has caused to be published in the Federal Register a notice by the Court that it has commenced operations, the period prescribed under section 4066 of title 38, United States Code, within which a notice of appeal must be filed with the Court shall be extended to the end of the 30-day period beginning on the date such notice is published, if the end of that period is later than the date that would otherwise be applicable under such section.

SEC. 204. INITIAL RULES OF THE COURT.

The Federal Rules of Appellate Procedure (28 U.S.C. App.) shall be the rules of the United States Court of Veterans Appeals until otherwise provided by the Court in accordance with section 4064(a) of title 38, United States Code.

SEC. 205. INTERIM AUTHORITY TO EMPLOY PERSONNEL.

(a) EMPLOYMENT AUTHORITY.—During the period beginning on the date of the enactment of this Act and ending on December 31, 1989, the United States Court of Veterans Appeals may employ under this section not to exceed 35 employees (and employees to replace any employees so appointed whose appointment by the Court is terminated). Any employee so appointed shall be eligible for noncompetitive conversion to a position in the competitive service if—

(1) application for such conversion is made to the Director of the Office of Personnel Management not later than December 31, 1990; and

(2) the Director of the Office of Personnel Management determines that such noncompetitive conversion is in the interest of the Government.

(b) PREFERENCE ELIGIBLES.—In the making of appointments pursuant to subsection (a), the Court shall give preference, among equally qualified persons, to persons who are preference eligibles (as defined in section 2108(3) of title 5, United States Code).

(c) WAIVERS.—Appointments may be made under subsection (a) without regard to the provisions of title 5, United States Code, governing appointments in the competitive service and without regard to section 4081 of title 38, United States Code.

(d) INTERIM AUTHORITY OF CHIEF JUDGE OF THE COURT.—The authority provided in subsection (a) may be exercised by the chief judge of the court whenever there are not at least two associate judges of the Court.

TITLE III—TECHNICAL CORRECTIONS

SEC. 301. EFFECTIVE DATE FOR NEW RULE FOR REOPENING BOARD OF VETERANS' APPEALS DISALLOWED CASES.

Section 401(d) of the Veterans Judicial Review Act (Public Law 100-687; 102 Stat. 4122) is amended to read as follows:

"(d) BOARD OF VETERANS' APPEALS.—Section 202, 203, 205, 206, and 207 shall take effect as of January 1, 1989. Section 204 shall take effect on September 1, 1989.".

SEC. 302. OTHER TECHNICAL AMENDMENTS.

(a) CROSS-REFERENCE TO NEW SECTION.—Section 3301(b)(1) of title 38, United States Code, is amended by striking out "section 4009" and inserting in lieu thereof "section 3009 or 4009".

(b) REVIEW OF COURT DECISIONS.—Section 4092(d)(1) of such title is amended by striking out "statute or".

(c) APPLICABILITY OF AMENDMENTS.—The amendments made by subsections (a) and (b) shall take effect as if included in the Veterans' Judicial Review Act.

(d) REDESIGNATION OF DUPLICATE SECTION NUMBER.—The section 223 of title 38, United States Code, added by section 203(b)(1) of the Veterans' Benefits and Services Act of 1988 (Public Law 100-322; 102 Stat. 509) is redesignated as section 224.

(2) The item relating to that section in the table of sections at the beginning of chapter 3 of that title is revised to reflect the redesignation made by paragraph (1).

TITLE IV—MISCELLANEOUS PROVISIONS

SEC. 401. NONCAREER APPOINTMENTS IN DEPARTMENT OF VETERANS AFFAIRS.

Section 12(c)(2) of the Department of Veterans Affairs Act (Public Law 100-527; 102 Stat. 2642) is amended—

(1) by inserting "(A)" before "any person"; and

(2) by inserting before the period at the end the following: ", or (B) any person to (i) a Senior Executive Service position as a noncareer appointee, or (ii) a position which is excepted from the competitive service, on a temporary or permanent basis, because of the confidential or policy-determining character of the position".

SEC. 402. ACTING CHIEF JUDGE IN EVENT OF VACANCY.

Section 4054 of title 38, United States Code, is amended by adding at the end the following new subsection:

"(d) In the event of a vacancy in the position of chief judge of the Court, the associate judge senior in service on the Court shall serve as acting chief judge unless the President designates one of the other associate judges to serve as acting chief judge, in which case the judge so designated shall serve as acting chief judge.".

SEC. 403. AUTHORITY TO PROCURE SERVICES OF EXPERTS AND CONSULTANTS.

(a) AUTHORITY.—Section 4081 of title 38, United States Code, is amended—

(1) by inserting "(a)" before "The Court"; and

(2) by adding at the end the following new subsection:

"(b) The Court may procure the services of experts and consultants under section 3109 of title 5.".

(b) EFFECTIVE DATE.—Notwithstanding section 401 of the Veterans Judicial Review Act, the authority provided by subsection (b) of section 4081 of title 38, United States Code, as added by subsection (a), shall take effect on the date of the enactment of this Act.

By Mr. METZENBAUM:

S. 1244. A bill to amend the Securities Exchange Act of 1934 with respect to tender offers, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

CORPORATE TAKEOVER REFORM ACT OF 1989

● Mr. METZENBAUM. Mr. President, I rise today with my colleague Senator ARMSTRONG to introduce the Corporate Takeover Reform Act of 1989. This bill contains a number of provisions which I believe are much needed to correct serious problems arising out of the current takeover environment. Many of these provisions I have introduced before. The legislation has three main parts. The first is aimed at reforming the tender offer process by requiring earlier notice of stock purchases, and changing the waiting period for shareholders to respond to tender offers. I introduced these provisions last Congress as part of S. 678.

The second part would increase fairness to shareholders by protecting them against abusive defensive tactics. It would protect shareholders by limiting the use of greenmail, poison pills, and golden parachutes, and providing for confidential proxy voting. I cosponsored these provisions with Senator ARMSTRONG and other Senate colleagues as amendments to S. 1323 at the end of the last session.

The third part of the bill amends the securities laws with respect to civil liability arising out of certain violations by providing for double damages in some cases.

This legislation is not a cure-all, but it will go a long way toward alleviating some of the ills associated with tender offers and securities fraud and I urge its speedy adoption.

CHANGE OF 13(d) THRESHOLD AND 10-DAY WINDOW

Under current law, a person acquiring 5 percent of a class of stock must file notice with the SEC and the public. The purchaser is allowed a 10-day window after the 5-percent threshold is reached before notice is required. During this period, substantial additional shares can be purchased. This delay means that shareholders, who are unaware of the intentions of the person or persons making the tender offer, continue to trade their stock at values far below those which would exist if the intentions had been made public. The bill I am introducing today would reduce this 10-day period to 1 day. In addition, I believe it is also appropriate to reduce the threshold at which notice must be given to 4 percent rather than 5 percent. This stricter requirement will provide shareholders with earlier notice of large-scale stock purchases that may lead to a takeover and a sharp escalation in stock prices.

WAITING PERIOD

This section of the bill extends the time for shareholders to respond to a tender offer from the current 20 business days to 60 calendar days. Under the current law, a premium is placed on speed, rather than rational, informed decisionmaking. The present 20-day time period is too short to allow shareholders the time to carefully consider what are often very complex investment decisions and forces potential bidders to make hasty decisions without adequate analysis. To the extent other potential bids are therefore discouraged, shareholders may be deprived of more favorable bids that would allow them to realize the best value for their stock.

GREENMAIL

This section would prohibit the payment of greenmail unless approved by a majority of the outstanding voting securities of the issuer. The term "greenmail" refers to the purchase by a corporation of its own stock in order to rid itself of a takeover attempt by a hostile raider. Too often a raider making a play for a company becomes rich when a corporation is forced to buy its own stock at a premium. There are three problems with allowing raiders to collect greenmail. First, it harms other shareholders who, unlike the raider, are not paid a premium for their shares. In fact these ordinary shareholders are often left holding stock that is worth less than the trading price before the attempted takeover. Second, companies that pay greenmail are frequently weaker and saddled with debt after coming up with the cash necessary to pay the greenmail. Third, the opportunity to walk away from a deal with a fortune in greenmail offers an inducement to raiders to make plays for companies where there is no thought to gaining control of the company, improving management, or making the company more efficient. This provision is substantially similar to one recommended by the Securities and Exchange Commission in 1984. (See S. 2784, introduced in the 98th Congress at the request of the Commission, June 20, 1984.)

POISON PILLS

A poison pill is a tactic used by companies which are, or fear they may be, the subject of a takeover bid. These companies issue securities which create certain rights in the event of change in ownership of the company. For example, these rights can include an option to purchase additional stock at less than market value or to exercise special voting or other rights. I have long been concerned about the negative effects of poison pills. They tend to protect entrenched management and deny stockholders the opportunity to gain the full value of their shares in takeover situations because they significantly raise the cost of acquiring a company. These rights are not intended to encourage investment in the company or to expand shareholders' rights. They are solely designed to discourage a bidder from attempting a takeover bid. As such, these types of poison pills unfairly discourage legitimate attempts to change corporate ownership and should be prohibited.

This provision would make it unlawful for a company to establish poison pills without the approval of a majority of shareholders. It further requires that all poison pills adopted prior to the enactment of this legislation be submitted to the shareholders for a vote within 3 years. Additionally, the provision grants some regulatory authority for exemptions to the SEC.

GOLDEN PARACHUTES

A golden parachute is an employment contract, typically for upper management, which guarantees a substantial severance pay to those who lose their jobs as a result of a takeover. Unlike a regular severance pay contract, a golden parachute only kicks in if the termination of employment results from a takeover and, also unlike normal severance pay, the amount paid is typically quite excessive. These payments are unfair to shareholders for a couple of reasons. First, the amount of the severance usually is far beyond what is warranted and therefore wastes corporate resources. Second, the amount is often so large that it acts as a barrier to successful takeovers even of entrenched and inefficient management.

This provision would not ban golden parachutes but would require that any such arrangement be approved by a majority of the aggregate outstanding voting securities of the issuer—those not held to be insiders. A golden parachute is defined according to the IRS Code as three times annual compensation.

CONFIDENTIAL PROXY VOTING

This provision is particularly important in light of the other provisions of this bill which depend upon shareholder votes to ratify what are otherwise unhealthy corporate practices. This section has one simple purpose—to protect the confidentiality and integrity of the proxy voting process.

Currently the proxy rules, as established by the SEC, require disclosure, timely distribution of proxy materials, and prohibit false proxy statements and fraudulent proxy solicitations. These rules do not however provide the most basic protection of all: Confidentiality. Corporate elections are the only elections in America where the incumbents prepare the ballot with only their issues and their candidates on it, send the ballots to the voters, and then collect and count the ballots. Too often the corporate managers use their control of the proxy voting mechanism, including their knowledge of how shareholders vote, to coerce the votes of shareholders and influence proxy voting. This is wrong and unfair. Confidential voting and independent tabulation of the results are an essential element of corporate democracy. They are also essential to takeover reform. Without a fair and effective proxy process, legislative improvements in the tender offer process

that depend on shareholder approval will be meaningless.

INCREASED ACCESS TO PROXY STATEMENTS FOR SHAREHOLDERS

In addition to assuring the confidentiality of the proxy voting process, I also think it is important that the shareholders be fully informed concerning issues which are important to the value of the company and their stake in it. For that reason I am also including a provision modeled after a similar provision in S. 1323 last session. Too often what the shareholders hear about a tender offer is from the biased point of view of management. These shareholders are therefore unlikely to have the information necessary to intelligently weigh the decision put before them. It is only fair that they hear both sides of the arguments before making their decision.

This section would require that any proxy materials sent by the issuer to its shareholders must include a fair treatment of any other proposals submitted by anyone who is the owner of at least 3 percent of the voting power of the company's securities. Last year's Banking Committee proposal set a 10-percent threshold, but I think that is too high to result in the inclusion of many meaningful and relevant minority proposals.

INCREASED CIVIL LIABILITY FOR SECURITIES FRAUD

Multiple damages are not available under the Federal securities laws for ordinary civil fraud. This is so because the courts have interpreted section 28(a) of the Securities Exchange Act of 1934, which reads: "No person * * * shall recover * * * a total amount in excess of his actual damages" in a suit under the act, to bar punitive damages. This language, however, is clearly aimed at preventing a double recovery under State and Federal law rather than at punitive damages, as is made clear from a reading of the rest of the statute. There is in fact no good reason why the tort of fraud should be treated any different with respect to securities fraud. Because investors defrauded in connection with the purchase or sale of securities are limited to recovering actual damages they rarely if ever recover their actual losses under the securities laws. For that reason plaintiffs have been encouraged to rely instead on the RICO statutes as a way to be made whole. As Congress is considering taking away that avenue for plaintiffs it is essential that this provision be enacted in order to protect investors and ensure full and adequate recoveries.

This provision would do just that. It amends section 10 of the Securities Exchange Act of 1934 to permit recovery of up to twice the actual damages suffered as a result of the fraud. This additional recovery above actual damages would be allowed only where the defendant acted in wanton disregard for the plaintiff's rights. I introduced a similar provision as part of S. 657 in the last Congress.

Mr. President, I ask unanimous consent that this statement along with a copy of the bill be placed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1244

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Corporate Takeover Reform Act of 1989".

SEC. 2. CHANGE OF 13(d) THRESHOLD AND 10-DAY WINDOW.

Section 13(d)(1) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(d)(1)) is amended by striking "5 per centum of such class shall, within ten days" and inserting "4 percent of such class shall, within one day".

SEC. 3. WAITING PERIOD.

Section 14 of the Securities Exchange Act of 1934 (15 U.S.C. 78n) is amended—

(1) by striking subsection (d)(2) and inserting the following:

"(2) Any person making a tender offer or request of invitation for tenders shall hold such offer, request, or invitation open for a period of at least 60 days from the date on which such offer, request, or invitation is first published or sent or given to security holders, except that this paragraph shall not apply to such an offer, invitation, or request by the issuer for the class of securities being sought if such offer, invitation, or request is not made in anticipation of or response to another person's offer, request, or invitation for securities of the same class."; and

(2) by adding at the end the following:

"(h)(1) For the purpose of subsections (d) and (f) of this section, when 2 or more persons act as a partnership, limited partnership, syndicate, or other group for the purpose of acquiring, voting, holding, or disposing of securities of an issuer, such syndicate or group shall be deemed a 'person'.

"(2) For the purpose of this section, the term 'voting equity security' means any equity security of the issuer that entitles the holder thereof to vote generally in an election of directors of the issuer.".

SEC. 4. GREENMAIL.

Section 13(e) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(e)) is amended by adding at the end the following:

"(4) It shall be unlawful for an issuer of any class of equity security described in section 14(d)(1) of this title to acquire, directly or indirectly, any of its securities from any person who is the beneficial owner of more than 3 percent of the class of the securities to be acquired unless such acquisition has been approved by the vote of a majority of the outstanding voting securities of the issuer (excluding the shares to be acquired), or acquisition is pursuant to a tender offer, or request or invitation for tenders, to all holders of securities of such class. A vote under this paragraph shall be conducted in accordance with rules and regulations in effect under section 14(a)(2). The Commission shall by rule, regulation, or by order, on application, conditionally or unconditionally, exempt any person, security, or transaction from any or all of the provisions of this paragraph as it determines to be necessary or appropriate and consistent with the public interest, the protection of investors, and the purposes of this paragraph.".

SEC. 5. POISON PILLS.

Section 12 of the Securities Exchange Act of 1934 (15 U.S.C. 78l) is amended by adding at the end the following new subsection:

"(m)(1) It shall be unlawful for an issuer of any class of equity security which is registered pursuant to this section, or any equity security of an insurance company which would be required to be so registered except for the exemption contained in subsection (g)(2)(G), or any equity security issued by a closed-end investment company registered under the Investment Act of 1940, to issue, grant, declare, or establish any rights, including voting rights, of securities holders of the issuer with respect to any security or asset of the issuer or any other person, where the exercisability of such right is conditioned on the acquisition of securities of the issuer by a person other than the issuer, unless the establishment of such rights has been approved by a majority of the aggregate outstanding voting securities of the issuer. A vote under this subsection shall be conducted in accordance with rules and regulations in effect under section 14(a)(2). If such rights were established prior to the effective date of rules and regulations under the preceding sentence, such rights shall remain in effect after the close of the 3-year period beginning on the date of enactment of this subsection only if such rights are approved by the shareholders pursuant to this subsection prior to the close of such period.

"(2) The Commission may, by rule, regulation, or by order, upon application, conditionally or unconditionally, exempt any person, security, or transaction, or class thereof from any or all the provisions of this subsection to the extent it determines such exemption is necessary or appropriate in the public interest and for the protection of investors and consistent with the purposes and policy fairly intended by this subsection.".

SEC. 6. GOLDEN PARACHUTES.

Section 12 of the Securities Exchange Act of 1934 (15 U.S.C. 78l) is amended by adding at the end thereof the following new subsections:

"(n)(1) In the case of any class of equity security which is registered pursuant to this section, or any equity security of an insurance company which would be required to be so registered except for the exemption contained in subsection (g)(2)(G), or any equity security issued by a closed-end investment company registered under the Investment Act of 1940, it shall be unlawful for the issuer of such securities to enter into or amend, directly or indirectly, agreements to increase the current or future compensation of any officer or director in an amount which would constitute an 'excess parachute payment' as defined in section 280G(b)(1) of the Internal Revenue Code of 1986, contingent upon a change of control of the issuer by stock or asset acquisition, unless such agreements have been approved by the affirmative vote of a majority of the aggregate outstanding voting securities of the issuer. A vote under this subsection shall be conducted in accordance with rules and regulations in effect under section 14(a)(2). If any such agreement was entered into prior to the effective date of rules and regulations under the preceding sentence, such agreement shall remain in effect after the close of the 3-year period beginning on the date of enactment of this subsection only if such agreement is approved by the shareholders pursuant to this subsection prior to the close of such period.

"(2) The Commission may, by rule, regulation, or by order, upon application, conditionally or unconditionally—

"(A) exempt any person, security, or transaction from any or all of the provisions of this subsection as it determines to be necessary or appropriate and consistent with

the public interest or the protection of investors, and

"(B) provide exemptions, subject to such terms and conditions as may be prescribed therein, from any or all of the provisions of this subsection.

SEC. 7. CONFIDENTIAL PROXY VOTING.

Section 14(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78n(a)) is amended—

(1) by inserting "(1)" after "(a)"; and

(2) by adding at the end the following:

"(2)(A) Unless the Commission prescribes rules and regulations providing for an alternative to confidential proxy voting as described in paragraph (3), the rules and regulations prescribed by the Commission under paragraph (1) shall require confidentiality in the granting and voting of proxies, consents, and authorizations, and shall provide for the announcement of results of a vote following tabulation by an independent third party certified in accordance with such rules and regulations. Nothing in this paragraph authorizes any person to withhold information from the Commission or from any other duly authorized agency of Federal or State government.

"(B) The Commission shall prescribe any rules and regulations required by subparagraph (A) within 1 year after the date of enactment of this paragraph.

"(3)(A) In lieu of the rules and regulations described in paragraph (2), the Commission may prescribe rules and regulations which provide for an alternative to confidential proxy voting, if such alternative will assure—

"(i) the integrity of the proxy voting procedures,

"(ii) fairness to shareholders,

"(iii) unimpeded exercise of shareholder voting franchise,

"(iv) insulation from improper influence to a degree that meets or exceeds the protection afforded by confidential proxy voting, and

"(v) announcement of results of a vote following tabulation by an independent third party certified in accordance with such rules and regulations.

"(B) In promulgating rules and regulations under this paragraph the Commission shall—

"(i) consult with the Secretary of Labor, and

"(ii) hold public hearings, inviting the participation of all interested parties, including individual shareholders, securities issuers, institutional investors, and securities firms.

"(C) The Commission shall prescribe any rules and regulations required by subparagraph (A) not later than 11 months after the date of enactment of this paragraph.".

SEC. 8. INCREASED ACCESS TO PROXY STATEMENTS FOR SHAREHOLDERS.

Section 14(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78n(a)) is amended by adding at the end the following:

"(4) There shall be included in any proxy and other solicitation materials (as defined in the rules promulgated under paragraph (1) by the Commission) sent by any issuer to its shareholders pursuant to this subsection, descriptions and other statements of or with respect to any issue to be presented by the issuer for decision by the shareholders (including descriptions and statements or with respect to any candidates for election as directors), and any other proposals and descriptions and statements pertaining to such proposals, that are submitted by persons or groups of persons, if such person or group is the beneficial owner of voting equity securities of such issuer representing not less than 3 percent of the voting power of such issuers' securities. Such descriptions, other statements, and other proposals shall receive equal space, coverage, and treatment as is received by the issues and positions on such issues of (or the candidates nominated by) the board of directors or management of such issuer, and shall be subject to such rules and regulations as the Commission may prescribe as necessary or appropriate in the public interest or for the protection of investors.".

SEC. 9. DAMAGES FOR SECURITIES FRAUD.

Section 10 of the Securities Exchange Act of 1934 (15 U.S.C. 78j) is amended—

(1) by redesignating paragraphs (a) and (b) as paragraphs (1) and (2);

(2) by inserting "(a)" after "SEC. 10."; and

(3) by adding at the end the following:

"(b) Notwithstanding section 28(a) of this title, in an action for damages arising from a violation of subsection (a)(2) of this section, a person may recover an amount up to twice the actual damages suffered if the trier of fact finds that the violation demonstrated wanton disregard for the rights of such person.".

● Mr. ARMSTRONG. Mr. President, today, I am introducing with my good friend from Ohio, Senator METZENBAUM, legislation that allows shareholders to realize the promise of corporate democracy and that protects shareholders from abusive tactics by management and by third parties seeking to control the corporation.

Many Americans, and many Members of Congress in particular, have expressed concerns over the increase in the frequency and size of corporate takeover in recent years. For the most part, I do not share these concerns because I believe that the trading of corporate assets is natural to our free market economy and, in fact, necessary if our economy is to achieve its potential for improving our standard of living.

This increase in the buying and selling of corporate assets has, however, led to a number of developments that I find deplorable as, I am sure, do many of my colleagues. I am speaking now of golden parachutes, poison pills, greenmail, two-tier tender offers, and equity shares with disparate voting rights. Some of these are no longer at issue, such as the rule requiring one share one vote. The others, however, await our action.

Over and above such issues as poison pills and greenmail, however, the growth in takeovers has shown a spotlight on the fact that the process of corporate democracy is not working properly. Shareholders protect their investment in a corporation primarily through the proxy voting process by which they decide specific issues on the ballot and by which they elect board members to represent them in overseeing management. The one great and longtime weakness of the proxy voting process is that it isn't a fair vote.

Imagine an election in which the incumbent controls virtually all of the information available to the voters, in which the incumbent controls the issues on which a vote may be cast, in which the incumbent knows how each individual votes, and in which the incumbent tallies and reports the results of the election. This is not intended as a description of democracy as practiced in the Soviet Union, nor of democracy as practiced in Panama. This is the process by which shareholders in America's corporations vote to protect their interests.

I am sure that in the overwhelming majority of instances, corporate management administers the proxy process honestly. And I am quite certain that, in the vast majority of cases, management is careful to protect shareholders' best interests as they see it.

I am equally certain, however, that abuses do occur, that shareholders sometimes are influenced in their voting by the fact that management knows how they voted, that there are important issues left off the ballot, and that management takes actions that the shareholders would not support if they were able to get a fair vote. Shareholders, for example, would not support greenmail payments, in my opinion. And shareholders would not allow management to institute a poison pill to thwart a takeover if they had the opportunity to get a fair vote on the matter.

A fair vote means shareholders have access to all the information necessary to make a decision. If there is more than one side to an issue, shareholders need to be presented information from both sides, not just from management's position, to make the best decision.

A fair vote means they must be able to vote with the confidence that the vote they cast won't be used against them after the fact. And a fair vote means the shareholder must be confident that the election results will be reported accurately, honestly, and in a timely manner.

Shareholders must be allowed a fair vote to protect their investments. Due to the growth in takeover activity, the need to reassert the rights of shareholders is more important today than ever before and, I would bet, it will be more important tomorrow than it is today.

This bill contains a number of other, very important provisions that Senator METZENBAUM has already discussed, so I won't repeat the list here. This bill is not an antimanagement bill, nor is it an antitakeover bill. This bill is a proshareholder bill. Each of its provisions seeks to enhance the ability of the shareholder to protect his investment.

This bill is badly needed and long overdue. The pace of takeovers and the technology of corporate acquisitions have outstripped the laws that govern them. In some ways, this may be a good thing. But in others, gaps in the laws governing corporate behavior that were only occasionally a problem in years past have led to serious injury to corporate shareholders. This bill seeks to fill those gaps.●

29-059 O-90-48 (Pt. 9)

By Mr. MITCHELL (for himself, Mr. COCHRAN, Mr. LEAHY, Mr. LUGAR, Mr. BREAUX, Mr. DASCHLE, Mr. COHEN, Mr. LOTT, Mr. BOSCHWITZ, Mr. MCCONNELL, Mr. PRYOR, Mr. GRAHAM, and Mr. CHAFEE):

S. 1245. A bill to amend the Federal Meat Inspection Act to expand meat inspection programs of the United States by establishing a comprehensive inspection program to ensure the quality and wholesomeness of all fish products intended for human consumption in the United States, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

FEDERAL FISH INSPECTION ACT

Mr. MITCHELL. Mr. President, I am today introducing legislation to establish a Federal fish inspection program.

I am joined in this action by my chief cosponsor, Senator COCHRAN of Mississippi, as well as by Senator LEAHY, chairman of the Senate Agriculture Committee and Senator LUGAR, the committee's ranking Republican. The bill is bipartisan and includes representatives of coastal States, which have a strong, direct interest in the issue.

The bill we are introducing is general in nature. It is intended primarily as a foundation for further discussion and development of detailed provisions. However, it provides an important starting point. It defines a strong, initial consensus within the Senate for addressing what surely will be a complex range of technical issues. The legislation proceeds on the following premises:

The Department of Agriculture is best-suited to assume responsibility for a Federal fish inspection program;

It should be funded directly by the Federal Government as a public health and safety program, and not by industry user fees;

The program should be based on the hazard analysis critical control point [HACCP] concept, so that any regulations will be based on reasonable, scientific assessments;

Imported seafood products should be held to the same standards as domestic seafood; and

The Federal program should build upon and cooperate with existing State programs.

It is the intention of the bill's cosponsors to work with the commercial fishing industry, including both harvesters and processors; and with food wholesalers and retailers; State authorities; and consumer organizations to build on this initial consensus. This process will begin within the Senate Agriculture Committee, and later will need to be continued within the Senate Commerce Committee.

The leaders of Maine's fishing industry also have encouraged me to take a major role in this process. Legislation of this nature also has been endorsed by the Brunswick Times Record, as well as by the Commercial Fisheries News published in Stonington, ME, and the National Fisherman, published in Rockland, ME. I ask unanimous consent that these editorials be included in the CONGRESSIONAL RECORD immediately following my statement.

If Congress is to legislate a Federal seafood inspection program, then it is important to Maine that it be done right. By introducing this legislation, and joining in negotiations that still lie ahead, I intend to see to it that it is indeed done right.

Maine has always been a leader within the New England commercial fishing industry. In 1985, the region's first display auction was established at the Portland Fish Exchange. Of the seven principal fishing ports in New England, Portland and Rockland are the fourth and fifth largest. Maine fisheries landings include hundreds of thousands of pounds of finfish and shellfish each year: including lobsters, clams, scallops, cod, haddock, and herring.

Over 15,000 Maine citizens hold harvesting licenses. They include over 8,500 lobster licenses, and over 1,200 commercial groundfish licenses. There are also approximately 1,700 seafood processing jobs in the State.

The largest sector of Maine's industry involves lobstering. Together with Massachusetts and Rhode Island, Maine provides 97 percent of the lobsters landed in the United States. Slightly over 50 percent of the lobsters sold in the U.S. market are from New England. The rest are imported from Canada. Maine lobster dealers depend on supplies of Canadian lobsters to meet seasonal demand. Maine processors also depend on imports of raw fish from Canada in order to maintain production volumes. These kinds of relationships underscore the need to ensure that whatever standards are applied to Maine fishermen are also applied equally to imported fisheries products.

Maine has a stake in seafood inspection.

Whatever affects seafood quality affects Maine.

Whatever affects consumer confidence in the seafood market affects the livelihoods of all Maine fishermen.

The waters of the Gulf of Maine are very clean. Maine fishermen are honest and hard-working. Maine seafood has a reputation for freshness, quality, and wholesomeness. However, any loss of consumer confidence in seafood sold on the overall U.S. market inevitably affects Maine. The National Fisheries Institute estimates that as many as 15 percent of American consumers have stopped buying fish because of concerns over potential health effects.

One consumer advocacy group, Public Voice for Food and Health Policy, has argued that health risks for seafood are over 10 times greater for seafood than for beef; 7 times greater than for poultry; 6 times greater than for pork. These estimates are greatly exaggerated. If raw shellfish are omitted, the Food and Drug Administration has indicated that eating seafood presents no greater risk than eating beef—and slightly less risk than eating poultry. According to data reported to the Centers for Disease Control from 1979 to 1984, seafood-related illnesses represented only 5 percent of all food-borne illnesses. Nonetheless, such statistics have created fears and perceptions that are very real.

The lack of a single, unified Federal seafood inspection program is also very real. The Food and Drug Administration currently samples less than 1 percent of domestic seafood and only 3 percent of imported seafood products. A voluntary seafood inspection program within the National Oceanic and Atmospheric Administration [NOAA] covers only 10 percent of the seafood consumed in the United States. There are 24 States with shellfish safety programs—9 of which were considered by FDA to have serious problems in 1987.

This patchwork of fish inspection programs has not maintained consumer confidence. Nor has it necessarily produced uniform, minimally acceptable standards that ensure fairness to all fishermen.

The fishing industry is complex. It involves many different species of fish; many different sizes and kinds of fishing vessels; and different kinds and scales of processing operations.

Whatever inspection program is created must be reasonable, and must take into account the unique features and needs of different sectors of the industry. In promoting public health and safety concerns, regulations must be based on reasonable, scientific risk assessments, using the hazard analysis critical control point [HACCP] concept. It is my intention to work closely with the Associated Fisheries of Maine, the Maine Fishermen's Cooperative Association, the Maine Lobstermen's Association, the Maine Sardine Council, and other interested groups in developing details for the legislation in this regard.

This legislation is a starting point. It also is a promise both to Maine's fishermen and American consumers that if there is to be a Federal seafood inspection program, it will be done right. I look forward to working with all interested parties to protect and reassure the American public about the safety and wholesomeness of seafood.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 1245

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Federal Fish Inspection Act".

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds that—

(1) fish are an important component of the meat supply of the United States and are harvested, processed, and marketed by a large and diverse industry;

(2) the wholesomeness and safety of fish and fish products are important to the health and well-being of the people of the United States and proper nutrition;

(3) the Department of Agriculture currently conducts inspection programs for all meat products other than fish and has the technical expertise and workforce capacity necessary to rapidly expand meat inspection programs to cover fish and fish products;

(4) heightened public awareness of the health benefits associated with eating fish, and the availability of a greater diversity of products made from fish, have raised consumption rates and the demand for wholesome, high quality fish products;

(5) current Federal inspection and monitoring programs carried out by the Department of Agriculture for meat and meat products are insufficient to ensure public confidence in the wholesomeness, safety, and quality of fish and fish products; and

(6) better information on, and inspection of, fish and fish products would improve the health and well-being of American consumers and increase public confidence in all meat products and the overall food supply.

(b) PURPOSES.—It is the purpose of this Act to—

(1) expand inspection programs for meat and meat products to include fish and fish products;

(2) improve the wholesomeness and safety of fish and fish products and thereby increase the health benefits of consuming fish and fish products;

(3) enhance public confidence in the wholesomeness and safety of fish and protect markets through a comprehensive inspection program specifically designed for fish;

(4) designate the Secretary of Agriculture as the Federal official responsible for the inspection of all meat products, including fish; and

(5) increase public awareness and education of proper handling and preparation of fish products.

SEC. 3. FISH INSPECTION PROGRAM.

The Federal Meat Inspection Act (21 U.S.C. 601 et seq.) is amended by adding at the end thereof the following new title:

"TITLE V—FISH INSPECTION PROGRAM

"SEC. 501. DEFINITIONS.

"As used in this title:

"(1) FISH.—The term 'fish' includes all meat from freshwater or marine fin fish, mollusks, crustaceans, and other forms of aquatic animal life, whether from wild or cultured sources, including amphibians.

"(2) FISH PRODUCT.—The term 'fish product' means any product intended for human consumption derived in whole or in substantial part from fish, including unprocessed fish.

"(3) HAZARD ANALYSIS CRITICAL CONTROL POINT METHOD.—The term 'Hazard Analysis Critical Control Point method' means the system of food inspection described and endorsed by the National Research Council in 'An Evaluation of the Role of Microbiological Criteria for Foods and Food Ingredients' published in May, 1985 by the National Academy Press.

"(4) SECRETARY.—The term 'Secretary' means the Secretary of Agriculture.

"SEC. 502. FISH INSPECTION PROGRAM.

"(a) ESTABLISHMENT.—The Secretary shall establish an inspection program designed to ensure the safety and wholesomeness of fish and fish products.

"(b) SCOPE.—The inspection program shall—

"(1) cover the processing, storage, and handling of meat from fish and fish products;

"(2) provide for the inspection of imported and domestic fish products on an equal basis;

"(3) provide for the registration and inspection of facilities and vessels that process fish products; and

"(4) identify geographic areas producing fish and fish products that exceed the safety standards developed in accordance with this title.

"(c) STANDARDS.—The Secretary shall establish standards governing—

"(1) the maintenance of sanitary conditions and good processing, storage, and handling practices;

"(2) the safety and wholesomeness of meat from fish and fish products; and

"(3) the packaging and labeling of fish products, including the use of common names.

"SEC. 503. ENFORCEMENT.

"(a) MONITORING AND SURVEILLANCE.—The Secretary shall develop and carry out a comprehensive system of monitoring and surveillance to assure compliance with the standards established under section 502(c).

"(b) ADMINISTRATION.—The compliance system shall—

"(1) be developed and carried out in accordance with the Hazard Analysis Critical Control Point method;

"(2) provide for the appointment and training of authorized inspection officers;

"(3) contain appropriate reporting and record keeping requirements that, among other things, will assist the Secretary in locating sources of contaminated fish and fish products; and

"(4) provide for the enforcement of this title and the imposition of appropriate civil and criminal penalties on a person who violates this title.

"SEC. 504. RESEARCH AND EDUCATION.

"(a) RESEARCH.—The Secretary shall conduct and support research with respect to—

"(1) testing the methodology for biological and chemical contaminants;

"(2) techniques and procedures for inspecting fish and fish products; and

"(3) sanitation practices for the processing, transportation, and storage of fish and fish products.

"(b) EDUCATION.—The Secretary shall conduct and support education programs to increase public awareness in furtherance of the purposes of this title.

"SEC. 505. INTERAGENCY COOPERATION.

"(a) FEDERAL PROGRAMS.—The Secretary, in consultation with other appropriate Federal agencies, shall develop and carry out the inspection program established under this title in a manner that—

"(1) avoids duplication of Federal and State efforts; and

"(2) to the extent practicable, minimizes disruption in the fish industry consistent with ensuring the safety and wholesomeness of fish and fish products.

"(b) INTERAGENCY CONSULTATION.—The Secretary, in carrying out this title, shall consult with other Federal agencies that have developed expertise in areas covered by this title.

"(c) STATES.—The Secretary shall provide technical, advisory, and financial assistance to encourage States to establish and maintain inspection programs for fish products consistent with this title.

"(d) FOREIGN NATIONS.—The Secretary shall ensure that arrangements with foreign nations are established to ensure, to the extent practicable, mutual acceptance of standards and inspection programs for fish products.

"SEC. 506. ADMINISTRATION.

"(a) REGULATIONS.—The Secretary shall issue such regulations as are necessary to carry out this title.

"(b) NONAPPLICABILITY.—Titles I through IV shall not apply to this title.

"SEC. 507. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated for each fiscal year such sums as are necessary to carry out this title.".

[From the Brunswick (ME) Times Record, June 9, 1989]

INSPECTIONS ARE NEEDED

Testimony on the safety of seafood given before a House subcommittee leads to one inescapable conclusion: A comprehensive federal inspection program is warranted. Such a program would be good for consumers and good for the fishing industry, too.

A spokeswoman for Public Voice, a nonprofit organization that studies food and health policies, said federal statistics show more people became sick from eating fish and shellfish from 1980-87 than from eating beef and poultry combined. Ellen Haas, the executive director of Public Voice, said the risk of food poisoning is 10.4 times greater from seafood than it is for beef, 6.9 times greater than for poultry, and 5.8 times greater than for pork.

And while the Agriculture Department routinely inspects livestock and poultry, it does not inspect seafood—even though the waters from which some fish are taken are polluted with chemicals, pesticides and sewage. Even the head of the Food and Drug Administration, which has a seafood inspection program, said the FDA program does not do enough. "Our program is comprehensive . . . (but) anemic," said FDA Commissioner Frank E. Young. "It lacks the greenbacks to get the job done."

Americans are increasing their consumption of seafood, but many consumers are avoiding fish altogether for safety reasons. Lee Weddig, of the National Fisheries Institute, said recent surveys show as many as 15 percent of consumers are not buying fish because of nagging concerns over its long-term impact on their health.

The current patchwork system of state and federal inspections, some of which are voluntary, is inadequate for meeting the needs of consumers. What's needed is a vigorous inspection program along the lines of livestock and poultry inspections conducted by the Department of Agriculture.

Such a program would decrease the incidence of food poisoning and increase consumer confidence in seafood. That should woo the wary 15 percent back into fish markets, which would be beneficial for the industry. Fishermen and consumers both stand to gain from mandatory federal inspections.

[From the Commercial Fisheries News, July 1989]

IT'S TIME TO SUPPORT SEAFOOD INSPECTION

(By Robin Alden)

It's summer again. And after last year's horrors, that means it's ocean pollution time again. Pick up any daily paper from Maine to New Jersey and you are likely to find a "beach patrol" report. The syringe watch is on.

All this means that for the fishing industry, it is time to support federal seafood inspection. Anyone who has looked at the television report produced last year in New Jersey called "Killer Fish" will agree that we won't stand a chance in the market if we

don't at least have a federal inspection program that is comparable to beef and poultry.

Congress seems to agree, and there's a good chance a seafood inspection bill could be passed by the end of the summer—astoundingly fast given how many years this issue has languished.

So, it's heads-up time again. An inspection program could be a nightmare of bureaucracy that still doesn't produce a guarantee of safe seafood if knowledgeable industry people don't participate in drafting the program. We commend the National Fisheries Institute for taking the lead on this. Fishermen's associations need to join the effort.

The industry needs the consumer confidence an inspection program could give us. And yes, we also need some tightening up on handling methods and channels. The hazards can be real. At the same time, we need a program that takes into account the diversity of the industry and its practices. That will only happen if we pay attention and participate.

[From the National Fisherman, July 1989]

IS SEAFOOD SAFE?

(By Jim Fullilove)

A half-hour or so into the flight, the passenger beside me asked about the copy of National Fisherman I was reading. Did I know anything about fish, she wondered?

When I said I worked for the magazine, her expression turned to concern: "Is it true what they say about fish," she asked, "that it's not safe to eat?" The Exxon Valdez had just spilled its guts into Prince William Sound, so I inquired if her question stemmed from reports that the crude oil might poison the fish and shellfish in the area.

No, she said, she was talking about fish from the polluted waters of the Northeast. Last summer, the woman had seen the stories on television and in magazines concerning sewage and syringes washing ashore, as well as fish disfigured by tumors and fin rot. Although the passenger couldn't reconstruct specifics, she clearly remembered the warning that the seafood she had been so fond of might now be harming her. These days, she rarely buys any seafood except canned tuna.

When the plane landed, I headed for my destination—the National Fisheries Institute convention. There, a common concern gripped nearly everyone I talked to. They wanted to know how to deal with the perception that my fellow passenger had so clearly expressed. Before the convention ended, the board of directors had agreed to accelerate the push for legislation mandating seafood inspection. The association would appeal to President Bush for his support.

As many fishermen know, NFI and the federal government are already well along in the development of a model program for the noncontinuous inspection of seafood. The idea is to identify the critical steps that occur during handling and processing, the levels where monitoring is crucial. Checks would be made only at these points.

Vessels are included in the monitoring program, and several meetings have been held with fishermen in an attempt to inform them of the plan and enlist their support. Unfortunately, these sessions have been poorly attended. The problem is real, and it won't simply disappear. Another long, hot summer of coastal pollution reports could send many boat owners—and processors—into bankruptcy.

As many groups and legislatures set their sights on reducing pollution, fishermen must join with processors and marketers in restoring public confidence in seafood. Before consumers will again universally embrace fish and shellfish as health food, they must first be convinced the product is safe to eat.

Do your part. Find out about the quality control program for vessels. Contact Spencer Garrett, National Marine Fisheries Service, 3209 Frederick St., Pascagoula, MS 39567, tel. (601) 762-7402.

Mr. COCHRAN. Mr. President, I rise today to join the distinguished majority leader and others in introducing the Federal Fish Inspection Act. This bill will provide important safeguards for both American consumers and the fish and seafood industry in our Nation.

In an effort to consolidate Federal responsibilities for the inspection of fish and seafood, this bill calls for the development of a comprehensive program within the U.S. Department of Agriculture. This bill also provides for an active program based upon modern Hazard Analysis Critical Control Point principles recommended by the National Academy of Sciences. Work on designing an inspection program based on these principles is well underway and would be incorporated into the regulatory system authorized in this legislation.

Heightened public awareness of the health benefits associated with eating fish and seafood and the many new fish and seafood products which have been introduced in the marketplace have prompted a growing demand for fish and seafood. In my own State of Mississippi, for example, we have seen phenomenal growth in our catfish industry. On the other hand, there is widespread public concern over the pollution of coastal and ocean areas and the impact this pollution might have on the safety of seafood. Consumer, environmental, and industry groups agree that better inspection of products would improve the health and well-being of consumers and increase public confidence in the safety of fish and seafood. These groups agree that the U.S. Department of Agriculture is the agency best equipped to deal with the problem.

I hope others will join us in this important effort. I look forward to working closely with all interested groups to ensure that the fish and seafood enjoyed by Americans continues to be safe and wholesome.

Mr. LEAHY. Mr. President, I'm pleased today to join the majority leader, Senator MITCHELL, in introducing the Federal Fish Inspection Act.

In recent months, the evening news has been filled with stories raising questions about the safety of our food. Apples sprayed with alar, grapes from Chile tainted with cyanide and fish found with chemical and pesticide residue are among the food safety problems reported.

Food safety is not just a media issue. American consumers are concerned. American consumers are worried. Although America produces the safest food in the world, we can do better. We must protect our consumers and make certain that the food in the market is safe and nutritious. The bill the majority leader, myself and others are introducing today starts us down that road.

This bill is just a starting point. I want a stronger bill that is as specific as possible. We have a long set of difficult negotiations in front of us. I want a bill that will protect consumers—that will provide us with a safe seafood supply. I intend to work closely with all concerned to develop a strong program. We cannot just put together a program that gives the appearance of an inspection system. We need a strong program to restore and keep the consumer's confidence.

Fish consumption was at an all time high in 1987. It fell in 1988, in part due to consumer concerns. Seafood remains the only flesh food not subject to mandatory Federal inspection. Existing voluntary, industry-based programs are used on only 11 percent of our seafood—and these are designed more for grading product than for ensuring safety. Only 7 percent of the almost 2,000 seafood processors participate in these voluntary inspection programs. Roughly three-quarters of U.S. seafood is not examined before being sold to American consumers. In 1986 alone, a mere 5 percent of the 167,000 shipments of imported seafood were inspected at the wharf; the rest were waived through.

Seafood must be inspected because uninspected fish and shellfish may be contaminated by polluted waters, pesticide run-off, parasites, and disease. Twenty percent of all reported foodborne illnesses are caused by contaminated seafood. The rate of reported foodborne illness from seafood is nearly four times higher than the rate reported for poultry—nearly six times higher than in beef and pork. While mandatory Federal inspection cannot completely eliminate all contaminants from the marketplace, it will make our seafood safer and reduce the risk of illness to consumers.

This bill contains three basic principles that the industry as well as consumer organizations have supported.

First, there is widespread agreement that we should implement a mandatory seafood inspection program. The organization Public Voice, has been calling for mandatory seafood inspection for several years. I commend the head of that organization, Ellen Haas for her efforts to ensure that the food reaching American consumers is safe. This bill represents an important first step in answering that call. The National Fisheries Institute and much of the fish industry also agree that mandatory inspection is the proper step.

Second, the Department of Agriculture should manage the inspection program. USDA now inspects all of our meat and has the basic infrastructure necessary to conduct this type of expanded operation. The Department works with inspection officials in

other countries, a role which will also be important as the United States last year imported over $8 billion of seafood. Here again, both consumer organizations and industry have called for USDA to conduct the program.

Third, the bill directs the Secretary of Agriculture to utilize the Hazard Analysis—Critical Control Point approach. This method examines the flow of seafood products, from water to retail outlet, and focuses on those points in the process where contamination is most likely to occur.

I thank the majority leader, Senator LUGAR, the ranking minority member of the committee, and Senators COCHRAN, BREAUX, and DASCHLE for joining me on this bill. I hope that other members will be ready to work with us as we develop the final legislation.

Mr. BREAUX. Mr. President, I am happy to join my distinguished colleagues in introducing legislation to ensure the safety and quality of the fish and seafood available to American consumers. Both consumer groups and the seafood industry recognize the need for and support a mandatory seafood inspection program.

In recent years, American consumers have become increasingly aware of the health benefits of including seafood in their diets. This awareness is reflected by consumer per capita consumption of seafood increasing over 20 percent in this decade.

Nevertheless, recent concerns about the safety and quality of domestic seafood resulted in a decrease in consumer consumption. The American public is concerned about the effects of environmental pollution of our oceans and they question the wholesomeness of seafood harvested from those oceans. While the actual impact of pollution on the safety of seafood is subject to debate, consumers deserve a guarantee that seafood is safe and wholesome.

The fact that seafood, particularly shellfish, are often consumed raw also supports the need for a new inspection program. Seafood that would be perfectly safe if properly cooked could make a consumer ill if raw or undercooked. The same statement is true of all meat and poultry products. Therefore, consumer education should be included in the inspection program.

Currently, seafood is subject to a number of voluntary State and Federal inspection programs. However these programs are neither comprehensive or consistent. In order to respond to the consumers' fears, whether real or perceived, and support the continued growth of the seafood industry, a new mandatory seafood inspection program is necessary.

This legislation provides a starting point for developing the substance of a comprehensive, mandatory seafood inspection program within the U.S. Department of Agriculture. The program should be based on the Hazard Analysis Critical Control Point [HACCP] Program and apply equally to domestic and imported seafood.

I invite all interested parties to participate in the development of the substance of this program in the coming months.

Mr. LOTT. Mr. President, I rise today to join the distinguished majority leader and others in introducing the Federal Fish Inspection Act. The introduction of this legislation will provide a beginning toward insuring the safety and wholesomeness of our Nation's seafood products.

The bill calls for the U.S. Department of Agriculture to develop a comprehensive plan to coordinate effective inspection of fish and seafood. The bill provides for an active program based upon Modern Analysis Critical Control Point principles recommended by the National Academy of Sciences.

The program, developed by this bill, should provide for cooperation with existing State programs and agencies. It should contain provisions for an Advisory Committee to aid the U.S. Department of Agriculture and the various State programs associated with the fish and seafood industry, as these agencies guarantee the wholesomeness of our Nation's seafood products

A consumer education program to make the public aware of the value of such inspections should be contained in the bill. We are familiar with public awareness of safeguards for food products grown in this country and those that are imported. Public confidence in seafood products can be increased by better inspection programs.

I strongly urge others to join us in the development of this important program. We want to ensure Americans that the fish and seafood products provided by this country as well as the imported products continue to be safe and wholesome.

Mr. LUGAR. Mr. President, I am pleased today to join with the majority leader and other distinguished Senators in the introduction of the Federal Fish Inspection Act.

This bill provides for a federally funded program within the Department of Agriculture. The Department has experience with other inspection programs and is the appropriate forum for a seafood inspection program. An inspection system will be developed for fish and fish products that carries with it the assurance of quality that other USDA inspection programs provide to the public.

It is important that a program is established in a manner that prioritizes safety for consumers without hindering the vital seafood industry that exists in our country. In recent years, seafood consumption has increased dramatically in the United States and the consumer is demanding greater assurances of product safety and wholesomeness. The Hazard Analysis Critical Control Point principles will be utilized in this legislation to guarantee quality control methods for seafood inspection programs.

Our Nation is served by a seafood industry of various sizes, services and locations. This program will also provide an inspection process for imported seafood so consumers are confident of the wholesomeness and safety of fish from all markets.

I would simply note that the purpose of this legislation represents a framework of an inspection program. The Senate Agriculture Committee will work with all interested parties to develop more specific details for the standards and procedures of an inspection program.

Whether they are large or small producers, the industry recognizes the value of such an inspection program as an important component to providing a safer product for consumers. I am pleased with the joint effort by consumer and industry representatives to provide a quality product for the public.

By Mr. BAUCUS:

S. 1246. A bill to require the Secretary of Agriculture to take certain actions to encourage the production of oats, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

ENCOURAGING THE PRODUCTION OF OATS

● Mr. BAUCUS. Mr. President, today, I am introducing legislation which will help every American in these United States. I am introducing legislation which will encourage farmers to grow oats. You ask how this will help every American? Well, Americans now realize that eating oats and oat products reduces blood cholesterol levels. Consequently, the United States has had a tenfold increase in the demand for oats.

In fact, it would take 4 to 6 million additional acres of harvested oats to meet domestic demand in the coming years. However, production within the United States has fallen steadily. In the 1950's the United States produced 1.4 billion bushels of oats each year. In 1988, this total had dropped to 210 million. The imbalance between what is needed and what is produced within the United States is so great that we have been forced to import large quantities of oats from abroad to keep up with the demand; a record 60 million bushels in 1988.

Oats is the only major grain imported into the United States.

The current farm program encourages farmers to raise grain products other than oats because of increased program benefits. Farmers are hesitant to risk loss of base acres in one commodity by switching to a lower target-priced commodity where the program may be less. Since oats has a lower target price, the return to farmers has been less. However, many farmers who choose to raise other grain products could raise oats on the same land.

Since 1985, the Secretary of Agriculture has had discretionary authority

to allow farmers to switch up to 10 percent of their crop bases from one commodity to another without risk of program benefits loss. The Secretary has not allowed farmers to exercise this option.

Additionally, the conservation reserve program has withdrawn significant amounts of oats acreage from production.

There are other reasons to grow oats besides farm program benefits. Domestic oats have a higher protein content than that which is imported. Oats are, also, an excellent rotation crop because they reduce the need for use of fertilizers and pesticides and, consequently, there is less ground-water contamination. Finally, oats help control erosion problems.

Taken all together, it is clear that the Congress and USDA should do whatever is necessary to encourage the American farmer to grow oats. My legislation provides the Secretary of Agriculture with a number of options to accomplish this goal. I encourage immediate action on this bill.

I ask unanimous consent that the text of the bill be printed in the RECORD immediately following my statement.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1246

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. FINDINGS.

Congress finds that—

(1) the demand for oats as a food grain has risen sharply over the past 2 years, with a 10 percent annual rate of increase, as a result of information that suggests that oats actually help to reduce blood cholesterol levels;

(2) it would take another 4,000,000 to 6,000,000 acres of harvested oats to meet the domestic demand for oats in the coming years;

(3) production of oats within the United States, however, has fallen steadily since 1985;

(4) the imbalance between the demand for and supply of oats is so great that the United States has been forced to import large quantities of oats from abroad to meet the demand for oats;

(5) oats are the only major grain imported into the United States;

(6) domestic oats generally have a higher protein content than imported oats;

(7) the current farm program encourages producers to produce grains other than oats to obtain higher program benefits;

(8) many producers who choose to raise other grains could raise oats on their farm acreage;

(9) the conservation reserve program has withdrawn significant quantities of oat acreage from production;

(10) producers are hesitant to risk the loss of base acres in one commodity by converting to a commodity with a lower target price if the program benefit may be less;

(11) since oats has a lower target price, the return to oat producers has been less;

(12) since 1985, the Secretary of Agriculture has had discretionary authority to allow producers to convert up to 10 percent of their crop bases from one commodity to another commodity, but has not exercised the authority; and

(13) oats are an excellent rotation crop because oats reduce the need for the use of fertilizers and pesticides, lessen ground water contamination from such products, and help control erosion problems.

SEC. 2. OAT PRODUCTION.

Notwithstanding any other provision of law, effective only for the 1990 crop of oats, to encourage the production of oats in the United States, the Secretary of Agriculture shall—

(1) adjust the payment rates for various types of feed grains for the 1990 crop year under section 105C(c)(1) of the Agricultural Act of 1949 (7 U.S.C. 1444e(c)(1)) to remove disincentives for the production of oats;

(2) freeze the payment rate for the 1990 crop of oats under such section, as the payment rate for the 1990 crop of other feed grains declines;

(3) permit the producers on a farm to convert acreage normally devoted to the production of a program crop to the production of oats, without a reduction in the original crop acreage base under sections 504 and 505 of such Act (7 U.S.C. 1464 and 1465);

(4) permit the producers on a farm to produce oats on acreage designated as conservation use acreage for the purpose of meeting any requirements established under an acreage limitation program (including a program conducted under section 105C(c)(1)(B) of such Act), set-aside program, or land diversion program established under section 105C of such Act, without a reduction in crop acreage bases established under sections 504 and 505 of such Act;

(5) permit an owner or operator who has placed land under the conservation reserve program established under subtitle D of title XII of the Food Security Act of 1985 (16 U.S.C. 3831 et seq.) to use such land for the production of oats; or

(6) take any combination of the actions described in paragraphs (1) through (5).●

By Mr. COATS:

S. 1247. A bill to establish certain prohibitions with respect to the provision of sterile hypodermic needles or bleach to intravenous drug abusers and with respect to the medical treatment of narcotics addiction, and for other purposes; to the Committee on Labor and Human Resources.

DRUG ABUSE TREATMENT POLICY ACT

● Mr. COATS. Mr. President, there is no doubt that the war against drugs will be protracted and frustrating. Our final goal, after all, is nothing less than to prod and shift a reluctant national consensus. But it is disturbing to me that there are already those prepared to concede defeat on key points in pursuit of other aims. They contend with a pretended realism that since drug addicts are beyond redemption, we might as well provide them clean needles to prevent the spread of disease. They argue with misinformed cynicism that we may as well give methadone to the addicted in order to maintain their habit rather than treat it.

But the fight for a drug-free America has not been tried and found wanting. It has been tried and found difficult. It is still early in the battle. And there is no place for exhausted and preemptive concession.

Mr. President, it is with this in mind that I introduce today the Drug Abuse Treatment Policy Act of 1989.

This bill would prohibit the use of Federal funds and other Federal activities in support of programs to distribute sterile needles or bleach for intravenous drug users. And the bill would also stop the Department of Health and Human Services from going ahead with proposed regulations authorizing a "minimum" or "interim" methadone maintenance program in which methadone or other similar narcotics would be provided to drug addicts without also providing rehabilitation and counseling.

In the Anti-Drug Abuse Act of 1988, Congress specifically prohibited, in section 2025, any State from using any Federal funds available to them under the alcohol, drug abuse and mental health services [ADMS] block grant "unless the State involved agrees that such payments will not be expended * * * to carry out any program of distributing sterile needles for the hypodermic injection of any illegal drug or distributing bleach for the purpose of cleansing needles for such hypodermic injection." The ADMS block grant is the primary vehicle for Federal assistance to community-based drug treatment programs. By including this specific, strongly worded prohibition in the block grant, Congress was making it abundantly clear that Federal policy would not support or condone sterile needle exchange and bleach distribution programs for drug users.

Despite this clear statement of congressional intent, Secretary of Health and Human Services Dr. Louis Sullivan, in one of his first public interviews after being appointed to the Cabinet, stated his support and encouragement for State and local needle exchange programs as a way of slowing the spread of AIDS by intravenous drug users. He indicated that, although he did not favor a Federal needle exchange program, the Federal Government would encourage such programs locally and would be able to help by providing information, trained personnel and funding. Apparently, Secretary Sullivan was willing to make Federal funds available for these local efforts, though presumably not from ADMS block grants administered by his Department.

Dr. Sullivan's statement is not merely a sad commentary on his view of congressional policy and legal mandates. It is also a sorry indictment of our national antidrug policy. For the country's top health official to promote or endorse the distribution of clean needles, even as a means of halting the spread of disease, suggests profound ignorance of the consequences of this kind of proposal on our efforts to win the war on drugs.

I agree with Congressman CHARLES RANGEL, chairman of the House Select Committee on Narcotics Abuse and Control, who called Dr. Sullivan's idea

tragic, ill-advised, and illegal. Commenting further, Mr. RANGEL observed:

The only thing free needles would accomplish would be to continue addiction. It would sweep addicts under the rug, keep them out of sight and out of mind. It would put public authorities in the business of death on the installment plan, rather than developing the comprehensive treatment options needed to help addicts regain their dignity and give them a chance to lead productive, drug-free lives. It would do little, if anything, to halt the spread of AIDS.

My bill is identical to bipartisan legislation introduced in the House by Congressman RANGEL, together with 15 members of his select committee. It expands the prohibition contained in the Anti-Drug Abuse Act of 1988 by barring the use of Federal funds for needle and bleach distribution programs, as well as any other Federal activities in support of such programs, including providing advice. Thus, this bill clarifies our intent in the Congress: there will be no money for such programs.

In addition, the bill prevents the Department of Health and Human Services from going forward with a proposal that would allow treatment programs to give addicts methadone without also providing a comprehensive range of rehabilitative services, including counseling, at every stage of treatment.

On March 2, 1989, the Food and Drug Administration [FDA] and the National Institute on Drug Abuse [NIDA] published in the Federal Register a proposed rule to allow programs to provide minimum service—or interim—maintenance treatment by dispensing methadone to drug addicts waiting for placement in comprehensive maintenance treatment. According to the FDA and NIDA, this was proposed in response to the AIDS epidemic and is intended to allow more narcotic addicts into treatment more quickly, thereby reducing the transmission of AIDS through needle sharing. The period for public comment was extended to May 3, 1989.

But this is a needless concession to maintaining, not treating, the problem of addiction. Its usefulness in fighting AIDS is untested and questionable. But we are certain that comprehensive counseling and support services are a necessary part of an effective methadone treatment program. Long-term rehabilitation, not just methadone, is the critical factor for successful methadone maintenance treatment.

My bill would prohibit methadone maintenance and long-term—up to 180 days—detoxification treatment using methadone unless the treatment program provides rehabilitative services, including counseling. However, this requirement would not apply to short-term detoxification programs—of 30 days or less—where a narcotic is provided a patient in decreasing doses in order to alleviate adverse physiological and psychological effects that accompany their withdrawal from drug addiction.

Mr. President, I must compliment Congressman RANGEL on his leadership in the drug war in the House of Representatives. He represents a constituency which has experienced the ravages of drug abuse. And he knows the distinction between a real solution and a quick fix. As chairman of the House Select Committee on Narcotics Abuse and Control, he has spoken out strongly and intelligently on the problem of drug addiction and on programs for treating users, punishing pushers and restricting demand.

In a letter to FDA and NIDA, dated March 23, 1989, Representative RANGEL outlined his objections to the "no frills" methadone proposal. Let me quote from his letter:

"No frills" methadone maintenance is not drug treatment, and it will not reduce the transmission of aids. It is wishful thinking that will waste scarce public resources without producing any measurable public health benefit. It substitutes methadone addiction for heroin addiction without giving addicts any hope of becoming productive, drug free members of society.

What we need are comprehensive drug treatment programs that address not only heroin addiction but an addict's dependence on other drugs as well and provide a full range of counseling and rehabilitative services. There are no shortcuts around the AIDS/IV drug problem, and the sooner we accept that, the sooner we can begin doing what needs to be done.

This is good, sound advice which I hope William Bennett, the Director of National Drug Control Policy, will heed as he formulates a comprehensive national strategy to fight drug trafficking and abuse.

Mr. President, the Drug Abuse Treatment Policy Act which I am introducing today will stop the "quick fix" approach to the drug abuse problem which seems to have found some champions at the Department of Health and Human Services. Federal drug abuse treatment policy should not offer drug addicts a terrible choice between free needles to continue injecting illegal drugs or a program that promotes addiction to methadone without supportive services. We must not lose sight of our twin goals of reducing drug demand as well as interdicting drug supply in this country. We must give addicts hope that they can eventually become drug-free, just as we must give America assurance that we can achieve a drug-free society.●

By Mr. KENNEDY (for himself and Mr. SIMPSON):

S. 1248. A bill to amend the Immigration and Nationality Act to extend for 3 years the authorization of appropriations for refugee assistance, and for other purposes; ordered placed on the calendar.

REFUGEES ASSISTANCE REAUTHORIZATION

Mr. KENNEDY. Mr. President, I am pleased to join with my colleague the ranking member of the Subcommittee on Immigration and Refugee Affairs, Senator SIMPSON, in introducing once again a bill to reauthorize our country's refugee resettlement assistance programs.

The bill we reintroduce today is virgually identical to the one which passed the Judiciary Committee in the last Congress. Unfortunately, Congress adjourned before this matter could be brought to a final vote in the full Senate, and the authorization for these programs would have expired on September 30, 1989, without specific provisions in the fiscal year 1989 appropriation.

Mr. President, this bill reauthorizes our country's programs to assist and resettle refugees under the provisions of the Refugee Act of 1980. These programs encompass an impressive network of Government agencies, private voluntary organizations, and community groups from around and country. It is an extraordinary example of the partnership between the Government and private sector to achieve a humanitarian goal—the resettlement of refugees—and the program deserves the Senate's full support.

The principle elements of the bill include: a 3-year reauthorization of refugee assistance and resettlement programs; a simplification of procedures for Federal funding to states and audits of private resettlement agencies; greater consultation between the administration and Congress, as well as between the Federal Government and State and local governments and voluntary agencies; a strengthening of programs to encourage a greater private sector role in resettlement; and modifications in the targeted assistance program to ensure greater flexibility.

All of these initiatives contained in this bill deserve the Senate's support.

There has been justifiable concern expressed regarding the diminishing Federal funding of domestic refugee resettlement assistance programs. A most recent example is the administration's unwillingness this year to request additional funding for domestic resettlement while increasing overall refugee admissions levels. Although the increase in admissions was necessary to respond to rising emigration from the Soviet Union, the administration should also have sought additional funds for the Department of Health and Human Services' Office of Refugee Resettlement. Otherwise, State governments shoulder the increasing costs of what is a Federal responsibility.

Mr. President, our bill will alleviate this problem in the future. It requires, in section 5, that when the administration consults with Congress each year on refugee admissions levels, it must include any changes in budget authority which would be required to fund the level of additional refugee admissions the President may propose. In this way, unlike the past, funding becomes a crucial element of any discus-

sion on the level of refugee admissions.

Mr. President, I also wish to note that our bill contains a requirement that the President present his recommendations on refugee admissions by June 1 of each year. We understand that it may not always be possible for the President to make a definitive recommendation by that date. Between June 1 and the start of the fiscal year in October, there may be major changes in refugee conditions, as well as budgets and appropriations, to take into consideration before making a final recommendation.

it is our intent, however, that if the President cannot propose a definitive recommendation on admissions by June 1, he may present his best estimate. The administration could then submit its final recommendation to Congress at a later date. In this way, Congress will be afforded a preliminary projection of admissions by June 1 for the purpose of beginning to consult on the refugee program and to conclude our annual consultations on admissions in a timely manner before October 1 of each year.

Mr. President, this is a bipartisan proposal—as all refugee legislation and policy has been in recent history. Finally, I believe it is a tribute to all those in the churches and voluntary agencies who work so selflessly to assist refugees to rebuild their lives in America.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1248

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; REFERENCES IN ACT.

(a) SHORT TITLE.—This Act may be cited as the "Refugee Resettlement Extension Act of 1989".

(b) AMENDMENTS TO THE IMMIGRATION AND NATIONALITY ACT.—Whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Immigration and Nationality Act.

SEC. 2. THREE-YEAR EXTENSION OF AUTHORIZATION OF APPROPRIATIONS.

(a) THREE-YEAR EXTENSION.—Section 414(a) (8 U.S.C. 1524(a)) is amended by striking out "fiscal years 1987 and 1988" and inserting in lieu thereof "fiscal years 1990, 1991, and 1992".

(b) ADDITIONAL AUTHORIZATIONS OF APPROPRIATIONS.—Such section is further amended—

(1) in paragraph (2), by striking out "for fiscal year 1987" and all that follows through $77,924,000" and inserting in lieu thereof "for each of fiscal years 1990, 1991, and 1992, $80,000,000";

(2) in paragraph (3), by striking out "for fiscal year 1987" and all that follows through "$9,125,000" and inserting in lieu thereof "for each of fiscal years 1990, 1991, and 1992, $10,000,000";

(3) in paragraph (4), by striking out "for fiscal year 1987" and all that follows through $5,434,000" and inserting in lieu thereof "for each of fiscal years 1990, 1991, and 1992, such sums as may be necessary"; and

(4) by adding at the end the following new paragraph:

"(5) There are hereby authorized to be appropriated, for each of fiscal years 1990, 1991, and 1992, such sums as may be necessary for the purpose of carrying out section 412(e)(7)(A).".

SEC. 3. CONSOLIDATION OF ADMINISTRATIVE PROCEDURES ON FUNDING

Section 412(a)(4)(B) (8 U.S.C. 1522(a)(4)(B)) is amended—

(1) by redesignating clauses (i), (ii), (iii), and (iv) as subclauses (I), (II), (III), and (IV), respectively;

(2) by striking out "(B) No" and inserting in lieu thereof "(B)(i) Subject to clause (ii), no"; and

(3) by adding at the end thereof the following:

"(ii) Nothing in clause (i) may be construed as prohibiting any State from submitting a single grant proposal to cover programs within the State funded under this chapter or from establishing reporting deadlines on a concurrent basis for those programs or as prohibiting any other consolidation of administrative procedures relating to funding of programs under this chapter. To the maximum extent practicable, the Director shall permit the States to consolidate such administrative procedures.".

SEC. 4. APPROPRIATE CONSULTATION.

The first sentence of subsection (d)(1) of section 207 (8 U.S.C. 1157(d)(1)) is amended by inserting ", but not later than June 1," after "each fiscal year".

SEC. 5. CONSULTATIONS ON REFUGEE ADMISSIONS.

Section 207(e)(3) (8 U.S.C. 1157(e)(3)) is amended by inserting before the period at the end thereof the following: ", including a recommendation for any change in budget authority for the respective fiscal year necessary to cover the estimated refugee admissions and resettlement for that fiscal year".

SEC. 6. CONSULTATIONS BETWEEN THE FEDERAL GOVERNMENT AND STATE AND LOCAL GOVERNMENTS.

(a) IN GENERAL.—Section 412(a)(2)(A) (8 U.S.C. 1522(a)(2)(A)) is amended by inserting before the period the following: "and concerning the funding policies and procedures, both current and anticipated. Such regular consultation shall include meetings at which State and local governments and private nonprofit voluntary agencies are represented and at which recommendations for the refugee program are considered".

(b) REPORT ON COORDINATED ACTIVITIES.—Section 301(c) of the Refugee Act of 1980 (8 U.S.C. 1525(c)) is amended by adding after paragraph (2) the following new paragraph:

"(3) The Coordinator shall submit an annual report to the Committees on the Judiciary of the House of Representatives and of the Senate setting forth the Coordinator's specific efforts to coordinate the refugee admission and resettlement activities of Federal agencies, States, localities, and private nonprofit voluntary agencies.".

SEC. 7. INITIAL RESETTLEMENT ASSISTANCE, AUDITS, AND REPORTS.

(a) TECHNICAL AMENDMENTS.—(1) The first sentence of paragraph (1)(A) of section 412(b) (8 U.S.C. 1522(b)) is amended to read as follows: "For each fiscal year the Director (except as provided in subparagraph (B)) is authorized to make grants to, and contracts with, public or private nonprofit agencies for initial resettlement (including the initial resettlement and placement with sponsors) of refugees in the United States.".

(2) Such section is further amended by striking out paragraph (6) and redesignating paragraph (7) as paragraph (6).

(3) Subparagraph (F) of paragraph (7) of such section, as redesignated by paragraph (2), is amended by striking out "subsection (b)(7)" and inserting in lieu thereof "paragraph (6)".

(b) RESPONSIBILITIES OF VOLAGS.—(1) Paragraph (6) of such section (as redesignated by subsection (a)) is amended—

(A) in subparagraph (A), by striking out "and financial status";

(B) by amending clause (i) of subparagraph (E) to read as follows:

"(i) The number of refugees placed (by county of placement).";

(C) by amending clause (ii) of subparagraph (E) to read as follows:

"(ii) A best estimate of the proportion of refugees placed by the agency in the previous year who are receiving cash or medical assistance described in subsection (e),"; and

(D) by adding after subparagraph (E) the following new subparagraph:

"(F) To submit audited annual financial statements to the Secretary of State, including a schedule of revenue and expenditures under reception and placement grants, attesting—

"(i) that the Federal funds provided under the grant or contract are accounted for,

"(ii) that such funds have been expended in accordance with the terms of the grant or contract,

"(iii) to administrative and service costs incurred by the agency, and

"(iv) to the amount of funds not expended.

Such statements shall be audited in accordance with generally accepted auditing standards and shall assess compliance with the terms of the grant or contract.".

(2) Section 412(b) is further amended by adding after paragraph (6) (as redesignated by subsection (a)) the following new paragraph:

"(7) Any subrecipient of at least $100,000 or assistance awarded to an agency described in paragraph (1) shall submit to the Federal agency administering such paragraph the statements described in paragraph (6)(F) through the agency described in paragraph (1).".

(c) REPORT ON RESETTLEMENT OF VIETNAMESE AMERASIANS.—Section 413 (8 U.S.C. 1523) is amended by adding at the end thereof the following new subsection:

"(e) The Secretary of State shall submit a report to the Committees on the Judiciary of the House of Representatives and of the Senate at the end of each 6-month period concerning progress in the resettlement of Vietnamese Amerasians and their family members and in the orderly departure program for other Vietnamese refugees. Such report shall include particular information concerning—

"(1) the number of such persons approved for resettlement who have actually been resettled,

"(2) the number of such persons approved for resettlement who are awaiting resettlement, and

"(3) the number of such persons awaiting a determination as to their eligibility for resettlement.".

SEC. 8. TRANSFER OF RESPONSIBILITY FOR POLICY OF INITIAL PLACEMENT.

Section 412(a)(2) (8 U.S.C. 1522(a)(2)) is amended—

(1) in subparagraph (B), by inserting ", in cooperation with the Federal agency administering subsection (b)(1)," after "The Director";

(2) in clause (i) of subparagraph (C), by inserting ", in cooperation with the Federal agency administering subsection (b)(1)," after "by the Director".

SEC. 9. REPORTING REQUIREMENT.

Not later than 18 months after the date of enactment of this Act, the Director of the Office of Refugee Resettlement shall prepare and transmit to the Judiciary Committees of the Congress a report discussing the potential viability of a refugee assistance program under section 412(e) of the Immigration and Nationality Act which would consist solely of the provision of "Refugee Cash Assistance" and "Refugee Medical Assistance".

SEC. 10. MODIFICATION OF TARGETED ASSISTANCE.

(a) IN GENERAL.—Section 412(c)(2) of the Immigration and Nationality Act (8 U.S.C. 1522(c)(2)) (relating to targeted assistance) is amended by adding at the end thereof the following new subparagraph:

"(C) Notwithstanding subparagraph (B)(i), of the funds allocated for grants for a local area under this paragraph for a fiscal year, not less than 20 percent shall be used by the Director for assistance under this subsection (other than employment-related assistance) for refugees in that area for that fiscal year, including assistance through local schools, hospitals, and other institutions. Such assistance shall be available to refugee populations (including populations due to secondary migration) without regard to the date of entry into the United States of such refugees.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect October 1, 1989.

SEC. 11. IMPLEMENTATION OF PRIVATE SECTOR FUNDING FOR CERTAIN REFUGEES.

(a) ESTABLISHMENT OF GUIDELINES.—(1) As long as the President continues to reserve admission numbers under section 207 of the Immigration and Nationality Act for refugees described in paragraph (2), the United States Coordinator for Refugee Affairs, in cooperation with the Immigration and Naturalization Service and other concerned agencies, shall coordinate the issuance of, and shall issue, guidelines for the admission to, and private sponsorship in, the United States of refugees described in paragraph (2).

(2) The refugees referred to in paragraph (1) are individuals who may be admitted to the United States utilizing refugee admissions which are allocated in any fiscal year contingent upon the availability of private sector funding sufficient to cover the essential and reasonable costs of such admissions.

(b) SPECIFIC GUIDELINES.—The guidelines described in subsection (a) shall include guidelines governing—

(1) verification of the refugee's status;

(2) verification of the financial security of the private sponsor; and

(3) the operation of the program described in subsection (a) on a basis which maximizes the likelihood of the refugee's financial self-sufficiency in the United States.

(c) DEFINITION.—For purposes of this section, the term "refugee" means—

(1) a refugee, as defined by section 101(a)(42) of the Immigration and Nationality Act; and

(2) any alien described in section 207(c)(2) of such Act.

Mr. SIMPSON. Mr. President, I am again pleased to join with my colleague, Senator KENNEDY, the chairman of the Subcommittee on Immigration and Refugee Affairs, in introducing the Refugee Resettlement Extension Act of 1989.

This bill would reauthorize funds for the Domestic Refugee Resettlement Program for fiscal years 1990 through 1992. It sets in motion the funding process for the programs that Congress has provided to ensure that newly arriving refugees are integrated into our communities, provided with language and vocational training, and helped along the path toward economic self-sufficiency.

The legislation is nearly identical to legislation that passed the Senate Judiciary Committee unanimously in the 100th Congress, but which the full Senate failed to act upon. Such sums as are necessary are authorized for the expenses incurred by State governments in providing cash and medical assistance to refugees who have recently arrived in our country; $80 million are authorized for social services to refugees, $10 million are authorized for medical screening of refugees, and such sums as are necessary are authorized to reimburse State and local governments for their costs incurred from the incarceration of criminal aliens who arrived in the Mariel boatlift.

The legislation attempts to place, on a more parallel track, the refugee admissions process and the budget process for refugee resettlement activities. New provisions would require early estimates of likely refugee admissions for the coming fiscal year, and would require submission by the executive branch of the estimated budget authority needed to resettle refugees when the annual refugee consultation process is being conducted.

Finally, the bill would encourage "private sector initiatives" in refugee resettlement, grant the Director of the Office of Refugee Resettlement the authority to make discretionary grants to impacted areas for provision of non-employment-related services to refugees, and make changes to promote the efficiency of the administration of the Refugee Resettlement Program.

Mr. President, it is always a pleasure to work with my friend, Senator KENNEDY, on these important immigration and refugee issues. I thank him for his unfailing courtesies to me and bipartisan cooperation on this matter, and I urge my colleagues to support the legislation.

By Mr. BRYAN (for himself, Mr. HOLLINGS, Mr. GORE, Mr. BREAUX, and Mr. FORD):

S. 1249. A bill to amend the Federal Trade Commission Act to provide authorization of appropriations, and for other purposes; to the Committee on Commerce, Science, and Transportation.

FEDERAL TRADE COMMISSION ACT AMENDMENTS

● Mr. BRYAN. Mr. President, today I am introducing, along with several of my colleagues, the Federal Trade Commission Act Amendments of 1989. This legislation will provide authorization of appropriations for the Federal Trade Commission [FTC] to carry out its activities during fiscal years 1990, 1991, and 1992.

On June 7 and 8, I chaired hearings in the Consumer Subcommittee into the effectiveness of the FTC in fulfilling its statutory mandate. Witness after witness reaffirmed the importance of the FTC. The increasing number of mergers and filings under the Hart-Scott-Rodino Act, the burgeoning problem of consumer fraud—including telemarketing fraud—and the growing need for heightened consumer protection activities were topics consistently cited by witnesses as appropriate functions for the FTC.

Despite the importance of the FTC, a critical threshold question continued to be addressed at the hearings: Why try to reauthorize the FTC, especially in view of the fact that things go on at the agency without an authorization bill? I can answer, as did some witnesses, why this is an important effort: Because Congress created the FTC to oversee the marketplace, and Congress through the authorization process has the opportunity to redirect and instruct the FTC regarding its efforts and the manner in which its mandate should be interpreted. I am well aware that previous efforts to reauthorize the agency have been unsuccessful, but I am committed to achieving this goal.

Recently, an analysis of the FTC was undertaken by the antitrust division of the American Bar Association. The so-called Kirkpatrick Committee submitted its report in April, and members of this committee presented the results of the study during the Consumer Subcommittee hearings. The Kirkpatrick Committee looked into issues of leadership, antitrust activities, consumer protection, guidance to business, competition and consumer advocacy, economic theory, resources, organization and structure, and relationships with Congress and the States. This thoughtful examination suggested no dramatic restructuring or reorienting of the FTC. Rather, it found that the FTC has existing statutory authority for a satisfactory role in antitrust and consumer protection areas, but it needs more clarity in certain areas and greater dedication to its mission. In addition, the committee pointed to the continuing resource drain on the FTC, which is being asked to act more and more aggressively with fewer and fewer employees.

The legislation that I am introducing today is similar to bills previously approved by the Senate. Included in the bill are provisions to define the statutory parameters of the FTC Act a bit more precisely; to require that the FTC act in rulemaking matters only where actions have been prevalent in an industry, so as to utilize the FTC's resources in those areas that are especially active; to prevent the FTC from using its limited resources in pursuit of areas that can be effectively dealt with on the State or local level, or are

assigned to other departments or agencies at the Federal level; and to require the FTC to provide information on its activities regarding certain competitive practices, so that Congress can evaluate the FTC's performance in these areas.

The FTC is an important agency, with an important mission. Reauthorizing the agency will indicate Congress' concern that the agency have sufficient resources and direction to accomplish its objectives. I urge my colleagues to support the bill.●

● Mr. HOLLINGS. Mr. President, I am pleased to cosponsor this legislation to reauthorize the Federal Trade Commission [FTC].

As chairman of Commerce Committee and the Appropriations Committee subcommittee with jurisdiction over the FTC, I have the occasion to observe the FTC from both the authorizing and the spending perspectives. The FTC is an agency that needs to be reauthorized, so that Congress can provide direction to the agency as to its functions.

In the last Congress, I cosponsored legislation similar to the bill that is introduced today. That bill passed the Senate, but we were unable to resolve differences in the Senate and House bills. I am hopeful that we will be able to move this bill forward to enactment during this Congress.●

By Mr. BOREN:

S. 1251. A bill to amend the Internal Revenue Code of 1986 to exempt from current taxation income earned in college savings accounts and to exempt permanently from taxation amounts from college savings accounts and from the redemption of qualified U.S. savings bonds used to pay college educational expenses; to the Committee on Finance.

FAMILY COLLEGE SAVINGS ACT OF 1989

Mr. BOREN. Mr. President, we are all familiar with the current crisis in savings for the cost of a college education. According to all polls, most parents feel obligated to contribute toward the cost of their children's college education. However, only half the families that plan to have one of their children attend college are actually saving for college. Even among savers, the median savings level is under $600 per year. Such savings programs are clearly inadequate in the face of today's rapidly escalating college costs. Without some incentives families will be financially unprepared to pay for their children's college education.

The persistently high rates of college inflation present an imposing challenge both to Congress and to those families seeking to save for college. Based on data compiled by the College Board, college costs at private institutions have increased since 1981 at an average rate of 10 percent per annum. This is more than double the rate of inflation in consumer prices. Even at the 7.89 percent rate of college cost inflation for 1988, direct charges—tuition, mandatory fees, room and board—for 4 years at the average private institution, currently $12,205 per year, would cost a member of the class of 2004 more than $136,000.

At the close of the 100th Congress we took an important first step toward assisting families to save for college education by providing that EE savings bonds, when transferred to a qualified educational institution for purposes of paying tuition would be tax exempt. My proposal today refines and augments this beginning by establishing the college savings account [CSA] which extends to the private sector the same tax treatment provided EE bonds.

The only problem with current law is that it fails to utilize the abundant and outstanding resources of the private sector in drawing out savings for college. Private sector innovators and those who conceive and market financial instruments designed to stimulate college savings will be preempted and competitively disadvantaged by the establishment of a tax advantaged Federal product. In order to maximize savings for college we must level the playing field for all financial instruments by providing tax incentives across the board.

Under legislation that I am introducing today, eligible investments for a CSA include: the series EE savings bond; deposits made in a college savings program sponsored by a State; bank accounts, investment accounts, and other accounts that satisfy requirements that are similar to those for an IRA. As in the current EE savings program, there will be no deduction for contributions to the college savings account. Earnings on amounts deposited by parents in a college savings account would not be taxed when earned and would be exempt from taxation when withdrawn to pay for college educational expenses. With the exception of the series EE savings bonds, contributions to CSA's must be held for 5 years to be eligible for the exclusion. In addition, my proposal has a phase out of the benefits for higher income families. The income test for the phase out is set in the taxable year immediately following the year of contribution to the college savings account. The purpose of this provision is to encourage early savings and deposits in college savings accounts. When combined with the unrestricted holding period for EE savings bonds this proposal will provide maximum flexibility for savers with young children and for those with children much closer to college age but who do not currently have savings programs established.

Both the dollar limitation and the adjusted gross income level in which the phase down of the limitation begins will be indexed for inflation. The proposal also provides penalties for nonqualified withdrawals of withdrawals that are not used to pay qualified higher education expenses.

Mr. President, the college savings account proposal introduced today will help level the playing field for all market participants and avoid the market damaging effects that may be caused by a preemptive Federal savings product. The private sector has a substantial ability to cultivate thrift among the families of the Nation. The private sector can provide college savers with a wide range of investment choices, reach a broad spectrum of eligible families, and create a competitive and innovative market place that is necessary to maximize the savings rate for college in this great country. And there is no question that savings for, and investment in, a college education is a good investment. Over time the average college graduate will produce substantial additional personal income compared to those who do not attend college. Clearly, the challenge of the future for this Nation is to produce an innovative, skilled, and well-trained work force able to compete in tomorrow's economy. By providing incentives today to America's families to save for the education of our future generation, we will be securing our Nation's future. I urge my colleagues on the Finance Committee and in the Senate to move promptly to adopt this proposal.

Mr. President, I ask unanimous consent that the language of this bill and a short summary be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 1251

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Family College Savings Act of 1989".

SEC. 2. COLLEGE SAVINGS ACCOUNTS.

(a) IN GENERAL.—Section 135 of the Internal Revenue Code of 1986 (relating to income from United States savings bonds used to pay higher education tuition and fees) is amended to read as follows:

"SEC. 135. INCOME FROM COLLEGE SAVINGS ACCOUNTS.

"(a) EXEMPTIONS FROM TAX.—

"(1) CURRENT EARNINGS.—A qualified college savings account is exempt from taxation under this subtitle unless such account has ceased to be a qualified college savings account by reason of subsection (e)(4).

"(2) TAX-EXEMPT WITHDRAWALS.—In case of a taxpayer who pays qualified higher education expenses during the taxable year, gross income shall not include—

"(A) the applicable fraction of earnings included in eligible withdrawals during the taxable year from a qualified college savings account owned by the taxpayer, or

"(B) the applicable fraction of amounts that would otherwise be included in gross income by reason of redemption during such year of any qualified United States savngs bond.

"(b) APPLICABLE FRACTION.—

"(1) GENERAL RULE.—For purposes of subsection (a), the term "applicable fraction" shall mean with respect to any eligible withdrawal the lesser of—

"(A) 1, or

"(B) a fraction the numerator of which is qualified higher education expenses paid by the taxpayer during the taxable year and allocated by the taxpayer to such withdrawal and the denominator of which is the total amount of such withdrawal.

"(2) ALLOCATIONS TO WITHDRAWALS.—If the total amount of eligible withdrawals by a taxpayer in a taxable year exceeds the total qualified higher education expenses paid by the taxpayer during the taxable year, the taxpayer may allocate the qualified higher education expenses to the eligible withdrawals in any manner selected by the taxpayer.

"(c) ELIGIBLE WITHDRAWALS.—

"(1) IN GENERAL.—For purposes of this section, the term "eligible withdrawals" shall include—

"(A) amounts received by reason of a redemption of a qualified United States savings bond,

"(B) any deposits withdrawn from a qualified college savings account if such deposits were held in qualified college savings accounts for at least 5 years prior to withdrawal, and

"(C) earnings withdrawn from a qualified college savings account if such earnings are attributable to principal described in subparagraph (B).

"(2) ORDERING RULES.—For purposes of paragraph (1)—

"(A) Every withdrawal from a qualified college savings account shall be considered in part the withdrawal of a deposit and in part the withdrawal of earnings on the deposit (unless the balance in the account is less than or equal to the total deposits to the account). The amount of earnings attributable to any withdrawal shall be determined in accordance with regulations to be prescribed by the Secretary.

"(B) Deposits shall be treated as withdrawn in the same order that deposits are made.

"(d) NONQUALIFIED WITHDRAWALS.—

"(1) GENERAL RULE.—Gross income shall include all earnings that are part of a nonqualified withdrawal from a qualified college savings account.

"(2) PENALTY.—The tax liability of the owner of a qualified college savings account or formerly qualified college savings account (or the estate of such owner) under this chapter for a taxable year shall be increased by an amount equal to 10 percent of the amount which is includible in gross income under paragraph (1) for such taxable year.

"(3) DEFINITION.—For purposes of this section, the term 'nonqualified withdrawal' means—

"(A) any withdrawal from a qualified college savings account that is not an eligible withdrawal,

"(B) any withdrawal or the portion of any withdrawal from a qualified college savings account if such withdrawal or portion is not excluded from income under subsection (a), or

The termination of a qualified college savings account under subsection (e)(4) shall constitute a nonqualified withdrawal.

"(4) SPECIAL RULE IN CASE OF DEATHS.—If the death of a person described in clause (i) or clause (ii) of subsection (e)(3) causes the owner of an account not to be an eligible holder, paragraph (2) shall not apply to the nonqualified withdrawal resulting from such death.

"(e) QUALIFIED COLLEGE SAVINGS ACCOUNTS.—

"(1) COLLEGE SAVINGS ACCOUNT.—For purposes of this section, the term 'qualified college savings account' means—

(A) a prepaid tuition contract or

(B) a trust created or organized in the United States for the exclusive benefit of an eligible holder or his beneficiaries, but only if the trust meets the following requirements:

"(i) Except in the case of a rollover contribution, no contribution will be accepted unless it is in cash, it is made by the eligible holder, and it will not exceed the limitation described in subsection (e).

"(ii) The trust satisfies requirements described in paragraphs (2), (3), (4) and (5) of section 408(a).

"(iii) The trust satisfies rules that are applicable to individual retirement accounts and which the Secretary determines by regulation are applicable to qualified college savings accounts.

"(2) PREPAID TUITION CONTRACT.—For purposes of this section, the term "prepaid tuition contract" means a contract with a state, an agency or instrumentality of a state, or an entity created and administered by a state for the benefit of its residents pursuant to which an individual is entitled to receive educational services at an eligible educational institution or the payment of higher education expenses at an eligible educational institution.

"(3) ELIGIBLE HOLDER.—The term 'eligible holder' means—

"(A) any taxpayer who has attained age 24 and who has at least one child (or a dependent with respect to whom the taxpayer is allowed a deduction under section 151) who—

(i) has not attained the age of 20 or

(ii) who has not attained the age of 27 and is enrolled in an eligible educational institution (or on an approved leave of absence of not more than one year from an eligible educational institution), or

"(B) Any taxpayer described in clause (i) or (ii) of paragraph (A) who acquired ownership of a qualified college savings account by reason of the death of an individual described in paragraph (A).

"(4) TERMINATION OF QUALIFIED STATUS.—A college savings account shall cease to be a qualified college savings account if—

"(A) the account ceases to be owned by an eligible holder,

"(B) the account is a trust that fails to satisfy the requirements described in clause (ii) or clause (iii) of paragraph (1)(A).

"(C) the eligible holder engages in any transaction prohibited by section 4975 with respect to the account, or

"(D) the eligible holder uses the account or any portion thereof as security for a loan.

"(f) LIMITATIONS ON CONTRIBUTIONS—

"(1) GENERAL RULE.—An individual and his spouse, if any, may contribute no more than a total of $10,000 to a qualified college savings account in a taxable year. For purposes of the preceding sentence, an individual shall be treated as contributing to a qualified savings account the issue price of qualified United States savings bonds acquired in the name of the individual or his spouse during the taxable year.

"(2) LIMITATION BASED ON MODIFIED ADJUSTED GROSS INCOME.—If the modified adjusted gross income of the taxpayer and his spouse exceeds $60,000 ($40,000 if the taxpayer is not married) in any taxable year, the limitation described in paragraph (1) for such taxpayer shall be reduced by an amount which bears the same ratio to such limitation as such excess bears to $30,000 ($15,000 in the case of an unmarried individual).

"(3) INFLATION ADJUSTMENTS.—In the case of any taxable year beginning after 1990, each dollar amount contained in paragraph (1) and paragraph (2) shall be increased by an amount equal to—

"(A) such dollar amount, multiplied by

"(B) the cost-of-living adjustment under section 1(f)(3) for the calendar year in which the taxable year begins, determined by substituting "calendar year 1989" for "calendar year 1987" in subparagraph (B) thereof.

"(4) ROUNDING.—All adjustment to be made pursuant to this subsection shall be made by rounding to the nearest multiple of $50 (or by rounding to the next highest multiple of $50 of the amount if the amount to be rounded is a multiple of $25 but not a multiple of $50).

"(5) EXCESS CONTRIBUTIONS.—Under regulations prescribed by the Secretary, rules and penalties similar to rules and penalties for excess contributions to individual retirement accounts shall apply to excess contributions to qualified college savings accounts.

"(6) ROLLOVER CONTRIBUTIONS.—Paragraph (1) shall not apply to rollover contributions. Under regulations prescribed by the Secretary, rules similar to the rollover rules for individual retirement accounts shall apply to qualified college savings accounts.

"(7) TIME WHEN CONTRIBUTION DEEMED MADE.—For purposes of this section, a taxpayer shall be deemed to have made a contribution to a college savings account on the last day of his preceding taxable year if the contribution is made on account of such taxable year and is not made later than the time prescribed by law for filing the return for such taxable year (not including extensions thereof).

"(g) QUALIFIED UNITED STATES SAVINGS BONDS.—For purposes of this section, the term 'qualified United States savings bond' means any United States savings bond—

"(1) issued after December 31, 1989;

"(2) issued in the name of eligible holder and with the designation College Savings Account typed under the holder's name;

"(3) issued at a discount under section 3105 of title 31, United States Code; and

"(4) the issuance of which does not cause the limitations of subsection (f) to be exceeded.

"(h) OTHER DEFINITIONS.—For purposes of this section—

"(1) QUALIFIED HIGHER EDUCATION EXPENSES.—

"(A) IN GENERAL.—The term 'qualified higher education expenses' means tuition and fees required for the enrollment or attendance of any dependent of the taxpayer (other than the taxpayer's spouse) with respect to whom the taxpayer is allowed a deduction under section 151 at an eligible educational institution.

"(B) EXCEPTION FOR EDUCATION INVOLVING SPORTS, ETC.—Such term shall not include expenses with respect to any course or other education involving sports, games, or hobbies other than as part of a degree program.

"(2) ELIGIBLE EDUCATIONAL INSTITUTION.—The term 'eligible educational institution' means—

"(A) an institution described in section 1201(a) or subparagraph (C) or (D) of section 481(a)(1) of the Higher Education Act of 1965 (as in effect on October 1, 1989), and

"(B) an area vocational education school (as defined in subparagraph (C) or (D) of section 481(a)(1) of the Carl D. Perkins Vocational Education Act) which is in any State (as defined in section 521(27) of such Act), as such sections are in effect on October 1, 1989.

"(3) MODIFIED ADJUSTED GROSS INCOME.—The term 'modified adjusted gross income' means the adjusted gross income of the taxpayer for the taxable year determined—

"(A) without regard to this section and sections 911, 931, and 933 and

"(B) after the application of sections 86, 469, and 219.

"(i) SPECIAL RULES.—

"(1) ADJUSTMENT FOR CERTAIN SCHOLARSHIPS AND VETERANS BENEFITS.—The amount of qualified higher education expenses otherwise taken into account under subsection (b) with respect to the education of an individual shall be reduced by the sum of the amounts received with respect to such individual for the taxable year as—

"(A) a qualified scholarship which under section 117 is not includable in gross income,

"(B) an educational assistance allowance under chapter 30, 31, 32, 34, or 35 of title 38, United States Code, or

"(C) a payment (other than a gift, bequest, devise, or inheritance within the meaning of section 102(a)) for educational expenses, or attributable to attendance at an eligible educational institution, which is exempt from income taxation by any law of the United States.

"(2) REGULATIONS.—The Secretary may prescribe such regulations as may be necessary or appropriate to carry out this section, including regulations requiring record keeping and information reporting.

"(b) CLERICAL AMENDMENTS.—The table of sections for part III of chapter 1B of subtitle A of such Code is amended by striking out the item related to section 135 and inserting in lieu thereof the following new item:

"Sec. 135. College savings accounts."

SEC. 3. EFFECTIVE DATE.

The amendments made by this Act shall apply to income earned in taxable years beginning after December 31, 1989, and to qualified college savings accounts formed after December 31, 1989.

COLLEGE SAVINGS ACCOUNTS—PARTIAL SUMMARY OF TERMS

Eligible Investments—Investments generally eligible for IRAs, Series EE Savings Bonds, college savings programs sponsored by states, etc.

Deductibility of Contributions—Contributions to CSAs will not be tax deductible.

Taxation of Earnings of CSAs—Earnings (interest and dividends) will not be taxed currently.

Exclusion from Income—Earnings that are part of qualified withdrawals will be excluded from income to the extent of qualified higher education expenses paid by the taxpayer.

General Limit on Annual Contributions—$10,000 per taxable year by parents. Income test similar to Series EE Bond legislation except applied at time of contribution instead of time of withdrawal. Contribution limit would be phased down for higher income families (possibly using the same phasedown ranges as the Series EE bond college savings program). The contribution limit and phasedown range would be indexed for inflation.

Holding Periods—Amounts held in CSAs (other than Series EE bonds) would have to be held five years to be eligible for favorable tax treatment.

Penalties; Nonqualified Withdrawals—In the case of a nonqualified withdrawal, e.g., a withdrawal that is not used to pay "qualified higher education expenses," or a disqualification of a CSA because the taxpayer ceased to have any children below college graduation age, the taxpayer generally would be required to include in income for the year of withdrawal the earnings that are part of the nonqualified withdrawal (and which would have been included in income in a prior year but for the CSA) and pay a penalty.

Effective Date—January 1, 1990. This would expand the Series EE Bond college savings program scheduled to become effective on that date.

By Mr. KENNEDY (for himself, Mr. BIDEN, and Mr. SIMON):

S. 1252. A bill to amend the Immigration and Nationality Act with respect to the application of employer sanctions to longshore work; to the Committee on the Judiciary.

AMENDING THE IMMIGRATION AND NATIONALITY ACT REGARDING EMPLOYER SANCTIONS TO LONGSHORE WORK

Mr. KENNEDY. Mr. President, I am introducing today remedial legislation to amend our immigration laws to protect the legitimate labor interests of U.S. longshoremen.

Increasingly, foreign vessels offloading in U.S. ports are utilizing foreign crewmembers for domestic longshore work. Since this work by foreign crewmembers is performed exclusively on board the vessels—such as when operating ship-board cranes—the Immigration and Naturalization Service has ruled such work is technically outside the jurisdiction of our immigration enforcement.

At the same time, I know of no foreign port in which American crewmembers are permitted to conduct similar longshore work overseas.

This amendment to the Immigration and Nationality Act would close this loophole and place U.S. longshoremen back on equal footing with the longshoremen of other maritime countries.

Mr. President, Chairman JACK BROOKS of the House Judiciary Committee has introduced similar legislation, and I am pleased to be joined in the Senate by the chairman of the Senate Judiciary Committee, Senator JOSEPH BIDEN, as well as Senator PAUL SIMON of our Subcommittee on Immigration and Refugee Affairs.

By Mr. COCHRAN:

S. 1253. A bill to amend the copyright law regarding work made for hire; to the Committee on the Judiciary.

ARTISTS BILL OF RIGHTS

Mr. COCHRAN. Mr. President, today I am introducing legislation to clarify provisions of copyright law which have come to be known by artists, creators, publishers, and others as the "work made for hire" law.

Since 1982, I have urged that legislation be enacted to clarify this law to ensure that one who actually creates a work of art be considered its author and able to claim the benefits of copyright protection in that work. Under the work for hire exception, a freelance writer, photographer, illustrator, or other artist who prepares a work "for hire" is not considered the author of that work, for copyright purposes. It is the employer or person commissioning the work who is considered the owner of the copyright, or, in effect, the "author."

The law allows a work made for hire relationship to arise in only two instances: First, when the work is created by an employee within the scope of his or her employment; or second, when it is a specially commissioned work of a specific type, and the parties agree in writing that it is a work made for hire.

Some courts have interpreted the law to mean that a work for hire arrangement between a commissioning party and a creator can arise without compliance with the requirements of this statutory definition. Since the statute does not define "employee," freelance artists have been deemed to be in the employment of the parties that commissioned them merely because those parties retained, and sometimes exercised, a right to supervise and control some aspect of the artist's work. The practical consequence is that the artist's creation is considered authored and owned by the commissioning party, without the artist's consent or knowledge, and sometimes even without compensation.

Earlier this month, on June 5, the Supreme Court unanimously ruled that a freelance artist was entitled to the rights of authorship in his own work in a case where that issue was litigated. The Court said in the case of Community for Creative Non-Violence v. Reid that an "employee," in the definition of work made for hire, was meant to refer to a person who was hired in a conventional employment relationship.

In the *Reid* case, a nonprofit association entered into a verbal agreement with a sculptor to produce a statue of a family scene resembling the Nativity, to dramatize the plight of the homeless. The association paid only the sculptor's expenses. The artist donated his time to the project, and there was no discussion of who would own the copyright to the finished work.

While the sculptor accepted many of the association's suggestions and directions in producing the statute, no other elements of a traditional employment relationship existed. The association paid him in the manner that independent contractors are normally compensated; it did not withhold income or social security taxes, or provide any employee benefits.

The Court held that the sculptor in this case was an independent contractor, and that the commissioning party's supervision of the project was not sufficient to convert the artist into an employee. Thus, the work was held not to be a "work made for hire."

In its decision, the Court also made it clear that, if a creator is an independent contractor and not an employee, his or her work can be a work made for hire only if it falls into a decribed category and the creator agrees to it.

Some artists in other cases have had the experience of having to sign a

work for hire agreement to get paid for a work. In effect, these freelance writers and artists who prepare works on commission are forced to relinquish the authorship of their works as a condition of being paid.

The bill I am introducing today would more clearly define the rights of artists and would clarify the copyright statute to make it consistent with the Supreme Court's decision.

It makes four changes in the work for hire provision in the Copyright Act.

First, the bill defines "employee" as a formal, salaried employee.

Second it clarifies that "employee" works made for hire are separate and distinct from specially ordered or commissioned works.

Third, the bill would require work for hire agreements to be signed before the work begins.

Fourth, it would bar work for hire agreements under which the freelance creator forfeits all rights in all future works created for a commissioning party.

The bill also makes two changes in the definition of "joint work." In the Reid decision, the Supreme Court left open the question of when freelance artists and their commissioning parties may be joint authors. My bill would make it clear that each author of a joint work must contribute original, or copyrightable, subject matter to the work. Also, it would require the parties to sign a written agreement in advance if they intend the work to be owned jointly.

Mr. President, this legislation does not prohibit publishers or other commissioning parties from seeking work for hire arrangements with freelance artists, nor does it limit their use. Neither does the bill in any way inhibit the ability of anyone to secure a written assignment of copyright at any time.

My bill merely seeks to clarify the conditions which must be present for a work for hire arrangement to be valid. I believe these are the same conditions which Congress originally intended, when it enacted the Copyright Act of 1976. I am confident that these clarifications will provide a more predictable working environment for creators of artistic works as well as for those who purchase, commission and disseminate those works.

My bill has the support of the Copyright Office, and will be the subject of a hearing before the Subcommittee on Patents, Copyrights and Trademarks on July 12.

I invite other Senators to join me in support of this legislation.

I ask unanimous consent that a copy of the bill and a copy of the explanation of the bill be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 1253

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That Section 101 of title 17, United States Code, is amended—

(1) by amending clause (1) and the first sentence of clause (2) of the definition, "work made for hire" to read as follows:

"(1) a work, other than a specially ordered or commissioned work, prepared by a formal salaried employee within the scope of his or her employment; or

"(2) a work specially ordered or commissioned for use as a contribution to a collective work, as a part of a motion picture or other audiovisual work, as a translation, as a supplemental work, as a compilation, as an instructional text, as a test, as answer material for a test, or as an atlas, if, with respect to each such work, the parties expressly agree in a written instrument signed by them before the commencement of the work, that the work shall be considered a work made for hire.";

(2) in the definition of "joint work", by striking out "their contributions" and inserting in lieu thereof "their original contributions"; and

(3) by adding before the period at the end of the definition of "joint work" the following: ", provided that, in the case of each specially ordered or commissioned work, no such work shall be considered a joint work unless the parties have expressly agreed in a written instrument, signed by them before the commencement of the work, that the work shall be considered a joint work".

EXPLANATION OF WORK FOR HIRE BILL

The new bill represents a substantial revision of prior legislation to change the "work made for hire" provisions of the 1976 Copyright Act. Rather than propose radical changes to the work for hire compromise enacted as part of the 1976 Copyright Act, the bill seeks merely to clarify the existing statutory language. Those clarifications are entirely consistent with the spirit and purpose of the work for hire compromise enacted in 1976, which was to strike a fair and workable balance between creators, disseminators and users of copyrightable works. Despite the Supreme Court's recent decision in *Community for Creative Non-Violence* v. *Reid,* 57 U.S.L.W. 4607 (June 5, 1989), legislative clarification of the meaning of "employee" and of the rules governing work for hire agreements are essential to give the public and the courts a better understanding of the specific circumstances under which a work is eligible to be a "work made for hire."

As a complement to the clarifications to the work for hire definition, the bill proposes limited but important modifications to the definition of "joint work." One of these modifications would merely make explicit what most courts have recognized is implicit in the current definition—that any joint author must make an original (*i.e.,* copyrightable) contribution of authorship to the joint work. The other modification to the definition of joint work would add, for certain types of works, a second requirement to the "intent" standard currently in the definition. The bill would require, in the context of specially ordered or commissioned works only, that all authors agree in writing and in advance of commencement of the work that it should be considered a joint work. The adoption of this objective standard for a limited class of works will avoid the uncertainty and constant threat of litigation associated with the current definition.

I. AMENDED DEFINITION OF "WORK MADE FOR HIRE"

A. *Subsection (1)*—

The bill would make two changes in subsection (1) dealing with works created by an "employee." First, the bill would define "employee" as a "formal, salaried employee." Second, the bill would provide that "employee" works for hire do not include specially ordered or commissioned works that fail to meet the eligibility criteria specified in subsection (2). Under the bill, subsection (1) would be revised to read as follows (new language is in italic):

A "work made for hire" is—

(1) a work, *other than a specially ordered or commissioned work,* prepared by a *formal salaried* employee within the scope of his or her employment. . . .

1. *Definition of Employee*

In *Community for Creative Non-Violence* v. *Reid, supra,* the Supreme Court held that the term "employee" found in subsection (1) of the work for hire definition was intended to refer "to a hired party in a conventional employment relationship." 57 U.S.L.W. 4610. In order to determine whether that relationship exists in any given case, the Court instructed the courts to apply the general common law of agency. 57 U.S.L.W. 4609.

The Court's recourse to agency principles was necessary because it was unable to find conclusive evidence either in the language or legislative history of the work for hire definition of exactly what Congress intended the term "employee" to mean. In the absence of such evidence, the Court presumed that Congress understood that term to have its generally accepted meaning under agency law principles.

Rather than articulate a definitive interpretation of "employee," the *Reid* decision invited legislative clarification. The bill seeks to fill that void by adopting the formulation of "employee" endorsed by the Ninth Circuit in *Dumas* v. *Gommerman,* 865 F.2d 1093 (9th Cir. 1989), and by the Copyright Office in its brief before the Supreme Court in the *Reid* case. The absence of a clear articulation in the statute of who an "employee" is under subsection (1) has led to confusion and disagreement in the courts, and has resulted in independent contractors being classified as "employees" in contravention of the intent of the framers of the compromise on work for hire enacted as part of the 1976 Coyright Act. The purpose of the new clarifying language is to confine the concept of "employee" to the limits intended when the term was included in the 1976 compromise: to ensure that only true employees—that is, those persons who have an established, ongoing relationship with an employer characterized by the provision of employment benefits to the putative employee—will forfeit their authorship and copyright rights under the work for hire presumption.

Adoption of the "formal, salaried" definition of "employee" will avoid the inevitable uncertainties and costs associated with the agency law test. As articulated by the Court, that test requires an evaluation of at least thirteen factors to the circumstances of each case, with no factor having dispositive impact standing alone. 57 U.S.L.W. 4612. *See* Restatement of Agency (Second) § 220(2). Although the Court's discussion of those factors strongly suggests that most freelancers would not be considered "employees" under them, that determination cannot be made with certainty at the onset of the relationship between a commissioning party and the creator. Particularly given the nonexclusivity of the factors mentioned by the

Court in *Reid*, litigation will routinely be required to ascertain whether the party creating the work meets the "employee" standard. Aside from the cost and uncertainty associated with the constant threat of litigation, there remains the possibility that a freelancer could be held to be the employee of a commissioning party based on a court's subjective assessment of the facts and circumstances of each particular case.

Furthermore, the agency law test inevitably requires some judicial consideration of the commissioning party's right to control the work of the creator. *See* Restatement of Agency (Second) § 220(1). Since that right exists by definition in most commissioned relationships, it is not a fair or meaningful indicator of an employment relationship.

While the bill would replace the general law of agency with a more objective, predictable standard, the bill nevertheless reaffirms the Supreme Court's unequivocal rejection of the so-called "supervision and control" test adopted by the Second Circuit in *Aldon Accessories* v. *Speigel*, 738 F.2d 548 (2d Cir.), *cert. denied*, 469 U.S. 982 (1984). Under that test, a freelance artist or other creator is classified as an "employee" if the commissioning party has the right to supervise and direct the work of the creator, or instead exercises what a court deems to be a sufficient degree of supervision and direction over the creator's work. *Id.* at 552. *See also Evans Newton, Inc.* v. *Chicago Systems Software*, 793 F.2d 889 (7th Cir.), *cert. denied*, 479 U.S. 949 (1986). As the Supreme Court recognized, the "supervision and direction" test is a vestige of the 1909 Copyright Act and was never meant to be imported into the "employee" prong of the work for hire definition enacted in 1976. By reaffirming that intent in new statutory language, the amendment makes indisputably clear that the "supervision and direction" test should not be followed by the courts in determining who is an "employee" for purposes of subsection (1).

In sum, the "formal, salaried" language would provide clear guidance to the courts and to parties involved in the creation and dissemination of copyrightable works. The expectation is that in all instances in which a creator "holds himself or herself out as a freelancer, the [putative] employer should anticipate that the commissioned work will not be a work for hire under § 101(1) [the "employer" prong of the definition]." *Dumas v. Gommerman*, 865 F.2d at 1105. In a situation in which the relationship between a putative "employer" and "employee" is ambiguous, courts should determine the creator's status by reference to whether he or she is accorded *all* of the benefits that the employer customarily extends to its regular employees, including but not limited to a salary. In using the term "salary," the bill refers to a regular, periodic form of compensation that is not tied to a particular project or task but instead is spread out over the course of the creator's relationship with the putative employer.

2. *Subsections (1) and (2) Are Mutually Exclusive*

When Congress enacted a two-prong definition of "work made for hire," it did not explicitly state how subsections (1) and (2) of the definition should relate to each other. Congress did not anticipate that commissioning parties would attempt, as they later did, to use subsection (1) as a catch-all provision in circumstances where the prerequisites of subsection (2) were not satisfied.

In the *Reid* case, the Supreme Court acknowledged that subsections (1) and (2) of the definition are mutually exclusive, and that commissioning parties must satisfy the requirements of subsection (2) in order to make the work of a freelance artist a work for hire. 57 U.S.L.W. 4610. The bill would codify this interpretation, and thus make explicit Congress' intent that the creative works produced by freelance artists are eligible to be works for hire only if the parties expressly agree in writing, and only if the work is covered by one of the nine enumerated categories in subsection (2).

To accomplish this purpose, the bill would amend subsection (1) to specify that an "employee" work for hire is a work "other than a specially ordered or commissioned work."[1] If a work is specially ordered or commissioned, it cannot be a work for hire under subsection (1); any such work qualifies as a work for hire, if at all, only if it meets all the criteria specified in subsection (2) as amended.

B. *Subsection 2—Work for Hire Agreements*

Unlike previous work for hire legislation introduced in recent Congresses, the bill proposes only minor changes to subsection (2) that are designed to prevent certain abusive practices with regard to the negotiation of work for hire agreements. Under the bill, subsection (2) would be amended to read (new language in italics):

A "work for hire" is—

(2) a work specially ordered or commissioned for use as a contribution to a collective work, as a part of a motion picture or other audiovisual work, as a translation, as a supplemental work, as a compilation, as an instructional text, as a test, as answer material for a test, or as an atlas, if *with respect to each such work*, the parties expressly agree in a written instrument signed by them *before the commencement of the work*, that the work shall be considered a work made for hire.

1. *"Blanket" Work for Hire Agreements*

First, by requiring that work for hire agreements be entered into "with respect to each such [specially ordered or commissioned] work", the bill would bar so-called "blanket" work for hire agreements under which the freelance creator forfeits all rights in all future works created for the commissioning party. Congress never intended to allow commissioning parties to obtain a single work for hire agreement from a freelancer and then use that agreement as a basis for conferring work for hire status on all subsequent creations produced by the freelancer. Rather, the drafters of the 1976 Copyright Act clearly intended that work for hire agreements be negotiated on a project-by-project basis, thereby giving the creator a meaningful opportunity to decide before undertaking any particular commissioned project whether he or she is willing to accept a work for hire arrangement.

Since that intent was not made explicit in the language of the statute, work for hire agreements that purport to apply beyond the scope of the particular project for which the creator is commissioned have proliferated. These overreaching agreements are likely unenforceable under the current definition, but few, if any creators, have the resources or incentives to challenge the scope of a blanket work for hire agreement once it is signed. Equally as troubling, the absence of a specific requirement that work for hire agreements be negotiated for each separate creative undertaking leaves the public uncertain as to the proper limits of a work for hire agreement. By expressly prohibiting blanket or "life" work for hire agreements, the bill would make clear to all parties that a work for hire agreement can apply only to the specific work or works being specially ordered or commissioned.

2. *After-the-Fact Work for Hire Agreements*

The bill would also require work for hire agreements to be signed "before the commencement of the work." Again this language is intended to clarify the intent of the drafters of the 1976 Act. They understood that the benefit to the creator of the writing requirement is to enable him or her to make an independent, objective decision whether to agree to a work for hire arrangement at the outset of the commissioned relationship. In circumstances in which an agreement is foisted upon the creator after work has begun or after the work is completed, the creator's independence and objectivity are compromised. At that stage, the creator will ordinarily have invested a considerable amount of time, effort and resources in the project; he or she may have no choice but to sign a work for hire agreement offered as a condition of getting paid. The amendment would prohibit any such "after-the-fact" agreement.

The most egregious abuse that the prior writing requirement would address is the increasingly common practice of stamping a work for hire provision on the back of a check forwarded to the freelancer in payment for producing a commissioned work. By endorsing the check, the creator necessarily executes the work for hire provision. While this contract of adhesion is clearly unenforceable, the creator has to go to court—and consume vast amounts of time and resources in the process—in order to vindicate his or her rights.

No less egregious are cases in which the parties agree orally at the outset of a commissioned project to allow the creator to retain the authorship and copyright rights, but the commissioning party later reneges and forces a work for hire agreement upon the creator. This is a common problem in the publishing industry, and its concequence is that the writing requirement is reduced to meaningless formality. That was not Congress' intent in 1976, and the bill would make that intent unmistakeably clear.

If commissioning parties seek a work for hire arrangement with respect to a particular work, they should bear the burden of securing the creator's written consent beforehand. If they neglect to do so, they should not have the opportunity to sue their vastly superior bargaining position to extract a work for hire agreement from a creator who is already committed to the project.

In the rare circumstance in which the urgency of a project leaves no time to negotiate a work for hire arrangement in advance, the commissioning party is not without recourse. A publisher or other commissioning party can always, at any time, obtain a written assignment of copyright rights in accordance with section 204(a). While any such assignment is subject to the author's right of termination 35 years under section 203(a), Congress has previously decided that acquisition of rights for that period is sufficient to meet the assignee's needs and still

[1] The words "specially ordered or commissioned" should be given their ordinary meaning. As the Copyright Office observed in its brief in the Reid case, "[t]o 'commission' someone is "to appoint [him] to a certain task, mission, function or duty." Brief for the Register of Copyrights as Amicus Curiae Supporting Respondent, p. 10, *quoting Webster's Third International Dictionary of the English Language* 457 (1986). Moreover, as the Copyright Office noted, "a 'commissioned' relationship is defined by a particular project." *Id.* at 10. In contrast, subsection (1) covers ongoing business relationships that involve "a specific stream of services that can be defined as falling 'within the scope' of that relationship." *Id.*

give the assignor the opportunity to reclaim ownership of and income from his or her earlier works.

II AMENDED DEFINITION OF "JOINT WORK"

Clarification of the rules governing work for hire will not in itself put an end to the uncertainty and endless litigation that has plagued the determination of copyright ownership in commissioned works. Recent cases, most notably *Community for Creative Non-Violence* v. *Reid*, aptly illustrate that the determination that a commissioned work is not a work for hire leaves open the difficult issue whether the commissioning party and the creator are joint authors of the work under the current definition of "joint work." Without additional legislative clarification, litigation over the joint work question as it arises in the commissioned work setting will be long and protracted. Ultimately, it will also be unsatisfactory in terms of providing clear guidance in advance to interested parties entering into a commissioned relationship.

The fundamental characteristic of joint authorship is "a joint laboring in furtherance of a preconcerted common design." *Nimmer on Copyright*, § 6.03 (1988). As joint authors are considered to be coowners in the work, 17 U.S.C. § 201(a) (1982), they are treated as tenants in common. They own an undivided interest in the whole of the work in proportion to the number of coowners and not in relation to the relative importance of their respective contributions, and may independently use or license the work, subject only to a duty to account to the other coowner for any profits earned thereby. *Oddo v. Ries*, 743 F.2d 630, 633 (9th Cir. 1984). While a joint author may not transfer all interest in the work without the express written consent of the other joint author(s), he or she may transfer all of his or her undivided interest to a third party who then stands in the shoes of that joint author for all purposes.

Against this background, the bill proposes two clarifications to the definition of "joint work." The first would make explicit the requirement that each author of a joint work contribute "orginal" (*i.e.*, copyrightable) subject matter to the work. The second would require the parties to a specially ordered or commissioned work to sign a written agreement in advance if they intend the work to be a joint work.

Under the bill, the definition of "joint work" would be amended to read (new language is in italics):

"A 'joint work' is a work prepared by two or more authors with the intention that their *original* contributions be merged into inseparable or interdependent parts of a unitary whole, *provided that, in the case of each specially ordered or commissioned work, no such work shall be considered a joint work unless the parties have expressly agreed in a written instrument, signed by them before commencement of the work, that the work shall be considered a joint work.*"

1. "Original" Contribution

The purpose of the language to clarify the constitutionally-based standard of joint authorship that has been somewhat obscured by certain court interpretations of the joint work provision of the 1976 Copyright Act. Most courts have correctly recognized that the contribution of ideas alone, or of other uncopyrightable involvement such as supervising the work of another, is not sufficient to make the resulting work a "joint work." *See, e.g., Ashton-Tate Crop.* v. *Ross*, F.Supp. (N.D. Cal. 1989); *Olan Mills, Inc.* V. *Eckerd Drugs of Texas*, F.Supp. (N.D. Tex. 1988); *Whelan Associates* v. *Jaslow Dental Laboratories*, 609 F.Supp. 1307, 1318-19 (E.D. Pa. 1985), *aff'd on other gr.*, 787 F.2d 1222 (3rd Cir. 1986); *Aiken, Hazen, Hoffman, Miller* v. *Empire Construction*, 542 F.Supp. 252, 259-60 (D.C. Neb. 1982). But under decisions such as *Community for Creative Non-Violence* v. *Reid*, 846 F.2d 1485 (D.C. Cir. 1988), *rev'd on other gr.*, 57 U.S.L.W. 4607 (June 5, 1989), some courts appear to have endorsed the view that individuals (or worse, corporations commissioning works) need not contribute copyrightable expression in order to be considered joint authors. Instead, they have suggested that even the mere supplying of the title or legend for a work may be relevant in considering whether joint authorship status should be conferred on commissioning parties. 846 F.2d at 1496 n.15. *Cf.* 37 C.F.R. 202.1(a) (words, titles, and short phrases not copyrightable). Moreover, some decisions have suggested that the involvement of a commissioning party in the project, through supervising the work of the creator, is alone sufficient to confer joint authorship status upon him. *See Strauss* v. *The Hearst Corp.*, 8 U.S.P.Q.2d 1832 (S.D.N.Y. 1988).

Congress never intended to allow one who does not meet the constitutional standard of authorship to become a coowner of all copyright rights in that work, and thus to become entitled a share of all profits from the exploitation of the work in accordance with his or her undivided interest therein. In addition to the almost unimaginable business and practical consequences of such a result, it raises serious statutory and constitutional issues. The Constitution empowers Congress to extend protection to the "writing" of "authors." Article I, Sec. 8, cl. 8. Ideas and de minimis efforts such as titles, suggested ideas or supervision are not writings and no one is, constitutionally their author. The constitutional imperative may not be circumvented by describing one as a "joint" author. One must still be an "author."

Accordingly, to properly limit the grant of copyright, this bill amends the definition of "joint work" to confine its application to situations where all of the putative joint authors' contributions are "original contributions." The term "original" was chosen due to the limitation of copyright in Section 102(a) of the Act to "original works of authorship." 17 U.S.C. § 102(a). The legislative reports to the 1976 Act indicate this term was "intended to incorporate without change the standard of originality established under the [1909] copyright statute." S. Rep. No. 94-473, 94th Cong., 1st Sess. 50 (1975); H.R. Rep. No. 94-1476, 94th Cong., 2d Sess. 51 (1976). It is, therefore, a term that is well understood by the courts. The term "original contributions" in amended Section 101 is meant to be conextensive with the term "original works of authorship" and interpreted identically to it.

2. Prior Writing Requirement

The amendment also adds a requirement, not found in the present statute, that in the case of specially ordered or commissioned works only, there must be a signed agreement, entered into by the parties before commencement of the work, that it shall be considered a joint work. The purpose of this requirement is two-fold: first, to prevent hiring parties who fail to comply with the work for hire provisions from claiming, after commencement or completion of the work, coownership in the work by virtue of alleged joint authorship; second, to prevent the courts from expanding the conditions under which joint authorship may be found in order to compensate for a more restrictive work for hire test.

Under the amendment, no specially ordered or commissioned work may be a work of joint authorship unless the parties expressly agree, in a written instrument signed by them before commencement of any work on the project, that the particular work shall be deemed a joint work. While some consideration was given to extending this writing requirement to all works of joint authorship, it appears that the abuses have principally occurred in the context of specially ordered or commissioned works. Similarly, the writing requirement is not limited to the nine specially ordered or commissioned categories found in the second subsection of the work for hire definition in Section 101 of the Act. Although it is anticipated that most specially ordered or commissioned works affected by this amendment will in fact fall within one of those nine categories, this may not always be the case, and, consequently, the writing requirement for commissioned joint works is not limited to the nine work for hire categories. Conversely, this amendment is not intended to and does not expand the categories of works of authorship that may be treated as specially ordered or commissioned works made for hire. *See* 17 U.S.C. § 101 (subsection (2) of definition of "work made for hire").

Where the parties to a commissioned work neglect to sign a joint work agreement in advance, or in circumstances in which the urgency of the project makes negotiation of such an agreement unachievable, each party would retain the separate copyright to his or her contribution. *Cf.*, 17 U.S.C. § 201(c) (copyright in each separate contribution to a collective work is distinct from copyright in the collective work as a whole). This would be the case even if they intended their contributions to "be merged into inseparable or interdependent parts of a unitary whole." 17 U.S.C. § 101 (definition of "joint work"). The bill would require them to embody their intent in a written instrument at the outset of the commissioned relationship, when the subject of rights is normally discussed and when an adequate opportunity exists to define the terms of their relationship. By forcing parties involved in a commissioned work to address the ownership of copyright at the outset of their relationship, the bill will have the beneficial effect of reducing the incidence of disputes that arise when the value of the work brings the ownership question to the forefront and yet no written agreement exists.

By Ms. MIKULSKI:

S. 1254. A bill to authorize the Secretary of Labor to make grants to public hearing agencies or the provision of literacy training, training in basic and employment skills, and support services, and to establish the gateway Task Force; to the Committee on Labor and Human Resources.

PUBLIC HOUSING GATEWAY ACT

Ms. MIKULSKI. Mr. President, I am introducing the Gateway public housing bill today. This bill will provide literacy, job and skills training, and supportive services such as child care and drug prevention, and drug education programs to public housing tenants.

Illiteracy is a problem that disproportionately affects the poor. Over one-third of the mothers receiving Aid to Families With Dependent Children [AFDC] are functionally illiterate.

Other legislation have proposed to enhance the literacy level of the economically disadvantaged. However, this bill is unique in that it will target

assistance to our public housing facilities, where large numbers of low- and moderate-income persons live. The Gateway bill will provide for grants to public housing authorities to design programs or purchase services from existing providers of social services to assist public housing residents' efforts to achieve independence through skills training and, ultimately, jobs.

I am pleased to sponsor this bill along with my colleague Senator ADAMS of Washington State. Also, I am especially pleased to introduce this legislation because the model program for the Gateway proposal is a public housing high rise development located in my hometown, Baltimore, MD.

Baltimore's Lafayette Homes is a typical public housing high rise development with 805 units and almost 2,400 residents, 85 percent of which receive public assistance. However, with the creation of the Family Development Center, Lafayette Homes broke the mold of the typical public housing project. In the first program of its kind in the Nation, literacy training, computerized basic skills education, and job training are all available on site at the Lafayette Homes. Child care, year round, both during and after school is available nearby so that parents will know their children are safe while they participate in these programs. Medical assistance and counseling are also available on site. Residents of the Lafayette Homes voluntarily participate in these programs because the Gateway Program serves not only the individual, but the entire family.

A reading America is a working America and a better America. For these reasons, I bring to you today the Gateway public housing bill.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There are no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1254

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Public Housing Gateway Act of 1989".

SEC. 2. STATEMENT OF PURPOSE.

The purpose of this Act is to establish programs, through public housing agencies, to increase the abilities and self-sufficiency of young residents of public housing, increase the prospects for employment of young residents of public housing, and end generational dependency on public assistance in public housing, through—

(1) the provision of literacy training, training in basic and employment skills, and support services through the public housing agencies; and

(2) the employment of residents of public housing and of professional staff to perform outreach services, including identification of and assistance to residents who could prosper from education and training programs.

SEC. 3. GRANT PROGRAM.

(a) IN GENERAL.—The Secretary of Labor may, with the advice and participation of the Gateway Task Force established in section 7, make grants under this Act to public housing agencies for the utilization of public housing in the provision of training and services to economically disadvantaged residents of public housing through gateway programs.

(b) SELECTION OF GRANT RECIPIENTS.—The Secretary shall select public housing agencies to receive grants under subsection (a) and may select only public housing agencies that meet the following requirements:

(1) PROVISION OF FACILITIES.—The public housing agency shall agree to make available suitable facilities in the public housing projects administered by the public housing agency, or any facilities provided by a State or local governmental agency or any private organization or person, for the provision of training and services under this Act.

(2) NEED AND CAPABILITY TO PROVIDE SERVICES.—The public housing agency shall demonstrate to the Secretary the need and ability to provide the training and services described in section 4(a) to individuals qualified to receive the training and services under section 5.

(3) PROVISION OF SERVICES TO QUALIFIED INDIVIDUALS.—The public housing agency shall demonstrate to the Secretary that any training and services to be provided under this Act will be provided only to individuals qualified to receive the training and services under section 5.

(4) PROVISION OF SERVICES TO YOUNG FAMILIES.—The public housing agency shall demonstrate to the Secretary that the training and services to be provided under this Act will be provided to residents of public housing projects where a significant number of young families receiving public assistance reside.

(5) COOPERATION WITH PRIVATE, NON-PROFIT ORGANIZATIONS, OR COMMUNITY BASED ORGANIZATIONS.—The public housing agency shall demonstrate to the Secretary the ability to create cooperative working relationships with private organizations, non-profit organizations, or community based organizations that are to provide training and services under this Act and are located in the same community as the public housing agency.

(c) APPLICATIONS FOR GRANTS.—(1) The Secretary shall prescribe the form and procedures for public housing agencies to make applications for grants under this section.

(2) The Secretary shall give priority to applications that demonstrate significant cooperation and coordination with existing private organizations, non-profit organizations, or community based organizations.

SEC. 4. GATEWAY PROGRAM ESTABLISHED UNDER GRANT PROGRAM.

(a) MANDATORY TRAINING AND SERVICES.—Any public housing agency that receives a grant under section 3 shall use the grant to establish a gateway program to make available to individuals eligible under section 5 all of the following training and services, subject to the limitations of section 5:

(1) INFORMATION.—The provision of information designed to make individuals aware of training, employment, education, counseling or the provision of services offered by the public housing agency, including the training and services available under this Act.

(2) LITERACY TRAINING.—Literacy training and bilingual training.

(3) BASIC SKILLS TRAINING.—Remedial education and training in basic skills.

(4) DEVELOPMENT OF WORK HABITS.—Development of good work habits and other personal management skills to enable individuals to obtain and retain employment.

(5) CHILD CARE.—Child care services provided free of charge to facilitate the participation of individuals in other training and services provided under this section. The child care services shall be designed, to the extent practicable, to employ and train economically disadvantaged residents of the public housing project involved, and shall include—

(A) services to provide daytime care for the child dependents who do not attend school and adult dependents of eligible individuals;

(B) services to provide care after school hours for the child dependents of eligible individuals; and

(C) irregular, periodic, and evening care for the child dependents of eligible individuals scheduled to allow the eligible individuals to participate in the training and services provided under this section.

(b) PERMISSIVE TRAINING AND SERVICES.—Public housing agencies that receive grants under section 3 may make available as part of their gateway programs to individuals qualified under section 5 literacy training, training in basic and employment skills, and support services, in addition to the training and services described in subsection (a) and subject to the limitations of section 5, including the following:

(1) EMPLOYMENT ASSISTANCE.—Assistance in acquiring employment.

(2) EMPLOYMENT COUNSELING.—Employment counseling and vocational exploration services.

(3) DEVELOPMENT OF JOBS.—Development of employment positions.

(4) PRIVATE JOB TRAINING.—The provision of training in occupations for which demand is increasing and training in the course of employment, by private employers or organizations.

(5) OTHER FEDERAL EMPLOYMENT TRAINING OR SERVICES.—Training or services coordinated with other Federal employment-related activities.

(6) HIGH SCHOOL EDUCATION.—Assistance in the attainment of certificates of high school equivalency.

(7) COMPUTER SKILLS TRAINING.—Training in computer skills for use in education, skills training, and employment preparation.

(8) TRAINING IN APPLICATION OF SKILLS.—Services to help individuals receiving training and educational assistance to utilize their acquired skills in the competitive employment market.

(9) TRANSITIONAL ACTIVITIES.—Activities designed to provide transition from education to employment.

(10) DRUG PREVENTION SERVICES.—Services to assist individuals with drug prevention, drug counseling, and drug education programs.

(11) SUPPORT SERVICES.—Support services, including child care services in addition to the services described in subsection (a)(5) and transportation to training and services not held in public housing projects.

SEC. 5. LIMITATIONS ON GATEWAY PROGRAMS.

(a) ELIGIBILITY IN GENERAL.—Public housing agencies receiving grants under this Act shall limit participation in training and services provided under gateway programs to individuals who meet the following requirements:

(1) RESIDENCY.—The individual shall be a resident of public housing.

(2) AGE.—The individual shall be not more than 25 years of age.

(3) ECONOMIC DISADVANTAGE.—The individual shall be economically disadvantaged.

(4) EDUCATIONAL DISADVANTAGE.—The individual shall—

(A) have encountered barriers to employment because of a deficiency in a basic skill; or

(B) if over 16 years of age or beyond the age of compulsory school attendance under

State law, not have a certificate of graduation from a school providing secondary education and not have achieved an equivalent level of education.

(b) LIMITATIONS ON CHILD CARE SERVICES.—

(1) ELIGIBILITY.—Public housing agencies receiving grants under this Act shall limit the provision of child care services under section 4(a)(5) to the following individuals:

(A) PARTICIPANTS UNDER GATEWAY PROGRAMS.—Individuals who are participating in training or services under a gateway program (not including the provision of support services), during the participation of the individual in the training or services.

(B) UNEMPLOYED FORMER PARTICIPANTS UNDER GATEWAY PROGRAMS.—Individuals who have successfully completed participation in training or services under a gateway program (not including the provision of support services) and who are not employed, during a period in which the individual searches for employment after the completion of the training or services, as follows:

(i) COMMENCEMENT.—The period shall begin on the completion of the training or services by the individual.

(ii) TERMINATION.—The period shall end on whichever of the following occurs first:

(I) The expiration of the 3-month period after the completion of the training or services by the individual.

(II) The commencement of the employment of the individual in a position not funded by grants made under this Act.

(C) EMPLOYED FORMER PARTICIPANTS UNDER GATEWAY PROGRAMS.—Individuals who have successfully completed training or services under a gateway program (not including the provision of support services) and who are employed in a position not funded by grants made under this Act, during the 12-month period that begins with commencement of the employment of the individual.

(2) COMPLIANCE WITH STATE AND LOCAL LAWS.—A public housing agency that provides child care services under this Act shall ensure that the child care complies with applicable State and local laws.

(c) LIMITATIONS ON SUPPORT SERVICES.—An individual may receive support services under this Act after the individual terminates any participation in training or services under a gateway program (not including the provision of support services) only if the individual has completed the training or services. An individual may not receive support services later than 18 months after the completion of the training or services by the individual.

(d) LIMITATION ON NONRESIDENT PERSONNEL.—A public housing agency receiving a grant made under this Act shall attempt to employ in positions relating to the administration and delivery of training and services under gateway programs residents of the public housing project involved whenever qualified residents are available.

SEC. 6. EFFECT OF GATEWAY PROGRAMS.

(a) NONCONSIDERATION AS INCOME FOR PARTICIPATING INDIVIDUALS.—The earnings of and benefits to any individual resulting from participation in training and services under a gateway program shall not be considered as income for the purposes of determining eligibility for or the amount of public assistance or determining a limitation on the amount of rent paid by the individual during the following periods:

(1) PERIOD OF PARTICIPATION UNDER GATEWAY PROGRAM.—The period during which the individual participates in training or services under a gateway program (not including the provision of support services).

(2) EMPLOYMENT PERIOD.—If the individual participating in training or services under a gateway program (not including the provision of support services) successfully completes the training or services, a single period, not to exceed 18 months, as follows:

(A) COMMENCEMENT.—The period shall begin on the commencement of employment of the individual in the first position acquired by the individual after completion of the training or services that is not funded by a grant under this Act.

(B) TERMINATION.—The period shall end on whichever of the following occurs first:

(i) The expiration of the 18-month period following the commencement of the period described in subparagraph (A).

(ii) The individual ceases to continue employment without good cause, as the Secretary shall determine (with the advice of the Gateway Task Force).

(b) PUBLIC HOUSING OPERATING ASSISTANCE.—The use of the facilities of a public housing agency receiving a grant under this Act in the provision of training or services under a gateway program shall have no effect on the amount of assistance provided to the public housing agency under section 9 of the United States Housing Act of 1937 (42 U.S.C. 1437g).

SEC. 7. TASK FORCE.

(a) ESTABLISHMENT.—There is established an interagency task force to be known as the "Gateway Task Force".

(b) PURPOSE.—The Task Force shall advise and assist the Secretary in carrying out the responsibilities of the Secretary under this Act and shall carry out the functions of the Task Force under this Act.

(c) INFORMATION AND FACILITIES.—The Secretary shall provide the Task Force with the information and facilities necessary to carry out the purposes of the Task Force.

(d) MEMBERSHIP.—The Task Force shall be composed of 8 members as follows:

(1) OFFICER OF DEPARTMENT OF LABOR.—An individual, designated by the Secretary of Labor, who is an officer of the Department of Labor.

(2) OTHER DESIGNEE OF SECRETARY OF LABOR.—An individual, designated by the Secretary of Labor, who is not an officer or employee of the Federal Government and has demonstrated knowledge or experience in the provision of social services or has demonstrated concern for underprivileged individuals.

(3) OFFICER OF DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT.—An individual, designated by the Secretary of Housing and Urban Development, who is an officer of the Department of Housing and Urban Development.

(4) OTHER DESIGNEE OF SECRETARY OF HOUSING AND URBAN DEVELOPMENT.—An individual, designated by the Secretary of Housing and Urban Development, who is not an officer or employee of the Federal Government and has demonstrated knowledge or experience in the provision of social services or has demonstrated concern for underprivileged individuals.

(5) OFFICER OF DEPARTMENT OF EDUCATION.—An individual, designated by the Secretary of Education, who is an officer of the Department of Education.

(6) OTHER DESIGNEE OF SECRETARY OF EDUCATION.—An individual, designated by the Secretary of Education, who is not an officer or employee of the Federal Government and has demonstrated knowledge or experience in the provision of social services or has demonstrated concern for underprivileged individuals.

(7) OFFICER OF DEPARTMENT OF HEALTH AND HUMAN SERVICES.—An individual, designated by the Secretary of Health and Human Services, who is an officer of the Department of Health and Human Services.

(8) OTHER DESIGNEE OF SECRETARY OF HEALTH AND HUMAN SERVICES.—An individual, designated by the Secretary of Health and Human Services, who is not an officer or employee of the Federal Government and has demonstrated knowledge or experience in the provision of social services or has demonstrated concern for underprivileged individuals.

(e) TERMS.—Members of the Task Force shall be appointed for the duration of the Task Force.

(f) VACANCIES.—A vacancy in the Task Force shall be filled in the manner in which the original appointment was made.

(g) CONTINUATION OF MEMBERSHIP.—If any member of the Task Force who was appointed to the Task Force as an officer of the Department of Labor, the Department of Housing and Urban Development, the Department of Education, or the Department of Health and Human Services, leaves the department, or if any member of the Task Force who was appointed from persons who are not officers or employees of the Federal Government becomes an officer or employee of the Federal Government, the member may continue as a member of the Task Force for not longer than the 60-day period beginning on the date the member leaves the department or commences employment with the Federal Government, as the case may be.

(h) COMPENSATION.—Members of the Task Force shall receive no pay on account of their service on the Task Force, except that members shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed under section 5703 of title 5, United States Code.

(i) CHAIRPERSON.—The Chairperson of the Task Force shall be elected by receiving a vote of a majority of the members of the Task Force.

(j) TERMINATION.—The Task Force shall cease to exist 5 years after the date of the 1st regularly called meeting of the Task Force, not including an initial meeting called for organizational purposes.

SEC. 8. REVIEW AND SANCTIONS.

(a) REVIEW.—

(1) SECRETARY.—The Secretary shall review at least annually the compliance of the public housing agencies receiving grants under this Act with the provisions of this Act.

(2) TASK FORCE.—The Task Force shall review at least annually the gateway programs of public housing agencies receiving grants under this Act for the purpose of determining the merits of the various programs in enhancing the employability of residents of public housing, advising the Secretary regarding the determinations, and making recommendations regarding the grant program under section 4 and the various training and services under gateway programs.

(b) SANCTIONS FOR NONCOMPLIANCE.—Whenever the Secretary determines on the record after opportunity for a hearing that a public housing agency has failed to comply substantially with the provisions of this Act, the Secretary shall notify the public housing agency that no further grant payments will be made to the public housing agency under this Act until the public housing agency demonstrates, to the satisfaction of the Secretary, that the public housing agency will comply. Until the public housing agency demonstrates as required by this subsection, the Secretary may not make further grant payments to the public housing agency under this Act.

SEC. 9. REPORTS.

(a) ANNUAL REPORTS.—The Secretary shall transmit annually to the President and to each House of the Congress a report containing a detailed statement of the activities of the Task Force in the preceding 12 months and the recommendations of the Task Force for any action it considers appropriate.

(b) FINAL REPORT.—The Secretary shall transmit to the President and to each House of the Congress a report not later than the date of termination of the Task Force under section 7(i). The report shall contain a detailed statement of the findings and conclusions of the Task Force with regard to the activities of public housing agencies awarded grants under this Act and the recommendations of the Task Force for any action the Task Force considers appropriate.

SEC. 10. DEFINITIONS.

For purposes of this Act:

(1) BASIC SKILLS.—The term "basic skills" means the rudimentary skills necessary for an individual to function in daily living, including literacy, arithmetic skills, and problem-solving.

(2) ECONOMICALLY DISADVANTAGED.—The term "economically disadvantaged" has the meaning given the term in section 4(8) of the Job Training Partnership Act (29 U.S.C. 1503(8)).

(3) GATEWAY PROGRAM.—The term "gateway program" means a program for the provision of training and services described in section 4 established by a public housing agency under a grant made by the Secretary under this Act.

(4) LITERACY.—The term "literacy" means the knowledge and skills necessary to communicate, including reading, writing, speaking, and listening normally associated with the ability to function at a level greater than the 8th grade level.

(5) OFFICER.—The term "officer" has the meaning given the term in section 2104 of title 5, United States Code.

(6) PUBLIC ASSISTANCE.—The term "public assistance" means cash payments, credits, or other assistance or benefits provided to individuals or families under Federal law.

(7) PUBLIC HOUSING.—The term "public housing" has the meaning given the term in section 3(b)(1) of the United States Housing Act of 1937 (42 U.S.C. 1437a(b)(1)).

(8) PUBLIC HOUSING AGENCY.—The term "public housing agency" has the meaning given the term in section 3(b)(6) of the United States Housing Act of 1937 (42 U.S.C. 1437a(b)(6)).

(9) SECRETARY.—The term "Secretary" means the Secretary of Labor.

(10) SUPPORT SERVICES.—The term "support services" means services to facilitate the participation of residents of public housing in training and services under gateway programs. The term includes child care services under section 4(a)(5) and services under section 4(b)(10).

(11) TASK FORCE.—The term "Task Force" means the Gateway Task Force established in section 7.

SEC. 11. REGULATIONS.

The Secretary shall issue any regulations necessary to carry out this Act.

SEC. 12. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated to carry out this Act $50,000,000 for fiscal year 1990. Any amount appropriated under this section shall remain available until expended.

By Mr. METZENBAUM (for himself and Mr. GRASSLEY):

S. 1255. A bill to provide better services for individuals with Alzheimer's disease and related dementias through improved biomedical research, health services research, and training of health care personnel, and for other purposes; to the Committee on Labor and Human Resources.

ALZHEIMER'S DISEASE RESEARCH AND TRAINING ACT

● Mr. METZENBAUM. Mr. President, today, with my distinguished colleague, the Honorable Senator from Iowa, Mr. CHARLES E. GRASSLEY, I introduce the Alzheimer's Disease Research and Training act of 1989. The bill is based on the recommendations of the National Alzheimer's Disease Advisory Panel, composed of national leaders in five categories of expertise: biomedical research scientists, health services research, long-term care providers, financing, and family caregivers in national voluntary organizations.

The 99th Congress, in title IX of Public Law 99-660, charged the panel with responsibility for advising Congress annually on Alzheimer's disease research priorities, and for making policy recommendations.

When the panel members were named, several of my colleagues commented favorably:

Senator EDWARD KENNEDY, Chairman of the Committee on Labor and Human Resources, hoped "that the panel's work will catalyze the research and policy efforts essential to conquering this dread disease." The panel's work will do so if we provide the resources.

Senator ORRIN HATCH, ranking minority member, Committee on Labor and Human Resources, declared, "Alzheimer's disease is the scourge which affects countless thousands of elderly people in this country. The Advisory Panel for Alzheimer's Disease will focus much needed attention on this disease and the plight of its victims. I look forward to receiving the panel's advice." We now have the first installment of that advice, and should act on it.

And our beloved late colleague, the Honorable Claude Pepper saw the panel as "an expert and meaningful panel to study the disease of the century," and he urged that we "make certain that the fruits of their good work are in the end made available to the millions of elderly afflicted with this devastating disease." Surely we have an obligation to do just that.

Right now, more than 4 million Americans are afflicted with Alzheimer's disease—a tragic and irreversible affliction that destroys the mind and humanity of its victim.

The situation may get worse. The number of people with severe dementia is projected to increase by 60 percent by the year 2000; at that time, more than 40 percent of the growing 85 and older population will be affected.

But there is hope.

And that hope—in fact, the only hope—is prevention of Alzheimer's disease through biomedical research.

At the same time, we must develop the best and most cost-effective services for clinical and supportive care of Alzheimer's victims.

That is why we have introduced the Alzheimer's Disease Research and Training Act of 1989. With our bill, we hope to answer a critical and growing need.

As recommended by the panel, our bill authorizes the appropriation of $150 million for biomedical research in fiscal year 1990. It would allow the National Institute on Aging to double the number of grant proposals it funds.

Additionally, it would allow for longitudinal, multidisciplinary studies and clinical trials; tissue banks and patient registries; establishment of satellite facilities for expanded diagnostic and treatment services; recruitment of new researches and training of scientists from underserved States and regions.

A range of services is needed at different stages of Alzheimer's, and development of this continuum of services for Alzheimer's patients could be a model for other chronic disabling conditions.

Our bill also authorizes $25 million to establish 10 health services research centers on Alzheimer's disease and related dementias, and to support investigation of initiated health services projects.

Finally, our bill authorizes $4 million to train professionals, paraprofessionals, and support personnel caring for Alzheimer's patients and related dementias—patients who have lost cognitive abilities and unique behavior patterns.

We urgently need a breakthrough on Alzheimer's disease.

With the year 2000 just a decade away, we must act to stem the tragic and painful devastation that Alzheimer's inflicts on individuals and their families. Our greatest cost would be to do nothing in the face of this massive health problem.

We are all aware of the changing demographics of this Nation, of the rapid aging of our population. It is incumbent upon us to address the tragedy of Alzheimer's disease before our institutions and resources are totally overwhelmed. The cost is minuscule compared with the devastation to be averted.

We urge our colleagues to take needed action now, and support the Alzheimer's Disease Research and Training Act of 1989.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 1255

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Alzheimer's Disease Research and Training Act of 1989".

SEC. 2. FINDINGS.

Congress finds that—

(1) the National Alzheimer's Disease Advisory Panel, that is composed of national experts and family members and authorized by the 99th Congress, has presented its recommendations to Congress.

(2) more than 4,000,000 people are afflicted with Alzheimer's disease, a devastating disease that destroys the mind and humanity of the victim;

(3) Alzheimer's disease is estimated to affect over 11 percent of individuals over 65 years of age and more than 40 percent of individuals over 85 years of age;

(4) the number of people with severe dementia is expected to increase 60 percent by the year 2000;

(5) the cost of Alzheimer's disease to the Nation is approaching $80,000,000,000;

(6) unless a cure or means of prevention of Alzheimer's disease is discovered, two and a half or three times more Americans will be affected by the disease by the year 2040, with a minimum of two and a half to three times the cost referred to in paragraph (5);

(7) biomedical research offers the only hope for preventing Alzheimer's disease, yet only one in four of National Institutes of Health approved investigator-initiated proposals can be funded with existing resources;

(8) research on clinical care and health services delivery offers the best hope for developing the most appropriate and cost-effective strategies for home and community-based services, yet only minuscule funding is available for such research;

(9) Alzheimer's disease patients require a full range of services at different stages of the illness, and the development of this continuum of care can provide a model for other chronic disabling conditions;

(10) the loss of cognitive abilities and the unique behavioral patterns of Alzheimer's disease patients require specialized training for professionals, paraprofessionals and support personnel; and

SEC. 3. BIOMEDICAL RESEARCH.

(a) GENERAL APPROPRIATION.—In addition to amounts otherwise authorized to be appropriated for fiscal year 1990, $150,000,000 is authorized to be appropriated to conduct biomedical research relating to Alzheimer's disease in order to substantially increase, by at least 50 percent, the number of approved meritorious investigator-initiated grant proposals funded in accordance with the recommendations of the Advisory Panel on Alzheimer's Disease (as established in section 921(a) of the Alzheimer's Disease and Related Dementias Services Research Act of 1986 (42 U.S.C. 11221(a))).

(b) SPECIFIC APPROPRIATIONS.—From the amounts appropriated under subsection (a), the Secretary of Health and Human Services shall provide—

(1) at least $30,000,000 to the 15 Alzheimer's Disease Research Centers (as referred to in section 445 of the Public Health Service Act (42 U.S.C. 285e-2)) to enable such Centers to conduct or operate longitudinal and consortium-type multi-disciplinary studies and clinical trials, tissue banks, and patient registries;

(2) at least $15,000,000 to permit the 15 Alzheimer's Disease Research Centers, as referred to in paragraph (1), to establish—

(A) offsite facilities that shall provide essential high quality services in the diagnosis and treatment of Alzheimer's Disease; and

(B) satellite facilities, that shall be linked to the Alzheimer's Disease Research Centers to utilize the technical resources, expertise in diagnosis, treatment, and training of such Centers in order to improve the quality of such services in underserved areas; in rural regions;

(3) at least $2,000,000 to the National Institute on Aging, (as established in subpart 5 of Title 4 of the Public Health Service Act (42 U.S.C. 285e through 285e-8)), to enable such Institute to—

(A) attract new or young investigators to pursue careers in fields involving research on the biomedical, behavioral, and social aspects of Alzheimer's disease; and

(B) develop institutional training programs within the general guidelines of the National Research Service Awards program that emphasize—

(i) training of individuals at the post-doctoral level;

(ii) training of scientists from States or regions that are underserved; and

(iii) training of women and under-represented groups; and

(4) at least $20,000,000 to be used in conjunction with selected research institutions, to expand construction on the Alzheimer's Disease Research Centers, as referred to in paragraph (1), that are considered by the Director of the National Institute on Aging to be inadequate and antiquated on the date of enactment of this Act.

(c) ADMINISTRATION OF FUNDS.—

(1) NATIONAL INSTITUTE ON AGING.—Not less than 70 percent of the funds made available under subsection (a) shall be administered by the National Institute on Aging.

(2) NATIONAL INSTITUTE ON MENTAL HEALTH.—Not less than 15 percent of the amount referred to in paragraph (1) shall be administered by the National Institute of Mental Health and the National Institute of Neurological Disorders and Stroke.

(d) COORDINATION OF RESEARCH.—The research efforts conducted with funds made available under this section shall be coordinated by the Alzheimer's Disease Coordinating Committee of the National Institutes of Health and the the Council on Alzheimer's Disease (as established in section 911(a) of the Alzheimer's Disease and Related Dementias Services Research Act of 1986 (42 U.S.C. 11211(a))).

SEC. 4. RESEARCH ON SERVICES AND THEIR FINANCING.

(a) GENERAL SERVICES.—

(1) RESEARCH AND EVALUATION.—There are authorized to be appropriated $25,000,000 for each fiscal year to be utilized by the Secretary of Health and Human Services to conduct research and prepare evaluations on Alzheimer's disease services, psychosocial issues, and behavioral management methods, including the best methods to design, deliver, and finance programs of clinical care and family services for Alzheimer's disease patients.

(2) HEALTH SERVICES FOCUS.—Of the amounts appropriated under paragraph (b)(1), $10,000,000 shall be made available to establish not more than 10 Health Services Research Centers on Alzheimer's Disease to work in conjunction with the Alzheimer's Disease Research Centers that focus on biomedical issues relating to Alzheimer's disease.

(b) INCREASE IN FUNDING FOR THE ALZHEIMER'S DISEASE AND RELATED DEMENTIAS SERVICE RESEARCH ACT.—

(1) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated, in addition to amounts otherwise appropriated for fiscal year 1990, $15,000,000 in 1990 to carry out the Alzheimer's Disease and Related Dementias Service Research Act.

(2) EXPENDITURE OF FUNDS.—The amounts made available under paragraph (1) shall be used by the National Institute on Aging, the National Institute of Mental Health, the National Center for Health Services Research and Health Care Technology Assessment, and the Health Care Financing Administration for the purposes specified in parts D and E of the Alzheimer's Disease and Related Dementias Services Research Act of 1986 (42 U.S.C. 11223 through 11273).

(c) AUTHORIZATION OF APPROPRIATIONS.—In order to establish Centers for Health Services Research on Alzheimer's Disease and Related Dementias, there is authorized to be appropriated—

(1) $3,000,000 for fiscal year 1990 for the establishment of 3 such Centers;

(2) $6,000,000 for fiscal year 1991, of which—

(A) not more than $3,000,000 shall be used to operate and administer the Centers established with amounts made available under paragraph (1); and

(B) at least $3,000,000 shall be used to establish 3 additional Centers; and

(3) $10,000,000 for fiscal year 1992, of which—

(A) not more than $6,000,000 shall be used to operate and administer the Centers established with amounts made available under paragraphs (1) and (2); and

(B) at least $4,000,000 shall be used to establish 4 additional Centers.

(d) COORDINATION OF RESEARCH EFFORT.—Research efforts that receive assistance under this section shall be coordinated through those Alzheimer's Disease Research Centers in existence on the date of enactment of this Act, and with the assistance of the Department of Health and Human Services Council on Alzheimer's Disease.

(e) TYPES OF RESEARCH.—The research efforts that receive assistance under this section shall be focused on—

(1) the epidemiology and the identification of risk factors for Alzheimer's disease and related dementias;

(2) the development of methods for early diagnosis, functional assessment, and psychological evaluation of individuals, and families of individuals, with Alzheimer's disease and related dementias in order to monitor the progress of the disease and develop strategies for improving the quality of life of such individuals and families;

(3) the understanding of the optimal range and cost-effectiveness of community and institutional services available for individuals, and families of individuals, with Alzheimer's disease and related dementias, particularly concerning—

(A) the design, delivery, staffing, and mix of such services;

(B) the coordination of such services with other services; and

(C) the relationship of formal to informal support services;

(4) the understanding of optimal methods of combining formal support services provided by health care professionals with informal support services provided by family, friends, and neighbors of individuals with Alzheimer's disease, and the identification of methods that can be utilized by families to reduce psychological, social, and physical problems induced by stress related to Alzheimer's disease; and

(5) the costs incurred in caring for individuals with Alzheimer's disease and related dementias.

SEC. 5. SPECIALIZED TRAINING.

(a) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated $4,000,000 in fiscal year 1990 to be used by the Secretary of Health and Human Services for the training of professionals, paraprofessionals, and support personnel responsible for the care of, or working with, patients with Alzheimer's disease and related

dementias. Such training may include special training for—

(1) case managers with respect to information and referral for Alzheimer's patients, and the families of such patients, to home and community-based services for such patients;

(2) nursing home personnel who care for individuals with Alzheimer's disease; and

(3) personnel who provide patient and family counseling and care planning.

(b) COORDINATION OF TRAINING.—The training referred to in subsection (a) shall be coordinated with—

(1) established training programs that are administered by the National Institute on Aging, the National Institute of Mental Health, the Health Resources and Services Administration, and the Administration on Aging, with assistance provided under this Act; and

(2) established training programs, including those associated with Mental Health and Aging Training Programs, Geriatric Education Centers, Geriatric Research and Training Centers, Teaching Nursing Homes, Alzheimer's Disease Research Centers, and Alzheimer's Disease Education and Referral Centers, with the consultation of the Department of Health and Human Services Council on Alzheimer's Disease.●

By Mr. GORE (for himself, Mr. BOSCHWITZ, Mr. WIRTH, Mr. HEINZ, Mr. CRANSTON, Mr. BUMPERS, Mr. SIMON, Mr. KERRY, Mr. LAUTENBERG, and Mr. PRYOR):

S.J. Res. 162. Joint resolution to urge the Nobel Commission to consider awarding Nobel Prize recognition for achievements in preservation of the world environment; to the Committee on Foreign Relations.

NOBEL PRIZE RECOGNITION FOR PRESERVATION OF THE WORLD ENVIRONMENT

Mr. GORE. Mr. President, we have all watched world environmental problems rise to the forefront of the public's attention. In this decade, we have found that the problems in the environment are no longer confined within the borders of one nation. Today, these are truly problems of international scope. The global cooperation that will be required to protect the planet's ability to support life will be unprecedented.

Before corrective steps can be considered, however, we must become aware of the problems. That awareness begins with the dedicated efforts of individuals committed to identifying those problems, and forging the solutions. The work of such individuals has already led to a profound change in public consciousness and in the agendas of all governments.

It seems highly appropriate to me that those who have made outstanding contributions to the world's awareness of our environment receive recognition truly global in scope. For this reason, I am offering a resolution today, urging the Nobel Commission to consider awarding Nobel Prize recognition for achievements in preservation of the world environment. It is my hope that such a prize would recognize those outstanding individuals worldwide who have made signal contributions to our awareness of, and responsibility for, the environment. Such recognition would serve all of the planet's citizens well, by drawing the public's attention to those issues which have emerged to profoundly stir the consciousness of nations.

I am honored to be joined today in this resolution by nine of my friends and colleagues: Mr. BOSCHWITZ, Mr. WIRTH, Mr. HEINZ, Mr. CRANSTON, Mr. BUMPERS, Mr. SIMON, Mr. KERRY, Mr. LAUTENBERG, and Mr. PRYOR.

I am convinced that the complexity of problems which make up the global ecological crisis pose the most serious environmental challenge we have ever faced, bar none. The Nobel Prize would recognize the profound contribution to mankind made by those dedicated individuals who have, and will continue to, alert us to the problems and forge their solutions. And certainly, Mr. President, humankind's pursuit of progress in the sciences, literature, economics, and world peace will falter if we do not also work to save the planet on which we live.

By Mr. EXON (for himself and Mr. PRYOR):

S.J. Res. 163. Joint resolution proposing an amendment to the Constitution relating to the election of the President and Vice President of the United States; to the Committee on the Judiciary.

AMENDING THE CONSTITUTION REGARDING THE ELECTION OF THE PRESIDENT AND VICE PRESIDENT

Mr. EXON. Mr. President, I rise to offer an amendment to the Constitution to eliminate the electoral college and permit the direct election of the Presidential ticket.

I have long felt that the electoral college is a relic which has outlived its usefulness. It is time to do away with the electoral college and make every vote across the Nation count. Certainly, the United States is now mature enough as a nation to elect it's own President.

The American people also agree. Over the years, public opinion has consistently favored the direct election of the President.

Electoral arithmetic forces Presidential candidates to adopt special interest strategies to capture the electors in larger States and ignore the real problems of smaller States. A system which makes all votes equal will encourage candidates to run their campaigns based on the national interest.

The electoral college is an antidemocratic institution. With its winner-take-all tradition, votes for opposing candidates in each State are essentially eliminated from consideration. A Presidential ticket in theory only needs to win the 11 largest States, even by the very narrowest margins and lose all other States even by significant margins to be elected; regardless of the total popular vote.

Mr. President, I say winner-take-all tradition because, there is nothing to legally bind electors to vote any particular way. The electoral college could, in theory, disregard the popular vote of the electorate and vote as the electoral college pleases.

Several times in American history, including in the 1988 election, one or two so-called faithless electors voted for candidates of their own choosing.

While an occasional faithless elector will not threaten the outcome of an election, three times in our Nation's history, Presidents were elected without a popular mandate.

In 1824, Andrew Jackson received 43.1 percent of the popular vote and 37.9 percent of the electoral vote while his opponent, John Quincy Adams, received 30.5 percent of the popular vote and 32.1 percent of the electoral vote.

Since no candidate received a majority of the electoral vote, the election was thrown to the House of Representatives as directed by the Constitution, where John Quincy Adams secured the support of 13 State delegations winning over Andrew Jackson who had won the support of only seven State delegations.

In 1876, Samuel Tilden received 50.1 percent of the popular vote and lost to Rutherford B. Hayes who won a one-vote majority in the electoral college.

The third case occurred in 1888. Grover Cleveland won 48.7 percent of the popular vote and 42 percent of the electoral vote, while his opponent, Benjamin Harrison, became President with only 47.9 percent of the popular vote and 58 percent of the electoral vote.

If the electoral college system is not changed, I suspect that within my lifetime, history will repeat itself. Indeed, in 20 Presidential elections, a 1-percent shift in the national vote could have changed the outcome of the election.

In 1976 the shift of a mere 10,000 votes in two States would have elected President Ford despite the 2 million popular vote margin won by Governor Carter. In the 1988 election the people gave the Vice President Bush 54 percent of the popular vote and the electoral college gave the new President 79 percent of the electoral vote. It is only a matter of time before the Nation is again faced with misfire of the electoral college.

The proposed constitutional amendment I introduce today eliminates the electoral college and allows the people to choose their President. Under this proposal, if no Presidential ticket should receive at least 50 percent of the popular vote and the majority of the vote in at least one-third of the States, a run-off election between the two highest vote-getters would be held.

This system will guarantee that the will of the people will prevail but at the same time will not expose the Nation to the factionalism feared by our Founding Fathers.

I introduced this legislation in the last Congress, in part to start a nation-

al examination of our electoral process. Similar legislation was introduced in 1979 by Senator Birch Bayh of Indiana. I am delighted that this legislation has been discussed by many Americans including students at Omaha's Westside High School, participants in a constitutional seminar in Georgia and on a radio talk show in Oregon.

Our Nation's constitutional history is one of granting increasing democratic power to the people. In 1776 our Founding Fathers declared their independence from the King of England. In 1787 the Constitution was adopted; in 1791 the Bill of Rights was ratified; in 1865 slavery was prohibited; in 1868 the vote was extended to former slaves; in 1913 the selection of the Senate was taken from the State legislatures and given directly to the people; in 1920 the vote was given to women; and in 1971 the right to vote was extended to 18-, 19-, 20-year-olds. Over our history, the Nation has never been satisfied with the democratic status quo. The direct election of the President simply continues our Nation's long march to improve and strengthen our democracy.

I look forward to the continued national discussion and the debate that the introduction of this proposed constitutional amendment will spark. I ask my colleagues to give this legislation serious consideration. I welcome any comments and suggestions to change and improve this legislation.

I ask unanimous consent that the text of this proposed constitutional amendment be printed at the close of my remarks and that Senator Pryor's speech be inserted into the RECORD as well.

There being no objection, the bill and statement were ordered to be printed in the RECORD, as follows:

S.J. RES. 163

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled (two-thirds of each House concurring therein), That the following article is proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as part of the Constitution when ratified by the legislatures of three-fourths of the several States within seven years from the date of its submission by the Congress:

"ARTICLE —

"SECTION 1. The people of the several States and the District consituting the seat of government of the United States shall elect the President and Vice President. Each elector shall cast a single vote for two persons who shall have consented to the joining of their names as candidates for the offices of President and Vice President.

"SEC. 2. The electors of President and Vice President in each State shall have the qualifications requisite for electors of the most numerous branch of the State legislature, except that for the electors of President and Vice President, any State may prescribe by law less restrictive residence qualifications and for electors of President and Vice President the Congress may by law establish uniform residence qualification.

"SEC. 3. The persons joined as candidates for President and Vice President having the greatest number of votes shall be elected President and Vice President, if such number be at least 50 per centum of the whole number of votes cast and such number be derived from a majority of the number of votes cast in each State comprising at least one-third of the several States. If, after any such election, none of the persons joined as candidate for President and Vice President is elected pursuant to the preceding paragraph, a runoff election shall be held within sixty days in which the choice of President and Vice President shall be made from the two pairs of persons joined as candidates for President and Vice President who received the highest numbers of votes cast in the election. The pair of persons joined as candidates for President and Vice President receiving the greatest number of votes in such runoff election shall be elected President and Vice President.

"SEC. 4. The times, places, and manner of holding such elections and entitlement to inclusion on the ballot shall be prescribed by law in each State; but the Congress may by law make or alter such regulations. The days for such elections shall be determined by Congress and shall be uniform throughout the United States. The Congress shall prescribe by law the times, places, and manner in which the results of such elections shall be ascertained and declared. No such election, other than a runoff election, shall be held later than the first Tuesday after the first Monday in November, and the results thereof shall be declared no later than thirty days after the date on which the election occurs.

"SEC. 5. The Congress may by law provide for the case of the death, inability, or withdrawal of any candidate for President or Vice President before a President and Vice President have been elected, and for the case of the death of either the President-elect or the Vice President-elect.

"SEC. 6. Sections 1 through 4 of this article shall take two years after the ratification of this article.

"SEC. 7. The Congresss shall have power to enforce this article by appropriate legislation.".

Mr. PRYOR. Mr. President, I am pleased to cosponsor my good friend Senator EXON's constitutional amendment to provide for the direct election of the President and Vice President. This past Presidential election marked the 100th anniversary of the last selection by the electoral college of a "minority" President. In 1888, Benjamin Harrison lost in the popular vote to Grover Cleveland by a margin of 5,439,853 to 5,540,309, but won the electoral college vote by a margin of 233 to 168.

The electoral college system has resulted in the selection of three minority presidents, John Quincy Adams in 1824, Rutherford B. Hayes in 1876, and Harrison, and every election that is close in the popular vote presents the possibility of a fourth. Before this Nation again faces the constitutional crisis of the selection of a minority President, I think that we should seriously address the question of electoral college reform.

The electoral college system was highly controversial at the Constitutional Convention of 1787, and it presents many problems. The major contributing factor to the potential selection of a minority President is the fact that electoral votes are allocated by the winner-take-all method in 49 of the 50 States and in the District of Columbia. As a result, the allocation of electoral votes does not truly reflect the popular vote.

Four alternatives to the electoral college system have been proposed in the past. Under the district plan, last proposed in 1983, electoral votes would be allocated by giving two to the winner of the statewide popular vote and one each to the winner of the popular vote in each of the State's congressional districts. Under the proportional plan, last proposed in 1979, electoral votes would be proportioned based on the number of votes each candidate captures statewide. The automatic plan, last proposed in 1979, would abolish the electoral college, eliminating the problem of the elector who does not vote as he is pledged, and would automatically allocate electoral votes on a winner-take-all basis.

The alternative that has received the most attention and congressional action is the direct election plan. Under this plan, the electoral college would be eliminated and the President and Vice President would be elected by a majority of the nationwide popular vote. I cosponsored Senator EXON's version of the direct election plan in the historic 100th Congress.

Direct election is the approach I have always supported. In fact, Joint Resolution 1 introduced by former Indiana Senator Birch Bayh was one of the first bills I cosponsored upon coming to the Senate in 1979. As a Congressman 10 years earlier in 1969, I was a cosponsor of a House resolution which would have abolished the electoral college and provided for direct election of the President and Vice President. This resolution passed the House by a vote of 339 to 70, but never reached the Senator floor.

Although I have not seen a recent poll on this subject, I cannot help but believe that direct election of the President and Vice President still enjoys the support of a larger majority of the American people. I cannot understand the fear of those who oppose such an amendment. There is certainly nothing evil about proposing that each person's vote be counted equally. That is the way we have been taught to conduct elections from the time we first voted on our class officers in school.

The electoral college may have made sense before the advent of television, radio and daily newspapers. However, now the miracles of modern communication enable every citizen in this country to be well-informed about Presidential and Vice Presidential candidates.

Direct election of the President will give every man and woman in every State an equal voice in the election of our two highest national officials. It is time for our country, which believes in the equality of all its citizens, to adopt

an election framework which ensures this same equality at the voting booth.

Congress is usually a creature of reaction, not action, and I hope that we will not have to face the constitutional crisis of the selection of another minority President before we act to correct the process. I urge my colleagues to carefully consider Senator EXON's proposal.

By Mr. NICKLES (for himself and Mr. ARMSTRONG):

S.J. Res. 164. Joint resolution designating 1990 as the "International Year of Bible Reading"; to the Committee on the Judiciary.

INTERNATIONAL YEAR OF BIBLE READING

● Mr. NICKLES. Mr. President, today I rise to introduce a resolution which would authorize and request the President to proclaim 1990 as the "International Year of Bible Reading." My colleagues may recall that in 1982, the Senate passed a resolution naming 1983 the Year of the Bible. This proposal is similar. However, this resolution shifts the focus from a national to an international level. Additionally, the resolution I am introducing today promotes the actual reading of the Bible. I think it is important.

History has illustrated the fact that the Bible has had a profound influence on our Founding Fathers in shaping the direction of our country as well as on the lives of individuals, families, and societies in many parts of the world. As President Lincoln once said, "No man was ever worse for living according to the directions of the Bible . . . Take all of this book (the Bible) upon reason that you can, and the balance on faith, and you will live and die a happier man."

Mr. President, I am happy to introduce legislation calling for the proclamation of 1990 as the "International Year of Bible Reading." I invite my colleagues to cosponsor this important resolution.

I ask unanimous consent that the text of the joint resolution be printed in the RECORD.

There being no objection, the joint resolution was ordered to be printed in the RECORD, as follows:

S.J. RES. 164

Whereas the Bible, the Word of God, has made a unique contribution in shaping the United States as a distinctive and blessed Nation and people;

Whereas deeply held religious convictions springing from the Holy Scriptures led to the early settlement of our Nation;

Whereas many of our great national leaders, such as Presidents Washington, Jackson, Lincoln, and Wilson, paid tribute to the important influence the Bible has had in the development of our Nation;

Whereas President Jackson called the Bible "the rock on which our Republic rests";

Whereas the history of our Nation clearly illustrates the value of voluntarily applying the teachings of the Holy Scriptures in the lives of individuals, families, and societies;

Whereas, the Bible has had a profound positive effect in the shaping of individuals, families, and societies in many parts of the world;

Whereas, the Bible provides a major source of hope for the poor and repressed peoples of the world;

Whereas the family of nations now faces great challenges that will test international relationships as they have never been tested before;

Whereas the renewing of knowledge and faith in God through Holy Scripture reading can strengthen the family of nations and their respective people; and

Whereas numerous individuals and organizations around the world are joining hands to encourage international Bible reading in 1990: Now, therefore, be it

Resolved by the Senate and House of Representative of the United States of America in Congress assembled, That 1990 is designated as the "International Year of Bible Reading." The President is authorized and requested to issue a proclamation recognizing both the formative influence the Bible has had on many societies of the world and the need for world wide study and application of the teachings of the Holy Scriptures.

By Mr. WILSON (for himself, Mr. DOLE, Mr. THURMOND, Mr. WALLOP, Mr. HELMS, Mr. HATCH, Mrs. KASSEBAUM, Mr. GRASSLEY, Mr. D'AMATO, and Mr. DIXON):

S.J. Res. 165. Joint resolution proposing and amendment to the Constitution relating to the flag of the United States; to the Committee on the Judiciary.

PROPOSED CONSTITUTIONAL AMENDMENT RELATING TO THE FLAG OF THE UNITED STATES

Mr. WILSON. Mr. President, I think probably many of my colleagues experience something akin to the same shock and surprise that I did this morning when picking up the morning newspaper we found a lead line, a story declaring that the Supreme Court had rendered a decision which protected the burning of the American flag as exempt or as a permissible expression of first amendment rights, of free speech.

Mr. President, to say that I disagree with the decision considerably understates my feeling, but what I think is necessary is that the Congress of the United States not simply go on record expressing disagreement, but take the action that is necessary to give protection to the dignity and to the integrity of the flag of the United States. I am not going to debate at great length against the decision. I will just simply make these comments.

I think every schoolchild by the time they leave grammar school should understand the first amendment is perhaps the most important in the Bill of Rights to the Constitution. We do prize the freedom of expression in this country, and the reason why it was thought to be so important when it was added was that it was felt absolutely essential that those in this Nation, unlike nations all across the world at that time—and, frankly, in this time—that citizens of this Republic have as their absolute guaranteed right the ability to protest actions of their Government, to express dissenting opinions. It was by and large, to protect the right of people to make utterances that were politically unpopular, but it was intended to allow them to be critical, to express dissent with respect to policies, philosophies, laws. That is a right that we prize today.

Indeed, the irony of this decision, it seems to me, is that if that flag stands for anything, it stands for freedom. Perhaps the most important of those freedoms, I repeat, are those that are guaranteed by this first amendment, but they are not without limit. Justice Homes, many years ago, to make the point, said that there is not right to shout "fire" in a crowded theater. What he meant by that very simply was that even first amendment rights of free speech are subject to reasonable limitations in the public interest. There is no right to create panic; there is no right, I would submit, to engage in actual physical desecration of symbols, and I would liken this to the situation where someone might speak ill of the dead and be entitled to do so, but really not enjoy a right to go into a cemetery and desecrate the tombstone of the person for whom they held such low opinion.

There are certain standards of conduct which transcend matters of taste. We are not here objecting to someone expressing the most unpopular view in attacking a policy of this Government or in attacking a general ideology. He is privileged to do so. Indeed, as a friend of mine who was a Korean war veteran of the Marine Corps once observed as we were at law school together in Berkeley many years ago, and as he observed this student exercising his right of free speech up on a card table in the Student Union Building Square, the plaza there, as this young man asked one rhetorical question after another and asked why his brothers had been made to sacrifice one war after another. My friend with a booming, Flatbush accent responded to him, "So that you can stand up there on that soapbox and make a damn fool of yourself."

We respect the right of people to disagree, but the first amendment, I would submit, is intended to protect a certain quality of speech. It was to permit unpopular ideas to be expressed without fear and without retribution. But here we have seen a decision that I think goes too far. It confuses the symbol of our Nation with criticism of a policy, criticism of a law with unpopular political speech. Here we are talking about something that has been, in the act of its burning, desecrated in a way that is not simply criticism; it is more akin to an insult.

It seems to me, Mr. President, that we are perfectly consistent with the traditions of protecting free speech, the great American tradition of safeguarding unpopular political opinion, if we at the same time insist upon there simply being the observance of decent conduct with regard to the na-

tional symbol, a symbol for which people by the thousands have literally given their lives in combat, the most obvious example being the 6,000 Marines who gave up their lives in an attack upon Iwo Jima which culminated with the raising of the American flag on Mt. Suribachi. That flag raising became the most widely distributed news photograph in American history; indeed, in world history.

The flag that was raised by those Americans on that occasion was a symbol of all that all Americans think good about this Nation, and they have different views, different values, but there is a common bond and it is, it seems to me, our obligation as the elected representatives of the American people to provide, by legislation, in a way that guarantees the safeguard of differences, of different opinions of politically unpopular opinions, but in a way that guarantees the dignity and the integrity of the American flag.

So the joint resolution that I am introducing, Mr. President, is very simple. It proposes to add an article to the Constitution of the United States that will add a single sentence, and that sentence will read: "The Congress shall have the power to protect the integrity and dignity of the flag of the United States by appropriate legislation."

Mr. President, I introduce this Senate joint resolution on behalf of myself, Senators DOLE, THURMOND, WALLOP, HELMS, and HATCH, and I would be delighted to add any additional cosponsors who may wish to communicate with me or with either the Democratic or the Republican Cloakrooms.

By Mr. KERRY (for himself, Mr. HOLLINGS, Mr. ROTH, Mr. SANFORD, Mr. PELL, Mr. STEVENS, Mr. KENNEDY, Mr. WILSON, and Mr. BENTSEN):

S.J. Res. 166. Joint resolution to designate the period of September 16 through October 9, 1989, as "Coastweeks '89"; to the Committe on the Judiciary.

COASTWEEKS '89

● Mr. KERRY. Mr. President, I rise with a number of my colleagues to introduce a joint resolution in support of Coastweeks '89. Our coasts are among this Nation's most precious resources. Last summer America's beaches were sadly marred by medical waste, plastic pollution, sewage waste, and other debris which has littered our beautiful shores and closed many of our beaches. To educate our citizens on the valuable coastal resources we possess and the problems they face, I am offering a Senate joint resolution designating the 3 weeks of September 16 through October 9, 1989, as "Coastweeks '89."

Coastweeks '89 is the 8th year of this unique annual event. Its purpose is to educate the public about our precious coastal resources, and to work together to determine what all of us can do to preserve and clean up our Nation's shores.

Our oceans are literally being swamped by garbage, fouled by sewage sludge, choked by nutrients from acid rain, littered with plastic debris, and contaminated by medical waste. Unfortunately, history has shown that mankind often refuses to act on a situation until it becomes a dire emergency. We must do all we can to enlist the support of our citizens in reversing the situation. Coastweeks '89 will serve as an opportunity to foster enjoyment of our coasts, to call attention to the problems, to find out what is being done, and what individuals can do to help.

Last year 31 States and territories, a 5-percent increase over the previous year, participated in Coastweeks events including seafood banquets, lectures, and conferences, nature walks, cruises, photo contests, and museum exhibits. Coastal cleanups were among the most notable events, with thousands of volunteers nationwide pitching in to pick up 900 tons of trash. This is equivalent to an area of 88 city blocks ankle deep in trash. That we should have this much trash on our shores is alarming. In Massachusetts alone, 2,200 volunteers picked up 25 tons of debris.

This year the Coastal States Organization will serve as national coordinator for over 250 sponsors, including the League or Women Voters, Sea Grant, the Sierra Club, and the Coast Alliance. Coastweeks brings fishermen, scientists, teachers, elected officials, environmental organizations, local groups, families, and individuals together to work for a common goal. The emphasis is on activities that foster public awareness of our Nation's valuable salt- and fresh-water shores, the great diversity of their uses, the increasing pressure of conflicting activities and the urgent need for improved planning and management.

The Coastweeks '89 resolution creates an opportunity for the Senate to strengthen and support the efforts of the thousands who will lend their time and efforts to this year's celebration of our Nation's rich coastal resources. I ask my colleagues to join with me in cosponsoring this joint resolution.●

By Mr. THURMOND (for himself, Mr. DOLE, Mr. HEFLIN, Mr. MCCLURE, Mr. NICKLES, Mr. MCCONNELL, Mr. WILSON, Mr. MCCAIN, Mr. GRAMM, Mr. SYMMS, Mr. HATCH, Mr. NUNN, Mr. HELMS, Mr. PRESSLER, Mr. WALLOP, Mr. COCHRAN, Mr. LOTT, Mr. MURKOWSKI, Mr. WARNER, Mr. ROBB, Mr. DIXON, Mr. SIMPSON, Mr. BURNS, Mr. ARMSTRONG, Mr. MOYNIHAN, Mr. D'AMATO, Mr. SHELBY, Mrs. KASSEBAUM, Mr. GRASSLEY, Mr. EXON, Mr. GARN, Mr. COATS, Mr. DECONCINI, Mr. BENTSEN, Mr. ROTH, Mr. RUDMAN, Mr. KASTEN, Mr. MACK, Mr. FOWLER, Mr. HEINZ, Mr. JEFFORDS, Mr. BYRD, Mr. HOLLINGS, and Mr. FORD):

S.J. Res. 167. Joint resolution proposing an amendment to the Constitution of the United States to prohibit the desecration of the flag; to the Committee on the Judiciary.

PROPOSED CONSTITUTIONAL AMENDMENT TO PROHIBIT DESECRATION OF THE FLAG

Mr. THURMOND. Mr. President, I rise today, along with our distinguished minority leader, Senator DOLE, and Senators HEFLIN, MCCLURE, MOYNIHAN, BURNS, WALLOP, ARMSTRONG, NUNN, BENTSEN, COCHRAN, D'AMATO, KASSEBAUM, SHELBY, EXON, GARN, COATS, GRASSLEY, PRESSLER, DECONCINI, RUDMAN, MACK, FOWLER, KASTEN, HEINZ, JEFFORDS, BYRD, HOLLINGS, NICKLES, MCCONNELL, ROBB, HELMS, WARNER, GRAMM, SYMMS, HATCH, MURKOWSKI, DIXON, ROTH, SIMPSON, WILSON, MCCAIN, and LOTT and others, to introduce a proposed constitutional amendment which would protect our American flag from desecration.

This constitutional amendment would effectively overturn the Supreme Court's decision yesterday in Texas versus Johnson which allows protesters to burn and desecrate the American flag.

Our proposal makes clear that the Congress and individual States have the power to enact laws to prevent the desecration of the American flag.

The Supreme Court has couched its decision in terms of the first amendment's freedom of speech. As generally recognized, the first amendment does not give an absolute protection for the freedom of speech. The desecration of the American flag should not be protected under the first amendment.

It is unfortunate that we must now pass a constitutional amendment to afford protection to that which has symbolized American democracy for over 200 years.

I firmly believe that this narrow 5 to 4 decision was wrongly decided and absolutely does not reflect the sentiment of an overwhelming majority of Americans.

This morning I had the pleasure of participating in a radio talk show hosted from Anderson, South Carolina on this decision. The radio station received literally hundreds of telephone calls expressing anger, alarm, and disbelief that the Supreme Court ruled against protection for our most respected symbol of democracy, the American flag.

Mr. President, I believe these patriotic citizens expressing their consternation with this decision is typical of the reaction all across our great Nation.

I am disheartened that in the wake of our spirited celebration of the Bicentennial of the Constitution of the United States, the Supreme Court has seen fit to sanction contemptuous

desecration of one of the most admired and venerable of this great country. The American flag has flown as the shining beacon of democracy for over 200 years. Our Stars and Stripes have earned the respect and admiration of freedom loving people all over the world.

Mr. President, American veterans who have worn the uniform in defense of the freedoms we all enjoy must be truly angered and dismayed by the Supreme Court's recent decision. Men and women throughout our Nation's history have risked and given their lives so that liberty would persevere in the United States.

The American flag has led many brave soldiers into battle and served as an inspiration to the men and women who protected our democratic way of life.

It is indeed a sad day when the Supreme Court of the United States does not show our Nation's appreciation and patriotism by protecting the dignity of the American flag.

The appropriate action is now for the Congress—elected officials who represent the American public—to act swiftly to alter this overreaching decision and restore the proper deference and civil respect to the flag of the United States of America.

Mr. President, I urge my colleagues to join with me and the sponsors of this proposed constitutional symbol of freedom and democracy—the American flag.

By Mr. McCLURE (for himself, Mr. SYMMS, Mr. REID, and Mr. BRYAN):

S.J. Res. 168. Joint resolution to designate the week of October 2 through 8, 1989, as "America's Gold Week"; to the Committee on the Judiciary.

AMERICA'S GOLD WEEK

● Mr. McCLURE. Mr. President, I rise to introduce a joint resolution designating the week of October 2 through 8, 1989, as America's Gold Week. I am joined by my colleague from Idaho, Senator SYMMS, and Senators REID and BRYAN of Nevada.

Gold, historically one of man's most highly valued metals, is still an essential part of our society. While the U.S. gold mining industry has grown rapidly, making it the third largest producer of gold in the world, so too have gold's applications grown due to its unique properties. This expansion means that the mining, manufacturing, and selling of gold and gold products provide substantial growing employment throughout the United States.

We have come to rely on gold in many ways: we depend on gold in critical electronic and industrial uses, we purchase gold jewelry and coins for investments, and we count on gold to insure the reliability of our communications networks and our defense systems. In fact, gold has many modern applications of which many Americans are unaware.

A few examples of the use of gold in technology include: Gold seals and protects vital components of our space shuttle; gold alloy tubes in heat exchangers in nuclear powerplants prevent cracking of the metal and consequent leaking; gold is essential in heart pacemakers, kidney machines, as well as several other medical applications; and the list goes on.

Mr. President, I have been involved in a number of issues relating to gold. One program I am particularly proud of is the American Eagle Bullion Coin Act. Since its enactment in 1986, the American eagle bullion coins have been bought by millions of people all over the world, providing a lasting symbol of the United States wherever they are sold, and contributing to the balance of trade. These coins are both gold and silver.

The gold mining industry in the United States is a major contributor to our economic well being. Gold mining alone created over 12,000 new jobs in 1987.

Mr. President, I believe it is time for Congress to recognize the significant contributions made by this vital and growing industry, by declaring the week of October 2-8, 1989, as America's Gold Week. I encourage my colleagues to join in support of recognizing the substantial role that gold plays in our society.

Mr. President, I ask unanimous consent that a copy of the joint resolution be printed in the RECORD.

There being no objection, the joint resolution was ordered to be printed in the RECORD, as follows:

S. J. RES. 168

Whereas gold is an essential component of many items used in high technology, space exploration, economics and daily life;

Whereas the gold industry currently employs hundreds of thousands of people in the mining, refining, manufacturing and sales of gold and gold products;

Whereas United States gold mining production has increased approximately 252% since 1981;

Whereas the United States is thereby moving toward self-sufficiency in gold thus contributing to the U.S. balance of trade;

Whereas developments in gold mining have significantly contributed to the opening of the western United States over the years;

Whereas the American Eagle Gold Bullion Coins provide a lasting symbol of the United States wherever they are sold throughout the world;

Whereas sales of the American Eagle Gold Bullion Coins contribute to reducing the national deficit and the balance of trade;

Whereas developments in gold mining and production significantly contribute to the economies and quality of life in all fifty states: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week of October 2 through 8, 1989 is designated as "America's Gold Week", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe such week with appropriate ceremonies and activities.●

By Mr. HATCH (for himself and Mr. THURMOND):

S.J. Res. 169. Joint resolution proposing an amendment to the Constitution of the United States relating to conduct which casts contempt upon the flag of the United States; to the Committee on the Judiciary.

PROPOSED CONSTITUTIONAL AMENDMENT RELATING TO CONDUCT WHICH CASTS CONTEMPT UPON THE FLAG OF THE UNITED STATES

Mr. HATCH. Mr. President, yesterday the Supreme Court made a mistake. In a 5-to-4 decision, the Court ruled that a Texas statute which prohibits the intentional or knowing desecration of our national flag was unconstitutional. The Texas statute defined desecration as follows: "desecrate means deface, damage, or otherwise physically mistreat in a way that the actor knows will seriously offend one or more persons likely to observe or discover his action." Tex. Penal Code Ann. sec. 42.09 (1989).

Congress has for many years prohibited acts which knowingly cast contempt upon the flag of the United States. So strong is the congressional sentiment condemning flag desecration that criminal penalties are provided for "publicly mutilating, defacing, defiling, burning, or trampling upon" the flag. 18 U.S.C. 700. In addition, 48 of the 50 States have statutes prohibiting similar conduct.

I do not intend to dwell on the purpose of this amendment. In my view, we do no damage to the first amendment or the underlying principle of freedom of speech by carving out protection from desecration for this unique symbol of our country. This matter is truly sui generis. We can treat the flag with respect without creating fear of a slippery slope.

18 U.S.C. 700 provides criminal penalties to "[w]hoever knowingly casts contempt upon any flag of the United States by publicly mutilating, defacing, defiling, burning, or trampling upon it." My amendment will ensure the constitutionality of that statute and of similar State laws.

ADDITIONAL COSPONSORS

S. 122

At the request of Mr. INOUYE, the name of the Senator from New York [Mr. MOYNIHAN] was added as a cosponsor of S. 122, a bill to amend title XVIII of the Social Security Act to provide coverage for social worker services furnished at rural health clinics.

S. 148

At the request of Mr. PRESSLER, the names of the Senator from Alaska [Mr. STEVENS], the Senator from Missouri [Mr. DANFORTH], the Senator from New York [Mr. D'AMATO], the Senator from New Mexico [Mr. BINGAMAN], the Senator from Pennsylvania [Mr. HEINZ], the Senator from Minnesota [Mr. BOSCHWITZ], the Senator from Vermont [Mr. JEFFORDS], the

Senator from Florida [Mr. MACK], the Senator from Kansas [Mr. DOLE], the Senator from Minnesota [Mr. DURENBERGER], and the Senator from Michigan [Mr. RIEGLE] were added as cosponsors of S. 148, a bill to require the Secretary of the Treasury to mint coins in commemoration of the Golden Anniversary of the Mount Rushmore National Memorial.

S. 243

At the request of Mr. MCCLURE, the name of the Senator from North Dakota [Mr. CONRAD] was added as a cosponsor of S. 243, a bill to provide for the extension of regional referral center classification of certain hospitals under the Medicare Program and to continue the payment rates for such hospitals.

S. 335

At the request of Mr. MCCAIN, the name of the Senator from Virginia [Mr. WARNER] was added as a cosponsor of S. 335, a bill to amend title XVIII of the Social Security Act and other provisions of law to delay for 1 year the effective dates of the supplemental Medicare premium and additional benefits under Part B of the Medicare Program, with the exception of the spousal impoverishment benefit.

S. 370

At the request of Mr. CHAFEE, the name of the Senator from Pennsylvania [Mr. SPECTER] was added as a cosponsor of S. 370, a bill to amend the Land and Water Conservation Fund Act and the National Historic Preservation Act, to establish the American Heritage Trust, for purposes of enhancing the protection of the Nation's natural, historical, cultural, and outdoor recreational heritage, and for other purposes.

S. 432

At the request of Mr. ROCKEFELLER, the names of the Senator from Maryland [Ms. MIKULSKI] and the Senator from North Carolina [Mr. SANFORD] were added as cosponsors of S. 432, a bill to direct the Secretary of Transportation to identify scenic and historic roads and to develop methods of designating, promoting, protecting, and enhancing roads as scenic and historic roads.

S. 435

At the request of Mr. REID, the name of the Senator from Mississippi [Mr. COCHRAN] was added as a cosponsor of S. 435, a bill to amend section 118 of the Internal Revenue Code to provide for certain exceptions from certain rules determining contributions in aid of construction.

S. 458

At the request of Mr. DECONCINI, the name of the Senator from Iowa [Mr. HARKIN] was added as a cosponsor of S. 458, a bill to provide for a General Accounting Office investigation and report on conditions of displaced Salvadorans and Nicaraguans, to provide certain rules of the House of Representatives and of the Senate with respect to review of the report, to provide for the temporary stay of detention and deportation of certain Salvadorans and Nicaraguans, and for other purposes.

S. 464

At the request of Mr. SANFORD, the name of the Senator from Mississippi [Mr. COCHRAN] was added as a cosponsor of S. 464, a bill to promote safety and health in workplaces owned, operated or under contract with the United States by clarifying the United States' obligation to observe occupational safety and health standards and clarifying the United States' responsibility for harm caused by its negligence at any workplace owned by, operated by, or under contract with the United States.

S. 507

At the request of Mr. SIMON, the name of the Senator from Michigan [Mr. RIEGLE] was added as a cosponsor of S. 507, a bill to prohibit investments in, and certain other activities with respect to, South Africa, and for other purposes.

S. 658

At the request of Mr. PELL, the name of the Senator from Alabama [Mr. SHELBY] was added as a cosponsor of S. 658, a bill to amend the Carl D. Perkins Vocational Education Act of 1984 to authorize appropriations for fiscal year 1990 and succeeding years, and for other purposes.

S. 659

At the request of Mr. SYMMS, the name of the Senator from Florida [Mr. MACK] was added as a cosponsor of S. 659, a bill to repeal the estate tax inclusion related to valuation freezes.

S. 685

At the request of Mr. METZENBAUM, the name of the Senator from Delaware [Mr. BIDEN] was added as a cosponsor of S. 685, a bill to amend title I of the Employee Retirement Income Security Act of 1974 to clarify the applicability of rules relating to fiduciary duties in relation to plan assets of terminated pensions plans and to provide for an explicit exception to such rules for employer reversions meeting certain requirements.

S. 753

At the request of Mr. GORE, the name of the Senator from Illinois [Mr. SIMON] was added as a cosponsor of S. 753, a bill to provide a special statute of limitations for certain refund claims.

S. 754

At the request of Mr. PACKWOOD, the name of the Senator from Arkansas [Mr. PRYOR] was added as a cosponsor of S. 754, a bill to restrict the export of unprocessed timber from certain Federal lands, and for other purposes.

S. 755

At the request of Mr. PACKWOOD, the name of the Senator from Arkansas [Mr. PRYOR] was added as a cosponsor of S. 755, a bill to authorize the States to prohibit or restrict the export of unprocessed logs harvested from lands owned or administered by States.

S. 758

At the request of Mr. LAUTENBERG, the name of the Senator from Arizona [Mr. DECONCINI] was added as a cosponsor of S. 758, a bill to require the Secretary of the Treasury to monitor the adherence by certain United States corporations to principles of nondiscrimination and freedom of opportunity in employment practices in Northern Ireland.

S. 771

At the request of Mr. REID, the name of the Senator from Minnesota [Mr. BOSCHWITZ] was added as a cosponsor of S. 771, a bill to amend the Internal Revenue Code of 1986 to disallow deductions for costs in connection with oil and hazardous substances cleanup unless the requirements of all applicable Federal laws concerning such cleanup are met, and for other purposes.

S. 814

At the request of Mr. DOMENICI, the name of the Senator from North Carolina [Mr. HELMS] was added as a cosponsor of S. 814, a bill to provide for the minting and circulation of $1 coins, and for other purposes.

S. 933

At the request of Mr. HARKIN, the name of the Senator from Virginia [Mr. ROBB] was added as a cosponsor of S. 933, a bill to establish a clear and comprehensive prohibition of discrimination on the basis of disability.

S. 972

At the request of Mr. WIRTH, the name of the Senator from Illinois [Mr. SIMON] was added as a cosponsor of S. 972, a bill to transfer to the Secretary of Health and Human Services the authority of the Secretary of Energy to conduct epidemiological studies of the effects of radiation, and for other purposes.

S. 980

At the request of Mr. MITCHELL, the names of the Senator from Florida [Mr. MACK], the Senator from Delaware [Mr. BIDEN], and the Senator from Minnesota [Mr. BOSCHWITZ] were added as cosponsors of S. 980, a bill to amend the Internal Revenue Code of 1986 to improve the effectiveness of the low-income housing credit.

S. 1067

At the request of Mr. GORE, the names of the Senator from South Dakota [Mr. PRESSLER] and the Senator from Mississippi [Mr. LOTT] were added as cosponsors of S. 1067, a bill to provide for a coordinated Federal research program to ensure continued U.S. leadership in high-performance computing.

S. 1119

At the request of Mr. MITCHELL, the name of the Senator from Michigan [Mr. RIEGLE] was added as a cosponsor of S. 1119, a bill to amend the Internal Revenue Code of 1986 to provide that

unearned income of a child attributable to damages received on account of personal injuries or sickness of the child not be taxed at the marginal rate of such child's parents.

S. 1179

At the request of Mr. LAUTENBERG, the name of the Senator from Maryland [Ms. Mikulski] was added as a cosponsor of S. 1179, a bill to establish a comprehensive marine pollution restoration program, to amend the Federal Water Pollution Control Act and the Marine Protection, Research, and Sanctuaries Act, and for other purposes.

S. 1216

At the request of Mr. SIMON, the name of the Senator from Connecticut [Mr. DODD] was added as a cosponsor of S. 1216, a bill to amend the National Labor Relations Act to give employers and performers in the live performing arts, rights given by section 8(e) of such act to employers and employees in similarly situated industries, to give to such employers and performers the same rights given by sections 8(f) of such act to employers and employees in the construction industry, and for other purposes.

SENATE JOINT RESOLUTION 57

At the request of Mr. PELL, the name of the Senator from Arkansas [Mr. BUMPERS] was added as a cosponsor of Senate Joint Resolution 57, a joint resolution to establish a national policy on permanent papers.

SENATE JOINT RESOLUTION 59

At the request of Mr. WIRTH, the names of the Senator from West Virginia [Mr. BYRD], the Senator from Maine [Mr. COHEN], the Senator from North Dakota [Mr. CONRAD], the Senator from California [Mr. CRANSTON], the Senator from Kansas [Mr. DOLE], the Senator from Washington [Mr. GORTON], the Senator from Utah [Mr. HATCH], the Senator from Wisconsin [Mr. KASTEN], the Senator from New Jersey [Mr. LAUTENBERG], the Senator from Michigan [Mr. LEVIN], the Senator from Idaho [Mr. MCCLURE], the Senator from Virginia [Mr. ROBB], the Senator from Wyoming [Mr. SIMPSON], the Senator from Alaska [Mr. STEVENS], and the Senator from Idaho [Mr. SYMMS] were added as cosponsors of Senate Joint Resolution 59, a joint resolution designating January 19, 1990 as "National Skiing Day."

SENATE JOINT RESOLUTION 125

At the request of Mr. REID, the name of the Senator from Maryland [Mr. SARBANES] was added as a cosponsor of Senate Joint Resolution 125, a joint resolution relating to responsible trade and conservation of tropical forest resources.

SENATE JOINT RESOLUTION 132

At the request of Mr. SASSER, the names of the Senator from Virginia [Mr. ROBB], the Senator from Missouri [Mr. DANFORTH], the Senator from Texas [Mr. BENTSEN], the Senator from Nevada [Mr. REID], the Senator from Alaska [Mr. MURKOWSKI], and the Senator from Washington [Mr. GORTON] were added as cosponsors of Senate Joint Resolution 132, a joint resolution designating September 1 through 30, 1989, as "National Alcohol and Drug Treatment Month."

SENATE JOINT RESOLUTION 134

At the request of Mr. LEAHY, the name of the Senator from Pennsylvania [Mr. HEINZ] was added as a cosponsor of Senate Joint Resolution 134, a joint resolution to designate the week of October 1, 1989, through October 7, 1989, as "National Disability Awareness Week."

SENATE JOINT RESOLUTION 140

At the request of Mr. GLENN, the name of the Senator from New York [Mr. D'AMATO] was added as a cosponsor of Senate Joint Resolution 140, a joint resolution designating November 19-25, 1989, as "National Family Caregivers Week."

SENATE CONCURRENT RESOLUTION 9

At the request of Mr. HUMPHREY, the name of the Senator from California [Mr. WILSON] was added as a cosponsor of Senate Concurrent Resolution 9, a concurrent resolution establishing procedures for expedited consideration by the Congress of certain bills and joint resolutions submitted by the President.

SENATE CONCURRENT RESOLUTION 46

At the request of Mr. DECONCINI, the name of the Senator from Hawaii [Mr. INOUYE] was added as a cosponsor of Senate Concurrent Resolution 46, a concurrent resolution condemning the brutal treatment of, and blatant discrimination against, the Turkish minority by the Government of the People's Republic of Bulgaria.

AMENDMENT NO. 199

At the request of Mr. ROTH, the names of the Senator from Texas [Mr. BENTSEN] and the Senator from Virginia [Mr. WARNER] were added as cosponsors of amendment No. 199 proposed to S. 5, a bill to provide for a Federal program for the improvement of child care, and for other purposes.

At the request of Mr. DODD, his name was added as a cosponsor of amendment No. 199 proposed to S. 5, supra.

AMENDMENT NO. 201

At the request of Mr. DOLE, the name of the Senator from Delaware [Mr. ROTH] was added as a cosponsor of amendment No. 201 proposed to S. 5, a bill to provide for a Federal program for the improvement of child care, and for other purposes.

SENATE CONCURRENT RESOLUTION 49—RELATIVE TO THE REGULATION OF ALCOHOL BEVERAGES

Mr. GRASSLEY (for himself, Mr. DOLE, Mr. THURMOND, Mr. SIMON, Mr. SYMMS, Mr. BURNS, Mr. JEFFORDS, Mr. BURDICK, and Mr. BAUCUS) submitted the following concurrent resolution; which was referred to the Committee on Governmental Affairs:

S. CON. RES. 49

Whereas the Constitution of the United States provides for a Federal system of Government with powers not expressly delegated to the United States reserved to the States,

Whereas section 2 of the 21st Amendment to the Constitution provides that States shall have authority to regulate the importation and distribution of alcohol beverages within their borders,

Whereas, all States have established systems for regulating the sale and use of alcohol beverages consistent with the circumstances and public attitudes of that State, and

Whereas, the courts have consistently upheld the authority of the States to regulate intrastate commerce in alcohol beverages consistent with other protections of the Constitution: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That it is the sense of the Congress that it is in the interest of a viable Federal system of Government that primary regulatory authority over alcohol beverages within their borders shall remain with the States.

● Mr. GRASSLEY. Mr. President, I rise today to submit a concurrent resolution whose purpose is to reaffirm the intent of the 21st amendment to the U.S. Constitution

In the course of considering the many bills that come before Congress every session, we occasionally need a reminder that ours is a federal system of government. In that system, many powers are reserved for the States, or are explicitly vested in the States, by the Constitution.

Section 2 of the 21st amendment explicitly gives States the power to regulate the importation and distribution of alcoholic beverages within their borders. Within that power, States preside over such questions as whether there shall be prohibition in all or part of the State, hours of operation for establishments that serve alcoholic beverages, conditions of license, cash loans, Sunday sales, and other regulatory questions. This concurrent resolution merely reaffirms the intent of section 2 of the 21st amendment with regard to the States' use of these powers.

The core powers of the State are, of course, subject to the constitutional powers of Federal Government, such as the authority to regulate interstate commerce, to attach conditions to the spending of Federal moneys, and to assure equal protection of the laws. The resolution expresses the accepted legal and judicial consensus on the meaning of the 21st amendment and in no way seeks to change that meaning. This resolution simply reminds us that some matters of regulation of alcoholic beverages are meant to be left to the States. Adherence to this principle, I submit, will enhance the effectiveness and efficiency of both the Federal and State Governments.

To demonstrate how this concurrent resolution follows the accepted interpretation of the 21st amendment and the ensuing case law, I ask unanimous consent that an analysis by John G.

Roberts, an attorney at the firm of Hogan & Hartson, be printed in the RECORD at the conclusion of my remarks.

Mr. President, I urge my colleagues to cosponsor this concurrent resolution, and thereby join Mr. DOLE, Mr. THURMOND, Mr. SIMON, Mr. SYMMS, Mr. BURNS, Mr. JEFFORDS, Mr. BAUCUS, and Mr. BURDICK who already have agreed to cosponsor. This concurrent resolution is a most worthy one and it deserves our approval.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

ANALYSIS OF CONCURRENT RESOLUTION TO REAFFIRM THE INTENT OF THE 21st AMENDMENT

The proposed resolution consists of four "whereas" clauses embodying statements reflective of the current state of the law, and a concluding resolution that "it is the sense of the Congress that it is in the interest of a viable Federal system of Government that primary regulatory authority over alcohol beverages within their borders shall remain with the States." We have reviewed the proposed Resolution and conclude that (1) the "whereas" clauses accurately reflect the current state of the law, and (2) the sense of the Congress resolution would not alter that state of the law, but would serve a valuable function in highlighting the commitment of the Congress to the values underlying the Twenty-first Amendment to the United States Constitution.

The first clause of the proposed Resolution states: "Whereas the Constitution of the United States provides for a Federal system of Government with powers not expressly delegated to the United States reserved to the States." The animating design of the Framers of the Constitution was a Federal system.[1] In addition, the Tenth Amendment specifies that "[t]he powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people." While the Supreme Court has fluctuated on the issue of whether the Tenth Amendment may be judicially enforced,[2] there is no dispute that it remains a part of the written Constitution, and reflects the Framers' understanding of the nature of the Federal system.

The second clause of the proposed Resolution states: "Whereas section 2 of the 21st Amendment to the Constitution provides that States shall have authority to regulate the importation and distribution of alcohol beverages within their borders." Section 2 of the Amendment provides that "[t]he transportation or importation into any State, Territory, or possession of the United States for delivery or use therein of intoxicating liquors, in violation of the laws thereof, is hereby prohibited." The Supreme Court has repeatedly recognized that this provision expressly authorizes state regulation of alcohol beverage importation and distribution within the State.[3]

The third clause of the proposed Resolution states: "Whereas, all States have established systems for regulating the sale and use of alcohol beverages consistent with the circumstances and public attitudes of that State." Each State regulates alcohol beverages, and there is a great deal of diversity in the approaches of the various States. Such diversity is a key benefit of the Federal system. *See, e.g., Chandler* v. *Florida*, 449 U.S. 560, 579 (1981) (ability of different States to try different approaches to social problems is "'one of the happy incidents of the federal system'") (quoting *New State Ice Co.* v. *Liebmann*, 285 U.S. 262, 311 (1932) (Brandeis, J., dissenting)).

The fourth clause of the proposed Resolution states: "Whereas, the courts have consistently upheld the authority of the States to regulate intrastate commerce in alcohol beverages consistent with other protections of the Constitution." This is an accurate statement of the law. When state regulation reaches *beyond* the state borders, it may be subject to scrutiny under the Commerce Clause of the Constitution.[4] In addition, when state regulation conflicts with Federal law, and therefore with the Supremacy Clause of the Constitution,[5] The Supreme Court will balance the state and Federal interests in resolving the conflict.[6] The "whereas" clause of the proposed Resolution appropriately takes account of such situations through the qualification that the state regulation be "consistent with other protections of the Constitution."

Finally, the conclusion of the proposed Resolution—"that primary regulatory authority over alcohol beverages within their borders shall remain with the States"—is fully in accord with the Twenty-first Amendment and the values of Federalism. This resolution recognizes the virtue in generally leaving such questions to be decided at the State level. Although this "sense of the Congress" resolution will not preclude future legislation inconsistent with the Resolution, it can serve a valuable purpose in highlighting the unique role of the States in this area under the Twenty-first Amendment, and the commitment of the Congress to preserving that role.●

SENATE CONCURRENT RESOLUTION 50—PROVIDING FOR A CONDITIONAL RECESS OR ADJOURNMENT OF THE SENATE AND A CONDITIONAL ADJOURNMENT OF THE HOUSE

Mr. MITCHELL (for himself and Mr. DOLE) submitted the following concurrent resolution; which was considered and agreed to:

S. CON. RES. 50

Resolved by the Senate (the House of Representatives, concurring), That when the Senate recesses or adjourns at the close of business on Thursday, June 22, 1989, Friday, June 23, 1989, Saturday, June 24, 1989, Sunday, June 25, 1989, Monday, June 26, 1989, Tuesday, June 27, 1989, Wednesday, June 28, 1989, Thursday, June 29, 1989, Friday, June 30, 1989, or Saturday, July 1, 1989, pursuant to a motion made by the Majority Leader, or his designee, in accordance with this resolution, it stand recessed or adjourned until 8:30 a.m. on Tuesday, July 11, 1989, or until 12 o'clock noon on the second day after Members are notified to reassemble pursuant to section 2 of this resolution, whichever occurs first; and that when the House adjourns on Thursday, June 29, 1989, or Friday, June 30, 1989, pursuant to a motion made by the Majority Leader, or his designee, in accordance with this resolution, it stand adjourned until 12:00 o'clock noon on Monday, July 10, 1989, or until 12:00 o'clock noon on the second day after Members are notified to reassemble pursuant to section 2 of this resolution, whichever occurs first.

SEC. 2. The Majority Leader of the Senate and the Speaker of the House, acting jointly after consultation with the Minority Leader of the Senate and the Minority Leader of the House, shall notify the Members of the Senate and the House, respectively, to reassemble whenever, in their opinion, the public interest shall warrant it.

SENATE RESOLUTION 150—RELATING TO THE INCREASED FLOW OF NICARAGUANS INTO THE UNITED STATES

Mr. MACK (for himself, Mr. ARMSTRONG, Mr. DOLE, Mr. GRAMM, Mr. HATCH, Mr. HOLLINGS, Mr. LOTT, Mr. MCCAIN, Mr. SYMMS, and Mr. THURMOND) submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. RES. 150

Whereas the number of new asylum cases filed by Nicaraguans nearly doubled during 1987, the same year in which the Congress took steps to discontinue military aid to the Nicaraguan Freedom Fighters;

Whereas in the last six months of 1988, 50 percent of the total number of Central Americans seeking asylum were Nicaraguans;

Whereas the Nicaraguans are fleeing from a Marxist government whose totalitarian policies deny individuals of their right to the most basic economic, religious and political freedoms;

Whereas the cessation of military aid undermined the hopes of the Nicaraguan people that the struggle of the Freedom Fighters would lead to a restoration of freedom in their country: Now, therefore, be it

Resolved, That it is the sense of the Senate that the current Nicaraguan refugee crisis is a direct result of Sandinista tyranny and Congress' unwillingness to provide consistent support to the Nicaraguan Freedom Fighters.

Mr. MACK. Mr. President, today I am submitting a sense of the Senate resolution identifying the link between Congress' unwillingness to continue military aid to the Nicaraguan Freedom Fighters and the sharp increase in Nicaraguans flowing into the United States.

Nicaraguans have been running from Communist oppression since the Sandinistas came to power. Estimates

[1] *See The Federalist* No. 45 ("The powers delegated by the proposed Constitution to the federal government are few and defined. Those which are to remain in the State governments are numerous and indefinite") (J. Madison) (C. Rossiter ed. 1961); *Younger* v. *Harris*, 401 U.S. 37, 44 (1971).

[2] *See Garcia* v. *San Antonio Metropolitan Transit Authority*, 469 U.S. 528 (1985) (Tenth Amendment not judicially enforceable), *overruling National League of Cities* v. *Usery*, 426 U.S. 833 (1976). *See also Garcia*, 469 U.S. at 580 (*National League of Cities* "will, I am confident, in time again command the support of a majority of this Court") (Rehnquist, J., dissenting).

[3] *See, e.g., 324 Liquor Corp.* v. *Duffy*, 479 U.S. 335, 346 (1987); *City of Newport* v. *Iacobucci*, 479 U.S. 92, 95 (1986); *Brown-Forman Distillers Corp.* v. *New York State Liquor Authority*, 476 U.S. 573, 584 (1986); *California Retail Liquor Dealers Ass'n* v. *Midcal Aluminum, Inc.*, 445 U.S. 97, 110 (1980).

[4] *See, e.g., Brown-Forman Distillers Corp.* v. *New York State Liquor Authority*, 476 U.S. at 585; *Hostetter* v. *Idlewild Bon Voyage Liquor Corp.*, 377 U.S. 324, 333-334 (1964).

[5] U.S. Const. Art. VI, cl. 2 ("This Constitution, and the Laws of the United States which shall be made in Pursuance thereof * * * shall be the supreme Law of the Land; * * * any Thing in the Constitution or Laws of any State to the Contrary notwithstanding").

[6] *See, e.g., Capital Cities Cable, Inc.* v. *Crisp*, 467 U.S. 691, 714 (1984).

have been made that up to one-fourth of Nicaragua's total population has fled. Thousands of Nicaraguans have found refuge in Honduras and Costa Rica. These days Nicaraguans who are "voting with their feet" have made their way further north into the United States.

The number of new asylum cases filed by Nicaraguans nearly doubled during 1987, the same year Congress refused to continue military aid to the Nicaraguan Freedom Fighters. In the last 6 months of 1988, 50 percent of the total number of Central Americans seeking asylum were Nicaraguans.

The message is clear. Nicaraguan refugees are fleeing from a Marxist government whose totalitarian policies repress individuals of their right to the most basic economic, religious, and political freedoms.

The latest flow of Nicaraguans was a direct result of congressional action in the last session of Congress to discontinue military aid to the Nicaraguan Freedom Fighters.

The Congress had a clear choice then: to provide the Nicaraguan freedom fighters with sufficient military aid to fight Communist Sandinista policies or to pay the price later when Nicaraguans would be forced out of their country in search of basic human freedoms.

Now, local communities throughout the United States are paying the price for the Congress' failed Central American policy.

The south Florida community has embraced thousands of Nicaraguans providing food, temporary shelter, and the understanding of sympathetic Latin Americans who may have experienced similar situations in their lifetimes.

Florida taxpayers have already paid millions of dollars in basic services for the latest flow of Nicaraguan refugees. Costs are expected to exceed $100 million.

The list of expenditures is endless:

Cost estimates for Florida in health care, police, corrections and rehabilitation services are as high as $21 million over 12 months.

Dade County alone spent nearly $3.5 million in health care for indigent Nicaraguans in 1988.

The Bobby Maduro Stadium Project to house homeless Nicaraguans cost Miami $200,000.

Nicaraguan students are registering at the rate of 28 a day; that's one classroom a day.

Experience indicates that Federal reimbursement for expenses incurred by Florida for Nicaraguans fleeing from the Communist Sandinista regime will be an uphill battle. The Governor's office prepared a report from the last crisis in 1980 with the Cuban/Haitian boatlift. The report accounted for nearly $150 million in unreimbursed costs the Federal Government never paid Florida.

Costs continue to go unreimbursed by the Federal Government and Floridians continue to pay the bills.

There are those who blame the crisis in Nicaragua on the Contras. But these accusations are meaningless in light of the overwhelming testimony by Nicaraguans themselves who respond that they are fleeing from the Sandinistas, not the Contras.

The Nicaraguan resistance is the only force standing between the Sandinistas and unchallenged dictatorship in Nicaragua. Abandoning the resistance is tantamount to consigning the Nicaraguan people to the kind of dictatorship that has gripped Cuban for 30 years.

Therefore, it is incredible to me that anyone would suggest disbanding the Contras—and effectively allowing the Sandinistas to consolidate their power—is the way to address the Nicaraguan situation.

Ronald Reagan called communism a "huge refugee machine" and predicted that the Communist Sandinista regime would produce thousands of Nicaraguan refugees—just as did the totalitarian regimes in Vietnam, Cuba, Ethiopia, Cambodia, Laos, Angola, Mozambique, and Afghanistan.

Supporters of the Freedom Fighters tirelessly echoed Mr. Reagan's words, but were overpowered by the misguided leadership who wanted to "give peace a chance."

Until the Sandinistas are gone, or have fundamentally changed their system, the Sandinista "refugee machine" will continue to add to this human tragedy. And the United States will continue to be flooded by desperate Nicaraguans leaving everything behind for freedom.

SENATE RESOLUTION 151—SENSE OF THE SENATE ON THE SUPREME COURT DECISION DECLARING UNCONSTITUTIONAL THE TEXAS STATUTE PROHIBITING DESECRATION OF THE FLAG

Mr. MITCHELL (for himself, Mr. DOLE, Mr. THURMOND, Mr. SANFORD, Mr. BYRD, Mr. PELL, Mr. NICKLES, Mr. ROBB, Mr. SIMPSON, Mr. MCCAIN, Mr. GRAHAM, Mr. WARNER, Mr. BENTSEN, Mr. HEFLIN, Mr. DIXON, Mr. ROTH, Mr. HEINZ, Mr. KASTEN, Mr. ARMSTRONG, Mr. BAUCUS, Mr. BIDEN, Mr. BOSCHWITZ, Mr. BRADLEY, Mr. BRYAN, Mr. BURNS, Mr. CHAFEE, Mr. COATS, Mr. COHEN, Mr. D'AMATO, Mr. DASCHLE, Mr. DECONCINI, Mr. EXON, Mr. FORD, Mr. FOWLER, Mr. GARN, Mr. GORE, Mr. GRAMM, Mr. GRASSLEY, Mr. HARKIN, Mr. HELMS, Mr. HOLLINGS, Mr. JEFFORDS, Mrs. KASSEBAUM, Mr. KERREY, Mr. KERRY, Mr. KOHL, Mr. LEVIN, Mr. LIEBERMAN, Mr. LOTT, Mr. LUGAR, Mr. MCCLURE, Mr. MCCONNELL, Ms. MIKULSKI, Mr. MURKOWSKI, Mr. NUNN, Mr. PRESSLER, Mr. PRYOR, Mr. REID, Mr. ROCKEFELLER, Mr. RUDMAN, Mr. SARBANES, Mr. SASSER, Mr. SHELBY, Mr. SYMMS, Mr. WALLOP, Mr. WILSON, and Mr. WIRTH) submitted the following resolution; which was considered and agreed to:

S. RES. 151

Whereas the First Amendment to the United States Constitution lies at the core of our nation's concept of ordered liberty;

Whereas the flag of the United States is the most profound symbol of our ideals, aspirations, and indeed our identity as a nation;

Whereas the flag stands for our very being, including our commitments to freedom, justice, equal opportunity, and peace;

Whereas Americans have always displayed the flag as a living symbol of our nation and the values for which it stands;

Whereas the burning of the American flag is an affront to our American heritage and an affront to the American people;

Whereas millions of Americans have fought valiantly, and many thousands have died, to protect this sacred symbol of nationhood, from the beginning of the Republic, through the two World Wars, the Korean Conflict, the Vietnam Conflict, to the present, and that those who risked and gave their lives for our country are profoundly offended by the desecration of this sacred emblem;

Whereas the Congress and forty-eight states have enacted laws to protect against desecration of the flag;

Whereas the Senate expressed its respect for the flag as recently as March 16, 1989, when on a vote of 97-0, it passed S. 607, prohibiting the displaying of the flag on the floor or ground;

Whereas throughout the history of our nation, the Supreme Court has properly defended and protected the First Amendment rights of our nation's citizens;

Whereas the United States Supreme Court yesterday rendered a decision in the case of *Texas* v. *Johnson*, No. 88-155, finding unconstitutional a Texas statute prohibiting the desecration of the flag, determining that this conduct was an act of "symbolic speech" protected by the First Amendment;

Whereas the Congress has believed that the act of desecrating the flag is clearly not "speech" as protected by the First Amendment; and that analogous acts, such as desecrating a public monument such as the Lincoln Memorial, would never be tolerated as speech;

Whereas it appears that yesterday's decision may invalidate the Federal and state laws prohibiting desecration of the flag; Now therefore, be it

Resolved, That the Senate hereby—

(1) expresses its profound disappointment that the Texas statute prohibiting the desecration of the flag was found to be unconstitutional;

(2) expresses its continued commitment to preserving the honor and integrity of the flag as a living symbol of our nation and its aspirations and ideals;

(3) intends to make an immediate study of the impact of yesterday's Supreme Court decision on Federal and state laws prohibiting the desecration of the flag, and to seek ways to restore sanctions against such reprehensible conduct; and

(4) urges the American people to continue to display proudly the American flag as a symbol of our nation and the values for which it stands.

SENATE RESOLUTION 152—AUTHORIZING THE PROVISION OF CERTAIN DOCUMENTS BY THE SELECT COMMITTEE ON INTELLIGENCE

Mr. MITCHELL (for himself and Mr. DOLE) submitted the following resolution; which was considered and agreed to:

S. RES. 152

Whereas, in the case of United States v. Fernandez, Criminal No. 89-150-A, pending in the United States District Court for the Eastern District of Virginia, defendant Joseph F. Fernandez has requested certain documents within the custody and control of the Senate Select Committee on Intelligence;

Whereas, by the privileges of the Senate of the United States and Rule XI of the Standing Rules of the Senate, no evidence under the control or in the possession of the Senate can, by the judicial process, be taken from such control or possession but by permission of the Senate;

Whereas, when it appears that evidence under the control or in the possession of the Senate is needed for use in any court for the promotion of justice, the Senate will take such action as will promote the ends of justice consistent with the privileges of the Senate;

Whereas, certain of the documents requested have been classified in the interests of national security: Now, therefore be it

Resolved, That the Chairman and Vice Chairman of the Select Committee on Intelligence are authorized to make available to the parties, under appropriate security controls, copies of documents in the custody and control of the Committee, which are responsive to the request of defendant's counsel, in the case of United States v. Fernandez, Criminal No. 89-150-A, pending in the United States District Court for the Eastern District of Virginia.

AMENDMENTS SUBMITTED

ACT FOR BETTER CHILD CARE

DOLE (AND CHAFEE) AMENDMENT NO. 202

Mr. DOLE (for himself and Mr. CHAFEE) proposed an amendment to the bill (S. 5) to provide for a Federal program for the improvement of child care, and for other purposes, as follows:

Beginning on page 97, line 10, strike all through page 102, line 11, and insert the following:

Subtitle A—Earned Income Credit and Dependent Care Credit

SEC. 211. INCREASE IN EARNED INCOME CREDIT.

(a) IN GENERAL.—Subsections (a) and (b) of section 32 of the Internal Revenue Code of 1986 are amended to read as follows:

"(a) ALLOWANCE OF CREDIT.—There is allowed as a credit against the tax imposed by this subtitle for the taxable year an amount equal to the sum of the following amounts:

"(1) GENERAL CREDIT.—In the case of an eligible individual, an amount equal to 14 percent of so much of the earned income for the taxable year as does not exceed $5,714.

"(2) SUPPLEMENT FOR YOUNG CHILDREN.—

"(A) IN GENERAL.—In the case of an eligible individual with 1 or more qualifying children, an amount equal to the lesser of—

"(i) the applicable percentage of so much of the earned income for the taxable year as does not exceed $5,714, or

"(ii) $750 ($500 for an eligible individual with only 1 qualifying child).

"(B) APPLICABLE PERCENTAGE.—The term 'applicable percentage' means 12 percent (8 percent for an eligible individual with only 1 qualifying child).

"(b) LIMITATIONS.—

"(1) GENERAL CREDIT.—The amount of the credit allowable to a taxpayer under subsection (a)(1) for any taxable year shall be reduced (but not below zero) by 10 percent of so much of the adjusted gross income (or, if greater, the earned income) of the taxpayer for the taxable year as exceeds $9,000.

"(2) SUPPLEMENT FOR YOUNG CHILDREN.—The amount of the credit allowable to a taxpayer under subsection (a)(2) for any taxable year shall be reduced (but not below zero) by 15 percent (10 percent for an eligible individual with only 1 qualifying child) of so much of the adjusted gross income (or, if greater, the earned income) of the taxpayer for the taxable year as exceeds $10,000."

(b) QUALIFYING CHILD DEFINED.—Subsection (c) of section 32 of the Internal Revenue Code of 1986 is amended by adding at the end thereof the following new paragraph:

"(3) QUALIFYING CHILD.—The term 'qualifying child' means, for the taxable year, an individual—

"(A) with respect to whom the taxpayer qualifies as an eligible individual, and

"(B) who, as of the end of such taxable year, has not attained the age of 5."

(c) CONFORMING AMENDMENTS.—

(1) Subsection (f)(1) of section 32 of the Internal Revenue Code of 1986 is amended by inserting "(including separate tables for individuals with qualifying children)" after "Secretary".

(2) Subsection (i) of section 32 of such Code is amended—

(1) by inserting "('calendar year 1990' for 'calendar year 1987' in the case of the dollar amount referred to in clause (iii) of paragraph (2)(B))" before the period at the end of paragraph (1)(B), and

(2) by striking paragraph (2) and inserting the following new paragraph:

"(2) DEFINITIONS, ETC.—For purposes of paragraph (1)—

"(A) APPLICABLE CALENDAR YEAR.—The term 'applicable calendar year' means—

"(i) 1986 in the case of the dollar amount referred to in clause (i) of subparagraph (B),

"(ii) 1987 in the case of the dollar amount referred to in clause (ii) of subparagraph (B), and

"(iii) 1991 in the case of the dollar amount referred to in clause (iii) of subparagraph (B).

"(B) DOLLAR AMOUNTS.—The dollar amounts referred to in the subparagraph are—

"(i) the $5,714 amount contained in paragraphs (1) and (2)(A)(i) of subsection (a),

"(ii) the $9,000 amount contained in subsection (b)(1), and

"(iii) the $10,000 amount contained in subsection (b)(2)."

(3) Subsection (b) of section 3507 of such Code is amended by striking "and" at the end of paragraph (2), by striking the period at the end of paragraph (3) and inserting ", and", and by inserting after paragraph (3) the following new paragraph:

"(4) states the number of qualifying children (as defined in section 32(c)(3)) of the employee for the taxable year."

(4) Paragraph (1) of section 3507(c) of such Code is amended—

(A) by striking "and" at the end of subparagraph (A),

(B) by redesignating subparagraph (B) as subparagraph (C), and

(C) by inserting after subparagraph (A) the following new subparagraph:

"(B) on the basis of the number of qualifying children (as defined in section 32(c)(3)) of the employee for such period, and".

(5) Paragraph (2) of section 3507(c) of such Code is amended—

(A) by striking "paragraph (1)(B)" and inserting "paragraph (1)(C)", and

(B) by striking "14 percent" in subparagraphs (B)(i) and (C)(i) and inserting "the sum of 14 percent and the applicable percentage".

(6) Section 3507 of such Code is amended by adding at the end thereof the following new subsection:

"(f) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to carry out the purposes of this section."

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1990.

SEC. 212. DEPENDENT CARE CREDIT MADE REFUNDABLE

On page 104, line 17, strike "and qualified health insurance expenses".

On page 105, lines 2 and 3, strike "and qualified health insurance expenses".

On page 107, lines 19 and 20, strike "or qualifying health insurance expense".

On page 109, line 2, strike "and health insurance premiums".

BENTSEN (AND OTHERS) AMENDMENT NO. 203

Mr. BENTSEN (for himself, Mr. MOYNIHAN, Mr. ROTH, Mr. ARMSTRONG, Mr. GRASSLEY, Mr. CHAFEE, Mr. D'AMATO, Mr. GRAHAM, Mr. SHELBY, Mr. PELL, Mr. DODD, Mr. SANFORD, Mr. KOHL, Mr. HEINZ, Mr. BRADLEY, Mr. PRYOR, Mr. SASSER, Mr. DECONCINI, Mr. WARNER, Mr. THURMOND, Mr. RIEGLE, Mr. ARMSTRONG, and Mr. EXON), proposed an amendment to the bill S. 5, supra, as follows:

At the appropriate place; insert the following:

SEC. . RETIREMENT TEST EXEMPT AMOUNT INCREASED TO $10,560 IN 1990.

(a) IN GENERAL.—Subparagraph (D) of section 203(f)(8) of the Social Security Act (42 U.S.C. 403(f)(8)) is amended to read as follows:

"(D) Notwithstanding any other provision of this subsection, the exempt amount which is applicable to an individual who has attained retirement age (as defined in section 216(l)) before the close of the taxable year involved shall be $880 for each month of any taxable year ending after 1989 and before 1991.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1989.

SEC. . REDUCTION FACTOR WITH RESPECT TO CERTAIN EARNINGS LOWERED TO 25 PERCENT.

(a) IN GENERAL.—Paragraph (3) of section 203(f) of the Social Security Act (42 U.S.C. 403(f)) is amended by striking "33⅓ percent" and all that follows through "paragraph (8)" and inserting "equal to the sum of (A) 25 percent of so much of his earnings for such year in excess of the product of the applicable exempt amount as determined under paragraph (8) as does not exceed $5,000, and (B) 33⅓ percent of so much of

such earnings in excess of such product as exceeds $5,000,".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1989.

SEC. . PAYMENT OF RECOMPUTED BENEFITS.

(a) IN GENERAL.—Subparagraph (D) of section 215(f)(2) of the Social Security Act (42 U.S.C. 415(f)(2)) is amended by striking subparagraph (D) and inserting the following new subparagraphs:

"(D) A recomputation under this paragraph with respect to any year shall be effective—

"(i) in the case of an individual who did not die in that year, for the earlier of—

"(I) monthly benefits beginning with benefits for the fifteenth month following the end of such year, or

"(II) monthly benefits beginning with benefits for the month in which the individual submits a written request for such recomputation; or

"(ii) in the case of an individual who died in that year, for monthly benefits beginning with benefits for the month in which he died.

"(E) Under regulations of the Secretary, monthly benefits increased as a result of a recomputation under this paragraph which became effective pursuant to subparagraph (D)(i) shall be further increased on an actuarial basis (taking into account the age of the individual) to include the value of benefits which would have otherwise been paid if the recomputation were effective beginning with benefits for January of the year following the year with respect to which the recomputation is made.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to recomputations made after the date of enactment of this Act.

SEC. . PAYMENT OF CERTAIN RETROACTIVE BENEFITS.

(a) IN GENERAL.—Subparagraph (B) of section 202(j)(4) of the Social Security Act (42 U.S.C. 402(j)(4)) is amended—

(1) by redesignating clause (v) as clause (vi), and

(2) by inserting after clause (iv) the following new clause:

"(v) Any retroactive benefits for which an individual is eligible because of clause (i) or (iv) shall be paid to the individual as an increase in the individual's monthly benefit amounts, determined on an actuarial basis pursuant to regulations prescribed by the Secretary.".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply with respect to applications for benefits made after the date of enactment of this Act.

SEC. . MANDATORY PROVISION OF SOCIAL SECURITY ACCOUNT STATEMENT.

(a) IN GENERAL.—Part A of title XI of the Social Security Act (42 U.S.C. 1301-1320b-10) is amended by adding at the end thereof the following new section:

"SOCIAL SECURITY ACCOUNT STATEMENTS

"Provision Upon Request

"SEC. 1141. (a)(1) Beginning not later than October 1, 1990, the Secretary shall provide upon the request of an eligible individual a social security statement (hereinafter referred to as the 'statement').

"(2) Each statement shall contain—

"(A) the amount of wages paid to and self-employment income derived by the eligible individual as shown by the records of the Secretary at the date of the request;

"(B) an estimate of the employee and self-employment, old age, survivors, and disability insurance contributions of the eligible individual as shown by the records of the Secretary at the date of the request;

"(C) a separate estimate of the employee and self-employment hospital insurance contributions of the eligible individual; and

"(D) an estimate of the potential monthly retirement, disability, survivor, and auxiliary benefits payable on the eligible individual's account together with a description of the benefits payable under the medicare program of title XVIII.

"(3) For purposes of this section, the term 'eligible individual' means an individual who—

"(A) has a social security number,

"(B) has attained age 25 or over, and

"(C) has wages or net earnings from self-employment.

"Notice to Eligible Individuals

"(b) The Secretary shall to the maximum extent practicable take such steps as are necessary to assure that eligible individuals are informed of the availability of the statement described in subsection (a).

"Mandatory Provision of Statements

"(c)(1) By not later than September 30, 1994, the Secretary shall provide a statement to each eligible individual who has attained age 60 by October 1, 1993, and who is not receiving benefits under title II and for whom a current mailing address can be determined through such methods as the Secretary deems appropriate. In fiscal years 1994 through 1999 the Secretary shall provide a statement to each eligible individual who attains age 60 in such fiscal years and who is not receiving benefits under title II and for whom a current mailing address can be determined through such methods as the Secretary deems appropriate. The Secretary shall provide with each statement to an eligible individual notice that such statement is updated annually and is available upon request.

"(2) Beginning not later than October 1, 1999, the Secretary shall provide a statement on a biennial basis to each eligible individual who is not receiving benefits under title II and for whom a mailing addresss can be determined through such methods as the Secretary deems appropriate. With respect to statements provided to eligible individuals who have not attained age 50 such statements need not include estimates of monthly retirement benefits. However, if such statements provided to eligible individuals who have not attained age 50 do not include estimates of retirement benefit amounts, such statements shall include a description of the benefits (including auxiliary benefits) that are available upon retirement.".

(b) REPORT TO CONGRESS AND STUDY.—Not later than October 1, 1996, the Secretary shall submit to Congress a report on the implementation of the requirements of this Act and on his specific plans for implementing the final requirements contained in such Act, particularly with regard to estimating retirement benefit amounts for individuals who have not attained the age of 60.

(c) DISCLOSURE OF ADDRESS INFORMATION BY INTERNAL REVENUE SERVICE TO SOCIAL SECURITY ADMINISTRATION.—

(1) IN GENERAL.—Section 6103(m) of the Internal Revenue Code of 1986 (relating to disclosure of taxpayer identity information) is amended by adding at the end thereof the following new paragraph:

"(6) SOCIAL SECURITY ACCOUNT STATEMENTS FURNISHED BY SOCIAL SECURITY ADMINISTRATION.—Upon written request by the Commissioner of Social Security, the Secretary may disclose the mailing address of any taxpayer who is entitled to receive a social security account statement pursuant to section 1141(c) of the Social Security Act, for use only by officers, employees, or agents of the Social Security Administration for purposes of mailing such statement to such taxpayer.".

(2) SAFEGUARDS.—The last sentence of section 6103(p)(4) of such Code (relating to safeguards) is amended by striking out "subsection (m) (2) or (4)" and inserting in lieu thereof "paragraphs (2), (4), or (6) of subsection (m)".

(3) UNAUTHORIZED DISCLOSURE PENALTIES.—Paragraph (2) of section 7213(a) of such Code (relating to unauthorized disclosure of returns and return information) is amended by striking out "(m) (2) or (4)" and inserting in lieu thereof "(m) (2), (4), or (6)".

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of enactment of this Act.

ARCTIC COASTAL PLAIN COMPETITIVE OIL AND GAS LEASING ACT

JOHNSTON AMENDMENT NO. 204

(Ordered referred to the Committee on Energy and Natural Resources.)

Mr. JOHNSTON submitted an amendment intended to be proposed by him to the bill (S. 406) to authorize competitive oil and gas leasing and development on the Coastal Plain of the Arctic National Wildlife Refuge in a manner consistent with protection of the environment, and for other purposes, as follows:

Amend S. 406, the "Arctic Coastal Plain Competitive Oil and Gas Leasing Act", by striking all after the enacting clause and substituting therefor the following new language:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Gulf of Mexico Oil Spill Prevention and Response Act".

SEC. 2. DEFINITIONS.

As used in this Act, the term—

(a) "Gulf of Mexico and lower Mississippi River" means (1) all waters seaward from the coastline east of 98 degrees west longitude and west of 80 degrees 30 minutes west longitude, extending to the seaward boundary of the exclusive economic zone as established under Presidential Proclamation Numbered 5030, dated March 10, 1983 (2) that portion of the Mississippi River running adjacent to or within the boundaries of the State of Louisiana including its navigable tributaries located adjacent to or within the State of Louisiana and (3) the Gulf Intracoastal Waterway: *Provided*, That the Secretary is directed to publish within one month of the date of enactment of this Act regulations defining the precise boundaries of the area covered by this Act;

(b) "oil" means petroleum, including crude oil or any fraction or residue therefrom;

(c) "public vessel" means a vessel which—

(i) is owned or chartered by demise, and operated by (A) the United States, (B) a State or political subdivision thereof, or (C) a foreign government; and

(ii) is not engaged in commercial service;

(d) "Secretary" means the Secretary of the Department in which the Coast Guard is operating;

(e) "spill" means any emission (other than natural seepage), intentional or unintentional, and includes, but is not limited to, spilling, leaking, pumping, pouring, emitting, emptying, or dumping;

(f) "tanker" means a vessel constructed or adapted primarily for the carriage of oil in

bulk or in commercial quantities as cargo; and

(g) "vessel" means every description of watercraft or other artificial contrivance used, or capable of being used, as a means of transportation on water other than a public vessel.

TITLE I—AMENDMENTS TO THE OUTER CONTINENTAL SHELF LANDS ACT

SEC. 101. OFFSHORE OIL POLLUTION COMPENSATION FUND.

(a) INCREASE IN FUND AND ESTABLISHMENT OF ACCOUNTS.—Section 302(a) of the Outer Continental Shelf Lands Act Amendments of 1978 (43 U.S.C. 1812(a)) is amended by deleting the subsection in its entirety and inserting in lieu thereof the following:

"(a)(1) There is hereby established in the Treasury of the United States an Offshore Oil Pollution Compensation Fund (the "Fund"). The Fund shall contain an Oil Pollution Account and a Wetlands Protection, Restoration and Enhancement Account (the "Wetlands Account"). Except as otherwise provided in this subsection, moneys collected pursuant to subsection (d) of this section as a result of the fee imposed on oil obtained from the Outer Continental Shelf shall be deposited into the Oil Pollution Account. Moneys collected pursuant to subsection (d) of this section as a result of the fee imposed on gas obtained from the Outer Continental Shelf shall be deposited into the Wetlands Account.

"(2) The Secretary of the Treasury shall continuously monitor the amount of moneys deposited into the Fund. When the Oil Pollution Account reaches $500,000,000, all additional moneys collected pursuant to subsection (d) of this section as a result of the fee imposed on oil obtained from the Outer Continental Shelf shall be deposited into the Wetlands Account.

"(3) Notwithstanding the previous paragraph, if at any time the Oil Pollution Account falls below $500,000,000, all moneys collected pursuant to subsection (d) as a result of the fee imposed on oil produced from the Outer Continental Shelf shall be deposited into the Oil Pollution Account until such account reaches $500,000,000.

"(4) The Oil Pollution Account shall be maintained at a level of not less than $500,000,000, and not more than $550,000,000 except that such amount shall be increased to the extent necessary to permit any moneys recovered or collected which are referred to in subsection (b)(2) of this section to be paid into the Fund.

"(5) The Oil Pollution Account within the Fund shall be administered by the Secretary and the Secretary of the Treasury as specified in this Act. The Wetlands Account within the Fund shall be administered by the Secretary of the Interior and the Secretary of the Treasury as specified in this Act.".

"(6) The Oil Pollution Account within the Fund may sue and be sued in its own name.".

(b) WETLANDS ACCOUNT.—Section 302 of the Outer Continental Shelf Lands Act Amendments of 1978 (43 U.S.C. 1812), is amended by adding a new subsection (d) as follows and redesignating the remaining subsections (d) through (f) as subsections (e) through (g):

"(d)(1) Funds deposited in the Wetlands Account shall remain available until expended and may be used solely in accordance with the provisions of this section.

"(2) (A) As soon as practicable after the date of enactment of the Gulf of Mexico Oil Spill Prevention and Response Act, the Secretary of the Interior, in conjunction and consultation with the Secretary of the Army acting through the Chief of the Corps of Engineers, the Secretary of Commerce, the Secretary of Agriculture, and the Administrator of the Environmental Protection Agency shall initiate a process to identify and prepare a list of high priority projects to preserve, protect, enhance, restore, or create coastal wetlands in the United States.

"(B) To assist in the preparation of the list, the Secretary of the Treasury shall make funds available from the Wetlands Account to the Secretary of the Interior to prepare preliminary assessments; general or site specific inventories; reconnaissance, engineering, or other studies; preliminary design work; and such other studies as may be necessary to identify such projects.

"(C) such funds as are necessary for these purposes, but not to exceed $10 million annually, shall be allocated by the Secretary of the Interior to the federal agencies identified in paragraph (2)(A) (including the Department of the Interior) based on the need for such funds and such other factors as the Secretary of the Interior, in consultation with the other agencies, deems appropriate to carry out the purposes of this subsection.

"(3)(A) As soon as practicable after funds are made available pursuant to paragraph (2), the Secretary of the Interior shall compile and transmit the list of priority projects to the Congress. Thereafter, the list shall be transmitted to the Congress annually as part of the President's budget submission. Such transmittal shall also include a statement from the Secretary of the Treasury indicating the amount available for expenditure from the Wetlands Account.

"(B) The list shall include, but not be limited to, the following:

(i) identification, by map or other means, of the coastal wetland area to be covered by the project; and

(ii) a detailed description of the proposed project including a justification for including such project on the list, the proposed activities to be carried out pursuant to the project, the benefits to be realized by such project, the identification of a lead agency to undertake the proposed project, an estimated timetable for the completion of project, and the estimated cost of the project.

"(C) Where such a determination is required under applicable law, benefits of projects on the list are deemed to be at least equal to the costs associated with such projects.

"(D) In preparing the list, special consideration shall be given to the inclusion of projects affecting coastal wetland areas having particularly high value as fish and wildlife habitat, for purposes of flood or pollution control and which are, or are likely to be, subject to erosion, conversion or other degradation.

"(4) Except as provided in paragraph (2), funds from the Wetlands Account shall be allocated in accordance with the list submitted pursuant to this section unless such list is modified by law: *Provided,* That funds in the Wetlands Account shall be available for projects within a state in proportion to the amount of production of oil and gas on the Outer Continental Shelf seaward from the submerged lands of such state.

"(5) Unless the list is modified by law, the Secretary of the Treasury is authorized and directed, beginning one year after the list is transmitted pursuant to paragraph (3)(A), to make funds from the Wetlands Account directly available to the head of the appropriate agency for the purpose of carrying out projects as identified on the list and in accordance with paragraph (4). If the list is modified by law, the Secretary shall take action in accordance with such modifications.

"(6) As used in this subsection, the term "project" means a complete project or, where applicable, individual phases, portions, or components thereof.".

(c) FEES.—Section 302(d)(1) of the Outer Continental Shelf Lands Act Amendments of 1978 (43 U.S.C. 1812(d)(1)) is amended by striking "not to exceed 3 cents" and inserting "10 cents" and adding at the end of the thereof:

"The Secretary of the Interior shall levy and the Secretary of the Treasury shall collect a fee of 2 cents per thousand cubic feet of gas obtained from the Outer Continental Shelf, which shall be imposed on the owner of the gas when the gas is produced.".

(d) CONFORMING AMENDMENTS.—

(1) Section 302(c) of the Outer Continental Shelf Lands Act Amendments of 1978 (43 U.S.C. 1812(c)) is amended by striking the word "Fund" in the first and second sentences and inserting in lieu thereof "Oil Pollution Account of the Fund" in each sentence and by striking paragraph (3) and inserting in lieu thereof:

"(3) subject to such amounts as are provided in appropriation Acts, all administrative and personnel costs of the Federal Government incident to the administration of the Oil Pollution Account of the Fund, including, but not limited to, the claims settlement activities and adjudicatory and judicial proceedings, whether or not such costs are recoverable under section 308 of this Act.".

(2) Section 302(d)(2) of the Outer Continental Shelf Lands Act Amendments of 1978 (43 U.S.C. 1812(d)(2)) is amended by deleting paragraph (2) in its entirety and inserting in lieu thereof the following:

"(2) The Secretary of the Treasury, after consulting with the Secretary and the Secretary of the Interior, shall promulgate reasonable regulations relating to the collection of the fees authorized by paragraph (1) of this subsection. No regulation that sets fees, whether or not in effect, may be stayed by any court pending completion of judicial review of such regulation.".

(3) Section 302(e)(1) of the Outer Continental Shelf Lands Act Amendments of 1978 (43 U.S.C. 1812(e)(1)) is amended by deleting "Fund" and inserting in lieu thereof "each account within the Fund".

(4) Section 302(e)(2) of the Outer Continental Shelf Lands Act Amendments of 1978 (43 U.S.C. 1812(e)(2)) is amended by deleting "the Fund" in the first sentence and inserting in lieu thereof "each account within the Fund" and by deleting the last sentence of the paragraph and inserting in lieu thereof the following:

"The interest on, and the proceeds from the sale of, any obligations held in the Fund shall be deposited in and credited to the appropriate account within the Fund.".

(5) Section 302(f)) of the Outer Continental Shelf Lands Act Amendments of 1978 (43 U.S.C. 1812(f)) is amended by deleting "Fund" at each place where it appears in the subsection and inserting in lieu thereof "Oil Pollution Account of the Fund".

(6) Section 304(f)(1) of the Outer Continental Shelf Lands Act Amendments of 1978 (43 U.S.C. 1814(f)(1)) is amended by deleting "Fund" and inserting in lieu thereof "Oil Pollution Account of the Fund".

(7) Section 306(c) of the Outer Continental Shelf Lands Act Amendments of 1978 (43 U.S.C. 1816(c)) is amended by deleting "Fund" and inserting in lieu thereof "Oil Pollution Account of the Fund".

(8) Sections 307, 308 and 312 of the Outer Continental Shelf Lands Act Amendments of 1978 (43 U.S.C. 1817, 1818 and 1822) are

amended by deleting "Fund" each place it appears in those sections and inserting in lieu thereof "Oil Pollution Account of the Fund".

(9) Section 309(b) of the Outer Continental Shelf Lands Act Amendments of 1978 (43 U.S.C. 1819(b)) is amended by inserting "and the Oil Pollution Account within the Fund" after "Fund".

SEC. 102. OIL SPILL RESEARCH AND DEVELOPMENT CENTER.

Section 302 of the Outer Continental Shelf Lands Act Amendments of 1978 (43 U.S.C. 1812) is amended by adding the following new subsection:

"(g)(1) The Secretary of the Department in which the Coast Guard is operating shall establish a Research and Development Center (hereinafter referred to as the 'Center') to be administered by the Commandant of the Coast Guard.

"(2) The Center shall conduct and support, through contracts and grants, research, development, testing, and training in the best available techniques, equipment, and materials to prevent, contain, remove, recover, and clean up oil spills by vessels transporting oil affecting the navigable waters of the United States and those waters extending seaward from the coastline of the United States to the seaward boundary of the exclusive economic zone as established under Presidental Proclamation Numbered 5030, dated March 10, 1983.

"(3) In administering the Center, the Secretary of the Department in which the Coast Guard is operating shall consult regularly with representatives of the Departments of Commerce, the Interior, the Environmental Protection Agency, the Navy, foreign governments, international organizations, and knowledgeable academic, industry, and other persons in order to identify and pursue development of the best available techniques, equipment, and materials.

"(4) There are authorized to be appropriated to the Secretary of the Department in which the Coast Guard is operating, for purposes of carrying out the provisions of this section, $10,000,000 in each of the fiscal years ending September 30, 1990 through September 30, 1995.".

SEC. 103. OIL SPILL CONTINGENCY PLANS.

Section 5 of the Outer Continental Shelf Lands Act (43 U.S.C. 1334) is amended by adding at the end thereof a new subsection (j) as follows:

"(j) The holder of any oil or gas lease issued or maintained under this Act shall submit an oil spill contingency plan for approval by the Secretary prior to engaging in any exploration, development or production activities on such lease.".

SEC. 104. INSPECTION OF OIL SPILL PREVENTION AND CONTAINMENT EQUIPMENT FOR THE OUTER CONTINENTAL SHELF.

Section 22(c) of the Outer Continental Shelf Lands Act (43 U.S.C. 1348(c)) is amended by deleting the word "and" at the end of paragraph (1), replacing the period at the end of paragraph (2) with "; and" and adding a new paragraph (3) as follows:

"(3) an onsite inspection no less than two times each year without advanced notice to the operator of such facility of all equipment to prevent, ameliorate, or contain oil spillages, including equipment maintained by contractors.".

SEC. 105. DRILLS AND REQUIRED EQUIPMENT.

Section 22 of the Outer Continental Shelf Lands Act (43 U.S.C. 1348) is amended by redesignating subsections (d) through (g) as subsections (e) through (h) and inserting a new subsection (d) as follows:

"(d) The Secretary and the Secretary of the Department in which the Coast Guard is operating shall individually, or jointly if they so agree, promulgate regulations—

"(1) to provide for drills for familiarization with pollution control equipment and operational procedures when the equipment is placed initially and at least once every six months by the lessee or a contractor serving the lessee, with such drills simulating conditions in the area of operations and including deployment and operation of equipment; and

"(2) to require that equipment which the Secretary and the Secretary of the Department in which the Coast Guard is operating deem to be essential to carry out the oil spill contingency plan and to ensure the prompt containment of spilled oil be maintained at the site of operations.".

TITLE II—OIL SPILL CONTINGENCY PLANNING

SEC. 201. APPLICABILITY.—This title applies to owners or operators of vessels transporting oil in the Gulf of Mexico or the lower Mississippi River and owners or operators of oil-producing, refining, or transportation facilities that, due to their location, reasonably could be expected to spill oil into or upon the Gulf of Mexico or the lower Mississippi River or adjoining shorelines.

SEC. 202. OIL SPILL CONTINGENCY PLANS.—Not later than 180 days after the date of enactment of this Act, the Secretary shall issue a final rule requiring persons subject to this section to prepare and submit to the Secretary for approval an oil spill contingency plan for the prevention, containment, and cleanup of oil spills from vessels or facilities described in section 201. At a minimum, such plans must include—

(a) a clear and precise, detailed description of how the individual plan relates to and is integrated into the overall National Contingency Plan;

(b) an analysis of the "maximum probable spill" from the facility or vessel determined in accordance with the guidelines established under section 205 of this Act;

(c) procedures for early detection and timely notification regarding oil spills;

(d) a description of procedures to be used to minimize the damage from a spill and to make immediate repairs if possible;

(e) a description of countermeasures, response and cleanup personnel and equipment and their locations, and the time required to deploy them at the spill site;

(f) procedures to assess the severity of the oil spill, to plan countermeasures, and to begin cleanup efforts; and

(g) provisions for disposal of recovered spill material. Such plans shall not be required for any facility or vessel covered by an oil spill contingency plan required by the Outer Continential Shelf Lands Act. With respect to vessels, such plans shall be required to the maximum extent consistent with international law.

SEC. 203. COOPERATIVE EFFORTS.—In complying with this section, an owner or operator of a vessel or facility may rely on his or her participation in a cooperative effort with other persons subject to this title to develop satisfactory contingency plans.

SEC. 204. APPROVAL OF PLANS.—(a) In approving the contingency plans required by this title, the Secretary shall consider the adequacy of risk analysis in the determination of maximum probable spill, the estimated response time, and the adequacy of trained personnel and communications equipment, and equipment to prevent, ameliorate and contain oil spillages.

(b) No plan shall be approved unless the Secretary determines that the equipment listed in the plan is sufficient to respond to the maximum probable spill from the vessel or facility in question.

SEC. 205. GUIDELINES FOR MAXIMUM PROBABLE SPILL.—The Secretary shall publish guidelines for the determination of maximum probable spill from a vessel or facility, taking into account the amount of oil being transported, stored, or transferred, weather and other natural conditions, technological capability, and the risk of a spill.

SEC. 206. PUBLIC AWARNESS AND PRACTICE DRILLS.—(a) The Secretary shall annually publish an up-to-date list of the contingency plans prepared for oil spills in the Gulf of Mexico and the lower Mississippi River and an inventory of equipment available for responding to such spills.

(b) The Secretary shall annually conduct practice drills of the contingency plans prepared for oil spills in the Gulf of Mexico and the lower Mississippi River pursuant to this title. The Secretary shall publish a report on such drills including an assessment of actual response time, available equipment as compared to equipment listed in the contingency plans, and requirements, if necessary, for changes in the plans.

SEC. 207. PREPARATION OF REPORT ON ADEQUACY OF OIL SPILL CONTINGENCY PLANS.—(a) Within 180 days of the of enactment of this Act, the Secretary of Transportation, the Secretary of the Interior and the Administrator of the Environmental Protection Agency shall submit to the Congress a report which shall include their recommendations, based upon an in-depth review of all Federal, State, local and industry contingency or oil spill emergency response plans, for dealing with oil spills in connection with the exploration, development and transportation of oil in the Gulf of Mexico and lower Mississippi River. The review shall include, but not be limted to, all plans dealing with such oil spills required by the Outer Continental Shelf Lands Act (43 U.S.C. 1331, et seq.), the Federal Water Pollution Control Act (33 U.S.C. 1251, et seq.), and the Deepwater Port Act of 1974 (33 U.S.C. 1501, et seq.).

(b) The review and report on contingency plan adequacy shall address, but not be limited to, the following subjects:

(1) The adequacy of the contingency of oil spill emergency response plan for dealing with potential oil spills;

(2) The adequacy and operational capacity of oil spill containment equipment, including, but not limited to, containment booms, oil skimming vessels, barge facilities, work vessels, oil spill dispersants and equipment for their application;

(3) The adequacy, training, preparedness and fitness of all personnel assigned to direct and implement the contingency or oil spill emergency response plan;

(4) The adequacy of plans, personnel and prepositioned equipment for protecting wetlands, critical habitat, environmentally sensitive areas, and fisheries;

(5) The adequacy of on-site availability of chemical dispersants and dispersing systems; and

(6) The adequacy of arrangements for enlisting the use of non-oil industry personnel and calling upon backup assistance from sources such as the national guard or the military.

TITLE III—VESSEL DESIGN AND SPILL PREVENTION

SEC. 301. REPORT AND RECOMMENDATIONS ON SPILLS AND VESSEL DESIGN.—Within 90 days of the date of enactment of this Act, the Secretary shall submit to the Congress a report which addresses and makes recommendations on the following transportation issues related to the movement of oil through the Gulf of Mexico and the lower Mississippi River:

(a) a review of all recent oil spills in the Gulf of Mexico and the lower Mississippi River involving vessels, and whether any of these spills could have been prevented by requiring double hulls or double bottoms on such vessels, or requiring additional safety lines between towing vessels;

(b) The need or desirability, from a safety point of view, for a requirement that existing vessels engaged in the transport of oil be retorfitted and that new vessels engaged in the transport of oil be constructed to incorporate:

(1) Double bottoms or interior liners to reduce oil spill risks;

(2) An increased number of separated compartments;

(3) Bow thrusters to increase vessel maneuverability; and

(4) Any other design, equipment or operational feature which will achieve the purposes of this section and this Act to reduce the risk of oil discharges from tanker or other vessel accidents, groundings or collisions.

(c) The need or desirability, from a safety point of view, for more frequent and more rigorous Coast Guard safety and structural inspections of all vessels engaged in the transportation of oil in the Gulf of Mexico and lower Mississippi River, including both in-water inspections and dry dock inspections, with special attention directed to older vessels and to vessels over 700 feet in length.

SEC. 302. REGULATIONS ON VESSEL CREW REQUIREMENTS AND TRAINING.—Effective within 90 days of the date of enactment of this Act, the Secretary shall issue regulations which:

(a) Provide that the conditions for a Masters license for any person required to have such license who is engaged in the operation of a vessel transporting oil in the Gulf of Mexico or the lower Mississippi River shall require that the license be renewed every two years and the license holder shall submit a copy of the required physical examination by a licensed physician to the appropriate Federal agency;

(b) Provide that all required certificates of inspection for vessels engaged in the movement and transport of oil in the Gulf of Mexico or the lower Mississippi River direct and require that all watches on board ship be redundantly manned to insure back-up personnel and second opinions on radar monitoring and critical navigation decisions; and

(c) Provide to the maximum extent practicable more stringent recruiting, pesonnel, and job training standards for all personnel and crew operating or crewing vessels engaged in the movement of transport of oil in the Gulf of Mexico or the lower Mississippi River for the purpose of enhanceing safety and reducing future risks of oil spill to the lowest level humanly possible.

SEC. 303. *Equipment Standards.*—Not later than one year after the date of enactment of this Act, the Secretary shall issue a final rule listing the equipment that must be carried by vessels transporting oil in the Gulf of Mexico or the lower Mississippi River to carry out the oil spill contingency plans required by section 202 of this Act.

SEC. 304. INSPECTION AND MAINTENANCE.—The Secretary shall implement regulations providing for inspection of vessels transporting oil in the Gulf of Mexico or the lower Mississippi River to ensure that each vessel is in compliance with the oil spill contingency plan required by section 202 of this Act, and to ensure that the equipment required by section 303 of this Act is on board and in good working order.

TITLE IV—NO IMPACT ON STATE LAW OR ON LIABILITY UNDER OTHER LAW

SEC. 401. STATE LAWS AND PROGRAMS.—Nothing is this Act shall be construed or interpreted as preempting and State from imposing any liability or other requirements with respect to oil spills or to the discharge of oil within such State.

SEC. 402. LIABILITY FOR OIL SPILLS OR DISCHARGES OF OIL NOT AFFECTED BY THIS ACT.—(a) Nothing in this Act shall affect or modify in any way the obligations or liabilities of any person under other Federal or State law, including common law, with respect to oil spills or the discharges of oil.

(b) Nothing in this Act shall absolve any person of any obligations or liabilities, or reduce the obligations or liabilities of any person, under existing Federal or State law, including common law, with respect to oil spills or discharges of oil occurring prior to the date of enactment of this Act.

TITLE V—PENALTIES

SEC. 501. (a) CIVIL PENALTIES.—A person violating any provision of titles II and III of this Act or a regulation issued under such titles is liable to the United States for a civil penalty of not more than $25,000. Each day of a continuing violation is a separate violation.

(b) VESSELS.—Each vessel to which titles II and III apply that is operated in violation of such titles or a regulation issued under such titles is liable in rem for a civil penalty as prescribed in subsection (a) of this section.

(c) CRIMINAL PENALTIES.—A person willfully and knowingly violating any provision of titles II and III of this Act or a regulation issued under such titles shall be fined not more than $100,000, imprisoned for not more than five years, or both.

(d) JURISDICTION.—The district courts of the United States have jurisdiction to restrain a violation of any provision of titles II and III of this Act or a regulation issued under such titles.

TITLE VI—COOPERATIVE DEVELOPMENT OF COMMON

SEC. 601. COOPERATIVE DEVELOPMENT OF COMMON HYDROCARBON-BEARING AREAS.—Section 5 of the Outer Continental Shelf Lands Act, as amended (42 U.S.C. Sec. 1334), is amended by adding a new subsection (j) as follows:

"(j) COOPERATIVE DEVELOPMENT OF COMMON HYDROCARBON-BEARING AREAS.—

"(1) FINDINGS.—

"(A) The Congress of the United States finds that the unrestrained competitive production of hydrocarbons from a common hydrocarbon-bearing geological area underlying the Federal and State boundary may result in a number of harmful national effects, including:

"(I) the drilling of unnecessary wells, the installation of unnecessary facilities and other imprudent operating practices that result in economic waste, environmental damage and damage to life and property;

"(II) the physical waste of hydrocarbons and an unnecessary reduction in the amounts of hydrocarbons that can be produced from certain hydrocarbon-bearing areas; and

"(III) the loss of correlative rights which can result in the reduced value of national hydrocarbon resources and disorders in the leasing of Federal and State resources.

"(2) The Secretary shall prevent the harmful effects of unrestrained competitive production of hydrocarbons from a common hydrocarbon-bearing area underlying the Federal and State boundary by protecting against drainage through the cooperative development of such area.

"(3) Whenever it shall appear that Federal oil and gas resources on the Outer Continental Shelf are being drained, or are about to be drained, by a State or any lessee, permittee or agent of a State, the Attorney General may institute a civil action in the district court of the United States for the judicial district in which the lease or land involved is located, for a temporary restraining order, injunction, or other appropriate remedy, in order to prevent the drainage of Federal oil and gas resources. Such relief shall be granted if it appears that Federal oil and gas resources on the Outer Continental Shelf are being drained or are about to be drained and the Secretary and the Governor do not agree as to the method of cooperative development of the common hydrocarbon-bearing area, including the fair and equitable apportionment of the oil and gas resources involved. Such temporary restraining order, injunction, or other appropriate remedy shall remain in full force and effect until such time as the Secretary and the Governor of the State reach agreement on such method of cooperative development and apportionment of resources or until the court enters a final judgment on the merits of the matter.

"(4) Whenever it shall appear that State oil and gas resources on the Outer Continental Shelf are being drained, or are about to be drained, by the United States or any lessee, permittee or agent of the United States, the State may institute a civil action in the district court of the United States for the judicial district in which the lease or land involved is located, for a temporary restraining order, injunction, or other appropriate remedy, in order to prevent the drainage of State oil and gas resources. Such relief shall be granted if it appears that State oil and gas resources on the Outer Continental Shelf are being drained or are about to be drained and the Secretary and Governor do not agree as to the method of cooperative development of the common hydrocarbon-bearing area, including the fair and equitable apportionment of the oil and gas resources involved. Such temporary restraining order, injunction, or other appropriate remedy shall remain in full force and effect until such time as the Secretary and the Governor of the State reach agreement on such method of cooperative development and apportionment of resources or until the court enters a final judgment on the merits of the matter.

ACT FOR BETTER CHILD CARE

BOSCHWITZ (AND OTHERS) AMENDMENT NOS. 205 AND 206

Mr. BOSCHWITZ (for himself, Mr. HATCH, and Mr. DODD) proposed two amendments to the bill S. 5, supra, as follows:

AMENDMENT NO. 205

On page 36, between lines 2 and 3, insert the following new subparagraph:

(E) Allow that the State will make grants to local libraries for the purchase and delivery of children's books, videos, tapes, and toys to licensed or certified family-based or group child-care providers, child care centers, or other providers that meet State eligibility requirements.

AMENDMENT NO. 206

At the appropriate place, insert the following new section:

SEC. . SENSE OF CONGRESS REGARDING THE HIGHER EDUCATION ACT.

(a) FINDINGS.—Congress finds that—

(1) postsecondary education is an increasingly important element in enhancing the productivity of the work force:

(2) the enrollment of students in colleges, junior colleges and technical institutes continues to increase rapidly;

(3) the most rapidly growing segment in such institutions consists of those students who are 25 years of age or older;

(4) postsecondary education must expand its services to meet the needs of the changing student population;

(5) a barrier to continuing education is the lack of affordable, accessible and quality child care;

(6) students are often economically disadvantaged and child care costs are an additional financial burden;

(7) postsecondary schools have limited resources for traditional student services and do not have additional funding for child care; and

(8) the 100th Congress recognized that such problems exist and authorized, but did not appropriate, $10,000,000 for postsecondary institutions to assist students with child care.

(b) SENSE OF CONGRESS.—It is the sense of Congress that $10,000,000 should be appropriated in fiscal year 1990 to carry out subpart 8 of part A of title IV of the Higher Education Act of 1965 (20 U.S.C. 1070f).

BOND (AND OTHERS) AMENDMENT NO. 208

Mr. BOND (for himself, Mr. BOSCHWITZ, Mr. MCCAIN, Mr. DODD, Mr. HATCH, and Mr. RIEGLE) proposed an amendment to the bill S. 5, supra; as follows:

On page 40, between lines 2 and 3, insert the following new subparagraphs and redesignate subparagraph (I) accordingly:

(I)(i) Making grants to States to enable such States to provide grants to school districts to enable such districts to establish or maintain extended day child care programs.

(ii) In order to use funds under this paragraph for the activity described in this subparagraph the State shall administer

(II)(aa) the allotment provided to the State under this subparagraph shall be administered through the State educational agency; which

(bb) shall establish requirements that school districts must meet in order to receive assistance under this subparagraph; and

(iii)(I) use amounts received under this subparagraph to provide grants to school districts to enable such districts to provide extended day child care.

(IV) Ensure that school districts that receive assistance under this subparagraph use such assistance to—

(aa) offset the start-up costs associated with the establishment of extended day child care programs;

(bb) conduct studies to determine the feasibility of establishing extended day child care programs;

(cc) provide for the equipping and staffing of extended day child care programs; and

(dd) offset any other costs that the State determines appropriate.

(V) Ensure that amounts received under this subparagraph are not used for ongoing maintaince or operational costs incurred by school districts.

(VI) Ensure that extended day child care programs that receive assistance under this subparagraph shall—

(aa) be developmentally appropriate and meet the diverse recreational, social, emotional, cultural, and educational needs of school-aged children; and

(bb) provide parents with the opportunity to participate in such programs;

(VII)(iv) Ensure that each school district that receives assistance under this subparagraph coordinates; the programs carried out with such assistance with other public entities and private non-profit community-based organizations that provide before and after-school child care;

(VIII)(v) Permit a school district to provide a before and after-school child care program in accordance with the provisions of this subparagraph through grants to or contracts with other public entities and eligible private nonprofit community-based organizations that provide before and after-school child care programs.

(vii) As used in this subparagraph:

(I) The term "school district" means the public authority legally constituted and recognized in a State as the administrative agency for that district or county's public elementary or secondary schools.

(II) The term "State educational agency" means the officer or agency primarily responsible for the State supervision of public elementary and secondary schools.

(J) Providing assistance for comprehensive child care demonstration projects within existing public school buildings that—

(i) ensure that year round, on-site, all day child care for children ages 3 to 5 (or of the age of entering kindergarten) and on-site before and after school child care for children ages 5 through 12, inclusive;

(ii) ensure the establishment of a family support system for parents (including a home visitation program);

(iii) provide support for local family day-care providers (including technical assistance, back-up support in case of illness, and training);

(iv) provide for information and referral and other specialized services;

(v) develop a sliding scale fee payment system for children using the system (based on the parents ability to pay);

(vi) provide for ongoing parental involvement in the planning, implementation, monitoring, and evaluation of such projects;

(vii) provide that such demonstration projects be operated by administrators trained in early childhood development;

(viii) provide for the use of trained child care workers in such demonstration projects, with a priority given to child care workers with credentials in early childhood education or child development, including the child development associate credential;

(ix) provide that salaries paid to child care workers in such demonstration projects shall—

(I) be not less than the rates paid for comparable services provided in the school or surrounding community, whichever is higher; and

(II) be comparable to salaries paid to school employees with equivalent responsibilities, experience and credentials; and

that salary schedules for child care workers encourage child care workers to obtain early childhood credentials;

(x) assure that any child care services provided by such demonstration projects meet, at a minimum, regulatory standards set by the State and local government;

(xi) develop ways to improve the quality of child care services in such demonstrations; and

(xii) describe plans for monitoring and evaluating the effectiveness of such demonstration projects.

BOND (AND DODD) AMENDMENT NO. 209

Mr. BOND (for himself and Mr. DODD) proposed an amendment to the bill S. 5, supra, as follows:

On page 34, line 9, strike out "subparagraph (B)" and insert in lieu thereof "subparagraphs (B) and (C)".

On page 34, line 19, strike out "and".

On page 34, line 24, strike out the period and insert in lieu thereof "; and".

On page 34, after line 24, add the following new subparagraph:

"(C) the State, with the approval of the Secretary, may use not to exceed 5 percent of the funds reserved for the purposes specified in subparagraph (A) in any fiscal year for any of the activities described in paragraph (6) if the State certifies that additional funds are needed to increase the availability of child care to meet the demand for such care.".

On page 36, line 4, strike out "The plan" and insert in lieu thereof "Except as provided in paragraph (4)(C), the plan".

SUPPLEMENTAL APPROPRIATIONS FOR THE DEPARTMENT OF VETERANS AFFAIRS

BYRD (AND HATFIELD) AMENDMENT NO. 210

Mr. BYRD (for himself and Mr. HATFIELD) proposed an amendment to the bill (H.R. 2402) making supplemental appropriations for the Department of Veterans Affairs for the fiscal year ending September 30, 1989, and for other purposes, as follows:

In lieu of the matter stricken and inserted by said amendment, insert the following:

TITLE I—DIRE EMERGENCY SUPPLEMENTALS AND TRANSFERS

CHAPTER I

EMERGENCY DRUG FUNDING

DEPARTMENT OF JUSTICE

To strengthen Federal domestic drug law enforcement at the local level for additional Assistant United States Attorneys, Deputy United States Marshals and other Agents, including necessary equipment and supplies; initiate plans to acquire available military facilities for use as prisons or Civilian Conservation Corps type use for drug offenders; speed up planning for not less than three prisons in areas where most needed; and to expedite the purchase of automatic data processing equipment to improve the exchange of information, $71,000,000, notwithstanding any designations contained in Titles I through IX of Public Law 100-690: *Provided,* That not later than thirty days after each month the Attorney General shall report to the Committees on Appropriations of the Senate and House of Representatives on the monthly obligation of these funds.

THE JUDICIARY

FEES OF JURORS AND COMMISSIONERS

For an additional amount for "Fees of jurors and commissioners" to strengthen drug law enforcement at the local level, $4,000,000.

CHAPTER II

DEPARTMENT OF JUSTICE

OFFICE OF JUSTICE PROGRAMS

JUSTICE ASSISTANCE

For an additional amount for "Justice assistance" for the Public Safety Officers' Benefits Program, $4,000,000 to remain available until expended.

THE JUDICIARY

JUDICIAL RETIREMENT FUNDS

PAYMENT TO JUDICIAL OFFICERS' RETIREMENT FUND

For payment to the Judicial Officers' Retirement Fund, as authorized by Public Law 100-659, $2,300,000.

CHAPTER III

DEPARTMENT OF DEFENSE—CIVIL

DEPARTMENT OF THE ARMY

CORPS OF ENGINEERS—CIVIL

(TRANSFER OF FUNDS)

For additional amounts for appropriations for the fiscal year 1989, for increased pay costs authorized by or pursuant to law as follows:

"General regulatory functions", $1,100,000, to be derived by transfer from "Operation and maintenance, general".

"General expenses", $2,600,000, to be derived by transfer from "Construction, general".

GENERAL REGULATORY FUNCTIONS

(TRANSFER OF FUNDS)

For an additional amount for "General regulatory functions", $2,225,000, to remain available until expended, to be derived by transfer from "Construction, general".

DEPARTMENT OF ENERGY

ENERGY PROGRAMS

URANIUM SUPPLY AND ENRICHMENT ACTIVITIES

For an additional amount for uranium supply and enrichment activities in carrying out the purposes of the Department of Energy Organization Act (Public Law 95-91), $55,000,000, to remain available until expended: *Provided*, That revenues received by the Department for the enrichment of uranium and estimated to total $1,429,000,000 in fiscal year 1989, shall be retained and used for the specific purpose of offsetting costs incurred by the Department in providing uranium enrichment service activities as authorized by section 201 of Public Law 95-238, notwithstanding the provisions of section 3302(b) of section 484 of title 31, United States Code: *Provided further*, That the sum herein appropriated shall be reduced as uranium enrichment revenues are received during fiscal year 1989 so as to result in a final fiscal year 1989 appropriation estimated at not more than $0.

GENERAL PROVISIONS

SEC. 301. Sunset Harbor, California: Section 1119(a) of the Water Resources Development Act of 1986 is amended by adding at the end thereof the following: "The total cost referred to in the preceding sentence may be increased by the Secretary by any amount contributed by non-Federal interests which is in excess of amounts contributed by non-Federal interests under the preceding sentence.".

"SEC. 302. Saylorville Lake, Iowa: From Construction, General funds heretofore or hereafter appropriated, the Secretary of the Army is directed to construct Highway 415, Segment "C" at the Saylorville Lake, Iowa, Project in accordance with terms of the Relocations Contract executed on June 21, 1984, between the Rock Island District Engineer and the State of Iowa.

"SEC. 303. Sims Park, Ohio: The Secretary of the Army, acting through the Chief of Engineers, shall undertake a beach erosion control project at Sims Park, Euclid, Ohio, using funds appropriated under the heading "CONSTRUCTION GENERAL" in title I of the Energy and Water Development Appropriation, 1988 (Public Law 100-202; 101 Stat. 107).

"SEC. 304. The undesignated paragraph under the heading "Bonneville Lock and Dam, Oregon and Washington—Columbia River and Tributaries Washington" in section 301(a) of Public Law 99-662 (100 Stat. 4110) is amended by striking out "$191,000,000" in two places and inserting in lieu thereof "$328,000,000".

"SEC. 305. From existing funds appropriated pursuant to Public Law 100-371, an Act making appropriations for energy and water development for the fiscal year ending September 30, 1989, and for other purposes, the Secretary of the Army, acting through the Chief of Engineers, is directed to use $500,000 to undertake preliminary engineering and design for a project at West Fork of Mill Creek Lake, Ohio, pursuant to section 1135 of Public Law 99-662, as amended.

CHAPTER IV

FUNDS APPROPRIATED TO THE PRESIDENT

AGENCY FOR INTERNATIONAL DEVELOPMENT

ECONOMIC SUPPORT FUND

Of the funds appropriated in the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1989, up to $200,000 of the unearmarked funds appropriated under the heading "Economic Support Fund" may be made available for the support of the process of democratic transition in Poland, which may include, among other things, civil education programs, including independent media and publishing activities: *Provided*, That funds made available under this paragraph may be used without regard to any provision of law which would otherwise prohibit the use of foreign assistance funds with respect to Poland: *Provided further*, That there shall be available an additional amount for the "Economic Support Fund", $3,000,000, which shall be made available notwithstanding any other provision of law for the promotion of democracy in Nicaragua: *Provided further*, That of the funds made available under this heading for the promotion of democracy in Nicaragua, $1,500,000 shall be made available as a contribution to the Organization of American States to carry out election monitoring activities in Nicaragua: *Provided further*, That the amount provided for promotion of democracy in Nicaragua under this heading shall be derived from funds appropriated under such heading in the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1987, or from funds earmarked under such heading in Public Law 100-202 for reconstruction and rehabilitation of the National University of El Salvador and other institutions of higher education in El Salvador: *Provided further*, That such funds shall be in addition to funds made available for the promotion of democracy in Nicaragua by Public Law 100-461.

DEPARTMENT OF STATE

MIGRATION AND REFUGEE ASSISTANCE

For an additional amount for "Migration and refugee assistance", $100,000,000, to support emergency refugee admissions and assistance: *Provided*, That this amount may be derived through new budget authority, or the President may transfer to such account for purposes of this paragraph any unobligated and unearmarked funds made available under Public Law 100-461, notwithstanding section 514 as amended by section 589 of Public Law 100-461: *Provided further*, That if the President transfers funds for this paragraph not more than 3.3 per centum of the unobligated and unearmarked funds available under any account in Public Law 100-461 may be transferred: *Provided further*, That any transfer of funds pursuant to this paragraph shall be subject to the regular reprogramming procedures of the Committees on Appropriations: *Provided further*, That not less than $85,000,000 of such amount shall be made available for Soviet and other Eastern European Refugee admissions and for admissions restored to other regions: *Provided further*, That funds provided under this paragraph are available until expended.

GENERAL PROVISIONS

SEC. 401. The Congress finds that failing to recognize natural resource depletion causes current systems of economic statistics to provide a distorted representation of many nation's economic condition.

(a) The Secretary of State shall instruct the United States representative to the Organization for Economic Cooperation and Development and to the United Nations and it's appropriate affiliated organizations to seek revisions in the manner in which these organizations report the income and economic activities of nations. Such a system of accounting shall recognize the depletion or degradation of natural resources as a component of economic activities.

(b) The Secretary of the Treasury shall instruct the United States Executive Director to each Multilateral Development Bank and to the International Monetary Fund to seek the adoption of revisions in accounting systems as described in subsection (a).

(c) The Administrator of the Agency for International Development shall incorporate the changes described in subsection (A) into AID's evaluations and projections of the economic performance of recipient countries.

HAITI

Section 563(b) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1989, as contained in Public Law 100-461 is amended by adding two new subsections as follows:

"(11) assistance consisting of sales and donations of agricultural commodities under Public Law 480, in an amount not to exceed $12,000,000.

"(12) animal and plant health programs, where the assistance is primarily for the benefit of the United States.".

CHAPTER V

DEPARTMENT OF THE INTERIOR AND DEPARTMENT OF AGRICULTURE

For an additional amount for emergency rehabilitation, forest firefighting, fire severity presuppression, and other emergency costs on National Forest System lands and Department of the Interior lands, $341,669,000 of which (1) $30,180,000 is for "Bureau of Land Management, Management of lands and resources"; (2) $2,895,000 is for "United States Fish and Wildlife Service, Resource management"; (3) $25,000,0000 is for "National Park Service, Operation of the National Park System"; (4) $33,594,000 is for "Bureau of Indian Affairs, Operation of Indian Programs"; and (5) $250,000,000 is for "Forest Service, National Forest System": *Provided*, That such funds are to be available for repayment of advances to other approportion accounts from which funds were transferred in fiscal year 1987 and fiscal year 1988 for such purposes.

DEPARTMENT OF THE INTERIOR

OIL SPILL EMERGENCY FUND

For an additional amount for the Department of the Interior for contingency planning, response and natural resource damage assessment activities related to the discharge of oil from the tanker *Exxon Valdez* into Prince William Sound, Alaska, $7,300,000, to be available until September 30, 1990: *Provided,* That for purposes of obligation and expenditure, these funds shall be transferred, upon approval of the Secretary, to existing appropriations of the Department of the Interior: *Provided further,* That any reimbursements from the Pollution Fund of the Coast Guard or other sources for activities for which funds were transferred from this account are to be credited back to this account: *Provided further,* That notwithstanding any other provision of law, in fiscal year 1989 and thereafter, sums provided by any party, including sums provided in advance as (1) reimbursement for contingency planning, response or damage assessment activities conducted or to be conducted by any agency funded in the Department of the Interior and Related Agencies Appropriations Act as a result of any discharge of oil into the environment or (2) damages for injuries resulting from such a discharge to resources for which an agency funded in the Department of the Interior and Related Agencies Appropriations Act is a trustee, may be credited to the relevant appropriation for that agency then current and shall be available until expended: *Provided further,* That section 102 of the Department of the Interior and Related Agencies Appropriations Act, 1989, is amended as follows: after the term "volcanoes" insert "; for contingency planning subsequent to actual oilspills, response and natural resource damage assessment activities related to actual oilspills".

DEPARTMENT OF THE INTERIOR

ALTERNATIVE FUELS PRODUCTION

(TRANSFER OF FUNDS)

Monies received from government operations and sale of the Great Plains Gasification Plant, including accrued interest, which currently are deposited in the liquidation trust at the First Trust of North Dakota shall be deposited in this account, and $12,000,000 determined by the Secretary of Energy to be excess to the needs of ongoing alternative fuels programs shall be transferred to the General Fund of the Treasury prior to October 1, 1989.

CLEAN COAL TECHNOLOGY

Notwithstanding any other provision of law, funds originally appropriated under this head in the Department of the Interior and Related Agencies Appropriations Act, 1989, shall be available for a third solicitation of clean coal technology demonstration projects, which projects are to be selected by the Department not later than January 1, 1990.

GENERAL PROVISIONS

SEC. 501. No funds appropriated or made available heretofore or hereafter under this or any other Act may be used by the executive branch to contract with organizations outside the Department of Energy to perform studies of the potential transfer out of Federal ownership, management or control by sale, lease, or other disposition, in whole or in part, the facilities and functions of Naval Petroleum Reserve Numbered 1 (Elk Hills), located in Kern County, California, established by Executive order of the President, dated September 2, 1912, and Naval Petroleum Reserve Numbered 3 (Teapot Dome), located in Wyoming, established by Executive order of the President, dated April 30, 1915: *Provided,* That the negotiation of changes to the unit plan contract with Chevron which governs operation of Elk Hills, where the purpose of the changes is to prepare for the divestiture of the Reserve, is prohibited.

STATE UNEMPLOYMENT INSURANCE AND EMPLOYMENT SERVICE OPERATIONS

Funds made available under the Departments of Labor, Health and Human Services, Education and Related Agencies Appropriations Act, 1989 (Public Law 100-436), that are authorized under section 6 of the Wagner-Peyser Act (29 U.S.C. 49e) may be used to carry out the targeted jobs tax credit program under section 51 of the Internal Revenue Code of 1986.

OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION

SALARIES AND EXPENSES

For an additional amount for the Occupational Safety and Health Administration, $3,200,000, which shall be available for a grant to the State of California under section 23(g) of the Occupational Safety and Health Act.

DEPARTMENTAL MANAGEMENT

SALARIES AND EXPENSES

(TRANSFER OF FUNDS)

For an additional amount for "Salaries and Expenses", $1,445,000, to be derived by a transfer of such sum from the amounts available for Departmental Management administrative expenses in the fiscal year 1989 Black Lung Disability Trust Fund appropriation.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

HEALTH RESOURCES AND SERVICES ADMINISTRATION

HEALTH RESOURCES AND SERVICES PROGRAM OPERATIONS

For activities authorized under section 799A(e) of the Public Health Service Act, $800,000.

HEALTH CARE FINANCING ADMINISTRATION

PROGRAM MANAGEMENT

Funds appropriated by the Department of Health and Human Services Appropriations Act, 1989, to implement section 4005(e) of the Omnibus Budget Reconciliation Act of 1987, Public Law 100-203, may not be used to provide forward or multiyear funding.

SOCIAL SECURITY ADMINISTRATION

LIMITATION ON ADMINISTRATIVE EXPENSES

The last proviso under this heading in Public Law 100-436, related to automatic data processing and telecommunications expenditures, is deleted.

ASSISTANT SECRETARY FOR HUMAN DEVELOPMENT SERVICES

PAYMENTS TO STATES FOR FOSTER CARE AND ADOPTION ASSISTANCE

For an additional amount for "Payments to States for Foster Care and Adoption Assistance", $423,345,000 for title IV-E of the Social Security Act, which shall be available for prior years' claims.

DEPARTMENT OF EDUCATION

IMPACT AID

Section 5(e)(1)(D) of the Act of September 30, 1950, as amended (20 U.S.C. ch. 13), shall not apply to any local educational agency that was an agency described in section 5(c)(2)(A)(ii) of the Act in fiscal year 1987 but is an agency described in section 5(c)(2)(A)(iii) of the Act in fiscal year 1989 as a result of families being moved off-base in order to renovate base housing: *Provided,* That any school district which received a payment under section 5(b)(2) of the Act for fiscal year 1986 but which the Department of Education has determined to be ineligible for section 2 assistance due to a review of the original assessed value of the real property involved at the time of acquisition of the federal property shall be deemed eligible for payments under section 2, for fiscal year 1989 only.

REHABILITATION SERVICES AND HANDICAPPED RESEARCH

Appropriations under the heading "Rehabilitation Services and Handicapped Research" shall be considered as funds mandated by law for purposes of applying section 517 of the Department of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 1989.

GUARANTEED STUDENT LOANS

For payment of obligations under this heading incurred during fiscal year 1989, $892,428,000.

HIGHER EDUCATION

For an additional amount for "Higher Education" which shall be available for such project as the Secretary may deem appropriate which is authorized under existing law, $1,600,000.

DEPARTMENTAL MANAGEMENT

PROGRAM ADMINISTRATION

(RESCISSION)

Of funds provided under this head for necessary expenses of the National Student Loan Data System, $5,533,000 are rescinded.

OFFICE FOR CIVIL RIGHTS

For an additional amount for the Office for Civil Rights, as authorized by section 203 of the Department of Education Organization Act, $790,000.

OFFICE OF THE INSPECTOR GENERAL

For an additional amount for the Office of the Inspector General, as authorized by section 212 of the Department of Education Organization Act, $440,000.

RELATED AGENCIES

RAILROAD RETIREMENT BOARD

LIMITATION ON REVIEW ACTIVITY

For an additional amount for "Limitation on Review Activity", $150,000.

PRESCRIPTION DRUG PAYMENT REVIEW COMMISSION

SALARIES AND EXPENSES

(TRANSFER OF FUNDS)

For the Prescription Drug Payment Review Commission, as authorized by section 1847 of title XVIII of the Social Security Act, $250,000, to be derived by transfer of $125,000 from the Physician Payment Review Commission and $125,000 from the Prospective Payment Assessment Commission, to remain available until expended.

WHITE HOUSE CONFERENCE ON LIBRARY AND INFORMATION SERVICES

For carrying out activities under Public Law 100-382, $1,750,000.

CHAPTER VII

LEGISLATIVE BRANCH

HOUSE OF REPRESENTATIVES

PAYMENTS TO WIDOWS AND HEIRS OF DECEASED MEMBERS OF CONGRESS

For payment to Carolyn F. Nichols, widow of Bill Nichols, late a Representative from the State of Alabama, $89,500.

LIBRARY OF CONGRESS

Effective June 15, 1989, the Library of Congress shall provide financial management services and support to the United States Capitol Preservation Commission as may be required and mutually agreed to by

the Librarian of Congress and the Cochairmen of the United States Capitol Preservation Commission.

CHAPTER VIII

DEPARTMENT OF AGRICULTURE

AGRICULTURAL MARKETING SERVICE

LIMITATION ON ADMINISTRATIVE EXPENSES

Not to exceed an additional $2,500,000 (from fees collected) shall be obligated during the current fiscal year for administrative expenses.

AGRICULTURAL STABILIZATION AND CONSERVATION SERVICE

SALARIES AND EXPENSES

(INCLUDING TRANSFER OF FUNDS)

For an additional amount for necessary administrative expenses of the Agricultural Stabilization and Conservation Service incurred in carrying out fiscal year 1989 workload in connection with 1988 disaster assistance activities only, not to exceed $40,000,000, to be derived by transfer from the Commodity Credit Corporation: Provided, That of this amount, $275,000 shall be transferred to the Cooperative State Research Service to be paid to the Kansas Agricultural Research Experiment Station at Kansas State University for the purposes of disseminating information to farmers on methods of alleviating drought problems and exploring improved water conservation techniques.

CONSERVATION RESERVE PROGRAM

In Public Law 100-460, "An Act making appropriations for Rural Development, Agriculture, and Related Agencies for the fiscal year ending September 30, 1989, and for other purposes", in the account titled "Conservation Reserve Program", delete the sum "$1,864,000,000" and insert in lieu thereof "$1,789,000,000", and delete the sum "$385,000,000" and insert in lieu thereof "$370,000,000".

ADVANCED DEFICIENCY PAYMENTS

Notwithstanding any other provision of law, effective only for the 1988 crops of wheat, feed grains, upland cotton and rice, if the Secretary determines that any portion of the advanced deficiency payment made to producers for the crop under section 107C of the Agricultural Act of 1949 must be refunded, such refunds shall not be required prior to December 31, 1989, for that portion of the crop for which a disaster payment is made under section 201(a) of the Disaster Assistance Act of 1988: Provided, That for the purposes of section 202 of the Balanced Budget and Emergency Deficit Control Reaffirmation Act of 1987 (Public Law 100-119), this provision is a necessary (but secondary) result of a significant policy change.

FARMERS HOME ADMINISTRATION

AGRICULTURAL CREDIT INSURANCE FUND

OPERATING LOANS

(INCLUDING TRANSFER AND RESCISSION OF FUNDS)

For an additional amount for insured operating loans, $32,500,000, to be derived by transfer from emergency disaster loans, to remain available until September 30, 1990: *Provided,* That the Secretary shall allocate immediately insured farm operating loans to States from the national reserve, from pooling of unobligated funds previously allocated to States, and from this appropriation, in a manner that will provide each State with an opportunity to fund at least the same level of obligations as in fiscal year 1988: *Provided further,* That in Public Law 100-460, "An Act making appropriations for Rural Development, Agriculture, and Related Agencies for the fiscal year ending September 30, 1989, and for other purposes", in the account titled "Agricultural Credit Insurance Fund", delete the sum of "$600,000,000" and insert in lieu thereof "$562,500,000".

In Public Law 100-460, "An Act making appropriations for Rural Development, Agriculture, and Related Agencies for the fiscal year ending September 30, 1989, and for other purposes", in the account titled "Agricultural Credit Insurance Fund", delete the sum of "$14,000,000" and insert in lieu thereof "$7,000,000", delete the first sum of "$3,000,000" and insert in lieu thereof "$1,500,000", and delete the sum of "$2,000,000" and insert in lieu thereof "$1,000,000".

RURAL HOUSING INSURANCE FUND

In Public Law 100-460, "An Act making appropriations for Rural Development, Agriculture, and Related Agencies programs for the fiscal year ending September 30, 1989, and for other purposes", in the account titled "Rural Housing Insurance Fund" the first proviso of the second paragraph is hereby amended to read as follows: *"Provided,* That of this amount not less than $109,918,000 is available for newly constructed units financed by section 515 of the Housing Act of 1949, as amended, and not more than $5,082,000 is for newly constructed units financed under sections 514 and 516 of the Housing Act of 1949:".

RURAL DEVELOPMENT INSURANCE FUND

For an additional amount for insured water and sewer facility loans, $2,500,000, to remain available until expended.

RURAL WATER AND WASTE DISPOSAL GRANTS

For an additional amount for water and waste disposal grants, $7,500,000, to remain available until expended.

SOIL CONSERVATION SERVICE

REIMBURSEMENT TO THE SOIL CONSERVATION SERVICE FOR CONSERVATION RESERVE PROGRAM ASSISTANCE

The Agricultural Stabilization and Conservation Service shall reimburse the Soil Conservation Service for services provided to carry out the Conservation Reserve Program pursuant to the Food Security Act of 1985 (16 U.S.C. 3831-3845), at a rate of $3.00 per acre bid in the program: *Provided,* That reimbursement for this service is made retroactive to October 1, 1988.

WATERSHED AND FLOOD PREVENTION OPERATIONS

In Public Law 100-460, "An Act making appropriations for Rural Development, Agriculture, and Related Agencies for the fiscal year ending September 30, 1989, and for other purposes", in the account titled "Watershed and Flood Prevention Operations", delete the sum "$7,949,000" and insert in lieu thereof "$4,000,000".

RESOURCE CONSERVATION AND DEVELOPMENT

In Public Law 100-460, "An Act making appropriations for Rural Development, Agriculture, and Related Agencies for the fiscal year ending September 30, 1989, and for other purposes", in the account titled "Resource Conservation and Development", delete the sum "$1,207,000" and insert in lieu thereof "$600,000".

FOOD AND NUTRITION SERVICE

FOOD STAMP PROGRAM

For an additional amount for necessary expenses to carry out the Food Stamp Act, $224,624,000.

FOOD AND DRUG ADMINISTRATION

For an additional amount for orphan product grants and contracts, $500,000.

Notwithstanding any other provision of law, funds available under this head in both Public Law 100-457 and this Act shall be available for expenses incurred in fiscal year 1989 by the Coast Guard in responding to any oil spill.

FEDERAL AVIATION ADMINISTRATION

INSTALLATION AND USE OF EXPLOSIVE DETECTION EQUIPMENT

Not later than thirty days after the date of the enactment of this Act, the Federal Aviation Administrator shall initiate action, including such rulemaking or other actions as necessary, to require the use of explosive detection equipment that meets minimum performance standards requiring application of technology equivalent to or better than thermal neutron analysis technology at such airports (whether located within or outside the United States) as the Administrator determines that the installation and use of such equipment is necessary to ensure the safety of air commerce. The Administrator shall complete these actions within sixty days of enactment of this Act: *Provided,* That notwithstanding any other provision of law, the Federal Aviation Administration shall renegotiate the Logan County Airport grant agreements "5-54-0013-01-77" and "5-54-0013-02-78" to include funds sufficient to cover the additional project costs associated with project delay and inflation, so that the project can be completed as originally intended.

FEDERAL HIGHWAY ADMINISTRATION

The paragraph designated "Discretionary Bridge Program" under the heading "General Provisions" of chapter XI of title I of Public Law 100-71 (101 Stat. 436) is amended by adding at the end thereof the following: "Phase II of such project shall include, for purposes of funding under the discretionary bridge program, construction of the bridge from the end of phase one on City Island to the touchdown point of the bridge near Fourteenth Street. Application and determination of eligibility for additional funding on the project beyond present commitments shall occur without regard to the current schedule of bidding and construction, prior determinations of agreements by the United States Department of Transportation concerning the boundaries of phase II of the project.".

CHAPTER IX

DEPARTMENT OF TRANSPORTATION

OFFICE OF THE SECRETARY

PAYMENT TO AIR CARRIERS

For an additional amount for "Payments to air carriers" $6,600,000: *Provided,* That notwithstanding and other provision of law, after September 30, 1989, no subsidy shall be paid for any service to or from any essential air service point in the contiguous United States for which the per passenger subsidy exceeds $300.

STATE AND LOCAL ANTI-APARTHEID POLICIES

Notwithstanding any other provision of this or any other law, none of the funds provided by this or any previous or subsequent Act to the Department of Transportation shall be withheld from State or local grantees for any reason related to the adoption by any such grantee of a policy prohibiting the procurement of products manufactured or fabricated in the Republic of South Africa.

COAST GUARD

OPERATING EXPENSES

Notwithstanding and other provision of law, in fiscal year 1989 and thereafter, sums provided by any party, including sums provided in advance, as reimbursements for operating expenses incurred by the United States Coast Guard in response to the oil-

spill from the "Exxon Valdez" grounding, shall be credited to the "Operating expenses" appropriation for the United States Coast Guard, and shall remain available until expended.

From funds made available under this head in Public Law 100-457, up to $5,600,000 shall be made available until expended for development, acquisition, installation, operation, and support, including personnel, or equipment to provide vessel traffic management information in the New York Harbor area: *Provided,* That the United States Coast Guard shall initiate action within sixty days of the date of enactment of this Act to establish such a system: *Provided further,* That within sixty days of the date of enactment of this Act, the Secretary shall initiate a rulemaking to determine which class be required to participate in an active vessel or classes of vessels operating in the New York Harbor area shall be required to participate in an active vessel traffic management system, and the specific operating procedures and requirements of such a mandatory system.

CHAPTER X

DEPARTMENT OF THE TREASURY

OFFICE OF THE SECRETARY

INTERNATIONAL AFFAIRS

(TRANSFER OF FUNDS)

For an additional amount for "International affairs", not to exceed $1,623,000, to be derived by transfer from "Salaries and expenses".

CHAPTER XI

DEPARTMENT OF VETERANS' AFFAIRS

VETERANS HEALTH SERVICE AND RESEARCH ADMINISTRATION

MEDICAL CARE

(TRANSFER OF FUNDS)

For an additional amount for the purchase of prosthetic appliances for "Medical care", $5,000,000, to be derived by transfer from "Construction, major projects".

Notwithstanding any other provision of this Act, the proviso following "$340,125,000" under the head "Veterans Health Service and Research Administration, Medical Care" contained in the earlier part of this Act, shall have no force or effect.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

HOUSING PROGRAMS

ANNUAL CONTRIBUTIONS FOR ASSISTED HOUSING

Of the amounts heretofore provided for the section 8 moderate rehabilitation program, any amounts in excess of $47,000,000 that are recaptured during fiscal year 1989 shall not be subject to the requirements of the sixth proviso under this head in the Department of Housing and Urban Development-Independent Agencies Appropriations Act, 1989 (Public Law 100-404, 102 Stat. 1014).

PAYMENTS FOR OPERATION OF LOW-INCOME HOUSING PROJECTS

(TRANSFER OF FUNDS)

For an additional amount for "Payments for operation of low-income housing projects", $88,000,000, to remain available until September 30, 1990: *Provided,* That such amount shall be derived by transfer from "Annual contributions for assisted housing", and the amount specified for the section 8 moderate rehabilitation program in the first proviso under that head in the Department of Housing and Urban Development-Independent Agencies Appropriations Act, 1989 (Public Law 100-404, 102 Stat. 1014) shall be reduced by such amount: *Provided further,* That from the foregoing amount, $8,200,000 shall be made available, notwithstanding section 9(d) of the United States Housing Act of 1937, for grants for use in eliminating drug-related crime in public housing projects, consistent with the criteria set forth in section 5125(b), and reflected in other requirements of the Public Housing Drug Elimination Act of 1988 (Public Law 100-690, 102 Stat. 4301).

MANAGEMENT AND ADMINISTRATION

SALARIES AND EXPENSES

(TRANSFER OF FUNDS)

For an additional amount for "Salaries and expenses", $3,490,000, to be derived by transfer from "Urban development action grants".

ADMINISTRATIVE PROVISION

Section 17(f) of the United States Housing Act of 1937 (42 U.S.C. 1437o(f)) is amended—

(1) by inserting after "State of New York" the following: "or City of New York"; and

(2) in clause (1), by inserting "or municipal" after "State".

INDEPENDENT AGENCIES

COURT OF VETERANS APPEALS

SALARIES AND EXPENSES

For necessary expenses for the initial startup costs and operation of the Court of Veterans Appeals as authorized by sections 4051-4091 of title 38, United States Code, $3,100,000, to remain available until September 30, 1990: *Provided,* That, notwithstanding section 4081 of title 38, United States Code of Veterans Appeals may (A) without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, appoint not to exceed 35 employees (and employees to replace any employees so appointed whose employment by the Court is terminated) shall be eligible for noncompetitive conversion to a position in the competitive service if (i) application therefor is made to the Office of Personnel Management by December 31, 1990, and (ii) the Director of the Office of Personnel Management determines that such noncompetitive conversion is in the interest of the Government, and (B) procure the services of experts and consultants under section 3109 of such title, (2) in the making of appointments pursuant to clause (1), preference among equally-qualified persons shall be given to persons who are preference eligibles (as defined in section 2108(3) of such title), and (3) the authorities provided in clause (1) may be exercised by the Chief Judge of the Court whenever there are not at least two Associate Judges on the Court.

ENVIRONMENTAL PROTECTION AGENCY

SALARIES AND EXPENSES

For an additional amount for "Salaries and expenses", $6,000,000.

ABATEMENT, CONTROL, AND COMPLIANCE

For an additional amount for "Abatement, control, and compliance", $9,000,000, to remain available until September 30, 1990.

HAZARDOUS SUBSTANCE SUPERFUND

(RESCISSION)

Of available funds under this head, $15,000,000 are rescinded.

SALARIES AND EXPENSES

(TRANSFER OF FUNDS)

For an additional amount for "Salaries and expenses", up to $5,000,000, which shall be derived by transfer from "Abatement, control, and compliance".

FEDERAL EMERGENCY MANAGEMENT AGENCY

EMERGENCY FOOD AND SHELTER PROGRAM

For an additional amount for the "Emergency food and shelter program", $12,000,000 to be derived by transfer from "Urban development action grants".

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

RESEARCH AND PROGRAM MANAGEMENT

(TRANSFERS OF FUNDS)

For an additional amount for "Research and program management", up to $35,000,000, to be derived by transfer from "Research and development" and "Space flight, control and data communications".

NATIONAL SCIENCE FOUNDATION

RESEARCH AND RELATED ACTIVITIES

For an additional amount for "Research and related activities", $37,500,000, to remain available until September 30, 1991.

For an additional amount for "Research and related activities", $37,500,000, to remain available until September 30, 1991: *Provided,* That this amount shall not be available for obligation until October 1, 1989: *Provided further,* That this additional amount made available on October 1, 1989 is in addition to the amount made available upon enactment.

CHAPTER XII

DISTRICT OF COLUMBIA

INAUGURAL EXPENSES PAYMENT

(TRANSFER OF FUNDS)

For an additional amount for "Inaugural expenses payment", $1,000,000, to be derived from Expenses, Presidential Transition, General Services Administration.

DIVISION OF EXPENSES

The following amounts are appropriated for the District of Columbia for the current fiscal year out of the general fund of the District of Columbia, except as otherwise specifically provided.

GOVERNMENTAL DIRECTION AND SUPPORT

(INCLUDING RESCISSION)

For an additional amount for "Governmental direction and support", $26,000: *Provided,* That of the funds appropriated under this heading for fiscal year 1989 in the District of Columbia Appropriations Act, 1989, approved October 1, 1988 (Public Law 100-462; 102 Stat. 2269-1 to 2269-2), $7,216,000 are rescinded for a net decrease of $7,190,000.

ECONOMIC DEVELOPMENT AND REGULATION

(INCLUDING RESCISSION)

For an additional amount for "Economic development and regulation", $1,990,000: *Provided,* That of the funds appropriated under this heading for fiscal year 1989 in the District of Columbia Appropriations Act, 1989, approved October 1, 1988 (Public Law 100-462; 102 Stat. 2269-2), $19,016,000 are rescinded for a net decrease of $17,026,000.

PUBLIC SAFETY AND JUSTICE

(INCLUDING RESCISSION)

For an additional amount for "Public safety and justice", $29,360,000, of which $5,064,000, to remain available until expended, shall be solely for overtime expenses of the Metropolitan Police Department and $800,000, to remain available until expended, shall be solely for overtime expenses of the Superior Court: *Provided,* That of the funds appropriated under this heading for fiscal year 1989 in the District of Columbia Appropriations Act, 1989, approved October 1, 1988 (Public Law 100-462; 102 Stat. 2269-2 to 2269-4), $1,210,000 are rescinded for a net increase of $28,150,000.

PUBLIC EDUCATION SYSTEM

(INCLUDING RESCISSION)

For an additional amount for "Public education system", $4,529,000, which shall be allocated as follows: $3,758,000 for the public schools of the District of Columbia and $771,000 for the District of Columbia School of Law: *Provided*, That of the funds appropriated under this heading for fiscal year 1989 in the District of Columbia Appropriations Act, 1989, approved October 1, 1988 (Public Law 100-462; 102 Stat. 2269-4), $2,000,000 for the University of the District of Columbia, $6,000 for the Educational Institution Licensure Commission, $389,000 for the Public Library, and $185,000 for the Commission on the Arts and Humanities are rescinded for a net increase of $1,949,000.

HUMAN SUPPORT SERVICES

(INCLUDING RESCISSION)

For an additional amount for "Human support services", $45,858,000: *Provided*, That $3,611,000 of this appropriation, to remain available until expended, shall be available solely for the District of Columbia's employees' disability compensation: *Provided further*, That of the funds provided for the Office of Emergency Shelter and Support Service, $750,000 shall be used to provide food for the homeless and may not be used for any other purpose: *Provided further*, That of the funds appropriated under this heading for fiscal year 1989 in the District of Columbia Appropriations Act, 1989, approved October 1, 1988 (Public Law 100-462; 102 Stat. 2269-4), $9,945,000 are rescinded for a net increase of $35,913,000.

PUBLIC WORKS

(INCLUDING RESCISSION)

For an additional amount for "Public works", $5,436,000: *Provided*, That of the funds appropriated under this heading for fiscal year 1989 in the District of Columbia Appropriations Act, 1989, approved October 1, 1988 (Public Law 100-462; 102 Stat. 2269-4), $10,655,000, including $300,000 from the school transit subsidy are rescinded for a net decrease of $5,219,000.

WASHINGTON CONVENTION CENTER FUND

For an additional amount for "Washington Convention Center fund", $543,000.

REPAYMENT OF LOANS AND INTEREST

(RESCISSION)

Of the funds appropriated under this heading for fiscal year 1989 in the District of Columbia Appropriations Act, 1989, approved October 1, 1988 (Public Law 100-462; 102 Stat. 2269-5), $5,834,000 are rescinded.

REPAYMENT OF GENERAL FUND DEFICIT

For an additional amount for "Repayment of general fund deficit", $13,950,000: Provided, That in addition, all net revenue that the District of Columbia government may collect as a result of the District of Columbia government's pending appeal in the consolidated case of *U.S. Sprint communications et al.* v. *District of Columbia, et al.*, CA 10080-87 (court order filed on November 14, 1988), shall be applied solely to the repayment of the general fund accumulated deficit.

SHORT-TERM BORROWINGS

For an additional amount for "Short-term borrowings", $4,592,000.

PERSONAL SERVICES ADJUSTMENTS

(RESCISSION)

Of the funds appropriated under the various appropriation headings for fiscal year 1989 in the District of Columbia Appropriations Act, 1989, approved October 1, 1988 (Public Law 100-462; 102 Stat. 2269-1 through 2269-6), $18,553,000 as determined by the Mayor, are rescinded: *Provided*, That the Mayor shall reduce appropriations and expenditures for personal services within object classes 11, 12, 13 and 14: *Provided further*, That during the fiscal year ending September 30, 1989, the Mayor shall reduce the number of authorized, full-time, funded positions above DS-10 by 318.

INAUGURAL EXPENSES

For an additional reimbursement for necessary expenses incurred in connection with Presidential inauguration activities as authorized by section 737(b) of the District of Columbia Self-Government and Governmental Reorganization Act, Public Law 93-198, approved December 24, 1973 (87 Stat. 824; D.C. Code, sec. 1-1803), $1,000,000, which shall be apportioned by the Mayor within the various appropriation headings in this Act.

ENERGY ADJUSTMENT

(RESCISSION)

Of the funds appropriated under the various appropriations headings for fiscal year 1989 in the District of Columbia Appropriations Act, 1989, approved October 1, 1988 (Public Law 100-462; 102 Stat. 2269-1 through 2269-6), an additional $349,000 as determined by the Mayor are rescinded from object class 30(a) energy.

EQUIPMENT ADJUSTMENT

(RESCISSION)

Of the funds appropriated under the various appropriation headings for fiscal year 1989 in the District of Columbia Appropriations Act, 1989, approved October 1, 1988 (Public Law 100-462; 102 Stat. 2269-1 through 2269-6), $3,500,000 as determined by the Mayor are rescinded from object class 70 (equipment).

CAPITAL OUTLAY

(INCLUDING RESCISSION)

For an additional amount for "Capital outlay", $146,642,000, to remain available until expended: *Provided*, That of the amounts appropriated under this heading in prior fiscal years, $15,970,000 are rescinded for a net increase of $130,672,000: *Provided further*, That $14,700,000 shall be available solely for the Correctional Treatment Facility of which $8,700,000 shall be for delay claims owed to the contractor for construction delays and $6,000,000 shall be for fixtures and equipment connected to the floors, walls, and ceilings of the Facility by means of structural, mechanical, or electrical requirements: *Provided further*, That $4,185,000 shall be available for project management and $9,425,000 for design by the Director of the Department of Public Works or by contract for architectural engineering services, as may be determined by the Mayor: *Provided further*, That $25,000,000 shall be available to the Department of Corrections for a feasibility study, site acquisition, and design and construction of a jail that is generally bounded by G Street, N.W. on the north, 6th Street, N.W. on the west, Pennsylvania Avenue, N.W. on the south and 1st Street, N.W. on the east: *Provided further*, That the feasibility study shall include a companion analysis of a revised mission for the present jail to prevent duplication: *Provided further*, That the executive branch is prohibited from disposing of any property in the Judiciary Square area that is under the jurisdiction of the Mayor until a site has been chosen.

WATER AND SEWER ENTERPRISE FUND

Of the funds appropriated under this heading for fiscal year 1989 in the District of Columbia Appropriations Act, 1989, approved October 1, 1988 (Public Law 100-462; 102 Stat. 2269-7), $100,000 shall be available to compensate individuals as provided in the Water Main Break Fund Emergency Act of 1988, effective December 21, 1988 (D.C. Act 7-269; to be codified at D.C. Code, sec. 47-375, note).

ADMINISTRATIVE PROVISIONS

The United States hereby forgives $5,064,000 of the fourth quarter indebtedness incurred by the District of Columbia government to the United States pursuant to the Act of March 3, 1915, D.C. Code, sec. 24-424, as amended, this amount being equal to the increased cost of housing District of Columbia convicts in Federal penitentiaries during the fiscal year ending September 30, 1989: provided, That for the fiscal year ending September 30, 1990, the District of Columbia shall pay interest on its quarterly payments to the United States that are made more than 60 days from the date of receipt of an itemized statement from the Federal Bureau of Prisons of amounts due for housing District of Columbia convicts in Federal penitentiaries for the preceding quarter.

Notwithstanding any other provision of law, including, but not limited to the District of Columbia Historic Landmark and Historic District Protection Act of 1978, D.C. Law 2-144, as amended, 25 DCR 6939 (1979), the District of Columbia Government is directed to begin construction of a correctional facility to be located in the District of Columbia, as described in Public Law 99-591, within thirty days of enactment of this Act.

TITLE II—URGENT SUPPLEMENTAL APPROPRIATIONS

CHAPTER I

DEPARTMENT OF COMMERCE

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

OPERATIONS, RESEARCH, AND FACILITIES

For an additional amount for "Operations, research, and facilities", $28,400,000, to remain available until expended.

DEPARTMENT OF JUSTICE

LEGAL ACTIVITIES

SALARIES AND EXPENSES, GENERAL LEGAL ACTIVITIES

For an additional amount for "Salaries and expenses, general legal activities", $1,800,000.

ASSETS FORFEITURE FUND

(RESCISSION)

Of the $75,000,000 in expenses authorized by 28 U.S.C. 524 and appropriated from receipts of the Assets Forfeiture Fund in 1989 (Public Law 100-459), $2,232,000 are rescinded.

OFFICE OF JUSTICE PROGRAMS

JUSTICE ASSISTANCE

(INCLUDING RESCISSION)

From the amounts made available to the National Institute of Justice in Public Law 100-459, there shall be available $200,000 for a grant to the University of South Carolina for the purpose of studying the causes and effects of the increasingly disproportionate use of illegal drugs in the black community: *Provided*, That of deobligated funds previously awarded from appropriations for "Justice assistance", $2,053,000 are rescinded, notwithstanding any other provision of law.

DEPARTMENT OF STATE

GENERAL PROVISION

(TRANSFER OF FUNDS)

SEC. 1. In order to meet urgent requests that may arise during fiscal year 1989 for contributions and other assistance for new international peacekeeping activities, and to

reimburse funds originally appropriated for prior international peacekeeping activities, which have been reprogrammed for new international peacekeeping activities, the President may transfer during fiscal year 1989 such of the funds described in section 2(a) as the President deems necessary, but not to exceed $125,000,000 to the "CONTRIBUTIONS FOR INTERNATIONAL PEACEKEEPING ACTIVITIES" account or the "PEACEKEEPING OPERATIONS" account administered by the Department of State, notwithstanding section 15(a) of the Department of State Basic Authorities Act of 1956, section 10 of Public Law 91-672, or any other provision of law.

SEC. 2. (a) IN GENERAL.—The funds that may be transferred under the authority of this heading for use in accordance with section 1 are—

(1) any funds available to the Department of Defense during fiscal year 1989, other than funds appropriated by the Department of Defense Appropriations Act, 1989 (Public Law 100-463); and

(2) any funds appropriated by the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1989 (Public Law 100-461) for the "MILITARY ASSISTANCE" account, for the "INTERNATIONAL MILITARY EDUCATION AND TRAINING" account, or for grants under the "FOREIGN MILITARY FINANCING PROGRAM" account.

(b) RELATIONSHIP TO CERTAIN OTHER PROVISIONS.—Funds described in subsection (a)(2) may be transferred and used for contributions or other assistance for new international peacekeeping activities in accordance with section 1 of this provision notwithstanding section 514 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1989 (as amended by section 589 of that Act), relating to transfers between accounts.

SEC. 3. (a) REVIEW OF PROPOSED TRANSFERS.—Any transfer of funds pursuant to section 1 shall be subject to the regular reprogramming procedures of the following committees:

(1) The Committee on Appropriations of each House of Congress.

(2) The Committee on Armed Services of each House of Congress if funds described in paragraph (1) of section 2(a) are to be transferred.

(3) The Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate if funds described in paragraph (2) of section 2(a) are to be transferred.

(b) REVIEW OF PROPOSED OBLIGATIONS.—The regular reprogramming procedures of the following committees shall apply with respect to the obligations of any funds transferred pursuant to section 1:

(1) The Committee on Appropriations of each House of Congress.

(2) The Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate.

SEC. 4. (a) Of the amount that may be transferred pursuant to section 1, $38,950,000 shall be made available upon enactment for contribution with respect to implementation of the Agreement Among the People's Republic of Angola, the Republic of Cuba, and the Republic of South Africa, signed at the United Nations on December 22, 1988 (hereafter known as the Tripartite Agreement) only if the President determines and certifies to the appropriate Congressional committees that (1) the armed forces of the South West Africa People's Organization (SWAPO) have left Namibia and returned north of the 16th parallel in Angola in compliance with the agreements, (2) the United States has received explicit and reliable assurances from each of the parties to the Bilateral Agreement that all Cuban troops will be withdrawn from Angola by July 1, 1991, and that no Cuban troops will remain in Angola after that date, and (3) the Secretary General of the United Nations has assured the United States that it is his understanding that all Cuban troops will be withdrawn from Angola by July 1, 1991, and that no Cuban troops will remain in Angola after that date.

(b) An additional $38,950,000 of such amount shall be made available after August 15, 1989, for implementation of the Tripartite Agreement only if the President has determined and certified to the appropriate Congressional committees that (1) each of the signatories to the Tripartite Agreement is in compliance with it obligations under the Agreement, (2) the Government of Cuba has complied with its obligations under Article 1 of the Bilateral Agreement (relating to the calendar for redeployment and withdrawal of Cuban troops), specifically with respect to its obligations as of August 1, 1989, (3) the Cubans have not engaged in any offensive military actions against UNITA, including the use of chemical warfare, (4) the United Nations and its affiliated agencies have terminated all funding and other support, in conformity with the United Nations impartiality package, to the South West Africa People's Organization (SWAPO), and (5) the United Nations Angola Verification Mission is demonstrating diligence, impartiality, and professionalism in verifying the departure of Cuban troops and the recording of any troop rotations.

(c) Funding of these activities by the United States may not be construed as constituting recognition of any government in Angola.

(d) The term "Bilateral Agreement" means the Agreement Between the Governments of the People's Republic of Angola and the Republic of Cuba for the Termination of the International Mission of the Cuban Military Contingent, signed at the United Nations on December 22, 1988, and the term "Tripartite Agreement" means the Agreement Among the People's Republic of Angola, the Republic of Cuba, and the Republic of South Africa, signed at the United Nations on December 22, 1988.

(e) The term "appropriate Congressional committees" means the Committees on Appropriations, Foreign Affairs, and Permanent Select Committee on Intelligence of the House of Representatives, and the Committees on Appropriations, Foreign Relations and the Select Committee on Intelligence of the Senate.

SEC. 5. The Secretary of the Treasury shall instruct the United States Executive Directors to the International Monetary Fund and the International Bank for Reconstruction and Development to vote in opposition to the entry of the Government of Angola into these financial institutions or to approve any loans to Angola unless the President certifies to the appropriate Congressional committees that progress is being made toward national reconciliation.

RELATED AGENCIES

DEPARTMENT OF TRANSPORTATION

MARITIME ADMINISTRATION

FEDERAL SHIP FINANCING FUND

For payment to the Secretary of Treasury for debt reduction, $515,000,000, to remain available until expended.

Notwithstanding section 12106, 12107, and 12108 of title 46, United States Code, and section 27 of the Merchant Marine Act, 1920 (46 App. U.S.C. 883), as applicable on the date of enactment of this Act, the Secretary of Transportation may issue a certificate of documentation for each of the following:

(1) the vessel LIBERTY, hull identification number BHA 5512 B and State of Hawaii registration number HA 5512 B;

(2) the vessel NAVATEK I;

(3) the vessel NANCY ANN, United States official number 901962; and

(4) the vessel NOR'WESTER, United States official number 913451.

FEDERAL COMMUNICATIONS COMMISSION

SALARIES AND EXPENSES

That the authority under the Supplemental Appropriations Act, 1985 (Public Law 99-88) with respect to the relocation of the Fort Lauderdale Monitoring Station be amended to authorize the Federal Communications Commission to expend the funds remaining from the sale of the Fort Lauderdale, Florida Monitoring Station, for salaries and expenses in fiscal year 1989 in lieu of returning the unused funds to the general fund of the United States Treasury.

LEGAL SERVICES CORPORATION

ADMINISTRATIVE PROVISION

None of the funds appropriated under this Act or under any prior Acts for the Legal Services Corporation, or any other funds available to the Corporation, shall be used by the Corporation Board, members, staff or consultants, to consider, develop or implement any system for the competitive award of grants until such action is authorized pursuant to a majority vote of a Board of Directors of the Legal Services Corporation composed of eleven individuals nominated by the President after January 20, 1989, and subsequently confirmed by the United States Senate, except that nothing herein shall prohibit the Corporation Board, members, or staff from engaging in in-house reviews of or holding hearings on proposals for a system for the competitive awards of all grants and contracts, including support centers, and that nothing herein shall apply to any competitive awards program currently in existence: *Provided*, That the Corporation shall insure that all grants or contracts made during calendar year 1989 to all grantees funded under sections 1006(a) (1) and (3) of the Legal Services Corporation Act with funds appropriated in Public Law 100-459, or prior appropriations Acts, shall be made for a period of at least twelve months beginning on January 1, 1989, so as to insure that the total annual funding for each current grantee or contractor is no less than the amount provided pursuant to Public Law 100-459, and shall not be subject to any amendments to regulations relating to fee generating cases (45 C.F.R. Part 1609) or the use of private funds (45 C.F.R. Part 1610 and 1611) not in operational effect on October 1, 1988.

HAZARDOUS SUBSTANCE SUPERFUND

(RESCISSION)

Of available funds under this head, $15,000,000 are rescinded.

SALARIES AND EXPENSES

(TRANSFER OF FUNDS)

For an additional amount for "Salaries and expenses", up to $5,000,000, which shall be derived by transfer from "Abatement, control, and compliance".

FEDERAL EMERGENCY MANAGEMENT AGENCY

EMERGENCY FOOD AND SHELTER PROGRAM

For an additional amount for the "Emergency food and shelter program", $12,000,000, to be derived by transfer from "Urban development action grants".

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

RESEARCH AND PROGRAM MANAGEMENT

(TRANSFERS OF FUNDS)

For an additional amount for "Research and program management", up to $35,000,000, to be derived by transfer from "Research and development" and "Space flight, control and data communications".

NATIONAL SCIENCE FOUNDATION

RESEARCH AND RELATED ACTIVITIES

For an additional amount for "Research and related activities", $37,500,000, to remain available until September 30, 1991.

For an additional amount for "Research and related activities", $37,500,000, to remain available until September 30, 1991: *Provided*, That this amount shall not be available for obligation until October 1, 1989: *Provided further*, That this additional amount made available on October 1, 1989 is in addition to the amount made available upon enactment.

ADMINISTRATIVE PROVISIONS

SEC. 101. Funds appropriated to the Commission for the Study of International Migration and Cooperative Economic Development and the Commission on Agricultural Workers in Public Law 100-459 shall remain available until expended.

SEC. 102. The Director of the Administrative Office of the United States Courts, under the supervision of the Judicial Conference of the United States, and upon notification to the Committees on Appropriations of the House of Representatives and the Senate in compliance with provisions set forth in Section 606 of Public Law 100-459, may transfer unobligated balances available under Courts of Appeals, District Courts, and Other Judicial Services, "Defender Services", to any appropriation account of the Judiciary: *Provided*, That compensation and reimbursement of attorneys and others as authorized under section 3006A of title 18, United States Code, and section 1875(d) of title 28, United States Code, may hereinafter be paid from funds appropriated for "Defender Services" in the year in which payment is required.

SEC. 103. Funds heretofore or hereafter appropriated or otherwise made available to the United States Information Agency for television broadcasting to Cuba may be used by the Agency to lease, maintain and operate such aircraft (including aerostats) as may be required to house and operate necessary television broadcasting equipment.

SEC. 104. Section 631(b)(1) of title 28, United States Code, is amended by strking out all after "Puerto Rico, or the Virgin Islands of the United States," through "the bar of the district court of the Virgin Islands;" at the end of subparagraph (b), and by striking out the words "the first sentence of" that appear in the same paragraph.

SEC. 105. None of the funds provided in this or any prior Act shall be available for obligation or expenditure to relocate, reorganize or consolidate any office, agency, function, facility, station, activity, or other entity falling under the jurisdiction of the Department of Justice.

CHAPTER II

DEPARTMENT OF DEFENSE—MILITARY

ADMINISTRATIVE PROVISIONS

SEC. 201. (a) Section 8111 of the Department of Defense Appropriation Act, 1989 (Public 100-463; 102 Stat. 2270-38) is amended by striking out "$1,163,200,000" and inserting in lieu thereof "$1,258,600,000".

(b) The additional funds made available pursuant to subsection (a) may be used only to cover costs related to underestimates of the cost of transporting exchange merchandise to overseas locations and to compensate for adverse changes in foreign currency exchange rates.

SEC. 202. Section 8119 of the Department of Defense Appropriations Act, 1989 (Public Law 100-463; 102 Stat. 2270-39/40) is repealed.

SEC. 203. Section 8080 of the Department of Defense Appropriations Act, 1989 (Public Law 100-463) is amended by inserting the following provision at the end of the paragraph, after "skills": ": *Provided further*, That these limitations shall not apply to members who enlist in the armed services on or after July 1, 1989, under a fifteen-month program established by the Secretary of Defense to test the cost-effective use of special recruiting incentives involving not more than nineteen noncombat arms skills approved in advance by the Secretary of Defense".

SEC. 204. Section 8031 of the Department of Defense Appropriations Act, 1989 (Public Law 100-463; 102 Stat. 2270-22/23) is amended by inserting "High mobility multipurpose wheeled vehicle;" after "M-1 tank Chasis;".

SEC. 205. The appropriation "Operation and Maintenance Army" contained in the Department of Defense Appropriations Act, 1989 (Public Law 100-463; 102 Stat. 2270-2/3) is amended by adding the following after "Championships": ": *Provided further*, That, of the funds appropriated in this paragraph, "$50,000,000 shall be available only for procurement for the Extended Cold Weather Clothing System (ECWCS) unless $50,000,000 of ECWCS is procured by the Army Stock Fund during fiscal year 1989".

SEC. 206. The Secretary of Defense may, in conjunction with the Office of Personnel Management, conduct a test program to adjust pay rates to reflect local prevailing rates of pay for civilian employees in the following health care occupations; nurse, physician assistant, medical records librarian, medical laboratory technician, and radiology technician.

SEC. 207. Section 8037 of the Department of Defense Appropriations Act, 1989 (Public Law 100-463; 102 Stat. 2270-23), is amended by striking out "39 individuals" and inserting in lieu thereof "42 individuals".

SEC. 208. Within funds available to the Department of Defense, the Secretary of Defense shall transfer or otherwise make available funds as necessary to accommodate repair of real property, aircraft, and other Department of Defense assets damaged during the storm at Fort Hood, Texas, on May 13, 1989: *Provided*, That funds made available pursuant to this section shall be in accordance with established authorities and procedures.

CHAPTER III

DEPARTMENT OF THE INTERIOR AND RELATED AGENCIES

GENERAL PROVISIONS

SEC. 301. None of the funds available to the Department of the Interior may be used to place on the National Register of Historic Places the Al Capone House at 7244 South Prairie Avenue, Chicago, Illinois.

SEC. 302. The King Center and the National Park Service are authorized to locate an additional parking site for the Martin Luther King National Historic Site within the National Historic Site and Preservation District Boundary in accordance with Federal and State preservation regulations, in lieu of the vacant lot on the north side of Irwin between Jackson and Boulevard as specified in Public Law 100-202.

CHAPTER IV

DEPARTMENT OF TRANSPORTATION

FEDERAL AVIATION ADMINISTRATION

AIRCRAFT PURCHASE LOAN GUARANTEE PROGRAM

For the settlement of promissory notes issued to the Secretary of the Treasury, $10,770,941, to remain available until expended, together with such sums as may be necessary for the payment of interest due under the terms and conditions of such notes.

GENERAL PROVISIONS

SEC. 301. Section 312 of Public Law 100-457 is amended by deleting "276,000" and inserting in lieu thereof "$300,000".

SEC. 302. Notwithstanding any other provision of law, the New York State Bridge Authority shall have the authority to collect tolls on the Newburgh-Beacon Bridge and to utilize the revenue therefrom for the construction and reconstruction of and for the costs necessary for the proper maintenance and operation of any bridges and facilities under the jurisdiction of such Authority and for the payment of debt service on any of the Authority's obligations issued in connection therewith.

Section 341 of Public Law 100-457 is amended by deleting "2" and inserting in lieu thereof "4".

CHAPTER V

DEPARTMENT OF THE TREASURY

UNITED STATES CUSTOMS SERVICE

OPERATION AND MAINTENANCE, AIR INTERDICTION PROGRAM

Under this heading in the Treasury Department Appropriations Act, 1989, Public Law 100-440, after the words, "Provided, That", insert "with the exception of the transfer of two E2C aircraft to the U.S. Coast Guard,".

UNITED STATES SECRET SERVICE

SALARIES AND EXPENSES

Funds appropriated under this heading in the Treasury, Postal Service, and General Government Appropriations Act, fiscal year 1989, Public Law 100-440, for construction of barriers at the south end of the White House shall remain available until expended.

DEPARTMENT OF THE TREASURY—GENERAL PROVISIONS

Section 103 under this heading in the Treasury Department Appropriations Act, 1989 (Public Law 100-440) is amended by striking "1 per centum" and inserting in lieu thereof "2 per centum".

EXECUTIVE OFFICE OF THE PRESIDENT

OFFICE OF ADMINISTRATION

SALARIES AND EXPENSES

Notwithstanding any other provision of law, for an additional amount for "Salaries and expenses", for grants to the Popular Democratic Party, the New Progressive Party, and the Puerto Rican Independence Party of the Commonwealth of Puerto Rico, $1,500,000, to remain available until the sine die adjournment of the One Hundred First Congress: *Provided*, That grants shall be made to each such party in equal amounts, not to exceed $500,000 each: *Provided further*, That such funds shall be made available for necessary expenses incurred after March 1, 1989, to each such party to participate in the legislative process involving the future political status of Puerto Rico, including the travel and transportation of persons, services as authorized by section 3109 of title 5, United States Code, communications, utilities, printing and reproduction, and supplies and materials and other relat-

ed services, and for administrative costs: *Provided further,* That under such regulations as the Comptroller General may prescribe, the Comptroller General shall perform a financial audit of the financial transactions made by each such party with such funds: *Provided further,* That such funds may not be used directly or indirectly to finance the campaigns of candidates for public office.

OTHER INDEPENDENT AGENCIES

OFFICE OF PERSONNEL MANAGEMENT

SALARIES AND EXPENSES

Amounts made available under this heading in the Independent Agencies Appropriations Act, 1989 (Public Law 100-440), which are to be transferred from the Trust Funds for implementing the recordkeeping system of the Federal Employees' Retirement System, shall remain available until expended.

GENERAL SERVICES ADMINISTRATION

ADMINISTRATIVE PROVISION

Notwithstanding any other provision of law, the Administrator of General Services (Administrator) shall transfer to the administrative jurisdiction of the Holocaust Memorial Council (Council), without consideration, the Auditors West Building (Annex 3) located at Raoul Wallenberg Place and Independence Avenue Southwest, Washington, District of Columbia.

Prior to such transfer of jurisdiction to the Council, the Council shall agree to perform all necessary repairs and alterations to the Auditors West Building so as to renovate the exterior of the Auditors West Building in a manner consistent with perservation of the historic architecture of the building, and to preserve the structural integrity of the building. The Council, prior to such transfer, shall furnish to the Administrator, for his approval, a plan detailing the repairs and alterations proposed, dates for completion of the work, and funding availability.

In the event the Council ceases to exist, administrative jurisdiction of the Auditors West Building (Annex 3) shall revert to the General Services Administrator.

FEDERAL ELECTION COMMISSION

SALARIES AND EXPENSES

(TRANSFER OF FUNDS)

For an additional amount for "Salaries and expenses", $250,000, to be derived by transfer from "Expenses, Presidential Transition", General Services Administrator.

GENERAL SERVICES ADMINISTRATOR

FEDERAL BUILDINGS FUND

SEC. 201. (a) Notwithstanding any other provision of law, the General Services Administrator is hereby authorized to purchase, from annual funds available in the Federal Buildings Fund in fiscal year 1989, such additional furniture and equipment as may be necessary, not to exeed $1,500,000, for the National Oceanic and Atmospheric Administrator to relocate to the Silver Spring, Maryland, Metro Center.

(b) The National Oceanic and Atmospheric Administrator will reimburse the General Services Administration for such expenditures in equal amounts over a period of two years, beginning in fiscal year 1990.

CHAPTER VI

DEPARTMENT OF VETERANS' AFFAIRS

GENERAL OPERATING EXPENSES

The costs of external contract audits shall be charged to "Construction, major projects", "Construction, minor projects", and the "Supply fund", as appropriate, and be made retroactive to October 1, 1988.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

HOUSING PROGRAMS

ANNUAL CONTRIBUTIONS FOR ASSISTED HOUSING

The Secretary of Housing and Urban Development may make amounts reserved or obligated under section 8 of the United States Housing Act of 1937 (42 U.S.C. 1437f) for particular projects under section 202 of the Housing Act of 1959 (12 U.S.C. 1701q), available as subsidy amounts for such projects under section 202(h)(4) of such Act.

RENTAL HOUSING ASSISTANCE

Such sums as may be necessary are hereby approved to implement the authority conferred on the Secretary of Housing and Urban Development by section 236(r) of the National Housing Act to provide interest reductions and rental assistance payments: *Provided,* That notwithstanding the second sentence of such section 236(r), an application shall be eligible for assistance under such section if the mortgagee submits an application within five hundred and forty-eight days after the effective date of this Act.

COMMUNITY PLANNING AND DEVELOPMENT

COMMUNITY DEVELOPMENT GRANTS

Funds under this head in the Department of Housing and Urban Development-Independent Agencies Appropriations Act, 1989 shall be made available for a special project under section 107 of the Housing and Community Development Act of 1974 (42 U.S.C. 5307) to the Hawaii State Department of Hawaiian Home Lands, for infrastructure development on Hawaiian Home Lands, notwithstanding the restrictions on alienation applicable to such lands.

INDEPENDENT AGENCIES

NATIONAL SCIENCE FOUNDATION

RESEARCH AND RELATED ACTIVITIES

The limitation carried under this heading in the Department of Housing and Urban Development-Independent Agencies Appropriations Act, 1989 on program development and management in fiscal year 1989 is increased by $750,000.

GENERAL PROVISION

Section 406 under this heading in the Department of Housing and Urban Development-Independent Agencies Appropriations Act, 1989 (Public Law 100-404) is amended by striking out "the Secretary of the Department of Housing and Urban Development, who, under title 5, United States Code, section 101, is exempted from such limitation" and inserting in lieu thereof "any officer or employee authorized such transportation under title 31, United States Code, section 1344".

TITLE III—TECHNICAL ENROLLMENT CORRECTIONS

SEC. 301. The appropriation Operation and Maintenance, Navy as contained in the Department of Defense Appropriations Act, 1989 (Public Law 100-463; 102 Stat. 2270-3) is amended by striking out ", of which $60,000,000 shall be transferred to the Coast Guard".

SEC. 302. In Public Law 100-461, "An Act making appropriations for Foreign Operations, Export Financing, and Related Programs for the fiscal year ending September 30, 1989, and for other purposes", in TITLE V—GENERAL PROVISIONS, following the last "." in section 572, insert the following:

"RESOLUTION OF JAPANESE BEETLE PROBLEM"

"SEC. 573. None of the funds appropriated by this Act may be used to fund any programs to assist in solving the Japanese beetle problem in the Azores. It is the sense of the Congress that this problem was created by the Department of Defense which should fund any program to resolve it.".

SEC. 303. In Public Law 100-446, "An Act making appropriations for the Department of the Interior and Related Agencies for the fiscal year ending September 30, 1989, and for other purposes", in the account titled "Navajo and Hopi Indian Relocation Commission" delete the sum "$27,323,000" and insert in lieu thereof "$27,373,000".

SEC. 304. In Public Law 100-460, "An Act making appropriations for Rural Development, Agriculture, and Related Agencies for the fiscal year ending September 30, 1989, and for other purposes", in the account titled "National Agricultural Library", delete the sum "$13,268,000" and insert in lieu thereof "$14,268,000".

SEC. 305. In Public Law 100-457, "An Act making appropriations for the Department of Transportation and Related Agencies for the fiscal year ending September 30, 1989, and for other purposes", in the account titled "Urban Mass Transportation Administration, Interstate Transfer Grants-Transit" delete the sum "$2,000,000,000" and insert in lieu thereof "$200,000,000".

TITLE IV—GENERAL PROVISIONS

SEC. 401. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

SEC. 402. Notwithstanding section 1346 of title 31, United States Code, or section 608 of Public Law 100-440, funds made available for fiscal year 1989 by this or any other Act shall be available for the interagency funding of national security and emergency preparedness telecommunications initiatives which benefit multiple Federal departments, agencies, or entities, as provided by Executive Order Numbered 12472 (April 3, 1984).

SEC. 403. No funds appropriated under this Act or any other Act shall be available to the Bureau of Alcohol, Tobacco and Firearms for the enforcement of section 204 of the Alcoholic Beverage Labeling Act of 1988, title VIII of the Anti-Drug Abuse Act of 1988 (Public Law 100-690, 102 Stat. 481), and regulations issued thereunder, as it relates to malt beverage glass returnable bottles of 12 ounces or less to which labels have been permanently affixed by means of painting and heat treatment, which were ordered on or before April 21, 1989: *Provided,* That the closure for such bottles contain the warning statement: *And provided further,* That any new returnable glass bottles ordered after April 21, 1989, will be in full compliance with section 204 and the regulations issued thereunder.

SEC. 404. (a) Within 6 months of the enactment of this Act and after granting notice and opportunity to comment to affected tenants, the Secretary shall review the drug-related eviction procedures of all jurisdictions having a Public Housing Authority for the purpose of determining whether such procedures meet Federal due process standards.

(b) Upon conclusion of the review mandated by subsection (a), if the Secretary determines that due process standards are met for a jurisdiction, the Secretary shall issue that jurisdiction a waiver of the procedures required in section 6(k) of the United States Housing Act of 1937, 42 U.S.C. 1437(k), for evictions involving drug-related criminal activity which threatens the health and safety of other tenants of public housing authority employees as long as evictions of a household member involved in drug-related criminal activity shall not affect the right of any other household member who is not involved in such activity to continue tenancy.

(c) Within 60 days of completion of the review mandated by subsection (a), the Secretary shall report to Congress the findings of the review including all waivers granted in accordance with subsection (b).

SEC. 405. SENSE OF THE SENATE REGARDING THE APPOINTMENT OF A NEW ADMINISTRATOR OF THE PANAMA CANAL COMMISSION.—It is the sense of the Senate that the President should not appoint a new Administrator of the Panama Canal Commission unless and until he certifies to Congress that the ruling government of Panama is democratically elected according to procedures specified in the Constitution of Panama providing for a civilian government in control of all Panamanian military and paramilitary forces.

SEC. 406. RESTORATION OF EASTERN AIRLINES.—

(a) FINDINGS.—The Senate finds that—

(1) the operations of Eastern Airlines have been substantially shut down since March 4, 1989, by a strike by the International Association of Machinists with the support of pilots and flight attendant unions;

(2) Eastern Airlines filed a petition under chapter 11 of title 11, United States Code, on March 9, 1989;

(3) Texas Air Corporation, which controls Eastern Airlines, had negotiated for the sale of Eastern;

(4) the organized employees of Eastern had agreed to provide a potential new owner with substantial wage concessions;

(5) the deregulation of the airline industry by Congress was predicated on the anticipated continued existence of strong, independent airlines, such as Eastern Airlines;

(6) the Bankruptcy Court has the power to appoint an independent trustee to manage Eastern's return to operation during the interim period, leading up to the consummation of the sale agreement and transfer of control to a potential owner; and

(7) the return of Eastern Airlines to full operation is in the public interest and in the best interest of the creditors, employees, and customers of Eastern as well as the economies of the communities, States and regions of the United States that Eastern serves.

(b) SENSE OF SENATE.—It is the sense of the Senate that the Bankruptcy Court and all involved parties should facilitate the prompt and safe restoration of Eastern Airlines to full operations through all appropriate action, which may or may not include appointment of an independent trustee, pending sale of the company.

SEC. 407. RESPONSIBILITY FOR NUCLEAR, CHEMICAL BIOLOGICAL, AND MISSILE NONPROLIFERATION.—

(a) RESPONSIBILITIES.—The responsibilities of the Undersecretary of State for Coordinating Security Assistance Policy shall include—

(1) coordinating United States diplomatic efforts to obtain the agreement of all appropriate countries to a missile technology control regime encompassing chemical, biological, and nuclear capable missiles; and

(2) coordinating policies within the United States Government on strategies for restricting the export to foreign countries of components of missiles which are capable of carrying nuclear, chemical, or biological weapons.

(b) REPORT REQUESTED.—The Secretary of State shall submit within 90 days of the date of enactment of this Act to the Speaker of the House of Representatives and the President pro tempore of the Senate a report setting forth the Administration strategy for dealing with the missile proliferation issue, and specifying the steps taken to ensure that adequate resources will be allocated for that purpose.

(c) CONTENTS OF REPORT.—The report required in subsection (b) shall contain, but is not limited to—

(1) a discussion of efforts that can be made to strengthen the Missile Technology Control Regime to restrict the flow of Western missile hardware and knowhow;

(2) a discussion of ways to strengthen international arrangements, including the formation of a new international organization, to monitor missile-related exports and compliance with missile nonproliferation efforts; and

(3) a discussion of how incentives and threats of sanctions can be used to win the cooperation of more nations in controlling missile proliferation.

SEC. 408. TEMPORARY SUSPENSION OF RIGHT TO REPURCHASE STINGER MISSILES.—Notwithstanding section 573(b)(4) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1988, and section 566(b)(4) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1989, the United States hereby suspends its obligation to repurchase STINGER antiaircraft missiles from Bahrain until October 31, 1989.

SEC. 409. EXEMPTION PROVIDED FOR NATIONAL COMMISSION ON CHILDREN FROM CERTAIN PROVISIONS OF TITLE 5.—Section 1139 of the Social Security Act (42 U.S.C. 1320b-9) is amended by striking subsection (f) and inserting in lieu thereof the following new subsection:

"(f)(1) The Commission shall appoint an Executive Director of the Commission. In addition to the Executive Director, the Commission may appoint and fix the compensation of such personnel as it deems advisable. Such appointments and compensation may be made without regard to the provisions of title 5, United States Code, that govern appointments in the competitive services, and the provisions of chapter 51 and subchapter III of chapter 53 of such title that relate to classifications and the General Schedule pay rates.

"(2) The Commission may procure such temporary and intermittent services of consultants under section 3109(b) of title 4, United States Code, as the Commission determines to be necessary to carry out the duties of the Commission.".

SEC. 410. It is the sense of the Senate that the Secretary of Transportation should conduct a review of the potential impact of highly leveraged acquisitions of control of United States air carriers. The potential impacts to be addressed in such review should include the effects of increased expenses associated with increased debt on carriers' ability to—

(i) modernize their fleets;

(ii) make necessary expenditures for maintenances;

(iii) survive economic downturns (and the effect on competition among air carriers if some do not survive);

(iv) provide small community services;

(v) compete internationally against foreign airlines; and

(vi) make and/or keep the financial commitments to airport projects necessary to expand capacity and improve safety, and meet the future needs of their employees with regard to such matters as salaries, benefits, pensions, and job security and growth.

Pursuant to the conclusions of such review, the Secretary should make a report to the Congress and include in such report an assessment with respect to any major air carrier that is the object of a highly leveraged buy-out.

SEC. 411. The Secretary of Agriculture may use his section 32 authority in appropriate instances to stabilize the apple market and to satisfy the request of recipient agencies.

This Act may be cited as the "Dire Emergency Supplemental Appropriations and Transfers, Urgent Supplementals, and Correcting Enrollment Errors Act of 1989".

ACT FOR BETTER CHILD CARE

WILSON AMENDMENT NO. 211

Mr. WILSON proposed an amendment to the bill S. 5, supra, as follows:

On page 40, strike out lines 15 through 23.

On page 41, line 1, strike out "(9)" and insert in lieu thereof "(8)".

On page 41, line 18, strike out "(10)" and insert in lieu thereof "(9)".

On page 41, line 24, strike out "(11)" and insert in lieu thereof "(10)".

On page 42, line 3, strike out "(12)" and insert in lieu thereof "(11)".

On page 45, line 5, strike out "(13)" and insert in lieu thereof "(12)".

DOMENICI AMENDMENT NO. 212

Mr. DOMENICI proposed an amendment to the bill S. 5, supra, as follows:

Beginning on page 112:

Strike section 89(c)(5) of the Internal Revenue Code of 1986 as added by section 222.

Strike section 89(d)(3) of the Internal Revenue Code of 1986 as added by section 222.

Strike section 89(f)(3)(C) of the Internal Revenue Code of 1986 as added by section 222.

Strike the second sentence of section 4980C(c) of the Internal Revenue Code of 1986 as added by section 222.

After section 204 insert the following:

SEC. 205. EXEMPTION FROM SECTION 89 FOR EMPLOYERS WITH FEWER THAN 20 EMPLOYEES.

(a) IN GENERAL.—Section 89(f)(1) of the Internal Revenue Code of 1986, as added by section , is amended to read as follows:

"(1) HEALTH PLAN.—

"(A) IN GENERAL.—The term 'health plan' means an accident or health plan within the meaning of section 105(e).

"(B) EXCEPTION FOR CHURCH PLANS.—The term 'health plan' does not include a plan maintained by a church for church employees. For purposes of the preceding sentence, the term 'church' means any church (as defined in section 3121(w)(3)(A)) or qualified church-controlled organization (as defined in section 3121(w)(3)(B)).

"(C) Exception for plans of employers with fewer than 20 employees.—

"(i) IN GENERAL.—The term 'statutory employee benefit plan' does not include a plan maintained by an employer during a testing year if on all days during such year the employer has fewer than 20 employees (determined without regard to employees excluded under subsection (h)).

"(ii) AGGREGATION RULES.—All employers treated as a single employer under section 414 (b), (c), (m), (n), or (o) shall be treated as a single employer for purposes of subparagraph (A)."

(b) EFFECTIVE DATE; STUDY.—

(1) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in the amendments made by section 1151 of the Tax Reform Act of 1986, and shall remain in effect until taxable years beginning after December 31, 1992.

(2) Study and Report.—

(A) STUDY.—The Secretary of the Treasury or the Secretary's delegate shall con-

duct a study to determine if discrimination occurs in employee benefits provided by small businesses exempted from the application of section 89 of the Internal Revenue Code of 1986.

(B) REPORT.—The Secretary of the Treasury or the Secretary's delegate shall not later than July 1, 1992, report the results of the study conducted under subparagraph (B) to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives.

DANFORTH AMENDMENT NO. 213

Mr. DANFORTH proposed an amendment to the bill S. 5, supra, as follows:

On page 126, strike lines 10 through 17, and insert:

"(1) HEALTH PLAN.—The term 'health plan' means an accident or health plan within the meaning of section 105(e)."

On page 134, between lines 11 and 12, insert:

"(11) SPECIAL RULES FOR CHURCH EMPLOYEES.—

"(A) IN GENERAL.—There shall be excluded from consideration under this section church employees covered by a church plan.

"(B) DEFINITIONS.—For purposes of subparagraph (A), the terms 'church employee' and 'church plan' have the meanings given such terms by paragraphs (3)(B) and (1) of section 414(e), respectively, except that—

"(i) section 414(e) shall be applied by substituting 'section 501(c)(3)' for 'section 501' each place it appears, and

"(ii) the term 'church employee' shall not include an employee of—

"(I) an organization described in section 170(b)(1)(A)(ii) above the secondary school level (other than a school for religious training),

"(II) an organization described in section 170(b)(1)(A)(iii), and

"(III) an organization described in section 501(c)(3), the basis of the exemption for which is substantially similar to the basis for exemption of an organization described in subclause (II)."

On page 137, strike lines 16 through 18, and insert "Such term shall not include a church plan (within the meaning of section 414(e)).

COATS AMENDMENT NOS. 214 THROUGH 218

Mr. COATS proposed five amendments to the bill S. 5, supra, as follows:

AMENDMENT No. 214

On page 89, line 16, strike all after the comma and insert: "except that a sectarian organization may require that employees adhere to the religious tenets and teachings of such organization and further, such organization may require that employees adhere to rules forbidding the use of drugs or alcohol."

AMENDMENT No. 215

On page 28, line 25, strike the "." and insert in lieu thereof ", which receive public funds."

AMENDMENT No. 216

On page 29, line 24, strike the ";" and "or" and insert the following: ", unless the State with the concurrence of the State advisory committee established under section 111, requests a waiver of this subparagraph and demonstrates, to the satisfaction of the Secretary, that the proposed reduction is necessary to increase access to and availability of eligible child care providers and will not jeopardize the health and safety of children.".

AMENDMENT No. 217

On page 10, line 1, after "consanguinty," insert "or by decree of court,"

On page 10, line 1, strike "or nephew" and insert "nephew or sibling".

AMENDMENT No. 218

On page 10, line 8, strike "the private residence of such individual" and insert in lieu thereof "a private residence."

DOMENICI (AND OTHERS) AMENDMENT NO. 219

Mr. DOMENICI (for himself, Mr. SPECTER, Mr. BURNS, and Mr. WILSON) proposed an amendment to the bill S. 5, supra, as follows:

On page 148, between lines 2 and 3, insert:

(5) SPECIAL RULES RELATING TO SMALL EMPLOYERS.—

(A) 1-YEAR DELAY.—In the case of a small employer, section 89 of the Internal Revenue Code of 1986 (as added by subsection (a)) and section 4980C of such Code (as added by subsection (b)) shall apply to years beginning after December 31, 1990.

(B) STUDY.—

(i) IN GENERAL.—The Secretary of the Treasury or his delegate shall conduct a study to determine if discrimination in favor of highly compensated employees occurs in the providing of employee benefits by small employers. Such studies shall consider a broad base of small businesses, including businesses of professionals.

(ii) REPORT.—Not later than July 1, 1990, the Secretary of the Treasury or his delegate shall report the results of such study to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives, including any recommendations. Such committees shall review such report and take appropriate actions with respect to the application of nondiscrimination rules to small employers.

(C) SMALL EMPLOYERS.—For purposes of this subparagraph, the term "small employer" has the meaning given such term by section 89(c)(5)(B) of the Internal Revenue Code of 1986 (as added by subsection (a)).

NOTICES OF HEARINGS

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Mr. LEAHY. Mr. President, I wish to announce that the Committee on Agriculture, Nutrition, and Forestry will hold a hearing on Thursday, July 13, 1989, at 9 a.m. in SR 332, Russell Senate Office Building to receive testimony on drought.

For further information, please contact Bob Young of the committee staff at 224-2035.

SUBCOMMITTEE ON DOMESTIC AND FOREIGN MARKETING AND PRODUCT PROMOTION

Mr. LEAHY. Mr. President, I wish to announce that the Subcommittee on Domestic and Foreign Marketing and Product Promotion of the Committee on Agriculture, Nutrition, and Forestry will hold a hearing on July 11, 1989 at 2 p.m. on research and promotion legislation. The hearing will be held in room 332, Russell Senate Office Building.

Senator DAVID L. BOREN will preside. For further information please contact Dan Webber of the subcommittee staff at 224-4721.

SUBCOMMITTEE ON ENERGY RESEARCH AND DEVELOPMENT

Mr. FORD. Mr. President, I would like to announce for the Senate and the public that the hearings scheduled before the Subcommittee on Energy Research and Development of the Committee on Energy and Natural Resources on July 18 and 20, 1989, have been postponed.

Testimony was to be heard at this hearing on the Department of Energy's nuclear reactor research and development programs and on commercial efforts to develop advanced nuclear reactor technologies.

The hearings were originally scheduled to take place on the above mentioned dates in the Dirksen Senate Office Building in Washington, DC.

The hearings will be rescheduled at a later date. For further information, please contact Mary Louise Wagner or Teri Curtin at (202) 224-7569.

SUBCOMMITTEE ON PUBLIC LANDS, NATIONAL PARKS AND FORESTS

Mr. BUMPERS. Mr. President, I would like to announce for the public that a hearing has been scheduled before the Subcommittee on Public Lands, National Parks and Forests of the Committee on Energy and Natural Resources.

The hearing will take place on July 19, 1989, beginning at 2 p.m. in room SD-366 of the Senate Dirksen Office Building in Washington, DC.

The purpose of the hearing is to receive testimony on four measures currently pending before the subcommittee. The measures are:

S. 866, a bill to establish the Calumet Copper Country National Historical Park in the State of Michigan, and for other purposes;

S. 931, a bill to protect a segment of the Genesee River in New York;

H.R. 419, a bill to provide for the addition of certain parcels to the Harry S. Truman National Historic Site in the State of Missouri; and

H.R. 1529, a bill to provide for the establishment of the White Haven National Historic Site in the State of Missouri, and for other purposes.

Because of the limited time available for the hearing, witnesses may testify by invitation only. However, anyone wishing to submit written testimony to be included in the hearing record is welcome to do so. Those wishing to submit written testimony should send two copies to the Subcommittee on Public Lands, National Parks and Forests, SD-364, Washington, DC 20510.

For further information regarding the hearing, please contact David Brooks of the committee staff at (202) 224-9863.

Mr. President, I would like to announce for the public that a hearing has been scheduled before the Subcommittee on Public Lands, National

Parks and Forests of the Committee on Energy and Natural Resources.

The hearing will take place on July 20, 1989, beginning at 2 p.m. in room SD-366 of the Senate Dirksen Office Building in Washington, DC.

The purpose of the hearing is to receive testimony on S. 371, a bill to designate certain National Forest System lands in the State of Idaho for inclusion in the National Wilderness Preservation System, to prescribe certain management formulae for certain National Forest System lands, and to release other forest lands for multiple-use management, and for other purposes.

Because of the limited time available for the hearing, witnesses may testify by invitation only. However, anyone wishing to submit written testimony to be included in the hearing record is welcome to do so. Those wishing to submit written testimony should send two copies to the Subcommittee on Public Lands, National Parks and Forests, SD-364, Washington, DC 20510.

For further information regarding the hearing, please contact Beth Norcross of the committee staff at (202) 224-7933.

AUTHORITY FOR COMMITTEES TO MEET

SUBCOMMITTEE ON TRADE

Mr. EXON. Mr. President, I ask unanimous consent that the Subcommittee on Trade of the Committee on Finance be authorized to meet during the session of the Senate on June 22, 1989, at 2 p.m. to hold a hearing on Japanese trade barriers that block United States forest product exports.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FINANCE

Mr. EXON. Mr. President, I ask unanimous consent that the Committee on Finance be authorized to meet during the session of the Senate on June 22, 1989, at 10 a.m. to hold hearings on and to consider the nominations of Fred T. Goldberg, to be Commissioner of the Internal Revenue Service; Juluis L. Katz, to be a Deputy U.S. Trade Representative; and, Michael J. Astrue, to be General Counsel of the Department of Health and Human Services, and to consider an original bill, identical to section 2 of H.R. 2550, the "Democracy in Eastern Europe Act of 1989", to extend eligibility for the generalized system of preferences to Poland.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON COMMUNICATIONS

Mr. EXON. Mr. President, I ask unanimous consent that the Communications Subcommittee, of the Committee on Commerce, Science, and Transportation, be authorized to meet during the session of the Senate on June 22, 1989, at 9 a.m. to hold a hearing on media ownership: Diversity and concentration which will focus on broadcast industry.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON SURFACE TRANSPORTATION

Mr. EXON. Mr. President, I ask unanimous consent that the Surface Transportation Subcommittee, of the Committee on Commerce, Science, and Transportation, be authorized to meet during the session of the Senate on June 22, 1989, at 2 p.m. to hold a hearing on S. 1005, legislation regarding railroad debt and acquisition issues.

The PRESIDING OFFICER. Without objection, it is so ordered.

SELECT COMMITTEE ON INTELLIGENCE

Mr. EXON. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on June 22, 1989, at 2 p.m. to hold a closed business meeting.

The PRESIDING OFFICER. Without objection, it is so ordered.

SELECT COMMITTEE ON INTELLIGENCE

Mr. EXON. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Thursday, June 22, 1989, at 2 p.m. to hold a closed hearing on intelligence matters.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON CONSERVATION AND FORESTRY

Mr. EXON. Mr. President, I ask unanimous consent that the Subcommittee on Conservation and Forestry of the Committee on Agriculture, Nutrition, and Forestry, be authorized to meet during the session of the Senate on Thursday, June 22, 1989, at 9 a.m. to hold a hearing on Conservation and Agricultural Practices.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON LABOR AND HUMAN RESOURCES

Mr. EXON. Mr. President, I ask unanimous consent that the Committee on Labor and Human Resources be authorized to meet during the session of the Senate on Thursday, June 22, 1989, at 9:30 a.m. to conduct a hearing on the Americans With Disabilities Act.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON ENVIRONMENTAL PROTECTION

Mr. EXON. Mr. President, I ask unanimous consent that the Subcommittee on Environmental Protection, Committee on Environment and Public Works, be authorized to meet during the session of the Senate on Thursday, June 22, beginning at 10 a.m., to conduct a mark up of S. 804, the North American Wetlands Conservation Act, to conserve North American wetlands and waterfowl and the other migratory birds and fish and wildlife that depend upon these habitats.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON SMALL BUSINESS

Mr. EXON. Mr. President, I ask unanimous consent that the Small Business Committee be authorized to meet during the session of the Senate on Thursday, June 22, 1989, at 9:30 a.m. The committee will hold a hearing on the problems faced by small businesses in complying with the paperwork requirements of the Occupational Safety and Health Administration's Hazard Communications Standard.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. EXON. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to hold a business meeting during the session of the Senate on Thursday, June 22, 1989, at 10:30 a.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON EUROPEAN AFFAIRS

Mr. EXON. Mr. President, I ask unanimous consent that the Subcommittee on European Affairs of the Committee on Foreign Relations be authorized to meet during the session of the Senate on Thursday, June 22, at 2 p.m. to hold a hearing on Europe 1992.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON INTERNATIONAL FINANCE AND MONETARY POLICY

Mr. EXON. Mr. President, I ask unanimous consent that the Subcommittee on International Finance and Monetary Policy of the Committee on Banking, Housing, and Urban Affairs be allowed to meet during the session of the Senate Thursday, June 22, 1989, at 9 a.m. to conduct hearings on chemical weapons proliferation.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON VETERANS' AFFAIRS

Mr. EXON. Mr. President, the Committee on Veterans' Affairs would like to request unanimous consent to hold a hearing on home loan guaranty and agent orange legislation (S. 404, H.R. 1415, S. 898, a Cranston home-loan program bill, and an agent orange compensation bill) on Thursday, June 22, 1989, at 8 a.m. in SR-418.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON THE CONSTITUTION

Mr. EXON. Mr. President, I ask unanimous consent that the Subcommittee on the Constitution of the Committee on the Judiciary, be authorized to meet during the session of the Senate on Thursday, June 22, 1989, at 2 p.m., to hold a hearing on Civil Rights Commission.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON EDUCATION

Mr. EXON. Mr. President, I ask unanimous consent that the Subcommittee on Education, of the Committee on Labor and Human Resources,

be authorized to meet during the session of the Senate on Thursday, June 22, 1989, at 11 a.m. to conduct a hearing on "Voc Ed Reauthorization."

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

SELF-RESTRAINT

● Mr. SIMON. Mr. President, Richard Reeves, the highly respected national columnist, recently had a column in the Peoria Journal-Star and other newspapers around the Nation which ran under the title "Lee Atwater: Days Are Dwindling Down for Republicans' Rambo." I assume it ran under different titles in other newspapers.

Its content is significant.

For a free system to work, self-restraint is necessary on the part of leaders of the free system.

There is too much evidence that the free system is not working as it should these days.

I hope all of us in both political parties can exercise more self-restraint.

An example of that abuse is in his column, which I ask to be printed in the RECORD at this point.

The column follows:

[From the Peoria Journal-Star, June 14, 1989]

LEE ATWATER: DAYS ARE DWINDLING DOWN FOR REPUBLICANS' RAMBO

(By Richard Reeves)

WASHINGTON.—I have lived in Washington on and off under five presidents and have always suspected that only one thing was sure around here: If Attila the Hun were in the White House, Washingtonians would be telling each other how good we all looked in bearskins.

My suspicion was confirmed, as Reader's Digest would say, when I saw the cover of the current issue of a local magazine called Dossier. When I last lived here, in 1974, Dossier was dropped on your doorstep if you had the right ZIP code. It was 10 or 12 pages then, most of them filled with pictures of a South Korean lobbyist named Tongsun Park at parties with his girlfriend, a blonde whose name I've forgotten.

But people did read it, because it pioneered one irresistible feature: lists of real estate prices. The density of gossip in Washington is extraordinary—and appetites for it bottomless—and Dossier, I remember, made a small mark by publishing the price when James Reston of The New York Times sold his house to Tom Brokaw of NBC. A classic changing of the guard.

By the time I came back last year, Dossier had become a slick magazine of 88 pages filled with photographs of almost everybody at play. The subscription forms inside listed the magazine's priorities as "Powerful Personalities" . . . "Luxurious Homes and Gardens" . . . "Sophisticated Fashions." And the articles listed on the cover were: "Real Estate Special: What a Million Dollars Won't Buy" and "Friday Night at the Bushes."

The cover itself was a photograph of the little Attila of this day: "Lee Atwater, chairman of the Republican National Committee . . . Grooming by Ilona Holland." Miss Holland, I guess, deserves credit for getting Atwater out of his bearskin and into a white shirt. He is posed staring into the camera, his unclouded eyes beaming the sincerity he projected when declaring that he had no idea that the star of the millions of dollars' worth of Bush commercials, the most publicized rapist of the 20th century, Willie Horton, was a black man.

In fact, those are the same eyes that President Bush said looked into his own as Atwater declared that he never knew his office was sending our fliers intimating that House Speaker Thomas Foley was a constant danger to children in schoolyards around the nation. Who could disbelieve such a likable young fellow who is forever being picked on just because in about every campaign he manages, rumors begin to pop up about mental illness, homosexuality, drugs, and the burning of American flags by opponents' wives?

So, Washington can be a very silly place, but only a bit sillier than most. And Lee Atwater is a thug, but hardly unique, My feelings about him are not personal. I wish they were. The most distressing thing about Atwater is that he's a type, part of a modern American breed.

Atwater, I'm sure, knows the classic differences between right and wrong. He just doesn't think they're relevant to what he does. What counts is not how you play the game; it's whether you win or lose. The new breed define themselves and their work by the numbers—in Atwater's case, the numbers of votes. In the case of television programmers, it's the number of viewers. In the case of Wall Street hotshots or commodity brokers, it's the number of dollars.

Winning is its own reward. Winning asserts its own morality. Political managers, network programmers and MTV managers alike see themselves answering to a higher voice than mine. They see themselves as answering the call of the people. They are giving the people what they want!

What could be more moral than that? If you believe in democracy, if you believe in free markets, what can be better than giving the people what they want? Numbers, ratings, elections are the purest test of the public mood, the public desire, the public fears, the public good. And Lee Atwater is the perfect conductor of those things, the unjudging conduit from polls and focus groups to the people.

Clearly Atwater has no sense that the strength of democracy is that it can generate dialogue and leaders that make us better as a people than we know ourselves to be as individuals. We, the people, hope, for instance, that the U.S. Senate will produce better debate than the mean ramblings of a focus group.

Atwater may not last long as cover boy and chairman. He may be nothing more than the Billy Carter of this season. He won't be allowed another mistake like the Foley affair. The press and Washington itself would tolerate his kind forever, but he will be done in by his patrons. George Bush and other Republicans who don't wear bearskins jettison the Atwaters of the world as quickly and cleanly as they tell the maid to take out the garbage.

That is something Atwater may sense; he does not see himself as an ordinary Republican. The Dossier piece on him celebrates his workingman's lust for rock music, barbecue sauce and Hulk Hogan. How charming. But being on that cover was a fatal mistake. He will fall now, not because his opponents find him amoral, but because he has already made a mistake deadly among Republicans: Lee Atwater talks too much; he doesn't know his place.●

BURDENSHARING AND THE BUSH CONVENTIONAL PARITY INITIATIVE

● Mr. JOHNSTON. Mr. President, on January 19, of this year I wrote President Bush a letter urging him to expedite appointment of an Ambassador-at-Large for defense burdensharing. The Congress created this ambassadorship last year in the fiscal year 1989 defense appropriation bill. I suggested to the President that if he quickly appointed an eminent person to this post it would signal this administration's priority on reducing the disproportionate burden our people bear in defending the free world. Today, almost 6 months later, that post remains unfilled.

Some say that President Bush's "conventional parity initiative," which would limit Soviet and American troops in Europe to 275,000 on each side, has killed hopes for progress on burdensharing, at least in Europe. They say that Congress dare not act unilaterally on burdensharing once the talks begin on Mr. Bush's proposal. They predict that as our defense burden declines in Europe through negotiated agreements with the Soviets, the pressure at home for equity in how that burden is shared will diminish. Burdensharing is a dead issue we are told.

On the contrary, I think burdensharing will be more important than ever to this administration. Appointment of a special Ambassador to handle that task is not only a requirement of law, but would be a wise move for the Bush administration.

First, let me commend President Bush for his bold and daring initiative in proposing troop reductions in Europe to 275,000 on each side. He skillfully seized the initiative from Secretary Gorbachev. If the Bush proposal is adopted and the Soviets cut their troops in Eastern Europe by 350,000, then the likelihood of a Soviet attack on Europe will be significantly diminished.

As for the prospects for burdensharing legislation, no doubt it will be very difficult now for Congress to enact any unilateral troop cuts in Europe during negotiations of the President's proposal. Certainly, history suggests that Congress is preempted from unilateral action, at least for a while. My colleagues may recall that from 1966 to 1973, Senator Mansfield introduced a resolution every year calling for substantial U.S. troop reductions in Europe. In 1970 he had mustered 50 cosponsors in the Senate. But in 1973 that mutual and balanced force reduction talks—MBFR talks—began. President Nixon urged Congress not to legislate unilateral troop withdrawals as it would interfere with the delicate negotiations. Over 400 meetings later the MBFR talks had little to show for the effort.

Let me remind my colleagues that during those 400-odd meetings the

number of active duty U.S. troops stationed in Europe grew by 50,000. The number of DOD civilians has increased by 25,000 and the number of U.S. dependents in Europe soared by 80,000. All told, since the MBFR talks began, the United States increased its presence in Europe by about 150,000 people.

So why is burdensharing so important for the Bush administration now, besides the fact that appointment of a burdensharing Ambassador is required by law? The reason is that Gorbamania and demographics are tempting individual members of the alliance to cut their defenses substantially now, to bear less of the defense burden. But negotiations on conventional force reductions in Europe will require many months, if not years. Such defense cutbacks now could induce instabilities within the alliance that would unravel our negotiating position with the Soviets. Moreover, the United States might find itself carrying an even larger percentage of the total defense burden than it already does.

No one should count on Mr. Bush's proposal being implemented quickly. One can be optimistic, but realistic at the same time. The President's proposal is contained within a NATO package that has yet to be finalized. A formal presentation to the Soviet Union will come later. While President Bush hopes treaty negotiations can be negotiated within 1 year, many doubt that is possible. The Soviets seem to think their own proposal wouldn't be implemented until 1997.

Yet already, the West Germans have unilaterally decided to delay until 1992 the planned extension of their draft. Their troop levels may drop from the current 489,000 down to 370,000–405,000, predicts one observer. The French are said to be considering cutting their conventional forces.

It would be easy for our allies to misinterpret the Bush proposal as creating a floor, not a ceiling on our military presence in Europe. The 275,000 troop limit would apply only to the United States and the U.S.S.R. European members of the alliance might conclude that the United States has the burden of matching the Soviet presence, that the rest of the alliance can slacken its efforts. If that happens, then I seriously doubt that the United States can be relied on to field 275,000 troops in Europe. The issue of burdensharing has always been one of fairness, fairness in the distribution of the burden among military allies who are also trading partners.

There will be impatience here at home as well. Mr. Bush's proposal would not dramatically cut either our defense presence in Europe, or our defense budget. It was not offered as a budget-saving measure. Cutting our troop levels in Europe to a level of 275,000 would take us back to about where we were, ironically, in 1973. That's a level that Senator Mansfield and many other Members thought entirely excessive back then.

The deficit situation next year will put a severe squeeze on the defense budget. The administration's budget forecast for fiscal year 1991 shows they will ask for $3 billion more in defense overseas funding than we will spend this year. Before, burdensharing meant we were asking our allies to shoulder more of the defense burden, so that we could reduce our disproportionate contribution to the alliance. Now, it seems we may have to struggle to get our allies even to maintain their current contribution. That will be especially frustrating for Members next year.

I would hope that the President would match his first proposal with a second one. Call it an alliance parity initiative. I have no illusions that appointment of such a burdensharing Ambassador would magically redress the imbalance in who pays what to defend Europe. But it is an opportunity to bring someone new into the equation who has a mandate from the President. That mandate would be, first, to dissuade alliance members from prematurely cutting their defense commitments, and second, to seek parity among the NATO members in shouldering the revised defense burden of the future.

Perhaps one day, once the third or fourth round of successive troop reductions in Europe are implemented, the level of defense required will be comfortably affordable. Then fairness in who bears what defense burden within the alliance may not be an issue. I look forward to that day, but until then, the President would do well to appoint a burdensharing Ambassador to instill patience, but also a greater sense of fairness within the alliance.●

PASSAGE OF THE DIRE EMERGENCY SUPPLEMENTAL APPROPRIATIONS BILL

● Mr. SHELBY. Mr. President, today I rise to respectfully urge the conferees to reach a workable agreement on the appropriations bill so that funds for veterans' health care and other projects will be provided in an expeditious manner. The Independence Day recess is before us. I do not want to leave without completing a package that will provide funding for programs that serve those who have served our country in times of need.

As we all know, because our constituents are informing us, horror stories of delayed medical treatments are growing. Mr. President, the dire emergency supplemental appropriations bill contains $1.2 billion for the Department of Veterans Affairs, including $340 million for medical care. It has been reported that the Department of Veterans Affairs has been working to maintain prudent levels of veterans' health care and that many medical facilities may be closed soon and treatment denied to veterans. At this juncture, we must concentrate on strengthening the Veterans' Affairs Department health care system. This temporary crisis, and I hope it is temporary, is not needed.

The maintenance of quality health care is the preferred goal. We must not lose sight of this goal. Only with full funding can we provide A–1 medical services. I do not think it is fair nor reasonable to deny benefits to those brave individuals who have served our country with hesitation.

Mr. President, I strongly urge the conferees to reach a compromise so that our veterans will not be unduly affected.●

BRILLIANT PEBBLES

● Mr. SIMON. Mr. President, we seem to go from one loony idea to another one, in the area of defense.

The latest is "brilliant pebbles" that would be used to stop about 30 percent of Soviet missiles that would be attacking the United States. These pebbles would be in space.

During my year in the House, I came to have tremendous regard for one of the most thoughtful Members of the House, who has his feet on the ground and is also extremely knowledgeable in defense.

I mean no disrespect to the current chairman of the House Armed Services Committee, when I say I would have voted for CHARLIE BENNETT for chairman of the House Armed Services Committee, had I been a Member of the House.

Our colleague in the House, Congressman BENNETT, has written an oped piece for the New York Times that briefly, swiftly, and effectively demolishes the whole "brilliant pebbles" idea.

I ask to have it printed in the RECORD at this point, and I urge my colleagues and their staffs to take the time to read this article.

The article follows:

[From the New York Times, June 17, 1989]

"BRILLIANT PEBBLES"? NO, LOOSE MARBLES

(By Charles Bennett)

WASHINGTON.—With "brilliant pebbles," proponents of the Strategic Defense Initiative may finally have gone off the deep end.

After six years and $17.5 billion of research, the "Star Wars" program has produced lots of exciting ideas. Every time one of them gets shot down, the scientists invent another. This time it's a doozie.

After a year of lobbying, Lowell Wood and Edward Teller of Lawrence Livermore National Laboratory have convinced the Bush Administration to embrace brilliant pebbles. The idea is to encircle the globe with tens of thousands of rockets packed with so much advanced technology that they could shoot down about 30 percent of the first wave of a Soviet nuclear missile strike.

We should not reject this idea out of hand. But for something swallowed uncritically by educated adults who should know better, this proposal has a remarkable number of problems.

To start with, brilliant pebbles is the brainchild of the same two scientists who hatched the idea of shooting down missiles in space with an X-ray laser. Mr. Teller's briefings to President Ronald Reagan about this weapons concept are widely credited with inspiring the S.D.I. program. Mr. Teller claimed the laser was close to reality, writing that "a single X-ray laser module the size of an executive desk could potentially shoot down the entire Soviet land-based missile force." The problem was that this claim wasn't true.

While Mr. Reagan believed Mr. Teller, other S.D.I. scientists were less optimistic, to put it mildly. George Maenchen, the senior scientist in charge of the X-ray laser program at Lawrence-Livermore, said: "All these claims are totally false. They lie in the realm of pure fantasy." Indeed, the X-ray laser program that launched S.D.I. was soon put on the backburner as "long-term research."

Mr. Wood and Mr. Teller also championed ground-based lasers, and then space-based interceptors—hundreds of satellites, each carrying a dozen rockets. Unfortunately, brilliant pebbles looks no more promising than its predecessors.

The system requires technological breakthroughs in dozens of areas. No "brilliant pebble" has been built yet. Mr. Wood talked last year of deploying 100,000 rockets, each weighing five pounds and costing $10,000. Last month, Vice President Quayle said each would weigh 100 pounds and cost $500,000.

Even if the technology does work, we still haven't solved the basic problem of strategic defense: All defensive systems can be defeated by countermeasures that cost far less. The reason for that is simple. It's a lot easier to hit an orbiting satellite than a warhead moving at a vast rate of speed. Moreover, it's also easy to build enough new missiles to numerically overwhelm a defense, or to develop missiles that get into space before interceptors can target them.

In any event, we would be locked into a spiraling offensive and defensive arms race with no winner, no stability and no security. Funds would be drained from more urgent defense needs.

Recently, the Joint Chiefs of Staff proposed that the Administration drop its insistence, in the Geneva talks on strategic arms reductions, on the right to deploy strategic defenses. This note of skepticism follows their call, in April, for the lowest of the funding options presented during an official review of Star Wars.

Research, however, is a prudent hedge against unpleasant technological surprises. Respected experts have told Congress repeatedly that a vigorous research program could be supported at $2 billion to $3 billion a year. We are spending more than that now because we have a program geared to deployment, not research.

If the Bush Administration wants to spend some of that money on brilliant pebbles research, fine. Administration officials may, in fact, know the idea is crazy but be using it to divert attention while they cut $1 billion from S.D.I. Since there has been little outcry at the cuts from the true believers, perhaps we should concede the brilliance of their strategy.

But for Congress to appropriate $4 billion or $5 billion for this scheme would look less like brilliant pebbles than like loose marbles.●

ODYSSEY OF THE MIND

● Mr. PRYOR. Mr. President, today, I want to brag a bit and share with my colleagues a success story from the city of Blytheville, AR. Three teams representing the Blytheville School District competed admirably in the "Odyssey of the Mind" world finals on May 27 of this year in Boulder, CO. I hope that my colleagues will join me in commending the students from that fine town for their effort, intelligence and innovation.

The "Do More With Less" team in division III coached by Ms. Michele McLeod competed against 600 teams and 6,000 students from several countries, including China, the Soviet Union, Canada, and Mexico. The Arkansas know-how of Michael Strickland, Tommy Long, Rebecca Moore, Crystal Strickland, Harriet Hammett, and Matthew McLeod brought home first place and the title of "Best in the World" to Blytheville. In one exercise they managed to support 247 pounds with a balsa wood design weighing merely five grams, roughly the weight of a nickel.

This Chamber's congratulations should also be extended to Kevin Patterson, Destry Mason, Brian Needham, Michelle Fryer, Jennifer Robbins, Brian Mosley, and coaches Mrs. Joy Patterson and Mrs. Kwajalean Needham of Burdette Elementary School for their fifth place finish in division II of the "Do More With Less" competition. My admiration and respect goes out to those fifth and sixth graders who performed with style and grace.

West Junior High's team is also a credit to their city and their school. Brad Young, Julie Harmon, Edward Rhodes, Stephanie Jones, Chris Clark, and coaches Mrs. Sue Harmon and Miss Carey McMahan exhibited a fine sense of sportsmanship and competitiveness. I am proud of their exemplary effort.

I hope my esteemed colleagues will join me in congratulating the participating students and coaches of the Blytheville School District. Today I am proud of my State and these young citizens for their fine effort and excellence. I am sure that my colleagues share my enthusiasm for the Odyssey of the Mind Program and its emphasis on excellence. These students and the town that supported them stand as fine examples of hard work and intelligence and deserve our respect and admiration.

Mr. President, I respectfully request that a copy of an article from the Arkansas Democrat detailing the success of these students be reprinted in the RECORD at this point.

The article follows:

[From the Arkansas Democrat]

ARKANSAS STUDENTS AMONG BEST IN WORLD AT MENTAL COMPETITION

(By Thomas Sisson)

Some Arkansas students proved themselves among the best in the world at the worldwide "Odyssey of the Mind" competition held May 27 in Boulder, Colo.

Teams of students from Blytheville finished first and fifth in their divisions and a team from Norman Junior High School in Crosett finished second.

The first-place team from Blytheville had six students from three schools: Blytheville High School, which had four students; East Junior High School with one student; and Robinson Primary School, also with one student.

Blytheville beat out more than 600 teams from several countries, including China, the Soviet Union, Canada and Mexico. Their winning effort was in the "Do More With Less" problem.

In one part of the problem, the students were required to build a balsa wood structure weighing between 5 and 15 grams.

Five grams is about equal to the weight of a nickel, according to Janet Taylor, assistant school superintendent in Blytheville. The 3-inch-tall, 5-gram structure designed by the students supported a weight of 247 pounds at the world competition.

Tommy Long, a 10th-grade student, was the chief designer. The other term members were Harriet Hammett, Rebecca Moore and Crystal Strickland, all 10th-grade students; Michael Strickland, an eighth-grade student, and Matthew McLeod, a first-grade student.

Long said the winning structure wasn't exactly designed according to modern engineering techniques.

"It was mainly just trial and error," Long said. "We'd build one, test it and rebuild it. Mostly the changes were just moving a diagonal crosspiece here and there I think we made about 50 different structures before we settled on this one."

Long said he wasn't surprised at the team's performance in Boulder. At the statewide competition, their entry had actually supported more weight, 295 pounds; He speculated the change in climate made some difference.

Crystal Strickland said she and the others were mainly involved in the other phase of the team competition, an eight-minute skit on the plight of the homeless and hungry for which they provided a script, costumes, scenery and music.

She said her six years of participation in the competitions have benefited her both as a student and as a person.

"I plan to stay on the team the rest of my time in school," she said. "We really have learned how to work with other people to get a common job done. And it's really built up my confidence and self-esteem."●

MORATORIUM ON THE TRADE OF ELEPHANT IVORY

● Mr. MOYNIHAN. Mr. President, I would like to commend President Bush on his announcement that the United States is banning imports of ivory, effective June 9. Great Britain, France, and West Germany have also declared moratoria on imported ivory. In addition, Japan, the world's largest consumer of ivory products, announced it will shut down all imports of ivory shipped from non-African countries beginning June 19. Taken together, these actions should significantly curb the world's appetite for ivory products, and curtail poaching operations which threaten to wipe out the 700,000 remaining African elephants.

Not a moment too soon. At the next meeting of the Convention on International Trade in Endangered Species, CITES, in Lausanne this October, the classification of the African elephant

is expected to be transferred from threatened to endangered, meaning the international community recognizes that the elephant—a keystone species in African ecosystems—is in danger of becoming extinct entirely. International recognition of the African elephant as endangered should mean an end to ivory imports in the 103 CITES member countries. A ban on imports by the world's major ivory consumers, together with effective measures to eliminate demand for such ivory, would make poachers less likely to slaughter the remaining animals.

As the elephant has fallen prey to poachers in the last decade, the price of 1 ton of ivory has risen not only in dollar terms, but in terms of the actual number of animals slaughtered to yield 1 ton of ivory. According to the New York Zoological Society, in most populations elephant bulls are scarce—so poachers are now taking female elephants with smaller tusks. In 1979 the number of elephants taken for a ton of ivory was 54, mostly bulls. In 1987, 113 elephants, mostly females, had to be killed to provide the same ton of ivory. Because many of these females left orphan calves, 55 additional elephants died with each ton of ivory taken. At present 10 percent of the living population per year is being destroyed.

Elephants have fallen prey to humans at least since the ice age, 25,000 years ago. Archeologists have uncovered remains of trinkets, needles, and small utensils carved out of ivory by European hunters. When the Europeans began to colonize Africa 500 years ago, 10 million elephants inhabited the savannas and forests from the shores of the Mediterranean to the Cape of Good Hope.

Europeans acquired a taste for ivory to make combs, ornaments, piano keys, and bagpipe joints. African elephant populations gradually diminished. By the late 19th century African elephants, which had disappeared from North Africa entirely, became almost extinct in Cape Colony, the present day South Africa.

Subsequent conservation efforts preserved the remaining stock of elephants, and the population remained stable through the 1960's. However since 1970, the demand for ivory increased dramatically, in part because as a commodity ivory has been considered a good investment: the price of ivory has increased 900 percent in the last 20 years. And new sources of demand emerged. The two largest importers are now Japan and Hong Kong.

Increased ivory prices led to the decimation of African elephants. In the Central African Republic, bands of poachers—Sudanese horsemen, 50 or more to a group, armed with automatic weapons from the Chadian war—slaughtered over two-thirds of the country's elephants between 1978 and 1986.

Elephants such as those inhabiting the Dzanga-Sangha dense forest of the southwestern Central African Republic illustrate that the elephant is a keystone species, having a profound effect on the local ecology. These elephants sustain other forms of life. For example, the elephants enlarge and create marshy clearings, which support populations of bongo, buffalo, birds, and forest wildlife.

Wild species of plants and animals are a treasure in more than an esthetic sense. Prescription medicines, such as those used to treat leukemia, herpes, encephalitis, and high blood pressure are derived from living species. In addition, wild varieties of wheat and corn can be used to genetically enrich farmers' yields. Decimation of wild species impoverishes the human race in manifold unforeseeable ways.

The General Accounting Office reported in December 1988 that one plant or animal species is lost per day worldwide. It is my hope that today's efforts by the international community will not stop at protecting African elephants, but will engender a larger effort to preserve all species that are threatened or endangered.

To further this effort, on January 25 I introduced a bill, S. 261, that would strengthen the hand of the President to enforce international agreements to protect endangered and threatened species by making actions that undermine such agreements unfair trade practices under section 301 of the Trade Act of 1974. This bill would enhance protection of species such as the African elephant that have been subjected to irresponsible commercial exploitation.

To capture the attention of the governments of countries where illegal trade in endangered species is known to occur, the United States should have the ability to selectively retaliate against all categories of imports. The governments involved would then be more likely to tighten restrictions on illegal trade in endangered species. If countries such as Japan or Hong Kong fail to follow through with the moratorium on ivory trade—or continue to import ivory from African countries should the CITES secretariat designate the African elephant an endangered species this October—retaliatory action should, for example, fall on sophisticated electronics or automotive products, or whatever would be most effective.

Hence, my bill. The use of section 301 of the Trade Act of 1974 would greatly broaden the armory of retaliatory options available to the President. And the President could craft the proper response. Our ability to enforce conservation agreements would be improved and the security of many species enhanced.

In addition, private parties would also have the right to petition the U.S. trade representative under section 301 for relief against any burden caused by the failure of foreign governments to enforce agreements.

Finally, Mr. President, although I am pleased that Japan has finally responded to environmental concerns in the case of ivory, much more needs to be done. Japan remains the largest market for endangered species and continues to hunt whales in violation of international agreement. Although the United States could take unilateral action under section 301, I continue to urge a multilateral approach. President Bush and Ambassador Hills should pursue a framework agreement at the current round of GATT negotiations to prevent trade in endangered species. Article XX of the GATT permits trade restrictions for conservation purposes. All that is required is the will to undertake negotiations. I can only hope that President Bush's strong action on elephant ivory means a new willingness to harness our trade laws and the GATT to prevent irresponsible trade in endangered species.●

FAREWELL TO BOB SMITH

● Mr. SIMON. Mr. President, it is my pleasure to salute Robert E. Smith, who will retire June 30, 1989, after 34 years of distinguished service with United Parcel Service. As the company's senior vice president and functional manager of the communications, public relations, and public affairs department, Bob has expertly managed the company's publications, audio-visual communications, public relations, and public affairs activities. His principal activity has been to inform government officials at all levels of the company's views regarding legislation and regulation. Bob also has participated actively as the company's chief witness in rate and other Postal Services hearings, particularly as the issues relate to fair competition in the public and private sector. He has great respect among his colleagues and professional associates, who will miss his valuable and trusted service. It has been a pleasure and an honor to work with Bob and we on the hill will miss him as well.

Bob was born on December 20, 1929, in Jersey City, NJ. He moved west with his family and graduated from high school in Santa Maria, CA. He attended San Jose State University before moving back to New Jersey, where he later earned a B.S. degree in communications from Farleigh Dickinson University.

Bob worked for 6 years with the National Broadcasting Company [NBC] in New York, starting as a studio page. Before leaving NBC, Bob served as a noncommissioned officer in an explosive disposal unit in the U.S. Army.

Bob worked in network sales with NBC and then as a salesman for two other companies before joining UPS in 1955 in press relations.

In his capacity as chief executive of the company's communications function, Bob has played an important role in shaping UPS internal and external communications programs. As head of this group, Bob is also a member of the UPS Management Committee, the executive board which has responsibility for the overall, day-to-day management of the company.

Bob is a member of the board of trustees of the UPS Foundation, an organization through which UPS channels the bulk of its corporate charitable funds.

Bob has also served the public by sharing his transportation and shipping expertise with numerous organizations, He is a member of the Business Advisory Committee of the Transportation Center at Northwestern University, a member of the Business Transportation Council of the U.S. Chamber of Commerce; and a member of the Steering Committee for the National Center for Small Communities.

Bob's 34 years of leadership in his industry has served both his company and the public well. His effective communications skills, wise management, and expert testimony before the Postal Rate Commission and various committees of the Congress are part of a notable career which will be missed.

Now, Bob is retiring from UPS to pursue his personal interests. I know that his enthusiasm and dedicated efforts will be valuable to whatever activity he may choose.

I salute Bob Smith's many contributions to building awareness about the free enterprise spirit and about fair competition here on Capitol Hill, and I wish Bob and his wife Marie much happiness and success in their new venture.●

A TRIBUTE TO BILL VINCENT

● Mr. BRYAN. Mr. President, today I rise to recognize an outstanding and public spirited Nevada citizen, Bill Vincent. On June 27, 1989, a group of Nevadans will honor Bill, who has made a lifetime commitment to conserving the Nevada environment, by planting a grove of trees in Lorenzi Park.

Bill Vincent exemplifies what can be accomplished by volunteer and grassroots activities in support of preserving our environment for our children and grandchildren, and making our communities better and more liveable places. During his career as a journalist with the Las Vegas Review-Journal, Bill wrote eloquently and effectively about the Nevada environment, its recreation, and its wildlife. He has been instrumental in the State's efforts to fight the nuclear waste dump, racetrack basing of the MX missile in Nevada, and supporting wilderness in our state.

Bill was named as Conservation Communicator of the year by the Nevada Wildlife Federation in 1971, and was recognized again in 1980 with the Governor's Conservationist of the Year Award. Without doubt, Bill Vincent's contributions to Nevada's quality of life are enduring and will benefit generations to come. Moreover, he stands as a fine example of what one citizens can do to improve the world in which we live. Therefore, I ask my colleagues to join me in honoring a fine citizen and respected Nevadan, Bill Vincent.●

COMMENDING MICHAEL J. LAVERSA

● Mr. McCAIN. Mr. President, I would like to thank Mr. Michael J. LaVersa for the dedicated service he has rendered to this country. It is unfortunate that we will no longer benefit from his knowledge and expertise, but I can assure you that this Nation has truly benefited from his wise and insightful counsel.

Mr. LaVersa has been the head of the Navy's quality program located in the Office of the Assistant Secretary of the Navy [S&L], for the last 13 years. The following is a letter he received from various industry representatives, and it contains an adequate explanation of his contributions. I do not intend to add any information to this excellent letter.

I do, however, wish to join with those who commend Mr. LaVersa for his leadership and dedication in obtaining better quality weapons systems at lower cost.

I ask that the text of the letter be printed in the RECORD.

MIKE J. LAVERSA,
OASN (S&L) RM&QA, Department of the Navy, Washington, DC.

DEAR MR. LAVERSA: On behalf of the Industry/Government Working Group (IWG), the undersigned extend our upmost appreciation and gratitude for your exemplary dedication and leadership of the Tri-Service Initiative to eliminate 100% inspection. The release of MILSTD-2000 represents a major milestone in the history of government specifications and is the result of an unprecedented cooperative effort by the Government and Industry to achieve a single soldering standard.

It is the consensus of the Industry participants that this success could not have been achieved without your personal commitment and coordination of the overall project. You are to be commended for your exemplary performance while serving in the Office of the Assistant Secretary of the Navy.

The best wishes of the IWG go with you as your career ventures into new waters.

Respectively,

L.G. "Skip" Livingstone, Litton, Chairman, Technical Committee; J. Rosser, Hughes, Co-Chairman, Technical Committee; J. Maguire, Boeing, Chairman, Criteria Committee; V. Mosca, Hamilton Standard, Chairman, SPC Committee; R.O. Peterson, President and Chief Operating Officer, Litton Industries; Malcolm R. Currie, Chairman of the Board and Chief Executive Officer, Hughes Aircraft Co.; A.E. Hitsman, Executive Vice President, Boeing Aerospace and Electronics; Terry D. Stinson, President, Hamilton Standard Division, United Technologies Corp.●

HONORING WILLIAM H. KELLEY UPON HIS RETIREMENT FROM NEW ENGLAND TELEPHONE CO.

● Mr. CHAFEE. Mr. President, I am pleased to pay tribute to William H. Kelley of Narragansett, Rhode Island who will retire this month after 35 years of service to the New England Telephone Co. That longevity, in itself, is noteworthly, but Bill Kelley has become a fixture of Rhode Island's public life. A graduate of Providence College and an Army veteran, Bill Kelley began his work at the telephone company on August 25, 1954, and had a baptism by fire—Hurricane Carol lashed the Rhode Island coast the following day. Bill learned quickly the importance of a cool head during times of crisis.

Since those early days, Bill has distinguished himself both within his company and throughout the State of Rhode Island.

He is the past president of the Friendly Sons of St. Patrick, the Providence Rotary Club, and the Telephone Pioneers. He is a director of Blue Cross-Blue Shield, HMO-RI, and the Rhode Island Heart Fund, as well as a member of the executive committee of the Catholic Charity Fund.

Bill Kelley has represented his company well in his dealings with State government and as an ombudsman for customers, and he has exhibited extraordinary fortitude over the years in his appearances on local radio talk shows.

New England Telephone has recognized his value and as he retires, Bill does so with the title "director of external affairs."

By his side during all of these years has been his wife Peg, a loving spouse and mother. They are the parents of three daughters, Mary, Margaret, and Maureen; indeed, Mary was a member of my Washington staff in the late 1970's. Bill and Peg are also the proud grandparents of four—Michael, Stephanie, Nicholas, and Joseph.

Bill Kelley is a good Rhode Island, and we are pleased to call him friend.●

THE POLISH ELECTIONS

● Mr. HEINZ. Mr. President, even as the world was being shocked and outraged by the brutal massacre of peaceful protesters in Beijing 2 weeks ago, it was marveling at the good news from Poland. After so much suffering and turmoil, the Polish people were given a chance to advance freedom, and they rose to the occasion.

With the imposition of martial law by the Soviet supported Communist regime in Poland in 1981, the struggle of the Polish people for democracy faced a great challenge. Dark days followed the harsh crackdown. Solidarity was outlawed, and its leader Lech

Walesa was imprisoned. Even in the bleakest of times, however, the Polish people have refused to knuckle under to oppressors, and the last decade has been no different.

That resolve and determination not to submit to unjust rule bore fruit when the elections demanded for so long took place on June 4. The same Polish Government official who signed the order to arrest Lech Walesa in 1981 was forced to congratulate him and Solidarity for its overwhelming sweep of the elections. The results were extraordinary, and an unmistakable blow to the prestige of the ruling Communist Party.

Of the 100 seats up for election in the Polish Senate, the Solidarity candidates won 92. In the lower house, the Sejm, where there where 161 seats with races open to opposition candidates, Solidarity's candidates won all but one outright, and may well win the one remaining in the runoff election.

Under an agreement worked out previously between Solidarity and the Government, Communist Party candidates ran unopposed in elections for 35 seats in the Sejm. But even in these slanted elections, the Government candidates failed to receive the majority of the vote needed to win. The people simply voted no.

For those peoples throughout the world who are still struggling to assert their right to determine their own destiny, these elections will serve as a example of courage and responsibility. People who refuse to surrender the belief that they have a God-given right to be free will one day be free.

When we look toward Poland and the excitement its citizens feel as they stand on the threshold of greater democracy and national independence, we share their excitement. All of us here in what we proubly call "the land of liberty" pray that one day the Polish people will share the full and robust democracy that many sons and daughters of Poland have helped build here in America.

The United States has long been involved in providing Poles assistance in building a better life. Since 1961 we have sent $11 million to help fund the Childrens Hospital in Krakow. More recently, the United States has been active in helping to alleviate the shortage of medical supplies and hospital equipment and has aided rural development. We have also stoked the fire of liberty alive in Poland by channeling $1 million to bolster Solidarity in 1987 and again in 1988 through the National Endowment for Democracy. This year $2 million additional will be provided to Solidarity.

Further strengthening of United States-Polish economic ties are in prospect. Plans currently in development call for Poland to become eligible for the programs of the Overseas Private Investment Corporation [OPIC], which will benefit businesses in both nations.

As a member of the Helsinki Commission that monitors human rights in Eastern Europe, I have watched the underpinnings of tyranny come loose in several Soviet-bloc states. For Poland, the June 4 electionss were a dramatic step in the right direction. We hope that it will be only one of many peaceful steps on the road to complete freedom. All of us wish that the present rulers in Poland will respect the overwhelming voice of the people and willingly give due consideration to the freely elected representatives of the people.

I join other friends of the Polish people in the Congress and the American public in pledging my constant support in Poland's drive toward freedom.●

TRADE WITH JAPAN

● Mr. BOSCHWITZ. Mr. President, recently, I voted to support the President of the United States and the agreement to codevelop the FSX fighter aircraft with Japan. However, the debate over this agreement raised valid concerns over our economic relationship with our Asian ally. The unequal trade relationship between the United States and Japan continues unabated. While we offer a fairly open market for Japanese products, Japan remains a largely closed market to many American goods and services. This situtation must not continue on and on as it has.

Now, Japan may point to its relatively low tariff rates and claim that this reflects an open market. However, it has become quite clear that tariffs are simply one of many ways with which to keep a market closed to foreign competititon. In Japan, a myriad of regulations, discriminatory standards, procurement and distribution systems, and intercompany linkages effectively restrict access to the Japanese market for many American and other non-Japanese companies.

The United States Trade Representative recently released its 1989 report on foreign trade barriers, and Japan warrants a major chapter in this report. This report describes many examples of unfair Japanese trading practices. Quotas and tariffs restrict imports of many agricultural products, including wheat, wheat flour, barley, feedgrains, wood and paper products. Rice imports are banned altogether.

Japanese Government regulations, procurement practices and market interventions unfairly support domestic industries and restrict access for United States firms to the Japanese market. In an effort to build up its own satellite industry, Japan prohibits government entities from purchasing foreign-made satellites, and has extended this ban to NTT, the major Japanese telecommunications company. American firms are only permitted to supply parts for satellites. In the area of optical fibers, NTT has limited its purchases to Japanese suppliers, even though American manufacturers of optical fibers have advantages in both price and quality.

The Japanese have told us that Americans cannot sell well in Japan because the quality and price of our products are not good enough for Japan. We are told that if we offer a good product at a good price, the Japanese will buy it. As this example of optical fibers shows, this is not necessarily the case. Another example is supercomputers. The Japanese public sector is a major market for supercomputers. Americans lead the world in supercomputers, and as an indication of this preeminence, American manufacturers constitute 80 percent of the world supercomputer market. You would think that American supercomputers would be salable in Japan, but this remains largely untrue. While the Japanese private sector has to some degree recognized the quality of United States supercomputers, the United States share of the Japanese public sector market continues to be artificially small. In my State of Minnesota, Cray Research makes perhaps the best supercomputers in the world. They have been successful in selling to the Japanese private sector—several Japanese automakers have replaced Japanese supercomputers with Crays. But even Cray cannot break into the Japanese public sector market. They have managed to sell only one supercomputer to the Japanese Government, and that was under a special, one-time deal.

Special technical specifications are created which unfairly favor Japanese suppliers of supercomputers. And even if an American firm is able to meet these specifications, it is faced with the need to discount its price in order to sell to the Japanese Government—up to 80 percent off the list price. Now, perhaps a Japanese company can absorb such a discount by counting on sales to the Japanese Government in other areas, but an American manufacturer cannot afford such a loss. Through these special specifications and the de facto requirement of huge price discounts, the Japanese Government is able to effectively shut American firms out of the market. In 1987, a section 305 study concluded that United States firms were being excluded unfairly from the Japanese public sector supercomputer market. Subsequent negotiations led to an agreement which was supposed to correct this situation, but as yet, nothing has really changed. Since 1987, not a single United States-made supercomputer has been sold to the Japanese public sector, and no firm sales are expected. To be sure, it was recently reported in the Washington Post that the Japanese Government is planning to buy eight supercomputers over the next 3 years to ease trade frictions. However, this does not mean that they would buy American computers—only that the bidding would be "open and fair"—and anyway, a vague, uncon-

firmed statement is a long way from a sure thing.

Indeed, two of the cases just cited—supercomputer and satellite procurement practices—were judged serious enough to warrant Japan's inclusion in the super 301 list, released at the end of May by the USTR. It may be unfortunate that the United States Government must now resort to the threat of retaliation in order to encourage Japan to change its unfair practices, but other efforts do not seem to have meant much to the Japanese Government.

While the super 301 notification names only the supercomputers and satellites, the complete list of Japanese unfair trading practices goes on and on. The Japanese Government is planning to purchase more than 2 million personal computers for its secondary schools. American companies make some excellent personal computers. But the Japanese Government has created a technical specification which will give an overwhelming advantage to equipment using a Japanese-developed operating system. This will effectively exclude the operating systems used by American computer manufacturers, even though they are recognized as world leaders.

Even if an American company is able to get through all the Japanese Government regulations, restrictions and other barriers, there is still the problem of breaking into the market. Japanese business operates with a system of formal and informal cartels, fixed supply sources and complex and rigid distribution systems which make it exceedingly difficult for an American or other foreign company to enter the Japanese market, even with a competitive product.

These problems are also serious enough in nature to warrant special attention. At the same time as the release of the super 301 report, the President announced a new initiative to form a high level committee which will propose negotiations with Japan on these so-called structural adjustment matters. The negotiations are to take place outside of section 301, and I strongly recommend that Japan agree to these negotiations as soon as they are formally released.

I am all in favor of free trade. The United States is one of the world's more open markets, and it should remain so. But it is not in our national interest to welcome all the products a particular country wishes to send us if that nation does not accept our products in return. World trade must be based on reciprocity. Our trade with Japan remains too one-sided, and this is largely due to the unfair practices of Japanese Government and industry. This situation has got to change. The American people will not long tolerate our willingness to cooperate with and even support Japan if Japan continues to take advantage of the United States across the board in our trade relationship.●

WASHINGTON, MO, SESQUICENTENNIAL: 1839-1989

● Mr. DANFORTH. Mr. President, the city of Washington, MO, is celebrating its sesquicentennial this year. This is a commemoration of 150 years of growth and accomplishment. Washington's history is a proud history. Today, Washington is a model American community that exemplifies the best of the pioneer spirit and family values that make ours the greatest nation on Earth.

The city of Washington is situated in a scenic location on the banks of the Missouri River. Lewis and Clark traversed the area as they explored the territory of the Louisiana Purchase for President Jefferson. By the 1839's, German immigrants attracted by the beauty and abundance of the area, and by its resemblance to their homeland, had settled at Washington Landing. On May 29, 1839, a plat of the town was filed for an area of 12 blocks, 14 partial blocks, and 144 lots.

From these beginnings the city of Washington attained prosperity, never losing site of the strong German heritage that shaped its founding and traditions.

Gerhard Tod, H.H. Bienke, John B. Busch, H. Mittendorf, J. Conrads, Henry Hoomann, and J.M. Menkhaus made up the first meeting of the city council. Today, a visitor to Washington will find signs bearing the names Eckelkamp, Miller, Hillerman, Orscheln, Hazel, Droege, Heidmann, Maschmann, Schroeder, Buescher, Gildehaus, and Reust. Many are descendants of the founders.

Washington, MO, has played its role in our Nation's history—suffering plunder by Confederate forces during the Civil War; celebrating visits by Presidents Truman and Eisenhower; and benefitting from the efforts of Congressman Clarence Cannon to encourage economic development through such public works as the Missouri River Bridge, built in 1934. Local history tells us that Congressman Cannon's announcement of funding for the bridge was greeted by the ringing of church bells and the blowing of factory whistles. Everyone greeeted the news warmly, except for Harry Schaefer, who operated the local ferry that provided passage for 15 cents and 25 cents for the round trip.

During the major wars of the century, Washington men proudly went to the service of their country. Wives and other family members contributed to the Red Cross, observed rationing, and collected rubber and iron for the war effort.

Gen. Douglas MacArthur would feel at home in Washington: local citizens named a street for the general following his heroics in the Pacific Theatre in World War II. Had the general been able to attend the dedication of the street named in his honor, he could have been presented with a corncob pipe manufactured in Washington, MO, the corncob pipe capital of the world, by the Missouri Meerschaum Co.

At 150 years, the city of Washington has a population of more than 10,000 and can boast of impressive economic success. The city's industrial parks are full. The commercial district has been revitalized. The efforts of the Washington Civic Industrial Corp. and Washington Area Chamber of Commerce seem blessed with the Midas touch. This economic growth has provided the basis for an excellent school system, a community life second to none, and has helped to shape a city that is a wonderful place to live and raise a family.

For this proud community, named for the first President, it is fitting that we pause to commend the city of Washington, MO, on the grand and joyful occasion of its 150th birthday. Happy Birthday, Washington.●

JOHN "EDDIE" WEBSTER

● Mr. McCONNELL. Mr. President, as we all know in times of economic growth more and more States and cities are working hard to attract new business to their area. As a matter of fact, my State of Kentucky proudly proclaims that "it is open for business." I would like to take this opportunity to welcome Mr. John "Eddie" Webster to the city of Louisville. Mr. Webster is determined to make sure that future conventions are aware that Louisville is open for their business.

As of July 1, 1989, John Webster will become the executive director of the Convention and Visitors Bureau of Louisville and Jefferson County. In the convention business Louisville is considered a second-tier town, that is, it is a smaller city with fewer hotels, lower room rates, and perhaps some smaller convention and exhibit facilities. However, do not think that because Louisville is considered a smaller city it cannot compete with bigger cities for this important business. Louisville already has a substantial convention business. A survey in Business Travel News ranked Louisville 21st in conference attendance in 1987. According to the U.S. Travel Data Center, last year visitors to the Louisville and Jefferson County area spent over $572 million. This money supports hundreds of hotels and restaurants and provides jobs for thousands of Kentuckians. Despite its current success, Louisville will benefit from John Webster. He believes that Louisville can compete for convention business with larger cities such as New York and Chicago and he is determined to see that it does.

Upon asuuming his new duties, John Webster plans to initiate a Louisville First Campaign to get residents of Louisville involved in attracting convention business to the city. He also plans to work closely with the hospitality industry to provide a united

front when competing for business. Another idea is a push to encourage business from the international marketplace, Europe, Canada, Japan, and Australia. John Webster's positive outlook and aggressive business style will benefit the Louisville area and the whole State of Kentucky.

In a recent interview, John Webster stated that "Louisville is a great all-around city." I couldn't agree more. I am confident that in the next few years, thousands of individuals will also see the benefits of Louisville and Kentucky as they attend future conventions. I welcome John Webster and his family to Louisville.

Mr. President, at this time I would like to insert into the RECORD an article from the Louisville Courier-Journal about John Webster and I encourage my Senate colleagues to read it.

The article follows:

[From the Louisville Courier-Journal, June 19, 1989]

A PLAN TO SPUR LOUISVILLE IN RACE FOR CONVENTIONS

(By Annie Best)

The signs at Kentucky's borders proclaim the state "is open for business."

Eddie Webster intends to see the convention business makes its destination Louisville.

Webster is a believer.

So much a believer, he's moving his family, his "first priority," from Palm Springs, Calif., to Louisville to become the executive director of the Convention and Visitors Bureau of Louisville and Jefferson County.

So much a believer, he's taking a $10,000 cut to an annual salary of $90,000, albeit "not a cut in compensation," to do so.

Webster believes Louisville stands ready to race stride for stride with other thoroughbred cities across the country.

And city and county leaders believe in Webster.

They are betting that a shot of Webster's enthusiasm will enable Louisville, a "second-tier town" in the trade, to nose out larger cities at the wire.

Second-tier does not mean second rate, Webster explained. According to those in the convention and tourism business, second-tier generally denotes smaller cities with fewer hotels and rooms, lower room rates and frequently smaller exhibit facilities.

Webster is "catalytic in his leadership," says Mayor Jerry Abramson. "Eddie is a can-do type of person . . . an energizing kind of guy."

The stakes? Substantial convention and tourist dollars, big business here.

Visitors to Jefferson County spent more than $572 million in 1987, according to a report by the U.S. Travel Data Center prepared for the Convention and Visitors Bureau. In fact, statewide, convention and tourism revenue is exceeded only by manufacturing and coal.

Those visitors' dollars support a hospitality industry, including hotels, motels, restaurants, and tourist attractions, which employed more than 13,500 people in 1987 and more than 15,700 in 1988, say the latest state estimates.

Webster, who assumes his post July 1, believes Louisville can "actually compete with the major metropolitan areas," such as New York, Dallas and Chicago, for the big convention business.

Webster says Louisville is already far ahead of most other medium-sized cities in the country.

With Louisville's existing 750,000 square feet of exhibit space, convention facilities, and approximately 10,000 hotel rooms, "no other second-tier city can compete with it."

In its most recent annual survey, Business Travel News, a trade publication, ranked Louisville No. 4 in the nation in exhibit space and No. 18 in meeting space with 100,000 square feet.

The survey, based on 1987 figures, also put Louisville No. 21 in conference attendance with 468,000 people. With the exception of Columbus, Ohio, the top cities were major metropolian areas.

"Some of the greatest jobs in this country are in the second-tier cities," Webster says, where "it's a lot more fun, just as challenging, and just as personally rewarding."

Along with Louisville's central location, Webster believes transportation is a key to "success in convention and visitor promotion." Given Louisville accessibility and the planned improvements in air service, "the sky is the limit, literally, with what we can do."

"The expansion of the airport was one of the things that really interested me when I first interviewed here," Webster said. "If you don't have flights into your city, then you are extremely limited with what you can achieve, especially with international group tourism solicitation."

Webster, the unanimous selection of the visitor's bureau board of directors, will succeed Russell Anderson, the executive director for the last 10 years.

The nine-member board made "the No. 1 choice," according to Chairman Leonard Kaufman.

Of Webster, Kaufman said, "Without reservation, each and every board member thinks he's head and shoulders" above his competition.

Anderson, with about 40 years experience with the hospitality business in Louisville, concurred with Kaufman's view of Webster. Anderson plans to remain on board as a consultant to Webster—"to be his ambassador."

Webster may find such help invaluable as he admittedly brings "a very aggressive approach to sales and marketing."

County Judge-Executive Harvey Sloane is "extremely strong on Eddie Webster," and expects he "will give us the push that is needed in order to increase convention and tourism."

Ed Hall, currently executive director of the bureau in Birmingham, Ala., where Webster worked for 13 years—nine as director—said one of Webster's strengths is that he "recruits good people and lets them do their thing."

The bureau seems to be ready for his leadership, Webster said, adding the staff is "really looking forward to the more aggressive tactics I'm going to bring to the table."

While the bureau has a solid team, Webster believes a "we must go together" attitude needs to be encouraged among local hospitality industry executives.

"It's not to say that they're not getting along now," he added, "but I don't really see that really strong, cohesive team effort."

Webster believes a united hospitality industry can become an important part of Louisville's economic-development efforts. Abramson agrees, saying the bureau can help put Louisville in the national spotlight as a major convention and tourist center.

During his three-year tenure in Palm Springs, Webster reorganized and expanded that bureau, widening its focus from one community to an area encompassing seven cities. Room bookings increased to approximately 180,000 per year from fewer than 70,000 in 1985 when he arrived.

Patrick Pharris, director of publicity and promotions at the Greater Palm Springs Convention and Visitors Bureau, said, "It was a grave loss to this market to lose Eddie," calling him "an absolute leader."

Others who have worked with Webster, or competed against him, generally agree that he's aggressive.

Webster, who admits to trying to steal convention business from other towns, says the hospitality industry is "extremely competitive," but "it is a friendly competition among a close-knit group."

And, Webster cautions, "you'd better believe they are trying to steal our business."

While Webster is facing new challenges in Louisville, at least some of the battles will be familiar.

He appears to be delighted that he will be locking horns again with James H. Smither, who is executive director of the convention and visitors bureau in Lexington, and looks forward to a little friendly competition as well.

Sparring between the two goes back to the early 1970s, when Smither worked in San Antonio, Texas, and Webster was director of sales at the convention bureau in Birmingham, Ala.

Smither adds, however, that the competition with Louisville can only be carried so far. Hospitality industry officials in the state have to "join forces continually," because potential clients "first have to decide on Kentucky."

Webster's initial focus, however, will be closer to home.

He envisions a "Louisville First Campaign," designed to engage the help of area residents in bringing bureau business to Louisville.

Every person walking the street out there belongs to some national organization that meets, Webster contends, "they should understand that they are on the team, too."

Other changes are already under way.

One is the addition of a new full-service telemarketing division to the existing staff of 28. Webster expects this will enable his sales staff to double its bookings and possibly quadruple the number of business leads sent to hotels' sales departments.

Developing business for the area's hotels and motels is the bureau's primary objective. Successful efforts would result in a larger budget for the bureau, which is directly funded through a licensing fee based on room sales. Its proposed 1989-90 budget is $2.7 million.

Webster plans to further increase industry revenue "through cooperative advertising programs" involving the entire hotel community.

On the tourism side, which covers wholesale, bus and packaged-tour business, Webster "plans on a very strong push in the international marketplace, the European marketplace, and the Pacific Rim countries—mainly Japan and Australia."

Webster's transition into his new job is only the beginning for him and his family—they will relocate as soon as school lets out in California.

Webster's wife, Sherry, will be leaving a position as executive director of the Golfe Association, a trade group that sponsors and manages golf tournaments at large conventions. But, she said, "we are really excited about coming to Louisville," calling the city "kind and gracious."

Webster said, "We made the decision (to accept the position here), based not only on the professional side of the picture but also very heavily on the personal side."

"Different things become important to you as life goes along," according to Webster, who called Louisville "a great all-around city."

"The decision to move your family to Louisville should be an easy one for most people."●

TWENTY-FIFTH ANNIVERSARY OF THE CIVIL RIGHTS ACT

● Mr. RIEGLE. Mr. President, when the Senate adjourns later this week, Members will return to their home States to participate in Fourth of July celebrations marking the 213th anniversary of our Nation's independence. It is fitting that we as a nation have selected this day to reaffirm our national commitment to the free and just society embodied in the three simple words, "We the people."

Yet, Mr. President, not all Americans have shared equally in the dream of a free and just society. As a nation, we have seen the violence that flows when men and women of color, seeking to assert their rights, clash with those who would deny them their rights. We have heard the voice of hatred and bigotry raised by some against blacks and other minorities. And we remember that fateful day when one man thought he could still the voice of freedom through the assassination of Martin Luther King, Jr.

For those of us who are deeply committed to achieving the type of nation envisioned by the Founding Fathers, Dr. King, and others, there is an additional reason for celebration this Fourth of July—the 25th anniversary of the most comprehensive civil rights legislation to pass Congress since Reconstruction, the Civil Rights Act of 1964.

On July 2, 1964, President Johnson signed the Civil Rights Act into law just 5 hours after it had passed the House of Representatives. The new law contained numerous provisions designed to help guarantee blacks and others the right to vote, to ensure access to public accommodations, to desegregate the schools, and to require companies and employment agencies to grant equal employment opportunity. Perhaps President Johnson best summarized this legislation when he stated that—

> The purpose of this law is simple. It does not restrict the freedom of any American so long as he respects the rights of others. It does not give special treatment to any citizen. It does say the only limit to a man's hope for happiness and for the future of his children shall be his own ability. It does say that those who are equal before God shall now also be equal in the polling booths, in the classrooms, in the factories, and in the hotels and restaurants and movie theaters, and other places that provide service to the public.

It is hard to conceive of another piece of legislation during the past 25 years that has had such a profound and lasting effect on the lives of all Americans. The Civil Rights Act of 1964 has renewed the hope of millions of blacks and other minorities that they too can share in the American dream and can aspire to the same goals as any other American regardless of the color of their skin. The Civil Rights Act of 1964 has given notice to those who espouse racial prejudices that such views will no longer be condoned or be supported through government action or inaction. And the Civil Rights Act of 1964 has reaffirmed our national commitment to achieving the dream of Dr. King and others of a free and just society.

Mr. President, I realize that much more will have to be done in the future if we are to end racial prejudice in our country; however, I wish to quote from Martin Luther King, Jr., a statement which I believe we would all do well to take to heart:

> Let us hope that the dark clouds of racial prejudice will soon pass away and the deep fog of misunderstanding will be lifted from our fear drenched communities, and in some not too distant future tomorrow the radiant stars of love and brotherhood will shine over our great nation with all their scintillating beauty.●

SOUTHERN AFRICA—THE GARDEN VIOLATED

● Mr. PELL. Mr. President, the current issue of American Baptist magazine contains an article by the Honorable Joseph E. Newsome, a member of the Rhode Island House of Representatives. Representative Newsome is a member-at-large of the American Baptist General Board.

Representative Newsome recently spent 3 weeks on a tour of southern and central Africa, including the nations of Zambia, Zimbabwe, Zaire, and Kenya. The article details his thoughts and impressions as a black Christian about how the apartheid system in South Africa is affecting other African nations.

Mr. President, one of the most crucial questions that we must address in this Congress is how the United States should confront apartheid. We must examine carefully all points of view if we are to make an informed judgment about United States policy in South Africa. The article by Representative Newsome offers a useful look at this subject from an interesting perspective. Entitled "Southern Africa: The Garden Violated," I ask that the article be printed in the RECORD.

The article follows:

[From the American Baptist, May/June 1989]

SOUTHERN AFRICA: THE GARDEN VIOLATED

(By Joseph E. Newsome)

(EDITOR'S NOTE.—Joseph E. Newsome, a member of Pond Street Baptist Church in Providence, R.I., traveled to southern Africa for three weeks last summer as part of a delegation of American Baptists seeking to learn more about apartheid. The trip took them to two southern African nations, Zambia and Zimbabwe, as well as to the central African nations of Zaire and Kenya. "The American Baptist" asked Newsome to share impressions from his perspective as a black Christian and a member-at-large of the American Baptist General Board. Newsome is also a member of the Rhode Island State Legislature.)

Apartheid is no secret to Americans. We read about it in our daily newspapers; we see reports on the evening news; some of us even hear it denounced from pulpits on Sunday mornings. Even so, few of us could imagine the far-reaching impact of apartheid on the lives of innocent African people, even those who live outside of South Africa.

During our visit we learned first-hand of the effects of South Africa's policy of apartheid—the social system that segregates whites from blacks and gives social, economic and political supremacy to the white minority. In the process we experienced a new awareness of what racism and colonialism are all about.

We returned with the conviction that if we, as Christians, ignore the existence of so pervasive an evil as apartheid, we conspire unwittingly to assure its existence. Moreover, we retuned convinced that we in the United States may miss the point of what the church is all about if we fail to understand the struggle or our brothers and sisters in South Africa to interpret the Gospel of Jesus Christ to those who maintain racial oppression.

The following are my personal reactions, as a Christian and as a black American, to what we witnessed during our trip.

GOD MADE THE GARDEN

The striking beauty of the continent is immediately apparent to any visitor to Africa. From the majesty of Victoria Falls to the magnificence of the safari plains, from the exotic splendor of vegetation to the stately elegance of the animal life, Africa is full of visual pleasures. It is easy to appreciate the conclusions of some Biblical archaeologists that the Garden of Eden must have been in Africa.

Apartheid violates the natural beauty of this land and the open-heartedness of its people. Everywhere I traveled I was struck by the spirit of hospitality and generosity of the African people, and I wondered if that generosity was a reason southern Africans had suffered so long under the burden of European domination.

Our delegation went to Africa as black American Baptists seeking to establish bonds of kinship and friendship that have been lost over the centuries. We left the United States thinking of our trip as a special opportunity to express our solidarity with black South Africans who were suffering under the burden of apartheid and to educate ourselves about apartheid as a problem that affects vast areas of the continent. We met with religious leaders (clergy and laity), government officials (African and American), liberation movement officials, missionaries and ordinary citizens. The trip was one of the most transforming, powerful experiences of my life.

For one thing, we saw firsthand how devastating the legacy of colonialism had been in Africa. Before Zaire won its independence in 1960, for example, only 11 Zaireans had been allowed to acquire a formal college education. In Mozambique prior to 1975, only six had been permitted to attend college. And I must be clear on one point in particular: I sensed that the last vestiges of colonial mentality are very much entrenched both in the U.S. missionary community and in the African community that the missionaries are committed to serve. We heard more than one African head of state refer to the need to "unshackle the minds of the people," many of whom still believe that whites everywhere have superior techniques and the correct answer to every question.

Even so, our trip offered evidence of some signs of a true re-Africanization of Christianity in the countries we visited. In many churches our hearts were touched by affirmations of Christians that "Jesus is alive," and we were caught up in the joyful singing, enthusiasm and vibrancy of the worship services. In stark contrast to these images, however, we were also left with impressions of continued acceptance of white domination. As a black American, for instance, I resented the large portrait of a blond-haired, Caucasian Jesus in the office of an African church leader at a Baptist mission in Zaire. Perhaps this feeling was unwarranted, but it was honest and real. I believe that the witness of American Christians will not really blossom in Africa until we can truly see God's beauty in African images and in African faces.

It will take decades or more, I fear, to erase completely the psychological and spiritual damage that has been done in the name of Christianity on the African continent by Americans and Europeans, but I trust God will forgive us. I believe we must confess that, in our turbulent history, race relations often have been based on ignorance. Many of our ancestors condoned slavery or supported government policies that led to the near extermination of the American Indian. Even so, I believe that God's grace and mercy are infinite, and good can still come from the most evil of historical deeds.

THE POLITICS OF APARTHEID

One mistake we tend to make is to consider apartheid the exclusive problem of South Africa. Indeed, apartheid is a dominant evil in that country, but it is not confined to South Africa alone. South Africa's policy of apartheid infects all of the southern region of the continent and beyond. In Zaire, Kenya, Zambia and Zimbabwe, the dilemma of apartheid is a factor of daily life.

At a political rally in Zambia, attended by heads of state of African nations in the region, speaker after speaker referred to the political and economic problems caused by apartheid in South Africa. Problems discussed ranged from the disruption of trade routes caused by the bombings of rail lines to the destabilization of whole regions by terrorist activity. Other concerns included South Africa's military incursions into neighboring countries and its continued illegal occupation of Namibia.

South Africa is actively pursuing a campaign to ensure its continued survival as a white-dominated political/economic system in that region of the world. Given the harsh reality that all of southern Africa, and much of central Africa, is dependent upon South Africa for vital goods and services, apartheid will be difficult to overcome.

As Americans study the politics of apartheid, it is reasonable to ask whether capitalism or Marxism will become the system of choice in a post-apartheid South Africa. But the essential point is this: It is not for us to decide. It is the right of the African people to decide what type of government and economy is best suited for them. This is the true essence of democracy. Yet one reality is worth keeping in mind: both the capitalist and Communist systems are presently beset by serious economic woes, and it would behoove Africans to look to those values that are fundamentally African when it comes time to fashion a post-apartheid system.

Of course, the longer it takes western nations to side with the legitimate aspirations of the black majority in southern Africa—and the longer unrest continues to ferment—the more likely it will be that a Communist-style ideology will flourish in the region.

WHY CONSTRUCTIVE ENGAGEMENT?

Why does the U.S. government oppose apartheid but pursue a policy of "constructive engagement" and diplomatic relations with the South African government? I believe the U.S. government is taking a "wait and see" approach on the issue of South Africa because it hopes to buy enough time for the white-dominated government to strengthen its military and economic hold on the region. As sinister as it may sound, I believe our government hopes that a white-dominated government in South Africa will continue to assure the availability of the rich, strategic mineral resources (e.g., chromium, cobalt, diamonds, manganese, vanadium) that God has placed beneath the feet of the peoples of southern Africa.

As we discussed these issues with U.S. officials in the area, it seemed clear to me that the U.S. government has certain strategic interests in that part of the world and does not give priority to the rights of indigenous peoples. When we asked our government representatives in Africa about ways the conflict might be resolved in southern Africa, they tended to respond in terms of maintaining U.S. "leverage" in the area or of being careful not to isolate the increasingly hostile apartheid regime. Their answers did not acknowledge the legitimate aspirations of the black South African majority for freedom and self-determination.

It also seemed apparent to me that U.S. embassies in Africa are not accustomed to receiving delegations of black Americans who are interested in discussing U.S. foreign policy toward southern Africa. I now see how important it is for black Americans to travel more frequently to Africa so that our opinions are taken into consideration when U.S. policy is developed toward Africa, which many of us regard as our homeland. Historically, the U.S. government has demonstrated racism and indifference toward blacks in the U.S., and the attitudes of many U.S. officials in Africa reflect this legacy.

I hope American Baptists can be a catalyst in fostering new respect between persons of such different backgrounds and experiences. For one thing, perhaps we can encourage President Bush and Secretary of State Baker to assign more black American diplomats to the U.S. embassies of Africa. One ambassador told us, with some embarrassment, that he had only one black on his diplomatic staff, at an embassy in the very heart of Africa! The multiracial, multiethnic character of the United States could be a tremendously valuable asset in the formulation of American foreign policy if used constructively and progressively. As American Baptists, we certainly understand the benefits of racial and ethnic diversity.

From the standpoint of its relations with the black community in the U.S., the Bush administration would be well advised to regard southern Africa as having significant, long-term strategic value. Our official attitude toward southern Africa will be regarded as an example of the attitude we bring to other Third World peoples. If we fail to get our foreign policy right in this important region of the globe, then it is unlikely that we will get it right with the rest of the developing world. This is a crucial issue for the United States at a time when the Third World is growing dramatically in size and in political influence.

AFRICAN NATIONAL CONGRESS

One of our most memorable meetings was in Lusaka, Zambia, where we were introduced to a member of the executive council of the African National Congress (ANC) of South Africa. The Rev. Fumanekile Gqiba is a man quite small in stature but very big in spirit. He spoke eloquently, both about the successes and failures of the liberation movement in South Africa as well as the personal aspirations for freedom held by black South Africans. When we asked him about the ANC's public relations problem caused by western efforts to classify it as a Communist-dominated organization, Gqiba smiled easily and offered this explanation: "What is significant, and what the world should know, is that the ANC since its founding in 1912 has historically been infiltrated by Christians who responded to the mandate to live out the Gospel in oneness with those who are oppressed and to share their witness for Christ by standing up for that which is just and right." He then cited the names of numerous past ANC leaders who were priests or ministers. Many of these leaders have died; some are in prison.

It seems natural for Christians, in the ANC and elsewhere, to stand up for righteousness and justice. If we American Christians were to do more of that, then no doubt more of us, like Dr. Martin Luther King Jr., would also wind up in jail. I am reminded of what it took for the first-century church to establish its witness as a new and dynamic community of believers—where neither race nor color mattered, where class and title were meaningless, where there was no exploitation of one by another—in a hostile Roman world. Indeed, I continue to be moved when I read of the experiences of Christians described in Hebrews 11:36-37: "Some faced jeers and flogging, while still others were chained and put in prison. They were stoned; they were sawed in two; they were put to death by the sword" (NIV). To the early Christians, God's mandate to be a truly inclusive community was *serious business*! Many were willing to pay the price and provide a witness to the power of this community to stand its ground in peaceful resistance to the established order. My visit to Africa reminds me that resistance to evil is still serious business.

In the U.S. today the church is suffering because a large portion of the body of Christ is addicted to comfort, to prestige and to acceptance in the eyes of the world. Our faith does not seem to cost us anything. Despite the demanding, engaging nature of the Gospel of Jesus Christ, we seem blissfully at ease in our segregated churches on Sunday mornings. We hear nicely prepared sermons, recite our hymns of praise and find ourselves willing to suffer for no one and no cause beyond ourselves. Is this what Jesus called us to, or are we somehow missing the point of how and why he died? We were told that the African National Congress has been "infiltrated by Christians." I find that statement has a perfectly natural sort of ring to it.

THE CHURCH'S VOICE

The churches in southern Africa are struggling every day to determine their role and the nature of their witness against apartheid. The general secretary of the Zimbabwe Christian Council confided to us that there is not a single meeting where the issue of apartheid in South Africa is not raised. "We pray and we look for creative ways to express our oneness with our brothers and sisters in that crisis-torn country," he said.

Clearly, it is never an easy matter to stand with the oppressed. The ministers of white churches in places like Zimbabwe (independent since 1980) are wrestling with how they can be prophetic and faithful to the Gospel in their opposition to apartheid and not risk alienating their members. Some of the members who favor continued racial segregation are "generous givers" to the

church. The dilemma of balancing prophecy with financial stability will be all too familiar to many American Baptist pastors in the U.S.

In many meetings throughout Africa, we met people who were active in the anti-apartheid movement. Some were seasoned church people. Others were youth who simply felt this was what they should be doing, given the situation.

One Christian anti-apartheid group called "Heal the Wounds" was affiliated with the Zimbabwe Christian Council. Its members devote themselves to going into villages that have been ravaged by South African-backed terrorists and try to rebuild homes and treat the families victimized by the violence. The entire group, with its director, Jonah Gokova, exemplifies the spirit of dedicated Christian service.

AN EVIL SPIRIT

Apartheid is an evil spirit that is difficult to capture with pictures. It was possible for us, however, to get a vivid image of the tremendous beauty of Africa, a beauty violated by the ugliness of apartheid.

Whenever I am invited to speak about the trip, one question is invariably raised: "How can we respond as a church community to the situation in southern Africa?" I would suggest the following specific actions to end apartheid, aid its victims and transform the church community in the United States.

1. Let us pray for increased discernment, individually and collectively, as members of the body of Christ. As we begin to discern, we will increasingly notice that many of our own social and political attitudes are not so much different from those who maintain the system of apartheid in South Africa.

2. Let us confess our collective sins. Many of us fall prey to insatiable greed or to an inclination to honor gigantic multinational corporations and endow them with almost unlimited powers over the lives of innocent persons here and abroad. Many of us advocate military policies without considering the pain and suffering caused by the arms we manufacture and sell around the globe.

3. Let us share one another's sorrows and be aware of the pain experienced by our brothers and sisters in other parts of the world. We must go further than an intellectual comprehension of apartheid; we must "feel" the personal anguish apartheid causes. We must regularly remember and call out the names of those banned, detained and murdered by the South African police.

4. Let us free ourselves from the notions that all the people of the world must act and worship like us or that white images are somehow better than black images. We must lovingly support our American Baptist missionaries in Zaire as they try to demonstrate that not all Americans have condescending attitudes toward persons of color. Let us recognize that we in this country can also benefit from the ministry of missionaries, expecially those sent from Third World nations where the church is often so alive and so vigorous.

5. Let us remember the serious divisions that continue to separate the races in this country and in our own denomination. Much work remains to be done in eliminating personal and institutional racism, as well as in achieving economic justice. In Zaire especially, we American Baptists must help the people build an economy that is free from dependence upon South Africa.

6. Let us repent as a country for our own history of racism and exploitation. As a nation we have never really repented these sins, and the consequences of our failure to do so will continue to be evident for generations upon generations.

7. Let us hold special educational seminars within our churches to learn more about South Africa, taking special care to address the connections between apartheid in South Africa and racism within our own country. These educational opportunities will equip American Baptists for even greater leadership roles in the international crusade against apartheid.

8. Let us support comprehensive economic sanctions against South Africa, as advocated by black church leaders in South Africa and neighboring countries. Support for sanctions was expressed almost unanimously by those we met in southern Africa, with the exception of several white American missionaries who felt that education must precede political freedom for black South Africans.

9. Let us support the Shell boycott, as recommended by the ABC General Board at its June 1988 meeting (see *The American Baptist,* September/October 1988). In addition, we must continue to organize for the divestment of public and private pension and endowment funds from U.S. corporations still operating in South Africa and Namibia.

10. Let us respond to the considerable material needs of the people of southern Africa. Material aid is urgently needed in the refugee camps for those fleeing the violence caused by South African terrorist activity in Mozambique and Angola. Thanks to the churches in the region, some supplies are being provided, but much more can be done. Among the reputable organizations providing assistance to the region are Church World Service, the American Friends Service Committee and the United Nations.

Let me end on a note of optimism. Despite all the hardship we witnessed and the tendency among many Americans to believe that apartheid is so entrenched that it cannot be overcome, there is a strong sense of hope present in southern Africa, especially in the Christian community. The Rev. Frank Chikane, general secretary of the South African Council of Churches, expressed it well in a recent interview in *Sojourners* magazine:

"It is our faith that gives us hope. We know that in our helplessness we become more dependent on God. In our powerlessness we become more powerful. It is our weakness that is our strength.

"Those who run the evil system know it will end, and therefore they have not hope. They just become madder by the day, and in their madness take more and more lives. But we know that our struggle is a just one. That is really what makes it hopeful—God cannot allow evil to prevail forever."

Amen—and *Amandla!*●

MODIFICATIONS TO THE CATASTROPHIC COURAGE ACT OF 1988

● Mr. McCAIN. Mr. President, 2 weeks ago, during consideration of the dire emergency supplemental appropriations bill, I offered an amendment to delay implementation of many of the provisions in the Catastrophic Coverage Act of 1988. As my colleagues know the Senate adopted a sense-of-the-Senate resolution in its place that gives the Finance Committee until September to come up with a plan for modifications to the act.

This amendment was adopted by a very slim margin, even though it had been sponsored by the majority and minority leaders and the two ranking members of the Finance Committee. This amendment prevailed in large part due to the fact that the Finance Committee leadership assured members that it would take up this issue without haste.

Mr. President, I find it very interesting that the Finance Committee has yet to hold a hearing, and that the sense-of-the-Senate resolution was dropped in conference. Not only was it dropped in conference, which is not unusual, it did not even come back over as an amendment in technical disagreement.

But, two other sense-of-the-Senate resolutions did. They are a sense-of-the-Senate amendment regarding the restoration of Eastern Airlines and one regarding leveraged acquisition of air carriers. It seems that given the fact that the sponsor of the sense-of-the-Senate resolution regarding catastrophic were the majority and minority leaders and the two ranking members of the Finance Committee that their amendment could have been reported in technical disagreement if the commitment to the issue were there.

Mr. President, I have already heard a number of seniors question whether those who offered the resolution are serious in their commitment to reexamine the act. Given what has occurred, their questions may well be justified.

This question is only underscored by the fact that the Finance Committee has yet to hold one hearing.

At the time we adopted this resolution, over my amendment, there were only 6 legislative weeks until September. Now, there are only 4 legislative weeks until September—and hearings have yet to be held.

Mr. President, it is no small task that the Finance Committee has agreed to undertake in reexamining the act. That is, if there is to be a thorough reexamination. And, now we have only 4 legislative weeks left before September.

What's more, Mr. President, when hearings are finally scheduled, they ought not to be just inside of the beltway. We need to take this issue to the people. In fact, some say that it is by not taking this issue to people from the very start that resoluted in us missing the mark with this act.

Mr. President, we need to take this issue to the people. We need to give seniors from Alaska to Florida the opportunity to involve themselves in the hearing process regarding this issue. While I know it would be impossible to go to every city, and even every State, picking a handful of States and taking this issue to the people of those States would be a great idea in my opinion. What better way to get a reading of how the people are really feeling about this issue?

Mr. President, I would be pleased to help the Finance Committee set up a hearing in my State of Arizona. And, I am sure that others of our colleagues

would be willing to do the same in their States as well.

This is a very important issue to the seniors of our country. There is a firestorm out there. Mr. President, it would be unconscionable if we do not deal with the shortcomings of this act. My amendment would have given the Finance Committee adequate time to address this situation. But, it did not come up for a vote given the sense-of-the-Senate resolution. I understand that, and can live with the will of the Senate, so for now at least I too look expectantly to the Finance Committee for action on this issue.

I hope, no—the seniors of this country hope, that the commitment by the authors of the sense-of-the-Senate resolution to reexamine the act is genuine. From what has happened thus far, that commitment is being seriously questioned—and justifiably so.

I might say to my colleagues in closing, that given what has happened with this conference report, I am going to have to think very seriously about running this amendment again in the near future. We have not sent a good signal to the seniors of this country, who are already understandably upset, by not at least reporting this as an amendment in technical disagreement.●

SHEILA OLSEN—MULTIPLE SCLEROSIS SOCIETY'S MOTHER OF THE YEAR

● Mr. McCLURE. Mr. President, tomorrow a very special friend of mine, Mrs. Sheila Olsen, will be honored by President Bush as the National Multiple Sclerosis Society's Mother of the Year.

I've known Sheila Olsen for years and I would like to pay tribute to her today for the truly remarkable person she is. Of course, "remarkable" is not a word Sheila would use to describe herself as she views her accomplishments as being the ordinary chores of day-to-day life. I know differently, and so do her many, many friends in Idaho who are so pleased she is being honored by the MS Society.

Sheila and her late husband, Dennis, have always been active members of the Republican Party. Dennis was the Republican State Chairman in Idaho for a number of years and he and Sheila devoted countless hours to community service. We were deeply saddened by his death in 1985, but I know how proud Dennis would be of Sheila.

Most of us might be able to keep the kind of schedule that Sheila has—political events, teaching classes to senior citizens, attending conferences as a speaker, being a board member for an organization helping the disabled, as well as many, many activities with the Church of Jesus Christ of Latter-day Saints—but I doubt any of us could do everything that she does and still find time for ten children.

While I want to pay tribute to Sheila for all the things she does, the point of this award is that Sheila is being honored as the Multiple Sclerosis Mother of the Year. And what a mother she is. Sheila and Dennis were dedicated to having a large family and five of their children were born after Sheila was diagnosed as having Multiple Sclerosis. In a touching message to his wife and children, Dennis Olsen wrote:

> I hope someday the children can understand the faith and courage that it took, particularly on Sheila's part, to continue to have children after we became aware of her illness. Firstly, it was a decision that was made only after careful consideration, prayer, and consultation with physicians. * * * Regardless of the circumstances that we now have, I am firmly of the conviction that we were destined to have the five additional children that came after this illness. There isn't a one of them that I would not want to have in our family. Each one has a special part in our heart and occupies a unique part in the family. * * *

After Dennis' death, Sheila still had six children at home. Today, there are still four Olsen children living at home and three others are in college. Sheila reports that the family gets along just fine and that the children pitch in with housework, cooking, and laundry. An older daughter who lives nearby comes in three evenings a week to help prepare meals. I was impressed that Sheila has established every Friday night as her date night when she does something special with one of her children, although she does say that she now has seen "Who Framed Roger Rabbit" three times.

So, Mr. President, although Sheila Olsen is a modest person, she really is remarkable and I'm pleased to stand before the U.S. Senate today to honor her. I would like to close my remarks today by quoting Sheila. It is a statement that I believe epitomizes Sheila's outlook on life and her love for her children:

> I hope that the things I can no longer do for the children are more than compensated for by the things I can. I can direct, encourage, and support their development. I can take responsibility for my own feelings of self-worth and well-being so I am not an emotional burden on them. I can treat the difficult situations I sometimes find myself in as "adventures," so the children will know they can handle the unknown, the unexpected, or the undesirable. I can reach out in service to others and teach my family to do the same. I can exemplify by daily living that regardless of times of difficulty or discouragement, the thing to do is keep going. And I can, by my very example, demonstrate the belief that I hold in my heart of hearts: that life, regardless of its challenges is good * * * that the problems and challenges which life brings can be met.●

THE RADIATION VICTIMS FAIR TREATMENT ACT

● Mr. WARNER. Mr. President, I wish to take this opportunity to address an issue of great importance, the Radiation Victims Fair Treatment Act. This is an issue about which I have spoken before and about which action must be taken now.

As a result of an act of Congress in 1984, civilians and veterans who believe they were injured by exposure to radiation caused by atomic testing have no effective recourse through the judicial system. The Radiation Victims Fair Treatment Act would restore those legal rights.

Until 1985, individuals alleging injury from exposure to radiation could file suit against contractors who participated in U.S. atomic testing programs. The contractors were indemnified by the Government for any legal costs they incurred.

Section 1631 of the 1985 Defense Authorization Act substituted the U.S. Government as defendant in all suits brought against the contractors and provided that these cases fall under the Federal Tort Claims Act [FTCA]. Because of certain defenses available to the Government under the FTCA, which are not available to the contractors, any judgments on behalf of veterans and civilian claimants against the U.S. Government are effectively barred. The result of section 1631 is that the vast majority of those injured by radiation are left with no remedy in court.

The Radiation Victims Fair Treatment Act would repeal section 1631, and restore the victims' fundamental right to seek redress in court. I cannot emphasize too strongly that action must be taken now. Time is running out. With each passing day another possible victim of nuclear testing may die. We must act immediately to restore this important legal right to these individuals.

ORDERS FOR FRIDAY

RECESS UNTIL 9:30 A.M.

MORNING BUSINESS

RESUME CONSIDERATION OF S. 5

Mr. MITCHELL. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until 9:30 a.m. tomorrow, Friday, June 23, and that following the time for the two leaders, there be a period for morning business not to extend beyond 10 a.m., with Senators permitted to speak therein for up to 5 minutes each, and that at 10 a.m., the Senate return to consideration of S. 5, the child care bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MITCHELL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS UNTIL 9:30 A.M. TOMORROW

Mr. MITCHELL, Mr. President, if the distinguished Republican leader has no further business, and if no other Senator is seeking recognition, I ask that the Senate stand in recess until 9:30 a.m. tomorrow, under the previous order.

There being no objection, the Senate, at 11:54 p.m., recessed until Friday, June 23, 1989, at 9:30 a.m.

NOMINATIONS

Executive nominations received by the Senate June 22, 1989:

DEPARTMENT OF STATE

RICHARD A. CLARKE, OF VIRGINIA, TO BE AN ASSISTANT SECRETARY OF STATE, VICE H. ALLEN HOLMES, RESIGNED.

DEPARTMENT OF LABOR

GERARD F. SCANNELL, OF NEW JERSEY, TO BE AN ASSISTANT SECRETARY OF LABOR, VICE JOHN A. PENDERGRASS, RESIGNED.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

CLAIRE E. FREEMAN, OF VIRGINIA, TO BE AN ASSISTANT SECRETARY OF HOUSING AND URBAN DEVELOPMENT, VICE JUDITH L. TARDY, RESIGNED.

DEPARTMENT OF ENERGY

JOHN J. EASTON, JR., OF VERMONT, TO BE AN ASSISTANT SECRETARY OF ENERGY (INTERNATINAL AFFAIRS AND ENERGY EMERGENCIES), VICE DAVID B. WALLER, RESIGNED.

IN THE NAVY

THE FOLLOWING-NAMED NAVAL RESERVE OFFICERS TO BE APPOINTED PERMANENT LIEUTENANT IN THE MEDICAL CORPS OF THE U.S. NAVY, PURSUANT TO TITLE 10, UNITED STATES CODE, SECTION 531:

KEVIN G. MITTS MICHELLE K. RESSLER

THE FOLLOWING-NAMED NAVAL RESERVE OFFICERS TO BE APPOINTED PERMANENT ENSIGN IN THE LINE OR STAFF CORPS OF THE U.S. NAVY, PURSUANT TO TITLE 10, UNITED STATES CODE, SECTION 531:

BURL W. AMSBURY	JOEL D. JUNGEMANN
BENJAMIN K. BARRETT	ERIC H. LAW
THOMAS R. CROWELL	FREDRICK J. LOO
JOHN A. DEMERS	ERIKA L. SAUER
LARRY A. DEXTER	KEVIN C. THOMAS
ROBERT A. HALL	SCOTT E. WHITMORE
CARL R. HERRON	ANTHONY J. WILLIAMS

THE FOLLOWING-NAMED U.S. NAVY OFFICERS TO BE APPOINTED PERMANENT COMMANDER IN THE MEDICAL CORPS OF THE U.S. NAVAL RESERVE, PURSUANT TO TITLE 10, UNITED STATES CODE, SECTION 593:

WILLIAM O. SHAFFER EDWARD B. WEISER

THE FOLLOWING U.S. NAVY OFFICER TO BE APPOINTED PERMANENT COMMANDER IN THE LINE OF THE U.S. NAVAL RESERVE, PURSUANT TO TITLE 10, UNITED STATES CODE, SECTION 593:

TIMOTHY G. DOBROVOLNY

IN THE MARINE CORPS

THE FOLLOWING NAMED OFFICERS OF THE REGULAR MARINE CORPS DESIGNATED FOR LIMITED DUTY FOR APPOINTMENT AND DESIGNATION AS UNRESTRICTED OFFICERS IN THE REGULAR MARINE CORPS UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 531 AND 5589:

To be lieutenant colonel

MERLE E. MACKIE, SR. xxx-xx-xxxx

To be major

FREDERICK H. GRANT, xxx-xx-xxxx

THE FOLLOWING NAMED OFFICERS OF THE MARINE CORPS RESERVE FOR TRANSFER INTO THE REGULAR MARINE CORPS UNDER TITLE 10, UNITED STATES CODE, SECTION 531:

To be captain

THOMAS J. ANDERSON, xxx-xx-xxxx
LARRY F. AUTRY, xxx-xx-xxxx
FRANKLIN D. BAKER, xxx-xx-xxxx
JOHN A. BERENS, xxx-xx-xxxx
BLAINE L. BUTLER, xxx-xx-xxxx
MICHAEL K. BUTTERS, xxx-xx-xxxx
MICHAEL W. CALLAGHAN, xxx-xx-xxxx
RONALD J. COLYER, xxx-xx-xxxx
KELLY D. CROSS, xxx-xx-xxxx
BRADLEY J. DEVRIES, xxx-xx-xxxx
JAMES M. DOCHERTY, xxx-xx-xxxx
ARTHUR L. DYER, III, xxx-xx-xxxx
THOMAS L. ENTERLINE, xxx-xx-xxxx
ALLAN M. FAXON, JR, xxx-xx-xxxx
MICHAEL D. FORD, xxx-xx-xxxx
JOHN T. GAITA, xxx-xx-xxxx
KEVIN M. HALLENBECK, xxx-xx-xxxx
DANA L. HASKELL, xxx-xx-xxxx
ROBERT S. HELLMAN, xxx-xx-xxxx
MARK A. HEWITT, xxx-xx-xxxx
MARC L. HOHLE, xxx-xx-xxxx
ROBERT D. HOLTER, JR, xxx-xx-xxxx
GORDON N. HOUSTON, xxx-xx-xxxx
TIMOTHY L. HUNTER, xxx-xx-xxxx
THOMAS INNOCENTI, III, xxx-xx-xxxx
ROBERT J. JAECKEL, xxx-xx-xxxx
KENNETH V. JANSEN, xxx-xx-xxxx
EDWARD C. JASIEWICZ, JR, xxx-xx-xxxx
DAVID P. JOHNSON, xxx-xx-xxxx
ROBIN E. LOCKWOOD, xxx-xx-xxxx
SEAN P. MCDONALD, xxx-xx-xxxx
ROBERT D. MCGOVERN, xxx-xx-xxxx
STEPHEN M. MIRANDA, xxx-xx-xxxx
PETER T. NICHOLSON, xxx-xx-xxxx
DERYL K. NIELSEN, xxx-xx-xxxx
MARK B. NIEMI, xxx-xx-xxxx
PETER U. NILSEN, xxx-xx-xxxx
JAMES L. NORCROSS, xxx-xx-xxxx
WILLIAM B. PAYNE, xxx-xx-xxxx
JAMES L. PILLOW, xxx-xx-xxxx
DANIEL D. POPE, xxx-xx-xxxx
JONATHON D. POWELL, xxx-xx-xxxx
LAWRENCE D. PUTNAM, xxx-xx-xxxx
LEE B. RAGLAND, xxx-xx-xxxx
KEITH B. RAWLS, xxx-xx-xxxx
RONALD E. REEVES, xxx-xx-xxxx
MANUEL RIVERA, JR, xxx-xx-xxxx
THOMAS E. RODABAUGH, xxx-xx-xxxx
RITCHIE L. RODEBAUGH, xxx-xx-xxxx
THOMAS A. ROGERS, xxx-xx-xxxx
KOENRAAD M. SALDIEN, xxx-xx-xxxx
MICHAEL A. SANTACROCE, xxx-xx-xxxx
HIDEO SATO, xxx-xx-xxxx
JEFFERY A. SATTERFIELD, xxx-xx-xxxx
PAUL D. SCHMEDING, xxx-xx-xxxx
RODERICK T. SHERENCO, xxx-xx-xxxx
CHARLES T. STAIGLE, xxx-xx-xxxx
LARRY S. STEWART JR, JR, xxx-xx-xxxx
GERALD R. TEMPLE, xxx-xx-xxxx
DARRELL L. THACKER JR, JR, xxx-xx-xxxx
RICHARD W. THELIN, xxx-xx-xxxx
WILLIAM G. WALDRON, xxx-xx-xxxx
RICHARD E. WARE, xxx-xx-xxxx
MICHAEL C. WARREN, xxx-xx-xxxx
KEN YOKOSE, xxx-xx-xxxx
ROBERT M. ZEISLER, xxx-xx-xxxx

To be lieutenant

NELSON E. ALBERTS, xxx-xx-xxxx
ROBERT C. ALEXANDER, xxx-xx-xxxx
ANTHONY P. ALFANO, xxx-xx-xxxx
AARON T. AMEY, xxx-xx-xxxx
JOEL D. ANDERSON, xxx-xx-xxxx
MARK T. AYCOCK, xxx-xx-xxxx
JAMES D. BARICH, xxx-xx-xxxx
TIMOTHY E. BARNHILL, xxx-xx-xxxx
KEVIN M. BARTH, xxx-xx-xxxx
PATRICK B. BEAGLE, xxx-xx-xxxx
MICHAEL S. BEVIS, xxx-xx-xxxx
JAMES B. BONNER III, III, xxx-xx-xxxx
MICHAEL J. BOSSE, xxx-xx-xxxx
JOHN M. BOURGAULT, xxx-xx-xxxx
JOHN R. BYRD, xxx-xx-xxxx
ADAM S. CANNIZZARO, xxx-xx-xxxx
JOHN D. COLEMAN, xxx-xx-xxxx
ROBERT C. COOKE, xxx-xx-xxxx
JEFFREY B. COOPER, xxx-xx-xxxx
THOMAS E. CORCORAN, xxx-xx-xxxx
JONATHAN D. COVINGTON, xxx-xx-xxxx
STEPHEN A. COX, xxx-xx-xxxx
SCOTT D. CROCKETT, xxx-xx-xxxx
CHRISTOPHEJ DAVIS, xxx-xx-xxxx
JEFFREY S. DAVIS, xxx-xx-xxxx
RICHARD A. DEFOREST, xxx-xx-xxxx
JON E. DIXON, xxx-xx-xxxx
TIMOTHY J. DOLAN, xxx-xx-xxxx
JEROME E. DRISCOLL, xxx-xx-xxxx
THOMAS B. EIPP, xxx-xx-xxxx
DAVID A. ELLIS, xxx-xx-xxxx
LINK P. ERMIS, xxx-xx-xxxx
JOSEPH E. EVANS, xxx-xx-xxxx
MARK P. EVERMAN, xxx-xx-xxxx
JOACHIM W. FACK, xxx-xx-xxxx
SCOTT L. FINDELL, xxx-xx-xxxx
HAROLD J. FLANAGAN, xxx-xx-xxxx
CHRISTOPHEC FOSTER, xxx-xx-xxxx
STEVEN D. FOX, xxx-xx-xxxx
DAVID S. FOY, xxx-xx-xxxx
PETER T. GAYNOR, xxx-xx-xxxx
WILLIE R. GOLDSCHMIDT, xxx-xx-xxxx
DAVID C. GOMEZ, xxx-xx-xxxx
MICHAEL S. GROEN, xxx-xx-xxxx
ELIZABETH C. GRUBER, xxx-xx-xxxx
ANTHONY J. GRZYB, xxx-xx-xxxx
PERRY E. HALL, xxx-xx-xxxx
DOUGLAS M. HARDISON, xxx-xx-xxxx
PETER A. HARMON, xxx-xx-xxxx
NATALIE G. HAUG, xxx-xx-xxxx
JOHN D. HAYNES, JR, xxx-xx-xxxx
MARK A. HEATON, xxx-xx-xxxx
SEAN M. HEERY, xxx-xx-xxxx
DAVID R. HERR, JR, xxx-xx-xxxx
MARCUS O. HEWETT, xxx-xx-xxxx
THOMAS G. HOLDEN, xxx-xx-xxxx
RICHARD W. HOLLAND, xxx-xx-xxxx
MICHAEL R. HUDSON, xxx-xx-xxxx
RICHARD B. JESSOP, xxx-xx-xxxx
KEITH R. JEWELL, xxx-xx-xxxx
TREVOR R. JOHN, xxx-xx-xxxx
DANIEL P. JOHNSON, xxx-xx-xxxx
GEORGE M. JONES, xxx-xx-xxxx
KEVIN M. JONES, xxx-xx-xxxx
JOHN F. KAMMEIER, xxx-xx-xxxx
HARVEY A. KEELING, III, xxx-xx-xxxx
KEVIN T. KELLEY, xxx-xx-xxxx
KEVIN D. KING, xxx-xx-xxxx
STEPHEN F. KIRKPATRICK, xxx-xx-xxxx
PATRICK E. KLINE, xxx-xx-xxxx
JOHN G. KNAPP, xxx-xx-xxxx
MARC H. LAMBERT, xxx-xx-xxxx
PHILIP S. LARK, xxx-xx-xxxx
DAVID P. LEMLEY, xxx-xx-xxxx
KYLE B. LEWIS, xxx-xx-xxxx
SAMUEL LIMA, xxx-xx-xxxx
RAYMOND S. LOPES, JR, xxx-xx-xxxx
HUGH A. LOTTINGER, xxx-xx-xxxx
JOHN K. LOVE, xxx-xx-xxxx
JAMES B. LOVING, xxx-xx-xxxx
JOHN F. LUDDY, II, xxx-xx-xxxx
PATRICK E. MADDEN, JR, xxx-xx-xxxx
MARC L. MAGRAM, xxx-xx-xxxx
THOMAS E. MATSON, xxx-xx-xxxx
MARK W. MCCADDEN, xxx-xx-xxxx
GREGORY D. MCMANUS, xxx-xx-xxxx
ANDREW R. MELLON, xxx-xx-xxxx
STEPHEN J. MERVINE, xxx-xx-xxxx
LAWRENCE E. MICCOLIS, xxx-xx-xxxx
HAROLD D. MILLER, JR, xxx-xx-xxxx
KEVIN D. MOON, xxx-xx-xxxx
LUIS NARVAEZ, JR, xxx-xx-xxxx
MARK K. OBERG, xxx-xx-xxxx
FRANK T. ONEILL, xxx-xx-xxxx
STEPHEN M. PACE, xxx-xx-xxxx
RICHARD W. PALERMO, xxx-xx-xxxx
JOHN W. PALMER, xxx-xx-xxxx
DAVID PERE, xxx-xx-xxxx
MICHAEL S. PERKINS, xxx-xx-xxxx
THOMAS M. QUOSS, xxx-xx-xxxx
ROBERT N. RACKHAM, JR, xxx-xx-xxxx
JAMES S. RAMIREZ, JR, xxx-xx-xxxx
PHILIP G. RESTIVO, xxx-xx-xxxx
PATRICK A. RILEY, xxx-xx-xxxx
JEFFREY A. ROBB, xxx-xx-xxxx
ROBERT W. ROSETTA, xxx-xx-xxxx
DONALD M. ROSS, xxx-xx-xxxx
THOMAS S. RUTLEDGE, xxx-xx-xxxx
JOHN M. SCHULTZ, xxx-xx-xxxx
ALLEN L. SCHWEIZER, xxx-xx-xxxx
DOUGLAS D. SCOVILLE, xxx-xx-xxxx
RANDALL W. SMITH, xxx-xx-xxxx
RICHARD C. SMITH, xxx-xx-xxxx
WILLIAM C. SMITH, III, xxx-xx-xxxx
JAMES J. STANFORD, JR, xxx-xx-xxxx
DENNIS H. STEGALL, xxx-xx-xxxx
JEFFREY G. STRUEBING, xxx-xx-xxxx
FREDERICK W. STURCKOW, xxx-xx-xxxx
MICHAEL J. STUTZMAN, xxx-xx-xxxx
TIMOTHY L. SULLIVAN, xxx-xx-xxxx
LORING A. TABOR, xxx-xx-xxxx
JAMES E. TANIS, xxx-xx-xxxx
ALAN L. THOMA, xxx-xx-xxxx
BRIAN E. TODD, xxx-xx-xxxx
FRANK E. TOY, III, xxx-xx-xxxx
TODD O. TRAVIS, xxx-xx-xxxx
TED K. VANASUPA, xxx-xx-xxxx
KEVIN S. VEST, xxx-xx-xxxx
JAMES P. WEDGE, xxx-xx-xxxx
RICHARD H. WEEDE, xxx-xx-xxxx
BARNEY K. WICK, xxx-xx-xxxx
GLENN S. WILDE, xxx-xx-xxxx
CHRISTOPHED WILKERSON, xxx-xx-xxxx
MICHAEL P. WILKES, xxx-xx-xxxx
JEFFREY A. WOLFF, xxx-xx-xxxx
JEFFREY S. WRIGHT, xxx-xx-xxxx

To be chief warrant officer

RAYMOND L. KESSLER, xxx-xx-xxxx
JOHN T. SEVERSON, xxx-xx-xxxx

IN THE NAVY

THE FOLLOWING NAMED LIEUTENANT COMMANDERS OF THE RESERVE OF THE U. S. NAVY FOR PERMANANT PROMOTION TO THE GRADE OF COMMANDER IN THE LINE, IN THE COMPETITIVE CATEGORY AS INDICATED, PURSUANT TO THE PROVISIONS OF TITLE 10, UNITED STATES CODE,SECTION 5912:

UNRESTRICTED LINE OFFICERS

To be commander

JOHN MATTHEWS ABERNATHY, III	JOSEPH WILLIAM AMENT
ALLAN BLAKELY ADAMS, JR	MARION DESANTIS AMENT
JOE RICHARD ADAMS	DAVID CHAFFIN AMMERMAN
JOHN MARIO AGOSTINI	DALE NORMAN ANDERSON
THOMAS JOSEPH AHERN, JR	ROBERT ROY ANDERSON
JAMES ANDREW ALDON	SCOTT PIERCE ANDERSON
JOHN WILLIAM ALGER	JESSE ARNOLD ARILDSEN
DAMON EARL ALLEN, JR	LORAIN BLOUNT ARMSTRONG, JR
SHIRLEY ALLEN	CYNTHIA HOPE ARVIN
STEPHEN RATCLIFF ALLEN	JESSE LEE ASHCRAFT
WILLIAM RONALD ALLYN	GEORGE BERNARD AUSTIN
CHARLES FO AMANN	EDWARD LEE AVIS
RICHARD ROWLAND AMELON	

ROBERT CONDON BAILEY	ROBERT CARL BARR
DONALD RAYMOND BAIRD, II	PAUL KENNETT BARRETO
HENRY SCOTT BALDWIN	FRED ALEXANDER BARRINGER, JR
SIMEON BALDWIN, III	ROGER THOMAS BARTH

DAVID HAMILTON BARTHOLD
CHARLENE GRANGER BARY
JOHN RUSSELL BASS, II
LUNCFORD LEWIS BASS
CHRISTINA BATJER
GLENN LOUIS BATTENFIELD
CHARLES MCINTYRE BAUCOM
GARRICK WILLIAM BAUER
PAUL RUDOLPH BAZEMORE, JR
CHARLES EDWARD BECK
DAVID WILLIS BECK
JAMES EDWARD BEEBE
BRUCE ALLAN BEEMER
FREDRICK ARTHUR BELL
RAE EILEEN BENAVAGE
GARY DAVID BENNETT
FRED WAYNE BERGMAN
GARY RICHARD BERMAN
ROBERT ALLEN BERO
DOUGLAS JAMES BERRY
JOHN EUGENE BETTIS, JR
ALLEN KENT BETTISWORTH
BRUCE EDWARD BEUCHEL
REED CHARLES BIRNEY
BRUCE M. BLACK
BRAIN ERIC BLAIR
ALAN BURKE BLAKE, JR
STEVEN GEORGE BLAKE
JOHN ESTEL BLOXOM
KENNETH ALLEN BOBB
DAVID EARL BOECKNER
ROSS AYRES BOGERT
SAMUEL JOSEPH BONANNO
VINCENT JOHN BORRUSO
MITCHELL CURTIS BOSWELL
ALLEN GEORGE BOUSKA
STEVEN GENE BOWERS
EDWIN EVERETT BOYD, II
THOMAS EDWIN BOYD
FRANK LORON BRACKEN, JR
ROBERT CLARK BRACKETT
DAVID GORDON BRAGG
PAMELA AUBEL BRANCH
JOHN LYLE BRANCHFLOWER
PETER DENNISTON BRAUN
THOMAS LEE BREINER
LAWRENCE DEAN BREITEN
AINSLIE SHERIDAN BRENNAN
CHRISTOPHER PETER BRENNAN
JAMES GILBERT BREWER
MICHAEL HAROLD BREWER
ROBERT ARTHUR BRODY
DAVID ALLEN BROWN
DON MICHAEL BROWN
GLENN T. BROWN
JOHN MICHAEL BROWN
RANDALL HOLLIS BROWN
ROBERT CLYDE BROWN
ROBERT DANIEL BROWN
RONALD ALAN BROWN
ROY STANLEY BROWN
THOMAS RUSSELL BROWN, JR
ROBERT SLOMAN BROWNE, IV
ROBERT CLEVELAND BRUCE, JR
ROBERT EDGAR BRUCE, IV
GLENN ALFRED BRUGGEMANN
DANIEL PAUL BRUNSVOLD
DEWEY GORDON BRYAN
THOMAS ALEXANDER BUBB
THOMAS JOSEPH BUDDE
GEORGE RALPH BUDDINGTON
STEPHEN ALAN BUESCHER
MARK LINCOLN BUMGARDNER
DONALD BARRY BURKE
MICHAEL DAVID BUSSEY
ALLEY COWAN BUTLER
RICHARD HESS BUTLER
STEPHEN CRAIG BUTLER
JOHN WILLIAM BYRNE, IV
MICHAEL FRANCIS BYRNE

DAVID PAUL CACCAMO
WILLIAM DOUGLAS CADY
JOHN DELANE CALHOUN
ROBERT DAVID CALLIER
THOMAS DEREK CAMPOBASSO
KENNETH HOWARD CARLSEN
JAMES ROBERT CARLSON
THOMAS ALAN CARLSON
JAMES CHARLES CARTER
STEPHEN JOSEPH CASSIN
JEFFREY DRISCOLL CAVANAGH
THOMAS ALOYSIUS I. CAVANAUGH
LADD MICH CECH
ANTHONY LAWRENCE CELLINI
J. ROSS CHAFFIN
ROBERT MARK CHAMBERLAIN
RANDOLPH AUGUST CHARLSEN
WILLIAM RENE CHIQUELIN
NYLES LEE CHRISTENSEN
LARRY RAY CHRISTENSON
CHRISTOPHER JUDE CIKANOVICH
JOSEPH PAUL CIOLA
MICHAEL LEWIS CLARK
ALAN BENNETT COFFER
WILLIAM MICHAEL COFFIN
CLARENCE WILLIAM COFFMAN
STEPHEN DAVID COLE
ELLIOT REZBA COLLIER
DOUGLAS LEE COLLINS
KENNETH WARREN COMER
JOHN ROBERT CONNELLY
PHILIP LEO CONROY
RANDALL FOSS COOPER
ROBERT DAVID CORLEY
STEPHEN TODD COX
VINCENT HENRY COX
RAYMOND PRICE CRAIG, JR
KEVIN EUGENE CRAINE
JAMES WARD CRANDALL, JR
KENNETH EARL CRAVEN
BERTRAM MADISON CRAWFORD, JR
DANIEL ALBERT CRAWFORD
ROBERT DOUGLAS CRAWFORD
DON MICHAEL CRITES
RICHARD C. CROWE
BRYANT GEORGE CRUSE
JEFFREY FRANZ CULL
MICHAEL LEE CULPEPPER
JOHN CHARLES CUNLIFFE
JAMES ALEXANDER CUNNINGHAM
MORRIS SHEPARD CUPP
JAMES WHITTET CURRIER
PATRICK DUNCAN CURTIS

DOUGLAS LEE DALRYMPLE
JERRY WAYNE DALTON
JOSEPH WILSON DANDREA
PETER ALAN DANFORTH
HOYLE HOLMES DANIELS, III
DALLAS MICHAEL DARLAND
GARY RICHARD DAVIDSON
DAVID HUGH DAVIS
WALLACE DAVIS, III
WILLIAM BRIAN DAVIS
ROBERT PATRICK DELANEY
STEPHEN GERARD DEMERANVILLE
JOHN MICHAEL DEMOSTHENES
NEIL JOSEPH DEPASCAL, JR
JAMES EDWARD DESPAIN
BRUCE ROMAN DEUTSCH
CHARLES M. DEVEAUX, III
GERALD WALTER DEVORE
JOHN JOSEPH DIBERNARDO, JR
RICHARD DICK
GARY WAYNE DICKSON
SKEETER JAMES A. DICKSON
WALTER ALBERT DIEM, JR
RALPH SCOTT DIMAIO
CORY ELYSE DIXON
PETER RAYMOND DODD
DANA THOMAS TIERNEY DODDS
STEVEN CHARLES DODGE
PAUL RICKARD DOMBROWSKI
JAMES HUGH DORMAN
WALTER SAMUEL DOSE, JR
BARRY LAWRENCE DOUGHERTY
MICHAEL LAWRENCE DOUGLAS
JAMES RAY DOVER, JR
MICHAEL THOMAS DOYLE
WESLEY CLAUDE DRAKE
SONDRA LEE DRISCOLL
JOHN JACKSON DRIVER
ROBERT EARL DRUM
ROBERT TERRANCE DUDDY
JAMES KELLY DUFFY
SIDNEY PERRYMAN DUMONT, III
FRANK ROSSER DUNAWAY, III
ROBERT HAYNES DUNN
MICHAEL JAMES DUNNE
JAMES WADE DYER
JAMES JOSEPH DYSON

THOMAS EARLE ECKERT
ROBERT FRANK EDMONDS
EDWARD STEPHEN ELIASEN
JANIS SUE ELLIS
CHARLES PHILLIP ENGLISH
KENNETH BENJAMIN EPSTEIN
RICHARD ROYCE ERICKSON
SHANNON WILLIAM ESSON

RICHARD FRANCIS FAGAN, JR
WILLARD B. FARQUHAR, JR
PAUL FRANCIS FARRELL
RICHARD LOUIS FARRELL, JR
JAMES EDWARD FAY
KEVIN JOSEPH FEENEY
MARC ALAN FELDMAN
THOMAS WALLACE FELHOFER
STEPHEN MIGEL FILSON
ROBERT EDWARD FINNEGAN
PAUL STELLING FISCHBECK
EARLE BYRON FISHER, JR
DOUGLAS PAUL FITZGERALD
PATRICK DANIEL FITZPATRICK
DANIEL MICHAEL FLANNERY
WILLIAM ANDERSON FLOWERS
JOHN EDWARD FLYNN
JOHN CRAIG FOERSTER
JOSEPH ROGER FORTIN
RAYMOND FRANCIS FOSTER
HAROLD EDWARD FOWLER, JR
DONALD BRIX FRASER, JR
JAMES THOMAS FREDERICKSON
ROBERT MICHAEL FRESE
MICHAEL JOSEPH FRIDGEN
DAVID EMERSON FROST
JAMES THOMAS FULLER

CYNTHIA LOU GABUS
GARY FRANCIS GADZINSKI
MARK ALAN GAFFNER
BRIAN HOWARD GAHRAN
RICHARD MICHAEL GALECKI
JAMES MICHAEL GALLAGHER
CRAIG ELDON GALLOWAY
DANIEL TERRY GALVIN, JR
ALAN WILLIAM GAREY
DUSTIN JEFFREY GARROW
JOSEPH CARMEN GAUTILLE
MICKEAL STEPHEN GEHRINGER
STEPHAN PAUL GEORGE, II
LEE ALAN GHOLZ
ANTHONY DAVID GIANCATARINO
WILLIAM CHAMBERLAIN GIESEY
ROBERT TALBOTT GILES
ROMAN GENE GILLULY
JOSEPH ANTHONY GIMMA, JR
HARRY CLAY GINTZER, III
KURT ALAN GJERDE
DONALD JULIUS GLASSER
LONNIE L. GLENN
KATHLEEN M. GOLDSTEIN
ROBERT L. GORE
DAVID LEE GOTHARD
DEREK GOUDGE
MICHAEL JOSEPH GOUGE
CHRISTOPHER MICHAEL GOWRIE
PATRICK MATTHEW GRABER
RANDALL LEE GRAHAM
DAVID PATRICK GRAY
CHRIS EWALD GREEN
GEORGE ANTHONY GREENLEAF
PAUL GREGORY GREGORY
MICHAEL STEPHEN GRIGGS
DEBORAH GROESBECK
CARL JOHN GROSS
GRETCHEN GAIL GROVER
SIEGFRIED GUENTHER
NEAL FLOYD GUERNSEY
KENNETH JAY GUNDERSON
MARCIA ANNE GWIN

JAMES ELLIOTT HAAS
LONNY MAX HAGAN
LAMAR CLAYTON HAILE, III
MARK ARTHUR HALLENBECK
BRUCE SYLVAN HAMILTON
GEORGE K. HAMILTON, JR
GARY F. HAMMERGREN
STEVEN PETER HANSEN
PAUL GERHARD HANSON, III
THOMAS GERARD HANSON
PAUL WILLIAM HARAR
TIMOTHY SCOTT HARDEN
WAYNE ARNOLD HARLAN
STEPHEN CHARLES HARMON
MARK JOSEPH HARPER
KENNETH ROY HART
LINDA C. HARTZ
THEODORE LEONARD HARWOOD, II
CHARLES THOMAS HAST
GREGORY DANIEL HATSTAT
WILLIAM CARL HAUG
EDWARD ROY HAWKENS
JOHN WALTER HAYDEN
FRED EDWARD HAYES
STEPHEN TALBOT HAZAM
GARY LEE HEARNE
VERONICA DEMARIS HEBERT
LESTER JOHN HEINRICH
RICHARD DWIGHT HEINRICH
PETER FERRIS HELSELL
GLENN HENDERSON
THOMAS JEFFREY HENDERSON
BRUCE ALLEN HENDRICKS
RANDOLPH CLYDE HENSON
EDWARD PHILIP HERMANN
JOHN HAMILTON V. HESSEY
LARRY ALLAN HICKS
DAVID EUGENE HINSON
GARY LYNN HOBBIE
HERBERT WELLINGTON J. HOEFER
ROBERT ALAN HOFF
NORMAN ALEXANDER HOFHEIMER
GARY PATRICK HOGAN
MERRILL DENNIS HOLMES, JR
FRANCES TERUMI HONDA
REBECCA EUGENIA HOUCK
WILLIAM RANDALL HOWARD
WILLIAM STEVE HOWSE
JOHN ROBERT HOYT, JR
MICHAEL JUDD HUDGINS
JAMES MICHAEL HUNZIKER
ANDREW RICHARD HUTCHENS
MICHAEL ALAN HUTCHISON
MILO WILT HYDE, III
JOHN THOMAS IAIA
GARY CHARLES INGOLD
NANCY PHILLIPS ISE

FREDERICK PAUL JACKSON
ROBERT WARREN JACKSON
PHILIPPE ARMAND JACQUES
WILLIAM EUGENE JANSON
RICHARD HARVEY JENDERNY
CHRIS PAUL JENSEN
EDWIN DAVID JEWELL
DAVID ANDREW JOHNSON
JOHN AUGUST JOHNSON, JR
MARTHA SUE JOHNSON
ROXANNE THERESE JOHNSON
WILLIAM WAYNE JOHNSON
ROGER JOHN JONES
WILLIAM JOHN JORDAN, III

GLENN LEIGH KADEN
RICHARD WAYNE KAMMIER
GREGORY JAY KARP
ROBERT ARNOLD KATIN
FRANCIS JOSEPH KEARNEY, JR
JAMES PATRICK KEARNEY
DONALD LOWE KEELER, JR
MICHAEL PAUL KEEN
KEVIN THOMAS KELLY
PATRICK MICHAEL KELLY
WILLIAM ALFRED KELLY, JR
ROBERT J. KERMEN
RAYMOND LEE KINSAUL, JR
NICHOLAS JAN RALPH KIRBY
DONALD JOSEPH KISSINGER, JR
STEPHEN JAMES KLOCH
JOEL FRANCIS KMETZ
THOMAS JEFFREY KNOTTS
ROBERT VINCENT KOLLMAN
CHARLES JOSEPH KONDRACK
JOHN NICHOLAS KOVAC
GEORGE NICK KOVCH
SYLVESTER CARL KRELL
GEORGE EINAR KULP
PETER MICHAEL KUSHNER
JAMES CRAIG KVAMME

VINCENT DEVOS LACAVA
KERRY DWAYNE LANDIS
FRANK MICHAEL LANGLEY
RONALD DAVIS LANNING
DONALD PATRICK LAPAN
CHRISTOPHER JOSEPH LARGER
ROBERT THOMAS LARNED
DONALD ROBERT LAW
JEFFREY EUGENE LAWSON
BRIAN STEVEN LEACH
RICHARD LOUIS LECKY
JOHN CARL LEDYARD
CHARLES WILLIAM LEPEAUX
DAVID LINDSAY LEONARD
CLAUDE ETIENNE LEPENDU
CHARLES KEMPTON LETTS
WILLIAM K. LEVEDAHL
ROBERT EARL LEWIS
MICHAEL LEE LILLARD
ALFRED STICKNEY LILLIENDAHL
JON STEVEN LIMMER
JAMES JAY LIND
ANDREW EDGAR LINDSEY
MARK RAY LINDSEY
MICHAEL LEE LINGERFELT
KEITH STEPHEN LISAK
KEENE HILLIS LITTLE
STEVEN MARSHALL LOFTON
GILBERTO JORGE LOPEZ, JR
LAWRENCE LEE LOUDON
NATHANIEL LUCAS
MARK CHRISTOPHER LUNNY
DANIEL JEROME LYNCH

SCOTT CLEVELAND MACLEOD
LEO THOMAS MAHONEY
WILLIAM FRANCIS MANGANARO
WALTER ENN MARDIK
JERRY WAYNE MARGUTH
JOHN WALDEMAR MARLOWE
GEORGE MICHAEL MAROZSAN
JOHN BROWN MARQUES, III
KENNETH ALAN MARSH
CHARLES MICHAEL MARTIN
DOUGLAS FRED MARTIN
LANCE STEWART MARTIN
WILLIAM EMMETT MARTIN, II
JACK MARTINEZ, JR
MYRON ALAN MARTINSON
DAVID LEE MASLOW
JOSEPH HARLAND MASTIN
CHARLES SHERMAN MATASIC
LEONARD RAY MATHENY
JEROME MATTHEWS
DAVID E. MAXSON
DEAN E. MAY
JAMES JOSEPH MCCABE
MICHAEL A. MCCABE
THOMAS JOHN MCCABE, JR
RICHARD EDWARD MCCAMANT
THOMAS ROBERT MCCLELLAN
JOHN RAYMOND MCCLURE
PATRICK ALBERT MCCOMBS
JOHN LAWRENCE MCCONNELL
THOMAS BRENT MCCORMICK
DAVID EARL MCCUNE
CAROL JEAN MCDEVITT
THOMAS BRAMLETT MCGAHEY, III
DAVID LEE MCGEE
JAMES WILLIAM MCHALE
THOMAS RANDALL MCINVALE
KENNETH ANTHONY MCKEE
JOHN E. MCKIERAN
BRADLEY DALTON MCKNIGHT
BOBBY DERYL MCPHERSON
PATRICK JAMES MEANEY
CHARLES DOUGLAS MEEKINS
ROBERT WILLIAM MEISELAS
JOHN BARNHARDT MELVIN
JOHN H. MERRITT
SUSAN JANE MERRITT
CHARLES WEBB MERWINE
GREGORY BRADLEY METCALFE
CAREY LEE MEUSHAW
JERRY LEE MEYER
BRIAN KENNETH MICHAUD
STEVEN TRAVIS MIDDLETON
LANNY WAYNE MIKULENCAK
JOSEPH G. MILLER
GARY CAMPBELL MITCHELL
NEIL ROBERT MITCHELL
VERNON PETER MOHR, JR
DANIEL PATRICK MOONEY
JOHN ALAN MOORE
RAY HAROLD MOORE
RICHARD HARVEY MORCK
JOHN STEVEN MORGAN
JONI PARKER MORGAN
GRAY D. MORRISON, III
DAVID MICHAEL MORSE
CHRISTOPHER MOSCHELLA
DUVAL FLETCHER MOSS, III
GARY WILLIAM MOULDER
RONALD MUELLER
LAWRENCE ARCHER MULLALY
EDMUND DELAREIN

MURPHY, JR
JOHN STANLEY MURPHY
DANIEL LAWRENCE MURRAY
TONY MICHAEL MUSCHARA
LINDA MARY MYERS

JOSEPH JOEL NASTASI
MICHAEL FRANCIS NAVARRO
THOMAS STEPHEN NEAL
GREGORY FARRELL NELSON
MICHAEL MCLAUGHLIN NEMECHEK
MARC CAMERON NIEBERGALL
DAVID GERARD NIEDERMAIER
ANDREW STANTON NIEMYER
DAVID SILVIO NIERI
PAUL DOUGLAS NORCROSS
ERIC RANDALL NORLAND

MICHAEL PATRICK OBERT
JAMES DENNIS OBRIEN
STEPHEN ALAN OBRIEN
CARL STEPHEN OLEXIK, JR
LARRY ALLAN OLSON
JAMES A. OMLID
MICHAEL JERRY ONEILL
JOHN LEON OSHAUGHNESSY
MICHAEL PATRICK OSULLIVAN
MICHAEL KENT OWENS

JAMES GLEN PAGE
ALLEN CHARLES PAINTER
STEPHEN HAMILTON PARFET
ALAN MELVIN PARK
JOHN SPRUANCE PARK
DENNIS LEROY PARKS
LEONARD MATT PARRES
TERRY LEE PARSONS
HERBERT W. PARTHUM, JR
RAYMOND JOHN PAUL
LEONARD KIMBALL PAYNE, III
ROBERT SCOTT PEARSON
CHARLES ALBERT PEBERDY, JR
JAMES CARL PEBLER
PAUL CURTIS PECK
EDWARD WILLIAM PEKAREK
MARK ELLIOTT PERCICH
DONALD SPERLING PHIFER
KEITH LEE PHILLIPS
ROBERT GEORGE PHILLIPS, JR
CHARLES WINFRED PHILPOT
JAMES THOMAS PICKETT
GREGORY DENNIS PIERCE
THOMAS JAMES PINKL
GAYEL ANNE PITCHFORD
JOHN DANIEL PITTMAN
LOUIS WILLIAM POLLOCK
LARRY GLEN POPE
GEORGE LAURIN POWERS
DANE MASON PRANKE
ROBERT WILSON PRATT, II

JEFFREY GARRISON QUAID

DAVID FOSTER RACHEL
FRANK EUGENE RAINES
CLARENCE EDWARD RAPPE, JR
STEVEN EMILE RASIN
TIMOTHY JOHN RASTOK
ROBERT EDWIN RATCLIFFE
JAMES MICHAEL RAUSA
STEVEN PETER RAY
JAMES ROBERT REA
JOHN VINCENT READER
GARY EUGENE REED
GREGORY WAYNE RICHARDS
STUART ALAN RICHARDS
DAVID LESLIE RILEY
ALAN ROBERT RINANDO
VIVIAN SANDRA RIPPEY
RICHARD WALTE ROBBEN
JOHN EDWIN ROBERTS
CHRISTOPHER BOCK ROBINSON
DONALD LAWRENCE ROBINSON
WILLIAM R. ROBINSON
JOHN JACOB ROEMER, JR
GORDON MERRIAM ROESLER, JR
STEVEN LAWRENCE ROGNESS
MARTIN WALFREY ROHRER
MICHAEL JOHN ROLAND
FRANK JOHN ROSE
JOSEPH MARIO ROSSINI
DOUGLAS MICHAEL ROUEN
JAMES SCOTT ROWAN
RICHARD RONALD ROYER
JEAN MCCAIG RUMMEL
DAVID LEDING RUSH
CHARLES THOMAS RYAN
LESTER EUGENE RYAN
PAUL JOSEPH RYAN
RICHARD STEWART RYAN

FRED GILES SANDERS, III
MARK ANTHONY SATORIUS
JOHN FREDRIC SAUCERMAN
TOD WARD SCHAEFER
JOSEPH SCHEER
ROBERT LUTHER SCHILLING
DOUGLAS CHARLES SCHLAEFER
ANDREW EDWARD SCHNECK
JOHN RICHARD SCHNEIDER
MARGARET WHEATON SCHNEIDER
ROSE ANN SCHONBERGER
DAVID HAROLD SCOBY
DENNIS ROY SCOTT
GEORGE RANDALL SEPTAS
ROBERT JOHN SENICH
DAVID DANIEL SENKOWSKI
THOMAS FINUS SHACKELFORD, II
RICHARD LEE SHEETS
ROBERT ROY SHERLOCK
KENNETH BRUCE SHERMAN
DAVID ALAN SHILLIDAY
WILLIAM BRIAN SHINNICK
STEVAN DONALD SILVAST
CLYDE BURTS SIMMONS, JR
ROBERT ANTHONY SIMON
PHILIP DOUGLAS SIMS
DONALD RICHARD SINGER
GEORGE ANDREW SIRAGUSA
DONALD RAYMOND SKOTTY
GARY MICHAEL SKURA
STEPHEN IRVIN SLIGHT
PATRICK FRANCIS SLOAN
COLUMBUS L. SMITH, JR
GENE DEREK SMITH
MARK WILLIAM SMITH
NORMAN KENT SMITH, II
RICHARD ALAN SMITH
SCOTT L. SMITH
WILLIE SMITH, JR
JAMES PATRICK SMITHWICK
WILLIAM VINCENT SNOOK
WILLIAM DONALD SPEIGHTS
KORD EMIL SPIELMANN
WILLIAM HENRY SPINKS, JR
THOMAS LEWELLYN SPRAGUE
STEVEN EDWARD SPRINGER
WILLIAM DAVID SQUIRES, JR
WAYNE STANLEY STANFIELD
TIMOTHY DAVID STANLEY
ROBERT SHEPHERD STANTON
JOHN STEPHEN STARCHER
DOROTHY ELAINE STARK
WILLIAM FRANCIS STEAGALL, JR
GEORGE DONALD STEEL
GERALD MICHAEL STENOVEC
VAN ALAN STEPHENS
BARRY L. STERETT
GEORGE REID STEVENSON, JR
JOHN MARVIN STEWART, JR
TOMMY CLIFFORD STEWART
ROBERT DONALD STGERMAIN
GARY BERT STOFFELS
DENNIS DUANE STONE
KERMIT PAUL STOTT
DONALD JOSEPH STRAKA
RICHARD THOMAS STRECKER
LAWRENCE JOHN STRIZICH
JAMES MARTIN STRONG
GARY MICHAEL SUDHOFF
JEFFERY H. SUNDAY
WILLIAM JAMES SVENSON
LEROY SWANNER, JR
DAMASO MICHAEL SWIATKOWSKI
FREDERICK LEROY SWINDAL, JR
HARRY WILLIAM SYER, JR
PETER MORTIMER SYNOWIEZ

HENRY JOHN TABB
JOHN FREDERICK TAFT
LARRY GENE TARKINGTON
BRUCE ROBERT TERRIL
BRAD N. THOMAS
JOHN KERMIT THOMAS
STEVEN FINLEY THURN
NEIL EDWARD TOLLEFSRUD
CRAIG SCOTT TOMLINSON
DAVID ROBERT TOPOLEWSKI
JANET TORELLI
JAMES ANTHONY TRITCHLER
PHILIP ELWELL TROY
DICK WILLIAM TURNER

RICHARD ANTHONY UDICIOUS
THOMAS WILLIAM UHL

GARY MICHAEL VALVO
JOHN ALPHEUS VANDERSLICE, II
THOMAS KEVIN VAUGHN
JOHN WILLIAM VENES, JR
PETER BARNUM VENTER
GUY LESLIE VEREB
DEAN STEPHEN VEREMAKIS
JOHN EDWARD VERGELDT
ANTHONY JAMES VINNOLA, JR

JOHN WATSON WAGENBLASS
JOHN GERALD WALL
THOMAS EARLY WARREN
TIMOTHY RUSSELL WARREN
EUGENE FLOYD WASSON
BRIAN RUSSELL WEAVER
GREGORY GARFIELD WEBB
JOHN ROBERT WEIR
RICHARD FRANKLIN WELLS
RODERICK ARTHUR WELLS
KIRK D. WESSEL
JOHN JOSEPH WESSLING
DANIEL ALLAN WHEELER
DAVID EARL WHIPPLE
RICHARD C. WIEDENHAEFER
WILLIAM MICHAEL WILDER
DANIEL JOHN WILDFONG
LONNIE OTTO WILKERSON, III
KENNETH LEE WILLETT
CHARLES RUSSELL WILLIAMS, JR
DAVID MICHAEL WILLIAMS
JEFFREY CARL WILLIAMS
MILTON CARGILL WILLIAMS
MICHAEL ALLEN WILLIAMSON
CARL JEROME WILLIS
JOHN ROBERT WILLIS
CHARLES SCOTT WILLY
JOSEPH DILLON WILSON
RANDAL VERN WOOD
JOHN EDWARD WOODS, JR
GARRY LYNN WOODY
EDWARD PHILIP WORK
RAY ALLEN WRICE
ERWIN JOHN WUNDERLICH

WILLIAM RICHARD YATES
DENNIS CARY YOUNG
DAVID YOSHIO YUMEN

ROGER THOMAS ZEIMET
WILLIAM WARD ZURBRICK
WILLIAM EARL ZWICKER

UNRESTRICTED LINE OFFICERS (TAR)

To be commander

MICHAEL JOSEPH BENCY
STEVEN CLARK CHRISTOPHER
CHRIS JOHN CLUSTER
GEORGE PATTERSON I. CRANDALL
MICHAEL SIMMONS CROUCH
JEROME ANTHONY DABROWSKI
JOHN PATRICK DEBBOUT
JANET ELIZABETH DENARDO
LARRY MAURICE DENTON
GARY MICHAEL ERICKSON
GARY LYNN EVEREST
DONALD CARL FIERCE, JR
MICHAEL JAY FILKINS
STANLEY R. FODNESS
WILLIAM LEE GARRETT
MICHAEL JOSEPH GERVAIS
BRIAN WESLEY GILMORE
MARY CHRISTINE GIZA
RILEY J. GLADDEN
THOMAS EDMUND GOULD
TERRY MERLE GRIENINGER
CLIFFORD ARTHUR HAAS
JON MARLIN HAAS
STANLEY F. HALTER
MITCHELL TODD HARMON
RICHARD MARK HEILENDAY
PAUL ERNEST HEINMULLER, JR
KEITH JOHN HERREL
CRAIG ANTHONY HIMEL
RALPH SCOTT HIXSON
WALLACE GENE HOLLYFIELD, JR
JENNIFER LIND HUNTER
BARRY DAVID JOHNSON
GEORGE WILLIAM KNELL
CRAIG BERNARD LAPORTE
BARRY ALLAN LAVIGNE
PETER DAVID LIGMAN
DAVID DENMAN LIVINGSTONE
RANDOLPH PIERCE LOVELESS
RONALD LYONS
MARK HAROLD MAGWOOD
DAVID WILLIAM MANSFIELD
DANIEL THOMAS MARTIN
MARTIN RICHARD MASKIEWICZ
KEITH RAYMOND MAYNARD
THOMAS FREDERICK NAGELIN, JR
WILLIAM THOMAS OLIVER, JR
LYNN FREEMAN OSTER
RICHARD WAYNE OVERTURF
GARY CONRAD PARKS
GARY LEE POWELL
STELLA B. REITZ
BENJAMIN CLIFTON RHODES
RONNIE MERL RICHARDSON
MICHAEL WARD ROBISON
DOUGLAS JOHN ROSEMARK
ALEXANDER JOHN SABOL
PHILLIP JOHN SCHER, JR
DAVID MICHAEL SCHORN
BYRON VOSLER SMITH, III
GARRY PAUL SMITH
JOHN ANTHONY SOWERS
GARY LYNN STEVENER
WAYNE SHELTON STUART
DAVID JOSEPH SVAJDA
DENNIS JAMES SWEENEY
ALTON JAMES WANDELL
RICHARD CRAIG WILLIAMS
JAMES GILBERT WOODSIDE
MICHAEL RICHARD WRINKLE
RICHARD TABBUT YOUNG

ENGINEERING DUTY OFFICERS

To be commander

WILLIAM HAND ALLEN
JOHN ERIC CHRISTIAN
WILLIAM ARTHUR CROSS
JOHN FRANCIS ENNIS
LEROY JOSEPH FOURNIER
JAMES RAYMOND GOSLER
THOMAS BRADFORD GREGORY
TIMOTHY MATTHEW GUSTAFSON
RICHARD ALLEN HILL
HARRY KEITH JACKSON, JR
WALTER GERARD KEATING
CARL RAYMOND KLEE
JOHN CONRAD KLEIN, IV
JAMES HARLEY LASH
JAMES C. NEWTON
MARK ALLEN PEIFER
NOLAN GEORGE PERREIRA
SCOTT LEISENRING RARIG
WILLIAM HENRY RIX
JAMES ROBERT RUSSELL, JR
CHRISTOPHER ALAN SALES
RICHARD STEVEN SCHENK
RAY LEROY SHOAFF, JR
ROBERT GEORGE STENGLE
JAMES ARTHUR WILLIAMS

AERONAUTICAL ENGINEERING DUTY OFFICERS (AERONAUTICAL ENGINEERING)

To be commander

STEVEN THERON BURNUM
WILLIAM ROBERT BUSHELLE
JAMES W. MARTIN
DONALD LEE MORGAN
FREDERICK JOSEPH ROEDER
JOHN GEORGE SHANNON
SAMUEL DWIGHT STANIFER
LARRY CARLOS TURNER

AERONAUTICAL ENGINEERING DUTY OFFICERS (AVIATION MAINTENANCE)

To be commander

WILLIAM HOWARD BELL
ROBERT DANIEL CORRIGAN
KENNETH MORRIS JONES
RONALD LYNN SMITH

SPECIAL DUTY OFFICERS (MERCHANT MARINE)

To be commander

WILLIAM JAY ABERNATHY
RICHARD JOHN BOWEN
WILLIAM JOHN BRIGGS
WILLIAM M. CROWE, III
WILLIAM HENRY DOHERTY
STEVEN PAUL FOX
ROBERT MARK GLANDER
MICHAEL ANGELO JIMENEZ
MICHAEL JOSEP KUCHARSKI
CHRISTOPHER GERARD LARKIN
DERRIC FRANCIS LINARDICH
REGINALD EDMUND MCKAMIE
BRIAN SCOTT MCNAMARA
ROBERT HAYS MORRIS
WILLIAM ANDREW MOSS
LAWRENCE JAMES MURPHY
EDWARD JOSEPH NANARTOWICH
RICHARD T. NELSON, JR
DAVID MICHAEL OCONNOR
PAUL WARREN PREZIOSE
GARY MANNING SCHMIDT
WILLIAM TALMAGE SMITH, III
CORNELIUS VINCENT SPILLANE
ARTHUR H. SULZER, IV
WILLIAM ALMON VOSE
ARTHUR JOHN WEIS

SPECIAL DUTY OFFICERS (CRYPTOLOGY)

To be commander

WILLIAM CHARLES BOLSER
KENNETH LEE LUSHER

SPECIAL DUTY OFFICERS (INTELLIGENCE)

To be commander

ROGER LYNN AIKIN
BERNARD H. ARENDS, JR
MICHAEL ROBERT ARMSTRONG
RAY LELAND BABCOCK
JAMES ANDREW BAIRD
JAMES MARK BEHNKE
WILFRED EDWARD BERESFORD
LORRAINE CHERYL BOGGS
CHARLES CURRAN BRIANT
MICHAEL WILLIAM BROADWAY
KEVIN DONNELLY BROWN
LINDA SHIRLENE BURNS
STEVEN C. BYRAM
RICHARD FREDERICK CHEW, JR
CHARLES LOUIS CHRISTOPH
BELINDA WONG CHUNG
BARRY WAYNE CLICK
JOSEPH PATRICK CODY, JR
DANIEL ROBERT CONWAY
CAROL JOANN COUVARIS
ELIZABETH ANN CROTTY
RONALD GEORGE DELORENZO
JUDI ANN DUVEEN
ANDREW GEORGE FALTUM, JR
JOHN ROBERT FLOYD
LAURIE ELIZABETH FORBES
JAMES BINGHAM GRAY
NORMAN KENNETH GREEN, JR
CINDY ANNE HANSEN
PHILIP MICHAEL HEISEY
GARY EVERETT HILL
JOHN BERNARD HILL
WILLIAM MICHAEL HOLLIMAN

JOHN RAYMOND HORN
ROBERT EDMUND HOWE, JR
WILLIAM BARNARD HUNTER
RODNEY GENE HURLEY
JOHN OLAV JOHNSEN
JANIS MARY JORGENSEN
DANIEL EARL KAH
ANDREW B. KARAMANOS
WILLIAM ANDREW KEALY
THOMAS MICHAEL KELLERHALS
ANDREW NMN KOCZON
LESLIE KUTAS
STEVEN EDWARD LEPKOWSKI
JAMES ALLEN LESLIE, JR
SHARON L. B. LILLJEDAHL
ROBERT LEE LOOKABILL
JAMES STEWART MACLIN
RICHARD VERNON MAUGHAN
DON DELBERT MCCRAVY
MALCOLM RAY MCKEE
DALE JEROME MIERISCH
MARK EVANS MILLER
WILLIAM CLYDE MOODY, JR
JOHN ROBERT MUNRO
PAUL NESBITT MURPHY
JAMES WESLEY NEATHERY
THOMAS PAGE NELSON, JR
MICHAEL WEBB NICKODEM
DARLICE STUART OGLETREE
DANIEL JOSEPH ORLANDI
RONALD JAMES ORLANDI
KENNETH RICHARD PARR
WILLIAM MALCOLM J. PATTERSON
GREGORY DENNIS PATTON
BRUCE ELLIOTT PEASE
ROBERT ELWOOD PICKETT
NEIL ALLEN POPPENSIEK
CECIL JAMES ROWE
RICHARD FRANK SCHALLER
STEPHEN REA SCHANAMANN
JON ALAN SIEWERS
RONALD FRANCIS SMITH
GREGORY THOMAS SOLETHER
ORAL DEE STAMAN
WOLDYMYR ROMAN SULZYNSKY
ROBERT WARNER TODD
JOHN EDWARD TROJACK
MICHAEL JOHN TROWSE
ANDRES VAART
JEFFREY BRUCE VANSKIKE
PETER CHARLES VANTRIGT
JOSEPH THOMAS VITANZA
MERVYN B. WALSH
STEVEN ALLEN WEINER
JAMES DAVID WELLS
THOMAS EDWARD WHITE
STEPHEN F. WILDER
DOUGLAS LARRY WILLS
MICHAEL VINCENT WOOD
RICHARD TROY YOUNG

SPECIAL DUTY OFFICERS (INTELLIGENCE) (TAR)

To be commander

THOMAS PHILIP CURFS

SPECIAL DUTY OFFICERS (PUBLIC AFFAIRS)

To be commander

CARL FRANCIS BENSCHEIDT
LISA ANNE BENSCHEIDT
NORRIS EDWARD JONES
RONALD FREDERICK PINKARD
JOHN C. ROACH
GREG JOSEPH SLAVONIC
JAMES DONALD TURK

SPECIAL DUTY OFFICERS (OCEANOGRAPHY)

To be commander

JOHN E. PINKERTON
WAYNE S. SHIVER
MICHAEL H. WOOSTER

DEPARTMENT OF JUSTICE

RICHARD BURLESON STEWART, OF MASSACHUSETTS, TO BE AN ASSISTANT ATTORNEY GENERAL, VICE ROGER J. MARZULLA, RESIGNED.

DEPARTMENT OF THE INTERIOR

LOU GALLEGOS, OF NEW MEXICO, TO BE AN ASSISTANT SECRETARY OF THE INTERIOR, VICE HENRY M. VENTURA, RESIGNED.

DEPARTMENT OF ENERGY

JACQUELINE KNOX BROWN, OF THE DISTRICT OF COLUMBIA, TO BE AN ASSISTANT SECRETARY OF ENERGY (CONGRESSIONAL AND INTERGOVERNMENTAL AFFAIRS), VICE C. ANSON FRANKLIN, RESIGNED.

EXPORT-IMPORT BANK OF THE UNITED STATES

JOHN D. MACOMBER, OF NEW YORK, TO BE PRESIDENT OF THE EXPORT-IMPORT BANK OF THE UNITED STATES FOR A TERM OF 4 YEARS EXPIRING JANUARY 20, 1993, VICE JOHN A. BOHN, JR., RESIGNED.

EUGENE KISTLER LAWSON, OF THE DISTRICT OF COLUMBIA, TO BE FIRST VICE PRESIDENT OF THE EXPORT-IMPORT BANK OF THE UNITED STATES FOR A TERM OF 4 YEARS EXPIRING JANUARY 20, 1993, VICE WILLIAM F. RYAN, TERM EXPIRED.

DEPARTMENT OF LABOR

THOMAS E. COLLINS, III, OF MISSISSIPPI, TO BE ASSISTANT SECRETARY OF LABOR FOR VETERAN'S EMPLOYMENT AND TRAINING, VICE DONALD E. SHASTEEN, RESIGNED.

CONFIRMATIONS

Executive nominations confirmed by the Senate June 22, 1989:

DEPARTMENT OF HEALTH AND HUMAN SERVICES

MICHAEL J. ASTRUE, OF MASSACHUSETTS, TO BE GENERAL COUNSEL OF THE DEPARTMENT OF HEALTH AND HUMAN SERVICES.

EXECUTIVE OFFICE OF THE PRESIDENT

JULIUS L. KATZ, OF MARYLAND, TO BE A DEPUTY U.S. TRADE REPRESENTATIVE, WITH THE RANK OF AMBASSADOR.

DEPARTMENT OF JUSTICE

JAMES FRANKLIN RILL, OF MARYLAND, TO BE AN ASSISTANT ATTORNEY GENERAL.

DEPARTMENT OF DEFENSE

STEPHEN JOHN HADLEY, OF THE DISTRICT OF COLUMBIA, TO BE AN ASSISTANT SECRETARY OF DEFENSE.

HENRY S. ROWEN, OF CALIFORNIA, TO BE AN ASSISTANT SECRETARY OF DEFENSE.

THE ABOVE NOMINATIONS WERE APPROVED SUBJECT TO THE NONIMEES' COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.

DEPARTMENT OF JUSTICE

E. BART DANIEL, OF SOUTH CAROLINA, TO BE U.S. ATTORNEY FOR THE DISTRICT OF SOUTH CAROLINA FOR THE TERM OF 4 YEARS.

DEE V. BENSON, OF UTAH, TO BE U.S. ATTORNEY FOR THE DISTRICT OF UTAH FOR THE TERM OF 4 YEARS.

IN THE AIR FORCE

THE FOLLOWING OFFICERS FOR APPOINTMENT IN THE RESERVE OF THE AIR FORCE TO THE GRADE INDICATED, UNDER THE PROVISIONS OF SECTIONS 593, 8218, 8373, AND 8374, TITLE 10, UNITED STATES CODE:

To be major general

BRIG. GEN. CHARLES R. DRIGGERS, [redacted] AIR NATIONAL GUARD OF THE UNITED STATES.
BRIG. GEN. JOE H. ENGLE, [redacted], AIR NATIONAL GUARD OF THE UNITED STATES.

To be brigadier general

COL. TANDY K. BOZEMAN, [redacted] AIR NATIONAL GUARD OF THE UNITED STATES.
COL. NELSON E. DURGIN, [redacted] AIR NATIONAL GUARD OF THE UNITED STATES.
COL. ADOLPH P. HEARON, [redacted] AIR NATIONAL GUARD OF THE UNITED STATES.
COL. FRED R. HELMS, [redacted] AIR NATIONAL GUARD OF THE UNITED STATES.
COL. JOHNNY J. HOBBS, [redacted] AIR NATIONAL GUARD OF THE UNITED STATES.
COL. THOMAS W. NAPOLITAN, [redacted] AIR NATIONAL GUARD OF THE UNITED STATES.
COL. RICHARD E. PEZZULLO, [redacted] AIR NATIONAL GUARD OF THE UNITED STATES.
COL. JAMES H. RENSCHEN, [redacted] AIR NATIONAL GUARD OF THE UNITED STATES.
COL. DAVID J. RIST, [redacted] AIR NATIONAL GUARD OF THE UNITED STATES.
COL. DAN A. ROBAR, [redacted] AIR NATIONAL GUARD OF THE UNITED STATES.
COL. WILLIAM J. STOCKWELL, [redacted] AIR NATIONAL GUARD OF THE UNITED STATES.
COL. TERRENCE P. WOODS, [redacted] AIR NATIONAL GUARD OF THE UNITED STATES.

IN THE ARMY

THE FOLLOWING-NAMED OFFICER TO BE PLACED ON THE RETIRED LIST IN GRADE INDICATED UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 1370:

To be lieutenant general

LT. GEN. CHARLES W. BAGNAL, [redacted] U.S. ARMY.

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED, UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 601(A), IN CONJUNCTION WITH ASSIGNMENT TO A POSITION OF IMPORTANCE AND RESPONSIBILITY DESIGNATED BY THE PRESIDENT UNDER TITLE 10, UNITED STATES CODE, SECTION 601(A):

To be lieutenant general

LT. GEN. CLAUDE M. KICKLIGHTER, [redacted] U.S. ARMY.

THE FOLLOWING-NAMED OFFICER TO BE PLACED ON THE RETIRED LIST IN GRADE INDICATED UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 1370:

To be lieutenant general

LT. GEN. JAMES E. MOORE, JR., [redacted], U.S. ARMY.

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED, UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 601(A), IN CONJUNCTION WITH ASSIGNMENT TO A POSITION OF IMPORTANCE AND RESPONSIBILITY DESIGNATED BY THE PRESIDENT UNDER TITLE 10, UNITED STATES CODE, SECTION 601(A):

To be lieutenant general

LT. GEN. WILLIAM H. HARRISON, [redacted] U.S. ARMY.

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED, UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 601(A), IN CONJUNCTION WITH ASSIGNMENT TO A POSITION OF IMPORTANCE AND RESPONSIBILITY DESIGNATED BY THE PRESIDENT UNDER TITLE 10, UNITED STATES CODE, SECTION 601(A):

To be lieutenant general

MAJ. GEN. CALVIN A. H. WALLER, [redacted] U.S. ARMY.

THE FOLLOWING-NAMED OFFICER TO BE PLACED ON THE RETIRED LIST IN GRADE INDICATED UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 1370:

To be lieutenant general

LT. GEN. KENNETH E. LEWI, [redacted], U.S. ARMY.

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED, UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 601(A) IN CONJUNCTION WITH ASSIGNMENT TO A POSITION OF IMPORTANCE AND RESPONSIBILITY DESIGNATED BY THE PRESIDENT UNDER TITLE 10, UNITED STATES CODE, SECTION 601(A):

To be lieutenant general

MAJ. GEN. HOWARD D. GRAVES, [redacted] U.S. ARMY.

THE FOLLOWING-NAMED ARMY MEDICAL CORPS OFFICERS FOR APPOINTMENT IN THE REGULAR ARMY OF THE UNITED STATES TO THE GRADE INDICATED UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTIONS 611(A) AND 624(C):

To be permanent major general

BRIG. GEN. FREDERICK N. BUSSEY, [redacted] U.S. ARMY.

To be permanent brigadier general

COL. LESLIE M. BURGER, [redacted], U.S. ARMY.

THE FOLLOWING-NAMED OFFICER TO BE PLACED ON THE RETIRED LIST IN GRADE INDICATED UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 1370:

To be general

GEN. MAXWELL R. THURMAN, [redacted] U.S. ARMY.

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED, UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 601(A), IN CONJUNCTION WITH ASSIGNMENT TO A POSITION OF IMPORTANCE AND RESPONSIBILITY DESIGNATED BY THE PRESIDENT UNDER TITLE 10, UNITED STATES CODE, SECTION 601(A):

To be general

LT. GEN. JOHN W. FOSS, [redacted], U.S. ARMY.

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN CONJUNCTION WITH ASSIGNMENT TO A POSITION OF IMPORTANCE AND RESPONSIBILITY DESIGNATED BY THE PRESIDENT UNDER THE PROVISONS OF TITLE 10, UNITED STATES CODE, SECTION 601(A) AND TO BE APPOINTED AS SENIOR ARMY MEMBER OF THE MILITARY STAFF COMMITTEE OF THE UNITED NATIONS UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 711.

To be lieutenant general and Army senior member of the Military Staff Committee of the United Nations

MAJ. GEN. GORDON R. SULLIVAN, [redacted] U.S. ARMY.

IN THE NAVY

THE FOLLOWING-NAMED OFFICER, UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 601, TO BE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY DESIGNATED BY THE PRESIDENT UNDER TITLE 10, UNITED STATES CODE, SECTION 601:

To be vice admiral

REAR ADM. RICHARD C. GENTZ, [redacted]/1230, U.S. NAVY.

IN THE AIR FORCE

AIR FORCE NOMINATIONS BEGINNING GREG W. CARLSON, AND ENDING ROBERT E. CRUTHIRDS, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON MAY 16, 1989.

AIR FORCE NOMINATIONS BEGINNING EDWARD T. SCHWAB, AND ENDING JOHN W. MORRISON, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON MAY 31, 1989.

AIR FORCE NOMINATIONS BEGINNING RAYMOND T. BARBERA, AND ENDING JEFFREY H. CAMM, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON MAY 31, 1989.

AIR FORCE NOMINATIONS BEGINNING LOUIS W. ADAMS III, AND ENDING GARRETT R. TUCKER III, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON MAY 31, 1989.

AIR FORCE NOMINATIONS BEGINNING STEPHEN W. ANDREWS, AND ENDING ROBERT G. ZERULL, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON MAY 31, 1989.

AIR FORCE NOMINATIONS BEGINNING DENNIS M. ANDERSON, AND ENDING JOHN P. ZUBIALDE, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON MAY 31, 1989.

IN THE ARMY

ARMY NOMINATIONS BEGINNING RONALD W. BYERS, AND ENDING ROBERT J. KENEVAN, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND

APPEARED IN THE CONGRESSIONAL RECORD ON MAY 17, 1989.

ARMY NOMINATION OF LAWRENCE C. MOHR, JR., WHICH NOMINATION WAS RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON MAY 31, 1989.

ARMY NOMINATIONS BEGINNING RONALD E. HALL, AND ENDING * MICHAEL A. STANTON, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON MAY 31, 1989.

ARMY NOMINATIONS BEGINNING DAVID A. DECKER, AND ENDING IRENE I. YEVICH, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JUNE 7, 1989.

ARMY NOMINATIONS BEGINNING * BILLY J. FREEBORN, AND ENDING TIMOTHY W. STARCK, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JUNE 7, 1989.

IN THE MARINE CORPS

MARINE CORPS NOMINATIONS BEGINNING WILLIAM E. ACKER, AND ENDING JAMES D. ZARTMAN, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON MAY 16, 1989.

IN THE NAVY

NAVY NOMINATIONS BEGINNING ALAN E. BELL, AND ENDING BRIAN D. STANFORD, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON MAY 31, 1989.

NAVY NOMINATIONS BEGINNING JOHN CRAIG, AND ENDING CLINTON A. MEDBERY, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON MAY 31, 1989.

EXTENSIONS OF REMARKS

THE CONTINUING SOVIET DISINFORMATION AND FORGERY CAMPAIGN AGAINST THE UNITED STATES

HON. C.W. BILL YOUNG

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 22, 1989

Mr. YOUNG of Florida. Mr. Speaker, throughout this sustained period of Soviet General Secretary Gorbachev's expressed good will toward the United States and our allies, I have warned that we must make sure his deeds live up to his words.

Among the deeds we must watch is the Soviet Union's ongoing disinformation campaign aimed at undermining our Nation in the eyes of our allies. These Soviet active measures operations range from anti-American disinformation and forgeries that are placed in the media throughout the world to sophisticated influence operations where the Soviet hand is difficult to detect.

Soviet active measures activities have been a primary interest of mine through my work on the House Permanent Select Committee on Intelligence and the Appropriations Subcommittee on Defense. In fact, much of what the public and the media knows today about these operations was the result of a series of hearings I requested during my 6-year term on the Intelligence Committee. During those hearings, the Central Intelligence Agency estimated the Soviet Union spends $3 to $5 billion per year on active measures operations.

At the request of the Appropriations Committee on which I serve, the U.S. Information Service last year compiled a report entitled "Soviet Active Measures in the Era of Glasnost" which examines in great detail the record of ongoing Soviet disinformation and forgery campaigns at this time when General Secretary Gorbachev makes his grand gestures to the free world.

The report concludes that during this period of glasnost, Soviet active measures operations are as prevalent as always. USIA, however, reports that there have been significant shifts in tactics employed by Soviet operatives. While the goal of undermining United States credibility remains the same, the Soviets have softened their disinformation and forgery campaigns. Still they exist, and the only method our Nation has to counter these activities is to publicize them when uncovered and to educate the public and media to their existence.

It was during the December 1987 summit in Washington between President Reagan and General Secretary Gorbachev that Gorbachev said there would be "no more lying, no more disinformation." The record of Soviet deeds says otherwise. Among the major disinformation campaigns mounted against the United States since that promise by Gorbachev are;

Claims that the United States manufactured the AIDS virus in a U.S. military facility at Fort Detrick, MD;

A report that the United States is manufacturing an ethnic weapon that kills only nonwhites;

Articles claiming that the FBI assassinated Rev. Martin Luther King;

A report that the head of the U.S. delegation to the U.N. Human Rights Commission conference in Geneva was jailed in Cuba for bombing stores; and

Claims that the CIA assassinated Swedish Prime Minister Olof Palme, Indian Prime Minister Indira Ghandi, and attempted to assassinate Pope John Paul II.

Following my remarks, I would like to include a summary of this USIA report and would encourage my colleagues to review the full text. It provides greater information about each of these cases of disinformation and extensive detail about Soviet active measures campaigns including disinformation in the media, forgeries, and the use of front groups. There also is a chapter on United States efforts to counter Soviet disinformation. Finally, as an appendix to the report, there is a paper which provides a historical perspective to Soviet active measures operations in other periods of improved United States-Soviet relations between 1959 and 1979. The paper concludes that just as we have seen during this current period of Soviet good will, vigorous Soviet disinformation campaigns have continued during other periods of eased tensions between our countries.

As a result of our hearings and the publication of other recent reports detailing Soviet active measures operations, our Nation has responded by establishing a number of programs to uncover, trace, and respond to these Soviet efforts. Despite our best attempts, however, we will never be able to catch every Soviet forgery or false report. Instead, we must continue to educate the public and the media to the existence of these Soviet efforts so that we all watch for and question many of these spurious claims about the United States. It is in this way that we can dilute the effectiveness of these Soviet activities not only in the United States, but throughout the world, and especially in Third World nations where the Soviets have had much of their recent success.

SOVIET ACTIVE MEASURES IN THE ERA OF GLASNOST

(A report to Congress by the U.S. Information Agency)

OVERVIEW

Active measures are carefully crafted influence operations, often covert or deceptive, which the Soviets use, in addition to traditional diplomatic and informational activities, to support Soviet foreign policy. They range from the crude to the sublime, from vicious anti-American disinformation and forgeries to sophisticated, soothing influence operations. Soviet active measures include:

"Black" KGB activities such as disinformation and forgeries, the use of agents of influence, and covert media manipulation;

"Gray" activities run by the International Department ID of the Soviet Communist Party Central Committee, which include the orchestration of actions by local communist parties, Soviet-controlled international front groups, and ostensibly independent Soviet friendship societies, "mass organizations" and foreign-policy related academic institutes.

"White" media replay of these activities and active measures themes by the overt elements of the Soviet active measures apparatus, which are directed by the Propaganda Department of the Central Committee: the TASS and Novosti press agencies, Radio Moscow and Radio Peace and Progress, other elements of the Soviet press, and Information Departments in Soviet embassies overseas. These "white" elements also provide cover for KGB and ID operatives.

This report concerns those of the above topics that are of the greatest relevance to USIA activities: forgeries, disinformation, media manipulation, and the activities of front groups and Soviet mass organizations.

Recent developments

Since the Geneva summit of 1985, there have been significant shifts in the tactics of "gray" Soviet active measures and the personnel directing them. The concept of the broadest possible "United Front" to oppose the Strategic Defense Initiative and to undermine U.S. arms control negotiating positions has now become the main thrust of Soviet active measures undertaken in the West. This has led the Soviets to adopt a much more soothing tone than in the past:

The Soviet-controlled international front groups, such as the World Peace Council, have adopted a conciliatory line, aimed at appealing to "peace" activists of all colorations.

Ostensibly independent Soviet "mass organizations," such as the Soviet Peace Committee, have initiated many direct contacts with Westerners, hoping to use these channels to convince Westerners of the logic of Soviet views on SDI and disarmament.

The Soviets have also taken a lead in organizing new international "peace" forums and groups, composed largely of professionals, academics, prominent public figures, and businessmen, in an effort to open another influence channel to Western elites.

In all areas, current Soviet tactics rely on cultivating a more open image, and trying to utilize positive Western perceptions about the processes of "glasnost" and "perestroika" to Soviet advantage.

These active measures are coordinated by the new, able leader of the international Department of the Soviet Communist Party Central Committee, former Soviet ambassador to the United States, Anatoly Dobrynin. During Dobrynin's tenure, Soviet "gray" active measures have become much more sophisticated and subtle.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

In the KGB arena, however, there has been no significant change in Soviet active measures operations. Virulent anti-U.S. disinformation and forgeries continue as before, as does the massive Soviet effort to covertly manipulate the press. Indeed, one of the most remarkable features of Soviet active measures in recent years has been the persistence of these activities at the same time that the Soviets are mounting sophisticated influence operations centered around the themes of "glasnost" and "new political thinking" in their bilateral dealings with the West.

These actions have also continued despite the statement by Soviet Communist Party General Secretary Mikhail Gorbachev at the Washington summit that there would be "No more lying. No more disinformation." Since the December 1987 summit, state-controlled Soviet media have falsely claimed or suggested that:

The United States manufactured the AIDS virus in a U.S. military facility at Fort Detrick, Maryland [Radio Moscow, Feb. 13, 1988];

The United States is manufacturing an "ethnic weapon" that kills only non-whites [TASS, Jan. 9, 1988; January 1988 Novosti Military Bulletin; Radio Moscow, Feb. 5, 1988];

The FBI assassinated Rev. Martin Luther King [Literaturnaya Gazeta, Jan. 20, 1988];

The head of the U.S. delegation to the U.N. Human Rights Commission conference in Geneva, Armando Valladares, was jailed in Cuba for bombing stores [Izvestia, Feb. 6, 1988];

The CIA assassinated Swedish Prime Minister Olof Palme, Indian Prime Minister Indira Gandhi, and attempted to assassinate Pope John Paul II [Moscow Television, Feb. 9, 1988]; and

The United States has military advisors in Afghanistan [TASS, Dec. 30, 1987].

The continuance of AIDS disinformation in the Soviet media is perhaps the most striking, given the fact that the U.S. government has informed the Soviets that there will be no direct U.S.-Soviet collaboration on AIDS research as long as this continues. In August 1987, the Soviets told U.S. officials that such allegations would cease appearing in the Soviet media, after which time they decreased dramatically. They still occasionally appear, however, as in the February 13, 1988 Radio Moscow broadcast.

The chapter on Covert Media Placements in Nigeria presents an excellent study of how the Soviets are able to manipulate perceptions by placing Soviet-written articles under false attributions. In the case of Nigeria, Soviet material often appears under Nigerian by-lines, making it appear as if the opinions expressed are of local rather than Soviet origin. The case study by the United States Information Service (USIS) post in Lagos, Nigeria is a landmark examination of a phenomenon whose massive proportions have not been sufficiently appreciated.

The USIS New Delhi report on Soviet Disinformation in India provides an excellent survey and analysis of Soviet disinformation and USIS countermeasures in an area where the Soviets have their largest propaganda and disinformation operation in the noncommunist world. The report gives an in-depth look at the steady stream of Soviet disinformation, and the vigorous USIS efforts against it.

Finally, an appendix on "Soviet Disinformation During Periods of Relaxed East-West Tension, 1959-1979" gives a historical perspective on Soviet disinformation activities during earlier period of improved relations. It shows that, much as in the present era, Soviet disinformation activities have continued despite relaxations of tension in other areas of the U.S.-Soviet relationship.

VOLUNTEERS CRUCIAL TO VETERANS' HOSPITALS

HON. G.V. (SONNY) MONTGOMERY

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 22, 1989

Mr. MONTGOMERY. Mr. Speaker, last year, 85,000 volunteers contributed some 12.6 million hours to helping sick and disabled veterans and their families at our veterans' medical facilities around the country. Quite frankly, without the compassion and selfless dedication of volunteers, we simply couldn't maintain our veterans' hospitals.

I am pleased to share with my colleagues a recent letter from Mr. John Vogel, Chief Benefits Director of the Department of Veterans' Affairs [DVA]. His letter, in part, describes the magnificent efforts of our volunteers at the Bay Pines, FL, DVA Medical Center. While it conveys the success of one volunteer program in particular, it is indicative of the contributions of DVA volunteers across the country.

VETERANS' ADMINISTRATION,
DEPARTMENT OF VETERANS BENEFITS,
Washington, DC, May 25, 1989.

Hon. G.V. (SONNY) MONTGOMERY,
Chairman, Committee on Veterans' Affairs, House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: Last week I had the opportunity to visit the St. Petersburg Regional Office, at which time I was briefed on operational issues. Knowing that you are and have always been America's veterans' #1 advocate, I thought I should let you know of a few things which I saw there. I believe you will be pleased.

First, I must say that the Regional Office is performing well. Of course we have a rather unique demographic phenomenon there, with so many veterans moving to Florida. But although the office is pressed to provide the very important benefits programs to our veterans and their families in a timely fashion, I was pleased to find a motivated staff which is delivering those benefits in a quality way.

Second, I must mention colocation. I certainly appreciate your support for our efforts to colocate our regional offices to the VA-owned land when both cost-effective and beneficial for service delivery. On this trip, the regional office Director, Carlos Rainwater, and I toured the Bay Pines VA Medical Center. As you know, we're desirous of constructing a building at Bay Pines to house our benefits office and a fine piece of land has been designated for such a building. We have plans to begin the construction process in FY 92. The Bay Pines facility is located on a beautiful site. The hospital, nursing home and domiciliary are modern, well maintained and staffed by a committed and most competent staff. The Director, Dick McElligott, gave Carlos and me a first hand look at the medical center. He is rightfully proud of it. The patients universally expressed appreciation for the high quality care they receive.

Third, I must mention the wonderful example of volunteerism at work which I saw at Bay Pines. Coincidentally, on May 19 Secretary Derwinski presented Volunteer Awards to a number of VA Central Office employees. Volunteerism is a great American attribute and, as the Secretary pointed out, it enriches the lives of both the beneficiary and the volunteer. Without the VA Volunteer Service and the millions of volunteer hours our fellow Americans donate at our medical centers, we would simply not be able to fulfill our responsibilities to our veterans. At Bay Pines, the volunteer program is alive and well. Volunteers provide one hundred percent of the patient escort services and can be seen throughout the medical facility augmenting VA staff in so many areas. I saw first hand Americans helping Americans.

I was proud to see the concepts and programs which you have so effectively supported at work. Along with all of the people who serve in the Veterans Benefits Administration I personally appreciate your abiding interest in the programs we proudly administer.

Sincerely yours,

R. J. VOGEL,
Chief Benefits Director.

CONGRESSIONAL SALUTE TO ALVIN E. ZIMMERMAN

HON. ROBERT T. MATSUI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 22, 1989

Mr. MATSUI. Mr. Speaker, I rise today to pay tribute to an outstanding individual in my community who deserves to be recognized for his dedication and service to the public. June 30, 1989, will mark the end of Alvin E. Zimmerman's 15 years of service with the Vision Service Plan and it is my honor to share with my colleagues today the career of this distinguished professional.

Alvin Zimmerman has spent the entire span of his career devoted to public service. After Alvin's many years of service to our country in both the U.S. Navy and the U.S. Air Force, he went on to continue using his valuable public service abilities through his work as the vice president of operations at Vision Service Plan, where he retires from today.

His management expertise and knowledge of the field of optometry is an asset to the entire Sacramento community. Alvin's excellent guidance and leadership skills have greatly contributed to the professionalism and dedicated service of the entire staff at the Vision Service Plan.

Mr. Speaker, I, and all who have had the privilege of knowing Alvin E. Zimmerman, hold his management expertise in the highest regard. His dedication and excellent service to the citizens of our community will be sorely missed by all. Alvin E. Zimmerman is to be commended for his outstanding contribution to the city and county of Sacramento and the State of California. I take great pride in saluting Mr. Zimmerman and know that my colleagues join me in extending best wishes to him in his retirement.

THE BEIJING MASSACRE: SOME UNVARNISHED TRUTH

HON. WM. S. BROOMFIELD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 22, 1989

Mr. BROOMFIELD. Mr. Speaker, like many of my colleagues, I have read thousands upon thousands of words in recent weeks about the massacre of Chinese students in Tiananmen Square.

Nothing I have read has described the reality of the situation in such frank terms as a recent New York Times article. The Times article simply describes a speech reported to have been given by China's senior leader, Deng Xiaoping, to a group of senior army officers in charge of enforcing martial law in Beijing.

Deng is reported to have told his officers that the stakes in the crackdown were quite simple: "I myself, and all of you commanding officers present, would have been shoved under the guillotine."

Deng expresses a conviction that I am sure must be on the minds of Communist leaders everywhere. Nowhere do such leaders command the affection, or even the respect, of the people they purport to lead.

What's more, they know that as party members they are the heirs to some of the most savage tyrants in history.

There must be a lot of nervous officials in Communist capitals these days. I recently spoke to a Rotary Club in Traverse City, MI, and told them the recent discovery of a basement in Polish Communist headquarters in Krakow that had been made into a bunker. It contains huge supplies of food and water, enough to withstand a long siege. A secret tunnel leads from the bunker to the Soviet consulate in Krakow.

I am sure many of my colleagues will be reminded of an earlier 20th century tyrant who spent his last days in a bunker in Berlin. The existence of a bunker in Poland and of a bunker mentality in China can be taken as a good sign: It suggests that the long-running drama of Communist tyranny is nearing an end.

I urge my colleagues to read this interesting Times article.

DENG IS SAID TO LINK FORCE TO SAFETY OF PARTY

(By Fox Butterfield)

HONG KONG, June 16—Deng Xiaoping, China's senior leader, is reported to have asserted in a speech last week that the Communists had to crack down on pro-democracy demonstrators to prevent their own demise.

"If we had not suppressed them, they would have brought about our collapse," Mr. Deng reportedly said in the speech, given on June 9 when he met with a group of senior army officers in charge of enforcing martial law in Beijing.

"I myself, and all of you commanding officers present, would have been shoved under the guillotine."

"Whoever wins the battle for state power gets to occupy the throne," Mr. Deng reportedly told the officers. "That is the way it was in the past, and that is the way it still is, in China as well as abroad."

ON CHINESE TELEVISION

It was impossible to confirm the authenticity of the speech, the reported text of which was published by the Huaqiao Ribao, a Chinese-language newspaper in New York.

But diplomats, analysts and academic specialists who have read the remarks said they sounded like others by Mr. Deng, and they noted that People's Daily, the Communist Party paper, has called on people throughout China to study a speech made by Mr. Deng to the martial law officers that day. Chinese television showed glimpses of the 84-year-old Mr. Deng delivering the talk to the generals.

In the material printed in New York, Mr. Deng is by turns tough, discursive, ruthless and xenophobic, sounding much like the aging Mao in the Cultural Revolution period in the late 1960's.

In the material, Mr. Deng is quoted as saying that a major cause for the student demonstrations was that since Mao's death in 1976 and the purge of the so-called Gang of Four, the Communists had failed to "thoroughly get rid of spiritaul pollution and oppose bourgeois liberalization." These are Communist code words for growing Western influences brought about by Mr. Deng's open-door policy and economic initiatives.

Mr. Deng reportedly said that Mao had been correct in saying political power grows out of the barrel of a gun, and that he had also been right about controlling "those who wield pens."

This means that having used the army to put down the student, the Government must now "create revolutionary public opinion on a grand scale and make the people understand what really happened," Mr. Deng is reported to have said.

This remark seems to have foreshadowed the Communists' intense effort to rewrite the history of the military crackdown in central Beijing this month, describing the pro-democracy students as hooligans and playing down the number of demonstrators killed.

Mr. Deng also expressed contempt for foreign reaction to the crackdown. "We are not afraid of the foreigners isolating us," he reportedly said.

"We do not care even if all of them break off relations with us," he continued, playing on an old Chinese nationalistic streak. "If the state really had collapsed, what meaning would there have been in all these investments, all that aid and all that foreign trade? Once we have stabilized the political situation and have the economy going again, the foreigners are still going to come knocking on our door."

Separately, another Chinese-language paper in New York, World Journal, published what it said was another speech by Mr. Deng, apparently made one day earlier, on June 8.

The paper said this talk was delivered to a meeting of the party's Central Military Commission, with copies later read to provincial military commanders. World Journal said its text was based on notes taken by an official who attended one of these provincial briefings.

ON THE USE OF TANKS

The analysts said they had not heard of this speech and could not verify it. But again several specialists said the language sounded like Mr. Deng's and included some passages that they believed were being circulated in China.

In this talk, Mr. Deng reportedly said there was no reason for remorse about the killings of protesters. "Some say we're inexperienced in putting down riots, so we had to use tanks, and that violence was excessively exercised," Mr. Deng is reported to have said. "But I think it is a very good experience."

"Some say many innocent people were killed on the streets—it does not matter," he continued. "We already announced martial law and asked people not to go out into the streets. If you are killed on the streets, then you are a counterrevolutionary."

If the text is accurate, Mr. Deng reserved some of his harshest language for his one-time protégé Hu Yaobang, the late party General Secretary who was ousted two years ago, and Zhao Ziyang, still officially the party leader but believed to have been purged.

IN HARSH LANGUAGE

Mr. Deng reportedly accused them of forming "an anti-party clique" in extremely harsh language, and said: "I have kept an eye on Zhao for quite a few years. He has wild ambitions."

Mr. Deng also suggested, if the text is authentic, that Prime Minister Li Peng had acted too cautiously. "Li Peng, does not consult me on everything," Mr. Deng was quoted as having said. "I only have 15 minutes a day to listen to reports."

"You even consulted me on whether a certain statue should be pushed down or not," Mr. Deng said, referring to the statue put up by the students in Tiananmen Square that was modeled after the Statue of Liberty. "Just push it down."

Mr. Deng was contemptuous of the people of Hong Kong, who are due to revert to China's control in 1997 and who have been badly shaken by the military crackdown in Beijing.

HONG KONG DEMONSTRATIONS

"I was told a million people paraded in Hong Kong," Mr. Deng is supposed to have said. "Do not be scared. Compared to a billon people, a million is nothing. By 1997, Hong Kong will be returned to us anyway, and it will be prosperous anyway."

According to the text, Yang Shangkun, China's President, interjected that some people had suggested Mr. Deng's son, Deng Bufang, be appointed a deputy chairman of the National People's Congress, China's legislature. But Mr. Deng opposed it, Mr. Yang said.

In addition, Mr. Yang said some officials wanted to make Li Tieying, a Politburo member and head of the State Education Commission, the new party General Secretary. Mr. Li is the son of Jin Weiying, Mr. Deng's first wife.

To this proposal, Mr. Deng is quoted as saying: "Li is still immature. Let's consider that two years from now."

THE COURAGE OF THE SAN LEANDRO CITY COUNCIL

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 22, 1989

Mr. STARK. Mr. Speaker, I'd simply like to take a few minutes to recognize the courage of the San Leandro, CA, City Council and their recent action which banned the sale of 55 brands of military style semiautomatic assault

weapons. The action closes a glaring loophole in the recent assault weapons bill passed by the California Legislature and signed into law by our Republican Governor, George Deukmejian.

A recent survey by the Oakland Police Department found that over 70 percent of the firearms confiscated as a result of criminal misuse, drug dealing, and violent crime were actually bought, over the counter and legally, from one gun store in San Leandro named Traders. That's right, just one gun store.

Those members of the San Leandro City Council—Mayor Dave Karp, Linda Perry, John Faria, William Jardin, Tony Santos, Robert Glaze, and Ed Suchman—deserve credit from all elected officials in standing up to the gun lobby by opposing over-the-counter sales of assault weapons to drug dealers and other violent criminals. Their display of courage is noteworthy and sets an example for this legislative body.

SAN LEANDRO BANS ASSAULT GUNS

SAN LEANDRO.—An emergency ordinance banning the sale of 55 brands of military-style guns was approved Monday night by the City Council.

Effective immediately, it is illegal to sell the guns to anyone except gun dealers. The ordinance passed on a 5-0 vote and makes San Leandro the second city in the county, after Berkeley, to enact such a ban.

The ordinance is intended to fill in until a state ban on the same weapons takes effect Jan. 1.

The San Leandro ordinance imposes a $5,000 penalty and provides for the confiscation and destruction of the guns.

Two people testified against it, including Dan Russ of Competition Gun Works who said it would be hard for his store to legally dispose of guns already on hand.

The Traders gun store, said to be the largest gun seller in Northern California, is located in San Leandro, and owner Tony Cucchiara has said that sales of the guns would make up 50 percent of his business if he could keep them in stock. Cucchiara did not attend the council meeting.

"Working in an emergency room and seeing what happens when someone gets hit with one of these weapons, I don't see how someone could object," said Vice Mayor Linda Perry in voting for the ban.

According to Police Chief Robert Maginnis, officers recently confiscated several of the weapons in a drug arrest.

Mayor Dave Karp and Councilman Tony Santos were absent. Karp has urged every city in Alameda County to pass similar ordinances.

HARRISBURG BULLDOGS ARE BASEBALL CHAMPIONS

HON. GLENN POSHARD

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 22, 1989

Mr. POSHARD. Mr. Speaker, for high schoolers across the country, the boys of summer are actually the boys of spring, because that's when their baseball championships are decided. And I'm proud to say I represent here in Congress the Illinois Class AA State baseball champions, the Bulldogs of Harrisburg, IL.

Harrisburg is a community that's perhaps best known locally for its accomplishments in football. But Coach Jay Thompson and his crew have turned that attention toward the ball diamond this year, capturing the Illinois championship for its largest schools. This is the first time ever a deep southern Illinois school has won the big-school championship.

Whether it's a Stan Musial home run, a Bob Gibson no-hitter, or an Ozzie Smith somersault that comes to mind, baseball means something special to the people of America, and the Bulldogs have made that magic real for the community they represented so well this season.

We should congratulate them not only because they won, but because they displayed the characteristics in winning that will help them throughout life. Teamwork, pride, determination, and self-confidence all played a part in getting the Bulldogs to the top. They deserve every minute of the joy it brings now, and I'm hopeful they'll recall this time in life when they need it again in the future.

Please allow me to enter into the RECORD some of the specific accomplishments of the Harrisburg Bulldogs Class AA championship team, and some of the many persons who helped bring them such success. We are all extremely proud of them:

1988-89 HARRISBURG HIGH SCHOOL BASEBALL TEAM: CLASS AA ILLINOIS STATE CHAMPIONS

Superintendent: Dennis Carpenter; Principal: Gary Gordon; Athletic Director: Jim Collins; Head Coach: Jay Thompson; Assistant Coach: Fred Barnes; Sports Editor: Curt Felton; Players: Tom Roper, Blake Wilson, Shawn Pilkington, Brian Ziegler, Ryan McGowan, Chris Healy, Brian Banks, Ray Graham, Chris Lucas, Jamie Hayes, Brian Bebout, Brad Barnhill, Robbie Nicholes, Ryan Lambert, Eric Bargo, Brandon Joggerst, Jason Butler. Bat Girls: A.J. Gall, Brandi Blair.

Harrisburg finished the season with a 32-1 record, and the Class AA State Championship. The Bulldogs' road to the title included a 4-3 win over Tinley Park, a 5-3 win over Galesburg, and a dramatic 3-2, 8 inning win over Schaumburg for the Title.

IN MEMORY OF BIBB FALK, TEXAS BASEBALL LEGEND

HON. J.J. PICKLE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 22, 1989

Mr. PICKLE. Mr. Speaker, I rise today to pay tribute to one of the legends of professional sports in Texas, Bibb Falk, who passed away in Austin, TX, on June 8 at the age of 90. For many Texans, it was Bibb Falk who was the true father of baseball.

Bibb Falk's professional baseball career is most noteworthy because he was the player who took the place of "Shoeless Joe" Jackson, in the outfield of the Chicago White Sox after Johnson was banished from baseball for accepting a bribe in the 1919 World Series. But Falk's record speaks for itself in proving his outstanding talent. He finished second to Babe Ruth for the American League batting title in 1924, hitting .352, and in 12 major leagues seasons with the White Sox and the Cleveland Indians, he achieved a .315 career batting average, with 69 home runs, 59 triples, and 300 doubles among his 1,463 career hits.

However, Falk's spot in Texas sports history was assured in 1940, when he became the coach of the University of Texas baseball team. During his 25 years as coach, the Longhorns won two national championships and 20 Southwest Conference titles. Falk compiled a record of 478 wins and 176 losses as coach of the Longhorns, with a winning percentage of .731.

Today, the Longhorn baseball team plays in a stadium that bears Falk's name. That is a fitting tribute to one of the true giants of Texas sports, whose legacy is part of the tradition of the University of Texas.

A SALUTE TO THE NATIONAL SAFETY TOWN CENTER

HON. LOUIS STOKES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 22, 1989

Mr. STOKES. Mr. Speaker, caring for your fellow man and servicing for the betterment of the community in which one lives is the highest and most self-fulfilling form of work. Nonprofit organizations nationwide exist for the sole purpose of improving communities across the Nation.

Such an organization is the National Safety Town Center. Celebrating their 25th year, this nonprofit organization is dedicated to promoting the importance of safety awareness and preventive procedures to preschool children. Through programs such as Safety Town, Safety City, Safetyville, and Safety Village comprehensive safety education programs have been taught to over 3 million children. The Safety Town Program also promotes community involvement by providing teenagers, parents, senior citizens, businesses, civic organizations, and other members of the community the opportunity to work together in managing and mobilizing such an important service. I am pleased to report that a National Safety Town Center exists in my congressional district. The spread of safety education to children in the Cleveland area enables me to recognize the objectives and accomplishments of such a successful organization.

Mr. Speaker, I also want to take this opportunity to honor the pioneer of this most essential program, Dorothy Chlad. Ms. Chlad is the founder and president of National Safety Town Center and founder of the comprehensive Safety Town Program established in 1964. This exceptional individual's sincere concern for the safety of our children has let her efforts expand to 780 Safety Town Programs throughout the United States and other countries. Dorothy Chlad's outstanding determination enabled her to fully succeed in promoting the importance of early childhood safety education.

The National Safety Town Center is a unique example of an organization's perseverance to better our communities, States, and country and create a safer, more peaceful environment for all. I hope that my colleagues will join me in honoring such a worthy organization.

PRESIDENT'S CLEAN AIR PACKAGE RECEIVES FAVORABLE EDITORIAL COMMENT

HON. DOUG BEREUTER

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 22, 1989

Mr. BEREUTER. Mr. Speaker, last week President Bush unveiled the administration's clean air initiatives. Nebraska was very proud to host the President for his discussion on the use of alternative fuels as part of his clean air initiatives.

This Member believes the President is sending a very strong message to the Congress that action can no longer be delayed on major environmental legislation. It is time for the Congress and the administration to work cooperatively and pass major amendments to the Clean Air Act.

Recently two of the major newspapers in Nebraska editorialized on the President's clean air proposals. I commend their statements to my colleagues for their review.

[From the Lincoln Star, June 16, 1989]

BUSH POLLUTION CONTROL A MATTER OF LIFE, DEATH

With his environmental control plan President George Bush has offered the American people a choice—life or death. It could be phrased in other ways, such as life and inconvenience or death and the status quo.

More than 40 million tons of sulfur and nitrogen oxides are added to the air every year by coal-burning electric power plants, many of them in the Midwest. Once airborne, they undergo chemical change, drift long distances and ultimately fall to earth as acid rain, snow, fog or dust.

This pollution is believed to be damaging vast forest lands and has destroyed life in lakes and streams. Damage to human health is strongly suspected.

More than 100 million Americans in more than 100 American cities are suffering assorted respiratory difficulties as a result of urban smog and automobile carbon monoxide emissions into the air. Other organic chemicals are released into the air by a variety of businesses and industries.

According to federal Environmental Protection Agency estimates, industry annually discharges 2.7 billion pounds of toxic chemicals into the air. Cancer, neurological disease, respiratory illness and birth defects are among the consequences of this.

Bush is proposing a 75 percent reduction in the discharge of these toxic chemicals. He is calling for a 50 percent reduction in sulfur dioxide emissions and a 10 percent reduction of nitrogen oxides.

He proposes safe levels of smog be achieved, in most cases, by the year 2000. New fuel and exhaust controls are advanced by the president to control harmful automobile pollutants.

From reports of those who have analysed the details of these measures, their impact upon the marketplace would be substantial. Electric energy would surely become more expensive and the price of automobiles could well increase.

Automobiles might not offer the kind of power and overall convenience we have come to expect and even their usage could be curtailed. Emission controls on polluting businesses and industries could affect a host of products and services that have come to be accepted things in our lives.

Some jobs could be eliminated; new ones could materialize.

All of this would cost business and industry up to $18 billion a year when fully implemented, according to William R. Reilly, EPA administrator. Surely, there would be meaningful government expenditures, also.

Thus, the environmental improvement program put forth by the president would inconvenience the American people. It would cost them a lot of money. It would considerably disgruntle many of them.

But the alternative to this enforced discipline is continued and accelerated destruction of our environment. At the present rate of pollution, we are making our planet a life threatening place to live.

We are in the process of preparing for our children a world in which their health and well-being is assaulted from land, sea and sky.

It is no exaggeration to say that the choice the president has given us is life or death. If Congress fails to follow his lead, voters should rise up and throw from office those members who refuse to join the battle to make the Earth habitable.

[From Omaha World-Herald, June 15, 1989]

IT'S GOOD TO SEE PRESIDENT WORKING FOR CLEANER AIR

One of the more commendable aspects of President Bush's clean-air initiative is its emphasis on balance. . . .

Bush, following the balanced approach he established a day earlier in his speech discussing his clean-air program, left room during his Nebraska visit for a variety of solutions.

While mentioning methanol and natural gas, he didn't slight ethanol. Referring to the fact that ethanol is made from grain, he said American farmers are going to "help America fill up its tank," providing clean fuel for motorists of the future. . . .

It is good that the White House, under Bush, is moving ahead on these and other environmental matters. The government during the Reagan years held back on some of the things that could have been done to protect and improve the environment, leaving a leadership vacuum that in some cases has been filled by environmental activists. President Bush, with his clean-air initiative, has pointed the government toward its rightful place in dealing with a matter of concern that affects American.

THE NATIONAL GROUND WATER RESEARCH ACT OF 1989

HON. JAMES H. SCHEUER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 22, 1989

Mr. SCHEUER. Mr. Speaker, today I am pleased to introduce the National Ground Water Research Act of 1989. This legislation is a refinement of a similar bill introduced last Congress. This legislation will assist State and local governments in the management of their ground water and improve the coordination between the Federal agencies involved with ground water research. Provisions from this bill passed both the House and the Senate during the last session of Congress, yet we were unable to reach a compromise during the last week of the session.

Mr. GEJDENSON from the House of Representatives and Mr. BURDICK from the Senate have already introduced bills that address the issue of ground water research, yet they address the issue with two diffeent approaches. The bill which I will introduce today promises to bridge the gap between the two Houses of Congress so that we may finally pass a ground water research bill.

Ground water is one of this Nation's most valuable, but least understood, natural resources. The information on the extent and effects of ground water contamination is very limited; however, there is available information showing that ground water contamination has occurred in every State and is being detected with increasing frequency. Aquifer rehabilitation is feasible in certain cases but is expensive and time consuming with no guarantee of complete success. A successful ground water protection policy will depend on the Federal Government and the States looking beyond assessment and clean-up to prevention.

Today, approximately 50 percent of our Nation's population depends on ground water as a primary source of drinking water, and in rural communities the percentage is as high as 90 percent. Representatives from industry, agriculture, and environmental organizations have all agreed that more information is essential if the States and Federal Government are to assess the quality of the Nation's ground water.

Federal agencies have responded to public demands for enhanced protection of ground water, but have acted independently without specific legislation to coordinate the activities of the agencies involved with ground water research. The Safe Drinking Water Act, the Resource Conservation and Recovery Act, and the Clean Water Act have ground water protection provisions, but do not coordinate nor describe the roles which the Federal agencies should have in the protection of our Nation's ground water.

The States must bear the primary responsibility for ground water management while the Federal Government provides oversight and technical support. A majority of the States have developed some form of ground water protection policy, but few have comprehensive programs. This bill would assist States in the development and implementation of State ground water programs, and provide assistance for the development of technologies to control or remediate potential sources of contamination.

This bill establishes an Interagency Ground Water Research Committee to coordinate the activities conducted by the Federal agencies related to ground water. The Interagency Committee shall also determine the research and information needs of States and local

governments, and assist in the development and implementation of State ground water protection strategies.

Under the bill, the Secretary of Interior, acting through the U.S. Geological Survey [USGS], shall establish a National Ground Water Assessment Program. The bill will expand the current efforts by USGS to map and evaluate ground water resources nationally. In addition, the Secretary shall assist in the transfer of information between the Geological Survey and other Federal and State agencies.

The bill will also establish a National Research, Development, and Demonstration Program for ground water protection and management under the guidance of the Environmental Protection Agency [EPA] Administrator. The program will encourage the development of cost-efficient technologies that will improve efforts by the States and local governments to detect, control, and prevent ground water contamination. The Administrator shall also establish environmental profiles for significant ground water contaminants.

Finally, the bill will authorize the EPA Administrator to provide 50-percent matching grants to States for planning and implementation of State strategies for ground water protection.

This legislation will redirect the Nation's attitude toward ground water by focusing our policies toward prevention rather than simple end-of-the-pipe controls that only deal with the problem after it has been discovered. This legislation is badly needed especially for a society which depends so heavily on ground water for so many uses. The time to act is now, and I urge my colleagues to join me in the support of this important piece of legislation.

A section-by-section summary of the National Ground Water Research Act of 1989 follows:

NATIONAL GROUND WATER RESEARCH ACT OF 1989

SECTION-BY-SECTION SUMMARY

Sec. 1. Short title.

Sec. 2. Findings: States that Congress finds that: the primary responsibility for protecting and managing the ground water lies with the States, and that the Federal role should be one of research and technical assistance; there remain significant gaps in our scientific knowledge about ground water contamination; ground water contamination should be prevented rather than relying on expensive cleanup efforts; and greater efforts are necessary to prevent ground water contamination today and to preserve this valuable resource for current and future generations of Americans.

Sec. 3. Definitions.

Sec. 4. Coordination of Federal Ground Water Programs. Section 4 requires the President to coordinate Federal ground water research programs by establishing an Interagency Ground Water Research Committee, to be cochaired by EPA and USGS. The section also identifies the principle roles of the USGS, EPA, and USDA.

Sec. 5. Education Committee: Section 5 directs the Interagency Committee to appoint an Education Committee within 180 days after the date of enactment of this Act. The Education Committee shall review the academic and related institutional capabilities for education and training of individuals that have responsibilities for ground water protection. The Education Committee shall also recommend a plan for strengthening such programs.

Sec. 6. National Ground Water Assessment: Section 6 requires USGS to prepare a report in collaboration with other Interagency Committee Members within one year on the adequacy, utility, and accessibility of present ground water information systems, and to make recommendations for improvements. USGS is required to establish a National Ground Water Assessment Program to assist Federal, State, and local governments in assuring that they have information to assess ground water resources for the purposes of protecting and managing ground water resources. The program includes assistance to State and local governments, development of recommended protocols and data collection methods, and the improvement of knowledge on ground water contamination.

Sec. 7. National Research, Development, and Demonstration Program for Ground Water Protection and Management: Section 7 requires EPA to in collaboration with other Interagency Committee Members to establish a research, development, and demonstration program to assist States in protecting, managing, and enhancing ground water quality. In addition, the development of new technologies which could be used to control, clean-up, and prevent ground water contamination will be solicited through the Demonstration Program.

Sec. 8. Ground Water Contaminant Risk Assessment Analysis: Section 8 requires the Administrator in collaboration with other Interagency Committee Members, to establish environmental profiles for significant ground water contaminants. The profiles shall include a summary of the physical and biological properties of the contaminant and its effects on human health and the environment. The Administrator shall also propose a research program to develop additional information for the profiled contaminants. The additional studies will evaluate technologies for both treatment and prevention of ground water contamination. The design of this program will promote State access to information as well as improve the State's ability to make management decisions based on risk to human health and the environment.

Sec. 9. Technical Assistance, Training, and Technology Transfer: This Section states that EPA and USGS in collaboration with other Interagency Committee Members, shall provide technical assistance to States, train State and local personnel, transfer technology, and disseminate information.

Sec. 10. National Ground Water Information Clearinghouse: This Section states that USGS in collaboration with other Interagency Committee Members, shall establish a National Clearinghouse to catalog and disseminate ground water information.

Sec. 11. Environmental Protection Agency Research Capability Improvements: Section 11 contains several provisions to enhance EPA's internal capability to conduct ground water research. EPA is required to establish a centralized ground water research committee within EPA. EPA's independent Science Advisory Board will review EPA's ground water research program and periodically report to Congress. The SAB is also directed to comment on the risk assessment analyses prepared by EPA under Section 8. This Section also directs EPA to establish not more than five ground water research centers that will have responsibilities for research and training related to ground water protection.

Sec. 12. Annual Report: Section 12 states that the President shall submit an annual report beginning on January 15, 1990 to lay out the activities of Interagency Committee and the various agencies involved with ground water research and ground water protection.

Sec. 13. Peer Review: This section requires studies and research conducted under this Act to be subject to appropriate scientific peer review to ensure the quality and integrity of the data.

Sec. 14. Authorization of Appropriations: There are to authorized by this section $10 million in fiscal 90, $12 million in 91, and $14 million in 92 to the Environmental Protection Agency for carrying out the provisions of sections 4 through 13.

Sec. 15. State Ground Water Strategies: Section 15 states that the Administrator may make grants to States for purposes of improving State protection and management of its ground water and ground water resources. This section clarifies the authority of EPA to make such grants; identifies those State activities which qualify for funding; describes the requirements for qualification by the States; and outlines the procedure for determining levels of funding for each State. There are procedures for the preliminary development of State strategies as well as for the solicitation of additional information to ensure proper use of grant monies. After a State has received the grant, the State will be required to submit a report to EPA within 60 days on the use of such funds. This section authorizes $25 million for each of the fiscal years 90, 91, and 92.

Sec. 16. Miscelleaneous Provisions: Section 16 states that this Act shall not supersede, abrogate, or otherwise impair the authority of each State to allocate quantities of water. This section also sets out that the authorities granted to any of the Federal agencies shall not be diminished by the activities of this legislation.

SUPREME COURT FLAG DECISION DRAWS ANGER, DISAPPOINTMENT

HON. G.V. (SONNY) MONTGOMERY

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 22, 1989

Mr. MONTGOMERY. Mr. Speaker, America disagrees with the Supreme Court. Phone calls are pouring into my office. Less than 24 hours since the announcement was made, Americans are up in arms, expressing both outrage and sadness about the Supreme Court ruling that claims burning the U.S. flag is OK and cannot be criminally prosecuted.

While this is a very disheartening decision, it will not deter those of us who rightly believe in the enforcement of fines and jail terms for people who publicly mutilate, deface, burn or trample the flag. This will not deter those who believe this decision is a travesty of the very principles and sacrifices upon which this Nation was built. Those who died to uphold and protect this grand symbol now surely look down upon us in disbelief and sorrow.

Justice Stevens noted in his dissenting opinion that—

The ideas of liberty and equality have been an irresistible force in motivating leaders like Patrick Henry, Susan B. Anthony and Abraham Lincoln, schoolteachers like Nathan Hale and Booker T. Washington, the Philippine Scouts who fought at Bataan, and the soldiers who scaled the bluff at Omaha Beach.

He went on to say:

If those ideas are worth fighting for—and our history demonstrates that they are—it cannot be true that the flag that uniquely symbolizes their power is not itself worthy of protection from unnecessary desecration.

I shall continue to press for an expansion of the 1968 law that established fines and jail terms for the public mutilation and defacement of the U.S. flag. I shall continue to work for the passage of H.R. 1295, which would impose criminal penalties upon anyone who knowingly displays the flag on the floor or ground. I know I am not alone; 103 of my colleagues are cosponsors of this legislation. A similar bill was endorsed by the Senate, 97 to 0.

I would like to share with my colleagues the following statements regarding this grave matter from the National Commanders of two of the Nation's great veterans' service organizations, the Veterans of Foreign Wars and The American Legion who, combined, represent more than 5 million wartime and combat veterans.

STATEMENT OF LARRY W. RIVERS, COMMANDER-IN-CHIEF, VETERANS OF FOREIGN WARS ON SUPREME COURT FLAG DECISION

The Veterans of Foreign Wars has always been opposed to the desecration of the American Flag.

As Americans and veterans we find it offensive, knowing that in our 200-year history Americans have fought, died and were carried to their graves under that flag. It is incomprehensible to us that there are those who would choose to desecrate that very symbol which protects and guarantees their freedom of speech—their freedom of expression. To choose to desecrate the flag as a political statement is shocking and offensive to the VFW.

The VFW is extremely disappointed with the Supreme Court decision which, obviously, was a controversial one as evidenced by its 5-4 vote.

The VFW will continue, as it has done throughout our 90-year history, to engender honor and respect for the flag through its nationwide education and patriotic programs.

STATEMENT OF H.F. "SPARKY" GIERKE, NATIONAL COMMANDER, THE AMERICAN LEGION, CONCERNING SUPREME COURT DECISION RE: TEXAS FLAG BURNING

As a veteran my first reaction to the decision is one of anger. Then my anger turns to extreme sadness. This is a sad day for the United States of America.

There is strong irony in the Supreme Court decision. The same Americans who raised the Stars and Stripes on Iwo Jima while their buddies were dying at their feet, guaranteed, according to the reasoning of five Justices, the rights of others to desecrate the very symbol of what they fought and died for.

The American Legion, in its own constitution, dedicates itself to uphold and defend the Constitution of the United States of America and uphold law and order. But, the Flag is a living part of our country and its history, symbolizing all the freedoms guaranteed by the Constitution. The American Legion strongly believes in granting proper respect to that symbol.

All three million wartime veteran members of the Legion fully support federal legislation which would make desecration of our Flag, in any manner, a crime.

Many a Gold Star Mother cherishes that carefully folded, triangular bundle of red, white and blue as the closest link to a fallen son or daughter. I met and spoke recently with just such a mother during a visit to Pennsylvania. With tear filled eyes and a voice cracking with emotion she spoke about her son who had lost his life in Vietnam. "Everytime I look at the Flag that covered my boy's coffin, given to me at his graveside, I see him." I wonder how deeply saddened she is by this decision.

TRIBUTE TO THE LATE SUSUMU WINSTON NAKAMURA

HON. ROBERT T. MATSUI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 22, 1989

Mr. MATSUI. Mr. Speaker, I rise today, filled with sadness, to pay a final farewell to Susumu Winston Nakamura, a dear friend and an outstanding individual whose passing will be felt deeply by all who knew him.

Susumu Winston Nakamura led a full life devoted to public service. A graduate of University of California, Berkeley, Susumu retired in 1975 after 29 years of teaching Japanese and Tibetan in the University of California, Berkeley Department of Oriental Languages. Prior to teaching, Susumu was a broadcaster for the Voice of America in 1940 and 1941. During this time, he developed a program to teach fluency in Japanese in 1 year instead of 5 years. He headed the Naval Language School Japanese Program at the University of Colorado at Boulder during World War II.

In addition to being an active member of the community, Susumu dedicated a major portion of his life to improving United States-Japan relations. He was a member of the Japanese Chamber of Commerce, Nichibei Kai, Japan-America Society, Japanese American Citizen's League, and former director of Kansai Gai-Dai University in Honolulu after his retirement from University of California, Berkeley.

Mr. Speaker, I would like to extend my heartfelt sympathy to the family of Susumu Winston Nakamura including his four sons, Edwin S. Nakamura of Berkeley, Eugene M. Nakamura and Peter K. Nakamura of El Cerrito, and Richard S. Nakamura of Albany; and his daughter, Evelyn S. Ohki of Arlington, VA. The death of Susumu is a loss not only for his friends and family, but for the community of Berkeley and the entire State of California.

FIRM, NOT JUST ANGRY, TOWARD CHINA

HON. WM. S. BROOMFIELD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 22, 1989

Mr. BROOMFIELD. Mr. Speaker, it's clear in light of today's overwhelming passage of the resolution on China that Congress cares deeply about the massacres and executions occurring there.

It is also clear that this is a bipartisan response and one that supports the initiatives already taken by the Bush administration.

I am happy to see that the editorial board of the New York Times also supports the President's actions. In an editorial today, the Times observes that "the President is proceeding in a tough and sensible way."

I commend the Times editorial to my colleagues.

FIRM, NOT JUST ANGRY, TOWARD CHINA

The news from China, more arrests and now executions, continues to chill the soul, and President Bush is right to tighten official pressure on the Beijing regime. Still, many Americans, liberals and conservatives, demand more dramatic steps like full trade and investment sanctions or the recall of Ambassador James Lilley. Their horror is justified but their choice of response confuses drama with strength. The President is proceeding in a tough and sensible way.

The Administration has now suspended high-level diplomatic as well as military contacts. Further, U.S. representatives will seek to delay consideration of Chinese loan requests from international lenders like the World Bank. These are not mere symbols. Chinese borrowing from the World Bank alone amounts to $8 billion, and China's desperate attempts to reassure frightened foreign investors will be set back by the cancellation of Commerce Secretary Robert Mosbacher's scheduled July visit.

China's hard-line leaders know that the pressure Mr. Bush is putting on them is real enough. Beijing daily denounces American words and deeds, including, notably, the sheltering of Fang Lizhi and Li Shuxian, the democratic dissident couple, in the U.S. Embassy. And ordinary Chinese made plain their gratitude for Washington's stand.

Mr. Bush has indeed been cautious, as is his style. But in this case at least, principle and effectiveness have been well served. His Administration has managed the difficult feat of at once signaling revulsion with present trends and openness to restoring close relations when appropriate. Washington's concern to reach out to future Chinese leaders is only reasonable in view of the advanced age of, and broad opposition to, the hard-line junta.

In any case, the best way to measure America's response to the Chinese crackdown is not against abstract appearances but by its likely effectiveness in the case at hand. U.S. economic sanctions against Poland, for example, proved helpful after martial law was decreed in 1981. Similar steps worked less well against the Soviet Union in the early 1980's, and the Reagan Administration dropped a grain embargo and efforts to halt a gas pipeline. In Panama, economic sanctions have proved close to disastrous.

With China, a more highly developed relationship permits a more sharply targeted response. By suspending military cooperation, Washington directly challenged the generals who countenanced the use of force at Tiananmen Square and who have since gained political weight in the continuing power struggles. Now, by moving on the Mosbacher visit and Chinese development loans, it challenges the economic development plans considered vital by many of those now contending for power.

Sanctions that aim only to punish are blunt instruments. But Mr. Bush's course sends strong yet nuanced signals, making positive effects more likely. A half-dozen old men, even with the power to deploy tanks and guns, can't indefinitely maintain sway over a billion discontented people without allies. They need the loyalty of the generals and other power brokers.

American principles and interests are best served when these constituencies understand that all the advantages of economic, technological and strategic ties with the U.S. remain available—but only if China stops cruel repression.

That is the message Mr. Bush seeks to send. His carefully crafted policy cannot be abandoned because it has not produced the desired results thus far. It is far more likely to be constructive than are the merely angry messages proposed by his critics.

LOOPHOLE TO VIOLENCE

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 22, 1989

Mr. STARK. Mr. Speaker, as many of us continue to work with the major national law enforcement organizations, drug enforcement experts, and Federal firearms experts, it's incumbent that we craft a comprehensive crime control package which does not include any loopholes. KGO Radio recently touched upon a significant loophole in the recent law passed by the California legislature and signed into law by Governor Deukmejian.

I recommend the following editorial to my colleagues.

LOOPHOLE TO VIOLENCE

California's new assault gun bill contains a huge loophole which will impede efforts to ban semi-automatic weapons from our streets. In its original form that bill could have been the strongest such statute anywhere in the country. Instead, it was watered down by amendments. Insisted upon by the gun lobby. And agreed to by the Governor.

This leaves uncounted numbers of combat military type guns in the hands of organized crime. Warring gangs and drug dealers. These weapons, and a black market dealing in their transfer, can never be traced.

Here's the loophole: The legislation first required that failure to register a banned weapon could be punishable as a misdemeanor or a felony. But, as passed and signed by the Governor, the law now permits this to be an "infraction" similar to a traffic ticket. This tap on the wrist penalty is no deterrent to illegal ownership. It appears the National Rifle Association remains "alive and well."

I'm Michael Luckoff.

ANNA-JONESBORO BASEBALL WILDCATS

HON. GLENN POSHARD

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 22, 1989

Mr. POSHARD. Mr. Speaker, besides being a Congressman, I'm a baseball fan, and that means I'm a fan of the Anna-Jonesboro Wildcats.

The Wildcats recently won third place in the Illinois class A baseball championships, and they deserve great praise for their accomplishments.

The list of record-setting performances is so long I can't begin to list all of them for you here today.

But I can tell you something about the students of Anna-Jonesboro High School and the community they represented so well.

The Wildcats won the Southwestern Egyptian Conference, then won the regional and sectional championships on their way to the State tournament. In the first game the Wildcats defeated Manito Forman 14–4, before losing a heartbreaking 12–9 decision to Bishop McNamara in the semifinals. Undaunted, the Wildcats struck back to defeat Argenta Orena 10–8 in thrilling come-from-behind fashion, to capture the third place trophy.

A–J ended the season 28–6, and the first third place trophy ever awarded in the State of Illinois.

The community these students represent is made up mostly of farms and small businesses, and times are tough in those areas. But with the support of caring family, friends and neighbors, these young people have given us all something to point to with pride. What they've learned on the ballfield, dealing with both success and disappointment, will help them become better citizens in the future.

I'm extremely pleased to represent them in Congress, and to call the attention of the Nation to their accomplishments. Please allow me to enter into the RECORD the names of some of the persons who made this dream come true.

1988–89 ANNA-JONESBORO WILDCAT BASEBALL TEAM

Superintendent: John Davis; principal: Bruce Bell, Athletic director: Cory Miller; head coach: Rick Bittle; assistant coach: Ron Knupp. Players: Heath Cunningham, Wade Ralls, Craig Chapman, Sean Clark, Rob Stoelzle, Scott Swink, Chris Keller, Scott Neighbors, Darrin Pickel, Shane Shoemaker, Jason Blakely, Greg Ury, Rob Cash, Tim Hubbs, Charlie Haire, Matt McGrath. Managers: John Parks, Mike Eudy.

CONGRATULATIONS TO TEXAS LONGHORNS BASEBALL TEAM

HON. J.J. PICKLE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 22, 1989

Mr. PICKLE. Mr. Speaker, I rise today to congratulate Wichita State University on winning the NCAA national baseball championship, and to congratulate the University of Texas Longhorn baseball team on its outstanding season, which ended just one victory short of a national title.

The Longhorns lost the championship game to an outstanding team from Wichita State by a 5 to 3 score, but throughout the season and the College World Series, the team's performance surpassed expectations and thrilled baseball fans across the State of Texas. The team played with courage and determination all year long, and every alumnus of the university is very proud of them.

Mr. Speaker, I ask unanimous consent that the article from the University of Texas student newspaper, the Daily Texan, recounting the championship game be inserted in the RECORD following my remarks. And I will close with one final observation: I want to be a good sport about this disappointment, but I would be remiss in serving my constituents if I failed to point out that—despite the fact that the NCAA playoffs are a double-elimination tournament—the Longhorns lost the championship with only one loss. It is a maddening inconsistency, created for the convenience of television sports programming, that a previously undefeated team can be eliminated from a double-elimination tournament with a single loss, and I hope the NCAA will consider changing this policy. The inequity is felt most keenly by the players who will not have another opportunity to play in the College World Series—they earned better treatment.

LONE NCAA LOSS LEAVES HORNS 2ND

(By Paul Hammons)

OMAHA, Neb.—For this year, the Texas Longhorns will have to settle for second-best.

The Longhorns' title dream ended with a 5-3 loss to the Wichita State Shockers. It was Texas' only loss in NCAA tournament action, but it was the one that counted most.

"It always hurts to lose a ball game, or certainly a national championship ball game," said Texas Coach Cliff Gustafson. "But it's a great thrill to get the opportunity."

"You can't win the national championship without getting to the championship game, and we came as close as you can come without winning it, and I think we can take some solace in that," Gustafson said.

"You always hate it [losing] for your team, for your kids," he said. "I feel like I'll have another chance. Some of them won't, and that's the toughest part about it."

The Longhorns lost to an explosive Wichita State team that didn't look quite as dangerous opening the tournament. The shockers beat Arkansas in a lackluster effort, 3-1, and lost to Florida State 4-2.

Then they caught fire—beating Arkansas 8-4, Florida State 7-4 and 12-9, and then burning Texas in the final.

Gustafson said he thought the Shockers were definitely the best team.

"I think they proved it [Saturday]," Gustafson said. "Some of the other clubs that I thought were among the best here we defeated, and they beat us today, so I think they certainly deserve the right to be called the best team."

While most will concede that the Shockers are No. 1, there are many who thought Texas was lucky to even be in Omaha. After all, this team finished with a school record

18 losses. However, it was also a Texas team that felt it had something to prove.

"It was a good season," Scott Bryant said. "People didn't think we were going to get this far in the first place, and then we turned around and surprised most people. It was a great season, and I have a lot of good memories, but I just wish it hadn't ended the way it did."

Gustafson said, "I'm very proud of this ball club. I know it's an old cliche that you get used to hearing—that coaches are proud of their clubs—but this ball club came a long way and gave us a lot of thrills throughout the playoffs and the regional tournament and the College World Series. I'm just deeply indebted to the attitude they've had and the effort that they've given all year long."

And so the inevitable question arises: Will the self-styled ugly girl be at the dance again next year?

"We'll be back," Gustafson said. "Our pitching should be in a better shape next year, with two proven big-time winners in Dressendorfer and Dare. We feel that we could have a good ball club next year, and our plan will be to come back."

"And," he said jokingly, "Scott Bryant told me he would not sign this year if they gave him a million dollars."

We all have our dreams.

INTRODUCTION OF LEGISLATION TO REFORM THE USE OF THE CONGRESSIONAL FRANKING PRIVILEGE

HON. TIMOTHY J. PENNY

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 22, 1989

Mr. PENNY. Mr. Speaker, along with Congressmen BILL FRENZEL, TOM CARPER, and CHARLIE STENHOLM, I have today introduced legislation to reform the use of the congressional franking privilege in mass mailings.

Under the provisions of this bill, the number of usual and customary congressional newsletters each Member can send annually would be reduced from six to two. In addition, the legislation requires that each Congressman or Senator prepare a statement every 6 months outlining the number and costs of all mass mailings he or she has prepared and sent. Within 30 days, the House Commission on Congressional Mailing Standards and the Senate Committee on Rules and Administration would collect and make available to the public a summary of the information from such statements.

The legislation also divides the joint congressional postage account into two separate accounts, one for the House and one for the Senate, in order to prevent either body from spending savings generated by the other. Finally, the bill stipulates that if any Member exceeds his or her postage allowance, they would be required to pay the excess from their office payroll account.

The need for this legislation is clear. The appropriation for congressional mailing, despite election year fluctuations, has significantly increased in the last 10 years. In fiscal year 1978, the total congressional mailing cost was $48.9 million; last year that number had risen to $113.4 million. With the public demanding that the Congress cut its costs, this seems like a reasonable place to begin.

This measure, which was introduced earlier this year in the Senate by Senators J.J. EXON and ROBERT KERREY, is a reasonable and fair approach that would weed out needless and abusive use of the frank while preserving each Member's basic right to the frank. I encourage all Member's to study and to join in cosponsoring this measure.

Mr. Speaker, the bill follows:

H.R. —

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. Section 3210 of title 39, United States Code, is amended by adding at the end thereof the following new subsections:

"(h)(1) Notwithstanding any other provision of this section, no Member of Congress, Member-elect to Congress, or other official to whom the provisions of this section apply may mail more than two usual and customary congressional newsletters as mass mailings and postal patron mailings in any calendar year.

"(2) The Senate Committee on Rules and Administration and the House Commission on Congressional Mailing Standards shall prescribe for their respective Houses such rules and regulations and shall take such other action, as the Committee or Commission considers necessary and proper for the Members and Members-elect to conform to the provisions of paragraph (1) and applicable rules and regulations. Such rules and regulations shall include, but not be limited to, provisions defining a postal patron mailing and what matter constitutes a newsletter.

"(3) For purposes of paragraph (1), the term 'mass mailings' shall have the same meaning as such term is defined under subsection (a)(6)(E).

"(i)(1) Each Member of Congress, Member-elect to Congress, and other official to whom the provisions of this section apply shall on the first January 1 following the date of the enactment of this subsection and every 6 months thereafter submit to the Senate Committee on Rules and Administration, or the House Commission on Congressional Mailing Standards, as appropriate, a disclosure statement containing a summary detailing all costs for every mass mailing conducted by such Member of Congress, Member-elect of Congress, or official during the preceding 6-month period. All such statements shall be made available to the public upon request.

"(2) Within 30 days after the submission of the statements described in paragraph (1), the Senate Committee on Rules and Administration and the House Commission on Congressional Mailing Standards shall collect and publish a summary of the information from such statements.

"(3) For purposes of paragraph (1), the term 'mass mailings' shall have the same meaning as such term is defined under subsection (a)(6)(E).".

SEC. 2. Section 3216 of title 39, United States Code, is amended by adding at the end thereof the following new subsection:

"(e)(1) The lump sum appropriation described in subsection (a) shall provide for separate appropriations for the Senate and the House of Representatives for such purpose.

"(2) Any Member of Congress, Member-elect to Congress or other official described under subsection (a)(1)(A) whose spending for franked mail expenses exceeds the postage allowance based on the appropriations described under paragraph (1) and determined by the Senate Committee on Rules and Administration or the House Commission on Congressional Mailing Standards, shall pay such excess expenses from funds of the office payroll account of such Member, Member-elect, or official.".

PLIGHT OF THE WORLD'S FORGOTTEN JEWS

HON. STEPHEN J. SOLARZ

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 22, 1989

Mr. SOLARZ. Mr. Speaker, today, as cochair of the Congressional Caucus on Ethiopian Jewry, I am introducing a resolution regarding the plight of the world's forgotten Jews.

We live in momentous times in which the cause of human rights has become a major concern. Yet too often, the spotlight of scrutiny has not been directed into corners of the world where oppression has cast its long, dark shadow. In Ethiopia, for instance, some of the most basic human rights—the right to emigrate and the right to be reunited with one's family—do not exist today for the Jews in that country.

Thousands of Jews were separated from their families in 1984 and 1985, as many fled religious persecution, civil war, and famine. They traveled on foot, braving armed thugs and government troops, and made their way into the Sudan. Many died on the trip and 2,000 more died in the refugee camps in Sudan. But through "Operation Moses"—a joint United States-Israeli rescue effort—some 17,000 Jews are airlifted to liberty and taken to their spiritual homeland, Israel.

Nearly 5 years later, many of these "Beta Yisrael," as the Ethiopian Jews are now called, have made the transition to a new life in their adopted country. They serve in the Israeli defense forces, study in universities, and work in communities. But they cannot forget the families they were forced to leave behind. Many suffer from overwhelming guilt. They have been separated—brothers and sisters, wives from husbands, and parents from children. At present there are over 1,500 orphans of circumstance. These children suffer from grief and pain so great that some of them have attempted suicide. Tragically, a number have succeeded.

Today, the thousands of remaining Jews in Ethiopia struggle to survive under the repressive regime of Colonel Mengistu. The traditional villages and areas where Ethiopian Jews have lived for over 2 millenia are being systematically destroyed through the government villagization program. Jews are forced to live with non-Jews who persecute them for their religious beliefs and customs. Their holy relics must be hidden for fear that they will be defiled or destroyed. The Mengistu regime refuses to provide protection and there are re-

ports that a number of Jews have recently been murdered.

The Jewish villages located in the northern Gondar province also face the threat of the encroaching civil war. Over the past year the Mengistu regime has suffered massive defeats at the hands of the rebel forces of Eritrea and Tigre. As a result, Mengistu has blocked vital U.N. food aid shipments to the northern provinces where many seek famine relief.

Only last month, the internal rebellion within Mengistu's own armed forces led to an attempted military coup that nearly toppled the totalitarian regime. With Soviet support apparently waning, Colonel Mengistu has become increasingly desperate. He has given orders that men and boys be rounded up and forcibly conscripted into the army. And as the unwinnable war continues, these Ethiopian Jews and other civilians are caught in the crossfire. In Israel, the families of these Jews wait in anguish, feeling their pleas have fallen on the world's deaf ears.

This resolution which I introduce today expresses the sense of Congress that these fundamental rights to free emigration and family reunification must not be denied. My friends, there is indeed a place for quiet diplomacy. But behind-the-scenes negotiations cannot be a substitute for a public campaign against repression and religious persecution. We must respond courageously and compassionately. As our ancestors fought to rescue the Israelites from Eqypt, so must we also speak out for the forgotten Jews of Ethiopia.

H. CON. RES.—

Concurrent resolution expressing the sense of the Congress relating to the human rights conditions of Jews in Ethiopia

Whereas the Universal Declaration of Human Rights of the United Nations, to which Ethiopia is a signatory, recognizes the right of free emigration;

Whereas any nation's willingness to permit emigration for the purposes of family reunification is a practical demonstration of respect and concern for basic human rights;

Whereas the termination of Operation Moses left tens of thousands of Ethiopian Jews separated from their families in Israel, Western Europe, and the United States;

Whereas the Government of Ethiopia denies both emigration opportunities and foreign visitation right to the Ethiopian Jewish community;

Whereas most of the fifteen thousand Jews remaining in Ethiopia have been separated by the exodus of thousands of their relatives who have sought refuge in Israel, Western Europe, and the United States;

Whereas one thousand five hundred Jewish children whose parents are still in Ethiopia live as "orphans of circumstance" in youth villages throughout Israel;

Whereas a significant percentage of the remaining Jewish population of Ethiopia consist of elderly, ill, or dependent children who increasingly require the assistance and support of their relatives abroad;

Whereas the Ethiopian Civil War and the practice of villagization malnutrition, and death among Ethiopian Jews since 1985;

Whereas the Government of Ethiopia has repeatedly expressed an interest in establishing a more extensive bilateral relationship with the United States: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That it is the sense of the Congress that—

(1) a primary condition for improvement in relations between the United States and Ethiopia should be tangible progress in the human rights conditions for Ethiopian Jews, including the freedoms to emigrate, travel, and observe religious holidays, as well as a cessation of the "villagization" program and all other activities that divide, impoverish, or quarantine the indigenous Jewish community;

(2) the President and Congress should condition any potential resumption of United States aid to Ethiopia on the Ethiopian Government's progress in implementing the commitments it makes and has made to respect human rights; and

(3) the President should instruct United States representatives in all appropriate international forums to support this important effort to facilitate the reunification of separated Ethiopian families. In particular, the United States Ambassador to the United Nations should be directed to petition the United Nations World Food Program, the United Nations Security Council, and the United Nations General Assembly to exert diplomatic and political pressure on the Ethiopian Government to develop and implement a policy for the sustained emigration of Ethiopian Jews.

SEC. 2. The Clerk of the House shall transmit a copy of this concurrent resolution to the President.

PLIGHT OF THE WORLD'S FORGOTTEN JEWS

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 22, 1989

Mr. GILMAN. Mr. Speaker, I would like to express my staunch support for the legislation being introduced by my colleague, the gentleman from New York [Mr. SOLARZ], on behalf of the Congressional Caucus for Ethiopian Jewry of which I am pleased to be cochairman.

The legislation being introduced today urges the Government of Ethiopia to honor its commitment as a cosignatory of the United Nations Universal Declaration of Human Rights, which cites free emigration as a humanitarian right to be granted to all.

This bill also conditions the improvement of relations and the continuance of economic aid to the People's Democratic Republic of Ethiopia upon significant, tangible improvements regarding the human rights conditions of Ethiopian Jewry. These provisions, when combined with a sustained executive policy to secure the sustained emigration of Ethiopian Jews, will reunify Ethiopian families and ensure their cultural survival.

The efforts expended in 1984 and 1985 with operations Moses and Joshua have not been completed. Approximately 15,000 Ethiopian Jews were separated from their families and left stranded in Ethiopia when these operations ceased. This situation has only added to the burdens these courageous individuals have endured for centuries and has transformed 1,500 children in Israel into orphans of circumstance.

Accordingly, as the House cochairman of the Congressional Caucus for Ethiopian Jewry with Congressman SOLARZ, I urge our colleagues to cosponsor this measure and look forward to its speedy consideration on the floor of the House.

THE DIRE EMERGENCY SUPPLEMENTAL APPROPRIATIONS BILL

HON. CLYDE C. HOLLOWAY

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 22, 1989

Mr. HOLLOWAY. Mr. Speaker, I rise today to read to my colleagues a letter I received yesterday from the Larry Rivers, National Commander of the Veterans of Foreign Wars, who I am proud to say is my constituent. Even though the letter is dated June 20, it is just as relevant today as it was prior to Wednesday's vote on the dire emergency supplemental appropriations bill.

DEAR CONGRESSMAN: We in the VFW are convinced that the President will veto the long-sought emergency supplemental appropriation for 1989 unless the anti-drug abuse program is deleted from the legislation.

Sir, it is extremely hard for our leadership to explain to our 2.7 million members why we can't have a separate up or down vote in the Congress on the President's request for a dire supplemental so far as the Department of Veterans' Affairs is concerned.

God knows, and you shall know, it is needed. Twenty thousand veterans per month are being turned away from VA hospital doors because of inadequate funding and staff. My organization will not take a back seat to any one in supporting a strong anti-drug abuse program. However, we recall that only six months ago Congress enacted a $3 billion FY '89 drug supplemental. In our opinion, there is no way this money can be spent adequately before October.

Your vote excluding drug abuse funding from the supplemental request will be appreciated and remembered.

Sincerely,

LARRY W. RIVERS,
National Commander-in-Chief,
Veterans of
Foreign Wars of the United States.

GI BILL 45 YEARS STRONG

HON. G. V. (SONNY) MONTGOMERY

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 22, 1989

Mr. MONTGOMERY. Mr. Speaker, today, June 22, marks the 45th year that education benefits for military veterans, collectively referred to as the "GI bill," have been provided by the Department of Veteran's Affairs and its predecessor, the Veterans' Administration.

Although the original GI bill was changed and adjusted for succeeding generations of

veterans, its purpose, declared by President Franklin D. Roosevelt when he signed the legislation in 1944, has not. "This law," he said, "gives emphatic notice to the men and women of our Armed Forces that the American people do not intend to let them down."

Since its inception near the close of World War II, the GI bill and succeeding programs for veterans have provided more than $69 billion in educational and training assistance to more than 20 million veterans, dependents, active duty members and reservists.

GI bill assistance benefited 7.8 million World War II veterans and 2.4 million Korean Conflict veterans. Some 8.1 million veterans and active-duty service personnel of the Vietnam era and those with peacetime service after Korea or Vietnam have participated so far in their version of the GI bill which expires on Dec. 31, 1989.

Over the years, 1.1 million disabled veterans have been aided by VA vocational rehabilitation programs. More than 560,000 eligible dependents and survivors have gone to school using VA educational assistance benefits.

Since the end of the Vietnam era in 1975, other programs have evolved to provide new forms of educational assistance for peacetime veterans. The current Montgomery GI bill provides benefits for servicemembers who agree to have their first year's pay reduced by $1,200 in return for up to $10,800 in educational assistance after they meet certain active duty requirements.

Current-year spending for VA readjustment benefits programs will amount to more than $733 million, most of it in the form of direct payments to veterans and others enrolled in schools and training activities.

CONGRATULATIONS TO NYPRO, INC., OF CLINTON, MA

HON. JOSEPH D. EARLY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 22, 1989

Mr. EARLY. Mr. Speaker, it is with great pleasure that I rise today to offer my congratulations to Nypro, Inc., of Clinton, MA, a company which has reached the enviable milestone of $100 million worth of sales. This accomplishment is especially noteworthy when one considers the company's modest beginnings. Under the leadership of Gordon B. Lankton, Nypro's president and owner, Nypro has grown from a small molding company in 1962 to a multimillion dollar concern presently at the top of its field.

Today, Nypro boasts of more than 1,100 employees in offices throughout the United States and overseas, and is currently the world's largest custom injection molding company. Primarily serving the health-care industry, Nypro has several major accounts with some of America's leading corporations.

Nypro, Inc., has been a great positive influence for the economy of Clinton, MA, a town which I represent. Mr. Lankton, who has overseen the operations of Nypro for 27 years, has demonstrated what diversification and a dedicated entrepreneur can accomplish. In addition, Nypro has shown that America can remain competitive in this important industry. Nypro's dedicated employees, both past and present, can take pride in their contribution to this success story. Again, I extend my compliments to the many people involved in this achievement, and I wish them all continued success.

WALL STREET REVOLUTIONARY

HON. BYRON L. DORGAN

OF NORTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 22, 1989

Mr. DORGAN of North Dakota. Mr. Speaker, as the debate continues about how Congress should address the problems associated with the use of junk bonds in a growing wave of highly leveraged corporate takeovers, I wish to bring to the attention of my colleagues a provocative and informative article recently published in the Best of Business Quarterly. In this article, one of the foremost authorities in this area, Columbia University Law School's Prof. Louis Lowenstein, provides us an interesting perspective about leveraged buyouts [LBO's] and junk bonds.

I recommend the article to my colleagues and insert it in the RECORD:

[From the Best of Business Quarterly]

WALL STREET REVOLUTIONARY

(By Alex Gibney)

Today Louis Lowenstein may be one of the most subversive critics of the speculative fever sweeping American business. His opinions—which pop up in editorial pieces in The New York Times, The Wall Street Journal, and Fortune, and in TV appearances on MacNeil/Lehrer, Adam Smith, 20/20, and Frontline—show utter opposition to the dominant ideas about American business and investment. And his book, What's Wrong With Wall Street, was so seditious that a Business Week reviewer described it as "a call for revolution on the street."

But Lowenstein is anything but a steely-eyed revolutionary. He's a mild-mannered Ivy League professor whose blue-chip background in law and business brings an insider's credibility to his maverick message: too much speculation and too little long-term investment are killing American business. He disparages takeover artists and dismisses junk-bond boosters as people on a Saturday-night binge: "If you ask a drunk at eleven-thirty at night how he feels, he'll tell you he feels fine. The question is, how will he feel at six in the morning?"

As a lawyer, Lowenstein helped launch the prestigious corporate firm Kramer, Levin, Nessen, Kamin & Frankel. His specialty, ironically enough, was merger and acquisitions.

Lowenstein's skill at buying companies helped his key client, Supermarkets General, grow into a $2 billion corporation. In 1978 the board installed him as CEO. Then, later in 1979, he was ousted by the company's co-founder, Herbert Brody, who had decided he wanted to take over.

Lowenstein traded his chauffeured corporate car for a rabbit-hutch office at the Columbia University School of Law. Years before, he had studied business at Columbia as an undergraduate, and he'd received his LL.B from the law schoool in 1953. A scholarly article helped to earn him tenure, and he set about resurrecting the reputations of two of his spiritual ancestors at Columbia: Benjamin Graham and David Dodd. Their 1934 book Security Analysis, is potent fuel for Lowenstein's burning ambition: to convince investors that buying stock means assuming the responsibility of long-term owners—understanding the business, knowing the managers, assessing the competition. He rails against the prevailing Wall Street view: if you don't like a stock, wait five seconds.

Recently he founded with his friend Ira Millstein, a denior partner at the New York firm Weil, Gotshal & Manges, the Institutional Investor Project, an international undertaking whose purpose is to study the role and growing power of pension funds and other institutional investors. He's worried that those investors, by vesting so heavily in all the latest quick-trading gimmicks of the stock market, are robbing American businesses of the steady capital and responsible oversight that they need to compete over the long term.

Lowenstein's obsessions have not colored his easygoing personality. In his bright dining room in the El Dorado apartment building overlooking Central Park West, he speaks softly and chuckles often as he lobs his rhetorical grenades at the program traders downtown.

A lot of people have focused on takeovers and junk bonds—so have you—but you're becoming more interested in the conflict between the institutional investor and the corporation. What's wrong with Wall Street?

Maybe the best way to look at it is that in all of American industry there are virtually no board directors who were put there by shareholders. The model of the corporation says that the shareholders elect the directors and the directors elect the management, the officers. In practice it works the other way around. The management controls the proxy machine. It therefore selects the next nominees for election as directors and submits that slate to the shareholders, who as a group have been very passive. The rub, the difficulty, is the separation of ownership from control and the question of who watches the watchers. Who monitors management?

You mean there's no real corporate democracy. Are you suggesting the kind of thing Ralph Nader talks about: the broad oversight of companies by all their constituences—employees, customers, investors, regulators?

I don't think anyone wants to turn corporate America into a pure democracy. In fact, the so-called reforms suggested by people like Ralph Nader make absolutely no sense to me, because the idea of turning a corporate boardroom into a corporate legislature that represents different interest groups reflects a misperception of the role of a board. A board is not a legislature. It's an action group. It has to make decisions. It doesn't have the leisure to bring together disparate opinions, conflicts of interest over a wide segment of society. It's working in a competitive environment.

But having said all that, I have to add that the shareholders have never taken an interest in corporate management. They have consistently followed what I call the Wall Street role, which is a role of passivity. It means that if you like the company, you buy the shares, and if you don't, you sell

them. And they have been selling or trading them at a heroic rate.

So you believe that the problem is that there's no long-term investment in a company per se?

There's no investment, because the investors don't think of themselves as owners of a business. They think of themselves as owning or trading paper—market instruments divorced from the underlying enterprise.

There's a fishy example you used in your book * * *.

Right. There's an old Wall Street anecdote about a sardine auction. The price goes up and up, and a bystander watching all the action says, "Oh, those sardines must really be good." So he starts bidding for sardines, too. And he finally buys a can of sardines for $50 or so. When he gets home he opens the can, and he finds that they're ordinary sardines. He goes back to the auctioneer and says, "Hey, what's wrong? I paid $50 for plain Norwegian sardines." And the stockbroker says, "Fool, those sardines are for trading, not for eating."

Has this emphasis on trading rather than long-term investments been exacerbated by institutional investors?

Institutions own 40-plus percent of the shares, and they do 65 percent of the trading. And if you look at the market as a whole, there was 95 percent turnover in 1987. Therefore, the institutions must have been turning over their portfolios on the average at maybe 140 or 150 percent. They buy all 500 stocks in the Standard & Poor's index, and they don't care, or even know, which companies are in the index. In that sense, it's a kind of mindless share ownership—it's a security blanket. It's a way of being sure that whichever way the market goes, you won't look worse. The money manager is saying, "I don't care if you lose 32 percent of your money as long as everybody else loses 32 percent, too."

Aren't corporate managers usually thrilled by institutional investors who buy in and out but don't really cause them too much trouble in terms of corporate governance? For CEOs isn't that ideal?

It was ideal until hostile takeovers came along. Hostile takeovers changed things a lot, because the lack of loyalty on the part of the institutions made corporate managers accountable to their least valuable shareholders. And it exacerbated what I think had always been corporate managers' lack of respect for Wall Street—at least at the brokerage end of the business.

Why? Because there was no interest in the way companies worked?

The only thing that mobilized some institutional investors was precisely what the corporate managers feared most, which was hostile takeovers and defenses against hostile takeovers. Institutional investors began to take an interest in companies in order to galvanize for action on issues like poison pills. Far from being owners of the business, they were trying to keep the tracks clear for hostile bids. In other words, they were taking an interest in corporate governance only in the very narrow sense of making sure that the opportunity to trade out at a profit was there. At that point the relationship—which I don't think was ever terribly cordial—began to break down amid controversy and confrontation. If you step back a little bit, that makes no sense.

The tension isn't health?

When the institutional investors focus on market profits and deny any responsibility for the internal affairs, the operation of the business can't be long-term smart. It won't work. It's trying to look for market gains without thinking about the substance.

I can see that it might destabilize the capital markets, but what is it doing to productivity, to employee loyalty, to all those bedrock things that are supposed to be responsible for a company's success?

It's very easy to give simplistic answers to that question. And lots of people have given them: you know, "It's destroying jobs and community." On the other side is Mike Jensen, who's probably the high priest of the takeover movement, at least in academia, and who likes to say that it's revitalizing American industry. (Michael Jensen is a professor at Harvard Business School who is an advocate of LBOs and takeovers.)

In 1975 we had $12 billion worth of takeovers. In 1985 we had 15 times that much: $180 billion. In 1988 it's $268 billion. With any phenomenon that large and that complex—we're talking about hostile bids, large companies buying companies, LBOs, foreign companies buying American companies—anything you say about it is true.

The naysayers can find evidence to support their arguments. Can the boosters of LBOs and takeovers point to the benefits of getting mean and lean when they have to sell off pieces of a business to pay back their debts?

I've sat with old friends who are still engaged in the LBO business, and they tell me that really good things are happening. Inventory has been pawed down. Products that should have been abandoned have been abandoned; all those things that we call trimming fat. The question is whether, in addition to trimming fat, we've also cut into bone and muscle.

Can you give me an example?

The oil industry has been substantially restructured. And it does not have the financial wherewithal, the strong balance sheets, that it once did. As a result of that, companies have drastically cut back on exploration. Mike Jensen—I don't want to pick on Mike. But, you know, it is said by many people that the cutback is a good thing. And I submit to you that we just don't know whether it is or not. The proportion of our oil that we import has risen dramatically, and it continues to rise. And even if we began today to explore for oil again in the United States, there'd be a five-year lag before it came onstream.

It may be that in 1995 we'll find that we're hemorrhaging money and being held in some sort of bondage of OPEC because we listened to Mike Jensen. We took away the oil companies' ability to follow what they regarded as their mission.

What is the your response to people who claim that short-term trading is a good thing, that it greases the skids of the market and increases pricing efficiency?

I believe the error in that thinking is obvious. They're confusing two kinds of efficiencies. One is trading efficiency. They say the costs are not that high. My figures are about 1 percent, not just the commissions but also market impact and the like—the total cost. And that's a lot more than people think it is. And the other kind of efficiency, of course, is pricing efficiency. When you keep putting grease on the wheel with more frequent trading, you may be increasing the trading efficiency, but you're likely to skid and lose direction.

So you don't think much of the accuracy of current estimates of stock value?

Studies show that the stock-price fluctuations do not correlate well with the underlying realities. Just think back to 1987. That year doesn't seem like a remarkable one in American industry. Gross national product and corporate earnings went up just a few percentage points. On the surface, 1987 looks like any other year. In fact, what was going on, of course, was a huge bubble on Wall Street. It was like the bubble in the 1920s, when it didn't matter what you paid for a blue chip. If it was a blue chip and not a read chip, price didn't matter. But when General Electric lost 91 percent of its value in the 1929 crash, suddenly people rediscovered that price mattered.

Well, they discovered it again in 1987 when we wiped out $1 trillion worth of value in a few days' time. I talked to people downtown, and each of them thought God was going to give him a signal before anyone else. Where was the market efficiency?

Everybody's talking about junk bonds these days. What's so bad about junk bonds? Many people say these bonds have provided capital for innovative companies that couldn't get it otherwise.

They're a little bit like loans to Brazil. They keep issuing new pieces of paper to us, and we can record them as earnings, so who cares if they're really paying in cash? It's called accounting, but I think it's smoke and mirrors.

Look at the zero coupon bonds (bonds which accrue interest but do not pay it out until maturity) of Federated Department Stores. Federated has only $400 million of operating income to support $600 million of interest charges. Federated pretends that it's paying 173¾ percent interest on the bonds, and it makes that entry on its books, but it really keeps the cash. So these bonds actually have no earnings, they generate no cash, but the holders of the bonds pay taxes on them as if they did. What a remarkable instrument.

You mean—dare I say it—that leaving everything to the whims of the market isn't the best thing for America?

It depends on the market, and it depends on the problem. No one wants to tell the candlestick makers how to make their product. The market works very well. The price is right. The designs are right. Why should the government tell people how to manufacture a candlestick?

But there are problems that can't be solved by the market. Like pollution. It's cheaper for me to go to the grocery store and buy toilet tissue whose maker polluted a lake, because the cost is lower. I can't even tell what lake was polluted. It's hard for the paper manufacturer to clean up the lake because there's no incentive for him to put in the equipment unless everyone else in the industry does so, too. Once the playing field is leveled, then the consumer pays for the cost of keeping the lakes clean.

None of those problems—the horribly short-term focus of the stock-market myopia—seem to me insuperable if the investors say, "We don't want to put our money on a roulette table; we have responsibilities." But if this doesn't happen as a cultural change, it will have to come through legislation.

What kind of legislative solutions do you have in mind?

Some kind of turnover tax, because many believe that lower trading would be a public good—society would be richer in that we would not be spending $20 billion a year trading pieces of paper in a zero-sum game. Zero-sum for everyone except the guys who are running the casino.

You would also accomplish two other objectives that come back to the basic control of institutional investments. One is that they would be forced to focus more on long-term values, and therefore the pricing would be more efficient. Think of it as an antibubble-movement proposal. And second, the right legislation would make investors much more interested in participating appropriately in corporate government.

Any specifics?

I'd do it in a way that President Bush could live with, which is—read my lips—revenue-neutral. It might work so that if you held onto a stock for five years, capital gains would be tax-free. But under one year, there'd be a very stiff tax of 50 percent. And if institutional investors—the otherwise tax-exempt funds—didn't hold for at least some portion of that five-year period, they'd get taxed as if they were not tax-exempt. They couldn't play the trading game.

What's your opinion on the value of takeovers?

The volume of takeovers and LBOs indicates a problem. For the past five years, the total volume of mergers has been $900 billion, or 38 percent of the average value of those stocks during the period. Some Businesses, such as Budget Rent-A-Car, have bought and sold themselves several times over, going private, then going public, then going private again, all within about two years' time. Why rent a car when you can rent the whole company?

We are currently flipping ownership of whole companies at a 10 percent annual rate. The sheer magnitude of it should make us wonder whether that much of American industry could have been so undermanaged, or how it is that takeovers could be the "magic bullet" that could cure so widespread an affliction. What if we have already passed the stage of cleaning up the inefficiencies in American industry but the deals roll on unchecked?

What's driving all this activity? How much is the takeover service industry costing the American economy?

The LBO business has been transaction-driven and fee-driven. The direct costs—the fees paid out in takeovers last year—were about $12 billion. And that's conservative. If you believe that Wall Street has created a private mint, then the lawyers and bankers regularly take about 4 to 5 percent for running the mint. The fees on the RJR Nabisco (LBO) alone will be at least $1.25 billion.

Do you think it's true that all the mergers and acquisitions activity is luring away all of our best and brightest?

More and more students—terrific kids—are flocking to Columbia Law School, and they've been drawn into this vortex . . . of financial transactions. Almost 90 percent of our graduates go to major metropolitan law firms, whose major activity is mergers and acquisitions and other financial transactions. The average partner at Davis, Polk & Wardwell earned $900,000 last year. It's a very powerful message the market is sending. And they hear it. Why shouldn't they?

But for society, it means that our best people—instead of doing engineering, product design, marketing, getting their hands dirty in factories in the rust belt—they are doing deals. What happens when the highest salaries and payoffs are not for running companies or building better rockets but for doing deals? What if deals and the fees they generate seem to be the end of the process and not just a step on the road to improved technology and the like?

What do you think of some of the anti-takeover proposals in Congress?

The problem's not just a takeover problem; it's a debt problem. Wall Street has just discovered that if you have a lot of debt, you don't pay taxes. They sort of ignored that for a long time. And when Wall Street learns something, it learns it with a vengeance.

If you look at the whole takeover market today, you see people buying companies where $9 out of $10 is borrowed. There's no room in that kind of capital structure for a rainy day. It's as though we've abolished rainy days in the American economy.

The tax laws, by allowing deductions for interest and not for dividends, are pushing companies into this kind of cockeyed capital structure. We have to take a fresh look at that, because when there's only a dollar of income to support a dollar and a half of interest charges, not only do you have to worry about a rainy day, but you also have to look for a miracle.

The Institutional Investor Project grows out of the unstated, but I think general, conviction that if takeovers and LBOs are not the magic bullet that the protagonists would have us believe, that if you think—no great wisdom—that all of us need watching and management needs to be accountable to someone, and that if the control of $4 trillion worth of assets is going to acquire legitimacy in the eyes of the public, then the rational entity to be accountable to is shareholders. And you come back to the problem of this confrontation between the institutions and the corporate managers.

If you agree that in the long term they really have much in common, then you begin to explore some questions about institutional investing. To whom are you accountable? And for what? Are you accountable for the working conditions and welfare of employees? Is your accountability to them defined essentially in dollar returns or in some other intangibles? We haven't thought about that a great deal, and we need to think about it. Just what is the role of the institutional investor?

What about your own experience at Supermarkets General? What did that teach you about the value of the investors' voice?

Corporate presidents live in a very insulated environment. If you're not careful, you begin to believe all the PR. And everybody around you who works with you, his or her salary and future progress, depends upon a nod of your head. And all those people love to make you feel happy. And so, talking to people on the outside—some money managers, security analysts—can help you see things in a better perspective.

Sounds nice in theory—did it work that way in practice? Did your institutional shareholders help you run the company?

In the beginning I would sit down and have lunch with different retail analysts. But I quickly realized that they were in for a play, and my best shareholders were the people who had actually sold their businesses to us at one point or another—and whom we had not paid much attention to. We would have dinner once a quarter, and I'd give them a sense of the texture of what was going on in the business. And there would be a loyalty there. Not in the institutions; they came and went. And we ignored them. And they didn't ask for anything more than a good sense of what the earnings would be like for the next six months.

Is there anything worth emulating in Germany and Japan regarding long-term investment?

Yes. The Germans and the Japanese clearly have some interested, serious, thoughtful long-term investors who monitor management without all the Sturm und Drang of the takeover process and without all the waste. They do their jobs neatly and privately. Things happen earlier without companies sinking into the pits. That's good. One might hope that the institutional investors in the United States will mature in some way and be able to fulfill that role.

If you could start over, what business would you be in today?

If I graduated from the business school today—I came out of Columbia business school in 1947—I would go into something like manufacturing. It's fun. That's where the battle is. How do we beat the Japanese? Are we going to beat them on Wall Street? Nonsense.

In your position in academia, it seems you enjoy not only teaching students but also engaging the university with the outside world. You may not be convincing people at Drexel that yours is the right vision, but you may be having a broader impact than when you were in business. . . .

I'm having more impact on the world—and sometimes I'm taken aback. At the school I basically spend my day talking to kids and sitting in a not-very-elegant office with a sweater on and an open shirt collar. I do tend to forget that there has been some visibility and impact. Maybe some political solutions will follow. In academia there's been some progress, but not as much as I would like. But I think much of academia is still wedded to the efficient market model. Intuitively, it's attractive. Basically what academics say to themselves is, there can't be any bargains in the stock market, because if there were bargains people would take advantage of them and eliminate them. And as long as you think that people are wiser about money than about sex or most other things, as long as you don't have a sense of human fallibility or the intrinsic difficulty of making long-term judgments about money and industries, then it's an attractively simple model.

From a personal point of view, there's a happy conjunction of my interests and what's going on in the world. I can't get away from takeovers—you know, they're a $300 billion phenomenon. So I'm still the wild man busting up chairs in the barroom.

COMMENDING CAPT. JOHN KLOTZ

HON. W.J. (BILLY) TAUZIN

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 22, 1989

Mr. TAUZIN. Mr. Speaker, on the occasion of the retirement of Capt. John Klotz from active Coast Guard duty, I have the privilege and honor as chairman of the Coast Guard and Navigation Subcommittee of the Merchant Marine and Fisheries Committee to commend the captain for his many and valuable contributions to his Nation and to the Coast Guard.

There is perhaps no better measure of any of us, than that from the people with whom we work. Both within the Coast Guard and the private sector, Captain Klotz is held in high esteem for his knowledge, leadership skill, and personal character.

I recently received a copy of the following commendation, and because it speaks clearly about how many people feel about Captain Klotz, I am honored to make it a part of the RECORD of the House of Representatives of the U.S. Congress.

The commendation reads:

The Offshore Marine Service Association is desirous of commending and registering its strongest expression of appreciation to Capt. John Klotz for the assistance he has rendered to the offshore energy and maritime industry during his tour of duty in New Orleans, Louisiana from April 1984 through June 1989 as the Officer in Charge of Marine Inspection.

During his tour in New Orleans, the Coast Guard command was reorganized, combining the Captain of the Port and the Marine Inspection Offices into a combined Marine Safety Office under Captain Klotz. This increased the scope of his duties and responsibilities to a significant extent, but he accomplished his missions with no appreciable reduction in service.

It is a privilege to acknowledge Capt. Klotz for his evenhandedness and his sensitivity to the difficulties which we in the industry were facing and working through together. His family should be proud to know that this man is held in unusually high esteem and is sincerely appreciated for the job that he has done.

On behalf of all mariners, the Offshore Marine Service Association wishes Captain John Klotz well and God speed.

Mr. Speaker, a native of Leavenworth, KS, Captain Klotz graduated from the Coast Guard Academy in 1959 and was assigned to Honolulu on the cutter *Bering Strait* where he served as deck and engineering watch officer. Reassigned to the cutter *Kukui* as assistant engineer, he participated in the reconstruction of the remote Philippine chain LORAN stations. In 1963 in Mobile, AL, he began his career specialty as a marine inspector. He received special training as a nuclear plant engineer and served as inspector during construction of the MH 1-A floating nuclear powerplant. In 1966 he transferred to Marine Inspection Office Portland, ME, and was promoted to executive officer. Returning to Honolulu in 1969, he served as engineering officer on the cutter *Winnebago*. After completing marine industry training with the American Waterway Operators in January 1972, he reported to Marine Inspection Office New Orleans as inspector and later, senior investigating officer.

While assigned to the United States Embassy in Manila, Republic of the Philippines, from 1975 through 1977, he conducted inspections of United States vessels throughout the Far East and acted as supervisor of the LORAN advisory detail to the Philippine Coast Guard. On return to the United States, Commander Klotz served as executive officer at Marine Safety Office Mobile. In 1980 he was promoted to captain and served at Coast Guard Headquarters in Washington 2 years as deputy chief of the Marine Technical Division. During the following 2 years as chief of the Marine Investigation Division, Captain Klotz coordinated and directed revisions of the vessel casualty reporting system, the commercial vessel safety automated vessel-casualty system, and a detailed analysis program. Implementation of this new data system was instrumental in the development of a more effective reporting system. For this achievement and directing a detailed analysis of fishing, towing and old vessel casualties which brought about current safety improvements, Captain Klotz was awarded the Coast Guard Commendation Medal.

On April 27, 1984, he assumed command of Marine Inspection Office New Orleans. Through a Coast Guard reorganization, in October 1987 Captain Klotz also assumed the role of captain of the port, New Orleans, and the combined commands were designated Marine Safety Office.

Captain Klotz is married to the former Joy Urguhart of Mobile, AL. The Klotzs have two children; Cynthia, an architect residing in Daytona Beach, FL, and Chris, a 1989 graduate of LSU.

NO-ADDS POLICY IS A GOOD GOVERNMENT POLICY

HON. LES ASPIN

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 22, 1989

Mr. ASPIN. Mr. Speaker, this coming Tuesday, June 27, the full House Armed Services Committee will be voting on whether to adopt a no-adds policy with regard to the Bush administration weapons procurement budget. I rise today to report to the House on this topic.

Last Tuesday, in the Procurement Subcommittee that I chair, I moved that we adopt this no-adds policy. My motion was approved 10 to 9. This no-adds policy applies to the dollar items in the procurement title of the National Defense Authorization Act, H.R. 2461, before the subcommittee. That totals $69 billion. If you look in the budget submission, you'll see there's $79 billion in there for procurement. The $10 billion difference is for shipbuilding, which is handled in our Seapower Subcommittee.

The adoption of my motion blocked any add-ons to the equipment requested for procurement in the bill. So far, I have received requests to add $7.8 billion for unrequested equipment for the services. I do not mean to suggest that all these proposals are crude pork. Some of them I like myself.

For example, one proposed add-on calls for $300 million for trucks that happen to be built in Wisconsin. Some people view those trucks as pork. I don't. The Army would like to have them. But in a declining budget era, the Army has chosen to cut trucks to save other programs. This would be the last year for this program. Given the budget crunch, I agree that the trucks are now a lower priority and we can give up the last year of the truck buy.

Another example is the V-22 tilt-rotor aircraft for the Marine Corps. The Marine Corps wants this so badly it might sell its soul to get it. It's not pure pork. But it will eventually cost $28 billion. This is the first year we would be buying V-22's. If we start down this road, we are committing ourselves to a $28 billion program—meaning that we will have to cut $28 billion out of other programs. The V-22 is a nice idea. But it has a very narrow use. In a period of expansive budgets, we could buy it. But in a period of rising deficits and declining defense budgets, there is simply no room for the V-22.

Another example is equipment for the National Guard and Reserves. Every year, the Pentagon shortchanges the Guard and Reserves. It does this for two reasons. First, the Pentagon is run by the active forces. They have always borne a bias against the "weekend warriors." So, the active forces use a different standard for the Guard and Reserve budget than for their own budget. Second, the Pentagon knows that Congress will put money in for the Guard and Reserves because we are very protective of those institutions.

So, how can I support a no-adds policy if I know that adds for the Guard and Reserves can be justified? There are two reasons. The first reason is that there are overriding issues this year. A permanent bar on add-ons would be foolish because it would undermine the Guard and Reserves, but a 1-year hiatus will not do any real harm. The second reason is that we should send a message to the Pentagon to stop this "Washington Monument exercise" and to present a serious budget to us. Most of you have heard the not-so-apocryphal story about a President asking the departments where they would cut to save money. The Interior Department proposes to shut down the Washington Monument—it does that because it knows there is no way the monument will be closed. By proposing a ridiculous cut, it is trying to protect less popular programs. The false budget proposals for the Guard and Reserves fall into that category.

I've mentioned some non-pork requests. There are, of course, many proposals that are really laughable on their face. Let me give you just one example. It's called IPADS, for Improved Processor and Display System. This gem would consume $55 million to build an improvement into old P-3 Orions. These are aircraft that hunt for enemy submarines. And the Navy is in the process of eliminating these P-3's from its inventory. Why should we improve planes just as they're headed for the scrap heap?

The key vote on this no-adds policy comes next Tuesday. I have decided to take this somewhat unorthodox approach for several reasons.

First, while the budget submitted by Defense Secretary Dick Cheney lacks a true strategic underpinning, we are in no position this year to impose a strategic vision of our own. We are in a period of ferment. We're waiting to see if the Gorbachev initiatives really pan out. And the entire country is still sorting through how to respond in that case. In essence, this is an interim budget.

Second, while the budget may not be perfect, it's a darn good product—especially given the 39 days Dick Cheney had to put it together. He deserves an up-or-down vote. And, in his first year in office, I think he deserves a vote of confidence. Many of us were critical of Caspar Weinberger's budgets for their failure to set priorities, terminate marginal programs, or emphasize economic order quantities. Dick Cheney has taken a remarkable first step.

Third, I have received requests for more than $7 billion in add-ons—but there's no room for even the deserving add-ons, let alone the ones that go oink. In previous years, budget submissions have been packed with filler—often $5 to $10 billion worth—that we could slice off and replace with more deserving programs. But Dick Cheney did what we usually do. He has scrubbed the budget of those inflated discretionary management funds, contract savings, unexecutable programs, and other dollars we used to shake out of the budget tree. To insert any volume of add-ons this year would require the wholesale axing of requested items that are defensible military requirements and that have substantial political support in the House.

The denouncement comes next Tuesday, June 27. The full committee will vote on three or more alternatives.

First, it will have before it my no-adds proposal.

Second, Congressman MARVIN LEATH of Texas is preparing a package of add-ons. I do not know how big it will be. I understand it will not contain anything like the full $7.2 billion in requested add-ons. But I also expect that it will be the proposal with the largest volume of add-ons.

Third, Congressman JOHN SPRATT of South Carolina is preparing another amendment. I don't yet know what that amendment will contain, but I expect it to be a more modest package of add-ons than in Congressman LEATH's package.

Fourth, I expect there will be some amendments to add particular individual programs.

I will oppose any and all of these add-ons—not because any and all of them are indefensible, but became I think it is time for Congress to take a stand. We should send a message to the public—and to ourselves—that we must be and we will be more discerning.

Mine is the most radical proposal. Because of that, it faces a tough battle. Clearly, there is a great deal of interest and support in the House Armed Services Committee in tacking add-ons onto the defense bill. After all, Congressmen seek seats on the committee because they have interests to protect back home. This gives a built-in boost to any effort to add to the bill. Should one of these packages be approved, the one consolation we have is that it will be a mere fraction of what might otherwise have been tacked onto the bill.

The defense budget is going down. In real terms, this will be the fifth straight year in which the defense budget is going down. We peaked in the fiscal year 1985 budget. In successive years, the defense budget has declied—after allowing for the impact of inflation—by 4 percent in fiscal year 1986, then 3 percent in 1987, 3 percent again in 1988, 1 percent in 1989, and 1½ percent in the 1990 budget that is now before us.

In the coming years, the defense budget will continue down. The pressures of Gramm-Rudman to reduce spending in order to reduce the deficit will be larger in 1991 and 1992 then they have been in the past. That forces a lower defense budget. Furthermore, if the Soviet defense cuts announced by President Gorbachev materialize, I expect the public will argue for U.S. defense cuts on a higher scale.

All this means that we must think long term as we put together this year's defense budget. Yes, we ought to keep the pork out of the budget. But the issue is even broader than that. We have to keep reasonable but lower priority programs—like the V-22—out of the budget because they threaten to crowd out the higher priority programs that we have an obligation to fund first.

A vote to freeze the procurement budget this year and to bar any add-ons is admittedly an unorthodox approach. It's also not the world's most sophisticated approach to budgeting. But let's not make some theoretical best the enemy of the good option before us. This no-adds policy is a good government policy. It makes sense. I hope that all Members will support it. And I hope that from coast to coast the public will tell their representatives that the national interest should take precedence over the parochial concerns.

SISTERS OF ST. JOSEPH CENTENNIAL CELEBRATION

HON. HOWARD WOLPE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 22, 1989

Mr. WOLPE. Mr. Speaker, I rise to pay tribute to the Congregation of the Sisters of St. Joseph on the occasion of the centennial of the order's presence and service in Michigan. The Congregation of the Sisters of St. Joseph was founded in Le Puy, France, in 1651. In 1886, eight Sisters of St. Joseph arrived in New Orleans and eventually settled in Carondelet, near St. Louis, and began their work in the United States.

In 1889, Sister Margaret Mary Lacy of Carondelet and nine Watertown Sisters came to Kalamazoo in response to a request from the Right Reverend Francis O'Brien, pastor of St. Augustine Parish.

Their first mission—a 20-bed hospital named Borgess Hospital—opened on August 15, 1889, and has grown to become one of the most respected health care delivery facilities in the Nation. That same month in 1889 the Sisters opened St. Francis Home for Orphan Boys in Monroe, MI, and 2 years later, they took over responsibility of the LeFevre Institute which subsequently was renamed St. Augustine School. In 1897, the Sisters of St. Joseph began construction on their motherhouse, novitiate, and private school for girls. The motherhouse was dedicated in September 1898. Within their first decade of service in Kalamazoo, the Sisters of St. Joseph were also instrumental in the founding of Nazareth Academy, Barbour Hall, St. Agnes Foundling Home, Villa St. Anthony for Special Children, the St. Joseph, and the St. Mary School in nearby Niles.

Today the Sisters of St. Joseph are found wherever there is a need, whatever the need may be; helping others to live in dignity, serving with the gifts and abilities God has given them. The Sisters work directly with the poor in soup ktichens, in housing projects, and in prisons and jails; they serve in senior citizen centers and adult education centers, while maintaining their other activities in teaching and health care. Their goal is to not only help others take care of their immediate needs, but also to bring about systemic changes to eliminate the causes of poverty and powerlessness.

Mr. Speaker, the Sisters of St. Joseph take understandable pride in their ecumenical spirit and in their historical involvement in social issues confronting the wider community. This centennial celebration commemorates the order's activities in Michigan. It is a very special event, reflective of the order's sense of its own history and its confidence in its future. I feel privileged to represent and to work with constituents who use the celebration of their history as a means of recommitting themselves to their religious heritage and their service within the community.

VETERANS DUE AN APOLOGY

HON. JOHN G. ROWLAND

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 22, 1989

Mr. ROWLAND of Connecticut. Mr. Speaker, I rise today to express my deepest sorrow to our Nation's veterans on two counts. First, we see that the Supreme Court sadly decided that Old Glory could be set on fire as a justifiable expression of free speech as protected by the first amendment to the Constitution. Our veterans risked their lives for the flag and this is a shameful way to repay them.

Second, and equally shameful, Congress continues to tell our veterans that partisan politics and pork barrel spending are more important than their medical care.

Congress and the Supreme Court have joined together to tell our service men and women that they must continue to risk their lives, but now under a flag that has lost its sanctity and dignity.

To our veterans, I am heartfully sorry. And to my colleagues, I say let us pass a clean veterans supplemental appropriations bill and end this silly ping pong game at the expense of our veterans.

CURRENT TIMBER SUPPLY CRISIS

HON. DENNY SMITH

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 22, 1989

Mr. DENNY SMITH. Mr. Speaker, today I am introducing two bills that address two separate problems that have arisen in the Northwest because of the current timber supply crisis.

The first bill would provide for a $20,000 reward for information concerning the placement of hazardous devices on Federal lands including the spiking of timber resources. Last

year, as part of the omnibus drug bill, we increased the penalties for such acts of sabotage.

However, because of the nature of the crime, it has been impossible to catch the perpetrators. Tree spikers can act months before a timber sale is offered. Any evidence of their crime, other than the deadly tree spikes, is long gone by the time the spikes are discovered. Without a reward system for information, these criminals will never be caught.

These acts are a real threat to human life. Tree spiking is designed to maim or kill mill workers and loggers. A mill worker in California had to have his face rebuilt because a saw blade came flying across the mill after hitting one of these spikes.

Most of my mills in my district have had to install costly metal detectors in an effort to protect their workers. So now those who value a tree more than a human life have switched to ceramic spikes, which have the same deadly result. I hope my colleagues will help me end these acts of violence against innocent workers.

The second bill I am introducing would require the Federal Government to pay interest when the harvesting of timber under a Federal timber sale contract is delayed for more than 30 days by a court injunction on administrative stay.

Many Northwest mills are located in small communities, and are the mainstay of the local economy. The Federal Government now requires substantial up-front capital when it awards a timber sale. When that money is held up indefinitely, the whole community loses. The mill can't harvest the timber it has under contract, and it has less capital to purchase alternative log supplies.

This bill is a fair response to this situation, and may also bring some order to the issuance of stays and injunctions.

I would ask my colleagues to join me in support of Northwest workers by cosponsoring these bills.

PERKINS SCHOOL RECOGNITION CEREMONIES

HON. JOSEPH D. EARLY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 22, 1989

Mr. EARLY. Mr. Speaker, on Sunday, June 11, 1989, I was invited to the recognition day ceremony at Dr. Franklin Perkins School in Lancaster, MA. I was honored to receive the Distinguished Service Award from the school.

I would like to share with our colleagues and you, my thoughts and memories on such a wonderful and inspiring institution. Dr. Franklin Perkins School has for 50 years, provided educational programs for developmentally delayed children and adults. The school provides such things as residential facilities, highly motivated and professional staff, an accessible campus, and educational programs that encourage the students to embrace "family involvement, educational challenge, and movement toward maximum independence."

Mr. Speaker, I wish to pay tribute to this institution, and to all of the wonderful children and adults whom I was honored to address on that commencement day, and to all of the future students who will be touched by Dr. Franklin Perkins School's magic.

COMMENDING COMMANDER CARL WOLCOTT

HON. W.J. (BILLY) TAUZIN

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 22, 1989

Mr. TAUZIN. Mr. Speaker, one of the more perplexing and frustrating tasks facing an offshore marine operator is compliance with the ever-changing complex of regulations on licensing and the documentation of the seamen who man our vessels. Many operators have told me that personnel matters are probably the most challenging to manage.

The point of contact between these businessmen and the Government is the U.S. Coast Guard Regional Examination Center. The officer who runs the center can have a significant impact, directly and indirectly, upon both individual marine service companies and the industry as a whole.

On the eve of his retirement from the U.S. Coast Guard, the Offshore Marine Service Association conveyed to me its strongest sentiments that public and private sectors have both benefited greatly and have been well served by Commander Carl Wolcott over the past 2 years. The industry has commended Commander Wolcott for his knowledge and character. In part, the Offshore Marine Service Association commendation reads:

Commander Carl Wolcott's good spirit and his willingness to work hard and equitably with individuals, operators, educators and with the Offshore Marine Service Association are highly commendable. He has strived to find ways to accomplish his Coast Guard mission in a conscientious way, while ensuring that industry would be able to comply with the law and regulations without unnecessary burdens."

We sincerely appreciate the objectivity that Commander Wolcott has brought to his post as well as his sincere good faith in dealing with any question or challenge to him by his command and by the industry.

We regret losing him and we shall miss him. We certainly wish him well in his future endeavors.

Mr. Speaker. On the occasion of the retirement of Commander Carl Wolcott from active Coast Guard duty, I have the privilege and honor as chairman of the Coast Guard and Navigation Subcommittee of the Merchant Marine and Fisheries Committee to offer my personal commendation to the Commander for his many and valuable contributions to this Nation and to the Coast Guard.

MAKING PROGRESSIVE VALUES COUNT

HON. BYRON L. DORGAN

OF NORTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 22, 1989

Mr. DORGAN of North Dakota. Mr. Speaker, when it comes to articulating progressive values, Mark Green takes a back seat to no one.

For weeks, the Nation has been mired in an endless debate about peripheral ethics-in-government questions. While the press has rehashed the same information about political action committees, hardly any one has raised tough questions about the real moral choices: Why must 40,000 kids die each day of malnutrition? How can the world justify spending $17.5 trillion on military budgets since World War II while most of humanity is struggling to survive? Can a wealthy nation give away luxury tax breaks for economically destructive megamergers while millions of citizens can't make a decent living?

Mark Green pops the Michael Milken bubble: maximum personal income for minimum societal benefit. He points to all of us, Bush administration included, to a more excellent standard. He calls us to put progressive values four square in the middle of the national policy debate.

To this end, I commend to the attention of my colleagues Mark Green's article, "Progressive Values for America." Article from the January 30, 1989, issue of the Nation follows:

PROGRESSIVE VALUES FOR AMERICA

(By Mark Green)

America is in transition, even if the executive branch is not. Belying the comfortable metaphor of George Bush's "friendly takeover" of the Reagan Administration, great changes are taking place in the world: global warming, Soviet counterrevolution, movement in the Middle East. At home, America faces stagnant wages and mountainous debt, and among Western countries it ranks lowest in voter turnout and highest in children living in poverty.

At this moment of opportunity and peril, Democrats understandably doubt that Bush can provide imaginative leadership. After all, his quarter-century career is undistinguished by a single idea or cause, and his campaign was without content, his victory without vision. At best we can only hope that his prepresidential training proves to be, as has been said of Wagner's music, "better than it sounds."

And yet, the issue for Democrats isn't really Bush. Nor is the issue even issues. It's values, just as Bush maintained in the campaign—though hardly the flag-waving ones he pushed so shamefully. From the turn of the century, the progressive philosophy has held that a fair and frugal government could improve the quality of our lives by curbing private-sector abuses. As we enter a decade of transition, five principal values should guide the loyal opposition in Washington: strong democracy, demand-side growth, children first, post-cold war peace and respect for law. Together they constitute a foundation for change and a fresh approach as much at odds with prevailing conservative orthodoxy as Copernicus was with Ptolemy.

STRONG DEMOCRACY

For the United States to fulfill its revolutionary promise, citizens need to adhere to the twin principles of patriotism—participation and mutuality.

A century ago, 80 percent of eligible Americans voted (about the current average turnout among our Western allies). In 1960, it was 63 percent; in 1988, 50 percent; and in the last nonpresidential election, 33 percent. Americans who once crossed the oceans to fight for democracy now don't cross the street to exercise it. How do we know when a democracy is dying? Surely one measure is the number of its residents who consider it worthwhile to choose the representatives who govern their lives. If too few vote, however, will officials know what is in the broadest national interest? Will some communities fail to be heard—while others are heard too loudly? If a 50 percent turnout is still a democracy, is 33 percent? Ten percent? What about when Americans with annual incomes of less than $5,000 are half as likely to vote as those earning more than $50,000, giving the affluent one and a half ballots each compared with the poor?

Two of the reasons for this decline of participation are registration requirements and political action committees.

Cumbersome voter registration laws were erected a century ago to discourage new black and immigrant voters. Yet while other laws with an invidious intent, such as literacy tests, have been prohibited, registration laws endure. Isn't it foolish, for example, that 500 high-school students each separately try to find their way to one Board of Elections to register rather than having one board representative go to the school to register them in a day?

Also, the proliferation of PACs—almost half of all members of Congress get at least half their funds from legislatively interested PACs—discourages participation. Citizens may not bother voting when their representatives seem more interested in their contributors than in their constituents. Officeholders predictably don't go out of their way to bite the hand that funds them. The result: Congress tilts to organized interests rather than average citizens; good people are priced out of seeking public office; Congress suffers staleness as insulated incumbents serve near-lifetime tenures; and voters turn off—e.g., while one in three voters thought their voice didn't count in 1966, according to a Harris poll, now two out of three believe so.

"The solution to the problems of democracy," Governor Al Smith of New York once said, "is more democracy." Using the Smith prescription, the White House and Congress should enact Senator Alan Cranston's Universal Voter Registration Act, further reduce or eliminate PAC influence, provide for free TV time for general election Congressional candidates and schedule elections on nonwork days—say, the second Saturday in November. Call it Democracy Day. To enact this empowerment program requires only that Democrats in the Congress vote their beliefs and that Republicans, long frustrated at their minority status because the PACs entrench incumbents, vote their self-interest.

As for mutuality, a strong democracy needs to emphasize that citizens have not only rights but obligations. To sit on juries. Pay taxes. Obey laws they don't like. Assist those worse off. Mutuality also means meeting reasonable conditions if receiving a Federal benefit, especially in an era of tight budgets. Citizens and corporations receiving public benefits have responsibilities to the taxpayers who confer them—from students' repaying loans to corporations' commitment not to flee suddenly the community that provided inducements to invest there.

Ultimately, a strong democracy is a primary value because, without it, powerful interests can stymie the national interest and overwhelm all other values. Without PAC reform, for example, we should not be surprised that military contractors continue to dominate the defense budget process and that a single Stealth bomber costs more than providing prenatal care for all pregnant women in poverty.

DEMAND-SIDE GROWTH

While supply-side conservatives want to bribe owners with incentives to produce, demand-side progressives want to spur economic growth by providing workers with an adequate income to signal producers where to invest. It's the difference between trickle-down and trickle-up economics.

We are all familiar with the supply-side theory, pioneered by Andrew Mellon in the 1920s and popularized the Reagan Administration. In an update of Say's Law—that supply creates its own demand—Reaganites concluded that the best way to produce sustained growth was to concentrate on stimulating well-off investors to save, invest and produce more. This emphasis, however, conveniently led to a flood of corporate giveways and upscale tax breaks.

The results? Savings and investment fell after enactment of Reagan's tax and budget programs in 1981, and the distribution-of-wealth gap predictably widened. The planned, massive redistribution from labor to capital produced the greatest disparity between the wealthiest fifth and the poorest fifth of American families in forty years, as $9.50 in income was added at the top for every $1 lost at the bottom. While the average American worker earned $281 a week in 1983, he or she earned only $276 a week (in constant dollars) by 1988.

This policy failure, however, was accompanied by a political success. George Bush won the economic argument of 1988 by citing the Administration's sixty-nine consecutive months of sustained growth and by attacking "the failed policies of the past" (*aka* Carter-Mondale). This is triply ironic. First, economic growth under Democratic Administrations over the past half-century has been six times greater than under Republican Administrations. Second, the reason for the continuous growth under Reagan and Bush was hyper-Keynesian deficit spending (financed from abroad) that Reagan had denounced in 1980 as inflationary. And now, Reagan blames "big liberal spenders" for the deficits that created the borrowed prosperity that he and his successor brag about! (But for the intellectual dishonesty, you almost have to admire their argument for its audacity.)

Compounding supply-side's failures, however, is it 1990s descendant: austerity. Precisely because of Reagan's legacy of debt, many in the business community urge slashing wages, consumer spending and Federal entitlements in order to reduce the deficit and encourage capital formation. Which brings to mind Oscar Wilde's observation, "Nothing succeeds like excess." Why further squeeze the middle class to further enrich an economic elite that previously simply pocketed, rather than invested, its tax cuts.

It's foolish to believe we can impoverish ourselves into prosperity. If the goal is to keep our wages "competitive," do we keep depressing them to the level of Korea's, or Sri Lanka's? The austerity school followers would so reduce individual and Federal spending as to risk the kind of severe recession certain to depress the very savings they seek.

What we need is demand-side growth. If average Americans have an adequate wage, their spending will create markets for manufacturers to supply. Keynes once wrote about the Depression's lack of consumer demand, "The patient does not need rest, the patient needs exercise!" He understood that owners and managers won't build a factory unless there are consumers who want its product, regardless of how much idle capital is around. Say's Law should have been discredited during the Depression, when there was supply without demand. Instead, demand-side law assumes that demand creates supply and that there's no fixed tradeoff between spending and saving. More consumer and government spending can spur *more*, not less, output, savings and jobs. The risk of added inflation today appears modest due to world surpluses, low inflation to begin with and no recent experience with demand-pulled inflation.

How would the value of demand-side growth affect policies? In labor markets, we need a "new social contract," in Robert Kuttner's phrase, that can cheat the traditional tradeoff between inflation and unemployment: Labor gets secure, well-paying work and lifelong retraining while management gets a high-quality work force and labor peace. This means a liveable minimum wage, more employee participation and stock ownership, and government investment in retraining (since the private sector habitually underinvests there). The United States could look to Sweden, which prefers to subsidize re-employment rather than unemployment: While 80 percent of our labor market outlays go to unemployment compensation and 20 percent to retraining, in Sweden the ratio is reversed.

In fiscal policy, we should stop being obsessed with our budget deficit as the only economic enemy. The deficit should be reduced *gradually* but not so precipitously as to trigger a recession. In monetary policy, lower interest rates should precede higher taxes on the top bracket, which can ease the deficit without reducing consumption and provoking a recession. In terms of Third World debt, lending nations should negotiate a write-down so that debtor nations can afford to be consumers of the lenders' exports. Americans must understand that debt and trade do not comprise a zero-sum game—we prosper when others do.

CHILDREN FIRST

Until very recently, public policy didn't consider children to be significant. Parents raised children, not government. Indeed, when Congress began discussing child care for struggling working families in 1971, President Richard Nixon attacked and dismissed it as a version of Big Brother socialism. Yet by 1988, Vice President George Bush was campaigning for a child care tax credit because "child care is nothing short of a family necessity." Between Nixon's indifference and Bush's concern came a confluence of demographic and economic trends that elevated the issue of children, especially children in poverty.

The simultaneous increase in single-parent families and decline in real value of the minimum wage, for example, have produced a poverty rate among children (at least 20 percent) that is the highest of any

industrial democracy. The 1970s and 1980s also saw an unprecedented influx into the work force of women with children—without safe, affordable, quality child care. There has been a large increase this decade in reported cases of child abuse, teen-age pregnancy and school dropouts. Because the Reagan Administration funding cuts in prenatal care and child immunization, there are more low-birth-weight babies, and the infant mortality rates among minorities in the United States exceed those of many Third World nations. Last, as American education scores and employees' skills have fallen in our world marketplace, many business groups began calling for increased spending on education.

An unusual alliance of the compassion lobby and the corporate lobby helped make the issue of children more prominent in the 1988 presidential campaign than the issue of, for example, *contra* aid.

A policy of "Children First" must be a pre-eminent social value for an obvious reason: As nonvoters and nonpurchasers, children cannot represent their own needs. Consequently, laws should have a "children's impact statement," so that legislators can anticipate how bills might help or hurt the most vulnerable among us. Second, spending on children should be considered more an investment than an expenditure. Since every $1 spent on prenatal care saves more than $3 through fewer hospitalizations of premature babies, and since early education programs now will help equip the work force of the next century, policy should be guided by the prudent ethic of "pay now or pay (more) later."

A Children First program would include universal prenatal care; parental leave; child care in the workplace; drug treatment on demand; stronger product safety regulations; expanded Head Start and Women, Infants and Children, school nutrition and student loan programs; and a higher minimum wage and earned income tax credit so that working families will not live in poverty. There can be no better pro-family policy or use of taxpayer funds than investing in the minds and bodies of children.

POST-COLD WAR PEACE

The first obligation of government is peace—the protection of its citizens from external aggression. No society can pursue growth, equity and excellence at home if it is not free from serious military threat.

America's postwar foreign policy has largely brought us peace, but at the cost of an immensely expensive arms race and the risk of nuclear incineration. Now, however, a once-in-a-lifetime development is underway that could diminish this cost and risk: The cold war—the central fact of the postwar era—is probably defunct. Mikhail Gorbachev's U.N. speech and internal reforms clearly distinguish him from his predecessors who indolently allowed their country to stagnate from a lack of political and economic freedoms.

But what should the U.S. response be? To date, American leaders have largely been spectators without a strategy. President Reagan deserves praise for finally appreciating the need to trade proposals rather than insults. But there's still no concensual answer to the following obvious question, posed by The New York Times: "If Mikhail Gorbachev succeeds in reforming the Soviet economy, will Moscow pose more or less of a threat to Western security?"

Isn't the answer less? A Soviet Union that evolves from a military economy to a civilian one, allows for more pluralism and markets, increasingly (though slowly) frees refuseniks, renounces world expansionism and advocates nuclear reductions is good for the United States. In an era of nuclear parity, in which more nuclear weapons do not purchase more safety and in which one reason we survive today is that the Russians chose not to launch any of their 25,000 nuclear weapons, the only enduring way to peace is to reduce tensions through negotiations.

That means that, as Stephen F. Cohen has argued, we must meet Gorbachev halfway. How long can he make concessions without responses? Unless he can demonstrate real gains to his hard-liners—say, American arms reductions to match the Soviet Union's or Western loans at market rates for domestic investment—Gorbachev may fail and be succeeded by a tradional cold warrior.

So while the value of peace required the "containment" of Stalin's Soviet Union at the height of the cold war, today the same value requires a shift from containment to cooperation—because it's in our national interest. The United States must continue to be skeptical and vigilant, but also should show its own "new thinking" to seize an opportunity that could produce huge dividends in three areas: the reduction of nuclear arms, conventional arms and regional conflict.

In nuclear arms, the new President and Congress should pursue the promising initiatives begun at the Reagan-Gorbachev summits. Unlike all prior weapons in history, nuclear arms exist to deter and not be used; each side, consequently, must avoid destabilizing weapons—those capable of launching a first strike and "winning" a nuclear exchange—since those may provoke a pre-emptive attack. Also, it's time to use the bargaining chip called the Strategic Defense Initiative to obtain a great compromise: that both sides slash their ballistic weapons to below the number that would trigger a "nuclear winter," and both confine any strategic defense systems to the laboratory. Last, the world will be safer with a comprehensive test ban treaty. If John Kennedy had persuaded his Pentagon to accept the treaty he desired, rather than only the limited test ban, today there would be no hydra-headed MIRVs (multiple independent re-entry vehicles) and no undetectable nuclear-tipped cruise missiles.

In conventional arms, in the early 1960s, the Pentagon budget was based on America's ability to fight two large wars and one small war at the same time. But Secretary of Defense Melvin Laird changed a two-and-a-half-war strategy to a one-and-a-half-war strategy after the "Chinese threat" effectively disappeared. The next defense secretary should pursue similar savings if the Russians join the Chinese as a former obsession.

The most obvious place to start would be Western Europe, where the United States spends 60 percent of its defense budget defending NATO. Following up on Gorbachev's dramatic U.N. announcement about unilateral Soviet troop reductions, after inauguration President Bush could match or top the General Secretary in advancing a post-cold war peace. The United States should at least agree to a "defensive defense" strategy whereby both sides would be strong enough to repel an attack though not to launch one. Or Bush could make a bold, historic counterproposal that would establish him as a world leader for peace: a complete, mutual withdrawal of all superpower troops from Eastern and Western Europe.

In regional conflicts, both superpowers have expensively learned that there are limits to their power to dominate Third World events and countries, especially after Vietnam and Afghanistan. In the 1990s, let's test Gorbachev's assertion that there is no longer a military solution to any of the great political conflicts around the world. Already, several regional conflicts are being resolved—the Iran-Iraq war, Mozambique, Namibia, Angola. If U.S.-Soviet relations continue to warm, it should not be inconceivable to attempt understandings about such hot spots as Nicaragua, South Africa, the Middle East and Cuba. Beyond discussing such difficult regional conflicts, the United States should aggressively challenge the Soviet Union—with whom we once cooperated to win a world war—to cooperate in addressing such common problems as world hunger, nuclear proliferation, environmental hazards, terrorism and AIDS.

RESPECT FOR LAW

Throughout our history, Americans and America's leaders have displayed a special fidelity to law and ethics. If anything, our Revolution militantly rejected arbitrary government and embraced the principle that no person is above the law. Recall that the late Senator Paul Douglas would return every gift sent him worth more than $5. And recall that Dwight Eisenhower vetoed a natural gas deregulation bill that he avidly supportd because a natural gas lobbyist had tried to bribe a New Jersey senator before final passage.

It's a sharp drop from Ike and Douglas to Edwin Meese 3d, Michael Deaver, Lyn Nofziger, Robert McFarlane, Rita Lavelle and Paul Thayer—not to mention Oliver North and dozens of lesser-knowns who feathered their nests at taxpayer expense and who seemed to take literally their constitutional oath to "*execute* the laws faithfully." "For God's sake," said Elliot Richardson, four times a Republican Cabinet secretary, "are we not entitled to hope that the next Administration will be a little less sleazy?"

A new Administration and Congress have the opportunity to spotlight again the value of law. First, once in office President Bush should nominate, and the Senate confirm, only people who will pledge allegiance to public service and ethics. People such as F.D.R.'s Francis Perkins and Truman's George Marshall and Kennedy's Stewart Udall and L.B.J.'s John Gardner and Ford's Edward Levi and Carter's Cyrus Vance, who were more interested in making history than money. Second, above all other positions, the Attorney General and each Federal judge should be "a meet person, learned in the law" (Judiciary Act of 1789) and not merely a Daniel Manion who passes a reactionary saliva test. Third, the installed Bush should sign the ethics bill his predecessor vetoed, a bill to discourage executive and Congressional branch members from cashing in on their public office. And he should make clear that any appointee who failed faithfully to comply with the law's letter and spirit would be out on his or her ear the next day.

Without respect for law and ethics, the necessary bond of trust between the governed and their governors may break.

The performance of incoming Presidents is invariably measured against F.D.R.'s first hundred days, when the greatest domestic crisis of the century and an overwhelmingly Democratic Congress gave Roosevelt carte blanche to fight the Depression. In 1989, however, such a benchmark artificially con-

strains the real transition challenge for the United States. The prospects and problems are simply too long-term to fit into such neat journalistic boxes as First Hundred Days.

Indeed, dropout rates of 50 percent in our central cities, $150 billion annual budget and trade debts and a depleted ozone layer took decades to develop; their solutions may take no less. Some of the most significant public policy reforms of the last half century, such as the Public Utility Holding Company Act, school desegregation, Federal securities laws and automobile safety standards all took a decade or two of great effort by committed advocates before they became a reality. As Justice Arthur Vanderbilt of the New Jersey Supreme Court once wrote, "Reform is not for the short-winded."

The time to begin a campaign for progressive change is with Bush's inauguration—indeed because of it. No political philosophy worth its precepts should default because of a defeat, or defeats. After eight years of conservative Republican indictments, deceits, deficits, drugs and poverty, why should progressive Democrats be in any way apologetic? Because Dukakis flopped in the second debate and forgot to respond to the slandering of the liberal tradition? Instead, progressive Democrats need to advertise unapologetically their winning values in order to co-govern and to provide a foundation for this decade of transition.

So don't listen to Lee Atwater, now of the Republican National Committee, or Al From, of the Democratic Leadership Council. The progressive mainstream has a potent message, even if it currently lacks a presidential messenger.

THE AMERICAN FLAG

HON. LYNN MARTIN

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 22, 1989

Mrs. MARTIN of Illinois. Mr. Speaker, like many Americans around our Nation I received with dismay news of the Supreme Court's recent decision stating, in effect, that the guarantees of free speech and expression provided under the first amendment of the Constitution extended to those who would purposefully desecrate the flag of the United States.

Recent events in China have reminded us in a most tragic and dramatic fashion of the preciousness of the freedoms of free speech and assembly which our Constitution grants us. The rights and protections granted us under the first amendment are fundamental to our democracy. For this reason I believe that the decision which the Court confronted was an especially difficult one. Yet, I believe that in this particular case the Court, reflecting its profound and well-placed respect for the first amendment, erred on the side of caution.

Consistent with this belief, I have today introduced a resolution which would amend the Constitution for the purpose of granting Congress the authority to enact legislation to protect the integrity and dignity of the flag of the United States. This amendment's impact on the first amendment would thus be most strictly limited.

The American flag stands throughout the world as the preeminent symbol of freedom and of Government's respect for human dignity. Through respect for our flag we express respect for the Constitution and for the democracy which it represents.

INTRODUCTION OF STRATOSPHERIC OZONE PROTECTION ACT OF 1989

HON. JIM BATES

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 22, 1989

Mr. BATES. Mr. Speaker, yesterday, I introduced the Stratospheric Ozone Protection Act of 1989.

This legislation comprehensively addresses the depleting stratospheric ozone layer, and has been long awaited in the House of Representatives. Both Republicans and Democrats have joined in cosponsoring this bill.

I would like to thank Chairman HENRY WAXMAN for his support and guidance in crafting this. In addition, I appreciate the support this bill has received by such Members as CLAUDINE SCHNEIDER, GERRY SIKORSKI, BILL RICHARDSON, and others too many to name at this time.

The Stratospheric Ozone Protection Act of 1989 phases out in reasonable fashion those chemicals which significantly contribute to the depleting stratospheric ozone layer, and provides both short-term and long-term strategies to assist in the phaseout schedule.

Recently, there has been much publicity about improving the Clean Air Act. Some 150 million Americans are currently exposed to unhealthy levels of ozone air pollution and/or carbon monoxide. However, every American, indeed every person living on this planet, is exposed to the health risks associated with the depleting ozone layer. The effects of continued ozone-depletion range from direct human health damage to indirect but potentially massive ecosystem disruptions.

The source of the problem is as close as your refrigerator, your automobile air conditioner, or the fast-food container you may have recently used. These everyday items release chlorofluorocarbons [CFCS], which float toward the paper-thin ozone layer. Halons, which may be found in fire extinguishers, react in similar fashion. Under the right conditions, CFCS and halons destroy the ozone layer.

As ozone is reduced in the upper atmosphere, the Earth receives more and more ultraviolet radiation. Increased ultraviolet radiation causes skin cancer and eye cataracts, depresses human immune systems, reduces crop yields, and disrupts ecosystems. Increased radiation also aggravates the smog and acid rain problems. Finally, ozone-destroying chemicals are known to increase global warming, which causes changes in climate, droughts, heat waves and a destructive rise in sea levels.

The EPA estimates that, given current depletion rates, the increased ultraviolet radiation will cause the following among Americans born before 2075:

Melanoma, which is a fatal form of skin cancer, will increase between 31,000 to 126,000 additional cases with 7,000 to 30,000 deaths.

Common skin cancers will increase from 3 to 5 million additional cases, with 52,000 to 252,000 deaths.

Eye cataracts will increase between 555,000 to 2.8 million additional cases.

Clearly what is needed is strong, immediate action. The Montreal Protocol's phaseout schedule, 50-percent reduction over 10 years, is a step in the right direction. But it will not reverse ozone depletion. In addition, carbon tetrachloride and methyl chloroform, two chemicals known to deplete the ozone layer, are not included in the protocol.

The United States, the world's largest producer and user of chemicals that destroy the stratospheric ozone layer, should lead this international effort by example. The comprehensive action required by this legislation would reestablish the United States as the world's leader in protecting the stratospheric ozone layer.

The President has proposed a 100-percent phaseout of these chemicals by the year 2000. However, this would mean that the peak ozone destruction would persist for another 50 years.

The Stratospheric Ozone Protection Act amends part B of the Clean Air Act. It will phaseout the nine most destructive ozone depleting chemicals, while encouraging the research, development and usage of less destructive chemicals.

Specifically, the Stratospheric Ozone Protection Act of 1989 puts the five most poisonous CFC chemicals, the three most dangerous halon chemicals, carbon tetrachloride, and methyl chloroform on a phaseout schedule that would immediately freeze production at 1986 levels, reduce production 50 percent by July 1, 1993, and prohibits production of these chemicals by July 1, 1996. The EPA can accelerate that schedule if it is determined that the ozone layer degradation is increasing or safe substitutes are available.

The legislation also places a limit on the growth of less destructive ozone depleting chemicals by requiring that total ozone depletion be reduced by July 1, 1997. This provision is important in controlling the amount of chlorine released into the atmosphere.

The legislation includes trade sanctions that can be used to leverage other countries and convince their governments to adopt phaseout programs similar to ours. The trade provisions are designed to ensure that U.S. industries will not be penalized by domestic unilateral action to eliminate CFCS and halons.

Also included in the legislation is a safe alternatives policy. The policy is designed to ensure that our efforts to ban ozone depleting chemicals do not lead to an increase in the use of substitute chemicals that harm human health and the environment. This policy is integral to a successful phaseout of ozone depleting chemicals, and compliments the ambitious phaseout schedule included in the bill.

Automobile air conditioners, which represent the largest end-use of CFCS nationwide and third largest use of CFCS worldwide, are also addressed in the Stratospheric Ozone Protec-

tion Act. Two years after enactment, service station personnel, when servicing automobile air conditioners, must be trained in the proper use of approved refrigerent recycling equipment.

Finally, the legislation requires products containing CFCS or manufactured with CFCS to bear a public health warning label.

CFCS have been found to be a Dr. Jekyll-Mr. Hyde type of chemical. CFCS are widely used by industry and consumers because they are nontoxic, nonflammable, and score high on thermal energy absorption. However, we now know that CFCS have created a global environmental crisis, which may take years to remedy. This legislation is an excellent step in that direction.

THE SOCIAL SECURITY NOTCH

HON. ELIOT L. ENGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 22, 1989

Mr. ENGEL. Mr. Speaker, I rise today in support of H.R. 917, of which I am a cosponsor. This bill is designed to correct the Social Security notch problem, which causes people born between 1917 and 1921 to receive smaller Social Security payments than others. This is unfair. H.R. 917 is designed to correct the notch problem by providing a formula to increase benefits for these deserving senior citizens.

It is wrong for people who are born between 1917 and 1921 to be treated as second-class citizens. These are hard-working people who deserve to be treated with the same dignity and respect that we give to other persons who receive Social Security. I urge my colleagues to join me in fighting for the rights of these notch babies who have been denied benefits to which they are entitled.

The Social Security notch occurred in an effort to correct an error in the Social Security Amendments of 1972, which indexed Social Security benefits to the cost of living. When Congress originally passed this legislation, it intended Social Security recipients to receive 42 percent of their last year's wages.

A mistake in the benefit calculations caused the average payment benefit to increase to 55 percent of preretirement earnings by 1977. If this error had been allowed to continue, the Social Security trust fund would have run out of money because it would have been paying out more money than it was taking in.

The 1977 Social Security amendments sought to stabilize future payments by gradually lowering benefits by 6 to 10 percent over a 5-year period. Unfortunately, this legislation caused an abrupt change and resulted in people born between 1917 and 1921 often receiving over $100 less per month than those born in other years, despite identical work and wage histories.

I believe the notch has resulted in arbitrary benefit discrepancies which are unfair and jeopardize the integrity of the Social Security System. I urge the Ways and Means Committee to take action on H.R. 917 and to correct the Social Security notch. Let's help these people who were born between 1917 and 1921.

INTRODUCTION OF LEGISLATION TO PROPOSE A CONSTITUTIONAL AMENDMENT AGAINST DESECRATION OF THE AMERICAN FLAG

HON. JOHN J. RHODES III

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 22, 1989

Mr. RHODES. Mr. Speaker, today I am introducing a proposed amendment to the U.S. Constitution to undo the preposterous and tragic decision yesterday by five members of the U.S. Supreme Court in the case of Texas versus Johnson.

I am utterly shocked and disgusted by this decision which sanctions as an expression of free speech, the burning of the American flag. Millions have died for our flag. Millions, including myself, have served in our Armed Forces for the defense of our country and our flag.

In my opinion, desecrating the U.S. flag is desecrating all that America stands for. I find the Court's action absolutely unbelievable. The American flag is unique; it is our national symbol and it deserves unequaled protection. Now—and I truly find this incredible—the Government may not prohibit the public burning of the banner and symbol under which millions serve, have served, and have died.

This preposterous decision threatens the American flag as a symbol of our national unity. The decision is a slap in the face of all Americans, and must be corrected.

I ask all my colleagues to join in correcting this travesty of justice. Let us join together and quickly adopt a constitutional amendment and send it to the several States for ratification, to protect the sanctity of the American flag and provide for the punishment of those convicted of disgracing our most cherished national symbol.

A PRIVATE BILL FOR THE RELIEF OF MR. LONG SHENG YU

HON. WAYNE OWENS

OF UTAH

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 22, 1989

Mr. OWENS of Utah. Mr. Speaker, today I rise to introduce a bill for the private relief of Mr. Long Sheng Yu, a Chinese biomedical engineer employed by the University of Utah, and an integral participant in U.S. research into the development of the artificial heart. Mr. Yu is the primary assistant to Dr. Willem J. Kolff, the inventor of the artificial kidney, and they are currently pursuing exciting new avenues together into the production of a workable artificial heart.

I have previously requested a waiver from the 2-year foreign residence requirement of the Exchange Visitor Program, through the Department of Health and Human Services, which was unfortunately denied. Under the terms of his J-1 visa, he is now required to leave the United States for a period of 2 years before his visa can be renewed, at a time when the practical artificial heart he and Dr. Kolff have been developing seems closer than ever—and also at a time when events in China are in unpredictable turmoil. I am introducing this special bill before the House in an effort to keep this gifted and irreplaceable scientist at the university during this critical time in his and Dr. Kolff's research.

Mr. Yu is a remarkably innovative scientist, with a unique expertise in the specialized making and testing of elastometric heart valves. He is currently working with one of the most creative innovators of medical devices, Dr. Willem Kolff, on an NIH grant entitled "Small Artificial Hearts With Minimum Thrombosis: Bridge for Transplant."

Long Sheng Yu has proven himself to be an extraordinarily inventive and gifted engineer. His educational years took place during the period of the Cultural Revolution in China. He was lucky to even escape the Red Guards with his life, and thus does not possess some of the lofty academic credentials he would have otherwise had. But inventiveness is more a natural gift than the product of formal education, and Mr. Yu has received this in abundance. In the words of Dr. Kolff, "In my long experience, I have not had any engineer more gifted than Long Sheng Yu."

Despite the fact that Dr. Kolff's artificial kidney was initially greeted with skepticism, over a quarter of a million individuals have now benefited from this invention. Now, his emphasis is on the artificial heart and Mr. Yu is a crucial part of that effort—35,000 people in the United States need heart replacement, yet only 2,000 donor hearts are available; 33,000 people are effectively sentenced to death until some sort of artificial heart is available for at least a short-term alternative.

Mr. Yu brought one of his hearts and valves to my office and it is a truly astounding creation: small, pliable, soft, far removed from its cumbersome, heavy predecessors. Mr. Yu is the pivotal figure at this point in the research. His absence would devastate the program.

I urge my colleagues to join me in this effort to allow Dr. Kolff and Mr. Yu to finish their critically important work together. The bill I introduce today will grant Mr. Yu a waiver of the 2-year residence requirement so he can complete his work. I hope you will agree with me that this waiver is not only important to Mr. Yu, but to thousands of Americans who await the results of his research and endeavors.

PRIVATE ENTERPRISE FOR EASTERN EUROPE

HON. DANA ROHRABACHER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 22, 1989

Mr. ROHRABACHER. Mr. Speaker, every once in a while an idea comes along that is new and important. One of my constituents,

Andrew Erdely of Cypress, has come up with one of these ideas.

Mr. Erdely, a Hungarian immigrant and freedom fighter, has proposed a way that Communist regimes can turn their economies from State-run, command economies into private enterprise, market-based economies. His idea is especially valuable at a time when economic liberalization appears possible in the Soviet Union and Eastern European nations.

The United States should enter into negotiations with the Soviet and Eastern European authorities, Mr. Erdely states, to facilitate the transfer of major East-Bloc industries to their employees. Restructured, privately owned employee corporations could then present stock offerings to Western investors. The employees would retain 51 percent of the ownership in any corporation, however, Western businessmen through stock purchases would infuse new capital for modernization into the newly formed East-Bloc corporations. The employees would thus own controlling interest in and run the new private companies, while Western businessmen would sit on the board of directors and provide deperately needed resources and expertise.

Under this scenario, investment from the West would be an impetus for fundamental change in the Communist system, a catalyst for progress. Mr. Erdely offers a politically and economically acceptable vehicle for the transition from communism to a free market economy while enabling employees to derive an ownership stake in the future of their own system.

Just as in our own economy, employee ownership can play a major role in giving employees a stake in the company for which they work, and a corresponding ability to determine their own economic destiny. Employee ownership is a method of extending the blessings of liberty and free enterprise to all people, everywhere.

INDIAN MUSEUM FOR ALL AMERICANS

HON. BEN NIGHTHORSE CAMPBELL

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 22, 1989

Mr. CAMPBELL of Colorado. Mr. Speaker, last week I was joined by many of my distinguished colleagues in introducing a bill to establish the National Museum of the American Indian on The Mall.

As we all know, very soon this country will be celebrating the 500th anniversary of Columbus' landfall on this continent. Since that time, American Indian contributions to the development and success of our Nation have been numerous and indisputable.

As the new jewel in the crown of the Smithsonian, the National Museum of the American Indian will be ideally located for all the world to enjoy and appreciate as people learn about the first Americans, and their many accomplishments, both past and present.

Let me say that Indian people have a vision for the museum as a living memorial, not a dusty collection of artifacts. We envision the museum as not only an inspiring display of our ancestors' rich legacy, but as an opportunity for all Americans to experience the vibrant arts, cultures, and traditions that Indian people have kept alive for thousands of years.

It is my hope, indeed my dream, that the National Museum of the American Indian will enrich and enhance our shared experiences as Americans.

THE POST TRAUMATIC STRESS DISORDER SERVICES ACT OF 1989

HON. SAM GEJDENSON

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 22, 1989

Mr. GEJDENSON. Mr. Speaker, today I am joined by several of my esteemed colleagues in introducing the Post Traumatic Stress Disorder [PTSD] Services Act of 1989. You may have heard of this psychological illiness in connection with a Vietnam veteran who suffers an outburst and takes his or the life of another. It is unfortunate that these tragic incidents prevail in our image of the veteran. Most veterans who suffer from PTSD simply fail to live the normal lifestyle that we as individuals take for granted.

This legislation expands the Department of Veterans' Affairs [DVA] treatment services for PTSD. Specifically, this bill would direct the DVA to ensure that each State has not less that one PTSD treatment team at a Veterans' Administration medical facility. These teams would consist of at least one mental health professional who is trained in the diagnosis and treatment of PTSD. The DVA's own Special Committee on Post Traumatic Stress Disorder has stated that these teams are an effective means of treating this illness, and the DVA will soon complete the establishment of 23 treatment teams. But there are still many States and areas of the country where veterans must wait for months to get qualified treatment; this bill would mandate the VA to furnish additional teams and ensure that a veteran can at least go to the VA hospital in his home State and be ensured adequate treatment.

The DVA currently operates 16 specialized inpatient PTSD units for the treatment of this disorder. However, these facilities are considered an option of last resort for patients who are so seriously afflicted that intensive treatment is the only remedy. Additionally, access to these facilities is limited, sometimes by a 6-month waiting list, sometimes by their location, and sometimes by the fact that the condition of the applicant is not considered serious enough to dedicate the precious bedspace that so few facilities provide.

Additionally, this bill would direct the DVA to set forth standards for the treatment and diagnosis of PTSD and criteria for training, education, and evaluation of personnel who treat PTSD. The need for this legislation stems from the fact that there is a growing sensitivity and awareness in the mental health community of the prevalence of the disease. However, even highly trained health professionals may not recognize the illness, as PTSD victims display certain symptoms which are common to other mental illnesses such as schizophrenia, anxiety, and other neuroses.

PTSD is not a new illness. After World War II we called it shellshock or battle fatigue. Tragically enough, many World War II veterans are still suffering psychological effects from the war. A DVA survey showed that more than 20 percent of the PTSD visits to DVA outpatient facilities were by veterans of World War II. So it is not new, it is just gaining recognition as a unique illness which requires specific treatment.

In 1980 the American Psychiatric Association included PTSD in its diagnostic and statistical manual, thereby giving it recognition by the medical establishment. Unfortunately, the VA has been dragging its feet in setting up treatment for this illness. I find it discouraging that so many veterans do not have access to treatment for a service-connected illness that currently afflicts almost 480,000 Vietnam veterans. This legislation would ensure a minimum standard of quality and availability for veterans who seek treatment for PTSD.

UNITED JEWISH APPEAL-FEDERATION PAY TRIBUTE TO HERBERT SINGER

HON. BILL GREEN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 22, 1989

Mr. GREEN. Mr. Speaker, I rise today to acknowledge with pride the dedication of the Herbert M. Singer room at the United Jewish Appeal-Federation headquarters. The dedication of the conference room was held at the annual meeting of the UJA-Federation Council of Overseers on June 7.

Mr. Singer is one of the most renowned leaders in the New York Jewish community. I am pleased to have this opportunity to honor a man who has made such extraordinary contributions to the work of UJA-Federation and whose life exemplifies the highest of Jewish ideals.

Mr. Singer is a member of the UJA-Federation Board of Directors and the Council of Overseers. Prior to 1986, he served as a member of the Board of Directors of the United Jewish Appeal of Greater New York, as well as the vice president of the Federation of Jewish Philanthropies. He was the founding president, in 1972, of the Jewish Communal Fund of New York, and remained its president until 1987. Mr. Singer is also president emeritus of the Beth Israel Medical Center, where he continues to serve as a trustee, and is chairman emeritus of the Board of the American Jewish Joint Distribution Committee.

I join with the UJA-Federation in paying tribute to Herbert Singer for more than 30 years of communal service. Mr. Singer is a truly outstanding citizen and entirely worthy of our commendation and respect.

A CONGRESSIONAL SALUTE TO THE HONORABLE ROBERT G. CORMACK, MAYOR OF DOWNEY, CA

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 22, 1989

Mr. ANDERSON. Mr. Speaker, it gives me great pleasure today to rise and pay tribute to Robert Cormack, a constituent and friend of mine, who in just a few days will conclude his tenure as mayor of the city of Downey, CA.

Bob has lived in Downey nearly all of his life. He began his public service back in 1971, on the board of education for the Downey Unified School District. He served on the board for 9 years. And in addition to his school board responsibilities, and actually as an outgrowth of them, Bob earned an appointment to the U.S. Department of Agriculture's Council on Child Nutrition, and served from 1974 until 1977.

After his career in education, Bob set his sights on a city council seat, and was first elected in 1980 to represent Downey District Three. Having been elected by his constituents a total of four times, most recently in June of 1988, Bob is now concluding his second term as mayor.

In addition to his council duties, Bob has worked on such committees as the Southern California Association of Government's Energy and Environment Committee, the League of California Cities' Environmental Quality Committee, and as a director of the Commerce Refuse-to-Energy Joint Powers Authority. His involvement bears testimony to the many ways in which Bob has served the citizens of his community.

Bob enjoys a private life as well. As a businessman, he is familiar to anyone who has had dealings with Delta Systems, Inc., located in nearby Santa Fe Springs. Others may know his wife of 50 years, Louise, or their three sons. And when he can get away, Bob enjoys spending some of his precious free time tending to his 100-acre farm to the north, in Roseville, CA. But back home, as almost a lifelong resident of Downey, a good many people know Bob Cormack and his family as neighbors. However they may know him, the people of Downey have a good friend in Bob Cormack, and we are all happy that he is a part of our community.

Mr. Speaker, my wife Lee joins me in extending our most sincere thanks and congratulations to Mayor Robert Cormack, for his years of dedication and commitment to the citizens of Downey. We also wish Bob, his wife Louise, and their children, Robert, Harold, and Steven all the best in the years to come.

HONORING HERBERT M. SUSSMAN, PRESIDENT, RIO HONDO COMMUNITY COLLEGE

HON. ESTEBAN EDWARD TORRES

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 22, 1989

Mr. TORRES. Mr. Speaker, I rise today to recognize Mr. Herbert M. Sussman, president of Rio Hondo Community College. He will be honored at a special farewell dinner on Tuesday, June 27, 1989.

For the past 7 years, Herb Sussman has served as superintendent/president of Rio Hondo Community College in Whittier, CA. President Sussman has provided leadership to the growing community college that serves many residents of my congressional district. Under his tenure, the college has developed several programs to address the growing demographic changes in southern California and the Pacific Rim. He has also helped to develop a strong community involvement program at the college to help make the campus more accessible to students and the community.

I use the Rio Hondo College campus to conduct my annual "Business Expo," a procurement conference for small business in my district. I have also participated in several class lectures at the college and have enjoyed an excellent relationship with President Sussman and his staff.

President Sussman has also been active with the following organizations: The Rotary Club of Whittier; Rio Hondo Symphony Association; the Whittier Area Chamber of Commerce; and, with the California Association of Community Colleges. Most recently, he served on the Congressional Award Council for the 34th District, which I formed to honor youth volunteerism in my district.

Earlier this year, President Sussman received a National Leadership Award at the 69th annual convention of the American Association of Community and Junior Colleges. He received his award in Washington, DC, from First Lady Barbara Bush at the convention.

Mr. Speaker, I ask my colleagues to join me in congratulating Herb Sussman for his outstanding contributions to the community college concept and for his work as president of Rio Hondo Community College.

INNOVATIVE HELP FOR ALZHEIMER'S PATIENTS

HON. BARNEY FRANK

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 22, 1989

Mr. FRANK. Mr. Speaker, I want to take this opportunity to extend much deserved recognition to an innovative program which has helped Alzheimer's disease patients and their families. I would also like to recognize the contributions of the people who have made this program a success.

In this program, which was developed by Gamal Zaki executive director of the Alzheimer's Disease Crisis Intervention Center in Pawtucket, RI, and Bill Connelly, director of scientific affairs for Sandoz Pharmaceuticals Corp. trained volunteers provide animal-assisted therapy for patients with Alzheimer's disease. This method of therapy has proven helpful in improving the quality of life for many Alzheimer's patients.

The program has received notice nationwide, and much of the attention is the result of the efforts of Betsey Douglas MacDonald, of Westport, Ma, who has developed a coloring book entitled "Helping Grandma" to educate children about Alzheimer's disease. The coloring book features Jeff, a dog which is the mascot of the Alzheimer's disease and Related Disorders Association, and shows how families can come to terms with this disease with the help of pets. In addition to creating this sensitive book, Ms. MacDonald has also been very generous with her time by visiting many schools and teaching children about Alzheimer's disease.

I would like to include in today's CONGRESSIONAL RECORD an article from the Fall River Herald News which provides additional information about the program and Ms. MacDonald's efforts.

[From the Fall River Herald News, Sept. 25, 1988]

WESTPORTER CREATES COLORING BOOK ON ALZHEIMER'S DISEASE

(By Carol Lee Costa-Crowell)

Betsey MacDonald met Jeff and spent the entire summer drawing.

A line here, a line there, and pretty soon a 24-page coloring book evolved. And Jeff plays a crucial role in it.

Jeff, a mongrel dog, is the mascot for the Alzheimer's Disease and Related Disorders Association.

MacDonald, a Westport resident, and Westport High School science and art teacher was recruited to design a coloring book to be used by the Bloomington, Ind., school system and mental health clinic. Its purpose is to help children and adults understand the devasting effects of Alzheimer's disease.

Jeff was adopted from an animal shelter, and the Alzheimer's Disease Crisis Intervention Center in Providence realized he could give love and attention to an Alzheimer's victim. It was the first clinic in the nation to develop and practice intervention therapies for all cognitive disorders. Researchers there have noted that even patients in the most advanced stages of Alzheimer's have responded positively to animals.

Summertime is usually when MacDonald dabbles with her oils. "I never did get to paint. But, the coloring book was worth it," the petite blonde said. The project brought together two of her favorite subjects, drawing and animals.

"It's about human and animal bonding. It's about Alzheimer's. It's about love," MacDonald said.

MacDonald was recruited by William F. Connelly, a summer resident of Westport, and the director of scientific and external affairs for Sandoz Pharmaceuticals Corp. The coloring book was the brainchild of that company which sees pets, especially dogs, as invaluable in helping victims of Alzheimer's disease. Four years agao Sandoz began a campaign to educate the public about this problem of aging.

"Bill has seen my paintings. He knows I love animals. He knew I was a teacher and

that I was interested in science. It was a natural," she said.

The coloring book will be released Oct. 6 and 7 in Bloomingdale. She hopes to be there for the event. "I'd love to hand it out to the kids. It's great public relations for the town. It will give Westport some recognition," she said.

MacDonald said she reviewed a videocassette of a movie "There Were Times, Dear" produced by Sandoz, Lilac Productions and S.C.ETV. "It was pretty powerful stuff, pretty depressing. It's awful. It's a terrible thing to watch, especially for a spouse," she said. The movie was an education, and she found she read up a lot on Alzheimer's Disease. Then Sandoz sent her a script for the coloring book.

"It was pretty tough trying to come up with something visual to portray this disease," she said. In the book she has a boy and a girl. "You can't really tell their age. They love their grandmother. They are very close to her, and then she starts to behave in a strange manner," MacDonald said.

From there the children notice she losses things, she forgets things, she gets lost when she takes them for ice cream. They worry a lot about her. The their parents get involved and make the decision to take the woman to the doctor.

"The book tries to educate people. It tries to explain what a family can do in this situation," MacDonald said. One particular page that gave her difficulty was trying to portray making the decision to put grandmother into a nursing home.

"I though about it for quite some time. Then I just drew a bedroom scene with the mother and father and the two children. They were sitting on the bed discussing it. It seemed to work," she said.

For the grandmother, MacDonald used her own mother for the model. "We all wanted to get away from the stereotype grandmother. We wanted someone youthful, someone vital, someone competent because this disease strikes people in their middle age," she said.

Alzheimer's will strike one member out of each five families. The symptoms initially are similar to other diseases. People get forgetful; they get confused; they have recent memory loss, she said.

MacDonald said the curriculum coordinator for the Westport elementary school system has expressed an interest in using the coloring book. "That would be wonderful. Not only are we teaching the young children about this disease, they bring the book home to mom and dad and they, too, become educated," MacDonald said.

Her love for animals is apparent to any of her Main Road neighbors. "I have several horses, some goats, several cats and dogs. When I walk down Main Road I take a lot of ribbing. People yell out the window E-I-E-I-O. But I love animals," she said.

"And I think it's a wonderful idea matching dogs who might be put to sleep up with these Alzheimer's victims. A dog is all love, and these people need that love and attention. They have recent memory loss, but they can remember when they had a dog when they were kids. It's a wonderful, beautiful thing matching dogs like Jeff up with the elderly. And that's why I'm glad I'm part of the project."

PROTECT OUR FLAG

HON. ELIZABETH J. PATTERSON

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 22, 1989

Mrs. PATTERSON. Mr. Speaker, I rise today in amazement at the decision of the U.S. Supreme Court yesterday in the case of Johnson verses Texas. It is incredible that the majority decided that both Houses of the Congress and the duly elected legislatures of 48 States acted unconstitutionally when they enacted laws against the desecration of the American flag.

As Justice Stevens pointed out in the dissent, we would not allow someone to spray paint a message across the facade of the Lincoln Memorial. Why can't we protect the flag against desecration? The reasoning of the majority is simply not persuasive.

Mr. Speaker, symbols are important in our society—some more so than others. But, there is no more potent symbol in this Nation than our flag. It deserves our reverence and our protection.

CELEBRATING THE 100TH ANNIVERSARY OF THE NALC

HON. JIM BUNNING

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 22, 1989

Mr. BUNNING. Mr. Speaker, I rise today to recognize the 100th anniversary of the National Association of Letter Carriers. About 60 letter carriers traveled from 18 States to Milwaukee, WI, in late August 1889, and on August 30, 1889 a resolution was passed to form the National Association of Letter Carriers.

Today the NALC has a membership of 315,000, covering all 50 states and other U.S. jurisdictions. There are over 1,800 letter carriers in Kentucky.

To commemorate the 100th anniversary of this organization, a 3- by 5-foot envelope was mailed from Postal Service headquarters in Washington, DC, on March 2, 1989. During a 5-month period, this envelope will travel 37,654 miles to all 50 States and Puerto Rico, with a ceremony being held in each State, and the envelope being postmarked with a special cancellation. At journey's end, it will contain 51 pictorial cancellations and will represent the commitment of letter carriers to provide effective mail delivery to all corners of our great Nation.

The ceremony for letter carriers in Kentucky is being held Tuesday, June 27, 1989, at the Main Post Office in Louisville, KY.

I invite my colleagues to join me today in expressing appreciation and gratitude to the letter carriers of the U.S. Postal Service, who provide an invaluable contribution to communication in our country.

TRIBUTE TO JESS W. SWEETSER

HON. ROBERT H. MICHEL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 22, 1989

Mr. MICHEL. Mr. Speaker, I would like to take this opportunity to honor Mr. Jess W. Sweetser who died at the age of 87 at his home in Bethesda, MD, late last month. Jess was one of the last of the great amateur golf champions of the Bob Jones era.

While a student at Yale University Jess Sweetser suffered an athletic injury which necessitated his concentration on the game of golf. He won the National Intercollegiate Individual championship in 1920 and the U.S. Golf Association's Amateur championship in 1922 while a member of Yale University's golf team. In 1926 he displayed uncommon courage and determination while competing in the British Amateur championship in chilly Scottish weather with a cold which then developed into the flu and ultimately tuberculosis. He won this tournament becoming the first American-born golfer to do so and immediately went on to successfully compete in two more matches as a member of the Walker Cup team at St. Andrews. The cost to his health, however, was considerable, and it took him more than a year to fully recover.

A friend and fellow competitor of the legendary Bob Jones, Jess Sweetser arranged for Jones to refine his golf game—in preparation for the 1930 U.S. Amateur championship—in the relative seclusion of the Pine Valley Golf Club in New Jersey. Jess narrowly lost out to Jones in the semi-finals, and Jones went on to win his now-famous Grand Slam.

A member of the Walker Cup team six times, Jess Sweetser also served as treasurer and executive committee member of the U.S. Golf Association. He was honored in 1986 as a recipient of the association's Bob Jones Award, and in the intervening years remained actively involved in national and international efforts to promote and enhance the sport of golf.

During his 46-year marriage to his late first wife, Nan Lewis Sweetser, Jess worked as a stockbroker in New York City and enventually moved to the Washington area where he worked for the Curtiss-Wright Aircraft Co., the Glenn L. Martin Aircraft Co., and ultimately retired in 1967 from his position as a vice president of the Martin Marietta Corp.

Jess was a member of Burning Tree Golf Club. We loved him as no other for the many contributions he made to the game of golf and his camaraderie in the 19th hole.

Jess is survived by his widow, Virginia Lee Sweetser, his daughter Nan Dodds, and sons Jess, Jr. and Charles. In extending our sympathies to them, we want them to know that we have all felt privileged to know their husband and father. He was a real gem of a fellow, and our club has suffered immeasurable loss.

TRIBUTE TO SAINT ROSE SCHOOL OF GIRARD, OH

HON. JAMES A. TRAFICANT, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 22, 1989

Mr. TRAFICANT. Mr. Speaker, I rise today to pay tribute to Saint Rose School of Girard, OH on the occasion of their 75th anniversary on August 27, 1989.

Saint Rose School opened it doors for classes for the first time on January 5, 1914. The Ursuline Sisters staffed for four classroom school with Sister Margarget Mary McCabe serving as the first principal. During the first year, the Saint Rose School saw eight graduates move on to further their excellent education.

Tradition still plays a large role at Saint Rose School. This can be seen by the continued staffing of the school by Ursuline Sisters for the past 75 years. In 1956, a new building was constructed to meet the needs of the ever growing student body. Today, 20 lay teachers instruct over 380 students enrolled in grades kindergarten through eighth.

Mr. Speaker, the Saint Rose School is providing a superior Catholic Christian education for my 17th Congressional District of Ohio. I would like to congratulate Saint Rose School on their 75th anniversary celebration. It is an honor to represent such a fine institution and I wish the students and faculty continued success in the coming years.

SURPRISING STANCES TAKEN BY JAMAICAN PRIME MINISTER

HON. BILL RICHARDSON

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 22, 1989

Mr. RICHARDSON. Mr. Speaker, like many other Members of Congress, I have been pleasantly surprised at the Jamaican Prime Minister's new moderate and constructive stances on foreign investment, drugs, economics, and foreign policy. Perhaps he is getting some good advice. I ask unanimous consent that the attached articles be inserted in the RECORD.

[From the Washington Post, June 10, 1989]

JAMAICAN URGES ANTI-DRUG FORCE—PRIME MINISTER ENDORSES CONCEPT OF MULTILATERAL PARAMILITARY ACTION

(By Michael Isikoff)

Jamaican Prime Minister Michael Manley, saying that criminal drug cartels are a global threat that may be "without precedent," yesterday proposed an international anti-narcotics force that could interdict drugs, eradicate crops and mount paramilitary-style attacks against traffickers.

Manley's proposal is believed to be the first time a Western Hemisphere leader outside of the United States has endorsed the concept of multilateral paramilitary action against drug traffickers. A similar idea has been endorsed by members of Congress and U.S. officials but has been stoutly resisted by most Latin American leaders.

"The more we look at this, the more we are convinced you are dealing with a level of international criminal organization that is probably without precedent," Manley said at a news conference here yesterday. "Those who manipulate production, transportation, distribution and marketing operate in a global framework. . . . They can target what [country] they want."

As one example, Manley said, the Colombian drug cartels have determined that the U.S. cocaine market is saturated, so "they are probing England, . . . they are probing Western Europe with cocaine because that's the new target of opportunity."

As a result, Manley said, the only effective solution is international action—a multilateral force, similar to the U.N. peacekeeping force, that could be mobilized quickly at the invitation of foreign leaders.

"It could help Colombia: Colombia might be able to call it in," Manley said. "Maybe [Peruvian President Alan] Garcia could call it in to deal with the [Shining Path guerrillas] in Peru. Right now, the Peruvian Army is not defeating the Shining Path.

"Certainly, if I had the kind of problem in Jamaica that I see Colombia facing or Peru facing right now, I would feel very good to know that I could raise a hand and say, 'Please, please, come help me. I need some forces to come and rub [out] those people up in the mountains or wherever they may be,' " he said.

Moreover, Manley said that by operating under the umbrella of the United Nations or some other international body, such a force would be less likely to arouse nationalist sentiments that have confronted some U.S. anti-drug actions in foreign countries.

"You would sidestep every one of those problems if an American helicopter pilot or a French or a British came under some kind of interntional sponsorship, " he said. "It gets that problem out of the way."

Manley said he is beginning to work out the details of his plan and intends to explore it when he meets with European leaders next week. At a minimum, he said, he plans to push it within the British Commonwealth, the United Nations and possibly the Organization of American States.

A State Department spokesman said late yesterday that he could not comment on the plan. But one anti-drug expert called it a potential breakthrough.

"This is fairly dramatic in terms of past policy," said Raphael Perl, anti-narcotics expert with the Congressional Research Service. "This is the first really concrete commitment to a regional law enforcement solution other than just vague talk."

Manley, who once had testy relations with the United States because of his close ties to Cuba's Fidel Castro, has emphasized closer cooperation with the Bush administration, particularly on the drug issue, since he took office for the second time last February.

One reason is that Jamaica, which has long a been a marijuana capital, has been suffering from a mounting cocaine-abuse problem driven in part by the increasing use of the country as a transshipment point by Colombian drug cartels smuggling into the United States.

"I don't fight drugs in Jamaica because the State Department tells me to," Manley said. "I fight drugs because I want to save my country."

[From the Financial Times, June 15, 1989]

MANLEY TURNS INTO A MODEL SOCIAL DEMOCRAT—JAMAICA'S PREMIER IS SHOWING MORE MODERATION THAN IN THE 1970'S

(By Canute James)

When Mrs. Margaret Thatcher ends her meeting with Mr. Michael Manley, the Prime Minister of Jamaica, at Downing Street tommorrow the British premier is likely to conclude that thier philosophical differences are fewer than she might have expected.

Since taking office after an election in February, Mr. Manley has displayed a level of equanimity and moderation far removed from his earlier term in the 1970s. Then, driven by a strident left wing, Mr. Manley's administration gave itself over to bombast and ideological sabre-rattling while the economy, hit by high oil prices and low demand for bauxite, the main export, declined rapidly.

After replacing Mr. Edward Seaga, the conservative who became prime minister in 1980, Mr. Manley's People's National Party appears to have moved right to social democrat principles on which it was founded 50 years ago. The change of government has been unusually seamless for Jamaica.

According to Mr. Seymour Mullings, the Finance Minister, the Government intends to continue those of Mr. Seaga's policies which worked, and to change those which have not.

Consequently, Mrs. Thatcher will find that Mr. Manley shares her outlook on some aspects of economic management. Mr. Manley is continuing Mr. Seaga's programme of reducing the role of government in the economy through the divestment of state companies and is increasing the incentives for the private business sector to expand, creating jobs to reduce the island's 21 per cent unemployment rate and to lift exports.

Both Mr. Manley and Mrs. Thatcher, however, are likely to agree to disagree on some issues, including South Africa. Mr. Manley shares the belief of many of his Commonwealth colleagues that more economic pressure from the industrialised countries is a necessary tool for eventual social and political change in Pretoria.

Mr. Seaga appears not to be particularly impressed with the direction of his successor's policies. "There is a clear pre-occupation with form rather than with substance." the former prime minister contends. "There is also a preoccupation with sending signals, all of which appear to be mixed."

If Mr. Manley is preoccupied on his current visit to Europe (he will be seeing the prime minister of France, Spain, Norway and Sweden in addition to Mrs. Thatcher) it will be with the state of the island's economy. Recent growth after a decade of stagnation was dampened last September when hurricane Gilbert scored a direct hit on the island.

Gilbert's ghost still haunts the economy, which was running at a rate of 5 per cent last year but which now appears to have expanded by less than 1 per cent. "The effects of the storm are clear in the effect it had on agriculture," says Mr. Mullings. "The decline in the rate of growth of the economy is due the storm."

The economy could not meet performance targets agreed with the International Monetary Fund under a stand-by credit agreement. Mr. Mullings says a new pact has been concluded with the Fund but suggests there will be no fundamental changes in

economic policy. He discounts recent suggestions of a currency devaluation, always a politically unpopular measure in Jamaica. The island's currency was devalued by 70 per cent between 1983 and 1986.

While there are indications that three of the four pillars of the economy—tourism, bauxite mining and refining and manufacturing—will grow this year, agriculture needs time to get over the devastation caused by the storm. Mr. Mullings has predicted growth of 4 per cent this year.

But Mr. Manley is likely to be troubled by the demands placed on the economy in servicing the foreign debt of $4.5bn (£3bn) which is just over half the island's Gross Domestic Product. Repayment obligations represent 41 per cent of the Government's projected expenditure for this year, says Mr. Mullings, and 39 per cent of earnings from exports of goods and services.

Government officials say the prime minister's visit to Europe is not in search of financial assistance "although economic programmes will be discussed." He has already visited Washington and spoken with President Bush, apparently forestalling any repeat of the strained relations with the US in the 1970s.

Mr. Manley, however, appears to be treading carefully in implementing his promise to reopen the diplomatic ties with neighbouring Cuba which were cut by Mr. Seaga in 1981. "The Government does not want to appear to be in a hurry to restore ties with Cuba because this could be misinterpreted by those who are looking for something to hit us with," explained a foreign official. "Diplomatic relations with Cuba will be restored but in due course."

In the four months since it took office, Mr. Manley's administration has had mixed reviews. Mr. Seaga says that although the storm damaged the economy, the decline in growth is the result of the Government's "inability to manage a market system economy" in the first few weeks. "It takes only a second to let go of the wheel of car to crash it," the opposition leader says.

Mr. Manley will be more encouraged by the reaction of the private sector. "The Government's effort at continuity is a good thing," says Mr. Delroy Lindsay, executive director of the Private Sector Organization of Jamaica. "Some of Mr. Seaga's policies were good but he did not go far enough. Mr. Manley is prepared to go further in deregulating the economy and making the private sector the engine of growth."

Mr. Paul Chen-Young, one of the island's leading bankers, said the new government "has made a deliberate attempt to cultivate the confidence of the business sector".

But the more moderate face of Mr. Manley's new administration rankles with some former party members. "The election has given us a change which is neither of form nor substance," suggested a former member of the People's National Party's left wing which was put to the sword in the early 1980s.

LIBRARY SERVICES AND CONSTRUCTION ACT

HON. PAT WILLIAMS

OF MONTANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 22, 1989

Mr. WILLIAMS. Mr. Speaker, I am pleased to introduce today legislation to reauthorize the Library Services and Construction Act. LSCA was the first, and continues to be the largest, Federal program of assistance specifically for public libraries. The act is designed to assist libraries in extending and improving services, to provide some support for library construction and renovation, to promote sharing of resources among libraries, to improve services to Native Americans and to support library literacy programs.

The House began the important process of rewriting the Library Services and Construction Act with a hearing at the Flathead County Library in Kalispell, MT, in March. On April 11, "Library Awareness Day", a joint hearing was held by the House Subcommittee on Postsecondary Education and the Senate Subcommittee on Education, Arts, and the Humanities to further discuss the merits of the act. And while the witnesses offered some recommendations as to how this program might be improved, the general sense of the library community was that the Congress should await the outcome of the White House Conference on Libraries before making significant changes in the Library Services and Construction Act.

This conference, to be held no later than September 1991, will be preceded by hundreds of State and local meetings of librarians and library patrons to discuss the future needs of public libraries. The recommendations generated by the State and local meetings will be considered by the delegates at the White House conference and will be included in a report to the President and the Congress on the conference.

As a result of our hearing process, the legislation that I introduce today is a simple reauthorization, amending only the Library Services and Construction Act. This legislation makes technical corrections to the act, as requested by the Department of Education and the library community. It broadens the act to encourage the use of new technologies to improve library services. And, it provides public libraries with the opportunity to become more involved with preservation and literacy efforts.

The Library Services and Construction Act Amendments of 1989 enjoys bipartisan support, including a majority of the members of the Subcommittee on Postsecondary Education. I invite my colleagues to join me in support of this important legislation.

SMALL ISSUE DEVELOPMENT BOND PROGRAM

HON. CHARLES HATCHER

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 22, 1989

Mr. HATCHER. Mr. Speaker, today I am introducing a resolution calling for a 1-year extension of the Small Issue Development Bond [SIDB] Program. I believe that this program is the most effective Federal tool for assisting economic development efforts at the local level. State and local governments issue these tax-exempt bonds, and they are used to finance the construction of new manufacturing plants or expand existing businesses. Small issue bonds enable small- and medium-size businesses to obtain capital at rates competitive with those charged to large corporations.

This week our colleagues on the ways and means committee are beginning their consideration of 1989 tax legislation as part of the budget agreement for fiscal year 1990. It is imperative that extension of this expiring tax provision be included in any tax legislation this year. Of all tax provisions expiring at the end of 1989, the small issue development bond program is the least expensive. Extension of this program represents a Federal revenue loss of only $7 million during fiscal year 1990.

Mr. Speaker, we have seen many economic development programs eliminated or severely curtailed in recent years. The SIDB Program is a cost-effective means for stimulating job creation and economic growth in both rural and urban areas. Over 45 of my colleagues in both parties have joined me as original co-sponsors of this resolution, and I ask for the support of the rest of my colleagues in my effort to see an extension of this program included in 1989 tax legislation.

KOREAN WAR REMEMBRANCE

HON. JOHN P. HAMMERSCHMIDT

OF ARKANSAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 22, 1989

Mr. HAMMERSCHMIDT. Mr. Speaker, yesterday, I introduced House Joint Resolution 299, which would designate the week of July 24 to July 30, 1989 as the National Week of Recognition and Remembrance for those who served in the Korean war.

Over 5 million servicemen and women served in this conflict. They stood to stop the spread of communism and provided the setting wherein the Republic of Korea has prospered. One only has to remember scenes from the 1988 Olympics to notice how far this nation has come in the last three decades.

Each year the Korean War Veterans Association meets during the last week in July to remember those brothers-in-arms with whom they served. On July 27, 1989, the association will hold its annual service in the amphitheater at Arlington Cemetery and all congressional Members are invited. The association will also hear a march dedicated to the Korean war

veterans by Gary Burke entitled "The Mighty Men of Valor."

Last year Congress passed a resolution honoring those who served in the Korean conflict. This year the Senate has already acted once again. I would ask my colleagues to join with me in sponsoring House Joint Resolution 299, to remember and recognize the achievement of those men and women who served this Nation in the Korean war.

CHINESE FOREIGN STUDENTS AND EXCHANGE VISITORS RELIEF ACT OF 1989

HON. STEVE GUNDERSON

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 22, 1989

Mr. GUNDERSON. Mr. Speaker, in response to the Chinese Government's brutal massacre of thousands of students and citizens in Beijing who were peacefully demonstrating to demand democracy, I am introducing a bill today that would allow Chinese foreign students and exchange visitors immediately to apply for, and, if otherwise eligible, to receive permanent resident status in our country.

This bill is identical to a bill introduced June 20, 1989, by Senator SLADE GORTON. Although President Bush and Attorney General Thornburgh have taken initial steps to ensure the temporary safety of the Chinese students here by allowing for sympathetic review of visa extension requests and suspending until June 5, 1990, deportation of any Chinese national in the United States, this bill would allow Chinese students and exchange visitors to remain as residents. It is important to note that this will provide initiatives to the current Chinese leaders to take steps to encourage rather than to try to force these individuals to return.

The majority of Chinese students have expressed their desire to return home if conditions permit. They want to contribute their talents to the economic and political modernization of China. However, this legislation would allow students the option to return to their country or to make new lives in the United States. We should welcome the Chinese students and exchange visitors who choose to live in a country where democracy and freedom exist.

Mr. Speaker, I ask unanimous consent that the entire text of the bill I am introducing today be printed in the RECORD at the conclusion of my remarks.

IN CONDEMNATION OF THE REPRESSION OF THE CHINESE DEMOCRATIC MOVEMENT BY THE GOVERNMENT OF CHINA

HON. BILL LOWERY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 22, 1989

Mr. LOWERY of California. Mr. Speaker, last Thursday three men accused of setting fire to a train during a protest in Shanghai were sentenced to death. Today they were executed. The three men were part of a civil disobedience campaign to halt public transportation in protest of the bloody suppression of prodemocracy demonstrators in Beijing. They resorted to attacking the train only after it plowed through a crowd blocking the tracks, killing six peaceful protesters. Since then, more protesters have been sentenced to death.

I, like most Americans, was shocked by the repressive action of the Chinese Government in Beijing on the night of June 3–4. We are dismayed that the Chinese Government has allowed this reactionary, state-sponsored violence to continue unabated.

Furthermore, the Chinese Government has compounded its crime by maligning the peaceful and nonviolent democratic movement as the instigator of the bloodshed.

Mr. Speaker, Chinese courts are merely dispensing death, not justice. Death sentences for those who participated in the democratic demonstrations must end. The Chinese Government must find a way to address the demands of a genuine and broadly supported democratic movement with something other than a policy of extermination.

AMENDMENT WOULD LOWER COST OF IMPEACHMENT

HON. GERALD D. KLECZKA

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 22, 1989

Mr. KLECZKA. Mr. Speaker, we in the House breathed a sigh of relief when Judge Nixon was impeached. No more time consuming impeachments we thought. Well, we were wrong. Here we go again. Last week a U.S. district judge in San Jose, Judge Robert Aguilar, was indicted on racketeering charges.

The indictment of Judge Aguilar raises the specter of another lengthy impeachment. As you remember, in 1986 Judge Harry Claiborne was impeached and the impeachments of Judge Hastings and Judge Nixon are awaiting action by the full Senate. The Congress' experience working on these cases shows that the impeachment process is costly, time consuming, and ineffective.

These three impeachments have cost in the neighborhood of $3 million and the investigation of Judge Hastings began almost 5 years ago. It takes longer to remove a simple district judge than it does to impeach a President.

I believe we can find a way to remove judges which frees the Congress from this onerous responsibility while still protecting the bedrock of our civil liberties, our independent judiciary. Today I am introducing a constitutional amendment to give the Congress the authority to establish a new removal system, and I encourage my colleagues to cosponsor this legislation.

HONORING THE FIFTIETH ANNIVERSARY OF DUNOLLY GARDENS

HON. GARY L. ACKERMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 22, 1989

Mr. ACKERMAN. Mr. Speaker, I rise today to pay tribute to one of the truly outstanding apartment complexes in all of Queens County, NY, the Dunolly Gardens. On Sunday, June 25, a celebration will be held to honor 50 glorious years of apartment living at this magnificent complex.

Fifty years ago this spring, Dunolly Gardens was dedicated with great ceremony as "the first affordable garden apartment complex for tenants in Queens." Mayor Fiorello LaGuardia was on hand to plant the ceremonial first tree, which stands proudly today in the complex garden. Bagpipers led a parade of dignitaries through the streets of Queens. Politicians and businessmen hailed Dunolly Gardens as the "last word in garden apartment housing." On Sunday, June 25, the new co-op owners and existing tenants will reenact that event with the 1989 version of dignitaries.

Over the years, Dunolly Gardens, like Queens County, has seen many changes. But in a day of gigantic, sometimes impersonal high-rise apartments, Dunolly Gardens has maintained its original charm and splendor. The complex has also kept its commitment toward affordable housing, which is especially remarkable considering the extremely high price of apartment living in the surrounding area.

Mr. Speaker, throughout New York City, apartment complexes come and go, but Dunolly Gardens is still thriving today. It is rare to find a complex where there has been a shared love for the integrity and living environment by both tenants and the management. I ask all of my colleagues in the U.S. House of Representatives to congratulate the tenants and management at Dunolly Gardens and praise the efforts of Audrey Mackey and Jan Jaffe for organizing the 50th anniversary celebration. With continued determination and foresight, the Dunolly Gardens apartment complex will be able to prosper well into the 21st century.

"NO" TO THE S&L BAILOUT

HON. RONALD K. MACHTLEY

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 22, 1989

Mr. MACHTLEY. Mr. Speaker, on June 15, I voted against H.R. 1278, the thrift bailout bill. I voted no for a number of important reasons.

My greatest concern is that taxpayers have been asked to shoulder a dizzying and uncertain share of the savings and loan bailout. Administration estimates have set the 10-year cost to the taxpayers at $39.9 billion—or approximately $1,000 a year per taxpayer. However, other indications point toward an ultimate cost for the bailout exceeding this estimate by 8 times!

While I understand the immediate need to provide funds to restore the integrity of the thrift industry, I think it is important to be honest with the people of my State about the potential costs of the bailout, and I think it is necessary to seek safeguards to limit the future costs to the taxpayer.

When the cost for restoring the thrift industry balloons to $3,000, $5,000, or more per taxpayer, will it be fair to those individuals who supported the bailout with the trust that only $1,000 of their taxes would be diverted in the process?

The taxpayers in my State of Rhode Island created zero of the need for this major fiscal overhaul. The taxpayers of 33 other States and the District of Columbia incurred zero of the cost of this bailout. Yet Rhode Islanders, and taxpayers in every city and town across the United States, are paying a share of the cleanup.

To add insult to injury, while the grand majority of FSLIC expenditures during 1988 went to pay for problems created by high risk, ill supervised State-chartered thrifts in Texas and California, the Northeast-Midwest States carrying less than 10 percent of the blame foot an unfair burden of the bill by paying almost half of the Nation's taxes.

In addition, the thrift bailout bill before the House did not successfully secure more aggressive enforcement of the penalties, both civil and criminal, against the individuals who abused their fiduciary authority.

Recent Washington Post articles tell of unconscionable acts of greed and excess by a select few Texas executives. Donald Dixon, of Vernon Savings & Loan paid himself with a hunting club and three beach houses where he and his wife ran up tabs of almost $761,000 a year, a $6 million fleet of 5 planes and 6 pilots, $5.5 million in artworks for the thrifts offices, the list goes on.

While I am pleased that the bill did incorporate extra funds to the Justice Department for seeking out and prosecuting criminal fraud in the thrift industry, I am concerned that some individuals may get off with only a slap on the wrist. I am hopeful that strong enough incentives exist to provide for the successful prosecution and punishment of those individuals who have wrongfully helped produce this national crisis.

Many of the savings and loans that have failed have run into difficulties for purely economic reasons. Others, however, failed because of fraudulent and inappropriate actions. It is this handful of people who have made clear the need in the future—beginning now—for a tightened regulatory system which does not permit one suggestion of the excessive risks that certain segments of the thrift industry were permitted to take during the past 10 years.

I am not confident that the legislation that the House of Representatives passed June 15 is the final answer to the thrift crisis. As I have pointed out, I am uncertain about what the ultimate cost to the taxpayers will be. I am apprehensive about the lack of strong enough enforcement and regulatory mechanisms in the bill, and I oppose having Rhode Islanders and other innocent citizens pick up the tab, while those whose excesses consumed the thrift insurance fund are barely leaving enough to cover the tip.

EFFECTIVE REMINING AND RECLAMATION ENCOURAGED

HON. WILLIAM F. CLINGER, JR.

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 22, 1989

Mr. CLINGER. Mr. Speaker, today I rise to announce the introduction of legislation that will improve the environment, provide for increased public safety, potentially save millions of dollars, and bolster our Nation's coal industry by encouraging remining and reclamation in areas previously affected by coal mine operations.

In 1977, the Surface Mining Control and Reclamation Act [SMCRA] was enacted into law. Under SMCRA, the abandoned mineland fund was established. Moneys for the fund, collected through fees assessed on coal on a per-ton basis, are used to reclaim dangerous abandoned mineland sites. Authorized until 1992, the fees collected under the program are expected to total $3 billion. While that sounds like a tremendous sum of money, it will only scratch the surface of the approximate $6 billion needed to reclaim just the highest hazardous priority 1 and 2 sites currently inventoried. It has been estimated that in my home State of Pennsylvania, AML funds available under current statute would be sufficient to address less than 35 percent of the priority 1 and 2 sites.

One of the primary intentions of SMCRA is to ensure that our Nation's abandoned mineland scars are healed. Ironically, SMCRA oftentimes discourages abandoned mineland reclamation by active coal operators. Due to excessive regulatory burdens, many active coal operators opt not to mine previously affected coal reserves with abandoned minelands in favor of mining new, undeveloped coal reserves. As a result, abandoned minelands, many containing valuable coal reserves, go unreclaimed.

The legislation that I am introducing today will improve the environment and ensure that our Nation's energy resources are developed more efficiently by encouraging remining and reclamation of abandoned minelands. Specifically, my legislation will provide incentives to remine in several ways:

First, the bill establishes the principle that "surface coal mining operations can be effective in the reclamation of abandoned minelands and should be encouraged to remine and reclaim such areas to maximize reclamation of abandoned minelands concurrently with coal production."

Second, to encourage reclamation through remining, the bill provides the Secretary of the Interior with the authority to waive or reduce reclamation fees for remining projects.

Third, the measure amends SMCRA to establish a new title X remining section, allowing the Secretary or approved State program to enter into reclamation agreements with coal mine operators for the reclamation of unreclaimed mineland and to compensate the operators based on the value of the reclamation performed. The bill allows for the proposal of reclamation projects that can be completed in conjunction with active surface mining operations. A key provision is the exemption for the use of excess spoil for reclamation purposes.

Fourth, abandoned mineland recovery zones are authorized in an effort to define those areas within a State where unreclaimed minelands have significant potential to be reclaimed by surface mining operations. Certain incentives are authorized in an effort to target reclamation efforts in these designated areas.

Fifth, the Secretary is authorized to furnish reclamation bond credits to operators in return for reclamation work performed. This will allow more actual reclamation work value for the dollar than other mechanisms in use.

Sixth, the legislation would establish a special bond release provision for abandoned mine areas that are remined and reclaimed only after revegetation has been successful.

Seventh, the bill establishes new authorities to provide additional incentives for the safe and effective removal of existing coal mine waste piles, slurry ponds, and other waste materials.

Eighth, section 210(e) benefits of the Public Utilities Regulatory Policies Act are extended to qualified waste coal-fired small production facilities.

In the 99th Congress, Representative NICK RAHALL and I introduced remining legislation to address disincentives which held remining operators liable for the previous operators' effluent pollution. We were successful in incorporating that legislation in the Water Quality Act of 1987. The legislation that I am introducing today is similar to legislation that I introduced in the waning days of the 100th Congress and builds on the success of the provision contained in the Water Quality Act.

Environmentalists, conservationists, State officials, and Federal surface mining authorities agree that remining and reclamation is an effective and cost-efficient approach to solving many of our abandoned mineland problems. By providing active coal operators with adequate incentives, thousands of acres of unreclaimed land currently threatening the well-being of our citizens and polluting the environment will be ameliorated. The legislation that I am introducing today is of critical importance if we are going to realize the benefits of

remining and reclamation. I would encourage my colleagues to join with me in supporting this legislation.

OCEAN PARK COMMUNITY CENTER CELEBRATES 25TH ANNIVERSARY

HON. MEL LEVINE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 22, 1989

Mr. LEVINE of California. Mr. Speaker, I rise today to draw to the attention of my colleagues an exemplary social services agency which is based in my district. The Ocean Park Community Center runs eight different projects to serve the needs of the Santa Monica/West Los Angeles area.

Founded 25 years ago by Rev. Dan Kennedy, the Ocean Park Community Center received its first antipoverty program grants to aid neighborhood residents and to provide advocated services. In 1973, the center was revitalized by Rev. James Conn, who obtained a $10,000 grant from the city of Santa Monica to develop a program of frontline human services for the community of Ocean Park. The center developed programs for crisis intervention, emergency counseling, and to provide food and clothing to those in need.

The Ocean Park Community Center has since expanded its services, and now operates Sojourn, a shelter for battered women and their children, and Stepping Stone for runaway and throwaway youth. The center has also become the lead agency for homeless assistance programs in Santa Monica, and operates six separate organizations for the homeless in the community. Turning Point, a shelter for homeless people who can become self-supporting again; Daybreak, a day center for mentally ill women; Campion Counseling Center, to provide support and counseling for homeless individuals who are attempting to turn their lives around; an outreach team to build a rapport with the homeless and connect individuals to the services they need; a jail program for persons who have been arrested and had no addresses; and a drop-in center which provides food, clothing, counseling and information are all among the Ocean Park Community Center's services to the area.

In the past 25 years, the center has grown both in terms of the variety of services it provides and in terms of the number of individuals served. Last year alone, the center's more than 350 dedicated volunteers and staff responded to over 10,000 unduplicated client cases, providing food, shelters and social support to their clients. They have been recognized for their innovative approach and for their comprehensive, client-centered programs. Throughout its history, the Ocean Park Community Center has developed programs which respect the dignity of each individual, and which support clients in their efforts to regain control over their own lives. The center does not ask those in need to fit into any preset "client profile," but instead has developed programs in response to the needs of its clients.

One measure of the citywide respect for the work of the Ocean Park Community Center is that Jim Conn, its guiding light for many years, was elected to the city council, and ultimately mayor of Santa Monica. During his service on the city council he established himself as one of the most dedicated public servants the city of Santa Monica has ever seen. He retired from the council one of the most respected and admired members in its history. I am proud to count Jim Conn as a friend and I deeply admire his outstanding work on behalf of the people of Santa Monica and its Ocean Park Community.

Mr. Speaker, during its existence, the Ocean Park Community Center has grown to become a nationally recognized social services agency with consistently innovative, flexible approaches to client services. The center provides not only short-term crisis assistance, but also works to empower its clients to take control over their own lives and find permanent solutions to their problems. I ask my colleagues to join me in congratulating the Ocean Park Community Center on their 25th anniversary of providing essential social services to those in need.

TIBET AND THE CURRENT HUMAN RIGHTS CRISIS IN CHINA

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 22, 1989

Mr. LANTOS. Mr. Speaker, this morning the Congressional Human Rights Caucus held a briefing to focus on the recent gross violations of human rights in the People's Republic of China. Presentations were made by a number of individuals who witnessed the recent massacre on Tiananmen Square in Beijing, officials of Hong Kong and Taiwan, and a series of internationally recognized human rights organizations.

The American people are shocked and appalled at what is happening in China. The Chinese regime has massacred its most promising youth. Now it denies that it ever did so. Yet, lies are not so easy in an age of television and instantaneous global mass communications. The record is there—the evidence is there. Testimony at our briefing today included dramatic eye-witness accounts of the atrocities in China, and we were shown photographs of bodies mangled by tanks and riddled with bullets.

Unfortunately, the tragedy in Tiananmen Square is not an isolated incident. while the attention of the world has been focused on Chinese students in Beijing for the past 3 weeks, for the past three decades the gentle people of Tibet have been subject to brutal Chinese repression and vicious attempts to destroy their ancient culture and traditional way of life. The Chinese denial of Tibetan human rights is one of the great tragedies of our generation.

With my distinguished colleague, the Republican cochairman of the Congressional Human Rights Caucus, Congressman JOHN PORTER of Illinois, I have introduced legislation calling for the United States to deny to China the privileges of most-favored-nation treatment for its trade and withdraw the benefits of the Overseas Private Investment Corporation [OPIC].

It is high time we told the "Butchers of Beijing" that business as usual will not go on as long as they massacre their young men and women, whose sole crime it is to cry out for freedom and democracy. Business as usual cannot go on as long as the Chinese kill and viciously beat Tibetan monks and Tibetan people who are peacefully protesting the brutal repression and destruction of their culture, religion, and way of life.

The time has come for Congress to take stronger action against brutality of Chinese officials in both Tibet and Tiananmen Square.

Mr. Speaker, at our briefing today, we heard a statement by Michele Bohana, Director of Human Rights for the International Campaign for Tibet. Her comments were particularly insightful and helpful for those of us who have been following Chinese events in recent weeks. I ask that her statement be placed in the RECORD.

TESTIMONY OF MICHELE BOHANA BEFORE THE CONGRESSIONAL HUMAN RIGHTS CAUCUS, JUNE 22, 1989

Chairman Lantos and Porter, thank you for giving me the opportunity to testify today on behalf of the International Campaign for Tibet.

My name if Michele Bohana. I am Director for Human Rights at the International Campaign for Tibet, a Washington based human rights organization.

What happened in Beijing on Tiananamen Square, in Shanghai and elsewhere in China is tragic beyond words. The Dalai Lama's sympathy and that of all Tibetans and Tibet supporters, goes out to the Chinese people at this time.

We hope that what has happened in Beijing will have opened the eyes of the Chinese people and the world to the repressive nature of the present regime of the PRC, and that it may also increase understanding for the suffering the Tibetan people have undergone for the past 40 years and are undergoing today.

As many of you know, the Chinese security troops, including the army, put down numerous demonstrations by Tibetans in Lhasa and other Tibetan cities in past years with the same brute force that was displayed in Beijing. Unfortunately, unarmed Tibetans were fired upon with AK-47's well before the tragic events unfoled in Beijing on June 3, 1989. In this way, the massacres of demonstrators in Tibet were a precursor to those in Tiananmen Square.

Since March of this year, according to some sources, as many as 800 Tibetans—all civilians—were killed by Chinese security forces during demonstrations or in the crackdown that followed the imposition of martial law on March 7, 1989. Tibetans are all too familiar with house to house arrests, neighborhood informants and other repressive and intimidating tactics that clearly evidence what the Chinese mean by "crackdown". Thousands of Tibetans have been arrested in Tibet over the past two years for publicly or privately expressing their views on democracy or support for the leadership of the Dalia Lama. Torture, arrests, interrogation sessions and "self-criticism" statements have become routine.

The testimonies of numerous recent Tibetan political detainees include detailed accounts of people being repeatedly shocked by electric cattle prods, beaten and hung by their thumbs. Buddhist nuns have even been violated by electric cattle prods. Both internationally recognized human rights organizations and the U.N. Special Rapporteur on Torture have corroborated these abusive practices.

For years the Chinese Government has been consistently misleading and misforming the Chinese people through sophisticated propaganda about events in Tibet. Nonviolent Tibetan demonstrations for freedom are always reported by Chinese officials as violent attacks by "counter-revolutionaries", "criminals" and "hooligans". This rhetoric has been repeated, though less believed, by the international community, once again in Beijing. In the official Chinese media the Tibetan people are always depicted as happy under Chinese rule and supportive of the Chinese government leadership. Yet, the truth is very different. Even the Panchen Lama, in his last speech before he died, stated that Tibetans had suffered and paid too great a price than they could have ever gained from thirty years of Chinese rule.

We hope that the Chinese people and people elsewhere, will now start to understand the power of the Chinese state's propaganda apparatus to falsify facts and rewrite history in order to justify the leadership's policy. We hope they will also come to realize that they have been mislead in the same way by such propaganda about events in Tibet and about the colonial and oppressive nature of China's occupation of Tibet. What the Chinese government has been saying about the demonstrations in Tibet, the aspirations of the Tibetan people, the 1959 uprising against Chinese rule and what China has been saying about the Tibetan culture, religion, civilization and history, are not facts.

The worst way to deal with the Chinese government and to bring about change in China is to placate the Chinese leaders. That was the policy adopted by the West in the past, even in the face of evidence of gross human rights violations in Tibet. This attitude was interpreted by the Chinese leadership as weakness and as willingness to turn a blind eye to human rights abuses in order not to harm western strategic and economic interests.

The terrible events that occurred in Tibet and China teach us, that to close a blind eye to human rights violations is in no one's best interest. It is not even in the Western strategic, political or economic best interest. The only way to bring change, through nonviolent means, is through firm international economic and political action. However, such action should be swift and consistent. If student demonstrations can bring such crisis to the very existence of the Chinese government, international action can force change.

For years Tibetans have been trying, at great cost, to struggle for freedom through non-violent means. Chinese students, workers and academicians staged a similar nonviolent movement. It is important that the non-violent nature of these movements be recognized and encouraged. With reaffirmed determination we must not foresake Tibetan and Chinese martyrs. Inadvertently perhaps, the western world encourages violence by failing to stand up for just causes before they turn to violence.

Many governments will take measures, including sanctions, against the Chinese government because of the violations of human rights in China. They did not do so when Tibetan demonstrators were being killed, arrested, and executed. We think that this was largely due to the fact that most people did not realize the extent of brutality and repression being perpetrated in Tibet. The expulsion of foreign journalists and tourists from Tibet allows China to forcefully implement material law and with scrutiny. But, even with the whole world watching the events of the last two months, china issues statements of denial.

The only two cities the Chinese government put under martial law are Lhasa and Beijing. On June 7th the New York Times reported local radio broadcasts in Lhasa stated that ". . . army troops were enforcing martial law with new vigor". What does "new vigor" mean to Tibetans?

Finally, Mr. Chairmen, we recommend that any measures taken against China be taken specifically and explicitly for what has happened in China and in Tibet. Further, we recommend that measures against the Chinese government not be lifted before martial law is lifted in Lhasa, Tibet is opened to foreigners, including the press and Tibetan political prisoners are released. Moreover, should a Congressional delegation visit Beijing in order to obtain firsthand evidence of the situation there, the delegation should also investigate the situation in Tibet.

DESECRATING THE AMERICAN FLAG IS AN AFFRONT TO THIS SACRED SYMBOL OF FREEDOM AND DEMOCRACY

HON. C.W. BILL YOUNG

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 22, 1989

Mr. YOUNG of Florida. Mr. Speaker, the American flag throughout the world stands for freedom and democracy and it is a sacred symbol of our Nation's proud history and heritage. Burning or in any way desecrating the American flag is an affront to the American people and to those who have come to the defense of our Nation and gave of their lives to protect our cherished freedom.

Instead of granting immunity to those who would desecrate our flag, we should be imposing stiffer penalties on anyone who would deface or destroy this great American symbol. The Congress in 1968 enacted legislation to make it a Federal offense to knowingly "cast contempt upon any flag of the United States by publicly mutilating, defacing, defiling, burning, or trampling upon it." Those found guilty are subject to up to 1 year in prison and a $1,000 fine.

Legislation I am introducing today would strengthen this Federal law to further punish anyone found guilty of altering the shape or design of the American flag, or flying the flag asunder, or of attaching the flag to one's body or clothing in a manner degrading to this emblem of the traditions, freedoms, and ideals of the American people.

Mr. Speaker, the unfurling of the Stars and Stripes evokes a sense of pride and patriotism in all Americans and one of the great privileges of my 19 years as a Member of Congress, has been the opportunity to have thousands of flags flown over the Capitol for the people of Pinellas County, FL. When home, it is inspiring to see the hundreds of families and businesses throughout our county flying their flags everyday.

The American flag also is a worldwide symbol of hope and peace to our allies and to those people of oppressed lands who keep alive the dream of freedom. Wherever the Stars and Stripes flies, it represents to our allies American friendship and support. They are secure in seeing the American flag flying over U.S. embassies and military installations. For the millions of immigrants and refugees who have sought shelter here, the American flag is a welcome sign of the limitless opportunities that are open to them.

Unfortunately there have been some people over the years who have deliberately desecrated and degraded the American flag in protest and as an affront to our Nation. Demonstrators have burned, torn, cut, and plastered the American flag with symbols or flown it asunder.

Mr. Speaker, those who would knowingly destroy this symbol of American democracy should be severely punished. In light of the Supreme Court's decision yesterday, it is my hope that we will expedite consideration of the legislation I introduce today to reaffirm our intent to preserve the sanctity and grand symbolism of the American flag.

CONDEMNATION OF SUPREME COURT DECISION ON AMERICAN FLAG

HON. PETER J. VISCLOSKY

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 22, 1989

Mr. VISCLOSKY. Mr. Speaker, Wednesday the Supreme Court ruled that the first amendment protects protesters who burn American flags in political demonstrations. The 5 to 4 decision nullifies flag desecration laws in 48 States and comes only 3 months after the Senate passed a bill making it a crime to knowingly display the flag on the floor or ground.

I am terribly disappointed with the Supreme Court's ruling. The desecration of the American flag for any reason is obscene.

The flag of the United States of America is a symbol like no other in our Nation. It symbolizes equality, justice, and freedom. It symbolizes democracy.

No one can convince me that desecrating the flag is equivalent to writing a letter to the editor of a newspaper, to speaking at a school board meeting or is equivalent to any other forms of expression.

Freedom of speech requires responsibility. For example, one cannot shout "fire" in a crowded movie theater, nor can one express his dissatisfaction with the U.S. Government by bombing the Capitol, or the White House. Yet the Court's ruling will allow the flag of the United States, our symbol for democracy, to be desecrated.

Many people have fought and died to protect everything that the American flag represents. I cannot fully express my dissatisfaction and disappointment with yesterday's decision.

OPPOSES EXPENDITURE TARGETS FOR MEDICARE PART B PAYMENTS

HON. ROBERT F. (BOB) SMITH

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 22, 1989

Mr. ROBERT F. (BOB) SMITH. Mr. Speaker, today I voice my opposition to the Physician Payment Review Commission's suggestion that "expenditure targets" be established as a means of reducing Medicare part B payments.

While I have been a strong supporter of legislation to balance this Nation's budgets, I will not do so on the backs of our senior citizens.

Expenditure targets will only force physicians to limit, postpone, or restrict access to medical services. America's elderly depend on their Government to maintain vital services in their golden years. The use of expenditure targets will cause those services to deteriorate and jeopardize the health of senior citizens.

I urge my colleagues to join me in opposing expenditure targets for Medicare part B payments.

COMMUNITY HOUSING PARTNERSHIP ACT: A COMPREHENSIVE PROGRAM FOR PROMOTING LOW-COST HOUSING AND HIGH-GRADE ECONOMIC DEVELOPMENT

HON. RON WYDEN

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 22, 1989

Mr. WYDEN. Mr. Speaker, today I am introducing the Community Housing Investment Partnership Act [CHIP]. CHIP is a comprehensive bill aimed at increasing housing and economic development opportunities for low- and middle-income households throughout the country. This bill develops a program where the entire community—Federal, State, and local government, businesses, local nonprofit organizations, and most importantly, individual households—work together to alleviate local shortages in affordable housing and increase opportunities for local economic development.

The underlying theme of the CHIP bill is to increase accessibility to housing across-the-board, and to do so at low cost to the Government and with a maximum of community participation:

First, the bill addresses housing shortages by promoting programs which rehabilitate dilapidated and abandoned housing;

Second, it addresses affordability by establishing security deposit loan funds, which can be used within communities to assist low-income households who can afford monthly rent payments but have trouble saving enough money for a security deposit;

Finally, the bill expands eligibility criteria for enterprise zone designation, increasing the cities' abilities to expand job opportunities for their low-income residents and promoting economic development.

Let me explain this bill in further detail:

Title I of the CHIP bill revitalizes the section 312 Rehabilitation Loan Program. Since its inception in 1965, section 312 funds have provided localities with over $1 billion in redevelopment loans. Historically, the funds have been used to assist rehabilitation housing for low- and moderate-income families, although in recent years they have been used to finance rehabilitation of commercial buildings as well.

One great advantage of section 312 is that it operates at no cost to the Federal Government. It has not received any appropriations since 1981, yet has continued to make funds available to support local development efforts. The types of projects funded by section 312 would be unlikely to receive funding from other Federal or private sources. One would think that such a program would have earned Congress's appreciation. Instead, Congress last year virtually disabled the program by transferring $200 million from the fund.

Local community development agencies have cited the loss of section 312 funds as a hindrance to their economic development plans. They have found the section 312 program to be an efficient method to spur local development efforts. Last year alone, over $100 million in loans were made from this self-financing fund. We should pressure this program, which is not a Federal giveaway program, but one in which communities have been able to borrow capital which they could not otherwise acquire, except at excessively high costs.

The Community Housing Investment Partnership Act will preserve section 312 in two ways. First, it will replenish the fund by authorizing the appropriation of $220 million to replace the funds which were transferred out of it last fiscal year. Second, it reaffirms the purpose of the fund, and states that moneys will not be transferred from it again.

Title II of the CHIP bill addresses a sad paradox which exists in several neighborhoods in my district in Portland, OR, and throughout the country: hundreds of homeless families and hundreds of abandoned houses. These abandoned houses plaguing neighborhoods, and the squalor in which homeless families must live, are tragically now a part of the American terrain.

We cannot tolerate a situation where good houses are allowed to lie vacant while families who can't find affordable housing are forced to crowd in with friends or relatives, or to live in their cars. Yet those who need the housing most lack the financial resources to rebuild houses.

The legislation which I am introducing in CHIP will help reverse this tragic and wasteful trend. This legislation promotes the use of local sweat equity programs to repair the abandoned houses and make then available to low-income families, especially the homeless.

Sweat equity programs have been successfully implemented throughout the country. They are a low-cost way to both provide housing and to revitalize neighborhoods. I believe that they should be supported with an investment made at the Federal level.

Here's how my legislation will work:

First, it will provide grants to State or local agencies, or to public or private nonprofit agencies, which acquire abandoned housing and utilize sweat equity to assist homeless families or families with incomes below 80 percent of the area median income.

Second, it will promote basic training in building and home maintenance skills, as well as financial counseling, to the prospective households.

Third, recognizing that home ownership is not a viable option for some households, it will promote programs which increase the stock of both affordable owner- and renter-occupied housing.

Fourth, it will ease the process of acquiring housing, by directing the Departments of Housing and Urban Development, Veterans' Affairs, and Agriculture to make available abandoned FHA, VA, and FmHA housing which has been vacant or unsold for at least 6 months. Such housing should be sold at a price no greater than either 90 percent of the outstanding mortgage balance, or the current market value, whichever is less.

State or local governments participating in the program will be required to provide at least a 25-percent match to the Federal grant. This will insure a local commitment to the sweat equity program.

The program will support innovative solutions by local nonprofit agencies. As such, these agencies will be allowed to allocate some of their funds for establishing material banks, for hiring electrical and plumbing contractors, or for other purposes as they see fit. Such technical assistance will be limited to 25 percent of the total appropriation.

Title III of CHIP expands the eligibility for Nehemiah grants, a program which provides grants for communities for housing rehabilitation.

A unique feature of the Nehemiah Program is its focus on neighborhood redevelopment. In fact, a project utilizing a Nehemiah grant must involve rehabilitation of several blocks of contiguous lots. This means that rehabilitation is done on a neighborhood-wide basis, rather than as a piecemeal approach which leaves a neighborhood with some rehabilitated houses and others decayed or abandoned.

The feature of neighborhood level rehabilitation is an excellent one, and I support it fully. But the current structure of the program ignores the development potential of neighborhoods which are facing significant amounts of decay, but are not entirely abandoned. In my district in Portland, OR, as in many others across the country, there are neighborhoods in which some houses are abandoned and vacant, often taken over by drug dealers, while others are occupied by families who are struggling to preserve their communities. Unfortunately, the decaying houses tend to feed upon each other, so that increasing numbers of houses are abandoned as the neighborhood becomes less and less habitable.

I believe that by rehabilitating the abandoned houses, existing neighborhoods can be preserved. The Nehemiah Grant Program supports efforts to rebuild neighborhoods which are still vibrant, but which have large numbers of decaying, abandoned housing.

For that reason, my legislation will broaden the criteria by which areas are eligible for Nehemiah grants. It will maintain the spirit of the program by requiring that rehabilitation be done at a neighborhood level. But it eases the eligibility standards by limiting rehabilitation needs to 30 percent of the lots in a neighborhood of contiguous blocks. It also requires that other houses in the neighborhood not be in disrepair.

Titles I–III of the CHIP legislation have addressed the issue of housing supply. Title IV addresses housing affordability in a unique way—assisting working homeless and low-income households who can, with a little assistance, help themselves to find decent, affordable housing. It does this by providing funds for communities to establish security deposit loan funds.

There's no doubt that the shortage of low-cost housing has led to an increase in homelessness among the working poor, and in the number of people living in substandard housing. The problem is worsened by the high security deposits, often equal to 2 months' rent in advance, required by many landlords.

In addition to security deposits, potential tenants often have to pay deposits to utility companies. Together, these two forms of deposits serve as "barriers to entry" to affordable housing. These barriers are too difficult for many families to overcome when they are struggling just to meet current expenses and day-to-day needs.

Removing these barriers would benefit both the tenants and the communities in which they live. The tenant's family could move from its current living situation—be it a shelter, transitional housing, or substandard housing—into a better environment. The community benefits because homeless families are moved from temporary shelters into permanent housing, thereby freeing up more shelter space for the needy.

It is our national shame that working families should be so stripped of their dignity and the chance to provide decent homes for themselves. But we can begin to turn this crisis around with just a modest investment in self-sufficiency, by helping these families with loans for the small amounts of cash they need to get themselves back on their feet and into a better place to live.

Here's how the security deposit loan funds will work: Local community agencies will be provided with the needed capital to establish the funds on a demonstration basis. These agencies will use the money to make no- or low-interest loans to eligible borrowers.

By keeping the loan fund administration at the local level, the program will be flexible enough to encourage versatility and experimentation with what program design works best in the community. While not intended to be profitable, administering agencies will be encouraged to keep losses at a minimum.

The legislation does provide some guidelines, however, to ensure successful lender-borrower relationships. First, borrowers will have to show an ability to meet monthly rental payments. Second, they will have to prove that they can save from their income, by providing at least 20 percent of the total security deposit from their own funds. Finally, loan administrators will have to offer financial counseling to the loan recipients.

There are successful models for this type of approach. Security deposit loan funds have been established in Reno, NV, and in Keene, NH. These groups have been successful at assisting families to obtain rental housing. There are few outright defaults. And borrowers have been able to find decent, permanent housing that they can afford.

And there is a precedent in Federal policy for removing barriers to entry in housing. After all, the FHA and VA insurance programs basically remove the downpayment barriers on home purchases for middle-income households. The security deposit loan fund which I am proposing simply removes the barriers to renting for low-income households.

For many people faced with a housing crisis, this approach is far more appropriate and cost-effective than the types of assistance provided by homeless shelters and transitional housing programs. In lending a hand with a small cash loan, we'd be restoring their sense of dignity by showing our faith in their ability to make better lives for themselves.

Finally, title V of the CHIP legislation eases eligibility criteria for enterprise zone designation.

Current regulations on enterprise zones effectively limit eligibility to cities which are undergoing citywide economic decay. There is no doubt that these cities deserve Federal assistance, but other cities still have large pockets of poverty and economic inactivity and should not be excluded from the advantages of enterprise zone designation. Excluding these cities unfairly limits the ability of enterprise zones to foster economic activity.

My legislation eases eligibility standards for enterprise zone designation by making a community eligible for enterprise zone designation if it meets one of four criteria: it has an unemployment rate at least 1.5 times the national average; at least 20 percent of its population is below the poverty rate; at least 70 percent of the households in the proposed enterprise zone have incomes below 80 percent of the area median; or, the proposed zone has had a 20-percent decrease in population.

In addition, a community will be eligible for designation if it currently provides economic incentives, such as tax abatements, to promote urban development in specified zones.

The expanded criteria will not affect the way in which the Secretary of Housing and Urban Development makes the final designations of enterprise zones. However, it will provide the Secretary with greater leeway in making those designations, and expands the potential advantages of the enterprise zone program to a wider range of communities.

RESTORE OUR FLAG'S INTEGRITY

HON. SONNY CALLAHAN

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 22, 1989

Mr. CALLAHAN. Mr. Speaker, I rise to denounce the decision of the U.S. Supreme Court that the burning of the U.S. flag is protected by the first amendment as a form of free speech.

If there is any symbol of freedom respected around the world it is the American flag. Our children are instructed in its proper uses and are admonished that it must be respected because it represents the liberties our forefathers fought to preserve. As a boy, I remember the honor occasionally bestowed when I was allowed to present the flag at a school function. Later, as a Navy seaman, our ships proudly displayed the U.S. flag and I felt it an honor to serve under this banner that represented the greatest state of freedom on Earth.

It saddens me deeply to recall those thousands of brave Americans who have given their lives so that the American flag can continue to fly. As we return home soon for the Fourth of July and its all-American pageantry, how can we face without a great sense of shame those veterans who have given so much to support the many principles embodied by the American flag?

In an era of renewed patriotism in our Nation, it is inconceivable first that any American would dare to desecrate our flag. It is even more inconceivable and reprehensible that our highest judicial body would abet this cowardly act. I am the first to defend our constitutional right to free speech, but I am ashamed that some would distort the intention of the first amendment to allow the abuse of the most important symbol of that freedom.

Mr. Speaker, this Congress must immediately begin the process to amend our great Constitution to explicitly prohibit the desecration of our flag. I am today introducing an amendment to the Constitution for that purpose and I call on the leadership in the House to move promptly on its passage. The American people will not tolerate the senseless destruction of our flag and I am confident that the individual States will ratify a Constitution amendment in all due haste.

SALUTE TO STEVEN ALAN COMBS ON COMPLETION OF HIS MASTERS DEGREE

HON. JERRY LEWIS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 22, 1989

Mr. LEWIS of California. Mr. Speaker, I rise today to applaud 1st Lt. Steven Alan Combs as he reaches a tremendous milestone in his postgraduate education. He should be saluted for his outstanding dedication in completing the stringent requirements of the Masters of Science in Systems Management degree from

the University of Southern California, all the while honorably serving his country in the U.S. Air Force.

Lieutenant Combs exemplifies the very best that our country has to offer in loyalty and service in the Armed Forces. In his 3 years in the 2045th Communications Group at Andrews Air Force Base, he has performed his responsibilities with the highest acclaim of both his supervisors and his peers. Of special note is his work on the groundfloor of the Mystic Star Presidential Communications System, a worldwide communication system linking Air Force I and other VIP aircraft with land-based satellite units. Among numerous other duties, Lieutenant Combs is also responsible for the computer security activities of each and every computer on Andrews AFB.

The son of John and Carolyn Combs, Steve spent his childhood in New Jersey and his teenage years in sunny central Florida. He ventured from the Gator State to the University of Oklahoma where he studied a plethora of subjects, ultimately championing a chemistry major. With extensive course work in computer science under his belt, Steve triumphed through the rigors of officer training school and received his commission as an officer in the U.S. Air Force.

Inside the beltway, Steve is a dear friend to many of us. He is actively involved with the programs and relationships afforded by his church, Washington Community Fellowship. An avid sideline softball enthusiast, Steve supports the TWAN and the members of my staff who participate.

Mr. Speaker, please join me in congratulating Steven Alan Combs on this tremendous accomplishment. I know that Steve's wife, Heather—a devoted and valued member of my staff for the past 5 years—along with both the Seyden and Combs families and their many friends share my pride and join me in wishing him every success in his bright future.

A SACRED SYMBOL IT SHOULD BE

HON. CLARENCE E. MILLER

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 22, 1989

Mr. MILLER of Ohio. Mr. Speaker, if one were to deface one of our national monuments such as the Lincoln or Jefferson Memorial, the U.S. Capitol Building, or the White House, they would be immediately apprehended and made to pay for their crimes, yet the U.S. Supreme Court ruled yesterday that desecration of this country's most cherished national symbol, the American flag, was not a crime but an exercise in political expression.

I am compelled to ask the Justices who wrote this opinion, is there no limit to the excesses that can be committed in the name of the first amendment? The courts have already ruled that an individual cannot go into a crowded theater and yell fire; the courts have already ruled that a person cannot walk down Main Street without any clothing on because to do so is either considered dangerous to the public health or offensive to the public's concept of decency.

What could be more offensive to the general public than the burning of that most sacred of American symbols, the American flag?

Now that the Court has defined such an act of desecration as constitutional, apparently, the only way to make such an act a criminal act is to amend our Constitution. Toward this end, today, I am introducing a constitutional amendment to do just that. I am confident that such an amendment will be given quick and favorable consideration by this Congress and by the requisite number of State legislatures.

A TRIBUTE TO PERKASIE

HON. PETER H. KOSTMAYER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 22, 1989

Mr. KOSTMAYER. Mr. Speaker, I rise to salute the borough of Perkasie, in Bucks County, PA, for developing a new, innovative trash recycling program. The program developed in Perkasie is an example of a workable solution devised by local citizens at the local level for one of our Nation's most difficult environmental problems.

Perkasie, like other towns in the Nation, faced a serious financial and environmental problem: how to dispose of its trash. The Nation produces huge volumes of refuse each year. In the past this waste has largely been disposed of in landfills. But these heaps of garbage destroy our environment by contaminating our drinking water and polluting our streams and rivers. Because of pollution and limited space for new refuse, 70 percent of the Nation's landfills have shut down, and we must now look for new environmentally sound ways to dispose of waste.

Faced with this problem, Perkasie decided to slow the production of new waste materials by recycling its garbage. In the past towns that adopted these types of programs have had trouble in getting citizens to comply, even when participation was mandatory. Perkasie took the initiative and developed a new innovative recycling program which uses classical economics and applies it to environmental concerns.

The Perkasie program, which enjoys 90 percent participation from its citizens, uses financial incentives to encourage compliance. In Perkasie, residents must pay $1.50 for each 40-pound bag of trash the borough picks up. Under the Perkasie plan citizens can lighten the load of their trash be setting aside recyclable goods, which the town picks up for free. In the end less trash ends up in area landfills.

Under the Perkasie plan everyone is a winner. Residents' fees for garbage disposal on average have decreased by 30 percent, while the borough's disposal cost have dropped by 40 percent. And local companies benefit from receiving the recyclable goods.

Not just the Nation, but the planet is now experiencing an environmental crisis. We simply no longer have room for the waste we generate. If more communities were to follow Perkasie's lead and resolve their environmental problems, the Earth's ecosystem would remain vibrant for our children and for those generations yet to come.

The Wall Street Journal has taken note of Perkasie's program and I insert the article at this point in the RECORD, so that my colleagues might make local officials in their districts aware of this innovative and important program in Perkasie, PA.

PENNSYLVANIA TOWN FINDS A WAY TO GET LOCALS TO RECYCLE TRASH

(By Bill Paul)

PERKASIE, PA.—As millions of Americans still do, Meredith Campbell used to throw things away without giving it much thought. But now that she has to pay $1.50 for each 40-pound bag of trash she sets out at the curb, Mrs. Campbell, like most people in this tiny town 25 miles north of Philadelphia, has a new attitude.

These days she and her husband and 12-year-old daughter save newspapers, cardboard, glass bottles and aluminum cans. The town provides white buckets for these recyclable materials and picks them up, free of charge, as an incentive to recycle.

The Campbells have made some other changes, too. They compost food waste, leaves and grass clippings in their back yard. They buy fewer rolls of paper towels. They avoid cosmetics and other elaborately packaged products. When they buy soft drinks or beer, it is always in aluminum cans or returnable bottles—never in non-returnable plastic. And they recycle their junk mail, bundling it with the newspapers.

BY THE BAG

Paying by the bag for garbage collection cost the Campbells about $116 last year, compared with the $145 they would have paid had the town continued to charge a flat annual fee for refuse pickup. While the recycling program is mandatory, no fines have yet been collected, and the town hopes to avoid the need for them.

"You really don't have to recycle" for fear of fines as yet, says Mrs. Campbell. "But it will cost you money if you don't."

What Perkasie (pop. 6,200) appears to have discovered is that Americans' interest in saving a buck can overcome their indifference to the garbage crisis.

Since 1978, more than 70% of U.S. landfills—14,000 facilities—have closed, primarily because of Americans' growing fear of landfill-contaminated drinking water. The Environmental Protection Agency estimated that a third of the remaining 6,000 landfills will close by 1992. At the same time, people are averse to air pollution and the toxic ash produced by incinerators. The newest of them burn waste to produce electricity, and they must comply with a plethora of regulations, that among other things control emissions. But the plants produce toxic ash that must be disposed of. And most of the 100-odd municipal incinerators currently on the drawing board are opposed by citizen groups.

AHEAD OF THE NATION

The cumulative effect of all this, according to solid-waste officials, is that much of the U.S. will be mired in garbage before the year 2000 unless "source reduction" and recycling become popular. But while eight states will run out of landfill space within five years, and 15 states in less than 10 years, federal and most state environmental officials haven't yet found a way to reduce the "waste stream."

Perkasie, it seems, is ahead of them. Last year, when it began to charge a per-bag fee and require recycling, the town reduced by more than half the garbage it had to dispose of. Its sanitation truck collected trash just once a week, not twice, and on the second day picked up only recylables.

Perkasians paid $81,182, or 30% less for garbage collection. The town paid $100,805, or nearly 40% less for garbage disposal. Older people living alone made out particularly well. Bob Kell, 73, cut back to just one bag every six weeks, or about $14 a year. In a poll taken at year end, nearly everyone in town said the program was a good value for the money. Meanwhile, three companies got a valuable source of raw material: Jefferson Smurfit Corp. (paper), Aluminum Co. of America (cans) and broker Todd Heller of Allentown, Pa. (glass).

"We've let Adam Smith lead the way," says Perkasie borough manager Paul A. Leonard.

GLASS DISTINCTIONS

The town's official, black plastic garbage bag has a tree printed on it (that is supposed to be suggestive of environmental consciousness) and comes in two sizes. The 20-pounder costs 80 cents, the 40-pounder $1.50. Most people seem to prefer the larger size. Bags can be purchased at the borough hall or at local stores. Retailers report that with more people coming in, they are selling all sorts of other merchandise, too, not just the sanctioned garbage bags. Specially made, a 40-pound Perkasie bag is about three feet tall and twice as tough as a heavy-duty Hefty lawn bag, although it can still be torn by a sharp can or a raccoon's tooth.

In addition to supplying free buckets and free weekly pickup of recyclable goods, Perkasi has a 24-hour recycling center behind the borough hall. There, however, people have to do their own sorting. (Brown glass in o ne drum, clear in another.)

"You find that when you remove all the paper, glass and cans, there isn't much left to throw away," says John Gerner, the editor of Perkasie's weekly newspaper, the News-Herald. Still, before Mr. Gerner puts out his garbage, he stomps on the bag, which seems to reduce its volume by a third. (Other Perkasians have trash compactors.) No matter how much a bag is stuffed, however, Mr. Leonard says nobody manages to get 40 pounds into it.

The savings reported by Perkasie make sense when you consider what Americans typically throw out. According to the National Solid Wastes Management Association, a Washington, D.C., trade group, 41% of U.S. residential and commercial garbage is paper and paperboard. Yard waste ranks second, at 17.9%, followed by metals (including aluminum), glass, food waste and plastics.

Perkasie's recycling program currently doesn't include some metals, ferrous and otherwise. Plastic soda bottles and water jugs are being added this month under a deal with Wellman Inc., the nation's leading plastics-recycling company. Perkasie's steel cans also may soon be recycled and sold to USX Corp. Meanwhile, for people without big back yards, the borough manager, Mr. Leonard, is considering buying a "tub grinder," a machine that chews up yard waste and even paper bags.

ANOMALIES IN PERKASIE

Still, things aren't quite what they seem in Perkasie. But the figure looks high if you consider the volume of unsorted trash to be seen in apartment dumpsters. The problem: Landlords don't use the municipal system. Instead, they hire private haulers, to avoid policing tenants, for whom garbage-collection costs are part of the rent. Consequently, much of what tenants toss is the same old mix of newspapers, cans and other stuff that really ought to be recycled. Some landlords have encouraged tenants to take part by agreeing to hold down rents if tenants take responsibility for their own garbage disposal.

Some Perkasians have been burning garbage, and that is illegal. One anonymous local confesses to having a daily paper fire in his barbecue. A few businesses in town have had to chain and padlock their dumpsters. Old appliances get collected just once a month, and residents have to pay $5 for each one carted off.

At least so far, however, Perkasie hasn't had any "bagnappers". (In Utica, N.Y., police recently said someone was dumping trash in the streets and making off with the official city bags in which it had been packed.)

Some problems Perkasie faces are beyond its control. Since Pennsylvania lacks enough landfills, Perkasie's garbage must be trucked to Ohio. Andrew Gansberg, a New York attorney specializing in environmental and regulatory issues, predicts that states will soon try to prohibit garbage imports. This issue, he says, may well wind up before the Supreme Court—as a matter of states' rights vs. interstate commerce.

REGULATING INCINERATORS

Also diverting legislators and regulators from reducing the "waste stream" is the politically painful process of trying to write comprehensive health and safety regulations for municipal incinerators. In Washington, the process is crawling as the Bush administration fights a Senate bill that would place such severe restrictions on incinerator emissions that it could cripple the incineration industry, according to Susan O'Keefe, the acting chief of the assessment team in EPA's Office of Solid Waste. (EPA supports a less-restrictive House bill.)

market forces, too, pose a threat, particularly declining prices for old newsprint, and paper-industry opposition to recycling. While the American Paper Institute, the industry's trade group, says its members are committed to using recycled fiber, companies that recycle paper say that most U.S. paper companies are interested only in *exporting* old paper, thereby keeping the lucrative U.S. market for virgin fiber from their own forests. The price for recycled newsprint recently collapsed, reflecting a glut on export markets. James L. Burke, the executive vice president of Garden State Paper Co., a paper-recycling firm, says that "Distasteful as it may be, there must be legislation" to force increased use of recycled fiber in domestic paper products.

Recycling, meanwhile, is catching on, albeit slowly. While the Bush administration would like to see 25% of the nation's commercial and residential garbage recycled or eliminated by 1992, firms such as Waste Management Inc. in Oak Brook, Ill., doubt the figure will top 12%. Where recycling is mandatory, it is hard to enforce. Where it is voluntary, there is little incentive to change habits.

What led Perkasie to experiment with a per-bag fee and a recycling program is a problem common to the nation.

GROWTH IN COSTS AND TONS

Between 1981 and 1987, Perkasie's cost per ton for garbage disposal rose 900%, to $58.95, as landfill space grew scarce and people put out more and more trash. (In 1960, Americans discarded 2.7 pounds of trash a day per person. Today, it is 3.6 pounds and rising, according to the Solid Wastes Management Association.) Meanwhile, Perkasie is seeing an influx of new residents who can't afford to live in Philadelphia's closest suburbs.

Despairing of getting federal or state help, Mr. Leonard, the borough manager, decided to experiment. Although it wasn't the first community to try per-bag fees, Perkasie apparently is the first to have linked such fees with the threat of fines, a powerful incentive to recycle. (Pennsylvania has since required counties to develop long-term disposal plans.)

Perkasie may be sending a chill through consumer-product companies and plastics manufacturers because, as Mr. Leonard puts it, "We're not going to let the big guys dump on us anymore. Why should we pay to dispose of trash that companies needlessly produce?"

A company such as General Mills Inc., for instance, which makes Wheaties among many other products, feels trapped between consumer forces. General Mills's director of government relations, Larry Sawyer, says that as the population ages and as more people have smaller families, they demand more single-serving packages, and that means more paper and plastic that must be disposed of. And people are beginning to shun excess packaging because it contributes to the garbage glut.

HUGGING THE BEAR

HON. WILLIAM E. DANNEMEYER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 22, 1989

Mr. DANNEMEYER. Mr. Speaker, in the rush to gush over glasnost, it behooves us to be circumspect, not conned; nosey, not naive. While we should seek avenues of common ground, promote better understanding and cooperation, and strive to lessen tensions, we should pursue these goals judiciously and carefully. Nobody wants to win the Neville Chamberlain award for head-in-the-sand diplomacy. It is best to keep our eyes open and our wallets shut.

In the July/August issue of Defense & Diplomacy, Lawrence Sulc writes a cogent and timely article about real Soviet motives. "Peredishka"—breathing space—is a far more appropriate—and historically accurate—term for current Soviet policy. Mr. Sulc is president of the Nathan Hale Institute, a Washington-based organization devoted to nonpartisan research on domestic and foreign intelligence. He was an intelligence operations officer for the Central intelligence Agency for more than 23 years. And he served as Executive Director of the House Republican Study Committee during 1983, during which time I got to know and appreciate his expertise in this area.

I commend this article to my colleagues. Its message is one we cannot afford to ignore.

SMILES AND IRON TEETH

(By Lawrence Sulc)

Momentous events are occurring in the communist world today. The dizzying pace of occurrences and revelations issuing from the Soviet Bloc makes it difficult to grasp the meaning of it all. Soviet psychiatric hospitals, for example, infamous for their administration of mind-altering drugs and psycho-torture, pass from the jurisdiction of the Ministry of Internal Affairs (MVD) to—if of all things—the Ministry of Health. The organs of state coersion, the MVD ably assisted by the KGB, actually relinquishing health care to the medical bureaucracy? Mind boggling. This development could mean not only a net gain for the dissident citizen consigned to Soviet psychiatric care—until now an art of state control—but might even signify a sea change in the Party's *modus operandi.*

Big changes are in the works in the vast Soviet communist enterprise. The command economies of the Bloc, with their lines of strict, doctrinaire control, all emanating from Moscow, have fallen into such disrepair that, in economic terms, the communist system has slipped from a poor second to a full third in world status. To arrest the slide, General Secretary and President Mikhail Gorbachev has boldly and at great risk attempted to force *perestroika* ("the revolutionary renovation of our society, our system," as he explains it) on the degenerative shambles that is the communist economic arrangement. The only way to reverse the decline of the communist economic system is to restructure it—radically, and fast.

Perestroika, however, according to Andrei Sakharov, Soviet human rights activist and winner of the 1975 Nobel Peace Prize," can only develop with real democratic foundations. Without them, reform is at a dead end," *The Washington Post* quotes him as saying. Sakharov, who himself has consistently supported Gorbachev's *perestroika,* nonetheless believes that granting the Soviet leader the power he seeks, "in a country that does not have a multi-party system is just insanity. * * * This is practically boundless power," Sakharov warns. Crazy or not, the Communist party of the Soviet Union, in its urgent drive to reorganize the system, is disinclined to yield any of its monopoly of political power. *"Perestroika* does not mean sharing power with noncommunists, and it does not mean giving them a voice in government," Jeane Kirkpatrick wrote in *The Washington Post.* "The dictatorship of the Communist party remains untouched and untouchable," affirmed Robert Gates, as Soviet affairs specialist and former deputy director of the CIA.

Perestroika, in any case, has so far flunked the course, and faith in Communism has declined accordingly. Try as they have, Soviet leaders have failed to force *perestroika,* on an apathetic people and an entrenched and redolent bureaucracy. Restructuring the nation's "booze habit," for example, has been a spectacular and costly failure, and the vodka ration, so drastically cut, must be restored. Perhaps that was a particularly difficult reform to effect and the United States, for its part, can hardly be smug on the question of dependence. Nevertheless, official efforts to impose *perestroika,* are to be redoubled and, ostensibly for that purpose, power concentrated in a new, combined party/state organization—the formulation that distrubs Sakharov so much.

One of the many strengths of the Western democracies (and those of the Eastern persuasion, too) is a certain freedom of thought, an open exchange of ideas—a give and take, if you will. Productivity, economic and otherwise, stems in large part from that freedom. The Soviet leaders know this and are determined, however distasteful, to pay the necessary price for *perestroika: glasnost*—candor (or "openness," as it is often called in the West) for certain sectors of the Soviet system. Non-Party people who practice it find themselves vilified, harassed, detained and imprisoned, for Gorbachev, as a classical Leninist, wants to improve the Party and the system, not pull the plug.

It is the consumer part of the Soviet economy that experiences particularly ill health, and it is this aspect that needs *perestroika,* so urgently. The military/space sector is doing just fine. Military spending has doubled on Gorbachev's watch, its real growth continuing to accelerate 3 percent a year. Absorbing between 15 and 20 percent of Soviet GNP annually (a spectacular sum when compared with 6.5 percent for the United States), it remains a very heavy burden on the economy. There are to be no restrictions on the wherewithal to advance Soviet plans for world supremacy: offensive strategic and conventional weapons, and the means to control space. It is the long-neglected and short-changed domestic economy (food, clothing, housing and so on) that needs repair and overhaul—their jury-rig lash-up.

Socialism remains irreversible under Gorbachev, and power concentrated in his hands. Moreover, " * * * we know that no essential goals of Soviet domination have changed—or, at least, the Soviets have made no statements of such a change," reports William Webster, Director of U.S. Central Intelligence. *Perestroika. Glasnost.* What the leaders of the Politburo of the Central Committee of the Communist Party of the Soviet Union are really angling for, of course, is *peridishka,* or breathing space, as put by Lenin himself in 1921 and as pointed out by Natalie Grant, a long-time observer of Soviet affairs. They need a break—to restructure the jury-rig part of the system so that the military-space appendages can continue to develop full bore.

As the Soviets fall back and regroup, the West should exercise caution. If the Soviet has plenty of resources for military hardware and space shuttles—as it most certainly does—would it not be wise to wait for it to reshuffle its guns-or-butter priorities? If the Soviet Union were to make the necessary reapportionment on its own, without massive and cheap Western loans, the whole world benefit. Yet, the United States' NATO allies are offering billions of dollars in soft loans and credit lines, including "untied" loans not designated for specific projects or purposes. According to Roger Robinson, former senior director for economic affairs at the National Security Council, most of the $9 billion in loans from U.S. NATO allies to the USSR are government guaranteed; that is, will fall on Western taxpayers if the Soviets default.

"Gorbachev is trying to save Communism and we are helping him * * * " said Gen. Jan Sejna, high-ranking Czech defector and an analyst of Soviet affairs for the U.S. government for 20 years. The West could actually delay implementation of communist reform with its unseemly haste to bail ou the corrupt Soviet system. Robinson estimates the Soviets lost up to $25 billion in revenues under Gorbachev's anti-alcohol campaign, for example. Should U.S. allies underwrite those losses or chip in more for the European common defense, helping to alleviate the U.S. balance of payments problem in the process? The United States spends $150 billion a year to defend Western Europe against those Soviet forces deployed to the East. And, as everyone knows, overall it spends a good deal more than it makes every year.

Oddly enough, Congress is out front on this one: in late October a sense-of-the Senate resolution, proposed by Sen. Steve Symms (R-ID) and passed by a lopsided vote, called on the president to instruct the secretaries of state, defense, treasury and commerce to consult with the United States' allies on the impact on allied security of untied Western loans to the Soviet Union. The Senate, at least, counsels caution.

In the meantime, is the Soviet Union becoming any nicer? What does this current phase of *detente* mean to the United States? The U.S. embassy in Moscow must be torn down and replaced at a cost of $200 million to $250 million because the Soviets not only bugged it relentlessly while building it, but actually made the whole building into a single huge resonance microphone. Moreover, Soviet active measures, "designed to subvert and deceive, to 'disinform' the public opinion upon which our democracies are built," as then President Reagan once described them, have actually increased during Gorbachev's tenure.

"No more lying. No more disinformation," the general secretary promised during the Washington Summit in December 1987. Meanwhile, his country continued as before its "virulent, anti-U.S. disinformation and forgeries," as the U.S. Information Agency calls them. Among the scurrilous themes: that the United States created the AIDS virus, that it manufactures an "ethnic weapon"; that kills only non-whites, that the FBI assassinated the Rev. Martin Luther King and that the CIA assassinated Swedish Prime Minister Palme and Indian Prime Minister Gandhi and tried to kill Pope John Paul II.

Last summer the Soviets even managed to have a French communist member of the European Parliament (EP) slip a resolution through "charging American with trafficking babies for spare parts." This vicious disinformation theme has been promoted by the Soviet Union and its foreign surrogates for years now, and the gullibility of certain Western institutions seems boundless. Shortly before the EP's bizarre resolution, three London dailies—*The Times, The Daily Telegraph* and *The Evening Standard*—succumbed to a Reuters item about a Paraguayan kidnap gang killing babies for sale of their vital organs in the United States. In that case, fortunately, Reuters recanted quickly, followed by the embarassed newspapers that had been so readily duped.

Knowledgeable observers of the Soviet scene have predicted that as the age of *glasnost* unfolds, Soviet active measures will increase rather than decrease, and so they have. Things have been looking up for the disinformation and forgery crowd in the Party's Central Committee secretariat and the KGB since Gorbachev took power four years ago. As Soviet anti-U.S. and anti-Western propaganda—the overt arm of doctrine—is toned down in accordance with the new era of good feeling, the hidden hand has become even more active in promoting Soviet policy themes.

And what are the Soviets up to in the United States as *détente* warms relations?

According to William Webster, "* * * the threat against us has grown. The number of operations against us has certainly increased. * * * Over the past three years, we have discovered more penetrations of the U.S. defense and intelligence communities than at any time in history. The costs of these compromises are estimated in the billions of dollars * * * [T]he Soviet intelligence services * * * represent by far the most significant threats in terms of size, ability, and intent to act against U.S. interests—both at home and abroad. And despite Soviet *glasnost* and *perestroika*, we have actually seen an increase this year in Soviet attempts to recruit U.S. sources." Although the DCI was making a point about Soviet espionage against the United States, and how it has prospered despite *perestroika* and *glasnost*, he might as well have been talking about Soviet influence operations.

The Soviet "new way of thinking"—*perestroika's* international concomitant—will be promoted by a "broad dialogue," according to Gorbachev. The Soviet "new way of thinking" and the expected new wave of Soviet visitors to the West opens up a host of problems for the United States. There will, of course, be a preponderance of dedicated, ideologically committed persons from their side arrayed against ordinary citizens, largely open and naive, on ours. The situation will be somewhat analogous to U.S./Soviet competition in sports: our amateurs against their professionals.

"It is important to realize that most of the Soviets visiting this country to study in American universities, or as members of scientific, cultural, sports and trade exchange programs, are involved in gathering intelligence," says Stanislav Levchenko, former KGB major now working against communism in the United States. "Many of them are not professional spies, but are co-opted by the KGB or the GRU. If any Soviet citizen refuses to fulfill the intelligence requirements, he or she will never be permitted to travel abroad," Levchenko points out. "Better relations can reduce the threat of another war. But we have to realize that in the secret espionage war there is no such thing as *détente*. The secret war conducted by Soviet espionage is perpetual," Levchenko warns. Levchenko, as in the case of DCI Webster, might have said the same thing about the secret active measures war, as well.

Western journalists, including those in the United States, have been dealing with the blandishments of Soviet cadres for decades, as A.M. Rosenthal, journalist and former editor of *The New York Times*, makes clear. "Earlier and later, I met various kinds of agents of Communist intelligence," Rosenthal writes in the *Times*." At the United Nations, I met a jovial KGB agent accredited as a journalist but almost out in the open who specialized in offering royalties to American reporters, even if they hadn't written any books." These "royalties," of course, are one means the Soviets use to influence and perhaps eventually gain control over the gullible targeted journalist.

At United Nations headquarters in New York, the Soviets have had a field day for decades with their intelligence collection and influence operations. Experience in the U.N. arena gives us an idea of what an increase in Soviet visitors to other places in the United States means. "Soviet U.N. employees use their positions to spot, assess and recruit spies, and to collect scientific and technical information of value to the USSR," says Col. Kalitka, a retired army intelligence officer. "What is significant," he points out, "is that the Soviets, obviously knowledgeable of American CI [counter-intelligence] awareness, brazenly continue attempts to challenge and overwhelm U.S. CI efforts by saturating the U.N. operation area with agents." Although referring to Soviet intelligence collection operations in the U.N. in New York, NY, Col. Kalitka's observations, like those of Webster and Levchenko, also apply to Soviet influence operations and to other parts of the United States.

The House Permanent Select Committee on Intelligence (HPSCI) for its part has long recognized that "[i]n their attempts to 'secure tha active collaboration' of 'political, economic and media figures in the West,' Soviet intelligence—both operations officers and others working as Soviet agents—'offers intangible rewards tailored to meet the specific requirements or vulnerabilities of the individuals involved.' Rewards include access to special channels of communication to important Soviet policy makers, recognition of accomplishments on the part of the collaborator, and so forth."

Most Americans have a pretty good idea of what foreign hostile espionage in the United States is all about. There has been plenty of media coverage of espionage over the years. What many Americans may not track very well, however, are "active measures"—hostile, often clandestine, influence operations. As the lead government agency for foreign counterintelligence in the United States, the Federal Bureau of Investigation, which monitors all hostile intelligence activities—influence activities as well as espionage—says that "[t]he Soviet Union continues to conduct espionage and active measures against its main enemy—the United States." It relies "on Eastern European intelligence services to assist them," the Bureau affirms. The term "main enemy," it should be pointed out, important in the training and motivation of its personnel, remains a firm doctrinal concept of the Soviet Union despite the twists and turns in its overt foreign policy. The United States has long been and remains the "main enemy" of the Soviet Union.

"Certain KGB officers * * * are in regular contact with officials of the Communist Party, USA (CPUSA), the National Council of American-Soviet Friendship (NCASF) and other front groups," the FBI explains. "The KGB is also responsible for developing agents of influence, planting media stories and resurfacing forgeries in support of active measures campaigns * * * [I]t is important to note," the FBI points out, "that many active measures operations utilize overt or semi-overt elements as well as clandestine or covert ones." Furthermore, the Bureau warns, "* * * it should be emphasized that all Soviet officials, journalists, scholars, trade union officials, scientists and even some students who visit the United States could be used for active measures and influence operations. * * * Thus active measures operations involve individuals from virtually every element of Soviet society and are closely integrated and coordinated with traditional diplomatic activities and long-term Soviet foreign policy objectives."

Non-official Soviet citizens abroad also carry out active measures, the FBI says. Private U.S. groups and the media for their part, facilitate active measures by providing the Soviets—both officials and private citizens—with access to large, often unsuspecting audiences. Officials of Soviet "religious" organizations, for example, speak to groups in the United States, spreading "propaganda or disinformation about religious freedom in the Soviet Union," the FBI explains. "It appears that the Soviet have acquired an appreciation of the vast audiences and substantial political influence of conservative religious leaders in the United States."

The Soviet party and intelligence services take full advantage of the access provided them by the U.S. media, presenting "Soviet active measures themes to a vast American audience * * * appearing candid and forthright * * * a new generation of refined and articulate Soviet spokesmen" delivers the Soviet message "in Western style that the American public and media can better identify with and appreciate." Those of us who have met these Soviet operatives affirm that they are indeed formidable adversaries.

The FBI describes the value U.S. front groups render their Soviet sponsors, by allowing, for example, Soviet representatives "* * * to travel in areas closed to Soviet diplomats * * * meet with U.S. persons of influence, spot and assess U.S. persons for recruitment operations, and influence certain groups of activists in the U.S. peace movement." The front groups, by facilitating these Soviet operations, are sponsoring their sponsors, as it were. Some of the groups at the U.S. end, of course, are talking up "peace" and "friendship," all of which is difficult to absorb in light of the opinion of the Simon Wiesenthal Center, for example, that the Soviet Union "has become a historical heir to the cancerous hatred so effectively utilized by Nazi Germany a generation ago."

In early 1985, Dusko Doder in *The Washington Post* quoted Andrei Gromyko's remarks to the Central Committee while endorsing Gorbachev's election as general secretary. "Comrades, this man has a nice smile, but he's got iron teeth," Gromyko said. When it comes to the new president of the Soviet Union, we in the West have seen the engaging smile. It behooves us to watch those iron teeth. And as Rudyard Kipling said, "The bear is most dangerous when he hugs you."

LET'S GATHER AROUND OLD GLORY

HON. WM. S. BROOMFIELD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 22, 1989

Mr. BROOMFIELD. Mr. Speaker, I, too, was very distressed by the decision by the Supreme Court that no laws could prohibit political protesters from burning the American flag.

Chief Justice Rehnquist had it right when he wrote that burning the American flag is not really a form of self expression, but is just an inarticulate grunt. People who burn flags don't do it to express an idea, but do it solely to antagonize other people.

Who do they antagonize? First and foremost, they antagonize all those brave Americans who at great sacrifice have gone to war for America so that all Americans, including the flag burners, could live free.

The American flag has been carried up Mount Suribachi on Iwo Jima; it has crossed the rivers of Europe. It entered Paris to the

cheers of millions of French men and women who had been liberated from the bondage of fascism. Burning the American flag is an insult to all those brave Americans who have fought in America's wars.

But the American flag is not just a symbol of America's willingness to protect itself and other nations. It is a symbol of peace as well.

I see that every day in the hallways of this building as interns carry around the American flags that have been requested by our constituents. For many Americans, the flag symbolizes the freedoms and opportunities that they work hard every day to earn and to maintain.

The American flag is large enough to take in Americans of all political beliefs, rich and poor, black and white, north and south.

It flies over our heads right here in the Capitol, taking in Congressmen from the left as well as those from the right. There are plenty of symbols that can and do divide us. The American flag is a symbol that unites us.

I would hope that this debate on the Supreme Court's decision will send a message that America is a country that is willing to tolerate an awful lot of antisocial behavior, but that burning the flag is something that we consider totally out of bounds.

COMMENDING THE CYPRIOT AMBASSADOR UPON HIS PROMOTION TO DIRECTOR GENERAL OF THE CYPRIOT FOREIGN MINISTRY

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 22, 1989

Mr. GILMAN. Mr. Speaker, I rise to congratulate the Cypriot Ambassador to the United States, Ambassador Andreas J. Jacovides, upon his appointment to Director General of the Cypriot Foreign Ministry. It is with mixed emotions that we bid farewell to an admirable diplomat, a fine representative of the Cypriot people, and a friend of the United States Congress.

Ambassador Jacovides' promotion should come as no surprise. In addition to serving as the Cypriot Ambassador, he has been a member of the Cyprus delegation to the U.S. General Assembly since September 1960. He received his bachelor degree in 1958 with top honors and his degree in international law in 1959, also with honors from the University of Cambridge. In 1959, he was awarded the Henry Fellowship at Harvard Law School where he did research in public international law.

He has extensive training and experience in international lawmaking and multilateral diplomacy, and his knowledge and wisdom has been crucial to the proper representation of Cyprus on an international scale. As you know, Cyprus has been partially occupied by Turkey since 1974. Both Congress and leaders around the world have benefited from his examination of many diverse events and his befiting representation of the Cyprus Government.

Mr. Speaker, I am confident that Ambassador Jacovides, as Director General of the Foreign Ministry, will continue to demonstrate his commitment to the citizens of Cyprus, and to a peaceful settlement of the Cypriot Government's dispute with Turkey. I wish both him and his wife, Pamela, my best wishes in all of their future endeavors.

SAVINGS AND LOAN CRISIS

HON. JAMES A. McDERMOTT

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 22, 1989

Mr. McDERMOTT. Mr. Speaker, as we move closer to a final agreement on legislation to stop the hemorrhaging in the savings and loan industry and the Federal deposit insurance fund (H.R. 1278), many of my constituents continue to wonder why they should foot the bill for a problem someone else caused. That's a legitimate question and they have a right to know why I voted in favor of H.R. 1278.

The S&L problem is a tough issue and there are no good solutions—the damage is done, the costs are immense and unavoidable. There was a massive dereliction of duty on the part of a government and a thrift industry that overzealously pushed a mindless quest for deregulation. But we can't turn back the clock and make this multihundred billion dollar problem disappear.

We are left with the job of cleaning up this mess, punishing those individuals who broke the law, and putting in place a regulatory system that protects the public and enables well-run thrifts to go about the business of home mortgage lending.

Our first responsibility, and the only justifiable reason for the tremendous cost to American taxpayers, is our obligation to protect depositors, not to bailout stockholders or managers of failed S&L's. When people put their hard-earned money in the local thrift or bank, they do so with the explicit understanding that the Federal Government will stand behind those deposits.

The deposit insurance grew out of the hard-learned lesson of the banking crisis that helped trigger the Great Depression. A failure to stand behind federally insured deposits would condemn us to repeat the mistakes of the past. People would lose their money and their faith in their Government, and there would be a bank panic rivaling the runs on deposits 60 years ago.

MAKING THE INDUSTRY PAY

Some people ask, "Why can't the S&L's pay for the problem?" To the greatest extent possible, this legislation extracts as much money as possible from the S&L industry—but even if we were to totally liquidate the entire industry, there simply would not be enough money to fully protect all depositors. If we place too heavy a financial burden on the remaining healthy thrifts, then we risk driving them into insolvency, creating an even bigger and more expensive problem for taxpayers.

The S&L industry will be paying a significant amount of money to clean up this problem. The General Accounting Office estimates that the industry will pay about $148 billion over the next 30 years.

Even taking into account money provided by the industry, however, taxpayers will end up covering at least 50 percent of the total costs. I think, when all is said and done, taxpayers will actually cover 75 percent or more of the total costs over the full 30 years, because the Bush administration has significantly underestimated the costs of this legislation. That could work out to $1,800 for every man, woman, and child in America over the next 30 years.

One of the biggest disappointments in this bill was the decision to finance this plan through long-term borrowing rather than raising taxes to pay for this problem today. Not only does this decision neeedlessy increase the total cost of the plan, but it means that future generations will be forced to pay for the mistakes of our generation.

ENFORCING THE LAW

Many of my constituents then demand to know, "How can I be assured that those individuals who broke the law are prosecuted to the fullest extent of the law." The law enforcement track record so far has not been good. Over 10,000 cases of alleged fraud or criminal activity have been reported to the Justice Department, but only 3,600 cases are under active investigation and reportedly only 25 cases have been brought to trial.

H.R. 1278 strengthens law enforcement efforts in several ways. The Justice Department will be given $75 million to enhance its capacity to investigate and prosecute cases. Further, two regional offices of the Fraud Division will be established in California and Texas. Finally, civil penalties—up to $1 million a day—were strengthened.

None of these provisions will make a difference, however, unless officials at the regulatory agencies and at the Justice Department get tough on white collar crime. We need tough action not only to bring wrongdoers to justice, but to deter individuals from bilking the public in the future. This bill gives the Attorney General the tools to get the job done, now we must wait and see if the Justice Department chooses to move aggressively.

AVOIDING A REPEAT OF PAST MISTAKES

Many of my constituents want to know, "How can I be sure that this mess will never be allowed to happen again?" There are several safeguards built into the bill.

I was proud that the House stood its ground against strong industry lobbying and required significant tightening of capital standards for thrifts. Up until now, many S&L owners and operators had little of their own money at risk. Essentially, they were playing with depositors' money—which means the taxpayers' money since these deposits are federally insured.

H.R. 1278 changes that. S&L owners will be required to put more of their own money at risk. With their own money at risk, they will be more prudent and their private capital will provide a cushion to absorb bad business decisions before they tap into the Federal deposit insurance funds and the U.S. Treasury.

H.R. 1278 also totally overhauls the regulatory system. The capacity for strong supervision has been increased and the cozy rela-

tionhsips between regulators and the industry have been broken.

This legislation also reins in the "high-flyers" who have either no conception of their higher responsibility to their shareholders, the public and consumers or little business sense. For instance, the House bill probibits investment in junk bonds and refocuses the industry's attention on its original public purpose—home mortgage lending.

WHAT THE FUTURE HOLDS

While the thrift industry in Washington State has seen rough times, today the industry in my State is healthy and profitable. What the industry as a whole continues to suffer losses nationwide, I believe the continued success of Washington State thrifts and those in many other states illustrates that there is still a vital role to be played by the thrift industry. But there are many risks and pitfalls ahead.

I am not confident that H.R. 1278 will solve all of the problems of the current thrift crisis. There are many weak institutions, many of which will be closed at great cost ot the taxpayers. It is quite likely the H.R. 1278 will not provide enough money to fully resolve these problems; it is likely that a future administration will have to ask for more financial assistance.

The Federal Government is now faced with the liquidation of tens or hundreds of billions of dollars of assets held by these failure institutions. This a job that has never faced before and I am pessimistic about the ability of the Government to efficiently manage the disposition of these assets. It is a problem that will be in the newspapers in the future and one which will need further congressional attention as the problems become evident over time.

IDENTIFYING THE PUBLIC PURPOSE

When all is said and done, one still must wonder what public purpose is served by this legislation. Despite the pitfalls that lie ahead, several things are certain.

No depositor will lose a single dime. The public's confidence in our finanical system will not be broken and the crisis in the S&L industry will not spill over and damage the rest of our economy.

The thrift industry will be smaller and consolidated, but stronger and better able to provide home mortgages in our local communities. H.R. 1278 provides $75 million annually for below-market interest rate home mortages which will provide a modest boost for low and moderate income homebuyers. Due to provisions strengthening consumer banking laws, discrimination against women and minorities will be lessened.

In essence, we have done the best we can in a very bad situation. It is now our job to fend off continued attacks by industry lobbyists and keep this bill as strong as possible, and they follow through with public vigilance and the strongest possible congressional oversight to ensure that this never happens again.

STAY FURTHER EXECUTIONS OF CHINESE PRODEMOCRACY DEMONSTRATORS

HON. STENY H. HOYER

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 22, 1989

Mr. HOYER. Mr. Speaker, today I rise to join my colleagues, the majority leader, DICK GEPHARDT, Congressman DAVID SKAGGS, Congresswoman BARBARA BOXER, and Congressman MEL LEVINE in introducing this resolution which calls on the Chinese Government to stay further executions of those arrested in the prodemocracy demonstrations in China.

Mr. Speaker, I watched in horror with the rest of the world as Chinese students who believed in the principle of freedom and democracy were ruthlessly and mercilessly mowed down with tanks, guns, and bayonets. We have all heard the stories from eyewitnesses who reported that young students who begged for their lives or who shouted epithets of protest were quickly shot at close range. The saddest aspect of these inhumane acts was the heartless and unceremonious burning of the students bodies in an odious attempt to deceive the world and to dispose of the bodies in a quick and repugnant manner.

Earlier this week, I participated with many of my colleagues in a walk to the Chinese Embassy to protest these egregious violations of human rights. In our talks with the Chinese Ambassador, I indicated that China, as a member of the World Community, is accountable to the internationally recognized human rights norms, as outlined in the United Nations Declaration on Human Rights.

We now have reports that the repression in Beijing continues with reports of 20 people brutally executed and many more under sentence of death, and new arrests are being reported daily. We can only imagine the fate of those newly arrested individuals.

Mr. Speaker, I have been contacted by hundreds of Chinese students from my district and around the country who are terrified of the atrocities they may suffer as a result of their participating in prodemocracy demonstrations. They report that they have been videotaped and photographed at demonstrations and are terrified that they may be imprisoned or executed upon their return to China. For that reason I have cosponsored the Mrs. PELOSI'S legislation to waive the 2-year residency requirement for those students and scholars who hold J-1 visas.

I urge all of my colleagues to join with Congresswoman PELOSI to demonstrate our compassion for these students whose only crime was to speak out for a right constitutionally guaranteed to all of us. With the Pelosi legislation and the legislation before us today, we are appealing on humanitarian grounds for the end of this senseless massacre.

"INROADS" RECOGNIZES YOUTH ACHIEVEMENT

HON. DAVID E. PRICE

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 22, 1989

Mr. PRICE. Mr. Speaker, I recently had the honor of speaking at the annual banquet of the INROADS/North Carolina Triangle Program. Some 500 North Carolina students, parents and corporate officials gathered in North Carolina's Research Triangle Park to celebrate the 5th anniversary of this excellent minority recruitment and internship program.

Recent statistics tell us that fewer and fewer minority students are choosing to enter the high-technology world of business, math and science. As an educator, parent and member of the House Science Committee, this disturbs me greatly. We must do all we can within government, business and our local communities to reverse this trend.

INROADS is one of the most creative of these private sector efforts. The national program recruits talented minority students, helps prepare high school students for college and places college students in 4-year internships with sponsoring companies. The corporations then train these academically gifted students for corporate and community leadership.

Since 1970, the INROADS Program has graduated more than 1,400 young men and women with degrees in business and engineering across the country. More than 3,600 students currently participate in the college and pre-college components. As the president and CEO of Briggs & Stratton recently testified, "This organization is not just another well-intentioned coalition; it is a professionally managed, organized operation that means business * * * INROADS' enforced standards of excellence can deliver qualified, experienced minority job applicants for managerial positions."

In North Carolina, 100 minority students are working with 23 corporations, including Northern Telecom, IBM, Glaxo, BASF, Burroughs Wellcome, CP&L, CIBA-GEIGY, Rhone Poulenc, NCNB, and First Union. So far, 12 graduates are working full-time in business, I'm proud to say. I want to commend the sponsoring companies for taking good corporate citizenship one step further by working to increase minority participation.

So that we may all learn more about the challenges of the INROADS Program, I ask that the speech given on June 19 by Alan Lutz, chairman of INROADS/North Carolina Triangle's board of directors and the group vice president of Integrated Network Systems at Northern Telecom, be reprinted in the CONGRESSIONAL RECORD.

SETTING OUR SIGHTS HIGHER

Thanks to all the students, parents, sponsors and other supporters here tonight who have helped make INROADS the success it is today.

I'd like to issue a special welcome to our guests who are getting their first exposure to INROADS, and to our two newest corporate sponsors, The Durham Herald Co. and AT&T of Greensboro, both information-based companies. It's probably a little ironic

but entirely fitting that my company, Northern Telecom, and AT&T, are acute competitors in the communications marketplace, but firm teammates when it comes to recognizing the good business sense INROADS makes for us both locally and nationally.

It's been my pleasure to watch this organization grow from a satellite of Charlotte to the State's largest affiliate. And each year we've added more interns and more corporate sponsors so that now we have 100 interns serving 23 corporations.

Tonight we celebrate INROADS 5th anniversary here, and many of us are looking back, proud of the growth and progress that has been made. But it's my feeling that while appreciating the success, we've got to keep setting our sights higher. We have to realize that an organization that is not growing is stagnant and maybe heading backward.

I think we can all agree that there is no shortage of deserving, bright, articulate and aggressive minority youth out there, that, with a little counseling and direction, can form the foundation for business leadership in America in the 21st century.

Simply, these students need additional challenging places to work while they are fresh out of high school and in their college years. We don't want them only behind fast food counters or in car washes or mowing lawns. We want them to flex their most important asset, their brain power, in marketing offices and engineering labs and software production facilities.

That is why tonight I challenge the businesses of North Carolina to set their sights higher, to join us for next year, turing our 23 sponsoring companies into 28 or 30 or 35 sponsors, opening up the needed new intern slots that launch these deserving young people into successful mainstream careers.

When I put on my INROADS hat and go calling on business leaders to sell the program, I often give them a rundown on the history of the organization locally and nationally, its mission and objectives and a sense of where the organization is trying to go.

I might tell them how the organization started with one idealistic and hard-headed Chicago priest named Father Frank Carr who in 1970 pulled together 25 college interns and 17 sponsoring corporations. Today more thn 1000 graduates are pursuing professional and managerial careers nationwide.

But those are statistics, and while meaningful, they don't give a potential corporate sponsor a sense of the spirit, the determination these kids have, or the technical and creative spark the young people bring to a host organization. You see, INROADS isn't some unfocused "dogooder" type program that seems to exists for along forgotten reason. INROADS is a short-term investment with lucrative long-term payoffs for each organization that participates. From the first or second summer of participation, American businesses are way ahead in their investment. Because of you, the young people, the heart of the organization.

Let me give you some examples.

Take Marva Roberts, 20 years old, from Burlington, NC, an engineering student at North Carolina State University and an intern in her third summer at Bristol Myers Products Co.

Marva is a typical example of the long-term sacrifice and discipline these young people exhibit in the organization. This summer, while many of her peers might be found concentrating on athletics or maybe into the second year of a less-than-promising job found after high-school, Marva is working long hours as a mechanical engineer at Bristol-Myers. She's away from home and loved ones while she builds the future for herself.

Marva's world involves the brand names we all see and use daily. She helps design the equipment that manufactures such well known products as Excedrin, Nuprin, Datril and Bufferin.

She says that when she first entered the intern program, she was leaning towards electrical engineering. But the work at Bristol-Myers needed mechanical solutions and not surprisingly, she came to enjoy solving the mechanical problems on the factory floor. "I just love seeing the things that I design get made and used in the plants," she says.

She notes that she was thrown into drafting in her first year of interning, even before she got into it in college, and when the college course came around, she already had practical working experience, something her peers in school were envious of.

But more than that, the INROADS experience at Bristol-Myers gave her a new perspective on the world. "I was trusted," she says. "They gave me big jobs and I began to feel I was part of the company. I meant something to the company. It has shaped me a lot. It helped me in school, too. The challenging work on the job helped me set goals in school. I was able to study harder. It was a discipline."

Marva Roberts encapsulates the INROADS experience. A young person with a creative mind and lots of brainpower and discipline. Matched to a challenging job 2 years ago, the future now seems without limits.

I can't leave Marva without this personal note. She tells me that much of her drive and mature goal setting comes from an important lady in her life, Caroline Francis Thompson, of Burlington. Mrs. Thompson, ladies and gentlemen, who couldn't be with us here tonight, is 104 years old! She started raising Marva as a 84 year old! This remarkable woman showed Marva that the world is what you make of it, that truly there are no impossible dreams. Can you imagine the energy that lady has? Marva says she is still physically fit and acts and feels much, much younger than 104. For Mrs. Thompson, born only 20 years after slavery, who didn't have access to higher education or INROADS-type organizations, a round of applause. Marva would you lead us?

A great lady indeed and an inspiration to us all!

Of course, not all of our stories are so dramatic, but they are equally inspirational and valid and carry the same themes.

Eddie Lambert, here tonight, is 18, a graduate of Walter Williams High School in Graham, NC. He is attending North Carolina State and is interning in his second summer with IBM. Last summer Eddie tells me he was involved in creating databases related to Netview PC, IBM's important network management product.

And this summer he's into PASCAL programming with new product development work.

While Eddie's peers are sleeping in on Saturdays, maybe planning a ball game or a trip to the beach, Eddie gets up early to go to INROADS training sessions. There, he and the other students discuss improved ways to study, how to survive and flourish in the corporate culture and other useful ideas about making it in the educational and work world.

Or take Dwight Thompson, getting ready to enter his senior year at N.C. State while interning at Glaxo. Dwight, 21, is an accounting major who works in the tax department there.

"I love tax!" Dwight says. "There is so much to learn. It always changes." Dwight talks about what the work experience did for him. "That first summer I looked on it as maybe just a summer job. Then, into the second year, I saw it evolve into a career development program. I started to see myself grow, I saw myself developing as a person while my responsibilities became more and more meaningful."

Dwight said it was interesting watching his friends, not in the program, who originally didn't take much interest in his internship, who, as the summers went by, began to see the value of on-the-job experience. Now, as he nears entering the full-time workforce with all that experience under his belt, they fully see the value of the effort he has put forth over the past 4 years.

Dwight gives credit to special people that helped along the way, Kevin McKinnon, his INROADS advisor, and Evelyn Boykin, the INROADS managing director. They were always there when he needed them.

Marva and Eddie and Dwight share many common traits: intelligence, perseverance, discipline, vision. But I think what strikes me most about them and the 100 of you in this ballroom is that fact that you are turned on about what you are doing.

Dwight loves tax work! Eddie is deep into his new software language and product development. Marva takes a special pride in seeing her engineering solutions run smoothly on the plant floor! These turned on kids are assets to their companies, to their communities and to society.

As we get into the awards portion of the program later you will see there is no shortage of turned on kids ready to be immediate contributors to corporate life and success.

What we lack are enough turned on corporations.

True, there are more than 589 of them. But in a nation this large and rich there should be 5,000 corporations in the INROADS program.

Many of the largest companies in the United States have no interns. And some of the largest ones who do participate do so in relatively small numbers, ones and twos and threes.

This has got to change. There is no reason why the top 250 companies in this country can't make room for 20,000 to 25,000 interns on an ongoing basis. IBM and AT&T have more than 100 interns in their programs nationally. Northern Telecom, dwarfed by these corporate titans in size, has nearly 100. Compare that to the 3000 kids employed today by all 589 companies.

If this Nation is going to grow in the 21st century, minority youth of today have got to make it happen. In the year 2000 only 15 percent of the new hires into American corporations will be white males. And with the pool of available youth growing at a much smaller rate than we have become accustomed to, we will either learn to develop our minority population or we will stagnate.

We have a long way to go. National statistics show that minority participation in the professional workplace, particularly in technical, managerial and professional positions, is not high enough.

Currently, minorities comprise only 5 percent of the Nation's engineering graduates. According to the National Action Council for Minorities, engineering, technical and scientific job opportunities will grow by about 40 percent in the 1990s. But minority participation may not keep pace.

Organizations like INROADS can and are making a difference. But corporate sponsors have to start signing on now.

INROADS is building a future for the youth and corporations here at the North Carolina Triangle affiliate, throughout North Carolina, and throughout the Nation.

So to the students and graduates in this room, set and keep your sights high. The world is out there—waiting for you to develop it and shape it. To the corporate sponsors of today, a sincere thanks and an appeal to enlarge your programs for 1990.

And to the potential sponsors of tomorrow, look at the opportunities you are passing by. We all know finding motivated, turned-on employees is always a challenge. In many cases they are right here in your backyard, right under your nose.

Join this success team. INROADS can and will be one of the best investments you will ever make.